

K00A05
Department of Natural Resources – PAYGO

Pay-As-You-Go Capital Budget Summary

(\$ in Millions)

	<i>FY 2008 Approp.</i>	<i>FY 2009 Approp.</i>	<i>FY 2010 Allowance</i>	<i>Percent Change</i>	<i>DLS Recommd.</i>
Program Open Space					
Land Acquisition and Local Program	\$169.358	\$45.547	\$22.073	-51.5%	\$22.073
Critical Maintenance/Capital Development	20.287	14.493	15.143	4.5%	15.143
Rural Legacy Program	20.921	13.468	16.812	24.8%	16.812
Waterway Improvement Program	28.141	21.300	6.000	-71.8%	6.000
Total	\$238.707	\$94.808	\$60.028	-36.7%	\$60.028

Fund Source					
Special	\$233.266	\$85.508	\$43.044	-49.7%	\$43.044
Federal	5.441	4.300	11.984	178.7%	11.984
PAYGO Subtotal	238.707	\$89.808	55.028	-38.7%	55.028
GO Bonds	0.000	5.000	5.000	0.0%	5.000
Total	\$238.707	\$94.808	\$60.028	-36.7%	\$60.028

Note: The fiscal 2008 appropriation for the Program Open Space (POS) Land Acquisition and Local Program reflects the \$3.6 million transferred to POS Critical Maintenance/Capital Development for the Harriet Tubman Underground Railroad State Park – Visitor Center (\$1.6 million), additional funding for the Natural Resources Police – Area 3 Office Facility at Sandy Point State Park (\$1.6 million), and Patapsco Valley State Park – Greenway Trail Project (\$400,000). The Waterway Improvement Program received \$441,310 more in federal funds than was initially anticipated in fiscal 2008. The Critical Maintenance/Capital Development program received \$5.0 million in general obligation bond authorization in fiscal 2009 that was restricted to capital development projects from the Rural Legacy Program bond authorization.

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Summary of Issues

Transfer Tax Revenues Continue to Decrease: Transfer tax revenues will have a much altered impact on State programs in fiscal 2010 due to diminishing revenues and recent statutory changes. After experiencing a significant surge, real estate transfer tax revenues have declined considerably over the past three years. While the fiscal 2010 allowance fully allocates the budgeted transfer tax revenue to programs as required in statute, this represents 31% less revenue than what was budgeted in 2009. **The Department of Natural Resources (DNR) should brief the committees on the impact of reduced transfer tax revenues on the State’s ability to meet land conservation goals.**

National Sailing Hall of Fame Report Not Received Yet: Fiscal 2009 operating budget bill language prohibited DNR (1) from renting, leasing, or purchasing property from; and (2) from renting, leasing, or selling property to the proposed National Sailing Hall of Fame (NSHOF) until a report was submitted to the budget committees. To date, this report has not been submitted; although, DNR indicates that none of the foregoing conditions have been violated and a State clearinghouse recommendation giving conditional approval has been issued. **DLS recommends that DNR be prepared to comment on why the required report has not been submitted and on the status of meeting the conditions stipulated by the State clearinghouse.**

Capital Development Project Funding Concerns: Committee narrative in the 2008 *Joint Chairmen’s Report* requested the submission of a plan on a one-year capital development funding strategy. DNR and the Department of General Services responded that they should be allowed the flexibility of determining which projects are amenable to one-year funding. **The Department of Legislative Services (DLS) recommends that DNR develop a five-year capital improvement program for capital development projects to be submitted on July 1, 2009. DLS also recommends that the Budget Reconciliation and Financing Act of 2009 be used to incorporate the Maryland Historical Trust and Historic St. Mary’s City Commission into the category of eligible recipients of capital improvement funding by amending Natural Resources Article § 5-903(g). In addition, DLS recommends that the \$5.0 million general obligation bond authorization for the Rural Legacy Program be reduced by \$4.6 million to allow for the funding of construction phases of capital development projects ready to proceed in fiscal 2010. Budget bill language to this effect is included with the recommendation for the Rural Legacy Program.**

Harriet Tubman Underground Railroad State Park – Visitor Center Construction Reliant on Federal Funding: Capital development funding for construction of the Harriet Tubman Underground Railroad State Park – Visitor Center is included in the fiscal 2010 allowance. Inclusion of funding for this project raises three questions: why is the visitor center needed, how will it be funded, and when will it be funded? **DLS recommends that DNR comment on why a land unit management plan has not been prepared for the proposed Harriet Tubman Underground Railroad State Park, the overall strategy for and likelihood of receiving federal funding for the Harriet Tubman Underground Railroad State Park – Visitor Center, the State’s overall funding plan for Underground Railroad activities including the proposed byway, scenarios for handling any shortfalls in either transfer tax or federal funding, and how other capital development projects are anticipated to be funded.**

Summary of Recommended Actions

1. Add budget bill language reducing the Rural Legacy Program general obligation bond authorization.
2. Add budget bill language providing a general obligation bond authorization for capital development projects.
3. Adopt committee narrative requesting a report on a five-year plan for capital development projects.

Overview

The Department of Natural Resources' fiscal 2010 pay-as-you-go (PAYGO) allowance includes \$43.0 million in special funds and \$12.0 million in federal funds. In addition, there is \$5.0 million in general obligation bond authorization. The fiscal 2010 PAYGO allowance represents a \$35.4 million, or 38.5%, decrease from fiscal 2009. This funding decrease is due to a decrease in transfer tax revenue funding POS and the Rural Legacy Program, a decrease in excise tax revenue funding the Waterway Improvement Capital Program the one-year hiatus on Ocean City Beach Maintenance Program funding, and the shift of the Shore Erosion Control Loan Program to the operating budget.

No Ocean City Beach Maintenance Program funding is budgeted for fiscal 2010 because the \$15.0 million cap on the Ocean City Beach Maintenance Fund is expected to be reached at the end of fiscal 2009. As a result, Worcester County and Ocean City are not required to make their \$1.0 million contribution in fiscal 2010. Interest accrued on the Ocean City Beach Maintenance Fund balance, which reflects approximately one-third of the \$1.0 million annual contribution by Worcester County and Ocean City, will be credited toward the fiscal 2011 contribution. The last beach sand nourishment project occurred in 2006; the next anticipated project will be in 2010 necessitating contributions in fiscal 2011.

The Shore Erosion Control Loan Program has been moved to DNR's operating budget. DNR has shifted focus from structural shoreline improvements to non-structural living shoreline projects, which are not eligible for capital funding.

Overview Issues

1. Transfer Tax Revenues Continue to Decrease

Transfer tax revenues will have a much altered impact on State programs in fiscal 2010 due to diminishing revenues and recent statutory changes. After experiencing a significant surge, real estate transfer tax revenues have declined considerably over the past three years. While the fiscal 2010 allowance fully allocates the budgeted transfer tax revenue to programs as required in statute (see **Exhibit 1**), this represents 31.0% less revenue than what was budgeted in 2009. In addition, the final amount of transfer tax available for fiscal 2010 is only \$76.2 million due to the budgeting of a \$35.0 million fiscal 2008 revenue underattainment.

Exhibit 1
Property Transfer Tax Allocation
Fiscal 2009 and 2010
(\$ in Millions)

	<u>Fiscal 2009</u>	<u>Fiscal 2010</u>
Transfer Tax Revenue Estimate	\$166.298	\$114.735
Administrative Expenses (3%)	-4.988	-3.442
Attainment Adjustment (Fiscal 2007 and 2008)	-51.956	-35.048
Total Available for Allocation	\$109.352	\$76.245
Program Open Space (POS) Allocation (75.15%)	\$82.178	\$57.298
Heritage Areas Authority	3.000	3.000
POS Local	18.589	6.149
Forest and Park Service Operations	21.000	21.000
POS State	39.589	27.149
State Land Acquisition	20.871	11.790 ¹
Rural Legacy	8.000	8.000
POS Capital Development Eligible ²	10.717	7.359
Additional State Land Acquisition Allocation (1.0%)	\$1.093	\$0.762
Agricultural Land Preservation (17.05%)	\$18.644	\$13.000
Rural Legacy (5.0%)	\$5.467	\$3.812
Heritage Conservation Fund (1.8%)	\$1.968	\$1.372

¹A reduction in the budget bill contingent on the enactment of the Budget Reconciliation and Financing Act of 2009 would reduce the State land acquisition amount by \$1,217,000 and redirect this amount to administrative expenses.

²Of these amounts, \$24,446 in fiscal 2009 and \$0 in fiscal 2010 are for State land acquisition.

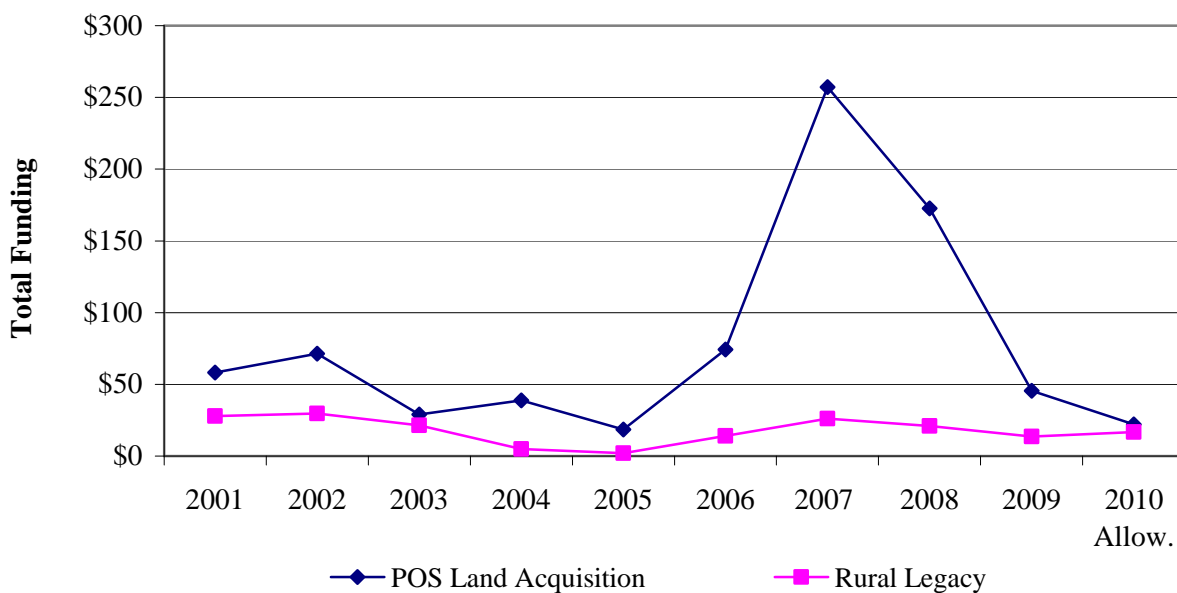
Source: Department of Legislative Services

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In addition to having less revenue for programs overall, a greater proportion of transfer tax revenue is redirected from capital programs to operations in fiscal 2010. In accordance with Chapter 2 of the 2007 special session, after the initial distribution of POS funds to the Maryland Heritage Areas Authority Financing Fund, the greater of \$21 million, or 20%, of remaining POS funds must be used each year by DNR to operate State forests and parks. The POS funding that is appropriated to local governments each year is determined after this distribution. In accordance with this statute, the local share of POS transfer tax revenues is reduced by \$21 million in fiscal 2010.

As a result of the funding shifts described above, several DNR capital programs are funded below the record high levels enjoyed in fiscal 2007 and 2008 (see **Exhibit 2**).

Exhibit 2
Land Conservation Funding Trends
Fiscal 2001-2010
(\$ in Millions)



POS: Program Open Space

Source: Department of Legislative Services

Property transfer tax revenue estimates have been adjusted downward over the past year. Fiscal 2010 is estimated to be the bottom of the downward trend with revenues increasing in fiscal 2011 through 2014. However, revenues are substantially reduced compared to the December 2007 estimates, as shown in **Exhibit 3**.

Exhibit 3
Property Transfer Tax Revenue Projections
Fiscal 2009-2014
(\$ in Millions)

<u>Fiscal Year</u>	<u>December 2007 Estimate</u>	<u>December 2008 Estimate</u>
2009	\$166.3	\$121.5*
2010	181.4	114.7
2011	184.0	121.4
2012	187.5	130.0
2013	191.5	135.4
2014	n/a	138.1

*The December 2008 property transfer tax revenue estimate for fiscal 2009 reflects a \$44.8 million write-down relative to the fiscal appropriation, which is based on the fiscal 2007 estimate. This will result in a negative adjustment for fiscal 2011.

Source: Maryland Office of the Comptroller

DNR should brief the committees concerning how the department will work to continue to try to meet land acquisition goals in the face of reduced funding levels.

2. National Sailing Hall of Fame Report Not Received Yet

Fiscal 2009 operating budget bill language prohibited DNR (1) from renting, leasing, or purchasing property from; and (2) from renting, leasing, or selling property to the proposed NSHOF until a report was submitted to the budget committees. To date, this report has not been submitted; although, DNR indicates that none of the foregoing conditions have been violated and a State Clearinghouse recommendation giving conditional approval has been issued.

Background

The National Sailing Hall of Fame is a proposed museum to be located on DNR property located on the Annapolis Harbor next to the City Dock at 67 and 69 Prince George's Street. The property includes a 1,134-square foot building that currently houses the Natural Resources Police Area 3 headquarters as well as access to adjacent piers.

In December 2007, the Maryland Stadium Authority (MSA) released a feasibility study on the merits of the site and the viability of the venture. The study concluded that NSHOF at the DNR site is a feasible venture, can leverage additional tourism, and could enhance downtown Annapolis.

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DLS noted in the fiscal 2009 PAYGO budget analysis that the plans to develop the DNR property raise several policy issues. The issues raised include the following:

- NSHOF leasing property back to State – NSHOF intends to convey the adjacent property to the State and then lease it back from the State;
- property clearinghouse process – NSHOF may obtain an unfair advantage in the State property clearinghouse process due to the memorandum of understanding signed by DNR and NSHOF;
- unresolved historical significance – significant concern exists about preserving the historical significance of the State land and existing structure;
- environmental impact – development in the critical area buffer zone would be counter to DNR’s stewardship goals; and
- future State funding – uncertainty surrounds the level of the State’s future funding involvement in the development of the NSHOF.

Recent Developments

The State clearinghouse conducted a intergovernmental review of the proposed change in use and lease of the DNR property. The State clearinghouse recommended that the use of the land be changed and that the land be leased to NSHOF with conditions. The conditions placed on the transaction by the State clearinghouse are as follows:

- historical review – NSHOF obtain a review of the project by the Maryland Historical Trust;
- consistency with guidelines – NSHOF consult with the City of Annapolis Historic Preservation Commission to ensure project design consistent with guidelines;
- critical area impacts – the project should be reviewed by the Critical Area/Chesapeake and Atlantic Coastal Bays Commission;
- rights clarified – the lease should clarify NSHOF’s right to utilize riparian rights and dock space;
- parking and traffic congestion – NSHOF should mitigate parking and traffic and congestion concerns; and
- demonstrate capacity – NSHOF should demonstrate the financial and administrative capacity to complete the project prior to beginning any stage of construction.

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DLS recommends that DNR be prepared to comment on why the required report has not been submitted and on the status of meeting the conditions stipulated by the State clearinghouse.

***Program Open Space – Acquisition and Local Program
(Statewide)***

PAYGO SF	\$20,074,000	Recommendation: Approve
PAYGO FF	\$2,000,000	

Program Description: Title 5, Subtitle 9 of the Natural Resources Article established Program Open Space (POS) for the purpose of expediting the acquisition of outdoor recreation and open space areas and provision of recreation facilities before land is devoted to other purposes. The POS appropriation has historically been split between the State and local government. While both State acquisitions and local grants fund projects that protect open space and provide recreation facilities, State acquisitions tend to place a greater emphasis on natural resource management. State POS funds are allocated for State land acquisition, capital improvements, critical maintenance, and operations. Local recreation and parks departments use local POS funds for acquisition, development, and planning projects.

Primary funding for POS has historically been provided by the State transfer tax of 0.5% of the consideration paid for the transfer of real property from one owner to another. The greater the development pressure, the more transfers, and thus the more transfer tax revenue realized for land conservation and recreation facilities. In some years, other funding sources such as bond funds and the federal Land and Water Conservation Fund have played an important role in funding this program, as transfer tax revenues have been diverted to the general fund to cover general fund budget shortfalls.

POS administers the Heritage Conservation Fund, which is used to acquire land that provides habitat for rare, threatened, and endangered species through easement or fee simple purchase. In recent years, these funds have been used to protect Bog Turtle habitat and forest dwelling species in Western Maryland. The fund is supported by 1.8% of the annual transfer tax revenue.

Prior Authorization and Capital Improvement Program

**Authorization Request
(\$ in Millions)**

<i>Fund Source</i>	<i>2008 Approp.</i>	<i>2009 Approp.</i>	<i>2010 Allowance</i>	<i>2011 Estimate</i>	<i>2012 Estimate</i>	<i>2013 Estimate</i>	<i>2014 Estimate</i>
PAYGO SF	\$165.358	\$42.547	\$20.074	\$17.900	\$53.900	\$57.450	\$59.250
PAYGO FF	4.000	3.000	2.000	2.000	2.000	2.000	2.000
Total	\$169.358	\$45.547	\$22.074	\$19.900	\$55.900	\$59.450	\$61.250

The Governor has submitted a deficiency appropriation for the fiscal 2009 operating budget, which would increase DNR’s federal fund appropriation by \$6,490,078 for easement purchases and acquisition of several properties to be integrated into existing Wildlife Management Areas and Natural Resource Management Areas. The federal funding is available from Coastal Zone Management Administration Awards; Coastal Wetlands Planning, Protection, and Restoration Act; Cooperative Endangered Species Conservation Fund; and Outdoor Recreation-Acquisition, Development and Planning. The easements total 945.5 acres and will be monitored by DNR’s Land Acquisition and Planning Unit. Fee simple property purchases are associated with the following areas/entities:

- Nanjemoy Natural Resources Management Area – 501.2 acres;
- Ellis Bay Wildlife Management Area – 266.5 acres;
- Prince George’s County and Maryland-National Capital Park and Planning Commission – 102.0 acres;
- Proposed Harriett Tubman State Park – 17.0 acres; and
- Town of Vienna – 1.38 acres.

As illustrated in **Exhibit 4**, the fiscal 2010 allowance provides a total of \$22.1 million: \$20.1 million in transfer tax special funds and \$2.0 million in federal funds. The special funds are allocated to several purposes: \$11.1 million for State programs; \$6.1 million for local land conservation and recreation programs; \$1.4 million for the Heritage Conservation Fund; and \$1.5 million for park operation and maintenance in Baltimore City. The \$2.0 million in federal funds would be evenly split between the State and local POS programs.

Exhibit 4
Program Open Space Fiscal 2010 Allowance

	<u>Transfer Tax Special Funds</u>	<u>Federal Funds</u>	<u>Total</u>
POS – State Share			
Land Acquisition	\$8,260,419	\$1,000,000	\$9,260,419
Baltimore City Direct Grant (\$1,500,000 Plus an Additional \$1,575,000 for Three Projects)	3,075,000	0	3,075,000
Contingent Reduction for Operating Expenses	1,217,000	0	1,217,000
POS – Local Share			
Land Acquisition/Development	6,149,076	1,000,000	7,149,076
Heritage Conservation Fund	1,372,411	0	1,372,411
Total	\$20,073,906	\$2,000,000	\$22,073,906

POS: Program Open Space

Note: This chart excludes critical maintenance, capital development, Ocean City beach maintenance, and dam repair funds.

Source: Governor’s Budget Books, Fiscal 2010

The fiscal 2010 POS State allowance for land acquisitions is reduced by \$2.8 million due to an increased allocation to Baltimore City of \$1,575,400 and the contingent reduction of \$1,217,000 that is to be redirected for operating expenses.

The allocation from the State share of POS funds to Baltimore City totals \$3,075,400. This amount includes the required State direct grant amount of \$1,500,000, and an additional \$1,575,400 for three projects. The Department of Natural Resources (DNR) notes that it has spent approximately \$1.6 million per county over the last three years, but that this does not reflect any land acquisition spending in Baltimore City. The Baltimore City projects are as follows:

- develop a recreation area for the Druid Hill Park – Center for Parks and People at Auchentoroly Terrace (\$1,000,000);
- build the Cal Ripken, Sr. Foundation athletic field (\$400,000); and
- replace the Harry and Jeanette Weinberg YMCA citizen volunteer playground (\$175,400).

The Department of Legislative Services (DLS) notes that the use of State land acquisition funding for acquisition and development of land in Baltimore City is allowed in Natural Resources Article § 5-903(a)(2)(ii) and that the minimum direct grant to Baltimore City for projects which meet park purposes is required to be \$1.5 million. However, DLS also notes that the \$1.575 million increase in the Baltimore City direct grant for the three projects in fiscal 2010 is a substantial increase from the historical amount of \$1.50 million. In addition, there is less money for State land acquisition in fiscal 2010 due to the decrease in projected transfer tax revenue and the underattainment in fiscal 2008. In fact, the allocation of transfer tax revenue for State land acquisition is at an historical low except for the period of fiscal 2003 through 2006 when the transfer tax revenue was diverted to the general fund. Therefore, DLS recommends that DNR discuss why the additional \$1.575 million is being directed to Baltimore City, why these three particular projects were chosen for funding, and the effect of this use of State land acquisition funding on attainment of land acquisition goals.

The \$1,217,000 to be redirected for operating expenses is intended to mitigate the reduced transfer tax revenue amount for administrative expenses. This provision is contingent on the enactment of the Budget Reconciliation and Financing Act of 2009 as introduced by the Governor. DNR notes that it intends to allocate the additional POS Administrative Fee to restore the following:

- DNR (\$600,000) – mapping services including high resolution imagery acquisition in fiscal 2010 (\$300,000), processing of color infrared imagery (\$200,000), and hosting of mapping applications at Towson University Center for Geographic Information Systems (\$100,000);
- Department of General Services (\$227,000) – land acquisition funding for negotiations, appraisals, and title research;
- DNR – Wildlife and Heritage Service (\$200,000) – salaries and mapping functionality associated with GreenPrint;
- Maryland Department of Planning (\$130,000) – review of annual plans and evaluation of Rural Legacy grant applications and POS projects; and
- DNR – Land Acquisition and Planning (\$60,000) – part-time contractual clerical assistant, travel, equipment replacement, supplies and materials.

As shown in **Exhibit 5**, the fiscal 2010 allowance provides \$9.3 million for State land acquisition – a substantial decrease from the levels between fiscal 2006 and 2009.

Exhibit 5
POS State Land Conservation
(\$ in Millions)

<u>Fiscal Year</u>	<u>Special Funds</u>	<u>Federal Funds</u>	<u>GO Bonds</u>	<u>Total</u>
2004	\$0.0	\$1.0	\$12.7	\$13.7
2005	0.0	1.0	0.0	1.0
2006	23.1	2.0	0.0	25.1
2007	111.0	2.0	0.0	113.0
2008	70.8	2.0	0.0	72.8
2009	20.5	1.5	0.0	22.0
2010	8.3	1.0	0.0	9.3

GO: general obligation

POS: Program Open Space

Note: The fiscal 2010 funding reflects the \$1.575 million increase in State land acquisition going to the Baltimore City direct grant and the contingent reduction of \$1.217 million diverted to operating expenses.

Source: Governor's Budget Books, Fiscal 2005-2010

Regardless of existing revenue constraints, POS has contributed a substantial amount of funding for open space acquisition and development. For instance, through fiscal 2009, the total historic appropriation for POS State land acquisition is \$472.5 million and the total for POS local acquisition and development is \$880.0 million. Of these amounts, \$59.9 million remains to be encumbered from POS State land acquisition appropriations and \$52.9 million from POS local acquisition and development appropriations up to and including the January 28, 2009 Board of Public Works (BPW) meeting. **Exhibit 6** shows the amount of historical POS local allocations and the current unobligated amount for each county. The percentage of current unobligated funding as a function of historical allocation is highest for Charles County at 23.3% and lowest for both Anne Arundel County and Baltimore City at 0.0%.

Exhibit 6
POS Local Historical Allocation Fiscal 1970-2009 vs.
Current Unobligated Amounts

<u>County</u>	<u>Historical Allocation</u>	<u>Current Unobligated</u>	<u>Current Unobligated as a Percent of Historical Allocation</u>
Allegany	\$9,193,861	\$520,626	5.7%
Anne Arundel	100,870,335	25,281	0.0%
Baltimore	113,035,061	15,452,106	13.7%
Calvert	9,159,470	12,203	0.1%
Caroline	3,898,822	296,565	7.6%
Carroll	21,743,490	3,569,371	16.4%
Cecil	11,164,582	109,176	1.0%
Charles	19,703,913	4,599,188	23.3%
Dorchester	3,625,717	341,510	9.4%
Frederick	22,636,533	4,452,388	19.7%
Garrett	4,594,943	219,534	4.8%
Harford	33,500,705	227,114	0.7%
Howard	55,937,603	84,737	0.2%
Kent	2,634,326	309,788	11.8%
Montgomery	154,045,882	4,425,070	2.9%
Prince George's	129,015,150	14,399,110	11.2%
Queen Anne's	5,879,791	362,508	6.2%
St. Mary's	10,306,654	158,988	1.5%
Somerset	2,526,830	119,532	4.7%
Talbot	6,167,378	216,896	3.5%
Washington	17,323,588	1,389,766	8.0%
Wicomico	11,723,153	857,657	7.3%
Worcester	10,968,758	731,225	6.7%
Baltimore City	77,031,664	0	0.0%
Subtotal	\$836,688,209	\$52,880,338	6.3%
Baltimore City Direct Grants	\$43,364,736	\$0	0.0%
Grand Total	\$880,052,945	\$52,880,338	6.0%

POS: Program Open Space

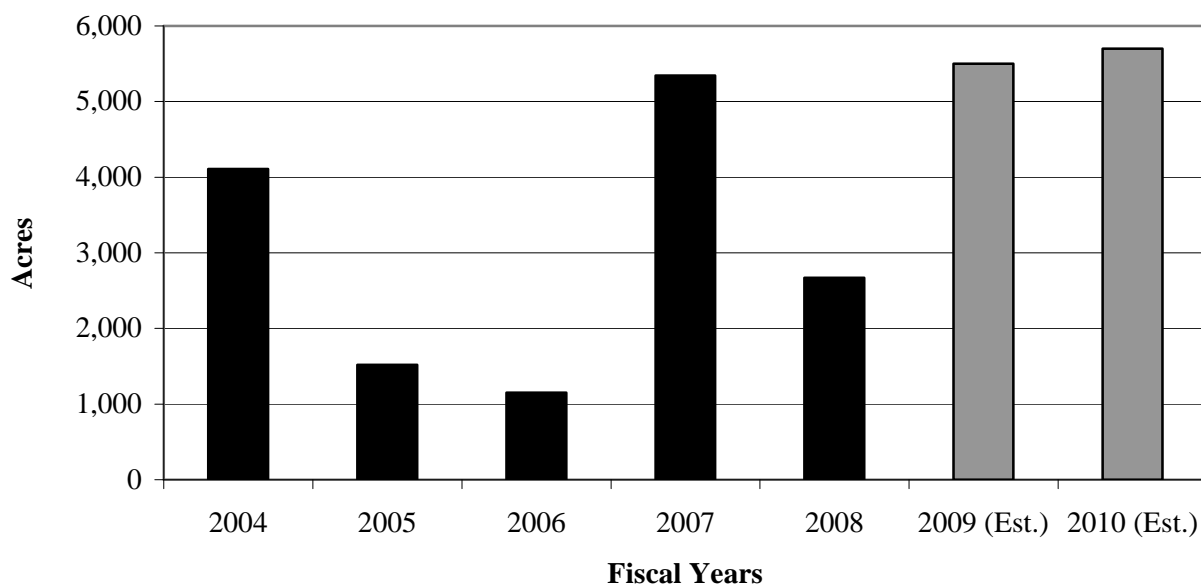
Note: The current unobligated balances reported are as of January 28, 2009.

Source: Department of Natural Resources; Department of Legislative Services

Program Analysis and Performance

As illustrated in **Exhibit 7**, there was a significant decrease in POS acquisition acres approved by BPW in fiscal 2008. For fiscal 2008, DNR had estimated approval of 4,120 acres, but the actual was only 2,670 acres, a 35% reduction. However, the fiscal 2009 estimates have increased from 2,300 acres published in the fiscal 2009 Governor’s Budget Books to 5,500 in the fiscal 2010 Governor’s Budget Books, a 139% increase. **DNR should be prepared to discuss why fewer acres than anticipated were approved by BPW in fiscal 2008, why the estimate of approved acres in fiscal 2009 increased from last year, and the overall methodology DNR uses for estimating the approved acreage in the out-years.**

Exhibit 7
POS Acquisition Acres Approved by the Board of Public Works
Fiscal 2004-2010



POS: Program Open Space

Source: Governor’s Budget Books, fiscal 2006-2010

Even more important than how many acquisition acres were approved is where the acres were actually located. **Exhibit 8** shows the POS projects from January 30, 2008, to January 30, 2009. The exhibit shows that all but 2 properties are in the targeted ecological area – the main focus area for POS purchases – and within the targeted ecological area, 11 of 26 properties are in an annual focus area.

Exhibit 8
Program Open Space Projects
January 30, 2008 through January 30, 2009

<u>Project Name</u>	<u>County</u>	<u>BPW Date</u>	<u>BPW Amount</u>	<u>Incidentals</u>	<u>Restoration Funding</u>	<u>Fee Simple Acres</u>	<u>Easement Acres</u>	<u>POS Target Score</u>	<u>Targeted Ecological Area</u>	<u>Annual Focus Area</u>
Dilley, Charles E.	GA	2/13/2008	\$100,000.00	\$948.96		10.00		104	Yes	No
Lewis, Richard	DO	2/13/2008	180,000.00	1,167.28		33.97		55	No	No
Dilley, Charles E.	GA	4/2/2008	1,304.00			0.13		104	Yes	No
Norris	AL	4/16/2008	107,000.00	3,116.14		30.63		82	Yes	Green Ridge
Lum	WA	5/21/2008	52,000.00	2,396.70		12.90		94	Yes	No
Walters Property	AL	5/21/2008	850,000.00	5,000.00		251.40		84	Yes	Green Ridge
Beal, Robert	BA	6/11/2008	80,000.00	15,489.15		2.00		96	Yes	No
Vienna Greenbelt	DO	6/11/2008	4,638,900.00	125.00	\$300,000	275.95		105	Yes	Nanticoke/ Marshyhope
Barrans, Richard	BA	6/25/2008	2,375,000.00			55.17		98	Yes	No
Total (Fiscal 2008)			\$8,384,204.00	\$28,243.23	\$300,000	672.15				
Grove Farm	CH	7/16/2008	\$3,000,000.00	\$124,209.00		350.77		93	Yes	No
Hardy	WA	7/16/2008	306,000.00	6,611.00		34.00		79	Yes	No
Lindner, William J.	DO	8/6/2008	2,500,000.00	387,968.68		323.43		91	Yes	No
Millies LLC – Vienna Greenbelt (Town of Vienna)	DO	8/6/2008	105,000.00			0.20		52	Yes	Nanticoke/ Marshyhope
Dukes & Cusick – Vienna Greenbelt (Town of Vienna)	DO	8/6/2008	445,000.00			1.18		52	Yes	Nanticoke/ Marshyhope
Good Luck Farms Inc.	DO	8/20/2008	600,000.00	64,772.50			1,435.70	69	Yes	Nanticoke/ Marshyhope
Liverpool Point A (Alberta Jones Estate)	CH	8/20/2008	3,273,000.00	334,356.00		275.22		101	Yes	Nanjemoy
Fahrney-Gambrills Sustainable Conservation, Inc.	FR	10/15/2008	38,600.00	3,600.00		10.28		81	Yes	No
	WI	10/15/2008	2,535,850.00	115,000.00		1,072.81		98	Yes	Nanticoke/ Marshyhope
Lawson	WA	11/19/2008	695,000.00	12,355.50		12.42		79	Yes	No

<u>Project Name</u>	<u>County</u>	<u>BPW Date</u>	<u>BPW Amount</u>	<u>Incidentals</u>	<u>Restoration Funding</u>	<u>Fee Simple Acres</u>	<u>Easement Acres</u>	<u>POS Target Score</u>	<u>Targeted Ecological Area</u>	<u>Annual Focus Area</u>
Taylor	DO	11/19/2008	80,000.00	28,488.00		85.00		95	Yes	Nanticoke/ Marshyhope
Hardy	WA	11/19/2008	23,490.00			2.61		79	Yes	No
Phillips Silas	WA	12/3/2008	405,780.00	5,780.00		61.57		107	Yes	No
Wicomico USFWS McCain	SO	12/17/2008	330,000.00	18,940.00		175.49		56	No	No
Foster Tract	WO	1/7/2009	14,400,000.00	233,994.00		4,769.00		133	Yes	Pocomoke/ Dividing Creek
Weitzel-Bear Creek	GA	1/7/2009	860,000.00	11,640.50			745.06	43	Yes	No
MD Province Properties		1/28/2009	56,900,000.00	966,745.00	\$890,000	4,473.84		92	Yes	Nanjemoy
Total (Fiscal 2009)			\$86,497,720.00	\$2,314,460.18	\$890,000	11,647.82	2,180.76			

BPW: Board of Public Works
 POS: Program Open Space

Source: Department of Natural Resources

Recommended Actions

1. Concur with Governor's allowance.

Fiscal 2010 Local Program Open Space Allocation

<u>County</u>	<u>Amount</u>
Allegany	\$68,550
Anne Arundel	741,073
Baltimore City	492,429
Baltimore	836,484
Calvert	74,298
Caroline	32,559
Carroll	166,431
Cecil	86,092
Charles	152,007
Dorchester	28,018
Frederick	174,710
Garrett	34,805
Harford	247,439
Howard	438,062
Kent	21,072
Montgomery	1,109,136
Prince George's	945,882
Queen Anne's	45,055
St. Mary's	84,137
Somerset	19,902
Talbot	47,681
Washington	130,856
Wicomico	87,441
Worcester	84,958
Total	\$6,149,076

Note: The fiscal 2010 allowance includes \$3,567,829 for Baltimore City. This amount includes the POS local allocation shown above of \$492,429, the required State direct grant amount of \$1,500,000, and an additional State direct grant amount of \$1,575,400 for three projects. The projects are to replace the Harry and Jeanette Weinberg YMCA citizen volunteer playground (\$175,400), build the Cal Ripken, Sr. Foundation athletic field (\$400,00), and develop a recreation area for the Druid Hill Park – Center for Parks and People at Auchentoroly Terrace (\$1,000,000).

Fiscal 2009 Local Program Open Space Allocation

<u>County</u>	<u>Amount</u>
Allegany	\$196,740
Anne Arundel	1,912,957
Baltimore City	4,416,703
Baltimore	2,220,819
Calvert	175,706
Caroline	86,697
Carroll	419,965
Cecil	214,038
Charles	368,192
Dorchester	67,343
Frederick	373,867
Garrett	80,852
Harford	623,705
Howard	1,119,230
Kent	50,905
Montgomery	2,628,165
Prince George's	2,471,000
Queen Anne's	98,995
St. Mary's	202,817
Somerset	51,504
Talbot	100,053
Washington	330,744
Wicomico	230,371
Worcester	147,838
Total	\$18,589,207

Note: The fiscal 2009 POS local allocation has changed due to a population adjustment in fiscal 2008. The need for the adjustment was realized after the fiscal 2008 allocation and so the adjustment was carried over into fiscal 2009.

Program Open Space – Critical Maintenance Projects and Capital Development (Statewide)

PAYGO SF	\$6,159,000	Recommendation:	Approve
PAYGO FF	\$8,984,000		

Program Description: State law allows up to 25% of the Program Open Space (POS) funds allocated to the State to be used for development projects and for operating expenses at State forests and parks. The Department of Natural Resources (DNR) maintains over 1,500 buildings, hundreds of miles of roadway, parking lots, and a variety of water associated facilities that serve millions of visitors annually. Critical maintenance projects include structural repairs to buildings, bridge repairs, well and septic system replacement, and road and utility repairs. According to DNR, there is a \$20.5 million (765 projects) backlog in necessary critical maintenance projects at State forests and parks. DNR defines the backlog as those projects not funded in the five-year *Capital Improvement Program* (CIP).

The Natural Resources Development Fund (NRDF) provides support to design and construct development projects on DNR property. Development projects include shower buildings, building renovations, road parking and trail improvements, and general park improvements.

The Dam Rehabilitation Program was initiated in fiscal 1999 to address the major repair needs at 13 of DNR's 29 dams. Eight dams have been repaired since funding was first provided in fiscal 1999. The dams scheduled for repair through the program have been identified by the Maryland Department of the Environment's Dam Safety Division as needing immediate repairs. The repairs may include conducting assessments; developing emergency warning plans; and repairing spillways, sluice gates, and access roads. DNR anticipated that sufficient funding would be provided in fiscal 2008 and 2009 to complete all major dam repairs. Therefore, DNR planned to end the program in fiscal 2010 and address future dam needs through the critical maintenance program. However, due to changes to the laws regulating dams, cost increases, and additional needs, DNR now anticipates requesting program funding through fiscal 2011.

The fiscal 2010 pay-as-you-go allowance provides for the following funds:

- Ocean City Beach Maintenance – \$0;
- Critical Maintenance – \$1,250,000;
- NRDF/Capital Development – \$13,393,000; and
- Dam Rehabilitation – \$500,000.

Ocean City Beach Maintenance Prior Authorization and Capital Improvement Program

**Authorization Request
(\$ in Millions)**

<i>Fund Source</i>	<i>2008 Approp.</i>	<i>2009 Approp.</i>	<i>2010 Allowance</i>	<i>2011 Estimate</i>	<i>2012 Estimate</i>	<i>2013 Estimate</i>	<i>2014 Estimate</i>
PAYGO SF	\$1.000	\$1.000	\$0.000	\$1.000	\$1.000	\$1.000	\$0.000
Total	\$1.000	\$1.000	\$0.000	\$1.000	\$1.000	\$1.000	\$0.000

No money is necessary for the State’s annual share of maintenance costs associated with beach maintenance in fiscal 2010 because the Ocean City Beach Maintenance Fund has a balance greater than \$15.0 million and the financing plan dictates that no additional funding need be added. In addition, no money is necessary for the local share of Ocean City Beach Maintenance Fund payment; therefore, a separate section of this analysis has not been prepared.

The operating budget contains \$1.0 million from existing beach maintenance funding from local governments in order to do work in fiscal 2010.

Critical Maintenance Program Prior Authorization and Capital Improvement Program

**Authorization Request
(\$ in Millions)**

<i>Fund Source</i>	<i>2008 Approp.</i>	<i>2009 Approp.</i>	<i>2010 Allowance</i>	<i>2011 Estimate</i>	<i>2012 Estimate</i>	<i>2013 Estimate</i>	<i>2014 Estimate</i>
PAYGO SF	\$5.470	\$4.000	\$1.250	\$1.350	\$3.000	\$4.000	\$4.000
Total	\$5.470	\$4.000	\$1.250	\$1.350	\$3.000	\$4.000	\$4.000

The fiscal 2010 allowance includes \$1,250,000 for critical maintenance to address 23 maintenance projects across the State and allocate funding to the statewide contingency fund. The maintenance projects proposed have been evaluated by DGS and placed into one of three categories: (1) fineable code violations with serious life safety issues; (2) destruction of related assets if maintenance is not completed; and (3) accelerated deterioration of the asset will occur if project is not completed or project is at the end of normal life expectancy. DNR and DGS both manage critical maintenance projects. DNR handles procurement for projects that cost \$50,000 or less (the majority of projects) and DGS handles procurement for projects that cost more than \$50,000. DNR advises

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that it has made some staffing progress by hiring the new project manager discussed in last year’s analysis. However, DNR also lost a project manager in the same time period and, therefore, is still understaffed relative to the higher average level of critical maintenance funding in recent years.

DNR defines the critical maintenance backlog as the value of necessary projects beyond the five-year CIP planning period. In fiscal 2009, DNR had an \$11.5 million backlog of critical maintenance and capital improvement projects; however, DNR now advises that the backlog is \$20.5 million, a \$10.0 million, or 78.3%, increase. DNR states that this increase is due to decreased funding available in fiscal 2010 and 2011 for projects to be included in the CIP and the submission of \$11.0 million in requests by facility managers in fiscal 2008 and 2009. **DNR should discuss the reasons for facility managers submitting so many additional critical maintenance requests, alternatives for handling this dramatic increase in need, and how the critical maintenance requests are expected to change over the next two years.**

Critical Maintenance Program Fund Data

**Authorization Summary
(\$ in Millions)***

<i>Fiscal Year</i>	<i>Authorization</i>	<i>Funds</i>		<i>Balances</i>	
		<i>Encumbered</i>	<i>Expended</i>	<i>To Be Encumbered</i>	<i>To Be Expended</i>
Prior Years	\$19.074	\$18.935	\$18.885	\$0.139	\$0.189
2005	3.500	3.466	2.983	0.034	0.517
2006	4.059	3.519	3.044	0.540	1.015
2007	4.000	2.834	2.374	1.166	1.626
2008	5.470	2.071	1.540	3.399	3.930
2009	4.000	0.351	0.124	3.649	3.876
Total	\$40.103	\$31.176	\$28.950	\$8.927	\$11.153

*Balance as of January 14, 2009.

DNR still has a large amount of unencumbered funds. It plans to encumber \$6.50 million in fiscal 2009, which would leave it with \$5.60 million for fiscal 2010. The fiscal 2010 allowance of \$1.25 million would allow it to encumber \$6.85 million in fiscal 2010, which is roughly equivalent to the planned encumbrance level in fiscal 2009.

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In the last year, DNR has made some progress in reducing the amount of unencumbered funds reflected in the expenditure/encumbrance summary. For instance, since the beginning of fiscal 2009, it has encumbered \$3.2 million for 6 projects. **DNR and the Department of General Services should be prepared to discuss how staffing concerns impact the ability of each to encumber funding for critical maintenance projects and how these staffing concerns may be alleviated.**

NRDF/Capital Development Prior Authorization and Capital Improvement Program

**Authorization Request
(\$ in Millions)**

<i>Fund Source</i>	<i>2008 Approp.</i>	<i>2009 Approp.</i>	<i>2010 Allowance</i>	<i>2011 Estimate</i>	<i>2012 Estimate</i>	<i>2013 Estimate</i>	<i>2014 Estimate</i>
PAYGO SF	\$13.317	\$3.993	\$4.409	\$3.550	\$6.750	\$6.750	\$8.050
PAYGO FF	0.000	0.000	8.984	0.000	0.000	0.000	0.000
GO Bonds	0.000	5.000	0.000	0.000	0.000	0.000	0.000
Nonbudgeted	0.000	0.000	0.000	2.000	0.000	0.000	0.000
Total	\$13.317	\$8.993	\$13.393	\$5.550	\$6.750	\$6.750	\$8.050

Planning and construction funding of \$13,393,000 is included in the fiscal 2010 allowance for the Harriet Tubman Underground Railroad State Park – Visitor Center (Dorchester County).

NRDF/Capital Development Executive’s Operating Budget Impact Statement

(\$ in Thousands)

	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
Estimated Operating Costs	\$0	\$0	\$338	\$301	314
Estimated Staffing	0	0	4 regular positions and 2 contractual FTEs	4 regular positions and 2 contractual FTEs	4 regular positions

FTEs: full-time equivalents

The Harriett Tubman Underground Railroad State Park – Visitor Center is anticipated to require operating expenditures of \$338,000 in fiscal 2012 and six positions, two of which are contractual full-time equivalents.

NRDF/Capital Development Fund Data

Authorization Summary (\$ in Millions)*

		<i>Funds</i>		<i>Balances</i>	
		<i>Encumbered</i>	<i>Expended</i>	<i>To Be Encumbered</i>	<i>To Be Expended</i>
<i>Fiscal Year</i>	<i>Authorization</i>				
Prior Years	\$6.300	\$4.7765	\$3.896	\$1.5235	\$2.404
2005	3.435	3.201	0.164	0.234	3.271
2006	1.600	0.026	0.000	1.574	1.600
2007	13.151	5.556	5.398	7.595	7.753
2008	13.317	3.012	1.616	10.305	11.701
2009	8.993	0.000	0.000	8.993	8.993
Total	\$46.796	\$16.572	\$11.074	\$30.225	\$35.722

*Balance as of fall 2008.

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As of fall 2008, NRDF had \$30.2 million in funds to be encumbered; however, \$26.9 million of this amount is from fiscal 2007 to 2009. DNR anticipates encumbering \$9.4 million, or approximately 35%, of the unencumbered balance in fiscal 2009. DNR notes that four projects in the fiscal 2007 to 2009 time period totaling \$13.0 million are in the bidding process for construction. These projects are Shad Sewer Improvement; Rocky Gap Concession and Bathhouse Buildings; DNR Communication Center; and Natural Resources Police Area 3 Building. **DLS recommends that DNR and DGS comment on why NRDF has such a large amount of funds to be encumbered.**

Dam Rehabilitation Prior Authorization and Capital Improvement Program

**Authorization Request
(\$ in Millions)**

<i>Fund Source</i>	<i>2008 Approp.</i>	<i>2009 Approp.</i>	<i>2010 Allowance</i>	<i>2011 Estimate</i>	<i>2012 Estimate</i>	<i>2013 Estimate</i>	<i>2014 Estimate</i>
PAYGO SF	\$0.500	\$0.500	\$0.500	\$0.000	\$0.500	\$0.000	\$0.000
Total	\$0.500	\$0.500	\$0.500	\$0.000	\$0.500	\$0.000	\$0.000

Fiscal 2010 funding of \$500,000 will support three projects originally funded in fiscal 2009 but shifted to fiscal 2010 due to emergency projects taking priority. For fiscal 2010, \$115,000 is for rehabilitating or replacing Mill Pond Dam at Gunpowder Falls State Park (Baltimore County); \$75,000 for repairing the Cedarville State Park Dam (Charles County); and \$310,000 for repairing the Friends Park Pond Dam (Harford County). In fiscal 2003, \$50,000 was previously authorized for the Friends Park Pond Dam project. For fiscal 2009, \$200,000 is for removing Union Dam from the Patapsco River (Baltimore County); \$60,000 for constructing improvements to Susquehanna Dam on Rock Creek (Harford County); \$40,000 for constructing improvements to Rocky Gap Dam in Rocky Gap State Park (Allegany County); and \$200,000 for repairing Calvert Cliffs State Park Dam (Calvert County).

The Dam Rehabilitation Program is slated to receive no funding in fiscal 2011 and then the program is projected to receive the last appropriation in fiscal 2012, according to the 2009 CIP. DNR anticipates that fiscal 2012 funding will allow for the completion of Friends Park Pond Dam Project, Harrington Dam, Mill Pond Dam, and Calvert Cliffs State Park Dam. Additional funding may be needed for Bloede Dam for which an alternatives study is being conducted.

Dam Rehabilitation Program Fund Data

Authorization Summary (\$ in Millions)*

<i>Fiscal Year</i>	<i>Authorization</i>	<i>Funds</i>		<i>Balances</i>	
		<i>Encumbered</i>	<i>Expended</i>	<i>To Be Encumbered</i>	<i>To Be Expended</i>
Prior Years	\$4.040	\$3.240	\$2.548	\$0.800	\$1.492
2005	0.500	0.000	0.000	0.500	0.500
2006	0.640	0.000	0.000	0.640	0.640
2007	0.500	0.000	0.000	0.500	0.500
2008	0.500	0.000	0.000	0.500	0.500
2009	0.500	0.000	0.000	0.500	0.500
Total	\$0.500	\$3.240	\$2.548	\$3.440	\$4.132

*Balance as of fall 2008.

The Dam Rehabilitation Program has a substantial amount of unencumbered funding, \$3.44 million. DNR indicates that permitting requirements have extended the design period phase for the larger scale dam projects it has undertaken.

Issues

1. Capital Development Project Funding Concerns

Committee narrative in the 2008 *Joint Chairmen's Report* requested the submission of a plan that provides the following:

- outlines a strategy for funding the design, construction, and capital equipping of DNR capital development projects in one year in cases where the project schedule would allow for one-year funding;
- discusses the benefits and disadvantages of one-year capital development funding strategy; and
- explains the department's position concerning whether it will implement a one-year funding approach.

Report Submitted

DNR and DGS made two statements in the report:

- multi-phase funding such as the design/build process was not considered; and
- single-year or multi-year appropriation determination should be left with DNR and DGS.

The report covered 34 projects with single-year appropriations and 22 projects with multi-year funding. The general findings are presented in **Exhibit 9**.

Exhibit 9
Single-year vs. Multi-year Funding for Capital Development Projects

<u>Parameter</u>	<u>Single-year</u>	<u>Multi-year</u>
Length of project	Short	Long
Complexity	Few permitting or legal (right of ways, easements) issues	Many permitting or legal issues
Architectural and engineering services	Under \$200,000 threshold so allowed to use DGS Indefinite Quantity Contract	Over \$200,000 and so four to six months required to secure design contract and go to BPW
Total cost	Between \$250,000 and \$1.25 million	Over \$1.25 million
Volatility of market	cost increases not a concern because funding secured	Cost increases necessitate construction estimate to be close to construction bidding

BPW: Board of Public Works

Source: Department of Natural Resources; Department of General Services; Department of Legislative Services

Two major findings concerning the successful funding of projects are whether permitting issues increase the timeline for the project and whether inflation increases construction costs. The report notes that permitting issues can be mitigated with a feasibility study, and the Department of Legislative Services (DLS) notes construction cost increases can be mitigated by a properly sized POS Contingency Fund.

In accordance with Section 5-903.1 (d)(3)(ii), the POS Contingency Fund seeks to supplement fund shortages on critical maintenance and capital development projects that are either out to bid or in construction. The fund is supported by allocating excess funds from completed or canceled projects and has a limit of \$250,000. However, project costs have grown considerably over the past 10 years. To accomplish the purpose of the fund, a higher limit that controls for inflation is warranted. **The Department of Legislative Services recommends that the Budget Reconciliation and Financing Act of 2009 be amended to increase the POS Contingency Fund cap to \$1.0 million by amending Natural Resources Article § 5.903.1(c).**

Fiscal 2009 Funding Restricted to Capital Development Projects

The question of single-year or multi-year funding became an issue in the 2008 session because insufficient funds for construction of capital development projects were available to complete projects begun in fiscal 2008. Therefore, the General Assembly restricted \$5.0 million in Rural Legacy Program general obligation bonds to constructing capital development projects that were ready to

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receive funding. In addition, a letter was required to be submitted on the projects that were funded using the fiscal 2009 restricted funding.

DNR submitted the requested letter on July 22, 2008. Of the eligible list of projects for \$12.6 million, DNR selected four projects as follows:

- Cedarville Fish Hatchery Renovations – \$2,007,000;
- Bathhouse Replacement – Pocomoke River State Park – \$1,250,000;
- Bathhouse Replacement – Deep Creek State Park – \$915,000; and
- Bathhouse Renovations – Susquehanna State Park – \$828,000.

Capital Development Projects Ready for Funding in Fiscal 2010

Once again there is limited capital development funding due to the decrease in the transfer tax. In addition, all of the capital development funding for fiscal 2010 is allocated to the design and construction of the Harriet Tubman State Park – Visitor Center. Therefore, capital development projects requiring planning and construction funding are not included in the fiscal 2010 allowance.

Exhibit 10 shows the projects that are anticipated to be ready for either planning or construction funding in fiscal 2010 but that have not been included in the capital development project funding for fiscal 2010.

Exhibit 10
Capital Development Projects Ready for Design or Construction Funding
Fiscal 2010

<u>Phase</u>	<u>Project</u>	<u>Amount</u>
Construction	Black Walnut Point Shoreline Erosion Control	\$1,653,877
	Janes Island Nature Center Renovations	1,550,000
	Point Lookout Administration Office Renovations	1,366,000
	Subtotal	\$4,569,877
Design	Point Lookout Historic Lighthouse Restoration	365,000
	Wellington Wildlife Management Area Building Renovations	336,000
	Cunningham Falls Day Use and Beach Improvements	278,000
	New Germany Day Use and Beach Improvements	268,000
	Elk Neck State Park Improvements	220,000
	Rocks State Park Rock Ridge Comfort Station	115,000
	Point Lookout Charge Collection System Replacement	100,000
	Subtotal	\$1,682,000
	Total	\$6,251,877

Source: Department of Natural Resources

No CIP Specifically for Capital Development Projects

The five-year *Capital Improvement Program* does not include any information about specific capital development projects to be funded in the out-years. Therefore, it is difficult to discern DNR's overall capital development project needs and whether these needs are being met. However, the Maryland Historical Trust and Historic St. Mary's City Commission do have projects ready to go which require funding.

DLS recommends that DNR develop a five-year capital improvement program for capital development projects to be submitted on July 1, 2009. DLS also recommends that the Budget Reconciliation and Financing Act of 2009 be used to incorporate the Maryland Historical Trust and Historic St. Mary's City Commission into the category of eligible recipients of capital improvement funding by amending Natural Resources Article § 5-903(g). In addition DLS recommends that the \$5.0 million general obligation bond authorization for the Rural Legacy Program be reduced by \$4.6 million to allow for the funding of construction phases of capital development projects ready to proceed in fiscal 2010. Budget bill language to this effect is included with the recommendation for the Rural Legacy Program.

2. Harriet Tubman Underground Railroad State Park – Visitor Center Construction Reliant on Federal Funding

Capital development funding for construction of the Harriet Tubman Underground Railroad State Park – Visitor Center is included in the fiscal 2010 allowance. Inclusion of funding for this project raises three questions:

- why the visitor center is needed;
- how it will be funded; and
- when it will be funded.

Visitor Center Needed

Commemoration of the Underground Railroad was introduced as federal legislation in 1990, which has since been refined to honoring Harriet Tubman. A special resource study conducted by the National Park Service further refined the idea of honoring Harriet Tubman to creating a National Historical Park at her birthplace in Dorchester County, Maryland, and her residence in Auburn, New York.

Maryland anticipates leveraging the federal interest in Harriet Tubman's legacy by creating a park campus atmosphere adjacent to the Blackwater National Wildlife Refuge. Maryland will construct a focal point visitor center that will be complemented by the outdoor experiences and infrastructure at the refuge. While acknowledging that federal government involvement may obviate

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Maryland's creation of a specific State park honoring Harriet Tubman, DNR notes that it is in Maryland's best interest to both honor Harriet Tubman and participate in the tourism activity that will ensue. DNR also notes that the State park would be the first in Dorchester County – the only county without a State park – but that a fully developed land unit management plan has not been prepared and most likely will not be prepared for the State park.

The plans for the visitor center include the following:

- visitor center/interpretive center – 15,000 gross square feet Leadership in Energy and Environmental Design silver building with interactive exhibits focusing on Harriet Tubman and her involvement in the Underground Railroad;
- access – access roads and parking for up to 6 buses and 75 cars;
- memorial garden;
- picnic pavilion – two picnic pavilions will be constructed;
- informational kiosks;
- walking paths; and
- onsite wastewater treatment system and well.

DLS notes that \$754,927 is included in the total project cost for architectural and engineering special services. DNR indicates that this is due to the substantial amount of interpretation work that accompanies the project and the landscape architecture involved in the memorial garden and walking paths.

How It Will Be Funded

To date the following funding activities have occurred in preparation for the Harriet Tubman Underground Railroad State Park – Visitor Center:

- April 18, 2007 – Board of Public Works (BPW) approved the acquisition of 17 acres within the Blackwater National Wildlife Refuge; and
- January 28, 2009 – BPW approved architectural and engineering services for \$2.2 million to plan and design the visitor center, although only \$1.6 million was available so the initial award was for only two of six phases.

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Design and construction funding for the project comprises the entire fiscal 2010 capital development budget and consists of \$4.4 million of transfer tax special funds and \$9.0 million of federal funding. DNR indicates that it anticipates funding from the sources indicated in **Exhibit 11**.

Exhibit 11
Harriet Tubman Underground Railroad State Park – Visitor Center Funding
Fiscal 2008-2011
(\$ in Millions)

	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>Future</u>	<u>Total</u>
Use						
Planning	\$1.6		\$1.3			\$2.9
Construction		\$1.0	13.3	\$4.4		18.6
Equipment					\$0.7	0.7
Total	\$1.6	\$1.0	\$14.6	\$4.4	\$0.7	\$22.2
Source						
State	\$1.6		\$4.4	\$3.6	\$0.7	\$10.3
Federal		\$1.0	10.2	0.8		11.9
Total	\$1.6	\$1.0	\$14.6	\$4.4	\$0.7	\$22.2

Source: Department of Natural Resources

DNR indicates that it has secured various levels of commitment for federal funding. Federal funds are anticipated as follows:

- fiscal 2009 – Land and Water Conservation Fund (\$0.5 million) and HOPE VI Grant (\$0.5 million);
- fiscal 2010 – National Park Service Centennial Challenge Grant (\$8.9 million), Land and Water Conservation Fund monies (\$0.5 million), and Federal Highway Administration Byways Grant (\$0.75 million); and
- fiscal 2011 – Byways Grant (\$0.75 million).

Of the federal funds anticipated, DNR has completed the application for the \$0.5 million in Land Water Conservation Fund monies for fiscal 2009 and U.S. Senator Barbara A. Mikulski's subcommittee has approved the HOPE VI Grant for fiscal 2009.

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The majority of the funding is anticipated to come from the National Park Service (NPS) Centennial Challenge Grant. U.S. Senators Benjamin L. Cardin and Barbara A. Mikulski, among others, introduced Senate Bill 227 in the 111th Congress on January 13, 2009 – Harriet Tubman National Historical Park and Harriet Tubman Underground Railroad National Historical Park Act. The legislation would authorize up to \$11.0 million in federal funding for acquisition of fee title and easements and to design and construct the visitor center to carry out the proposed purposes of the National Historical Park. The legislation ties to the American Recovery and Reinvestment Act of 2009, which contains a provision for \$100.0 million in NPS Centennial Challenge grants. DNR's understanding is that Maryland is on the short-list to receive a NPS Centennial Challenge grant because the NPS special resource study identified Harriet Tubman's birthplace as a component of the preferred alternative to honor the legacy of Harriet Tubman and the Underground Railroad.

While the funding needs for the Harriet Tubman Underground Railroad State Park – Visitor Center have been identified, there is still the question of the funding needs for the planned Underground Railroad Byway. The byway is intended to spiral away from the park in order to show the landscape in which Harriet Tubman grew up and in which Underground Railroad sites are located. Four major sites and dozens of minor sites are planned. Since the byway is a State-designated Maryland Byway, it is eligible for federal funding through the Federal Highway Administration. The Underground Railroad Byway also is anticipated to be eligible for funding under the NPS Centennial Challenge grant of which there would be approximately \$2.0 million left after construction funding for the Harriet Tubman Underground Railroad State Park – Visitor Center.

When Will It Be Funded

Construction funding is authorized in the fiscal 2010 allowance; however, the project is not expected to go to bid until late fiscal 2010 with construction actually anticipated beginning in fiscal 2011. Therefore, funding is not absolutely essential in fiscal 2010. DNR notes that it would like to have the funding in place due to the uncertainty of the transfer tax revenue.

DLS recommends that DNR comment on why a land unit management plan has not been prepared for the proposed Harriet Tubman Underground Railroad State Park, the overall strategy for and likelihood of receiving federal funding for the Harriet Tubman Underground Railroad State Park – Visitor Center, the State's overall funding plan for Underground Railroad activities including the proposed byway, scenarios for handling any shortfalls in either transfer tax or federal funding, and how other capital development projects are anticipated to be funded.

Recommended Actions

1. Adopt the following narrative:

Five-Year Plan for Capital Development Projects: The budget committees are concerned that capital development projects may not be receiving the funding necessary due to fluctuations in the transfer tax and the prioritization of large projects that require multiple years of funding. Therefore, DNR should submit a report on a five-year plan for funding capital development projects.

Information Request	Author	Due Date
Five-year capital development project plan	DNR	July 1, 2009

Fiscal 2010 Proposed Critical Maintenance Projects

<u>Subdivision</u>	<u>Project Title</u>	<u>Estimated Cost</u>	<u>FY 2010 Amount</u>	<u>Total State Share (%)</u>
Anne Arundel	Sandy Point State Park – Replace Bathhouse Windows	\$20,000	\$20,000	100.0%
Anne Arundel	Sandy Point State Park – Replace Ejector Pit	30,000	30,000	100.0%
Baltimore	Gunpowder Falls State Park – Water Filtration System Renovation	7,000	7,000	100.0%
Cecil	Elk Neck State Park – Replace Comfort Station Roofs	32,700	32,700	100.0%
Cecil	Grove Farm Wildlife Management Area – Replace Storage Building	80,000	80,000	100.0%
Charles	Smallwood State Park – Replace Contact Station	20,000	20,000	100.0%
Dorchester	Cambridge Marine Terminal – Repair Railway	300,000	300,000	100.0%
Frederick	Cunningham Falls State Park – Renovate Restrooms	80,000	80,000	100.0%
Frederick	Cunningham Falls State Park – Replace Doors/Windows	25,000	25,000	100.0%
Frederick	Cunningham Falls State Park – Replace Drainage	35,000	35,000	100.0%
Garrett	Deep Creek Lake State Park Discovery Center – Replace Doors	15,000	15,000	100.0%
Garrett	Fort Frederick State Park – Trail Maintenance	20,000	20,000	100.0%
Garrett	Herrington Manor State Park – Replace Fuel Dispensers	8,600	8,600	100.0%
Garrett	New Germany State Park – Renovate Exterior of Maintenance Buildings	24,900	24,900	100.0%
Montgomery	Seneca Creek State Park – Stabilize Pump Station	5,000	5,000	100.0%
Somerset	LeCompte Wildlife Management Area – Renovate Buildings	20,000	20,000	100.0%
St. Mary’s	Pt. Lookout State Park – Install Security Fence	15,000	15,000	100.0%
Worcester	Assateague State Park – Dune Maintenance	150,000	150,000	100.0%
Worcester	Pocomoke River State Forest – New Windows/Doors at Maintenance Shop	20,000	20,000	100.0%
Worcester	Pocomoke River State Park – Pave Roads and Parking Lot at Shad Landing	180,000	180,000	100.0%
Worcester	Pocomoke River State Park – Renovate Pavilions	51,000	51,000	100.0%
Worcester	Pocomoke River State Park – Replace Pool Pump	45,000	45,000	100.0%
Worcester	Pocomoke River State Park – Replace Toilets	35,000	35,000	100.0%
Statewide	Statewide Contingency Fund	30,800	30,800	100.0%
Total		\$1,250,000	\$1,250,000	

Fiscal 2009 Authorized Critical Maintenance Projects Status

<u>Location</u>	<u>Project Title</u>	<u>FY 2009 Amount</u>	<u>Status</u>
Fair Hill NRMA	Replace Timber Course Fence	\$70,000	Planning
Fair Hill NRMA	Kennel Road Electric Supply	54,700	Planning
Fair Hill NRMA	Storm Water Management/Race Barns	80,000	Planning
Fair Hill NRMA	Replace Sound System – Fairgrounds	15,000	Planning
Fair Hill NRMA	Sewer Line Replacement – NSA Bldg	20,000	Planning
Gunpowder Falls SP	Erosion Control – NCR Trail	75,000	Planning
Patapsco Valley SP	Replace Septic System – Rapids & B	19,000	Planning
Patapsco Valley SP	Replace Guardrail – Several Areas	15,000	Planning
Patapsco Valley SP	Replace Furnace in Hilton Shop	22,000	Canceled
Patapsco Valley SP	Reroof Shelters and Restroom	50,000	Planning
Patapsco Valley SP	Replace Waterline at Hilton Complex	15,000	Planning
Patapsco Valley SP	Resurface Grist Mill Trail	80,000	Planning
Patapsco Valley SP	Re-Roof Headquarters Office	50,000	Construction
Rocks SP	Asbestos Removal – Park Headquarters	10,000	Planning
Rocks SP	Replace Vehicle Exhaust System	40,000	Canceled
Rocks SP	Vehicle Barrier Replacement	30,000	Planning
Rocks SP	Renovate Pavilion – Rock Ridge	95,000	Planning
Soldier’s Delight NEA	Replace HVAC for Visitor Center	63,000	Planning
Strider WMA	Replace Shop Building	65,000	Planning
Susquehanna SP	Replace Lookout Steps – Tollhouse	20,000	Planning
Assateague SP	Dune Maintenance	150,000	Design
Assateague SP	Well Refurbishing	150,000	Design
Choptank River Bridge	Replace Handrail System	200,000	Planning
Hillsboro Regional Office	Window and Door Replacement	15,000	Planning
Janes Island SP	Replace/Refinishing Floors-Confer.	20,000	Construction
Janes Island SP	Replace Entrance Gate	35,000	Construction
Martinak SP	Replace Drain Field – Day Use	9,000	Planning
Martinak SP	Replace Windows – Nature Center	4,000	Design
Maryland Marine Prop.	Road and Parking Area Repair	18,000	Construction
Matapeake	Sewer Hook-up	20,000	Planning
Matapeake Terminal	Replace A/C Units	12,000	Planning
Millington WMA	Exterior Repair to HQ Buildings	50,000	Canceled
Pocomoke River SP	Replace Electrical System	18,000	Design
Pocomoke River SP	Furnace Replacement	15,000	Planning
Pocomoke River SP	Reroof Shelter – Milburn Landing	16,000	Planning
Tuckahoe SP	Replace Drain Field – Office	9,000	Planning
Tuckahoe SP	Resurface Cherry Lane Roads	70,000	Planning
Unicorn FH	Install New Well	12,000	Planning

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<u>Location</u>	<u>Project Title</u>	<u>FY 2009 Amount</u>	<u>Status</u>
Unicorn FH	Replace Water Supply Lines	140,000	Planning
Albert Powell FH	Pump Replacement – Egg Bldg.	15,000	Planning
Big Run SP	Renovate Big Run Pavilion	60,000	Design
Billmeyer WMA	Shop Renovations	10,000	Design
Billmeyer WMA	Install Hazardous Materials Bldg.	32,000	Construction
Cunningham Falls SP	Replace 15 Poles Holding Elec. Lines	30,000	Planning
Dan’s Mountain SP	Install New Propane Heaters – Shop	2,500	Completed
Dan’s Mountain SP	Renovate Hill Run Pavilion	10,000	Construction
Dan’s Mountain SP	Water Slide Pump and Motor	5,000	Completed
Deep Creek Lake SP	Beach Bathhouse Renovations	85,000	Planning
Deep Creek Lake SP	Replace Campground Gate	15,000	Completed
Deep Creek Lake SP	Replace Exterior Lighting – Headquarters	50,000	Planning
Deep Creek Lake SP	Stain Discovery Center	11,000	Completed
Ft Frederick SP	Phone Line Replacement	75,000	Planning
Ft Frederick SP	Install Phone Conduit	16,500	Planning
Gambrills SP	Repair and Replace Defective Ceiling	40,000	Planning
Gambrills SP	Historic Restoration to 3 Shelters	40,000	Design
Green Ridge SF	Furnace Replacement – Shop Bldg.	12,500	Construction
Green Ridge SF	Renovate Point Overlook	8,000	Completed
Herrington Manor SP	Upgrade Septic Systems – Cabins	87,000	Planning
Mt. Nebo WMA	Renovate Shop Complex	60,000	Design
New Germany SP	Reroof Campground Bath House	40,000	Completed
New Germany SP	Reroof Headquarters Office	20,100	Completed
Potomac Garrett SF	Install Water Treatment System	3,000	Completed
Potomac Garrett SF	Renovate Shop Complex	68,000	Design
Rocky Gap SP	Replace Chiller – Camp Store	32,500	Completed
Rocky Gap SP	Repave Driveway to Chalet	21,000	Construction
Rocky Gap SP	Replace Furnace – Park Office	5,000	Construction
Rocky Gap SP	Renovate Campground Shower Building Phase III	400,000	Planning
Swallow Falls SP	Replace Water Line	5,000	Canceled
Cedarville FH	Install Pond Liners	6,000	Planning
Cedarville FH	Replace Sewage Ejector Pumps	6,000	Complete
Greenwell SP	Paint Exterior – Manor House	111,000	Construction
Greenwell SP	Porch & Deck Renovations	56,100	Planning
Point Lookout SP	Upgrade Electric Ser. Camp Loops	150,000	Planning
Point Lookout SP	Replace Fishing Pier Lighting	8,000	Planning
Point Lookout SP	Renovate Campground Bath Houses – Phase I	400,000	Planning
St. Clements Island	Replace Pit Toilet	40,000	Planning
Statewide	Bridge Work	75,000	

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<u>Location</u>	<u>Project Title</u>	<u>FY 2009 Amount</u>	<u>Status</u>
Statewide	Contingency Fund	104,000	
Total		\$4,000,000	

Note: The following projects have been canceled and are not included in the total: Rocks State Park – Replace Vehicle Exhaust System (\$40,000); Patapsco Valley State Park – Replace Furnace in Hilton Shop (\$22,000); and Swallow Falls State Park – Replace Water Line (\$5,000).

Fiscal 2010 Proposed Dam Rehabilitation Program Projects

<u>Subdivision</u>	<u>Project Title</u>	<u>Estimated Cost</u>	<u>Prior Auth.</u>	<u>FY 2010 Amount</u>	<u>Future Request</u>	<u>Total State Share (%)</u>
Baltimore	Mill Pond Dam Replacement	\$475,000	-	\$115,000	\$360,000	100.0%
Charles	Cedarville State Park Dam Repair	225,000	-	75,000	150,000	100.0%
Harford	Friends Pond Dam Repair	624,000	\$50,000	310,000	-	57.7%
Total		\$1,324,000	\$50,000	\$500,000	\$510,000	

Fiscal 2009 Authorized Dam Rehabilitation Program Projects Status

<u>Subdivision</u>	<u>Project Title</u>	<u>Estimated Cost</u>	<u>Current Amount</u>	<u>Total State Share (%)</u>
Allegany	Rocky Gap Dam Repair	\$210,000	\$210,000	100.0%
Baltimore	Bloede Dam Repair	300,000	150,000	50.0%
Baltimore	Union Dam Removal	1,485,000	1,485,000	100.0%
Calvert	Calvert Cliffs State Park Dam Repair	200,000	200,000	100.0%
Harford	Susquehanna Dam Repair	500,000	500,000	100.0%
Total		\$2,695,000	\$2,545,000	

Fiscal 2010 Proposed Natural Resources Development Fund Projects

<u>Subdivision</u>	<u>Project Title</u>	<u>Estimated Cost</u>	<u>Prior Auth.</u>	<u>FY 2010 Amount</u>	<u>Future Request</u>	<u>Total State Share (%)</u>
Dorchester	Harriet Tubman Underground Railroad State Park – Visitor Center and Site Improvements	\$21,465,000	\$1,600,000	\$13,393,000	\$4,472,000	90.7%
Total		\$21,465,000	\$1,600,000	\$13,393,000	\$4,472,000	

Fiscal 2009 Authorized Natural Resources Development Fund Projects Status

<u>Subdivision</u>	<u>Project Title</u>	<u>Estimated Cost</u>	<u>Current Amount</u>	<u>Total State Share (%)</u>
Allegany	Rocky Gap State Park – New Bathhouse and Concession Building	\$4,616,000	\$4,195,423	90.9%
Allegany	Sandy Point State Park – Area 3 NRP Office and DNR Communication Center	2,420,000	1,826,496	75.5%
Baltimore	North Point State Park – Bayshore Pier Restoration	1,945,000	74,480	3.8%
Cecil	Fair Hill NRMA – New Hay Barns	150,000	150,000	100.0%
Dorchester	Harriet Tubman Underground Railroad State Park – Visitor Center	21,466,000	1,600,000	50.0%
Somerset	Forest Service Buildings – Somerset County	182,000	28,765	15.8%
Somerset	Janes Island State Park – Nature Center Renovations	1,681,000	200,000	11.9%
St. Mary's	Point Lookout State Park – Comfort Station	950,000	462,000	48.6%
Talbot	Black Walnut Point NRMA – Shore Erosion Control	1,648,000	77,612	4.7%
Talbot	Wye Oak NRMA – Picnic Pavilion	550,000	338,387	61.5%
Worcester	Assateague State Park – Nature Center Replacement	2,430,000	250,000	10.3%
Worcester	Pocomoke River State Park – Milburn Landing Bathhouse Replacement	1,379,000	115,000	8.3%
Regional	Eastern Regional Nature Tourism Projects	190,000	44,371	23.4%
Total		\$39,607,000	\$9,362,534	

DNR: Department of Natural Resources
 NRMA: Natural Resource Management Area
 NRP: Natural Resources Police

Capital Project Cost Estimate Worksheet

Department: Department of Natural Resources
Project Number: P-075-080-010
Project Title: Harriet Tubman Underground Railroad State Park – Visitor Center and Site Improvements
Analyst: Andrew D. Gray

Structure

New Visitor Center:	15,000 Sq. Ft. X	\$430.00 Sq. Ft. =	\$6,450,000
New Storage Shed:	640 Sq. Ft. X	\$38.00 Sq. Ft. =	24,320
New Kiosk:	72 Sq. Ft. X	\$80.00 Sq. Ft. =	5,760
New Picnic Pavillion 1:	1,800 Sq. Ft. X	\$115.00 Sq. Ft. =	207,000
New Picnic Pavillion 2:	1,800 Sq. Ft. X	\$115.00 Sq. Ft. =	207,000
Asbestos Removal			5,000
Built-in Equipment - Exhibits			1,250,000
Demolition			0
Information Technology			105,000
Miscellaneous – Other			0
Miscellaneous – Other			0
Miscellaneous – Other			0
Subtotal			\$8,254,080
Regional Factor:	125.0%		2,063,520
Subtotal			\$10,317,600
Escalation to Mid-point:	3.08 Yrs. X	4.8% =	14.88% 1,535,259
Total Cost of Structure (Bid Cost)			\$11,852,859

Site Work and Utilities

Site Improvements:	2,065,082 + regional factor + mid-point escalation	\$2,965,458
Utilities:	807,082 + regional factor + mid-point escalation	1,158,970
Project Subtotal (Bid Cost)		\$15,977,286

Fees and Miscellaneous Costs

Green Building Premium	2.0%	\$319,546
Total Construction Contingency	5.0%	798,864
Inspection Cost:	2.2%	351,500
Miscellaneous: Critical Path Method Schedule		50,000
Miscellaneous: Media Productions		350,000
Miscellaneous: Storm Water Management		120,000
Miscellaneous: Building Equipment Commissioning		118,529
Miscellaneous: Exhibit Design		500,000
Miscellaneous: Movable Equipment		650,000
Miscellaneous: Information Technology Equipment		300,000
Miscellaneous: A/E Special Services	4.5%	754,927
A/E Fee through construction phase @	7.0%	1,174,330
Total Cost of Project		\$21,464,982

Base Cost Per New Square Foot	\$430
Adjusted Cost Per New Square Foot (incl. escalation, contingencies & Green Bldg.)	\$661
Base Cost Per Renovated Square Foot	\$0
Adjusted Cost Per Renovated Square Foot (incl. escalation, conting. & Green Bldg.)	\$0

Rural Legacy Program (Statewide)

PAYGO SF	\$11,812,000	Recommendation:	Add capital budget bill language directing that \$4.6 million of the \$5.0 million general obligation bond authorization be used for the Department of Natural Resources capital development projects
GO Bond	\$5,000,000		

Bill Text: Provide funds for the purchase of conservation easements and the acquisition of land. The funds appropriated for this purpose shall be administered in accordance with Sections 5-9A-01 through 5-9A-09 of the Natural Resources Article.

Program Description: The purpose of the Rural Legacy Program is to protect agricultural and natural resources land from sprawl development and thus to promote resource-based economies and to develop greenbelts. Program funds are used to purchase conservation easements on land. Under 5-9A-09 of the Natural Resources Article, the Governor is required to include at least \$5.0 million in the annual capital budget for the Rural Legacy Program.

A board composed of the Secretaries of the Departments of Natural Resources (DNR), Planning, and Agriculture administers Rural Legacy. Local governments, or land trusts with endorsements from local governments, may submit applications for designation as a Rural Legacy area. These local governments and land trusts are Rural Legacy sponsors. An advisory committee appointed by the Governor and confirmed by the Senate reviews applications and makes recommendations to the Rural Legacy Board.

In order to qualify as a Rural Legacy area, an application must meet the following criteria associated with the area, plan, and parties to the proposal:

- The proposal must address the goals and objectives of the program. Specifically, the area must protect agricultural, natural, and cultural resources and enhance the completion of ongoing land protection efforts. The program considers the size of the land and its proximity to existing greenbelts.
- The proposal must be realistic in its ability to achieve the easement or land acquisition. There should be a reasonable plan and strategy for the phasing of the conservation efforts set forth in the proposal.

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- The parties involved, including the sponsor and the local governmental entity should be willing to donate financial and personnel support in order to ensure timely and efficient acquisition, management, and monitoring.

Prior Authorization and Capital Improvement Program

**Authorization Request
(\$ in Millions)**

<i>Fund Source</i>	<i>2008 Approp.</i>	<i>2009 Approp.</i>	<i>2010 Allowance</i>	<i>2011 Estimate</i>	<i>2012 Estimate</i>	<i>2013 Estimate</i>	<i>2014 Estimate</i>
PAYGO SF	\$20.921	\$13.468	\$11.812	\$11.700	\$14.350	\$14.600	\$14.700
GO Bonds	0.000	0.000	5.000	5.000	5.000	5.000	5.000
Total	\$20.921	\$13.468	\$16.812	\$16.700	\$19.350	\$19.600	\$19.700

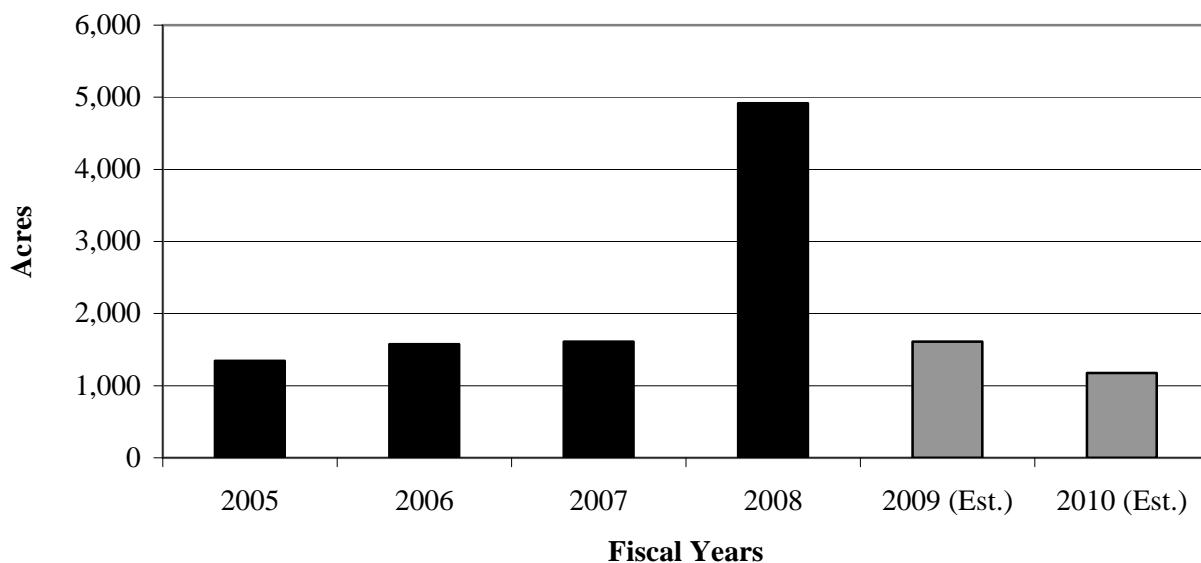
The fiscal 2010 allowance provides \$11.8 million in special funds and \$5.0 million in general obligation (GO) bond funds for the Rural Legacy Program. These funds would be used to preserve an estimated 2,400 acres. The fiscal 2010 allowance is \$3.3 million, or 24.8%, more than the program’s fiscal 2009 funding level. However, the transfer tax amount is \$1.7 million, or 12.3%, less than the program’s fiscal 2009 funding level and the \$5.0 million GO bond authorization has not been funded in recent years. The provision of \$5.0 million in GO bond funding in fiscal 2010 is required by statute and is consistent with the 2008 *Capital Improvement Program*.

Program Analysis and Performance

As illustrated in **Exhibit 12**, the number of easement and fee simple acres increased substantially between the fiscal 2007 and 2008. DNR attributes this increase to the following factors:

- **Lag Time** – Due to the administrative procedures in place, there can be up to a one-year lag between appropriations and expenditures for easements, which was exacerbated by a fiscal 2006 backlog in project spending by local partners.
- **Funding Increase** – The fiscal 2007 appropriation was \$12.1 million, or 86%, more than the fiscal 2006 appropriation and due to the administrative lag time, the appropriation would not be spent until fiscal 2008.

Exhibit 12
Rural Legacy Easement and Fee Simple Acres
Approved by the Board of Public Works
Fiscal 2005-2010



Source: Governor's Budget Books, Fiscal 2007-2010

Exhibit 13 shows the 30 Rural Legacy Areas and the percent of each protected. Overall, 8.0% of the 763,051 acres in Rural Legacy Areas are protected.

Exhibit 13
Rural Legacy Area Percent Protected as of Fall 2008

<u>Rural Legacy Area</u>	<u>Area Acres</u>	<u>Acres Protected</u>	<u>% Protected</u>
Agricultural Security Corridor	43,935	9,268	21.7%
Anne Arundel South	32,421	860	2.7%
Baltimore County Coastal	14,711	899	6.1%
Bear Creek	31,437	1,126	3.6%
Calvert Creeks	20,527	1,660	8.1%
Carrollton Manor	38,265	185	0.5%
Coastal Bays	26,110	6,884	26.4%
Dividing Creek	23,000	0	0.0%
Fair Hill	16,045	689	4.3%
Foreman Branch	7,078	3,484	49.2%
Gunpowder	13,432	749	5.6%
Huntersville	8,357	2,720	32.5%
Lands End	10,394	595	5.7%
Little Pipe Creek	24,942	2,613	10.5%
Long Green Valley	25,252	447	1.8%
Lower Deer Creek	66,701	1,741	2.6%
Manor	28,434	621	2.2%
Mattapany	13,703	0	0.0%
Mid-Maryland Frederick	26,351	3,595	13.6%
Mid-Maryland Montgomery	49,907	4,594	9.2%
Mid-Maryland Washington	42,873	3,791	8.8%
Nanticoke	21,250	4,388	20.6%
North Calvert	10,515	0	0.0%
Patuxent Prince George's	34,984	848	2.4%
Piney Run	32,320	4,666	14.4%
Quantico Creek	13,637	1,356	9.9%
Upper Patapsco Watershed	14,148	217	1.5%
Upper Patuxent Howard	11,322	81	0.7%
Upper Patuxent Montgomery	30,000	281	0.9%
Zekiah Watershed	31,000	2,329	7.5%
Total	763,051	60,687	8.0%

Source: Department of Budget and Management

Recommended Actions

KA05 (B) Rural Legacy Program \$430,123

<u>Allowance</u>	<u>Change</u>	<u>Authorization</u>
5,000,0000	-4,569,877	430,123

Explanation: The write-down in the fiscal 2010 transfer tax revenue estimate and the inclusion of funding for the Harriett Tubman Underground Railroad State Park – Visitor Center have inhibited the initiation and completion of Department of Natural Resources capital development projects that are ready for construction funding in fiscal 2010. Therefore, it is recommended that the \$5.0 million general obligation bond appropriation for the Rural Legacy Program be reduced by \$4,569,877 so that capital development projects that are ready to receive construction funding in fiscal 2010 but for which reduced State transfer tax revenue preclude fiscal 2010 construction funding may be funded.

KA.05 (C) Capital Development Projects \$4,569,877

Add the following language:

Capital Development Projects. Provide funds to construct Department of Natural Resources capital improvements. Funds may only be spent on the projects listed below.....4,569,877

- (1) Black Walnut Point Shoreline Erosion Control (Talbot County).....1,653,877
- (2) Janes Island Nature Center Renovations (Somerset County).....1,550,000
- (3) Point Lookout Administration Office Renovations (St. Mary’s County).....1,366,000

<u>Allowance</u>	<u>Change</u>	<u>Authorization</u>
0	4,569,877	4,569,877

Explanation: The write-down in the fiscal 2010 transfer tax revenue estimate and the inclusion of funding for the Harriett Tubman Underground Railroad State Park – Visitor Center has inhibited the initiation and completion of Department of Natural Resources capital development projects that are ready for construction funding in fiscal 2010. This language provides construction funding for three capital development projects that are ready to receive construction funding in fiscal 2010 but for which reduced State transfer tax revenue preclude fiscal 2010 planning or construction funding.

Fiscal 2010 Proposed Projects

DNR explains that the fiscal 2010 awards will not be selected until late summer or early fall 2009.

Fiscal 2009 Authorized Projects Status

<u>Rural Legacy Area</u>	<u>County</u>	<u>FY 2009 Grant Award*</u>
Agricultural Security Corridor	Caroline, Cecil, Dorchester, Kent, and Talbot	\$1,000,000
Bear Creek	Garrett	500,000
Coastal Bays	Worcester	500,000
Deer Creek	Harford	500,000
Dividing Creek	Somerset and Worcester	1,000,000
Foreman Branch	Queen Anne's	1,000,000
Gunpowder	Baltimore	500,000
Huntersville	St. Mary's	500,000
Lands End	Queen Anne's	500,000
Little Pipe Creek	Carroll	1,000,000
Mid-Maryland Frederick	Frederick	1,000,000
Mid-Maryland Washington	Washington	460,700
Nanticoke	Dorchester	1,000,000
Patuxent Prince George's	Prince George's	500,000
Piney Run	Baltimore	1,000,000
Quantico Creek	Wicomico	1,000,000
Upper Patapsco	Carroll	500,000
Zekiah Watershed	Charles	1,000,000
Total		\$13,460,700

*Grants approved by Board of Public Works on January 7, 2009.

Waterway Improvement Program (Statewide)

PAYGO SF	\$5,000,000	Recommendation:	Approve
PAYGO FF	\$1,000,000		

Program Description: The Waterway Improvement Fund (WWIF) finances projects to expand and improve public boating access throughout the State. Financial support to the fund is derived primarily from the 5.0% excise tax paid on the sale of motorized vessels within the State. Funding is provided in the form of grants and/or long-term, interest free loans to local governments, the Department of Natural Resources (DNR), and some federal government agencies, as follows:

- grants (100%) not to exceed \$5,000;
- grants (100%) less than \$100,000;
- public navigation improvement grants (100%) of unlimited amounts;
- matching grants (50%) that are equal to or exceed \$100,000; and
- interest free loans (100%) with a 25-year maximum.

Prior Authorization and Capital Improvement Program

Authorization Summary (\$ in Millions)

Fiscal Year	Authorization	Funds		Balances	
		Encumbered	Expended	To Be Encumbered	To Be Expended
Prior Years	\$64.017	\$64.017	\$62.773	\$0.000	\$1.244
2005	12.450	12.450	10.673	0.000	1.777
2006	21.316	21.316	17.466	0.000	3.850
2007	26.181	26.181	15.155	0.000	11.026
2008	28.141	28.141	10.297	0.000	17.844
2009	21.300	20.000	0.212	1.300	21.088
Total	\$173.405	\$172.105	\$116.576	\$1.300	\$56.829

December 2008

The authorization summary for the Waterway Improvement Program reflects the immediate encumbering of funding practiced by the program. DNR notes that it has been determined that grant applications accepted by the program are in effect contracts due to the specific terms and conditions of the grant agreement. Therefore, DNR considers the entire list of accepted program grants in any particular year to be encumbered when the budget bill is enacted. The \$1.3 million in funding to be encumbered in fiscal 2009 reflects federal funding that for projects that either are awaiting U.S. Fish and Wildlife Service approval or will be submitted to the U.S. Fish and Wildlife Service for approval soon. DNR has a three-year expenditure policy for funding; however, if progress is noted on a project then this deadline may be extended, which accounts for the \$6.9 million in funding that is yet to be expended for fiscal 2006 and prior years.

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Authorization Request
(\$ in Millions)

<i>Fund Source</i>	<i>2008 Approp.</i>	<i>2009 Approp.</i>	<i>2010 Allowance</i>	<i>2011 Estimate</i>	<i>2012 Estimate</i>	<i>2013 Estimate</i>	<i>2014 Estimate</i>
PAYGO SF	\$26.700	\$20.000	\$5.000	\$10.000	\$10.000	\$10.000	\$10.000
PAYGO FF	1.441	1.300	1.000	0.500	0.500	0.500	0.500
Total	\$28.141	\$21.300	\$6.000	\$10.500	\$10.500	\$10.500	\$10.500

The fiscal 2010 allowance provides \$6.0 million for 60 waterway projects around the State. In fiscal 2010, DNR anticipates that boat excise tax revenue will decline steeply due to the slowdown in the economy. The fiscal 2010 allowance consists of \$1.0 million in U.S. Fish and Wildlife Service grant funding from the Boating Access and Boating Infrastructure grants program. The program’s fiscal 2010 funding would be allocated to the categories of projects in **Exhibit 14**. The distribution reflects the greatest impact on State grants for greater than \$100,000 relative to the fiscal 2009 allocation.

Exhibit 14
Waterway Improvement Program Funding Categories
Fiscal 2009-2010

<u>Category</u>	<u>Number of Projects</u>		<u>Amount</u>	
	<u>2009</u>	<u>2010</u>	<u>2009</u>	<u>2010</u>
State Grants (<\$100,000)	55	26	\$4,035,250	\$1,199,720
State Grants (>\$100,000)	47	14	13,731,830	3,425,000
Matching Fund Grants	28	20	3,092,700	1,375,280
Loans	1	0	440,220	0
Total	131	60	\$21,300,000	\$6,000,000

Source: Department of Natural Resources

There are two contingent actions in the DNR operating budget associated with the Budget and Reconciliation Financing Act of 2009 and which would impact the Waterway Improvement Fund. DNR notes that the combined impact of these actions would be to reduce the ability to conduct dredging and marine facility improvement and construction.

The first action would delete the requirement for the inclusion of \$1,794,000 million in general funds for the Waterway Improvement Fund. Chapter 6 of the 2007 special session (Transportation and State Investment Act) deleted the motor fuel tax special fund revenue distribution to the Waterway Improvement Fund. Instead, Chapter 6 required the inclusion of at least \$1,794,000

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in general funds each year for the fund. Therefore, this action would be counter to the intent of Chapter 6 of the 2007 special session.

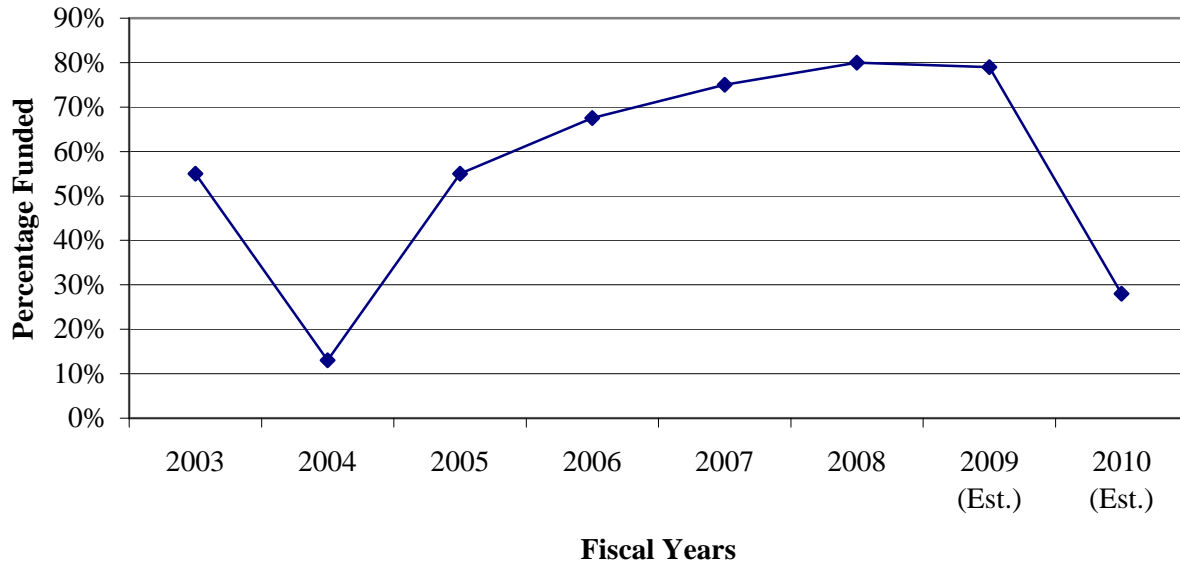
The second action would allow DNR to use up to \$750,000 from the fund for administrative expenses related to implementing the Waterway Improvement Program. Chapter 430 of 2004 (Budget and Reconciliation Financing Act of 2004) phased out the use of Waterway Improvement Fund monies for administrative expenses per the recommendation of the DNR Special Funds Workgroup. Therefore, this action would be counter to the intent of Chapter 430 of 2004.

Federal funding of \$4.5 billion for the Army Corps of Engineers is included in the proposed American Recovery and Reinvestment Act of 2009. However, the only portion of the funding that might benefit the State is for recreational navigation projects. For fiscal 2010, only one project that might benefit from federal funding is included in the allowance – Rockhold Federal Creek Channel dredging project for \$500,000, which represents Maryland’s share of the cost. However, DNR indicates that in future years the State will benefit from full funding of the Army Corps of Engineers because the State will not need to provide the federal government’s share for dredging navigation channels as happened at Rock Hall in 2006 and Kent Narrows in 2007. The lack of federal match due to the Army Corps of Engineers being underfunded cost the State \$1.15 million.

Program Analysis and Performance

As illustrated in **Exhibit 15**, the fiscal 2009 allowance will allow WWIF to fund an estimated 28% of the waterway project requests submitted, which is a substantial decrease from the 80% of project requests funded in fiscal 2008 and the 79% of projects requests funded in fiscal 2009. In addition, this is 52% lower than DNR’s goal of funding 80% of project requests. In order to meet this goal in fiscal 2010, DNR’s revenue would need to be \$21.4 million.

Exhibit 15
Waterway Project Requests Funded
Fiscal 2003-2010



Source: Governor's Budget Books, Fiscal 2007-2010

Recommended Actions

1. Concur with Governor's allowance.

Fiscal 2010 Proposed Waterway Projects

<u>County</u>	<u>Location</u>	<u>Description</u>	<u>Grant Type</u>	<u>Amount</u>
Anne Arundel	Submerged Aquatic Vegetation (SAV) Monitoring Countywide	SAV Monitoring – Various Waterways throughout Anne Arundel County for public navigation projects.	MFDG	\$10,000
Anne Arundel	Fort Smallwood Park Boat Ramp	Design cost for boat launching facility at Fort Smallwood Park.	LG	99,000
Anne Arundel	Anne Arundel County Fire Department Southern Area Fireboat	Purchase of Southern Area fire/rescue boat.	MFFR	50,000
Anne Arundel	Citywide Harbor Improvements City of Annapolis	Upgrade and maintain public boating facilities throughout the City of Annapolis.	LG	50,000
Anne Arundel	Rockhold Creek Federal Channel	Dredge existing federal channel in cooperation with U.S. Army Corps of Engineers.	DG	500,000
Baltimore City	Baltimore City Fire Department Dive Team and Fire Boat Equipment	Purchase new equipment for dive team and fire/rescue boats.	MFFR	20,000
Baltimore County	Bowleys Quarter Volunteer Fire Department	Upgrade electronics and replace outboard motor on fire/rescue boats.	MFFR	17,500
Baltimore County	Baltimore County Fire Department	Acquire cold water suits in support of water rescue teams.	MFFR	4,800
Baltimore County	North Point – Edgemere Volunteer Fire Department	Replacement of a fire/rescue for Edgemere Fire Department.	MFFR	50,000
Baltimore County	Submerged Aquatic Vegetation (SAV) Monitoring Countywide	SAV Monitoring – Various Waterways throughout Anne Arundel County for public navigation projects.	MFDG	10,000
Baltimore County	Aids to Navigation fiscal 2010 Baltimore Countywide	Install, inspect, remove, repair, maintain, and replace channel markers installed for State funded navigation projects throughout Baltimore County.	LG	25,000
Baltimore County	Bear Creek Tributary Maintenance Dredging	Maintenance dredge public navigation channels at Bear Creek (Tabasco Cove, Schoolhouse Cove, Chink Creek, and Lynch Cove).	MFDG	100,000

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<u>County</u>	<u>Location</u>	<u>Description</u>	<u>Grant Type</u>	<u>Amount</u>
Baltimore County	Shallow Creek Maintenance Dredging	Maintenance dredge existing public navigation channels in waterway.	MFDG	400,000
Calvert	Town of Chesapeake Beach Boat Launching Facility at Fishing Creek Marina	Stabilize shoreline and reconstruct existing boat ramp to facilitate better boating access.	LG	95,000
Caroline	Countywide Boat Ramp Facility Maintenance Caroline County	Provide/improve ADA accessibility; replace deteriorating ramp/pier structures, and amenities.	LG	50,000
Caroline	Martinak State Park	Replace the existing pier that serves the park.	SP	50,000
Carroll	Piney Run Park Patrol Boat Motor	Acquire new motor for Piney Run patrol boat.	MFFR	4,000
Cecil	Chesapeake City Volunteer Fire Company	Acquire new fire pump, hoses, cold water suits, and marine radar equipment for marine fire/rescue.	MFFR	25,000
Cecil	Elk River Park	Construct marina services building for the boating public.	LG	50,000
Charles	Tenth District Volunteer Fire Department Marbury, Maryland	Purchase new fire/rescue vessel.	MFFR	50,000
Dorchester	Neck District Volunteer Fire Company Inc.	Acquire fire/rescue boat and associated equipment.	MFFR	\$21,000
Dorchester	Cambridge Marine Terminal	Replace existing marine railway.	SP	275,000
Dorchester	Dorchester Countywide Boat Ramp & Dock Maintenance	Perform maintenance and repair of county boat ramps, parking areas, pavilions, docks, and slips to enhance boating access sites.	LG	50,000
Dorchester	Elliott Island and Chapel Cove Boat Ramps	Navigation improvements.	DG	100,000
Dorchester	Langralls Creek Boat Ramp Wildlife Services	Construct boat ramp and perform entrance channel dredging.	SP	100,000
Frederick	City of Brunswick	Construct jetty to protect boat ramp.	LG	50,000
Garrett	Friendsville Community Park	Upgrade comfort station for ADA access and improved capacity.	LG	26,000

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<u>County</u>	<u>Location</u>	<u>Description</u>	<u>Grant Type</u>	<u>Amount</u>
Harford	Darlington Volunteer Fire Company	Acquire fire/rescue boat with fire pump and monitor for Darlington VFC to serve portion of Susquehanna River.	MFFR	50,000
Kent	Green Lane Boat Ramp	Replace existing bulkhead at existing boat ramp.	LG	50,000
Kent	Galena Volunteer Fire Company, Inc.	Purchase equipment and fire/rescue boat.	MFFR	21,500
Prince George's	Prince George's County Fire/EMS Department Fort Washington Marina	Replace existing fire/rescue boat with a swift water vessel.	MFFR	50,000
Prince George's	Laurel Volunteer Rescue Squad, Inc. Water Rescue Team	Acquire water rescue equipment.	MFFR	3,480
Queen Anne's	United Community VFD	Acquire fire/rescue boat and associated equipment.	MFFR	18,000
Queen Anne's	Watermen's Boat Basin	2nd phase of Marina Rehabilitation. Complete replacement south side of basin, to include bulkhead, slips, electric, other utilities or parking improvements.	MF	420,000
Somerset	Somers Cove Marina	Fuel dock renovations.	SP	250,000
Somerset	Countywide General Maintenance	Provide general maintenance of countywide public boating facilities.	LG	40,000
Somerset	Jenkins Creek Dock	Replace deteriorated dock at Jenkins Creek.	LG	50,000
St. Mary's	St. George's Island Pier	Construct replacement pier.	LG	56,720
St. Mary's	Countywide Maintenance	Provide general maintenance and repairs at various public boat ramps and landings countywide.	LG	50,000
Statewide	Statewide Shore Erosion Control Projects	Complete boating related shoreline erosion control projects.	SEC	250,000
Statewide	Statewide Marine Sewage Pump-out	Utilize federal Clean Vessel Act (75%) and State Waterway Improvement Fund (25%) funds (awarded annually), DNR is administering a grant program that provides reimbursements to marinas for the purchase and installation of marine sewage pump-out facility	ST	100,000
Statewide	Acquire Additional Natural Resource Police Patrol Vessels	Funding to replace existing patrol boats that serve the boating public.	ST	300,000

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<u>County</u>	<u>Location</u>	<u>Description</u>	<u>Grant Type</u>	<u>Amount</u>
Statewide	Eastern Region State Maintenance/Repair Projects	General maintenance/repairs to boat ramps, public landings and dock systems at various State Parks in Eastern Region of Maryland.	SP	100,000
Statewide	Central Region State Maintenance/Repair Projects	General maintenance/repairs to boat ramps, public landings and dock systems at various State Parks in the Central Region of Maryland.	SP	100,000
Statewide	Statewide Projects	Complete dredging/navigation/storm damage projects in designated public navigation channels or publicly owned boating facilities that occur outside the budget cycle or exceed appropriated funding amount statewide.	ST	100,000
Statewide	Statewide Federal BIG/Sportfish	Federal BIG and Sportfish Restoration boating access projects.	ST	100,000
Talbot	Ferry Dock North Morris Street Oxford, Maryland	Rebuild transient boating portion of dock.	LG	25,000
Talbot	Mulberry Street Bulkhead Town of St. Michaels	Replace bulkhead at the foot of Mulberry Street and St. Michaels Harbor used by transient boaters.	LG	8,000
Talbot	Countywide Public Landing Talbot County	Provide general maintenance and repairs at various public boat ramps and landings countywide.	LG	50,000
Talbot	Boat Ramp Tilghman Street, Oxford Maryland	Repair existing boat ramp.	LG	25,000
Talbot	Oak Creek Landing Boat Ramp Rehabilitation	Replace existing deteriorated boat ramp to improve access for the boating public.	LG	25,000
Washington	River Bottom Park Town of Williamsport	Replace boat launching facilities including ramp and pier.	LG	50,000
Wicomico	Countywide Maintenance & Repair Boating Areas Wicomico County	Provide general maintenance and repairs at various public boat ramps and boating facilities countywide.	LG	50,000
Wicomico	Nanticoke Harbor Jetty Replacement	Restore failing jetties and dredge harbor including leasing/preparing the dredge material placement site.	DG	50,000
Worcester	NRP Ocean City Boathouse Renovations	Renovate NRP boathouse in West Ocean City.	SP	25,000

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<u>County</u>	<u>Location</u>	<u>Description</u>	<u>Grant Type</u>	<u>Amount</u>
Worcester	Ocean City Fire & Rescue Boat	Acquire a fire/rescue boat.	MFFR	50,000
Worcester	Shad Landing Pocomoke River State Park	Pave the parking lots at the Park Marina.	SP	150,000
Worcester	West Ocean City Ramp Renovation	Replace existing ramps and provide floating docks.	LG	50,000
Worcester	Worcester Countywide Boating Facilities	Provide general maintenance and repairs at various public boat ramps and boating facilities countywide.	LG	50,000
			Subtotal	\$5,000,000
Federally Funded Waterway Improvement Projects				
Statewide	Statewide	Federal cost share for proposed U.S. Fish & Wildlife approved projects. Anticipated projects include improvements at public boating facilities at Oak Creek Ramp in Talbot County, Susquehanna State Park (Lapidum Boat Ramp) in Harford County, Fifteen Mile Creek Ramp in Allegany County, Point of Rocks Ramp in Frederick County, Brunswick Landing Ramp in Frederick County, and at Leonardtown Wharf Landing in St. Mary's County.	SP	\$1,000,000
			Grand Total	\$6,000,000

Key

DG: 100% State Dredging
 LG: 100% State Funded Local Grant
 MF: Matching Fund Grant
 MFDG: Matching Fund Dredging Grant
 MFFR: Matching Fund Fire/Rescue
 SP: Project on State Lands
 ST: Statewide