

NATURAL RESOURCES

IMPACT ON ISSUES 2005-2007

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NATURAL RESOURCES

NATURAL RESOURCE POSITIONS OF THE LWVUS

Action Taken Under Those Positions by the LWVNYS

Promote an environment beneficial to life through the protection and wise management of natural resources in the public interest. (LWVUS *Impact On Issues*, 2006-2008, p. 41)

AIR QUALITY**(Further Guidelines and Criteria, LWVUS Impact on Issues, 2006-2008, p. 48)**

Over the years, the League has lobbied the New York State Legislature to bring New York's laws and regulations into compliance with federal laws. The League was directly involved with defeating the first proposed New York Clean Air Compliance Act (NYCACA); also known as the NY Dirty Air Bill, and the successful passage of the final NYCACA. This brought the state into compliance with the 1990 Amendments to the Clean Air Act (CAAA). However, each year until 2015 regulatory changes will have to be put in place; and League members will have a role to play guaranteeing their timely implementation. The federal Environmental Protection Agency (EPA) will also be releasing rulings on environment standards that New York will need to adopt in a timely fashion. In 1997, the emphasis was on limiting smokestack emissions to reduce ground level ozone and reduction in the size of particles that could be trapped in the lungs. The League and others also argued that southern and midwestern states should not be excluded from the CAAA, as pollution knows no boundaries.

For discussion of clean indoor air, see the Health Care section of this document.

Over several legislative sessions, the League has actively lobbied for burn barrel legislation, which would ban outdoor burning of substances such as leaves, tires, and other toxic materials. This legislation passes the Assembly, but has been stalled in the state Senate.

League participated in the development of state air regulations and the State Implementation Plan (SIP); and members served on the Air Toxics Task Force as one of only two environmental groups. The League will continue to give written and oral testimony as needed to protect air quality.

ENERGY**(Further Guidelines and Criteria, LWVUS Impact on Issues, 2006-2008, pp. 48-49)**

In 1995-97, we continued our support for energy conservation, by serving on a Federal Energy Regulatory Commission (FERC) and a Department of Environmental Conservation (DEC) Collaborative Cooperative Process (CCP) team to re-license the St. Lawrence Dam for the New York Power Authority (Hydropower).

The CCP team process is an experimental idea to regulate sources requiring a FERC license. It allows all interested parties to present issues of concern at the onset—allowing changes only for grammar, content, or consolidation, and only with the consent of the interested party. All interested parties means that if you show up or submit a written statement, you are an official interested party. The purpose is to reduce controversy, limit litigation, and promote understanding. This process should decrease time and money spent on the regulatory process. Several small projects were successful; several were less successful. The team process to re-license the St. Lawrence Dam was the largest project. League principles got quite a workout, mainly because League is the only organization that studies the open process.

Deregulation of the electric utility industry is an area of significant concern at both the state and local levels of League. Trying to sort through the process is difficult because of all of the interests involved. New York continues to have some of the highest utility rates in the country primarily due to the regulatory process and the impact of air pollution. One of the issues addressed in the 1997 Clean Water/Clean Air Bond Act was the purchase of electric vehicles; the state was a pioneer in this area. Since gasoline powered vehicles are the largest source of air pollution, the state has taken an active role in encouraging other low emission vehicles with its support for natural gas-powered buses and cars.

WASTE MANAGEMENT**(Further Guidelines and Criteria, LWVUS Impact on Issues, 2006-2008, pp. 50-51)**

Since 1980, the League has supported legislation to encourage source separation and recycling of solid waste. Passage of the Bottle Bill was the League triumph of 1982, the result of an eight-year campaign. We continued to support General Municipal Law (GML) 120AA which mandates municipalities to source separate certain materials such as glass, metals and some papers. Leagues around the state urged local officials to implement and enforce this legislation. In the 1980s, the League adopted the state's solid waste hierarchy of Reduction, Reuse, Recycle, Incinerate and Landfill. In 1991 LWVUS proposed a moratorium on incinerators until fiscal, health and recycling impacts were fully examined. We have lobbied extensively for an environmentally sound packaging act, which would reduce the amount of packaging, reduce the use of virgin materials, and create recycling markets. This is an area where League members have shown true leadership with the development of the environmental shopping program and school education projects. In this process, League members have joined boards, committees and encouraged solid waste management activities at the local, state, and national levels.

While many New York State localities are doing an excellent job of recycling, and encouraging reuse and reduction, other places have never heard of the Solid Waste Hierarchy or GML 120AA. Therefore, League members continue to advocate and educate.

In 1995-96 most of the legislation raised at the state level was minor. With the stronger incinerator regulations enacted in the year 2007, this issue will become more important. Legislation is still actively being proposed at both the state and federal levels to limit the transport of solid waste across state lines. Business groups continue to try and have regulations repealed, an attempt to pass on to the taxpayers the costs of doing business. For years, waste disposal has been borne by taxpayers and consumers, rather than the manufacturers that produce it. Several communities have passed laws preventing the importation of waste for disposal within their municipalities. However, there is still no real pressure to reduce the amount of solid waste and this will continue until the DEC starts to enforce the recycling regulations. In 2007, Governor Eliot Spitzer appointed an environmentally strong Commissioner of DEC. Our hopes were renewed that recycling regulations would be better enforced.

During the 2003 legislative session, the League revisited an issue from the early 1980's. Because of strong League leadership, in 1982 New York State passed the "bottle bill" that requires a deposit on soft drink containers. Since that time, the use of plastic water bottles, juice bottles, and other non-carbonated beverages has proliferated, and there have been numerous attempts to pass a "Bigger Better Bottle Bill" to include these containers. Passage of a BBBB has been a priority since 2004. With a new governor in office in 2007, there was a major effort by a large coalition, including LWVNYS, to pass a BBBB that would have recycled an estimated two billion additional containers, and generated \$100 million for the Environmental Protection Fund. Governor Eliot Spitzer had included the bill in his budget; but it was removed by the legislature. Mr. Spitzer has promised to introduce the "Bigger Better Bottle Bill" as separate legislation. The League has lobbied vigorously for this legislation and will continue our efforts until this legislation becomes reality.

SUPERFUND

Funding for Superfund continued to be an ongoing issue in the legislature. Whether the reliance for cleanup was based on engineering controls (creating hazardous waste landfills) or institutional controls (using deed restrictions), this issue fell off the negotiating table following the September 11, 2001 attacks. Late in October, during a special budget session, \$30 million was restored to keep the program running through the 2001 fiscal year.

In the fall of 2003, New York Governor Pataki signed into law new measures to refinance and reform the State's Superfund and Brownfield programs in an effort to clean-up thousands of contaminated properties, and to encourage new investment and redevelopment for local economies. The legislation provides \$120 million a year to refinance New York's bankrupt State Superfund, and expands the program to include additional sites such as dry-cleaning facilities.

The new Brownfields Program offers liability reform, tax incentives, and a predictable process for cleaning up hazardous waste sites throughout the state. By the summer 2007, the environmental community was concerned that tax incentives to developers in the Pataki law far exceeded the actual benefits of the brownfields clean up. It is anticipated that the new Spitzer administration will revisit this issue with new legislation in the 2008 legislative session.

HAZARDOUS WASTE

(Further Guidelines and Criteria, *LWVUS Impact on Issues, 2006-2008, pp. 51-54*)

Throughout the 1980s and the 1990s, League members have lobbied for a wide range of legislation such as the NYS Superfund Environmental Quality Bond Act, the Hazardous Substances Bulk Storage Act, the Pesticide Reporting Bill, and other regulatory measures necessary to track the use of hazardous substances within the state. Of primary concern has been the disposal of these toxins in a safe and traceable manner. League members have supported upgrades of enabling legislation, commented on proposed regulations, opposed many beneficial use concepts, (designed to hide or disguise the hazardous content of the waste) and supported the rights of citizen suits. We support recognition of Household Hazardous Waste and have worked for public education and safe collection programs.

During the 1995 legislative session, the League gave testimony supporting the use of “volunteer developers” to cleanup polluted sites known as “brownfields,” so that they could be used. In 1996, we supported the Clean Water/Clean Air Bond Act, which allocated funds for this purpose. Once signed by the governor, it then appeared on the November ballot for passage by the voters. The League educated voters (pro and con) and encouraged the bond’s passage. Following passage, the League worked with other organizations to ensure an open and accountable process for projects selected. This was to ensure that there was equitable management of the allocated funds to promote sound environmental policy.

We are opposed to holding owners of polluted sites liable for cleanup, if they truly are an “uninvolved party.” i.e. did not cause the pollution. The League continues to require the state to find the “actual polluters” and require them to pay for the cleanup costs, rather than the taxpayers. The League is concerned about the waste of taxpayer dollars and the time wasted in determining responsibility for brownfield cleanup, and has pushed for a procedure that would serve the best interests of the public.

Pesticide Notification Law

This law was passed in 2000, went into effect in July 2001, and was a major League accomplishment. This is enabling legislation that must be adopted at the local level. This could mean a lack of action because of local costs for implementation.

However, part of the law is mandatory. It requires notification for schools and day care centers. After July 1 2001, public and private schools must notify parents at the start of the school year if pesticides will be used. Parents may request 48-hour notification and the school must make it known three times a year when and where pesticides are used.

Comparative Risk Project to Prioritize Pollution Prevention Activities

The NYS Assembly Legislative Commission on Toxic Substances and Hazardous Wastes issued a publication critical of the Department of Environmental Conservation’s report on Comparative Risks. This project was to evaluate and compare the risks associated with toxic chemicals in the state in order to set priorities for the DEC’s pollution prevention activities. The project divided work groups into various categories such as Human Health, Ecosystems, and Quality of Life. The steering committee released a Phase I Final Report and charged the Risk Reduction Strategies Work Group with carrying

out Phase II. They will build on the risks identified in Phase I to develop a pollution prevention strategy for the state.

The Commission is concerned that the Project has focused too exclusively on the hazards that are well known, while placing little emphasis on problems and chemicals that are less well known. The analysis was limited to quantitative data, and this data is not available for many non-cancerous effects, such as hormone disruption. Out of 1,300 chemicals listed as hazardous by DEC and 70,000 chemicals used in the workplace, the Project evaluated only 220.

As a result, the Project overlooks many of the risks for which little quantitative data is available, such as the risks posed to children by chemical exposure, as well as the risks of developing non-cancerous disease, such as neurological damage, and birth defects.

WATER RESOURCES**(Further Guidelines and Criteria, LWVUS Impact on Issues, 2006-2008, pp. 49-50)**

Since 1965, League members have had a continuing interest in water issues leading in 1997 to our state position on WATERSHED PROTECTION. We continue to push for legislation protecting the state's waters. Members serve on water resource advisory committees at all levels. The League works with other environmental and conservation groups statewide to support regulations conserving our resources and protecting the riverine systems (all source waters that lead to a river system) to prevent overuse and pollution. We support statewide strategies as well as financial aid that would rehabilitate water supplies, cleanup wastewater, eliminate watershed threats, meter all sources, and oversee water discharge permits.

As a result, of our position supporting regional management of water resources, the League created:

- The Lake Erie Basin Committee composed of Leagues from New York, Pennsylvania, Ohio, and Michigan.
- The Tri-State Committee (before 1996 - it was the Tri-State League) composed of members from the New York Metropolitan area, New Jersey and Connecticut.

These organizations monitor and advise on water management in their areas. They have alerted other Leagues to take action on legislation or problems that affect their water basins. We support funding for the Great Lakes Commission, and are following the proposed Great Lakes Water Initiative (better known as the Great Lakes Water "Guidance"). The Guidance will result in a major change in NY's water regulations. For the first time terrestrial and aquatic resources will have to be taken into consideration when considering regulations. Until 1997, human impact was the only consideration guiding the regulatory process. The importance of the whole ecosystem in maintaining human health is just receiving the attention it deserves.

Through the Tri-State League, we supported the Interstate Sanitation Commission (ISC) which advocates for improved water quality through regulation enforcement, research and monitoring for the Long Island Sound, lower Hudson River Valley and other tri-state waters.

At the 1995 Convention, the League adopted a mini-study: "*Need For Measures to Achieve Watershed Protection for Drinking Water, Including Pesticide Issues.*" The basis for this study was the BOCC League watershed study, which was adopted for concurrence by the Westchester ILO. Upon examination of issue, this study was expanded to two years.

**NEED FOR MEASURES TO ACHIEVE WATERSHED PROTECTION
OF DRINKING WATER, INCLUDING PESTICIDE ISSUES.**

Statement of Position

As announced by the State Board, April 1997

The League of Women Voters of New York State's position is based on the League of Women Voters of the United States water resources position in support of:

- **Water resource programs and policies that reflect the interrelationships of water quality, water quantity, ground water, and surface water and that address the potential depletion or pollution of water supplies;**

**NEED FOR MEASURES TO ACHIEVE WATERSHED PROTECTION
OF DRINKING WATER, INCLUDING PESTICIDE ISSUES.**

Statement of Position

As announced by the State Board, April 1997

- **Stringent controls to protect the quality of current and potential drinking water supplies, including protection of watersheds for surface supplies and recharge areas for ground water.**

New York should continue to set standards, determine classifications, and issue permits; in addition, localities may impose more stringent permit limits than the state standard.

The League supports state enforcement compliance with a strong role for county and local government.

In New York State the quantity of water is not an issue; however, there is a need for comprehensive ecosystem management within each watershed. This should include a regional approach to water regulation. League members recognize that management of water supplies will entail higher costs and restrictions.

Additionally, they recognize the need for strengthened contingency plans to provide for alternative supplies of water.

Water quality in New York State is adequate but threatened. Therefore members support strong regulations to reduce nonpoint source pollution. There is a need for education and technical assistance to address issues of best management practices to control nonpoint source pollution. Best management practices should be applied to all sources of nonpoint pollution.

The League supports:

- **A regional watershed approach requiring regulations that cross municipal boundaries;**
- **Requiring communities to keep their water and sewage infrastructure in good working condition;**
- **Limiting the use of pesticides, herbicides, and fertilizers; and**
- **Improving coordination between the various agencies charged to protect our drinking water supplies.**

The League is opposed to any proposal by the state for self-monitoring and/or self-determined compliance for water regulations.

In 1998, the NYS Department of Health's Bureau of Public Water Supply Protection began the development of a Source Water Assessment Plan (SWAP) as per the guidelines issued by the US Environmental Protection Agency. Future federal funding for source water protection will require that an approved assessment program be implemented. Millie Whalen, LWVNY's Natural Resources off-board specialist served on the Public Policy Participation working group of the SWAP advisory

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committee. This working group was responsible for determining the most effective methods for facilitating public participation. Local Leagues were encouraged to participate in the development of the plan via the DOH's teleconference and public meetings held throughout the state. The SWAP was completed in 2000.

LAND USE**(Further Guidelines and Criteria, LWVUS Impact on Issues, 2006-2008, p. 49)**

League members have been active in their communities in many land use issues. In 1976, the League did a state study that among other things supported establishing a statewide intergovernmental system for land resource management. This position has been re-examined over the years and found to still be valid. As a result of the 1996 Watershed study, “such as watersheds” was added.

LAND USE**Statement of Position****As announced by the State Board, May 1976****As amended, (underlined), April 1997**

The League of Women Voters believes that New York State must develop an intergovernmental system for land resource management. Such a system would require:

- 1. Local governments to adopt local land use plans under minimum state standards with direct or indirect financial and technical help from the state.**
- 2. Review by higher levels of government of those land use decisions which have larger-than-local impact, such as watersheds.**
- 3. The development of land to meet public needs (such as low and moderate-income housing, recreational and open space uses) under a system which fairly distributes the costs and benefits of such uses within a region.**
- 4. The strengthening of county and multi-county regional planning bodies.**
- 5. The use of regional commissions to represent larger-than-local interest in managing unique natural resource areas of the state.**

The League of Women Voters is concerned that inadequate planning at the state level wastes resources: natural, social and fiscal.

The state must coordinate functional plans of state agencies with each other, with federal programs, and with the budgetary process. The combined impact of state plans and actions upon land use should be considered.

The state must coordinate standards and guidelines in state programs to reduce inconsistencies, which frustrate citizens and local governments.

The State Environmental Quality Review Act of 1975 (SEQRA), updated in 1996, was supported by the League. We strongly opposed attempts to weaken.

We supported the laws on Coastal Zone Management in 1981 and the update of these laws in 1992. In 1996, we supported the inclusion of funds of waterfront revitalization plans in the Clean Water/Clean Air Bond Act.

The League supports the inclusion of the principles of the Public Trust Doctrine into our land use laws. Because they have laws that date back to colonial times, New York and the Long Island region have unique status with rights and privileges granted to them. The recognition of these laws has resulted in opening up bodies of water for the public's use.

In 1978, LWVNYS agreed on key components of an intergovernmental process for managing land within the state and supported the Adirondack Park Agency (APA). The key features of the APA that the League supports include:

1. Support the Adirondack Park Agency and the State Land Master Plan, including the unit management plans for state-owned lands. This plan calls for comprehensive review every five years.
2. Support the Land Use and Development Plan applied to the private lands in the Park.
3. Support the concept of the state and local governments sharing the planning and control process over use of private lands in the Adirondack Park.
4. Support local government in providing sound local land use planning throughout the Park.
5. Support preservation of open space, consisting of both private and public lands, and development of supporting facilities necessary to the proper use and enjoyment of the unique wild forest atmosphere of the Park.

The League continues to monitor changes to the Park, supporting some that we feel strengthen the original legislation and opposing proposed laws that weaken the purposes of protecting this unique natural resource.

The League supported legislation designed to improve the quality of land use planning and enforcement. Passage of these bills was an attempt to codify court decisions that have occurred over the years and to provide a uniform basis for zoning.

In 1990, we supported the Environmental Quality Bond Act, which was defeated by the voters. However, we continue to support the establishment of an Environmental Trust Fund/Act that follows the NYS Open Space Plan for land acquisition. This Trust Fund could be used for such environmentally necessary purposes as closing landfills, supporting recycling programs, and funding sewage treatment projects. We have also supported the creation of a dedicated fund to finance these activities. This dedicated fund has been subject to raids on the monies or non-disbursement of funds and has been the subject of much dispute.

Funding for the Environmental Protection Fund received no monies in the 2001 executive budget. It continues to be funded by fees (\$125 million this year). The legislation did not add any funds in the "bare-bones" budget and following the September 11 attacks; there was no impetus to include any new monies.

In the spring of 1999, the LWVNYS was a co-sponsor of the National Audubon Society of NYS's Smart Growth Conference held in Albany.

URBAN SPRAWL

At convention in 1999, delegates voted to review study materials necessary for concurring with a statement pertaining to urban sprawl. That review took place in Spring 2000 and the State Board announced the following new position:

URBAN SPRAWL

Statement of Position

As announced by the State Board, May 2000.

In order to conserve natural resources and improve the quality of life for its residents, New York State should take a proactive role in regional land use planning, enhancing urban neighborhoods, containing urban sprawl, and protecting agricultural land, open space, watersheds and other sensitive areas.

This position relates to many state and national positions arrived at over many decades. The League's natural resources positions on land use are based on positions reached from 1958 through 1986; on water in the 1960's; on equality of opportunity in 1968; and on access to transportation, and regional and metropolitan planning to prevent haphazard urban growth from 1971 through 1988. The League's urban policy position to promote the economic health of cities and improve the quality of urban life was announced in 1979. In 1976, the state League did a study that led to a position in support of establishing a statewide intergovernmental system for land resource management. Our position on watershed protection is a relative infant, arrived at in 1997.

Armed with the new position, the League has followed pertinent developments around the state by the governor, the legislature, and civic groups.

In early 2000 Governor Pataki issued an executive order creating the Quality Communities Interagency Task Force charged with studying community growth and with developing measures to assist communities in implementing effective land development, preservation and rehabilitation strategies. League members participated in the roundtable discussions held by the Task Force around the state. Its report entitled, *State and Local Governments-Partnering for a Better New York*, was issued on January 31, 2001. The report includes 41 recommendations for improving the quality of life in communities throughout New York.

Since the publication of this report, New York State's Quality Communities program has emphasized collaboration with localities and a bottom up approach to curbing sprawl, rather than leading by articulating a coherent vision and taking action to support it.

The State League joined the Smart Growth Working Group (SGWG) in January 2001. An informal coalition of 30 organizations was established at the first Smart Growth Conference in 1999 to monitor and guide the next steps for achieving smart growth in New York State. In addition to monitoring the Quality Communities Interagency Task Force and its Advisory Committee, the SGWG lobbies the State Legislature on smart growth issues. Implementation of the Quality Communities Task Force Report was the focus of the Third Annual Smart Growth Conference held in April 2001 in Albany.

The Conference, which the State League cosponsored, was held under the leadership of Audubon New York (the state program of the National Audubon Society) and the SGWG that it chairs. The SGWG and the Department of State jointly conducted a fourth Smart Growth Conference on May 25 and 26, 2004. The conference proceedings were published, but there has been little activity since then.

The State League testified before the Task Force on Local Government Reform, which was created by the governor in July 2002. One of its charges was to make recommendations on regional planning, transportation and energy needs, environmental and open space protection—all issues related to sprawl and smart growth (or, Governor Pataki's term, quality communities). The Task Force, however, issued no final report and its preliminary recommendations did not deal with planning issues.

Smart Growth bills have been introduced in the legislature for the past several years, but none has been adopted. In 2003 Assemblyman DiNapoli, Chair of the Assembly's Environmental Conservation Committee, introduced two smart growth bills. The first bill would direct certain state agencies involved in infrastructure to analyze their proposed projects for the impact on sprawl and would discourage state projects, which abet sprawl. The second also sponsored in the Senate by Senator LaValle, would enact a "Smart Growth for the 21st Century Act". Assemblyman Hoyt and Senator Rath also introduced sprawl legislation.

With the election of a new governor, Eliot Spitzer, in 2007, it appears that there are signs that his administration understands the importance of good land use planning that curbs sprawl. The Governor has professed support for smart growth in speeches, and his budget includes \$2,000,000 "for state assistance payments, pursuant to a smart growth program, provided on a competitive basis, to counties, cities, towns or villages to establish or update comprehensive plans in a manner consistent with smart growth." Smart growth embraces a coherent set of principles and the fact that the Governor is using the term is in itself encouraging.

In 2007, the League lobbied in support of the "State Smart Growth Infrastructure Policy Act." This legislation passed in the Assembly, but died in committee in the Senate. It would provide that public funding for infrastructure is awarded to projects which use, maintain, or improve existing infrastructure and which protect and preserve natural resources. This bill recognizes that the State's decisions about infrastructure development have encouraged the present sprawling pattern of development in the state. Building of costly new roadways, water supplies, sewer treatment facilities, and other public facilities with public money supports sprawl. This bill, by supporting use of existing infrastructure and promoting compact development, would be an important step toward reversing this tide of sprawl. It is expected that this bill will be reintroduced.

The State League has been working for several years with a coalition, the Campaign for CPA, in support of a statewide "Community Preservation Act." Special legislation must be passed to amend the home rule law to allow municipalities to levy a local fee. Piece by piece legislation has so far been the rule. Legislation for the five East End towns on Long Island was enacted 10 years ago and since renewed. Thousands of acres have been preserved. Home rule legislation has been passed for Warwick and Red Hook, and referendums have been supported for the creation of preservation funds. Chatham and Fishkill have also worked to secure this same home rule legislation.

