



February 28, 2024

**Standing - Environmental and Natural Resources Protection Proceedings (Clean Water Justice Act of 2024) (HB 1101)**

**Position: FAVORABLE**

Dear Chair Korman, Vice Chair Boyce, and members of the House Environment and Transportation Committee:

Blue Water Baltimore is a local nonprofit organization with a mission to protect and restore the quality of Baltimore's rivers, streams, and Harbor to foster a healthy environment, a strong economy, and thriving communities. **On behalf of Blue Water Baltimore, I write to submit this favorable testimony in support of HB 1101.**

Blue Water Baltimore, home of the Baltimore Harbor Waterkeeper, is part of the international Waterkeeper Alliance that is composed of over 350 watchdog organizations with a mission to protect and restore waterways all over the world. Our licensed Waterkeeper jurisdiction includes the entirety of the Patapsco and Back River watersheds, which means that Blue Water Baltimore is uniquely positioned among environmental NGOs in the region to focus on the health and prosperity of these waterways, and that of the people who live, work, and recreate around them.

One of our core functions as a Waterkeeper organization is to amplify the voices of the people living within our watersheds who are suffering the effects of pollution at the hands of noncompliant facilities, entire under-regulated industrial sectors, and other entities who aren't following the law. **A key form of advocacy that we engage in is to exercise our rights under the federal Clean Water Act to strategically litigate against polluters on behalf of our membership, which results in measurably cleaner waterways and stronger communities throughout our watersheds.** One of the provisions in the Clean Water Act that makes it such an important and revolutionary piece of legislation is the *citizen suit enforcement provision*, which puts the power of the law into the hands of the people who are directly affected by waterway pollution. This provision is grounded in the belief that our local streams and rivers don't belong to any one of us; they belong to all of us, collectively, and no one has the right to abuse and pollute our shared waterways.

In the wake of the U.S Supreme Court decision in *Sackett v. EPA*, many of Maryland's waterways that were previously protected under the Clean Water Act were stripped of their federal protections based on flawed logic around what legally constitutes a protected waterway. Ephemeral streams, vernal pools, and wetlands that are vital to resilient, thriving ecosystems are no longer protected at a federal level. This means that **Maryland residents, too, were stripped of their ability to enforce the Clean Water Act and take action on behalf of themselves and their communities when these types of waterways are threatened.** Fortunately, Maryland still protects these waterways, but existing state law provides no right for communities to enforce the law like under the federal Clean Water Act.

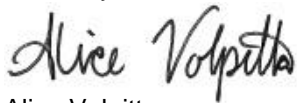
**Simply put, the Clean Water Justice Act allows communities harmed by illegal water pollution to enforce state law.** It restores Marylanders' right to take action against polluters without having to wait on an overburdened and under-resourced state regulatory agency to step in ahead of them. The Clean Water Justice Act does not change any environmental standards or add any new requirements. It simply provides a public right to enforce our water quality laws. It ensures that no Marylander is left without access to justice or the ability to protect their right to clean water.

Finally, it is worth noting that there may be significant financial benefits to the State under the Clean Water Justice Act. Whenever an enforcement action takes place, Blue Water Baltimore prefers to see the use of Supplemental Environmental Projects (SEPs) or Environmentally Beneficial Projects (EBPs) in place of traditional penalties. This practice keeps resources in the communities that were directly harmed

by pollution, and results in measurable improvements in both water quality and quality-of-life for nearby residents. However, monetary penalties typically accompany these projects in Settlement Agreements, Consent Orders, and Consent Decrees – and in many cases, they take the place of SEPs and EBPs entirely. An important financial consideration to this bill is that the penalties associated with state enforcement actions are kept in the state of Maryland, and are put to beneficial use through the Maryland Clean Water Fund. Alternatively, penalties associated with federal enforcement actions are directed to the U.S. Treasury, so those resources are pulled away from the state. **When groups like Blue Water Baltimore have the ability to enforce state pollution control laws in state court, more resources are ultimately kept in the state of Maryland.**

**For all of the reasons outlined above, Blue Water Baltimore urges this committee to issue a favorable report on HB 1101.**

Sincerely,



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