

Request under the Illinois Freedom of Information Act

April 2, 2014

Mr. Thomas P. Hardy
108 Henry Administration Building
506 South Wright St. MC-370
Urbana, IL 61801
foia@uillinois.edu

Dear Mr. Hardy,

On behalf of Donna Laframboise, the Energy and Environmental Legal Institute (E&E Legal), a non-profit public policy institute with a transparency initiative dedicated to informing policymakers and the broader public on energy and environmental issues, and the Free Market Environmental Law Clinic (FMELC), a non-profit public policy group training young lawyers and academics on developments in environmental policy and law, I request records under the Illinois Freedom of Information Act, 5 ILCS 140.

Records Requested – We are seeking records sent to or created by or on behalf of Dr. Donald J. Wuebbles, the Harry E. Preble Professor of Atmospheric Science at the University of Illinois at Urbana-Champaign. Please provide us copies of *any correspondence*, including attachments, *sent to or from Dr. Wuebbles*, including as To, From, cc:, and/or bcc:, that are *on a University of Illinois system or system used by the University*, which:

- (A) is to or from (including as To, From, cc:, and/or bcc:) anyone with Union of Concerned Scientists,
- (B) mentions Union of Concerned Scientists, and/or
- (C) cite or pertain to the Intergovernmental Panel on Climate Change (IPCC), and/or its parent organizations UNFCCC and/or the “World Meteorological Association”; these records include but are not limited to those citing not the IPCC expressly but its product “AR5” or 5th (or Fifth) Assessment Report.

In part because of the IPCC AR5 timeline, documents responsive to this request will have been created, dated, sent or received by Dr. Wuebbles between April 1, 2009 and the date the University performs the relevant, respective search(es) in response to this request, inclusive.

Details Regarding UI's Response

Please identify and inform us of all responsive or potentially responsive documents within the statutorily prescribed time, and the basis of any claimed exemptions or privilege and to which specific responsive or potentially responsive document(s) such objection applies. Given that Illinois courts have, “on several occasions, held that the exceptions to disclosure set forth in the FOIA are to be read narrowly so as not to defeat the FOIA's intended purpose” (*Southern Illinoisan v. Ill. Dep't of Pub. Health*, 218 Ill. 2d 390, 416 (Ill. 2006)), we believe few if any exceptions should apply to this request. However, should the University apply such an exception we request a detailed explanation documenting the claimed exemption(s) or privilege(s), as “The burden shall be on the public body to establish that its refusal to permit public inspection or copying is in accordance with the provisions of the Act. (Ill. Rev. Stat. 1991, ch. 116, par. 211(f).) To meet this burden and to assist the court in making its determination, the agency must provide a detailed justification for its claim of exemption, addressing the requested documents specifically and in a manner allowing for adequate adversary testing.” *Williams v. Klinicar*, 237 Ill. App. 3d 569, 572 (Ill. App. Ct. 3d Dist. 1992).

We request you provide copies of responsive records in electronic format if you possess them as such; otherwise photocopies are acceptable. We seek electronic records and so expect all such records are available to be provided in that form, and that little if any copying charge will apply.

Please provide responsive documents in complete form, with any appendices or attachments as the case may be.

We also request a fee waiver for this request. 5 ILCS 140/6(c) requires that “Documents shall be furnished without charge or at a reduced charge, as determined by the public body, if the person requesting the documents states the specific purpose for the request and indicates that a waiver or reduction of the fee is in the public interest. Waiver or reduction of the fee is in the public interest if the principal purpose of the request is to access and disseminate information regarding the health, safety and welfare or the legal rights of the general public and is not for the principal purpose of personal or commercial benefit.”

Requesters' specific purpose makes release and waiver in the public interest, in that the principal purpose of the request is to access and disseminate information regarding the health, safety and welfare or the legal rights of the general public and is not for the principal purpose of personal or commercial benefit. Instead, this request part of a continuing campaign by EELI and FME Law so far involving four public universities to more fully educate the public about the IPCC process and reports, how they are produced, using what taxpayer resources and with the input of what taxpayer supported institutions.

As with other IPCC-related records obtained from publicly funded institutions including federal agencies and other state universities to date, release of these records will serve the public interest by contributing significantly to the public's understanding of the controversial topics of energy and environmental policy and use of public resources. ; requester Laframboise also has continued to write extensively about IPCC process and products reaching a wide audience (see *infra*).

Further, this continues requesters' ongoing efforts, including at several public universities, to explore the relationships between academics using their public position to advocate or seek to influence public policy, and environmentalist pressure groups.

Donna Laframboise is a Canadian investigative journalist and a Senior Research Fellow at the Frontier Centre for Public Policy. She is the author of two books about the Intergovernmental Panel on Climate Change. *The Delinquent Teenager Who Was Mistaken for the World's Top Climate Expert* (2011), is an IPCC exposé. *Into the Dustbin: Rajendra Pachauri, the Climate Report & the Nobel Peace Prize* (2013) shines a light on the man who has been the IPCC's chairman since 2002. Her relevant work also includes "Warming up for another climate-change report," *Wall Street Journal*, Sept. 24, 2013.

E&E Legal and FMELC are both nonprofit, tax-exempt public interest organization, with formal research, educational and publication functions as part of their missions, specifically including dissemination of public records to date from public universities in Arizona, Texas and Virginia. The groups' work has been broadly disseminated to the public and has generated substantial media, public and policymaker interest, including coverage from *The Washington Times*, *The Washington Examiner*, *E&E News*, *National Review*, *The Washington Free Beacon*, *The Daily Caller*, *The Pittsburgh Tribune*, *The Detroit News*, and *Fox News*, among others.

No requester has any commercial interest in obtaining the requested information. Instead, we intend to use the requested information to inform the public, so the public can meaningfully assess claims made by government agencies, oversee the use of public resources, and participate in the policymaking process.

Furthermore, the Supreme Court of Illinois has ruled that, "The public policy of this State encourages a free flow and disclosure of information between government and the people. The FOIA is to be given a liberal construction to achieve this goal. (Ill. Rev. Stat. 1985, ch. 116, par. 201.) There is a presumption that public records are open and accessible." *Bowie v. Evanston Community Consol. School Dist. No. 65*, 128 Ill. 2d 373, 378 (Ill. 1989). As E&E Legal and FMELC are both non-profit public policy groups with limited resources and a mission to disseminate public information to the public's benefit, a fee waiver is consistent with the statute's intent of making public records open and accessible.

If our fee waiver request is denied we are willing to pay up to \$150.00.

As this matter involves a significant matter of public interest, please produce responsive records as they become available on a rolling basis.

Please direct all other disclosures to my attention via electronic mail, at Horner@FMELawClinic.org.

For any hard copies or mail delivery that you find necessary, please direct it to:

Energy and Environmental Legal Institute
c/o Chris Horner
1489 Kinross Lane
Keswick, VA 22947

If you have any questions, or would like to discuss this matter further, do not hesitate to contact me by phone at (202) 262-4458 or email.

Thank you for your attention to this matter.



Sincerely,
Christopher C. Horner
Horner@FMELawClinic.org
202.262.4458 (M)