

CORD

Political Interference with Climate Change Science Under the Bush Administration

Item Type	House Staff Report
Download date	2025-04-20 16:47:10
Link to Item	https://hdl.handle.net/20.500.14300/1093



**Preliminary Minority Views
on**

**Draft Committee Report
on
Political Interference With
Climate Change Science
Under The Bush Administration**

**U.S. House of Representatives
Committee on Oversight and Government Reform**

**Tom Davis, Ranking Member
December 10, 2007**

I. Executive Summary

An investigation that began as a bipartisan inquiry into the role of the Council on Environmental Quality in climate change policy has veered into a partisan diatribe against the Bush Administration.¹ The Majority's report of this investigation is seriously flawed. The Majority has relied on selective passages from two hearings, one deposition, and one transcribed interview to make grossly exaggerated claims of political interference with climate change science.

These exaggerations begin with the title of the Majority report itself: "Political Interference with Climate Change Science under the Bush Administration." The report contains no evidence that political officials in the Bush Administration interfered with any scientist's research on climate change science. In fact, the Bush Administration provided approximately \$37 billion to advance climate change science since 2001.² That hardly sounds like interference with science.

This investigation was never directed at interference with science anyway. Instead, this investigation was directed at the role of policymakers in – guess what – making and expressing Administration policy. But a report entitled "Political Interference in Climate Change Policy" would sound ridiculous – because that is what policymakers in the executive branch do.

In an effort to conflate climate change *science* with climate change *policy*, the Majority report disregards testimony that conflicts with and would undermine the Majority's desired conclusions. Evidence demonstrating that scientists had ultimate authority over the approval of the content of climate change reports is simply omitted. Respected scientists, like Max Mayfield from the National Weather Service and the Director of the Center for Disease Control Dr. Julie Gerberding are demeaned as mere mouthpieces for the Bush Administration and its supporters. The Majority also ignores the nature of agency and interagency review processes and the legitimate role of policymakers, instead of scientists, in making administration policy and expressing that to the media and the general public.

¹ Accusations of "politicization" made by political figures should always be viewed with a high degree of skepticism. Particularly with regard to the hotly-debated topic of climate change, the political beliefs of each side tend to enhance, or distort, their views of an emerging scientific consensus, leading advocates to embrace as settled truth almost anything that supports their desired conclusion. For example, Committee investigators came across a document that appeared to be an invitation from CEQ to "a private reception" honoring the Chairman and CEO of Exxon Mobil on the 2nd anniversary of the U.S. withdrawal from the Kyoto Protocol with remarks from President Bush. On its face, it looked genuine. But no such event ever happened. Both the *Washington Post* and the *Washington Times* reported the invitation was a hoax. Al Kamen, *In the Loop*, *Washington Post*, March 12, 2003, at A19, and John McCaslin, *Inside the Beltway*, *Washington Times*, March 12, 2003, at A09.

² *Hearing on International Climate Change Negotiations: Restoring U.S. Leadership Before the Senate Committee on Foreign Relations*, Nov. 13, 2007 (prepared statement of Dr. Paula Dobriansky, Under Secretary for Democracy and Global Affairs, U.S. Department of State).

As the Minority has noted before, this Committee must not be seen as the Committee where witnesses and other evidence are validated because of their consistency with the views of the Majority. Thorough investigation and careful evaluation of the evidence lead to credible findings. Sadly, the Majority's report is simply a political attack on this Administration resulting from both an incomplete investigation and an unfair reading of the limited evidence. That is truly an inconvenient truth.

II. CEQ Edits

The Majority characterizes the nature of edits and comments by the Council on Environmental Quality (CEQ) to climate change reports as "exaggerated."³ To the contrary, it is the Majority's own conclusions that are exaggerated.

The Majority wishes the reader to believe that the edits flowing from CEQ were inappropriate, extreme, and intended to increase uncertainty and doubt. In fact, according to sworn testimony, they were intended to do just the opposite.

Phil Cooney, the former CEQ Chief of Staff, clearly stated and repeated numerous times that his intention was to communicate the President's climate change policy consistently and clearly. He testified that he based any editing or drafting on the President's policy statements and the state of the science as communicated by the National Research Council's latest report on the status of climate change science.

Instead of recognizing this as a prudent manner for conducting policy, the Majority appears compelled to paint all edits from CEQ as having the goal of undermining the science and exaggerating uncertainties. Evidentiary support for this assessment is limited and contradicted by other evidence.

In fact, the Majority ignores the fact that CEQ and, thus, Cooney did not have the final responsibility for the climate change reports the Majority accuses him of inappropriately editing. Cooney testified under oath that he did not have final responsibility for the Climate Change Science Program (CCSP) Strategic Plan, the CCSP's Our Changing Planet, the State Department's Climate Action Report, or EPA's Draft Report on the Environment and that, instead, "[CEQ] had a role in the ordinary interagency review comments, and we participated along with the other agencies [and] White House offices."⁴

³ House Oversight and Government Reform Committee, *Draft Committee Report: Political Interference with Climate Change Science under the Bush Administration*, Dec. 10, 2007, 20 [hereinafter "Majority Report"].

⁴ Deposition of Phil Cooney, former Chief of Staff for the White House's Council on Environmental Quality, in Washington, D.C. (Mar. 12, 2007) [hereinafter "Cooney Deposition"] Tr. at 171. ("Q: With regard to the Climate Change Science Program [Strategic Plan], the person who was responsible for the final product ... in terms of putting it together and taking in the Agency comments, et cetera, that was who? // A: That was Dr. [James] Mahoney, the Assistant Secretary of Science for Oceans and Atmosphere [at the Department of Commerce]. // Q: Who had the same role for Our Changing Planet? // A: Doctor Mahoney again, because the Our Changing Planet was a product of the Climate Change Science Program. So any

The Majority asserts that Cooney and other individuals effectively exerted undue influence over Administration officials and scientists. No interviews with any individuals who ostensibly would have been party to the alleged influence were conducted. The Majority also demonstrates a fundamental lack of understanding or appreciation for the interagency review process and asserts that CEQ's submitted edits were somehow perceived as preferential by whichever entity received them, whether that was the Office of Management and Budget or the Climate Change Science Program. In fact, unlike the Majority's conclusions, Cooney testified that often his edits were not made and he recognized that was the prerogative of the agency receiving the comments.⁵

Further, as they were assessing the nature and quality of Cooney's edits, the Majority did not formally seek outside experts (or even testimony from Cooney himself) regarding the purpose and nature for each of the edits to which they refer.

The Majority's report discusses the levels of certainty of climate change science while the Majority does not clearly distinguish between the state of science at the time of the subject editing and the present understanding of climate change science. The body of work with climate change science has expanded and more is known today than was known at the start of the current Administration. The Majority appears to be exploiting the current state of science to criticize actions of five years ago.

A. A climate scientist, not CEQ, had final authority to accept CEQ's edits in the CCSP reports.

The Majority ignores the fact that Phil Cooney, former CEQ Chief of Staff, did not have final authority over the content of the Climate Change Science Program (CCSP) reports which he is accused of manipulating. Dr. James Mahoney, the Assistant Secretary for Oceans and Atmosphere at the U.S. Department of Commerce and the Director of the CCSP, did.⁶ Mahoney is a well-regarded scientist who received his doctorate in meteorology from the Massachusetts Institute of Technology and has been in public service for nearly two decades.

program – any product of the program, Dr. Mahoney is the director for the program and he had defined it. // Q: What about the Climate Action Report? // A: Climate Action Report, which was the report filed with the United Nations in June 2002, was filed by the State Department // Q: And the Draft Report on the Environment? // A: EPA had the final decision because it was their product. // Q: Okay. And – but CEQ didn't have any final say on any of these documents? // A: No. We had a role in ordinary interagency review comments, and we participated along with all of the other agencies, White House offices.... Initially when drafts were initiated, they get a lot of [comments] from all the agencies, and then the CCSP office would put [the subject report] together. But when it went through OMB review again, it would be sent out to all those same agencies again for final, you know, review"). Although not expressly stated, from the context of these questions, it appears "Climate Change Science Program" in the first question about actually refers to the CCSP Strategic Plan. This basis for this conclusion is that CCSP was responsible for two reports, the Strategic Plan and Our Changing Planet, the latter of which is mentioned the subsequent question. *Id.*

⁵ See e.g., *Cooney Deposition* at 57.

⁶ *Cooney Deposition* at 170-71.

Instead of focusing on this critical distinction, the Majority reports in numerous instances the number and nature of edits made to CCSP reports and other climate change reports by Cooney and Dr. Bryan Hannegan, a climate scientist who served first as CEQ's Assistant Director for Energy and Transportation and then as the Chief of Staff for CEQ.⁷

The Majority also implies that Cooney's and Hannegan's suggested edits on these climate change reports were inappropriate in their nature and that the drafters of these reports were somehow forced to adopt their edits. Specifically, the Majority broadly categorizes their edits, calling them "exaggerate[ed] or emphasizing scientific uncertainties" and "deemphasize[ing] or diminish[ing] the importance of the human role in global warming."⁸

At the end of the day, Mahoney -- not Cooney -- was ultimately responsible for all written products that were produced by CCSP. Mahoney also had the final authority to determine which agency edits to accept. Mahoney is on record stating: "As Director of the CCSP, I have had final authority over the editorial process and the approved content of all CCSP reports disseminated since 2002."⁹ Mahoney also is on record stating: "As is the case for all reports produced through the CCSP interagency process, some of the proposed edits were accepted and others were modified or rejected. In my capacity as CCSP Director, I approved the final versions of the drafts."¹⁰

To further reinforce this, both in his deposition and his testimony before the Committee under oath, Cooney testified several times Mahoney had the final discretion over the content of all CCSP documents.¹¹

B. The Majority distorts the nature of the relationship between CEQ and EPA by implying CEQ exerted undue pressure over EPA in EPA's decision to remove the climate change section from EPA's *Draft Report on the Environment*.

The Majority distorts the chain of events that led to EPA removing the climate change section from the *Draft Report on the Environment*. A full review of Cooney's deposition testimony, as well as the testimony of James Connaughton, Chairman of the

⁷ Modified Organizational Chart for the White House's Council on Environmental Quality (on file with Minority Committee Staff).

⁸ *Majority Report* at 22.

⁹ Letter to Senator James Inhofe from Dr. James Mahoney, Director, Climate Change Science Program, Jul. 22, 2005 [hereinafter "Inhofe Letter"], 2. In a previous letter, Mahoney also stated, "In the end, the CCSP Director is responsible for the scientific integrity of these CCSP planning and program report documents." Letter to Senator Frank Lautenberg and Senator Harry Reid from Dr. James Mahoney, Director, Climate Change Science Program, Jul. 14, 2005, 2.

¹⁰ Inhofe Letter at 3.

¹¹ *Cooney Deposition* at 61 ("[Mahoney], himself, of course, is an eminent scientist, and he had the final decision-making on the content of the [CCSP's 10-year Strategic Plan].")

White House’s Council on Environmental Quality (CEQ) testimony before the Committee, provides a more accurate and complete picture.

The Majority inappropriately omits portions of Cooney’s deposition testimony discussing a note he wrote to Alan Hecht, an EPA detailee to CEQ, about the need to incorporate CEQ edits into *EPA’s Draft Report on the Environment*. By omitting this, the Majority exaggerates the meaning and tone of Cooney’s statements.

The Majority states: “CEQ produced to the Committee a copy of a cover sheet that accompanied a set of Mr. Cooney’s edits to the draft EPA Report. On this cover sheet, Mr. Cooney wrote, ‘These changes must be made.’”¹² The Majority also states, “[d]uring his deposition, Mr. Cooney confirmed that he wrote this comment and acknowledged that ‘the language is mandatory.’”¹³ The Majority continues, stating “[Cooney] further testified: ‘If they want to publish [*EPA’s Draft Report on the Environment*], they [EPA] need to respond, to engage our comments. And so it was my way of getting Alan Hecht [an EPA employee detailed to work at CEQ] something to go back to [EPA] with and say, you have got to engage their comments.’”¹⁴

These passages in the Majority report give the impression that Cooney was issuing orders to the EPA detailee, and that these orders were mandatory and non-negotiable. Rather, this is a distortion of Cooney’s deposition testimony, as the Majority omits key portions of Cooney’s testimony.

In fact, Cooney expressly stated he had **not** issued any orders, and he describes a “collegial” and “respectful” relationship between the CEQ and EPA staff as detailed in full below:

- Q: The exhibit reads ... “Alan, these changes must be made. Thanks. Phil.” Is that your comment?
- A: That was my comment.
- Q: And as the Chief of Staff of the White House CEQ, you were giving an order here, weren’t you?
- A: No. I mean the language is mandatory, but the comment process within the executive branch is very collegial and respectful. And, I wouldn’t read it as an order. I think my recollection is that I wrote this comment after we had received back from EPA a few additional drafts that did not reflect that they had considered comments that had been provided by our Agency. Yet we were receiving at the same time a message from EPA, through Alan Hecht, that Governor Whitman wanted to publish the report soon ... I can’t remember the exact time, but within a certain time frame.

¹² *Majority Report* at 28.

¹³ *Id.* (citing *Cooney Deposition* at 159-60).

¹⁴ *Id.* (citing *Cooney Deposition* at 160).

And my recollection is that I wrote this sort of in response to that pressure. If they want to publish they need to respond, to engage in our comments. And so it was my way of getting Alan Hecht something to go back to the Agency with and say, you have got to engage their comments. You can't just continue to disregard them. But it was – it wasn't – it just was not an order. It was not an order, which was your question.

Q: Do you expect that Alan Hecht took this comment to EPA and told them that the changes you made had to be made?

...

A: I don't know. I really don't know how he used it.¹⁵

By omitting key quotes, the meaning of Cooney's note to Hecht is exaggerated and the idea Cooney was harshly giving orders is a distortion of the truth. Apparently, this deposition was unnecessary as the Majority disregarded the testimony.

Additionally, the Majority omitted explicit testimony from Connaughton stating EPA Administrator Christine Todd Whitman made the decision to delete the climate change section, thus distorting the true nature of CEQ's involvement in deleting this section. Connaughton testified that:

When the process was not leading to a reconciliation of the comments by the various offices in the White House and from other agencies, I did get on the phone – actually Governor Whitman called me, EPA Administrator Whitman called me. We were talking about a range of things but this is one of the issues that we talked about on how to reconcile the comments [to the report from the agencies].¹⁶

Further, Connaughton was asked:

Q: You said earlier that you did not make the decision that the White House wasn't going to make any changes, but in your conversations with Ms. Whitman did she explain to you why she made the decision not to – that she did not make those changes [to the *Draft Report on the Environment*]?

A: As you might expect, this was an executive level conversation. We don't – we weren't into parsing all the back and forth between the various staff.

¹⁵ Cooney Deposition at 159-60.

¹⁶ *Hearing on Allegations of Political Interference with Government Climate Change Science before the House Oversight and Government Reform Committee*, Mar. 19, 2007 [hereinafter "Climate Hearing Part II"], Tr. at 153 (statement by James E. Connaughton, Chairman, White House Council on Environmental Quality).

But you asked, I just want to be clear, I was perfectly content to just get them in a room, especially get the scientists with them and just reconcile the comments.

She had what I thought was a much better solution. And that was, we had just spent over a year developing this document with 1,300 scientists from around the world. Why not refer the public to that rather than try to collapse this down to a two-page passage on climate in a document that otherwise sort of had a rich abundance of detail on a whole bunch of other issues that were not getting the attention they deserved? So, I thought it was a perfect solution. We didn't need to talk a lot. I said, that sounds great to me. Let's just go that way.¹⁷

The Majority essentially ignores the details of this discussion in its efforts to exaggerate CEQ's role in removing the climate change section from the *Draft Report on the Environment*.

C. The Majority appears not to understand the interagency review process.

The Majority ignores the fact that, in the case of the CCSP Strategic Plan, CEQ was one of numerous Federal agencies reviewing documents. CEQ's review of documents produced by Federal agencies (including by the CCSP and the EPA) was part of the regular interagency review process. Nearly thirty agencies in addition to CEQ participated in this review process which was coordinated through the White House's Office of Management and Budget (OMB).¹⁸

Thus, again, it is unclear how the fundamental fact -- that many agencies in addition to CEQ were also submitting edits to Mahoney -- was ignored by the Majority and why, instead, the Majority prefers to exaggerate the relative weight of CEQ's edits to those of other agency comments on the CCSP climate change reports, implying CEQ's edits were non-negotiable.

Additionally, the Majority's support for CEQ's disproportionate control over the content of the CCSP Strategic Plan is based entirely on its distortion of the nature of the Concurrence Sheet for the CCSP Strategic Plan. The Majority contends:

In his deposition, Mr. Cooney stated that CEQ's edits were merely recommended changes that could be accepted or rejected by [Mahoney]. According to the CEQ documents, however, Mr. Cooney signed a "concurrence sheet" before the release

¹⁷ *Climate Hearing Part II* Tr. at 165.

¹⁸ *Cooney Deposition* at 56-57. Cooney stated "When OMB takes a document, it is generally at its final stage. They circulate it out to any agency affected, really, by the content of the document. So, in this case, it was probably sent out to 17 agencies for their formal review and comments on the [CCSP Strategic Plan] and at the same time, was sent to probably 5 separate White House offices and other White House staff, but it was sent out very broadly by OMB for comment." *Id.*

of the final documents. This concurrence sheet stated that Mr. Cooney “approved” the *Strategic Plan*.¹⁹

Essentially, the Majority is stating the CCSP Strategic Plan could not have been published without Cooney’s concurrence. This is a distortion. It is inexplicable why the Majority continues to offer this mischaracterization when the purposes of the Concurrence Sheet was discussed and then clarified at the end of Cooney’s deposition:

Q: Going back to Exhibit 23 [the Concurrence Sheet], and, if I recall correctly ... Majority counsel’s question was something along the lines of if you had refused to clear the [CCSP Strategic Plan], would [it] have been issued?

Could you just read through the options that are presented on this form [the Concurrence Sheet] and let me know whether or not there is one that specifically ... provides for an option to refuse the report?

A: That is a very good question. There is not an option for refusing concurrence.²⁰

Further, Cooney testified that Mahoney’s the Concurrence Sheet was “unusual” but because the Strategic Plan was the culmination of a multi-agency, multi-year effort, likely Mahoney was seeking assurance from **each of** the relevant agencies—not just CEQ:

[I]n the case of the strategic plan, actually, because it was a very high-profile document and one had not been done in a long time even though the statute called for it, he required of the agencies that they formally sign a concurrence sheet in the final report before it was issued in July of 2003.²¹

Further, Cooney testified:

Q: If you refused to clear the strategic plan, would it have been issued?

A: It is – I expect it would have. I don’t think – you know, this was unusual to have a concurrence form. I think Dr. Mahoney wanted an assurance that every agency that had worked on this project for a year, through multiple drafts, had an affirmative signature with his office that they endorsed the plan.

¹⁹ *Cooney Deposition* at 57, 61, 73, 74, 82, 132, 146 151-52, 156-57; Concurrence Sheet to Jim Mahoney, Director, CCSP, from Phil Cooney, Chief of Staff, CEQ, Jul. 19, 2003, Bates # 1484 [hereinafter “Cooney Concurrence Sheet”]).

²⁰ *Cooney Deposition* at 166.

²¹ *Id.* at 57.

And, I can't really answer your question, if I had said no, would it have been – not have gone. I think he was looking for this, for assurance, and everyone gave him the assurance, and everyone had a lot of confidence in him. And, I gave him the assurance, and I concurred. I can't really speak to what the consequence would have been if I had not. I doubt, though, that it would have stopped the publication of the report because Dr. Mahoney had control over final edits and final approval of the report.

Q: So your sense is that this strategic plan could have been issued without White House approval?

...

A: Approval connotes something that looks like this, some hard-edged, tangible “we approve.”

Never really got to that on these reports. In this case, I think Dr. Mahoney was looking for assurance that everyone was on board. It was an important report to the administration. And I think that he was confident that he would get a 100 percent response rate and that everyone agreed to the report. Even though everyone's comments weren't accepted, and he rejected a lot of comments, he wanted to know that everyone concurred in the report as a team effort across the administration. He had made the final judgment, but he wanted everyone's concurrence.

But generally with these documents, there wasn't a hard approval. The comment process was respectful and iterative, and so we didn't get to legalistic and hard approval.²²

Thus, the Majority's implication that the publication of the CCSP Strategic Plan would not have proceeded without concurrence from CEQ is inaccurate based upon Cooney's own testimony and the options provided on the Concurrence Sheet itself.²³ In fact, if anything, it appears that Cooney was forced to concur, not that he required any edits.

D. The Majority's conclusion that CEQ's comments created scientific uncertainty in the final documents overstates the effect of the edits.

The Majority's categorical statements about the suggested edits made by CEQ overstate their true effects. Based upon the complexity and volume of the thousands of pages of CEQ documents received by the Committee from CEQ, the Minority believes it is not possible and, thus, not proper to make generalizations of the nature of CEQ's suggested edits because the Majority did not conduct a comprehensive review of each of the several hundred made by Phil Cooney, the former CEQ Chief of Staff.

²² *Id.* at 156-57.

²³ *See, Cooney Concurrence Sheet.*

During the Committee’s deposition of Cooney, the Majority did not question Cooney on the basis of each of these edits. The Majority did not seek an independent, scientific review of each of these edits, and, instead relied upon the assessment of Rick Piltz, the former Senior Associate at the U.S. Climate Change Science Program, who himself is not a scientist, to characterize Cooney’s edits.²⁴ These are simply disagreements among non-scientists.

The Minority believes the only way to assess each suggested edit made by CEQ to the various climate change reports is through individual analysis of the nature and context of the individual suggested edit in the context of (1) the draft in which the suggested edit was made; and, (2) whether the suggested edit was ultimately accepted in the respective final document. The Majority has not done this but has selectively analyzed certain edits.

In certain instances, it may have been CEQ’s opinion that some claims in the original drafts of climate change reports may have been exaggerated and, thus, it would have been their prerogative to recommend edits. If individual suggested edits can be taken as representative of a “type” of suggested edits made by CEQ, the examples cited by the Majority do not rise to the level of, for example, **exaggeration** of uncertainties, as asserted by the Majority.²⁵

As an example, the Majority states “[t]he October 21, 2002 draft [of the CCSP Strategic Plan] read: ‘Warming temperatures will also affect Arctic land areas’” and that Cooney “replaced the certainty of ‘will’ with the uncertainty of ‘may.’ With his edit, the sentence read: ‘Warming temperatures may also affect Arctic land areas.’”²⁶ In fact, no aspect of climate change science—least of all future impacts—has been proven. A statement that an impact unequivocally **will** occur was entirely misleading and misrepresentative. In fact, it appears Cooney’s edits in this circumstance were entirely accurate, irrespective of whether they were ultimately accepted by Mahoney.

The Majority’s conclusions regarding the appropriateness of edits are internally inconsistent, especially considering the cited edit was actually accepted by Mahoney. The Majority stated that adding “potential” when discussing impacts of climate change was inappropriate.²⁷ The Majority asserts Cooney inappropriately added “potential” to the following sentence: “Reducing the scientific uncertainty in global climate models

²⁴ *Majority Report* at 24 (quoting testimony by Rick Piltz, the former Senior Associate at the U.S. Climate Change Science Program, before the House Oversight Committee: “Taken in the aggregate, the changes had the cumulative effect of shifting the tone and content of an already quite cautiously-worded draft to create an enhanced sense of scientific uncertainty about climate change and its implications.”).

²⁵ *Majority Report* at 20.

²⁶ *Id.* at 22.

²⁷ *Id.* at 30 (citing Memorandum from Jim Mahoney and Richard Moss, Climate Change Science Program, to Philip Cooney, Council on Environmental Quality (Nov. 4, 2002) (Bates # 799)).

could...in the long run provide information on the potential impacts of climate change on ecosystems.’”²⁸

The Majority quotes Mahoney’s response as ““Not just “in the long run.” Research is already providing meaningful information on potential impacts of climate change on ecosystems.’”²⁹ Ironically, the very comment the Majority indicated Cooney inappropriately made (i.e., adding uncertainty by adding the word “potential”) was adopted by Mahoney in his response, thereby, disproving the Majority’s notion that adding “potential” before impacts was inappropriate.

E. The Majority downplays Cooney’s rationale for making edits, namely that he wanted to ensure the Administration’s message on climate change was consistent and that it comported with the findings of the National Academy of Sciences.

The Majority ignores Cooney’s testimony that he sought to rely upon the best available science. In 2001, the President requested the National Research Council (NRC) of the National Academy of Sciences (NAS) to prepare a report responding to certain questions regarding the state of climate change science and areas that were a priority for research funding.³⁰

In the performance of his job, Cooney relied upon the NRC Report, along with the President’s 2001 and 2002 policy statements.³¹ Specifically, Cooney testified that, “[t]hese documents [the NRC Report and the President’s policy statements] were foundational to the administration and ... these were foundational guidance for our work in the White House policy shop to make sure that all future efforts of the [Bush] [A]dministration that we were called upon to review were aligned with the President’s stated priorities.”³² Further, Cooney testified that he carefully ensured his comments were consistent with these documents.³³

²⁸ *Id.* at 31 (citing Memorandum from Jim Mahoney and Richard Moss, Climate Change Science Program, to Philip Cooney, Council on Environmental Quality (Nov. 4, 2002) (Bates # 799)) (emphasis in the original).

²⁹ *Id.* at 31 (citing Memorandum from Jim Mahoney and Richard Moss, Climate Change Science Program, to Philip Cooney, Council on Environmental Quality (Nov. 4, 2002) (Bates # 799)) (emphasis in the original).

³⁰ National Academy of Sciences, *Climate Change Science: An Analysis of Some Key Questions* (2001), National Academies Press, Jun. 2001 [hereinafter “Key Questions Report”]. NRC is the preeminent scientific research organization in the United States, and NAS is the preeminent scientific body in the United States.

³¹ White House, *Climate Change Initial Report*, Jun. 11, 2001, available at <http://www.whitehouse.gov/news/releases/2001/06/climatechange.pdf> [last visited Dec. 6, 2007]; White House, *Global Climate Change Policy Book*, Feb. 14, 2002, available at <http://www.whitehouse.gov/news/releases/2002/02/climatechange.html> [last visited Dec. 6, 2007].

³² *Cooney Deposition* at 47.

³³ *Id.*

However, the Majority essentially ignores discussion of the importance of these documents to Cooney in the performance of his job or the objective reliability of the NRC Report. The Majority essentially ignored the merit of Cooney's testimony under oath that he heavily depended on the NRC Report and its objectivity,³⁴ which was widely recognized as the best available science at the time, because this would have lent inherent credibility to the suggested edits Cooney made to various drafts of climate change reports.

Cooney also testified that he relied upon the NRC Report in his edits regarding to the state of science relating to the human health effects of climate change. However, the Majority distorts the nature of sections relating to impacts of climate change on human health by calling them "uncontroversial."³⁵ In fact, Cooney stated numerous times during his deposition testimony that he regularly deleted sections relating to the effect of climate change on human health because the National Academy of Sciences said the science was "in its infancy." Specifically, Cooney said:

I was guided by what [the National Academy of Sciences said], which is that "much of the United States appears to be protected against many different health outcomes related to climate change by a strong public health system, relatively high levels of public awareness, and a high standard of living." It goes on to say, "The understanding of the relationship between the weather / climate and human health is in its infancy, and therefore, the health consequences of climate change are poorly understood."

On that basis, I would make a recommendation in comments on proposals that I thought risked overstating human health impacts, because the National Academy had told us that it's a study **in its infancy, and the impacts are poorly understood.**³⁶

Cooney testified that he sought to ensure that only the best available science was included in climate change reports. Rather than recognizing his internal consistency, the Majority assails Cooney for not endorsing scientific theories, which at the time did not have sufficient basis *in science*. This distortion by the Majority is misguided and unfortunate.

III. **"Censoring" Climate Scientists**

The Majority's overall finding that leadership from the White House's Council on Environmental Quality (CEQ) and the National Oceanic and Atmospheric Administration (NOAA) inappropriately silenced NOAA scientists relies almost exclusively on the testimony of just one witness.

³⁴ *Id.*

³⁵ *Majority Report* at 27.

³⁶ *Cooney Deposition* at 109-10 (citing Key Questions Report (*emphasis added*)).

In reaching its sweeping conclusion that scientists from were silenced or controlled by Administration officials, the Majority relies on several hundred documents produced by NOAA and the testimony of just one individual: NOAA public affairs official, Kent Laborde. The Majority failed to seek testimony on this matter from any of the scientists who were allegedly silenced by Administration officials from other NOAA or Administration public affairs officers, or from Administration or NOAA officials or senior leadership.

Without testimony from any of the relevant parties to the claims that NOAA scientists had been silenced, the Majority arrived at its conclusions. While Laborde's truthfulness is not questioned, his testimony alone cannot establish that CEQ "routinely controlled which climate scientists at NOAA could speak with the media"³⁷ and that "[t]he White House and the Department of Commerce steered journalists towards scientists" offering a particular message.³⁸ A thorough investigation would have sought further evidence to complete the record before drawing conclusions based upon the uncorroborated statements of one individual.

A. The Majority's conclusion that CEQ approval was required before a scientist could proceed with a media interview mischaracterizes the evidence.

The Majority's conclusion that "all [NOAA] media requests ... were sent to CEQ for approval" is a distortion of the facts. The Majority states: "CEQ documents and a transcribed interview with Kent Laborde, a career public affairs officer at NOAA, demonstrate that **all** media requests to interview NOAA climate scientists were sent to CEQ for approval."³⁹ This absolute statement is simply not supported by the documents and the statements of Laborde during his transcribed interview.

In fact, Laborde's statements (and CEQ documents referenced by him) not only do not support the Majority's conclusion, they actually demonstrate that CEQ approval of "all" media requests was not required.

It is a gross mischaracterization of Laborde's own statements to conclude from them that all media requests were sent to CEQ "for approval." Laborde stated that media requests were "shared with,"⁴⁰ "run through,"⁴¹ "routed through"⁴² or "checked with"⁴³ CEQ, none of which constitutes a requirement for CEQ "approval." Laborde himself said that his interaction with CEQ press secretary, Michele St. Martin, "wasn't day-to-

³⁷ *Majority Report* at 7.

³⁸ *Id.* at 7-8.

³⁹ *Id.* at 8 (*emphasis added*).

⁴⁰ Interview of Kent P. Laborde, Public Affairs Office, National Oceanic and Atmospheric Administration, in Washington, D.C. (Aug. 9, 2007) [hereinafter "Laborde Interview"] 12.

⁴¹ *Laborde Interview* at 13.

⁴² *Id.* at 12.

⁴³ *Id.* at 13.

day. It was more as needed” on “some of these high profile and sensitive issues.”⁴⁴ The Majority’s conclusion that all media inquiries required CEQ approval is patently inaccurate.

B. Even if some form of approval was required, the Majority’s suggestion that such approval was designed to silence climate change scientists is belied by the fact that NOAA appears to have initiated the practice of consulting with CEQ.

The Majority seems to suggest that consultation with CEQ regarding media inquiries somehow was mandated by CEQ in an effort to control the message of certain scientists. It was not mandated by CEQ; it, in fact, appears to have been initiated by NOAA.

Laborde stated the practice of discussing media requests with CEQ was not mandated by CEQ and, instead, in Laborde’s experience, appears to have been initiated as an “extra measure”⁴⁵ by Dr. James Mahoney, a senior government scientist and the Director of NOAA’s Climate Change Science Program (CCSP):

A: Like I said, I started working on climate issues at the same time that Dr. Mahoney was getting started with the [CCSP]. He was very cautious about making sure that we had full backing from everyone up the chain.

Q: So it began with Dr. Mahoney, is that accurate?

A: He was the first one to say that we should get approval from – to tell me that I don’t know. That’s not to say that someone told him that we needed to get it. I don’t know. All I know is that he said that we should get CEQ approval.⁴⁶

The Majority fails to provide the above explanation regarding how Laborde understood CEQ to have become involved in inquiries by media to interview NOAA scientists. Instead, the Majority simply states: “Mr. Laborde said that Jordan St. John, the director of the NOAA communications office, ‘instructed me that I should check with CEQ.’”⁴⁷ The selective omission of Laborde’s understanding of the origin and extent of liaison with CEQ exaggerates CEQ’s involvement.

C. The Majority also neglects to report that it was the Department of Commerce, not CEQ, that required additional layers of approval.

⁴⁴ *Id.* at 14.

⁴⁵ *Id.* at 13.

⁴⁶ *Id.* at 84.

⁴⁷ *Majority Report* at 8 (quoting *Laborde Interview* at 13).

In the time period immediately following Hurricane Katrina, the volume of media inquiries into the Department of Commerce increased.⁴⁸ Laborde told Committee staff that, at this time, approval for media inquiries became required from the Department of Commerce.⁴⁹ Specifically, Laborde stated, “These [extra layers] were not a written policy but we had to seek additional approval [from the] Department of Commerce.”⁵⁰

Indeed, Laborde said some requests by media for interviews were “vetted or were routed through CEQ to get their approval”⁵¹ but that was not for all media requests. Laborde specifically indicated that, in one particular instance he may have referred a media request to CEQ where “it might have been better handled by someone in management, particularly the head of CEQ, Jim Connaughton.”⁵²

Further, Laborde said that he and his public affairs colleagues actually *over* informed CEQ about media inquiries in that “there was a certain degree of self censorship where people were aware that things were being scrutinized, and maybe to ensure that there were not problems we may have routed more inquiries and requests to [CEQ] than maybe what should have been” and some of it was on a “for your information” basis.⁵³ In other words, Laborde forwarded requests to CEQ when he was not required to do so.

The Majority omitted this important distinction that Commerce required additional layers of approval and that NOAA employees, on their own initiative, actually *over* informed CEQ about media inquiries or chose to refer the inquiries to CEQ.

D. The Majority’s conclusions omit critical evidence that scientific questions were referred to scientists and policy questions were referred to policymakers.

The Majority’s assertion that matters relating to climate change were the only issues requiring CEQ approval is a one-sided distortion of the evidence. Laborde stated that CEQ would be informed of certain “high profile” requests. Rather than assessing Laborde’s statements when viewed in total, the Majority generalized that “climate change was apparently the only issue that fell into this category.”⁵⁴ While this may be a convenient reading of the evidence, the evidence is much more ambiguous.

Laborde’s statements viewed as a whole establish that he drew a distinction between *scientific* issues and *policy* issues. He stated he would refer media requests to CEQ when they expressly dealt with policy issues – whatever the general subject matter. In addition, Laborde said: “[I]f there was something that was scientific, **it would go to**

⁴⁸ Laborde Interview at 67-68 (citing the “heightened [media] requests” subsequent to the event of Hurricane Katrina).

⁴⁹ Laborde Interview at 67-68.

⁵⁰ *Id.* at 11.

⁵¹ *Id.* at 72.

⁵² *Id.* at 20.

⁵³ *Id.* at 12-13.

⁵⁴ Majority Report at 8.

the scientists. If it was political or dealt with policy it would go towards management or senior leadership,”⁵⁵ including CEQ.

Further, Laborde indicated he referred media inquiries to CEQ for the opportunity to respond and that, generally, for “things that related more towards policy than science we gave deference to someone in higher leadership.”⁵⁶

Moreover, the Majority’s suggestion that only climate change issues were routed through CEQ is not supported by the evidence. Laborde stated, “[I]t’s possible others were [working on an issue that was routed through CEQ], but I’m not aware specifically.”⁵⁷ Because the Majority did not conduct any independent investigation or verification to confirm whether other issues were also considered “high profile,” the Majority’s assertion that climate change was the only issue referred to CEQ can not be supported.

E. The Majority’s assertion that CEQ approved (or disapproved) media requests regarding climate change issues is inconsistent with Cooney’s and Laborde’s testimony.

The Majority reports that, during his deposition, former CEQ Chief of Staff, Phil Cooney, “confirmed that CEQ was directly involved in screening press requests to interview government scientists.”⁵⁸ The Majority cited Cooney’s deposition testimony stating, “[h]e testified: ‘Our communications people would render a view as to whether someone should give an interview or not or who it should be.’”⁵⁹

In fact, the Majority omits the portion of Cooney’s sworn testimony in which he stated neither he nor CEQ staff approved or disapproved media communications:

Q: Could CEQ approve or disapprove press requests?

A: **I think that is too hard a word, approve or disapprove.** Our communications people would render a view as to whether someone should give an interview or not or who it should be. In the White House, you know, that is what they did, communicating with various communications offices. But, again, it was iterative. **It wasn’t in our nature to be giving sharp orders really.** It was, [“W]ho’s going to handle this call? How are we [g]oing to handle this?[]”] And communications people did that among themselves generally.⁶⁰

⁵⁵ Laborde Interview at 21 (*emphasis added*).

⁵⁶ *Id.* at 21.

⁵⁷ *Id.* at 21-22.

⁵⁸ Majority Report at 8.

⁵⁹ Majority Report at 8 (*quoting* Cooney Deposition at 162).

⁶⁰ Cooney Deposition at 161-62 (*emphases added*).

By omitting this portion of Cooney’s sworn testimony, the Majority ignores ordinary communications coordination among agencies regarding specific media inquiries. Moreover, the complete lack of any evidence regarding common practices in other agencies or even on other issues makes it impossible to conclude that this description represents anything other than standard media relations practice. Indeed, anyone who runs a Congressional committee knows that only certain individuals are permitted to talk to the media about certain subjects.

F. Laborde’s statements taken as a whole do not support the Majority’s conclusion that CEQ was the ultimate decision-maker on whether interviews would be granted.

The Majority’s report concludes: “Laborde confirmed that CEQ was the ultimate decision-maker on whether an interview request would be granted” stating “[w]hen asked whether an interview would take place if CEQ disapproved, Mr. Laborde answered: ‘No, it would not have gone forward.’ He explained: ‘they would give either the green light or otherwise.’”⁶¹ Here, in its zeal to present its version of the facts, the Majority has ignored the context of Laborde’s statements in order to arrive at the pre-determined conclusion that all media inquiries required CEQ approval.

In fact, these quotes come from two separate portions of the Laborde interview. In the first quote, Laborde is discussing **a specific media inquiry** relating to the politicization of science. This interview request had come from *Washington Post* reporter, Juliet Eilperin to NOAA scientist, Dr. V. Ramaswamy.⁶² In that instance, Laborde said, because this request related more to policy than science, in the first instance he would put such requests to “leadership.” Specifically,

Q: So, you believed you needed CEQ approval for [the Ramaswamy] interview, is that right?

A: Since [the subject of the requested interview] was an issue dealing with politicization it might have been a case – and I’m trying to recall exactly what the instance was – it might have been a case where it might have

⁶¹ *Majority Report* at 9 (quoting Laborde Interview at 23, 72).

⁶² *Laborde Interview* at 15-18. The scientists understood this distinction. The reporter wrote in an e-mail to Ramaswamy “I’d love to talk to you on Monday about how climate change science has become politicized,” “[a]nd would you be willing to speak about to the extent you’re allowed to pursue the kind of climate research you want?” Ramaswamy’s complete response was, “Hi. Thank you for your e-mail. [Redacted] had informed me about you. You will first need to speak to the NOAA Press Coordinator in Washington [name and e-mail address]. She arranges these matters. One note, I can talk to you about the science of climate change in a substantive sense. That is my area of competence. Sincerely, V. Ramaswamy.” Laborde interview, Exhibit A, which includes: E-mail from Juliet Eilperin, *Washington Post* reporter, to V. Ramaswamy, NOAA scientist, Jun. 11, 2005; E-mail from V. Ramaswamy, NOAA scientist, to Juliet Eilperin, *Washington Post* reporter, Jun. 11, 2005. This appears to demonstrate that the NOAA scientist would have felt comfortable speaking with the reporter about scientific matters.

been better handled by someone in management, particularly the head of CEQ, Jim Connaughton.

Q: ... So if a reporter asked to speak with a specific scientist about politicization or another issue did you feel it was important to honor that request for the specific scientist they asked for?

A: Personally, yes.

Q: As a policy matter though that wasn't the case?

A: Again, dealing with things of – things that related more towards policy than science we gave deference to someone in higher leadership. If they chose to respond to this inquiry then that was who we would offer as the interview.⁶³

Similarly, where the Majority reported Laborde explained “[CEQ] would give either the green light or otherwise,”⁶⁴ again, Laborde made this comment in the context of media inquires related to policy—not science—and not in relation to all media inquires as indicated by the Majority.⁶⁵

A: But another example of policy issues that would have been passed to CEQ to see if maybe also they would like to respond to some of these was in another one of the Exhibits [reviewed during the course of the interview].

I don't remember which one, but it was the one about politicization of science. That inherently is a policy issue because in this case science is incidental to the discussion. It could be politicization of religion. It could be politicization of anything. It was specifically a policy issue, so that was something that we would have referred to CEQ.

Q: And I think you said that you would refer them to CEQ for – did you say for the opportunity to respond – to see if they themselves wanted to respond?

A: Right.

Q: And then would they take a formal decision [“N]o, we don't want to respond; thank you for the opportunity[”]?

A: Right.

⁶³ *Laborde Interview* at 20-21.

⁶⁴ *Id.* at 72.

⁶⁵ *Id.* at 71-72.

Q: And you would refer them in the first instance because, like you said, it has to do with policy issues, not strictly scientific issues?

A: Right.

Q: But they would then permit – is that a correct word to use – whoever from your agency to respond?

A: Right, they would give either the green light or otherwise –⁶⁶

The narrow question being asked of Laborde was whether NOAA would refer media inquiries regarding policy to CEQ in the first instance to determine whether they wanted to respond and not the broader question of whether CEQ was the ultimate decision-maker on whether an interview request would be granted. The Majority’s assertion that these two passages somehow indicated CEQ had the ultimate decision-making authority ignores the important context of the two quotes they cite.

G. The Majority exaggerates the evidence to conclude that public affairs officers were instructed to “carry” specific instructions to scientists regarding the messages they were to convey and how they were to answer questions.

The picture of centralized control from senior Administration officials painted by the Majority is grossly exaggerated. Dramatically, the Majority states: “White House control of press access to government climate scientists went beyond approving or rejecting interview requests.”⁶⁷ The Majority then reports that Administration officials “instructed” scientists on the message they were to convey.

In fact, Laborde’s sworn testimony paints a much different picture of CEQ’s role in public communications about climate change. For example, Laborde stated: “Michele St. Martin would discuss with me some of the things, some of the potential responses that the subject of the inquiry might give and she would maybe suggest some ways of phrasing things.” When asked “[whether she would] suggest ways of phrasing things for NOAA scientists that were being interviewed,” Laborde answered, “No, not necessarily. Usually it was in the form of maybe saying how the administration is spending x amount of dollars on climate science and is doing this and this. It’s pretty standard talking points, public relations 101 to provide extra talking points and bullet points that somebody could use.”⁶⁸

Further, the Majority exaggerates the effect of so-called “admonitions” (as perceived by Laborde)⁶⁹ from Administration officials more senior than Laborde to be

⁶⁶ *Id.*

⁶⁷ *Majority Report* at 9.

⁶⁸ *Laborde Interview* at 14-15.

⁶⁹ *Id.* at 34.

transmitted to the interviewees. When asked about specific instances, stated he did not even transmit these instructions to scientists, however, the Majority ignores this fact.

For example, the Majority omits the critical information that Laborde did not always follow so-called admonitions from Chuck Fuqua regarding scientists' communications with the media. If, indeed, admonitions were issued regarding how scientists should communicate with the media, they were lost on Laborde. Specifically, the Majority reported that Chuck Fuqua, Deputy Director of Communications at the Department of Commerce, approved an interview with Dr. Chris Landsea to appear on the *Lehrer News Hour*, but told Laborde to "make sure Chris is on message."⁷⁰

When asked by Committee staff what message Landsea was supposed to deliver, Laborde answered: "I don't know," and, when asked what Fuqua meant when he said this, Laborde answered: "I really don't know [a]nd like I said before I wouldn't typically carry specific instructions about messages to our scientists [s]o if I got this I probably really didn't care."⁷¹ This hardly reflects the structured or effective effort to control scientists' public statements presented by the Majority.

The Majority omitted the fact that Laborde also ignored admonitions from Scott Smullen, the Deputy Director of the NOAA Public Affairs Office, regarding scientists' communications with the media. The Majority discussed an interview request for Dr. Richard Reynold regarding warming of the Gulf of Mexico and its causes.⁷² In an e-mail on the subject, Smullen stated that the interview "is cleared, with the caveat that we tell Richard to be very careful with how he frames the global warming signal aspect."⁷³

The Majority failed to report that Laborde testified that "[t]ypically, I wouldn't carry any admonitions like that to say 'be careful in what you say [to the interviewer],'" that in a situation like that he would not necessarily look at a statement like Smullen's and see it as a directive to start a discussion with the interviewee, and that "I personally would not carry [a specific instruction like that] forward."⁷⁴

Similarly, the Majority distorts the evidence regarding a request by Michele St. Martin, Associate Director of Communications at CEQ, for feedback on interviews. The Majority stated St. Martin "approved" interviews and "required" Laborde to provide written summaries.⁷⁵ Specifically, the Majority stated, "[I]n August 2005, Ms. St. Martin

⁷⁰ *Majority Report* at 10 (quoting E-mail from Chuck Fuqua, Deputy Director of Communications, Department of Commerce, to Kent Laborde, Public Affairs Office, National Oceanic and Atmospheric Administration (Oct. 18, 2005)).

⁷¹ *Laborde Interview* at 42-43.

⁷² *Majority Report* at 9.

⁷³ *Id.* (quoting E-Mail from Scott Smullen, Deputy Director of the NOAA Public Affairs Office, to Kent Laborde, Public Affairs Office, National Oceanic and Atmospheric Administration (Sep. 22, 2005)).

⁷⁴ *Laborde Interview* at 34.

⁷⁵ *Majority Report* at 9.

approved [an] interview [with Dr. James Mahoney] but instructed Mr. Laborde [to give her a ‘wrap-up’ report on the interview].”⁷⁶

In fact, St. Martin’s actual e-mail mentions nothing of “approval” and appears to simply requests feedback on how the interview went and when the story would be printed. Specifically, St. Martin said:

Okay, thanks. Give me a wrap up of the interview and how you think it went and when the story is expected so I can give Dana [Perino, Director of Communications for CEQ] and others a heads up. –thanks.⁷⁷

Not only did her e-mail not contain anything resembling “approval” of the interview as asserted by the Majority, it appears the reason for requesting the feedback was to make sure CEQ communications staff were informed of what may be printed and when it might be printed. Further, Laborde’s breezy e-mail response of “Will do,”⁷⁸ to St. Martin hardly indicates any discomfort on his part with the request. Again, this looks like standard media relations practice.

H. The Majority’s assertion that the White House controlled which climate scientists could speak with the media mischaracterizes the evidence.

The Majority would have the reader believe that NOAA was “intent on selectively providing media access to government scientists who would deny the existence of [] a link [between hurricane intensity and global warming],”⁷⁹ and that this was the “unified position”⁸⁰ the White House and Commerce Department were attempting to promote.⁸¹

In fact, the Majority mischaracterizes Laborde’s reference to Fuqua’s desire for a “unified position.”⁸² It appears Laborde in the first instance misspoke when he said the “unified position” related to scientific consensus:

A: [I]f I remember correctly, I think that the intention was to show a unified position on opinion from within the agency on what’s driving hurricanes.

Q: On the scientific question?

A: On the scientific question, yes.

⁷⁶ *Majority Report* at 10 (quoting E-mail from Michele St. Martin, Associate Director of Communications, CEQ, to Kent Laborde, Public Affairs Office, National Oceanic and Atmospheric Administration (Aug. 19, 2005)).

⁷⁷ *Laborde Interview* at Exhibit I.

⁷⁸ E-mail from Michele St. Martin, Associate Director of Communications, CEQ, to Kent Laborde, Public Affairs Office, National Oceanic and Atmospheric Administration (Aug. 19, 2005)).

⁷⁹ *Majority Report* at 12.

⁸⁰ *Id.*(citing *Laborde Interview* at 36).

⁸¹ *Majority Report* at 12.

⁸² *Laborde Interview* at 36.

Q: And that was irrespective of whether or not there was actually a scientific consensus on that?

A: There was not a scientific consensus necessarily.

Q: But Mr. Fuqua wanted a unified position?

A: I don't know exactly what he wanted.⁸³

Then, when later questioned by Committee staff on his statement about the Department of Commerce's wanting a consistent message on hurricane intensity, Laborde initially expressed doubt that he had made such a statement and then clarified by saying that, by "unified position," Fuqua simply meant that he did not want NOAA scientists airing scientific conflicts in a public debate format:

Q: [E]arlier you stated that there was a desire within NOAA to provide a consistent message on this issue of hurricane intensity and its potential connection with the climate change.

A: I'm not sure if I said that.

Q: I believe that you did. Well, I can rephrase the question.

My recollection is that you said that Scott Smullen thought it was important to have consistency in his message.

A: No, actually I think I said Chuck Fuqua had a tendency to prefer not airing internal conflict in the media. So, I think his fear was that we would have an open dialogue that would turn into two NOAA scientists battling it out on a split screen in CNBC or whatever it was.⁸⁴

Laborde's subsequent clarification makes clear that the "unified position" was not that there was consensus on the science. Rather, the "unified position" reflected the desire not to pit government scientists against each other in the media. The Majority misrepresents NOAA's concern over NOAA scientists' publicly airing disagreements as an attempt by Administration officials to promote a single theory on increased hurricane intensity.

I. The Majority's finding of a "pattern of political interference" with climate scientists at NASA⁸⁵ is as perplexing as it is exaggerated, as it did not

⁸³ *Id.*

⁸⁴ *Laborde Interview* at 85.

⁸⁵ *Majority Report* at 13.

conduct any semblance of an independent or thorough investigation to arrive at this conclusion.

The Majority did not conduct an independent investigation to support the finding of a “pattern of political inference” with climate scientists at NASA. The Majority primarily relied upon an affidavit by one individual and a handful of publicly available documents. Further, the Majority conducted no interviews of NASA press officers or the allegedly aggrieved NASA scientists.⁸⁶

The Majority received by fax on March 19, 2007 a three-page signed affidavit from the Assistant Chief of Outreach at NASA’s Goddard Institute for Space Studies (GISS), Leslie Nolan McCarthy.⁸⁷ This document discussed events that occurred more than one year earlier between December 2005 and February 2006. This document was withheld from the Minority until December 3, 2007, a few days before the release of the Majority report when the Minority first became aware of the document and requested it.

The Majority did not seek to interview any of the individuals involved in the incidents described by the Majority or in McCarthy’s affidavit, including Dr. James Hansen, Director of NASA’s Goddard Institute for Space Studies, and George Deutsch, a NASA public affairs officer. Instead, rather than conducting a thorough investigation into these matters, the Majority elected to rely almost entirely upon McCarthy’s affidavit.

Therefore, the Majority’s conclusion of a “pattern of political interference” cannot be corroborated because it is based upon second-hand information about handful of experiences of one or two NASA scientists. Moreover, the Majority report relies on a limited universe of publicly-available documents and did not seek documents from NASA. It relies largely upon an affidavit sworn out more than a year after the subject events.

J. The Majority’s conclusions that the White House “extensively edited” congressional testimony relating to climate change is grossly exaggerated in part because it is based upon a sample of only two pieces of Congressional testimony.

The Majority’s allegations regarding “editing” of the Congressional testimony of Dr. Julie Gerberding, the Director of the Centers for Disease control are grossly incomplete because they ignore Gerberding’s public rejection of claims of inappropriate interference in the editing of her climate change testimony.⁸⁸

⁸⁶ While the Majority did not conduct any additional transcribed interviews, Dr. James Hansen and George Deutsch, two of the individuals named in McCarthy’s affidavit, did testify under oath before the House Committee on Government Reform Committee. *See generally Climate Hearing Part II.*

⁸⁷ Sworn affidavit of Leslie Nolan McCarthy, Assistant Chief for Outreach, NASA’s Goddard Institute for Space Studies, sworn Mar. 19, 2007 (on file with Minority Staff).

⁸⁸ *Majority Report* at 15-16.

The Majority alleges the changes made by the Office of Management and Budget (OMB) to the Congressional testimony of Dr. Julie Gerberding, the Director of the Centers for Disease Control “dramatically altered” the testimony and are an example of “the White House altering congressional testimony to downplay the threat of global warning.”⁸⁹

The allegation is false, primarily because it ignores Gerberding’s own assessment of these edits which were made during the ordinary executive branch interagency review process. In a released statement, Gerberding clarified that the edits to her testimony were not disagreeable and that she was “perfectly happy” with final version:

It is important to note that the edits made to the written testimony document **did not alter or affect my messages to the Senate committee**. I was perfectly happy with the testimony I gave to the committee, and was very pleased for the opportunity to have a frank and candid discussion with the Senate committee on the public health issues associated with climate change.”⁹⁰

Gerberding also stated “[w]e finally had a chance to go and say what we thought was important. I don’t let people put words in my mouth, and I stand for science.”⁹¹

More importantly, the Majority did not conduct an investigation into the editing of Gerberding’s testimony, her role in the editing, and her public comment, which made clear she was “perfectly happy” with the final edited version of her testimony. The Majority’s rationale behind substituting its judgment of the edits for Gerberding’s professional judgment is perplexing. More perplexing is the lack of any meaningful investigation.

The second of two instances which the Majority uses to support its sweeping assertion that the White House “extensively edited” climate testimony relates to the testimony of NOAA scientist Dr. Thomas Karl before this Committee. In this instance, the Majority again appears to be confusing the ordinary interagency review process coordinated by the OMB. In that process, OMB circulates to and receives comments from agencies which are then discussed and incorporated in the final document. As such, it is not uncommon for the various Executive Branch agencies to comment on documents from other agencies.

A closer look at the edits as reported by the Majority reveals that many of the edits were administrative in nature and also related to the internal consistency of the document rather than the substance of the document. For example, the Majority asserts that OMB and CEQ were “weakening” the statement that “[t]he state of science continues

⁸⁹ *Majority Report* at 15.

⁹⁰ Juliet Eilperin, *Sen. Boxer Seeks Answers on Redacted Testimony; White House Cut Climate Warnings*, WASH. POST (Oct. 25, 2007) (*emphasis added*), A02.

⁹¹ *Dilution of Climate Testimony Denied; CDC Director Says She Never Felt She Was Being Censored*, RICH. TIMES DISPATCH (Oct. 25, 2007), A4.

to indicate that modern climate change is dominated by human influences.”⁹² In fact, the comments to this particular statement were that it was “not supported by evidence, there are views all over the place,” and “[t]he testimony does not seem to adequately demonstrate / support this statement.”⁹³ Taken in isolation, this comment appears to be structural in nature and not necessarily reflecting a view on the underlying science—in other words, precisely what is expected during the OMB interagency review process.

K. At the Committee’s March 19, 2007 hearing, the Majority, imitating the practice it condemns, attempted to “silence” the Republican witness, a 15-year veteran of NASA, who testified about politicization of science under the previous Administration.

The Majority asserts the White House censored climate scientists by controlling public statements of federal scientists, requiring media requests be sent to CEQ for approval, controlling which scientists could respond to media inquiries, and editing of congressional testimony.⁹⁴ The Majority further alleges that NASA scientist Dr. James Hansen was prevented from giving a press interview.⁹⁵

While the Majority chastises the White House for “censoring” Hansen by not “permitting” him to be interviewed by NPR,⁹⁶ the Majority fails to recognize its own censoring of scientists. At the same March 19, 2007 hearing in which Hansen was invited to testify “regarding any political interference with your climate change work,”⁹⁷ the Majority did just that with the Republican witness.

Dr. Roy Spencer, who was a NASA scientist for 15 years, and was at the hearing to discuss the political interference he experienced while at NASA from 1987 to 2001, was placed on the third panel by himself. The Minority requested multiple times for Spencer be part of the first panel with his scientific colleague Hansen to enable Members asking them both questions regarding political interference at NASA, and the Majority repeatedly refused.

Spencer was not permitted to testify until the third panel, many hours after the hearing began and long after many Members had already left the hearing.

When he did finally testify, rather than questioning Spencer on his scientific credentials and achievements⁹⁸ or the types of political interference with science that he

⁹² *Majority Report* at 16.

⁹³ *Id.*

⁹⁴ *Id.* 1.

⁹⁵ *Id.* at 13.

⁹⁶ *Id.*

⁹⁷ Letter to Dr. James Hansen, Director, NASA Goddard Institute for Space Studies, from Henry A. Waxman, Chairman, U.S. House of Reps., Committee on Oversight and Government Reform (Feb. 15, 2007).

⁹⁸ Spencer is a principal research scientist at the University of Alabama in Huntsville. He is known for his satellite-based temperature monitoring work. Spencer received NASA’s Medal for Exceptional Scientific

had experienced under the prior Administration, the Majority asked Spencer whether he would “acknowledge” that he is “definitely outside of the mainstream of these views on global warming and climate change.”⁹⁹ That request was followed by questions about Spencer’s theories on intelligent design and the question “So, as a scientist, you are out of the mainstream on global warming, and would you say you are out of the mainstream on evolution?”¹⁰⁰

This line of questioning led Rep. Chris Cannon to say:

You know, I am wondering how we got to the point of discussing intelligent design here except to somehow cast a shadow on the witness’ integrity. I think that he has made casual references to very deep studies, and I would suggest that the Majority look at those studies and deal with that issue on its own merits....”¹⁰¹

Additionally, Rep. Mark Souder raised his concerns over Spencer’s placement on the last panel:

“I am more upset that the [C]hairman has not allowed our Republican witness to speak until the third panel. On a hearing on censorship, on a hearing [on] lack of debate, our witness was denied [being] on the first panel where we could have debated this. I believe it makes a mockery of a hearing on censorship to censor the Republican witness.”¹⁰²

V. Conclusion

The Majority has cloaked itself in the authority of the Committee to proclaim the need for wide-ranging oversight. This investigation started as a bipartisan effort under Republican leadership to understand the role of the White House and the Council on Environmental Quality in climate change science. It is not surprising to learn that the White House and CEQ were involved in policy development and communicating policy to the media and the general public through the agencies of the federal government. The evidence shows just that.

But the Majority report fails to establish that there was anything improper about the role of the White House and CEQ. The Majority ignores the conclusive evidence that CEQ’s suggested edits (as well as edits from a comprehensive interagency review

Achievement and the American Meteorological Society’s Special Award. Spencer served as Senior Scientist for Climate Studies at NASA’s Marshall Space Flight Center.

⁹⁹ *Climate Hearing Part II* at 219 (statement by Henry A. Waxman, Chairman, U.S. House of Reps., Committee on Oversight and Government Reform).

¹⁰⁰ *Climate Hearing Part II* at 220-21 (statement by Henry A. Waxman, Chairman, U.S. House of Reps., Committee on Oversight and Government Reform).

¹⁰¹ *Climate Hearing Part II* at 221-22 (statement by Rep. Chris Cannon, Representative, U.S. House of Reps).

¹⁰² *Climate Hearing Part II* at 83-84 (statement by Rep. Mark Souder, Representative, U.S. House of Reps).

process) to a climate change report were subject to final approval by *the scientist* in charge of publishing the report.

The Majority mischaracterizes OMB's role in reviewing testimony to Congress and demeans the distinguished Director of the CDC and the former head of the National Hurricane Center by reporting that the White House interfered with their testimony, despite, in the case of Gerberding, the public statements they did not. Apparently, no one is safe.

The report also ignores the clear evidence that media requests about science were referred to scientists. Media requests on policy were referred to policymakers. The Majority would apparently prefer that the government's public communications on science be made only by scientists who endorse the Majority's view of the science. Overall, the Majority report simply fails to reflect any recognition of the role of policymakers in trying to deal with the complexities of science in their *communications* with the media and the public. The views of one scientist at NOAA or NASA are only one part of the formulation of administration policy.

The Majority report is filled with evidence of deep animus toward the Bush Administration, animus that ultimately and unfortunately colors the conclusions. From the disregard of available evidence to the failure to investigate those matters that already fit neatly into the Majority's views, the report is biased and incomplete.

It is the responsibility of the Committee to conduct fair and thorough investigations and report on the evidence. Not some of the evidence; *all* of the evidence. The Majority has failed to do that in its report. In doing so, the Majority continues to sacrifice the credibility and authority of the Committee on the altar of predetermined conclusions.