

ORAL ARGUMENT NOT SCHEDULED

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

CLEAN AIR COUNCIL,)	
EARTHWORKS, ENVIRONMENTAL)	
DEFENSE FUND,)	
ENVIRONMENTAL INTEGRITY)	
PROJECT, NATURAL RESOURCES)	
DEFENSE COUNCIL, AND SIERRA)	
CLUB,)	
Petitioners,)	
)	
v.)	No. 17-1145
)	
SCOTT PRUITT, Administrator,)	
United States Environmental Protection)	
Agency, and UNITED STATES)	
ENVIRONMENTAL PROTECTION)	
AGENCY,)	
Respondents.)	
)	

On Petition for Review of Final Action of the
United States Environmental Protection Agency

**MOTION OF THE COMMONWEALTHS OF MASSACHUSETTS AND
PENNSYLVANIA, THE STATES OF CONNECTICUT, DELAWARE,
ILLINOIS, IOWA, MARYLAND, NEW MEXICO, NEW YORK, OREGON,
RHODE ISLAND, VERMONT, AND WASHINGTON, THE DISTRICT OF
COLUMBIA, AND THE CITY OF CHICAGO, FOR LEAVE TO
INTERVENE IN SUPPORT OF PETITIONERS**

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Additional counsel on signature pages

The Commonwealths of Massachusetts and Pennsylvania, the States of Connecticut, Delaware, Illinois, Iowa, Maryland, New Mexico, New York, Oregon, Rhode Island, Vermont, and Washington, the District of Columbia, and the City of Chicago (collectively, “State Intervenors”), hereby move pursuant to Federal Rule of Appellate Procedure 15(d) and Circuit Rule 15(b) for leave to intervene in support of petitioners Clean Air Council, Earthworks, Environmental Defense Fund, Environmental Integrity Project, Natural Resources Defense Council, and Sierra Club (“Petitioners”) in this case, for the reasons set forth below:

1. Petitioners have sought review of EPA’s final action, published in the Federal Register at 82 Fed. Reg. 25,730, on June 5, 2017, and titled “Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources; Grant of Reconsideration and Partial Stay” (“Administrative Stay”).

2. EPA’s Administrative Stay exempts industry compliance with key pollution safeguards under EPA’s New Source Performance Standards (“NSPS”) to control leaking methane—one of the most potent greenhouse gases—and limit other harmful air pollutants from the oil and gas industry, including volatile organic compounds (“VOCs”) and hazardous air pollutants. That final NSPS rule was promulgated on June 3, 2016, and came into effect on August 2, 2016. 81 Fed. Reg. 35,824 (June 3, 2016) (“2016 Rule”). The 2016 Rule includes measures that

will “achieve reductions of [greenhouse gases] and VOC emissions through direct regulation and reduction of hazardous air pollutant (HAP) emissions as a co-benefit of reducing VOC emissions.” *Id.* at 35,827. The agency concluded that the 2016 Rule would yield substantial reductions in these air pollutants, including preventing emissions of 300,000 tons of methane, 150,000 tons of VOCs, and 1,900 tons of hazardous air pollutants by 2020. *Id.*

3. Central to the 2016 Rule is its requirement that oil and gas companies monitor their well sites and compressor stations to detect air pollutant leaks (“fugitive emissions”) and repair them (“leak detection and repair,” or “LDAR”). *See* 40 C.F.R. § 60.5397a. The 2016 Rule requires owners and operators to complete their initial monitoring by June 3, 2017, and fix any leaks found within 30 days of detection. 40 C.F.R. § 60.5397a(f), (h).

4. In April 2017, however, EPA Administrator Pruitt notified counsel for industry by letter that he intended to reconsider aspects of the 2016 Rule and also stay the June 3 compliance deadline. On June 5, two days after that June 3 deadline and ten months after the 2016 Rule went into effect, Administrator Pruitt published the Administrative Stay in the Federal Register, suspending the LDAR program and other requirements of the 2016 Rule until August 31, 2017.

5. Petitioners commenced this action on June 5, 2017, filing an emergency motion for a stay to restore the effectiveness of the 2016 Rule. *See*

Emergency Motion for a Stay or, in the Alternative, Summary Vacatur (“Emergency Motion” or “Pet. Mot.”). As set forth in Petitioners’ Emergency Motion, Administrator Pruitt relies on Clean Air Act § 307(d)(7)(B) as authority for issuing the Administrative Stay. That provision allows the EPA Administrator to convene a proceeding to reconsider a final rule—and stay its effectiveness for up to three months—when (i) a party raises an objection to the rule that could not have been raised during the public comment period and (ii) that objection “is of central relevance to the outcome of the rule.” *See* Pet. Mot. at 4-5; 42 U.S.C. § 7607(d)(7)(B). As Petitioners explain, these threshold requirements for reconsideration of the 2016 Rule—and, therefore, for the Administrative Stay—are not met and the Administrative Stay and order for reconsideration are therefore unlawful. *See* Pet. Mot. at 4-5; 10-11; 14-22.

6. The State Intervenors have the right to intervene in this case under Rule 15(d) and support Petitioners’ Petition for Review and request in their Emergency Motion that this Court stay the Administrator’s unlawful Administrative Stay and immediately restore the effectiveness of the 2016 Rule. As this Court has stated,

In deciding whether a party may intervene as of right, we employ a four-factor test requiring: (1) timeliness of the application to intervene; (2) a legally protected interest; (3) that the action, as a practical matter, impairs or impedes that interest; and (4) that no party to the action can adequately represent the potential intervenor’s interest.

Crossroads Grassroots Policy Strategies v. FEC, 788 F.3d 312, 320 (D.C. Cir. 2015). The State Intervenors meet each requirement.

7. The State Intervenors' application is timely under Rule 15(d). This application is within the thirty-day window, which opened on June 5, 2017, with the filing of Petitioners' Petition for Review and Emergency Motion.

8. The State Intervenors have a demonstrated, legally protected interest as sovereigns in protecting their territory and residents from harmful pollution, including greenhouse gases that contribute to climate change and its attendant, potentially catastrophic harms. *See Massachusetts v. EPA*, 549 U.S. 497, 521-23 (2007). These potential harms include increased heat-related deaths and transmission of insect-borne disease; damage to public property and infrastructure; territory lost to rising seas; more frequent and prolonged drought, compromising access to water for consumption, sanitation, and agriculture; more and more severe extreme weather events, and ever-increasing costs of emergency response measures that must be paid for by our residents; and disrupted ecosystems and food systems. *See id.*

9. State Intervenors have taken significant steps to protect those interests and prevent those harms, including by enacting their own greenhouse gas emissions limitations.¹ Our cities have developed their own greenhouse gas

¹ *See, e.g.,* Md. Code Ann., Envir., § 2-1201 *et seq.* (requiring 25 percent reduction

reduction plans as well.² State Intervenors have also participated extensively in regulatory and judicial proceedings at the federal level, advocating for federal action to limit greenhouse gas emissions. For example, several State Intervenors filed the petition that led to the decision *Massachusetts v. EPA*, as well as EPA's subsequent finding that greenhouse gases may reasonably be anticipated to endanger public health and welfare. *See* 74 Fed. Reg. 66,496. Several State Intervenors also sued EPA to promptly establish carbon dioxide emission standards for power plants under Section 111 of the Clean Air Act, 42 U.S.C. § 7411. *See* Petition for Review, *New York v. EPA*, No. 06-1322 (D.C. Cir. Sept. 13, 2006).

of greenhouse gas emissions statewide by 2020 and 40 percent by 2030); Massachusetts Global Warming Solutions Act, 2008 Mass. Acts ch. 298 (requiring 80 percent reduction of greenhouse gas emissions statewide by 2050); N.Y. Comp. Codes R. & Regs. tit. 6, Part 251 (emission standards for carbon dioxide for new power plants); Or. Rev. Stat. § 468A.275 (requiring Oregon Environmental Quality Commission to adopt low carbon fuel standards to reduce average amount of greenhouse gas emissions from transportation fuels by 10 percent below 2010 levels by the year 2025), Or. Rev. Stat. § 469.503(2) (adopting carbon emissions standards for power plants); Wash. Rev. Code § 80.80.040(b) (setting greenhouse gas emissions limits for electricity generation); *see also* Conn. Gen. Stat. § 22a-200c & Conn. Agencies Regs. § 22a-174-31 (implementing nine-state Regional Greenhouse Gas Initiative); Del. Code Ann. tit. 7, §§ 6043-6047 (2011) & Del. Admin. Code tit. 7, ch. 1147 (same); Md. Code Ann., Envir., § 2-1002(g) (same); Mass. Gen. Laws ch. 21A, § 22 & 310 Mass. Code Regs. 7.70 (same); R.I. Gen. Laws § 23-82-1 (same); Vt. Stat. Ann. tit. 30, § 255 (same).

² *See, e.g.*, City of Boston, "Climate Action Plan Update," at 13, (2014) (committing to greenhouse gas reduction goal of 80 percent by 2050); City of Chicago, "Chicago Climate Action Plan," at 25-28 (2008) (same); City of New York, "The Plan for a Strong and Just City (2015) (166-71) (same).

10. Likewise, several State Intervenors have long been actively engaged in efforts to protect their residents from the substantial health threats posed by exposure to hazardous air pollution emissions by participating in the regulatory and judicial proceedings that led to the promulgation of EPA's Mercury and Air Toxics Standards in 2012, and currently are intervenor-respondents in the ongoing litigation over that rule. *See White Stallion Energy Center LLC v. EPA*, 748 F.3d 1222 (D.C. Cir. 2014); *Michigan v. EPA*, 135 S. Ct. 2699 (2015). And State Intervenors have actively participated in efforts to ensure their residents are protected from health and environmental harms posed by criteria pollutants, like ozone, which is formed when oxides of nitrogen and VOCs—a category of pollutants at issue here—react in the presence of sunlight. *See, e.g., Mississippi v. EPA*, 744 F.3d 1334 (D.C. Cir. 2013) (upholding primary National Ambient Air Quality Standard (“NAAQS”) for ozone and remanding secondary standard for reconsideration, in response to petition of several State Intervenors), *cert. denied, Util. Air Regulatory Grp. v. EPA*, 135 S. Ct. 53 (2014); *see also* Final Brief of State Amici in Support of Respondent, *Murray Energy Corp. v. EPA*, No. 15-1385 (D.C. Cir. Sept. 26, 2016) (several State Intervenors participating as amici in support of respondent EPA in challenge to EPA's 2015 Final Rule setting NAAQS for ozone).

11. In large part due to methane's effect as a greenhouse gas, State Intervenor's have a longstanding and demonstrated interest in controlling methane leaks from oil and gas facilities. In December 2012, several State Intervenor's notified EPA of their intent to sue EPA over "its failure . . . to set performance standards . . . that curb emissions of methane from the oil and gas sector"—a legal notice that helped to advance the promulgation of the 2016 Rule at issue in this case.³ State Intervenor's also submitted comments on EPA's technical white papers regarding sources of methane emissions in the oil and gas sector, including fugitive emissions,⁴ commented on EPA's proposed 2016 Rule,⁵ and intervened in litigation to defend the final 2016 Rule.⁶

³ See Letter from Eric Schneiderman, Att'y Gen. of N.Y., et al., to Lisa Jackson, Adm'r, EPA, "Re: Clean Air Act Notice of Intent to Sue for Failure to Determine Whether Standards of Performance Are Appropriate for Methane Emissions from Oil and Gas Operations, and to Establish Such Standards and Related Guidelines for New and Existing Sources" (Dec. 11, 2012) (signed by attorneys general of Connecticut, Delaware, Maryland, Massachusetts, New York, Rhode Island, and Vermont).

⁴ See Letter from Eric T. Schneiderman, Att'y Gen. of N.Y., et al., to Gina McCarthy, Adm'r, EPA, "Re: Comments on EPA Methane White Papers" (June 16, 2014) (signed by attorneys general of Delaware, Maryland, Massachusetts, New York, Oregon, Rhode Island, and Vermont); Letter from Eric T. Schneiderman, Att'y Gen. of N.Y., et al., to Janet McCabe, Acting Assist. Adm'r for Air and Radiation, EPA, "Re: Addressing Methane Emissions from Distribution Sector" (Sept. 12, 2014) (signed by attorneys general of Delaware, Maryland, Massachusetts, New York, Oregon, Rhode Island, and Vermont).

⁵ See Comments from Attorneys General of New York, Massachusetts, Oregon, Rhode Island, and Vermont, EPA Docket No. EPA-HQ-OAR-2010-0505 (Dec. 4, 2015).

⁶ See Unopposed Motion of the States of California, Connecticut, Illinois, New

12. The Administrative Stay concretely and negatively affects the State Intervenor’s protected interests in controlling methane leaks that cause public health and environmental harms. As Petitioners note, EPA’s own analysis of the 2016 Rule indicated that, overall, the LDAR program stayed by the Administrative Stay would account for nearly half of the 2016 Rule’s projected reductions in VOCs, more than half the projected reduction in methane emissions, and roughly 90 percent of the reduction in hazardous pollutants like formaldehyde and benzene. *See* Pet. Mot. at 2; EPA, Regulatory Impact Analysis 3-13 (Table 3-4) (May 2016) (Pet. Mot. Attach. 3). As a result of the Administrative Stay of the LDAR program, more than 18,000 new or modified oil and gas wells—and any additional new wells currently under development—will *not* be required to inspect and repair leaks of these pollutants. *See* Administrative Stay, 82 Fed. Reg. 25,730, 25,732 (“Specifically, the EPA is staying the effectiveness of the fugitive emissions requirements . . .”). As Petitioners further explain, there is no equivalent state regulatory backstop in place for a majority of these wells. Pet. Mot. at 3 (stating that 11,000 of 18,000 wells affected by 2016 Rule are “in states that do not impose their own comparable leak detection and repair programs”). Therefore, absent a judicial stay, thousands of tons of air pollutants will be emitted that would have

Mexico, New York, Oregon, Rhode Island, Vermont, and the Commonwealth of Massachusetts and the City of Chicago for Leave to Intervene as Respondents, *North Dakota v. EPA*, No. 16-1242 (D.C. Cir. Aug. 15, 2016).

been avoided had the 2016 Rule remained in effect. *See* Decl. of Dr. David R. Lyon, at 6 (Pet. Attach. 5) (“Lyon Decl.”). Specifically, during the 90-day term of the Administrative Stay, at least 5,349 tons of methane, 1,475 tons of VOCs, and fifty-six tons of hazardous air pollutants will be emitted that, but for the Stay, would have been controlled and prevented. *Id.* at 13.

13. These additional emissions will harm the State Intervenors’ interest in protecting their residents from the effects of harmful air pollution and climate change described above. As also described above, VOC emissions contribute to the formation of ground-level ozone. EPA has found significant negative health effects in individuals exposed to elevated levels of ozone, including coughing, throat irritation, lung tissue damage, and aggravation of existing conditions, such as asthma, bronchitis, heart disease, and emphysema. 80 Fed. Reg. 65,292, 65,302-11 (Oct. 26, 2015). Exposure to ozone has also been linked to premature death. *Id.* at 65,302; *see also* Lyon Decl. at 11 (ground-level ozone “can cause respiratory disease and premature death.”); *see also* Decl. of Dr. Elena Craft, at 3-5 (Pet. Attach. 6) (“Craft Decl.”). Likewise, EPA has found that harmful air pollutants like formaldehyde and benzene are known to cause cancer and other adverse health effects. *See, e.g.*, 2016 Rule, 81 Fed. Reg. 35,824, 35,837 (June 3, 2016) (“[B]enzene . . . can lead to a variety of health concerns such as cancer and noncancer illnesses (e.g., respiratory, neurological).”); Lyon Decl. at 11; Craft

Decl. at 9-11. As EPA noted in promulgating the 2016 Rule, “methane is a potent [greenhouse gas] with a 100-year [global warming potential] that is 28-36 times greater than that of carbon dioxide.” *Id.* at 35,830; *see also* Lyon Decl. at 11. The unlawful Administrative Stay measurably increases emissions of these harmful pollutants and therefore will harm the health and well-being of State Intervenors’ residents.

14. Beyond these harms shared by all State Intervenors—and indeed, by all states—individual State Intervenors will experience unique harms.

15. States with more well sites will bear the brunt of harms resulting from additional emissions at a local level. New Mexico, for example, has more than 1,500 wells that will be affected by the Administrative Stay. See Environmental Defense Fund, “What suspending EPA’s oil and gas pollution standards means for New Mexico” (available at https://www.edf.org/sites/default/files/content/nm_fact_sheet_nsps.pdf). In the 90 days of the Administrative Stay alone, those wells will emit an additional 873 tons of methane, 238 tons of VOCs, and nine tons of hazardous air pollutants as a result of the Administrative Stay. *Id.* Similarly, Pennsylvania has more than 800 wells affected by the Administrative Stay, causing more than 500 tons of additional methane emissions, 141 tons of VOC emissions, and five tons of hazardous air pollutant emissions. *See* Environmental Defense

Fund, “What suspending EPA’s oil and gas pollution standards means for Pennsylvania” (available at https://www.edf.org/sites/default/files/content/pa_fact_sheet_nsps.pdf).

16. Likewise, the timely implementation of the rule is significant to Connecticut's air quality planning and GHG reduction efforts. Connecticut is in nonattainment for both the health-based primary and welfare-based secondary 2008 National Ambient Air Quality Standard for ground-level ozone. The 2016 Rule’s projected reduction of emissions of volatile organic compounds, a precursor to the formation of ground-level ozone, will assist Connecticut in achieving attainment. Furthermore, the 2016 Rule is critical to Connecticut’s goal to reduce greenhouse gas emissions to avert the projected severe economic, environmental, and human harm from climate change. Connecticut has experienced the impacts of climate change, including more-frequent and intense heavy rainfall events, flooding, and hurricane activity. Rising sea levels would increase the prospect that coastal states like Connecticut will be increasingly vulnerable to these types of storms in the years ahead. Increased greenhouse gases cause higher temperatures, which in turn cause an increase in ozone levels. Climate change will negatively impact Connecticut’s agriculture, infrastructure, natural resources, and public health.

17. Similarly, with more than 3,000 miles of coastline and the home of largest estuary in the United States—the Chesapeake Bay—Maryland is particularly vulnerable to rising sea levels and the more extreme weather events associated with climate change: shoreline erosion, coastal flooding, storm surges, inundation, and saltwater intrusion into groundwater supplies. Maryland has documented a sea-level rise of more than one foot in the last century and increasing water temperatures in the Chesapeake Bay. *See* Maryland Commission on Climate Change, Greenhouse Gas Emissions Reduction Act Plan UPDATE 2015 (Dec. 2015) (available at <http://www.mde.state.md.us/programs/Air/ClimateChange/Documents/ClimateUpdate2015.pdf>).

18. Moreover, EPA has signaled that it will attempt to further stay the 2016 Rule’s pollution control requirements, further exacerbating the harms described above. After Petitioners filed their motion for emergency relief with this Court, on June 12, EPA proposed two new rules designed to extend the stay of the 2016 Rule for *an additional two years and three months*, respectively. *See* Proposed Rule, “Oil and Natural Gas Sector: Emissions Standards for New, Reconstructed, and Modified Sources: Stay of Certain Requirements,” EPA-HQ-OAR-2010-0505, RIN 2060-AT59 (June 12, 2017); Proposed Rule, “Oil and Natural Gas Sector: Emissions Standards for New, Reconstructed, and Modified Sources: Three Month Stay of Certain Requirements,” EPA-HQ-OAR-2017-0346,

RIN 2060-AT65 (June 12, 2017). These stays would compound the harm to public health and the environment from the current stay by dramatically increasing the total volume of dangerous air pollution that would not otherwise occur if the Rule were to remain in effect. Even leaving aside any new wells, if the 2016 Rule is stayed for the proposed additional 27 months, at least 48,138 tons of methane, 13,272 tons of VOCs, and 506 tons of hazardous air pollutants will be emitted during that period that would have been controlled and prevented under the 2016 Rule.⁷ EPA points to no statutory authority for these extended stays.

19. State Intervenors have unique interests in the outcome of this case that may not be adequately represented by Petitioners, and State Intervenors are uniquely situated to explain the burdens and harms of staying the 2016 Rule on those State interests. As state sovereigns, State Intervenors have the paramount obligation to protect the health and safety of our residents, our natural resources, and state-owned property and infrastructure, from the effects of pollution. *See Massachusetts v. EPA*, 549 U.S. at 518-19.

20. State Intervenors' participation will not unduly delay or prejudice the rights of any other party. In light of the compressed timeframe and need for immediate review of the Administrative Stay, State Intervenors are not seeking

⁷ *See* Lyon Decl. at 13 (stating that stay of 2016 rule for one year would result in 21,395 tons of methane, 5,899 tons of VOCs, and 225 tons of hazardous air pollutants).

leave to file their own brief in support of Petitioners' requested emergency relief. For the purposes of Petitioners' pending Emergency Motion, State Intervenors support the arguments set forth in that motion.⁸

21. On June 15, 2017, several other states, led by West Virginia, filed a motion to intervene as respondents, in support of EPA and Administrator Pruitt. The Court granted that motion on June 16, 2017.⁹

22. Counsel for the Commonwealth of Massachusetts sought the position of Petitioners, Respondent, and industry Respondent-Intervenors on June 15, 2017. Counsel for Petitioners stated that Petitioners consent to State Intervenors' application to intervene. Respondent United States stated that it reserves taking a position on this motion until it has an opportunity to review the motion. Counsel for industry Respondent Intervenors stated that they take no position and do not intend to file a response to this motion. On June 19, counsel for the Commonwealth of Massachusetts sought the position of Respondent-Intervenor States, who were unable to ascertain their position by the time of this filing.

⁸ Should the Court enter a stay of EPA's Administrative Stay, the 2016 Rule will once again be in effect, and the immediate harm associated with excess air pollution emissions will be mitigated so long as the Rule remains in effect. Petitioner-Intervenor States suggest that any further review by this Court of the Administrative Stay could therefore occur on a non-expedited basis.

⁹ The intervenor-respondents included West Virginia, Alabama, Kansas, Louisiana, Montana, Ohio, Oklahoma, South Carolina, Wisconsin, the Commonwealth of Kentucky, the Commonwealth of Kentucky Energy and Environment Cabinet, and Attorney General Bill Schuette for the People of Michigan.

23. Counsel for the Commonwealth of Massachusetts represents, pursuant to Circuit Rule 32(a)(2), that the other parties listed in the signature blocks below consent to the filing of this motion.

24. The Court should grant State Intervenors' application to intervene in this action to seek a stay of EPA's unlawful action.

Respectfully submitted,

Dated: June 20, 2017

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MASSACHUSETTS

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CERTIFICATE OF COMPLIANCE

I certify pursuant to Federal Rule of Appellate Procedure 32(g)(1) that the foregoing was printed in a proportionally spaced font of 14 points and that, according to the word-count program in Microsoft Word, it contains 4,607 words, in accordance with Federal Rule of Appellate Procedure 27(d)(1) and (2).

Dated: June 20, 2017

/s/ Peter C. Mulcahy

Peter C. Mulcahy

CERTIFICATE OF SERVICE

I certify pursuant to Federal Rule of Appellate Procedure 25(d) that a copy of the foregoing Unopposed Motion for Leave to Intervene in Support of Petitioners was filed on June 20, 2017, using the Court's CM/ECF system and that, therefore, service was accomplished upon counsel of record by the Court's system.

Dated: June 20, 2017

/s/ Peter C. Mulcahy

Peter C. Mulcahy

CERTIFICATE AS TO PARTIES AND AMICI CURIAE

Pursuant to D.C. Circuit Rule 27(a)(4), State Intervenors certify as follows:

1. Parties, Intervenors, and Amici Who Appeared in the District Court

None—this case is a petition for review of final agency action, not an appeal from the ruling of a district court.

2. Parties to this Case

Petitioners: Clean Air Council, Earthworks, Environmental Defense Fund, Environmental Integrity Project, Natural Resources Defense Council, and Sierra Club.

Respondents: The United States Environmental Protection Agency (“EPA”) and Scott Pruitt, in his official capacity as Administrator of EPA.

Intervenors: American Petroleum Institute, Interstate Natural Gas Association of America, American Exploration & Production Council, Domestic Energy Producers Alliance, Eastern Kansas Oil & Gas Association, Illinois Oil and Gas Association, Independent Oil and Gas Association of West Virginia, Inc., Independent Petroleum Association of America, International Association of Drilling Contractors, Kansas Independent Oil and Gas Association, Kentucky Oil and Gas Association, Michigan Oil and Gas Association, National Stripper Well Association, North Dakota Petroleum Council, Ohio Oil and Gas Association,

Oklahoma Independent Petroleum Association, Pennsylvania Independent Oil & Gas Association, Texas Alliance of Energy Producers, Texas Independent Products & Royalty Owners Association, West Virginia Oil and Natural Gas Association, GPA Midstream Association, Texas Oil and Gas Association, Attorney General Bill Schuette for the People of Michigan, Commonwealth Kentucky Energy and Environment Cabinet, Commonwealth of Kentucky, State of Alabama, State of Kansas, State of Louisiana, State of Montana, State of Ohio, State of Oklahoma, State of South Carolina, State of West Virginia, State of Wisconsin, Western Energy Alliance, and Indiana Oil and Gas Association, all for Respondents.

3. Circuit Rule 26.1 Disclosures.

Because none of the State Intervenors is a corporation, association, joint venture, partnership, syndicate, or other similar entity, no Circuit Rule 26.1 disclosure is required.

Dated: June 20, 2017

/s/ Peter C. Mulcahy

Peter C. Mulcahy