

May 24, 2010

The Honorable Harry Reid
522 Hart Senate Office Building
Washington, DC 20510

The Honorable Mitch McConnell
361A Russell Senate Office Building
Washington, DC 20510

Dear Senators Reid and McConnell:

I am writing as former EPA Administrator under the Nixon and Ford Administrations to urge the Senate to oppose any legislative proposals that would undermine the Clean Air Act. In particular, I ask the Senate to reject the Resolution of Disapproval offered by Senator Lisa Murkowski of Alaska (S.J.Res.26), which would prevent the EPA from acting on that agency's endangerment finding and the cause or contribute findings for greenhouse gases.

For 40 years, the Clean Air Act has protected the health and welfare of the American people, saving hundreds of thousands of lives while vastly improving the quality of the air we breathe. The economic benefits provided by the Act have exceeded its costs by between 10 to 100 times over.

Despite the law's impressive track record, S.J.Res.26 would rollback Clean Air Act protections and prevent the EPA from regulating greenhouse gas emissions, notwithstanding the agency's scientific determination that these pollutants endanger human health and welfare. If passed, this resolution would fundamentally undermine the Clean Air Act, overturning science in favor of political considerations.

Supporters of S.J.Res.26 argue that Congress did not mean to regulate greenhouse gases under the Clean Air Act. This argument is inconsistent with the history of the law as it has been applied for the past 40 years and misconstrues the original intentions of Congress. Precisely because existing knowledge was so limited at the time, Congress broadly defined the term "air pollutant" and relied on the experts at EPA to evaluate individual pollutants. Congress also clearly established that the sole criterion triggering EPA action was to be a scientific one: whether a pollutant "may reasonably be anticipated to endanger" human health or welfare.

In my own tenure as EPA Administrator, our most pressing challenge was reducing airborne lead pollution from the burning of leaded gasoline in motor vehicles. Like greenhouse gas pollutants, airborne lead was nowhere specifically addressed in the Clean Air Act. However, the scientific evidence strongly suggested that it was resulting in severe health effects, particularly in children. Under the law, the EPA was compelled to issue an "endangerment finding", which established a risk to human health or welfare and obligated the agency to begin regulating lead in automobiles.

In 1973, I adopted health-based standards to reduce airborne lead levels by more than half in five years. I did this in spite of some lingering scientific uncertainty and over the strong objections of industry. In 1975, the D.C. Circuit Court of Appeals upheld my decision, arguing that the law “would seem to *demand* that regulatory action precede, and, optimally, prevent, the perceived threat.”

In 1977, Congress itself explicitly endorsed this reasoning when it amended the Clean Air Act, emphasizing “the Administrator’s duty to assess risks rather than wait for proof of actual harm” and broadening the criteria for action under the law from “will endanger [human health or welfare]” to “may reasonably be anticipated to endanger”. The intention of Congress was clear: to empower the EPA to respond to threats that had not yet arisen or had yet to be perceived. This is precisely what the EPA is doing today in acting to regulate greenhouse gas pollutants.

In its 2007 ruling, *Massachusetts v. EPA*, the Supreme Court affirmed the EPA’s authority to regulate greenhouse gases, declaring that these emissions “fit well within” the Clean Air Act’s definition of an “air pollutant”. The subsequent endangerment finding, based on the conclusions of scientists in both the Obama and George W. Bush Administrations, determined that greenhouse gases endanger human health or welfare and must therefore be regulated under the law.

In executing her responsibilities, the current Administrator appears to have taken a measured approach and demonstrated a sensitivity to economic concerns, proposing a schedule under which regulations would not kick in until 2011 and then only for the largest and dirtiest polluters. Additional permitting requirements would not come into play before 2016, giving the Senate ample time to address the issue through legislation.

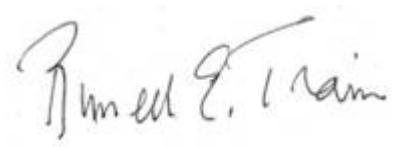
It was not until 1990 that Congress took legislative action to ban lead in gasoline, nearly 20 years after the EPA first recognized the danger it posed and took steps to begin regulating it. Because of the Clean Air Act, the EPA saved many more lives than would otherwise have been the case. In other words, the Act worked just as Congress had intended. S.J.Res.26 would reject this science-based decision-making process and undermine a law that has successfully protected Americans for four decades.

The country would be better served if, rather than attempting to fix what is not broken, the Senate instead focused its energies on finalizing legislation to limit greenhouse gas pollutants and move the United States towards cleaner energy sources. As part of these efforts, the Senate should retain the essential tools provided by the Clean Air Act.

Certainly, the Senate should oppose any proposals to undermine the essential protections that the Clean Air Act provides. Such proposals are driven not by science but by political considerations – to stall action on an emerging threat and shield elected officials from having to make difficult but necessary decisions. But as Congress itself has made clear, the Clean Air Act was not written to protect politicians; it was written to protect the American people.

I urge the Senate to reject S.J.Res.26 and any other legislation that would weaken the Clean Air Act or curtail the authority of the EPA to implement its provisions.

Sincerely,

A handwritten signature in dark ink, reading "Russell E. Train". The signature is written in a cursive style with a large, prominent initial "R".

Russell E. Train
EPA Administrator, 1973-1977