

07-597 UTILITY WATER ACT GROUP V. RIVERKEEPER, INC., ET AL.

DECISION BELOW:475 F3d 83

LOWER COURT CASE NUMBER: 04-6692ag - 04-6699ag

QUESTIONS PRESENTED:

1. Whether § 316(b) of the Clean Water Act, 33 U.S.C. § 1326(b), which specifies that standards set under §§ 301 or 306 of the statute shall require that cooling water intake structures reflect the “best technology available for minimizing adverse environmental impact,” prohibits the United States Environmental Protection Agency (“EPA”) from considering the cost of a technology in comparison to the level of control it achieves and to the environmental “benefit” of that level of control?
2. Whether § 316(b) prohibits EPA from authorizing existing facilities to use restoration measures (for example, fish stocking or habitat restoration) that, taken collectively with the existing characteristics of the cooling water intake structure, ensure that the intake structure minimizes “adverse environmental impact”?

CERT. GRANTED 4/14/2008

THE PETITIONS FOR WRITS OF CERTIORARI ARE GRANTED LIMITED TO THE FOLLOWING QUESTION: WHETHER SECTION 316(b) OF THE CLEAN WATER ACT, 33 U.S.C. 1326(b), AUTHORIZES THE ENVIRONMENTAL PROTECTION AGENCY (EPA) TO COMPARE COSTS WITH BENEFITS IN DETERMINING THE "BEST TECHNOLOGY AVAILABLE FOR MINIMIZING ADVERSE ENVIRONMENTAL IMPACT" AT COOLING WATER INTAKE STRUCTURES. THE CASES ARE CONSOLIDATED AND A TOTAL OF ONE HOUR IS ALLOTTED FOR ORAL ARGUMENT.