

SCIENTIST’S MESSAGE TO SUPREME COURT: EPA’S ENDANGERMENT FINDING INVALID

The Supreme Court, in *Mass v. EPA*, stated that the EPA must treat CO₂ and other Greenhouse Gases (GHGs), as “pollutants” and then carry out an analysis to determine whether the increasing concentrations in atmospheric CO₂ may reasonably be anticipated to endanger human health and welfare. The Court did not mandate regulation; rather it mandated that EPA go through an Endangerment Finding process.

EPA did so and on December 15, 2009 issued its ruling that CO₂ and other GHGs must be regulated. This EPA finding and associated rulings were immediately challenged in the DC Circuit Court. The DC Circuit ruled in favor of EPA, but given the two strong dissents from the December 20, 2012 decision denying rehearing en banc, the matter is likely going to the Supreme Court.

On Thursday, May 23, 2013, 11 scientists submitted (see [http://icecap.us/images/uploads/EF_SC_Cert_Amicus_153014_1_Final_\(2\).pdf](http://icecap.us/images/uploads/EF_SC_Cert_Amicus_153014_1_Final_(2).pdf)) an Amicus brief (to the Supreme Court in support of the Southeastern Legal Foundation (SLF) et al’s Petition for a writ of certiorari. (see <http://epalawsuit.com/storage/SLF%20et%20al%20v.%20EPA%20SCOTUS%20Petition%20for%20Writ%20of%20Cert%20Filed%204-19-13.pdf>)

SLF’s petition is the only petition to the Supreme Court that includes a purely science argument developed to show that EPA’s CO₂ Endangerment Finding (EF) should be Vacated. Other Petitioners argue that such a decision is in order but make purely legal or process arguments.

Both the aforementioned Amicus brief and the SLF brief argue that each of the Three Lines of Evidence EPA uses to arrive at its 90-99 % certainty regarding its EF are very highly questionable. More specifically, the science portion of the Amicus Brief concludes with the following statement:

“Amici believe that no scientists have devised an empirically validated theory proving that higher atmospheric CO₂ levels will lead to higher GAST. Moreover, if the causal link between higher atmospheric CO₂ concentrations and higher GAST is broken by invalidating each of EPA’s three lines of evidence, then EPA’s assertions that higher CO₂ concentrations also cause sea-level increases and more frequent and severe storms, floods, and droughts are also disproved. Such causality assertions require a validated theory that higher atmospheric CO₂ concentrations cause increases in GAST. Lacking such a validated theory, EPA’s conclusions cannot stand. In science, credible empirical data always trumps proposed theories, even if those theories are claimed to (or actually do) represent the current consensus.”

It is absolutely critical that those parties interested in this matter focus on the validity of EPA's Three Lines of Evidence (3LoE) and decide for themselves where they stand on this matter. The science argument contained in the Amicus has many advantages. It is easy to explain to laymen and it is the only purely science argument direct at EPA's 3 LOE going to the Supreme Court in an effort to Vacate EPA's EF.

Finally, you may also find quite interesting the concluding Amicus section that points out the numerous science -related legal errors the EPA committed which taken together all but guaranteed that its EF- related analytical process was grossly flawed. Moreover, at least two decisions by the D.C. Circuit made it significantly less likely that the court would decide EPA's EF process was flawed.