



23 November 2010

The Honorable Lisa P. Jackson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Ave. NW
Washington, D.C. 20460

Dear Administrator Jackson:

I would like to bring to your attention the unique impact an EPA ruling may have on some of the members of the Council of Great Lakes Industries, three dozen companies with significant investment in the Great Lakes basin. You are no doubt aware of the substantial concerns about the Agency's upcoming draft rule governing cooling water intake structures in a revised Section 316(b) ruling. Currently 316(b) of the Clean Water Act requires that cooling water intake structures reflect the best technology available for minimizing adverse environmental impacts. We are especially concerned that a uniform technological requirement may be applied when site-specific decisions might be more appropriate. We do not believe that any rule that would mandate a uniform means of compliance, such as cooling towers, be applied without a cost-benefit test to determine the most effective means of compliance. It is important that any proposed rule preserve the authority of States to make rational local resource management decisions.

An additional concern about this rule revision has developed in the Great Lakes Region where consumptive water uses must meet the requirements of the Great Lakes –St. Lawrence River Basin Sustainable Water Resources Agreement and Compact. This Agreement provides a framework for each Province and State to pass laws that put protections in place for Basin waters. Utilities and other industry using once through cooling return approximately 99 percent of the water they withdraw back into the Basin. A revised 316(b) rule that requires these facilities to replace once-through cooling practices with cooling towers will markedly increase their consumptive water use. The Compact requires individual States to review and approve new or increased consumptive water use above a threshold level set by the State's water withdrawal regulations. Any consumptive use greater than five million gallons per day must, not only be approved by the State, but is subject to Great Lakes Basin-wide public notice and comment proceedings. New cooling towers required at existing electric power plants, and possibly other facilities as well, would most likely increase consumptive uses to more than five million gallons per day. The requirement that existing facilities would be subject to retrofits that would push their consumptive use quantities beyond the five million gallon per day threshold for Basin-wide public notice and comment was not anticipated when the Agreement was signed. In light of the unique water withdrawal regulations present in the Great Lakes basin, a revised 316(b) rule that

requires conversion to cooling tower technologies for existing facilities would place burdens on Great Lakes Basin facilities that those in other regions would not face.

To avoid subjecting Great Lakes Regional industry to this additional level of uncertainty in their operations I urge you to provide a flexible rule which protects our environment but does not inflict unreasonable costs on Great Lakes industries, electric utilities, and their users.

I greatly appreciated the opportunity to meet and talk with you in Toledo at the announcement of Great Lakes Regional Collaboration Funding this fall. The Council of Great Lakes Industries continues to support the funding of the GLRI because of its importance to our Region. With appreciation for your leadership, I remain,

Respectfully,

George H. Kuper
President

GHK/jr

cc: The Honorable Dr. Steven Chu, U.S. Secretary of Energy
The Honorable Cass R. Sunstein, Administrator OMB/OIRA
Peter Rouse, White House Chief of Staff
Jim Laity, OMB/OIRA
David Naftzger, Executive Director, Council of Great Lakes Governors
Cameron Davis, Senior Advisor to the USEPA Administrator