Citizens Advisory Committee
Final Minutes
Havre de Grace, MD
November 29-30, 2012

Members Present: Nancy Alexander, Elizabeth Burdick, John Dawes (Vice Chair), Jim Elliott, Christy Everett, Victor Funk, Verna Harrison, Rebecca Hanmer, Jeff Holland, Bill Martin, Dan Milstein, Betsy Quant, Angana Shah (Thurs.), Charlie Stek, Nikki Tinsley (Chair), Adam Thompson, Victor Ukpolo (Fri.), Neil Wilkie, and staff – Jessica Blackburn, Anna Mathis and Amy Robins.

Guests Present On Thursday: Karl Blankenship (Bay Journal), Jim Edward (CBP), Matt Ellis (CRC/STAC), Tim Fox (MDE), Natalie Gardner (CRC/STAC), Michael Helfrich (Lower Susquehanna Riverkeeper), Scott Hymes (MD DNR), Rick Keister (LGAC), Anne Lindner (Exelon), Kimberly Long (Exelon), Bob Lynch (Exelon), Bob Malty (Exelon), Mary Helen Marsh (Exelon), Bruce Michael (MD DNR), Linda Miller (EPA), Al Picardi (Exelon), Ken Poletti (Exelon), Albert Pollard (citizen), Matt Rowe (MDE), Herb Sachs (MDE), Shawn Seaman (MD DNR), Tom Sullivan (Exelon), Al Todd (Alliance), Julie Winters (EPA/CBP), Timothy Wirth (Exelon).

Guest Present on Friday: Mark Dubin (University or MD), Jim Edward (CBP), Rick Keister (LGAC), Al Todd (Alliance)

Meeting presentations and materials are located: http://www.chesapeakebay.net/calendar/event/17765/

Thursday, November 29, 2012

Chair Nikki Tinsley called the meeting to order at 10:30am. Charlie Stek briefly reviewed his memo to CAC members. Members carpooled to Conowingo Dam Visitor Center.

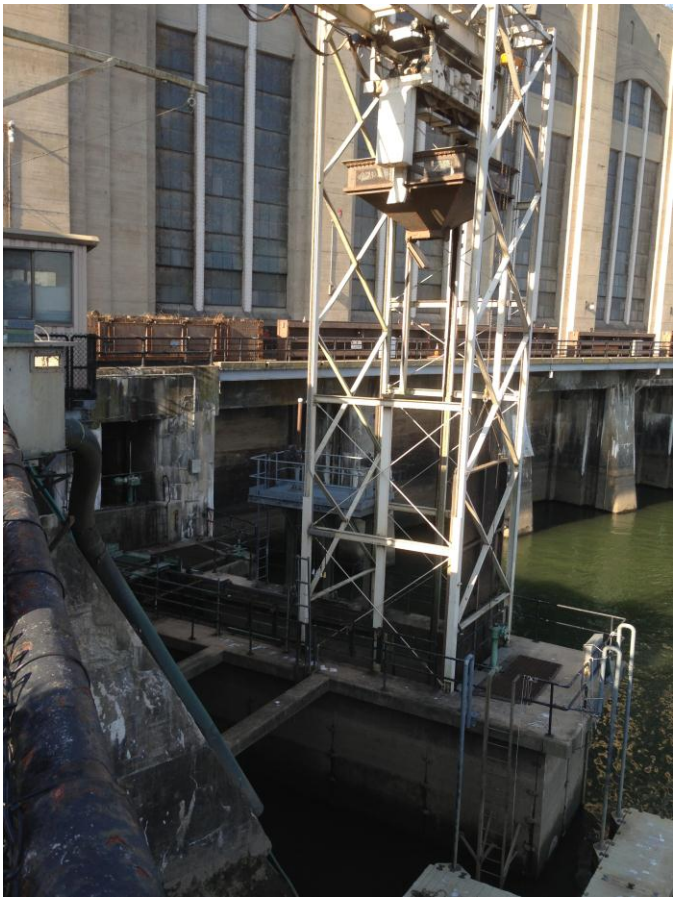
Overview of the Exelon Hydro Facilities at the Conowingo Dam

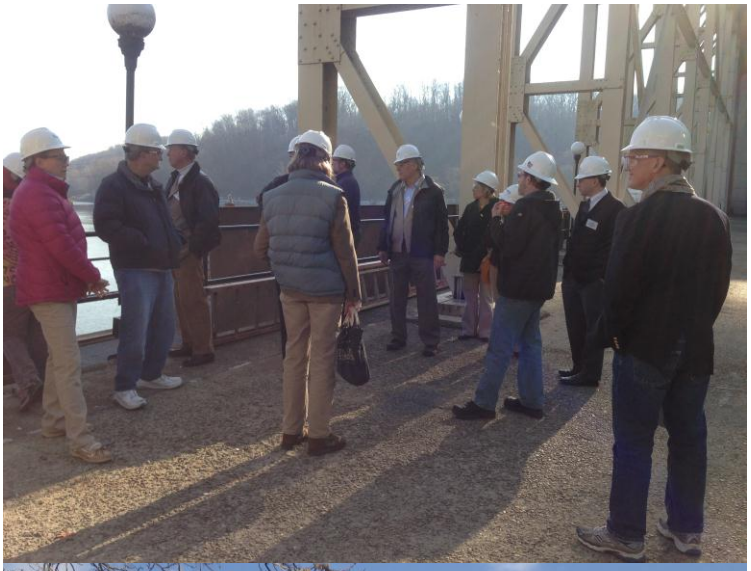
Kenneth Poletti, Exelon General Manager at the facility, gave an overview of the dam. The Conowingo Dam was built from 1926 to 1928 at the cost of $73 million. The dam contributes on average approximately 1.8 million megawatt hours annually to the grid or the equivalent of burning 2100 tons of coal/day. The dam provides power for 200,000 homes. The 50 crest gates control pond level during high-river flows over 16,000 cfs. Up to 80 notifications are made to notify downstream emergency services, government agencies and commercial businesses when crest gates are opened. All fifty crest gates were open in 1937 and 1972 (Agnes). Forty-three of the crest gates open with Hurricane Lee. Hurricane Sandy was considered to be a non-event for the Conowingo Dam. The dam has two fish passages. The west fish passage built in 1971 is used for US Fish & Wildlife Service hatchery stocking and the east passage built in 1991 is used for up stream movement for spawning.

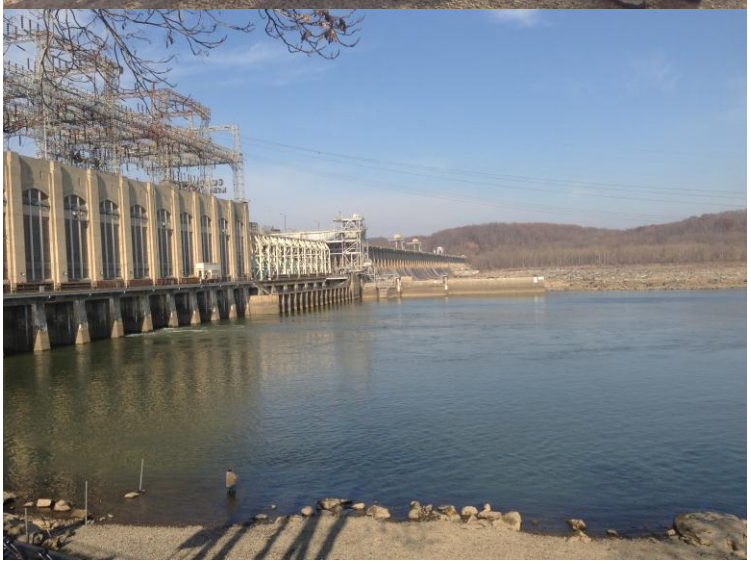
Ken indicated it is his responsibility is to ensure that water does not crest the top of the dam. He explained the process for notifying downstream towns when the crest gates are open. Havre de Grace would not experience change until more 30 gates open; Port de Deposit is the closest town and Exelon works closely with them during emergencies. An Exelon employee actually sits in the town for the duration of the emergency to ensure communication is clear.

Members toured the Conowingo Dam facility.

Two of seven aeration unit are able to run during low flows (draughts) and injects air into the water to help add dissolved oxygen in the river. The dam has 54 employees. Conowingo has 31 operators by comparison Muddy Run dam upriver only has two. Eight ecologists/scientists count fish species and document general fish size during the spawning runs which start when the water temperature reaches 60°F. 2012 spawning run was three weeks earlier than normal due to the water temperature.







Panel on Relicensing the Conowingo Dam

Kim Long, Senior Environmental Specialist, Exelon

Conowingo was last licensed in 1980 and Muddy Run was last licensed in 1964. Their current licenses expire in 2014. The Integrated Licensing Process (ILP) is a 7 to 9 year process that requires Exelon to consult with regulatory agencies in advance of filing its license application with FERC. The ILP processes for the two Projects including 47 studies have cost approximately $22 million dollars. The studies were conducted from 2010 through 2012 include areas such as: fish and aquatic species communities; fish passage evaluations; in-stream flow habitat assessments; water quality assessments; sediment introduction and transport, and recreational and shoreline management assessments. The results of the studies were included with the Final License Application (FLA) and filed accordingly with the FERC. Exelon has proposed environmental measures as part of the FLA that include: Plans for managing land with rare; threatened and endangered species habitats; continuation of the operations and preventive maintenance program for the East Fish Lift (EFL); and best management practices (BMPs) for controlling sediment introduction from Project lands along with conducting a bathymetry study of Conowingo Pond every 5 years to monitor sediment transport and depositional patterns; and a sediment management plan to identify benchmarks and thresholds for action to address sediment issues that may affect Project operations. Exelon has been involved with the Sediment Task Force since its original inception in the late 1990's and continues to support the effort by participating in the Lower Susquehanna River Watershed Assessment (LSRWA). In conjunction with the LSRWA, Exelon provides in-kind services that have included 2011 bathymetry data for use in modeling and calibration associated with LSRWA's projects along

with regular participation in meetings associated with the process. The amount of sediment deposited as estimated by the 2008 USGS Bathymetry report is an average of 2,000,000 tons annually. The next steps are entering the negotiation process for relicensing and continuing to work with the Lower Susquehanna River Watershed Assessment.

Shawn Seaman, MD DNR Power Plant Research Program
Exelon's pre-application document was submitted to FERC in 2009. Maryland participated in study plan development and FERC approved a total of 32 studies and Exelon conducted studies between 2010 and 2012. The Final License Application (FLA) was submitted on August 31, 2012. FERC is expected to issue a Ready for Environmental Assessment (REA) in early 2013.Within 60 days following issuance of the REA, the U.S. Fish and Wildlife Service must issue fish passage comments; MD can also submit licensing recommendations. Major relicensing issues include: Sediment Management; Fish Passage; Flow Management; Water Quality; Recreation / Catwalk; Debris Management; Freshwater Mussels; and Land Conservation. The Holtwood and Safe Harbor dams north of Conowingo are already at maximum sediment capacity. Currently, Conowingo is at a sediment capacity of about 86% with 10-15 years of storage capacity until "dynamic equilibrium" is reached. Routine storm events scouring sediment will prevent the dam from ever reaching "full capacity". . Maryland Department of the Environment's (MDE) 401 Water Quality Certification (WQC) process gives Maryland the authority to request Exelon include goals of sediment management, fish passage, restoring mussels, enhancing flow conditions, land preservation and species protection in relicensing. Exelon must file its 401 WQC Application within 60 days of REA. The State must act within 1 year of receipt of the WQC application or it waives its rights (there are ways to extend). The State's WQC authority has been interpreted broadly by courts and it includes authority to condition as necessary to ensure compliance with State water quality standards. Courts have upheld WQC conditions related to fish passage, habitat, minimum flows, and recreation. FERC cannot grant license without WQC from Maryland (although 1 year licenses are possible). FERC has little to no authority to reject or modify Maryland's WQC conditions. WQC determination is appealable to State court.

Andrew Dehoff, Susquehanna River Basin Commission
Andrew presented on flow management and the implications for water quality, dissolved oxygen, and temperature, etc. Flow management works with the flex flow-the top eight feet- and Conowingo/Exelon works with the top four feet of water. He also mentioned fish stranding after high flow events.

Anna Compton, US Army Corps of Engineers
Long-term buildup of sediment behind the dams in the lower Susquehanna and the implications of these sediments along with the associated nutrients to the Chesapeake Bay is being assessed by multi-agency partnership. The Watershed assessment (Authorized by Section 729 of Water Resources Development Act of 1986) has cost: $1.376 million. MDE is the cost-sharing sponsor, 75% Federal, 25% non-Federal. The agreement was executed September 2011and the study started in November 2011 with an expected duration of 3 years. The study will help with identification of sediment management strategies like dredging; innovative re-use; by-passing; alter reservoir operations; and possibly more BMP's. The study will help with integration of the MD and PA Watershed Implementation Plans (WIPs) with concept-level designs and costs. This study will *not* lead directly to construction. Several models are being using to complete the study: CBP Partnership-Watershed Model, HEC-RAS 1D Model, 2D Adaptive Hydraulics (ADH). Activities completed to date are listed in the presentation along with upcoming activities timeline. These studies have nothing to do with the relicensing of the dam but do provide data.

Michael Helfrich, Lower Susquehanna Riverkeeper
Preliminary model runs by CBP show future impacts to Upper and Middle Chesapeake Bay due to loss of trapping capacity. The model was run at only 1/5th of actual expected sediment loading with effects to Susquehanna Flats caused by pass-through of an additional 286,000 tons of sediment with the Bathmetry study showing 8.67 million more tons between the years 2008 to 2011. The War Against Rural Maryland Coalition,

lead by the law firm of Funk and Bolton is due greatly to publicity regarding the effects of increased scouring events and loss of sediment trapping capacity. The Chestertown law firm has taken advantage of this information to promote anti-TMDL action among rural counties in Maryland. The Lower Susquehanna Riverkeeper is working with CBP and MDE to open communications with counties and set up presentations. Possible solutions include upstream BMPs.

Members asked questions and engaged in discussion with the panelists.
Shawn Seaman stated that there are still things that Exelon is required to do like sediment benchmarks to plan for mitigation when the dam reaches capacity. Kim Long responded that Exelon did respond with benchmarks in the final license application. There was some confusion on what exactly FERC wanted for benchmarks. Michael Helfrich added that Exelon focused on **project** management instead of affects of sediment scouring on the river and farther downstream to the Bay.

The panelists were asked if the WIPs were fully implemented whether it would have an impact on sediment behind the dam. The panel did not have an answer but the question will be addressed in one of the scenarios in the study. Currently, 260,000 tons of reduction is required in the Susquehanna. If the dam can no longer trap sediment then, it would lead to an additional million tons. Some possible solutions include dredging, innovative reuse, bypassing, floating islands and more BMPs than what the WIPs require..
The Army Corps of Engineers was asked if they had the authority to implement the project. Anna Compton responded that they would need a sponsor and feasibility study for more specifics of whatever solution was selected. Then it would need construction authority from Congress. Shawn Seaman pointed out that FERC requested a support study; however, this study was never intended to be part of the relicensing.

It was pointed out that the Exelon slide on BMPs was all about the sediments on **operations** not ecological impacts. Kim Long responded by stating other studies were completed as well.

CAC asked the panel to highlight how CAC and other interested parties might have productive discussions with other parties without getting stonewalled by executives. Kim Long assured her Exelon was willing to communication. Mary Helen Marsh from Exelon also spoke up that they want to be part of any discussion. Verna asked if help was needed with bringing partners to the table. Shawn stated that process would be during settlement talks.

Exelon was asked if the REA process would end Exelon's responsibility. Exelon responded that it had not been decided whether it was to be a REA or EI. Rebecca asked if FERC has taken downstream into effect. Exelon stated a study was done and their take was that it was not a large impact. To date FERC has not said they need to do more.

The panelists were asked to discuss possible solutions to the decreasing sediment capacity .Anna Compton mentioned removing the sediment/sand and possibly using it in the else where but the cost would be high. Dredging is usually a last result due to cost. Michael Helfrich stated turning the sediment into an aggregate was a possible solution and opportunity for innovation.

The question of a one year delay in relicensing was brought up. Exelon stated they would continue operating as normal and that the 40 year license would be different but would allow for Exelon to plan better.

The Army Corps of Engineers was asked if there was another similar project in the country. Michael brought up the Mississippi but Anna pointed out that was for navigation. Charlie asked if it could be done under environmental protection. Anna explained that it would require funding 50/50 on a local level and 60/35 to construction a federal project.

CAC members thanked the panelists and Exelon for hosting then carpooled back to Vandiver Inn at 4pm to resume the meeting for a debriefing session at 5:45pm

Debriefing Session
Members referred to Charlie Stek's briefing memo and pointed out that EPA has not been engaged. The environmental assessment is not the final. NEPA is still worth exploring and EPA has an affirmative responsibility to comment.

Members mentioned what CAC has said in the past, asking the Executive Council to consider the cost of inaction. Charlie Stek explained the ultimate goal is a solution to the sediment behind the dam Rebecca said the EPA has no role in the401 WQC certification since that is Maryland's authority, but EPA does have a role in commenting on EIS. CAC has two opportunities right now since the REA hasn't been submitted: (1) is to push the study on sediments and (2) is to get the EPA involved in water quality certification process CAC should provide formal record for commenting in the FERC relicensing process. Members agreed to send a letter to FERC as well as EPA to ask them to be formally engaged and comment in the process. That. CAC can also comment to the US Fish and Wildlife expressing that it is more important for the relicensing process to address the sediment issue because of the impact on the WIPs and TMDL, than it is to have a top of the line fish passage mechanism.

Friday, November 30, 2012- Vandiver Inn

CAC Business Meeting
Nikki Tinsley called the meeting to order at 8:30am. Jim Elliott presented the slate of officers for CAC election. Verna Harrison moved. Jim Elliott seconded the officer elections to approve John Dawes as the new chair and Charlie Stek as the new vice chair. John Dawes opened the floor for discussion on the September meeting minutes and asked for a motion to approve them. Charlie moved to approve the minutes, Nikki seconded. The minutes were approved as submitted.

CAC members discussed future meeting style and format brought on by budgetary restraints with raising costs. Members discussed possible changes to meeting format in order to afford bringing on headwater state members and still keep the young delegates. Members expressed desire to continue to meet four times a year and the young delegates. Members agreed to no longer meet in Washington, D.C. They pointed to the value the young delegates noting their presentation later that morning and agreed to try to keep them. Members discussed how altering the meeting times to cut out overnight lodging on Wednesday nights and Thursday lunches would help the committee with savings. Members had concerns regarding the travel cost for headwater states representatives joining in 2013 if flights were needed due to distance. Discussion was held over the proposed dates for 2013. Jessica will email revised dates for member approval.

Updates from CAC Members
Christy Everett discussed items that will be discussed in the upcoming Virginia's legislative session: funding for waste water treatment plant upgrades; menhaden cap on fishing; and uranium mining. Christy will share an article on the menhaden issue. If Virginia decides to not provide the cap on the fishing of menhaden there are implications to other species and potential litigation.
John Dawes announced that the Foundation for Pennsylvania Watersheds will continue to host Andrew Heath to pursue funding from PA for environmental projects Charlie Stek stated Department of Defense has put out a solicitation for $5million for funds to conserve lands around military bases and some of that money maybe used in the Potomac area.
Verna Harrison stated a set of regulations were posed to offset growth and trading through the Department of Environment in Maryland that managed to include no environmental requests. The regulations were amended.
Dan stated that U.S. DOT was granted $10 million to complete the missing link between the Anacostia trail and Maryland's walking trails. This project is to be completed over the next 20 months and will allow people to ride their bike into D.C. along the Anacostia.

Victor Ukpolo works with two after school programs to clean up Quincy Run. They are applying to the Chesapeake Bay Trust for more community organizing support.

Chesapeake Bay Program Updates

Jim shared with CAC that there has been some pushback from states on whether not Phase III WIPs are needed. He highlighted three documents. The first, Executive Order Action Plan is put out annually and comment period closed on November 27, 2012. It includes federal agencies proposing to spend about $450 million. The second report is the Draft Report on Extent and Seriousness of Toxic Contaminants, the USGS and EPA are the lead agencies. This is a technical report required by the Executive Order (EO) to develop goals for toxics in 2013 and strategies by 2015.. Verna suggested to Al that maybe the Alliance could help with getting the word out about these reports. The third report, the Draft Model Program for Onsite System Management in the Chesapeake Bay Watershed, is a guide for septic systems and is out for comment until December 28, 2012. The Forest Restoration Strategy was signed off by State Foresters and part of the EO. Rebecca felt this could be an opportunity for CAC to weigh-in, explaining CAC should care because some of the actions (contaminated lands) are not something that the state department of forestry can handle by themselves and they need a broader endorsement.

Members discussed the War Against Rural Maryland Coalition that is being lead by the law firm Funk and Bolton. The issue of the cap affecting growth on rural counties was inevitable and there has not been a very good dialogue.

As a business item CAC agreed to ask for formal responses from CBP when they send letters.

Engaging Younger Generations in Chesapeake Bay Restoration
Elizabeth Burdick & Adam Thompson

Educational opportunities and access to local water bodies are essential to making a connection with the bay. The keys to engage youth are: creativity: sense of adventure: and connection. Experiencing this at a young age and giving opportunities to reinforce the connection sparks an interest. Young Delegates agreed with the recommendations on environmental literacy CAC has made to the Executive Council.. Currently DC has an environmental literacy workgroup that meets the fourth Tuesday of the month at 2pm at the DC DOE. Maryland's literacy plan is running and funded. MAEOE resource for teachers in MD to help implement EL plans. Virginia has little state support for an overall program making it very tough for teachers to provide resources. There is a potential model in Va Beach. Pennsylvania drafted a plan be it has had little movement since March 2012. Recommendation for CAC would be to support state environmental literacy programs; bolster Facebook presence (Although the Young Delegates remarked this is not how to spark interest. People join Facebook pages on topics they are already interested in); invite more young people to CAC meetings community outreach; engaging Riverkeepers; and create a Bay Backpack with resources for multiple types of teachers. Al added the possibilities of community service requirements and additional social media outlets. There was discussion about how to find the nexus between environmental literacy plans and outdoor adventure.

BMP Verification: Gauging Levels of Certainty in Agricultural Best Management Practices
Mark Dubin, University of MD, Coordinator for the Chesapeake Bay Program Agricultural Workgroup

Agricultural BMPs are diverse with Nutrient Management, Conservation Tillage, Cover Crops, Pasture Grazing BMPs, Forest Buffers, etc. Interim BMPs are currently for planning purposes only. There are proposed BMPs for the future. Technical assistance is coming from Tetra Tech under a national EPA contract. A draft report is currently out to membership with a goal to complete the report by beginning of 2013. The report should be able transferable to other non-point source sectors besides agricultural. The Agricultural Workgroup has considered multiple verification protocols weighing pros and cons. Current version focuses on having a standard minimum (80%) threshold of relative data confidence setting a bright line of data quality being accepted. This version incorporates positives of previous versions and recognizes the widely varying data confidence levels. The

verification matrix looks at verifications, assessment methods, conservation practice category, cost-sharing information, relative cost, relative scientific defensibility, relative accountability and relative transparency.

Members discussed the BMP verification memo that Verna Harrison provided as a briefing material. Discussion included the efficacy and verification of nutrient management plans. Mark indicated that the workgroup looked at developing tools (GPS technology, track application, yields, etc.) to help localities develop their programs. Verna highlighted the 'public confidence' portion of the BMP verification principles which the Bay Program Management Board agreed to take to the Principal Staff Committee for approval. She lead the discussion about concern over self-verification of agricultural BMPs. Rebecca asked members to email her concerns about BMP verification so she can represent CAC at the December 6, 2012 BMP Verification Panel meeting. Rebecca's major concern is the equity principle trap varying among state programs. She suggests picking the top 10 BMPs and work on those to start with

Wrap Up and Action Items:
Charlie recommended a letter to FERC and possibly EPA letter regarding Conowingo Dam sediment. Nikki suggested letting the management board know about the letter once it has been sent.

Verna suggested a subcommittee to follow up on young delegates recommendations. Neil, Charlie and Christy volunteered. Members will hold off on writing a letter regarding Virginia Environmental Literacy.

Verna suggested CAC write a letter expressing concerns about BMP verification and ask Rebecca to bring forth CAC concerns to the BMP verification panel. Charlie moved. Jim seconded the motion. CAC agreed to send the letter to the Director of the Bay Program.

With no further business, the CAC meeting was adjourned at 12:21pm.