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United States Senate
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
WASHINGTON, DC 20510–6175

November 1, 2013

Ms. Nancy Stoner
Acting Assistant Administrator for the Office of Water
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW
Washington, D.C. 20460

Dear Acting Assistant Administrator Stoner,

I am writing to you regarding the Environmental Protection Agency's (EPA) July 18, 2013 listing of three coastal water segments on Louisiana's Clean Water Act 2012 § 303(d) List, and the corresponding Total Maximum Daily Load (TMDL) requirement imposed on Louisiana.[1] I am concerned that EPA insufficiently addressed issues the Louisiana Department of Environmental Quality (LDEQ) raised over this listing decision. Additionally, I fear that a TMDL is an unwise approach to the important Gulf hypoxia issue and that EPA has neglected to consider the consequences that a TMDL approach would impose on the Mississippi-Atchafalaya River Basin's collaborative efforts to solve this complex and far-reaching issue. Therefore, I ask that EPA better support its listing decision and to refrain from mandating a counterproductive TMDL development.

As you are aware, EPA has included the three coastal segments 021102, 070601, and 120806 on the § 303(d) List (Integrated Report Category 5) for the 2008, 2010, and 2012 Integrated Reports. By listing these segments as Category 5, the EPA claimed that there is sufficient data to designate the waters as impaired and that a TMDL plan is needed as a regulatory control measure.

However, LDEQ has consistently objected to EPA's listing claims and the TMDL approach. For example, LDEQ argued that EPA failed to comply with the relevant data quality objectives approved by the agency, and that the data sets used by EPA were therefore limited temporally and geographically. Yet, in response to LDEQ, EPA neglected to demonstrate how its methodology complied with the data quality objectives contained in the ambient monitoring Quality Assurance Project Plan, suggesting that the EPA agrees its methodology lacked scientific

[1] Letter from William Honker, Director, Water Quality Protection Division, EPA Region 6, to Peggy Hatch, Secretary, Louisiana Department of Environmental Quality (July 18, 2013).

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rigor. If this is indeed the case, it would be an unacceptable flaw for such an important regulatory decision.

Furthermore, by requiring a TMDL, EPA is undermining the State's ability to implement workable frameworks for addressing nutrient issues and is inhibiting the development of other, more effective approaches. The hypoxia issue encompasses the entire Mississippi-Atchafalaya River Basin (MARB) and so any solution must be done in complete consultation and cooperation with MARB States. Currently, the Hypoxia Task Force is working with the States, aligning their independent efforts to make significant progress. By requiring Louisiana to develop a TMDL, EPA is undermining the inter-agency and State efforts of all of the MARB Sates to come together and create an effective approach on this issue. In particular, a TMDL requirement undermines Louisiana's efforts to be a key participant.

In a March 26, 2012 letter, EPA emphasized its commitment to "working as partners with the states and key stakeholders" while continuing to "support innovative and flexible state-led approaches to addressing nutrient pollution."[2] I am thankful for EPA's commitment to the States and the recognition of the States' efforts and successes. I ask that EPA work with LDEQ and other Louisiana officials as well as the other MARB States in their efforts to achieve prudent nutrient reduction strategies.

If you have questions regarding this request, please contact Sarah Veatch or Brandon Middleton with the Senate Committee on Environment and Public Works at (202) 224-6176.

Sincerely,

David Vitter
Ranking Member
Senate Committee on Environment and Public Works

cc: Mr. Ron Curry
Region 6 Regional Administrator
Environmental Protection Agency
1445 Ross Avenue, Suite 1200
Dallas, Texas 75202

[2] Letter from Nancy Stoner, Acting Assistant Administrator, Environmental Protection Agency, to Bill Northey, Secretary of Agriculture, Iowa Department of Agriculture and Land Stewardship (March 26, 2012).