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# United States Senate

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October 5, 2017

The Honorable Alan McCarthy, County Executive  
The Honorable Joyce Bowsbey, Council President  
Cecil County Administration Building  
200 Chesapeake Boulevard  
Elkton, MD 21921

Dear County Executive McCarthy & Council President Bowsbey:

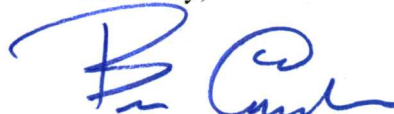
Thank you for your letter regarding H.R. 3043, the Hydropower Policy Modernization Act. I want you to know that I share your concerns about this bill, as do Governor Hogan and numerous environmental groups who have contacted me, too. The Maryland Department of the Environment (MDE) raised the following specific concerns:

- H.R.3043 designates the Federal Energy Regulatory Commission (FERC) as the lead agency over federal authorizations related to an application for a license, license amendment, or exemption for a hydropower project.
- The bill requires States to meet deadlines established by FERC. According to MDE, FERC could create a schedule that could reduce the amount of time for a State to complete water quality studies required under Section 401 of the Clean Water Act.
- The bill also entitles applicants to an adjudicative hearing before a FERC Administrative Law Judge (ALJ) whenever there is a dispute of material fact; however, the bill declares the decision of the FERC ALJ to be final and not subject to further administrative review.
- Finally, applications for amendments to existing licenses that qualify as a project "upgrade" – with FERC determining whether a proposed amendment qualifies as an upgrade – obtain even more expedited processing by FERC. According to MDE, FERC would be the decision-maker, not Maryland, with regard to whether the desired amendment to project operations for the Conowingo Dam would affect water quality.

I believe that on many matters involving FERC, Congress may have granted the agency too much power at the expense of other stakeholders, especially State and local governments. H.R. 3043 continues that trend. Therefore, I will oppose the measure.

Thanks again for your letter; my staff will keep you apprised of any developments.

Sincerely,



Benjamin L. Cardin  
United States Senator