



*Via First-Class Mail and Electronic Mail*

June 5, 2020

Governor Larry Hogan  
100 State Circle  
Annapolis, MD 21401-1925

Dear Governor Hogan:

Conowingo Dam has been in relicensing proceedings for over a decade. It is of the utmost importance for Maryland's taxpayers and the public who own the Susquehanna River that this dam is licensed by enforceable conditions that protect the Susquehanna River and Chesapeake Bay for the next 50 years. The Federal Power Act requires an analysis of the socio-economic benefits to local communities primarily because hydropower licenses grant free use of and monopolistic control over public water resources for long periods of time. In my opinion, public benefits should include profits from Conowingo to help clean up the Susquehanna River and Chesapeake Bay; and at the very least the dam should maintain upstream fish passage, which is why the fish ladders were built on Conowingo Dam.

Exelon's decision to turn off the fish ladders this spring has decimated the once famous herring and shad run on the Susquehanna River. Generations of anglers benefited from spawning shad and herring and all the migratory fish that followed up the river each spring. It is a source of food and camaraderie for communities up and down the Susquehanna River. The fish lifts at Conowingo Dam are essential for these species' survival and help provide the public benefits President Theodore Roosevelt envisioned when he championed the idea of hydropower licensing agreements and the reevaluation of circumstances to continue to ensure the public interest is provided. Exelon decided on its own that operating the dam to continue to produce power and profit was essential but shirked their responsibility to protect the public trust, which is why our organization is calling on you today.

Exelon halted its fish lift operations as stated in their March 30<sup>th</sup> memo to the Federal Energy Regulatory Commission (FERC) Re: Conowingo Project (P-405) COVID-19 Update. The company stated only employees and contractors deemed essential to ensure the safe and reliable operation of the project will be allowed access, but the East Fish Lift operations were suspended. Even though Exelon resumed its fish lift operations sometime around May 12<sup>th</sup>, the peak run has already passed as we have heard reports from Bay Watermen that this year's run of shad and herring had been phenomenal compared to previous years.

Traditionally, the Federal Energy Regulatory Commission (FERC) has measured socio-economic benefits in terms of local jobs created or retained. However, before a hydropower license can be issued, an environmental impact study prescribed by the Federal Power Act is required along with a water quality certificate from the state in which the project is located. Unfortunately, FERC has chosen to adopt a narrow interpretation of environmental implications -- but that does not mean Maryland has to ignore these essential public benefits.

Exelon has shown they are not concerned about water quality in Susquehanna River or Chesapeake Bay. They have taken zero responsibility for sediment buildup behind the dam that is polluting the Chesapeake

Bay. They have stopped an essential function mandated under their current federal license. Operating the fish lift is not only essential for the survival of migratory fish in Susquehanna but it also serves a critical public benefit required in the Federal Power Act. The devastation the Conowingo Dam will cause to the economy of Maryland from a significant flood event is in the billions. This Dam has the potential to wipe out the \$700 million seafood industry, destroy recreational fishing for over 200,000 anglers, and devastate the shipping industry as channels will become filled with sediment from Conowingo. Furthermore, the National Oceanic and Atmospheric Administration (NOAA) reported that multiple climate factors indicate an above normal 2020 Atlantic Hurricane season. It's not a matter of if, *but when* we get that next large storm that will wipe out the Chesapeake Bay due to sediment load at Conowingo Dam.

Exelon is asking FERC and the citizens of Maryland to be rewarded with another 50-year license that will generate the company and its shareholders billions in profits over the next 50 years. Do you believe this is a fair deal for the citizens of Maryland and your upstream neighbors who have been denied the benefit of its migratory fish? It is clear to our organization that Exelon is no longer providing a public benefit nor does the company deserve the privilege of operating this Dam for another 50 years. We feel the license should be denied and the project "recaptured" upon license expiration. Hydropower licenses generally provide for a 30 to 50-year term to allow the licensee to recover its capital investment in the project. As an ultimate safeguard, the Federal Power Act provides for recapture of a hydropower project by the federal government for due cause or upon license expiration. The 1935 Congress recognized that the recapture provision was necessary to allow for a reevaluation of circumstances in the public interest.

Your Administration still has the opportunity to engage in the FERC relicensing process to hold Exelon Corporation — the most profitable utility company in the country — responsible for their share of the pollution in the Chesapeake Bay and to safeguard migratory fish passage. Legitimate opportunities like renegotiating the settlement agreement, pursuing litigation, or recapturing the Dam under the Federal Power Act are options your administration should explore now to protect the public trust. Governor Hogan, this is the last opportunity to do what is right for Marylanders. You will not get this opportunity again for an entire generation! The proposed settlement provides grossly insufficient funds to deal with the risks that Conowingo operations pose to the Susquehanna River and Chesapeake Bay. It includes statements of intent without assurances and gives the public no enforcement power to make sure the terms of the settlement are fulfilled. There are not enough protections in the settlement to grant Exelon full control of this Dam for the next 50 years. Your administration should take the deal off the table now and deny Exelon another 50 years of monopolizing our public resource!

Sincerely,



Ted Evgeniadis  
Lower Susquehanna Riverkeeper  
Executive Director – LSRA

Captain Robert Newberry, Chairman – Delmarva Fisheries Association  
James Mullin, President – Maryland Oystermen Association  
Captain Tracy Geho – Baltimore's Finest Charters  
Captain Robert Krausman – Galloway Charters  
Captain Matt Warner – Madison Services LLC

*"The public must retain the control of the great waterways. It is essential that any permit to obstruct them for reasons and on conditions that seem good at the moment should be subject to revision when changed conditions demand."* (President Theodore Roosevelt, 1908)

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