

T&E COMMITTEE #1
January 30, 2012

MEMORANDUM

January 26, 2012

TO: Transportation, Infrastructure, Energy & Environment Committee

FROM: *KL* Keith Levchenko, Legislative Analyst

SUBJECT: Briefing: Blue Plains Intermunicipal Agreement (IMA) 2012 Revision

NOTE: The following background materials are attached.

- **Summary Presentation Slides: 2012 Intermunicipal Agreement (IMA): Regional Compact for Wastewater Management (©1-7)**
- **Comparison of 1985 IMA vs. 2012 IMA (©8-14)**
- **Excerpt from Blue Plains Intermunicipal Agreement 02 2012 (©15-24)**
- **Detailed Briefing Slides from January 11, 2012 Presentation at DC Water (©25-45)**

A comprehensive set of background materials, including the above documents as well as the full text of the 1985 and 2012 IMAs and each of the 2012 Derivative Agreements, is available at:

http://www.montgomerycountymd.gov/content/council/pdf/SCANNED_DOCS/IMA/BluePlainsIntermunicipalAgreementBackgroundDocuments.pdf

The following officials and staff are expected to attend this briefing:

- Tim Firestine, Chief Administrative Officer (CAO)
- Kathleen Boucher, Assistant Chief Administrative Officer
- Dave Lake, Manager, Water and Wastewater Management, Department of Environmental Protection
- Jerry Johnson, General Manager/Chief Executive Officer, Washington Suburban Sanitary Commission (WSSC)
- Gary Gumm, Chief Engineer, WSSC

Schedule

In December 2008, the Blue Plains Chief Administrative Officers (CAOs) Committee¹ appointed a negotiation team and a legal workgroup to finalize a new Blue Plains Intermunicipal Agreement (IMA). For Montgomery County, the negotiation team included DEP's Director Bob Hoyt and Dave Lake. Walter Wilson of the County Attorney's Office represented Montgomery County on the legal workgroup.

The Metropolitan Washington Council of Governments (MWCOC) has provided longtime staff support (predating the 1985 IMA) for the Blue Plains CAOs and Blue Plains Regional Committee and provided staff support to the negotiation team and legal workgroups for the development of the 2012 IMA.

The negotiation team completed its work in December 2011. A final version of the 2012 IMA, as well as a set of derivative agreements, was released earlier this month. Briefings for the Blue Plains user jurisdictions are now occurring. Once these briefings are completed, the document will be forwarded to the signatories for final approval. For Montgomery County, the signatories are the County Executive and County Council President.

As was done when the 1985 IMA was signed, Council Staff recommends that a resolution of support for the 2012 IMA be drafted and approved by the Council in advance of the Council President's signature.

For the T&E meeting, CAO Tim Firestine and DEP's Dave Lake will lead a briefing on the new 2012 IMA.

WSSC was also heavily involved in the 2012 IMA development, and General Manager Jerry Johnson will be available to provide WSSC's perspectives on the 2012 IMA.

Background: Blue Plains IMA of 1985

Major Provisions and Impact on WSSC

The Blue Plains IMA of 1985 is a key regional document that set capacity and funding allocations for jurisdictions utilizing the Blue Plains Wastewater Treatment Plant in the District of Columbia, managed by the District of Columbia Water and Sewer Authority (DC Water).

The agreement requires users to pay for capital costs at the same ratio as their allocation. Operating costs are based on actual flows. A number of other provisions in the document address issues such as sludge processing and disposal and other coordination issues.

WSSC's allocation is 169.6 million gallons per day (mgd) (45.8 percent of the total 370 mgd rated capacity of the plant). In fact, about 66 percent of all WSSC sewage and over 80 percent of Montgomery County's sewage (generated within the WSSC service area) is treated at the Blue Plains Wastewater Treatment Plant.

¹ Montgomery County's CAO, Tim Firestine, serves on the Blue Plains CAOs Committee.

WSSC makes operating and capital payments each year to DC Water consistent with the Blue Plains IMA. Blue Plains-related costs are a major element of the sewer capital program and reflect a majority of overall WSSC CIP expenditures. On the operating side, The Approved FY12 operating payment is \$49.5 million (about 8 percent of WSSC's Operating Budget).

Governance

IMA-related issues are overseen by the Blue Plains Regional Committee, made up of officials from the Blue Plains user jurisdictions² and staffed by the Council of Governments. This Committee makes decisions and/or refers issues to a committee of CAOs of the represented jurisdictions (often called the "Blue Plains CAOs").

From a Montgomery County perspective, the Blue Plains Regional Committee provides an important avenue for input on Blue Plains-related issues in addition to the County's two representatives (and two alternates) on the DC Water Board of Directors. Also, WSSC, which is a signatory to the IMA, has a role in the Regional Committee process but is not directly represented on the DC Water Board of Directors.

The 1985 IMA was signed by the County Council Presidents and County Executives of both Montgomery and Prince George's Counties, the Mayor of the District of Columbia, the Chairman of the Fairfax County Board of Supervisors, and the Chairman and Vice Chairman of the Washington Suburban Sanitary Commission.

Not surprisingly, there are many aspects of the original IMA (now nearly 27 years old) that are out of date or irrelevant today. In addition, there are a number of issues that are either not addressed in the IMA or have been interpreted differently over the years by various jurisdictions. For these reasons, a revised IMA has been a major goal of the Blue Plains Regional Committee for the past decade.

2012 IMA Highlights

Council Staff believes that the negotiated 2012 IMA represents a major accomplishment given the large financial stakes and the number of jurisdictions involved. Some of the key issues that have been resolved are noted below.

Duration of the IMA

The 1985 IMA included language that the allocation of capacity shall "remain in effect until December 31, 2010." However, there is no detail in the document as to what happens after 2010 if no subsequent agreement is reached. The parties later agreed that the current IMA would remain in effect until superseded by a new IMA. The new 2012 IMA text is clear and states that the 2012 IMA "remains in effect until amended, replaced or terminated by mutual consent of all the Parties."

² At the time of the adoption of the 1985 IMA, the District of Columbia Water and Sewer Authority (DC Water) did not exist. The District of Columbia was responsible for water and wastewater issues in the District. This organizational change is reflected in the 2012 IMA.

The new IMA is intended to be a long-lasting (i.e., several decades) document and has been drafted in such a way that issues likely to arise over time can be dealt with through a variety of means, including: revisions to derivative agreements (by unanimous consent of the new Leadership Committee³), amendments to the IMA itself, and a well-defined dispute resolution process.

Flow and Capacity Issues

A key goal of the 1985 IMA was to ensure Blue Plains' capacity was carefully managed and not exceeded and to ensure that the District of Columbia had sufficient capacity to meet its needs.

The Blue Plains Service Area Study of 2010 confirmed that Blue Plains' current capacity (370 mgd) is sufficient to meet the service area's wastewater capacity needs through 2040.

For WSSC, the new IMA assumes the same capacity allocation (169.6 mgd) as in the 1985 IMA.

For the District of Columbia, the new IMA allocates the remaining Potomac Interceptor Reserve flow to the District and also notes that the District's captured stormwater flows do not count against the District's capacity allocation, since these wet weather flows are treated as a side-stream flow (using a separate discharge) and do not receive full plant treatment.

The new IMA and associated derivative agreements include more detail as to the processes for the rental and/or sale of capacity from one jurisdiction to another and the processes for the creation of additional overall regional capacity if needed in the future.⁴

The new IMA and derivative agreements also take into account other agreements between DC Water and WSSC and others with regard to the cost-sharing for other projects, such as DC Water's long-term control plan.

Next Steps

As noted earlier, the next step in the process for this Council, assuming it supports the 2012 IMA, is the introduction and approval of a resolution in support of the 2012 IMA, followed by the signature of the Council President. Similar processes are occurring in the other signatory jurisdictions.

Assuming the T&E Committee is supportive of the 2012 IMA, Council Staff will draft a resolution in support of the 2012 IMA for introduction and action by the Council.

attachments

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³ The Leadership Committee replaces the Blue Plains CAOs Committee and includes the CAOs as well as the General Managers of WSSC and DC Water. The Regional Committee is a senior staff level committee that will include two members from each of the same parties represented on the Leadership Committee.

⁴ In past years, WSSC and the District of Columbia disagreed as to whether the District of Columbia owed WSSC "rental fees" for use of excess treatment capacity. The new IMA and derivative agreements provide more clarity regarding the future sale/rental of excess capacity.

2012 Intermunicipal Agreement (IMA)

**Regional Compact
for
Wastewater Management**

Benefits of the 1985 IMA

- Documented Shared Principles for Cooperation
- Outlined Rights and Responsibilities of Signatories
- Outlined Guaranteed Capacity Allocations
- Defined Financial Commitments
- Planned for the Future
- Supported Water Quality Programs
- Provided a Framework for Cooperation for 26 Years

Deficiencies of the 1985 IMA

- 1985 IMA Plans for the Future Were Inflexible
 - Did not accommodate changing environment
 - Did not allow for limited updates
- Did Not Envision the Creation of D.C. WASA
- Did Not Recognize Governance Structure for Regional Policy Issues
- Did Not Anticipate Chesapeake Bay Initiatives
- Did Not Have Dispute Resolution
- Unmanageable “offload” and Payment Provisions for Suburbs
- Did Not Address Capacity Planning Beyond 2010

Goals of a New IMA

- Retain the Principles in the 1985 IMA
- Update to Recognize D.C. WASA's Roles
- Eliminate the Outdated Planning Concepts
- Provide Flexibility for Updating
- Address Technical Complexities Associated with the Reality of the Chesapeake Bay Program
- Update Principles of Shared Financial Responsibilities to Address Increased Technical Knowledge (modeling)
- Incorporate Dispute Resolution Process

Process To Develop 2012 IMA

- Groundwork Established By BPRC and CAOs Prior to 2008
- 2008 CAOs Appointed a Negotiation Team with Membership From Each of the Signatories Plus D.C. WASA 2009
(Note: David Lake, Montgomery County DEP was appointed by the CAOs to Chair the Negotiation Team for the renegotiation of the 2012 IMA)
- Negotiation Team Established Several Technical Workgroups (Interagency Policy, Operating Agencies, and Legal (includes attorneys from each Jurisdiction/utility) and Committees (Pretreatment, Biosolids, and Financial) to Address Issues in Detail
- Periodic Meetings with the Blue Plains CAOs (Leadership Committee)
- Technical Issues in All Topics Explored (workgroups and full NT)
- Negotiation Team and Legal Workgroup (NT/LWG) with Significant COG Staff Assistance Developed Drafts
- Drafts Reviewed by NT/LWG, More Technical Topics Explored
- 2012 IMA Drafted, Reviewed, Reworked
- 2012 Final Draft to Leadership Committee with full NT/LWG Support
- 2012 Final IMA Received Endorsement by All CAOs and Support for Ratification by Signatories

Improvements Developed in the 2012 IMA

- Agreement Structure includes the Core + Derivative Agreements
- Agreement Update/Amendment Procedures
- Improved Governance Structure (RC + Leadership Committee)
- Improved Technical Basis for Flows, Loads, Shared Facilities
- Incorporates the Chesapeake Bay Program/NPDES Issues
- Contains Dispute Resolution Process
- Recognizes D.C. Water (WASA) and Its Roles/Responsibilities
- Clarifies Financial Procedures and Technical Issues (the Financial Commitments for M.C./P.G.C./WSSC are not increased from the 1985 IMA)*
- Updated Flow Diversion, Planning Process, and Cost Allocation

* Financial Commitments for any future WSSC flow Diversion (off-loads) from Blue Plains are Reduced in the 2012 IMA

No Loss of Rights or Privileges To Any Party

Next Steps

- Ratify the New/Improved 2012 IMA
(CAOs' goal is for 2012 IMA to be signed by all Parties by April 2012)

Suburban Maryland Goals:

- Montgomery County Executive Approval – January
- Montgomery County Council Approval – February
- Prince George's County Executive Approval – January
- Prince George's County Council Approval – February
- Washington Suburban Sanitary Commission Approval – March

Comparison of 1985 IMA vs. 2012 IMA		
1985 IMA Sections	2012 Draft IMA Corresponding Sections	Key Revisions Agreed To
PREAMBLE	PREAMBLE	Updated text Recognition of DC Water (here and throughout document)
SECTION 1: DEFINITIONS	SECTION 12: GLOSSARY And added GLOSSARIES in each Derivative Agreement (DA) as needed	Integrated defined terms into one section
SECTION 2: STATEMENT OF PRINCIPLES	SECTION 1: KEY PRINCIPLES	Update/revised text, e.g.: <ul style="list-style-type: none"> • Recognition of DC Water's operation vs. District ownership of Blue Plains • District governmental role vs. DC Water's operational role • Deleted Montgomery County Composting Facility reference (not in service) • Revised >370 MGD text (i.e., Blue Plains capacity is now projected through year 2040 not 2010) Added new Key Principles to reflect: <ul style="list-style-type: none"> • Chesapeake Bay water quality requirements • IMA & DA amendment processes • Clear Dispute Resolution processes

Comparison of 1985 IMA vs. 2012 IMA		
1985 IMA Sections	2012 Draft IMA Corresponding Sections	Key Revisions Agreed To
<p>SECTION 3: WASTEWATER CAPACITY ALLOCATIONS AND LIMITATIONS</p> <p>A. Blue Plains B. Pipelines & Appurtenances C. Interim Treatment</p> <p>Appendix 3A, 3B & 3C</p>	<p>SECTION 3: BLUE PLAINS PERMIT RESPONSIBILITIES & TREATMENT PROCESS REQUIREMENTS</p> <p>SECTION 4: BLUE PLAINS FLOW CAPACITY, LOADS, & PEAK FLOWS – ALLOCATIONS & LIMITATIONS</p> <p>A. BLUE PLAINS ALLOCATED FLOW CAPACITY B. BLUE PLAINS EFFLUENT LOADS & BLUE PLAINS EFFLUENT LOAD ALLOCATIONS C. BLUE PLAINS INFLUENT LOADS & INFLUENT DESIGN LOAD CAPACITY D. MONITORING OF & RECOMMENDATIONS REGARDING INFLUENT FLOWS & LOADS E. BLUE PLAINS SERVICE AREA (BPSA) PEAK FLOW LIMITATIONS – GENERAL CONDITIONS F. ADDITIONAL BPSA PEAK FLOW LIMITATIONS – POTOMAC INTERCEPTOR (PI) CONDITIONS G. DERIVATIVE AGREEMENT</p> <p>OA #1 – BLUE PLAINS FLOW CAPACITY, LOADS, & PEAK FLOWS – ALLOCATIONS & LIMITATIONS</p> <p>SECTION 8: PRETREATMENT & OPERATIONAL REQUIREMENTS</p> <p>A. PRETREATMENT PROGRAM REQUIREMENTS B. OPERATIONAL REQUIREMENTS C. DERIVATIVE AGREEMENT</p> <p>OA #5 - PRETREATMENT & OPERATIONAL REQUIREMENTS</p>	<p>Deleted out-of-date references to Blue Plains' 309 mgd and interim capacity</p> <p>Codified agreements to reallocate & increase District's capacity (i.e., to not count Captured Stormwater Flows against the District's allocation, and to reallocate the remaining PI Reserve flow to the District)</p> <p>Added new or modified text to define/expand on various responsibilities:</p> <ul style="list-style-type: none"> • New Blue Plains permit (to meet wastewater and CSO LTCP requirements) • Updated pretreatment responsibilities • Nutrient load allocations (to meet external Bay Program/TMDL effluent nutrient allocations; as well as recognition of influent load issues) • Expanded scope/detail of peak flow management & oversight • Operational requirements • Limits on usable purchased Blue Plains capacity proportionate to state and District nutrient allocations <p>Acknowledged that there are Parties to the IMA, Non-Party Users, and Indirect Users that all share Blue Plains' 370 mgd capacity and associated Capital and O&M Costs</p>

Comparison of 1985 IMA vs. 2012 IMA

1985 IMA Sections	2012 Draft IMA Corresponding Sections	Key Revisions Agreed To
<p>SECTION 4: WASTEWATER FLOW MANAGEMENT</p> <p>A. Wastewater Flow Measurement B. Control of Wastewater Flows C. Wastewater Flow Reporting</p> <p>Appendix 4A</p>	<p>SECTION 6: FLOW & LOAD MEASUREMENT & MANAGEMENT</p> <p>A. WASTEWATER FLOW & LOAD MEASUREMENT, REPORTING & MANAGEMENT B. CONTROL OF INFLOW & INFILTRATION (I/I) C. DERIVATIVE AGREEMENT</p> <p>OA #3 - FLOW & LOAD MEASUREMENT & MANAGEMENT</p>	<p>Expanded requirements for addressing peak flows:</p> <ul style="list-style-type: none"> • How to monitor & assess exceedances of flow capacity issues, & assessing peak flows – given that all flows are or continue to come closer to allocations/limits • Allow additional peak flows into the Potomac Interceptor based on operational experience <p>Added text to reflect need to monitor & comply with load limits (now and in the future)</p>
<p>SECTION 5: SLUDGE MANAGEMENT</p> <p>A. Interim Sludge Disposal B. Montgomery County Composting Facility (MCCF) C. Blue Plains Composting Facility, Dewatering Facilities, and Digester Rehabilitation D. Future Blue Plains Sludge Disposal Facility E. Residuals Management F. Operational Contingencies and Back-up Provisions</p> <p>Appendix 5A, 5B, & 5C</p>	<p>SECTION 9: BIOSOLIDS MANAGEMENT COMMITMENTS</p> <p>A. BIOSOLIDS UTILIZATION & DISPOSAL B. EMERGENCY CONDITIONS C. DERIVATIVE AGREEMENT</p> <p>OA #6 - BIOSOLIDS MANAGEMENT COMMITMENTS</p>	<p>Updated text to reflect long-term management of biosolids vs. sludge disposal/interim methods</p> <p>Deleted out-of-date references to facilities and programs and detailed Appendices regarding:</p> <ul style="list-style-type: none"> • Interim disposal • MCCF • Blue Plains Composting • Blue Plains Incinerators <p>Updated/expanded coordination support for:</p> <ul style="list-style-type: none"> • Collective responsibilities • Land application program • Blue Plains' Biosolids Management Program • Addressing emergency conditions

Comparison of 1985 IMA vs. 2012 IMA		
1985 IMA Sections	2012 Draft IMA Corresponding Sections	Key Revisions Agreed To
<p>SECTION 6: COST ALLOCATION</p> <p>A. Capital Costs – Blue Plains Facilities</p> <p>B. Capital Costs – Pipelines & Appurtenances</p> <p>C. Capital Costs - Payment</p> <p>D. Operation & Maintenance Costs – Blue Plains Facilities</p> <p>E. Operation & Maintenance Costs – Pipelines & Appurtenances</p> <p>F. Operation & Maintenance & User Fees - General</p> <p>G. Rental & User Fees</p> <p>H. Abandonment of Facilities</p> <p>Appendix 6A</p>	<p>SECTION 5: FINANCIAL RESPONSIBILITIES OF PARTIES</p> <p>A. ASSIGNMENT OF RESPONSIBILITIES</p> <p>B. DETERMINATION OF MULTI-JURISDICTION USE FACILITIES (MJUFs)</p> <p>C. CAPITAL COST RESPONSIBILITIES</p> <p>D. OPERATING & MAINTENANCE (O&M) COST RESPONSIBILITIES</p> <p>E. USER FEE RESPONSIBILITIES</p> <p>F. FINES, PENALTIES, & CLAIMS RESPONSIBILITIES</p> <p>G. BILLING & PAYMENT RESPONSIBILITIES</p> <p>H. DERIVATIVE AGREEMENT</p> <p>OA #2 - FINANCIAL RESPONSIBILITIES OF PARTIES</p>	<p>Updated text to incorporate various funding agreements from several MOUs that had been agreed to over the years, as well as various billing procedures that had not been formally documented in the IMA</p> <p>Added/modified text to reflect:</p> <ul style="list-style-type: none"> • New concept and methodology for allocating costs for various pipelines within District, as well as shared costs for various facilities (e.g., CSO LTCP) – i.e., MJUFs • Deleted Rentals fees for facilities that will now have Capital Cost allocations • Added text to reflect agreement to share in fines and related costs <p>Modified text to reflect updated figures for how District Captured Stormwater Flows should be billed for O&M costs (i.e., now to be adjusted by 49%)</p>

Comparison of 1985 IMA vs. 2012 IMA		
1985 IMA Sections	2012 Draft IMA Corresponding Sections	Key Revisions Agreed To
<p>SECTION 7: DISTRICT WASTEWATER TREATMENT REQUIREMENTS BEYOND 2010</p> <p>A. Provision of Capacity for the District's Future Needs B. Offloading C. Payment</p> <p>Appendix 7A</p>	<p>SECTION 7: WASTEWATER PROJECTED FLOW CAPACITY NEEDS & FUTURE OPTIONS</p> <p>A. RATIONALE FOR CONDUCTING ANALYSIS OF PROJECTED FLOW CAPACITY NEEDS B. CONDUCTING NEEDS ANALYSIS C. DETERMINATION OF PROJECTED FLOW CAPACITY NEEDS D. DETERMINATION OF OPTIONS E. COST CONSIDERATIONS F. IMPLEMENTATION OF PLAN TO ADDRESS PROJECTED FLOW CAPACITY NEEDS G. DERIVATIVE AGREEMENT</p> <p>OA #4 - WASTEWATER PROJECTED FLOW CAPACITY NEEDS & FUTURE OPTIONS</p>	<p>Deleted unilateral Offloading provision</p> <p>Replaced with a comprehensive assessment and process for determining all future wastewater capacity Needs and options; and shared financial responsibilities for funding such options</p>
<p>SECTION 8: SYSTEM COORDINATION</p>	<p>SECTION 2: GOVERNANCE</p> <p>A. LEVELS OF AUTHORITY B. AUTHORITY TO ACT & GENERAL PARTY RESPONSIBILITIES C. POLICY LEVEL: THE IMA SIGNATORIES D. EXECUTIVE LEVEL: THE IMA LEADERSHIP COMMITTEE E. TECHNICAL LEVEL: THE IMA REGIONAL COMMITTEES</p>	<p>Adds a defined role for the Leadership Committee, and clearly defines responsibilities of the Regional Committee versus those of the Leadership Committee</p> <p>Includes representatives from all six Parties on each of the Committees</p> <p>Acknowledges distinctions between the District's governmental role versus DC Water's operational role</p> <p>Addresses linkages to DC Water Board and other governing bodies</p> <p>Addresses dispute resolution process, notification requirements, and other processes and procedures</p>

Comparison of 1985 IMA vs. 2012 IMA		
1985 IMA Sections	2012 Draft IMA Corresponding Sections	Key Revisions Agreed To
<p>SECTION 9: WATER QUALITY MONITORING & EVALUATION PROGRAM</p> <p>A. Purpose of the Program B. Scope of Program C. Allocation of Program Costs</p>	<ul style="list-style-type: none"> • Support to the Parties – Acknowledged under Section 2 – Governance, & to be addressed via a Service Agreement • Support for a Regional Water Quality Management Program – Acknowledged under Section 2 – Governance, & to be addressed via a Service Agreement 	<p>Acknowledged need to provide secretariat support to IMA Parties (via Leadership and Regional Committees)</p> <p>Acknowledged commitment to jointly address regional water quality issues & need for cooperation and coordination among the Parties</p>
<p>SECTION 10: MISCELLANEOUS</p> <p>A. Procedures to Amend the Agreement B. Conference Procedure C. Severability D. Authority E. Notices F. Prior Agreements G. Term</p>	<p>SECTION 10: ADMINISTRATIVE PROVISIONS & PROCEDURES</p> <p>A. DURATION OF AGREEMENT B. SEVERABILITY C. AUTHORITY D. AMENDMENTS TO THIS IMA E. DISPUTE RESOLUTION F. NOTICES G. PRIOR AGREEMENTS</p> <p>SECTION 11: DERIVATIVE AGREEMENTS UNDER THIS IMA</p> <p>A. USE & PROCESS FOR DERIVATIVE AGREEMENTS B. OPERATING AGREEMENTS C. SERVICE AGREEMENTS D. LIMITED PARTY AGREEMENTS</p>	<p>Added clarifying text regarding the duration of the agreement</p> <p>Addressed concept of BPLC/BPRC members confirming their authority to take action</p> <p>Clearly defined amendment process, as well as how disputes will be resolved</p> <p>Made various updates to names, methods of notification, etc.</p> <p>Added a section to define and describe concept of Derivative Agreements (i.e., subsidiary agreements that derive their scope/authority from the IMA) which address operational, process & technical details that change frequently (vs. guiding principles/rights & responsibilities embedded in Core IMA)</p>
<p>SIGNATURES: District, Fairfax, Montgomery, Prince George's, & WSSC</p>	<p>SIGNATURES: District, DC Water, Fairfax, Montgomery, Prince George's, & WSSC</p>	<p>Added DC Water</p>

Comparison of 1985 IMA vs. 2012 IMA		
1985 IMA Sections	2012 Draft IMA Corresponding Sections	Key Revisions Agreed To
GLOSSARY	<p>SECTION 12: GLOSSARY</p> <p>And GLOSSARIES in each Derivative Agreement (DA) as needed</p>	<p>Added approximately 20 new defined terms to reflect new/modified permit, regulatory, operational, cost, and process related concepts</p> <p>Key defined terms are in Core IMA document in a separate section</p> <p>Other defined terms used only in a Derivative Agreement are in that DAs' own Glossary</p>
<p>(No equivalent concept in 1985 IMA; all revisions, even minor technical/procedural items that do not modify the rights/responsibilities of the Parties have to be dealt with as formal amendments to the IMA)</p>	<p>DERIVATIVE AGREEMENTS (DAs)</p> <p>OPERATING AGREEMENTS</p> <p>A. BLUE PLAINS FLOW CAPACITY, LOADS, & PEAK FLOWS - ALLOCATIONS & LIMITATIONS</p> <p>B. FINANCIAL RESPONSIBILITIES OF PARTIES</p> <p>C. FLOW & LOAD MEASUREMENT & MANAGEMENT</p> <p>D. WASTEWATER PROJECTED FLOW CAPACITY NEEDS & FUTURE OPTIONS</p> <p>E. PRETREATMENT & OPERATIONAL REQUIREMENTS</p> <p>F. BIOSOLIDS MANAGEMENT COMMITMENTS</p>	<p>Created DAs to allow delegation (as appropriate) and flexibility to modify procedures and information in order to effectively/in a timely manner address routine operational, process and technical details associated with implementing the IMA</p> <p>DAs derive their authority/scope from the IMA</p> <p>Text reflects various categories and scope/purpose of Derivative Agreements:</p> <ul style="list-style-type: none"> • All new DAs to address IMA implementation issues are considered Operating Agreements • Existing agreements to address wastewater treatment with entities such as Dulles Airport, etc. are defined as being Limited Party Agreements • Future Service Agreements will be used to address support to the Parties as well as regional water quality management program support

Excerpt

BLUE PLAINS INTERMUNICIPAL AGREEMENT of 2012

Among the
**District of Columbia
DC Water
Fairfax County, Virginia
Montgomery County, Maryland
Prince George's County, Maryland
Washington Suburban Sanitary Commission**



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BLUE PLAINS INTERMUNICIPAL AGREEMENT OF 2012

PREAMBLE

THIS BLUE PLAINS INTERMUNICIPAL AGREEMENT OF 2012, is made among the **DISTRICT OF COLUMBIA** (District), the **DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY** (DC Water), **FAIRFAX COUNTY, Virginia** (Fairfax), **MONTGOMERY COUNTY, Maryland** (Montgomery), **PRINCE GEORGE'S COUNTY, Maryland** (Prince George's), and the **WASHINGTON SUBURBAN SANITARY COMMISSION** (WSSC), collectively, "the Parties." This Agreement shall be known as "this IMA" or "the 2012 IMA."

Witness:

WHEREAS, the Parties desire to protect the fish, wildlife, scenic and recreational qualities of the Chesapeake Bay, the Potomac River estuary, the Anacostia River, and other tributary waters, pursuant to the federal Clean Water Act, while providing wastewater collection and treatment services and related biosolids management for the Blue Plains Service Area (BPSA); and

WHEREAS, the District, Fairfax, Montgomery, Prince George's, and WSSC entered into the Blue Plains Intermunicipal Agreement of 1985 (the 1985 IMA) in order to resolve a variety of critical wastewater treatment, biosolids management, and cost allocation issues with the Blue Plains Wastewater Treatment Plant (Blue Plains); and

WHEREAS, much of the wastewater collection and all of the wastewater treatment and related biosolids management required by the 1985 IMA was provided by the District at Blue Plains until 1996, when the District created DC Water as an independent authority with regional responsibilities to provide these and other services through the operation and management of Blue Plains and Other Associated Facilities; and

WHEREAS, the District holds title to the real property, appurtenances, and fixtures of Blue Plains; and

WHEREAS, DC Water is the National Pollutant Discharge Elimination System (NPDES) permit holder for and operates Blue Plains; and

WHEREAS, WSSC is an agency created by the State of Maryland to provide water supply and wastewater collection and treatment and biosolids management services to Montgomery and Prince George's, whose governments each appoint three (3) of WSSC's six (6) Commissioners; WSSC, on behalf of the residents of Montgomery and Prince George's, contributes their allocated share of costs of wastewater services provided by DC Water; and

WHEREAS, the District, Fairfax, Montgomery, and Prince George's are governments, which have cooperated to provide wastewater collection and treatment and biosolids management to protect the public health of their residents and to provide

the infrastructure necessary to realize their respective current and long-range planning and development goals; additionally Fairfax purchases wastewater services directly from DC Water and retails such services to Fairfax customers; and

WHEREAS, the District and DC Water have individual service agreements with other entities, known as Non-Party Users, that have defined Allocated Flow Capacity within the IMA but are not Signatories to the IMA, and Fairfax and WSSC also have individual service agreements with other entities, known as Indirect Users, that share a portion of Fairfax or WSSC's Allocated Flow Capacity within the BPSA; and

WHEREAS, DC Water represents the interests of the Non-Party Users and is responsible for enforcing any Limited Party Agreements with Non-Party Users, whether those agreements are in the name of DC Water or the District, and Fairfax and WSSC are responsible for enforcing any Limited Party Agreements which they have with Indirect Users; and

WHEREAS, the existing institutional arrangements for wastewater treatment, biosolids management, and for Capital Cost and Operating and Maintenance (O&M) Cost allocations among the Parties set forth in the 1985 IMA had their origin in a series of agreements dating back to the 1950s; and

WHEREAS, the Parties have demonstrated their willingness to share in the burdens associated with the demands of regional wastewater collection and treatment and biosolids management for the BPSA; and

WHEREAS, the Parties desire to establish an equitable arrangement for allocating Capital Costs in relationship to their Allocated Flow Capacity and for allocating O&M Costs in relationship to their Actual Flows, with the potential need to allocate certain costs based on factors not linked to capacity allocation or flow (e.g. loadings); and

WHEREAS, the Parties desire to improve and formalize mechanisms for continued cooperation, coordination and communication among the Parties, including capacity planning and technical input regarding Blue Plains and Other Associated Facilities and the BPSA; and

WHEREAS, the Parties desire to provide for a continuing water quality monitoring and evaluation program to address Potomac River estuary, Anacostia River and Chesapeake Bay water quality issues, as well as to recognize the continued need for long-term regional water quality planning, wastewater planning, and biosolids management planning for the BPSA and the region as a whole; and

WHEREAS, the Parties desire to set forth their rights, obligations and responsibilities with respect to the use and management of facilities necessary for wastewater collection and treatment and for biosolids management for the BPSA; and

WHEREAS, the Parties acknowledge that changing conditions may require modifications to Allocated Flow Capacity, Peak Flow Limitations and cost allocations as well as constraints on loadings and potential load allocations; and

WHEREAS, the Parties acknowledge the need for flexibility and expedited responsiveness concerning many issues of wastewater collection and treatment systems and facilities, and biosolids management issues within the BPSA and, to that end, desire to authorize the use of Derivative Agreements to implement the intent of the Parties.

NOW, THEREFORE, the undersigned Parties agree that

1. This Blue Plains Intermunicipal Agreement of 2012 (this IMA) is entered into for the purposes of:
 - a. Allocating the wastewater treatment capacity of Blue Plains and Other Associated Facilities and related peak flows for the collection system;
 - b. Equitably allocating the Capital Costs of wastewater treatment and biosolids management;
 - c. Equitably allocating O&M Costs;
 - d. Defining the responsibilities of pretreatment and operational requirements and biosolids management;
 - e. Defining the process of making future wastewater capacity planning decisions, including addressing load allocations;
 - f. Providing a mechanism for continuing coordination, cooperation and communication; and
 - g. Providing environmental stewardship.
2. Upon signing of this IMA by all Parties, this IMA shall replace the 1985 IMA, and as of such date the 1985 IMA shall be of no further force and effect, and the Blue Plains Regional Committee shall become the Regional Committee created by this IMA.
3. The terms used in this IMA are defined in **Section 12. Glossary**.
4. The headings used in this IMA are for reference purposes only.

-END OF PAGE-

SECTION 1. KEY PRINCIPLES

The provisions of this IMA, and the Derivative Agreements created to implement it, are based upon certain Key Principles. This IMA and the Derivative Agreements shall be governed by and consistent with these Key Principles. These Key Principles shall guide any interpretation or dispute resolution process.

1. **Ensure Best Management** - The Parties commit to continued cooperation, coordination and communication to ensure the best possible management of all Multi-Jurisdiction Use Facilities (MJUFs), including Blue Plains and Other Associated Facilities for the benefit of the District, Fairfax, Montgomery and Prince George's and their residents. In this regard, the Parties acknowledge that, irrespective of their individual agreements with Non-Party Users and Indirect Users of Blue Plains, the Parties shall meet their contractual obligations under this IMA.
2. **Capacity Allocations and Peak Flow Limitations** - The wastewater treatment flow capacity and Peak Flow Limitations, and associated loadings for Blue Plains, are defined and allocated among the Parties and Non-Party Users as set forth in this IMA.
3. **Management of Flows and Loads** - The Parties agree to manage their flows in accordance with their Allocated Flow Capacity and associated Peak Flow Limitations, and overall loads in accordance with Blue Plains Design Load Capacities.
4. **Assessment of Capital Costs** - All Capital Costs associated with Blue Plains and Other Associated Facilities which are MJUFs, shall be assessed in relationship to the District's, Fairfax's and WSSC's and Non-Party Users' Allocated Flow Capacity, Peak Flow Limitations, or other approved Usage Allocation as may be agreed among the Parties. The methodologies and tools used to make those determinations are defined in this IMA. DC Water shall assess Capital Costs against Non-Party Users in accordance with applicable contracts. These Capital Costs shall include the costs associated with rehabilitation of or other improvements to existing facilities, as well as construction of new facilities.
5. **Assessment of Operating and Maintenance (O&M) Costs and Other Costs** - All O&M Costs associated with MJUFs and processes shall be assessed in relationship to the Parties' and Non-Party Users' Billing Flows, or other approved Usage Allocation as may be agreed among the Parties; and DC Water shall be responsible for O&M Costs of Non-Party Users. The Parties also bear financial responsibility for certain fines, penalties and claims.
6. **Costs of Biosolids Management** - The Parties accept individual and collective regional responsibility for the long-term viability of management for biosolids generated by Blue Plains, and agree to appropriately share the biosolids management Capital Costs in proportion to their Allocated Flow Capacity, and O&M Costs in proportion to their Billing Flows.

7. **DC Water's Responsibility for Operation of Blue Plains** - While DC Water shall afford the other Parties due opportunity to review and comment on important technical and financial issues that may affect the other Parties' rights and obligations under this IMA, or that may have regional implications, DC Water shall continue to exercise its discretion and judgment with regard to the operation, maintenance and management of Blue Plains and Other Associated Facilities.
8. **Agreement to Cooperate with DC Water** - The Parties have historic, current and future responsibilities for the effective and efficient development of the region, and the provision and maintenance of the region's infrastructure, including wastewater collection and treatment, and biosolids management within the BPSA. These interconnected responsibilities require the close cooperation and collaboration by the other Parties with DC Water.
9. **Assessment of Projected Flow Capacity Needs and Future Expansion** - The Parties recognize that the wastewater flow capacity and loading requirements for all Parties and Non-Party Users within the BPSA must be assessed periodically and plans made to provide adequate wastewater collection and treatment facilities. They further recognize that the District shall always possess wastewater treatment capacity at Blue Plains sufficient to meet its Projected Flow Capacity Needs; and, therefore, that all future Projected Flow Capacity Needs may or may not be able to be met at Blue Plains. The Parties agree to establish procedures to define these Projected Flow Capacity Needs, identify options to provide for these needs, agree on time frames for notification and actions, and agree on the allocation of capacity and costs. The District has no obligation to expand the currently authorized capacity or loadings of Blue Plains, although an expansion option is not precluded. The Parties may decide to expand Blue Plains or Other Associated Facilities, or accommodate such future flows at facilities other than Blue Plains, based on a Jointly Managed Study. The Parties (and Non-Party Users, as appropriate) agree to share the costs of an expansion at Blue Plains or Other Associated Facilities, or at any other facilities, based on agreed upon capacity and loading allocations, and associated Peak Flow Limitations.
10. **Protection of Water Quality** – Stewardship and protection of the water quality of the Potomac River estuary, the Anacostia River, and contributing to the health of the Chesapeake Bay are fundamental values of the Parties. Achieving these goals is an inherent function of Blue Plains, manifested through its NPDES permit.
11. **Effect and Amendment of this IMA and Derivative Agreements** - This IMA remains in effect until amended, replaced or terminated by mutual consent of all the Parties. The Parties may amend this IMA in accordance with its terms. The Parties may create, amend or terminate any associated Derivative Agreements addressing implementation of this IMA, as provided in this IMA. Certain agreements, set forth in the Appendix, which were suspended, extinguished or superseded by the 1985 IMA, are extinguished and superseded by this IMA.

12. **Dispute Resolution** - The Parties agree to a dispute resolution process to resolve differences regarding interpretation of or disputes regarding this IMA or the Derivative Agreements.

-END OF PAGE-

SECTION 4. BLUE PLAINS FLOW CAPACITY, LOADS, AND PEAK FLOWS - ALLOCATIONS AND LIMITATIONS

A. BLUE PLAINS ALLOCATED FLOW CAPACITY

1. Basis for Capacity Allocations

- a. The Allocated Flow Capacity for the District, Fairfax, WSSC, and Non-Party Users is defined in **Table 4-A** below.
- b. The Allocated Flow Capacity is based on Blue Plains current Design Flow Capacity and reflects the ability of Blue Plains to provide treatment of the incoming wastewater under Annual Average Hydrologic Conditions.
- c. It is recognized that the Captured Stormwater Flows (CSF) that receive treatment to meet the Combined Sewer Overflow Long-term Control Plan (CSO LTCP) requirements are not part of the District's Allocated Flow Capacity.

TABLE 4-A

BLUE PLAINS ALLOCATED FLOW CAPACITY	
ENTITIES	ALLOCATIONS (MGD)¹
District of Columbia	152.50
Non-Party Users:	
Loudoun County Sanitation Authority, Virginia	13.80
Dulles Airport, Virginia	1.50
Town of Vienna, Virginia	1.50
Naval Ship Research & Development Center, Maryland	0.07
National Park Service, Maryland	0.03
Sub-tota	16.90
District of Columbia – Total	169.40
WSSC² (for Prince George's County & Montgomery County), Maryland – Total	169.60
Fairfax County, Virginia³ - Total	31.00
Grand Total – Blue Plains Design Flow Capacity	370.00

¹ Flows represent Annual Average Hydrologic Conditions.

² The Allocated Flow Capacity for WSSC is on behalf of Prince George's and Montgomery; with any sub-allocations determined by separate agreements between those entities. The WSSC allocation also includes wastewater from other political jurisdictions with which WSSC has separate agreements.

³ The Allocated Flow Capacity for Fairfax also includes wastewater from other political jurisdictions with which Fairfax has separate agreements.

Slides from Briefing
at DC Water

**The Blue Plains Intermunicipal Agreement (IMA):
The 2012 IMA**

*Presentation to
DC Water Governance Committee*
Stuart A. Freudberg
Metropolitan Washington Council of
Governments
January 11, 2012



Today's Briefing

- **Why an Intermunicipal Agreement?**
 - Refresher on 1985 IMA
 - Rationale for 2012 IMA
- **What is the 2012 IMA?**
 - Development Process
 - Structure and Major Elements
 - Benefits to the Region
- **Review and Approval Process for 2012 IMA**

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Why an Intermunicipal Agreement?

- It is a contract/regional agreement/commitment of the Parties sharing Blue Plains to:
 - Allocate capacity in Blue Plains & in Potomac Interceptor
 - Define how capital and operating costs will be shared
 - Define financial and operational commitments
 - Define the rights & responsibilities of the Parties
 - Establish commitment to cooperate and coordinate and resolve disputes
 - Address regional implications of Blue Plains (e.g., support regional growth & development, & protect Potomac River/Anacostia/Chesapeake Bay water quality)

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What did the 1985 IMA Accomplish?

- **Defined** rights & responsibilities of Parties
- **Provided** cost-effective expansion of Blue Plains (309 to 370 mgd)
 - Ensured EPA grant support
 - Supported & Aided restoration of Potomac River estuary
- **Allocated** capacity for all Parties
 - Ended moratoria on wastewater services
 - Ended chronic sludge (biosolids) disposal crises
 - Assured District "sludge independence"
- **Addressed** financial obligations of all Parties
 - Reconciled prior capital investments & defined how costs shared
- **Created** structure that provided 26 years of regional cooperation
 - Established process for cooperative problem solving
 - Facilitated creation of DC Water and Sewer Authority (DC Water)

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What's in the 1985 IMA?

1. Definitions
2. Principles shaping the IMA
3. Allocation of Blue Plains' capacity (309, then 370 mgd)
4. Flow management requirements
5. Sludge management operations & responsibilities
6. Allocation of Capital & O&M costs [Blue Plains & Potomac Interceptor (PI)]
7. Process for future capacity planning
8. Mechanisms for coordination
9. Support for regional water quality program
10. Amendment & conference processes

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Challenges of Current (1985) IMA

- **Requirements very different from 1985** – Regulatory & program changes
 - Original capacity allocations were defined only through 2010
 - No mechanism to address nutrient loads/Bay TMDL requirements
 - CSO LTCP/Clean Rivers program not anticipated
 - Biosolids management has a very different approach
- **Showing its age** - Strong/important in key areas but much is outdated
 - Lacks references/links to DC Water
 - ~40% of text is out-of-date/not applicable; 5 core sections need updating (new data & information, new permits & regulations, and new planning assumptions)
 - Does not address many new shared cost allocation concepts
 - Lacks clear process for handling disputes in a timely manner
- **Not a living document** – Lack flexibility to make limited changes/updates
 - Lacks effective process to respond to new technical/process needs in a timely manner
 - Has uneven mix of elements that can/cannot be modified vs. amending IMA
 - As a result, several existing/parallel MOUs exist (i.e., signed 'outside' of 1985 IMA)

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Factors Driving Need for New IMA

● Permit/Regulatory

- Reflect results of key studies/permit negotiations
- Address impacts on Blue Plains' capacity/process requirements
 - CSO Long-term Control Plan
 - Chesapeake Bay Program/TMDL nutrient loads
 - New wastewater permit & biosolids management processes needs
- Potomac Interceptor & sewer system studies (flow management/capacity analysis/modeling)

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Factors Driving Need for New IMA

● Financial Obligations

- Address cost-share agreements in response to those process/permit issues
- Reflect new understandings of shared costs
- Codify/integrate existing parallel agreements & cost-share decisions

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Factors Driving Need for New IMA

- **Procedural/Structural**

- Reflect establishment of DC Water
- Clarify DC Water (operational) vs. District (governmental) roles
- Address ~40% of out-of-date/no longer applicable text
- Codify current practices/procedures
- Address need to resolve disputes in timely manner
- Address need for flexibility to reflect updated practices & technical changes in a timely/effective manner

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Process to Create New IMA

- **Annotated 1985 IMA Prepared (2005)**
 - Documented understandings & issues - as of 2005
- **Technical Work & Regulatory Actions (2005 – 2011)**
 - Technical studies/analysis (2005-2011)
 - Blue Plains new permit & Bay TMDL issued (2010)
- **Negotiation Team created (2009)**
 - 2 members per jurisdiction/agency (*District, DC Water, Fairfax, Prince George's, Montgomery, & WSSC*)
 - Policy/Technical staff, Legal support, & work groups (*i.e., Legal, Operational, Intergovernmental, Pretreatment, Financial, Biosolids*)
 - Secretariat support by COG staff

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Process to Create New IMA

- Dec. 2011 – Negotiation Team completes 2012 IMA
 - Reflects intensive multi-year process
 - Included active participation of all parties (i.e., technical, policy, financial, & legal)
 - Briefings to & guidance provided from Blue Plains Leadership Committee (BPLC) (i.e., CAOs and General Managers)
 - Negotiation Team made recommendation to BPLC to endorse/transmit final documents to Governing Bodies for formal approval by all Parties

Guiding Philosophy for New IMA

- Reflect all that has changed since 1985 IMA signed
- Reflect rights & responsibilities & commitments of all Parties
- Create a 'living document'
 - **Core IMA** - To define fundamentals
 - **Derivative Agreements (DAs)** – To address matters that can/will change over time w/out modifying core fundamentals; they include:
 - **Operating Agreements (OAs)** - specifically address IMA implementation details
 - **Service Agreements & Limited Party Agreements** (discussed later)
- Define processes for 'future' issues – “anticipate change”
 - Address new regulatory requirements & integrated planning
 - Address new cost allocation & capacity implications
 - Resolve IMA “contract” disputes in a timely manner

2012 IMA – Structure & Rationale

- Core Agreement
 - Defines fundamental rights and responsibilities of - and commitments and agreements among the Parties
 - Builds on, updates and replaces 1985 IMA
 - To be signed by all IMA Parties
 - District, DC Water, Fairfax, Prince George's, Montgomery, WSSC
- Derivative Agreements
 - Authority 'derived' from core agreement/key principles
 - Flexibility to address operational details that routinely change over time
 - To be signed by Blue Plains Leadership Committee
 - Blue Plains CAOs & General Managers (DC Water & WSSC)

2012 IMA – Core Agreement

- | | |
|--|---|
| Preamble | 7. Wastewater Capacity Needs & Future Options |
| 1. Key Principles | 8. Pretreatment & Operational Requirements |
| 2. Governance | 9. Biosolids Management Commitments |
| 3. Blue Plains Permit Responsibilities & Treatment Process Requirements | 10. Administrative Provisions & Procedures |
| 4. Blue Plains Flow Capacity Loads, & Peak Flows – Allocations & Limitations | 11. Derivative Agreements Under This IMA |
| 5. Financial Responsibilities of Parties | 12. Glossary |
| 6. Flow & Load Measurement & Management | Signatories |
| | Appendix – Historical Agreements |

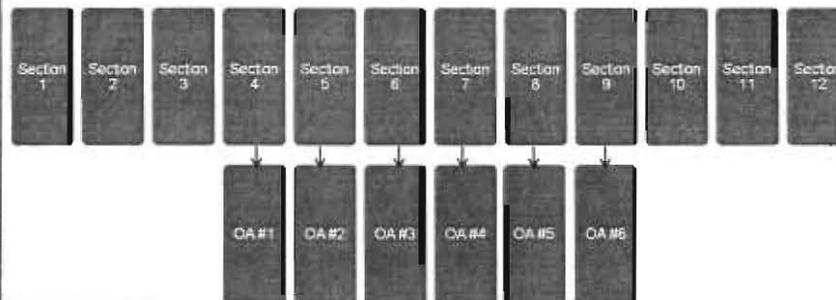
2012 IMA – Derivative Agreements

Currently 6 Operating Agreements (OAs) with supplemental Glossaries:

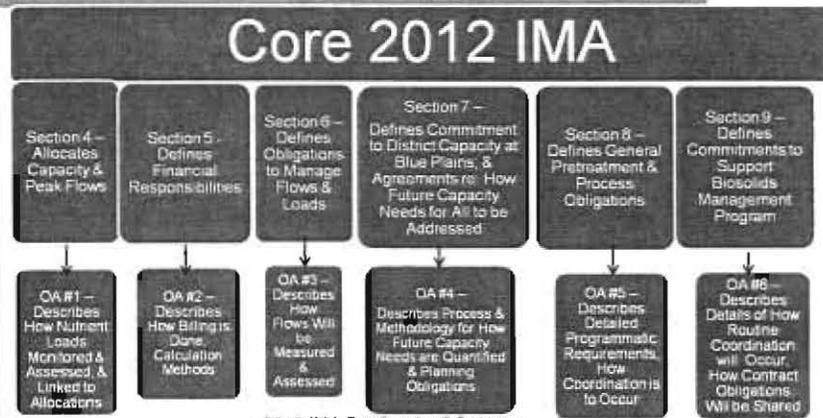
1. Blue Plains Flow Capacity, Load & Peak Flows – Allocations & Limitations
2. Financial Responsibilities
3. Flow and Load Measurement & Management
4. Wastewater Projected Flow Capacity Needs & Future Options
5. Pretreatment & Operational Requirements
6. Biosolids Management Commitments

2012 IMA – Correspondence of Core IMA with Derivative Agreements

Core 2012 IMA



2012 IMA – Correspondence of Core IMA with Derivative Agreements



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2012 IMA Section 1. Key Principles

- Lists 12 Key Principles (KPs)
 - Similar to 1985 Principles - but recognizes DC Water & its role vs. District
 - Adds KPs to reflect Chesapeake Bay req.'s, IMA/DA amendment processes, & clear dispute resolution process
 - Acknowledges that overall conditions must also apply to other parties that also use Blue Plains but that are not signatory to the IMA (e.g., Loudoun Water, Town of Vienna, etc.)
- Provides basis for overall Agreement
 - Guide interpretation or dispute resolution
 - Core & DAs to be governed by & consistent w/ KPs

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2012 IMA

Section 1. Key Principles (KPs)

- Defines commitment of Parties to:
 - Ensure best management of Blue Plains
 - Allocate capacity & peak flow limitations, and manage flows & loads
 - Assess how costs are allocated (Capital and O&M)
 - Take collective responsibility for biosolids management
 - Recognize DC Water's responsibility to operate Blue Plains & commitment of Parties to cooperate with DC Water
 - Address District capacity needs at Blue Plains & to work together to meet future needs for all Parties
 - Protect water quality
 - Address terms and how IMA & DAs to be amended
 - Handle disputes

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2012 IMA

Section 2. Governance

- Defines levels of authority, and clear roles & responsibilities for:
 - Signatories
 - Leadership Committee (BP CAOs & DC Water & WSSC General Managers)
 - Regional Committee (professional staff appointed by CAOs/GMs)
- Enables observer participation in Leadership and Regional Committees
- Defines membership that includes all 6 Parties
- Acknowledges distinctions between operational vs. governmental/policy roles
- Addresses linkages to all governing bodies
- Formalizes dispute resolution process and timing
- Outlines notification & various process/procedural issues

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2012 IMA

Section 3 – Blue Plains Permit Responsibilities & Treatment Process Requirements

- Specifies DC Water's responsibilities:
 - Overall permit compliance as operator of Blue Plains
 - Notification to other Parties of issues that do/may impact terms of IMA, especially financial impacts
 - To provide opportunity for comment & input
- Defines individual & collective financial responsibilities to support Blue Plains permit/process needs
- Commitment to a regional water quality stewardship role and financial support
- Reflects new obligations/implications to all Parties of:
 - New Blue Plains permit, CSO LTCP, & Ches. Bay TMDL

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2012 IMA

Section 4. Blue Plains Flow Capacity, Loads & Peak Flows – Allocations & Limitations

- Defines how Blue Plains capacity is allocated
 - Table shows each allocation
- Codifies agreement to increase District capacity
 - Reassigns 4.5 mgd of remaining Potomac Interceptor Reserve to the District
- Acknowledges that Captured Stormwater Flow (now 21 mgd) is not counted against District's portion of 370 mgd allocation
- Reflects latest flow predictions & management assumptions (i.e., 370 mgd available to 2040)
- Defines how peak flows in Potomac Interceptor & other interceptor capacities are allocated & associated peak flow limits
 - Tables show allocations/limitations for each system

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2012 IMA

Section 4. Blue Plains Flow Capacity, Loads & Peak Flows – Allocations & Limitations

- Describes:
 - Commitment of all to monitor/comply with allocations & peak flow limitations – and associated nutrient loads [New]
 - Conditions under which limited transfers of capacity may occur [New]
 - How transfers of nutrient loads would be dealt with [New]
 - Associated obligations of Non-Party Users & Indirect Users [New]
- Recognizes that loads are linked to capacity, & that options are limited based on District/Maryland/Virginia TMDL allocations
- Supported by **Operating Agreement #1**

2012 IMA

Section 4. Blue Plains Flow Capacity, Loads & Peak Flows – Allocations & Limitations

- **Operating Agreement #1:**
 - Notes that its' scope/authority are derived from Core IMA, **Section 4** obligations
 - **Defines Loads:**
 - **Effluent Loads** - Includes table that lists District, Maryland & Virginia TMDL allocations for nutrients (Nitrogen & Phosphorus) and for Blue Plains as a whole
 - **Influent Loads** - Includes table that lists current design flow and load assumptions for Blue Plains that are the used as basis for design, and that ensure that Blue Plains can meet its permit obligations



2012 IMA

Section 5. Financial Responsibilities of Parties

- Acknowledges responsibility & general basis for paying shared costs:
 - Capital Costs – based on allocation of 370 mgd
 - Operating & Maintenance (O&M) Costs – based on actual flows
 - User Fee – proportionate to share of 370 mgd
- Introduces concept of Multi-Jurisdiction Use Facilities (MJUF), determinations & application (*i.e., shared use & cost responsibilities*)
- States responsibility for sharing risks/paying proportionate share of Fines, Penalties & Claims
- Supported by **Operating Agreement #2**

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2012 IMA Briefing for DC Water Governance Committee

January 11, 2012



2012 IMA

Section 5. Financial Responsibilities of Parties

- **Operating Agreement #2:**
 - Notes that its' scope/authority are derived from Core IMA, **Section 5** obligations
 - Documents current billing and payment procedures, & reconciliations - including those from several existing MOUs
 - Recognizes new methods for allocating use & shared costs (*over \$3 Billion in Capital Costs, e.g., for pipelines within District, & CSO LTCP*)
 - Reflects latest cost differential for how Captured Stormwater Flows should be billed (*i.e., now to be adjusted by 49%*)

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January 11, 2012



2012 IMA

Section 6. Flow & Load Measurement & Management

- Acknowledges commitment of all to:
 - Manage flows to be consistent with allocations & limitations
 - Manage loads to meet Blue Plains permit & process needs (New)
 - Ensure that others also comply with these requirements (i.e., those managed by DC Water as well as Fairfax & WSSC)
- Acknowledges commitment to manage flows
 - District to manage Captured Stormwater Flows to meet permit, while protecting overall capacity obligations [New]
 - Suburban members to manage their Inflow/Infiltration flows
- Supported by **Operating Agreement #3**

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2012 IMA Briefing for DC Water Governance Committee

January 11, 2012



2012 IMA

Section 6. Flow & Load Measurement & Management

- **Operating Agreement #3:**
 - Notes that its' scope/authority are derived from Core IMA, Section 6 obligations
 - Outlines detailed procedures for how flows will be measured, reported, assessed & managed
 - Includes calculations, examples, & actual nomographs used to support those calculations
 - Outlines procedures for how influent loads will be measured, reported & assessed
 - Describes link between flows & influent loads, need to monitor, potential impacts, & defines process for addressing such impacts should they become an issue
 - Describes how peak flows to be measured, assessed & managed (including detailed calculations) – and modified if needed
 - Defines how loads will be monitored, assessed & managed

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2012 IMA Briefing for DC Water Governance Committee

January 11, 2012

(38)



2012 IMA

Section 7. Wastewater Projected Flow Capacity Needs & Future Options

- Outlines rationale & overall req.'s for assessing future flows & resulting capacity needs for Blue Plains Service Area (BPSA)
- Defines specific commitment to ensure that District capacity needs are addressed in a timely manner
- Recognizes complex links between capacity & loads, & regulatory requirements due to TMDLs/permits
- Defines a comprehensive assessment & jointly managed studies to determine future options - and joint responsibility for funding (in lieu of automatic off-loading & set reimbursement formula)
- Supported by **Operating Agreement #4**

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2012 IMA Briefing for DC Water Governance Committee

January 11, 2012



2012 IMA

Section 7. Wastewater Projected Flow Capacity Needs & Future Options

- **Operating Agreement #4:**
 - Notes that its' scope/authority are derived from Core IMA, **Section 7** obligations
 - Describes how studies are to be conducted, methodologies used, & options evaluated
 - Notes obligations & outlines notification requirements if flows need to be diverted away from Blue Plains – and how associated loads will be managed

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Section 8. Pretreatment & Operational Requirements

- Acknowledges need to protect Blue Plains & sewage collection system to:
 - Meet EPA Pretreatment/permit requirements
 - Protect/meet operational requirements at Blue
- Defines monitoring, implementation & compliance obligations of:
 - Fairfax & WSSC - in their service areas, as well as their Indirect Users
 - DC Water – of Fairfax and WSSC, as well as Non-Party Users that they oversee
- Supported by **Operating Agreement #5**



2012 IMA

Section 8. Pretreatment & Operational Requirements

- **Operating Agreement #5:**
 - Notes that its' scope/authority are derived from Core IMA, **Section 8** obligations
 - References all existing pretreatment agreements
 - Defines screening requirements for pumping stations
 - Outlines detailed monitoring requirements/restrictions on trucked waste & other materials
 - Outlines reporting & enforcement requirements

2012 IMA

Section 9. Biosolids Management Commitments

- Reflects Blue Plains' Biosolids Management Program (BMP) objectives vs. detailed processes
- Outlines elements of collective/regional responsibility to support BMP (e.g., coordination, address legislation, support DC Water's efforts)
- Notes commitment to share contracting responsibilities
 - When/if deemed appropriate (routine) or necessary (emergency conditions)
 - To jointly share benefit of any sales
- States need for coordination/joint action if an emergency condition occurs
- Supplemented by **Operating Agreement #6**

2012 IMA

Section 9. Biosolids Management Commitments

- **Operating Agreement #6:**
 - Notes that its' scope/authority are derived from Core IMA, **Section 9** obligations
 - Defines Regional Committee responsibility to develop recommendations/actions to address obligations stated in **Section 9** and to address emergencies
 - Reflects current responsibility of WSSC to manage/issue contracts for portion of Blue Plains biosolids within a range (50% to 70%)
 - Outlines contract coordination/review processes, as well as marketing efforts

2012 IMA

Section 10. Administrative Provisions & Procedures

- Recognizes concept of Core IMA vs. DAs
- Addresses fundamental aspects, obligations & procedures related to the Core IMA & DAs
 - Duration (*i.e., until amended/replaced/terminated by mutual consent*)
 - Severability
 - Authority (*i.e., consistent w/ each jurisdiction/agency's own internal requirements*)
 - Amendment procedures
 - Dispute Resolution
 - Notices
 - Prior Agreements

2012 IMA

Section 11. Derivative Agreements Under This IMA

- Outlines scope, types, function & general limitations of all DAs – but all are ‘derived’ from principles/scope of the Core IMA and cannot change contractual rights/responsibilities of the Parties
 - **Operating Agreements** (*in 1985, such details were in IMA itself – hence easily got out-of-date*)
 - **Service Agreements** (*includes existing agreements with Non-Party Users & Indirect Users; as well as services to support Parties, e.g., secretariat services and regional water quality program*)
 - **Limited Party Agreements** (*limited to specific actions/allocations of capacity among 2 or more Parties or Party(ies) with Non-Party(ies)*)



2012 IMA

Section 12. Glossary

- Includes terms needed in Core IMA
- Reflects current conditions & updates/refines definitions as needed
- Retains key terms, but avoids inclusion of commonly understood language (e.g., biosolids)

Note: Similar approach used to include glossaries within each DA as needed to reflect additional terms



2012 IMA

Signatories

- District of Columbia
- DC Water
- Fairfax County
- Montgomery County
- Prince George's County
- WSSC

2012 IMA – A Living Document

- **Continues** to provide clear financial support/commitment to fund expenses at Blue Plains & other shared facilities
- **Builds upon** past 26 years of regional collaboration, cooperation & coordination
- **Reflects** latest permit/regulatory requirements as well as a tremendous amount of technical work & analysis
- **Reflects** DC Water and its unique role as operator/permit holder
- **Structure defines** the critical rights & responsibilities and commitments of the Parties; and **provides flexibility** to effectively/ and in a timely manner address new requirements/procedures (*i.e., anticipates and plans for change*)
- **2012 IMA** expected to be viable for many decades

2012 IMA – Benefits to the Region

- **Financial Support for Blue Plains** - Ensures shared & continued/long-term funding for Blue Plains & associated facilities (*approximately \$6 – 8 Billion Capital expenses over 20 years*)
- **Water Quality** - Addresses need for collaborative approach to deal with future capacity needs, how to address nutrient load allocations in COG region, and commitment to protect water quality in Potomac, Anacostia, & Bay
- **Regional Wastewater Needs** – Ensures that the wastewater treatment requirements for approximately ½ of the region's wastewater capacity is addressed for the next 30 years.
- **Regional Collaboration** – Builds on 26 years of successful cooperation & integrated planning



2012 IMA Review and Approval Process

- Final 2012 IMA documents to be transmitted to all Parties: Mid-January
- Briefings: January & February
 - DC Water Governance Committee – January 11th
 - DC Water Board – February 2nd
 - Other Parties (*currently being scheduled*)
- Submitted to Governing Bodies for Approval: January - March
 - DC Water Board – March 1st (proposed)

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Wrap-up

- Questions?
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