

Therefore, while the Administrator attempted to justify outsourcing her scientific assessment by citing three independent organizations' assessments, the analysis above reveals that (1) both NRC and USGRP citations in the Endangerment Finding can be readily traced back—and therefore attributed to—IPCC, which undermines the claims of diversity and independence intimated by the Administrator; and worse, (2) a mistake, cover-up, or flaw within widely-cited IPCC assessments can have cascading effects that necessarily—but perhaps inconspicuously—taint other assessments. These points demonstrate the unreasonableness—and legal invalidity—of the Administrator's decision to outsource the risk assessment to three seemingly independent, but verifiably interwoven, organizations.

## VII. IMPROPER CONDUCT REVEALED BY DISCLOSURE OF CRU EMAILS

### A. THE LACK OF INTEGRITY OF THE IPCC'S DATA

#### 1. THE IPCC'S MANIPULATION OF ITS CLIMATE CHANGE DATA

Since the close of the public comment period, it has come to light that much of the data that the IPCC relied upon in making its findings has been manipulated. This manipulation is evidenced in certain emails between CRU staff members. In one notable email, a CRU staff member discusses a “trick” to “hide the decline” in CRU temperature data sets from 1981-2000:<sup>74</sup>

Dear Ray, Mike and Malcolm, Once Tim's got a diagram here we'll send that either later today or first thing tomorrow. I've just completed Mike's nature trick of adding the real temps to each series for the last 20 years (ie from 1981 onwards) and from 1961 for Keith's to hide the decline.”<sup>75</sup>

Such emails show that the CRU did not simply gather raw temperature data, enter it into computer programs, and produce conclusions based on collated raw data. Instead, the CRU gathered temperature data and manipulated it to produce a result that was sometimes different from the result that the raw data would have produced.<sup>76</sup>

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<sup>74</sup> Temperatures determined from proxy reconstructions – i.e., temperature records derived from conjectural reconstructions of historical temperature data for one site that is meant to represent many sites – started falling in 1960. That drop differed from the temperature trend indicated by the instrumental temperature records, which showed a rise in temperatures after 1960. The “trick” to “hide the decline” was to add the raw temperature records to the proxy records starting in 1960 instead of continuing the proxy reconstruction for the entire period. If the proxy records had been used over the entire period, there would have been a decline in temperatures. However, because different kinds of data were used, there was no decline; there was a “trick” that managed, at least for a little while, to “hide” the decline. See Marc Sheppard *Understanding Climategate's Hidden Decline*. AMERICAN THINKER, Dec. 6, 2009, available at [http://www.americanthinker.com/2009/12/understanding\\_climategates\\_hid.html](http://www.americanthinker.com/2009/12/understanding_climategates_hid.html) (last visited Feb 16, 2010).

<sup>75</sup> Email from P. Jones to R. Bradley, “Diagram for WMO Statement” (Nov 16, 1999), available at <http://www.eastangliaemails.com/emails.php?eid=154&filename=942777075.txt> (last visited February 11, 2010).

<sup>76</sup> And sometimes, as previously discussed, the CRU added raw data to manipulated data to produce a desired result. See Marc Sheppard *Understanding Climategate's Hidden Decline*. AMERICAN THINKER

Consequently, the British Meteorological Office (the “MET”)<sup>77</sup> has announced that it will reexamine 160 years of climate data, attributing the need to reexamine the data to a “*lack of public confidence based on the leaked e-mails.*”<sup>78</sup>

Although the CRU scientists appear to have manipulated data in several parts of the world, a few instances are especially egregious. The Moscow-based Institute of Economic Analysis (IEA) issued a report discussing the possibility that the CRU has altered climate data from Russian weather stations.<sup>79</sup> According to a Russian newspaper, “Analysts say Russian meteorological stations cover most of the country’s territory, and that the Hadley Center had used data submitted by only 25% of such stations in its reports.”<sup>80</sup> The stations not included in the CRU data set tended to show less warming than those that were included.<sup>81</sup> As a result, the data showed more warming than they would have shown had the data set included more Russian weather stations.<sup>82</sup>

Similarly, the CRU adjusted 20<sup>th</sup> century raw temperature data for New Zealand in a way that showed greater warming than the raw data would have shown.<sup>83</sup> The CRU manipulated the raw data to show lower temperatures for New Zealand in the early 20<sup>th</sup> century.<sup>84</sup> Because the data set started with temperatures that were very low, the CRU was able to show that a relatively greater amount of warming had occurred by the end of

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(Dec. 6, 2009), available at [http://www.americanthinker.com/2009/12/understanding\\_climategates\\_hid.html](http://www.americanthinker.com/2009/12/understanding_climategates_hid.html) (last visited Feb 11, 2010).

<sup>77</sup> The MET is roughly equivalent to the U.S. National Weather Service. It is a “Trading Fund within the Ministry of Defence, operating on a commercial basis under set targets.” See Met Office: Who we are, available at <http://www.metoffice.gov.uk/corporate/> (last visited February 14, 2010).

<sup>78</sup> Ben Webster, *Met Office to re-examine 160 years of climate data*. THE TIMES (Dec. 5, 2009), available at <http://www.timesonline.co.uk/tol/news/environment/article6945445.ece> (last visited Feb. 10, 2010).

<sup>79</sup> N.A. Pivavorova, *How Climate is Made. The case of Russia*. Institute of Economic Analysis. (2009), available at <http://climateaudit.files.wordpress.com/2009/12/iea1.pdf> (last visited Feb. 15, 2010).

<sup>80</sup> N.A. Pivavorova, *How Climate is Made. The case of Russia*. Institute of Economic Analysis. (2009) (last visited Feb. 15, 2010), available at <http://climateaudit.files.wordpress.com/2009/12/iea1.pdf> (last visited Feb. 15, 2010).

<sup>81</sup> See *What the Russian Papers say*, RIANOVOSTI, (citing KOMMERSANT), available at <http://en.rian.ru/papers/20091216/157260660.html> (last visited Feb. 15, 2010).

<sup>82</sup> See RIANOVOSTI, *What the Russian Papers Say* (citing KOMMERSANT), available at <http://en.rian.ru/papers/20091216/157260660.html> (reporting that “Over 40% of Russian territory was not included in global-temperature calculations for some other reasons, rather than the lack of meteorological stations and observations.”). See also Andrei Illarianov, *New Study Hadley Center and CRU Apparently Cherry-Picked Russia’s Climate Data*. CATO AT LIBERTY, available at <http://www.cato-at-liberty.org/2009/12/17/new-study-hadley-center-and-cru-apparently-cherry-picked-russias-climate-data/>. (last visited Feb. 15, 2010).

<sup>83</sup> Richard Treadgold. *Are we feeling warmer yet?* NEW ZEALAND CLIMATE SCIENCE COALITION (Nov. 25, 2009) available at [http://climatescience.org.nz/images/PDFs/global\\_warming\\_nz2.pdf](http://climatescience.org.nz/images/PDFs/global_warming_nz2.pdf). (last visited Feb. 10 2010).

<sup>84</sup> See *Difference Between Raw and Final USHCN Data Sets*. available at [http://www.ncdc.noaa.gov/img/climate/research/uschn/ts.uschn\\_anom25\\_diffs\\_urb-raw\\_pg.gif](http://www.ncdc.noaa.gov/img/climate/research/uschn/ts.uschn_anom25_diffs_urb-raw_pg.gif) (last visited Feb. 10, 2010).

the century.<sup>85</sup> The raw data showed much less warming because it started with actual (i.e., non-manipulated) temperatures that were warmer than the manipulated temperatures.<sup>86</sup> Thus, the CRU created an exaggerated appearance of 20<sup>th</sup> century warming in New Zealand.

## 2. LOSS OR DESTRUCTION OF CRITICAL IPCC RECORDS

The CRU's data integrity problems consisted of more than data manipulation. CRU admitted in late November 2009 that much of their original data had been destroyed due to lack of storage space.<sup>87</sup> CRU claims that they retained only the "value added" data<sup>88</sup> – i.e., "quality controlled and homogenized" data or, put differently, data that has been manipulated and that is therefore no longer raw. Consequently, it is no longer possible to check the accuracy of whether CRU's "homogenization" – i.e., the synthesis of one set of data that appears to lead to a conclusion that would conflict with the conclusion suggested by other data of data – was appropriate.<sup>89</sup> However, even if CRU still has some data, it is sometimes unwilling to produce it, regardless of whether it is required to do so by law.<sup>90</sup>

Of course, emails indicating that CRU scientists and programmers were unable to follow data does not absolve CRU: on the contrary, it is damning evidence that the IPCC and, in turn, EPA cannot rely on CRU data and analysis. As noted above, some CRU scientists manipulated data to produce their desired conclusions about the severity of anthropogenic global warming. However, revelations that CRU data was destroyed, lost, or simply withheld indicate a different, but equally serious, problem: that the data can neither confirm nor deny how quickly, how far, for how long, or even, in some cases, whether, temperatures have risen. As such, CRU data that might not be purposefully misleading could still be scientifically worthless and, therefore, of no legitimate use to EPA.

### B. IPCC'S ROUTINE RELIANCE ON QUESTIONABLE SOURCE MATERIALS

#### 1. CONCLUSIONS ON GLACIERS ADMITTEDLY WRONG

In its Fourth Assessment, the IPCC concluded that "[g]laciers in the Himalaya are receding faster than in any other part of the world. . . and, if the present rate continues, the likelihood of them disappearing by the year 2035 and perhaps sooner is very high if

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<sup>85</sup> Richard Treadgold. *Are we feeling warmer yet?* NEW ZEALAND CLIMATE SCIENCE COALITION at 5 (Nov. 25, 2009) available at [http://climatescience.org.nz/images/PDFs/global\\_warming\\_nz2.pdf](http://climatescience.org.nz/images/PDFs/global_warming_nz2.pdf). (last visited Feb. 10 2010).

<sup>86</sup> *Id.*

<sup>87</sup> Jonathan Leake. *Climate change data dumped.* THE TIMES (Nov. 29, 2009). Found at: <http://www.timesonline.co.uk/tol/news/environment/article6936328.ece> (last visited Feb. 10, 2010).

<sup>88</sup> CRU Data Availability. available at <http://www.cru.uea.ac.uk/cru/data/availability/>.

<sup>89</sup> *Id.*

<sup>90</sup> See, e.g., Steve McIntyre. *Willis Eschenbach's FOI Request.* CLIMATE AUDIT (Nov. 25, 2009) available at <http://www.timesonline.co.uk/tol/news/environment/article6936328.ece> (last visited Feb. 10, 2010) (discussing the experience of a scientist named Willis Eschenbach who attempted to obtain station data for average global temperature from CRU but endured a year of CRU's excuses and explanations for its failure to produce the requested information).