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### 01268-EPA-4

David McIntosh/DC/USEPA/US To Richard Windsor

01/29/2009 06:18 PM

cc Lisa Heinzerling, Eric Wachter, Robert Goulding

bcc

Subject I'll miss the morning mtg again tomorrow, but that'll be for the

last time

Tomorrow morning from 9 to 11 is the second of the two previously scheduled meetings between (b) (5) Del berative EPA's climate modelers. (b) (5) Del berative

EPA's climate modelers.

In the meantime, I'm accumulating some

issues that merit your attention, although they can wait

(b) (5) Deliberative









Daniel To
Gerasimowicz/DC/USEPA/US

cc

01/30/2009 05:01 PM

Subject Briefing on the Response to the Endangerment Issue from

Mass v. EPA

bcc

### Meeting

Date 02/04/2009

Time 11:00:00 AM to 12:00:00 PM

Chair Daniel Gerasimowicz

Invitees

Required

Optional

FYI

Location The Bullet Room

Ct: Dina Kruger 202-343-9039

Craig/McLean/Kruger/Birnbaum/DeAngelo/Holmes/McIntosh/Zinger/Krieger/Hannon/Heinzerling/Wegman/Oge/Lynch/Ketcham-Colwill/Embrey/Ossias/Brenner/Dunham/Page/Montoro/Wayland (by phone)

Dial -in:

(b) (6) Privacy

### EPA activities regarding power plants

Lisa Heinzerling to: Richard Windsor, Robert Goulding, Eric Wachter, David McIntosh, Allyn LaSure 02/08/2009 03:15 PM

From: Lisa Heinzerling/DC/USEPA/US

To: Richard Windsor/DC/USEPA/US@EPA, Robert Goulding/DC/USEPA/US@EPA, Eric

Wachter/DC/USEPA/US@EPA, David McIntosh/DC/USEPA/US@EPA, Allyn

LaSure/DC/USEPA/US@EPA,

History: This message has been forwarded.

Lisa,

Attached is a memo on EPA's activities relating to power plants, prepared in anticipation of tomorrow morning's conference call with Carol Browner's team. It would be good if we could spend a few minutes discussing this before the call.

I hope you're having a good birthday!

Lisa



power plants memo.doc

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Re: Good news re: Johnson memo

Richard Windsor to: Lisa Heinzerling

02/16/2009 10:34 PM

From: Richard Windsor/DC/USEPA/US

To: Lisa Heinzerling/DC/USEPA/US@EPA,

Wow. How did you pull THAT off? Lisa Heinzerling

---- Original Message -----

From: Lisa Heinzerling

Sent: 02/16/2009 07:34 PM EST

To: Richard Windsor; Allyn Brooks-LaSure

Subject: Good news re: Johnson memo

The Sierra Club and other petitioners who have challenged the Johnson memo on PSD will NOT be asking the court to stay the memo tomorrow.

Have a good night.

Allyn Brooks-LaSure/DC/USEPA/US To Richard Windsor

bcc

02/18/2009 06:46 PM

Subject Broder story is out.

(b) (5) Deliberative

# EPA to Regulate Greenhouse Gases

By JOHN M. BRODER

WASHINGTON - The <u>Environmental Protection Agency</u> is expected for the first time to regulate carbon dioxide and other greenhouse gases that scientists blame for the warming of the planet, according to top Obama administration officials.

The decision, which likely would play out in stages over a period of months, would have a profound impact on transportation, building standards, manufacturing costs and how utilities generate power. It could accelerate the progress of energy and <u>climate change</u> legislation in Congress and form a basis for the United States' negotiating position at <u>United Nations</u> climate talks set for December in Copenhagen.

The E.P.A. is under order from the <u>Supreme Court</u> to make a determination whether carbon dioxide is a pollutant that endangers public health and safety, an order that the Bush administration essentially ignored despite a near-unanimous belief among E.P.A. experts that the research points inexorably to such a finding.

<u>Lisa P. Jackson</u>, the new E.P.A. administrator, said in an interview that she has asked her staff to review the latest scientific evidence and prepare the documentation for a so-called endangerment finding, although she said she had not made a final decision to issue one. But she pointedly noted that the second anniversary of the Supreme Court decision, in Massachusetts v. E.P.A., is April 2. "We here know how momentous that decision could be," she said. "We have to lay out a road map."

She took a first step on Tuesday when she said the agency would reconsider a Bush administration decision not to regulate carbon dioxide emissions from new coal-burning power plants. In announcing the reversal, Ms. Jackson said that the action would not be "the final word" from the E.P.A. on the regulation of carbon dioxide emissions.

The White House has signaled that it fully supports Ms. Jackson's approach, deferring to her to discuss the administration's response to the Supreme Court case. Benjamin LaBolt, a White House spokesman, also pointed to statements on the subject during the presidential campaign by Heather Zichal, a top adviser on environmental and energy issues.

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Richard Windsor/DC/USEPA/US 02/18/2009 06:55 PM To Allyn Brooks-LaSure

bcc

Subject Re: Broder story is out.

(b) (5) Deliberative

Allyn Brooks-LaSure

---- Original Message -----

From: Allyn Brooks-LaSure Sent: 02/18/2009 06:46 PM EST

To: Richard Windsor

Subject: Broder story is out.

(b) (5) Deliberative

# EPA to Regulate Greenhouse Gases

By JOHN M. BRODER

WASHINGTON - The <u>Environmental Protection Agency</u> is expected for the first time to regulate carbon dioxide and other greenhouse gases that scientists blame for the warming of the planet, according to top Obama administration officials.

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Allyn To Richard Windsor

Brooks-LaSure/DC/USEPA/US

02/18/2009 06:54 PM bcc

Subject Re: Broder story is out.

### (b) (5) Deliberative

CC

MABL.

Richard Windsor (b) (5) Deliberative 02/18/2009 06:51:09 PM

From: Richard Windsor/DC/USEPA/US

To: Allyn Brooks-LaSure/DC/USEPA/US@EPA

Date: 02/18/2009 06:51 PM Subject: Re: Broder story is out.

### (b) (5) Deliberative

### (b) (5) Deliberative

Allyn Brooks-LaSure

---- Original Message -----

From: Allyn Brooks-LaSure Sent: 02/18/2009 06:46 PM EST

To: Richard Windsor

Subject: Broder story is out.

(b) (5) Deliberative

# EPA to Regulate Greenhouse Gases

By JOHN M. BRODER

WASHINGTON - The <u>Environmental Protection Agency</u> is expected for the first time to regulate carbon dioxide and other greenhouse gases that scientists blame for the warming of the planet, according to top Obama administration officials.

The decision, which likely would play out in stages over a period of months, would have a profound impact on transportation, building standards, manufacturing costs and how utilities generate power. It could accelerate the progress of energy and <u>climate change</u> legislation in Congress and form a basis for the United States' negotiating position at <u>United Nations</u> climate talks set for December in Copenhagen.

The E.P.A. is under order from the **Supreme Court** to make a determination whether carbon











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Tools



Re: OMB/Endangerment Finding Lisa Heinzerling to: Bob Sussman
Co: David McIntosh, Richard Windsor

02/23/2009 06:04 PM

### we're planning on doing this

Bob Sussman I met one-on-one today with Michael Fitzpatrick... 02/23/2009 06:01:56 PM

From: Bob Sussman/DC/USEPA/US

To: Richard Windsor/DC/USEPA/US@EPA, Lisa Heinzerling/DC/USEPA/US@EPA, David

McIntosh/DC/USEPA/US@EPA

Date: 02/23/2009 06:01 PM Subject: OMB/Endangerment Finding

I met one-on-one today with Michael Fitzpatrick of OIRA. I'll save most of what he said for another time but wanted to highlight one important item -

Robert M. Sussman Senior Policy Counsel to the Administrator Office of the Administrator US Environmental Protection Agency

01268-EPA-2016	Subj: Re: Endangerment	02/22/2009 10:15:44 AM	Auth: Richard Windsor
	Exemption(s)		Attachments
	Ex. 5 - Deliberative Process Privilege -WIF		·

### Recipients

Lisa Heinzerling/DC/USEPA/US@EPA
"Allyn Brooks-Lasure"
<Brooks-lasure.allyn@epa.gov>

### **Description and Justification**

Document EPA-2016 contains an email from the Associate Administrator for the Office of Policy to former Administrator Lisa Jackson posing two questions related to public statements by the Agency related to the Endangerment finding, and a reply email containing the Administrator's responses. The email chain was withheld in full.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's senior leaders when deliberating about public statements and announcements related to the endangerment finding. These communications were predecisional because they reflect the decisionmaking process related to the discretionary release of previous drafts of Agency work product, and how and when to communicate with the public about developing Agency actions in this area. The email string represents staff opinions and judgments that were under consideration by EPA. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches to communicating with the public, and the discretionary release of information. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the position of the EPA or the U.S. Government.

The withheld information does not contain reasonably segregable factual information. To the extent any of the withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

01268-EPA-2054	Subj: Re: Washington post page 1	02/28/2009 11:33:12 AM	Auth: Richard Windsor	
	Exemption(s)	407	<u>Attachments</u>	
	Ex. 6 - Personal Privacy -WIF			

### Recipients

"Bicky Corman" <bicky.corman@dc.gov>

### **Description and Justification**

EPA-2054 contains a chain of four emails between Administrator Lisa Jackson and the Deputy Associate Administrator for the Office of Policy. The email metadata of three of the four emails was released when EPA-2053 was produced, but the body of the three email messages with redacted in full. The emails relate to a topical news matter of personal interest being discussed among colleagues who are also personal acquaintances, and does not relate to Agency business. EPA-2054 was withheld in full.

The withheld information is protected under Exemption 6, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. The withheld information is within the scope of "personnel and medical files and similar files" because the information applies to and is identified with an individual. The withheld information reflects a personal exchange between individuals that is unrelated to their Agency work. EPA policies permit incidental personal use of Agency systems such as this exchange. The individuals' have a privacy interest in their ability to converse with colleagues about topics unrelated to Agency work. Because the topic of conversation is unrelated to official Agency business, release of the information does not shed light on

The withheld information is also protected under Exemption 5's attorney-client privilege because it presents information and legal advice to the Administrator that relate to the proposed options. This document reflects legal advice provided by the Senior Policy Counsel to the Administrator regarding a legal matter. There is no segregable factual information that could be released without revealing protected attorney-client communications. To the extent there are facts in these records, the selection of those facts are an integral part of the process of advising EPA decisionmakers of legal issues. Release of the factual material would also deprive the Agency of the benefit of confidential legal advice by allowing the scrutiny of the select facts that informed the specific advice from the EPA attorneys.

01268-EPA-2148	Subj: Re: Fw: memo to President	03/13/2009 08:58:01 PM	Auth: Richard Windsor	
	Exemption(s)		<u>Attachments</u>	
	Ex. 5 - Deliberative Process Privilege -WIF	=		

### **Recipients**

David McIntosh/DC/USEPA/US@EPA
"Lisa Heinzerling" <heinzerling.lisa@epa.gov>

### **Description and Justification**

Document EPA-2148 is an email string containing four emails. The email string originated with an email from the Associate Administrator for the Office of Policy to Administrator Lisa Jackson. The Administrator replied to that email and copied the Associate Administrator for Congressional and Intergovernmental Relations. The email string relates to the drafting of a memo to the President about the Endangerment finding. EPA-2148 was withheld in full.

The withheld information is protected under Exemption 5's deliberative process privilege because it contains internal agency discussions reflecting staff analyses, advice, and recommendations relating to the drafting of a communication to the President about a significant proposed Agency action. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and opinions on a matter still in development at the Agency. Release of this information would have a chilling effect on the Agency's ability to efficiently and effectively brief the President about upcoming important Agency actions that require coordination with the White House. The emails relate to a document still in development, which the Administrator was continuing to edit, review, and solicit feedback from senior staff on. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the position of the EPA or the U.S. Government.

The withheld information does not contain reasonably segregable factual information. To the extent any of the withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

01268-EPA-2165	Subj: Re: Fw: memo to President	03/16/2009 06:50:22 AM	Auth: Richard Windsor
	Exemption(s)		<u>Attachments</u>
	Ex. 5 - Deliberative Process Privilege -WIF		
	Ex. 6 - Personal Privacy -WIF		

### Recipients

David McIntosh/DC/USEPA/US@EPA

### **Description and Justification**

Document EPA-2165 is an email string containing seven emails. The email string originated with an email from

Auth: "Lisa P Jackson"

**Attachments** 

**Attachments** 

Lisa Heinzerling/DC/USEPA/US@EPA

-Redact

01268-EPA-67 **Prod:** Production 2 03/13/2009 06:08:27 AM Auth: David Cohen

**Recipients** Richard Windsor/DC/USEPA/US@EPA

Lisa Heinzerling/DC/USEPA/US@EPA David McIntosh/DC/USEPA/US@EPA

Exemption(s)

Ex. 5 - Deliberative Process Privilege

-Redact

01268-EPA-68 03/14/2009 05:27:42 PM **Prod:** Auth: "Lisa P Jackson"

Recipients Exemption(s) **Attachments** Richard Windsor/DC/USEPA/US@EPA resume.wpd Ex. 6 - Personal Privacy -WIF

01268-EPA-69 03/14/2009 05:39:52 PM Auth: "Lisa P Jackson" Prod:

Recipients

Eric Wachter/DC/USEPA/US@EPA Richard Windsor/DC/USEPA/US@EPA Exemption(s)

Ex. 5 - Deliberative Process Privilege

-WIF

Ex. 6 - Personal Privacy -WIF

**Attachments** (b) (6) Bio.2008.doc

01268-EPA-70 **Prod:** Production 3 03/15/2009 04:05:59 PM

Recipients Bob Sussman/DC/USEPA/US@EPA Richard Windsor/DC/USEPA/US@EPA Scott Fulton/DC/USEPA/US@EPA

David McIntosh/DC/USEPA/US@EPA

Lisa Heinzerling/DC/USEPA/US@EPA

Richard Windsor/DC/USEPA/US@EPA

Eric Wachter/DC/USEPA/US@EPA

Exemption(s)

Ex. 5 - Attorney Work Product Privilege

-Redact

Ex. 5 - Deliberative Process Privilege

-Redact

01268-EPA-71 Prod: Production 3 03/15/2009 08:26:23 PM Auth: "Lisa P Jackson"

Recipients

Ex. 5 - Deliberative Process Privilege -Redact

Ex. 6 - Personal Privacy - Redact

Exemption(s) **Attachments** Presidential Decision Memo endangerment LH 3-15 - redline.doc

01268-EPA-72 **Prod:** Production 2 03/16/2009 06:39:38 PM Auth: Daniel Gerasimowicz

Recipients Exemption(s) **Attachments** 

Ex. 6 - Personal Privacy -Redact

01268-EPA-73 Prod: 03/17/2009 04:02:36 PM Auth: David Cohen

Recipients Exemption(s) **Attachments** 

Ex. 5 - Deliberative Process Privilege "Richard Windsor"

<Windsor.Richard@epamail.epa.gov> -WIF

06/07/13 Page 10 of 1338 10

U1268-EPA-2165	Subj: Re: Fw: memo to President	03/16/2009 06:50:22 AM	Auth: Richard Windsor	
	Exemption(s)		<u>Attachments</u>	
	Ex. 5 - Deliberative Process Privilege -WIF Ex. 6 - Personal Privacy -WIF			
Recipients	Description and Justification	ı		

02/16/2000 06.50.22 4M

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## David McIntosh/DC/USEPA/US@EPA

A12CO EDA 21CE

### **Description and Justification**

Document EPA-2165 is an email string containing seven emails. The email string originated with an email from

Author Diebered Windows

Page 31 of 95

Lisa Heinzerling/DC/USEPA/US@EPA
"Lisa Jackson" (b) (6) Privacy

the Associate Administrator for the Office of Policy to Administrator Lisa Jackson. The Administrator replied to that email and copied the Associate Administrator for Congressional and Intergovernmental Relations. The email string relates to the drafting of a memo to the President about the **Endangerment** finding. EPA-2148 was withheld in full.

The withheld information is protected under Exemption 5's deliberative process privilege because it contains internal agency discussions reflecting staff analyses, advice, and recommendations relating to the drafting of a communication to the President about a significant proposed Agency action. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and opinions on a matter still in development at the Agency. Release of this information would have a chilling effect on the Agency's ability to efficiently and effectively brief the President about upcoming important Agency actions that require coordination with the White House. The emails relate to a document still in development, which the Administrator was continuing to edit, review, and solicit feedback from senior staff on. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the position of the EPA or the U.S. Government.

The withheld information does not contain reasonably segregable factual information. To the extent any of the withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

EPA-2165 also contains a personal email addresses that was withheld under Exemption 6. The withheld address is the personal email address of Lisa Jackson that she used to forward a document to herself on her EPA.gov account. The owner of the email address has a privacy interest in preventing unsolicited emails and harassment. This withheld information is within the scope of the phrase "personnel and medical files and similar files," because the document contains personal information that applies to a particular individual. Public disclosure of the email address would not shed light on the performance of the Agency's official duties or statutory mission, especially because the information was forwarded to and captured by EPA systems. Therefore, the harm to the individual as a result of disclosure clearly outweighs the public interest.

01268-EPA-2181	Subj: Re: Just fyi	03/17/2009 05:00:14 PM	Auth: Richard Windsor	
	Exemption(s)		<u>Attachments</u>	
	Ex. 5 - Deliberative Process Privilege -WIF			

### Recipients

David Cohen/DC/USEPA/US@EPA

### **Description and Justification**

Document EPA-2181 contains an internal email chain, consisting of three emails, originating with the Senior Press Officer and other employees in the Office of External Affairs and Environmental Education, to former Administrator Lisa Jackson discussing a request from a 60 minutes reporter. The email chain was withheld in full.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the analyses, advice, and deliberations of EPA's management when deliberating about official public responses. These communications were pre decisional because they reflect the decisionmaking process related to whether to accept the interview request, and how and when to communicate with the public about developing Agency actions. The email string represents staff opinions and judgments that

were under consideration by EPA. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches to communicating with the press, and the ability to coordinate with the White House. Furthermore, release could cause public confusion by disclosure of reasons, rationales, and conclusions that were not in fact ultimately the position of the EPA or the U.S. Government.

The withheld information does not contain reasonably segregable factual information. To the extent any of the withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

01268-EPA-2199	Subj: Re: endangerment hearings	03/22/2009 04:44:32 PM	Auth: David McIntosh
	Exemption(s)		<u>Attachments</u>
	Ex. 5 - Deliberative Process Privilege -WIF		

### Recipients

Lisa Heinzerling/DC/USEPA/US@EPA Richard Windsor/DC/USEPA/US@EPA Allyn Brooks-LaSure/DC/USEPA/US@EPA

### **Description and Justification**

Document EPA-2199 contains an internal email chain, consisting of two emails, originating with the Associate Administrator for the Office of Policy copying Administrator Lisa Jackson and two other staff from the Office of External Affairs and Environmental Education. The email relates to decisions about possible locations for hearings on the endangerment finding. The email chain was withheld in full.

The withheld information is protected under Exemption 5's deliberative process privilege because it is an internal conversation which reflects the advice and deliberations of EPA's management in formulating a decision about public representation of the Agency. These communications were developed to assist in the decisionmaking process and represent the opinions and judgments that were under consideration by EPA. The withheld information does not represent an official Agency decision or policy and instead reflects analysis and recommendations still in development at the agency. Release would have a chilling effect on the Agency's ability to have open and frank discussions among its staff during the internal decision-making process regarding the Agency's public outreach and may harm the Agency's decisionmaking by chilling the open discussion of issues and approaches when formulating the Agency's public stance.

The withheld information does not contain reasonably segregable factual information. To the extent any of the withheld information contains facts, the facts reflect Agency deliberations. The selection of those facts was an integral part of the deliberations, and the factual information contained therein is inextricably intertwined with the deliberative discussion concerning this document.

01268-EPA-2225	Subj: Re: Meeting w WVa Governor	03/25/2009 07:58:52 PM	Auth: Richard Windsor
	Exemption(s)		Attachments
	Ex. 5 - Deliberative Process Privilege -WIF		<del>-</del>

### Recipients

Bob Sussman/DC/USEPA/US@EPA

### **Description and Justification**

EPA-2225 contains an email from the Senior Policy Counsel to the Administrator to Administrator Lisa Jackson and the Deputy Associate Administrator for the Office of Congressional and Intergovernmental Relations, and an email in response. The email relates to a meeting between EPA officials and the Governor of West Virginia over

To: CN=Richard Windsor/OU=DC/O=USEPA/C=US@EPA[]

Cc: CN=Lisa Heinzerling/OU=DC/O=USEPA/C=US@EPA;CN=David

McIntosh/OU=DC/O=USEPA/C=US@EPA[]; N=David

McIntosh/OU=DC/O=USEPA/C=US@EPA[]

From: CN=Allyn Brooks-LaSure/OU=DC/O=USEPA/C=US

Sent: Tue 4/7/2009 12:18:58 PM Subject: Re: Earth Day Planning

Ok. I will be on standby for that. We had a good meeting yesterday where we talked through the optics of the event. (We are thinking an address at Blair HS - a diverse Science and Technology magnet school in Silver Spring. Joining you would potentially be someone to reinforce the science message and someone to reinforce the health message.)

# Deliberative

For some reason - when I saw your message, I conjured up the image of the Tin Man going to see the Wizard of Oz.

MABL.

M. Allyn Brooks-LaSure

U.S. Environmental Protection Agency

Cell Personal Privacy

---- Original Message -----From: Richard Windsor

Sent: 04/07/2009 07:05 AM EDT

To: Allyn Brooks-LaSure

Cc: Lisa Heinzerling; David McIntosh Subject: Re: Earth Day Planning

Allyn,

At Pete Rouse's suggestion, I am trying to get 15 minutes for us to see David Axelrod to talk through the proposed Endangerment Finding message we are plannong to give on April 16 or 20. Lj

---- Original Message ----From: Allyn Brooks-LaSure Sent: 04/06/2009 02:47 PM EDT To: Richard Windsor

Cc: Lisa Heinzerling; David McIntosh Subject: Fw: Earth Day Planning

Below is the White House guidance on Earth Day. FYI.

-----

M. Allyn Brooks-LaSure | Deputy Associate Administrator for Public Affairs

U.S. Environmental Protection Agency | Office of Public Affairs

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Richard Windsor Ex. 5 - Deliberative 06/23/2009 07:00:20 PM

From: Richard Windsor/DC/USEPA/US

To: Seth Oster/DC/USEPA/US@EPA, Diane Thompson/DC/USEPA/US@EPA, Lisa Heinzerling/DC/USEPA/US@EPA, Arvin Ganesan/DC/USEPA/US@EPA, Marcia

Mulkey/DC/USEPA/US@EPA

Cc: Adora Andy/DC/USEPA/US@EPA, Allyn Brooks-LaSure/DC/USEPA/US@EPA

Date: 06/23/2009 07:00 PM

Subject: Re: Statement Regarding "Muzzled" EPA Official

### Ex. 5 - Deliberative

Release 2 - HQ-FOI-01268-12

All emails sent by "Richard Windsor" were sent by EPA Administrator Lisa Jackson

### Ex. 5 - Deliberative

Seth Oster

---- Original Message ----From: Seth Oster

**Sent:** 06/23/2009 06:56 PM EDT

To: Richard Windsor; Diane Thompson; Lisa Heinzerling; Arvin Ganesan;

Marcia Mulkey

Cc: Adora Andy; Allyn Brooks-LaSure

Subject: Statement Regarding "Muzzled" EPA Official

# Ex. 5 - Deliberative

Seth

This Administration and this EPA Administrator are fully committed to openness, transparency and science-based decision making. These principles were reflected throughout the development of the proposed **Endangerment** finding, a process in which a broad array of voices were heard and an inter agency review was conducted. In this instance, certain opinions were expressed by an individual who is not a scientist and was not part of the working group dealing with this issue. Nevertheless, his manager allowed those views to be

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Fill & Signn

To: CN=Scott Fulton/OU=DC/O=USEPA/C=US@EPA[]
From: CN=Richard Windsor/OU=DC/O=USEPA/C=US

Sent: Wed 6/24/2009 6:00:24 PM

Subject: Re: BREAKING: EPA Suppresses Internal Global Warming Study; CEI Calls for

Agency to Release Concealed Report

http://cei.org/cei\_files/fm/active/0/Endangerment%20Comments%206-23-09.pdf

Congrats! OPA is all over this. No worries.

---- Original Message -----

From: Scott Fulton

Sent: 06/24/2009 01:25 PM EDT

To: Richard Windsor

Subject: Re: BREAKING: EPA Suppresses Internal Global Warming Study; CEI Calls for Agency to Release

Concealed Report

On my way back to the office. Will check this out and help Diane make sure level heads prevail. Hearing went fine. Nothing too difficult, and none of the hard stuff we worried about, but we'll see what the written questions bear. We'll keep the place glued together until you get back.

---- Original Message -----From: Richard Windsor

Sent: 06/24/2009 12:58 PM EDT

To: Seth Oster; Diane Thompson; Lisa Heinzerling; Marcia Mulkey; Bob Sussman; Arvin Ganesan; Scott

Fulton

Cc: Allyn Brooks-LaSure; Adora Andy

Subject: Re: BREAKING: EPA Suppresses Internal Global Warming Study; CEI Calls for Agency to Release

Concealed Report

# **Deliberative**

---- Original Message -----

From: Seth Oster

Sent: 06/24/2009 12:46 PM EDT

To: Richard Windsor; Diane Thompson; Lisa Heinzerling; Marcia Mulkey; Bob Sussman; Arvin Ganesan; Scott Fulton

Cc: Allyn Brooks-LaSure; Adora Andy

Subject: BREAKING: EPA Suppresses Internal Global Warming Study; CEI Calls for Agency to Release Concealed Report

The senior economist from OPEI has also apparently gone to a public policy group, which as issued the press release below.

We had the Dow Jones issue almost under control, but now the issue is out in the open. Washington Post and others are calling.

We are issuing our statement (amended with a bit more information we received this morning) and will be working this with reporters the rest of the day.

### **(**









### Ex. 5 - Deliberative

Seth

### **Competitive Enterprise Institute**

contact: Audrey Mullen at 703-548-1160

www.cei.org

### **EPA Suppresses Internal Global Warming Study**

### CEI Calls for Agency to Release Concealed Report

Washington, D.C. -- The Competitive Enterprise Institute today charged that a senior official of the U.S. Environment Protection Agency actively suppressed a scientific analysis of climate change because of political pressure to support the Administration's policy agenda of regulating carbon dioxide.

As part of a just-ended public comment period, CEI submitted a set of four EPA emails, dated March 12-17, 2009, which indicate that a significant internal critique of the agency's global warming position was put under wraps and concealed.

The study the emails refer to, which ran counter to the administration's views on carbon dioxide and climate change, was kept from circulating within the agency, was never disclosed to the public, and was not added to the body of materials relevant to EPA's current "endangerment" proceeding. The emails further show that the study was treated in this manner not because of any problem with its quality, but for political reasons.

The emails may be seen here: <a href="http://cei.org/cei\_files/fm/active/0/Endangerment%20Comments%206-23-09.pdf">http://cei.org/cei\_files/fm/active/0/Endangerment%20Comments%206-23-09.pdf</a>

"This suppression of valid science for political reasons is beyond belief," said CEI General Counsel Sam Kazman. "EPA's conduct is even more outlandish because it flies in the face of the President's widely-touted claim that 'the days of science taking a back seat to ideology are over.'"

CEI's filing requests that EPA make the suppressed study public, place it into the endangerment docket, and extend the comment period to allow public response to the new information. CEI is also requesting that EPA publicly declare that it will engage in no reprisals against the study's author, a senior analyst who has worked at EPA for over 35 years.

CEI is a non-profit, non-partisan public policy group dedicated to the principles of free enterprise and limited government. For more information about CEI, please visit our website at <a href="https://www.cei.org">www.cei.org</a>.

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Audrey Mullen Advocacy Ink 815 King Street – Suite 302 Alexandria, VA 22314 Ph. 703-548-1160 Cell 202-270-2772

www.advocacyink.com

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Seth Oster/DC/USEPA/US

06/24/2009 04:02 PM

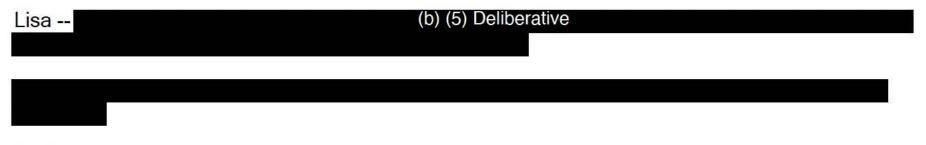
To Diane Thompson, Richard Windsor, Marcia Mulkey

cc Adora Andy, Allyn Brooks-LaSure, Bob Sussman, Lisa Heinzerling

bcc

Subject FINAL Statement on Endangerment Issue

Below is the final statement that is now going out.



Seth

This Administration and this EPA Administrator are fully committed to openness, transparency and science-based decision making. These principles were reflected throughout the development of the proposed Endangerment finding, a process in which a broad array of voices were heard and an inter agency review was conducted. In this instance, certain opinions were expressed by an individual who is not a scientist and was not part of the working group dealing with this issue. Nevertheless, several of the opinions and ideas proposed by this individual were submitted to those responsible for developing the proposed endangerment finding. Additionally, his manager allowed his general views on the subject of climate change to be heard and considered inside and outside the EPA and presented at conferences and at an agency seminar. The individual was also granted a request to join a committee that organizes an ongoing climate seminar series, open to both agency and outside experts, where he has been able to invite speakers with a full range of views on climate science. The claims that his opinions were not considered or studied are entirely false.

Seth Oster
Associate Administrator
Office of Public Affairs
Environmental Protection Agency
(202) 564-1918
oster.seth@epa.gov

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Seth Oster/DC/USEPA/US

To Richard Windsor

06/24/2009 05:13 PM

cc bcc

Subject Re: FINAL Statement on Endangerment Issue

Ex. 5 - Deliberative

Seth

Seth Oster Associate Administrator Office of Public Affairs Environmental Protection Agency (202) 564-1918 oster.seth@epa.gov

Richard Windsor

Ex. 5 - Deliberative

06/24/2009 04:26:12 PM

From: Richard Windsor/DC/USEPA/US
To: Seth Oster/DC/USEPA/US@EPA

Date: 06/24/2009 04:26 PM

Subject: Re: FINAL Statement on Endangerment Issue

Ex. 5 - Deliberative

Seth Oster

---- Original Message -----

From: Seth Oster

Sent: 06/24/2009 04:02 PM EDT

To: Diane Thompson; Richard Windsor; Marcia Mulkey

Cc: Adora Andy; Allyn Brooks-LaSure; Bob Sussman; Lisa Heinzerling

Subject: FINAL Statement on Endangerment Issue

Below is the final statement that is now going out.

Lisa --

Ex. 5 - Deliberative

Release 2 - HQ-FOI-01268-12

All emails sent by "Richard Windsor" were sent by EPA Administrator Lisa Jackson

Ex. 5 - Deliberative

Seth

This Administration and this EPA Administrator are fully committed to openness, transparency and science-based decision making. These principles were reflected throughout the development of the proposed Endangerment finding, a process in which a broad array of voices were heard and an inter agency review was conducted. In this instance, certain opinions were expressed by an individual who is not a scientist and was not part of the working group dealing with this issue. Nevertheless, several of the opinions and ideas proposed by this individual were submitted to those responsible for developing the proposed endangerment finding. Additionally, his manager allowed his general views on the subject of climate change to be heard and considered inside and outside the EPA and presented at conferences and at an agency seminar. The individual was also granted a request to join a committee that organizes an

























Seth Oster/DC/USEPA/US To Richard Windsor

06/25/2009 08:09 AM

bcc

Subject Re: FINAL Statement on Endangerment Issue

### Will do first thing. Richard Windsor

### ---- Original Message -----

From: Richard Windsor

Sent: 06/25/2009 08:08 AM EDT

To: Seth Oster

Subject: Re: FINAL Statement on Endangerment Issue

### Ex. 5 - Deliberative

### Seth Oster

### ---- Original Message -----

From: Seth Oster

Sent: 06/25/2009 08:03 AM EDT

To: Richard Windsor

Subject: Re: FINAL Statement on Endangerment Issue

### Ex. 5 - Deliberative

### Richard Windsor

### ---- Original Message -----

From: Richard Windsor

Sent: 06/25/2009 12:28 AM EDT

To: Seth Oster

Subject: Re: FINAL Statement on Endangerment Issue

### Ex. 5 - Deliberative

### Seth Oster

### ---- Original Message -----

From: Seth Oster

Sent: 06/24/2009 10:56 PM EDT

To: Richard Windsor

Subject: Re: FINAL Statement on Endangerment Issue

### Ex. 5 - Deliberative

Seth Oster Associate Administrator Office of Public Affairs **Environmental Protection Agency** (202) 564-1918

Release 2 - HQ-FOI-01268-12

All emails sent by "Richard Windsor" were sent by EPA Administrator Lisa Jackson

### oster.seth@epa.gov

Richard Windsor Ex. 5 - Deliberative 06/24/2009 07:51:20 PM

Richard Windsor/DC/USEPA/US From: Seth Oster/DC/USEPA/US@EPA To:

Date: 06/24/2009 07:51 PM

Re: FINAL Statement on Endangerment Issue Subject:

### Ex. 5 - Deliberative

### Seth Oster

---- Original Message -----From: Seth Oster

Sent: 06/24/2009 05:13 PM EDT

To: Richard Windsor

Subject: Re: FINAL Statement on Endangerment Issue

▣

□

















Seth Oster/DC/USEPA/US

To Richard Windsor

06/24/2009 01:13 PM

bcc

Subject Re: BREAKING: EPA Suppresses Internal Global Warming Study; CEI Calls for Agency to Release Concealed Report

Agreed.

Ex. 5 - Deliberative

Seth

Seth Oster Associate Administrator Office of Public Affairs Environmental Protection Agency (202) 564-1918 oster.seth@epa.gov

Richard Windsor (b)

06/24/2009 12:54:20 PM

From: Richard Windsor/DC/USEPA/US
To: Seth Oster/DC/USEPA/US@EPA

Date: 06/24/2009 12:54 PM

Subject: Re: BREAKING: EPA Suppresses Internal Global Warming Study; CEI Calls for Agency to Release

Concealed Report

Ex. 5 - Deliberative

Seth Oster

---- Original Message ----From: Seth Oster

Sent: 06/24/2009 12:46 PM EDT

To: Richard Windsor; Diane Thompson; Lisa Heinzerling; Marcia Mulkey; Bob

Sussman; Arvin Ganesan; Scott Fulton Cc: Allyn Brooks-LaSure; Adora Andy

Subject: BREAKING: EPA Suppresses Internal Global Warming Study; CEI Calls

for Agency to Release Concealed Report

Ex. 5 - Deliberative

20

(2)

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Environmental Protection Agency EPA Docket Center (EPA/DC) Mailcode 6102T Attention Docket ID No. EPA-HQ-OAR-2009-0171 1200 Pennsylvania Avenue, N.W. Washington, D.C. 20460

By electronic delivery to: GHG-Endangerment-Docket@epa.gov

Request for Reopening of the Record and Extension of the Comment Period, Re: Proposed Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act <a href="Docket ID No. EPA-HQ-OAR-2009-0171">Docket ID No. EPA-HQ-OAR-2009-0171</a>

### **Contact Information**

Name: Sam Kazman, General Counsel

Organization: Competitive Enterprise Institute (CEI)

Mailing Address: 1899 L Street, 12th Floor

Washington, DC 20036 Phone: 202-331-2265 E-mail: skazman@cei.org

### To Whom It May Concern:

The Competitive Enterprise Institute (CEI), a non-profit, free-market public policy organization, hereby requests that EPA reopen the record in its Endangerment Proceeding to allow the filing of newly-uncovered information regarding the destruction and unreliability of crucial data being utilized by the agency. CEI also requests that the public comment period be reopened for a 30-day period, to allow for public responses to this information.

The information was not made public until mid-August, after the original comment period closed on June 23. As a result, this information was hidden from public view throughout the comment period.<sup>1</sup>

<sup>1</sup> In its "Proposed Endangerment" finding, EPA stated that "Comments on this proposed action must be received on or before June 23, 2009." 74 FR at 18,886.

1

EPA-0013430000008-0002

This new information is directly relevant to one of the basic issues in this proceeding: "the data on which the proposed findings are based, [and] the methodology used in obtaining and analyzing the data." *Proposed Endangerment*, 74 FR 18,890. However, its unavailability until now has prevented the public at large from commenting on it, and it has prevented EPA from considering it.

As is explained below at pp. 5-8, the discovery of new and highly relevant may warrant the reopening of an administrative proceeding, especially when, as here, the agency has not yet issued its final decision. In this particular case, moreover, EPA is under no time constraints which might prevent it from considering this new evidence. <sup>2</sup>

I.

The Climate Research Unit's New Revelation That It Destroyed Its Raw Climate Data
Is a Major Breach of Scientific Standards
And Requires a Reexamination of the Studies Based on That Data

In mid-August an important new development occurred--the University of East Anglia's Climate Research Unit (CRU) revealed that it had destroyed the raw data for its data set of global surface temperatures.

The CRU's admission came in a statement posted on its website in mid-August:



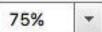














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Tools

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### Issues Raised Regarding the Climate Research Unit (CRU) of University of East Anglia

### Hacked E-Mails

### Background

- Two weeks ago, thousands of e-mails spanning the period 1996 November 2009 were hacked from a webserver at CRU and made public. Most of the e-mails were to or from Phil Jones, the current director of CRU (although he has just stepped down while an investigation into the issue is ongoing.)
- These e-mails focus on certain contentious issues in the climate debate, particularly the
  existence of a "Medieval Warm Period" about 1000 years ago, the "hockey stick graph", and
  (more recently) the explanation for the slowing and/or pause in the rate of warming over the
  last several years.
- These e-mails also contain statements that, when taken out of context, make it appear that the scientists were manipulating data, manipulating the peer review and IPCC process, potentially suppressing evidence and generally being nasty.
- Just this week, CEI petitioned EPA to reopen the comment period to allow analyses of the emails.

### Relevance to EPA and the Endangerment Finding

# Deliberative





















Tools

# **Deliberative**

### **Alleged Destruction of Climate Data**

### Background

- In July 2009, CRU explained on its Web site that some raw data from global weather stations
  was not available. This was seized upon by some groups as "undermining the foundation of
  climate science", because it prevented the dataset from being independently replicated.
  - They emphasized that the CRU database was the main source of data on the temperature trend in the IPCC Fourth Assessment Report (2007).
  - o They claimed that CRU had intentionally destroyed the data for an unknown reason
- CEI petitioned EPA to reopen the comment period because the loss of this data undermined the endangerment finding.
- There is no evidence that CRU purposefully destroyed any raw data. In fact, CRU states that
  over 95% of the data set concerning land surface temperatures is accessible, and all of the
  raw data is still held at the weather stations (although it is time-consuming to collect).
- The CRU dataset is not unique. The most recent IPCC report (2007), relies on three datasets for the discussion of long-term temperature trends. Two of these are U.S. datasets – from NOAA and NASA. The three datasets use different methods but arrive at consistent results, which provides additional confidence in the trends.

### Implications for EPA and the Endangerment Finding



01268-EPA-3141	suggested responses	12/05/2009 04:18:14 PM	Auth: David McIntosh	
	Exemption(s)		<u>Attachments</u>	
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### **Recipients**

windsor.richard@epa.gov Aaron Dickerson/DC/USEPA/US@EPA

### **Description and Justification**

Document EPA-3141 contains two emails from the Associate Administrator for the Office of Congressional and Intergovernmental Affairs to Administrator Lisa Jackson relating to a draft version of a Q&A document containing