

# THE ENFORCEMENT EXAMPLE: BALTIMORE CITY'S WASTEWATER CONSENT DECREE

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Presentation by: Dana Cooper, Esq.

MACO Summer Conference

August 16, 2018



**COOPER MOORES, LLC**

# What's that money for anyway?

- Pipes fail when they age
  - Cracks – infiltration & inflow, root intrusion
  - Sags – low points where solids can build up
- Maintenance
  - Roots
  - Fats, oils, grease
  - Non-flushables



Image source: [brokensewerpipeminneapolis.com](http://brokensewerpipeminneapolis.com)

# Lack of investment can lead to...



Image source: [blog.epa.gov](http://blog.epa.gov)

# Sewer Overflows – Legal Stuff



- Violation of **section 301 of the Clean Water Act** and **§9-322 of the Environment Article of the Maryland Code**
- Because any discharge is pollution, and pollution is illegal, there's no official minimum standard of acceptable SSOs.
- No way to prevent all overflows 100% of the time.
- MD law requires these to be reported to MDE
- In theory regulators could bring enforcement action for one sewer overflow one time
- How many overflows trigger enforcement is up to discretion.

# SSO Enforcement in Baltimore

- Late 1990s
- Settled by consent decree in 2002
- Original CD gave 14 years to make structural changes, study system, propose upgrades, and build them
- Very expensive proposition and City had to start raising wastewater rates.
- Lots of uncertainty
  - Impact of change on system
  - How long things would take



# How Did That Work?

- No major compliance issues throughout CD evaluation 
- Lots of early wins like completing mandated structural changes 
- Finished and submitted studies on  .. BUT
- Proposed the smallest possible upgrades. 
- In 2011, regulators formally disapproved the sewershed studies

**COLLISION COURSE!**

# Negotiation of Modification



- Negotiation took about 5 years
- Complete re-vamp of consent decree
  - Deadline extension
  - New methodology
  - New provisions
- Lots of work for lawyers and engineers
- Interest from environmental groups, perception that regulators were not doing enough. Eventual intervention.

# Modified Consent Decree – Capital program

- Approximately \$1.8 billion
- Phase I
  - Structural Rehabilitation
  - Headworks
  - Completed by 2021
- Phase II
  - Capacity Improvements
  - Using new methodology to determine right size
  - Completed by 2030

**FIX IT!**

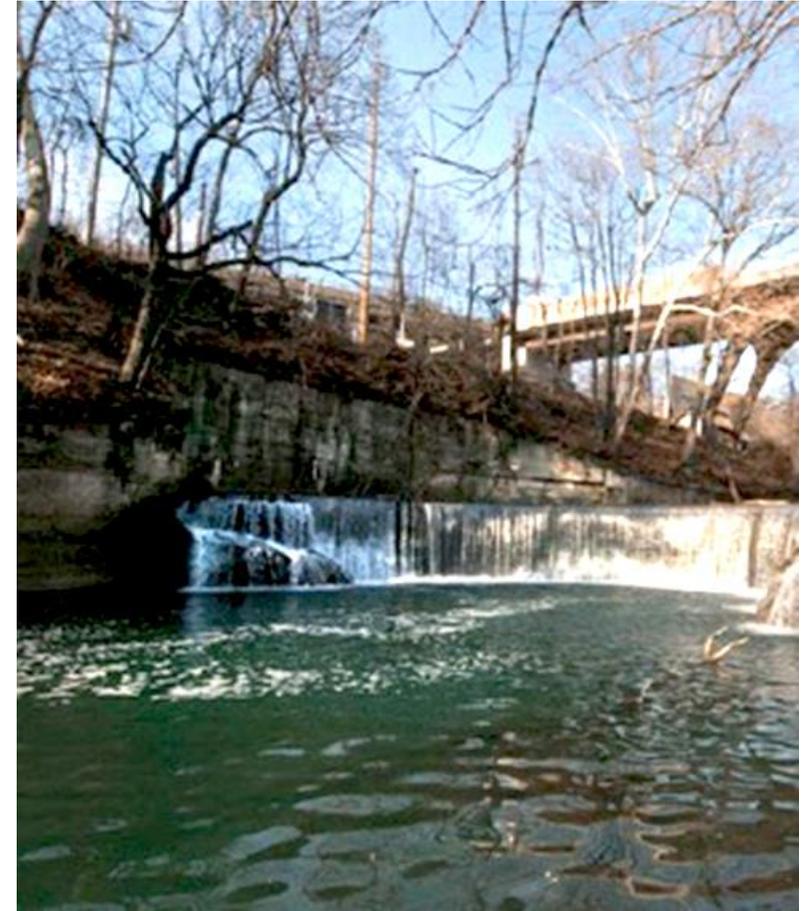


Source: Kristian Bjornard/Creative Commons/Wikimedia

**UPSIZE IT!**

# Modified Consent Decree – Other provisions

- Cleaning & Inspection Program
- Sanitary Discharges of Unknown Origin
- Basement Backups / Cleaning Reimbursement Program
- Other technical and legal stuff



Source: Bay Journal, Dave Harp

# Take this as a cautionary tale

- How old are your sewers?
- Are they regularly cleaned and inspected?
- Do you have overflows?
- How is your relationship with MDE?
- How is your relationship with local environmental groups? Community groups?
- Are you giving them a level of comfort that when something goes wrong you have the ability to fix it?



**1 oz. prevention > 1 lb. cure**

Thank you!



**COOPER MOORES, LLC**

Dana Cooper, Esq.

[dana@coopermoores.com](mailto:dana@coopermoores.com)

410-657-2640

[www.coopermoores.com](http://www.coopermoores.com)