



# CALIFORNIA LEGISLATURE

STATE CAPITOL  
SACRAMENTO, CALIFORNIA  
95814

September 13, 2013

Mr. Kevin S. Reed, Esq  
Vice Chancellor, Legal Affairs  
University of California, Los Angeles  
Los Angeles, CA 90095-1405

Dear Mr. Reed:

Thank you for your correspondence of June 11, 2013. While we can appreciate the spirit of academic independence, the reality is that the California Legislature has a fiduciary responsibility to the taxpayers to ensure their dollars are spent wisely and transparently. Unfortunately, your letter raises more questions, creates greater doubt and in some cases directly contradicts previous statements.

Below are the most troubling inconsistencies that need your cooperation and clarification:

## **(1) The Story Keeps Changing**

UCLA representatives have provided numerous, conflicting reasons why information cannot be provided:

- In our initial meeting on April 30, 2013, we were informed that UCLA's email system – Bruin Online – deleted the emails every two months.
- On another occasion, the University explained that Prof. Froines deleted his sent emails.
- Another reason cited was the protection of student identities.
- Still again, UCLA cited its inability to access backup and ISP copies of records that passed through the UCLA public email systems.
- Now your June 11 letter claims that individuals at UCLA discussed what to disclose and what to withhold from the public and made a deliberate decision to deny records legally requested in accordance with the California Public Records Act, Government Code §6254.

This ever-changing rationale and apparent circumvention of the Public Records Act does not inspire trust or confidence and raise instead questions of motive. Surely you can appreciate that as a publicly-funded institution of higher learning, taxpayers expect and deserve a robust disclosure of how their money was spent.

## **(2) Conflicts of Interest**

It appears important information may have been withheld on the University of California (UC) Form for Obtaining Background Information and Conflicts of Interest Disclosure for Dr. John R. Froines. As you and – we assume – every UCLA faculty member are aware, this form is required as a condition to engage in outside activities which may have an impact on governmental regulations.

We are thus very interested in the criteria you used to determine no conflict of interest exists when Prof. Froines essentially admitted otherwise. As you will see on his disclosure form [**Background and Conflict of Interest Disclosure Form, Pages 3-4**], Dr. Froines responds that his “prohibited conflicts of interest” are “too many to list.” He references “see other sources” which theoretically would assume a separate document listing such conflicts exists. Unfortunately, that information has never been provided as requested.

## **(3) Academic Freedom Does Not Apply to This Situation**

While your June 11 letter provides an excellent review of provisions and court cases related to academic freedom for research and teaching, it ignores the central fact related to our request: The information being sought under the Public Records Act does not involve Prof. Froines’ research or teaching activities at the university; therefore it cannot be protected under the cloak of the school’s “academic freedom” provisions and guiding documents.

Rather, the records sought directly stemmed from a contractual relationship between Dr. Froines and the California Department of Environmental Protection (Cal-EPA) along with its associated state agencies, departments, boards, and committees, including the Air Resources Board and the Department of Pesticide Regulations. The University of California Regents were paid up to \$1.15 million of state money, funded by the taxpayers of California for work to be completed by qualified scientists such as Dr. Froines [**UC-Cal EPA 2006 Contract Agreement, Page 1, Item 3**].

It is disingenuous to suggest academic freedom protects university staff while they perform independently contracted work outside of academic staff roles on behalf of taxpayers and the State of California that expressly requires adherence to public record laws.

## **(4) UCLA Has Failed to Disclose Other Relevant Information Per The Contract**

According to the contract with Cal-EPA [**UC-Cal EPA 2006 Contract Agreement, Page 10, Clause H of Exhibit A,**] the subcontractor (UCLA/Froines) “agrees to maintain and preserve, until three years after termination of the agreement (06-104-600-0) and final payment from

Cal/EPA, to permit Cal/EPA or any duly authorized representative to have access to, examine or audit any pertinent books, documents, papers and records related to this subcontract and to allow interviews of any employees who might reasonably have information related to such records.”

This includes conversations and communications with all staff subject to the agreement, including Dr. Elinor Fanning and Dr. (then PhD candidate) Sarah Kobylewski. They are named in several UCLA emails previously made public, and detail their actions including the discussion, planning, and apparent collusion between Dr. Froines, members of the Scientific Review Committee, UC faculty and researchers, environmental activists, and EarthJustice lawyers regarding the Methyl Iodide registration process.

#### **(6) The Press Is To Blame**

While you assert that press accounts are unbalanced and are responsible in some manner for creating misperceptions, nothing in your June 11 correspondence demonstrates the Bakersfield *Californian* accounts have been inaccurate. As noted above there are still a lot of open questions.

#### **ACTIONS**

In summary, your letter suggests a disregard for state law on public disclosure and your responses are, quite simply, unacceptable. We call upon the University to immediately make a complete and full response to comply and turn over copies of all records requested pursuant to the California Public Records Act, Government Code §6254.

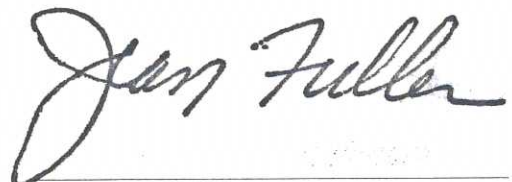
Thank you in advance for your prompt compliance.

Sincerely,



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BOB HUFF  
Senate Republican Leader



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JEAN FULLER  
Senator, 18<sup>th</sup> District

cc: UC Board of Regents