

K00A05
Department of Natural Resources – Capital

Capital Budget Summary

Programs in the Capital Improvement Program
(\$ in Millions)

<i>Program</i>	<i>FY 2013 Approp.</i>	<i>FY 2014 Approp.</i>	<i>FY 2015 Request</i>	<i>FY 2016 Est.</i>	<i>FY 2017 Est.</i>	<i>FY 2018 Est.</i>	<i>FY 2019 Est.</i>
Program Open Space							
Land Acquisition and Local Program	\$64.639	\$60.274	\$45.635	\$111.203	\$101.644	\$104.793	\$144.273
Natural Resources Development Fund	10.874	4.562	4.643	9.736	12.675	13.311	22.034
Critical Maintenance	10.119	4.620	4.588	4.000	4.000	4.000	6.000
Rural Legacy Program	5.622	13.512	16.034	26.986	25.264	25.577	32.722
Ocean City Beach Maintenance	0.000	0.000	1.000	2.000	2.000	2.000	2.000
Waterway Improvement Program	10.299	6.840	5.000	4.600	4.600	4.600	4.600
Community Parks and Playgrounds	2.500	2.500	2.500	2.500	2.500	2.500	2.500
Oyster Restoration Program	8.060	10.000	7.600	7.600	7.600	2.500	2.500
Chesapeake Bay 2010 Trust Fund	38.013	36.558	25.000	0.000	0.000	0.000	0.000
Total	\$150.126	\$138.866	\$112.000	\$168.625	\$160.283	\$159.281	\$216.629

<i>Fund Source</i>	<i>FY 2013 Approp.</i>	<i>FY 2014 Approp.</i>	<i>FY 2015 Request</i>	<i>FY 2016 Est.</i>	<i>FY 2017 Est.</i>	<i>FY 2018 Est.</i>	<i>FY 2019 Est.</i>
PAYGO SF	\$4.768	\$30.092	\$16.426	\$74.825	\$64.035	\$65.062	\$136.356
PAYGO FF	2.090	6.600	3.500	3.600	3.600	3.600	3.600
GO Bonds	143.268	102.174	92.074	90.200	92.648	90.619	76.673
Total	\$150.126	\$138.866	\$112.000	\$168.625	\$160.283	\$159.281	\$216.629

Note: The fiscal 2013 appropriation reflects \$76.1 million in prior year funding replaced with GO bonds. The fiscal 2014 appropriation reflects \$40.1 million in prior year funding replaced with GO bonds. The fiscal 2015 request reflects (1) the reduction of \$51.9 million in special funds that is contingent upon the transfer of the special funds to the general fund via the Budget Reconciliation and Financing Act of 2014; and (2) \$51.9 million in prior year GO bond replacement funding. The fiscal 2016 through 2018 columns reflect a total of \$267.3 million in GO bond pre-authorizations for Program Open Space (POS) – State, POS – Local, and the Rural Legacy Program.

Summary of Issues

Harriet Tubman Underground Railroad State Park Appeal: The Harriet Tubman Underground Railroad State Park is the first Maryland State Park presence in Dorchester County, and on March 25, 2013, President Barack H. Obama issued a presidential proclamation declaring the Harriet Tubman Underground Railroad a national monument. As part of the State park improvements, a visitor center is being constructed. Initial concerns were raised about the Department of Natural Resources' (DNR) ability to secure sufficient funding for the project, particularly \$8.5 million in U.S. Department of Transportation – Transportation Enhancement Program funding, although to date, all funding necessary for the project appears to have been secured. However, a construction bid denial has been appealed, which has temporarily delayed the project and possibly jeopardized federal funding. **The Department of Legislative Services (DLS) recommends that DNR comment on the current status of the project as it relates to site preparation, the appeal process, the security of the federal funding award, and the drawdown schedule for the remaining funding if the construction award is upheld.**

Ongoing Capital Development Project Effectiveness Suggests a New Methodology Is Needed: DNR's capital development project portfolio includes both the Natural Resources Development Fund and Critical Maintenance Projects. In recent years, both programs have built up unencumbered fund balances and generally have not been timely in the encumbrance and expenditure of funding. As a result, alternative methods for procuring and executing new construction and repairs of facilities on State lands may be needed, such as a public-private partnership (P3) or the use of indefinite quantity contracts. **DLS recommends that DNR comment on whether an indefinite quantity contract would help surmount the existing constraints in the Natural Resources Development Fund and Critical Maintenance Projects project development process and on how the timely encumbering and expending of funding for these two programs may be improved.**

Oyster Restoration Program Funding Needs and Oyster Density Unclear: The Administration has embarked upon an ambitious multi-year restoration of oyster populations in Maryland tributaries of the Chesapeake Bay without an articulated overall funding plan of work to be done by sanctuary. In addition, for the work that has been done since the 2009 through 2010 oyster season, it is not clear what outcomes have been achieved despite committee narrative included in the 2012 *Joint Chairmen's Report* (JCR). **DLS recommends that \$1 million of the fiscal 2015 Oyster Restoration Program bond authorization be withheld until DNR provides a report on (1) the overall scope of Oyster Restoration Program work by activity (substrate, seeding, and monitoring), fund source, funding amount, fiscal year, and sanctuary; and (2) an integrated review of oyster sanctuary monitoring data from the annual Fall Oyster Survey, patent tong survey, and sonar survey as it relates to the tributary and reef level restoration goals.**

Specific Project Funding from 2010 Trust Fund Not Provided: Fiscal 2013 marked the first time that an additional general obligation (GO) bond authorization was included in the Governor's capital budget for Chesapeake and Atlantic Coastal Bays 2010 Trust Fund projects. The fiscal 2015 capital budget includes \$25 million but does not include information on the specific projects to be funded. **DLS recommends that the budget committees consider the multiple options for potentially addressing any additional Chesapeake and Atlantic Coastal Bays 2010 Trust Fund special funds transferred**

to the general fund. Options include not replacing any of the funding; replacing capital bond-eligible funding with additional GO bond authorizations within the overall State debt authorization; and replacing capital bond-eligible funding with a portion of the \$25 million in GO bonds authorized for structural stormwater remediation projects.

Waterway Improvement Fund Revenue Changes: The Waterway Improvement Fund has experienced a substantial decline in its primary revenue source – the vessel excise tax. In addition, Chapter 180 of 2013 (Natural Resources – Vessel Excise Tax – Waterway Improvement Fund) modified revenues by capping the vessel excise tax, although funding was backfilled with revenues from a motor fuel tax allocation. Chapter 180 also established the Task Force to Study Enhancing Boating and the Boating Industry to evaluate options and make recommendations. **DLS recommends that DNR comment on the projected revenue and expenditure outlook for the Waterway Improvement Fund and the expected role of the Task Force to Study Enhancing Boating and the Boating Industry in contributing to the improvement of overall Waterway Improvement Program finances and the meeting of programmatic goals.**

Summary of Recommended PAYGO Actions

1. Outdoor Recreation Land Loan

Concur with the contingent reduction for capital programs funded by the transfer tax.

2. Ocean City Maintenance

Concur with the Governor's allowance of \$500,000 in special funds for the Ocean City Maintenance Program.

3. Waterway Improvement Capital Projects

Concur with the Governor's allowance of \$4,000,000 in special funds and \$1,000,000 in federal funds for Waterway Improvement Capital Projects.

Summary of Recommended Bond Actions

Funds

1. Community Parks and Playgrounds

Approve the \$2,500,000 general obligation bond authorization for Community Parks and Playgrounds.

2. Natural Resources Development Fund

Approve the \$108,000 general obligation bond authorization for the Natural Resources Development Fund.

3. Program Open Space Stateside

\$3,000,000 GO

Reduce funding for the Gwynns Falls/Leakin Park Urban Children in Nature campus project.

4. Program Open Space Local

Approve the \$22,763,000 general obligation bond authorization for Program Open Space – Local prior funds replacement.

5. Rural Legacy Program

Approve the \$15,231,000 general obligation bond authorization for the Rural Legacy Program.

6. Chesapeake Bay 2010 Trust Fund

Approve the \$25,000,000 general obligation bond authorization for the Chesapeake and Atlantic Coastal Bays 2010 Trust Fund.

7. Oyster Restoration Program

Add budget bill language restricting Oyster Restoration Program funding until the submission of a report.

8. Section 2 – Department of Natural Resources – Capital Development Projects

Approve the de-authorization of \$100,000 in general obligation bonds for the completed Pocomoke River State Park bathhouse project.

Funds

9. Section 2 – Department of Natural Resources – Capital Development

Approve the de-authorization of \$175,566 in general obligation bonds for the completed Black Walnut Point Shore Erosion Control project.

10. Section 12 – Department of Natural Resources – Program Open Space

Approve the fiscal 2016 pre-authorization for Program Open Space – State and Program Open Space – Local.

11. Section 12 – Department of Natural Resources – Rural Legacy Program

Approve the fiscal 2016 pre-authorization for Rural Legacy Program.

12. Section 13 – Department of Natural Resources – Program Open Space

Approve the fiscal 2017 pre-authorization for Program Open Space – State and Program Open Space – Local.

13. Section 13 – Department of Natural Resources – Rural Legacy Program

Approve the fiscal 2017 pre-authorization for Rural Legacy Program.

14. Section 14 – Department of Natural Resources – Program Open Space

Approve the fiscal 2018 pre-authorization for Program Open Space – State and Program Open Space – Local.

15. Section 14 – Department of Natural Resources – Rural Legacy Program

Approve the fiscal 2018 pre-authorization for Rural Legacy Program.

Funds

16. Section 15 – Department of Natural Resources – Program Open Space

Approve the fiscal 2019 pre-authorization for Program Open Space – State and Program Open Space – Local.

17. Section 15 – Department of Natural Resources – Rural Legacy Program

Approve the fiscal 2019 pre-authorization for Rural Legacy Program.

18. Section 16 – Department of Natural Resources – Program Open Space

Approve the fiscal 2020 pre-authorization for Program Open Space – State and Program Open Space – Local.

19. Section 16 – Department of Natural Resources – Rural Legacy Program

Approve the fiscal 2020 pre-authorization for Rural Legacy Program.

Total Reductions

\$3,000,000

Program Description

The mission of the DNR capital program may be summarized as the protection of Maryland's open space lands, shorelines, waterways, and natural resources while providing outdoor recreation opportunities in cooperation with federal and local governments. The capital program is comprised of Program Open Space (POS), the Rural Legacy Program, Ocean City Beach Maintenance, the Waterway Improvement Program, Community Parks and Playgrounds, and the Oyster Restoration Program. The Chesapeake and Atlantic Coastal Bays 2010 Trust Fund received first-time GO bond authorization in fiscal 2013. Descriptions of the programs follow.

- **POS – Land Acquisition and Local Program** – Title 5, Subtitle 9 of the Natural Resources Article established POS for the purpose of expediting the acquisition of outdoor recreation and open space areas and the provision of recreation facilities before land is devoted to other purposes. The POS appropriation has historically been split between the State and local government. While both State acquisitions and local grants fund projects that protect open space and provide recreation facilities, State acquisitions tend to place a greater emphasis on natural resource management. State POS funds are allocated for State land acquisition and operation. In addition, POS funds are allocated to capital improvements and critical maintenance, which are described as separate programs below. Local recreation and parks departments use local POS funds for acquisition, development, and planning projects. Primary funding for POS has historically been provided by the State transfer tax of 0.5% of the consideration paid for the transfer of real property from one owner to another. POS administers the Heritage Conservation Fund, which is used to acquire land that provides habitat for rare, threatened, and endangered species through an easement or fee simple purchase and supported by 1.8% of the annual transfer tax revenue. Of note, Chapter 410 of 2011 (State Government – Land Acquisitions and Transfers of Property) consolidated acquisition review, appraisals, and negotiation all within DNR.
- **POS – Natural Resources Development Fund** – State law allows up to 25% of the POS funds allocated to the State to be used for capital development projects and for operating expenses at State forests and parks. The Natural Resources Development Fund provides support to design and construct development projects on DNR property. Capital development projects include shower buildings, building renovations, road parking and trail improvements, and general park improvements. In addition, the Natural Resources Development Fund has taken on the funding for dam rehabilitations. The Dam Rehabilitation Program was initiated in fiscal 1999 to address the major repair needs at 13 of DNR's 29 dams. The dams scheduled for repair through the program were identified by the Maryland Department of the Environment's (MDE) Dam Safety Division as needing immediate repairs. The work included conducting assessments; developing emergency warning plans; and repairing spillways, sluice gates, and access roads. Final funding for the program was provided in fiscal 2012. In fiscal 2015, Natural Resources Development Fund funding is provided for the Bloede Dam Removal project.

- **POS – Critical Maintenance Program** – DNR maintains over 1,500 buildings, hundreds of miles of roadway, parking lots, and a variety of water-associated facilities that serve millions of visitors annually. Critical maintenance projects include structural repairs to buildings, bridge repairs, well and septic system replacement, and road and utility repairs. According to information provided by DNR in February 2014 based on the fiscal 2015 project list, there is a \$32.1 million (593 projects) backlog in necessary critical maintenance projects at State forests and parks, which is a decrease in both the overall cost and the number of projects since February 2013 (\$35.8 million and 614 projects). DNR defines the backlog as those projects not funded in the five-year *Capital Improvement Program* (CIP). DNR and the Department of General Services (DGS) both manage Critical Maintenance Projects. DNR handles procurement for projects that cost \$50,000 or less (the majority of projects), and DGS handles procurement for projects that cost more than \$50,000.
- **Rural Legacy Program** – The purpose of the Rural Legacy Program is to protect agricultural and natural resources land from sprawl development and thus to promote resource-based economies and to develop greenbelts. Program funds are used to purchase conservation easements on land based on Rural Legacy areas approved by the Rural Legacy Board (composed of the Secretaries of DNR, the Maryland Department of Planning, and the Maryland Department of Agriculture). Under § 5-9A-09 of the Natural Resources Article, the Governor is required to include at least \$5 million in the annual capital budget for the Rural Legacy Program separate and apart from what the program is allocated through the transfer tax formula.
- **Ocean City Beach Maintenance** – The Ocean City Beach Maintenance Fund was established to fund annual maintenance for the Ocean City beach replenishment project. When the fund was established, the State entered into a funding agreement with Worcester County and Ocean City. The funding agreement stipulates that the following amounts be provided annually: not less than \$1 million from the State and not less than \$500,000 each from the county and the city. Periodic nourishment is deemed the most cost-effective method of maintaining the beach over a 50-year period. Transfer tax revenue within POS is used to fund the State's contribution to this effort. Upon reaching a \$15 million cap in the fund, no funding is required to be provided by the State or local governments. Replenishment of the Ocean City beach is usually done on a four-year cycle. The last major replenishment was completed in December 2010 – approximately 1,000,000 cubic yards of sand was placed on the beach. The U.S. Army Corps of Engineers periodic renourishment and repairs from Hurricane Sandy have started in fiscal 2014 and are expected to continue until May 2015. The U.S. Army Corps of Engineers is responsible for developing estimates, plans, and managing construction contracts for the periodic nourishment efforts. Annual maintenance items, such as grass planting and fence repairs, are also the responsibility of the State (50%), Ocean City (25%), and Worcester County (25%). These costs have averaged approximately \$500,000 annually.
- **Waterway Improvement Program** – The Waterway Improvement Fund finances projects to expand and improve public boating access throughout the State. The 5% excise tax paid on the sale of motorized vessels within the State and a portion of the motor vehicle fuel tax supports the fund. Funding is provided in the form of grants and/or long-term, interest-free loans to local governments, DNR, and some federal government agencies, as follows: (1) grants (100%) not to

exceed \$5,000; (2) grants (100%) less than \$100,000; (3) public navigation improvement grants (100%) of unlimited amounts; (4) matching grants (50%) that are equal to or exceed \$100,000; and (5) interest-free loans (100%) with a 25-year maximum.

- **Community Parks and Playgrounds** – Chapters 247 and 248 of 2008 codified and amended the existing Community Parks and Playgrounds Program within DNR. The program had been administered as an uncodified grant program for counties and municipalities by POS since fiscal 2002. The program provides flexible grants to municipalities and Baltimore City – counties are no longer eligible – to do the following: (1) rehabilitate, expand, improve, or maintain existing parks; (2) purchase land to create new parks; (3) develop new parks; (4) purchase and install playground equipment in urban neighborhoods and rural areas throughout the State; or (5) be used for environmentally oriented parks and recreation projects. While land acquisition costs are considered, highest priority is given to capital costs associated with park and playground development and improvement.
- **Oyster Restoration Program** – The Oyster Restoration Program provides funding to construct and rehabilitate oyster bar habitat and provide for aquaculture infrastructure improvements. Funding is guided by Maryland’s oyster plan, which includes goals to rehabilitate oyster bar habitat identified in a best oyster bar survey conducted in fall 2009 and to shift commercial oyster production to aquaculture. Based on a U.S. National Oceanic and Atmospheric Administration oyster workgroup, the program has adopted the following restoration goals: (1) restoring 50 to 100% of currently restorable oyster habitat at the tributary level; and (2) achieving a mean density of 50 oysters per square meter and 50 grams dry weight per square meter, containing at least two year classes, and covering at least 30% of the reef area at the reef level.
- **Chesapeake and Atlantic Coastal Bays 2010 Trust Fund** – The Chesapeake and Atlantic Coastal Bays 2010 Trust Fund was established by Chapter 6 of the 2007 special session to be used to implement the State’s tributary strategy. The fund is financed with a portion of existing revenues from the motor fuel tax and the sales and use tax on short-term vehicle rentals. Subsequently, Chapters 120 and 121 of 2008 established a framework for how the trust fund money must be spent by specifying that it be used for nonpoint source pollution control projects and by expanding it to apply to the Atlantic Coastal Bays. Structural stormwater practices have been funded by the Chesapeake and Atlantic Coastal Bays 2010 Trust Fund previously, but the program first received GO bond funding in fiscal 2013. The funding is administered by DNR’s Chesapeake and Coastal Services staff while MDE conducts the permitting. Tracking of project implementation occurs through BayStat and the annual report provided for the program.

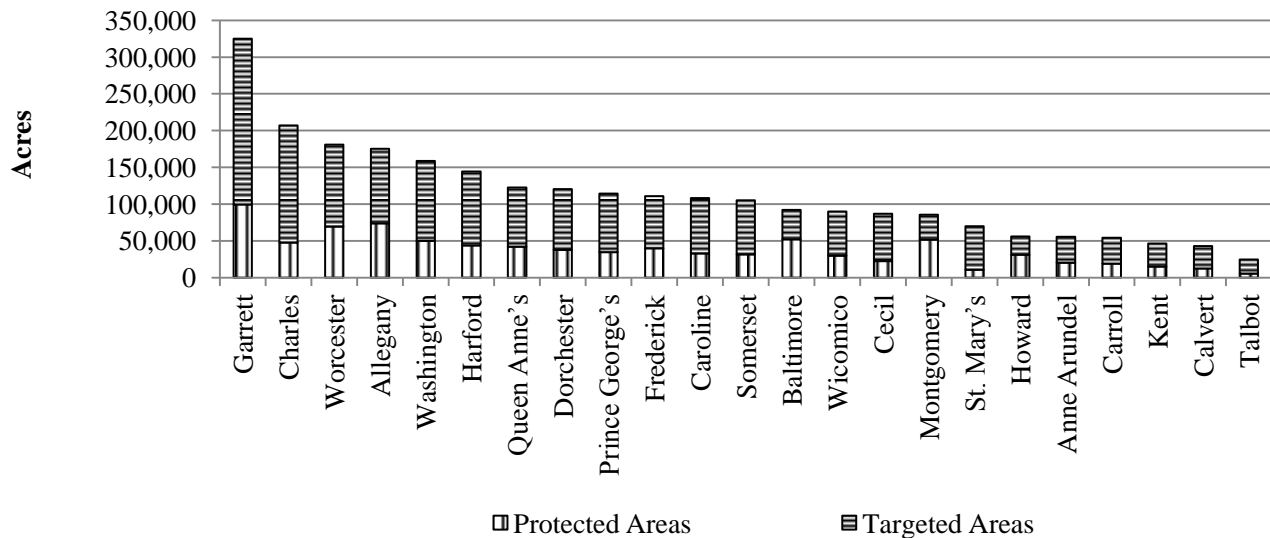
Performance Measures and Outputs

Program Open Space

Maryland distinguishes between targeted ecological areas and high priority conservation areas. Targeted ecological areas have the highest ranking for green infrastructure, species diversity, and water quality. High priority conservation areas are areas where targeted ecological areas meet other protected lands. All of this information is summarized in GreenPrint, the online geographic information system tracking program for preserved land and targeted ecological areas.

Maryland's targeted ecological areas total 2,578,651 acres, which is an increase from the 2,117,005 acres noted in last year's analysis. To date, 873,566 acres have been protected, up from 727,642 acres at this time last year, leaving 1,705,085 acres still to be protected. As shown in **Exhibit 1**, Garrett (325,208 acres), Charles (207,129 acres), and Worcester (181,008 acres) counties are the top three counties in terms of targeted ecological areas. This represents a substantial change since last year when Dorchester (274,049 acres), Garrett (242,327 acres), and Worcester (191,494 acres) counties were the top three counties in terms of targeted ecological areas. DNR notes that it has updated the targeted ecological areas based on an adaptive management approach, which included an ecological reassessment. In addition, DNR notes that the update included the removal of land that was already developed and coastal areas that would be inundated by sea level rise.

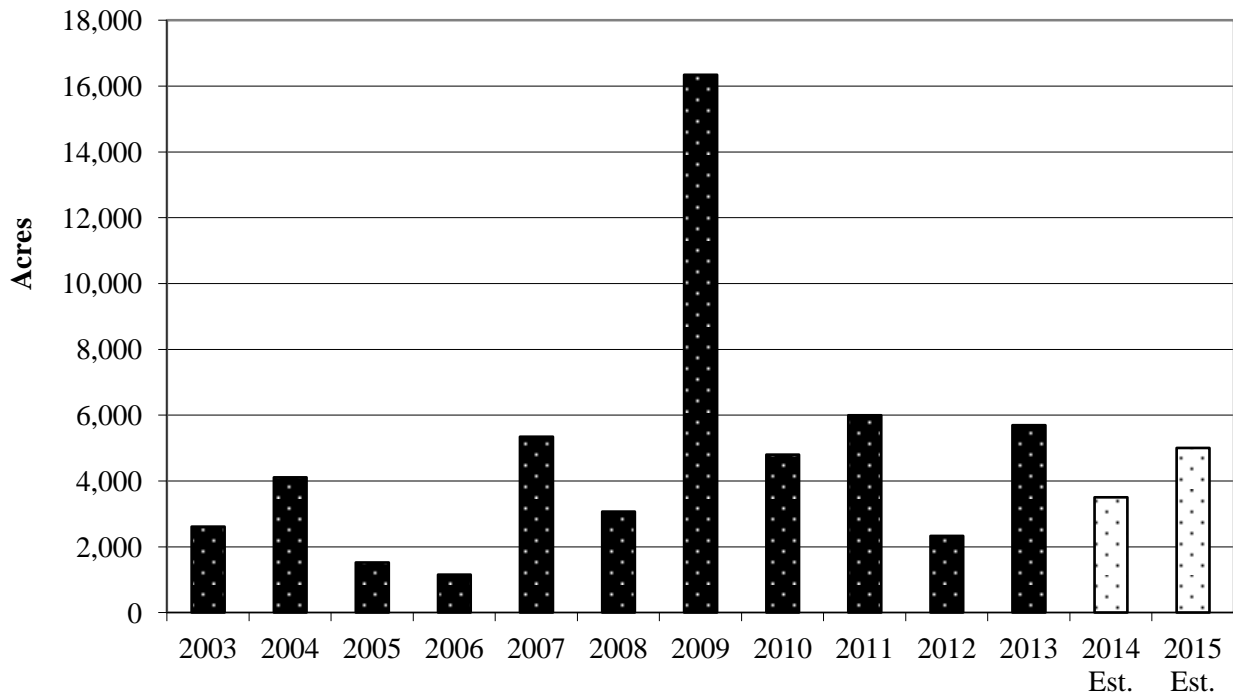
Exhibit 1
Protected and Targeted Ecological Areas
February 2014



Source: Department of Natural Resources

As illustrated in **Exhibit 2**, there was a decrease in the POS acquisition acres approved by the Board of Public Works (BPW) between fiscal 2011 (5,989 acres) and 2012 (2,323 acres). In addition, there was a big decrease from the fiscal 2012 estimate of 10,184 acres. DNR indicates that the Land Acquisition and Planning program experienced a transition year as a result of the consolidation of land acquisition and planning functions through Chapter 410 of 2011 (State Government – Land Acquisitions and Transfers of Property), which consolidated acquisition review, appraisals, and negotiation all within DNR. In addition, DNR indicates it experienced some leadership turnover. The fiscal 2009 acreage approved reflects two large property purchases: the Maryland Province properties (4,474 acres) and the Smith Foster Furnace property (4,769 acres). The fiscal 2013 acreage includes 2,352 acres of easements in Dorchester and Queen Anne’s counties donated to POS by the Conservation Fund in January 2013.

Exhibit 2
POS Acquisition Acres Approved by the Board of Public Works
Fiscal 2003-2015 Est.



POS: Program Open Space

Note: The fiscal 2013 acreage includes 2,352 acres donated to Program Open Space by the Conservation Fund.

Source: Governor’s Budget Books, Fiscal 2006-2015

POS funding expanded the number of State parks acres available to the public from 139,386 in fiscal 2012 to 140,538 in fiscal 2013. The increased acreage is reflected in **Exhibit 3**.

Exhibit 3
Maryland State Parks Acreage Increase from Program Open Space Acquisitions
Fiscal 2013

<u>County</u>	<u>BPW Date</u>	<u>Area</u>	<u>Managing Unit</u>	<u>Acres</u>
Frederick	1/23/2013	Cunningham Falls State Park	Parks	427
Frederick	3/6/2013	Cunningham Falls State Park	Parks	423
Carroll	11/14/2012	Morgan Run Natural Environment Area	Parks	98
St. Mary's	2/20/2013	St. Mary's River State Park	Parks	72
Caroline	9/19/2012	Bridgetown Ponds Heritage Conservation Fund Site – Tuckahoe State Park	Parks	40
Washington	9/19/2012	South Mountain State Park	Parks	14
Frederick	1/2/2013	South Mountain State Park	Parks	14
Washington	1/2/2013	South Mountain State Park	Parks	12
Garrett	5/29/2013	New Germany State Park	Parks	11
Frederick	6/12/2013	South Mountain State Park	Parks	11
Frederick	3/20/2013	South Mountain State Park	Parks	9
Washington	7/11/2012	South Mountain State Park	Parks	9
Frederick	7/11/2012	South Mountain State Park	Parks	8
Washington	8/1/2012	Greenbrier State Park	Parks	3
Queen Anne's	12/19/2012	Love Point State Park	Parks	1
Somerset	2/6/2013	Janes Island State Park	Parks	1
Total				1,153

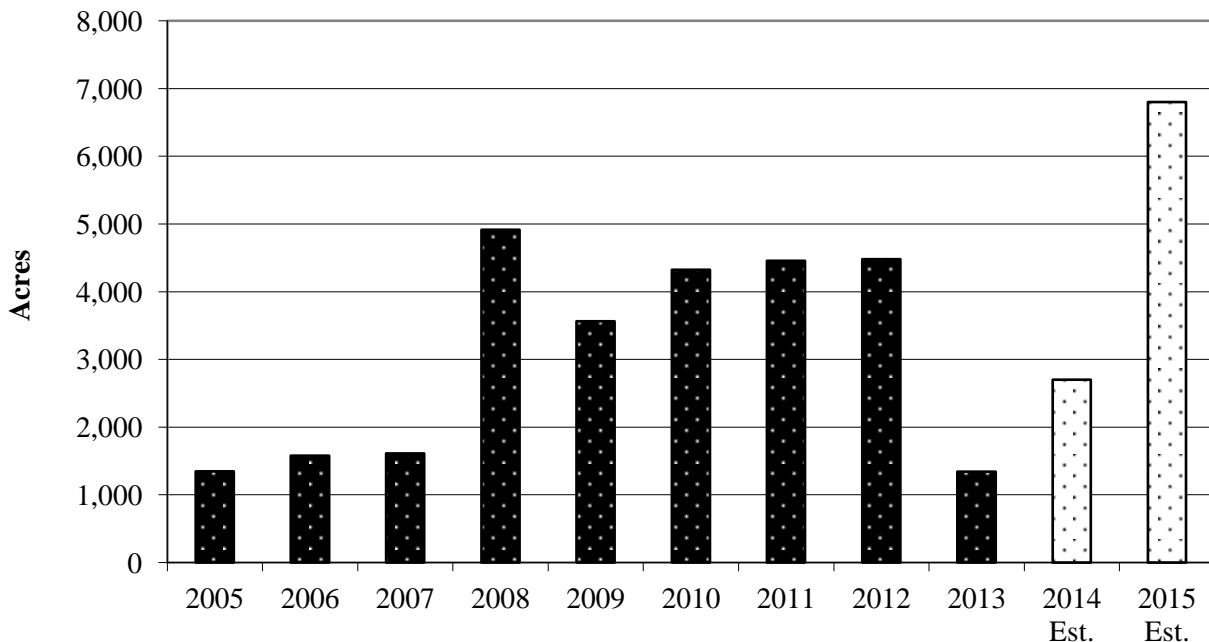
BPW: Board of Public Works

Source: Department of Natural Resources

Rural Legacy Program

Exhibit 4 shows that the number of approved Rural Legacy Program easement and fee simple acres decreased from 4,480 acres in fiscal 2012 to 1,340 acres in fiscal 2013. DNR indicates that this is due to unencumbered funds from previous fiscal years being spent down in fiscal 2012. In addition, there was a reduction of available funding in fiscal 2013 due to the transfer of special funds to the general fund and other funding reductions, which directly impacted the easement acres purchased. The increase to 2,700 acres approved in fiscal 2014 and then 6,800 acres in fiscal 2015 is based on available funding, \$13.5 million in fiscal 2014, and the assumption of \$23.9 million in fiscal 2015. However, \$16.0 million is proposed for fiscal 2015, thus DNR notes that the acreage approved by BPW could be closer to 4,500 acres based on an estimated \$3,500 per acre cost.

Exhibit 4
Rural Legacy Easement and Fee Simple Acres
Approved by the Board of Public Works
Fiscal 2005-2015 Est.

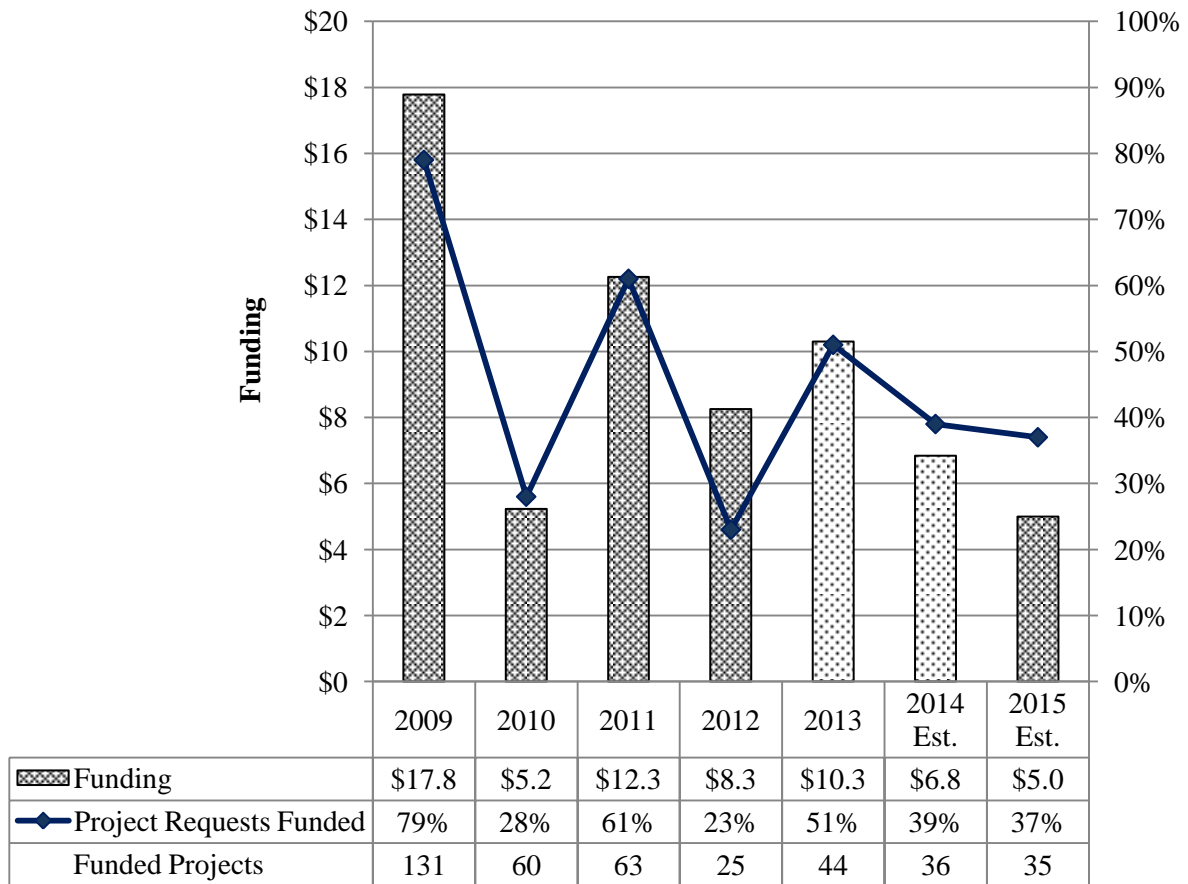


Source: Governor's Budget Books, Fiscal 2008-2015

Waterway Improvement Program

As illustrated in **Exhibit 5**, the fiscal 2015 allowance will allow the Waterway Improvement Program to fund an estimated 37% of the waterway project requests submitted. This is roughly equal to the 39% of project requests funded in fiscal 2014. DNR has noted in the past that it has informed local jurisdictions to limit grant requests to those of the highest priority, which helps to explain the high percentage of project requests funded in fiscal 2011. DNR's goal is to fund 80% of project requests; therefore, the fiscal 2015 allowance is 52 percentage points lower than the goal.

Exhibit 5
Waterway Project Requests Funded
Fiscal 2009-2015 Est.
(\$ in Millions)

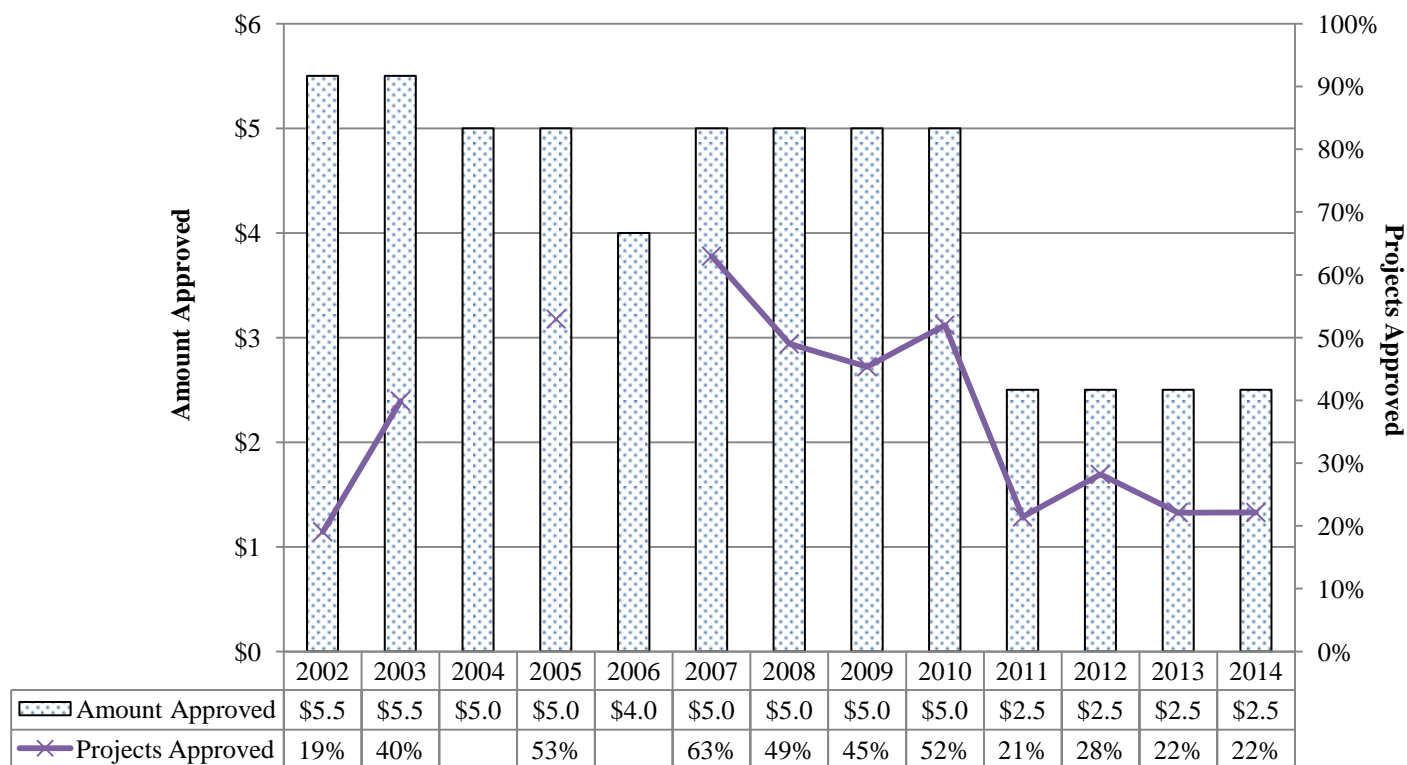


Source: Department of Budget and Management; Department of Natural Resources

Community Parks and Playgrounds

Exhibit 6 reflects the amount of funding approved for Community Parks and Playgrounds projects and the percent of projects requested that are approved. As can be seen, in recent years the reduction in available funding from \$5.0 million to \$2.5 million has reduced the percent of projects that are approved. DNR notes that, in addition to the number of projects that seek funding, the per-project cost must also be considered when looking at year-to-year comparisons.

Exhibit 6
Community Parks and Playgrounds Funding
Fiscal 2002-2014
(\$ in Millions)



Note: In fiscal 2004, no applications were solicited, and 56 projects were selected from fiscal 2003 requests. In fiscal 2006, no applications were solicited, and 13 projects were selected for funding by the Maryland General Assembly.

Source: Department of Budget and Management

Budget Overview

In the Governor's budget, DNR's fiscal 2015 capital program, as introduced, includes \$16.47 million in special funds, \$3.5 million in federal funds, and \$92.1 million in GO bonds, which accounts for the reduction of \$51.9 million in special funds that are contingent on the enactment of a Budget Reconciliation and Financing Act (BRFA) of 2014 provision transferring this amount of special funds to the general fund.

Contingent Reductions and Multi-year GO Bond Replacement

As shown in **Exhibit 7**, the fiscal 2015 allowance reflects three interrelated calculations and actions as follows.

- **Fiscal 2015 through 2018 Transfer Tax Revenue Diverted to General Fund** – The BRFA of 2014 diverts an additional \$69.1 million in estimated transfer tax revenue to the general fund in fiscal 2015, \$51.9 million of which is attributable to the following DNR programs:
 - **POS – State share** – \$20,835,570;
 - **POS – Local share** – \$22,687,940; and
 - **Rural Legacy** – \$8,328,000.
- **Three-year GO Bond Replacement Plan** – While the BRFA of 2014 does not make the transfers subject to the repayment provisions under Tax Property Article 13-209(F) or (G), the Governor has proposed a three-year replacement plan utilizing GO bond funds to replace all of the proposed transfers. The fiscal 2015 capital budget bill includes pre-authorizations that span three years – fiscal 2016 through 2018 – as shown in Exhibit 7.
- **Prior Year Transfers Replaced with GO Bonds** – The fiscal 2015 allowance includes \$51.9 million in GO bonds for replacement of prior year transfer taxes transferred to the general fund. This includes funding for POS – State (\$18,872,000), POS – Local (\$22,763,000), and the Rural Legacy Program (\$10,231,000).

Exhibit 7
Governor’s Fiscal 2014 through 2018 Special Fund Transfers and
General Obligation Bond Replacement Plan for DNR Programs
Fiscal 2014-2020
(\$ in Millions)

	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>Total</u>
<i>Transfer</i>								
BRFA of 2013	\$71.09	\$59.23	\$61.30	\$65.38	\$67.97	\$0.00	\$0.00	\$324.96
BRFA of 2014	0.00	51.85	0.00	0.00	0.00	0.00	0.00	51.85
Total	\$71.09	\$111.08	\$61.30	\$65.38	\$67.97	\$0.00	\$0.00	\$376.81
<i>Replacement</i>								
Fiscal 2014 Capital Budget	\$9.03	\$28.20	\$57.82	\$60.27	\$63.34	\$66.67	\$33.98	\$319.30
Fiscal 2015 Capital Budget	0.00	0.00	17.28	17.28	17.28	0.00	0.00	51.85
Total	\$9.03	\$28.20	\$75.10	\$77.55	\$80.62	\$66.67	\$33.99	\$371.15

BRFA: Budget Reconciliation and Financing Act

DNR: Department of Natural Resources

Note: The fiscal 2015 authorization includes \$23.7 million in general obligation bond replacement funding attributable to transfers before fiscal 2014, but this amount is not reflected in the exhibit because it is not part of the replacement of funding transferred in the fiscal 2014 through 2018 time period. The \$5.7 million difference between the total transfer and replacement amounts reflects fiscal 2014 Natural Resources Development Fund funding that will not be replaced.

Source: Department of Legislative Services

Future Transfer Tax Revenues

The Board of Revenue Estimates currently estimates transfer tax revenues of \$193.5 million in fiscal 2015, which increases to \$215.6 million in fiscal 2019, as shown in **Exhibit 8**. Even with the proposed transfers, this will provide substantial funding for State land acquisition and easement programs in future years.

Exhibit 8
Property Transfer Tax Revenue Projections
Fiscal 2009-2019
(\$ in Millions)

Fiscal Year	December 2007 <u>Estimate</u>	December 2008 <u>Estimate</u>	December 2009 <u>Estimate</u>	December 2010 <u>Estimate</u>	December 2011 <u>Estimate</u>	December 2012 <u>Estimate</u>	December 2013 <u>Estimate</u>
2009	\$166.3	\$121.5	\$113.7				
2010	181.4	114.7	116.5				
2011	184.0	121.4	149.9	\$113.8			
2012	187.5	130.0	169.2	118.9	\$118.5		
2013	191.5	135.4	176.2	134.0	131.3		
2014	n/a	138.1	190.8	157.4	153.4	\$164.0	
2015	n/a	n/a	201.3	174.2	179.6	187.1	\$193.5
2016	n/a	n/a	208.5	177.8	196.8	200.6	203.8
2017	n/a	n/a	n/a	n/a	206.7	213.2	203.6
2018	n/a	n/a	n/a	n/a	n/a	221.3	209.3
2019	n/a	n/a	n/a	n/a	n/a	n/a	215.6

Source: Comptroller of Maryland; Department of Budget and Management

Program Highlights

The changes in funding for fiscal 2015, accounting for the contingent reduction, are reflected in **Exhibit 9**.

Exhibit 9
DNR Capital Budget Changes by Fund
Fiscal 2014-2015
(\$ in Millions)

<u>Program</u>	<u>Fund</u>	<u>2014</u>	<u>2015</u>	<u>Difference</u>
POS – Land Acquisition and Local Program	SF	\$22.8	\$1.5	-\$21.3
	FF	4.5	2.5	-2.0
	GO	32.9	41.6	8.7
Subtotal		\$60.3	\$45.6	-\$14.6
POS – Natural Resources Development Fund	SF	\$0.0	\$4.5	\$4.5
	GO	4.6	0.1	-4.5
Subtotal		\$4.6	\$4.6	\$0.1
POS – Critical Maintenance	SF	\$0.2	\$4.6	\$4.4
	GO	4.5	0.0	-4.5
Subtotal		\$4.6	\$4.6	\$0.0
Rural Legacy Program	SF	\$5.4	\$0.8	-\$4.6
	GO	8.1	15.2	7.1
Subtotal		\$13.5	\$16.0	\$2.5
Ocean City Beach Maintenance	SF	\$0.0	\$1.0	\$1.0
Subtotal		\$0.0	\$1.0	\$1.0
Waterway Improvement Program	SF	\$1.7	\$4.0	\$2.3
	FF	2.1	1.0	-1.1
	GO	3.0	0.0	-3.0
Subtotal		\$6.8	\$5.0	-\$1.8
Community Parks and Playgrounds	GO	\$2.5	\$2.5	\$0.0
Subtotal		\$2.5	\$2.5	\$0.0
Oyster Restoration Program	GO	\$10.0	\$7.6	-\$2.4
Subtotal		\$10.0	\$7.6	-\$2.4
Chesapeake Bay 2010 Trust Fund	GO	\$36.6	\$25.0	-\$11.6
Subtotal		\$36.6	\$25.0	-\$11.6
Total		\$138.9	\$112.0	-\$26.9

Note: The exhibit does not include the special funds that are contingently reduced.

DNR: Department of Natural Resources
FF: federal fund

GO: general obligation
POS: Program Open Space

SF: special fund

Source: Department of Legislative Services

The highlighted changes in funding are as follows.

- **POS – Land Acquisition and Local Program** – The fiscal 2015 allowance includes \$1.5 million in special funds for POS – State that will be used for the Baltimore City Direct Grant, \$2,500,000 in federal funds for POS – State, \$18.9 million in GO bonds for POS – State, and \$22.8 million in GO bonds for POS – Local. The overall decrease of \$14.6 million between fiscal 2014 and 2015 primarily reflects the additional diversion of transfer tax special funds to the general fund as part of the Administration’s fiscal 2015 cost containment plan and a slight adjustment in federal revenue. The GO bond authorization increases due to the first of a two-year installment plan to replace fiscal 2014 special funds transferred to the general fund. Of the \$18.9 million in GO bond authorization for POS – State, \$6.0 million is restricted for Baltimore City to construct capital improvements to the Gwynns Falls/Leakin Park Urban Children in Nature Campus project, and \$300,000 is restricted to the Board of Directors of the Royal Theater and Community Heritage Corporation. The \$300,000 will be used for the acquisition, clearance, and site preparation of land, the design of athletic and open space uses including football, soccer, tennis, and basketball facilities, and recreational amenities including concession stands, lighting, and spectator seating. For the Gwynns Falls/Leakin Park project, DNR notes that Baltimore City has committed to begin design in fiscal 2014 so that the following projects benefiting urban youth in West Baltimore will be ready for construction funds in fiscal 2015: redesign of the Cahill Community Center for indoor-outdoor recreation and education; improve youth campgrounds for an outdoor camping experience; construct a splash pad for youth and families to refresh themselves during the summer; build a small nature center at Winans Meadow; and conduct capital improvements to Outward Bound’s high ropes and climbing wall challenge course. **DLS recommends that the Gwynns Falls/Leakin Park Urban Children in Nature Campus project be split funded over two years, allowing for a reduction of \$3.0 million in fiscal 2015 GO bond authorization.**
- **POS – Natural Resources Development Fund** – The POS – Natural Resources Development Fund appropriation includes \$4.5 million in transfer tax special funds and \$108,000 in GO bonds to complete design of the Sassafras Natural Resources Management Area (Phase II). Overall, the budget is roughly equal to the fiscal 2014 appropriation and is approximately \$800,000 more than the amount programmed for fiscal 2015 in the 2013 CIP. DNR notes that the additional funding will allow for prioritized projects to be completed instead of being shifted into the out-years, which would increase their cost. The fiscal 2015 appropriation would provide funding for projects, such as Wellington Wildlife Management Area Building Renovation (\$1.8 million), Bloede Dam Removal (\$1.0 million), Point Lookout State Park Charge Collection Station (\$625,000), and Garrett County State Parks – Trail Construction (\$600,000). The Bloede Dam Removal project cost could increase by up to \$2.0 million depending on whether the sediment behind the dam is released gradually downstream or is excavated, the more expensive option. DNR indicates that a number of projects – Harriet Tubman Underground Railroad State Park – Visitor Center, Upper Chesapeake Rail Trail, Janes Island Nature Center, and the Western Maryland Rail Trail – will be awarded in fiscal 2014 and thus will help reach the planned \$27.8 million fiscal 2014 encumbrance estimate. The fiscal 2014 encumbrance estimate of \$27.8 million is almost

four times as high as any recent year encumbrance level and still would leave \$12.2 million in unencumbered funds for fiscal 2015.

- **POS – Critical Maintenance Program** – There is \$4.6 million in special funds in the fiscal 2015 allowance for the POS – Critical Maintenance Program, which is basically level with the fiscal 2014 appropriation but is \$0.6 greater than the amount programmed for fiscal 2015 in the 2013 CIP. DNR indicates that additional funding is requested for the final four bathhouses at Assateague State Park. The fiscal 2015 appropriation would provide for the following projects: Assateague State Park – Renovate Shower Buildings, Phase II (\$1,417,000); Pocomoke River State Park – Renovate Shower Buildings, Phase II (three buildings); Western Maryland Forests – Road and Trail Maintenance (\$300,000); Sandy Point State Park – Replace Waterline and Sidewalk S Beach Picnic Area (\$250,000); Cambridge Facility Rail System (\$200,000); Statewide – House Assessment Program (\$175,000); Susquehanna State Park – Roofing and Siding Replacement 4 Buildings Steppingstone (\$125,000); Pocomoke River State Park – Algonquin and Manokin Pavilion Renovations (\$107,000); Deep Creek Lake State Park – Replace Storm Drain Pipe (\$100,000); New Germany State Park – Trail Bridge Replacement (\$100,000); and Susquehanna State Park – Replace Sewer Line and Septic – Beechnut Shower Building (\$100,000).
- **Rural Legacy Program** – The Rural Legacy Program’s fiscal 2015 allowance provides \$803,000 in special funds for easement costs which are not eligible for GO bonds and \$15.2 million in GO bonds. The increase of \$2.5 million between fiscal 2014 and 2015 primarily is due to (1) the \$5.0 million mandated amount that was reduced by the General Assembly in fiscal 2014 but is budgeted as required for fiscal 2015; and (2) the first year of the two-year installment plan replacement of fiscal 2014 revenues transferred to the general fund, which are offset partially by the additional transfer of transfer tax special funds to the general fund as part of the Administration’s fiscal 2015 cost containment plan. The fiscal 2015 cost per acre is estimated to be \$3,500.
- **Ocean City Beach Maintenance** – The Ocean City Beach Maintenance appropriation is \$1.0 million in special funds and is comprised of the \$500,000 in State transfer tax funding and the \$500,000 in the Worcester County and Ocean City shares of the next regularly scheduled beach renourishment project. The fiscal 2015 funding is an increase of \$1.0 million relative to the fiscal 2014 appropriation since no funding was provided in that year. DNR indicates that the U.S. Army Corps of Engineers’ contract for periodic renourishment of the beach and repairs from Hurricane Sandy – a joint project – have begun and that the work is expected to continue until May 2015 with 100% of the funding coming from the federal government. In addition, the State’s annual maintenance contract was scheduled for the January 22, 2014 BPW meeting.
- **Waterway Improvement Program** – The Waterway Improvement Program’s fiscal 2015 allowance includes \$4.0 million in special funds and \$1.0 million in federal funds. This reflects a \$1.8 million decrease relative to the fiscal 2014 appropriation of \$6.8 million and a shift in fund types. However, the fiscal 2015 authorization is \$3.1 million greater than the

amount programmed for fiscal 2015 in the 2013 CIP, which is due to an increase in available revenues. The funding would be used to expand and improve recreational boating throughout Maryland. The Waterway Improvement Program is discussed further as an issue in this analysis.

- **Community Parks and Playgrounds** – The fiscal 2015 allowance includes \$2.5 million in GO bonds for the Community Parks and Playgrounds program, which is level with fiscal 2014, and so no change in funding is reflected. This funding level is consistent with the 2013 CIP.
- **Oyster Restoration Program** – The fiscal 2015 allowance includes \$7.6 million in GO bond authorization for the Oyster Restoration Program. This reflects a decrease of \$2.4 million relative to fiscal 2014 authorization for the program. This funding would be used to supplement the \$8.1 million in fiscal 2013 and \$10.0 million in fiscal 2014 funding to rehabilitate the oyster bar habitat in the Harris Creek and Little Choptank River tributaries to the Chesapeake Bay and to provide grants for aquaculture development projects. For fiscal 2015, \$7.3 million would be used for oyster bar rehabilitation, including \$4.3 million for substrate to build up the oyster reef base and \$3.0 million to expand oyster spat production to two billion annually at the University of Maryland Center for Environmental Science’s Horn Point Hatchery, and \$0.3 million for aquaculture infrastructure improvements. With the \$4.3 million in substrate funding, DNR indicates that it will have enough funding to complete the \$21.0 million habitat construction contract with the Maryland Environmental Service for Harris Creek and to begin work on the Little Choptank. The \$3.0 million for expanding oyster production will help reach a goal of 2 billion spat produced annually and will fund a new shell washer and tumbler station, shell conveyors, and other capital equipment for cleaning and handling shell. Oyster aquaculture improvement funding flows through the Maryland Agricultural Resource-Based Industry Development Corporation’s (MARBIDCO) Maryland Shellfish Aquaculture Capital Equipment Financing program for shellfish aquaculture businesses. The fiscal 2015 allowance of \$7.6 million reflects an increase of \$5.1 million relative to the 2013 CIP amount of \$2.5 million. DNR notes that increased funding beyond the amount programmed in the 2013 CIP, along with an agreement with the railroad company CSX Corporation to provide a \$2.4 million in-kind investment of fossilized oyster shell transported from Florida, will allow for the transport and planting of approximately 118,750 tons of fossil oyster shells to support the work on Harris Creek. The 2014 CIP reflects the carrying forward of the fiscal 2015 funding level into both fiscal 2016 and 2017, which is an increase relative to the 2013 CIP, before funding is programmed at the \$2.5 million for fiscal 2018 and 2019. The Oyster Restoration Program is discussed further as an issue in this analysis.
- **Chesapeake and Atlantic Coastal Bays 2010 Trust Fund** – The fiscal 2015 allowance includes \$25.0 million in GO bond authorization for the Chesapeake and Atlantic Coastal Bays 2010 Trust Fund, which reflects an \$11.6 million reduction in the authorization relative to fiscal 2014. This funding level is consistent with the amount programmed for fiscal 2015 in the 2013 CIP. The fiscal 2015 funding would be used to fund construction-ready local structural stormwater projects, such as bioretention, impervious surface removal, and wetland

and floodplain restoration. The individual projects receiving funding will be determined by the BayStat Subcabinet. DNR notes that a fall 2013 solicitation elicited 49 submissions for \$77.0 million from county, municipal nongovernmental organizations, and public/private partnerships, primarily within Maryland's 10 largest jurisdictions subject to stormwater permits consistent with the State's Watershed Implementation Plan (WIP). In the five-year planning period, the fund is programmed to receive final funding in fiscal 2015. The Chesapeake and Atlantic Coastal Bays 2010 Trust Fund is discussed further as an issue in this analysis.

POS Repayment Schedule

In response to the transfers of State transfer tax funding between fiscal 2002 and 2006, the Land Preservation and State Asset Protection Act (Chapter 473 of 2005) was passed. Chapter 473 required the first \$50 million repayment installment in fiscal 2012 of the \$90 million transferred in fiscal 2006 if the State's closing fiscal 2010 general fund balance exceeds a certain amount. Pursuant to general mandate relief authority and actions to further defer the repayment, monies to repay the transfer were not provided in the fiscal 2012 through 2015 budgets. The BRFA of 2013 shifted the mandate to fiscal 2016.

POS BRFA of 2011 and 2013 Provisions

The BRFA of 2011 allowed for the Administration to allocate \$1,217,000 of the fiscal 2012 and 2013 POS State land acquisition funding for POS administration in DNR's operating budget. The BRFA of 2013 allowed the Administration to allocate the same amount for POS administration in fiscal 2014 and 2015. However, a \$1,217,000 general fund reduction was also programmed in DNR's operating budget in Finance and Administrative Services, and so this was in effect a cost containment action.

POS Acquisition Opportunity Loan of 2009

DNR indicates that the majority of its \$65 million portion of the \$70 million in GO bond authorization provided for in the POS Acquisitions Opportunity Loan of 2009 has been encumbered, and the entire amount has been obligated to projects. The remaining authorization is anticipated to be encumbered by the March 5, 2014 BPW meeting.

Issues

1. Harriet Tubman Underground Railroad State Park Appeal

The Harriet Tubman Underground Railroad State Park is the first Maryland State Park presence in Dorchester County, and on March 25, 2013, President Barack H. Obama issued a presidential proclamation declaring the Harriet Tubman Underground Railroad a national monument. As part of the State park improvements, a visitor center is being constructed. Initial concerns were raised about DNR's ability to secure sufficient funding for the project, particularly \$8.5 million in U.S. Department of Transportation – Transportation Enhancement Program funding, although to date, all funding necessary for the project appears to have been secured. However, a construction bid denial has been appealed, which has temporarily delayed the project and possibly jeopardized federal funding.

Background

The visitor center project consists of designing and constructing a visitor center, access roads, parking, memorial garden, picnic pavilion, informational kiosks, walking paths, onsite wastewater treatment system, and a well. BPW agenda items indicate that the project was advertised for construction on June 19, 2013, with three bidders responding on August 23, 2013. Due to the multi-step bid process, the price bids were publicly opened on September 5, 2013. The low bidder requested a waiver from the 30% Disadvantaged Business Enterprise goal but was denied the waiver because information that accurately determined good faith efforts to meet the goal was not submitted. Subsequently, the low bidder appealed the denial to the Maryland State Board of Contract Appeals and protested the denial of the waiver.

Board of Public Works Approval Sought

Meanwhile, the DGS Minority Business Enterprise Office approved the second low bidder's commitment to the 30% Disadvantaged Business Enterprise Goal on October 25, 2013. DGS requested that BPW award the construction contract to the second lowest bidder on the December 18, 2013 and January 8, 2014 agendas, but in each instance the item was removed from the agenda. DNR notes that the award of the contract by BPW is being held up until the Maryland State Board of Contract Appeals makes its decision. It is noted on the BPW meeting agenda that federal funds secured for the project may be jeopardized, and the completion of the project may not occur if the contract is not awarded by January 2014.

Construction Funding

Construction funding secured for the project, previous encumbrances, and the proposed construction encumbrance are reflected in **Exhibit 10**. As shown in Exhibit 10, if the construction award is upheld, then \$4.5 million in available funding is estimated to remain. **DLS recommends that DNR comment on the current status of the project as it relates to site preparation, the appeal process, the security of the federal funding award, and the drawdown schedule for the remaining funding if the construction award is upheld.**

Exhibit 10
Harriet Tubman Underground Railroad State Park – Visitor Center
Federal and State Funding and Proposed Uses
Federal and State Fiscal 2009-2014

<u>Source</u>	<u>Award Timeframe (Federal or State Fiscal Year)</u>	<u>Use</u>	<u>Amount Received</u>	<u>Previous Contracts</u>	<u>Previous Expenditure</u>	<u>Proposed Contract</u>	<u>Remainder</u>
Federal							
U.S. National Park Service – Land and Water Conservation Fund	2009	Site development and landscaping	\$1,191,312	\$0	\$87,000	\$1,104,312	\$0
U.S. Department of Housing and Urban Development	2009 (\$475,000) and 2010 (\$462,500)	Exterior/landscape and utility improvements	937,500	0	101,116	836,384	0
U.S. Department of Transportation – National Scenic Byways Program	2010	Exhibits and orientation film	1,500,000	0	10,060	0	1,489,940
U.S. Department of Transportation – Transportation Enhancement Program	2011	Building, landscaping, and utilities	8,500,000	0	0	8,500,000	0
Subtotal			\$12,128,812	\$0	\$198,176	\$10,440,696	\$1,489,940
State							
Natural Resources Development Fund (special funds)	2008	Design the building and site improvements	\$1,600,000	\$1,521,700	\$0	\$0	\$78,300

<u>Source</u>	<u>Award Timeframe (Federal or State Fiscal Year)</u>	<u>Use</u>	<u>Amount Received</u>	<u>Previous Contracts</u>	<u>Previous Expenditure</u>	<u>Proposed Contract</u>	<u>Remainder</u>
Natural Resources Development Fund (general obligation bonds)	2010	Design and construct a visitor center, access roads, parking, memorial garden, picnic pavilion, informational kiosks, walking paths, on-site wastewater treatment system, and well	4,409,107	832,370	0	3,531,304	45,433
Natural Resources Development Fund (general obligation bonds)	2013	Design, construct and equip capital improvements	2,683,000	0		0	2,683,000
Natural Resources Development fund (general obligation bonds)	2014	Design, construct and equip capital improvements	250,000	0		0	250,000
Subtotal			\$8,942,107	\$2,354,070	\$0	\$3,531,304	\$3,056,733
Total			\$21,070,919	\$2,354,070	\$198,176	\$13,972,000	\$4,546,673

Note: The Department of Natural Resources indicates that it has expended \$1,497,686 of the fiscal 2008 Natural Resources Development Fund special funds and \$643,598 of the fiscal 2010 Natural Resources Development Fund general obligation bonds, but these expenditures are not reflected above in order to show how the remainder of funding to be encumbered or expended relates to the original amount received.

Source: Department of Natural Resources; Board of Public Works

2. Ongoing Capital Development Project Effectiveness Suggests a New Methodology Is Needed

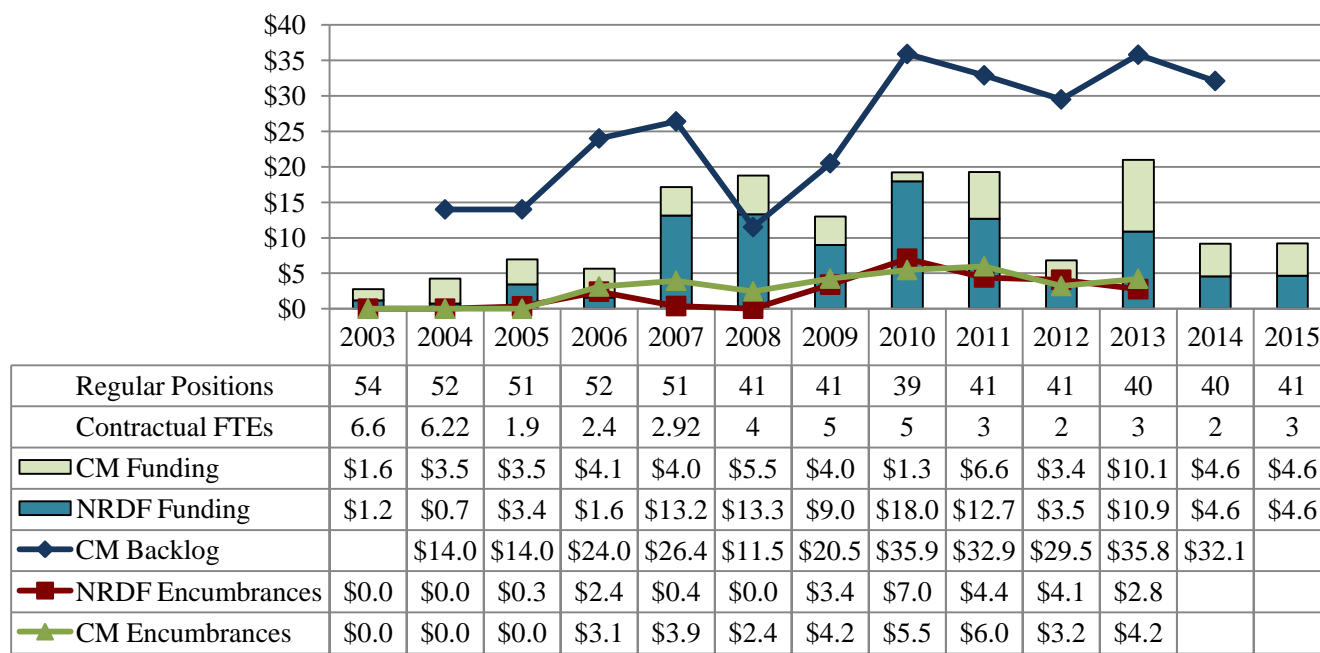
DNR's capital development project portfolio includes both the Natural Resources Development Fund and Critical Maintenance Projects. The Natural Resources Development Fund builds new facilities on DNR property and critical maintenance projects repair existing facilities. In recent years, both programs have built up unencumbered fund balances and generally have not been timely in the encumbrance and expenditure of funding. In addition, there has been an increase in the backlog – those projects not funded in the five-year CIP – of necessary critical maintenance projects at State forests and parks. The current backlog is 593 projects estimated at \$32.1 million. As a result, alternative methods for procuring and executing new construction and repairs of facilities on State lands may be needed.

Possible Reasons for Slow Encumbrances and Expenditures

Exhibit 11 shows funding and encumbrance levels for Natural Resources Development Fund and Critical Maintenance Projects and the critical maintenance backlog. There are a number of reasons why the two programs are not operating optimally including funding levels, permitting and procurement process, and staffing levels.

- **Funding Levels** – Increased funding for Critical Maintenance Projects has not had much impact in reducing the backlog and has resulted in increased levels of unencumbered funds. The same is also the case with the Natural Resources Development Fund where increased funding levels, apart from funding for the Harriet Tubman Underground Railroad State Park – Visitor Center, appear to be affecting DNR's ability to encumber funding for projects. While the need may be there, simply adding funds will not address any underlying issues impacting the ability to complete projects. Exhibit 11 shows that combined funding levels for the Natural Resources Development Fund and Critical Maintenance Projects have increased in recent years. The lowest amount of combined funding authorized was \$2.8 million in fiscal 2003, which is roughly the same time period as the second lowest critical maintenance projects backlog in fiscal 2004. Beyond fiscal 2004, though it appears that increasing funding for the two programs is correlated with the increase in the critical maintenance backlog, which is somewhat counterintuitive given that additional funding should allow for more projects to be completed and thus a reduction in the backlog. However, it is not clear how projects are included in the funding cue, since this determines the backlog. Therefore, it is not clear whether increased funding alone is a driver of program efficiency concerns.

Exhibit 11
Natural Resources Development Fund and Critical Maintenance Projects Metrics
Fiscal 2003-2015
(\$ in Millions)



CM: Critical Maintenance Projects

FTE: full-time equivalent

NRDF: Natural Resources Development Fund

Note: The Natural Resources Development Fund and Critical Maintenance Projects general obligation bond authorizations have been adjusted over time, which is possible to do with the capital budget. This exhibit reflects the original authorizations. The \$11.5 million critical maintenance backlog in fiscal 2008 reflects a temporary change in how the Department of Natural Resources calculated the backlog.

Source: Governor's Budget Books, Fiscal 2004-2015; Capital Budget Worksheets

- Permitting and Procurement** – DNR notes that a number of permits may impact projects on State lands including stormwater, erosion, non-tidal or tidal waterway, joint U.S. Army Corps of Engineers, and Critical Areas permits. Coordination with MDE, the Chesapeake and Atlantic Coastal Bays Critical Area Commission, and the U.S. Army Corps of Engineers on permitting may involve multiple rounds of comments and construction document adjustments. In addition, DNR notes that there are major milestone reviews by DGS and DNR, which add additional time to project schedules. As an example of recent permit challenges, DNR notes that the Milburn Landing project permit period lasted 18 months, and the Upper Chesapeake Rail Trail project permit period has extended beyond a year, resulting in several design revisions.

- **Staffing** – One additional consideration is whether DNR has sufficient staffing to handle the workload associated with new construction and repairs. For instance, Exhibit 11 shows the regular positions and contractual full-time equivalents (FTE) in DNR’s Engineering and Construction program – the operational, administrative, project management, and engineering/technical support for all capital development and critical maintenance projects located on DNR land. As can be seen, the combined total of regular and FTE positions was above 50 through fiscal 2007 and then dropped below 50 in fiscal 2008, which coincides with the time period in which the dollar value of the critical maintenance projects backlog increased substantially. However, a number of positions were transferred from the Engineering and Construction program to the Boating Services program in fiscal 2009; thus, it appears that this may have been a shift of responsibility for engineering projects related to waterways rather than an actual decrease in engineering personnel supporting projects on State lands. In addition, a simple correlation between DNR staffing and effectiveness of the two programs is difficult to draw because DNR and DGS both manage Critical Maintenance Projects. DNR handles procurement for projects that cost \$50,000 or less (the majority of projects), and DGS handles procurement for projects that cost more than \$50,000. Therefore, the DGS staffing levels would also need to be evaluated. Finally, DNR notes that staffing levels at the State facilities needing maintenance should also be considered because routine maintenance conducted as a result of adequate staffing levels can reduce larger maintenance needs.

Ways to Mitigate Project Delays

Procurement innovations could improve the effectiveness of DNR’s Natural Resources Development Fund and Critical Maintenance Projects programs. Two procurement innovation examples include a P3 model and a State indefinite quantity contract. A P3 could be structured using a revenue stream, such as Maryland Park Service revenues or transfer tax funding, to provide for a private company to construct improvements on State land. However, DNR notes that not every public facility generates the revenue necessary to fund a P3 and that the allocation of funding from the transfer tax is already statutorily defined. DNR also notes that it would like to maintain affordability of State land access and that this may not be possible if a P3 model is adopted.

A second option is to explore an indefinite quantity contract. For the purposes of multiple design projects, DGS enters into what are called indefinite quantity contracts – a contract for as-needed services provided by architectural and engineering firms for work ranging from \$100,000 to \$500,000. In general, firms are selected from a pre-defined list of contractors on a rotating basis in order to manage smaller projects, studies, reviews, and programs with costs less than \$200,000. The advantage of an indefinite quantity contract is most noticeable for similar projects constructed a number of times, such as DNR’s recent bathhouse construction campaign at State parks.

DLS recommends that DNR comment on whether an indefinite quantity contract would help surmount the existing constraints in the Natural Resources Development Fund and Critical Maintenance Projects project development process and on how the timely encumbering and expending of funding for these two programs may be improved.

3. Oyster Restoration Program Funding Needs and Oyster Density Unclear

Federal Executive Order 13508 *Strategy for Protecting and Restoring the Chesapeake Bay Watershed* established the goal of restoring oyster populations in 20 Chesapeake Bay tributaries by 2025 and marked the impetus for renewed effort by Maryland. In response, the Administration has embarked upon an ambitious multi-year restoration of oyster populations in Maryland tributaries of the Chesapeake Bay without an articulated overall funding plan of work to be done by sanctuary. In addition, for the work that has been done since the 2009 through 2010 oyster season, it is not clear what outcomes have been achieved despite committee narrative included in the 2012 JCR requesting such information. At issue is the incommensurability between the fiscal reality of budgeting year-to-year or up five years at a time and the multi-decadal challenge of restoring a viable wild oyster population to the Chesapeake Bay.

Committee Narrative

Committee narrative in the 2012 JCR requested the submission of a report that detailed DNR's monitoring plan for all oyster restoration work including oyster restoration at each restoration location. The report was requested to include measures of restoration efforts relative to the following goals: (1) 50 to 100% of currently restorable oyster habitat at the tributary level; and (2) a mean density of 50 oysters per square meter and 50 grams dry weight per square meter, containing at least two year classes, and covering at least 30% of the reef area at the reef level. The report was requested to be submitted with the fiscal 2014 State budget submission and annually thereafter. The report submitted discusses both Oyster Restoration Program funding, in terms of the operating and capital budget components, and the status of sanctuary monitoring but does not provide metrics relative to the tributary and reef level goals noted above.

Oyster Restoration Funding

The fiscal 2014 through 2017 spending plan, reflected in **Exhibit 12**, provides the first overarching look at oyster restoration work in both the operating and capital budgets. As can be seen, funding is divided between three main components: (1) natural oyster bar restoration through substrate placement, oyster spat seeding, and monitoring; (2) Horn Point oyster hatchery operation and expansion; and (3) oyster aquaculture financing through Maryland Agricultural and Resource-Based Industry Development Corporation loan programs. Funding is aggregated from a number of sources including, for fiscal 2015, GO bonds from DNR's Oyster Restoration Program, general funds from DNR's operating budget, reimbursable funds from the Maryland Department of Transportation – Maryland Port Administration, and federal funds from the U.S. Department of Commerce – National Oceanic and Atmospheric Administration. DNR notes that it has recently received BPW approvals for the Harris Creek and Little Choptank restoration projects on May 29, November 20, and December 4, 2013, and that work is underway.

Exhibit 12
Oyster Restoration and Aquaculture Program Spending Plan
Fiscal 2014-2017

	<u>Funding</u>	<u>Restoration</u>	<u>Hatchery</u>	<u>Aquaculture</u>	<u>Total</u>
Fiscal 2014 Budget	Beg. Balance	\$8,477,473	\$0	\$0	\$8,477,473
	GO Bonds	8,100,000	1,400,000	500,000	10,000,000
	GF	0	0	0	0
	SF	0	0	0	0
	RF	100,000	200,000	200,000	500,000
	FF	0	766,882	0	766,882
	Total	\$16,677,473	\$2,366,882	\$700,000	\$19,744,355
FY 2015 Request	Beg. Balance	\$0	\$0	\$0	\$0
	GO Bonds	4,300,000	3,000,000	300,000	7,600,000
	GF	0	1,500,000	0	1,500,000
	SF	0	0	0	0
	RF	100,000	200,000	200,000	500,000
	FF	0	766,882	0	766,882
	Total	\$4,300,000	\$5,466,882	\$500,000	\$10,266,882
FY 2016 Projection	Beg. Balance	\$0	\$0	\$0	\$0
	GO Bonds	4,300,000	3,000,000	300,000	7,600,000
	GF	0	1,500,000	0	1,500,000
	SF	0	0	0	0
	RF	100,000	200,000	200,000	500,000
	FF	0	766,882	0	766,882
	Total	\$4,300,000	\$5,466,882	\$500,000	\$10,266,882
FY 2017 Projection	Beg. Balance	\$0	\$0	\$0	\$0
	GO Bonds	4,300,000	3,000,000	300,000	7,600,000
	GF	0	1,500,000	0	1,500,000
	SF	0	0	0	0
	RF	100,000	200,000	200,000	500,000
	FF	0	766,882	0	766,882
	Total	\$4,300,000	\$5,466,882	\$500,000	\$10,266,882

FF: federal funds
GF: general funds
GO: general obligation
RF: reimbursable funds
SF: special funds

Source: Department of Natural Resources

Sanctuary Monitoring

As noted above, oyster sanctuary restoration goals are as follows: (1) 50 to 100% of currently restorable oyster habitat at the tributary level; and (2) a mean density of 50 oysters per square meter and 50 grams dry weight per square meter, containing at least two year classes, and covering at least 30% of the reef area at the reef level. DNR notes that there are about 47 sanctuaries in the Maryland sanctuary network and that it has conducted annual monitoring through the annual Fall Oyster Survey, but that full monitoring data will not be provided until the end of the five-year period from the initiation of oyster restoration activities. This five-year period will end in fall 2015.

DNR notes that even five years may be too early to gauge the success of natural oyster bar restoration because oyster reproduction is affected by salinity and good spat production, which may only occur every seven to eight years and that Harris Creek and the Little Choptank River are unique projects in terms of both the size and scope of work to be completed. In addition, DNR notes that recent federal National Oceanic and Atmospheric Administration funding decreased from \$2 million to approximately \$1 million per year. This has reduced DNR's capacity to conduct oyster and water quality monitoring, although DNR is looking into a possible combination of existing operating funds, private partnerships, and nonprofit organizations for this purpose.

Looking Forward

The articulated oyster restoration goal is to restore 10 Maryland tributaries by fiscal 2025. However, there is a tremendous gap between what is programmed in the 2014 CIP for oyster restoration and the estimated need reflected for the Maryland tier 1 tributaries and restoration targets shown in **Exhibit 13**. For instance, Maryland's first two oyster restoration targets – Harris Creek and Little Choptank – are highlighted in the exhibit and are estimated to cost about \$30.2 million and \$40.3 million, respectively. Given the \$873.3 million projected lower bound cost for oyster restoration in Maryland, additional funding beyond the amount programmed for Harris Creek and Little Choptank should be provided only after scientific guidance and evaluation of the two sanctuaries currently underway has been completed.

DLS recommends that \$1 million of the fiscal 2015 Oyster Restoration Program bond authorization be withheld until DNR provides a report on (1) the overall scope of Oyster Restoration Program work by activity (substrate, seeding, and monitoring), fund source, funding amount, fiscal year, and sanctuary; and (2) an integrated review of oyster sanctuary monitoring data from the annual Fall Oyster Survey, patent tong survey, and sonar survey as it relates to the tributary and reef level restoration goals.

Exhibit 13
Maryland Tier 1 Tributaries and Restoration Targets
(\$ in Millions)

<u>Tier 1 Tributaries/Acres</u>	<u>Restoration Target (Acres)</u>	<u>Low Cost</u>	<u>High Cost</u>
Severn River	190-290	\$32.7	\$69.6
South River	90-200	15.5	48.0
Lower Chester River	500-1,100	86.0	264.0
Lower Eastern Bay	700-1,400	122.3	341.5
Upper Eastern Bay	800-1,600	139.9	390.2
Lower Choptank River	1,400-2,800	140.8	475.0
Upper Choptank River	400-800	40.3	135.8
Harris Creek	300-600	30.2	101.9
Little Choptank	400-700	40.3	118.9
Broad Creek	200-400	20.1	68.0
St. Mary's River	200-400	17.1	70.0
Lower Tangier Sound	800-1,700	68.3	297.5
Upper Tangier Sound	900-1,800	76.8	315.0
Manokin River	400-800	43.1	158.0
Total	7,280-14,590	\$873.3	\$2,853.4

Source: U.S. Army Corps of Engineers, *Chesapeake Bay Oyster Recovery: Native Oyster Restoration Master Plan – Maryland and Virginia*

4. Specific Project Funding from 2010 Trust Fund Not Provided

Chapter 6 of the 2007 special session (House Bill 5) established a Chesapeake Bay 2010 Trust Fund to be used to implement the State's tributary strategy. The fund is financed with a portion of existing revenues from the motor fuel tax and the sales and use tax on short-term vehicle rentals. Subsequently, Chapters 120 and 121 of 2008 established a framework for how the trust fund money must be spent by specifying that it be used for nonpoint source pollution control projects and by expanding it to apply to the Atlantic Coastal Bays. Fiscal 2013 marked the first time that an additional GO bond authorization was included in the Governor's capital budget for Chesapeake and Atlantic Coastal Bays 2010 Trust Fund projects. The fiscal 2015 capital budget includes \$25 million but does not include information on the specific projects to be funded.

Prior and Current Year Encumbrances and Expenditures

Exhibit 14 reflects the encumbrance and expenditure status for the fiscal 2013 and 2014 awards of \$38.0 million and \$36.6 million, respectively. As can be seen, the entirety of fiscal 2013 funding has been encumbered, although only \$5.1 million has been expended so far. DNR notes that the reimbursable nature of the funding and the fact that local partners are spending local matching funding first reduces the expenditures in the short term. Fiscal 2014 encumbrances total \$12.5 million as of January 2014. DNR notes that a prior year solicitation informed the selection of fiscal 2013 funding and the \$18.6 million that has been obligated so far in fiscal 2014. The remaining fiscal 2014 funding of \$15.5 million to be obligated in fiscal 2014 will be allocated to projects that were solicited in October 22, 2013 – a solicitation that netted 49 submissions and \$77.0 million in requests for urban stormwater management projects.

Exhibit 14
Chesapeake and Atlantic Coastal Bays 2010 Trust Fund
Encumbrances and Expenditures
Fiscal 2013 and 2014

	<u>2013</u>	<u>2014</u>
Authorized	\$38,013,000	\$36,558,000
Obligated	\$38,013,000	\$18,582,498
Encumbered	38,013,000	12,547,946
Expended	5,068,596	15,934

Note: The fiscal 2014 amount to be obligated is \$17,975,502, of which \$2,500,000 is dedicated to manure to energy projects with proven technology managed by the Maryland Department of Agriculture. The remainder is \$15,475,502 that the Department of Natural Resources has yet to encumber.

Source: Department of Natural Resources

Fiscal 2015 Spending Plan Comparison

The fiscal 2015 spending plan includes funding the remainder of the requests from the fall 2013 solicitation. DNR notes that the funding will be obligated after an interagency review and recommendations from BayStat Scientific Advisory Panel members in February 2014. **Exhibit 15** shows the proposed allocation of the GO bond portion of the Chesapeake and Atlantic Coastal Bays 2010 Trust Fund for fiscal 2013, 2014, and 2015. The major change between fiscal 2014 and 2015 is the overall reduction in the spending level by \$11.5 million. The reductions are spread out among the programs with the majority concentrated in the nutrient and sediment reduction on State lands (natural filters) project.

Exhibit 15
Chesapeake and Atlantic Coastal Bays 2010 Trust Fund Report
Planned Expenditures
Fiscal 2013-2015
(\$ in Millions)

<u>Agency</u>	<u>Project</u>	<u>Description</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>
MDA	Manure to Energy Projects with Proven Technology	Support technologies such as energy production that provide alternative uses for excess animal waste.	\$0.00	\$2.50	\$0.00
	Subtotal		\$0.00	\$2.50	\$0.00
	Nutrient and Sediment Reduction on State Lands (Natural Filters)	Support nutrient reduction on State lands using forested buffers, reforestation, wetland restoration, stream and floodplain restoration, stormwater retrofits, and other bioremediation projects.	\$0.00	\$6.34	\$0.00
DNR	Capital Stormwater Infrastructure Projects (Local Governments)	Support cost-effective, construction-ready nutrient and sediment reduction projects in areas heavily impacted by prior development using bioretention, impervious surface removal, and wetland and floodplain restoration.	38.00	25.66	25.00
	Cost-effective Nonpoint Source Projects (Targeted) ¹	Support on a competitive basis cost-effective nonpoint source pollution reduction projects using wetland restoration, buffers, floodplain restoration, and stormwater management. Previously, this funding was called Local Implementation Grants in fiscal 2012 and the Urban Tree Canopy and Stream Restoration Challenge in fiscal 2013.	0.00	2.00	0.00
	Subtotal		\$38.00	\$34.00	\$25.00
	Total		\$38.00	\$36.50	\$25.00

¹ Annually the BayStat agencies issue competitive solicitation to target specific opportunities or challenges as identified. Historically, this included the Stream Restoration Challenge, Urban Tree Canopy, and Local Implementation Grants.

Source: Department of Natural Resources; Department of Legislative Services

Similarity of Operating and Capital Funding

The Chesapeake and Atlantic Coastal Bays 2010 Trust Fund special fund allocation plan includes broad programmatic funding that is capital-eligible and thus could be funded with GO bonds. Given the State's ongoing structural deficit and modest general fund balance projected for fiscal 2015, DLS has recommended a reduction of \$10.0 million in the fiscal 2015 operating budget and the transfer of this additional revenue to the general fund via the Budget Reconciliation and Financing Act of 2014 in order to augment the State's fund balance and provide \$0.6 million more funding than currently programmed in fiscal 2014. In addition, it was noted in the operating budget analysis that GO bonds could be utilized to minimize the impact of the reduction.

DLS recommends that the budget committees consider the multiple options for potentially addressing any additional Chesapeake and Atlantic Coastal Bays 2010 Trust Fund special funds transferred to the general fund. Options include not replacing any of the funding; replacing capital bond-eligible funding with additional GO bond authorizations within the overall State debt authorization; and replacing capital bond-eligible funding with a portion of the \$25 million in general obligation bonds authorized for structural stormwater remediation projects.

5. Waterway Improvement Fund Revenue Changes

The Waterway Improvement Fund has experienced a substantial decline in its primary revenue source – the vessel excise tax. In addition, Chapter 180 of 2013 (Natural Resources – Vessel Excise Tax – Waterway Improvement Fund) modified revenues by capping the vessel excise tax, although funding was backfilled with revenues from a motor fuel tax allocation.

Chapter 180 of 2013

Chapter 180 allocated 0.5% of specified motor fuel tax revenue to DNR's Waterway Improvement Fund and established a maximum vessel excise tax amount of \$15,000 per vessel. DNR is required to submit a report to the Governor and the General Assembly by August 1 of 2014, 2015, and 2016 describing the effect of limiting the vessel excise tax on the number and type of vessels registered in the State and the health of the boating industry. In addition, Chapter 180 established a Task Force to Study Enhancing Boating and the Boating Industry in Maryland to evaluate options and make recommendations for enhancing boating and growing the boating industry. The task force must submit a report of its findings and recommendations to the Governor and the General Assembly by September 1, 2015.

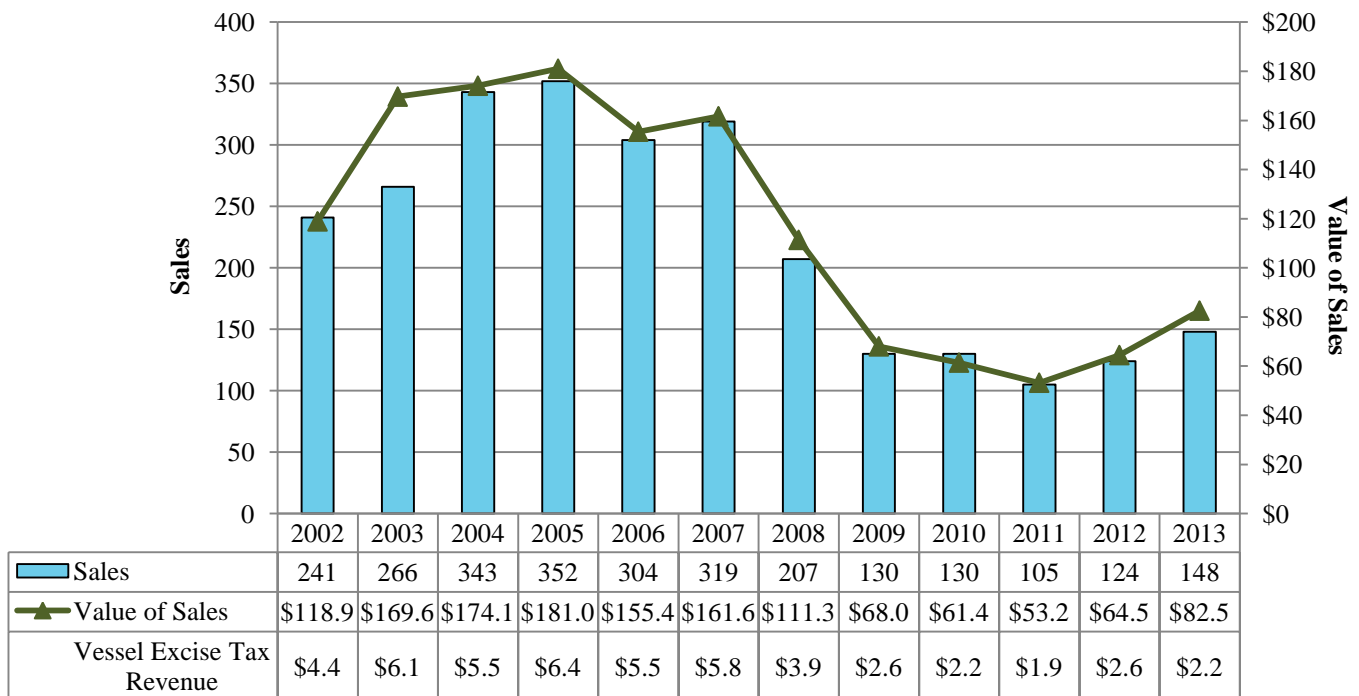
Revenue Changes

The University of Maryland Environmental Finance Center has conducted two preliminary evaluations of the impact of the establishment of a maximum vessel excise tax amount of \$15,000 per vessel. This affects vessels worth more than \$300,000 since the vessel excise tax rate is 5%, and thus any vessel worth greater than \$300,000 will not pay more than \$15,000 under the cap. The most

recent report is an update provided on January 30, 2014, which indicates that six months of data since the cap went into effect on July 1, 2013, is perhaps insufficient to determine the full impact of the cap on the number and value of boat sales. However, the data does indicate a slight increase in sales for the second half of calendar 2013, which is contrary to the trend in previous years in which sales are greater in the first half of the year and suggests that the cap may be having an effect on the boat purchaser behavior. While this conclusion is complicated by the possibility that buyers made the decision to buy strategically after the cap went into effect, the data indicates that almost half of the sales that took place in the first six months of calendar 2013 actually took place in the second quarter, right before the cap was established, and that subsequently a substantial number of the sales were actually registered under the cap.

The tax cap's impact on total revenue to the Waterway Improvement Fund needs to be considered in the context of the sales of Maryland-registered vessels worth more than \$300,000. **Exhibit 16** shows that sales have been declining in recent years, which reduces the amount of vessel excise tax revenue. The drop in sales generally corresponds with the economic downturn.

Exhibit 16
Maryland-registered Vessels Worth Greater Than \$300,000
Calendar 2002-2013



Source: University of Maryland Environmental Finance Center

In addition to capping the vessel excise tax, Chapter 180 backfilled with revenues from a motor fuel tax allocation. In fiscal 2014, DNR submitted a special fund budget amendment of \$1.5 million in special funds attributable to the new motor fuel tax revenue allocation for two statewide projects – shallow water channel dredging and marine sewage pumpout facility procurement – and 25 additional waterway improvement projects in 16 counties. Therefore, it appears that to some degree the motor fuel tax revenue allocation is backfilling any possible loss of vessel excise tax revenue under the cap.

Task Force to Study Enhancing Boating and the Boating Industry

The Task Force to Study Enhancing Boating and the Boating Industry has met twice: December 16, 2013, and February 6, 2014. Some of the areas that the task force may explore in regard to the Waterway Improvement Fund and general funding concerns are as follows.

- **Non-Powered Vessels** – Register non-powered vessels to increase revenue through the vessel excise tax and federal boating safety funds, although non-powered vessels such as kayaks already pay the sales tax, which is deposited in the State’s general fund.
- **Inflation Adjustments** – Adjust titling and registration fees for inflation.
- **Expenditures** – Examine the expenditure of funds to DNR’s other operating programs and examine both the implementation and enforcement of vessel excise tax collection.
- **Grant Criteria** – Examine the possibility of using county and municipality matching funds as criteria for the receipt of Waterway Improvement Fund grants.

DLS recommends that DNR comment on the projected revenue and expenditure outlook for the Waterway Improvement Fund and the expected role of the Task Force to Study Enhancing Boating and the Boating Industry in contributing to the improvement of overall Waterway Improvement Program finances and the meeting of programmatic goals.

Operating Budget Impact Statement

Executive's Operating Budget Impact Statement – State Owned Projects (\$ in Millions)

		<i>FY 2015</i>	<i>FY 2016</i>	<i>FY 2017</i>	<i>FY 2018</i>	<i>FY 2019</i>
Bloede Dam Removal						
	Estimated Operating Cost	\$0.000	-\$0.006	-\$0.025	-\$0.025	-\$0.025
	Estimated Staffing (FTE Positions and Contractuals)	0	0	-1	-1	-1
Elk Neck State Park Improvements						
	Estimated Operating Cost	\$0.000	\$0.032	\$0.049	\$0.051	\$0.053
	Estimated Staffing (FTE Positions and Contractuals)	0	1	1	1	1
Garrett County State Parks – Trail Construction						
	Estimated Operating Cost	\$0.000	\$0.222	\$0.138	\$0.141	\$0.144
	Estimated Staffing (FTE Positions and Contractuals)	0	4	4	4	4
Point Lookout State Park Charge Collection Station						
	Estimated Operating Cost	\$0.000	\$0.003	\$0.006	\$0.007	\$0.007
	Estimated Staffing (FTE Positions and Contractuals)	0	0	1	1	1
Sassafras Natural Resources Management Area (Phase II)						
	Estimated Operating Cost	\$0.000	\$0.118	\$0.070	\$0.071	\$0.073
	Estimated Staffing (FTE Positions and Contractuals)	0	2	2	2	2

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		<i>FY 2015</i>	<i>FY 2016</i>	<i>FY 2017</i>	<i>FY 2018</i>	<i>FY 2019</i>
Wellington Wildlife Management Area Building Renovation						
	Estimated Operating Cost	\$0.000	\$0.017	\$0.007	\$0.007	\$0.008
	Estimated Staffing (FTE Positions and Contractuals)	0	0	0	0	0
Total Operating Impact						
	Estimated Operating Cost	\$0.000	\$0.386	\$0.246	\$0.252	\$0.259
	Estimated Staffing	0	7	7	7	7

FTE: full-time equivalent

The Bloede Dam Removal reduces the need for patrols by the Maryland Park Service, Natural Resources Police, and Fisheries Service staff and thus reduces by \$12/hour the cost associated with maintaining, inspecting, and patrolling the facility.

Elk Neck State Park Improvements include funding for salaries and wages for 1 classified maintenance technician and 1 part-time seasonal employee; propane for heaters; electricity for lights; and supplies and materials for bathhouses, cabins, and outdoor areas.

Garrett County State Parks – Trail Construction includes funding for salaries and wages for 1 park technician IV to supervise the trail crew and 3 seasonal contractual technicians for trail maintenance; communications funding for phone/cell phones; fuel for equipment; trail maintenance materials; and one-time equipment purchases in fiscal 2016 only (3/4 ton 4x4 crew cab truck, mini excavator, equipment trailer, Gator XUV, chainsaws, hand tools, construction tools, and backpack blowers). DNR notes that a trail access fee may eventually be levied, but none is planned now.

The Point Lookout State Park Charge Collection Station includes funding for 1 contractual FTE seasonal staff needed to stay in the new charge collection booth starting in fiscal 2017 and communications, utilities, and initial setup and annual maintenance funding. DNR indicates that because the parking lot capacity is not being expanded, additional revenue from the charge collection stations is not expected.

The Sassafras Natural Resources Management Area (Phase II) includes funding for 1 park technician IV position for additional maintenance and management; 1 contractual FTE season technician for maintenance, electricity for new shelters, fuel and vehicle maintenance, dumpster service, cleaning supplies, and additional equipment in fiscal 2016 only (3/4 ton 4x4 truck, equipment trailer, mower, hand tools, and 16 picnic tables). DNR indicates special fund revenues of \$750 in

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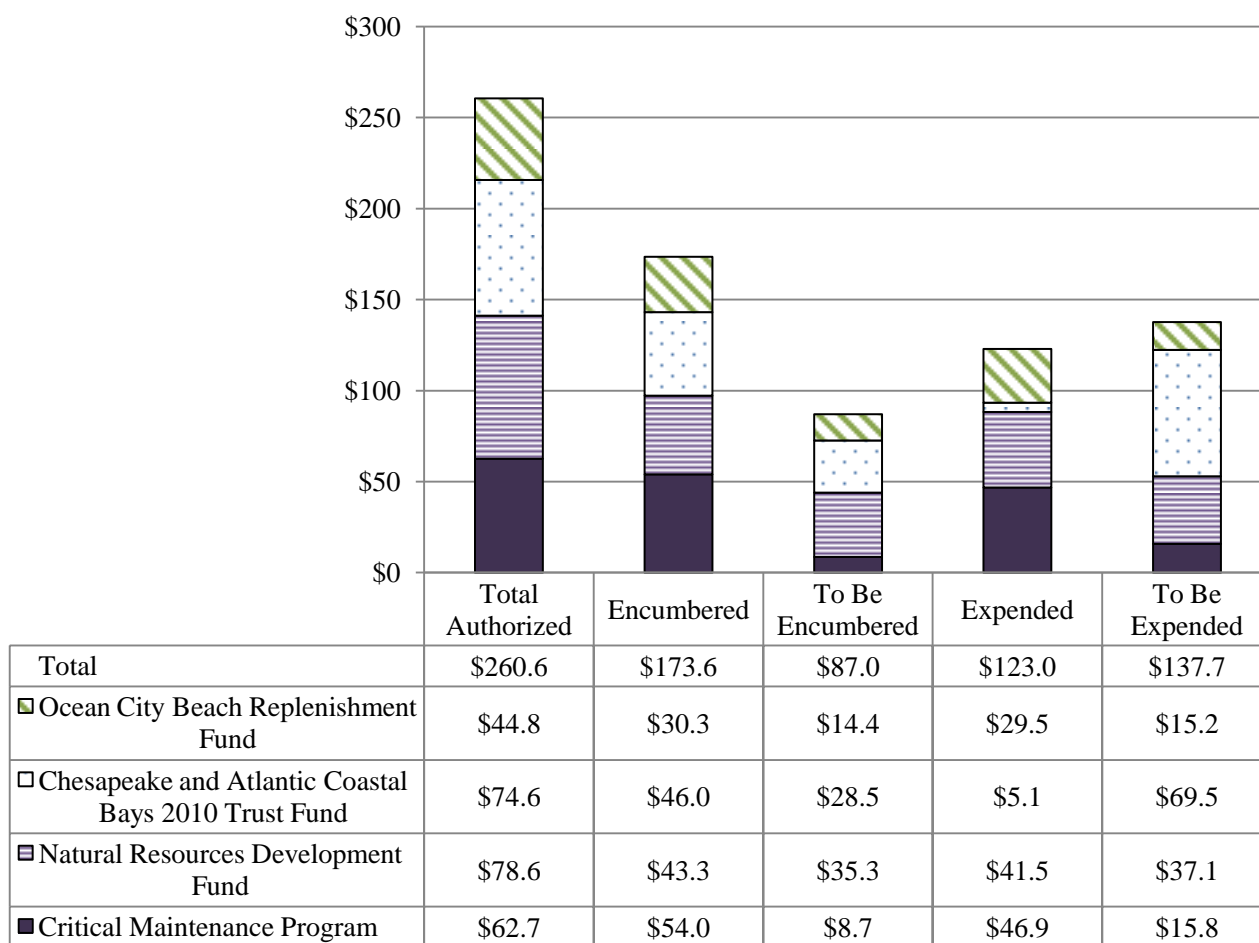
fiscal 2016 from the youth group site, which has no facilities, doubling to \$1,500 for fiscal 2017 through 2019 once Phase II is completed with a bathroom, pavilion, and parking.

The Wellington Wildlife Management Area Building Renovation includes funding for utilities for additional space; security system monitoring; desks and chairs (fiscal 2016 only); and a conference table and chairs (fiscal 2016 only).

Encumbrances and Expenditures

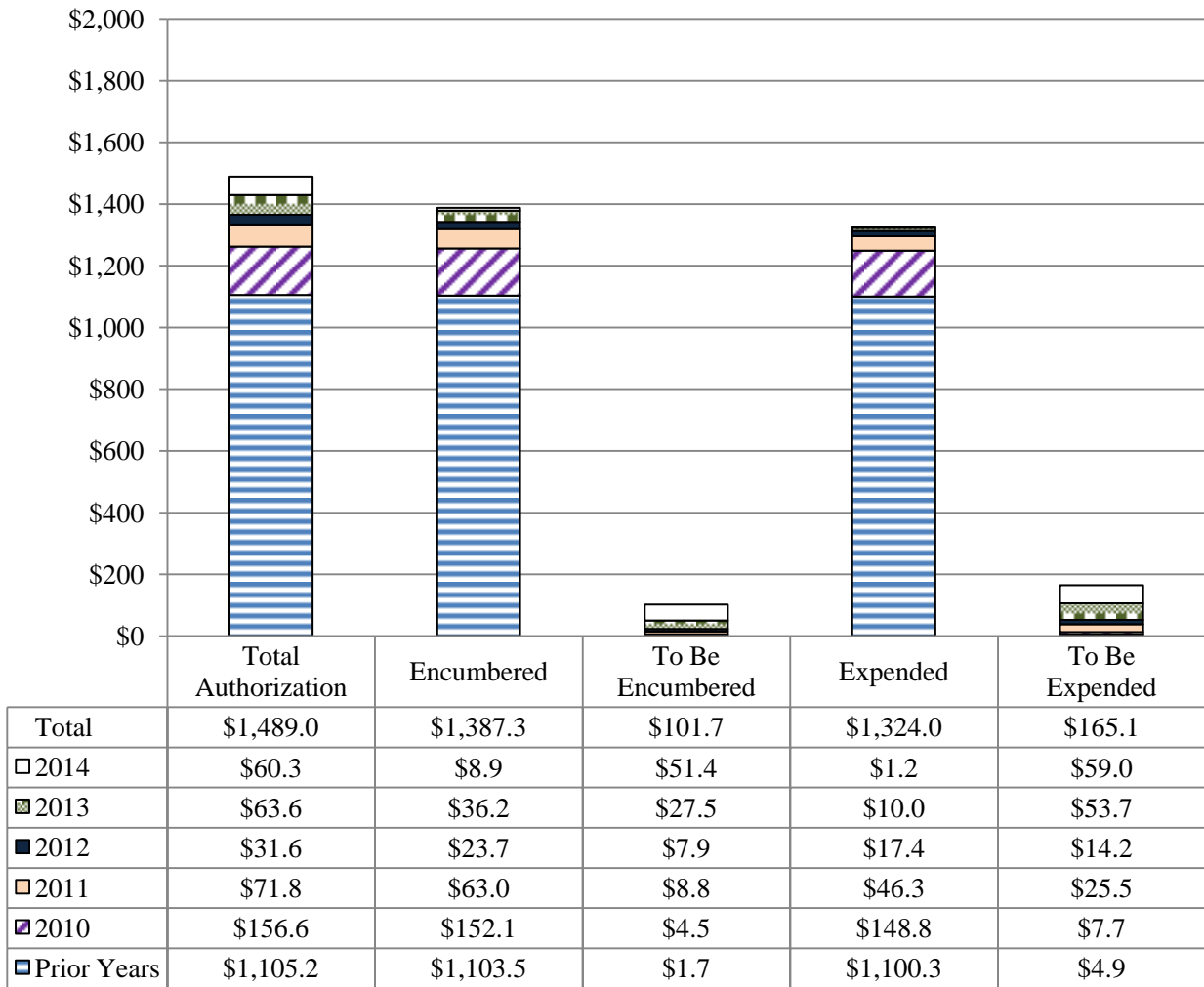
Progress toward encumbering and expending funding by program is shown in **Exhibits 17 and 18** followed by a discussion of encumbrances and expenditures.

Exhibit 17
Critical Maintenance Program, Natural Resources Development Fund,
Chesapeake and Atlantic Coastal Bays 2010 Trust Encumbrances, and
Expenditures
Program Inception through December 2013
(\$ in Millions)



Source: Department of Budget and Management; Department of Natural Resources

Exhibit 18
Program Open Space Encumbrances and Expenditures
Program Inception through December 2013
(\$ in Millions)



Source: Department of Budget and Management; Department of Natural Resources

- POS** – DNR plans to encumber \$60.7 million in fiscal 2014. In order to do this, DNR needs to encumber approximately (1) \$27.0 million in POS – State funding (\$6.1 million has been encumbered so far with another \$5.1 million to be encumbered in upcoming BPW meetings); \$30.0 million in POS – Local funding (\$14.5 million encumbered to date); and \$3.5 million in Baltimore City Direct Grant funding (all the funding has been encumbered).

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- **Critical Maintenance** – DNR notes that it is on track to encumber \$10.0 million for Critical Maintenance Projects in fiscal 2014 based on staff efforts, a focus on deadlines and completing projects within the budget, and the presence of a number of large and high cost projects, such as Assateague State Park bathhouses. DNR has encumbered \$5.6 million in the first six months of fiscal 2014.
- **Rural Legacy** – The unexpended balance from fiscal 2009 and prior years is \$243,407, as of January 27, 2014, and DNR is in the process of expending this remaining funding. In terms of fiscal 2014 funding, all \$13,512,000 was encumbered at the August 21, 2013 BPW meeting.
- **Ocean City Beach Maintenance** – As of July 2013, there was \$8,718,191 to be encumbered and \$9,227,277 in funding authorized before fiscal 2010. DNR notes that damages to the Ocean City Beach have been relatively minor and that federal funding has been available to cover beach restoration costs after major storms. As a result, funding has been allowed to remain in the Ocean City Beach Maintenance Fund.
- **Waterway Improvement Program** – There is \$2,334,136 in prior year (before fiscal 2010) funding still to be expended. DNR indicates that the funds are encumbered for projects that are either under contract or being completed and that the \$6,840,000 budgeted for fiscal 2014 have been encumbered.
- **Community Parks and Playgrounds** – DNR notes that, as of January 28, 2014, there is \$1,058,489 still to be expended from fiscal 2009 and prior years and \$712,656 still to be expended from fiscal 2010. This is due to the reimbursement nature of the program, which can be delayed by funding or staffing shortages at the local jurisdiction level.
- **Oyster Restoration Program** – DNR indicates that it still plans to encumber the entire \$18,060,000 programmed for the Oyster Restoration Program in fiscal 2014 based on its contract with the Maryland Environmental Service for shell transportation, MARBIDCO aquaculture financing funding allocation, and other capital-related items.
- **Natural Resources Development Fund** – DNR's plan is to encumber \$27.3 million in fiscal 2014, which is almost four times as high as any recent year encumbrance level. In support of this encumbrance level, DNR indicates that several large projects will be solicited and awarded in fiscal 2014, including the Harriet Tubman Underground Railroad State Park – Visitor Center, the Upper Chesapeake Rail Trail, the Janes Island Nature Center, and the Western Maryland Rail Trail.

Pre-authorizations and De-authorizations

The fiscal 2015 capital budget bill includes fiscal 2016 through 2020 pre-authorizations related to the replacement of transfer tax funding diverted to the general fund and two de-authorizations, as shown in **Exhibit 19**.

Exhibit 19 Pre-authorizations and De-authorizations Fiscal 2016-2020

Pre-authorizations (\$ in Millions)

<u>Project</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>Reason</u>
Program Open Space	\$58.3	\$57.1	\$59.4	\$47.5	\$24.3	Replacement of transfer tax funding diverted to the general fund in fiscal 2014 through 2018
Rural Legacy Program	12.5	11.6	11.8	9.3	4.7	Replacement of transfer tax funding diverted to the general fund in fiscal 2014 through 2018

De-authorizations (\$)

<u>Project</u>	<u>De-authorized Amount</u>	<u>Reason</u>
Pocomoke River State Park Bathhouse	\$100,000	Unneeded funding for the completed Pocomoke River State Park bathhouse project.
Black Walnut Point Shore Erosion Control	175,566	Unneeded funding for the completed Black Walnut Point Shore Erosion Control project.
Total	\$275,566	

Source: Department of Budget and Management, 2014 *Capital Improvement Program*; Department of Natural Resources

PAYGO Recommended Actions

1. Concur with the following language on the special fund appropriation:

Notwithstanding the appropriations above, the Special Fund appropriation for the Outdoor Recreation Land Loan shall be reduced by \$51,851,510 contingent on the enactment of legislation crediting \$51,851,510 of the transfer tax revenues to the General Fund. The reduction shall be distributed in the following manner:

Program Open Space – State Acquisition.....	\$20,835,570
Program Open Space – Local Share.....	\$22,687,940
Rural Legacy.....	\$8,328,000
Total.....	\$51,851,510

Explanation: This action concurs with the reduction of the transfer tax allocation for capital programs contingent upon the Budget Reconciliation and Financing Act of 2014 transferring the funding to the general fund, as proposed by the Governor.

2. Concur with the Governor’s allowance of \$500,000 in special funds for the Ocean City Maintenance Program.
3. Concur with the Governor’s allowance of \$4,000,000 in special funds and \$1,000,000 in federal funds for Waterway Improvement Capital Projects.

GO Bond Recommended Actions

1. Approve the \$2,500,000 general obligation bond authorization for Community Parks and Playgrounds to provide grants to local governments to design and construct capital-eligible park and playground improvement projects.
2. Approve the \$108,000 general obligation bond authorization for the Natural Resources Development Fund to design improvements at the Sassafras Natural Resources Management Area (Phase II) in accordance with § 5-903(g) of the Natural Resources Article.
3. Reduce funding for the Gwynns Falls/Leakin Park Urban Children in Nature campus project.

KA05C1	Program Open Space Stateside	\$ 15,872,000
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Add the following language:

- | | | |
|-----|---|---------------------------------|
| (C) | Program Open Space. Provide funds for the purchase of conservation easements and acquisition of land, and to make grants to local jurisdictions for the purchase of conservation easements and acquisition of land, and development of recreational facilities. Funds appropriated for local grants shall be administered in accordance with §§ 5-905 and 5-906 of the Natural Resources Article..... | 41,635,000
<u>38,635,000</u> |
| | | |
| (1) | Program Open Space – Stateside Prior Funds Replacement. Notwithstanding §§ 5-905 and 5-906 of the Natural Resources Article, \$6,000,000 <u>\$3,000,000</u> of this authorization is restricted for the purposes of providing a grant to Baltimore City for the construction of capital improvements to the Gwynns Falls/Leakin Park Urban Children in Nature Campus project and \$300,000 of this authorization is restricted for the purposes of providing a grant to the Board of Directors of The Royal Theater and Community Heritage Corporation for the acquisition, clearance, and site preparation of land and the design of athletic and open space uses | 18,872,000
15,872,000 |
| | | |
| (2) | Program Open Space – Local – Prior Funds Replacement..... | 22,763,000 |

Allowance
18,872,000

Change
-3,000,000

Authorization
15,872,000

Explanation: This action reduces funding for the Gwynns Falls/Leakin Park Urban Children in Nature campus project so that the project may be split-funded over two or more years depending on project readiness.

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4. Approve the \$22,763,000 general obligation bond authorization for Program Open Space – Local prior funds replacement as follows: \$4,117,000 in prior year special funds, \$6,782,000 in fiscal 2013 special funds, and \$11,864,000 in fiscal 2014 special funds.
5. Approve the \$15,231,000 general obligation bond authorization for the Rural Legacy Program, which includes the \$5,000,000 mandated in statute and prior funds replacement as follows: \$601,000 from fiscal 2011, \$4,266,000 from fiscal 2013, and \$5,364,000 from fiscal 2014.
6. Approve the \$25,000,000 general obligation bond authorization for the Chesapeake and Atlantic Coastal Bays 2010 Trust Fund for capital-eligible structural stormwater remediation project expenses.
7. Add budget bill language restricting Oyster Restoration Program funding until the submission of a report.

KA1701A Oyster Restoration Program \$ 7,600,000

Add the following language:

. provided that \$1 million of this authorization may not be either encumbered or expended until a report is submitted on (1) the overall scope of Oyster Restoration Program work by activity (substrate, seeding, and monitoring), fund source, funding amount, fiscal year, and sanctuary; and (2) an integrated review of oyster sanctuary monitoring data from the annual Fall Oyster Survey, patent tong survey, and sonar survey as it relates to the tributary and reef level restoration goals.

Explanation: This action restricts \$1 million of the Oyster Restoration Program general obligation bond authorization until the submission of a report on the overall scope of Oyster Restoration Program work and oyster sanctuary monitoring data.

Information Request	Author	Due Date
Oyster Restoration Program work and oyster sanctuary monitoring data report	Department of Natural Resources	Prior to encumbrance or expenditure of funds

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8. Approve the de-authorization of \$100,000 in general obligation bonds for the completed Pocomoke River State Park bathhouse project.
9. Approve the de-authorization of \$175,566 in general obligation bonds for the completed Black Walnut Point Shore Erosion Control project.
10. Approve the fiscal 2016 pre-authorization of \$58,225,000 in general obligation bond authorization attributable to replacement of transfer tax funding directed to the General Fund as follows: Program Open Space – State – \$10,972,000 in fiscal 2014 funding and \$17,439,000 in fiscal 2015 funding; and Program Open Space – Local – \$11,863,000 in fiscal 2014 funding and \$17,951,000 in fiscal 2015 funding.
11. Approve the fiscal 2016 pre-authorization of \$12,494,000 in general obligation bond authorization for the Rural Legacy Program attributable to replacement of transfer tax funding directed to the general fund as follows: \$5,364,000 in fiscal 2014 funding and \$7,130,000 in fiscal 2015 funding.
12. Approve the fiscal 2017 pre-authorization of \$57,066,000 in general obligation bond authorization attributable to replacement of transfer tax funding directed to the general fund as follows: Program Open Space – State – \$17,440,000 in fiscal 2015 funding and \$10,934,000 in fiscal 2016 funding; and Program Open Space – Local – \$17,950,000 in fiscal 2015 funding and \$10,742,000 in fiscal 2016 funding.
13. Approve the fiscal 2017 pre-authorization of \$11,561,000 in general obligation bond authorization for the Rural Legacy Program attributable to replacement of transfer tax funding directed to the general fund as follows: \$7,129,000 in fiscal 2015 funding and \$4,432,000 in fiscal 2016 funding.
14. Approve the fiscal 2018 pre-authorization of \$59,434,000 in general obligation bond authorization attributable to replacement of transfer tax funding directed to the general fund as follows: Program Open Space – State – \$6,945,000 in fiscal 2015 funding, \$10,933,000 in fiscal 2016 funding, and \$11,822,000 in fiscal 2017 funding; and Program Open Space – Local – \$7,562,000 in fiscal 2015 funding, \$10,742,000 in fiscal 2016 funding, and \$11,430,000 in fiscal 2017 funding.
15. Approve the fiscal 2018 pre-authorization of \$11,793,000 in general obligation bond authorization for the Rural Legacy Program attributable to replacement of transfer tax funding directed to the general fund as follows: \$2,776,000 in fiscal 2015 funding, \$4,432,000 in fiscal 2016 funding, and \$4,585,000 in fiscal 2017 funding.

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16. Approve the fiscal 2019 pre-authorization of \$47,505,000 in general obligation bond authorization attributable to replacement of transfer tax funding directed to the general fund as follows: Program Open Space – State – \$11,822,000 in fiscal 2017 funding, and \$12,378,000 in fiscal 2018 funding; and Program Open Space – Local – \$11,431,000 in fiscal 2017 funding, and \$11,874,000 in fiscal 2018 funding.
17. Approve the fiscal 2019 pre-authorization of \$9,268,000 in general obligation bond authorization for the Rural Legacy Program attributable to replacement of transfer tax funding directed to the general fund as follows: \$4,585,000 in fiscal 2017 funding, and \$4,683,000 in fiscal 2018 funding.
18. Approve the fiscal 2020 pre-authorization of \$24,252,000 in general obligation bond authorization attributable to replacement of transfer tax funding directed to the general fund as follows: Program Open Space – State – \$12,379,000 in fiscal 2018; and Program Open Space – Local – \$11,873,000 in fiscal 2018 funding.
19. Approve the fiscal 2020 pre-authorization of \$4,683,000 in general obligation bond authorization for the Rural Legacy Program attributable to replacement of transfer tax funding directed to the general fund as follows: \$4,683,000 in fiscal 2018 funding.

Total General Obligation Bonds Reduction	\$3,000,000
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