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ONE HUNDRED EIGHTH CONGRESS

# Congress of the United States

## House of Representatives

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April 13, 2004

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The Honorable John H. Marburger, III  
Director, Office of Science and Technology Policy  
Executive Office of the President  
Washington, DC 20502

Dear Dr. Marburger:

I am writing to request additional information regarding your April 2, 2004, response to *Scientific Integrity in Policymaking*, a report released by the Union of Concerned Scientists (UCS). As you know, the UCS report documented numerous areas where “the current administration has undermined the quality of the science that informs policymaking by suppressing, distorting, or manipulating the work done by scientists at federal agencies.”<sup>1</sup> Twenty Nobel Laureates and numerous other distinguished scientists signed an accompanying statement describing the Bush Administration’s political interference with science as unprecedented.<sup>2</sup> I released a similar report in August 2003 entitled *Politics and Science in the Bush Administration*.<sup>3</sup>

On April 2, you released a response describing the UCS report as “wrong and misleading,” “inaccurate,” with “methodological flaws,” and full of “errors, distortions and misunderstandings.”<sup>4</sup> These are serious charges, but they do not appear to be well substantiated.

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<sup>1</sup>Union of Concerned Scientists, *Scientific Integrity in Policymaking: An Investigation into the Bush Administration’s Misuse of Science* (March 2004) (online at [www.ucsusa.org/global\\_environment/rsi/index.html](http://www.ucsusa.org/global_environment/rsi/index.html)).

<sup>2</sup>Philip W. Anderson, et. al., *Statement: Restoring Scientific Integrity in Policymaking* (February 2004) (online at [www.ucsusa.org/global\\_environment/rsi/signon.html](http://www.ucsusa.org/global_environment/rsi/signon.html)).

<sup>3</sup>Minority Staff, Government Reform Committee, *Politics and Science in the Bush Administration* (Aug. 2003) (online at [www.house.gov/reform/min/politicsandscience](http://www.house.gov/reform/min/politicsandscience)).

<sup>4</sup>John H. Marburger, III, *Statement of the Honorable John H. Marburger, III on Scientific Integrity in the Bush Administration* (Apr. 2, 2004) (online at [www.ostp.gov](http://www.ostp.gov)).

I have reviewed your response to the UCS report. In key areas, your explanations appear to omit relevant facts. For example:

- **Global Warming**

The UCS report found that political interference led the Environmental Protection Agency (EPA) to eliminate a discussion of global warming from a comprehensive report on the environment. Your response is that this decision was made by the EPA Administrator, not the White House. You neglected to mention that the EPA Administrator decided to drop the discussion of global warming only after the White House insisted on unacceptable changes to EPA's analysis.

- **Breast Cancer**

The UCS report criticized the Bush Administration for removing a fact sheet from the website of the National Cancer Institute (NCI) that found there was no link between abortions and breast cancer. Your response says that NCI removed the fact sheet "when it became clear that there was conflicting information in the published literature." You neglected to mention that the "conflicting information" was a set of inconclusive studies that were conducted years before the original fact sheet was posted, were acknowledged and discussed by NCI in the original fact sheet, and were rejected in the fact sheet because subsequent, better designed studies showed no link between abortion and breast cancer.

- **Pollution Legislation**

The UCS report criticized EPA for withholding an analysis showing that clean air legislation introduced by Senator Carper would cut pollutants earlier and save more lives than the President's proposal at "negligible" cost to industry. Your response says that "[t]he report underwent a standard interagency prerelease clearance, and an intent to release always existed." You neglected to mention that EPA had selectively released the portions of its analysis that were critical of Senator Carper's legislation and had resisted for months the requests of several Senators for access to the complete analysis.

In many other instances, your response contains assertions that there was no improper injection of political considerations into scientific analyses or the activities of science-based agencies, but does not provide substantiation of these assertions or respond to the specifics of the UCS findings. For example:

- **Reproductive Health**

The UCS report criticized the Bush Administration for (1) appointing Dr. David Hager, a physician who has “scant credentials” and who “is best known for co-authoring a book that recommends particular scripture readings as a treatment for premenstrual syndrome,” to the Reproductive Health Drugs Advisory Committee of the Food and Drug Administration and (2) recommending that he chair the committee. Your response says that Dr. Hager is “in fact well qualified.” But you did not describe any qualifications that make Dr. Hager suitable for appointment to this important scientific post.

- **Lead Poisoning**

The UCS report criticized the appointment of Dr. William Banner, a lead industry consultant, to the committee that advises the Centers for Disease Control and Prevention on childhood lead poisoning on the grounds that Dr. Banner holds a “fringe” perspective, including the view that a blood lead level of 70 micrograms per deciliter – seven times the current safety standard – is safe for children’s brains. Your response says that Secretary of Health and Human Services Tommy G. Thompson was seeking a “diverse set of opinions, including those from industry.” You did not explain Dr. Banner’s credentials or respond to the UCS finding that Dr. Banner was unqualified because he “willfully ignores or willfully misreads some four decades’ worth of accumulating data on lead exposure in children.”

- **Iraq’s Nuclear Program**

The UCS report found fault with senior Administration officials, including the President, who made public statements that Iraq had sought aluminum tubes for a nuclear weapons program despite the fact that technical experts at the Department of Energy had concluded the tubes were not suitable for this use. In response, you cite a February 2004 speech in which CIA Director George Tenet asserts that the experts’ doubts were revealed in a classified intelligence document called the National Intelligence Estimate. You did not explain how including the disclaimers in a classified document, which by its nature was not available to the public, justified public statements by Administration officials that did not acknowledge the contrary views of the Department of Energy experts.

I appreciate the fact that you take seriously the allegations that the Bush Administration manipulates science for political purposes. And I also appreciate that you have attempted to respond in a substantive way to these allegations. But a close review reveals that your response is incomplete and leaves many important questions

The Honorable John H. Marburger, III  
April 13, 2004  
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unaddressed. In fact, your response fails to provide adequate substantiation in at least 19 of the examples it discusses.

I have attached to this letter a list of questions seeking additional information about the Administration's actions. This additional information is needed to address areas where your response provides little or no supporting detail. I would like to receive a response to these questions by April 27, 2004. I also ask that you review the additional examples of political interference with science by the Bush Administration that are documented in my August 2003 report and on the Committee's minority website at [www.house.gov/reform/min/politicsandscience](http://www.house.gov/reform/min/politicsandscience).

The debate over how the Bush Administration uses science is extraordinarily important. It is a debate that should be conducted in public with full disclosure of all the relevant facts.

Sincerely,

A handwritten signature in black ink that reads "Henry A. Waxman". The signature is written in a cursive style with a large, stylized initial "H".

Henry A. Waxman  
Ranking Minority Member

Enclosure

**Additional Questions for Dr. John H. Marburger, III**  
**From Rep. Henry A. Waxman**  
**April 13, 2004**

**1. Antibiotic Resistance**

In its February 2004 report *Scientific Integrity in Policymaking*, the Union of Concerned Scientists (UCS) found that the U.S. Department of Agriculture (USDA) prevented a Department microbiologist, Dr. James Zahn, from presenting research on dust-borne antibiotic-resistant bacteria related to hog farming. UCS sources included an interview with Dr. Zahn, a *New York Times* article on internal USDA emails that describe Dr. Zahn's work as "politically sensitive,"<sup>1</sup> a *Science News* article reporting findings of a German study that support Dr. Zahn's research,<sup>2</sup> and a report from the *Des Moines Register* describing the close relationship between USDA and the pork industry.<sup>3</sup>

You asserted that Dr. Zahn was prevented from speaking several times because he did not have any "scientific data or expertise" related to public health. You offered no supporting evidence for this assertion. Please explain why data on dust-borne antibiotic-resistant bacteria is not related to public health, and please provide all documents related to USDA's refusal to permit this scientist to present his results.

**2. Breast Cancer**

The UCS report criticized the Bush Administration for removing a fact sheet from the website of the National Cancer Institute (NCI) that found there was no link between abortions and breast cancer.

You responded that NCI removed the fact sheet "when it became clear that there was conflicting information in the published literature." You neglected to mention that the "conflicting information" was a set of inconclusive studies that were conducted years before the original fact sheet was posted, were acknowledged and discussed by NCI in the original fact sheet, and were rejected in the fact sheet because subsequent, better designed studies showed no link between abortion and breast cancer. Please explain "when it became clear that there was conflicting information in the public literature" and to whom "it became clear." Please also provide all documents related to the removal of the fact sheet.

**3. Condoms**

UCS charged that Bush Administration officials removed truthful information from the CDC web site on how to use condoms and the effectiveness of different types of condoms. UCS

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<sup>1</sup> *Neighbors of Vast Hog Farms Say Foul Air Endangers Their Health*, New York Times (May 11, 2003).

<sup>2</sup> *Antibiotics Fed to Animals Drift in Air*, Science News (Jul. 5, 2003).

<sup>3</sup> *Ag Scientists Feel the Heat*, Des Moines Register (Dec. 1, 2002).

cited an interview with a current CDC staffer who said the change was ordered by Bush Administration officials.

You asserted that the change was part of the “routine” process of updating information on agency web sites. You offered no supporting evidence for this assertion. Please explain how removing truthful information constitutes “updating” the information, and please provide all documents related to the removal of this information.

#### **4. Defense-Related Science**

UCS reported that engineer William E. Howard III was rejected for a Defense Department advisory panel because someone with a similar name had contributed to the presidential campaign of John McCain. UCS relied on a letter from Mr. Howard published in *Science* magazine, citing a conversation he had with the advisory panel’s staff.<sup>4</sup>

You asserted that the claim is “without support.” However, you offered no evidence for this assertion. Please provide all documents related to the nomination of William E. Howard III to the Army Science Board and the rejection of his nomination.

#### **5. Global Warming: EPA Report**

UCS found that political interference led the Environmental Protection Agency (EPA) to eliminate a discussion of global warming from a comprehensive report on the environment.

Your response was that this decision was made by the EPA Administrator, not the White House. You neglected to mention that the EPA Administrator decided to drop the discussion of global warming only after the White House insisted on unacceptable changes to EPA’s analysis. Please explain the White House role and provide all documents relating to the White House review of the EPA analysis.

#### **6. Global Warming: USDA Brochure**

UCS concluded that the White House blocked the reprinting of a USDA brochure showing farmers how to reduce greenhouse gas emissions, citing an interview with William Hohenstein, director of the Global Change Program Exchange in the office of the chief economist at USDA.

You asserted that USDA itself decided not to republish the brochure. You offered no supporting evidence for this assertion. Please describe what role, if any, the White House played in reviewing the brochure and provide all documents related to any White House review.

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<sup>4</sup> W.E. Howard III, *Letter: Advice Without Dissent at the DOD*, *Science* (Nov. 15, 2002).

## **7. Health and the Environment**

UCS criticized the White House for delaying the release of an EPA report on children's health and mercury in the environment. The UCS assertion was corroborated by a *Wall Street Journal* account detailing the report and the unusual scrutiny the report received from agencies, including the Office of Management and Budget and the Office of Science and Technology Policy in the White House.<sup>5</sup>

You asserted that the report was reviewed under "standard operating procedure." However, you offered no specific information on why the review took so long. Please explain the reasons for the delay and provide all documents related to the review of this report by OMB and other White House officials.

## **8. HIV/AIDS**

UCS criticized the Bush Administration for appointing Dr. Joseph McIlhaney, a doctor with "disdain for the use of condoms" and a "dearth of peer-reviewed, scientific research or endorsement by any established medical societies" to the Presidential Advisory Council on HIV/AIDS and the Advisory Committee to the Director of the CDC.

You asserted that Dr. McIlhaney is "in fact well qualified." You offered no supporting evidence for this assertion. Please explain exactly what makes Dr. McIlhaney "well qualified" to advise the President on HIV and the CDC Director on public health. Please provide all documents related to Dr. McIlhaney's nomination for these scientific posts.

## **9. Iraq's Nuclear Program**

UCS found fault with senior Administration officials, including the President, who made public statements that Iraq had sought aluminum tubes for a nuclear weapons program despite the fact that technical experts at the Department of Energy had concluded the tubes were not suitable for this use.

In response, you cited a February 2004 speech in which CIA Director George Tenet asserted that the experts' doubts were revealed in a classified intelligence document called the National Intelligence Estimate. Please explain how including the disclaimers in a classified document, which by its nature was not available to the public, justified public statements by Administration officials that did not acknowledge the contrary views of Department of Energy experts.

## **10. Lead Poisoning**

UCS criticized the appointment of Dr. William Banner, a lead industry consultant, to the committee that advises the Centers for Disease Control and Prevention on childhood lead

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<sup>5</sup> *Mercury Threat to Kids Rising, Unreleased EPA Report Warns*, Wall Street Journal (Feb. 20, 2003).

poisoning on the grounds that Dr. Banner holds a “fringe” perspective, including the view that a blood lead level of 70 micrograms per deciliter – seven times the current safety standard – is safe for children’s brains. UCS cited an interview with a prominent expert in lead poisoning.

You responded that Secretary of Health and Human Services Tommy G. Thompson was seeking a “diverse set of opinions, including those from industry.” You did not explain Dr. Banner’s credentials or respond to the UCS finding that Dr. Banner was unqualified because he “willfully ignores or willfully misreads some four decades’ worth of accumulating data on lead exposure in children.” Please provide all documents related to the appointment of Dr. Banner.

## 11. Mercury

UCS found that the White House worked closely with industry in developing new air quality rules related to mercury, with the final draft lifting at least 12 paragraphs from a document prepared by industry lawyers. UCS cited a *Washington Post* article in which an industry lawyer said she was “gratified” that the agency found the firm’s language persuasive.<sup>6</sup> UCS also relied on a *Los Angeles Times* report citing John A. Paul, the co-chair of the EPA’s advisory panel that would normally have reviewed such regulations, who said that the panel’s 21 months of work on mercury were “ignored” by the Administration.<sup>7</sup> UCS also conducted interviews with two current EPA staff members and with the former director of EPA’s Air Enforcement Division, Bruce C. Buckheit.

You claimed that the copied paragraphs were in the preamble to the rule, so the “implication that industry is writing government regulations is wrong.” You did not explain why you believe it is acceptable for industry officials to write the preamble to federal regulations. You also did not address the allegations that industry lawyers had undue influence or describe the contacts between EPA and industry officials. Please provide all documents related to contact between industry and the White House and EPA on air quality rules related to mercury since January 2001.

## 12. Nuclear Weapons

UCS found that the technical advisory committee to the National Nuclear Security Administration was dissolved after several scientists published articles raising doubts about the safety of limited nuclear weapons. UCS relied on a report in *Physics Today*<sup>8</sup> and a detailed discussion of the relevant technologies in *Science and Global Security*.<sup>9</sup>

You asserted that the committee was dissolved after it fulfilled its mission. You offered no supporting evidence for this assertion. Please provide all documents related to the

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<sup>6</sup> *Proposed Mercury Rules Bear Industry Mark*, *Washington Post* (Jan. 31, 2004).

<sup>7</sup> *Mercury Emissions Rules Geared to Benefit Industry, Staffers Say*, *Los Angeles Times* (Mar. 16, 2004).

<sup>8</sup> *Disbanding NNSA Advisory Panel Raises Concerns*, *Physics Today* (Sep. 2003).

<sup>9</sup> *Low-Yield Earth-Penetrating Nuclear Weapons*, *Science and Global Security* (2002).

termination of this committee, including any documents that mention the published writings of advisory committee members.

### **13. Peer Review**

UCS concluded that the Office of Management and Budget has proposed a counterproductive government-wide peer review process that will delay needed regulatory action. UCS relied on several sources including National Academy of Sciences President Dr. Bruce Alberts, who wrote in comments to OMB that the proposal “is likely to be counterproductive.”<sup>10</sup>

You asserted that the proposed policy would improve public confidence in science and prevent legal delays to rules. You offered no evidence to support this prediction. Please address the specific objections raised by UCS and Dr. Alberts.

### **14. Pollution Legislation**

UCS criticized EPA for withholding an analysis showing that clean air legislation introduced by Senator Thomas R. Carper would cut pollutants earlier and save more lives than the President’s proposal at “negligible” cost to industry. UCS cited a *Washington Post* article indicating that Senators Carper, Lincoln Chafee, and Judd Gregg had been requesting the information for months.<sup>11</sup>

You responded that “[t]he report underwent a standard interagency prerelease clearance, and an intent to release always existed.” You neglected to mention that EPA had selectively released the portions of its analysis that were critical of Senator Carper’s legislation and had resisted the Senators’ request for the release of the complete analysis. Please explain why EPA preferentially released damaging portions of its analysis and provide all documents related to the release of this information.

### **15. Reproductive Health**

UCS criticized the Bush Administration for (1) appointing Dr. David Hager, a physician who has “scant credentials” and who “is best known for co-authoring a book that recommends particular scripture readings as a treatment for premenstrual syndrome,” to the Reproductive Health Drugs Advisory Committee of the Food and Drug Administration and (2) recommending that he chair the committee. UCS cited a *Time* article describing exaggeration in Dr. Hager’s resume,<sup>12</sup> and also cited Dr. Hager’s writings.<sup>13</sup>

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<sup>10</sup> Bruce Alberts, *National Academy of Sciences Comments on OMB’s Proposed Bulletin on Peer Review and Information Quality* (online at <http://www.whitehouse.gov/omb/inforeg/2003iq/115.pdf>).

<sup>11</sup> *EPA Withholds Air Pollution Analysis*, *Washington Post* (July 1, 2003).

<sup>12</sup> *Jesus and the FDA*, *Time* (Oct. 5, 2002). According to the article, Dr. Hager’s resume stated that he is a University of Kentucky Professor, but a University official told *Time* that

You asserted that Dr. Hager is “in fact well qualified.” You offered no supporting evidence for this assertion. Please explain exactly what makes Dr. Hager “well qualified” for a leading scientific position advising FDA on reproductive health drugs. Please provide all documents related to Dr. Hager’s appointment.

## 16. Sex Education

UCS criticized the Bush Administration for discontinuing a project called “Programs That Work,” which identified and honored effective sex education programs. UCS noted that all five of the programs that had been honored in 2002 were comprehensive sex education programs, and none were “abstinence-only” programs favored by the Bush Administration. UCS cited a CDC official stating that the decision to eliminate “Programs That Work” was made “at the behest of higher-ups in the Bush administration.”

You responded that the “Programs That Work” website was removed “because the programs it listed were limited.” You did not explain in what sense the programs were “limited.” Please do so and provide all documents that pertain to the elimination of this initiative.

## 17. Substance Abuse

UCS found that a leading substance abuse expert, Dr. William R. Miller, had been asked about his views on abortion and whether he had voted for President Bush before being rejected for an important advisory panel at the National Institutes on Drug Abuse. UCS relied on a report of the incident in the *Journal of the American Psychological Association*.<sup>14</sup> In addition, since the UCS report was published, Dr. Sally Satel, a scholar at the conservative American Enterprise Institute, has confirmed Dr. Miller’s account.<sup>15</sup>

You asserted that the National Institutes on Drug Abuse decided not to appoint Dr. Miller for reasons unrelated to political litmus tests. You offered no supporting evidence for this assertion. Please explain why Dr. Miller was asked his views on abortion and whether he had voted for President Bush and provide all documents related to Dr. Miller’s appointment, including those relating to his rejection.

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Hager’s position is part-time, voluntary, and involves working with interns at an affiliated hospital, not at the University itself.

<sup>13</sup> W.D. Hager, *As Jesus Cared for Women: Restoring Women Then and Now* (1998).

<sup>14</sup> *Political Science: Allegations of Politicization Are Threatening the Credibility of the Federal Government’s Scientific Advisory Committees*, Monitor on Psychology: Journal of the American Psychological Association (Mar. 2003).

<sup>15</sup> Sally Satel, *Science Fiction*, The Weekly Standard (Apr. 12, 2004)(“I personally recommended Dr. Miller and was dismayed when an HHS “vetting” aide asked me about his views on abortion and whether he had voted for Bush”).

## 18. Teen Pregnancy Prevention

UCS found that the Bush Administration rewrote performance measures to make abstinence-only education programs appear effective. UCS described the original measures cited in the *Federal Register*,<sup>16</sup> which included tracking such data as the number of pregnancies among program participants, and compared the original measures with the revised measures, which “required the government to track only participants’ program attendance and attitudes, measures designed to obscure the lack of efficacy of abstinence-only programs.”

You asserted that no usable data would be obtained by the original measures. You offered no supporting evidence for this assertion. Please explain why no “usable data” would result from tracking rates of teen pregnancy in teen pregnancy prevention programs. Please provide all documents related to the rewriting of these performance measures.

## 19. Workplace Safety

UCS expressed concern that the Bush Administration appears to have rejected two qualified nominees to a peer review panel at the National Institute for Occupational Safety and Health because of their past support for efforts to protect workers. UCS cited conversations with the ergonomic experts themselves. UCS also cited a *Los Angeles Times* article in which panel chair Dana Loomis stated that HHS did not provide any reason for its rejection of the nominees and asserted that such actions “tend[] to stifle the scientific spirit.”<sup>17</sup>

You asserted that “[t]he claim of politically motivated intervention is not true” and that individuals on CDC advisory panels may be rejected “for a variety of reasons.” You offered no supporting evidence for these assertions. Please provide all documents related to the nominations of Dr. Laura Punnett and Dr. Manuel Gomez, including those that indicate the reasons for their rejection.

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<sup>16</sup> 65 Federal Register: 69562-65 (Nov. 17, 2000).

<sup>17</sup> *Advisors Put Under a Microscope*, Los Angeles Times (Dec. 23, 2002).