

Clean Water and Flood Abatement Task Force

Thursday, November 19th, 2015

2:00 p.m. – 4:00 p.m.

Legislative Hall

Meeting Attendance

Task Force Members:

Present:

Senator Bryan Townsend
Representative Michael Mulrooney
Senator Bryant Richardson
Representative Ronald Gray
Secretary Jennifer Cohan
Secretary David Small
Holly Porter
Thomas Unruh
Jeffrey Bross
Roy Miller
Howard Morrison
Patty Cannon
Brenna Goggin
Lew Killmer
Jen Adkins
Joseph Corrado
Michael Riemann
Andrew Jakubowitch
Gina Jennings

E-mail:

Bryan.Townsend@state.de.us
Michael.Mulrooney@state.de.us
Bryant.Richardson@state.de.us
Ronald.Gray@state.de.us
Jennifer.Cohan@state.de.us
David.Small@state.de.us
Holly.Porter@state.de.us
townsendunruh@aol.com
Jeff@duffnet.com
policy@inlandbays.org
lmorrison@countygrp.com
Patricia.Cannon@state.de.us
brenna@delnature.org
lew.killmer@mac.com
jadkins@delawareestuary.org
JCORRADO@CORRADO.COM
mriemann@beckermorgan.com
Andrew.jakubowitch@co.kent.de.us
gjennings@sussexcountyde.gov

Absent:

Sam Lathem
William Lucks
George Haggerty
Robert Baldwin
Thom May
Gerard Esposito
Paul Morrill
Christine Mason
Dian Taylor
Gerald Kaufman
Bruce Jones

lathem.de.aflcio@comcast.net
wluks@wluks.com
GOHaggerty@nccde.org
robert.baldwin@dacdnet.org
Thom.May@state.de.us
jesposito@tuiwater.com
pmorrill@committeeof100.com
christine@sussexshoreswater.com
dtaylor@artesianwater.com
jerryk@udel.edu
bjones@pennoni.com

Staff:

Michelle Zdeb
Caitlyn Gordon

Michelle.Zdeb@state.de.us
Caitlyn.Gordon@state.de.us

Minutes prepared by Caitlyn Gordon, Legislative Aide

Minutes reviewed by Michelle Zdeb, Legislative Assistant & Task Force Staffer

Attendees:

Bruce Patrick
 Edward Hallock
 S. Douglas Hokuf
 Julie Unruh
 Andrew Homsey
 David Spacht
 Daniel Walker
 Kash Srinivasan
 Charles Postles
 Terry Deputy
 Gene Donaldson
 Kitty Holtz
 Sari Rothrock
 Heather Warren
 David Athey

Organization:

Delaware State Chamber of Commerce
 DPH
 NCC
 Public
 UD
 Artesian Water
 House Staff
 Kash Srinivasan Group
 Farmer
 DNREC
 DeIDOT
 Delaware Farm Bureau
 PDE
 DHSS
 AECOM

The Task Force meeting was brought to order at 2:11 pm.

Consideration of Meeting Minutes

Senator Bryan Townsend, Co-Chair, thanked everyone for coming to the Task Force meeting. Next, he read out changes that Roy Miller, member, had for the October 15th Meeting Minutes. He asked to change a typo of the word “waste” to “waist.” Additionally, in the Meeting Minutes for November 3rd, 2015, Jerry Esposito, member, changed the word “Delaware” to “Tidewater” that was written for one of his statements. Furthermore, in the November Meeting Minutes Lew Killmer, member, pointed out a statement that was attributed to him, but he did not make that specific statement.

Senator Townsend asked Task Force members if they had further changes to the Meeting Minutes. Task Force members pointed out three spelling corrections which were written in the November 3rd Meeting Minutes.

Roy Miller, Delaware Center for Inland Bays, stated that the public attendee’s name “Chris **Brown**” was incorrectly spelled, the correct spelling of his name is “Chris **Bason**.”

Andrew Homsey, on behalf of Gerald Kauffman, clarified the correct spelling of “Martha **Narvez**,” who was also a public attendee. He stated that her name is spelled “Martha **Narvaez**.”

Doug Hokuf, on behalf of George Haggerty, pointed out an additional “D” that was added to his affiliation. The correct spelling of his affiliation is “NCC.”

Senator Townsend asked if anyone else has changes that they would like to see made in the Meeting Minutes from October 15th or November 3rd. Seeing none, Senator Townsend asked for motions to approve the October 15th Meeting Minutes and the November 3rd Meeting Minutes as amended.

Representative Michael Mulrooney, Co-Chair, was the first motion to approve both sets of meeting minutes.

Minutes prepared by Caitlyn Gordon, Legislative Aide

Minutes reviewed by Michelle Zdeb, Legislative Assistant & Task Force Staffer

Jen Adkins, Partnership for the Delaware Estuary, was the second motion to approve both sets of meeting minutes.

The Meeting Minutes from October 15th and November 3rd were approved unanimously.

Open Discussion by Task Force

Senator Townsend moved the meeting to the next item on the agenda noting that the Task Force has a series of items to discuss. The Senator reminded members that the inclusive all-in number, discussed during other meetings, is important to have moving forward with the December 17th meeting. Next, he turned the discussion over the Secretary David Small, member, who spoke on a document that he constructed for the Task Force.

Please see the document that Task Force members received below:

Program Description	Program Needs	Current Level of Funding	Leverage	Funding Needs	Institutional Barriers to Funding or Program Delivery	
<p>Water</p> <p>Water Infrastructure Programs</p> <p>Required 20% State Match to Receive Annual Federal CWSRF Grant</p>	<p>Required 20% state match for Annual Federal CWSRF Capitalization Grant</p>	<p>Required annual CWSRF state match funding to reduced reliance on state bond bill appropriations</p>	<p>~\$1.4M state match to received ~\$7.0M annual CWSRF Federal Grant</p>	<p>4 to 1 federal grant dollars to required state match</p>	<p>~\$1.4M Annually</p>	<p>Limited Only to Annual Congressional Appropriations Nationally for the CWSRF Program</p>
<p>Environmental Finance Program (WIAC) Loans Program, Wastewater, Surface Water Infrastructure</p>	<p>Loan program capitalized by annual federal grants and required 20% state matching funds. Designed to provide below market interest rate loans to public and private borrowers for a variety of water quality improvement projects.</p>	<p>State funded grant incentive program to help make CWSRF loans more affordable, and to increase the number of ready to proceed projects by providing grants for project planning and design.</p>	<p>Since the inception of the CWSRF program \$267M has been provided from federal \$226M and state \$41M sources. However, \$11M of loan principal has been forgiven; one-half of the loan interest received from municipal loans is deposited into a Non-Federal Administrative Account to pay staff salaries and provide various grants. At June 30, 2015 the CWSRF Program has a Net Financial Position of \$269 million.</p>	<p>The CWSRF program can be leveraged by issuing bonds to create more loan funds. However, loan demand must be able to support the need for leveraging.</p>	<p>New Castle County has not historically borrowed from the CWSRF Program on an annual basis. Therefore, the demand for CWSRF loans would significantly higher (~ \$10 million to \$15 million per year) if the County was a borrower.</p>	<p>Demand for CWSRF loans has been limited due to an unwillingness of communities to take on additional debt, and project affordability.</p>
<p>Environmental Finance Program (WIAC) Grants Program Wastewater, Surface Water, Community Water Quality, Asset Management</p>	<p>As noted above, a state funded grant incentive program is needed to help make CWSRF loans more affordable, and to provide needed grant assistance for project planning and design. In addition grant funds are needed as an incentive tool to facilitate long-term structural changes in areas such as:</p> <ol style="list-style-type: none"> 1. Removal of toxics identified through the Watershed Approach to Toxics Assessment and Restoration (WATAR) 2. Sustainability (asset management planning, and utility financial management), Energy Upgrades, Climate Adaptation 3. Establishment of Stormwater Utilities 4. Upgrade Failing/Under-performing HOA Systems, and Low-income/Under-Served Community Systems 	<p>State funded grant incentive program is needed to help make CWSRF loans more affordable, and to provide needed grant assistance for project planning and design. For programs such as WATAR, a grant program is needed due to no dedicated sources of funds for loan repayment. Incentive grants are needed to encourage communities to move forward with Sustainability and Stormwater Utility projects, and due to community size and project affordability HOAs and Low-income Communities will require grants and loans.</p>	<p>Limited loan principal forgiveness funds associated with CWSRF Federal capitalization grants.</p>	<p>~\$20M per year for a state grant/loan program</p>	<p>No dedicated source of loan repayment funds for WATAR projects, incentives are need to encourage communities to move forward with other projects associated with Sustainability and the establishment of Stormwater Utilities.</p>	

WATAR - Toxic Assessment, Remediation, Restoration / SIRS & WAS	current watershed health and identify chronic sources of legacy toxic contaminants by filling a critical gap between surface toxics and site remediation programs. WATAR prioritizes actions using innovative engineering and science to provide long-term solutions. Goal: fishable, swimmable, potable surface water in shortest time frame possible.	Creation of formal WHS/DWS partnership program (with HSCA's enforcement authority) to continue assessment of trends and implementation/coordination of priority remediation and restoration projects.	WATAR Program in 4th year of 5 Year Plan with allocated \$1m. No dedicated funding for implementation of Identified Priority Projects	Primarily, WATAR leverages efforts of two DNREC Sections (SIRS & WAS). Assessment data from Federal, State, county, and local partners provide best results, when possible. Remediation/restoration projects have leveraged efforts and funds to achieve multiple stakeholder goals.	Program - \$1M / Year for dedicated staff members and data collection costs to track trends. Priority Projects - up to \$10M/year for 5 years minimum to supplement remediation efforts.	No dedicated staff/Program funding beyond initial 5-Year Plan. Staff currently pulled from other assignments for WATAR related projects.
DNREC DWS/DW/DGS Water Quality Monitoring and Assessment Program	Statewide efforts to assess and monitor the state surface and ground waters through a variety of sampling and	Additional stream gage, well and monitoring stations and support for program and staffing	\$1.5 - 2.0 M	Some state TMDL funding leverages EPA monitoring money.	Additional \$1.5-2.0M in monitoring needs annually.	Long term - needs include deferred maintenance not reflected in the current
DNREC DOW Water Permitting Monitoring and Compliance						
Water Permitting and Core Service Programs	Includes the Water Supply, Surface Water Discharges, Groundwater Discharges, and Wetlands and Subaqueous Lands Sections	Additional funding to support core services and timely issuance of permits	\$6.1 M from a combination of General Funds, Federal Grants, Fees and non-Fed Admin support.	In 2015, the Division of Water core services programs received \$1.8 M in Federal Grants and \$512,000 in non-Fed Admin support.	\$1.2 M of additional annual funding	None Anticipated
Water Supply Section	Issues well and water allocation permits, issues licenses to well contractors, statewide drought management, ground water quality monitoring, wellhead and source water protection programs, and water withdrawal quantities in coordination with DRBC.					
Surface Water Discharges Section	Issues permits for industrial and municipal wastewater treatment systems that discharge to surface waters, industrial stormwater, NPDES, MS4, CAFO, aquatic pesticides, sludge management and licensing wastewater treatment facility operators.					
Ground Water Discharges Section	Issues permits for on-site wastewater (septic) systems, underground injection wells, spray irrigation, wastewater systems, waste transporter permits and licenses designers, percolation testers, site evaluators and system installers.					
Wetlands and Subaqueous Lands Section	Issues permits for activities that affect subaqueous lands, tidal wetlands and streams including docks and piers, marinas, roadways, bridges, utility crossings, dredging, shoreline stabilization, and beach replenishment.					

Environmental Laboratory Section	Operates a state-of-the-art, EPA- and FDA-certified environmental laboratory for the analysis of water, air, soil, sediments, hazardous materials and biological samples focused on water quality.	Funding to maintain and upgrade testing equipment	\$2.4 M from a combination of General Funds, Federal Grants, Fees and non-Fed Admin support.	In 2015, the Environmental Laboratory received \$72,000 in Federal Grants.	\$250,000 of additional annual funding.	None Anticipated
DNREC NPDES SWDS Operations and Permitting						
DNREC DWS/DW/DGS Water Quality Monitoring and Assessment Program	Statewide efforts to assess and monitor the state surface and ground waters through a variety of sampling and monitoring programs	Additional stream gage, well and monitoring stations and support for program and staffing	\$1.5 - 2.0 M	Some state TMDL funding leverages EPA monitoring money.	Additional \$1.5-2.0M in monitoring needs annually.	Long term - needs include deferred maintenance not reflected in the current estimates
Conservation Programs, NPS, Cost-share Practices, CREP in the Chesapeake, Inland Bays, St. Jones, Broadkill, Murderkill and Christina Watersheds. Includes some restoration and watershed management planning.	Conservation Program BMP's and program delivery for 6 priority watersheds throughout the State to meet the goals and pollutant load reductions in major watershed plans	Cost-share BMP's for Conservation Practices such as cover crops, buffers, manure and nutrient management, CREP and channel restoration practices	\$2.5M through a variety of state capital and Federal grant program sources of funding	Federal grant match and leverage of funding from EPA/USDA and USFW funding	\$6.5M of additional funding annually to meet the needs of the requirements in priority watershed plans and TMDL's	
Drainage/Flooding/Public Works						
Tax Ditch Program	Provide for TD technical assistance for 215 TD organizations statewide	Additional funding beyond the current cost-share funds provided by the operating budget	\$225,000	Yes. Required match by the county governments in statute	Additional \$225,000 with a required additional match by county governments	Some capacity issues with program delivery and local match
Drainage Assistance Program	Provide for the technical assistance necessary for planning, surveying, engineering and landowner work for drainage projects statewide	Additional funding for program	\$1.14 M from Capital Budget	Provides the upfront work for many of the 21st Century fund Projects. Alternate funding would relieve Capital budget funding	Additional \$300-400K for engineering and survey work.	None anticipated
21st Century Fund Drainage Improvement Projects	Provide for the construction of drainage and flood improvement projects throughout the State of Delaware	Additional funding for program	Intermittent Capital Budget funding	Yes. Funds for construction have mandatory 10% match and other legislative and local funds are utilized	Total \$3-5M/year	None anticipated
Flood Plain Studies / Mitigation	Conduct flood study, floodplain study and mitigation planning statewide	Continue to provide flood study and floodplain study modeling and engineering	None. FEMA funding is no longer dependable	Leverage with 21st Century Funds and Surfacewater Planning Grants	\$500K/year	None anticipated
Large Flood Abatement Projects \$500+	Conduct several multi-phased major flood study projects throughout the state of Delaware	Continue to engineering and construction funds for several large flood abatement projects statewide annually	No dedicated level of funding	21st Century Funds and possible Federal FEMA or ACOE funding	\$3M/year	Multi-year projects need phased funding

Minutes prepared by Caitlyn Gordon, Legislative Aide
 Minutes reviewed by Michelle Zdeb, Legislative Assistant & Task Force Staffer

Representative Michael Mulrooney, Co-Chair, asked how much in State dollars does Delaware spend on an annual basis.

Secretary David Small, Department of Natural Resources and Economic Control, answered that he would like to report back with a number, for a more accurate figure.

Representative Mulrooney also asked how much federal money Delaware is spending per year as opposed to how much money the State could actually spend to finish projects. He continued by stating that this is an important number to consider when deciding whether or not to raise taxes to fund projects.

Secretary Small answered that he would like to add in programs that Delaware has not done and report back with a number.

Senator Townsend responded by saying that these numbers require a lot of detail because of how complex each factor is. He added that, by the next meeting, the Task Force really needs an all-in number. However, members must be considerate to use the number appropriately. The Senator also asked if this number would include anything that DelDOT (Delaware Department of Transportation) spends with flood abatement issues.

Secretary Jennifer Cohan, Delaware Department of Transportation, answered no. She added that what Secretary Small presented is DNREC (Department of Natural Resources and Economic Control) specific programs. Additionally, she would also like to see a statewide number.

Senator Townsend agreed with Secretary Cohan's comments, and added that members have talked about a statewide all-in number. He added that the State deserves one and the Task Force should find a way to get there.

Senator Bryant Richardson asked what percentage of the overall spending make up salaries and benefits.

Secretary Small answered that 90% of the overall spending goes to salaries. With federal funds, the State has more flexibility and the State uses about 50%-60% of federal funds for salaries. Secretary Small added that the percentages of salaries are for the operating salaries.

Senator Richardson stated that a couple of newspapers have printed press releases reporting that DNREC had recently completed its billionth survey of the environment. The Senator wanted to know how much of this money is spent on monitoring.

Secretary Small asked to clarify whether Senator Richardson was referring to federal funds or any funding?

Senator Richardson clarified that he was referring to State funds.

Secretary Small answered that he did not have a number at that moment. He continued by saying they could combine everything from an operational assessment and infrastructure to help categorize the different sections. Next, he mentioned getting the numbers, including from DelDOT, which would be related to storm water and drainage. Additionally, he could include Public Health and Health and Social Services numbers, which would incorporate drinking water. He admitted that he does not have that

information for this specific Task Force meeting but he would get back to members during the next meeting with some numbers.

Secretary Cohan added that the strategy Secretary Small noted is very important because if there are funding levels DelDOT could leverage transportation dollars to do more.

Secretary Small replied that is often the case. He continued stating that DNREC is able to leverage drainage dollars too because all advanced systems are connected, private and public, in many ways so this strategy has been very effective.

Senator Townsend reminded Task Force members to speak up so the microphone could pick up what they said.

Joseph Corrado, Delaware Contractors Association, wanted to clarify something about Secretary Small's presentation. He stated that the Task Force is looking at statewide needs for infrastructure and operational costs that DNREC undertakes to run various enterprises. Mr. Corrado reiterated that the Task Force is actually looking at two numbers. The statewide infrastructure cost is something related to the studies that the Task Force has done on wastewater and surface water. Mr. Corrado added that he was not sure of the numbers up to date, but he knew what the previous numbers were.

Jeffery Bross, Water Infrastructure Advisory Council, responded that the numbers are not due to be updated and are still fairly current. He admitted that the numbers may have grown a little since they conducted the last study, but right now there is not a need for a new study.

Mr. Corrado stated that if the Task Force is looking for a combination of those two numbers, then that is what needs to be done.

Senator Townsend replied that the combination of the all-in number contains a lot of complexities. Moreover, members should be able to provide the all-in number and exactly what it means.

Mr. Bross wanted to follow up on what Mr. Corrado said. He stated that a lot of those who have been responsible for coordinating the all-in number have been very sensitive to not overstate the number. He added that based on a lot of historic studies that have been done, the numbers tend to get very big. He continued saying that individuals in the Department and on the Water Infrastructure Advisory Council (WIAC) have worked together to add reality to the number. Mr. Bross referenced one of Representative Mulrooney's questions about capacity: if the State has unlimited dollars, what Delaware could realistically spend. He mentioned their best year on WIAC, during a time of dealing with only wastewater and storm water money; they were able to put out more than 90 billion dollars worth of projects. Mr. Bross stated that if the State has that all-in number, then they would have the capacity to deliver this number as long as the funds were made available. Mr. Bross added to Secretary Small's point by saying that if Delaware had dedicated funding for water projects, it would free up money for transportation projects or relieve some of the burden on the general funds.

Senator Townsend agreed that it would be best to make sure there is money devoted to the projects Delaware needs. The Senator asked if the all-in number would address situations off of what could hypothetically happen or, if decisions will be based off of what the State needs to do. Senator Townsend also asked if the number is going to be framed around a combination of those two strategies.

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Mr. Bross answered that framing the all-in number would consist of a combination. He noted that they will rely heavily on retrospect because they have a history of what the State has spent, a fairly detailed needs analysis on the wastewater and storm water side, and a fairly detailed idea of the drinking water side.

Heather Warren, member of the public representing Thom May, DHSS, stated that they just did a survey on the State drinking water. She added that the small system, which does not include Wilmington, is 20 million dollars for the next 5 years.

Senator Townsend asked how much actually impacts utilities. He added that making sure all needs are being addressed ultimately impacts utilities. Senator Townsend asked if the State had projects being looked at across the board, how quickly this would impact what they see day to day.

Bruce Patrick, attending on behalf of Gerard Esposito, Delaware State Chamber of Commerce, replied that from Tidewater's perspective that they use SRF (State Revolving Fund) drinking water program. He added that they do not do this every year. Mr. Patrick stated that they are addressing some regulatory matters right now. But as far as volume goes, they cycle through the program once every couple of years and the program ultimately helps the end user.

Mr. Bross responded by saying those projects usually get into the ground within 6 months to 24 months. When money goes into the stream, there are continuous projects and it is pretty difficult to differentiate which dollar went to what project. He added that this is a very quick amount of time to be an implementable project.

Mr. Patrick added that the loan they are pursuing is almost ready to go to construction; the projects are almost shovel ready. He continued saying that there is a pretty definitive time frame and a need for the projects. Mr. Patrick noted that if there is a reason why Tidewater cannot get money for the program, they will figure out a way to get funding for it.

Senator Townsend added that as the Task Force gets towards the report, keep in mind that the legislature needs to understand how everything fits together and how it would impact them. Senator Townsend reiterated that he wants the Task Force to be prepped for this.

David Spacht, attending on behalf of Diane Taylor, Artesian Water, mentioned that Artesian has not accessed those funds in a few years. However, they were one of the heavier users years back. He continues saying that for most of the private projects, there is a requirement that if they haven't used the fund for 2-3 years, the fund will roll back for other people to use. He added that when Artesian has been ready to go, and their project has been prioritized appropriately, they have been able to jump into the project. Mr. Spacht stated that he cannot pinpoint whether the rest of the money has always been used that way. Other entities may have not been able to use the money immediately.

Secretary Small added that on the drinking water side, these programs have not been synonymous. It is true now that there is eligibility available to the private sector on the storm water and the clean water side, which has not been there historically. Secretary Small added that this has been a result of an act of Congress two years ago which made that change for the programs DNREC administers. He added that it is hard for them to predict what that need might be in the private sector that could find eligibility in a loan

from the Department through the Council mostly for wastewater. Secretary Small added that they cannot predict that, the number that DNREC gives will not include that universal potential.

Senator Townsend replied that as the Task Force gets to that, they will see how they can frame that.

Mr. Spacht added that on the private side, wastewater has been available. He stated that he understands most of the money is to rebuild significant problems with infrastructure. Mr. Spacht continued by saying that today, private utilities haven't played in that market to a large extent. For the most part, their facilities are brand new and constructed to meet current needs. He continued by saying that rebuilding facilities has been left to municipals and other governmental agencies. Mr. Spacht added that from the private side, unless they purchase or acquire a municipal or a government system, their need for the wastewater fund is limited.

Senator Townsend asked if a targeted significant investment in necessary water projects in Delaware is not something that is immediately going to translate to savings from Artesian costumers in terms of what costs Artesian incurs delivering water to them.

Mr. Patrick answered that for the most part, the private utility systems are new. Mr. Patrick added that this is not always the case; there is a private utility system that is 55-60 years old which is in need of upgrades. However, he added that they have a 5 year capital program where they will project what their pay is for the next 5 years. He continued by stating how this will translate for the end user, a lot of municipals get combination grants and combination loans but this has not been done for the private sector to date. He added that in terms of a grant, it is 100% for the customer and a loan would help the end user.

Representative Ronald Gray asked if rates would reflect that.

Mr. Patrick answered yes.

Patty Cannon, Delaware Economic Development Office, asked if United Water was represented. She also added that their pipes are about 100 years old because they run through the railroad.

Ed Hallock, member of the public, Division of Public Health, added that for the drinking water State Revolving Fund, eligible projects are for replacing aging infrastructure, and/or regular treatments to meet regulatory requirements. He stated that the revolving fund cannot pay for growth. So, a new water line that goes to a potential new housing development or an industrial park could not be funded by the Department.

Mr. Bross added that what Mr. Hallock mentioned about the revolving fund for drinking water, is the same for wastewater. Mr. Bross added that anecdotal information is helpful but drinking water actually has a study and the numbers are pretty good projections of need. He noted that there are projects that come off because of circumstances and projects that come on because of emergencies. The Council deals with emergency projects where there is wastewater flowing into a water body and nobody had anticipated, the Council tries to deal with those projects as well. Mr. Bross added that it is safe to say when the money is appropriated it gets spent really quickly and has varying levels of impact on the citizens of Delaware. Every state legislator could point at flooding and drainage problems in their district that need to be addressed. If that money were available, it would immediately go out and those projects could be

addressed across the spectrum of water. For example, these projects would include: conservation, waste water, storm water, and drinking water.

Representative Mulrooney responded that maybe the State would be better off if they keep the legislators out of the funding process by letting the Departments handle it.

Mr. Bross added that he thinks the legislators, out of necessity, play a role because they are the constituent link. He continued saying that they have talked about incorporating something like CTF (Community Transportation Fund) money. Additionally, he noted that the Council and the Department have done a good job of taking the little funding that the State has, and prioritizing it. Mr. Bross added that if the State had a little more money, he could see more reconstitution of legislators being able to nominate projects in their district. Then, the Council could look at it and distribute the 6 million dollars they are able to spend in that year.

Representative Mulrooney added that DeIDOT, DNREC, DHSS (Department of Health and Social Services) all handle water issues. The Representative then asked Ms. Cannon if DEDO (Delaware Economic Development Office) considers water infrastructure when they give economic development grants.

Ms. Cannon answered that the only time DEDO has given a grant to water infrastructure is when they had water infrastructure funding set aside, which only happened one year. She continued by saying that generally when an issue comes up on a project DEDO is trying to create jobs with, they would contact DNREC or DeIDOT and ask them how DEDO can help with their current programs. However, Ms. Cannon added that DEDO cannot use their Strategic Fund on water infrastructure.

Secretary Small added that the Department of Agriculture has been front and center when it comes to nutrient management and manure relocation. Therefore, the Department has a budget devoted to those issues, and DNREC was able to share funds with them through some of DNREC's programs to compliment some of the funding they receive.

Representative Mulrooney asked if the council has ever discussed combining one source, instead of each Department handling their own problems.

Secretary Small replied that the draft legislation, which meeting members received in their folders, contemplates Representative Mulrooney's point to some sort. He added that keeping legislators out of 21st century funds has happened already to some extent. There was a conversation with the Bond Bill Committee about 3 years ago where the committee proposed epilogue language that would allow money to go into the 21st century fund, and fall into a bucket to fund different projects, this way projects were implemented. Secretary Small continued by saying that at the time there was no money working this way, and they asked for language and flexibility to work with the Council to develop this criteria.

Representative Mulrooney replied that with the current environment, the State needs something different to get results.

Senator Townsend stated that this is the biggest segue in the history of segues. Senator Townsend then transitioned the meeting to the draft legislation. He added that the Task Force has gone over the underlying issues and programs that already exist. Additionally, this draft legislation is meant to mark a Minutes prepared by Caitlyn Gordon, Legislative Aide
Minutes reviewed by Michelle Zdeb, Legislative Assistant & Task Force Staffer

starting point in terms of what was discussed at the last meeting. He asked members to think about what the Task Force should do to address the fact that there are impaired waterways, and standards that the State is not meeting. Senator Townsend also asked members to think about the next steps.

Please see the draft legislation Task Force members received below:



SPONSOR: Rep. Mulrooney & Sen. Townsend

HOUSE OF REPRESENTATIVES
148th GENERAL ASSEMBLY

HOUSE BILL NO.

AN ACT TO AMEND TITLES 29, 7, AND 30 OF THE DELAWARE CODE RELATING TO THE CLEAN WATER ACT FOR DELAWARE ACT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Three-fifths of all members elected to each house thereof concurring therein):

- 1 Section 1. Amend Title 29, Chapter 80 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:
- 3 Subchapter III. Clean Water for Delaware Act
- 4 § 8070. Short title.
- 5 This Act shall be known and may be cited as the "Clean Water for Delaware Act."
- 6 § 8071. Legislative findings.
- 7 (a) The General Assembly finds that:
- 8 (1) The State of Delaware has a compelling interest in ensuring that all Delawareans have access to clean
9 water.
- 10 (2) As of the date of this Act:
- 11 a. Most of Delaware's waters do not meet water quality standards for their designated uses, such
12 as drinking, swimming, and supporting fish and other aquatic life.
- 13 b. Delaware's list of impaired waters includes 377 bodies of water that suffer from excess
14 nutrients, low dissolved oxygen, toxics, and bacteria.
- 15 c. Extensive analysis of chemical contaminants in fish has led to advisories that fish are unsafe
16 to eat in more than 30 waterways statewide.
- 17 (3) Although certain federal grants are available to local governments through the Safe Drinking Water
18 Act, the Clean Water Act and other programs, federal funding is insufficient to meet the State's demands, and
19 existing State resources are inadequate to meet current and future needs.
- 20 (4) It is fitting and proper for the State to encourage local governments to undertake clean water projects
21 by establishing state mechanisms to finance such projects at the lowest reasonable costs.

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22 (5) It is fitting and proper for the State to more effectively leverage and maximize the impact of all
 23 public, private, and philanthropic resources available for achieving clean water standards in all Delaware
 24 waterways.

25 (b) The General Assembly therefore determines that it is in the public interest to establish the Clean Water for
 26 Delaware Trust Fund to maximize and coordinate the management of resources available to the State for drinking water,
 27 wastewater, stormwater, non-point source pollution reduction, toxics removal, ecological restoration, and other eligible
 28 projects to be funded from the following sources:

29 (1) A Clean Water for Delaware Fee as established pursuant to § 8075 of this subchapter, which shall be
 30 considered a component of the local property tax.

31 (2) Grants from the U.S. Environmental Protection Agency ("EPA") under the Clean Water Act and the
 32 Safe Drinking Water Act, together with any matching state funds, or funds received from any other federal agency.

33 (3) Moneys received as repayments of principal and interest on loans, interest received on invested funds
 34 and other funding made available to the Delaware Water Pollution Control Revolving Loan Fund established
 35 pursuant to 29 Del. C. § 8003(12), or the Drinking Water Revolving Loan Fund established pursuant to 29 Del. C.
 36 § 7903(15).

37 (4) Funds from the Hazardous Substance Cleanup Fund for remediation projects related to water quality
 38 improvements pursuant to 7 Del C. §§ 9113 et seq. or the Land and Water Conservation Trust pursuant to 30 Del.
 39 C. §§ 5423 et seq.

40 (5) Moneys received from other sources for the purposes directed by this subchapter.

41 § 8072. Definitions.

42 For purposes of this subchapter, the following terms shall have the following meanings:

43 (1) "Applicant" means a person who submits an application to the Department to receive funds from the Fee
 44 Account.

45 (2) "Clean Water Act" means the federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq., as the same may
 46 be amended from time to time.

47 (3) "Clean Water Fee" means the Clean Water for Delaware Fee established pursuant to § 8075 of this subchapter.

48 (4) "Clean Water Fee Account" means the account established under § 8075 of this subchapter and into which the
 49 Clean Water Fee shall be deposited.

50 (5) "Water Pollution Control Fund" means the Delaware Water Pollution Control Revolving Fund established
 51 under § 8003 of this title.

52 (6) "Clean Water Revenue Bonds" or "Bonds" mean any revenue bonds, notes, or other obligations issued by the
 53 Trust pursuant to § 8077 of this subchapter, repayment of which is secured and repaid as provided therein.

54 (7) "Conservation Project" means a waterway or land conservation, a habitat or stream restoration, or a
 55 recreational infrastructure project as permitted by § 5423 of Title 30 or § 6102A of this title; provided however, that no
 56 regional infrastructure project hereunder shall be deemed to be a conservation project unless it is related to the provision,
 57 preservation, or maintenance of clean water or water quality.

58 (8) "Cost" means the cost of all labor, materials, machinery and equipment, lands, property, rights and easements,
 59 financing charges, interest on bonds, plans and specifications, surveys or estimates of costs and revenues, engineering and
 60 legal services, and all other expenses necessary or incident to all or part of a project.

61 (9) "DHSS" means the Department of Health and Social Services.

62 (10) "DNREC" or "Department" means the Department of Natural Resources and Environmental Control.

63 (11) "Drinking Water Fund" means the Delaware Safe Drinking Water Revolving Fund established pursuant to 29
 64 Del. C. § 7903(14).

65 (12) "EPA Eligible Project" means any project permitted to be funded under the Safe Drinking Water Act and
 66 Clean Water Act.

67 (13) "Funds" mean, collectively, the Clean Water Fee Account, the Drinking Water Fund, the Water Pollution
 68 Control Fund, the Delaware Land and Water Conservation Trust Fund, and the Hazardous Substance Cleanup Fund.

69 (14) "Issuing officers" means the Governor, Secretary of State, State Treasurer, and Secretary of Finance.

70 (15) "Local government unit" means a State authority, county, city, town, or any other political subdivision of the
 71 State authorized to undertake any of the following:

72 a. Operation and maintenance of wastewater treatment systems.

73 b. Operation and maintenance of a public water supply system.

74 c. Construction, rehabilitation, operation or maintenance of water supply facilities.

75 d. Other provision of water for human consumption.

76 (16) "Project" means the acquisition, construction, installation, modification, renovation, repair, extension,
 77 renewal, replacement, or rehabilitation of land, interest in land, buildings, structures, facilities, other improvements or
 78 administration of such activity and the acquisition, installation, modification, renovation, repair, extension, renewal,
 79 replacement, rehabilitation or furnishing of fixtures, machinery, equipment, furniture, or other property of any nature
 80 whatsoever used on, in, or in connection with an such land, interest in land, building, structure, facility, or other
 81 improvement all for the purpose of or relating to the provision, preservation, or maintenance of clean water or water
 82 quality. "Project" shall include any project described in § 8076(a) of this subchapter.

83 (17) "Public water utility" means any investor-owned water company or small water company.

84 (18) "Secretary" means the Secretary of the Department of Natural Resources and Environmental Control.

85 (19) "Safe Drinking Water Act" means the federal Safe Drinking Water Act, 42 U.S.C. 300f et seq., as the same
86 may be amended from time to time.

87 (20) "Small water company" means any company, purveyor, or entity, other than a governmental agency, that
88 provides water for human consumption and which regularly serves less than 1,000 customer connections. This term
89 includes nonprofit, non-community water systems owned or operated by a nonprofit group or organization.

90 (21) "Stormwater management system" means any equipment, plants, structures, machinery, apparatus
91 management practices, or land, or any combination thereof, acquired, used, constructed, implemented or operated to
92 prevent nonpoint source pollution, abate improper cross-connections and interconnections between stormwater and sewer
93 systems, minimize stormwater runoff, reduce soil erosion, or induce groundwater recharge, or any combination thereof.

94 (22) "Trust" means the Clean Water for Delaware Trust Fund authorized pursuant to this subchapter.

95 (23) "Trust Board" or "Board" means the board of directors of the Trust established pursuant to § 8073 of this
96 subchapter.

97 (24) "Wastewater" means residential, commercial, industrial, or agricultural liquid waste, sewage, seepage,
98 stormwater runoff, or any combination thereof, or other liquid residue discharged or collected into a sewer system or
99 stormwater management system, or any combination thereof.

100 (25) "Wastewater treatment system" means any equipment, plants, structures, machinery, apparatus, land, or any
101 combination thereof, acquired, used, constructed, or operated by or on behalf of a local government unit for the storage,
102 collection, reduction, recycling, reclamation, disposal, separation, or other treatment of wastewater or sewage sludge, or for
103 the collection or treatment, or both, of stormwater runoff and wastewater, or for the final disposal of residues resulting from
104 the treatment of wastewater, including pumping and ventilating stations, treatment plants and works, connections, outfall
105 sewers, interceptors, trunk lines, stormwater management systems, and other personal property and appurtenances
106 necessary for their use or operation. "Wastewater treatment system" shall include a stormwater management system or a
107 combined sewer system.

108 (26) "Wastewater treatment system project" means any work relating to the acquisition, construction,
109 improvement, repair or reconstruction of all or part of any structure, facility, or equipment or real or personal property
110 necessary for, or ancillary to, any wastewater treatment system; or any work relating to any of the stormwater management
111 or combined sewer overflow abatement projects identified in the stormwater management and combined sewer overflow
112 abatement project priority list or any work relating to any other project eligible for financing under applicable law.

113 (27) "Water supply facilities" means the real property and the plants, structures, interconnections between existing
114 water supply facilities, machinery and equipment and other property real, personal and mixed, acquired, constructed, or
115 operated or to be acquired, constructed, or operated, in whole or in part, by or on behalf of a public water utility or small
116 water company, or by on the behalf of the State or local government unit for the purpose of augmenting the natural water

117 resources of the State and making available an increased supply of water for all uses, or of conserving existing water
 118 resources, and any and all appurtenances necessary, useful, or convenient for the collecting, impounding, storing,
 119 improving, treating, filtering, conserving, or transmitting of water, and for the preservation and protection of these
 120 resources and facilities, whether in public or private ownership, and providing for the conservation and development of
 121 future water supply resources, and facilitating incidental recreational uses thereof.

122 (28) "Water supply project" means any work relating to the acquisition, construction, improvement, repair or
 123 reconstruction of all or part of any structure, facility or equipment, or real or personal property necessary for or ancillary to
 124 water supply, or any work relating to the purposes set forth in Section 8076 of this subchapter, or any work relating to any
 125 other EPA Eligible Project for funding pursuant to the Safe Drinking Water Act.

126 § 8073. Establishment of Clean Water for Delaware Trust Fund and Board; members; compensation; designees;
 127 dissolution.

128 (a) There shall be established within the Department of Natural Resources and Environmental Control of the State
 129 a body corporate and politic, with corporate succession, to be known as the "Clean Water for Delaware Trust Fund." Said
 130 Trust shall be constituted as an instrumentality of the State exercising public and essential governmental functions, no part
 131 of whose revenues shall accrue to the benefit of any individual, and the exercise by the Trust of the powers conferred by the
 132 provisions set forth herein, shall be deemed and held to be an essential governmental function of the State. The Trust shall
 133 be a membership corporation with the Department as the sole member and shall have a certificate of incorporation and by-
 134 laws consistent with the provisions of this subchapter. The Secretary of the Department is hereby authorized to file a
 135 certificate of incorporation with the Secretary of State pursuant to Chapter 1, Title 8 of the Delaware Code. The certificate
 136 of incorporation of the Trust shall provide for the approval of the Delaware General Assembly in order to amend the
 137 certificate of incorporation or to effect a merger or dissolution of the Trust.

138 (b) The Trust shall be administered by a nine-member Board of Directors comprised of the following members:

139 (1) The Secretaries of the Departments of Finance, Natural Resources and Environmental Control, Health
 140 and Social Services, and Agriculture, each of whom shall serve as ex officio members.

141 (2) One person appointed by the President Pro Tempore of the Senate who shall possess financial or
 142 investment expertise.

143 (3) One person appointed by the Speaker of the House who shall possess financial or investment
 144 expertise.

145 (4) One person appointed by the county executive or county administrator of each county in the State of
 146 Delaware for a total of 3 county members.

147 (c) The member initially appointed by the President Pro Tempore of the Senate and the member initially appointed
 148 to represent Kent County shall serve for a term of two years, so as to stagger the tenure of Board members. All other initial

149 members and all subsequently appointed members shall serve a term of four years. Each appointed member shall serve
150 until his successor has been appointed and qualified. A director is eligible for reappointment up to a maximum of three
151 terms. Any vacancy shall be filled in the same manner as the original appointment, but for the unexpired term only.

152 (d) The Secretary of the Department of Natural Resources and Environmental Control shall serve as the chair of
153 the Board and the members shall biannually elect a vice-chair from the Board membership.

154 (e) Five directors shall constitute a quorum at any meeting. Action may be taken and motions and resolutions
155 adopted by the Board by the affirmative majority vote of those directors present but in no event shall any action be taken or
156 motions or resolutions adopted without the affirmative vote of at least five members.

157 (f) Each ex officio member may appoint an officer of his or her department to represent him or her in actions
158 related to the Trust, and such appointee may lawfully act on behalf of the member for whom he or she is appointed. Notice
159 of the appointment shall be delivered in writing to the Board by the appointing member and shall continue in effect until
160 revoked or amended in writing by such member and delivered to the Board.

161 (g) No resolution or other action of the Board providing for the issuance of bonds, including refunding bonds, shall
162 be adopted or otherwise made effective by the Board without the prior approval in writing of the issuing officers and the
163 prior authorization of the General Assembly.

164 (h) Members of the Board, other than ex officio members, shall serve without compensation except that they shall
165 be reimbursed for reasonable and necessary expenses incidental to their duties as members of the Board.

166 § 8074. Powers of the Trust related to Clean Water for Delaware Projects.

167 (a) The Trust shall be responsible for oversight of the financial assets of the Funds to maximize, and coordinate the
168 management of, the resources available for projects.

169 (b) The Trust shall receive recommendations from the Water Infrastructure Advisory Council and issue loans and
170 grants in consideration of the common platform developed by the Council for soliciting, prioritizing, determining
171 creditworthiness, closing, and managing loans and grants in accordance with EPA policy.

172 (c) The Trust shall be permitted to transfer funds available for loans between the Drinking Water and the Clean
173 Water programs based on demand and contingent on the requirements of the EPA and others and providing that such
174 transfers are identified in the Intended Use Plan for each revolving loan fund.

175 (d) At such time as the Trust determines that demand for funding for projects exceeds all available resources, the
176 Trust is authorized to issue bonds, notes, and other obligations as set forth in § 8077 of this subchapter, including the prior
177 enactment of an Authorization Act authorizing the issuance of such Bonds.

178 (e) The Trust shall develop the framework required to maximize private and philanthropic resources pursuant to
179 the requirements set forth in this subchapter, determine program structure, obtain and maintain credit ratings, maintain and

180 manage cash and investment accounts including those necessary for debt service or private financing repayment, coordinate
 181 bond and financing closings, disburse proceeds, and maintain compliance with regulatory requirements.

182 (f) The Trust shall provide an annual report to the General Assembly Joint Committee on Capital Improvement
 183 and the Natural Resources Committee of both the House of Representatives and the Senate on accounting of revenues,
 184 expenditures, and cash management, five year project priority lists, and progress toward achieving the State's water quality
 185 goals. The annual report shall be delivered publicly to the aforementioned committees by the Secretary of the Department
 186 and made available for public review.

187 § 8075. Establishment of Clean Water for Delaware Fee.

188 (a) The Clean Water for Delaware Fee is hereby established to provide sustainable financial resources for
 189 undertaking activities designed to enhance the quality of the waters of the State. The Clean Water Fee shall be assessed,
 190 collected and administered, and handled as set forth in this section. Once due, Clean Water Fees shall constitute a lien
 191 against the tax parcel for which they are assessed until paid.

192 (b) Calculation of Clean Water Fee.

193 (1) For all single family residential tax parcels, including but not limited to single family homes,
 194 duplexes, townhouses, condominium units, and other tax parcels which consist of one single family residential
 195 unit, the Clean Water Fee shall be calculated as follows:

196 a. Sussex County properties: \$0.2071 per \$100 of assessed value (1974 assessments), from a
 197 minimum of \$45 per year to a maximum of \$85 per year.

198 b. Kent County properties: \$0.1093 per \$100 of assessed value (1987 assessments), from a
 199 minimum of \$45 per year to a maximum of \$85 per year.

200 c. New Castle County properties: \$0.1195 per \$100 of assessed value (1983 assessment), from a
 201 minimum of \$45 per year to a maximum of \$85 per year.

202 (2) For all farm land tax parcels which are assessed for the payment of property taxes, the annual Clean
 203 Water Fee shall be calculated as follows:

204 a. Sussex County properties: 50% of \$0.2071 per \$100 of assessed value, up to a maximum of
 205 \$15,000 per owner of record.

206 b. Kent County properties: 50% of \$0.1093 per \$100 of assessed value, up to a maximum of
 207 \$15,000 per owner of record.

208 c. New Castle County properties: 50% of \$0.1195 per \$100 of assessed value, up to a maximum
 209 of \$15,000 per owner of record.

210 (3) For all tax parcels currently exempt from property taxes such as non-profits, government and
 211 municipal buildings, the annual Clean Water Fee shall be calculated as follows:

212 a. Sussex County properties: 50% percent of \$0.2071 per \$100 of assessed value (1974
 213 assessments), up to a maximum of \$12,500 per owner of record.

214 b. Kent County properties: 50% percent of \$0.1093 per \$100 of assessed value (1987
 215 assessments) up to a maximum of \$12,500 per owner of record.

216 c. New Castle County properties: 50% percent of \$0.1195 per \$100 of assessed value (1983
 217 assessment) up to a maximum of \$12,500 per owner of record.

218 (4) For all tax parcels not covered by paragraphs (1), (2), or (3) of this section, including all commercial
 219 parcels, industrial parcels, and parcels consisting of multiple residential units, including apartment buildings and
 220 complexes, the annual Clean Water Fee shall be calculated as follows:

221 a. Sussex County properties: \$0.2071 per \$100 of assessed value (1974 assessments), up to a
 222 maximum of \$25,000 per owner of record.

223 b. Kent County properties: \$.1093 per \$100 of assessed value (1987 assessments up to a
 224 maximum of \$25,000 per owner of record.

225 c. New Castle County properties: \$.1195 per \$100 of assessed value (1983 assessment), from a
 226 minimum of \$45 per year to a maximum of \$25,000 per owner of record.

227 (5) Tax parcels which receive a discount or partial exemption shall receive a proportionally similar
 228 discount or partial exemption from the Clean Water Fee.

229 (6) Activities such as irrigation or other water quantity projects shall be exempt from the Clean Water
 230 Fee.

231 (7) The Clean Water Fee shall be reduced by 65% percent for tax parcels located within municipalities
 232 and within those unincorporated portions of a county that have created a local stormwater utility which assesses at
 233 least \$50.

234 (8) Beginning July 1, 2017, the Clean Water Fee payable by residential properties and units and the
 235 maximum Clean Water Fee otherwise paid pursuant to this section, shall be increased on such date and every 10
 236 years thereafter by the increase in the Consumer Price Index for All Urban Consumers (CPI-U) for Philadelphia-
 237 Wilmington-Atlantic City as prepared by the Bureau of Labor Statistics, U.S. Department of Labor over the
 238 preceding 10 calendar years. If the foregoing CPI-U becomes unavailable or is no longer calculated, then the
 239 General Assembly shall determine the increase and new fee schedule.

240 (c) Collection of Clean Water Fee.

241 (1) The receiver of taxes and county treasurer shall collect the Clean Water Fee for each tax parcel in the
 242 same manner and at the same time as taxes for other purposes, including the collection of school taxes as provided
 243 by 14 Del. C. § 1917. Except as otherwise provided in this section there shall be no abatement or discount of the

244 Clean Water Fee unless the counties institute a rebate program to encourage best management practices for those
245 entities paying the Clean Water Fee.

246 (2) Penalties and late fees shall be assessed against late payments of Clean Water Fees in the same
247 manner as penalties and late fees are assessed against late payments of school taxes under § 1917 of Title 14.

248 (3) All fees so collected shall be paid to the Secretary and shall be deposited in the Clean Water Fee
249 Account.

250 (d) Clean Water Fee Account.

251 (1) At least 65% percent of revenues generated by the Clean Water Fee shall be allocated to the Trust and
252 shall be further allocated for projects in the county of origin as averaged over a 5 year period.

253 (2) At least 10% percent of revenues generated by the Clean Water Fee shall be allocated to each county
254 to administer the Clean Water Fee and meet their own water quality requirements.

255 (3) The Secretary will manage and administer the Clean Water Fee Account for the exclusive purpose of
256 funding specific, sustainable activities designed to enhance the State's water quality in coordination with the Trust
257 and the Water Infrastructure Advisory Council. The Clean Water Fee Account may be expended for the purposes
258 of this subchapter including but not limited to providing low-interest loans, grants, leveraged financing, and other
259 incentives to implement Projects, including those designated to reduce toxics, pollution, nutrient loads, and
260 bacteria impacts in the surface and ground waters of Delaware.

261 (4) The Clean Water Fee Account shall constitute a Special Fund of the State.

262 (5) An amount not exceeding 5% of the funds deposited in the Clean Water Fee Account may be used to
263 pay the costs of administering this Act.

264 § 8076. Clean water loans or grants issued by the Trust.

265 (a) The Trust may make and contract to make loans or grants to state agencies, local government units, non-profit
266 entities, private entities, or private persons that are legally authorized to borrow or receive funding to finance the costs of
267 any project. Project applications must include details on how infrastructure, preservation, and conservation practices will be
268 sustained and maintained and reduce the level of pollution going into Delaware's waterways. The projects eligible for loans
269 or grants shall include the following:

270 (1) Upgrades to wastewater treatment systems, including connecting properties with septic systems,
271 seepage pits, failing community systems to central sewer systems or repairing or replacing failing or at-risk
272 individual, community or homeowner association-owned systems.

273 (2) Wastewater treatment system projects.

274 (2) Upgrades to drinking water treatment systems, including source water protection or other water
275 supply projects.

276 (3) Stormwater management and resiliency projects that both reduce flooding risks and improve water
 277 quality.

278 (4) Projects that eliminate, reduce, or sequester toxics in waterways or adjacent soils as identified in the
 279 Watershed Approach to Toxics Assessment and Restoration work plan.

280 (5) Agricultural natural resource conservation cost-share programs developed with the Department of
 281 Agriculture and Conservation Districts, including but not limited to cover crops, forested and grass buffers,
 282 manure relocation, tax ditch restoration, and other best management practices that are consistent with and
 283 implement nutrient management plans.

284 (6) Conservation Projects, including but not limited to protection and ecological restoration of wetlands,
 285 forests, stream restoration, and habitat conservation.

286 (7) EPA Eligible Projects.

287 (8) Hazardous waste cleanup projects related to the provision, preservation, or maintenance of clean
 288 water or water quality.

289 (b) Preference shall be given to projects that do one of the following:

290 (1) Utilize and enhance natural infrastructure to provide ecological benefits that both improve water
 291 quality and improve community resilience to extreme weather, sea-level rise, and other climate impacts.

292 (2) Benefit low-income and traditionally underserved communities through lower interest rates and
 293 affordability grants.

294 (c) The loans or grants made pursuant to this section shall be made subject to such terms and conditions as the
 295 Trust shall determine to be consistent with the purposes hereof. Each loan by the Trust and the terms and conditions thereof
 296 shall be informed by the recommendation of the Water Infrastructure Advisory Council concerning funding and the 6-year
 297 water supply and wastewater infrastructure plan pursuant to §8011(e) of Title 29.

298 (d) The Trust shall review information, statistical data, and reports of independent consultants or experts as it shall
 299 deem necessary in order to evaluate the requested loan or grant. Each loan to a local government unit, public water utility,
 300 or any other person shall be evidenced by notes, bonds, or other obligations issued to the Trust. In the case of each local
 301 government unit, notes and bonds to be issued to the Trust by the local government unit shall be authorized and issued as
 302 provided by law for the issuance of notes and bonds by the local government unit. Each loan to a local government unit,
 303 public water utility, or any other person and the notes, bonds, or other obligations thereby issued shall bear interest at such
 304 rate per annum as the Trust and the applicant may agree.

305 § 8077. Clean Water Revenue Bonds; refunding bonds; security for obligations.

306 (a) Except as otherwise expressly provided herein, the Trust may from time to time issue Clean Water Revenue
 307 Bonds in any principal amounts, subject to this subchapter, as in the judgment of the Trust shall be necessary to provide

308 sufficient funds for any of its corporate purposes, including the funding of loans made for any project, the establishment or
309 increase of reserves or other funds to secure or to pay the Clean Water Revenue Bonds, as the case may be, or interest
310 thereon, and all other costs or expenses of the Trust incident to and necessary to carry out its corporate purposes and
311 powers. Such Clean Water Revenue Bonds may only be issued in the amounts as shall be approved by an Authorization Act
312 of the General Assembly.

313 (b) Clean Water Revenue Bonds of the Trust shall be negotiable instruments and securities under the Uniform
314 Commercial Code of the State.

315 (c) Clean Water Revenue Bonds of the Trust shall be authorized by a resolution of the Trust and may be issued in
316 one or more series and shall bear such date, mature at such time, bear interest at such rate, be in such denominations, be of a
317 single denomination payable in installments, be in such form, either registered or book-entry, carry such conversion or
318 registration privileges, have such rank or priority, be executed in such manner, be payable in any coin or currency of the
319 United States which at the time of payment is legal tender for the payment of public and private debts, at such place or
320 places within or without the State, and be subject to such terms of redemption by the Trust or the holders thereof, with or
321 without premium, as such resolution may provide. A resolution of the Trust authorizing the issuance of Clean Water
322 Revenue Bonds may provide that such Clean Water Revenue Bonds be secured by a trust indenture between the Trust and a
323 trustee, vesting in the trustee any property rights, powers and duties in trust as the Trust may determine.

324 (d) Prior to issuance of the Clear Water Revenue Bonds, the issuing officers shall approve the issuance of such
325 Clean Water Revenue Bonds by resolution adopted by the unanimous vote of the issuing officers. Each issuing officer may
326 designate a deputy to represent the issuing officer at meetings of the issuing officers with full powers to act and vote on the
327 issuing officer's behalf. Clean Water Revenue Bonds shall be issued for the purposes authorized by this subchapter. Clean
328 Water Revenue Bonds may be issued regardless of the treatment of interest thereon for federal income tax purposes.

329 (e) Following approval by the Board, the Clean Water Revenue Bonds shall be executed by the chair of the Trust
330 and shall not require additional consent of any department, division, board, bureau, or agency of the State and without any
331 other proceedings or the happening of any other conditions or things, other than those consents, proceedings, conditions, or
332 things which are specifically required by this section.

333 (f) Clean Water Revenue Bonds may be sold at any price and in any manner as the Trust may determine. Each
334 such Bond shall mature and be paid not later than 30 years from the effective date thereof. All Clean Water Revenue Bonds
335 may be sold at public or private negotiated sale for such price as the Trust shall determine. If sold at public sale, the
336 procedures applicable to the sale shall be set forth in the resolution.

337 (g) Clean Water Revenue Bonds issued hereunder shall not be general obligations of the State and shall not pledge
338 the full faith and credit of the State. Other than as provided in this subchapter, such Bonds shall not be considered as debt of
339 the State and shall not be treated as a tax supported obligation of the State as that term is defined in § 7422 of Title 29. All

340 Bonds, unless funded or refunded by Clean Water Revenue Bonds, shall be payable solely from revenues or funds pledged
 341 or available for their payment as authorized herein. Each Clean Water Revenue Bond shall contain on its face the
 342 statements to the effect that:

343 (1) The Trust is obligated to pay the principal thereof or the interest thereon only from its revenues,
 344 receipts or funds pledged or available for their payment.

345 (2) Neither the State nor any political subdivision thereof is obligated to pay the principal of, or interest
 346 on, such Clean Water Revenue Bonds.

347 (3) The faith and credit of the State, or any political subdivision thereof, is not pledged to the payment of
 348 the principal of or the interest on the Clean Water Revenue Bonds.

349 (4) The Trust has no taxing power other than collecting revenues, including the Clean Water Fee,
 350 delineated in this subchapter.

351 (h) All Clean Water Revenue Bonds issued pursuant to this section and the interest thereon shall be exempt from
 352 income taxation by the State or any political subdivision thereof.

353 (i)(1) The aggregate principal amount of Clean Water Revenue Bonds shall not exceed the amount
 354 approved from time to time by Acts of the General Assembly. Such limitation shall exclude all the Clean Water
 355 Revenue Bonds, which shall be issued for refunding purposes whenever the refunding shall be determined to result
 356 in a savings.

357 (2) The Trust may authorize the issuance of refunding bonds to refund, prior to their stated maturity, all
 358 or any portion of the outstanding Clean Water Revenue Bonds, issued by the Trust and costs incidental thereto;
 359 provided, however, that the present value of the aggregate principal and interest payments of the refunding bonds
 360 must be less than the present value of the aggregate principal and interest payments on the Clean Water Revenue
 361 Bonds to be refunded.

362 (3) Refunding bonds may be issued in a principal amount which exceeds the principal amount of the
 363 respective Clean Water Revenue Bonds to be refunded, so long as the present value of the aggregate principal and
 364 interest payments of the refunding bonds are less than the present value of the aggregate principal and interest
 365 payments on such Clean Water Revenue Bonds to be refunded.

366 (j) Each issue of Clean Water Revenue Bonds shall be issued as special obligations thereof payable out of
 367 particular revenues, receipts, or funds and may be secured by one or more of the following as set forth in the resolution:

368 (1) Pledge of revenues and other receipts to be derived from the payment of the interest on and principal
 369 of notes, bonds, or other obligations issued by state agencies, local government units, or private companies and
 370 held in the Water Pollution Control Fund or the Drinking Water Fund. Said notes, bonds, and obligations shall be
 371 designated and described in the Trust's resolution authorizing the issuance of the Bonds, and may only be pledged

372 if such issuance complies with all EPA requirements applicable to the Water Pollution Control Fund and the
 373 Drinking Water Fund. Subject to the foregoing, DNREC and DHSS are hereby authorized to assign and pledge
 374 such notes, bonds or other obligations as security for any Clean Water Revenue Bonds.

375 (2) Pledge of payments made pursuant to loans to be made by the Trust from the proceeds of the Clean
 376 Water Revenue Bonds or from amounts held in the Clean Water Fee Account, the Land and Water Conservation
 377 Trust Fund, and the Hazardous Substance Cleanup Fund.

378 (3) Pledge of the Clean Water Fee and all amounts held in the Clean Water Fee Account, the Land and
 379 Water Conservation Trust Fund, and the Hazardous Substance Cleanup Fund.

380 (4) Pledge of all moneys, funds, accounts, securities, and other funds held pursuant to a trust indenture
 381 securing the Clean Water Revenue Bonds, including the proceeds of the Clean Water Revenue Bonds.

382 § 8078. Agreement not to abridge Trust powers; preventing diversion of funds through securitization; pledges of
 383 future revenues.

384 (a) The State does pledge to and covenant and agree with the holders of any bonds of the Trust issued pursuant to
 385 the authorization of this subchapter that the State will not limit or alter the rights or powers vested in the Trust to perform
 386 and fulfill the terms of any agreement made with the holders of the bonds or to fix, establish, charge and collect any rents,
 387 fees, rates, payments or other charges as may be convenient or necessary to produce sufficient revenues to meet all
 388 expenses of the Trust and to fulfill the terms of any agreement made with the holders of Bonds, including the obligations to
 389 pay the principal of and interest and premium on those Bonds, with interest on any unpaid installments of interest, and all
 390 costs and expenses in connection with any action or proceedings by or on behalf of the holder and shall not limit or alter the
 391 rights and powers of any local government unit to pay and perform its obligations owed to the Trust in connection with
 392 loans received from the Trust, until the Bonds of the Trust, together with interest thereon, are fully met and discharged or
 393 provided for.

394 (b) Any pledge of revenues, receipts, moneys, funds or other property or instruments made by the Trust shall be
 395 valid and binding from the time when the pledge is made. The revenues, receipts, moneys, funds, loans, or other property so
 396 pledged and thereafter received by the Trust or by the Water Pollution Control Fund, the Drinking Water Fund, the Clean
 397 Water Fee Account, the Delaware Land and Water Conservation Trust Fund, or the Hazardous Substance Cleanup Fund
 398 shall immediately be subject to the lien of the pledge without any physical delivery thereof or further act and the lien of any
 399 pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the
 400 Trust, DNREC, DHSS, or any of the Funds, irrespective of whether the parties have notice thereof. Neither the resolution,
 401 trust indenture, nor any other instrument by which a pledge under this section is created need be filed or recorded, except in
 402 the records of the Trust.

403 (c) Any loan held in the Water Pollution Control Fund or Drinking Water Fund, and any loan made by the Trust
 404 pursuant to the powers set forth in this subchapter shall be subject to the terms of this subchapter and, if applicable, shall be
 405 identified as security for any series of Bonds in the resolution of the Trust adopted in connection with the issuance of such
 406 Bonds.

407 (d) The State pledges to the owners of all Clean Water Revenue Bonds that it will not reduce the amount of the
 408 Clean Water Fee imposed under Section § 8075 of this subchapter and will not expand any exemptions or discounts from
 409 such fee so long as any bonds secured thereby are outstanding.

410 § 8079. Personal liability on Clean Water Revenue Bonds.

411 Neither the Secretaries of Finance, DNREC, DHSS, or the Department of Agriculture, their designees, any director
 412 or officer of the Trust, nor any person executing Clean Water Revenue Bonds issued pursuant to this subchapter shall be
 413 liable personally on such Bonds by reason of the issuance thereof.

414 § 8080. Exemption from taxation.

415 All bonds of the Trust issued pursuant hereto are declared to be issued by a body corporate and politic of the State
 416 and for an essential public and governmental purpose and those bonds, and interest thereon and the income therefrom and
 417 from the sale, exchange, or other transfer thereof shall at all times be exempt from taxation by the State or any political
 418 subdivision thereof.

419 § 8081. Receipts pursuant to Act; application.

420 Sums of money received, whether as proceeds from the sale of particular Bonds or as particular revenues or
 421 receipts of the Trust, are deemed to be funds of the Trust and are to be held and applied solely as provided in the resolution
 422 or trust indenture under which a particular series of Bonds are authorized or secured. Any officer with whom, or any bank
 423 or trust company with which, those sums of money are deposited as trustee thereof shall hold and apply the same for the
 424 purposes thereof, subject to any provision as the aforementioned acts and the resolution or trust indenture authorizing or
 425 securing such series of Bonds may provide.

426 § 8082. Liberal construction of subchapter.

427 This chapter, being necessary for the prosperity and welfare of the State and its citizens, shall be liberally
 428 construed to effect the purposes hereof.

429 Section 2. Amend Section 8003, Title 29 of the Delaware Code by making deletions as shown by strike through
 430 and insertions as shown by underline as follows:

431 § 8003. Powers, duties and functions of the Secretary.

432 (12) The Secretary is empowered to administer a state revolving loan program in accordance with the
 433 requirements set forth in Title VI of the Federal Water Pollution Control Act.

434 d. Coordination with Clean Water for Delaware Trust

435 The administration by the Secretary of the Delaware Water Pollution Control Revolving Fund set forth in
 436 this section shall be subject to the provisions of subchapter III of this title. In the event of any conflict or
 437 inconsistency between the provisions of this section and said subchapter, the provisions of subchapter III of this
 438 title shall govern

439 Section 3. Amend Section 7903(14) of the Delaware Code by making deletions as shown by strike through and
 440 insertions as shown by underline as follows:

441 § 7903 Powers, duties and functions of the Secretary.

442 The Secretary may:

443 (14) The Secretary is empowered to administer a state revolving loan program in accordance with requirements
 444 set forth in the Federal Safe Drinking Water Act [42 U.S.C. § 300f et seq.].

445 c. Administration of Fund subject to chapter 80, subchapter III of this Title. -- The administration of the Delaware
 446 Safe Drinking Water Revolving Fund shall be subject to the provisions of Subchapter III, Chapter 80 of this title. In the
 447 event of any conflict or inconsistency between the provisions of this section and said subchapter, the provisions of
 448 Subchapter III, Chapter 80 of this title shall govern.

449 Section 4. Amend Section 9113, Title 7 of the Delaware Code by making deletions as shown by strike through
 450 and insertions as shown by underline as follows:

451 § 9113. Hazardous Substance Cleanup Fund.

452 (f) The administration and application of the amount in this Hazardous Substance Cleanup Fund as provided in this
 453 chapter shall be subject to the provisions of Subchapter III, Chapter 80 of Title 29. In the event of any conflict or
 454 inconsistency between the provisions of this chapter and said subchapter, the provision of subchapter III, Chapter 80 of
 455 Title 29 shall control.

456 Section 5. Amend Section 5423, Title 30 of the Delaware Code by making deletions as shown by strike through
 457 and insertions as shown by underline as follows:

458 § 5423. Delaware Land and Water Conservation Trust Fund.

459 (h) The administration and application of the funds contained in the Land and Water Conservation Trust Fund
 460 shall be subject to the provisions of Subchapter III, Chapter 80 of Title 29. In the event of any conflict or inconsistency
 461 between the provisions of this chapter and said subchapter, the provisions of Subchapter III, Chapter 80 of Title 29 shall
 462 control.

463 Section 6. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the
 464 invalidity does not affect any other provisions or applications of the Act which can be given effect without the invalid
 465 provision or application; and, to that end, the provisions of this act are declared to be severable.

SYNOPSIS

This legislation establishes a framework for oversight, implementation and a funding source to enhance

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Delaware's efforts in cleaning up contaminated streams, rivers, bays and groundwater through construction of much needed wastewater, drinking water and stormwater infrastructure projects and increased use of agricultural best practices. Most of the state's waters do not meet water quality standards to support their designated uses such as for drinking, swimming or to support aquatic life.

The State currently faces a backlog of water infrastructure projects. Over the next five years, more than \$500 million in wastewater facility upgrades are needed statewide including wastewater and drinking water systems for underserved communities and numerous at-risk systems currently operated by homeowner's associations in Sussex County. In addition, more than \$150 million in stormwater upgrades are needed throughout the state, along with more than \$75 million for removing toxics from various waterways. Further, demand for agriculture cost share funds used to reduce pollution from nutrients far surpasses available resources.

Specifically, the legislation creates a Clean Water Fee that will be collected by the counties through property taxes. Residential property fees will be between \$45 and \$85 annually depending on assessed value while commercial and industrial properties will be capped at \$25,000 annually and based on assessed value. Only structural improvements on agricultural parcels shall be subject to the fee, and will be capped at \$15,000. Non-profits such as hospitals, universities, municipalities will pay a fee based on 50% of their assessed property value. Total receipts are estimated to be \$30 million annually. The Clean Water Fee will leverage more than \$120 million in total financing annually for clean water investments and support more than 1,000 jobs per year in science, engineering and construction. Funds will be placed in a Trust managed by a nine-member Board comprised of the Secretaries of the Department of Finance, Natural Resources and Environmental Control, Health and Social Services, and Agriculture and an appointee of the President Pro Tempore, Speaker of the House and a representative of each county. The Trust is authorized to issue Clean Water Revenue Bonds upon authorization by the General Assembly, and will administer the funds with the advice of the Water Infrastructure Advisory Council with the goal of assisting municipal and county governments in implementing more affordable water quality infrastructure projects through low- interest loans, grants and other leveraged funds. The Trust is required to develop a five-year project priority list and report annually to the General Assembly on its activities.

Mr. Gross stated that he thinks the legislation is a good starting point but it needs a little more refinement, absent the “number” the Task Force wants to insert. He noted some good points about the legislation, it looks across the spectrum, and it creates transparency. Being sensitive to some criticism the State has endured, this legislation adds a little more transparency. Mr. Gross added that there are two ways to look at the “number.” For example, if the Task Force is looking at a figure, one could say that this is the demand, but the Task Force needs to have that number. Mr. Gross added that the Task Force could next look at what the fees would be to assess whether this number is realistic from an implementation stand point. He added that with all the time Task Force members have spent working on this number, the State will have a lot of money to spend. However, the challenge would be selling this number to the public.

Senator Townsend responded by saying that he agrees. He continued by saying President Kennedy did not quote let's aim halfway to the moon, he said let's aim all the way. The Senator referred to the report and added that the Task Force should clearly point out Delaware's needs in the report so the public is aware. Then, let the legislature figure out what that number is, if we have to scale back it is because the legislature made it so we had to scale back.

Brenna Goggin, Delaware Nature Society, mentioned the polling work that DNS (Delaware Nature Society) conducted. She continued by saying that the public was very clear in the polling data, that they trust the State to pick an issue and fix it successfully. The survey allowed the public to prioritize what programs they would like to see from the Governor's initiative. The public voted that they wanted to see the removal of toxics and chemicals; this was the top priority all three counties picked.

Senator Townsend replied by asking if nutrients were included in this survey answer.

Ms. Goggin responded that they can hypothesize when the survey asked about toxics, chemicals, and bacteria, that the public knew to consider nutrients. However, the survey did not specifically call out nutrients in the question.

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Mr. Bross responded by saying that the public does not know that every one of the categories that Ms. Goggin stated have had huge success categories in Delaware. Money has been spent well and the environment has benefited. But, the public does not know that. He added that we should not ask the public to pick a program, and then make it the poster child. All of the programs have huge success stories to go along with them, but they do not have the funding to address the continuing and growing need.

Ms. Goggin replied it would not be the worst possible thing if it was scaled back and we could get incremental successes in that way. She added that the State should not pick to either win, or to lose.

Mr. Bross responded that the realist in him, knows that we need a large amount but we only have a specific amount of money to spend each year.

Senator Townsend asked Ms. Goggin if she could send the survey around to Task Force members so they could see it.

Ms. Goggin answered that she could put together a PowerPoint presentation to present for Task Force members.

Senator Townsend answered that he could have her present. The Senator added that it would be nice to hear how the questions were asked during her presentation.

Mr. Corrado suggested that as a starting point, the Task Force as a whole needs to agree on what programs they would like to include in the report and legislation. He added that water, wastewater, surface water, conservation, and farms, may all be programs that the Task Force would like to include, then he asked what other ones should be added.

Secretary Cohan responded by saying that pulling drainage related projects that are related to new transportation projects, or specific transportation issues, does not need to be involved.

Ms. Cannon asked if the survey was a random sampling of Delaware residents or if it was of contributing organizations that share the same passion.

Ms. Goggin answered that it was a random survey of all three counties, done by cellphone and landline, and there were three focus groups of one in each county.

Senator Townsend added that the Task Force can definitely have Ms. Goggin present on December 17th so that Task Force members can hear more about the survey. He added that the fact that the public has been asked questions about these topics, and they actually responded, is a critical piece of information.

Ms. Goggin responded by saying that the questions that were asked on the survey were not included in the PowerPoint, it just includes responses. She added that she will incorporate the questions for Task Force members as well.

Ms. Cannon stated that the Task Force needs to educate the public, and she thinks that this should be done before legislation is introduced. She asked if educating the public will be done outside of the Task Force, or if education is something that the Task Force will be responsible for.

Senator Townsend answered that educating the public will consist of both work from the Task Force and from individuals and organizations outside of the Task Force. He continued by saying that education should be a main topic of conversation for the December 17th meeting.

Mr. Bross added that it would be helpful, if the Task Force took all of the categories, and the needs number for each category, and had the Task Force look at it for the big picture.

Senator Townsend responded by saying that the Task Force needs to get to that point as soon as possible. He continued by saying that the Task Force should have those numbers.

Mr. Bross noted to sell these numbers to the various constituents; they are going to need to see what is in it for them. He continued by saying that at the end of the day, the Task Force has the obligation to make that recommendation. If the General Assembly needs to cut this number, they have that power and the Task Force has the best potential to judge what the number should be, or start at.

Holly Porter, Department of Agriculture, added that it is important to remember that some of the State's needs are regulatory based needs, not just discretionary needs. She added it is not as clear to just state the categories and figure out how much money to put into each category.

Mr. Bross responded by saying that almost all of the programs, except some of the preservation programs, have a regulatory driver. For example, clean water has a regulatory driver whether it is drinking water or wastewater. The Environmental Protection Agency requires that each state provides a certain level of water quality in the environment which does not drive all storm water projects but it drives a majority of them. He added that the real question is, how quickly and thoroughly the State wants to meet the regulations.

Ms. Porter brought the conversation back to education. She added that the general public may not realize all of the different regulations the State faces.

Representative Gray asked how storm water is defined. He continued asking if the Task Force needs to include the inland bays and the stream beds as another category.

Mr. Bross answered yes. He continued by saying that it starts from the source and goes all the way down to the system. Mr. Bross added that the State has concerns about the Chesapeake Bay, the Delaware Bays, and the Inland Bays. All of these bodies of water contribute to the State's quality of life, economic activity, recreation, and public health. He continued by saying that the vision behind this is a holistic approach, and the State spends their dollars wisely for the maximum impact.

Representative Gray replied that some of the Inland Bays are off limits because there is too much bacteria in them from storm water. He added that the State cannot clean those areas up if they do not flow well, and the State cannot put dredging down because of lack of funding. The Representative closed his comments by stating that the Inland Bay areas and the receiving streams should be in their own category for the Task Force to address.

Mr. Bross responded by saying the State typically prioritizes. When they look at a project and decide how to spend the money, they address the need in order to prioritize the projects because the State does not have enough money to address every single one.

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Senator Townsend replied that Representative Gray's point about the condition of the Inland Bays itself is more attributable to other categories that the Task Force would be addressing, instead of its own category.

Mr. Bross added that there is a broad spectrum of solutions. The solutions include conservation, bricks and mortar, public works projects, and nutrient management. He continued by saying that those programs exist in multiple silos. Conservation nutrient management and wastewater projects are administered in separate silos. Mr. Bross said that putting all of the programs under an umbrella and looking at them holistically is a wise way to spend the State's limited dollars.

Mr. Miller, added that not everyone in the room is familiar with the educational efforts spearheaded by the Delaware Nature Society in cooperation with the Delaware Estuary and the Delaware Center for the Inland Bays, in building grassroots support for a clean water initiative by forming an alliance of a number of organizations. Mr. Miller mentioned that he hopes Ms. Goggin has an opportunity to present the results that were conducted from the survey so she could inform the group on the educational efforts.

Senator Townsend replied by saying that he would like Ms. Goggin to present on December 17th. He continued by mentioning Ms. Cannon's point to start an affirmative and unified education campaign that could either come from the Task Force or from various stakeholders on the Task Force. Senator Townsend stated that education is a key part of the Task Force's initiatives.

Senator Townsend also referenced regulation, and added that the unified holistic approaches make sense. However, he proposed a situation where there is a regulatory driver, and someone is charged with making sure regulations are complied with but do not control the money. He asked from an administrative perspective, how a relationship like this would work.

Mr. Bross answered that the funds flow to that body with some sort of lens or filter. He continued by saying that if there is some sort of justifiable need, then the program gets funded. Mr. Bross compared this to the grant program that WIAC (Water Infrastructure Advisory Council) administers where another organization can ask to spend money from the program. WIAC has a vetting process for this because there might be too many requests for the amount of money that the program has. Mr. Bross added that there needs to be some sort of lens put on this.

Ms. Adkins, stated that there has to be a part of the funding process that recognizes regulatory requirements. She added that the agencies that are in charge of the regulatory requirements need to bring this information to the other body, so that is part of the decision making.

Senator Townsend responded by asking how this would work. He noted that he agrees with Ms. Adkins' comments but if for some reason despite all the technically driven decisions that are made, there is something that is not meeting the regulatory requirements.

Secretary Small responded by saying it is sort of approaching a regulated entity with a carrot and a stick. By saying there is a regulatory requirement that someone is not meeting; this person should be notified that there is funding available to help them with meeting those requirements. Secretary Small added that they try to help now, but they can only offer 100% loans and some individuals are hesitant to take that on.

Secretary Small continued by stating that Delaware has a lot of smaller communities and because of population growth in the past decade, these communities will find themselves having to meet new storm Minutes prepared by Caitlyn Gordon, Legislative Aide
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water requirements. The Secretary added that a lot of these situations will require education but, some of these situations are about implementing best practices. The State must implement technical systems and funding sources to help communities achieve their new requirements. Secretary Small added that he does not think the State should provide them with a 100% grant, but if there was a combination of grants and loans the State could make it more affordable for the community.

The Secretary noted that the draft legislation contemplated a statewide fee for clean water; it is modeled after a transportation trust fund. Mostly, the legislation establishes a trust and a board to manage the trust. The idea of this was to establish a revenue stream that the trust could bond against and leverage. He stated that it identifies additional revenue streams, such as the Hazardous Substance Clean Up Act Fund, to guarantee those bonds. Secretary Small added that this was looking to use that revenue stream to leverage additional money to meet a bigger number that the Task Force keeps talking about. He stated that there is one distinction, the program that this legislation contemplated was storm water infrastructure, but it does not target flooding as much but there is a way it could.

The legislation is more focused on wastewater and drinking water infrastructure. However, there are regulatory fee programs at DNREC, most of which have not seen fee increases since 1991. Secretary Small added that these regulatory programs were being subsidized so individuals who are receiving permits through the State and through DNREC to have an impact on the environment. There are clear regulatory drivers, and another side of the equation. This is why their operating programs are a part of the legislation, without it the State would be missing an important part of the equation. Secretary Small added that the legislation gets at the single all-in approach but not as much on the flooding side.

Senator Townsend mentioned the operating programs within the overall structure that Secretary Small mentioned. He also invited comment to anything that Secretary Small said.

Ms. Cannon referenced potholes, and the general public does not care if a pothole should be fixed. The general public will care the day after a snow storm when they are driving home and hit 5 potholes. Then, they will call DelDOT asking to fix them immediately. She continued by saying if she informed family and neighbors that there might be a slight increase in their water bill, she hypothesizes their responses to this would be negative. Ms. Cannon asks the Task Force to develop a mechanism to show when a project gets funding that the greatest need is addressed.

Secretary Cohan replied by saying that she completely agrees. She added that they need to start touching people with the problem, whether or not this means carrying around bottles of drinking water from different areas. The Secretary stated that showing the public the problems this is the only way to get their support.

Senator Townsend responded saying that coalitions of groups have done various activities for many months now.

Lew Killmer, Delaware League of Local Governments, asked if there was an opportunity for members of the Task Force to ask questions about the legislation.

Senator Townsend responded by saying yes.

Mr. Killmer pointed out line 192, “Calculation of Clean Water Fee,” and also pointed out line 202, he mentioned that it states what the maximum for farm land tax parcels is. Mr. Killmer added that in the synopsis, there is a line that says “only structural improvements on agricultural parcels shall be subject to the fee, and will be capped at \$15,000.” Mr. Killmer noted that this line does not appear anywhere in the legislation.

Senator Townsend stated that he would like to read the legislation again line for line. Additionally, the Senator stated that he would take that comment down to refer to when he reads through the legislation.

Ms. Goggin replied to Mr. Killmer’s comments by stating that the agricultural section of the legislation was changed many times. She added that the summary refers back to a prior agriculture formula. Ms. Goggin confirmed Mr. Killmer’s comments by adding the sentence was an oversight in the summary and the “only structural improvements” part should be removed but the cap is still in the legislation and will stay there.

Mr. Killmer referenced line 251 and 252 and asked if this is broken out into how the money is going to be spent it only comes out to 80%. He asked if the Task Force should address what the other 20% should be used for.

Ms. Goggin responded by saying no. She continued by noting that this was 5% to each county and this is multiplied by 3.

Mr. Killmer referenced line 287, “hazardous waste cleanup projects related to the provision, preservation, or maintenance of clean water or water quality.” Mr. Killmer asked if this line also applies to the ground fields and the super fund sites.

Secretary Small answered that it could.

Ms. Goggin referenced Mr. Killmer’s previous question about lines 251 and 252. She noted that it is 10% for each county, multiplied by 3, and 5% of administrative overall costs.

Mr. Brass asked if those numbers were decided by negotiation with the counties.

Ms. Goggin responded by saying it was strongly encouraged by a diverse group of stakeholders, not just the counties.

Senator Townsend asked that when Ms. Goggin lists the percentages, should they add up to 100%. He continued by saying that she should not say “at least” but it should be “exactly.”

Ms. Goggin answered that when discussing this with the lawyers, if they insert “at least,” it provides a little bit of a lock box. She continued by saying if the minimum, or the exact amount, is put in then it could not be diverted somewhere else.

Senator Townsend responded that Ms. Goggin’s reasoning makes sense but the legislation should just state there is a lock box. He added that this should not be left up to the public’s interpretation to figure out what it means. The Senator noted that he would rather give a range in the legislation and put a lock box on it.

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Ms. Goggin replied that when talking with the legislative lawyers, it did not seem like you could do what Senator Townsend proposed with the lock box.

Senator Townsend stated that he is not sure whether all Task Force members agreed with a lock box but he knows that the public and the transportation trust fund context was concerned about it. He continued saying that how the lock box is structured is something they should further discuss.

Mr. Killmer referenced the definition section of the legislation, under line 108 and 109 there is a definition of a “wastewater treatment system project.” Mr. Killmer also referenced lines 122 and 123 pointing out “water supply projects” he asked that under the term “improvement,” does it include as an extension of existing systems, like extending a water system to a new area.

Mr. Gross responded by saying that growth cannot be funded. However, if it is a failing septic system and there is an extension for septic elimination, that would be acceptable.

Mr. Killmer asked in a town that has a water system, if a new developer came in and asked to be a part of a municipal water system, if that town be eligible for any funding.

Terry Deputy, member of the public, DNREC, one correction is for the Clean Water Program, it can fund growth. The growth funding is only limited by the US Environmental Protection Agency (EPA) for drinking water, but for the Clean Water Program one could fund growth. If a community wanted to extend the wastewater system to fund a development or a shopping center, they could. As opposed to under drinking water, if they needed to extend drinking water lines to that same development, they could not under federal law.

Mr. Hallock, member of the public, stated that under the definition for water, the legislation includes EPA eligible projects that are specified in the federal law. He added that under certain circumstances, if there is a community that has private wells with high nitrate levels, the state has funded projects to extend water to serve those communities for public health concerns. Mr. Hallock added that there are allowances built into these rules, some may call it growth but it is actually just repairing the old system to provide the community with safe drinking water.

Mr. Killmer replied that there are a lot of things apart of the definition.

Mr. Hallock responded that the projects that are EPA eligible are specified in the federal regulations.

Mr. Miller referenced the definitions in the legislation. He pointed out the portrayal of “fish advisories,” and stated that this portrayal should be more accurate. Mr. Miller continued by referencing line 15, “extensive analysis of chemical contaminants in fish has led to advisories that fish are unsafe to eat in more than 30 waterways statewide.” He noted that this statement is not exactly accurate. In fact the advisories state that there are 5 bodies of water with recommendations to not eat the fish. Additionally, there are 6 other bodies of water with recommendations of no more than one meal a year. Mr. Miller added that there are not 30 waterways statewide that have the recommendation to not eat the fish. He stated that he would be happy to provide documents where he found this information. Mr. Miller advised the line to say: “has led to advisories that limit consumption of fish for more than 30 waterways.” He added that if the line was worded that way, it would be entirely accurate which is important.

Senator Townsend agreed that it is very important to be accurate. He continued to ask if there was a specific decision that had been made prior to the legislation which led to this number.

Ms. Goggin responded by saying that line is part of the original.

Senator Townsend noted that if anyone has lengthy suggestions for the draft legislation, to please mention them.

Mr. Bross stated that several people are struggling with the concept of the trustee board because it looks like layering. He added that there might be some very good legal reasons why the board of trustees is in the legislation but it seems to add another layer that could slow the flow and expenditure of money down, which would lead to a lot of conflict. Mr. Bross added that this board does not have technical resources, it has political and financial resources, but it really is a body politic. He added that WIAC attempted to get all individuals under the tent. Mr. Bross asked what the justification of this additional layer of governance is.

Ms. Porter replied by saying she does not know what the justification is, but she did not see an agricultural representative in WIAC.

Mr. Bross stated that Ms. Porter brought up a great point. Additionally, if that is a concern maybe there is a way to incorporate agriculture in WIAC.

Mr. Corrado agreed with Mr. Bross stating that the State does not need another layer of bureaucracy to perform the work that WIAC is already doing. He added that if someone from the agricultural community needs to be put on the council then that should be done. But, there is no need for the extra layer.

Secretary Small responded that there were some legal reasons for creating a board. He added that there are different ways to create it. Secretary Small continued by saying the focus could be narrowed because the thinking at the time of writing the legislation would include representation from the agencies that manage the programs. He added that this language is not etched in stone and there is flexibility with it.

Ms. Goggin responded that there were financial reasons for creating the board too. She continued by saying they were looking at raising money in house and looking at a public/private partnership model that the trust would have the ability to bond the money against. She added that WIAC would be the ones to implement ideas. Since the Council already has criteria developed, they would be given money to do what they see fit. Ms. Goggin added that the trust was not set up to implement ideas; the trust was set up to borrow more money with private enterprises.

Mr. Corrado added that WIAC already has a mechanism to borrow more money with private enterprises in place.

Mr. Bross agreed with Mr. Corrado's statement. He added that WIAC has already studied the ability to leverage the funds that they advise on. Mr. Bross added that with the way the board is currently set up, it looks like another layer of bureaucracy. But, if there is a legal stipulation that enforces a board, then it should be made up of three people with a strong financial background. Mr. Bross noted that WIAC can control getting everybody under the same tent.

Secretary Cohan said that for the Transportation Trust Fund, there is a Council on Transportation who oversees transportation issues. The council reports for the Transportation Board and then they report to the Governor, she stated that this is needed.

Mr. Bross asked Secretary Cohan if this system functions well.

Secretary Cohan answered yes, it does.

Mr. Corrado stated that for the 20 years that WIAC has been in place, the Secretary has not implemented any projects that the Council has recommended.

Secretary Small replied that Mr. Corrado is right. He continued to say that the trust will go beyond the current limits of the clean water fund and will get into conservation programs and restoration programs. Secretary Small added that as of now, the Council is an advisory to the Secretary. But, this situation of a board would include a number of secretaries along with a representative of each county. He added that under this legislation, the Council would still advise, it would just be advising a broader group rather than a single person.

Mr. Corrado asked from a practical matter, when WIAC sends a project up to Secretary Small, he could review it in five minutes and accept it. However, if he has a board of multiple people, the board would meet only once a month. Mr. Corrado added that this board would add an unneeded project.

Mr. Bross referenced a part of the legislation that allows surrogates which will add more bureaucracy.

Senator Richardson stated that almost all of the Task Force's discussions have been about clean water. But, line 290-291 of the legislation mentions flood abatement and the Task Force has put little emphasis on flood abatement during conversations. Senator Richardson believes that both issues are important, but asked if they are both elevated to the same level of importance if funding for clean water will be more diverted.

Senator Townsend answered yes they would be diverted but in terms of the framework in place to evaluate it, just because there is an "and" in the language of the legislation, does not mean there would not be a process to access how much money is needed for each issue.

Mr. Bross replied that this language seeks to override the scoring process which concerns him. He added that the reason that WIAC has been effective is because it has brought a neutral view, in terms of whose boat is being floated, to the end impact and the scoring that has been set up, which has been very objective. Mr. Bross added that this legislation looks like an attempt to stop it instead of encouraging it. Mr. Bross added that there is a good process in place to score water infrastructure projects. He added that the word "preference" written in the legislation brings up concerns.

Senator Richardson added that he would be upset to see a lot of money go that way. He added that Delaware has flood abatement issues but the State should make clean water issues a priority. The Senator added that he would not like to see efforts going into creating extensive projects that make it more difficult for businesses to thrive in Delaware.

Senator Townsend added that this Task Force should seek to prepare Delaware to adjust as things happen. The Senator added that putting an “and” in the legislation unites clean water and flood abatement but during the meetings, the Task Force has not emphasized as much about flooding during discussion. He added that it is clear there are flooding issues that need to be addressed even though the Task Force has not addressed it as much as they have addressed clean water. The Senator added that Secretary Cohan has provided maps to everyone which point out flood spots in Delaware. He added that it is important to make sure any legislative framework is empowered to address it.

Mr. Spacht added that the funds the Task Force has talked about are tax funds, tax dollars coming from the public. He continued by saying that it is important to give the public confidence that the money is being spent the way the State wants it to be spent. He added that under the State revolving funding, some of it is affordability and about sustaining the trust funds as the State moves forward. Mr. Spacht continued by saying they need to fix the problems, make the funding sustainable, and make the rates that are being paid for by the customers repay the funds to the organizations.

Ms. Cannon replied by saying as past Executive Director of the Workforce Investment Board, she knows that they had a private sector driven board, but they were a public entity because if the Office of Inspector General came in to find they did something unfavorable with the money, the State was responsible to pay that money back. She continued to say that the private sector board members were not willing to sign on and say they would be the ones to pay it back. Ms. Cannon stated that this reminds her of the discussion that the Task Force is having, if the EPA came back to say they did not like the way the money was spent, they are going to come back at the State. She added that the State needs to have some authority with this to handle that.

Senator Townsend stated that if the State created something and it is governed, it does not need to have cabinet secretaries on the board for it to still have authority from the State.

Ms. Cannon agreed but she added that the State officials on the board would be the technocrats to know the law and stipulations that private sector board members would not know.

Ms. Goggin referenced Mr. Spacht’s point and mentioned lines 256 and 268. She added that there were a lot more “sustains” in the legislation and a lot of discussion about whether or not WIAC has requirements to that. She continued by saying that the legislation does not define what “sustain” means either so there could be an argument that the definition should be included in it.

Senator Townsend mentioned that the Task Force has talked about the idea that something exists now, and the Task Force needs to decide whether or not they can fold other efforts into it or if they need to talk about a whole different structure. He added that the Task Force did not get into individual responses to the idea of the revenue source.

Michael Reimann, Delaware Homebuilders Association, stated that he would like to see the Task Force nail down existing revenue sources. He continued by saying that the Task Force has talked about this a little bit, but in terms of where the revenue sources are, the Task Force should dial in on that.

Senator Townsend stated that is a large issue the Task Force needs to get into because it is a key aspect of the revenue sources. The Senator apologized that members were not able to address that yet but he would

like to get into it during the next meeting. He added that before December 17th, he would like all-in numbers to be circulated on the expenditure side, the needs side, and the revenue side so the Task Force could take a look at it to figure it out. Additionally, the Senator noted that Task Force members need to talk about what the structure is ultimately going to be. Senator Townsend stated that before the December 17th meeting, a draft of the report will be circulated so Task Force members can comment and talk about it.

Senator Townsend asked if there were any comments from the public. As there were none, the Task Force meeting was brought to a close at 4:05 pm.

[Note: Pages 36-39 contain additional handouts Task Force members received.]

Communities with Wastewater System Challenges:

These are community residential systems and typically managed by homeowners associations. This list is not necessary inclusive.

Morningside Village

Both drainfields have surfacing and require frequent isolation of zones for recovery. There is spare area for additional beds.

Pump controls need troubleshooting and repair/replacement.

Monitoring wells not being sampled.

Inadequate funds for operation & maintenance.

Garden Estates (County Seat Gardens):

Multiple Large and small systems with elevated sand mounds.

Pumping systems unreliable, need upgrade or connect to public sewer if possible.

Periodic surfacing on mounds.

Sandhill Mobile Home Park

Similar situation as Garden Estates.

Homestead Mobile Home Park

Original automated dosing control system failed. Upgrade and replace. System being manually operated.

Dove Estates

Both drainfields have surfacing and require frequent isolation of zones for recovery. There is spare area for additional beds.

Upgrade controls.

West Bay Park

Wastewater Treatment Plant has periodic challenges managing for Biological Oxygen Demand (BOD)/Total Suspended Solids (TSS).

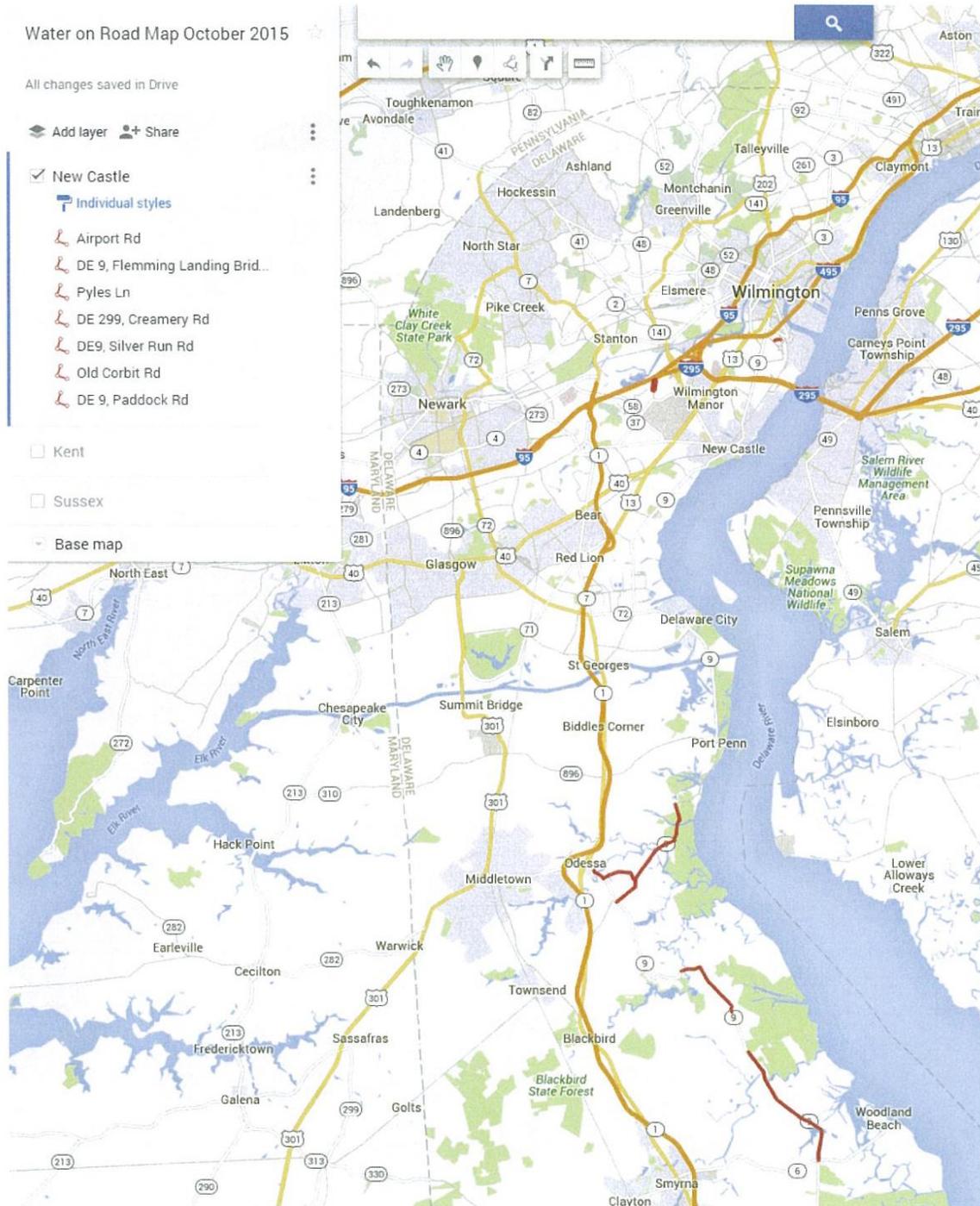
Upgrade & improve Wastewater Treatment Plant. Nitrogen removal.

Southwood Acres

Wastewater Treatment Plant has periodic challenges managing BOD/TSS.

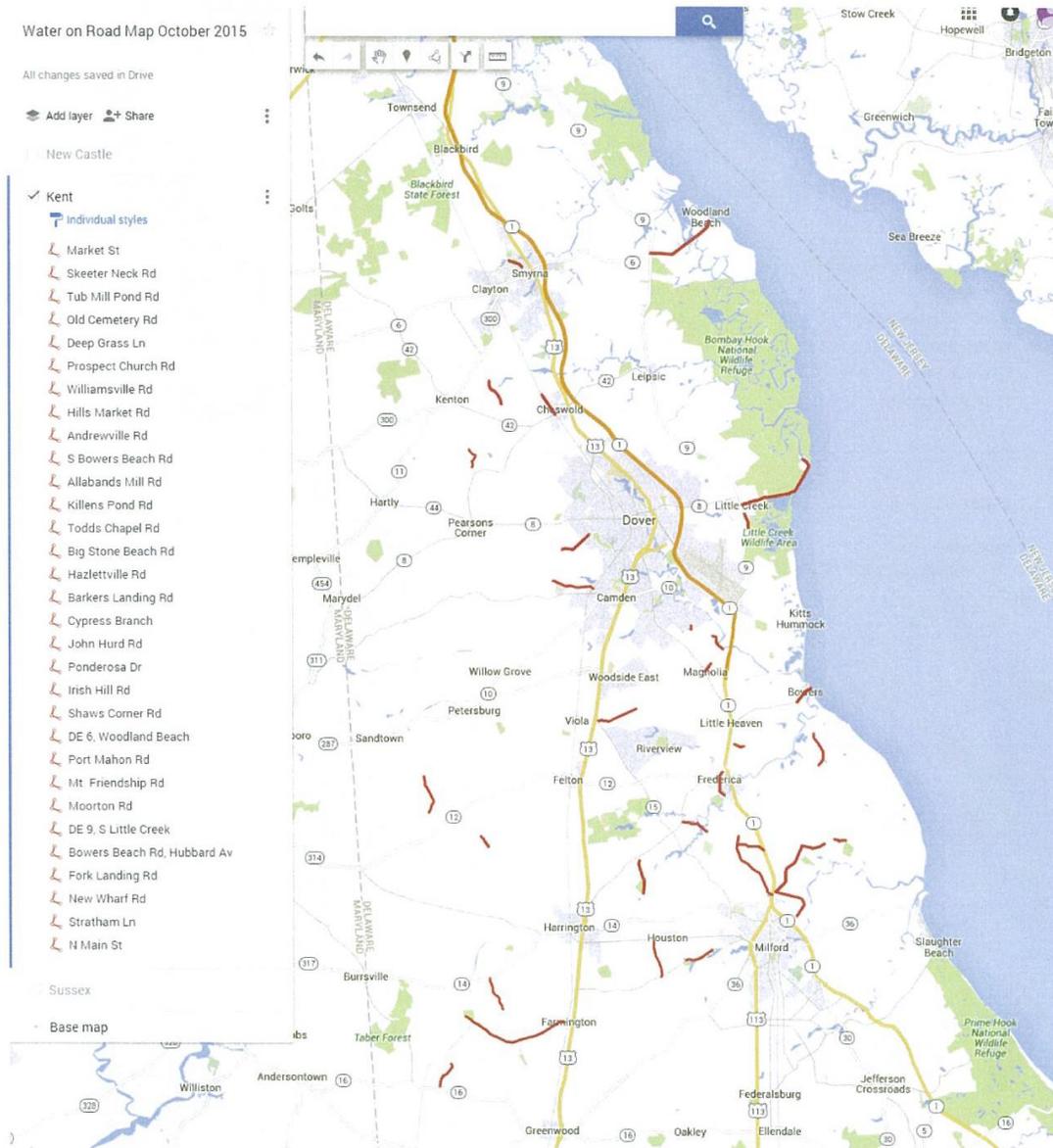
Upgrade & improve WWTP. Nitrogen removal.

2015 October Nor'easter New Castle County Road Impact



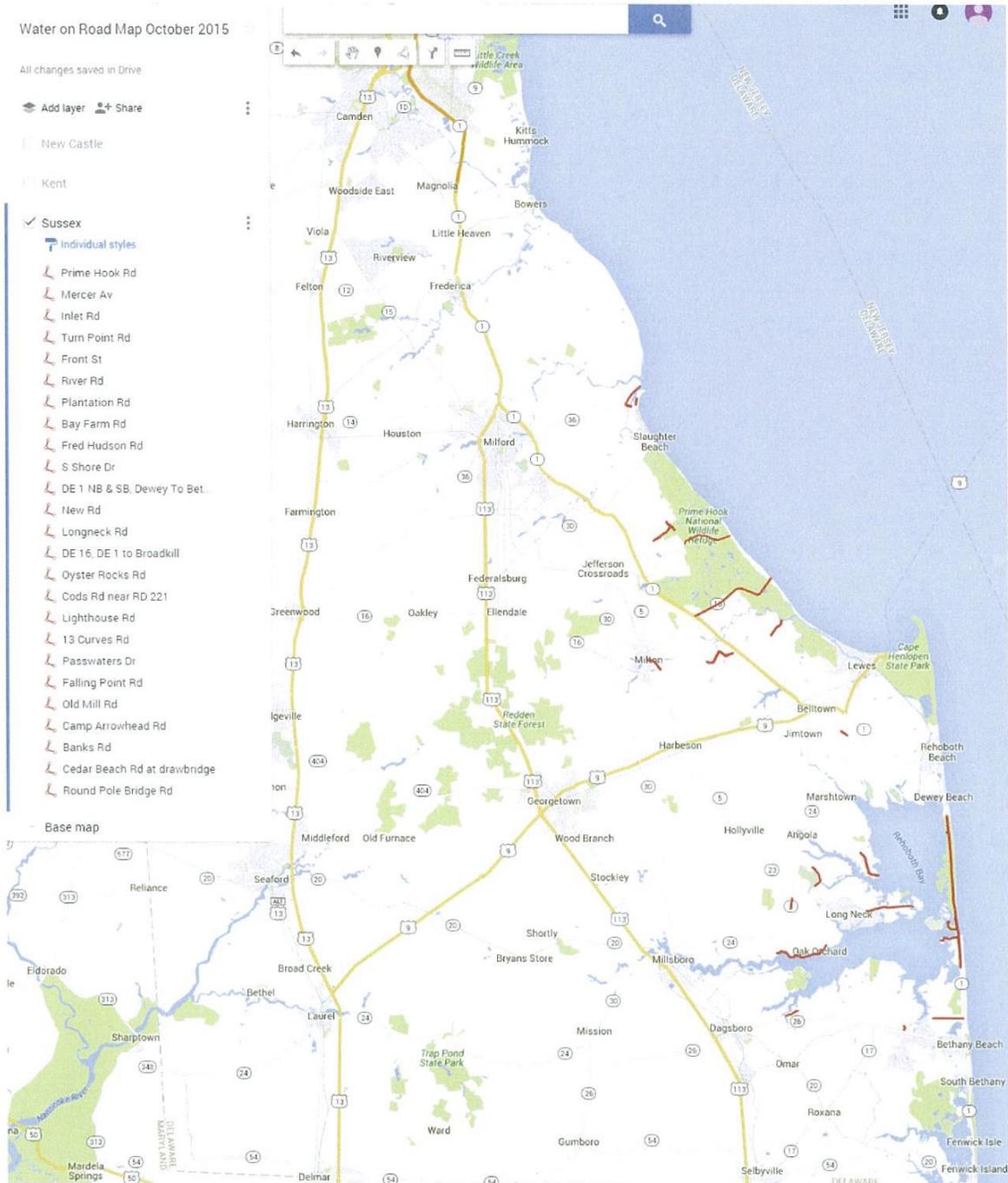
Minutes prepared by Caitlyn Gordon, Legislative Aide
Minutes reviewed by Michelle Zdeb, Legislative Assistant & Task Force Staffer

2015 October Nor'easter Kent County Road Impact



Minutes prepared by Caitlyn Gordon, Legislative Aide
Minutes reviewed by Michelle Zdeb, Legislative Assistant & Task Force Staffer

2015 October Nor'easter Sussex County Road Impact



Minutes prepared by Caitlyn Gordon, Legislative Aide
Minutes reviewed by Michelle Zdeb, Legislative Assistant & Task Force Staffer