

ORAL ARGUMENT NOT YET SCHEDULED

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

WESTMORELAND MINING HOLDINGS LLC
Petitioner,

v.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY,
Respondent.

Case No. 20-1160

**WESTMORELAND MINING HOLDINGS LLC's
NONBINDING STATEMENT OF ISSUES TO BE RAISED**

Pursuant to the Court's Order of July 18, 2020 Petitioner Westmoreland Mining Holdings LLC submits this nonbinding statement of issues:

- 1) Whether EPA's continued regulation of coal fired power plants under section 112 of the Clean Air Act is unlawful and ultra vires because EPA cannot continue to regulate coal fired power plants under section 112 after finding that there is no necessary and appropriate basis for such regulation under section 112(n)(1)(A) of the Clean Air Act.
- 2) Whether regulations of coal fired power plants previously promulgated by EPA under section 112 of the Clean Air Act should be vacated in light of EPA's rescission of the necessary and appropriate finding which is the necessary prerequisite for such regulation under section 112(n)(1)(A) of the Clean Air Act.

Respectfully submitted,

/s/ Mark W. DeLaquil

Mark W. DeLaquil

Andrew Grossman

BAKER & HOSTETLER LLP

Suite 1100

1050 Connecticut Avenue, NW

Washington, D.C. 20036

Martin T. Booher

BAKER & HOSTETLER LLP

2000 Key Tower

127 Public Square

Cleveland, Ohio 44114

Counsel for

Westmoreland Mining Holdings LLC

August 21, 2020

CERTIFICATE OF SERVICE

I certify this Statement of Issues to be Raised has been served through this Court's CM/ECF system on all ECF registered counsel.

/s/ Mark W. DeLaquil
Mark W. DeLaquil

August 21, 2020