

-EXECUTIVE OFFICE OF THE PRESIDENT-



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DATE: 4/1/03 PAGES: 7
(INCLUDING COVER SHEET)

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FAX TRANSMITTAL SHEET

Date: 1 April

To: Phil Cooney

Phone Number:

Fax Number: 202 - 456 - 2710

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202 - 456 - 6038

NUMBER OF PAGES (INCLUDING COVER SHEET):

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1518 | critical question that needs to be faced up to, and then if
1519 | we are going to do it, how much money does it cost? And be
1520 | real about that and tell people what it is going to cost to
1521 | do that, and then what are the risks to continue using the
1522 | current transportation system?

1523 | Thank you, Mr. Chairman. I am sure I am over my time.

1524 | Mr. WALSH. Thank you, Alan.

1525 | I am going to call on Mr. Knollenberg next for questions,
1526 | but before I do that, I have to leave. I am going to hand
1527 | over the gavel to the Vice Chairman of the subcommittee, Mr.
1528 | Goode, for the first time. He sat on this committee for the
1529 | last two years as an independent representative. He is now,
1530 | I am glad to say, a Republican, so I will be glad to turn
1531 | over the gavel to Mr. Goode at this time. Thank you.

1532 | Mr. GOODE. Thank you very much.

1533 | Mr. KNOLLENBERG. Thanks, Mr. Chairman.

1534 | Dr. Marburger, I am going to get into, as quick as I can,
1535 | a situation that goes back well before your time, and so it
1536 | was not on your watch. But you are familiar obviously with
1537 | in 1990 the Congress passed a Global Change Research Act
1538 | which requires a national assessment be done by 1994. And
1539 | they set forth 8 criteria for this national assessment. Once
1540 | the national assessment is issued, the law requires a
1541 | follow-up report every four years. In 1994, which would have
1542 | been the year that they should have complied, but they did

1543 | not, there was no report submitted. In 2000 the national
1544 | assessment is finally released just before the election, 6
1545 | years overdue. And that report was not complete. That
1546 | assessment, by the way, even states that the report could not
1547 | attempt to be comprehensive, and further, only completed 5 of
1548 | the 8 criteria.

1549 | Now, this is where it gets a little bit interesting. In
1550 | October that year, myself along with Senator Inhofe and
1551 | Congresswoman Joanne Emerson, filed suit against the national
1552 | assessment, simply because of the fact that it was not,
1553 | because it could not become a tool or an instrument to
1554 | advocate policy. We filed suit, and subsequent to that in
1555 | September, and I have got a letter here that I want to give
1556 | to you. You probably have this, but this letter was the
1557 | agreement that we made in September of 2001. That letter
1558 | states that the climate scenarios in the national assessment
1559 | do not represent Government policy. It is at I think the
1560 | bottom of the second paragraph, and are not policy positions
1561 | or statements of the U.S. Government. With that statement,
1562 | we agreed to drop the lawsuit. In June of 2002, on good
1563 | faith, the EPA submitted the national assessment as the U.S.
1564 | position and policy on climate change under the Rio Treaty,
1565 | and further, in effect, they went back on, as I see it, their
1566 | word. Now, that is signed by somebody who is no longer with
1567 | the agency, as you know, and that is some of the problem.

1568 This thing is a little bigger than it looks. It is not
1569 just a complaint that we are raising, because in fact we are,
1570 about their going back on their word, but what is picked up
1571 now, because there is a website, as you know, that portrays
1572 this at least in a general way as being public policy, and
1573 there are seven states now that have attorneys general, seven
1574 states that are ready to file suit. I think there is a
1575 window of time here of 60 days or something.

1576 But the point I am making is that, as I mentioned, this
1577 is not on your watch, so it may be something that you have
1578 inherited that you do not particularly want, you would like
1579 to see it go away. And I think some of us would too. But
1580 the story is simply this--and I do not know the outcome of
1581 those lawsuits--but on the basis of our agreement which we
1582 had, and the letter obviously responds to that, why is the
1583 national assessment still being circulated, if in fact that
1584 it is? We believe that it is, or these 7 states would not be
1585 considering a lawsuit, because they are seeing it as public
1586 policy, and I guess the question I would ask too, since it is
1587 being disseminated, because they are getting the information,
1588 when will cessation of that dissemination stop? That is the
1589 basic question.

1590 Mr. MARBURGER. I am not sure I am familiar with all of
1591 the ins and outs of this issue, but I am familiar with some
1592 of it.

1593 Mr. KNOLLENBERG. You would be familiar with it if it
1594 were--

1595 Mr. MARBURGER. First of all, Congressman, the U.S.
1596 Government does circulate or actually makes accessible a lot
1597 of material that is not administrative policy. And so that I
1598 am not sure that I want to address the issue of let us say
1599 pulling things off of websites or so forth. My understanding
1600 is that there is a lot of information in the report that you
1601 are referring to that is useful to the science community, so
1602 that is probably why it is still available. But as far as I
1603 am concerned, and as far as this administration is concerned,
1604 the statement in this letter of September 6, 2001 is correct,
1605 this is not a statement of administration policy.

1606 The EPA report that you referred to I believe did not
1607 actually submit the--it was not simply equivalent to the
1608 assessment. I believe it did refer to the assessment in
1609 several places, and if I am not mistaken, did not refer to it
1610 as administrative policy. So perhaps the situation requires
1611 additional clarification, and I would be glad to address this
1612 in more legalistic terms and so forth, but that is my
1613 understanding of the current situation.

1614 Mr. KNOLLENBERG. Well, that is what I am looking for.
1615 It is possible that these attorneys general are acting on a
1616 bit of a slim foundation. On the other hand, they are
1617 acting, or they are assuming they are going to act within the

1618 next 60 days. It tells me that they have taken a different
1619 view of that, and what perhaps would have been a view that
1620 you hold or would like to hold certainly. And we knew we had
1621 an agreement. We thought it was solid. And now we find that
1622 there is a difference interpretation being taken, perhaps
1623 wrongly, and I guess that is what we have to clarify, what
1624 the real position of EPA is, and a court of law will decide I
1625 guess who is right here. But it appears to us that--and
1626 incidentally, I might mention that CEI, on the basis of this,
1627 is also filing a lawsuit. The terms of that are too long to
1628 go into here, but it is all over the same thing. It is
1629 turning around, because one of the people on the lawsuit was
1630 from CEI as well, a Mr. Horner. I remember that name too.

1631 I just want you to be aware if it. I would like a
1632 response to it. I would like a response to it so that we
1633 know. I spoke to Mrs. Emerson this morning, who is aware of
1634 this and concerned about it as well, so there is an interest
1635 on our part in having some bona fide response.

1636 Mr. MARBURGER. I think the appropriate thing for us to
1637 do is to provide you with a letter or memorandum that gives
1638 the status and the exact position of the administration on
1639 this issue.

1640 Mr. KNOLLENBERG. I would like that very much if you
1641 would do that.

1642 Mr. MARBURGER. We will be glad to do it.