

BAY RESTORATION FUND ADVISORY COMMITTEE

Maryland Department of the Environment

Aqua & Terra Conference Room

1800 Washington Blvd.

Baltimore, Maryland 21230

March 3, 2009

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

Meeting Minutes Summary

Welcome/Introduction

- Dr. Summers welcomed the committee members and other attendees.

Review of Minutes

- Previous meeting minutes from the December 10, 2008 meeting were handed out to the committee members for their review and comments. Also, an electronic copy of the meeting minutes was mailed to the committee members prior to the meeting. No changes were suggested or made to the meeting minutes by the committee members.
- The approved minutes and handouts from the meeting will be posted on MDE's website.

Discussion

I. Legislative Update

- Dr. Summers provided legislative update on the following Maryland House and Senate Bills impacting the Bay Restoration Fund:
- House Bill 90 was introduced at the request of MDE to correct a technical error regarding the Bay Restoration fee. It ensures the bondholders that the legislature will not be able to reduce the BRF fee as long as bonds are outstanding and thereby compromise the ability to pay the bonds back. Only an increase in fee can be recommended by the Advisory Committee.
- House Bill 176 and Senate Bill 1064 would require Best Available Technology (BAT) upgrades to existing on-site sewage disposal systems that need to be repaired or replaced as well as to new systems. Hearings on these Bills were held and the Department testified in support of these bills with amendments. The Department made amendments to these Bills that make it clear that it is only paying for upgrades to the extent that funds are available in the Septic Fund as a result of the Bay Restoration fee. These Bills also added a provision that would authorize the Department to establish regulations governing the inspections,

operations, and maintenance of these septic systems. The home builders were opposed to these Bills due to costs it would add to new homes and the local health directors testified in opposition since the requirements could discourage people from replacing or making needed repairs to their on-site disposal systems. There will be a work group on this Bill and the information will be posted by the House Environmental Committee when that occurs.

- House Bill 221 proposes to switch the distribution of BRF fees from Septic System funds between cover crops program and septic system upgrades. Currently 60% of the funds are for septic system upgrades and 40 % for the cover crops program. This Bill would reverse that by making it 60% for the cover crop program and 40% for the septic system upgrades. The Department opposed this bill and does not expect this Bill to pass, given the interest and increase in septic system upgrades with Best Available Technology.
- House Bill 346 authorizes the use of Bay Restoration Fund for the costs to local governments for inspecting the upgrades to ensure long term performance of nitrogen-removing septic systems funded under this section. The Department supported this Bill with amendments to limit the amount of money spent on inspection and sampling to not exceed two percent of the total funds collected, so that there are sufficient funds available for the actual upgrades of the septic systems.
- House Bill 529 proposed using funds from the Bay Restoration Fund to address environmental problems associated with improper handling and disposal of septage that's pumped out of septic tanks. This would authorize the Department to regulate the septage haulers and require it to review the fees assessed by the sewage treatment plants to the septic haulers for disposal of septage as well as reduce these fees to make it economically practical for the haulers to operate. The Department opposed this Bill and met with the Bill's sponsor to develop a better way to address this issue.
- House Bill 1083 which is upcoming for hearing would require Best Available Technology (BAT) on new and replacement systems as well as inspections once every ten years on all septic systems in the State by making available 20 percent of the septic fee for these inspections. This would equate to 42,000+ inspections a year and would have a significant fiscal impact to the Department since it would reduce the remaining funding available to support and implement the basic BRF septic upgrade program. The Department therefore will oppose this Bill on fiscal grounds when it comes up for hearing.
- House Bill 1106 prevents Anne Arundel County from requiring a homeowner in that County that received a grant for upgrade of their septic system to pay back the grant if they increased the size of the dwelling. The County has since changed its policy at the direction of the Department and therefore this Bill has now been withdrawn.
- House Bill 1362 would allow a set of septic systems in a community to be hooked up to a state of the art sewage treatment plant where it can be demonstrated it is more cost-effective than to upgrade the existing septic systems. There will be some additional amendments made to this bill to ensure its intent.

- Senate Bill 329 allows Dorchester County to put a lien on the property whose owner is not paying the BRF fee. The Department did not take a position on this bill, as it does not impact the Department.

II. 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 11 facilities in ENR operation, 7 under construction, 20 are in design, 22 are in planning, and 7 are in pre-planning for a total of 67 facilities.
- Two facilities Indian Head and Salisbury have completed construction and initiated operation, however the number of facilities in operation remained the same since it was determined that Dorsey Run and Northeast River were not achieving ENR performance and needed to be upgraded. These two facilities were moved from operational to pre-planning status. Crisfield and Elkton WWTPs are expected to complete construction by mid 2009.
- The following facilities may be ready to schedule an event:
 1. Indian Head – Ready for Dedication
 2. Salisbury – Ready for Dedication
 3. Brunswick- Ready for Dedication
 4. St. Michael’s – Ready for Dedication
 5. Hagerstown- Ready for Groundbreaking
 6. Perryville – Ready for Groundbreaking

III. BRF Fee Collection and Budget

- Mr. Khuman presented the program to date, year-to-date, and 4th Quarter through January 31, 2009, fee collection amounts, which are approximately \$265.1 million, \$64.2 million, and \$11.3 million respectively.
- The total fund distribution to date is as follows: Approximately \$218.8 million to MDE Line 1 (Wastewater Fund), \$29.4 million to MDE Line 2 (Septic Fund), and \$19.6 million to MDA Line 2 (Cover Crop Fund).
- Approximately \$115 million in BRF funds have been awarded to date for ENR upgrade of wastewater treatment facilities of which \$70 million have been disbursed for these projects. An additional \$100 million to \$150 million in new grant awards are expected by end of the year due to a large budget based on projects such as Cumberland, Patapsco, Ballenger Creek/McKinney and Bowie proceeding to construction.

IV. Draft BRF Annual Status Report

- Mr. Saffouri distributed copies of the Final BRF Annual Status Report (January 2009) to the committee members. The Report summarizes all the Bay Restoration Fund activities over the past year. The Draft Report had been reviewed by the committee members prior to its finalization and distribution to the Governor and the Legislators.

V. Onsite Sewage Disposal Systems (OSDS) Update

- Mr. Prager provided an update on OSDS upgrades. A total of 590 upgraded systems have been installed. A number of outreach and marketing efforts to promote the upgrade of the septic systems have resulted in a significant increase in new applications. The number of septic system upgrades installed over the previous months has also steadily increased which could result in achieving an average of 50 installations a month with a targeted goal of 600 a year.
- Various methods are being implemented to promote outreach initiatives and track progress. These methods include recording the number of phone calls received to mailing 3,000 to 5,000 informational postcards every two weeks. Also, as a priority, State owned properties that have on-site disposal systems and are located in the critical area have been identified and are being targeted for upgrade of their on-site disposal systems. As of March 2009, 15 State owned installations will have been upgraded.
- Approximately \$7 million of the \$29 million collected for the upgrade of the septic systems has been spent. In addition to individual septic systems, larger on-site disposal systems are also being targeted for upgrade, which will result in bigger drawdown of unspent funds.
- A Request for Proposal (RFP) was issued to assist property owners in the selection of vendors for installation of upgrades to their on-site disposal systems. Proposals received from vendors have been reviewed and ranked and an announcement on the vendor selections will be made in the upcoming weeks.

VI. Update on Cover Crops Activities

- Representative from the Maryland Department of Agriculture was not present at the meeting to provide an update on Cover Crop activities.

VII. Stimulus Update

- Mr. Khuman provided a brief update on the Federal Stimulus funding under the American Recovery and Reinvestment Act (ARRA) although it's not related to the Bay Restoration Fund. The Department is expecting \$123 million in Federal Stimulus money of which 50% will be given out in grants and the remaining 50% in low interest rate loans. The majority of the funding will go towards water and wastewater projects and 20 percent will go towards green and energy efficient projects. All projects receiving stimulus funding will be required to be in construction by December 2009. Some of the Bay Restoration Fund wastewater projects which are ready to proceed to construction this year would benefit since they would receive stimulus funding in addition to Bay Restoration Funds.

Next Meeting

Committee members will be informed via e-mail when the next meeting is scheduled.

Materials Distributed at the Meeting:

- Meeting Agenda
- Previous Meeting Minutes (December 10, 2008)
- Final 2009 Bay Restoration Fund Annual Status Report (Legislative Update)
- Wastewater Treatment Plants ENR Upgrade Status (March 3, 2009)
- Program-to-Date BRF Fee Collection Report (through January 31, 2009)
- 2008 Tax Year Year-to-Date BRF Fee Collection Report (through January 31, 2009)
- 2008 Tax Year Fourth Quarter BRF Fee Collection Report (through January 31, 2009)
- BRF Fee Distribution Report through January 31, 2009

Attendance

Advisory Committee Members or Designees Attending:

Robert Summers
James L. Hearn
Larry Fogelson
Lou Etgen
Julie Pippel

Maryland Department of the Environment
Washington Suburban Sanitary Commission
Maryland Department of Planning
Alliance of the Chesapeake Bay
Washington County

Others in Attendance:

Kevin Koepenick	Baltimore County
Hillary Bell	Department of Budget and Management
Ed McFallen	Mayer Brothers
Kevin Nash	Rummel, Klapper & Kahl
Joshua Gliptis	Davis, Bowen & Friedel
Ian Johnston	Freemire & Associates
Ray Harrison	Septic Installer, Eastern Shore
Harry Harrison	Septic Installer, Eastern Shore
Bob Sheeseley	MOWPA
Peter Bouxsein	Environmental Matters Committee
Brent McCloskey	Department of Natural Resources

Maryland Dept. of the Environment (MDE) Attendees:

Walid Saffouri
Jag Khuman
Andrew Sawyers
Rajiv Chawla
T.J. Huang
Jay Prager
John Boris
Joshua Flatley
Marya Levelev
Cheryl Riley