

AQUIFER EXEMPTIONS:

Prioritizing Fossil Fuel Production Over Drinking Water

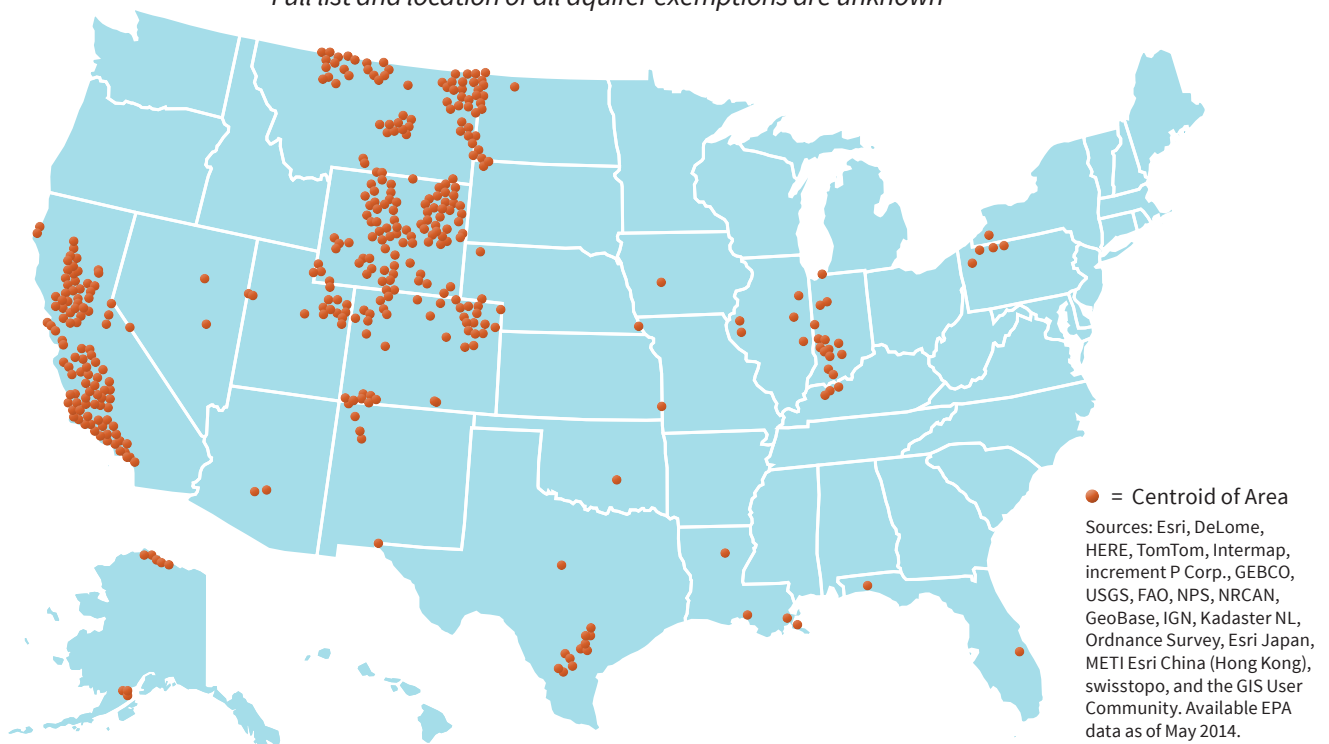
Underground sources of drinking water (USDW) are federally-protected by the Safe Drinking Water Act's (SDWA) Underground Injection Control (UIC) program. However, there is a little known provision that allows certain oil and gas and mining activity to occur in groundwater that would otherwise be protected as a drinking water source. This is an aquifer exemption.

Aquifer Exemptions at a Glance

- EPA developed the Aquifer Exemption program in the 1980's when oil and gas interests argued that certain energy extraction activities would not be possible if every underground source of drinking water were protected.
- Aquifer exemptions essentially “write off” underground sources of drinking water to allow for certain oil and gas and mining activity to occur.
- Oil and gas companies use aquifer exemptions for two primary purposes: to inject wastewater underground for disposal, or to inject water, steam and other fluids for enhanced oil recovery (ER).
- The latest, yet incomplete data show almost 5,000 exempted aquifers throughout the country.
- There are 1,134 aquifer exemptions in California alone.
- Roughly 70% of aquifer exemptions have been issued for enhanced oil recovery activities.
- 66% of exemptions lack any data documenting the water quality of the aquifer that was exempted.
- The criteria for exempting aquifers were written more than 30 years ago. They do not reflect the modern threats to drinking water, changes in demand for groundwater, impacts of climate change on water resources and improvements in water treatment and well drilling technology.
- The outdated criteria could result in aquifers that were once considered not suitable for human consumption, becoming necessary drinking water sources now or in the future.
- Some exemptions were grandfathered in during development of state UIC programs with little review of the criteria.

Aquifer Exemption Snapshot

Full list and location of all aquifer exemptions are unknown



Concerns with Exempting Aquifers

Underground injection of fluids and wastewater pose a major threat to USDWs. This is why the SDWA created a program designed specifically to protect drinking water from these activities. Exempting aquifers from this protection program is out of step with the intent of SDWA and creates a regulatory environment that risks prioritizing energy extraction over protection of sources of drinking water. It allows the injection of contaminated wastewater and other chemicals into groundwater that would otherwise be protected as a potential source of drinking water.

Both State and Federal regulators have failed to effectively implement this program. At the Federal level, there is currently no national inventory, definitive count or geographic location of every exemption granted. In at least one state, failure to implement aquifer exemptions properly led to major problems. California's Division of Oil Gas and Geothermal Resources (DOGGR), issued permits that allowed more than 5,000 enhanced recovery wells and 500 disposal wells to inject waste and other chemicals into aquifers that were supposed to be protected.




Recommendations

The fundamental premise of the Aquifer Exemption program — that there are circumstances when EPA believes other interests are paramount to USDW protection — begs for rigorous examination and oversight. No Aquifer Exemption has ever been rescinded and restoring an aquifer after millions of gallons of oil and gas waste are injected into it is highly unlikely. **Exempting an aquifer is to sacrifice it as a drinking water source forever.**

We are calling on EPA to:

1. Impose an immediate moratorium on granting any new exemptions until new rules and clarifying procedures are put in place, including full and transparent opportunities for public notice and ability to comment on each aquifer exemption application;
2. Expedite development and disclosure of a national inventory of all current and past Aquifer Exemptions, in list and spatial format with the corresponding Statement of Basis for each determination;
3. Document injection activity in exempt aquifers to date and where exemptions have been granted but not utilized. Document if exemptions were granted for other activities outside of waste disposal and enhanced recovery or uranium mining;
4. Investigate whether a streamlined approval process for states to implement UIC programs related to oil and gas activity has played a role in the Aquifer Exemption program oversight and management problems.

FOR MORE INFORMATION:

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