Congress of the United States
Washington, DC 20515

June 15, 2026

The Honorable Christopher Wright
Secretary
U.S. Department of Energy
1000 Independence Avenue, SW
Washington, DC 20585

Dear Secretary Wright:

American families are already struggling to afford to keep the lights on. They deserve a Department of Energy (DOE or the Department) that is actually focused on affordability, lowering their costs, and following the law—meaning spending every taxpayer dollar Congress provides to do just that. In the Infrastructure Investment and Jobs Act (IIJA; P.L. 117–58), Congress provided funding to cut pollution and lower energy costs, which DOE is now diverting to instead subsidize big coal's uneconomic power plants, raising costs for families. The Department's plan to repurpose $350 million in dedicated carbon capture funding to restart and recommission coal-fired power plants is a misuse of public funds and a violation of Federal law. No administration has the power to take funds Congress provided for one purpose and spend them on another.

We write specifically regarding the Department's selection of awards under its Notice of Funding Opportunity, DE-FOA-0003605, "Restoring Reliability: Coal Recommissioning and Modernization," which DOE publicly announced on June 4, 2026, and described to the Committees on Appropriations in Congressional notifications dated April 8, 2026 (NETL #26-13) and May 7, 2026 (NETL #26-19). Those notifications indicate the Department intends to obligate $350 million in carbon capture funds provided in the IIJA to sustain aging coal-fired power plants with these awards, even though those funds were appropriated for carbon capture pilot and demonstration projects, and the selected activities do not align with that purpose. The funds are therefore not legally available to be spent on these awards, and any obligation or expenditure of the funds for these purposes violates the Antideficiency Act. The Department must immediately desist from obligating funds for these projects, provide a complete response to this letter, and begin complying with the law.

We have raised our concerns repeatedly since the Department first announced this initiative in late September 2025. After more than eight months of correspondence, DOE has not provided the Committees a single legal justification that withstands scrutiny. To the contrary, the Department has acknowledged in writing that its solicitations "were not fully clear" and has amended them after the fact, in an attempt to address the very defects we first identified. Those changes do not cure the problem—they confirm it.

Congress appropriated these funds for carbon capture pilot and demonstration projects.
The $350 million is drawn from two IIJA programs: the Carbon Capture Demonstration Projects Program and the Carbon Capture Large-Scale Pilot Projects Program. These are not general-purpose coal accounts. The funds are made available for "a carbon capture technology program for the development of transformational technologies that will significantly improve the efficiency,

effectiveness, costs, emissions reductions, and environmental performance of coal and natural gas use, including in manufacturing and industrial facilities" (Section 962(b) of the Energy Policy Act of 2005). The statute clearly states that these are funds to demonstrate and pilot carbon capture technologies. Any plant that is awarded funds under this program is required to integrate carbon capture technologies that achieve emissions reductions.

DOE selected projects that do not align with the purpose of these appropriated funds.
By DOE's own description, the selected awards fund the construction, commissioning, recommissioning, overhaul, and restart of coal-fired power plants—not the demonstration of carbon capture technology. The aforementioned notifications that the Committees received state that "[p]rojects may be staged so that near-term reliability upgrades are federally cost-shared without requiring immediate carbon capture, utilization, and storage installation." The Department plainly intends to use carbon capture appropriations for activities it concedes do not include carbon capture.

DOE's own published project descriptions make as much clear. For two of the awards, the Department describes the primary objective to be modernizing an existing coal plant "to ensure continued operation" in one and restarting a plant through "routine maintenance and repairs" in the other. Carbon capture is an afterthought, and only as a study. The first description states it "includes a carbon capture and utilization system front-end engineering design study;" the second states it "will also assess the feasibility of adding a carbon capture, utilization, and storage component." The Department is clear—Federal funds are being used to restart coal plants, and at most, carbon capture would be studied. The two remaining awards, which fund new-build concepts described as having "integrated" capture, likewise only underwrite scoping, design, and viability-assessment work, not the construction or operation of any capture technology. None of the four award notifications include any demonstration or large-scale piloting of the carbon capture technologies that these appropriations were specifically provided for by Congress, consistent with the law.

DOE has conceded that the original solicitations did not require carbon capture at all. The Department amended the Broad Agency Announcement on October 30, 2025, and the related Notice of Funding Opportunity on January 6, 2026, to add carbon capture "as a requirement," explaining that the solicitations "were not fully clear." Further, DOE told applicants the opposite of what it now tells Congress. The amended Notice of Funding Opportunity states, "Federal funds will be tied to pilot or demonstration outcomes, with non-CCUS reliability work covered through recipient cost share." The Congressional notifications state that near-term reliability upgrades will be "federally cost-shared without requiring immediate" carbon capture. These statements are irreconcilable, and nothing the Department has said changes that the purpose of these funds is to demonstrate and pilot carbon capture technologies.

Obligating these funds would violate the Purpose Statute and the Antideficiency Act.
The Purpose Statute provides that appropriations "shall be applied only to the objects for which the appropriations were made except as otherwise provided by law." Funds appropriated for carbon capture demonstration projects and large-scale carbon capture pilots are not available to restart and rehabilitate coal power plants unless the coal plants will only use the funds to carry out a carbon

capture demonstration or pilot project. The Department has not identified any other legally available funds to cover these awards, meaning any resulting obligations would exceed the amounts available for the purpose and therefore violate the Antideficiency Act, which bars obligating or expending funds in excess of, or in advance of, available appropriations.

Requested actions and information.
Given likely violations of the Purpose Statute and the Antideficiency Act, we demand that the Department refrain from obligating any funds under the DE-FOA-0003605 selections until it can demonstrate that these funds would be obligated lawfully. To evaluate the legality of these awards before funds are obligated, we request that no later than August 7, 2026, the Department:

1. Provide the written legal opinion of the Office of the General Counsel analyzing the availability of Carbon Capture Demonstration Projects and Carbon Capture Large-Scale Pilot Projects appropriations for each selected award, including the specific statutory authority relied upon;

2. For each award, provide the amount of Federal funds budgeted for project phases prior to the incorporation of carbon capture, utilization, and storage, broken out by phase;

3. Reconcile the contradiction between the Notice of Funding Opportunity (non-CCUS reliability work covered through recipient cost share) and the Congressional notifications (near-term reliability upgrades federally cost-shared without immediate CCUS);

4. Identify, for each award, the appropriation account, program, and fiscal year of every dollar to be obligated; and

5. Provide all records relating to the competitive process for these selections, including the evaluation and selection criteria applied and how they were satisfied.

Congress provided this money to develop technology that makes energy cleaner and cheaper in the long run — not to subsidize big coal and force families to foot the bill. When an Administration takes funds Congress provided for one purpose and spends them on another, it breaks the law and betrays public trust. We expect the Department to follow the law and answer for its decision-making expeditiously.

Sincerely,

Marcy Kaptur
Ranking Member, Subcommittee on Energy and Water Development
House Committee on Appropriations

Patty Murray
Ranking Member, Subcommittee on Energy and Water Development
Senate Committee on Appropriations