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THE LEAGUE
OF WOMEN VOTERS
of New York State

January 11, 2012

Attn: dSGEIS Comments,
New York State Department of Environmental Conservation,
625 Broadway,
Albany, NY 12233-6510

Dear Commissioner Martens:

This letter is submitted by the League of Women Voters of New York State (“League”) for purposes of commenting on the proposed high volume hydraulic fracturing (“HVHF”) regulations and the proposed amendment of the State Pollutant Discharge Elimination System regulations, 6 NYCRR Parts 52, 190, 550-556, 560, and 750.

The League opposes closing of the regulatory comment period and/or promulgation of final regulations until finalization of the draft SGEIS. Similarly, the League supports a moratorium on closing the comment period for the SGEIS until at least 120 days after the EPA has issued the final report of its study of the impact of HVHF on the water quality and public health. In support of its positions, the League refers to written testimony submitted in response to the draft SGEIS and incorporates it by reference.

Although both the science pertinent to HVHF is unsettled in many respects and the September, 2011 SGEIS contains many omissions, the League will highlight just three in this comment: failure to consider public health impacts of HVHF;¹ failure to develop adequate avenues for disposal of flowback water and other waste generated by drilling; and failure to understand what happens to HVHF fluid that does not immediately return to the surface as flowback fluid. In addressing the last question, both the possible migration of underground HVHF fluid and the impact that specific geologic conditions have on migration, if any, should be understood prior to the state’s finalization of its procedures.

¹ See <http://www.timesunion.com/default/article/Doctors-urge-fracking-moratorium-2451687.php> for a recent call for a moratorium in populated areas and <http://hefn.org/resources/events/epidemiologic-and-public-health-considerations-of-shale-gas-production-the-missing-link-hydrofracking> for the conference at which the call for a moratorium was announced.

The Agency for Toxic Substances and Disease Registry (“ATSDR”) of the Centers for Disease Control in Atlanta, in a recently- issued report on contamination of wells by HVHF fluid released after an equipment failure, made six recommendations, including:

5. . . future environmental assessment at natural gas hydraulic fracturing sites in the Marcellus Shale formation [should] address the following:
 - a. Environmental exposure pathways in addition to groundwater should be included (e.g., fish in potentially impacted surface water bodies, livestock consuming potentially impacted surface water, air).
 - b. In addition to the parameters commonly monitored and sampled in groundwater, ATSDR recommends that methane, ethane, lithium, strontium, and radiological parameter sampling should be included in “pre drilling” and “post drilling” private groundwater sampling events.
 - c. Head space gas monitoring for methane and ethane and other volatile organic compounds should be conducted.
 - d. Drinking water should also be tested for radon (and indoor air should be tested for radon). Many areas of Pennsylvania have elevated levels of naturally occurring radioactivity, including radon. Radon testing information would permit a more comprehensive consideration of total radioactive dose from gross alpha radiation for these locations. A more detailed future analysis of the water would be helpful to confirm if radiation levels are elevated, and if so if this is the result of naturally occurring radioactive material or technologically enhanced naturally occurring radioactive material.
6. . . all private groundwater well users routinely sample their wells for biological, chemical and physical parameters at least annually, especially those in close proximity to natural gas drilling activities.²

In discussing these findings, Dr. Christopher Portier, director of the National Center for Environmental Health at the federal Centers for Disease Control, noted that, “much more research is needed to determine the possible impacts of shale gas drilling on human health and the environment.” He indicated, “Studies should include all the ways people can be exposed, such as through air, water, soil, plants and animals.” “We do not have enough information to say with certainty whether shale gas drilling poses a threat to public health,” he wrote. “More research is needed for us to understand public health impacts from natural gas drilling and new gas drilling technologies.”³

² *Health Consultation – Chesapeake ATGAS 2H Well Site, Leroy Hill Road, Leroy – Leroy Township, Bradford County, PA*, Centers for Disease Control (2011) at

<http://www.atsdr.cdc.gov/HAC/pha/ChesapeakeATGASWellSite/ChesapeakeATGASWellSiteHC110411Final.pdf>.

³ *CDC scientist: tests needed on gas drilling impact*, *Wall Street Journal*, Associated Press (January 4, 2012) at <http://online.wsj.com/article/AP8338b702930849f49d22a5d96b7d1b2d.html>.

Duke University researcher Rob Jackson indicated in the Wall Street Journal article, "What's safe in Oklahoma might not be an acceptable risk somewhere else, where the population density is higher. And you have different geology."

Leroy Township, PA, which was the subject of the CDC report, has a population of 718 residents, with an approximate population density over 48 square miles of 15 people per square mile (US Census 2010).⁴ New York City has a population density of 26,402.9 people per square mile.⁵ New York State has an average population density of 411 people per square mile and is the 9th most densely populated state in the country.⁶

Risks that may be acceptable in states that have embraced HVHF are inappropriate for a state with population density such as New York State absent further investigation. At a minimum New York should delay issuance of the SGEIS and hold open the comment period for proposed regulations until at least 120 days after issuance of the final EPA study.

Thank you for the opportunity to comment on the proposed regulations.

Sincerely

BETSEY B. SWAN
President
League of Women Voters of New York State

⁴ *Health Consultation*, p. 1.

⁵ Wikipedia at http://en.wikipedia.org/wiki/List_of_United_States_cities_by_population_density.

⁶ Census 2010 at <http://2010.census.gov/2010census/data/apportionment-dens-text.php>.