

ONE HUNDRED ELEVENTH CONGRESS
Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
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July 13, 2009

The Honorable Edolphus Towns
Chairman
Committee on Oversight and Government Reform
2157 Rayburn House office Building
Washington, D.C. 20515

Dear Chairman Towns:

On March 9, 2009, President Obama declared, "The Public must be able to trust the science and scientific process informing public policy decisions."¹ The Administrator of the Environmental Protection Agency (EPA) Lisa Jackson echoed this view when she said "Public trust in the Agency demands that we... fully disclose the information that forms the bases for our decisions."² However, the reality at EPA is a far cry from this lofty rhetoric. Recent actions suggest EPA has created a climate where dissent is discouraged and only single-minded allegiance to prevailing mindset is acceptable. Through its actions, EPA is undermining the trust and confidence the American people should have in one of the most significant regulatory decisions of our time, the determination that carbon dioxide (CO₂) endangers public health and welfare, which is the prerequisite to regulating of CO₂ through the Clean Air Act (CAA), (hereinafter referred to as the "endangerment finding").

This is the second time I have written you about my unease over EPA's actions.³ Recent revelations demand that I reiterate my request for a full committee investigation. As the primary committee charged with oversight of the Administration, it is incumbent on us to investigate this matter and hold the Administration to the standards they have promised the American people.

¹ Memorandum from President Barack Obama to the Heads of Executive Departments and Agencies (March 9, 2009) available at http://www.whitehouse.gov/the_press_office/Memorandum-for-the-Heads-of-Executive-Departments-and-Agencies-3-9-09/.

² Memorandum from Administrator Jackson to EPA Employees (Jan 23, 2009) available at <http://www.epa.gov/administrator/memotoemployees.html>.

³ Letter from the Honorable F. James Sensenbrenner and Darrel Issa to the Honorable Edolphus Towns and Edward Markey (June 9, 2009).

Several news reports suggest that in an effort to force through an affirmative endangerment determination, EPA has inappropriately limited staff contributions, effectively suppressing dissent, and may have punished those who dared to challenge the prevailing wisdom.⁴ Moreover, in defending its actions, it appears that EPA systematically attempts to damage the reputation of the source, often dedicated career civil servants who have raised legitimate concerns.

Most recently, media reports revealed that EPA may have suppressed a report raising important questions about the Technical Support Document (TSD), which provides the scientific basis for the proposed endangerment finding. At issue was the work of Dr. Alan Carlin, a 37 year career civil servant, who has worked for EPA on climate change issues for approximately 7 years, and was assigned to the Climate Work Group within NCEE in 2007.

In a series of emails, dated March 12-17, 2009, the Director of EPA's National Center for Environmental Economics (NCEE) expressly refused to include Dr. Carlin's work in the official record. In his view, the Administration was not interested in exploring questions of the science as it had already "decided to move forward on endangerment, and your comments do not help the legal or policy case for the decision."⁵ In a subsequent interview with my staff, the Director disclosed that while the report held some important ideas, attempting to submit it for the record would have potentially negative impacts on the NCEE and undermine its role within EPA.⁶

In an attempt to dismiss these serious allegations, EPA claimed that "certain opinions were expressed by an individual who is not a scientist and was not part of the working group dealing with the issue."⁷

Contrary to EPA's assertions, through interviews with Drs. Alan Carlin and John Davidson, it appears that Dr. Carlin was in fact a member of the EPA work group reviewing the TSD.⁸ Dr. Carlin's important contributions on climate change did not appear to be in doubt prior question to this suppression controversy, as both he and

⁴ Kimberly Strassel, *The EPA Silences a Climate Skeptic*, Wall Street Journal, July, 2009, available at <http://online.wsj.com/article/SB12465765235589119.html>; see also Declan McCullagh, *EPA May Have Suppressed Report Skeptical of Global Warming*, CBS News, June 26, 2009, available at <http://www.cbsnews.com/blogs/2009/06/26/politics/politicalhotsheet/entry5117890.shtml>.

⁵ Email from Office Director of EPA's NCEE to Senior Operations Research Analyst at NCEE (March 17, 2009).

⁶ Telephone Interview with Dr. Al McGartland Director, National Center for Environmental Economics (July 1, 2009).

⁷ Ian Talley, *US Lawmakers Demand Probe Into Claims EPA Suppressed CO2 Study*, DOW JONES NEWSWIRE, (July 2, 2009).

⁸ Telephone Interview with Dr. Alan Carlin, Senior Research Analyst, National Center for Environmental Economics, in Washington, D.C. (July 9, 2009); Telephone Interview with Dr. John Davidson, Environmental Scientist, National Center for Environmental Economics, in Washington, D.C. (July 9, 2009).

Dr. Davidson are listed as coauthors/ contributors of the 2009 TSD report.⁹ Accordingly, it appears that EPA is deliberately misleading the public regarding the actual role Dr. Carlin played at the agency in a transparent attempt to discredit his work.

In the wake of these events, Dr. Carlin is now prohibited from working on climate change issues and has been reassigned to tasks previously performed by junior staff members and contractors.¹⁰ According to a source at the National Center for Environmental Economics, this action, while not unprecedented, has deprived the center of a valuable resource on climate change, saying “Dr. Carlin had built up a wealth of knowledge and was a help as we attempted to grapple with the enormity of big picture climate science.”¹¹

This is just one incident in what is becoming a troubling pattern of behavior at the EPA and within the Administration, which is to discredit career civil servants who have attempted to raise red flags about the endangerment finding. In my previous letter requesting an investigation, I expressed my concern for the treatment of a career civil servant at the Office of Advocacy within the Small Business Administration, who warned in an internal document that “[m]aking a decision to regulate CO₂ under the CAA for the first time is likely to have serious economic consequences for regulated entities throughout the U.S. economy, including small businesses and small communities.”¹² These warnings were dismissed by the Administration because they originated from “a Bush Holdover.”¹³ In fact, the “holdover” was a career civil servant hired during the Clinton Administration.

As you know, the decision to regulate CO₂ through the CAA can have a devastating impact on the economy. In fact, EPA has been warned by numerous legislators and experts that an affirmative endangerment finding could lead to a tsunami of regulatory obligations imposed on businesses large and small.¹⁴ Yet it appears that EPA has set a determined path to regulate CO₂ under the CAA, and does not have the

⁹ BENJAMIN DEANGELO ET AL., TECHNICAL SUPPORT DOCUMENT FOR ENDANGERMENT AND CAUSE OR CONTRIBUTION FINDINGS FOR GREENHOUSE GASES UNDER SECTION 202 (A) OF THE CLEAN AIR ACT, available at http://www.epa.gov/climatechange/endangerment/downloads/TSD_Endangerment.pdf.

¹⁰ Telephone Interview with Dr. Alan Carlin, Senior Research Analyst, National Center for Environmental Economics, in Washington, D.C. (July 9, 2009).

¹¹ Telephone Interview with Dr. John Davidson, Environmental Scientist, National Center for Environmental Economics, in Washington, D.C. (July 9, 2009).

¹² Ian Talley, *OMB Memo: Serious Impact Likely from EPA CO₂ Rules*, DOW JONES NEWSWIRE, May 11, 2009, available at http://www.djnewsplus.com/article_ss/SB124206897993062889.html?param=gn&.

¹³ Ian Talley, *EPA Chief Says CO₂ Finding May Not 'Mean Regulation'*, WALL ST. J., May 13, 2009.

¹⁴ Letter from William Kovacs, Vice President, U.S. Chamber of Commerce to the Honorable Stephen Johnson, Administrator, Environmental Protection Agency, Oct. 10, 2008, (stating that, “PSD is triggered the moment CO₂ becomes a regulated pollutant under the CAA.”) (available at <http://www.regulations.gov/fdmspublic/component/main?main=DocumentDetail&d=EPA-HQ-OAR-2008-0318-0402.1>); see also Letter from Congressman Darrell Issa, Ranking Member, House Committee on Oversight and Government Reform to The Honorable Lisa Jackson, Administrator, Environmental Protection Agency, March 12, 2009.

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time or the inclination to listen to contrary views. Moreover, there is mounting evidence that EPA has become an agency determined to silence inconvenient voices.

I respectfully request that we hold a hearing to investigate the accusation of suppression at EPA, including the treatment of Dr. Alan Carlin. These are serious allegations that call into question the integrity of the decision making process at EPA. If we fail to carry out our oversight obligations on this matter, then the American public will justifiably believe that EPA's decision was based on political calculations and not on the science. I stand prepared to assist you in any way possible to prepare for such a hearing.

Sincerely,



Darrell E. Issa
Ranking Member