

The Washington Post

State attorney general demands ex-professor's files from University of Virginia

By Rosalind S. Helderman
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RICHMOND -- Virginia Attorney General Ken Cuccinelli II is demanding that the University of Virginia turn over a broad range of documents from a former professor to determine whether he defrauded taxpayers as he sought grants for global warming research.

The civil investigative demand asks for all data and materials presented by former professor Michael Mann when he applied for five research grants from the university. It also gives the school until May 27 to produce all correspondence or e-mails between Mann and 39 other scientists since 1999.

The actions by Cuccinelli (R) -- who has sued the federal government over its regulation of greenhouse gases and has become a leading national voice in alleging that scientists have skewed data to show evidence the Earth is warming -- were cheered by those on the right, who have long targeted Mann as a leading proponent of the theory.

Mann, who works at Penn State, was one of the authors of the "hockey stick" graph, a study that used a variety of data, including tree rings, to chart climate change. His research showed a

rapid recent increase in the Earth's temperature.

Mann's work has been repeatedly targeted by global warming skeptics, particularly after an e-mail from him referring to a statistical "trick" he used in his research surfaced in a series of leaked e-mails from the University of East Anglia's Climatic Research Unit. Mann has said the e-mail was taken out of context, and an inquiry by Penn State concluded that there was no evidence Mann has engaged in efforts to falsify or suppress data.

Mann and several academic groups decried Cuccinelli's subpoena as an unprecedented inquisition that could threaten academic freedom.

"I think he's simply trying to smear me as

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part of a larger campaign to discredit my science," said Mann, who left the University of Virginia in 2005.

Rachel Levinson, senior counsel with the American Association of University Professors, said Cuccinelli's request had "echoes of McCarthyism."

"It would be incredibly chilling to anyone else practicing in either the same area or in any politically sensitive area," she said.

In an interview, Cuccinelli said the request is part of an "open inquiry" into whether there were "knowing inconsistencies" made by Mann as he sought taxpayer dollars to fund research.

"In light of the Climategate e-mails, there does seem to at least be an argument to be made that a course was undertaken by some of the individuals involved, including potentially Michael Mann, where they were steering a course to reach a conclusion," he said. "Our act, frankly, just requires honesty."

Carol Wood, a spokesman for the University of Virginia, confirmed that the school had received the April 23 request. She said that it will take time for the university to decide how to proceed but that "the university has a legal obligation to answer this request and it is our intention to respond to the extent

required by law."

According to the document, the demand was issued under the Virginia Fraud Against Taxpayers Act, a 2002 law that gives the attorney general the right to demand documents and testimony in cases in which tax dollars have allegedly been obtained falsely by state employees. The document indicates that Cuccinelli is investigating possible violations of sections of the act forbidding employees from making false claims for payment, submitting false records for payment or conspiring to defraud the state.

If Cuccinelli were to successfully pursue a civil allegation against Mann, the professor could be forced to return research money or pay a civil fine.

"It's essentially a subpoena," said Steve Benjamin, a Richmond defense attorney who advises the General Assembly on

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legal issues. "It permits the issuance of that subpoena without the filing of any lawsuit and without the intervention or permission of any court."

Tim Donaghy, a scientific integrity analyst with the Union of Concerned Scientists, said that although Mann and other climate scientists have been called to defend their science before Congress and other bodies, he was not aware of a previous attorney general investigating their work as fraud. "It would be a disturbing precedent," he said.

But Mark R. Levin, president of the Landmark Legal Foundation, a leading group challenging climate change science, said Cuccinelli's inquiry is logical given his suit against the Environmental Protection Agency.

"There is no scientific consensus on global warming or Mann's influence on global warming, if indeed it is occurring," Levin said. "The federal government is relying on junk science. So it's perfectly reasonable the attorney general is raising these issues."

This is not the university's first brush with the political sensitivities of the climate change issue. In 2006, then-Gov. Timothy M. Kaine (D) asked that former Virginia state climatologist and university professor Patrick J. Michaels make clear that he was not speaking on

behalf of the state when he publicly offered skepticism about global warming.

Michaels, who is a fellow at the Cato Institute, said: "There was a great deal of academic intolerance shown to me, and, because of that, I don't want to comment on this. That's not the way we should behave."

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