10th Amendment States' Rights Environmentalism and Regulatory Uncertainty – What Really Happens When Some States and Polluting Industries Actually Get What They Asked For

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Presentation to
AWMA/ELS Joint Environmental Conference
Lansing, MI – November 8, 2017

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POLICIES DRIVE MARKETS and TECHNOLOGICAL INNOVATIONS CAN CHANGE THE WORLD

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Targeted Policies and Technological Innovations Are Driving Fundamental Changes in the Electric Power Markets.

ELPC drives policies that shift markets and help align economics, which in combination with technological innovations, can achieve powerful environmental solutions.

“You Can’t Always Get What You Want, But……”

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1. Will *AEP* Be Opened Up If US EPA Rollbacks or Sits On the Clean Power Plan following *Mass. v. EPA* (2007)?

2. *Sebelius* (Affordable Care Act case) puts Congress’ powers to legislate under the Commerce Clause at lower point since *Lochner*. Creates more room for states. Dormant Commerce Clause is other side of the coin.

“You Can’t Always Get What You Want”… And There’s More!

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3. Federal Preemption is limited by the 10th Amendment. *FERC v. Mississippi* probably would be decided differently today in light of *SWANCC, Lopez, Morrison, Sebelius.* “Traditional areas of state regulation”: Land use, Utility regulation, traffic safety (AV policies?)

4. FERC, Federal Power Act, RTOs v. State Roles: Coal/Nuke Subsidies, Transmission, RPS – Who decides what? *Hughes, EPSA*

THREE GAME CHANGING ELECTRICITY MARKET DRIVERS

1. **Energy Efficiency Is Driving Down Electricity Sales and Demand.**

2. **Renewable Energy – Wind Power and Solar Energy + Storage – Are Zero Fuel Cost, Zero Pollution, Scalable, Decentralized Disruptive Technologies.**

3. **Shale Gas Outcompetes Coal and Nuclear Power Generation.**

MIDWEST ELECTRIC POWER MARKET TRANSFORMATION

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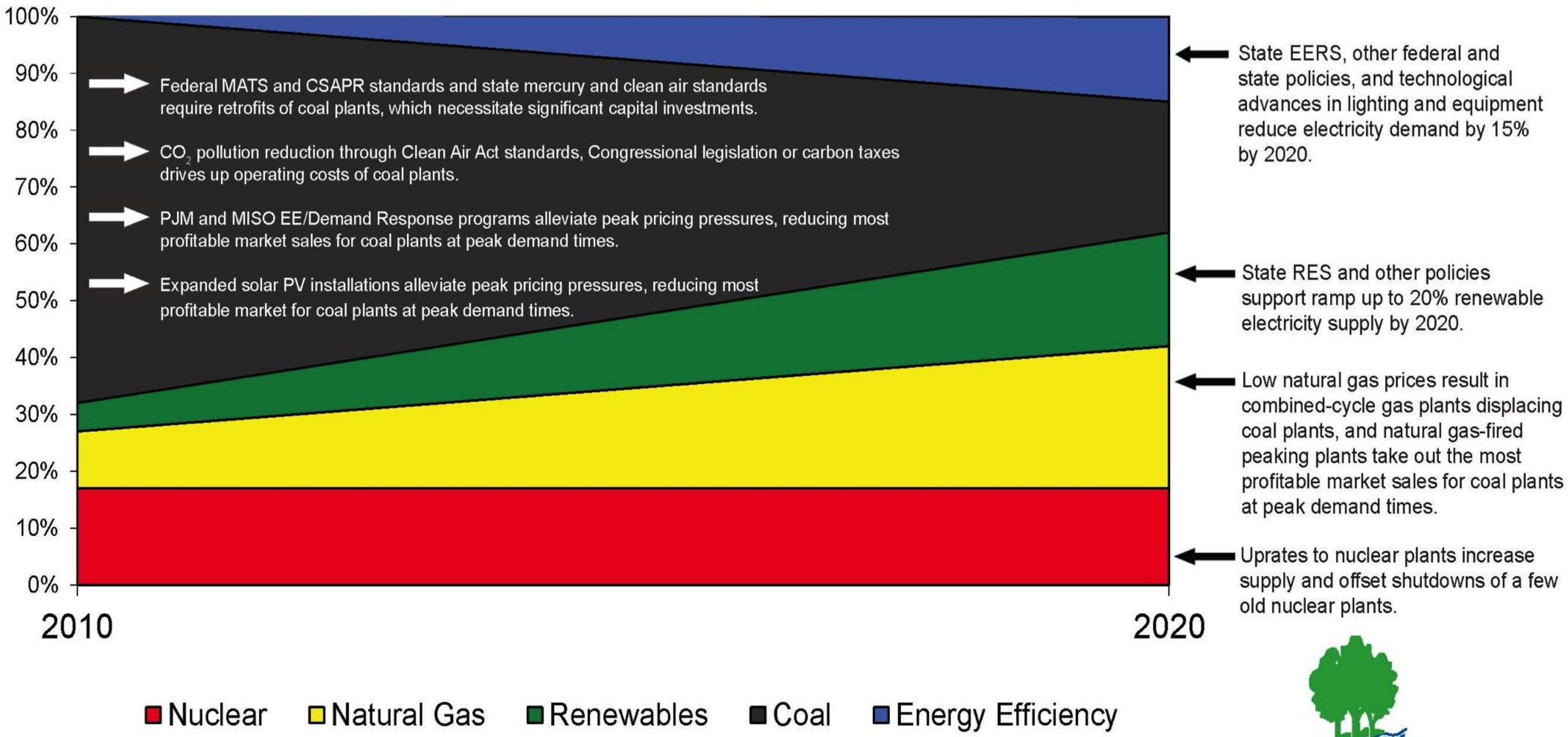
Cleaning Up the Midwest's Electricity Sector:

Developing Clean Energy and Reducing CO_2 Pollution



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ELECTRICITY SALES AND DEMAND ARE DECLINING DUE TO EFFICIENCY

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<u>Negative</u> 0.5 - 1.0% annual is new reality (e.g., AEP, ComEd, DTE, Xcel) even though economy growing and utilities are adding new customers. Flat/declining sales reality has <u>not</u> been internalized by PUCs, policymakers, analysts, others.

Energy efficiency is working. All new and replacement lighting, appliances, HVAC, pumps, motors more EE.

PJM now forecasts flat load growth through 2032. Still too high. Saying negative would be totally disruptive.

LEDs, Solar + Storage coming in will reduce utilities' sales. Greatly offsets EVs – even with off-peak charging.

LED LIGHTING: RAPID MARKET PENETRATION

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Total U.S. LED Forecast Results

Year	2015	2020	2025	2030	Cumulative
LED Market Share	11%	48%	72%	84%	-
Site Electricity Savings (TWH)	12	89	190	261	2216
Site Electricity Savings (%)	2%	15%	30%	40%	20%

LED Market Penetration Forecast by Sector

Sector	2015	2020	2025	2030`
Residential	3%	33%	71%	83%
Commercial	8%	42%	69%	82%

MIDWEST WIND POWER DEVELOPMENT SOARS AND MORE

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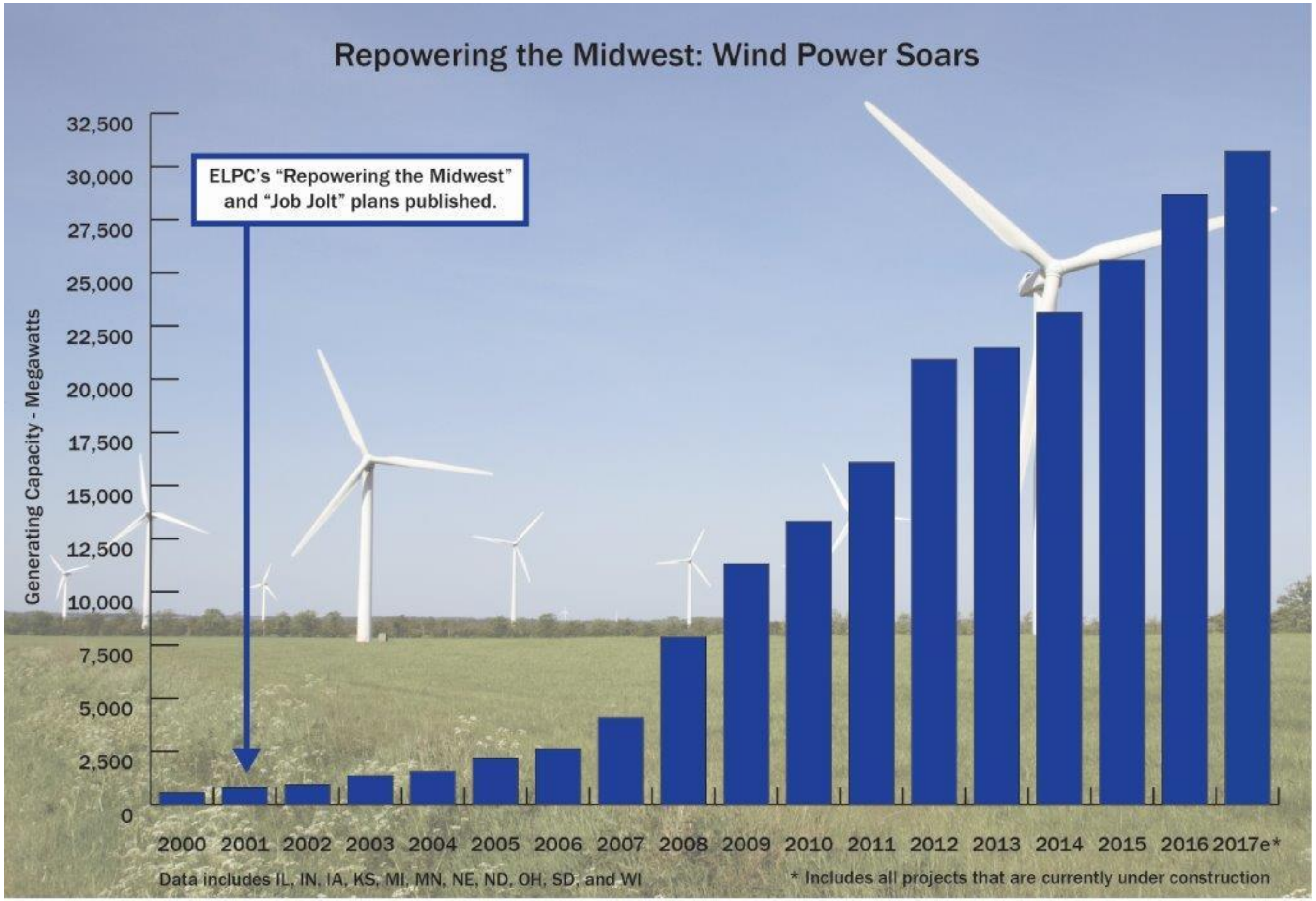

U.S. SOLAR ENERGY DEVELOPMENT SOARS

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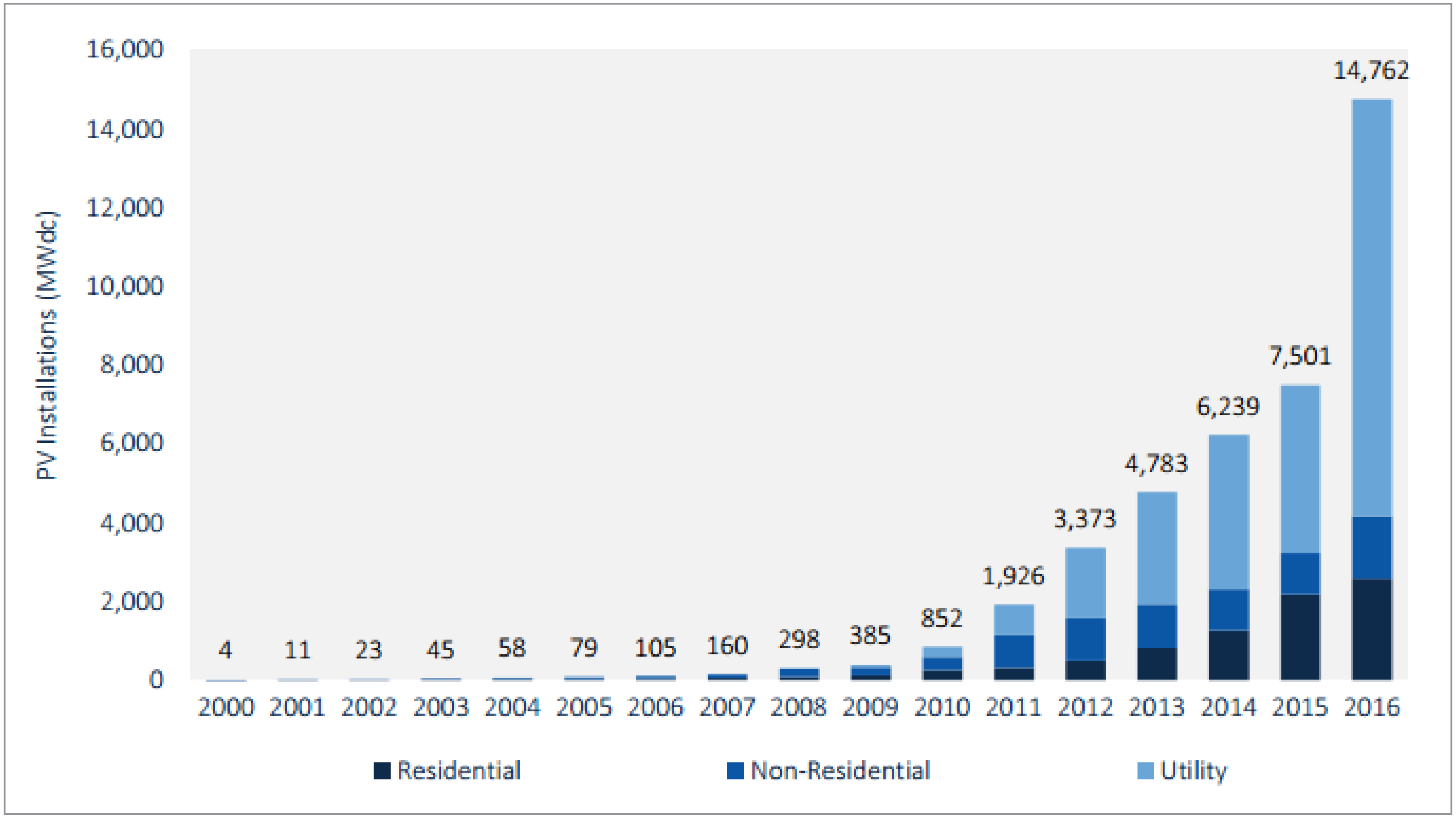
Figure 1.1 Annual U.S. Solar PV Installations, 2000-2016



SOLAR PANEL PRICES < 40 ¢ per watt
INSTALLED BIDS < (US) $1 per watt

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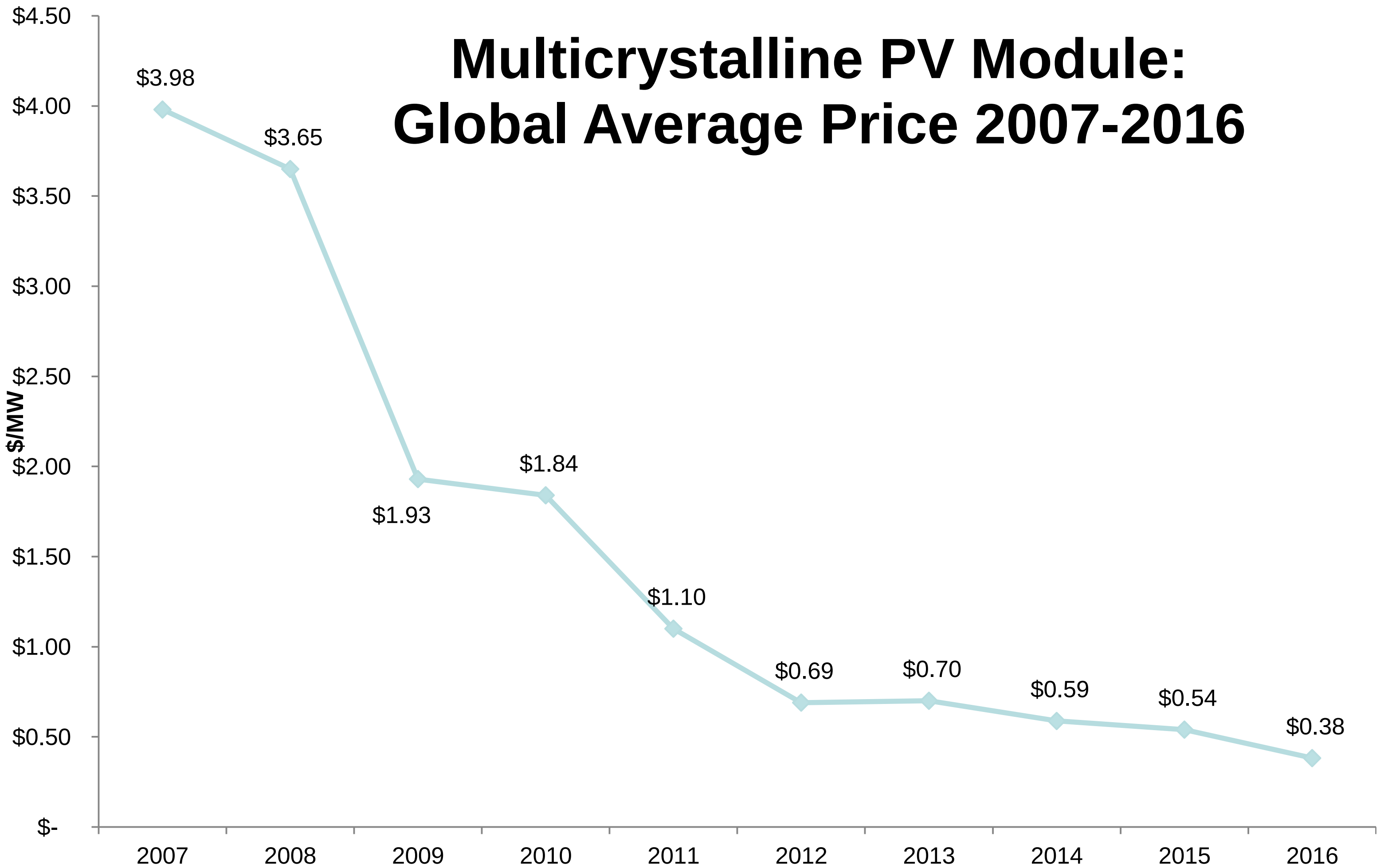

MYTH #1: COAL WILL STILL RUN & MUCH IS NEEDED

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NOT TRUE (unless natural gas prices soar)

50% of coal shut down already in Midwest. Much of the rest is on the bubble.

MISO auction price drops ($1.50/MW-day across footprint) even though coal plants have retired. PJM: no load growth thru 2032.

Energy efficiency is working. LEDs, Solar + Energy Storage coming in.

Supply greatly exceeds demand in the power market. Economics 101.

MYTH #2: ALL NUCLEAR POWER PLANTS ARE NEEDED AND ECONOMICALLY COMPETITIVE

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NOT TRUE (unless even newer technology emerges that is economic, and there is an HLW solution)

Vogtle (GA) and VC Summer (SC), the first new nuclear plants built since 1979, are financial disasters. Westinghouse is in bankruptcy; Toshiba now verging.

Existing nuclear plants: some are economic, some are not. Market is shaking out with some early retirements.

Because some nuclear plants are economically uncompetitive, the plant owners are seeking huge out-of-market public subsidies in CT, IL, NJ, NY, OH, PA.

Night-time wind & day-time solar + storage beat and eat most nuclear power plants for lunch and dinner.

MYTH #3: CLEAN POWER PLAN IS VITAL FOR GHG POLLUTION REDUCTION IN UNITED STATES

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NOT TRUE. CPP important, but not market driver

Most Midwest states largely complied with 2030 carbon pollution reduction requirements by the end of 2016. 14 years ahead!

Around 30 states in that position.

Goal: Protect endangerment finding and make EPA do a <u>better</u> plan if ditches CPP.

Clean Power Plan <u>is</u> very important for United States credibility in advancing global progress.

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The Environmental Law & Policy Center is the Midwest's leading environmental legal advocacy and eco-business innovation organization.

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