

BAY RESTORATION FUND ADVISORY COMMITTEE

Maryland Department of the Environment

Aqua & Aeris Conference Room

1800 Washington Blvd.

Baltimore, Maryland 21230

November 20, 2006

1:00 p.m. to 4:00 p.m.

Mr. Robert Warfield, Chair

Meeting Minutes

Welcome/Introduction:

- Dr. Summers welcomed the committee and other attendees.
- Dr. Summers chaired the meeting, as Mr. Warfield, Advisory Committee Chairman was unable to attend the meeting.
- Committee members and other attendees introduced themselves.
- Dr. Summers introduced MDE Secretary Ken Philbrick who thanked Bay Restoration Fund (BRF) Advisory Committee Members for serving on the Advisory Committee and for all their good work, help and support in the implementation of the BRF Program. Secretary Philbrick also thanked MDE staff for their help and effort in the ENR upgrades of the wastewater treatment plants.

Review of Minutes

- Previous meeting minutes from the September 25, 2006 meeting were handed out to the committee members for their review. Committee members were asked to provide any comments on the proposed minutes to MDE within a week.
- The minutes and handouts from the meeting will be posted on MDE's website once comments are incorporated.

Discussion

I. Update on ENR Implementation and Upcoming Events – Bob Summers:

- Dr. Summers presented the status of the Enhanced Nutrient Removal (ENR) upgrades. There are now two facilities (Celanese and Hurlock) in operation, 10 are under construction, 12 are in design, 23 are in planning, and 19 are in pre-planning.

- Groundbreakings for the Indian Head wastewater treatment plant ENR Upgrade and for the Brunswick wastewater treatment plant ENR upgrade were held in October and attended with local officials.
- Dr. Summers informed the committee that MDE has put out for discussion a draft cap management policy for Maryland. There have been a number of listening sessions held around the State with different interest groups and organizations, which has generated lots of comments back. MDE staff is taking these comments into account when working on revising the draft policy. In the meantime Pennsylvania has released an actual cap/trading policy for public comment that has generated lots of interest. This policy can be reviewed on Pennsylvania's web site.
- Dr. Summers informed the committee that MDE has developed a Memorandum of Understanding (MOU), which includes ENR implementation schedules for Anne Arundel County's seven wastewater treatment plants. The MOU will be signed between MDE and Anne Arundel County on November 28, 2006 at 10:00 a.m. Event notices will be mailed out.

II. BRF Annual Status Report – Bob Summers & Committee Members

- The Draft 2007 BRF Annual Status Report was handed out to all committee members present as well as others in attendance. The Report summarized all the Bay Restoration Fund activities over the past year. The Report makes no formal recommendation or decisions that would require a formal vote by the Committee. Future status reports may contain recommendations on future of the BRF fund, which may require voting on these issues by the Committee. Any comments on the current report are to be provided by the committee members to Rajiv Chawla in the next two weeks.

III. Update on Fees Collected to Date – Thad Russell & Committee Members:

- Mr. Russell was unable to attend the meeting due to transition with the Comptroller's office. Mr. Khuman therefore provided the update on behalf of Mr. Russell. Mr. Khuman reported the distributions of Bay Restoration Fees through the end of October 2006. To date about \$94 million have been distributed to MDE from sewer and water bills. The total distributed from Septic fees to date is about \$15 million. Of the \$15 million, 60% or \$9 million has been transferred to MDE and 40% or \$6 million as been transferred to MD Department of Agriculture.
- Mr. Khuman will ask the Comptroller's office that WSSC show the split of Bay Restoration fees it collects from both Montgomery and Prince George's Counties separately instead of lumping it all under Prince George's County. Currently all fees WSSC collects are shown under Prince George's County, since WSSC office is located in Prince George's County.

- Staff from Comptroller's office and MDE met last week to formulate an audit program. The audit program will start by looking into any outstanding active accounts that have not paid the BRF fees. The audit program will look into aspects such as, are businesses/owners seeking appropriate exemptions to the fees as well as notices going out to incorrect addresses. The Comptroller's office will also look at the books of the billing authorities and their billing and collection methodologies. This will ensure that those responsible for collecting fees are collecting properly and that the collected fees are being deposited in full with the Comptroller's office.
- Mr. Khuman explained that the administrative expenses for collection of BRF fees claimed by the counties have been steadily going down, from 5% of the total receipts to less than 1% of the total receipts now. These costs have essentially flattened out, since initial administrative fixed costs for setting up the fee collection system by the counties have been paid for, resulting in decrease of administrative costs to about 0.44 percent in the last quarter.

IV. Reduction of Nitrogen Loads from Atmospheric Emissions- Brian J. Hug, MDE

- Mr. Hug discussed some of the programs that have been instituted in the past decade as well as other larger programs that are coming up in the next ten years to reduce Nitrogen Oxides, which has a large impact on the Bay.
- Mr. Hug explained that Maryland has a problem meeting EPA's new 8-hour ozone standard. Various pollutants including nitrogen cause the regional haze in Maryland. Air emissions contribute about 30 to 35 percent of the Nitrogen in the Bay. Emission reduction programs that have been instituted in the last 10 years have resulted in large decrease in ozone and nitrogen pollution.
- Mr. Hug also talked about Nitrogen Oxide regulations that have been put in effect in the last 15 years that have reduced airborne Nitrogen levels since 1990. Maryland based emissions have been reduced by over 40 percent since 1990, whereas the national average under the Clean Air Act is 20 percent. The Nitrogen Oxide sources targeted have been mobile source emissions from cars and power plants in Maryland.
- The Maryland Healthy Air Act signed into law in April 2006 requires 70 percent reduction in Nitrogen in Maryland by 2009 and 75 percent decrease in Nitrogen Oxide and 80 percent reduction in Sulfur Dioxide by 2012. The Healthy Air Act will provide Maryland with an overall emission reduction of over 90 percent.

IV. Bay Restoration Fund Onsite Sewage Disposal Systems (OSDS) Issues – Jay Prager & Committee Members:

- Based on the proposals from various counties, \$9 million in Bay Restoration Funds has been proposed to be included in grants to upgrade the septic systems in these jurisdictions. The Board of Public Works approval will consider the proposed grants on December 6, 2006. If approved, these funds will be dispensed over the next two to three years.
- A second Request for Proposals (RFP) is not planned until spring of 2008. The Department will see how the program gets implemented in the next 12 months, how much money it has, and if a similar RFP process should be repeated. This does not mean that the Department could not handle request from individuals who want to upgrade their systems.
- In efforts to identify the Best Available Technologies (BAT) for nitrogen reducing on-site disposal systems (OSDS), six systems with various technologies have been evaluated by the EPA/Environmental Technology Verification (ETV) program as eligible under the Bay Restoration Fund program. These technologies have been reviewed and accepted by the Department. The Department is now evaluating other technologies that have not gone through the EPA/ ETV program. A review team has been formed within MDE to evaluate these technologies to ensure they are evaluated with the same rigor as the EPA/ETV program. Four companies have sent in information on their systems and are being evaluated.
- Mr. Prager discussed the effect of tax code on individuals who receive BRF grant funding for upgrade of their septic systems. According to the tax code, gross income of a person does not include any programs of a state for which payments are made to the individuals for the purpose of restoring the environment as determined by the Secretary of Agriculture. The main issue is that the tax code requires determination by the Secretary of Agriculture, which has not yet been made. In addition, the grant is only for the purpose of restoring/improving the environment and the person receiving the grant cannot benefit in any particular way, such as to increase the annual tax income derived from the property. These issues will be worked out in the coming months.

V. OSDS Geographic Information System (GIS)- Mary Dela Dewa

- Ms. Dewa stated that MDE is working on commissioning a GIS database that would give an accurate count of the number of septic systems in Maryland. There seems to be a discrepancy in the number of septic systems in Maryland estimated by the Maryland Department of Planning (MDP) at 421,000 versus the numbers provided by the Counties. As part of the first phase MDE will use the data provided by Maryland Department of Planning, the data that has been collected for billing purposes under the septic systems and any other information available to get an accurate count of the number of septic systems. This is expected to be achieved by next September.

- The second phase will create the database. A portion of the database will be web-based so those counties can access to it and update the data as needed. The second phase of the database will involve data such as type of systems and other onsite programs that exist within the State under the BRF program. This will provide a comprehensive database of all activities surrounding septic systems in the State of Maryland. This database could then be used to identify the number of septic systems in a given watershed and it's modeling. MDE is meeting with all parties (Maryland Environmental Services, Towson University, and Salisbury University) involved in setting up this database.

VI. Best Available Technology Workshop- John Boris

- Mr. Boris discussed the sampling procedures involved in the verification protocol used in evaluating and identifying Best Available Technologies (BAT) for Nitrogen reducing on-site disposal systems. The manufacturers of on-site disposal systems being evaluated and considered have been asked to submit a sampling procedure protocol worksheet that they would want followed to get the best analysis for their unit. These sampling procedures would then be passed to the review team for their evaluation. Determination still needs to be made on such things as, which is better grab sample vs. a composite sample and issues such as sampling costs. A baseline number for influent of septic systems also needs to be established as part of the sampling protocol. Long term performance and maintenance of these septic systems also needs to be considered.

Future Meeting

- The fifteenth meeting will be held on December 12, 2006 @ 1:00 p.m. in the Aqua & Aeris Conference Rooms – Lunch for members @ 12:00 (noon).

Materials Distributed at the Meeting

- Meeting Agenda
- 13th Meeting Minutes (September 25, 2006)
- Update on ENR Implementation
- Draft 2007 BRF Annual Status Report
- Administrative Cost Incurred by Local Governments
- Update on Fees Collected

Attendance

Advisory Committee Members Attending:

Robert M. Summers, Ph.D.	Maryland Department of the Environment
Ken Philbrick	Maryland Department of the Environment
David Bancroft	Alliance for the Chesapeake Bay
Douglas Scott	Maryland Department of Agriculture
Julie Pipple (for Greg Murray)	Washington County Dept. of Water Quality
Leland Spencer, M.D.	Kent County Health Department
James L. Hearn	Washington Suburban Sanitary Commission

Others in Attendance:

Jen Aiosa	Chesapeake Bay Foundation
Ron Frederick	US EPA, Washington
Ron Hartman	Anne Arundel County

Maryland Dept. of the Environment (MDE) Attendees:

Rajiv Chawla
Mahmoud Salehi
Ta-Shon Yu
Jag Khuman
Jay Prager
John Boris
Sue Allen
Eric Dougherty
Ty Stinson
Andrew Sawyers
Elaine Dietz