

## Mann stays in the hot seat

UVA fights requests for climate scientist's work

BY WILL GOLDSMITH

Attorney General Ken Cuccinelli, no doubt still aglow from his [latest victory](#) in his war on health care reform, got some help this month from an outside nonprofit in [his quest to pry loose](#) a bevy of documents related to former UVA climate scientist Michael Mann.

On January 6, the American Tradition Institute (ATI), along with state Delegate [Bob Marshall](#) (R-Prince William), [presented UVA](#) with a Freedom of Information Act (FOIA) request seeking essentially the same information Cuccinelli demanded last year in a civil subpoena: e-mails Mann sent to and received from 39 scientists and all of his assistants; all documents generated by five specified grants; and Mann's computer algorithms, programs and source code.

"These records would not be resisted, and the outcry would not ensue, were their subject something other than climate research," says Christopher Horner, the ATI's litigation director, by e-mail. An Albemarle County resident, Horner is the author of several books [disputing global warming](#).

UVA responded last week by requesting an extension, according to Horner, who promises to keep fighting for the records.

Since May, Cuccinelli [has sought](#) Mann's documents as part of an investigation into whether Mann violated Virginia's Fraud Against Taxpayers Act (FATA). UVA hired [outside counsel](#) to fight Cuccinelli's demands, and the case is still before the courts, though UVA won an initial legal victory.

The legal bills for the initial defense cost UVA [more than \\$350,000](#), paid for through private donations. In a [separate request](#), ATI and Marshall also seek release of documents regarding the funding UVA used to fight Cuccinelli's demands. The University responded that it has no documents that aren't protected by attorney-client privilege, according to Horner.

The entire mess stems from so-called Climate-gate, the controversy regarding the contents of a pilfered server from Britain's East Anglia University published online in late 2009. Global warming skeptics pounced on [exposed e-mail chains](#) between climate scientists, pointing to language like "trick" and "manipulation" as evidence of deliberately doctored data. Investigations in the U.S. and abroad have so far [cleared scientists](#) involved of wrongdoing.

Mann was among the implicated scientists, and in December 2009, Marshall sent former UVA President John Casteen a FOIA requesting all of Mann's e-mails. Mann left UVA for Penn State in 2005, and the University told Marshall that Mann's e-mails no longer existed.

"Please know that we had engineers in our department of information technology double-check the status of Mr. Mann's e-mail account," wrote Carol Wood, assistant vice president for public affairs, on December 17, 2009.

Around the same time, the environmental advocacy group Greenpeace FOIA'd UVA for the e-mail correspondence of Pat Michaels as well as a retired professor, Fred Singer, both of whom who had [talked up](#) the implications of Climate-gate. Michaels, a former UVA climate professor, had resigned in 2007 after a controversy over whether he was the state climatologist and is now employed by the [Cato Institute](#) and George Mason University.

According to Greenpeace, the only documents UVA released were Michaels' CV and a spreadsheet listing three grants. Anything else, UVA told Greenpeace, would require a base charge of \$4,000, regardless of what was produced, and no cap on how much it might cost.

"We were basically stonewalled by the University by and large, contrary to how several people have characterized it," says Kert Davies, Greenpeace research director. "We didn't get any e-mails." He says the pursuit is on hold.

Nevertheless, global warming skeptics were incensed at what they took to be unequal treatment, particularly after Cuccinelli came calling and UVA eventually found some of Mann's information on a back-up server. Marshall submitted a new FOIA request, and UVA [reportedly told him](#) it would cost \$8,000.

In addition to signing on with ATI's FOIA, Marshall has responded by [introducing legislation](#) that would expand those public employees who could be fined or dismissed for knowingly violating the state Freedom of Information Act.

The battle over access to the various documents has obscured the original point of the searches. Horner says of ATI's goal, "Surely it's the same as Greenpeace's in seeking Pat Michaels' records."

The request of Greenpeace, which also pursued the correspondence of several other scientists and universities, "has been widely mischaracterized by Mr. Horner and other people as similar to the fishing expedition that they're on," contends Davies. "The objective was to see if there was any communication from the University e-mail addresses around Climate-gate and whether there was any other financial information about who they were funded by."

For his part, Mann hopes that UVA will continue to defend his documents. He comments by e-mail: "There is substantial case law defending scientists and academics against such thinly-veiled attempts to suppress scientific inquiry by harassing individual scientists. I suspect that UVA, as other great universities have in the past, will respect that tradition and stand up against these transparent attempts not just to bully me, but to thwart the progress of science."

Mann also calls Horner an "industry-funding lobbyist," citing his ties to the [Competitive Enterprise Institute](#), which received substantial funding from ExxonMobil until the oil giant [cut ties](#) in 2006.

"Argumentum ad hominem is actually not a response, but an attempt to change the subject," responded Horner by e-mail. He says that the American Tradition Institute receives no money from affiliates of ExxonMobil or Koch Industries, though "we would welcome their support."