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"Reifsnyder, Dan A" <ReifsnyderDA@state.gov>  
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To: Phil Cooney/CEQ/EOP@EOP, Kameran L. Bailey/CEQ/EOP@EOP  
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Subject: FW: Chris Horner in today's Washington Times

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Phil,

This just in from Harlan in Bonn...Horner article in today's  
Washington Times. Dan

-----Original Message-----

From: Harlan Watson [mailto:harlan\_watson@yahoo.com]  
Sent: Tuesday, June 04, 2002 4:47 PM  
To: reifsnyderda@state.gov; gordonsc@state.gov  
Subject: Chris Horner in today's Washington Times

The Washington Times, Tuesday, June 4, 2002, p. A19  
Is Bush playing treaty "chicken"?  
The administration must come clean on Kyoto  
By Christopher C. Horner, SPECIAL TO THE WASHINGTON  
TIMES

As one of the first manifestations of President George W. Bush's supposed campaign of foreign policy "unilateralism," last year he rejected, withdrew from or otherwise abandoned the Kyoto Protocol on "global warming" - right? Not exactly. That which is required to withdraw from unratified treaties was recently demonstrated regarding the Treaty of Rome. Mr. Bush formally told the United Nations that this agreement establishing a permanent international criminal court would not involve the United States, despite our having signed it (see the instrument to that effect, <http://www.state.gov/r/pa/prs/ps/2002/9968.htm>).

The president has undertaken no similar action to withdraw from Kyoto, the U.N. effort at rationing energy use among developed nations. Now, his State Department having just denied a petition that it in fact reject Kyoto, Mr. Bush makes clear he has no such intention. Thus the rap on Mr. Bush of getting tough with the maniacally green Europeans, regarding the unfair and unwarranted Kyoto, is fiction. The stranger truth is that Kyoto is alive, well, and as likely as not headed to the Senate at the behest of a

Republican. That's right. Not only did Mr. Bush not abandon Kyoto, his administration now expressly rejects the concept.

In April, the anti-Kyoto Competitive Enterprise Institute alerted the State Department that its rumored, pending withdrawal from the Rome Treaty raises questions about their intent as regards other signed but-not-ratified treaties, specifically Kyoto. Previously, in rebuffing several informal requests, State Department officials pooh-pooed the idea of actually withdrawing on the basis that "our lawyers tell us that signing a treaty doesn't mean anything." The Rome exercise of course put the lie to such nonsense.

As the Rome action loomed, Competitive Enterprise Institute formally petitioned the State Department, walking through the strategic and legal arguments necessitating withdrawal from Kyoto. In sum, until a signatory nation formally communicates its exit, it remains party to agreements such that it must abide treaty objectives if not the specific language. By not withdrawing we plead for a better offer. Also at best, increasing coal-fired energy production and even Mr. Bush's regrettable "climate change" offering - dignifying climate alarmism yet allowing greenhouse gases to increase - both remain subject to challenge in the World Court in The Hague.

CEI deemed California's recent electricity rationing as instructive regarding the importance of energy availability and requested Kyoto join Rome on the scrap heap, given the administration considered the latter treaty's strictures too serious to duck via a "we haven't ratified it" straddle. The State Department has now denied that petition, though in an unserious fashion. That is, State would not even dignify CEI's detailed arguments - likely because the case is fairly ironclad - but merely claimed it sees no need to further clarify their Kyoto position of disparaging the treaty yet remaining a party.

This is alarming, as there must be some logic behind a president being loathe to actually do that for which he is repeatedly savaged in the establishment press as having done - withdraw from Kyoto. Foremost, this odd strategy seemingly confirms what the greens have giddily whispered among themselves for months. Purportedly some pal in the White House tells them that, far from abandoning Kyoto, Mr. Bush will at "worst" merely not be the president to endorse it by sending the treaty to the Senate for ratification.

The greens see a best-case scenario, which State's response actually casts as logically likely, of Mr.

Bush instead engaging the Euros in a game of treaty "chicken" such that he can gain concessions facilitating our "re-entry" into an agreement we refuse to actually leave. Under this vision, Mr. Bush would play the conquering hero of both greenness and sovereignty, who resuscitated then made an unfair treaty palatable, etc. He would assumedly ship it down the street to make it the Senate Democrats' burden, conveniently handcuffing any member of such body who may win the Dem nomination. Climate hawks and would-be candidates John Kerry and Joe Lieberman specifically come to mind. Further, according to this view, Mr. Bush would also preempt anti-green and "unilateral" attacks.

To clarify, Mr. Bush has not withdrawn from Kyoto, nor otherwise rejected it. The State Department's recent denial of a formal request to reject the treaty instead hints that, by expressing disdain while remaining formally a "party" to Kyoto, the administration is instead playing chicken with the Europeans. If true, the Bush administration gambles it can leverage its role under Kyoto's terms to extract a deal more to Mr. Bush's liking, while the Europeans believe they can pressure the United States into ratifying the agreement that to this day, rhetoric notwithstanding, bears our valid signature.

Whoever wins, this scenario requires both to envision U.S. participation in Kyoto. If true, such machinations are not worthy of an otherwise admirable presidency. Instead of playing word games the administration ought to come clean on its intentions regarding one of the most dangerous international agreements to emerge in decades.

Christopher C. Horner is a senior fellow at the Competitive Enterprise Institute and counsel of the Cooler Heads Coalition.

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"Biniaz, Susan (Internet)(L-OES Room 6420)" <BINIAZSN@ms.state.gov>  
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"LaMotte, Russell K (Internet)(L-OES Room 6420)" <LAMOTTER@ms.state.gov>  
"(RIA) Nyman, Elisha E" <e.nyman@state.gov>  
"triggatalley@yahoo.com" <triggatalley@yahoo.com>