

# United States Senate

WASHINGTON, DC 20510

August 1, 2014

The Honorable Barack H. Obama  
President  
The White House  
1600 Pennsylvania Ave. NW  
Washington DC 20500

The Honorable Gina McCarthy  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave. NW  
Washington DC 20460

Mr. President and Administrator McCarthy:

Last month, the U.S. Environmental Protection Agency (EPA) announced sweeping new regulations under Section 111(d) of the Clean Air Act in a purported effort to reduce emissions of carbon dioxide (CO<sub>2</sub>) from existing power plants.<sup>1</sup>

While we appreciate the EPA's willingness to hold public hearings on this proposal in four locations (Atlanta, Georgia; Denver, Colorado; Washington, DC; and Pittsburgh, Pennsylvania) from July 29 through August 1, 2014, we are writing to urge the Administration to carefully consider the comments and concerns that were presented at the Atlanta public hearing by Alabamians from all parts of the user spectrum—workers, small business owners, elected officials, civic leaders, farmers, homemakers, and others. Our constituents presented Administration officials with a wide range of legitimate concerns. For example, officials heard compelling arguments explaining why the witnesses believe the EPA's proposal is based on a flawed interpretation of Section 111(d) of the Clean Air Act. As the EPA's proposal even acknowledges, the EPA has never used this provision of the Act in the manner now proposed—a reality that makes relevant the U.S. Supreme Court's recent admonishment:

*"When an agency claims to discover in a long-extant statute an unheralded power to regulate 'a significant portion of the American economy' ... we typically greet its announcement with a measure of skepticism. We expect Congress to speak clearly if it wishes to assign to an agency decisions of vast economic and political significance."*<sup>2</sup>

It cannot be seriously argued that the action proposed by the EPA has been expressly authorized by Congress. Indeed, if brought to Congress for a vote now, the EPA's proposal would certainly not be approved.

The Administration's actions have already begun affecting Alabamians. Just this morning, Alabama Power cited federal regulations as the impetus behind its decision to alter operations at seven operating units located within three power plants across the state. As part of these transitions, two coal-fired units at the Green County Electric Generating Plant will be converted to gas-powered units,

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<sup>1</sup> 79 Fed. Reg. 34,830 (June 18, 2014).

<sup>2</sup> *UARG v. EPA*, No. 12-1146, slip. op. at 19 (June 23, 2014).

reducing electric generating capacity by a third and eliminating sixty jobs located in the heart of the Black Belt. These job losses have serious consequences in a region which has faced declining populations, high unemployment rates, as well as a host of infrastructure challenges.

The EPA's proposal, if finalized, would impose enormous costs and burdens on Alabama workers and their families, and would hinder our global economic competitiveness. The impact will be felt the deepest in states—like ours—where fossil fuels provide a significant share of our electricity generation. The Administration's claims that energy costs will not be impacted by this proposal ring hollow. Simple economics suggest that the EPA's plan will undoubtedly increase electricity prices, which will hinder—not help—economic growth. Alabama has historically seen lower than average energy costs, in part because our state has been blessed with an abundance of natural resources that can be harnessed to power our homes and businesses and to make life better for our citizens.

Alabamians are also deeply troubled by the prospect that the EPA's proposal will further erode the primary role of the states in managing electricity generation and determining the mix of energy sources that work best for them in their specific circumstances. In Alabama, our electricity is generated from a range of sources—nuclear, coal, natural gas, hydropower and renewables. Those decisions should not be dictated by EPA officials in Washington, D.C. Perhaps ironically, the EPA's chosen formula for establishing CO<sub>2</sub> emission reduction targets disadvantages states with nuclear power, which is the nation's most significant source of emission-free electric generation.

Moreover, Alabamians expressed to Agency officials their beliefs that the EPA gave activist environmental groups a special role in crafting this proposal. In fact, in an article entitled "Environmentalists Drew Emissions Blueprint," the New York Times recently reported<sup>3</sup> that the EPA's Section 111(d) proposal is a "remarkable victory for the Natural Resources Defense Council"—an activist environmental organization with known anti-coal and anti-nuclear viewpoints. The article explains that the EPA "used as its blueprint the work of" this outside group. Indeed, a review of recent NRDC proposals for regulating CO<sub>2</sub> emissions from power plants closely resembles the proposal issued by EPA. These are just a few examples of the myriad of concerns—legal, technical, environmental, and economic—that have been raised in recent weeks in response to the EPA's proposal.

In light of the foregoing, we urge the Administration to listen closely to those who came from our great state to discuss the adverse consequences of these recent policies and proposals on their families, their jobs, and their communities.

Sincerely,



\_\_\_\_\_  
Senator Richard Shelby



\_\_\_\_\_  
Senator Jeff Sessions

<sup>3</sup> [http://www.nytimes.com/2014/07/07/us/how-environmentalists-drew-blueprint-for-obama-emissions-rule.html?\\_r=0](http://www.nytimes.com/2014/07/07/us/how-environmentalists-drew-blueprint-for-obama-emissions-rule.html?_r=0)