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EPA Global Warming Report Violates White House Agreement To Settle Lawsuit*Report Relying On Discredited Science Previously Disavowed As Official Policy*

Press Release

by CEI Staff

June 3, 2002

Washington, D.C., June 3, 2002—The Environmental Protection Agency's latest report on global warming to the United Nations, *Climate Action Report 2002*, violates an agreement between the White House and the Competitive Enterprise Institute, three members of Congress, and other non-profit advocacy groups, struck in settlement of a lawsuit. The report relies in part on the discredited *National Assessment on Climate Change*.

As a result of the lawsuit filed in October 2000, the Bush Administration ultimately agreed in September 2001 to withdraw the *National Assessment* and stated that its unlawfully produced conclusions are "not policy positions or official statements of the U.S. government." EPA has ignored this agreement in issuing its report to the United Nations.

"Through Freedom of Information Act inquiries, we learned that the *National Assessment* was hurriedly slapped together in an incomplete and inaccurate form," said Christopher C. Horner, CEI counsel who filed the lawsuit. "The current *Climate Action Report* inappropriately cites the disgraced *National Assessment*, in clear violation of the spirit and letter of our agreement with the White House in return for withdrawing our suit."

Adds Myron Ebell, director of global warming policy at CEI: "The Administration has recognized that the *National Assessment* is the worst sort of junk science. For the EPA now to accept the *National Assessment's* findings as valid undermines and contradicts President Bush's global warming policies. The EPA needs to be told that the Clinton Administration is gone and Al Gore did not win the election."

The lawsuit against the White House's flawed climate science was brought jointly by CEI, Senator James Inhofe (R-OK), Representatives Joe Knollenberg (R-MI) and Jo Ann Emerson (R-MO), and other non-profit advocacy groups. CEI's pleadings in the case can be found in the docket at the federal District Court for the District of Columbia (CV 00-02383).

CEI is a non-profit, non-partisan public policy group dedicated to the principles of free enterprise and limited government. For more information about CEI, visit our website at www.cei.org.

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Open Letter To President Bush On The Climate Action Report 2002

Speeches & Presentations

by Fred L. Smith, Jr.

June 3, 2002

June 3, 2002

President George W. Bush
The White House
1600 Pennsylvania Avenue, NW
Washington, DC

Dear President Bush,

We are deeply disappointed to read your Administration's submission to the United Nations, the "Climate Action Report 2002" ("CAR"). You may be aware that last year your administration agreed to settle a "climate" lawsuit filed by the Competitive Enterprise Institute (CEI), Senator James Inhofe, Representatives Joseph Knollenberg and Jo Ann Emerson, and others (DCDC C.A. No. 00-02383). In return for our withdrawing our complaint, your Office of Science and Technology Policy assured us that the "National Assessment on climate Change" (NACC) would "not [represent] policy positions or official statements of the U.S. government." (see attached).

That September 6, 2001 correspondence asserted to Plaintiffs' satisfaction that the unlawfully produced and deeply flawed document did not and would not serve as or as the basis for any policies or positions of the Federal Government of the United States, but would instead be treated as no more than another among various third-party submissions.

Further contributing to this settlement was an August 31, 2001 submission by the United States Department of State, to the United Nations' Intergovernmental Panel on Climate Change ("IPCC"). This document, "Comments" from the "Final Government Review" of the "IPCC Third Assessment Report, Synthesis Report," reinforced our belief in your offer to assert that the National Assessment indeed did not -- and would not -- serve as the position of the Federal Government of the United States as to the science of the theory of climate change or global warming, or the basis for any such position or any policy. As such Plaintiffs agreed to withdraw their Complaint.

Now, it is cited as authoritative throughout CAR Chapter 6, as the U.S. position. This CAR submission represents not merely a significant policy departure by your administration. We are also very disappointed that the Administration has violated this agreement, made in good faith and on the Plaintiffs' assumptions that both parties would abide by its spirit and letter.

Sincerely,

Fred L. Smith, Jr.
President And Founder

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CEI's Petition To EPA To Cease Dissemination Of Climate Action Report
by Christopher C. Horner
June 4, 2002



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June 4, 2002

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Administrator Christie Todd Whitman
United States Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

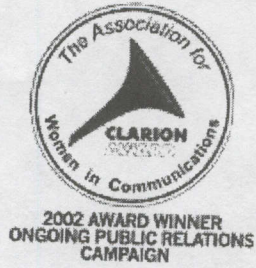
Re: **Petition under Federal Data Quality Act
To Prohibit Further Dissemination of "Climate Action Report 2002"**

Dear Administrator Whitman,

For the reasons detailed herein, to the extent that the United States Environmental Protection Agency ("EPA") or any subdivision, branch, agency or thereof cites, refers or links to, or otherwise disseminates the "Climate Action Report 2002" ("CAR") (<http://www.epa.gov/globalwarming/publications/car/index.html>) c product of, *inter alia*, EPA, it is in violation of the Federal Data Quality Act ("FDCA"). **This is because CAR cites on, and further disseminates data failing meet FDQA's requirements (see esp. CAR "Chapter 6"), presently applical EPA (see 67 FR 370).** Specifically, CAR disseminates the first National Assessment on Climate Change ("National Assessment" or "NACC") (<http://www.usgcrp.gov/usgcrp/nacc/default.htm>), which is unacceptable under f

This petition formally requests that EPA immediately remove all electronic dissemination and cease other dissemination of the CAR.

Specifically, and as detailed below, FDQA prohibits -- **and therefore, EI must cease** -- dissemination of CAR given its reliance upon and dissemination findings of the National Assessment (NACC) on the basis of that document's failure to satisfy the data quality requirements of "**objectivity**" (whether the disseminated information is presented in an *accurate, clear, complete and unbiased manner* and as a matter of substance *accurate, reliable and unbiased*), and "**utility**" (the *usefulness* of the information to the *intended users* (per the US Global Change Act of 1990, these are Congress and the Executive Branch). See 67 FR 370. As the



statutorily designated steering document for policymaking, NACC qualify "influential scientific or statistical information", therefore it must meet a "reproduction standard, setting forth transparency regarding data and methods of analysis, "a quality standard above and beyond some peer review quality standards."

The reasons, as detailed, *infra*, include NACC's and therefore CAR's inappropriate use of computer models and data. Further, in developing the published version of NACC which CAR further disseminates, the US Global Change Research Program (USGCRP) also failed to perform the necessary science underlying regional and sectoral analyses that, as Congress notified USGCRP at the time, was a condition precedent to the release of any National Assessment (even a draft). It ratifies those objections, and is violated by continued dissemination of this product by any federal agency.

Additional rationale necessitating a prohibition on further CAR/NACC dissemination is provided by an extensive record obtained through the Freedom of Information Act (FOIA), that the purported internal "peer review" of the draft NACC did not in fact occur (this record also ratifies the inappropriate use of computer models also detailed). As the obtained documents demonstrate, commenting parties expressly informed USGCRP that they were rushed and as such were not given adequate time for substantive review or comment. USGCRP published and continued to disseminate the product nonetheless, as do all agencies such as EPA which reference, cite, link or otherwise disseminate NACC.

All of these failings ensure that dissemination of NACC/CAR violates FDCA requirement, manifested in OMB's Guidelines and as necessarily manifested by final guidelines, that data disseminated by Federal Agencies meet standards of quality as measured by specific tests for objectivity, utility and integrity.

As you are also aware and as reaffirmed by OMB in its FDQA Final Guidance, that EPA is only now developing agency-specific guidelines and mechanisms, for complaints invoking OMB's Guidelines in the interim EPA should already have in place requisite administrative mechanisms for applying OMB's standards.

I. FDQA Coverage of USGCRP, therefore its Product the NACC, and CAR

However and by whatever government agency NACC, and therefore CAR, are disseminated they are inescapably covered by FDQA when disseminated by a Federal Agency. First, it is noteworthy that, whatever the status of the government office produced NACC, as directed by the Executive Office of the President (EOP) the United States Global Change Research Program (USGCRP), producer of the National Assessment on Climate Change (NACC or Assessment) is subject to the Federal Data Quality Act (FDQA). FDQA covers the same entities as the Paper Reduction Act (44 U.S.C. Sections 3501 *et seq.*; see esp. 44 U.S.C. 3502(1)).

By statute the President serves as Chairman of the National Science and Technology Council ("NSTC"), operating under the White House Office of Science and Technology Policy ("OSTP"), and which has under its authority the Committee on Environment and Natural Resources ("CENR") (15 U.S.C. 2932 (originally "Commission on Earth and Environmental Sciences")). All of these offices are therefore EOP entities, subject to PWRA, thus FDQA.

Per 15 U.S.C. 2934 the President, as Chairman of the Council, shall develop and implement through CENR a US Global Change Research Program. The President shall advise the President and Congress, through the NACC, on relevant considerations for climate policy. Though the composite USGCRP is an "interagency effort staffed in great part by seconded employees from federal agencies, it remains under the direction of the President and is therefore a "covered agency" pursuant to 44 U.S.C. 3502(1).

Collectively and pursuant to statutory authority, under the direction of the Executive offices the USGCRP directed an effort statutorily dedicated in part to studying the state of the science and its uncertainties surrounding the theory of warming" or "climate change," producing a National Assessment on Climate Change ("NACC"). **Though originally produced prior to FDQA, the data asserted by NACC (issued in final in December 2000; see <http://www.usgcrp.gov/usgcrp/nacc/default.htm>), as current or continued dissemination is subject to the requirements of the Federal Data Quality Act. That ineffective argument is not available as regards the CAR.**

II. Development of NACC

The Assessment was produced as follows:

1. Pursuant to and/or under the auspices of the Global Change Research Act of 1990, 15 U.S.C. 2921, *et seq.*, USGCRP is assigned the responsibility of producing a scientific assessment, particularly that which is at issue in this Petition, as follows:

"On a periodic basis (not less frequently than every 4 years), the Council, through its Committee, shall prepare and submit to the President and the Congress an assessment which –

- (1) integrates, evaluates, and interprets the findings of the [USGCR] Program and discusses the scientific uncertainties associated with such findings;
 - (2) analyzes the effects of global change on the natural environment, agriculture, energy production and use, land and water resources, transportation, human health and welfare, human social systems, and biological diversity;
 - (3) analyzes current trends in global change both human-induced (sic) and natural, and projects major trends for subsequent 25 to 100 years." (15 U.S.C. 2934).
2. The document at issue in this Petition, the "First National Assessment on Climate Change," disseminates data rising to the requisite FDQA levels of "quality", as described herein.
 3. USGCRP's surge to release a flawed, partial, and partially unauthorized, came despite requests of lawmakers and outside interests concerned with the issues at hand, to withhold releasing a such a document lacking particular required scientific foundations, in violation of several laws and public policy.

III. The Assessment violates the requirements of the FDQA in the following

1. NACC Relies Upon and Promotes Improper Use of Computer Model Data

For the following reasons, NACC violates FDQA's "objectivity" and "utility" requirements. As "influential scientific or statistical information", NACC also fails to meet these reasons its "reproducibility" standard, setting forth transparency regarding methods of analysis, "a quality standard above and beyond some peer review quality standards."

First, on behalf of this petition, Patrick Michaels, Professor of Environmental Sciences at University of Virginia, excerpts from his review of the NACC dated and submitted to USGCRP August 11, 2000, detailing concerns noted above that pertain to the NACC in violation of FDQA. Where appropriate, additional *explanatory text* is included. **USGCRP made no apparent alterations of the original text in response to these comments, therefore the comments apply to NACC as disseminated.**

"August 11, 2000..."

"The essential problem with the USNA [elsewhere cited in this Petition as the NACC] is that it is based largely on two climate models, neither one of which, when compared with the 10-year smoothed behavior of the lower 48 states (a very lenient comparison that reduces the residual variance below the raw variance of the data. The one that generates the most lurid warming scenarios—the Canadian Climate Centre (CCC) Model—produces much larger errors than are inherent in the natural noise of the data. That is a simple test of whether or not a model is valid...and both of those models fail. All implied effects, including the large temperature rise, are therefore based upon multiple scientific failure. The USNA's continued use of those models and that approach is a willful choice to disregard the most fundamental of scientific rules that they did not find and eliminate such an egregious error is testimony to grave scientific failure. For that reason alone, the USNA should be withdrawn from the public sphere unless it becomes scientifically based."

Explanatory text: *The basic rule of science is that hypotheses must be verified by observed data before they can be regarded as facts. Science that does not do this is "junk science", and at minimum is precisely what the FDQA is designed to bar from the policymaking process.*

The two climate models used in the NACC make predictions of U.S. climate change based upon human alterations of the atmosphere. Those alterations have been in effect for well over 100 years. Do the changes those models "predicted" for U.S. climate change in the last century resemble what actually occurred?

This can be determined by comparison of observed U.S. annual temperature departures from the 20th century average with those generated by both models. It is traditional to use moving averages of the data to smooth out year-to-year changes that cannot be anticipated by any climate model. This review used running averages to minimize interannual noise.

The predicted-minus-observed values for both models versus were then compared to the result that would obtain if one simply predicted the average temperature for the 20th century from year to year. In fact, both models did worse than that baseline. Statistically speaking, that means that both models perform worse for the last 100 years than a table of random numbers applied to ten-year running mean temperatures.

There was no discernible alteration of the NACC text in response to this fact. However, the NACC Synthesis Team, co-chaired by Thomas Karl, Director of the National Climatic Data Center, took the result so seriously that they commissioned independent replication of this test, only more inclusive, using 1-year, 5-year, and 25-year running means of the U.S. annual temperature. This analysis verified in fact both models performed no better than a table of random numbers applied to U.S. Climate Data. Mr. Karl was kind enough to send the results to this reviewer.

"...the problem of model selection. As shown in Figure 9.3 of the Third Assessment Report of the United Nations Intergovernmental Panel on Climate Change, the behavior of virtually every General Circulation Climate model (GCM) is the production of a significant warming, despite assumptions of exponential increases in greenhouse forcing. Only one (out of, by my count, 26) GCMs produces a substantially expected warming—the CCC model [one of the two used in the NACC]. Others may be slightly warmer, though not substantially, in the policy-relevant time frame. The USNA specifically chose the outlier with regard to the mathematical form of the output. No graduate student would be allowed to submit a thesis to his or her committee with such a bias, and no national committee should be allowed to submit such a report to the American people.

Even worse, the CCC and Hadley data were decadal smoothed and then

subject to a parabolic fit, as the caption for the USNA's Figure 6 makes clear. TI makes the CCC even appear warmer because of the very high last decadal ave

One of the two models chosen for use in the USNA, the Canadian (Center (CCC) model, predicts the most extreme temperature and precip changes of all the models considered for inclusion. The CCC model foreca average temperature in the United States to rise 8.1°F (4.5°C) by the year 2100 than twice the rise of 3.6°F (2.0°C) forecast by the U.K. model (the second used in the USNA). Compare this with what has actually occurred during th century. The CCC model predicted a warming of 2.7°F (1.5°C) in the United over the course of the twentieth century, but the observations show that the in was about 0.25°F (0.14°C) (Hansen, J.E., et al., 1999: GISS analysis of : temperature change. *Journal of Geophysical Research*, **104**, 30,997–31,0; about 10 times less than the forecast [Hansen has since revised this to 0.5°C. makes the prediction three times greater than what has been observed].... Th forecast of precipitation changes across the Unites States is equally extreme the models reviewed for inclusion in the USNA, the CCC model predicted mor twice the precipitation change than the second most extreme model, interestingly, was the U.K. model [the other model used in the NACC]. The U.K. itself forecast twice the change of the average of the remaining, unselected n Therefore, along with the fact that GCMs in general cannot accurately forecast i change at regional levels, the GCMs selected as the basis for the USNA conc do not even fairly represent the collection of available climate models.

Why deliberately select such an inappropriate model as the CCC? [T Karl, co-Chair of the NACC synthesis team replied that] the reason the USNA the CCC model is that it provides diurnal temperatures; this is a remarkable c given its base performance....”

“The USNA’s high-end scenarios are driven by a model that 1) doesn over the United States; 2) is at functional variance with virtually every other i model. It is simply impossible to reconcile this skewed choice with the rather e desire to include diurnal temperatures...”

Explanatory text: *It is clear that the NACC chose two extreme models out of a of literally dozens that were available. This violates the FDQA requirements for “objectivity” detailed in the third paragraph of this Petition.*

Second, Dr. Michaels is clearly not alone in his assessment. Consider comments of government reviewers, all received and possessed by USGCRP. example, that styled “**Improper use of climate models**”, by William T. Pennell Northwest National Laboratory, submitted through DOE (John Houghton) to Mel Taylor at USGCRP:

“Although it is mentioned in several places, greater emphasis needs to l placed on the limitations that the climate change scenarios used in this assessment have on its results. First, except for some unidentified exceptions, only two models are used. Second, nearly every impact of importance is driven by what is liable to happen to the climate on the re to local scale, but it is well known that current global-scale models have limited ability to simulate climate effects as this degree of spatial resolut We have to use them, but I think we need to be candid about their limita Let’s take the West [cites example]...Every time we show maps that ind detail beyond the resolution of the models we are misleading the reader

USGCRP received other comments by governmental “peer reviewers” affirming these modeling data transgressions:

“Also, the reliance on predictions from only two climate models is dange Steven J. Ghan, Staff Scientist, Atmospheric Sciences and Global Char Pacific Northwest Laboratory.

"This report relies too much on the projections from only two climate models. Projections from other models should also be used in the assessment to broadly sample the range of predicted responses." Steven J. Ghan, Staff Scientist, Atmospheric Sciences and Global Change, Pacific Northwest Laboratory.

"Comments on National Assessment. 1. The most critical shortcomings of the assessment are the attempt to extrapolate global-scale projections to regional and sub-regional scales and to use two models which provide divergent projections for key climatic elements." Mitchell Baer, US Department of Energy, Washington, DC.

"General comments: Bias of individual authors is evident. Climate variability not addressed...Why were the Hadley and Canadian GCMs used? Unanswered questions. Are these GCM's [sic] sufficiently accurate to regional projections? Nope". Reviewer Stan Wullschlegel (12/17/99).

William T. Pennell, Manager, Atmospheric Sciences and Global Change, Pacific Northwest Laboratory, cites the that "only two models are used" "limitation" on the product.

The final NACC currently disseminated by Commerce/NOAA shows the admonitions went unheeded.

Stated simply, the climate models upon which NACC relies have struck Strike one: they can't simulate the current climate. Strike two: they predict greater and more rapid warming in the atmosphere than at the surface. The opposite is happening (see e.g., http://www.ghec.msfc.nasa.gov/MSU/hl_sat_accuracy.htm). Strike three: they predict amplified warming at the poles, which are cooling instead (see e.g., <http://www.washingtonpost.com/wp-dyn/articles/A40974-2002Jan13>). On top of this demonstrable lack of utility for their purported purpose, NACC knowingly misuses them.

2. Failure to Perform Requisite Scientific Review Violates FDQA

USGCRP's development of NACC drew congressional attention to particular shortcomings. Specifically, leaders in the United States House of Representatives repeatedly attempted to ensure USGCRP and its subsidiary bodies follow the scientific method regarding particular matters, specifically the regional and sectoral analyses. Indeed the concerns had become so acute that these leaders successfully promoted a restriction prohibiting relevant agencies from expending appropriate monies upon the matter at issue, consistent with the plain requirements of the Act of 1990, through language in the conference report accompanying Public Law 1

"None of the funds made available in this Act may be used to publish or disseminate an assessment required under section 106 of the Global Change Research Act of 1990 unless (1) the supporting research has been subjected to peer review and, if not otherwise publicly available, posted electronically for public comment prior to its use in the assessment; and (2) the draft assessment has been published in the Federal Register for a 60 day public comment period."^[1]

USGCRP did not perform the conditions precedent for valid science as cited in that language. Instead USGCRP produced and now disseminates a NACC known and expressly without the benefit of the supporting science which not only is substantially required but which Congress rightly insisted be performed and subject to peer review prior to releasing any such assessment.

These attempts to rectify certain NACC shortcomings were made in advance of USGCRP producing the NACC, but were never rectified. These failures justify Petitioners' request that USGCRP cease present and future NACC dissemination unless and until its violations of FDQA are corrected. In addition to NACC violating FDQA's "objectivity" and "utility" requirements, as "influential scientific or statistical information", NACC also fails its "reproducibility" standard, setting forth transparency regarding data and methods of analysis. Per OMB, this represents "a quality standard above and beyond some peer review quality standards."^[2]

Given USGCRP's refusal to wait for completion of the underlying science at their response to the relevant oversight chairmen, it is manifest that USGCRP ignored or rejected these lawmakers' requests, including by the relevant oversight Chair and produced a deeply flawed Assessment, knowingly and admittedly issuing an Assessment without having complied with Congress's direction to incorporate the underlying science styled as "regional and sectoral analyses,"^[3] while also admitting that the requisite scientific foundation would be completed imminently. For these same reasons dissemination presently violates FDQA.

3. NACC Not in Fact Peer Reviewed, Commenting Parties Make Clear

Finally, NACC suffers from having received no authentic peer review, in violation of FDQA's "objectivity" and "utility" requirements. As "influential scientific or statistical information", for these reasons NACC also fails the "reproducibility" standard, setting forth transparency regarding data and methods of analysis, "a standard above and beyond some peer review quality standards."

Once an advisory committee was chartered pursuant to the Federal Advisory Committee Act (FACA) in 1998, Dr. John Gibbons' communication of January 8 to the first Designated Federal Officer (DFO) Dr. Robert Corell indicates a sense of urgency was communicated to the panel by political officials. Further, statements in the record and major media outlets, including but in no way limited to those from certain anonymous if purportedly well placed sources, indicate a perception among involved scientists that political pressures drove the timing and even content of the draft document. This is manifested by the lack of opportunity to comment for parties whose comment was formally requested as part of a "peer review" of NACC.

This sense of urgency is reflected in, among other places, comments the Congressional Heads Coalition obtained via the Freedom of Information Act, made by parties from the National Laboratories asked by the Department of Energy to comment on the Draft. In addition to an emphasis on speed as opposed to deliberation, the report emphasizes on "possible calamities" to the detriment of balancing comments which were widely offered, and rampant criticism of the reliance on only two significantly different models for the pronouncements made, these comments are exemplified by the following samples from well over a dozen such complaints accessed through FOIA: **also received by and in the possession of USGCRP:**

- 1) "This review was constrained to be performed within a day and a half. This was not an adequate amount of time to perform the quality of review that should be performed on this size document" (Ronald N. Kickert, 12/08/99);
- 2) "During this time, I did not have time to review the two Foundation Document Chapters" (Kickert, 12/20/99);
- 3) "Given the deadline I have been given for these comments, I have not been able to read this chapter in its entirety" (William T. Pennell);
- 4) **"UNFORTUNATELY, THIS DOCUMENT IS NOT READY FOR RELEASE WITHOUT MAJOR CHANGES"** (CAPS and bold in original)(Jae Edmonds)
- 5) "This is not ready to go!" (William M. Putman).

These comments reflect an alarming implication of timing over substance, a product whose final content appears predetermined. Patrick Michaels' comment and the absence of apparent change in response to his alarming findings, reinforce this troubling reality. Notably, the product was released and continues to be disseminated without offering an actual peer review or otherwise addressing the concerns expressed.

In conclusion, the National Assessment on Climate Change, and therefore the Climate Action Report 2002 fails to meet FDQA and/or OMB guidelines regarding Data Quality. **As a consequence, EPA must immediately cease electronic and other dissemination of the "Climate Action Report 2002", which relies in part on the data cited, and further disseminates (see esp. "Chapter 6"), the unacceptable data provided by the National Assessment on climate Change, as defined by OMB and described, supra.**

I look forward to your timely response to this Petition.

Sincerely,

Christopher C. Horner
Counsel

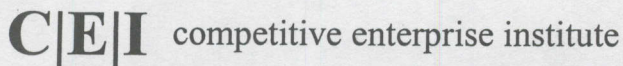
[1] House Report 106-379, the conference report accompanying H.R. 2684, Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2000 (Pub.L. 106-74), p. 137.

[2] Attachments "B" establish the record of Congress, detailing for USGCRP its obvious scientific failures which now lead to NACC now violating FDQA, noting USGCRP's apparent failure to comply with such conditions and seeking assurance that such circumstances would be remedied. USGCRP via OSTP drafted a response to House Science Committee Chairman Sensenbrenner, evasively failing to specifically address the concerns raised by these Members. Chairman Sensenbrenner and Calvert specifically took issue and/or disputed these non-responses in the July 20, 2000 letter, reiterating their request for compliance with law's requirements. Nonetheless, the failings persist.

[3] See Attachments "B". This despite that the two principal NACC sections are "Regions," and "Sections." (see

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Updated - Institute Files Petition To Prevent Distribution Of Flawed White House Climate Report

Document Relies on Discredited Science, Violates Prior Legal Agreement

Press Release

by CEI Staff

June 4, 2002

View The State Department's Letter To CEI Refusing To Withdraw From The Kyoto Protocol

View The Office Of Science And Technology Policy's Letter Explaining That The National Assessment On Climate Change Does Not Represent The Bush Administration's Policy

Washington, D.C., June 4, 2002—The Competitive Enterprise Institute today filed a petition with the Bush Administration to prevent the distribution of a fatally flawed report on global warming. The petition to prevent distribution is in response to the Bush Administration decisions to include discredited research and junk science in the report, *Climate Action Report 2002*, issued last week by the Environmental Protection Agency (EPA).

“The conclusions of the *Climate Action Report* utterly fail to meet the minimum statutory requirements for scientific rigor, and should be immediately withdrawn by the EPA” said Christopher C. Horner, senior fellow at CEI. “The guidelines of the Federal Data Quality Act require that scientific information being disseminated by the government be presented in an accurate, complete and unbiased manner. The administration’s current report clearly violates these requirements.”

As a result of a lawsuit led by CEI and three members of Congress, the White House had previously agreed not to use the flawed *National Assessment on Climate Change* as representing a government policy or position on climate change. The Administration abandoned that agreement, struck to settle a federal lawsuit, with last week’s *Climate Action Report 2002*, which prominently cites and relies upon this discredited and withdrawn product.

Today’s petition was filed by CEI with the EPA, the only agency currently disseminating the *Climate Action Report 2002*. The original lawsuit against the White House’s flawed climate science was brought jointly by CEI, Senator James Inhofe (R-OK), Representatives Joe Knollenberg (R-MI) and Jo Ann Emerson (R-MO), and other non-profit advocacy groups.

CEI is a non-profit, non-partisan public policy group dedicated to the principles of free enterprise and limited government. For more information about CEI, visit our website at www.cei.org.

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Joint Letter To President Bush On The EPA's Climate Action Report

Speeches & Presentations

by Myron Ebell and Fred L. Smith, Jr.

June 7, 2002

June 7, 2002

The Honorable George W. Bush
President of the United States
The White House
Washington, D. C., 20500

Dear President Bush,

We write to share our concerns with *Climate Action Report 2002*, which your administration recently transmitted to the United Nations Framework Convention on Climate Change and released to the public by posting on the EPA web site. As opponents of the Kyoto Protocol and similar domestic proposals to ration energy, we welcome your remarks of June 4 that you had "read the report put out by the bureaucracy" and that you still opposed the Kyoto global warming treaty. We recognize that your principled opposition to Kyoto has come at considerable political cost, and we admire your resolution in the face of continuing environmental alarmism.

Climate Action Report 2002 is largely a compilation and summary of junk science produced by the Clinton-Gore Administration in order to support their Kyoto agenda. In particular, crucial parts of the report rely on the discredited *National Assessment* on the impacts of climate change, which your administration stated on September 6, 2001 was "not policy positions or official statements of the U. S. government," as part of a settlement of a lawsuit brought by three members of Congress and several of the organizations signing this letter. In addition, the report clearly does not comply with the requirements of the Data Quality Act.

In our view, *Climate Action Report 2002* undermines your position on the Kyoto Protocol and damages efforts in the Congress to advance your energy policies and to oppose environmental policies that would implement Kyoto-style controls on energy use. We do not believe that these negative effects will go away merely by ignoring the report.

We therefore urge you to withdraw *Climate Action Report 2002* immediately and to direct that it be re-written on the basis of sound science and without relying on discredited products of the previous administration. As production and release of this report demonstrates, pursuing your global warming and energy policies effectively will not be possible as long as key members of your administration do not fully support your policies. We therefore also urge you to dismiss or re-assign all administration employees who are not pursuing your agenda, just as you have done in several similar instances.

Thank you for your attention to our concerns. We stand ready to work with you and your administration on pro-consumer, pro-taxpayer policies.

Yours sincerely,

Fred Smith and Myron Ebell
Competitive Enterprise Institute

Paul Beckner
Citizens for a Sound Economy

Frances B. Smith
Consumer Alert

Kenneth Green

Reason Foundation

David Rothbard
Committee for a Constructive Tomorrow

Karen Kerrigan
Small Business Survival Committee

Thomas A. Schatz
Citizens Against Government Waste

Grover Norquist
Americans for Tax Reform

Tom DeWeese
American Policy Center

Steve Hayward
Pacific Research Institute

George C. Landrith
Frontiers of Freedom

Patrick Michaels
Cato Institute

S. Fred Singer
Science & Environmental Policy Project

Lori Waters
Eagle Forum

Morton C. Blackwell
Conservative Leadership PAC

Paul Driessen
Center for the Defense of Free Enterprise

Paul M. Weyrich
Free Congress Foundation

John Berthoud
National Taxpayers Union

David A. Keene
American Conservative Union

Eric Licht
Coalitions for America

Lewis K. Uhler
National Tax Limitation Committee

C. Preston Noell, III
Tradition, Family, Property, Inc.

Ron Pearson
Council for America

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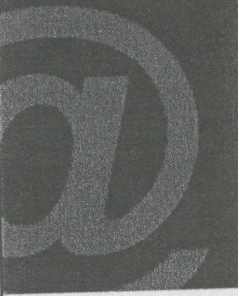
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Bush Must Withdraw Global Warming Report
Ebell Op-Ed in Human Events
 by Myron Ebell
 June 10, 2002

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The left's latest attack on President Bush's opposition to the Kyoto global warming treaty was launched with not even a whisper of warning on June 3 on the front page of the *New York Times*. "In a stark shift for the Bush Administration," wrote Andrew Revkin, "the United States has sent a climate report to the United Nations detailing specific and far-reaching effects that it says global warming will inflict on the global environment."

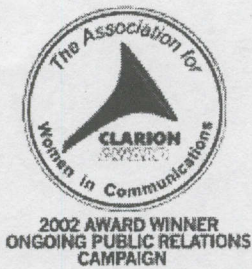
In an editorial the same day, the *Times* concluded that although the administration had now admitted that climate catastrophe was on the way, the President still "lacks serious strategies" for dealing with it. This point was picked up by the evening news shows on CBS, NBC, and ABC.

How this bull's eye was painted on the President's back is a dismaying story because it reveals the White House's continuing political incompetence in dealing with environmental issues and its continuing toleration of opponents of the President's policies inside his administration.

As a party to the United Nations Framework Convention on Climate Change, which President George H. W. Bush signed at the Rio Earth Summit in 1992 and the U.S. ratified unanimously later that year, the U. S. government must provide periodic progress reports. Thus the administration transmitted Climate Action Report 2002 on May 28 with no public notice. But some helpful public servant at the Environmental Protection Agency, who was in on the plot, posted the report on EPA's web site the afternoon, thereby setting the stage for the sneak attack on Monday morning, June 10.

Climate Action Report 2002 is a disastrous concession to global warming alarm. All the worst parts are based on junk science concocted by the Clinton-Gore Administration and now recycled by the Bush Administration with qualifying statements added here and there. Reading it is rather like opening up a copy of the Republican Party platform to find the text of the Democratic Party platform printed inside, with a statement buried in the middle that these are not really our positions.

The report concedes that mankind is causing global warming, that future warming will be in line with United Nations predictions, and that warming will lead to ecosystem collapse, heat waves, droughts, floods, and higher agricultural production. Actually, this last result is the only one for which there is demonstrable scientific evidence.



Hundreds of studies conducted over many decades by the U.S. Department of Agriculture and many land grant universities have found that plants grow more vigorously at higher levels of carbon dioxide in the atmosphere, which is no surprise since carbon dioxide is necessary for photosynthesis.

The predictions of doom rely on the National Assessment of the impact of climate change, which the Clinton team concocted to help Al Gore. The National Assessment was subject to devastating criticism by a wide range of scientists.

Perhaps the best comment during the peer review process came from Dr. Patrick Michaels of the University of Virginia and the Cato Institute, who demonstrated that the two computer models used did a poorer job of predicting temperature records over the past 100 years than "a table of random numbers." One of the computer models used to predict regional climate impacts was provided by the Hadley Centre in Reading, England, which admitted in a published paper that, "scenarios based on global warming will fail to capture the regional detail needed for vulnerability assessments at a national level."

The assessment failed to achieve its initial, purely political purpose because many organizations (the Competitive Enterprise Institute), several other non-profits, Sen. Tom Inhofe (R-Okla.), and Representatives Joe Knollenberg (R.-Mich.) and Jo Ann Emerson (R.-Mo.) brought suit in federal court in October 2000 to have the assessment declared unlawfully produced. The Bush Administration settled the lawsuit in September 2001 by agreeing that the assessment's two documents were "not positions or official statements of the U. S. government." So its most unfortunate legacy is that they have now resurrected what they agree is a discredited product.

It would be nice to report that the White House counter-attacked effectively, but news only gets worse. On June 4, President Bush responded to a reporter's question: "I have read the report put out by the bureaucracy. I do not support the Kyoto treaty." Apparently, this was meant to put a little distance between the President and the report, but he did not in any way question its findings, which underscore the main point: The President now accepts that global warming is real and dangerous, but refuses to do anything about it.

White House Spokesman Ari Fleischer dug the hole even deeper the next day by insisting that the President had already agreed with Climate Action Report 2002 major findings in his speech of June 11, 2001. Faced with persistent questioning, Fleischer repeated several times that the President's 2001 statement that human activity is largely responsible for increasing levels of greenhouse gases in the atmosphere is equivalent to the report's conclusion that human activity is responsible for global warming. This confusion gives away the whole scientific debate.

Republican Senate and House staffers I have talked to, who are working to eliminate the worst, anti-energy provisions in the Senate's energy bill now ready to go to conference with the House and to defeat legislation to regulate carbon dioxide emissions sponsored by Senate Environment and Public Works Chairman Jim Jeffords (I.-Vt.), are in despair over Climate Action Report 2002 because it provides a huge amount of ammunition to the advocates of energy rationing.

Jeffords, Daschle, Kerry, and Lieberman can quote many devastating passages at the President's allies at every hearing, mark-up, and floor debate, and say, "I see, even President Bush agrees with us, but like you he is unwilling to do anything about the problem."

The administration has waded into some deep and sticky quicksand. To get out they must first realize that they are sinking and that holding onto the 263 pages Climate Action Report 2002 is only causing them to sink faster. President Bush withdraw the report and direct that it be re-written on the basis of sound science without relying on discredited material left over from Clinton and Gore.

But the President must do more than that if he is to save his agenda. He must dismiss or re-assign every administration employee—and there are several in key positions—who does not support his energy and global warming policies.

And finally, just as Undersecretary of State John Bolton recently removed the

signature of the United States from the Rome treaty creating the International Court, President Bush must direct that the Kyoto Protocol be unsigned. Only this administration be out of the political quicksand.

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CEI's Fred Smith and Marlo Lewis Send Coalition Letter To President Bush The Proposed Greenhouse Gas Registry

by Marlo Lewis, Jr. and Fred L. Smith, Jr.

January 27, 2003



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January 27, 2003

The Honorable George W. Bush
The White House
1600 Pennsylvania Avenue NW
Washington, DC 20500

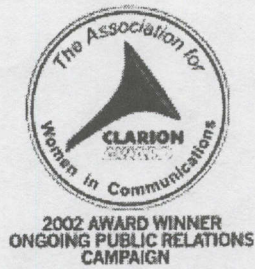
Dear Mr. President:

We are writing to reiterate our concerns about the Administration's plan to award regulatory offsets ("transferable credits") to companies that reduce emissions of carbon dioxide (CO2) and other greenhouse gases.

Three significant events have occurred since our earlier (October 2, 2002) letter events that make the case against carbon credits even more compelling. Those events are: (1) introduction of the McCain-Lieberman bill to establish a Kyoto-st cap-and-trade program for the United States; (2) publication of a major study in *Science* demonstrating the futility of regulatory "solutions" to climate change; and your advocacy of expensing as part of the administration's growth and jobs poli

As noted in our previous letter, transferable carbon credits attain full market val under a mandatory emissions reduction target or "cap," like those proposed in t McCain-Lieberman bill. Thus, companies that earn carbon credits for "early reductions" will gain incentives to lobby for the bill. If enacted, McCain-Lieberma have the same effects on consumers as an energy tax. The carbon caps will inc the prices households must pay for electricity, gasoline, and home heating oil, a impacts will be regressive, imposing proportionately larger burdens on those, lik seniors and the poor, who are on fixed or low incomes.

Clearly, McCain-Lieberman is antithetical both to your National Energy Policy, w seeks to secure affordable energy for the American people, and your growth an policy, which seeks to stimulate the economy via tax cuts. The administration's crediting plan will build support for McCain-Lieberman and similar energy ratiio schemes.



We share your view that climate policy should emphasize long-term technology change, not short-term regulation. As a study in the November 1, 2002 issue of *Science* explains, world energy demand could triple by 2050. However, according to the study, "Energy sources that can produce 100 to 300 percent of present world power consumption without greenhouse emissions do not exist operationally or pilot plants." Major technological breakthroughs and decades of market evolution occur before nations could stabilize atmospheric CO₂ levels while meeting global energy needs. Any serious attempt to stabilize CO₂ levels via regulation would be both futile and economically devastating.

But, if regulatory strategies are unsustainable, then no good purpose is served by providing a pre-regulatory ramp-up to such policies. An early start on a journey that cannot be completed and does not want to take is not progress; it is wasted effort.

As an alternative to Kyoto's mandatory tonnage reduction targets, which are antithetical to growth, you have proposed a voluntary carbon intensity reduction goal, which could accommodate growth. The administration views early credits as a way to motivate companies to invest in newer, less carbon intensive, technologies. However, the better way to speed up carbon intensity decline, and it comes straight out of your economic policy playbook: expensing.

Your growth and jobs plan calls for increasing the small business expensing option from \$25,000 to \$75,000. This is a good first step, but we think the limits on expensing should be expanded even further, and extended to all capital investment.

A study sponsored by the American Council for Capital Formation found that, as of December 2001, the United States lagged behind several of its trade partners in terms of capital cost recovery for electric power generation, pollution control technology and other energy assets. For example, after five years, a company that builds a combined heat and power plant in the United States recovers only 29 percent of its investment compared to 51 percent in Germany, 53 percent in Japan, 100 percent in the Netherlands, and 105 percent in China.

By removing the tax penalty on capital investment, expensing would encourage rapid turnover of plant and equipment. In general, state-of-the-art facilities are more productive than older units, delivering more output per unit of input, including energy inputs. Expensing would thus accelerate carbon intensity decline – yet without building political support for energy rationing.

Because expensing enhances productivity and boosts wages, it makes good economic sense whatever science ultimately tells us about global warming. Expensing is a true "no regrets" policy.

We would be pleased to help the Administration develop a climate policy that relies on expensing rather than transferable credits to reduce U.S. energy and carbon intensity.

Sincerely,

Fred L. Smith, Jr., President
Marlo Lewis, Jr., Senior Fellow
Competitive Enterprise Institute

Paul Beckner
President
Citizens for a Sound Economy

John Berthoud
President
National Taxpayers Union

L. Patricia Callahan
President
American Association of Small Property Owners

David Keene
Chairman
American Conservative Union

Karen Kerrigan
Chairman
Small Business Survival Committee

James Martin
President
60 Plus Association

Grover Norquist
President
Americans for Tax Reform

Duane Parde
Executive Director
American Legislative Exchange Council

John Powell
Senior Vice President & Chief Operating Officer
The Seniors Coalition

Alex-St. James
Chairman
African American Republican
Leadership Council

Tom Schatz
President
Citizens Against Government Waste

Fran Smith
Executive Director
Consumer Alert

Benjamin C. Works
Executive Director
Strategic Issues Research Institute

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CEI Global Warming Lawsuit Draws Ire of Northeast State Attorneys General AGs Accuse White House, Public Interest Group of "Sweetheart Suit"

by CEI Staff

August 23, 2003



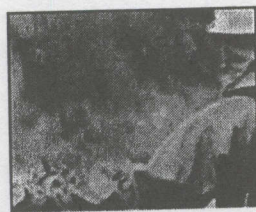
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CEI Global Warming Lawsuit Draws Ire of Northeast State Attorneys General

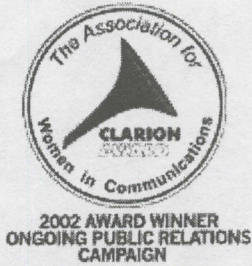
AGs Accuse White House, Public Interest Group of "Sweetheart Suit"

Washington, D.C., August 11, 2003—In an attempt to discredit the Competitive Enterprise Institute's lawsuit against the White House over the Administration's to implement a sound-science law in regard to global warming reports, the state attorneys general of Maine and Connecticut have asked U.S. Attorney General Ashcroft to investigate an alleged "sweetheart suit" relationship between the Bush administration's Council on Environmental Quality and CEI.

"This is a panicked attempt by global warming activists to cover over a scandal-fact that millions of taxpayer dollars are being diverted to address climate change concerns based on unsound data," says Christopher C. Horner, an attorney and fellow at CEI.

CEI bases its challenge on the Federal Data Quality Act (FDQA). The FDQA requires that data disseminated by the government meet basic scientific standards for "objectivity" and "utility." CEI contends that the *National Assessment on Climate Change* (2000) fails this test. The FDQA prohibits taxpayer funding of dissemination of such junk science, and last week CEI filed suit.

The state attorneys general of Maine, Connecticut, and Massachusetts filed the lawsuit in June against the Environmental Protection Agency, claiming the agency required under the federal Clean Air Act to regulate carbon dioxide emissions. "We were highly critical of the AGs lawsuit seeking to tighten regulatory restrictions on energy, since carbon dioxide is not a pollutant, and the case for draconian global warming policies remains unproven. Our opposition to the earlier AG action, we suspect, motivated this attack," says Fred Smith, president of CEI.



[Click here](#) to hear Fred Smith's response to the AGs.

CEI is a non-profit, non-partisan public policy group dedicated to the principle of free enterprise and limited government. For more information about CEI please visit our website at www.cei.org.

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ABOGADO GIGANTE!

State Attorneys General Behaving Badly as Administration Continues Green Fo
by [Christopher C. Horner](#)

August 29, 2003

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In the October 2000 stretch run for the presidency, the Competitive Enterprise Institute (CEI), Senator Jim Inhofe (R-OK), Representatives Jo Ann Emerson (R) and Joe Knollenberg (R-MI) sued President Clinton over a last-minute, alarmist federal government document alleging catastrophic anthropogenic "global warr

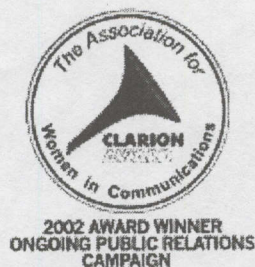
The numerous failings of the "National Assessment on Climate Change," a politi Valentine to candidate Al Gore, included failing in its hurry to bother with basic science such as peer review and using outlier models to create extreme scenari Though the study was 6 years overdue of its statutory deadline, FOIA'd docume revealed an urgent pre-election desire to get something out, in the worst way.

They succeeded. Since then, and despite a momentary fling with reason, the Bu Administration has repeatedly reinforced this junk science so as to adopt the Gc view on global warming and thereby gutting all other efforts to fight the Kyoto Pr agenda. Incredibly, they are now preparing to ask a federal court to endorse it, i process undercutting their own defense against the first in the inevitable series o lawsuits seeking to implement Kyoto through the backdoor.

After uttering sensible, if occasionally wobbly, skepticism of "climate" alarmism c way to victory, deep into the pleadings stage the Bush Administration settled CE al.'s lawsuit in September 2001. They got out of it by seemingly disowning the National Assessment, promising the patent legal fiction that, to the Bush White l this was not a government product but merely one among many third party submissions.

By some bureaucratic snafu or worse, they then abandoned this settlement in M 2002 by submitting to the United Nations, as the U.S.'s "policies and positions," "findings" which were actually slapped together and rushed out to help Al Gore : swing voters into his camp. While conservatives gasped, the establishment pres a field day with the obvious conflict between this "admission" of climate catastro and policies not entirely consistent with such apocalyptic beliefs.

Alas, yes, "mistakes were made," went the White House line. But, beyond a bac couple of press days, they presumed the storm over. This is not merely silly but



reckless given the parade of legal and political horrors that can ensue from such position, including even Alien Tort Claims Act complaints for Third World weather damage that the greens are now preparing.

Not missing the opportunity, a group of northeastern state attorneys general, Democrats all, instructed the administration and not illogically that "admitting" man made global warming triggers a duty to do something about it. Then they sued, garnering great press with a politically charged complaint under the Clean Air Act.

On the other side, CEI reminded the White House in several detailed petitions that government no longer has the luxury of circulating such scientific nonsense, codified by the new Federal Data Quality Act (FDQA) prohibiting even dissemination of information failing basic thresholds of "objectivity" and "utility."

The White House was intransigent, ignoring the obvious merits and even manufacturing embarrassingly frivolous claims to avoid application of Data Quality standards to Gore's report. Exasperated, CEI filed the first test case under this important new tool.

Within days the AGs of Connecticut and Maine lashed out with a bizarre press release and petition to their federal colleague John Ashcroft. With all of the dignity of the evening Univision lineup, these high state officials demanded an investigation of a supposed "sweetheart suit" arrangement between CEI and the White House. With no law or other authority they believe was offended by CEI purportedly replicating content of the Left's favorite plays is not readily apparent, nor did the AGs let on.

The AGs' missive was amusingly sloppy, indicating they did not even read the lawsuit, so exercising them, claiming for example that CEI sued to block an EPA report that the lawsuit does not in fact challenge. To discover their error would have entailed reading all the way into the first page. Further embarrassing to these most political attorneys is that the entire array of White House parries to frustrate CEI were readily available, if requiring a burdensome two or three mouse clicks.

Ceasing circulation of or otherwise correcting Gore's "National Assessment on Climate Change," as CEI seeks to do, would, of course, pull the rug out from under these politicians' global warming lawsuit, which, while likely without legal merit, is nonetheless embarrassing to the administration. Actually, while all along clearly in the administration's favor (clear to all but the White House, apparently), CEI's is analogous to a paternity suit—will you claim this junk science as yours?

The AGs' bilious PR stunt seems to have cleverly maneuvered a White House frightened of its own green shadow out of even considering proper resolution, however, which naturally would only "prove" the alleged collusion. Instead, the White House fights its base and, ironically, supports the campaign of its antagonists.

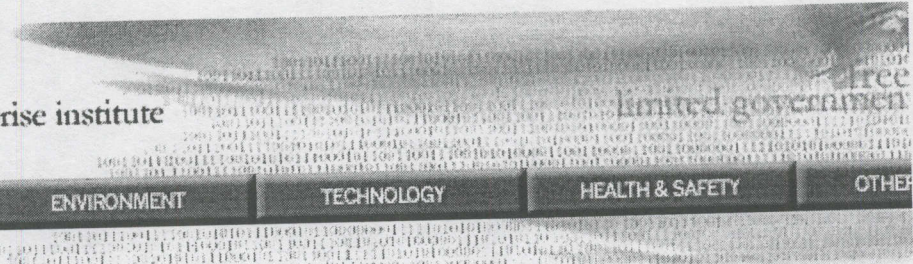
A matter of weeks will prove whether, regardless of how inane in form and substance, these mighty Connecticut and Maine politicians actually herded a purportedly scared White House into abetting its opponents and exposing its citizenry, to the point of even asking a federal court for permission to maintain a thoroughly discredited "global warming" fairy tale as the U.S. position on the issue. If so, the Democrats may have found the political weakness they so desperately seek.

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Accusations of Collusion with White House over Junk Science Lawsuit At CEI Welcomes Hearing on Science of Disputed Climate Change Report

by CEI Staff

September 25, 2003



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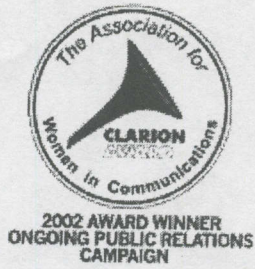
Richard Morrison, 202.331.2273

Washington, D.C., September 25, 2003—The Competitive Enterprise Institute today rejected charges of collusion with the White House Council on Environmental Quality in a legal challenge to a Bush administration global wa report.

“This started as a suit against a *Clinton administration* global warming report,” CEI President Fred L. Smith, Jr. “The accusations of collusion are absurd and an attempt to divert attention from the real issue—that junk science is being u as the basis for climate change reports, which could lead to policies that cost Americans hundreds of billions of dollars with little, if any, benefit.”

The following is a timeline showing the history of CEI’s disagreement with bot Clinton and Bush administrations over two major global warming reports. All documents are available at www.cei.org.

- **October 2000:** CEI, along with three members of Congress and oth public interest groups, filed suit in federal court against the Clinton administral publication of the *National Assessment on Climate Change* because it was produced improperly.
- **September 2001:** The Bush administration settled the lawsuit, agree that the *National Assessment* and related documents “are not policy positions official statements of the U.S. government.”
- **June 2002:** CEI filed a petition with the administration to stop distrib of *Climate Action Report 2002*, which used data from the discredited *National Assessment*.
- **February 2003:** CEI petitioned the White House Office of Science a



Technology Policy to cease dissemination of *Climate Action Report 2002* because it does not meet minimal standards required by the Federal Data Quality Act.

- August 6, 2003: After the Office of Science Technology and Policy denied the February 20 petition and appeal of denial, CEI filed suit against OSTP over failure to implement the Data Quality Act, which is supposed to ensure the use of sound science in the publication and dissemination of science-based reports, as those dealing with climate change.

"We welcome a hearing at any time that would address the scientific basis of reports," said Smith. "They are based on junk science and should be stopped"

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