



## **Back River and Patapsco Wastewater Treatment Plant Consent Decree Fact Sheet**

### Issue

- In Spring of 2021, Blue Water Baltimore detected high levels of bacteria at the Patapsco Wastewater Treatment Plant (WWTP). Around the same time, Chesapeake Legal Alliance attorneys noticed the City had reported to the U.S. Environmental Protection Agency very high nitrogen and phosphorus discharges at both the Back River and Patapsco WWTPs.
- Blue Water Baltimore notified the Maryland Department of the Environment ("MDE"), which sent inspectors out to both plants. MDE documented widespread violations of the federal Clean Water Act and state water pollution control laws.
- The root causes of the systemic problems at the WWTPs included failure to maintain the plants, lack of adequate staffing, and failure to timely proceed with replacement of equipment.
- The amount of pollution that was discharged from these two WWTPs cannot be overstated. The two WWTPs discharged twice as much dead zone-causing nitrogen pollution in 2021 as they did in 2019. That excess alone - more than 2 million pounds - was equal to nearly every other WWTP in Maryland combined.

### Process

On behalf of its client Blue Water Baltimore, Chesapeake Legal Alliance, along with co-counsel Barley Snyder, spent the past two years working with MDE and Baltimore City to ensure:

- All of the Clean Water Act permit violations, including pollution discharges and operation and maintenance violations, are ceased.
- WWTPs are brought back up to proper operations and maintenance standards.
- An adequate number of qualified workers are hired to alleviate staff shortages.
- Adequate third-party oversight of the facilities to prevent the conditions that could lead to another catastrophic failure.
- Notification to the public of violations and warning signs in popular recreation spots.
- A large portion of any penalties paid be put towards environmental projects to benefit the communities that were impacted.

### Outcome

- A legally enforceable consent decree that holds the City accountable for past violations and creates an enforceable plan moving forward.

- **Third-party oversight** to ensure the City stays on track toward full compliance.
- **Transparency** to the public about how the process is going, including:
  - Quarterly updates available online that will show implementation of corrective actions, progress tracking on ongoing projects, required dates of completion compared to actual date of completion, financial expenditures on each project.
  - One virtual and one in-person public meeting per year for each facility to address the progress toward complying with the consent decree, also providing an opportunity for public comment.
- **Public Notification:** New signage alerting the public about the presence of submerged WWTP outfalls in the Back River and Patapsco Rivers, along with a red warning light that illuminates when a sewage bypass of treatment systems has occurred and stays on for 24 hours.
- **Penalty:** \$4.75M penalty for past violations (breaks down into \$3.75 M for Back River and \$1M for Patapsco). Of the total \$4.75M in penalty, \$1.9 M go to a fund for “substitute environmental projects” or a (“SEP”), projects that will directly benefit the communities and ecosystems that were damaged by the WWTP’s pollution violations.
  - Breakdown of total \$4.75M penalty:
    - 30% paid in 3 installments
    - 40% going to a SEP (\$1.9M)
    - 30% held in abeyance (paid only if the City does not follow the requirements of the CD)
  - SEP
    - Fund will be administered by Chesapeake Bay Trust, a nonprofit entity with experience in grant-making.
    - CBT will advertise and hold listening sessions to spread the word about grant funding opportunities.
    - Priority will be placed on projects that address environmental justice issues.
- **Stipulated penalties**
  - If the pollution limits are exceeded.
  - If the City fails to meet deadlines in the CD.
  - If the City fails to conduct adequate monitoring or reporting of water quality.
- **Work to be performed**
  - The majority of the work will be done in the next two years. There are some deadlines further out for larger projects, with requirements to start the process for those soon.
  - Includes both repair and replacement of equipment as well as ensuring adequate staffing levels and maintenance plans to build resilience and redundancy into the plants.
  - Staffing plan: short term and long term goals.
- Blue Water Baltimore and Chesapeake Legal Alliance will continue to be involved through the consent decree implementation process