

**ORAL ARGUMENT SCHEDULED FOR JUNE 2, 2016**

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

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|----------------------------------|---|----------------------------|
| STATE OF WEST VIRGINIA           | ) | Case No. 15-1363           |
| STATE OF TEXAS, et al.           | ) | (consolidated with Nos.    |
|                                  | ) | 15-1364, 15-1365, 15-1366, |
|                                  | ) | 15-1367, 15-1368, 15-1370, |
| Petitioners,                     | ) | 15-1371, 15-1372, 15-1373, |
|                                  | ) | 15-1374, 15-1375, 15-1376, |
|                                  | ) | 15-1377, 15-1378, 15-1379, |
| v.                               | ) | 15-1380, 15-1382, 15-1383, |
|                                  | ) | 15-1386, 15-1393, 15-1398, |
|                                  | ) | 15-1409, 15-1410, 15-1413, |
|                                  | ) | 15-1418, 15-1422, 15-1432, |
|                                  | ) | 15-1442, 15-1451, 15-1459, |
| UNITED STATES ENVIRONMENTAL      | ) | 15-1464, 15-1470, 15-1472, |
| PROTECTION AGENCY, and REGINA A. | ) | 15-1474, 15-1475, 15-1477, |
| MCCARTHY, Administrator,         | ) | 15-1483, 15-1488)          |
| Respondents.                     | ) |                            |

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**UNOPPOSED MOTION BY [CLIMATE SCIENTISTS] FOR LEAVE TO  
PARTICIPATE AS *AMICUS CURIAE***

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*Counsel for* Climate Scientists David  
Battisti, Marshall Burke, Ken  
Caldiera, Noah Diffenbaugh, William  
E. Easterling III, Christopher Field,  
John Harte, Jessica Hellmann, Daniel  
Kirk-Davidoff, David Lobell, Pamela  
Matson, Katherine Mach, James C.

McWilliams, Mario J. Molina,  
Michael Oppenheimer, Jonathan  
Overpeck, Scott R. Saleska, Noelle  
Eckley Selin, Drew Shindell, and  
Steven Wofsy

Dated: April 1, 2016

Pursuant to Fed. R. App. P. 29(b) and D.C. Cir. Rule 29(b), Climate Scientists respectfully move for leave to participate as amicus curiae in support of the Respondents Environmental Protection Agency (“EPA”) and Regina A. McCarthy, EPA Administrator, in the above-captioned matters.

Counsel for petitioners in cases nos. 15-1363, 15-1364, and 15-1409 have stated that they take no position on the question of whether this motion should be granted. Counsel for petitioners in cases nos. 15-1365, 15-1366, 15-1370, 15-1373, 15-1374, 15-1375, 15-1376, 15-1409, 15-1410, 15-1418, 15-1422, 15-1475, and 15-1488; Counsel for respondents; State and Municipal Intervenor-Respondents; Environmental Non-Governmental Organization Intervenor-Respondents; Respondent-Intervenor Advanced Energy Economy; and Respondent-Intervenors Calpine Corporation, the City of Austin d/b/a Austin Energy, the City of Los Angeles, by and through its Department of Water and Power, The City of Seattle, by and through its City Light Department, National Grid Generation, LLC, New York Power Authority, Pacific Gas and Electric

Company, Sacramento Municipal Utility District and Southern California Edison Company either consent to, do not oppose the Climate Scientists' participation as amicus, or did not respond to notice sent to designated or liaison counsel, as applicable, asking whether they consented, objected, or took no position on the Climate Scientists' proposed participation. That notice was sent to designated or liaison counsel, as applicable, on Tuesday, March 29, 2016.

In support of this Motion, the Climate Scientists state as follows

1. *Interest. Amici Curiae* Climate Scientists are David Battisti, Marshall Burke, Ken Caldiera, Noah Diffenbaugh, William E. Easterling III, Christopher Field, John Harte, Jessica Hellmann, Daniel Kirk-Davidoff, David Lobell, Pamela Matson, Katherine Mach, James C. McWilliams, Mario J. Molina, Michael Oppenheimer, Jonathan Overpeck, Scott R. Saleska, Noelle Eckley Selin, Drew Shindell, and Steven Wofsy. The Climate Scientists are individual climate scientists who are actively involved in research on changes to the Earth's climate that are being caused by anthropogenic emissions of carbon dioxide, methane, nitrous oxide, sulfur hexafluoride, hydrofluorocarbons, and perfluorocarbons ("greenhouse gases" or "GHGs") and the effects of those changes.

As practicing scientists who study the Earth's climate, we—and many in our profession—have long recognized that human emissions of greenhouse

gases (primarily carbon dioxide, but also methane, nitrous oxide, and fluorocarbons) can significantly change the Earth's climate. We have approached our research with the critical perspective associated with our profession, gradually adding to our understandings of our climate system and testing our hypotheses through multiple layers of probing peer review and discussion in scientific journals and conferences.

We are not lawyers or policymakers, and we are not attempting to present ourselves as such. But we wish to weigh in, in our amicus brief, to elaborate on the need to address anthropogenic emissions of greenhouse gases, based on our current understanding of the science.

2. *Desirability of material in amicus brief.* The material presented in this brief is necessary to provide a fuller picture behind the current scientific understanding of climate change, the effects of human actions on the climate, and the effects of climate change on human society. We present the results of our observations, including increasing global temperatures; shifting plant and animal ranges; worsening droughts; global retreat of glaciers and ice sheets; shrinking Arctic sea ice; rising sea levels; acidification of our oceans; and many other serious impacts of global climate change. We also describe the predicted impacts on the United States if climate change is left unaddressed. All of this is necessary to understand the context behind the Clean Power Plan at issue in this case.

WHEREFORE, Climate Scientists respectfully request(s) leave to file a brief of amicus curiae pursuant to the schedule and any other direction, including word limitations, established by the Court.

/s/ Stephanie Tai

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Dated: April 1, 2016

## CERTIFICATE OF COMPLIANCE

This motion complies with Federal Rules of Appellate Procedure 27(d)(1) & (2) and 29(b) and D.C. Circuit Rule 29(c) because it meets the prescribed format requirements, does not exceed 20 pages, and is being filed as promptly as possible after the case was docketed in this Court. This motion also complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type style requirements of Fed. R. App. P. 32(a)(5) & (6) because it has been prepared in a proportionally-spaced typeface setting using Microsoft Word in 14-point Times New Roman.

/s/ Stephanie Tai

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**CERTIFICATE AS TO PARTIES AND AMICI CURIAE**

Pursuant to Circuit Rule 28(a)(1), Amicus Curiae Climate Scientists state as follows: All parties and amici, rulings under review, and related cases are set forth in the Brief for Respondents Environmental Protection Agency, with the exception of the amici at present: Climate Scientists David Battisti, Marshall Burke, Ken Caldiera, Noah Diffenbaugh, William E. Easterling III, Christopher Field, John Harte, Jessica Hellmann, Daniel Kirk-Davidoff, David Lobell, Pamela Matson, Katherine Mach, James C. Mcwilliams, Mario J. Molina, Michael Oppenheimer, Jonathan Overpeck, Scott R. Saleska, Noelle Eckley Selin, Drew Shindell, and Steven Wofsy. Others have also moved for amicus status after the filing of EPA's brief and their parties are listed on their respective motions.

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Dated: April 1, 2016

**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.

/s/ Stephanie Tai

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