United States Senate

WASHINGTON, DC 20510

December 3, 2009

Paul K. Martin
Office of Inspector General
NASA Headquarters
8V39
Washington, D.C. 20546-0001

Re: Preservation of Agency/Organization Records in Response to FOIA Requests

Dear Mr. Martin:

The Minority staff of the United States Senate Committee on Environment and Public Works recently sent you a letter requesting you to secure all documents and records related to the communications or other interactions with the University of East Anglia's Climatic Research Unit ("CRU").

Since that request, staff has become aware of three separate but related FOIA requests made to NASA and the Goddard Institute for Space Studies ("GISS"). These requests seek all records, documents, internal communications, and other relevant covered material created by, provided to and/or sent by NASA/GISS citing, referencing, discussing, or otherwise related to the August 2007 correction by NASA/GISS of online temperature data for over 1200 U.S. HCN stations and for their U.S. temperature history. The others seek all records, documents, and internal communications relating to emails sent between various parties, specifically calling their attention to errors in NASA/GISS online temperature data, and all records that discuss or relate to the content, importance, or propriety of posts on certain online blogs.[1]

It is our understanding that some of these FOIA requests have been outstanding for two years. Therefore, we are further requesting that you secure, as soon as possible, all such documents and records related to the FOIA requests. In addition, we request that you investigate the reasons for the delay in not responding by the statutory deadline. This review should include all communications between the requester and any employee of NASA or its subsidiary organizations concerning the FOIA requests. In your investigation, please indicate whether you believe there has been a violation of the FOIA or NASA regulations and policies concerning the implementation of FOIA and the treatment and responses to requests.

Where necessary, please cite any exemption determinations which have been made, the date of such determination, the person making the determination and if such person has the authority to

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[1] See January 28th 2007 FOIA Request Letter Re GISS Blogging; August 24, 2007 FOIA Request Letter Regarding Hansen/GISS correction; August 27, 2007 FOIA Request Letter Regarding Hansen/McIntyre Communications; November 24th , 2009 Notice of Intent to Sue, FOIA Request-"McIntyre/Hansen"

believe there has been a violation of the FOIA or NASA regulations and policies concerning the implementation of FOIA and the treatment and responses to requests.

Where necessary, please cite any exemption determinations which have been made, the date of such determination, the person making the determination and if such person has the authority to make an initial or final determination. Provide in your response to this request for an investigation any agency records related to the handling and treatment of these FOIA requests. If your Agency has administrative systems, e.g., tracking systems, for FOIA requests, please investigate why such systems failed to highlight or surface a delayed FOIA request and why internal controls have failed to ensure that statutory requirements for the FOIA requests were being met.

If explanations–such as voluminous records, difficulty to identify the requested records, non-disclosure agreements and other excuses—were raised, please investigate the legality of the explanations. Also, please examine whether the NASA Goddard Spaceflight Center or any associated employees or contractors shared any or all of the requested documents or information in those documents, or whether such documents were shared with any other federal organization, employee or contractor, or other non-federal persons or entities.

Should you have any questions, please contact EPW Minority Counsel George Sugiyama or Tom Hassenboehler at 202-224-6176.

Sincerely,

David Vitter
United States Senator
Ranking Member
Subcommittee on Science and Space
Committee on Commerce

James M. Inhofe
United States Senator
Ranking Member
Committee on Environment
and Public Works