

BAY RESTORATION FUND ADVISORY COMMITTEE

Maryland Department of the Environment
Aqua/Terra Conference Rooms (MDE Lobby Area)
1800 Washington Boulevard
Baltimore, Maryland 21230
December 1, 2016

Meeting Minutes

Welcome/Introduction

- The meeting was opened by Mr. Jag Khuman of the Maryland Department of the Environment, on behalf of Mr. Greg Murray, Chairman of the Bay Restoration Fund Advisory Committee and Administrator for Washington County.
- Mr. Murray arrived shortly after the opening of the meeting. He welcomed the committee members and other attendees.

Review of Meeting Minutes

- Previous meeting minutes from the September 8, 2016 meeting were handed out to the committee members for their review and comment. An electronic copy of the meeting minutes was also e-mailed to the committee members prior to the meeting.
- Mr. Boussein pointed out a typo on Page 4 of the minutes. Mr. Saffouri stated that this correction will be made before the minutes are posted.
- Mr. Murray asked if anyone had any other comments or questions. Hearing none, the minutes will stand as corrected.

Discussion

I. Update on Major WWTPs ENR Implementation

- Mr. Saffouri referenced the Wastewater Treatment Plants ENR Upgrade Status handout. To date there are 49 facilities in operation, 15 under construction, 2 in design, and 1 in planning, for a total of 67 facilities. Mr. Saffouri stated that Conococheague started construction. An invitation for the project groundbreaking ceremony was sent to the committee members back in October.

- Almost all major WWTPs are in ENR operation or under construction. Only Westminster and Hampstead (in Carroll County) are in design, and Princess Anne (in Somerset County) is still in planning phase. Princess Anne BNR upgrade was designed to meet ENR during the summer months. The County is evaluating the existing facilities performance to determine whether the WWTP can achieve year-round ENR with only minor operational improvements.

II. Update on Minor WWTPs ENR Upgrades

- Mr. Saffouri stated that there has been a lot of progress for the minor facilities since the last meeting. Hancock, Trout Run and Deep Creek Lake have initiated the planning phase, Smith Island started design, and Queenstown has completed the ENR upgrade.
- Mr. Bouxsein asked whether there are more minor WWTPs interested in signing the funding agreement and starting with the process for the upgrade. Mr. Saffouri answered that Port Deposit, owned and operated by Cecil County, is considering that option. Mr. Khuman added that the prospect of load capping by the discharge permit if BRF funds are received, may have been discouraging some of the minor plants from signing-up for the program.

III. Update on Cover Crops Activities

- Mr. Astle provided the update on the cover crop activities. He indicated that planting this year was extended by 10 days to November 15th due to the late planting of harvestable crops last spring. This will likely result in late certifications and payments for cover crops activities.
- In addition, Mr. Astle provided copies of the MDA portion of the annual report and offered to answer any questions the committee may have.
- Ms. Butler asked whether there is a geographic breakdown for the 501,000 acres planted in FY 2016. Mr. Astle responded that this information is available and he may be able to provide it to the committee at a later date.

IV. Update on Onsite Sewage Disposal Systems (OSDS)

- Mr. Khuman presented a spreadsheet summarizing BRF funded BAT installations and sewer connections in FY 2016. During that year, over 1000 BATs were installed, 71 sewer connections within the PFA, and 21 connections outside of the PFA. 28 homes with BAT installation also received funding for drain fields due to their low income.

- Mr. Khuman added that Allegany County is planning to leverage the fund to provide sewer connection to approximately 12 homes within the PFA. The County Health Department will use the BRF fund to pay off the loan in five annual installments. Caroline County is considering the same approach to finance Goldsboro house connection after the completion of the collection system project.
- Mr. Khuman informed the committee that the septic regulations amendment, which was discussed at the last meeting, was finalized and became effective on November 24th. Therefore, the committee may have to discuss next year how to match the fund allocations with the Counties possible shift in demands. The changes in the amendment are expected to increase the BAT installation activities in the critical area counties, and possibly reduce them in the non-critical areas. Mr. Bouxsein suggested that the committee evaluation should be based on empirical data and the actual unmet demand in the critical areas.
- Mr. Khuman reminded the committee that part of the BRF-Wastewater fund will be available for sewer connection freeing up more BRF-Septic funds toward BAT, which may mitigate some of the impact mentioned above. Mr. Murphy asked whether sewer connection projects would be required to use the Wastewater fund instead of the Septic fund. Mr. Khuman responded that they can use either fund. However, Septic funds are much more limited and local health departments can only fund small sewer connection projects leaving larger projects no choice but to apply directly to MDE for the more available BRF-Wastewater funding.
- Mr. Hearn advised the committee that he has heard of a legislation that may possibly be proposed during this session to reinstate the statewide BAT requirement. Mr. Bouxsein suggested that the committee should then place the reallocation discussion on hold until next fiscal year.

V. Update on BRF Fee Collection and Budget

- Mr. Khuman updated the committee on the BRF fee collection and advised that the Comptroller's report for October 31, 2016 (was not included with handouts) will be emailed to the committee members in the next two days or so. As the committee will note in the report, FY 2017 fee collection so far is slightly higher for Wastewater (Line 1) and slightly lower on the Septic side (Line 2) of the BRF fee distribution.

VI. Revised Integrated Project Priority System (IPPS) to Address Extended Use Issue

- Mr. Khuman presented a handout summarizing the new Integrated Project Priority System (IPPS), which was recently finalized and approved by EPA. Prior to its approval, a public hearing was held on September 14, 2016. Several comments were received during the public hearing, which resulted in some modifications in the originally proposed system. Compliance maximum points were increased from 10 to 20, and Cost Efficiency points were reduced from 40 to 30 in an attempt to provide more balance in the rating system.

- Mr. Murphy asked whether a sensitivity analysis was done to ensure that the new system will achieve its intended objectives. Mr. Khuman responded that this analysis was done. A sewer extension project of 50 to 100 homes would rank well with the new system. In addition, minor WWTPs with nitrogen reduction of 1,000 lbs/year or more will continue to do well. After funding these projects, we will still have some funding available for consent order (CSO/SSO) projects. Under the old system, large CSO/SSO projects ranging from \$60 million to \$400 million would have the capacity to use all available BRF funding, and sewer connection projects would have ranked too low on the priority list to receive any grants.
- Mr. Boussein asked whether the new system has a tie-breaking rule. Mr. Khuman responded that the new system provides that in the event of equal score, the smaller community would be selected.
- Mr. Hearn asked whether all these new rules are available for public review. Mr. Khuman responded that behind this summary being provided at the meeting, there is a six-page document with more detailed information available on MDE website.

VII. Draft BRF Annual Legislative Update Report

- Mr. Saffouri provided copies of the executive summary of the report. An electronic copy of the full report was e-mailed to the committee members prior to the meeting. Mr. Saffouri advised the committee that all MDE, MDP and MDA updates have been completed and the report is ready for the committee's review and editing. He asked the committee members to send any comment or addition to the report by mid-December.
- Mr. Boussein suggested that the report should be changed to say that the amendment to the Septic regulations is now final. The report currently is discussing it as a draft.
- Ms. Butler offered to provide a presentation at the next meeting on the analysis MDP has been providing in the report. The committee members agreed that a presentation would be very helpful given more than half of the facilities are currently being evaluated by MDP. In addition, after several years of analysis we may be able to identify a trend and determine whether or not the empirical data can support the original hypothesis, which implied that the ENR program could be inducing growth outside the PFA.

VIII. Possible Bills at the Upcoming Legislative Session:

- Mr. Khuman advised the committee that in the upcoming legislative session there may be a new bill introduced proposing change to the BRF law to allow the purchase of cost-effective nutrient credits (as was attempted last year in House Bill 325). This year's bill may possibly cap the funding for this purpose to up to \$10 million.

- In addition, Mr. Khuman advised that another possible legislative bill may change the definition of ENR upgrade to say that it is an upgrade from Secondary treatment level to ENR instead of the current definition, which states that it is from BNR to ENR. With the current definition, BRF funding is being provided at 100% to upgrade the facilities from BNR to ENR, and the upgrade from Secondary to BNR is being funded at 50% to 75% from the State BNR grants. If the definition is changed, BRF would fully fund the upgrades from Secondary to ENR at 100%. This change is expected to increase the grant participation in the upcoming upgrades of minor facilities.
- Mr. Murray asked about what will happen to the State BNR money? Would it be used for other environmental purposes? Mr. Khuman responded that we currently don't know.
- In addition, several questions were asked by the committee members regarding the nutrient credit purchase that we could not answer, including: the potential market, range of prices, and potential competition between the State and local governments. The conclusion was that more discussions are to follow.

IX. Next Meeting

- Mr. Murray advised the committee of the proposed meeting dates for 2017 and confirmed that the next meeting will be on March 2nd. The proposed meeting dates are:

March 2nd
 June 1st
 September 14th
 December 14th

Materials Distributed at the Meeting

- Meeting Agenda
- Previous Meeting Minutes
- Wastewater Treatment Plants ENR Upgrade Status
- Program-to-Date BRF Fee Collection Report (Comptroller Report) – Emailed after the meeting
- FY 2016 Detail of BRF County Septic Grant Disbursements
- Integrated Project Priority System (IPPS) as Revised after the 9/14/16 Public Hearing
- Draft January 2017 Bay Restoration Fund Advisory Committee Annual Status Report

Attendance

Advisory Committee Members or Designees Attending:

Greg Murray, Washington County
Walid Saffouri, MDE
Jag Khuman, MDE
J.L. Hearn, WSSC
Peter Bouxsein, Chesapeake Bay Foundation
Angela Butler, Maryland Department of Planning
Norman Astle, Maryland Department of Agriculture
Fiona Burns, Department of Budget and Management
Chris Murphy, Anne Arundel County DPW
Gabe Cohee, Maryland Department of Natural Resources
Sara Lou Trescott, Washington County Health Department

Others in Attendance:

Kevin Nash, RK&K
Joe Sowinski, Hazen and Sawyer
Mary Vitale, Hazen and Sawyer
Matt Geckle, Back River Pre-Cast
John Short, Towers Concrete Products
Nancy Mayer, Mayer Brothers
Andrew Gray, Department of Legislative Services
Julie Pippel, Washington County

Maryland Department of the Environment (MDE) Attendees:

Rajiv Chawla
Cheryl Reilly
Teresa Wong
Sunita Boyle
Heather Barthel
Marya Levelev
Janice Outen
Elaine Dietz