

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND**

**BLUE WATER BALTIMORE, INC.**  
2631 Sisson Street  
Baltimore, MD 21211

Plaintiffs,

V.

**MAYOR & CITY COUNCIL OF  
BALTIMORE**

City Hall, 100 N. Holliday Street  
Baltimore, Maryland 21202

## Defendants.

## CIVIL ACTION - LAW

No.: \_\_\_\_\_

## COMPLAINT

And now the Plaintiff, Blue Water Baltimore, Inc., by and through its attorneys,  
Chesapeake Legal Alliance and Barley Snyder, files this Complaint alleging the following:

## STATEMENT OF THE CASE

1. This is a citizen suit for declaratory and injunctive relief, the assessment of civil penalties, and other appropriate relief against the Mayor and City Council of Baltimore (“Defendants” or “Baltimore City”) for violations of the Federal Water Pollution Control Act, 33 U.S.C. § 1251 *et seq.* (hereafter the Clean Water Act (“CWA”).

2. These violations occurred and are occurring at the Patapsco Wastewater Treatment Plant (“Patapsco WWTP”) and the Back River Wastewater Treatment Plant (“Back River WWTP”) (collectively, “Facilities”). The Patapsco Wastewater Treatment Plant is located

at 3501 Asiatic Ave, Baltimore, MD 21226. The Back River WWTP is located at 8201 Eastern Ave, Baltimore, MD 21224. Both Facilities are owned and operated by Defendants.

3. As detailed below, Defendants have discharged and continue to discharge pollutants into waters of the United States in violation of sections 301 and 402 of the CWA, 33 U.S.C. §§ 1311, 1342, and the conditions and limitations of National Pollutant Discharge Elimination System (“NPDES”) Permit No. MD0021601 (State Permit 15-DP-0580) (“Patapsco Permit”) and NPDES Permit No. MD0021555 (State Permit 15-DP-0581) (“Back River Permit”), issued pursuant to section 402 of the CWA, 33 U.S.C. § 1342.

4. Defendants have demonstrated an unwillingness and/or inability to comply with the terms of their NPDES permits as well as federal and state law.

### **JURISDICTION AND VENUE**

5. This Court has original subject matter jurisdiction over this action pursuant to 33 U.S.C. § 1365(a), and 28 U.S.C. § 1331.

6. This Court has supplemental jurisdiction over state law claims included in this Complaint pursuant to 28 U.S.C. § 1367.

7. Pursuant to 33 U.S.C. § 1365(c), venue is correct because the Clean Water Act (CWA) violations alleged in this Complaint occurred or may occur in this District.

8. Pursuant to the CWA, 33 U.S.C. § 1365(b)(1)(A) (requiring 60 days notice), Blue Water Baltimore. (“Plaintiff”) gave notice on October 5, 2021, which is more than 60 days prior to commencing this action, to all required parties including: 1) the Defendants; 2) the Maryland Department of the Environment (“the Department”); 3) the United States Environmental Protection Agency (EPA); and 4) the State of Maryland.

9. Neither EPA nor the State of Maryland has commenced or is diligently prosecuting a civil or criminal action against Defendants in a court of the United States or the State of Maryland, or pursuing an administrative penalty action, to require compliance with the laws, rules, regulations, permits, standards, or limitations at issue in this case.

10. As explained below, Defendants are in violation of effluent standards and limitations set forth in their Permits and are not otherwise complying with the terms and conditions of the Permits. Therefore, the violations alleged herein will continue until this Court enjoins Defendants from discharging in violation of the Permits and orders Defendants to address and remedy the underlying causes of the violations.

### **PARTIES**

11. Plaintiff Blue Water Baltimore is a 501(c)(3) nonprofit organization formed in 2010. It is dedicated to protecting clean water in the Baltimore, Maryland, area. Blue Water Baltimore is headquartered at 2631 Sisson Street, Baltimore, Maryland. Its mission is to protect and restore the Baltimore Harbor, the greater Patapsco and Back Rivers, and their tributaries through enforcement, fieldwork, and citizen action on behalf of its members in order to make these waterways suitable for recreation (including fishing and swimming), to improve public health, and to improve the health of the aquatic ecosystems. Baltimore Harbor Waterkeeper, a program of Blue Water Baltimore, is responsible for protecting the Patapsco River and Back River watersheds, including all of the neighborhood streams and rivers that discharge into the Patapsco and Back Rivers.

12. Blue Water Baltimore has over 1000 members, over 800 of whom live in Baltimore City and Baltimore County, surrounded by the Patapsco and Back Rivers, which drain to the Chesapeake Bay.

Blue Water Baltimore supports its members by utilizing the CWA and other environmental laws to stop pollution that threatens public health, impairs water quality, damages ecosystems, and negatively impacts the ability of its members to use and enjoy the waterways of Baltimore. Blue Water Baltimore's members include individuals who participate in and enjoy many recreational activities in and around the Patapsco and Back Rivers and the Chesapeake Bay, including fishing, boating, kayaking, and enjoyment of their aesthetic qualities. *See* Declarations of Alice Volpitta, Desiree Greaver, Sara Bundy, and Rodette Jones. Attached as Exhibit 1 and incorporated herein.

13. Blue Water Baltimore's members are harmed by the violations alleged in this Complaint. Pollution in Patapsco and Back Rivers impairs water quality, threatens public health, and harms river habitats and aquatic ecosystems. Defendants' violations of the CWA have resulted in excess pollution which impairs the water quality and contributes to algae blooms, fish kills, and unsafe swimming conditions in the Patapsco and Back Rivers and have diminished Blue Water Baltimore's members' use and enjoyment of these waters by making it less likely that they will continue to enjoy recreating on and around them in the future. *See* Declarations of Alice Volpitta, Desiree Greaver, Sara Bundy, and Rodette Jones. Exh. 1.

14. A favorable decision in this matter would compel Baltimore City to comply with applicable laws and ensure the operation of the Facilities do not continue to negatively impact the water quality in the Back River, Patapsco River, and Chesapeake Bay and would lead to improvements in water quality and redress the concerns of Blue Water Baltimore's members.

15. The interests that Plaintiff seeks to protect are germane to its organizational purposes.

16. Neither the claims asserted nor the relief requested requires the participation of Plaintiff's individual members in this action.

17. At all relevant times, Plaintiff was and is a "person" as that term is defined by the CWA, 33 U.S.C. § 1362(5).

18. Defendants Baltimore Mayor and members of the Baltimore City Council are the executive and legislative components of the Baltimore City government and are the permittees and the responsible parties on the Permits. Their address is City Hall, 100 N. Holliday Street, Baltimore, MD 21202.

19. Baltimore City owns and operates the Patapsco WWTP. The Facility treats wastewater from the Baltimore metropolitan area, including Baltimore City, Baltimore County, Anne Arundel County, and Howard County.

20. Baltimore City also owns and operates the Back River WWTP. The Facility treats wastewater from Baltimore City and Baltimore County.

21. The Defendants are "persons" within the meaning of the CWA, 33 U.S.C. § 1362(5).

### **STATUTORY AND REGULATORY FRAMEWORK**

22. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the "discharge of any pollutant by any person" into waters of the United States except in compliance with the terms of a permit, such as an NPDES permit issued by EPA or an authorized state pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.

23. Title 9 of the Maryland Environment Code and its accompanying regulations detail Maryland's NPDES permit program.

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