



VIA E-MAIL TO: HGH-Endangerment-Docket@epa.gov

Attn: Ms. Lisa Jackson, Administrator
United States Environmental Protection Agency
EPA Docket Center (EPA/DC)
Mail Code 6102T
Docket ID No. EPA-HQ-OAR-2009-0171
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Re: EPA's Proposed Endangerment and Cause or Contribute Findings for
Greenhouse Gases under Section 202(a) of the Clean Air Act

Dear Ms. Jackson:

On behalf of Dairy Cares, we submit the following comments regarding the U.S. Environmental Protection Agency's (EPA's) above-referenced proposed findings. Dairy Cares is a coalition of California's dairy producer and processor associations, including the state's largest producer trade associations (*Western United Dairymen, California Dairy Campaign* and *Milk Producers Council*) and the largest milk processing companies and cooperatives (including *California Dairies, Inc., Dairy Farmers of America-Western Area Council, Hilmar Cheese Company, Joseph Gallo Farms, Producers Bar 20 Dairy* and *Land O' Lakes*). Formed in 2001, Dairy Cares is dedicated to promoting the long-term sustainability of California dairies.

The proposed finding presents and leads to issues that will directly and adversely impact our coalition members. Dairy Cares appreciates the critical role the EPA plays in protecting the environment and human health. As always, we support the Agency in its mission to protect our nation's air and water, our population's health, and your developing mission of mitigating the role of human activity in climate change. As such, we are pleased to provide our comments on the proposed findings and hope they will be helpful to your Agency.

- I. **Dairy Cares opposes use of the federal Clean Air Act regulate Greenhouse Gas emissions.** We believe that the proposed finding would lead directly to regulation of all sources (not just transportation or mobile sources) of the identified Greenhouse Gas (GHG) emissions via the federal Clean Air

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Act (CAA). Unlike virtually all other pollutants regulated under the CAA, GHG emissions present unique challenges and opportunities. GHG emissions are produced from myriad sources around the globe, produce their impacts to climate on an equally global scale, are produced not just from anthropogenic activities but also from significant biogenic sources. Importantly, the GHG challenge presents an extremely complex array of opportunities for solutions and mitigation that go well beyond the traditional technology-based “smokestack-scrubbing” control strategies, to include solutions as diverse as carbon standards in fuels to carbon sequestration through forestation and soils management, to biomass/biogas renewable energy generating projects, to changes in land use policy regarding housing and transportation.

A successful control strategy must not only comprehensively scope the challenges and opportunities, but also must be designed from the outset to fit into a system of global business and government cooperation. This challenge requires that your Agency (or some other) obtain authority to regulate GHG emissions in a heretofore unprecedented way. **Simply put, GHG emissions should not and likely cannot successfully be controlled via a decades-old law designed to control regional and local air pollutants**, which relies heavily on use of local monitoring stations, assumptions of minimal inputs from outside of regional air basins, modeling of formation of secondary pollutants, major source thresholds and many other concepts – most of which are likely to be more of a hindrance than a help to a successful national strategy for GHG reduction. We therefore concur with the comments of the National Milk Producers Federation (NMPPF) and other commenters that CAA is not the appropriate vehicle for regulation of GHGs. We are deeply concerned that promulgating this finding will lead to inappropriate use of the CAA.

- II. **California created separate legislative authority for regulation of GHGs.** California-based dairy organizations, along with many other stakeholders, have participated in the implementation of Assembly Bill 32, the California Global Warming Solution Act of 2006. Notably, this new legislation sets an aggressive goal for reduction of the state’s GHG emissions (to 1990 levels by 2020), but does so by creating new legislative authority for regulators rather than limiting them to the inadequate tools provided in existing laws, such as the CAA. By creating this new authority, AB 32 opens the door to innovative methods of reducing GHG emissions, through a variety of methods encompassing cap-and-trade, incentive policies, and land use policy. **As the California Legislature did, Congress should recognize the inadequacy of the CAA to provide a proper vehicle for reducing emissions of GHG.**
- III. **Congress should act to authorize a more robust system better suited to achieve the goals of reducing GHG and enabling the U.S. to better**

cooperate with its global partners. Rather than forcing regulations of GHGs through the CAA, Congress should enact legislation that creates a more appropriate system that allows for U.S. businesses to participate in an integrated global cap-and-trade system, and which encourages and incentivizes land use and energy use policies at the local and regional levels to reduce GHG emissions. Such a system can be a driver of innovation as opposed to unilaterally imposing regulatory burdens on U.S.-based businesses. Doing so will result in overall reductions more quickly and while reducing the economic impact to existing businesses. From the perspective of agriculture, NMPF in its comments noted the tremendous progress that the U.S. dairy industry has already made in reducing its carbon footprint by nearly two-thirds per unit of milk produced since the 1940s. This was done through a flexible system that economically rewards production efficiency. A regulatory policy maximizing “carrots” to those who innovate while minimizing command-and-control “sticks” (at least at the outset and until an incentive-based system has had a chance to produce results) will allow for this long record of success to continue and perhaps even accelerate.

On behalf of Dairy Cares, we once again thank EPA for the opportunity to comment on this Proposed Rule.

Sincerely,

A handwritten signature in black ink, appearing to read 'J.P. Cativiela', with a large, stylized initial 'J' and 'C'.

J.P. Cativiela
Dairy Cares Program Coordinator

C: William C. Van Dam, Chairman, Dairy Cares
Dr. Julia Lester, ENVIRON