

Texas has a demonstrated record of working with EPA to enforce environmental laws. Equally important, the State has a demonstrated record of successfully encouraging and implementing clean, renewable energy technologies that have fostered a cleaner environment.

## V. THE ENDANGERMENT FINDING

The Administrator takes the position—and the State does not disagree—that the United States Supreme Court decision in *Massachusetts v. EPA* required the Administrator to: “determine whether or not emissions of greenhouse gases from new motor vehicles cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare, or whether the science is too uncertain to make a reasoned decision.”<sup>30</sup>

EPA’s Endangerment Finding explicitly acknowledges that its decision must be exclusively governed by science: “the [Supreme] [C]ourt clearly indicated that the Administrator’s decision must be a ‘scientific judgment.’ She must base her decision about endangerment on the science, and not on policy considerations about the repercussions or impact of such a finding.”<sup>31</sup> Further, a federal law requires that she not base her decision on just *any* science, but rather “on the best reasonably obtainable science.”<sup>32</sup> Also, the plain language of Section 202(a) requires that the Administrator’s decision be “*in [her] judgment...*”<sup>33</sup> (emphasis added). Thus, in reaching her Endangerment Finding, the Administrator is obligated to make her own, independent, ‘reasoned decision’ that is based exclusively on the best available science.

Evidence is mounting that the Administrator’s decision was (1) not well-reasoned, (2) based on faulty scientific analysis, and (3) not truly her own but instead a blind-faith acceptance of flawed scientific conclusions by third parties.

## VI. THE IPCC REPORT’S CENTRAL RELEVANCE TO THE ENDANGERMENT FINDING

### A. THE RELATIONSHIP BETWEEN THE ENDANGERMENT FINDING, THE IPCC AND THE CLIMATE RESEARCH UNIT AT EAST ANGLIA UNIVERSITY’S HADLEY CENTER

Established by the United Nations and the World Meteorological Organization, the IPCC is the self-proclaimed “leading body for the assessment of climate change.”<sup>34</sup> Among

---

<sup>30</sup> U.S. Environmental Protection Agency, Climate Change – Regulatory Initiatives, Endangerment and Cause or Contribute Findings for Greenhouse Gases under the Clean Air Act, *available at* <http://www.epa.gov/climatechange/endangerment.html> (last visited Feb. 13, 2010).

<sup>31</sup> Endangerment and Cause or Contribute Findings for Greenhouse Gases under Section 202(a) of the Clean Air Act, 74 Fed. Reg. at 66515.

<sup>32</sup> Exec. Order. No. 12,866, 58 Fed. Reg. 51,735 (Sept. 30, 1993).

<sup>33</sup> 42 U.S.C. § 7521.

<sup>34</sup> International Panel on Climate Change, Organization, *available at* <http://www.ipcc.ch/organization/organization.htm> (last visited February 14, 2010).