

CLEAN CHESAPEAKE COALITION

210 SOUTH CROSS STREET
CHESTERTOWN, MARYLAND 21620
410-810-1381
WWW.CLEANCHESAPEAKECOALITION.COM

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COUNTY COMMISSIONER

February 22, 2013

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

RE: Coordination between FERC and CCC/Maryland local governments

Dear Secretary Bose:

I am the chairman of the Clean Chesapeake Coalition (“CCC” or the “Coalition”). The Coalition currently consists of seven Maryland counties, three of which border the Chesapeake Bay and three of which border Bay tributaries. The objective of the Coalition is to pursue improvement to the water quality of the Chesapeake Bay in a prudent and fiscally responsible manner. I also serve as a County Commissioner of Kent County, Maryland and the Town Manager for the Town of Rock Hall, situated on the Bay.

As a young man, I was a waterman. I regularly worked and operated a boat on the Bay out of Rock Hall. Sadly, the watermen and seafood processing industry in Rock Hall has been destroyed and is now virtually non-existent, largely as the result of sediment scour from the Susquehanna/Conowingo Reservoir. Our marina and tourist industry is regularly and adversely impacted by sediment scour from the Susquehanna/Conowingo Reservoir, which clogs the navigable channels leading to our harbors and marinas, covers our sandy beaches, and clouds our Bay waters with silty-clay.

As reflected in our comprehensive plans, our local environmental policy is to revive and revitalize our watermen and seafood processing industries and to enhance our marina and tourism commerce. Our policy also is to revive the Bay by restoring oyster beds and submerged aquatic vegetation (SAV), which act to naturally improve the water quality of the Bay. What the Federal Energy Regulatory Commission (“FERC”) requires during the relicensing of the Conowingo Hydroelectric Power Plant will directly impact our ability to implement our local environmental policy.

The objective of the Clean Chesapeake Coalition is to pursue improvement to the water quality of the Chesapeake Bay in a prudent and fiscally responsible manner.

FERC has a once in a lifetime opportunity to make a lasting and meaningful improvement to the recovery and restoration of the Bay through the relicensing process for the Conowingo Hydroelectric Power Plant, as well as the other hydroelectric power plants in the Susquehanna Reservoir. Legal counsel has suggested that EPA, in light of the "Water Transfer Rule" promulgated by that agency and made effective in the fall of 2008, believes that it is powerless to take any action to address the damage caused by sediment scour from the Susquehanna/Conowingo Reservoir. Our state environmental agencies (the Maryland Department of the Environment and the Maryland Department of Natural Resources) have not yet taken any action to make the owners or operators of the Conowingo Hydroelectric Power Plant address the sediment scour from the Conowingo Reservoir that kills our oysters, kills our SAV, makes our marinas inaccessible and cripples our tourism. The sediment scour during storm events would not occur but for the existence of the Conowingo Dam that enables the power plant. We are led to understand that only FERC has the authority to require corrective action to address the destruction caused by the repeated sediment scour from the Susquehanna/Conowingo Reservoir.

In studies conducted in the aftermath of Hurricane Agnes in August 1972, scientists concluded that about 20 million tons of nutrient laden sediments scoured from the floor of the Susquehanna/Conowingo Reservoir were flushed into the Bay. This was significantly more than the amount of sediment from runoff sources upstream of the Susquehanna/Conowingo Reservoir during that same storm event. More recently, Tropic Storm Lee in September 2011 loaded an additional 19 million tons of sediment from the Susquehanna/Conowingo Reservoir into the Bay. By comparison, the yearly average from 1978-2011 for sediment loading from the Susquehanna to the Bay was 2.5 million tons. I can attest from personal observation that the sediments loaded into the Bay from Hurricane Agnes wiped out the oyster beds north of the Choptank River, covering them in more than two feet of silt and clay. Those sediments also suffocated and smothered the SAV in the Bay north of the Choptank River. I can further attest that I have observed the repeated deposit of sediments during storm events across that northern Bay and that such sediments have prevented the recovery of oysters, SAV and the way of life that I and many contemporaries grew up living.

Over the past two decades, federal and state authorities have spent well over one billion dollars of taxpayer funds to dredge the Bay and the navigable channels in Maryland Bay tributaries. The science suggests that well over half of those sediments come from scour from the lower Susquehanna Reservoir. Logic suggests that taxpayer funds would be much better expended to remove sediments where they are concentrated behind the dams in the lower Susquehanna Reservoir, rather than to wait for their dispersal over hundreds of square miles of the Bay before trying to collect and remove them. Once those sediments pass through the Conowingo Dam, they are spread over hundreds of square miles causing unmitigated damage.

Additionally, I understand that United States Geologic Survey scientists have determined that nutrients, which are bound to the sediments that are scoured from the floor of the Conowingo Reservoir, are released from the scoured sediments into the waters of the Bay, doubling the harm to the Bay caused by sediment scour. Those nutrients are bound to the

scoured sediments when they are in the cooler, more neutral pH, more oxygenated, fresh non-saline water of the Susquehanna River. Once those sediments are flushed into the Bay, which is warmer, has a lower pH - more acidic, is more saline and is less oxygenated, those bound nutrients are released, compounding the harm they cause to the Bay estuary. For this additional reason, those sediments should be removed from the Conowingo Reservoir before they are scoured and flushed into the Bay during storm events.

The enclosed aerial photographs are just one set of a series of virtually identical satellite photographs that depict the scope of the “blanket of death” that covers the Bay when sediments that have been scoured from the floor of the Conowingo Reservoir are deposited in the Maryland portion of the Bay and its tributaries.

The Coalition respectfully requests an opportunity to coordinate with FERC officials with respect to the relicensing of Exelon’s Conowingo Hydroelectric project (P-405) and the relicensing of the other hydroelectric dams along the Susquehanna Reservoir. Section 204 of President Obama’s Executive Order 13508 (May 12, 2009) provides that in preparing strategies to restore the Bay, federal agencies, such as FERC, are to closely coordinate with local agencies for the benefit of the Bay’s water quality and ecosystem and habitat health and vitality. Under the Federal Water Power Act, FERC is tasked with developing a comprehensive plan for improving the Bay, including adequate protection, mitigation, and enhancement of fish and wildlife (including related spawning grounds and habitat) and for other beneficial public uses. 16 U.S.C. § 803(a)(1). The act further directs FERC to consider the recommendations of state agencies (such as local government members of the Coalition) exercising administration over navigation, recreation and other relevant resources of the Bay. 16 U.S.C. § 803(a)(2)(B). Additionally, the National Environmental Policy Act requires FERC to coordinate with the Coalition’s local government members.

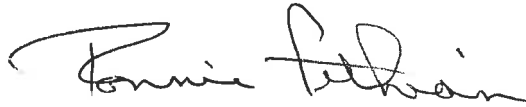
The Coalition would like to host a meeting in the Town Hall of the Town of Rock Hall to discuss the coordination of our local environmental concerns and our local policies with the concerns of FERC relative to the relicensing of hydroelectric power plants. You and your designee(s) are respectfully invited to that meeting so that you have a comprehensive understanding of the concerns of the CCC members and other persons who are directly and adversely impacted by sediments scoured from the Conowingo/lower Susquehanna reservoirs. For purposes of arranging such a meeting, please advise of alternative dates and times convenient for you so that we might schedule a mutually agreeable date and time to coordinate Bay restoration efforts through the conditions imposed on the licensee during the FERC relicensing process.

It is our understanding, that Exelon has met with FERC on numerous occasions to discuss the relicensing application of Exelon’s Conowingo Hydroelectric project (P-405). We ask that FERC afford CCC the same opportunity to be heard. We also understand that a 60-day comment period will begin once Exelon’s relicensing application is deemed Ready for Environmental Analysis. The Coalition would greatly appreciate an opportunity to coordinate with FERC officials prior to that determination.

The Coalition's local government members are willing to work with Exelon and FERC in a cooperative and productive fashion to address the devastating environmental impacts from the sediments scoured from the floor of the Conowingo/lower Susquehanna reservoirs during major storm events and flushed into the Bay and the tributaries and on the shores of some Coalition members. But for the existence of the Conowingo Dam (and the other dams in the lower Susquehanna reservoirs), those sediments would gradually flow into the Bay over the course of decades in a volume that could be processed by the Bay without significant environmental degradation. In addition, the Bay would not be deprived of the sand in the soils that run off into the Susquehanna River, which would benefit the Bay estuarine.

Thank you for your time and consideration. We look forward to hearing from you about preferred arrangements for a meeting.

Very truly yours,



Ronald H. Fithian
Chairman, Clean Chesapeake Coalition
Commissioner, Kent County, Maryland

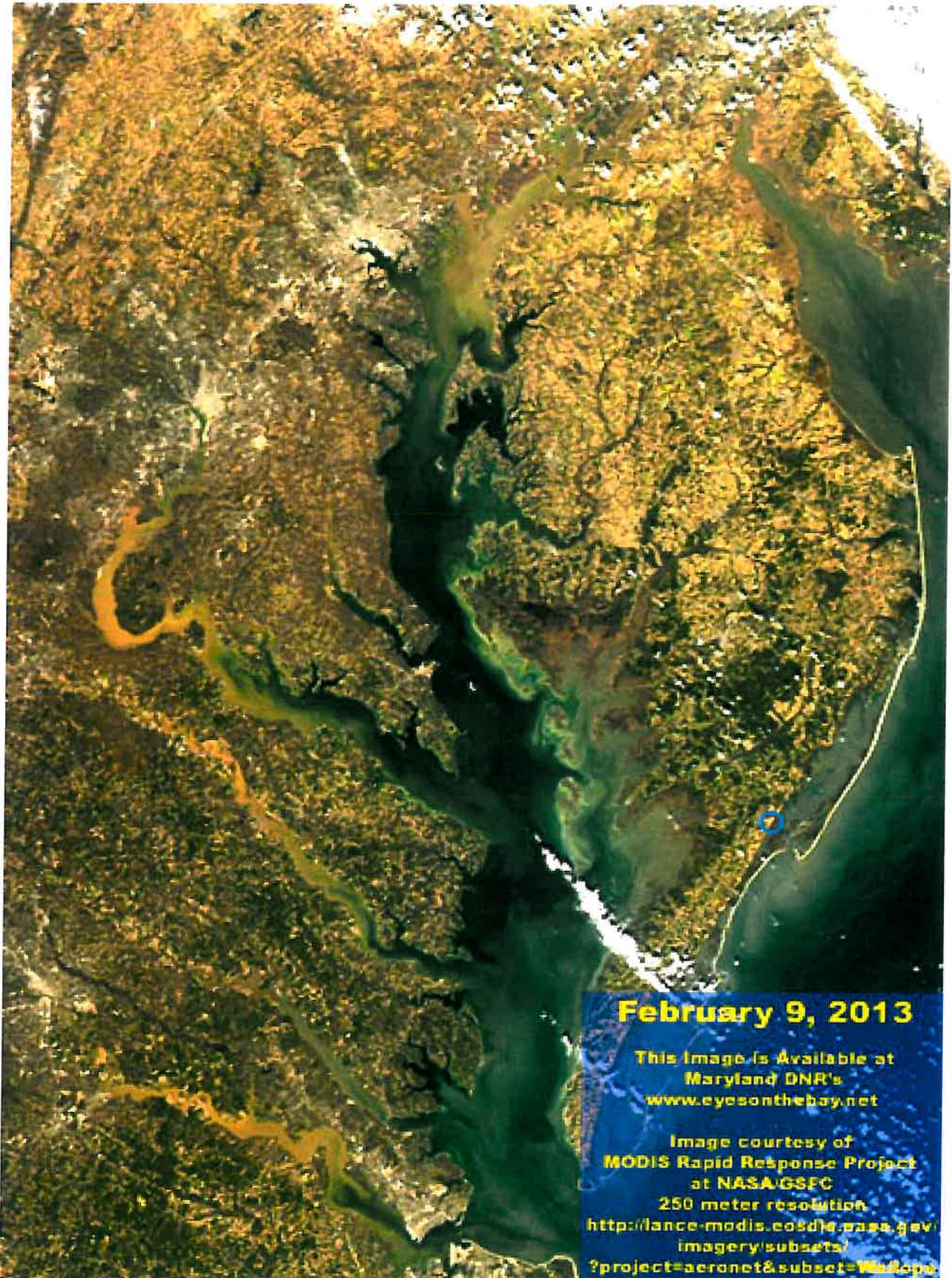
Enclosures

CLEAN CHESAPEAKE COALITION



NASA photograph from the Terra satellite, September 13, 2011 (a few days after Tropical Storm Lee) showing sediment plume extending about 100 miles to the mouth of the Potomac River.

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