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**MARYLAND ENVIRONMENTAL SERVICE
FISCAL YEAR 2024 OPERATING BUDGET HEARING
RESPONSE TO DEPARTMENT OF LEGISLATIVE SERVICES ANALYSIS**

**House Appropriations Committee
Subcommittee on Transportation and the Environment
The Honorable Marc Korman, Chair**

February 2, 2023

We first would like to thank Ms. Carrie Cook and the entire DLS team for their thorough work on the MES Operating and Capital Budget. Ms. Cook is top-notch, and we greatly appreciate her professionalism and attention to detail throughout the budget development process.

MES provides the following information in response DLS's request and recommended actions:

- 1. MES should comment on the status of its continued involvement at Back River WWTP and how this is impacting operational funding and functions for the agency. MES should also be prepared to discuss the best practices used to bring this facility into compliance and how the lessons learned can be applied to other facilities with similar challenges.***

The Back River Wastewater Treatment Plant (BRWWTP) is the largest such facility in the State. The facility is designed to receive up to 180 million gallons per day and serves approximately 1.3 million residents in a 140 square mile area of Baltimore City (the City) and Baltimore County.

Since the March 27, 2022, directive by the Maryland Department of the Environment (MDE) for MES to take charge of operations at BRWWTP, MES support for the City has come in three distinct phases. Phase 1 consisted of MES being tasked with overseeing the operation, maintenance and improvements of the plant to ensure the City operates the plant in compliance with all terms of its National Pollutant Discharge Elimination System (NPDES) discharge permit and cease all illegal discharges from the BRWWTP. This included keeping the facility in compliance for 90 days. Once this objective was achieved, in Phase 2, MES maintained a presence at BRWWTP in a somewhat reduced role, pursuant to a revised order agreed to by MDE and the City of Baltimore. In this phase, MES provided some maintenance staff and expedited procurement of materials. That

agreement was effective October 19, 2022, and was effective until December 31, 2022. The third phase of MES's presence at BRWWTP was effective in early January 2023, when MDE and the City of Baltimore agreed on another 90-day extension, which kept MES at BRWWTP in a limited capacity. This allowed MES to continue working on the capital projects it started under previous MDE orders and is effective until April 30, 2023. At present, without an extension of the current agreement, MES's presence at the BRWWTP will conclude on April 30, 2023.

On January 23, 2023, however, MES received a written request from the City Department of Public Works (DPW) to discuss the possibility of MES immediately increasing the number of MES operations personnel assigned to Back River. In its letter to MES, DPW requested additional operations staff to work in the Dewatering Facility (centrifuges) during the 2nd and 3rd shifts (mainly evening/overnight shifts). As of February 1, 2023, the parties have yet to agree to terms, but discussions will continue, and MES remains committed to doing everything in its power to assist the City of Baltimore in its efforts to ensure the BRWWTP is operated in full compliance with its NPDES discharge permit without compromising the operations at the 274 facilities throughout the State where MES has responsibility.

How has MES's involvement in this crisis impacted operational funding and functions for the agency?

Impact on Funding: under the terms of MDE's directive to MES, ordering MES to take charge of operations at BRWWTP, in these scenarios State law requires the owner of the facility to reimburse MES for all costs. To date, Baltimore City has complied with this requirement. A total of \$4,984,077.95 has been billed, and the City is current on almost all payments. There have been no serious concerns with this aspect of MES's involvement in the BRWWTP.

Impact on Operations/Functions: As a non-budgeted agency of the State (MES must receive payments for services rendered), MES could not add additional staff to respond to this emergency directive. Going forward, MES also cannot hire additional staff to assist with BRWWTP unless a long-term agreement between MES and Baltimore City is codified. From the outset, MES could not view this as anything more than a temporary assignment.

Operationally, the MES Water/Wastewater Group operations was stressed statewide during the summer months of 2022. This was partially, but not solely, as a result of responding to this emergency. While high attrition rates for wastewater operators on a national scale also contributed to the issue, having to shuffle licensed operators to respond to BRWWTP contributed significantly to the personnel stresses. One example of the stress put on MES W/WW personnel is found at the Dorsey Run WWTP. MES assigned two individuals from Dorsey Run to assist with the emergency at Back River during the first 3 months (one was a supervisor). A confluence of circumstances left Dorsey Run understaffed, partially due to the response to BRWWTP but partly due to other circumstances. This led to a temporary upset at the

Dorsey Run facility. The issue was corrected very quickly, and no other issues have manifested since.

Best practices by which MES operates all facilities, which were applied to BRWWTP, include the following:

- Hold facility staff accountable for accomplishing tasks in a timely manner.
- Review effluent and process control data regularly and openly discussing what corrections and improvements could be made to improve plant performance.
- Utilizing MES staff in problem areas (centrifuges) to troubleshoot problems and create solutions.
- Improving communications between the various areas of the plant by having weekly "huddles" with the plant manager to promote teamwork and foster a constructive problem-solving approach.

All of these practices require focused leadership which we use at other facilities with similar challenges. Accountability and good communication are the two most important. Prioritizing maintenance activities and performing repairs to equipment that would more quickly impact improvements to the facility helped expedite bringing the facility back into compliance with the NPDES permit.

2. *While the [strategic] plan includes performance measures for each of the stated goals, the indicators are often vague and lacking in measurable or quantitative benchmarks. The plan also lacks discussion of how and when the goals will be revisited to assess progress. MES should be prepared to discuss how the performance indicators outlined in the plan will be specifically tracked to monitor progress toward stated goals.*

During the 2022 interim, the MES Executive Team developed and kicked off the MES Strategic Advance. Launched on August 26, 2022, this initiative brings together MES leadership across all groups and units within the organization for quarterly meetings to collaborate on strategically moving MES forward and to review a gamut of Key Performance Indicators (KPIs). The objective is to have this group meet on a quarterly basis in perpetuity. KPIs will be presented to the Board of Directors on an annual basis to gauge progress on all measures.

With respect to KPIs, this aspect of the program is intended to be adaptable, adjusting as necessary over time to incorporate new or eliminate existing measures if needed. The KPIs in the program were developed over the second half of calendar year 2022 and go into far greater detail than what is outlined in the MES 2023-2027 Strategic Plan.

3. *The Department of Legislative Services (DLS) recommends that committee narrative be adopted requesting that MES continue to provide an MES funding statement, including information on MES's undesignated unrestricted net assets, overhead rate, project reserve*

fund status, and justification for reimbursable project funding changes.

MES concurs with this recommendation.