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14 U.S. SENATOR JOHN F. KERRY and  
15 U.S. REPRESENTATIVE JAY INSLEE

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

CENTER FOR BIOLOGICAL DIVERSITY,) )  
15 a non-profit corporation; GREENPEACE, )  
16 Inc., a non-profit corporation; and FRIENDS )  
17 OF THE EARTH, a non-profit corporation, )

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Plaintiffs,

v.

DR. WILLIAM BRENNAN, in his official )  
20 capacity as Acting Director of the U.S. )  
21 Climate Change Science Program; U.S. )  
22 CLIMATE CHANGE SCIENCE )  
23 PROGRAM; JOHN MARBURGER III, )  
24 in his official capacity as Director of the )  
25 Office of Science and Technology Policy )  
26 and Chairman of the Federal Coordinating )  
27 Technology; OFFICE OF SCIENCE AND )  
28 TECHNOLOGY POLICY; and FEDERAL )  
COORDINATING COUNCIL ON )  
SCIENCE, ENGINEERING, AND )  
TECHNOLOGY, )

Defendants.

Case No. C 06-7062 (SBA)

**DECLARATION OF RICK S. PILTZ  
IN SUPPORT OF MEMORANDUM OF  
AMICI CURIAE JOHN F. KERRY AND  
JAY INSLEE**

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2 I, Rick S. Piltz, hereby state and declare as follows:

3 1. My name is Rick S. Piltz and I submit this declaration in support of the Amici. The  
4 matters set forth herein are stated upon my personal knowledge and professional opinion, and if  
5 called upon to testify, I could and would testify competently as to them.

6 2. I have an M.A. degree (1967) and earned Ph.D. Candidate status (1970), both in  
7 Political Science, from the University of Michigan in Ann Arbor. Since 1979 my primary  
8 professional focus has been on environmental and energy policy and research issues. Since I moved  
9 to Washington, D.C., in 1988, my primary focus has been on the relationship between the science and  
10 policy of global climate change.

11 3. I served as a Majority Professional Staff Member of the Committee on Science, Space  
12 and Technology of the U.S. House of Representatives, from 1991 until January 1995. During that  
13 time I supported the Committee's oversight of federal research and development programs, and  
14 environmental safety and health issues. In particular, my responsibilities included supporting the  
15 Committee's oversight activities on climate change issues, including oversight of the U.S. Global  
16 Change Research Program. Among other activities, I was the lead staff member in developing the  
17 Committee's hearings on "Technologies and Strategies for Addressing Global Warming" (July  
18 1991), "U.S. Global Change Research Program" (May 1992), "Global Change Research: Science  
19 and Policy" (May 1993), and "Climate Change Action Plan and Assessment" (November 1993).

20 4. From April 1995 until March 2005 I worked in the program coordination office  
21 ("program office") of the multiagency U.S. Government program that supports scientific research on  
22 climate and associated global environmental change ("the program"). The program was established  
23 as a Presidential Initiative in 1989 as the U.S. Global Change Research Program (USGCRP) and  
24 subsequently given a statutory basis in the Global Change Research Act of 1990. In 2002, the Bush  
25 Administration established the U.S. Climate Change Science Program (CCSP) to incorporate the  
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1 USGCRP and the President's Climate Change Research Initiative. The program is a coordination  
2 entity for scientific research and observing system activities conducted and supported by a number of  
3 U.S. Government departments and agencies.

4 5. The program office supports this multiagency research effort by performing  
5 interagency coordination, strategic planning, communications, and reporting functions, and serving as  
6 the program secretariat. This office was called the Coordination Office of the U.S. Global Change  
7 Research Program until 2002, when it was renamed the U.S. Climate Change Science Program  
8 Office. At the time of my resignation from the program office in March 2005 my position was Senior  
9 Associate. During the time I worked in the program office I was employed by the University  
10 Corporation for Atmospheric Research (UCAR), based in Boulder, Colorado. I was assigned to work  
11 in the program office under a grant from the National Science Foundation to the UCAR Joint Office  
12 of Science Support. UCAR is a nonprofit consortium of North American member universities, each  
13 of which grants doctoral degrees in the atmospheric and related sciences, plus a number of additional  
14 international affiliates and North American academic affiliates. The UCAR Joint Office of Science  
15 Support provides staffing and infrastructure support in order to facilitate activities in the atmospheric  
16 and related sciences community.

17  
18 6. I had various responsibilities and worked on many projects during the 10 years I  
19 served in the program office. One key ongoing project for which I was responsible involved  
20 coordinating the development of and editing the program's annual report to Congress, starting with  
21 the Fiscal Year 1997 edition (issued in 1996), continuing thereafter, and ending with the completion  
22 of a review draft of the Fiscal Year 2006 edition shortly before I resigned from the program in March  
23 2005. This annual report, titled *Our Changing Planet*, is distributed to all Members of Congress and  
24 all Congressional committees and subcommittees with oversight or budget jurisdiction over climate  
25 and global change research at the program's participating departments and agencies. The report is  
26 also distributed more widely, in print and electronic form, and is one of the principal means by which  
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1 the program as a government-wide entity is communicated to a broad range of audiences. I served as  
2 managing editor, text editor, contributing author, and coordinator of the program-wide agency  
3 review, revision, and approval process for the report. In producing a particular edition of this report, I  
4 would work with as many as 90 individual contributors, spanning as many as 13 participating  
5 agencies, to solicit, coordinate, and edit their submissions and review comments into a completed,  
6 integrated document. Before being issued, this report had to be reviewed and approved, first by  
7 career science program managers in all participating agencies, then by Administration officials in the  
8 Executive Office of the President (EOP).

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10 7. In addition, I provided senior advisory and editorial support on a number of aspects of  
11 the development of the *Strategic Plan for the U.S. Climate Change Science Program* (“Strategic  
12 Plan”), issued in July 2003. I also coordinated a review by U.S.-based scientists of the Draft  
13 Scientific Report of the international *Arctic Climate Impact Assessment* (Cambridge University  
14 Press, 2005). I assisted with coordination of the U.S. Government review of the Intergovernmental  
15 Panel on Climate Change Working Group II Draft Second Assessment Report, *Climate Change*  
16 *1995: Impacts, Adaptations, and Mitigation of Climate Change: Scientific-Technical Analyses*  
17 (Cambridge University Press, 1996).

18 8. In general, during the time I worked in the program office, I worked directly with the  
19 program leadership: in particular, until 2002, with the Chair of the Subcommittee on Global Change  
20 Research, the interagency committee of principal agency representatives (“principals committee”)  
21 and Executive Office of the President liaisons to the USGCRP; and, from 2002 onward, with the  
22 Director of the Climate Change Science Program, who also chaired the principals committee. I  
23 attended almost all meetings of the principals committee and had occasion to interact with almost all  
24 principal agency representatives and liaisons. On a day-to-day basis, I worked closely with the  
25 Executive Director of the program office and other senior professional staff in the office. In  
26 developing program publications and on other matters I worked with a large network of career  
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1 science program managers in the participating agencies.

2 9. Working in the program office during the 2001-2005 time frame, I came to the  
3 conclusion that politicization of climate science communication under the current Administration was  
4 undermining the credibility and integrity of the Climate Change Science Program in its relationship  
5 to the research community, to program managers, to policymakers, and to the public interest. The  
6 pattern of activity I was observing also was increasingly recognized by others, on a range of science-  
7 advisory issues. The Union of Concerned Scientists reported: "On February 18, 2004, 62 preeminent  
8 scientists including Nobel laureates, National Medal of Science recipients, former senior advisers to  
9 administrations of both parties, numerous members of the National Academy of Sciences, and other  
10 well-known researchers released a statement titled [Restoring Scientific Integrity in Policy Making](http://www.ucsusa.org/scientific_integrity/interference/reports-scientific-integrity-in-policy-making.html).  
11 In this statement, the scientists charged the Bush administration with widespread and unprecedented  
12 'manipulation of the process through which science enters into its decisions.'" (The statement can be  
13 accessed on the Web at

14 [http://www.ucsusa.org/scientific\\_integrity/interference/reports-scientific-integrity-in-policy-](http://www.ucsusa.org/scientific_integrity/interference/reports-scientific-integrity-in-policy-making.html)  
15 [making.html](http://www.ucsusa.org/scientific_integrity/interference/reports-scientific-integrity-in-policy-making.html).)

16 10. In March 2005 I left the program office, resigning my position in protest. I drafted a  
17 9,000-word memorandum to the program leadership, entitled "On Issues of Concern About the  
18 Governance and Direction of the Climate Change Science Program," in which I explained my  
19 concerns. [Attached as Exhibit A]. In the memorandum I discussed a set of interrelated problems  
20 with the policies and direction of the program, stemming from what I saw as an overarching problem:  
21 that the Administration was acting to impede forthright communication of the state of climate science  
22 and its implications for society. I stated my observation that this problem was manifested especially  
23 at the points at which the key scientifically based assessments of climate change touched on the  
24 arenas of policymaking and research planning. I focused my discussion on a few key issues that I  
25 viewed as particularly significant in the politicization of the program. Foremost among these issues  
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1 was the treatment under the current Administration of the National Assessment of the Potential  
2 Consequences of Climate Variability and Change (“National Assessment”).

3 11. Starting with my work for the House Committee on Science, Space and Technology,  
4 and continuing during the period when I worked in the program office, I was involved in activities  
5 developing plans for initiating what became the USGCRP’s National Assessment. This began with  
6 participation in early discussions of the basic conception and rationale for the project.

7 12. The National Assessment was initiated, carried out, and published during the time I  
8 worked in the program office, beginning with planning meetings and scoping workshops in 1997. In  
9 1997, as work got underway on this project, a National Assessment Coordination Office was  
10 established as a component of the program office and housed in the same office space. I was not part  
11 of the staff of the National Assessment Coordination Office and did not have operational  
12 responsibility for carrying out the assessment. However, as part of my role in the program office, I  
13 observed closely the process of the development of the National Assessment as it progressed, attended  
14 various regional workshops, planning conferences, and meetings of the National Assessment  
15 Synthesis Team, interacted with some of the members of the National Assessment Synthesis Team  
16 and other leading participants in the project, had a strong collegial relationship with the director of  
17 the National Assessment Coordination Office, incorporated material on the National Assessment in  
18 annual editions of the *Our Changing Planet* reports, and in general developed an informed  
19 understanding of the structure and process of the National Assessment activities.  
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21 13. The Global Change Research Act of 1990 states (Section 101(b)) that the purpose of  
22 the U.S. Global Change Research Program “is to provide for the development and coordination of a  
23 comprehensive and integrated United States research program which will assist the Nation and the  
24 world to understand, assess, predict, and respond to human-induced and natural processes of global  
25 change.” The statute (Section 106) mandates the USGCRP to produce and submit to the President  
26 and the Congress “no less frequently than every 4 years” scientific assessment reports of global  
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1 change that include the impacts of such change on the environment and on various socioeconomic  
2 sectors.

3 14. To be responsive to this statutory mandate, the USGCRP sponsored the National  
4 Assessment, which analyzed the potential consequences of climate variability and change for the  
5 nation, in the context of other societal and environmental stresses. The National Assessment process  
6 involved communication between scientists and a variety of “stakeholders,” from the public and  
7 private sectors and academia. It was intended to initiate a process of interaction and reporting that  
8 would be ongoing and developed and improved over time. A National Assessment Synthesis Team  
9 made up of leading scientists and other experts, established as an advisory committee under the  
10 Federal Advisory Committee Act, produced a National Assessment report that integrated key  
11 findings from regional and sectoral analyses and addressed questions about the implications of  
12 climate variability and change for the United States.

14 15. The National Assessment Synthesis Team submitted its National Assessment report to  
15 the National Science and Technology Council at the end of October 2000. The National Science and  
16 Technology Council forwarded the report to the President and Congress in early November for their  
17 consideration as required by the Global Change Research Act. The National Assessment Synthesis  
18 Team’s report consisted of two documents: a 600-page, in-depth, referenced “Foundation” document  
19 that provided the scientific underpinning for the assessment; and a 150-page “Overview” document  
20 based on the Foundation document. A copy of the Overview document was mailed to every Member  
21 of Congress in late November or early December 2000; a copy of the Foundation document was  
22 mailed to every Member in April 2001. The two documents were published in book form by  
23 Cambridge University Press and copies were widely distributed throughout the federal government,  
24 to the Nation’s governors, to assessment participants, to the regional and sector teams and through  
25 them to their stakeholders, to public and private resource managers, and to major libraries. The  
26 report was also made available on the Web.

1           16.     In addition, regional workshop and assessment reports, most of which were developed  
2 by university-based teams in the regions, focused on significant issues at the regional level across the  
3 United States. These reports were distributed widely by the regional teams, including generally to the  
4 Congressional representatives from their regions. Five sectoral reports focused on issues that were  
5 national in scope and related to the goods and services on which society and the economy depend,  
6 including reports on agriculture, water, human health, forests, and coastal areas and marine  
7 resources. The regional and sectoral reports were produced and issued by various independent author  
8 teams in 1999 and after. These reports were designed to reflect the first stage of what was intended to  
9 be a continuing, broad-based, evolving process of communication between scientific experts and  
10 stakeholders. The reports were components of a single, coordinated National Assessment. Unlike the  
11 report of the National Assessment Synthesis Team, they were not formally submitted to the National  
12 Science and Technology Council and officially transmitted to the President and Congress pursuant to  
13 meeting the requirements of the Global Change Research Act, but the reports were provided to the  
14 appropriate departments of the Executive Branch and to Members of Congress who might be  
15 interested in the regional or sectoral area.

17           17.     The National Assessment was designed to be of use to Congress and the federal  
18 agencies, state and local officials, regional and sectoral planners and resource managers, educators,  
19 and the general public. The process of dialogue between experts and stakeholders that was initiated  
20 and that helped to identify priority issues reflected this intention that the overall Assessment process  
21 should have value for a broad range of information users, as did the wide public distribution of the  
22 report in both published form and in electronic form on the Internet. Focused outreach and public  
23 education activities following the publication of the Assessment were curtailed by the political  
24 opposition of the Bush Administration, which chose to initially ignore and later suppress the  
25 Assessment rather than use it to communicate with and educate the public about the issues addressed  
26 in the Assessment.



1 18. In my judgment, the National Assessment exemplified a vision of a democratic  
2 process for societally relevant environmental assessment, based on dialogue between interdisciplinary  
3 teams of scientific experts and a wide range of stakeholders and the general public at the national,  
4 regional, local, and sectoral levels. Through this process, the agenda for ongoing research and  
5 assessment would be informed by a better understanding of the concerns of the public, and the public  
6 would learn about issues of climate change and its potential consequences so as to better equip them  
7 for making decisions as citizens.

8  
9 19. In carrying out the National Assessment, the National Assessment Synthesis Team  
10 and hundreds of other scientists and other experts produced a set of reports that to this day remains  
11 the most comprehensive, scientifically based assessment of the potential consequences of climate  
12 change for the United States. No national climate change assessment process or reporting of  
13 comparable subject matter and regionally-based, nationwide scope has subsequently been undertaken  
14 with the support of the federal government. The National Assessment was a pioneering experiment in  
15 modes of stakeholder engagement and societal relevance for climate change research. Links to  
16 National Assessment reports and other information about the assessment are posted on the USGCRP  
17 Web site at the following URL: <http://www.usgcrp.gov/usgcrp/nacc/default.htm>.

18 20. On October 3, 2000, Competitive Enterprise Institute et al. filed a Complaint for  
19 Declarative Relief in U.S. District Court for the District of Columbia against President Clinton and  
20 White House Office of Science and Technology Policy Director Neal Lane, seeking to halt  
21 production of the National Assessment report and demanding that any document purporting to  
22 represent a “draft” or “final” National Assessment be deemed unlawful. [Attached as Exhibit B]  
23 Additional Plaintiffs included Senator James M. Inhofe, Representatives Jo Ann Emerson and Joseph  
24 Knollenberg, Consumer Alert, Heartland Institute, 60 Plus Association, and David E. Wojick. The  
25 suit alleged violations of the Federal Advisory Committee Act, violation of the Global Change  
26 Research Act of 1990, and violation of language in the conference report accompanying H.R. 2684,  
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1 Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies  
2 Appropriations Act, 2000 (Public Law 106-74). This suit was not resolved at the time President  
3 Clinton left office. The suit was re-filed in 2001 as Competitive Enterprise Institute et al. v. George  
4 W. Bush et al. In the intervening time, the National Assessment went through final high-level review  
5 and revisions, was completed, transmitted, published, and posted on the program's Web site. I discuss  
6 the outcome of this suit below.

7  
8 21. The National Assessment rapidly began to be used to inform the public and in  
9 advising policymakers. In June 2001, the Committee on the Science of Climate Change of the  
10 National Research Council (NRC) issued a report titled *Climate Change Science: An Analysis of*  
11 *Some Key Questions*. (The NRC is the operational arm of the National Academy of Sciences.) The  
12 study originated from a White House request in May 2001 to help inform the Administration's  
13 review of U.S. climate change policy. The Committee was made up of 11 eminent climate scientists.  
14 It was chaired by Ralph J. Cicerone of the University of California, who is today the President of the  
15 National Academy of Sciences. The section of the NRC report on "Consequences of Increased  
16 Climate Change of Various Magnitudes" began as follows: "The U.S. National Assessment of  
17 Climate Change Impacts, augmented by a recent NRC report on climate and health, provides a basis  
18 for summarizing the potential consequences of climate change." The remainder of that section of the  
19 report is based almost entirely on the findings of the National Assessment. The NRC Committee did  
20 not in any way call into question the scientific legitimacy or significance of the National Assessment,  
21 but rather drew on it as a core text in this advisory report to the White House.

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23 22. Despite the utility of the National Assessment, beginning in 2001, and more  
24 aggressively from the second half of 2002 onward, the Administration acted to essentially bury the  
25 National Assessment, i.e., by suppressing discussion of it by participating agencies for purposes of  
26 research planning by the Climate Change Science Program; suppressing references to it in published  
27 program documents including annual program reports to Congress; withdrawing support from the  
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1 coordinated process of scientist-stakeholder interaction and assessment that had been initiated by the  
2 first National Assessment; and making clear that no second National Assessment would be  
3 undertaken. The Administration failed to consider and utilize the National Assessment in the  
4 Strategic Plan for the U.S. Climate Change Science Program issued in July 2003. From my  
5 experience, observation, analysis of documentation, and personal communications with others in the  
6 program, I believe it is clear that the reasons for this were essentially political, and not based on  
7 scientific considerations. I believe this is generally understood within the program.  
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9 23. My first experience of efforts by Administration officials to bury the National  
10 Assessment was in July 2001. At that time I was editing and coordinating the review process for the  
11 Fiscal Year 2002 edition of the *Our Changing Planet* annual program report. This was the  
12 program's first annual report to Congress since the publication of the National Assessment. A draft  
13 of the report had been reviewed by all participating agencies in the program and approved for  
14 publication by the principal representatives of the agencies, including representatives from the  
15 National Science Foundation, the National Aeronautics and Space Administration (NASA), the  
16 Department of Energy, the National Oceanic and Atmospheric Administration (NOAA), the  
17 Department of Agriculture, the U.S. Geological Survey, the Environmental Protection Agency  
18 (EPA), the Department of State, the Department of Defense, and the National Institute of  
19 Environmental Health Sciences. The draft report included a 560-word section titled "National  
20 Assessment of the Potential Consequences of Climate Variability and Change," describing the  
21 National Assessment and noting its publication and availability.  
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23 24. This draft, dated May 31, 2001, was transmitted to the Executive Office of the  
24 President (EOP) with the header "SGCR-Approved Draft for Final Review and Clearance." (SGCR  
25 referred to the Subcommittee on Global Change Research, the committee of principal agency  
26 representatives to the program.) The EOP offices formally identified as liaisons to the program at  
27 that time were the Office of Science and Technology Policy (OSTP) and the Office of Management  
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1 and Budget. Seven weeks later, on July 20, 2001, Peter Backlund of the OSTP senior professional  
2 staff informed me in a phone conversation that Richard Russell, who was then the OSTP Chief of  
3 Staff, had directed that the section of the draft report on the National Assessment be deleted.  
4 Backlund informed me that Russell had indicated to him that the change was pursuant to an effort by  
5 the Administration to settle the Competitive Enterprise Institute et al. lawsuit against the National  
6 Assessment, i.e., that potentially, in a quid pro quo arrangement, CEI would drop the lawsuit and the  
7 Administration in turn would make a statement in effect disavowing the National Assessment and  
8 stating that it did not represent an official position of the U.S. Government.  
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10 25. The Competitive Enterprise Institute has been a prominent voice in representing the  
11 viewpoint of strong opposition to the idea that global warming is a serious problem with likely  
12 adverse consequences, and in strong opposition to policies that would regulate emissions of  
13 greenhouse gases. As a result of my conversation with Peter Backlund it appeared to me that the  
14 Administration was more interested in mending fences with political allies than in defending against  
15 the CEI et al. lawsuit, or defending the National Assessment on its merits, or in respecting the  
16 collective judgment of the career science management professionals on the SGCR committee who  
17 had reviewed and approved the draft report.

18 26. On July 23, 2001, I wrote an e-mail message to Margaret Leinen, Chair of the SGCR  
19 and Assistant Director for Geosciences at the National Science Foundation, and Richard Moss,  
20 Executive Director of the program office, protesting this procedure and expressing my concern about  
21 its implications for the program. [Attached as Exhibit C] In the e-mail message I expressed my  
22 concern that it appeared that OSTP was demanding that the description of a scientific assessment  
23 activity be deleted from the program's annual report to Congress on the basis of short-term tactical  
24 calculations by political appointees, with no documented explanation being provided to the program  
25 leadership and the program office as to why this alteration was necessary and appropriate. I raised  
26 the question of what implications this might have for the future status of the National Assessment  
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1 component of the program. However, to my knowledge, no one raised this issue with OSTP, and the  
2 section describing the National Assessment was deleted. The published *Our Changing Planet* report  
3 for Fiscal Year 2002 contained two sentences mentioning the existence of the Assessment but, in  
4 contrast with the section that had been deleted, with no mention of its origin, purpose, relationship to  
5 the Global Change Research Act, structure, process, publication, or relevance to the global change  
6 research agenda.

7  
8 27. On September 12, 2001, the Competitive Enterprise Institute et al. v. George W.  
9 Bush et al. lawsuit was settled with a joint stipulation of dismissal without prejudice. [Attached as  
10 Exhibit D] The memorandum in support of the joint stipulation stated that a correspondence received  
11 from OSTP asserted to the Plaintiffs' satisfaction that the National Assessment "does not and will not  
12 serve as the basis for any policies, positions or rules of the Federal Government of the United States,  
13 but that it constituted a submission by a non-governmental body and would be considered by  
14 policymakers as such." This correspondence, a letter dated September 6, 2001, from Rosina  
15 Bierbaum, Acting Director, Office of Science and Technology Policy, to Christopher C. Horner,  
16 Competitive Enterprise Institute, says with reference to the National Assessment report: "These  
17 documents were the product of the National Assessment Synthesis Team, an advisory committee  
18 chartered under the Federal Advisory Committee Act. As such, they are not policy positions or  
19 official statements of the U.S. government. Rather, they were produced by the scientific community  
20 and offered to the government for its consideration." [Attached as part of Exhibit E].

21  
22 28. Given that the National Assessment Synthesis Team was an advisory committee  
23 rather than a policymaking body, this seemed to me to be a stipulation to the obvious. I held what I  
24 believe was the view generally shared by program managers: that the National Assessment was a  
25 scientifically based assessment, prepared by a panel of scientific experts, representing an analysis  
26 developed independently by the authors, and provided to the Federal Government as an analytical  
27 and advisory report identifying issues for consideration, including discussion of a substantial agenda  
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1 of needed additional scientific research; and that it was not a policy-prescriptive document nor  
2 regarded as a policy statement of the Federal Government, nor as an “official” government statement  
3 on the science of climate change. It is my understanding that dismissal of the CEI lawsuit was in the  
4 face of a response from the U.S. Department of Justice refuting the various claims made in the  
5 lawsuit, and that the Department of Justice response did not remain in the public record as a result of  
6 the joint stipulation to dismissal. The CEI et al. filing, and related, repeated claims in Plaintiffs’  
7 public communications about the National Assessment, remain in the public record, without a  
8 substantive response from the Administration or the CCSP.  
9

10 29. The matter of the deletion of discussion of the National Assessment from program  
11 reports was never discussed by the principals committee on the record, but in my judgment and from  
12 subsequent experience (discussed in later paragraphs), a White House political signal was being sent  
13 to agency principal representatives to the program and to career science program managers in the  
14 agencies, to the effect that the National Assessment was a politically sensitive issue, apart from any  
15 question of its scientific merits. This continued after the Competitive Enterprise Institute et al. lawsuit  
16 was dismissed.

17 30. In late May 2002 the Administration issued the report *U.S. Climate Action Report –*  
18 *2002: Third National Communication of the United States of America Under the United Nations*  
19 *Framework Convention on Climate Change*. This third Climate Action Report was one of a series  
20 of reports required periodically pursuant to U.S. responsibilities under the Framework Convention on  
21 Climate Change, the foundational international climate treaty. Chapter 6 of the Climate Action  
22 Report, “Impacts and Adaptation,” drew substantially on the findings of the National Assessment for  
23 its discussion of the potential consequences of climate change for the United States. This was  
24 appropriate, considering that the National Assessment had recently been published and represented  
25 the most systematic, in-depth study of this subject that had been done to that point (and remains so at  
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1 the present time, not having been superseded by any coordinated work of comparable scope and  
2 substance).

3 31. The “Impacts and Adaptation” chapter prompted press coverage, including a  
4 prominent story in the *New York Times*, on how the chapter suggested a new acknowledgement by  
5 the Administration of the science pointing to the reality of human-induced climate change and a  
6 range of likely adverse societal and environmental consequences. This appeared to cause a public  
7 relations problem for the Administration. Asked about the report and the press coverage of it, the  
8 President replied in a way that distanced himself from the report, by referring to it as “a report of the  
9 bureaucracy.”  
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11 32. My understanding at that point, which I believe was coming to be more widely  
12 shared, both inside and outside the CCSP, was that the Administration was uncomfortable with  
13 scientifically based communications suggesting the reality of human-induced climate change and the  
14 likelihood of adverse consequences. This understanding was based in part on personal experience  
15 within the CCSP, including my experience with developing the Fiscal Year 2003 edition of the *Our*  
16 *Changing Planet* annual program report, and also on coverage in the news media of the  
17 Administration’s posture on global warming issues. The Administration had adopted a policy on  
18 climate change that rejected regulatory limits on emissions of greenhouse gases, and cited scientific  
19 uncertainty about climate change as one of its justifications for the policy. Acknowledgement of  
20 climate research and assessment suggesting likely adverse consequences could potentially lead to  
21 stronger public support for controls on emissions and could be used to criticize the Administration for  
22 not embracing a stronger climate change response strategy. Administration political officials  
23 appeared increasingly to take an interest in managing the flow of communications pertaining to  
24 climate change in such a way as to minimize the perception that scientifically-based communications  
25 might be seen as conflicting with the Administration’s political message on climate change policy. It  
26 was the concern about this linkage that seemed to underlie much of what I perceived to be the  
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1 Administration's intervention in managing communications by the Climate Change Science Program.

2  
3 33. In this context, for the Administration to have released a U.S. Climate Action Report  
4 with a chapter on climate change impacts that identified a range of likely adverse consequences,  
5 based on scientific reports including the National Assessment, could rightly be seen as an anomaly  
6 and appeared to be seen as a significant political error by Administration political allies dedicated to  
7 denying the reality of human-induced global warming as a significant problem. On June 3, 2002,  
8 Myron Ebell of CEI sent an e-mail message addressed to Philip Cooney, Chief of Staff at the White  
9 House Council on Environmental Quality (CEQ), offering to help manage this "crisis" and help  
10 "cool things down." (This document was obtained by a nongovernmental organization under a  
11 Freedom of Information Act request and publicized.) [Attached as Exhibit F] The text of the e-mail  
12 clearly suggests an ongoing collaborative political relationship between CEI and Cooney. In the e-  
13 mail to Cooney, Ebell said: "If it were only this one little disaster we could all lock arms and weather  
14 the assault, but this Administration has managed, whether through incompetence or intention, to  
15 create one disaster after another and then to expect its allies to clean up the mess." He told Cooney  
16 the Administration needed to get back on track with disavowals of the Climate Action Report and the  
17 National Assessment.  
18

19 34. Immediately prior to taking the position of CEQ Chief of Staff, Cooney had been  
20 employed as a lawyer-lobbyist at the American Petroleum Institute (API), the primary trade  
21 association for corporations associated with the petroleum industry. He was the climate team leader  
22 at API, leading the oil industry's fight against limits on greenhouse gas emissions. CEI also had a  
23 close relationship with the oil industry, having reportedly received \$2 million in funding between  
24 1998 and 2005 from ExxonMobil (<http://www.exxonsecrets.org/html/orgfactsheet.php?id=2>).

25 [Attached as Exhibit G]  
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1 35. On June 4, 2002, CEI filed a petition with the Administration to prevent the  
2 distribution of the U.S. Climate Action Report. The petition charged that use of the National  
3 Assessment in the Climate Action Report violated the terms under which CEI et al. v. Bush had been  
4 settled in September 2001, as well as the requirements of the Federal Data Quality Act.  
5 (<http://www.cei.org/gencon/027,03040.cfm>) [Attached as Exhibit H]

6 36. On or about June 12, 2002, William O’Keefe, President of the George C. Marshall  
7 Institute, sent a facsimile message to Phil Cooney at CEQ, containing, without comment, a copy of a  
8 letter dated June 12, 2002, that O’Keefe had written to White House Chief of Staff Andrew Card.  
9 (This document was obtained by a nongovernmental organization via a Freedom of Information Act  
10 request). [Attached as Exhibit I] The letter to Card did not indicate that anyone but Card was  
11 receiving a copy, so O’Keefe’s facsimile to Cooney was basically a “blind copy,” thus suggesting an  
12 ongoing political collaboration between O’Keefe and Cooney. O’Keefe is a former Chief Executive  
13 Officer at the American Petroleum Institute, where Cooney was also formerly employed. O’Keefe  
14 also was reportedly a registered lobbyist for ExxonMobil on climate change issues from 2001-2005  
15 (<http://www.exxonsecrets.org/html/personfactsheet.php?id=289>). [Attached as Exhibit J] The  
16 Marshall Institute has been one of the most prominent policy organizations engaged in attempting to  
17 debunk global warming. It has reportedly received at least \$630,000 in funding from ExxonMobil  
18 since 1998 (<http://www.exxonsecrets.org/html/orgfactsheet.php?id=36>). [Attached as Exhibit K]

19 37. O’Keefe’s letter to Card begins: “I am writing about the recently released national  
20 assessment, which seems completely inconsistent with the President’s policy and expressed views on  
21 the subject.” The letter concludes by suggesting that the Administration needed to have a senior  
22 person on the White house staff coordinating communications on climate change and making sure  
23 everyone was “on the same page, with the same message.”  
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25 38. Shortly thereafter, Cooney began to play a more visible role in Climate Change  
26 Science Program governance as the CEQ liaison to the principals committee. He served as a  
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1 representative of the interest taken by the White House policy apparatus in the science program, and  
2 in particular as the agent of CEQ Chairman James Connaughton. Program publications required his  
3 editorial review and approval prior to publication and distribution. His edits of program reports,  
4 which had been drafted and approved by career science program managers, had the cumulative effect  
5 of adding an enhanced sense of scientific uncertainty about global warming and its likely  
6 consequences, and deleted even minor references to the National Assessment. (I discuss Cooney's  
7 role further in later paragraphs.)

8  
9 39. The absence of all but the most fleeting and uninformative references to the National  
10 Assessment continued through all subsequent CCSP publications, including most significantly the  
11 CCSP Strategic Plan and its accompanying "Vision" document, both issued in 2003; the *Our*  
12 *Changing Planet* reports to Congress from the Fiscal Year 2003 edition through the current Fiscal  
13 Year 2007 edition; internal documents related to program planning; memoranda documenting  
14 meetings of the CCSP principals committee; and documents pertaining to the current and prospective  
15 set of CCSP "Synthesis and Assessment Products."

16 40. On November 19, 2002, the program issued a draft for public review of the *Strategic*  
17 *Plan for the Climate Change Science Program*. The draft plan did not include any mention of the  
18 National Assessment. On February 25, 2003, the National Research Council's Committee to Review  
19 the U.S. Climate Change Science Program Strategic Plan said in its review: "The draft Strategic  
20 Plan does not adequately use many prior assessments and consensus reports that have provided  
21 scientific information to decision makers... [I]t fails to build upon past experience in applied climate  
22 studies, including regional impacts, or in interactions with a wide range of user communities. In  
23 these facets, the plan must build on lessons learned from the U.S. National Assessment of the  
24 Potential Impacts of Climate Variability and Change... Recommendation: The revised strategic plan  
25 should build upon the lessons learned in applied climate studies and stakeholder interaction from  
26 prior environmental and climate assessment activities."

1 41. Between December 2002 and June 2003 the CCSP Strategic Plan was substantially  
2 revised by the program, in response to the critical review the draft Strategic Plan had received.  
3 During that time period, the plan document went through multiple drafts at various milestones in the  
4 process. In part because of the strong criticism the program had received for not including the  
5 National Assessment in the November 2002 review draft, science program managers who were  
6 authoring the chapters started to include some references in drafts of the revised plan. My review of  
7 these drafts [Attached as Exhibit L] reveals the following pattern with regard to references to the  
8 National Assessment: In the March 31, 2003, draft, there were a total of 12 references to the  
9 National Assessment. In the June 2, 2003, draft, 4 of these references had been removed and 8  
10 remained in the document. In the June 30, 2003, "Agency Concurrence Draft," 7 references  
11 remained. In the July 24 Pre-Publication version that was released in a limited edition, 5 references  
12 remained. In the September 2003 final printed version of the plan, 4 of these 5 references had been  
13 removed. The existence of the National Assessment was mentioned only in a single sentence, which  
14 did not include the actual title of the report: "The largest assessment program previously undertaken  
15 by the USGCRP was the National Assessment initiated in 1998, which produced overview reports in  
16 late 2000 and a series of specialty reports in the period 2001-2003." (p 111)  
17 (<http://www.climatescience.gov/Library/stratplan2003/final/default.htm>) [Attached as Exhibit M]  
18 (This statement was factually incorrect, in that the regional and sectoral reports had started coming  
19 out in 1999 and many had been completed by 2000, whereas this phrasing makes it seem as though  
20 they all came out during the Bush Administration.) There was no description of the structure,  
21 process, scope, purpose, or contents of the National Assessment. The National Assessment did not  
22 appear in the bibliography of the plan, which included citations for 39 other scientific reports that  
23 were referenced in the plan. No information was given to suggest how copies might be obtained. In  
24 effect, mention of the National Assessment had almost completely vanished from the CCSP Strategic  
25 Plan.  
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1           42.     This lone, one-sentence mention of the National Assessment appeared in the chapter  
2 of the Strategic Plan on “Decision Support Resources Development.” It seemed revealing, in a  
3 chapter that devoted thousands of words to describing how the program was taking steps to elevate  
4 the priority of developing “scientifically based resources to aid decisionmaking” as one of the core  
5 approaches of the program’s strategic plan for research, that there was no acknowledgement of what  
6 has been the program’s most substantial process and product in that area. The program was, in fact,  
7 disregarding and abandoning its own “decision support” resource, which had been the product of  
8 years of effort involving thousands of individuals, scientists and non-scientists, both inside and  
9 outside the government. The Strategic Plan contained no discussion whatsoever of the rationale for  
10 this conspicuous omission, no intellectual or scientific justification. It was evident to me from from  
11 personal communications at the time that the key individuals responsible for producing the Decision  
12 Support Resources Development chapter – in particular, CCSP Director James R. Mahoney, program  
13 office Executive Director Richard Moss, and Susan Avery – understood that their omission of the  
14 National Assessment was not the result of a scientifically based decision, but rather that it was a  
15 White House political requirement, enforced by CEQ and implemented under Mahoney’s direction.  
16  
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18           43.     On July 24, 2003, the program released the revised Strategic Plan in pre-publication  
19 form. It was submitted to Congress under the signatures of Spencer Abraham (Secretary of Energy;  
20 and Chair, Committee on Climate Change Science and Technology Integration), Donald L. Evans  
21 (Secretary of Commerce; and Vice Chair, Committee on Climate Change Science and Technology  
22 Integration) and John H. Marburger (Director, Office of Science and Technology Policy; and  
23 Executive Director, Committee on Climate Change Science and Technology Integration).  
24

25           44.     The final report of the National Research Council’s Committee to Review the U.S.  
26 Climate Change Research Program Strategic Plan, issued in February 2004, was critical of the  
27 failure of the program to incorporate and build on the National Assessment in its strategic planning  
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1 for assessment and “decision support” activities. On the subject of the National Assessment’s  
2 scientific credibility the report said: “It is especially important that CCSP synthesis and assessment  
3 products be independently prepared, or evaluated, by the science community. This will provide a  
4 level of credibility that reports produced exclusively within the government sometimes fail to achieve.  
5 The only previous centralized assessment effort by the CCSP agencies, the U.S. National Assessment  
6 on the Potential Consequences of Climate Variability and Change, followed these credibility  
7 assurance guidelines. The National Assessment’s Overview and Foundation reports are important  
8 contributions to understanding the possible consequences of climate variability and change.”  
9 (National Research Council, Committee to Review the U.S. Climate Change Science Program  
10 Strategic Plan, *Implementing Climate and Global Change Research: A Review of the Final U.S.*  
11 *Climate Change Science Program Strategic Plan* (National Academies Press, 2004, p.13).  
12 (<http://books.nap.edu/catalog/10635.html#toc>) (Attached as Exhibit N)

14 45. On the value of the National Assessment’s process of engaging scientists and  
15 “stakeholders” in dialogue, the NRC review said: “The processes of stakeholder engagement and  
16 transparent review of the National Assessment reports were exemplary....The strategic plan...should  
17 more effectively build upon a growing capability within the U.S. climate and global change research  
18 community to interact with potential users of climate and global change science, as was demonstrated  
19 in the U.S. National Assessment of the Potential Consequences of Climate Variability and Change  
20 (NAST, 2001). The revised plan generally overlooks the insights and relationships that were  
21 developed by the National Assessment. For example, the experience developed in assembling and  
22 maintaining networks of university researchers and stakeholders in different regions of the country is  
23 extraordinarily valuable, as are the networks themselves. These relationships should be supported if  
24 the CCSP is going to maintain strong stakeholder involvement.” (pp. 13-14)

26 46. On the significance of the regional-scale assessments included as part of the National  
27 Assessment, the NRC review said: “The plan also does not include areas of research relevant to  
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1 regional-scale assessments identified as a result of the National Assessment. The committee reiterates  
2 the recommendation from its first report that the CCSP should ‘build upon the lessons learned in  
3 applied climate studies and stakeholder interaction from prior environmental and climate assessment  
4 activities.’ This deficiency needs to be remedied quickly so that the program’s decision support  
5 activities reflect what the scientific community now knows, what it can accomplish, and what users  
6 would like to know.” (p. 14)

7  
8 47. On the Administration’s apparent refusal to provide any scientific rationale for the  
9 disappearance of any acknowledgement of the National Assessment, the NRC review said: “For the  
10 most part the CCSP’s revisions to the strategic plan are quite responsive to comments expressed at the  
11 workshop, in written input, and by this committee. One notable exception is the fact that the revised  
12 plan does not acknowledge the substantive and procedural contributions of the U.S. National  
13 Assessment of the Potential Consequences of Climate Variability and Change (NAST, 2001), a  
14 major focus of the Global Change Research Program (GCRP) in the late 1990s. Many participants at  
15 the [CCSP] December [2002] workshop criticized how the draft strategic plan treated the National  
16 Assessment, as did this committee in its first report. The revised plan does not reflect an attempt to  
17 address these concerns, and no rationale for this decision has been provided.” (pp. 29-30).

18 48. Although OSTP Director John Marburger has referred to the National Academy of  
19 Sciences as the “gold standard” of scientific advice to the government, and despite the criticism of the  
20 plan for failing to provide any rationale for the disappearance of the National Assessment, Dr.  
21 Marburger, CCSP Director James R. Mahoney, and other Administration officials and CCSP leaders  
22 offered no response to this criticism of how they treated the National Assessment. They provided no  
23 scientifically based justification for the disappearance. In all public statements referring to the NRC  
24 review of the Strategic Plan, Administration officials cite only the positive comments by the NRC,  
25 avoiding or downplaying discussion of critical comments in the report, and ignoring the critical items  
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1 pertaining to the failure to acknowledge and use the National Assessment. No changes were made to  
2 the Strategic Plan in response to the NRC's criticism.

3 49. On August 6, 2003, CEI filed suit in federal court against the Administration  
4 (Competitive Enterprise Institute v. George Walker Bush et al.) charging that OSTP was refusing to  
5 implement the Federal Data Quality Act. [Attached as Exhibit O] CEI contended that the Federal  
6 Data Quality Act required the government to cease dissemination of the National Assessment, as well  
7 as the 2002 U.S. Climate Action Report, which was based in part on material from the National  
8 Assessment. This suit, if it were successful, would have resulted in the removal of links to the  
9 National Assessment and Climate Action Report documents from U.S. Government Web sites. (I  
10 discuss the outcome of this suit below.)

11 50. On August 11, 2003, the Attorneys General of Connecticut and Maine, citing  
12 documentation of the collaborative communication between Philip Cooney at CEQ and Myron Ebell  
13 at CEI, sent a letter to U.S. Attorney General John Ashcroft requesting that he investigate the  
14 question of whether CEQ had solicited CEI's filing of the new lawsuit. The letter raised the issue of  
15 whether "CEQ may have been directly involved in efforts to undermine the United States' official  
16 reports," and expressed concern "that the new litigation is an improper product of that close  
17 relationship." [Attached as Exhibit P]

18 51. On November 4, 2003, Competitive Enterprise Institute v. George Walker Bush et al.  
19 was resolved with a "Stipulation of Dismissal With Prejudice." It is my understanding that this  
20 stipulation of dismissal was arrived at just before the Department of Justice was going to file a strong  
21 defense motion, which CEI's acceptance of the dismissal kept from being put in the record. CEI  
22 continued to publicly make the claims in their lawsuit, with no substantive response from the  
23 Administration or the CCSP. The program was not required to remove the links to National  
24 Assessment documents from the program's Web site. However, pursuant to the stipulation, OSTP  
25 required the program office to prominently place on many pages of the Web site a disclaimer that  
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1 says the National Assessment Foundation and Overview reports “were not subjected to OSTP’s  
2 Information Quality Act Guidelines.” (See stipulated notice posted at  
3 <http://www.usgcrp.gov/usgcrp/nacc/default.htm>). [Attached as Exhibit Q]

4 52. The Federal Data Quality Act was enacted in 2000 and guidelines under the statute  
5 did not exist at the time the National Assessment was published, so of course it was not “subjected”  
6 to such guidelines. It would be more correct to say that the National Assessment was not “*subject*” to  
7 the guidelines. OSTP’s insistence on the use of the word “subjected” seems intentionally misleading.  
8 As is described in the National Assessment report, the National Assessment draft Overview and  
9 Foundation documents were subjected to multiple stages of expert and public review prior to  
10 publication. More than 300 scientific and technical experts provided comments on part or all of the  
11 report in two separate technical reviews. The report was reviewed at each stage for technical  
12 accuracy by the agencies of the U.S. Global Change Research Program. The public provided many  
13 comments during a 60-day public comment period. A panel of eminent experts convened by the  
14 President’s Committee of Advisers on Science and Technology provided broad oversight and  
15 monitored the authors’ response to all reviews.

17 53. On November 6, 2003, CEI issued a press release entitled "White House  
18 Acknowledges Climate Report Was not Subjected to Sound Science Law; CEI Drops Lawsuit  
19 against Bush Administration." [Attached as Exhibit R] The press release said, in part: "[T]he  
20 Competitive Enterprise Institute has withdrawn its complaint in federal court that the National  
21 Assessment did not meet the minimal scientific standards required by the Federal Data Quality  
22 Act....We are pleased to see that the federal government has now put the public on notice that the  
23 National Assessment is propaganda, not science,' said Myron Ebell, Director of Global Warming  
24 Policy at CEI."

26 54. On November 7, 2003, a group of notable scientists involved with the National  
27 Assessment sent a letter to James R. Mahoney, Director of the Climate Change Science Program.



1 The letter says the Web site phrase was "apparently associated with the dismissal of the CEI lawsuit,"  
2 characterized the phrase as "misleading and incorrect," and demanded its retraction. [Attached as  
3 Exhibit S] It is my understanding that neither Mahoney, who is now retired, nor any other CCSP  
4 principal ever responded to this letter.

5 55. Since 2003, CEI and others who are active in the campaign to discredit scientifically-  
6 based reports that suggest that human-induced climate change is a reality and is likely to have  
7 adverse societal and environmental consequences have used the disclaimer in an effort to discredit the  
8 National Assessment. A recent example of this can be seen in contrasting *amicus curiae* briefs in the  
9 case of Commonwealth of Massachusetts, et al., Petitioners, v. U.S. Environmental Protection  
10 Agency, et al., Respondents, on the issue of EPA's authority to regulate greenhouse gas emissions  
11 under the Clean Air Act.

12 56. In the case of Massachusetts et al. v. EPA et al., a brief of *amici curiae* climate  
13 scientists ("CS Brief") was filed in support of petitioners. [Attached as Exhibit T] Most of the 18  
14 scientists who signed the brief are members of the National Academy of Sciences (NAS) or National  
15 Academy of Engineering, or have served on one or more of the recent NAS/National Research  
16 Council panels that have reviewed the state of the science on climate change and the impacts of  
17 human activities on climate. Five were co-authors of the 2001 NAS/NRC report *Climate Change*  
18 *Science: An Analysis of Some Key Questions*, which drew on the National Assessment for its  
19 discussion of the potential consequences of climate change. (I discuss this report in paragraph 19  
20 above). The CS Brief states: "The science of climate change indicates that increases in greenhouse  
21 gases will almost certainly affect global climate and pose risks to human societies. The NAS/NRC  
22 2001 report, *Climate Change Science*, comprehensively addressed the centrally relevant questions of  
23 climate change science, and unambiguously concluded that Earth's climate is changing in ways that  
24 risk significant adverse impacts on public welfare." (p. 9)

1           57.     An *amici curiae* brief of climatologists and scientists in support of respondents in  
2 Massachusetts et al. v. EPA et al. was submitted by counsel from the Competitive Enterprise  
3 Institute. [Attached as Exhibit U] This brief focuses on challenging the CS Brief. It does so in large  
4 part by attempting to discredit the conclusions of the 2001 NAS/NRC *Climate Change Science*  
5 report on which the CS Brief draws. It asserts that the credibility of the CS Brief and the NAS/NRC  
6 *Climate Change Science* report are undermined by their reference to the National Assessment, which  
7 leads them to “run afoul of the most basic tenet of science.” It states: “As the web version of the  
8 *National Assessment* prominently notes, this document was ‘not subjected to OSTP’s Information  
9 Quality Act guidelines.’” (p. 14) Thus the disclaimer on the National Assessment, required by the  
10 Administration, continues to be used to convey a misleading message.  
11

12           58.     The National Assessment Synthesis Team was made up of 14 individuals with an  
13 extraordinary combination of credentials in climate science, ecosystem science, economics and social  
14 science. These individuals have outstanding reputations in the science community for both the  
15 intellectual quality of their work and their integrity. Their work was used and praised in reports by  
16 committees of the National Academy of Sciences. Yet when the authors of the National Assessment  
17 were accused of performing “junk science,” no defense of the National Assessment was offered nor  
18 response given by Administration officials, including the Office of Science and Technology Policy  
19 Director and the CCSP Director. While the CEI lawsuits against the National Assessment had been  
20 dismissed with prejudice, the Administration, in effect, awarded the plaintiffs a political victory. It  
21 appeared to me that a conspiracy of silence was being enforced within the federal government, which  
22 had nothing to do with the scientific merits of the National Assessment.  
23

24           59.     The Administration, without ever clarifying the issue forthrightly, has allowed a  
25 perception to persist that the suppression of the National Assessment, even for purposes of using or  
26 referring to it in program planning for research and future assessments, was pursuant to the  
27 requirements of a legal agreement. Administration officials have never offered an open explanation  
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1 of what legal basis, as distinct from a strictly political agreement, would require such suppression.

2 This has resulted in CCSP leaders rationalizing evasiveness on the subject.

3 60. This was evident, for example, in a principals meeting I attended on August 21, 2003,  
4 at which there was an extended discussion about preparing for CCSP presentations at the National  
5 Research Council the following week to the committee that was reviewing the revised CCSP  
6 Strategic Plan. The meeting was chaired by Ghassem Asrar, the NASA principal, in the absence of  
7 James Mahoney, the CCSP Director. Mahoney was the Assistant Secretary of Commerce for Oceans  
8 and Atmosphere and Deputy Administrator of NOAA. On the subject of “where do we anticipate  
9 critical questions?” a key issue, and the first issue discussed, was the question of why the National  
10 Assessment was still absent from the revised plan.  
11

12 61. The discussion at the meeting basically turned to deciding how to finesse this issue  
13 with the NRC committee, i.e., by promoting current program activities while avoiding forthright  
14 discussion of the National Assessment. I expressed my view that, while the members of the NRC  
15 committee might not challenge this aggressively, it would be evident that the CCSP leadership was  
16 being evasive. Richard Moss, the Executive Director of the program office, stated that Mahoney had  
17 been given to understand that there is a legal agreement under which the National Assessment cannot  
18 be cited. Moss suggested that the participants in the meeting had not seen any documentation on this  
19 matter, nor had it been discussed with them, thus there was no basis for discussing it with the NRC.  
20 The liaisons from OSTP and CEQ could not, or at least did not, offer an explanation. Asrar said he  
21 didn’t want to get into these legal issues with the NRC because the CCSP representatives were not  
22 conversant. The meeting moved on.  
23

24 62. While it was understood that the National Assessment was not intended to, and did  
25 not, constitute a government policy statement, the CCSP Strategic Plan that was being discussed at  
26 the meeting as the subject of the NRC review made reference to dozens of reports, including 15 NRC  
27 reports and numerous others produced by federal agencies and various scientific bodies. None of  
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1 these publications constituted government policy statements, yet they were used for purposes of  
2 strategic planning of the research program. In my judgment, in being unwilling or unable to discuss  
3 with the National Research Council the National Assessment, a major, high-visibility project that had  
4 been sponsored by the program, and in which leading scientists had participated, the principals  
5 committee was in the position of covering something up for the Administration in a way that was  
6 undermining the program's credibility on the subject of climate change assessment and development  
7 of resources to support decisionmaking.

8  
9 63. After the meeting I spoke with Richard Moss. He said that Mahoney had told him  
10 that he had been told by the White House that references to the National Assessment had to be pulled  
11 out of the Strategic Plan because of a legal agreement. I said that the official court records for the  
12 CEI lawsuits dismissed in 2001 and 2003, as I understood them, showed no such agreement. Phil  
13 Cooney of CEQ was visible and active in the program because of his attendance at meetings in his  
14 role as CEQ liaison, and from personal communication with Mahoney and Moss it was clear to me  
15 that Cooney was involved in matters of program governance in ways that were not as visible. In any  
16 case, it was my understanding that Cooney acted as a political operative, i.e., not as an independent  
17 decisionmaker but rather as an agent of CEQ Chairman James Connaughton and, by extension, the  
18 White House policy and political apparatus. In any case, the White House had directed Mahoney to  
19 suppress references to the National Assessment.

20  
21 64. My June 1, 2005, memorandum to CCSP agency principals, "On Issues of Concern  
22 About the Governance and Direction of the Climate Change Science Program," included the  
23 following about the role of Philip Cooney in CCSP governance, including his role vis-à-vis the  
24 National Assessment. To my knowledge these statements have never been challenged for factual  
25 accuracy [see Exhibit A; this document can also be accessed on the Web at  
26 <http://www.climate-science-watch.org/index.php/csw/details/memo-to-ccsp-principals/>]: "The  
27 Executive Office of the President, starting in 2002, placed the CEQ Chief of Staff, Phil Cooney – a  
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1 lawyer and former official with the American Petroleum Institute, the main lobbying arm of the oil  
2 industry – at the table at CCSP principals meetings as the CEQ liaison. This individual, and CEQ  
3 generally, have been especially notable in the administration’s commingling of politics and  
4 science....(1) In a memorandum dated October 28, 2002, he marked-up the first draft of the CCSP  
5 Strategic Plan after it was approved by CCSP agency principals and before it was released for NRC  
6 review and public comment. Most of his roughly 200 text changes were incorporated in the review  
7 draft. A number of these changes in text relating to questions of climate science altered the content of  
8 the draft as it had been developed by federal science program professionals. Taken in the aggregate,  
9 the changes had a cumulative effect of shifting the tone and content of an already quite cautiously-  
10 worded draft to create an enhanced sense of scientific uncertainty about climate change and its  
11 implications. The draft Strategic Plan was legitimately criticized by reviewers who charged that the  
12 CCSP had adopted a vocabulary with an exaggerated emphasis on scientific uncertainties. To my  
13 knowledge this CEQ mark-up was not shared with or vetted by CCSP principals or CCSP agency  
14 science program managers. The process was quintessentially non-transparent and, in my view, a  
15 policy-driven political interference in a key science program document....(3) It is my understanding  
16 that the CEQ Chief of Staff played a lead role as White House agent for enforcing the suppression of  
17 the National Assessment and the systematic removal of meaningful references to it from CCSP  
18 publications. If this was pushed on the CCSP leadership as ostensibly a legal requirement pursuant to  
19 the lawsuit settlement, I am not aware of any effort by CCSP principals to obtain appropriate  
20 clarification and documentation. I believe the CCSP leadership got rolled on this matter by the White  
21 House political operation. Further, public disclosure of the CEQ Chief of Staff’s communication  
22 with the Competitive Enterprise Institute, which filed the lawsuits against the National Assessment,  
23 suggests joint political strategizing -- an insult to the CCSP leadership and to the climate change  
24 research and assessment community, and another indicator of the inappropriateness of CEQ  
25 jurisdiction over the science program. (4) CEQ has also intervened in the final review and clearance  
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1 of CCSP annual reports. For example, the CEQ Chief of Staff made about 100 revisions to the final  
2 draft of the FY 2003 *Our Changing Planet*, some of which substantially changed or deleted text on  
3 program activities such as those relating to decision support on mitigation and adaptation options,  
4 integration of climate science with comparative analysis of response strategies, ongoing regional  
5 assessments of global change consequences, and the relationship between energy-related emissions,  
6 climate change, and ecosystem impacts. In general, I believe the Strategic Plan and other CCSP  
7 documents have been weakened by a process in which reports are drafted and edited with an  
8 anticipatory eye to what will be able to obtain CEQ approval, which appears to be the final step in the  
9 White House clearance process.”

10  
11 65. Unlike the other representatives on the program’s principals committee, the great  
12 majority of whom were career science program management professionals, CCSP Director Mahoney  
13 was a Senate-confirmed Presidential appointee, as Assistant Secretary of Commerce for Oceans and  
14 Atmosphere, and Deputy Administrator of the National Oceanic and Atmospheric Administration.  
15 As such, he held a position different from that of the other principals, as the program’s chief executive  
16 and a political representative of the Administration. In this role, he would, on some occasions, set  
17 policy, or represent policy, regarding program governance on various matters that had been decided  
18 by Administration political officials, not by the program principals. The policy of not discussing or  
19 citing the National Assessment was one such case. On such a matter, for other program principals to  
20 challenge the chairman would, in effect, have been to challenge the Administration.

21  
22 66. On August 31, 2004, I attended a principals committee meeting at which the question  
23 was discussed whether the program should commission a report from the NRC on the subject of  
24 “lessons learned” from past climate and global change assessments. The committee had approved  
25 such a study in principle months earlier, but a final decision had not been reached. It was apparent  
26 from the discussion that there was a concern that the proposed study would reopen the issue of the  
27 National Assessment. Ghassem Asrar of NASA and Harlan Watson of the State Department took the  
28

1 position that having the NRC revisit the National Assessment was undesirable. Other principals  
2 basically reinforced the position that the NRC should not be asked to do a study that included a  
3 retrospective “lessons learned” evaluation of the National Assessment. There was discussion of  
4 possibly meeting with NRC representatives in advance of any study to ensure that the NRC was  
5 advised of the concerns of the program leadership. The discussion seemed to me to be essentially  
6 tactical, designed to steer clear of trouble on an issue that was seen as politically sensitive with the  
7 Administration. Without stating so directly, the principals seemed to be concerned that a review by  
8 the NRC might validate the scientific credibility and methodology of the National Assessment and  
9 endorse the revitalization of the National Assessment process, and in so doing create a problem for  
10 the Administration, and thus also for the program leadership.  
11

12 67. Michael Slimak, the principal representative to the program from the Environmental  
13 Protection Agency, confirmed to me in a conversation in my office on September 1, 2004, that a  
14 directive to refrain from referencing the National Assessment had come from Mahoney’s office. He  
15 confirmed that the program leadership could not and would not conduct an open evaluative  
16 discussion of the National Assessment and lessons to be learned from it for future research and  
17 assessment, because it was politically impossible to do so in the current context.

18 68. Mahoney confirmed to *Environmental Science & Technology*, a journal of the  
19 American Chemical Society, that federal researchers were restricted from referring to the National  
20 Assessment (*Environmental Science & Technology Online*, October 12, 2005)  
21 ([http://pubs.acs.org/subscribe/journals/esthag-w/2005/oct/policy/pt\\_grassroots.html](http://pubs.acs.org/subscribe/journals/esthag-w/2005/oct/policy/pt_grassroots.html)). [Attached as  
22 Exhibit V]  
23

24 69. On October 13, 2004, I attended a meeting of the CCSP principals in the CCSP  
25 Office conference room. Following the meeting, I prepared for the Executive Director of the program  
26 office a draft of what would become the official “Record of Decisions/Actions” from the meeting.  
27 [Attached as Exhibit W] One of the agenda items for discussion at the meeting was the CCSP  
28

1 Synthesis and Assessment Products. My draft text for that portion of the meeting includes the  
2 following paragraph: “The Chair raised the point that the topics covered by the current set of 21  
3 S&A products are not sufficient to meet the ‘Scientific Assessment’ requirement in Section 106 of the  
4 Global Change Research Act of 1990. The Act directs the program to produce periodically an  
5 assessment that ‘analyzes the effects of global change on the natural environment, agriculture, energy  
6 production and use, land and water resources, transportation, human health and welfare, human  
7 social systems, and biological diversity.’ Thus at an appropriate time the CCSP will need to produce  
8 a broader-scale assessment. It was agreed that additional discussion will be needed to address this  
9 issue.” This text is a faithful summary of CCSP Director Mahoney’s remarks to the principals  
10 committee on this topic.  
11

12 70. On October 21 I sent my draft record of the meeting to Richard Moss, Executive  
13 Director of the CCSP Office, for his review. Moss replied with an e-mail on November 9, 2004,  
14 indicating that he had sent his edited version of my draft record to CCSP Director Jim Mahoney for  
15 final review and approval. Moss attached his edited version, which has the header “DRAFT 21  
16 October 2004.” [Moss e-mail and revised draft record attached as Exhibit X] For the portion of the  
17 meeting I had summarized as indicated in Paragraph 69 above, Moss revised my draft to read: “The  
18 CCSP discussed whether the topics covered by the current set of 21 S&A products would be  
19 sufficient to meet the ‘Scientific Assessment’ requirement in Section 106 of the Global Change  
20 Research Act of 1990. The Act directs the program to produce periodically an assessment that  
21 ‘analyzes the effects of global change on the natural environment, agriculture, energy production and  
22 use, land and water resources, transportation, human health and welfare, human social systems, and  
23 biological diversity.’ The Chair suggested that this meant that at an appropriate time in the future,  
24 the CCSP will need to produce a broader-scale assessment. It was agreed that additional discussion  
25 will be needed to address this issue.” This edited version, while not quite as accurate a rendering of  
26 Mahoney’s remarks, retains his essential conclusion that CCSP compliance with the Global Change  
27  
28



1 Research Act would necessitate a “broader-scale assessment.”

2 71. The official “Record of Decisions/Actions from Meeting of CCSP Principals on 13  
3 October 2004,” as approved by Mahoney [Attached as Exhibit Y] contains a notable change in the  
4 final sentence of the summary of the discussion of the Synthesis and Assessment Products. The  
5 relevant portion of the text approved by Mahoney for distribution reads as follows: “The CCSP  
6 discussed whether the topics covered by the current set of 21 S&A products would be sufficient to  
7 meet the ‘Scientific Assessment’ requirement in Section 106 of the Global Change Research Act of  
8 1990. The Act directs the program to produce periodically an assessment that ‘analyzes the effects of  
9 global change on the natural environment, agriculture, energy production and use, land and water  
10 resources, transportation, human health and welfare, human social systems, and biological diversity.’  
11 It was noted that the CCSP Strategic Plan describes the Synthesis and Assessment Reports as  
12 responsive to Section 106, and it was agreed to address this issue further at a future Principals  
13 meeting.”  
14

15 72. The CCSP Strategic Plan (p. 11) does, in fact, state that the 21 prospective Synthesis  
16 and Assessment products will fulfill the Scientific Assessment requirement in Section 106 of the  
17 Global Change Research Act. However, the official Record of Decisions/Actions from the October  
18 13, 2004, meeting does not accurately render the position articulated by Mahoney in the meeting. I  
19 believe it is likely that the record was changed in consultation with CEQ, consistent with CEQ’s  
20 other actions to suppress the National Assessment process.  
21

22 73. Building appropriately on the pioneering work of the National Assessment could have  
23 had a salutary influence on developing the priorities of the CCSP Strategic Plan and surely would  
24 have led the program toward a different overall configuration of follow-up scientific and assessment  
25 priorities. It could have led to a different approach to evolving the discourse between scientists and  
26 users of information — “stakeholders” — a freer relationship and one less constrained than the  
27 current process by administration gatekeepers concerned with controlling the flow of communications  
28

1 about climate change and its implications for the United States.

2 74. The CCSP Strategic Plan issued in July 2003 stated that the program would produce  
3 21 “Synthesis and Assessment Products” during the 2003-2007 timeframe. These products were to  
4 cover a range of scientific topics and be published as government reports. Nine of the products were  
5 to have been completed by September 2005 and the remainder by September 2007. However, at  
6 present only one of the 21 prospective reports, on the subject of atmospheric temperature trend  
7 analysis, has been published. This pace of progress appears very slow, even dilatory, especially  
8 considering that six years have elapsed since the publication of the National Assessment, which was  
9 carried out over a period of a little over three years.

10 75. In contrast with the National Assessment, the Synthesis and Assessment Products now  
11 under development by the program do not constitute “an assessment,” as mandated by Sec. 106 of the  
12 Global Change Research Act, but rather a disparate set of reports to be produced by 21 separate  
13 author teams. The CCSP Strategic Plan (p. 11) states that the 21 prospective Synthesis and  
14 Assessment products will fulfill the Scientific Assessment requirement in Section 106 of the Global  
15 Change Research Act. However, the U.S. Government Accountability Office, in a report to Senators  
16 John McCain and John F. Kerry titled *Climate Change Assessment: Administration Did Not Meet*  
17 *Reporting Deadline* (April 14, 2005), concluded that the CCSP Synthesis and Assessment Products  
18 do not satisfy this requirement. Among its conclusions, the GAO report concluded that with 21  
19 prospective individual reports to be issued over a period of several years, “it may be difficult for the  
20 Congress and others to use this information effectively as a basis for making decisions on climate  
21 policy.” The report called on the CCSP to summarize its reports “in a single volume for a general  
22 audience, as was done in 2000.” (pp. 4-5) (The report may be accessed on the Web at  
23 <http://www.gao.gov/new.items/d05338r.pdf>.)  
24

25 76. The Global Change Research Act specifies that the required assessment shall focus on  
26 the impacts of global change on a range of environmental resources and societal systems. In contrast  
27

1 with the National Assessment, which focused on regional-scale and sectoral-scale analyses of  
2 potential impacts, the Synthesis and Assessment Products are not organized overall in terms of a  
3 focus on impacts. In my judgment, the Synthesis and Assessment Products do not add up to a  
4 coherent product to effectively inform policymakers and the general public about the climate change  
5 problem and its implications for decisionmaking. As such, whatever interest and value they have,  
6 they are not a substitute for developing the more integrated assessment mandated by the Global  
7 Change Research Act.

8  
9 77. It was my understanding, from oral statements I recall him making on several  
10 occasions, that CCSP Director Jim Mahoney did not conceive of the Synthesis and Assessment  
11 Products identified in the Strategic Plan as constituting a full substitute for a second National  
12 Assessment. Rather, he anticipated that, at some point during President Bush's second term, the  
13 program would need to move forward with undertaking a second National Assessment.

14 78. Advances in scientific research and assessment in the six years since the first National  
15 Assessment report was published, and growing concern about global warming and climate change  
16 among policymakers and the public, make a reactivation of the National Assessment process and the  
17 production of a second National Assessment report under the Global Change Research Act  
18 particularly appropriate, feasible, and necessary at this time.

19 79. Since the publication of the first National Assessment report, scientific research and  
20 assessment of climate change and its potential consequences have made major advances. At the  
21 international level, the comprehensive and authoritative Intergovernmental Panel on Climate Change  
22 (IPCC) Third Assessment Report was published in 2001, and the IPCC Fourth Assessment Report  
23 will be published in 2007. The IPCC Fourth Assessment Report will review and synthesize scientific  
24 advances since 2001 in the study of the physical climate system, climate change impacts, and  
25 mitigation and adaptation response options. At the national level, since 2001, the U.S. Climate  
26 Change Science Program has invested more than \$10 billion in scientific research and observing  
27  
28

1 systems to study climate and associated global change. This investment has made possible  
2 substantial progress in advancing scientific understanding. A limited number of regional-scale  
3 research and assessment activities have been ongoing in recent years, under various auspices and in a  
4 disaggregated fashion. These activities, including efforts to develop effective modes of interaction  
5 between scientific experts and decisionmakers, provide insights that could inform work on a new  
6 National Assessment. The program should draw on this advancing scientific understanding to  
7 produce a second National Assessment report that “integrates, evaluates, and interprets the findings  
8 of the Program,” as mandated by Sec. 106 of the Global Change Research Act.

9  
10 80. Reports of a steady stream of scientific findings on global climate change, and reports  
11 on observed consequences of global warming, have increased the level of interest and concern among  
12 policymakers and the public. Debate on appropriate climate change policy and response strategies at  
13 the international, national, and state levels has also increased and become more salient in the U.S.  
14 public arena. In this context, activating the National Assessment process and producing a second  
15 National Assessment report could make a major contribution to the nation’s preparedness for  
16 addressing the challenge of global warming and climate change.

17 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true  
18 and correct. Executed this 7th day of February, 2007 at Washington, D.C.

19  
20 /s/ Rick S. Piltz  
Rick S. Piltz

21  
22 I, Deborah A. Sivas, pursuant to ECF General Order 45X, attest that Rick S. Piltz has  
23 concurred in and authorized the filing of this declaration with this Court.

24 /s/ Deborah A. Sivas  
Deborah A. Sivas