

EXHIBIT A
TO DECLARATION OF
RACHAEL LEONARD



April 14, 2014

Via E-Mail

Director, Office of Science and Technology Policy
Executive Office of the President
725 17th St. NW, Washington, DC 20502
Fax: (202) 456-6022
Email: ostpinfo@ostp.gov

**Re: Information Quality Act Request for Correction Regarding
The Polar Vortex and Global Warming**

I. Introduction

The Competitive Enterprise Institute (CEI) submits this request for correction of information under the Data Quality Act (also known as the Information Quality Act),¹ as implemented through the Office of Management and Budget (OMB)² and the White House Office of Science & Technology Policy (OSTP).³ OSTP guidelines require the agency to correct any published information that does not meet “basic standards of quality, including objectivity, utility, and integrity.”

The primary information we seek to have corrected is a statement by OSTP Director John P. Holdren, in a video posted on the White House web site on January 8, 2014, entitled *The Polar Vortex Explained in 2 Minutes*.⁴ (That video is also one of two related videos

¹ Section 515(a) of the Treasury and General Government Appropriations Act for Fiscal Year 2001, P.L. 106-554; 44 U.S.C. § 3516 (notes).

² Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies, 67 Fed. Reg. 8452 (Feb. 22, 2002).

³ Office of Science and Technology Policy, Executive Office of the President, *Final Guidelines for Ensuring the Quality of Disseminated Information* (October 1, 2002), available at <http://www.whitehouse.gov/sites/default/files/microsites/ostp/ostp-iqg.pdf>.

⁴ Currently available at <http://www.whitehouse.gov/photos-and-video/video/2014/01/08/polar-vortex-explained-2-minutes> and <http://www.whitehouse.gov/share/polar-vortex-explained-in-two-minutes>. It is

posted on OSTP's blog on January 8,⁵ which remains on OSTP's blog.⁶) In that video, the Director claims that **"A growing body of evidence suggests that the kind of extreme cold being experienced by much of the United States as we speak is a pattern that we can expect to see with increasing frequency as global warming continues."**⁷

We also seek to correct a January 8th OSTP blog post by OSTP Senior Communications Advisor and Web Editor Becky Fried that features the above *Polar Vortex Explained* video. We request a correction of its claim that **"we also know that this week's cold spell is of a type there's reason to believe may become more frequent in a world that's getting warmer, on average, because of greenhouse-gas pollution."**⁸

In reality, as we explain below, the evidence (including the conclusions of peer-reviewed scholarly articles) indicates that the kind of extreme cold experienced in the United States this past winter is not linked to global warming.

also embedded in numerous news and other web sites. See, e.g., Chris Mooney, *"Breathtaking": The White House Releases Its Climate Heavy Hitter on the Polar Vortex*, Mother Jones, Jan. 15, 2014 (<http://www.motherjones.com/blue-marble/2014/01/john-holdren-video-polar-vortex>).

⁵ See the OSTP blog post, *We the Geeks: "Polar Vortex" and Extreme Weather*, Posted by Becky Fried on January 8, 2014 at 5:37 PM EDT, available at <http://www.whitehouse.gov/blog/2014/01/08/we-geeks-polar-vortex-and-extreme-weather>. The second video from the top, bearing the legend "THE CONTINENTAL UNITED STATES, JANUARY 7, 2014," is the video containing Holdren's remarks. The first video, which is above it, contains comments touting Holdren's "two minute video" as "explaining the polar vortex" and discussing its link to "changing climates."

⁶ See OSTP Blog, page 8, available at <http://www.whitehouse.gov/administration/eop/ostp/blog?page=8> (containing the blog post, *We the Geeks: "Polar Vortex" and Extreme Weather*, Posted by Becky Fried on January 8, 2014 at 5:37 PM EDT). This blog post is present on OSTP's web site, and above its title appears the seal of the Executive Office of the President, next to a heading that reads "Office of Science and Technology Policy."

⁷ The quoted text can be found at CBS DC & Associated Press, *White House: Extreme Cold Doesn't Disprove Global Warming*, <http://washington.cbslocal.com/2014/01/09/white-house-extreme-cold-doesnt-disprove-global-warming/> (January 9, 2014 2:07 PM) The quote can also be found in numerous articles, which demonstrates its wide coverage in the media. See, e.g., Chris Mooney, *"Breathtaking": The White House Releases Its Climate Heavy Hitter on the Polar Vortex*, Mother Jones, Jan. 15, 2014 (www.motherjones.com/blue-marble/2014/01/john-holdren-video-polar-vortex); Matt Vespa, *WH Scrambles to Blame 'Polar Vortex' on Global Warming*, CNS News, Jan. 8, 2014 (<http://cnsnews.com/mrctv-blog/matt-vespa/wh-scrambles-blame-polar-vortex-global-warming>); Patrick J. Michaels & Pau C. "Chip" Knappenberger, *Hot Air About Cold Air*, Cato At Liberty, January 16, 2014 5:36PM (www.cato.org/blog/hot-air-about-cold-air).

⁸ See OSTP, *We the Geeks: "Polar Vortex" and Extreme Weather*, Posted by Becky Fried on January 8, 2014 at 5:37 PM EDT (containing this exact language in the text of the blog post), available at <http://www.whitehouse.gov/blog/2014/01/08/we-geeks-polar-vortex-and-extreme-weather>.

For this reason, these claims fail to meet the data quality requirements of “**objectivity**” (whether the disseminated information is presented in an *accurate, clear, complete and unbiased* manner and is as a matter of substance *accurate, reliable and unbiased*), and “**utility**” (the *usefulness* of the information to the *intended users* (the general public, and, under the US Global Change Act of 1990, Congress and the Executive Branch)).⁹

These errors require correction, both to comply with the Information Quality Act and to assure that government officials and the public are properly informed regarding the effects of global warming.¹⁰

II. OSTP’s Errors and Omissions

Director Holdren’s claim of “a growing body of evidence” is contradicted by recent peer-reviewed studies. These studies find that that global warming is not leading to increased atmospheric winter blocking, much less causing an increase in winter cold waves or cold weather.

- For example, a 2013 article in *Geophysical Research Letters* reanalyzed data regarding North American and North Atlantic atmospheric waves. If such waves are slowed down due to Arctic amplification—that is, the differential warming of the Arctic pole in comparison to lower latitudes—it can result in more frequent blocking patterns and extreme weather events. The study found that prior reports of such a trend were based on methodological errors. It concluded that the hypothesis “that amplified polar warming has led to the increased occurrence of slow-moving weather patterns and blocking episodes, *appears unsupported by the observations,*” and that “*no significant increase in blocking occurrence is detected in any season.*” (Emphasis added.)¹¹

⁹ See OSTP, *Final Guidelines for Ensuring the Quality of Disseminated Information* (October 1, 2002), at pg. 3, available at <http://www.whitehouse.gov/sites/default/files/microsites/ostp/ostp-igq.pdf> (“OMB guidelines define quality to consist of utility, objectivity and integrity. Utility means that the information is useful to its intended users. Objectivity consists of presentation and substantive components. The information must be presented in an accurate, clear, complete and unbiased manner, and substantively the information must be accurate, reliable and unbiased.”).

¹⁰ OSTP and other entities in the Executive Office of the President are covered by the Information Quality Act. See OMB, *Information Quality Guidelines* (“These guidelines apply to Federal agencies subject to the Paperwork Reduction Act”) (www.whitehouse.gov/omb/fedreg_final_information_quality_guidelines); 44 U.S.C. § 3502(1) (Paperwork Reduction Act applies to “any executive department, military department . . . or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency.”).

¹¹ Elizabeth A. Barnes, *Revisiting the Evidence Linking Arctic Amplification to Extreme Weather in Midlatitudes*, *Geophysical Research Letters*, Vol. 40, pp. 4734–4739, at pg. 4738, doi:10.1002/grl.50880 (Sept. 4, 2013). See also *id.* at 4734 (“the frequency of blocking occurrence exhibits no significant increase in any season”); *id.* at 4738 (finding that when errors in prior research are “accounted for, no significant trend is found”).

- A January 2014 study in *Geophysical Research Letters* similarly found “no general increase in blocking over the Northern Hemisphere” over at least the last 17 years.¹² To the contrary, “blocking frequencies ... were well within their historically observed range.” Indeed, “No clear hemispheric increase in blocking is evident in any season for any blocking index,” and “*the link between recent Arctic warming and increased Northern Hemisphere blocking is currently not supported by observations.*” While Arctic sea ice experienced unprecedented losses in recent years, blocking frequencies in these years do not appear exceptional, falling well within their historically observed range.” (Emphasis added.)¹³
- Another study in January 2014 disputed the connection between Atlantic blocking and extreme weather events: “Atlantic blocking is associated with strongly decreased anomalies for ... surface temperature fields.”¹⁴ It examined whether global warming resulting from “strong CO2” emissions would result in unusually “severe cold weather conditions.”¹⁵ *It found that, to the contrary, such warming results in “decreased anomalies in the surface temperature,” and it projected “strongly decreased anomalies for the future” in the “surface temperature” in the North Atlantic region.*¹⁶

Several scientists recently rejected attempts to link recent cold waves to climate change in *Science* magazine: “observational analyses and simulations with climate models have not confirmed the hypothesis, and we do not view the theoretical arguments underlying it as compelling,” wrote five preeminent climate scientists, John Wallace, Isaac Held, David Thompson, Kevin Trenberth, and John Walsh.¹⁷ As those scientists put it,

¹² Elizabeth A. Barnes, Etienne Dunn-Sigouin, Giacomo Masato, and Tim Woollings *Exploring recent trends in Northern Hemisphere blocking*, *Geophysical Research Letters*, Vol. 41, pp. 638-644, at pg. 639 doi:10.1002/2013GL058745 (Jan. 2014).

¹³ Barnes, *et al.*, *Exploring recent trends in Northern Hemisphere blocking*, *Geophysical Research Letters*, Vol. 41, at pg. 643.

¹⁴ Masato, G., T. Woollings, and B.J. Hoskins, 2014. *Structure and impact of atmospheric blocking over the Euro-Atlantic region in present day and future simulations*. *Geophysical Research Letters*, Vol. 41, pp. 1051-58, at pg. 1057, doi:10.1002/2013GL058570 (published, Feb. 6, 2014).

¹⁵ *Structure and impact of atmospheric blocking over the Euro-Atlantic region in present day and future simulations* at pg. 1051.

¹⁶ *Structure and impact of atmospheric blocking over the Euro-Atlantic region in present day and future simulations*, at pg. 1055 & pg. 1057.

¹⁷ John M. Wallace, Isaac M. Held, David W.J. Thompson, Kevin E. Trenberth & John E. Walsh, *Global Warming and Winter Weather*, *Letters, Science*, Vol. 343, pp. 729-30 (Feb. 14, 2014), available at

“As climate scientists, we share the prevailing view in our community that human-induced global warming is happening and that, without mitigating measures, the Earth will continue to warm over the next century with serious consequences. But we consider it unlikely that those consequences will include more frigid winters.”¹⁸

Indeed, they observed, the very “notion that the demise of Arctic sea ice during summer should lead to colder winter weather over the United States seems counterintuitive.”¹⁹

Based on the above studies, as well as for other reasons, the Director’s claim has been criticized by climatologists and climate scientists. For example, Patrick J. Michaels, a former state climatologist of Virginia and climate-change expert,²⁰ and Chip Knappenberger wrote in response that “This global-warming-leading-to-more-extreme-winter-weather” hypothesis runs “counter to much of the extant literature of the topic as well as a host of other newly published papers investigating historical jet stream patterns.”²¹

Writing in the same month when Director Holdren made his statement, climatologists Judith Curry of Georgia Tech and Cliff Mass of the University of Washington also took

http://www.sciencemagazinedigital.org/sciencemagazine/14_february_2014?pg=29#pg29; see also Jason Samenow, *Scientists: Don’t make “extreme cold” centerpiece of global warming argument*, Washington Post, Feb. 20, 2014, <http://www.washingtonpost.com/blogs/capital-weather-gang/wp/2014/02/20/scientists-dont-make-extreme-cold-centerpiece-of-global-warming-discussions/> (“observational analyses and simulations with climate models have not confirmed the hypothesis, and we do not view the theoretical arguments underlying it as compelling,” write five preeminent climate scientists (John Wallace, Isaac Held, David Thompson, Kevin Trenberth, and John Walsh) *in a recent letter published in Science Magazine*.”). The letter included their university and professional affiliations.

¹⁸ John M. Wallace, et al., *Global Warming and Winter Weather*, Letters, *Science*, at pg. 729.

¹⁹ *Id.* at 729.

²⁰ See Patrick J. Michaels, *Director, Center for the Study of Science* (“Michaels is a past president of the American Association of State Climatologists and was program chair for the Committee on Applied Climatology of the American Meteorological Society. He was a research professor of Environmental Sciences at University of Virginia for thirty years. Michaels was a contributing author and is a reviewer of the United Nations Intergovernmental Panel on Climate Change, which was awarded the Nobel Peace Prize in 2007.”) (<http://www.cato.org/people/patrick-michaels>).

²¹ Patrick J. Michaels & Paul C. “Chip” Knappenberger, *Hot Air About Cold Air*, Cato At Liberty, January 16, 2014 5:36PM (www.cato.org/blog/hot-air-about-cold-air), citing Elizabeth A. Barnes, Etienne Dunn-Sigouin, Giacomo Masato, and Tim Woollings, *Exploring recent trends in Northern Hemisphere blocking*, *Geophysical Research Letters*, Vol. 41, pp. 638-644, at pg. 643, doi:10.1002/2013GL058745 (Jan. 2014); Masato, G., T. Woollings, and B.J. Hoskins, *Structure and impact of atmospheric blocking over the Euro-Atlantic region in present day and future simulations*, *Geophysical Research Letters*, Vol. 41, pp. 1051-58, doi:10.1002/2013GL058570 (Feb. 6, 2014).

issue with attempts to link winter cold waves to global warming and climate change. In Professor Curry's words, "Is global warming causing the polar vortex? . . . In a word, no."²²

Professor Mass wrote the following:

"Does the Cold Wave Imply Anything About Global Warming? The Answer is Clearly No. . . . If temperatures were warming due to mankind's enhancement of greenhouse gases you would expect LESS cold waves. . .there is no observational evidence of increased waviness. . . The National Climatic Data Center has a page where you can plot the % of the country with a extreme low minimum temperatures (blue bars). The percentages are declining, which does NOT suggest cold waves are getting more extensive.

"The bottom line: the claims that greenhouse warming causes more cold waves like we have seen this week really seems to be without any basis in observational evidence or in theory."²³

Thus, as Michaels and Knappenberger observed, Holdren's claim disregarded "the scientific literature on the topic."²⁴ Summarizing the new research cited above, they observed,

"there is a *larger and faster growing* body of evidence that directly *disputes* Holdren's contention.

"... [A] couple of brand new papers just hit the scientific journals this month that emphatically reject the hypothesis that global warming is leading to more blocking patterns in the jet stream (and accompanying severe weather outbreaks across the U.S.).

"The first paper is a modeling paper by a team of U.K. scientists led by Giacomo Masato from the University of Reading. Masato and his colleagues looked at how

²² Judith Curry, *Is Global Warming Causing the Polar Vortex?* Jan. 7, 2014,, <http://judithcurry.com/2014/01/07/is-global-warming-causing-the-polar-vortex/>. Curry is Chair and Professor at the School of Earth and Atmospheric Sciences of the Georgia Institute of Technology, http://www.eas.gatech.edu/people/Judith_A_Curry

²³ *Does the Cold Wave Imply Anything About Global Warming? The Answer is Clearly No*, Cliff Mass Weather Blog, Jan. 6, 2014 (<http://cliffmass.blogspot.com/2014/01/does-cold-wave-imply-anything-about.html>). Mass is Professor of Atmospheric Sciences at the University of Washington, *see Clifford F. Mass*, <http://www.atmos.washington.edu/mass.html>. *See also* Judith Curry, *Is Global Warming Causing the Polar Vortex?* Jan. 7, 2014 (quoting Mass with approval), <http://judithcurry.com/2014/01/07/is-global-warming-causing-the-polar-vortex/>.

²⁴ Michaels & Knappenberger, *Hot Air About Cold Air*, *supra*.

the magnitude and frequency of atmospheric blocking events in the Atlantic-Europe region is projected to change in the future according to four climate models which the authors claim match the observed characteristics of blocking events in this region pretty well. What they found was completely contradictory to Holdren's claim. . . .they found that the both the strength of the blocking events as well as the associated surface temperature anomalies over the continental U.S. were considerably moderated. In other words, global warming was expected to make "polar vortex" associated cold outbreaks less cold.

"The second paper is by a research team led by Colorado State University's Elizabeth Barnes. In their paper "Exploring recent trends in Northern Hemisphere blocking," Barnes and colleagues used various meteorological definitions of "blocking" along with various datasets of atmospheric conditions to assess whether or not there have been any trends in the frequency of blocking events that could be tied to changes in global warming and/or the declines in Arctic sea ice.

"They found no such associations.

"From their conclusions:

[T]he link between recent Arctic warming and increased Northern Hemisphere blocking is currently not supported by observations. While Arctic sea ice experienced unprecedented losses in recent years, blocking frequencies in these years do not appear exceptional, falling well within their historically observed range. The large variability of blocking occurrence, on both inter-annual and decadal time scales, underscores the difficulty in separating any potentially forced response from natural variability.^{m25}

Other experts similarly reject the claim that global warming is causing severe cold weather in winter. According to climate science commentator Marc Morano,

"Award-winning Princeton University Physicist Dr. Will Happer rejected . . . claims that the record U.S. cold is due to man-made global warming. Happer, explained the science in an exclusive interview with Climate Depot.

²⁵ Michaels & Knappenberger, *Hot Air About Cold Air, supra*, citing Elizabeth A. Barnes, Etienne Dunn-Sigouin, Giacomo Masato, and Tim Woollings, *Exploring recent trends in Northern Hemisphere blocking*, *Geophysical Research Letters*, Vol. 41, pp. 638-644, at pg. 643 (Jan. 2014); Masato, G., T. Woollings, and B.J. Hoskins, *Structure and impact of atmospheric blocking over the Euro-Atlantic region in present day and future simulations*, *Geophysical Research Letters*, Vol. 41, pp. 1051-58 (Feb. 2014).

‘Polar vortices have been around forever. They have almost nothing to do with more CO₂ in the atmosphere,’ Happer said in an exclusive interview with Climate Depot.”²⁶

Even Chris Mooney, an admirer of John Holdren,²⁷ and the author of the book *The Republican War on Science*, conceded that Holdren's linkage of wintery weather to global warming was scientifically unproven. Writing in *Mother Jones*, he noted the controversial nature of the claim: "Climate wonks . . . note that it is rather daring in its willingness to endorse the still-contested hypothesis that Arctic warming is disrupting the jet stream and contributing to many ensuing weather extremes."²⁸

III. Recommendations for Corrective Action

CEI requests that OSTP immediately comply with the Information Quality Act by taking down the video entitled “The Polar Vortex Explained in 2 Minutes” and removing from any OSTP products or publications the claim that more cold weather is coming because of global warming, or that the extreme cold experienced by much of the United States this winter is a pattern that we can expect to see with increasing frequency as global warming continues.

CEI also requests that OSTP remove the claim by Becky Fried that “we also know that this week’s cold spell is of a type there’s reason to believe may become more frequent in a world that’s getting warmer, on average, because of greenhouse-gas pollution.”²⁹

IV. Petitioner CEI Is An Affected Person

CEI has previously taken issue with unfounded claims that “cold, bitter winter is ‘proof’ of global warming” and that “harsh winter” is a “sign of disruptive climate change.”³⁰ To

²⁶ Marc Morano, *Princeton Physicist Dr. Will Happer refutes claims that global warming is causing record cold: ‘Polar vortices have been around forever. They have almost nothing to do with more CO₂ in the atmosphere’*, Climate Depot, Jan. 7, 2014 (<http://www.climatedepot.com/2014/01/07/princeton-physicist-dr-will-happer-refutes-claims-that-global-warming-is-causing-record-cold-polar-vortices-have-been-around-forever-they-have-almost-nothing-to-do-with-more-co2-in-the-atmosphere/>)

²⁷ Chris Mooney, *The Ugly Delusions of the Educated Conservative*, Salon, Feb. 24, 2012 (calling “President Obama’s science adviser John Holdren” “a man whom I greatly admire”) (http://www.salon.com/2012/02/24/the_ugly_delusions_of_the_educated_conservative/)

²⁸ Chris Mooney, *“Breathtaking”: The White House Releases Its Climate Heavy Hitter on the Polar Vortex*, Mother Jones, Jan. 15, 2014 (www.motherjones.com/blue-marble/2014/01/john-holdren-video-polar-vortex).

²⁹ See OSTP, *We the Geeks: “Polar Vortex” and Extreme Weather*, Posted by Becky Fried on January 8, 2014 at 5:37 PM EDT, available at <http://www.whitehouse.gov/blog/2014/01/08/we-geeks-polar-vortex-and-extreme-weather> (containing this claim in the text of this OSTP blog post).

the contrary, CEI has noted that climate-change models that predict global warming also predict “fewer and less severe big winter storms” in the future,³¹ not more as Holdren suggested. Thus, the inaccurate claims made by Holdren undermine CEI’s message and attempts to educate the public about the effects of climate change.

CEI is affected by White House and OSTP pronouncements about climate change, as is reflected in its prior lawsuit against OSTP and the White House back in 2003 over Information Quality Act violations over unproven climate-change claims.³² That lawsuit led to a settlement requiring the government to attach a disclaimer to a report that had been not be subjected to the strictures of the Act.³³

Moreover, CEI is also an affected person via its status as a petitioner in the pending Supreme Court case of *Utility Air Regulatory Group v. Environmental Protection Agency*, Docket No. 12-1146,³⁴ litigation over regulation predicated on the effects of climate change.

³⁰ Michael Fumento, *Cold, Bitter Winter is “Proof” of Global Warming*, GlobalWarming.Org, Jan. 28, 2010 (www.globalwarming.org/2010/01/28/cold-bitter-winter-is-%E2%80%9Cproof%E2%80%9D-of-global-warming/).

³¹ Myron Ebell, *Love Global Warming*, Forbes, Dec. 8, 2006, www.forbes.com/forbes/2006/1225/038.html.

³² See *Competitive Enterprise Institute v. George Walker Bush, as Chairman of the National Science and Technology Council, and John Marburger, Director, White House Office of Science and Technology Policy*, Complaint For Declarative Relief, No. 1:03CV1670 RJL (D.D.C. Aug. 6, 2003).

³³ Chris Mooney, *Paralysis by Analysis: Jim Tozzi's Regulation to End All Regulation*, Washington Monthly, May 1, 2004, at 23 (available in Westlaw at 2004 WLNR 22156954) (“Last August, the Competitive Enterprise Institute . . . filed suit under the Data Quality Act over a Clinton-era report on global warming, known as the National Assessment of Climate Change. Though the suit was ultimately settled out of court, government lawyers agreed to attach a disclaimer to the report.”); Rick Weiss, ‘Data Quality’ Law Is Nemesis of Regulation, Washington Post, Aug. 16, 2004, at A1 (“the Competitive Enterprise Institute had wording added to a multi-agency federal climate change report stating that the report’s findings did not meet federal Data Quality Act standards”); see *Competitive Enterprise Institute v. George Walker Bush, et al.*, Stipulation of Dismissal, No. 1:03CV1670 RJL (D.D.C. Nov. 4, 2003).

³⁴ The Supreme Court granted review in *UARG v. EPA*, No. 12-1146, on Oct. 15, 2013, see www.scotusblog.com/case-files/cases/utility-air-regulatory-group-v-environmental-protection-agency/. That same day, it also granted review in a case later consolidated with the *UARG* case, *Southeastern Legal Foundation v. EPA*, No. 12-1268, on Oct. 15, 2013. See <http://www.scotusblog.com/case-files/cases/southeastern-legal-foundation-v-environmental-protection-agency/> (listing docket entries); <http://www.supremecourt.gov/Search.aspx?FileName=/docketfiles/12-1268.htm> (showing consolidation with the *UARG* case). CEI joined in the Southeastern Legal Foundation’s petition for certiorari, as the cover of the brief, showing at the following link, shows: <http://sblog.s3.amazonaws.com/wp-content/uploads/2013/07/SLF-et-al.-Petition-for-Cert.pdf>

Further, CEI is an active participant in the domestic debate over United States “climate change” policies addressing regulatory and related policies of the United States government and their impact on its citizens.³⁵

That includes an active practice writing and publishing (research, opinion, books, monographs, and biweekly “Cooler Heads” newsletter), advocating, and litigating on policies regarding the economics, science and policies surrounding claims of catastrophic anthropogenic global warming, which is the subject of the Product at issue in this Request (“The Polar Vortex Explained in 2 Minutes.”).

In the absence of any correction, the following will likely result:

- CEI has been and will be denied government climate change information meeting the standards for objectivity, quality, utility and integrity established by the Information Quality Act and its implementing guidelines. Such information is necessary to CEI in its extensive analytical and educational efforts on this issue;
- CEI’s education and other information-disseminating activities regarding climate change are being hindered by an official government publication that does not meet the standards of the Act and its implementing regulations. In failing to meet these standards, the report presents a misleading portrayal of climate change and of the state of climate change science. The misleading nature of that portrayal would be remedied by the correction sought by CEI. The challenged publication will be cited and widely viewed as the federal government’s official position on this issue, and thus will have an effect on the general debate over this issue and thus on the efficacy of CEI’s related climate-change activities.

V. Conclusion

For the foregoing reasons, OSTP and the White House should grant CEI’s Request for Correction regarding Holdren’s claims and the video “The Polar Vortex Explained in 2 Minutes.”

³⁵ See, e.g., CEI’s blog *Globalwarming.Org*; Hal Davis, *Earth’s Temperature Is Rising and So Is Debate About It*, Dayton Daily News, April 22, 2006, at A6 (citing CEI’s *GlobalWarming.Org*); *Think-Tanking*, Washington Examiner, Aug. 14, 2008, pg. 24 (quoting CEI’s *Openmarket.Org*); Mark Landsbaum, *Blogwatch: Biofuel Follies*, Orange County Register, Nov. 13, 2007 (citing CEI); Pittsburgh Tribune-Review, *Best of the Blogs*, Oct. 7, 2007 (same); Bruce Yandle, *Bootleggers, Baptists, and the Global Warming Battle*, 26 Harvard Environmental Law Review 177, 221 & fn. 272 (2002) (citing CEI’s *GlobalWarming.Org*); Deepa Badrinarayana, *The Emerging Constitutional Challenge of Climate Change*, 19 Fordham Environmental Law Review 1, 22 & fn. 119 (2009) (same); Kim Diana Connolly, *Bridging the Divide: Examining the Role of the Public Trust in Protecting Coastal and Wetland Resources*, 15 Southeastern Environmental Law Journal 1, 15 & fn. 127 (2006) (same); David Vanderzwaag, *et al.*, *The Arctic Environmental Protection Strategy, Arctic Council, and Multilateral Environmental Initiatives*, 30 Denver Journal of International Law & Policy 131, 141 & fn. 79 (2002) (same).

Respectfully submitted,

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EXHIBIT B
TO DECLARATION OF
RACHAEL LEONARD

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF SCIENCE AND TECHNOLOGY POLICY
WASHINGTON, D.C. 20502

June 6, 2014

Mr. Hans Bader
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Re: Information Quality Act Request for Correction Regarding the Polar Vortex and Global Warming

Dear Mr. Bader:

Thank you for your Request for Correction regarding the polar vortex video¹ and certain statements on global warming that you have filed under the Office of Science and Technology Policy's (OSTP) Information Quality Guidelines.² OSTP received your request on April 14, 2014. Consistent with OSTP's Guidelines, we have posted your request on the OSTP website at <http://www.whitehouse.gov/administration/eop/ostp/library/compliance/infoquality>.

Your letter requests that OSTP:

1. "immediately comply with the Information Quality Act by taking down the video entitled 'The Polar Vortex Explained in 2 Minutes';
2. "remov[e] from any OSTP products or publications the claim that more cold weather is coming because of global warming, or that the extreme cold experienced by much of the United States this winter is a pattern that we can expect to see with increasing frequency as global warming continues"; and
3. "remove the claim by Becky Fried that 'we also know that this week's cold spell is of a type there's reason to believe may become more frequent in a world that's getting warmer, on average, because of greenhouse-gas pollution.'"³

Your letter articulates the following reason for your request: that "the evidence (including the conclusions of peer-reviewed scholarly articles) indicates that the kind of extreme cold experienced in the United States this past winter is not linked to global warming," and that "Director Holdren's claim of 'a growing body of evidence' [that the extreme cold being experienced by much of the United States is a pattern that we can expect to see with increasing

¹ The White House, "The Polar Vortex, Explained in Two Minutes," (January 8, 2014), <http://www.whitehouse.gov/share/polar-vortex-explained-two-minutes>.

² Office of Science and Technology Policy, Final Guidelines for Ensuring the Quality of Disseminated Information (October 1, 2002), <http://www.whitehouse.gov/sites/default/files/microsites/ostp/ostp-iqg.pdf>.

³ Becky Fried, Office of Science and Technology Policy, "We the Geeks: 'Polar Vortex' and Extreme Weather," (January 8, 2014), <http://www.whitehouse.gov/blog/2014/01/08/we-geeks-polar-vortex-and-extreme-weather>.

frequency as global warming continues] is contradicted by recent peer-reviewed studies.” This letter responds to your request and addresses the concerns articulated in your letter.

The transcript of Dr. Holdren’s remarks in the polar vortex video, provided in Appendix A, makes clear that the video was intended to, and does, inform the viewer that (a) no single extreme-weather event, hot or cold, either proves or disproves global climate change; (b) climate-change dynamics are complex; (c) there is a plausible mechanism, linked to behavior of the polar vortex, by which a world that is warming on the average could include an increase in prolonged winter cold spells in the Northern Hemisphere mid-latitudes; and (d) there is “a growing body of evidence” suggesting that this mechanism is indeed operating.

Dr. Holdren firmly stands by the integrity and accuracy of his statements in the polar vortex video. In the video, he made clear that “Computer models tell us that there are many different factors influencing these patterns and, as in all science, there will be continuing debate about exactly what is happening.” Robust debate and ongoing study are fundamental components of the scientific process, and do not restrict expression of current understanding and views. The polar vortex video did not claim to present a comprehensive review of the scientific literature in its two-minute run time. Nor was it a recitation of relevant scientific literature that failed to reference contradictory citations. Rather, it was an expression of Dr. Holdren’s personal opinion and expert judgment on the balance of the evidence. Dr. Holdren’s concluding statement in the video makes this clear: “I believe the odds are that we can expect, as a result of global warming, to see more of this pattern of extreme cold in the mid-latitudes and some extreme warm in the far north.” “I believe” is an expression of his expert judgment and personal opinion. Similarly, the blog post by Ms. Becky Fried expressed a viewpoint and opinion using language including “there’s reason to believe.”

You submitted your request for correction under the Information Quality Act. In 2002, OSTP issued Information Quality Guidelines to implement the Information Quality Act.⁴ OSTP’s 2002 Guidelines, which are based on the Office of Management and Budget’s Government-wide Information Quality Guidelines,⁵ state that opinions and policy positions are expressly excluded from the legal definition of “information,” and are not subject to OSTP’s Information Quality Act Guidelines. Accordingly, OSTP has determined that the Information Quality Act does not apply to the opinions stated by Dr. Holdren and Ms. Fried in the polar vortex video and blog post, respectively. On this legal basis, OSTP denies your request for information correction under the Information Quality Act.

⁴ “Information” is defined in OSTP’s Information Quality Act Guidelines as “any communication or representation of knowledge such as facts or data, in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual forms. This definition includes information that OSTP disseminates from its web page.” The OSTP guidelines further explain, “This definition does not include: a) Opinions or policy positions, where the presentation makes clear that the statements are subjective opinions or policy recommendations, rather than facts.” <http://www.whitehouse.gov/sites/default/files/microsites/ostp/ostp-iqg.pdf> .

⁵ Office of Management and Budget, Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies; Republication,” 67 Fed. Reg. 8452 (Feb. 22, 2002), <http://www.whitehouse.gov/sites/default/files/omb/assets/omb/fedreg/reproducible2.pdf>.

If you are dissatisfied with this response, you may submit an Information Correction Appeal in writing within 30 days of the date of this letter. You may submit an appeal to OSTP General Counsel Rachael Leonard by email to ostpinfo@ostp.gov or via FAX to (202) 395-1224. The appeal should be clearly marked "Information Correction Appeal." Additional information on how to submit an Information Correction Appeal is available on OSTP's website at <http://www.whitehouse.gov/administration/eop/ostp/library/compliance/infoquality>.

Sincerely,



Tamara Dickinson

Principal Assistant Director for
Environment and Energy

Appendix: Transcript of Polar Vortex Video

If you've been hearing that extreme cold spells, like the one that we are having in the United States now, disproves global warming, don't believe it. The fact is that no single weather episode can either prove or disprove global climate change.

Climate is the pattern of weather that we observe geographically and over the seasons, and it is described in terms of averages, variations, and probabilities.

But a growing body of evidence suggests that the extreme cold being experienced by much of the United States as we speak is a pattern that we can expect to see with increasing frequency as global warming continues, and the reason is this: in the warming world that we're experiencing, the far north, the Arctic, is warming roughly twice as rapidly as the mid-latitudes, such as the United States. That means that the temperature differences between the Arctic and the mid-latitudes is shrinking, and that temperature difference is what drives what is called the circumpolar vortex, which is the great counter-clockwise swirling mass of cold air that hovers over the Arctic.

As the temperature difference between the Arctic and the mid-latitudes declines, the polar vortex weakens, and it becomes "wavier." The "waviness" means that there can be increased, larger excursions of cold air southward (that is, into the mid-latitudes), and, in the other phase of the wave, increased excursions of relatively warmer mid-latitude air into the far north.

Computer models tell us that there are many different factors influencing these patterns, and, as in all science, there will be continuing debate about exactly what is happening. But, I believe the odds are that we can expect, as a result of global warming, to see more of this pattern of extreme cold in the mid-latitudes and some extreme warm in the far north.

EXHIBIT C
TO DECLARATION OF
RACHAEL LEONARD



June 19, 2014

Via E-Mail

OSTP General Counsel Rachael Leonard
725 17th St. NW, Washington, D.C. 20502
Fax: (202) 395-1224
Email: ostpinfo@ostp.gov

**Re: Information Correction Appeal:
Request for Correction Regarding the Polar Vortex and Global Warming**

Introduction

The Competitive Enterprise Institute (CEI) appeals the denial of its request for correction of information under the Information Quality Act.¹ OSTP guidelines require the agency to correct any published information that does not meet “basic standards of quality, including objectivity, utility, and integrity.”²

As we explained in our request, published studies contradict claims about global warming leading to severe winter cold that were made by OSTP Director Holdren and OSTP Senior Communications Advisor and Web Editor Becky Fried in information posted on OSTP’s web site in January. (Moreover, as discussed at pages 9-10 below, since the time that CEI filed its request, *two new additional studies* have been released that further contradict these claims).

OSTP denied our correction request based on the unsupported assertion that the inaccurate claims we challenged were just the personal opinions of Dr. Holdren and Ms.

¹ Section 515(a) of the Treasury and General Government Appropriations Act for Fiscal Year 2001, P.L. 106-554; 44 U.S.C. § 3516 (notes); Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies, 67 Fed. Reg. 8452 (Feb. 22, 2002).

² Office of Science and Technology Policy, Executive Office of the President, Final Guidelines for Ensuring the Quality of Disseminated Information (October 1, 2002), www.whitehouse.gov/sites/default/files/microsites/ostp/ostp-iqg.pdf.

Fried, not information disseminated by OSTP. OSTP did not address any of the studies or evidence to which we pointed, much less review the scientific literature, in rejecting our request. Thus, the inaccurate information remains uncorrected, and continues to be disseminated to the public, in violation of the Information Quality Act.

In our view, OSTP's rationale is sheer nonsense, concocted in order to escape its legal responsibilities for highly questionable scientific assertions that produced a huge number of self-aggrandizing headlines. *Moreover, even if its rationale is correct, OSTP still has a responsibility to prominently label the statements at issue as personal opinions, so that neither the media nor viewers of its web site continue to mistake them as official agency positions.*

The primary information we sought to correct was a statement by OSTP Director John P. Holdren, in a video posted on the White House web site on January 8, 2014, entitled *The Polar Vortex Explained in 2 Minutes*.³ (That video is also one of two related videos posted on OSTP's blog on January 8,⁴ which remains on OSTP's blog.⁵) In that video, the Director claims that **"A growing body of evidence suggests that the kind of extreme cold being experienced by much of the United States as we speak is a pattern that we can expect to see with increasing frequency as global warming continues."**⁶

³ Currently available at <http://www.whitehouse.gov/photos-and-video/video/2014/01/08/polar-vortex-explained-2-minutes> and <http://www.whitehouse.gov/share/polar-vortex-explained-in-two-minutes>. It is also embedded in numerous news and other web sites. See, e.g., Chris Mooney, *"Breathtaking": The White House Releases Its Climate Heavy Hitter on the Polar Vortex*, Mother Jones, Jan. 15, 2014 (<http://www.motherjones.com/blue-marble/2014/01/john-holdren-video-polar-vortex>).

⁴ See the OSTP blog post, *We the Geeks: "Polar Vortex" and Extreme Weather*, Posted by Becky Fried on January 8, 2014 at 5:37 PM EDT, available at <http://www.whitehouse.gov/blog/2014/01/08/we-geeks-polar-vortex-and-extreme-weather>. The second video from the top, bearing the legend "THE CONTINENTAL UNITED STATES, JANUARY 7, 2014," is the video containing Holdren's remarks. The first video, which is above it, contains comments touting Holdren's "two minute video" as "explaining the polar vortex" and discussing its link to "changing climates."

⁵ See OSTP Blog, page 13, available at <http://www.whitehouse.gov/administration/eop/ostp/blog?page=13> (containing the blog post, *We the Geeks: "Polar Vortex" and Extreme Weather*, Posted by Becky Fried on January 8, 2014 at 5:37 PM EDT). This blog post is on OSTP's web site. Above its title is the seal of the Executive Office of the President, next to a heading reading "Office of Science and Technology Policy."

⁶ The quoted text can be found at CBS DC & Associated Press, *White House: Extreme Cold Doesn't Disprove Global Warming*, <http://washington.cbslocal.com/2014/01/09/white-house-extreme-cold-doesnt-disprove-global-warming/> (January 9, 2014 2:07 PM) The quote can also be found in numerous articles, which demonstrates its wide coverage in the media. See, e.g., Chris Mooney, *"Breathtaking": The White House Releases Its Climate Heavy Hitter on the Polar Vortex*, Mother Jones, Jan. 15, 2014; Matt Vespa, *WH Scrambles to Blame 'Polar Vortex' on Global Warming*, CNS News, Jan. 8, 2014 (<http://cnsnews.com/mrctv-blog/matt-vespa/wh-scrambles-blame-polar-vortex-global-warming>); Patrick J. Michaels & Pau C. "Chip" Knappenberger, *Hot Air About Cold Air*, Cato At Liberty, January 16, 2014 5:36PM (www.cato.org/blog/hot-air-about-cold-air).

We also sought correction of a January 8th OSTP blog post by OSTP Senior Communications Advisor and Web Editor Becky Fried that features the above *Polar Vortex Explained* video, specifically, its claim that **“we also know that this week’s cold spell is of a type there’s reason to believe may become more frequent in a world that’s getting warmer, on average, because of greenhouse-gas pollution.”**⁷

In reality, as we explained in our request for correction, there is no “growing body of evidence” linking extreme cold spells to global warming. To the contrary, the evidence (including the conclusions of peer-reviewed scholarly articles) indicates that the kind of extreme cold experienced in the United States this past winter is not linked to global warming.⁸ Since these claims were not accurate, much less complete and unbiased, in their characterization of the relationship between global warming and extreme winter cold, they by definition failed the information quality requirements of “objectivity” and “utility.”⁹

I. Whether There Is a “Growing Body of Evidence” That Global Warming Causes Severe Cold Winter Weather Is A Factual Issue, Not A Matter of Subjective Opinion, and That Claim Is Thus Covered by the Information Quality Act.

OSTP denied our request, citing OSTP guidance exempting “subjective opinions” from the reach of the Information Quality Act.”¹⁰ OSTP’s letter denying our request asserted

⁷ See OSTP, *We the Geeks: “Polar Vortex” and Extreme Weather*, Posted by Becky Fried on January 8, 2014 at 5:37 PM EDT (containing this exact language in the text of the blog post), available at <http://www.whitehouse.gov/blog/2014/01/08/we-geeks-polar-vortex-and-extreme-weather>; OSTP Blog, <http://www.whitehouse.gov/administration/eop/ostp/blog?page=13>.

⁸ See, e.g., Elizabeth A. Barnes, Etienne Dunn-Sigouin, Giacomo Masato, and Tim Woollings *Exploring recent trends in Northern Hemisphere blocking*, *Geophysical Research Letters*, Vol. 41, pp. 638-644, doi:10.1002/2013GL058745 (Jan. 2014); Masato, G., T. Woollings, and B.J. Hoskins, 2014. *Structure and impact of atmospheric blocking over the Euro-Atlantic region in present day and future simulations*. *Geophysical Research Letters*, Vol. 41, pp. 1051-58, doi:10.1002/2013GL058570 (published, Feb. 6, 2014); Elizabeth A. Barnes, *Revisiting the Evidence Linking Arctic Amplification to Extreme Weather in Midlatitudes*, *Geophysical Research Letters*, Vol. 40, pp. 4734–4739, doi:10.1002/grl.50880 (Sept. 4, 2013); see also Jason Samenow, *Scientists: Don’t make “extreme cold” centerpiece of global warming argument*, *Washington Post*, Feb. 20, 2014, <http://www.washingtonpost.com/blogs/capital-weather-gang/wp/2014/02/20/scientists-dont-make-extreme-cold-centerpiece-of-global-warming-discussions/>.

⁹ See OSTP, *Final Guidelines for Ensuring the Quality of Disseminated Information* (October 1, 2002), at pg. 3, available at <http://www.whitehouse.gov/sites/default/files/microsites/ostp/ostp-iqg.pdf> (“OMB guidelines define quality to consist of utility, objectivity and integrity. Utility means that the information is useful to its intended users. Objectivity consists of presentation and substantive components. The information must be presented in an accurate, clear, complete and unbiased manner, and substantively the information must be accurate, reliable and unbiased.”).

¹⁰ See Letter dated June 6, 2014 from Tamara Dickinson, Principal Assistant Director for Environment and Energy at OSTP, to Hans Bader, Competitive Enterprise Institute, at pg. 2, footnote 4 (“statements [that] are subjective opinions” are not covered by OSTP’s information quality guidelines).

that these claims were merely Dr. Holdren's "personal opinion" and the "opinion" of "Ms. Becky Fried," respectively:

"OSTP's 2002 guidelines . . . state that opinions . . . are expressly excluded from the legal definition of 'information,' and are not subject to OSTP's Information Quality Act guidelines. Accordingly, the Information Quality Act does not apply to the opinions stated by Dr. Holdren and Ms. Fried in the polar vortex video and blog post, respectively. Accordingly, OSTP denies your request for information correction under the Information Quality Act."¹¹

But whether the evidence is growing that global warming causes severe winter cold (as Holdren and Fried alleged) is a factual issue, not a matter of subjective opinion or belief. It is a matter of scientific evidence, not religious dogma or personal preference.

II. OSTP's Own Guidelines Define Such Representations As "Information" Covered by the Information Quality Act

OSTP bases its denial on Dr. Holdren's using the phrase "I believe" and Ms. Fried stating that "there's reason to believe".¹² But Dr. Holdren's "I believe" was not even part of the claim we objected to. That claim came *earlier* in the video, and was the following:

"A growing body of evidence suggests that the kind of extreme cold being experienced by much of the United States as we speak is a pattern that we can expect to see with increasing frequency as global warming continues."

This was a factual claim about existing research on the subject, and it was not prefaced by the words "I believe," much less any qualifying language. As such, it remained agency information subject to the Information Quality Act, under OSTP's guidelines, which treat "information that OSTP disseminates from its web page" as covered by the Act, *except* "where the presentation makes clear that the statements are subjective opinions . . . rather than facts."¹³

¹¹ See Letter dated June 6, 2014 from Tamara Dickinson, Principal Assistant Director for Environment and Energy at OSTP, to Hans Bader, CEI, at pg. 2.

¹² *Id.* at 2 (quoting Holdren saying "I believe the odds are that we can expect, as a result of global warming, to see more of this pattern of extreme cold in the mid-latitudes and some extreme warm [sic] in the far north"); *see also* "Appendix: Transcript of Polar Vortex Video," attached to Letter dated June 6, 2014 from Tamara Dickinson, Principal Assistant Director for Environment and Energy at OSTP, to Hans Bader, Competitive Enterprise Institute (Holdren used the words "I believe" five sentences after making the claim challenged in this appeal, in a sentence found at the very end of the transcript of Holdren's remarks).

¹³ See Office of Science and Technology Policy, Executive Office of the President, *Final Guidelines for Ensuring the Quality of Disseminated Information* (Oct. 1, 2002) at 8 (defining covered "information") (emphasis added) (www.whitehouse.gov/sites/default/files/microsites/ostp/ostp-iqg.pdf) ("This definition includes information that OSTP disseminates from its web page. This definition does not include:

Dr. Holdren's "I believe" phrase came only in connection with his later statement about "the odds" of global warming leading to both "extreme" warmth in the far north and to cold in the mid-latitudes. Far from making it "clear" that the statements were "subjective opinions," Holdren's and Fried's statements left the unmistakable impression that they were making factual claims about weather patterns based on actual evidence.

III. OSTP's Characterization of the Claims as "Personal Opinion" Is Further Belied by Their Treatment in the News Media

Any reasonable reader or viewer of OSTP's web site regarded these claims as the position of OSTP and the government. For that reason alone, OSTP cannot disclaim responsibility for them by belatedly categorizing them as personal opinion.¹⁴ News reports treated the video in a similar manner, characterizing the claim as being made on behalf of the "Obama administration"¹⁵ or the "White House."¹⁶

a) Opinions or policy positions, where the presentation makes clear that the statements are subjective opinions or policy recommendations, rather than facts").

¹⁴ See *Chabad-Lubavitch of Georgia v. Miller*, 976 F.2d 1386, 1387, 1394-95 (11th Cir. 1992) (where reasonable observers could view a religious display as being endorsed by the government, it constituted the government's message for purposes of the Establishment Clause, even though the government actually did not share the view it expressed, which was merely the view of a Hasidic Jewish organization); Preston, *The Federal Trade Commission's Identification of Implications as Constituting Deceptive Advertising*, 57 U. Cincinnati L. Rev. 1243, 1246 (1989) ("the proper way to analyze [ads'] overall impact is to see the ads as consumers see them"); *Chrysler Corp. v. FTC*, 561 F.3d 357, 363 (D.C. Cir. 1977) (viewers' perception is what matters; even if Chrysler's "fuel economy" claims were true of its autos with 6-cylinder engines, and only intended to cover such autos, its ads were misleading where customers might perceive the claims to be applicable to other Chrysler cars, even if any misleading impression was "unintentional": "It is a well-settled principle that advertisements may be deceptive if they have a tendency and capacity to convey misleading impressions to consumers even though other non-misleading interpretations may be available").

¹⁵ See, e.g., Jim Galloway, *A UGA professor referees the fight over climate change*, Atlanta Journal and Constitution, January 23, 2014, at B1 ("John Holdren, President Barack Obama's science adviser, was featured in a YouTube video. 'A growing body of evidence suggests that the kind of extreme cold being experienced by much of the United States, as we speak, is a pattern we can see with increasing frequency as global warming continues,' Holdren said . . . Enter [Professor] Shepherd as referee. Limbaugh was dead wrong, the AMS president said. But the White House 'was a bit heavy-handed as well,' he said in an interview this week. . . . Shepherd, unlike the **Obama administration**, wasn't quite ready to tie the hot topic of global warming to a rampaging polar vortex.") (emphasis added); Seattle University News, *The Chilling Cost of Climate Change*, U-Wire, Jan. 15, 2014 (available in Westlaw at 1/15/14 U-Wire 00:00:00) ("A debate on whether or not these freezing temperatures disprove global warming escalated quickly this week, with **the Obama Administration** trying to use the polar vortex in support of climate change and many conservatives attempting to use the same polar vortex as evidence against the phenomenon. . . . The statement from the **official White House blog** reads as follows: "We know that no single weather episode proves or disproves climate change. Climate refers to the patterns observed in the weather over time and space - in terms of averages, variations, and probabilities. But we also know that this week's cold spell is of a type there's reason to believe may become more frequent in a world that's getting warmer, on average, because of greenhouse-gas pollution.") (emphasis added); Noah Rothman, *White House Links Polar Vortex to Global Warming*, Mediate, Jan. 8, 2014, www.mediate.com/online/white-

For example, *New York Magazine* described it as “the official line of the White House.”¹⁷ A university news service noted it was a position taken by “the Obama administration” on “the official White House blog.”¹⁸ Fox News reported that the “Obama administration is pushing back against skeptics who claim this week’s ‘polar vortex’ of cold weather is proof global warming is a myth, saying weather patterns such as these are actually a

[house-links-polar-vortex-to-global-warming/](#) (available at 2014 WLNR 599020)(“Much of the continental United States has been gripped by subfreezing and atypical temperatures due to the weather anomaly - a polar vortex drifting much farther south than is typical. Some climate change skeptics have contended that the unseasonably cold weather indicates that the phenomenon of global warming has been exaggerated. On Wednesday, **the Obama administration** pushed back against this narrative and released a video insisting that global warming was a factor leading to the polar vortex. The president's science advisor, Dr. John Holdren warned in a video published on the **White House's YouTube account** that people should not believe skeptics claiming that global warming is a faulty theory. ‘A growing body of evidence suggests that the kind of extreme cold being experienced by much of the United States as we speak is a pattern that we can expect to see with increasing frequency as global warming continues,’ Holdren said.”)

¹⁶ See, e.g., Chris Mooney, “*Breathtaking*”: *The White House Releases Its Climate Heavy Hitter on the Polar Vortex*, *Mother Jones*, Jan. 15, 2014 (<http://www.motherjones.com/blue-marble/2014/01/john-holdren-video-polar-vortex>) (“Last week, amid the media furor over the ‘polar vortex,’ **the White House** did something pretty unusual. It released a highly produced scientific video titled ‘The Polar Vortex Explained in 2 Minutes.’ In the video, White House science adviser and physicist John Holdren . . . describes how, in fact, climate change could make extreme winter weather in the mid-latitudes more common. ‘A growing body of evidence suggests that the kind of extreme cold being experienced by much of the United States as we speak is a pattern that we can expect to see with increasing frequency as global warming continues,” Holdren asserts.”) (emphasis added); Matt Vespa, *WH Scrambles to Blame ‘Polar Vortex’ on Global Warming*, *CNS News*, Jan. 8, 2014 (<http://cnsnews.com/mrctv-blog/matt-vespa/wh-scrambles-blame-polar-vortex-global-warming>) (Holdren’s statements were “Breaking news coming **from the White House**: more cold weather is coming - because of global warming.”) (emphasis added); see also Adam Martin, *White House Makes Its Global Warming Case Amid Polar Vortex Deniers*, *New York Magazine*, Jan. 8, 2014 (<http://nymag.com/daily/intelligencer/2014/01/white-house-makes-its-winter-global-warming-case.html>); Noah Rothman, *White House Links Polar Vortex to Global Warming*, *Mediate*, Jan. 8, 2014, *supra*; Patrick J. Michaels & Paul C. Knappenberger, *Hot Air About Cold Air*, *Cato Institute*, January 16, 2014 (www.cato.org/blog/hot-air-about-cold-air) (“What did surprise us . . . is that **the White House** joined in the polar vortex horror show and released a video in which John Holdren, the President’s Science Advisor—arguably the highest ranking ‘scientist’ in the U.S.—linked the frigid air to global warming: In the video, Holdren boldly stated: ‘ . . . a growing body of evidence suggests that kind of extreme cold being experienced by much of the United States as we speak is a pattern that we can expect to see with increasing frequency as global warming continues. . . .’”) (emphasis added); Seattle University News, *The Chilling Cost of Climate Change*, *U-Wire*, Jan. 15, 2014 (“official White House blog”).

¹⁷ Adam Martin, *White House Makes Its Global Warming Case Amid Polar Vortex Deniers*, *New York Magazine*, Jan. 8, 2014 (“Rather, they say, global warming actually causes this extreme weather, by making the polar air mass more unstable. That’s now the official line of the White House, which is embarking on a bit of a media blitz to deny the notion that one cold snap means climate change is a lie”) (<http://nymag.com/daily/intelligencer/2014/01/white-house-makes-its-winter-global-warming-case.html>)

¹⁸ Seattle University News, *The Chilling Cost of Climate Change*, *U-Wire*, Jan. 15, 2014, *supra n. 18*.

result of climate change.”¹⁹ Similarly, *Mother Jones* described the video featuring Holdren as something that the “White House did.”²⁰

IV. The Challenged Claim By Dr. Holdren Is Legally Attributable to OSTP Under Agency Theory and Principles of Officer and Director Liability

Dissemination of inaccurate information can violate the Information Quality Act even when it was attributable to a third party.²¹ Here, the information is attributable not to a third party, or even an ordinary OSTP employee, but to OSTP’s own director, who is its proxy, and whose statements and actions are attributable to OSTP under basic principles of agency theory.²² An agency or company is presumptively responsible for the “statements of the officers, directors, and employees who are in positions of authority or have apparent authority to make policy for” it, including any high-ranking officials in its “inner circle.”²³ Holdren is not just in OSTP’s inner circle, he is its Director and head. As such, any reasonable observer would have assumed his views were its views, absent a clear disclaimer accompanying his claims.

¹⁹ *White House blames 'polar vortex' on global warming in blog post*, Fox News, Jan. 8, 2014, www.foxnews.com/politics/2014/01/08/white-house-blamed-polar-vortex-on-global-warming-in-blog-post/

²⁰ Chris Mooney, “*Breathtaking*”: *The White House Releases Its Climate Heavy Hitter on the Polar Vortex*, *Mother Jones*, Jan. 15, 2014.

²¹ See OMB, *Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies* (“Therefore, for example, if an agency through a procurement contract or a grant provides for a person to conduct research, and then the agency directs the person to disseminate the results (or the agency reviews and approves the results before they may be disseminated), then the agency has ‘sponsored’ the dissemination of this information.”) (http://www.whitehouse.gov/omb/fedreg_reproducible).

²² See, e.g., *Faragher v. City of Boca Raton*, 524 U.S. 775, 801-03, 795-96 (1998) (supervisor’s actions, even more than the actions of an ordinary employee, are attributable to his employer under agency theory, even when they were not in fact authorized by the employer). A high-level manager’s actions are imputed to his employer even more automatically than an ordinary supervisor. See, e.g., *Harrison v. Eddy Potash*, , 158 F.3d 1371, 1376 (10th Cir. 1998) (“[T]he Supreme Court in *Burlington [Industries, Inc. v. Ellerth]* acknowledged an employer can be held vicariously liable under Title VII if the . . . employee’s ‘high rank in the company makes him or her the employer’s alter ego’” or proxy) (quoting *Burlington Indus. v. Ellerth*, 524 U.S. 742, 758 (1998)); *Johnson v. West*, 218 F.3d 725, 730 (7th Cir. 2000) (“Vicarious liability automatically applies when the . . . supervisor is” very high-ranking) (citing *Faragher*, 524 U.S. at 789)).

²³ *United States v. Basic Constr. Co.*, 711 F.2d 570, 573 (4th Cir. 1983); *Johnson v. West*, 218 F.3d 725, 730 (7th Cir. 2000) (same principles apply to government agency; “Vicarious liability automatically applies when the harassing supervisor is . . . ‘indisputably within that class of an employer organization’s officials who may be treated as the organization’s proxy’”) (quoting *Faragher*, 524 U.S. at 789); *Passantino v. Johnson & Johnson*, 212 F.3d 493, 517 (9th Cir. 2000) (liability for punitive damages “when the corporate officers who engage in illegal conduct are sufficiently senior to be considered proxies for the company.”).

While OSTP's denial of our correction request stated that "Dr. Holdren firmly stands by the integrity and accuracy of his statements in the polar vortex video," it did not cite any evidence or scholarly support for those statements. Instead, it attempted to avoid having to defend the accuracy of these statements by casting them as "personal opinion" rather than information, arguing that Holdren's statement that "'I believe' is an expression of his . . . personal opinion."²⁴

But calling a factual claim a "belief" does not absolve the speaker of the need to have factual support for it. As a court noted, "merely packaging a false or misleading statement as a belief" of the speaker "does not automatically insulate the speaker from . . . liability."²⁵ Thus, the Supreme Court noted that a "statement of belief by corporate directors about a recommended course of action" could give rise to liability, since the "directors' statements of . . . belief" made "factual" "statements about the subject matter of the . . . belief expressed."²⁶

Here, Dr. Holdren's (and Ms. Fried's) claims are even more clearly factual in nature. They make quintessentially factual claims, regardless of whether they also affirm their personal belief in those claims. If prefacing a factual claim with the words "I believe" can turn it into a matter of opinion, that would be a license to commit fraud.

V. At a Minimum, OSTP Should Add Prominent Disclaimers to the Agency Web Pages Containing These Claims

Even if it were actually true that the challenged claims only reflect the opinion or "personal" belief of Dr. Holdren or Ms. Fried, OSTP is still not off the hook. As shown above, there is a widespread impression that these views are those of government.²⁷ If OSTP truly regards this as mistaken, then it should take steps to prominently label these claims as personal opinion, not endorsed by OSTP, on to the web pages where they appear.²⁸ That is especially true in light of the fact that OSTP's guidelines treat

²⁴ See Letter dated June 6, 2014 from Tamara Dickinson, Principal Assistant Director for Environment and Energy at OSTP, to Hans Bader, Competitive Enterprise Institute, at pg. 2.

²⁵ *In re Sprint Corp. Securities Litigation*, 232 F.Supp.2d 1193 (D. Kan. 2002), citing *Virginia Bankshares, Inc. v. Sandberg*, 501 U.S. 1083, 1093–94 (1991).

²⁶ *Virginia Bankshares, Inc. v. Sandberg*, 501 U.S. 1083, 1090–92 (1991).

²⁷ See the discussion earlier in this appeal, at footnotes 15-20 and the accompanying text.

²⁸ *Cf. Coleman v. Wagner College*, 429 F.2d 1120, 1125 (2d Cir. 1970) ("reasonable and widespread belief" about state's "stance" could render it attributable to the state for purposes of the Constitution).

“information that OSTP disseminates from its web page” as OSTP-sponsored information except “where the presentation *makes clear* that the statements are subjective opinions.”²⁹

VI. Two Brand New Studies Make It Clearer than Ever that the “Growing Body of Evidence” Contradicts the Claims Rather than Supports Them

Since the time Dr. Holdren and Ms. Fried made their claims, the evidence against them has only grown, culminating in the release of two new studies that examined the January 2014 cold wave.³⁰

As *The Register* reported,

A top British scientist has come out with new research flatly contradicting the idea that extremely cold winters in North America – like the one just past – will become more frequent due to global warming. This new analysis disagrees completely with the assessment of President Obama's personal science advisor.

Dr James Screen of Exeter Uni in England is a mathematician who has been studying the arctic ice sheet for several years. According to a university announcement highlighting his latest research:

Climate change is unlikely to lead to more days of extreme cold, similar to those that gripped the USA in a deep freeze last winter ... [Recent changes in the Arctic climate have] actually reduced the risk of cold extremes across large swathes of the Northern Hemisphere.

Screen's new paper is published in the hefty climate journal *Nature Climate Change*. In it he writes:

Subseasonal cold-season temperature variability has significantly decreased over the mid- to high-latitude Northern Hemisphere in recent decades. This is partly because northerly winds and associated cold days are warming more rapidly than southerly winds and warm days ... decreases in subseasonal cold-season temperature variability ... are

²⁹ See Office of Science and Technology Policy, Executive Office of the President, *Final Guidelines for Ensuring the Quality of Disseminated Information* (Oct. 1, 2002) at 8 (defining covered “information”) (www.whitehouse.gov/sites/default/files/microsites/ostp/ostp-iqg.pdf).

³⁰ See James A. Screen, 2014. Arctic amplification decreases temperature variance in northern mid- to high-latitudes. *Nature Climate Change*, doi:10.1038/nclimate2268 (article preview and summary available at <http://www.nature.com/nclimate/journal/vaop/ncurrent/full/nclimate2268.html>); Ballinger, T., M.J. Allen, and R.V. Rohli, 2014. Spatiotemporal analysis of the January Northern Hemisphere circumpolar vortex over the contiguous United States. *Geophysical Research Letters*, doi:10.1002/2014GL060285.

detectable in the observational record and are highly robust in twenty-first-century climate model simulations.

Or, in other words, severe cold spells like the ones Americans and Canadians have just suffered through are not increasing in frequency and shouldn't be expected to.

That contradicts very sharply with the view of Dr John Holdren, president Obama's White House science and technology adviser.³¹

A new study in the peer-reviewed scholarly journal *Geophysical Research Letters* also undermines Holdren's claims.³² Describing that study, former Virginia state climatologist Patrick J. Michaels and climate researcher Paul C. "Chip" Knappenberger noted, "Another scientific paper has just been published that again finds no association between Arctic sea ice loss and extreme cold and wintery conditions across the U.S.—White House Science Advisor John Holdren's favorite mechanism for tying last winter's persistent 'polar vortex' over the eastern US to anthropogenic global warming (AGW)."³³ This is part of "a large and growing body of scientists and scientific evidence aligning against Holdren's explanation of things."³⁴ This "brand new study, led by Thomas Ballinger of Kent State University . . . directly examined the size and magnitude of the 2014 'polar vortex' event and found it to be not particularly unusual" as well as finding no "link between the loss of Arctic sea ice and an increase in polar vortex excursions into the U.S.—Holdren's favored explanation for tying human actions into their own winter suffering."³⁵

³¹ Lewis Page, *British boffin tells Obama's science advisor: You're wrong on climate change*, The Register (U.K.), June 16, 2014, http://www.theregister.co.uk/2014/06/16/brit_boffin_to_obama_science_advisor_you_are_wrong_on_climate_change/, citing James A. Screen, 2014. Arctic amplification decreases temperature variance in northern mid- to high-latitudes. *Nature Climate Change*, doi:10.1038/nclimate2268, and linking to the paper at <http://www.nature.com/nclimate/journal/vaop/ncurrent/full/nclimate2268.html>.

³² See Ballinger, T., M.J. Allen, and R.V. Rohli, 2014. Spatiotemporal analysis of the January Northern Hemisphere circumpolar vortex over the contiguous United States. *Geophysical Research Letters*, doi:10.1002/2014GL060285.

³³ *Piling On: More New Research Shows No Link Between "Polar Vortex" and Global Warming*, Cato Institute, May 29, 2014 (<http://www.cato.org/blog/piling-more-new-research-shows-no-link-between-polar-vortex-agw-sorry-john-holdren>), citing Ballinger, T., M.J. Allen, and R.V. Rohli, 2014. Spatiotemporal analysis of the January Northern Hemisphere circumpolar vortex over the contiguous United States. *Geophysical Research Letters*, doi:10.1002/2014GL060285.

³⁴ *Id.*

³⁵ *Id.*

In short, not only is there no “growing body of evidence” linking “extreme cold” in the winter to “global warming” – as Holdren claimed – but there is actually a growing body of evidence *against* such an association, casting doubt on any asserted linkage between global warming and winter cold waves.

VII. Conclusion

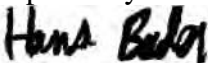
For the foregoing reasons, OSTP and the White House should grant CEI’s Request for Correction regarding Dr. Holdren’s claims and the video “The Polar Vortex Explained in 2 Minutes.”

OSTP should remove the misleading video entitled “The Polar Vortex Explained in 2 Minutes” and remove from any OSTP products or publications the claim that more cold weather is coming because of global warming, or that the extreme cold experienced by much of the United States this winter is a pattern that we can expect to see with increasing frequency as global warming continues.

CEI also requests that OSTP remove the claim by Becky Fried that “we also know that this week’s cold spell is of a type there’s reason to believe may become more frequent in a world that’s getting warmer, on average, because of greenhouse-gas pollution.”³⁶

And even if, for some reason, OSTP denies our request, it should immediately label the above claims as personal opinions that do not carry the agency’s endorsement.

Respectfully submitted,



Hans Bader, Senior Attorney
Sam Kazman, General Counsel
Competitive Enterprise Institute
1899 L St. NW, 12th floor, Washington DC 20036
202-331-2278
hbader@cei.org
www.cei.org

³⁶ See OSTP, *We the Geeks: “Polar Vortex” and Extreme Weather*, Posted by Becky Fried on January 8, 2014 at 5:37 PM EDT, available at <http://www.whitehouse.gov/blog/2014/01/08/we-geeks-polar-vortex-and-extreme-weather> (containing this claim in the text of this OSTP blog post).

EXHIBIT D
TO DECLARATION OF
RACHAEL LEONARD

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF SCIENCE AND TECHNOLOGY POLICY
WASHINGTON, D.C. 20502

August 4, 2014

Mr. Hans Bader
Senior Attorney
Competitive Enterprise Institute
1899 L Street, NW, 12th floor
Washington, DC 20036

Re: Decision Regarding the Information Correction Appeal

Dear Mr. Bader:

You submitted your April 14, 2014, Request for Correction under the Data Quality Act,¹ also known as the Information Quality Act, as implemented under the Office of Science and Technology Policy's (OSTP) Information Quality Guidelines.² In that Request for Correction, you asked OSTP to correct:

1. A statement OSTP Director John P. Holdren made in a video entitled *The Polar Vortex Explained in 2 Minutes*³ that, "A growing body of evidence suggests that the kind of extreme cold being experienced by much of the United States as we speak is a pattern that we can expect to see with increasing frequency as global warming continues."
2. A statement OSTP Senior Communications Advisor and Web Editor Becky Fried made in a January 8th blog post above *The Polar Vortex Explained* video that, "we also know that this week's cold spell is of a type there's reason to believe may become more frequent in a world that's getting warmer, on average, because of greenhouse-gas pollution."⁴

On June 6, 2014, OSTP responded to your request, concluding that Dr. Holdren and Ms. Fried's statements were "opinions" that are excluded from the legal definition of "information" and therefore are not subject to the Information Quality Act.

You appealed to my office on June 19, 2014, arguing that Dr. Holdren's and Ms. Fried's statements were facts, not opinions, and thus were "information" covered by the Act.⁵ Your appeal was timely.

¹ Section 515 of Public Law 106-554.

² <http://www.whitehouse.gov/sites/default/files/microsites/ostp/ostp-igq.pdf>

³ The White House, "The Polar Vortex, Explained in Two Minutes," (January 8, 2014),

<http://www.whitehouse.gov/share/polar-vortex-explained-two-minutes>.

⁴ Becky Fried, Office of Science and Technology Policy, "We the Geeks: 'Polar Vortex' and Extreme Weather," (January 8, 2014), <http://www.whitehouse.gov/blog/2014/01/08/we-geeks-polar-vortex-and-extreme-weather>.

⁵ CEI June 19, 2014, Letter at 3.

I. Legal Standard

In 2002, OSTP issued Information Quality Guidelines to implement the Information Quality Act.⁶ OSTP's Guidelines, which are based on the Office of Management and Budget's Government-wide Information Quality Guidelines,⁷ provide that OSTP will, "[e]nsure the quality, objectivity, utility, and integrity of information it publicly disseminates."⁸ The definition of "information" establishes the scope of the applicability of these Guidelines. The term "information" is defined as "any communication or representation of knowledge such as facts or data, in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual forms."⁹ Further, it is appropriate to review the context surrounding a contested statement to determine whether that particular statement meets the Act's definition of "information." For example, the definition of information "does not include: a) Opinions or policy positions, where the presentation makes clear that the statements are subjective opinions or policy recommendations, rather than facts."¹⁰ The person requesting the information correction bears the burden of proof.

II. Analysis

In the video entitled *The Polar Vortex Explained in 2 Minutes*, Dr. Holdren said, "A growing body of evidence suggests that the kind of extreme cold being experienced by much of the United States as we speak is a pattern that we can expect to see with increasing frequency as global warming continues."¹¹ In your April 14, 2014, Request for Correction, you objected that this statement was an incorrect statement of fact, and you pointed to recent peer-reviewed studies which found that "global warming is not leading to increased atmospheric winter blocking...[or] causing an increase in winter cold waves or cold weather."¹² In your Appeal, you argue further that Dr. Holdren's statement is not an opinion, but an incorrect statement of fact. You focus on the phrase "a growing body of evidence" within Dr. Holdren's statement, asserting that whether evidence is growing is a *factual* issue, not a subjective one, and you cite additional sources that contradict claims about global warming leading to severe winter weather.¹³

OSTP's June 6th reply made clear that Dr. Holdren stands by the integrity and accuracy of his statements in the video. The "growing body of evidence" to which he referred is not contradicted by the subsequent appearance of articles arguing for alternative explanations; indeed, Dr. Holdren noted in the video that "as in all science, there will be continuing debate about exactly what is happening."

⁶ <http://www.whitehouse.gov/sites/default/files/microsites/ostp/ostp-iqg.pdf>.

⁷ Office of Management and Budget, Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies; Republication," 67 Fed. Reg. 8452 (Feb. 22, 2002), <http://www.whitehouse.gov/sites/default/files/omb/assets/omb/fedreg/reproducible2.pdf>.

⁸ <http://www.whitehouse.gov/sites/default/files/microsites/ostp/ostp-iqg.pdf>.

⁹ *Id.*

¹⁰ *Id.*

¹¹ <http://www.whitehouse.gov/share/polar-vortex-explained-two-minutes>.

¹² CEI April 14, 2014, Letter at 3; *see also* CEI April 14, 2014, Letter at 3-8.

¹³ CEI June 19, 2014, Letter at 8-11.

Further, Dr. Holdren's closing sentence begins, "I believe the odds are...", which is an expression of his expert judgment and personal opinion. Dr. Holdren's expression of his opinion is legally determinative here. As explained above, OSTP's 2002 Information Quality Guidelines define the term "information" as "any communication or representation of knowledge such as facts or data..."¹⁴ "Information" does *not* include opinions or policy positions, where the presentation makes clear that the statements are subjective opinions or policy recommendations, rather than facts.¹⁵ Opinions are expressly excluded from the legal definition of "information" and therefore are not subject to correction under the Information Quality Guidelines.

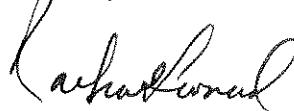
You also take issue with a statement by Ms. Fried in a January 8th blog post. In that blog post, Ms. Fried stated that, "...we also know that this week's cold spell is of a type there's reason to believe may become more frequent in a world that's getting warmer, on average, because of greenhouse-gas pollution."¹⁶ In rebuttal, you point to evidence that indicates "the kind of extreme cold experienced in the United States this past winter is *not* linked to global warming."¹⁷

Ms. Fried's statement, however, is not "information" consistent with the legal definition set forth in the Information Quality Guidelines. Her statement does not include "facts or data," nor does it summarize statistical data or cite scientific literature, as would be consistent with a "representation of knowledge." Instead, her statement was made within the context of *an invitation* to readers to join a conversation with leading meteorologists, climate scientists, and weather experts to discuss why temperatures dipped to such frigid lows, how weather experts turn raw data into useful forecasts, and the experts' views about extreme weather events. Ms. Fried's statement merely identified the topic that experts would discuss in their conversation with the readers; her statement does not meet the legal definition of "information."

III. Conclusion

After reviewing your claims afresh, I conclude that the statements you contest do not fall within the legal definition of "information" under the Information Quality Guidelines. On this legal basis, I deny your appeal.

Sincerely,



Rachael Leonard
General Counsel

¹⁴ <http://www.whitehouse.gov/sites/default/files/microsites/ostp/ostp-iqg.pdf>.

¹⁵ *Id.*

¹⁶ <http://www.whitehouse.gov/blog/2014/01/08/we-geeks-polar-vortex-and-extreme-weather>

¹⁷ CEI June 19, 2014, Letter at 3 (emphasis added); *see also* CIE April 14, 2014, Letter at 2.

Appendix 1: Transcript of Polar Vortex Video

If you've been hearing that extreme cold spells, like the one that we are having in the United States now, disproves global warming, don't believe it. The fact is that no single weather episode can either prove or disprove global climate change.

Climate is the pattern of weather that we observe geographically and over the seasons, and it is described in terms of averages, variations, and probabilities.

But a growing body of evidence suggests that the extreme cold being experienced by much of the United States as we speak is a pattern that we can expect to see with increasing frequency as global warming continues, and the reason is this: in the warming world that we're experiencing, the far north, the Arctic, is warming roughly twice as rapidly as the mid-latitudes, such as the United States. That means that the temperature differences between the Arctic and the mid-latitudes is shrinking, and that temperature difference is what drives what is called the circumpolar vortex, which is the great counter-clockwise swirling mass of cold air that hovers over the Arctic.

As the temperature difference between the Arctic and the mid-latitudes declines, the polar vortex weakens, and it becomes "wavier." The "waviness" means that there can be increased, larger excursions of cold air southward (that is, into the mid-latitudes), and, in the other phase of the wave, increased excursions of relatively warmer mid-latitude air into the far north.

Computer models tell us that there are many different factors influencing these patterns, and, as in all science, there will be continuing debate about exactly what is happening. But, I believe the odds are that we can expect, as a result of global warming, to see more of this pattern of extreme cold in the mid-latitudes and some extreme warm in the far north.

Appendix 2: Ms. Fried's Google+ Hangout Invitation

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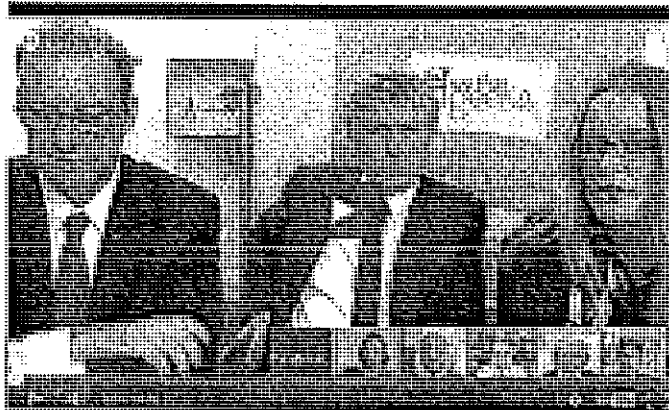
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We the Geeks: "Polar Vortex" and Extreme Weather

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Posted by Becky Fried on January 08, 2014 at 04:37 PM EDT

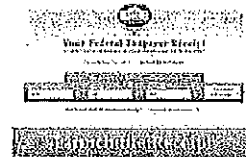
Watch today's "We the Geeks" at 2:00 p.m. ET right here, or on the White House Google+ page.



Here at the White House, while we're beginning to thaw from this week's bone-chilling deep freeze, our discussions about the science of weather extremes are heating up.

We know that no single weather episode proves or disproves climate change. Climate refers to the patterns observed in the weather over time and space — in terms of averages, variations, and probabilities. But we also know that this week's cold spell is of a type there's reason to believe may become more frequent in a world that's getting warmer, on average, because of greenhouse-gas pollution.

YOUR FEDERAL TAXPAYER RECEIPT



- The White House Blog
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Join us this Friday, January 10th at 2:00 p.m. ET for We the Geeks: "Polar Vortex" and Extreme Weather, for a conversation with leading meteorologists, climate scientists, and weather experts about why temperatures dipped to such frigid lows this week, how weather experts turn raw data into useful forecasts, and what we know about extreme weather events in the context of a changing climate.

Cristin Dorgelo and resident polar-science expert Brendan Kelly from the White House Office of Science and Technology Policy will moderate the live discussion, to include:

- Stephanie Abrams, The Weather Channel
- Dr. J. Marshall Shepherd, President of the American Meteorological Society and Professor, University of Georgia
- Jim Overland, Arctic researcher at the National Oceanic and Atmospheric Administration (NOAA)
- Jason Samenow, Capital Weather Gang's chief meteorologist and the Washington Post's Weather Editor
- Bernadette Woode Placky, Emmy-award winning Meteorologist at Climate Central
- Dan Ulech, Director for Energy and Climate Change at the White House Domestic Policy Council

We hope you'll join us this Friday at 2:00 p.m. ET at WhiteHouse.gov/We-The-Geeks and on the White House Google+ page to hear from the experts on the front lines of weather forecasting and climate science.

Got questions? Ask using the hashtag #WeTheGeeks on Twitter or on Google+ and we'll answer some of them during the live Hangout.

"We the Geeks" is a series of Google+ Hangouts to discuss science, technology, and innovation here in the United States. Join the conversation on Twitter and be sure to sign up for email updates about future "We the Geeks" hangouts.

Decky Fried is Senior Communications Advisor and Web Editor at the White House Office of Science & Technology Policy

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EXHIBIT E
TO DECLARATION OF
RACHAEL LEONARD



June 13, 2014

Office of Science and Technology Policy
Attn: FOIA Officer
1650 Pennsylvania Ave, NW, Washington, DC 20504
By fax: (202) 395-1224
By email: ostpfoia@ostp.eop.gov

Re: Freedom of Information Act Request

Dear Sir/Madam:

Pursuant to the Freedom of Information Act (5 U.S.C. § 552, *et seq.*), and the regulations thereunder, I am writing on behalf of the Competitive Enterprise Institute (CEI), a non-profit 501(c)(3) public-interest group, to request access to and copies of the following documents related to a video that was posted on the White House web site on or around January 8, 2014, entitled *The Polar Vortex Explained in 2 Minutes*.¹ (That video is also one of two related videos posted on OSTP's blog on January 8,² which remained on OSTP's blog as of the date of this request.³)

¹ Currently available at <http://www.whitehouse.gov/photos-and-video/video/2014/01/08/polar-vortex-explained-2-minutes> and <http://www.whitehouse.gov/share/polar-vortex-explained-in-two-minutes>. It is also embedded in numerous news and other web sites. See, e.g., Chris Mooney, "*Breathtaking*": *The White House Releases Its Climate Heavy Hitter on the Polar Vortex*, Mother Jones, Jan. 15, 2014 (<http://www.motherjones.com/blue-marble/2014/01/john-holdren-video-polar-vortex>).

² See the OSTP blog post, *We the Geeks: "Polar Vortex" and Extreme Weather*, Posted by Becky Fried on January 8, 2014 at 5:37 PM EDT, available at <http://www.whitehouse.gov/blog/2014/01/08/we-geeks-polar-vortex-and-extreme-weather>. The second video from the top, bearing the legend "THE CONTINENTAL UNITED STATES, JANUARY 7, 2014," is the video containing Holdren's remarks. The first video, which is above it, contains comments touting Holdren's "two minute video" as "explaining the polar vortex" and discussing its link to "changing climates."

³ See OSTP Blog, page 8, currently found at <http://www.whitehouse.gov/administration/eop/ostp/blog?page=13> (containing the blog post, *We the Geeks: "Polar Vortex" and Extreme Weather*, Posted by Becky Fried on January 8, 2014 at 5:37 PM EDT). This blog post is present on OSTP's web site, and above its title appears the seal of the Executive Office of the President, next to a heading that reads "Office of Science and Technology Policy."

In that video, OSTP's Director, John Holdren, claimed that "A growing body of evidence suggests that the kind of extreme cold being experienced by much of the United States as we speak is a pattern that we can expect to see with increasing frequency as global warming continues."⁴

A January 8 OSTP blog post by OSTP Senior Communications Advisor and Web Editor Becky Fried also features the above *Polar Vortex Explained* video. It claims that "we also know that this week's cold spell is of a type there's reason to believe may become more frequent in a world that's getting warmer, on average, because of greenhouse-gas pollution."⁵

Specifically, we seek:

- (a) All documents referencing or discussing whether the above-quoted claim by Director Holdren is, or should be regarded as, the position or view of OSTP, or whether it is, or should be regarded as, the personal opinion of Director Holdren.
- (b) All documents related to the production of the video. That includes documents related to its cost of production, what agency resources were used in producing it, the amount of staff time that was spent producing it, and whose time was spent producing it.
- (c) All documents referencing or discussing whether the above-quoted claim by Ms. Fried is, or should be regarded as, the position or view of OSTP, or whether it is, or should be regarded as, the personal opinion of Ms. Fried.

Please provide the documents in electronic form (except for documents that do not exist in electronic form), unless it would be cheaper to obtain paper copies.

We request that your office waive charges pursuant to 5 U.S.C. § 552(a)(4)(iii) & 32 C.F.R. §2402.9(a), since, as is explained below, disclosure is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the Government and is not primarily in the commercial interest of the requestor. Alternatively, we request that fees be waived pursuant to 32 C.F.R. §2402.8(b)(1)(ii),⁶ as we explain further below.

⁴ The quoted text can be found at CBS DC & Associated Press, *White House: Extreme Cold Doesn't Disprove Global Warming*, January 9, 2014, <http://washington.cbslocal.com/2014/01/09/white-house-extreme-cold-doesnt-disprove-global-warming>. It can also be found in numerous articles. See, e.g., Chris Mooney, "Breathtaking": The White House Releases Its Climate Heavy Hitter on the Polar Vortex, Mother Jones, Jan. 15, 2014; Matt Vespa, *WH Scrambles to Blame 'Polar Vortex' on Global Warming*, CNS News, Jan. 8, 2014 (<http://cnsnews.com/mrctv-blog/matt-vespa/wh-scrambles-blame-polar-vortex-global-warming>); Patrick J. Michaels & Paul C. "Chip" Knappenberger, *Hot Air About Cold Air*, Cato At Liberty, Jan. 16, 2014 (www.cato.org/blog/hot-air-about-cold-air).

⁵ See OSTP, *We the Geeks: "Polar Vortex" and Extreme Weather*, Posted by Becky Fried on January 8, 2014 at 5:37 PM EDT (containing this exact language in the text of the blog post), available at <http://www.whitehouse.gov/blog/2014/01/08/we-geeks-polar-vortex-and-extreme-weather>.

⁶ See *id.* ("No search fee shall be charged if the request is not sought for a commercial use and is made by . . . a representative of the news media."); see *infra*, footnote 13 and accompanying text.

Even if you do not waive the charges pursuant to those provisions, we request in the alternative that your office waive charges for the first 100 pages and first two hours of search time.⁷

We request this on the basis that CEI is a nonprofit, tax-exempt, public-interest organization, with formal research, educational, and publication functions as part of its mission, and because release of these records will serve the public interest by contributing significantly to the public's understanding of government operations, the shaping of public policy, and how taxpayer money is spent.⁸ This FOIA request is not for commercial use.⁹

CEI has a specific intent to disseminate the information at issue in this request to the general public. Its ability and inclination to do so is manifested by the fact that it already has generated commentary and news coverage by itself and others relating to the video that is the subject of this request,¹⁰ and about OSTP activities more generally.¹¹

⁷ See, e.g., 32 C.F.R. § 2402.8(b)(1)(iii).

⁸ See, e.g., 32 C.F.R. § 2402.9(a).

⁹ Nor would it primarily further or advance any commercial interest. Also, CEI is not a trade association.

¹⁰ See, e.g., Paul C. "Chip" Knappenberger and Patrick J. Michaels, *Piling On: More New Research Shows No Link Between "Polar Vortex" and Global Warming*, May 29, 2014 (www.cato.org/blog/piling-more-new-research-shows-no-link-between-polar-vortex-agw-sorry-john-holdren) ("Another scientific paper has just been published that again finds no association between Arctic sea ice loss and extreme cold and wintery conditions across the U.S.—White House Science Advisor John Holdren's favorite mechanism for tying last winter's persistent 'polar vortex' over the eastern US to anthropogenic global warming (AGW). . . . We wonder just what it will take for the White House to publicly admit that it was grossly wrong. . . . it needs to disavow a widely-disseminated YouTube video featuring Holdren explaining the link between last winter's polar vortex and human-caused climate change. There is no such link. As we reported when the video was first released last January, the science linking human-caused climate change to the southward excursions of the polar vortex was a stretch to begin with. It was then dealt a major blow by a study led by Colorado State climate researcher Elizabeth Barnes that was coincidentally published a few days after Holdren's YouTube video. . . . the Competitive Enterprise Institute (CEI) sent a petition to the White House Office of Science & Technology Policy (OSTP) to force Holdren issue a correction under the terms of the Data Quality Act. According to CEI, "OSTP guidelines require the agency to correct any published information that does not meet 'basic standards of quality, including objectivity, utility, and integrity.'"); Hans Bader, *CEI Files Lawsuit against Office of Science and Technology Policy*, Open Market, May 5, 2014 (author of this letter discusses CEI "Information Quality Act" correction request related to the video, an prior CEI FOIA lawsuit) (<http://cei.org/2014/05/05/cei-files-lawsuit-against-office-of-science-and-technology-policy>); Sam Kazman, *Holdren's Bi-Polar Vortex*, June 10, 2014 (www.globalwarming.org/2014/06/10/holdrens-bi-polar-vortex/) (commentary by CEI lawyer);

¹¹ See, e.g., *Editorial: Obama's chief science adviser must explain secret emails*, Washington Examiner, May 5, 2014 (<http://washingtonexaminer.com/examiner-editorial-obamas-chief-science-adviser-must-explain-secret-emails/article/2548098>); Fred Lucas, *White House Official Accused of Trying to Hide Communications*, The Blaze, May 6, 2014 (www.theblaze.com/stories/2014/05/06/white-house-official-accused-of-trying-to-hide-communications/); Hans Bader, *CEI Sues White House Science Office for Hiding Secret, Non-Work Email Accounts*, Global Warming.Org, May 5, 2014 (www.globalwarming.org/2014/05/05/cei-sues-white-house-science-office-for-hiding-secret-non-work-email-accounts)

In the past, CEI FOIA requests have generated data and other useful information that was of interest to the public, information featured in news articles and commentary.¹²

If our fee waiver is denied, we are willing to pay up to \$100.00, and in the event of any appeal as appropriate, we request the search and document production proceed in the interim. (If there are any such charges, please provide an invoice for the time incurred and cost for each document for which more than \$15.00 is sought).

CEI's interest in the documents springs from its efforts to educate the public, scholars, and state and federal regulators on matters of government operations,¹³ including issues related to climate-change policy and regulation.¹⁴

¹² See, e.g., Stephen Dinan, *Do Text Messages from Feds Belong on Record? EPA's Chief's Case Opens Legal Battle*, Washington Times, April 30, 2011, at A1 (news coverage based on documents obtained by CEI's "Christopher Horner"); Stephen Dinan, *EPA Staff to Retrain on Open Records; Memo Suggests Breach of Policy*, Washington Times, April 9, 2013, at A4 (EPA stepped up records-management training based on "admission" that some staff had "fallen short" on complying with EPA rules, a practice uncovered by CEI); Stephen Dinan, *Suit Says EPA Balks at Release of Records; Seeks Evidence of Hidden Messages*, Washington Times, April 2, 2013, at A1 (CEI's Horner "uncovered that" regional official was "using private email addresses to conduct official business").

Information obtained by CEI through FOIA requests ends up in editorials, news coverage, and Congressional testimony. See, e.g., Trey Kovacs & Alex Habighorst, *Time for an Official End to Federal Employee Union Subsidies*, Washington Examiner, June 5, 2013, <http://washingtonexaminer.com/op-ed-time-for-an-official-end-to-federal-employee-union-subsidies/article/2531217> (Op-ed by CEI staff citing documents obtained in CEI FOIA requests); *Written Statement of Hans Bader, Senior Attorney, Competitive Enterprise Institute, U.S. House of Representatives Committee on Oversight and Government Reform, Subcommittee on Regulatory Affairs, Hearing Entitled Lasting Implications of the General Motors Bailout*, June 22, 2011, <http://www.scribd.com/doc/58462911/Hans-Bader-Statement-for-Regulatory-Affairs-Subcommittee>.

¹³ CEI is widely quoted in the press and other publications. See, e.g., George Will, *Obama's Speech Police*, Washington Post, May 26, 2013, at A17 (quoting CEI's Hans Bader); Cathy Young, *Yet Another Governmental Overreach*, Newsday, May 28, 2013 (same); Ramesh Ponnuru, *Colleges: New Sexual Harassment Rules Defy Reason*, St. Paul Pioneer-Press, July 24, 2013, at A14 (same); *Yet Another Federal Attack on Civil Liberties*, Cincinnati Enquirer, May 26, 2013, at F5 (same); JulieAnn McKellogg, *US Supreme Court Hears Massive Wal Mart Discrimination Case*, Voice of America, Mar. 29, 2011 (same); Al Neuharth, *Why Bail Out Bosses Who Messed It Up*, USA Today, Nov. 21, 2008, at 23A (quoting CEI); Bill Shea, *Agency Looks Beyond Criticism of Ads of GM Boasting About Repaid Loan*, Crain's Detroit Business, May 17, 2010, at 3 (same); William P. Hoar, *Bailing Out Scam Artists*, New American, Oct. 13, 2008, at pg. 42 (quoting CEI's Bader); Mark Tapscott, *GM Named in Deceptive Advertising Complaint Filed With FTC*, Washington Examiner, May 4, 2010 (same); Carrie Lynn Flores, *Translation Services Not Required: The Civil Rights Act of 1964 Does Not Require Special Accommodations for Limited English Proficiency Individuals*, 15 Harvard Latino Law Review 193, 198 fn. 24 (2011) (same); Carter T. Coker, *Hope-Fulfilling or Effectively Chilling? Reconciling the Hate Crimes Prevention Act With the First Amendment*, 64 Vanderbilt Law Review 271, 283 fn. 73, 289 fn.103 & 106, 209 fn. 106 (2011) (same).

¹⁴ See, e.g., CEI's blog *Global Warming.Org*; Hal Davis, *Earth's Temperature Is Rising and So Is Debate About It*, Dayton Daily News, April 22, 2006, at A6 (citing CEI's GlobalWarming.Org); Washington Examiner, August 14, 2008, pg. 24, *Think-Tanking* (reprinting relevant commentary from CEI); Mark Landsbaum, *Blogwatch: Biofuel Follies*, Orange County Register, Nov. 13, 2007 (citing CEI) (available in Westlaw news database at 2007 WLNR 23059349); Pittsburgh Tribune-Review, *Best of the Blogs*, Oct. 7, 2007 (citing CEI)

The general and policy-oriented public will benefit from the dissemination of the information requested, since CEI's professionals are widely-published about these subjects.¹⁵

CEI publishes about these and other issues in print and electronic media, as well as newsletters to legislators, education professionals, and other interested parties, and thus qualifies as a press entity¹⁶ for purposes of FOIA.

Those activities are in fulfillment of CEI's mission. The information received will be disseminated through one or more of the following: a) newsletters, (b) opinion pieces in

(available at 2007 WLNR 19666326); Bruce Yandle, *Bootleggers, Baptists, and the Global Warming Battle*, 26 Harvard Environmental Law Review 177, 221 & fn. 272 (2002) (citing CEI's GlobalWarming.Org); Deepa Badrinarayana, *The Emerging Constitutional Challenge of Climate Change: India in Perspective*, 19 Forham Environmental Law Review 1, 22 & fn. 119 (2009) (same); Kim Diana Connolly, *Bridging the Divide: Examining the Role of the Public Trust in Protecting Coastal and Wetland Resources*, 15 Southeastern Environmental Law Journal 1, 15 & fn. 127 (2006) (same); David Vanderzwaag, *et al.*, *The Arctic Environmental Protection Strategy, Arctic Council, and Multilateral Environmental Initiatives*, 30 Denver Journal of International Law and Policy 131, 141 & fn. 79 (2002) (same).

¹⁵ For example, the author of this letter routinely writes about government operations and agency positions. *See, e.g.*, Bader, *Regulating Sex on Campus*, Los Angeles Times, June 1, 2014, at 19; *Punishment Without Trial: The Department of Education Attacks Students' Due Process Rights*, Daily Caller, May 23, 2014 (<http://dailycaller.com/2014/05/23/punishment-without-trial-the-department-of-education-attacks-students-due-process-rights/>); *How Eric Holder's Disparate Impact Crusade Leads To Quotas*, Daily Caller, June 5, 2014 (<http://dailycaller.com/2014/06/05/how-eric-holders-disparate-impact-crusade-leads-to-quotas/>); *On Colleges and Evidence Standards*, Letter, Wall Street Journal, May 20, 2014, at A12; *Disparity Reflects a Sad Reality*, Richmond Times-Dispatch, April 23, 2014, at A10; *Hoover's Deficits*, Pittsburgh Post-Gazette, March 19, 2014, at B6; *Increasing Obligations Likely to Backfire*, Op-Ed, Richmond Times-Dispatch, January 24, 2014, at A11; *The IRS Is Finally Doing the Job It Is Supposed to Do*, Letter, Wall Street Journal, Dec. 16, 2013, at A14; *Tip of the Healthcare.Gov Iceberg*, CNS News, Oct. 28, 2013 (<http://cnsnews.com/commentary/hans-bader/tip-healthcaregov-iceberg>); *Obama White House Closing Private Businesses to Add Pain to Government Shutdown*, Washington Examiner, Oct. 5, 2013 (<http://washingtonexaminer.com/obama-white-house-closing-private-businesses-to-add-pain-to-government-shutdown/article/2536820>); *Getting the History of the Voting Rights Act Right*, Washington Post, May 1, 2013, (www.washingtonpost.com/opinions/getting-the-history-of-the-voting-rights-act-right/2013/05/01/1d18328c-b04f-11e2-9fb1-62de9581c946_story.html); *When the First Amendment Is Repealed by Bureaucrats*, Wall Street Journal, May 24, 2013, at A12 (<http://online.wsj.com/article/SB10001424127887324787004578497454237999618.html>); *Fannie Mae, Freddie Mac, and the Financial Crisis*, New York Times, Jan. 3, 2012 (<http://www.nytimes.com/2012/01/04/opinion/fannie-mae-freddie-mac-and-the-financial-crisis.html>); Letter, *Frum Wrong About Budget Cuts*, National Post, Feb. 12, 2013; *Free Speech Isn't Harassment*, Washington Times, May 23, 2013 (www.washingtontimes.com/news/2013/may/23/free-speech-isnt-harassment/); *EEOC Demands Imperil the Public*, Washington Times, Jan. 12, 2012, at B2; Letter, *Mr. Franken's Arbitration Amendment*, Washington Post, Oct. 29, 2009, at A18; *Day Cares Can't Mandate Diversity*, Washington Times, July 19, 2011, at B2; Letter, *Fair Means Fair; Evidence Must Count for Something*, Wall Street Journal, July 21, 2011, at A16.

¹⁶ See the attachment to this letter, an EPA letter granting CEI a waiver of fees under FOIA. *See also* 32 C.F.R. §2402.8(b)(1)(ii) (fee waiver for "media requests"); *EPIC v. DOD*, 241 F.Supp.2d 5 (D.D.C. 2003) (publisher of bi-weekly electronic newsletter qualified as media); *Forest Guardians v. U.S. Dept. of Interior*, 416 F.3d 1173 (10th Cir. 2005) (fee waiver for group that "aims to place the information on the Internet"; "Congress intended the courts to liberally construe the fee waiver" provisions).

newspapers or magazines, (c) CEI's web sites and blogs which receive approximately 80,000 monthly visitors (approximately 40,000 unique) and are published on most days,¹⁷ (d) in-house publications for public dissemination, (e) other electronic journals including daily blogs and newspaper blogs to which our professionals contribute,¹⁸ (f) radio programs, (g) to the extent that Congress or state regulators or legislators engaged in relevant oversight find that which is received noteworthy, it will become part of the legislative or administrative record. CEI is regularly cited in newspapers,¹⁹ law reviews,²⁰ and scholarly publications.²¹

¹⁷ See, e.g., OpenMarket, cei.org/blog (one of several blogs operated by CEI providing daily coverage of legal and regulatory issues); www.globalwarming.org (another CEI blog).

¹⁸ See, e.g., <http://www.examiner.com/scotus-in-washington-dc/hans-bader> (over 1000 commentaries posted by CEI's Hans Bader at Examiner.com).

¹⁹ See, e.g., *Study Hits Holder's School-Prison Pipeline Charge*, Editorial, Investor's Business Daily, May 30, 2014 (<http://news.investors.com/ibd-editorials/052914-702630-new-study-casts-doubt-on-holders-school-prison-pipeline.htm>) (quoting CEI's Bader); Ramesh Ponnuru, *Holder v. Roberts*, National Review, May 20, 2014 (<http://www.nationalreview.com/corner/378385/holder-vs-roberts-ramesh-ponnuru>) (same); Anne Farris Rosen, *School Discipline: Should zero-tolerance policies be revised?*, CQ Researcher, May 9, 2014 (<http://photo.pds.org:5012/cqresearcher/document.php?id=cqresrre2014050905>)(same); Heather Mac Donald, *The Obama Administration's Deserving Victims*, National Review, May 8, 2014 (same) (www.nationalreview.com/article/377492/obama-administrations-deserving-victims-heather-mac-donald); Greg Victor, *Subsidizing Madness*, Pittsburgh Post-Gazette, March 27, 2011, at E4 (same); Mona Charen, Creators Syndicate, *You Might Suppose That President Obama Has His Hands . . .*, Bismarck Tribune, June 10, 2009, at A8 (quoting CEI's OpenMarket blog); Hal Davis, *Earth's Temperature Is Rising and So Is Debate About It*, Dayton Daily News, April 22, 2006, at A6 (citing CEI's GlobalWarming.Org); Washington Examiner, August 14, 2008, pg. 24, *Think-Tanking* (quoting CEI's OpenMarket); Mark Landsbaum, *Blogwatch: Biofuel Follies*, Orange County Register, Nov. 13, 2007 (citing OpenMarket); Pittsburgh Tribune-Review, *Best of the Blogs*, Oct. 7, 2007 (citing CEI's OpenMarket).

²⁰ See, e.g., Carrie Lynn Flores, *Translation Services Not Required: The Civil Rights Act of 1964 Does Not Require Special Accommodations for Limited English Proficiency Individuals*, 15 Harvard Latino Law Review 193, 198 fn. 24 (2011) (citing Hans Bader of CEI); Carter T. Coker, *Hope-Fulfilling or Effectively Chilling? Reconciling the Hate Crimes Prevention Act With the First Amendment*, 64 Vanderbilt Law Review 271, 283 fn. 73, 289 fn.103 & 106, 209 fn. 106 (2011) (same); Robert Hardaway, *The Great American Housing Bubble*, 35 University of Dayton Law Review 33, 34 (2009) (same).

²¹ See, e.g., Bruce Yandle, *Bootleggers, Baptists, and the Global Warming Battle*, 26 Harvard Environmental Law Review 177, 221 & fn. 272 (citing CEI's GlobalWarming.Org); Deepa Badrinarayana, *The Emerging Constitutional Challenge of Climate Change: India in Perspective*, 19 Forham Environmental Law Review 1, 22 & fn. 119 (2009) (same); Kim Diana Connolly, *Bridging the Divide: Examining the Role of the Public Trust in Protecting Coastal and Wetland Resources*, 15 Southeastern Environmental Law Journal 1, 15 & fn. 127 (2006) (same); David Vanderzwaag, et al., *The Arctic Environmental Protection Strategy, Arctic Council, and Multilateral Environmental Initiatives*, 30 Denver Journal of International Law and Policy 131, 141 & fn. 79 (2002) (same); Bradley K. Krehely, *Government-Sponsored Enterprise: A Discussion of the Federal Subsidy of Fannie Mae and Freddie Mac*, 6 North Carolina Banking Institute 519, 527 (2002) (quoting CEI).

As provided by FOIA, I look forward to hearing from you within twenty (20) days.²² If you deny this request, please provide a written explanation for the denial including a reference to the specific statutory exemption on which you are relying, and provide the name and address of the person or body to whom an appeal should be directed. Also, please provide all segregable or non-exempt portions of otherwise exempt material.

Sincerely,

Hans Bader

Hans Bader
Senior Attorney, Competitive Enterprise Institute
1899 L Street, NW, 12th Floor, Washington, D.C. 20036
(202) 331-2278
hbader@cei.org

²² See 5 U.S.C. § 552(a)(6)(A)(i); 32 C.F.R. § 2402.5.

EXHIBIT F
TO DECLARATION OF
RACHAEL LEONARD

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF SCIENCE AND TECHNOLOGY POLICY
WASHINGTON, D.C. 20502

July 9, 2014

Mr. Hans Bader
Competitive Enterprise Institute
1899 L Street, NW, 12th floor
Washington, DC 20036

Re: OSTP FOIA No. 14-66

Dear Mr. Horner:

On June 16, 2014, you sent the Office of Science and Technology Policy (OSTP) a request under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, seeking:

- (a) All documents referencing or discussing whether the above-quoted claim by Director Holdren is, or should be regarded as, the position or view of OSTP, or whether it is, or should be regarded as, the personal opinion of Director Holdren.
- (b) All documents related to the production of the video. That includes documents related to its cost of production, what agency resources were used in producing it, the amount of staff time that was spent producing it, and whose time was spent producing it.
- (c) All documents referencing or discussing whether the above-quoted claim by Ms. Fried is, or should be regarded as, the position or view of OSTP, or whether it is, or should be regarded as, the personal opinion of Ms. Fried.

OSTP received your request on June 16, 2014, and assigned it OSTP FOIA No. 14-66. OSTP conducted a search of its records and located 11 pages responsive to your request. OSTP has enclosed 11 pages. OSTP has withheld portions of the enclosed pages under 5 U.S.C. §§ 552(b)(5) and (b)(6).

If you consider this to be an inappropriate denial of your request, you may appeal in writing within 30 days of receipt of this letter to General Counsel Rachael Leonard at ostpfoia@ostp.eop.gov or via fax at (202) 395-1224. The email should be clearly marked "Freedom of Information Act Appeal."

Sincerely,



Jennifer Lee

From: Wagner-Oveson, Lindsey on behalf of Holdren, John P.
To: Weiss, Rick; Fried, Becky
Subject: Tape polar vortex video

From: Kelley, TK (Contractor)
To: Wagner-Oveson, Lindsey; Lubin, Nathaniel
Cc: Fried, Becky; Weiss, Rick; Holst, Lindsay; Garber, Adam
Subject: Re: polar vortex
Date: Tuesday, January 07, 2014 11:09:18 AM

Great see you at 2pm!

From: <Wagner-Oveson>, Lindsey <(b)(6)>
Date: Tuesday, January 7, 2014 11:02 AM
To: TK <(b)(6)> "Lubin, Nathaniel"
<(b)(6)>
Cc: "Fried, Becky" <(b)(6)> "Weiss, Rick"
<(b)(6)> "Holst, Lindsay" <(b)(6)>
Subject: RE: polar vortex

Works for me.

From: Kelley, TK (Contractor)
Sent: Tuesday, January 07, 2014 10:59 AM
To: Wagner-Oveson, Lindsey; Lubin, Nathaniel
Cc: Fried, Becky; Weiss, Rick; Holst, Lindsay
Subject: Re: polar vortex

Let's do this in the studio. Room (b)(6). Work for you all?

From: <Wagner-Oveson>, Lindsey <(b)(6)>
Date: Tuesday, January 7, 2014 10:44 AM
To: "Lubin, Nathaniel" <(b)(6)>
Cc: "Fried, Becky" <(b)(6)> "Weiss, Rick"
<(b)(6)> "Holst, Lindsay" <(b)(6)> TK
<(b)(6)>
Subject: RE: polar vortex

Great. Let me know if you have a location preference.

From: Lubin, Nathaniel
Sent: Tuesday, January 07, 2014 10:42 AM
To: Wagner-Oveson, Lindsey
Cc: Fried, Becky; Weiss, Rick; Holst, Lindsay; Kelley, TK (Contractor)
Subject: RE: polar vortex

Great, thank you, adding TK and Lindsay from our side here. 2pm works for me, let's aim for that.

Looking forward!

From: Wagner-Oveson, Lindsey
Sent: Tuesday, January 07, 2014 10:38 AM
To: Lubin, Nathaniel
Cc: Fried, Becky; Weiss, Rick

Subject: FW: polar vortex

Nate—

Becca & Phil passed along your message.

Dr. Holdren is happy to do the video. Between 2-3:30pm in the EEOB is good for him.

OSTP comms team copied here.

Thanks,
Lindsey

Lindsey Wagner-Oveson
Office of Science and Technology Policy
Executive Office of the President
Phone: (b)(6)
Email: (b)(6)

From: Grimm, Rebecca
Sent: Tuesday, January 07, 2014 10:18 AM
To: Wagner-Oveson, Lindsey
Subject: FW: polar vortex

From: Lubin, Nathaniel
Sent: Tuesday, January 07, 2014 10:16 AM
To: Holdren, John P.
Cc: Kelley, TK (Contractor); Grimm, Rebecca; Larson, Phil
Subject: polar vortex

Hi John,

I was talking with a few people this morning, and was thinking that it would be great to record a very short video (less than a minute) of you describing what the polar vortex is and why it is a symptom of climate change - (b)(5) We would promote it via our digital channels, and shop it around a little bit to see if it gets some pickup. It's obviously timely today – would you have five minutes to record this? We could do it at your desk or in an EEOB hall to add a little texture.

Thanks,
Nate

From: Kelley, TK (Contractor)
To: Fried, Becky; Larson, Phil
Subject: Re: Climate Change and Polar Vortex B-Roll
Date: Tuesday, January 07, 2014 4:26:41 PM

Thanks! I will reach out. Ignore my last email that I sent as this was apparently coming in.

From: <Fried>, Becky <(b)(6)>
Date: Tuesday, January 7, 2014 4:23 PM
To: "Larson, Phil" <(b)(6)> TK
<(b)(6)>
Subject: RE: Climate Change and Polar Vortex B-Roll

Dan Pisut at NOAA's visualization lab might have some great stuff. (b)(6)

Might want to copy NOAA's press person on climate – John Ewald just to ensure Dan sees it.
(b)(6)

Tx!

Becky Fried

Senior Communications Advisor and Web Editor
The White House | Office of Science & Technology Policy

O: (b)(6)
M: (b)(6)
E: (b)(6)

From: Larson, Phil
Sent: Tuesday, January 07, 2014 3:55 PM
To: Kelley, TK (Contractor)
Cc: Fried, Becky
Subject: RE: Climate Change and Polar Vortex B-Roll

+Becky who has good climate change comms/video connections!

From: Kelley, TK (Contractor)
Sent: Tuesday, January 07, 2014 3:49 PM
To: Larson, Phil
Subject: Climate Change and Polar Vortex B-Roll

Do you have any connections at other agencies you could set me up with?

From: [Wagner-Oveson, Lindsey](#)
To: [Larson, Phil](#)
Subject: I found a graphic...
Date: Wednesday, January 08, 2014 8:43:11 AM

To display in JPH's polar vortex video.
Twirl on by to see.

Lindsey Wagner-Oveson
Executive Assistant to the Director
Office of Science and Technology Policy
Executive Office of the President
Phone: (b)(6)
Email: (b)(6)

From: [Larson, Phil](#)
To: [Fried, Becky](#)
Cc: [Weiss, Rick](#)
Subject: RE: Holdren on the vortex
Date: Wednesday, January 08, 2014 9:40:43 AM

I actually was happy to see a satellite in there (not the one that flies out of his beard though!)

And bet Peter Colohan and other earth science people would like it. Kind of shows where we get all this data from

From: Fried, Becky
Sent: Wednesday, January 08, 2014 9:39 AM
To: Larson, Phil
Cc: Weiss, Rick
Subject: RE: Holdren on the vortex

Your thoughts on the floating the satellite images? I think they are a little wacky...?

Becky Fried

Senior Communications Advisor and Web Editor
The White House | Office of Science & Technology Policy

O: (b)(6)
M: (b)(6)
E: (b)(6)

From: Larson, Phil
Sent: Wednesday, January 08, 2014 9:37 AM
To: Fried, Becky
Cc: Weiss, Rick
Subject: RE: Holdren on the vortex

Oh that's perfect then! Let me know if you want to chat before we send.

From: Fried, Becky
Sent: Wednesday, January 08, 2014 9:36 AM
To: Larson, Phil
Cc: Weiss, Rick
Subject: RE: Holdren on the vortex

(b)(5)

(b)(5)

RW – want to talk this thru in a few?

Becky Fried

Senior Communications Advisor and Web Editor
The White House | Office of Science & Technology Policy

O: (b)(6)
M: (b)(6)
E: (b)(6)

From: Larson, Phil
Sent: Wednesday, January 08, 2014 9:34 AM
To: Fried, Becky
Subject: RE: Holdren on the vortex

(b)(5)

From: Fried, Becky
Sent: Wednesday, January 08, 2014 9:32 AM
To: Lubin, Nathaniel; Weiss, Rick; Larson, Phil; Lehrich, Matt
Cc: Kelley, TK (Contractor); Garber, Adam; Holst, Lindsay; Schulman, Kori
Subject: RE: Holdren on the vortex

(b)(5) (and yes this is epic).

Becky Fried

Senior Communications Advisor and Web Editor
The White House | Office of Science & Technology Policy

O: (b)(6)
M: (b)(6)
E: (b)(6)

From: Lubin, Nathaniel
Sent: Wednesday, January 08, 2014 9:32 AM
To: Fried, Becky; Weiss, Rick; Larson, Phil; Lehrich, Matt
Cc: Kelley, TK (Contractor); Garber, Adam; Holst, Lindsay; Schulman, Kori
Subject: RE: Holdren on the vortex

Please let us know if there are any flags, we're planning to send around to a bigger list of folks this morning. Thanks!

From: Lubin, Nathaniel
Sent: Tuesday, January 07, 2014 9:17 PM
To: Fried, Becky; Weiss, Rick; Larson, Phil; Lehrich, Matt
Cc: Kelley, TK (Contractor); Garber, Adam; Holst, Lindsay; Schulman, Kori
Subject: Holdren on the vortex

So... below is the link to the (quite epic) video with the green screen version of Dr. Holdren's recording today. Still some tweaks going on here – but take a look...

[https://vimeo.com/\(b\)\(5\)](https://vimeo.com/(b)(5))

pass: (b)(5)

From: Worley, Lauren
To: Larson, Phil
Subject: Fw: Polar vortex b-roll?
Date: Wednesday, January 08, 2014 9:51:52 AM

(b)(5)

Lb

From: Gutro, Robert J. {Rob} (GSFC-1300)
Sent: Wednesday, January 08, 2014 08:47 AM
To: WORLEY, LAUREN B. (HQ-NA000); Buis, Alan D (JPL-1871)[Jet Propulsion Laboratory]; Cole, Stephen E (HQ-NG000)
Cc: Patzert, William C (JPL-3244)[Jet Propulsion Laboratory]
Subject: RE: Polar vortex b-roll?

Hi all-

(b)(5)

Please contact John Leslie in NOAA Public Affairs at

(b)(6)

Tel. (b)(6)

Thanks,
Rob

Rob Gutro

Deputy News Chief

Office of Communications/ Mail Code 130

NASA Goddard Space Flight Center, Greenbelt, Md.

(b)(6)

Tel. (b)(6)

Cell: (b)(6)

Fax

(b)(6)

NASA Goddard: www.nasa.gov/goddard

NASA's Hurricane Page: www.nasa.gov/hurricane & NASA's Fire Page:

www.nasa.gov/fires

MAIN NEWSROOM NUMBER: (b)(6)

From: WORLEY, LAUREN B. (HQ-NA000)
Sent: Wednesday, January 08, 2014 8:25 AM
To: Buis, Alan D (JPL-1871)[Jet Propulsion Laboratory]; Cole, Stephen E (HQ-NG000)
Cc: Gutro, Robert J. {Rob} (GSFC-1300); Patzert, William C (JPL-3244)[Jet Propulsion Laboratory]
Subject: RE: Polar vortex b-roll?

Great -thanks!

Lauren B. Worley
Press Secretary
Office of Communications
NASA Headquarters
office: (b)(6)
mobile: (b)(6)
(b)(6)

information by unintended recipients is not authorized and may be unlawful. This document is archived as public record.

From: Buis, Alan D (1871) [mailto: (b)(6)]
Sent: Tuesday, January 07, 2014 10:11 PM
To: WORLEY, LAUREN B. (HQ-NA000); Cole, Stephen E (HQ-NG000)
Cc: Gutro, Robert J. {Rob} (GSFC-1300); Patzert, William C (JPL-3244)[Jet Propulsion Laboratory]
Subject: RE: Polar vortex b-roll?

Checking here with multiple peeps.

Alan

From: WORLEY, LAUREN B. (HQ-NA000) [mailto: (b)(6)]
Sent: Tuesday, January 07, 2014 4:30 PM
To: Cole, Stephen E (HQ-NG000)
Cc: Gutro, Robert J. {Rob} (GSFC-1300); Buis, Alan D (1871)
Subject: RE: Polar vortex b-roll?

Hey guys!

OSTP is having this "We the Geeks" google+ hangout on Friday all about Polar Vortex. They taped a message from Dr. Holdren to play during the event, and they want to plug in some "polar vortex b-roll" into the background (they shot on a green screen.)

Do we have any animation, etc that might fit the bill?

Lauren

Lauren B. Worley
Press Secretary
Office of Communications
NASA Headquarters
office: (b)(6)
mobile: (b)(6)
(b)(6)

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From: Cole, Stephen E (HQ-NG000)
Sent: Tuesday, January 07, 2014 5:46 PM
To: WORLEY, LAUREN B. (HQ-NA000)
Cc: Gutro, Robert J. {Rob} (GSFC-1300); Buis, Alan D (JPL-1871)[Jet Propulsion Laboratory]
Subject: Re: Polar vortex b-roll?

Probably not b-roll, but some images. Connecting you with the guys with the good stuff.

Steve

From: WORLEY, LAUREN B. (HQ-NA000)

Sent: Tuesday, January 07, 2014 04:26 PM
To: Cole, Stephen E (HQ-NG000)
Subject: Polar vortex b-roll?

Can you help us get a hold of some b-roll OSTP can use to insert into the video they taped with Holdren for We The Geeks?

lb

Lauren B. Worley
Press Secretary
Office of Communications
NASA Headquarters

office: (b)(6)

mobile: (b)(6)

(b)(6)

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EXHIBIT G
TO DECLARATION OF
RACHAEL LEONARD



August 4, 2014

Rachael Leonard
General Counsel
Office of Science & Technology Policy
Fax (202) 395-1224
By E-mail: ostpfoia@ostp.gov

Re: Freedom of Information Appeal

Dear Ms. Leonard:

I am appealing the Forest Service's insufficient search for, and production of, documents in response to a FOIA request for certain documents related to a video that was posted on the White House web site on or around January 8, 2014, entitled *The Polar Vortex Explained in 2 Minutes*.¹

That request sought, among other things, "documents related to its cost of production." But no such documents, like invoices or bills or time records, were provided in OSTP's response. OSTP's July 9 response did include communications with a contractor and staff regarding production of the video, but nothing regarding the cost of that contractor's work related to the video, or any other documentation of agency resources expended on the video. (For example, on the second and fourth pages of the documents enclosed with Jennifer Lee's July 9 letter to me are emails cc'd to "contractor" T.K. Kelly regarding the video. *See, e.g.*, email from "Fried, Becky" to various recipients, "Cc: Kelly, TK (Contractor)." But no related invoices or bills are included.)

Our request also sought "All documents referencing or discussing whether the above-quoted claim by Ms. Fried is, or should be regarded as, the position or view of OSTP, or whether it is, or should be regarded as, the personal opinion of Ms. Fried."

¹ This video was posted at <http://www.whitehouse.gov/photos-and-video/video/2014/01/08/polar-vortex-explained-2-minutes> and <http://www.whitehouse.gov/share/polar-vortex-explained-in-two-minutes>. *See also* the OSTP blog post, *We the Geeks: "Polar Vortex" and Extreme Weather*, Posted by Becky Fried on January 8, 2014 at 5:37 PM EDT, available at <http://www.whitehouse.gov/blog/2014/01/08/we-geeks-polar-vortex-and-extreme-weather>. The second video from the top, bearing the legend "THE CONTINENTAL UNITED STATES, JANUARY 7, 2014," contained Holdren's remarks. The first video, which was above it, contained comments touting Holdren's "two minute video" as "explaining the polar vortex" and discussing its link to "changing climates."

No documents explicitly addressing that issue were produced, even though they plainly exist. OSTP explicitly addressed this issue in its rejection of CEI's request for correction of the video under the Information Quality Act, stating in its June 6 letter to CEI that the video was exempt from the Act based on OSTP guidance exempting "subjective opinions" from the reach of the Information Quality Act."² OSTP's letter denying our request asserted that these claims were merely Dr. Holdren's "personal opinion" and the "opinion" of "Ms. Becky Fried," respectively:

"OSTP's 2002 guidelines . . . state that opinions . . . are expressly excluded from the legal definition of 'information,' and are not subject to OSTP's Information Quality Act guidelines. Accordingly, the Information Quality Act does not apply to the opinions stated by Dr. Holdren and Ms. Fried in the polar vortex video and blog post, respectively. Accordingly, OSTP denies your request for information correction under the Information Quality Act."³

This letter obviously exists. Similarly, OSTP's internal communications relating to it, and the positions taken in this letter by OSTP, are responsive to our FOIA request, and thus need to be produced (or identified, if the agency seeks to withhold them as privileged and there is a valid basis for withholding them. An "agency must itemize" and describe any "documents . . . claimed to be exempt from disclosure."⁴)

This insufficient search and production does not satisfy my request.⁵ It is evident that responsive documents have been overlooked and not produced.⁶ If responsive documents exist in non-official email accounts, they should be searched as well.⁷

² See Letter dated June 6, 2014 from Tamara Dickinson, Principal Assistant Director for Environment and Energy at OSTP, to Hans Bader, Competitive Enterprise Institute, at pg. 2, footnote 4 ("statements [that] are subjective opinions" are not covered by OSTP's information quality guidelines).

³ See Letter dated June 6, 2014 from Tamara Dickinson, Principal Assistant Director for Environment and Energy at OSTP, to Hans Bader, CEI, at pg. 2.

⁴ See *Parker v. Department of Justice*, 934 F.2d 375, 377 n.1 (D.C. Cir. 1991); *Founding Church of Scientology v. Bell*, 603 F.2d 945, 947 (D.C. Cir. 1979) ("an agency's response to a FOIA request must include an index of all material withheld in whole or in part.").

The agency "must adequately describe each withheld document," *Parker v. Department of Justice*, 934 F.2d 375, 377 n.1 (D.C. Cir. 1991), "including who wrote the document, to whom it was addressed, and its date." (*Office of Capital Collateral Counsel v. Department of Justice*, 331 F.3d 799, 801 n.1 (11th Cir. 2003), citing *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973). That includes the "subject line" of any withheld email. See, e.g., *Southern Alliance for Clean Energy v. U.S. Dept. of Energy*, 853 F.Supp.2d 60, 78 (D.D.C. 2012).

⁵ See also *Yonemoto v. Department of Veterans Affairs*, 686 F.3d 681, 689 (9th Cir. 2012) (court observes that a Freedom of Information Act lawsuit against agency should not be dismissed if additional emails could be uncovered through a more thorough search; dismissal is inappropriate where "the agency produces what it maintains is all the responsive documents, but the plaintiff challenges 'whether the [agency's] search for records was adequate,'" quoting *Nw. Univ. v. Dep't of Agric.*, 403 F.Supp.2d 83, 85–86 (D.D.C. 2005)).

⁶ The agency bears the "burden of showing that its search was adequate," rather than the requestor having to prove that it was inadequate. *Carney v. U.S. Dep't of Justice*, 19 F.3d 807, 812 (2^d Cir. 1994) (citing 5 U.S.C. § 552(a)(4)(B)).

It is axiomatic that a requester can “appeal because the agency failed to conduct an adequate search for the documents that were requested,” just as it can appeal a “response indicating that no requested records were located.”⁸

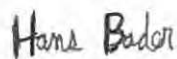
(Note also that the documents enclosed in OSTP’s response to my FOIA request show the involvement of federal employees, a contractor, and OSTP staff in arranging the video, undercutting claims that the video was simply the “personal opinion” of Dr. Holdren. This fact provides further support for the June 19, 2014 Information Correction Appeal filed by the Competitive Enterprise Institute regarding the video.⁹)

A copy of OSTP’s July 9 letter responding to my FOIA request is attached beneath this letter, along with the documents enclosed with that letter.

Further beneath is a letter dated June 6, 2014 from Tamara Dickinson, Principal Assistant Director for Environment and Energy at OSTP, to me, which I have also cited in this appeal. (That letter denied our Information Quality Act request for correction regarding the video about the polar vortex and global warming).

Thank you for taking the time to review this.

Sincerely,



Hans Bader
Senior Attorney
Competitive Enterprise Institute
1899 L Street, NW, 12th Floor
Washington, D.C. 20036
(202) 331-2278
hbader@cei.org

⁷ See, e.g., *Landmark Legal Foundation v. E.P.A.*, 2013 WL 4083285, *6 (D.D.C. Aug. 14, 2013) (rejecting agency’s attempt to dismiss FOIA lawsuit against it, and finding inadequate search, where “EPA did not search the personal email accounts of the Administrator, the Deputy Administrator, or the Chief of Staff”); *Valencia-Lucena v. U.S. Coast Guard*, 180 F.3d 321, 327-28 (D.C.Cir.1999) (agency should have searched records located off of its premises in Atlanta at a non-agency site); *Burka v. HHS*, 87 F.3d 508, 515 (D.C. Cir. 1996).

⁸ See House Committee on Government Reform, House Report 109-226, *A Citizen’s Guide to Using the Freedom of Information Act and the Privacy Act of 1974 to Request Government Records*, at pg. 20 (Sept. 20, 2005) (available at <http://www.gpo.gov/fdsys/pkg/CRPT-109hrpt226/html/CRPT-109hrpt226.htm>).

⁹ See *Information Correction Appeal: Request for Correction Regarding the Polar Vortex and Global Warming*, dated June 19, 2014, from Hans Bader & Sam Kazman, Competitive Enterprise Institute, to Rachael Leonard, General Counsel, OSTP.

EXHIBIT

1

OSTP July 9 letter

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF SCIENCE AND TECHNOLOGY POLICY
WASHINGTON, D.C. 20502

July 9, 2014

Mr. Hans Bader
Competitive Enterprise Institute
1899 L Street, NW, 12th floor
Washington, DC 20036

Re: OSTP FOIA No. 14-66

Dear Mr. Horner:

On June 16, 2014, you sent the Office of Science and Technology Policy (OSTP) a request under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, seeking:

- (a) All documents referencing or discussing whether the above-quoted claim by Director Holdren is, or should be regarded as, the position or view of OSTP, or whether it is, or should be regarded as, the personal opinion of Director Holdren.
- (b) All documents related to the production of the video. That includes documents related to its cost of production, what agency resources were used in producing it, the amount of staff time that was spent producing it, and whose time was spent producing it.
- (c) All documents referencing or discussing whether the above-quoted claim by Ms. Fried is, or should be regarded as, the position or view of OSTP, or whether it is, or should be regarded as, the personal opinion of Ms. Fried.

OSTP received your request on June 16, 2014, and assigned it OSTP FOIA No. 14-66. OSTP conducted a search of its records and located 11 pages responsive to your request. OSTP has enclosed 11 pages. OSTP has withheld portions of the enclosed pages under 5 U.S.C. §§ 552(b)(5) and (b)(6).

If you consider this to be an inappropriate denial of your request, you may appeal in writing within 30 days of receipt of this letter to General Counsel Rachael Leonard at ostpfoia@ostp.eop.gov or via fax at (202) 395-1224. The email should be clearly marked "Freedom of Information Act Appeal."

Sincerely,



Jennifer Lee

From: [Wagner-Oveson, Lindsey](#) on behalf of [Holdren, John P.](#)
To: [Weiss, Rick](#); [Fried, Becky](#)
Subject: Tape polar vortex video

Subject: FW: polar vortex

Nate—

Becca & Phil passed along your message.

Dr. Holdren is happy to do the video. Between 2-3:30pm in the EEOB is good for him.

OSTP comms team copied here.

Thanks,

Lindsey

Lindsey Wagner-Oveson
Office of Science and Technology Policy
Executive Office of the President
Phone: (b)(6)
Email: (b)(6)

From: Grimm, Rebecca
Sent: Tuesday, January 07, 2014 10:18 AM
To: Wagner-Oveson, Lindsey
Subject: FW: polar vortex

From: Lubin, Nathaniel
Sent: Tuesday, January 07, 2014 10:16 AM
To: Holdren, John P.
Cc: Kelley, TK (Contractor); Grimm, Rebecca; Larson, Phil
Subject: polar vortex

Hi John,

I was talking with a few people this morning, and was thinking that it would be great to record a very short video (less than a minute) of you describing what the polar vortex is and why it is a symptom of climate change - (b)(5) We would promote it via our digital channels, and shop it around a little bit to see if it gets some pickup. It's obviously timely today – would you have five minutes to record this? We could do it at your desk or in an EEOB hall to add a little texture.

Thanks,
Nate

From: [Wagner-Oveson, Lindsey](#)
To: [Larson, Phil](#)
Subject: I found a graphic...
Date: Wednesday, January 08, 2014 8:43:11 AM

To display in JPH's polar vortex video.
Twirl on by to see.

Lindsey Wagner-Oveson
Executive Assistant to the Director
Office of Science and Technology Policy
Executive Office of the President
Phone: (b)(6)
Email: (b)(6)

Becky Fried

Senior Communications Advisor and Web Editor
The White House | Office of Science & Technology Policy

O: (b)(6)
M: (b)(6)
E: (b)(6)

From: Larson, Phil
Sent: Wednesday, January 08, 2014 9:34 AM
To: Fried, Becky
Subject: RE: Holdren on the vortex

(b)(5)

From: Fried, Becky
Sent: Wednesday, January 08, 2014 9:32 AM
To: Lubin, Nathaniel; Weiss, Rick; Larson, Phil; Lehigh, Matt
Cc: Kelley, TK (Contractor); Garber, Adam; Holst, Lindsay; Schulman, Kori
Subject: RE: Holdren on the vortex

(b)(5) (and yes this is epic).

Becky Fried

Senior Communications Advisor and Web Editor
The White House | Office of Science & Technology Policy

O: (b)(6)
M: (b)(6)
E: (b)(6)

From: Lubin, Nathaniel
Sent: Wednesday, January 08, 2014 9:32 AM
To: Fried, Becky; Weiss, Rick; Larson, Phil; Lehigh, Matt
Cc: Kelley, TK (Contractor); Garber, Adam; Holst, Lindsay; Schulman, Kori
Subject: RE: Holdren on the vortex

Please let us know if there are any flags, we're planning to send around to a bigger list of folks this morning. Thanks!

From: Lubin, Nathaniel
Sent: Tuesday, January 07, 2014 9:17 PM
To: Fried, Becky; Weiss, Rick; Larson, Phil; Lehigh, Matt
Cc: Kelley, TK (Contractor); Garber, Adam; Holst, Lindsay; Schulman, Kori
Subject: Holdren on the vortex

From: Worley, Lauren
To: Larson, Phil
Subject: Fw: Polar vortex b-roll?
Date: Wednesday, January 08, 2014 9:51:52 AM

(b)(5)

Lb

From: Gutro, Robert J. {Rob} (GSFC-1300)
Sent: Wednesday, January 08, 2014 08:47 AM
To: WORLEY, LAUREN B. (HQ-NA000); Buis, Alan D (JPL-1871)[Jet Propulsion Laboratory]; Cole, Stephen E (HQ-NG000)
Cc: Patzert, William C (JPL-3244)[Jet Propulsion Laboratory]
Subject: RE: Polar vortex b-roll?

Hi all- (b)(5)

Please contact John Leslie in NOAA Public Affairs at (b)(6)

Tel. (b)(6)

Thanks,
Rob

Rob Gutro
Deputy News Chief
Office of Communications/ Mail Code 130
NASA Goddard Space Flight Center, Greenbelt, Md.
(b)(6) Tel. (b)(6) Cell: (b)(6) Fax (b)(6)
NASA Goddard: www.nasa.gov/goddard
NASA's Hurricane Page: www.nasa.gov/hurricane & NASA's Fire Page:
www.nasa.gov/fires
MAIN NEWSROOM NUMBER: (b)(6)

From: WORLEY, LAUREN B. (HQ-NA000)
Sent: Wednesday, January 08, 2014 8:25 AM
To: Buis, Alan D (JPL-1871)[Jet Propulsion Laboratory]; Cole, Stephen E (HQ-NG000)
Cc: Gutro, Robert J. {Rob} (GSFC-1300); Patzert, William C (JPL-3244)[Jet Propulsion Laboratory]
Subject: RE: Polar vortex b-roll?

Great –thanks!

Lauren B. Worley
Press Secretary
Office of Communications
NASA Headquarters
office: (b)(6)
mobile: (b)(6)
(b)(6)

Sent: Tuesday, January 07, 2014 04:26 PM
To: Cole, Stephen E (HQ-NG000)
Subject: Polar vortex b-roll?

Can you help us get a hold of some b-roll OSTP can use to insert into the video they taped with Holdren for We The Geeks?

lb

Lauren B. Worley
Press Secretary
Office of Communications
NASA Headquarters
office: (b)(6)
mobile: (b)(6)
(b)(6)

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EXHIBIT

2

OSTP June 6 letter

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF SCIENCE AND TECHNOLOGY POLICY
WASHINGTON, D.C. 20502

June 6, 2014

Mr. Hans Bader
Senior Attorney
Competitive Enterprise Institute
1899 L Street, NW, 12th floor
Washington, DC 20036

Re: Information Quality Act Request for Correction Regarding the Polar Vortex and
Global Warming

Dear Mr. Bader:

Thank you for your Request for Correction regarding the polar vortex video¹ and certain statements on global warming that you have filed under the Office of Science and Technology Policy's (OSTP) Information Quality Guidelines.² OSTP received your request on April 14, 2014. Consistent with OSTP's Guidelines, we have posted your request on the OSTP website at <http://www.whitehouse.gov/administration/eop/ostp/library/compliance/infoquality>.

Your letter requests that OSTP:

1. "immediately comply with the Information Quality Act by taking down the video entitled 'The Polar Vortex Explained in 2 Minutes';
2. "remov[e] from any OSTP products or publications the claim that more cold weather is coming because of global warming, or that the extreme cold experienced by much of the United States this winter is a pattern that we can expect to see with increasing frequency as global warming continues"; and
3. "remove the claim by Becky Fried that 'we also know that this week's cold spell is of a type there's reason to believe may become more frequent in a world that's getting warmer, on average, because of greenhouse-gas pollution.'"³

Your letter articulates the following reason for your request: that "the evidence (including the conclusions of peer-reviewed scholarly articles) indicates that the kind of extreme cold experienced in the United States this past winter is not linked to global warming," and that "Director Holdren's claim of 'a growing body of evidence'[that the extreme cold being experienced by much of the United States is a pattern that we can expect to see with increasing

¹ The White House, "The Polar Vortex, Explained in Two Minutes," (January 8, 2014), <http://www.whitehouse.gov/share/polar-vortex-explained-two-minutes>.

² Office of Science and Technology Policy, Final Guidelines for Ensuring the Quality of Disseminated Information (October 1, 2002), <http://www.whitehouse.gov/sites/default/files/microsites/ostp/ostp-iqq.pdf>.

³ Becky Fried, Office of Science and Technology Policy, "We the Geeks: 'Polar Vortex' and Extreme Weather," (January 8, 2014), <http://www.whitehouse.gov/blog/2014/01/08/we-geeks-polar-vortex-and-extreme-weather>.

frequency as global warming continues] is contradicted by recent peer-reviewed studies.” This letter responds to your request and addresses the concerns articulated in your letter.

The transcript of Dr. Holdren’s remarks in the polar vortex video, provided in Appendix A, makes clear that the video was intended to, and does, inform the viewer that (a) no single extreme-weather event, hot or cold, either proves or disproves global climate change; (b) climate-change dynamics are complex; (c) there is a plausible mechanism, linked to behavior of the polar vortex, by which a world that is warming on the average could include an increase in prolonged winter cold spells in the Northern Hemisphere mid-latitudes; and (d) there is “a growing body of evidence” suggesting that this mechanism is indeed operating.

Dr. Holdren firmly stands by the integrity and accuracy of his statements in the polar vortex video. In the video, he made clear that “Computer models tell us that there are many different factors influencing these patterns and, as in all science, there will be continuing debate about exactly what is happening.” Robust debate and ongoing study are fundamental components of the scientific process, and do not restrict expression of current understanding and views. The polar vortex video did not claim to present a comprehensive review of the scientific literature in its two-minute run time. Nor was it a recitation of relevant scientific literature that failed to reference contradictory citations. Rather, it was an expression of Dr. Holdren’s personal opinion and expert judgment on the balance of the evidence. Dr. Holdren’s concluding statement in the video makes this clear: “I believe the odds are that we can expect, as a result of global warming, to see more of this pattern of extreme cold in the mid-latitudes and some extreme warm in the far north.” “I believe” is an expression of his expert judgment and personal opinion. Similarly, the blog post by Ms. Becky Fried expressed a viewpoint and opinion using language including “there’s reason to believe.”

You submitted your request for correction under the Information Quality Act. In 2002, OSTP issued Information Quality Guidelines to implement the Information Quality Act.⁴ OSTP’s 2002 Guidelines, which are based on the Office of Management and Budget’s Government-wide Information Quality Guidelines,⁵ state that opinions and policy positions are expressly excluded from the legal definition of “information,” and are not subject to OSTP’s Information Quality Act Guidelines. Accordingly, OSTP has determined that the Information Quality Act does not apply to the opinions stated by Dr. Holdren and Ms. Fried in the polar vortex video and blog post, respectively. On this legal basis, OSTP denies your request for information correction under the Information Quality Act.

⁴ “Information” is defined in OSTP’s Information Quality Act Guidelines as “any communication or representation of knowledge such as facts or data, in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual forms. This definition includes information that OSTP disseminates from its web page.” The OSTP guidelines further explain, “This definition does not include: a) Opinions or policy positions, where the presentation makes clear that the statements are subjective opinions or policy recommendations, rather than facts.” <http://www.whitehouse.gov/sites/default/files/microsites/ostp/ostp-iqg.pdf>.

⁵ Office of Management and Budget, Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies; Republication,” 67 Fed. Reg. 8452 (Feb. 22, 2002), <http://www.whitehouse.gov/sites/default/files/omb/assets/omb/fedreg/reproducible2.pdf>.

If you are dissatisfied with this response, you may submit an Information Correction Appeal in writing within 30 days of the date of this letter. You may submit an appeal to OSTP General Counsel Rachael Leonard by email to ostpinfo@ostp.gov or via FAX to (202) 395-1224. The appeal should be clearly marked "Information Correction Appeal." Additional information on how to submit an Information Correction Appeal is available on OSTP's website at <http://www.whitehouse.gov/administration/eop/ostp/library/compliance/infoquality>.

Sincerely,

A handwritten signature in black ink that reads "Tamara Dickinson". The signature is written in a cursive, flowing style.

Tamara Dickinson

Principal Assistant Director for
Environment and Energy

Appendix: Transcript of Polar Vortex Video

If you've been hearing that extreme cold spells, like the one that we are having in the United States now, disproves global warming, don't believe it. The fact is that no single weather episode can either prove or disprove global climate change.

Climate is the pattern of weather that we observe geographically and over the seasons, and it is described in terms of averages, variations, and probabilities.

But a growing body of evidence suggests that the extreme cold being experienced by much of the United States as we speak is a pattern that we can expect to see with increasing frequency as global warming continues, and the reason is this: in the warming world that we're experiencing, the far north, the Arctic, is warming roughly twice as rapidly as the mid-latitudes, such as the United States. That means that the temperature differences between the Arctic and the mid-latitudes is shrinking, and that temperature difference is what drives what is called the circumpolar vortex, which is the great counter-clockwise swirling mass of cold air that hovers over the Arctic.

As the temperature difference between the Arctic and the mid-latitudes declines, the polar vortex weakens, and it becomes "wavier." The "waviness" means that there can be increased, larger excursions of cold air southward (that is, into the mid-latitudes), and, in the other phase of the wave, increased excursions of relatively warmer mid-latitude air into the far north.

Computer models tell us that there are many different factors influencing these patterns, and, as in all science, there will be continuing debate about exactly what is happening. But, I believe the odds are that we can expect, as a result of global warming, to see more of this pattern of extreme cold in the mid-latitudes and some extreme warm in the far north.

EXHIBIT H
TO DECLARATION OF
RACHAEL LEONARD

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF SCIENCE AND TECHNOLOGY POLICY
WASHINGTON, D.C. 20502

September 5, 2014

Mr. Hans Bader
Senior Attorney
Competitive Enterprise Institute
1899 L Street, NW, 12th Floor
Washington, DC 20036

Re: OSTP FOIA No. 14-66 Appeal

Dear Mr. Bader:

On June 16, 2014, you sent the Office of Science and Technology Policy (OSTP) a request under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, seeking:

- a) All documents referencing or discussing whether the above-quoted claim by Director Holdren is, or should be regarded as, the position or view of OSTP, or whether it is, or should be regarded as, the personal opinion of Director Holdren.
- b) All documents related to the production of the video. That includes documents related to its cost of production, what agency resources were used in producing it, the amount of staff time that was spent producing it, and whose time was spent producing it.
- c) All documents referencing or discussing whether the above-quoted claim by Ms. Fried is, or should be regarded as, the position or view of OSTP, or whether it is, or should be regarded as, the personal opinion of Ms. Fried.

OSTP received your request on June 16, 2014, conducted a search of its records, and located 11 pages of documents responsive to your request. OSTP responded to your request on July 9, 2014, enclosing the 11 pages of responsive documents but withholding portions of those pages under 5 U.S.C. §§ 552(b)(5) and (b)(6).

On August 4, 2014, you timely appealed OSTP's July 9, 2014, response to your request. OSTP received your appeal on August 4, 2014. You appealed the adequacy of OSTP's search on the basis that the 11 pages you received did not include:

- Documents related to the cost of producing the video, such as invoices or bills or time records;
- A copy of OSTP's Principal Assistant Director for Environment and Energy's June 6, 2014, letter rejecting CEI's request for correction of the Polar Vortex video and blog post; and

- Internal communications referencing or discussing whether the statements made in the video were the personal opinions of Dr. Holdren and Ms. Fried.

I grant your appeal. I asked OSTP staff to conduct an additional search of OSTP records based on your original June 16, 2014 request, and OSTP staff conducted a search of their records. For your reference, OSTP does not have invoices or bills related to the contractor mentioned in the 11 pages previously produced to you; that contractor was not a contractor to OSTP. OSTP located the 11 pages sent to you on July 9, 2014, a copy of Principal Assistant Director for Environment and Energy's June 6, 2014, letter, a calendar meeting (attached hereto), and 47 additional pages of responsive material. These 47 pages have been withheld in full under 5 U.S.C. § 552(b)(5).

Exemption 5 of FOIA protects "inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency." Congress and the courts have recognized the need to shield agency deliberations from public disclosure. "The deliberative process privilege protects 'documents reflecting advisory opinions, recommendations and deliberations comprising part of a process by which governmental decisions and policies are formulated,'"

There are three policy purposes that serve as the basis for the deliberative process privilege: "(1) to encourage open, frank discussions on matters of policy between subordinates and superiors; (2) to protect against premature disclosure of proposed policies before they are actually adopted; and (3) to protect against public confusion that might result from disclosure of reasons and rationales that were not in fact ultimately the grounds for an agency's action." The Supreme Court explained, "[t]he deliberative process privilege rests on the obvious realization that officials will not communicate candidly among themselves if each remark is a potential item of discovery and front page news."

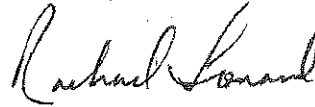
The 47 pages of additional documents are properly withheld under Exemption 5 as they are protected by the deliberative process privilege. Many of these documents bear the file name "Draft" and are marked with redline edits, track changes, comments and/or notations indicating that the documents are deliberative and predecisional. I conducted a careful review of each page withheld in full and determined that there was no reasonably segregable factual or non-deliberative information responsive to your request.

If you consider this to be an inappropriate denial of your appeal, you may seek judicial review by a Federal District Court in any of the following places: (1) where you reside, (2) where you have your principal place of business, (3) in the District of Columbia, or (4) where the records are located.

You may also wish to know that as part of the 2007 FOIA amendments, the Office of Government Information Services (OGIS) was created to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. You may contact OGIS in any of the following ways:

Office of Government Information Services
National Archives and Records Administration
Room 2510
8601 Adelphi Road
College Park, MD 20740-6001
E-mail: ogis@nara.gov
Telephone: 301-837-1996
Facsimile: 301-837-0348
Toll-free: 1-877-684-6448

Sincerely,

A handwritten signature in cursive script that reads "Rachael Leonard".

Rachael Leonard
General Counsel

Leonard, Rachael

Subject: Tape polar vortex video
Location: EEOB 459

Start: Tue 1/7/2014 2:00 PM
End: Tue 1/7/2014 2:10 PM
Show Time As: Tentative

Recurrence: (none)

Meeting Status: Not yet responded

Organizer: Holdren, John P.

Required Attendees: Weiss, Rick; Fried, Becky ([REDACTED])

**EXHIBIT I
TO DECLARATION OF
RACHAEL LEONARD**

Vaughn Index for CEI v. OSTP

ID: 1.01	Date: 1/7/2014	Time: 10:16am
From	Lubin, Nathaniel (WHO)	
To	Holdren, John (OSTP); CC: Kelley, Thomas (Contractor); Grimm, Rebecca (OSTP); Larson, Phil (OSTP)	
Subject	polar vortex	
Deliberative Process Declaration, Email (b)(5)	<ul style="list-style-type: none"> • The redacted portions are written by Nathaniel Lubin, Deputy Director of Digital Strategy, to John Holdren, the Director of the Office of Science and Technology Policy. The redacted portions of this communication between two senior Executive Branch officials are predecisional and deliberative because it discusses the content of communications concerning scientific issues between the OSTP Director and senior Administration officials during a prior staff meeting. • Release of the redacted portions of this email would chill discussion, consultation, and consideration among senior executive branch officials of tentative ideas that arise from informal, internal exchanges at staff meetings. Release of this information would also discourage officials from participating in full, frank, and open discussion at staff meetings. • A careful, line-by-line review was done to determine that there is no reasonably segregable, non-exempt information responsive to Plaintiff's request within the redacted portions. 	
ID: 2.01	Date: 1/8/2014	Time: 9:36am
From	Fried, Becky (OSTP)	
To	Larson, Phil (OSTP); CC: Rick Weiss (OSTP)	
Subject	RE: Holdren on the vortex	
Deliberative Process Declaration (b)(5)	<ul style="list-style-type: none"> • The redacted portions of this email are predecisional and deliberative because they contain one individual's thoughts, question, and impressions in response to a specific recommendation pertaining to the video "The Polar Vortex Explained in 2 Minutes" before that video was published on the White House website, including the individual's opinion on the application of the recommendation. The redacted portions are also deliberative because they solicit additional comments and suggestions on particular aspects of a work product in development. • Disclosure of this information would discourage officials from sharing their candid reactions and personal impressions regarding specific recommendations and proposals offered. • A careful, line-by-line review was done to determine that there is no reasonably segregable, non-exempt information responsive to Plaintiff's request within the redacted portions. 	
ID: 2.02	Date: 1/8/2014	Time: 9:34am
From	Larson, Phil (OSTP)	
To	Fried, Becky (OSTP)	

Subject	Re: Holdren on the vortex	
Deliberative Process Declaration (b)(5)	<ul style="list-style-type: none"> The redacted portions of this email are predecisional and deliberative because they contain tentative comments on proposed content pertaining to the video “The Polar Vortex Explained in 2 Minutes” before that video was published on the White House website, and suggest an additional issue for consideration. Disclosure of this information is likely to chill the open sharing of comments and suggestions essential to the internal review process by deterring officials from providing candid feedback and raising important considerations. A careful, line-by-line review was done to determine that there is no reasonably segregable, non-exempt information responsive to Plaintiff’s request within the redacted portions. 	
ID: 2.03	Date: 1/8/2014	Time: 9:32am
From	Fried, Becky (OSTP)	
To	Lubin, Nathaniel (WHO); Weiss, Rick (OSTP); Larson, Phil (OSTP); Lehrich, Matt (WHO); CC: Kelley, Thomas (Contractor); Garber, Adam (WHO); Holst, Lindsay (WHO); Schulman, Kori (WHO)	
Subject	Re: Holdren on the vortex	
Deliberative Process Declaration (b)(5)	<ul style="list-style-type: none"> The redacted portions of this email are predecisional and deliberative because they discuss the status and timing of internal review pertaining to the video “The Polar Vortex Explained in 2 Minutes” before that video was published on the White House website, and provide updates on how the agency tentatively plans to proceed with gathering additional information and recommendations from staff. Disclosure of this information could deter officials from sharing their perceptions of timing and progress of the internal review process and could discourage officials from sharing tentative plans for further action. A careful, line-by-line review was done to determine that there is no reasonably segregable, non-exempt information responsive to Plaintiff’s request within the redacted portions. 	
ID: 2.04	Date: 1/7/2014	Time: 9:17pm
From	John Holdren (OSTP)	
To	James Kohlenberger (OSTP)	
Subject	Holdren on the vortex	
Deliberative Process Declaration (b)(5)	<ul style="list-style-type: none"> The information withheld contains a privately hosted online video and the password to access the video. The video is both predecisional and deliberative, as it is a prior draft of the video “The Polar Vortex Explained in 2 Minutes,” that was ultimately published on the White House website, and OSTP sought and obtained comments and suggestions from its staff on the draft. Disclosure of such material would deter OSTP employees from participating candidly during the drafting process in the future, and thereby threaten the quality of OSTP’s decisions. The redacted portion of the website and the password remain live and redaction of this material is thus necessary to preserve the confidentiality of this deliberative material. A careful, line-by-line review was done to determine that there is no reasonably segregable, non-exempt information responsive to Plaintiff’s 	

	request within the redacted portions.
ID: 3.01	Date: 1/8/2014 Time: 9:51am
From	Worley, Lauren (NASA)
To	Larson, Phil (OSTP)
Subject	Fw: Polar vortex b-roll?
Deliberative Process Declaration (b)(5)	<ul style="list-style-type: none"> • The redacted portions of this email are predecisional and deliberative because they contain one individual's personal assessment of the interagency discussion process concerning polar vortex issues and suggest an alternative approach on how to proceed. • Disclosure of this information is likely to chill the full, frank, and open exchange of ideas and impressions that is essential to the interagency discussion process. Disclosure is also likely to discourage federal employees from sharing suggestions and alternative options with other components of the executive branch. • A careful, line-by-line review was done to determine that there is no reasonably segregable, non-exempt information responsive to Plaintiff's request within the redacted portions.
ID: 3.02	Date: 1/8/2014 Time: 8:47am
From	Gutro, Robert (NASA)
To	Worley, Lauren (NASA); Buis, Alan (NASA); Cole, Stephen (NASA); CC: Patzert, William (NASA)
Subject	RE: Polar vortex b-roll?
Deliberative Process Declaration (b)(5)	<ul style="list-style-type: none"> • The redacted portions of this email are predecisional and deliberative because they discuss the content of prior communications between NASA officials and another agency on how to address issues related to specific inquiries concerning the polar vortex, including which senior executive branch officials to contact for further discussion and information about the assistance such individuals could provide. • Disclosure of the withheld portions could deter agencies from openly sharing information about internal agency processes with other federal agencies and deter officials from suggesting helpful individuals to consult for their expertise. • A careful, line-by-line review was done to determine that there is no reasonably segregable, non-exempt information responsive to Plaintiff's request within the redacted portions.

From: [Wagner-Oveson, Lindsey](#) on behalf of [Holdren, John P.](#)
To: [Weiss, Rick](#); [Fried, Becky](#)
Subject: Tape polar vortex video

From: Kelley, TK (Contractor)
To: Wagner-Oveson, Lindsey; Lubin, Nathaniel
Cc: Fried, Becky; Weiss, Rick; Holst, Lindsay; Garber, Adam
Subject: Re: polar vortex
Date: Tuesday, January 07, 2014 11:09:18 AM

Great see you at 2pm!

From: <Wagner-Oveson>, Lindsey <(b)(6)>
Date: Tuesday, January 7, 2014 11:02 AM
To: TK <(b)(6)> "Lubin, Nathaniel"
<(b)(6)>
Cc: "Fried, Becky" <(b)(6)> "Weiss, Rick"
<(b)(6)> "Holst, Lindsay" <(b)(6)>
Subject: RE: polar vortex

Works for me.

From: Kelley, TK (Contractor)
Sent: Tuesday, January 07, 2014 10:59 AM
To: Wagner-Oveson, Lindsey; Lubin, Nathaniel
Cc: Fried, Becky; Weiss, Rick; Holst, Lindsay
Subject: Re: polar vortex

Let's do this in the studio. Room 459. Work for you all?

From: <Wagner-Oveson>, Lindsey <(b)(6)>
Date: Tuesday, January 7, 2014 10:44 AM
To: "Lubin, Nathaniel" <(b)(6)>
Cc: "Fried, Becky" <(b)(6)> "Weiss, Rick"
<(b)(6)> "Holst, Lindsay" <(b)(6)> TK
<(b)(6)>
Subject: RE: polar vortex

Great. Let me know if you have a location preference.

From: Lubin, Nathaniel
Sent: Tuesday, January 07, 2014 10:42 AM
To: Wagner-Oveson, Lindsey
Cc: Fried, Becky; Weiss, Rick; Holst, Lindsay; Kelley, TK (Contractor)
Subject: RE: polar vortex

Great, thank you, adding TK and Lindsay from our side here. 2pm works for me, let's aim for that.

Looking forward!

From: Wagner-Oveson, Lindsey
Sent: Tuesday, January 07, 2014 10:38 AM
To: Lubin, Nathaniel
Cc: Fried, Becky; Weiss, Rick

Subject: FW: polar vortex

Nate—

Becca & Phil passed along your message.

Dr. Holdren is happy to do the video. Between 2-3:30pm in the EEOB is good for him.

OSTP comms team copied here.

Thanks,
Lindsey

Lindsey Wagner-Oveson
Office of Science and Technology Policy
Executive Office of the President
Phone: (b)(6)
Email: (b)(6)

From: Grimm, Rebecca
Sent: Tuesday, January 07, 2014 10:18 AM
To: Wagner-Oveson, Lindsey
Subject: FW: polar vortex

ID: 1.01

From: Lubin, Nathaniel
Sent: Tuesday, January 07, 2014 10:16 AM
To: Holdren, John P.
Cc: Kelley, TK (Contractor); Grimm, Rebecca; Larson, Phil
Subject: polar vortex

Hi John,

I was talking with a few people this morning, and was thinking that it would be great to record a very short video (less than a minute) of you describing what the polar vortex is and why it is a symptom of climate change - (b)(5) We would promote it via our digital channels, and shop it around a little bit to see if it gets some pickup. It's obviously timely today – would you have five minutes to record this? We could do it at your desk or in an EEOB hall to add a little texture.

Thanks,
Nate

From: [Kelley, TK \(Contractor\)](#)
To: [Fried, Becky](#); [Larson, Phil](#)
Subject: Re: Climate Change and Polar Vortex B-Roll
Date: Tuesday, January 07, 2014 4:26:41 PM

Thanks! I will reach out. Ignore my last email that I sent as this was apparently coming in.

From: <Fried>, Becky <(b)(6)>
Date: Tuesday, January 7, 2014 4:23 PM
To: "Larson, Phil" <(b)(6)> TK
<(b)(6)>
Subject: RE: Climate Change and Polar Vortex B-Roll

Dan Pisut at NOAA's visualization lab might have some great stuff. (b)(6)

Might want to copy NOAA's press person on climate – John Ewald just to ensure Dan sees it.

(b)(6)

Tx!

Becky Fried

Senior Communications Advisor and Web Editor
The White House | Office of Science & Technology Policy

O: (b)(6)
M: (b)(6)
E: (b)(6)

From: Larson, Phil
Sent: Tuesday, January 07, 2014 3:55 PM
To: Kelley, TK (Contractor)
Cc: Fried, Becky
Subject: RE: Climate Change and Polar Vortex B-Roll

+Becky who has good climate change comms/video connections!

From: Kelley, TK (Contractor)
Sent: Tuesday, January 07, 2014 3:49 PM
To: Larson, Phil
Subject: Climate Change and Polar Vortex B-Roll

Do you have any connections at other agencies you could set me up with?

From: [Wagner-Oveson, Lindsey](#)
To: [Larson, Phil](#)
Subject: I found a graphic...
Date: Wednesday, January 08, 2014 8:43:11 AM

To display in JPH's polar vortex video.
Twirl on by to see.

Lindsey Wagner-Oveson
Executive Assistant to the Director
Office of Science and Technology Policy
Executive Office of the President
Phone: (b)(6)
Email: (b)(6)

From: [Larson, Phil](#)
To: [Fried, Becky](#)
Cc: [Weiss, Rick](#)
Subject: RE: Holdren on the vortex
Date: Wednesday, January 08, 2014 9:40:43 AM

I actually was happy to see a satellite in there (not the one that flies out of his beard though!)

And bet Peter Colohan and other earth science people would like it. Kind of shows where we get all this data from

From: Fried, Becky
Sent: Wednesday, January 08, 2014 9:39 AM
To: Larson, Phil
Cc: Weiss, Rick
Subject: RE: Holdren on the vortex

Your thoughts on the floating the satellite images? I think they are a little wacky...?

Becky Fried

Senior Communications Advisor and Web Editor
The White House | Office of Science & Technology Policy

O: (b)(6)
M: (b)(6)
E: (b)(6)

From: Larson, Phil
Sent: Wednesday, January 08, 2014 9:37 AM
To: Fried, Becky
Cc: Weiss, Rick
Subject: RE: Holdren on the vortex

Oh that's perfect then! Let me know if you want to chat before we send.

ID: 2.01

From: Fried, Becky
Sent: Wednesday, January 08, 2014 9:36 AM
To: Larson, Phil
Cc: Weiss, Rick
Subject: RE: Holdren on the vortex

(b)(5)

(b)(5)

RW – want to talk this thru in a few?

Becky Fried

Senior Communications Advisor and Web Editor
The White House | Office of Science & Technology Policy

O: (b)(6)
M: (b)(6)
E: (b)(6)

ID: 2.02

From: Larson, Phil
Sent: Wednesday, January 08, 2014 9:34 AM
To: Fried, Becky
Subject: RE: Holdren on the vortex

(b)(5)

ID: 2.03

From: Fried, Becky
Sent: Wednesday, January 08, 2014 9:32 AM
To: Lubin, Nathaniel; Weiss, Rick; Larson, Phil; Lehrich, Matt
Cc: Kelley, TK (Contractor); Garber, Adam; Holst, Lindsay; Schulman, Kori
Subject: RE: Holdren on the vortex

(b)(5) (and yes this is epic).

Becky Fried

Senior Communications Advisor and Web Editor
The White House | Office of Science & Technology Policy

O: (b)(6)
M: (b)(6)
E: (b)(6)

From: Lubin, Nathaniel
Sent: Wednesday, January 08, 2014 9:32 AM
To: Fried, Becky; Weiss, Rick; Larson, Phil; Lehrich, Matt
Cc: Kelley, TK (Contractor); Garber, Adam; Holst, Lindsay; Schulman, Kori
Subject: RE: Holdren on the vortex

Please let us know if there are any flags, we're planning to send around to a bigger list of folks this morning. Thanks!

ID: 2.04

From: Lubin, Nathaniel
Sent: Tuesday, January 07, 2014 9:17 PM
To: Fried, Becky; Weiss, Rick; Larson, Phil; Lehrich, Matt
Cc: Kelley, TK (Contractor); Garber, Adam; Holst, Lindsay; Schulman, Kori
Subject: Holdren on the vortex

So... below is the link to the (quite epic) video with the green screen version of Dr. Holdren's recording today. Still some tweaks going on here – but take a look...

[https://vimeo.com/ \(b\)\(5\)](https://vimeo.com/>(b)(5))

pass: (b)(5)

ID: 3.01

From: Worley, Lauren
To: Larson, Phil
Subject: Fw: Polar vortex b-roll?
Date: Wednesday, January 08, 2014 9:51:52 AM

(b)(5)
Lb

ID: 3.02

From: Gutro, Robert J. {Rob} (GSFC-1300)
Sent: Wednesday, January 08, 2014 08:47 AM
To: WORLEY, LAUREN B. (HQ-NA000); Buis, Alan D (JPL-1871)[Jet Propulsion Laboratory]; Cole, Stephen E (HQ-NG000)
Cc: Patzert, William C (JPL-3244)[Jet Propulsion Laboratory]
Subject: RE: Polar vortex b-roll?

Hi all- (b)(5)

(b)(6)
Please contact John Leslie in NOAA Public Affairs at (b)(6)

Tel. (b)(6)

Thanks,
Rob

Rob Gutro
Deputy News Chief
Office of Communications/ Mail Code 130
NASA Goddard Space Flight Center, Greenbelt, Md.
(b)(6) Tel. (b)(6) Cell: (b)(6) Fax (b)(6)
NASA Goddard: www.nasa.gov/goddard
NASA's Hurricane Page: www.nasa.gov/hurricane & NASA's Fire Page:
www.nasa.gov/fires
MAIN NEWSROOM NUMBER: (b)(6)

From: WORLEY, LAUREN B. (HQ-NA000)
Sent: Wednesday, January 08, 2014 8:25 AM
To: Buis, Alan D (JPL-1871)[Jet Propulsion Laboratory]; Cole, Stephen E (HQ-NG000)
Cc: Gutro, Robert J. {Rob} (GSFC-1300); Patzert, William C (JPL-3244)[Jet Propulsion Laboratory]
Subject: RE: Polar vortex b-roll?

Great –thanks!

Lauren B. Worley
Press Secretary
Office of Communications
NASA Headquarters
office: (b)(6)
mobile: (b)(6)
(b)(6)

information by unintended recipients is not authorized and may be unlawful. This document is archived as public record.

From: Buis, Alan D (1871) [mailto: (b)(6)]
Sent: Tuesday, January 07, 2014 10:11 PM
To: WORLEY, LAUREN B. (HQ-NA000); Cole, Stephen E (HQ-NG000)
Cc: Gutro, Robert J. {Rob} (GSFC-1300); Patzert, William C (JPL-3244)[Jet Propulsion Laboratory]
Subject: RE: Polar vortex b-roll?

Checking here with multiple peeps.

Alan

From: WORLEY, LAUREN B. (HQ-NA000) [mailto: (b)(6)]
Sent: Tuesday, January 07, 2014 4:30 PM
To: Cole, Stephen E (HQ-NG000)
Cc: Gutro, Robert J. {Rob} (GSFC-1300); Buis, Alan D (1871)
Subject: RE: Polar vortex b-roll?

Hey guys!

OSTP is having this "We the Geeks" google+ hangout on Friday all about Polar Vortex. They taped a message from Dr. Holdren to play during the event, and they want to plug in some "polar vortex b-roll" into the background (they shot on a green screen.)

Do we have any animation, etc that might fit the bill?

Lauren

Lauren B. Worley
Press Secretary
Office of Communications
NASA Headquarters
office: (b)(6)
mobile: (b)(6)
(b)(6)

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From: Cole, Stephen E (HQ-NG000)
Sent: Tuesday, January 07, 2014 5:46 PM
To: WORLEY, LAUREN B. (HQ-NA000)
Cc: Gutro, Robert J. {Rob} (GSFC-1300); Buis, Alan D (JPL-1871)[Jet Propulsion Laboratory]
Subject: Re: Polar vortex b-roll?

Probably not b-roll, but some images. Connecting you with the guys with the good stuff.

Steve

From: WORLEY, LAUREN B. (HQ-NA000)

Sent: Tuesday, January 07, 2014 04:26 PM
To: Cole, Stephen E (HQ-NG000)
Subject: Polar vortex b-roll?

Can you help us get a hold of some b-roll OSTP can use to insert into the video they taped with Holdren for We The Geeks?

lb

Lauren B. Worley
Press Secretary
Office of Communications
NASA Headquarters
office: (b)(6)
mobile: (b)(6)
(b)(6)

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