

## Steve McIntyre

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**From:** Steve McIntyre [smcintyre25@yahoo.ca]  
**Sent:** November-28-10 6:38 PM  
**To:** (Andrew.Battersby@ico.gsi.gov.uk)  
**Subject:** FW: Environmental Information Regulations 2004 request (FOI\_10-51; EIR\_10-03) - Appeal response  
**Attachments:** Appeal response\_McIntyre\_051\_100810x.pdf

Dear Mr Battersby,

I wish to appeal refusals by the University of East Anglia to request EIR 10-03.

The university stated:

We were unable to provide the following four documents as we had determined that these were no longer held by the University and cited Reg. 12(4)(a):

AW\_Editorial\_July15.doc

AR4SOR\_BatchAB\_Ch06\_ERW\_comments.doc

Ch06\_SOD\_Text\_TSU\_FINAL\_2000\_12jul06\_ERW\_suggestions.doc

Ch06\_SOD\_Text\_TSU\_FINAL\_2000\_25jul06KRB-FJRV\_ERW\_suggestions.doc

These were attachments to emails from Wahl to Briffa that were the subject of Jones' delete-all-emails request.

At the hearings of the Science and Technology Committee, MP Stringer asked Vice Chancellor Acton "Are all the emails now available and can be read?" Acton said "Yes." If so, then the university must hold the documents that they had refused on the basis that they did not hold the documents and appeal their refusal on this basis.

I also appeal the following refusal of two other documents under Reg. 6(1)(b), 12(4)(d) and 12(5)(f).

We refused to release the remaining two documents citing Reg. 6(1)(b), 12(4)(d) and 12(5)(f).

Wahl\_MBH\_Recreation\_JClimLett\_Nov22.pdf - document 1

Wahl\_Ammann\_3321\_Final\_21Feb.doc - document 2

I submit that these exemptions either do not apply or are overridden by the public interest.

Regulation 6(1)(b) simply does not apply. It applies if:

6(1) (b) the information is already publicly available and easily accessible to the applicant in another form or format.

This is factually not the case. Neither of the documents in question is publicly available. If they were, the university could have provided me with a URL to the location of the other form or format.

Likewise, Regulation 12(4)(d) likewise does not apply. It applies if

12(4)(d) the request relates to material which is still in the course of completion, to unfinished documents or to incomplete data;

The university claims that both articles were "drafts". This is untrue. Both articles were submitted to IPCC for use in their Fourth Assessment Report on the basis that they had been submitted to journals.

Similarly, regulation 12(5)(f) does not apply. It applies if:

- (f) the interests of the person who provided the information where that person—
- (i) was not under, and could not have been put under, any legal obligation to supply it to that or any other public authority;
  - (ii) did not supply it in circumstances such that that or any other public authority is entitled apart from these Regulations to disclose it; and
  - (iii) has not consented to its disclosure; or

The university stated that the documents were provided to the university “on the understanding that they were not public documents”. This is absurd. IPCC regulations required all unpublished articles to be posted up at a website to be available to all reviewers. If the documents were not “public documents”, then they should not have been cited in the IPCC First Order and Second Order Draft reports. In addition, IPCC has policies requiring it to be “open and transparent”.

The university’s application of the public interest test is also flawed. They state that it is important that “researchers are able to exchange and explore ideas in a private space”. However, in this case, we are not talking about private exchanges among researchers but articles submitted to an IPCC Lead Author that were used in IPCC documents.

The university observes:

They have also stated that IPCC policies require the archiving of **official** [my bold] review comments but not every communication received by the authors over the three years during which these reports were prepared.

The qualification that IPCC policies are limited to “official” review comments does not exist in IPCC Procedures, which clearly state;

The review process should be objective, open and transparent. ... **All written expert, and government review comments** will be made available to reviewers on request during the review process and will be retained in an open archive in a location determined by the IPCC Secretariat on completion of the Report for a period of at least five years.

IPCC policies do not limit the archiving obligation to “official review comments”; they include “all” review comments, even if those review comments were submitted through back channels described by Fred Pearce (The Climate Files, 146) as “a direct subversion of the spirit of openness intended when the IPCC decided to put its internal reviews online”

Thank you for your consideration,

Stephen McIntyre

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**From:** Palmer Dave Mr (LIB) [<mailto:David.Palmer@uea.ac.uk>] **On Behalf Of** Freedom of Information  
**Sent:** August-10-10 10:03 AM  
**To:** [smcintyre25@yahoo.ca](mailto:smcintyre25@yahoo.ca)  
**Subject:** Environmental Information Regulations 2004 request (FOI\_10-51; EIR\_10-03) - Appeal response

Mr. McIntyre

Further to your email of 13 July 2010 in response to my letter of 2 June 2010 on this matter, attached please find a response to your appeal of 13 July 2010 by the Director of Information Services. As always, if you have any questions don't hesitate to contact me.

Your sincerely, Dave Palmer

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