

Maryland Department of the Environment

Fiscal Year 2012 Capital Budget Response to the Department of Legislative Services

This response addresses the Legislative Analyst's recommended actions and the issues noted for discussion. The department accepts the recommended actions and is prepared to discuss the issues as requested.

Overview Issues

1. Bay Restoration Fund Advisory Committee Recommends Fee Increase: DLS recommends that MDE comment on how it will reconcile nutrient removal goals with limits on State debt.

Department Response: MDE fully recognizes that State debt constraints and revenue shortfalls may limit capacity to fund upgrades to the major waste water treatment plants (WWTPs), and will continue to work with the Department of Budget and Management, the Bay Restoration Advisory Committee and the State Capital Debt Affordability Committee to explore all options to address the funding challenges. Upgrades to the plants will be funded based on available revenues.

The 67 major WWTPs will need to comply with nutrient limits in their discharge permits, which require the ENR upgrades to be completed by 2017 to meet the nutrient removal goals.

2. Blue Plains Cost Sharing Memorandum of Understanding: DLS recommends that MDE comment on why the Blue Plains cost-sharing MOU was not submitted and whether the federal government is anticipated to pay any part of the upgrade cost.

Department Response: MDE drafted an MOU at the request of the Legislature and sent it to the Washington Suburban Sanitary Commission (WSSC) for review. In response, WSSC provided a previously executed intergovernmental agreement, which was agreed to by the following parties: District of Columbia; Fairfax County, Virginia; Montgomery County, Maryland; Prince George's County, Maryland; and WSSC. The existing intergovernmental agreement addresses the capital and operational cost-sharing methods for the Blue Plains WWTP. Construction has been initiated and all involved have committed to funding the ENR upgrade in accordance with the agreement. The agreement was provided as a good faith effort to meet the Legislative request.

MDE has requested federal funding for the Blue Plains facility over the past several years. On February 2, 2009, the governors of Maryland and Virginia, the Mayor of DC, and the Virginia House of Delegates sent a joint letter to President Obama requesting federal funding and support. To date, there has been no federal funding commitment for this project.

Water Quality Revolving Loan Fund

DLS recommends that MDE comment on the rationale for funding projects that most likely would have gone ahead without state funding.

Department Response: MDE is not aware of projects that would have proceeded without state funding. Local governments are aware of the availability of funding and always submit more project requests than can be supported with available funds. Projects are selected for funding based on the applications received by MDE. If a project is on the approved Intended Use Plan, an applicant may wish to start construction at their own risk, using local funds, prior to the project receiving Board of Public Works approval. In these cases, MDE reimburses the costs when the loan or grant is executed.

GO Bond Recommended Action: Concur with \$9,856,000 in general obligation bonds for the Water Quality Revolving Loan Fund. The authorization reflects the 20% match to the \$47,308,000 in federal funding.

Department Response: The Department accepts this recommended action.

PAYGO Recommended Action: Concur with Governor's allowance.

Department Response: The Department accepts this recommended action.

Drinking Water Revolving Loan Fund

DLS recommends that MDE comment on the anticipated quality of future projects receiving Green Reserve funding.

Department Response: The DWRLF green reserve projects are expected to include new equipment and processes that reduce energy consumption and increase water conservation. The projected federal fiscal year 2011 appropriation requires 20% for green reserve project funding. MDE cannot comment on future green reserve project types, as funding levels are based on an annual congressional appropriation.

GO Bond Recommended Action: Concur with \$1,970,000 in general obligation bonds for the Drinking Water Revolving Loan Fund. The authorization reflects the second installment of the 20% total match of \$4,212,000 to the \$21,059,000 in federal funding. The federal funding is reflected as \$8,183,000 in fiscal 2011 and \$6,348,000 in fiscal 2012 in the Maryland Department of the Environment's (MDE) capital budget, and \$6,528,000 in MDE's operating budget for nonproject set asides.

Department Response: The Department accepts this recommended action.

PAYGO Recommended Action: Concur with Governor's allowance

Department Response: The Department accepts this recommended action.

Bay Restoration Fund – Wastewater Projects

GO Bond Recommended Actions:

1. Concur with \$146,825,000 in general obligation bonds for the Bay Restoration Fund – Wastewater program. This funding reflects replacement of \$30,000,000 in prior year fund

balance, \$45,000,000 in fiscal 2011 revenue, \$50,000,000 in new prior year fund balance, and \$21,825,000 in fiscal 2012 revenue. The remaining \$18,175,000 in fiscal 2012 revenue is pre-authorized for fiscal 2013.

2. Concur with pre-authorization of \$18,175,000 in general obligation bonds for the Bay Restoration Fund – Wastewater program. The pre-authorization is for fiscal 2013 and completes the replacement of \$40,000,000 in fiscal 2012 revenues transferred to the General Fund.

Department Response: The Department accepts these recommended actions.

Bay Restoration Fund – Septic System Projects

Program Analysis and Performance

DLS recommends that MDE comment on what information is being tracked about the reduction in nitrogen loading to the Chesapeake Bay as a result of the Septic System Upgrade Program projects.

Department Response: MDE tracks the reduction in nitrogen loads from septic system upgrades on a monthly basis, including the number of upgrades both inside and outside the Critical Area, and reports this information to BayStat. MDE expects to meet the goal of 3,000 septic system retrofits by December 2011. We anticipate exceeding the goal within the Critical Area, falling short of the goal outside of the Critical Area, and exceeding the goal for total pounds of nitrogen removed. Septic systems in the Critical Area contribute more nitrogen to tidal waters than those outside the Critical Area so upgrades in the Critical Area are more effective at reducing nitrogen loading. There has been a shift in installations as a result of legislation that redirected septic system upgrades to the Critical Area.

PAYGO Recommended Action: Concur with Governor’s allowance

Department Response: The Department accepts this recommended action.

Biological Nutrient Removal Program

GO Bond Recommended Action: Concur with \$30,900,000 in general obligation bonds for the Biological Nutrient Removal Program. The funding will be used to remove nutrients at publicly owned sewage treatment plants

Department Response: The Department accepts this recommended action.

Supplemental Assistance Program

GO Bond Recommended Action: Concur with \$5,000,000 in general obligation bonds for the Supplemental Assistance Program. The funds will be used to provide assistance to grant and loan recipients to meet the local share of construction costs.

Department Response: The Department accepts this recommended action.

Water Supply Financial Assistance Program

The fiscal 2011 appropriation includes \$2.5 million for the Water Supply Financial Assistance Program and \$1.0 million for the Charles County water supply system. Charles County received the grant for construction, development, and testing of wells that currently rely on the Lower Patapsco Aquifer. The budget bill language stipulated that the construction, development, and testing of the wells and use of the water shall conform to requirements and be subject to the approval of MDE. In addition, it was stipulated that the water shall be for users located in a Priority Funding Area approved by the Maryland Department of Planning and included in the Charles County water and sewer plan approved by MDE. **DLS recommends that MDE comment on whether the aforementioned conditions were met.**

Department Response: Yes, the conditions were met. The proposed Charles County water supply project entails the planning, design and construction of one or multiple new water wells for the Bryan's Road water system in Charles County. The new well(s) will be drilled into the Patuxent Aquifer in the Bryan's Road vicinity. The project is intended to add redundancy to the Bryan's Road water system, which currently has two wells, one of which has operational problems. Since 2007, MDE has worked with Charles County to reduce drawdown of the Lower Patapsco Aquifer. The proposed well(s) are mainly to ensure operational redundancy as well as provide better management of groundwater withdrawals.

The Bryan's Road water system is located within and serves users in the Charles County Priority Funding Area (PFA).

GO Bond Recommended Action: Concur with \$2,500,000 in general obligation bonds for the Water Supply Financial Assistance Program. The funds will be used for assistance to State and local government entities to acquire, design, construct, rehabilitate, equip, and improve water supply facilities.

Department Response: The Department accepts this recommended action.