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Press Release

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*For Immediate Release*

## **NEW YORK CITY PETITIONS COURT TO REQUIRE THE ENVIRONMENTAL PROTECTION AGENCY TO COMPLY WITH SUPREME COURT ORDER**

*EPA Ignores Supreme Court Ruling on Regulating Greenhouse Gases*

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New York, April 2, 2008 – Today, the City of New York along with the Massachusetts Attorney General, the lead state petitioner, and Attorneys General from 16 other states, the District of Columbia, the Mayor and City Council of Baltimore, and 11 environmental advocacy groups have asked the U.S. Court of Appeals for the District of Columbia Circuit to order the Environmental Protection Agency (EPA) to respond to last year's landmark ruling in *Massachusetts v. EPA*. That ruling, which the U.S. Supreme Court issued exactly one year ago today, required the EPA to make a decision on whether to regulate greenhouse gas emissions from motor vehicles under the federal Clean Air Act. A year later, the EPA has not issued a decision. Today's court filing, known as a Petition for Mandamus, requests an order requiring the EPA to act within 60 days.

"By not complying with an order from the nation's highest court, the federal government is turning its back not only on our judiciary but on our environment as well," said New York City Corporation Counsel Michael A. Cardozo. "For the EPA not to act is unconscionable."

"We can no longer play politics with public health and welfare," added Susan Kath, Chief of the Environmental Law Division of the New York City Law Department. "It's time for the federal government to make an endangerment determination concerning greenhouse gas emissions from motor vehicles and begin regulating."

"A year ago the U.S. Supreme Court confirmed what anyone who cares about the environment already knows. Greenhouse gases are a pollutant and a threat that requires federal action. Here in New York, we are taking the actions we need on a local level, but it's no replacement for Federal leadership. We are filing this petition because we have waited too long," said Rohit Aggarwala, Director of the Mayor's Office of Long Term Planning and Sustainability.

In *Massachusetts v. EPA*, the Supreme Court ruled that – contrary to the agency's claim – the EPA has authority to regulate greenhouse gases under the Clean Air Act. The Court also declared that the agency could not refuse to exercise that authority based on the agency's policy preferences. Instead, the EPA would have to decide, based on scientific information, whether it believed that greenhouse gas emissions were posing dangers to public health or welfare.

According to the petition, after last year's ruling, the EPA publicly made clear its belief that greenhouse gases were in fact endangering public health or welfare. Once the EPA comes to that judgment, it must regulate greenhouse gases under the Clean Air Act. On multiple occasions, the agency promised that it would respond to the Supreme Court's opinion by issuing an endangerment determination and draft motor vehicle emission standards by the end of last year.

The petition further asserts that the EPA has already prepared an endangerment determination. A Congressional investigation conducted by Congressman Henry Waxman confirmed that the EPA in fact sent its draft endangerment determination and proposed regulations to the Office of Management & Budget in December 2007. According to the petition, an investigation conducted by the House Committee on Oversight and Government

Reform established that consistent with its announced schedule, the EPA implemented its internal process of drafting an affirmative endangerment determination during the Fall of 2007.

When it previously and separately decided whether California could set its own standards for greenhouse gas emissions from motor vehicles, the EPA issued detailed findings about the widespread harms that greenhouse gases are causing. For example, the Administrator specifically found that “[s]evere heat waves are projected to intensify in magnitude and duration over portions of the U.S. where these events already occur, with likely increases in mortality and morbidity, especially among the elderly, young, and frail.” The EPA denied California’s request only on the grounds that the many severe harms that California faced would also afflict other states across the country.

The EPA has now declined to issue that proposed endangerment determination, and it last week said that it would delay responding to the Supreme Court’s opinion until after it conducts a lengthy public comment period later this year to examine policy issues raised by regulating greenhouse gases under the Clean Air Act.

Joining New York City and lead state petitioner Massachusetts in today’s Petition for Mandamus are: the states of Arizona, California, Connecticut, Delaware, Illinois, Iowa, Maine, Maryland, Minnesota, New Jersey, New Mexico, New York, Oregon, Rhode Island, Vermont, and Washington, the Mayor and City Council of Baltimore, Center for Biological Diversity, Center for Food Safety, Conservation Law Foundation, Environmental Advocates, Environmental Defense Fund, Friends of the Earth, Greenpeace, International Center for Technological Assessment, National Environmental Trust, Natural Resources Defense Council, Sierra Club, and U.S. Public Interest Research Group. All of these parties were either petitioners in *Massachusetts v. EPA*, or joined amicus briefs in support of the petitioners.

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