

**COMMENTS OF THE MICHIGAN ENVIRONMENTAL COUNCIL, TIP OF THE  
MITT WATERSHED COUNCIL, ALLIANCE FOR THE GREAT LAKES, NATIONAL  
WILDLIFE FEDERATION, MICHIGAN LEAGUE OF CONSERVATION VOTERS,  
AND NATURAL RESOURCES DEFENSE COUNCIL, OCTOBER 2013**

We welcome the opportunity to provide comments on the Graham Institute's Hydraulic Fracturing Technical Reports. The Institute's undertaking begins with an important acknowledgement: that the high volume horizontal hydraulic fracturing currently facing the state is not your grandfather's or father's fracturing. Rather, the practices seen in the industry today are of greater intensity and scale than previously used, and employ new chemicals and techniques. As such, they are accompanied by a host of different and more pressing risks to people's health and the environment. It is critical that Michigan update and strengthen its laws and regulations governing oil and gas development, which are woefully inadequate to deal with the realities of today's hydraulic fracturing.

The time for these reforms is now – the state's northern areas are already seeing multiple high volume horizontal wells being proposed and drilled, with noticeable impacts on the area's water resources from the exceedingly high amounts of water needed to complete these wells. This is only one of the issues facing communities targeted by drilling. The current laws are clearly in need of updating, and moving forward without them poses serious risks to Michigan's people and environment.

Below are policies that we believe are supported by the technical reports, and that are necessary to update Michigan's oil and gas laws and regulations to protect the public's health and welfare against the many potential harms posed by hydraulic fracturing. This should not be viewed as an exclusive list of needed policy improvements, but constitutes a critical set of protective policies. In addition, this list is not an endorsement of any particular statement or finding in the technical reports, as the comment period allowed was not sufficient for a full technical review of the seven reports covering numerous topics. We reserve the ability to opine on the individual findings in the reports in future discussions of necessary reform.

- 1) Require full disclosure of all chemicals used for hydraulic fracturing to the general public prior to the commencement of drilling operation.
- 2) Reduce potential impacts on water resources from a quantity perspective through:
  - a. Eliminating the current statutory language exempting from Michigan's Water Withdrawal Assessment "withdrawal[s] undertaken as part of an activity authorized by the department under part ... 615".

- b. Requiring well drillers to evaluate whether grey water is available in the vicinity that could be substituted for the use of fresh water (i.e. contaminated aquifers that are unsuitable for drinking water but may be adequate for hydraulic fracturing activities).
  - c. Requiring the maximum capture and reuse of flowback water to reduce the need for additional fresh water.
  - d. In locations where sensitive water resources are present, requiring additional analysis of impacts of water withdrawals on both groundwater and surface waters.
- 3) Reduce potential impacts on water resources from a quality perspective through:
- a. Requiring reuse of flowback water from oil and gas operations that utilize hydraulic fracturing or greater regulation of reinjection wells used for the disposal of such flowback water. The analysis could explore whether the nature of the flowback fluids have changed over time and whether the current classification is consistent with other materials that utilize injection wells for disposal.
  - b. Evaluating whether RCRA regulations should be used to monitor well locations.
  - c. Requiring baseline water quality testing prior to commencement of drilling operations.
  - d. Requiring the use of tracer chemicals by oil and gas operation utilizing hydraulic fracturing so that responsibility for any operation failure can be clearly traced to the responsible party, when possible. If a tracer chemical is not required, water quality should be protected by creating a presumption of liability for contamination in the vicinity of an oil and gas well.
- 4) Enhance protections from setbacks.
- a. Increase setbacks from occupied structures and recreation areas, especially schools, childcares, hospitals, and places of worship.
  - b. Establish specific setbacks from surface water resources and a process for receiving variances from that setback which sets stringent requirements for the demonstration of need for a variance and includes public participation provisions.
  - c. Establish specific setbacks from other natural resources of significant value.
- 5) Require resource development plans for exploration of larger uniform geological formations and sharing of such plans with local units of government for feedback. The plans should address issues such as surface disturbances, proximity to water resources, wildlife impacts, and infrastructure placement.

- 6) Require notice of all oil and gas wells to all local units of government prior to commencement of drilling operations, extending the current notice provision beyond units of government with populations over 70,000 residents.
- 7) Increase surety bonds and insurance requirements related to the operation and closure of oil and gas wells.
- 8) Require minimization of venting, flaring and leaks at well pads and production sites, as well as from processing stations and the transmission and storage segment.
- 9) Clarify the ancillary issues that can be regulated by local units of government through local ordinances, such as truck traffic, noise, and hours of operation.
- 10) Require a program for collection of public health exposure data.
- 11) Require the development and use of best management practices by oil and gas well drillers.

Thank you for consideration of these regulatory proposals,

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