

ORAL ARGUMENT NOT YET SCHEDULED
No. 15-1363 (and consolidated cases)

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

STATE OF WEST VIRGINIA, *et al.*,
Petitioners,

v.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY *et al.*,
Respondents.

On Petition for Review of a Final Action of the
United States Environmental Protection Agency

PETITIONER'S STATEMENT OF ISSUES

Newmont Nevada Energy Investment LLC and Newmont USA Limited (collectively, Newmont), Petitioner in No. 15-1432 (consolidated with 15-1363), submits the following issue that Newmont intends to raise in this appeal. This issue will be subject to a Petition for Reconsideration filed by Petitioner Newmont.

1. Whether EPA's Final Rule is arbitrary and capricious or otherwise unlawful under Section 307(d) of the Clean Air Act and the Administrative Procedure Act because EPA revised the applicability language for affected electric generating units in the Final Rule without providing the required notice and opportunity to comment and because the applicability language is not a logical outgrowth of EPA's Proposed Rule?

Newmont reserves the right to refine or supplement these issues to address any other issues that have been preserved for judicial review and any other issues that may arise from EPA's reconsideration process or revisions to the Final Rule.

Dated: December 22, 2015.

Respectfully submitted,

s/Andrew C. Emrich

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing Statement of Issues was electronically filed today through the Court's CM/ECF system, which will electronically serve all registered counsel for the parties to this case.

Dated: December 22, 2015

s/ Andrew C. Emrich

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