



April 16, 2004

Benjamin Grumbles
Acting Assistant Administrator
Office of Water
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Mr. Grumbles:

Thank you for recently briefing us on EPA's efforts to protect our oceans and beaches. We appreciate your attention to this top Administration priority as we look forward to the upcoming draft report of the U.S. Commission on Ocean Policy. In the meantime, please provide us with more information on EPA's action plan to protect our nation's beaches and ensure compliance with the BEACH Act of 2000.

As you know, the Beaches, Environmental Assessment and Coastal Health (BEACH) Act of 2000 requires coastal States, including those bordering the Great Lakes, to adopt up-to-date pathogen criteria by April 10, 2004, to protect beach goers from harmful bacteria. The Act further provides that, if a State fails to meet this deadline, EPA must promptly propose and promulgate Federal standards to protect that State's beaches. It is our understanding that to date, only 11 of the 35 affected States and Territories apparently have adopted criteria for pathogens as required by the BEACH Act.¹ An additional 4 States² have adopted criteria for some, but apparently not all, of their eligible coastal recreational waters, 14 States and Territories³ are in the processing of adopting the required criteria, and 6 States⁴ apparently have not begun the process of adopting these criteria.

Under the Clean Water Act, EPA issues criteria which serve as guidance to States in adopting standards. EPA issued criteria for *e-coli* and *enterococci* in 1986, but many States still rely on outdated standards for total or fecal coliforms. We understand that EPA's research indicates that there is little correlation between coliform levels and

¹ American Samoa, Connecticut, Delaware, Guam, Indiana, Maine, Michigan, New Hampshire, Ohio, Texas, Virginia.

² California, Hawaii, New Jersey, Puerto Rico.

³ Alabama, Florida, Georgia, Illinois, Maryland, Massachusetts, Minnesota, Mississippi, North Carolina, Northern Marianas, Pennsylvania, South Carolina, Virgin Islands, Wisconsin.

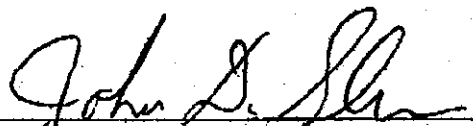
⁴ Alaska, Louisiana, New York, Oregon, Rhode Island, Washington.

swimming-related illness (gastroenteritis) in either marine or fresh waters. In contrast, correlations for *e-coli* (in fresh waters) and *enterococci* (in marine waters) are high, demonstrating that these bacteria are reliable indicators for the presence of harmful pathogens.

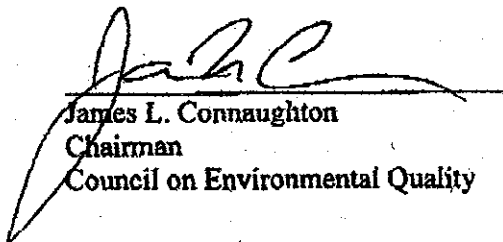
We share your concern that American families deserve safe beaches. While we believe that it is generally preferable for States to adopt and implement their own water quality standards, as envisioned by the Clean Water Act, EPA also needs to fulfill its oversight responsibility to promote scientifically defensible, protective beach standards.

As the 2004 beach season is fast approaching, we would appreciate a prompt response to this letter. Our staffs would be happy to assist you to move forward quickly with this important initiative. Please do not hesitate to contact Jim Laity or Kameran Onley of our staffs if you would like to discuss this matter further.

Sincerely,



John D. Graham
Administrator
Office of Information and Regulatory
Affairs



James L. Connaughton
Chairman
Council on Environmental Quality