

# **BAY RESTORATION FUND ADVISORY COMMITTEE**

**Maryland Department of the Environment**

**Aqua & Terra Conference Room**

**1800 Washington Blvd.**

**Baltimore, Maryland 21230**

**December 10, 2008**

**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 August 7, 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. 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, 9 under construction, 19 are in design, 22 are in planning, and 6 are in pre-planning for a total of 67 facilities. There are now 67 facilities instead of 66, due to Hampstead wastewater treatment plant (WWTP) being added to the list of facilities targeted for ENR upgrade. Hampstead WWTP was considered as a major facility in the tributary strategy, but was overlooked and not included on the ENR funding list.
- Since the last meeting Brunswick and St. Michael's WWTPs have initiated operation and the Hagerstown WWTP has initiated construction. Crisfield, Salisbury and Indian Head WWTPs are expected to complete construction by early 2009.
- The following facilities may be ready to schedule an event:
  1. Brunswick- Ready for Dedication
  2. St. Michael's – Ready for Dedication
  3. Hagerstown- Ready for Groundbreaking
  4. Perryville – Ready for Groundbreaking

- MDE will provide the committee members with a status report which compares current project schedules and dollar amounts relative to the original projections for the 66 wastewater treatment plants being upgraded for ENR.

## **II. BRF Fee Collection and Budget**

- Mr. Freyman from Maryland Comptroller's office presented the program to date, year-to-date, and 3rd Quarter through November 30, 2008, fee collection amounts, which are approximately \$253.8 million, \$52.9 million, and \$26.4 million respectively.
- The total fund distribution to date is as follows: Approximately \$204.8 million to MDE Line 1 (Wastewater Fund), \$27.7 million to MDE Line 2 (Septic Fund), and \$18.5 million to MDA Line 2 (Cover Crop Fund).

## **III. Draft BRF Annual Status Report**

- Mr. Saffouri provided an overview of the Draft BRF Annual Status Report (January 2009) to the committee members. An electronic copy of the report was e-mailed to the committee members for their review prior to the meeting. The Report summarizes all the Bay Restoration Fund activities over the past year. Programs contributing to the BRF Annual Status Report were requested to provide up to date information for the Final Report.
- The BRF Annual Status Report projected a funding deficit of \$245 million for the BRF wastewater fund by the Year 2018 and provided recommended actions ranging from reprioritizing the upgrades of the 66 ENR projects including delaying or not undertaking the upgrades of certain wastewater treatment plants to reducing the ENR grant from the current 100%. The Report also proposed seeking statutory changes that would allow BRF fees to make debt service payments on bonds issued by local governments with terms up to 30 years for ENR eligible costs rather than the 15 year term limit on bay bonds instituted by the Maryland constitution for State supported debts. The committee members were asked for their feedback and suggestions for addressing the projected BRF funding deficit.
- Mr. Saffouri provided an update in the Status Report on fees from federal facilities. To date, Aberdeen Proving Ground at Aberdeen is the only Department of Defense (DoD) facility that has been upgraded to ENR per the Memorandum of Understanding (MOU) with the Department of Defense which requires all DoD wastewater facilities in Maryland to be upgraded to ENR in lieu of paying the BRF fee. There are few non DoD federal facilities like NIH, which are not exempt from paying BRF fees, that have not paid thus far. These federal facilities contend they are exempt from paying the BRF fee. This matter has been elevated to the Attorney General's office and the Department may seek congressional assistance in resolving this issue.
- Mr. Saffouri and Mr. Fogelson discussed the methodology for reporting the impact on growth that an ENR upgrade of a wastewater treatment plant will have on a municipality or a county in which that wastewater treatment plant is located, as required under House Bill

893. The reporting methodology considered new sewer connections both inside and outside the Priority Funding Area for wastewater treatment facilities recently upgraded to ENR. The Annual Status Report also outlined the difficulties experienced in the implementation of the reporting requirements mandated under House Bill 893.

#### **IV. Onsite Sewage Disposal Systems (OSDS) Update**

- Mr. Prager provided an update on OSDS upgrades. A total of 453 upgraded systems have been installed. Approximately \$7 million of the \$19 million awarded for the upgrade of the septic systems remains unencumbered. A number of outreach and marketing efforts to promote the upgrade of the septic systems have been initiated in the last few months resulting in a significant increase in new applications.
- 134 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 part of the educational outreach initiatives, pilot demonstration projects are being implemented at some of these State owned properties located in the critical area such as Jefferson-Patterson Park in Calvert County and at the Wye Institute in Queen Anne's County.
- A Request for Proposals (RFP) is in the process of being issued to assist property owners in the selection vendors for installation of upgrades to their on-site disposal systems. The proposed RFP for vendor selections will be based more on technical process rather than the low bid cost. The proposed RFP will be e-mailed to the Advisory Committee members for their input prior to its finalization and release.

#### **V. Update on Cover Crops Activities**

- Ms. Louise Lawrence from Maryland Department of Agriculture (MDA) provided a brief update on the Cover Crop Activities. Applications for planting cover crop totaling \$20 million were approved, with \$18 million available for the program. Based on previous years' program data, MDA anticipates 30 % of the acres enrolled are not planted by the applicants and therefore the money available will equal amount needed.
- The soil conservation district checks 20% of fall certified acreage which this year amounts to roughly between 40,000 to 50,000 acres, within a six week period to ensure and certify that the cover crops planted during the cycle between the end of September through November 5<sup>th</sup> have actually been planted and all the rules have been followed. Approximately 2,000 applications were approved this fiscal year, and half of the applicants' fall certifications have been processed.

## **VI. 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 (August 7, 2008)
- Draft 2009 Bay Restoration Fund Annual Status Report (Legislative Update)
- Wastewater Treatment Plants ENR Upgrade Status (December 10, 2008)
- Program-to-Date BRF Fee Collection Report (through November 30, 2008)
- 2008 Tax Year Year-to-Date BRF Fee Collection Report (through November 30, 2008)
- 2008 Tax Year Third Quarter BRF Fee Collection Report (through November 30, 2008)
- BRF Fee Distribution Report through November 30, 2008
- FY 2010 ENR Project Cash Flow Projections
- FY 2010 ENR Fund Cash Flow Projections

### **Attendance**

#### **Advisory Committee Members or Designees Attending:**

Robert Summers	Maryland Department of the Environment
Jay Sakai	Maryland Department of the Environment
James L. Hearn	Washington Suburban Sanitary Commission
Larry Fogelson	Maryland Department of Planning
Jenn Aiosa	Chesapeake Bay Foundation
Lou Etgen	Alliance of the Chesapeake Bay
Karen Oertel	W.S. Harris Seafood
George Freyman	Comptroller's Office
Louise Laurence	Maryland Department of Agriculture
Catherine Shanks	Maryland Department of Natural Resources
Greg Murray	Washington County
Beverly Stinson	ACOM Water

#### **Others in Attendance:**

Theresa Burton	Hazen & Sawyer
Angela Butler	Maryland Department of Planning

Leslie Cook  
Cristen Flynn

Department of Legislative Services  
Department of Legislative Services

**Maryland Dept. of the Environment (MDE) Attendees:**

Walid Saffouri  
Jag Khuman  
Rajiv Chawla  
T.J. Huang  
Tsung Chen  
Heather Fleming  
Janice Outen  
Jay Prager  
John Boris  
Elaine Deitz  
Linda Cross  
Cheryl Bradley  
Steven Walker