

Ben DeAngelo/DC/USEPA/US

To Dina Kruger

09/21/2007 05:07 PM

cc "Rona Birnbaum"

bcc

Subject Re: So what happened??

Still no final decision. There's gonig to be a final final options selection meeting soon. The main question is how to grant the waiver and whether it will be a straight-up grant with no conditions, whether we grant the waiver for the first few models years then revisit this in light of our own rulemaking, or even delay our decision to grant the waiver until our rulemaking is final or at least the stringency of our rulemaking is known for certain.

Endangerment wasn't an issue but compelling & extraordinary was. Legal folks thought the linkage with trop O3 is the most solid compelling & extraordinary argument: 1) Calif shows it emissions program will reduce O3 precursors; and 2) climate change effects O3.

Johnson did ask for everyone's final opinion at the end and we went around the table and the room. OTAQ and OGC folks said granting the waiver straight-up is probably most defensible. Roger Martella and even Don Zinger entertained delaying our decision to consider our rulemaking. Bob Meyers gave no final opinion -- basically "we'll talk later". Jason Burnett didn't show his cards much at all -- "this is important." I limited my 2 cents to the compelling issue -- that Calif has a solid argument, that the climate change science in general is getting more compelling, and also, in response to an issue Johnson raised earlier, I said it's an unreasonable test to think a single state's actions must change global warming significantly in order to count (there was affirmative head nodding from Jason while I said that). Addressing the issue will require actions from multiple states and multiple countries, and agreeing with this argument by the opponents would be against the spirit of the supreme court decision. Well, I was asked.

Johnson also raised the question about how our RIA might be affected by granting the waiver, i.e., would it change assumptions about what benefits and costs could then be attributed to the federal action minus a more stringent Calif action. Margot's response was that this should be straightforward since most units in the RIA are on a per vehicle basis. I don't think this would change endangerment or the SCC estimates at all.

-B

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Subject So what happened??

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