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September 24, 2009

Dear Senator:

We are writing in opposition to Senator Murkowski's revised appropriations amendment (No. 2530) to the FY 2010 Interior Appropriations bill, H.R. 2996, which concerns carbon dioxide pollution and the Clean Air Act.

The filed amendment's spending limitation would go well beyond blocking the Environmental Protection Agency (EPA) from curbing carbon dioxide pollution from power plants, refineries, and other big "stationary sources." It also would block EPA from implementing the Supreme Court's landmark decision in *Massachusetts v. EPA* by curbing carbon pollution from cars and trucks. If this amendment passes, EPA could not issue the historic consensus standards that President Obama announced in May with the support of the auto makers, the UAW, states, and the environmental community. Here is why:

The first sentence of the amendment says: "No action taken by the Environmental Protection Agency using funds made available under this Act shall have the effect of making carbon dioxide a pollutant subject to regulation under the Clean Air Act . . . for any source other than a mobile source. . . ." This is a reference to Section 169 of the Act, which says that every new or modified major stationary source needs to install best available control technology (BACT), considering costs, for each pollutant "subject to regulation under this chapter," i.e., under the Clean Air Act.

When EPA issues final vehicle carbon dioxide standards under Section 202 of the Act as planned next March, carbon dioxide will automatically become a pollutant "subject to regulation" under Section 169. From that point on, new or modified major stationary sources will need to install BACT for carbon dioxide, just as they currently do for other dangerous pollutants. This is automatic; there is no way around it without blocking the vehicle rules. Since the Murkowski amendment would bar any action that has the effect of making carbon dioxide "subject to regulation" under Section 169, EPA would be barred from issuing the vehicle standards.

This is why EPA Administrator Lisa Jackson said yesterday that the amendment would be “a death knell to the historic agreement between the President and auto makers to increase gas mileage and reduce emissions from cars and trucks.”

Congress should not take any action that would undo the progress already made on carbon pollution from motor vehicles.

Later paragraphs of the revised amendment attempt to limit other collateral damage done by the amendment. But those provisions cannot overcome the effect of the amendment’s first sentence.

We believe common ground can be found to ensure that the Clean Air Act’s stationary source requirements apply only to power plants and other big sources, not smaller sources, and to incorporate this approach in comprehensive energy and climate legislation. But it cannot be accomplished through this rider.

The Murkowski amendment would only move us farther from, not closer to, a bipartisan consensus on comprehensive clean energy and climate legislation that the Senator says she seeks. We strongly urge you to oppose Senator Murkowski’s amendment as well as any other amendments to the Interior Appropriations bill that would delay America’s progress toward a clean energy economy that would create jobs, increase America’s energy security, and cut pollution.

Sincerely,

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