

# Baltimore files lawsuit demanding Monsanto pay to clean up PCB chemicals in city waterways



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Baltimore is asking a federal judge to force agriculture chemical company Monsanto to pay for cleanup of environmental toxins known as PCBs, following more than a dozen mostly West Coast cities and states that have filed similar lawsuits in recent years.

The lawsuit announced Tuesday doesn't specify damages, but City Solicitor Andre Davis accused the company and two former divisions it sold off of causing tens of millions of dollars in damages.

The lawsuit says the contamination has caused monetary damages to be determined at trial.

Polychlorinated biphenyls, a type of man-made chemicals used widely in paints, inks, lubricants and electrical equipment until they were banned in 1979, have been linked to cancers and harm to immune, reproductive, nervous and endocrine systems in humans and animals.

The city argues that Monsanto long knew of those harms and that the chemicals would never break down in the environment, animals or humans, yet continued to use them.

"This lawsuit sends a strong message that the City will hold corporations accountable for cleaning up their toxic messes," Davis said in a statement. "The taxpayers are not responsible for Monsanto's bad acts."

The lawsuit also names Solutia Inc. and Pharmacia LLC as defendants. Those companies were formed out of what were Monsanto's chemical and pharmaceutical divisions until about two decades ago. As part of their separation from Monsanto they assumed liability related to those divisions of the original Monsanto company.

In the complaint, the city says PCBs are prevalent in waterways including the Inner Harbor, Patapsco River and Lake Roland. They have been measured in Inner Harbor sediment and Lake Roland wildlife, and are also thought to flow into waterways via contaminated stormwater systems. Scientists are still [searching for ways to get rid of them](#).

A spokeswoman for Bayer, which completed a \$66 billion acquisition of Monsanto last year, said Monsanto voluntarily stopped producing PCBs more than 40 years ago and that, where

cleanup is necessary, federal and state authorities “employ an effective system to identify dischargers and clean-up as necessary.”



“We are still reviewing this lawsuit, but believe the complaint to be without merit and we will defend ourselves aggressively,” the spokeswoman, Charla Lord, said in an emailed statement.

A spokeswoman for Pfizer, which owns Pharmacia, referred questions to Monsanto. Representatives for Solutia, a subsidiary of Eastman Chemical Co., could not be reached for comment.

More than a dozen similar lawsuits have been filed against the companies in recent years on behalf of West Coast cities and the states of Oregon and Washington. Ohio filed another case last year, but Baltimore’s is the first on the East Coast, litigators said.

John Fiske, a lawyer with Baron & Budd working on a number of the cases, including Baltimore’s, said all are being actively litigated and some have trial dates. None have been resolved yet, he said.

In each of the cases, attorneys said they are using documents that came to light in past lawsuits seeking to hold Monsanto accountable for PCB dumping and exposure. In one of them, in 2003, Monsanto and Solutia agreed to pay \$700 million to residents of an Alabama town. In 2016, a St. Louis jury awarded \$17.5 million to three plaintiffs who said PCBs caused non-Hodgkin lymphoma. In other cases, juries have rejected arguments that Monsanto is liable for cases of cancer and other illnesses.

Baltimore's lawsuit cites documents showing Monsanto was aware of the toxicity of PCBs as early as 1937.

Lawyers from the firms Baron & Budd, Grant & Eisenhofer and Gordon, Wolf, and Carney are working with city attorneys on the case. The firms are fronting the litigation costs and are working on contingency, meaning the city would only pay them if it wins damages, said Susan Sangree, director of affirmative litigation for the city law department.

## **Baltimore approves study of toxic chemicals in Back River in hopes of figuring out how to get rid of them**

The Back River has seen PCBs and other contaminants. A new study by the U.S. Geological Survey and UMBC will study why PCBs still exist in the river, and how to address them. (Lloyd Fox / Baltimore Sun)



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Traces of some toxic chemicals have persisted in animals and waterways such as the Back River in Baltimore County for decades after the U.S. government banned their use.

A study in the Back River soon could help explain why the chemicals continue to show up — and maybe provide insights into how to get rid of them.

Industrial chemicals known as polychlorinated biphenyls, or PCBs, were long used in electrical and hydraulic equipment and plastics. The cancer-causing chemicals were outlawed in 1979 but continue to be found throughout the environment, including in humans.



As Baltimore City, Baltimore County and other jurisdictions around the state struggle with how to tackle the toxic pollution in the Chesapeake Bay, researchers at the U.S. Geological Survey and University of Maryland, Baltimore County, are focusing on the Back River to better understand the contamination. They plan to collect and analyze samples of PCBs that are embedded in muddy creek bottoms, flowing out of wastewater treatment plants and floating around in the water — and into fish gills.

Baltimore’s Board of Estimates approved city funding for the research Wednesday.

PCB pollution is often thought of as a contaminant found only in soils and sediments, a remnant of old factories and dirty industry. But the research aims to address a different reality regarding PCBs, said Upal Ghosh, a UMBC professor of chemical, biochemical and environmental engineering.

“What we are finding for our area, especially, and many other urban areas, is there are ongoing sources still,” he said. “We’re starting to figure out what these sources are.”

PCBs are known to cause cancer and impair reproductive and immune systems in animals, building up the most in those at the top of the food chain. Research published last week found the chemicals are threatening the future survival of killer whales.



Enough of the contamination has been found in fish tissue or sediments in Chesapeake waterways — including the Potomac, Severn, South, Rhode, Elk and Sassafras rivers, along with Back River — that they are classified as PCB-impaired by the [Environmental Protection Agency](#).

Much like the state’s responsibilities to reduce nutrient and sediment pollution across the Chesapeake, the EPA requires jurisdictions that contain impaired waterways to address the pollution.

But given relatively poor understanding of the types and sources of PCBs, there is little those governments can do for now, said Emily Majcher, a USGS hydrologist collaborating with Ghosh and other researchers on the Back River study.

“Right now, there are a lot of unknowns,” she said. “It’s difficult to apply resources to mitigate anything at this point.”



There are 209 varieties of PCBs, and groups of them behave differently. But there is no data on which types are most prevalent in the bay, Majcher said.

The research aims to fix that. The scientists will collect and analyze samples not just long-embedded in the dirt but also potentially built up inside old sewer mains and slowly being released through the Back River Wastewater Treatment Plant, which processes sewage from across much of the Baltimore region.

The data used to classify Back River as PCB-impaired as recently as 2008 dated as far back as 2001, and it didn't differentiate between different types of PCBs, known as congeners.



“I don’t want to say it’s meaningless, but it’s much more detailed and informative if you’re looking at the congener level,” Majcher said.

The researchers plan to collect samples from the Back River over the coming months, funded with about \$200,000 — including the \$75,000 Baltimore officials approved Wednesday, and other money from Baltimore County and the U.S. Department of the Interior.

The study then could provide answers for dealing with PCBs elsewhere. It is intended as a pilot that could inform eventual cleanup efforts around the region and the country.

## **Baltimore board approves \$430 million project to tackle miles-long sewage backup**

A worker walks through the denitrification building under construction at the Back River Wastewater Treatment Plant. (Kim Hairston / Baltimore Sun)



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A Baltimore spending panel on Wednesday approved the city's half of a \$430 million project to eliminate a miles-long sewage backup beneath the city.

A misaligned pipe prevents a massive sewage main from fully emptying into the Back River Wastewater Treatment Plant, and the problem is blamed for much of the sewage pollution that washes into the [Inner Harbor](#).

The so-called “Headworks project” is perhaps the most important component of a \$1.2 billion court order Baltimore faces to clean up its waterways.

The Board of Estimates’ approval of the city’s half of the project’s price tag Wednesday means construction can begin this summer. The work is expected to be finished by the end of 2020, to meet a revised deadline established after the city did not finish sewer upgrades by the end of 2015, as originally required back in 2002.

“This investment will make for a cleaner Baltimore, and go a long way toward helping stop sanitary sewer overflows,” Mayor Catherine Pugh said. “I look forward to having it in operation in a little more than three years from now.”

To help clear backed-up sewage from a 12-foot-wide main that leads to the Back River facility, the project will install four 1,000-horsepower pumps. It will also add four 1,500-horsepower pumps that will turn on when heavy rainfall floods the city’s sewer system. The surge in volume will be diverted to two new storage tanks with a capacity of 36 million gallons, so the wastewater can be processed and treated once storms have passed.



Sewage backs up into Baltimore homes more than a dozen times a day, on average. Repairs to fix the sewage system are expected to extend another decade. Baltimore Public Works and their contractors are visiting some of the neighborhoods more prone to the issue and performing sewer lateral inspections. (Barbara Haddock Taylor/Baltimore Sun video)

Baltimore's century-old sewer system is so cracked and worn that stormwater finds its way in, inundating a system that was only designed to handle sewage. The antiquated system was originally designed to release into the Jones Falls and other waterways when overloaded, but under the court order to enforce the federal Clean Water Act, all but two of those relief valves have been closed.

Those two outflows, on the Jones Falls just upstream from Penn Station, are slated to be closed once the Headworks project is completed.

"We've known for years that the Headworks Project is an essential step toward helping us meet the terms of our sewer consent decree," city public works Director Rudolph S. Chow, said. "Our engineers have finally been able to put together a plan to turn it into reality, and build it in a way that is fiscally responsible."

The city is splitting the project's cost with Baltimore County. A spokeswoman for the county said in an email that officials support the project and "will work with Baltimore City to ensure that our financial obligations are met."

Clark Construction and U.S. Back River LLC have been hired to complete the project.

Jenn Aiosa, executive director of advocacy group Blue Water Baltimore, said the organization is "happy to see the infrastructure improvements moving forward." The group has long been a critic of the city's slow progress at making sewer improvements, and in September was granted legal status to weigh in on the consent decree in court.

Elimination of the sewage backup, which can sometimes stretch from the Back River plant to Charles Village, is key in meeting water quality advocates' goal of making the Inner Harbor swimmable and fishable.

High levels of fecal bacteria made it unsafe to swim in the Jones Falls and Gwynns Falls virtually all the time in 2016, according to the Healthy Harbor Initiative's annual harbor report card. In the Inner Harbor, which received an F in the report card, it was only safe to swim 20 percent of the time.

But decreased precipitation, and therefore fewer sewage leaks, made it safe to swim off the waters of Fort McHenry almost 90 percent of the time last year, according to the report card. Water quality advocates said that suggests that dramatic improvements will be seen once the Headworks project eliminates the sewage backup.

The project is also expected to reduce sewage backups in basements around the city. A Baltimore Sun report last year found that sewage backs up into homes a dozen times a day, on average.