



**AND WEST VIRGINIA OIL AND NATURAL GAS ASSOCIATION FOR  
LEAVE TO INTERVENE IN SUPPORT OF RESPONDENTS**

Pursuant to Federal Rules of Appellate Procedure 15(d) and 27, and D.C. Circuit Rules 15(b) and 27, the Independent Petroleum Association of America ("IPAA"), American Exploration & Production Council ("AXPC"), Domestic Energy Producers Alliance ("DEPA"), Eastern Kansas Oil & Gas Association ("EKOGA"), Illinois Oil & Gas Association ("IOGA"), Independent Oil and Gas Association of West Virginia, Inc. ("IOGA-WV"), Indiana Oil and Gas Association ("INOGA"), International Association of Drilling Contractors ("IADC"), Kansas Independent Oil & Gas Association ("KIOGA"), Kentucky Oil & Gas Association ("KOGA"), Michigan Oil and Gas Association ("MOGA"), National Stripper Well Association ("NSWA"), North Dakota Petroleum Council ("NDPC"), Ohio Oil and Gas Association ("OOGA"), Oklahoma Independent Petroleum Association ("OIPA"), Pennsylvania Independent Oil & Gas Association ("PIOGA"), Texas Alliance of Energy Producers ("Texas Alliance"), Texas Independent Products & Royalty Owners Association ("TIPRO"), and West Virginia Oil and Natural Gas Association ("WVONGA") (collectively, "Movants"), respectfully submit this unopposed motion for leave to intervene in support of Respondents in the above-referenced case.

In this case, Petitioners Clean Air Counsel, Earthworks, Environmental Defense Fund, Environmental Integrity Project, Natural Resources Defense Council,

and Sierra Club have petitioned for review of the alleged "final action" via "emergency motion" of Respondents Scott Pruitt, Administrator, Environmental Protection Agency, and United States Environmental Protection Agency to administratively stay standards of performance for the oil and gas sector, entitled "Oil and Natural Gas Sector: Emission Standard for New, Reconstructed, and Modified Sources; Grant of Reconsideration and Partial Stay," ("Partial Stay") published in the Federal Register at 82 Fed. Reg. 25,730 (June 5, 2017). The underlying regulation being reconsidered was published in the Federal Register on June 3, 2016, 81 Fed. Reg. 35,824 ("2016 Rule").

The Movants here are petitioners (Case No. 16-1262) in the related cases addressing the 2016 Rule: *American Petroleum Institute, et al., v. EPA*, Case No. 13-1108, consolidated with Case Nos. 13-1289, 13-1290, 13-1292, 13-1293, 13-1294, 15-1040, 15-1041, 15-1042, 15-1043, 15-1044, 16-1242, 16-1257, 16-1262, 16-1263, 16-1264, 16-1266, 16-1267, 16-1269, and 16-1270. These cases are currently being held in abeyance.

Petitioners and Respondents, through counsel, have been consulted and agreed not to oppose the intervention in this case.

## **I. INTERESTS OF MOVANTS**

Movants are trade associations representing entities and individuals within the oil and gas industry, including oil and gas producers and extractors, royalty owners,

oilfield service companies, and state and national independent oil and gas associations. Issues subject to the Grant of Reconsideration and Partial Stay of the 2016 Rule being reviewed in this case were raised in Movants' petition for reconsideration. The outcome of this case will have a direct impact on Movants' members. To the extent necessary, Movants have Article III standing to participate in this case because their members are subject to regulation under the 2016 Rule, and the disposition of the Partial Stay will have a direct impact on their operations. *See Military Toxics Project v. EPA*, 146 F.3d 948, 954 (D.C. Cir. 1998).<sup>1</sup>

## **II. MOVANTS MEET THE CRITERIA FOR INTERVENTION**

Under Federal Rule of Appellate Procedure 15(d), a party moving for intervention need only provide a "concise statement of interest" and be filed within 30 days of the "petition for review." This motion is filed within thirty days of the emergency motion. As stated above, Movants are subject to the 2016 Rule, and disposition of the Partial Stay will have an immediate and direct impact on their members and membership. Although Rule 15(d) does not provide clear criteria for intervention, Federal Rule of Civil Procedure 24(a) and the "policies underlying intervention," in federal district courts provide guidance. *See Int'l Union U.A.W. v.*

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<sup>1</sup> Movants also participated in the notice and comment period preceding the 2016 Rule's promulgation, and have filed their own Petition for Review of the Final Rule, docketed at Case No. 16-1262, and submitted a petition for reconsideration of certain provisions of the 2016 Rule – including provisions subject to the Partial Stay.

*Scofield*, 382 U.S. 2015, 16 n. 10 (1965). Under Federal Rule of Civil Procedure 24(a)(2), a party may intervene as of right if: (1) the intervention motion is timely, (2) the movant has a cognizable interest in the case, (3) the movant's absence from the case will impair its ability to protect its interests, and (4) the movant's interests are inadequately represented by the existing parties. See *Williams & Humbert, Ltd. v. W&H Trade Marks (Jersey)*, 840 F.2d 72, 74 (D.C. Cir. 1988).

Movants satisfy each of these criteria:

1. Movants' motion is timely. The Petitioners filed their Petition for Review on June 5, 2017. Movants have filed their Unopposed Motion for Leave to Intervene within the 30-day time period provided by Federal Rule of Appellate Procedure 15(d).

2. Movants have a cognizable interest in the case. Movants' members are subject to the 2016 Rule, and the Partial Stay provides substantial and real benefits to the Movants.

3. Movants' members will be harmed by any disposition in Petitioners' favor and consequently, impair Movants' ability to protect their members' interests. Even if Movants can challenge later agency actions compelled by the disposition of this case, a new lawsuit to "reestablish[] the status quo . . . will be difficult and burdensome." *Fund for the Animals, Inc. v. Norton*, 322 F.3d 728, 735 (D.C. Cir. 2003).

4. None of the existing parties can adequately represent Movants' interests. The Respondents cannot represent the interests of the oil and gas industry, but will seek to advocate for the broader public interest. *Dimond v. District of Columbia*, 792 F.2d 179, 192-93 (D.C. Cir. 1986). Thus, neither existing party can ensure that the voice of Movants' members in the regulated industry will be heard in this proceeding. Movants need only show "that representation of [their] interest 'may be' inadequate, not that representation will in fact be inadequate." *Id.* at 192 (quoting *Trbovoich v. United Mine Workers*, 404 U.S. 528, 538 n.10 (1972)).

## CONCLUSION

**WHEREFORE**, Movants respectfully request that they be granted leave to intervene in support of Respondents.

Respectfully Submitted,

*/s/ James D. Elliott*

James D. Elliott (DC Bar #46965)  
Spilman Thomas & Battle, PLLC  
1100 Bent Creek Boulevard, Suite 101  
Mechanicsburg, PA 17050  
Phone: (717) 791-2012  
Fax: (717) 795-2743

Counsel for the Independent Petroleum Association of America, American Exploration & Production Council, Domestic Energy Producers Alliance, Eastern Kansas Oil & Gas Association, Illinois Oil & Gas Association, Independent Oil and Gas Association of West Virginia, Inc., Indiana Oil and Gas Association, International Association of Drilling Contractors, Kansas Independent Oil & Gas Association, Kentucky Oil & 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 Producers & Royalty Owners Association, and West Virginia Oil and Natural Gas Association

Dated: June 14, 2017





**INDEPENDENT OIL & GAS ASSOCIATION, TEXAS ALLIANCE  
OF ENERGY PRODUCERS, TEXAS INDEPENDENT PRODUCERS  
& ROYALTY OWNERS ASSOCIATION, AND WEST VIRGINIA  
OIL AND NATURAL GAS ASSOCIATION**

Pursuant to Fed. R. App. P. 26.1 and D.C. Circuit Rule 26.1, the Independent Petroleum Association of America, American Exploration & Production Council, Domestic Energy Producers Alliance, Eastern Kansas Oil & Gas Association, Illinois Oil & Gas Association, Independent Oil and Gas Association of West Virginia, Inc., Indiana Oil and Gas Association, International Association of Drilling Contractors, Kansas Independent Oil & Gas Association, Kentucky Oil & 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 Producers & Royalty Owners Association, and West Virginia Oil and Natural Gas Association (collectively, "Independent Producers") file the following statement:

The Independent Petroleum Association of America ("IPAA") is an incorporated trade association that represents thousands of independent oil and natural gas producers and service companies across the United States that are active in the exploration and production segment of the industry, which often involves the hydraulic fracturing of wells. IPAA serves as an informed voice for the exploration and production segment of the industry, and advocates its members' views before

the United States Congress, the Administration and federal agencies. IPAA has no parent corporation and there is no publicly held corporation that owns 10% or more of its stock.

The American Exploration & Production Council ("AXPC") is an incorporated national trade association representing 29 of America's largest and most active independent oil and natural gas exploration and production companies. AXPC members are "independent" in that their operations are limited to exploration for and the production of oil and natural gas. Moreover, its members operate autonomously, unlike their fully integrated counterparts, which operate in additional segments of the energy business, such as downstream refining and marketing. AXPC members are leaders in developing and applying the innovative and advanced technologies necessary to explore for and produce oil and natural gas, both offshore and onshore, from non-conventional sources in environmentally responsible ways. AXPC has no parent corporation and there is no publicly-held corporation that owns more than 10% of its stock.

The Domestic Energy Producers Alliance ("DEPA") is a nationwide collaboration of 25 coalition associations, representing about 10,000 individuals and companies engaged in domestic onshore oil and natural gas production and exploration. Founded in 2009, DEPA gives a loud, clear voice to the majority of individuals and companies responsible for enduring work to secure our nation's

energy future. DEPA has no parent corporation and there is no publicly held corporation that owns 10% or more of its stock.

The Eastern Kansas Oil & Gas Association ("EKOGA") is a nonprofit organization founded in 1957 to become a unified voice representing the unique interests of eastern Kansas oil and gas producers, service companies, suppliers and royalty owners on matters involving oil and gas regulations, safety standards, environmental concerns and other energy related issues. EKOGA has no parent corporation and there is no publicly held corporation that owns 10% or more of its stock.

The Illinois Oil & Gas Association ("IOGA") was organized in 1944 to provide an agency through which oil and gas producers, land owners, royalty owners, and others who may be directly or indirectly affected by or interested in oil and gas development and production in Illinois, may protect, preserve, and advance their common interests. IOGA has no parent corporation and there is no publicly held corporation that owns 10% or more of its stock.

The Independent Oil and Gas Association of West Virginia, Inc. ("IOGA-WV"), is a statewide nonprofit trade association that represents companies engaged in the extraction and production of natural gas and oil in West Virginia and the companies that support these extraction and production activities. IOGA-WV was formed to promote and protect a strong, competitive, and capable independent

natural gas and oil producing industry in West Virginia, as well as the natural environment of our state. IOGA-WV has no parent corporation and there is no publicly held corporation that owns 10% or more of its stock.

The Indiana Oil and Gas Association ("INOGA") has a rich history of involvement in the exploration and development of hydrocarbons in the State of Indiana. INOGA was formed in 1942 and historically has been an all-volunteer organization principally made up of representatives of oil and gas exploration and development companies (operators), however, it has enjoyed support and membership from pipeline, refinery, land acquisition, service, supply, legal, engineering and geologic companies or individuals. INOGA has been an active representative for the upstream oil and gas industry in Indiana and provides a common forum for this group. INOGA represents its membership on issues of state, federal, and local regulation/legislation that has, does and will affect the business of this industry. INOGA is a 501(c)(6) trade association incorporated as Non-Profit Domestic Corporation under the statutes of Indiana. INOGA has no parent corporation and there is no publicly held corporation that owns 10% or more of its stock.

Since 1940, the International Association of Drilling Contractors ("IADC") has exclusively represented the worldwide oil and gas drilling industry. IADC's contract-drilling members own most of the world's land and offshore drilling units

that drill the vast majority of the wells producing the planet's oil and gas. IADC's membership also includes oil-and-gas producers, and manufacturers and suppliers of oilfield equipment and services. Through conferences, training seminars, print and electronic publications, and a comprehensive network of technical publications, IADC continually fosters education and communication within the upstream petroleum industry. IADC has no parent corporation and there is no publicly held corporation that owns 10% or more of its stock.

The Kansas Independent Oil & Gas Association ("KIOGA") is a nonprofit organization founded in 1937 to represent the interests of oil and gas producers in Kansas, as well as allied service and supply companies. Today, KIOGA is a trade association with over 4,200 members involved in all aspects of the exploration, production, and development of crude oil and natural gas resources. KIOGA has no parent corporation and there is no publicly held corporation that owns 10% or more of its stock.

The Kentucky Oil & Gas Association ("KOGA") was formed in 1931 to represent the interests of Kentucky's crude oil and natural gas industry, and more particularly, the independent crude oil and natural gas operators as well as the businesses that support the industry. KOGA is comprised of 220 companies which consist of over 600 member representatives that are directly related to the crude oil

and natural gas industry in Kentucky. KOGA has no parent corporation and there is no publicly held corporation that owns 10% or more of its stock.

The Michigan Oil and Gas Association ("MOGA") represents the exploration, drilling, production, transportation, processing, and storage of crude oil and natural gas in the State of Michigan. MOGA has nearly 850 members including independent oil companies, major oil companies, the exploration arms of various utility companies, diverse service companies, and individuals. Organized in 1934, MOGA monitors the pulse of the Michigan oil and gas industry as well as its political, regulatory, and legislative interest in the state and the nation's capital. MOGA is the collective voice of the petroleum industry in Michigan, speaking to the problems and issues facing the various companies involved in the state's crude oil and natural gas business. MOGA has no parent corporation and there is no publicly held corporation that owns 10% or more of its stock.

The National Stripper Well Association ("NSWA") was founded in 1934 as the only national association *solely* representing the interests of the nation's smallest and most economically-vulnerable oil and natural gas wells before Congress, the Administration and the Federal bureaucracies. It is the belief of NSWA that producers, owners, and operators of marginally-producing oil and gas wells have a unique set of needs and concerns regarding federal legislation and regulation. NSWA is a member based trade association with nearly 800 members nationwide

across 43 states. NSWA has no parent corporation and there is no publicly held corporation that owns 10% or more of its stock.

The North Dakota Petroleum Council ("NDPC") is a trade association representing more than 590 companies involved in all aspects of the oil and gas industry, including oil and gas production, refining, pipeline, transportation, and storage, as well as mineral leasing, consulting, legal work, and oil field service activities in North Dakota, South Dakota, and the Rocky Mountain Region. Established in 1952, NDPC's mission is to promote and enhance the discovery, development, production, transportation, refining, conservation, and marketing of oil and gas in North Dakota, South Dakota, and the Rocky Mountain region; to promote opportunities for open discussion, lawful interchange of information, and education concerning the petroleum industry; to monitor and influence legislative and regulatory activities on the state and national level; and to accumulate and disseminate information concerning the petroleum industry to foster the best interests of the public and industry. NDPC has no parent corporation and there is not publicly held corporation that owns 10% of more of its stock.

The Ohio Oil & Gas Association ("OOGA") is a trade association with approximately 2,000 members involved in all aspects of the exploration, production, and development of crude oil and natural gas resources within the State of Ohio. OOGA represents the people and companies directly responsible for the production

of crude oil, natural gas, and associated products in Ohio. OOGA has no parent corporation and there is no publicly held corporation that owns 10% or more of its stock.

Founded in 1955, the Oklahoma Independent Petroleum Association ("OIPA") represents more than 2,500 individuals and companies from Oklahoma's oil and natural gas industry. Established by independent oil and natural gas producers hoping to provide a unified voice for the industry, OIPA is the state's largest oil and natural gas association and one of the industry's strongest advocacy groups. OIPA has no parent corporation and there is no publicly held corporation that owns 10% or more of its stock.

The Pennsylvania Independent Oil & Gas Association ("PIOGA") is a non-profit corporation that was initially formed in 1978 as the Independent Oil and Gas Association of Pennsylvania ("IOGA of PA") to represent the interests of smaller independent producers of Pennsylvania natural gas from conventional limestone and sandstone formations. Effective April 1, 2010, IOGA of PA and another Pennsylvania trade association representing conventional oil and natural gas producers, Pennsylvania Oil and Gas Association ("POGAM"), merged and the name of the merged organization changed to its present name. PIOGA's membership currently is approximately 500 members: oil and natural gas producers developing both conventional and unconventional formations in Pennsylvania; drilling



contractors; service companies; engineering companies; manufacturers; marketers; Pennsylvania Public Utility Commission-licensed natural gas suppliers ("NGSs"); professional firms and consultants; and royalty owners. PIOGA promotes the interests of its members in environmentally responsible oil and natural gas operations, as well as the development of competitive markets and additional uses for Pennsylvania-produced natural gas. PIOGA has no parent corporation and there is no publicly held corporation that owns 10% or more of its stock.

The Texas Alliance of Energy Producers ("Texas Alliance") became a statewide organization in 2000 with the merger of two of the oldest oil & gas associations in the nation: the North Texas Oil & Gas Association and the West Central Texas Oil & Gas Association. The Texas Alliance is now the largest statewide oil and gas association in the country representing Independents. With members in 34 states, the Texas Alliance works on behalf of our members at the local, state, and federal levels on issues vital to the industry. The Texas Alliance is a non-profit entity, has no parent corporation, and there is no publicly held corporation that owns 10% or more of its stock.

The Texas Independent Producers & Royalty Owners Association ("TIPRO") is a trade association representing the interests of 3,000 independent oil and natural gas producers and royalty owners throughout Texas. As one of the nation's largest statewide associations representing both independent producers and royalty owners,

members include small family businesses, the largest, publicly-traded independent producers, and mineral owners, estates, and trusts. Members of TIPRO are responsible for producing more than 85 percent of the natural gas and 70 percent of the oil within Texas, and own mineral interests in millions of acres across the state. TIPRO has no parent corporation and there is no publicly-held corporation that owns more than 10% of its stock.

Chartered in 1915, the West Virginia Oil and Natural Gas Association ("WVONGA") is one of the oldest trade organizations in the State, and is the only association that serves the entire oil and gas industry. The activities of our members include construction, environmental services, drilling, completion, gathering, transporting, distribution, and processing. WVONGA has no parent corporation and there is no publicly held corporation that owns 10% or more of its stock.

Respectfully Submitted,

*/s/ James D. Elliott*

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James D. Elliott (DC Bar #46965)  
Spilman Thomas & Battle, PLLC  
1100 Bent Creek Boulevard, Suite 101  
Mechanicsburg, PA 17050  
Phone: (717) 791-2012  
Fax: (717) 795-2743

Counsel for the Independent Petroleum Association of America, American Exploration & Production Council, Domestic Energy Producers Alliance, Eastern Kansas Oil & Gas Association, Illinois Oil & Gas Association,

Independent Oil and Gas Association of West Virginia, Inc., Indiana Oil and Gas Association, International Association of Drilling Contractors, Kansas Independent Oil & Gas Association, Kentucky Oil & 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 Producers & Royalty Owners Association, and West Virginia Oil and Natural Gas Association

Dated: June 14, 2017



**INDEPENDENT PRODUCERS & ROYALTY OWNERS ASSOCIATION,  
AND WEST VIRGINIA OIL AND NATURAL GAS ASSOCIATION**

Pursuant to Circuit Rules 27(a)(4) and 28(a)(1)(A), the Independent Petroleum Association of America, American Exploration & Production Council, Domestic Energy Producers Alliance, Eastern Kansas Oil & Gas Association, Illinois Oil & Gas Association, Independent Oil and Gas Association of West Virginia, Inc., Indiana Oil and Gas Association, International Association of Drilling Contractors, Kansas Independent Oil & Gas Association, Kentucky Oil & 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 Producers & Royalty Owners Association, and West Virginia Oil and Natural Gas Association (collectively, "Movants") states as follows:

**A. PARTIES, INTERVENORS, AND *AMICI CURIAE***

This case is a petition for review of an agency action. The requirement to produce a list of parties, intervenors, and amici curiae that appeared before the district court is inapplicable because this case is a petition for review of an agency action. The case involves the following parties:

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

Respondents: Scott Pruitt, Administrator, Environmental Protection Agency, and United States Environmental Protection Agency.

Intervenors: The American Petroleum Institute has filed Motion for Leave to Intervene. The Movants are also submitting an Unopposed Motion for Leave to Intervene in Support of Respondents.

Amici Curiae: There are presently no *amici curiae*.

## **B. RULINGS UNDER REVIEW**

Petitioners seek review of the action taken by the Respondents to administratively stay standards of performance for the oil and gas sector, entitled "Oil and Natural Gas Sector: Emission Standard for New, Reconstructed, and Modified Sources; Grant of Reconsideration and Partial Stay," published in the Federal Register at 82 Fed. Reg. 25,730 (June 5, 2017). The underlying regulation being reconsidered was published in the Federal Register on June 3, 2016, 81 Fed. Reg. 35,824.

## **C. RELATED CASES**

The following cases are related to this matter, which may involve the same or similar issues:

*American Petroleum Institute, et al. v. EPA*, D.C. Cir. Case No. 13-1108, consolidated with Case Nos. 13-1289, 13-1290, 13-1292, 13-1293, 13-1294, 15-1040, 15-1041, 15-1042, 15-1043, 15-1044, 16-1242, 16-1257, 16-1262, 16-1263, 16-1264, 16-1266, 16-1267, 16-1269, and 16-1270.

Respectfully submitted,

*/s/ James D. Elliott*

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James D. Elliott (DC Bar #46965)  
Spilman Thomas & Battle, PLLC  
1100 Bent Creek Boulevard, Suite 101  
Mechanicsburg, PA 17050  
Phone: (717) 791-2012  
Fax: (717) 795-2743

Counsel for the Independent Petroleum Association of America, American Exploration & Production Council, Domestic Energy Producers Alliance, Eastern Kansas Oil & Gas Association, Illinois Oil & Gas Association, Independent Oil and Gas Association of West Virginia, Inc., Indiana Oil and Gas Association, International Association of Drilling Contractors, Kansas Independent Oil & Gas Association, Kentucky Oil & 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 Producers & Royalty Owners Association, and West Virginia Oil and Natural Gas Association

Dated: June 14, 2017

## **CERTIFICATE OF COMPLIANCE**

Pursuant to Rules 27(d)(2) and 32(g) of the Federal Rules of Appellate Procedure, I hereby certify that the foregoing Unopposed Motion of the Independent Petroleum Association of America, American Exploration & Production Council, Domestic Energy Producers Alliance, Eastern Kansas Oil & Gas Association, Illinois Oil & Gas Association, Independent Oil and Gas Association of West Virginia, Inc., Indiana Oil and Gas Association, International Association of Drilling Contractors, Kansas Independent Oil & Gas Association, Kentucky Oil & 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 Producers & Royalty Owners Association, and West Virginia Oil and Natural Gas Association for Leave to Intervene in Support of Respondents contains 1,308 words, as counted by a word processing system that includes headings, footnotes, quotations, and citations in the county, and therefore is within the word limit of 5,200 words set by Rule 27(d)(2)(A) and this Court. I also certify that this document compiles with the typeface and type-style requirements of Rule 32(a)(5) and (6) of the Federal Rules



of Appellate Procedure because it has been prepared in a proportionally typeface using Microsoft Word™ 2016 with 14-point Times New Roman font.

*/s/ James D. Elliott*

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James D. Elliott (DC Bar #46965)  
Spilman Thomas & Battle, PLLC  
1100 Bent Creek Boulevard, Suite 101  
Mechanicsburg, PA 17050  
Phone: (717) 791-2012  
Fax: (717) 795-2743

Counsel for the Independent Petroleum Association of America, American Exploration & Production Council, Domestic Energy Producers Alliance, Eastern Kansas Oil & Gas Association, Illinois Oil & Gas Association, Independent Oil and Gas Association of West Virginia, Inc., Indiana Oil and Gas Association, International Association of Drilling Contractors, Kansas Independent Oil & Gas Association, Kentucky Oil & 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 Producers & Royalty Owners Association, and West Virginia Oil and Natural Gas Association

Dated: June 14, 2017

**PROOF OF SERVICE**

I hereby certify that on this 14<sup>th</sup> day of June, 2017, one copy of the foregoing Unopposed Motion for Leave to Intervene in Support of Respondents, Rule 26.1 Disclosure Statement, Certificate of Parties and *Amici Curiae*, and Certificate of Compliance was served using the Court's CM/ECF system and that, therefore, service was accomplished upon counsel of record by the Court's system.

*/s/ James D. Elliott*

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James D. Elliott