

BAY RESTORATION FUND ADVISORY COMMITTEE

Maryland Department of the Environment

Aqua and Terra Conference Rooms

1800 Washington Blvd.

Baltimore, Maryland 21230

November 10, 2010

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

Meeting Minutes

Welcome/Introduction

- The meeting was chaired by Mr. Greg Murray, Administrator for Washington County.
- Mr. Murray welcomed the committee members and other attendees, and requested their participation in finalizing the BRF Annual Status Report to assure a well balanced document. He also reminded the committee members that The Watershed Implementation Plan (WIP) comments were due back and this plan will impact our operations for years to come.

Review of Minutes

- Previous meeting minutes from the August 4, 2010 meeting were handed out to the committee members for their review and comments. An electronic copy of the meeting minutes was also emailed to the committee members prior to the meeting.
- There were no comments on the meeting minutes. The approved minutes and handouts from the meeting will be posted on MDE's website.

Discussion

I. Update on ENR Implementation and Upcoming Events

- Mr. Saffouri provided an update on the status of the 67 plants targeted for ENR upgrade. To date there are 17 facilities in operation, 1 facility (Salisbury) in corrective action, 14 under construction, 21 in design, 8 in planning, and 6 in pre-planning, for a total of 67 facilities.
- Perryville completed construction and has commenced ENR operation and Crisfield and Federalsburg are now in operation.
- All the percentage completions have increased. Thurmont started construction on September 8, 2010.

- The following facilities are ready to schedule an event, if needed.
 1. Aberdeen - Ready for Groundbreaking
 2. Thurmont – Ready for Groundbreaking
 3. Poolesville – Ready for Dedication
 4. Crisfield - Ready for Dedication
 5. Federalsburg - Ready for Dedication
 6. Perryville – Ready for Dedication
- Ms. Aiosa inquired about the proposed corrective action at the Salisbury plant, and how long it may take. MDE has reviewed the corrective action report and commented on it, but no decision has been yet been made since MDE is still in discussion with the City of Salisbury.

II. Introducing the Proposed Pumping Station Design Guidelines

- Mr. Saffouri presented the draft Pumping Station Guidelines. Previously, these guidelines which have been in effect since 1996 were applied only to pumping stations located in shellfish harvest areas.
- MDE is now proposing to extend the same policy to all surface waters of the state. Therefore, any wastewater pumping station located close to any body of water will have to follow these guidelines. The revised guidelines will apply to new pumping stations as well as those being renovated.
- Four items are required to be included in a pumping station; a secondary power source, a telemetering alarm system, a standby pump unit, and a pump-around connection. Depending on which of the above required items are included and the pump flow rate and/or number of units served, will determine whether 24 hour, 2 hour, no additional, or other, emergency wastewater storage capacity is required.
- The advisory committee is the first group to be introduced to this draft pump station guidelines. These guidelines are scheduled to be effective July 1, 2011. MDE is requesting comments and will make appropriate revisions prior to finalizing the guidelines.

III. BRF Fee Collection and Budget

- Mr. Khuman presented the revenue data from the fee program’s inception through the end of October 2010. The Wastewater Treatment Plant (WWTP) total revenues are approximately \$319.7 million and \$73.6 million for the septics. These are deposits prior to administrative expenses being claimed by the local governments or paid. The amount for administrative expenses claimed by local governments is very low, less than one (1) percent.
- For fiscal year 2010 through the end of October 2010, the WWTP total revenue is \$53 million and the septics amount had an error and was not available. The administrative expenses claimed by local governments were only about \$ 255,000.

- Based on past history for the last three years, future annual revenues for the wastewater fund and the septic fund are expected to be about \$54 million and \$13.5 to \$14 million.
- The total fund distribution to date is as follows: approximately \$314 million to MDE Line 1 (Wastewater Fund), \$38.9 million to MDE Line 2 (Septic Fund), and \$34.7 million to MDA Line 2 (Cover Crop Fund).
- Mr. Khuman reported that most counties are collecting the septic fees with the property tax. If a property has a private well and a septic system, then the County will bill the property owner the Bay Restoration fee usually with their property tax bill. If the property has a septic system and is served by a public water system, then the property owner's Bay Restoration Fund bill will be sent along with their drinking water bill.

IV Draft Annual Report and Recommendations

- Mr. Khuman presented the Draft Bay Restoration Fund Advisory Committee Annual Status Report, dated January 2011 (Report). A Report has been presented annually for the last several years to the Governor and state legislature. This year, the key issues are; funding of the remaining facilities' ENR upgrades and impact to the Bay Restoration fee, and recommendations for increases to the fee and/or other options that will enable the state to fund the facilities as intended. The full report has essentially the same format as prior years.
- There are five options (A-E) presented on pages 15 through 18 of the Annual Report. Each option has been discussed at previous Advisory Committee meetings. The bottom line is except for the fee increase (Option A) or a grant decrease (Option B) none of the options alone can mitigate the entire shortfall. Eventually, there will either need to be a fee increase or we are not going to be able to fund 100 percent grants unless another revenue source is found.
- Ms. Stinson asked if the bonds were issued by local governments for a 30 year term (Option D) what would that do to the shortfall. Mr. Khuman stated that it would increase the funding capacity by \$ 90-100 million, but it would only apply to the facilities that have yet to get their money and the large players, like WSSC, Baltimore City and County, and Anne Arundel County, that have the debt capacity to issue 30 year bonds.
- Dr. Summers reminded everyone that the 30 year bond option was proposed to the legislature last year and rejected because the State would be paying the debt service on the 30 year bond, meaning the state essentially would be taking a 30 year bond, which the State is not authorized to do. Ms. Cook added that a bigger concern of the legislature is that the State is at its debt capacity and the bonds would be counted against the State debt, even though the 30 year bond was issued by the local governments.
- Raising the fee 100 percent could allow almost double the revenue bonds to be sold, and that also is not included in the State's debt capacity calculations. The State would need to reduce authorizations elsewhere to accommodate the increased bonds.

- Mr. Leocha brought up the issue of trying to recapture some of the state funds for money that is used for development capacity outside the Priority Funding Area (PFA). The PFA law reads that state and federal funds are not supposed to fund water and wastewater extensions outside the PFA. Also, any expansion of flow is not funded by BRF funds. The ENR projects do not increase the flow capacity since permit limits are based on the approved design capacity as of FY 2003. Although some plants may have some additional capacity, it is a small percentage and it will not recover a significant amount of BRF money. Also, the amount of future development outside the PFAs may not be very large since the larger plants that are being upgraded tend to be in the more highly developed areas of the State that are already in PFAs.
- Option C, reprioritization of the facility upgrades, does not require legislative approval, but it does not accomplish the objective of the program. If the State wants to meet its goals of the Watershed Implementation Plan (WIP) and total maximum daily load (TMDL) then reprioritization is not much of an option.
- The Annual Report recommendation that the only option that can fully offset the shortfall, complete the ENR on schedule, and provide funds as contingency is to increase the BRF fee from \$30 to \$60. Dr. Summers stated that text will have to be added to the report to address the debt ceiling situation. Mr. Murray stated that the Report's recommendation may need some wordsmithing.
- The draft recommendation was developed by a small sub-group of the committee, it is not a recommendation of the full committee. The debt capacity information is new information presented at this meeting and definitely should be added to the affected options and the recommendation. The actual recommendation that the committee settles upon should be highlighted and our statements under all options need to be accurate.
- Dr Summers commented on Option B (reduce the ENR grant percentage). The last paragraph on page 17 of the Annual Report includes a statement that users will be paying for ENR costs twice. That is not correct. He suggested it be revised to say, will be paying two times the amount for ENR as others, or something similar. Mr. Murray also questioned the language at the top of page 18, which states that Option B, reducing the ENR grant percentage is contrary to the legislative intent. The law says up to 100 percent grant, so the sentence should be modified to be more accurate. The statement will be changed.
- Ms. Aiosa pointed out an error on page 20 of the Annual Report. It discusses the Aberdeen WWTP completed, but the table lists Ft Meade as completed. It will be corrected. Ms. Aiosa also suggested including the nitrogen reduction efficiencies of the Best Available Technology systems approved vendors in the table on page 28 of the Annual Report. Mr. Prager will provide a new table giving removal efficiencies and electrical use.
- The deadline for the Report to the administration is December 31, 2010. Any edits, revisions, etc to the report, based on what was discussed today, are to be sent to Mr. Saffouri by November 17th and he will send it back out to the committee members for review by Thanksgiving. Final comments are due by December 3rd. This provides sufficient time to finalize the Report.

- A motion was made and seconded to move forward with this Report, given the recommended changes pending final review, at which time a formal vote for approval will be taken. The motion was approved with two abstentions.

V Onsite Sewage Disposal Systems (OSDS) Update

- Mr. Khuman provided an update on the implementation of the OSDS program. MDE will recommend to the Board of Public Works, tentatively on December 15, 2010, the second round of grant awards to the local governments. About \$4.5 million was awarded earlier, and the remainder, about half, was kept in reserve in case a critical area county needed more money.
- Based on the counties' progress and the estimates of their needs submitted to MDE, a recommendation will be made to award the second half of the septic upgrade allocation, about \$4.2 million. By December 15th, the counties will have all the funds to spend until June 30, 2011. The same cycle will be repeated next year, and the year after, so that the funds can be awarded one time for the entire year.

VI Update on Cover Crop Activities

- Mr. Astle provided the update on the cover crop activities. Most of what the Maryland Department of Agriculture (MDA) has to report is included in the MDA section of the Annual Report. The sign up this summer of over 500,000 acres is the highest amount historically.
- Given the weather patterns of the past summer and fall (drought) and the fact that crops were harvested early this year, it is predicted that a historic number of acres will be planted in cover crops.

Allowable Design and/or Planning Costs

Mr. Hearn questioned the use of an EPA guidance document as a basis for determining that design/planning costs would be limited to 20 percent of the construction cost. MDE is currently in the process of preparing a new policy to clarify the planning/design and administrative cost payment procedures.

Next Meeting

The next meeting will take place on January 5, 2010. Committee members will be informed via e-mail of the meeting date.

Materials Distributed at the Meeting:

- Meeting Agenda
- Previous Meeting Minutes (August 4, 2010)

- Wastewater Treatment Plants ENR Upgrade Status (November 10, 2010)
- Program-to-Date BRF Fee Collection Report (through October 31, 2010)
- 2010 Tax Year Year-to-Date BRF Fee Collection Report (through October 31, 2010)
- 2010 Tax Year Second Quarter BRF Fee Collection Report (through October 31, 2010)
- BRF Fee Distribution Report through October 31, 2010
- Draft Design Guidelines for Wastewater Pumping Stations
- Draft Bay Restoration Fund Advisory Committee Annual Status Report January 2011

Attendance

Advisory Committee Members or Designees Attending:

Robert Summers, Maryland Department of the Environment
 James L. Hearn, Washington Suburban Sanitary Commission
 Norman Astle, Maryland Department of Agriculture
 Jenn Aiosa, Chesapeake Bay Foundation
 Angela Butler, Maryland Department of Planning
 Greg Murray, Washington County
 Linda Busick, Worcester County
 Hilary Bell, Maryland Department of Budget and Management
 Jennifer Bevan-Dangel, 1000 Friends of Maryland
 Beverly Stinson, AECOM Water
 John Leocha, Maryland Department of Planning
 Allyson Black, Maryland Chamber of Commerce

Others in Attendance:

Peter Bouxsein, Chesapeake Bay Foundation
 Judy Oberist, State of Maryland Comptroller
 Kevin Nash, RK&K
 Robert Hodge, Cecil County Commissioner
 Christen Flynn, Department of Legislative Services
 Lesley Cook, Department of Legislative Services
 Ted Halley, Hazen and Sawyer

Maryland Dept. of the Environment (MDE) Attendees:

Jag Khuman	Michael Kanowitz	Sunita Boyle
Walid Saffouri	Jay Prager	Beth Snyder
Rajiv Chawla	Marya Levelev	Heather Barthel
Linda Cross	Elaine Dietz	Debbie Thomas