

HOUSE CONCURRENT RESOLUTION NO. 5009

A CONCURRENT RESOLUTION urging the Environmental Protection Agency to develop regulations and standards that minimize adverse impacts and continue to let state permit writers to determine the best available technology for site specific ecosystems.

WHEREAS, Section 316(b) of the Clean Water Act (CWA) requires that cooling water intake structures (CWIS) reflect the best technology available for minimizing adverse environmental impact; and

WHEREAS, The United States Environmental Protection Agency (EPA) has executed a settlement agreement to issue new rules under section 316(b) of the CWA to regulate CWIS proposed by March, 2011 and finalized by July, 2012; and

WHEREAS, This rule is anticipated to cover existing large steam-electric generators including nuclear, coal-based, and natural-gas based power plants as well as some existing small generators and manufacturers that have CWIS; and

WHEREAS, The EPA is considering mandating the use of closed-cycle cooling systems or cooling towers at most power plants; and

WHEREAS, The state of Kansas has applied CWA section 316(b) on a site-by-site basis examining the impacts of CWIS in relation to the specific biological community. This site-specific approach remains the most scientifically valid and cost-effective method of regulating intake impacts; and

WHEREAS, The EPA can choose to continue to allow states to evaluate power plants on a case-by-case basis to determine the best available technology for that site or require using cooling towers uniformly at each site as the best technology available to prevent fish impingement and entrainment; and

WHEREAS, The state of Kansas believes that the site-specific cost-benefit approach used today to regulate Kansas power plant CWIS is the most scientifically valid and cost effective approach to CWA section 316(b) rulemaking; and

WHEREAS, A one-size-fits-all rule would have a negative effect on energy prices, reliability and the environment; and

WHEREAS, The result could precipitate premature closures of power plants and extended plant outages negatively impacting capacity margins for reliability requirements; and

WHEREAS, Consumers will face higher electricity prices; and

WHEREAS, Environmental impacts include increased emissions of greenhouse gases and particulate matter, increased evaporative water losses and increased solid waste production; and

WHEREAS, Cooling towers cause increased evaporative water losses impacting Kansas parks, lakes, rivers and watersheds in a state where water is a very precious resource; and

WHEREAS, No two plants or sites are alike, so state permitting authorities must have the flexibility to take into consideration the unique needs of the affected water body; and

WHEREAS, A widespread requirement to retrofit cooling towers on the existing fleet of once-through cooled power plants would affect approximately 40% of the existing United States electric generation capacity, including almost 55% of the nation's nuclear capacity and more than 25% of the nation's fossil capacity; and

WHEREAS, The state of Kansas permit writers need the ability to reject

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cooling towers and the flexibility to recommend other technologies when cooling towers cause more adverse environmental impacts than they prevent; and

WHEREAS, A variety of cooling water intake technologies need to be considered due to the wide variety in the types of power plants, their locations and the aquatic communities they affect: Now, therefore,

Be it resolved by the House or Representatives of the State of Kansas, the Senate concurring therein: That we urge the EPA to continue to work to develop regulations and standards under section 316(b) that minimize adverse impacts to the aquatic environment using site specific considerations and cost-benefit analysis; and

Be it further resolved: That the EPA will continue to let state permit writers use a meaningful site specific approach that focuses on determining the best available technology for that site specific ecosystem where the benefits of the technology outweigh the negative impacts.

I hereby certify that the above CONCURRENT RESOLUTION originated in the HOUSE, and was adopted by that body

Speaker of the House.

Chief Clerk of the House.

Adopted by the SENATE _____

President of the Senate.

Secretary of the Senate.