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Dedicated to protecting our nation's ground water

Date: November 6, 2014

To: Water Docket
Environmental Protection Agency
Mail Code 2822T
1200 Pennsylvania Ave. NW
Washington, DC 20460.

Attention: Docket ID No. EPA-HQ-OW-2011-0880.

Subject: Comments on proposed rule defining Waters of the United States protected under the Clean Water Act (79FR22188)

The Ground Water Protection Council (GWPC) appreciates the opportunity to comment on the U.S. Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers (Corps) proposed rules defining the scope of waters protected under the Clean Water Act (CWA).

Our organization's membership consists of representatives of state groundwater and underground injection control regulatory agencies that have come together to mutually work toward the protection of the nation's groundwater supplies. Our focus is specifically on protecting the nation's groundwater supplies, conserving groundwater resources for all beneficial uses, and recognizing groundwater as a critical component of the ecosystem. The GWPC is unique among state associations in that its members are the state officials who set and enforce regulations on groundwater protection and underground injection.

GWPC supports the recognition that groundwater is not and has never been a jurisdictional water under the definition of waters of the United States and the proposed section of the regulations which exclude from the definition of waters of the United States "groundwater, including groundwater drained through subsurface drainage systems". The preamble also states that "The agencies have never interpreted "waters of the United States" to include groundwater and the proposed rule explicitly excludes groundwater, including groundwater drained through subsurface drainage systems."

We agree that many states and tribes protect groundwater that is outside the regulatory jurisdiction of the CWA. The preamble states that "Nothing in this proposed rule would limit or impede any existing or future state or tribal efforts to further protect their waters." However; due to the very broad scope of activities covered under this proposed rule, GWPC is concerned that some may interpret the specific exclusion of groundwater to affect EPA's support of existing important provisions contained within 40

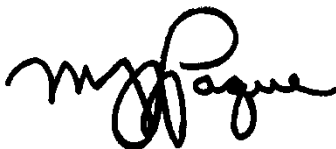
CFR Sections 106, 305, and 319 that support state and tribal programs in their protection of groundwater. The ability of states and tribes to request funding for groundwater protection programs from EPA under these provisions of the regulations should not be impeded by future grant guidance. GWPC recommends that EPA continue to include support for groundwater within the text discussion of future grant guidance for these sections.

In the proposal preamble EPA recognizes the importance of connections provided by shallow subsurface groundwater and deeper groundwater. GWPC suggests that as EPA implements the proposed rules, a comprehensive and holistic grant guidance approach should allow for state groundwater protection projects that could contribute to the overall health and water quality in an impaired watershed. In addition, providing support for state requests for groundwater projects would allow for enhanced protection of aquatic resources and result in significant cost effectiveness in the prevention of contamination. In addition, many §319 funded prevention projects can coordinate well with source water protection efforts under the Safe Drinking Water Program, resulting in an additional water quality benefit for public health from all programs.

The recognition that groundwater is not a jurisdictional water under the CWA should not prevent the continued commitment by EPA to integrate groundwater as part of the planning approaches to municipal wastewater and stormwater management. GWPC points out that guidance and implementation of this proposed rule needs to be protective of groundwater quality. There should be a common purpose for protecting drinking water sources under both the CWA and the Safe Drinking Water Act. The infiltration of stormwater runoff to groundwater should also be protective of groundwater quality. If polluted stormwater is redirected to groundwater for either disposal or shallow recharge, GWPC recommends that the two Acts not be implemented at cross purposes and that proposed rule changes should not be interpreted to allow groundwater to be contaminated.

GWPC feels that collaboration and cooperation with the States is necessary for EPA and the Corps to effectively implement the proposed rules, and looks forward to working with EPA and the States to continue to implement the groundwater protection provisions contained within the CWA programs.

Thank you,

A handwritten signature in black ink, appearing to read "m Paque". The signature is fluid and cursive, with the first letter of the last name being a large, stylized 'P'.

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