



Larry Hogan, Governor
Boyd Rutherford, Lt. Governor
Mark Belton, Secretary
Joanne Throwe, Deputy Secretary

**Maryland Department of Natural Resources
Fiscal Year 2018 Capital Budget
Response to Department of Legislative Services Analysis**

Senate Budget and Taxation Committee
Senate Capital Budget Subcommittee
Senator James E. DeGrange, Sr., Chair
February 28, 2017

House Appropriations Committee
House Capital Budget Subcommittee
Delegate Adrienne A. Jones, Chair
March 1, 2017

Issues:

1. The Department of Legislative Services (DLS) recommends that the Department of Natural Resources (DNR) comment on why it has not submitted the 2016 *Recreational Boating and Fiscal Analysis Study* as required by statute. In addition, DLS recommends that DNR comment on how it will handle the need for dredging funding, particularly given the uncertainty surrounding whether the U.S. Army Corps of Engineers will maintain its federal shallow water channels in Maryland (page 31).

Agency Response: The 2016 Recreational and Fiscal Analysis Study, also referred to as the Vessel Excise Tax Cap Analysis, has been submitted.

The decision by the US Army Corps of Engineers will impact the Department's ability to maintain shallow water channels in Maryland. As such, the DNR has undertaken a strategy that includes: meeting regularly with the US Army Corps of Engineers to prioritize projects for future federal work plans, as well as position projects in Maryland to be first in line for federal year-end "fall-out" funding if it becomes available; identifying project opportunities to better align federal and state dollars to broaden the reach of public resources; seeking opportunities to attract local and private match; and development of a comprehensive five year moving dredge management plan to better predict dredging frequency, dredge material placement and beneficial use opportunities. With this comprehensive plan the Department will not only be in a better position to predict and prioritize dredging needs, but the plan will also assist DNR in reducing project delays.

2. DLS recommends that DNR comment on how each of the following factors will be weighed in determining the final 2 oyster restoration tributaries: the level of financial investment, proximity to the Choptank River complex, sanctuary size, the potential to restore oyster bottom, and chance of success (page 35).

Agency Response: All of the listed factors are important to the selection process. There is no ranked weighting system to the factors in the discussions of the Oyster Advisory Commission (OAC) which is deliberating the selection of the next 2 oyster restoration tributaries. The OAC reconvened in July 2016 and is composed of DNR's oyster restoration partners.

The factors apply to the selection process as follows:

Level of Investment: The OAC recognizes that funding can be limited and is considering tributaries that are already biologically self-functioning and therefore could require less funding than tributaries that are not as functional. For example, an area that already has a reasonable level of spat set (oyster reproduction) would require less seed planting than one that has poor spat set because nature can produce the new spat for the functioning river. Or, an area might have more shell habitat already in place for the project, compared to another area that has very poor habitat. Both would require a habitat investment, but the former would require less.

Proximity to Choptank River Complex: The OAC is discussing that the next 2 tributaries not be in close proximity to the Choptank River Complex. The mid-Eastern Shore region has already had a significant investment for oyster restoration and it is viewed as important, biologically, to enhance other rivers around the Bay to diversify benefits from the project and spread the risk. Also, the Choptank River complex has already impacted the commercial industry in the mid-shore region and the OAC considers additional impact as a concern. For all of these reasons it is prudent to focus on areas not in proximity.

Sanctuary Size: The OAC, DNR, and the federal partners are interested in tributaries that offer "scale" (size) that can be accomplished with reasonable investment. There are no exact criteria for size but it is desired not to have areas that are at the extremes (too large/ too small). It is a topic being fully vetted by the partners. Beyond the size of Harris Creek (350 acres) or the Little Choptank (440 acres) which are considered large scale projects, the cost for habitat would be prohibitive and the oyster hatchery wouldn't be able to reasonably accomplish the seeding work (it took 3 years to finish seed plantings in Harris Creek for example). A very small sanctuary such as in the Wicomico River (Western Shore), wouldn't offer a large enough scale relative to the size of the river itself (the sanctuary itself is small and it is only a minor portion of the entire river).

Potential Oyster Bottom: OAC recognizes that any tributary under consideration needs to have restorable bottom. This means historic oyster bottom (not just sand or mud) that has declined in quality (as has much of the bay's historic oyster bottom) but still has potential to be improved. Bottom surveys past and present are used to estimate the amount of potential oyster bottom. This factor relates to the factor of size. See above.

Chance of Success: The OAC, DNR and the partners are considering tributaries that have potential for success. This means tributaries that offer good survival, growth, reproduction, spat set, and long term sustainability, or as many of these traits as possible given that all tributaries don't always have all of these traits. The goal of the entire oyster restoration program is that the 5 oyster restoration tributaries be successful. The likelihood of success is important to the OAC discussion as they consider the next 2 tributaries.

3. DLS recommends that DNR comment on how it will make up for insufficient staffing in order to expeditiously use the additional funding budgeted in the out-years for the Natural Resources Development Fund and the Critical Maintenance Program (page 36).

Agency Response: The Department will monitor its overall staffing needs throughout the fiscal year to determine how to align its positions to meet changing program and manpower needs.

One of the chief concerns identified in the Department's report on the POS fund completed last year was the inconsistency on funding from year to year. The fluctuating funding levels experienced by the Transfer Tax funded Programs, where the funding rises in one year and drops significantly the next year, makes it extremely difficult to plan project schedules, direct funding, and anticipate completion dates. The repayment of the POS funds and a stable funding level will help DNR anticipate the use of the Department's material, economic, and human resources.

Looking ahead, DNR anticipates its existing staffing will be stable with a minimum of vacancies. In the last twelve months the Department had four Critical Maintenance staff retire. Three of the four positions are filled and the fourth will be filled in the next few months. Filling these positions will provide long term stability to the Project Management staff.

However, the number of positions is just part of the solution. The Department also continually looks for ways to increase efficiencies and thereby increase productivity. Combining multiple projects is a good tool for the Department to use. For example, in reviewing the project backlog list, the Department was able to identify multiple paving projects that could be combined within regions of the State. DNR will continue to explore ways to reduce the number of overall projects by combining similar types of construction into larger packages.

4. DLS recommends that DNR comment on why the CRP belongs in the capital budget when the Shoreline Erosion Control Revolving Loan Fund was moved to DNR's operating budget partially because living shorelines were not considered capital projects (page 38).

Agency Response: The Shore Erosion Control Revolving Loan Fund was established in law for the singular purpose of helping shoreline property owners address erosion issues. In that it is a user loan program, the project site is dictated by opportunity and the design by the property owner rather than what would be the best approach for the system.

Projects on the CRP are designed to adapt and naturally adjust to environmental stresses. Based on the evaluation of the earliest projects and techniques and applying new science, we expect these projects to perform for the long haul (50 years). Maryland is a leader and national model when it comes to dealing with the effects of climate change and this resiliency proposal strengthens that standing.

The new program will enable the State to target the locations and the practices needed proactively addresses the needs of vulnerable communities and reduces the threat of a rising sea level, flooding and high impact storms. The right nature-based approaches in the right locations can help avoid or reduce community risks and decrease taxpayer liabilities for disaster response and recovery. For example, an estimate for southeast Louisiana determined that restoring coastal wetlands demonstrably reduced storm surge and that just a 0.1 increase in the ratio of wetland to open water resulted in saving three to five properties – avoiding damages estimated between \$590,000 and \$792,000 – for a given storm (Barbier et al., 2013).

PAYGO Recommended Actions

1. **Concur with Governor's allowance of \$106,400,666 in special funds and \$3,000,000 in federal funds for the Outdoor Recreation Land Loan.**

Agency Response: Concur with DLS recommendation.

2. **Concur with Governor's allowance of \$1,000,000 in special funds for the Ocean City Maintenance local funding.**

Agency Response: Concur with DLS recommendation.

3. **Concur with Governor's allowance of \$10,500,000 in special funds and \$900,000 in federal funds for the Waterway Improvement Program.**

Agency Response: Concur with DLS recommendation.

GO Bond Recommended Actions

1. **Approve the \$2,500,000 general obligation bond authorization for the Community Parks and Playgrounds to provide funds for grants to local governments to design and construct capital-eligible park and playground improvement projects.**

Agency Response: Concur with DLS recommendation.

2. **Approve the \$5,000,000 general obligation bond authorization for the Rural Legacy Program to provide funds for the purchase of conservation easements and the acquisition of land.**

Agency Response: Concur with DLS recommendation.

3. **Approve the \$540,000 in general obligation bonds for the Coastal Resiliency Program to provide funds for the acquisition, design, and construction of shoreline restoration and other projects to protect coastal infrastructure, and for post implementation monitoring and adaptive management.**

Agency Response: Concur with DLS recommendation.

4. **Approve the \$2,729,000 general obligation bond authorization for the Oyster Restoration Program to provide funds to design and construct oyster habitat restoration projects and provide grants for aquaculture development projects.**

Agency Response: Concur with DLS recommendation.