

## WEAVER CORRESPONDENCE 2005-6 FROM LIBEL THREAT ON

I initiated correspondence with Journal of Climate on December 31, 2004 through a complaint about Rutherford et al 2005, then accepted but not printed until July 2005. Weaver handled this complaint. I also corresponded with Weaver commencing on January 29, 2005 about his comments to National Post. On March 31, 2005, Weaver complained to me about allegedly defamatory comments at Climate Audit. I have not attempted to collate earlier correspondence in this collation, but have collated discussion from the defamation complaint on.

March 31 13:35 Weaver to Mc re CA complaint

Dear Mr. McIntyre,

I recently came across a website: [www.climateaudit.org](http://www.climateaudit.org) which is registered to you and administered by you (see below). On that particular web site I noticed "Spot the Hockey Stick #9: Andrew Weaver": <http://www.climateaudit.org/index.php?p=139#more-139>

In this piece I find that a selected component of one panel in Lecture 1 of EOS 460 course notes has been taken and posted without my permission. In addition, I find that the discussion has misrepresented the intent of that figure.

I would ask that you immediately remove that figure from your web site.

Second, it is my opinion that your site contains defamatory remarks about me which publicly undermine my professional integrity.

First, with respect to the statement:

"Thus we come to Dr Andrew Weaver, of the School of Earth and Ocean Sciences at the University of Victoria in Canada, who has tirelessly promoted the Hockey Stick in the past, and to prove his scientific prowess, he bequeaths the Hockey Stick to the next generation of brave environmental guardians, media stars and possibly, the occasional climatologist."

I have never 'promoted' Mann et al. in the past. Not only that, I did not 'promote' it in my lectures, which of course you were not at.

I request that you immediately remove the defamatory statement from your web site.

Second, it is clear to me that an average lay reader also has a similar impression to mine as to the defamatory nature of your site (please see one of the posts on your site):

"I don't know. In your efforts to find any way possible of villifying the 'Hockey Stick' you search around the net, rummage through someones on-line notes for something (anything?) to triumphantly post here (like some kind of self appointed climate truth policeman meeting his masters?), and ritually submit yet another scientist to CAtype ridicule. Just what \*is\* it with you and this place John? It's worse than disrespect, it's shameful."

Third, in another post found at: <http://www.climateaudit.org/index.php?p=138>

You report on private discussions we had on email. Concerning the manuscript by Rutherford et al. This comment (reproduced below), is factually incorrect as you know:

Your posting: "Steve: I like the Forrest Gump image. I recently had some correspondence with Andrew Weaver, who has become editor of Journal of Climate, and who was the editor for Rutherford et al. [2005], which was discussed in realclimate as purporting to 'discredit' all our findings. I've posted some comments on

this earlier. There is nothing in Rutherford et al [2005] about principal components methodology; instead they recycled comments from Mann's November 2003 Internet article criticizing MM03 for not implementing a previously undisclosed stepwise method (which was itself a diversion from the uncentered issue). So I wrote to Weaver and said that, if Mann is purporting to rebut our comments, then he should be discussing up-to-date principal components issues (which were even being discussed on realclimate). I noted that the referee might not be familiar with these matters, but there was an obligation on Mann to disclose these problems. I distinguished between "full, true and plain disclosure" and "don't ask- don't tell" disclosure, which seemed to be what Mann was doing and suggested that Weaver ask for certification of full, true and plain disclosure and re-referee the points in question. He wrote back that the authors "stood behind" what they had written, which seemed to satisfy him. Although Weaver was editing this article, when he talked to the National Post, and even a little while later, had not taken the time to read our critique of Mann's PC methods., which seems a little odd, since he was editing an article, which made a point of stating that it was rebutting our claims."

In an email I sent to you on January 5th, two months before your posting, I stated:

" ----- Original Message -----

From: "Andrew Weaver

To: "Steve McIntyre"

Cc: "Phil Jones; Scott Rutherford ; Ross McKittrick; "Joe Klemp

Sent: Wednesday, January 05, 2005 10:59 AM

Subject: Re: Rutherford et al. [2004]

Dear Dr. McIntyre, thank you for your response. I look forward to receiving your comment if you so choose to submit one. Just for the record, I did in fact obtain a statement that the article contained "full, true and plain disclosure" from Dr. Rutherford.

Best wishes. Andrew"

In addition, at the time of the submission of your first inquiry concerning the Rutherford paper, I noted that the paper was in press. It was no longer being "edited" as you put it. I suggested you consider submitting a commentary on the work which is the normal due process.

It is also factually incorrect to say that I was editing the Rutherford piece when I interviewed the National Post. I accepted the Rutherford piece on September 27, 2004 and it was sent to the (American Meteorological Society) for processing on November 2, 2004. It had left my office in final form several months before either you or the National Post contacted me. As you know, I told the National Post that I had not read your piece as it had not been published yet (contrary to what was stated in the Article in the National Post). Your article was published online on February 12, 2005 two weeks after the National Post article published on Jan 27, 2005. **I read the article between February 12 and the 14th**, I can't remember the exact time but I know I had read it prior to a piece that appeared in the Financial Post on February 15th as I contacted the editor about that. February 12th is the first time I had access to the article in its final form (I do not rely on preprints of pieces on peoples web sites).

I would ask that you correct this factually incorrect information immediately.

Yours sincerely

Andrew Weaver

### March 31 17:36 McIntyre acknowledgement

Dear Andrew, this is to acknowledge receipt of this email. I did not personally make the Spot the Hockey Stick #9 post, but did make the posting at <http://www.climateaudit.org/index.php?p=138> starting " Steve:..." which you cited below. I will review the materials and revert to you promptly.

Regards, Steve McIntyre

### April 6 McIntyre to Weaver

Dear Andrew, I've had a chance to review some of the materials involved in your complaint and would like to resolve matters.

It was certainly not the intent of climateaudit to convey defamatory remarks about you or anyone else. However, I'm a little unclear as to what aspects of the sentences in question that you find untrue or defamatory. It was my understanding that (1) you believed the Hockey Stick graph to be a valid representation of past climate history; (2) that you had publicly endorsed this representation of climate history. The contents of the lecture appear to be consistent with your public posture. Dissemination of viewpoints to the public is what I understand to be "promotion". Is the problem that you do not believe the Hockey Stick to be a valid representation of past climate history or that you have not in fact disseminated this view to the public?

If both of these are correct, I do not understand why you believe that the claim that you have disseminated the Hockey Stick representation of climate history to be defamatory to you.

Secondly, in connection with my own correspondence, it was my understanding that I communicated with you in your capacity as Editor, Journal of Climate and not in a personal capacity. I don't understand why you regard this communication as being personal on your part (although it was on mine). You circulated the correspondence to a number of interested parties and did not state that it was confidential. Could you clarify for me why you regard this correspondence as being privileged on your part?

Thirdly, I am quite prepared to correct any factual errors in my comment.

Could you clarify something for me, which I may have misunderstood. You sent me an email stating:

"In response to your previous emails to me I have now heard back from the Lead Author (Scott Rutherford) of the paper "Proxy-based Northern Hemisphere Surface Temperature Reconstructions: Sensitivity to Method, Predictor Network, Target Season, and Target Domain.". In his letter to me he stated: "let me assure you that we stand by all of the statements in the paper without reservation."

The next day you sent me the email cited in your message. My impression at the time was that you were referring to the same email as you had discussed the previous day and was describing the above language, as you did not provide a full sentence comparable to the one above. If this understanding is incorrect, could you please send me the exact phrasing of the entire sentence used to assert the provision of full, true and plain disclosure.

I disagree with some other points and will respond on all matters following receipt of the above clarifications. I look forward to a prompt and amicable resolution of this matter.

In the interim, if you wish me to post up your letter to me at [climateaudit.org](http://climateaudit.org) in full, I am quite prepared to do so.

Regards, Steve McIntyre

[April 7 Weaver to McIntyre](#)

Dear Mr. McIntyre, thank you for your email. You stated that:

"However, I'm a little unclear as to what aspects of the sentences in question that you find untrue or defamatory."

As I mentioned in my original email, I deem the sentence below to be defamatory and to publicly undermine my professional integrity:

"Thus we come to Dr Andrew Weaver, of the School of Earth and Ocean Sciences at the University of Victoria in Canada, who has tirelessly promoted the Hockey Stick in the past, and to prove his scientific prowess, he bequeaths the Hockey Stick to the next generation of brave environmental guardians, media stars and possibly, the occasional climatologist."

I once more reiterate the comments from one of your posters which underscore how other, lay readers, clearly agree with me:

"I don't know. In your efforts to find any way possible of villifying the 'Hockey Stick' you search around the net, rummage through someones on-line notes for something (anything?) to triumphantly post here (like some kind of self appointed climate truth policeman meeting his masters?), and ritually submit yet another scientist to CAType ridicule. Just what \*is\* it with you and this place John? It's worse than disrespect, it's shameful."

Your questions concerning my 'opinion' of the Mann et al 'hockey stick' are not relevant to the issue at hand since if you had attended my class you would have known the context with which I discussed my modified figure (which you still have not removed I note). In addition neither you nor the writer on your site attended my class so you have no basis for any of assertions as to my position.

As I see it, it is the implications that I am (essentially) incompetent in my field that is the defamatory issue -- the tone and phrasing effectively is designed to hold me up to contempt. For example, if I say: "John Doe is incompetent", that's clearly defamatory. If I say, "Good old John Doe, always trudging behind the leaders in his field", I have expressed the same thought. It is the sneering tone and the implications that make the case, not the words themselves (maybe John Doe isn't always the first to publish an idea or concept, so the substance might even be true, but the conclusion implicated is not!). It would not be defamatory if I said, "John Doe is not always first to publish the ideas he writes about" (assuming this is true).

With respect to the correspondence, all my correspondences with respect to the Journal of Climate are personal and confidential. It is the very nature of being an editor. You will notice that I do not forward other peoples emails in any of my responses unless they were recipients of the original email. That is, I will issue a group reply to an email but I do not forward the original on if it were only addressed to me. My reply only went to the other people as your original

message also went to those same people. As a specific example, you will note the email I sent to Dr. Rutherford on January 27, 2005 (which did not contain your original email).

User-Agent: Microsoft-Entourage/11.0.0.040405  
Date: Thu, 27 Jan 2005 16:24:18 -0700  
Subject: FW: SI for Rutherford  
Jan 27 From: Andrew Weaver  
To: Scott Rutherford  
Steve McIntyre  
Message-ID: <[BE1EC632.1C0%jclcd@uvic.ca](mailto:BE1EC632.1C0%jclcd@uvic.ca)>  
In-Reply-To: <[9bc5f3848b0f1cf34b41b32d9d20e867@uvic.ca](mailto:9bc5f3848b0f1cf34b41b32d9d20e867@uvic.ca)>  
Mime-version: 1.0  
Content-type: text/plain; charset="US-ASCII"  
Content-transfer-encoding: 7bit  
Dear Dr. Rutherford,

I was send an email by Dr. McIntyre stating that the supplementary information is not working. This is in reference to a web site: [fox.rwu.estatidu/~rutherford/supplements/jclim2003a](http://fox.rwu.estatidu/~rutherford/supplements/jclim2003a)

May I asked that you please communicate with Dr. McIntyre as to the status of the SI site.

With thanks.

Andrew Weaver

Finally, as I noted to you, I received a statement from Dr. Rutherford stating that: "The article, indeed, contains 'full, true and plain disclosure'". I have already notified you of this several times now. The quotation marks make it pretty clear.

Yours sincerely

Andrew Weaver

[April 11 10:18 McIntyre to Weaver](#)

Dear Andrew,

I remain unable to follow your reasoning below as to why you consider the posting in question to be defamatory and disagree that it is. As I read your complaint, you have objected not so much to being portrayed as a promoter of the hockey stick, but in being given insufficient credit for being a leader in hockey stick theory. Be that as it may, the tone of the posting is not a tone that I would have used and, although I did not make the posting, I have elected in this instance to substantially edit the posting to remove potentially offensive language and hope that this resolves this aspect of the matter.

I notice that you have elsewhere not been averse to using offensive language in discussing our material, saying, for example, that our first article should never have been published.

In respect to my other specific queries, you have not provided the language in which Rutherford supposedly provides confirmation of full, true and plain disclosure. In the absence of such explicit language, my understanding is that you have no confirmation of full, true and plain disclosure and that Rutherford provided no assurance beyond the following language, which you originally provided me: "In response to your previous emails to me I have now heard back from

the Lead Author (Scott Rutherford) of the paper "Proxy-based Northern Hemisphere Surface Temperature Reconstructions:

Sensitivity to Method, Predictor Network, Target Season, and Target Domain.<sup>2</sup>. In his letter to me he stated: "let me assure you that we stand by all of the statements in the paper without reservation." " If there is any more explicit language, I would appreciate receiving it; otherwise, I assume that there is no such other language.

As I mentioned to you before, I did not regard myself as corresponding with you personally, but as Editor, Journal of Climate. Privilege in correspondence is not necessarily symmetric: for example, a lawyer is obliged to preserve confidentiality of a client; on the other hand, the client can waive privilege. Thus, any obligations that you may have as an editor may not necessarily apply to someone corresponding with you (as I believe to be the case here.) Further, the example provided below does not demonstrate a practice of confidentiality on your part; in fact, it demonstrates the opposite. I had sent you an inquiry about Supplementary Information. You did not treat my identity as inquirer as confidential; instead, you identified me as the inquirer to Scott Rutherford. In passing, I notice that the advertised Supplementary Information (other than a couple of graphics on R2 and RE) has still not been provided.

Substantively, I remind you again of the lack of full, true and plain disclosure in Rutherford et al [2005] and the inattentive refereeing in respect to claims about our work, which led to the present situation of untrue statements being published in Journal of Climate and then being promoted by Mann et al. at realclimate. Obviously neither you nor the referees made any effort to ascertain whether Mann's claims about our work were correct or not, a lack of diligence which is consistent with your first remarks about our work. You have offered us the prospect of submitting a Comment, and while this offer is welcome, it is hardly a substitute for doing things right in the first place.

Regards, Steve McIntyre

[Apr 11 11:00 Weaver acknowledgement](#)

Dear Mr. McIntyre, thank's for the email and changing the language on the web site. Of course I do not agree with your assertions below. You have not responded to all of my questions in my previous post as you stated you would but I can tell at this stage that you are not really willing to address the issues in anything more than a rhetorical manner

Finally, I do not know what you are saying about the language from the Rutherford et al piece. I must have sent it to you three times by now in quotes. Here it is again. "The article, indeed, contains "full, true and plain disclosure".

I look forward to receiving your Comment on the Rutherford pierce.

Yours sincerely

Andrew Weaver

[Apr 11 11:47 McIntyre to Weaver](#)

Dear Andrew,

I advised you previously that: "I disagree with some other points and will respond on all matters following receipt of the above clarifications. I look forward to a prompt and amicable resolution of this matter."

You have no basis for asserting that I have no intention of responding fully or in other than a rhetorical manner. Even though you failed to provide any reasonable argument as to why the disputed posting was defamatory, I modified language.

In previous messages, your characterization of Rutherford's comments has been inconsistent. Initially you said the following: "In his letter to me he stated: "let me assure you that we stand by all of the statements in the paper without reservation." " Later you said the following: "Just for the record, I did in fact obtain a statement that the article contained "full, true and plain disclosure" from Dr. Rutherford." Today you say the following: "I do not know what you are saying about the language from the Rutherford et al piece. I must have sent it to you three times by now in quotes. Here it is again. "The article, indeed, contains "full, true and plain disclosure". " Obviously you provided a different quotation today than before, so there is no cause for impatience on your part. Was this claim made in the same email as the one in which he stated: "let me assure you that we stand by all of the statements in the paper without reservation." If it's not too much trouble, I would like to see the full context of what he said prior to responding on this topic.

Of course, Rutherford asserting that there was full, true and plain disclosure does not ensure that it actually took place. Substantively, it obviously did not take place, as material issues pertaining to principal components calculations were then being discussed at realclimate, but not disclosed in the JCLim article. At best, Rutherford's assertion of "full, true and plain disclosure" shows a lack of understanding of the topic. I pointed out the strong possibility of this to you at the time.

Regards, Steve McIntyre

[Apr 11 12:14 Weaver to McIntyre](#)

Dear Steve,

Thanks for the email... To clarify.. I sent you the entire sentence in question today and only a component of it before. Anyway, I am not really in a position to forward the rest of the message as it is in my opinion, a communication between an author and me.

In light of your query to me, I will ask Scott Rutherford if he would grant me permission to send you his email to me. If he does, I would be prepared to send the whole thing so that you could see the complete context.

All the best Andrew

[May 30 McIntyre to Weaver on progress](#)

Any progress on this?

May 30 Weaver to McIntyre

Dear Steve,

Scott stated that his correspondence to me was intended only for me. I suggest that you ask him any further questions directly.

Best wishes. Andrew

2006-05-12 McIntyre to Weaver re Rutherford SI

Dear Andrew,

Rutherford et al 2005 states that supplementary information is available at <http://fox.rwu.edu/~rutherfo/supplements/jclim2003a>.

First, in passing, Scott Rutherford has blocked the IP address of the computer that I regularly use from access to that site (I had previously been blocked from Mann's FTP site.) While I have been able to have someone else send me the data, I'm sure that such petty behavior is inconsistent with Journal of Climate access policies and I request that you ask your authors to stop such juvenile behavior insofar as it affects the Journal of Climate.

Second, the referenced website does NOT contain the MXD data, but only includes a link to "Ask Tim Osborn". As you can see from the attached correspondence, Osborn has undertaken to provide the requested information, but the article certainly implies - and I am sure that that this was your understanding as editor - that the data would be readily available. In this case, even a simple listing of the sites has not been provided after nearly 2 weeks. (I might add that I initially requested a listing of the sites from a coauthor nearly 2 years ago.)

In order to comply with the apparent undertakings of Rutherford et al, I think that you should arrange for a less ad hoc method of providing the supplementary information.

Regards,

Steve McIntyre