

May 26, 2010

VIA ELECTRONIC MAIL

Sir Muir Russell,
Independent Climate Change Emails Review
Box 18.
196 Rose Street
Edinburgh,
United Kingdom EH2 4AT

Re: Independent Climate Change Email Review

Dear Sir Muir,

After reading the submissions posted on the Independent Climate Change Email Review's website – and seeing some of our own submissions delayed or redacted – we are writing to express some serious concerns, and to provide specific suggestions. We recognize the complexity and difficulty of the task you have undertaken, and offer these views in the hope that you will find them helpful.

Although the ICCER has not yet issued any substantive findings, many submissions to the Review panel questioned its competence, impartiality and integrity. Stephen McIntyre's submission, for example, attacks the ICCER's statement of Issues for Examination as displaying a "frequent and almost embarrassing tendency to miss the point", dismisses the ICCER's work plan as "totally unsatisfactory" (mainly for not interviewing either McIntyre or his collaborator Ross McKittrick), asserts that two current ICCER members should be disqualified from service, and accuses ICCER members of making "misleading or untrue statements" and "misrepresentations".

As climate scientists, we are, regrettably, all too familiar with these tactics. The unfortunate reality is that, to research climate issues today – at least if one's research findings tend to support human-caused climate change – means to live and work in an environment of constant accusations of fraud, calls for investigations (or for criminal prosecutions), demands for access to every draft, every intermediate calculation, and every email exchanged with colleagues, daily hate mail and threats, and attempts to pressure the institutions that employ us and fund our research. Through experience, we have learned that there is no review of climate scientists' work

that isn't deemed a "whitewash" by climate change contrarians; there is no casual remark that can't be seized upon, blown out of proportion and distorted; and there is no person whose character can't be assassinated, no matter how careful and honest their research.

Our concern here is that these tactics are highly successful in the court of public opinion. One submission urged you to consider the fate of a paper on the health hazards of tobacco as "highly relevant" to your inquiry. The history of tobacco research is indeed relevant. It shows that, by manufacturing controversy (or the appearance of controversy), and by harassing, discrediting, and distracting scientists, it is possible to cloud scientific knowledge and forestall scientific progress for decades. The same strategy is now being used by many of the same players to attack climate science and climate scientists. This has been well documented in such recent books as *Doubt Is Their Product*, *Merchants of Doubt*, and *Climate Cover-Up*, as well as in recent hearings before the U.S. House Select Committee on Energy Independence and Global Warming. These disinformation tactics contribute to the public's increasing confusion regarding the causes of climate change. Two months ago, for example, a Gallup poll found that only 52% of Americans accept that "most scientists believe that global warming is occurring", down from 65% in 2008.

Similar tactics have now been brought to bear on the ICCER. Philip Campbell (whose qualifications should be beyond doubt) resigned from the ICCER to ensure that there would be "nothing that calls into question the ability of the independent Review to complete [its] task". Dr. Campbell's resignation has only led climate-change contrarians to level more charges against other members of the ICCER.

Under these circumstances, we respectfully offer the following comments and suggestions:

1. In formulating recommendations to ensure that scientific data are appropriately disclosed (while at the same time protecting scientists and enabling them to carry out their research), it may be useful to take account of experience in the U.S., and to seek international consistency in this area.

The ICCER's remit includes "mak[ing] recommendations as to the appropriate management, governance, and security structures for CRU and the ... release of data that it holds". In developing recommendations on how CRU should release data, you might find it helpful to consider some experience from across the Atlantic. In particular, there is much that is instructive in the history of the U.S. Office of Management and Budget's (OMB) regulations under the U.S. Freedom of Information Act. These regulations pertain to disclosure of information relating to federally funded research. OMB issued the regulations in response to a 1998 law known as the Shelby Amendment, which directed OMB to write new standards requiring that all data produced under federal grants be available to the public under FOIA procedures.

The Shelby Amendment provoked an uproar in the scientific community. There was widespread concern that if it were interpreted too broadly, the law would interfere with

scientists' ability to carry out their research. Such concerns were expressed in Congressional testimony by Dr. Bruce Alberts, (who was at the time the President of the U.S. National Academy of Sciences). Dr. Alberts warned that, unless the new standards were appropriately limited, they would have a "chilling effect" on scientific collaboration, and would "be used by various special interest groups to harass researchers doing research that these interest groups would like to stop". The American Association for the Advancement of Science voiced similar concerns to OMB, and noted that overly broad disclosure requirements would have "serious unintended consequences for scientists, their institutions, federal funding agencies, and the wider public".

Ultimately, after receiving more than 12,000 comments, OMB issued guidelines (reported at 65 Fed. Reg. 14406) that balance the public's interest in disclosure against scientists' need for confidentiality and protection from harassment. Under the guidelines, when federally funded, published research is used in developing agency action that has the force and effect of law, "research data" relating to the published findings are available under FOIA. "Research data" is defined as "the recorded factual material commonly accepted in the scientific community as necessary to validate research findings ...". Expressly *excluded* from the definition of "research data", however – and therefore protected from disclosure – are "*preliminary analyses, drafts of scientific papers, plans for future research, peer reviews, or communications with colleagues*". (Emphasis added.)

We strongly believe that CRU and other research institutions should operate under similar guidelines, and hope that the ICCER will be able to make such a recommendation. Specifically, when CRU publishes research, the "research data" (see above for definition) should be made available. Other information, however – including preliminary analyses, drafts of scientific papers, plans for future research, peer reviews, or communications with colleagues – should be expressly protected from disclosure. These procedures would allow anyone who wished to test published research findings to do so, while affording some measure of badly needed protection from harassment to scientists. They would also avoid placing burdens on scientists at CRU (and elsewhere in the U.K.) that their colleagues in the U.S. Federal Government do not have to bear.

2. We believe that it is important to state unequivocally in your findings (and any summary of your findings) that nothing that you have seen calls into question the scientific consensus on human-caused climate change.

The ICCER has stated that its remit "does not involve re-evaluation of the scientific conclusions of the CRU work, still less a reappraisal of the scientific debate about the existence and suggested causes of global warming". But several questions in your statement of Issues for Examination address the merit of CRU's research outcomes, as well as the importance of "the assertion of 'unprecedented late 20th century warming' in the argument for anthropogenic forcing of climate". As you are well aware, contrarians will seize on anything – from a snow storm in Washington D.C. to any minor error in a thousand-page IPCC report – as "proof" that the entire body of scientific knowledge on climate change is a hoax. To ensure that your findings

do not fuel dangerous misconceptions, we feel it should be made absolutely clear – as every serious review of the stolen emails has already confirmed – that nothing in the emails calls into question the scientific consensus on human-caused climate change.

3. Not all the evidence submitted to the ICCER comes from parties with genuine interest in furthering scientific understanding. We hope that this can be taken into account in evaluating the credibility of submitted evidence.

The ICCER has received submissions from parties who seem to have no good-faith interest in furthering scientific understanding. We hope that every allegation, summary, timeline, purported scientific criticism, or other statement can be carefully examined for veracity. As we are sure you are aware, there are many examples where such statements have been subsequently exposed as factually flawed. To cite just one recent example, a May 9, 2010 “Special Investigation” in the Daily Mail by David Rose presented a badly distorted account of facts and analysis. This is explained in two recent posts about Mr. Rose’s article¹.

4. We hope you are able to acknowledge and take into account the prolonged and intense campaign of harassment that has been directed at CRU and other climate scientists.

Any fair evaluation of CRU scientists’ conduct must take into account the conditions under which they have been forced to work. Sharing information to promote good-faith scientific debate is one thing. Laboring under constant, intrusive oversight by hostile groups who harass scientists and interfere with their ability to carry out their research is another matter entirely. If CRU scientists felt besieged, it’s because they were – including, we now know, illegal spying on their private communications. Their emails and actions must be considered in this light.

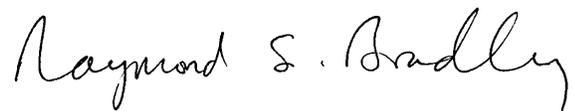
Finally, we note that several of our own submissions to the ICCER were held up or redacted out of concern that someone might claim that something in them was defamatory. It does not appear that a similar filter was applied to the numerous submissions that falsely accuse legitimate climate scientists of dishonesty and misconduct. We hope you are able to remedy this inconsistency.

We appreciate each ICCER member’s willingness to step into the controversy surrounding the stolen CRU emails, and we hope that you will be able to take the above comments and suggestions into account in preparing your findings.

¹ For example, see:

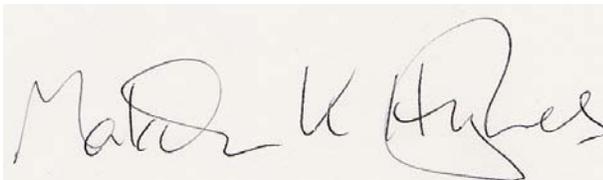
<http://deepclimate.org/2010/05/14/how-to-be-a-climate-science-auditor-part-2-the-forgotten-climategate-emails/> and
<http://deepclimate.org/2010/05/11/how-to-be-a-climate-auditor-part-1-pretty%C2%A0pictures/>

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