

Center for Regulatory Effectiveness

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April 16, 2015

The Honorable Dr. Ernest Moniz
U.S. Secretary of Energy
U.S. Department of Energy
1000 Independence Ave., SW
Washington, DC 20585

Dear Secretary Moniz:

I am writing you to express my opinion that the precedent setting work your agency is performing on CCS (Carbon Capture and Storage) will be undermined if CCS is mandated as a regulatory requirement in EPA's NSPS for coal fired plants.

I make this statement because CCS will be the focal point of subsequent litigation during which time CCS will be criticized and the resultant record will discourage adoption of the CCS technology by the regulated community notwithstanding the laudable advances that are underway but have not yet advanced to the stage of a universal technology.

To this end my concern is heightened when I read the comprehensive, and recently issued report, of the DOE FACA advisory body, the National Coal Council, in which it concluded:

"CCS does not yet meet this best system of emission reduction (BSER) standard, because it has not yet been adequately demonstrated."

As I have communicated to the Administrator of EPA, the preferred method for allowing the Administration to proceed with its climate change program and at the same time provide an environment which will permit CCS to continue to evolve as a control technology is for EPA to:

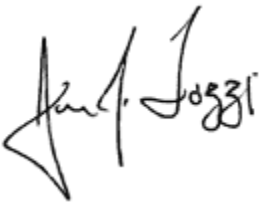
- Issue an interim regulation requiring the best available control technology presently in existence at coal fire plants exclusive of CCS and
- Initiate the objective analysis of CCS mandated by both OMB and EPA's peer review guidelines which were issued pursuant to the Data Quality Act and then modify, if

needed, the aforementioned interim rule. One alternative to be examined in detail is the possibility of mandating CCS Ready in lieu of CCS.

Failure to adopt the aforementioned recommendation could result in litigation based upon a marriage of the Mandamus and Data Quality Acts as set forth in the attached [document](http://thecre.com/pdf/Mandamus-DQA.pdf). (<http://thecre.com/pdf/Mandamus-DQA.pdf>) A loss in court would not only set back the US program to control GHG emissions but would also jeopardize comparable programs throughout the world. Any option chosen other than that identified above should have demonstrably higher benefits.

As the cabinet member vested with the responsibility for ensuring an adequate and dependable source of energy we understand that you will continue to be involved with this matter by keeping the Administrator of EPA advised of your views on the availability of CCS.

Respectfully,

A handwritten signature in black ink, appearing to read "Jim Tozzi". The signature is stylized with a large, sweeping initial "J" and "T".

Jim Tozzi

Center for Regulatory Effectiveness

cc: Honorable Shaun Donovan: Director, Office of Management and Budget
Honorable Regina McCarthy: Administrator, Environmental Protection Agency