



To Federal Energy Regulatory Commission (FERC)

Docket #P-405-106

The undersigned members of the Choose Clean Water Coalition (The Coalition) submit the following comments to the Federal Energy Regulatory Commission (FERC) Docket # P-405-106 in opposition to the settlement agreement entered into by the Maryland Department of the Environment (MDE) and Exelon Corporation in regard to the operation of the Conowingo Dam. As members of the Choose Clean Water Coalition, we are committed to maintaining and restoring clean water to the rivers and streams throughout the Chesapeake Bay region and we expect proportional participation by all stakeholders in restoration and protection efforts. We feel that the settlement agreement entered into by MDE and Exelon Corporation does not adequately and appropriately address the issues needing to be resolved by the Conowingo Dam.

In sum, there are a series of adverse issues with this settlement agreement between MDE and Exelon Corporation, starting with the fact that it waives the state's right to issue a 401 Water Quality Certification. Second, as a point source discharger, there is no obligation for Exelon to incorporate NPDES permitting for the dam, as required for point source discharges under the federal Clean Water Act. Third, the settlement was made without any input or feedback from affected communities and groups in the settlement discussions. Finally, this agreement, made behind closed doors, falls short of protecting Maryland's waterways. In further detail:

1. The settlement provides grossly insufficient funds to deal with the risks that Conowingo operations pose to the Susquehanna River and Chesapeake Bay — primarily from the next large storm event that will scour the millions of tons of sediment, nutrients, and debris currently trapped behind the dam.
2. The settlement does not mention any appropriation of funding for upstream water quality improvements to combat sediment and nutrient load to the dam's reservoir. Significant improvements must be made upstream and those communities need support as a part of this settlement.
3. The settlement includes statements of intent, without assurances that the initiatives and actions under the agreement will actually be fulfilled by Exelon Corporation. There are no stipulated timelines for completion of some of the work to be done by Exelon Corporation.
4. The settlement gives the public no enforcement power to make sure the terms of the settlement are fulfilled in a sufficient manner. It leaves oversight entirely up to the State of Maryland, giving no other parties standing to hold MDE or Exelon Corporation accountable.



5. The settlement requires payments made by Exelon Corporation to go to the State's Clean Water Fund, which can be reallocated or raided by the Governor of Maryland at any time over the next 50 years. The initiatives it discusses supporting are, in fact and consequence, mere suggestions.

The Coalition asks that FERC rejects the settlement agreement unless and until:

1. MDE obtains guarantees that Exelon Corporation will pay for its fair share of the Conowingo Dam cleanup, including funding for upstream communities to lessen their sediment load to the Susquehanna River.
2. MDE and Governor Hogan increase their funding ask from Exelon Corporation before fully signing off on the agreement, or reject the agreement altogether and continue litigating the state's 401 Water Quality Certification.
3. The settlement includes more funding for Exelon to address the sediment trapped behind the Dam, with research to be completed shortly so the potential beneficial reuse of those sediments can be better and more timely determined.
4. The state builds realistic assurances into the agreement that the terms will be fulfilled, not just statements of intent.
5. There is an opportunity created for outside parties to enforce the terms of the agreement, or become a part of the agreement itself.
6. The settlement creates a separate fund specifically for the cleanup of the Susquehanna River and Conowingo Dam.
7. In addition, all of the substantive terms of the settlement, once the inadequacies have been fixed, should be incorporated into the 50-year federal license agreement.

The Susquehanna River is a public resource and should not be sold off to a private company for exclusive use without ensuring that the impacts to the public, waterways, and aquatic life have been properly mitigated. This is a federal license with consequences up to five decades from now; it should not be accorded so cheaply.

Signed,

Alliance for the Shenandoah Valley



Arundel Rivers Federation

Audubon Naturalist Society

Blue Ridge Watershed Coalition

Blue Water Baltimore

Chemung River Friends

Elks Run Watershed Group

Environmental Justice Center of Chestnut Hill United Church

Friends of Lower Beaverdam Creek

Friends of Nanticoke River

Friends of the Bohemia

Lackawanna River Conservation Association

Lower Susquehanna Riverkeeper Association

Maryland League of Conservation Voters

Mattawoman Watershed Society

Montgomery Countryside Alliance

National Parks Conservation Association

National Wildlife Federation

Ohio Valley Environmental Coalition

Otsego County Conservation Association

Pennsylvania Council of Churches

Potomac Riverkeeper Network

Rappahannock League for Environmental Protection

Rivertown Coalition for Clean Air and Clean Water

ShoreRivers

Sleepy Creek Watershed Association

Southern Maryland Audubon Society

St. Mary's River Watershed Association

Virginia Conservation Network

Virginia League of Conservation Voters



Warm Springs Watershed Association

Waterkeepers Chesapeake

West Virginia Citizens Action Group

West Virginia Interfaith Power & Light

West Virginia Rivers Coalition