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TIDAL WETLANDS DIVISION  
WATER MANAGEMENT ADMIN., MDE

January 3, 2018

Mr. Elder Ghigiarelli, Jr.  
Deputy Program Administrator, Wetlands and Waterways  
Maryland Department of the Environment  
1800 Washington Boulevard, Suite 430  
Baltimore, Maryland 21230

Re: Conowingo Dam Relicensing Application # 17-WQC-02, Lower Susquehanna River and Upper Chesapeake Bay, Use 1 & 2 Waters.

Dear Mr. Ghigiarelli,

Thank you for the opportunity to provide comments in response to the Maryland Department of the Environment's public notice for the hearing on December 5, 2017 regarding the proposed relicensing of the Conowingo Hydroelectric Project Application for Water Quality Certification. ShoreRivers and our legacy organizations, Chester River Association, Midshore Riverkeeper Conservancy and Sassafras River Association, have over 25 years invested in restoring and protecting the rivers, tributaries and watersheds on the Eastern Shore of Maryland. Additionally, we represent over 3,500 members throughout the Eastern Shore who will be directly affected by a water quality certification that maybe granted to Exelon for a long-term project.

Our organization, ShoreRivers, and our members are very concerned that any water quality certification will adversely affect the provisions of the Clean Water Act, including the requirements under the TMDL's. Our concern is based on the fact that we do not believe that the project and Exelon's application as proposed is consistent with Maryland's Clean Water Quality Standards. We understand and agree that the majority of the nutrients, sediments and contaminants from behind the dam are largely the result of upstream pollution; however, we contend that the dam alters the makeup and form of these deposits as well as the timing and delivery of pollutants to the bay and rivers. By altering the form, makeup and timing, including unnaturally high volume deliveries of these deposits to the bay through storm events, the dam can cause excessive and unnatural damage to the bay's water quality. Exelon bears significant responsibility to address these risks and remedy the situation.

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For these reasons, we signed on to the comments provided by the Chesapeake Bay Foundation on August 23, 2017, and we still agree with those comments. At the present time, we have the following additional general comments.

We believe that Exelon's application is insufficient and are hopeful that the Maryland Department of the Environment will send it back to Exelon for revision and place conditions on the permit, to address the issues we note below:

- As the owner of Conowingo Dam, Exelon is responsible for a significant percentage of the downstream water quality problems caused by sediment and nutrients scoured from behind the dam during high intensity storm events. This pollution load was not previously factored into the Bay Blueprint and has the ability to offset decades of water quality improvements performed by many, including ShoreRivers and our members. Exelon has a significant responsibility to help mitigate the harm the dam causes during these events—issues that are not sufficiently addressed by Exelon in the current application.
- Maryland must require Exelon to contribute financially to the mitigation effort. Recent public studies show that Exelon has the financial capacity to account for its impacts. Exelon can continue to make a substantial profit from the Conowingo Dam, and still do what's right for the Susquehanna and the Chesapeake. This financial commitment should include (1) multiple upstream Best Management Practices, (2) resiliency measures downstream and (3) significant dredging of the existing sediment behind the dam.
- Exelon must take responsibility for this sediment buildup behind the dam and the disastrous scour that will occur with storm events. Large-scale storms are predicted to occur over the long-term Exelon lease. Any 401 water quality certification without a significant dredging component will not meet the TMDL and risks the survival of the bay itself. The sediment loading from Conowingo is not accounted for in the Bay TMDL and additional loading from this scour must be incorporated into Phase III WIPs.
- Results of the Army Corps of Engineers study indicate that the most cost-effective approach to reducing pollution coming across the dam is to implement practices that will reduce pollution upstream. Innovation is a critical component of Bay clean-up efforts and over the 46-year term of this license, it will be important to consider additional cost-effective practices as new information and developing technology becomes available.
- Climate-related impacts need to be considered by MDE in the certification process as the science regarding climate change indicates that storms capable of catastrophic scouring events are more likely in the future.
- Exelon should be a required partner with MD, PA and NY on a collaborative initiative to reduce sediment and nutrient pollution. Exelon also must be required to make specific operational changes at the dam, including changes to restore safe

habitat for migratory fish like American shad and striped bass, and for keystone species like freshwater mussels and aquatic vegetation.

- The operation of the dam allows for large pulses of fresh water to enter the Chesapeake Bay at an unnatural rate, having the effect of producing artificially low levels of salinity and higher levels of sediment that effect the ecosystem and aquaculture operations currently located downstream of the dam. We believe that Exelon, by operating the dam without public input, damages viable aquaculture businesses and natural oyster bars and large-scale oyster restoration projects located throughout the bay. Please refer to attachment "A", a joint letter from the owners of Orchard Point Oyster Co., and Hooper's Island Oyster Company, two successful oyster aqua culture operations. Exelon should be required to consult on a periodic basis with aquaculture operations to avoid economic damage to these growing enterprises.

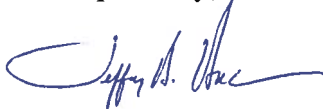
Exelon will stand to make billions of dollars over the term of this lease; they will profit as long as the river flows. The Federal Power Act requires a public benefit for using this public resource and Maryland should require the re-licensing application to add significant conditions or deny the application. The operation of the dam threatens to undermine the bay cleanup efforts, the TMDL and Maryland's Water Quality Standards.

In addition, over the next 46 years, technology, best management practices and climate science will evolve and innovation will occur. The permit, to take advantage of new knowledge and science, should allow for public input and environmental and economic oversight on a regular basis. For example, dredging technology could change drastically in a short period of time.

We believe that approving the permit in its current form puts the bay, an irreplaceable public resource, at risk and we hope you incorporate our comments and suggestions in the permitting process.

Thank for the opportunity to provide comments.

Respectfully,



Jeffrey H. Horstman  
Executive Director  
ShoreRivers