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Via E-Mail

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**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-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 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.mediaite.com/online/white-](http://www.mediaite.com/online/white-house-links-polar-vortex-to-global-warming/)

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

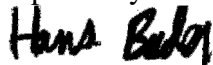
For the foregoing reasons, OSTP and the White House should grant CEI’s Request for Correction regarding Dr. Holdren’s claims and the video “The Polar Vortex Explained in 2 Minutes.”

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,



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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).