

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

AMERICAN FARM BUREAU FEDERATION,)

Petitioner,)

v.)

CAROL M. BROWNER, Administrator,)
United States Environmental Protection Agency,)
and ENVIRONMENTAL PROTECTION)
AGENCY)

Respondents.)

No. 00-1320

PETITIONER'S STATEMENT OF ISSUES

The American Farm Bureau Federation provides the following non-binding statement of issues that it intends to present in this case:

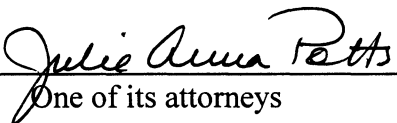
1. Whether the Rule challenged in these cases, EPA Nos. W-98-31 and W-99-04, (the "Rule") unlawfully requires waters impaired by nonpoint sources, ground water, atmospheric deposition and/or solar input to be listed pursuant to Section 303(d)(1)(A) of the Clean Water Act ("CWA").
2. Whether the Rule unlawfully requires waters impaired by "pollution" to be listed pursuant to CWA Section 303(d)(1)(A).
3. Whether the Rule unlawfully requires the establishment of total maximum daily loads ("TMDLs") for waters impaired by nonpoint sources, ground water, atmospheric deposition and/or solar input pursuant to CWA Section 303(d)(1)(C).
4. Whether the Rule unlawfully requires TMDLs established pursuant to CWA Section 303(d)(1)(C) to include implementation plans.
5. Whether the Rule unlawfully requires implementation plans to provide "reasonable assurance" that TMDLs will be implemented.
6. Whether the Rule authorizes unlawful methods to demonstrate "reasonable assurance."

7. Whether the Rule unlawfully requires that TMDLs allow for reasonably foreseeable increases in pollutant loads, including future growth.
8. Whether the Rule unlawfully vests USEPA with authority to review, object to and reissue environmentally significant State-issued NPDES permits that have been administratively-continued after expiration.
9. Whether USEPA based the Rule on improper information because it failed to revise its identification of pollutants suitable for maximum daily load measurement as required by the CWA.
10. Whether USEPA unlawfully failed to comply with the requirements of the Regulatory Flexibility Act. 5 U.S.C. 601 *et seq.*
11. Whether USEPA failed to comply with Section 553 of the Administrative Procedure Act.
12. Whether the CWA, as construed in the Rule, creates an unconstitutional delegation of legislative authority to the USEPA.

The American Farm Bureau Federation reserves the right to raise other issues than those listed above.

AMERICAN FARM BUREAU FEDERATION

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