



Conowingo Dam Issues

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NATURAL RESOURCES

DEPARTMENT OF AGRICULTURAL AND
RESOURCE ECONOMICS

Agriculture Law Education Initiative

The Agriculture Law Education Initiative (ALEI) is a collaboration of the Francis King Carey School of Law at the University of Maryland, Baltimore (UMB); the College of Agriculture & Natural Resources at the University of Maryland, College Park (UMCP); and the School of Agricultural and Natural Sciences at the University of Maryland Eastern Shore. ALEI is an initiative of the University of Maryland: *MPowering the State*.

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OVERVIEW



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FEARLESS IDEAS

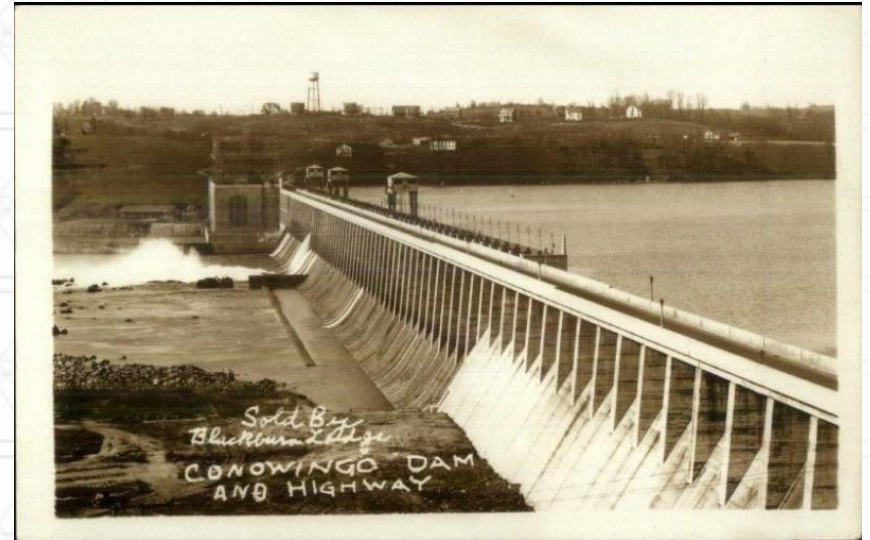
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Overview

- Conowingo Dam was completed in 1928
- Located on the lower Susquehanna River



Overview



- Dam is located 10 miles from the Bay
- For almost a century has acted a sediment trap and played a role in the Bay's health

Overview

- 2014 Dam found to no longer be effect sediment and nutrient trap
- Dam no longer has storage capacity
- Large storm events result in sediment and nutrients spilling into the Bay

Overview

- Dam is currently owned by Exelon and current license expired in 2014 and began process in 2012 to renew license
- Currently seeking a 50-year license before Federal Energy Regulatory Commission



SECTION 401 PROCESS



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Section 401 Process

- Because will discharge into a water covered by Clean Water Act, requires a Section 401 permit
- State of MD must provide water quality certification (WQC) to FERC for the dam

Section 401 Process

With WQC process, MD has 1-year to grant deny, waive the right to issue a WQC, or certify (can include conditions)



Section 401 Process



Any conditions in the WQC are incorporated into the FERC license/permit



Section 401 Process

- In conditions, Maryland addressed the impacts on water quality from:
 - Dissolved Oxygen in Bay
 - Flow needed for aquatic life and migratory fish
 - Fish passage
 - Trash and Debris Removal
 - Lessing impacts of Aquatic Habitat

Section 401 Process

- Exelon's request came in 2014, but several withdrawals and resubmissions
- MD issued WQC in April 2018
- Legal challenges filed and ordered into mediation by Court of Special Appeals. Settlement reached in Oct, 2019



Section 401 Process

- With settlement, Exelon agreed to pay MD annually for water quality projects
- \$200 million over the 50 years



Section 401 Process

- Settlement is now before FERC to accept in new license
- If FERC does not accept full settlement, MD and Exelon can renegotiate agreement



FERC PROCESS



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FERC Process



- Process started in late Oct. 2019 to receive FERC approval
- FERC submitted for public comment in early 2020



FERC Process

Currently a number of environmental groups oppose the relicensing with the settlement agreement



FERC Process

- Statute gives FERC two options:
 - FERC can take over the project and maintain and operate the project and pay the licensee's net investment not to exceed FMV of the property taken plus reasonable damages

FERC Process

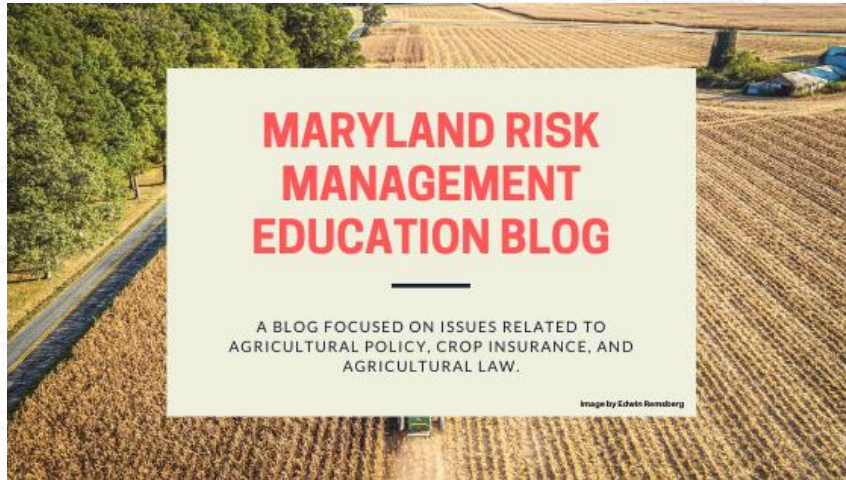
- Statute gives FERC two options:
 - If doesn't take over then is authorized to relicense to the existing licensee upon such terms and conditions required by existing laws and regulations, or
 - Issue a new licensee to a new licensee

FERC Process



We are still waiting on final word from FERC on terms and conditions on new licensee to Exelon

Md. Risk Management Blog



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- www.agrisk.umd.edu
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- New episodes 2x per month covering risk management education issues
- www.marylandagpodcast.org
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