Congress of the United States
Washington, DC 20515

January 14, 2010

The Honorable Lisa Jackson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Administrator Jackson:

We are disappointed by the Environmental Protection Agency's (EPA) failure to respond to the concerns expressed in our December 2, 2009 letter.[1] We are also concerned that EPA is in violation of the Data Quality Act (DQA), which was enacted to ensure the integrity of information relied upon by federal agencies, as well as its own Peer Review Guidelines.

In our December letter, we petitioned EPA to conduct a "thorough and transparent investigation into the questions raised by the disclosure of emails from the Climatic Research Unit of East Anglia (CRU)." The letter also urged you to withdraw the Endangerment Finding, as well as other proposed greenhouse gas (GHG) regulations that rely on the Intergovernmental Panel on Climate Change (IPCC) for scientific justification until such a review is complete.

While you have failed to directly respond to, or even acknowledge our letter, EPA finalized the Endangerment Finding on December 7, 2009, setting in motion a regulatory dragnet that according to a senior White House official, will "regulate in a command-and-control way, which will probably generate even more uncertainty [in the economy]."[2] During the press conference announcing the decision, you stated that EPA did not delay its finding to conduct an investigation because "nothing in the emails undermines the science upon which the findings are based."[3] These public statements and actions do not represent an adequate response to our concerns.

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[1] Letter from the Honorable Darrell Issa, et. al to The Honorable Lisa Jackson, Administrator, U.S. EPA (Dec. 2, 2009), available at http://republicans.oversight.house.gov/images/stories/Letters/20091202deibarrassovittersensenbrennertojacksonepa.pdf.

[2] Major Garrett, *Administration Warns of 'Command-and-Control' Regulation Over Emissions*, FOX NEWS, Dec. 9, 2009, available at http://www.foxnews.com/politics/2009/12/09/administration-warns-command-control-regulation-emissions/.

[3] Robin Bravender, *EPA to Publish Endangerment Finding Tomorrow*, Greenwire (Dec. 14, 2009) available at http://www.eenews.net/Greenwire/2009/12/14/8/.

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Moreover, EPA has an affirmative obligation to ensure the research it is relying on satisfies the rigorous standards of the DQA and the agency's own Peer Review Guidelines. However, the corruption associated with the IPCC process appears to be inconsistent with both. Accordingly, EPA's dismissal of evidence that indicates the peer review process the IPCC relied on was corrupted and manipulated by influential scientists is alarming.

EPA's own peer review handbook states:

> *"The quality of science that underlies our regulations is vital to the credibility of EPA's decisions and ultimately the Agency's effectiveness in protecting human health and the environment. One important way to ensure decisions are based on defensible science is to have an open and transparent peer review process."*[4]

Yet according to the *Associated Press*, "The e-mails show that several mainstream scientists repeatedly suggested keeping their research materials away from opponents who sought it under American and British public records law."[5] Refusal to provide raw data and other research materials is clearly not transparent and raises serious questions about the integrity of the research. Moreover, such behavior would not be permissible had the research been conducted in-house by EPA scientists, who would have been legally obligated to provide reviewers with "access to key studies, data and models, to perform their role as peer reviewers."[6] Common sense would dictate that EPA should not rely on IPCC work if the process used to develop its reports would violate EPA's own research standards.

The "Climategate" emails raise legitimate questions over whether the IPCC 4th Assessment Report, and other synthesis documents that rely on the work of the implicated scientists, satisfy the requirements of the DQA. As you are aware, this law requires federal agencies to rely on objective information – meaning information that is accurate, reliable, and unbiased.[7] Normally, peer review creates the presumption of objectivity. However, this presumption appears to be overcome in this instance by an overwhelming showing that data collected and research conducted by IPCC scientists and reviewers, such as Michael Mann and Phil Jones, was not unbiased, accurate, or reliable. Therefore, the science is neither objective nor compliant with the Data Quality Act.

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4 EPA's Peer Review handbook http://www.epa.gov/peerreview/pdfs/peer_review_handbook_2006.pdf

5 Seth Borenstein et. al, *Science Not Faked, But Not Pretty*, AP, (Dec. 12, 2009). http://news.yahoo.com/s/ap/20091212/ap_on_sc/climate_e_mails

6 OFFICE OF MGMT. & BUDGET, EXECUTIVE OFFICE OF THE PRESIDENT, OMB BULL., FINAL INFORMATION QUALITY BULLETIN FOR PEER REVIEW (2005).

7 OFFICE OF MGMT. & BUDGET, EXECUTIVE OFFICE OF THE PRESIDENT, OMB GUIDELINES FOR ENSURING AND MAXIMIZING THE QUALITY, OBJECTIVITY, UTILITY, AND INTEGRITY OF INFORMATION DISSEMINATED BY FEDERAL AGENCIES (2002).

Despite EPA's defiant declaration that "nothing in the emails undermines the science upon which the findings are based," it does not appear that EPA has actually conducted a review of the emails that could support such a broad based conclusion. In fact, EPA's specious assertion is directly contradicted by other governmental organizations and public institutions. The United Nations, Hadley CRU, the Met office, and Penn State have all announced plans to investigate the emails, as well as the scientists involved.

Given the severity of the allegations of fraud and corruption within the most prestigious circles of climate change scientists, we are writing today to demand a response to our previous letter no later than February 1, 2010. A reply that includes an unsupported reaffirmation of the IPCC and the work conducted by "Climategate" scientists is unacceptable. We also reiterate our request for the agency to turn over all documents and records related to the communications or other interactions with Hadley CRU dating from March 2007 through December 1, 2009 to our respective Committees no later than February 15, 2010.

In addition, we request a written response to the following questions no later than February 15, 2009:

1. EPA has asserted that "nothing in the emails undermines the science upon which the finding was based." Has EPA conducted a thorough review of the Hadley CRU emails and documents? If so, who conducted the review? When was the review completed? Please discuss all of EPA's findings and conclusions based on this review.

2. If EPA has not conducted a review of the "Climategate" documents how can you state with certainty that "nothing in the emails undermines the science upon which the finding was based?"

3. You have publically stated that "no new issues have been raised by the emails that were not already covered and discussed in response to comments." Please identify the precise instances in the Endangerment Finding that responds to accusations of data manipulation at the Hadley CRU. Please also identify any instance where EPA discussed and accounted for accusations of corruption and manipulation of the peer review process has already been considered by EPA. Please note: A general reference to the Endangerment Finding or the Technical Support Document is not an adequate response.

4. Please identify any research grants that EPA has awarded in the past 20 years to the Hadley CRU, to Phil Jones, or to Michael Mann. Your response should include the date the award was made, the amount of the award, and the project funded by the award. Your response should include any funding that materially benefited either the Hadley Center, Phil Jones, or Michael Mann.

If you have any questions regarding this request, please contact Kristina Moore, House Oversight and Government Reform Committee at 202-225-5074, Brian Clifford, Subcommittee on Oversight, Senate Environment and Public Works Committee at 202-224-6176, Bryan Zumwalt, Subcommittee on Clean Air and Nuclear Safety, Senate Environment and Public Works Committee at 202-224-4623; or Raj Bharwani with the Select Committee on Energy Independence and Global Warming at 202-225-0110.

Sincerely,

Darrell E. Issa
Ranking Member
House Oversight and Government Reform Committee

John Barrasso, M.D.
Ranking Member
Subcommittee on Oversight
Senate Committee on Environment and Public Works

F. James Sensenbrenner, Jr.
Ranking Member
House Select Committee on Energy Independence and Global Warming

David Vitter
Ranking Member
Clean Air and Nuclear Safety
Senate Committee on Environment and Public Works

cc: Carol Browner
John Holdren