



GROUND WATER PROTECTION COUNCIL

RESOLUTION 03-5

**REQUESTING LEGISLATIVE CLARIFICATION OF THE DEFINITION OF
"UNDERGROUND INJECTION" IN THE SAFE DRINKING WATER ACT**

WHEREAS, Congress enacted Part C of the Safe Drinking Water Act (SDWA) to regulate underground injection of fluids by well so as to safeguard the integrity of the sources of drinking water supplies of the United States;

WHEREAS, Part C of the SDWA defines the phrase "underground injection" in terms of the "subsurface emplacement of fluids by well injection";

WHEREAS, that phrase has been interpreted by the United States Court of Appeals for the Eleventh Circuit in the case of Legal Environmental Assistance Foundation v. United States Environmental Protection Agency (LEAF) as requiring regulation under the SDWA of the practice of hydraulic fracturing in coalbed methane gas wells;

WHEREAS, until the LEAF decision, the United States Environmental Protection Agency (USEPA) had taken the position that the practice of hydraulic fracturing is an oil and gas production and/or completion practice, not underground injection as defined by the SDWA and therefore not subject to regulation under the SDWA;

WHEREAS, the Ground Water Protection Council (GWPC) supported and continues to support USEPA's position that hydraulic fracturing is not underground injection under the SDWA;

WHEREAS, the GWPC has supported USEPA's position on the issue through the pendency of the LEAF case, and recently filed a brief of *amicus curie* with the Eleventh Circuit supporting USEPA's approval of Alabama's new regulatory program;

WHEREAS, the GWPC has been involved in the recent discussions of Part C of the SDWA and the practice of hydraulic fracturing, and supports efforts to seek clarification from the United States Congress that regulation of the practice of hydraulic fracturing was not intended when Part C of the SDWA was enacted; and

WHEREAS, the GWPC believes that the present controversy is not serving the goals of protecting drinking water supplies in the United States and that clarification by Congress that it did not intend to regulate hydraulic fracturing in the SDWA will better advance the goals of the SDWA than continued controversy over the issue;

NOW THEREFORE BE IT RESOLVED, that the Ground Water Protection Council does hereby continue to encourage Congressional legislation clarifying of the definition of underground injection in Part C of the Safe Drinking Water Act to exclude the practice of hydraulic fracturing.

September 17, 2003

Passed by the Board

Attest

Michel J. Paque, Secretary