

Mr. Steven McIntyre

2 June 2010

Dear Mr. McIntyre

**ENVIRONMENTAL INFORMATION REGULATIONS 2004 – INFORMATION REQUEST (FOI\_10-51; EIR\_10-03)**

Your request for information received on 5 April 2010 for a series of documents relating to the work of Professors Wahl and Amman has now been considered and some of the information requested is enclosed herewith. However, it is not possible to satisfy all elements of your request directly.

In accordance with Regulation 14 of the Environmental Information Regulations 2004 this letter acts as a Refusal Notice, and I am not obliged to supply this information and the reasons for exemption are as stated below:

Exemption	Reason
Reg. 6(1)(b), Information available	Some information is available elsewhere
Reg. 12(4)(d), Unfinished documents	Draft documents are unfinished documents
Reg. 12(5)(f), Adverse effects on person providing information	Release of the requested information, would have an adverse effect on the interests of third parties

Regulation 6(1) is cited because much of the information requested within several of the draft documents, particularly that pertaining to results, findings and interpretations is available within the final published version of the document and is therefore publicly available and easily accessible to you in another form.

In regards Regulation 12(4)(d), both ICO and DEFRA guidance indicates that a draft document is to be considered as an 'unfinished document' and this position has been upheld by a recent information Tribunal decision which stated that "However, the opinion of the majority and, ultimately our unanimous conclusion, is that the Draft Report is, by its very name and giving the words their logical meaning, an unfinished document."<sup>1</sup>

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<sup>1</sup> The Secretary of State for Transport v the Information Commissioner (EA/2008/0052, 5 May 2009), p.24, para.82

We also cite Regulation 12(5)(f) as Professors Wahl and Amman have indicated, and we are minded to agree, that several documents were provided to this University on the understanding that they were not public documents and that release would have an adverse effect on future sharing of scientific information between researchers and would limit their ability to openly explore ideas and approaches in draft formats. They made it clear that they felt that the proper fora to access this information was by way of the completed version.

Pursuant to Regulation 12(1)(b), we must also apply a public interest test to any and all information excepted under Regulation 12 and this test must be applied as a whole to the entire request rather than exception by exception. It is our opinion that, in relation to the excepted material, the public interest lies in non-disclosure. Much of the requested information exists in the public domain in a finished format and no gain is to be obtained by the release of earlier, unapproved versions of the same material.

Further, there is a public interest in providing a space in which researchers can exchange ideas, theories and alternatives without fear that information or a position never intended for public release would be disclosed. There is also a public interest in ensuring that the information available to the public has been properly reviewed and assessed as takes place in the academic publication process. This lessens confusion the possibility that the public could be misled or confused by earlier, less well-examined versions of the information.

Additionally, the intellectual property rights of the copyright holder in the final version are protected by ensuring that earlier, non-published versions of copyrighted work are not made available 'in competition' with the copyrighted version that the copyright holder has an expectation of making a profit from.

I would also add that any material released over which UEA has copyright is released subject to the understanding that you will comply with all relevant copyright rules regarding reproduction and/or transmission of the information released.

You have the right of appeal against this decision. If you wish to appeal please set out in writing your grounds of appeal and send to me at:

University of East Anglia  
Norwich  
NR4 7TJ  
Telephone: 0160 359 3523  
E-mail: [foi@uea.ac.uk](mailto:foi@uea.ac.uk)

You also have a subsequent right of appeal to the Information Commissioner at:

Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow, Cheshire  
SK9 5AF  
Telephone: 0303 123 1113  
[www.ico.gov.uk](http://www.ico.gov.uk)

Please quote our reference given at the head of this letter in all correspondence.

Yours sincerely

David Palmer  
Information Policy & Compliance Manager  
University of East Anglia

## **Response to Freedom of Information request (FOI\_10-51)**

*Pursuant to the Environmental Impact Regulations, I request copies of the following documents (reference is attached to Keith Briffa letter):*

1. *Wahl\_MBH\_Recreation\_JClimLett\_Nov22.pdf*  
(attachment mentioned in Jan 4, 2005 458. 1104855751.txt)

### ***[Information excepted pursuant to Reg. 6(1), 12(4)(d), & 12(5)(f), Environmental Information Regulations]***

Information is a draft and therefore is an unfinished document for the purposes of the Regulations. Much of the information in the draft is contained in a later, published version, and release would adversely effect the interests of the parties that provided the information

2. *Wahl-Ammann\_3321\_Figures.pdf;*  
(attachment mentioned in Feb 21, 2006 647. 1140568004.txt)

A .pdf copy of this document is attached to this letter.

3. *Wahl\_Ammann\_3321\_Final\_21Feb.doc*  
(attachment mentioned in Feb 21, 2006 647. 1140568004.txt)

### ***[Information excepted pursuant to Reg. 6(1), 12(4)(d), & 12(5)(f), Environmental Information Regulations]***

Information is a draft and therefore is an unfinished document for the purposes of the Regulations. Much of the information in the draft is contained in a later, published version, and release would adversely effect the interests of the parties that provided the information

4. *Wahl\_Ammann\_3321\_Final\_21Feb-Revision1.doc –*  
(attachment mentioned in 650. 1140838402.txt Feb 24)

A .pdf copy of this document is attached to this letter.

5. *AW\_Editorial\_July15.doc;*  
(attachment to 716. 1153470204.txt July 18, 2006)

### ***[Information excepted pursuant to Reg. 12(4)(a), Environmental Information Regulations]***

Information is not held

6. *AR4SOR\_BatchAB\_Ch06\_ERW\_comments.doc;*  
(attachment to 716. 1153470204.txt July 18, 2006)

### ***[Information excepted pursuant to Reg. 12(4)(a), Environmental Information Regulations]***

Information is not held

7. *Ch06\_SOD\_Text\_TSU\_FINAL\_2000\_12jul06\_ERW\_suggestions.doc* (attachment to 716. 1153470204.txt July 18, 2006)

### ***[Information excepted pursuant to Reg. 12(4)(a), Environmental Information Regulations]***

Information is not held

8. Ch06\_SOD\_Text\_TSU\_FINAL\_2000\_25jul06KRB-FJ-RV\_ERW\_suggestions.doc  
(attachment to 733. 1155402164.txt from July 27, 2006)

***[Information excepted pursuant to Reg. 12(4)(a), Environmental Information Regulations]***

Information is not held