ORAL ARGUMENT NOT YET SCHEDULED

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

MURRAY ENERGY CORPORATION,	
Petitioner,	**Case No. 16-1127 and consolidated cases Nos. 16-1175, 16-1204, 16-1206, 16-1208, and 16-1210**
v.	
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY and REGINA A. McCARTHY, Administrator, U.S. Environmental Protection Agency,	
Respondents.	

UNOPPOSED MOTION FOR LEAVE TO INTERVENE AS RESPONDENTS OF AMERICAN LUNG ASSOCIATION, AMERICAN PUBLIC HEALTH ASSOCIATION, CHESAPEAKE BAY FOUNDATION, CHESAPEAKE CLIMATE ACTION NETWORK, CITIZENS FOR PENNSYLVANIA'S FUTURE, CLEAN AIR COUNCIL, DOWNWINDERS AT RISK, ENVIRONMENTAL INTEGRITY PROJECT, NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, NATURAL RESOURCES DEFENSE COUNCIL, AND PHYSICIANS FOR SOCIAL RESPONSIBILITY

Pursuant to Federal Rule of Appellate Procedure 15(d) and D.C. Circuit Rule 15(b), public health and environmental organizations American Lung Association, American Public Health Association, Chesapeake Bay Foundation, Chesapeake Climate Action Network, Citizens for Pennsylvania's Future ("PennFuture"), Clean

Air Council, Downwinders at Risk, Environmental Integrity Project, National Association for the Advancement of Colored People ("NAACP"), Natural Resources Defense Council, and Physicians for Social Responsibility ("Movants") respectfully move for leave to intervene in support of Respondent U.S. Environmental Protection Agency ("EPA" or "the Agency"), in the above-captioned consolidated challenges to the "Supplemental Finding That It Is Appropriate and Necessary To Regulate Hazardous Air Pollutants From Coal- and Oil-Fired Electric Utility Steam Generating Units," 81 Fed. Reg. 24,420 (Apr. 25, 2016) ("Supplemental Finding").

Counsel for Respondents has stated that the Respondents do not oppose this motion. Counsel for Petitioners Murray Energy Corporation, Counsel for Petitioners the States of Alabama, Arizona, Arkansas, Kansas, Kentucky, Nebraska, North Dakota, Ohio, Oklahoma, South Carolina, Texas, West Virginia, Wisconsin, and Wyoming, and the Texas Commission on Environmental Quality, Public Utility Commission of Texas, and Railroad Commission of Texas, and the Michigan Attorney General on behalf of the People of Michigan, Counsel for Petitioners Oak Grove Management Company, LLC, and Counsel for Petitioner Utility Air Regulatory Group, have indicated that they take no position on this motion. Counsel for Petitioners ARIPPA has indicated that ARIPPA does not oppose this motion.

BACKGROUND

EPA promulgated the Supplemental Finding in response to the U.S. Supreme Court's ruling in *Michigan v. EPA*, 135 S. Ct. 2699 (2015), remanding a limited question in the case challenging the Agency's "National Emission Standards for Hazardous Air Pollutants from Coal- and Oil- Fired Electric Utility Steam Generating Units and Standards of Performance for Fossil-Fuel-Fired Electric Utility, Industrial-Commercial-Institutional, and Small Industrial-Commercial-Institutional Steam Generating Units," 77 Fed. Reg. 9304 (Feb. 16, 2012) ("Mercury and Air Toxics Standards" or "the Air Toxics Rule").

The Air Toxics Rule was promulgated under Section 112 of the Clean Air Act ("the Act"), 42 U.S.C. § 7412, which establishes a detailed statutory framework intended to reduce emissions of hazardous air pollutants. These pollutants: are "carcinogenic, mutagenic, teratogenic, [or] neurotoxic"; cause "reproductive dysfunction"; are otherwise "acutely or chronically toxic"; or may present or threaten "adverse environmental consequences" due to "bioaccumulation, deposition, or otherwise," 42 U.S.C. § 7412(b)(2), even where they are present in small amounts. In the Clean Air Act Amendments of 1990, Congress mandated that EPA regulate power plants' emissions of hazardous air pollutants from power plants if the Agency found such regulation "appropriate and necessary" after performing a study of the public health hazards reasonably anticipated as a result of those emissions. *See id.* § 7412(n)(1)(A).

The Air Toxics Rule has a long litigation history. EPA completed the Section 112(n)(1)(A) study, and others, by 1998. The Agency thereafter sought

comment and in 2000 published its finding that regulation of coal- and oil-fired power plants was "appropriate and necessary," and listed the coal- and oil-fired electricity generating industry for regulation. This Court dismissed a challenge to that decision on ripeness grounds, *see* Order, *Util. Air Regulatory Grp. v. EPA*, Case No. 01-1074, 2001 U.S. App. LEXIS 18436 (D.C. Cir. July 26, 2001). After listing the industry, EPA faced a statutory deadline of December 20, 2002, to promulgate Section 112 emission standards. *See* 42 U.S.C. § 7412(c)(5).

In 2005, however, EPA issued a final rule purporting to reverse its finding that regulation under Section 112 was "appropriate and necessary," and thereby to remove or "delist" coal- and oil-fired power plants from the requirement to issue Section 112(d) technology-based regulation. *See* "Revision of December 2000 Regulatory Finding on the Emissions of Hazardous Air Pollutants From Electric Utility Steam Generating Units and the Removal of Coal- and Oil-Fired Electric Utility Steam Generating Units From the Section 112(c) List," 70 Fed. Reg. 15,994 (Mar. 29, 2005) ("Delisting Rule"). In response to consolidated challenges to both the Delisting Rule and an accompanying regulation known as the Clean Air Mercury Rule—which established performance standards for mercury, only, from coal-fired power plants—brought by several states, tribes, and non-governmental organizations, including a number of the Movants here, this Court vacated both rules and confirmed EPA's ongoing obligation to finalize emission standards for hazardous air pollutants from power plants under Section 112 of the Clean Air Act. *See New Jersey v. EPA*, 517 F.3d 574, 578 (D.C. Cir. 2008).

Thereafter, public health and environmental groups, including several of the Movants here, filed suit in December 2008 seeking enforceable deadlines for EPA to fulfill its obligation. *Am. Nurses Ass'n v. EPA*, D.D.C. No. 1-cv-08-02198 (RMC). Pursuant to the consent decree in that case, EPA proposed emissions standards for hazardous air pollutants from coal- and oil-fired power plants for comment in early 2011, and signed and finalized the Air Toxics Rule on December 16, 2011. *See* 77 Fed. Reg. at 9446.

The Air Toxics Rule promulgates Section 112(d) emission standards for the listed hazardous air pollutants emitted by coal- and oil-fired power plants. Although not required to do so, as the source category "remain[ed] listed," *New Jersey*, 517 F.3d at 583, EPA in the Air Toxics Rule again affirmed its prior finding that regulating hazardous air pollutants emitted by coal- and oil-fired power plants under Section 112 "remains appropriate and necessary." *See* 77 Fed. Reg. at 9363–64.

A coalition of industry and state petitioners sought review of the Air Toxics Rule in this Court, which denied the petitions. *See White Stallion Energy Ctr. v. EPA*, 748 F.3d 1222, 1229 (D.C. Cir. 2014) ("*White Stallion*"). The U.S. Supreme Court granted review on the narrow question of whether EPA unreasonably refused to consider cost when determining that it was "appropriate" to regulate hazardous air pollution from power plants, and found that EPA erred by not considering cost. *See Michigan v. EPA*, 135 S. Ct. at 2707. Neither the Supreme Court, nor this Court on remand, vacated the Air Toxics Rule, which has been continuously effective

since 2012. *See* Order, *White Stallion Energy Ctr. v. EPA*, D.C. Cir. No. 12-1100, 2015 U.S. App. LEXIS 21819, at *56 (Dec. 15, 2015).

EPA has now issued the Supplemental Finding in response to *Michigan v. EPA*. In it, the Agency determined that, considering cost, it remains appropriate and necessary to regulate emissions of hazardous air pollutants from coal- and oil-fired power plants under Clean Air Act Section 112. *See* 81 Fed. Reg. at 24,420, 24,427. In accord with *Michigan*, the Agency included cost as a factor in the "appropriate" prong of its analysis. *See id.* at 24,426. Specifically, EPA evaluated the cost of compliance with the Air Toxics Rule as a percentage of the power sector's revenue, in comparison to the power sector's annual capital expenditures, and by its impact on the retail price of electricity. *See id.* at 24,424. The Agency determined that costs were reasonable under any of those metrics. *See id*. at 24,427. EPA also determined that compliance costs would not adversely impact the reliability of the electricity supply. *See id.* at 24,424–25. In addition, EPA explained that the benefit-cost analysis that it conducted as part of the Regulatory Impact Analysis of the Air Toxics Rule, although "not . . . required to support the appropriate finding," demonstrates that the Air Toxics Rule's benefits "are substantial and far outweigh the costs." *Id*. at 24,427.

Petitioner Murray Energy Corporation filed a petition (No. 16-1127) seeking review of the Supplemental Finding on April 25, 2016, and several environmental and public health organizations have sought to intervene on EPA's behalf. Motion to Intervene of Conservation Law Foundation, *et al.*, *Murray Energy v. EPA*, No. 16-1127 (May 25, 2016), Doc. No. 1615015. On May 18, 2016, this Court granted

Respondent EPA's motion to extend the deadlines for initial submissions in this case to July 25, 2016. Order No. 16-1127 (May 18, 2016).

Petitioner ARIPPA filed another petition (No. 16-1175) on June 7, 2016; Petitioners Bill Shuette, for the People of Michigan, *et al.* (No. 16-1204), Petitioners Oak Grove Management Company (No. 16-1206), Petitioner Utility Air Regulatory Group (No. 16-1210), and Petitioners Southern Company Services, Inc., *et al*. (No. 16-1208) filed their petitions on June 24, 2016. These cases have been consolidated with the lead case *Murray Energy Corp. v. EPA*, No. 16-1127, by orders dated June 13, 2016, Doc. No. 1618949, June 27, 2016, Doc. No. 1621894, June 28, 2016, Doc. No. 16622149, and June 30, Doc. No. 1622608.

The Commonwealth of Massachusetts, with sixteen other states and five local governments, sought intervention in support of EPA in the consolidated case on July 1, 2016. Motion to Intervene of Massachusetts, *et al*., *Murray Energy Corp. v. EPA*, No. 16-1127 & consolidated cases (July 1, 2016), Doc. No. 1622739.

STATEMENT OF INTERESTS AND GROUNDS FOR INTERVENTION; ARTICLE III STANDING

Federal Rule of Appellate Procedure 15(d) "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).

A. Statement of Interests, Grounds for Intervention

Movants have organizational interests in preserving the Air Toxics Rule,

including a strong commitment to protecting their members, and in the case of public health Movants, those patients for whom they provide care (together "Movants' members"), from the effects of dangerous air pollution, including the air toxics emitted by coal- and oil-fired power plants. Jugovic Decl. ¶ 4; Wimmer Decl. ¶ 3-6; Baker Decl. ¶ 7; Minott Decl. ¶¶ 3-4; Schaeffer Decl. ¶ 3; Tidwell Decl. ¶ 4; Thomasson Decl. ¶ 16; Benjamin Decl. ¶ 14; Trujillo Decl. ¶ 5. As described above, many of the Movants here have participated for over fifteen years on behalf of their members and those for whom they care, in the proceedings leading up to this case. Most recently, this Court granted many of the current Movants leave to intervene in *White Stallion*, and many Movants also were respondents before the U.S. Supreme Court in *Michigan v. EPA*. *See* Brief of Respondents American Academy of Pediatrics, *et al.*, *Michigan v. EPA*, 135 S. Ct. 2699 (2015).

Following the Supreme Court's decision, upon remand to this Court, Movants continued to participate as intervenors. *See, e.g.*, Joint Motion of the State, Local Government, and Public Health Respondent-Intervenors for Remand Without Vacatur, *White Stallion Energy Ctr. v. EPA*, No. 12-1100 (D.C. Cir. 2015). This Court's prior grants to Movants of leave to intervene in *White Stallion* properly recognize that organizations like Movants offer a distinct perspective in defending government actions that protect their members' concrete interests in their health and the environment where they live and recreate—the history of this

regulatory program shows that these interests are not always fully represented by Respondent EPA.

Movants likewise have a compelling interest in defending the Supplemental Finding, to ensure that the Air Toxics Rule continues to provide significant public health and environmental protection valued by their members and those to whom public health Movants provide medical care. Petitioners here have previously used challenges to the "appropriate and necessary" finding to attack the underlying protections of the Air Toxics Rule. For example, Petitioner Murray Energy's Supreme Court filing in *Michigan* urged, "EPA's determination that power plants could be appropriately regulated under Section 112—together with the rule itself—should be vacated." Amicus Curiae Brief of Murray Energy Corporation in Support of Petitioners at 27, *Michigan v. EPA*, 135 S. Ct. 2699 (2015).

Movants have a strong interest in preserving the Air Toxics Rule's significant and far-reaching health and environmental benefits for Movants' members. With the Air Toxics Rule in place and effective, coal- and oil-fired power plants' annual mercury emissions will be reduced by 75 percent, hydrogen chloride emissions (an acid gas) will be reduced by 88 percent, fine particulates (a proxy for metal toxics, and a health hazard linked to negative respiratory and cardiovascular effects) will be reduced 19 percent and sulfur dioxide (an acid gas proxy and also a health hazard in its own right, causing respiratory harms) will be reduced 41 percent. 77 Fed. Reg. at 9424. These pollution reductions will provide public health and environmental benefits generally and particularly for Movants' members, as shown below.

The Air Toxics Rule will vastly reduce mercury that is released to the atmosphere, deposited and transformed in receiving waters, into methylmercury which contaminates fish. Significantly lower mercury emissions results in significantly lower levels of mercury in fish and lower exposures among those who eat fish, particularly women of childbearing age and young children, who are most vulnerable to the neurological disorders and other adverse health effects caused by eating mercury-contaminated fish. *See* Mercury and Air Toxics Standards (Proposed Rule), 76 Fed. Reg. 24,976, 25007-09 (May 3, 2011). These adverse effects include poor attention span and delayed language development, impaired memory and vision, problems processing information, and impaired fine motor coordination. *See id.* at 25,018. All fifty states and one U.S. territory have advised against consuming freshwater and saltwater fish caught in some or all of the water bodies within their boundaries because of mercury pollution in those waters. *See* EPA, *Fish and Shellfish Advisories and Safe Eating Guidelines, available at* https://www.epa.gov/choose-fish-and-shellfish-wisely/fish-and-shellfish-advisories-and-safe-eating-guidelines (last accessed May 25, 2016). Mercury contamination in fish also leads to neurological and reproductive harms in the water birds and mammals that eat that fish.

Movants' members and their families are exposed to mercury by eating contaminated fish, and have reduced their fish consumption as a result. Perry Decl. ¶¶ 10-11; Baker Decl ¶ 17. In addition, Movants' members who are recreational fisherman curtail or refrain from fishing, eating the fish they catch, teaching others to fish, and sharing the fish they catch with others, due to widespread mercury

contamination. Perry Decl. ¶¶ 8, 10.

Movants' members are exposed to air pollution including the acid gases, metal toxics, and particulate matter emitted by coal- and oil-fired power plants. Perry Decl. ¶¶ 15-16; Minott Decl. ¶ 9; Daniels Decl. ¶ 3; Tidwell Decl. ¶ 7; Rogers Decl. ¶¶ 8-9; Bounds Decl. ¶¶ 3-5; VonBenken Decl. ¶¶3-5. That exposure includes inhaled acids, particulates including metal toxics, and sulfur dioxide. Those pollutants have been shown to cause serious respiratory and cardiovascular disorders, even premature death. *See, e.g.*, 76 Fed. Reg. at 25,003-04 (health impacts of organic HAP), 25,050 (health impacts of acid gases), 25,085 (health impacts of fine particulate matter). The Air Toxics Rule's requirements to reduce such emissions directly benefits Movants' members. Reardon Decl. ¶¶ 10-11; Minott Decl. ¶ 11; Daniels Decl. ¶ 4; Rogers Decl. ¶ 8; VonBenken Decl. ¶¶ 6-7.

In summary, Movants' members, including those persons for whom Public Health Movants care, currently are benefiting from the Air Toxics Rule because it is now effectively reducing coal- and oil-fired power plant air toxics emissions, thereby reducing the risk to their health and improving their ability to enjoy the areas where they live, work, and recreate. Movants therefore seek intervention to defend and preserve the Supplemental Finding and indeed, any and all aspects of the Air Toxics Rule as may be threatened by this proceeding in order to avoid harm to their and their members' interests. Through their challenge to the Supplemental Finding, Petitioners seek to weaken or vacate the Air Toxics Rule. Because such results would increase Movants' members' personal exposure to toxic air pollution

from power plants and also increase the threat to the environment in which they live and recreate, Movants have an interest in intervening on behalf of Respondents in the present case. *See* Fed. R. App. P. 15(d).

The grounds for Movants' intervention are to oppose Petitioners' attempts to eliminate or weaken the Air Toxics Rule. Movants' interests in preventing the elimination or weakening of the Air Toxics Rule—and thus protecting their members' health and ability to continue enjoying recreational and aesthetic activities, and protecting their own and their members' interests in receiving access to information about emissions from the source category—are long-standing and will be prejudiced if they are not allowed to intervene. This Court has regularly found sufficient grounds for intervention by medical, health, and environmental organizations to support EPA in Clean Air Act rulemakings—including the Air Toxics Rule—challenged by industry groups.[1]

B. Article III Standing.

Movants also demonstrate Article III standing. Any weakening or vacatur of the Air Toxics Rule would harm Movants' members by threatening their and their families' health, and diminishing their use and enjoyment of their property

[1] *See, e.g., West Virginia v. EPA*, No. 15-1363 (D.C. Cir.) (American Lung Association, Natural Resources Defense Council and Natural Resources Defense Council, among others, intervened in support of EPA); *White Stallion Energy Ctr. v. EPA*, 748 F.3d 1222, 1229 (D.C. Cir. 2014)(many of the Movants here intervened in support of EPA); *Medical Waste Inst. v. EPA*, 645 F.3d 420 (D.C. Cir. 2011) (Natural Resources Defense Council Intervened in support of EPA); *Portland Cement Ass'n v. EPA*, 665 F.3d 177 (D.C. Cir. 2011) (Downwinders at Risk and Natural Resources Defense Council intervened in support of EPA).

and natural resources. *See* Jucovic Decl. ¶¶ 13-17; Perry Decl. ¶¶ 15-16; Reardon Decl. ¶ 12; Baker Decl. ¶ 19; Daniels Decl. ¶ 4; Rogers Decl. ¶ 10; Bounds Decl. ¶¶ 6-8; VonBenken Decl. ¶¶ 5-7. This is sufficient to establish injury for standing purposes. *See, e.g., Friends of the Earth, Inc. v. Laidlaw Envtl. Servs. (TOC), Inc.*, 528 U.S. 167, 181–85 (2000) (disrupted enjoyment of natural resources and decreased property values due to pollution concerns are injuries in fact); *Sierra Club v. EPA*, 129 F.3d 137, 138–39 (D.C. Cir. 1997) (organization had standing to challenge delay in implementation of pollution-control measures that would benefit its members).[2] Petitioners plainly seek the weakening or vacatur of the Air Toxics Rule as the ultimate goal of this proceeding. *See* Amicus Curiae Brief of Murray Energy Corporation in Support of Petitioners at 27, *Michigan v. EPA*, 135 S. Ct. 2699 (2015).

Moreover, a decision dismissing Petitioners' challenge to the Supplemental Finding would extinguish Petitioners' threat to the Air Toxics Rule, thereby preventing harm to Movants' members. Thus, causation and redressability "rationally follow[]." *Crossroads Grassroots Policy Strategies v. FEC*, 788 F.3d 312, 316 (D.C. Cir. 2015) (movant had standing to intervene in order to defend against a challenge to an agency decision favorable to its interests, because invalidation of that decision would expose it to harm). Here, the injuries to

[2] This Court has held repeatedly that organizations such as Movants have standing to sue to protect their members from pollution that threatens and concerns those members. *See, e.g., Natural Resources Defense Council v. EPA*, 755 F.3d 1010, 1016-17 (D.C. Cir. 2014)

Movants' members resulting from any weakening or elimination of the Air Toxics Rule are "directly traceable" to the relief sought in this proceeding, and therefore redressable by a decision of this Court. *Id.*

CONCLUSION

For the foregoing reasons, Movants request leave to intervene as Respondents in these consolidated cases challenging EPA's Supplemental Finding.

DATED: July 22, 2016

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on July 22, 2016, the foregoing Motion for Leave to Intervene as Respondents of American Lung Association, American Public Health Association, Chesapeake Bay Foundation, Chesapeake Climate Action Network, Citizens for Pennsylvania's Future, Clean Air Council, Downwinders at Risk, Environmental Integrity Project, National Association for the Advancement of Colored People, Natural Resources Defense Council, and Physicians for Social Responsibility filed through the Court's CM/ECF System, and the accompanying declarations, Rule 26.1 Disclosure Statement, and Certificate as to Parties were served electronically on all registered participants of the CM/ECF System as identified in the Notice of Docket Activity for Case No. 16-1127 and consolidated cases.

/s/ ANN BREWSTER WEEKS

Dated: July 22, 2016

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MURRAY ENERGY CORPORATION,	)	
Petitioner,	)	**Case No. 16-1127 and consolidated cases Nos. 16-1175, 16-1204, 16-1206, 16-1208, and 16-1210**
v.	)	
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY and REGINA A. McCARTHY, Administrator, U.S. Environmental Protection Agency,	)	
Respondents.	)	

CERTIFICATE OF PARTIES

Pursuant to D.C. Circuit Rules 27(a)(4) and 28(a)(1)(A), Movant-Intervenors American Lung Association, American Public Health Association, Chesapeake Bay Foundation, Chesapeake Climate Action Network, Citizens for Pennsylvania's Future, Clean Air Council, Downwinders at Risk, Environmental Integrity Project, National Association for the Advancement of Colored People, Natural Resources Defense Council, and Physicians for Social Responsibility hereby certify as follows:

Petitioners: The Petitioners in these consolidated cases include:

No. 16-1127: Murray Energy Corporation;

No. 16-1175: ARIPPA;

No. 16-1204: Michigan Attorney General Bill Schuette, on behalf of the people of Michigan, the States of Alabama, Arizona, Arkansas, Kansas, Kentucky, Nebraska, North Dakota, Ohio, Oklahoma, South Carolina, Texas, West Virginia, Wisconsin, and Wyoming, and the Texas Commission on Environmental Quality, Public Utility Commission of Texas, and Railroad Commission of Texas;

No. 16-1206: Oak Grove Management Company, LLC;

No. 16-1208: Southern Company Services, Inc., Alabama Power; Company, Georgia Power Company, Gulf Power Company, and Mississippi Power Company;

No. 16-1210: Utility Air Regulatory Group.

Respondents: The Respondents in this case are the United States Environmental Protection Agency and Regina A. McCarthy, Administrator, U.S. Environmental Protection Agency.

Other Movant-Intervenors: Others who have moved for leave to intervene on behalf of Respondents are the Commonwealths of Massachusetts and Virginia, the States of California, Connecticut, Delaware, Iowa, Illinois, Maine, Maryland, Minnesota, New Hampshire, New Mexico, New York, Oregon, Rhode

Island, Vermont; Washington the District of Columbia, and the Cities of Baltimore, Chicago, and New York; the County of Erie, New York; and Conservation Law Foundation, Environmental Defense Fund, Natural Resources Council of Maine, The Ohio Environmental Council, and Sierra Club.

There are no Movant Intervenor-Petitioners as of the date of this Motion.

Dated: July 22, 2016

Respectfully submitted,

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RULE 26.1 CORPORATE DISCLOSURE STATEMENT

Pursuant to Federal Rule of Appellate Procedure and D.C. Cir. Rule 26.1, Movant-Intervenors American Lung Association, American Public Health Association, Chesapeake Bay Foundation, Chesapeake Climate Action Network, Citizens for Pennsylvania's Future ("PennFuture"), Clean Air Council, Downwinders at Risk, Environmental Integrity Project, National Association for the Advancement of Colored People ("NAACP"), Natural Resources Defense Council, and Physicians for Social Responsibility state that they are not-for-profit, non-governmental organizations whose missions include protection of public health and

the environment and the conservation of natural resources, and that none of these organizations has any outstanding shares or debt securities in the hands of the public, or any parent, subsidiary, or affiliate that has issued shares or debt securities to the public.

Dated: July 22, 2016

Respectfully submitted,

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