

Boxer Statement on California Waiver Decision Documents January 23, 2008

Washington, DC - U.S. Senator Barbara Boxer (D-Calif.), Chairman of the Senate Committee on Environment and Public Works, today made the following remarks regarding the Committee's ongoing investigation of EPA's denial of California's request for a waiver to regulate global warming pollution from motor vehicles:

Senator Boxer said: **"As our investigation of the EPA record continues, it is clear that EPA's own experts told Administrator Johnson that California's case for the waiver is solid. His decision was not supported by the facts, by the law, by the science, or by precedent. It will not stand. Tomorrow's hearing provides an important opportunity to closely question the Administrator on this unconscionable decision. I look forward to the reversal of this decision as soon as possible."**

The following are excerpts from the uncensored EPA briefing documents shown to the EPW Committee Staff. EPA has not released these documents to the Committee or to the public, despite ongoing requests.

"COMPELLING AND EXTRAORDINARY CIRCUMSTANCES" (*Excerpts from several slides*):

- "California continues to have compelling and extraordinary conditions in general (geography, climatic, human and motor vehicle populations - many such conditions are vulnerable to climate change conditions) as confirmed by several recent EPA decisions..."
- "Though GHG once emitted become well mixed in the global atmosphere, the climate change that results from increased concentrations of GHG is not uniform, either spatially or temporally. Resultant impacts on health, society, and the environment can further vary by region."
- "Wildfires are increasing. Wildfires generate particulates that can exacerbate the health impacts from increased smog projected from higher temperatures."
- "California has the greatest variety of ecosystems in the U.S.; and the most threatened and endangered species in the continental U.S."
- "California exhibits the greatest climatic variation in the U.S."
- "IPCC's key conclusions: many of the IPCC's key conclusions about impacts elevated to the executive summary for North America are specific issues in California, and thus California exhibits a greater number of key impact concerns than other regions," including:

- o Coastal communities and habitat impacts
- o Over-allocated water resources
- o Ageing infrastructure, heat islands and air pollution (i.e., ozone) impacts
- o Wildfires and insects outbursts

· "Ozone conditions."

o "Legislative history, case law, and past waiver practice acknowledge that California's ozone problem is 'compelling and extraordinary'"

SLIDE - "If We Grant . . ."

- "Likely suit by manufacturers"
- "EPA is almost certain to win such a suit"
- "Grant will likely allow CA standards to go into effect . . . "
- "Grant would be generally consistent with federal GHG rule"

SLIDE - "If We Deny . . ."

- "Almost certain lawsuit by California"
- "EPA likely to lose suit"

(In a revised version of the presentation, the point about losing the lawsuit was changed to read: "EPA's litigation risks are significantly higher than if a waiver is granted.")

· "A decision to deny may have some consequences for justifying federal GHG rule," including "require[ing] downplaying benefits of GHG rule - we would need to say that expected reduction in ozone precursors and temperature doesn't appreciably help CA problems including ozone."

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