

Leading Texas Climate Change Lawyer Praises State's EPA Challenge

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HOUSTON – The Feb. 16 joint announcement by the Texas Governor Rick Perry, Texas Attorney General Greg Abbott and Texas Agriculture Commissioner Todd Staples challenging the Environmental Protection Agency's findings that greenhouse gases endanger human health and welfare is a much-needed call for "climate change sanity," according to one of the country's leading Climate Change attorneys.

Texas attorney Richard O. Faulk, chair of the firmwide Litigation Department at Gardere Wynne Sewell LLP, praised the announcement saying, "Texas has now taken a leading position against the EPA's ill-advised findings on the dangers of greenhouse gases."

"The EPA's bloated attempt to pervasively regulate every American industry is a clear threat to continued prosperity in Texas," says Mr. Faulk. "If the EPA is allowed to succeed, millions of currently unregulated sources in Texas may be burdened with costly permitting, compliance and enforcement programs. Adding new layers of costs onto business is especially troubling in these times of economic hardship and uncertainty by millions of American families looking to find jobs just to make ends meet. The remarkable show of governmental unity by Governor Perry, Attorney General Abbott and Agriculture Commissioner Staples rejected hysteria and hype and struck a blow for climate change sanity by insisting that EPA independently exercise its judgment instead of arbitrarily deferring to the UN and other climate change advocates."

Mr. Faulk, who attended the recent U.N. Climate Change Conference in Copenhagen as a member of the media, questions the EPA's "continued regulatory sprint to a fiscal dead end" in the wake of the failures in Copenhagen and the growing fiasco of Climategate. "Only principled resistance can deter one of the most expansive, legally flawed and ineffective regulatory programs in the nation's history. Today's announcement out of Austin is a very promising step in that direction," he says.

"Under the law, 'endangerment' findings are only proper when the EPA independently determines that ensuing regulations can substantially mitigate the offending conditions," says Mr. Faulk. "Here, no regulations the U.S. unilaterally adopts can possibly reverse global warming by themselves. Their impact on the global climate will be minimal, especially when China, India and other major emitters continue to release gases without any restrictions. Imposing massive permitting and capital improvement burdens on industry is plainly unwarranted when no meaningful benefits will result. Billions of dollars will be spent for a political display that is merely exemplary, and certainly not effective."

Mr. Faulk faults the EPA for failing to observe its own policies, which require an objective and independent evaluation of the scientific basis for climate change.

"Instead of following its own rules, the EPA, in its rush to regulate, deferred to the United Nation's assessment without critical analysis - including the studies recently shown to be unreliable," Mr. Faulk says. "Now that the truth is emerging, EPA should reconsider its finding - and make its own objective decision based on trustworthy information. If it fails to do so, today's announcement will likely be just the first issued from many other state capitols, which will ultimately expose these and other fatal flaws in EPA policy in the Court of Appeals."

Gardere Wynne Sewell LLP, an AmLaw 200 firm founded in 1909 and one of the Southwest's largest full-service law firms, has offices in Austin, Dallas, Houston and Mexico City. Gardere provides legal services to private and public companies and individuals in areas of government affairs, energy, litigation, corporate, tax, environmental, labor and employment, intellectual property and financial services.

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