



Union of Concerned Scientists

Citizens and Scientists for Environmental Solutions

May 3, 2010

Attorney General Ken Cuccinelli
Office of the Attorney General
900 East Main Street
Richmond, VA 23219
Fax: (804) 786-1991

Dear Attorney General Cuccinelli:

I am writing to strongly encourage you to rescind your April 23, 2010 Civil Investigative Demand (CID) issued to the Rector and Visitors of the University of Virginia regarding the scientific research of Dr. Michael Mann. This action will only tie the hands of researchers that are helping the public and policy makers better understand how our climate is changing. At a time when thousands of scientists are working hard to find the best solutions to preventing and mitigating climate change and its consequences, the public is better served by an attorney general who refrains from distracting and intimidating scientists and confusing the public about climate change science.

As you may be aware, numerous investigations over multiple years have exonerated Dr. Mann's data and research methods. After certain members of Congress raised concerns about Dr. Mann's research in 2005, the National Research Council at the National Academies of Science was asked to look into his findings. A report issued on June 22, 2006¹ "found the Mann team's conclusion that warming in the last few decades of the 20th century was unprecedented over the last thousand years to be plausible." No scientific misconduct was found.

On February 3, 2010 the Pennsylvania State University determined that Dr. Mann was not guilty of suppressing or falsifying data; deleting or concealing emails or other information; or misusing privileged or confidential information. In its findings,² the university clarified the following:

We are aware that some may seek to use the debate over Dr. Mann's research conduct and that of his colleagues as a proxy for the larger and more substantive debate over the science of anthropogenic global warming and its societal (political and economic) ramifications. We have kept the two debates separate by only considering Dr. Mann's conduct.

Indeed, the CID you have filed only serves to further confuse the public regarding the consensus behind climate change research. It is unacceptable to put forward allegations against Dr. Mann and other climate scientists simply because their research results do not comport with one's preconceptions.

¹ available at www.nationalacademies.org/morenews/20060622.html

² available at http://www.research.psu.edu/orp/Findings_Mann_Inquiry.pdf

On March 30, 2010, the British House of Commons' Science and Technology Committee found no evidence of scientific misconduct in emails stolen from climate scientists, including Dr. Mann.³ An investigation by an independent panel led by Lord Oxburgh released in April reached similar conclusions.⁴ Launching yet another investigation into Dr. Mann's research is tantamount to yet another dog barking up the same tree.

I am concerned that this is an attempt to harass and cast doubt on a good scientist for political reasons. This can have disastrous effects for public health and the robustness of public policy. One cautionary tale is that of Dr. Herbert Needleman, a pioneering researcher into the effects of lead on children whose research eventually led to policies that removed lead from gasoline. Dr. Needleman's work threatened the profit margins of the lead industry, which went after him and his scientific reputation with guns blazing.

Like Dr. Mann, Dr. Needleman was ultimately exonerated but only after years of legal wrangling, investigations, and hearings that took him away from his research and deprived the public of his insights and research. Recent social science research shows that legal intimidation can slow or stop scientists' ability to find connections between public health problems and environmental contaminants.⁵ Similarly, climate scientists who face legal intimidation will be less able to make new discoveries that can inform our understanding of societal and environmental consequences of climate change—and without understanding these consequences, we will be unable to learn how to mitigate them.

In the CID, your office cites a section of the Virginia Fraud Against Taxpayers Act (FATA) in connection with five scientific research grants awarded to Dr. Mann. The section in question makes it illegal to “knowingly” present a “false or fraudulent” claim to the state in order to obtain compensation.⁶

The notion of labeling controversial scientific findings as “fraudulent” is extremely troubling. Vigorous debate and exchange of differing ideas are at the very core of the scientific method. Disagreement among scientists—to say nothing of disagreements between scientists and politicians—is simply not the same thing as fraud.

What's more, the danger is that the CID will be used to further erode the public discourse on climate change. Any individual email discussion or scientific paper may legitimately contain speculations or arguments that later turn out to be false. This is completely routine and should not be taken as evidence of fraud, much less evidence against climate change. By challenging minor mistakes made by their peers, scientists move slowly towards a better understanding of our world.

³ available at <http://www.publications.parliament.uk/pa/cm200910/cmselect/cmsctech/387/38702.htm>

⁴ available at <http://www.uea.ac.uk/mac/comm/media/press/CRUstatements/SAP>

⁵ Racette BA, Bradley A, Wrisberg CA, Perlmutter JS. The impact of litigation on neurologic research. *Neurology*, December 26, 2006.

⁶ Available at <http://www.taf.org/virginiafca.htm>

To be sure, scientific misconduct does occasionally occur, but the responsibility for policing that misconduct should reside with other scientific experts, such as journal editors, university colleagues or the National Academies of Science. When it comes to sabotaging public faith in science with groundless charges, it is appropriate that the bar be set very high and that the evidence be assessed by qualified experts. Those with adequate scientific expertise have repeatedly validated the research of Dr. Mann and his colleagues.

If you have any questions or would like to discuss this matter in further detail, I can be reached at (202) 331.5456.

Sincerely,

Francesca T. Grifo, Ph.D.
Director and Senior Scientist
Scientific Integrity Program
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