

DCL Testimony.pdf

Uploaded by: Grant Callery

Position: FAV

Testimony by
Grant Callery
SB 837
February 20, 2024

I am a homeowner at Deep Creek Lake in Garrett County and have owned there since 1993. I also serve on the Board of the Property Owners Association of Deep Creek Lake. I also have a residence in Montgomery County.

I fully support this legislation for several reasons.

- The reduction of lake levels is reasonable and will only take the lake down within the existing rule bands.
- The growth of shoreline grasses is causing problems for dock owners, boaters, and swimmers in the lake and reduction of water levels will retard the growth of these grasses which cannot be killed in other ways because they are “native” to DCL.
- Brookville, the large multi-national owner of the dam and the hydroelectric rights has refused to reduce the water levels as has been done in the past without any evidence that doing so will result in their inability to accomplish releases for electrical generation, whitewater rafting or fishery depletion.
- The lake is a significant economic driver for Garrett County from both a tax revenue and spending perspective. Anything that makes it less attractive to vacationers and potential homeowners endangers the County’s ability to meet the needs of its citizens.

Please support this legislation and make these views a part of the legislative record.

Thank you.

Grant Callery

SB837:HB910.pdf

Uploaded by: Lori Richards

Position: FAV

Bill Number: SB837/HB910

Title: "Deep Creek Lake - Lower Lake Levels - Requirement + Impact Study"

Committee:

House Environment and Transportation

Senate Education, Energy, and the Environment

Name: Lori Richards and Ken Newbaker

Position: **Favorable**

As homeowners in Garrett County, we support the Deep Creek Watershed Foundation and all those who work to protect Deep Creek Lake, the largest lake in Maryland, an important source of revenue, and most importantly, a beloved natural resource.

Submerged aquatic vegetation, including invasive plant species and aquatic nuisance plants, are much more prevalent in the Lake now than in years past. In shallower shoreline waters, it is thick and grows right to the water's surface.

We support lowering lake levels in the winter to retard the growth of these submerged plants. And we support conducting annual studies of the impact and the refill of Lake water each spring - to develop a permanent solution for all stakeholders of the Lake.

For these reasons we urge a favorable report, and we thank both Senator McKay and Delegate Hinebaugh for their leadership.

Bob Browning of SB837.pdf

Uploaded by: Mike McKay

Position: FAV

Testimony in favor of SB837 and HB910

I am Bob Browning Chairman of the Deep Creek Lake Policy and Review Board. This Board is established in law to assist in the management of Deep Creek Lake. This board has tried for years to get Brookfield power to lower lake levels in the winter with no results. Before Brookfield took over there were historical draw downs that helped control SAVs, allow shoreline work and help with sediment issues but since that has stopped we are seeing explosive growth in this vegetation and other problems.

SB837 would help give Lake Management a tool to address this problem. Brookfield could do this on their own, with no need for changes in permitting, but they refuse. We are told they worry about the ability of the lake level to reach its spring level but offer no evidence that this could happen. In the past much larger draw downs have occurred and the lake always has been able to be refilled. In any case this is a limited study to see what if any issues may occur.

Bob Browning
Chairman of DCLPRB

POA TestimonySB837HB910.pdf

Uploaded by: Mike McKay

Position: FAV



February 19, 2024

Testimony in Favor of SB837 and HB910

My name is Robert Sutton, I am a full- time resident of Deep Creek Lake in Garrett County. I also am the President of the Deep Creek Lake Property Owners Association and a Member of the Deep Creek Lake Policy and Review Board (which is responsible for setting policy and rules at DCL).

I have been at DCL since the 1950's and have observed a lot of changes good and bad. Historically the lake was always lowered in the winter months, the shoreline in shallow areas was exposed and the near shore grasses were killed off. Since Brookfield has had control of the lake level, they will not lower the lake to a point where the grasses are controlled. Neither Brookfield nor MDE will comply with many attempts to request a lower level for a period of time in the winter. These Bills require them to lower the Lake in the winter.

The explosive growth of these grasses around docks and swim areas creates problems with boating and swimming. They clog water intakes in boat motors and make it impossible to swim because you get tangled in the vines. Deep Creek is a wonderful lake for recreation – the POA mission representing 1/3 of the 2500 property owners is to Preserve and Improve the quality of the lake.

Based on almost 100 years of experience, if the lake is lowered in the winter, it will always fill back up in Spring. Brookfield has no basis to refuse to lower the water as these Bills order. Therefore, I urge these committees to move these Bills forward and to pass them into law.

The environmental study included will also provide real data on the effectiveness of this control measure which will be valuable data for other lakes in addition to Deep Creek.

Thank You

Robert Sutton

SB837 Lori Richards.pdf

Uploaded by: Mike McKay

Position: FAV

Bill Number: SB837/HB910

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Committee:

House Environment and Transportation

Senate Education, Energy, and the Environment

Name: Lori Richards and Ken Newbaker

Position: **Favorable**

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We support lowering lake levels in the winter to retard the growth of these submerged plants. And we support conducting annual studies of the impact and the refill of Lake water each spring - to develop a permanent solution for all stakeholders of the Lake.

For these reasons we urge a favorable report, and we thank both Senator McKay and Delegate Hinebaugh for their leadership.

SB837 Susan Crawford Letter.pdf

Uploaded by: Mike McKay

Position: FAV

SUSAN J. CRAWFORD
234 Hazelhurst Lane, Swanton, MD 21561
scrawfor7@gmail.com

February 19, 2024

Honorable Brian J. Feldman
Miller Senate Office Building, 2 West Wing
11 Bladen Street
Annapolis, MD 21401

Re: Support for SB837

Dear Senator Feldman:

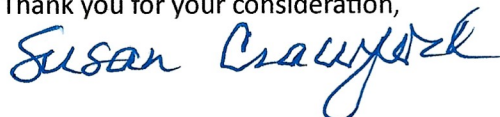
As a part and now full-time resident of the Hazelhurst area of Deep Creek Lake in Swanton, Garrett County, Maryland, for the past 70 years and a member of the Board of Directors of the Property Owners' Association of Deep Creek Lake (POA), I write to express my strong support for SB837. This bill will help control near shore vegetation through cold/freezing induced dieback which is an economically and environmentally benign method to control submerged subaquatic vegetation (SAV) growth, including invasive species. SB837 is scheduled to be heard before the Education and Environment Committee in the Maryland General Assembly on February 20, 2024.

SB837 requires Brookfield Power Piney & Deep Creek Lake LLC (Brookfield) to lower the level of Deep Creek Lake for at least 30 days during the winter months for 3-5 years during which the Maryland Department of Natural Resources (DNR) will conduct a study to determine if lower lake levels during the winter months will retard the growth of SAV. Historically, Brookfield and its predecessors lowered the lake level in the winter months and SAVs were not a problem for those using the lake. However, over the past two winters, Brookfield has kept the water levels very high, and we have experienced a tremendous growth of SAVS reaching up to 10-12 feet or more from the lake bottom and entangling swimmers as well as boat propellers and sailboat center or dagger boards. I would note that in my many years of living on the lake there is no record of the lake ever failing to be refilled by spring even when the levels were lowered below the current Lower Rule Band.

I am also concerned that if we continue to have the proliferation of SAVs we will experience a regeneration of invasive species which we have worked hard to control. As you may be aware, the POA has worked closely with and contributed financially to the DNR effort to eradicate and control the invasive species Hydrilla in the southern end of the lake.

Maryland has a rich history of investing in the protection and restoration of bodies of water, especially the Chesapeake Bay. I urge you and your colleagues to make a similar investment in Deep Creek Lake by supporting SB837.

Thank you for your consideration,



SB837.pdf

Uploaded by: Mike McKay

Position: FAV

MIKE MCKAY
Legislative District 1
Garrett, Allegany, and Washington Counties



James Senate Office Building
11 Bladen Street, Room 416
Annapolis, Maryland 21401
410-841-3565 • 301-858-3565
800-492-7122 Ext. 3565
Mike.McKay@senate.state.md.us

Judicial Proceedings Committee
Executive Nominations Committee

THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

Senate Bill 837 – Deep Creek Lake – Lower Lake Levels – Requirement and Impact Study

February 18, 2024

Dear Chairman Feldman, Vice Chair Kagan, and Members of the Committee

I am writing to strongly endorse Senate Bill 837 – Deep Creek Lake – Lower Lake Levels – Requirement and Impact Study. This bill will require the Water and Science Administration within the Maryland Department of the Environment to have Brookfield Power Piney & Deep Creek LLC to lower the level of Deep Creek Lake for 4 weeks between November 30th and February 28th. In this time the Department of Natural Resources to conduct a study at the time the lake is lowered. This is to determine what the impact is on the surrounding environment when the lake is lowered. This will take place over the next four years from the current year, 2024 until 2028.

The funding for this will come from State Lakes Protection and Restoration Fund, the Deep Creek Lake Recreation Maintenance and Management Fund, or any other source appropriate for funding. I thank you all for your time and ask for a favorable report.

Sincerely,

A handwritten signature in black ink that reads "Mike McKay".

Senator Mike McKay

Representing the Appalachia Region of Maryland

Serving Garrett, Allegany, and Washington Counties

Testimony in Support of SB837

Uploaded by: Paul Edwards

Position: FAV

Testimony in support of SB 837

Senate Education, Energy and the Environment Committee
Written Testimony Supporting Senate Bill 384
Deep Creek Lake - Lower Lake Levels - Requirement and Impact Study
Mr. Paul C. Edwards, Chair
Board of County Commissioners for Garrett County
February 20, 2024

Senator Feldman and members of the Education, Energy and the Environment Committee:

Deep Creek Lake and the surrounding area is often called the economic engine of Garrett County, and in many respects it is. The Lake is important to the County and the Board of Commissioners would not recommend any action that would jeopardize lake activities or the many downstream benefits, including white water rafting.

The Board of County Commissioners submitted the requested legislation during a Public Meeting with the Delegation on November 21, 2023. And shared draft copies with Maryland Department of Environment and Department of Natural Resources.

The Garrett County Commissioners support SB 837 as it will provide valuable scientific information on potential management tools for controlling nuisance submerged aquatic vegetation and excess sedimentation in shallow water coves and habitats. Managing both nuisance and invasive aquatic vegetation and controlling sediment inputs to Deep Creek Lake are key goals in the 2016 Deep Creek Watershed Management Plan, approved and signed by the Garrett County Commissioners.

SB 837 requires that the water level of Deep Creek Lake be lowered for a period of four weeks between November 30th and February 28th to enable Maryland Department of Natural Resources, or their contractors, to conduct studies to determine the impacts of the lower lake levels on the spread and growth of aquatic invasive plant species as well as sediment deposits in the lake.

Nothing in the proposed legislation is outside of the current permit requirements for the operation of the dam and generation of power. In fact, the current permit allows for emergency drawn downs of water without any penalties.

Multiple literature studies suggest that exposing aquatic species to cold winter temperatures during a lake drawdown will inhibit the spread of the vegetation. The studies proposed by SB 837 will help confirm if this is the case in Deep Creek Lake. The lake water levels will be lowered within the rules of the Water Appropriations and Use permit issued to Brookfield Power by Maryland Department of the Environment and will not be lower than the established "lower rule band" of 2455 feet for the winter months.

Historically, Deep Creek Lake has recharged in the spring, in ample time for whitewater releases. The Board of Commissioners have supported, and continue to support the whitewater releases for the rafting enthusiasts.

The ongoing Deep Creek Lake Arrowhead Cove dredging project involved the removal of accumulated sediment as well as both native and potentially nuisance aquatic species to help restore and maintain the lake as a healthy ecosystem and enhance the enjoyment of recreational users. The dredging project will address the pros and cons of dredging as a viable management tool for mitigation of accumulated sediment and will establish a baseline on the impact of the project on both native and invasive aquatic vegetation.

We recognize the need for the dam operators to maintain sufficient water levels to meet their contract requirements but there is also a requirement that the State of Maryland, as owners and stewards of the Lake research and evaluate best practices to control invasive aquatic species as well as to mitigate sediment. The information obtained from this proposed four-year study will be extremely important in the next permitting cycle.

We urge you to pass SB837 and would be open to discussing enhancements to address any concerns, especially for the whitewater stakeholders. We appreciate your consideration and support.

On behalf of the
Board of County Commissioners



Paul C. Edwards, Chair

Written Witness Testimony Senate.pdf

Uploaded by: Robert Hoffmann

Position: FAV

SB 837
Support Bill
Bob Hoffmann
135 Tenderfoot Road
Oakland MD 21550
President, Deep Creek Watershed Foundation

Senator Brian J. Feldman
Chair, Education, Energy, and the Environment Committee
Dear Senator Feldman,

My name is Bob Hoffmann and I am a resident of Garrett County, Maryland. I am the President of the Deep Creek Watershed Foundation and a member of the Deep Creek Property Owners' Association Board as well as an alternate member of the Deep Creek Lake Policy Review Board.

Deep Creek Lake (DCL) is the "Economic Engine" of Garrett County which generates property taxes for the County enabling a wide range of services to be provided to residents and visitors alike. In addition, the lake provides recreational activities including boating, fishing, water releases for whitewater rafting and more. However, DCL will be 100 years old in 2025 and, as you can imagine, needs constant attention to keep it healthy and able to provide enjoyment.

SB837 provides for the reasonable lowering of the lake level for a defined period in the Winter so that a study can be conducted of the impact of the cold temperatures on the exposed subaquatic vegetation (SAV) which grows close to docks and interferes with recreational activities such as swimming and boating. The study will determine if the growth of SAV can be managed in a natural and environmentally friendly way and benefit users of the lake as well.

You may hear some "scare" tactics being spread by those who oppose this bill that if the DCL is lowered in the Winter, it may not refill by Spring. Senator Feldman, there is no record of the lake ever failing to refill even when lowered further than SB837 mandates. One of the Foundation's supporters recently advised he has personally observed the lake refill each year for the past 40 years! This bill is important for a variety of reasons to ensure continued healthy and responsible recreational use of DCL in the coming years. There is nothing in the bill that poses risks to any recreational use.

Please share this letter with your committee members and vote it favorably out of your committee.

Thank you very much for your kind attention to this important matter!

Very Respectfully, Bob Hoffmann
President, Deep Creek Watershed Foundation

Testimony in Favor of SB837.pdf

Uploaded by: Roger Higgins

Position: FAV

Testimony in Favor of SB837

Dear Senator Feldman and Members of the Committee:

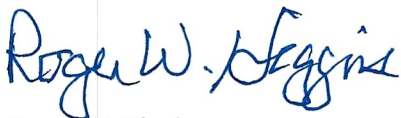
As a part and now full-time resident of the Hazelhurst area of Deep Creek Lake in Swanton, Garrett County, Maryland, and a member of the Property Owners' Association of Deep Creek Lake (POA), I write to express my strong support for SB837. This bill will help control near shore vegetation through cold/freezing induced dieback which is an economically and environmentally benign method to control submerged subaquatic vegetation (SAV) growth, including invasive species. SB837 is scheduled to be heard before the Education, Energy and Environment Committee in the Maryland General Assembly on February 20, 2024.

SB837 requires Brookfield Power Piney & Deep Creek Lake LLC (Brookfield) to lower the level of Deep Creek Lake for at least 30 days during the winter months for 3-5 years during which the Maryland Department of Natural Resources (DNR) will conduct a study to determine if lower lake levels during the winter months will retard the growth of SAV. Historically, Brookfield and its predecessors lowered the lake level in the winter months and SAVs were not a problem for those using the lake. However, over the past two winters, Brookfield has kept the water levels very high, and we have experienced a tremendous growth of SAVS reaching up to 10-12 feet or more from the lake bottom and entangling swimmers as well as boat propellers and sailboat center or dagger boards. I would note that in my 46 years of living on the lake there is no record of the lake ever failing to be refilled by spring even when the levels were lowered below the current Lower Rule Band.

I am also concerned that if we continue to have the proliferation of SAVs we will experience a regeneration of invasive species which we have worked hard to control. As you may be aware, the POA has worked closely with and contributed financially to the DNR effort to eradicate and control the invasive species Hydrilla in the southern end of the lake.

Maryland has a rich history of investing in the protection and restoration of bodies of water, especially the Chesapeake Bay. I urge you and your colleagues to make a similar investment in Deep Creek Lake by supporting SB837.

Thank you for your consideration.



Roger W. Higgins
234 Hazelhurst Lane
Swanton, MD 21561
February 19, 2024

Honorable Members of the Legislative Committee - C

Uploaded by: Sandy Bello

Position: FAV

Honorable Members of the Legislative Committee,

I stand before you today in staunch support of the proposed legislation aimed at the reasonable reduction of lake levels at Deep Creek Lake. This legislation is not only prudent but imperative for the preservation of our natural ecosystem, the well-being of our community, and the sustainability of our local economy.

First and foremost, the proposed reduction of lake levels falls well within existing rule bands, ensuring that it remains a measured and responsible action. By maintaining this balance, we can mitigate any potential adverse effects on the lake's ecosystem, safeguarding its delicate balance of flora and fauna for generations to come.

Moreover, the management of shoreline grasses through the lowering of water levels during winter months presents a natural and effective solution to address the challenges faced by dock owners, boaters, and swimmers alike. These grasses, left unchecked, pose significant obstacles and nuisances to recreational activities on the lake. By leveraging this natural approach, we can effectively retard their growth without resorting to potentially harmful chemical interventions.

It is essential to address the concerns raised by Brookfield Renewable Power, the multinational owner of the dam and hydroelectric rights. Despite their resistance to lowering water levels, historical evidence and expert analysis suggest otherwise. Skepticism regarding their claims that such reductions would impede essential activities like electrical generation, whitewater rafting, or fisheries management is warranted. We must prioritize the preservation of our natural resources over corporate interests.

Furthermore, let us not be swayed by scare tactics or baseless assertions. The historical record clearly demonstrates that Deep Creek Lake has consistently refilled by early spring after winter-level reductions. We cannot allow fear-mongering to cloud our judgment when it comes to safeguarding our environment and our community's well-being.

Finally, we must not overlook the critical economic importance of Deep Creek Lake to Garrett County. As the primary driver of property tax revenue and local spending, the lake serves as the lifeblood of our community. Anything that detracts from its allure to vacationers and potential homeowners poses a direct threat to our county's ability to meet the needs of its citizens.

In conclusion, I urge you to support this legislation for the reasonable reduction of lake levels at Deep Creek Lake. By doing so, we affirm our commitment to environmental stewardship, community prosperity, and responsible governance. Let us ensure that Deep Creek Lake remains a cherished resource for generations to come.

Thank you for your attention and consideration.

Sandra Bello

Vice President

Deep Creek Watershed Foundation

Testimony in Favor of SB837.pdf

Uploaded by: Susan Crawford

Position: FAV

Testimony in Favor of SB837

Dear Senator Feldman and Members of the Committee:

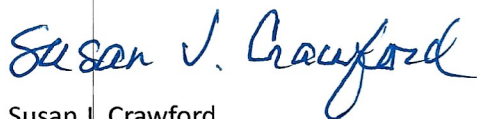
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Maryland has a rich history of investing in the protection and restoration of bodies of water, especially the Chesapeake Bay. I urge you and your colleagues to make a similar investment in Deep Creek Lake by supporting SB837.

Thank you for your consideration.



Susan J. Crawford
234 Hazelhurst Lane
Swanton, MD 21561
February 19, 2024

Virginia Craig Witness Testimony SB387.pdf

Uploaded by: Virginia R Craig

Position: FAV

*Virginia Smith Craig
22 Randall Way
Deer Park, MD 21550*

February 19, 2024

Dear Honorable Committee Members,

Our family has owned property, Pergin Farm, on the southern end of Deep Creek Lake for over 100 years. We have seen many changes to the health and topography of the lake over this time span.

Currently, the lake is experiencing several severe problems; invasive and nuisance plant growth, erosion and accumulated sediment in our coves, and the lack of a management plan to deal with these issues.

Due to increased vegetation growth, boating and swimming enjoyment is being limited and sediment buildup in cove areas is decreasing the property values as well as reducing the capacity of the power plant.

We are in support of 2024 Maryland House Bill 910. We see a need for requiring Brookfield Power to lower the lake level 30 days during the winter months over a period of four years and a legislative request for DNR to collect research and study the invasive and nuisance plant species and the impact of the lower lake level on these plants during this draw down. Lake level “draw downs” have historically prevented the growth of the vegetation by exposing it to the cold temperatures. Our family has witnessed this personally.

Please support this bill so the enjoyment and value of Deep Creek Lake will continue for future generations.

Respectfully,

Virginia Smith Craig

And family:

Mr. Mark A Craig

Ms. Kailee C. Craig Choradia

Dr. Nirmal Choradia

Ms. Kenzie D. Craig

Ms. Kamia R. Craig

Mr. Logan G. Craig

Ms. Sarah D. Craig

Virginia Ann Craig

Susan Craig Osborne

Lindsey T. Craig-Osborne

Brookfield Testimony

Uploaded by: Brett Lininger

Position: UNF

February 20, 2024

Education, Energy, and Environment Committee
2 West
Miller Senate Office Building
Annapolis, Maryland, 21401

Public Testimony of Brookfield Renewable on SB 0837, An Act Concerning Deep Creek Lake – Lower Lake Levels – Requirements and Impact Study

Chair Feldman, Vice Chair Kagan, and Members of the Education, Energy, and Environment Committee:

Brookfield Renewable respectfully submits these comments in opposition to SB 0837, which would require Brookfield Power Piney & Deep Creek LLC to lower the level of Deep Creek Lake for a period of at least four weeks each winter from 2024-2028. While Brookfield Renewable supports efforts to improve the health and safety of Maryland's waterways, we are concerned that this proposal fails to consider the merits of the existing processes and could have unintended consequences for communities and businesses in Garrett County.

In Maryland, Brookfield Renewable's 20 MW Deep Creek hydropower facility provides renewable, carbon-free power, local tax revenues, recreational opportunities, and both direct and indirect jobs in Garrett County. Brookfield Renewable owns 1,441 MWs in PJM and has 120 employees in the PJM territory and supports 460 indirect jobs across the region and pays more than \$48,000 in property taxes and \$10,000-\$40,000 in donations within Maryland annually, which provides critical funds for local schools, fire departments and public services. This bill will severely impact our operations and imposes risk on our Deep Creek facility and the benefits it provides to the community.

While we support efforts to preserve the health and safety of Deep Creek Lake, there is no evidence to suggest that lower lake levels will create that result. In February 2022, the Deep Creek Watershed Foundation released its three-year study outlining the water drawdown efficacy in reducing Submerged Aquatic Vegetation (SAV) and its implications. The study's findings

Brookfield Renewable U.S.

were inconclusive in terms of the efficacy of drawdowns.¹ In fact, for some SAV, the review found that mild drawdowns of this nature show less impact on SAV density and could have the opposite effect, potentially increasing macrophyte richness.² The study also found that “the timing and duration of drawdowns can negatively impact species by compressing life histories and changing food web structure”.³ Since this review, there have been no material changes that would provide the rationale for legislation to unilaterally bypass robust permitting processes currently in existence.

Brookfield Renewable currently holds a water appropriation permit with the Maryland Department of Energy (MDE) that outlines our operational requirements. This review is conducted every 12 years and includes a process to balance all applicable stakeholder concerns. In the previous permit cycle, approximately 18 stakeholder groups weighed in and 62 members of the public attended meeting to provide input. The provisions in this bill could also result in possible deviations from requirements in that permit. In the past, Brookfield facilitated reasonable requests from Garrett County regarding the water levels. Most recently, Brookfield lowered the water level during the initial phase of the Arrowhead cove sediment dredging project. While we welcome further discussions, the Legislature should defer these decisions to conclusions from robust stakeholder processes to ensure that all voices are heard, and all implications are thoroughly examined.

The Legislature must also consider the potential consequences of lowering the water band, including impacts to downstream fish comfort requirements, recreational boating, and the white water rafting community. This bill would harm our ability to uphold our regulatory and stakeholder obligations both upstream and downstream that must be balanced, in addition to providing an essential service in ensuring that clean, reliable power is delivered to homes and businesses throughout the region. As noted above, Brookfield is a significant owner and operator of hydro generation in PJM. Lowering the water band jeopardizes our ability to meet obligations to the electric grid and inject power during crucial winter months where the risk of outages and

¹ Argent, David. “Water Drawdown Efficacy and Implications.” The Deep Creek Watershed Foundation, February 2022.

² Ibid., at p.10

³ Ibid., at p.18

Brookfield
Renewable U.S.

extreme weather events are frequent. In fact, as a result of Winter Storm Elliot in 2022, the Federal Energy Regulatory Commission (FERC) recently approved changes to the PJM capacity market that, among other things, improves PJM's modeling of reliability risk during the critical winter period.⁴ Cold weather events during the winter are typically longer in duration and therefore have a higher potential of negatively impacting grid reliability.⁵ During these winter events, PJM relies on resources with short start-up times and consistent run times, like our Deep Creek hydro-electric facility to meet demand during peak-hours.⁶ Reducing Deep Creek's availability during PJM's peak winter period could have a negative impact on reliability in the Deep Creek area of PJM.

Finally, this bill could have costly impacts to a relatively small, economically sensitive facility in the state. By our estimate, this draw down requirement could result in approximately \$100,000 in additional costs annually (a cumulative loss of \$400,000 over the four-year period).

In other words, this bill may result in i) risks to the current and future operations of the hydropower dam, which supports family-sustaining jobs, local taxes and recreation within the watershed and generates energy necessary to meet Maryland's laudable policy goals and ii) costly impacts to the recreation communities and the health of the grid. It would also circumvent a well-established stakeholder process and substantially shift operating parameters in the middle of licenses previously issued by the state without adequate evidence while ignoring study results that indicate there is no substantially positive benefit to the lake. The Legislature must avoid this outcome and the related consequences. Thank you for your consideration of our comments. Please don't hesitate to contact me directly to discuss this issue further.


⁴ FERC Docket No. ER24-99-000, Order Accepting Tariff Revisions Subject to Condition, January 30, 2024.

⁵ North American Electric Reliability Corporation, 2023-2024 Winter Reliability Assessment, November 2023.

⁶ PJM Learning Center, How PJM Schedules Generation to Meet Demand, <https://learn.pjm.com/three-priorities/keeping-the-lights-on/how-pjm-schedules-generation-to-meet-demand>

Brookfield
Renewable U.S.

Sincerely,

A handwritten signature in black ink, appearing to read "Prusha Hasan". The signature is stylized with a large initial "P" and a long horizontal stroke extending to the right.

Prusha Hasan
Manager, State Policy and Regulatory Affairs
Brookfield Renewable US
prusha.hasan@brookfieldrenewable.com
202-999-5410

Opposition to SB837

Uploaded by: J Warren Wik

Position: UNF

2/18/2024

Dear Senator McKay,

I am writing to inform you of my opposition to Senate Bill 837. As the owner of Precision Rafting Expeditions, a whitewater rafting outfitter located in Friendsville, Maryland, I am dependent on sufficient water levels in Deep Creek Lake for our whitewater releases which allow whitewater rafting on the Upper Youghiogheny River. Precision rafting is one of six rafting companies that rely on these dam releases along with a tremendous number of recreational kayakers and rafters.

As this bill is written, Deep Creek Lake would be drawn down for a period of at least four weeks between November 30th and February 28th. Although there is the possibility that spring rains will bring the lake up to adequate levels by mid-April when the whitewater release season begins, there is also a chance a dry spring could leave the lake at a lower level, increasing the likelihood of cancelled releases in the summer months. Cancelled releases lead to decreased visitation to Friendsville and surrounding areas which affects more than just the rafting industry. It also would affect vacation rentals, hotels, restaurants, and countless other businesses.

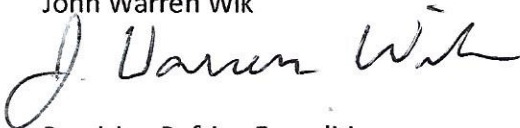
I understand there may be a legitimate need for research regarding aquatic vegetation. I am in favor of controlling invasive plant species, though not necessarily in favor of controlling aquatic nuisance plant species as this is not clearly defined. Does this suggest that native species providing habitat for fish and other aquatic life could be "controlled" to alter the shallow coves of the lake? While this may enhance some recreation could it not also negatively impact other recreation?

More importantly, I feel there has not been appropriate publicity regarding Bill 837. Stakeholders have not been adequately informed of this proposed change and public input has not been solicited regarding the bill. It would make sense that such legislation should be addressed via the triennial review as agreed to in the water appropriation and use permit issued to Brookfield Energy in September 2020. This permit is in effect until August of 2032 and states the maximum and minimum allowable levels for each month of the year. Bill 837 does not state a minimum allowable level during the proposed study time, which makes it even more difficult to predict to what extent it might affect the whitewater industry.

I ask that you please consider more research into this matter before moving forward with this bill. Additionally, I request an open forum in which various stakeholders could offer their input into the matter and those in favor of the bill could provide adequate information rather than the current vague language used in this bill. In doing so, those dependent on both the water levels and recreation opportunities available within Deep Creek Lake as well as those of us reliant upon the dam releases and increased volume in the Youghiogheny River will be in a better and more informed position. I appreciate any consideration.

Sincerely,

John Warren Wik



Precision Rafting Expeditions
P.O. Box 185 Friendsville, MD 21531
Warren@precisionrafting.com

Testimony Jess Whitemore

Uploaded by: Jess Whitemore

Position: UNF

Dear Education, Energy, and the Environment Committee:

Good Afternoon Mr Chairman and Committee members. My Name is Jess Whittemore and I have lived in the Town of Friendsville for over forty four years. I served on the Town Council for a combined 20 years and the present Council trusted me as their economic river liaison for this and many other River issues. The Town of Friendsville is against the passage of SB 837, Friendsville would appreciate an unfavorable committee report on this Bill for the following reasons:

- It could easily have a negative effect on whitewater dam releases as the dam operator Brookfeild Renewable Power and MDE have made clear to us especially on spring drought years.
- Friendsville highly values the economic and social benefits of whitewater releases. We depend on the scheduled whitewater release for Tourism and our growing population of whitewater enthusiast citizens. Risking the un-interrupted schedule is highly undesirable.
- Deep Creek Lake Watershed Foundation requested a Brookfeild permit change with MDE. The Foundations permit change request lacked evidence to support the study that required a one month low lake level.
- MDE denied the Foundation's request for lack of evidence.
- If MDE found that the request had merit they would have asked all DCL stakeholders for input which never happened.
- it appears that the Foundation circumvented MDE and solicited local politicians to intervene. This resulted in the creation of SB 837 without full DCL stakeholder participation or consideration, including the Town of Friendsville.
- SB 837 circumvents the respectful, lawful and thorough review of Brookfield's permit impact as well as impact on other DCL stakeholders including Friendsville that a MDE review process would have afforded us.
- Friendsville would appreciate an unfavorable committee report on this Bill
- Thank you for your time it is most appreciated.

February 14 2024Dear Honorable Senator Mike MckayM

Uploaded by: roger zbel

Position: UNF

February 14 2024

Dear Honorable Senator Mike Mckay

My name is Roger Zbel and I represent the commercial outfitters on the Upper Youghiogheny in Western Maryland. I have over 47 years of rafting and kayaking experience on the Upper Yough in Garrett County, and I feel I have a much better insight to how this request to hold the level of Deep Creek lake at lower level for this time period can have devastating affect on the rafting companies, white water interests and the fishery.

We are strongly opposed to Senate bill 837 for several reasons. First of all requiring Brookfield renewable energy to hold the lake at the lower level for that period of time has great potential for not being able to refill the lake for the next summer season. This exception to the Appropriations permit should be handled thru the Triennial review process thru MDE so that all stake holders have a chance to review and make comment.

Second The time period to study the SAV's in the winter months can be difficult if the lake is frozen over from December to March. No specific time frame other than 4 weeks between Nov and end of February has been described to make a better judgement.

Lastly if this bill is passed then the requesting party, the Deep Creek water shed Foundation/ thru the proxy of the Garrett county, Kevin Null, needs to have the MDE guarantee that if this study at the proposed low levels prevents Brookfield from filling the lake for the following boating season then they need to have an exception to the permit from MDE to allow Brookfield to release water for all the whitewater releases to occur regardless of lake levels.

Just to recap the commercial whitewater outfitters strongly oppose this bill because there has been no public process and no transparency to the other stakeholders.

Respectfully,
Roger Zbel

Commercial Outfitters representative for the Upper Yough.

Testimony from Mayor of Friendsville

Uploaded by: Spencer Schlosnagle

Position: UNF



*Mayor and Town Council
Town of Friendsville
Founded 1765*

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February 19, 2024

Dear Education, Energy, and Environmental Committee,

Good afternoon, Mr. Chairman and members of the committee thank you for this opportunity. On behalf of the Town Council and myself the Town of Friendsville is against the passage of SB 837. Friendsville would appreciate an unfavorable committee vote on this bill for the following reasons:

The Town of Friendsville believes that if SB 837 is passed it will negatively impact the hydroelectric dam's (Brookfield) permit requirements resulting in potentially jeopardizing whitewater dam releases. This risk would considerably increase in the instance of a drought spring occurrence or if a Dam service repair issue arises, both of which have occurred in the last few decades. Friendsville has strong social and economic bonds to their annual sixty-six scheduled whitewater dam release days and thus would be against this bill passage.

The Deep Creek Lake Watershed Foundation (Foundation) is considered an equal shareholder among Deep Creek Lake Stakeholders under MDE's Permit considerations. When a permit impact is desired, the request must go through MDE where they determine if it has merit and if so, they request comment from all DCL stakeholders. The Foundation requested an MDE review for their permit impacting study without credible scientific evidence. According to conversation on February 16, 2024, with stand in director of MDE Water Suply Robert Peoples, MDE looked at their request and couldn't find sufficient scientific evidence to support their plan to perform such a Permit impacting study, thus the request was denied. Instead of resubmitting its request to MDE with more creditable evidence included, it appears that the Foundation circumvented MDE and solicited local politicians to intervene. This resulted in the creation of SB 837 without full DCL stakeholder participation or consideration, including the Town of Friendsville.

Friendsville found out about this bill just days ago February 13, 2024, when a warning went out to Friendsville economic River Liaison Jess Whittemore from Brookfield via e-mail and subsequent phone conversations. Mr. Whittemore called Robert Peoples at MDE to verify that what Brookfield was saying was accurate. Robert Peoples said that Brookfield's statement in the e-mail was accurate; "If the Senate Bill is passed, this will impact the requirements of our permit, including but not limited to jeopardizing whitewater releases."

The Town of Friendsville is disappointed that we were not included in discussions leading up to this potentially damaging SB 837, it circumvents the proper, lawful, and thorough MDE process of Dam Permit impact review and stakeholder involvement. The Town of Friendsville is against SB 837 passage and looks forward to helping out in the respectful confines of MDE's, DCL stakeholder negotiation as we expect.

Sincerely,

Spencer R Schlosnagle
Mayor

Cc:

Senator McKay, mike.mckay@senate.state.md.us

Delegated Hinebaugh, jim.hinebaugh@house.state.md.us

Secretary of MDE, Serena McIlwain, mde.secretary@maryland.gov

Secretary of DNR, Josh Kurtz, josh.kurtz@maryland.gov

Chairman Edwards, Garrett County Commissioners, pedwards@garrettcountry.org

Eric G. Luedtke, Chief Legislative Officer, eric.luedtke@maryland.gov

SB0837_DNR_LOI_EEE_2-20-24.pdf

Uploaded by: Dylan Behler

Position: INFO



Wes Moore, Governor
Aruna Miller, Lt. Governor
Josh Kurtz, Secretary
David Goshorn, Deputy Secretary

February 20, 2024

BILL NUMBER: Senate Bill 837 – First Reader

SHORT TITLE: Deep Creek Lake-Lower Lake Levels -Requirement and Impact Study

DEPARTMENT’S POSITION: LETTER OF INFORMATION

EXPLANATION OF DEPARTMENT’S POSITION

The Department of Natural Resources, through COMAR Title 8, subtitle 08, is charged with maintaining a balance of ecological and recreational value in Deep Creek Lake. This balance is difficult to maintain fully where one use may impact another use. Furthermore, recreational value includes many different types of recreation from boating to fishing to water-skiing to hunting to nature photography, and balancing these types of recreation must also be considered.

DNR is committed to balancing these many different recreational uses and the high-quality ecological ecosystem in Deep Creek Lake.

BACKGROUND INFORMATION

Brookefield Power manages Deep Creek Lake levels per their MDE-issued Water Appropriation permit to constrain the level of the Lake between 2461 feet (above Sea Level; full pool level; peak height during the summer) and 2455.0 feet (above Sea Level) at the lowest level in the winter period. During the winter months addressed in this bill, the lake is to be maintained between 2455 feet and 2458 feet. Recent history has demonstrated that Brookefield Power prefers to maintain the lake level at the higher levels of the permitted levels, and above this requested lake level. This legislation forces Brookefield power to keep the lake level in the bottom half of the approved lake level rule band.

The legislation intends to lower the lake level for a 4-week period in order to freeze or kill the roots and seeds of nearshore sub-aquatic vegetation; hopefully, resulting in less dense SAV in the nearshore to assist in boating activities. If successful, this will also kill or limit the vegetation in the shallow regions of the Lake where SAV is used for juvenile fish habitat.

Deep Creek Lake is a highly utilized recreational asset to the State of Maryland. People enjoy boating via kayaks, jet skis, pontoon boats, sport boats, and fishing boats. People enjoy both the cold water and warm water fisheries managed within the lake and enjoy fishing year-round. Nature lovers also enjoy the serene nature presented in the Lake through photography, picnicking, swimming, and being in the outdoors peacefully. In the MDE Water Appropriation permit, Brookfield is also challenged to meet minimal flow releases and temperature enhancement releases, both of which support the high-quality trout stream downstream of the dam. While not a recreational activity on the Lake, the

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whitewater rafting community is supported by water releases from the Lake. The balance of all of these uses is difficult to support at all times.

Deep Creek Lake, through the use of the State Lakes Protection and Restoration Fund (sunsetting on June 30, 2025; current SB1094 / HB1347 request a two-year extension) has recently funded over \$500K per year for items such as shoreline erosion protection installation, invasive species removal, dredging of the Arrowhead cove, SAV restoration, and mercury mobilization studies, to help manage the Lake. This bill asks for the State Lakes Protection and Restoration Fund to fund two studies, which can only happen if the fund is extended and DNR chooses to remove funding from other projects. If the State Lakes Protection and Restoration fund is not extended, the costs would revert to the Deep Creek Lake Recreation and Management Fund which would not be able to support the current needs, the additional needs currently being funded by the State Lakes Protection and Restoration Fund, and these additional studies.

The two studies requested in this legislation are for SAV density and species identification; and, sediment studies in the areas of the lake that would get exposed in the lake drawdown. The intent is to demonstrate if lake level drawdowns reduce the amount of near shore SAV. These studies would need to be adapted from what the legislation states in order to meet the goals stated as they request SAV studies during the draw down period where SAV would not be able to be observed and identified.

BILL EXPLANATION

This bill would require MDE to modify the current “Water Appropriation and Use Permit” to constrain the level of the lake to a level currently within the use permit, but at the lower half of the use permit for a period of 4 weeks between November and February beginning in 2024 and ending at the end of 2028.

DNR is required annually to conduct a study during these lowered water times on SAV and sediment in the exposed portions of the Lake, and then publish these results in a report due annually in the month of June for 2025 through 2029.

Any entities publishing permits, regulations, etc. regarding Deep Creek Lake should consider the results of the DNR-generated reports in their decisions.

The funding for the studies and reports is to be provided by the State Lakes Restoration and Protection Fund or the Deep Creek Lake Recreation and Management fund, or any other funding source.