

House Concurrent Resolution No. 5009

By Joint Committee on Energy and Environmental Policy

2-4

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

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

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

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

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

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

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

28 WHEREAS, The state of Kansas believes that the site-specific cost-
29 benefit approach used today to regulate Kansas power plant CWIS is the
30 most scientifically valid and cost effective approach to CWA section
31 316(b) rulemaking; and

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

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

1 WHEREAS, Consumers will face higher electricity prices; and

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

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

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

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

16 WHEREAS, The state of Kansas permit writers need the ability to
17 reject cooling towers and the flexibility to recommend other technologies
18 when cooling towers cause more adverse environmental impacts than
19 they prevent; and

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

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

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

32 *Be it further resolved:* That the Secretary of State be directed to
33 provide enrolled copies of this resolution to the Environmental Protection
34 Agency, the State Corporation Commission and the Kansas Department
35 of Health and Environment.