DELAWARE WATERWAYS MANAGEMENT AND FINANCING ADVISORY COMMITTEE MEETING

DNREC, DIVISION OF WATERSHED STEWARDSHIP
SHORELINE AND WATERWAY SERVICES FACILITY
901 Pilottown Road, Lewes, DE 19958
September 8, 2014 Meeting Notes

AGENDA

- Welcome and Announcements

- Review and Acceptance of August 25th Meeting Notes

- Presentation of Funding Options Matrix for Other States

- Presentation of DNREC's 5 Year Projection for Waterway Management Funding Needs

- Round Robin Committee Discussion – Ethanol Free Gas Blends for Boat Use and Current Revenues for Motor Fuel Sales

- Public Comments

- Concluding Remarks and Next Meeting

Members Present:

- **Robert Venables, Co-Chair – State Senate 21st District**
- **David Small, Co-Chair – DNREC Cabinet Secretary**
- **Frank Piorko – DNREC Division Director of Watershed Stewardship**
- **Chris Bason – Center for the Inland Bays**
- **Vicki Ford – Director of Office of Management and Budget**
- **David Cropper – Vines Creek Marina**
- **Jay Little – Tidal Finfish Advisory Council/Saltfish.net**
- **Neil Sands – Rehoboth Bay Sailing Association**
- **Pierce Quinlan - Lewes-Rehoboth Canal Improvement Association**
- **Gerald Hocker –State Senate 20th District**
- **Bill Carson – House of Representatives 28th District**
- **Ron Gray - House of Representatives 38th District**
- **Rob Whitford – Precision Marine**
- **Dave Ritondo – United States Coast Guard Auxiliary**
- **Ed Lewandowski – University of Delaware**
- **David Green – Cape Water Taxi**
- **Clark Evans – Old Inlet Bait & Tackle**

Not present:

- **Dave Russell – commercial charter boat captain**

Other parties in attendance:

- **David Saveikis – DNREC Division Director of Fish & Wildlife**
- **Douglas Messeck – DNREC Division of Fish & Wildlife Enforcement Officer**
- **Larry Horan – DNREC Division of Fish & Wildlife Construction Project Manager**
- **Tony Pratt – DNREC Division of Watershed Stewardship Administrator**
- **Dan Brower - DNREC Division of Watershed Stewardship Environmental Program Manager**
- **Chuck Williams – DNREC Division of Watershed Stewardship Environmental Program Manager**
- **Ariane Nichols - DNREC Division of Watershed Stewardship Environmental Scientist**

Senator Venables opened the meeting at 8:29am with a call to approve last month's meeting minutes and they were passed unanimously. He stated there was a general consensus that everyone on the committee was in agreement that a formal Waterway Management Plan was needed. Last meeting focused on discussing needs and possible funding options. **Frank Piorko** was asked to look further into what other states were doing and how they funded their waterway projects. **Mr. Piorko** thanked the committee for all "pulling in the same direction" as they moved forward with discussions.

Mr. Piorko welcomed committee members **Clark Evans & Vicki Ford**, since **Mr. Evans** was unable to attend the August 25 meeting and **Ms. Ford** was present via conference call.

Handouts were provided showing information on current revenue for motor fuel sales, a matrix of other coastal states' funding sources, FY2015 budget considerations, a revised Waterway Management Program five-year plan, and an updated list of committee members.

Ariane Nichols presented the matrix showing what other states are using as funding mechanisms. It was noted that two states are using transportation funds (NY & NJ), three states are using bond bill appropriations (DE, ME & MA), and a variety of other funding sources such as car rental tax, general fund budget, boat registration fees, federal aid/grants, motor boat fuel tax, fishing license fees, excise (boat sales) tax, boat titling fees, and special tax districts along waterways. A discussion followed regarding the wide variety of funding for waterway projects. **Mr. Piorko** also stated that the matrix did not show possible cost sharing of state & federal funds with local government revenue.

Mr. Piorko recognized other people in attendance including Dave Saveikis, Doug Messeck & Larry Horan, from the Division of Fish & Wildlife along with Dan Brower from Shoreline & Waterway Management.

From the last meeting, there was a request to provide more detail regarding the planning budget for the next 3 – 5 years and a breakdown of costs and expenses in the program. **Chuck Williams** gave a presentation showing needs for maintenance dredging, channel marking, macro-algae harvesting, waterway maintenance, regional sediment management, and engineering & waterway modeling. He provided details on maintenance dredging projects for FY2015 including Little River ($1.2M), Augustine Beach Boat Ramp ($75K), Indian River ($275K) and the Assawoman Canal ($50K). Waterway Management Operations for FY2015 include new equipment (purchase of the New Castle Conservation District dredge ($300K)) since that program is no longer funded by the General Assembly, channel marking ($60K), macro-algae harvesting ($35K), waterway maintenance, abandoned vessel/debris removal ($30K), and contractual support ($300K). Research funding for FY2015 would include conducting a waterway management plan that needs a sustainable funding source ($325K) and expanding the regional sediment management plan from the Rehoboth Bay into the Indian River Bay with considerations for beneficial re-use options for dredged material and waterway enhancements to reduce dredging needs ($250K). **Mr. Williams** emphasized that this was not a final plan and that it will most likely change over time.

Mr. Piorko added that this was not the FY2015 or FY2016 budget, but more of a wish list. Each year his team is forced to look at needs and resources and prioritize accordingly. Concerns come from the boating community, legislators and their constituents. Funds were not available to address needs at Massey's Ditch, but work was done with the Coast Guard to mark the channel and lay the groundwork to complete Massey's, which is a multi-year project with a projected cost of $2.5M. Each year it's a balancing act and requires going to the legislature and bond bill committee to explain what needs are.

Ed Lewandowski asked how much money is received each year from the federal government. **Mr. Piorko** referred the question to **Tony Pratt** who explained we don't have direct cash flow from the federal level. There are 27 waterway channels in the state of Delaware, 20 of which are federally identified, but funding is restricted. The Federal Office of Management and Budget prioritizes funding by commercial waterway tonnage (over 75M of product annually) and only three Delaware waterways meet the criteria: The Christina River in the Port of Wilmington, the C&D Canal, and the Nanticoke River. All the other channels including Massey's, Indian River, the Mispillion, and Little River are showing up on the federal inventory base each year, but he doubts the state will ever see any returns on those channels being dredged. As a result, Delaware has inherited the responsibility to maintain the other channels. A question was asked about the return on these waterway projects to the state of Delaware. **Mr. Pratt** explained that we don't have a measurable return but it's apparent there is a direct benefit from people using the waterways (fuel, bait, food, lodging, etc.). Economic analyses have been done in the past to evaluate value to human use on the shoreline, but that waterway use is not valued at this time.

Mr. Lewandowski asked what the current federal tax was on marine fuel. **Mr. Piorko** referred to the handout regarding federal requirements of regulated gas sold in Delaware. The handout provided explanation of reformulated gasoline and renewable fuel standards. Discussion followed on non-ethanol gas blends for boaters and fuel purchased out of state.

David Small explained the interaction between air quality policy and waterway management. The topic of ethanol and non-ethanol blends in Delaware was brought up last year by **Senator Hocker**. There are federal requirements for reformulated fuels and renewable fuel standards. The reformulated gasoline requirement grew out of the Clean Air Act amendments that Congress passed in 1990 (the Act originally passed in 1970). The amendments in 1990 took an aggressive approach to controlling criteria of pollutants and controlling air quality standards. Delaware faces a challenge with ground level ozone. Both New Castle County and Kent County did not meet the air quality standards for ozone attainment, which is a summertime phenomenon. Hot days in the summer, combined with drifting air from the west, affect Delaware air quality. Federal requirements dictate that if a state does not meet ozone attainment you have to have reformulated gasoline. In 1993, it was decided to sell reformulated gasoline in all three counties for consistency. The EPA was notified accordingly so that Delaware could maintain their attainment status. An additional federal requirement was put in place that a certain percent of gasoline sold had to come from renewable fuels. Ethanol fits the federal requirement. **Mr. Small** explained there was a question of whether non-reformulated fuel could be sold in Delaware. Better air quality and fewer ozone forming compounds are a result of reformulated and ethanol mix gas. The EPA requires air quality standards under the Clean Air Act and Delaware has a state implementation plan that looks at the ways all sources contribute. An offset would need to be established in order to do away with reformulated gasoline in Sussex County. One possibility would be to require a modification to the onboard emissions testing done by the DMV in Georgetown. Kent and New Castle Counties both have onboard diagnostics to test emissions. Many factors would need to be considered to make a change in Sussex County. The impact on the market is unknown on the sale of two different types of fuels. Additional conversations should occur with the Department of Transportation, Division of Motor Vehicles, and the petroleum market (at the wholesale and retail level) if a potential change is made.

Representative Carson asked if Maryland sells non-ethanol gasoline. **Mr. Small** stated they do. However, he is unsure how they sell different fuel types. **Mr. Small** said it is frustrating that the Eastern Shore of Maryland does not monitor their air quality the same way that Delaware does given they must have the same issue of contaminants coming from the West.

Neil Sands asked two questions: 1. Is it true that ethanol costs more to produce than regular gasoline? 2. Doesn't ethanol based fuel get better gas mileage and in turn create less air pollutants?

Mr. Small said there are ongoing debates on these points and that one can make arguments on either side. Considerations would have to be made based on data moving forward and include input from industry experts.

Jay Little stated he took away from the last meeting a focus on bringing in more money by taxing non-e gas. Currently there is a rebate for non-highway use for fuel. He wondered if the rebate would be eliminated in addition to a tax on non-e gas.

Senator Venables said there is currently a $.23 cent per gallon tax that boaters can apply for a rebate.

Senator Hocker said he has spoken with many boaters who would be OK with doing away with the rebate if non-e gas would be available.

Mr. Little stated he has a blog on his website (Saltfish.net) and asked the question if fishermen would be in favor of eliminating the rebate and instituting a tax if non-e gas was available. The question was viewed 1,624 times, 60 people responded and 40 people weighed in with a vote. Of those, the majority (52.5%) said to leave the issue alone and don't change anything.

Comments made included this was more of an issue ten years ago, but there were newer practices of treating fuel to eliminate problems and that non-ethanol gas is more of an issue for older equipment and small engines like chainsaws, trimmers, mowers, etc.

There seemed to be a general concern for eliminating the gas rebate all together.

Mr. Little noted that ethanol gas prices at marinas are higher than the price paid at a gas station. Currently gas is selling for $4.00 per gallon for 89 octane at the Indian River Marina.

Gas prices in Maryland (for non-ethanol) range from $4.45 - $4.80 per gallon.

Senator Hocker remarked many boaters he has spoken to are willing to pay more for non-ethanol gasoline as they see no benefit in using ethanol since fuel treatment is used and maintenance costs are greater.

Mr. Little stated that comments he heard in the boating community were not necessarily about ethanol vs. non-e gas but more of a concern regarding the elimination of the fuel rebate program.

Chris Bason asked **Mr. Small** to explain the possible offset that DMV could offer with regard to air quality. **Mr. Small** said that Delaware gets a benefit from Sussex County selling reformulated gasoline. It's measured in tons per year of compounds that are released into the air. If the type of gas that's sold changes, some other type of reduction would need to offset the air quality for Delaware to comply with the Clean Air Act. Another mechanism to achieve those reductions may be changing the way DMV does their emissions testing in Sussex County.

Clark Evans stated that for every $1K purchased in fuel, an additional $160 is spent on fuel additive to reduce the ethanol. He questioned how that affected air quality.

Mr. Small responded that the ethanol issue is more about it being renewable and less about air quality. Adding the fuel additive probably does eliminate any air quality factors and/or benefit.

Dave Cropper questioned how Maryland gets away with selling non-e gas in certain counties.

Mr. Small stated that the ethanol requirement is for refineries. They could use credits to make non-e gas. The issue for the Eastern shore of Maryland is they are in an area that is not required to use reformulated gas.

Mr. Bason asked a question on the handout regarding the number of gallons of gas purchased for commercial vs. recreation marine use. **Mr. Small** said most of it was recreational.

Mr. Piorko led a discussion on the handouts related to fuel sales in Delaware. Currently the tax on gasoline in Delaware is $.23 cents per gallon and generates over $3M in revenue. In 2013, 575 refunds were given totaling $42,882. It was estimated that 13,213,000 gallons was for marine use. Commercial vessels use red-dye diesel, which has no tax. In 2013, the total Motor Fuel Tax revenue was $113M.

Mr. Piorko stated it would be beneficial to know how much non-e fuel is sold in Maryland and how much fuel is sold in Sussex County marinas.

It was noted that it appears the rebate is not really taken advantage of in Delaware and that the balance goes to DelDOT and into the Transportation Trust Fund.

Mr. Piorko stated his observation was that there was about a $.70 per gallon differential between Maryland's non-e gas and Delaware's blend. He asked what type of revenue could be derived from bringing non-e fuel to Delaware

Senator Hocker said his Pep-Up representative quoted him $.35 - $.40 cents more per gallon for non-e gas.

The question was raised where the non-e gas would be sold. Would it be available at the pump (gas stations) or only be available at marinas?

Mr. Lewandowski asked if the Delaware marine fuel tax was always obligated to support the DelDOT trust fund. **Senator Venables** responded it has been that way since the fund was created back in 1987.

Dave Green said he has taken advantage of the rebate program; however, it is a difficult process at best. Receipts obtained at marinas are OK, but gas station receipts need to be stamped by the attendant and a form needs to be filled out. The forms are available through DelDOT.

Senator Venables said the transportation trust fund doesn't look like the only source of funding for waterway management needs.

It was stated that taxing red-dye diesel was not something that would be supported by the boating community, and especially not the local farming industry.

Mr. Piorko asked if there is any revenue benefit in bringing non-e fuel to marinas at a higher cost if no additives were needed.

Mr. Bason asked if any of the current fuel tax was designated for channel marking, waterway maintenance, etc. and the answer was "no." **Senator Venables** stated the argument would have to be made that waterways could be classified as transportation highways for boaters.

Mr. Bason asked what the motorboat fuel tax was and can that be directed for waterway management as compared to other states. Legislation would have to designate additional marine fuel tax or carve out a portion of current taxes to be used for waterway management.

The Transportation Trust Fund is already under funded. It was supposed to be used only for construction projects. In 1992, a change was made to aid the administration due to shortfalls in the budget.

Mr. Small expressed concern about moving revenue from DelDOT for waterway management as the farming community, aviation industry, and many others will speak out.

Other comments:

- Waterway use needs to be supported by data.
- Non-e fuel with a new tax added to the current tax should be investigated.
- The $.23 cent tax has been static since 1995.
- New revenue should be estimated.
- There is a need to determine how much fuel is sold at marinas.
- There are 59,186 boats registered in Delaware, but no boat titling program in place
- There is a need to capture trailered boats too.

- Charter boats may go out of business if tax is levied.

Mr. Small raised the question: If the gas rebate is eliminated along with the exemption on red-dye fuel, would it raise a lot of arguments? The answer was a resounding "yes."

It was noted that the rebate was only $42K last year.

Senator Venables said perhaps there should be a surcharge to boat licenses.

Mr. Piorko said that the new revenue would have to be dedicated for waterway management. He said future discussions should focus on ethanol free fuel, boat titling & registration, county transfer taxes, the program budget and prioritizing projects.

Senator Venables said there are 62 legislators who each get $250K of the CTF Fund annually for special projects. DelDOT adds an additional 50 – 100%. It may be a good idea to ask each of them to dedicate $10K for the waterway management program.

He explained that Rule 12 is a group of items that have been allowed to use the CTF to fund their projects and that waterway management/maintenance may fall under it.

Bulk heading, pilings, bike paths, street lights, drainage, landscaping, sidewalks, etc. were all state projects added in the past as allowable expenditures under Rule 12.

$3M - $5M per year would be needed to fund the waterway management program and funds would only be used on waterways owned by the state. Boat fees should be considered in future conversations.

Representative Carson asked how East Coast funding came from car rental tax and a short discussion followed.

A summary was given on ethanol free blends and it was stated there is a need to determine how much Delaware could realize in revenue. Will the tax be enough? Will it be worth it?

Senator Hocker said that the amount of Delaware people going to Maryland to buy fuel is not a defined figure, but that it's larger than realized.

Mr. Small asked if it is worth adding an additional tax on diesel fuel for marine use. Feedback indicates that boaters are comfortable with the current user model and diesel sold at marinas is currently exempt.

Mr. Little stated charter boats are already operating at a small profit margin and that any tax consideration should be spread out to be more palatable for everyone. Other tax options should be considered.

It was stated that the use of Delaware waterways greatly impacts coastal tourism revenue. Considerations should be made for users of the waterways to help pay for maintaining them.

Delaware has an 8% accommodations tax and 1% of it goes to beach management. There is no room to deduct additional funds for waterway management.

It was asked where the gross receipts tax revenue goes and the answer was the General Fund. Comments followed that the General Fund is already hard to balance.

Senator Venables said the committee is collective in agreement that something needs to be done.

Mr. Small said the homework is to determine if an additional fuel tax is applicable on non-reformulated gas/non-e fuel and to refine numbers to see what the volume looks like. He also said a review on Delaware's boat licensing fees and titling considerations will be discussed at the next meeting.

Senator Hocker said he sees three possible funding sources: bond bill appropriations, boater registration fees, and motor boat fuel tax. He also said that non-e fuel from North Carolina would cost an additional $.05 - $.06 per gallon cost.

A Committee report is due by mid-November. Meetings will follow a regular two week schedule moving forward.

Next meeting: September 22, 2014 in the DNREC Shoreline & Waterway Services Facility conference room at 8:30am

Meeting adjourned at 10:31am