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Re: Letter of Pedro Irigonegaray dated May 26, 2005, on behalf of "mainstream science" which responds to the Proposed Revisions to Kansas Science Standards (the "Response.").

Ladies and Gentlemen,

This is a reply to the Response.

The Response Implicitly Accepts the Author's Positions on the Key Issues. The most interesting thing about a response is what it omits to say. What issues raised by an argument does the response ignore? Hearings serve to define issues by having opposing parties respond to one another. One side makes a series of claims, the other side responds. The response is critical because it illuminates the core of the opposition - the issues, if any, that remain to be decided. For example, assume the Proponent argues the truth of points A, B, C, D and E, and the opponent responds, without saying more: "I disagree with Proponent because there is a problem with E." Because the response does not contest or deny the truth of points A,B,C and D, they can be taken as implicitly accepted for the lack of any opposition.

The Response is a classic example of one that essentially ignores the entirety of the arguments made by the Authors and thereby validates them. Because the Response does not and can not effectively address those issues, it raises issues that are not issues at all to hide the inherent weakness of its position. This is the standard STRAWMAN strategy that has plagued this debate from the very beginning.

In the December 10, 2004 letter and proposals, the March 29, 2005, letter and proposals, and the submissions made at the hearings, the basic issues raised by the Authors are:

- A. The State has chosen to discuss with impressionable children the origin of life and its diversity (origins).
- B. That discussion has an unavoidable impact on religious beliefs, which consist of both theistic and non-theistic religions and belief systems.

- C. Genuine scientific controversies exist regarding origins.
- D. Draft 2 would officially suppress the side of the scientific controversy that questions the adequacy of Natural explanations to explain origins. The mechanisms used to effect the suppression consist of a narrow definition of science that incorporates methodological naturalism and the omission from the standards of learning objectives that would expose students to a scientifically candid discussion of origins.
- E. This policy has the *effect* of State promotion of Naturalism, a philosophy that is a fundamental tenet of non-theistic religions and belief systems and that conflicts with traditional theistic religions and belief systems.
- F. State promotion of Naturalism produces poor science education regarding origins and conflicts with provisions of the First Amendment, No Child Left Behind Act and Section 7 of the Kansas Bill of Rights.
- G. The way to cure the problem is to use a traditional and commonly accepted objective definition of science and to provide learning objectives that will expose students to the scientific controversies regarding origins.

Where in the Response are any of these issues addressed? The existence of a scientific controversy is ignored. There is no disagreement that origins impacts religion. There is no disagreement that Draft 2 suppresses criticism of evolution. Indeed Mr. Irigonegaray admitted on May 12 that criticisms can not be allowed because they would open the door to alternatives to evolution. The Response does not mention the word “Naturalism,” or “Methodological Naturalism,” or any of the expert testimony that was introduced that certified its use in Draft 2 and the effect of that use in teaching about origins. Because Naturalism is not mentioned, the Response does not explain its secular purpose or how it could ever be viewed as being “neutral and non-ideological.” The Response does not mention or take issue with a single proposed change to the Science Standards.

The Response attacks Strawmen and Windmills. Rather than address matters at issue, the Response raises issues that the Authors have never raised and which are not in issue at all. It then seeks to use poorly grounded arguments to knock them down. These are classic STRAWMEN. STRAWMEN have been the sustaining and driving force of the opposition from the outset. It is a strategy that may work with “*moderates who are not that well educated about the issues,*” and the uninformed media, but it is one that should cause the informed to wonder about the real agenda of those who raise the Strawmen.

The primary strawman is that the Authors argue that evolution is religion and therefore it cannot be taught. The Response poses this question as the critical issue in the debate:

“Whether evolution instruction in public schools is an advancement of religion in violation of the Establishment Clause?”

This question implies that the Authors are seeking to ban the teaching of evolution because it is a religion. The Response, then shows cases holding that evolution can be taught and is not a religion. Ergo, all of the proposals made by the Authors, which have not otherwise been contested or substantively refuted, should be ignored. The inherent fallacy in the strawman is that the Authors have never contended that evolution not be taught and have never argued that the theory of evolution is a religion.

As one will find in the recently filed Suggested Findings of Fact and Conclusions of Law, the

Authors are on record stating unequivocally that evolution as a legitimate scientific theory is not *a* problem or *the* problem. The Authors have consistently argued that evolution not only may be taught, but it must be taught if origins is going to be taught at all. The Authors have repeatedly stated that the problem is not evolution, it is methodological naturalism and other policies that seek to officially suppress legitimate scientific criticism of the theory. The problem is not with evolution, it is with mechanisms and policies that seek to protect it from criticism. Those are the critical issues, and the Response, knowing full well that to be the case, omits any discussion of them

The key difference between religion and science is that religion is dogmatic while science is theoretical. A religious dogma can never be questioned, while a scientific theory must always be open to question, criticism and testing. Thus, evolution can not be a religion so long as its claims are open to critical analysis. Once that is not permitted so that evolution is effectively taught as “fact,” because of methodological naturalism or other official efforts to suppress its critics, then it leaves the realm of science and becomes a dogma or ideology. Although dogmas or ideologies by themselves are not religions, they often serve as key tenets of religions. Thus, a key tenet of the Humanist Manifesto is that life “results from unguided evolutionary change.” If the State embraces that tenet by officially suppressing scientific criticisms of the theory then it effectively endorses a tenet key to that faith. Methodology that effectively suppresses criticism of evolution is what moves evolution from science into the realm of religion. However, the Response omits any discussion of the culprit that makes evolution dogmatic.

The Response cites cases holding that “the theory of evolution” is not religion.¹ The Authors don’t take issue with those cases because in each instance the brand of evolution in question was evolution as a true scientific theory that holds itself out to scientific criticism and disagreement. None of those cases on their face deal with State sponsorship of methodological naturalism or official policies designed to ensure that evolution is not “weakened.”

The Response never mentions the issue of methodological naturalism or official suppression of the real scientific controversy that exists over origins. This implies that mainstream science has no adequate response to this claim or any of the others enumerated in A-F above. If they did, we would expect them to articulate those disagreements in the Response.

The Response Appears to Explicitly Agree with the Authors. In the following passage the Response discusses the proper way to discuss origins in a constitutionally neutral way:

“Calvert claims that teaching evolution affects students’ religious beliefs and is atheistic dogma.² *In my opinion that would depend on how the subject is presented.* If the instructor tells the class that if they hold some religious notion about the origin of life they are wrong, then the line perhaps has been crossed. *If evolution is taught so that the student is left to his own analysis of the subject and can contrast that independently with his religious beliefs then this method does not establish or inhibit religion. The Lemon test has not been violated.*”

I could not agree more with the italicized portions of Mr. Irigonegaray’s opinion. The problem

¹ *McLean V. Arkansas, and Peloza v. Capistrano School District.*

² I agree that “evolution affects students’ religious beliefs,” but do not agree that the theory of evolution is, in itself, “atheistic dogma.” However, I do agree that teaching the theory dogmatically as a fact in a way that selectively omits to inform students of data and analysis highly relevant to the adequacy of its explanations, becomes indoctrination that does support (but does not entail) Atheistic beliefs.

with Draft 2 is that it does not contemplate a teaching of evolution that would enable “*the student [to do] his own analysis of the subject..[so that] he can contrast that independently with his religious beliefs.*” This is because Draft 2 seeks to inform the student of only selected facts, those that happen to support only Naturalistic explanations of origins. Other facts highly relevant to the discussion are intentionally omitted. That formula does not equip the student to do what the Response calls for in the above quote. It is this formula that converts evolution into a dogma - a dogma that does support non-theistic religions and belief systems like Atheism.

The “Atheism is Religion” Strawman. Another strawman raised by the Response is: “Whether the U.S. Supreme Court found atheism to be a religion?” This is an issue that is also not on the Author’s list. Further, the decision of the Board regarding science standards does not hinge on whether Atheism is or is not a full blown religion. The reason is that regardless of whether Atheism is a full blown religion, it clearly is a “belief system” that can not be promoted by the State. Although Naturalism does not equal Atheism, it is a fundamental tenet of that religion/belief system, a claim the Author’s have repeatedly made and that has not been denied by the Response. Naturalism is also the fundamental tenet of other non-theistic religions and belief systems such as Secular Humanism, agnosticism, secularism and scientism. Since the State can not seek to promote any ideology or belief system, it makes no real difference whether Atheism is or is not a full blown “religion.”

The issue of whether the Supreme Court has held Atheism to be a religion, also seems academic given the Response’s acknowledgment that the 10th Circuit assumes that Atheism is a religion. Until the Supreme Court rules differently, it would seem that the 10th Circuit’s assumption applies to Kansas.

The “Evolutionists are Atheists” Strawman. The Response also makes the argument that “Many scientists who do embrace evolution are not atheists.” This strawman implies that the Authors are contending that all who believe in evolution are atheists. The Authors have never made this argument. The Authors agree that many who believe in some form of evolution are committed theists. But what some believe and what others do not believe is irrelevant because beliefs are usually predicated on many factors other than logic and an informed understanding of evolutionary biology.³ The issue is not what this or that

³ The claim that: *Many scientists who are theists believe in evolution, therefore evolution has no conflict with religion*, is not logically coherent because there are many reasons why scientists who are theists do not publicly deny or take issue with evolution. Based on the testimony at the hearings and numerous conversations I have had with scientists and biology teachers over the past six years I know that many theistic scientists who fall into this category do so: (a) because their religious beliefs are held for reasons completely unrelated to science; (b) because they have been misinformed about the adequacy of the evidence that supports evolution, (c) because their reputation, job performance and job security depends on their allegiance to the theory, (d) because they work in operational or applied science where evolution is generally irrelevant and there is no reason to question it, and (e) because they can easily avoid social and political controversy by thinking of evolution as a “tool” used by God to do his work without truly understanding the nature of the evolutionary mechanism and its logical conflicts with their theistic beliefs. Of all these reasons, concern about reputation and job security is probably the most significant reason for not voicing any doubts about Darwin. Indeed a theist can actually win friends and influence people in high places by simply toeing the line. Who wants to wind up like Nancy Bryson or Roger Dehart? Who desires the kind of verbal abuse that is levied upon anyone who has the courage to voice sincere and honestly held reservations. That is an action that will cause them to be “portrayed in the harshest light possible, as political opportunists, evangelical activists, ignoramuses, breakers of rules, unprincipled bullies, etc.” Who needs this kind of grief in their lives? The entire function of the boycott was to put anyone who crossed the picket line into this category. Thus, rather than ask witnesses questions relevant to the issue at hand, each were asked how old they thought the earth was. This question was not asked to get to the substance of the issue at hand, it was asked for the sole reason of making the witness look like an ignoramus in the eyes of the “moderates who are not that well educated about the issues.”

person believes. The issue is what is the logical *effect* of suppressing one side of a scientific controversy regarding origins on theistic and non-theistic religion. What may one reasonably expect an impressionable young child to come to believe if all he is shown is evidence that supports and does not contradict the proposition that life arises from unguided evolutionary change? Logically, this favors (*but does not require*) non-theistic religions and belief systems. At the same time it conflicts with theistic beliefs that many parents seek to instill in their children that life results from guided, rather than unguided change.

The convoluted argument of the Response about Atheism and evolution also incorrectly describes the *Smith* case. Respondent states that “the district court [in *Smith*] held that the instruction of evolution was equivalent to advancing a religion and therefore should be taught in tandem with creation.” This is completely wrong. The *Smith* case did not address the teaching of evolution at all and issued no ruling with respect to its teaching. In *Smith* the District Court held (a) that Secular Humanism is a religion and (b) the books listed in Appendix M of its opinion advanced that religion and should not be used by the schools for that reason. None of the books listed in Appendix M were science or biology books. They were books about history, home economics and social studies. Evolution was not made an issue in *Smith*. On appeal the Eleventh Circuit did not disturb the holding that Secular Humanism was a religion, but simply held that the books in question did not advance that religion.

The only reason the Eleventh Circuit opinion in *Smith* mentions evolution is that it discussed the *Epperson* case and the application of its legal principle to the facts in the *Smith* case. The court noted that in *Epperson* the state specifically suppressed scientific information about origins (evolution) because it conflicted with a particular religious belief. Because the textbooks in question in *Smith* did not do seek to suppress a particular view, they were not proscribed. This rationale actually supports the Authors because the hearings did show that Draft 2 seeks to officially exclude scientific criticisms of evolution and candid discussion of its mechanisms because that information is friendly to theistic beliefs.

The Balanced Treatment Strawman. The Response raises the Strawman that the Authors seek “balanced treatment” for “creation and evolution.” This is rather odd, given the initial suggestion that they seek to ban evolution in its entirety. To the contrary the Authors are not arguing for and have never argued for “balanced treatment.” They have consistently argued for genuine scientific objectivity in origins science rather than origins science that is driven by a philosophic or religious bias. This formula limits the discussion to scientific ideas, data and analysis and seeks to present competing ideas according to their relative strengths. For example, the Authors do not seek to expose students to all scientific criticisms of evolution, but only to well supported core criticisms and an accurate description of the mechanisms of evolution. In this vein, the Authors do not ask that design theory be included in the standards, only that it not be banned from the class room. A balanced treatment approach actually limits academic freedom, while a policy that encourages objectivity expands it.

For the foregoing reasons, I urge the Science Committee to embrace the proposed changes to the Science Standards.

Very truly yours,



John H. Calvert, Esq.

cc: The Authors
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Dr. Diane Debacker
Dr. Alexa Posny