

KA05
Department of Natural Resources – Capital

Capital Budget Summary

Grant and Loan Capital Improvement Program
(\$ in Millions)

| Program | 2015 Approp. | 2016 Approp. | 2017 Est. | 2018 Est. | 2019 Est. | 2020 Est. | 2021 Est. |
|------------------------------------|-------------------------|-------------------------|----------------------|----------------------|----------------------|----------------------|----------------------|
| Program Open Space | | | | | | | |
| Land Acquisition and Local Program | \$45.635 | \$56.238 | \$46.809 | \$52.293 | \$90.338 | \$100.953 | \$104.789 |
| Natural Resources Development Fund | 1.544 | 7.232 | 3.062 | 10.054 | 13.898 | 9.000 | 9.000 |
| Critical Maintenance Projects | 2.500 | 6.089 | 6.001 | 6.001 | 4.000 | 4.000 | 4.000 |
| Rural Legacy Program | 16.034 | 10.082 | 17.663 | 22.076 | 22.845 | 23.244 | 23.631 |
| Ocean City Beach Maintenance | 0.500 | 1.500 | 1.000 | 2.000 | 1.000 | 0.000 | 2.000 |
| Waterway Improvement Program | 5.000 | 6.587 | 12.600 | 11.100 | 11.100 | 11.100 | 11.100 |
| Community Parks and Playgrounds | 2.500 | 5.000 | 2.500 | 2.500 | 2.500 | 2.500 | 2.500 |
| Oyster Restoration Program | 7.600 | 7.600 | 3.300 | 7.600 | 7.600 | 7.600 | 7.600 |
| Chesapeake Bay 2010 Trust Fund | 25.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 |
| Total | \$106.313 | \$100.327 | \$92.935 | \$113.624 | \$153.282 | \$158.398 | \$164.620 |

| Fund Source | 2015 Approp. | 2016 Approp. | 2017 Est. | 2018 Est. | 2019 Est. | 2020 Est. | 2021 Est. |
|--------------------|-------------------------|-------------------------|----------------------|----------------------|----------------------|----------------------|----------------------|
| PAYGO SF | \$9.303 | \$13.909 | \$74.285 | \$92.939 | \$134.582 | \$139.698 | \$145.920 |
| PAYGO FF | 4.636 | 3.587 | 7.850 | 3.600 | 3.600 | 3.600 | 3.600 |
| GO Bonds | 92.374 | 51.482 | 10.800 | 17.085 | 15.100 | 15.100 | 15.100 |
| Bond Premiums | 0.000 | 31.349 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 |
| Total | \$106.313 | \$100.327 | \$92.935 | \$113.624 | \$153.282 | \$158.398 | \$164.620 |

Note: Numbers may not sum to total due to rounding.

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FF: federal funds
GO: general obligation
PAYGO: pay-as-you-go
SF: special funds

Note: The fiscal 2015 appropriation includes \$51.9 million in GO bond funding authorized to replace prior year transfers of transfer tax funding to the General Fund. The fiscal 2016 appropriation reflects \$31.3 million in bond premium funding for Program Open Space – Land Acquisition and Local and for the Rural Legacy Program. The fiscal 2017 appropriation includes \$16.5 million in a special fund appropriation contingent upon HB 462 and SB 383.

Summary of Issues

Deep Creek Lake Studied, Not Dredged: The fiscal 2016 operating budget restricted \$250,000 in Waterway Improvement Program (WIP) special funds for Deep Creek Lake dredging projects. The Department of Natural Resources' (DNR) plan is to obligate \$177,220 for a two-year study entitled *Deep Creek Lake Monitoring of Sediment Impacts on Boating Channels*. The first year of the study has been allocated \$88,610 and began in November 2015. DNR will encumber an additional \$88,610 in fiscal 2016, which will be available in fiscal 2017 for the remainder of the study. DNR is in the process of deciding whether to continue the sediment study for a third year – since this would provide more data – or revert the remaining \$72,780 to the maintenance dredging funding pool as allowed for in the budget bill language. **The Department of Legislative Services (DLS) recommends that DNR comment on the plans for the remaining \$72,780 of funding restricted for the purpose of dredging Deep Creek Lake.**

Oyster Reef Construction on Hold: DNR's fiscal 2017 authorization for the Oyster Restoration Program reflects the intent to wait until after the July 2016 five-year assessment of oyster restoration progress is completed before selecting the next two tributaries for new oyster restoration activities and constructing any more oyster reefs in sanctuaries. The hiatus also reflects the intent to address concerns raised by local stakeholders. The delay has led the U.S. Army Corps of Engineers to shift federal funding to Virginia. Regardless, there remains the question of where sufficient cost-effective substrate will be obtained to continue oyster restoration work and how this substrate will be distributed between sanctuaries and the public and private fishery. **DLS recommends that DNR comment on the rationale for each of the three oyster shell use ratios and whether there is an intent to return to a public and private fishery in favor of the sanctuary model for oyster restoration.**

Land Preservation Workgroup Reports on Transfer Tax-funded Programs: Committee narrative in the 2015 *Joint Chairmen's Report* (JCR) requested a report on an evaluation of land preservation and easement acquisition programs covering the roles the programs play relative to each other and current statute, and the funding each receives through the transfer tax formula. The Land Preservation Workgroup formed to address the report request met over the 2015 interim and found agreement on a number of items but found that there were disagreements with the Administration over land preservation program funding plans, replacement of funds transferred to the General Fund, and the idea of a transfer tax lockbox to prevent future transfers. **DLS recommends that DNR comment on how it plans on handling the statutory requirement that the Governor appoint a committee to review the Program Open Space (POS) Local apportionment formula annually and the request by local governments for greater flexibility in how POS – Local funding may be used.**

Summary of Updates

Bloede Dam Status: Bloede Dam is located in Patapsco River State Park and was built in 1907. The dam is a public safety threat and is an obstacle for fish passage. Funding was most recently provided through the Natural Resources Development Fund in fiscal 2016 in order to backfill a fiscal 2015 withdrawn appropriation. DNR notes that the construction documents, plans, and specifications are at the 95% stage, ready for preparation of bid documents for removal of the dam. Permits are expected to be approved shortly for advertisement in March 2016.

Vessel Excise Tax Cap Report: Chapter 180 of 2013, in addition to establishing the vessel excise tax \$15,000 cap, also (1) required DNR to report on the effect of the \$15,000 per vessel cap on the number and type of vessels registered in the State and the health of the boating industry; and (2) established a Task Force to Study Enhancing Boating and the Boating Industry in Maryland that was to consider, among other things, the impact of modifying the State vessel excise tax rate and boat registration fees. The submitted report reflects ways to retain revenue and generally to enhance boating in Maryland. HB 14 and SB 58 (Natural Resources – Vessel Excise Tax Cap – Repeal of Termination) have been introduced in the 2016 legislative session to make permanent the \$15,000 limit on the amount of the vessel excise tax that may be imposed on any vessel.

Summary of Recommended PAYGO Actions

1. Concur with the Governor’s allowance for the Outdoor Recreation Land Loan.
2. Concur with the Governor’s allowance for the Ocean City Maintenance program.
3. Concur with the Governor’s allowance for the Waterway Improvement Program.

Summary of Recommended Bond Actions

| | <u>Funds</u> |
|--|-----------------------|
| 1. Community Parks and Playgrounds | |
| Approve the \$2,500,000 general obligation bond authorization for Community Parks and Playgrounds. | |
| 2. Rural Legacy Program | \$5,000,000 GO |
| Reduce the Rural Legacy Program general obligation bond authorization. | |
| 3. Oyster Restoration Program | |
| Approve the \$3,300,000 general obligation bond authorization for the Oyster Restoration Program. | |
| Total Reductions | \$5,000,000 GO |

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 POS (including the Natural Resources Development Fund and Critical Maintenance Program), the Rural Legacy Program, Ocean City Beach Maintenance, the WIP, Community Parks and Playgrounds, and the Oyster Restoration Program. The Chesapeake and Atlantic Coastal Bays 2010 Trust Fund received general obligation (GO) bond authorization in fiscal 2013 through 2015 but is not programmed to receive funding beyond fiscal 2015. 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.

- ***POS – Natural Resources Development Fund*** – State law allows up to 25.0% 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.
- ***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. Based on project requests submitted by DNR facility managers during the past year, there is a \$39.9 million (637 projects) backlog in necessary critical maintenance projects at all DNR facilities – State forests and parks, wildlife management areas, fisheries facilities, and others – which is a decrease in both the overall cost and the number of projects since February 2015 (\$44.0 million and 676 projects). 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 Natural Resources, Planning, and Agriculture). Under § 5-9A-09 of the Natural Resources Article, the Governor is required to include at least \$5.0 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 \$1.0 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 or GO bonds are used to fund the State’s contribution to this effort. Upon reaching a \$15.0 million cap in the fund, no funding is required to be provided by the State or local governments. Nourishment of the Ocean City beach is usually done on a four-year cycle. The U.S. Army Corps of Engineers is responsible for developing estimates, plans, and managing construction contracts for the periodic nourishment efforts and

costs are usually shared: 53.0% federal and 47.0% local – State, Ocean City, and Worcester County.

- ***Waterway Improvement Fund*** – The Waterway Improvement Fund (WIF) finances projects to expand and improve public boating access throughout the State. The 5.0% excise tax paid on the Zsale of motorized vessels within the State, up to \$15,000 per vessel, and 0.5% of the motor vehicle fuel tax support the fund, per Chapter 180 of 2013 (Natural Resources – Vessel Excise Tax – WIF). 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 (100.0%) not to exceed \$5,000; (2) grants (100.0%) less than \$100,000; (3) public navigation improvement and DNR boating facility construction grants (100.0%) of unlimited amounts; (4) matching grants with a maximum State cost share (50.0%); and (5) interest-free loans (100.0%) with a 25-year maximum. Additional funding specifications are provided for dredging/navigation projects and boating access facility/boating safety projects.
- ***Community Parks and Playgrounds*** –The program provides flexible grants to municipalities and Baltimore City – counties are no longer eligible – to (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. In addition, Maryland is guided by the new Chesapeake Bay Agreement signed in June 2014, which has the following goal: “Restore native oyster habitat and populations in 10 tributaries by 2025 and ensure their protection.” Based on a U.S. National Oceanic and Atmospheric Administration oyster workgroup, the program has adopted the following restoration goals: (1) restoring 50.0% to 100.0% 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 generations, and covering at least 30.0% of the reef area at the reef level.

Performance Measures and Outputs

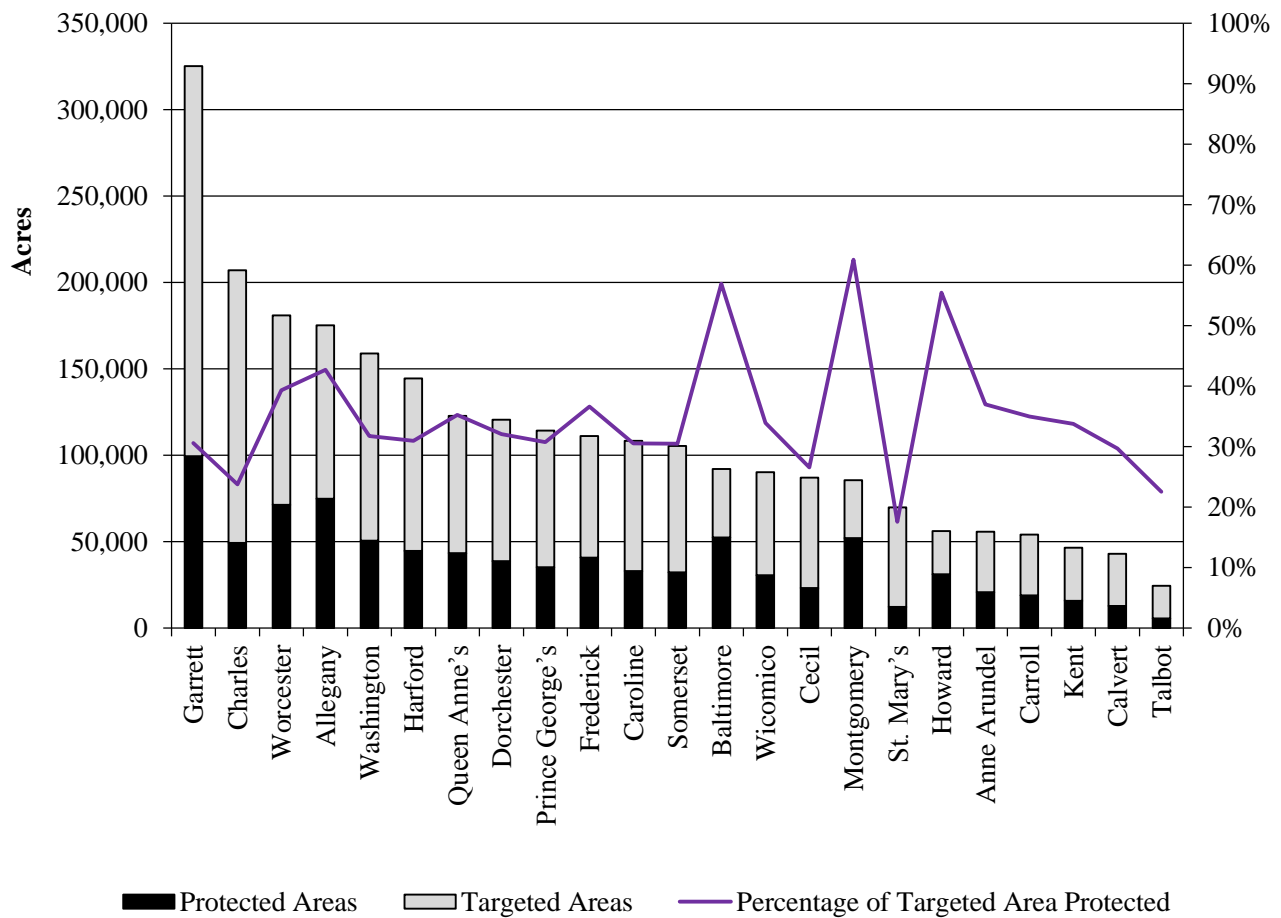
Program Open Space

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, no changes from last year. To date, 887,868 acres have been protected, up from 881,907 acres at this time last year, leaving 1,690,782 acres still to be protected. As shown in **Exhibit 1**, Garrett (325,208 acres), Charles (207,129 acres), and Worcester (181,008 acres) counties continue to be the top three counties in terms of targeted ecological areas. The three counties with the highest percentage of targeted ecological areas protected are Montgomery (61%), Baltimore (57%), and Howard (55%) counties.

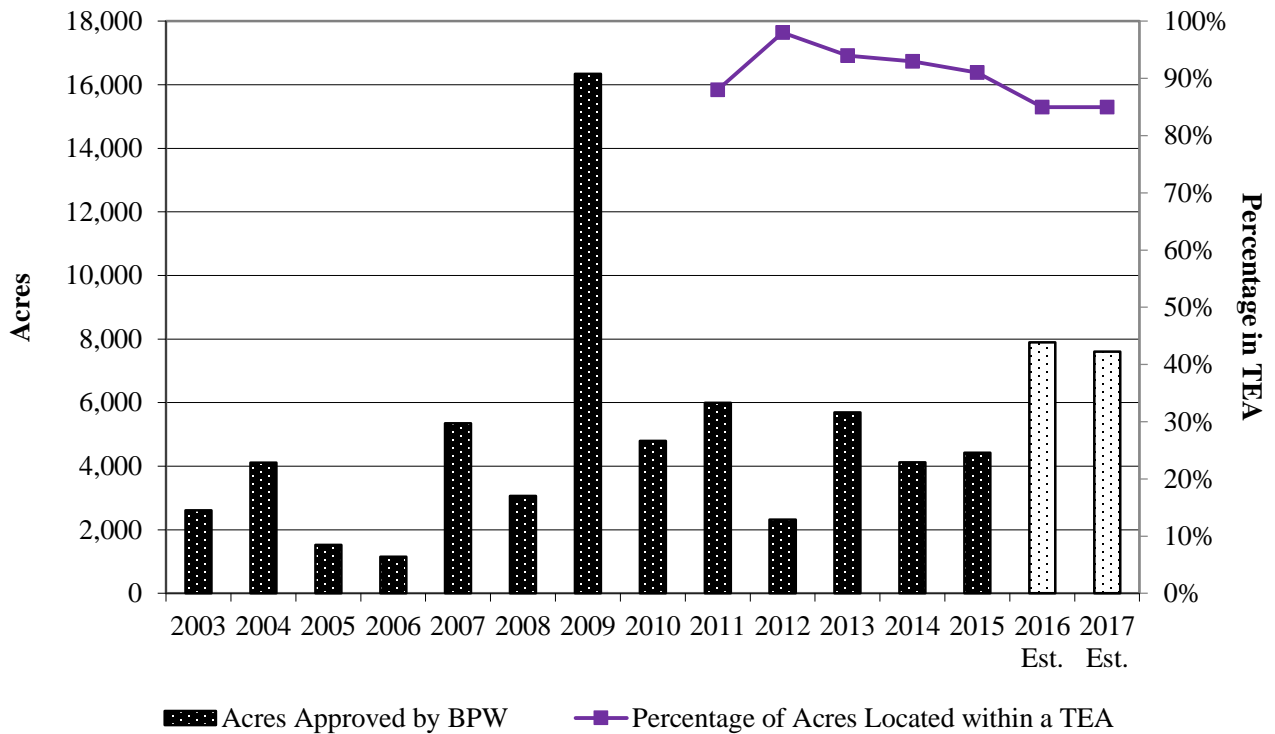
Exhibit 1
Protected and Targeted Ecological Areas
February 2016



Source: Department of Natural Resources

As illustrated in **Exhibit 2**, there was an increase in the POS acquisition acres approved by the Board of Public Works (BPW) between fiscal 2014 (4,124 acres) and 2015 (4,425 acres). DNR projects a greater number of POS acquisition acres in fiscal 2016 and 2017 than in fiscal 2015 due to funding levels – currently \$4,000 per acre – and due to both projects in the pipeline and where they are in the due diligence and negotiation process. DNR has added a new measure that reflects the percentage of acres located within a targeted ecological area. The highest percentage shown is 98% in fiscal 2012 and most recently was 91% in fiscal 2015. In terms of historical POS acquisition acreage numbers, 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) – and the fiscal 2013 acreage included 2,352 acres of easements in Dorchester and Queen Anne’s counties donated to POS by the Conservation Fund.

Exhibit 2
POS Acquisition Acres Approved by the Board of Public Works
Fiscal 2003-2017 Est.



BPW: Board of Public Works
 POS: Program Open Space
 TEA: Targeted Ecological Area

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

Source: Governor’s Budget Books, Fiscal 2006-2016; Department of Budget and Management

POS funding expanded the number of State parks acres available to the public in fiscal 2016. Through February 10, 2016, 173 acres have been added, as shown in **Exhibit 3**. The greatest number of acres added to a single park is 84 acres added to South Mountain State Park.

Exhibit 3
Maryland State Parks Acreage Increase from Program Open Space Acquisitions
July 1, 2015 through February 10, 2016

| <u>County</u> | <u>BPW Date</u> | <u>Area</u> | <u>Managing Unit</u> | <u>Acres</u> |
|---------------|-----------------|-----------------------------|----------------------|--------------|
| Frederick | 8/2/2015 | South Mountain State Park | Parks | 84 |
| Frederick | 1/6/2016 | Cunningham Falls State Park | Parks | 32 |
| Baltimore | 8/26/2015 | Soldier’s Delight NEA | Parks | 17 |
| Frederick | 11/4/2015 | Cunningham Falls State Park | Parks | 12 |
| Washington | 9/16/2015 | South Mountain State Park | Parks | 9 |
| Baltimore | 10/7/2015 | Gunpowder Falls State Park | Parks | 6 |
| Calvert | 8/26/2015 | Hallowing Point | Parks | 5 |
| Frederick | 10/7/2015 | South Mountain State Park | Parks | 4 |
| Howard | 9/16/2015 | Patapsco Valley State Park | Parks | 3 |
| St. Mary’s | 8/26/2015 | Point Lookout State Park | Parks | < 1 |
| Total | | | | 173 |

BPW: Board of Public Works
 NEA: natural environment area

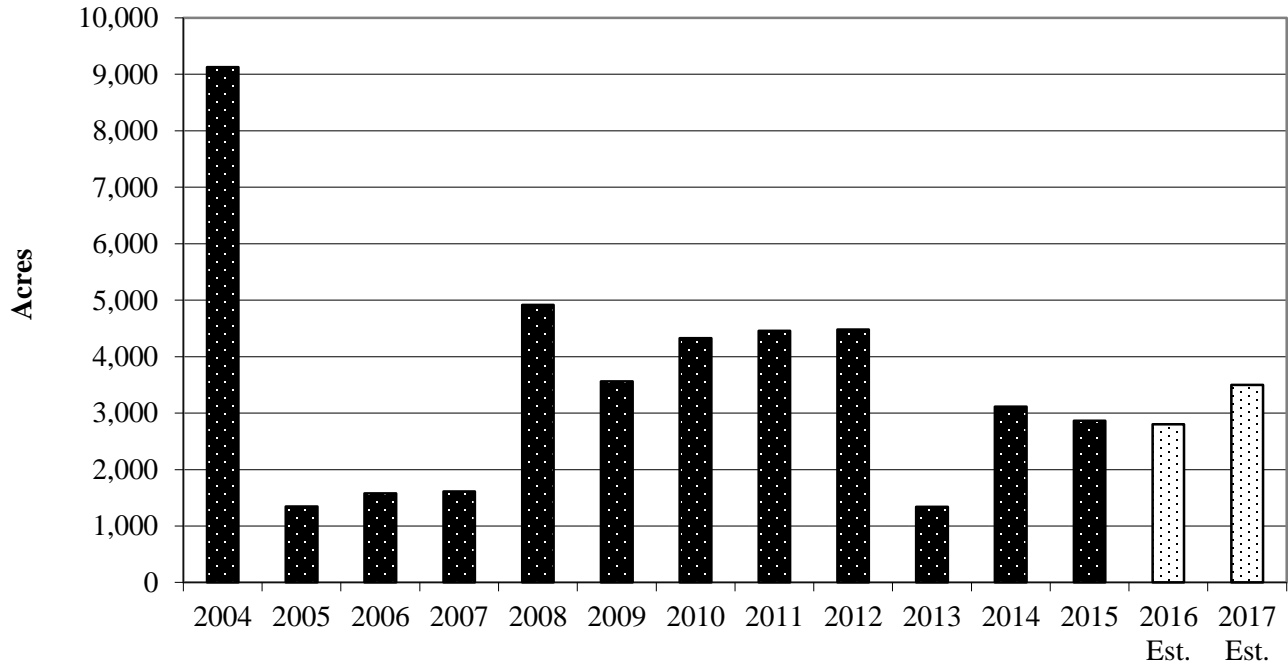
Source: Department of Natural Resources

Rural Legacy Program

Exhibit 4 shows that the number of approved Rural Legacy Program easement and fee simple acres decreased slightly from 3,114 acres in fiscal 2014 to 2,862 acres in fiscal 2015 despite an increase in funding between the two years. DNR notes that all funding is encumbered when the year’s annual grant awards are taken to BPW, but it may take up to a year for signed projects to be brought to BPW to be approved. The \$16 million authorized in fiscal 2015 could preserve approximately 4,500 acres based on an average per-acre cost of \$3,500, and the fiscal 2015 grant awards are still being presented to BPW for approval. As of the February 10, 2016 BPW meeting, 2,096 acres have been approved in fiscal 2016. DNR notes that the Rural Legacy Program receives requests that total \$97 million on average each year, which reflects a slight decrease in recent years, because DNR has requested that the Rural Legacy areas only submit their top priority projects due to limited funding. In terms of goals, 85,000 Rural Legacy Program acres are counted toward the calendar 2022 1,030,000 acre preservation goal from Senate Joint Resolution 10 of 2002. Another goal is for each Rural Legacy Area to be at least 80% permanently

preserved, including land protected by other State, local, and federal programs and by nonprofit organizations.

Exhibit 4
Rural Legacy Easement and Fee Simple Acres
Approved by the Board of Public Works
Fiscal 2004-2017 Est.

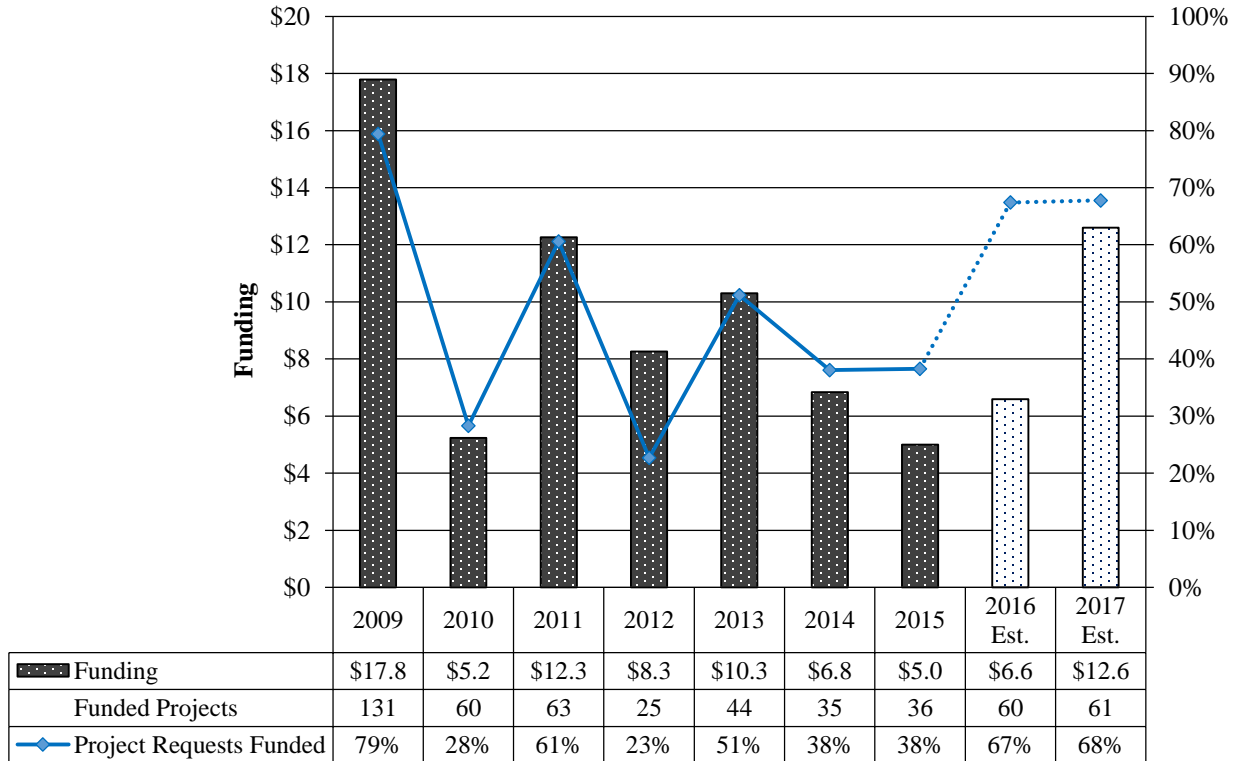


Source: Governor’s Budget Books, Fiscal 2007-2016; Department of Budget and Management

Waterway Improvement Program

As illustrated in **Exhibit 5**, the fiscal 2017 allowance will allow the WIP to fund an estimated 68% of the waterway project requests submitted. Of note, DNR has noted in the past that it has informed local jurisdictions to limit grant requests to those of the highest priority. For fiscal 2017, there are two large projects – replacement of the M/V J.M. Tawes ice breaking buoy tender (\$2,000,000) and Bird River and Railroad Creek main channel dredging (\$1,000,000) – which reduces the funding available for smaller projects and thus helps to explain why an increase of \$6 million between fiscal 2016 and 2017 only translates to one additional project funded. DNR’s goal is to fund 80% of project requests; therefore, the fiscal 2017 allowance is 12 percentage points lower than the goal.

Exhibit 5
Waterway Project Requests Funded
Fiscal 2009-2017 Est.
(\$ in Millions)

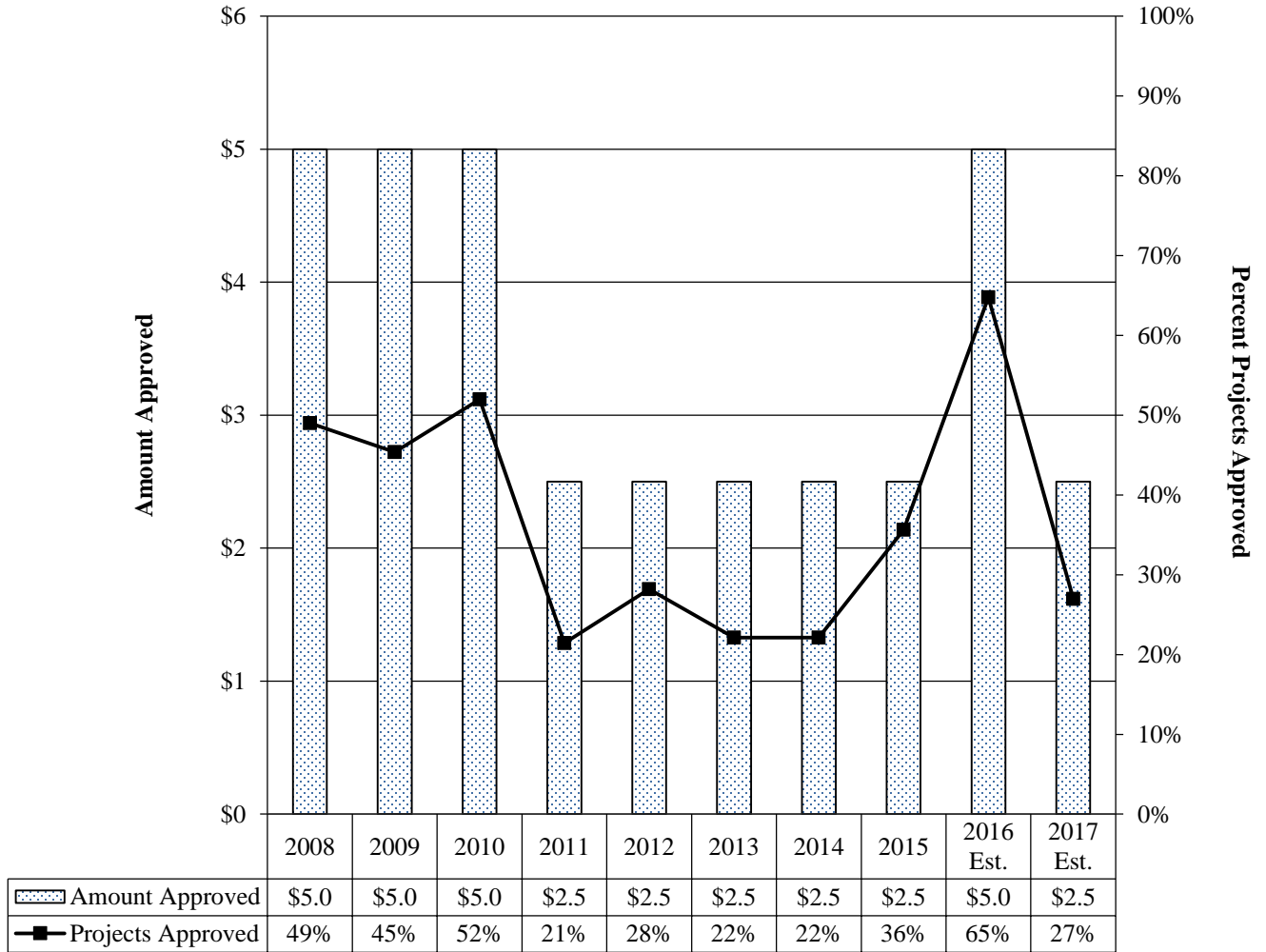


Source: Department of Budget and Management; Department of Natural Resources

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. In fiscal 2016, the General Assembly added \$2.5 million to the Governor’s authorization and thus the number of projects approved increased. 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 2008-2017 Est.
(\$ in Millions)**



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

Budget Overview

Fiscal 2016 Budget Actions

Budget Amendment and Deficiencies

Chapter 489 of 2015 (Budget Reconciliation and Financing Act (BRFA)) authorized the Governor to transfer, by budget amendment, fiscal 2015 transfer tax revenue in excess of \$161,016,000 for the following purposes: (1) administrative expenses related to land acquisition for POS; (2) Critical Maintenance Program projects in DNR; (3) Natural Resources Development Fund projects in DNR; and (4) replacement of general fund appropriations in the Maryland Park Service. The fiscal 2015 final transfer tax revenue collection was \$163,514,656 and so \$2,498,656 is available for fiscal 2016. This funding is allocated as shown in **Exhibit 7**.

Exhibit 7
Fiscal 2016 Allocation of Overattainment of \$161.0 Million
Fiscal 2015 Revised Revenue Estimate
Fiscal 2016

| <u>Timing</u> | <u>Operating Budget</u> | <u>PAYGO Capital Budget</u> | <u>Total</u> |
|----------------------|--|--|---------------------|
| Budget Amendment | \$700,000 for salaries in Office of the Secretary and Land Acquisition and Planning in order to allow an equivalent of Forest or Park Reserve Fund special fund revenue currently funding these programs to be available instead for the Maryland Park Service | \$700,000 for due-diligence expenses related to land acquisitions that are needed before proceeding with an acquisition and include items such as title work, appraisals, surveys, and environmental assessments | \$1,400,000 |
| Deficiency | | \$1,100,000 for Critical Maintenance Program work on the Washington Monument (\$250,000), Wicks Property (\$500,000), Newtown Neck State Park (\$250,000), and the House Maintenance Fund (\$100,000) | 1,100,000 |
| Total | \$700,000 | \$1,800,000 | \$2,500,000 |

PAYGO: pay-as-you-go

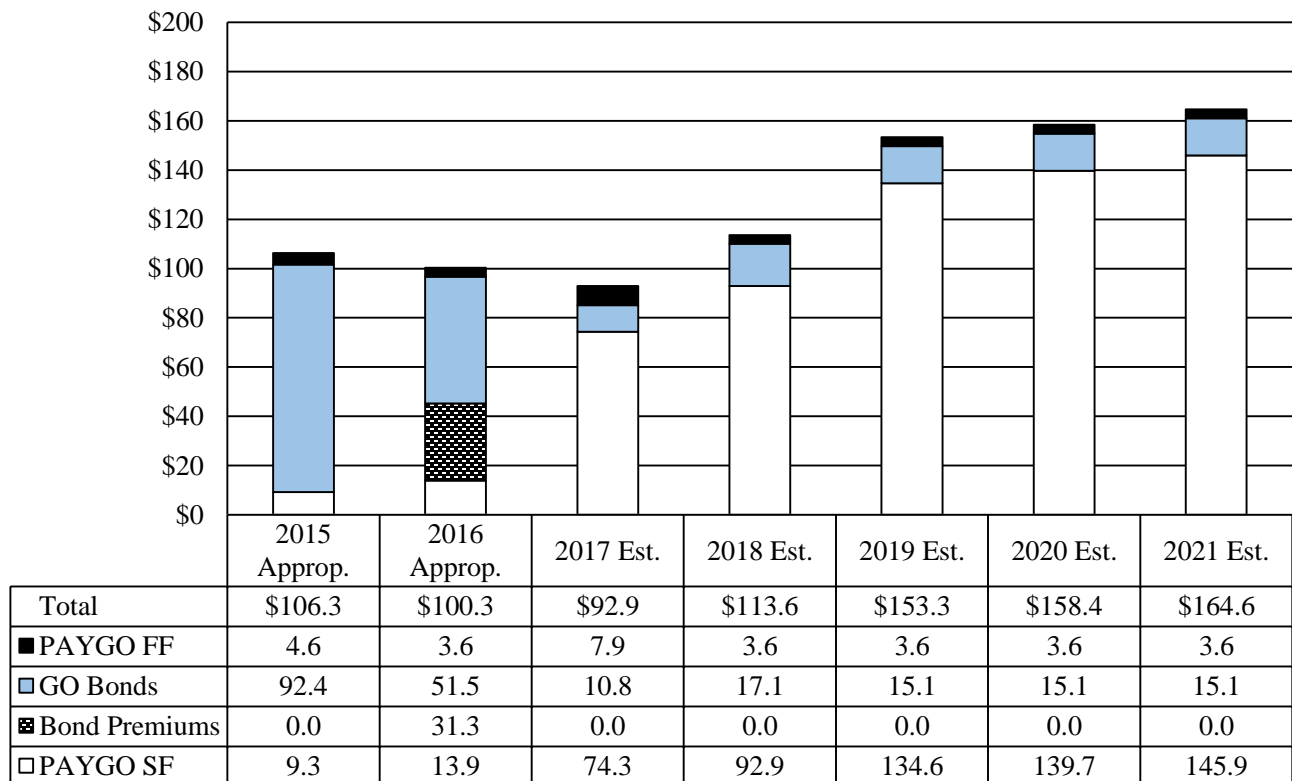
Source: Department of Budget and Management; Department of Natural Resources

Fiscal 2017 Budget

Fiscal 2017 Budget

The fiscal 2017 allowance includes \$74.3 million in special funds, \$7.9 million in federal funds, and \$10.8 million in GO bonds, which includes the \$16.5 million appropriation in special funds that are contingent on HB 462 and SB 383 (State Transfer Tax – Distribution of Revenue) authorizing this amount of funding to be allocated because, under the Governor’s proposed budget, these funds are available for program use. **Exhibit 8** shows the restoration of the transfer tax special funds, which displace GO bond authorizations, and the overall increase in funding due to the estimated transfer tax revenue increases over the five-year planning period in the 2016 *Capital Improvement Program (CIP)*.

Exhibit 8
DNR Capital Programs Funding
Fiscal 2015-2021 Est.
(\$ in Millions)



DNR: Department of Natural Resources
FF: federal funds
GO: general obligation

PAYGO: pay-as-you-go
SF: special funds

Source: Governor’s Capital Budget; Department of Budget and Management Capital Budget Worksheets

Fiscal 2017 and 2018 Transfer Modification

The fiscal 2017 budget plan includes the modification of transfer tax transfers to the General Fund that were originally authorized by Chapter 425 of 2013. The proposed modification is reflected in HB 462 and SB 383, which are introduced in the 2016 session. In conjunction, the bills and the fiscal 2017 operating budget bill accomplish the following:

- reducing the fiscal 2017 authorized transfer by \$20.0 million from \$82.8 million to \$62.8 million, and the fiscal 2018 transfer of \$40.0 million from \$86.0 million to \$46.0 million;
- repurposing the \$20.0 million in fiscal 2017 for pay-as-you-go capital programs contingent on the legislation authorizing the appropriations; and
- appropriating contingently in fiscal 2017 as follows:
 - POS – State Acquisition (Capital Development) – \$2,638,000;
 - POS – Eager Park Grant – \$4,000,000;
 - POS – Local – \$5,000,000;
 - Rural Legacy Program – \$4,862,000; and
 - Maryland Agricultural Land Preservation Foundation – \$3,500,000.

Exhibit 9 shows the fiscal 2017 allocation with the enhancement, and **Exhibit 10** shows the fiscal 2018 proposed allocation with the enhancement. The proposed program reductions under the full transfers authorized by Chapter 425 were implemented based on the reduction of roughly half of the capital program distributions instead of by reducing the revenue that would flow through the transfer tax formula and thus affecting all operating and capital programs equally. The enhancement funding is allocated based on the Department of Budget and Management’s estimate of program funding need.

Exhibit 9
Transfer Tax Distribution for Land Preservation Programs
Receiving Enhancements
Fiscal 2017

| <u>Program</u> | <u>Statutory</u> <u>Allocation</u> | <u>BRFA of</u> <u>2013</u> <u>General</u> <u>Fund</u> <u>Transfer</u> | <u>Allowance</u> <u>Before</u> <u>Enhancement</u> | <u>Enhancement</u> | <u>Allowance</u> |
|-------------------------------------|---------------------------------------|---|---|--------------------|------------------|
| DNR – Land Acquisition and Planning | | | | | |
| Program Open Space (POS) | | | | | |
| – State Share | \$39.0 | -\$23.6 | \$15.4 | \$4.0 | \$19.4 |
| POS – Local Share | 39.6 | -22.9 | 16.7 | 5.0 | 21.7 |
| Rural Legacy Program | 17.0 | -9.2 | 7.8 | 4.9 | 12.7 |
| Natural Resources | | | | | |
| Development Fund | 10.1 | -7.2 | 2.9 | 0.1 | 3.1 |
| Critical Maintenance | | | | | |
| Program | 6.0 | -2.0 | 4.0 | 2.0 | 6.0 |
| Ocean City Beach | | | | | |
| Maintenance | 0.5 | -0.5 | 0.0 | 0.5 | 0.5 |
| Maryland Department of Agriculture | | | | | |
| Maryland Agricultural Land | | | | | |
| Preservation Foundation | 30.1 | -17.4 | 12.7 | 3.5 | 16.2 |
| Distribution for Programs | | | | | |
| with Enhancements | \$142.3 | -\$82.8 | \$59.5 | \$20.0 | \$79.5 |

BRFA: Budget Reconciliation and Financing Act

DNR: Department of Natural Resources

Note: POS – State share fiscal 2017 \$4,000,000 enhancement is for a grant to the Eager Park project as part of the East Baltimore Development Initiative.

Source: Department of Budget and Management; Department of Legislative Services

Exhibit 10
Transfer Tax Distribution for Land Preservation Programs
Receiving Enhancements
Fiscal 2018

| <u>Program</u> | <u>Statutory</u> <u>Allocation</u> | <u>BRFA of</u> <u>2013</u> <u>General</u> <u>Fund</u> <u>Transfer</u> | <u>Estimated</u> <u>Allowance</u> <u>Before</u> <u>Enhancement</u> | <u>Enhancement</u> | <u>Estimated</u> <u>Allowance</u> |
|--|---------------------------------------|---|---|--------------------|--------------------------------------|
| DNR – Land Acquisition and Planning | | | | | |
| Program Open Space (POS) – State Share | \$41.7 | -\$24.8 | \$17.0 | \$3.4 | \$20.4 |
| POS – Local Share | 41.7 | -23.7 | 17.9 | 11.0 | 28.9 |
| Rural Legacy Program | 17.4 | -9.4 | 8.1 | 9.0 | 17.1 |
| Natural Resources Development Fund | 10.6 | -7.6 | 3.0 | 5.1 | 8.1 |
| Critical Maintenance Program | 6.0 | -2.0 | 4.0 | 2.0 | 6.0 |
| Ocean City Beach Maintenance | 1.0 | -0.5 | 0.5 | 0.5 | 1.0 |
| Maryland Department of Agriculture | | | | | |
| Maryland Agricultural Land Preservation Foundation | 31.7 | -18.1 | 13.7 | 9.0 | 22.7 |
| Distribution for Programs with Enhancements | \$150.1 | -\$86.0 | \$64.1 | \$40.0 | \$104.1 |

BRFA: Budget Reconciliation and Financing Act

DNR: Department of Natural Resources

Source: Department of Budget and Management; Department of Legislative Services

Future Transfer Tax Revenues

As shown in **Exhibit 11**, the transfer tax estimate for fiscal 2017 is \$185.0 million, which increases to \$219.2 million in fiscal 2021. The difficulty in estimating the transfer tax can be seen in the fiscal 2017 numbers: the December 2011 through 2014 estimates for fiscal 2017 have been \$206.7 million, \$213.2 million, \$203.6 million, and \$181.5 million, respectively. This underscores the difficulty of funding annual programs from a volatile funding source.

Exhibit 11
Property Transfer Tax Revenue Projections
Fiscal 2009-2021
(\$ in Millions)

| Fiscal Years | Dec. 2007 Estimate | Dec. 2008 Estimate | Dec. 2009 Estimate. | Dec. 2010 Estimate | Dec. 2011 Estimate | Dec. 2012 Estimate | Dec. 2013 Estimate | Dec. 2014 Estimate | Dec. 2015 Estimate |
|-------------------------|-----------------------------------|-----------------------------------|------------------------------------|-----------------------------------|-----------------------------------|-----------------------------------|-----------------------------------|-----------------------------------|-----------------------------------|
| 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 | \$161.0 | |
| 2016 | n/a | n/a | 208.5 | 177.8 | 196.8 | 200.6 | 203.8 | 174.5 | \$184.9 |
| 2017 | n/a | n/a | n/a | n/a | 206.7 | 213.2 | 203.6 | 181.5 | 185.0 |
| 2018 | n/a | n/a | n/a | n/a | n/a | 221.3 | 209.3 | 184.0 | 194.7 |
| 2019 | n/a | n/a | n/a | n/a | n/a | n/a | 215.6 | 191.4 | 203.0 |
| 2020 | n/a | n/a | n/a | n/a | n/a | n/a | n/a | 198.0 | 211.2 |
| 2021 | n/a | n/a | n/a | n/a | n/a | n/a | n/a | n/a | 219.2 |

Source: Comptroller of Maryland; Department of Budget and Management

Program Highlights

The changes in funding for fiscal 2017, accounting for the fiscal 2017 contingent appropriation of \$16.5 million, are reflected in **Exhibit 12**. The difference between fiscal 2016 and 2017, reflected by fund, is shown in **Exhibit 13**.

Exhibit 12
DNR Capital Budget Changes
Fiscal 2016-2017
(\$ in Millions)

| <u>Program</u> | <u>2016</u> | <u>2017</u> | <u>Difference</u> |
|--|--------------------|--------------------|--------------------------|
| POS – Land Acquisition and Local Program | \$56.2 | \$46.8 | -\$9.4 |
| Oyster Restoration Program | 7.6 | 3.3 | -4.3 |
| POS – Natural Resources Development Fund | 7.2 | 3.1 | -4.2 |
| Community Parks and Playgrounds | 5.0 | 2.5 | -2.5 |
| Ocean City Beach Maintenance | 1.5 | 1.0 | -0.5 |
| POS – Critical Maintenance | 6.1 | 6.0 | -0.1 |
| Waterway Improvement Program | 6.6 | 12.6 | 6.0 |
| Rural Legacy Program | 10.1 | 17.7 | 7.6 |
| Total | \$100.3 | \$92.9 | -\$7.4 |

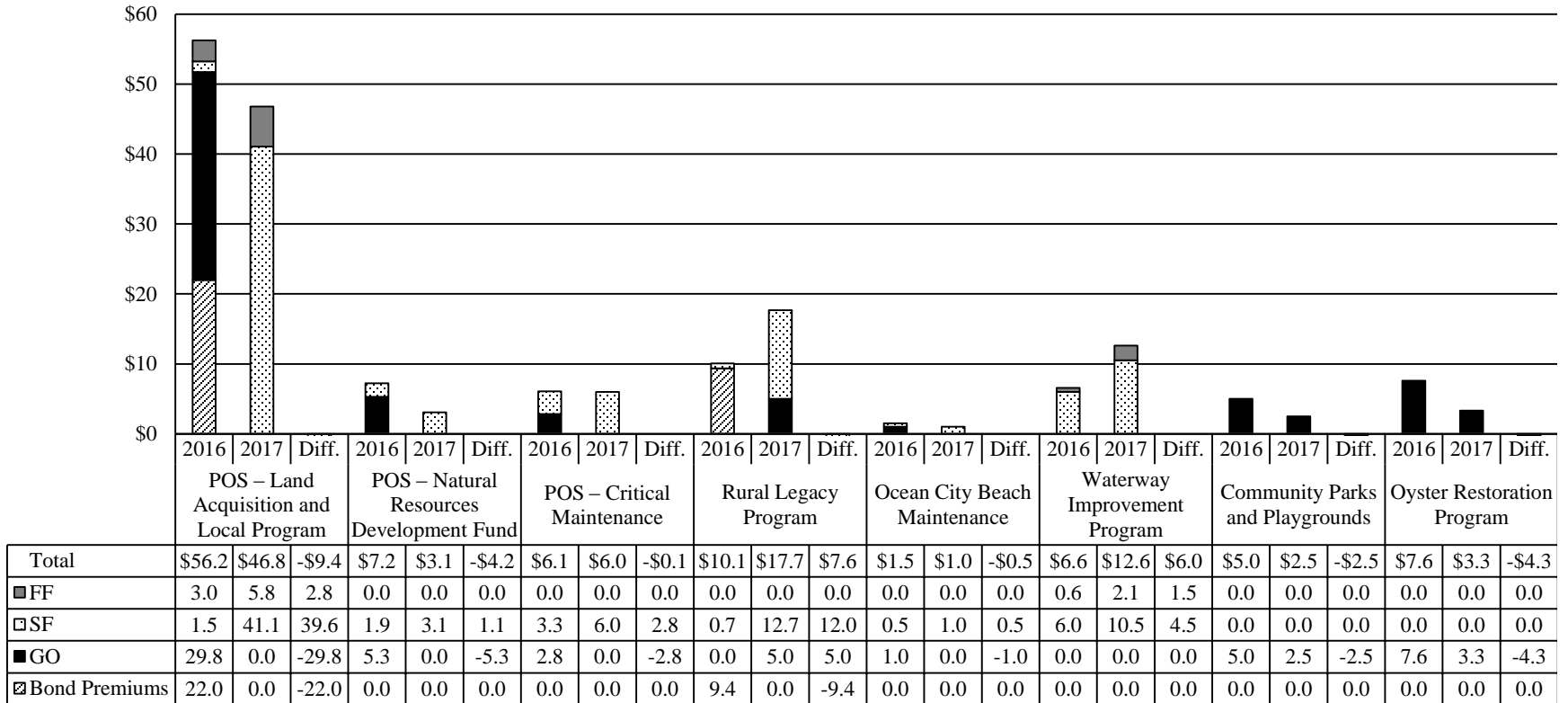
DNR: Department of Natural Resources

POS: Program Open Space

Note: The exhibit includes the fiscal 2017 funds that are contingent on legislation.

Source: Department of Legislative Services

Exhibit 13
DNR Capital Budget Changes by Fund
Fiscal 2016-2017
(\$ in Millions)



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 2017 allowance includes \$41.1 million in special funds and \$5.8 million in federal funds. Of this appropriation, \$19.4 million in special funds is allocated to POS – State and \$21.7 million in special funds is allocated to POS – Local; the \$5.8 million in federal funds could be used by either POS – State or POS – Local. As noted previously, \$4.0 million of the POS – State special fund appropriation and \$5.0 million of the POS – Local appropriation is contingent on legislation authorizing the reprogramming of funding. The overall Baltimore City Direct Grant includes the \$1.5 million base amount provided in previous years and the \$4.0 million POS – State enhancement funding, which is directed to the Eager Park project – a new five-acre park in East Baltimore comprising three city blocks to be used as public use park including an amphitheater, plaza and play fountain, sculptural pavilion, exercise circuit, running track, playing fields, a community garden, and a playground. This funding reflects a portion of the overall \$12.2 million project cost; the project is included in the East Baltimore Development Initiative’s Master Plan. The overall decrease in funding between fiscal 2016 and 2017, primarily reflects a reduction of GO bonds that provided for the replacement of a fiscal 2015 fund balance transfer in the BRFA of 2015. DNR notes that the additional \$2.8 million in federal funding available in fiscal 2017 reflects that it is applying for an increased amount of federal grants due to the scope and cost of projects in the pipeline and the opportunities for certain projects to fit well with certain federal fund programs. DNR also notes that as of the February 10, 2016 BPW meeting, it has encumbered over \$27.0 million in POS – Local funds, \$14.0 million in POS – State funds, and approximately \$0.6 million for Conservation Reserve Enhancement Program easement purchases.
- **Oyster Restoration Program** – The fiscal 2017 allowance includes \$3.3 million in GO bond authorization for the Oyster Restoration Program. This is less than both the fiscal 2016 appropriation and the 2015 CIP amounts of \$7.6 million and reflects the plan to wait to determine new oyster restoration projects until after a five-year assessment on oyster restoration progress is completed in July 2016. The fiscal 2017 funding would be used as follows: \$2.9 million to plant seed oysters (hatchery spat) in the Tred Avon River and \$0.9 million in the Little Choptank River; and to provide funding for Maryland Agricultural and Resource-Based Industry Development Corporation aquaculture loans (\$0.3 million). The 2016 CIP reflects level funding of \$7.6 million through the five-year planning period. The Oyster Restoration Program is discussed further as an issue in this analysis.
- **POS – Natural Resources Development Fund** – The POS – Natural Resources Development Fund appropriation includes \$3.1 million in transfer tax special funds, of which \$0.1 million is contingent on legislation. The fiscal 2017 budget reflects a reduction relative to the fiscal 2016 appropriation and the 2015 CIP because no GO bond funding is provided. The fiscal 2017 appropriation would provide funding for the following projects: Rocky Gap State Park – parking lot improvements (\$101,000), Southern Maryland multipurpose center (\$205,000), Patapsco Valley State Park – trail bridge (\$700,000), Fair Hill Natural Resources Management Area – campground improvements (\$185,000), Wellington Wildlife Management Area – building renovation (\$1,150,000), Point Lookout State Park – charge collection station

(\$252,000), Point Lookout State Park – water system infrastructure improvements (\$241,000), and Albert Powell Fish Hatchery – upgrades (\$228,000). Of note, the Southern Maryland multipurpose center project includes the potential for a \$1.0 million grant from the Water Quality Revolving Loan Fund that will be solicited by Calvert County and used to help pay for the cost of connecting the building’s sewer system at Hallowing Point to the county’s existing sewer system at the Calvert County Industrial Park. The overall project involves the consolidation of the Natural Resources Police Area 4 headquarters at Hallowing Point and in the future includes the possibility of land acquisition as part of the development of a waterfront park – to be managed by Calvert County – and the expansion of the existing boating facility.

- **Community Parks and Playgrounds** – The fiscal 2017 allowance includes \$2.5 million in GO bonds for the Community Parks and Playgrounds program, which is a decrease of \$2.5 million relative to the fiscal 2016 appropriation, but is level with the 2015 CIP amount programmed for fiscal 2017. In fiscal 2016, the General Assembly added \$2.5 million in GO bond authorization to what the Governor proposed resulting in a \$5.0 million authorization for Community Parks and Playgrounds. The fiscal 2017 funding provides for 24 projects in 14 subdivisions.
- **Ocean City Beach Maintenance** – The Ocean City Beach Maintenance appropriation is \$1.0 million in special funds comprised of \$500,000 from the State and the \$500,000 in special funds for the Worcester County (\$215,000), Ocean City (\$215,000), and fund interest (\$70,000) shares of the next regularly scheduled beach nourishment project. The fiscal 2017 funding is a reduction of \$0.5 million relative to both the fiscal 2016 appropriation and the 2015 CIP since the amount in the special fund is approaching the \$15.0 million fund balance cap. DNR notes that the beach nourishment project could begin in fiscal 2016 as a result of the damages from the January 22 through 24, 2016 winter storm, Jonas. There would be two components to the overall beach nourishment project: (1) emergency repairs funded by the U.S. Army Corps of Engineers using Public Law 84-99 funding to include pumping sand onto the beach, storm berm, and dunes to bring the project up to the pre-storm condition; and (2) full design level of protection – nourishment – that is to be cost-shared between the State, Worcester County, and Ocean City to include sand replenishment, dune repairs, fencing repairs, cross-over repairs, dune grass plantings, and replacement of bulkhead access ramps and stairs.
- **POS – Critical Maintenance Program** – There is \$6.0 million in special funds in the fiscal 2017 allowance for the POS – Critical Maintenance Program, which includes \$2.0 million contingent on legislation. The fiscal 2017 funding level is roughly equal with the fiscal 2016 appropriation and is approximately \$2.0 million greater than the 2015 CIP due to the contingent funding. The fiscal 2017 budget includes funding for 60 projects and 4 statewide general project categories as follows: DNR bridge inspections and repairs (\$75,000); statewide – housing assessment program (\$150,000); statewide – contingencies (\$13,566); and statewide – razings (\$100,000). The fiscal 2017 funding provides for the construction of the following selected larger projects: Dan’s Mountain State Park – renovate pool building (\$300,000), Rocky Gap State Park – interior renovations to Easter Hill Chalet (\$300,000), Patapsco Valley State Park – renovate Hilton Campground shower building (\$250,000), Martinak State Park – renovate two shower buildings (\$520,000), Cedarville State Forest – renovate two campground

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bathhouses (\$500,000), Janes Island State Park – renovate shower Building A (\$260,000), Greenbrier State Park – day use bathhouse renovations (\$450,000), and Pocomoke River State Park – renovate shower buildings Phase II (2 buildings) (\$500,000). Of note, the Kenneth Weaver Building, headquarters for the Maryland Geological Survey, receives both fiscal 2016 and 2017 funding, which DNR notes is an eligible use of funding because the building is part of the agency’s portfolio.

- **Waterway Improvement Program** – The WIP’s fiscal 2017 allowance includes \$10.5 million in special funds and \$2.1 million in federal funds. This reflects a \$4.5 million increase in special funds and \$1.5 million increase in federal funds relative to both the fiscal 2016 appropriation and the 2015 CIP. In fact, the out-year \$10.5 million special fund levels programmed in the 2016 CIP appear to be based on fund balance that has been spent down, and thus it appears that the out-year spending levels may need to be revised downwards to be closer to \$5.0 million per year. The fiscal 2017 project list includes a number of vessel replacements, the largest is for the State-owned M/V J.M. Tawes ice breaking buoy tender. DNR notes that the 72-year old vessel replacement is necessary due to its inefficiency and expensive repairs. Overall, the vessel replacement cost is estimated to be \$5.0 million to \$6.0 million and is justified as a requirement for public safety. A second large project is \$500,000 for three Shore Erosion Control living shoreline projects within DNR’s Chesapeake and Coastal Service program. DNR notes that the projects are boating related. The WIP is discussed further as an issue in this analysis.
- **Rural Legacy Program** – The Rural Legacy Program’s fiscal 2017 allowance provides \$12.7 million in special funds and \$5.0 million GO bonds. The \$12.7 million in special funds reflects \$4.9 million contingent on legislation authorizing funding for this purpose. The funding increase between fiscal 2016 and 2017 of \$7.6 million primarily reflects the budgeting of the \$5.0 million of GO bonds as mandated under Section 5-9A-09 of the Natural Resources Article, which was not included in the final fiscal 2016 appropriation. The fiscal 2017 cost per acre is estimated to be \$3,500.

Issues

1. Deep Creek Lake Studied, Not Dredged

The fiscal 2016 operating budget restricted \$250,000 in WIP special funds for Deep Creek Lake dredging projects. In addition, the budget bill language allowed DNR to use the restricted funding for other projects if funding for Deep Creek Lake dredging projects has not been encumbered by April 1, 2016, but then required that the Deep Creek Lake dredging projects be placed on the priority list for fiscal 2017 funding. Finally, the budget bill language authorized DNR, if the Deep Creek Lake dredging projects are funded in fiscal 2016, to increase its special fund appropriation by budget amendment supported by available balance in order to restore funding to the projects that are currently programmed to receive fiscal 2016 funding but would not otherwise as a result of this action.

DNR notes that it has designated a portion of the \$585,997 in fiscal 2016 that was directed for maintenance dredging to be used for Deep Creek Lake. The plan is to obligate \$177,220 for a two-year study entitled *Deep Creek Lake Monitoring of Sediment Impacts on Boating Channels*. The first year of the study has been allocated \$88,610 and began in November 2015. DNR will encumber an additional \$88,610 in fiscal 2016, which will be available in fiscal 2017 for the remainder of the study. DNR is in the process of deciding whether to continue the sediment study for a third year – since this would provide more data – or revert the remaining \$72,780 to the maintenance dredging funding pool as allowed for in the budget bill language. **DLS recommends that DNR comment on the plans for the remaining \$72,780 of funding restricted for the purpose of dredging Deep Creek Lake.**

2. Oyster Reef Construction on Hold

DNR’s fiscal 2017 authorization for the Oyster Restoration Program reflects the intent to wait until after the July 2016 five-year assessment of oyster restoration progress is completed before selecting the next two tributaries for new oyster restoration activities and constructing any more oyster reefs in sanctuaries. The hiatus also reflects the intent to address concerns raised by local stakeholders. The delay has led the U.S. Army Corps of Engineers to shift federal funding to Virginia. Regardless, there remains the question of where sufficient cost-effective substrate will be obtained to continue oyster restoration work and how this substrate will be distributed between sanctuaries and the public and private fishery.

Oyster Restoration Progress

The July 2016 five-year assessment will be informed by data collected by Dr. Kenneth Paynter and his laboratory. Dr. Paynter was contracted by the Oyster Recovery Partnership, with National Oceanic and Atmospheric Administration funding, to survey the first oyster plantings in Harris Creek. Overall, the oyster plantings have occurred on shell, fossil shell, and granite substrates. The oyster restoration program information on acres of substrate placed, acres of substrate seeded, and

acres of natural good oyster habitat bottom seeded for Harris Creek, the Little Choptank River, and the Tred Avon River is shown in **Exhibit 14**.

Exhibit 14
Oyster Restoration Program Data

| <u>Tributary</u> | <u>Acres of Substrate Placed</u> | <u>Acres of Substrate Seeded</u> | <u>Acres of Good Bottom Seeded</u> |
|-------------------------|---|---|---|
| Harris Creek | 210 | 197 | 149 |
| Little Choptank River | 126 | 22 | 6 |
| Tred Avon River | 16 | 3 | 0 |
| Total | 352 | 222 | 155 |

Note: The areas are rounded to the nearest acre.

Source: Department of Natural Resources

DNR indicates that preliminary results of the first oyster plantings in Harris Creek are in a draft report that is being finalized but that all of the sites met the minimum oyster density of 15 oysters per square meter over 30% of the bottom, and many of the sites met the higher goal of 50 oysters per square meter over 30% of the bottom.

Federal Funding

The U.S. Army Corps of Engineers announced on February 2, 2016, that it has delayed oyster restoration in the Tred Avon River at the request of DNR and that it plans to send a portion of its available oyster restoration funding to U.S. Army Corps of Engineers – Norfolk District for Chesapeake Bay restoration in Virginia. The delay affects 8 acres of reef restoration as part of a planned 24 acres of deep water sites. The work has been halted partially due to the following concerns raised by watermen: (1) oyster bar damage if the sites are covered by nonshell material (mostly addressed by shifting from rock to shells); (2) boat damage if material is planted too close to the surface; (3) crab trotline area impacts; and (4) oyster restoration work continuing before the July 2016 five-year report is available. DNR notes that work has not stopped in the Tred Avon River and that it is proceeding to plant seed oysters on the 16 acres constructed by the U.S. Army Corps of Engineers and on many oyster bars where no work is needed by the U.S. Army Corps of Engineers.

Man O’War Shoal and Other Shell Sources

Obtaining sufficient inexpensive shell substrate is a key component of DNR’s oyster restoration success. The Man O’War Shoal near the mouth of the Patapsco River and a location in Laguna del Chairel, Mexico currently are two leading candidates for shell provision. DNR submitted a permit to dredge the Man O’War Shoal in calendar 2015, and the permit is still under review by the U.S. Army

Corps of Engineers’ regulatory division and MDE. Public hearings in early February 2016 reflected mostly opposition at the Baltimore hearing and mostly support at the Cambridge hearing. It is anticipated that decision on the permit could be rendered as early as spring 2016.

One of the main considerations of the shell dredging is how the shell is to be used. DNR notes that the final decision has not been made but that it has proposed three ratios for allocation of the shell, as shown in **Exhibit 15**. Each ratio has different implications for the focus on future oyster restoration activities – ratio 1 reflects the current sanctuary model; ratio reflects a return to a more heavily subsidized public and private fishery model, and ratio 3 appears to reflect an almost complete reversal of the sanctuary model in favor of a public and private fishery. Therefore, the choice of oyster shell use is an important determinant of the direction that the Administration intends to take the oyster restoration program.

**Exhibit 15
Oyster Shell Use**

| <u>Use</u> | <u>Ratio 1</u> | <u>Ratio 2</u> | <u>Ratio 3</u> |
|------------------------------|----------------|----------------|----------------|
| Sanctuary | 90% | 50% | 25% |
| Fishery (public and private) | 10% | 50% | 75% |
| Total | 100% | 100% | 100% |

Source: Department of Natural Resources

A second shell option is to barge shell from Laguna del Chairel, Mexico. The current estimate provided by the United Shell Corporation is a cost of \$3 to \$4 per bushel of oyster shell transported and planted. Outstanding issues to be considered in regard to this proposal include whether the shells would be cleaned before leaving Mexico, who owns the shells, the need for the appropriate permits to remove the shell, and the environmental impacts from the removal of the shell. DNR notes that the alternatives to shells from Man O’War Shoals and Laguna del Chairel, Mexico are to use nonshell materials such as rocks or to use oyster and clam shells from shucking houses, although the supply from shucking houses is limited. **DLS recommends that DNR comment on the rationale for each of the three oyster shell use ratios and whether there is an intent to return to a public and private fishery in favor of the sanctuary model for oyster restoration.**

3. Land Preservation Workgroup Reports on Transfer Tax-funded Programs

Committee narrative in the 2015 JCR requested a report on an evaluation of land preservation and easement acquisition programs – Maryland Agricultural Land Preservation Program, POS – State and Local, Rural Legacy Program, and Maryland Environmental Trust – covering the roles the

programs play relative to each other and current statute and the funding each receives through the transfer tax formula. Topics of study requested included the pros and cons of combining some or all of the land preservation and easement acquisition programs, and the possible expansion of State and local revenue generating opportunities from multi-use State working lands. The Land Preservation Workgroup formed to address the report request met over the 2015 interim and found agreement on a number of items, but found that there were disagreements with the Administration over land preservation program funding plans, replacement of funds transferred to the General Fund, and the idea of a transfer tax lockbox to prevent future transfers.

Land Preservation Workgroup Agreements

The Land Preservation Workgroup found agreement on the following items:

- **Formula** – do not change the transfer tax allocation formula;
- **Repurposing** – use a portion of the \$90 million transferred in fiscal 2006 (to be replaced beginning in fiscal 2019) for capital projects on DNR lands;
- **Programs** – do not combine any of the State land preservation programs;
- **Local Funding** – remove the requirement for POS – Local funding to meet an acquisition percentage starting in fiscal 2017 and instead focus on POS – Local funding being used to meet needs identified in the Land Preservation, Parks, and Recreation Plan; and
- **Local Apportionment Formula** – encourage the meeting of POS – Local apportionment stakeholders to determine the allocation and whether further meetings are needed.

Land Preservation Workgroup Disagreements

The Land Preservation Group disagreed on the items shown in **Exhibit 16**.

**Exhibit 16
Land Preservation Workgroup Disagreements**

| <u>Disagreement Item</u> | <u>Workgroup</u> | <u>Administration</u> | <u>Update</u> |
|--------------------------|--|---|--|
| Funding | Return to full pay-as-you-go cash funding in fiscal 2018 and only divert fiscal 2017 funding if needed for the structural deficit. | Continue with the authorized transfers of \$82.8 million in fiscal 2017 and \$86.0 million in fiscal 2018 given the ongoing structural deficit. | The Administration has proposed legislation to reduce the fiscal 2017 transfer by \$20.0 million and the fiscal 2018 transfer by \$40.0 million. |
| Replacement | Use general obligation bonds for fiscal 2017 and general funds over three years to replace fiscal 2016 and 2017 transfers. | Allow the Administration to determine repayment for fiscal 2016 through 2018 transfers based on revenue estimates and operating budget needs. | |
| Lockbox | Create a lockbox to stop diversions to the General Fund. | Retain the flexibility of the General Assembly and Governor to address the State’s fiscal situation and consider the negative view bond rating agencies have on limitations of State budgeting flexibility. | |

Source: Department of Natural Resources; Department of Legislative Services

Legislation has been introduced in the 2016 legislative session to effectuate the Administration’s plan for fiscal 2017 and 2018 transfer tax funding – HB 462 and SB 383 (State Transfer Tax – Distribution of Revenue) – and some of the other Land Preservation Workgroup stakeholders’ positions – HB 1464 and SB 927 (POS Trust Fund Act of 2016). Neither piece of legislation appears to address concerns raised in the Land Preservation Workgroup report as follows: the statutory requirement that the Governor appoint a committee to review the POS – Local apportionment formula annually, and the request by local governments for greater flexibility in how POS – Local funding may be used. **DLS recommends that DNR comment on how it plans on handling the statutory requirement that the Governor appoint a committee to review the POS – Local apportionment formula annually and the request by local governments for greater flexibility in how POS – Local funding may be used.**

Updates

1. Bloede Dam Status

Bloede Dam is located in Patapsco River State Park and was built in 1907. The dam is a public safety threat and is an obstacle for fish passage. Funding was most recently provided through the Natural Resources Development Fund in fiscal 2016 in order to backfill a fiscal 2015 withdrawn appropriation. DNR notes that the construction documents, plans and specifications, are at the 95% stage, ready for preparation of bid documents for removal of the dam. Permits are expected to be approved shortly for advertisement in March 2016.

2. Vessel Excise Tax Cap Report

Chapter 180 of 2013, in addition to establishing the vessel excise tax \$15,000 cap, also (1) required DNR to report – in fiscal 2014, 2015, and 2016 – on the effect of the \$15,000 per vessel cap on the number and type of vessels registered in the State and the health of the boating industry; and (2) established a Task Force to Study Enhancing Boating and the Boating Industry in Maryland that was to consider, among other things, the impact of modifying the State vessel excise tax rate and boat registration fees. HB 14 and SB 58 (Natural Resources – Vessel Excise Tax Cap – Repeal of Termination) have been introduced in the 2016 legislative session to make permanent the \$15,000 limit on the amount of the vessel excise tax that may be imposed on any vessel.

Vessel Excise Tax Cap Impact

Based on the vessel excise tax rate of 5% of fair market value, the \$15,000 vessel excise tax cap affects vessels with a fair market value of more than \$300,000. The August 2015 report submitted by DNR in response to the Chapter 180 reporting requirement (*Fiscal Analysis of the Cap on the Vessel Excise Tax*, developed by the University of Maryland Environmental Finance Center) found that:

- **Vessel Excise Tax Cap** – the \$15,000 vessel excise tax limit was likely the cause of increased registration of certain higher value boats, but the increased registration did not make up for the loss of vessel excise tax revenue caused by the \$15,000 per vessel limit, resulting in a net loss in revenue of \$588,000 over the course of 2013 and 2014; and
- **New Registrations** – the increase in new registrations may have generated more than \$1 million in direct spending in the Maryland economy over the same time period.

DNR characterized these findings as preliminary, noting that the data set and time span studied in the report are small and prevent a conclusive assessment of the effect of the vessel excise tax cap.

Enhancing Boating and Growing the Boating Industry

The Task Force to Study Enhancing Boating and the Boating Industry in Maryland made a number of recommendations for enhancing boating and growing the boating industry in the September 2015 final report. The recommendations are as follows:

- **Vessel Excise Tax Cap** – keep the vessel excise tax cap of \$15,000 and conduct an economic analysis at the end of fiscal 2018 using five full years of data;
- **Vessel Title and Registration Fees** – work with the General Assembly to adjust vessel title and registrations fees to account for program costs and inflation and avoid issuance of documents at a loss to the State;
- **Nonpowered Vessels** – propose that nonpowered vessels pay the one-time excise tax at the point of purchase in place of the general sales tax now being collected;
- **Fiscal 2015 Transfer** – restore the \$2.2 million transferred to the General Fund from the Waterway Improvement Fund in fiscal 2015;
- **Chesapeake Bay Region Public Access** – support Executive Order 13508 related to public access in the Chesapeake Bay region and encourage counties and municipalities to pursue Waterway Improvement Fund grants to enhance and expand investment in infrastructure that services transient boaters including boat ramps and temporary docking facilities;
- **Commercial Waterway Definition** – coordinate with U.S. Army Corps of Engineers to expand the definition of commercial waterways to include marinas, boatyards, and other water-dependent entities to expand the opportunity for federal dredging funds;
- **Waterway Improvement Grant Program Visibility** – coordinate a public awareness campaign to increase visibility of the Waterway Improvement Grant Program;
- **WIF Uses** – examine the policy for use of WIF revenue by other units for the purpose of paying operating costs that should be funded by general funds;
- **Working Waterfronts** – coordinate a working group through the Working Waterfronts Program to encourage the development of boatyards, marinas, and shore-side attractions for transient and Maryland commercial and recreational based vessels and support working waterfronts zoning; and
- **Tourism** – coordinate a comprehensive tourism and marketing strategy for boating and water-based tourism activities.

Operating Budget Impact Statement

Executive’s Operating Budget Impact Statement – State-owned Projects (\$ in Millions)

| | FY 2017 | FY 2018 | FY 2019 | FY 2020 | FY 2021 |
|---|---------|---------|---------|---------|---------|
| Albert Powell Fish Hatchery – Upgrades | | | | | |
| Estimated Operating Cost | \$0.000 | \$0.000 | \$0.000 | \$0.068 | \$0.074 |
| Estimated Staffing | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Explanation: The Albert Powell Fish Hatchery upgrades project reflects the need for fuel and utilities, a new facility water recycling system, supplies and materials, a fish egg stock, and feed supplies. | | | | | |
| Fair Hill Natural Resources Management Area – Campground Improvements | | | | | |
| Estimated Operating Cost | \$0.000 | \$0.000 | \$0.000 | \$0.019 | \$0.021 |
| Estimated Staffing (Contractual Full-time Equivalents (FTE)) | 0.0 | 0.0 | 0.0 | 1.0 | 1.0 |
| Explanation: The Fair Hill Natural Resources Management Area – campground improvements project reflects the need for a seasonal employee, electricity and Maryland Environmental Service reimbursement funding, a septic contract, and cleaning supplies. There is also anticipated to be revenues from new campgrounds. | | | | | |
| Patapsco Valley State Park – Trail Bridge | | | | | |
| Estimated Operating Cost | \$0.000 | \$0.007 | \$0.014 | \$0.014 | \$0.014 |
| Estimated Staffing (Contractual FTEs) | 0.0 | 1.0 | 1.0 | 1.0 | 1.0 |
| Explanation: The Patapsco Valley State Park trail bridge reflects the need for a seasonal employee, fuel and utilities, supplies and materials such as signage and brooms and a backpack blower. | | | | | |
| Point Lookout State Park – Charge Collection Station | | | | | |
| Estimated Operating Cost | \$0.000 | \$0.006 | \$0.007 | \$0.007 | \$0.007 |
| Estimated Staffing (Contractual FTEs) | 0.0 | 1.0 | 1.0 | 1.0 | 1.0 |
| Explanation: The Point Lookout State Park – charge collection station reflects the need for a seasonal employee to staff the new booth from April to September, installation and yearly cost of a telephone line, utilities for the charge collection station, and initial setup and annual maintenance. | | | | | |

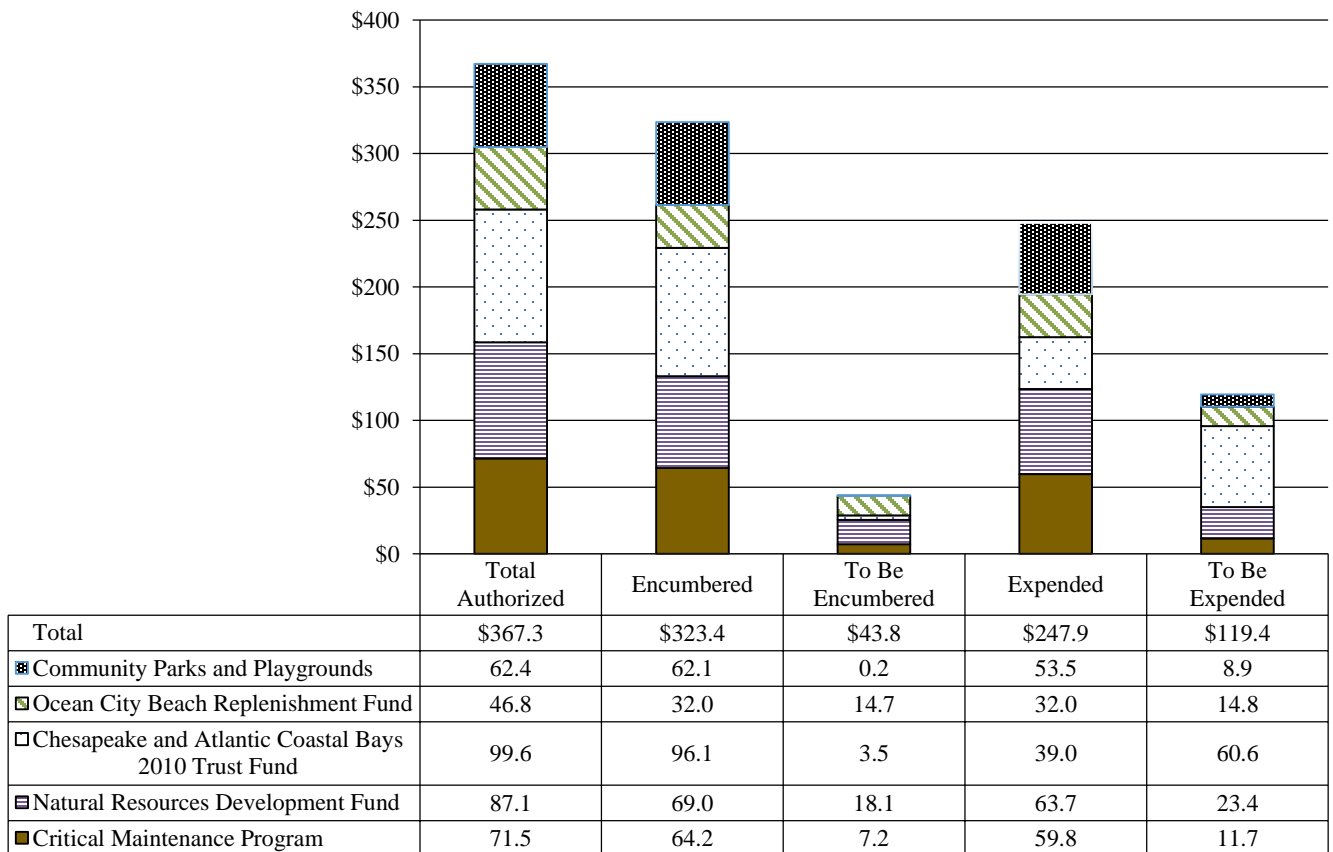
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| | FY 2017 | FY 2018 | FY 2019 | FY 2020 | FY 2021 |
|--|----------------|----------------|----------------|----------------|----------------|
| Southern Maryland Multipurpose Center | | | | | |
| Estimated Operating Cost | \$0.000 | \$0.000 | \$0.000 | \$0.000 | \$0.012 |
| Estimated Staffing | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Explanation: The Southern Maryland multipurpose center reflects the need for phone costs for 18 staff members, increased fuel costs, and cleaning, grass cutting, and building maintenance costs. | | | | | |
| Wellington Wildlife Management Area Building Renovation | | | | | |
| Estimated Operating Cost | \$0.013 | \$0.009 | \$0.009 | \$0.009 | \$0.009 |
| Estimated Staffing | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Explanation: The Wellington Wildlife Management Area Building renovation reflects the need for utilities for additional space, security system monitoring, and desks and chairs for move-in. | | | | | |
| Total Operating Impact | | | | | |
| Estimated Operating Cost | \$0.013 | \$0.022 | \$0.029 | \$0.117 | \$0.138 |
| Estimated Staffing (Contractual FTEs) | 0.0 | 2.0 | 2.0 | 3.0 | 3.0 |

Encumbrances and Expenditures

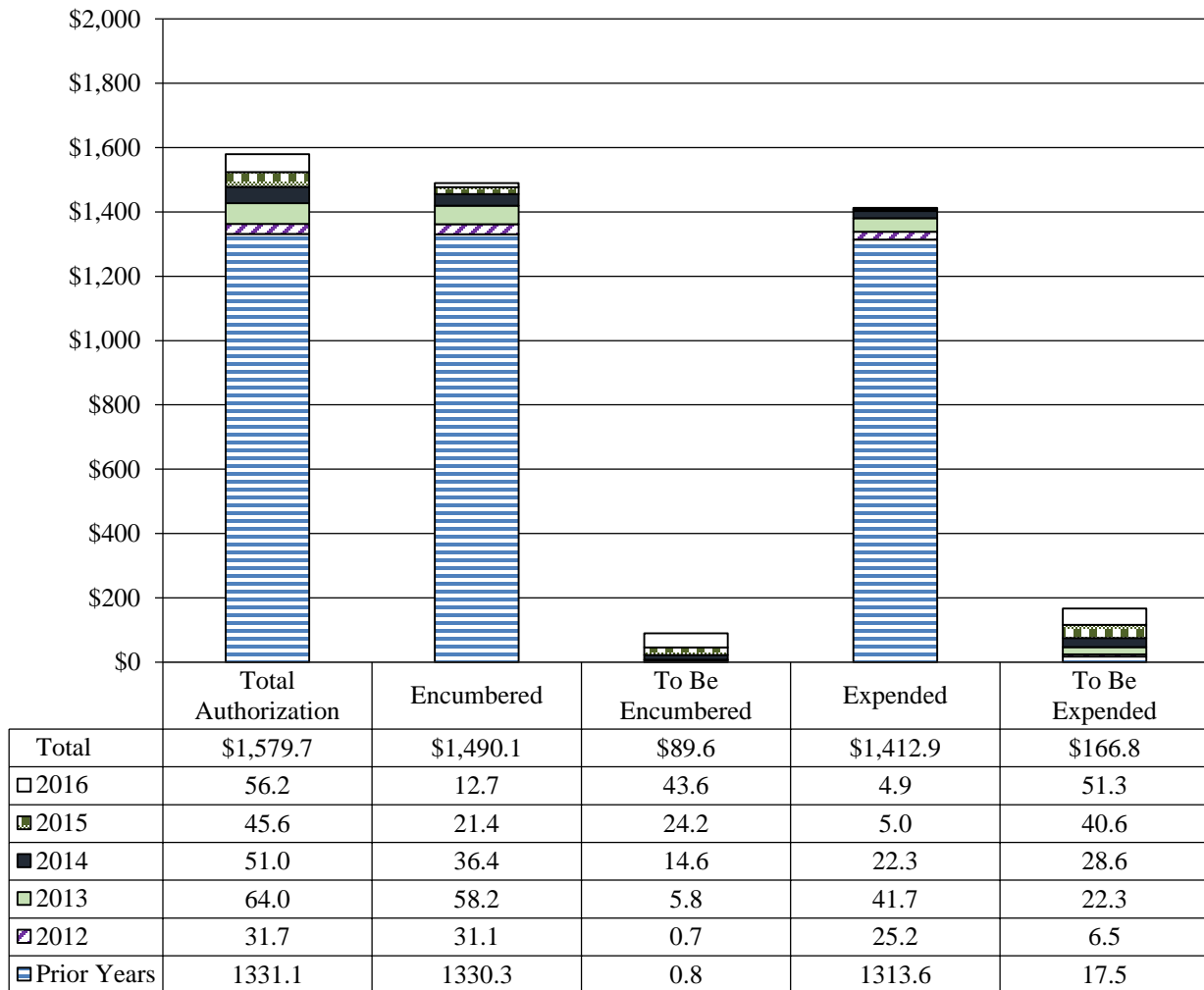
Progress toward encumbering and expending funding by program is shown in Exhibits 17 and 18 followed by a discussion of encumbrances and expenditures for selected programs.

Exhibit 17
Selected Program Encumbrances and Expenditures
Program Inception through January 2016
(\$ in Millions)



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

Exhibit 18
Program Open Space Encumbrances and Expenditures
Program Inception through January 2016
(\$ in Millions)



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

- POS** – DNR notes that through January 31, 2016, approximately \$800,000 in POS funding prior to fiscal 2012 remains to be encumbered, and \$17.4 million remains to be expended. The majority of these funds are POS – Local funds, which are encumbered upon approval of BPW. However, the funds are only expended when a county or municipality submits a request for reimbursement subsequent to an inspection by program administrators to verify that the work covered by the request for reimbursement has been satisfactorily completed. In addition, DNR

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notes that some projects can get delayed due to funding or staffing levels at the local level that can further delay the expenditure of funds.

- **Ocean City Beach Maintenance** – There are fairly large unencumbered and unexpended balances for the Ocean City Beach Maintenance, because federal funding has been used in recent years for emergency projects and because the next nourishment project is expected in either fiscal 2016 or 2017, which will draw a portion of existing balances. The Ocean City Beach Maintenance Fund is near the \$15.0 million cap, which currently means that no funding is appropriated in fiscal 2020 in the 2016 CIP.
- **Natural Resources Development Fund** – There has been a slight increase in the amount to be encumbered from \$13.6 million to \$18.1 million between this time last year and now, which appears to be related to the increase in funding received in fiscal 2016 relative to fiscal 2015.
- **Chesapeake and Atlantic Coastal Bays 2010 Trust Fund** – There appears to be a slight increase in the amount to be encumbered, which has increased from \$2.0 million at this time last year and the \$3.5 million in this analysis. However, the amount to be expended has decreased from \$77.0 million to \$60.6 million. DNR has noted in the past that the funding still to be expended reflects that projects may have completed work but not yet invoiced DNR for the costs. Also, local partners have been encouraged to match the State’s contribution as much as possible and thus local match funding may be spent first before State funding.

PAYGO Recommended Actions

1. Concur with the Governor's allowance of \$69,238,101 in special funds and \$5,750,000 in federal funds for the Outdoor Recreation Land Loan.
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 \$10,500,000 in special funds and \$2,100,000 in federal funds for the Waterway Improvement Program.

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. Reduce the Rural Legacy Program general obligation bond authorization.

| | | |
|-------|----------------------------|------|
| KA05B | Rural Legacy Program | \$ 0 |
|-------|----------------------------|------|

| | | |
|-------------------------|----------------------|-----------------------------|
| <u>Allowance</u> | <u>Change</u> | <u>Authorization</u> |
| 5,000,000 | -5,000,000 | 0 |

Explanation: Reduce the Rural Legacy Program general obligation bond authorization for the purchase of conservation easements and the acquisition of land. This reduction reflects the intent to constrain capital budget spending and reduce mandated authorizations. The programs will still receive a 25% increase in funding over fiscal 2016.

3. Approve the \$3,300,000 general obligation bond authorization for the Oyster Restoration Program to design and construct oyster habitat restoration projects and provide grants for aquaculture development projects.

| | |
|---|--------------------|
| Total General Obligation Bonds Reduction | \$5,000,000 |
|---|--------------------|