

ORAL ARGUMENT JUNE 2, 2016

No. 15-1363 (Lead) and Consolidated Cases

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

STATE OF WEST VIRGINIA ET AL.
Petitioners,

vs.

ENVIRONMENTAL PROTECTION AGENCY ET AL.
Respondents.

**On Petition for Review of a Final Action of the
United States Environmental Protection Agency
80 Fed. Reg. 64,662 (Oct. 23, 2015)**

**MOTION BY CATHOLIC CLIMATE COVENANT
ET AL. FOR LEAVE TO FILE BRIEF
AS AMICI CURIAE**

Fran M. Layton
Matthew D. Zinn
Peter J. Broderick
Shute, Mihaly & Weinberger LLP
396 Hayes Street
San Francisco, California 94102
(415) 552-7272
Zinn@smwlaw.com

*Attorneys for Amici Curiae
Catholic Climate Covenant et al. in support of Respondents*

Pursuant to Rule 29(b) of the Federal Rules of Appellate Procedure and Circuit Rule 29(b), Catholic Climate Covenant et al. (collectively, “Amici”) respectfully move for leave to file a brief as amici curiae in support of the Respondents Environmental Protection Agency (“EPA”) et al. The proposed brief is being submitted contemporaneously with this motion.

On March 30, 2016, Amici sought consent to file the brief from the parties to this action. As of this filing, many parties have not responded. None have opposed the filing. Several parties have stated that they take no position on this motion, and several have granted consent.

In support of this motion, Amici state as follows:

1. Amici are entities representing the abundant diversity within and among the Christian and Jewish faiths. Amici comprise the following entities:

a. **Catholic Climate Covenant**, a project of the Catholic Rural Life, a 501(c)(3) nonprofit organization, helps Catholics respond to the moral call for action on climate change. The Covenant lifts voices in the public arena, and works to reduce carbon footprints and share Catholic teaching on climate change through several programs in 31 states.

b. **Catholic Rural Life**, a 501(c)(3) nonprofit organization founded in 1923, is dedicated to improving the social, economic and spiritual lives of rural communities. CRL believes that global environmental issues, including climate change, place even

greater demands on CRL to fulfill its mission of supporting and empowering rural people.

c. **Evangelical Environmental Network**, a 501(c)(3) nonprofit organization founded in 1993, is a ministry that educates, inspires, and mobilizes Christians in their effort to care for God's creation, to be faithful stewards of God's provision, and to advocate for actions and policies that honor God and protect the environment.

d. **National Council of Churches USA**, a 501(c)(3) nonprofit organization, is the principal ecumenical organization in the United States with 35 Protestant, Orthodox, and Anglican member denominations with a combined membership of more than 45 million Christians in nearly 100,000 congregations nationwide. The National Council considers the moral issues presented by climate change through the lens of long-standing social teaching and has adopted numerous policy statements calling for an immediate response to this threat.

e. **Coalition on the Environment and Jewish Life** is an initiative of the Jewish Council for Public Affairs, a 501(c)(3) nonprofit organization that serves as the advisory body for the 16 national and 125 local Jewish community relations organizations. COEJL's priorities are to mobilize the Jewish community to address the climate crisis through advocacy and reducing greenhouse gas emissions.

f. **Church World Service**, a 501(c)(3) religious organization founded in 1946, is an ecumenical relief, development, and refugee assistance ministry. Working in partnership with indigenous organizations in some 80 countries, CWS supports sustainable self-help development, meets emergency needs, aids refugees, and helps address the root causes of poverty and powerlessness. CWS has responded to many disasters—hurricanes, floods, droughts, and wildfires—that are exacerbated by climate change.

g. **Union of Reform Judaism**, a 501(c)(3) nonprofit organization, is a network of 900 vibrant Jewish congregations across North America that include 1.5 million Reform Jews. The URJ approaches the issue of climate change inspired by Jewish tradition emphasizing that human dominion over nature does not provide a license to abuse the environment; rather we are called to “till and tend” God’s Earth.

h. **Women of Reform Judaism**, founded in 1913, is a 501(c)(3) nonprofit organization representing more than 65,000 women in nearly 500 groups in North America and around the world. WRJ strengthens the voice of women worldwide and empowers them to create caring communities, nurture congregations, cultivate personal and spiritual growth, and advocate for and promote progressive Jewish values.

i. **National Baptist Convention of America**, a 501(c)(3) religious organization, is a fellowship of voluntary churches approximating one and half million African-American Baptists. The

Convention seeks to positively influence the spiritual, educational, social, and economic conditions of all humankind. It has taken a keen interest in climate change because of the disproportionate impacts on African Americans.

j. **Progressive National Baptist Convention**, a 501(c)(3) religious organization, is a Baptist denomination with an estimated membership of 2.5 million people that aims to unite African Americans to positively impact the community. Their work on climate change advances the mission of “lifting our voice on behalf of the voiceless.”

k. **Hazon**, a 501(c)(3) founded in 2000, is the largest organization that works within and beyond the Jewish community to help create a healthier and more sustainable world for all. It has played a key role in catalyzing the Jewish Food Movement and in leading a range of organizations and leaders involved in Jewish Outdoor, Food, Farming and Environmental Education (JOFEE).

l. **Sisters of Mercy of the Americas, Institute Leadership Team**, a 501(c)(3) nonprofit organization, is a congregation made up of about 3,000 Roman Catholic women religious, minister in educational and healthcare institutions, social service ministries and parishes throughout the United States and abroad. It has consistently called for climate action that takes into consideration the needs of the most vulnerable and marginalized people in the US and around the world.

m. **Maryknoll Sisters**, a 501(c)(3) nonprofit organization, are more than 400 women religious missionaries founded more than 100 years ago. Maryknoll serves the poor and disadvantaged in more than 20 countries around the world. Maryknoll is committed to fostering a mutually sustainable relationship with our one earth—including a healthier environment for the benefit of all on earth.

n. **Sisters of the Divine Compassion**, a 501(c)(3) nonprofit organization, stands firmly with Pope Francis as witness to the collective need to end planet-destroying dependence on fossil fuels and change to clean energy. The Clean Power Plan offers the best chance of ending injustice from the use of fossil fuels which undermines the health of the planet and of people.

o. **The Columban Center for Advocacy and Outreach** is the national advocacy office for the Missionary Society of St. Columban, a 501(c)(3) nonprofit organization. Their mission is to work towards a more just, peaceful, and environmentally sustainable world by engaging in the political process guided by their faith and the Gospel. Columbans have been at the forefront of protecting the environment from destructive practices and addressing the urgency of climate change.

p. **Cabrini College**, a 501(c)(3) nonprofit organization, is a Catholic liberal-arts college dedicated to academic excellence, leadership development, and a commitment to social justice, founded by the Missionary Sisters of the Sacred Heart of Jesus in 1957. Cabrini College recognizes that lowering carbon emissions

aligns with Pope Francis' response to climate change as expressed in the encyclical *Laudato Si'*.

q. **Fordham University**, a 501(c)(3) educational institution, is a Catholic and Jesuit University. Its traditions emphasize a moral obligation of responsibility to care for the natural world and for our fellow humans. Inherent in the values of Fordham is the idea of *cura personalis*, or taking care of the whole person, of every person.

r. **University of San Diego**, a 501(c)(3) academic institution, is a Catholic university founded in 1949. Its support of the Clean Power Plan is consistent with its national reputation as a good steward of the Earth and puts into action Pope Francis' vision for ecological citizens and leaders to engage the world in addressing urgent issues of the day.

s. **Center for Sustainability at Saint Louis University**, a center of St. Louis University, which is 501(c)(3) educational institution, was established in 2010 and offers degrees in environmental science, urban planning and sustainability. To support research development, the Center provides grants to SLU faculty who propose promising sustainability-related research ideas.

t. **Center for Human Rights and International Justice, Boston College**, is a center of Boston College, which is a 501(c)(3) educational institution. The Center recognizes climate change as a pressing moral challenge that directly impacts its core concerns with the basic rights of every human person. The Center

supports regulatory efforts to mitigate U.S. carbon pollution that will exacerbate the unjust human consequences of climate change.

u. **The Boisi Center of Boston College** a 501(c)(3) educational institution. The Center creates opportunities for scholars, policy makers, media and religious leaders to connect, converse, and reflect on issues at the intersection of religion and American public life.

v. **Conference for Mercy Higher Education**, a 501(c)(3) charitable organization, was formed in 2002 to reinforce the bonds of Mercy traditions and to strengthen the Catholic identity and Mercy mission at 16 Mercy colleges and universities across the United States.

w. **University of San Francisco**, a Jesuit Catholic University, founded in 1855, is a 501(c)(3) educational institution, offering, among others, courses of study that seek to understand human interactions with the natural world, climate change, and moral obligations to mitigate resulting damage to ecosystems and human communities.

x. **Le Moyne College**, a 501(c)(3) educational institution, is a liberal arts college founded by Jesuits in 1946 in Syracuse, New York. It offers undergraduate programs in the humanities and natural sciences and various graduate programs.

y. **The Center for Peace and Justice Education** is a curricular and co-curricular unit at Villanova University, a 501(c)(3) educational institution. The Center recognizes the profound

moral implications of climate change and the urgent demand for action and affirms the inseparable bond between a concern for the environment, justice for the poor, commitment to society, and peace.

z. **Loyola University Maryland**, a 501(c)(3) educational institution, is committed to the educational and spiritual traditions of the Society of Jesus and to the ideals of liberal education. Loyola's president has signed the American College and University Presidents' Climate Commitment and the St. Francis Pledge. Loyola is committed to taking action through long-term climate neutrality planning, ongoing education efforts, and prayer.

aa. **The College of the Holy Cross**, a 501(c)(3) educational institution founded in 1843 by the Society of Jesus (Jesuits) in Worcester, Massachusetts, is an undergraduate liberal arts institution.

bb. **Florida Council of Churches** is a 501(c)(3) religious organization that represents more than 20 denominational judicatories in Florida. The Florida Council of Churches believes that climate change is an inescapable spiritual challenge, reminding us of the call by God to faithful stewardship.

cc. **Wisconsin Council of Churches**, a 501(c)(3) religious organization, is a community of 18 Christian denominations with approximately 2,000 congregations and over one million church members that covenant to engage in a common ministry. It believes that energy production must become more just and sustainable.

dd. **The Diocese of Stockton, California**, a 501(c)(3) charitable organization, is a community of Roman Catholics that provides a wide range of spiritual, educational, and social services. The Diocese of Stockton includes regions facing unprecedented ecological challenges of drought, wildfire risk, and dangerously poor air quality, and is concerned that the most marginalized people bear the greatest burden of climate change.

ee. **The Diocese of Des Moines, Iowa**, a 501(c)(3) charitable organization, is a community of Roman Catholics that provides a wide range of spiritual, educational, and social services. The Diocese believes that care for creation is a core principal of Catholic Social Teaching and all Catholics are called to protect people and the planet, living our faith in relationship with all of God's creation.

ff. **The Diocese of Davenport, Iowa**, a 501(c)(3) charitable organization, is a community of Roman Catholics that provides a wide range of spiritual, educational, and social services. The Diocese believes that care for creation is a core principal of Catholic Social Teaching and all Catholics are called to protect people and the planet, living our faith in relationship with all of God's creation.

gg. **Catholic Committee of Appalachia**, a 501(c)(3) nonprofit organization, has existed since 1970 to serve Appalachia, her poor and the entire web of creation. CCA has addressed mountaintop removal, labor, private prison development, sustainable

lifestyles and communities, poverty, health, clean water, racism, and climate change.

hh. **Sisters of Charity of New York**, a 501(c)(3) religious organization, is a congregation of vowed women religious in the Roman Catholic tradition committed to living gospel values. It advocates for safe clean renewable energy and freedom from fossil fuel dependency.

ii. **Dominican Sisters of Springfield, IL**, a 501(c)(3) charitable organization, is a Catholic religious congregation that recognizes the reality of global climate change and its impact on the whole Earth community, particularly on poor and vulnerable persons. They commit to lending their voice to efforts to mitigate the effects of climate change.

jj. **Sisters of St. Joseph Earth Center: SSJ Earth Center**, located in Philadelphia, is a sponsored work of the U.S. Federation, Sisters of St. Joseph, a 501(c)(3) nonprofit organization. The center educates, advocates and consults on matters of care for creation.

kk. **Sisters of St. Joseph Peace Leadership Team**, is a Ministry of School Sisters of Notre Dame Atlantic Midwest Province, a 501(c)(3) nonprofit organization. It was founded to seek peace through justice and care for the environment and are particularly concerned with human health, which is adversely affected by environmental damage.

ll. **Sisters of Charity of Saint Elizabeth Office of Peace, Justice and Ecological Integrity** is a Ministry of Sisters of Charity of Saint Elizabeth, a 501(c)(3) Religious Organization. The Office is the advocacy arm of a Roman Catholic congregation of women that joins Pope Francis in seeing the connection between abuse of Earth and the suffering of the marginalized and those made poor - the first to suffer the consequences of unsustainable energy practices.

mm. **School Sisters of Notre Dame Atlantic Midwest Province Department of Justice, Peace and Integrity of Creation**; is a ministry of School Sisters of Notre Dame Atlantic Midwest Province, which is a 501(c)(3) nonprofit organization. This congregation of Catholic Women Religious dedicated to live more simply, responsibly, sustainably with all of creation.

nn. **Buffalo Diocese Care for Creation Committee**, is a committee of the Diocese of Buffalo, which is a 501(c)(3) nonprofit organization. The Committee educates parish pastors in Buffalo and lay leaders on the importance of issues such as clean power and helps people urge their local, state and federal representatives to pass laws that would support clean air, water and renewable energy.

oo. **Dominican Sisters of Grand Rapids**, a 501(c)(3) religious organization incorporated 1877, has had a long standing concern for the Care of Earth. The Dominican Sisters have collaborated in creation care efforts with the wider Dominican Family, and other groups.

2. As Amici explain in their brief, we are undertaking a potentially catastrophic transformation of the climate, and thus it is our responsibility to do what we can to limit the damage. Amici's spiritual traditions recognize a moral obligation to protect both humanity and the natural world from this disaster of our own making. These groups share a fundamental ethical commitment to protecting the Earth and all of its inhabitants, and particularly the most vulnerable among them. This commitment compels Amici to speak out in support of vigorous action to tackle the climate crisis. EPA's rule challenged here represents an important part of that necessary action.

3. Amici seek to file a brief *amicus curiae* to underscore the urgency of the crisis and provide a broader context for the instant litigation. The scientific evidence of the accelerating climate problem has continued to mount even since EPA adopted the final rule in late 2015, and it is an essential step toward minimizing the worst consequences of this catastrophe. Amici seek to emphasize for the Court the scale of the problem and the comparatively modest efforts required by the rule. Although by filing suit Petitioners currently have the loudest voice, Amici wish to emphasize for the Court that other voices have applauded the rule and even argued that the rule could have gone further to address this epochal problem.

4. The brief proposed to be filed complies with the requirements of the Federal Rules of Appellate Procedure and Circuit Rules and is being filed within the time provided in this

Court's order establishing a briefing and hearing schedule in this action.

Accordingly, Amici respectfully request leave to file the brief amicus curiae submitted with this motion.

DATED: April 1, 2016

SHUTE, MIHALY &
WEINBERGER LLP

By: /s/ Matthew D. Zinn

MATTHEW D. ZINN

Attorneys for Amici Curiae
Catholic Climate Covenant et al.
in Support of Respondents

CERTIFICATE OF SERVICE

I hereby certify that on April 1, 2016, I electronically filed the foregoing document with the Clerk of the Court for the United States Court of Appeals for the District of Columbia Circuit using the appellate CM/ECF system for service on all registered counsel in these consolidated cases.

DATED: April 1, 2016

SHUTE, MIHALY &
WEINBERGER LLP

By: /s/ Matthew D. Zinn
MATTHEW D. ZINN

Attorneys for Amici Curiae
Catholic Climate Covenant et al.
in support of Respondents