IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

ENVIRONMENTAL DEFENSE FUND,

Plaintiff,

v.

NATIONAL SCIENCE FOUNDATION,

BRIAN STONE, *in his official capacity as the official performing the duties of Director of NSF*,

OFFICE OF MANAGEMENT AND BUDGET and

RUSSELL VOUGHT, *in his official capacity as Director of OMB*,

Defendants.

Case No. _____

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

1. The causes of climate change and the resulting harms to millions of people are among the most important scientific issues that federal policymakers have ever confronted. The federal government's investment in climate science research plays a crucial role in our society's ability to understand and respond to the sweeping impacts of climate change, including worsening heat waves that contribute to increased wildfires, more extreme storms, and flooding.

2. As directed by Congress, the National Science Foundation (NSF) is at the forefront of the federal government's climate science research. NSF's premier institution—and indeed, the nation's premier institution—for conducting and facilitating research critical to informing the understanding of climate change is the National Center for Atmospheric Research (NCAR) in Boulder, Colorado. NCAR was created in the 1960s and has developed an integrated apparatus that supports research into the Earth and Geospace systems as a whole, including the

atmosphere, oceans, land surface, ice sheets, weather systems, air quality, wildfire, water resources, solar-terrestrial physics, and the effects of climate change.

3. But over the last several months, the White House Office of Management and Budget (OMB) and NSF have acted abruptly and without a reasoned explanation to eliminate NCAR's research functions that contribute to a better understanding of climate and how related Earth and Geospace systems impact climate, including NCAR's research labs, programs, and models. This decision is part of a broader effort to break apart NCAR, which OMB Director Russell Vought publicly announced in a three-sentence post on X, formerly Twitter, on December 16, 2025. The decision to end NCAR's climate research functions, no matter the disposition of the rest of NCAR's programs and assets, was memorialized in internal government documents that have now been made public.

4. The Administration's decision to shut down all of NCAR's climate research functions is the antithesis of the reasoned decision-making that the Administrative Procedure Act (APA) requires of federal agencies. OMB and NSF did not offer a satisfactory explanation for their decision, did not ground their decision in facts, failed to consider legally required factors, and entirely ignored reliance interests. Instead, their decision represents a politically-motivated, predetermined outcome driven by ideological animus rather than reason.

5. And the Administration decided in December 2025 to close the Mesa Lab, the iconic headquarters of NCAR in the Boulder foothills, that represent a significant historic site of scientific discovery and modernist architecture. However, the government did not assess the impact of this undertaking and provide for public input as required under the National Historic Preservation Act.

6. Federal law does not permit agencies or OMB Director Vought to unilaterally eliminate the research functions at NCAR that contribute to an understanding of climate change. Environmental Defense Fund brings this action to enjoin Defendants' violations of the Administrative Procedure Act in seeking to eliminate climate research at NCAR and close the Mesa Lab, and to compel Defendants to follow the law and provide clear support and explanations for this sweeping government action.

JURISDICTION AND VENUE

7. This Court has jurisdiction under 28 U.S.C. § 1331 because the claims arise under the laws of the United States, and under 28 U.S.C. § 1346(a)(2) because Defendants are United States agencies and officials.

8. Venue is proper in this judicial district under 28 U.S.C. § 1391(e)(1) because Defendants are officers or employees of the United States sued in their official capacities, a substantial part of the events or omissions giving rise to the claim occurred in this district, and a substantial part of property that is the subject of the action is situated in this district.

PARTIES

9. Plaintiff Environmental Defense Fund is a nonprofit organization working to protect human health and the environment by advancing science-based solutions to climate change, reducing air pollution including methane and other greenhouse gas emissions, and addressing other environmental harms. EDF is incorporated in New York, with offices, staff, and members across the United States, and has maintained an office in Boulder, Colorado for the last 40 years. EDF employs a staff of expert scientists and relies upon high-quality scientific research from leading institutions, including NCAR, to inform work across a wide variety of areas including mitigating methane pollution; clean transportation; marine ecology; fishery

conservation; wetlands protection; toxic air pollution; carbon dioxide removal; climate adaptation; alternative fuels; climate intervention, and more. EDF engages in extensive outreach to inform the public and decisionmakers about matters affecting public health, environmental, and energy policy, as well as about climate change science and the human health impacts of pollution.

10. Defendant National Science Foundation is a federal agency with responsibilities including "to initiate and support basic scientific research and programs to strengthen scientific research potential and science education programs at all levels in the mathematical, physical, medical, biological, social, and other sciences." 42 U.S.C. § 1862(a)(1).

11. Defendant Brian Stone is the official performing the duties of the Director of NSF and is sued in his official capacity.

12. Defendant Office of Management and Budget (OMB) is a federal agency within the Executive Office of the President that is responsible for producing the President's budget and coordinating interagency policy initiatives.

13. Defendant Russell Vought is the Director of OMB and is sued in his official capacity.

FACTUAL AND LEGAL BACKGROUND

A. NSF Has Statutory Mandates to Support and Integrate Scientific Research

14. Congress has codified "[t]he mission of the National Science Foundation is to provide Federal support for basic scientific and engineering research, and to be a primary contributor to mathematics, science, and engineering education at academic institutions in the United States." 42 U.S.C. § 1862k(a)(6)(A).

15. Congress has further provided that, "[i]n accordance with such mission, the long-term goals of the National Science Foundation include providing leadership to [] (i) enable the United States to maintain a position of world leadership in *all aspects of science*, mathematics, engineering, and technology; (ii) promote the discovery, integration, dissemination, and application of new knowledge in service to society; and (iii) achieve excellence in United States science, mathematics, engineering, and technology education at all levels." *Id.* § 1862k(a)(6)(B) (emphasis added).

16. And, per Congress, "[i]n carrying out activities designed to achieve [its statutory] goals . . . , the Foundation shall use . . . core strategies" including to "[s]trengthen the scientific infrastructure by investing in facilities planning and modernization, instrument acquisition, instrument design and development, and shared-use research platforms," and to "[i]ntegrate research and education through activities that emphasize and strengthen the natural connections between learning and inquiry." *Id.* § 1862k(b).

17. Congress has also made clear that climate research is one of the science disciplines that NSF must support—a mandate that is fulfilled in part by NCAR's comprehensive research and modeling of Earth and Geospace systems and how these systems are impacted by climate change. Congress has directed, for example, that "[t]he [NSF] Director shall make awards, on a competitive basis, to institutions of higher education or non-profit organizations (or consortia of such institutions or organizations) to support research to improve our understanding of the climate system and related human and environmental systems." 42 U.S.C. § 19054.

B. The National Historic Preservation Act Imposes Requirements Before Engaging in Undertakings with Historic Federal Property

18. Congress enacted the National Historic Preservation Act (NHPA) "to insure future generations a genuine opportunity to appreciate and enjoy the rich heritage of our Nation."

Pub. L. No. 89-665, 80 Stat. 915 (1966). The act established various mechanisms intended to "accelerate [the federal government's] historic preservation programs and activities" and "give maximum encouragement to agencies and individuals undertaking preservation." *Id.*

19. Section 106 of NHPA, codified at 54 U.S.C. § 306108 ("Section 106"), requires federal agencies to consider the effect of any "undertaking" on historic properties. An "undertaking" is "a project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency, including— (1) those carried out by or on behalf of the Federal agency; (2) those carried out with Federal financial assistance; (3) those requiring a Federal permit, license or approval; and (4) those subject to State or local regulation administered pursuant to a delegation or approval by a Federal agency." 54 U.S.C. § 300320; *see also* 36 C.F.R. § 800.16(y).

20. A "historic property" is defined as "any prehistoric or historic district, site, building, structure, or object included on, or eligible for inclusion on, the National Register, including artifacts, records, and material remains relating to the district, site, building, structure, or object." 54 U.S.C. § 300308; *see also* 36 C.F.R. § 800.16(l)(1).

21. To be eligible for inclusion in the National Register, a property must "possess integrity of location, design, setting, materials, workmanship, feeling, and association," meet at least one of four "National Register criteria for evaluation" listed in 36 C.F.R. § 60.4, and have "achieved significance" more than 50 years ago, unless a subset of narrower criteria are satisfied. 36 C.F.R. § 60.4.

22. NHPA's implementing regulations, 36 C.F.R. pt. 800, require federal agencies to identify historic properties; evaluate the potential effects of the proposed undertaking on the properties; consult with the State Historic Preservation Officer (SHPO) and other consulting

parties; involve the public; and consider alternatives to avoid, minimize, or mitigate adverse effects. *See* 36 C.F.R. §§ 800.1(a), 800.2(d).

23. An "adverse effect" arises where "an undertaking may alter, directly or indirectly, any of the characteristics of a historic property that qualify the property for inclusion in the National Register in a manner that would diminish the integrity of the property's location, design, setting, materials, workmanship, feeling, or association." 36 C.F.R. § 800.5(a)(1). The regulations include among the examples of adverse effects the "[c]hange of the character of the property's use or of physical features within the property's setting that contribute to its historic significance" and the "[t]ransfer, lease, or sale of property out of Federal ownership or control without adequate and legally enforceable restrictions or conditions to ensure long-term preservation of the property's historic significance." *Id.* § 800.5(a)(2)(iv), (vii).

24. Federal agencies must initiate Section 106 review "early in the undertaking's planning, so that a broad range of alternatives may be considered[,]" and complete the process "prior to the approval of the expenditure of any Federal funds on the undertaking or prior to the issuance of any license." *Id.* § 800.1(c).

C. NCAR Is a World-Class Science Facility Conducting Important Climate Research

25. NCAR has served as an anchor for NSF to carry out its mandate to comprehensively and holistically support science research.

26. Consistent with NSF's statutory missions and congressional mandates for carrying out those missions, NCAR is an integrated research center that combines scientists, computer models, observational platforms, scientific datasets, research aircraft, and high-performance computing infrastructure. That integrated structure enables NCAR to support research into the Earth system as a whole.

27. NSF describes NCAR as a focal point for atmospheric science research.[1] Over 700 scientists and support personnel work at NCAR and the center provides resources that are used both by NCAR's own researchers and by universities, federal agencies, private-sector researchers, and nonprofit organizations across the United States.

28. NCAR is and always has been managed by the University Corporation of Atmospheric Research (UCAR), a consortium of approximately 130 member institutions of higher education that depend on NCAR to facilitate scientific research.

29. NCAR is currently managed and operated by UCAR under a cooperative agreement (CA) that NSF awarded in 2018 and that expires on September 30, 2028. *University Corp. for Atmospheric Res. (UCAR) v. NSF*, Case No. 1:26-cv-01061, ECF No. 32-2 at 2 (D. Colo.). Although the CA has been amended on multiple occasions, the core research components and expectations remain unchanged. *Compare id.* at 9-10 (original CA), *with id.* at 17 (September 2025 amendment to CA). One of NCAR's primary research components is "the prediction of weather and climate across dynamical scales." *Id.* at 9. The CA also requires NCAR to "[b]uild, operate and maintain state-of-the-art shared observational facilities, computational infrastructure and databases, and make them accessible to the community." *Id.* at 10. NCAR is expected to "[a]pply scientific understanding to recognized and emerging problems with significant national relevance." *Id.*

30. NCAR's mission and work are crucial because climate change is already affecting the United States. The federal government's 2023 Fifth National Climate Assessment describes climate change as a present and worsening threat to public health, infrastructure, ecosystems,

[1] Nat'l Sci. Found., *Infrastructure Cluster (AGS-IC)*, available at https://perma.cc/U2WT-MQ4E ("The Center is a focal point for atmospheric science research . . . .").

water resources, agriculture, and the economy.[2] The harms from climate change include more frequent and intense heat waves, rising sea levels, flooding, drought, wildfire, extreme precipitation, and degraded air quality.

31. NCAR also has facilities in Cheyenne, Wyoming, which have historically housed its climate modeling supercomputers, and at the Mauna Loa Solar Observatory in Hawaii, which collects unique observations of the Sun's atmosphere.

32. NCAR has eight principal divisions: (1) Atmospheric Chemistry Observations & Modeling (ACOM); (2) Climate and Global Dynamics (CGD) Laboratory; (3) Computational & Information Systems Laboratory (CISL); (4) Education, Engagement & Early-Career Development (EdEC); (5) Earth Observing Laboratory (EOL); (6) High Altitude Observatory (HAO); (7) Mesoscale & Microscale Meteorology (MMM); and (8) Research Applications Laboratory (RAL).

33. Through these labs and programs, NCAR maintains some of the most important community models of Earth and Geospace systems that inform climate science, including the Community Earth System Model ("CESM"), Atmospheric Chemistry Models, System for Integrated Modeling of the Atmosphere, Earth System Predictability Across Timescales, Geoscience Data Exchange, Fire Inventory from NCAR, Multiscale Infrastructure for Chemistry and Aerosols, and related modeling systems.

34. To support its climate and other science research, NCAR relies on research aircraft and its NCAR-Wyoming Supercomputing Center. Similarly, NCAR's C-130 and

[2] The government took down the website that hosted the most recent edition of the National Climate Assessment. *See* Rebecca Hersner, *The White House Took Down the Nation's Top Climate Report. You Can Still Find It Here*, NPR (July 1, 2025), https://perma.cc/6386-CUGF. Archived versions of the report remain available through other sources. *See* Fifth National Climate Assessment, *available at* https://nca5.climate.us/downloads/NCA5_2023_FullReport.pdf.

Gulfstream aircraft allow scientists to conduct research, such as measuring atmospheric conditions, greenhouse gases and other pollutants, weather, and other phenomena that cannot be adequately studied from the ground.

35. The NCAR-Wyoming Supercomputing Center is likewise essential. Modern climate and atmospheric research depends on the ability to run complex models and process datasets, and the supercomputer enables scientists to conduct research that would be impossible using ordinary computing resources.

36. NCAR is also a respected institution that trains scientists, engineers, mathematicians, computer programmers, and other experts; fosters community and information sharing across subjects; and facilitates improved research outcomes and understanding through its networks. NCAR offers formal training and study programs, including numerous workshops to train professionals and students in how to access and use NCAR's many tools.[3]

37. Scientists affiliated with NCAR have made vital contributions to atmospheric, ocean, space, and climate science, as well as to our understanding of the sun and our solar system. These contributions often reflect NCAR's distinctive gift for collaborative inquiry, connecting scientists in governmental, private-sector, and academic domains. NCAR's many signature contributions include discovering the Madden-Julian Oscillation, a tropical climate variability that contributes to extreme weather events in the United States; helping to predict long-range weather patterns and tropical storm activity; pioneering the development of community models which allow vast numbers of researchers in diverse locations to cooperate,

[3] *See, e.g.*, *Tutorials + workshops*, NCAR, https://ncar.ucar.edu/opportunities/workshops-conferences (last accessed Aug. 19, 2026); Marshall Shepherd, *8 Ways The National Center For Atmospheric Research Helps You*, Forbes (Dec. 18, 2025), https://www.forbes.com/sites/marshallshepherd/2025/12/18/8-ways-the-national-center-for-atmospheric-research-helps-you/.

including modeling techniques that aid in understanding the impact of Earth and Geospace systems on climate; completing a wide variety of critical, life- and property-saving research on wildfires that promotes better understanding of how wildfires interact with and affect weather, their broader impacts on air quality, and how they behave; producing research on jet streams and space weather that helps protect satellites; and developing a National Water Model for improved flood and streamflow forecasting.

38. NCAR's value lies not only in individual models, aircraft, datasets, laboratories, or computer systems, but in the integration of all of those components to facilitate research and knowledge development.

D. The Mesa Lab

39. NCAR is headquartered in Boulder, Colorado, at the iconic Mesa Laboratory, which was designed for NCAR by modernist architect I.M. Pei in the 1960s, inspired by the Anasazi cliff dwellings of Mesa Verde.[4] Construction was completed in 1966.[5] The Mesa Lab is made of concrete mixed with the same sandstone as the nearby cliffs.[6]

40. Pei described the lab as his first "important" independent project.[7] Architect and then-executive director of Historic Boulder Leonard Segel said the building exemplifies the

[4] UCAR Press Release: NCAR Mesa Laboratory Recognized for Outstanding, Enduring Design (Oct. 2, 1997), archived at https://web.archive.org/web/20100120180714/http://www.ucar.edu/communications/newsreleases/1997/ml25.html.
[5] Kaylee Harter, *Rooted in place: A journey through NCAR's Mesa Lab*, Boulder Weekly (Aug. 24, 2023), https://archives.boulderweekly.com/special-editions/journey-through-ncars-mesa-lab/.
[6] *Id.*
[7] *Id.*

"modernist sensibility."[8] The Mesa Lab's location above the city is an ideal location to study the atmosphere, and the "architecture both reflects and inspires the work."[9]

41. The Mesa Lab is the birthplace of some of the most significant scientific advances in modern meteorology. NCAR's development of the dropsonde "'revolutionized' the understanding of tropical cyclone structure and improved forecasts" according to James Franklin, a retired chief of the branch of hurricane specialists at NOAA's National Hurricane Center.[10] The modern dropsonde was developed at NCAR between 1966 and 1974—when the institution was newly based at the Mesa Lab—and is now "ubiquitous" in airborne research and reconnaissance missions.[11]

42. NCAR research discovered microbursts, a phenomenon that was the cause of plane crashes responsible for hundreds of deaths before the 1980s.[12] NCAR created the technology to predict these dangerous wind shear events—the Low-Level-Wind Shear Alert System—and alert pilots, who are now trained in special maneuvers to avert disaster.[13] Since 1994, there has not been a single microburst-caused crash of a commercial airplane in the United States.[14]

---

[8] *Id.*
[9] *Id.*
[10] Joey Garrison, *Trump moves to dismantle major US climate research center in Colorado*, USA Today (Dec. 16, 2025, updated Dec. 17, 2025 12pm ET), https://www.usatoday.com/story/news/politics/2025/12/16/trump-dismantle-national-center-atmospheric-research-climate/87798771007/.
[11] Laura Snider, *50 years of falling*, NCAR UCAR News (Oct. 15, 2024), https://news.ucar.edu/132985/50-years-falling.
[12] Kyle Cooke, *Scientists celebrate NCAR's achievements, from averted plane crashes to groundbreaking forecast models*, Rocky Mountain PBS (Dec. 19, 2025), https://www.rmpbs.org/news/science-environment/ncar-boulder-microbursts.
[13] *Id.*
[14] *Id.*

43. The American Institute of Architects Colorado granted the NCAR Mesa Lab its 25-Year Award in 1997 for its ability to "withstand the test of time and still function in its original capacity."[15] Historic Boulder is applying for National Historic Landmark status for the Mesa Lab.[16] NCAR Director Everette Joseph remarked that "the site remains a place of inspiration to staff and to the public," and the Mesa Lab offers educational tours to the public.[17]

E. The Trump Administration's Attacks on Climate Research

44. For the last year and a half, the Trump Administration has waged an unrelenting campaign to shut down federal efforts to understand and combat climate change, including support for climate research.

45. On his first day in office in 2025, the President issued an Executive Order containing a section titled "Terminating the Green New Deal," which, among other things, directed agencies to halt spending congressionally mandated funds on climate-related programs. E.O. 14154, *Unleashing American Energy* § 7 (Jan. 20, 2025).

46. OMB and NSF have been at the forefront of the effort to shut down climate research programs and projects.

---

[15] *Significance*, NCAR/UCAR Web Archives, https://www.archives.ucar.edu/exhibits/mesalab/significance (last accessed Aug. 19, 2026).
[16] Brooke Stephenson, *A 1961 Boulder Rule Could Cut Water to NCAR's Mesa Lab if the Trump Administration Sells It*, Boulder Rep. Lab (Feb. 22, 2026), https://boulderreportinglab.org/2026/02/22/a-1961-boulder-rule-could-cut-water-to-ncars-mesa-lab-if-the-trump-administration-sells-it; Newsletter: Historic Happenings March 2026, Historic Boulder, Inc. (Mar. 2026), https://us7.campaign-archive.com/?u=e59d4750b8869f78e406166b9&id=9eb2351e43.
[17] Kaylee Harter, *Rooted in place: A journey through NCAR's Mesa Lab*, Boulder Weekly (Aug. 24, 2023), https://archives.boulderweekly.com/special-editions/journey-through-ncars-mesa-lab/; *NSF NCAR Public Tours*, UCAR Ctr. for Sci. Educ., https://scied.ucar.edu/visit/ncar-tours (last accessed Aug. 19, 2026).

47. In April 2025, the White House dismissed approximately 400 scientists who were volunteering to contribute to the National Climate Assessment, a regular evaluation of the impacts of climate change on U.S. communities mandated by the Global Change Research Act of 1990. The administration reconstituted the program in July 2026, appointing as its head a former university professor who has consistently criticized mainstream climate science.[18] These actions are consistent with recommendations made by OMB Director Russell Vought in Project 2025.[19]

48. In May 2025, OMB submitted a letter to the Chair of the United States Senate Committee on Appropriations with the President's recommendations on discretionary funding for FY2026. OMB recommended budget cuts for NSF's funding for climate research, stating "NSF has fueled research with dubious public value, like speculative impacts from extreme climate scenarios."[20]

49. In June 2025, NSF terminated more than 100 grants that fund research related to climate change.[21]

---

[18] Scott Waldman, *The administration has a new climate change office. It's headed by a climate critic*, Politico (July 9, 2026), https://www.politico.com/news/2026/07/09/the-administration-has-a-new-climate-change-office-its-headed-by-a-climate-critic-00990916.

[19] *See* Scott Waldman, *Trump team takes aim at crown jewel of US climate research*, E&E News (Jan. 3, 2025), https://www.eenews.net/articles/trump-team-takes-aim-at-crown-jewel-of-us-climate-research/ ("Vought wrote an entire chapter [of Project 2025] that focused on how Trump could increase his power while diminishing that of Congress. It included a passage on ways to remake the U.S. Global Change Research Program, which produces the National Climate Assessment.").

[20] Letter from Russell T. Vought, OMB Director, to The Honorable Susan Collins, Chair, Committee on Appropriations at 38 (May 2, 2025), https://www.whitehouse.gov/wp-content/uploads/2025/05/Fiscal-Year-2026-Discretionary-Budget-Request.pdf.

[21] James Temple, *The Trump administration has shut down more than 100 climate studies*, MIT Tech. Rev. (June 2, 2025), https://www.technologyreview.com/2025/06/02/1117653/the-trump-administration-has-shut-down-more-than-100-climate-studies/; *Updates on NSF Priorities*, NSF, https://www.nsf.gov/updates-on-priorities#reinstatement (last updated July 24, 2026) (providing an Excel Spreadsheet of the terminated awards). Some of the grants have been reinstated as a result of litigation challenging the NSF terminations. *See Thakur v. Trump*, Case No. 3:25-cv-04737 (N.D. Cal. June 23, 2025) (order granting preliminary injunction).

50. In July 2025, OMB submitted a proposed budget to Congress for FY2026 that called for eliminating climate research funding across various federal agencies. OMB touted these proposed cuts in a press release titled "Ending the Green New Scam," which explained that OMB's goal was "to eliminat[e] funding for the globalist climate agenda."[22]

F. The Trump Administration's Attacks on Colorado

51. The Trump Administration has also consistently targeted the State of Colorado since taking office.

52. Beginning in 2025, the Administration publicly clashed with Colorado over the State's election practices and its prosecution and imprisonment of former Mesa County Clerk Tina Peters. Around the same period, federal officials announced or implemented multiple actions affecting Colorado institutions and federal funding, including actions involving the U.S. Space Command, transportation funding, and NCAR.

53. A central focus of the Administration's ire was Colorado's prosecution and imprisonment of Tina Peters, the former Mesa County Clerk who was convicted of crimes arising from an election data breach and sentenced to an eight-year prison term. President Trump repeatedly demanded that Colorado release Peters and publicly threatened "harsh measures" if the State did not do so.[23]

54. Colorado did not initially comply with those demands and the Administration took actions to undercut Colorado and its federal funding.

---

[22] *Fact Sheet: Ending the Green New Scam*, The White House, https://www.whitehouse.gov/wp-content/uploads/2025/05/Ending-the-Green-New-Scam-Fact-Sheet.pdf (last accessed Aug. 19, 2026).

[23] Associated Press, *Trump warns of 'harsh measures' if Colorado clerk convicted of election data-breach scheme isn't freed*, PBS News (Aug. 21, 2025), https://www.pbs.org/newshour/politics/trump-warns-of-harsh-measures-if-colorado-clerk-convicted-of-election-data-breach-scheme-isnt-freed.

55. On December 11, 2025, President Trump announced a symbolic "pardon" of Peters, despite the fact that she was only convicted on state charges.

56. Less than a week later, as described below, Defendant Russ Vought announced that NSF would end climate research at NCAR and move the facility's assets to other locations. According to public reports, a White House official expressly stated that the NCAR rescoping was retaliation for the State's failure to abide by the President's wishes: "Maybe if Colorado had a governor who actually wanted to work with President Trump, his constituents would be better served."[24]

57. The Administration targeted Colorado in other ways. Colorado's Attorney General alleged that the Administration also targeted Colorado by moving U.S. Space Command from Colorado Springs, cutting transportation funds, threatening or conditioning federal funds, and imposing special restrictions on social-support funding. Those actions were directed at Colorado after the President's public demands that the State release Peters and after his attacks on Colorado's voting system.

G. OMB and NSF Decide to End Climate Research at NCAR and Close the Mesa Lab

58. According to internal OMB documents, in the fall of 2025, OMB Director Russ Vought decided "to direct NSF to begin the process of breaking up NCAR." *UCAR v. NSF*, ECF No. 32-12 at 3.

59. In a subsequent November 19, 2025 memorandum, an OMB political appointee, Stuart Levenbach, sought approval from Vought "to direct NSF to accelerate restructuring of NCAR through an RFI process." *Id.* Levenbach laid out a plan under which NSF would issue a

[24] Andrew Freedman, *The Trump admin is closing a critical research center in Colorado as president spars with the state's governor*, CNN (Dec. 18, 2025), https://www.cnn.com/2025/12/17/climate/ncar-trump-climate-research-weather-safety-forecasts.

Request for Information (RFI) on how to spin off components of NCAR such as the Wyoming supercomputer and two aircraft, and "rescope the research and modeling component of NCAR to focus on weather and not on climate modeling." *Id.* OMB Director Vought "considered the information in this memorandum, which ultimately led to the Director's approval to pursue restructuring NCAR as part of the FY27 budget." *UCAR v. NSF*, ECF No. 32-11, Declaration of Stuart Levenbach at 3.

60. On December 16, 2025, Vought announced in a social media post on X: "The National Science Foundation will be breaking up the National Center for Atmospheric Research (NCAR) in Boulder, Colorado. This facility is one of the largest sources of climate alarmism in the country. A comprehensive review is underway & any vital activities such as weather research will be moved to another entity or location."[25]

61. That same day, Vought told USA Today that the Administration's plan was to eliminate NCAR's "green new scam research activities," and to fully close NCAR's Mesa Laboratory in Boulder.[26]

62. The next day, NSF announced its intent to "rescop[e] the functions of the work currently performed by NCAR" and announced that it was "reviewing the structure of the research and observational capabilities" at the facility.[27] NSF stated that NCAR's modeling and forecasting research and operations would be redefined to concentrate on "seasonal weather

[25] Russ Vought, X.com (Dec. 16, 2025, 8:17PM), https://x.com/russvought/status/2001099488774033692?lang=en.
[26] Joey Garrison, *Trump moves to dismantle major US climate research center in Colorado*, USA Today (Dec. 16, 2025, updated Dec. 17, 2025 12pm ET), https://www.usatoday.com/story/news/politics/2025/12/16/trump-dismantle-national-center-atmospheric-research-climate/87798771007/.
[27] *Intent to restructure critical weather science infrastructure*, NSF (Dec. 17, 2025), https://www.nsf.gov/news/intent-restructure-critical-weather-science-infrastructure.

prediction, severe storms, and space weather."[28] Those stated priorities omitted NCAR's climate research, Earth-system modeling, atmospheric science research, and other long-running climate-science functions.

63. NSF further announced that it would explore transferring stewardship of the NCAR-Wyoming Supercomputing Center, divesting or transferring the two NSF aircraft managed and operated by NCAR, and redefining the scope of NCAR's modeling and forecasting research and operations.

64. NSF further explained its restructuring process in a January 23, 2026 Dear Colleague Letter titled "NSF Intent to Restructure Critical Weather Infrastructure," which served as the RFI that OMB had devised.[29] The Dear Colleague Letter stated that NSF was requesting input on the "scope of work currently performed by NCAR" as part of a restructuring of NCAR's research and observational capabilities.

65. The Dear Colleague Letter omitted any plan to preserve NCAR's climate-related functions. NSF again stated that it was exploring options to redefine part of NCAR's modeling and forecasting work to concentrate on "seasonal weather prediction, severe storms, and space weather."

66. The Dear Colleague Letter also treated NCAR's central infrastructure as available for transfer, divestment, or separate disposition. NSF stated that the NCAR-Wyoming Supercomputing Center and the two research aircraft managed and operated by NCAR were being considered separately from the Dear Colleague Letter. NSF further requested expressions

[28] *Id.*
[29] NSF, Dear Colleague Letter, NSF Intent to Restructure Critical Weather Infrastructure, NSF 26-203 (Jan. 23, 2026), https://www.nsf.gov/funding/information/dcl-nsf-intent-restructure-critical-weather-infrastructure.

of interest in management of NCAR weather modeling and atmospheric observing capabilities, and management of NCAR space weather activities.

67. The Dear Colleague Letter also requested expressions of interest in the future of the historic Mesa Laboratory facility itself. It sought "expressions of interest in and/or concepts of operation for" "Ownership of the NSF NCAR Mesa Lab building for private use" and "Ownership of the NSF NCAR Mesa Lab building for public use." On information and belief, NSF does not intend to run a further public process or solicit additional comments if it decides, pursuant to its decision to close the Mesa Laboratory, to sell ownership of the Laboratory buildings and facilities for private use, change the character of the use of the Laboratory's buildings and facilities, or otherwise alter, directly or indirectly, any of the historically significant characteristics of this National Register-eligible property.

68. NSF's restructuring threatens the integrated infrastructure on which NCAR's climate research depends. NCAR's climate research depends on the shared models, computing resources, observational systems, and aircraft that NSF proposes to transfer, divest, or rescope. NSF's restructuring also threatens the institutional knowledge on which NCAR's climate modeling and expertise depends.

69. EDF responded to the Dear Colleague Letter, underscoring the valuable contributions of NCAR-supported scientists and warning that "[d]estroying NCAR means destroying an institution that has helped make the United States a world leader in atmospheric sciences; has saved lives and reduced health and welfare risks; and spurred a vibrant economy."[30]

[30] Response of EDF to NSF Dear Colleague Letter – Intent to Restructure Critical Weather Infrastructure (Mar. 13, 2026), https://library.edf.org/AssetLink/61p2tj4l4pdwt1in6tgfmbn1b4bj0j4m.pdf.

70. Despite their public-facing statements that NSF was soliciting feedback about next steps for NCAR, Defendants had made up their minds to eliminate NCAR's climate-related research programs and functions. Not only did a White House official expressly state as much to USA Today upon announcing the breaking up of NCAR, but an OMB memorandum to NSF in November 2025 stated that, "[r]egardless of the result of the RFI, NCAR's modeling component should be rescoped to focus on weather and space weather rather than on climate modeling." *UCAR v. NSF*, ECF No. 32-13 at 6.

71. In an email on December 17, 2025, an OMB official summarized the plan for which NCAR programs would continue and which would not. The OMB official wrote under a bullet titled "What we're taking action against":

- "NCAR has funded a lot of research on climate change caused by humans, including significant work at the Climate and Global Dynamics Laboratory, which studies climate variability, long-term climate change, and the role of human activities in global warming. This work directly supports international agreements like the Paris Accord which this Administration does not support.
- "The Atmospheric Chemistry Observations & Modeling Lab investigates greenhouse gasses and other chemical processes related to climate change, which informs regulations on emissions that the Administration does not support.
- "The Earth System Predictability Across Timescales program and the System for Integrated Modeling of the Atmosphere both do work related to climate change, contrary to Administration policy. These activities will be

redirected to focus on weather and space weather that have direct and beneficial impacts on the Nation.

- "NCAR also has long-running DEI initiatives like the UCAR/NCAR Equity and Inclusion program." *UCAR v. NSF*, ECF No. 32-14 at 23.

72. The OMB official also wrote that the "Wyoming supercomputer is an asset that NSF will continue to fund," but the supercomputer would be moved to the University of Wyoming and the Administration would "refocus its work away from climate." *Id.*

73. The OMB official further wrote that the plan was to transfer the two aircraft at NCAR's Research Aviation Facility, which are critical to NCAR's climate research programs, to a different owner or location.

74. On December 17, 2025, when another OMB official forwarded this summary to Brian Stone, the NSF Chief of Staff and now acting Director, Stone responded: "Super helpful. Many of these already track with what we consider aligned." *UCAR v. NSF*, ECF No. 32-14 at 22.

H. Defendants' Actions Injure Plaintiff

75. The elimination of NCAR's climate-related research functions, including its climate-related research labs, programs, and models, harms EDF by depriving EDF of climate research, data, and models that are critical to carrying out its mission.

76. By law, NSF "shall facilitate public access to research products, including data, software, and code, developed as part of Foundation-supported projects," such as those projects at NCAR. 42 U.S.C. § 19053(a). To this end, "[t]he Director shall require that every proposal for funding for research include a machine-readable data management plan that includes a description of how the awardee will archive and preserve public access to data, software, and

code developed as part of the proposed project." *Id.* § 19053(b)(1); *see also* 42 U.S.C. § 1870(l) (directing NSF "to provide for the widest practicable and appropriate dissemination of information within the United States concerning the Foundation's activities and the results of those activities").

77. NSF fulfills its obligation to publicly disseminate the research products produced by NCAR through its cooperative agreement with UCAR for management of NCAR. That cooperative agreement, which runs through September 30, 2028, requires that NCAR "[b]uild, operate and maintain state-of-the-art shared observational facilities, computational infrastructure and databases, and make them accessible to the community." *UCAR v. NSF*, ECF No. 32-2 at 10. The agreement explains that "the primary components of the NCAR research program include . . . prediction of weather and climate across dynamical scales." *Id.* at 9, 17. NCAR is expected to "[a]pply scientific understanding to recognized and emerging problems with significant national relevance." *Id.* at 10.

78. EDF relies upon NCAR models, data, and facilities as part of its core, long-standing science initiative to understand and address climate pollution in collaboration with scientists, industry, technology providers, policymakers, and community-based organizations.

79. EDF scientists routinely use NCAR's model output for analysis, rely on and cite papers and reports written by NCAR scientists, collaborate with NCAR scientists, and attend NCAR seminars, tutorials and workshops.

80. EDF relies not only on discrete NCAR outputs, but on NCAR's integrated institutional capacity. Much of NCAR's value comes from the combination of scientific personnel, laboratories, long-term datasets, models, and supercomputing resources. Disrupting or

fragmenting those components undermines the reliability, continuity, and usefulness of the research EDF depends on.

81. EDF scientist Fiona Lo relied on data from NCAR's CESM for her most recent paper on future predictions of temperature-related mortality and is presently using it in her work on heat at the World Cup.

82. EDF scientist Zachary Decker plans to use the CESM model, outputs, and results, and time on an NCAR supercomputer, in his work to understand the potential impacts of Solar Radiation Modification, a new technology that could temporarily lower global temperatures.

83. EDF scientist Jacquelyn Shuman is using NCAR's Multiscale Infrastructure for Chemistry and Aerosols model and the Fire Inventory from NCAR emissions dataset to model wildfire emissions and management scenarios.

84. EDF has also relied on NCAR's research aircraft, deploying EDF's MethaneAIR methane detection instrument on NCAR's Gulfstream V high altitude platform for in situ and remote sensing methane measurements. Data collected from NCAR flights has shown high methane emissions across much of the United States' oil and gas infrastructure, and has informed a core EDF initiative to understand and mitigate emissions of methane, a powerful climate pollutant.

85. EDF relies on NCAR's development of and dissemination of scientifically valuable information—particularly climate research—to advance its mission to protect human health and the environment by advancing science-based solutions to climate change and reducing air pollution. Defendants' actions threaten EDF's ability to carry out its mission. When NCAR's labs, programs, and models are discontinued or rescoped away from climate-related research,

consistent with the decision of OMB and NSF, EDF will lose access to the scientific information it needs to assess and respond to the impacts of climate change.

86. Defendants' actions would also force EDF to divert staff time and organizational resources away from other mission-critical work. Instead of continuing to rely on NCAR's climate research, EDF would have to identify alternative sources of data and modeling, assess the reliability and comparability of those substitutes, and respond to the resulting gaps in climate data.

87. The closure, sale, disposition, change in the character of its use, or any other action with respect to the Mesa Laboratory that constitutes an "undertaking" under the National Historic Preservation Act (NHPA) (including but not limited to directly or indirectly altering any of the Mesa Laboratory's historically significant characteristics), without following the requirements of NHPA, will also injure EDF and its members. Defendants' failure to abide by the NHPA process harms EDF and its members who benefit from and have visited and used the Mesa Lab and intend to return. EDF staff and members appreciate the Mesa Lab's architecture, educational value, historical significance in light of its associations with climate science developments, and presence as part of the surrounding natural landscape, and have toured the facility.

88. Sale, transfer, or other conversion of the Mesa Lab would impair the professional, educational, cultural, and aesthetic interests of EDF and its members in the Mesa Lab's continued use as a historically important atmospheric research institution.

89. Defendants' failure to identify historic properties affected by this undertaking and avoid, minimize, or mitigate any adverse effects deprives EDF and its members of their opportunity to participate in the evaluation process to protect their rights.

CLAIMS FOR RELIEF

Count I – Violation of the Administrative Procedure Act, 5 U.S.C. § 706(2)(A) Arbitrary and Capricious Agency Action

90. The paragraphs above are incorporated and reasserted as if fully set forth herein.

91. The APA provides that a court "shall" "hold unlawful and set aside agency action" found to be "arbitrary, capricious, [or] an abuse of discretion." 5 U.S.C. § 706(2)(A).

92. Defendants' decision to eliminate all of NCAR's climate-related research functions, including its climate-related research labs, programs, and models, constitutes a final agency action under the APA. Defendants made a categorical decision to end *all* of NCAR's climate research functions.

93. Defendants' decisions to eliminate each specific NCAR climate-related research lab, program, and model are final agency actions as well. For instance, Defendants decided to end or rescope away from climate research at the Atmospheric Chemistry Observations & Modeling Laboratory, the Climate and Global Dynamics Laboratory, the Earth System Predictability Across Timescales program, and the System for Integrated Modeling of the Atmosphere. The Climate and Global Dynamics Laboratory, for example, supports research on the risks of environmental change to better understand the human-Earth system relationship, and achieves this by helping deliver key models, such as CESM. The Atmospheric Chemistry Observations and Modeling Laboratory, for example, supports atmospheric chemistry research to better understand how poor air quality impacts human health, agriculture, and ecosystems.

94. Defendants' decisions to transfer ownership of NCAR's supercomputer and aircraft to owners that will use them for purposes other than climate research, each constitute final agency action.

95. In numerous ways, Defendants' elimination of NCAR's climate research functions is arbitrary, capricious, and an abuse of discretion.

96. Defendants have failed to meet the most basic requirement of reasoned decisionmaking under the APA, which is to provide a reasoned explanation for their actions. OMB failed to "examine[] 'the relevant data' and articulate[] 'a satisfactory explanation' for [its] decision, 'including a rational connection between the facts found and the choice made.'" *Dep't of Com. v. New York*, 588 U.S. 752, 773 (2019) (quoting *Motor Vehicle Mfrs. Assn. of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)). Defendants did not analyze any data or relevant facts. And they failed to satisfactorily explain why NCAR's climate-related research functions should be eliminated, reduced, transferred, rescoped, defunded, or subordinated to other activities. Defendants failed to articulate any scientific, technical, budgetary, or other analysis supporting their decisions to end NCAR's climate research functions. OMB Director Vought's sole public explanation—that NCAR was a source of "climate alarmism"—is unreasoned and not grounded in fact.

97. Defendants further failed to consider important aspects of the problem. Defendants did not consider NSF's statutory mission to support all manner of scientific research and NSF's mandates to carry out that mission through, among other things, ensuring U.S. "world leadership in all aspects of science, mathematics, engineering, and technology," and "promot[ing] the discovery, integration, dissemination, and application of new knowledge in service to society." 42 U.S.C. § 1862k.

98. Defendants also failed to consider the scientific and public welfare consequences of disrupting NCAR's climate research, as well as the significant investments that the federal

government has made in NCAR's climate research labs, functions, and models that will go wasted if suddenly shut down.

99. And Defendants considered factors that Congress did not permit them to consider. The decision to eliminate all NCAR climate-related research functions and shut down the Mesa Lab was driven, at least in part, by a desire to punish and retaliate against the State of Colorado for political reasons wholly unrelated to the merits of NCAR's work. A senior White House official made clear that punishment of the State was a but-for reason for the announcement of NCAR's dissolution, with the official stating that "[m]aybe if Colorado had a governor who actually wanted to work with President Trump, his constituents would be better served." *UCAR v. NSF*, ECF No. 18-10 at 6.

100. And given that political retaliation was a driving force for Defendants' actions, Defendants' actions are arbitrary and capricious for yet another reason—there is a "disconnect between the decision made and the explanation given." *Dep't of Com.*, 588 U.S. at 785. "The reasoned explanation requirement of administrative law . . . is meant to ensure that agencies offer genuine justifications for important decisions, reasons that can be scrutinized by courts and the interested public." *Id.* "Accepting contrived reasons would defeat the purpose of the enterprise." *Id.* Here, there is a disconnect between Defendants' officially stated reasons for dismantling NCAR and the reality that political retaliation against Colorado was a relevant consideration for Defendants' actions.

101. Defendants' actions are independently arbitrary and capricious because they failed to consider the serious reliance interests of climate scientists and researchers who depend on the data from NCAR's climate models, the supercomputer, and other NCAR resources. *See Dep't of Homeland Sec. v. Regents of the Univ. of Cal.*, 591 U.S. 1, 30 (2020). Their reliance

interests are substantial. EDF's scientists rely on the CESM for research and publications that serve the organization's mission. Another EDF scientist plans to use time on an NCAR supercomputer to research a new technology that may temporarily reduce global temperatures. EDF has further relied on NCAR's research aircraft to deploy a measuring instrument to detect methane, a powerful climate pollutant.

102. Defendants also failed to consider alternatives to their action. *Regents*, 591 U.S. at 30. They did not consider, for example, preserving existing climate-research programs while conducting a lawful review of NCAR's activities, using the regular competitive award processes to adjust NSF's priorities, phasing in any lawful changes, or adopting less disruptive programmatic adjustments.

103. Defendants failed to follow their own procedures for considering public feedback in deciding to end climate research at NCAR, which makes their actions arbitrary and capricious. *See Ohio v. EPA*, 603 U.S. 279, 293 (2024).

104. Finally, and in the alternative, Defendants' actions are arbitrary and capricious because they are substantively unreasonable. *Multicultural Media, Telecom & Internet Council v. FCC*, 873 F.3d 932, 936 (D.C. Cir. 2017) (Kavanaugh, J.) (distinguishing between claims that agency action "was substantively unreasonable" and claims that "the agency has failed to adequately address all of the relevant factors or to adequately explain its [decision]"). Given the vital role that NCAR's climate research labs, programs, and models serve in advancing scientific understanding of the climate and in protecting public welfare, the investments that the federal government made in NCAR's climate research functions, and Congress's statutory mandate to NSF to research climate, it is substantively unreasonable for Defendants to suddenly pull the plug on all of these research functions.

Count II – Violation of the Administrative Procedure Act, 5 U.S.C. § 706. Failure to Initiate Section 106 Review, Failure to Identify a Historic Property, and Failure to Consult, as Required by the National Historic Preservation Act, 54 U.S.C. § 306108, 36 C.F.R. pt. 800

105. The paragraphs above are incorporated and reasserted as if fully set forth herein.

106. The APA provides that a court "shall" "hold unlawful and set aside agency action" found to be "arbitrary, capricious, [or] an abuse of discretion." 5 U.S.C. § 706(2)(A).

107. The NCAR Mesa Lab is a historic property that is eligible for the National Register of Historic Places pursuant to 54 U.S.C. § 300308.

108. The Mesa Lab is eligible for the National Register because it satisfies Criterion (a), which covers properties "that are associated with events that have made a significant contribution to the broad patterns of our history." 36 C.F.R. § 60.4(a).

109. NCAR is one of, if not the, leading centers for Earth and Geospace systems science necessary for understanding climate change in the United States, and scientific findings and developments have occurred at the NCAR Mesa Lab that represent significant, historic contributions to the understanding of our natural world. For example, at the lab between 1966 and 1974, NCAR developed the dropsonde, which transformed scientists' understanding of tropical cyclone structure and improved forecasts.

110. The Mesa Lab is eligible for the National Register because it satisfies Criterion (c), which covers properties "that embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values." 36 C.F.R. § 60.4(c).

111. The Mesa Lab, completed in the 1960s, is the work of I.M. Pei, an architect of international standing. Historic Boulder's then-board president, now-executive director, considers it "probably the most important building architecturally in Boulder, and perhaps even

in the entire state." Additionally, the building's materials and design exemplify a distinctive method of construction and the "modernist sensibility" of the period.

112. Federal undertakings that may affect historic properties are subject to review under Section 106 of the National Historic Preservation Act. 54 U.S.C. § 306108. Under Section 106, consultation is required "early in the undertaking's planning" and "prior to the approval" of the undertaking. 36 C.F.R. § 800.1(c).

113. An "adverse effect" arises where "an undertaking may alter, directly or indirectly, any of the characteristics of a historic property that qualify the property for inclusion in the National Register in a manner that would diminish the integrity of the property's location, design, setting, materials, workmanship, feeling, or association." 36 C.F.R. § 800.5(a)(1). The regulations include among the examples of adverse effects the "[c]hange of the character of the property's use or of physical features within the property's setting that contribute to its historic significance" and the "[t]ransfer, lease, or sale of property out of Federal ownership or control without adequate and legally enforceable restrictions or conditions to ensure long-term preservation of the property's historic significance." *Id.* § 800.5(a)(2)(iv), (vii).

114. Defendants OMB and NSF are engaged in an undertaking involving the Mesa Lab: the agencies' action to eliminate climate research at NCAR, close the Mesa Lab, and seemingly dismantle NCAR as an institution. OMB and NSF have Section 106 consultation obligations for the undertaking.

115. The first step of Section 106 obliges the agency, in consultation with the State Historic Preservation Officer (SHPO), to "[d]etermine and document the area of potential effects"; to "[r]eview existing information on historic properties within the area of potential effects"; and to "[s]eek information, as appropriate, from consulting parties, and other

individuals and organizations likely to have knowledge of, or concerns with, historic properties in the area." 36 C.F.R. § 800.4(a)(1)-(3). The agency must then "make a reasonable and good faith effort to carry out appropriate identification efforts, which may include background research, consultation, oral history interviews, sample field investigation, and field survey." 36 C.F.R. § 800.4(b)(1). Having identified properties, the agency must "apply the National Register criteria" to those "that have not been previously evaluated for National Register eligibility." 36 C.F.R. § 800.4(c)(1).

116. Neither OMB nor NSF has discussed, begun, or completed a Section 106 review in any publicly available documents. The agencies have not "take[n] into account the effect of the undertaking on any historic property" or "afford[ed] the Council a reasonable opportunity to comment with regard to the undertaking." 54 U.S.C. § 306108.

117. Nor is there any indication that either agency has determined an area of potential effects, reviewed existing information bearing on the Mesa Lab's historic significance, or applied the § 60.4 criteria to a sixty-year-old I.M. Pei building it has owned since construction, as required in the National Historic Preservation Act's implementing regulations. *See* 36 C.F.R. § 800.4(c)(1).

118. The building's architectural significance has been publicly recognized for decades, and a local preservation organization is actively pursuing a National Historic Landmark designation for the Mesa Lab. An agency that solicits proposals for new ownership of such a building without asking whether it is a historic property has not made a "reasonable and good faith effort" to identify historic properties within the area of potential effects. 36 C.F.R. § 800.4(b)(1).

119. Once an agency embarks on an undertaking, it must determine the appropriate SHPO and "initiate consultation" as part of its initial planning. 36 C.F.R. § 800.3(c). In consultation with the SHPO, it must plan for involving the public and must identify and invite other consulting parties, including local governments with jurisdiction over the area in which effects may occur and other organizations with a "demonstrated interest in the undertaking." 36 C.F.R. § 800.3(e)-(f); *id.* § 800.2(c)(3), (c)(5); *see also Friends of the Atglen-Susquehanna Trail, Inc. v. Surface Transp. Bd.*, 252 F.3d 246, 252 (3d Cir. 2001) (explaining that the agency must "identify other parties that should be invited to participate in the process as consulting parties, including local governments and those parties that request to participate in the process").

120. Defendants have embarked on an undertaking but have not invited the Colorado SHPO nor the City of Boulder to participate as consulting parties. Nor have Defendants provided for public input or participation as required by Section 106 and its regulations.

121. NSF's January 23, 2026 Dear Colleague Letter does not qualify as Section 106 consultation. Consultation requires "seeking, discussing, and considering the views of other participants, and, where feasible, seeking agreement with them." 36 C.F.R. § 800.16(f). The Letter, although it invites submissions, states that "NSF will not respond to documents submitted." Nor does the Letter solicit views on effects to historic properties, which is the subject on which the regulations require consultation. 36 C.F.R. § 800.1(a). And, on information and belief, NSF did not send the Dear Colleague Letter to the SHPO to initiate the Section 106 process as required. 36 C.F.R. § 800.3.

122. Defendants' failure to initiate Section 106 review, failure to identify a historic property, and failure to consult violate the APA, 5 U.S.C. § 706, because it is contrary to NHPA,

54 U.S.C. § 306108, and its regulations, arbitrary and capricious, and without observance of procedure required by law.

123. Defendants have a nondiscretionary duty to initiate the Section 106 review process "early" in the planning of any federal undertaking and to complete it "prior to" the undertaking's approval. 36 C.F.R. § 800.1(c). Their failure to perform that duty constitutes agency action unlawfully withheld. 5 U.S.C. § 706(1).

124. In addition or in the alternative, Defendants made a final decision that they do not need to comply with the NHPA process if they do decide to close, sell, or otherwise alter the Mesa Lab. On information and belief, Defendants have decided that the Dear Colleague Letter is the only means by which they will solicit public feedback and comments on the future of the Mesa Lab, and Defendants will not comply with NHPA's requirement no matter the disposition of the Mesa Lab. That final decision is contrary to law, arbitrary and capricious, and without observance of procedure required by law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests that this Court:

A. Declare unlawful, vacate, and set aside Defendants' unlawful decision to eliminate NCAR's climate research functions, including NCAR's climate research labs, programs, and models, as arbitrary and capricious, an abuse of discretion, and unlawful under the Administrative Procedure Act;

B. Enjoin Defendants from effectuating the termination of NCAR's climate research functions;

C. Declare unlawful, vacate, and set aside Defendants' approval, funding, planning, or implementation of the plan to close the NCAR Mesa Lab without compliance with the National Historic Preservation Act;

D. Enjoin Defendants from effectuating the closure, transfer of ownership, or other major undertaking related to the Mesa Lab unless and until they have fully complied with the National Historic Preservation Act;

E. Order Defendants to initiate, conduct, and complete all legally required National Historic Preservation Act processes for the Mesa Lab undertaking, including consultation with appropriate consulting parties and the public;

F. Award Plaintiff reasonable attorneys' fees and costs; and

G. Grant such other and further relief as this Court may deem just and proper.

Dated: August 20, 2026

Respectfully submitted,

By: */s/ Erin Murphy*

Daniel F. Jacobson (DC Bar 1016621)*
Brian Rosen-Shaud (DC Bar 90042065)*
Jacobson Lawyers Group PLLC
5100 Wisconsin Ave, Suite 301
Washington, DC 20016
(301) 823-1148
dan@jacobsonlawyersgroup.com
brian@jacobsonlawyersgroup.com

Erin Murphy (FL Bar 1000501)^
Celeste Williams (DC Bar 90028911)
ENVIRONMENTAL DEFENSE FUND
555 12th St NW, Suite 400
Washington, D.C. 20004
(202) 572-3525
emurphy@edf.org

Rosalie Winn (CO Bar 52662)

Peter Zalzal (CO Bar 42164)*
ENVIRONMENTAL DEFENSE FUND
2060 Broadway, Suite 300
Boulder, CO 80302
(303) 447-7212
rwinn@edf.org

Counsel for Plaintiff

*Application to D. Colo. bar pending
^Practicing pursuant to D.C. Ct. App. Rule 49(c)(3)