

September 21, 2010

U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460

Re: *Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act*, 74 Fed. Reg. 66,496 (Dec. 12, 2009); *EPA's Denial of the Petitions To Reconsider the Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act*, 75 Fed. Reg. 49,556 (Aug. 13, 2010)

Docket No. EPA-HQ-OAR-2009-0171

VIA ELECTRONIC MAIL TO: [ghgendangerment@epa.gov](mailto:ghgendangerment@epa.gov); [GHG-Endangerment-Docket@epa.gov](mailto:GHG-Endangerment-Docket@epa.gov)

Dear Ladies and Gentlemen:

We all filed petitions with EPA seeking reconsideration of EPA's Endangerment Finding based on material released from the website of the Climatic Research Unit of the University of East Anglia, the so-called "climategate" material. In denying our petitions, EPA relied on new information that was not available to us at the time we filed our petitions for reconsideration and, of course, not available to the public prior to the expiration of the comment period on the proposed Endangerment Finding.

This new information includes inquiry reports of several entities that undertook to review some aspect or ramification of climategate and the IPCC Fourth Assessment Report. See the reports included in EPA's August 13, 2010 submission in this docket termed "Recent Inquiries and Investigations of the CRU E-mails and the IPCC Fourth Assessment Report." EPA says that these inquiry reports are "referred to throughout" the decision denying the reconsideration petitions. See 75 Fed. Reg. at 49,557 n.3. EPA also submitted in the docket on August 13, 2010 a very large amount of new information, much of which was also unavailable to us at the time we filed our petitions for reconsideration and therefore to the public during the comment period on the proposed Endangerment Finding.

We think it was improper for EPA to deny the petitions for reconsideration based on material not available at the time the petitions were filed, and we will make that argument at the appropriate time in the appeals of EPA's denial of the petitions. In addition, so that there can be a complete record at EPA as to the inquiry reports on climategate and the IPCC, we are submitting two papers that examine the inquiry reports. As shown in these two papers, EPA mischaracterized the conclusions reached by these reports, and some of the underlying reports are not based on the type of investigatory procedures that would meet scientific process standards to which EPA is subject.

In our petitions for reconsideration, we argued that the fact that these inquiries were undertaken showed that significant questions exist as to the reliability of the work of the IPCC and that EPA, therefore, should undertake its own further review of the procedures the IPCC used to guarantee the reliability of its output. Instead of undertaking its own review, EPA has relied on other reviews that do not meet U.S. standards. But this has been the problem all along with EPA's approach to the Endangerment Finding—reliance on third party science assessments without the application of EPA's own judgment based on the use procedure that meets U.S. standards.

We reserve all rights to make these arguments and to rely on the attached papers in the underlying litigation.

Respectfully,

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/s/

Coalition for Responsible Regulation

Commonwealth of Virginia

Competitive Enterprise Institute

Ohio Coal Association

Peabody Energy Company

Pacific Legal Foundation

Southeastern Legal Foundation

State of Texas

cc: Jon M. Lipshultz (DOJ)