

Taking EPA global warming rules to court

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Acting as the "bad cop" in the Obama administration's unprecedented move to put the entire nation under an internationally mandated regime, the U.S. Environmental Protection Agency has promulgated a so-called "Endangerment Finding" that carbon dioxide is a pollutant harmful to humans and the environment. The resulting regulatory mandates, reported to be more than 600 pages long, will stagger the imagination and cripple American commerce and industry.

The "good cop," by the way, is the Waxman-Markey cap-and-trade (read, cap-and-tax) bill and its kindred making their way through Congress. If you don't like cap and trade, so goes the cynical strategy of the administration, then you'll really hate the EPA.

Enter the courts. Southeastern Legal Foundation, which has never shied away from controversial constitutional matters (the 2000 census, McCain-Feingold and President Clinton's law license), has filed both a Petition for Reconsideration with the EPA and, this week, a Petition for Judicial Review with the U.S. Court of Appeals for the District of Columbia, challenging EPA Administrator Lisa Jackson's effort to "regulate" carbon dioxide as a "pollutant" under the Clean Air Act.

More than a dozen U.S. representatives and nearly two dozen associations and companies represented by our group share the view that the EPA failed to properly consider relevant science before making its Endangerment Finding. The group will argue that the EPA's reliance on flawed and questionable science was arbitrary and capricious and that the administrator did not exercise proper and independent judgment in making the Endangerment Finding.

What American taxpayers, consumers and employers are facing is a threatening combination of interests that want a new carbon regime. There are many vested interests hoping to reap the profits of doom. Scientists need grants; when they make a loud enough noise, they get those grants -- and in the case of global warming, there are billions of dollars at stake.

Grant-seeking scientists combine with loud cries for "climate justice" coming from many developing nations. Recent Copenhagen pronouncements by nations like Sudan, essentially

demanding "cash for warming" extortion dollars from the developed nations, make clear that global interests (read, the United Nations) see the U.S. as a piggy bank.

Finally, the pro-global warming camp rounds out with various financial institutions, some with ties to Al Gore, that stand to make billions in so-called "carbon trading" between "polluters" and those with carbon "credits."

But the science is ultimately what should carry the day for public policy on climate change. With huge vested interests pursuing a globalist agenda, it's been a Galileo-like effort to make the "skeptic" view known to the American people. Yet we are winning.

Though about \$300 million is being spent to promote global warming alarmism, less than half the American people still believe it. This continues a decade-long trend of rising public skepticism as the fraudulent claims that the science was "settled" have disintegrated.

Thankfully, common sense and outrage are not the only checks available against overreaching government power. Even a formidable bureaucracy like the EPA must abide by the law, and its decisions must bear a rational relation to the evidence.

Ultimately, it is the courts that provide the final check and balance to curtail the irrational excesses of the legislative and executive branches. Can the courts restrain the anti-scientific juggernaut exemplified by the EPA's "Endangerment Finding"? That is the trillion-dollar question.