



State of West Virginia  
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The Honorable Tom Carper  
Chairman  
Environment and Public Works Committee  
United States Senate  
513 Hart Senate Office Building  
Washington, DC 20510

The Honorable Shelley Moore Capito  
Ranking Member  
Environment and Public Works Committee  
United States Senate  
172 Hart Senate Office Building  
Washington, DC 20510

Re: Nomination of Janet Gaven McCabe to be Deputy Administrator of the  
Environmental Protection Agency

Dear Chairman Carper and Senator Capito:

I write to you regarding your committee's consideration of President Biden's nomination of Janet Gaven McCabe to be Deputy Administrator of the Environmental Protection Agency. First, thank you for your leadership in conducting a thoughtful and informative hearing earlier this week that drove to the heart of the choice facing the Senate regarding this important nomination.

Ms. McCabe has twice been nominated for an important position at EPA, once by President Obama when the Senate was led by Senator Harry Reid, and again by President Obama when the Senate was led by Senator McConnell. In each case, the result was the same—her nomination was not confirmed and was returned to the President at the close of each Congress. These were the correct decisions. Her prior nominations were rightly not confirmed because Ms. McCabe was a key architect of the Clean Power Plan. For that same reason and many more, I am urging the Senate to once again not confirm Ms. McCabe.

The Clean Power Plan was fundamentally wrong on policy, wrong on process, and wrong on the law, which is why West Virginia led the 27-State coalition challenging it in court, where we obtained an extraordinary and unprecedented stay by the Supreme Court. It is critical for the

Senate to reject the Clean Power Plan by once again not confirming the nomination of Ms. McCabe to a key position at EPA. This isn't personal. It isn't about politics. There is a right and wrong path, and a bipartisan rejection of this nomination is one of the ways that we can steer the right course going forward rather than return to the mistakes of the past.

The Clean Power Plan's missteps were recognized by members of both parties inside and out of the Senate. Indeed, opposing the Clean Power Plan is one of the issues where Senator Joe Manchin and I have worked together, as he joined a brief supporting our litigation against the Clean Power Plan. We had red States and blue States join as well.

Unfortunately, Ms. McCabe and other architects of the Clean Power Plan succumbed to the allure of creating some jobs at the expense of many others, and that climate regulation can be used as a vehicle to achieve social and economic change as an end in and of itself. Otherwise, it is hard to understand why the Clean Power Plan tried to single-mindedly push America down the zero-emission path, even though that is the road to the destruction of not just West Virginia but the rest of the country as well—and even other natural resource rich countries around the world.

The reality is that climate change is not an economic opportunity. It should not become a tool to achieve radical change. Instead, climate change is a test. There is a right way to make decisions—through the rule of law and careful consideration of the many facets of this issue and its consequences for us all. The architects of the Clean Power Plan failed the test because they picked the wrong path, employed the wrong process, and flouted the law. We must do better. Because Ms. McCabe's nomination represents all of the failures and divisiveness of the Clean Power Plan, I respectfully and strongly urge your committee and the Senate to reject her third nomination to a key position at EPA.

Sincerely,



Patrick Morrissey  
West Virginia Attorney General

cc: The Honorable Charles Schumer  
Democratic Leader  
The Honorable Mitch McConnell  
Republican Leader  
The Honorable Benjamin Cardin  
The Honorable Bernard Sanders  
The Honorable Sheldon Whitehouse  
The Honorable Jeff Merkley  
The Honorable Edward Markey  
The Honorable Tammy Duckworth  
The Honorable Debbie Stabenow

The Honorable Mark Kelly  
The Honorable Alex Padilla  
The Honorable James Inhofe  
The Honorable Kevin Cramer  
The Honorable Cynthia Lummis  
The Honorable Richard Shelby  
The Honorable John Boozman  
The Honorable Roger Wicker  
The Honorable Dan Sullivan  
The Honorable Joni Ernst  
The Honorable Lindsey Graham