

When the 'Best Available Science' Becomes an 'Inconvenient Truth': Safeguarding Science in the Era of Climate Denial



Alison Rieser
University of Hawai'i
Nov. 15, 2012

Shock and law

The Italian system's contempt for its scientists is made plain by the guilty verdict in L'Aquila.

I'm not crazy. I know they can't predict earthquakes," the Italian public prosecutor Fabio Picuti told *Nature* last year. He was speaking as the manslaughter trial began in the ruined town of L'Aquila of six scientists and one government official for their alleged role in the deaths of 309 people in the quake of April 2009 (see *Nature* 477, 264–269; 2011). On Monday evening, the seven were found guilty and sentenced to six years in prison (see *Nature* <http://doi.org/jkp>; 2012). The verdict is perverse and the sentence ludicrous. Already some scientists have responded with warnings about the chilling effect on their ability to serve in public risk assessments.

Even Picuti was surprised. He had requested a prison term of four years. "We'll have to read the judge's motivations to understand why," he said. Under Italian law, judge Marco Billi has up to three months to reveal his reasoning.

Despite the way the verdict has been portrayed in the media as an attack on science, it is important to note that the seven were not on trial for failing to predict the earthquake. As members of an official risk commission, they had all participated in a meeting held in L'Aquila on 31 March 2009, during which they were asked to assess the risk of

a major earthquake in view of the many tremors that had hit the city in the previous months, and responded by saying that the earthquake risk was clearly raised but that it was not possible to offer a detailed prediction. The meeting was unusually quick, and was followed by a press conference at which the Civil Protection Department and local authorities reassured the population, stating that minor shocks did not increase the risk of a major one.

According to the prosecutor, such reassurances led 29 victims who would otherwise have left L'Aquila in the following days to change their minds and decide to stay; they died when their homes collapsed. The prosecutor thus reasoned that the "inadequate" risk assessment of the expert panel led to scientifically incorrect messages being given to the public, which contributed to a higher death count.

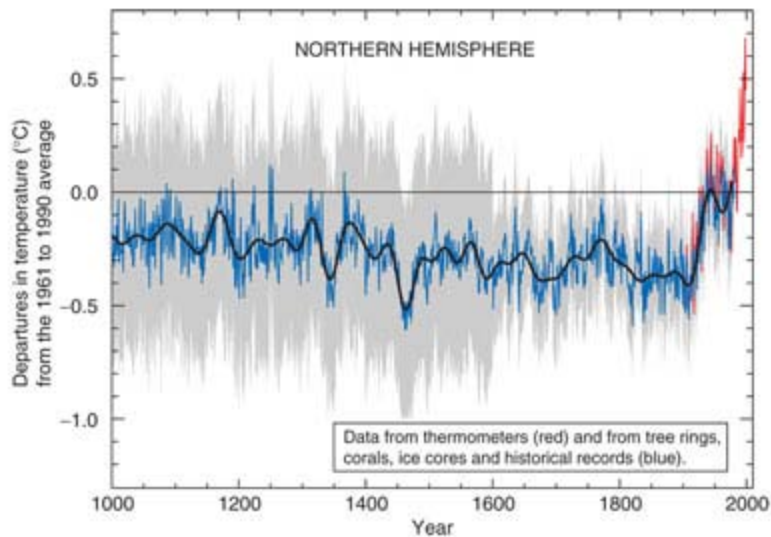
The seven — Bernardo De Bernardinis, Enzo Boschi, Giulio Selvaggi, Franco Barberi, Claudio Eva, Mauro Dolce and Gian Michele Calvi — are appealing against the verdict. They will remain free until the appeals process is finished, which could take years.

That provides an opportunity. There will be time enough to ponder the wider implications of the verdict, but for now all efforts should be channelled into protest, both at the severity of the sentence and at scientists being criminalized for the way their opinions were communicated. Science has little political clout in Italy and the trial proceeded

in an absence of informed public debate that would have been unthinkable in most European countries or in the United States. Billi should promptly explain his decision, and the scientific community should promptly challenge it. ■

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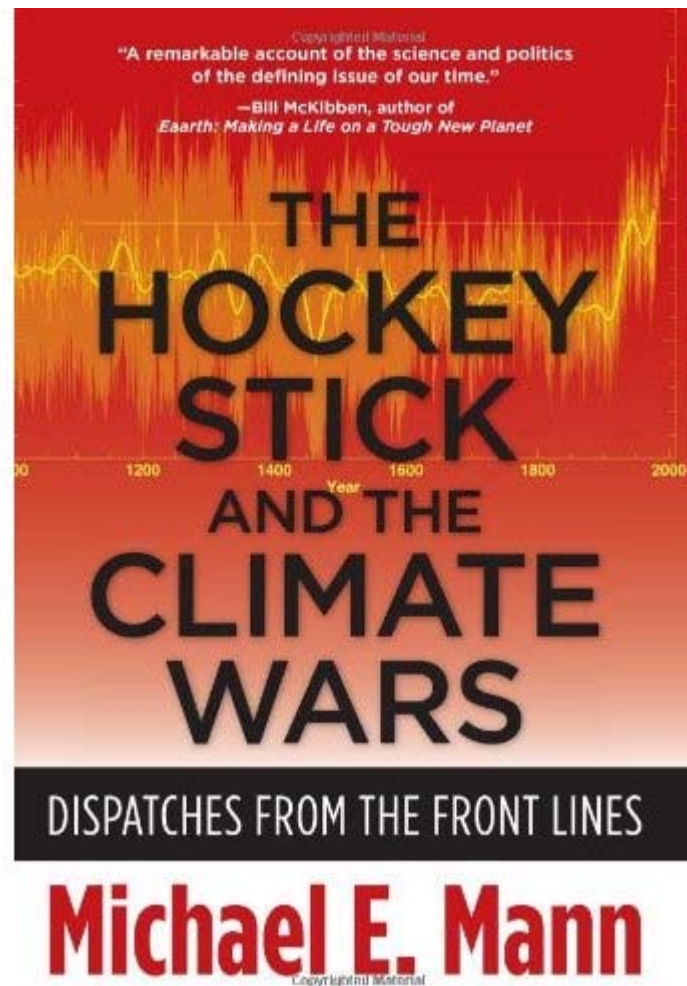
MARK STEYN
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215 Lexington Avenue
New York, NY 10016,

Defendants.

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff, Michael E. Mann, Ph.D., for his complaint against Defendants National Review Inc., Competitive Enterprise Institute, Rand Simberg, and Mark Steyn, alleges as follows:





OCEAN SCIENCE

Oil Spill Researchers Lose Fight to Protect Documents



Sub-peona. Scientists' data on the underwater oil spill (*left*) was included in BP's demand for documents (*above*).

text and impugned by people who have a motive for discrediting the findings."

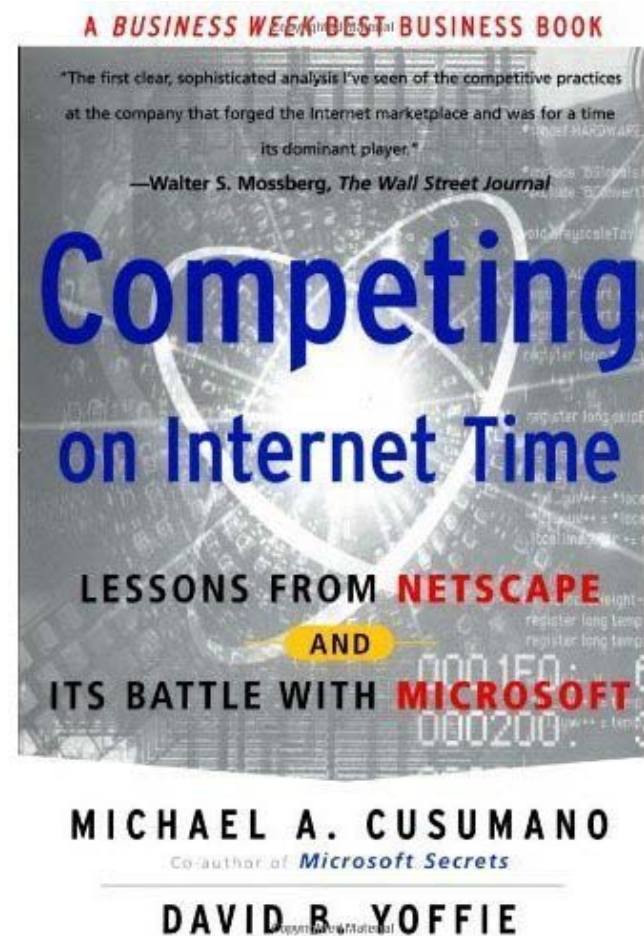
BP declined to comment. But the company has a big stake in the outcome of the larger legal fight that prompted it to seek the WHOI documents. Under the U.S. Clean Water Act, the company must pay a fine for each barrel of spilled oil, and U.S. Geological Survey Director Marcia McNutt, *relaying*

***In re Michael Cusamano & David Yoffie v.
Microsoft***

162 F.3d 708, 1st Cir. 1998

When the US Justice Dept charged Microsoft with antitrust violations in the production of Windows, the corporation sought to compel production of materials compiled by two MIT & Harvard researchers for their book on the battle between Microsoft and Netscape. Microsoft believed interview tapes would prove the corporation's innocence.

The First Circuit Court of Appeals held that academicians engaged in pre-publication research were entitled to protection commensurate to that accorded journalists; their research interviews fell along the continuum of confidentiality at a point sufficient to justify significant protection; Microsoft was not entitled to disclosure.



ORIGINAL PAPER

Charles Monnett · Jeffrey S. Gleason

Observations of mortality associated with extended open-water swimming by polar bears in the Alaskan Beaufort Sea

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Abstract During aerial surveys in September 1987–2003, a total of 315 live polar bears were observed with 12 (3.8%) animals in open water, defined for purposes of this analysis as marine waters >2 km north of the Alaska Beaufort Sea coastline or associated barrier islands. No polar bear carcasses were observed. During aerial surveys in early September, 2004, 55 polar bears (*Ursus maritimus*) were seen, 51 were alive and of those 10 (19.9%) were in open water. In addition, four polar bear carcasses were seen floating in open water and had, presumably, drowned. Average distance from land and pack ice edge for live polar bears swimming in open water in 2004 ($n = 10$) were 8.3 ± 3.0 and 177.4 ± 5.1 km, respectively. We speculate that mortalities due to off-shore swimming during late-ice (or mild ice) years may be an important and unaccounted source of natural mortality given energetic demands placed on individual bears engaged in long-distance swimming. We further suggest that drowning-related deaths of polar bears may increase in the future if the observed trend of regression of pack ice and/or longer open water periods continues.





Investigative Report of Charles Monnett

Report Date: September 28, 2012

On March 30, 2010, the Office of Inspector General (OIG) initiated an investigation of allegations made by a confidential complainant against U.S. Department of the Interior (DOI) employees Charles Monnett, Ph.D., and Jeffrey Gleason, Ph.D., of the Bureau of Ocean Energy Management (BOEM; formerly the Minerals Management Service, or MMS). The complainant, a DOI employee, alleged that Monnett wrongfully released U.S. Government records to an outside party, revealing BOEM's internal deliberative process in its approval of a 2007 exploratory drilling plan created by the energy company Shell. The complainant also alleged that Monnett and Gleason intentionally omitted or used false data in their published manuscript from their work as BOEM scientists, titled "Observations of Mortality Associated with Extended Open-Water Swimming by Polar Bears in the Alaskan Beaufort Sea." The complainant also alleged that Monnett and Gleason intended to manipulate data to meet a personal agenda, including influencing the U.S. Fish and Wildlife Service's (FWS) decision to list the polar bear under the Endangered Species Act (ESA).

We found that Monnett made unauthorized disclosures of Government emails to a non-Government entity. Regarding the falsification of data allegations, we found that Monnett and Gleason used an incomplete database as their primary source of information to write their manuscript, made conflicting statements to investigators regarding the writing and editing of their manuscript, and engaged in questionable extrapolation of data by "deliberately" (using Monnett's word) understating data in the manuscript. In addition, the manuscript was included as a reference to FWS' Final Rule to list the polar bear as a threatened species under the ESA; FWS employees involved in the development of the rule said, however, that the manuscript had little or no impact on their final decision in the listing.

In addition to the specific allegations presented to OIG, during the course of the investigation we identified several apparent irregularities in the procurement process regarding Monnett's handling of a MMS sole-source contract. After reviewing the contract file and interviewing procurement staff responsible for administering the contract, we determined that Monnett's overall handling of the contract did not comply with Federal procurement policy. Some of Monnett's actions related to the development of the contract were condoned by the procurement personnel who were in place at MMS during that time. Current procurement personnel interviewed by OIG as part of this investigation, however, considered Monnett's communications with the sole-source vendor following the issuance of the Request for Proposal as entirely inappropriate.

Evidence in this case was presented to the U.S. Attorney for the District of Alaska and was declined for criminal prosecution. We are referring this report to Tommy P. Beaudreau, Director of BOEM, for any action deemed appropriate.

When Scientific Research and Legal Practice Collide

R. Camilli, ^{1*} A. Bowen, ¹ C. M. Reddy, ² J. S. Seewald, ² D. R. Yoerger¹

Legal equality safeguards deliberative process while improving transparency in scientific research.

The modern historical record and an ongoing dispute between BP and academic researchers reveal that the U.S. legal system can be exploited to attack scientific research and academic thought when it challenges entrenched interests or beliefs. These legal practices erode the ability of scientific research and academics to function properly.

In 1954 an economist, Paul Sweezy, was summoned for questioning about “subversive persons” within the United States. He refused to answer questions related to his academic lectures and publications, because they violated his constitutional right to freedom of expression. Sweezy was found in contempt of court and incarcerated. The U.S. Supreme Court overturned this decision in 1957 (*1*).

In 1980, Dow Chemical Company subpoenaed confidential documents from an ongoing study of the carcinogenic potential of defoliants known as Agent Orange from researchers at the University of Wisconsin. Dow sought to use preliminary results from



22 April 2010, *Deepwater Horizon*. This oil platform exploded in the Gulf of Mexico, killing 11 people and causing the largest accidental oil spill in history.