



Citizens Advisory Committee

TO THE CHESAPEAKE EXECUTIVE COUNCIL

CHAIR
Matthew Ehrhart
Pennsylvania

VICE CHAIR
Julie Lawson
Washington, DC

Chante' Coleman
Maryland

John Dawes
Pennsylvania

Andrew Der
Maryland

Bill Dickinson
Virginia

William Fink
Pennsylvania

Dale Gardner
Virginia

David Lillard
West Virginia

Mike Lovegreen
New York

Verna Harrison
Maryland

Charles Herrick
Washington, DC

Ann Jurczyk
Virginia

Patricia Levin
Pennsylvania

Joseph Maroon
Virginia

Bill Matuszeski
Washington, DC

Jorge Ribas
Maryland

Charlie Stek
Maryland

Kendall Tyree
Virginia

March 13, 2020

The Honorable Lawrence J. Hogan, Jr
Chair, Chesapeake Executive Council
State of Maryland
100 State Circle
Annapolis, Maryland 21401-1925

The Honorable Muriel Bowser
Mayor of Washington, DC
1350 Pennsylvania Ave, NW
Washington, DC 20004

The Honorable John Carney
Governor of Delaware
Carvel State Office Building
820 N. French Street
12th Floor
Wilmington, DE 19801

The Honorable Andrew Cuomo
Governor of New York State
NYS State Capitol Building
Albany, NY 12224

The Honorable Gene Yaw
Chair, Chesapeake Bay Commission
Senate of Pennsylvania
Senate Box 203023
Harrisburg, PA 17105

The Honorable Jim Justice
Governor of West Virginia
State Capitol, 1900 Kanawha Blvd. E
Charleston, WV 25305

The Honorable Ralph Northam
Governor of Virginia
Patrick Henry Building
1111 East Broad Street
Richmond, VA 23219

The Honorable Andrew Wheeler
Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

The Honorable Tom Wolf
Governor of Pennsylvania
508 Main Capitol Building
Harrisburg, PA 17120

Dear Members of the Chesapeake Executive Council,

The Citizens Advisory Committee (CAC) to the Chesapeake Executive Council offers two issues that will have lasting impacts on our region's ability to meet the Chesapeake Bay Total Maximum Daily Load (TMDL) and living resources goals in the *Chesapeake Watershed Agreement*. As your citizen advisors, we highlight these concerns for your serious consideration and ask that you take bold action to address to them.



Chesapeake Bay Program
A Watershed Partnership

Jessica M. Blackburn, CAC Coordinator
612 Hull Street, Suite 101C | Richmond, VA 23224 | (804)775-0953 | jblackburn@allianceforthebay.org |



Conowingo Dam Settlement and Funding Gaps

The CAC has for many years expressed concerns about the formidable threat that the Conowingo Dam's accumulated sediment poses to the Chesapeake Bay and ongoing restoration efforts. We are writing to urge the Executive Council to consider the potential water quality and living resources impacts of the re-licensing settlement between Maryland and the owner of the Conowingo Dam, Exelon Corporation. It is our conclusion that the issues surrounding the settlement are not those of only Maryland but of the broader Bay community at large and all of the Partnership's participating jurisdictions.

It is our belief that the Conowingo Dam re-licensing agreement was the opportune time to engage with the Exelon Corporation so they could help the partnership meet the sediment challenges associated with operating the federally-permitted hydroelectric dam on the Susquehanna River. We recognize that the Conowingo Watershed Implementation Plan (CWIP) and Conowingo Financing Strategy are currently under development to help meet the additional pollution associated with the Conowingo Dam. Like many stakeholders and partners, we anticipated that Maryland's Clean Water Act Section 401 Water Quality Certification (401 WQC) would have provided significant funding toward sediment pollution prevention upstream from the Conowingo Dam as well as initiate and leverage the financing innovations for the Strategy.

We are concerned that the outcome of the October 2019 negotiated Conowingo Dam settlement agreement will diminish our region's ability to practicably address the significant pollution and financial challenges required for living resources goals, the Chesapeake Bay TMDL pollution reductions, and the CWIP. We recommend the Executive Council and Principals strategize and respond to the unanticipated funding gap the Conowingo Dam settlement poses.

Proposed Updates to Section 401 Water Quality Certification Regulations

We are very concerned about the Environmental Protection Agency's (EPA) proposed rule changes to Section 401 of the Clean Water Act and the critical role states have in protecting local water quality in the Chesapeake Bay Watershed. As you know, states are empowered through the 401 WQC process to approve, deny, or impose requirements on a federally-permitted project that may result in discharges to navigable waters within their borders.

The proposed changes would limit the State's legal authority by shifting the long-standing agency interpretations in at least two very significant ways: (1) requiring states to act on a request for certification within one year of receipt even if the applicant has failed to provide the state with a completed application, and (2) limiting the state's heretofore robust ability to impose all necessary conditions to only those considered by EPA to be within the federal agency's limited definition of the scope of certification.

It is our understanding that this stripping of state's right will hinder the Bay Program Partnership states' ability to impose upon private companies with federal permits the authority to protect local water quality and living resources for their residents and jeopardizes the success of the Bay TMDL. In the instance of the Conowingo Dam settlement the full water quality protections and accompanying funding will not be in place for the 50 year term of the license agreement.

The Citizens Advisory Committee appreciates that many of the Bay Watershed states submitted comments during the 60-day public comment period on the proposed changes to the 401 WQC regulations. We ask that you use the *combined* power and voice of the Executive Council and connections with Congressional leaders to once again oppose the regulatory changes as the executive leadership of our national treasure, the Chesapeake Bay.



Jessica M. Blackburn, CAC Coordinator
612 Hull Street, Suite 101C | Richmond, VA 23224 | (804)775-0953 | jblackburn@allianceforthebay.org |



The Citizens Advisory Committee membership is representative of many stakeholders and interests throughout the watershed. Thank you for the opportunity to provide you our perspective on these important issues. We look forward to hearing from you about these recommendations.

Sincerely,



Matt Ehrhart
Chair, Citizens Advisory Committee

cc: Principals Staff Committee Members
Dana Aunkst, Director U.S. EPA Chesapeake Bay Program



Jessica M. Blackburn, CAC Coordinator
612 Hull Street, Suite 101C | Richmond, VA 23224 | (804)775-0953 | jblackburn@allianceforthebay.org |

