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2009 Resolutions

IOGCC Resolutions
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RESOLUTION 09.011

Urging Congress Not To Remove Exemption Of Hydraulic Fracturing From Provisions Of The Safe Drinking Water Act

WHEREAS, the United States Congress passed the Safe Drinking Water Act (42 U.S.C. § 300h) (SDWA) to assure the protection of the nation's drinking water sources; and,

WHEREAS, since the enactment of the SDWA, the EPA had never interpreted hydraulic fracturing as constituting "underground injection" within the SDWA; and,

WHEREAS, the United States 11th Circuit Court of Appeals ruled that hydraulic fracturing constituted "underground injection" under the SDWA (Legal Environmental Assistance Foundation v. United States Environmental Protection Agency (EPA), 118 F3d 1467 (11th Cir. 1997)); and,

WHEREAS, in 2004, EPA published a final report summarizing a study to evaluate the potential threat to underground sources of drinking water (USDWs) from hydraulic fracturing of coalbed methane (CBM) production wells and EPA concluded that "additional or further study is not warranted at this time . . ." and "that the injection of hydraulic fracturing fluids into CBM wells poses minimal threat to USDWs."; and,

WHEREAS, the United States Congress, in the Energy Policy Act of 2005, explicitly exempted hydraulic fracturing from the provisions of the SDWA; and,

WHEREAS, the IOGCC conducted a survey of oil and gas producing states which found that there were no known cases of ground water contamination associated with hydraulic fracturing; and,

WHEREAS, hydraulic fracturing is currently, and has been for decades, a common operation used in exploration and production by the oil and gas industry in all the

member states of the Interstate Oil and Gas Compact Commission (IOGCC) without groundwater damage; and,

WHEREAS, approximately 35,000 wells are hydraulically fractured annually in the United States and close to one million wells have been hydraulically fractured in the United States since the technique's inception, with no known harm to groundwater; and,

WHEREAS, the regulation of oil and gas exploration and production activities, including hydraulic fracturing, has traditionally been the province of the states; and,

WHEREAS, the SDWA was never intended to grant to the federal government authority to regulate oil and gas drilling and production operations, such as "hydraulic fracturing," under the Underground Injection Control program; and,

WHEREAS, the member states of the IOGCC have adopted comprehensive laws and regulations to provide for safe operations and to protect the nation's drinking water sources, and have trained personnel to effectively regulate oil and gas exploration and production; and,

WHEREAS, production of coal seam natural gas, natural gas from shale formations and natural gas from tight conventional reservoirs is increasingly important to domestic natural gas supply and will be even more in important in the future; and,

WHEREAS, hydraulic fracturing plays a major role in the development of virtually all unconventional oil and gas resources and, thus, should not be limited in the absence of any evidence that such fracturing has damaged the environment; and,

WHEREAS, regulation of hydraulic fracturing as underground injection under the SDWA would impose significant administrative costs on the state and substantially increase the cost of drilling oil and gas wells with no resulting environmental benefits; and,

WHEREAS, regulation of hydraulic fracturing as underground injection under the SDWA would increase energy costs to the consumer,

NOW, THEREFORE, BE IT RESOLVED, the IOGCC hereby declares its support for maintaining the exemption of hydraulic fracturing from the provisions of the SDWA and urges the Congress of the United States to not pass legislation that removes the exemption for hydraulic fracturing.