

Comment letter on MDE Exelon settlement agreement on Conowingo Dam:

To Federal Energy Regulatory Commission (FERC) Docket # P-405-106

I'm submitting comments to FERC Docket # P-405-106 in opposition to the settlement agreement entered into by the Maryland Department of the Environment (MDE) and Exelon. This settlement agreement waives the state's right to issue a 401 Water Quality Certification and it was made without including any affected communities and groups in the settlement discussions. This agreement, made behind closed doors, falls short of protecting Maryland's waterways:

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 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 in Pennsylvania 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. There are no stipulated timelines for completion of some of the work to be done by Exelon.
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 accountable.
5. The settlement requires payments made by Exelon to go to the State's Clean Water Fund, which can be reallocated or raided by the Governor at any time over the next 50 years.

Please do not approve the settlement agreement until MDE fixes the flaws in the settlement and has guarantees that Exelon 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. 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.

Specifically, MDE and Governor Hogan should increase their funding ask from Exelon before fully signing off on the agreement, or nix the agreement all-together and continue litigating the state's 401 Water Quality Certification. The settlement should include more funding for Exelon to address the sediment trapped behind the Dam, and research must be completed now so we can determine potential beneficial reuse of those sediments. The state should build realistic assurances into the agreement that the terms will be fulfilled, not just statements of intent. There should also be an opportunity for outside parties to enforce the terms of the agreement, or become a part of the agreement itself. The settlement should create a separate fund specifically for the cleanup of the Susquehanna River and Conowingo Dam. The settlement must include support for communities upstream to lessen their sediment load.

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.