

2018 MACO Summer Conference

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Like a Bridge Over Troubled Water Know Your Water Law

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AQUALAW

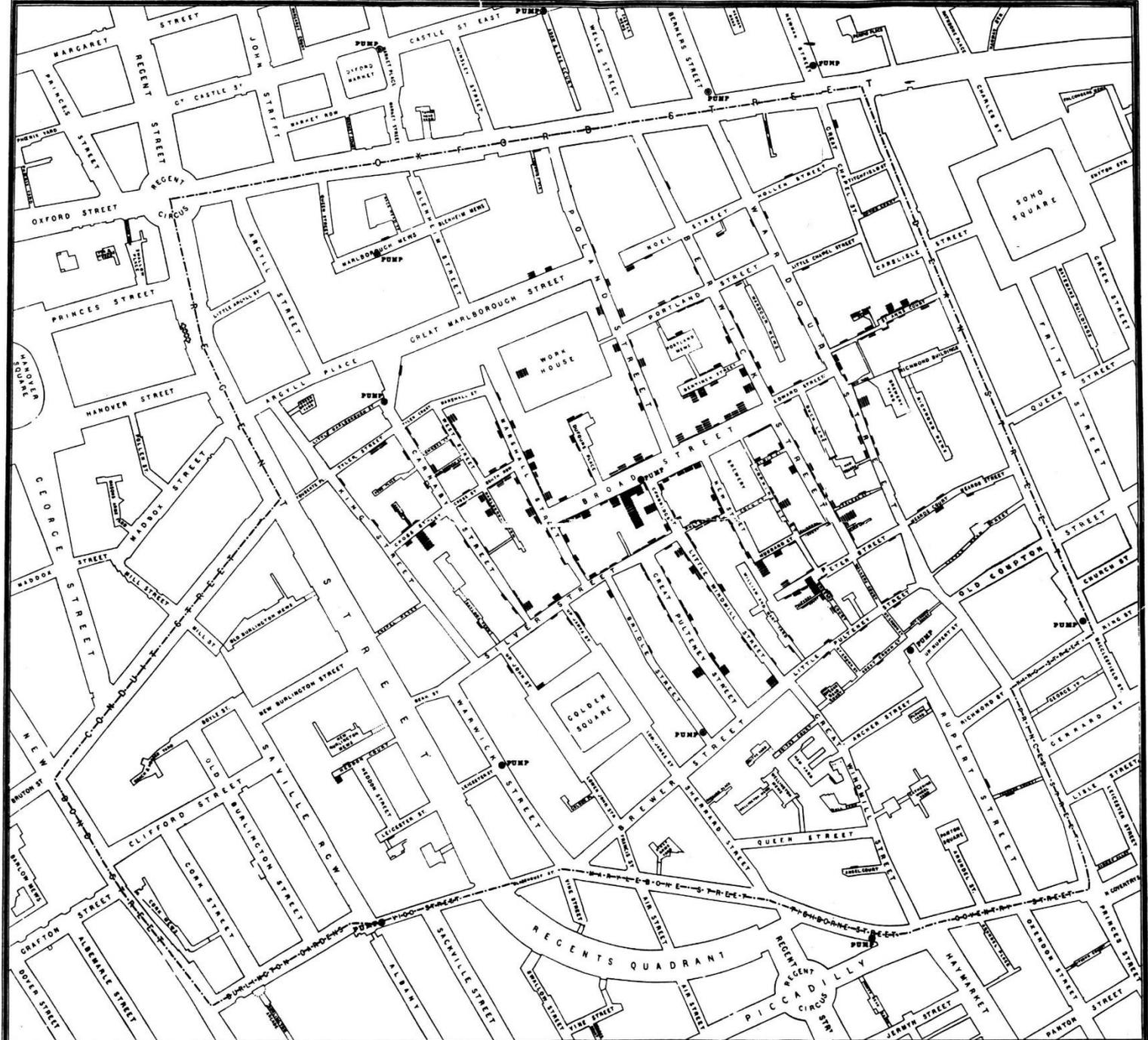
Sanitation is Greatest Medical Advance Since 1840

Improvements in Sanitation Wins Survey

- By readers of British Medical Journal (2007)
- Wins over discovery of antibiotics
- Wins over development of anesthesia

Thank You Dr. Snow!

- British Doctor
- Credited with linking drinking water with cholera outbreak
 - Outbreak in 1854 near his home
 - Created a map of public wells and deaths around Soho
- Dr. Snow took handle off Broad St. pump
 - Outbreak declines



MD Has Excellent Water Programs

State Has Nearly 100 Water, Sewer Providers

- 89 owned by counties, municipalities, WSSC
- Plus numerous stormwater programs

Clean Water Employees Work for Public Health

- Water, wastewater, stormwater employees are dedicated
- Provide clean drinking water
- Remove and treat sewage from homes and businesses
- Implement environmental programs for stormwater

Bottom Line: This is Critical Work

- We need these systems for public health and environment

Funding is Necessary for Success

Local Utility Systems Are Highly-Regulated

- All wastewater, some stormwater have discharge permits
- Issued by Md. Dept. of the Environment (MDE)

Costs to Provide Service Have Increased

- Counties, cities, towns run sophisticated plants
- EX: Expense associated with O&M, electricity, etc.

State Policies Can Also Impact Costs

- EX: Winter ban for nutrients
- Forcing some POTWs to ship residuals out of state

Bay TMDL Costs

Chesapeake Bay is Impaired

- For nutrients and sediment
- EPA wrote Total Maximum Daily Load (TMDL) in 2010
- TMDL is a “pollution budget” for waterbody
- 6 states and Washington, D.C. included
- Goal is to make reductions by 2025

Reducing Pollutants is Costly

- Upgrades to wastewater plants
- BMPs (best management practices) for stormwater
- Addressing septics

Table 14: Summary of Costs for Maryland’s Interim (2017) and Final (2025) Chesapeake Bay Restoration Strategies

Source Sector	Cost of 2017 Strategy 2010 - 2017 (Millions)	Cost of 2025 Strategy^a 2010 - 2025 (Millions)
Agriculture	\$498	\$928
Municipal Wastewater	\$2,368	\$2,368
Major Municipal Plants	\$2,306	\$2,306
Minor Municipal Plants	\$62	\$62
Stormwater	\$2,546	\$7,388
MDOT ^c	\$467	\$1,500
Local Government	\$2,079	\$5,888
Septic Systems	\$824	\$3,719
Septic System Upgrades	\$562	\$2,358
Septic System Connections	\$237	\$1,273
Septic System Pumping	\$25	\$88
TOTAL	\$6,236	\$14,403

a. Cumulative total.

b. Costs are in 2011 dollars unless otherwise noted in Appendix C.

c. Maryland Department of Transportation (MDOT) costs are segregated from other stormwater costs due to their non-standard cost structure. Cost estimates were provided by MDOT.

Ever-Present Enforcement Risk

Risk for Allegations of Permit Violations

- Clean Water Act (CWA) allows EPA to pursue enforcement
- CWA also includes citizen suit provision
- State law for MDE to pursue enforcement

Enforcement Can Mean Fines or Injunction

- CWA civil penalty can be up to \$53,484 /day/violation
- MDE civil penalty can be up to \$10,000/day/violation
- Injunctive relief can add to cost

Funding At Local Level

Localities Bear Much of Cost

- > 95% of drinking water and sewer costs
- Source: NACWA (2018)

Very Difficult Balancing Act

- Continued regulatory pressure
- Responding to affordability concerns

This is a National Issue

- 2017 NACWA survey
 - First time av. residential charge for wastewater > 2% federal poverty threshold
 - 22% increase in 5-year CIP budgets

Utility Rates Pay for Service

State Law Authorizes Utility Rates

- For water, sewerage service
- By political subdivision, ENV. § 9-724, -726
- By authority, ENV. § 9-946
- By sanitary commission, ENV. § 9-662
- By WSSC, PUB. UTILITIES § 25-502, -503

Special Authorization for Stormwater

- ENV. § 4-204 "System of Charges"
- ENV. § 4-202.1 Stormwater Remediation Fee and Fund

Bay Restoration Fund (BRF)

Also Authorized by State Law

- Signed into law May, 2004, ENV. § 9-1605.2
- Administered by MDE

Provides Funding for Local Projects, Programs

- 100% of eligible costs for wastewater plant upgrades
 - To provide enhanced nutrient removal (ENR)
- After FY16, for other sewer costs
 - EX: Rehabilitation of existing sewers
- After FY18, for other costs
 - EX: Grants for stormwater projects



Bay Restoration Fund Targeted Wastewater Treatment Plants

Reporting Period: June 2018

Completed at Previous Milestones

Basin

		Nitrogen Est. Reduction (with vs. without Upgrade) lbs/year	Phosphorus Est. Reduction (with vs. without Upgrade) lbs/year	Start Date Construction	Target Date Construction Complete	Date In ENR Operation	% Const. Complete or Other Status
APG-Aberdeen	Upper Western	25,142	3,053	Complete	Complete	3/14/2006	Operation
Hurlock	Lower Eastern	44,120	5,357	Complete	Complete	5/15/2006	Operation
Celanese	Upper Potomac	63,465	7,707	Complete	Complete	11/2/2006	Operation
Swan Point	Lower Potomac	5,021	610	Complete	Complete	5/3/2007	Operation
Easton	Choptank	104,016	12,631	Complete	Complete	6/30/2007	Operation
Kent Island	Upper Eastern	77,328	9,390	Complete	Complete	8/20/2007	Operation
Mattawoman	Lower Potomac	462,296	0	Complete	Complete	11/8/2007	Operation
Chestertown	Upper Eastern	30,715	3,730	Complete	Complete	6/17/2008	Operation
Brunswick	Upper Potomac	16,498	2,003	Complete	Complete	9/15/2008	Operation
St. Michaels	Upper Eastern	16,145	1,960	Complete	Complete	10/22/2008	Operation
Indian Head	Lower Potomac	16,281	1,977	Complete	Complete	12/30/2008	Operation
Elkton	Upper Eastern	72,977	8,861	Complete	Complete	12/31/2009	Operation
Havre De Grace	Upper Western	16,281	6,920	Complete	Complete	5/15/2010	Operation
Poolesville	Middle Potomac	7,264	3,087	Complete	Complete	7/3/2010	Operation
Federalsburg	Lower Eastern	13,466	1,635	Complete	Complete	8/4/2010	Operation
Crisfield	Lower Eastern	30,154	3,662	Complete	Complete	8/25/2010	Operation
Mount Airy	Patapsco/Back	8,203	3,486	Complete	Complete	11/6/2010	Operation
Georges Creek	Upper Potomac	23,079	2,803	Complete	Complete	9/30/2010	Operation
Hagerstown	Upper Potomac	83,624	35,540	Complete	Complete	10/30/2010	Operation
Cumberland	Upper Potomac	158,484	67,356	Complete	Complete	2/4/2011	Operation
Bowie	Patuxent	23,278	4,074	Complete	Complete	12/31/2010	Operation
Perryville	Upper Eastern	30,594	3,715	Complete	Complete	4/30/2010	Operation
Pocomoke City	Lower Eastern	8,391	3,566	Complete	Complete	9/20/2011	Operation
Delmar	Lower Eastern	20,351	2,471	Complete	Complete	9/16/2012	Operation
Denton	Choptank	5,559	2,363	Complete	Complete	5/11/2012	Operation
Little Patuxent	Patuxent	205,173	35,905	Complete	Complete	9/24/2012	Operation
Thurmont	Upper Potomac	10,544	4,481	Complete	Complete	4/1/2013	Operation
Piscataway	Middle Potomac	268,801	0	Complete	Complete	5/30/2013	Operation
Damascus	Middle Potomac	10,226	4,346	Complete	Complete	2/22/2013	Operation
Parkway	Patuxent	76,807	13,441	Complete	Complete	7/16/2013	Operation
Centreville	Upper Eastern	1,291	549	N/A	N/A	7/1/2013	Operation
Dorsey Run	Patuxent	15,195	2,659	N/A	N/A	12/11/2012	Operation
Joppatowne	Upper Western	8,864	3,767	Complete	Complete	5/30/2013	Operation
Cambridge	Choptank	30,233	12,849	Complete	Complete	9/10/2013	Operation
Snow Hill	Lower Eastern	14,872	1,806	Complete	Complete	8/17/2013	Operation
La Plata	Lower Potomac	13,363	5,679	Complete	Complete	3/30/2014	Operation
Sod Run	Upper Western	148,595	63,153	Complete	Complete	4/24/2014	Operation
Aberdeen	Upper Western	21,106	8,970	Complete	Complete	1/1/2014	Operation
Patuxent	Patuxent	62,863	11,001	Complete	Complete	3/31/2015	Operation
Maryland City	Patuxent	12,266	2,147	Complete	Complete	5/1/2014	Operation
Broadneck	Lower Western	58,118	24,700	Complete	Complete	4/1/2014	Operation
Emmitsburg	Upper Potomac	18,576	2,256	Complete	Complete	3/16/2016	Operation
Annapolis	Lower Western	98,876	42,022	Complete	Complete	1/1/2015	Operation
Seneca	Middle Potomac	190,034	0	Complete	Complete	1/1/2015	Operation
Broadwater	Lower Western	13,718	5,830	Complete	Complete	9/1/2015	Operation
Western Branch	Patuxent	247,685	43,345	Complete	Complete	1/1/2015	Operation
Blue Plains (MD portion)	Middle Potomac	1,509,577	0	Complete	Complete	1/1/2015	Operation
Ballenger Creek	Upper Potomac	64,246	27,305	Complete	Complete	3/1/2015	Operation
Taneytown	Upper Potomac	10,444	4,439	Complete	Complete	7/22/2016	Operation
Marlay Taylor	Lower Western	48,379	20,561	Complete	Complete	8/1/2016	Operation
Northeast River	Upper Eastern	11,805	0	Complete	Complete	10/1/2016	Operation
Fruitland	Lower Eastern	6,244	2,654	Complete	Complete	11/1/2016	Operation
Winebrenner	Upper Potomac	7,197	874	Complete	Complete	2/17/2017	Operation
Leonardtown	Lower Potomac	5,494	2,335	Complete	Complete	8/1/2017	Operation
Back River	Patapsco/Back	1,852,083	0	Complete	Complete	9/1/2017	Operation
Mayo	Lower Western	21,154	2,569	Complete	Complete	10/16/2017	Operation
Chesapeake Beach	Lower Western	9,395	3,993	Complete	Complete	11/18/2017	Operation
Salisbury	Lower Eastern	219,165	26,613	Complete	Complete	1/1/2018	Operation
Total		6,655,121	578,206				
Cox Creek	Patapsco/Back	135,374	57,534	04/12/10	07/31/18		98%
Frederick	Upper Potomac	78,742	33,465	06/08/15	07/31/18		91%
Freedom District	Patapsco/Back	25,915	11,014	03/15/15	07/31/18		97%
Conococheague	Upper Potomac	30,730	13,060	08/30/16	08/30/18		91%
Patapsco	Patapsco/Back	2,609,952	316,923	12/29/09	12/31/18		93%
MCI	Upper Potomac	13,059	5,550	12/07/15	12/31/18		88%
Westminster	Upper Potomac	58,622	24,914	09/15/18	06/02/22		Design
Hampstead	Upper Western	24,284	2,949	09/15/18	06/02/22		Design
Princess Anne	Lower Eastern	6,304	2,679	06/15/19	12/15/22		Planning
Total		2,982,982	468,088				
Status Summary:	Operation =	58					
	Construction =	6					
	Design =	2					
	Planning =	1					
		67					

Rising Cost of Service

Forces Counties, Cities, Towns to Look at Rates

- Must recoup costs from customers; no other option

Rate Increases Are Not Popular

- Local utility managers know this

Sometimes They Are Necessary

- EX: Baltimore Co. needs to replace aging infrastructure
- More than 50% of water, sewer pipes are > 50 yrs. old
- Has spent \$1.8 billion since 2011 on upgrades
- Giving some residents a credit to help
 - Homes assessed at \$250,000 or less

Affordability & General Assembly

Challenges in Paying Bills Caught GA Attention

- Not limited to utility bills; larger discussion of tax sales

2017 General Assembly Passed SB 823

- Sponsored by Senator Eckardt

Established Tax Sales Task Force

- From the Preamble:
 - “Whereas, People are losing their homes for unpaid taxes and water bills;”
- Directed to evaluate tax sales to collect water charges
 - Alternative methods for collecting these charges

Tax Sales Task Force

Genesis of Issue Was Tax Sales in Baltimore

- Baltimore City has certificate system
- Private investors purchase liens, option to foreclose
- Alleged “cherry picking” by investors leaves some properties unsold year after year
- Properties go through tax sale year after year

Final Task Force Report Ended Up Much Broader

- Issued on Jan. 18, 2018
- Made statewide recommendations
- Some bills in 2018 Session (slides below)

Water Recommendations

Water Shut-Offs for Vacant Properties

- Enable and encourage jurisdictions to shut off water
- If property is deemed vacant and abandoned
- Keeps water bill from continuing to accrue
- Some concerns about fire suppression
- Report notes fire suppression must have separate connection

Homeowner Notice to Avert Sale

- Jurisdiction sending late notice would send info.
- On assistance from community organizations
- Some concerns regarding cost

Water Recommendations (cont.)

Higher Threshold for Tax Sales

- Enable jurisdictions to set minimum threshold
- Currently \$250 triggers sale (Balt. City, \$750)

Enable Water Affordability Programs

- Jurisdictions may look to WSSC as model

Encourage Payment Plans

- Some jurisdictions already have in place

Enable Round Up Programs

- Ratepayers can round up payment to help others

Affordability Programs

HB 923 (Walker), SB 709 (Eckardt)

PASSED

Authorizes Affordability Program

- By political subdivision, sanitary commission, authority
- Providing water and sewer services
- Including payment plans and round up programs

Authorizes Disconnection to Vacant Properties

- If local governing body finds that property is vacant lot or
- Is “vacant and unfit for habitation on a house or building violation notice”

Uses Word “May”

- Neither authorization is mandatory

Tax Sales – Vacant and Abandoned Properties SB 951 (Eckardt)

PASSED

Authorizes Release of Liens

- By governing board of county or municipal corporation
- Or Board of Estimates (Baltimore City)
- Encourage redevelopment of certain properties

Also Authorizes Other Actions

- Withhold certain property from sale
- Sell abandoned property for less than taxes or fees
- Purchase abandoned property for min. bid if no private purchaser

Tax Sales – Homeowner Protections SB 952 (Eckardt) **PASSED**

Authorizes Collector to Withhold From Sale

- Any residential property
- When taxes plus interest and penalties are less than \$750
- As compared to other properties at \$250

Requires Notification to Property Owner

- With 30 day notice sent before sale
- If the property is primary residence, reference program
 - To assist owner from losing home
 - HOPE hotline or another counseling svc
 - Must mention homeowners' property tax credit option

Stormwater Fees

In 2012, General Assembly Passed HB 987

- Amended ENV. § 4-202.1
- County, muni covered by Phase I MS4 permit
 - MS4 = Municipal Separate Storm Sewer System
- Must have stormwater remediation fee

Impacted 9 Communities

- Baltimore Co., Baltimore City, Anne Arundel Co., Prince George's Co., Howard Co.
- Frederick Co., Harford Co., Charles Co., Carroll Co.

Repeal of Stormwater Fee

Press Coverage Not Positive

- EX: From Forbes (2014)
 - “Maryland, for example, has had 40 new taxes signed into law by Gov. O’Malley since he took office in 2007. The most oppressive of those taxes is the one being levied on rain. If you’re expecting a punch line from that last sentence, you’ll be waiting awhile, because it is no joke. Maryland is the only state in the country that taxes the amount of rain that falls.”

In 2015, General Assembly Acted

- Passed SB 863
- Stormwater fund is still mandatory
- Stormwater fee is not
 - Stormwater program “may” include fee

Funding Gap Is Significant Issue

State's MS4s Are Working Hard

- To reduce pollutants to Chesapeake Bay
- Permits require 20% restoration
 - Of untreated impervious surface
 - Includes ground surfaces that do not allow infiltration of rain

Costs for Permit Compliance Are High

- Installing BMPs in urban areas is most costly option

More Funding Assistance Is Needed

- At state and federal level

QUESTIONS?

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