



2012

MARYLAND
ATTORNEY GENERAL'S OFFICE

CHESAPEAKE BAY AND
MARYLAND WATERSHEDS
ENVIRONMENTAL AUDIT

TABLE OF CONTENTS

INTRODUCTION	1
CHAPTER ONE: YOUGHIOGHENY RIVER AND DEEP CREEK LAKE.....	4
I. Background	4
II. Active Enforcement and Pending Matters	9
III. The Youghiogheny River/Deep Creek Lake Audit, May 16, 2012: What the Attorney General Learned.....	12
CHAPTER TWO: COASTAL BAYS	15
I. Background.....	15
II. Active Enforcement Efforts and Pending Matters	17
III. The Coastal Bays Audit, July 12, 2012: What the Attorney General Learned ..	20
CHAPTER THREE: WYE RIVER	24
I. Background.....	24
II. Active Enforcement and Pending Matters	26
III. The Wye River Audit, October 10, 2012: What the Attorney General Learned	27
CHAPTER FOUR: POTOMAC RIVER NORTH BRANCH AND SAVAGE RIVER	31
I. Background.....	31
II. Active Enforcement and Pending Matters	35
III. Potomac River North Branch and Savage River Audit, December 11, 2012: What the Attorney General Learned	38
CHAPTER FIVE: UPDATES AND FOLLOW-UP	43
I. Youghiogheny River and Deep Creek Lake.....	43
II. Coastal Bays.....	43
III. Wye River	44
IV. Potomac River North Branch and Savage River.....	45
V. Miscellaneous.....	46
CONCLUSION.....	62

This report is available on the web at:

<http://www.oag.state.md.us/reports/2012EnvironmentalAudit.pdf>

allowed clearing of mature trees in the non-tidal wetland buffer. As of March 23, 2011, the fill material had been removed from the wetlands and buffer and trees had been planted in accordance with an approved remediation plan. The OAG had been unable to reach a penalty settlement with the owner and planned to file a civil action for a penalty.

Bearing Construction, Inc. This case involves sediment control violations that occurred during construction to upgrade the Town of Berlin Wastewater Treatment Plant. Between July 2010 and May 2011, MDE documented a number of violations of the approved erosion and sediment control plan and general permit for stormwater discharges associated with construction activity, including failure to properly install or maintain sediment control devices and failure to adequately stabilize disturbed areas. These violations allowed sediment to be washed off the site. On March 1, 2012, the Department entered into a settlement agreement under which Bearing Construction agreed to pay a penalty of \$15,000.

MDE v. Mystic Harbour Water and Wastewater Treatment Plant. In this matter, MDE pursued an enforcement action against the Worcester County Department of Public Works (“DPW”) for effluent violations at the Mystic Harbour Water and Wastewater Treatment Plants, which are located between the Isle of Wight Bay and the Sinepuxent Bay. MDE determined that between January 2009 and January 2012, the Worcester County DPW repeatedly violated the effluent limits established in both state discharge permits. The Worcester County DPW responded that was upgrading the wastewater treatment plant, although it continued to have effluent violations. At the time of the audit, MDE was negotiating a consent order that would include requirements for implementing a plan and schedule for achieving and maintaining compliance for the facility, as well as to address penalties for both past and any future violations.

Blue Water Development Corp. Blue Water Development holds a ground water discharge permit for the discharge of treated effluent from Castaways Campground in Berlin, Maryland. The permit authorizes the discharge of treated sewage by subsurface drip irrigation to an approved area. Prior to discharge, the company is required to treat the wastewater. Beginning in May 2009, MDE found deficiencies in the facility's record keeping and reporting requirements, *e.g.*, failure to monitor the flow to the groundwater discharge area and to keep required monitoring reports. These deficiencies continued for an extended period of time. Moreover, in June 2010, MDE inspections documented the ponding of wastewater in the drip irrigation area, which violated the terms of the groundwater permit. At some point, the facility hired a new engineer to run the system. Although the recordkeeping issues were corrected, the monitoring reports documented effluent discharges that exceeded permit limits. Those violations were ultimately corrected for the most part. Subsequently, in February 2012, the MDE documented non-tidal wetland violations at the campground. Specifically, the campground placed sandbags on the beach and placed a floating platform in non-tidal wetlands to hold jet skis without a permit. At the time of the audit, the sandbags had been removed, but the platform was still in use. Because efforts to resolve the matter were unsuccessful, MDE intended to file an administrative enforcement action in the near future.

consent order also includes interim performance standards that will be in effect during construction and start-up of the upgrades, as well as provisions for stipulated penalties for effluent limit violations that may occur during this phase. The upgrades must be completed by August 31, 2013.

Blue Water Development Corp. The company had already made improvements to the wastewater treatment plant and drip irrigation system, but was having operational issues. On January 9, 2013, Blue Water agreed to pay a penalty of \$25,000 and to remove the floating platform.

Total Maximum Daily Loads, Coastal Bays Area. This project is still continuing. Comments from the Science and Technical Advisory Committee of the Maryland Coast Bays Program are currently being considered. Public review is now anticipated within a few months.

Six Ls Packing Company, Inc. On June 29, 2012, the Office of the Attorney General sent the defendants a letter outlining the violations and offering them an opportunity to meet to discuss settlement. The meeting was held on August 7, 2012, however, no settlement has yet been reached. If the matter cannot be resolved, the OAG will initiate an enforcement action.

Aquaculture Lease Activity. The Office of the Attorney General is representing the Maryland Department of Natural Resources in two cases involving aquaculture leases to cultivate shellfish in the Coastal Bays region. The first involves Donald Marsh, who sought to develop a shellfish aquaculture project in Chincoteague Bay near South Point, Worcester County. After extensive notice and public comment, DNR approved the project. Opponents to the project filed a legal challenge and obtained a favorable ruling by an administrative law judge (*Tunis, et al. v. DNR*). The OAG has appealed to the Circuit Court for Anne Arundel County. In the second case, John Apple and Bay Landing Shellfish sought a license to develop an oyster aquaculture project, also in Chincoteague Bay. After DNR granted the license, opponents similarly filed a complaint. In that case, the administrative law judge ruled in favor of DNR (*Smith, et al. v. DNR*).

III. Wye River

Donkat Properties, LLC. On January 14, 2013, Donkat Properties agreed to pay a penalty of \$40,000 to the Clean Water Fund to resolve erosion and sediment control violations that began on January 29, 2010, and continued until August 16, 2011.

Pintail Point Farm. In the fall of 2012, a new owner purchased the property and associated underground storage tank system. Since the purchase, the new owner has registered the system with MDE and had it emptied and taken out of service. On March 15, 2013, soil boring and soil samples, as well as samples of the onsite drinking water



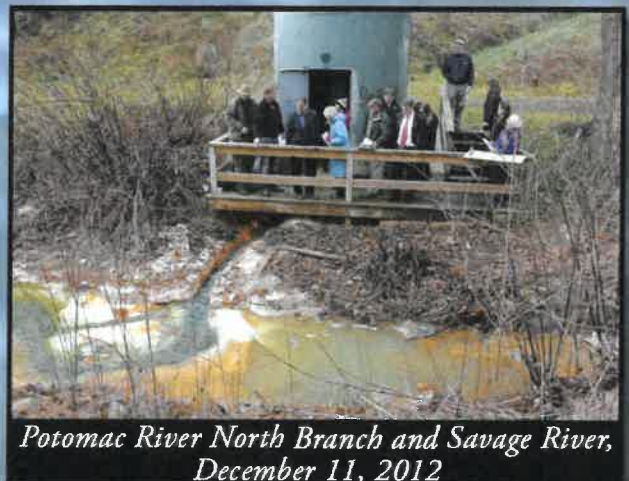
*Youghiogheny River and Deep Creek Lake,
May 16, 2012*



Coastal Bays, July 12, 2012



Wye River, October 10, 2012



*Potomac River North Branch and Savage River,
December 11, 2012*



DOUGLAS F. GANSLER, ATTORNEY GENERAL

MARYLAND ATTORNEY GENERAL'S OFFICE
200 ST. PAUL PLACE, BALTIMORE, MD 21202
(410) 576-6300 OR 1 (888) 743-0023
WWW.OAG.STATE.MD.US