

**The Great Lakes
Environmental Law Center**

*Protecting the world's greatest freshwater resource
and the communities that depend upon it*

Ann Arbor / Detroit Michigan
www.greatlakeslaw.org

**Midwest Environmental
ADVOCATES**
pro bono publico

**Great Lakes Environmental Groups File Challenge in Federal Court to EPA Rule That
Would Open the Door to Invasive Species**

Contact: Kathryn L. Loomis, Chair of the Board of Directors
Great Lakes Environmental Law Center, (734) 657-2070 (cell)
Karen M. Schapiro, Executive Director
Midwest Environmental Advocates, (414) 507-7049

October 22, 2008

Cincinnati, OH – Today, the Great Lakes Environmental Law Center and Midwest Environmental Advocates, on behalf of their respective clients Michigan Council of Trout Unlimited and Clean Water Action Council of Northeastern Wisconsin, filed a petition in the U.S. Court of Appeals for the Sixth Circuit seeking an order to vacate the U.S. Environmental Protection Agency's Water Transfers Rule, citing potential harms from invasive species and water pollution.

The rule, formally titled "National Pollutant Discharge Elimination System (NPDES) Water Transfer Rule," exempts water transfers from one waterbody to another from the federal Clean Water Act's permitting and regulatory requirements. Under the new rule, the nation's rivers, streams, and lakes would be at risk from the unregulated exchange of pollutants from one waterbody to another, threatening healthy, pristine waters with the introduction of invasive species, toxic algae, chemical pollutants, excess nutrients, turbidity, and alteration of habitat (e.g., introducing warm water into a cold water stream or salt water into fresh water).

"This rule is a direct contradiction to the plain language of the Clean Water Act," says Karen Schapiro, Executive Director of Midwest Environmental Advocates. "The Act strictly prohibits the discharge of pollutants from pipes and other conveyances without a permit. This rule is clearly a violation of federal law."

Kathryn Loomis, Chair of the Board of Directors of Great Lakes Environmental Law Center, is concerned about the increase of invasive species under the rule. "Several federal courts have already made clear that the EPA's rule contradicts Congress' plain language in the Clean Water Act. The rule would risk more introductions of invasive species in the Great Lakes and eliminate any protections from interbasin transfers and water diversions. The EPA should be protecting our water, not opening the door to new threats."

Michigan Council of Trout Unlimited and Clean Water Action Council of Northeastern Wisconsin believe the failure to regulate water transfers as point source discharges adversely affected their health, economic, recreational and environmental interests. Both groups have members that rely on healthy waterways for tourism, subsistence and recreational fishing, swimming, boating, kayaking, canoeing and other recreation, as well as aesthetic enjoyments. Their interests are threatened by the Water Transfers Rule. As stated by Dr. Bryan Burroughs, an expert in fish biology and Executive Director of the Michigan Council of Trout Unlimited, "Here in the Great Lakes basin, citizens are concerned about the health of their lakes and rivers that have not yet felt the impact of milfoil, zebra mussels, VHS or other damaging invasive species. This rule does nothing to keep clean waters clean."

Several other petitioners have filed challenges to this rule, including the state of Michigan and other non-governmental organizations. However, Wisconsin is not a party to these other suits.

###

Fast Facts

- The Great Lakes are now infested with over 180 aquatic invasive species and a new invasive species comes into the Great Lakes, on average, about once every six months.
- The Great Lakes' sport and commercial fishing industry, valued at almost \$4.5 billion, is at risk due to the growing numbers of invasive species present in its waters.
- The Michigan Council of Trout Unlimited ("MCTU") was incorporated in 1977 and coordinates and represents 23 local chapters of Trout Unlimited and over 7,000 Michigan citizens. MCTU advocates for the prudent management of coldwater fisheries and their watersheds. Visit www.mctu.org for more information.
- The Clean Water Action Council ("CWAC") of Northeastern Wisconsin is a non-profit corporation based in Green Bay, Wisconsin. As a membership organization with approximately 350 members, CWAC seeks to protect and prevent degradation of fresh water, including Lake Michigan and other Great Lakes.
- The Great Lakes Environmental Law Center was founded to protect the world's greatest freshwater resource and the communities that depend upon it. Based in Detroit and Ann Arbor, Michigan, the Great Lakes Environmental Law Center has a board and staff of dedicated and innovative environmental attorneys to address our most pressing environmental challenges. Visit www.glelc.org for more information.
- Midwest Environmental Advocates ("MEA") is the first and only non-profit environmental law center in Wisconsin. MEA provides legal and technical support to grassroots groups that are working for environmental justice in the Western Great Lakes region. Visit www.midwestadvocates.org for more information.