



## **GROUND WATER PROTECTION COUNCIL**

### **RESOLUTION 03-4 REQUESTING RECONSIDERATION OF EPA STATEMENT OF FLUID MOVEMENT REQUIREMENTS**

**WHEREAS**, the plain language of Section 1421 of the Safe Drinking Water Act (SDWA) directs the US Environmental Protection Agency (USEPA) to establish minimum requirements to prevent underground injection only in so far as such injection may result in the presence in an underground source of drinking water (USDWs) of contaminants that may result in a public water system's not complying with any national primary drinking water regulation or may otherwise adversely affect the health of persons; and

**WHEREAS**, the underground injection control (UIC) regulations promulgated by USEPA generally prohibit injection activity that allows the movement of fluid containing any contaminant into the underground sources of drinking water if the presence of that contaminant may cause a violation of any primary drinking water regulation or may otherwise adversely affect the health of persons; and

**WHEREAS**, the technical requirements of USEPA's UIC regulations are designed to ensure the containment of injected fluids within designated injection zones by preventing fluid movement upward out of an injection zone and into any overlying USDW; and

**WHEREAS**, lateral movement of fluids and lateral migration within the 10,000 mg/l total dissolved solids (TDS) interface within any geological formation constituting an injection zone would occur even in the absence of underground injection activity; and

**WHEREAS**, lateral movement of injected and formation fluids resulting in displacement of the 10,000 mg/l TDS interface at a distance from the point of injection does not pose a significant risk to human health or the environment if the fluid movement does not result in endangerment of any USDW within the meaning of Section 1421(d)(2) of the SDWA; and

**WHEREAS**, USEPA has transmitted to its regional offices a copy of a Statement of Fluid Movement Requirements ("Statement") as a "convenient summary and restatement of all federal regulations that are relevant to fluid movement as they relate to Class I injection operations;" and

**WHEREAS**, this Statement expands on certain requirements in current federal regulations; and

**WHEREAS**, this Statement can be interpreted to indicate that the USEPA's UIC regulations prohibit all lateral movement of formation fluids into any USDW at any distance from the point of injection regardless of whether such movement may result in a violation of any primary drinking water regulation or otherwise adversely affect the health of persons even where such fluids remain within the injection zone; and

**WHEREAS**, this interpretation of USEPA's UIC regulations appears to be different from past interpretations and application of the UIC regulations by USEPA, its regions, and state UIC programs and could have an impact on other classes of injection wells; and

**WHEREAS**, the Statement was prepared by USEPA in the context of litigation without opportunity for review or input from any states or EPA regions that were not involved in the litigation, or from any underground injection well operators; and

**WHEREAS**, the Ground Water Protection Council recognizes and supports the need for obtaining broad opportunity for review in addition to input from state UIC program administrators as well as from injection well operators, members of the public, and other stakeholders before making significant changes in UIC program requirements or policies;

**NOW THEREFORE BE IT RESOLVED**, that the Ground Water Protection Council requests USEPA to withdraw and reconsider the Statement of Fluid Movement Requirements and to provide an opportunity for review and comment on the Statement by state UIC programs, injection well operators, and other members of the public before reissuing the Statement or any similar summary or restatement of the federal UIC regulations that are relevant to fluid movement.

**BE IT FURTHER RESOLVED**, that the Ground Water Protection Council requests that EPA undertake rulemaking if necessary to provide that lateral movement of formation fluids within an injection zone that results in displacement of the 10,000 mg/l TDS interface is not prohibited where such lateral movement of formation fluids will not cause a violation of any primary drinking water standard under 40 CFR Part 141 and may not otherwise adversely affect the health of persons.

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September 17, 2003

Passed by the Board

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Attest

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Michel J. Paque, Secretary