ORAL ARGUMENT NOT YET SCHEDULED

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

CHESAPEAKE BAY FOUNDATION, INC., ***Petitioner*,** **v.** **UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, *et al.*,** ***Respondents*.**	**Case No. 19-1173 (and consolidated cases)**

MOTION OF INTERNATIONAL BROTHERHOOD OF BOILERMAKERS, IRON SHIP BUILDERS, BLACKSMITHS, FORGERS & HELPERS, AFL-CIO FOR LEAVE TO INTERVENE AS AN INTERVENOR-RESPONDENT

Pursuant to Federal Rules of Appellate Procedure ("FRAP") 15(d) and 27 and Circuit Rules 15(b) and 27, the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers & Helpers, AFL-CIO ("IBB") respectfully moves for leave to intervene as an Intervenor-Respondent in Case No. 19-1173 and with respect to any other petitions for review that are consolidated with this case.

The petition for review in this case pertains to a final rule that was promulgated by the U.S. Environmental Protection Agency ("EPA" or "Agency") on July 8, 2019, and that is entitled "Repeal of the Clean Power Plan; Emission

Guidelines for Greenhouse Gas Emissions From Existing Electric Utility Generating Units; Revisions to Emission Guidelines Implementing Regulations," 84 Fed. Reg. 32,520 (July 8, 2019) ("Final Rule" or "Rule"). This petition for review was filed on August 29, 2019 by the Chesapeake Bay Foundation, Inc. ("Petitioner"). The IBB and its members, among other things, would face loss of jobs, wages, and related work benefits that would result from the premature retirement of many affected coal-fired electric generating units ("EGUs") if the Petitioners prevail in this case, and therefore have a substantial interest in the outcome of this matter.

This motion is timely because it is filed within 30 days of the date that Petitioner filed its petition for review in this case, consistent with the requirements of FRAP 15(d). Counsel for the IBB has consulted with counsel for EPA and all other parties to the litigation and has been authorized to state that all parties either take no position or are unopposed to this motion.

BACKGROUND

I. The Final Rule and the Petition for Review.

Section 111 of the Clean Air Act ("CAA" or "Act") authorizes the establishment of "standards of performance" for both new and existing stationary sources within a source category that EPA has listed for regulation under CAA section 111(b)(1). For each source category that EPA has listed for regulation

under section 111, the Agency is authorized to set "standards of performance" for new and existing sources within the listed source category based on the "best system of emission reduction" ("BSER") that is determined to be "adequately demonstrated." 42 U.S.C. §§ 7411(a)(1), (d)(1). In the case of those source categories for which EPA has established standards of performance for a particular pollutant emitted by new sources under CAA section 111(b), EPA also has an obligation to issue emission guidelines requiring that States set standards of performance for existing sources of that pollutant within the same source category under CAA section 111(d). The EPA emission guidelines shall establish a "procedure" for States to develop plans for the establishment, implementation, and enforcement of performance standards. 42 U.S.C. § 7411(d)(1). This procedure involves EPA making a determination on what is BSER for the source category and then directing States to set performance standards for all existing sources within their jurisdiction based on the Agency's BSER determination. *Id.*

This case pertains to a petition for review of EPA's Final Rule that consists of the three separate and independent Agency actions. The first action was to repeal the prior EPA rule, referred to as the Clean Power Plan, which sought to reduce carbon dioxide ("CO_2") emissions from fossil-fueled EGUs based on a BSER determination that required the shifting of electric generation away from coal-fired EGUs to natural gas-fired combined cycle units and away from all fossil

fuel-fired EGUs to renewable energy resources. The second action was the promulgation of new emissions guidelines that revised the BSER determination for reducing CO_2 emissions from existing affected coal-fired EGUs. This revised BSER determination requires States to set performance standards based on selected heat-rate improvement ("HRI") measures that can be applied to each affected unit. And the third action was the adoption of new implementing regulations on how to establish, administer, and enforce standards of performances established for affected EGUs under the Final Rule and other source categories in the future pursuant to section 111(d) of the CAA.

In support of its decision to repeal the Clean Power Plan and promulgate the new emission guidelines for setting performance standards for existing coal-fired EGUs under CAA section 111(d), EPA indicated that the statute unambiguously limits the type of measures that may constitute the BSER for a source category under CAA section 111 to only those measures "that can be put into operation *at* a building, structure, facility, or installation" that is subject to regulation under that section. 84 Fed. Reg. at 32,524. Because the Clean Power Plan relied on shifting overall generation from one group of facilities to another as the BSER, and that measure cannot be put into effect at a regulated source itself, EPA determined that it "is obliged to repeal the [Clean Power Plan] to avoid acting unlawfully." *Id.* at 32,532.

II. The IBB and Its Interests in the Case.

The IBB is a diverse union representing workers throughout the United States and Canada in industrial construction, repair, and maintenance; manufacturing; shipbuilding and marine repair; railroads; mining and quarrying; cement kilns; and related industries. With its headquarters in Kansas City, Kansas, the IBB unites over 250 lodges throughout North America, providing numerous services for local lodges and individual members and uniting all its members in the common endeavor to improve the lives and lifestyles of its members.

Members of the IBB construct and maintain large electric generation facilities and other major construction projects that will be significantly impacted by the EPA regulations to regulate CO_2 emissions from existing fossil fueled-fired EGUs. The IBB's members are employed in building, repairing, and refurbishing those existing affected EGUs to which the emission guidelines for setting CO_2 performance standards would apply under CAA section 111(d). In the case of the Clean Power Plan, State implementation of emission guidelines were projected to force the premature retirement of many existing coal-fired EGUs and thereby posed a significant threat to the IBB and the jobs of its members who provide many services needed for the maintaining and repairing the boilers for these EGUs. By contrast, the Final Rule would repeal and replace the Clean Power Plan with new emission guidelines that allow States to set reasonably achievable standards

that reflect those HRI measures determined to be appropriate for application at each affected unit and allow States to tailor those standards for individual units based on remaining useful life, cost, and a variety of other technical factors. This new approach will not only avoid the premature shutdown of many existing coal-fired EGUs that are serviced by the IBB but also is expected to require that affected units undertake HRI measures IBB members would perform to enhance their efficiency in order to meet the applicable performance standards set for the units.

If the Petitioners prevail in this case, the IBB and its members will lose several important benefits of the Final Rule. First, they would lose the benefits of the Final Rule's approach of setting performance standards based on the application of HRI measures to individual affected coal-fired EGUs—which would be performed in many cases by IBB members. Second, they would face the loss of jobs, wages, and related work benefits that would result from the accelerated retirement of coal-fired EGU fleet. For these reasons, the IBB has a clear and significant interest in this litigation to protect the jobs and other related benefits of its members.

GROUNDS FOR INTERVENTION

The Court should grant this motion for leave to intervene because, for the reasons discussed below, the IBB meets the standard for intervention in petition-for-review proceedings in this Court.

I. Standard for Intervention

FRAP 15(d) establishes the process for parties to intervene in petition-for-review proceedings before this Court. A motion for leave to intervene in such a proceeding is proper if it is "filed within 30 days after the petition for review is filed" and contains "a concise statement of the interest of the moving party and the grounds for intervention." Fed. R. App. P. 15(d). Furthermore, case law confirms that this rule "simply requires the intervenor to file a motion setting forth its interest and the grounds on which intervention is sought." *Synovus Fin. Corp. v. Bd. of Governors of Fed. Reserve Sys.*, 952 F.2d 426, 433 (D.C. Cir. 1991).

While not binding on this Court, the requirements set forth in Federal Rule of Civil Procedure ("FRCP") 24 can also be used to inform the intervention inquiry under FRAP 15(d). *See, e.g.*, *Int'l Union, United Auto., Aerospace & Agric. Implement Workers of Am., AFL-CIO, Local 283 v. Scofield*, 382 U.S. 205, 216 n.10 (1965); *Amalgamated Transit Union Int'l v. Donovan*, 771 F.2d 1551, 1553 n.3 (D.C. Cir. 1985) (per curiam). The requirements for intervention of right under FRCP 24(a)(2) are the following: (1) the application is timely; (2) the applicant

claims an interest relating to the subject of the action; (3) disposition of the action may, as a practical matter, impair or impede the applicant's ability to protect that interest; and (4) existing parties may not adequately represent the applicant's interest. *See, e.g.*, *Fund for Animals, Inc. v. Norton*, 322 F.3d 728, 731 (D.C. Cir. 2003). This Court has stated that an applicant for intervention that meets the test for intervention of right also thereby demonstrates Article III standing. *Roeder v. Islamic Republic of Iran*, 333 F.3d 228, 233 (D.C. Cir. 2003).

As discussed below, the IBB meets the elements of this intervention-of-right test and thereby satisfy any applicable standing requirements.[1]

II. The IBB Meets the Standard for Intervention.

A. This Motion Is Timely.

A motion for leave to intervene is timely if filed "within 30 days after the petition for review is filed." FRAP 15(d). The IBB has met this timeliness requirement. The Petitioner in this case filed its petition for review on August 29, 2019 and this motion has been filed within 30 days of the August 29 filing date. Furthermore, because this motion is being filed at an early stage of the

[1] In some cases, this Court has indicated that Article III standing is a prerequisite to intervention, even by parties seeking to intervene as Intervenor-Respondents. *See, e.g.*, *Deutsche Bank Nat'l Trust Co. v. FDIC*, 717 F.3d 189, 193 (D.C. Cir. 2013); *Military Toxics Project v. EPA*, 146 F.3d 948, 953-54 (D.C. Cir. 1998). Nonetheless, this Court has held that "any person who satisfies Rule 24(a) will also meet Article III's standing requirement." *Roeder*, 333 F.3d at 233; *accord Fund for Animals*, 322 F.3d at 735.

proceedings, the Court's granting this motion to add IBB as an intervenor will not disrupt or delay any proceedings. If granted intervention, the IBB will comply with any briefing schedule established by the Court.

B. The IBB and Its Members Have Significant Interests in This Case That Will Be Impaired if Petitioners Prevail.

Although FRCP 24(a)(2) does not specify the nature of the interest required for intervention as a matter of right, this Court has stated that a "'significantly protectable'" interest is required. *S. Christian Leadership Conference v. Kelley*, 747 F.2d 777, 779 (D.C. Cir. 1984) (per curiam) (quoting *Donaldson v. United States*, 400 U.S. 517, 531 (1971)). The interest test for intervention under this Court's standard is flexible and serves as "a practical guide to disposing of lawsuits by involving as many apparently concerned persons as is compatible with efficiency and due process." *Nuesse v. Camp*, 385 F.2d 694, 700 (D.C. Cir. 1967). "The 'threatened loss' of [a] favorable action [by an agency] constitutes a 'concrete and imminent injury'" justifying intervention of right. Order, *New York v. EPA*, No. 17-1273 (D.C. Cir. Mar. 14, 2018) (ECF No. 1722115) (per curiam) (quoting *Fund for Animals*, 322 F.3d at 733). The same rationale establishes an intervenor's Article III standing. *See Fund for Animals*, 322 F.3d at 733. Furthermore, a party seeking to intervene can demonstrate it has a "legally protectable" interest upon a showing that it stands to "gain or lose by the direct legal operation and effect of the

judgment." *United States v. AT&T Co.*, 642 F.2d 1285, 1292 (D.C. Cir. 1980) (citation omitted).

Members of the IBB have strong economic interests in the outcome of this case. The Petitioners are challenging the Final Rule that is not just favorable, but crucial to employment and other economic interests of the IBB's members. The Clean Power Plan would have imposed serious, unlawful harm by requiring States to impose standards of performance that would have forced many existing affected coal-fired EGUs to retire. The Final Rule repeals the Clean Power Plan and directs States to adopt performance standards for coal-fired EGUs that reflect those HRI measures determined to be appropriate for application at each individual unit and that are achievable based on actions that can be taken at the unit itself. The Final Rule also allows States to alter their standards for individual units based on remaining useful life and other factors.

With the promulgation of the Final Rule, EPA has addressed the IBB's concerns regarding the harmful and unlawful impacts of the Clean Power Plan. It did so by repealing and replacing the Clean Power Plan with new federal emission guidelines that establish a process for States to set standards of performance in a lawful manner that would not force the premature shutdown of existing coal-fired EGUs that, in turn, would result in the loss of jobs, wages, and related work benefits for the IBB's members. Furthermore, the adoption of the new and lawful

methodology for setting performance standards under the replacement Rule should provide IBB's members with opportunities to provide their services in installing the HRI measures necessary for complying with the applicable performance standards.

The Final Rule therefore provides the IBB and its members with this important relief from these harmful impacts of the Clean Power Plan as well as the new employments benefits resulting from the new methodology for setting performance standards under the Final Rule. Accordingly, the IBB has a strong interest in the Final Rule and the disposition of this Petition may impair their ability to protect that interest for their members.

C. Existing Parties Cannot Adequately Represent the Interests of the IBB and Its Members.

Assuming *arguendo* that inadequate representation by existing parties is a relevant criterion for granting an intervention under FRAP 15(d),[2] the IBB has clearly satisfied that criterion here. The burden of showing inadequate representation in a FRCP 24(a)(2) motion for leave to intervene "is not onerous" and "[t]he applicant need only show that representation of his interest 'may be' inadequate, not that representation will in fact be inadequate." *Dimond v. Dist. of*

[2] The "adequate representation" prong contained in the FRCP 24(a)(2) has no parallel in FRAP 15(d). The IBB addresses it here to inform the Court fully of the FRCP 24(a)(2) analysis.

Columbia, 792 F.2d 179, 192 (D.C. Cir. 1986) (citing *Trbovich v. United Mine Workers of Am.*, 404 U.S. 528, 538 n.10 (1972)).

No existing party can adequately represent the IBB's interests in the case. As the discussion above demonstrates, the interests of Petitioners are adverse to the interests of the IBB in this case. Petitioners are challenging EPA's final actions of repealing and replacing the Clean Power Plan and amending the Agency's section 111(d) implementing regulations, whereas the IBB supports those actions. Petitioners manifestly cannot adequately represent the interests of the IBB.

In addition, EPA does not, and cannot, adequately represent the interests of the IBB in this case. As a governmental entity, EPA necessarily represents the broader "general public interest." *Dimond*, 792 F.2d at 192-93 ("A government entity . . . is charged by law with representing the public interest of its citizens. . . . The [government entity] would be shirking its duty were it to advance th[e] narrower interest [of a business concern] at the expense of its representation of the general public interest."); *Fund for Animals*, 322 F.3d at 736 (stating this court "ha[s] often concluded that governmental entities do not adequately represent the interests of aspiring intervenors"). Unlike EPA, the IBB has a focused interest in establishment of a regulatory scheme that adheres to the statutory requirements of CAA section 111(d) and takes into account all of the factors and considerations for setting reasonably achievable standards of performance that do not force the

premature retirement of existing affected coal-fired EGUs serviced by the IBB's members. Furthermore, even in those cases when the interests of EPA and intervenors may coincide, this Court has recognized that this fact "does not necessarily mean that adequacy of representation is ensured." *NRDC v. Costle*, 561 F.2d 904, 912 (D.C. Cir. 1977).

In sum, the existing parties do not and cannot adequately represent the interests of the IBB and its members in this case.

CONCLUSION

For the foregoing reasons, the IBB respectfully requests leave to intervene as an Intervenor-Respondent in Case No. 19-1173 and in any other cases consolidated with Case No. 19-1173.

Respectfully submitted,

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Counsel for International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers & Helpers, AFL-CIO

Dated: September 17, 2019

ATTACHMENT A

ORAL ARGUMENT NOT YET SCHEDULED

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FOR THE DISTRICT OF COLUMBIA CIRCUIT

CHESAPEAKE BAY FOUNDATION, INC., ***Petitioner*,** **v.** **UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, *et al.*,** ***Respondents*.**	**Case No. 19-1173 (and consolidated cases)**

DECLARATION OF NEWTON B. JONES

I, Newton B. Jones, declare and state as follows:

1. I am the duly elected International President of the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers & Helpers, AFL-CIO ("IBB").

The IBB is a diverse labor union representing highly skilled workers throughout the United States and Canada in industrial construction, repair, and maintenance; manufacturing; shipbuilding and marine repair; railroads; mining and quarrying; cement kilns; and related industries. With its headquarters in Kansas City, Kansas, the IBB unites over 250 lodges throughout North America, providing numerous services for local lodges and individual members and uniting all its

members in the common endeavor to improve the lives and lifestyles of its members.

2. Members of the IBB construct and maintain large electric generation facilities and other major construction projects that would be subject to any regulations that the U.S. Environmental Protection Agency ("EPA" or "Agency") may adopt to reduce or limit carbon dioxide ("CO_2") emissions from existing fossil fueled-fired electric generating units ("EGUs") under the Clean Air Act ("CAA"). The IBB's members are employed in building, repairing, and refurbishing those existing affected EGUs to which such EPA regulations would apply.

3. The IBB supports EPA's efforts to regulate CO_2 emissions from existing affected coal-fired EGUs through its rule entitled "Repeal of the Clean Power Plan; Emission Guidelines for Greenhouse Gas Emissions From Existing Electric Utility Generating Units; Revisions to Emission Guidelines Implementing Regulations," 84 Fed. Reg. 32,520 (July 8, 2019) ("Final Rule" or "Rule"). The Final Rule, which is the subject of this litigation, takes several import steps to assure the establishment of reasonable regulations that adhere to the statutory requirements for regulating CO_2 emissions from existing coal-fired EGUs under the CAA. First, the Rule repealed the Clean Power Plan, a predecessor regulation that sought to reduce CO_2 emissions from fossil-fueled EGUs by requiring the shifting of electric generation away from coal-fired EGUs to natural gas-fired

combined cycle units and away from all fossil fuel-fired EGUs to renewable energy resources. Second, the Rule adopted new replacement regulations that require States to set reasonably achievable performance standards based on selected efficiency improvement measures that can be directly applied to each affected unit.

4. The IBB submitted comments in opposition of the Clean Power Plan based on the fact that these regulations were projected to force the premature retirement of many existing coal-fired EGUs and thereby posed a significant threat to the IBB and the jobs of its members who provide many services needed for the maintaining and repairing the boilers for these EGUs. The IBB also petitioned this Court for review of the Clean Power Plan and was involved in the litigation that was brought before this Court to prevent EPA from implementing the onerous and unlawful requirements of the Clean Power Plan.

5. By contrast, the IBB submitted detailed comments in strong support of the Final Rule because it would repeal and replace the Clean Power Plan with new emission guidelines that allow States to set reasonably achievable standards of performance that reflect those efficiency improvement measures determined to be appropriate for application at each affected unit and allow States to tailor those standards for individual units based on remaining useful life, cost, and a variety of other technical factors. This new approach would not only avoid the premature

shutdown of many existing coal-fired EGUs that are serviced by the IBB but also is expected to require that affected units undertake efficiency improvement measures that Boilermaker members could perform to enhance their efficiency in order to meet the applicable performance standards set for the units.

6. If the Petitioners were to prevail in this case, the IBB and its members will lose several important benefits of the Final Rule. First, they would lose the benefits of the Rule's approach of setting performance standards based on the application of HRI measures to individual affected coal-fired EGUs – which would be performed in many cases by Boilermaker members. Second, they would face loss of jobs, wages and related work benefits that would result from the accelerated retirement of coal-fired EGU fleet.

7. The IBB therefore has a clear and significant interest in this litigation in order to protect the jobs and other related benefits of its members. The Rule's repeal of the Clean Power Plan is crucial to protecting the employment and other economic interests of the IBB's members. Furthermore, replacing the Clean Power Plan with new federal regulations will reduce CO_2 emissions from coal-fired EGUs in a lawful manner that will not force the premature shutdown of existing coal-fired EGUs that, in turn, would result in the loss of jobs, wages, and related work benefits for the IBB's members. In addition, the adoption of the new and lawful methodology for setting performance standards for limiting CO_2 emissions from

existing affected EGUs under the replacement Rule should provide IBB's members with opportunities to provide their services in installing the efficiency improvement measures necessary for complying with the applicable performance standards.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge, information, and belief.

Executed on September 16, 2019.

Newton B. Jones
International President
International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers & Helpers, AFL-CIO

CERTIFICATE OF COMPLIANCE

Pursuant to Federal Rule of Appellate Procedure ("FRAP") 32(f) and (g), I hereby certify that the foregoing motion complies with the type volume limitation of FRAP 27(d)(2)(A) because it contains 2,798 words, excluding exempted portions, according to the count of Microsoft Word.

I further certify that the motion complies with FRAP 27(d)(1)(E), 32(a)(5), and 32(a)(6) because it has been prepared in 14-point Times New Roman type.

Respectfully submitted,

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Dated: September 17, 2019

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FOR THE DISTRICT OF COLUMBIA CIRCUIT

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RULE 26.1 DISCLOSURE STATEMENT OF MOVANT-INTERVENOR-RESPONDENT INTERNATIONAL BROTHERHOOD OF BOILERMAKERS, IRON SHIP BUILDERS, BLACKSMITHS, FORGERS & HELPERS, AFL-CIO

Pursuant to Rule 26.1 of the Federal Rules of Appellate Procedure ("FRAP") and D.C. Circuit Rule 26.1, the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers & Helpers, AFL-CIO ("IBB") hereby provides the following information:

1. The IBB is a non-profit national labor organization with headquarters in Kansas City, Kansas.

2. IBB's members are active and retired members engaged in various skilled trades of welding and fabrication of boilers, ships, pipelines, and other industrial facilities and equipment in the United States and Canada, and workers in other industries in the United States organized by the IBB.

3. The IBB provides collective bargaining representation and other membership services on behalf of its members.

4. As a professional association, the IBB is not required by FRAP Rule 26.1 or Circuit Rule 26.1 to provide a list of its members.

5. The IBB is affiliated with the American Federation of Labor-Congress of Industrial Organizations.

6. The IBB and its affiliated lodges own approximately 60 percent of the outstanding stock of Brotherhood Bancshares, Inc., the holding company of the Bank of Labor. Bank of Labor's mission is to serve the banking and other financial needs of the North American labor movement.

7. No entity owns 10 percent or more of the IBB.

Respectfully submitted,

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Dated: September 17, 2019

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CERTIFICATE OF MOVANT-INTERVENOR-RESPONDENT INTERNATIONAL BROTHERHOOD OF BOILERMAKERS, IRON SHIP BUILDERS, BLACKSMITHS, FORGERS & HELPERS, AFL-CIO AS TO PARTIES AND *AMICI CURIAE*

Pursuant to Circuit Rule 27(a)(4), Movant-Intervenor-Respondent International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers & Helpers, AFL-CIO ("IBB") certifies that the parties, including intervenors, and *amici curiae* in this case are as set forth below. Pursuant to Circuit Rule 27(a)(4), a disclosure statement for IBB as required by Federal Rule of Appellate Procedure 26.1 and Circuit Rule 26.1 is being filed herewith. Because this case involves direct review in this Court of agency action, the requirement to furnish a list of parties, including intervenors, and *amici curiae* that appeared below is inapplicable.

Petitioners: Petitioner in 19-1173 is the Chesapeake Bay Foundation, Inc.

The petitioners in consolidated cases are:

19-1140 (lead)	American Lung Association and American Public Health Association
19-1165	State of New York, State of California, State of Colorado, State of Connecticut, State of Delaware, State of Hawaii, State of Illinois, State of Maine, State of Maryland, Commonwealth of Massachusetts, People of the State of Michigan, State of Minnesota, State of New Jersey, State of New Mexico, State of North Carolina, State of Oregon, Commonwealth of Pennsylvania, State of Rhode Island, State of Vermont, Commonwealth of Virginia, State of Washington, State of Wisconsin, District of Columbia, City of Boulder (CO), City of Chicago, City of Los Angeles, City of New York, City of Philadelphia, and the City of South Miami (FL)
19-1166	Appalachian Mountain Club, Center for Biological Diversity, Clean Air Council, Clean Wisconsin, Conservation Law Foundation, Environmental Defense Fund, Environmental Law & Policy Center, Minnesota Center For Environmental Advocacy, Natural Resources Defense Council, and Sierra Club
19-1175	Robinson Enterprises, Inc.; Nuckles Oil Company, Inc., dba Merit Oil Company; Construction Industry Air Quality Coalition; Liberty Packing Company LLC; Dalton Trucking, Inc.; Norman R. "Skip" Brown; Joanne Brown; the Competitive Enterprise Institute; and the Texas Public Policy Foundation
19-1176	Westmoreland Mining Holdings LLC
19-1177	City and County of Denver (CO)
19-1179	North American Coal Corporation
19-1185	Biogenic CO2 Coalition
19-1186	Advanced Energy Economy
19-1187	American Wind Energy Association and Solar Energy Industries Association
19-1188	Consolidated Edison, Inc., Exelon Corporation, National Grid USA, New York Power Authority, Power Companies Climate Coalition, Public Service Enterprise Group Incorporated, and Sacramento Municipal Utility District
19-1189	State of Nevada

Respondents: The Environmental Protection Agency is a respondent in both 19-1140 and 19-1173. In lead case 19-1140, Environmental Protection Agency Administrator Andrew R. Wheeler is also a respondent.

Intervenors: At the time of this filing, this Court has granted the following motions to intervene:

AEP Generating Company

AEP Generation Resources Inc.

America's Power (formerly known as the American Coalition for Clean Coal Electricity)

Appalachian Power Company

Chamber of Commerce of the United States of America

Indiana Michigan Power Company

Kentucky Power Company

Murray Energy Corporation

National Mining Association

National Rural Electric Cooperative Association

Public Service Company of Oklahoma

Southwestern Electric Power Company

Westmoreland Mining Holdings LLC

Wheeling Power Company

***Amici Curiae*:** There are no *amici curiae* at the time of this filing.

Respectfully submitted,

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Counsel for International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers & Helpers, AFL-CIO

Dated: September 17, 2019

CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of September, 2019, the foregoing documents were electronically filed with the Clerk of the court by using the Court's CM/ECF system. All registered counsel will be served by the Court's CM/ECF system. I further certify that I have served the foregoing documents via first-class mail, postage pre-paid, to the following parties not registered for CM/ECF service:

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