

Congress of the United States
Washington, DC 20515

June 23, 2009

The Honorable Lisa Jackson
Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

Administrator Jackson:

We would like to reiterate our request that the Environmental Protection Agency (EPA) reopen the comment period on its Proposed Endangerment and Cause and Contribute Findings for Greenhouse Gases under the Clean Air Act ("Proposed Endangerment Findings").¹

In a previous letter dated June 8, 2009, we argued that the 60 day comment period was inadequate for a rule of such magnitude.² While we acknowledge and appreciate your prompt response to that letter, we stand by our initial argument. Further, new evidence strengthens the need for continued examination of EPA's proposed endangerment finding.

Our Committees recently obtained a series of emails, dated March 12-17, 2009, between the Office Director of EPA's National Center for Environmental Economics (NCEE) and a career senior analyst. In these emails, the Director expressly refused to include relevant scientific evidence because, in his view, the Administration had already reached a conclusion regarding the endangerment finding.

On March 16, a senior analyst with EPA reiterated his request that his comments be included in EPA's record for the proposed endangerment finding. The analyst wrote:

"I believe my comments are valid, significant, and contain references to significant new research since the cut-off for IPCC [Intergovernmental Panel on Climate Change] and CCSP [U.S. Climate Change Science Program] inputs. They are significant because they present information critical to the justification (or lack thereof) for the proposed endangerment finding. They are valid because they explain much of the observational data that have been collected which cannot be explained by the IPCC models."³

In response, the Director refused to forward the analyst's comments, stating that he could "only see one impact of [the] comments given where we are in the process, and that would be a very negative impact on our office."⁴ He never questioned the scientific merit of the proposed studies, but rather explained that "[t]he administrator and administration has decided to move forward on endangerment, and your comments do not help the legal or policy case for this decision."⁵

¹ Proposed Endangerment and Cause and Contribute Findings for Greenhouse Gases under the Clean Air Act, 74 Fed. Reg. 18886 (April 24, 2009).

² Letter from Congressmen Issa, Barton, Mica, Hall, Sensenbrenner, Hastings, Lewis, Ryan, Lucas, and Upton to the Honorable Lisa Jackson, Administrator, Environmental Protection Agency, March 12, 2009.

³ Email from Senior Operations Research Analyst, EPA NCEE to Office Director, EPA NCEE, March 16, 2009.

⁴ Email from Office Director of EPA's NCEE to Senior Operations Research Analyst at NCEE (March 17, 2009) (emphasis added).

⁵ *Id.*

The Director then sent a follow-up email, forbidding the analyst from continuing his work: “[y]ou need to move on to other issues and subjects. I don’t want you to spend any additional EPA time on climate change. No papers, no research etc.”⁶

This email exchange portrays an agency culture set in a predetermined course. It documents at least one instance in which the public was denied access to significant scientific literature and raises substantial questions about what additional evidence may have been suppressed. Were other documents barred from the record? What arguments were never raised because of a culture intolerant of divergent points of view?

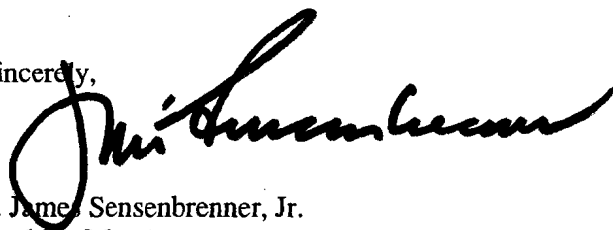
In light of this new evidence, we ask that the comment period be reopened to include the EPA analyst’s scientific comments. We further ask that you provide the House Select Committee on Energy Independence and Global Warming and the House Committee on Oversight and Government Reform with all documents, including memos, email correspondence, and minutes from meetings related to EPA’s consideration of its Endangerment Finding dated from January 20, 2009 to June 1, 2009. Please provide these documents to the minority offices of our Committees by July 21, 2009.

EPA’s Endangerment Finding is one of the most significant regulatory finding in the country’s history. It would give EPA unprecedented authority to regulate every aspect of American life. It is truly alarming that EPA apparently prejudged this outcome and then moved forward on an incomplete record.

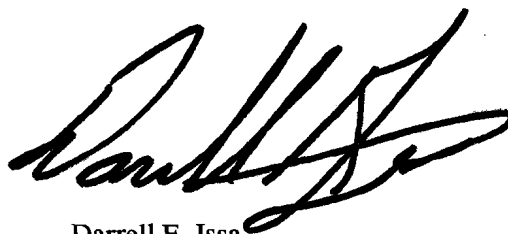
We respectfully request that EPA make public the relevant studies by entering them into the endangerment docket. We further request that EPA reopen and extend the comment period to allow public responses to the study. We also request that EPA provide our Committees with reassurance that it will engage in no reprisals against the senior analyst, who has been a loyal career civil servant for over 35 years.

If you have any questions, or to coordinate document delivery, please contact Bart Forsyth with the Select Committee at (202) 225-0110 or Kristina Moore with the Committee on Oversight and Government Reform at (202) 226-6080.

Sincerely,



F. James Sensenbrenner, Jr.
Ranking Member
Select Committee on
Energy Independence and Global Warming



Darrell E. Issa
Ranking Member
Committee on Oversight and
Government Reform

⁶ *Id.*