

No. 15-1363 (and consolidated cases)

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

STATE OF WEST VIRGINIA, *et al.*,
Petitioners,

v.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
and REGINA A. MCCARTHY, ADMINISTRATOR, UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY,
Respondents.

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

**MOTION BY MADELEINE K. ALBRIGHT,
LEON E. PANETTA, AND WILLIAM J. BURNS FOR LEAVE TO
PARTICIPATE AS *AMICI CURIAE***

David C. Frederick
Aaron M. Panner
Joshua Hafenbrack
Rachel Proctor May*
KELLOGG, HUBER, HANSEN, TODD,
EVANS & FIGEL, P.L.L.C.
1615 M Street, N.W., Suite 400
Washington, D.C. 20036
(202) 326-7900
dfrederick@khhte.com
**Not admitted in the District of Columbia;
supervised by members of the firm*

Counsel for Amici Curiae

April 1, 2016

Pursuant to Federal Rule of Appellate Procedure 29(b) and District of Columbia Circuit Rule 29(b), Madeleine K. Albright, Leon E. Panetta, and William J. Burns, respectfully move for leave to participate as *amici curiae* in support of Respondents Environmental Protection Agency (“EPA”) and Regina A. McCarthy, EPA Administrator.

Madeleine K. Albright served as the 64th Secretary of State for the United States from 1997 to 2001. She was the United States’ permanent representative to the United Nations from 1993 to 1997. Leon E. Panetta served as the 23rd Secretary of Defense for the United States from 2011 to 2013. In addition, Secretary Panetta has been a longtime statesman with significant experience in the field of foreign policy, including as congressman (1977 to 1993), chief of staff to President Bill Clinton (1994 to 1997), and director of the Central Intelligence Agency (2009 to 2011). William J. Burns retired from the U.S. Foreign Service in 2014 after a thirty-three-year diplomatic career, which included tenures as Deputy Secretary of State (2011 to 2014) and United States Ambassador to Russia (2005 to 2008). He holds the rank of Career Ambassador, the highest in the Foreign Service.

In support of their motion, proposed *amici* state:

1. D.C. Circuit Rule 29 permits the filing of a motion for leave to participate as *amici curiae* up to seven days after the filing of the principal brief of

the party being supported. This motion is timely under Federal Rule of Appellate Procedure 29(e) and Circuit Rule 29(b)-(c). The proposed brief of *amici curiae* is attached to this motion and complies with the Court's proscribed word limitations.

2. As distinguished government leaders across the fields of foreign affairs, *amici* have a strong interest in the proper interpretation of the Clean Air Act and offer their unique perspective and experience regarding the broader context within which the EPA regulates harmful emissions.

3. Secretary Albright has testified before Congress and has been involved in the United States' global efforts to address climate change.

4. Secretary Panetta has publicly addressed the national security implications of climate change and, during his tenure at both the Department of Defense and the CIA, established offices to confront the threats posed by global warming.

5. Ambassador Burns has participated in a broad range of international diplomacy over the last four decades, which have included climate change negotiations with key countries such as China and India.

6. *Amici*, therefore, are in a unique position to interpret and address the impact of the Clean Power Plan on foreign policy and national security goals.

WHEREFORE, the named proposed *amici* respectfully request leave to file a brief *amici curiae* pursuant this Court's scheduling order.

Respectfully submitted,

/s/ David C. Frederick

David C. Frederick

Aaron M. Panner

Joshua Hafenbrack

Rachel Proctor May*

KELLOGG, HUBER, HANSEN, TODD,

EVANS & FIGEL, P.L.L.C.

1615 M Street, N.W., Suite 400

Washington, D.C. 20036

(202) 326-7900

dfrederick@khhte.com

**Not admitted in the District of Columbia;
supervised by members of the firm*

Counsel for Amici Curiae

April 1, 2016

CERTIFICATE OF COMPLIANCE

This motion complies with Federal Rule of Appellate Procedure 27(d)(1), (2) 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 practicable. This motion also complies with the typeface requirements of Federal Rule of Appellate Procedure 32(a)(5) and the type style requirements of Federal Rule of Appellate Procedure 32(a)(5), (6) because it has been prepared in a proportionally spaced typeface using Microsoft Office Word 2013 in 14-point Times New Roman.

Dated: April 1, 2016

/s/ David C. Frederick

David C. Frederick

CERTIFICATE OF SERVICE

I hereby certify that, on this 1st day of April, 2016, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the D.C. Circuit by using the appellate CM/ECF system. I further certify that all participants in the case are registered CM/ECF users and will be served by the appellate CM/ECF system.

/s/ David C. Frederick _____

David C. Frederick