Rodriguez, Susan (CONTR)

From: Dowling, Michael J. <dowlingm@firstenergycorp.com>
Sent: Monday, March 06, 2017 6:06 PM
To: McCormack, Brian
Subject: Chuck Jones/FirstEnergy mtg request

Brian - on behalf of Chuck Jones, CEO of FirstEnergy, I'd like to request a meeting with Secretary Perry regarding urgent matters related to our industry and the coal industry.

Michael J. Dowling
Senior VP, External Affairs
FirstEnergy
330-384-5761 office
(b) (6) mobile

Rodriguez, Susan (CONTR)

From: Eckard, J. M <jeckard@firstenergycorp.com>
Sent: Wednesday, March 15, 2017 2:04 PM
To: McCormack, Brian
Subject: RE: *EXTERNAL* Jones meeting w/ Perry

We owe you. Thanks a million.

Mike

J. Michael Eckard
Director, Federal Affairs
FirstEnergy
801 Pennsylvania Ave., Suite 310
Washington, D.C. 20004
202.434-8153
202.434-8156 (fax)
(b) (6) (cell)
jeckard@firstenergycorp.com

FirstEnergy

From: McCormack, Brian [mailto:Brian.Mccormack@hq.doe.gov]
Sent: Tuesday, March 14, 2017 10:51 PM
To: Eckard, J. M <jeckard@firstenergycorp.com>
Cc: Fetterly, Brett <Brett.Fetterly@hq.doe.gov>
Subject: RE: *EXTERNAL* Jones meeting w/ Perry

Looks like we're ok. But if you can be 10 mins early that would help. He has to skip the EEI meeting. I had to alert them a short time ago.

From: Eckard, J. M <jeckard@firstenergycorp.com>
Sent: Tuesday, March 14, 2017 9:43:59 PM
To: McCormack, Brian
Cc: Fetterly, Brett
Subject: Re: *EXTERNAL* Jones meeting w/ Perry

We will be totally flexible. Any time you say.

Sent from my iPhone

> On Mar 14, 2017, at 9:17 PM, McCormack, Brian <Brian.Mccormack@hq.doe.gov> wrote:
>
> Mike,
>
> I'm just giving you a heads up that we got a White House meeting added to the Sec Perry's schedule a short time ago that is causing a lot of scheduling changes right now. I'll be in touch as soon as we know more but I wanted to alert you we may need some flexibility. Sorry for late notice.
>

> -----Original Message-----
> From: Eckard, J. M [mailto:jeckard@firstenergycorp.com]
> Sent: Tuesday, March 14, 2017 9:09 PM
> To: McCormack, Brian <Brian.Mccormack@hq.doe.gov>
> Cc: Fetterly, Brett <Brett.Fetterly@hq.doe.gov>
> Subject: Re: *EXTERNAL* Jones meeting w/ Perry
>
> Mike's full name is Michael John Dowling. See you in the morning. Thanks. Mike
>
> Sent from my iPhone
>
>> On Mar 14, 2017, at 7:43 PM, Eckard, J. M <jeckard@firstenergycorp.com> wrote:
>>
>> James Michael Eckard.
>>
>> Also, Michael Dowling will attend. He's our Senior VP, External Affairs.
>>
>> Sent from my iPhone
>>
>>> On Mar 14, 2017, at 6:06 PM, McCormack, Brian <Brian.Mccormack@hq.doe.gov> wrote:
>>>
>>> Mike,
>>>
>>> What does your first initial stand for? Need to have Brett, copied here, clear you and Chuck in for tomorrow's meeting.
>>>
>
>
> ----------
>
> The information contained in this message is intended only for the personal and confidential use of the recipient(s) named above. If the reader of this message is not the intended recipient or an agent responsible for delivering it to the intended recipient, you are hereby notified that you have received this document in error and that any review, dissemination, distribution, or copying of this message is strictly prohibited. If you have received this communication in error, please notify us immediately, and delete the original message.

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Rodriguez, Susan (CONTR)

From: Maddox, Mark
Sent: Tuesday, March 28, 2017 2:58 PM
To: Fetterly, Brett; Matheney, Doug; Buchan, Samuel
Subject: BIOS
Attachments: Biography of Robert E. Murray - Short (Updated 2017.01.31).pdf; Carey&WheelerBios.docx

Mark R. Maddox
U.S. Department of Energy
202.586.7791
mrmaddox@hq.doe.gov

-----Original Message-----
From: Wheeler, Andrew R. [mailto:Andrew.Wheeler@FaegreBD.com]
Sent: Tuesday, March 28, 2017 2:47 PM
To: Maddox, Mark <MRMaddox@hq.doe.gov>
Subject: RE: MEETING WITH SECRETARY PERRY

Attached are our bios.

Mark, I have a separate request in for a meeting with the Secretary with Energy Fuels, the uranium company. Do you know what the status of that request is? Thanks.

Andrew R. Wheeler
Principal
andrew.wheeler@FaegreBD.com
D: +1 202 312 7424 | M: +1 (b) (6) | F: +1 202 312 7460

www.FaegreBD.com

Faegre Baker Daniels Consulting
1050 K Street NW | Suite 400 | Washington, DC 20001, USA

-----Original Message-----
From: Maddox, Mark [mailto:MRMaddox@hq.doe.gov]
Sent: Tuesday, March 28, 2017 2:41 PM
To: Wheeler, Andrew R.
Subject: RE: MEETING WITH SECRETARY PERRY

Thanks!

Mark R. Maddox
U.S. Department of Energy

202.586.7791
mrmaddox@hq.doe.gov

-----Original Message-----
From: Wheeler, Andrew R. [mailto:Andrew.Wheeler@FaegreBD.com]
Sent: Tuesday, March 28, 2017 2:38 PM
To: Maddox, Mark <MRMaddox@hq.doe.gov>
Subject: RE: MEETING WITH SECRETARY PERRY

Sure, let me get back to you in a minute.

Andrew R. Wheeler
Principal
andrew.wheeler@FaegreBD.com
D: +1 202 312 7424 | M: +1 (b) (6) F: +1 202 312 7460

www.FaegreBD.com

Faegre Baker Daniels Consulting
1050 K Street NW | Suite 400 | Washington, DC 20001, USA

-----Original Message-----
From: Maddox, Mark [mailto:MRMaddox@hq.doe.gov]
Sent: Tuesday, March 28, 2017 2:37 PM
To: Wheeler, Andrew R.
Subject: MEETING WITH SECRETARY PERRY

Andrew,

We are looking forward to seeing you, Bob and Mike. Is there a chance you can forward bios for everyone?

Thanks,

Mark R. Maddox
U.S. Department of Energy
202.586.7791
mrmaddox@hq.doe.gov

BIOGRAPHICAL INFORMATION

FOR

ROBERT E. MURRAY

Mr. Robert E. Murray is the founder, Chairman, President, and Chief Executive Officer of Murray Energy Corporation ("Murray Energy") and Subsidiary Companies, a group of privately held coal mining, sales, and transloading companies, which, together, currently produce about seventy-five (75) million tons of bituminous coal annually and employ about 6,000 persons in six (6) states and Colombia, South America. These facilities comprise one of the largest groups of underground coal mining and river and ocean shipment operations in the world.

Mr. Murray was formerly President and Chief Executive Officer of The North American Coal Corporation ("North American"). He served North American for thirty-one (31) years at all levels of management.

During his sixty (60) year career in the mining industry, Mr. Murray has received numerous safety, educational, engineering, leadership, professional, and philanthropic awards. He is a past President of the major worldwide mining, metallurgical, and petroleum engineering institutes and societies. He serves on the Board of Directors of most of our national and state coal trade associations.

Mr. Murray is a national leader on matters affecting the coal and minerals industries before Congress, the Administration, and regulatory and other government agencies. He is recognized as a knowledgeable spokesman on: electricity availability, reliability, and affordability; how actions and regulations of the Obama Administration destroyed America's electric power grid, as well as the economy of many regions of our Country; and what the Trump Administration must do to protect coal mining jobs and affordable, reliable electricity in America.

Mr. Murray holds a Bachelor of Engineering in Mining Degree from The Ohio State University and has completed the Advanced Management Program at Harvard Business School. He is a licensed Professional Engineer and private pilot, and resides with his wife, Brenda, in Moreland Hills and St. Clairsville, Ohio. Their sons, Rob, Jon, and Ryan are executives in the Company, and Brenda and Bob have eight (8) grandchildren.

***

Michael T.W. Carey

Vice President of Government Affairs at Murray Energy Corporation

Mr. Carey has served as our Vice President – Government Affairs since July, 2012. From 1999 to 2012, Mr. Carey was President of The Ohio Coal Association. From 1992 to 1999, he held several staff positions in the Ohio Senate and United States Congress. Mr. Carey currently serves as Chairman of The Ohio Coal Association and represents Murray Energy in the Illinois and Kentucky coal associations. He received his commission in the United States Army from the Marion Military Institute and his B.A. from The Ohio State University.

Andrew R. Wheeler

Principal, Faegre Baker Daniels Consulting

Andrew Wheeler is a principal and the team leader of the energy and environment practice group at FaegreBD Consulting and Counsel at Faegre Baker Daniels law firm. Prior to joining FaegreBD Consulting, Andrew served as the Majority Staff Director and Chief Counsel on the Senate Committee on Environment and Public Works for Chairman Jim Inhofe for six years. Prior to his work at the full Senate EPW Committee, Andrew served in a similar capacity for six years for the Subcommittee on Clean Air, Climate Change, Wetlands and Nuclear Safety for both Senator Jim Inhofe and Senator George Voinovich. He started his career at the Environmental Protection Agency working on toxic chemical, pollution prevention and right-to-know issues. Andrew completed his law degree at Washington University, his MBA at George Mason University, and his undergraduate work at Case Western Reserve University.

Rodriguez, Susan (CONTR)

From: McCormack, Brian
To: Jenkins, Patsy
Sent: Friday, August 18, 2017 9:05 PM
Subject: Read: Letter Sent on Behalf of Robert D. Moore, Murray Energy Corporation to The Honorable James Richard "Rick" Perry

Your message

To: Unknown
Subject: Letter Sent on Behalf of Robert D. Moore, Murray Energy Corporation to The Honorable James Richard "Rick" Perry
Sent: 8/18/2017 4:54 PM

was read on 8/18/2017 9:05 PM.

Rodriguez, Susan (CONTR)

From: Jenkins, Patsy <pjenkins@coalsource.com>
Sent: Friday, August 18, 2017 4:54 PM
Subject: Letter Sent on Behalf of Robert D. Moore, Murray Energy Corporation to The Honorable James Richard "Rick" Perry
Attachments: Scanned from a Xerox Multifunction Printer.pdf

-----Original Message-----
From: xeroxscan@coalsource.com [mailto:xeroxscan@coalsource.com]
Sent: Friday, August 18, 2017 4:28 PM
To: Jenkins, Patsy <pjenkins@coalsource.com>
Subject: Scanned from a Xerox Multifunction Printer

Please open the attached document. It was scanned and sent to you using a Xerox Multifunction Printer.

Attachment File Type: pdf, Multi-Page

Multifunction Printer Location:
Device Name: XRX9C934E5C6922

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MURRAY ENERGY CORPORATION
46226 National Road
St. Clairsville, Ohio 43950

ROBERT D. MOORE
Executive Vice President, Chief Financial Officer and Chief Operating Officer

PHONE: (740) 338-3100
FAX: (740) 338-3405
rmoore@coalsource.com
www.murrayenergycorp.com

August 18, 2017

The Honorable James Richard "Rick" Perry
United States Secretary of Energy
United States Department of Energy
1000 Independence Ave., SW
Washington, D.C. 20585

Dear Secretary Perry:

In furtherance of our conversation with your Chief of Staff Brian McCormack, we urgently request that the United States Department of Energy ("DOE") invoke Section 202(c) of the Federal Power Act ("Section 202(c)") in order to prevent the destruction of the hundreds of thousands of lives in West Virginia, Pennsylvania, Ohio, Kentucky, and elsewhere throughout the United States. Their livelihoods, pensions, and retirement medical benefits are absolutely dependent on the continued operation of coal-fired electric generation plants and the dozens of coal mines that produce the thermal coal consumed in the electric generation process. Indeed, immediately invoking Section 202(c) is the only alternative that will prevent the aforementioned destruction and protect the reliability and resiliency of our nation's electric power grid.

Specifically, the following will be the devastating consequences from further inaction by your office, and the including the bankruptcies that will occur as a result, in the coal and electric generating utility industries:

- The elimination of approximately $4 billion of United Mine Workers' of America ("UMWA") retirement medical benefits for nearly 16,000 individuals.

- The default on nearly $3 billion of unfunded UMWA 1974 pension obligations, bargained for by the Federal Government, that are supporting over 155,000 UMWA pension benefit recipients.

- The loss of over 100 million tons per year of domestic thermal coal market.

- The negative impact to nearly 150,000 direct and indirect jobs, in addition to the previously mentioned retirees and pensioners, supported solely by Murray Energy Corporation's operations in West Virginia, Pennsylvania, Kentucky, Ohio, Illinois and Utah.

- The closure of dozens of thermal coal producing mines and the loss of thousands of jobs.

Very frankly, as we discussed with Mr. McCormack, no other viable alternative, including increased thermal coal exports, additional executive orders, or the purchase of stranded thermal coal production by federal, state, or local government, will stop the certain collapse of much of the thermal coal industry, other than immediately invoking Section 202(c). The export of thermal coal into the global market is not an option as the thermal coal mines impacted by the imminent closure of coal-fired electric generating lack: 1.) the transportation infrastructure to access domestic export terminals; 2.) the ability to reach export terminals economically; 3.) the ability to compete with foreign and existing domestic coal exports on a delivered basis to global customers; and 4.) sufficient coal quality to participate in the thermal coal export market. Additional executive orders will not result in the timely action required to deal with this immediate matter as coal markets will evaporate overnight, resulting in the loss of coal sales revenues and cash flow required to support each thermal coal mine impacted. From a practical standpoint, coal producers cannot produce coal and stack coal inventory endlessly. Coal producers lack the physical storage space and do not possess access to the unlimited cash that would make such an unrealistic plan even remotely achievable. Lastly, the purchase of stranded thermal coal production by federal, state, or local government is not feasible as thermal coal cannot be stockpiled for multiple years without risk of spontaneous combustion and stockpile degradation. More importantly, there is no benefit gained by stockpiling thermal coal if there are no thermal coal fired electric generating plants operating to consume the stockpiled thermal coal inventory.

As you are aware, the thermal coal industry is facing the rapid loss of domestic coal markets as announced coal fired generating plant closures continue to occur unabated. With twenty-four (24) coal fired electric generating plant closures to come in the next fourteen (14) months, the coal industry will see a precipitous decline in thermal coal demand of over 100 million tons annually. With coal supplies already in excess of coal demand, there will be no option other than the immediate closure of dozens of thermal coal producing mines resulting in the elimination of thousands of jobs and the abovementioned destruction and devastation of the very population that voted President Donald J. Trump into the Oval Office.

While Murray Energy Corporation (together with affiliates "Murray Energy"), has been at the forefront of this issue, it is important to note that Section 202(c) is not a "one-company fix." Indeed, on August 15, 2017, Mr. Glenn Kellow, the President and Chief Executive Officer of Peabody Energy, Inc., a large competitor of ours, called for a two (2) year moratorium on coal plant closures. Section 202(c) is the only viable mechanism to accomplish this task and to preserve the reliability of our Nation's electric power grid. Additionally, the President and Chief Executive Officer of Alliance Resource Partners, L.P., Mr. Joe Craft, has joined us in raising awareness of this devastating issue and calling for the invocation of Section 202(c).

As we have previously communicated, the failure of DOE to invoke Section 202(c) would, among other things, result in the bankruptcy of FirstEnergy Solutions ("FirstEnergy"). FirstEnergy is just one of the several companies that operate in the PJM Interconnection ("PJM") electric transmission system, which serves all of part of twelve (12) states and the District of Columbia. The PJM wholesale electric construct is a fundamentally flawed market, where the valuable attributes of baseload coal and nuclear generation is taken for granted and not considered in the marketplace. This makes it extremely difficult to compete with heavily subsidized renewables. The failure to utilize the protections of Section 202(c) will cause the bankruptcy of FirstEnergy and certain other electric power producers, whereas invoking Section 202(c) will give the Federal Energy Regulatory Commission adequate time to consider long-term market fixes while we preserve to these vital assets. These bankruptcies would have a cascading effect which would decimate the States of Ohio, West Virginia, and Pennsylvania, all of which voted overwhelmingly for President Trump.

As discussed during the call, the consequences to Murray Energy, and those who depend on Murray Energy, will be devastating. Murray Energy has debt payments of: $44.4 million, due September 29, 2017; $59.4 million, due October 17, 2017; and $44.3 million, due December 29, 2017. A bankruptcy filing by FirstEnergy, or another of our major customers, would make it impossible for Murray Energy to make these debt payments as these customers would be forced to close their coal fired electric generating fleets due to their inability to dispatch economically into a power market where they are forced to compete against alternate forms of electric generation that are subsidized by the federal government. This would result in Murray Energy being in material default of our various credit agreements, an acceleration of our nearly $2.7 billion of secured debt which has priority over the abovementioned nearly $7 billion of UMWA pension and retiree medical obligations owed by the Company and a filing for bankruptcy protection.

As a result, our analysis, as reflected in the enclosed Attachment A, shows that: over 301,000 lives will be decimated; tax revenue and other benefits would decrease $523.1 million per year; and the cost of unpaid obligations would total $11.8 billion. This figure includes approximately $7 billion of the UMWA unfunded pension and post-retiree medical obligations, as outlined herein. Further, the reliability and resiliency of our electric power grid will be crippled by these coal-fired power plant closures.

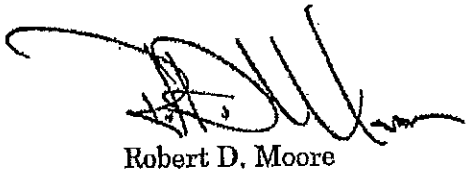
Time is of the essence, and action is needed now. During our conversation with Mr. McCormack, we discussed the rapid timeline for when closures and layoffs will take place. While the precise moment of bankruptcy filing cannot be predicted, the closure of First Energy's plants by the end of the third quarter of 2017 will cause immediate layoffs of coal miners in West Virginia, Ohio, and Pennsylvania. This is all in an area in which President Trump was elected by up to a forty-two percent (42%) margin.

We believe that some in the Administration do not understand the severe consequences of not invoking Section 202(c) of the Federal Power Act, for the President, for our communities, and for our Country.

Accordingly, we request a meeting with you, as soon as possible, to discuss this urgent matter. We appreciate your consideration.

Sincerely,

MURRAY ENERGY CORPORATION



Robert D. Moore
Executive Vice President, Chief Financial Officer, and Chief Operating Officer

Enclosure

CC:

President	Ashley Gunn
Vice President	Kathryn Wall
Secretary Rick Perry	Stan Gerdes
Secretary Alexander Acosta	Emily Hoffman
Director Gary Cohn	Ashley Marquis
General John Kelly	Zachary Fuentes
	Kristjen Nielsen
Secretary Ryan Zinke	Scott Hommel
	Brian McCormack
	Dan Brouilette
	Mike Catanzaro
	Nick Ayers
	Don McGahn
	Ann AllenWelden
	John McEntee
	Rick Dearborn

Attachment A

CONFIDENTIAL

Murray Energy Corporation
Consequences Resulting from the Failure to Invoke Section 202(C) of the Federal Power Act
August 14, 2017

If the Department of Energy fails to invoke Section 202(C) of the Federal Power Act to preserve the operation of certain of FirstEnergy Corporation's coal-fired power plants, the consequences to Murray Energy Corporation (together with affiliates "Murray Energy"), and those who depend on Murray Energy, are currently estimated to be as follows:

Human Cost	Lives Impacted	
Number of Lives Receiving Pension Benefits through UMWA Funds	153,815	1
Including Surviving Spouses	19,490	
Including Retirees of Murray Energy	15,382	
Including Orphans Whose Last Employer Does Not Contribute	118,943	
Number of Lives Receiving Healthcare through Murray Energy	29,189	2
Number of Active Employees at All Murray Energy Affiliated Companies	5,393	
Number of Indirect Lives Relying on Murray Energy	118,646	3
Total Lives Impacted (Sum of Items marked 1, 2, and 3)	301,650	

Financial Cost	Payable per Year	Total Obligations
Total Debt Obligations of Murray Energy		$ 4,008,611,000
Total Unfunded Pension Obligations		2,900,000,000
Total Post-Retiree Medical Obligations		3,958,960,735
Outstanding Surety Bonds		282,872,765
Reclamation Liability		637,104,423
Coal Severance Tax Obligations	$ 87,538,164	
Ohio	831,485	
West Virginia	82,231,679	
Other	4,475,000	
Real Estate Tax Obligations	20,007,998	
Personal Property Tax in West Virginia	17,184,765	
Murray Energy Contributions to UMWA Plans	30,077,303	
Medical Benefits for Retirees	111,957,010	
Medical Benefits for Hourly Employees	68,242,927	
Medical Benefits for Salaried Employees	24,482,373	
Federal Reclamation Tax	7,852,247	
Federal Royalties	5,408,635	
Black Lung Excise Tax Obligations	62,833,723	
Total Financial Cost	$ 528,123,309	$ 11,787,548,923

Sullivan, Elizabeth (CONTR)

From: Maddox, Mark
Sent: Wednesday, March 29, 2017 12:57 PM
To: Fisher, Travis;Abbey, Tristan;Buchan, Samuel;Dannenfelser, Marty;Simmons, Daniel
Subject: FW: Scans
Attachments: *Doc1.pdf; Doc2.pdf; Doc3.pdf; Doc4.pdf*

As promised...use or disregard...

Mark R. Maddox
U.S. Department of Energy
202.586.7791
mrmaddox@hq.doe.gov

-----Original Message-----
From: Sebastian, Harold
Sent: Wednesday, March 29, 2017 12:38 PM
To: Maddox, Mark <MRMaddox@hq.doe.gov>
Subject: Scans

Mark,

Please see attached.

Best,
Harold

MURRAY ENERGY CORPORATION
46226 National Road
St. Clairsville Ohio 43950

ROBERT E. MURRAY
Chairman, President &
Chief Executive Officer

PHONE: (740) 338-3100
FAX: (740) 695-7014
EMAIL: bobmurray@coalsource.com
WEBSITE: www.murrayenergycorp.com

March 28, 2017

The Honorable J. Richard Perry
Secretary
United States Department of Energy
Forrestal Building
1000 Independence Ave. SW
Washington, D.C. 20585

Dear Secretary Perry:

Enclosed is an Action Plan for achieving reliable and low cost electricity in America and to assist in the survival of our Country's coal industry, which is essential to power grid reliability and low cost electricity.

We are available to assist you in any way that you request.

Sincerely,

MURRAY ENERGY CORPORATION

Bob Murray

Robert E. Murray
Chairman, President & Chief Executive Officer

REM:lms
Enclosures

ACTION PLAN FOR RELIABLE AND LOW COST ELECTRICITY IN AMERICA AND TO ASSIST IN THE SURVIVAL OF OUR COUNTRY'S COAL INDUSTRY

- SUSPEND THE COAL-FIRED POWER PLANT EFFLUENT LIMITATION GUIDELINES (ELG) AND COAL COMBUSTION RESIDUALS (CCR) RULES OF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

  The compliance deadlines for both regulations must be suspended. The illegal ELG rule needs to be rescinded. The CCR regulation needs to be rewritten delegating the authority to the states in light of the new legislation passed in December.

- IMPLEMENT EMERGENCY ACTIONS RELATIVE TO THE SECURITY AND RESILIENCY OF THE ELECTRIC POWER GRIDS

  The Department of Energy ("DOE") must issue an emergency directive to have an immediate study done of the security and resiliency of our electric power grids. DOE will direct that no power plants having an available fuel supply of at least forty-five (45) days be closed during the study period, or a minimum of two (2) years.

- "ENDANGERMENT FINDING" FOR GREENHOUSE GASES

  There must be a withdrawal and suspension of the implementation of the so-called "endangerment finding" for greenhouse gases.

  EPA's "endangerment finding" under the Clean Air Act serves as the foundation for the agency's far reaching regulation of the economy in the form of emission limitations for greenhouse gases, including carbon dioxide. The high degree of uncertainty in the range of data relied upon by EPA combined with the enormous regulatory costs without concomitant benefits merit revisiting the "endangerment finding".

  According to EPA's finding, the "root cause" of recently observed climate change is "likely" the increase in anthropogenic greenhouse gas emissions. EPA relied upon computer-based-climate-model simulations and a "synthesis" of major findings from scientific assessment reports with a significant range of uncertainty related to temperatures over 25 years. The climate model failures are well documented in their inability to emulate real-world climate behavior. Models that are unable to simulate known climate behavior cannot provide reliable projections of future climate behavior. As for the scientific assessments underlying the "synthesis" of findings used by EPA, many were not peer reviewed, and there are multiple instances where portions of peer reviewed literature germane to the "endangerment finding" were omitted, ignored or unfairly dismissed.

ACTION PLAN FOR RELIABLE AND LOW COST ELECTRICITY IN AMERICA AND TO ASSIST IN THE SURVIVAL OF OUR COUNTRY'S COAL INDUSTRY (CONTINUED)

- **ELIMINATE THE THIRTY (30) PERCENT PRODUCTION TAX CREDIT FOR WINDMILLS AND SOLAR PANELS IN ELECTRICITY GENERATION**

  Electricity generated by windmills and solar panels costs twenty-six (26) cents per kilowatt hour with a four (4) cent per kilowatt hour subsidy from the American taxpayers. These energy sources are unreliable and only available if the wind blows or the sun shines. Coal-fired electricity costs only four (4) cents per kilowatt hour. Low cost electricity is a staple of life, and we must have a level playing field in electric power generation without the government picking winners and losers by subsidizing wind and solar power.

- **WITHDRAW FROM THE ILLEGAL UNITED NATIONS COP 21 PARIS CLIMATE ACCORD**

  The United Nation's COP 21 Paris Climate Accord, to which Barack Obama has already committed one (1) billion dollars of America's money, is an attempt by the rest of the world to obtain funding from our Country. It is an illegal treaty never approved by Congress, and it will have no effect on the environment.

- **END THE ELECTRIC UTILITY MAXIMUM ACHIEVABLE TECHNOLOGY AND OZONE REGULATIONS**

  We have won these issues in the United States Supreme Court, and these rules must be completely overturned.

- **FUND THE DEVELOPMENT OF CERTAIN CLEAN COAL TECHNOLOGIES**

  The Federal government must support the development of some Clean Coal Technologies, including: ultra super critical combustion; high efficiency, low emission coal firing; combined cycle coal combustion; and others. It should not fund so-called carbon capture and sequestration ("CCS"), as it does not work, practically or economically. Democrats and some Republicans use CCS as a political cover to insincerely show that they are proposing something for coal. But, carbon capture and sequestration is a pseudonym for "no coal".

- **OVERHAUL THE BLOATED AND POLITICALIZED MINE SAFETY AND HEALTH ADMINISTRATION OF THE U. S. DEPARTMENT OF LABOR**

  This Federal agency, over the past eight (8) years, has not been focused on the coal miner safety, but on politics, bureaucracy, waste, and violation quotas. While coal mine employment has been cut in half, the Federal Mine Safety and Health Administration has continued to hire inspectors every year. But, the government has nowhere to put them. Murray Energy Corporation received an average of 532 Federal inspectors per month in 2016.

ACTION PLAN FOR RELIABLE AND LOW COST ELECTRICITY IN AMERICA AND TO ASSIST IN THE SURVIVAL OF OUR COUNTRY'S COAL INDUSTRY (CONTINUED)

We must send a Company manager with every one of these inspectors, taking us away from our employee safety inspections and safety training.

- CUT THE STAFF OF THE U.S. ENVIRONMENTAL PROTECTION AGENCY IN AT LEAST HALF

  Tens of thousands of government bureaucrats have issued over 82,000 pages of regulations under Obama, many of them regarding coal mining and utilization. The Obama EPA, alone, wrote over 25,000 pages of rules, thirty-eight (38) times the words in our Holy Bible.

- OVERTURN THE RECENTLY ENACTED CROSS-STATE AIR POLLUTION RULE

  This regulation particularly punishes states in which coal mining takes place to the benefit of other wealthier east coast states.

- REVISE THE ARBITRARY COAL MINE DUST REGULATION OF THE MINE SAFETY AND HEALTH ADMINISTRATION OF THE DEPARTMENT OF LABOR

  This regulation provides no health benefit to our coal miners, and threatens the destruction of thousands of coal mining jobs.

- OBTAIN LEGISLATION TO FUND BOTH THE RETIREE MEDICAL CARE AND PENSIONS FOR ALL OF AMERICA'S UNITED MINE WORKERS OF AMERICA (UMWA) – REPRESENTED, RETIRED COAL MINERS

  For four (4) years, Senate Majority Leader Mitch McConnell has refused to address this issue. Some say that this is because the UMWA wrongly opposed him in his recent election. This must be taken care of. And the legislation enacted must address not just those recently orphaned through company bankruptcies and mine closures, but the medical benefits and pensions that were promised to all retired miners by the Federal government itself.

- OVERTURN THE MINE SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR, PATTERN OF VIOLATIONS RULE

  This rule is a punitive action of the Mine Safety and Health Administration under its Director for the past eight (8) years, the former Safety Director of a labor union.

- APPOINT JUSTICES TO THE SUPREME COURT OF THE UNITED STATES WHO WILL FOLLOW OUR UNITED STATES CONSTITUTION AND OUR LAWS

  We must offset the liberal appointees who want to redefine our Constitution and our laws.

ACTION PLAN FOR RELIABLE AND LOW COST ELECTRICITY IN AMERICA AND TO ASSIST IN THE SURVIVAL OF OUR COUNTRY'S COAL INDUSTRY (CONTINUED)

- **MEMBERS OF THE FEDERAL ENERGY REGULATORY COMMISSION MUST BE REPLACED**

  The current Federal Energy Regulatory Commission has a record of favoring actions of the Obama Administration. That has systematically devalued base load generation as a result of the Obama "war on coal". These actions have put the future security and reliability of America's electric power grid at risk. Immediate action needs to be taken to require organized power markets to value fuel security, fuel diversity, and ancillary services that only base load generating assets, especially coal plants, can provide.

- **MEMBERS OF THE TENNESSEE VALLEY AUTHORITY BOARD OF DIRECTORS MUST BE REPLACED**

  The Board of Directors of this government agency has followed the mandates of the Obama Administration, rather than assure reliable, low cost electricity for the Tennessee Valley Authority's rate payers, whom they are mandated to serve in this manner.

- **REPLACE THE MEMBERS OF THE NATIONAL LABOR RELATIONS BOARD ("NLRB")**

  Eliminate the antiemployer bias of the NLRB by appointing members and staff, particularly in the General Counsel's office, who will fairly consider the employer's position and needs and not automatically accede to the unions or unionized employees in every matter considered.

***

ROBERT E. MURRAY
President & Chief Executive Officer

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March 28, 2017

The Honorable James Richard "Rick" Perry
United States Secretary of Energy
United States Department of Energy
1000 Independence Ave., SW
Washington, D.C. 20585

Dear Secretary Perry:

We join you in applauding President Donald J. Trump's "Energy Independence Executive Order" ("Executive Order"), which directs your Administration to review, rewrite, and rescind the so-called Clean Power Plan and several other anti-coal regulations illegally promulgated by the Obama Administration.

There is absolutely no doubt that this Executive Order will preserve coal jobs and low cost electricity in the United States.

In furtherance of this Executive Order, we have developed the enclosed materials for your review and consideration, consisting of: six (6) Executive Orders further rescinding anti-coal regulations of the Obama Administration; and one (1) memorandum outlining the legal rationale for each of these actions, and others. These materials are organized as follows:

1. **Exhibit 1** - Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category; Final Rule; Final Rule (the "ELG Rule");

2. **Exhibit 2** - Hazardous and Solid Waste Management System; Disposal of Coal Combustion Residuals From Electric Utilities ("CCR Rule");

3. **Exhibit 3** - Supplemental Finding That It Is Appropriate and Necessary To Regulate Hazardous Air Pollutants From Coal- and Oil-Fired Electric

Utility Steam Generating Units; Final Supplemental Finding ("Utility MACT Rule");

4. **Exhibit 4** - Final Rule on National Ambient Air Quality Standards for Ozone ("NAAQS Standard");

5. **Exhibit 5** - Cross-State Air Pollution Rule Update for the 2008 Ozone NAAQS; Final Rule ("CSAPR Update Rule");

6. **Exhibit 6** - Presidential Executive Order on The Paris Climate Accord ("Paris Climate Agreement");

7. **Exhibit 7** - A Comprehensive Memorandum which details the legal rationale for each of these executive actions, and others.

We respectfully request that you review these materials, and enact them, as you deem appropriate.

As you know, for many years now, we at Murray Energy Corporation have been leading the fight against the disastrous and illegal anti-coal regulations of the Obama Administration, the vast majority of which remain in effect. We have developed expertise in this regard and offer our assistance to you.

If there is any other way which we may help, please contact the undersigned directly at bobmurray@coalsource.com or 740-338-3299 or Mr. Michael T. W. Carey, our Vice President – Government Affairs, at mcarey@coalsource.com or 740-338-3100.

Again, we appreciate your leadership in combatting the ongoing destruction of the United States coal industry, as caused by the previous Administration. We stand prepared to assist you in any way that we can.

Sincerely,

MURRAY ENERGY CORPORATION

Robert E. Murray
Chairman, President and
Chief Executive Officer

Enclosure

Exhibit 1

Presidential Executive Order - ELG Rule

Presidential Executive Order on Restoring the Rule of Law, Federalism, and Economic Growth by Reviewing the Final Rule on Effluent Limitations Guidelines and Standards For the Steam Electric Power Generating Point Source Category Published on November 3, 2015 By the United States Environmental Protection Agency (The "ELG Regulations"), 80 Fed. Reg. 67837 (2015)

EXECUTIVE ORDER

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. Policy. It is in the national interest to ensure that the Nation's navigable waters are kept free from pollution, while at the same time promoting economic growth, minimizing regulatory uncertainty, and showing due regard for the roles of the Congress and the States under the Constitution.

Sec. 2. Suspension and Review of the Final Rule On ELG Regulations. (a) The operation and implementation of the Final Rule on ELG Regulations shall be suspended pending further action of the Administrator of the Environmental Protection Agency (Administrator) taken pursuant to this executive order.

(b) The Administrator and the Assistant Secretary of the Army for Civil Works (Assistant Secretary) shall review the Final Rule On ELG Regulations for consistency with the policy set forth in section 1 of this order and publish for notice and comment a proposed rule rescinding or revising the rule, as appropriate and consistent with law.

(c) The Administrator, the Assistant Secretary, and the heads of all executive departments and agencies shall review all orders, rules, regulations, guidelines, or policies implementing or enforcing the final rule listed in subsection (a) of this section for consistency with the policy set forth in section 1 of this order and shall rescind or revise, or publish for notice and comment proposed rules rescinding or revising, those issuances, as appropriate and consistent with law and with any changes made as a result of a rulemaking proceeding undertaken pursuant to subsection (b) of this section.

(d) With respect to any litigation before the Federal courts related to the final rule listed in subsection (a) of this section, the Administrator and the Assistant Secretary shall promptly notify

the Attorney General of the pending reviews under subsections (b) and (c) of this section so that the Attorney General may, as he deems appropriate, inform any court of such review and take such measures as he deems appropriate concerning any such litigation pending the completion of further administrative proceedings related to the rule.

Sec. 3. Policy Assessment. In connection with the reviews described in sections 2(b) and (c) of this order, the Administrator and the Assistant Secretary shall consider whether the final rule referenced in section 2(a) above sets overly stringent effluent pollution limitations for the hundreds of existing coal-fired generating facilities in the United States that are neither technically feasible nor economically feasible.

Sec. 4. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP

THE WHITE HOUSE

[DATE]

Exhibit 2

Presidential Executive Order - CCR Rule

Presidential Executive Order on Restoring the Rule of Law, Federalism, Economic Growth, and Reducing Regulatory Costs by Reviewing the Final Rule on Disposal of Coal Combustion Residuals From Electric Utilities (the "CCR Rule"), Published on April 17, 2015 By the United States Environmental Protection Agency, 80 Fed. Reg. 21302 (2015)

EXECUTIVE ORDER

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. Policy. It is in the national interest to control solid waste pollution, while at the same time promoting economic growth, minimizing regulatory uncertainty, reducing unnecessary regulatory costs, and showing due regard for the roles of the Congress and the States under the Constitution.

Sec. 2. Suspension and Review of the Final CCR Rule. (a) The operation and implementation of the final CCR Rule shall he suspended pending further action of the Administrator of the Environmental Protection Agency (the "Administrator") taken pursuant to this executive order.

(b) The Administrator shall review the final CCR Rule for consistency with the policy set forth in section 1 of this order and publish for notice and comment a proposed rule rescinding or revising the rule, as appropriate and consistent with law.

(c) The Administrator and the heads of all executive departments and agencies shall review all orders, rules, regulations, guidelines, or policies implementing or enforcing the CCR Rule for consistency with the policy set forth in section 1 of this order and shall rescind or revise, or publish for notice and comment proposed rules rescinding or revising, those issuances, as appropriate and consistent with law and with any changes made as a result of a rulemaking proceeding undertaken pursuant to subsection (b) of this section.

(d) With respect to any litigation before the federal courts related to the CCR Rule, the Administrator shall promptly notify the Attorney General of the pending review under subsections (b) and (c) of this section so that the Attorney General may, as he deems appropriate, inform any court of such review and take such measures as he deems appropriate concerning any such litigation pending the completion of further administrative proceedings related to the rule.

Sec. 3. Policy Assessment. In connection with the reviews described in sections 2(b) and (c) of

this order, the Administrator and heads of all executive departments and agencies shall consider whether under the CCR Rule (i) the USEPA should be responsible for enforcement of the rule, rather than providing for a private cause of action; and (ii) the states should be authorized to develop and enforce their own plans for disposal of coal combustion residuals for coal-fired electric generating facilities within their borders, rather than the USEPA imposing federal solid waste requirements on the coal-fired electric generation facilities.

Sec. 4. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP

THE WHITE HOUSE

[DATE]

Exhibit 3

Presidential Executive Order – Utility MACT Rule

Presidential Executive Order on Restoring the Rule of Law, Economic Growth, and Reducing Regulatory Costs by Reviewing the Supplemental Finding That It Is Appropriate and Necessary To Regulate Hazardous Air Pollutants from Coal- and Oil-Fired Electric Utility Steam Generating Units; Final Rule (the "Utility MACT Rule"), Published on April 25, 2016 By the United States Environmental Protection Agency, 81 Fed. Reg. 24,420 (2016)

EXECUTIVE ORDER

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. Policy. It is in the national interest to ensure that the Nation's air is kept free from excessive pollution, while at the same time promoting economic growth, minimizing regulatory uncertainty, reducing unnecessary regulatory costs, and showing due regard for the roles of the Congress and the States under the Constitution.

Sec. 2. Suspension and Review of the Final Utility MACT Rule. (a) The operation and implementation of the Final Utility MACT Rule shall be suspended pending further action of the Administrator of the Environmental Protection Agency (the "Administrator") taken pursuant to this executive order.

(b) The Administrator shall review the Utility MACT Rule for consistency with the policy set forth in section 1 of this order and publish for notice and comment a proposed rule rescinding or revising the rule, as appropriate and consistent with law.

(c) The Administrator and the heads of all executive departments and agencies shall review all orders, rules, regulations, guidelines, or policies implementing or enforcing the Utility MACT Rule for consistency with the policy set forth in section 1 of this order and shall rescind or revise, or publish for notice and comment proposed rules rescinding or revising, those issuances, as appropriate and consistent with law and with any changes made as a result of a rulemaking proceeding undertaken pursuant to subsection (b) of this section.

(d) With respect to any litigation before the federal courts related to the Utility MACT Rule, the Administrator shall promptly notify the Attorney General of the pending review under

subsections (b) and (c) of this section so that the Attorney General may, as he deems appropriate, inform any court of such review and take such measures as he deems appropriate concerning any such litigation pending the completion of further administrative proceedings related to the rule.

Sec. 3. Policy Assessment. In connection with the reviews described in sections 2(b) and (c) of this order, the Administrator and heads of all executive departments and agencies shall consider whether the Utility MACT Rule sets overly-stringent air pollution limitations that are neither technically feasible nor economically feasible for the hundreds of existing coal-fired electric generating facilities in the United States to which the Utility MACT Rule may apply.

Sec. 4. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP

THE WHITE HOUSE

[DATE]

Exhibit 4

Presidential Executive Order - NAAQS Standard

Presidential Executive Order on Restoring the Rule of Law, Economic Growth, and Reducing Regulatory Costs by Reviewing the Final Rule on National Ambient Air Quality Standards for Ozone (the "NAAQS Standard"), Published on October 26, 2015 by the United States Environmental Protection Agency, 80 Fed. Reg. 65292 (2015)

EXECUTIVE ORDER

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. Policy. It is in the national interest to ensure that the Nation's air is kept free from excessive pollution, while at the same time promoting economic growth, minimizing regulatory uncertainty, reducing unnecessary regulatory costs, and showing due regard for the roles of the Congress and the States under the Constitution.

Sec. 2. Suspension and Review of the Final Rule on the NAAQS Standard. (a) The operation and implementation of the Final Rule on the NAAQS Standard shall be suspended pending further action of the Administrator of the Environmental Protection Agency (the "Administrator") taken pursuant to this executive order.

(b) The Administrator shall review the Final Rule on NAAQS Standard for consistency with the policy set forth in section 1 of this order and publish for notice and comment a proposed rule rescinding or revising the rule, as appropriate and consistent with law.

(c) The Administrator and the heads of all executive departments and agencies shall review all orders, rules, regulations, guidelines, or policies implementing or enforcing the NAAQS Standard for consistency with the policy set forth in section 1 of this order and shall rescind or revise, or publish for notice and comment proposed rules rescinding or revising, those issuances, as appropriate and consistent with law and with any changes made as a result of a rulemaking proceeding undertaken pursuant to subsection (b) of this section.

(d) With respect to any litigation before the federal courts related to the NAAQS Standard, the Administrator shall promptly notify the Attorney General of the pending review under subsections (b) and (c) of this section so that the Attorney General may, as he deems appropriate, inform any court of such review and take such measures as he deems appropriate concerning any such litigation pending the completion of further administrative proceedings related to the rule.

Sec. 3. Policy Assessment. In connection with the reviews described in sections 2(b) and (c) of this order, the Administrator and heads of all executive departments and agencies shall consider whether the NAAQS Standard sets overly-stringent air pollution limitations that are neither technically feasible nor economically feasible for the hundreds of existing coal-fired electric generating facilities in the United States to which the NAAQS Standard may apply.

Sec. 4. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP

THE WHITE HOUSE

[DATE]

Exhibit 5

Presidential Executive Order - CSAPR Update Rule

Presidential Executive Order on Restoring the Rule of Law, Economic Growth, and Reducing Regulatory Costs by Reviewing the Final Rule on Cross-State Air Pollution Rule Update (the "CSAPR Update"), Published on October 26, 2016 By the United States Environmental Protection Agency, 81 Fed. Reg. 74504 (2016)

EXECUTIVE ORDER

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. Policy. It is in the national interest to ensure that the Nation's air is kept free from excessive pollution, while at the same time promoting economic growth, minimizing regulatory uncertainty, reducing unnecessary regulatory costs, and showing due regard for the roles of the Congress and the States under the Constitution.

Sec. 2. Suspension and Review of the Final Rule on the CSAPR Update. (a) The operation and implementation of the Final Rule on the CSAPR Update shall be suspended pending further action of the Administrator of the Environmental Protection Agency (the "Administrator") taken pursuant to this executive order;

(b) The Administrator shall review the Final Rule on CSAPR Update for consistency with the policy set forth in section 1 of this order and publish for notice and comment a proposed rule rescinding or revising the rule, as appropriate and consistent with law.

(c) The Administrator and the heads of all executive departments and agencies shall review all orders, rules, regulations, guidelines, or policies implementing or enforcing the CSAPR Update for consistency with the policy set forth in section 1 of this order and shall rescind or revise, or publish for notice and comment proposed rules rescinding or revising, those issuances, as appropriate and consistent with law and with any changes made as a result of a rulemaking proceeding undertaken pursuant to subsection (b) of this section.

(c) With respect to any litigation before the federal courts related to the CSAPR Update, the Administrator shall promptly notify the Attorney General of the pending review under subsections (b) and (c) of this section so that the Attorney General may, as he deems appropriate, inform any court of such review and take such measures as he deems appropriate concerning any such litigation pending the completion of further administrative proceedings related to the rule.

Sec. 3. Policy Assessment. In connection with the reviews described in sections 2(b) and (c) of

this order, the Administrator and heads of all executive departments and agencies shall consider whether the CSAPR Update sets overly-stringent air pollution limitations that are neither technically feasible nor economically feasible for the hundreds of existing coal-fired electric generating facilities in the United States to which the CSAPR Update may apply.

Sec. 4. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP

THE WHITE HOUSE

[DATE]

Exhibit 6

Presidential Executive Order - Paris Climate Agreement

Presidential Executive Order on The Paris Climate Accord

EXECUTIVE ORDER

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. Policy. It is in the Nation's interest to pursue policies and initiatives that strengthen the economic and competitive interests of the United States and its citizens on both a domestic and international stage.

Section 2. Suspension of Activity in Furtherance of the Paris Agreement. The United States and its executive agencies and executive officials shall immediately cease all activities that are implemented, or are being implemented, for the purpose of effecting compliance with that certain Paris Agreement, effective November 4, 2016 (the "Paris Climate Accord") to which the United States became a party through previous executive action.

(b) The United States' commitments to providing monetary and other economic benefits to the parties, committees, agencies, and other affiliates, of the Paris Climate Accord (the "Climate Accord Parties"), are hereby suspended indefinitely.

(c) The United States will provide formal notice to the necessary Climate Accord Parties on November 4, 2019 of its intent to withdraw from the Paris Climate Accord, to be effective, consistent with the Paris Climate Accord's terms, one year later on November 4, 2020.

Section 3. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP

THE WHITE HOUSE

[DATE]

Exhibit 7

Comprehensive Memorandum

CONFIDENTIAL MEMORANDUM

Confidential Attorney – Client Privileged Communication
Attorney Opinion Work Product

FROM: Robert E. Murray, Chairman, President, and Chief Executive Officer of Murray Energy Corporation

CC: Benesch Friedlander Coplan & Aronoff LLP

DATE: March 28, 2017

SUBJECT: STRATEGY TO PROMOTE RELIABLE AND LOW COST ELECTRICITY IN AMERICA AND TO ASSIST IN THE SURVIVAL OF OUR COUNTRY'S COAL INDUSTRY

For eight years, the Obama Administration's hostility toward the American coal industry hindered our economic growth, cost tens of thousands of jobs, and threatened our way of life. *Affordable and reliable electricity is essential to our collective prosperity.* Swift and decisive action by your administration may be able to undo some of the harm caused by President Obama and his allies.

Below is a holistic strategy to help to bring American Coal back from the precipice of extinction. The Trump Administration has the power to exercise its executive authority and to exert political pressure to effectuate critical changes to help to resurrect our embattled industry. Where the President can effect necessary changes by presidential executive orders, we have provided drafts of such orders. In those instances, where presidential executive orders cannot effect the necessary change, we provide alternative recommended strategies to bring change that will enhance the ability of coal-fired electric generation to resume its appropriate position as a *cornerstone of America's ability to deliver reliable, affordable electricity to its citizens.*

We begin by addressing necessary changes in America's energy policies that can be quickly, and meaningfully, addressed by executive order.

SPECIFIC CHANGES THAT CAN BE EFFECTED BY EXECUTIVE ORDER

I. SUSPEND THE COAL-FIRED POWER PLANT EFFLUENT LIMITATION GUIDELINES (ELG) AND COAL COMBUSTION RESIDUALS (CCR) RULE OF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Summary of Issues and Effects Related to ELG Regulations:

- On November 3, 2015, the United States Environmental Protection Agency ("EPA") published its Final Rule on Effluent Limitations Guidelines and

Standards for the Steam Electric Power Generating Point Source Category (the "ELG Guidelines"), 80 Fed. Reg. 67837 (2015). The ELG Guidelines set new, stringent effluent limitations for hundreds of existing coal-fired electric generation facilities.

- It is not economically feasible for coal-fired generation facilities to meet these new effluent limitations. EPA obtained is projected cost data from self-interested vendors who "low-balled" the cost estimates because the vendors stood to gain enormous revenues from selling effluent control equipment to the regulated coal-fired generation plants if EPA adopted more stringent limitations. In fact, the actual costs of compliance would be seven to eight times higher than EPA estimates.

- The new effluent limitations are not technologically feasible. Again, EPA went to self-interested vendors for assessments of the technical capabilities of the vendors' products. This technology simply will not work at most coal-fired generation facilities.

- The ELG Guidelines have been challenged in federal court by certain coal-fired generators.

- The ELG Guidelines seriously threaten to put coal-fired electric generation out of business. Meeting the new limitations is neither economically nor technologically feasible.

Recommended Action:

- President Trump should issue an executive order suspending the ELG Guidelines and directing EPA to review, and rescind or revise, the Guidelines.

Summary of Issues And Effects Related To The CCR Rule:

- On April 17, 2015, EPA published its Final Rule on the Disposal of Coal Combustion Residuals From Electric Utilities (the "CCR Rule"). 80 Fed. Reg. 21302 (2015). The CCR Rule regulates the disposal of coal combustion residuals, or "coal ash," produced by coal-fired electric generation facilities.

- The CCR Rule contains some provisions that supporters of coal-fired electric generation favor. For instance, the Rule does not categorize coal ash as a "hazardous waste," as environmental advocates had urged EPA to do. The Rule also permits "cap-and-close-in-place" impoundments that are supported by the coal industry and opposed by environmentalists.

- Conversely, the CCR Rule is enforceable only by citizen suits, not by regulatory action of the EPA. This puts a "target on the back" of coal-fired generators,

inviting environmentalists to engage the generators in costly, years-long litigation that is likely to prevent profitable operation of the targeted coal-fired facilities. Moreover, the CCR Rule imposes inflexible federal solid waste requirements on coal-fired generators, instead of allowing the states to regulate the disposal of coal ash by their local coal-fired generators.

- EPA should be enforcing this Rule, not private parties motivated by a desire to put the coal industry out of business. Further, the Rule should be changed to allow states to develop and apply their own plans for the disposal of coal ash by local coal-fired generation facilities.

Recommended Action:

- President Trump should issue an executive order suspending the CCR Rule and directing the EPA to review, and rescind or revise, the Rule.

II. END THE ELECTRIC UTILITY MAXIMUM ACHIEVABLE TECHNOLOGY AND OZONE NATIONAL AMBIENT AIR QUALITY STANDARD (OZONE NAAQS)

Summary of Issues and Effects Related To The Electric Utility Maximum Achievable Technology Regulations:

- EPA's Mercury and Air Toxics Standards rule (the "MATS Rule") established standards for the emission of hazardous air pollutants from coal plants that required the use of Maximum Achievable Control Technology ("MACT"). This, in turn, doomed many coal-fired power plants to closure and prevented the construction of new plants. The Supreme Court held that EPA erred in finding these standards "appropriate and necessary" because EPA did not consider the cost of complying with the standard. However, the Supreme Court did not vacate the standards, and virtually every utility has now fully complied with the Rule.

- Following the Supreme Court's decision, EPA conducted a remand proceeding and determined that, even considering the cost, it was "appropriate and necessary" to adopt the MATS Rule, and issued the Utility MACT Rule, 81 Fed. Reg. 24,420 (Apr. 25, 2016).

- The Utility MACT Rule's standards for coal-powered electricity plant emissions are virtually impossible to achieve, dooming many coal-fired plants to closure and preventing construction of new plants. Between the cost of compliance and the loss of affordable electricity generators, the Rule will significantly increase energy costs and will serve only to further the Obama Administration's goal of destroying coal-fired energy generation in the United States.

- EPA's new "appropriate and necessary" finding is now on appeal in the D.C. Circuit. Briefing is underway, and oral argument is not yet scheduled.

Recommended Action:

- President Trump should issue an executive order suspending the MACT Rule and directing EPA to review, and rescind or revise, the Rule.

Summary of Issues and Effects Related To The Ozone NAAQS

- The Ozone NAAQS is EPA's standard for safe levels of ground-level ozone. States are required to develop plans to lower ground-level ozone concentrations to the amount specified in the Ozone NAAQS, regardless of the cost of doing so. EPA has set the Ozone NAAQS at a level that is far lower than is necessary to protect public health. The draconian standard requires coal-fired generators to install overly stringent compliance equipment, at very high cost, to meet the standard.

- The Ozone NAAQS has been challenged by Murray Energy, ten different states, the U.S. Chamber of Commerce and other industry groups, and by certain environmental groups. Briefing on the Ozone NAAQS in the D.C. Circuit was recently completed and oral argument is scheduled for April 19, 2017.

- The impact of the Ozone NAAQS on the U.S. economy is devastating. Not only will it reduce the Gross Domestic Product and will cost an untold number of jobs. It also will lead to the premature retirement of many coal-fired power plants, and substantially increase the average residential cost of electricity.

Recommended Action:

- President Trump should issue an executive order suspending the Ozone NAAQS and directing EPA to review, and rescind or revise, the Ozone NAAQS.

III. OVERTURN THE RECENTLY ENACTED CROSS-STATE AIR POLLUTION RULE (CSAPR)

Summary of Issues and Effects Related To The CSAPR:

- On August 8, 2011, EPA published the original CSAPR. 76 Fed. Reg. 48208 (2011). The CSAPR established a new regulatory program to limit the emission of so-called "ozone pollutants" (measured by the emission of NOX) in 22 identified states in the eastern United States, including Ohio, based on EPA's assessment that such emissions from one state contributed to excessive ozone pollution in "downwind" states.

- The original CSAPR required ozone pollutants in "upwind" states (*e.g.*, Ohio) to be reduced so that the ambient air in "downwind" states (*e.g.*, Pennsylvania and

New York) would meet EPA's 1997 Ozone National Ambient Air Quality Standards (Ozone NAAQS).

- On October 26, 2016, the USEPA published the final rule for its CSAPR Update. 81 Fed. Reg. 74504. The CSAPR Update adopts even more stringent limitations on ozone emissions from Ohio and other sources, requiring that the ambient air in the 22 covered states meet EPA's 2008 Ozone NAAQS.

- The stringent limitations on ozone emissions the CSAPR Update effectively imposed on coal-fired electric generation facilities in Ohio and surrounding states will put those facilities out of business. The CSAPR Update limitations, combined with the Clean Power Plan and similar initiatives, is simply another mechanism adopted by the Obama Administration to kill coal-fired energy generation in the United States.

Recommended Action:

- President Trump should issue an executive order suspending the CSAPR Update and directing EPA to review, and rescind or revise, the CSAPR Update.

IV. REVISE THE ARBITRARY COAL MINE DUST REGULATION OF THE MINE SAFETY AND HEALTH ADMINISTRATION OF THE DEPARTMENT OF LABOR

Summary of Issues and Effects Related To Coal Mine Dust Regulation:

- On May 1, 2014, MSHA published its Final Rule on Lowering Miners' Exposure to Respirable Coal Mine Dust, Including Continuous Personal Dust Monitors (the "Dust Rule"). 79 Fed. Reg. 24814 (2014).

- The Dust Rule phased in a series of significant and damaging changes to coal dust regulations beginning in August 2014 and ending in October 2016. Those changes most significantly included (1) increasing the time period for mine operators to take air samples, (2) requiring miners to use bulky and awkward Continuous Personal Dust Monitors ("CPDMs") to measure dust concentrations, and (3) reducing the concentration limit of respirable dust to 1.5 milligrams per cubic meter, a decrease of 25% from the previous standard.

- On January 25, 2016, the Eleventh Circuit Court of Appeals upheld the Dust Rule despite a well-reasoned and well-supported challenge to both the validity of the Rule and to MSHA's authority to enact it. The Eleventh Circuit ruled only MSHA had a rational basis for enacting the Rule; not MSHA was in some way obligated to enact the Rule. For that reason, executive action on the Dust Rule is permitted.

- The stringent limitations of the Dust Rule will put many coal mines out of business. The limitations for respirable dust cannot be achieved by a longwall shearer or a continuous miner. Further, there is no evidence that the stringent

levels set in the Dust Rule actually decrease rates of disease among miners. The cost of work stoppages alone as a result of the Dust Rule, will be approximately $1.6 billion per year.

Recommended Action:

- President Trump should issue an executive order suspending the Dust Rule and directing MSHA to review, and rescind or revise, the Rule.

V. WITHDRAW FROM THE ILLEGAL UNITED NATIONS PARIS CLIMATE ACCORD

Summary of Issues and Effects Related To the Paris Climate Accord:

- The Paris Climate Accord is an agreement within the United Nations Framework Convention on Climate Change (UNFCCC) dealing with greenhouse gases (GHG) emissions mitigation, adaptation and finance. The Climate Accord went into effect on November 4, 2016. As of December, 194 UNFCCC members have signed the Accord, 134 of which have formally ratified it.

- The Climate Accord obligates its signatories to: pursue domestic policies and regulations designed to reduce GHG emissions; provide scientific and regulatory evidence to the Climate Accord body of how they plan to achieve their emissions goals; and provide economic support to nations which cannot produce green technology at this time.

- The Climate Accord exploits the American taxpayers by sending their tax dollars to the United Nations to be spent assisting less-developed nations in their efforts to become "green." Indeed, the Climate Accord will foist upon American industry and American citizens more expensive green energy technologies, while less-developed nations lag behind and are permitted to use less expensive energy technologies. The Climate Accord undermines American industry by creating an unfair and unbalanced playing field.

Recommended Action:

- The Constitution provides that the president "shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two-thirds of the Senators present concur" (Article II, section 2). This is the appropriate way that the American government and its citizenry become subject to controlling law. The Senate approves or rejects a resolution of ratification in order for a treaty to become law. This never occurred with the Climate Accord. As a result, and as the Obama administration acknowledged, the Climate Accord is "sole[ly] [an] executive agreement." Therefore, it is not a ratified treaty that creates mandatory American law.

- The Climate Accord states that: "At any time after three years from the date on which this Agreement has entered into force for a Party, that Party may withdraw from this Agreement by giving written notification to the Depositary." Withdrawal takes effect one year after written notification. If the United States were to follow the process laid out in the Accord, notice of withdrawal could be given on November 4, 2019, and the withdrawal would be effective on November 4, 2020.

- President Trump should issue an executive order to withdraw from the Paris Climate Accord, and/or to direct the relevant federal agencies that they shall not require coal-fired electric generators to take action to comply with the Accord.

SPECIFIC CHANGES THAT CANNOT BE EFFECTED THROUGH EXECUTIVE ORDER

VI. "ENDANGERMENT FINDING" FOR GREENHOUSE GASES (GHG)

Summary of Issues and Effects Related To "Endangerment Finding":

- EPA has issued a flawed "endangerment finding" that GHG emissions, by causing climate change, endanger the public health or welfare. That endangerment finding is the predicate for EPA's regulation of GHG emissions under a number of Clean Air Act programs. EPA Administrator Scott Pruitt and 14 other states unsuccessfully challenged the EPA's "endangerment finding" in the D.C. Circuit. In his confirmation hearing, Administrator Pruitt stated that pursuant to the U.S. Supreme Court's 2014 endangerment finding in the *Massachusetts v. EPA* case, EPA has an obligation to take some action to control CO_2 pollution. However, in doing so, EPA must follow applicable processes established by Congress.

- Administrator Pruitt may have acknowledged a little wiggle room – but not much -- for EPA to review the endangerment finding when he told Congressional lawmakers that "[t]here is nothing I know that would cause a review at this point." But even with the endangerment finding, the Administrator believes there are limits to EPA's authority to regulate CO_2 emitted by power plants.

Recommended Action:

- The endangerment finding is based on flawed science and should be withdrawn or suspended. However, it is doubtful, based on Administrator Pruitt's confirmation hearing testimony, that EPA will withdraw the endangerment finding. Nonetheless, the Administrator's testimony indicates that he does feel that EPA's powers are more limited by Congress than the Obama Administration believed. The Administration should direct the EPA and Congress to take appropriate action.

VII. ELIMINATE THE THIRTY (30) PERCENT PRODUCTION TAX CREDIT FOR WINDMILLS AND SOLAR PANELS IN ELECTRICITY GENERATION

Summary of Issues and Effects Related To Wind/Solar Power Tax Credit:

- The federal Business Energy Investment Tax Credit ("ITC"), created a thirty (30) percent production tax credit for investments in wind and solar technologies used to generate electricity.

- The Consolidated Appropriations Act signed in December 2015 included several amendments to the ITC that are applicable to wind and solar generation technologies. Notably, the expiration date for the tax credits for investments in these technologies was extended, with a gradual step-down of the credits between 2019 and 2022.

- There simply is no reason for the federal government, through tax credits, to be providing an artificial economic advantage to inefficient and ineffective power generation technologies. Such artificial advantages disrupt the appropriate allocation of costs in the competitive electric generation market. Moreover, in the competitive global market, the exorbitant costs associated with this wrong-headed government interference puts U.S. energy producers at an extreme disadvantage with foreign competitors. As artificially-inflated domestic energy costs are priced into American goods and services, those goods and services cannot compete in the global market place. The damage to American commerce is enormous.

Recommended Action:

- The Trump Administration must persuade Congress to end tax credits for investments in wind and solar energy technologies. Eliminating these disruptive tax credits will lower the cost of American goods and services, providing essential price relief for American consumer and enabling American businesses to compete effectively against global competitors.

VIII. FUND THE DEVELOPMENT OF CERTAIN CLEAN COAL TECHNOLOGIES

Summary of Issues and Effects Related To Clean Coal Technologies:

- Coal is the United States' most abundant fuel source, with enough reserves to power the nation for another 200-300 years. According to the Department of Energy, one-fourth of the known coal in the world is located in the United States, which has more coal reserves than any other country in the world. There is more minable coal in the United States than there is pumpable oil in the rest of the world.

- The coal industry is a major source of jobs in the United States. Currently, coal is in mined in 26 states. According to statistics compiled by the United States

Energy Information Administration, in 2015, the last year for which statistics are available, the coal industry employed approximately 66,000 miners nationwide. Thanks to the Obama Administration's "war on coal," that number was down 12% from just the prior year, and down 50% from 1980 levels. The industry provides another 90,000 jobs in coal transportation and coal-fired power plant operation, and indirectly supports tens of thousands of additional jobs nationwide.

- The National Energy Technology Laboratory has found that new coal-fired power plants already emit 90% less pollutants than plants built in the 1970s. Emissions-reducing technologies in these new plants include fluidized-bed combustion, integrated gasification combined cycle, flue gas desulfurization, low nitrogen oxide burners, selective catalytic reduction, and electrostatic precipitators.

- Promising new technologies that may further reduce emissions by as much as 30% include improvements to existing clean coal technologies, and new technologies such including high-efficiency fuel cells, advance high-efficiency combustion, hydrogen production through gasification, and ultra-supercritical pulverized coal combustion.

- The Obama Administration's "war on coal" included not only the promulgation of unreasonable and unworkable environmental regulations, but also cuts to funding for research and development of clean coal technologies in favor of commitments to so-called "green energy" such as wind and solar power. The Obama Administration even reduced funding for its favored technology of carbon capture and sequestration ("CCS"), which has proven both technologically and economically unfeasible.

- The Trump Administration's preliminary budget proposal includes a 6% reduction in funding for the Department of Energy, including the proposed elimination of the Department's Advanced Research Projects Agency, through which clean coal technology has been funded in the past.

- The federal government should adequately fund the research and development of clean coal technology that would permit the United States to take advantage of its abundant supply of this reliable fuel source and to preserve innumerable American jobs.

- Such funding should focus on technologies that appear both technologically promising and economically feasible—such as high-efficiency fuel cells, advance high-efficiency combustion, hydrogen production through gasification, and ultra-supercritical pulverized coal combustion—rather than expensive and unworkable technology—such as CCS.

Recommended Action:

- During the campaign, President Trump signaled support for the development of clean coal technology.

- President Trump should strongly urge Congress to amply fund research and development of clean coal technologies, either through federal grants or tax credits.

IX. OVERHAUL THE BLOATED AND POLITICALIZED MINE SAFETY AND HEALTH ADMINISTRATION OF THE U.S. DEPARTMENT OF LABOR

Summary of Issues and Effects Related To MSHA Politicization:

- Concurrent with President Trump's March 13, 2017 Executive Order titled "Comprehensive Plan for Reorganizing the Executive Branch," a similar approach is needed with regard to the federal Mine Safety and Health Administration (MSHA). While mine worker employment has decreased dramatically in recent years, MSHA's budget has not. Indeed, from 2010 to 2015, the number of coal miners in the United States decreased from 89,838 to 65,971 (a nearly 27% decrease). However, MSHA did not experience proportional cuts in investigators or its budget during that time frame.

- Compared to some other industries, coal mining has a significantly lower employee fatality rate. The Bureau of Labor Statistics reported that in 2015, the "mining, quarrying, and oil and gas extraction" industry sector had an employee fatality rate of 11.4% per 100,000 full-time workers. Breaking down that rate, the oil and gas extraction industries accounted for 74% of those fatal injuries, thereby making the employee fatality rate for coal miners dramatically lower than the reported 11.4%. In contrast, the transportation and warehousing industry had an employee fatality rate of 13.8% per 100,000 full-time workers, and the agriculture, forestry, fishing and hunting industry had an employee fatality rate of 22.8% per 100,000 full-time workers.

- Despite this lower employee fatality rate, the coal mining industry is more heavily regulated than virtually all other industries. Indeed, the MSHA allows an inspector to temporarily shut down a working mine unilaterally due to a perceived imminent danger to workers, leading to disruption and loss of productive time. A new standard requires operators to inspect mines before workers start their shifts.

- Even the federal courts have recently begun issuing rulings recognizing that MSHA is overreaching. For example, The Sixth Circuit Court of Appeals overturned the findings of the MSHA Review Commission, which held that an equipment and parts shop which did not extract coal and did not prepare coal or any other mineral for use was a "coal or other mine," and therefore subject to MSHA's jurisdiction.

- In 2016, Murray Energy Corporation received an average of 532 MSHA inspectors per month.

Recommended Action:

- The number of MSHA investigators should be made proportional to the number of actual mine workers in the United States. Therefore, a certain number of MSHA investigators' positions should be eliminated.

- The reduced MSHA funds should be allocated to education and training programs that help identify, avoid, and prevent unsafe working conditions in the country's mines, along the lines of the Brookwood-Sago grant program.

- To the extent that any MSHA regulation is found to be unconstitutional, the President should issue an Executive Order instructing the Secretary of the Department of Labor to cease enforcement of the regulation and hold all pending and outstanding enforcement proceedings in abeyance until it can be determined that continued enforcement will not violate mine operators' constitutional rights.

- There should be a review of all MSHA regulations promulgated since 1996 (the year in which the Congressional Review Act was passed), and determine which regulations failed to meet the reporting to Congress requirement. If a report on a regulation is not submitted to Congress, Congress can pass a resolution to rescind the regulation, essentially nullifying and voiding the regulation.

- Clearer and more limited guidelines and duties should be created for MSHA investigators, and MSHA enforcement and regulations should be structured to have less of a punitive effect on coal companies. In this regard, the MSHA could follow the lead of recent legislation in states like West Virginia and Kentucky, which have taken steps such as requiring that mine operators receive "compliance assistance notices" before issuing citations and imposing steep fines, permitting inspectors to issue notices of violations only when they can prove imminent danger of death or serious harm, and utilizing "individual personal assessments" which target specific mine employees -- rather than mine operators or coal companies -- for violations, fines, and revocation of certifications or licenses needed to work in the industry.

X. CUT THE STAFF OF THE U.S. ENVIRONMENTAL PROTECTION AGENCY IN AT LEAST HALF

Summary of Issues and Effects Related To the Size of EPA Staffing:

- Under the Obama Administration, EPA issued nearly 4,000 regulations, averaging almost 500 annually, and amounting to over 33,000 new pages in the Federal Register. The almost 15,000 person workforce of EPA has greatly contributed to the unnecessarily large and burdensome number of issued regulations.

- President Obama allowed and encouraged EPA regulators to stretch the legal limits of the U.S. Constitution and the Agency's statutorily-granted authority. Under the Obama Administration, the annual compliance costs associated with

EPA regulations grew by over $50 billion. These high costs crippled the U.S. economy by impacting the GDP, killing thousands of jobs, and increasing the cost of consumer goods.

- EPA regulations enacted under the Obama Administration also have inhibited the advancement and growth of the coal industry. A host of EPA permit requirements have delayed construction of new coal plants, led to fuel switching, and resulted in withdrawn permit applications.

- Many of the EPA regulations promulgated during the Obama Administration are based on a weak scientific foundation and have greatly increased compliance costs for existing coal plants, increased the cost of mining coal, and effectively barred the construction of new coal plants. The consulting group ICF International estimates that 20% of America's coal power plants could be retired as soon as 2020 because of the EPA's air, waste, and water regulations.

Recommended Action:

- We support President Trump's proposed cuts to EPA's budget. The President's Budget Blueprint, delivered to Congress on March 16, 2017, proposes to cut EPA's budget by 31%. If this proposed budget is approved by Congress, it would have the effect of cutting 3,200 positions, or more than 20%, of the agency's current workforce of about 15,000. In order to achieve the desired reduction of at least 50% of EPA's workforce, President Trump should propose an even greater cut to the EPA budget. The current proposed budget still must go through Congressional approval. The White House can ensure congressional approval by working to achieve bipartisan support.

XI. OBTAIN LEGISLATION TO FUND BOTH THE RETIREE MEDICAL CARE AND PENSIONS FOR ALL OF AMERICA'S UNITED MINE WORKERS OF AMERICA (UMWA) – REPRESENTED, RETIRED COAL MINERS

Summary of Issues and Effects Related to Retiree Medical Care:

- The Obama Administration and its regulations have dismantled the Coal Industry. Since 2012, over three dozen coal companies have filed for bankruptcy, resulting in thousands of lost jobs for American coal miners.

- Seventy years ago, the United Mine Workers of America (UMWA) sought to secure better employee benefits for coal miners. The then-President, Harry Truman, issued an Executive order directing Secretary of the Interior, Julius Krug, to take possession of all bituminous coal mines and to negotiate "appropriate changes in the terms and conditions of employment" of miners with the UMWA, which led to the Krug-Lewis Agreement. Through the Krug-Lewis Agreement and subsequent labor agreements between the UMWA and mine operators, funds were established to provide health and pension benefits to coal miners.

- The UMWA's health and pension funds support approximately 120,000 former miners and their families nationwide. In 1992 and 2006, Congress intervened to assist retired miners and to secure their health benefits. In 2016, seeing that thousands of miners were at risk of losing their benefits, Congress provided a four-month extension in health benefits for orphaned retired miners and their dependents. This extension ends on April 30, 2017.

- Rather than revisiting this issue, every ten years, the Congress needs to provide coal miners with a permanent solution to secure their health and pension benefits, which was promised to them decades ago.

- As a result of extensive regulations, especially those imposed by the previous Administration, there are far fewer mine operators. Accordingly, there is a decline in contributions into the Combined Fund. With an increasing number of miners requiring these benefits, the funds are decreasing rapidly. Without Congress' intervention, the Fund will no longer be able to support the benefits for the retired coal miners and the miners will be left without health and pension benefits, which was promised to them.

Recommended Action:

- Currently, there are two bills pending in the Senate and one bill pending in the House of Representatives relating to providing coal miners with health and/or pension benefits. The Administration should support S. 175 and H.R. 179. However, S. 716 should not be supported, as its extension for ***only*** health care funding (with no treatment of pension funding) will not lead to the desired outcome.

XII. OVERTURN THE MINE SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR, PATTERN OF VIOLATIONS RULE

Summary of Issues and Effects re Pattern of Violations Rule:

- On January 23, 2013, the Federal Mine Safety and Health Administration ("MSHA") published its Pattern of Violations regulation ("POV Rule"). 78 Fed. Reg. 5073-5074; 30 C.F.R. 104, et seq. The POV Rule greatly expanded the original direction regarding pattern of violations contained in Section 104(e) of the Federal Mine Safety and Health Act of 1977 (the "Act") and the 1990 Rule regarding pattern of violations ("1990 Rule") by enlarging the scope of what the MSHA would consider to identify a pattern.

- Potential harm to mine operators identified as POV violators is significant. Once the MSHA identifies a pattern of significant and substantial ("S&S") violations at a mine, the operator receives written notice from the MSHA. 30 C.F.R. 104.3(a). If the MSHA finds any S&S violation within 90 days after issuance of the notice, the MSHA will order the withdrawal of all persons from the affected area (with

few exceptions) until the violation is abated. 30 CFR 104.3(c). The POV notice *only terminates* (1) if the MSHA does not issue a withdrawal order within 90 days after issuing the POV notice or (2) when an MSHA inspection of the entire mine finds no S&S violations. 30 C.F.R. 104.4(a).

- Under the 1990 Rule, the scope of what the MSHA would consider was limited to S&S violations, orders and enforcement measures implemented by the MSHA in response to confirmed violations, a mine operator's lack of good faith in correcting a safety issue, accident, injury, or illness records that demonstrate a serious safety or health management problem, and mitigating circumstances. 55 Fed. Reg. 31136. But this scope was greatly expanded under the 2013 revision, which now includes consideration of "citations for S&S violations" and "citations and withdrawal orders ... resulting from an unwarranted failure to comply." 30 CFR 104.2. The POV Rule greatly expands mine operator exposure by allowing the MSHA to consider unproven allegations and non-final citations rather than finalized orders. Currently, mine operators are not afforded due process in the form of a notice or hearing before they are deprived of their rights via a withdrawal order.

- A challenge to the POV Rule is pending in the Southern District of Ohio. *Ohio Coal Ass'n v. Perez*, 192 F. Supp. 882 (S.D. Ohio 2016). Plaintiffs in that case claim that the POV Rule exceeds the statutory authority granted to the MSHA, and that it violates the Due Process Clause because it eliminates the safeguards in the 1990 Rule.

Recommended Action:

- The Administration should ask Congress to pass a joint resolution of disapproval to rescind the POV Rule. Under the Congressional Review Act ("CRA"), a Federal agency promulgating a rule or regulation is required to submit a report regarding the new regulation to both the House of Representatives and the Senate (which the Department of Labor did not do here). 5 U.S.C. 801(a)(i)(A). If the report is not submitted, Congress can pass a resolution to rescind the regulation, essentially nullifying and voiding the regulation. 5 U.S.C. 802(b)(1) ("A rule shall not take effect (or continue), if the Congress enacts a joint resolution of disapproval ... of the rule."). Once rescinded, the regulation cannot be presented to Congress in substantially the same form. 5 U.S.C. 802(b)(2) ("A rule that does not take effect (or does not continue) under paragraph (1) may not be reissued in substantially the same form, and a new rule that is substantially the same ... may not be issued").

XIII. APPOINT JUSTICES TO THE SUPREME COURT OF THE UNITED STATES WHO WILL FOLLOW OUR UNITED STATES CONSTITUTION AND OUR LAWS

Summary of Issue And Effects of Supreme Court Composition:

- The Supreme Court of the United States currently has four justices who, instead of following the Constitution and the laws of the United States as they are written, seek to redefine our Constitution and create new laws to implement their liberal agenda.

Recommended Action:

- President Trump should appoint reliably conservative justices if and when vacancies on the Supreme Court arise. The President's nomination of Neil Gorsuch is an excellent first step. The Administration should continue to identify conservative candidates that President Trump can promptly nominate whenever vacancies arise.

XIV. MEMBERS OF THE FEDERAL ENERGY REGULATORY COMMISSION (FERC) MUST BE REPLACED

Summary of Issues and Effects Related To FERC Membership:

- FERC members are appointed by the President with the advice and consent of the Senate. FERC is composed of up to five commissioners who serve five-year terms. Currently, there are only two commissioners: acting chair Cheryl A. LaFleur, an Obama appointee whose term expires on June 30, 2019, and Colette D. Honorable, another Obama appointee whose term expires on June 30, 2017.

Recommended Action:

- There are up to 3 vacant positions on FERC that may be immediately filled by President Trump. The terms of the two current commissioners expire within the next 2 years, but those positions also may be immediately replaced by President Trump.

XV: MEMBERS OF THE TENNESSEE VALLEY AUTHORITY (TVA) BOARD OF DIRECTORS MUST BE REPLACED:

Summary of Issues and Effects Related To TVA Board Replacement:

- TVA Board Members are appointed by the President and confirmed by the Senate. Each director serves a five-year term. When their term expires, serving directors may remain on the Board until the end of the then-current Congressional session (typically in December), or until their successor takes office, whichever occurs first.

Recommended Action:

- All of the current directors' terms expire during the next three years. President Trump will be able to appoint coal-friendly directors during his term.

XVII: REPLACE THE MEMBERS OF THE NATIONAL LABOR RELATIONS BOARD ("NLRB")

Summary of Issues and Effects of NLRB Composition:

- In the past eight years, the Obama Administration's National Labor Relations Board (the "Board") has engaged in a no-holds-barred campaign to bolster private sector union membership and decimate management rights. It did so primarily in two ways: (1) by overturning a collective 4,105 years of precedential case law; and (2) by adopting overreaching regulations to facilitate union organizing.

- Currently, the Board has three members—Acting Chairman Philip A. Miscimarra, a Republican whose term ends Dec. 26, 2017, and Members Mark Gaston Pearce and Lauren McFerran, both Democrats whose terms end Aug. 27, 2018, and Dec. 16, 2019, respectively—and two vacancies. Pursuant to the National Labor Relations Act ("NLRA"), the President can only remove a Board member for neglect of duty or malfeasance in office. 29 U.S.C. § 153(a).

- The General Counsel has final authority to investigate charges and issue complaints. He also supervises all Board attorneys and all officers and employees in the Board's Regional Offices. The current General Counsel is Richard Griffin, Jr., a Democrat who has been a driving force behind the Obama Board's agenda. His four-year term ends Nov. 3, 2017. The NLRA is silent on whether the President can remove the General Counsel before the end of his term. 29 U.S.C. § 153(d).

- The Board has 1,596 full-time workers, the vast majority of whom are pro-union, classified employees. They work in the Board's Washington D.C. headquarters and 32 Regional Offices. Each Regional Office is supervised by a Regional Director appointed by the Board. Each Subregional Office is headed by an Officer in Charge, who is also appointed by the Board. The General Counsel, subject to civil service rules, may demote and discharge nearly all Board personnel; however, the demotion or discharge of any Regional Director or Officer in Charge must be approved by the Board. 20 F.R. 2175.

Recommended Action:

- President Trump should fill the two Board vacancies with pro-management members as soon as practical. Within a short period of time, the Trump Administration's Board could set a pro-management tone that will filter down to the Administrative Law Judges, who hear complaints, and to the General Counsel's Office and the Regional Offices. Furthermore, when the terms of Members Gaston Pearce and McFerran expire, President Trump should appoint

two additional pro-management members to the Board. Traditionally, the Board's membership is a 3 to 2 majority in favor of the president's party. However, there is no law preventing President Trump from appointing Republicans to fill the posts vacated by Gaston Pearce and McFerran.

- President Trump should consider replacing General Counsel Griffin before his term ends in November 2017. While no General Counsel has ever been removed, there is persuasive authority that the President has plenary power to remove the General Counsel. Indeed, the Constitution generally empowers the President to keep executive officers accountable by removing them from office, if necessary. *Myers v. United States*, 272 U.S. 52 (1926). This power is not unlimited, as the Supreme Court has curtailed the President's power in certain circumstances, such as when Congress creates an independent agency run by principal officers appointed by the President, whom the president may not remove but for good cause. *Humphrey's Executor v. United States*, 295 U.S. 602 (1935). Here, the NLRA is silent on this issue of removing the General Counsel, so although it may be argued that the President retains the power to do so, the attempt might lead to protracted litigation.

- Once the Board's vacancies are filled and the General Counsel is replaced (at the latest, when his term ends this November), President Trump should direct the General Counsel to demote or discharge the Regional Directors and the Officers in Charge of Subregional Offices. Many of them are life-long, pro-union Board employees, and they should be replaced by pro-management personnel.

- President Trump should cut the Board's current $273 million budget in order to reduce the number of pro-union employees at the Board. Because it is difficult to discharge federal employees, even for cause, the most expedient way to make wholesale changes to the workforce is through a reduction in force due to a shortage of funds. Although the goal would be to hire management-minded personnel, any hiring must be delayed for at least two years to avoid having to rehire the laid-off employees, who have first priority in the event that the agency seeks to fill a position within two years of their separation. 5 C.F.R. §536.208. Once that time period passes, President Trump could increase the Board's budget and reconstitute the workforce with management-minded employees.

***

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March 23, 2017

The *Honorable E. Scott Pruitt*
Administrator
United States Environmental Protection Agency
1200 Pennsylvania Ave. NW
Washington, D.C. 20460

Dear Director Pruitt:

Enclosed is an Action Plan for achieving reliable and low cost electricity in America and to assist in the survival of our Country's coal industry, which is *essential to power grid reliability and low cost electricity.*

We are available to assist you in any way that you request.

Sincerely,

MURRAY ENERGY CORPORATION

Bob Murray

Robert E. Murray
Chairman, President & Chief Executive Officer

REM:lms
Enclosures

ACTION PLAN FOR RELIABLE AND LOW COST ELECTRICITY IN AMERICA AND TO ASSIST IN THE SURVIVAL OF OUR COUNTRY'S COAL INDUSTRY

- **SUSPEND THE COAL-FIRED POWER PLANT EFFLUENT LIMITATION GUIDELINES (ELG) AND COAL COMBUSTION RESIDUALS (CCR) RULES OF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

  The compliance deadlines for both regulations must be suspended. The illegal ELG rule needs to be rescinded. The CCR regulation needs to be rewritten delegating the authority to the states in light of the new legislation passed in December.

- **IMPLEMENT EMERGENCY ACTIONS RELATIVE TO THE SECURITY AND RESILIENCY OF THE ELECTRIC POWER GRIDS**

  The Department of Energy ("DOE") must issue an emergency directive to have an immediate study done of the security and resiliency of our electric power grids. DOE will direct that no power plants having an available fuel supply of at least forty-five (45) days be closed during the study period, or a minimum of two (2) years.

- **"ENDANGERMENT FINDING" FOR GREENHOUSE GASES**

  There must be a withdrawal and suspension of the implementation of the so-called "endangerment finding" for greenhouse gases.

  EPA's "endangerment finding" under the Clean Air Act serves as the foundation for the agency's far reaching regulation of the economy in the form of emission limitations for greenhouse gases, including carbon dioxide. The high degree of uncertainty in the range of data relied upon by EPA combined with the enormous regulatory costs without concomitant benefits merit revisiting the "endangerment finding".

  According to EPA's finding, the "root cause" of recently observed climate change is "likely" the increase in anthropogenic greenhouse gas emissions. EPA relied upon computer-based-climate-model simulations and a "synthesis" of major findings from scientific assessment reports with a significant range of uncertainty related to temperatures over 25 years. The climate model failures are well documented in their inability to emulate real-world climate behavior. Models that are unable to simulate known climate behavior cannot provide reliable projections of future climate behavior. As for the scientific assessments underlying the "synthesis" of findings used by EPA, many were not peer reviewed, and there are multiple instances where portions of peer reviewed literature germane to the "endangerment finding" were omitted, ignored or unfairly dismissed.

ACTION PLAN FOR RELIABLE AND LOW COST ELECTRICITY IN AMERICA AND TO ASSIST IN THE SURVIVAL OF OUR COUNTRY'S COAL INDUSTRY (CONTINUED)

- **ELIMINATE THE THIRTY (30) PERCENT PRODUCTION TAX CREDIT FOR WINDMILLS AND SOLAR PANELS IN ELECTRICITY GENERATION**

  Electricity generated by windmills and solar panels costs twenty-six (26) cents per kilowatt hour with a four (4) cent per kilowatt hour subsidy from the American taxpayers. These energy sources are unreliable and only available if the wind blows or the sun shines. Coal-fired electricity costs only four (4) cents per kilowatt hour. Low cost electricity is a staple of life, and we must have a level playing field in electric power generation without the government picking winners and losers by subsidizing wind and solar power.

- **WITHDRAW FROM THE ILLEGAL UNITED NATIONS COP 21 PARIS CLIMATE ACCORD**

  The United Nation's COP 21 Paris Climate Accord, to which Barack Obama has already committed one (1) billion dollars of America's money, is an attempt by the rest of the world to obtain funding from our Country. It is an illegal treaty never approved by Congress, and it will have no effect on the environment.

- **END THE ELECTRIC UTILITY MAXIMUM ACHIEVABLE TECHNOLOGY AND OZONE REGULATIONS**

  We have won these issues in the United States Supreme Court, and these rules must be completely overturned.

- **FUND THE DEVELOPMENT OF CERTAIN CLEAN COAL TECHNOLOGIES**

  The Federal government must support the development of some Clean Coal Technologies, including: ultra super critical combustion; high efficiency, low emission coal firing; combined cycle coal combustion; and others. It should not fund so-called carbon capture and sequestration ("CCS"), as it does not work, practically or economically. Democrats and some Republicans use CCS as a political cover to insincerely show that they are proposing something for coal. But, carbon capture and sequestration is a pseudonym for "no coal".

- **OVERHAUL THE BLOATED AND POLITICALIZED MINE SAFETY AND HEALTH ADMINISTRATION OF THE U. S. DEPARTMENT OF LABOR**

  This Federal agency, over the past eight (8) years, has not been focused on the coal miner safety, but on politics, bureaucracy, waste, and violation quotas. While coal mine employment has been cut in half, the Federal Mine Safety and Health Administration has continued to hire inspectors every year. But, the government has nowhere to put them. Murray Energy Corporation received an average of 532 Federal inspectors per month in 2016.

ACTION PLAN FOR RELIABLE AND LOW COST ELECTRICITY IN AMERICA AND TO ASSIST IN THE SURVIVAL OF OUR COUNTRY'S COAL INDUSTRY (CONTINUED)

We must send a Company manager with every one of these inspectors, taking us away from our employee safety inspections and safety training.

- **CUT THE STAFF OF THE U.S. ENVIRONMENTAL PROTECTION AGENCY IN AT LEAST HALF**

  Tens of thousands of government bureaucrats have issued over 82,000 pages of regulations under Obama, many of them regarding coal mining and utilization. The Obama EPA, alone, wrote over 25,000 pages of rules, thirty-eight (38) times the words in our Holy Bible.

- **OVERTURN THE RECENTLY ENACTED CROSS-STATE AIR POLLUTION RULE**

  This regulation particularly punishes states in which coal mining takes place to the benefit of other wealthier east coast states.

- **REVISE THE ARBITRARY COAL MINE DUST REGULATION OF THE MINE SAFETY AND HEALTH ADMINISTRATION OF THE DEPARTMENT OF LABOR**

  This regulation provides no health benefit to our coal miners, and threatens the destruction of thousands of coal mining jobs.

- **OBTAIN LEGISLATION TO FUND BOTH THE RETIREE MEDICAL CARE AND PENSIONS FOR ALL OF AMERICA'S UNITED MINE WORKERS OF AMERICA (UMWA) – REPRESENTED, RETIRED COAL MINERS**

  For four (4) years, Senate Majority Leader Mitch McConnell has refused to address this issue. Some say that this is because the UMWA wrongly opposed him in his recent election. This must be taken care of. And the legislation enacted must address not just those recently orphaned through company bankruptcies and mine closures, but the medical benefits and pensions that were promised to all retired miners by the Federal government itself.

- **OVERTURN THE MINE SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR, PATTERN OF VIOLATIONS RULE**

  This rule is a punitive action of the Mine Safety and Health Administration under its Director for the past eight (8) years, the former Safety Director of a labor union.

- **APPOINT JUSTICES TO THE SUPREME COURT OF THE UNITED STATES WHO WILL FOLLOW OUR UNITED STATES CONSTITUTION AND OUR LAWS**

  We must offset the liberal appointees who want to redefine our Constitution and our laws.

ACTION PLAN FOR RELIABLE AND LOW COST ELECTRICITY IN AMERICA AND TO ASSIST IN THE SURVIVAL OF OUR COUNTRY'S COAL INDUSTRY (CONTINUED)

- **MEMBERS OF THE FEDERAL ENERGY REGULATORY COMMISSION MUST BE REPLACED**

  The current Federal Energy Regulatory Commission has a record of favoring actions of the Obama Administration. That has systematically devalued base load generation as a result of the Obama "war on coal". These actions have put the future security and reliability of America's electric power grid at risk. Immediate action needs to be taken to require organized power markets to value fuel security, fuel diversity, and ancillary services that only base load generating assets, especially coal plants, can provide.

- **MEMBERS OF THE TENNESSEE VALLEY AUTHORITY BOARD OF DIRECTORS MUST BE REPLACED**

  The Board of Directors of this government agency has followed the mandates of the Obama Administration, rather than assure reliable, low cost electricity for the Tennessee Valley Authority's rate payers, whom they are mandated to serve in this manner.

- **REPLACE THE MEMBERS OF THE NATIONAL LABOR RELATIONS BOARD ("NLRB")**

  Eliminate the antiemployer bias of the NLRB by appointing members and staff, particularly in the General Counsel's office, who will fairly consider the employer's position and needs and not automatically accede to the unions or unionized employees in every matter considered.

***

ROBERT E. MURRAY
President & Chief Executive Officer

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bobmurray@coalsource.com
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March 28, 2017

The Honorable E. Scott Pruitt
Administrator of the Environmental Protection Agency
Office of the Administrator - 1101A
Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Administrator Pruitt:

We join you in applauding President Donald J. Trump's "Energy Independence Executive Order" ("Executive Order"), which directs his Administration to review, rewrite, and rescind various anti-coal regulations illegally promulgated by the Obama Administration.

There is absolutely no doubt that this Executive Order will preserve coal jobs and low cost electricity in the United States.

In furtherance of this Executive Order, we have developed the enclosed materials for your review and consideration, consisting of: six (6) Executive Orders further rescinding anti-coal regulations of the Obama Administration; and one (1) memorandum outlining the legal rationale for each of these actions, and others. These materials are organized as follows:

1. **Exhibit 1** - Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category; Final Rule; Final Rule (the "ELG Rule");

2. **Exhibit 2** - Hazardous and Solid Waste Management System; Disposal of Coal Combustion Residuals From Electric Utilities ("CCR Rule");

3. **Exhibit 3** - Supplemental Finding That It Is Appropriate and Necessary To Regulate Hazardous Air Pollutants From Coal- and Oil-Fired Electric

Utility Steam Generating Units; Final Supplemental Finding ("Utility MACT Rule");

4. **Exhibit 4** - Final Rule on National Ambient Air Quality Standards for Ozone ("NAAQS Standard");

5. **Exhibit 5** - Cross-State Air Pollution Rule Update for the 2008 Ozone NAAQS; Final Rule ("CSAPR Update Rule");

6. **Exhibit 6** - Presidential Executive Order on The Paris Climate Accord ("Paris Climate Agreement");

7. **Exhibit 7** - A Comprehensive Memorandum which details the legal rationale for each of these executive actions, and others.

We respectfully request that you review these materials, and enact them, as you deem appropriate.

As you know, for many years now, we at Murray Energy Corporation have been leading the fight against the disastrous and illegal anti-coal regulations of the Obama Administration, the vast majority of which remain in effect. We have developed expertise in this regard and offer our assistance to you.

If there is any other way which we may help, please contact the undersigned directly at bobmurray@coalsource.com or 740-338-3299 or Mr. Michael T. W. Carey, our Vice President – Government Affairs, at mcarey@coalsource.com or 740-338-3100.

Again, we appreciate your leadership in combatting the ongoing destruction of the United States coal industry, as caused by the previous Administration. We stand prepared to assist you in any way that we can.

Sincerely,

MURRAY ENERGY CORPORATION

Robert E. Murray
Chairman, President and
Chief Executive Officer

Enclosure

Exhibit 1

Presidential Executive Order - ELG Rule

Presidential Executive Order on Restoring the Rule of Law, Federalism, and Economic Growth by Reviewing the Final Rule on Effluent Limitations Guidelines and Standards For the Steam Electric Power Generating Point Source Category Published on November 3, 2015 By the United States Environmental Protection Agency (The "ELG Regulations"), 80 Fed. Reg. 67837 (2015)

EXECUTIVE ORDER

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. Policy. It is in the national interest to ensure that the Nation's navigable waters are kept free from pollution, while at the same time promoting economic growth, minimizing regulatory uncertainty, and showing due regard for the roles of the Congress and the States under the Constitution.

Sec. 2. Suspension and Review of the Final Rule On ELG Regulations. (a) The operation and implementation of the Final Rule on ELG Regulations shall be suspended pending further action of the Administrator of the Environmental Protection Agency (Administrator) taken pursuant to this executive order.

(b) The Administrator and the Assistant Secretary of the Army for Civil Works (Assistant Secretary) shall review the Final Rule On ELG Regulations for consistency with the policy set forth in section 1 of this order and publish for notice and comment a proposed rule rescinding or revising the rule, as appropriate and consistent with law.

(c) The Administrator, the Assistant Secretary, and the heads of all executive departments and agencies shall review all orders, rules, regulations, guidelines, or policies implementing or enforcing the final rule listed in subsection (a) of this section for consistency with the policy set forth in section 1 of this order and shall rescind or revise, or publish for notice and comment proposed rules rescinding or revising, those issuances, as appropriate and consistent with law and with any changes made as a result of a rulemaking proceeding undertaken pursuant to subsection (b) of this section.

(d) With respect to any litigation before the Federal courts related to the final rule listed in subsection (a) of this section, the Administrator and the Assistant Secretary shall promptly notify

the Attorney General of the pending reviews under subsections (b) and (c) of this section so that the Attorney General may, as he deems appropriate, inform any court of such review and take such measures as he deems appropriate concerning any such litigation pending the completion of further administrative proceedings related to the rule.

Sec. 3. Policy Assessment. In connection with the reviews described in sections 2(b) and (c) of this order, the Administrator and the Assistant Secretary shall consider whether the final rule referenced in section 2(a) above sets overly stringent effluent pollution limitations for the hundreds of existing coal-fired generating facilities in the United States that are neither technically feasible nor economically feasible.

Sec. 4. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP

THE WHITE HOUSE

[DATE]

Exhibit 2

Presidential Executive Order - CCR Rule

Presidential Executive Order on Restoring the Rule of Law, Federalism, Economic Growth, and Reducing Regulatory Costs by Reviewing the Final Rule on Disposal of Coal Combustion Residuals From Electric Utilities (the "CCR Rule"), Published on April 17, 2015 By the United States Environmental Protection Agency, 80 Fed. Reg. 21302 (2015)

EXECUTIVE ORDER

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. Policy. It is in the national interest to control solid waste pollution, while at the same time promoting economic growth, minimizing regulatory uncertainty, reducing unnecessary regulatory costs, and showing due regard for the roles of the Congress and the States under the Constitution.

Sec. 2. Suspension and Review of the Final CCR Rule. (a) The operation and implementation of the final CCR Rule shall be suspended pending further action of the Administrator of the Environmental Protection Agency (the "Administrator") taken pursuant to this executive order.

(b) The Administrator shall review the final CCR Rule for consistency with the policy set forth in section 1 of this order and publish for notice and comment a proposed rule rescinding or revising the rule, as appropriate and consistent with law.

(c) The Administrator and the heads of all executive departments and agencies shall review all orders, rules, regulations, guidelines, or policies implementing or enforcing the CCR Rule for consistency with the policy set forth in section 1 of this order and shall rescind or revise, or publish for notice and comment proposed rules rescinding or revising, those issuances, as appropriate and consistent with law and with any changes made as a result of a rulemaking proceeding undertaken pursuant to subsection (b) of this section.

(d) With respect to any litigation before the federal courts related to the CCR Rule, the Administrator shall promptly notify the Attorney General of the pending review under subsections (b) and (c) of this section so that the Attorney General may, as he deems appropriate, inform any court of such review and take such measures as he deems appropriate concerning any such litigation pending the completion of further administrative proceedings related to the rule.

Sec. 3. Policy Assessment. In connection with the reviews described in sections 2(b) and (c) of

this order, the Administrator and heads of all executive departments and agencies shall consider whether under the CCR Rule (i) the USEPA should be responsible for enforcement of the rule, rather than providing for a private cause of action; and (ii) the states should be authorized to develop and enforce their own plans for disposal of coal combustion residuals for coal-fired electric generating facilities within their borders, rather than the USEPA imposing federal solid waste requirements on the coal-fired electric generation facilities.

Sec. 4. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP

THE WHITE HOUSE

[DATE]

Exhibit 3

Presidential Executive Order - Utility MACT Rule

Presidential Executive Order on Restoring the Rule of Law, Economic Growth, and Reducing Regulatory Costs by Reviewing the Supplemental Finding That It Is Appropriate and Necessary To Regulate Hazardous Air Pollutants from Coal- and Oil-Fired Electric Utility Steam Generating Units; Final Rule (the "Utility MACT Rule"), Published on April 25, 2016 By the United States Environmental Protection Agency, 81 Fed. Reg. 24,420 (2016)

EXECUTIVE ORDER

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. Policy. It is in the national interest to ensure that the Nation's air is kept free from excessive pollution, while at the same time promoting economic growth, minimizing regulatory uncertainty, reducing unnecessary regulatory costs, and showing due regard for the roles of the Congress and the States under the Constitution.

Sec. 2. Suspension and Review of the Final Utility MACT Rule. (a) The operation and implementation of the Final Utility MACT Rule shall be suspended pending further action of the Administrator of the Environmental Protection Agency (the "Administrator") taken pursuant to this executive order.

(b) The Administrator shall review the Utility MACT Rule for consistency with the policy set forth in section 1 of this order and publish for notice and comment a proposed rule rescinding or revising the rule, as appropriate and consistent with law.

(c) The Administrator and the heads of all executive departments and agencies shall review all orders, rules, regulations, guidelines, or policies implementing or enforcing the Utility MACT Rule for consistency with the policy set forth in section 1 of this order and shall rescind or revise, or publish for notice and comment proposed rules rescinding or revising, those issuances, as appropriate and consistent with law and with any changes made as a result of a rulemaking proceeding undertaken pursuant to subsection (b) of this section.

(d) With respect to any litigation before the federal courts related to the Utility MACT Rule, the Administrator shall promptly notify the Attorney General of the pending review under

subsections (b) and (c) of this section so that the Attorney General may, as he deems appropriate, inform any court of such review and take such measures as he deems appropriate concerning any such litigation pending the completion of further administrative proceedings related to the rule.

Sec. 3. Policy Assessment. In connection with the reviews described in sections 2(b) and (c) of this order, the Administrator and heads of all executive departments and agencies shall consider whether the Utility MACT Rule sets overly-stringent air pollution limitations that are neither technically feasible nor economically feasible for the hundreds of existing coal-fired electric generating facilities in the United States to which the Utility MACT Rule may apply.

Sec. 4. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP

THE WHITE HOUSE

[DATE]

Exhibit 4

Presidential Executive Order - NAAQS Standard

Presidential Executive Order on Restoring the Rule of Law, Economic Growth, and Reducing Regulatory Costs by Reviewing the Final Rule on National Ambient Air Quality Standards for Ozone (the "NAAQS Standard"), Published on October 26, 2015 by the United States Environmental Protection Agency, 80 Fed. Reg. 65292 (2015)

EXECUTIVE ORDER

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. Policy. It is in the national interest to ensure that the Nation's air is kept free from excessive pollution, while at the same time promoting economic growth, minimizing regulatory uncertainty, reducing unnecessary regulatory costs, and showing due regard for the roles of the Congress and the States under the Constitution.

Sec. 2. Suspension and Review of the Final Rule on the NAAQS Standard. (a) The operation and implementation of the Final Rule on the NAAQS Standard shall be suspended pending further action of the Administrator of the Environmental Protection Agency (the "Administrator") taken pursuant to this executive order.

(b) The Administrator shall review the Final Rule on NAAQS Standard for consistency with the policy set forth in section 1 of this order and publish for notice and comment a proposed rule rescinding or revising the rule, as appropriate and consistent with law.

(c) The Administrator and the heads of all executive departments and agencies shall review all orders, rules, regulations, guidelines, or policies implementing or enforcing the NAAQS Standard for consistency with the policy set forth in section 1 of this order and shall rescind or revise, or publish for notice and comment proposed rules rescinding or revising, those issuances, as appropriate and consistent with law and with any changes made as a result of a rulemaking proceeding undertaken pursuant to subsection (b) of this section.

(d) With respect to any litigation before the federal courts related to the NAAQS Standard, the Administrator shall promptly notify the Attorney General of the pending review under subsections (b) and (c) of this section so that the Attorney General may, as he deems appropriate, inform any court of such review and take such measures as he deems appropriate concerning any such litigation pending the completion of further administrative proceedings related to the rule.

Sec. 3. Policy Assessment. In connection with the reviews described in sections 2(b) and (c) of this order, the Administrator and heads of all executive departments and agencies shall consider whether the NAAQS Standard sets overly-stringent air pollution limitations that are neither technically feasible nor economically feasible for the hundreds of existing coal-fired electric generating facilities in the United States to which the NAAQS Standard may apply.

Sec. 4. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP

THE WHITE HOUSE

[DATE]

Exhibit 5

Presidential Executive Order - CSAPR Update Rule

Presidential Executive Order on Restoring the Rule of Law, Economic Growth, and Reducing Regulatory Costs by Reviewing the Final Rule on Cross-State Air Pollution Rule Update (the "CSAPR Update"), Published on October 26, 2016 By the United States Environmental Protection Agency, 81 Fed. Reg. 74504 (2016)

EXECUTIVE ORDER

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. Policy. It is in the national interest to ensure that the Nation's air is kept free from excessive pollution, while at the same time promoting economic growth, minimizing regulatory uncertainty, reducing unnecessary regulatory costs, and showing due regard for the roles of the Congress and the States under the Constitution.

Sec. 2. Suspension and Review of the Final Rule on the CSAPR Update. (a) The operation and implementation of the Final Rule on the CSAPR Update shall be suspended pending further action of the Administrator of the Environmental Protection Agency (the "Administrator") taken pursuant to this executive order;

(b) The Administrator shall review the Final Rule on CSAPR Update for consistency with the policy set forth in section 1 of this order and publish for notice and comment a proposed rule rescinding or revising the rule, as appropriate and consistent with law.

(c) The Administrator and the heads of all executive departments and agencies shall review all orders, rules, regulations, guidelines, or policies implementing or enforcing the CSAPR Update for consistency with the policy set forth in section 1 of this order and shall rescind or revise, or publish for notice and comment proposed rules rescinding or revising, those issuances, as appropriate and consistent with law and with any changes made as a result of a rulemaking proceeding undertaken pursuant to subsection (b) of this section.

(c) With respect to any litigation before the federal courts related to the CSAPR Update, the Administrator shall promptly notify the Attorney General of the pending review under subsections (b) and (c) of this section so that the Attorney General may, as he deems appropriate, inform any court of such review and take such measures as he deems appropriate concerning any such litigation pending the completion of further administrative proceedings related to the rule.

Sec. 3. Policy Assessment. In connection with the reviews described in sections 2(b) and (c) of

this order, the Administrator and heads of all executive departments and agencies shall consider whether the CSAPR Update sets overly-stringent air pollution limitations that are neither technically feasible nor economically feasible for the hundreds of existing coal-fired electric generating facilities in the United States to which the CSAPR Update may apply.

Sec. 4. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP

THE WHITE HOUSE

[DATE]

Exhibit 6

Presidential Executive Order - Paris Climate Agreement

Presidential Executive Order on The Paris Climate Accord

EXECUTIVE ORDER

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. Policy. It is in the Nation's interest to pursue policies and initiatives that strengthen the economic and competitive interests of the United States and its citizens on both a domestic and international stage.

Section 2. Suspension of Activity in Furtherance of the Paris Agreement. The United States and its executive agencies and executive officials shall immediately cease all activities that are implemented, or are being implemented, for the purpose of effecting compliance with that certain Paris Agreement, effective November 4, 2016 (the "Paris Climate Accord") to which the United States became a party through previous executive action.

(b) The United States' commitments to providing monetary and other economic benefits to the parties, committees, agencies, and other affiliates, of the Paris Climate Accord (the "Climate Accord Parties"), are hereby suspended indefinitely.

(c) The United States will provide formal notice to the necessary Climate Accord Parties on November 4, 2019 of its intent to withdraw from the Paris Climate Accord, to be effective, consistent with the Paris Climate Accord's terms, one year later on November 4, 2020.

Section 3. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP

THE WHITE HOUSE

[DATE]

Exhibit 7

Comprehensive Memorandum

CONFIDENTIAL MEMORANDUM

Confidential Attorney – Client Privileged Communication
Attorney Opinion Work Product

FROM: Robert E. Murray, Chairman, President, and Chief Executive Officer of Murray Energy Corporation

CC: Benesch Friedlander Coplan & Aronoff LLP

DATE: March 28, 2017

SUBJECT: STRATEGY TO PROMOTE RELIABLE AND LOW COST ELECTRICITY IN AMERICA AND TO ASSIST IN THE SURVIVAL OF OUR COUNTRY'S COAL INDUSTRY

For eight years, the Obama Administration's hostility toward the American coal industry hindered our economic growth, cost tens of thousands of jobs, and threatened our way of life. Affordable and reliable electricity is essential to our collective prosperity. Swift and decisive action by your administration may be able to undo some of the harm caused by President Obama and his allies.

Below is a holistic strategy to help to bring American Coal back from the precipice of extinction. The Trump Administration has the power to exercise its executive authority and to exert political pressure to effectuate critical changes to help to resurrect our embattled industry. Where the President can effect necessary changes by presidential executive orders, we have provided drafts of such orders. In those instances, where presidential executive orders cannot effect the necessary change, we provide alternative recommended strategies to bring change that will enhance the ability of coal-fired electric generation to resume its appropriate position as a cornerstone of America's ability to deliver reliable, affordable electricity to its citizens.

We begin by addressing necessary changes in America's energy policies that can be quickly, and meaningfully, addressed by executive order.

SPECIFIC CHANGES THAT CAN BE EFFECTED BY EXECUTIVE ORDER

I. SUSPEND THE COAL-FIRED POWER PLANT EFFLUENT LIMITATION GUIDELINES (ELG) AND COAL COMBUSTION RESIDUALS (CCR) RULE OF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Summary of Issues and Effects Related to ELG Regulations:

- On November 3, 2015, the United States Environmental Protection Agency ("EPA") published its Final Rule on Effluent Limitations Guidelines and

Standards for the Steam Electric Power Generating Point Source Category (the "ELG Guidelines"). 80 Fed. Reg. 67837 (2015). The ELG Guidelines set new, stringent effluent limitations for hundreds of existing coal-fired electric generation facilities.

- It is not economically feasible for coal-fired generation facilities to meet these new effluent limitations. EPA obtained is projected cost data from self-interested vendors who "low-balled" the cost estimates because the vendors stood to gain enormous revenues from selling effluent control equipment to the regulated coal-fired generation plants if EPA adopted more stringent limitations. In fact, the actual costs of compliance would be seven to eight times higher than EPA estimates.

- The new effluent limitations are not technologically feasible. Again, EPA went to self-interested vendors for assessments of the technical capabilities of the vendors' products. This technology simply will not work at most coal-fired generation facilities.

- The ELG Guidelines have been challenged in federal court by certain coal-fired generators.

- The ELG Guidelines seriously threaten to put coal-fired electric generation out of business. Meeting the new limitations is neither economically nor technologically feasible.

Recommended Action:

- President Trump should issue an executive order suspending the ELG Guidelines and directing EPA to review, and rescind or revise, the Guidelines.

Summary of Issues And Effects Related To The CCR Rule:

- On April 17, 2015, EPA published its Final Rule on the Disposal of Coal Combustion Residuals From Electric Utilities (the "CCR Rule"). 80 Fed. Reg. 21302 (2015). The CCR Rule regulates the disposal of coal combustion residuals, or "coal ash," produced by coal-fired electric generation facilities.

- The CCR Rule contains some provisions that supporters of coal-fired electric generation favor. For instance, the Rule does not categorize coal ash as a "hazardous waste," as environmental advocates had urged EPA to do. The Rule also permits "cap-and-close-in-place" impoundments that are supported by the coal industry and opposed by environmentalists.

- Conversely, the CCR Rule is enforceable only by citizen suits, not by regulatory action of the EPA. This puts a "target on the back" of coal-fired generators,

inviting environmentalists to engage the generators in costly, years-long litigation that is likely to prevent profitable operation of the targeted coal-fired facilities. Moreover, the CCR Rule imposes inflexible federal solid waste requirements on coal-fired generators, instead of allowing the states to regulate the disposal of coal ash by their local coal-fired generators.

- EPA should be enforcing this Rule, not private parties motivated by a desire to put the coal industry out of business. Further, the Rule should be changed to allow states to develop and apply their own plans for the disposal of coal ash by local coal-fired generation facilities.

Recommended Action:

- President Trump should issue an executive order suspending the CCR Rule and directing the EPA to review, and rescind or revise, the Rule.

II. END THE ELECTRIC UTILITY MAXIMUM ACHIEVABLE TECHNOLOGY AND OZONE NATIONAL AMBIENT AIR QUALITY STANDARD (OZONE NAAQS)

Summary of Issues and Effects Related To The Electric Utility Maximum Achievable Technology Regulations:

- EPA's Mercury and Air Toxics Standards rule (the "MATS Rule") established standards for the emission of hazardous air pollutants from coal plants that required the use of Maximum Achievable Control Technology ("MACT"). This, in turn, doomed many coal-fired power plants to closure and prevented the construction of new plants. The Supreme Court held that EPA erred in finding these standards "appropriate and necessary" because EPA did not consider the cost of complying with the standard. However, the Supreme Court did not vacate the standards, and virtually every utility has now fully complied with the Rule.

- Following the Supreme Court's decision, EPA conducted a remand proceeding and determined that, even considering the cost, it was "appropriate and necessary" to adopt the MATS Rule, and issued the Utility MACT Rule, 81 Fed. Reg. 24,420 (Apr. 25, 2016).

- The Utility MACT Rule's standards for coal-powered electricity plant emissions are virtually impossible to achieve, dooming many coal-fired plants to closure and preventing construction of new plants. Between the cost of compliance and the loss of affordable electricity generators, the Rule will significantly increase energy costs and will serve only to further the Obama Administration's goal of destroying coal-fired energy generation in the United States.

- EPA's new "appropriate and necessary" finding is now on appeal in the D.C. Circuit. Briefing is underway, and oral argument is not yet scheduled.

Recommended Action:

- President Trump should issue an executive order suspending the MACT Rule and directing EPA to review, and rescind or revise, the Rule.

Summary of Issues and Effects Related To The Ozone NAAQS

- The Ozone NAAQS is EPA's standard for safe levels of ground-level ozone. States are required to develop plans to lower ground-level ozone concentrations to the amount specified in the Ozone NAAQS, regardless of the cost of doing so. EPA has set the Ozone NAAQS at a level that is far lower than is necessary to protect public health. The draconian standard requires coal-fired generators to install overly stringent compliance equipment, at very high cost, to meet the standard.

- The Ozone NAAQS has been challenged by Murray Energy, ten different states, the U.S. Chamber of Commerce and other industry groups, and by certain environmental groups. Briefing on the Ozone NAAQS in the D.C. Circuit was recently completed and oral argument is scheduled for April 19, 2017.

- The impact of the Ozone NAAQS on the U.S. economy is devastating. Not only will it reduce the Gross Domestic Product and will cost an untold number of jobs. It also will lead to the premature retirement of many coal-fired power plants, and substantially increase the average residential cost of electricity.

Recommended Action:

- President Trump should issue an executive order suspending the Ozone NAAQS and directing EPA to review, and rescind or revise, the Ozone NAAQS.

III. OVERTURN THE RECENTLY ENACTED CROSS-STATE AIR POLLUTION RULE (CSAPR)

Summary of Issues and Effects Related To The CSAPR:

- On August 8, 2011, EPA published the original CSAPR. 76 Fed. Reg. 48208 (2011). The CSAPR established a new regulatory program to limit the emission of so-called "ozone pollutants" (measured by the emission of NOX) in 22 identified states in the eastern United States, including Ohio, based on EPA's assessment that such emissions from one state contributed to excessive ozone pollution in "downwind" states.

- The original CSAPR required ozone pollutants in "upwind" states (*e.g.*, Ohio) to be reduced so that the ambient air in "downwind" states (*e.g.*, Pennsylvania and

New York) would meet EPA's 1997 Ozone National Ambient Air Quality Standards (Ozone NAAQS).

- On October 26, 2016, the USEPA published the final rule for its CSAPR Update. 81 Fed. Reg. 74504. The CSAPR Update adopts even more stringent limitations on ozone emissions from Ohio and other sources, requiring that the ambient air in the 22 covered states meet EPA's 2008 Ozone NAAQS.

- The stringent limitations on ozone emissions the CSAPR Update effectively imposed on coal-fired electric generation facilities in Ohio and surrounding states will put those facilities out of business. The CSAPR Update limitations, combined with similar initiatives, is simply another mechanism adopted by the Obama Administration to kill coal-fired energy generation in the United States.

Recommended Action:

- President Trump should issue an executive order suspending the CSAPR Update and directing EPA to review, and rescind or revise, the CSAPR Update.

IV. REVISE THE ARBITRARY COAL MINE DUST REGULATION OF THE MINE SAFETY AND HEALTH ADMINISTRATION OF THE DEPARTMENT OF LABOR

Summary of Issues and Effects Related To Coal Mine Dust Regulation:

- On May 1, 2014, MSHA published its Final Rule on Lowering Miners' Exposure to Respirable Coal Mine Dust, Including Continuous Personal Dust Monitors (the "Dust Rule"). 79 Fed. Reg. 24814 (2014).

- The Dust Rule phased in a series of significant and damaging changes to coal dust regulations beginning in August 2014 and ending in October 2016. Those changes most significantly included (1) increasing the time period for mine operators to take air samples, (2) requiring miners to use bulky and awkward Continuous Personal Dust Monitors ("CPDMs") to measure dust concentrations, and (3) reducing the concentration limit of respirable dust to 1.5 milligrams per cubic meter, a decrease of 25% from the previous standard.

- On January 25, 2016, the Eleventh Circuit Court of Appeals upheld the Dust Rule despite a well-reasoned and well-supported challenge to both the validity of the Rule and to MSHA's authority to enact it. The Eleventh Circuit ruled only MSHA had a rational basis for enacting the Rule; not MSHA was in some way obligated to enact the Rule. For that reason, executive action on the Dust Rule is permitted.

- The stringent limitations of the Dust Rule will put many coal mines out of business. The limitations for respirable dust cannot be achieved by a longwall shearer or a continuous miner. Further, there is no evidence that the stringent levels set in the Dust Rule actually decrease rates of disease among miners. The

cost of work stoppages alone as a result of the Dust Rule, will be approximately $1.6 billion per year.

Recommended Action:

- President Trump should issue an executive order suspending the Dust Rule and directing MSHA to review, and rescind or revise, the Rule.

V. WITHDRAW FROM THE ILLEGAL UNITED NATIONS PARIS CLIMATE ACCORD

Summary of Issues and Effects Related To the Paris Climate Accord:

- The Paris Climate Accord is an agreement within the United Nations Framework Convention on Climate Change (UNFCCC) dealing with greenhouse gases (GHG) emissions mitigation, adaptation and finance. The Climate Accord went into effect on November 4, 2016. As of December, 194 UNFCCC members have signed the Accord, 134 of which have formally ratified it.

- The Climate Accord obligates its signatories to: pursue domestic policies and regulations designed to reduce GHG emissions; provide scientific and regulatory evidence to the Climate Accord body of how they plan to achieve their emissions goals; and provide economic support to nations which cannot produce green technology at this time.

- The Climate Accord exploits the American taxpayers by sending their tax dollars to the United Nations to be spent assisting less-developed nations in their efforts to become "green." Indeed, the Climate Accord will foist upon American industry and American citizens more expensive green energy technologies, while less-developed nations lag behind and are permitted to use less expensive energy technologies. The Climate Accord undermines American industry by creating an unfair and unbalanced playing field.

Recommended Action:

- The Constitution provides that the president "shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two-thirds of the Senators present concur" (Article II, section 2). This is the appropriate way that the American government and its citizenry become subject to controlling law. The Senate approves or rejects a resolution of ratification in order for a treaty to become law. This never occurred with the Climate Accord. As a result, and as the Obama administration acknowledged, the Climate Accord is "sole[ly] [an] executive agreement." Therefore, it is not a ratified treaty that creates mandatory American law.

- The Climate Accord states that: "At any time after three years from the date on which this Agreement has entered into force for a Party, that Party may withdraw

from this Agreement by giving written notification to the Depositary." Withdrawal takes effect one year after written notification. If the United States were to follow the process laid out in the Accord, notice of withdrawal could be given on November 4, 2019, and the withdrawal would be effective on November 4, 2020.

- President Trump should issue an executive order to withdraw from the Paris Climate Accord, and/or to direct the relevant federal agencies that they shall not require coal-fired electric generators to take action to comply with the Accord.

SPECIFIC CHANGES THAT CANNOT BE EFFECTED THROUGH EXECUTIVE ORDER

VI. "ENDANGERMENT FINDING" FOR GREENHOUSE GASES (GHG)

Summary of Issues and Effects Related To "Endangerment Finding":

- EPA has issued a flawed "endangerment finding" that GHG emissions, by causing climate change, endanger the public health or welfare. That endangerment finding is the predicate for EPA's regulation of GHG emissions under a number of Clean Air Act programs. EPA Administrator Scott Pruitt and 14 other states unsuccessfully challenged the EPA's "endangerment finding" in the D.C. Circuit. In his confirmation hearing, Administrator Pruitt stated that pursuant to the U.S. Supreme Court's 2014 endangerment finding in the *Massachusetts v. EPA* case, EPA has an obligation to take some action to control CO_2 pollution. However, in doing so, EPA must follow applicable processes established by Congress.

- Administrator Pruitt may have acknowledged a little wiggle room – but not much -- for EPA to review the endangerment finding when he told Congressional lawmakers that "[t]here is nothing I know that would cause a review at this point." But even with the endangerment finding, the Administrator believes there are limits to EPA's authority to regulate CO_2 emitted by power plants.

Recommended Action:

- The endangerment finding is based on flawed science and should be withdrawn or suspended. However, it is doubtful, based on Administrator Pruitt's confirmation hearing testimony, that EPA will withdraw the endangerment finding. Nonetheless, the Administrator's testimony indicates that he does feel that EPA's powers are more limited by Congress than the Obama Administration believed. The Administration should direct the EPA and Congress to take appropriate action.

VII. ELIMINATE THE THIRTY (30) PERCENT PRODUCTION TAX CREDIT FOR WINDMILLS AND SOLAR PANELS IN ELECTRICITY GENERATION

Summary of Issues and Effects Related To Wind/Solar Power Tax Credit:

- The federal Business Energy Investment Tax Credit ("ITC"), created a thirty (30) percent production tax credit for investments in wind and solar technologies used to generate electricity.

- The Consolidated Appropriations Act signed in December 2015 included several amendments to the ITC that are applicable to wind and solar generation technologies. Notably, the expiration date for the tax credits for investments in these technologies was extended, with a gradual step-down of the credits between 2019 and 2022.

- There simply is no reason for the federal government, through tax credits, to be providing an artificial economic advantage to inefficient and ineffective power generation technologies. Such artificial advantages disrupt the appropriate allocation of costs in the competitive electric generation market. Moreover, in the competitive global market, the exorbitant costs associated with this wrong-headed government interference puts U.S. energy producers at an extreme disadvantage with foreign competitors. As artificially-inflated domestic energy costs are priced into American goods and services, those goods and services cannot compete in the global market place. The damage to American commerce is enormous.

Recommended Action:

- The Trump Administration must persuade Congress to end tax credits for investments in wind and solar energy technologies. Eliminating these disruptive tax credits will lower the cost of American goods and services, providing essential price relief for American consumer and enabling American businesses to compete effectively against global competitors.

VIII. FUND THE DEVELOPMENT OF CERTAIN CLEAN COAL TECHNOLOGIES

Summary of Issues and Effects Related To Clean Coal Technologies:

- Coal is the United States' most abundant fuel source, with enough reserves to power the nation for another 200-300 years. According to the Department of Energy, one-fourth of the known coal in the world is located in the United States, which has more coal reserves than any other country in the world. There is more minable coal in the United States than there is pumpable oil in the rest of the world.

- The coal industry is a major source of jobs in the United States. Currently, coal is in mined in 26 states. According to statistics compiled by the United States Energy Information Administration, in 2015, the last year for which statistics are

available, the coal industry employed approximately 66,000 miners nationwide. Thanks to the Obama Administration's "war on coal," that number was down 12% from just the prior year, and down 50% from 1980 levels. The industry provides another 90,000 jobs in coal transportation and coal-fired power plant operation, and indirectly supports tens of thousands of additional jobs nationwide.

- The National Energy Technology Laboratory has found that new coal-fired power plants already emit 90% less pollutants than plants built in the 1970s. Emissions-reducing technologies in these new plants include fluidized-bed combustion, integrated gasification combined cycle, flue gas desulfurization, low nitrogen oxide burners, selective catalytic reduction, and electrostatic precipitators.

- Promising new technologies that may further reduce emissions by as much as 30% include improvements to existing clean coal technologies, and new technologies such including high-efficiency fuel cells, advance high-efficiency combustion, hydrogen production through gasification, and ultra-supercritical pulverized coal combustion.

- The Obama Administration's "war on coal" included not only the promulgation of unreasonable and unworkable environmental regulations, but also cuts to funding for research and development of clean coal technologies in favor of commitments to so-called "green energy" such as wind and solar power. The Obama Administration even reduced funding for its favored technology of carbon capture and sequestration ("CCS"), which has proven both technologically and economically unfeasible.

- The Trump Administration's preliminary budget proposal includes a 6% reduction in funding for the Department of Energy, including the proposed elimination of the Department's Advanced Research Projects Agency, through which clean coal technology has been funded in the past.

- The federal government should adequately fund the research and development of clean coal technology that would permit the United States to take advantage of its abundant supply of this reliable fuel source and to preserve innumerable American jobs.

- Such funding should focus on technologies that appear both technologically promising and economically feasible—such as high-efficiency fuel cells, advance high-efficiency combustion, hydrogen production through gasification, and ultra-supercritical pulverized coal combustion—rather than expensive and unworkable technology—such as CCS.

Recommended Action:

- During the campaign, President Trump signaled support for the development of clean coal technology.

- President Trump should strongly urge Congress to amply fund research and development of clean coal technologies, either through federal grants or tax credits.

IX. OVERHAUL THE BLOATED AND POLITICALIZED MINE SAFETY AND HEALTH ADMINISTRATION OF THE U.S. DEPARTMENT OF LABOR

Summary of Issues and Effects Related To MSHA Politicization:

- Concurrent with President Trump's March 13, 2017 Executive Order titled "Comprehensive Plan for Reorganizing the Executive Branch," a similar approach is needed with regard to the federal Mine Safety and Health Administration (MSHA). While mine worker employment has decreased dramatically in recent years, MSHA's budget has not. Indeed, from 2010 to 2015, the number of coal miners in the United States decreased from 89,838 to 65,971 (a nearly 27% decrease). However, MSHA did not experience proportional cuts in investigators or its budget during that time frame.

- Compared to some other industries, coal mining has a significantly lower employee fatality rate. The Bureau of Labor Statistics reported that in 2015, the "mining, quarrying, and oil and gas extraction" industry sector had an employee fatality rate of 11.4% per 100,000 full-time workers. Breaking down that rate, the oil and gas extraction industries accounted for 74% of those fatal injuries, thereby making the employee fatality rate for coal miners dramatically lower than the reported 11.4%. In contrast, the transportation and warehousing industry had an employee fatality rate of 13.8% per 100,000 full-time workers, and the agriculture, forestry, fishing and hunting industry had an employee fatality rate of 22.8% per 100,000 full-time workers.

- Despite this lower employee fatality rate, the coal mining industry is more heavily regulated than virtually all other industries. Indeed, the MSHA allows an inspector to temporarily shut down a working mine unilaterally due to a perceived imminent danger to workers, leading to disruption and loss of productive time. A new standard requires operators to inspect mines before workers start their shifts.

- Even the federal courts have recently begun issuing rulings recognizing that MSHA is overreaching. For example, The Sixth Circuit Court of Appeals overturned the findings of the MSHA Review Commission, which held that an equipment and parts shop which did not extract coal and did not prepare coal or any other mineral for use was a "coal or other mine," and therefore subject to MSHA's jurisdiction.

- In 2016, Murray Energy Corporation received an average of 532 MSHA inspectors per month.

Recommended Action:

- The number of MSHA investigators should be made proportional to the number of actual mine workers in the United States. Therefore, a certain number of MSHA investigators' positions should be eliminated.

- The reduced MSHA funds should be allocated to education and training programs that help identify, avoid, and prevent unsafe working conditions in the country's mines, along the lines of the Brookwood-Sago grant program.

- To the extent that any MSHA regulation is found to be unconstitutional, the President should issue an Executive Order instructing the Secretary of the Department of Labor to cease enforcement of the regulation and hold all pending and outstanding enforcement proceedings in abeyance until it can be determined that continued enforcement will not violate mine operators' constitutional rights.

- There should be a review of all MSHA regulations promulgated since 1996 (the year in which the Congressional Review Act was passed), and determine which regulations failed to meet the reporting to Congress requirement. If a report on a regulation is not submitted to Congress, Congress can pass a resolution to rescind the regulation, essentially nullifying and voiding the regulation.

- Clearer and more limited guidelines and duties should be created for MSHA investigators, and MSHA enforcement and regulations should be structured to have less of a punitive effect on coal companies. In this regard, the MSHA could follow the lead of recent legislation in states like West Virginia and Kentucky, which have taken steps such as requiring that mine operators receive "compliance assistance notices" before issuing citations and imposing steep fines, permitting inspectors to issue notices of violations only when they can prove imminent danger of death or serious harm, and utilizing "individual personal assessments" which target specific mine employees – rather than mine operators or coal companies – for violations, fines, and revocation of certifications or licenses needed to work in the industry.

X. CUT THE STAFF OF THE U.S. ENVIRONMENTAL PROTECTION AGENCY IN AT LEAST HALF

Summary of Issues and Effects Related To the Size of EPA Staffing:

- Under the Obama Administration, EPA issued nearly 4,000 regulations, averaging almost 500 annually, and amounting to over 33,000 new pages in the Federal Register. The almost 15,000 person workforce of EPA has greatly contributed to the unnecessarily large and burdensome number of issued regulations.

- President Obama allowed and encouraged EPA regulators to stretch the legal limits of the U.S. Constitution and the Agency's statutorily-granted authority. Under the Obama Administration, the annual compliance costs associated with

EPA regulations grew by over $50 billion. These high costs crippled the U.S. economy by impacting the GDP, killing thousands of jobs, and increasing the cost of consumer goods.

- EPA regulations enacted under the Obama Administration also have inhibited the advancement and growth of the coal industry. A host of EPA permit requirements have delayed construction of new coal plants, led to fuel switching, and resulted in withdrawn permit applications.

- Many of the EPA regulations promulgated during the Obama Administration are based on a weak scientific foundation and have greatly increased compliance costs for existing coal plants, increased the cost of mining coal, and effectively barred the construction of new coal plants. The consulting group ICF International estimates that 20% of America's coal power plants could be retired as soon as 2020 because of the EPA's air, waste, and water regulations.

Recommended Action:

- We support President Trump's proposed cuts to EPA's budget. The President's Budget Blueprint, delivered to Congress on March 16, 2017, proposes to cut EPA's budget by 31%. If this proposed budget is approved by Congress, it would have the effect of cutting 3,200 positions, or more than 20%, of the agency's current workforce of about 15,000. In order to achieve the desired reduction of at least 50% of EPA's workforce, President Trump should propose an even greater cut to the EPA budget. The current proposed budget still must go through Congressional approval. The White House can ensure congressional approval by working to achieve bipartisan support.

XI. OBTAIN LEGISLATION TO FUND BOTH THE RETIREE MEDICAL CARE AND PENSIONS FOR ALL OF AMERICA'S UNITED MINE WORKERS OF AMERICA (UMWA) – REPRESENTED, RETIRED COAL MINERS

Summary of Issues and Effects Related to Retiree Medical Care:

- The Obama Administration and its regulations have dismantled the Coal Industry. Since 2012, over three dozen coal companies have filed for bankruptcy, resulting in thousands of lost jobs for American coal miners.

- Seventy years ago, the United Mine Workers of America (UMWA) sought to secure better employee benefits for coal miners. The then-President, Harry Truman, issued an Executive order directing Secretary of the Interior, Julius Krug, to take possession of all bituminous coal mines and to negotiate "appropriate changes in the terms and conditions of employment" of miners with the UMWA, which led to the Krug-Lewis Agreement. Through the Krug-Lewis Agreement and subsequent labor agreements between the UMWA and mine operators, funds were established to provide health and pension benefits to coal miners.

- The UMWA's health and pension funds support approximately 120,000 former miners and their families nationwide. In 1992 and 2006, Congress intervened to assist retired miners and to secure their health benefits. In 2016, seeing that thousands of miners were at risk of losing their benefits, Congress provided a four-month extension in health benefits for orphaned retired miners and their dependents. This extension ends on April 30, 2017.

- Rather than revisiting this issue, every ten years, the Congress needs to provide coal miners with a permanent solution to secure their health and pension benefits, which was promised to them decades ago.

- As a result of extensive regulations, especially those imposed by the previous Administration, there are far fewer mine operators. Accordingly, there is a decline in contributions into the Combined Fund. With an increasing number of miners requiring these benefits, the funds are decreasing rapidly. Without Congress' intervention, the Fund will no longer be able to support the benefits for the retired coal miners and the miners will be left without health and pension benefits, which was promised to them.

Recommended Action:

- Currently, there are two bills pending in the Senate and one bill pending in the House of Representatives relating to providing coal miners with health and/or pension benefits. The Administration should support S. 175 and H.R. 179. However, S. 716 should not be supported, as its extension for ***only*** health care funding (with no treatment of pension funding) will not lead to the desired outcome.

XII. OVERTURN THE MINE SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR, PATTERN OF VIOLATIONS RULE

Summary of Issues and Effects re Pattern of Violations Rule:

- On January 23, 2013, the Federal Mine Safety and Health Administration ("MSHA") published its Pattern of Violations regulation ("POV Rule"). 78 Fed. Reg. 5073-5074; 30 C.F.R. 104, et seq. The POV Rule greatly expanded the original direction regarding pattern of violations contained in Section 104(e) of the Federal Mine Safety and Health Act of 1977 (the "Act") and the 1990 Rule regarding pattern of violations ("1990 Rule") by enlarging the scope of what the MSHA would consider to identify a pattern.

- Potential harm to mine operators identified as POV violators is significant. Once the MSHA identifies a pattern of significant and substantial ("S&S") violations at a mine, the operator receives written notice from the MSHA. 30 C.F.R. 104.3(a). If the MSHA finds any S&S violation within 90 days after issuance of the notice, the MSHA will order the withdrawal of all persons from the affected area (with

few exceptions) until the violation is abated. 30 CFR 104.3(c). The POV notice only terminates (1) if the MSHA does not issue a withdrawal order within 90 days after issuing the POV notice or (2) when an MSHA inspection of the entire mine finds no S&S violations. 30 C.F.R. 104.4(a).

- Under the 1990 Rule, the scope of what the MSHA would consider was limited to S&S violations, orders and enforcement measures implemented by the MSHA in response to confirmed violations, a mine operator's lack of good faith in correcting a safety issue, accident, injury, or illness records that demonstrate a serious safety or health management problem, and mitigating circumstances. 55 Fed. Reg. 31136. But this scope was greatly expanded under the 2013 revision, which now includes consideration of "citations for S&S violations" and "citations and withdrawal orders ... resulting from an unwarranted failure to comply." 30 CFR 104.2. The POV Rule greatly expands mine operator exposure by allowing the MSHA to consider unproven allegations and non-final citations rather than finalized orders. Currently, mine operators are not afforded due process in the form of a notice or hearing before they are deprived of their rights via a withdrawal order.

- A challenge to the POV Rule is pending in the Southern District of Ohio. *Ohio Coal Ass'n v. Perez*, 192 F. Supp. 882 (S.D. Ohio 2016). Plaintiffs in that case claim that the POV Rule exceeds the statutory authority granted to the MSHA, and that it violates the Due Process Clause because it eliminates the safeguards in the 1990 Rule.

Recommended Action:

- The Administration should ask Congress to pass a joint resolution of disapproval to rescind the POV Rule. Under the Congressional Review Act ("CRA"), a Federal agency promulgating a rule or regulation is required to submit a report regarding the new regulation to both the House of Representatives and the Senate (which the Department of Labor did not do here). 5 U.S.C. 801(a)(i)(A). If the report is not submitted, Congress can pass a resolution to rescind the regulation, essentially nullifying and voiding the regulation. 5 U.S.C. 802(b)(1) ("A rule shall not take effect (or continue), if the Congress enacts a joint resolution of disapproval ... of the rule."). Once rescinded, the regulation cannot be presented to Congress in substantially the same form. 5 U.S.C. 802(b)(2) ("A rule that does not take effect (or does not continue) under paragraph (1) may not be reissued in substantially the same form, and a new rule that is substantially the same ... may not be issued").

XIII. APPOINT JUSTICES TO THE SUPREME COURT OF THE UNITED STATES WHO WILL FOLLOW OUR UNITED STATES CONSTITUTION AND OUR LAWS

Summary of Issue And Effects of Supreme Court Composition:

- The Supreme Court of the United States currently has four justices who, instead of following the Constitution and the laws of the United States as they are written, seek to redefine our Constitution and create new laws to implement their liberal agenda.

Recommended Action:

- President Trump should appoint reliably conservative justices if and when vacancies on the Supreme Court arise. The President's nomination of Neil Gorsuch is an excellent first step. The Administration should continue to identify conservative candidates that President Trump can promptly nominate whenever vacancies arise.

XIV. MEMBERS OF THE FEDERAL ENERGY REGULATORY COMMISSION (FERC) MUST BE REPLACED

Summary of Issues and Effects Related To FERC Membership:

- FERC members are appointed by the President with the advice and consent of the Senate. FERC is composed of up to five commissioners who serve five-year terms. Currently, there are only two commissioners: acting chair Cheryl A. LaFleur, an Obama appointee whose term expires on June 30, 2019, and Colette D. Honorable, another Obama appointee whose term expires on June 30, 2017.

Recommended Action:

- There are up to 3 vacant positions on FERC that may be immediately filled by President Trump. The terms of the two current commissioners expire within the next 2 years, but those positions also may be immediately replaced by President Trump.

XV: MEMBERS OF THE TENNESSEE VALLEY AUTHORITY (TVA) BOARD OF DIRECTORS MUST BE REPLACED:

Summary of Issues and Effects Related To TVA Board Replacement:

- TVA Board Members are appointed by the President and confirmed by the Senate. Each director serves a five-year term. When their term expires, serving directors may remain on the Board until the end of the then-current Congressional session (typically in December), or until their successor takes office, whichever occurs first.

Recommended Action:

- All of the current directors' terms expire during the next three years. President Trump will be able to appoint coal-friendly directors during his term.

XVII: REPLACE THE MEMBERS OF THE NATIONAL LABOR RELATIONS BOARD ("NLRB")

Summary of Issues and Effects of NLRB Composition:

- In the past eight years, the Obama Administration's National Labor Relations Board (the "Board") has engaged in a no-holds-barred campaign to bolster private sector union membership and decimate management rights. It did so primarily in two ways: (1) by overturning a collective 4,105 years of precedential case law; and (2) by adopting overreaching regulations to facilitate union organizing.

- Currently, the Board has three members—Acting Chairman Philip A. Miscimarra, a Republican whose term ends Dec. 26, 2017, and Members Mark Gaston Pearce and Lauren McFerran, both Democrats whose terms end Aug. 27, 2018, and Dec. 16, 2019, respectively—and two vacancies. Pursuant to the National Labor Relations Act ("NLRA"), the President can only remove a Board member for neglect of duty or malfeasance in office. 29 U.S.C. § 153(a).

- The General Counsel has final authority to investigate charges and issue complaints. He also supervises all Board attorneys and all officers and employees in the Board's Regional Offices. The current General Counsel is Richard Griffin, Jr., a Democrat who has been a driving force behind the Obama Board's agenda. His four-year term ends Nov. 3, 2017. The NLRA is silent on whether the President can remove the General Counsel before the end of his term. 29 U.S.C. § 153(d).

- The Board has 1,596 full-time workers, the vast majority of whom are pro-union, classified employees. They work in the Board's Washington D.C. headquarters and 32 Regional Offices. Each Regional Office is supervised by a Regional Director appointed by the Board. Each Subregional Office is headed by an Officer in Charge, who is also appointed by the Board. The General Counsel, subject to civil service rules, may demote and discharge nearly all Board personnel; however, the demotion or discharge of any Regional Director or Officer in Charge must be approved by the Board. 20 F.R. 2175.

Recommended Action:

- President Trump should fill the two Board vacancies with pro-management members as soon as practical. Within a short period of time, the Trump Administration's Board could set a pro-management tone that will filter down to the Administrative Law Judges, who hear complaints, and to the General Counsel's Office and the Regional Offices. Furthermore, when the terms of Members Gaston Pearce and McFerran expire, President Trump should appoint

two additional pro-management members to the Board. Traditionally, the Board's membership is a 3 to 2 majority in favor of the president's party. However, there is no law preventing President Trump from appointing Republicans to fill the posts vacated by Gaston Pearce and McFerran.

- President Trump should consider replacing General Counsel Griffin before his term ends in November 2017. While no General Counsel has ever been removed, there is persuasive authority that the President has plenary power to remove the General Counsel. Indeed, the Constitution generally empowers the President to keep executive officers accountable by removing them from office, if necessary. *Myers v. United States*, 272 U.S. 52 (1926). This power is not unlimited, as the Supreme Court has curtailed the President's power in certain circumstances, such as when Congress creates an independent agency run by principal officers appointed by the President, whom the president may not remove but for good cause. *Humphrey's Executor v. United States*, 295 U.S. 602 (1935). Here, the NLRA is silent on this issue of removing the General Counsel, so although it may be argued that the President retains the power to do so, the attempt might lead to protracted litigation.

- Once the Board's vacancies are filled and the General Counsel is replaced (at the latest, when his term ends this November), President Trump should direct the General Counsel to demote or discharge the Regional Directors and the Officers in Charge of Subregional Offices. Many of them are life-long, pro-union Board employees, and they should be replaced by pro-management personnel.

- President Trump should cut the Board's current $273 million budget in order to reduce the number of pro-union employees at the Board. Because it is difficult to discharge federal employees, even for cause, the most expedient way to make wholesale changes to the workforce is through a reduction in force due to a shortage of funds. Although the goal would be to hire management-minded personnel, any hiring must be delayed for at least two years to avoid having to rehire the laid-off employees, who have first priority in the event that the agency seeks to fill a position within two years of their separation. 5 C.F.R. §536.208. Once that time period passes, President Trump could increase the Board's budget and reconstitute the workforce with management-minded employees.

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