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MASSACHUSETTS V. U.S. EPA: IMPLICATIONS OF THE SUPREME COURT DECISION

HEARING

BEFORE THE

SELECT COMMITTEE ON
ENERGY INDEPENDENCE
AND GLOBAL WARMING
HOUSE OF REPRESENTATIVES

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MASSACHUSETTS V. U.S. EPA: IMPLICATIONS OF THE SUPREME COURT DECISON

FRIDAY, JUNE 8, 2007

HOUSE OF REPRESENTATIVES,
SELECT COMMITTEE ON ENERGY INDEPENDENCE
AND GLOBAL WARMING,
Washington, DC.

The committee met, pursuant to call, at 10:03 a.m. in room 2318, Rayburn, Hon. Edward J. Markey [chairman of the Committee] presiding.

Present: Representatives Markey, Blumenauer, Inslee, Herseth Sandlin and Cleaver.

The CHAIRMAN. Good morning, and thank you all very much for being here today.

Today's hearing will focus on the aftermath of the landmark Supreme Court decision in Massachusetts v. EPA, both within the Bush administration and within Congress. In 1998, in response to an inquiry by then Representative Tom DeLay, the Clinton administration's Environmental Protection Agency said that it believed that the Clean Air Act provided it with the authority to regulate carbon dioxide. One year later, a group of environmental and other advocacy organizations petitioned the EPA to use this authority to set greenhouse gas standards for cars. But it wasn't until 2003, when the Bush administration had already embarked on a course of denial, delay and dismissal of the risks of climate change and the need to address it, that the EPA repudiated the Clinton administration's conclusion that carbon dioxide was a pollutant that could be regulated and denied the petition. That petition became the case known as Massachusetts versus EPA.

Until April of this year, the Bush administration continued to assert that it lacked authority to regulate carbon dioxide. It continued to assert that the science was uncertain, that voluntary programs to reduce emissions would be sufficient and that rhetorical policy goals should take the place of binding regulatory language.

It continued to fight the states who were pushing to move ahead.

But all that changed when the Supreme Court ruled that under the plain meaning of the Clean Air Act, carbon dioxide is a pollutant and that EPA could not hide behind its smoke screen any longer. In fact, under the Supreme Court's interpretation of the Clean Air Act, EPA now has the duty to regulate as long as it determines that emissions of carbon dioxide endanger public health and welfare.

Never the less, the President has issued a new executive order that effectively said start studying this problem and try to finish

it up right before I leave office. Six and a half years into his administration, after the scientific consensus on the dangers of climate change has become overwhelming, after we hear that the earth has warmed so much that transportation routes in Greenland that used to require dog sleds in the winter now can be traveled by boat, the President sees no urgency and is engaged in a stall.

Instead of moving to regulate against the threat of global warming, he has decided that his cabinet is to spend the remainder of his term talking about it.

And the signs that this issue isn't being taken seriously enough by this administration don't end there.

Just last week, the head of NASA said that he wasn't sure if global warming was a problem that we needed to wrestle with. At this week's G–8 meeting the President indicated that all he is willing to do is engage in fruitless discussions on the nature of nonbinding goals until the very end of his administration, leaving his successor with the task of actually doing something.

I hope that our Executive Branch witnesses will be able to shed some light on the nature and stringency of the proposal they are working on. But as the EPA and NHTSA lace up their shoes and start to head over to the starting blocks, 12 States are already sprinting to the finish line as they have already promulgated regulations that reduce emissions from cars. They have already concluded that the science is unequivocal, the risk is real and the solutions are within our grasp.

Under the circumstances, it would be helpful to the planet if our regulatory agencies would simply stop being obstacles to other actors. If EPA would grant California's request to act, other States could act as well.

I hope that Mr. Johnson will be able to shed some light on the schedule of the approval process. I expect some witnesses have also taken notes of the emergence of a legislative attempt to block EPA from acting. The discussion draft pending in the Energy and Commerce Committee, for example, would have the effect of overturning Massachusetts versus EPA. Specifically, that legislation would remove EPA's authority to set greenhouse gas standards for cars and pre-empt States' rights to by requiring EPA to deny California's request to move forward with its own greenhouse gas program. In its place, that bill proposes anemic fuel economy standards and opens the door to allow fuel made from dirty coal into our transportation fuel supply.

The legislation fails to meet the test established by Speaker Pelosi earlier this year that any legislation we approve must both address America's energy dependency without increasing the threat of global warming and address the threat of global warming without increasing our energy dependency.

So we have a moral obligation to ensure that we reduce our dangerous dependency on imported oil from the Middle East by making our cars and our trucks much more efficient, and we must meet that challenge posed as well by global warming.

I look forward to hearing from our witnesses both from the Bush administration and its response to the Supreme Court decision and to Congress's pending plans to reject that decision altogether and from the States which will be represented here as well.

That concludes the opening statements of the Chair.

I now turn to recognize the gentleman from Oregon, Mr. Blumenauer, for an opening statement.

[The statement of Mr. Markey follows:]

Opening Statement
Congressman Edward J. Markey (D-Ma), Chairman
Select Committee On Energy Independence And Climate Change
"*Massachusetts V. U.S. Epa*: Implications Of The Supreme Court Verdict"
June 8, 2007

Thank you all very much for being here today.

Today's hearing will focus on the aftermath of the landmark Supreme Court decision in *Massachusetts vs EPA*, both within the Bush Administration and within the Congress.

In 1998, in response to an inquiry by then-Representative Tom Delay, the Clinton Administration's Environmental Protection Agency said that it believed that the Clean Air Act provided it with the authority to regulate carbon dioxide. One year later, a group of environmental and other advocacy organizations petitioned the EPA to use this authority to set greenhouse gas standards for cars.

But it wasn't until 2003, when the Bush Administration had already embarked on a course of denial, delay, and dismissal of the risks of climate change and the need to address it, that the EPA repudiated the Clinton Administration's conclusion that carbon dioxide was a pollutant that could be regulated, and denied the petition. That petition became the case known as *Massachusetts vs EPA*.

Until April of this year, the Bush Administration continued to assert that it lacked authority to regulate carbon dioxide. It continued to assert that the science was uncertain, that voluntary programs to reduce emissions would be sufficient, and that rhetorical policy goals should take the place of binding regulatory language. It continued to fight the States, who were pushing it to move ahead.

But all that changed when the Supreme Court ruled that, under the plain meaning of the Clean Air Act, carbon dioxide IS a pollutant, and that EPA could not hide behind its smokescreen any longer. In fact, under the Supreme Court's interpretation of the Clean Air Act, EPA now has the duty to regulate as long as if determines that emissions of carbon dioxide endanger public health and welfare.

Nevertheless, the President has issued a new Executive Order that effectively said, "start studying this problem, and try to finish it up right before I leave office". Six and a half years into his Administration, after the scientific consensus on the dangers of climate change has become OVERWHELMING, after we hear that the earth has warmed so much that transportation routes in Greenland that used to require dogsleds in the winter now can be traveled by BOAT, the President sees no urgency and is engaged in a stall. Instead of moving to regulate against the threat of global warming, he has directed his Cabinet to spend the remainder of his term TALKING ABOUT IT.

And the signs that this issue isn't being taken seriously enough by this Administration don't end there. Just last week, the head of NASA said that he wasn't sure if global warming was a problem we needed to wrestle with. At this week's G8 meeting, the President indicated that all he is willing to do is engage in fruitless discussions on the nature of non-binding goals until the very end of his administration, leaving his successor with the task of actually doing something.

I hope that our Executive Branch witnesses will be able to shed some light on the nature and stringency of the proposal they are working on. But as the EPA and NHTSA lace up their shoes and start to head over to the starting blocks, 12 States are already sprinting to the finish line as they have ALREADY promulgated regulations that reduce emissions from cars. They have ALREADY concluded that the science is unequivocal, the risk is real, and the solutions within our grasp.

Under the circumstances, it would be helpful to the planet if our regulatory agencies would simply stop being obstacles to other actors. If EPA would grant California's request to act, other states could act as well. I hope Mr. Johnson will be able to shed some light on the schedule for the approval process.

I expect some of our witnesses have also taken note of the emergence of a legislative attempt to block EPA from acting. The discussion draft pending in the Energy and Commerce Committee, for example, would have the effect of overturning *Massachusetts v. EPA*. Specifically, this legislation would remove EPA's authority to set greenhouse gas standards for cars, and preempt States rights by requiring EPA to deny California's request to move forward with its own greenhouse gas program. In its place, the bill

proposes anemic fuel economy standards and opens the door to allow fuel made from dirty coal into our transportation fuel supply.

The legislation fails to meet the test established by Speaker Pelosi earlier this year that any legislation we approve must both address America's energy dependency without increasing the threat of global warming, and address the threat of global warming without increasing our energy dependency. This Draft fails to meet the moral obligation that we have as a nation to reduce our dangerous dependency on imported oil from the Middle East by making our cars and trucks much more efficient. This Draft fails to meet the challenge posed by global warming.

I will look forward to hearing from our witnesses on both the Bush Administration's response to the Supreme Court decision, and to Congress' pending plans to reject the decision altogether.

Mr. BLUMENAUER. Thank you, Mr. Chairman, and I deeply appreciated your convening this hearing this morning.

As you have noted, given the draft of the—circulated out of the Commerce Committee—underscores some of the problems still at work here on Congress, and you and I, along with Mr. Cleaver, Ms. Herseth, had an opportunity this last week, starting in Greenland but going across Europe, dealing with leaders, true leaders in coping with the problem of global warming, underscoring the gap between the foot-dragging here through EPA for the last 6 years aided and abetted by forces in Congress that are still in denial.

It is critical that we have this conversation today. And I do deeply appreciate it. I applaud your leadership and that of our Speaker, who has made it clear that she, for one, has a much different view.

The gap between the science, between what is happening with foreign countries, where the United States torpedoed an opportunity to have real progress just this week, to what we are seeing, the lack of action by EPA for years is forcing at the local and State level initiatives. My State of Oregon is one that has joined with California in trying to deal meaningfully. We have 522 cities and hundreds of college campuses that have said, we are not waiting; we are going to move forward.

But the mindset that we are seeing from the administration and some forces in Congress, if we are not equal to the challenge, are going to set us further behind, and a world that looks to the United States for leadership will continue to be perplexed and disappointed.

I am hopeful that we will be able to bring into tighter focus these issues as a result of the hearing that you have scheduled here today.

I look forward to hearing from our witnesses, particularly the people who are fighting for the right for States to move forward to step in where the Federal Government has been unable and refused.

Thank you.

The CHAIRMAN. The Chair recognizes the gentleman from Oregon, Mr. Cleaver, for an opening statement.

Mr. CLEAVER. Thank you, Mr. Chairman, and I will have a very short statement.

I, too, would like to express appreciation to you and Speaker Pelosi for the visionary move that allowed us to see firsthand in Greenland what is transpiring on this small ball rolling around the sun we call earth, and it is truly alarming. And as I have said many times recently, time is not on our side.

On the front page of yesterday's Washington Post, which I am sure the witnesses have seen, there is a photograph of a bay in Greenland. We were in this spot about 7 and a half days ago. And we had the opportunity to speak with Greenlanders, who are not scientists. They are not Republicans or Democrats. They are not policy wonks. They are not trying to get any pushback on global warming. They are residents. Just a few of the 53,000 people who live there, and they are very clear: Their lives have changed. Global warming is real. Places where they used to sled, now they fish. And when you look at this bay and see the blue and listen to the

natives tell you that this is not supposed to be blue at this time of the year—it never has been—it is chilling.

And let me just conclude by saying, it was terribly embarrassing to meet with legislators from other nations and to hear them say that they have spoken with people in this government who are still denying the science of global warming.

It is my hope, it is at this point my prayer, that we will have a revolution in the way we think about this issue and begin to join the 21st century.

I look forward to raising some questions with you during that period.

Thank you, Mr. Chairman.

[The statement of Mr. Cleaver follows:]

U.S. Representative Emanuel Cleaver, II
5th District, Missouri
Statement for the Record
House Select Committee on Energy Independence and Global Warming Hearing
"*Massachusetts v. U.S. EPA*: Implications of the Supreme Court Verdict"
Friday, June 8, 2007

Chairman Markey, Ranking Member Sensenbrenner, other Members of the Select Committee, good afternoon.

To our distinguished panel of witnesses, I would like to join my colleagues in welcoming you to the Select Committee on Energy Independence and Global Warming. I anticipate listening to your testimony today and hearing your insight on the effects of the Supreme Court decision of April 2nd of this year, where twelve states including Massachusetts and several cities brought suit against the EPA to force the agency to regulate carbon dioxide as a greenhouse gas.

I would like to thank Speaker Pelosi for inviting me and several of my colleagues on a CODEL to Greenland and European capitals to see the effects of global warming. What I saw in Greenland is truly alarming, and time is not on our side. Yesterday's front page of the Washington Post shows a photograph of Greenland's ice sheet. The picture shows the ice as bright blue, but the ice should be white at this time of year. This change alone is evidence of the real effects of global warming.

While I was there, I had the opportunity to speak with Greenlanders, and it is very clear to me that their lives have changed. They explained that sites where they once sledded but several years ago, they now fish since the ice has melted. The reality of global warming has greatly affected the everyday lives of Greenlanders, and the rest of the world is starting to experience real changes as well.

During the CODEL, my colleagues and I met with international leaders to discuss plans to combat climate change and control greenhouse gas emissions. It was evident that the United States is far behind the European Union in addressing global warming. As a Member of the United States Congress, it is embarrassing to me that individuals in the Administration remain in denial of global warming. Without acknowledgement of climate change, they have no reason for action. The science behind global warming cannot be denied any longer by this Administration, because our planet is in a state of emergency.

I look forward to hearing the testimony and insight of our witnesses, especially that of EPA Administrator Johnson. Most importantly I am interested in learning the steps the EPA will take to finally acknowledge climate change as a reality and a threat to the population. It is my hope that we may work together with the Administration in bringing this important issue to the forefront, since it has and will continue to affect all individuals, both in Greenland and here in the U.S.

Thank you.

The CHAIRMAN. The gentleman's time has expired.

The Chair recognizes the gentleman from Washington State, Mr. Inslee.

Mr. INSLEE. Thank you.

It is clear that we have had States really showing some vision across the country to move to defeat the scourge of global warming. And I think the States' message should be to the Federal Government that old saying, "lead, follow or get out of the way." And frankly, this administration has not lead, has not followed and has not gotten out of the way. And we are determined to have a Federal Government that will lead, much less not get out of the way.

And the reason is that States historically have helped lead the country forward. You think about woman's suffrage. It was Wyoming first in 1869 that moved forward followed by Colorado. And these States, including California, and my State, and Oregon and six others, have helped lead this country to a new energy future. We are determined in the next several weeks to have the Federal Government show some leadership finally.

I was in Europe talking to other members of other governments last week with an energy subcommittee and was asked to respond to Prime Minister Tony Blair as he spoke to an interparliamentarian group in Berlin. And I had an exchange with the Prime Minister. Basically, I was presenting the case that the President's view that we can fight global warming with volunteerism is just doomed to failure. You know, you can run a bake sale based on voluntary activity. You cannot run a war on global warming. It is sort of like the President wants to write little frilly letters to oil companies saying, will you fellows just stop polluting the planet, and expecting them to respond. That is like expecting consumers to just volunteer to pay at the pump. The voluntary system is not going to work here.

I asked the Prime Minister what he thought the best argument was to try to get the White House and this administration to finally understand why we need binding commitments, why we need a cap-and-trade system, why we need renewable portfolio standards. And I thought his answer was instructive. He said, it is clear we need new technologies. And to get new technologies, we need to drive investment into those technologies. And to drive investment into those new technologies, we need binding commitments to tell the investors that they should move to clean energy in the future. And I thought that was the right answer for the world, and it is the right answer for America.

And I look forward in the next few weeks getting the Federal Government to finally show some leadership.

Thank you.

The CHAIRMAN. Great. The gentleman's time has expired.

The Chair recognizes the gentlelady from South Dakota, Ms. Herseth Sandlin.

Ms. HERSETH SANDLIN. I wanted to thank you for having this hearing, and I wanted to thank our witnesses. And Administrator Johnson was in South Dakota a couple of years ago, shortly after we passed the Policy Act in 2005, which I supported primarily because of the renewable fuel standards that we had for the first time that many of us from midwestern Great Plains States had advo-

cated for years and finally were able to get—although we didn't get it quite at the level we would have liked, I know that the administrator was taking steps at that time to look at the regulations necessary as it related to the production process in meeting the 7 and a half billion gallon renewable fuel standard of which we will surpass based on current projections by the end of this year, which I appreciate the opportunity this morning to explore further with our witnesses and with members of the committee.

The President's 35 billion gallon renewable—I wish it were renewable, fuel standard requirement—I think the language is alternative fuel standard. And so I look forward to exploring the issue there as I have done with others at the White House with regard to renewable fuels versus alternative fuels and the importance of addressing a greenhouse gas reduction policy federally which helps lead the way internationally as so many of our discussions on the recent Congressional delegation trip to Europe identified.

So, Mr. Chairman, thank you again for the hearing, and I yield back.

The CHAIRMAN. All time for opening statements by members has expired.

We will now turn to our panel.

Mr. BLUMENAUER. May I inquire?

I don't see any of our Republican colleagues here. Was there any statement that was submitted for the record that would help us clarify any of their positions or concerns about the nature and extent of the hearing today?

The CHAIRMAN. I would have to, if the gentleman would allow me, to inquire of the minority if there are any statements.

But to be fair, today was a day that the Congress was supposed to be in session. The Congress has now decided that it will not meet today. And so I think many of the Republicans have returned to their home districts as of last night, and I think that is something that we should note in fairness.

If there are any statements that the minority wishes to have included in the record, we will include it in the record. But like I said, it is something that has to be noted.

STATEMENTS OF STEPHEN L. JOHNSON, ADMINISTRATOR, U.S. ENVIRONMENTAL PROTECTION AGENCY; AND NICOLE R. NASON, ADMINISTRATOR, NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, U.S. DEPARTMENT OF TRANSPORTATION

The CHAIRMAN. Let me turn to now recognize Stephen Johnson. Stephen Johnson was sworn in as the 11th Administrator of the United States Environmental Protection Agency just over 2 years ago, after 26 years at the EPA. Prior to becoming administrator, he held several senior level positions, including acting administrator, deputy administrator and held several other senior level positions including acting admin—including assistant administrator and other positions.

So we welcome you, Mr. Johnson, whenever you feel comfortable, please begin.

STATEMENT OF STEPHEN L. JOHNSON

Mr. JOHNSON. Thank you very much, Mr. Chairman.

The CHAIRMAN. Could you put on the microphone?

Mr. JOHNSON. Again, Mr. Chairman, thank you and members of the committee, thank you for the opportunity to testify today about climate change and energy security.

As you know, in Massachusetts v. EPA, the Supreme Court made several findings regarding EPA's denial of a petition to regulate greenhouse gas emissions from new motor vehicles under the Clean Air Act. EPA is moving forward to meet the Supreme Court's decision in a thoughtful, deliberative manner, considering every appropriate option and every appropriate tool at our disposal.

In that context, on May the 15th, President Bush directed EPA and the Departments of Energy, Transportation and Agriculture to coordinate our efforts in taking the first regulatory step to address greenhouse gas emissions from cars. The President called on us to base our work on his Twenty in Ten plan, which would reduce U.S. gasoline consumption by 20 percent over the next 10 years. This announcement both represents and responds to the Supreme Court's recent ruling and provides a path forward in improving our energy security by reducing U.S. dependence on oil.

Additionally, in keeping with EPA's commitment to address the court's ruling expeditiously and responsibly, we signed a formal notice that starts the public process for considering the California waiver petition. We recently held two widely attended public hearings, and the public comment period remains open until June the 15th.

As we continue our progressive yet practical strategy to cut our domestic carbon footprint, the President also understands that reducing greenhouse gas emissions is a global challenge. And on May 31st, the President offered a global strategy.

Last week, the President called upon the world's 15 largest emitters to set a global goal on a long-term greenhouse gas reduction. The President proposed to convene a series of meetings with other countries, including rapidly growing economies like India and China to establish a new framework for the post-2012 world. Under the framework, each country would establish mid-term national targets and programs that reflect their own current and future energy needs.

The President believes that by encouraging and sharing cutting-edge technologies, major emitters can meet realistic goals. Both domestically and internationally, this administration is addressing the serious challenge of global climate change. As you all know, in 2002, President Bush committed to cut greenhouse gas intensity by 18 percent through the year 2012, a goal that we are on track to meet and even possibly exceed.

According to the EPA data reported at the United Nations framework convention on climate change, U.S. greenhouse gas intensity declined by 1.9 percent in 2003; 2.4 percent in 2004; and 2.4 percent in 2005. Put another way, from 2004 to 2005, the U.S. economy increased by 3.2 percent while greenhouse gas emissions increased by only 0.8 percent.

Under the President's leadership, we are seeing real results. According to the International Energy Agency, from 2000 to 2004,

U.S. emissions of carbon dioxide from fuel consumption grew by 1.7 percent while our economy expanded by nearly 10 percent. The U.S. had a lower percentage increase than Japan, Canada, the original 15 countries of the European Union, India or China. And in fact, only two of the original EU 15 countries in the Kyoto Protocol are on schedule to meet their Kyoto targets.

Over the last 6 years, the Bush administration has invested more than any other nation in the world, $37 billion, in a comprehensive climate change agenda. EPA climate programs include a wide array of domestic and international partnerships which rely on voluntary measures to reduce greenhouse gas intensity, spurring investments and removing barriers to the introduction of clean technologies.

I would be happy to speak in greater detail about EPA's many climate partnership programs.

Again, thank you. Thank you very much for the opportunity to testify, and before I take questions, I would ask that my full written statement be submitted for the record.

[The statement of Mr. Johnson follows:]

STATEMENT OF
STEPHEN L. JOHNSON
ADMINISTRATOR
U.S. ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE
SELECT COMMITTEE ON ENERGY INDEPENDENCE AND GLOBAL WARMING
UNITED STATES HOUSE OF REPRESENTATIVES

June 8, 2007

Good morning, Chairman Markey and members of the House Select Committee on Energy Independence and Global Warming. I appreciate the opportunity to appear before you today to discuss the Environmental Protection Agency's (EPA) efforts to address energy security and the challenges posed by climate change.

I. Introduction

The President has consistently acknowledged a human contribution to climate change. The President has requested, and Congress has provided, substantial funding for climate change science, technology, observations, international assistance, and incentive programs – approximately $37 billion since 2001. Across the federal government, programs are helping to further reduce scientific uncertainties associated with the causes and effects of climate change; promoting the advancement and deployment of cleaner, more energy efficient, lower carbon technologies; encouraging greater use of renewable and alternative fuels; accelerating turnover of older, less efficient technology through an array of tax incentives; and establishing numerous international climate partnerships with some of the world's largest greenhouse gas emitters. Through a comprehensive suite of mandates, incentives, and partnerships, the President's climate change policies are contributing to meaningful

progress in reducing the growth rate of U.S. greenhouse gas emissions, even as our population grows and our economy continues to expand.

II. Administration Climate Strategy: Progress Toward the President's Goal

In 2002, President Bush committed to cut U.S. greenhouse gas intensity (the ratio of greenhouse gas emissions to economic output) by 18 percent through the year 2012, a goal that we are on target to meet. This commitment was estimated to achieve about 100 million additional metric tons of reduced carbon-equivalent (MMTCE) emissions in 2012, with more than 500 MMTCE emissions in cumulative savings over the decade.

According to EPA data reported to the United Nations Framework Convention on Climate Change (UNFCCC), U.S. greenhouse gas intensity declined by 1.9 percent in 2003, by 2.4 percent in 2004, and by 2.4 percent in 2005. Put another way, from 2004 to 2005, the U.S. economy increased by 3.2 percent while greenhouse gas emissions increased by only 0.8 percent.

To build on the substantial progress in meeting the 18 percent intensity reduction, President Bush has announced major energy policies in the last two years. In his 2006 State of the Union address, President Bush proposed the Advanced Energy Initiative (AEI) - a 22 percent increase in funding for 2007 for clean energy technology research to change how we power our homes, business, and cars. The 2008 President's Budget includes $2.7 billion in the Department of Energy for the AEI, an increase of 26 percent above the 2007 Budget.

In its recent decision in *Massachusetts v. EPA*, the Supreme Court made several findings regarding EPA's denial of a petition to regulate greenhouse gas emissions from new motor vehicles under Section 202(a)(1) of the Clean Air Act. First, the Court found that greenhouse gas emissions are indeed pollutants under the Clean Air Act. Second, the Court ordered EPA to reconsider its denial of a petition from the State of Massachusetts and several other groups seeking regulation of greenhouse gas emissions from new motor vehicles and engines. One of the most significant things the Court instructed EPA to determine is whether greenhouse gas emissions endanger public health or welfare based on the requirements of the Clean Air Act. Third, the Court's decision explicitly left open the issue of whether EPA can consider policy considerations when writing regulations in the event EPA were to make an endangerment finding.

Currently, EPA is moving forward to meet the Supreme Court's decision in a thoughtful, deliberative manner, considering every appropriate option and every appropriate tool at our disposal. In that context, President Bush on May 15 directed EPA and the Departments of Energy, Transportation, and Agriculture to take the first steps toward regulations that would cut gasoline consumption and reduce greenhouse gas emissions from motor vehicles. The President asked that we base this work on the "Twenty in Ten" plan announced in his State of the Union address to reduce U.S. gasoline consumption by 20 percent over the next ten years. This announcement represents the Administration's continued commitment to address climate change and energy security in a comprehensive and thoughtful manner. It both responds to the Supreme Court's recent ruling and provides a path forward for improving our energy security by reducing U.S dependence on oil.

Earlier this year, the Administration sent Congress legislative proposals to achieve the Twenty in Ten plan with two steps. First, the plan would increase the supply of renewable and other alternative fuels by setting a mandatory fuels standard to require the equivalent of 35 billion gallons of renewable and other alternative fuels in 2017, nearly five times the 2012 Renewable Fuels Standard (RFS) mandate established by the Energy Policy Act of 2005. In 2017, this will displace 15 percent of projected annual gasoline use. This plan would replace the RFS in the year 2010, while retaining the flexible credit, banking, and trading mechanisms contained in the RFS. It would provide an accelerating schedule for alternative fuel requirements in the years 2010 to 2017.

Second, the plan would reform and modernize Corporate Average Fuel Economy (CAFE) standards for cars, and further increase the CAFE standards for light trucks. Fuel efficiency standards for cars could be increased by up to 4 percent per year beginning in 2010, and by up to 4 percent per year for light trucks beginning in 2012. In 2017, this will reduce projected annual gasoline use by up to 8.5 billion gallons, a further 5 percent reduction that, in combination with increasing the supply of renewable and other alternative fuels, will bring the total reduction in projected annual gasoline use to 20 percent.

While the President continues to believe that effective legislation is the best approach to implementing his Twenty In Ten plan, he has directed EPA and our federal partners to use the regulatory process to start working toward these goals now. President Bush also signed an executive order requiring coordination among federal agencies tasked with this effort, and to that end, EPA already has had several coordination meetings with the Departments of Transportation, Energy, and Agriculture. He also asked Administration officials to listen to public input; carefully consider safety, science, and available technology; and evaluate benefits and costs before any decisions are reached. This is a complicated legal and technical matter that will take time to fully resolve.

Because the President realizes that it is important to move forward, he has directed us to complete this regulatory process by the end of 2008. This is an aggressive timeframe, but one that I am confident that my staff, working with our federal partners – the Departments of Transportation, Energy, and Agriculture – can achieve. We are working with our partners in developing a plan for the rulemaking process and identifying the appropriate analytical resources that exist across the federal government that should be integrated into this rulemaking.

Any regulation of greenhouse gas emissions from new motor vehicles under Clean Air Act section 202(a) requires that EPA make a determination that emissions of greenhouse gases from new motor vehicles, primarily carbon dioxide emissions, cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare. We are therefore reviewing the most recent and robust scientific evidence from the climate change research community, including EPA's own Global Change Research Program. This includes the 2007 publication of the Intergovernmental Panel on Climate Change (IPCC) Fourth Assessment Report, as well as a number of completed and forthcoming Synthesis and Assessment Products under the U.S. Climate Change Science Program (CCSP).

A substantial amount of work remains to determine the scope of our assessment of the endangerment issue. For example, EPA may need to consider a range of science and impact issues, such as the accumulation of greenhouse gas concentrations in the atmosphere; the observed trends in average global warming, sea level rise, and precipitation patterns; the attribution of these and other observed changes to emissions of carbon dioxide and other greenhouse gases from human activities; the vulnerability of the natural environment, human health, and society to climate change; and the future projected effects within the U.S. under various projected rates of climate change over the course of

this century. As directed by Executive Order 13432, EPA will coordinate with, and seek input from, climate change experts in other government agencies as well as the public.

When approaching the issue of greenhouse gas emissions estimate for the transportation sector, it should be recognized that 95 percent of such emissions consists of carbon dioxide, with the remaining 5 percent of emissions consisting of nitrous oxide and methane exhaust emissions and hydrofluorocarbons from air conditioners. In addressing greenhouse gas emissions from the transportation sector, the President's Twenty in Ten plan recognizes that on-board technology to control carbon dioxide emissions from vehicles does not currently exist. Therefore, the Twenty in Ten plan addresses two primary factors that can reduce carbon dioxide emissions from vehicles: greatly increasing the use of renewable and alternative fuels and increasing the fuel economy of vehicles.

Fuels such as cellulosic ethanol have the potential to offset lifecycle greenhouse gas emissions by over 90 percent when compared with gasoline derived from crude oil. Biodiesel can result in the displacement of nearly 68 percent of lifecycle greenhouse gas emissions relative to diesel made from petroleum. Increasing the use of such fuels in the transportation sector has the potential to make substantial reductions in greenhouse gas emissions. Increasing the fuel economy of a vehicle also will decrease greenhouse gas emissions. Under one possible scenario, the gasoline savings from reforming and increasing CAFE and from implementing the Alternative Fuel Standard could result in as much as a 10 percent reduction in annual emissions (compared to the baseline scenario) of carbon dioxide from cars and light trucks – equal to half the number of cars in Germany.

The President has also issued Executive Order 13423 in January of this year that directs the federal government to reduce fleet petroleum consumption by 2 percent annually, increase the use of alternative fuels by at least 10 percent annually, increase the purchase of efficient and flexible fuel vehicles, make government buildings more efficient, and take other steps with regard to improving energy efficiency with respect to the government's purchase of power.

Furthermore, on May 31st, the President called upon the world's 15 major greenhouse gas emitters to set a global goal on long-term greenhouse gas reductions. As part of this new international global strategy, the President proposed to convene a series of meetings with other countries – including rapidly growing economies like India and China – to establish a new framework for the post-2012 world. Each country would establish midterm national targets and programs that reflect their own current and future energy needs. The President believes that by encouraging and sharing cutting-edge technologies, major emitters will be able to meet realistic reduction goals.

In addition to these initiatives, the President's 2007 Farm Bill proposal includes more than $1.6 billion of additional new funding over 10 years for energy innovation, including bio-energy research, energy efficiency grants, and guaranteed loans for cellulosic ethanol plants. Also, more than $50 billion in the Farm Bill is for proposed conservation program incentives, which include activities that provide natural capture and biological storage – "sequestration" – of carbon dioxide.

III. U.S. EPA Climate Initiatives

In addition to the Administration's new climate change and energy independence initiatives, EPA supports many ongoing climate initiatives. This section will highlight several of these programs.

EPA climate programs include a wide array of partnerships, which rely on voluntary measures to reduce greenhouse gas intensity, spur new investments, and remove barriers to the introduction of cleaner technologies. Many of these partnership programs provide near-term solutions that focus on reducing emissions. These programs complement the work of other federal agencies investing in research and development programs, such as the Department of Energy's FutureGen and fuel cell development programs. EPA is also one of many federal agencies participating in the multi-agency Climate Change Technology Program.

In addition, EPA also invests in a long-term global change research program. EPA's global change research focuses on understanding the effects of global change (particularly climate change and variability) on air and water quality, ecosystems, and human health in the United States. The goal of the program is to produce timely and useful information and tools that enable resource managers and policymakers to more effectively consider global change issues in decision-making. The program's activities are coordinated with other federal agencies' climate change research through the U.S. Climate Change Science Program.

EPA's climate initiatives address all key economic sectors. Today, I will focus on EPA's transportation programs, ENERGY STAR and other domestic public-private partnerships, our work to promote carbon capture and sequestration, and the effects of global climate change on water resources.

What follows is a brief look at a subset of EPA's climate initiatives, categorized by sector.

Transportation

While transportation is crucial to our economy and our personal lives, it is also a significant source of greenhouse gas emissions. Travel growth has outpaced improvements in vehicle energy efficiency making it one of the leading economic sectors in greenhouse gas emissions. Within the transportation sector, passenger vehicles contribute 60 percent of greenhouse gas emissions, and freight trucks contribute 20 percent. The next largest contributor is aircraft at roughly 9 percent. Through a combination of new technology development, voluntary partnerships, consumer information, and renewable fuels expansion, EPA is working to reduce greenhouse gas emissions from the transportation sector. By focusing both on vehicles and fuels, these efforts follow the same successful approach the Agency has used to cut emissions from motor vehicles.

Reducing Vehicle Fuel Consumption. EPA's SmartWay Transport Partnership is a public-private partnership that aims to reduce greenhouse gas emissions, fuel consumption, and criteria pollutants from ground freight transportation operations. Nearly 550 companies, including some of the nation's largest shippers and carriers, have joined the SmartWay program.

The efforts of these companies, which include the use of fuel efficient technologies and anti-idling devices, improved aerodynamics, and the next generation single wide tires, will reduce greenhouse gas emissions and fuel consumption. Our SmartWay program is also working with truck stop owners to create "No Idling Zones" and install truck stop electrification systems, allowing tired drivers to take their required 10 hour rest period in comfort without having to operate their 450 horsepower engines. EPA estimates that by 2012, the companies that participate in the SmartWay Transport Partnership will cut carbon dioxide emissions by up to 66 million metric tons per year, and

nitrogen oxide (NOx) emissions by up to 200,000 tons per year. It will save about $9 billion in fuel costs and as much as 150 million barrels of oil per year – enough oil to heat 17 million houses for one year.

EPA also is working to develop and commercialize new, state-of-the-art low greenhouse gas technologies at its National Vehicle and Fuel Emissions Laboratory in Ann Arbor, Michigan. EPA invented and patented the world's first full hydraulic hybrid vehicle system, which is capable of achieving a 40 percent reduction in greenhouse gas emissions and a 60-70 percent improvement in fuel economy. There is a high likelihood that hydraulic hybrids will be commercialized in certain heavy-duty applications, such as urban delivery trucks and garbage trucks, within the next few years.

Promoting Today's Transportation Technologies. EPA also is working to maximize the potential of today's fuel-efficient technologies. For example, the recent phase-in of ultra low sulfur diesel fuel opens up new markets for clean diesel passenger cars and pickup trucks. These vehicles are up to 40 percent more efficient than conventional gasoline vehicles, reducing life-cycle carbon dioxide emissions by up to 20 percent.

In addition, EPA has ongoing efforts to keep the public informed about the fuel economy performance of the vehicles they drive. As evidenced by the million plus monthly "hits," the online Green Vehicle Guide has proven to be a popular consumer tool to help car shoppers identify the cleanest and most fuel efficient vehicles that meet their needs. EPA recently issued new test methods designed to improve the accuracy of window sticker fuel economy estimates to better reflect what consumers actually achieve on the road. We also redesigned the fuel economy label to make it easier for consumers to compare fuel economy when shopping for new vehicles.

Energy Efficiency

EPA has long recognized that energy efficiency offers a lower cost solution for reducing energy bills, improving national energy security, and reducing greenhouse gas emissions – all while helping to grow the economy through increased electric grid reliability and reduced energy costs in the natural gas and electricity markets.

ENERGY STAR. In 1992, EPA introduced ENERGY STAR as a voluntary labeling program designed to identify and promote energy-efficient products. EPA has worked closely with its federal ENERGY STAR partner, the Department of Energy, to expand the program to new product categories which now total more than 50. Since the early 1990s, EPA has also promoted energy efficiency in commercial buildings. Through their ENERGY STAR partnerships, businesses and organizations of all sizes benefit from energy efficiency resources and guidance that help inform their decisions, enabling them to make cost-effective investments and reduce their energy use by as much as 30 percent. Central elements of EPA's efforts include promoting energy management as a strategic business objective and promoting performance benchmarking of building energy use to help energy users target their investments.

In 2005, EPA announced a new national ENERGY STAR campaign in coordination with key professional associations and states. The ENERGY STAR Challenge is a call to action for building owners and operators to implement energy efficiency measures and reduce energy use by 10 percent or more. EPA estimates that if each building owner met this challenge, by 2015 Americans would

reduce greenhouse gas emissions by more than 20 MMTCE — equivalent to the emissions from 15 million vehicles — while saving about $10 billion.

More than 30 states — along with many other organizations — are participating in the Challenge. They are benchmarking the energy use of their buildings, setting an energy savings target of 10 percent or more, and making the investments necessary to achieve this goal.

EPA's ENERGY STAR building efforts are engaging many states, local governments, and schools to improve the efficiency of their buildings, including:

- Several states (California, Ohio, Michigan) are using ENERGY STAR to help meet state policies and goals for building energy efficiency improvements.
- Minnesota has set a goal to increase the number of ENERGY STAR labeled buildings from the current 87 to 1,000 by 2010, as a key part of their effort to reduce energy consumption 15 percent by 2015.
- The District of Columbia requires that new public buildings be designed to meet ENERGY STAR levels.
- Virginia recommends designing new public buildings to meet ENERGY STAR levels as one of two methods to comply with a new energy efficiency Executive Order.
- School districts have benchmarked the energy performance of more than 12,000 schools, approximately 20 percent of school space across the country and they have earned the ENERGY STAR label on more than 700 schools across more than 30 states; these schools are using about 35 percent less energy than typical schools.

- National Association of Counties (NACo) has partnered with EPA under the ENERGY STAR Challenge on the NACo Courthouse Campaign. Over 100 counties have joined the campaign and are working to improve the energy efficiency of their courthouses.
- In addition, many cities have used Portfolio Manager to rate the performance of their office buildings and some have earned the ENERGY STAR label.

All of these efforts are contributing to the growing results of the ENERGY STAR program. In 2006, Americans, with the help of ENERGY STAR, implemented energy efficiency measures that saved $14 billion on their energy bills and prevented greenhouse gas emissions equivalent to those of 25 million vehicles – the number of cars in California and Illinois combined.

Geologic Sequestration. Coal is an important fuel to achieve energy security and increase economic prosperity in the United States. Currently, about 50 percent of electricity in the United States is generated from coal, and according to DOE, at current rates of consumption, coal could meet U.S. needs for more than 250 years. To achieve our goal of energy security, coal must continue to play a major role in the generation of electricity in this country. Carbon dioxide capture and storage can potentially make a significant contribution to reducing greenhouse gas emissions from coal-fired electricity generation, while allowing continued use of our ample coal reserves. EPA's role is to ensure that carbon capture and storage is developed and deployed in a manner that safeguards the environment. We are focusing our efforts on two fronts: (1) partnering with public and private stakeholders to develop an understanding of the environmental aspects of carbon capture and storage that must be addressed for the necessary technologies to become a viable strategy for reducing greenhouse gases; and (2) ensuring carbon dioxide storage is conducted in a manner that protects underground sources of drinking water, as required by the Safe Drinking Water Act.

At the recommendation of the Clean Air Act Advisory Committee, EPA established the Advanced Coal Technology Work Group in January 2007 to discuss and identify the potential barriers and opportunities to create incentives under the Clean Air Act for the development and deployment of advanced coal technologies, including carbon capture and sequestration. The Work Group includes participants from electric utilities, coal companies, equipment manufacturers and pollution control providers, states and tribes, public utility commissions, environmental and public health organizations, academia, and federal agencies such as DOE and the Department of Defense.
The Work Group is developing a set of shared recommendations that could be undertaken by various stakeholders (e.g., EPA, DOE, DOD, states, tribes, utilities, public utility commissions, equipment providers, and environmental and health organizations) to accelerate the development and use of advanced coal technologies. In its work to date, the Work Group has discussed a wide range of issues associated with the commercial use of advanced coal technologies. We believe that an approach involving a shared set of actions to address some of these issues will provide the greatest opportunity to advance the technology most quickly.

Some of the areas the Work Group is focusing its discussions on include: 1) incentives to encourage advanced coal technology; 2) education and outreach to inform the public and other affected stakeholders about the importance and need for advanced coal technology; 3) liability and public perception concerns related to carbon capture and sequestration; 4) opportunities to streamline and accelerate permitting for advanced coal technology projects; and 5) the creation of mechanisms to accelerate advanced coal technology research and development. The Work Group plans to issue an interim report in June 2007, with the final report planned for January 2008.

Another focus of the Agency is the development of risk management strategies to ensure that carbon dioxide injection and long-term geologic storage are conducted in an environmentally responsible manner. Working together, EPA's Offices of Air & Radiation and Water have determined that the underground injection of carbon dioxide is subject to the Underground Injection Control (UIC) Program of the Safe Drinking Water Act (SDWA), which regulates injection activities to protect current and future sources of drinking water. In carrying out our responsibilities under the SDWA, EPA's goal is to ensure protective, effective storage of carbon dioxide injection in suitable geologic formations.

EPA has more than 30 years of experience working closely with states to authorize underground injection of billions of gallons of fluids annually. Approximately 35 million tons of carbon dioxide are injected annually and, in the Southwest United States, there is an extensive infrastructure to transport and inject carbon dioxide for enhanced oil and gas recovery. Although the knowledge gained from these activities is extremely useful, we do not yet have experience in integrated carbon dioxide capture and storage technologies on a commercial scale for coal-fired power plants. Developing this expertise is essential to ensuring the potential utility of carbon dioxide capture and storage technology. The Department of Energy's research efforts to integrate and demonstrate carbon dioxide capture and storage will go a long way toward reducing costs and providing the data needed for EPA and states to develop appropriate risk management strategies.

To support these policies, EPA has developed UIC permitting guidance that recommends treatment of injection wells associated with research and development projects as "experimental technology" wells, which are covered under our existing regulations. Our goal is to provide guidance that facilitates permits while encouraging environmentally responsible injection activities. Another goal

of the guidance is to promote information exchange between project proponents and regulators, which will eventually support the development of a long-term management strategy for future geologic carbon dioxide storage projects and answer public questions about the emerging technology. The guidance recommends a workable UIC permitting approach for the next several years while more data are gathered to determine the most appropriate management framework for large-scale commercial deployment of geologic carbon dioxide storage.

Combined Heat & Power Partnership. Combined Heat and Power (CHP) is an efficient, clean, and reliable approach to generating power and thermal energy from a single fuel source. By installing a CHP system designed to meet the thermal and electrical base loads of a facility, CHP can increase operational efficiency and decrease energy costs, while reducing emissions of greenhouse gases that contribute to climate change. EPA's CHP Partnership is a voluntary program that seeks to reduce the environmental impact of power generation. The Partnership works closely with energy users, the CHP industry, state and local governments, and other stakeholders to support the development of new projects and promote their energy, environmental, and economic benefits.

Other Industrial Sectors

A number of EPA's climate initiatives cut across multiple industrial sectors:

Climate Leaders. Climate Leaders is an EPA partnership that encourages individual companies and other organizations to develop long-term, comprehensive climate change strategies. Partners develop corporation-wide greenhouse gas inventories, including all emission sources of the six major greenhouse gases (CO2, CH4, N2O, HFCs, PFCs, SF6), set an aggressive corporate-wide

greenhouse gas emissions reduction goal to be achieved over 5 to 10 years, report inventory data annually, and document progress toward their emissions reduction goals. Since its inception in 2002, Climate Leaders has grown to include 118 corporations whose revenues add up to almost 10 percent of the United States' gross domestic product and whose emissions represent 8 percent of total U.S. greenhouse gas emissions. Eight organizations have achieved their greenhouse gas reduction goals – American Electric Power, Baxter International, General Motors Corporation, IBM Corporation, National Renewable Energy Laboratory, SC Johnson, St. Lawrence Cement, and United Technologies.

High GWP Gas Voluntary Programs. EPA has a set of voluntary industry partnerships that are substantially reducing U.S. emissions of high global warming potential (high GWP) gases. These synthetic gases - including perfluorocarbons (PFCs), hydrofluorocarbons (HFCs), and sulfur hexafluoride (SF6) - are manufactured for commercial use or generated as waste byproducts of industrial operations. Some of these gases have valuable uses as substitutes for ozone depleting substances. However, some species of these gases, while released in small quantities, are extremely potent greenhouse gases with very long atmospheric lifetimes. The high GWP partnership programs involve several industries, including HCFC-22 producers, primary aluminum smelters, semiconductor manufacturers, electric power companies, and magnesium smelters and die-casters. These industries are reducing greenhouse gas emissions by developing and implementing cost-effective improvements to their industrial processes. To date, industry partners have achieved significant emission reductions and industry partners are expected to maintain emissions below 1990 levels beyond the year 2010.

International Efforts

EPA's global leadership on climate change extends not only to our suite of domestic programs, but also to our pioneering and effective international partnerships.

Methane to Markets Partnership. The United States launched the Methane to Markets Partnership in November 2004 with active participation from EPA, DOE, USDA, the U.S. Agency for International Development, and the State Department. The Methane to Markets Partnership is a multilateral initiative that promotes energy security, improves environmental quality, and reduces greenhouse gas emissions throughout the world. The Partnership consists of 20 Partner countries, and involves over 500 private sector and other government and non-governmental organizations that participate through a Project Network.

Under the Partnership, member countries work closely with private sector development banks and other governmental and non-governmental organizations to promote and implement methane recovery and use opportunities in four sectors: oil and gas systems, underground coal mines, landfills, and animal waste management systems. Capturing and using "waste" methane not only provides an additional energy source that stimulates economic growth but also reduces global emissions of this powerful greenhouse gas. The United States has committed up to $53 million for the first five years of the Partnership. EPA estimates that this Partnership could recover up to 500 billion cubic feet of natural gas (50 million metric tons carbon equivalent) annually by 2015.

Asia-Pacific Partnership on Clean Development and Climate (APP). EPA is an active participant in this Presidential initiative, which engages the governments and private sectors in six key nations -

Australia, China, India, Japan, the Republic of Korea and the United States - that account for about half of the world's economy, energy use, and greenhouse gas emissions. Partners are enhancing deployment of clean energy technologies to address their energy, clean development, and climate goals. An example of APP success is the leveraging of a $500,000 U.S. government grant to build the largest coal mine methane power facility in the world in China, which, when completed, will avoid the annual equivalent emissions of one million cars. An additional example of an APP success story relates to a company participating in APP projects through the Renewable Energy and Distributed Generation Task Force, which achieved grid connection access in China and has led to installation of 40 megawatts of distributed clean energy in China in less than a year. And, another success story is EPA's provision of technical support to China to develop a voluntary energy efficiency label similar to ENERGY STAR.

This Administration is meeting unparalleled financial, international, and domestic commitments to the reduction of greenhouse gas emissions, and as outlined today, EPA plays a significant role in fulfilling those commitments. The initiatives discussed above represent only a sample of EPA's climate change activities. We will continue to move forward to address climate change in ways that produce meaningful environment benefits and maintain our nation's economic competitiveness.

V. Conclusion

The Administration remains committed to addressing climate change in a manner that promotes a healthy environment and a healthy economy. Today, I have outlined the myriad of programs, partnerships, and investments EPA is deploying to meet this challenge. Thank you.

The CHAIRMAN. Without objection, it will be included in the record.

Our other very distinguished witness on the first panel is Nicole Nason, who began her duties as administrator of the National Highway Traffic Safety Administration just over a year ago after serving as the assistant secretary for governmental affairs in the Department of Transportation since July of 2003.

We welcome you, and whenever you are ready, please begin.

STATEMENT OF NICOLE R. NASON

Ms. NASON. Good morning, Mr. Chairman. Thank you for the opportunity to be here.

Since the administrator spoke about the Twenty in Ten, in the interest of time, I thought I would confine my remarks to CAFE this morning and that piece of the President's proposal.

A key component of the Twenty in Ten plan that the President has proposed is to significantly boost fuel economy for cars and for light trucks. The President's goal to raise fuel efficiency would save 8.5 billion gallons of gasoline annually in 2017.

Towards that end, the administration forwarded legislation to Congress to grant the Secretary of Transportation the authority to reform CAFE for passenger cars in February.

The Bush administration has a proven record in this area. We have raised CAFE standards for light trucks for 7 consecutive years from 2005 to 2011. These higher standards are expected to save 14 billion gallons of fuel and result in a net reduction in carbon dioxide emissions of 107 million metric tons.

As important, the attribute-based CAFE structure that we established promises fuel economy benefits without jeopardizing safety or causing job loss or sacrificing consumer choice. Basing our reforms on CAFE on the National Academy of Sciences, we structured the CAFE program to make it more effective and safer and fairer.

And we accomplished this by using a structure that incentivizes manufacturers to add fuel-saving technologies instead of downsizing vehicles. The reform has a number of benefits. First, we believe it will result in more fuel savings than under the old CAFE because now all automakers will have to make their vehicles more fuel-efficient.

Second, the reform has the benefit of preserving consumer choice. Under the old CAFE program, an automaker generally manufacturers a certain quantity of smaller vehicles to balance out the larger vehicles they have been selling. Our attribute-based CAFE standard benefits new vehicle buyers by having all five vehicles, small, medium and large, become more fuel efficient.

We also tackled what the NAS called the safety penalty. The National Academy of Sciences estimated that CAFE was partially responsible for between 1,300 and 2,600 lives lost in 1 year alone. They looked at 1993. Our restructuring of CAFE incentivizes automakers to add fuel-saving technologies instead of downsizing the vehicles, and we believe we are able to minimize the safety impact.

Mr. Chairman, our effort to reform CAFE will guide the way in meeting our next challenge.

As you know, as the administrator just spoke, the President has directed the Departments of Transportation and EPA, Agriculture and Energy to take steps towards regulations that would cut gasoline consumption and thus reduce greenhouse gas emissions. The steps called for in the executive order will proceed in a manner consistent with sound science analysis of benefits and cost, safety, and economic growth.

It is a complicated legal and technical matter. It will take us some time to resolve, but the President has directed us to compete this regulatory process by the end of 2008.

We have received most of the manufacturers' product plans for cars, and we expect to receive their plans for light trucks shortly.

Mr. Chairman, given the Supreme Court's interpretation of the Clean Air Act, there are now, in effect, two agencies with authority to regulate motor vehicle fuel economy and carbon dioxide tailpipe emissions. And as the President stated, our regulatory efforts are not a substitute for effective legislation.

Accordingly, we continue to ask the Congress to enact the President's Twenty in Ten proposal. It is the most responsible way to raise fuel economy standards to reduce our dependence on foreign oil and cut greenhouse gas emissions.

Thank you very much. I look forward to answering your questions.

[The statement of Ms. Nason follows:]

The Honorable Nicole R. Nason
Administrator, National Highway Traffic Safety Administration
U.S. Department of Transportation
Before the
House Select Committee on Energy Independence and Global Warming
June 8, 2007

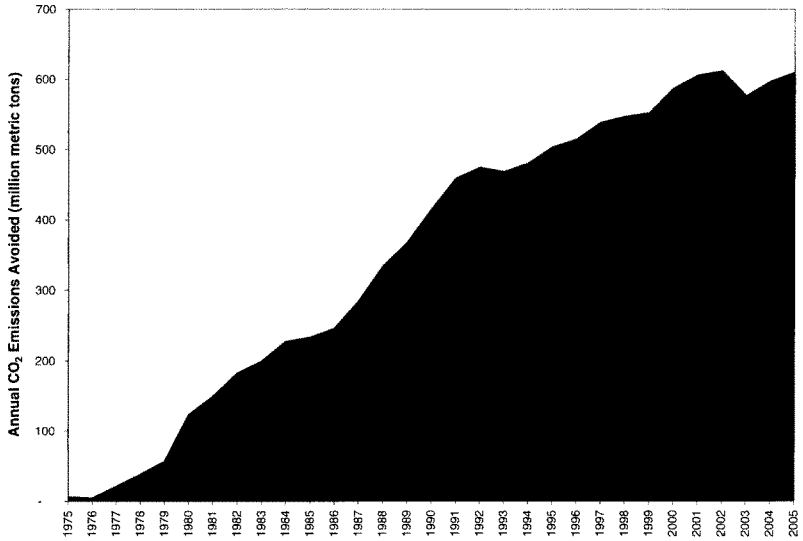
Mr. Chairman, Congressman Sensenbrenner, members of the Select Committee, thank you for the opportunity to testify regarding the President's May 14 Executive Order and the Supreme Court's decision in *Massachusetts v. EPA*.

In January, the President announced in the State of the Union address his "Twenty in Ten" proposal that would reduce domestic gasoline consumption by twenty percent in 2017. A key component of the President's "Twenty in Ten" plan is to significantly boost fuel economy standards for cars and light trucks. The President's aggressive goal to raise fuel efficiency would save up to 8.5 billion gallons of gasoline annually in 2017 and reduce consumption by 5 percent. Towards that end, the Administration forwarded draft legislation at the request of Chairmen Dingell and Boucher to grant the Secretary of Transportation the statutory authority to restructure corporate average fuel economy (CAFE) so we could then safely and responsibly raise fuel economy standards for passenger cars.

The Bush Administration has a proven record in this area. This Administration raised the CAFE standards for light trucks for seven consecutive years, from model years 2005 to 2011. The higher standards are expected to save 14 billion gallons of fuel over the life of the affected vehicles.

The saving of 14 billon gallons of fuel means that there will also be a net reduction in carbon dioxide emissions of 107 million metric tons. This is because as fuel economy is increased, the reduction in fossil fuel consumption necessarily translates into a commensurate reduction in carbon dioxide emissions.

Since the nation first decided to establish CAFE standards, fuel economy has improved and, therefore, carbon dioxide emission rates have decreased significantly. If fuel economy had not increased above the 1975 level, cars and light trucks would have pumped an additional 11 billion metric tons of carbon dioxide into the atmosphere between 1975 and 2005. That is nearly the equivalent of emissions from all U.S. fossil fuel combustion for two years (2004 and 2005).



As important, the attribute-based structure that we have established promises that these and even greater benefits can be obtained without jeopardizing safety, without causing job loss, and without sacrificing consumer choice. Basing our reforms on the landmark 2002 study on CAFE by the National Academy of Sciences (NAS), we changed the structure of the CAFE program to make it more effective, safer and fairer.

We accomplished this by using a structure that incentivizes manufacturers to add fuel-saving technologies instead of downsizing vehicles. Under an attribute-based CAFE system, fuel economy standards were restructured by basing them on a measure of vehicle size (the "footprint") measured as the vehicle's wheelbase times its track width. A target level of fuel economy is established for each increment in footprint. Smaller footprint light trucks have higher targets and larger ones have lower targets. Under the new standards, some light trucks will now be subject to a fuel economy target of 28.4 milers per gallon, higher than today's standard for passenger cars. All manufacturers will be required to comply with the reformed CAFE standard by model year 2011.

This reform has a number of benefits. First, it will result in more fuel savings than under the old CAFE because now all automakers will have to make their light trucks more fuel efficient.

This reform also has the benefit of preserving consumer choice. Under the old CAFE program, an automaker generally manufactures a certain quantity of small light trucks to balance out the larger light trucks it produces to meet the standard. Our attribute-based CAFE system not only allows automakers the freedom to produce vehicles consumers want, it also benefits new vehicle buyers by having all sizes of vehicles – small, mid-size or large -- become more fuel efficient.

We also tackled what NAS described as the CAFE "safety penalty." The NAS study estimated that CAFE was partially responsible for between 1,300 and 2,600 lives lost in one year alone, 1993. This occurred because the flat standard encouraged manufacturers to meet much of their compliance obligations by downsizing cars, which is often the cheapest way to improve fuel economy. Since our restructuring of CAFE incentivizes automakers to add fuel-saving technologies instead of downsizing vehicles, we have been able to minimize safety impacts.

Mr. Chairman, our successful effort to reform and raise CAFE for light trucks will guide the way in meeting our next challenge. In response to *Massachusetts v. EPA*, on May 14 the President directed EPA and the Departments of Transportation, Energy, and Agriculture to take the first steps toward regulations that would cut gasoline consumption and thus reduce greenhouse gas emissions from motor vehicles, using as a starting point his "Twenty in Ten" plan to reduce U.S. gasoline consumption by 20 percent over the next ten years. The steps called for in the May 14 Executive Order will ensure coordinated efforts on regulatory actions aimed at protecting the environment with respect to greenhouse gas emissions from new motor vehicles that proceed in a manner consistent with sound science, analysis of benefits and costs, public safety, and economic growth.

This is a complicated legal and technical matter that will take time to fully resolve, but the President has directed us to complete the regulatory process by the end of 2008. In preparing this rulemaking, we expect to propose using an attribute-based system. We have received the manufacturers' product plans for cars, and will receive their plans for light trucks by the end of this month.

Mr. Chairman, given the Supreme Court's interpretation of the Clean Air Act, there are now in effect two agencies with authority to regulate motor vehicle fuel economy and carbon dioxide tailpipe emissions. While NHTSA and EPA have convened several meetings to discuss the analysis necessary to responsibly raise CAFE standards for cars and light trucks, as the President stated, our regulatory efforts are "not a substitute for effective legislation." Accordingly, we ask Congress to enact the President's "Twenty in Ten" proposal as the most responsible way to raise fuel economy standards, reduce our dependence on foreign oil, and cut greenhouse gas emissions while preserving autoworker jobs in the United States and protecting consumer choice and passenger safety.

Thank you.

The CHAIRMAN. Thank you very much. And now we will turn to questions from the select committee.

The Chair will recognize himself.

Mr. Johnson, during the May 14th press conference on the President's executive order, you quoted Justice Scalia's dissenting view in the case of Massachusetts v. EPA where you said that—where he said that if you were to determine that there is endangerment associated with carbon dioxide emissions, only then would EPA be required to regulate greenhouse gas emissions from vehicles.

Do you believe that emissions of carbon dioxide from motor vehicles endanger public health or welfare, Mr. Johnson?

Mr. JOHNSON. Well, Mr. Chairman, we believe that greenhouse gas emissions and global change is a serious issue, and as we prepare and draft our proposed regulation for addressing greenhouse gas emissions from automobiles, we will be addressing the issue of endangerment. It is a process that we have been following since 1990.

The CHAIRMAN. So you have been following it since 1990, but you have yet to reach a conclusion as to whether or not the CO_2 does, in effect, endanger the public health or welfare?

Mr. JOHNSON. Let me be clear. The process of addressing the issue of endangerment on air pollutants we include as part of our proposed regulation, and that is what I was referring to since 1990.

The issue of global climate change, as you are probably well aware, having read the Supreme Court decision, is an issue that goes back to the late 1970s. In fact, in 1978, the Supreme Court does an excellent job of going through the rather lengthy history of the issue of global climate change, and they go back to 1978.

The CHAIRMAN. Actually, it even goes back before that. I think you just picked an arbitrary date.

But the question is to you, Mr. Johnson, whether or not you agree with now the overwhelming consensus of science globally that there is an endangerment to the public health and welfare that is being caused by emittance of CO_2 into the atmosphere. That is squarely on your shoulders. And your answer to that question, of course, is the central question here today.

Is it an endangerment to the public health and welfare of our country and the world that CO_2 is being emitted into the atmosphere?

Mr. JOHNSON. Global change is a very serious issue, and the issue of endangerment under the Clean Air Act, particularly under Sections 202 and 211, have to be taken into consideration as part of our regulatory determination.

The CHAIRMAN. Is it a danger, Mr. Johnson? Is CO_2 a danger to the American public, in your opinion?

Mr. JOHNSON. Mr. Chairman, global change is a very serious issue——

The CHAIRMAN. Is it a danger to the American people, Mr. Johnson, that CO_2 in massive quantities is being emitted into the atmosphere?

Mr. JOHNSON [continuing]. We will be laying out our position on endangerment as part of our proposed regulation.

The CHAIRMAN. It is very difficult to believe, Mr. Johnson, that you, as the environmental minister for the United States, as the

chief protecter of the environment for the United States, have yet to come to a conclusion as to whether or not CO_2 is, in fact, a danger to our people and to the people of the world.

You are the last major environmental minister in the Western world that has not come to a decision on this. And we should be the scientific leader, not the laggard, and to the extent to which you are still deliberating allows for this danger to build as an even greater threat to our people and to the entire world.

Mr. JOHNSON. Mr. Chairman, the issue of endangerment is a legal term of art, as you know, that is invited in the Clean Air Act, and as the agency has been practicing since 1990, that its position on endangerment of an air pollutant is included as part of its proposed rulemaking. And my note to you, again, is we recognize that global warming, and greenhouse gas emissions, is a serious issue and that we are addressing it through drafting regulations, for controlling it through for new automobiles, and the issue of endangerment will be part of our proposed regulations.

The CHAIRMAN. I understand what you are saying, Mr. Johnson. But your testimony is just further evidence that the Bush administration is out of step with the science and with the world on this issue of whether or not CO_2 endangers our planet and the people in our country. And I think that we are at a critical juncture at this point.

It was not helpful that the White House last week in anticipation of the G–8 summit said that the Bush administration's goals were aspirational for dealing with greenhouse gasses. The Bush administration's goals are not aspirational. They are procrastinational. They wanted to delay dealing with this issue. They move now from a policy of denial that there is a problem to delay in dealing with it, and the very fact that you are not answering this question of endangerment is just further evidence of that.

Mr. JOHNSON. Mr. Chairman, it would be irresponsible of me to make a final determination, from a regulatory perspective, under the Clean Air Act without having an opportunity to propose, go through notice and comment and then make a final decision. I am abiding by what the law directs me to do and that is to go through a public notice and comment process.

Oh, by the way, I think that is good government, and if you look at the schedule in my 26-year history as a government employee, to write a major regulation generally in my experience takes 18 to 24 months. This is a very complex regulation, and what the President has directed us to do is to write a regulation and have it final by the end of 2008. That is a very aggressive, yet we believe a practical, strategy for addressing it.

The CHAIRMAN. Well, I believe that you and I are going to disagree on that. In fact, I just have to take note at this point that neither you nor your predecessors appeared for 6 years before the lead environmental committee in the House of Representatives. And that is, in and of itself, a statement of the relationship that existed between the Bush administration and the Republican Congress. I mean, never before has there been such a successful witness protection program ever built that the EPA administrator did not have to appear before the environmental committee before in

the House of Representatives, and this continued policy of delay here is something that follows on that path.

Let me ask just one other question, and that goes to my home State, and it is a successful case, Massachusetts v. EPA and the decision which was rendered by the Supreme Court.

As you know, before the Energy and Commerce Committee, there is now language which actually removes the authority which the Supreme Court confirmed that you had—that the EPA had to regulate CO_2 by actually prohibiting EPA from setting national vehicle tailpipe standards.

Do you support language which would remove from you the authority to be able to deal with vehicle tailpipe standards?

Mr. JOHNSON. We have taken no position on the legislation, but as my colleague from NHTSA pointed out, we prefer legislative effects and certainly prefer the President's Twenty in Ten legislative proposal because it provides—it is less subject to litigation. It also provides certainty, and it also helps to prevent future delay.

The CHAIRMAN. So you have no position on legislation removing authority from your agency?

Mr. JOHNSON. We have not taken any position on that legislation.

The CHAIRMAN. And a final question. It also forces you to deny the State of California waiver requests to implement its own vehicle greenhouse gas standards. Do you support these provisions that remove your agency's authorities?

Mr. JOHNSON. Again, we have taken no position on the legislation, the California petition, where we are reviewing expeditiously and yet responsibly. The public comment period is still open. It closes on June the 15th. And that is the status of where we are at on the California petition.

The CHAIRMAN. And when are you going to rule on that?

Mr. JOHNSON. We have not made a determination of the date.

The CHAIRMAN. Actually, it is quite shocking that the lead environmental agency in the United States does not have a view on the defense of its own authority to protect the environment as legislation is moving through the Congress. It is just something I think at this time in our country in which would be very disturbing to the American people if they knew that this was the actual state of debate within the Bush administration and between Congress and the Bush administration.

Let me turn now and recognize the gentleman from Oregon, Mr. Blumenauer.

Mr. BLUMENAUER. Thank you, Mr. Chairman.

Mr. Johnson, is it the intensity of greenhouse gasses or the greenhouse gasses that are providing the pollution that concern us about global warming?

Mr. JOHNSON. Greenhouse gas emissions are what are concerning us about global warming.

Mr. BLUMENAUER. Thank you.

You cited statistics this last year, it was only eight-tenths of a percent, I believe, in terms of emissions, 1.7 percent increase in transportation. At these rates, how many centuries will it take any of the other developed economies to catch up with the United States to exceed us?

Mr. JOHNSON. Sir, what I do know is that, by analysis that the agency has done, approximately by the year 2015, the developing nations——

Mr. BLUMENAUER. I am talking about my specific——

Mr. JOHNSON [continuing]. Will exceed—

Mr. BLUMENAUER. My specific question was, what you cited in reference to developed countries, not China, which uses a fraction, three metric tons per person as opposed to our 19 metric tons.

Mr. JOHNSON. You also have 1.3 billion——

Mr. BLUMENAUER. Absolutely. How many centuries would it take a developed, any of the developed economies to pass us at this rate?

Mr. JOHNSON [continuing]. I don't know the answer to that.

Mr. BLUMENAUER. Would you calculate that just to give us a sense of perspective, how many centuries? Don't need to know how many years. Just need to know how many centuries.

Is there any other developed country, other than China, that has taken this laissez faire approach that you are defending for the Bush administration? Is there any other developed country that has an approach similar to what you are advocating here today?

Mr. JOHNSON. First of all, I have to disagree——

Mr. BLUMENAUER. I don't want you to debate that. I want to know if there is any other country that has a similar laissez faire approach.

Mr. JOHNSON [continuing]. Again, I beg to disagree with your characterization. In fact, as a nation, we are in fact the world's leader. We have spent $37 billion on advancing science and technology. That is more than any——

Mr. BLUMENAUER. Mr. Johnson, I am asking specifically, and you can't have a straight face and look at it on a per capita basis, on a percentage basis, what other countries are doing. We are the largest economy in the world. We are the largest greenhouse gas emitter in the world. We have put more greenhouse gasses in the atmosphere than any other country in the world.

Mr. JOHNSON [continuing]. The comparison you are giving is beside the point.

Mr. BLUMENAUER. My question is, is there any other developed country that has a similar approach that you are advocating?

Mr. JOHNSON. What I do know is that the countries that are certainly part of the Kyoto Protocol, there are only two that are meeting their targets. The others are not. For example——

Mr. BLUMENAUER. So your answer is, you don't know. You don't know. You can't name a single name of a developed country that is approaching. This is what your answer is.

Mr. JOHNSON [continuing]. What I am citing——

Mr. BLUMENAUER. Can you report back to us with an answer, which, if any, country that is embracing a similar approach?

Mr. JOHNSON [continuing]. I would be happy to.

Mr. BLUMENAUER. I would very much appreciate that.

You know, I had some other questions, but the one that just overwhelms me, at this point, you spent 27 years in the EPA?

Mr. JOHNSON. 26.

Mr. BLUMENAUER. Do you have any concerns about the morale, the credibility, the capability of that agency as a result of the leadership that you are providing now, the testimony you are providing

now, the approach that is being advocated by this administration? Does it—do you have any concern about its future credibility, the employee morale, the ability to be able to be up to the environmental tasks?

Mr. JOHNSON. Sir, I am very proud of the outstanding employees and the work that the Environmental Protection Agency has done and continues to do.

In fact, for example, our Energy Star Program that we in the Department of Energy administered last year, in 2006, citizens of the United States saved almost $14 billion in energy costs while saving greenhouse gas equivalents to 25 million automobiles. That is the number of automobiles in the State of California and Illinois combined. That is a program.

Our Smart Wise Program dealing with trucks and others, 550 companies have signed up, and we have significant savings and greenhouse gas emissions from that——

Mr. BLUMENAUER. That was not my question. My question was, do you have any concern with the testimony you are giving with the foot-dragging from EPA, with our being out of step with the rest of the world, do you have any concern about what that does for the morale, the professionalism and the credibility of EPA? Not a few projects here or there that pale by comparison with what you can do down the street. Go to the Norweigian embassy. Go to Denmark in terms—do you have any concerns about what impact this has on the functioning of EPA?

Mr. JOHNSON [continuing]. Well, sir, I think we have a very aggressive and yet practical strategy for addressing climate change that is delivering real results, and I would also like to point out that EPA, in the independent survey, was noted this year as being one of the top 10 best places to work in the Federal Government. And that is a fact I am very proud of, and we are continuing along that way.

Mr. BLUMENAUER. May say more about the Bush administration than the EPA, but thank you very much.

The CHAIRMAN. The gentleman's time has expired.

The Chair recognizes the gentleman from Missouri, Mr. Cleaver.

Mr. CLEAVER. Thank you, Mr. Chairman.

I am not going to get into an argument about whether the United States is the headlight or the taillight with regard to dealing with this problem of climate change. I think people around the world already have pretty much answered that question.

But during the Supreme Court case, the EPA argued that if it were granted the authority to regulate greenhouse gasses under the CAA, it would be unwise, quote, unwise to do so at this time. The EPA made the claims that doing so could conflict with the current administration's efforts to address climate change, particularly concerning international climate negotiations.

So, Mr. Johnson, in your opinion, why would the EPA consider coordination by the EPA with the President's climate change initiative to be potentially conflicting?

Mr. JOHNSON. Well, sir, one is that we certainly, and I certainly accept the Supreme Court's decision that CO_2 is a pollutant and that we are moving forward with regulating CO_2 from new automobiles under the Clean Air Act. This is—the court's decision is

very complex. We are moving forward in an expeditious but responsible way for addressing greenhouse gas emissions from automobiles, and certainly we are considering the impact on other sources, such as stationary sources.

Mr. CLEAVER. I have so many questions that it is difficult to follow up because I need to ask you so many questions. I am frankly confused about this, and as I mentioned earlier, a little embarrassed because we seem to be behind the rest of the world.

Can you just quickly give your opinion as to why the 27 nations of the EU are already moving and in many instances moving legislatively to deal with this issue and we are not? I mean, how much time do you think we have to begin to address this issue, and if—well, answer those first, please.

Mr. JOHNSON. First of all, I believe the U.S. is a global leader in dealing with global climate change.

Mr. CLEAVER. Do you think anybody else in the world believes that?

Mr. JOHNSON. I certainly believe that at the very—I am very pleased that we reached an agreement at the G–8 and that it has been agreed that there will be a process for rapidly developing a new comprehensive post-2012 agreement. There is an agreement to establish a long-term global goal to substantially reduce greenhouse gas emissions, and there was an agreement by each nation which would be the ones deciding on how is the best way to achieve that. And as I said, we have a very aggressive plan in the United States. We are beginning to write regulations to control greenhouse gas emissions from new automobiles and a number of partnership programs that are developing real results, and we are making progress.

Mr. CLEAVER. Thank you.

I am frustrated. And I am frustrated only because, you know, I would like to have a candid exchange, and I am not sure that this is happening.

On March 13th of this year, a draft bill aimed at moving the United Kingdom to a low carbon economy was introduced, and without exception, the MPs that we met with last week all indicated that it was going to be approved. And in the measure, they set a 60 percent goal of—I am sorry, the measure would require mandatory 60 percent cut in the UK's carbon emissions by 2050 compared to the 1990 levels.

And so when I see nations moving ahead like that, I am having difficulty trying to conclude that we are the world leader, and we won't even admit that there is global warming.

Do you admit—do you concur that there is, in fact, global warming?

Mr. JOHNSON. Yes, as I said and as the President said since 2001, there is concern for greenhouse gas emissions and concern over global warming. That is why we have invested $37 billion as a nation to understand and to address it.

Mr. CLEAVER. How much longer is the understanding period?

Mr. JOHNSON. Well, as I said, sir, we have been moving forward since 2001 and we, with the President's directive, are taking the first steps to regulate greenhouse gas emissions from new automobiles.

Mr. CLEAVER. Thank you.

The CHAIRMAN. If I might just follow up with the gentleman on one question.

You can't have it both ways, Mr. Johnson. You are touting the fact that you are starting to write regulations for tailpipe emissions yet you have no view on whether or not the Congress should eliminate your authority to do so.

Which is it?

Mr. JOHNSON. Well, I leave that decision up to Congress, and certainly as the administration——

The CHAIRMAN. You are saying it would be fine if the Congress removed from you——

Mr. JOHNSON [continuing]. That is not what it said.

The CHAIRMAN. Yes, it is. You are saying it is up to Congress. You don't have a view. You are going to sit there mute.

Mr. JOHNSON. We don't have a position as an administration, sir. That is what I said.

The CHAIRMAN. You are the environmental minister for the United States. There is a proposal to take away your authority to regulate CO_2 coming from tailpipe emissions. You are touting right now that you are starting to write regulations on it, and you are saying to us that you don't have a view on whether or not Congress should take away your authority?

Mr. JOHNSON. You are asking me to take a view of a specific piece of legislation which we have not taken a position on, and that is what I keep repeating that we have not taken a position on.

There are many ways to address environmental issues, and that can be done through a variety of mechanisms, whether it is through NHTSA and CAFE, through EPA and the Clean Air Act or other pieces of legislation.

The CHAIRMAN. Your silence, Mr. Johnson, is deafening because it is a silence that the entire administration has had towards these issues for the entire 6 and a half years that it has been in office.

Let me turn now and recognize the gentleman from Washington State, Mr. Inslee.

Mr. INSLEE. Thank you.

Mr. Johnson, could you give us your response to the NASA report of May 30th, 2007, about the earth's climate?

Mr. JOHNSON. I am not personally familiar with that specific report.

Mr. INSLEE. This is a report, the headline is, Research Finds That Earth's Climate is Approaching a, quote, Dangerous, close quote, Point.

You have read that, I assume?

Mr. JOHNSON. Well, the reports that I have read are the IPCC, the International Program on Climate Change, and certainly as an administration, we have not only invested in those through money and our own scientists, but certainly we support what the IPCC reports say.

Mr. INSLEE. That is impressive, but you are telling me that the director of the environmental ministry of the United States has not read the report just a few weeks ago indicating the United States is coming to tipping points? And did you not read the conclusions of the lead author James Hansen who said, quote, if global emis-

sions of carbon dioxide continue to rise at the rate of the past decade, this research shows there will be disastrous effects, including increasingly rapid sea level rise, increased frequency of droughts and floods, and increased stress on wildlife and plants to rapidly shifting climate zones, close quote.

Now are you telling me you are unfamiliar with that research? That is a pretty simple question.

Mr. JOHNSON. If you would like me to answer the question, I would be happy to.

Mr. INSLEE. Yes or no would be handy.

Mr. JOHNSON. What I am telling you, according to the IPCC, extreme weather, climate and sea level impacts due to climate change are very likely.

Mr. INSLEE. I just want to make sure that I understand this and so does the American public.

Are you telling me that the lead minister of the environmental agency, the United States, the director of the EPA is unfamiliar with the most recent NASA research which indicated we are approaching a tipping point which could tip the climatic system in the world within 10 years. I want to know, did you read that or not?

Mr. JOHNSON. I have not read that report.

Mr. INSLEE. Thank you. I appreciate that.

And your policies are consistent with not reading the science coming out of the Federal Government.

Mr. JOHNSON. That is a very unfair characterization, sir.

Mr. INSLEE. Well, I read it.

Mr. JOHNSON. Well, good for you. Did you read the IPCC report?

Mr. INSLEE. Yes, I have, and in quite considerable detail.

Let me ask you this: When—under President Bush's policies and your policies, when will the—when will we reach a tipping point which will tip us into major climactic shifts in the world? When will that occur?

Mr. JOHNSON. It is still an issue of scientific debate.

Mr. INSLEE. And when, according to your targets, when will the world reach doubling of CO_2 from pre-industrial levels?

Mr. JOHNSON. Again, depending on whose projections—I don't have a specific date, but a number of scientists have various opinions on when that might occur.

Mr. INSLEE. And tell me this, when do you believe it should be allowed to occur? What is the target that you believe that the world should have to eliminate this catastrophic threat? What targets should we have and what year?

Mr. JOHNSON. That is precisely why the President proposed at the G–8 summit to bring people together to establish what that target should be and what steps then each nation should take to help achieve that target.

Mr. INSLEE. We have been reading these reports now for over a decade. Are you telling me that the lead person for the Environmental Protection Agency cannot give us a target that the world should have to limit the amount of carbon dioxide to prevent these catastrophic effects? Is that what you are telling me? You can't give me a number or date.

Mr. JOHNSON. I won't give you a number. I am saying there are many opinions, and we think that it is important for the nations,

both developed and developing nations, to get together to identify what that goal or that target should be and then take steps at the national level.

Mr. INSLEE. And where does the United States' position on that, what should the target be?

Mr. JOHNSON. We have not made a position on that.

Mr. INSLEE. We have paid a lot of tax money. You have told me we spent $35 billion, and you can't come up with a number that the United States should propound? Is that what you are telling me? Where did that money go?

Mr. JOHNSON. What I am saying is, we have not identified a specific number. We think there is a lot of science that leads to a wide range of numbers, and that is why we think that it is important for us to discuss it in an international context.

Mr. INSLEE. I can tell you that my constituents are grossly embarrassed by that response that the leading nation in the world technologically, who took a man to the moon, cannot establish an international target or the head of the EPA who can't give us what the target should be is grossly unsatisfactory. And it is like saying that, you know, we are going to have a meeting next year to talk about whether or not we should try to get Osama bin Ladin.

We should have a clear target by now in the United States, and I cannot for the life of me understand why you can't give us what you think should be safe for Americans on that level. And I hope some day you can do that because we intend to create one in the United States Congress.

My time has expired.

The CHAIRMAN. The gentleman's time has expired.

The Chair recognizes the gentlelady from South Dakota, Ms. Herseth Sandlin.

Ms. HERSETH SANDLIN. Thank you, Mr. Chairman.

As I indicated in my opening statement, the area I would like to pursue with you are these perhaps interim regulatory systems that the administration plans to take, but I would assume with the notion that it would inform the legislative process that we are debating here in Congress with regard to the dual objective with energy independence and reducing greenhouse gas emissions. One piece of the administration's Twenty in Ten plan is the alternative fuel standard that would require 35 billion gallons of alternative renewable fuels available by 2017, and I strongly supported, as I mentioned in my opening statement, the 7½ billion gallon standard in the 2005 Energy Policy Act. So I appreciate the additional initiative from the administration, and I know in visiting directly with the President, he feels strongly about this initiative, and he doesn't want to do anything to undercut his own initiative.

So I would raise with you the question I raised with him and other members of his staff about the issue of the particular mix of energy sources that the administration envisions in satisfying this requirement.

If you could comment on that, Administrator Johnson, and any conversations you have had as the agencies work together, perhaps Secretary Johanns has voiced interest or concerns about this particular mix. And then, you, in your position particular, are you con-

sidering the relative greenhouse gas footprints of the fuels in that portfolio?

Mr. JOHNSON. The answer is yes to your—to the last question.

As part of our developing our proposed regulation for addressing greenhouse gases from automobiles, there are really two ways of addressing——

Ms. HERSETH SANDLIN. Before I get to that, though, I want to talk precisely about the energy mix. And so what is anticipated in the 35 billion gallon initiative? Because I do have a question for you as it relates to Minnesota.

And when we get to these State initiatives, what they are doing and how your agency is responding. But when you say, yes, you are considering the different footprints, may I inquire, further elaboration that relates to renewable energy sources, such as cellulosic ethanol versus coal to liquid in meeting that 35 billion gallon target.

Mr. JOHNSON. With regard to the legislation and the 35 billion gallons, the legislation was presented and certainly announced in the State of the Union and was focused on two things: one, energy security and, second, addressing environmental concerns, particularly global climate change. In our proposal, we were—I would perhaps refer to it as technology neutral. That is, that we identified a number of technologies, ranging from corn ethanol to soybean bio diesel to cellulosic ethanol as well as, as you point out, coal to liquid. And in our proposal, we were being technology neutral but believe that with advances in technology both for cellulosic as well as even in coal to liquid, that we would see improvements both in the technology being more cost-effective as well as also addressing environmental concerns particularly in the area of coal to liquid.

Ms. HERSETH SANDLIN. But our experience tells us that if you look just at the renewable fuels standard of 7.5 billion gallons and how we structured different tax incentives, that one fuel can overwhelm another. We have seen that with ethanol versus bio diesel, which is why I proposed separate standards for those fuels and carb-outs for cellulosic ethanol. Have there been any discussions with your agency and others about separating out, understanding what motivates the technology-neutral position, but how as these technologies are advancing, that we don't have, you know, the possibility of coal to liquid, which doesn't have the kind of footprint in terms of reducing greenhouse gas emissions that ethanol production does, cellulosic ethanol in particular about separating out the renewable—the standards for which we are reaching an aggregate of 35 billion?

Mr. JOHNSON. In some of our scenarios that we ran to determine this ambitious goal of 35 billion gallons, we looked at a variety of combinations, and we believe that certainly cellulosic ethanol plays a very significant role in helping us—helping the Nation achieve 35 billion gallons.

Ms. HERSETH SANDLIN. Do you believe that we can achieve 35 billion gallons with renewable fuel sources alone, or do we need alternative and need coal to liquid?

Mr. JOHNSON. Well, those are part of the discussions that we need to have. We think there is opportunity for all, certainly from an environmental perspective. And as we move forward on the reg-

ulation of fuel for addressing greenhouse gases under the Clean Air Act, certainly the carbon footprint will be an issue that we have to address. The greenhouse gas emission is something we have to address for all of the alternative fuels.

Ms. HERSETH SANDLIN. Mr. Chairman, may I inquire one additional—if I may ask—one additional follow-up question?

The CHAIRMAN. Please.

Ms. HERSETH SANDLIN. On the issue of the State initiatives, I know some of the focus done on California's initiative, we may be pursuing that more with the next panel. Could you provide me and the rest of the committee an update on your work with the State of Minnesota as it relates to evaluating the greenhouse gas emissions from automobiles with higher blends of ethanol, currently only in 10 percent ethanol blend is approved but the Minnesota State legislature has acted in a way that would increase that blend to 20 percent ethanol. And if you could address that both as it relates to what you are doing with new automobiles in your regulatory authority but also existing automobiles in the fleet, those that are maybe only a decade old versus those which are pre-1995?

Mr. JOHNSON. I would be pleased to. Would you like me to respond now?

Mr. Chairman, we are actively working with the State to—and in fact, this summer, we are expecting data to help us better understand the 20 percent and the questions that we need to address to make sure that the 20 percent blend doesn't have a negative impact on emissions or the equipment. And we are working with all the stakeholders, including the State as well as the automobile industry fuel manufacturers and others, Department of Energy and others to make sure. So we are very, very much interested in and reviewing and considering the proposal.

The CHAIRMAN. The gentlelady's time has expired. And we will go for a second round here. There are some other questions I think that the committee really has to unearth before we reach the second panel. Let me ask you, Mr. Johnson, if you are going to regulate fuels by setting an alternative fuel standard—following up on Ms. Herseth Sandlin's question—if you are going to regulate fuels by setting an alternative fuels standard under section 211 of the Clean Air Act, you have to have made an endangerment finding. How can you reconcile an endangerment finding with the promotion of coal to liquids which has dramatically higher greenhouse gas emissions than renewable fuels, and has the administration been making that proposal to the Congress?

Mr. JOHNSON. Well, as part of—sir, as part of—Mr. Chairman, as part of our analysis of developing our proposed regulation, we will be evaluating the coal to liquid as well as other alternative fuels to make sure that they will meet what we end up proposing for regulating greenhouse gases in new automobiles. So that is a very important question and an important consideration.

The CHAIRMAN. Well, I think it is a conflict for the administration. First, you are saying you haven't had time to make an endangerment finding, but simultaneously, you are proposing a coal-to-liquids program for the United States. And it just seems to me that you have got a responsibility to issue your endangerment finding and do so soon, given the fact that Congress is now consid-

ering your coal-to-liquids proposal. And I think that there is an urgency to it. You have no time really left, and if Congress moves forward on it, it would be because you didn't resolve this conflict. And it is squarely on your shoulders to decide whether or not this coal to liquids is something that is going to endanger us with additional CO_2 emissions. Mr. Johnson, you have pointed out that, assuming you do move forward with a rulemaking, as a result of the Supreme Court decision, you will be required to find the carbon dioxide emissions from vehicles endanger public health or welfare in order to do so. Assuming that you do make that finding, is it safe to say that EPA would also have concluded that carbon dioxide emissions from power plants and other stationary sources pose such a danger and that emissions therefore also must be regulated under the Clean Air Act?

Mr. JOHNSON. Sir, the Supreme Court's decision, which, as you know, as we have been discussing focuses on motor vehicles and with regard to impact on other sources under the Clean Air Act, we are in the process of evaluating that now.

The CHAIRMAN. Just to put a fine point on this, if it is a danger if CO_2 is a danger coming from tailpipes, would it not also be a danger coming from utilities or coming from industrial stationary sources?

Mr. JOHNSON. From a legal standpoint and under the terms under the Clean Air Act, that is one of the important questions that we are reviewing right now.

The CHAIRMAN. A rose is a rose. CO_2 is CO_2, Mr. Johnson. It would really be helpful to us if you could just give us some confidence that, if you find that CO_2 is a problem coming out of tailpipes, that you also think it is a problem coming out of the utilities or out of other industrial stationary sources. That is not a satisfactory answer.

Let me turn to you, Ms. Nason. The Bush Administration, President Bush, in his State of the Union Address, recommended that we increase the fuel economy standards by 4 percent per year over the next 10 years. Let me just show you a chart, Ms. Nason, because I think this can be helpful to you so you can understand why this proposal is so important and why this Massachusetts v. EPA decision and the California statute are so important. In 1977, we reached 46 percent dependence upon imported oil. It ramped up very quickly from a very small percentage over a 7-year period to 46.5 percent dependence on imported oil. But the Congress passed a law, a law saying that the fuel economy standards for the American automotive fleet had to be doubled over a 10-year period. And so while it was at 13.5 miles per gallon in 1975, it mandated that, by 1986, it be doubled to 27 miles per gallon. And you can see what happened after that law went into effect. We dropped down by 1985 and 1986 to only 27 percent dependence upon imported oil. And our consumption of oil dropped, and as a result, the carbon footprint coming from our automotive sector dropped dramatically.

However, then, unfortunately until today, a 20-year period, no significant increases in fuel economy standards has been promulgated. And in fact, we have now slipped backwards from the standard we reached in 1986, back from 27 back to about 25 miles per gallon. And so, as a result, we are now 60 percent dependent upon

imported oil. In other words, we increased from 27 percent dependence on imported oil to 60 percent dependence on imported oil in just 20 years.

Now we have 170,000 young men and women over in Iraq; 1.6 million Americans have now served over there in Iraq; 1.6 million Americans have gone over there. And while the administration has used some justification for being over there, we now realize it wasn't a nuclear weapons program. They knew for sure before the war started that there was no nuclear weapons program in Iraq and that there was no al Qaeda connection. This place has a source of oil. The Middle East is a place that we, in fact, receive our oil from becomes increasingly important.

If we increased to 35 miles per gallon, which is 4 percent per year, that actually backs out all of the oil which we import from the Persian Gulf. And so the President's proposal becomes very important. In the past, while rhetorically saying the right things, we have found, many of these environmentally related issues, the actions have not followed. So my first question to you, Ms. Nason, is, does the President want you to mandate that this 35 miles per gallon standard be reached by 2017, 2018 or 2019? A mandate, Ms. Nason.

Ms. NASON. Yes. Thank you, Mr. Chairman. First, could I just talk about the chart for one second?

The CHAIRMAN. Sure.

Ms. NASON. As you know, most of oil used that we bring in is gasoline; it is about 45 percent, another roughly 15 for diesel. So transportation accounts for our greatest use of oil. One of the things that we saw happen in the fleet in the 1980s, again, as you know, is that the mix changed dramatically from cars to light trucks. And there was a far greater percentage. It is half now, light trucks versus cars, compared to where it was in the 1970s and into the early 1980s. And so that did change. While we have seen greater fuel economy in cars, the increase in the fleet of light trucks, SUVs as cars for people did have an impact on overall fuel economy, as I know you know. And the President's proposal, the 8.5 billion gallons that he talked about in the State of the Union, and really the only way to get there is to do roughly a 4 percent increase in CAFE year over year to 2017, which is the Twenty in Ten proposal does not contain 4 percent in writing as we have discussed. It is a goal. It is a target. It is something that we take obviously very seriously and we would work very hard to meet. But it is not something that we have put in writing in the statute because the President has also said that he would like to see us do a full comprehensive rulemaking, weigh all of the factors that we need to weigh and that our target should be 4 percent, but we didn't put it in writing in the Twenty in Ten proposal.

The CHAIRMAN. Yes. That is the problem. And the problem is that the administration has yet to say anything about the proposal which is before the Congress right now in draft form, which calls for an increase of only 1.7 percent per year through the year 2022. So would this administration oppose—would you oppose any legislation which will undermine your goal of 4 percent? In other words, will this administration oppose language which sets a goal not of 4 percent but of only 1.7 percent?

Ms. NASON. I think the best answer I can give you at the moment, Mr. Chairman, is that as we have said, we really would like to work with the Congress to get the authority to reform the program. I think the place we do have agreement—I have looked at your legislation and others—is on reforming the program. I think where we have disagreement is on stringency levels. I hope——

The CHAIRMAN. See here is the problem with the President and with your agency, Ms. Nason. What he wants to be able to say in the State of the Union is that this is a goal which is achievable for our country. It is critical for the national security of our country, but he is not willing to mandate it. And in fact, if Congress wants to cut his goal in half, which is what it is now saying, this administration won't say anything about it, has no recommendation on it. And so we wind up with the administration setting a goal, but it is not mandated, having Congress propose something, some key Congress people propose that they cut the goal in half, have the administration say nothing about it, and then we are supposed to believe that this administration cares about, one, this huge importation of oil from OPEC and this rise in concern about global warming. And it doesn't square, Ms. Nason. The actions of the President do not square up with the promise that he has made to the American people on these issues.

Let me ask one other question. Mr. Johnson has been given authority under EPA v. Massachusetts to regulate CO_2. The legislation which is now pending before the Energy Committee would strip Mr. Johnson of his ability to regulate and strip his ability to give to the States their ability to regulate. Do you support that legislation? Do you believe that the EPA is not a proper place to have jurisdiction over this issue?

Ms. NASON. Well, I think we are working very well together as the President directed for Twenty in Ten. If you are asking what I do support, I support Twenty in Ten. That is the President's proposal.

The CHAIRMAN. I am asking now about this very critical jurisdictional issue which is at the heart of this hearing and at the heart of the legislative debate which we are having right now in this city. Do you support this legislation which would strip the authority from EPA and proposing exclusively in your own agency?

Ms. NASON. In the draft committee report?

The CHAIRMAN. That is correct.

Ms. NASON. I think, as Mr. Johnson, the administrator, has made clear, sir, we don't have the official administration position on the draft legislation in any of the other bills that we see going through the House and Senate, but we do look forward to working with you to try to get legislation through this Congress.

The CHAIRMAN. Is the goal of your agency, the mandate of your agency to look after the health of our country?

Ms. NASON. No, sir.

The CHAIRMAN. It is not, is it?

Ms. NASON. No.

The CHAIRMAN. No. Mr. Johnson's agency has the responsibility to look after the health of our country. If CO_2 is found to be a pollutant and it is something which is endangering the health and welfare of our country, he has a responsibility to do something

about it. You, on the other hand, have a responsibility to increase the fuel economy of our vehicles while ensuring that safety is maintained. That is a different responsibility. Do you have a problem with Mr. Johnson having the authority to be able to protect the health of our country?

Ms. NASON. I have no problem with the administrator.

The CHAIRMAN. Well, I am talking about him having the authority to protect the health and welfare of our country. Do you have a problem with that, Ms. Nason?

Ms. NASON. With health and welfare, no, sir, no, I have no problem.

The CHAIRMAN. Well, there is language in the draft bill which we are now going to be considering in Congress next week which would strip Mr. Johnson of his ability to deal with that issue. So that is a problem, and that is something that obviously concerns this panel very greatly and I would hope that it would concern the President, although I'm not really assured that he has drawn his attention to it. Let me turn and recognize the gentleman from Oregon if he has any questions.

Mr. BLUMENAUER. Mr. Chairman, I do. But Mr. Inslee has a plane to catch before I do.

The CHAIRMAN. Let me recognize the gentleman from Washington State.

Mr. INSLEE. Thank you. The world is rapidly reaching a consensus that we have to stop CO_2 from going beyond a doubling of CO_2 from preindustrial levels. And eventually, even your administration will reach that conclusion, I am confident. But your administration continues to insist that we can cut our emissions of CO_2 in half or more, which we have to do to reach that target, by voluntary mechanisms. That somehow if the President just asks American industrial leaders to cut their CO_2, sends them a nice letter on nice stationary, that they will just voluntarily cut their CO_2. But when your administration wants to test our kids in No Child Left Behind, not a voluntary program, don't get to make that decision. We require our kids to perform. Why does your administration require fifth graders to perform but expects voluntary decisions by CEOs of the largest corporations in the world to sort of volunteer to solve this problem?

Mr. JOHNSON. Well let me first comment that again, we have a wide array of partnership programs that are delivering results. In addition as we have been talking about, we are in the process of writing regulations, mandatory regulations to control greenhouse gases from new automobiles. And so what our overall approach is includes an array of partnership programs. It includes now this mandatory program of addressing greenhouse gas emissions from new automobiles.

Mr. INSLEE. But your proposal will specifically reject what the rest of the industrialized world has embraced, at least in the European Union, cap-and-trade system to have a mandatory enforceable cap on CO_2. You have rejected a renewable portfolio standard which would give Americans the guarantee that they will have renewable clean energy. You have rejected meaningful enforceable standards for green building requirements. You have rejected vir-

tually every significant thing other than baby steps at best at most. Isn't that correct?

Mr. JOHNSON. That is not correct.

Mr. INSLEE. Well, are you going to embrace the cap-and-trade system?

Mr. JOHNSON. Let's start—let's start with the list. We have not rejected a renewable fuel portfolio standard. In fact, it wasn't that many weeks ago that I signed the final regulation imposing the 7.5 billion gallon requirement on the United States.

Mr. INSLEE. So are you suggesting——

Mr. JOHNSON. And we are, as part of our regulation of dealing with automobile greenhouse gas emissions. There are only two ways—there is no special catalytic converter that you can put on an automobile or a light truck to address greenhouse gas emissions. There are two ways, one to address the fuel and to address the engine efficiency.

Mr. INSLEE [continuing]. Sir, I don't have a lot of time and there is a plane. Are you suggesting to Congress that we adopt a renewable portfolio standard to give Americans the assurance we will have a certain degree of electricity from clean renewable energy sources?

Mr. JOHNSON. I believe that we should be working together to achieve our energy security goals and environmental goals.

Mr. INSLEE. Will the President sign a bill that has a renewable portfolio standard in it?

Mr. JOHNSON. I look forward to working with you to address that issue.

Mr. INSLEE. Will the President sign a bill that has a cap-and-trade system in it?

Mr. JOHNSON. No.

Mr. INSLEE. Well, that is unfortunate. And I think you are premature, and I hope you are. Because the world is looking for America to reclaim leadership, the country that established democracy, the country that put a man on the moon, to have the White House stand in the schoolhouse door of the most effective thing we can do to preserve the environment for our kids. And I hope you have a check with the President. I hope you are not authorized to say that. Because if we are going to have a meaningful dialogue with the White House, they have got to keep that door open because it is the single most effective thing we can do for our grandkids. And I hope you go back and check with the White House and say, you know, maybe I spoke a little too soon in answering that question because I heard the President say he wants to turn over a new leaf when he was in Europe the other day, and I hope that happens for my grandkids and yours. So I just hope you have that conversation. I have one other question. Maybe I don't. I think that you made enough points. Thank you.

The CHAIRMAN. The gentleman's time has expired. I think he made his point very well. The gentleman from Oregon, Mr. Blumenauer.

Mr. BLUMENAUER. Thank you for allowing me to shift. I will just be very brief. I just have two additional followups. I am listening to, Mr. Johnson, your rhetoric about the commitment and the progress that is being made. I believe I read a GAO report that you

have missed 34 consecutive deadlines for upgrading appliance efficiency standards. This administration has missed 34 consecutive deadlines for appliance efficiency?

Mr. JOHNSON. We have been working effectively with the Department of Energy to help establish efficiency standards, and there are some technical issues.

Mr. BLUMENAUER. Has this administration missed 34 consecutive deadlines for increasing appliance efficiency standards?

Mr. JOHNSON. I would have to get back to you for the record, sir.

Mr. BLUMENAUER. In the ballpark, is the GAO in the ballpark?

Mr. JOHNSON. I am familiar with the GAO report. On the specifics——

Mr. BLUMENAUER. Do any of the smart people behind you know if it is?

Mr. JOHNSON [continuing]. Well, the Department of Energy has the responsibility for promulgating, is what my note says.

Mr. BLUMENAUER. Yeah. So you are going to punt. I would just respectfully suggest that actions do speak louder than words, and the failure of this administration to meet 34 consecutive deadlines for increasing appliance efficiency speaks volumes about the commitment of things that would actually make a difference. A sense of urgency, and it is another reason why I am—it is hard to take what you are saying at face value when the little tiny steps that are already established in law, this administration can't figure out how to do. I can understand 1 out of 10, maybe 2 out of 10, you know, batting only .400—you know, but 0 for 34 strikes me that you and the administration aren't serious, which leads me to my other question in advance of hearing from Attorney General Brown and others. You have not yet announced a timeline for making a final decision on the waiver request; is that true?

Mr. JOHNSON. That is correct.

Mr. BLUMENAUER. Can you give us some hint of what the timeline is going to be? You have been sitting on this now, doing whatever you are doing, for 10 weeks since the decision. It has been bubbling since 2005. Do people have to sue again to get a deadline?

Mr. JOHNSON. Well, as I mentioned, we are expeditiously and responsibly following the statutory process, which requires a hearing. The State of California asked for——

Mr. BLUMENAUER. I don't want to have to repeat what you have already said. That is why I asked, do you have a deadline that these people can count on. Is it going to be 3 weeks, 3 months?

Mr. JOHNSON. What I have said to the State of California and to others is that I want to wait until the close of the comment period, which is next Friday, have an opportunity to assess the nature of the comments, and then we will make a specific decision as to the timing of when we will make a decision.

Mr. BLUMENAUER. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. I thank the gentleman very much. And I would note that I am the author of the 1987 appliance efficiency law that the administration has missed all 34 deadlines in 6.5 years in imposing higher standards of efficiency for all of those appliance devices which we use in our country. And of course, because they

missed all 34 deadlines over 6.5 years, dozen of new coal-fired plants have to be built to generate the electricity for the less efficient appliances, which we use in our country, contributing, endangering our atmosphere with those additional emissions for refrigerators, stoves, whatever that could have been, much more efficient. Let me turn and recognize the gentleman from Missouri, Mr. Cleaver.

Mr. CLEAVER. And those coal plants are producing about 520,000 tons of nitrogen oxide which is polluting the atmosphere equal to about 500,000 automobiles. But I want to return to the lawsuit of the Supreme Court case. You argued, Mr. Johnson, that the regulation of CO_2 would require a regulation of fuel economy standards, which the EU stated is the jurisdiction of this Nation. But the Supreme Court then responded by saying that it recognized the multi agency efforts were needed to address certain issues. And then the court stated, and I quote, the fact that the DOT's mandate to promote energy efficiency by setting mile standards may overlap with the EPA's environmental responsibilities in no way licenses EPA to shirk its duty to protect the public health and welfare, unquote.

So I would like to ask both of you, actually, recognizing the Supreme Court decision, is there now ongoing work between the two agencies since the court decision? And what direction is it going, if in fact there has been a response to the Supreme Court's directive.

Mr. JOHNSON. One word answer is yes. We are working together post the Supreme Court decision.

Mr. CLEAVER. I am sorry?

Mr. JOHNSON. I said, yes, we are working together post the Supreme Court decision. And it is following what the President's executive order directing us to do, and that is to work together to develop a regulation that will regulate greenhouse gas emissions from new automobiles.

Mr. CLEAVER. Were you working together prior to the Supreme Court's decision on this?

Mr. JOHNSON. Well, we work very closely together because one of EPA's roles and responsibilities as part of fuel economy is to calculate fuel economy. That is the window sticker in the windows. And as I am sure you are probably well aware, I issued a rule last December which actually significantly improves that window sticker for the 2008 model year. And we work together in the CAFE program. We do tests. The automobile industry do emission tests. We share that information with our colleagues at NHTSA and Department of Transportation to enable them to monitor and calculate CAFE. So we have a longstanding relationship together.

Mr. CLEAVER. Thank you. The reason I raise the question is the fact that your attorneys suggested that it was the DOT's responsibility, arguing before the Supreme Court, which would also suggest that there was not prior work together.

Mr. JOHNSON. Well, we have been working together for years. Air pollutants and engine efficiency as well as fuels.

Mr. CLEAVER. Why would your attorneys argue that it was the DOT's responsibility?

Mr. JOHNSON. My recollection is that——

Mr. CLEAVER. I mean, I have it right here.

Mr. JOHNSON. It was my recollection because of CAFE, because Department of Transportation is responsible for the CAFE standard, not the EPA.

Mr. CLEAVER. Ms. Nason, is that——

Ms. NASON. Yes, Congressman. I think there was concern about not having overlapping regulations. And as you just said, the Supreme Court's word, there was overlap, yes. There may be overlap in the obligations now, but we are certain that the agencies can work together.

Mr. CLEAVER. Seamlessly?

Ms. NASON. And we are. We can't enforce CAFE without the help of the EPA even before this. So that is how we are working together to do that. That was the President's directive, May 14.

Mr. CLEAVER. Well, I am glad this is being televised because I think the people around the Nation are weeping with joy because two Federal agencies are working together and holding hands, walking under the moonlight.

My final question relates to deforestation. Scientists have—of course, if we don't agree that the scientists—some dumb scientists have concluded that the loss of natural forests around the world contributes more to global emissions each year than the transport sector. And so if that is—do you agree with that, Mr. Johnson, before I——

Mr. JOHNSON. EPA does not have responsibility for the forests of our Nation or for global forests but——

Mr. CLEAVER. I understand that.

Mr. JOHNSON [continuing]. But certainly from an administration perspective, we are concerned about global deforestation, and I believe that, across the globe, steps need to be taken to avoid deforestation.

Mr. CLEAVER. That is the most cost-effective way to reduce emissions; don't you agree?

Mr. JOHNSON. It is a way—it is one of the tools in the toolbox, yes.

Mr. CLEAVER. I don't know of anything that is more cost-effective than saying we are not going to cut down a tree, and so I am just wondering, what international effort is underway, or is there any dialogue going on on the subject in terms of the deforestation around the globe?

Mr. JOHNSON. I would—if I could, sir, get back, for the record, to you. As I said, it is not EPA's responsibility, but I would certainly be happy to have our colleagues that are—I know that our State Department and others are intimately involved in helping to address this issue, and we will have a response back to you.

Mr. CLEAVER. Thank you. It is my hope that—I mean there has been a lot said over the last week or so from the administration, and it is my hope that, at some point, there will be more done than said. Thank you.

The CHAIRMAN. The gentleman's time has expired.

The chair recognizes the gentlelady from South Dakota.

Ms. HERSETH SANDLIN. Thank you, Mr. Chairman. Just real quickly, follow-up observation from the comments and questions from Mr. Inslee and Mr. Blumenauer. And then just a follow-up question for you, Administrator Johnson, along the lines I was pur-

suing earlier. When we were in Brussels a couple of weeks ago with Speaker Pelosi, I raised the issue with President Barroso about an interim target the European Union had set for renewable fuel usage for 2005 and the fact that they missed that target. And I asked President Barroso and others in the room what the reasons were for missing that target. And the explanation was the fact that it was voluntary, and no one took it seriously. And given our own experience with a mandatory cap and trade for sulfur dioxide emissions, given our own experience that President Bush seems to acknowledge with a 7.5 billion gallon renewable fuel standard, it is now up to his initiative, the 35 billion alternative fuel standard. I do hope, as Mr. Inslee stated, that that indicates some willingness of President Bush to work with us as we move forward to recognize the importance of mandatory policies that reach the objectives and the importance of making them mandatory to meet the objectives, whether it is greenhouse gas emissions, reductions, and again, our own experience here in the United States with a cap-and-trade system as well as with these fuels, alternative fuel mandates.

My follow-up question for you on the Minnesota studies that are going on, I know you had mentioned that we would be getting data some time this summer. But does EPA have any sort of timeline or deadline for then assessing that data and making a decision about whether or not to approve something other than a 10 percent blend of ethanol with gasoline.

Mr. JOHNSON. We don't because part of the reason we don't know when the data are going to come in or what the nature and extent of the data are. As I said, we are working very cooperatively with the States and others to help address the issue.

Ms. HERSETH SANDLIN. But some of the data will be available this summer.

Mr. JOHNSON. Yes, but again, I don't know what will be or won't be, and will it be sufficient to make a determination? Again, we are operating in an open and transparent way to address the issues of, again, emissions as well as the engine and whether in fact it can accommodate a higher blend of ethanol. Certainly, you know, our hope is that the engineering and all the answers will point us in the direction of the ability to do higher blends. We certainly support E85 for example because it has—it is good for the economy. It is good from an energy security standpoint, and it has a better environmental profile.

Ms. HERSETH SANDLIN. Well, I agree with you on all that. But given we are still struggling to get E85 pumps available across the country, we have to deal with the existing domestic fleet as Detroit manufactures more flex-fuel vehicles, and many of us believe that the data will support the existing domestic fleet can take something higher than an E10 blend. So I would appreciate it if you could keep this committee, as well as the committees of jurisdiction I know are similarly interested in this issue, apprised once the data comes in this summer so that we can also evaluate what the initial studies and analysis looks like. So, thank you, Mr. Chairman.

Mr. JOHNSON. We would be pleased to do so.

Ms. HERSETH SANDLIN. Thank you.

The CHAIRMAN. Thank you. And Ms. Nason, let me just do one final line of questioning. The four of us who are here, along with Speaker Pelosi, visited, first, Greenland 10 days ago to observe this incredible phenomenon which is occurring, this rapidly intensifying pace of melt and movement of the ice cap and glaciers and icebergs, that, if it ever happened, would lead to a 20-foot rise in the sea levels of the world. It is a frightening experience. I recommend to you, Mr. Johnson, that you go to it and that you see what is happening in Greenland, to you as well, Ms. Nason, so that you can understand fully the danger, not just to those that live in Greenland but to those that live in the United States, those that live in Florida, those that live on the coast lines of our country, if this phenomenon ever did occur. And if we are going to stop it, we have to start it now. If we are going to protect people from something that happens 50 and 100 years from now, we have to start now. And by the way, 70 percent of all people who will be alive—70 percent of the people alive today will be alive in the year 2015. We are not doing it for some theoretic group of people; 70 percent of all people living today. We have a responsibility to protect them.

When we were in Europe what we found was that they are mandating in Europe a 43.4-miles-per-gallon standard by the year 2012, Ms. Nason. They are already at 35 miles per gallon. You are telling us today that you can't commit to a 35-mile-per-gallon standard 10 years from now, that you can't commit that it will be mandatory. And yet the Europeans are going to meet a 43.4-mile-per-gallon standard by 2012, only 5 years from now. And not only BMW and Daimler Chrysler and Volkswagen, but Ford and General Motors have said they would meet the European standard. And Ford and General Motors are the leading automotive companies in terms of sales in Europe. Why, Ms. Nason, can't we meet that standard? Why can't we at least say we will do 10 years from now what the EU is doing today?

Ms. NASON. Yes. Thank you, Mr. Chairman. I was in Germany last November and then in Japan last week, and I am going to Brussels next week to meet with essentially the NHTSA counterpart woman over there. They had had voluntary standards in place, which my understanding was the manufacturers had all said they couldn't possibly meet. And this was one of the difficulties that they were having. In Germany, they were saying they couldn't meet the European standards, and we had some very I think interesting discussions with the Japanese government about their CAFE and how they would like to see changes. I haven't seen Ford or GM say that they could meet 43 miles a gallon. That would be very interesting.

The CHAIRMAN. I talked to the American Chamber of Commerce in Europe, and they said they are meeting the standard. As a matter of fact, every American company that does business in Europe has signed off on and said, they will meet the goals that the EU is setting for a cap-and-trade system for emissions across all industries as well, that all the American companies doing business over there, which are all of our biggest companies, will meet that European standard.

Ms. NASON. They have different—as you know, they certainly have a different fuel mix, fleet mix in Europe. I think half the fleet

in Europe are diesels, and most of those diesels wouldn't meet the clean diesel requirements of the United States. So there are alternative ways that they could meet a standard that they might not be able to meet in the United States. As you know there is far greater penetration of diesels in the marketplace in Europe, and I think they are looking to bring clean diesels to the United States. I have seen—Chrysler, for example, is looking to make their Jeep line diesels, borrowing perhaps on what Daimler had been doing in Europe with the Mercedes diesels. So I do think that technology is going to make the difference in how they can meet the standards in the U.S.

The CHAIRMAN. We are not looking for us to take on a task that is impossible.

Let me just ask you one final question. The Ford Escape SUV hybrid gets 36 miles per gallon. Is the Ford Escape SUV hybrid less safe than the Ford Escape SUV?

Ms. NASON. No, sir.

The CHAIRMAN. No. It is the same safety but with 40 percent higher mileage. So we are not really asking for you, Ms. Nason, to take on this responsibility to ask our automotive industry to do something that is impossible. It is something that they are already doing. We are asking you to set this goal for 2017 or 2018 that can meet that national challenge, and it is critical that you do it. We didn't hear the right answers today with regard to it being mandated or it being 35 miles per gallon. What we have heard here today is that initiatives to reduce carbon emissions, such as tailpipe standards or even fuel economy standards, are being stalled while initiatives that increase carbon emissions, such as coal to liquids, are being encouraged. I suggest that President Bush is in danger of cementing his place in history as an environmental Emperor Nero, a man who fiddled as civilization burned down around him. And it is very important that this administration understand the threat that this planet is now under.

We thank both of you for your testimony here today. We will be working in close conjunction with you for the next year and a half. Speaker Pelosi has made it quite clear that she wants to see a dramatic reduction in imported oil, and she also wants a mandatory cap-and-trade system pass the United States Congress and to be placed upon the desk of the President. That is going to require the two of you sitting here to be the central players in accomplishing these goals. So we hope—and we know that this will be the first of many visits that you have back before the Select Committee on Energy Independence and Global Warming, and we thank you for your testimony.

And now we will move to our second panel. Our second panel is here in order to ensure that we get to the heart of the matter in Massachusetts v. EPA and the California statute.

Our second panel couldn't be more distinguished.

STATEMENTS OF JERRY BROWN, ATTORNEY GENERAL OF CALIFORNIA; AND MARTHA COAKLEY, ATTORNEY GENERAL OF MASSACHUSETTS

The CHAIRMAN. We will first recognize former California Governor and now attorney general of California, Jerry Brown, who

has a long history of public service that cannot be overstated. He is someone who, from the beginning of his career, has been identified with the environmental movement and the protection of the environment in our country. We welcome you, Governor Brown. Whenever you are ready, please begin.

STATEMENT OF JERRY BROWN

Mr. BROWN. Thank you. It is kind of hard to know where to begin after having listened to that exercise in obfuscation. I don't blame the deputies of the Bush Administration since, obviously, they are under discipline and under orders to stall and stonewall, which I guess they have done about as good a job as you could expect. I did examine the administrator's testimony with some care, and I guess the central fallacy is very well stated on page four where he says—and he mentioned similar sentiments during his testimony—quote, this is a complicated legal and technical matter that will take time to fully resolve. Well, not in California, because we have already resolved it. We have resolved the technical issues and the legal issues. We have a comprehensive plan ready to go to control emissions of greenhouse gases from automobiles. We are in the process of working up and then promulgating a comprehensive controlled strategy to cover power plants and industrial emitters and all other sources of greenhouse gases that California has the authority to regulate.

It is clear from the evidence that the Bush Administration has been opposing efforts. I thought it was interesting, your comments about appliance efficiency standards. When I was Governor, my energy commission adopted appliance energy efficiency standards and building efficiency standards, by the way, in 19—, I think it was 1983, by the time it became final. And then the Reagan administration adopted a no-standard standard to preempt it. So this is an old story.

In fact, it is a very old story about the waiver because, back in the good old days when we had a movie actor representing California by the name of George Murphy, and he defended the California waiver against the gentleman from Dearborn, Michigan, and the honorable Congressman argued very strenuously. But his measure to gut the California waiver was defeated, and the legislative history will clearly demonstrate and portray that Senator Murphy—and there was another Congressman by the name of Smith—all felt California had a pioneering role to play, and that was the purpose of the waiver, to enable California to lead the nation, to set standards and that—that view was then reaffirmed and extended in subsequent years when the Clean Air Act was amended to allow other States, like Massachusetts and Oregon, to copy California once the standard was enacted. So we actually have two standards. We have a national standard, which often is no standard, and we have the California standard, and the 50 States and the 49 other States can pick.

I think we have to recognize here that this is not so easy. I notice the administrator comment that some of the European countries and signatories to the Kyoto protocol weren't doing so well. Well, nobody is doing so well, including the people of this earth, this world that we are living in, because CO_2 is rising. According to the

National Academy of Science, CO_2 rose about almost three times faster in the last 4 years than had been previously thought. So things are getting worse, and the fact that the administrator tells you that the emissions only grew by .8 percent and the intensity has gone down doesn't mean too much when you realize that vehicle miles driven are going up; coal plants are on the horizon here in great numbers; and then you have China building a coal plant every week. We are facing a very difficult problem.

And if you listen and you really step back and look at this testimony, you want to know—your meeting, what is our view of Bush's response? What is California doing? Well, I think the President's response is laid out here. And when I use the word obfuscation, I lay it out very carefully. There is a lot of little stuff here. There is this and that, and maybe this 37 billion, I am not sure what it goes to. It may be helpful; it may not. But the key term has to be measurement of carbon, a measurable target that will be a cap that will express a comprehensive cap for the country as part of a larger cap for the world. But we have to start with our own country. We need that cap, and then by sector, there will be a subsidiary cap. Now when it comes to transportation, that is, 28 percent of the greenhouse gas in America comes from transportation. And automobiles are about 20 percent of that if you take into account the upstream emissions that are required just to build the cars and to get to produce the fuel. So you have to look at a lifecycle measurement.

California has already embarked upon a low carbon fuel standard. And that standard that is being spearheaded by Governor Schwarzenegger and the California Air Resources Board sets a 10 percent reduction within a fixed period of time. So I think the real question here and the real challenge is to get an agreement on, what are the total amount of greenhouse gases that are being produced, what is our yearly goal to reduce them? What is each sector's contribution? And unless you have a measurable goal, unless you have auditing and in a way that you can enforce your goal, it is not only rhetoric; it is obfuscation. And it is really dissembling. It is hard to know if anything at all was gained at the G–8 when President Bush said, okay, now we are going to do something; we are committed to coming out with some nonbinding goals. He is getting, in effect, caught up in this whole global warming discussion, but he is coming kicking and screaming. And it is going to take the Congress and it is going to take the States and it is going to take a lot of grassroots organizations to move the ball forward.

We are fighting a political battle here. It is financed in great measure by automobile companies. They have sued the little State of Vermont. They overwhelmed them with the highest paid lawyers in America. And why was Vermont sued? Because they dared adopt the California standards. The automobile companies aren't waiting for the EPA to grant a waiver. They are already trying to destroy the standards through litigation. We are facing a lawsuit in Fresno, California, on the same topic. Rhode Island is being sued because they have dared to adopt the standards. Every State that adopts the California standards—and there are now 12 of them—will be sued, will have to face millions of dollars of legal onslaught paid for by General Motors and the other members of the Automobile

Alliance. But not content with their lawsuits and their over-lawyering this issue, they have now gone to the Commerce Committee, and they are pushing a legislative short-circuiting of the legal process. That is really incredible for such a prominent industry.

Now I just want to go to the heart of the matter here because we heard the woman from NHTSA talk about it, and they invoked the talisman of consumer choice. Consumers 20 years ago didn't know that they needed SUVs and minivans, only 10 percent of the cars sold. Now, she acknowledges, it is 50 percent. That is just sovereign consumer choice. Not exactly. This is massive propaganda and manipulation in the form of advertising to promote a certain profile of automobile that suits a certain profit profile.

And I understand, that is good old American economy. It is the market system, and that is fine from that point of view. But unless this Congress can curb that choice, just like we do in other areas—we don't have unlimited choice about everything we do. We have social and moral restraints. When we see the danger of climate change and the disruption that is going to happen to our lives, the rapid snow melt in California which will destroy our levees, impede our agriculture; the increase in ozone that will affect the children's lungs and respiratory disease in the elderly; erosion of our beaches. This is real stuff, not to mention the elimination of low-lying countries, like a good part of Bangladesh and other countries in the Pacific. This is serious stuff here. And in order for that—for us to do anything, we are going to have to have restraints. We are going to have to have rules. That is what Congress is all about. And I think we have to recognize that it is going to take some changes.

Technology is very important, but it is not the only thing. Technology has a number of choices. We have to build different vehicles, different engines, but also different fuels. And whatever we can do to that, we have to do it. There are three things that are obvious: One, we have to reduce carbon in our fuels. We have to reduce fossil fuel consumption by efficiency, by technological invention. Number two, we need renewable energies. And number three, we have to be able to sequester and cap—not cap but prevent carbon from getting into the atmosphere from the burning of coal. It may not be here today, but it is worth spending billions of dollars because we have to get there. You have to do all three, and you have to do all three to the maximum degree, as fast as you can. And what you saw today was—I suppose you know two good—two good administrators. I don't want to say bureaucrats but they are good people. And they are doing what they are told to do or I suppose they will be fired just like the U.S. attorneys. I do think that there is some responsibility on the part of the administrator to follow the law, not what George Bush tells him, not what Cheney may say, not a little message from a White House staffer. I do think there is a legal requirement to follow the law.

If they follow the law, California will get a waiver; the EPA will promulgate regulations to control greenhouse gases across a broad front. So just in conclusion, I would say this, this is not easy stuff. It is going to be tough. If he gives us a waiver—and when I read this testimony, it looks like he is in total stall mode under orders of the President. If that is true, we will sue him. Governor

Schwarzenegger has already announced that. I am his lawyer. We will be there the first day we can. But, of course, they can stall. Even if he gives the waiver, the automobile companies are suing us. So it is going to take a couple years to get this done, and ultimately, it is up to you. We need Congress to settle this problem. But in the meantime, we have to do everything we can to get our waiver in California, to get other States to adopt it, to get the fuels, to get the cars and to do the job across the whole sector. We are committed, and I am committed to every legal, political and consumer activist initiative to get this job done.

And I just want the automobile companies to know that there is a price to be paid for their sabotage of the California waiver. California is the biggest automobile market. And I would just hope that the president of General Motors and other companies who refuse to meet with me are listening because I take this very, very seriously. And I am not going to lay down on this. I am going to fight with every political and legal strategy that I can envision during the next several years when I still have enough energy to go at them. But they have an adversary, and we have been at this thing. When I was Governor, we had the same cast of characters fighting this when we wanted to reduce emissions on oxides and nitrogen and other—the catalytic converter. It is the same cast. It is the same problems. It is the same money. And we in California have even more resources now, and we are going to get at it.

It is no longer just Democrats. We have Republican Governors in Connecticut, in California. I think we can have other Republican Governors around with Democrats. So it isn't a party thing. The Democrats are split in Congress. The Republicans hopefully will make up for the defecting Democrats. And together we are going to take this country back from Cheney's oil mentality and Bush's whatever—Texas short-sighted mismanagement of so many things that we are now suffering from. Thank you.

[The statement of Mr. Brown follows:]

SUMMARY OF WRITTEN TESTIMONY BY EDMUND G. BROWN JR. ATTORNEY GENERAL OF THE STATE OF CALIFORNIA BEFORE THE SELECT COMMITTEE ON ENERGY INDEPENDENCE AND GLOBAL WARMING JUNE 8, 2007

Thank you, Mr. Chairman and members of the committee for this opportunity to provide comments on the Bush Administration's response to the United States Supreme Court's opinion in *Massachusetts v. EPA*. and the President's May 14 Executive Order: Cooperation Among Agencies in Protecting the Environment with Respect to Greenhouse Gas Emissions from Motor Vehicles, Nonroad Vehicles, and Nonroad Engines.

Mr. Chairman, you have asked me to address three additional topics: the impact of climate change on California, California's efforts to combat climate change, and the appropriate Congressional response to global warming. Key points include:

- Global warming is the most catastrophic long-term threat our county is facing today. It is absolutely critical that we respond swiftly and aggressively. A deficient response to this threat significantly undermines our national security, furthers our foreign oil dependency and weakens our economy. California is particularly vulnerable to the impacts of global warming, which will include decreased water supply and increased temperatures, flooding, and wildfires.

- California has a longstanding record of pioneering the fight against global warming. In 2002, the California legislature passed AB 1493, the state statute authorizing California's greenhouse gas emissions regulation. In 2006, California enacted AB 32, the first statute of its kind mandating greenhouse gas reductions. 11 other states adopted California's regulation and more are slated to join.

- The Supreme Court in *Massachusetts v EPA* strongly reinforced longstanding legal principles. The Court directed EPA to obey Congress' mandate in the Clean Air Act and to stop resisting its duty to protect the public and the environment from global warming. The decision affirmed California's right to set its own automobile emissions standards.

- Congress should continue to protect California's right to set its own automobile emissions standards. It should not embrace any proposal to narrow or eliminate that right. In so doing, it would undermine the statutory framework of over 40 years, which was set in place by earlier Congresses.

- The groundwork for the solution to the problem was laid over a generation ago when Congress passed the Air Quality Act of 1967. The original reasons for which Congress authorized California to develop separate standards for automobile emissions remain valid. The automobile industry should not be permitted to undermine that structure.

**WRITTEN TESTIMONY OF EDMUND G. BROWN JR.
ATTORNEY GENERAL OF THE STATE OF CALIFORNIA BEFORE THE SELECT COMMITTEE ON ENERGY INDEPENDENCE AND GLOBAL WARMING
JUNE 8, 2007**

Thank you, Mr. Chairman and members of the committee for this opportunity to provide comments on the Bush Administration's response to the United States Supreme Court's opinion in *Massachusetts v. EPA*. and the President's May 14 Executive Order: Cooperation Among Agencies in Protecting the Environment with Respect to Greenhouse Gas Emissions from Motor Vehicles, Nonroad Vehicles, and Nonroad Engines. Mr. Chairman, you have asked me to be sure to address three additional topics: the impact of climate change on California, California's efforts to combat climate change, and the appropriate Congressional response to global warming.

I. IMPACTS OF CLIMATE CHANGE ON CALIFORNIA

Global warming is the most urgent environmental issue of our time. Its impacts are real, dramatic, and they are happening now. California's unique topography, and its high human and vehicular population, have already caused higher ozone concentrations than other parts of the country. Hotter temperatures expected to result from climate change will cause more ozone in California. Climate change will make the problem even more extreme. Climate change will cause increases in wildfires. More wildfires means more wildlife and habitat destruction, more destruction of peoples' homes and possessions, and increases in other pollutants such as particulates resulting from these wildfires. Climate change will have water impacts for California that will be felt acutely. The warming of our western mountains will cause decreased snowpack, more winter flooding, reduced summer water flows, to name a few. In California,

these impacts and others were most recently described by the California Air Resources Board (ARB) in its testimony on May 22 and 30 to EPA as part of our waiver request. Those presentations are publicly available on the ARB Website.

II. CALIFORNIA'S EFFORTS TO COMBAT GLOBAL WARMING

We in California have a longstanding record of taking action to combat climate change. In 2002, California enacted legislation authorizing our automobile greenhouse gas rule and ARB finalized the regulation in 2004. Thus, we have lead this fight for years and our effort is well established.

Unfortunately, California has had to defend itself from an aggressive legal attack from the automakers. Their lobby has challenged the regulations at every opportunity and has presented a strategy for endless stonewalling. They have sued California, challenging the state's authority to regulate greenhouse gas emissions from cars and trucks, and they have challenged ten other states' actions in adopting the California rules. The automobile industry appears to be doing everything it can to get the U.S. EPA to delay or deny our waiver request.

California's legislature also enacted the California Global Warming Solutions Act of 2006 (AB 32). AB 32 is the world's first comprehensive program of regulatory and market mechanisms to achieve greenhouse gas reductions. California is currently developing a low carbon fuel standard (LCFS) which will help the state in meeting the goals of AB 32 which include reducing greenhouse gas emissions to 1990 levels by 2020.

III. MASSACHUSETTS v. EPA AND THE PRESIDENT'S EXECUTIVE ORDER

The United States Supreme Court's opinion in *Massachusetts v. EPA* was a resounding affirmation of California's actions to address global warming. That opinion directed EPA to follow Congress' mandate in the Clean Air Act. The case represents an important victory, but the remarkable thing about it is that it did not do anything radically new. It simply -- and authoritatively -- reiterated, re-emphasized, and validated existing legal principles. The opinion says forcefully that carbon dioxide and other greenhouse gases are pollutants that are emitted from cars and trucks. That is a conclusion that the automobile industry, in particular, tried for years to avoid. But Congress, when it first promulgated the Clean Air Act defined pollutants broadly. This was never in controversy until the present Administration moved into the White House.

The case also affirmed the right of States to challenge the federal government's inaction on global warming. And it limited the question for EPA to ask, in whether to adopt regulations like California's, to the statutory question of whether these pollutants "may reasonably be anticipated to endanger public health and welfare." Again, these are not new legal principles, but it took a Supreme Court case to put these arguments to rest because of the intractable resistance to them by the automobile industry and others.

Massachusetts v EPA also makes it clearer that our California regulations meet the requirements of the Clean Air Act and are not preempted by the Energy Policy and Conservation Act (EPCA), the federal CAFE statute. It helps show that there are compelling and extraordinary conditions that allow for separate California standards. And it shows that it is not difficult to harmonize fuel economy standards with carbon dioxide emission standards, and that

those standards are parallel and complementary. Neither displaces the importance of the other.

Unfortunately, President Bush and his Administration continue to avoid taking action against global warming, despite the Supreme Court's opinion. His administration still claims that more study is needed. It would not be surprising if EPA took the same position and claimed that more study was needed. The President's May 14 Executive Order is just one more example of this stall tactic. Now that they've lost the battle over whether global warming is actually happening, the Executive Order asserts that the problem of global warming is complicated and so more coordination is needed before "first steps" can be taken. This is nothing but more delay. The President says that regulations "should be developed." California's regulations are already completed. EPA should grant California its waiver and let us move forward. There is no reason to delay. So, our position on the President's Executive Order is this: we reject it. We urge you also to reject that order and what it stands for, which is more delay.

IV. CONGRESS SHOULD RESPOND TO GLOBAL WARMING BY REJECTING THE AUTOMOBILE INDUSTRY'S ATTEMPTS TO UNDERMINE THE CLEAN AIR ACT'S WAIVER PROVISION.

California is still waiting for EPA to grant our waiver request. There's one simple way for California to get started in implementing its fight against global warming: EPA must grant the waiver. Anything that Congress does should not get in the way of that goal. You can greatly assist California by rejecting proposed statutory language that would undermine or weaken the waiver provisions in the Clean Air Act.

Congress should respond to the problem of global warming by strengthening California's ability to act. For example, the Discussion Draft on Alternative Fuels, Infrastructure, and Vehicles, on which the House Subcommittee on Energy and Air Quality held hearings yesterday,

does not represent the kind of congressional action that will help in the fight against global warming. Most important to us, the Discussion Draft's provision eliminating the Clean Air Act waiver provision for California would destroy our ability to lead other states and the Nation in fighting global warming.

The Discussion Draft is also an attack on state sovereignty. The right of California and other states to protect their citizens from the impacts of global warming should not be undermined. Global warming is the most important environmental problem of our generation, and perhaps our civilization. This is nothing less than an attack on 40 years of a system under the Clean Air Act that has worked well. The efficacy of that system was just last year, 2006, validated in a National Academy of Science study commissioned by Congress, entitled State and Federal Standards for Mobile Source Emissions. NAS, which as you know is comprised of distinguished scholars in this field, undertook a thorough examination of this subject and concluded that: "The original reasons for which Congress authorized California to develop separate standards for automobile emissions remain valid." NAS recommended that California be allowed to continue in its pioneering role in setting mobile source emissions standards.

Congress can protect California's automobile greenhouse gas emissions standards from challenges based on EPCA preemption by inserting a "savings clause" into the Energy Policy Conservation Act (EPCA). This will protect against industry lawsuits arguing, as they are now, that Congress intended for EPCA to preempt California's right to set automobile emissions standards under the Clean Air Act. A savings clause would make explicit what is now implicit, and we believe to be true -- that nothing in EPCA affects the authority granted to California in Sections 202 and 209 of the Clean Air Act.

Congress can maintain the Clean Air Act's framework in place and reject the automobile industry's aggressive attempts to undo it. Just yesterday, the CEOs from General Motors Corp., Ford Motor Co. and DaimlerChrysler met with members of congress in both chambers, to discuss fuel economy (CAFÉ). They criticize CAFÉ as being an ineffective policy for reducing foreign oil dependence. Their trade association is running ads aimed at undermining the 35 mpg mandate in the Senate's current energy bill. At the same time they are adamantly opposed to the Clean Air Act's longstanding authorization of California's automobile emissions program and they claim they want NHTSA, the agency responsible for setting the CAFÉ standards, to regulate them instead of EPA. The fact is, they simply do not want to live up to their responsibilities to the environment and to the American people. They rebel against any real attempt to get them to do their part. This is nothing new.

Over the past 40 years, the domestic automobile industry has opposed just about every public health and welfare regulation -- seat belts, turn signals, collapsible steering columns, catalytic converters, air bags, and fuel economy standards. Taking a phrase from an earlier Supreme Court, the automobile industry has "waged the regulatory equivalent of war" against these standards. *Motor Vehicle Manufacturers Association v. State Farm Mutual Ins. Co.*, 4623 U.S. 29, 49 (1983).

The industry claims that California's greenhouse gas requirements will cost too much, cannot be met, and will not work. When the automobile industry opposed the Clean Air Act of 1970, they said the same things they are saying now. At that time, the American Automobile Manufacturers Association said that it would not be possible to achieve the control levels specified in the bill and that manufacturers would be forced to shut down. Of course, the U.S.

auto industry did meet the emissions requirements. Therefore, it's no surprise that now, instead of working to comply with the regulation, they are fighting it. They claim the sky is falling. In every case they have been wrong before and they are wrong now.

V. CONCLUSION

The problem of global warming is not new. As a nation, we are now reconciling ourselves to the reality that it is time to take radical steps to prevent global warming from devastating the planet. California has been a leader in confronting in threat and we are now on the verge of being able to implement our automobile greenhouse gas regulation to take action in this battle. Though the automobile industry has fought us every step of the way, I urge you to partner with us, not them.

The original reasons for which Congress authorized California to develop separate standards for automobile emissions remain valid. Global warming is a big problem, but the groundwork for the solution to the problem was laid over a generation ago when Congress passed the Air Quality Act of 1967. The automobile industry should not be permitted to undermine that structure. It tried vigorously to prevent its enactment in 1967 and its trying now to push it back and carve global warming out of the waiver authorization. This would only serve to weaken EPA's efforts to attack global warming and it would eviscerate California's automotive global warming program.

The CHAIRMAN. Thank you, Governor, very much. And I think that when it comes to your political energy, if there ever was such a thing as a renewable energy source, you are it. I don't think anyone is worried about you running out of energy in this battle on this issue.

Now we turn to our other attorney general, the attorney general from the Commonwealth of Massachusetts, my own attorney general. And she has had an incredibly distinguished career. She has been the District Attorney of Middlesex County, the largest county in New England, one of the largest counties in the United States. She lives in Medford, Massachusetts, which is where my district office is. But most significantly, the case Massachusetts v. EPA, the most important environmental decision ever rendered by the Supreme Court of the United States was won by Massachusetts. And Attorney General Coakley here today is obviously a central player in this whole debate globally over whether or not we are going to deal with this issue.

It is our honor to have you with us today, General Coakley, and we look forward to your testimony.

STATEMENT OF MARTHA COAKLEY

Ms. COAKLEY. Thank you, Chairman Markey and Congressman Blumenauer.

And Governor Brown, Massachusetts, will be right with you in the battle, as many of the States will, around this particular issue. I appreciate the invitation for General Brown and I to talk to you today. I have submitted written testimony. I am going to be brief this morning but would ask that the committee accept the written testimony as part of this hearing, and I cannot resist a very brief——

The CHAIRMAN. Without objection, that will be included in the record.

Ms. COAKLEY [continuing]. Thank you. I cannot resist a brief fish story around the global warming issue. I recall I had the great good fortune in the summer of 1974 to work for Congressman Silvio Conte, who is from western Massachusetts, where I grew up, and one of his big issues was cleaning up the Connecticut River, getting rid of the PCBs, bringing salmon back to the Connecticut River. He was successful in doing that. That was a good result, salmon in the Connecticut River.

I read, Congressman Markey, that after your trip to Cannon Mountain to look at some of the effects in New England of global warming that the local fishermen off of New Hampshire and Maine indicated that for the first time they were seeing bluefish. They had never seen them north of Cape Cod, a very tangible result, a true fish story, but not a good one, and a harbinger of what we are facing.

As the Supreme Court recognized this past April, States will be directly harmed by climate change. Particularly in Massachusetts, we are losing 200 miles of coastline to rising seas. States across the country are concerned about threats to water supply, the increase in severe weather events that are costing all of us.

General Brown mentioned some of the effects in California. This commonwealth, Massachusetts, recognizes global warming needs

immediate attention. In fact, it needs it yesterday. To this end, we are engaged in regional greenhouse gas initiatives and a market-based cap and trade program for power plant emissions. We are committed to investing in renewable energy and are leading with proposals for green public buildings and expansion of public transportation.

Meanwhile, we have been waiting and eager for the Federal Government to take a leadership role in our necessary fight against global warming. One of the committee members earlier indicated that the Federal Government should lead, follow or get out of the way. It is a huge issue. On this particular issue—as I might note that it is on others, consumer protection, submortgage lending—the Federal Government has, frankly, been a huge disappointment in this issue. We have been long waiting for the Environmental Protection Agency to adopt motor vehicle emission standards that would allow States to address the leading cause of global warming. Given the decision in Massachusetts v. EPA and Congressman Markey's opening remarks, I won't belabor the history of the case. But it is important to note that the United States has been for a long time—since 1992—part of the Rio Treaty, and it commits the United States and other developed countries to reduce emissions and presumably to take leadership in that.

Congressman Markey outlined the history where, frankly, not much happened, particularly recently with environmental groups filing the rulemaking petition in 1999. That was the basis of the suit that Massachusetts was lead counsel for, and I think it is ironic that, in this day and age, Massachusetts and other States have had to file a lawsuit to demonstrate to the Environmental Protection Agency that its job actually includes protecting the environment.

Simply put, the EPA cannot plausibly say that the statutory trigger for commencing regulation that emissions are endangering public health and welfare has not been met. They refuse to do that today. It still flies in the face of common sense and all the evidence that they see before them. We are heartened, I will say, that the White House and EPA appeared to acknowledge this in their characterizations of the impact of the court's ruling and in their promises that regulations controlling greenhouse gas emissions will be forthcoming.

However, we are disheartened, as I believe we were today, that the EPA has stressed the need for lengthy periods of time both to digest the Supreme Court decision—and I would note that the Supreme Court decision is not that complicated; it is pretty straightforward in what it decides in terms of standing, the authority of the EPA and their need to articulate some reason why they can't issue these regulations. They have indicated that they need to embark on a period of exhaustive deliberation with other agencies about what to do next. We are also discouraged by the EPA's reluctance to commit to firm proposals or any timelines for action.

If they are serious about attacking the problem of global climate change, then there are two specific things that they should pursue immediately. They should begin immediately a formal process to conclude that endangerment threshold has been crossed. Starting that process is simple. It requires no further deliberation on their

part. They need merely to publish a notice in the Federal Register and to—that they proposed to determine that these emissions cause—contribute to air pollution which may be reasonably anticipated to endanger public health or welfare. By beginning the process now, the EPA does not forfeit any right to deliberate over the more difficult regulatory design issues involved in actually setting the applicable emission standards.

However, a continued unwillingness even to start that process says that their promises about being concerned about global warming are illusory only. Secondly, once that public comment process concludes next week, the EPA should grant California's request for a section 209 waiver for State motor vehicle regulation as expediently as possible. I want to emphasize, as General Brown did, how important the EPA's approval of the waiver is for the States, including the Commonwealth of Massachusetts, which has adopted the California regulations.

While California has notified the EPA they will sue if they don't rule on the waiver by October, there is simply no reason for the EPA to wait that long. They should decide it more quickly. They should give a timeline on when they are going to decide. And I, frankly, think that General Brown and I speak for our colleagues when we say, we would like nothing better than to see any further litigation by State attorneys general on this issue obviated. We do have other things to do as attorneys general than to bring to the attention of the Federal Government that it is not doing its job. And so that is an important issue, I know, for California and for all of us who say: Lead, follow or get out of the way because they can't have it every way.

You know, the Supreme Court ruling has induced many industry groups to call for a more comprehensive and a market-based approach to replace a sector-by-sector command and control regulation under the Clean Air Act. We welcome in Massachusetts the engagement of the affected industries and the legislative debates, and we hope that they will work to help produce an efficacious result. And we emphasize that while Congress can improve upon the regulatory approaches that the Clean Air Act provides, we are very firm in believing that the current law allows the EPA to immediately go a long way to addressing the problem now.

As Congress considers additional legislative approaches, we urge it to reject the language that Congressman Boucher, Chairman of the Energy and Air Quality Subcommittee of the Energy and Commerce Committee, unveiled last Friday and held a hearing on yesterday. I address that more at length in my written testimony. It would be taking a step backward to proceed with that legislation.

It would be taking a step backward, and while individual States continue to work or lessen environmental impact, Congress could take a major step in the right direction by passing legislation to significantly increase our fuel economy standards without hampering States' emission efforts or marginalizing the EPA's authority, helping both our environment and consumers' wallets.

We specifically urge Congress to respect and support the role of States in developing solutions. We need to find creative ways to structure such a program that allows for States to continue to play a leadership role without placing excessive burdens on local indus-

tries, and we suggest, for example, if a national cap and trade emission trading program were enacted, emission credits could be distributed on a State-by-State basis, allowing each State to set aside additional reductions should they so choose.

I wanted to thank you again for allowing us this opportunity both to submit written testimony and orally today. We appreciate in Massachusetts the critical work that you are undertaking, not just for our Nation, but for our planet.

[The information follows:]

Massachusetts v. U.S. EPA: Implications of the Supreme Court Verdict
Testimony of Martha Coakley, Massachusetts Attorney General
June 8, 2007

Chairman Markey, Ranking Member Sensenbrenner, and members of the Committee. Thank you for inviting me here today to discuss global climate change, one of the most pressing environmental issues of our time.

As the U.S. Supreme Court recognized this past April, states are and will be directly harmed by climate change. For example, in Massachusetts, we are losing 200 miles of coastline to rising seas, Meanwhile, states across the country are concerned about the threats to our water supply and the increase in severe weather events that are costing all of us.

The Commonwealth of Massachusetts recognizes global warming as a problem that needs immediate attention. To this end, we are actively working on the state and regional levels. We are engaged in the Regional Greenhouse Gas Initiative, a market-based, cap and trade program for power plant emissions; we are committed to investing in renewable energy, and are leading with proposals for green public buildings and expansion of public transportation. Meanwhile, we have been waiting and eager for the federal government to take a leadership role in our necessary fight against global warming. We have long been waiting for the Environmental Protection Agency (EPA) to adopt motor vehicle emissions standards that allow states to address the leading cause of global warming.

Given the Supreme Court's decision in *Massachusetts v. EPA*, I won't belabor the history of the case. Nevertheless, it is important to reflect for a moment on the timeline of federal inaction that was responsible for the origination of the case. The United States

has been, and remains, a full party to the 1992 United Nations Framework Convention on Climate Change, better known as the Rio Treaty. Although that Treaty does not set specific, enforceable targets for the reduction of greenhouse gases, it does commit the United States and other developed countries to both reducing emissions , as well as to leading the rest of the world by good example.

In 1998, the EPA Administrator rightly concluded that the agency had existing statutory authority under the federal Clean Air Act to reduce greenhouse gas emissions; the Act *expressly* lists effects on "climate" among the "effects on welfare" that EPA is charged with preventing, *expressly* defines the term "air pollutant" with comprehensive breadth, and, indeed, even *expressly* refers to carbon dioxide as an air pollutant. Environmental groups then filed a rulemaking petition formally requesting EPA to use its existing authority to set motor vehicle emission standards for greenhouse gases. That rulemaking petition was filed in 1999, eight years ago. EPA's denial of that petition became the basis for *Massachusetts v. EPA*. By asserting a legal claim that was contradicted by the plain language of the Clean Air Act, the EPA has now squandered almost a decade. Should it have taken a law suit by several states and others to demonstrate to the Environmental *Protection* Agency that its job includes protecting the environment?

In light of the Supreme Court decision, it is clear that it is long past time for the EPA to use its regulatory authority. While we recognize that the Court did not specifically order the agency to adopt motor vehicle emission standards, it constrained EPA's regulatory choices in a way that makes such regulation inevitable. Simply put, the EPA can no longer plausibly say that the statutory trigger for commencing regulation –

that emissions are endangering public health and welfare – has not been met. We are heartened that the White House and the EPA itself appear to acknowledge this both in their characterizations of the impact of the Court's ruling and in their promises that regulations controlling greenhouse gas emissions will be forthcoming. Although some of the Administration's statements about its specific intentions have been less than clear, it appears that the EPA Administrator intends to move forward with new regulations under Section 202 of the Act (which regulates emissions from new motor vehicles) and Section 211 of the Act (which regulates fuels). This would seem to mean that the Administrator does not intend to contest that the endangerment of public health and welfare threshold has been met.

However, we are disheartened that the EPA has stressed the need for lengthy periods of time both to digest the Supreme Court decision, and to embark on a period of exhaustive deliberation with other agencies about what to do next. Respectfully, the message of *Massachusetts v. EPA* is simple: the Court has said to the EPA, in effect, "you have not been doing your job and that it is time for you to start doing it." We are discouraged by the EPA's reluctance to commit to firm proposals or timelines for action. If the EPA is serious about attacking the problem of global climate change, then there are two specific actions that it should pursue immediately.

First, the EPA should begin immediately a formal process to conclude that the endangerment threshold has been crossed. This process is a prerequisite to most regulation under the Clean Air Act. Starting that process is simple, and it requires *no* further deliberation. The EPA needs merely to publish a notice in the Federal Register that it proposes to determine that greenhouse gas emissions from motor vehicles or other

sources "cause, or contribute to, air pollution which may reasonably be anticipated to endanger public health or welfare," and to invite public comment. By beginning the process now, the EPA does not forfeit any right to deliberate over more difficult regulatory design issues involved in actually setting the applicable emissions standards. However, a continued unwillingness to even start the threshold step of determining endangerment would demonstrate that the EPA may have no true intentions of undertaking the process of setting regulatory standards at all.

Secondly, once the public comment process concludes next week, the EPA should grant California's request for a Section 209 waiver for its state motor vehicle regulations as expediently as possible. I want to emphasize how important the EPA's approval of the waiver is for the dozen states, including Massachusetts, that have adopted the California regulations. While California has formally notified the EPA that it will sue if the agency does not rule on the waiver by the middle of October, there is simply no reason for the EPA to wait that long. My colleagues and I would like nothing better than to see any further litigation by state attorneys general on this issue obviated.

The Supreme Court's ruling has induced many industry groups to call for a more comprehensive, market-based approach to replace sector-by-sector command-and-control regulation under the Clean Air Act. We welcome the engagement of the affected industries in the legislative debates, and we are hopeful that their support for a comprehensive solution will produce an efficacious result. We emphasize, however, that while Congress can improve upon the regulatory approaches that the Clean Air Act provides, the current law allows EPA to go a long way toward addressing the problem.

For example, the EPA can already set motor vehicle emission standards that will achieve substantial reductions in greenhouse gases.

As Congress considers additional legislative approaches, we urge it to reject language that Congressman Boucher, Chairman of the Energy and Air Quality Subcommittee of the Energy and Commerce Committee, unveiled last Friday, and held a hearing on yesterday. While requiring only incremental increases in federal motor vehicle fuel economy standards and other modest changes, the proposed bill would amend the Clean Air Act in two fundamentally short-sighted ways. First, it would eliminate the authority that the Clean Air Act has provided EPA for decades to regulate greenhouse gas emissions. Second, the bill would eliminate EPA's ability to grant a waiver for state motor vehicle greenhouse gas emission standards. Congress is, of course, free to amend the underlying statutory framework that the Court reviewed in *Massachusetts v. EPA*. Nevertheless, we urge Congress not to turn back the clock at precisely the time that the need for aggressive action has become so undeniably apparent.

While individual states continue to work to lessen our environmental impact, Congress could take a major step in the right direction by passing legislation to significantly increase our fuel economy standards--without hampering states' emissions efforts or marginalizing the EPA's authority—helping both our environment and consumers' wallets.

We specifically urge Congress to respect and support the role of states in developing solutions. For the last several years, it has been the states that have led the way and that have filled the void left by the federal government. We recognize that these issues can be very complicated, especially to the extent that we as a country move closer

toward a more comprehensive emissions trading scheme. We need to find creative ways to structure such a program that allows for states to continue to play a leadership role, without placing excessive burdens on local industries. For example, if a national "cap and trade" emission trading program were enacted, emissions credits could be distributed on a state-by-state basis, allowing each state to set aside additional reductions should they so choose.

Thank you again for allowing me this opportunity to testify and represent the states' perspective. I appreciate the critical work you are undertaking for our nation and planet.

The CHAIRMAN. Thank you so much, and thank you both for your testimony.

Attorney General Coakley, let me ask you this question: You referred to the hearing which this Select Committee on Global Warming had earlier this week up on Cannon Mountain up in New Hampshire. We heard testimony there at Cannon Mountain that the temperature in New England in the winter has actually warmed up 4.4 degrees Fahrenheit since 1970. We were told by scientists that the weather in Boston now in the winter is now the weather that Philadelphia had in 1970; if this pace of warming increases, that we will continue to go down the eastern seaboard of the United States trying to find a comparable city; and that perhaps in the future, we will have to rename the White Mountains to the Mountains Formerly Called the White Mountains because there will be no snow.

Now, in your case that you brought, Massachusetts v. EPA, could you lay out the danger to Massachusetts which you made to the Supreme Court and why it not only affects Massachusetts, but other States in our country?

Ms. COAKLEY. As you know, it was a huge issue, or one of the issues, as to whether or not Massachusetts had suffered harm or could show harm, and the principal facts that we pointed to were what I indicated earlier about the coastline of Massachusetts, that because of the rise in ocean temperature and the receding coastline, we have actually lost 200 miles of coastline. We anticipate that that will continue if this problem is not abated.

In a way that creates additional issues, obviously, as General Brown indicated, around storms, weather disasters, contamination of water supplies. I mean, it is not by accident, I guess, that the two States on the coast will feel these effects early already and probably be damaged the most, but they will affect everybody in the country as those effects continue to mount. And the concerning thing is—and I think, again, for this Supreme Court to recognize that Massachusetts was correct that the Bush administration was not doing its job, I think, speaks for itself. Their acknowledgment that we had met the standing by the actual danger and the anticipated danger supported by scientific documentation indicated, I think, the real danger that we face now, but more importantly if we do not start this process, we can expect it to continue unabated.

And your questions to the EPA about rates, of how are we going to bring these greenhouse emission rates down, clearly does not indicate a timetable that begins to address in an effective and safe way the issues that we are facing now because of global warming.

The CHAIRMAN. Now, were you surprised when Administrator Johnson on May 14th in his press conference announced that he was looking to Justice Scalia's dissent in Massachusetts v. EPA as the standard that he was going to use as to how the EPA would proceed?

Ms. COAKLEY. Well, when you lose a case, I know as a lawyer you often look to the dissent for some comfort, but it is not the law of the land. And it is discouraging to see again the failure to acknowledge, even after all of these years and even after the Supreme Court has spoken, that they don't have a timetable, they don't have a way to proceed in a quick and efficacious way, which

calls into question what they really want to accomplish. I think there is no other conclusion that you can draw not only before the lawsuit, but after the lawsuit.

And that is why this hearing today is so important, because they need to be held to standards that will allow them to proceed to protect the environment and allow us to proceed on ways—as General Brown outlined, we have already begun to be effective in controlling these greenhouse gas emissions.

The CHAIRMAN. Now, Attorney General Brown, there is, as has been noted, a piece of draft legislation that has now been introduced into the Congress. And we are having—and there is a debate over whether or not language in that draft legislation would, in fact, prohibit the EPA Administrator Mr. Johnson from giving California the ability to be able to regulate CO_2 emissions from tailpipes. The proponents of the legislation say that it would not prohibit it.

Can you give us your reading of that draft legislation and what the implications are for your ability to protect the citizens of your State?

Mr. BROWN. If I am not mistaken, Chairman Dingell wrote a letter to the attorney generals and admitted that the draft would eliminate EPA's ability to grant a waiver to California to regulate greenhouse gas emissions from cars. So it is right in his letter, and I believe that he also said that EPA couldn't regulate greenhouse gases with respect to cars.

So he wants to put it over in NHTSA. That is where he wants to situate it, and that is a very different set of standards, because, as you mentioned earlier, it is not dealing with health, it is not dealing with emissions. It is dealing with fuel efficiency, safety, and feasibility and the well-being of the industry. So those are totally different standards.

It is very clear here that the Congress has to deal with the fact that—well, we have—it is Bush won't do it. He won't let his EPA do it, and there is a movement in Congress. If we just focus on auto emissions, it is coming from the Auto Alliance, which has a plan to sabotage any efforts to impose restrictions on them. That is the—you can't sugarcoat it any other way.

So there we are. It is going to take—ultimately it is going to take Congress to clarify and to get a national standard. In the meantime, though, it might be easiest to get a California standard, because it looks like EPA is moving in a much more circuitous route. I think they are taking deliberate speed to heart, and "deliberate speed" doesn't mean fast. It means decades of failure to act. That is what it meant in the civil rights era, and it seems to be the same word that they are invoking, that he is invoking in this particular area.

The CHAIRMAN. Let me go back to you, Attorney General Coakley. When it comes to Massachusetts v. EPA,there is similar language in this proposed legislation which could potentially strip the EPA of the authority which was given to it as part of your victory in Massachusetts v. EPA. But those who are propounding this legislation say that is not so.

Can you give us your reading of what this legislation would do to the victory Massachusetts won at the Supreme Court?

Ms. COAKLEY. I agree with General Brown on that matter, and my staff, including Assistant Attorney Jim Milkey, who, by the way, made the argument before the Supreme Court very effectively and convinced them, particularly on standard issues, that that legislation would strip the EPA effectively of the ability to regulate it. And I think that the committee has clearly noted and General Brown has noted that although they may have parallel tracks, NHTSA and EPA have very different hats to wear and mandates, and they may be at odds in trying to promote fuel-efficiency standards, for instance, coal to liquids, or other issues that do not provide for the concern that we have, which is the protection of the EPA.

We believe that they are not inconsistent results, and they should go hand in hand, but this is not an administration that seems to feel that way, and their response to saying we don't want agencies with overlapping responsibility is to file this bill that would then take it away from the EPA.

That is the completely wrong response. If there is overlapping responsibility, then so be it. Let those agencies work it out, or let Congress decide, but don't take it away from the agency that has, as its mandate, the need to protect the environment.

It is a clear end run around, and I think General Brown is right in terms of what is going on here.

The CHAIRMAN. Is your reading the same as Attorney General Coakley's, Mr. Brown, that Massachusetts v. EPA has eviscerated that legislation?

Mr. BROWN. To the extent that—yes. I want to limit my focus on the automobile area, but it is—clearly the goal of that draft legislation is to transfer from the EPA to the Transportation Department the responsibility to deal with efficiency. And there is no conflict. As the Massachusetts attorney general just said, the EPA is regulating emissions of greenhouse gases. The NHTSA is dealing with automobile efficiency. But even there, we have to be honest about it that we are suing NHTSA. They are in court, too. I was in court 2 months ago in the ninth circuit objecting to their paltry and pathetic 1-mile-per-gallon increase. And as a matter of fact, our experts are saying it is going to increase fuel consumption because they are privileging cars by weight. So the bigger your car, the less you have to reduce.

So they are going the exact wrong direction invoking safety in this consumer choice business, but they are not dealing with the facts, and that is why, to cut through all of the smoke and the fog, I noticed that the environmental defense in their testimony yesterday had a very simple number: 434 million metric tons of carbon in 2005 came from the U.S. auto sector. Now, there it is. How much of the 434-, which is based on the whole cycle from beginning to end, are they going to cut? Is it going to be 432- next year? Is it going up? Is it going down? By how much?

So the big thing I think you have to watch out for is the squid process where they emit all of this ink to block any kind of assault on their status quo effort. So I want to just know 434-, when does it go down? That is all we have got to know, and what are the means to get it down? What does it cost? What does it take?

And I even said, hey, if the automobile companies need some money because they are so mismanaged, I say give them a few billion, because I think it is more important to cut greenhouse gases than it is to—you know, to fight with these automobile companies. If they need a handout, they should own up to the fact they can't do it without a handout. They line up like everybody else who is needy and has various issues, and we will help them.

But the main thing is that 434 million metric tons, and get it down as soon as you can in the most intelligent market-based way that you can. That is what cap and trade is about.

And by the way, I want to mention the other thing: oil dependency; 9 million barrels a day. On a carbon content basis, 65 percent is imported; 65 percent, if you take the carbon content of the petroleum that we are using, comes from foreign countries, 9 million. That is pretty bad.

So how do we get that down? How do we save American consumers' money, and how do we get the carbon out of it? It is that simple. If they don't give you a measure, a mechanism to enforce it, that is baloney. It is that simple. And I think the biggest enemy here is complexity and obfuscation, and we have got to get simple, simple, simple. How many grams are you taking out of the atmosphere? If you have to talk that language, then it is worthless. It is worse than worthless. He feels like he is doing something good. He should not sleep at night, the guy who was here.

Ms. COAKLEY. You keyed into why it is important, although Massachusetts v. EPA is actually about motor vehicles. The reason why it has broader implications for that, and the reason why it is so important for them to make the determination that CO_2 is dangerous to that endangerment process is because if that is done, then they can't say, well, no, this should be handled by the transportation—by NHTSA. It really is an issue around environmental protection, not just fuel economy. And we have to make sure we keep our eye on that ball and not let them play a shell game with these issues.

The CHAIRMAN. I thank both of you. And I just add this in a parenthetical, and I think it is important for people to know this, that the United States only has 3 percent of the oil reserves in the world. OPEC has 70 percent of the oil reserves in the world. We already import 60 percent of our oil from countries we should not be importing it from. Much of that money is used to then support al Qaeda and other efforts that we then have to increase our defense budget to protect against.

That is our weakness, having only 3 percent of the oil resources, but we are a technological giant. That is our strength. And if the EPA and if NHTSA would propound the regulations that would unleash this technological revolution, then we would be using our strength against OPEC and to solve this problem of global warming. But until they are willing to recognize the danger that we are under and the solution, we have big problems.

Now let me turn and recognize the gentleman from Oregon, Mr. Blumenauer.

Mr. BLUMENAUER. Thank you very much.

Mr. Chairman, I found the hearing today to be very useful. I deeply appreciate our witnesses to sort of bookend the other side of the equation with what I agree with Mr. Brown was sort of an

embarrassing presentation. I really am deeply concerned about EPA as an institution, the hundreds of dedicated men and women that I work with who work there that have a mission to protect the health, to protect the environment.

What I would like—I just have one question that I would pose to each of you. Imagine for a moment that we had an administration and an Administrator that was focused on complying with the decision and its mandate to protect the public health, that has been presumably having smart people looking at this since 2005. I understand California has had experience with waivers granted by EPA dozens of times, dozens of times. I don't think any one of them was ever rejected.

If we get back in the mindset that they are going to comply with the law and they are going to protect public health and the environment, how fast could this be accomplished?

I wonder if both of you would comment on how fast, how it would be done in an ideal world if their commitment was protecting the environment, complying with the law.

Ms. COAKLEY. I will take a stab at that, General Brown.

As I indicated earlier, and my folks informed me they should have begun right after Massachusetts v. EPA, the determination of the endangerment process, and from that begin to establish the regulations that they feel are appropriate once they made that finding. Whether that takes 6 months or 8 months I am not sure, but they could do it at least that quickly, it seems to me, because they have been working on these issues, and they have before them——

Mr. BLUMENAUER. And they have the body of all of the evidence and research and work that went into the crafting of the California proposal.

Ms. COAKLEY. Exactly. So they have the endangerment funding threshold. They have hearings, and then they issue the regulations. But while they are doing that, they can also grant California the waiver so that the processes are proceeding immediately, some parallel, to allow the States to set the way in which we can proceed in a way that doesn't interfere with industry trade and work at the Federal and State level to start this process, as I said yesterday.

The very concerning thing is all of this talk about the need to deliberate, and it is complicated and whatever. If they wanted to do it, they could do it ASAP.

Mr. BROWN. Well, California has a goal of 30 percent reduction in auto emission greenhouse gases by 2016, and that procession is complete. The regulations are ready to go as soon as EPA gives us the green light.

In terms of overall greenhouse gas reduction, we have a goal of 25 percent. Now, that—those regulations have not been finished, and that will take another year or 2 to get done, but we are on track.

And I don't want to minimize that this is something easy. I think it is difficult. I think the European countries have had a difficult time. Japan, Germany, France, England, they have all had a tough time.

So I think what really has to happen is that we get a cooperative spirit to reduce to the maximum degree that is truly feasible, and

I don't think we have that commitment. It is really a stall to allow companies, in this case the auto companies, to make as much money as they can because they are having a tough time. They are losing money. They are cutting jobs. I am very sympathetic with that, but they have got to fight this. This is for them. They are not going to stop. And that pressure then feeds into your deliberations and into the EPA and into the Bush administration, and there is where it is.

I think we have to do the best job we can, get a scientific and technical and market consensus and try to go. Right now, it is a blockage. It is obfuscation. We don't want liquid from coal. That is not going to work. You don't want paltry CAFE standards like NHTSA has adopted for light trucks. I mean, we need a top-to-bottom honest discussion about what can be done, and just be practical about it. I am not saying be unrealistic, but I don't think we are even there yet.

I think what is now is this stall, kind of smoke and mirrors kind of thing, and that prevents doing what we could do which, when we get that clarity, it will still be hard, and that is why I think we have got to get first to the point what is the amount that we are emitting, what is the goal that we can reduce, and what are the sector-by-sector game plans in order to get there. And I am very concerned that it is going to be a couple of years before we even get to agreeing on what the game plan is. Right now it looks like we are going to have to exchange warfare for the next couple of years, and that is very unfortunate.

Mr. BLUMENAUER. I am very confident of the work that Mr. Markey is guiding with this committee that we can mark more rapid progress. The leadership of Speaker Pelosi, I think, is intensely focused on moving us forward.

But the work that you are doing, I think, can help provide a framework. And I think I understand how it can be moved forward.

I would hope that we could work with you, your staff, and our staff to be able to have a clear, simple explanation of how this could, dare I use the term, be fast-tracked, fast-tracked administratively, or if something needs to happen legislatively to make sure that you are not in limbo, you are able to move forward. And speaking as one of the residents of one of the States that is part of this coalition with you, we all have a stake in your success.

So if you could help us frame that with more precision, I think it would be very helpful for us to be able to support your efforts.

Ms. COAKLEY. We can do that.

Mr. BROWN. I will—we have some very good scientists, technology people, lawyers in California working on these very issues. When I go back today, I am going to do exactly what you are saying. I will give you a blueprint for what you should do. And we have the capability to do that. We will write it up, and we will—we will get it to you as soon as we can. It will be thoughtful, it will be practical, and it will be honest; and maybe you can share it with our environmental protection Administrator.

The CHAIRMAN. The gentleman's time has expired.

The Chair recognizes the gentleman from Missouri.

Mr. CLEAVER. Thank you, Mr. Chairman.

I really don't have any questions. I wanted to express—well, first of all, I apologize for having to leave. I am actually running between two committee hearings right now.

Mr. BLUMENAUER. You are here with us now.

Mr. CLEAVER. I am back here now. Thank you.

Are you interested, General Brown, in becoming the EPA Administrator?

Mr. BROWN. No. I like my independent role.

Mr. CLEAVER. That is a powerful statement you just made. I appreciate that.

I hope that we can, as I heard you saying, take use of your commitment and energy in this area to deal with this growing problem.

As a former mayor, you know that this is the number one issue of the U.S. Conference of Mayors. They set the priority for this year, and climate change, dealing with this issue on a local level is their priority. They will be dealing with this in their summer meeting in Los Angeles, and then we will—we have been asked to come to a field hearing later in Seattle.

So I think there are people all around the country. There is some cause for optimism from our perspective, not from listening to what we heard earlier, but certainly as you look at the mayors, you know the U.S. Conference of Mayors is a bipartisan group, and they voted unanimously to name climate change as the number one issue.

And so I am, to some degree, optimistic that the government may not lead the way, but I think the people are far ahead of the government, this government, and we will put—the people are going to push us and push some sections of our government into action.

So I thank you both of you for coming, and I apologize for not having been here.

The CHAIRMAN. Great.

Well, let us then sum up. Let us let each of the attorneys general who are with us give us their 2-minute summations to the jury here in terms of what they believe that Congress should do with the pending legislation before us and what their recommendations generally are to the Congress.

So we begin. So let us begin the final statements with you, Attorney General Coakley.

Ms. COAKLEY. My summation may not be all that different from what we argued in the Supreme Court in Massachusetts v. EPA, which is this administration has the authority and now the obligation to issue regulations around motor vehicle emissions, and unless they can and will do that immediately, Congress has to take action.

The draft discussion pending, we believe, is counterproductive and takes us backwards. So we are not in favor of that bill.

And we would suggest further that what is very important for us at the State level is to allow, as California has led the way, to obtain those waivers so we can proceed to do what we are doing and work collaboratively with Congress on whatever legislation it feels is appropriate. And I believe that can be done in a way that gives industry predictability, that can involve them, in fact, in a way that lets them feel that they won't be done sector by sector, but that everybody has an interest—whether they are in government,

they are in private practice, whether they are involved in Washington—has an interest in making sure that we address this problem.

And it is too serious, and it is too important, and it is not speculative. It is a real issue that we need to start to address today, and we look forward to working with you and your staff on this committee and providing what guidance we can.

The CHAIRMAN. Thank you very much.

Attorney General Brown.

Mr. BROWN. I believe the most important point is to recognize the seriousness of climate disruption; that although there is always uncertainty in scientific modeling and evidence, the risk is so catastrophic—there is a risk, rather, of catastrophe, and that risk is not 2 percent or 5 percent, it is a substantial risk. And insurance against that is really what we are asking.

And I would say in the contour of this administration's remarks, there seems to be no recognition of the magnitude of the threat that we are facing, and, therefore, their response is appropriately tepid for their nonrecognition of what it is that we are facing. So that recognition has to be the first thing.

Number two, in dealing with global warming, we have a necessity to reduce our dependence on foreign oil, and that is something that every American feels very strongly about and we have to keep front and center.

And then thirdly, I believe, protecting the EPA's authority, and that authority, of course, includes the waiver potential for California, and, if necessary, to block bad legislation. Do no harm, I would say, has to be the first objective and then be—as circumstances permit, get some positive legislation. But it may not be possible in the next 18 months. It may take longer. I mean, if President Bush thinks it takes 18 months to get his own agencies to come up with a plan, it wouldn't be surprising if it took Congress longer than that, because there is more divergency there. But whatever, I think it is pretty clear what has to happen.

Massachusetts won a great victory. That victory has to be protected. It cannot be end-run or sabotaged without great harm. So I think our goal, what has to be done, is clear.

And the final point I would make is we need to state this problem in clear numerical measures of carbon and how much carbon are we taking out each year. That is the goal. And that should be able to be spoken in a matter of a few words and so everybody knows what the goal is, everybody knows where we are. That is the report card. And I think it speaks volumes that the Administrator and the representative of NHTSA did not speak in a measurable report-card-like way, measure us if you see this, that there were lots of different points.

So I think it has to be simplified by metric tons of carbon linked with reducing oil dependency. That, to me, is where we have to go and then do as best we can given the technology and the costs that are entailed.

The CHAIRMAN. We thank both of you for your eloquent testimony, but also for your vigorous protection of the laws of your States and actually of the country, because you are fighting to give the EPA the authority which it needs in order to affect our country.

Just so we are clear here, Massachusetts v. EPA protects California and the other 48 States. But similarly, the California statute, which you are here to testify to protect, Attorney General Brown, has been adopted by Massachusetts and 11 or 12 other States. So this effort coming out of the States is what is now applying the pressure to the Bush administration. But it is also coming from the mayors, it is coming from the universities, and it is coming from individuals all across our country, and similarly coming from the United Nations and their reports on global warming and the threat to our planet, but to the United States and its citizens as well.

Speaker Pelosi in our trip as a Select Committee on Global Warming 10 days ago visited Greenland and its ice cap, which is the epicenter of the threat to the planet. We were 7/10 of a mile high on a block of ice on this ice cap, which is hundreds of miles long and wide. And it was a five or six Empire State buildings high block of ice. It is melting. It is moving towards the sea. If it does that, ultimately it would lead to a 20-foot increase in the sea level of the world.

Speaker Pelosi was told by those in Greenland that she was the highest-ranking American public official to ever visit Greenland. What a shame our EPA Administrator has yet to visit. And she has made it quite clear that she is not going to allow for an interference in California law or a law which will give the EPA the ability to be able to act on these issues.

But it is your efforts at the State level that has created now this conflict with the Bush administration. And Massachusetts and California have been in the lead, and we thank you for that. And the two individuals here are the living embodiment of this effort. We thank you for your efforts.

This hearing is adjourned.

[Whereupon, at 12:25 p.m., the committee was adjourned.]