



August 27, 2007

Freedom of Information Officer  
NASA Headquarters  
300 E Street, SW  
Room 9R35  
Washington, DC 20546  
e-mail: [foia@hq.nasa.gov](mailto:foia@hq.nasa.gov)

BY REGULAR AND ELECTRONIC MAIL

Dear FOIA Officer,

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. 552 *et seq.*, please provide us within twenty (20) days copies of all records, documents, internal communications and other relevant covered material created by, provided to and/or sent by NASA/Goddard Institute for Space Studies (GISS), citing, referencing, discussing or otherwise **relating to the email(s) sent to James Hansen and/or Reto A. Ruedy from a Stephen (Steve) McIntyre – possibly but not necessarily using the address [stephen.mcintyre@utoronto.ca](mailto:stephen.mcintyre@utoronto.ca) – beginning on or about August 3, 2007 specifically mail calling their attention to an error(s) in NASA/GISS online temperature data**, as described herein:

- 1) a) internal discussion of Mr. McIntyre's email and its contents, suggestion(s) and/or request(s) for correction of or otherwise changes to be made to the 2000-2006 annual mean, U.S. mean temperatures, which email was sent on or about August 3, 2007 (referencing the data set and correction *remarked upon* by GISS at <http://data.giss.nasa.gov/gistemp/graphs/>); and
- b) any and all related record(s), correspondence, memoranda, analysis, email or other communications citing or otherwise relating to such email(s), which were produced by or sent to NASA and/or GISS and any office(s) falling under NASA's supervision, responsibility and/or control; and
- 2) all internal communications citing or **addressing this Requesting Party's FOI Request dated August 24, 2007**, which addressed the above-cited correction;

3) this Request covers all responsive or potentially responsive documents including but not limited to those addressing whether to respond to the email(s) and/or 8/24/07 FOI Request in any way whether by email and/or by correcting the records as suggested or otherwise, how to respond, the impact or wisdom or potential (or real) fallout from replying or reaction thereto.

**Responsive documents will include but are not limited to electronic mail sent to and from, *inter alia*, GISS/NASA employees or contractors James E. Hansen, Gavin A. Schmidt and Reto A. Ruedy.**

This request contemplates documents in electronic format if you possess them as such, otherwise photocopies are acceptable.

Please also identify and inform us of all responsive or potentially responsive documents within the statutorily prescribed time, and the basis of any claimed exemptions and to which specific responsive or potentially responsive document(s) such objection applies. Further, please inform us of the basis of any partial denials or redactions.

**Please note that this request is distinct from the Request sent by electronic and regular mail from the same Requesting Party to NASA on August 24, 2007** (no Request ID# received yet) which sought documentation regarding NASA/GISS correcting the temperature data, in that this Request specifically seeks documents and discussion relating to Mr. McIntyre's email, which discussion NASA might arguably consider to be not responsive to the August 24 Request, which documents are hereby requested, as well as internal discussion of the August 24 Request between August 24 and August 27, 2007, *inclusive*.

#### Period Covered

Documents covered by this Request will have been received or produced by your office(s) and/or otherwise dated between **3<sup>rd</sup> August 2007 and the date of your receipt of this letter.**

#### Request for Fee Waiver

We request your office(s) waive any fees associated with this request on the basis that CEI is a nonprofit, tax-exempt public interest organization, with formal research, educational and publication functions as part of its mission, and because release of these records will serve the public interest by contributing significantly to the public's understanding of the interaction between state legal officers including with outside groups in formulating policy and litigation priorities, and because such a release is not primarily in our organization's commercial interest.

If our fee waiver request is denied we are willing to pay up to \$150.00, and in the event of any appeal as appropriate and regardless of that outcome or your response to this fee waiver request we request the search and document production proceed in the interim.

### Request for Fee Waiver -- Justification

#### 1) Interest in Information/Use for Information/Income Issues

CEI's interest in the documents derives from its efforts to educate the public, scholars and state and federal legislatures on particular matters of governmental operation, including but not limited to "climate" policy, data integrity and the interaction of government with private individuals and/or associations of individuals in formulating or influencing policy and public pronouncements on same. CEI is a nonprofit, tax-exempt public interest organization, with formal research, educational and publication functions as part of its mission.

Neither CEI nor any foreseeable party will derive economic benefit from the requested material.

#### 2) Public Benefit/Contribution to Public Understanding

The requested information relates to the operation of government, particularly regarding the controversial areas of climate change and private interaction with and possible influence over the agencies of government.

The general and policy-oriented public will benefit through the dissemination of the findings and works produced as a result of the information received. A fairly widespread portion of the public at large, as opposed to a narrow spectrum of individuals, will receive this benefit, first through CEI whose professionals are widely published and have an extensive media presence to discuss topical policy matters, then through Congress' and state legislatures' ongoing efforts to the extent their inquiries utilize the information.

No "specialized use" of the documents is anticipated outside of that described herein.

#### 3) Dissemination of Information

CEI publishes that upon which it works via print and electronic media, as well as newsletters to legislators, education professionals and other interested parties. Those activities are in fulfillment of CEI's mission.

The information received will be disseminated through a) membership newsletters, b) opinion pieces published in national and local newspapers and magazines, c) CEI's websites which receive approximately 80,000 monthly visitors (appx. 40,000 unique), d) in-house publications for public dissemination, e) other electronic journals including "blogs" to which our professionals contribute, f) as relevant, local and syndicated radio programs dedicated to discussing public policy and on which CEI professionals including

the author of this request make regular appearances, and g) to the extent Congress or states engaged in relevant oversight or related legislative or judicial activities find that which is received noteworthy, it will become part of the public record on deliberations of the legislative branches of the Federal and State Governments on the relevant issues.

Sincerely,

Christopher C. Horner, Esq.

Competitive Enterprise Institute  
1001 Connecticut Avenue, NW  
Suite 1250  
Washington, DC 20036  
202.331.2260 Office phone