

## STATE ATTORNEYS GENERAL

### A Communication From the Chief Legal Officers of the Following States:

Alaska • California • Connecticut • Maine • Maryland • Massachusetts  
New Hampshire • New Jersey • New York • Rhode Island • Vermont

July 17, 2002

#### VIA FACSIMILE AND U.S. MAIL

The Honorable George W. Bush  
The White House  
1600 Pennsylvania Avenue  
Washington, D.C. 20500

Re: Climate Change

Dear President Bush:

Climate change presents the most pressing environmental challenge of the 21<sup>st</sup> century. We applaud the efforts of your Administration in the release this May of a formal, comprehensive report that details the seriousness of this problem. *U.S. Climate Action Report 2002*, U.S. Dept. of State, Washington, D.C., May 2002 (“*Report*”). Unfortunately, however, the Administration’s current policy is inconsistent with the import of the *Report’s* findings by failing to mandate reductions of greenhouse gas emissions. To fill this regulatory void, states and others are being forced to rely on their available legal mechanisms. The resulting combination of state-by-state regulations and litigation will necessarily lessen regulatory certainty and increase the ultimate costs of addressing climate change, thereby making the purported goals of the Administration’s current policy illusory. For these reasons, we write today to urge you to reconsider your position on the regulation of greenhouse gases and to adopt a comprehensive policy that will protect both our citizens and our economy.

#### The *Report* Documents the Need for Dramatic Action

The *Report* documents ongoing climate change that will cause significant impacts on virtually every aspect of our planet and way of life. We already see the signs of such change everywhere. Some are dramatic, such as the recent collapse of a portion of the Antarctic ice shelf the size of Rhode Island, the open water at the North Pole, or millions of acres of spruce trees in Alaska killed by insects. Others are less overt, but are also powerful statements of the enormity and pervasiveness of the problem. The *Report* is replete with examples. For instance, the *Report* documents that average temperatures have already increased 1 degree Fahrenheit over

the past century, and it projects that over the next century, average temperatures will likely increase 5-9 degrees Fahrenheit. Increased temperatures will dramatically change climates in every state and destroy some fragile ecosystems. The *Report* also documents that sea levels have already risen 4-8 inches over the last century, and it projects that they will likely rise another 4-35 inches over the next. Rising sea levels will cause more flooding along the coast and it will obliterate vital estuaries, coastal wetlands and barrier islands. While some areas will face increased storms and storm damage, other areas – such as California and other parts of the West – will face dwindling supplies of water. Of perhaps the most concern, the *Report* documents potential health-related impacts of climate change, and a just-published study in the journal *Science* warns of increased risks from insect-borne diseases such as malaria and yellow fever.

The *Report* makes it clear that the question of whether global climate change is occurring is no longer in doubt, only the precise rate of change and the specific impacts of that change. It also repeatedly acknowledges that the dominant cause of climate change is carbon dioxide produced from the combustion of fossil fuels. Notably, the *Report* projects that greenhouse gas emissions will increase by 43% by 2020. *Report* at 6. It also notes “the long lifetimes of greenhouse gases already in the atmosphere and the momentum of the climate system.” *Report* at 82. According to the *Report*, this means that impacts of climate change will continue to be felt for several centuries, “even after achieving significant limitation in emissions of CO<sub>2</sub> and other greenhouse gases.” See *Report* at 103. The evidence marshaled in the *Report* refutes its own counsel of inaction and delivers a different message: an effective response to the confirmed dangers of global climate change must include immediate action to limit greenhouse gas emissions.

### The Existing Administration Proposal is Inadequate and Increases Uncertainty

While we are certainly heartened that the United States has now officially recognized the existence and scope of the climate change problem, the Administration has yet to propose a credible plan that is consistent with the dire findings and conclusions being reported. The Administration’s one proposal calls for a voluntary reduction of greenhouse gas “intensity” at roughly the same pace such reductions have occurred over the last 20 years. The *Report* itself strongly suggests that such voluntary reductions will be grossly overshadowed by existing atmospheric gases and, combined with ongoing and increasing emissions, will actually allow the problem to continue to worsen. In light of this, the *Report* implicitly calls this policy approach into question. See *Report*, at 50-51 (stating that there is “a need to re-evaluate existing climate change programs to ensure they effectively meet future economic, climate, and other environmental goals”).

Despite conceding that our consumption of fossil fuels is causing serious damage and despite implying that current policy is inadequate, the *Report* fails to take the next step and recommend serious alternatives. Rather, it suggests that we simply need to accommodate to the coming changes. For example, reminiscent of former Interior Secretary Hodel’s proposal that the government address the hole in the ozone layer by encouraging Americans to make better use

of sunglasses, suntan lotion and broad-brimmed hats, the *Report* suggests that we can deal with heat-related health impacts by increased use of air-conditioning. *Report* at 82. Far from proposing solutions to the climate change problem, the Administration has been adopting energy policies that would actually *increase* greenhouse gas emissions. Notably, even as the *Report* identifies increased air conditioner use as one of the “solutions” to climate change impacts, the Department of Energy has decided to roll back energy efficiency standards for air conditioners.

To fill the void left by federal inaction on this issue, some states are now initiating measures, within their borders, to reduce greenhouse gas emissions. For example, Massachusetts last year adopted state regulations requiring carbon dioxide reductions by power plants, and New Hampshire recently enacted “cap and trade” legislation. California’s legislature has just passed a bill that will lead to the “maximum feasible” reductions of carbon dioxide emissions from vehicles. New York is also considering a carbon cap. Continued federal inaction will inevitably lead to a wider range of state regulatory efforts. In addition, states and others are beginning to review their litigation options.

#### Only Mandatory Federal Carbon Caps of Appropriate Levels Can Provide Regulatory Certainty

We obviously support our states’ regulatory and litigation efforts on this issue. At the same time, however, we want to make it clear that state-by-state action is not our preferred option. We believe that such regulation or litigation will increase the uncertainty facing the business community, thus potentially making the most cost-effective solutions more difficult. Moreover, we agree that the global nature of the climate change problem would be most efficiently addressed by comprehensive regulatory action at the national level. A recent Department of Energy Report concluded that the United States could address carbon dioxide emissions issues with minimal disruption of energy supply and at modest cost, but only with fully integrated planning. *See* Energy Information Administration, Office of Integrated Analysis and Forecasting, US Department of Energy, “Analysis of Strategies for Reducing Multiple Emissions from Electric Power Plants with Advanced Technology Scenarios,” SR/OIAF/2001-05 (October 2001). This integrated planning can only come with regulatory certainty.

In particular, we believe that a market-based program that would cap greenhouse gases holds great promise. Such an approach has a proven track record as one effective tool in the regulatory toolbox, as you have noted in other contexts. We strongly believe that prompt implementation of a market-based approach that caps greenhouse gas emissions would promote significant benefits for public health, welfare and the environment in a manner that would be consistent with strong economic policies.

Conclusion.

We very much appreciate your Administration's formally acknowledging the magnitude and nature of the climate change problem. In light of the *Report's* findings, however, we urge you now to rethink the Administration's policy response to the problem. While individual states are prepared to lead the way, we believe that a strong national approach will allow for more efficient solutions that will better protect the American economy in the long run. Please do not hesitate to contact us on this critical issue.

Very truly yours,

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cc. Christine Todd Whitman, EPA