

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 UNITED MINE WORKERS OF AMERICA, 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 United Mine Workers of America (“UMWA”) 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 UMWA 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 UMWA 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 (“CO₂”) 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 CO₂ 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 UMWA and Its Interests in the Case

The UMWA represents the nation's active and retired organized coal miners. No entity has been exposed to a greater risk of loss of jobs due to the Clean Power Plan than UMWA. With headquarters in Triangle, Virginia, UMWA represents organized coal miners as well as workers in other fields such as banking, health care, and manufacturing. The majority of its active and retired members are coal miners.

Members of the UMWA work at coal mines that supply fuel to electric generating facilities subject to the Final Rule. The continued operation of these facilities is vital to the welfare of UMWA's members, families and communities. The Final Rule promises to encourage investments that will improve the efficiency of existing coal units, thereby reducing the risk of premature retirement of the affected facilities.

In the case of the Clean Power Plan, State implementation of EPA's proposed emission caps were projected to force the premature retirement of many existing coal-fired EGUs. The rule thereby posed a significant threat to the UMWA and the jobs of its members. 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 UMWA and its members would 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 serve to improve the operating efficiency of affected units. Second, they would face loss of jobs, wages and related work benefits that would result from the accelerated retirement of coal-fired EGU fleet. For these reasons, the UMWA has a clear and significant interest in this litigation to protect the jobs and other related benefits of its members.

GROUND FOR INTERVENTION

The Court should grant this motion for leave to intervene because, for the reasons discussed below, the UMWA 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 UMWA meets the elements of this intervention-of-right test and thereby satisfy any applicable standing requirements.¹

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

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.

B. The UMWA 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 UMWA 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 UMWA'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 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 UMWA'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 UMWA's members. Furthermore, the adoption of the new and lawful methodology for setting performance standards under the replacement Rule should provide UMWA's members with opportunities to continue to provide coal to affected units that otherwise might be subject to premature retirement.

The Final Rule therefore provides the UMWA 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 Rule. Accordingly, the UMWA 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 UMWA 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 UMWA 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 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 UMWA’s interests in the case. As the discussion above demonstrates, the interests of Petitioners are adverse to the interests of the UMWA in this case. Petitioners are challenging EPA’s final

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

actions of repealing and replacing the Clean Power Plan and amending the Agency's section 111(d) implementing regulations, whereas the UMWA supports those actions. Petitioners manifestly cannot adequately represent the interests of the UMWA.

In addition, EPA does not, and cannot, adequately represent the interests of the UMWA 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 UMWA 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 UMWA'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 UMWA and its members in this case.

CONCLUSION

For the foregoing reasons, the UMWA 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,

/s/ Eugene M. Trisko

Eugene M. Trisko

Law Offices of Eugene M. Trisko

P.O. Box 330133

Atlantic Beach, Florida 32233

(301) 639-5238 (cell)

emtrisko7@gmail.com

DC Bar No. 942854

*Counsel for United Mine Workers of
America, AFL-CIO*

Dated: September 17, 2019

ATTACHMENT A

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)****DECLARATION OF CECIL E. ROBERTS**

I, Cecil E. Roberts, declare and state as follows:

1. I am the duly elected International President of the United Mine Workers of America, AFL-CIO ("UMWA").
2. The UMWA represents the nation's active and retired organized coal miners. The union also represents workers in other diverse industries such as banking, health care, and manufacturing. With its headquarters in Triangle, Virginia, the UMWA represents more than 100,000 active and retired members.
3. Members of the UMWA engaged in coal mining and other coal-related occupations are impacted by any regulations that the U.S. Environmental Protection Agency ("EPA" or "Agency") may adopt to reduce or limit carbon

dioxide ("CO₂") emissions from new or existing fossil-fuel electric generating units ("EGUs") under the Clean Air Act ("CAA").

4. The UMWA supports EPA's efforts to regulate CO₂ 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 CO₂ emissions from existing coal-fired EGUs under the CAA. First, the Rule repealed the Clean Power Plan, a predecessor regulation subject to a Supreme Court stay that sought to reduce CO₂ emissions "outside the fence" of 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 new 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.

5. The UMWA testified at EPA's November 28, 2017, public hearings in Charleston, West Virginia, in opposition to the Clean Power Plan. We opposed this

rule because EPA projected that it would force the premature retirement of many existing coal-fired EGUs and thereby posed a significant threat to the UMWA and the jobs of its members and their communities. The UMWA also petitioned this Court for review of the Clean Power Plan and was involved in the litigation that was brought before this Court and the Supreme Court to prevent EPA from implementing the onerous and unlawful requirements of the Clean Power Plan.

6. By contrast, the UMWA supported EPA's proposed Affordable Clean Energy rule in comments submitted to the Agency and in meetings with staff of EPA and the Office of Management and Budget. We support 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 energy efficiency improvement measures determined to be appropriate for application at each affected unit. Consistent with the Clean Air Act, the Rule also allows 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 but also could lead to investments that will improve the operating efficiency of many coal-fired units.

7. If the Petitioners were to prevail in this case, the UMWA and its members stand to 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 heat rate improvement measures to individual affected coal-fired EGUs. Second, they would face the loss of jobs, wages and related work benefits that would result from the accelerated retirement of the coal-fired EGU fleet.

8. The UMWA 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 UMWA's members. Furthermore, replacing the Clean Power Plan with new federal regulations will reduce CO₂ 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 UMWA's members. Furthermore, the adoption of the new and lawful methodology for setting "inside the fence" performance standards for limiting CO₂ emissions from existing affected EGUs under the replacement Rule should provide UMWA's members with opportunities for continued work supplying coal to units that otherwise may be subjected to premature shutdowns.

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.

A handwritten signature in black ink, appearing to read "Cecil E. Roberts". The signature is written in a cursive style with a large, stylized initial "C".

Cecil E. Roberts
International President
United Mine Workers of America, AFL-CIO

CERTIFICATE OF COMPLIANCE

Pursuant to 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 2,651 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,

/s/ Eugene M. Trisko

Eugene M. Trisko

Law Offices of Eugene M. Trisko

P.O. Box 330133

Atlantic Beach, Florida

(301) 639-5238 (cell)

emtrisko7@gmail.com

*Counsel for United Mine Workers of
America, AFL-CIO*

Dated: September 17, 2019

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)****RULE 26.1 DISCLOSURE STATEMENT OF
MOVANT-INTERVENOR-RESPONDENT UNITED
MINE WORKERS OF AMERICA, AFL-CIO**

Pursuant to Rule 26.1 of the Federal Rules of Appellate Procedure (“FRAP”) and D.C. Circuit Rule 26.1, the United Mine Workers of America, AFL-CIO (“UMWA”) hereby provides the following information:

1. UMWA is a non-profit national labor organization with headquarters in Triangle, Virginia;
2. UMWA’s members are active and retired miners engaged in the extraction of coal and other minerals in the United States and Canada, and workers in other industries in the United States organized by the UMWA;
3. UMWA provides collective bargaining representation and other

membership services on behalf of its members;

4. UMWA is affiliated with the American Federation of Labor-Congress of Industrial Organizations;

5. UMWA has no parent companies, subsidiaries, or affiliates that have issued shares or debt securities to the public.

Respectfully submitted,

/s/ Eugene M. Trisko

Eugene M. Trisko

Law Offices of Eugene M. Trisko

P.O. Box 330133

Atlantic Beach, Florida

(301) 639-5238 (cell)

emtrisko7@gmail.com

*Counsel for United Mine Workers of
America, AFL-CIO*

Dated: September 17, 2019

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)****CERTIFICATE OF MOVANT-INTERVENOR-RESPONDENT UNITED
MINE WORKERS OF AMERICA, AFL-CIO
AS TO PARTIES AND *AMICI CURIAE***

Pursuant to Circuit Rules 27(a)(4), Movant-Intervenor-Respondent United Mine Workers of America, AFL-CIO (“UMWA”) 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 the UMWA 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

Murray Energy Corporation

AEP Generation Resources Inc.

National Mining Association

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

National Rural Electric Cooperative Association

Public Service Company of Oklahoma

Appalachian Power Company

Southwestern Electric Power Company

Chamber of Commerce of the United States of America

Westmoreland Mining Holdings LLC

Indiana Michigan Power Company

Wheeling Power Company

Kentucky Power Company

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

Respectfully submitted,

/s/ Eugene M. Trisko

Eugene M. Trisko

Law Offices of Eugene M. Trisko

P.O. Box 330133

Atlantic Beach, Florida

(301) 639-5238 (cell)

emtrisko7@gmail.com

*Counsel for United Mine Workers of
America, 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:

William F. Cooper
State of Hawaii Department of the
Attorney General
425 Queen Street
Honolulu, HI 96813

Steven Novick
Oregon Department of Justice
General Counsel
100 SW Market Street
Portland, OR 97201

Karl A. Racine
Office of the Attorney General, District
of Columbia
Office of the Solicitor General
441 4th Street, NW
One Judiciary Square, Sixth Floor
Washington, DC 20001-2714

Respectfully submitted,

/s/ Eugene M. Trisko

Eugene M. Trisko
Law Offices of Eugene M. Trisko
P.O. Box 330133
Atlantic Beach, Florida 32233
(301) 639-5238 (cell)
emtrisko7@gmail.com

Counsel *United Mine Workers of America,*
AFL-CIO

September 17, 2019