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**Promoting stewardship,**

**conservation and restoration in the**

 **Deep Creek Lake and its watershed**

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**December 20, 2016**

**Senate Chair Roger Manno; House Chair Samuel L. Rosenberg and members of the Joint Committee on Administrative, Executive and Legislative Review**

**Maryland Legislative Services Building, 90 State Circle**

**Annapolis, MD 21401**

**Position: Oppose adoption of Action on Regulations—Title 26, Subtitle Oil and Gas Resources, 29.19.01, adoption of new Regulations on Hydraulic Fracturing in the State.**

**Dear Sirs:**

**MDE Secretary Grumbles promised Maryland citizen his agency would produce “the most stringent and protective regulations in the country.” With all due respect to Secretary Grumbles, Friends of DCL Board has determined the regulations for hydraulic fracturing do not meet this promise. In fact they fail to meet the proposed regulations own Statement of Purpose standard: *protection of the “public health, safety, the environment and natural resources”.***

**Our assessment is framed from the perspective of Deep Creek Lake property owners who enjoy both the lake and natural resources and amenities found throughout Garrett County and the region.**

**There are about 10,000 lake property stakeholders, most of whom are non-resident owner, with about 50% living elsewhere in Maryland. We do not have a professional opinion poll to submit. However from our informal surveys we know most lake property owners opposed fracking in the DCL watershed.**

**Our recommendations: The Joint Committee on Administrative, Executive, and Legislative Review inform the Governor that MDE regulations as submitted not are acceptable.**

 **They are not “stringent” and fail to meet minimal criteria for protection of the “public health, safety, the environment and natural resources”.**

 **There is need for incorporation existing research studies and finding, need for the State to conduct additional research and assembly of base line data collection and assurance of full range of necessary compliance and enforcement.**

 **Regulations on hydraulic fracturing must include a comprehensive cost/benefit analysis on “Economic Impact” of fracking on the resort based economy of Garrett County and on Deep Creek Lake property owners and users.**

**Specific areas where regulations fall short.**

**The DCL watershed as only a partially “protected” area; this is not good enough.**  Under .20 E (2) d of the proposed regulations, the DCL watershed is listed as a protected area. Unfortunately, this protection is merely a land use protection, according to Jeffrey Fretwell from MDE.

1. The watershed subsurface lands may be drilled horizontally from wellheads located on parcels abutting the watershed. Such drilling poses threats to surface and ground water sources, aquifer, tributary streams and well water.
2. Location of associated natural gas infrastructure equipment such as compressors would be allowed within the watershed, permitting industrialization in the watershed landscape, threatening the natural resource, its rural landscape and potentially public health and safety.

**Insufficient specificity of assessment and monitoring.** Under .19-C, the “Department shall develop” assessment and monitoring protocols. This statement is akin to a promise of action. Strong regulations would provide details on protocols and standards for on-going monitoring. Our experiences with lax compliance and enforcement emphasize the importance of clear commitment as well as allocation of funds and staffing. Will enforcement action be left to local citizen stewards, as it now for water quality and wind turbine construction?

1. Air quality protections are lacking, threatening the public health. It has been proven fracking impacts air quality. At this point, Maryland does not even have air quality monitoring stations in Garrett County to develop baseline data and on-going monitoring if fracking were allowed. How many years of air quality monitoring do scientists need to obtain necessary baseline data? Further, there is no assessment of the impacts on air quality from fracking in nearby states of West Virginia, Pennsylvania, Ohio and Virginia.

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1. Water quality monitoring, Friends of DCL has been collection baseline data under the DNR Marcellus Shale Water Monitoring project on 2 streams in the watershed. We do not see the firm commitment that there would be continual, on-going monitoring if fracking is allowed. We also worry about drinking water, as covered in the just released EPA Report on fracking and drink water. We already have high levels of arsenic in our well waters.
2. Broader assessment and monitoring of environment and natural resources. Example:

The Coal Skink Lizard, only found in the wetlands and streams in Garrett and Allegany Counties. What impacts would fracking have on this lizard and its vulnerable habitat?

**Section on earthquakes is inadequate.** Research on the seismicity of Garrett County is a new area of research for the State and not yet completed. Regulations must incorporate such critically important geological findings into any set regulations.

1. The State of Maryland does not have instrumentation for collection of baseline data for full assessment of seismicity of this region. According to Richard Ortt, Maryland Geologic Survey Director, there is one seismometer in the State of Maryland, located in Reisterstown and unable to measure lower level quakes in our region.
2. Of concern to Deep Creek Lake property owners, the Deer Park Anticline, which lies under over half of the lake, has yet to be studied. MGS Geologist Dr. Brezsinki predicts he will find surface fault lines in this quadrant as have been found in the Accident Anticline quadrant. What are the threats and risks to the lake?
3. The process of fracking is “induced seismicity” and geologists know such man-made activity may threaten the region. No regulations should be adopted until this study and findings are completed and needed on-going assessment and monitoring to fully cover the fracking zone.

**No protections for Deep Creek Hydro dam**. Regulations do not incorporate special measures to assess and protect the 91 year old Deep Creek Hydro dam, one of several man-made dams in Garrett County which may be threatened by fracking.

1. Given the importance of Deep Creek Lake and consequence of a threat to its integrity and impact downstream and on the Town of Friendsville, regulations must a) incorporate both on-going monitoring exceeding existing MDE requirements for this dam; and b) assess and possibly require improvements to the dam structure, if fracking is permitted. .

**No consideration of impacts from nearby states**. The regulations do not fully incorporate the impacts from surrounding states.

1. Example: location of injections wells in border areas of West Virginia and Pennsylvania. The process of injection of waste water has been identified as most likely to generate earthquake activity While Maryland says it will not permit injection wells, such wells are located in nearby West Virginia and Pennsylvania. What steps will the State of Maryland take to address this very real threat?

**Omits impacts of fracking on the resort based economy.** The section of the regulations titled “Estimate of Economic Impacts” is superficial and limited in scope.

1. A major failure is omission of consideration of the “boom-bust” economic cycle found in other shale gas extraction areas.
2. The regulations do not look at interconnection between negative public health, safety, environment and natural resource impacts and the economy. Example: if there is decrease in air quality due to fracking, what are the projected associated health risks and medical costs of treatment for those who suffer? These costs must be incorporated into a full analysis.
3. In the section on “Types of Economic Impact” in the proposed regulations impacts on lake property owners are not covered. What DCL property owners, policy makers in Garrett County and state policy makers and citizens need is a comprehensive analysis of the impact of fracking on the regional resort-based economy and particularly on matters pertaining to lake property owner investments, lake-based quality of life as well as costs to County and region. Friends of Deep Creek Lake requested such a study from the Governor’s Commissioner 5 years ago.
4. Garrett County has initiated a study but is still seeking funds to underwrite the work. It is clear that such an analysis will not be available until after the close of the 2017 Session.
5. MDE regulations do not provide the members of the Joint Committee and the General Assembly with comprehensive economic impacts of fracking and, therefore, must not be adopted.

**In conclusion:**

Lake property owners do not stand to gain financially from fracking. In fact, they stand to lose a lot in terms of property values as well as enjoyment lake-based and regional amenities. Devaluation of our properties will have substantial consequences on tax revenues for the county and state and could well cost the state in funds to bail out the consequences of fracking in the county.

Lake property owners and users are concerned about health and safety impacts and worry about the threats to the environment and the lake as a premier state owned natural resource.

Most lake properties are second homes. Our neighbors talk about putting their properties on the market if fracking is permitted. Such actions would be devastating to the local economy and in the long term would not be off-set by fracking related revenues.

The State must issue regulations which provide reasonable protections against what is well known to be negative impacts from fracking and industrialization of a rural, resource rich region.