To: Montgomery, Michael[Montgomery.Michael@epa.gov]
From: Albright, David
Sent: Mon 7/21/2014 10:05:00 PM
Subject: FW: Enhancing Consistency in SDWA Aquifer Exemption Review and Approvals - Materials for July 23 WDDs Call
Peter's Memo to WDDs 7-9.docx
Criteria for Exempted Aquifer.docx
AE - Checklist Final Draft 6-30.docx

Memo and checklist attached.

From: Tiago, Joseph
Sent: Thursday, July 10, 2014 7:32 AM
To: UIC Managers
Cc: Wehling, Carrie; Darman, Leslie; Bergman, Ronald
Subject: FW: Enhancing Consistency in SDWA Aquifer Exemption Review and Approvals - Materials for July 23 WDDs Call

Good morning,

Please find below Peter's email that went out to your Water Division Directors yesterday in preparation for the upcoming Hot Issues Call.

Thanks,

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Joe Tiago, MS, MPH, Physical Scientist
US Environmental Protection Agency HQ
Office of Ground Water and Drinking Water
Drinking Water Protection Division (4606M)
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Phone: (202) 564-0340
Fax: (202) 564-3756
Email: tiago.joseph@epa.gov
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From: Grevatt, Peter
Sent: Wednesday, July 9, 2014 5:20:28 PM

To: Moraff, Kenneth; Matthews, Joan; Capacasa, Jon; Giattina, James; Hyde, Tinka; Honker, William; Flournoy, Karen; Hoskie, Sadie; Diamond, Jane; Opalski, Dan
Cc: Sanelli, Diane; Bergman, Ronald; Stoner, Nancy; Clark, Becki; Corr, Elizabeth; Tiago, Joseph; Kopocis, Ken; Shapiro, Mike; Lopez-Carbo, Maria; Green, Holly
Subject: Enhancing Consistency in SDWA Aquifer Exemption Review and Approvals - Materials for July 23 WDDs Call

Hello All,

I am attaching the final draft of a memo on Aquifer Exemptions (AEs), a checklist for the AE review process and the criteria for AEs that we will discuss on the July 23rd WDD Hot Issues call. The purpose of the discussion is to go over the AE process for EPA, as well to relate the results of discussions on the AE process that we have had with several states and the Ground Water Protection Council over the course of the past year. Unless any of you have any show-stopper issues on this, I'll plan to formally send out the memo as final at the conclusion of the call.

Background:

AEs remove SDWA protections from an aquifer or portion of an aquifer to allow injection through the UIC program. AEs require EPA approval even where states have primacy for the UIC program. The number of AE requests have increased in the past few years due to resource extraction activities, and have states raised concerns about EPA consistency and approach.

We discussed AEs in detail at our face-to-face WDD meeting a little over a year ago. At that time, we agreed to create a workgroup of a subset of WDDs to enhance national consistency in our approach to reviewing and approving AEs in the near term. Over the course of the last year, staff from EPA HQ, Regions 6, 7 and 8, and a number of key states participated in a work group organized by GWPC to help bring greater clarity to the needs and expectations of EPA and states in approving AE requests. OGWDW also engaged Water Division Directors and staff in Region 6, 7, 8, and 9 in discussions of the key AE process improvements that were tentatively agreed on with the states and in the preparation of this draft memo.

The attached draft AE memo communicates the proposed process improvements we

have identified through the GWPC work group and reaffirms EPA's role in the AE approval process. Key points include:

o The need to provide consistency and predictability in the AE review process

o Development of a simple outline and checklist for the AE approval process to be shared with state programs

o Factors that are likely to make AE requests more complex (including in particular, nearby drinking water wells

o A suggestion for an early consultation between the EPA Region and the state to discuss key issues related to AE requests that are likely to be more complex

o A clear articulation that EPA's consideration of current underground sources of drinking water recognizes ground water movement

o An identified path for dispute resolution with states if needed.

The factors for consideration in "future use" determinations are likely to require additional discussions between EPA HQ, the regions and states. GWPC has agreed that a specific outline/checklist for the record of decision could also be useful.

I look forward to our discussion on the 23rd. Please let me know if you would like to discuss any aspect of this in advance of our call, and thanks to Bill, Karen, Sadie and Jane and all of the UIC branch chiefs for all of their assistance on this important issue!