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July 11, 2012

Lisa Jackson
Administrator
USEPA Headquarters
Ariel Rios Building
1200 Pennsylvania Avenue, N. W.
Mail Code: 1101A W
Washington, DC 20460
Email: jackson.lisap@epa.gov

RE: Gulf Restoration Network v. EPA, Case No. 2:12-cv-00677

Dear Administrator Jackson:

I am concerned that the legal action brought in the Eastern District of Louisiana by several non-governmental organizations challenging EPA's denial of their petition for rulemaking could have serious impact on jobs and the economy of my state. The Plaintiff is suing to force EPA to dictate numeric nutrient criteria for the Mississippi River Basin and the Northern portions of the Gulf of Mexico and/or to establish a total maximum daily load (TMDL) for the basin. This is regulation by litigation. The demands of this lawsuit are unprecedented.

As Governor of the State of Iowa, I urge EPA to maintain a strong focus on how this lawsuit has the potential to dramatically impact our way of life and economy in Iowa. Further, I believe that Iowa has taken a leadership role in forging to find a voluntary solution to address the nutrient issue in a way that does not devastate agriculture or Iowa jobs, unlike this lawsuit which has the potential to kill jobs and job-creating small businesses and farms.

If the Plaintiffs get what they want in this lawsuit with numeric nutrient regulation for all of the land that drains into the Mississippi River Basin, these heavy-handed regulations will not help us have better water. In fact, achievement of these ill-conceived and ill-advised numeric standards would be at the cost of our Midwest economy. These overbearing regulations would jeopardize our nation's ability to produce an adequate and affordable supply of food, feed and fiber. For instance, Iowa State University's College of Agriculture and Life Sciences 2012 report titled

Alternative Scenarios and Estimated Cost to Achieve Numeric Nutrient Criteria from Iowa's Nonpoint Sources, states the following:

The estimated cost to Iowa corn and soybean farmers to achieve the numeric nutrient criteria for Iowa of 55% less nitrogen and 53% less phosphorous is estimated to range from \$900 million to \$2.4 billion equal annualized cost with required initial investments [of] \$1 to \$4.7 billion. Achieving this goal, will require a very high adoption of a suite of in-field and edge of field practices and, under some scenarios, requires removing 42-48% of current corn and soybean acres from production and converting it to perennials such as pasture or CRP.

That means almost half of all Iowa farmers would be put out of business to comply with this regulation. Iowans have a lot at stake. Iowans are major food producers and good stewards of our land and water. Iowans should be the ones to make these important public policy choices. They are important questions for Iowans to resolve, rather than questions of law for a court in Louisiana to decide.

Three million people live in over 950 cities and 92,400 farms in Iowa. Eighty-eight percent (88%) of our land use is in agricultural production. Every single Iowan has the potential to be impacted, or have their job, community or business impacted by this lawsuit against the EPA. The lawsuit's heavy-handed regulatory approach hurts Iowans. As witnessed in the Chesapeake Bay and Florida experiments, a regulatory approach does not solve the problem and creates acrimony and litigation rather than creative collaboration. In Iowa we know how to work together to make progress. Here in Iowa, we are setting the stage for true collaboration among local, state and federal agencies and private stakeholders to gain commitments for improvements rather than setting the stage for prolonged legal battles over questionable scientific justifications. This litigation will jeopardize our process and set back our state's ability to refocus and target efforts for improvements.

The lawsuit is based on flawed science and unproven suppositions. The magnitude and extent to which so-called "nutrient pollution" has contributed to the Gulf hypoxia zone lacks a scientific consensus. As part of the Gulf Hypoxia Task Force, Iowa has committed to reducing our nutrient loadings voluntarily. Nutrients are essential for human health and for plant and aquatic life to survive. Iowa's highly arable soils are high in nutrients, which are also essential for the production of food. Nutrients are expected to be found in water adjoining these types of soils and land uses. Further, there are a multitude of possible reasons for higher nutrient levels. Possible causes for the Gulf hypoxia zone issue include over-fishing, climatic conditions in the Gulf, seasonal variability of the climate in the Upper Mississippi River Basin, channelization of the Mississippi and its outlet to the Gulf, erosion, changes to the estuaries and wetlands near the Gulf, and atmospheric deposition. Iowa research and data collection on our waters has shown

that the level of nutrients is not a consistent indicator of stream or lake health or of whether a water body is meeting its designated uses. The fact that water has nutrients does not necessarily mean that water quality is degraded, impaired or "polluted."

Iowa appreciates the support you expressed in your visit to Iowa last year for Iowa's alternative approaches to reducing pollution and when you ruled-out the need to move directly to a regulatory approach when states are working to apply more conservation measures on the ground. EPA Region VII has been working with Iowa to identify flexible alternatives for addressing nutrients that will work for Iowa. We wish to continue moving forward with a common-sense, alternative approach that is adapted for Iowa's uniqueness.

Sincerely,

A handwritten signature in black ink, appearing to read "Terry E. Branstad". The signature is written in a cursive style with a large, sweeping initial "T".

Terry E. Branstad

Governor