United States Senate

WASHINGTON, DC 20510

May 25, 2017

The Honorable Donald J. Trump
President of the United States
The White House
1600 Pennsylvania Avenue
Washington, DC 20500

Dear President Trump:

We have been encouraged by the steps you have taken to reduce the regulatory burdens facing this country. From your many Executive Orders to the signing of 14 laws rolling back regulations from the previous Administration, it is clear you share our commitment to reducing the regulatory burden our businesses face in order to create jobs and grow the economy.

One of the most important executive orders you signed is EO 13783, *Promoting Energy Independence and Economic Growth*, wherein, among other things, you instruct the Environmental Protection Agency (EPA) to unwind President Obama's Clean Power Plan regulations.

We applaud this objective and encourage you to take every action necessary to ensure it is accomplished.

A key risk to fulfilling this objective is remaining in the Paris Agreement. Because of existing provisions within the Clean Air Act and others embedded in the Paris Agreement, remaining in it would subject the United States to significant litigation risk that could upend your Administration's ability to fulfill its goal of rescinding the Clean Power Plan. Accordingly, we strongly encourage you to make a clean break from the Paris Agreement.

Section 115 of the Clean Air Act addresses the regulatory steps the United States must take to address International Air Pollution. EPA and state government regulatory action of a pollutant are mandated after two tests are met: (1) a finding is established that a pollutant from the U.S. is endangering the public health or welfare of another country; and (2) it is determined that the endangered country gives the U.S. the same rights to prevent or control pollution from that country.

Under the previous Administration, EPA issued an endangerment finding for greenhouse gases and then pursued the Clean Power Plan. Many environmentalists already believe that this finding is broad enough to meet the endangerment test under Section 115, and they would certainly make this argument in court as they fight your efforts to rescind the Clean Power Plan rulemaking.

Environmentalists will argue that these Section 115 requirements are, in fact, met more easily by the Paris Agreement because it includes enhanced transparency requirements in Article 13, which establishes a process for nations to submit plans to reduce emissions to one another and then to comment on the plans of one another.

Leading environmental attorneys have been candid that they intend to use the Paris Agreement and the existing endangerment finding to force EPA to regulate under Section 115 of the Clean Air Act.

David Bookbinder, formerly Chief Counsel of the Sierra Club, stated that together the Paris Agreement and Section 115 are the "silver bullet de jour of the enviros." And their intent to use it is real. New York and Vermont Attorneys General recently wrote to their colleagues that "states must still play a critical role in ensuring that the promises made in Paris become a reality." With statements like this, it is clear that those advocating for greenhouse gas regulations will use the Paris Agreement as a legal defense against your actions to rescind the Clean Power Plan if you decide to remain in the Paris Agreement. This is why it is so important for you to make a clean exit from the Agreement.

We understand that some officials inside your Administration want to remain in the Paris Agreement to keep a seat at the table so that the U.S. continues to have a voice in future discussions. Fortunately, a clean exit from the Paris Agreement will not take this away. The Senate gave its consent to the United Nations Framework Convention on Climate Change (UNFCCC) in 1992; this treaty provides a permanent seat at the table for the United States to engage with other countries each year at the Conferences of Parties (COP). In fact, it was through an annual COP meeting in Paris that the Paris Agreement was signed. This permanent seat at the table enabled President Obama to negotiate this deal; this seat remains and will enable you to continue discussions with other nations on this topic should you choose to do so.

Again, we applaud you for your ongoing efforts to reduce overregulation in America. To continue on this path, we urge you to make a clean exit from the Paris Agreement so that your Administration can follow through on its commitment to rescind the Clean Power Plan.

Sincerely,

James M. Inhofe
United States Senator

John Barrasso
United States Senator

Mitch McConnell
United States Senator

John Cornyn
United States Senator

Roy Blunt
United States Senator

Roger Wicker
United States Senator

Michael B. Enzi
United States Senator

Michael D. Crapo
United States Senator

Jim Risch
United States Senator

Thad Cochran
United States Senator

M. Michael Rounds
United States Senator

Rand Paul
United States Senator

John Boozman
United States Senator

Richard C. Shelby
United States Senator

Luther Strange
United States Senator

Orrin G. Hatch
United States Senator

Mike Lee
United States Senator

Ted Cruz
United States Senator

David Perdue
United States Senator

Thom Tillis
United States Senator

Tim Scott
United States Senator

Pat Roberts
United States Senator