



ADVANCING PUBLIC TRUST SOLUTIONS
TO SAVE THE GREAT LAKES

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FLOW Offers Legal Strategies To Empower Communities at “Michigan Fracktivism: How Citizens Can Protect our Water, Land and Health” in Allegan, Michigan

Traverse City, MI – On Monday, FLOW Chair, Jim Olson spoke to a group of 150 people in Allegan, Michigan about specific legal strategies to empower local communities and townships to proactively address the unprecedented impacts of hydraulic fracturing, also known as fracking, on land use, water, and other natural resources. FLOW, Food & Water Watch, and Michigan Land, Air and Water Defense Committee (“MLAWD”) co-sponsored this forum event to educate citizens and communities who are increasingly frustrated and even outraged by Michigan’s on-going state land lease auctions for oil and gas development and the lack of federal and state regulatory oversight.

As the current laws now stand, oil and natural gas companies are exempt from the following laws: (1) key federal environmental laws, such as the Safe Drinking Water Act and the Clean Water Act, (2) state statutes specifically in Michigan designed to protect the state’s natural resources, (3) and even local laws attempting to regulate withdrawal limits within communities. Thus, if the federal government has deferred regulation of the oil and gas industry to the states, and the states have exempted the industry, and the local governments are prohibited from regulating the actual wells, who is regulating this industry? And what can citizens and local governments do?

To fill this vacuum and meet the growing needs of communities throughout Michigan, FLOW’s Public Trust Policy Center just released its detailed legal report with draft ordinances titled, “*Horizontal Fracturing for Oil and Gas in Michigan: Legal Strategies and Tools for Communities and Citizens (November 2012)*.” At this forum, Olson presented FLOW’s suggested legal strategies and tools for local governments to safeguard their communities against the unprecedented, huge, and cumulative impacts of fracking.

Specifically, Olson described how townships and counties could adopt local zoning and police power ordinances to regulate ancillary oil and gas activities, such as natural gas pipelines, flow lines, gathering lines, treatment or production facilities, or compressors, high volumes of water and chemical mixing stations, toxic emission releases, high truck traffic and transportation issues, land impact, odors, noise, and handling, reuse, and disposal of wastewaters, and hazardous air, solids or liquids. Carefully tailored ordinances, in turn, would place greater control in the hands of local government.



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“Local authorities regulate shopping malls, landfills, gravel pits, residential, agricultural, and industrial zones.” Olson observed then, “Why shouldn’t local governments be able to regulate the land use activities and disruptive impacts on associated with unconventional horizontal fracking?” He added, “Communities should do this now, rather than suffer the fallout and regret later.”

Olson also mentioned that some communities opted for moratoria ordinances to delay oil and gas exploration for a finite period of time (e.g., 6-12 months) or enacted outright ban ordinances to prohibit fracking activities all together. Despite judicial challenges to these types of ordinances, especially bans, some 39 communities in New York State have enacted fracking ban ordinances to further bolster the statewide moratorium on fracking.

Nationally renowned as a major voice for food, water, energy, and justice policies, Wenonah Hauter, Executive Director of Food & Water Watch, gave the keynote presentation, highlighting the tremendous economic, environmental, and quality of life impacts of fracking while also debunking the many myths behind the fracking frenzy, such as the economy/jobs argument and the energy independence card. Rather, Hauter noted, “the fracking frenzy is not about the gas or energy independence.” She described the industry as a ponzi scheme with overhyped promises about natural gas that is critical to recouping its prolific investments in land leases nationwide. In fact, Hauter pointed out that one of the major corporate players, Chesapeake, is now the largest landowner in the United States, owning over 15 million acres or two-times the size of the state of Maryland. She also cautioned the audience about the financialization of nature as derivatives and other financial instruments are placing a price tag on natural resources like the Great Lakes to be bought and sold along side other commodities.

Maryann Lesert, Professor of English at Grand Valley Community College, discussed her role as a writer activist in researching and writing about fracking in Michigan, as well as providing a framework for other activists to “get the word out.” She chronicled the differences between the 2012 spring and fall state land lease auctions for oil and gas development, noting how citizens had become more vocal and dissident in the most recent auction.

As a next step, FLOW plans to take its Policy Center report and put it into action by working with one or two interested Michigan townships, county planning commissions and/or boards to implement a package of sound, carefully drafted ordinances that address and mitigate the potential risks and effects of fracking in their communities.

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FLOW is non-profit organization working to educate the public about the public trust doctrine as a unifying framework to address the systemic threats to water, public lands, and the environment throughout the Great Lakes Basin. For a copy of FLOW’s Report titled, “Horizontal Fracturing for Oil and Gas in Michigan: Legal Strategies and Tools for Communities and Citizens,” email FLOW at info@flowforwater.org