

SB0726-EEE_MACo_SUP.pdf

Uploaded by: Dominic Butchko

Position: FAV



Senate Bill 726

Bay Restoration Fund - Authorized Uses - Decommission of Wastewater Treatment Lagoon

MACo Position: **SUPPORT**

To: Education, Energy, and the Environment
Committee

Date: February 20, 2024

From: Dominic J. Butchko

The Maryland Association of Counties (MACo) **SUPPORTS** SB 726. This bill allows for the use of Bay Restoration Funds to include the cost of decommissioning wastewater treatment lagoons.

The Bay Restoration Fund was created in 2004 with the express purpose of providing a dedicated funding stream to help local government wastewater treatment facilities reduce certain nutrients from reaching the Chesapeake Bay. The Fund supports upgrades to Maryland's 67 major publicly owned wastewater treatment plants (WWTPs) with enhanced nutrient removal (ENR) technology. Additionally, funds are used for septic system upgrade grants, and the Cover Crop Program within the Maryland Department of Agriculture.

Counties support SB 726 as it gives flexibility to existing resources aimed at improving the health and vitality of Maryland's most important defining feature. The projects described in SB 726 are, along with the current list of eligible projects, suitable elements of a healthy and properly managed watershed. A healthy Chesapeake Bay ultimately means healthy economies and a high quality of life for our mutual constituents.

For this reason, MACo urges the Committee to give SB 726 a **FAVORABLE** report.

SB 726 Testimony (Burgess Pro Tem).pdf

Uploaded by: Jennifer Falcinelli

Position: FAV



**Senate Bill 726 – Bay Restoration Fund & Authorized Uses
Decommission of Wastewater Treatment Lagoon**

Jennifer J. Falcinelli, Burgess Pro Tem
Town of Middleton

Good afternoon, Chair Feldman and Committee Members:

I have served as a town commissioner for 28 years and as chair of Middletown's Water & Sewer committee for over 20 years. Middletown is a small town, with only 5000 residents and 1,700 water & sewer accounts. It is a constant challenge to fund needed infrastructure improvements with such a small customer base.

In 2000 we funded, without grants, a 4-million-dollar, state of the art, East Wastewater Treatment Plant. 20 years later, in 2020, our residents paid off this debt. Now, we are facing a \$40 million dollar ENR upgrade with at least \$10 million dollars unfunded.

This would almost triple our debt-per customer. Our residents cannot afford this and we have a fiducial responsibility to our residents who just paid for a wastewater treatment plant.

Middletown currently has 5.2 million dollars in long term debt due to a new reservoir and water main replacements. We invest in our infrastructure, take pride in our town, are pro-active, and do not believe entering into a consent order is proper planning.

We also have other critical infrastructure needs that need to be funded in the future. The town of Middletown and our residents cannot afford \$10 million dollars in long-term debt.

The Burgess & Commissioners are asking for your help and support!
Middletown has unique challenges in this ENR upgrade and the increased
subsidy in Senate Bill 726 will help defray some of the costs.

Removing infrastructure from a floodplain, to prevent future catastrophes, is
100% necessary and is 100% logical that the Bay Restoration Fund pay 100%
of these costs.

Thank you,
Jennifer Falcinelli, Burgess Pro Tem

SB 726

Uploaded by: John Miller

Position: FAV



**Senate Bill 726 – Bay Restoration Fund & Authorized Uses
Decommission of Wastewater Treatment Lagoon**

John D. Miller, Burgess
Town of Middletown

Good afternoon, Chair Feldman and Committee Members:

The Town of Middletown is facing a state-mandated \$40-million-dollar overhaul of all our wastewater treatment facilities, including the decommissioning of our West Lagoon Plant, and consolidating treatment at our East Wastewater Plant.

These developments were initiated by notification from MDE, that the lagoon will no longer be permitted as a treatment facility in the Chesapeake Bay Watershed. The changes are not due to poor planning, or growth, but an MDE mandate to upgrade treatment.

Our lagoon is in a floodplain and must be decommissioned, and entirely new treatment infrastructure built, at extraordinary costs never before seen by the Town, or likely any town our size.

Middletown has total assets of \$25 million. A \$40-million-dollar overhaul of treatment facilities, that replaces still-working and paid-for infrastructure, constitutes fiduciary negligence.

We've had several meetings with MDE and Elected Officials, expressing our grave fiscal concerns.

MDE responded that: 1) they haven't mandated that lagoons be decommissioned, 2) that our lagoon can be upgraded, and 3) the Town can

consider treatment options, substandard to meet state water quality goals and the ENR benchmark.

Our lagoon is in a high-risk floodplain and cannot be upgraded or replaced. While it's true that Middletown must only upgrade treatment to meet current permit requirements, the BRF subsidy heavily incentivizes upgrading to ENR and it's the best-and-only option for municipalities planning mandated upgrades, in both the short-term, and more importantly the long-term.

If we want an affordable, ecofriendly, and long-lasting investment, we have one course of action: 1) Decommission the lagoon, 2) relocate service out of the floodplain, and 3) upgrade our East Plant to ENR and double capacity.

Ultimately, that's what everybody wants: a lasting investment, funding critical infrastructure improvements that satisfies water quality goals for decades to come, but won't also bankrupt capital improvement programs and shackle small towns with equally lengthy debt service terms.

On behalf of Middletown, we support Senate Bill 726. Chair Feldman and Committee Members, thanks for your time and consideration!

Letter of support SB 726.pdf

Uploaded by: Michael Faith

Position: FAV



TOWN OF HANCOCK, MARYLAND
126 W. High St., Hancock, MD 21750



February 20, 2024

Subject: Support for Senate Bill 726 - Bay Restoration Fund - Authorized Uses - Decommissioning of Wastewater Treatment Lagoon

Dear Honorable Members of the Education, Energy, and the Environment Committee,

On behalf of the Town of Hancock, I am writing to express our support for Senate Bill 726, which proposes an essential amendment to the authorized uses of the Bay Restoration Fund. This amendment, to include the costs related to the decommissioning of certain wastewater treatment lagoons beginning in fiscal year 2026, represents a critical step forward in our collective efforts to support small communities like ours.

The Town of Hancock, like many small municipalities across the state, faces significant challenges in meeting the stringent state regulations regarding wastewater effluence. Our current lagoon system, while functional, does not align with the environmental standards necessary to ensure the long-term health and safety of our waterways, particularly the Chesapeake Bay.

The transition from our existing lagoon system to an Enhanced Nutrient Removal (ENR) system is not only a regulatory necessity but an environmental imperative. However, the financial implications of such a project are staggering. With an estimated total project cost of approximately \$30,000,000 and a connection base of around 800 households, the economic burden on our citizens without state support would be insurmountable. The per-household cost would be far beyond the means of our residents, many of whom are already stretched thin financially.

Senate Bill 726 presents a viable solution to this dilemma by allowing the use of the Bay Restoration Fund for projects like ours. Decommissioning outdated and environmentally harmful lagoon systems is an expensive endeavor, but it is a critical component of our broader efforts to protect and restore the Chesapeake Bay.

We urge the committee to recognize the importance of this bill not only for the Town of Hancock but for all small communities facing similar challenges. Your support for Senate Bill 726 will provide much-needed financial relief and ensure that we can continue to take decisive action in safeguarding our environment for future generations.

Thank you for considering our perspective. We are committed to working collaboratively with the state and other stakeholders to achieve our shared environmental goals and are hopeful for your support of Senate Bill 726.

Sincerely,

_____, Hancock, MD
www.townofhancock.org (301) 678-5622



TOWN OF HANCOCK, MARYLAND
126 W. High St., Hancock, MD 21750



Michael Faith, Town Manager

BRF Eligibility Determination Guideline-July 2017

Uploaded by: Paul Mantello

Position: FAV

**BRF Eligibility Determination for WWTPs
For Projects Starting Construction on or after July 1, 2017
(Based on House Bill 384 of 2017)**

The Department will make its best efforts to reach a resolution on eligibility determination to the satisfaction of all involved parties, while maintaining consistency with the existing laws, regulations and departmental policies. Based on the above, for a project involving ENR upgrades, the following items would be eligible for ENR grants participation:

Process	ENR Eligibility
Headwork/Grit Removal	50% Eligible only if the existing system is lagoon and does not include Headworks/Grit Removal
Decommissioning of treatment lagoon that will no longer be utilized with the new system. The decommissioning method must be consistent with MDE-LMA guidelines.	50% eligible if the existing system is lagoon
Equalization	50% eligible if justified as cost effective measure to reduce the size of the bioreactor.
Primary Clarifier	Not eligible
Secondary Clarifier	100%
Sludge	50% if the process is changed to activated sludge due to the ENR project OR If existing WWTP is already activated sludge, then provided up to 20% subject to justification of increased volume of sludge due to Phosphorus removal
Phosphorus Removal	100%
Nitrogen Removal Bioreactor	100%.
Conventional or Denitrification filter	100%
Disinfection/Post Aeration	Not eligible
Common items such as site work, yard piping, engineering services, etc.	Prorated based on Eligible/Total

Flow Proration (Expansion Adjustment):

ENR participation is limited to the approved design capacity, which is provided below for minor WWTPs. Initially, use the following to prorate for expansion:

$$\% \text{ Eligible} = (\text{Allowable Capacity}/\text{Expanded Capacity})^{0.62}$$

Cost Effectiveness of the Upgrade

To be allowed for funding under the BRF law (§9-1605.2(6)(ii)1), a grantee must demonstrate that the selected ENR process is cost-effective at the approved design capacity using present worth analysis or other equivalent method.

MDE would consider any more cost effective alternative to the ENR process that would achieve the same nutrient reduction goals or better, such as conveyance of the flow to an ENR facility, or groundwater discharge.

Once an alternative has been determined to be as the most cost effective, the following methods will be used to determine the eligibility determination:

Conveyance to an ENR Facility as an Alternative to the Upgrade:

The cost of upgrading the plant to ENR must be compared to the conveyance to an ENR facility that has the capacity to accept the flows.

Eligibility will be determined using the itemized cost in the ENR option and then the resulting ENR percentage is applied to the conveyance system cost.

Converting Surface to Groundwater Discharge:

Converting surface to groundwater discharge can be funded only if it is determined to be more cost effective than to continue the surface discharge.

If groundwater discharge is to be funded, ENR eligibility is determined using the method below for Upgrading WWTP with Groundwater Discharge Permit.

Upgrading WWTP with Groundwater Discharge Permit

Spray or Drip Irrigation with no Surface Discharge:

This can consist of additional treatment, land, or combination of both (whichever is more cost effective) to bring TN to 0 mg/l below the root zone and TP to 0 mg/l before reaching groundwater.

ENR Eligibility:

- Land purchase cost is not eligible.
- Expansion cost is not eligible.
- Possible Eligibility Determination Scenarios:
 1. **WWTP Remains Secondary (≥ 8.1 mg/l TN):** No ENR funding will be provided for any WWTP upgrade. Irrigation system (including winter storage) is 100% ENR eligible.
 2. **WWTP Upgraded to TN between 8 and 3.1 mg/l:** WWTP would be eligible for ENR using the above eligibility determination guidelines for WWTPs. Irrigation system (including winter storage) is ENR eligible at 100%.
 3. **WWTP Upgraded to 3 mg/l TN:** WWTP would be funded by ENR using the above eligibility determination guidelines for WWTPs. Irrigation system (including winter storage) is ENR eligible at 100%.

Spray or Drip Irrigation with Winter Surface Discharge:

This will consist of full ENR treatment upgrade that would produce an annual average concentration of 3 mg/l TN and 0.3 TP. The spray/drip irrigation system performance must achieve TN of 0 mg/l below the root zone and TP of 0 mg/l before reaching groundwater.

ENR Eligibility:

- Land purchase cost is not eligible.
- Expansion cost is not eligible.
- For the project to be funded, WWTP must be upgraded to ENR.
- WWTP would be funded by ENR using the above eligibility determination guidelines for WWTPs. Irrigation system is ENR eligible at 100%.

Other Types of Groundwater Discharge (RI, BIP, onsite, etc.):

This will consist of full ENR treatment upgrade that would produce an annual average concentration of 3 mg/l TN and 0.3 TP.

ENR Eligibility:

- Land purchase cost is not eligible.
- Expansion cost is not eligible.
- For the project to be funded, WWTP must be upgraded to ENR.
- WWTP would be funded by ENR using the above eligibility determination guidelines for WWTPs. No ENR funding would be provided for the disposal system.

Minor WWTPs Funded Flow

Row No.	COUNTY	Facility Name	BRF Funded Flow (in NPDES Permit on July 1, 2012- Not to Exceed the Cap) in MGD
1	ALLEGANY	RAWLINGS (Private)	0.143
2	ANNE ARUNDEL	PINEY ORCHARD (Private)	0.700
2	CAROLINE	GREENSBORO WWTP	0.280
3	CAROLINE	RIDGELY WWTP	0.200
4	CAROLINE	PRESTON WWTP	0.115
5	CARROLL	MANCHESTER WWTP	0.500
6	CARROLL	UNION BRIDGE WWTP	0.200
7	CARROLL	NEW WINDSOR WWTP	0.115
8	CECIL	CHERRY HILL WWTP	0.250
9	CECIL	PORT DEPOSIT WWTP	0.150
10	CECIL	CHESAPEAKE CITY WWTP	0.163
11	CECIL	CECILTON WWTP	0.100
12	CECIL	ELK NECK STATE PARK	0.060
13	CECIL	HARBOR VIEW	0.065
14	CECIL	RISING SUN WWTP	0.500
15	CHARLES	CLIFTON ON THE POTOMAC	0.070
16	CHARLES	COLLEGE OF SOUTHERN MD WWTP	0.060
17	DORCHESTER	TWIN CITIES WWTP	0.281
18	DORCHESTER	VIENNA WWTP	0.137
19	FREDERICK	JEFFERSON WWTP	0.300
20	FREDERICK	LEWISTOWN	0.022
21	FREDERICK	MYERSVILLE WWTP	0.300
22	FREDERICK	MIDDLETOWN EAST WWTP	0.250
23	FREDERICK	MIDDLETOWN WWTP	0.250
24	FREDERICK	WOODSBORO WWTP	0.250
25	FREDERICK	NEW MARKET WWTP	0.240
26	FREDERICK	POINT OF ROCKS WWTP	0.230
27	FREDERICK	FOUNTAINDALE WWTP	0.200
28	FREDERICK	MONROVIA WWTP	0.200
29	FREDERICK	MILL BOTTOM WWTP	0.100
30	FREDERICK	PLEASANT BRANCH WWTP	0.100
31	GARRETT	ACCIDENT WWTP	0.095
32	GARRETT	DEEP CREEK LAKE WWTP	2.200
33	GARRETT	TROUT RUN WWTP	0.900
34	KENT	BETTERTON WWTP	0.148
35	KENT	GALENA WWTP	0.080

36	KENT	WORTON - BUTLERTOWN WWTP	0.250
37	KENT	KENNEDYVILLE	0.060
38	KENT	ROCK HALL WWTP	0.480
39	KENT	TOLCHESTER WWTP	0.265
40	PRINCE GERORGE'S	CHELTENHAM BOYS VILLAGE WWTP	0.070
41	QUEEN ANNES	QUEENSTOWN WWTP	0.085
42	QUEEN ANNES	SUDLERSVILLE WWTP	0.200
43	QUEEN ANNES	MILLINGTON WWTP	0.140
44	QUEEN ANNES	CHURCH HILL WWTP	0.080
45	SOMERSET	EASTERN CORRECTIONAL INSTITUTE	0.500
46	SOMERSET	EWELL WWTP	0.065
47	ST MARYS	POINT LOOKOUT STATE PARK WWTP	0.090
48	TALBOT	TRAPPE WWTP	0.200
49	TALBOT	OXFORD WWTP	0.150
50	TALBOT	TALBOT COUNTY REGION V WWTP	0.150
51	WASHINGTON	SMITHSBURG WWTP	0.333
52	WASHINGTON	BOONSBORO WWTP	0.530
53	WASHINGTON	HANCOCK WASTEWATER LAGOON	0.380
54	WASHINGTON	CLEAR SPRING WWTP	0.200
55	WASHINGTON	FUNKSTOWN WWTP	0.200
56	WASHINGTON	ANTIETAM WWTP	0.163
57	WICOMICO	WILLARDS WWTP	0.200
58	WICOMICO	SHARPTOWN WWTP	0.150
59	WICOMICO	PITTSVILLE WWTP	0.115
60	WICOMICO	HEBRON WWTP	0.101

Groundwater WWTPs Funded Flow

Row No.	COUNTY	Facility Name	BRF Funded Flow (in Permit on July 1, 2012) in MGD
1	ANNE ARUNDEL	MES - CROWNSVILLE HOSPITAL WWTP	0.30000
2	CALVERT	SOLOMONS ISLAND WWTP	0.70000
3	CALVERT	PRINCE FREDERICK WWTP	0.45000
4	CALVERT	PRINCE FREDERICK WWTP NO. 2	0.30000
5	CECIL	NEWARK COUNTRY CLUB	0.10700
6	CHARLES	COBB ISLAND WASTEWATER FACILITY	0.15800
7	PRINCE GEORGE'S	CEDARVILLE MOBILE HOME PARK	0.08010
8	ST MARY'S	ST. CLEMENT'S SHORES WWTP	0.20000
9	ST MARY'S	WICOMICO SHORES WWTP	0.14100

10	TALBOT	MARTINGHAM UTILITIES WWTP & WTP	0.06680
11	WICOMICO	NUTTER'S CROSSING RESIDENTIAL COMMUNITY	0.06684
12	WORCESTER	MYSTIC HARBOUR WATER TREATMENT PLANT	0.25000
13	WORCESTER	RIDDLE FARM WWTP	0.19700
14	WORCESTER	THE LANDINGS SEWAGE TREATMENT FACILITY	0.10000
15	WORCESTER	RIVER RUN WWTP	0.09970
16	WORCESTER	ASSATEAGUE POINTE WWTP	0.06400

FY25 MD Supplemental Budget Request LOS Packet.pdf

Uploaded by: Paul Mantello

Position: FAV



**Middletown Wastewater Treatment Plant Enhanced
Nutrient Removal (ENR) Upgrade
FY2025 MD Supplemental Budget Request**

Letters of Support From:

- 1) Congressman David J. Trone, Maryland's 6th Congressional District
- 2) Frederick County Delegation, Maryland Legislative Districts 2, 3, 4, & 5
- 3) Frederick County Executive & Frederick County Council
- 4) Middletown Volunteer Fire Company
- 5) Middletown Primary & Elementary Schools Parent-Teacher Association
- 6) Main Street Middletown, MD Inc.
- 7) Middletown Valley Athletic Association
- 8) AMVETS Valley Memorial – Post #9
- 9) Middletown Valley Community Food Bank
- 10) Middletown Recreation Council
- 11) Middletown Area Chamber of Commerce, Inc.
- 12) Middletown Valley People Helping People
- 13) Middletown Lions Club
- 14) Zion Lutheran Church of Middletown
- 15) The Main Cup All-American Restaurant

DAVID TRONE
6TH DISTRICT, MARYLAND
APPROPRIATIONS
COMMITTEE
VETERANS' AFFAIRS
COMMITTEE
JOINT ECONOMIC
COMMITTEE



1110 LONGWORTH HOUSE OFFICE BUILDING
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ONE WASHINGTONIAN CENTER
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GAITHERSBURG, MD 20878
(301) 926-0300
TRONE.HOUSE.GOV
@REPDAVIDTRONE

December 12, 2023

The Honorable Helene T. Grady
Secretary
Maryland Department of Budget & Management
45 Calvert St.,
Annapolis, MD 21401

Dear Secretary Grady,

I write today on behalf of the Town of Middletown, regarding their \$10 Million FY25 Maryland Capital Budget Request, to fund a state-mandated, very expensive wastewater treatment systems upgrade. The \$40 million dollar project will remove an aging 1960s era sewerage lagoon, located in a 100-year floodplain, that poses significant risks to public health and the environment, if flooding and failure occurred. The town's wastewater system serves over 5,000 Maryland Residents.

Like many small communities across the country, Middletown's utility infrastructure needs to be modernized to be more environmentally friendly and it needs sustainability improvements to address the impacts of climate change. The project calls for the decommissioning of a nine-million-gallon aerated lagoon, which has the downstream effect of a complete renovation to the Town's entire wastewater treatment process.

Fortunately, the Bay Restoration Fund will subsidize the design and construction, but Middletown is left with the overwhelming debt of \$10 million dollars and the new operational expenses of owning a \$40 million dollar wastewater treatment facility. It's important to note, Middletown's total assets amount to only \$25 million. I believe that state and federal regulators should be facilitating modernization and resilient public infrastructure, and these projects shouldn't come at the cost of a small rural town's economic future.

My office is working closely with the Town of Middletown to identify federal partners and funding sources to assist the Town in finding the capital they need to complete this critical project. As my office continues to search for federal funding sources, I strongly support the FY25 Capital Budget Request submitted by the Town of Middletown and urge the Maryland Department of Budget & Management and the State Legislature to give their attached request all due consideration. If you have any questions,

please reach out to my Deputy District Director and Grants Director, Taylor Donoghue, at 301-926-0300 or Taylor.Donoghue@mail.house.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "David Trone". The signature is stylized and cursive.

David Trone
Member of Congress

DELEGATE JESSE T. PIPPY
DELEGATION CHAIR
SENATOR WILLIAM G. FOLDEN
DELEGATION VICE CHAIR



THE MARYLAND GENERAL ASSEMBLY
ANNAPOLIS, MARYLAND 21401
FREDERICK COUNTY DELEGATION

SENATORS
PAUL D. CORDERMAN
KAREN LEWIS YOUNG
JUSTIN READY

DELEGATES
CHRISTOPHER ERIC BOUCHAT
BARRIE S. CILIBERTI
KRIS FAIR
KENNETH P. KERR
APRIL FLEMING MILLER
APRIL ROSE
KAREN SIMPSON
CHRIS TOMLINSON
WILLIAM VALENTINE
WILLIAM WIVELL

January 19th, 2023

The Honorable Helene T. Grady, Secretary
Maryland Department of Budget & Management
45 Calvert St., Annapolis, MD 21401

RE: Middletown's FY25 Maryland Supplemental Budget Request – Sewer System Renovation

Dear Secretary Grady,

The Frederick County Delegation is formally requesting your consideration of Middletown's capital funding request for critical wastewater infrastructure updates in the Town of Middletown, which addresses state-mandated treatment systems upgrades of existing wastewater facilities and critical infrastructure necessary for future growth and economic development.

Many small rural communities, like Middletown, provide water and wastewater services for their residents, and the cost of modernization and meeting new state and federal treatment standards doesn't scale economically for these small utility systems. For Middletown, the cost of state-mandated modernization is a \$40 million complete renovation, with \$30 million to be paid by the Bay Restoration Fund. A \$10 million dollar cost-share for a centuries-old community, with numerous other capital needs to address, isn't affordable or responsible.

Running water and sewer are essential parts of our everyday lives and this project will ensure over-5,000 Frederick County Residents living in Middletown will continue to have reliable and affordable utility services. The Frederick County Delegation strongly endorses the Town's \$10 million dollar request, for inclusion in Governor Moore's FY25 Supplemental Budget, for this critical utility infrastructure project.

Thank you in advance for your consideration, please don't hesitate to reach out to either my or Senator Folden's office, should you or your staff have any questions.

Sincerely,

Handwritten signature of Jesse T. Pippy.

Delegate Jesse T. Pippy, District 4 - Chair

Handwritten signature of William G. Folden.

Senator William Folden, District 4 – Vice Chair

Jessica Fitzwater
County Executive



Brad W. Young
County Council President

FREDERICK COUNTY GOVERNMENT

February 5, 2024

The Honorable Helene T. Grady
Secretary, Maryland Department of Budget and Management
45 Calvert Street
Annapolis, MD 21401-1907

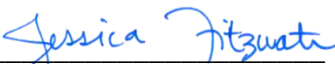
Dear Secretary Grady,

We are writing to express our support for the Town of Middletown's FY25 Capital Budget Request in the amount of \$12,000,000 for a \$40,000,000 project to renovate the Town's wastewater treatment infrastructure. Middletown's treatment systems urgently need upgrades to modernize their facilities and keep pace with state-mandated performance permit requirements.

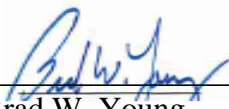
Running water and sewer are essential parts of our everyday lives, and this project will ensure over 5,000 Frederick County constituents will continue to have reliable and environmentally responsible wastewater services. Of particular importance, is the removal of a 1960's era treatment lagoon, located in a flood zone, which represents a significant hazard to public health, our local environment, and an insurmountable expense for this small, rural town.

We are in support of this meaningful and much needed project, and we encourage your office to support it as well. Thank you for your consideration.

Sincerely,



Jessica Fitzwater
County Executive



Brad W. Young
County Council President

Middletown Volunteer Fire Company

Station Phone: 301-371-6907
Emergency: 911



P.O. Box 322, Middletown, MD 21769

January 9, 2024

The Honorable Helene T. Grady
Secretary of Budget & Management
Department of Budget & Management
45 Calvert St., Annapolis, MD 21401 – 1907

RE: Middletown's FY25 Maryland Capital Budget Request for Wastewater Infrastructure Upgrades

Dear Secretary Grady,

On behalf of the Middletown Volunteer Fire Company (MVFC), I'm writing to express support for Middletown's FY 2025 Maryland Capital Budget Request. Many of the Town's utility systems are beyond their useful lives and/or present possible health risks to the residents we both serve. As first responders in our community for fire-related and/or life-threatening emergencies, reliable and safe utility infrastructure is critical and expensive.

The Town can't afford the lifecycle and safety upgrades needed to responsibly own and maintain the many utility systems and municipal facilities that we rely on, in our daily lives, while also addressing \$40 million dollar sewer treatment process mandates from State and Federal Regulatory Agencies.

Please accept this letter as the Middletown Volunteer Fire Company's endorsement of Middletown's \$12 Million Capital Budget Request. Thank you for your consideration, your service, and everything you do for Marylanders!

Sincerely,

Brenton W. Harne



Fire Chief

Middletown Volunteer Fire Company #7



Middletown Primary & Elementary Schools PTA

201 East Green Street | Middletown, MD 21769
MiddletownPTA@gmail.com

January 16, 2024

The Honorable Helene T. Grady
Secretary of Budget & Management
Department of Budget & Management
45 Calvert St., Annapolis, MD 21401 – 1907

RE: Middletown's FY25 Maryland Capital Budget Request for Wastewater Infrastructure Upgrades

Dear Secretary Grady,

On behalf of the Middletown Primary and Elementary School Parent Teacher Association, I'm writing to express our support for Middletown's FY 2025 State Capital Budget Request. Safe, reliable, and affordable wastewater utility services are essential for residents and the students of the Middletown Primary and Elementary Schools.

We support the Town's efforts to seek funding assistance for a \$40 million state-mandated wastewater facility renovation, remove an open-air sewerage lagoon from a floodplain, and ensure Middletown has safe and affordable utility services for generations to come.

The Middletown Primary and Elementary PTSA strongly supports the Town's \$12 Million Capital Budget Request. Thanks for your consideration and everything you do!

Sincerely,

A handwritten signature in black ink, appearing to read "Gwendolyn McQueeney", is written over the typed name.

Gwendolyn McQueeney, President
Middletown Primary & Elementary Parent Teacher Student Association

MAIN STREET MIDDLETOWN

19 West Main Street, Middletown, Maryland 21769

January 5, 2024

The Honorable Helene T. Grady
Secretary of Budget & Management
Department of Budget & Management
45 Calvert St., Annapolis, MD 21401 – 1907

RE: FY25 Maryland Capital Budget Request – Middletown, MD

Dear Secretary Grady,

On behalf of Main Street Middletown, MD Inc., I'm writing to endorse and express our support for Middletown's FY2025 Maryland Capital Budget Request and the Town's \$40 million wastewater treatment project. As a nonprofit organization that supports and promotes the local economy and our local businesses, we understand the absolute critical need for reliable, affordable, and environmentally friendly wastewater utility services.

Main Street Middletown supports the Town's request for funding to further subsidize a \$40M state-mandated wastewater infrastructure renovation; particularly to remove the Town's 1967 sewerage lagoon from a floodplain, which poses significant threats to public health, our local environment, and will ensure that utility services continue to be affordable for the local economy.

Main Street Middletown strongly supports the Town's \$12 Million MD Capital Budget Request. Thank you for your time and interest in our request and projects.

With kind regards,



Becky Axilbund, Executive Director
Main Street Middletown, MD Inc.

January 28, 2024

The Honorable Helene T. Grady
Secretary of Budget & Management
Department of Budget & Management
45 Calvert St., Annapolis, MD 21401 – 1907

RE: Middletown's FY25 Maryland Supplemental Budget Request for Wastewater Infrastructure Upgrades

Dear Secretary Grady,

The Middletown Valley Athletic Association (MVAA) is a non-profit community organization, offering local youth the opportunity to learn the fundamentals of sports and athletics, and enjoy participation and competition in organized leagues. Serving the community and our patrons are core principles of the MVAA. Thank you for your service to the State of Maryland and communities like ours!

On behalf of the MVAA, I'm writing to express support for Middletown's FY25 State Supplemental Budget Request. After working with the Town for several years to provide youth sports services to the community, we understand the high cost of owning and operating water and wastewater utility systems, and all the other municipal facilities we rely on every day. We're happy to hear our small, rural town will receive funding support through the Bay Restoration Fund, but the very high cost of the project (\$40 Million) requires more than the typical 70% subsidy.

Thank you for your consideration and everything you do for Marylanders! Happy New Year!

Sincerely,



Scott Farrow, President
Middletown Valley Athletic Association

CC via email:

The Honorable Guy Guzzone, Budget and Taxation Committee Chair, Maryland State Senate
The Honorable Benjamin S. Barnes, Appropriations Committee Chair, Maryland House of Delegates



AMVETS #9
409 West Green Street
P.O. Box 275
Middletown, MD 21769
301-371-5115

Date: January 29, 2024

To: The Honorable Helene T. Grady
Secretary of Budget & Management
Department of Budget & Management
45 Calvert St.
Annapolis, MD 21401-1907

Regarding: Middletown's FY25 Maryland Capital Budget Request for Wastewater Treatment Renovation Project

Dear Secretary Grady,

On behalf of the Middletown AMVETS Valley Memorial Post 9, I'm writing to register our support for Middletown's FY 2025 Maryland Capital Budget Request. The Middletown AMVETS Organization is a member of the Middletown Community, along with all 855 Members (458 Veterans, 230 Sons, 159 Auxiliary, and 8 At Large), we use the Town's water and wastewater utilities. Reliable and affordable utility services are critical for our members and the larger community. Small rural communities, like Middletown, who own and operate our utility systems can't afford \$40 million state-mandated utility infrastructure projects.

Please accept this letter as the Middletown AMVETS support for the Town's \$12 Million MD Capital Budget Request. We appreciate your support and public service. Thanks very much!

Sincerely,

Merhle E. Moser (Ed)
Commander, AMVETS Valley Memorial Post 9
P.O. Box 275
409 West Green Street
Middletown, Maryland 21769

January 4, 2024

The Honorable Helene T. Grady
Secretary of Budget & Management
Department of Budget & Management
45 Calvert St., Annapolis, MD 21401 – 1907

RE: FY25 Maryland Capital Budget Request – Middletown Wastewater Project

Dear Secretary Grady,

On behalf of the Middletown Valley Food Bank, I'm writing to express our support for Middletown's FY2025 Maryland Capital Budget Request. As an organization who represents and supports our needy residents and low-income households, we understand the importance of reliable and affordable utility services.

We support our town's request for wastewater infrastructure upgrades; particularly to remove the town of Middletown's 1967 sewerage lagoon from a flood zone. The current location poses significant threats to public health and our local environment. Our local government needs to ensure that utility services continue to be affordable for all our residents.

The Middletown Valley Food Bank supports the Town's \$12 Million MD Capital Budget Request. Thank you very much for your consideration!

Sincerely,

A handwritten signature in blue ink that reads "Ann Pond". The signature is written in a cursive, flowing style.

Ann Pond, Manager
Middletown Valley Food Bank

January 8, 2024

The Honorable Helene T. Grady
Secretary of Budget & Management
Department of Budget & Management
45 Calvert St., Annapolis, MD 21401 – 1907

**RE: Middletown's FY25 Maryland Capital Budget Request
for Wastewater Infrastructure Funding**

Dear Secretary Grady,

On behalf of the Middletown Recreation Council, this letter is to express our support for Middletown's FY 2025 State Capital Budget Request. Reliable, affordable, and environmentally friendly wastewater utility services are critical for small, rural communities, like Middletown, and the residents our organizations serve.

We wholeheartedly support their request for wastewater infrastructure upgrades and to remove the Town's 1976 sewer lagoon from a flood zone, which poses threats to public health and our local environment and must be addressed. The Town operates water and wastewater utility distribution, collection, and treatment for over 5,000 Marylanders.

The Middletown Recreation Council strongly endorses the Town's \$12 Million MD Capital Budget Request. Middletown is a great community and a great investment! Thanks very much for your consideration!

Sincerely,



Pam Dietrick, President
Middletown Recreation Council

January 28, 2024

The Honorable Helene T. Grady
Secretary of Budget & Management
Department of Budget & Management
45 Calvert St., Annapolis, MD 21401 – 1907

RE: Middletown's FY2025 Maryland Supplemental Budget Request – Wastewater Project

Dear Secretary Grady,

On behalf of the Middletown Area Chamber of Commerce, Inc., this letter is to express the Chamber's support for the Town of Middletown's FY 2025 Capital Budget Request. Reliable and affordable utility services are essential for the Middletown Valley's residents, businesses, and overall local economy.

The Chamber supports the Town's funding request to upgrade the wastewater treatment facilities that serve many of our local business partners. Utility systems are, in many ways, the backbone of the local economy and the Chamber strongly endorses the Town's \$12 Million MD Capital Budget Request.

Thank you for your consideration and everything you do!

Sincerely,



Sean O'Keefe, Esq., President
Middletown Area Chamber of Commerce, Inc.

CC via email:

The Honorable Guy Guzzone, Budget and Taxation Committee Chair, Maryland State Senate
The Honorable Benjamin S. Barnes, Appropriations Committee Chair, Maryland House of Delegates

January 28, 2024

The Honorable Helene T. Grady
Secretary of Budget & Management
Department of Budget & Management
45 Calvert St., Annapolis, MD 21401 – 1907

RE: FY25 Maryland Supplemental Budget Request – Middletown Wastewater Project

Dear Secretary Grady,

On behalf of the Middletown Valley People Helping People Organization, I'm writing to express our support for Middletown's FY2025 Maryland Supplemental Budget Request. As an organization who represents and supports members of our community who are in need, we understand the importance of affordable utility services and cost of living.

We support their request for wastewater infrastructure upgrades and the removal of the Town's 1976 sewer lagoon from a 100-year floodplain, to the mitigate the significant threats to public health, our local environment, and to ensure that utility services will continue to be affordable for all households in Town.

Middletown Valley People Helping People fully supports the Town's FY25 State Supplemental Budget Request. Thank you very much for your consideration!

Sincerely,



CC via email:

The Honorable Guy Guzzone, Budget and Taxation Committee Chair, Maryland State Senate

The Honorable Benjamin S. Barnes, Appropriations Committee Chair, Maryland House of Delegates

January 28, 2024

The Honorable Helene T. Grady
Secretary of Budget & Management
Department of Budget & Management
45 Calvert St., Annapolis, MD 21401 – 1907

RE: Middletown's FY25 Maryland Supplemental Budget Request – Wastewater Renovation Project

Dear Secretary Grady,

On behalf of the Middletown Lions Club, this letter is to express our support for Middletown's FY 2025 Supplemental Budget Request. Reliable, affordable, and environmentally friendly wastewater utility services are essential for the Middletown community and the residents we serve.

We support their request for wastewater infrastructure upgrades; particularly to remove the Town's 1967 sewerage lagoon from a flood zone, which poses significant threats to public health and our local environment.

The Middletown Lions Club strongly endorses the Town's \$12 Million MD Supplemental Budget Request. Thanks very much for your consideration!

Sincerely,

A handwritten signature in cursive script that reads "Pam Riner".

Pam Riner, President
Middletown Lions Club

CC via email:

The Honorable Guy Guzzone, Budget and Taxation Committee Chair, Maryland State Senate
The Honorable Benjamin S. Barnes, Appropriations Committee Chair, Maryland House of Delegates

January 5, 2024

The Honorable Helene T. Grady
Secretary of Budget & Management
Department of Budget & Management
45 Calvert St., Annapolis, MD 21401 – 1907

RE: Middletown's FY25 Maryland Capital Budget Request – Wastewater Project

Dear Secretary Grady,

On behalf of the Middletown Zion Lutheran Church, I'm writing to express support for Middletown's FY2025 State Capital Budget Request. Our congregation and the surrounding community depend on reliable and affordable utility services.

Zion Lutheran Church fully supports the Town's funding request to upgrade the wastewater treatment facilities. Thanks very much for your consideration and everything you do!

Sincerely,

A handwritten signature in black ink that reads "Bob Rockwell". The signature is written in a cursive style with a large initial "B" and a long, sweeping underline.

Bob Rockwell, Council President
Zion Lutheran Church

EAN Enterprises/The Main Cup
Main's Properties
Robert and Kimberly Brenengen
14 West Main Street
Middletown, MD 21769

January 8, 2024

The Honorable Helene T. Grady
Secretary of Budget & Management
Department of Budget & Management
45 Calvert St., Annapolis, MD 21401 – 1907

RE: Middletown's FY25 Maryland Capital Budget Request for Wastewater Infrastructure Upgrades


Dear Secretary Grady,

On behalf of The Main Cup All-American Restaurant, we're writing to show support for the Town of Middletown's FY 2025 State Capital Budget Request. As the small business owners of a well-liked restaurant, and a popular meeting place for community groups, we've made an investment in the local economy and the Town's future.


Along with our loyal patrons, we depend on the reliable and affordable utility services provided by the Town. Middletown's done a great job managing growth and development, capital improvements, and infrastructure upgrades. Now, the Town's faced with a \$40 million-dollar, state-mandated wastewater treatment project, that will inevitably happen at the expense of customers and the Town's economic future.

We enthusiastically support the Town's \$12 Million MD Capital Budget Request. Middletown is a great community and a great investment! Thanks very much for your consideration!

Sincerely,



Robert Brenengen - Member
Main's Properties
EAN Enterprises, LLC/The Main Cup



Kimberly Brenengen – Member
Main's Properties
EAN Enterprises, LLC/The Main Cup

Middletown East Upgrade & Expansion-MTW Ammonia Cr

Uploaded by: Paul Mantello

Position: FAV



VIA ELECTRONIC MAIL

October 19, 2023

Paul Mantello, Town Administrator
Town of Middletown
31 West Main Street
Middletown, MD 21769

Re: Facility Planning Limitations for the Upgrade and Expansion of the Middletown East Wastewater Treatment Plant (WWTP), Discharge Permit Number: 13-DP-3182, NPDES No. MD0067628

Dear Mr. Mantello,

This letter is in response to an electronic request regarding the future compliance status and permit renewal eligibility of the Middletown West (MTW) WWTP, with respect to the upcoming upgrade and expansion of the Middletown East (MTE) WWTP. We have the following suggestions for your consideration:

- As we discussed in our meeting on October 12, 2023, the plant performance data indicates that the existing facility may not be able to meet the newly adopted ammonia criteria (see table below for comparison). Therefore, a treatment process upgrade will be necessary to stay in compliance with the ammonia effluent requirements in the future permit.

Effluent Characteristics	Current Ammonia Limits	Effluent Limits for Ammonia, based on Newly Adopted Criteria	Current Performance
Facility Design Capacity	0.250 mgd	0.250 mgd	0.250 mgd
Total Ammonia Nitrogen as N (5/1 to 10/31)	3.8 mg/L max monthly ave. 11.5 mg/L daily max.	1.5 mg/L max monthly ave. 4.3 mg/L daily max.	3.2 mg/L max monthly ave. 3.1 mg/L daily max.
(11/1 to 4/30)	N/A	7.6 mg/L max monthly ave.	11.8 mg/L max monthly ave.

- Furthermore, the lagoons situated at the MTW WWTP are positioned within a 100-year floodplain, heightening the risk of contaminating the nearby receiving stream in the event of

Mr. Mantello

an overflow during severe weather conditions. To mitigate this concern, the forthcoming discharge permit will incorporate a Climate Change Resiliency requirement, outlined below, obligating the facility to proactively address and minimize potential disruptions to its operations and compliance stemming from this factor. As a result, we recommend that the facility begin preparation to address this upcoming requirement.

Climate Change Resiliency Requirements

The effects of climate change are projected to be more pronounced in the coming decades. As a result, the intensity and frequency of extreme weather events may quickly overload the wastewater facility hydraulically, disrupt the operation in the treatment works, and cause the potential endangerment of aquatic life and public health. The permittee shall enhance the climate change resiliency of the facility through the following measures:

- 1. The permittee shall conduct annual assessment and maintenance, as needed, of the facilities at the treatment works to confirm they are adequate to address the potential inflow surges during the extreme weather events. The assessment shall be based on the history of storms and their corresponding peak flows and waste loads recorded at the facility. The records of evaluations and maintenance shall be documented and made available to the Department upon request. See Special Condition II.C “Wastewater Capacity Management” of the discharge permit for details.*
- 2. The permittee shall plan for impacts to power supplies during extreme weather events based on the history of storms and the demand from critical operations at the facility. Please refer to General Conditions III.B.4 “Adverse Impact” and III.B.8 “Power Failure” of the discharge permit for further details.*

No later than six months from the effective date of this permit, the permittee shall develop and submit a report to the Department that explains the permittee’s plan for addressing potential impacts on power supplies during extreme weather events.

Should you have any questions in this matter, please feel free to contact me at (410) 537-3363 or Colleen O’Donnell at (410) 537-3698.

Sincerely,



Yen-Der Cheng, Chief
Municipal Surface Discharge Permits Division

cc: Robin Pellicano, Chief, Water Resources Planning Division (MDE)
Walid Saffouri, P.E., Director, Engineering & Capital Projects Program (MDE)
Kelly Duffy, P.E., Wastewater Treatment (RK&K)
Bob Andryszak, P.E., Wastewater Treatment (RK&K)
Kelly Ferguson, P.E., Project Engineer (RK&K)
Bruce Carbaugh, Director of Public Works, Town of Middletown, MD

Middletown WWTP ENR Upgrade - Project Summary FINA

Uploaded by: Paul Mantello

Position: FAV

MIDDLETOWN MUNICIPAL WASTEWATER COLLECTION & TREATMENT SYSTEM

East WWTP State Discharge Permit #13-DP-3182, NPDES Permit #MD0067628

West WWTP State Discharge Permit #18-DP-0462, NPDES Permit #MD0024406

Project Title: Middletown Wastewater Enhanced Nutrient Removal Upgrade

Contact: Paul Mantello, Town Administrator
Town of Middletown, MD
301-371-6171 (O) 301-473-3123 (C)
pmantello@ci.middletown.md.us

Population: Town of Middletown (5,132)

Purpose: Middletown owns and operates two wastewater treatment plants (WWTP): 1) The West WWTP is a nine-million-gallon aerated lagoon (9MG), built in 1976, located in a 100-year floodplain, and 2) the East WWTP is a Biological Aeration Chain (Biolac) activated sludge facility, built in 2000. To meet the Maryland Department of the Environment's waterway and Chesapeake Bay water quality permitting mandates, the Town's wastewater treatment facilities must be upgraded to achieve "enhanced nutrient removal" (ENR).

Project Cost: Design & Planning: \$2,000,000
Construction: \$38,000,000
Total: \$40,000,000 *\$30M Bay Restoration Fund, \$10M Middletown*

Description: Project entails upgrading to ENR treatment and utilizing approximately \$30M in eligible Bay Restoration Funds, by upgrading and expanding the East WWTP to treat all the Town's wastewater flows and decommissioning the aerated lagoon.

Rationale: MDE Permitting & Compliance informed that the current wastewater treatment lagoon permit (West WWTP), scheduled for reapplication in 2025, will not satisfy the performance requirements of the next 5-year permit, unless significant treatment upgrades are completed. MDE offers a considerable Bay Restoration Fund subsidy to small wastewater treatment facilities that upgrade to enhanced nutrient removal and the program will fund approximately \$30M of the project.

Middletown's expenses are uniquely elevated, because the lagoon is located in a high-risk flood zone (FEMA Flood Zone A), and the obligatory decommissioning will necessitate the relocation of half the town's wastewater flows to the East WWTP, which must subsequently and prematurely undergo an ENR upgrade and significant capacity increase. These circumstances have resulted in complex engineering, operational, and safety upgrades, and have exacerbated the already exorbitant cost of the project, leaving the **Town responsible for an unusually high-cost share of \$10M** (\$1.5 Lagoon Decommissioning, \$2.5M Service Relocation, \$2M Sludge Dewatering, \$1M Disinfection & Post-Aeration, and \$3M Ancillary Infrastructure).

Benefit: Middletown's ENR Upgrade will improve several pieces of critical wastewater infrastructure, remove an openair nine-million-gallon wastewater pond (9MG) from a high-risk floodplain, and provide a growing community of over-5,100 Marylanders with a 50-year utility asset, while contributing to the State's water quality goals.

SB 726 Letters of Support Packet V2.pdf

Uploaded by: Paul Mantello

Position: FAV



Middletown Wastewater Treatment Plant Enhanced Nutrient Removal (ENR) Upgrade

Bay Restoration Fund Policy Revisions & Code Amendments Initiative

Letters of Support From:

- 1) Congressman David J. Trone, Maryland's 6th Congressional District
- 2) Senator Brian J. Feldman, Chair, Education, Energy, & Environment Committee
- 3) Frederick County Delegation, Maryland Legislative Districts 2, 3, 4, & 5
- 4) Frederick County Executive & Frederick County Council



January 03, 2024

Honorable. Serena C. McIlwain
Secretary
Maryland Department of the Environment
Montgomery Park Business Center
1800 Washington Blvd.
Baltimore, MD 21230

Dear Secretary McIlwain,

I write today on behalf of the Town of Middletown, regarding the Department of the Environment's Bay Restoration Fund (BRF) allocation policy and the State of Maryland project subsidy levels granted to municipalities completing wastewater treatment facility 'enhanced nutrient removal' (ENR) upgrades.

The Burgess & Commissioners of Middletown was recently notified by MDE's Utility Permitting Department that one of their wastewater treatment plants, an aerated sewage lagoon, will not comply with the treatment and climate change resiliency requirements of their next 5-year permit, beginning in 2026. The lagoon is located in a 100-year floodplain (FEMA Flood Zone A) and must be decommissioned, rather than replaced. As a result, the Town's second wastewater treatment plant will need a complete renovation and capacity expansion, to treat all the Town's wastewater. The total project cost is \$40 million.

For such an expensive and comprehensive project, the BRF subsidy and an ENR upgrade is the Town's best-and-only option. Unfortunately, their consulting engineer's preliminary report projects a \$10 - \$12 million cost share (70% BRF, 30% Middletown). Like many rural communities, Middletown owns and operates their water and sewer utilities as an enterprise fund. A \$12 million dollar project that will overhaul their entire wastewater treatment processes and infrastructure, spurred not by growth and development, but by a State permitting requirement, will ensure the Town cannot complete another important capital project for the next 30 years.

Water quality projects like Middletown's are critical for the health and preservation of the local environment and the Chesapeake Bay, and the BRF has done an excellent job of incentivizing utility owners to upgrade their treatment processes. However, the Town's unique circumstances and

unusually high project cost warrant discretion from MDE and an increased BRF subsidy, given the intent and purpose of MD Env Code § 9-1605.2:

(2) Funds in the Bay Restoration Fund shall be used only:

(i) 1. To award grants for up to 100% of eligible costs of projects relating to planning, design, construction, and upgrade of a publicly owned wastewater facility for flows up to the design capacity of the wastewater facility, as approved by the Department, to achieve enhanced nutrient removal in accordance with paragraph (4) of this subsection; and

Middletown and their consultant, former State Senator Roger Manno, have been working with the Chair of the Education, Energy, and the Environment Committee, Senator Brian Feldman, along with fellow Committee Member, Senator Karen Lewis Young, and the Frederick County Delegation to seek increased BRF support from MDE for this important and expensive project. Middletown's \$40 million dollar Wastewater Treatment ENR Upgrade is too complex and costly for a rural community of 5,000. However, it is critical for their long-term public and environmental health and will become a model for Maryland's water quality and climate resiliency goals. This is an excellent investment opportunity for the State of Maryland and for MDE as the facilitator.

On behalf of my constituents, I strongly support the request of the Town of Middletown for MDE to increase the share of BRF funds dedicated to the Wastewater Treatment ENR Upgrade to allow this project to be reasonably affordable for the Town, and I ask that you give this request the highest priority as you discuss future disbursement of BRF funds in the next fiscal year.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read "David Trone".

David Trone
Member of Congress

BRIAN J. FELDMAN
Legislative District 15
Montgomery County

Chair
Education, Energy, and the
Environment Committee



Miller Senate Office Building
11 Bladen Street, Room 2 West
Annapolis, Maryland 21401
410-841-3169 · 301-858-3169
800-492-7122 Ext. 3169
Fax 410-841-3607 · 301-858-3607
Brian.Feldman@senate.state.md.us

The Senate of Maryland
ANNAPOLIS, MARYLAND 21401

September 18, 2023

The Honorable Serena C. McIlwain
Maryland Department of the Environment
Montgomery Park Business Center
1800 Washington Blvd.
Baltimore, MD 21230

Dear Secretary McIlwain,

I recently met with representatives from the Town of Middletown regarding the Bay Restoration Fund (BRF) eligibility criteria for their wastewater treatment plant (WWTP). They explained to me that the Maryland Department of the Environment (MDE) has mandated that all wastewater treatment lagoons must meet modern treatment standards, including the implementation of treatment technologies and upgraded infrastructure capable of achieving Enhanced Nutrient Removal (ENR) levels of wastewater treatment. Middletown's wastewater treatment lagoon is located in a floodplain (FEMA Flood Zone A), and designated as "Special Flood Hazard Areas," at high risk of flooding. FEMA Flood Zone A indicates there is at least a 25 percent chance of flooding over a 30-year period.

I was informed that MDE has indicated that Middletown's current wastewater treatment lagoon, scheduled for permit reapplication in 2025, will not be renewed unless significant ENR upgrades are made. These upgrades require considerable expense due to the fact that the wastewater treatment lagoon is located in a high-risk flood zone, and decommissioning will necessitate the relocation of half the town's wastewater flows to a second town-owned facility. That facility must therefore undergo an ENR upgrade and capacity increase. The confluence of these upgrades presents an onerous situation for Middletown, a small town with limited resources, resulting in complex engineering, operational, and safety upgrades that have exacerbated the already high cost of the upgrades.

It is also my understanding that, in order to meet the required ENR standards, MDE has released BRF ENR grant eligibility criteria, which covers 50 percent of costs for decommissioning, leaving localities with the remaining 50 percent of costs. However, according to MD Env Code § 9-1605.2 (2018) with regard to the applicability to publicly owned wastewater facilities, BRF grants are eligible for up to 100 percent of costs for planning, design, construction, and upgrades, necessary to achieve enhanced nutrient removal standards. This would appear to arguably apply to wastewater treatment lagoon decommissioning and replacement with modern ENR systems. Furthermore, for systems that MDE determines to be a threat to public health or water quality, grants, or loans for up to 100 percent of cost are available. It is this last criterion, public health or water quality, which is of interest for Middletown since it may be applicable to open-air sewage lagoons, especially if situated within a floodplain.

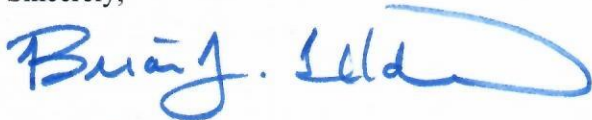
Secretary McIlwain
September 18, 2023
Page Two

Finally, while the statute states that “the eligibility and priority ranking of a project shall be determined by the Department based on criteria established in regulations adopted by the Department,” COMAR appears silent on the ENR eligibility criteria of 50 percent grant funds for decommissioning a wastewater treatment lagoon.

As we approach the upcoming 2024 legislative session, legislators and members of the public have contacted me about a variety of issues. Some of these concerns can be addressed by legislation, while others can be resolved administratively with guidance and assistance from a State agency. Regarding potential clarifying legislation to address the issue discussed above, it would be helpful for me to understand the rationale and statutory and/or regulatory authority for limiting the BRF ENR eligibility criteria for wastewater treatment lagoons to 50 percent and the associated high costs and limited program support for relocating sewage treatment out of flood zones. In the alternative, and in lieu of potential legislation addressing this situation, I also respectfully request that you coordinate with the town of Middletown to discuss how they may request consideration for a grant to recover 100 percent of the costs for planning, design, construction, and upgrades, necessary to achieve the enhanced nutrient removal standards.

Your assistance in this matter would be greatly appreciated. I look forward to your response.

Sincerely,



Brian J. Feldman

cc: Senator Karen Lewis Young

DELEGATE JESSE T. PIPPY
DELEGATION CHAIR
SENATOR WILLIAM G. FOLDEN
DELEGATION VICE CHAIR



THE MARYLAND GENERAL ASSEMBLY
ANNAPOLIS, MARYLAND 21401
FREDERICK COUNTY DELEGATION

SENATORS
PAUL D. CORDERMAN
KAREN LEWIS YOUNG
JUSTIN READY

DELEGATES
CHRISTOPHER ERIC BOUCHAT
BARRIE S. CILIBERTI
KRIS FAIR
KENNETH P. KERR
APRIL FLEMING MILLER
APRIL ROSE
KAREN SIMPSON
CHRIS TOMLINSON
WILLIAM VALENTINE
WILLIAM WIVELL

January 26th, 2024

Hon. Serena C. McIlwain, Secretary
Maryland Department of Environment
Montgomery Park Business Center
1800 Washington Blvd.
Baltimore, MD 21230

Dear Secretary McIlwain:

The Frederick County Delegation would like to indicate our collective support for MDE increasing the share of Bay Restoration Fund (BRF) funding that The Town of Middletown is to receive for “enhanced nutrient removal” (ENR) upgrades to their wastewater treatment system.

The Middletown Burgess & Commissioners were recently informed by MDE's Utility Permitting Department that their aerated sewage lagoon, located in a 100-year floodplain (FEMA Flood Zone AE), does not meet the treatment and climate change resiliency requirements for the next 5-year permit, set to start in 2026 (reapplication in 2025). It is mandated that the lagoon be decommissioned, meaning a \$40 million renovation and expansion of Middletown's second wastewater treatment plant is the Town's only available option to meet capacity demands and treatment permit requirements.

To address these unique circumstances and extraordinary cost, the Town must consider a BRF subsidy and an ENR upgrade, with a preliminary estimate of a \$10-\$12 million cost share (70% BRF, 30% Middletown). Although it's true that the town must only upgrade their treatment facilities to meet the State's near-term treatment requirements, the BRF subsidy heavily incentivizes upgrading to ENR-level processes and infrastructure, and it is inevitably the best-and-only option for any municipality planning an upgrade to meet MDE's permit requirements, in both the near- and long-term. This financial commitment, driven by a State permitting requirement rather than growth or asset lifecycle, would be a catastrophic financial burden for a town of only 5,000.

Please also consider that, in the 1970s, the Town was mandated and permitted by the State to install the treatment lagoon in its current location, at considerable expense and resources. Of course, the boundaries of the flood zones continue to expand, over time, with the effects of climate change and FEMA's 5-year reclassification cycle. Currently, the Town's nine-million-gallon open-air sewage lagoon is situated in a “high-risk” area that FEMA estimates has a 1% annual chance of flooding and a 26% chance over a 30-year period.

Wastewater treatment is an issue that is paramount to maintaining a healthy local environment and Chesapeake Bay, and while the BRF has certainly helped in tackling that issue across the state, the high cost and difficult circumstances Middletown is facing demand discretion with funding policies and/or legislative action. **Given the intent and purpose of MD Env Code § 9-1605.2, which permits MDE to award a grant for “up to 100% of eligible costs” for an ENR upgrade, we ask that MDE increase the share of BRF funds dedicated to the Wastewater Treatment ENR Upgrade. We also ask that you give this project special consideration in discussions regarding BRF disbursement for the next fiscal year.** Our hope is that this project can be made financially attainable for the Town and can serve as an example of MDE’s commitment to water quality and climate resiliency goals.

In the alternative, we would like to amend the BRF ENR eligibility criteria, if not clarify the criteria, and the rationale and statutory and/or regulatory authority for limiting the BRF ENR eligibility criteria for wastewater treatment lagoons to 50 percent and the associated high costs and limited program support for relocating sewage treatment out of flood zones. The legislation sought would add the following language to the Bay Restoration Fund statute (MD Env Code § 9-1605.2 (2018)), and/or MDE's 2017 published "BRF Eligibility Determination for WWTPs For Projects Starting Construction on or after July 1, 2017 (Based on House Bill 384 of 2017)":

- *Process: Decommissioning of treatment lagoon, located in a floodplain and at high risk of flooding (FEMA Flood Zones A or V), that will no longer be utilized with the new system. Relocate treatment out of floodplain, by new collection and conveyance infrastructure. The decommissioning, collection, and conveyance methods must be consistent with MDE-LMA guidelines.*
- *ENR Eligibility = 100% eligible if the existing system is lagoon*

As the Frederick County Delegation continues to pursue our legislative priorities in the 2024 legislative session, it would be helpful to understand the rationale and statutory and/or regulatory authority for limiting the BRF ENR eligibility criteria for wastewater treatment lagoons to 50 percent and the associated high costs and limited program support for relocating sewage treatment out of flood zones. Certainly, Middletown’s Wastewater Treatment ENR Upgrade project deserves special consideration from MDE and meets the spirit and intent of the Bay Restoration Fund Statute: to incentivize our municipal utilities to upgrade their facilities and participate in our goals for the environment. It shouldn’t harness them with debt and prevent them from becoming the environmentally proactive municipal governments we’re trying to encourage.

Thank you in advance for your consideration, please don’t hesitate to reach out to either my or Senator Folden’s office, should you or your staff have any questions.

Sincerely,



Delegate Jesse T. Pippy,
Frederick County Delegation – Chair



Senator William Folden,
Frederick County Delegation – Vice Chair

Jessica Fitzwater
County Executive



Brad W. Young
County Council President

FREDERICK COUNTY GOVERNMENT

February 5, 2024

Hon. Serena C. McIlwain, Secretary
Maryland Department of Environment
Montgomery Park Business Center
1800 Washington Blvd.
Baltimore, MD 21230

Dear Secretary McIlwain,

We are writing to you regarding a future wastewater treatment enhanced nutrient removal project, currently in planning with the Maryland Department of the Environment (MDE) and the Town of Middletown. As briefly discussed during your visit in October, Middletown is facing a complete renovation of their wastewater treatment facilities, including the decommissioning of an aging aerated lagoon plant and consolidating treatment to a single facility on the other side of town. The project is spurred by notification from MDE that the lagoon will soon no longer meet permitted treatment standards and, unfortunately, the small town of 5,000 will soon be overseeing a \$40 million dollar capital project to overhaul the majority of its wastewater infrastructure. Compounding the issue, the lagoon is located in a flood zone (FEMA Flood Zone A) and presents evermore increasing threats to public health and the environment, with the gradual effects of climate change.

Access to running water and sewer are essential parts of our everyday lives, and this project will ensure over 5,000 Frederick County constituents will continue to have reliable and environmentally responsible wastewater services. Of particular importance is the removal of a 1960's era treatment lagoon, located in a flood zone, which represents a significant hazard to public health, our local environment, and an insurmountable expense for this small, rural town.

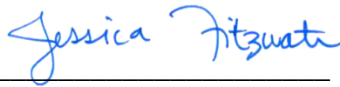
The Town has expressed that such an expensive and comprehensive project simply isn't affordable, even with the projected 70% Bay Restoration Fund (BRF) subsidy. A \$10 - \$12 million dollar loan will inevitably come at the expense of the town's future and their ability to fund other important capital projects. It's important to note that the need for this project isn't the result of population growth, poor planning, and/or poor maintenance, but a mandate from the Department of the Environment to meet future treatment performance standards.

As you know, the County recently built an enhanced nutrient removal plant and we recognize that water quality projects, like Middletown's, are critically important for our future, our local environment, and ultimately the health of the Chesapeake Bay. The BRF does an outstanding job of incentivizing utility owners to upgrade their treatment processes, but it seems the Town's circumstances and high project cost warrant funding discretion and an increased subsidy from MDE.

Burgess Miller informed our offices that the Town working with the Maryland Senate Education, Energy, and the Environment Committee Members, Chair Feldman and Senator Karen Lewis Young, along with Chair Pippy and the Frederick County Delegation to pursue increased BRF support from MDE. Please accept this letter as our support and endorsement of this initiative, on behalf of our constituents in the Town of Middletown.

Your assistance in this matter would be greatly appreciated. Thank you for your consideration and please reach out with any questions or comments.

Sincerely,



Jessica Fitzwater
County Executive



Brad W. Young
County Council President

SB 726 Testimony (Middletown Town Administrator).p

Uploaded by: Paul Mantello

Position: FAV



**Senate Bill 726 – Bay Restoration Fund & Authorized Uses
Decommission of Wastewater Treatment Lagoon**

Paul Mantello, Town Administrator
Town of Middletown

Good afternoon, Chair Feldman, Vice Chair Kagan, and Committee Members:

My name is Paul Mantello and I'm the Town Administrator for Middletown, Maryland. I'll speak briefly about the technical aspects and history of the Middletown Wastewater Treatment ENR Upgrade.

First, it's important to clarify: 1) how/when the Town was notified that we'd soon be mandated to complete a \$40M overhaul of all our treatment infrastructure, 2) and also mention MDE's BRF Eligibility Guidelines and the implications for Middletown.

MDE's Surface Discharge Division oversees our discharge permits, and on two previous occasions, informally indicated to Town Staff that our lagoon's permit will likely not be renewed in future permit cycles. At MDE's recommendation, in 2021, we applied for BRF funding to draft a preliminary engineering report, which is now 90% complete.

As you can imagine, we were surprised and concerned by the preliminary report's high cost, the expansive scope affecting all treatment facilities, and the devastating financial impacts of \$10M of unanticipated long-term debt.

To confirm the need for a \$40M overhaul, we reached out to MDE Surface Discharge to request a formal notice explaining that a treatment process upgrade is needed to comply with the next permit cycle, in 2026.

They returned a letter, included with our testimony submittals, explaining the lagoon will not meet the ammonia limits or resiliency requirements of the next permit, and advised a treatment process upgrade is needed.

Unfortunately, the cost of compliance is \$40M and MDE's BRF eligibility guidelines are clear: the technology and infrastructure that directly produces ENR treatment are funded at 100%, but the supporting infrastructure needed to convey the wastewater to the ENR plant, or process the sludge byproduct, are only partially funded or ineligible for funding.

Typically, the cost split is 70% BRF and 30% Municipality, which is much more manageable for the average \$10 - \$15M Municipal ENR Project, usually involving only one facility - not two - and not nearly as much new supporting infrastructure.

The cost to decommission our lagoon and relocate service out of the floodplain is estimated at almost \$12M, with current MDE BRF-policy support at \$8M. If successful, Senate Bill 726 and Middletown's new impact to the BRF is approximately \$4M. Another \$6M in dewatering, sanitization, and other ancillary infrastructure is still due from the Town.

Senator Lewis Young's Bill amends the BRF Statute to better meet the spirit and intent of the BRF Statute, which is to incentivize municipal utilities to affordably upgrade their facilities to ENR and mitigate the threats of legacy infrastructure to public health and our local environment.

Chair Feldman and Committee Members, thank you very much for your time and consideration!

M&A testimony_SB726_HB1478_FAV.pdf

Uploaded by: Roger Manno

Position: FAV

TESTIMONY OF ROGER P. MANNO, ESQ.

SB726 / HB1478

BAY RESTORATION FUND - AUTHORIZED USES - DECOMMISSION OF WASTEWATER
TREATMENT LAGOON

FAVORABLE

Dear Chairs Feldman and Korman, and members of the both the Senate Education, Energy, and Environment Committee; and the House Environment and Transportation Committee:

Please accept this testimony in strong support of SB726 / HB1478, legislation necessary to align the Maryland Department of Environment's (MDE) application of the Bay Restoration Fund (BRF) with the clear spirit, in not the letter, of the BRF.

The legislation for consideration is necessary and extremely narrowly-tailored to address a unique challenge and economic injustice faced by the Town of Middletown, which is the only town in the State of Maryland to legally operate a wastewater treatment lagoon in a floodplain.

On background, in 1976, MDE mandated that the Town, located within the Catoctin Creek Watershed (a sub-watershed of the Chesapeake Bay Watershed), install the subject wastewater treatment lagoon, which, for the last 48 years, has operated without incident, meeting all legal requirements under its operational MDE permit. In 2000, the Town built its East wastewater treatment plant (of which the wastewater treatment lagoon is a critical and integral system), financed by a DHCD critical infrastructure loan and debt service to ratepayers. In 2020, the Town responsibly completed its 20-year debt service obligation, anticipating several additional decades of debt-free useful life of the plant, and freeing up necessary debt and PAYGO capacity to begin addressing a 20-year backlog of projects, from roads, to drinking water, to public health and safety. Tragically, that was not to be the case.

Shortly after completion of the Town's 20-year debt obligation, MDE advised the Town that its wastewater treatment plant and lagoon needed to meet new Enhanced Nutrient Removal (ENR) standards, notwithstanding the highest environmental standards utilized by the plant and lagoon when built, and that its existing operational permit would not be renewed. As a result, the Town now finds itself in a bureaucratic morass, faced with either decommissioning its perfectly operational, recently paid off, MDE-mandated facility by 2025, at unprecedented financial cost to the Town, or face sanctions by MDE under a consent decree.¹

¹ To the Town's knowledge, Middletown is the only town in the State of Maryland to be currently legally operating a wastewater lagoon in FEMA Flood Zone A, although there may be one other municipality illegally operating in violation of their expired 2013 MDE permit, and currently operating under a 2015 MDE consent decree. While this makes Middletown's funding case singularly unique in the State of Maryland, it is also unique in that the Town's location makes it ineligible for any neighboring funding opportunities administered by the Appalachian Regional Commission, or any Senator George C. Edwards Fund monies administered by the Western Maryland Economic Future Investment Board.


The costs necessary to meet this MDE mandate are uniquely onerous, since the Town has just completed two decades of debt service, and is now being mandated to decommission a completely functional wastewater treatment plant. In addition, the Town's wastewater treatment lagoon, uniquely located in a Special Flood Hazard Area floodplain (FEMA Flood Zone A), presents exorbitant costs to decommission and relocate out of the floodplain, unique among all other Maryland towns legally operating similar facilities. Taken together, MDE's mandate amounts to a \$40M capital outlay for the Town, which far exceeds the Town's total assets, including the value of Town Hall, together valued at some \$25M. In doing so, MDE's mandate threatens all other Town capital priorities that are just becoming viable for funding, given the recent completion of the Town's debt service on the existing wastewater treatment plan.

The Bay Restoration Fund anticipates funding these types of projects. However, while the BRF provides funding to replace a wastewater treatment lagoon at a 50 percent reimbursement level, the BRF also articulates that the highest funding prioritization, the 100 percent reimbursement level, applies to projects that raise issues of *public health* and *water clarity*. While the dissonance between these two provisions may cause confusion as to the appropriate level of MDE reimbursement, the Town is vexed to find a greater risk to *public health* and *water clarity* than a nine-million-gallon open-air sewage lagoon sandwiched between 3 waterways (Hollow Creek, Catoctin Creek, and Wiles Branch Creek), located in FEMA Flood Zone A, with at least a 25 percent chance of flooding over a 30-year period according to FEMA, as is the case with the Town of Middletown.

While the Town has engaged MDE on numerous occasions to address the agency's narrow interpretation of the BRF funding statute, and it is certainly true that both the letter and spirit of the statute can be debated, MDE continues to deny funding at the 100 percent reimbursement level, including inaccurately representing the cost in the SB726 / HB1478 Fiscal Note as \$10M. This is incorrect, as the accurate cost to the Town for full compliance with the MDE mandate is some \$4M, which, again, the Town simply cannot afford, either as a match or through debt service.

It is the Town's belief that the BRF is clear on this issue, and that funding should be reimbursable at the 100 percent level. It is certainly clear that MDE could, if it so chose, reach such a conclusion. Separate and aside from any such interpretation, the subject legislation seeks to address an anomaly in the overall intent of the BRF, such that a MDE-mandated wastewater treatment lagoon located within a floodplain, susceptible to flooding into contiguous waterways that run into the Chesapeake Bay, should meet the highest funding criteria.

For these reasons, I respectfully request a favorable report.


Sincerely,
Roger P. Manno, Esq.

Roger P. Manno, Esq. | Manno & Associates LLC
Attorney | Lobbyist | Maryland Senator and Delegate (Ret.)
Admitted to practice law in MD and DC
c 202.425.3523 | o 888.422.0131 | e rmanno@mannoandassociates.com
www.mannoAndAssociates.com

SB 726, FAV, FCG, OCE JF, LS24.pdf

Uploaded by: Sarah Price

Position: FAV



JESSICA FITZWATER
COUNTY EXECUTIVE
FREDERICK COUNTY, MARYLAND

SB 726 – Bay Restoration Fund – Authorized Uses – Decommission of Wastewater Treatment Lagoon

DATE: February 20, 2024
COMMITTEE: Senate Education, Energy, and the Environment
POSITION: Support
FROM: Frederick County Executive Jessica Fitzwater

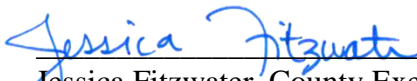
As the County Executive of Frederick County, I urge the committee to give SB 726 a FAVORABLE report.

This bill amends the authorized uses of the Bay Restoration Fund to include costs related to decommissioning wastewater treatment lagoons. In particular, this bill will allow for funds from the Bay Restoration Fund (BRF) to be awarded to cover 100% of eligible project costs relating to planning, design, construction, and upgrade of a publicly owned wastewater facility.

In Frederick County, Middletown currently operates their wastewater facility with a lagoon. The Maryland Department of the Environment (MDE) has instructed the Town Administrator to submit a design and construction application, as well as a sub-application of the Comprehensive Flood Management Grant Program. Following a cost analysis with the current BRF funding structure, the BRF would only cover 70-75% of Middletown's decommissioning project. Under the current framework, Middletown would be unable to afford funding the remainder of the decommissioning project.

The expansion of authorized uses of BRF funding would allow Middletown to comply with state environmental regulations and decommission the lagoon in their wastewater facility. As the legislative session moves forward, measures such as these are important to ensure continued utility services for residents and fiscal stability for our local governments.

Thank you for your consideration of SB 726. On behalf of County Executive Fitzwater and the residents of Middletown and Frederick County, I urge a FAVORABLE report.



Jessica Fitzwater, County Executive
Frederick County, MD

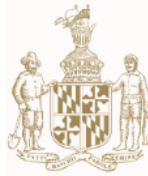
SB0726 Middletown Wastewater Treatment Cover Lette

Uploaded by: Senator Karen Lewis Young

Position: FAV

KAREN LEWIS YOUNG
Legislative District 3
Frederick County

Committee on Education, Energy,
and the Environment



James Senate Office Building
11 Bladen Street, Room 302
Annapolis, Maryland 21401
410-841-3575 · 301-858-3575
800-492-7122 Ext. 3575
Karen.Young@senate.state.md.us

THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

The Honorable Chair Feldman
The Honorable Vice Chair Kagan
Education, Energy, and the Environment Committee
Miller Senate Office Building
Annapolis, MD

February 20th, 2024

**Testimony in favor of SB0726 Bay Restoration Fund – Authorized Uses –
Decommissioning of Wastewater Treatment Lagoon**

Chair Feldman, Vice Chair Kagan, and esteemed members of this committee,

SB0726 clarifies the grant allocation language in the Bay Restoration Fund (BRF). Maryland's Department of the Environment (MDE) recently notified the Town of Middletown that their wastewater treatment lagoon will not comply with the updated wastewater treatment and climate change resiliency requirements and their permit will not be renewed unless significant Enhanced Nutrient Removal (ENR) upgrades are completed at considerable expense to the Town. These expenses are uniquely elevated for Middletown, as its wastewater treatment lagoon is located in a high-risk floodplain, and decommissioning will necessitate the relocation of half the town's wastewater flows to a second town-owned facility, that must subsequently undergo an ENR upgrade and capacity increase. The unique circumstances have resulted in complex engineering, operational, and safety upgrades, and have exacerbated the already exorbitant cost of upgrades.

Maryland's Department of the Environment has released BRF ENR grant eligibility criteria, indicating that the BRF grant would cover 50 percent of costs for decommissioning the lagoon, leaving the Town with the remaining 50 percent of costs. However, in studying MD Env Code § 9-1605.2 (2018) with regard to the applicability to publicly owned wastewater facilities, it appears that BRF grants are applicable to 100 percent of costs for planning, design, construction, and upgrades, necessary to achieve enhanced nutrient removal standards. In Middletown's case, the decommissioning of the

lagoon and the building of infrastructure to redirect its intake to a second facility is part of the planning, design, construction, and ENR upgrade of that second facility.

Certainly the spirit of the statute suggests that for systems that MDE determines to be a threat to public health or water quality, grants or loans for up to 100% of cost are available. It is this last criterion, “public health or water quality,” that is particularly pertinent to wastewater treatment lagoons situated within a floodplain. In the case of Middletown, it would seem that the threat to public health or water quality would be pressing, if not urgent.

Finally, while the statute clearly states that “the eligibility and priority ranking of a project shall be determined by the Department based on criteria established in regulations adopted by the Department”, the Code of Maryland Regulations is silent on the ENR eligibility criteria of funds for decommissioning a wastewater treatment lagoon located in a floodplain.

For these reasons, the BRF statute must be clarified with regard to establishing 100 percent funding eligibility criteria for a wastewater treatment lagoon located in a floodplain. SB0726 will do exactly that. I urge a favorable report.

Sincerely,



Senator Karen Lewis Young

SB726 Letter of Support with Amendments.pdf

Uploaded by: Donald Curtian

Position: FWA

An Affiliate of
The Maryland Association of Counties, Inc.



TO: Members of the Senate Education, Energy, and the Environment Committee
FROM: Maryland Conference of Local Environmental Health Directors
RE: Senate Bill 726, Bay Restoration Fund- Authorized Uses- Decommission of Wastewater Treatment Lagoon

The Maryland Conference of Local Environmental Health Directors (Conference) **SUPPORT SB726 WITH AN AMENDMENT**. The Conference is an affiliate of the Maryland Association of Counties (MACo).

This Bill revises the Bay Restoration Fund to include the fund to pay for the costs to decommission a wastewater treatment lagoon, located partly or wholly in a floodplain starting in Fiscal Year 2026.

The Bay Restoration Fund has provided funding to upgrade wastewater treatment plants to enhanced nutrient removal (ENR) technologies to achieve wastewater effluent quality of total Nitrogen at 3 mg/l and total Phosphorus at 0.3 mg/l. The goal of the Bay Restoration Fund is to reduce the level of Nitrogen being discharged into the Chesapeake Bay watershed. Utilizing the Bay Restoration Fund to decommission wastewater treatment lagoons would continue with those goals.

The Conference is requesting the SB726 to be amended as follows:

On page 3, on line 26 after “**Lagoon**” insert, “**AND BERMED INFILTRATION PONDS**”.

The Conference supports SB726 with an amendment. Accordingly, we ask the committee to give SB726 with an amendment a **Favorable** vote.

For more information, contact:

Conference: Don Curtian, President, Maryland Conference of Local Environmental Health Directors,
Phone: 410-222-7050, hdcurti@aacounty.org

MAMWA Ltr on SB 726 BRF Authorized Uses 2.19.2024.

Uploaded by: Lisa Ochsenhirt

Position: FWA



Maryland Association of Municipal Wastewater Agencies, Inc.

Washington Suburban Sanitary Commission

14501 Sweitzer Lane, 7th Floor

Laurel, MD 20707

Tel: 301-206-7008

February 19, 2024

MEMBER AGENCIES

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St. Mary's Metro. Comm.
Washington County
WSSC Water

The Honorable Brian J. Feldman
Chair, Education, Energy, and the Environment Committee
2 West, Miller Senate Office Building
Annapolis, MD 21401

**Re: Request For Amendments--SB 726 (Bay Restoration Fund-Authorized Uses-
Decommission of Wastewater Treatment Lagoon)**

Dear Chairman Feldman:

On behalf of the Maryland Association of Municipal Wastewater Agencies (MAMWA), I am writing to request amendments to SB 726, which would authorize the use of the BRF for decommissioning of certain wastewater treatment lagoons and the purchase and installation of pump stations and related systems to send wastewater from the floodplain to another wastewater plant.

MAMWA is a statewide association of local governments and wastewater treatment agencies that serve approximately 95% of the State's sewer population. MAMWA members own and operate wastewater treatment plants that are capital-intensive and need regular maintenance and upgrades to comply with strict environmental requirements, to serve local customers, and to protect the environment. MAMWA members rely on the BRF for plant and conveyance system upgrades, combined sewer overflow abatement, and sewer system rehabilitation.

MAMWA requests an amendment that would clarify that payments from the BRF for wastewater upgrades would be prioritized over wastewater treatment lagoon decommissioning. This prioritization is already in the Environment Article, for example, with regard to the Clean Water Commerce Act ("After funding any eligible costs identified under item (iv)(1) and (2) of this paragraph, for transfers to the Clean Water Commerce Act in accordance with paragraph (3) of this subsection;"). (§9-1605.2(i)(2)(xiv)).

Please feel free to contact me with any questions at Lisa@AquaLaw.com or 804-716-9021.

Sincerely,

Lisa M. Ochsenhirt, MAMWA Deputy General Counsel

cc: Education, Energy, and the Environment Committee, SB 726 Sponsor

CONSULTANT MEMBERS

Black & Veatch
GHD Inc.
Greeley and Hansen Engineers
Hazen & Sawyer
HDR Engineering, Inc.
Jacobs
Ramboll Americas
Whitman, Requardt & Assoc.
Xylem, Inc.

GENERAL COUNSEL

AquaLaw PLC

SB 726 MDE OPP.pdf

Uploaded by: Les Knapp

Position: UNF



**The Maryland Department of the Environment
Secretary Serena McIlwain**

Senate Bill 726

Bay Restoration Fund – Authorized Uses – Decommission of Wastewater Treatment Lagoon

Position: Oppose

Committee: Education, Energy, and the Environment

Date: February 20 2024

From: Jeremy D. Baker

The Maryland Department of the Environment (MDE) **OPPOSES** SB 726.

Bill Summary

Senate Bill 726 would amend the Bay Restoration Fund (BRF) wastewater funding section of the Environment Article by adding to the authorized uses of BRF to include a requirement to pay 100% of the following costs:

- (1) the costs of decommissioning a wastewater treatment lagoon that is located, at least in part, in a floodplain designated by the Federal Emergency Management Agency as a Special Flood Hazard Area Zone A or Zone V and not intended for use with a new wastewater treatment system; and
- (2) the costs for the purchase and installation of all pump stations and related systems necessary to redirect wastewater out of the floodplain to another wastewater treatment facility.

The new authorized uses would take effect beginning in FY 2026. The lagoon decommissioning is required to be done consistent with MDE Land and Materials Administration requirements.

Position Rationale

The BRF provides grant funding to upgrade wastewater treatment plants (WWTP) to Enhanced Nutrient Removal (ENR) level of treatment. Current law requires MDE to pay for **100%** of the eligible costs of these WWTP ENR upgrades. Eligible costs are those costs related to upgrading the WWTP to ENR. This is consistent with the original intent of the BRF, which exists to reduce nutrients to the Chesapeake Bay and its tributaries, in order to help the State meet its Chesapeake Bay TMDL requirements.

The BRF has been used to successfully upgrade 77 WWTP to ENR statewide. Currently, it is being utilized to fund an additional 25 WWTPs, including seven that are under construction, seven that are in design, and 11 that are in planning. All of these upgrades have followed the existing statutory requirements for allocation of BRF grant funds as part of the upgrades. MDE does not fund these upgrades at 100% - only 100% of the ENR eligible costs is covered.

Increasing the eligible BRF grant funding for the projects listed in the bill would not be consistent with the intent of the BRF, which is to help the State meet the Chesapeake Bay TMDL pollution reduction requirements. These funds have been used successfully for over 20 years to upgrade WWTPs. Maryland is a national leader in this effort.

Also, any additional BRF grants provided for WWTP upgrades beyond the current eligibility would decrease the funding available to local governments for other eligible uses of BRF funding, including the stormwater management practices, sewer overflow abatement, septic connections to public sewer, and the Clean Water Commerce Program.

For the reasons detailed above, MDE urges an **UNFAVORABLE** report for SB 726.

SB 726 CBF - UNF.pdf

Uploaded by: Matt Stegman

Position: UNF



CHESAPEAKE BAY FOUNDATION

*Environmental Protection and Restoration
Environmental Education*

Senate Bill 726

Bay Restoration Fund – Authorized Uses – Decommissioning of Wastewater Treatment Lagoon

Date: February 20, 2024

To: Senate Education, Energy, & Environment Committee

Position: **Unfavorable**

From: Gussie Maguire
MD Staff Scientist

Chesapeake Bay Foundation (CBF) **OPPOSES** SB 726 which adds the decommissioning of wastewater treatment lagoons to the list of wastewater treatment plant (WWTP) projects for which Bay Restoration Fund can be tapped. Lagoons must be partially or wholly located within Special Flood Hazard Area Zone A or Zone V floodplains to receive funding.

The Bay Restoration Fund (BRF) collects fees from wastewater treatment plant users to pay, in whole or in part, to upgrade the plants with enhanced nutrient removal (ENR) technology and assist with operations and maintenance. These upgrades help significantly reduce nitrogen and phosphorous pollution in the Chesapeake Bay, and their upkeep is critical to maintaining and increasing nutrient pollution reductions from WWTPs. Lagoon decommissioning is tangential to the mission of the BRF, and would divert needed funds away from ENR upgrades.

According to the US Environmental Protection Agency's Lagoon Inventory Dataset¹, only 16 wastewater treatment lagoons exist in Maryland, and fortunately most do not sit within Special Flood Hazard Area Zones A or V, per Maryland's Flood Risk Application². While decommissioning these outdated treatment systems aligns with the overall need to upgrade wastewater infrastructure, it does not fall within the original purview of the BRF.

The Bay Restoration Fund has been a key part of point source pollution reduction in the Chesapeake Bay watershed, and work remains to be done with this limited pool of funding. Broadening its application risks reducing its effectiveness.

CBF urges the Committee's UNFAVORABLE report on SB 726.

For more information, please contact Matt Stegman, Maryland Staff Attorney, at mstegman@cbf.org.

¹ <https://www.epa.gov/small-and-rural-wastewater-systems/lagoon-wastewater-treatment-systems>

² <https://mdfloodmaps.net/map/>

Maryland Office • Philip Merrill Environmental Center • 6 Herndon Avenue • Annapolis • Maryland • 21403

The Chesapeake Bay Foundation (CBF) is a non-profit environmental education and advocacy organization dedicated to the restoration and protection of the Chesapeake Bay. With over 200,000 members and e-subscribers, including 71,000 in Maryland alone, CBF works to educate the public and to protect the interest of the Chesapeake and its resources.