

EN BANC ORAL ARGUMENT HELD SEPTEMBER 27, 2016**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**STATE OF WEST VIRGINIA, *et al.*,*Petitioners,*

v.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, *et al.*,*Respondents.*No. 15-1363 (and
consolidated cases)**PETITIONERS AND PETITIONER-INTERVENORS' MOTION FOR
DISMISSAL OF PETITIONS FOR REVIEW AS MOOT**

Pursuant to Circuit Rule 27(g)(1), the undersigned Petitioners and Petitioner-Intervenors hereby move for dismissal of the petitions for review in these consolidated cases as moot, with each party to bear its own costs. On July 8, 2019, Respondent United States Environmental Protection Agency (“EPA” or “Agency”) published in the Federal Register a final rule repealing the Clean Power Plan—the rule at issue in these cases. 84 Fed. Reg. 32,520 (July 8, 2019). Pursuant to Circuit Rule 27(g)(2), EPA’s final rule repealing the Clean Power Plan is attached to this motion. As Petitioners and Petitioner-Intervenors have previously stated in these cases, “[i]f EPA repeals or replaces the Clean Power Plan as the Agency has proposed, the relief requested in the petitions for review will be unavailable because that rule will no

longer exist.” Petitioners’ and Petitioner-Intervenors’ Response in Opposition to the Motion to Decide the Merits of the Case, ECF No. 1750741 (Sept. 14, 2018). Because EPA has now finalized its repeal of the Clean Power Plan, “that regulation no longer exists, [the Court] can do nothing to affect [Petitioners’ and Petitioner-Intervenors’] rights relative to it, thus making th[e] case classically moot for lack of a live controversy.” *Akiachak Native Cmty. v. U.S. Dep’t of the Interior*, 827 F.3d 100, 106 (D.C. Cir. 2016); *see also Larsen v. U.S. Navy*, 525 F.3d 1, 4-5 (D.C. Cir. 2008) (challenge to withdrawn policy was moot); *Coal. of Airline Pilots Ass’ns v. FAA*, 370 F.3d 1184, 1190-91 (D.C. Cir. 2004) (similar).

For these reasons, the Court should grant this motion and dismiss the petitions for review in these consolidated cases as moot.

Dated: July 15, 2019

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CERTIFICATE OF COMPLIANCE

Pursuant to Rules 27(d)(2) and 32(g) of the Federal Rules of Appellate Procedure and Circuit Rules 32(a)(1) and 32(e)(1), I hereby certify that the foregoing document contains 269 words, as counted by a word processing system that includes headings, footnotes, quotations, and citations in the count, and therefore is within the word limit set by the Court.

Dated: July 15, 2019

/s/ Allison D. Wood

Allison D. Wood

CERTIFICATE OF SERVICE

I hereby certify that, on this 15th day of July 2019, a copy of the foregoing motion was served electronically through the Court's CM/ECF system on all ECF-registered counsel.

/s/ Allison D. Wood

Allison D. Wood