



## **Proposed Settlement of Exelon's Lawsuit Against MD on Conowingo Dam February 2020**

As we have been reporting, Bay partners generally agree that the Conowingo Dam has stopped effectively trapping nutrients and sediment; additional nutrients and sediment coming over the dam could put Bay restoration efforts at risk in the future. Exelon Generation Company, LLC, owns the dam, and is in the process of seeking a 30 to 50-year relicensure of the dam with the Federal Energy Regulatory Commission (FERC). As part of the process, Exelon must have Clean Water Act Section 401 certification from the State of Maryland. The state's decision to issue a 401 certification with numerous conditions included spawned a number of lawsuits. Exelon filed in both federal and state court, objecting to the list of conditions being too long, and environmental groups filed objecting to the list being too short.

On October 30, 2019, Governor Hogan announced a proposed settlement with Exelon with regard to the dam. Under the agreement, Exelon will make a total investment of more than \$200 million, including nearly \$107 million in cash payments to support environmental initiatives, described by the state as follows:

- \$52M to implement new requirements for flow control to create more natural conditions in the Lower Susquehanna;
- \$47M for climate resiliency projects;
- \$41M to significantly increase efforts to remove debris flowing down the Susquehanna;
- \$25M to restore a healthy population of water-filtering mussels in the Susquehanna;
- \$19M for other projects to improve water quality in the Chesapeake Bay, including agricultural projects such as cover crops and forest buffers;
- \$12M to support MDE and DNR in overseeing and implementing the agreement;
- \$11M to make upgrades to improve the passage of migrating fish and eels;
- \$5M to conduct chlorophyll-A monitoring and reporting;
- \$1M for eel-related research and projects;
- \$500,000 to fund a study of dredged material management options.

Elements of the agreement were submitted for approval to FERC as part of the licensing renewal for the dam. Public comments were filed with FERC in January 2020. Members who are interested in the history of the Exelon litigation should review previous Status Reports.