INTERSTATE Oil & Gas COMPACT COMMISSION

RESOLUTION 01.121
HYDRAULIC FRACTURING CHARACTERIZATION

DECEMBER, 2001

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URGING CONGRESS TO ENACT LEGISLATION TO CORRECTLY CHARACTERIZE HYDRAULIC FRACTURING FOR PURPOSES OF THE SAFE DRINKING WATER ACT

WHEREAS, the United States Congress passed the Safe Drinking Water Act (SDWA) to assure the protection of the nation's drinking water sources; and**,**

WHEREAS, there has now been final appeal of the 1997 case of Legal Environmental Assistance Foundation v. United States Environmental Protection Agency (EPA), 118 F3d 1467 (11th Cir. 1997), wherein the United States 11th Circuit Court of Appeals ruled contrary to argument of the U.S. EPA that hydraulic fracturing constituted "underground injection" under the SDWA; and,

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

WHEREAS, pursuant to the 11th Circuit opinion, the EPA required the Alabama Oil and Gas Board to change its regulation to maintain "primacy" over Class II underground injection activities, creating additional regulatory expense with no increased environmental protection; and**,**

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

WHEREAS, the SDWA never was 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 comprehensive laws and regulations, and trained personnel to effectively regulate oil and gas exploration and production to provide for safe operations and to protect the nation's drinking water sources; and,

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WHEREAS, hydraulic fracturing of coal seams plays a major role in the degasification process and should not be limited in the absence of any evidence that such fracturing has ever damaged the environment; and,

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

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

WHEREAS, legislation by Congress is needed to clarify that hydraulic fracturing should not be regulated as underground injection within the SDWA;

NOW, THEREFORE, BE IT RESOLVED, the IOGCC hereby declares its support for legislation providing hydraulic fracturing is not to be regulated as "underground injection" within the Safe Drinking Water Act

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