



# Maryland

## Department of the Environment

Larry Hogan, Governor  
Boyd K. Rutherford, Lt. Governor

Ben Grumbles, Secretary  
Horacio Tablada, Deputy Secretary

### **CERTIFIED MAIL**

Yosef Kebede, Acting Head, Bureau of Water and Wastewater  
Baltimore City Department of Public Works  
Abel Wolman Municipal Building  
200 North Holliday Street  
Baltimore, Maryland 21202

**RE:** Patapsco Wastewater Treatment Plant, AI# 3076 and  
Back River Wastewater Treatment Plant, AI# 8449  
**Compliance/Enforcement Assessment, Opportunity for Informal Meeting**  
*[Response requested within 7 days]*

Dear Mr. Kebede:

The Maryland Department of the Environment, Water and Science Administration, Compliance Program (Department) has serious concerns regarding the compliance status of the Patapsco Wastewater Treatment Plant (Patapsco Plant) located at 3501 Asiatic Avenue, and the Back River Wastewater Treatment Plant (Back River Plant) located at 8201 Eastern Avenue in Baltimore City, permitted under State Discharge Permit #15-DP-0580 (Patapsco Permit) and State Discharge Permit #15-DP-0581A ( Back River Permit), respectively and requests immediate actions and corrective measures in response to the Department's concerns.

In response to inspections conducted at the Patapsco River and Back River Plants beginning on May 6, 2021 and completed August 11, 2021, this letter serves as 1) notice that the Department has completed a preliminary compliance assessment of the activities at the Patapsco and Back River Plants and contends that alleged violations, having or continuing to occur at both facilities, meet the Department's *Significant Non-Compliance (SNC) Criteria* and, 2) to provide notice that the Department intends to proceed with a formal enforcement action that will require the implementation of corrective measures and may include referral of the matter to the Office of the Attorney General. As a result of these inspection findings, the Department would like to schedule a meeting with the Baltimore City Department of Public Works to discuss the alleged violations and obtain any additional information for consideration. The Department asks that a response to this meeting request be provided to the Department within seven days of receipt of this letter.

The Department is committed to protecting and restoring the environment and has the responsibility and authority to ensure compliance with environmental laws and regulations. A primary goal of the Department is to attain and maintain a high rate of compliance by providing clear expectations and by ensuring environmental responsibilities are enforced within the regulated community consistently. When significant violations are observed the Department has an obligation to take equitable and timely enforcement action, reasonably necessary, to deter future violations from occurring.

**The Department alleges that the Baltimore City DPW is responsible for violations of Title 9-322, 9-323 and 9-331 of the Environment Article, *Annotated Code of Maryland*, and regulations promulgated thereunder having occurred during the time period of January 2020 through June 2021.**

- Title 9-322 of the Environment Article states that pollutants may not be discharged to waters of the State.
- Title 9-323 of the Environment Article provides that prior to any operation that could cause or increase the discharge of pollutants into the waters of this State a person shall obtain a discharge permit issued by the Department and comply with all the conditions therein.
- Title 9-331 of the Environment Article requires the owner or operator of any source of a discharge of pollutants to maintain records, submit reports, install, calibrate, use, and maintain monitoring equipment or methods, including, where appropriate, biological monitoring methods; collect samples of the discharge in accordance with the methods, at the locations, at the intervals, and in the manner the Department requires and to provide to the Department any information that the Department reasonably requires regarding the discharge of pollutants to waters of the State.

### **Patapsco WWTP**

On May 6, 2021, the Department conducted an inspection of the Patapsco Plant accompanied by Neal Jackson, Plant Manager. Although the Department is still awaiting additional information, due to the significant concerns regarding the deficiencies noted during the inspection, the report was finalized on June 4, 2021 and provided to the Plant Manager on June 7, 2021. During the inspection, the Department observed numerous deficiencies and violations of the Back River Permit related to self-monitoring, reporting, operation and maintenance of the plant and effluent violations resulting in significant noncompliance with the Permit as detailed in the attached May 6 inspection report provided to the Plant Manager. A summary of the violations includes the following:

1. Significant violations of the effluent limits for total nitrogen, enterococcus, total suspended solids, total phosphorus, and biochemical oxygen demand Outfall 001 during the period July 2020 through April 2021, including 2020 calendar year annual loadings for total nitrogen and total phosphorus.
2. The Department has also received the results of samples collected by Blue Water Baltimore representatives from their monitoring station located at Outfall for the period April 2021-July 2021 that indicate significantly high Enterococcus bacteria levels. The dates of the samples and results are attached.
3. Failure to comply with the Fats, Oils and Greases (FOG) mitigation plan including, preventing the discharge of FOG particles to surface waters and the failure to properly operate the Plant to prevent the discharge of excess pollutants by not raising the water level or lowering the scum logs as necessary to ensure capturing FOG and other floating scum. Also, the failure to report

to the Department the measures taken to comply with the FOG Mitigation Plan for the years 2018, 2019 and 2020.

4. During the calendar year 2020 - 2021 the Department determined there have been a significant number of water samples that have been mishandled resulting in no reportable data due to unsatisfactory collection or handling practices.
5. Failure to properly collect rinsate and equipment blanks for the toxic chemical testing and PCBs.
6. Inaccurate reporting of the Total PCB results for the TMDL allocation including the failure to report the results of a second PCB sample collected on 1/12/2021.
7. Failure to report the 12 dioxin-like PCB congeners as specified in the Department's guidance document "Reporting Requirement for Total PCBs (PCB Congeners by EPA Method 1668A or C Rev 11/9/2017)".
8. Failure to meet the sampling and analytical requirements for the 2021 Toxic Chemical testing.
9. Failure to submit an updated 2020 Wastewater Capacity Management Plan (WCMP).

As noted in the May 6, 2021 inspection report, the 2017 FOG Mitigation Plan Revision identified improvements to be completed to reduce the discharge of FOGs. The plan specifically included the replacement of the actuators, replacement of the flights with a quality product, and replacing or refurbishing the Scum Troughs. The May 6 inspection revealed that this work had not been completed. The inspection also revealed that out of 18 primary settling tanks (PSTs), only 5 were operational and an excessive amount of excessive grease was observed in the skimming troughs. The Plant Manager was advised that the excessive collection of FOG and scum at the PSTs indicate a major treatment design problem that requires an engineering solution and if the problems are not quickly resolved, the currently operational systems will also fail.

In addition, the facility has eight influent screening units with three units are online at the time of the inspection. The Department observed that a few of the screening units were filled with trash and other debris that would prevent proper operations of the screening units.

### **Back River WWTP**

On June 16, 2021, the Department conducted an inspection of the Back River Plant accompanied by Betty Jacobs, Plant Manager. Although the Department is still awaiting additional information, due to the significant concerns regarding the deficiencies noted during the inspection, the report was finalized on August 11, 2021 and provided to the Plant Manager on August 12, 2021. During the inspection, the Department observed numerous deficiencies and violations of the Back River Permit related to self-monitoring, reporting, operation and maintenance of the plant and effluent violations resulting in significant noncompliance with the Permit as detailed in the attached June 16, 2021 inspection report provided to the Plant Manager. A summary of the violations include the following:

1. Deficiencies were observed associated with sample collection, sample monitoring equipment, laboratory analysis and reporting, collection of quality assurance samples and sample reporting.
2. Significant violations of the effluent limits for total nitrogen, total suspended solids, total phosphorus and biochemical oxygen demand, E.coli and ammonia at outfalls 001 and 002 during the period August 2020 to May 2021.
3. Failure to report all effluent violations to the Department within 24- hours of being aware and follow up with a letter of explanation within 5 days of reporting the violation(s).
4. Failure to provide a response to the Maryland State DMR/QA Coordinator to an email sent by the United States Environmental Protection Agency regarding required participation in the DMR/QA Study 41 proficiency testing.
5. During the first and second quarters of 2012 there were two consecutive valid toxicity tests that were chronically toxic to the *Americamysis bahia*. The Back River WWTP failed to conduct the third confirmation test within 30 days of the second test as specified by Special Condition D10 of the Permit.
6. Failure to report the PCB congener results as specified by the MDE's guidance document titled "Reporting Requirements For Total PCBs (PCB Congeners) By EPA Method 1668 C or A".
7. Failure to submit the results of the 2021 Toxic Chemical testing.
8. Failure to maintain sampling equipment in good working order, the automatic sampler container for Outfall 001 had a slight accumulation of solids.
9. Failure to develop and implement an updated Operations and Maintenance Manual , to address the changes to the treatment, operational changes, equipment failures and effluent violations.
10. Due to the reported contamination of the rinsate blanks, the Department is concerned with the validity and accuracy of the reported tPCB analytical results for calendar 2018 – 2020.

It is the Department's position, based on the field inspection, that the effluent violations that have occurred to date are due to significant operational and maintenance issues and as a result, the treatment operations have failed to produce a final effluent that consistently meets the effluent limitations of the permit. During the June 16 inspection the Department observed malfunctioning equipment due to recurring maintenance problems. As an example, during the June 16 inspection of the PSTs, PST #11 was observed with an accumulation of floating debris due to a non-functioning skimmer arm.

Further, the Department was advised that the treatment system lost reliable service of the dewatering system in January 2021 as a result of the malfunction of the main centrifuge. As of June 16, 2021 the main centrifuge was still not functioning satisfactorily.

The June 16, 2021 inspection also revealed that only 2 of the 76 certified operators have permanent licenses and the remaining are temporary. In accordance with the requirements of the Back River Permit, the permittee is required to provide an adequate operating staff qualified to carry out operation, maintenance and testing functions required to ensure compliance with this permit and superintendents and

operators must be certified by the Board of Waterworks and Waste Systems Operators. During the inspection, the Department was advised some of the temporary operators are unable to pass the exam to obtain a permanent operators license.

The Department also conducted an inspection on June 16, 2021, to determine Back River WWTP's compliance with the NPDES General Permit for Discharges of Stormwater Associated with Industrial Activity, 12-SW0630 (Stormwater Permit). During the inspection the Department determined the facility failed to comply with the following permit requirements including but not limited to: 1) the failure to conduct the required quarterly routine facility inspections, 2) failure to address the finding of the 2018 annual comprehensive inspection of the Stormwater Permit, 3) failure to perform the required visual inspections, 4) the failure to conduct at least one quarterly visual assessment during a snowmelt event and, 5) the failure to conduct visual assessments at Outfall 005.

### **Patapsco and Back River Plants**

The Department's position is that without immediate corrective measures, the ongoing violations documented by the Department during recent inspections will continue at the Patapsco and Back River Plants resulting in the discharge of excessive pollutants to the Patapsco River, Back River and ultimately the mainstem of the Chesapeake Bay. The performance at both the Patapsco and Back River ENR WWTPs have a critical role in Maryland's commitment to meet the Chesapeake Bay TMDLWLAs and Maryland's Watershed Implementation Plan. MDE is fully committed to use all regulatory tools available to ensure practices are in place to meet and maintain Maryland's requirements under the Chesapeake Bay TMDL.

Also, and as you are aware, the Department and the Mayor and City Council of Baltimore City executed Consent Order #CO-16-2405 on June 7, 2016, to address the unauthorized discharges of FOGs at the Patapsco Plant, the requirement to provide a Capacity Management Plan for the Back River Plant and to require corrective measures to address effluent limit violations and laboratory deficiencies noted at both facilities. Although some improvements have been completed the Department has determined that several of the violations noted in the 2016 Consent Order still have not been adequately addressed.

**The Department is authorized under Title 9-342 of the Environment Article, *Annotated Code of Maryland*, to assess a civil or administrative penalty for the aforementioned violations. •**

- Title 9-342 of the Environment Article to assess penalties of up to \$10,000 per day for water pollution violations.

**When assessing an appropriate enforcement action that may include a monetary penalty, the Department must conduct a careful review of the factors outlined in the Environmental Article and listed below.**

- The willfulness of the violation, the extent to which the existence of the violation was known to but uncorrected by the violator, and the extent to which the violator exercised reasonable care;
- Any actual harm to the environment or to human health, including injury to or impairment of the use of the waters of this State or the natural resources of this State;
- The cost of cleanup and the cost of restoration of natural resources;

- The nature and degree of injury to or interference with general welfare, health and property;
- The extent to which the location of the violation, including location near waters of this State or areas of human population, creates the potential for harm to the environment or to human health or safety;
- The available technology and economic reasonableness of controlling, reducing, or eliminating the violation;
- The degree of hazard posed by the particular pollutant or pollutants involved; and
- The extent to which the current violation is part of a recurrent pattern on the same or similar type of violation committed by the violator.

Each day that a violation continues constitutes a separate day of violation. The Department will ensure that each instance of noncompliance undergoes a review and is subsequently addressed after due consideration to the relevant facts and circumstances. Please be advised, the maximum penalty liability for each day the alleged violation occurred, if referred to the Office of the Attorney General for judicial enforcement action, is significant.

In addition, please be advised, if you fail or elect not to make contact, the Department will proceed with initiating a formal enforcement action. Thank you for your prompt attention to this matter.

Sincerely,



[Lee Currey \(Aug 23, 2021 11:28 EDT\)](#)

D. Lee Currey, Director  
Water and Science Administration

DLC:set

cc: Jason Mitchell, Director, DPW  
Ben Grumbles, Secretary, MDE  
Nathan Short, MDE, OAG

Attachments