

# Congress of the United States

## House of Representatives

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY

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WASHINGTON, DC 20515-6301

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February 14, 2017

Mr. Benjamin Friedman  
Acting Administrator  
National Oceanic and Atmospheric Administration  
U.S. Department of Commerce  
1401 Constitution Ave., N.W.  
Washington, D.C. 20230

Dear Acting Administrator Friedman:

The Committee on Science, Space, and Technology is continuing its oversight of a study (the Karl study) conducted by National Oceanic and Atmospheric Administration (NOAA) officials that adjusted historical temperature data using new methods of data collection and analysis. On June 4, 2015, *Science* published NOAA's new findings.<sup>1</sup> According to a NOAA press release, the purpose of the Karl study was to "refute the notion that there has been a slowdown or 'hiatus' in the rate of global warming in recent years."<sup>2</sup>

After concerns regarding the Karl study's integrity and process were brought to the Committee's attention by whistleblowers, I wrote a letter to former Administrator Sullivan on July 14, 2015, requesting additional information pertaining to the Karl study led by NOAA employees.<sup>3</sup> Unfortunately, after numerous letters, meetings, emails, and phone calls spanning many months, NOAA continued to obstruct the Committee's oversight requests and the Committee was left with no other option but to issue a subpoena compelling production of the requested documents and information.<sup>4</sup> In response, NOAA provided a partial production to the Committee but continued to withhold a significant portion of responsive documents without any justification based in law.

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<sup>1</sup> Karl Study *available at* <http://science.sciencemag.org/content/348/6242/1469> (last visited Feb. 8, 2017).

<sup>2</sup> NOAA Press Release *available at* <http://www.noaanews.noaa.gov/stories2015/noaa-analysis-journal-science-no-slowdown-in-global-warming-in-recent-years.html> (last visited Feb. 8, 2017).

<sup>3</sup> Letter from Hon. Lamar Smith, Chairman, H. Comm. On Science, Space, and Technology, to Hon. Kathryn D. Sullivan, Administrator, National Oceanic and Atmospheric Administration [hereinafter NOAA] (July 14, 2015).

<sup>4</sup> H. Comm. on Science, Space, & Tech., Subpoena to Hon. Kathryn Sullivan, Admin., NOAA, (Oct. 13, 2015).

In recent weeks, further information has come to light that exposes the internal conflicts related to this NOAA study. Dr. John Bates, a recently-retired principal scientist at NOAA who created science integrity principles at the agency, raised public concerns that the Karl study ignored NOAA standards, was rushed to publication, and was not free from political bias.<sup>5</sup> In fact, Dr. Bates wrote in a blog post that lead author, Mr. Thomas Karl, had his “thumb on the scale” throughout the entire process.<sup>6</sup>

Allegations of politicization of government funded scientific research cannot be ignored. The Committee has a constitutional responsibility to conduct oversight in instances of alleged fraud, abuse, and misconduct especially where the government’s scientific integrity is called into question. Dr. Bates’ revelations raise additional questions as to whether the science at NOAA is objective and free from political interference. In light of this new information, the Committee requests the below information to better understand the depth and scope of internal debate at NOAA related to the Karl study. Please provide the requested documents on or before February 28, 2017, for the time period January 20, 2009, to the present:

- All documents and communications between or among employees of NOAA referring or relating to the release of the Karl study.
- All documents and communications between or among employees of NOAA referring or relating to the release of ERSST Version 4 dataset, or any other dataset used in the Karl study.
- All documents and communications between or among employees of NOAA referring or relating to concerns raised about datasets used in the Karl study.
- All documents and communications between or among employees of NOAA referring or relating to the scientific integrity of the study, including but not limited the archiving of data sets.

Since new information has emerged surrounding the integrity of the Karl study, NOAA has been quoted in the press as saying they are, “in the process of engaging independent outside parties to review this matter.”<sup>7</sup> The Committee requests a briefing on this new information to ensure that NOAA engages with unbiased independent experts. Please contact Committee staff no later than February 21, 2017, to schedule this briefing.

The Committee on Science, Space, and Technology has primary legislative jurisdiction over environmental and scientific programs and “shall review and study on a continuing basis laws, programs, and Governmental activities” as set forth in House Rule X. This request and any

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<sup>5</sup> David Rose, *Exposed: How World Leaders Were Duped into Investing Billions Over Manipulated Global Warming Data*, DAILY MAIL, Feb. 4, 2017 available at <http://www.dailymail.co.uk/sciencetech/article-4192182/World-leaders-duped-manipulated-global-warming-data.html#ixzz4Y7nqNN04> (last visited Feb. 8, 2017).

<sup>6</sup> John Bates, *Climate Scientists Versus Climate Data*, CLIMATE ETC. blog, Feb. 4, 2017 available at <https://judithcurry.com/2017/02/04/climate-scientists-versus-climate-data/> (last visited Feb. 8, 2017).

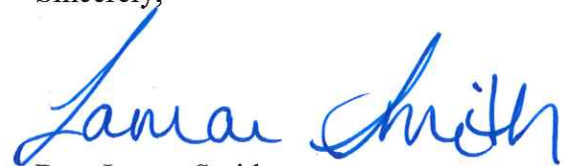
<sup>7</sup> Politico, Morning Energy, *NOAA Wants Another Look at 2015 Paper*, Feb. 12, 2017, available at <http://www.politico.com/tipsheets/morning-energy> (last visited Feb. 12, 2017).

documents or communications created as a result of this request will be deemed to be congressional records and Congress shall maintain control of these documents and communications.

When producing documents to the Committee, please deliver production sets to the Majority Staff in Room 2321 of the Rayburn House Office Building and the Minority Staff in Room 394 of the Ford House Office Building. For purposes of efficiency, the Committee prefers to receive all documents in electronic format. Specific instructions for producing documents to the Committee are enclosed.

If you have any questions regarding this request, please contact committee staff at 202-225-6371. Thank you for your attention to this matter.

Sincerely,



Rep. Lamar Smith  
Chairman  
Committee on Science, Space,  
and Technology

cc: The Honorable Mike Pence, Vice President, United States of America  
Mr. Wilbur Ross, Secretary Nominee, U.S. Department of Commerce  
Rep. Eddie Bernice Johnson, Ranking Minority Member, Committee on Science, Space,  
and Technology

Enclosure



## Responding to Committee Document Requests

1. In complying with this request, you are required to produce all responsive documents, in unredacted form, that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. You should also produce documents that you have a legal right to obtain, that you have a right to copy or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party. Requested records, documents, data or information should not be destroyed, modified, removed, transferred or otherwise made inaccessible to the Committees.
2. In the event that any entity, organization or individual denoted in this request has been, or is also known by any other name than that herein denoted, the request shall be read also to include that alternative identification.
3. The Committee's preference is to receive documents in electronic form (i.e., CD, memory stick, or thumb drive) in lieu of paper productions.
4. Documents produced in electronic format should also be organized, identified, and indexed electronically.
5. Electronic document productions should be prepared according to the following standards:
  - (a) The production should consist of single page Tagged Image File ("TIF"), or PDF files.
  - (b) Document numbers in the load file should match document Bates numbers and TIF or PDF file names.
  - (c) If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
6. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, box or folder is produced, each CD, hard drive, memory stick, thumb drive, box or folder should contain an index describing its contents.
7. Documents produced in response to this request shall be produced together with copies of file labels, dividers or identifying markers with which they were associated when the request was served.
8. When you produce documents, you should identify the paragraph in the Committee's schedule to which the documents respond.
9. It shall not be a basis for refusal to produce documents that any other person or entity also possesses non-identical or identical copies of the same documents.

10. If any of the requested information is only reasonably available in machine-readable form (such as on a computer server, hard drive, or computer backup tape), you should consult with the Committee staff to determine the appropriate format in which to produce the information.
11. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production. Failure to provide an explanation constitutes a waiver of any objections to the subpoena.
12. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) the privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author and addressee; and (e) the relationship of the author and addressee to each other.
13. In complying with this request, be apprised that the U.S. House of Representatives and the Committee on Science, Space, and Technology do not recognize: any of the purported non-disclosure privileges associated with the common law including, but not limited to, the deliberative process privilege, the attorney-client privilege, and attorney work product protections; any purported privileges such as privileges over law-enforcement sensitive disclosures; or protections from disclosure under the Freedom of Information Act; or any purported contractual privileges, such as non-disclosure agreements.
14. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (stating its date, author, subject and recipients) and explain the circumstances under which the document ceased to be in your possession, custody, or control.
15. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you are required to produce all documents which would be responsive as if the date or other descriptive detail were correct.
16. Unless otherwise specified, the time period covered by this request is from January 20, 2009 to the present.
17. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the return date, shall be produced immediately upon subsequent location or discovery.
18. All documents shall be Bates-stamped sequentially and produced sequentially.
19. Two sets of documents shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee on Science, Space, and Technology, production sets shall be delivered to the Majority Staff in Room 2321 of the Rayburn House Office Building and the Minority Staff in Room 324 of the Ford House Office Building. Upon completion of the document production, you should submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been



completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committees.

20. When representing a witness or entity before the Committee in response to a document request, request for transcribed interview, or subpoena from the Committee, or in connection with testimony before the Committee at a hearing, counsel for the witness or entity must promptly submit to the Committee a notice of appearance specifying the following: (a) counsel's name, firm or organization, and contact information; and (b) each client represented by the counsel in connection with the proceeding. Submission of a notice of appearance constitutes acknowledgement that counsel is authorized to accept service of process by the Committee on behalf of such client(s), and that counsel is bound by and agrees to comply with all applicable House and Committee rules and regulations.

### Schedule Definitions

1. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, inter-office and intra-office communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone call, meeting or other communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.
2. The term "communication" means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, email (desktop or mobile device), text message, instant message, MMS or SMS message, regular mail, telexes, releases, or otherwise.
3. The terms "and" and "or" shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information which might otherwise be construed

to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.

4. The terms "person" or "persons" mean natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, or other legal, business or government entities, and all subsidiaries, affiliates, divisions, departments, branches, or other units thereof.
5. The term "identify," when used in a question about individuals, means to provide the following information: (a) the individual's complete name and title; and (b) the individual's business address and phone number.
6. The term "referring or relating," with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with or is pertinent to that subject in any manner whatsoever.