

ORAL ARGUMENT PRESENTED APRIL 8, 2013
OPINION ISSUED ON JULY 12, 2013

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

CENTER FOR BIOLOGICAL
DIVERSITY, *et al.*,

Petitioners,

v.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY,

Respondent.

No. 11-1101

(Consolidated with 11-1285,
11-1328, and 11-1336)

PETITIONERS' OPPOSITION TO (1) RESPONDENT-INTERVENORS' MOTION TO EXTEND THE DEADLINE TO PETITION FOR REHEARING AND (2) EMERGENCY MOTION TO EXPEDITE CONSIDERATION OF RESPONDENT-INTERVENORS' MOTION TO EXTEND THE DEADLINE TO PETITION FOR REHEARING

Petitioners Center for Biological Diversity, Coastal Conservation League, Conservation Law Foundation, Dogwood Alliance, Natural Resources Council of Maine, Natural Resources Defense Council, Georgia ForestWatch and Wild Virginia (collectively “Petitioners”) hereby respectfully oppose the above-referenced motions filed by Respondent-Intervenors American Forest & Paper Association, American Wood Council, Biomass Power Association, Corn Refiners

Association, Florida Sugar Industry, National Alliance of Forest Owners, National Oilseed Processors Association, Rubber Manufacturers Association, Treated Wood Council, and Utility Air Regulatory Group (collectively “Movants”). Respondent-Intervenors’ Motion to Extend the Deadline to Petition for Rehearing, Doc. No. 1452383 (“Motion to Extend”); Emergency Motion to Expedite Consideration Of Respondent-Intervenors’ Motion to Extend the Deadline to Petition for Rehearing, Doc. No. 1452385 (“Emergency Motion”) (collectively, “Motions”).

To be clear, Petitioners informed counsel for Movants that Petitioners would not oppose a request for a reasonable extension of the deadline for rehearing, provided that Movants agreed the mandate in this case should issue without further delay. Counsel for Movants informed Petitioners that Movants could not agree to this condition. They now ask this Court to continue withholding the mandate, Motion to Extend ¶¶ 4, 8, although they fail to explain why any further delay in issuing the mandate is warranted.

Petitioners now respectfully oppose the Motions primarily to ensure that any extension does not result in a stay of the mandate, *see* Motion to Extend ¶ 4 (citing rules governing motions to stay the mandate pending petitions for writ of certiorari), particularly under the circumstances of this case where a stay is plainly not warranted. As explained below, Movants fail to set forth facts demonstrating

good cause for a stay; indeed, the balance of equities clearly favors prompt issuance of the mandate.

1. This is not an “emergency”—and if it is, it is one of Movants’ own making. The petitions for certiorari cited in the Emergency Motion were filed in March and April 2013, long before the Court’s decision in this case. Emergency Motion ¶ 4 & n.1 (citing Sup. Ct. Nos. 12-1146 (*Util. Air Regulatory Grp. v. EPA*) (filed March 20, 2013); 12-1152 (*Virginia v. EPA*) (filed March 20, 2013); 12-1153 (*Pac. Legal Found. v. EPA*) (filed March 20, 2013); 12-1248 (*Am. Chem. Council, et al. v. EPA*) (filed April 18, 2013); 12-1253 (*Coal. for Responsible Regulation v. EPA*) (filed April 17, 2013); 12-1254 (*Energy-Intensive Mfrs. Working Grp. on Greenhouse Gas Regulation v. EPA*) (filed April 17, 2013); 12-1268 (*Se. Legal Found. v. EPA*) (filed April 19, 2013); 12-1269 (*Texas v. EPA*) (filed April 19, 2013); 12-1272 (*Chamber of Commerce v. EPA*) (filed April 19, 2013)). Movants, at least one of which filed its own certiorari petition, were well aware of the petitions’ pendency when this Court issued its opinion in the instant case on July 12, 2013. Because the United States is a party to this action, Movants had 45 days in which to consider filing a petition for rehearing. Fed. R. App. Proc. 40(a)(1); D.C. Cir. R. 35(a). Movants thus had 38 days in which to seek this extension, see D.C. Circuit Rule 27(f), yet filed the Motions on the last possible day. This is not an emergency warranting expedited consideration.

2. Although Movants style their motion as merely a request to extend a deadline, they also expressly seek to stay the mandate for the length of the requested extension. Motion to Extend at 2. Yet they never attempt to meet the standard for a motion to stay the mandate. Movants cite appellate and circuit rules governing motions to stay the mandate “pending the filing of a petition for writ of certiorari with the Supreme Court.” Motion to Extend ¶ 4 (citing Fed. R. App. Proc. 41(a)(2)(A), D.C. Cir. R. 41(a)(2)). These rules are facially inapplicable here, for they relate to certiorari petitions in the instant case, not in another case.

3. Assuming *arguendo* that the rules cited by Movants are relevant, at least by analogy, when the certiorari petition in question pertains to another case, Movants would still fail to carry their burden to show “that there is good cause for a stay.” Fed. R. App. Proc. 41(a)(2)(A). “A motion for a stay of the issuance of mandate will not be granted unless the motion sets forth facts showing good cause for the relief sought.” D.C. Cir. R. 41(a)(2). Here, Movants’ sole, conclusory argument is that the Supreme Court’s disposition of certiorari petitions currently pending in *Coalition for Responsible Regulation* “could obviate the need for further proceedings” and thus “is in the interest of judicial economy.” Motion to Extend ¶ 4. Movants fail to note that the mandate has issued in *Coalition for*

Responsible Regulation itself,¹ and thus that permitting requirements are in effect for all types of large greenhouse gas sources (other than sources of biogenic CO₂) while the Supreme Court considers the pending certiorari petitions. Movants fail to explain why biogenic sources of CO₂ should be treated differently than all other sources of CO₂ while those petitions are pending, given that this Court has vacated that exemption.

4. The equities here strongly favor timely issuance of the mandate. As this Court correctly held, EPA's unlawful exemption is effectively permanent for any facility permitted during the exemption period, unless the facility undergoes some future major modification. *See* Opinion, Ctr. for Biological Diversity, et al. v. EPA (D.C. Cir. July 12, 2013) (Doc. 1446222) ("Opinion") at 11-12. According to the declaration of Dr. Mary S. Booth filed concurrently herewith, there are some 57 biomass-fueled facilities currently in the approval process, located in 27 states, that are projected to emit CO₂ in amounts sufficient to trigger PSD permitting requirements. Decl. of Mary Stuart Booth, ¶ 8 (Exhibit A). The estimated CO₂ emissions from those facilities, once operating, is on the order of 20 million tons per year. If the mandate is stayed indefinitely, additional facilities could proceed

¹ Per the Court's PACER docket, the mandate in *Coalition for Responsible Regulation*, No. 10-1073, issued to EPA on January 2, 2013.

through permitting and construction and commence operating in reliance on a rule this Court has declared unlawful and vacated.

5. Moreover, the now-vacated exemption causes real harm to Petitioners' members and others who live near facilities that received approvals in reliance on it. *See* Opinion at 11-12; *see also* Petitioners' Final Opening Br. (Doc. 1385229) at 20-22 & Decl. Addendum; Oral Argument Transcript at 5-7. Many of the facilities have escaped the need to apply pollution control not only for their biogenic CO₂, but also for harmful criteria pollutants emitted in excess of regulatory thresholds. *See* 40 C.F.R. § 51.166(j) (setting forth regulatory thresholds). If such facilities are constructed or completed in reliance on the unlawful exemption, Petitioners' members and others living, working and recreating near the facilities will be subjected to unlawfully high amounts of conventional air pollutant emissions.

6. These harms outweigh any harm Movants or their members might suffer from issuance of the mandate. As a threshold matter, the Motion does not specifically claim that Movants' members would be harmed without a stay of the mandate. Nor does the Motion assert any facts in support of such a claim. Likewise, the Motion does not address why, considering the harm to persons who would be exposed to extra pollution, the balance of equities lies with Movants. Consequently, Movants must be deemed to have waived any such arguments.

7. Those arguments would fail in any event. Pursuant to the plain text of the Clean Air Act, as affirmed in this Court's decision in *Coalition for Responsible Regulation*, PSD permits are currently required for major sources of greenhouse gases including CO₂. As noted above, the mandate in *Coalition for Responsible Regulation* has long since issued, petitions for certiorari notwithstanding. The only effect of a further stay in the mandate here would be to allow a subset of those major sources—particularly those affiliated with Movants—to continue receiving the benefit of an exemption this Court has declared unlawful and vacated.

8. Contrary to Movants' claim, this Court has not "afforded similar relief in the context of other pending petitions for review challenging EPA rules"

implicated by the *Coalition for Responsible Regulation* cases. Motion to Extend ¶

5. The cited orders in *American Petroleum Institute v. EPA*, No. 12-1376 (Order dated May 10, 2013) (Doc. 1435675) and *Delta Construction. Co., Inc., et al. v. EPA*, No. 11-1428 (Order dated May 1, 2013) (Doc. 1433790) were issued *prior to briefing* in those cases—not after the cases had been briefed, argued, and decided, with an opinion holding that the challenged rules must be vacated. In each of these cases, the relevant EPA regulations curbing greenhouse gas emissions remained in effect. Here, in contrast, due to an exemption this Court held unlawful on the merits, the relevant regulations are currently and improperly suspended. Issuance of the mandate in this case thus would simply restore operation of permitting

requirements this Court has found lawful. Movants' unexplained citation to an order in *Avista Corp. v. NLRB*, No. 11-1397 (D.C. Cir. Feb. 19, 2013) (Doc. 1421216) is similarly unavailing; the order contains no explicit reasoning, and the underlying decision held in abeyance is unpublished. *Avista Corp. v. NLRB*, No. 11-1397 (D.C. Cir. Jan. 18, 2013) (Doc. 1416044).

9. Finally, issuing the mandate in this case has no bearing on Movants' ability to argue their substantive point about whether biogenic CO₂ should have been included by EPA (as it was) under the 2010 Tailoring Rule. Movants correctly note that petitions for review of that issue are preserved before this Court. Motion to Extend ¶ 2 & n.1 (citing Nos. 10-1172, 10-1209). The instant case by contrast deals only with the limited legal question whether EPA's subsequent 2011 exemption for biogenic CO₂ from those requirements was lawful.

For the foregoing reasons, Petitioners hereby request the Court deny both Motions. In the alternative, if the Court grants an extension of the time for filing rehearing petitions, Petitioners respectfully request that the Court not delay issuance of the mandate. Rather, because Movants have made no showing justifying a further delay, we urge the Court to issue the mandate no later than September 2, 2013 (i.e., seven days following expiration of the initial deadline for filing a petition for rehearing, in accordance with Federal Rule of Appellate

Procedure 41(b) and Circuit Rule 41(a)(1)), so that the Court's decision vacating the unlawful exemption rule can take effect.

Respectfully submitted this 20th day of August, 2013:

/s/ Ann Brewster Weeks

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing **OPPOSITION TO (1) RESPONDENT-INTERVENORS' MOTION TO EXTEND THE DEADLINE TO PETITION FOR REHEARING AND (2) EMERGENCY MOTION TO EXPEDITE CONSIDERATION OF RESPONDENT-INTERVENORS' MOTION TO EXTEND THE DEADLINE TO PETITION FOR REHEARING** was electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of said filing to the attorneys of record who have registered with the Court's CM/ECF system.

DATED: Filed August 20, 2013

SIGNED: /s/ Ann Brewster Weeks
Ann Brewster Weeks

EXHIBIT A

Conservation Law Foundation, Dogwood Alliance, Natural Resources Council of Maine, Natural Resources Defense Council, Georgia ForestWatch, and Wild Virginia in the above-captioned case, and which was submitted with the Petitioners' Opening Briefs in this case.

3. This declaration briefly updates the information presented in my original declaration, and is provided in support of Petitioners' Opposition to (1) Respondent-Intervenors' Motion to Extend the Deadline to Petition for Rehearing and (2) Emergency Motion to Expedite Consideration, of Respondent-Intervenors' Motion to Extend the Deadline to Petition for Rehearing filed today in this case.

4. I continue to be the Director of the Partnership for Policy Integrity ("PFPI"), with an office located at 54 Arnold Rd, Pelham, MA, 01002. I have a Ph.D. in Ecology from Utah State University, an MA in Plant Biology from the University of Massachusetts, and a BA in Anthropology from the University of Massachusetts. I have completed post-doctoral studies at the Earth Institute at Columbia University and at the Ecosystems Center at the Woods Hole Marine Biological Laboratory. A copy of my current *curriculum vitae* is attached hereto as Exhibit A.

5. As described in my March 2012 declaration, I have worked since 2008 as a consulting scientist for a variety of client organizations, researching and

analyzing many aspects of biomass-fueled energy production. As a result of my background and this work, I have developed expertise related to the air emissions from this industry, including emissions of carbon dioxide (“CO₂”) and other greenhouse gases (“GHG(s)”), and criteria air pollutants (nitrogen oxides, sulfur dioxide, carbon monoxide, and particulate matter), and also about the impacts of increased reliance on certain biomass fuels (whole trees and forestry residues, in particular) on forest resources.

6. As part of my work as a consulting scientist, I have reviewed and analyzed air permits and other record materials underlying and related to proposed construction of new biomass-fueled energy facilities and modifications of existing facilities to enable biomass combustion. In my March 2012 declaration I described my work analyzing a number of biomass-fueled energy generating facilities, as the basis for commenting on approval processes for those facilities, and my work for various client organizations, including some of the Petitioners in this case, has continued since that time.

7. As part of my consulting work and my study of the environmental impacts of the biomass power industry, I track the status of biomass-fueled energy generating facilities in various stages of approval around the country. I have also created a biomass permit database containing information on facility size, biomass

fuel type, boiler type, pollution control technology, allowed emissions rates for criteria pollutants, total expected emissions per year for criteria pollutants and hazardous air pollutants, potential total emissions of CO₂, and other information.

8. Based on that work, I provided information about facilities in the process and under construction in 2012. I can now attest that at the current time, there are approximately 57 biomass-fueled facilities in various stages of the construction approval process, located in 27 states, and that will emit CO₂ in sufficient quantities (100,000 tons CO₂-equivalent per year) to trigger PSD requirements. Together these facilities represent about 20,000,000 tons of CO₂ per year. And, in addition to those facilities, there are some dozen more that are basically on hold, possibly waiting for regulatory certainty, or some other milestone such as initial financing.

I declare under the penalty of perjury that the foregoing is true and correct.

Executed on August 19, 2013.

//s// Mary Stuart Booth

Mary Stuart Booth, Ph.D.

MARY STUART BOOTH

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PROFESSIONAL PROFILE

Background and field research

- Ecosystem studies at scales from soil microbial nutrient cycling to landscape-level pattern and process.
- Field experience in ecosystems of the arid West, the Pacific Northwest, Alaska, and the Northeast, with focus on climate change and other human effects on ecosystems.

Skills and experience

- Mapping and modeling using GIS; large dataset management and analysis
- Competence in statistical analysis including regression and non-linear models
- Ecosystem carbon accounting, power sector carbon emissions modeling, energy analysis
- Analysis of energy sector emissions, evaluation of pollution controls, and familiarity with legislation governing air quality

EDUCATION

Ph.D., Ecology. Utah State University, Logan, Utah.

M.A., Plant Biology, University of Massachusetts, Amherst, Massachusetts

B.A., Anthropology, *Cum Laude*, University of Massachusetts, Amherst, Massachusetts

GRANTS AND AWARDS

Heinz Endowments Grant for research on biomass energy nationally, 2011.

Heinz Endowments Grant, to research and report on biomass in Pennsylvania, 2010.

AAAS/NSF Women's International Science Collaboration travel award, 2003.

Earth Institute Postdoctoral Fellowship, Columbia University, 2003-2004.

Mellon Postdoctoral Fellowship, Ecosystems Center, Woods Hole Marine Biological Lab., 2001-2002.

NASA Earth System Science Graduate Fellowship, 1996-1999.

Utah State University Women and Gender Research Institute research award, 1996.

Vice President's Fellowship, Utah State University, 1994-1995.

HISTORY

Founder and Director, Partnership for Policy Integrity, 2010 - present.

Co-founder and Analyst, Massachusetts Environmental Energy Alliance, 2009.

Executive Director, Water Supply Citizens Advisory Committee to the Massachusetts Water Resources Authority 2008, 2009.

Research Associate, Town of Amherst Conservation Department, 2008.

Research Associate, Strategic Counsel, Leverett, MA 2007.

Terrestrial ecologist, GS-11. National Park Service, Arctic Network, Fairbanks, Alaska, 2006, 2007.

Senior Scientist, Environmental Working Group, Washington DC, 2005, 2006.

Postdoctoral Fellow in Sustainability Studies, The Earth Institute, Columbia University, 2003–2005.

Postdoctoral Fellow, Ecosystems Center, Woods Hole Marine Biological Laboratory, 2001–2003.

ENERGY AND ENVIRONMENTAL RESEARCH

- Biomass lifecycle carbon emissions analysis. Developed a model to estimate carbon emissions and time to carbon resequstration for biomass power fueled by whole tree harvesting.
- Forest and carbon impacts of biomass build-out in the United States. With Environmental Working Group, analyzed data from the Energy Information Administration on biomass build-out under a federal renewable energy standard to determine forest impacts and carbon emissions at the national scale. Lead author, “Clearcut Disaster”.
- Streamflow analysis. Used USGS data to analyze changes in streamflow and frequency of low-flow events on the Westfield River in Massachusetts, integrating the analysis into formal comments on a water withdrawal permit. The permit was withdrawn by the state and the modeling revised in response to these comments.
- Watershed pollution modeling: Used GIS to integrate multiple databases, creating a spatial model that identifies hotspots of agricultural nitrogen pollution in the Mississippi River Basin with respect to patterns of federal agricultural subsidy spending.
- Meta-analysis of controls on nitrogen cycling: Synthetic review summarizing data from 100 published papers to characterize controls on soil nitrogen cycling rates across ecosystems.
- Multi-scale research on invasive species effects on ecosystem function: Conducted a field and laboratory study on invasive annual grass effects on soil nitrogen cycling and hydrologic balance in Northern Utah ecosystems, assessing soil microbial processes, controls on plant community composition, and landscape-level changes in the Intermountain West.

PEER-REVIEWED PUBLICATIONS

- Booth, M.S., and C. Campbell. 2007. Spring nitrate flux in the Mississippi River Basin: a landscape model with conservation applications. *Environmental Science and Technology* 41:5410-5418.
- Booth, M.S., J.M. Stark, and S. Hart. 2006. Soil mixing effects on inorganic production and consumption in forest soils. *Plant and Soil* 289:5-15.
- Booth, M. S., J. M. Stark, and E. Rastetter. 2005. Controls on gross nitrogen cycling rates in terrestrial ecosystems: a synthetic analysis of literature data. *Ecological Monographs* 75: 139-157.
- Booth, M. S., J. M. Stark, and M. M. Caldwell. 2003. Inorganic N turnover and availability in annual- and perennial-dominated soils in a northern Utah shrub-steppe ecosystem. *Biogeochemistry* 66:311-330.
- Booth, M. S., M. M. Caldwell, and J. M. Stark. 2003. Overlapping resource use in three Great Basin species: implications for community invasibility and vegetation dynamics. *Journal of Ecology* 91:36-48.
- Townsend, A. R., R. W. Howarth, M. S. Booth, C. C. Cleveland, S. K. Collinge, A. P. Dobson, P. R. Epstein, E. A. Holland, D. R. Keeney, M. A. Mallin, and A. Wolfe. 2003. Human health effects of a changing global nitrogen cycle. *Frontiers in Ecology and the Environment* 1:240-245.

REPORTS

- Booth, M.S. Biomass power in Pennsylvania: implications for air quality, carbon emissions, and forests. Partnership for Policy Integrity, Dec. 2012.
- Morris, J., with Suh, S., Matthews, H.S., Jacobson, M.Z., Brown, S., and Booth, M.S. 2011. Review and critique of SEI life cycle analysis of alternative uses for logging slash. March, 2011.
- Booth, M.S. Review of "The near-term market and greenhouse gas implications of forest biomass utilization in the Southeastern United States". Southern Environmental Law Center. Sept., 2010.
- Booth, M.S. Review of the Manomet Biomass Sustainability and Carbon Policy Study. Clean Air Task Force. July, 2010.
- Booth, M.S. and Wiles, R. Clearcut Disaster: Carbon Loophole Threatens U.S. Forests. Environmental Working Group, June 2010.

OTHER PUBLISHED WORK

- Booth, M. and G. Clark. Dispelling the myth of clean, green biomass power. Truthout, 3-15-2013
- Booth, M. and G. Clark. Wood-burning biomass facilities are hardly a clean alternative. Op-ed, Pittsburgh Post Gazette, PA. 12-26.2012
- Booth, M. and M. Sheehan. Closing the biomass carbon loophole. Commonwealth Magazine, Fall, 2012.

Booth, M. New York state must reject 'clean energy' plants that defy the term. Op-ed, Times Herald-Record, Middletown, NY. 7-25-12

Booth, M. and G. Clark. Don't contaminate concept of clean energy. Op-ed, Albany Times Union, NY. 7-16-2012

Booth, M. and G. Clark. Cookstoves, power plants, and Sen. Susan Collins. Lewiston Sun Journal, ME. 6-24-2012.

Pohlman, L., M. Booth, and J. Pew. Sen. Collins' toxic legislation. Op-ed, Bangor Daily News, Maine. 3-25-2012

Booth, M. Burning our forests – a climate mistake. Op-ed, Times Argus, VT. 2-26-2012

Booth, M. and R. Wiles. Destroying forests for no gain. Op-ed, Boston Globe, 1-30-2011.

Booth, M. Review of the Manomet Biomass Sustainability and Carbon Policy Study. For the Clean Air Task Force, Boston, MA. July, 2010.

Booth, M. and R. Wiles. Clearcut disaster: carbon loophole threatens U.S. forests. Environmental Working Group, Washington, D.C. April, 2010.

Booth, M. and A. Dawson. Studying the numbers on biomass. Op-ed, Daily Hamp. Gazette, 5-1-2009.

Booth, M. A red flag on green energy plan. Op-ed, Boston Globe, 5-25-2009.

ANALYSES FOR PARTNER ENVIRONMENTAL GROUPS

Center for Biological Diversity, et al. Served as expert witness in Case No. 11-1101, Center for Biological Diversity et al v. EPA, April, 2013.

Natural Resources Defense Council. Provided technical analysis for comments on EPA deferral of regulation for biogenic carbon.

Atty. Dave Bricklin, Esq. Provided review and input for comments on air permit for 65 MW Adage biomass facility in Shelton, WA.

Atty. Mick Harrison, Esq. Served as expert witness for citizen group challenge to air permit for the proposed 116 MW Gainesville Renewable Energy Center, LLC biomass plant, before the Florida Department of Environmental Protection.

Center for Biological Diversity. Provided analysis of carbon emissions from proposed Buena Vista biomass plant, California.

Southern Environmental Law Center. Commissioned to conduct critical review of "The near-term market and greenhouse gas implications of forest biomass utilization in the Southeastern United States" for inclusion with SELC comments on EPA's inclusion of biogenic emissions under the Tailoring Rule

Clean Air Task Force. Compiled information on biomass industry and projected carbon emissions for inclusion in CATF's comments on EPA's inclusion of biogenic C under the Tailoring Rule

Clean Air Task Force. Compiled information on biomass pollutant emissions for inclusion in CATF's comments on EPA's proposed "boiler" and "waste" rules.

Clean Air Task Force. Commissioned to conduct review of the Manomet Center's "Biomass Sustainability and Carbon Policy Study".

COMMENTS AND IMPACT ANALYSES

Testimony (with Project for Energy Accountability) to Connecticut legislature on "An Act Concerning Connecticut's Clean Energy Goals". 3-19-2013.

Comments to Massachusetts Department of Environmental Protection, on proposed modifications to Massachusetts Solid Waste Management Plan. 2-25-2013.

Comments (with Greenlaw) on draft minor source air quality permit for Green Energy Partners biomass plant to be built in Lithonia, GA. 12-26-2012

Comments to UK Environmental Authority on Peel Energy's Barton Renewable Energy Facility, Manchester, UK. 10-15-2012.

Comments to Vermont Air Pollution Control Division on Draft Air Permit for North Springfield Sustainable Energy Project, North Springfield, Vermont. 9-10-2012

Comments to Vermont Air Pollution Control Division providing critique of INRS biomass availability studies for Beaver and Winstanley biomass facilities in Vermont. 9-9-2012.

Comments to United States Environmental Protection Agency on Science Advisory Panel review of biogenic carbon accounting framework. Various dates in 2012.

Comments to Georgia Environmental Protection Division, on draft air permit for North Star Energy Facility, Wadley, GA. 3-23-2012.

Comments (with Neighbors for Clean Air), on Southern Renewable Energy Allendale biomass plant, Allendale, SC. 6-21-2011.

Comments to New York State Public Service Commission on Case No. 12-E-0149 / 03-E-0188 Verified Petition of Niagara Generation, LLC for Rulemaking to allow for up to ten percent glued wood within clean MRF fuel to be eligible for use as biomass fuel in the Renewable Portfolio Program 6-18-2012

Comments to Vermont Air Pollution Control Division on Draft Air Permit for Beaver Wood Energy, Fair Haven, VT. 10-16-2011.

Comments (with Center for Biological Diversity, Clean Air Task Force, et al) on "Deferral for CO₂ emissions from bioenergy and other biogenic sources under the Prevention of Significant Deterioration (PSD) and Title V programs". 76 Fed. Reg. 15,249 (March 21, 2011).

Comment (with Dr. Bill Moomaw) on NEPA review of Nippon Paper Industries Cogeneration project in Port Angeles, WA. April 18, 2011.

Comment on role of biomass in a "Clean Energy Standard" as proposed by Sens. Bingaman and Murkowski. April 11, 2011.

Comments on air permit for Palmer Renewable Energy plant in Springfield, MA. April 5, 2011.

Comments (with Biomass Accountability Project) on air permit for 23 MW Hu Honua biomass plant proposed for Pepe'ekeo, Hawaii. March 21, 2011.

Comments (with Biomass Accountability Project) on air permit for 55 MW We Energies/Domtar plant proposed for Rothschild, WI. March 4, 2011.

Letter (with Dr. Bill Moomaw) to Senator Bernie Sanders on biomass and wood-pellet build-out in Vermont, and implications for forest cutting. February 15, 2011.

Letter on role of bioenergy in New York State Climate Action Plan, and implications for net carbon emissions from the energy sector. February 7, 2011.

Letter (with Bill Moomaw, Tim Searchinger, and Mark Harmon) to Washington State Legislature on inadequacies of biogenic carbon accounting approach advocated by WA State DNR. February 2, 2011.

Letter on carbon implications of draft sustainability standard for biomass harvesting under Regional Greenhouse Gas Initiative mandate (to New York Department of Environmental Conservation).

Review of inadequacy of plans for sorting and contamination testing of construction and demolition waste as fuel for the 28 MW Palmer Renewable Energy facility in Springfield, MA. (to Massachusetts Executive Office of Energy and Environmental Affairs)

Review of impacts from proposed 47 MW Pioneer Renewable Energy biomass plant in Greenfield, MA (to Massachusetts Executive Office of Energy and Environmental Affairs)

Review of air permit for proposed 50 MW Russell Biomass plant, identifying flaws in emissions estimates (to Massachusetts Executive Office of Energy and Environmental Affairs).

Review of Russell Biomass water withdrawal permit, identifying flaw in low-flow estimates and linking changes in flow regimes to climate (to Massachusetts Executive Office of Energy and Environmental Affairs).