

Congress of the United States

House of Representatives

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY

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November 19, 2015

The Honorable Lamar Smith
Chairman
Committee on Science, Space, and Technology
2321 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Smith,

On October 23 I wrote to you concerning the unilateral subpoena you issued to NOAA Administrator Kathryn Sullivan. You never responded to that letter, so I feel compelled to once again write to you.

In my prior letter, I noted that in four separate written demands to NOAA to comply with your “investigation” you never actually identified what it is you were claiming to investigate. Instead of responding to either me or NOAA with some legitimate rationale for your actions, you instead wrote a fifth demand letter to NOAA¹ which continued your insistence that NOAA must comply with your demands because of your “investigation” – still without ever making any accusation of any waste, fraud, or abuse to be investigated. Just last week, you also sent a similar cajoling letter to Commerce Secretary Penny Pritzker². In six separate, and increasingly aggressive, letters, the only thing you accused NOAA of doing is engaging in climate science – i.e., doing their jobs.

Yesterday, you again wrote to Secretary Pritzker³ demanding the same email communications of NOAA scientists you have demanded on six previous occasions. However, unlike the six previous demand letters you wrote, your seventh letter actually contained an allegation against NOAA’s scientists. In this letter, you claim to have whistleblowers who have provided information showing:

“[t]hat the Karl study was rushed to publication despite the concerns and objections of a number of NOAA scientists.”

¹ November 4, 2015, Chairman Lamar Smith to the Honorable Kathryn D. Sullivan.

² November 13, 2015, Chairman Lamar Smith to the Honorable Penny Pritzker.

³ November 18, 2015, Chairman Lamar Smith to the Honorable Penny Pritzker.

I would like to point out just how curious it is that you are only now justifying your previous six demand letters and subpoena with an actual allegation of “wrongdoing” by the agency. To be frank, this appears to be an after-the-fact attempt to justify a fishing expedition. Moreover, your “whistleblowers” don’t even appear to be challenging the findings of the study, but rather, that the study was “rushed.” This mild accusation would hardly seem to warrant the hyper-aggressive oversight and rhetoric you have leveled at NOAA.

Neither I nor my staff can evaluate the veracity of your whistleblower claims, because you have not shared them with the Minority. However, one sentence in your letter gave me pause immediately. You state:

“More troubling, it appears that NOAA employees raised concerns about the timing and readiness of the study’s release through e-mails, including several communications just before its publication in April, May, and June of 2015.”

I would like to draw your attention to the fact that the Karl study⁴ was actually submitted to the journal *Science* in December of 2014 - four months before your alleged whistleblower communications. *Science* accepted the study for publication in May of 2015. Moreover, the Karl study relied, in part, upon the work of two previously published studies by Boyin Huang⁵ and Wei Liu⁶. It was these studies which explained NOAA’s updated sea surface temperature records, not the Karl study. These studies were submitted to the American Meteorological Society’s *Journal of Climate* in December of 2013 – nearly one and a half years before your alleged whistleblowers raised their concerns. Given these discrepancies, I hope you will take this opportunity to provide the Minority with the whistleblower information you possess, so we might better be able to evaluate the veracity of these claims. Until you provide the Minority with this information, I hope you will understand my skepticism regarding the new claims you have made in your seventh demand letter.

In your November 4 letter to NOAA, in addition to again demanding scientists’ emails, you also demanded transcribed interviews of several NOAA employees, including climate scientist Dr. Thomas Karl, NOAA’s Director of the National Centers for Environmental Information. I would note that Dr. Karl travelled to Washington, DC on October 19 to provide your staff with a private briefing on his research. You and your staff had the opportunity to ask him any questions you desired. You could have confronted Dr. Karl with your “whistleblower” information. You didn’t. Instead of doing so, you and your staff are wasting taxpayer resources and Dr. Karl’s valuable time by demanding that he again travel to Washington at some indeterminate point in the

⁴ “Possible artifacts of data biases in the recent global surface warming hiatus,” T. Karl *et al.*, *Science* 348, 1469 (2015).

⁵ “Extended Reconstructed Sea Surface Temperature Version 4 (ERSST.v4). Part I: Upgrades and Intercomparisons,” B. Huang *et al.*, *J. Clim* 28, 911 (2015).

⁶ “Extended Reconstructed Sea Surface Temperature Version 4 (ERSST.v4). Part II: Parametric and Structural Uncertainty Estimations,” W. Liu *et al.*, *J. Clim* 28, 931 (2015).

future to ask him questions you already had the opportunity to ask. This isn't oversight. It's grandstanding and harassment of a respected scientist.

You also make irresponsible threats to Administrator Sullivan in your November 4 letter, stating:

“[y]our failure to comply with a duly issued subpoena may expose you to civil and/or criminal enforcement mechanisms.”

I think it might be informative to take note of whom you are threatening. Dr. Kathryn Sullivan is PhD geologist, former naval reserve officer, former three-time NASA astronaut, former chief scientist of NOAA, and former member of the National Science Board. As an astronaut, Dr. Sullivan became the first American woman to ever “walk” in space. Dr. Sullivan is the very definition of service to country, and she is a role model for us all. I highly doubt Dr. Sullivan is intimidated by your threats, but it is an indication of how low the Majority is willing to stoop to perpetuate their anti-science agenda when a legitimate American icon is dragged through the mud in furtherance of an ideological crusade.

You have been very reluctant to state the purpose of your investigation in any official communications. Now that you finally have (4 months into your “investigation”), the accusations you make to Secretary Pritzker bear little resemblance to the sweeping indictments you have been making to the press over the past month.⁷ In the October 28th edition of *Nature*, you were quoted as saying:

“NOAA needs to come clean about why they altered the data to get the results they needed to advance this administration’s extreme climate change agenda.”⁸

Then, on November 16, you made the following statements in an op-ed on *Breitbart News Network*:

“The study was conducted in order to refute the notion that there has been any pause in global warming.”

“NOAA changed the way it has analyzed data for decades to get results that support the president’s agenda.”

“The American people deserve an explanation for why NOAA altered long-held scientific data. When NOAA concocts data to get the politically correct results they want and then refuses to reveal how those decisions were made, that discredits their entire agenda.”

“Apparently NOAA manipulated the way data is analyzed to support a political agenda.”⁹

⁷ “Congressman doubles down, accuses NOAA scientists of doctoring results,” *Ars Technica*, (October 28, 2015), <http://arstechnica.com/science/2015/10/congressman-doubles-down-accuses-noaa-scientists-of-doctoring-results/>

⁸ “U.S. science agency refuses request for climate records,” *Nature*, (October 28, 2015), <http://www.nature.com/news/us-science-agency-refuses-request-for-climate-records-1.18660>

Finally, just yesterday in a letter to the *Washington Post*, you unequivocally assert that:

“In June, NOAA employees altered temperature data to get politically correct results...”¹⁰,

an unsubstantiated allegation that you repeated at yesterday morning’s Committee hearing, when you stated:

“Another example of how this administration attempts to promote its illegitimate climate agenda can be seen at the National Oceanographic and Atmospheric Administration (NOAA). Its employees altered historical climate data to get politically correct results in an attempt to disprove the hiatus in global temperature increases.”¹¹

These might be the most outrageous statements ever made by a Chair of the Committee on Science.

In one fell swoop, you have accused a host of different individuals of wrongdoing. You have accused NOAA’s top research scientists of scientific misconduct. By extension, you have also accused the peer-reviewers at one of our nation’s most prestigious academic journals, *Science*, of participating in this misconduct (or at least being too incompetent to notice what was going on). If that weren’t enough, you are intimating a grand conspiracy between NOAA and the White House to doctor climate science to advance administration policy. Presumably this accusation extends to Administrator Sullivan herself. And all of these indictments are conjured out of thin air, without you presenting any factual basis for these sweeping accusations - exposing this so-called “investigation” for what it truly is: a witch hunt designed to smear the reputations of eminent scientists for partisan gain.

This entire fiasco reminds me of another hype-driven, fact-lacking controversy: the so-called “Climategate.” That incident involved, to paraphrase Michael Halpern of the Union of Concerned Scientists:

Computer hackers stealing thousands of emails from climate scientists at the University of East Anglia. The release of these emails days before a major climate conference in Copenhagen, Denmark. Climate deniers (and U.S. Congressmen) selectively quoting the emails out of context to accuse climate scientists of misconduct and fraud. A media frenzy around the manufactured controversy. Multiple independent investigations (by the University of East Anglia, EPA, NSF, Penn State University, and the U.K. Parliament) all of which

⁹ “Changing the Data to Get Climate Change,” *Breitbart News Network* (November 16, 2015).

¹⁰ “Eroding trust in scientific research,” *Washington Post* (November 18, 2015).

¹¹ Statement of Chairman Lamar Smith, hearing before the Committee on Science, Space, and Technology entitled, “The Administration’s Empty Promises for the International Climate Treaty,” (November 18, 2015).

found no evidence of scientific misconduct by the researchers, but all of which reached their conclusions long after the climate negotiations had passed.¹²

Much like the de-bunked “Climategate” scandal, your efforts have generated a number of misleading press headlines in advance of a major international climate conference: the upcoming 2015 United Nations Climate Change Conference in Paris, France. And you have perpetuated this misinformation yourself, linking to the following headlined articles from your official Committee website:

“*Breitbart*: Changing the Data to Get Climate Change”;
“*Fox News*: Is the government tinkering with global warming data?”;
“*The Washington Post*: The Insiders: Inconvenient numbers for the global warming crowd.”;
“*Fox News*: ‘Come clean’: Rep battles agency over subpoena for climate study record.”; and,
“*Investor’s Business Daily*: Did Federal Agency Commit Climate Fraud? Sure Looks Like It.”¹³

This entire effort smacks of the discredited tactics used by climate change denial groups (oftentimes funded by the fossil fuel industry)¹⁴ to sway public opinion based on misinformation, innuendo, and falsehoods.

Incredibly, you’re also now engaging in a topsy-turvy “blame the victim” narrative. In the November 17th *Daily Caller*, you charged that,

“Rather than cooperating with legitimate congressional oversight, NOAA has politicized these requests to build a false narrative that the Committee seeks to intimidate scientists.”¹⁵

NOAA did not create this narrative. It is your own adoption of these discredited climate denial tactics that has led the scientific community to condemn your attacks against climate science and the esteemed scientists at NOAA.

You have made much of the notion that the Constitution undergirds your investigatory powers. And it is true that Congress’s legitimate investigatory powers are derived directly from Article 1 of the Constitution. However, you are wrong that anything you are currently engaged in derives of the powers vested in Congress by the Constitution. The Constitution doesn’t provide you with a blank check to harass research scientists

¹² “Have You Heard the One about the Climate Scientists’ Emails? (Getting tired of the same joke?)”, Union of Concerned Scientists, (November 22, 2011). <http://blog.ucsusa.org/michael-halpern/have-you-heard-the-one-about-the-climate-scientists-emails-getting-tired-of-the-same-joke>

¹³ November 17, 2015 screenshot of: <https://science.house.gov/news/in-the-news>

¹⁴ <http://drexel.edu/now/archive/2013/December/Climate-Change/>
<http://polluterwatch.com/blog/exxons-decades-advertising-against-climate-change>
<http://www.greenpeace.org/usa/global-warming/climate-deniers/koch-industries/>

¹⁵ “NOAA Spreading ‘False’ News About GOP Investigation of Temperature Data,” *The Daily Caller* (November 17, 2015).

with whose results you disagree. The Constitution doesn't imbue you with the power to sanction a separate and equal branch of government simply because they won't entertain your baseless conspiracy theories. Your "investigation" appears to have less to do with uncovering waste, fraud, or abuse at a federal agency, and more to do with political posturing intended to influence public opinion ahead of a major international climate conference.

I would implore you to cease this illegitimate "investigation," but I suspect such a plea would fall on deaf ears. However, you should know that your inappropriate tactics will find no support with me. I, along with my fellow Democratic Members of the Science, Space, and Technology Committee, will endeavor at every opportunity to counter your efforts to attack the field of climate science and the hardworking scientists who work in the field.

Thank you for your attention to this matter.

Sincerely,



EDDIE BERNICE JOHNSON

Ranking Member

Committee on Science, Space, and Technology