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Dedicated to protecting our nation's ground water

April 7, 2014

Mr. Peter Grevatt, Director
Office of Ground Water and Drinking Water
US Environmental Protection Agency

Dear Mr. Grevatt:

The Ground Water Protection Council (GWPC) would like to take this opportunity to express our appreciation for the efforts that you and your staff have taken to respond to our request (GWPC Resolution 13-1) for your participation on GWPC's Aquifer Exemption working group, comprised of UIC 1422 and 1425 state program managers. The purpose of the working group is to examine possible solutions to facilitate the use of Aquifer Storage and Recovery (ASR) within the current regulatory framework and to seek possible solutions to delays associated with the development and approval of aquifer exemptions for in-situ mining of minerals, enhanced recovery of hydrocarbons, and wastewater disposal.

With respect to ASR projects, GWPC appreciates your efforts to clarify how to permit ASR wells so that they may be used to augment drinking water supplies while at the same time protecting Underground Sources of Drinking Water (USDWs). The regulatory model represented by the Florida letter illustrates a path forward for challenging UIC issues and a willingness to work with the states to resolve matters within existing regulatory programs. In particular, we support EPA's recognition that state agencies with primacy authority to permit Underground Injection Control (UIC) Class V wells have discretion to make site specific determinations, including whether or not to issue a UIC permit and what conditions should be included in the permit, provided those determinations are consistent with the Safe Drinking Water Act, applicable EPA UIC regulations, and approved state programs.

The following positive outcomes can be attributed to the working group's dedicated efforts:

- communications between state program managers and EPA program managers has improved, facilitating a better understanding of aquifer exemption issues and concerns;
- a recognition that some conditions lead to 'complex' aquifer exemptions where early and frequent communication between primacy state programs and EPA is especially important;

- a general consensus that a 'checklist' can help ensure that aquifer exemption materials presented for EPA consideration provide the documentation and analysis necessary to support the exemption; and
- a general consensus that a dispute resolution process between primacy states and EPA can help assure that decisions regarding aquifer exemptions are made in a timely manner.

The working group has also considered EPA's suggested new approach to determining the 'current' use of an aquifer as a source of drinking water. State program managers are deeply concerned that this suggested approach is inconsistent with current UIC regulations and guidelines for aquifer exemptions, may conflict with current state/EPA programmatic agreements, and is a radical departure from the approach that both EPA and states have been following for many years. GWPC remains interested in working with EPA to consider approaches for determining 'current' use that are acceptable to both states and EPA, and are protective of drinking water supplies.

GWPC intends to provide specific comments in the near future on EPA's draft 'checklist' described above and will provide a draft dispute resolution framework for EPA's consideration.

Again, thank you for your assistance in addressing these important issues.

Sincerely,

James (Jamie) L. Crawford
Mississippi Department of Environmental Quality
President, Ground Water Protection Council

Michel J. (Mike) Paque, CAE
Executive Director
Ground Water Protection Council

cc: Ron Bergman, EPA
Joe Tiago, EPA
Kevin Frederick, WY DEQ
Dale Kohler, TX CEQ
Leslie Savage, TX RRC