

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

EXXON MOBIL CORPORATION,	§	
	§	
Plaintiff,	§	
v.	§	No. 4:16-CV-469-K
	§	
ERIC TRADD SCHNEIDERMAN,	§	
Attorney General of New York, in his	§	
official capacity, and MAURA TRACY	§	
HEALEY, Attorney General of	§	
Massachusetts, in her official capacity,	§	
	§	
Defendants.	§	

**APPENDIX IN SUPPORT OF
EXXON MOBIL CORPORATION'S BRIEF IN SUPPORT OF
THIS COURT'S PERSONAL JURISDICTION OVER THE DEFENDANTS**

<u>Exhibit</u>	<u>Description</u>	<u>Page(s)</u>
N/A	Declaration of Justin Anderson (Feb. 1, 2017)	v – ix
A	Transcript of the AGs United for Clean Power Press Conference, held on March 29, 2016, which was prepared by counsel based on a video recording of the event. The video recording is available at http://www.ag.ny.gov/press-release/ag-schneiderman-former-vice-president-al-gore-and-coalition-attorneys-general-across	App. 1 –App. 21
B	E-mail from Wendy Morgan, Chief of Public Protection, Office of the Vermont Attorney General to Michael Meade, Director, Intergovernmental Affairs Bureau, Office of the New York Attorney General (Mar. 18, 2016, 6:06 PM)	App. 22 – App. 32
C	Union of Concerned Scientists, <i>Peter Frumhoff</i> , http://www.ucsusa.org/about/staff/staff/peter-frumhoff.html#_WI-OaVMrLcs (last visited Jan. 20, 2017, 2:05 PM)	App. 33 – App. 37

<u>Exhibit</u>	<u>Description</u>	<u>Page(s)</u>
D	Union of Concerned Scientists, <i>Smoke, Mirrors & Hot Air: How ExxonMobil Uses Big Tobacco's Tactics to Manufacture Uncertainty on Climate Science</i> (2007)	App. 38 – App. 106
E	<i>Practice Areas</i> , Pawa Law Group, P.C., http://www.pawalaw.com/practice-areas (last visited Jan. 30, 2017, 2:10 PM)	App. 107 – App. 109
F	Seth Shulman, Union of Concerned Scientists and Climate Accountability Institute, <i>Establishing Accountability for Climate Change Damages: Lessons from Tobacco Control</i> (October 2012)	App. 110 – App. 146
G	David Kaiser & Lee Wasserman, <i>The Rockefeller Family Fund Takes on ExxonMobil</i> , <i>The New York Review of Books</i> (Dec. 22, 2016), http://www.nybooks.com/articles/2016/12/22/rockefeller-family-fund-takes-on-exxon-mobil/?printpage=true	App. 147 – App. 155
H	E-mail from Kenny Bruno to Lee Wasserman et al. (January 5, 2016, 4:42 PM)	App. 156 – App. 157
I	Alana Goodman, <i>Memo Shows Secret Coordination Effort Against ExxonMobil by Climate Activists, Rockefeller Fund</i> , <i>Wash. Free Beacon</i> (Apr. 14, 2016, 5:00 PM)	App. 158 – App. 160
J	E-mail from Lemuel Srolovic, Bureau Chief, Environmental Protection Bureau, Office of the New York Attorney General, to Matthew Pawa, President, Pawa Law Group, P.C. (Mar. 30, 2016, 9:01 PM)	App. 161 – App. 162
K	The New York Attorney General's Subpoena to ExxonMobil (Nov. 4, 2015)	App. 163 – App. 181
L	Greenpeace, <i>ExxonMobil Climate Denial Funding 1998–2014</i> , http://www.exxonsecrets.org/html/index.php (last visited Jan. 30, 2017, 2:19 PM)	App. 182 – App. 185

<u>Exhibit</u>	<u>Description</u>	<u>Page(s)</u>
M	The Massachusetts Attorney General’s Civil Investigative Demand to ExxonMobil (Apr. 19, 2016)	App. 186 – App. 215
N	Climate Change Coalition Common Interest Agreement	App. 216 – App. 235
O	Redacted e-mail from Lemuel Srolovic, Bureau Chief, Environmental Protection Bureau, Office of the New York Attorney General, to Jack Balagia, Vice President and General Counsel, ExxonMobil (Nov. 4, 2015)	App. 236 – App. 237
P	U.S. Energy Information Administration, <i>Rankings: Total Energy Production, 2014</i> , https://www.eia.gov/state/rankings/#/series/101 (last visited Jan. 30, 2017, 2:27 PM)	App. 238 – App. 241
Q	Plea in Intervention of the States of Texas & Alabama, <i>Exxon Mobil Corp. v. Walker</i> , No. 017-284890-16 (Tex. Dist. Ct. May 16, 2016)	App. 242 – App. 249
R	Secretary of the Commonwealth of Massachusetts, <i>ExxonMobil’s Massachusetts Registration Filing</i> , http://corp.sec.state.ma.us/CorpWeb/CorpSearch/CorpSummary.aspx?FEIN=135409005&SEARCH_TYPE=1 (last visited Jan. 30, 2017, 4:46 PM)	App. 250 – App. 254

Dated: February 1, 2017

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CERTIFICATE OF SERVICE

This is to certify that on this 1st day of February 2017, a true and correct copy of the foregoing document was filed electronically via the CM/ECF system, which gave notice to all counsel of record pursuant to Local Rule 5.1(d).

/s/ Ralph H. Duggins
RALPH H. DUGGINS

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EXXON MOBIL CORPORATION,	§	
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ERIC TRADD SCHNEIDERMAN,	§	
Attorney General of New York, in his	§	
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HEALEY, Attorney General of	§	
Massachusetts, in her official capacity,	§	
	§	
Defendants.	§	

DECLARATION OF JUSTIN ANDERSON

I, Justin Anderson, declare as follows:

1. My name is Justin Anderson. I have been admitted to practice law *pro hac vice* in the U.S. District Court for the Northern District of Texas and am an attorney with the law firm Paul, Weiss, Rifkind, Wharton & Garrison LLP, counsel of record for Exxon Mobil Corporation (“ExxonMobil”) in this matter. I am over 18 years of age and am fully competent in all respects to make this Declaration. I have personal knowledge of the facts stated herein, based on my experience or my consultation with others, or they are known to me in my capacity as counsel for ExxonMobil, and each of them is true and correct.

2. I submit this declaration in support of ExxonMobil’s Brief in Support of this Court’s Personal Jurisdiction over the Defendants.

3. As of January 31, 2017, a majority of the more than 400,000 documents ExxonMobil has produced—totaling over 2.57 million pages—were stored in Texas or in

the files of ExxonMobil employees who have worked for ExxonMobil in Texas. It appears that no documents have been produced from the custodial files of ExxonMobil employees based in New York or Massachusetts.

4. Attached to this declaration as Exhibit A is a transcript of the AGs United for Clean Power Press Conference, held on March 29, 2016, which was prepared by counsel based on a video recording of the event. The video recording is available at <http://www.ag.ny.gov/press-release/ag-schneiderman-former-vice-president-al-gore-and-coalition-attorneys-general-across>.

5. Attached to this declaration as Exhibit B is an email from Wendy Morgan, Chief of Public Protection, Office of the Vermont Attorney General, to Michael Meade, Director, Intergovernmental Affairs Bureau, Office of the New York Attorney General, dated March 18, 2016, obtained from <http://eelegal.org/wp-content/uploads/2016/04/Development-of-Agenda.pdf>.

6. Attached to this declaration as Exhibit C is a copy of the Union of Concerned Scientists's profile of Peter Frumhoff, obtained from <http://www.ucsusa.org/about/staff/staff/peter-frumhoff.html#.WI-OaVMrLcs>.

7. Attached to this declaration as Exhibit D is a report published by the Union of Concerned Scientists, dated January 2007, obtained from http://www.ucsusa.org/sites/default/files/legacy/assets/documents/global_warming/exxon_report.pdf.

8. Attached to this declaration as Exhibit E is a copy of the Pawa Law Group's description of its practice areas, obtained from <http://www.pawalaw.com/practice-areas>.

9. Attached to this declaration as Exhibit F is a copy of report published by the Union of Concerned Scientists and Climate Accountability Institute in October 2012, obtained from <http://www.climateaccountability.org/pdf/Climate%20Accountability%20Rpt%20Oct12.pdf>.

10. Attached to this declaration as Exhibit G is a copy of an article by David Kaiser and Lee Wasserman, published in *The New York Review of Books* on December 22, 2016, obtained from <http://www.nybooks.com/articles/2016/12/22/rockefeller-family-fund-takes-on-exxon-mobil/?printpage=true>.

11. Attached to this declaration as Exhibit H is a copy of an email from Kenny Bruno to Lee Wasserman and others, dated January 5, 2016, obtained from <http://freebeacon.com/wp-content/uploads/2016/04/scan0003.pdf>.

12. Attached to this declaration as Exhibit I is a copy of an article by Alana Goodman, published in the *Washington Free Beacon* on April 14, 2016, obtained from <http://freebeacon.com/issues/memo-shows-secret-coordination-effort-exxonmobil-climate-activists-rockefeller-fund/print/>.

13. Attached to this declaration as Exhibit J is a copy of an email from Lemuel Srolovic to Matthew Pawa dated March 30, 2016, obtained from [http://www.washingtonexaminer.com/ny-atty.-general-sought-to-keep-lawyers-role-in-climate-change-push secret/article/2588874?custom_click=rss](http://www.washingtonexaminer.com/ny-atty.-general-sought-to-keep-lawyers-role-in-climate-change-push-secret/article/2588874?custom_click=rss).

14. Attached to this declaration as Exhibit K is a copy of the New York Attorney General's Subpoena to Exxon Mobil for Production of Documents, dated November 4, 2015.

15. Attached to this declaration as Exhibit L is a copy of a list of so-called climate “deniers” gathered by Greenpeace, obtained from <http://www.exxonsecrets.org/html/index.php>.

16. Attached to this declaration as Exhibit M is a copy of the Civil Investigative Demand served on ExxonMobil by the Massachusetts Attorney General’s Office, dated April 19, 2016.

17. Attached to this declaration as Exhibit N is a copy of the Climate Change Coalition Common Interest Agreement, obtained from <http://eelegal.org/wp-content/uploads/2016/08/Climate-Change-CIA.pdf>.

18. Attached to this declaration as Exhibit O is a copy of a redacted email from Lemuel M. Srolovic, Bureau Chief, Environmental Protection Bureau, New York State Attorney General, to Jack Balagia, Vice President and General Counsel, ExxonMobil, dated November 4, 2015.

19. Attached to this declaration as Exhibit P is a copy of the U.S. Energy Information Administration’s ranking of states by total energy production, obtained from <https://www.eia.gov/state/rankings/#/series/101>.

20. Attached to this declaration as Exhibit Q is a copy of the Plea in Intervention of the States of Texas and Alabama in ExxonMobil’s state court action against the Virgin Islands Attorney General Claude Walker, dated May 16, 2016 and obtained from https://www.texasattorneygeneral.gov/files/epress/files/2016/2016-05-16_exxon_states_intervention.pdf.

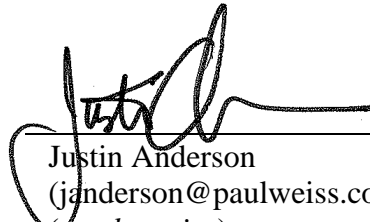
21. Attached to this declaration as Exhibit R is a copy of ExxonMobil’s Business Entity Summary, obtained from the website of the Secretary of State of the

Commonwealth of Massachusetts:

[http://corp.sec.state.ma.us/CorpWeb/CorpSearch/CorpSummary.aspx?FEIN=135409005
&SEARCH_TYPE=1.](http://corp.sec.state.ma.us/CorpWeb/CorpSearch/CorpSummary.aspx?FEIN=135409005&SEARCH_TYPE=1)

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed on February 1, 2017.

A handwritten signature in black ink, appearing to read "Justin Anderson", is written over a horizontal line.

Justin Anderson
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Exhibit A

AGs United For Clean Power

March 29, 2016: 11:35 am – 12:32 pm

Not for Quotation Without Confirmation of Accuracy

AG Schneiderman: Thank you, good morning. I'm New York's Attorney General, Eric Schneiderman. I thank you for joining us here today for what we believe and hope will mark a significant milestone in our collective efforts to deal with the problem of climate change and put our heads together and put our offices together to try and take the most coordinated approach yet undertaken by states to deal with this most pressing issue of our time. I want to thank my co-convenor of the conference, Vermont Attorney General, William Sorrel, who has been helping in joining us here and been instrumental in making today's events possible, and my fellow attorneys general for making the trip to New York for this announcement. Many of them had been working for years on different aspects of this problem to try and preserve our planet and reduce the carbon emissions that threaten all of the people we represent. And I'm very proud to be here today with Attorney General George Jepsen of Connecticut, Attorney General Brian Frosh of Maryland, Attorney General Maura Healey of Massachusetts, Attorney General Mark Herring of Virginia, and Attorney General Claude Walker of the U.S. Virgin Islands.

We also have staff representing other attorneys general from across the country, including: Attorney General Kamala Harris of California, Matt Denn of Delaware, Karl Racine of the District of Columbia, Lisa Madigan of Illinois, Tom Miller of Iowa, Janet Mills of Maine, Lori Swanson of Minnesota, Hector Balderas of New Mexico, Ellen Rosenblum of Oregon, Peter Kilmartin of Rhode Island and Bob Ferguson of Washington.

And finally, I want to extend my sincere thanks to Vice President Al Gore for joining us. It has been almost ten years since he galvanized the world's attention on climate change with his documentary *An Inconvenient Truth*.

And, I think it's fair to say that no one in American public life either during or beyond their time in elective office has done more to elevate the debate of our climate change or to expand global awareness about the urgency of the need for collective action on climate change than Vice President Gore. So it's truly an honor to have you here with us today.

So we've gathered here today for a conference – the first of its kind conference of attorneys general dedicated to coming up with creative ways to enforce laws being flouted by the fossil fuel industry and their allies in their short-sighted efforts to put profits

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above the interests of the American people and the integrity of our financial markets. This conference reflects our commitment to work together in what is really an unprecedented multi-state effort in the area of climate change. Now, we have worked together on many matters before and I am pleased to announce that many of the folks represented here were on the Amicus Brief we submitted to the United States Supreme Court in the *Friedrichs v. California Teacher Association* case. We just got the ruling that there was a four-four split so that the American labor movement survives to fight another day. And thanks, thanks to all for that effort and collaboration. It shows what we can do if we work together. And today we are here spending a day to ensure that this most important issue facing all of us, the future of our planet, is addressed by a collective of states working as creatively, collaboratively and aggressively as possible.

The group here was really formed when some of us came together to defend the EPA's Clean Power Plan, the new rules on greenhouse gases. And today also marks the day that our coalition is filing our brief in the Court of Appeals for the District of Columbia. In that important matter we were defending the EPA's rules. There is a coalition of other states on the other side trying to strike down the rules, but the group that started out in that matter together was 18 states and the District of Columbia. We call ourselves The Green 19, but now that Attorney General Walker of the Virgin Islands has joined us our rhyme scheme is blown. We can't be called The Green 19, so now we're The Green 20. We'll come up with a better name at some point.

But, ladies and gentlemen, we are here for a very simple reason. We have heard the scientists. We know what's happening to the planet. There is no dispute but there is confusion, and confusion sowed by those with an interest in profiting from the confusion and creating misperceptions in the eyes of the American public that really need to be cleared up. The U.S. Defense Department, no radical agency, recently called climate change an urgent and growing threat to our national security. We know that last month, February, was the furthest above normal for any month in history since 1880 when they started keeping meteorological records. The facts are evident. This is not a problem ten years or twenty years in the future. [There are] people in New York who saw what happened with the additional storm surge with Super Storm Sandy. We know the water level in New York Harbor is almost a foot

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higher than it was. The New York State Department of Environmental Conservation, not some radical agency, predicts that if we continue at this pace, we'll have another 1.5 feet of water in New York Harbor. It'll go up by that much in 2050. So today, in the face of the gridlock in Washington, we are assembling a group of state actors to send the message that we are prepared to step into this breach. And one thing we hope all reasonable people can agree on is that every fossil fuel company has a responsibility to be honest with its investors and with the public about the financial and market risks posed by climate change. These are cornerstones of our securities and consumer protection laws.

My office reached a settlement last year based on the enforcement of New York securities laws with Peabody Energy. And they agreed to rewrite their financials because they had been misleading investors and the public about the threat to their own business plan and about the fact that they had very detailed analysis telling them how the price of coal would be going down in the face of actions taken by governments around the world. But they were hiding it from their investors. So they agreed to revise all of their filings with the SEC. And the same week we announced that, we announced that we had served a subpoena on ExxonMobil pursuing that and other theories relating to consumer and securities fraud. So we know, because of what's already out there in the public, that there are companies using the best climate science. They are using the best climate models so that when they spend shareholder dollars to raise their oil rigs, which they are doing, they know how fast the sea level is rising. Then they are drilling in places in the Arctic where they couldn't drill 20 years ago because of the ice sheets. They know how fast the ice sheets are receding. And yet they have told the public for years that there were no "competent models," was the specific term used by an Exxon executive not so long ago, no competent models to project climate patterns, including those in the Arctic. And we know that they paid millions of dollars to support organizations that put out propaganda denying that we can predict or measure the effects of fossil fuel on our climate, or even denying that climate change was happening.

There have been those who have raised the question: aren't you interfering with people's First Amendment rights? The First Amendment, ladies and gentlemen, does not give you the right to commit fraud. And we are law enforcement officers, all of us do

AGs United For Clean Power

March 29, 2016: 11:35 am – 12:32 pm

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work, every attorney general does work on fraud cases. And we are pursuing this as we would any other fraud matter. You have to tell the truth. You can't make misrepresentations of the kinds we've seen here.

And the scope of the problem we're facing, the size of the corporate entities and their alliances and trade associations and other groups is massive and it requires a multi-state effort. So I am very honored that my colleagues are here today assembling with us. We know that in Washington there are good people who want to do the right thing on climate change but everyone from President Obama on down is under a relentless assault from well-funded, highly aggressive and morally vacant forces that are trying to block every step by the federal government to take meaningful action. So today, we're sending a message that, at least some of us – actually a lot of us – in state government are prepared to step into this battle with an unprecedented level of commitment and coordination.

And now I want to turn it over to my great colleague, the co-convenor of this conference, Vermont Attorney General William Sorrel.

AG Sorrel:

I am pleased that the small state of Vermont joins with the big state of New York and are working together to make this gathering today a reality. Truth is that states, large and small, have critical roles to play in addressing environmental quality issues. General Schneiderman has mentioned our filing today in the D.C. Circuit on the Clean Power Plan case. Going back some time, many of the states represented here joined with the federal government suing American Electric Power Company, the company operating several coal-fired electric plants in the Midwest and largely responsible for our acid rain and other air quality issues in the eastern part of the United States, ultimately resulting in what I believe to date is the largest settlement in an environmental case in our country's history. With help from a number of these states, we successfully litigated Vermont's adoption of the so-called California standard for auto emissions in federal court in Vermont, now the standard in the country. And right down to the present day, virtually all of the states represented today are involved in looking at the alleged actions by Volkswagen and the issues relating to emissions from tens of thousands of their diesel automobiles.

AGs United For Clean Power

March 29, 2016: 11:35 am – 12:32 pm

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But today we're talking about climate change which I don't think there's any doubt, at least in our ranks, is the environmental issue of our time. And in order for us to effectively address this issue, it's going to take literally millions of decisions and actions by countries, by states, by communities and by individuals. And, just very briefly, Vermont is stepping up and doing its part. Our legislature has set goals of 75% reduction – looking from a 1990 base line – a 75% reduction in greenhouse gas emissions by 2050. Similarly, our electric utilities have a goal of 75% use of renewable energy sources by 2032. So, we've been doing our part. Our presence here today is to pledge to continue to do our part. I'm mindful of the fact that I'm between you and the real rock star on this issue, and so I'm going to turn it back to General Schneiderman to introduce the next speaker.

AG Schneiderman: Thank you. Thank you. I'm not really a rock star.

[Laughter]

Thank you Bill. It's always a pleasure to have someone here from a state whose U.S. senator is from Brooklyn.

[Laughter]

And doing pretty well for himself. So, Vice President Gore has a very busy schedule. He has been traveling internationally, raising the alarm but also training climate change activists. He rearranged his schedule so he could be here with us today to meet with my colleagues and I. And there is no one who has done more for this cause, and it is a great pleasure to have him standing shoulder to shoulder with us as we embark on this new round in what we hope will be the beginning of the end of our addiction to fossil fuel and our degradation of the planet. Vice President Al Gore.

VP Gore: Thank you very much, Eric. Thank you. Thank you very much.

[Applause]

Thank you very much, Attorney General Schneiderman. It really and truly is an honor for me to join you and your colleagues here, Bill Sorrel of Vermont, Maura Healey of Massachusetts, Brian Frosh of Maryland, Mark Herring of Virginia, George Jepsen of Connecticut and Claude Walker from the U.S. Virgin Islands, and the ten (let's see 1, 2, 3, 4, 5) how many other – ten other states . . .

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eleven other state attorneys general offices that were represented in the meetings that took place earlier, prior to this press conference.

I really believe that years from now this convening by Attorney General Eric Schneiderman and his colleagues here today may well be looked back upon as a real turning point in the effort to hold to account those commercial interests that have been – according to the best available evidence – deceiving the American people, communicating in a fraudulent way, both about the reality of the climate crisis and the dangers it poses to all of us. And committing fraud in their communications about the viability of renewable energy and efficiency and energy storage that together are posing this great competitive challenge to the long reliance on carbon-based fuels. So, I congratulate you, Attorney General, and all of you, and to those attorneys general who were so impressively represented in the meetings here. This is really, really important.

I am a fan of what President Obama has been doing, particularly in his second term on the climate crisis. But it's important to recognize that in the federal system, the Congress has been sharply constraining the ability of the executive branch to fully perform its obligations under [the] Constitution to protect the American people against the kind of fraud that the evidence suggests is being committed by several of the fossil fuel companies, electric utilities, burning coal, and the like. So what these attorneys general are doing is exceptionally important. I remember very well – and I'm not going to dwell on this analogy – but I remember very well from my days in the House and Senate and the White House the long struggle against the fraudulent activities of the tobacco companies trying to keep Americans addicted to the deadly habit of smoking cigarettes and committing fraud to try to constantly hook each new generation of children to replenish their stock of customers who were dying off from smoking-related diseases. And it was a combined effort of the executive branch, and I'm proud that the Clinton-Gore administration played a role in that, but it was a combined effort in which the state attorneys general played the crucial role in securing an historic victory for public health. From the time the tobacco companies were first found out, as evidenced by the historic attorney generals' report of 1964, it took 40 years for them to be held to account under the law. We do not have 40 years to continue suffering the consequences of the fraud allegedly being committed by the fossil fuel companies where climate change is concerned.

AGs United For Clean Power

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In brief, there are only three questions left to be answered about the climate crisis. The first one is: Must we change, do we really have to change? We rely on fossil fuels for more than 80% of all the energy our world uses. In burning it we've reduced poverty and raised standards of living and built this elaborate global civilization, and it looks like it'll be hard to change. So naturally, people wonder: Do we really have to change? The scientific community has been all but unanimous for a long time now. But now mother nature and the laws of physics – harder to ignore than scientists – are making it abundantly clear that we have to change. We're putting 110 million tons of man-made heat trapping global warming pollution into the thin shell of atmosphere surrounding our planet every day, as if it's an open sewer. And the cumulative amount of that man-made global warming pollution now traps as much extra heat energy in the earth's system as would be released by 400,000 Hiroshima-class atomic bombs exploding every 24 hours on the surface of our planet.

It's a big planet, but that's a lot of energy. And it is the reason why temperatures are breaking records almost every year now. 2015 was the hottest year measured since instruments had been used to measure temperature. 2014 was the second hottest. 14 of the 15 hottest have been in the last 15 years. As the Attorney General mentioned, February continues the trend by breaking all previous records – the hottest in 1,632 months ever measured. Last December 29th, the same unnatural global warming fuel storm system that created record floods in the Midwest went on up to the Arctic and on December 29th, smack in the middle of the polar winter night at the North Pole, temperatures were driven up 50 degrees above the freezing point. So the North Pole started thawing in the middle of the winter night. Yesterday the announcement came that it's the smallest winter extent of ice ever measured in the Arctic.

Ninety-three percent of the extra heat goes into the oceans of the world, and that has consequences. When Super Storm Sandy headed across the Atlantic toward this city, it crossed areas of the Atlantic that were nine degrees Fahrenheit warmer than normal and that's what made that storm so devastating. The sea level had already come up because of the ice melting, principally off Greenland and Antarctica. And as the Attorney General mentioned, that's a process now accelerating. But these ocean-based storms are breaking records now. I just came from

AGs United For Clean Power

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Not for Quotation Without Confirmation of Accuracy

the Philippines where Super Typhoon Haiyon created 4 million homeless people when it crossed much warmer waters of the Pacific. By the way, it was a long plane flight to get here and I happened to get, just before we took off, the 200-page brief that you all filed in support of the Clean Power Plan. Really excellent work. Footnotes took up a lot of those 200 pages so I'm not claiming to [have] read all 200 of them.

The same extra heat in the oceans is disrupting the water cycle. We all learned in school that the water vapor comes off the oceans and falls as rain or snow over the land and then rushes back to the ocean. That natural life-giving process is being massively disrupted because the warmer oceans put a lot more water vapor up there. And when storm conditions present themselves they, these storms will reach out thousands of kilometers to funnel all that extra humidity and water vapor into these massive record-breaking downpours. And occasionally it creates a snowpocalypse or snowmageddon but most often, record-breaking floods. We've had seven once-in-a-thousand-year floods in the last ten years in the U.S. Just last week in Louisiana and Arkansas, two feet of rain in four days coming again with what they call the Maya Express off the oceans. And the same extra heat that's creating these record-breaking floods also pull the soil moisture out of the land and create these longer and deeper droughts all around the world on every continent.

Every night on the news now it's like a nature hike through the Book of Revelation. And we're seeing tropical diseases moving to higher latitudes – the Zika virus. Of course the transportation revolution has a lot to do with the spread of Zika and Dengue Fever and Chikungunya and diseases I've never heard of when I was growing up and maybe, probably most of you never did either. But now, they're moving and taking root in the United States. Puerto Rico is part of the United States, by the way – not a state, but part of our nation. Fifty percent of the people in Puerto Rico are estimated to get the Zika virus this year. By next year, eighty percent. When people who are part of the U.S. territory, when women are advised not to get pregnant, that's something new that ought to capture our attention. And in large areas of Central America and South America, women are advised now not to get pregnant for two years until they try to get this brand new viral disease under control.

AGs United For Clean Power

March 29, 2016: 11:35 am – 12:32 pm

Not for Quotation Without Confirmation of Accuracy

The list of the consequences continues, and I'm not going to go through it all, but the answer to that first question: "Do we have to change?" is clearly now to any reasonable thinking person: "yes, we have to change." Now the second question is: "Can we change?" And for quite a few years, I will confess to you that, when I answered that question yes, it was based on the projections of scientists and technologists who said, just wait. We're seeing these exponential curves just begin, solar is going to win, wind power is going to get way cheaper, batteries are going to have their day, we're going to see much better efficiency. Well now we're seeing these exponential curves really shoot up dramatically. Almost 75% of all the new investment in the U.S. in new generating capacity last year was in solar and wind – more than half worldwide. We're seeing coal companies go bankrupt on a regular basis now. Australia is the biggest coal exporter in the world. They've just, just the analysis there, they're not going to build any more coal plants because solar and wind are so cheap. And we're seeing this happen all around the world. But, there is an effort in the U.S. to slow this down and to bring it to a halt because part of the group that, again according to the best available evidence, has been committing fraud in trying to convince people that the climate crisis is not real, are now trying to convince people that renewable energy is not a viable option. And, worse than that, they're using their combined political and lobbying efforts to put taxes on solar panels and jigger with the laws to require that installers have to know the serial number of every single part that they're using to put on a rooftop of somebody's house, and a whole series of other phony requirements, unneeded requirements, that are simply for the purpose of trying to slow down this renewable revolution. In the opinion of many who have looked at this pattern of misbehavior and what certainly looks like fraud, they are violating the law. If the Congress would actually work – our democracy's been hacked, and that's another story, not the subject of this press conference – but if the Congress really would allow the executive branch of the federal government to work, then maybe this would be taken care of at the federal level. But these brave men and women, who are the attorneys general of the states represented in this historic coalition, are doing their job and – just as many of them did in the tobacco example – they are now giving us real hope that the answer to that third question: "Will we change?" is going to be "yes." Because those who are using unfair and illegal means to try to prevent the change are likely now, finally, at long last, to be held to account. And that will remove

AGs United For Clean Power

March 29, 2016: 11:35 am – 12:32 pm

Not for Quotation Without Confirmation of Accuracy

the last barriers to allow the American people to move forward and to redeem the promise of our president and our country in the historic meeting in Paris last December where the United States led the global coalition to form the first global agreement that is truly comprehensive. If the United States were to falter and stop leading the way, then there would be no other leader for the global effort to solve this crisis. By taking the action these attorneys general are taking today, it is the best, most hopeful step I can remember in a long time – that we will make the changes that are necessary.

So, I'll conclude my part in this by, once again, saying congratulations to these public servants for the historic step they are taking today. And on behalf of many people, who I think would say it's alright for me to speak for them, I'd like to say thank you.

AG Schneiderman: Thank you very much, and now my other colleagues are going to say a few words. For whatever reason, I've gotten into the habit, since we always seem to do this, we do this in alphabetical order by state, which I learned when I first became an AG but I guess we'll stick with it. Connecticut Attorney General George Jepsen who was our partner in the *Friedrichs* case and stood with me when we announced that we were filing in that case. We've done a lot of good work together. Attorney General Jepsen.

AG Jepsen: I'd like to thank Eric and Bill for their leadership on this important issue and in convening this conference and to recognize the man who has done more to make global warming an international issue than anybody on the entire planet – Vice President Al Gore. In the backdrop, in the backdrop of a very dysfunctional Congress, state attorneys general, frequently on a bipartisan, basis have shown that we can stand up and take action where others have not. The Vice President referenced the tobacco litigation, which was before my time but hugely important in setting the tone and the structures by which we do work together. Since becoming attorney general in 2011, we've taken on the big banks and their mortgage servicing issues, a \$25 billion settlement. We've taken on Wall Street's Standard & Poor's for mislabeling mortgage-backed securities – as a 20-state coalition – mislabeling mortgage-backed securities as AAA when in fact they were junk. Working together on data privacy issues, and now it's time that we stand up once again and take on what is the most important issue of our generation. We owe it to our children, our children's children, to step up and do

AGs United For Clean Power

March 29, 2016: 11:35 am – 12:32 pm

Not for Quotation Without Confirmation of Accuracy

the right thing, to work together and I'm committed to it. Thank you.

AG Schneiderman: Thank you. And now a relatively new colleague but someone who has brought incredible energy to this fight and who we look forward to working with on this and other matters for a long time to come. Maryland Attorney General Brian Frosh.

AG Frosh: Well, first thank you again to General Schneiderman and General Sorrel for putting together this group and it's an honor to be with you, Mr. Vice President. Thank you so much for your leadership. I'm afraid we may have reached that point in the press conference where everything that needs to be said has been said, but everyone who needs to say it hasn't said it yet.

[Laughter]

So, I will try to be brief. Climate change is an existential threat to everybody on the planet. Maryland is exceptionally vulnerable to it. The Chesapeake Bay bisects our state. It defines us geographically, culturally, historically. We have as much tidal shoreline as states as large as California. We have islands in the Chesapeake Bay that are disappearing. We have our capital, Annapolis, which is also the nuisance flood capital of the United States. It's under water way, way, way too often. It's extraordinarily important that we address the problem of climate change. I'm grateful to General Sorrel and General Schneiderman for putting together this coalition of the willing. I'm proud to be a part of it in addressing and supporting the President's Clean Power Plan. What we want from ExxonMobil and Peabody and ALEC is very simple. We want them to tell the truth. We want them to tell the truth so that we can get down to the business of stopping climate change and of healing the world. I think that as attorneys general, as the Vice President said, we have a unique ability to help bring that about and I'm very glad to be part of it.

AG Schneiderman: Thank you. And, another great colleague, who has done extraordinary work before and since becoming attorney general working with our office on incredibly important civil rights issues, financial fraud issues, Massachusetts Attorney General Maura Healey.

AG Healey: Thank you very much General Schneiderman. Thank you General Schneiderman and General Sorrel for your leadership on this issue.

AGs United For Clean Power

March 29, 2016: 11:35 am – 12:32 pm

Not for Quotation Without Confirmation of Accuracy

It's an honor for me to be able to stand here today with you, with our colleagues and certainly with the Vice President who, today, I think, put most eloquently just how important this is, this commitment that we make. Thank you for your leadership. Thank you for your continuing education. Thank you for your inspiration and your affirmation.

You know, as attorneys general, we have a lot on our plates: addressing the epidemics of opiate abuse, gun violence, protecting the economic security and well-being of families across this country; all of these issues are so important. But make no mistake about it, in my view, there's nothing we need to worry about more than climate change. It's incredibly serious when you think about the human and the economic consequences and indeed the fact that this threatens the very existence of our planet. Nothing is more important. Not only must we act, we have a moral obligation to act. That is why we are here today.

The science – we do believe in science; we're lawyers, we believe in facts, we believe in information, and as was said, this is about facts and information and transparency. We know from the science and we know from experience the very real consequences of our failure to address this issue. Climate change is and has been for many years a matter of extreme urgency, but, unfortunately, it is only recently that this problem has begun to be met with equally urgent action. Part of the problem has been one of public perception, and it appears, certainly, that certain companies, certain industries, may not have told the whole story, leading many to doubt whether climate change is real and to misunderstand and misapprehend the catastrophic nature of its impacts. Fossil fuel companies that deceived investors and consumers about the dangers of climate change should be, must be, held accountable. That's why I, too, have joined in investigating the practices of ExxonMobil. We can all see today the troubling disconnect between what Exxon knew, what industry folks knew, and what the company and industry chose to share with investors and with the American public.

We are here before you, all committed to combating climate change and to holding accountable those who have misled the public. The states represented here today have long been working hard to sound the alarm, to put smart policies in place, to speed our transition to a clean energy future, and to stop power plants from

AGs United For Clean Power

March 29, 2016: 11:35 am – 12:32 pm

Not for Quotation Without Confirmation of Accuracy

emitting millions of tons of dangerous global warming pollution into our air. I will tell you, in Massachusetts that's been a very good thing. Our economy has grown while we've reduced greenhouse gas emissions and boosted clean power and efficiency. We're home to a state with an \$11 billion clean energy industry that employs nearly 100,000 people. Last year clean energy accounted for 15% of New England's power production. Our energy efficiency programs have delivered \$12.5 billion in benefits since 2008 and are expected to provide another \$8 billion over the next three years. For the past five years, Massachusetts has also been ranked number one in the country for energy efficiency. So we know what's possible. We know what progress looks like. But none of us can do it alone. That's why we're here today. We have much work to do, but when we act and we act together, we know we can accomplish much. By quick, aggressive action, educating the public, holding accountable those who have needed to be held accountable for far too long, I know we will do what we need to do to address climate change and to work for a better future. So, I thank AG Schneiderman for gathering us here today and for my fellow attorneys general in their continued effort in this important fight. Thank you.

AG Schneiderman: Thank you. And now another great colleague who speaks as eloquently as anyone I've heard about what's happening to his state, and a true hero of standing up in a place where maybe it's not quite as politically easy as it is to do it in Manhattan but someone who is a true aggressive progressive and a great attorney general, Mark Herring from Virginia.

AG Herring: Thank you, Eric. Good afternoon. In Virginia, climate change isn't some theoretical issue. It's real and we are already dealing with its consequences. Hampton Roads, which is a coastal region in Virginia, is our second most populated region, our second biggest economy and the country's second most vulnerable area as sea levels rise. The area has the tenth most valuable assets in the world threatened by sea level rise. In the last 85 years the relative sea level in Hampton Roads has risen 14 inches – that's well over a foot – in just the last century.

Some projections say that we can expect an additional two to five feet of relative sea level rise by the end of this century – and that would literally change the face of our state. It would cripple our economy and it could threaten our national security as Norfolk

AGs United For Clean Power

March 29, 2016: 11:35 am – 12:32 pm

Not for Quotation Without Confirmation of Accuracy

Naval, the world's largest naval base, is impacted. Nuisance flooding that has increased in frequency will become the norm. They call it blue sky flooding. Storm surges from tropical systems will threaten more homes, businesses and residents. And even away from the coast, Virginians are expected to feel the impact of climate change as severe weather becomes more dangerous and frequent. Just a few weeks ago, we had a highly unusual February outbreak of tornadoes in the Commonwealth that was very damaging and unfortunately deadly.

Farming and forestry is our number one industry in Virginia. It's a \$70 billion industry in Virginia that supports around 400,000 jobs and it's going to get more difficult and expensive. And, the Commonwealth of Virginia local governments and the navy are already spending millions to build more resilient infrastructure, with millions and millions more on the horizon. To replace just one pier at Norfolk Naval is about \$35 to \$40 million, and there are 14 piers, so that would be around a half billion right there.

As a Commonwealth and a nation, we can't put our heads in the sand. We must act and that is what today is about. I am proud to have Virginia included in this first of its kind coalition which recognizes the reality and the pressing threat of man-made climate change and sea level rise. This group is already standing together to defend the Clean Power Plan – an ambitious and achievable plan – to enjoy the health, economic and environmental benefits of cleaner air and cleaner energy. But there may be other opportunities and that's why I have come all the way from Virginia. I am looking forward to exploring ideas and opportunities, to partner and collaborate, if there are enforcement actions we need to be taking, if there are legal cases we need to be involved in, if there are statutory or regulatory barriers to growing our clean energy sectors and, ultimately, I want to work together with my colleagues here and back in Virginia to help combat climate change and to shape a more sustainable future.

And for any folks who would say the climate change is some sort of made-up global conspiracy, that we're wasting our time, then come to Hampton Roads. Come to Norfolk and take a look for yourselves. Mayor Fraim would love to have you.

AG Schneiderman: Thank you. And our closer, another great colleague who has traveled far but comes with tremendous energy to this cause and is

AGs United For Clean Power

March 29, 2016: 11:35 am – 12:32 pm

Not for Quotation Without Confirmation of Accuracy

an inspiration to us all, U.S. Virgin Islands Attorney General Claude Walker.

AG Walker:

Thank you. Thank you, General Schneiderman, Vice President Gore. One of my heroes, I must say. Thank you. I've come far to New York to be a part of this because in the Virgin Islands and Puerto Rico, we experience the effects of global warming. We see an increase in coral bleaching, we have seaweeds, proliferation of seaweeds in the water, all due to global warming. We have tourism as our main industry, and one of the concerns that we have is that tourists will begin to see this as an issue and not visit our shores. But also, residents of the Virgin Islands are starting to make decisions about whether to live in the Virgin Islands – people who have lived there for generations, their families have lived there for generations. We have a hurricane season that starts in June and it goes until November. And it's incredibly destructive to have to go through hurricanes, tropical storms annually. So people make a decision: Do I want to put up with this, with the power lines coming down, buildings being toppled, having to rebuild annually? The strengths of the storms have increased over the years. Tropical storms now transform into hurricanes. When initially they were viewed as tropical storms but as they get close to the land, the strength increases. So we're starting to see people make decisions about whether to stay in a particular place, whether to move to higher ground – which is what some have said – as you experience flooding, as you experience these strong storms. So we have a strong stake in this, in making sure that we address this issue.

We have launched an investigation into a company that we believe must provide us with information about what they knew about climate change and when they knew it. And we'll make our decision about what action to take. But, to us, it's not an environmental issue as much as it is about survival, as Vice President Gore has stated. We try as attorneys general to build a community, a safe community for all. But what good is that if annually everything is destroyed and people begin to say: Why am I living here?

So we're here today to support this cause and we'll continue. It could be David and Goliath, the Virgin Islands against a huge corporation, but we will not stop until we get to the bottom of this and make it clear to our residents as well as the American people

AGs United For Clean Power

March 29, 2016: 11:35 am – 12:32 pm

Not for Quotation Without Confirmation of Accuracy

that we have to do something transformational. We cannot continue to rely on fossil fuel. Vice President Gore has made that clear. We have to look at renewable energy. That's the only solution. And it's troubling that as the polar caps melt, you have companies that are looking at that as an opportunity to go and drill, to go and get more oil. Why? How selfish can you be? Your product is destroying this earth and your strategy is, let's get to the polar caps first so we can get more oil to do what? To destroy the planet further? And we have documents showing that. So this is very troubling to us and we will continue our fight. Thank you.

AG Schneiderman: Thank you and Eric. And I do want to note, scripture reports David was not alone in fact, Brother Walker. Eric and Matt will take on-topic questions.

Moderator: Please just say your name and publication.

Press Person: John [inaudible] with *The New York Times*. I count two people who have actually said that they're launching new investigations. I'm wondering if we could go through the list and see who's actually in and who is not in yet.

AG Schneiderman: Well, I know that prior to today, it was, and not every investigation gets announced at the outset as you know, but it had already been announced that New York and California had begun investigations with those stories. I think Maura just indicated a Massachusetts investigation and the Virgin Islands has, and we're meeting with our colleagues to go over a variety of things. And the meeting goes on into the afternoon. So, I am not sure exactly where everyone is. Different states have – it's very important to understand – different states have different statutes, different jurisdictions. Some can proceed under consumer protection law, some securities fraud laws, there are other issues related to defending taxpayers and pension funds. So there are a variety of theories that we're talking about and collaborating and to the degree to which we can cooperate, we share a common interest, and we will. But, one problem for journalists with investigations is, part of doing an investigation is you usually don't talk a lot about what you're doing after you start it or even as you're preparing to start it.

Press Person: Shawn McCoy with *Inside Sources*. A *Bloomberg Review* editorial noted that the Exxon investigation is preposterous and a dangerous affirmation of power. *The New York Times* has pointed out that

AGs United For Clean Power

March 29, 2016: 11:35 am – 12:32 pm

Not for Quotation Without Confirmation of Accuracy

Exxon has published research that lines up with mainstream climatology and therefore there's not a comparison to Big Tobacco. So is this a publicity stunt? Is the investigation a publicity stunt?

AG Schneiderman: No. It's certainly not a publicity stunt. I think the charges that have been thrown around – look, we know for many decades that there has been an effort to influence reporting in the media and public perception about this. It should come as no surprise to anyone that that effort will only accelerate and become more aggressive as public opinion shifts further in the direction of people understanding the imminent threat of climate change and other government actors, like the folks represented here step up to the challenge. The specific reaction to our particular subpoena was that the public reports that had come out, Exxon said were cherry picked documents and took things out of context. We believe they should welcome our investigation because, unlike journalists, we will get every document and we will be able to put them in context. So I'm sure that they'll be pleased that we're going to get everything out there and see what they knew, when they knew it, what they said and what they might have said.

Press Person: David [inaudible] with *The Nation*. Question for General Schneiderman. What do you hope to accomplish with your Exxon investigation? I'm thinking with reference to Peabody where really there was some disclosure requirements but it didn't do a great deal of [inaudible]. Is there a higher bar for Exxon? What are the milestones that you hope to achieve after that investigation?

AG Schneiderman: It's too early to say. We started the investigation. We received a lot of documents already. We're reviewing them. We're not prejudging anything, but the situation with oil companies and coal companies is somewhat different because the coal companies right now are, the market is already judging the coal industry very harshly. Coal companies, including Peabody, are teetering on the brink. The evidence that we advanced and what was specifically disclosed about Peabody were pretty clear cut examples of misrepresentations made in violation with the Securities and Exchange Commission, made to investors. It's too early to say what we're going to find with Exxon but we intend to work as aggressively as possible, but also as carefully as possible. We're very aware of the fact that everything we do here is going to be subject to attack by folks who have a huge financial interest in

AGs United For Clean Power

March 29, 2016: 11:35 am – 12:32 pm

Not for Quotation Without Confirmation of Accuracy

discrediting us. So we're going to be aggressive and creative but we are also going to be as careful and meticulous and deliberate as we can.

VP Gore:

Could I respond to the last couple of questions just briefly. And in doing so, I'd like to give credit to the journalistic community and single out the Pulitzer Prize winning team at *InsideClimate News*, also the *Los Angeles Times* and the student-led project at Columbia School of Journalism under Steve Coll. And the facts that were publicly presented during, in those series of articles that I have mentioned, are extremely troubling, and where Exxon Mobil in particular is concerned. The evidence appears to indicate that, going back decades, the company had information that it used for the charting of its plan to explore and drill in the Arctic, used for other business purposes information that largely was consistent with what the mainstream scientific community had collected and analyzed. And yes, for a brief period of time, it did publish some of the science it collected, but then a change came, according to these investigations. And they began to make public statements that were directly contrary to what their own scientists were telling them. Secondly, where the analogy to the tobacco industry is concerned, they began giving grants – according to the evidence collected – to groups that specialize in climate denial, groups that put out information purposely designed to confuse the public into believing that the climate crisis was not real. And according to what I've heard from the preliminary inquiries that some of these attorneys general have made, the same may be true of information that they have put out concerning the viability of competitors in the renewable energy space. So, I do think the analogy may well hold up rather precisely to the tobacco industry. Indeed, the evidence indicates that, that I've seen and that these journalists have collected, including the distinguished historian of science at Harvard, Naomi Oreskes wrote the book *The Merchants of Doubt* with her co-author, that they hired several of the very same public relations agents that had perfected this fraudulent and deceitful craft working for the tobacco companies. And so as someone who has followed the legislative, the journalistic work very carefully, I think the analogy does hold up.

Press Person:

[inaudible] with *InsideClimate News*. Along the lines of talking about that analogy: from a legal framework, can you talk about a comparison, similarities and differences between this potential case and that of Big Tobacco?

AGs United For Clean Power

March 29, 2016: 11:35 am – 12:32 pm

Not for Quotation Without Confirmation of Accuracy

AG Schneiderman: Well, again, we're at the early stages of the case. We are not pre-judging the evidence. We've seen some things that have been published by you and others, but it is our obligation to take a look at the underlying documentation and to get at all the evidence, and we do that in the context of an investigation where we will not be talking about every document we uncover. It's going to take some time, but that's another reason why working together collectively is so important. And we are here today because we are all committed to pursuing what you might call an all-levers approach. Every state has different laws, different statutes, different ways of going about this. The bottom line is simple. Climate change is real, it is a threat to all the people we represent. If there are companies, whether they are utilities or they are fossil fuel companies, committing fraud in an effort to maximize their short-term profits at the expense of the people we represent, we want to find out about it. We want to expose it, and we want to pursue them to the fullest extent of the law.

Moderator: Last one.

Press Person: Storms, floods will arise they are all going to continue to destroy property and the taxpayers . . .

Moderator: What's your name and . . .

Press Person: Oh, sorry. Matthew Horowitz from *Vice*. Taxpayers are going to have to pay for these damages from our national flood insurance claims. So if fossil fuel companies are proven to have committed fraud, will they be held financially responsible for any sorts of damages?

AG Schneiderman: Again, it's early to say but certainly financial damages are one important aspect of this but, and it is tremendously important and taxpayers – it's been discussed by my colleagues – we're already paying billions and billions of dollars to deal with the consequences of climate change and that will be one aspect of – early foreseeing, it's far too early to say. But, this is not a situation where financial damages alone can deal with the problem. We have to change conduct, and as the Vice President indicated, other places in the world are moving more rapidly towards renewables. There is an effort to slow that process down in the United States. We have to get back on that path if we're going to save the planet and that's ultimately what we're here for.

AGs United For Clean Power
March 29, 2016: 11:35 am – 12:32 pm
Not for Quotation Without Confirmation of Accuracy

Moderator: We're out of time, unfortunately. Thank you all for coming.

Exhibit B

Morgan, Wendy

From: Morgan, Wendy
Sent: Friday, March 18, 2016 6:06 PM
To: 'Michael Meade'
Subject: RE: Clean Power Plan and Exxon Mobil

Great – thx

From: Michael Meade [mailto:Michael.Meade@ag.ny.gov]
Sent: Friday, March 18, 2016 5:43 PM
To: Kline, Scot <scot.kline@vermont.gov>; Morgan, Wendy <wendy.morgan@vermont.gov>
Cc: Brian Mahanna <Brian.Mahanna@ag.ny.gov>; Peter Washburn <Peter.Washburn@ag.ny.gov>; Damien LaVera <Damien.LaVera@ag.ny.gov>; Natalia Salgado <Natalia.Salgado@ag.ny.gov>; Lemuel Srolovic <Lemuel.Srolovic@ag.ny.gov>; Eric Soufer <Eric.Soufer@ag.ny.gov>; Daniel Lavoie <Daniel.Lavoie@ag.ny.gov>
Subject: RE: Clean Power Plan and Exxon-Mobil

AG Frosh from Maryland will also be joining. That's puts us at 6 AG's present for the press conference—and 13 states participating in the meetings.

Have a great weekend!

Mike

From: Michael Meade
Sent: Thursday, March 17, 2016 3:55 PM
To: 'Kline, Scot'; Morgan, Wendy
Cc: Brian Mahanna; Peter Washburn; Damien LaVera; Natalia Salgado; Lemuel Srolovic
Subject: RE: Clean Power Plan and Exxon-Mobil

I wanted to send around some additional thoughts regarding who may do what on 3/29. We can hopefully talk about this some more at 4:00.

Monday, March 28 (Optional)
6:00-8:00
Happy Hour with EPB and visiting AAG's

Attorneys General Climate Change Meeting

Date: **March 29, 2016**

Location: 120 Broadway, New York, NY

Schedule:

9:00 to 9:30 – Welcome (breakfast provided) <Lem Kicks off meeting and staff intros>

10:15 to 10:30 - break

10:30 to 11:15 - Pawa Law office presentation regarding climate change litigation (AGs and staff only) <VT Introduces Pawa>

11:15 to 11:30 - break

11:30 am to 12:30 - press conference around AG climate change coalition's support of federal Clean Power plan and other climate change actions (Attending AGs) <Mike to coordinate--AG's participating, staff sitting in audience>

12:30 to 1:00 - lunch and follow-up from morning (lunch provided)

1:00 to 1:45 - NY AG office presentation regarding fossil fuel company disclosure investigations (AGs and staff only) <NY facilitates>

1:45 to 2:45 - closed working session (AGs and staff only) <VT & NY >

- Sharing of AG office activities
- Discussion of expanding coalition work beyond "EPA-practice," e.g., investigations of fossil fuel company disclosures, utility efforts to barrier renewables.

2:45 to 3:00 - break

3:00 to 4:30 - Continued--closed working session (AGs and staff only) <VT & NY>

- Continued discussion
- Coalition next steps

4:30 - end.

From: Kline, Scot [<mailto:scot.kline@vermont.gov>]

Sent: Tuesday, March 15, 2016 12:06 PM

To: Michael Meade; Morgan, Wendy

Cc: Brian Mahanna; Peter Washburn; Damien LaVera; Natalia Salgado; Lemuel Srolovic

Subject: RE: Clean Power Plan and Exxon-Mobil

Mike:

We are good with the new agenda. One item we should discuss more in our next call is the structuring of the afternoon discussion and who will facilitate it.

Thanks.

Scot

From: Michael Meade [<mailto:Michael.Meade@ag.ny.gov>]

Sent: Monday, March 14, 2016 5:18 PM

Case 4:16-cv-00469-K Document 175-1 Filed 02/01/17 Page 25 of 32 PageID 5957
To: Morgan, Wendy <wendy.morgan@vermont.gov>; Kline, Scot <scot.kline@vermont.gov>
Cc: Brian Mahanna <Brian.Mahanna@ag.ny.gov>; Peter Washburn <Peter.Washburn@ag.ny.gov>; Damien LaVera <Damien.LaVera@ag.ny.gov>; Natalia Salgado <Natalia.Salgado@ag.ny.gov>; Lemuel Srolovic <Lemuel.Srolovic@ag.ny.gov>
Subject: RE: Clean Power Plan and Exxon Mobil

I made the changes you suggested below. If it looks okay to this group, we can circulate tomorrow.

Draft Schedule for Attorneys General Climate Change Meeting

Date: March 29, 2016

Location: 120 Broadway, New York, NY

Schedule:

9:00 to 9:30 – Welcome (breakfast provided)

9:30 to 10:15 – Peter Frumhoff, Union of Concerned Scientists, presentation on imperative of taking action now on climate change (AGs and staff only)

10:15 to 10:30 – break

10:30 to 11:15 – Pawa Law office presentation regarding climate change litigation (AGs and staff only)

11:15 to 11:30 – break

11:30 am to 12:30 – press conference around AG climate change coalition's support of federal Clean Power plan and other climate change actions (Attending AGs)

12:30 to 1:00 – lunch and follow-up from morning (lunch provided)

1:00 to 1:45 – NY AG office presentation regarding fossil fuel company disclosure investigations (AGs and staff only)

1:45 to 2:45 – closed working session (AGs and staff only)

- Sharing of AG office activities
- Discussion of expanding coalition work beyond “EPA-practice,” e.g., investigations of fossil fuel company disclosures, utility efforts to barrier renewables.

2:45 to 3:00 – break

3:00 to 4:30 – Continued--closed working session (AGs and staff only)

- Continued discussion
- Coalition next steps

4:30 – end.

From: Morgan, Wendy [<mailto:wendy.morgan@vermont.gov>]
Sent: Friday, March 11, 2016 9:33 AM
To: Michael Meade; Kline, Scot
Cc: Brian Mahanna; Peter Washburn; Damien LaVera; Natalia Salgado; Lemuel Srolovic
Subject: RE: Clean Power Plan and Exxon-Mobil

Thanks! I like the clarity on who is invited to what

My two thoughts are:

11:30 am to 12:30 noon – is a little ambiguous do you mean 1230pm?

I also wonder about the afternoon break – I'd put NY and start the staff discussion and have a break closer to 245 – that also allows us to divide the discussion into parts more easily (keep us on track) – maybe identifying those parts should be our next Thursday agenda item?

Have a good weekend – Wendy

From: Michael Meade [<mailto:Michael.Meade@ag.ny.gov>]
Sent: Thursday, March 10, 2016 5:27 PM
To: Kline, Scot <scot.kline@vermont.gov>; Morgan, Wendy <wendy.morgan@vermont.gov>
Cc: Brian Mahanna <Brian.Mahanna@ag.ny.gov>; Peter Washburn <Peter.Washburn@ag.ny.gov>; Damien LaVera <Damien.LaVera@ag.ny.gov>; Natalia Salgado <Natalia.Salgado@ag.ny.gov>; Lemuel Srolovic <Lemuel.Srolovic@ag.ny.gov>
Subject: RE: Clean Power Plan and Exxon-Mobil

Wendy and Scott—

Here's our latest agenda. If you are okay with it, then we'll start sharing with other offices.

Best,
Mike

Draft Schedule for Attorneys General Climate Change Meeting

Date: March 29, 2016

Location: 120 Broadway, New York, NY

Schedule:

9:00 to 9:30 – Welcome (breakfast provided)

9:30 to 10:15 – Peter Frumhoff, Union of Concerned Scientists, presentation on imperative of taking action now on climate change (AGs and staff only)

10:15 to 10:30 – break

10:30 to 11:15 – Pawa Law office presentation regarding climate change litigation (AGs and staff only)

11:15 to 11:30 – break

11:30 am to 12:30 – press conference around AG climate change coalition's support of federal Clean Power plan and other climate change actions (Attending AGs)

12:30 to 1:00 – lunch and follow-up from morning (lunch provided)

1:00 to 1:45 – NY AG office presentation regarding fossil fuel company disclosure investigations (AGs and staff only)

1:45 to 2:45 – closed working session (AGs and staff only)

- Sharing of AG office activities
- Discussion of expanding coalition work beyond “EPA-practice,” e.g., investigations of fossil fuel company disclosures, utility efforts to barrier renewables.

2:45 to 3:00 – break

3:00 to 4:30 – Continued--closed working session (AGs and staff only)

- Continued discussion
- Coalition next steps

4:30 – end.

From: Lemuel Srolovic

Sent: Thursday, February 25, 2016 10:22 AM

To: 'Kline, Scot'; Morgan, Wendy

Cc: Brian Mahanna; Michael Meade; Peter Washburn; Damien LaVera; Natalia Salgado

Subject: RE: Clean Power Plan and Exxon-Mobil

Scot and Wendy – Looking forward to our conversation at 11. Here's our initial thinking about the schedule for the event.

Draft Schedule for Attorneys General Climate Change Meeting at NY AG's Office

Date: On or about April 1, 2016

Location: 120 Broadway, New York, NY

Schedule:

11 am to 12 noon – press conference around AG climate change coalition's support of federal Clean Power plan and other climate change actions

12 noon to 1:30 – follow-on media time and lunch

2:15 to 2:30 – break

2:30 to 3:15 – Pawa Law office presentation regarding climate change litigation (AGs and staff only)

3:15 to 3:30 – break

3:30 to 4:30 – closed session AG office discussion

4:30 – end.

From: Kline, Scot [<mailto:scot.kline@vermont.gov>]
Sent: Tuesday, February 23, 2016 3:40 PM
To: Lemuel Srolovic
Cc: Morgan, Wendy; Brian Mahanna; Tasha L. Bartlett
Subject: RE: Clean Power Plan and Exxon-Mobil

Lem:

Wendy has developed a conflict for the Thursday call at 11:30. We are wondering whether you and Brian can do the call earlier that morning – 11 or earlier?

Thanks.

Scot

From: Lemuel Srolovic [<mailto:Lemuel.Srolovic@ag.ny.gov>]
Sent: Thursday, February 18, 2016 10:04 PM
To: Kline, Scot <scot.kline@vermont.gov>
Cc: Morgan, Wendy <wendy.morgan@vermont.gov>; Brian Mahanna <Brian.Mahanna@ag.ny.gov>; Tasha L. Bartlett <Tasha.Bartlett@ag.ny.gov>
Subject: Re: Clean Power Plan and Exxon-Mobil

Scot -- thanks for update. We'll draft possible run of conference day. Look forward to our next conversation. Lem

Sent from my iPhone

On Feb 18, 2016, at 3:42 PM, Kline, Scot <scot.kline@vermont.gov> wrote:

Lem and Brian:

Wendy and I connected with our AG. He thinks what we talked about today makes sense. We are good with doing the event in NY. Bill recalled that the videotaping for individual AG's was done by AARP at an event. So that was not a regular press event. Sounds like a more traditional press event might be more in line with our event.

If you can get us a preliminary draft of the conference day, that would be helpful. Also, maybe we can target some possible dates for the event in next week's call.

Thanks.

Scot

From: Lemuel Srolovic [<mailto:Lemuel.Srolovic@ag.ny.gov>]
Sent: Wednesday, February 17, 2016 10:13 AM
To: Kline, Scot <scot.kline@vermont.gov>; Morgan, Wendy <wendy.morgan@vermont.gov>
Cc: Brian Mahanna <Brian.Mahanna@ag.ny.gov>; Tasha L. Bartlett <Tasha.Bartlett@ag.ny.gov>
Subject: RE: We Need to Reschedule This Afternoon's Conversation

Excellent! Please call Brian Mahanna's line at 212-416-8579. Speak with you tomorrow, Lem

From: Kline, Scot [<mailto:scot.kline@vermont.gov>]
Sent: Wednesday, February 17, 2016 8:35 AM
To: Lemuel Srolovic; Morgan, Wendy
Subject: RE: We Need to Reschedule This Afternoon's Conversation

Lem:

Thursday from 2-3 works on this end.

Should we call you? If so, let me know what number.

Thanks.

Scot

From: Lemuel Srolovic [<mailto:Lemuel.Srolovic@ag.ny.gov>]
Sent: Tuesday, February 16, 2016 6:34 PM
To: Kline, Scot <scot.kline@vermont.gov>; Morgan, Wendy <wendy.morgan@vermont.gov>
Subject: RE: We Need to Reschedule This Afternoon's Conversation

Scot and Wendy – wow, for us working this school vacation week here in NYS, it's a bit crazy!

Our deputy chief of staff is now tied up tomorrow at 4. Here's what he and I have free:

Tomorrow at 5:30

Thursday 2-3

Friday before 11.

Hopefully one of these works for you two.

Sorry this is proving to be hard to land.

From: Kline, Scot [<mailto:scot.kline@vermont.gov>]
Sent: Tuesday, February 16, 2016 4:54 PM
To: Morgan, Wendy
Cc: Lemuel Srolovic
Subject: Re: We Need to Reschedule This Afternoon's Conversation

Okay here.

Sent from my iPhone

On Feb 16, 2016, at 4:52 PM, Morgan, Wendy <wendy.morgan@vermont.gov> wrote:

I can make it work for me.

From: Lemuel Srolovic [<mailto:Lemuel.Srolovic@ag.ny.gov>]
Sent: Tuesday, February 16, 2016 4:48 PM
To: Kline, Scot <scot.kline@vermont.gov>
Cc: Morgan, Wendy <wendy.morgan@vermont.gov>
Subject: RE: We Need to Reschedule This Afternoon's Conversation

Hi Scot and Wendy – sorry I missed the e-mail regarding today at 4? Does tomorrow at 4 still work for you? Regards, Lem

From: Kline, Scot [<mailto:scot.kline@vermont.gov>]
Sent: Tuesday, February 16, 2016 3:25 PM
To: Lemuel Srolovic
Cc: Morgan, Wendy
Subject: Re: We Need to Reschedule This Afternoon's Conversation

Lem:
Are we on for a call at 4 today? Thanks.
Scot

Sent from my iPhone

On Feb 15, 2016, at 4:25 PM, Kline, Scot <scot.kline@vermont.gov> wrote:

Lem: Let's try for tomorrow at 4. We may need a call in number if the weather is bad as expected here -- Wendy and I may be calling in from different locations.
Thanks. Scot

Sent from my iPhone

On Feb 13, 2016, at 7:20 AM, Lemuel Srolovic <Lemuel.Srolovic@ag.ny.gov> wrote:

Scot -- we can do either Tue or Wed at 4. Preference?

Have a good weekend. Winter now for sure!

Lem

Sent from my iPhone

On Feb 9, 2016, at 2:24 PM, Kline, Scot
<scot.kline@vermont.gov> wrote:

Lem:

No problem. Let's shoot for Tuesday or Wednesday of this coming week. Tuesday morning until 10 or late afternoon (4 p.m. on) or Wednesday from 4 on, should work here. Wendy's schedule is a bit up in the air because of legislative work.

Just so you know, we circled back with our AG and the thought on this end is for something scaled down and focused more on Exxon-Mobil without a lot of publicity. Maybe an invite or two to the outside for a presentation. It would be an opportunity for states to hear about Exxon-Mobil and your efforts, and explore whether there is interest in doing something together as a group or supporting you in whatever way makes sense.

Please let us know if one of the above times works for you. If not, please suggest some others.

Thanks.

Scot

From: Lemuel Srolovic
<Lemuel.Srolovic@ag.ny.gov>
Sent: Tuesday, February 09, 2016 1:10 PM
To: Kline, Scot
<scot.kline@vermont.gov>
Subject: We Need to Reschedule This Afternoon's Conversation

Sent (on Monday) - sorry for late notice but we need to re-schedule this afternoon's group call. Something's come up today that's engaging our exec folks.

Could we re-schedule to Tue/Wed. of next week? We're working on framing and substance and want to keep the ball moving forward.

Sorry again for inconvenience,

Lem

Lemuel M. Srolovic
Bureau Chief
Environmental Protection
Bureau
New York State Attorney
General
212-416-8448 (o)
917-621-6174 (m)
lemuel.srolovic@ag.ny.gov

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Exhibit C

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Science for a healthy planet and safer world

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Peter C. Frumhoff is director of science and policy at the Union of Concerned Scientists, and chief scientist of the UCS climate campaign. He ensures that UCS brings robust science to bear on our efforts to strengthen public policies, with a particular focus on climate change. A global change ecologist, Dr. Frumhoff has published and lectured widely on topics including climate change impacts, climate science and policy, tropical forest conservation and management, and biological diversity. He was a lead author of the Intergovernmental Panel on Climate Change's (IPCCs) 2007 Fourth Assessment Report and the 2000 IPCC Special Report on Land Use, Land-Use Change, and Forestry, and served as chair of the 2007 Northeast Climate Impacts Assessment. He serves on the Advisory Committee on Climate Change and Natural Resource Science at the U.S. Department of the Interior, the board of directors of the American Wind Wildlife Institute, and the steering committee for the Center for Science and Democracy at UCS. He is an associate of the Harvard University Center for the Environment.

In 2014, Dr. Frumhoff served as a Cox Visiting Professor in the School of Earth Sciences at Stanford University. Previously, he has taught at Tufts University, Harvard University, and the University of Maryland. He also served as an AAAS Science and Diplomacy Fellow at the U.S. Agency for International Development, where he designed and led conservation and rural development programs in Latin America and East Africa. He holds a Ph.D. in ecology and an M.A. in zoology from the University of California, Davis, and a B.A. in psychology from the University of California, San Diego.

Dr. Frumhoff has been quoted widely, including by The Boston Globe, Christian Science Monitor, The Guardian, National Journal, Newsweek, The New York Times, and The Washington Post, and has appeared on National Public Radio.

Peter Frumhoff



Peter Frumhoff's Selected Publications

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Exhibit D

Smoke, Mirrors & Hot Air

**How ExxonMobil Uses Big Tobacco's Tactics
to Manufacture Uncertainty on Climate Science**

Union of Concerned Scientists
January 2007

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The Union of Concerned Scientists is the leading science-based nonprofit working for a healthy environment and a safer world.

UCS combines independent scientific research and citizen action to develop innovative, practical solutions and secure responsible changes in government policy, corporate practices, and consumer choices.

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CONTENTS

Executive Summary	1
Introduction	3
Background: The Facts about ExxonMobil	4
The Origins of a Strategy	6
ExxonMobil's Disinformation Campaign	9
Putting the Brakes on ExxonMobil's Disinformation Campaign	25
Appendices	
A. The Scientific Consensus on Global Warming	29
B. Groups and Individuals Associated with ExxonMobil's Disinformation Campaign	31
C. Key Internal Documents	37
• 1998 "Global Climate Science Team" memo	38
• APCO memo to Philip Morris regarding the creation of TASCC	44
• Dobriansky talking points	49
• Randy Randol's February 6, 2001, fax to the Bush team calling for Watson's dismissal	51
• Sample mark up of Draft Strategic Plan for the Climate Change Science Program by Philip Cooney	56
• Email from Mryon Ebell, Competitive Enterprise Institute, to Phil Cooney	57
Endnotes	58

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We would also like to acknowledge the invaluable resource that has been created by the court ordered public disclosure of tobacco industry documents.

The findings and opinions expressed in this report do not necessarily reflect the opinion of the reviewers who provided comment on its content. Both the opinions and the information contained herein are the sole responsibility of the Union of Concerned Scientists.

EXECUTIVE SUMMARY

In an effort to deceive the public about the reality of global warming, ExxonMobil has underwritten the most sophisticated and most successful disinformation campaign since the tobacco industry misled the public about the scientific evidence linking smoking to lung cancer and heart disease. As this report documents, the two disinformation campaigns are strikingly similar. ExxonMobil has drawn upon the tactics and even some of the organizations and actors involved in the callous disinformation campaign the tobacco industry waged for 40 years. Like the tobacco industry, ExxonMobil has:

- ***Manufactured uncertainty*** by raising doubts about even the most indisputable scientific evidence.
- Adopted a strategy of ***information laundering*** by using seemingly independent front organizations to publicly further its desired message and thereby confuse the public.
- ***Promoted scientific spokespeople*** who misrepresent peer-reviewed scientific findings or cherry-pick facts in their attempts to persuade the media and the public that there is still serious debate among scientists that burning fossil fuels has contributed to global warming and that human-caused warming will have serious consequences.
- ***Attempted to shift the focus*** away from meaningful action on global warming with misleading charges about the need for “sound science.”
- ***Used its extraordinary access to the Bush administration*** to block federal policies and shape government communications on global warming.

The report documents that, despite the scientific consensus about the fundamental understanding that global warming is caused by carbon dioxide and other heat-trapping emissions, ExxonMobil has funneled about \$16 million between 1998 and 2005 to a network of ideological and advocacy organizations that manufacture uncertainty on the issue. Many of these organizations have an overlapping—sometimes identical—collection of spokespeople serving as staff, board members, and scientific advisors. By publishing and republishing the non-peer-reviewed works of a small group of scientific spokespeople, ExxonMobil-funded organizations have propped up and amplified work that has been discredited by reputable climate scientists.

ExxonMobil’s funding of established research institutions that seek to better understand science, policies, and technologies to address global warming has given the corporation “cover,” while its funding of ideological and advocacy organizations to conduct a disinformation campaign works to confuse that understanding. This seemingly inconsistent activity makes sense when looked at through a broader lens. Like the tobacco companies in previous decades, this strategy provides a positive “pro-science” public stance for ExxonMobil that masks their activity to delay meaningful action on global warming and helps keep the public debate

stalled on the science rather than focused on policy options to address the problem.

In addition, like Big Tobacco before it, ExxonMobil has been enormously successful at influencing the current administration and key members of Congress. Documents highlighted in this report, coupled with subsequent events, provide evidence of ExxonMobil's cozy relationship with government officials, which enables

the corporation to work behind the scenes to gain access to key decision makers. In some cases, the company's proxies have directly shaped the global warming message put forth by federal agencies. Finally, this report provides a set of steps elected officials, investors, and citizens can take to neutralize ExxonMobil's disinformation campaign and remove this roadblock to sensible action for reducing global warming emissions.

INTRODUCTION

ExxonMobil, the world's largest publicly traded corporation, doesn't want you to know the facts about global warming. The company vehemently opposes any governmental regulation that would require significantly expanded investments in clean energy technologies or reductions in global warming emissions. That is what the public and policy-makers are likely to demand when they know the truth about climate science. Consequently, the corporation has spent millions of dollars to deceive the public about global warming. In so doing, ExxonMobil has underwritten the most sophisticated and successful disinformation campaign since Big Tobacco misled the public about the incontrovertible scientific evidence linking smoking to lung cancer and heart disease. In fact, as this report shows, many of the tactics, and even some of the same organizations and actors used by ExxonMobil to mislead the public, draw upon

the tobacco industry's 40-year disinformation campaign.

This report documents ExxonMobil's central role in the current disinformation campaign about climate science, identifying the campaign's rationale, who's behind it, and how it has been able—so far—to successfully mislead the public, influence government policies, and forestall federal action to reduce global warming emissions.

ExxonMobil's cynical strategy is built around the notion that public opinion can be easily manipulated because climate science is complex, because people tend not to notice where their information comes from, and because the effects of global warming are just beginning to become visible. But ExxonMobil may well have underestimated the public. The company's strategy quickly unravels when people understand it for what it is: an active campaign of disinformation.

Background

THE FACTS ABOUT EXXONMOBIL

ExxonMobil is a powerful player on the world stage. It is the world's largest publicly traded company: at \$339 billion,¹ its 2005 revenues exceeded the gross domestic products of most of the world's nations.² It is the most profitable corporation in history. In 2005, the company netted \$36 billion³—nearly \$100 million in profit *each day*.

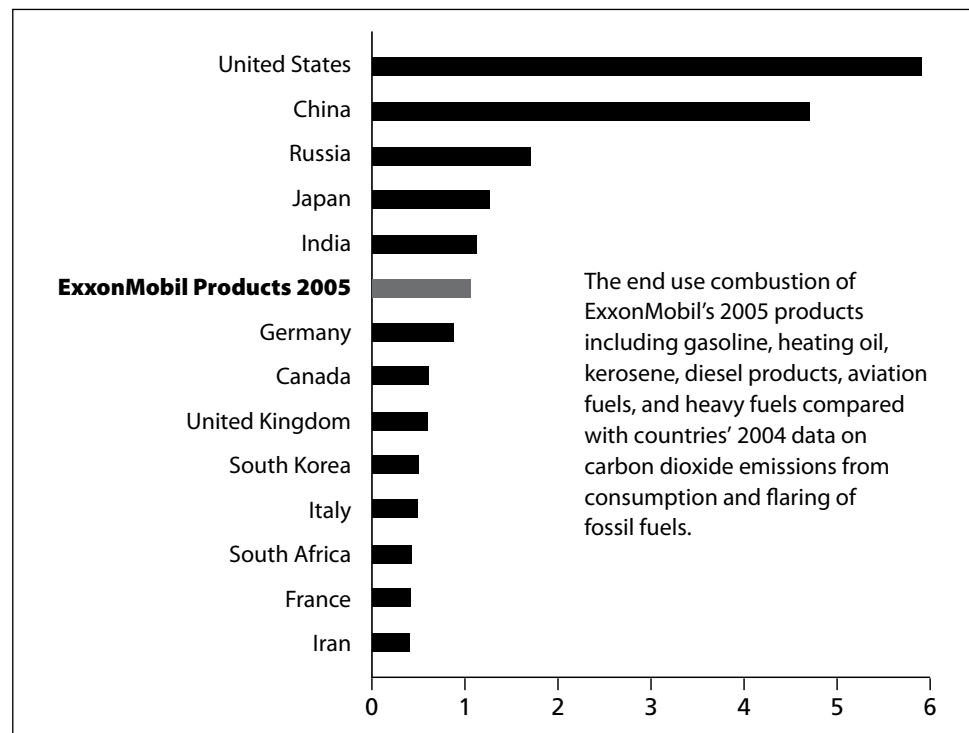
As the biggest player in the world's gas and oil business, ExxonMobil is also one of the world's largest producers of global warming pollution. Company operations alone pumped the equivalent of 138 million metric tons of carbon dioxide into the atmosphere in 2004⁴ and roughly the same level of emissions in 2005, according to

company reporting.⁵ In 2005, the end use combustion of ExxonMobil's products—gasoline, heating oil, kerosene, diesel products, aviation fuels, and heavy fuels—resulted in 1,047 million metric tons of carbon dioxide-equivalent emissions.⁶ If it was a country, ExxonMobil would rank sixth in emissions.

While some oil companies like BP, Occidental Petroleum, and Shell have begun to invest in clean energy technologies and publicly committed to reduce their heat-trapping emissions, ExxonMobil has made no such commitment.

Lee Raymond, ExxonMobil's chief executive officer (CEO) until 2006, set a brazenly unapolo-

Annual Emissions of Carbon Dioxide (Gigatons)



* Country data available at <http://www.eia.doe.gov/iea/carbon.html>

getic corporate tone on global warming. During his nearly 13 years as ExxonMobil's leader, Raymond unabashedly opposed caps on carbon dioxide emissions and refused to acknowledge the scientific consensus on global warming. Under Raymond's direction, ExxonMobil positioned itself, as Paul Krugman of the *New York Times* recently put it, as "an enemy of the planet."⁷ Not only did he do nothing to curb his company's global warming emissions, during his tenure Raymond divested the company of nearly all its alternative energy holdings.⁸ During his time as CEO, ExxonMobil's board lavishly rewarded him with compensation amounting to more than \$686 million.⁹ When Raymond retired at the end of 2005, he received an exorbitant retirement package worth nearly \$400 million, prompting sharp criticism from shareholders.¹⁰ ExxonMobil is now headed by CEO Rex Tillerson, but the corporate policies Raymond forged so far remain largely intact.

ExxonMobil has played the world's most active corporate role in underwriting efforts to thwart and undermine climate change regulation. For instance, according to the Center for Responsive Politics, ExxonMobil's PAC—its political action committee—and individuals affiliated with the company made more than \$4 million in political contributions throughout the 2000 to 2006 election cycles. It was consistently among the top four energy sector contributors. In the 2004 election cycle alone, ExxonMobil's PAC and individuals affiliated with the company gave \$935,000 in political contributions, more than any other energy company. Much of that money went in

This report identifies how strategies and tactics used by ExxonMobil mirror the well-documented campaign by the tobacco industry to prevent government regulation by creating public confusion about the link between smoking and disease.

turn to President Bush's election campaign.¹¹ In addition, ExxonMobil paid lobbyists more than \$61 million between 1998 and 2005 to help gain access to key decision makers.¹²

This report does not attempt to shed light on all ExxonMobil activities related to global warming. Instead, it takes an in-depth look at how the relatively modest investment of about \$16 million between 1998 and 2004 to select political organizations¹³ has been remarkably effective at manufacturing uncertainty about the scientific consensus on global warming. It offers examples to illustrate how ExxonMobil's influence over key administration officials and members of Congress has fueled the disinformation campaign and helped forestall federal action to reduce global warming emissions. And this report identifies how strategies and tactics used by ExxonMobil mirror the well-documented campaign by the tobacco industry to prevent government regulation by creating public confusion about the link between smoking and disease.

THE ORIGINS OF A STRATEGY

*We will never produce and market a product shown
to be the cause of any serious human ailment.*

— TOBACCO INDUSTRY RESEARCH COMMITTEE,
“FRANK STATEMENT TO CIGARETTE SMOKERS,”
PUBLISHED IN 1954.¹⁴

In its campaign to sow uncertainty about the scientific evidence on global warming, Exxon-Mobil has followed a corporate strategy pioneered by the tobacco industry. Because ExxonMobil’s strategy, tactics, and even some personnel draw heavily from the tobacco industry’s playbook, it is useful to look briefly at this earlier campaign. The settlement of the lawsuit brought by the attorneys general of 46 states forced the major tobacco companies to place their enormous caches of internal documents online.¹⁵ Thanks to these archives, the details of the tobacco industry’s covert strategy are now clear.

The story begins in the mid-1950s when scientific evidence began to emerge linking smoking to cancer. The tobacco industry’s initial response was to fund a research consortium, initially called the Tobacco Industry Research Committee and later known as the U.S. Tobacco Institute, to “study the issue.” In 1954, Big Tobacco released a seminal public document called the “Frank Statement to Cigarette Smokers,” which set the industry’s tone for the coming decades. This document questioned the emerging scientific evidence of the harm caused by smoking but tried to appear concerned about the issue, pledging to the public that the industry would look closely at the scientific evidence and study it themselves.¹⁶

As we now know, tobacco industry lawyers advised the companies early on that they could

never admit they were selling a hazardous product without opening themselves to potentially crippling liability claims.¹⁷ So, rather than studying the health hazards posed by their products, the tobacco industry hired Hill & Knowlton, a leading public relations firm of the day to mount a public relations campaign on their behalf. In a key memo, Hill & Knowlton framed the issue this way: “There is only one problem—confidence and how to establish it; public assurance, and how to create it.”¹⁸ In other words, the tobacco companies should ignore the deadly health effects of smoking and focus instead on maintaining the public’s confidence in their products.

As time went on, a scientific consensus emerged about a multitude of serious dangers from smoking—and the tobacco manufacturers knew it. Despite the evidence, the industry developed a sophisticated disinformation campaign—one they knew to be misleading—to deceive the public about the hazards of smoking and to forestall governmental controls on tobacco consumption.

HOW BIG TOBACCO’S CAMPAIGN WORKED

In executing their calculated strategy over the course of decades, tobacco industry executives employed five main tactics:

- They sought to *manufacture uncertainty* by raising doubts about even the most indisputable scientific evidence showing their products to be hazardous to human health.
- They pioneered a strategy of “*information laundering*” in which they used—and even covertly established—seemingly independent front organizations to make the industry’s own case and confuse the public.
- They *promoted scientific spokespeople* and invested in scientific research in an attempt to lend legitimacy to their public relations efforts.
- They attempted to *recast the debate* by charging that the wholly legitimate health concerns raised about smoking were not based upon “sound science.”
- Finally, they *cultivated close ties with government officials* and members of Congress. While many corporations and institutions seek access to government, Tobacco’s size and power gave it enormous leverage.

In reviewing the tobacco industry’s disinformation campaign, the first thing to note is that the tobacco companies quickly realized they did not need to prove their products were safe. Rather, as internal documents have long since revealed, they had only to “maintain doubt” on the scientific front as a calculated strategy. As one famous internal memo from the Brown & Williamson tobacco company put it: “Doubt is our product, since it is the best means of competing with the ‘body of fact’ that exists in the minds of the general public. It is also the means of establishing a controversy.”¹⁹ David Michaels, professor of occupational and environmental health at George Washington University School of Public Health and former assistant secretary for the environment, safety and health at the Department of Energy during

the Clinton administration, has dubbed the strategy one of “manufacturing uncertainty.”²⁰ As Michaels has documented, Big Tobacco pioneered the strategy and many opponents of public health and environmental regulations have emulated it.

From the start, the goal of the tobacco industry’s disinformation campaign was simple: to

“Doubt is our product, since it is the best means of competing with the ‘body of fact’ that exists in the minds of the general public. It is also the means of establishing a controversy.”

— BROWN & WILLIAMSON

undermine scientific evidence of the health risks of smoking in any way possible. Thus, for forty years, the tobacco companies strove to manufacture doubt, uncertainty, and controversy about the dangers of smoking where increasingly none existed. The companies publicly fought the evidence of a link between smoking and lung cancer. They disputed the evidence of a link between smoking and heart disease. They questioned the scientific evidence showing that nicotine was highly addictive. And they tried to raise uncertainty about the scientific evidence showing the dangers of secondhand smoke. No researcher or institution was immune from their tactics. For instance, as a 2000 report from the World Health Organization details, the tobacco companies went to extraordinary lengths to try to undermine the scientific evidence at that institution. They paid WHO employees to spread misinformation, hired institutions and individuals to discredit the international organization, secretly funded reports designed to distort scientific studies, and even covertly monitored WHO meetings and conferences.²¹

Big Tobacco's strategy proved remarkably successful; "doubt" turned out to be a relatively easy product to sell. Today, smoking continues to cause an estimated 5 million deaths per year worldwide²² and some 45 million people in the United States continue to smoke²³—both illustrations of the success of the tobacco companies' campaign to prevent governments from implementing strong tobacco control policies. Meanwhile, the tobacco

industry continues to be profitable despite the multi-billion-dollar settlement of the U.S. states' lawsuit against tobacco manufacturers. The "uncertainty" argument has also proved resilient. As Murray Walker, former Vice President of the U.S. Tobacco Institute put it when he testified under oath in a 1998 trial brought against the tobacco firms: "We don't believe it's ever been established that smoking is the cause of disease."²⁴

EXXONMOBIL'S DISINFORMATION CAMPAIGN

*Victory will be achieved when average citizens “understand”
(recognize) uncertainties in climate science.*

—INTERNAL MEMO BY THE AMERICAN PETROLEUM INSTITUTE, 1998

In the late 1980s, when the public first began to hear about global warming, scientists had already conducted more than a century of research on the impact of carbon dioxide on earth's climate (see Appendix A for more information). As the science matured in the late 1980s, debate, a key component of the scientific process, surfaced among reputable scientists about the scope of the problem and the extent to which human activity was responsible. Much like the status of scientific knowledge about the health effects of smoking in the early 1950s, emerging studies suggested cause for concern but many scientists justifiably argued that more research needed to be done.²⁵

Exxon (and later ExxonMobil), concerned about potential repercussions for its business, argued from the start that no global warming trend existed and that a link between human activity and climate change could not be established.²⁶ Just as the tobacco companies initially responded with a coalition to address the health effects of smoking, Exxon and the American Petroleum Institute (an organization twice chaired by former Exxon CEO Lee Raymond) joined with other energy, automotive, and industrial companies in 1989 to form the Global Climate Coalition.²⁷ The coalition responded aggressively to the emerging scientific studies about global warming by opposing governmental action designed to address the problem.

Drawing on a handful of scientific spokespeople during the early and mid-1990s, the Global Climate Coalition emphasized the remaining uncertainties in climate science.²⁸ Exxon and other members of the coalition challenged the need for action on global warming by denying its existence as well as characterizing global warming as a natural phenomenon.²⁹ As Exxon and its proxies mobilized forces to cast doubt on global warming, however, a scientific consensus was emerging that put their arguments on exceptionally shaky scientific ground (see Appendix A).

MANUFACTURING UNCERTAINTY

By 1997, scientific understanding that human-caused emissions of heat-trapping gases were causing global warming led to the Kyoto Protocol, in which the majority of the world's industrialized nations committed to begin reducing their global warming emissions on a specified timetable. In response to both the strength of the scientific evidence on global warming and the governmental action pledged to address it, leading oil companies such as British Petroleum, Shell, and Texaco changed their stance on climate science and abandoned the Global Climate Coalition.³⁰

ExxonMobil chose a different path.

In 1998, ExxonMobil helped create a small task force calling itself the “Global Climate Science Team” (GCST). Members included Randy Randol,

ExxonMobil's senior environmental lobbyist at the time, and Joe Walker, the public relations representative of the American Petroleum Institute.³¹ One member of the GCST task force, Steven Milloy, headed a nonprofit organization called the Advancement of Sound Science Coalition, which had been covertly created by the tobacco company Philip Morris in 1993 to manufacture uncertainty about the health hazards posed by second-hand smoke.³²

A 1998 GCST task force memo outlined an explicit strategy to invest millions of dollars to manufacture uncertainty on the issue of global warming³³—a strategy that directly emulated Big Tobacco's disinformation campaign. Despite mounting scientific evidence of the changing climate, the goal the team outlined was simple and familiar. As the memo put it, "Victory will be achieved when average citizens understand (recognize) uncertainties in climate science" and when public "recognition of uncertainty becomes part of the 'conventional wisdom.'"³⁴ (For full text of the memo, see Appendix C.)

Regardless of the mounting scientific evidence, the 1998 GCST memo contended that "if we can show that science does not support the Kyoto treaty...this puts the United States in a stronger moral position and frees its negotiators from the need to make concessions as a defense against perceived selfish economic concerns."³⁵

ExxonMobil and its partners no doubt understood that, with the scientific evidence against them, they would not be able to influence reputable scientists. The 1998 memo proposed that ExxonMobil and its public relations partners "develop and implement a national media relations program to inform the media about uncertainties in climate science."³⁶ In the years that followed, ExxonMobil executed the strategy as planned underwriting a wide array of front organizations to publish in-house articles by select

scientists and other like-minded individuals to raise objections about legitimate climate science research that has withstood rigorous peer review and has been replicated in multiple independent peer-reviewed studies—in other words, to attack research findings that were well established in the scientific community. The network ExxonMobil created masqueraded as a credible scientific alternative, but it publicized discredited studies and cherry-picked information to present misleading conclusions.

INFORMATION LAUNDERING

A close review reveals the company's effort at what some have called "information laundering": projecting the company's desired message through ostensibly independent nonprofit organizations. First, ExxonMobil underwrites well-established groups such as the American Enterprise Institute, the Competitive Enterprise Institute, and the Cato Institute that actively oppose mandatory action on global warming as well as many other environmental standards. But the funding doesn't stop there. ExxonMobil also supports a number of lesser-known organizations that help to market and distribute global warming disinformation. Few of these are household names. For instance, most people are probably not familiar with the American Council for Capital Formation Center for Policy Research, the American Legislative Exchange Council, the Committee for a Constructive Tomorrow, or the International Policy Network, to name just a few. Yet these organizations—and many others like them—have received sizable donations from ExxonMobil for their climate change activities.³⁷

Between 1998 and 2005 (the most recent year for which company figures are publicly available), ExxonMobil has funneled approximately \$16 million to carefully chosen organizations that promote disinformation on global warming.³⁸ As the *New*

York Times has reported, ExxonMobil is often the single largest corporate donor to many of these nonprofit organizations, frequently accounting for more than 10 percent of their annual budgets.³⁹ (For more detailed information, see Appendix B, Table 1.)

A close look at the work of these organizations exposes ExxonMobil's strategy. Virtually all of them publish and publicize the work of a nearly identical group of spokespeople, including scientists who misrepresent peer-reviewed climate findings and confuse the public's understanding of global warming. Most of these organizations also include these same individuals as board members or scientific advisers.

Why would ExxonMobil opt to fund so many groups with overlapping spokespeople and programs? By generously funding a web of organizations with redundant personnel, advisors, or spokespeople, ExxonMobil can quietly and effectively provide the appearance of a broad platform for a tight-knit group of vocal climate science contrarians. The seeming diversity of the organizations creates an "echo chamber" that amplifies and sustains scientific disinformation even though many of the assertions have been repeatedly debunked by the scientific community.

Take, for example, ExxonMobil's funding of a Washington, DC-based organization called Frontiers of Freedom.⁴⁰ Begun in 1996 by former Senator Malcolm Wallop, Frontiers of Freedom was founded to promote property rights and critique environmental regulations like the Endangered Species Act.⁴¹ One of the group's staff members, an economist named Myron Ebell, later served as a member of the Global Climate Science Team, the small task force that laid out ExxonMobil's 1998 message strategy on global warming. Following the outline of the task force's plan in 1998, ExxonMobil began funding Frontiers of Freedom—a group that Vice President Dick Cheney

The network ExxonMobil created masqueraded as a credible scientific alternative, but it publicized discredited studies and cherry-picked information to present misleading conclusions.

recently called "an active, intelligent, and needed presence in the national debate."⁴²

Since 1998, ExxonMobil has spent \$857,000 to underwrite the Frontiers of Freedom's climate change efforts.⁴³ In 2002, for example, ExxonMobil made a grant to Frontiers of Freedom of \$232,000⁴⁴ (nearly a third of the organization's annual budget) to help launch a new branch of the organization called the Center for Science and Public Policy, which would focus primarily on climate change.

A recent visit to the organization's website finds little information about the background or work of the Center for Science and Public Policy.⁴⁵ The website offers no mention of its staff or board members other than its current executive director Robert Ferguson, for whom it offers no biographical information. As of September 2006, however, the website did prominently feature a 38-page non-peer-reviewed report by Ferguson on climate science, heavily laden with maps, graphs, and charts, entitled "Issues in the Current State of Climate Science: A Guide for Policy Makers and Opinion Leaders."⁴⁶ The document offers a hodgepodge of distortions and distractions posing as a serious scientific review. Ferguson questions the clear data showing that the majority of the globe's glaciers are in retreat by feebly arguing that not all glaciers have been inventoried, despite the monitoring of thousands of glaciers worldwide.⁴⁷

And, in an attempt to dispute solid scientific evidence that climate change is causing extinctions of animal species, Ferguson offers the non sequitur that several new butterfly and frog species were recently discovered in New Guinea.⁴⁸

Perhaps most notable are Ferguson's references, citing a familiar collection of climate science contrarians such as Willie Soon (see p. 30 for more on Soon). In fact, although his title is not listed on the organization's website, Soon is the Center for Science and Public Policy's "chief science researcher," according to a biographical note accompanying a 2005 *Wall Street Journal* op-ed co-authored by Ferguson and Soon.⁴⁹ Ferguson's report was not subject to peer review, but it is nonetheless presented under the auspices of the authoritative-sounding Center for Science and Public Policy.

Another organization used to launder information is the George C. Marshall Institute. During the 1990s, the Marshall Institute had been known primarily for its work advocating a "Star Wars" missile defense program. However, it soon became an important home for industry-financed "climate contrarians," thanks in part to ExxonMobil's financial backing. Since 1998, ExxonMobil has paid \$630,000 primarily to underwrite the Marshall Institute's climate change effort.⁵⁰ William O'Keefe, CEO of the Marshall Institute, formerly worked as executive vice president and chief operating officer of the American Petroleum Institute, served on the board of directors of the Competitive Enterprise Institute, and is chairman emeritus of the Global Climate Coalition.⁵¹

Since ExxonMobil began to support its efforts, the Marshall Institute has served as a clearing-house for global warming contrarians, conducting round-table events and producing frequent publications. Most recently, the Marshall Institute has been touting its new book, *Shattered Consensus: The True State of Global Warming*, edited by long-

time climate contrarian Patrick Michaels (a meteorologist). Michaels has, over the past several years, been affiliated with at least ten organizations funded by ExxonMobil.⁵² Contributors to the book include others with similar affiliations with Exxon-funded groups: Sallie Baliunas, Robert Balling, John Christy, Ross McKittrick, and Willie Soon⁵³ (for details, see Appendix B, Table 2).

The pattern of information laundering is repeated at virtually all the private, nonprofit climate change programs ExxonMobil funds. The website of the Chicago-based Heartland Institute, which received \$119,000 from ExxonMobil in 2005,⁵⁴ offers recent articles by the same set of scientists. A visit to the climate section of the website of the American Legislative Exchange Council, which received \$241,500 from ExxonMobil in 2005,⁵⁵ turns up yet another non-peer-reviewed paper by Patrick Michaels.⁵⁶ The Committee for a Constructive Tomorrow, which received \$215,000 from ExxonMobil over the past two funding cycles of 2004 and 2005,⁵⁷ boasts a similar lineup of articles and a scientific advisory panel that includes Sallie Baliunas, Robert Balling, Roger Bate, Sherwood Idso, Patrick Michaels, and Frederick Seitz—all affiliated with other ExxonMobil-funded organizations.⁵⁸

A more prominent organization funded by ExxonMobil is the Washington, DC-based Competitive Enterprise Institute (CEI). Founded in 1984 to fight government regulation on business, CEI started to attract significant ExxonMobil funding when Myron Ebell moved there from Frontiers of Freedom in 1999. Since then, CEI has not only produced a steady flow of vituperative articles and commentaries attacking global warming science, often using the same set of global warming contrarians; it has also sued the federal government to stop the dissemination of a National Assessment Synthesis Team report extensively documenting the region-by-region

impacts of climate change in the United States.⁵⁹ For its efforts, CEI has received more than \$2 million in funding from ExxonMobil from 1998 through 2005.⁶⁰

The irony of all these efforts is that ExxonMobil, a company that claims it is dedicated to supporting organizations favoring “free market solutions to public policy problems,”⁶¹ is actively propping up discredited studies and misleading information that would otherwise never thrive in the scientific marketplace of ideas. The tactic is seen clearly in ExxonMobil’s backing of a website called Tech Central Station, which portrays itself as a media outlet but is, in fact, part of a corporate PR machine that helps corporations like ExxonMobil to get their message out.

Tech Central Station (which received \$95,000 in funding from ExxonMobil in 2003) is a web-based hybrid of quasi-journalism and lobbying that helps ExxonMobil complete the circle of its disinformation campaign.⁶² The website is nominally “hosted” by James K. Glassman, a former journalist.⁶³ But despite Glassman’s public face, Tech Central Station was published (until it was sold in September 2006) by a public relations firm called the DCI Group, which is a registered ExxonMobil lobbying firm.⁶⁴

A Tech Central Station disclaimer states that the online journal is proud of its corporate sponsors (including ExxonMobil) but that “the opinions expressed on these pages are solely those of the writers and not necessarily of any corporation or other organization.”⁶⁵ In practice, the opposite is true. Although Tech Central Station’s content is dressed up as independent news articles, the DCI Group established the outfit to allow corporate clients and their surrogates to communicate directly to the public. Predictably, Tech Central Station contributors on the global warming issue are the familiar spokespeople from ExxonMobil-

Although Tech Central Station’s content is dressed up as independent news articles, the DCI Group established the outfit to allow corporate clients and their surrogates to communicate directly to the public.

funded organizations, including Sallie Baliunas, Robert Balling, David Legates, Patrick Michaels, Willie Soon, George Taylor, and others.⁶⁶

It is also no surprise that the DCI Group’s own literature boasts that it specializes in what it calls “corporate grassroots campaigns” and “third party support” for corporate clients, both code words for the establishment and use of front organizations to disseminate a company’s message.⁶⁷ The group’s managing partners, Tom Synhorst, Doug Goodyear, and Tim Hyde, each honed their skills in this area over the course of nearly a decade working for the tobacco firm R.J. Reynolds.⁶⁸ Synhorst was a “field coordinator” for R.J. Reynolds, heading up work for the company on issues such as state, local, and workplace smoking bans.⁶⁹ Goodyear worked for a PR firm called Walt Klein and Associates that helped set up a fake grassroots operations on behalf of R.J. Reynolds.⁷⁰ And Hyde served as senior director of public issues at R.J. Reynolds from 1988 to 1997, overseeing all of the company’s PR campaigns.⁷¹

Confounding the matter further is ExxonMobil’s funding of established research institutions that seek to better understand science, policies, and technologies to address global warming. For example, ExxonMobil’s corporate citizen report for 2005 states:

Our climate research is designed to improve scientific understanding, assess policy options, and achieve technological breakthroughs that reduce GHG [green house gas or global warming] emissions in both industrial and developing countries. Major projects have been supported at institutions including the Australian Bureau of Agricultural and Resource Economics, Battelle Pacific Northwest Laboratory, Carnegie Mellon, Charles River Associates, the Hadley Centre for Climate Prediction, International Energy Agency Greenhouse Gas R&D Programme, Lamont Doherty Earth Observatory at Columbia University, Massachusetts Institute of Technology, Princeton, Stanford, The University of Texas, and Yale.⁷²

In its most significant effort of this kind, ExxonMobil has pledged \$100 million over ten years to help underwrite Stanford University's Global Climate and Energy Project.⁷³ According to the program's literature, the effort seeks to develop new energy technologies that will permit the development of global energy systems with significantly lower global warming emissions.⁷⁴

The funding of academic research activity has provided the corporation legitimacy, while it actively funds ideological and advocacy organizations to conduct a disinformation campaign.

PROMOTING SCIENTIFIC SPOKESPEOPLE

Inextricably intertwined with ExxonMobil's information laundering strategy of underwriting multiple organizations with overlapping staff is the corporation's promotion of a small handful of scientific spokespeople. Scientists are trusted messengers among the American public. Scientists can and do play an important and legitimate role in educating the public and policymakers about issues that have a scientific component, including global warming. Early on, Exxon (and later

ExxonMobil) sought to support groups that worked with the handful of scientists, such as Frederick Singer (a physicist), John Christy (an atmospheric scientist), and Patrick Michaels, who had persistently voiced doubt about human-caused global warming and its consequences, despite mounting evidence.⁷⁵

However, to pull off the disinformation campaign outlined in the 1998 GCST task force memo, ExxonMobil and its public relations partners recognized they would need to cultivate new scientific spokespeople to create a sense among the public that there was still serious debate among scientists. Toward that end, the memo suggested that the team "identify, recruit and train a team of five independent scientists to participate in media outreach. These will be individuals who do not have a long history of visibility and/or participation in the climate change debate. Rather, this team will consist of new faces who will add their voices to those recognized scientists who already are vocal."⁷⁶

By the late 1990s, the scientific evidence on global warming was so strong that it became difficult to find scientists who disputed the reality of human-caused climate change. But ExxonMobil and its public relations partners persevered. The case of scientists Willie Soon and Sallie Baliunas is illustrative.

Soon and Baliunas are astrophysicists affiliated with the Harvard-Smithsonian Center for Astrophysics who study solar variation (i.e., changes in the amount of energy emitted by the Sun). Solar variation is one of the many factors influencing Earth's climate, although according to the IPCC it is one of the minor influences over the last century.⁷⁷ In the mid-1990s, ExxonMobil-funded groups had already begun to spotlight the work of Soon and Baliunas to raise doubts about the human causes of global warming. To accomplish this, Baliunas was initially commissioned to write

several articles for the Marshall Institute positing that solar activity might be responsible for global warming.⁷⁸ With the Baliunas articles, the Marshall Institute skillfully amplified an issue of minor scientific importance and implied that it was a major driver of recent warming trends.

In 2003, Baliunas and Soon were catapulted into a higher profile debate when they published a controversial review article about global warming in the peer-reviewed scientific literature. Writing in the journal *Climate Research*, the two contrarians reviewed the work of a number of previous scientists and alleged that the twentieth century was not the warmest century of the past 1,000 years and that the climate had not changed significantly over that period.⁷⁹ The Soon-Baliunas paper was trumpeted widely by organizations and individuals funded by ExxonMobil.⁸⁰ It was also seized upon by like-minded politicians, most notably James Inhofe (R-OK), chair (until January 2007) of the Senate Environment and Public Works Committee, who has repeatedly asserted that global warming is a hoax. Inhofe cited the Soon-Baliunas review as proof that natural variability, not human activity, was the “overwhelming factor” influencing climate change.⁸¹

Less widely publicized was the fact that three of the editors of *Climate Research*—including incoming editor-in-chief Hans von Storch—resigned in protest over the Soon-Baliunas paper. Storch stated that he suspected that “some of the skeptics had identified *Climate Research* as a journal where some editors were not as rigorous in the review process as is otherwise common” and described the manuscript as “flawed.”⁸² In addition, thirteen of the scientists cited in the paper published a rebuttal explaining that Soon and Baliunas had seriously misinterpreted their research.⁸³

The National Research Council recently examined the large body of published research on this topic and concluded that, “It can be said with a

Inextricably intertwined with ExxonMobil's information laundering strategy of underwriting multiple organizations with overlapping staff is the corporation's promotion of a small handful of scientific spokespeople.

high level of confidence that global mean surface temperature was higher during the last few decades of the 20th century than during any comparable period during the preceding four centuries...Presently available proxy evidence indicates that temperatures at many, but not all, individual locations were higher in the past 25 years than during any period of comparable length since A.D. 900.”⁸⁴ The brouhaha in the scientific community had little public impact. The echo chamber had already been set in motion reverberating among the mainstream media,⁸⁵ while the correction became merely a footnote buried in the science sections of a few media outlets.

This controversy did not stop Soon and Baliunas from becoming central “new voices” in ExxonMobil's effort to manufacture uncertainty about global warming. Both scientists quickly established relationships with a network of organizations underwritten by the corporation. Over the past several years, for example, Baliunas has been formally affiliated with no fewer than nine organizations receiving funding from ExxonMobil.⁸⁶ Among her other affiliations, she is now a board member and senior scientist at the Marshall Institute, a scientific advisor to the Annapolis Center for Science-Based Public Policy, an advisory board member of the Committee for a Constructive Tomorrow, and a contributing scientist

to the online forum Tech Central Station, all of which are underwritten by ExxonMobil.⁸⁷ (For more, see Appendix B, Table 2.)

Another notable case is that of Frederick Seitz, who has ties to both Big Tobacco and Exxon-Mobil. Seitz is the emeritus chair of the Marshall Institute. He is also a prominent solid state physicist who was president of the National Academy of Sciences (NAS) from 1962 to 1969.⁸⁸

In an example of the tobacco industry's efforts to buy legitimacy, the cigarette company R.J. Reynolds hired Seitz in 1979.⁸⁹ His role was to oversee a tobacco industry-sponsored medical research program in the 1970s and 1980s.⁹⁰ "They didn't want us looking at the health effects of cigarette smoking," Seitz, who is now 95, admitted recently in an article in *Vanity Fair*, but he said he felt no compunction about dispensing the tobacco company's money.⁹¹

While working for R.J. Reynolds, Seitz oversaw the funding of tens of millions of dollars worth of research.⁹² Most of this research was legitimate. For instance, his team looked at the way stress, genetics, and lifestyle issues can contribute to disease.⁹³ But the program Seitz oversaw served an important dual purpose for R.J. Reynolds. It allowed the company to tout the fact that it was funding health research (even if it specifically proscribed research on the health effects of smoking) and it helped generate a steady collection of ideas and hypotheses that provided "red herrings" the company could use to disingenuously suggest that factors other than tobacco might be causing smokers' cancers and heart disease.

Aside from giving the tobacco companies' disinformation campaign an aura of scientific credibility, Seitz is also notable because he has returned from retirement to play a prominent role as a global warming contrarian involved in organi-

zations funded by ExxonMobil. Consider, for instance, one of Seitz's most controversial efforts. In 1998, he wrote and circulated a letter asking scientists to sign a petition from a virtually unheard-of group called the Oregon Institute of Science and Medicine calling upon the U.S. government to reject the Kyoto Protocol.⁹⁴ Seitz signed the letter identifying himself as a former NAS president. He also enclosed with his letter a report co-authored by a team including Soon and Baliunas asserting that carbon dioxide emissions pose no warming threat.⁹⁵ The report was not peer reviewed. But it was formatted to look like an article from *The Proceedings of the National Academy of Sciences* (PNAS), a leading scientific journal.

The petition's organizers publicly claimed that the effort had attracted the signatures of some 17,000 scientists. But it was soon discovered that the list contained few credentialed climate scientists. For example, the list was riddled with the names of numerous fictional characters.⁹⁶ Likewise, after investigating a random sample of the small number of signers who claimed to have a Ph.D. in a climate-related field, *Scientific American* estimated that approximately one percent of the petition signatories might actually have a Ph.D. in a field related to climate science.⁹⁷ In a highly unusual response, NAS issued a statement disavowing Seitz's petition and disassociating the academy from the PNAS-formatted paper.⁹⁸ None of these facts, however, have stopped organizations, including those funded by ExxonMobil, from touting the petition as evidence of widespread disagreement over the issue of global warming. For instance, in the spring of 2006, the discredited petition surfaced again when it was cited in a letter to California legislators by a group calling itself "Doctors for Disaster Preparedness," a project of the Oregon Institute of Science and Medicine.

SHIFTING THE FOCUS OF THE DEBATE

One prominent component of ExxonMobil's disinformation campaign on global warming is the almost unanimous call for "sound science" by the organizations it funds.⁹⁹ Like the Bush administration's "Healthy Forests" program, which masks a plan to augment logging, the rallying call for "sound science" by ExxonMobil-funded organizations is a clever and manipulative cover. It shifts the focus of the debate away from ExxonMobil's irresponsible behavior regarding global warming toward a positive concept of "sound science." By keeping the discussion focused on refining scientific understanding, ExxonMobil helps delay action to reduce heat-trapping emissions from its company and products indefinitely. For example, like the company itself, ExxonMobil-funded organizations routinely contend, despite all the solid evidence to the contrary, that scientists don't know enough about global warming to justify substantial reductions in heat-trapping emissions. As ExxonMobil explains prominently on the company's website:

*While assessments such as those of the IPCC [Intergovernmental Panel on Climate Change] have expressed growing confidence that recent warming can be attributed to increases in greenhouse gases, these conclusions rely on expert judgment rather than objective, reproducible statistical methods. Taken together, gaps in the scientific basis for theoretical climate models and the interplay of significant natural variability make it very difficult to determine objectively the extent to which recent climate changes might be the result of human actions.*¹⁰⁰

In contrast, 11 of the world's major national scientific academies issued a joint statement in 2005 that declared, "The scientific understanding of climate change is now sufficiently clear to

The rallying call for "sound science" by ExxonMobil-funded organizations is a clever and manipulative cover.

justify nations taking prompt action. It is vital that all nations identify cost-effective steps that they can take now to contribute to substantial and long-term reduction in net global greenhouse gas emissions."¹⁰¹

There is no denying that the tactic of demanding "certainty" in every aspect of our scientific understanding of global warming is a rhetorically effective one. If manufactured uncertainty and governmental inaction is the goal, science will arguably never be "sound enough," or 100 percent certain, to justify action to protect public health or the environment.

Again, the tobacco industry paved the way. The calculated call for "sound science" was successfully used by tobacco firms as an integral part of a tobacco company's pioneering "information laundering" scheme. As we now know from internal tobacco industry documents, a campaign to demand "sound science" was a key part of a strategy by the cigarette manufacturer Philip Morris to create uncertainty about the scientific evidence linking disease to "second-hand" tobacco smoke, known in the industry as "environmental tobacco smoke" or ETS.¹⁰² Toward this end, in 1993, Philip Morris covertly created a front organization called "The Advancement of Sound Science Coalition" or TASSC.¹⁰³

In setting up the organization, Philip Morris took every precaution. The company opted not to use its regular public relations firm, Burson-Marsteller, choosing instead APCO Associates, a subsidiary of the international advertising and PR

firm of GCI/Grey Associates. For a sizable retainer, APCO agreed to handle every aspect of the front organization.

As part of the plan, APCO focused on expanding TASSC's ersatz "membership" and raising small amounts of additional outside money in order to conceal Philip Morris's role as its founder and exclusive underwriter. A 1993 letter from APCO on the eve of TASSC's public unveiling explains that, despite the appearance of an independent nonprofit group, APCO would "oversee day-to-day administrative responsibility" for running the organization and would draft "boilerplate speeches, press releases and op-eds to be utilized by TASSC field representatives" to further Philip Morris' goals.¹⁰⁴

The public relations firm introduced TASSC to the public through a decentralized launch outside the large markets of Washington, DC, and New York in order to "avoid cynical reporters from major media" who might discover the truth that the organization was nothing more than a front group created by Philip Morris. Top Philip Morris media managers compiled lists of reporters they deemed most sympathetic to TASSC's message.¹⁰⁵ But they left all press relations to APCO so as to, in the words of one internal memo, "remove any possible link to PM."¹⁰⁶

The TASSC campaign was a particularly obvious example of information laundering. But it also represented an important messaging strategy by using the concept of "sound science" to attach Philip Morris's disinformation about second-hand smoke to a host of other antiregulation battles. Philip Morris sought to foil any effort by the Environmental Protection Agency (EPA) to promulgate regulations to protect the public from the dangers of ETS. But the company realized that it could build more support for its discredited position that ETS was safe by raising the broader "sound science" banner. As a result, it took stands

against government efforts to set safety regulations on everything from asbestos to radon. "The credibility of EPA is defeatable," one Philip Morris strategy document explained, "but not on the basis of ETS alone. It must be part of a large mosaic that concentrates all of the EPA's enemies against it at one time."¹⁰⁷

The important point in reviewing this history is that it is not a coincidence that ExxonMobil and its surrogates have adopted the mantle of "sound science." In so doing, the company is simply emulating a proven corporate strategy for successfully deflecting attention when one's cause lacks credible scientific evidence. From the start in 1993, in TASSC's search for other antiregulation efforts to provide political cover, the organization actively welcomed global warming contrarians like Frederick Seitz, Fred Singer, and Patrick Michaels to its scientific board of advisors. Thanks to the online archive of tobacco documents, we know that in 1994, when Philip Morris developed plans with APCO to launch a TASSC-like group in Europe, "global warming" was listed first among suggested topics with which the tobacco firm's cynical "sound science" campaign could profitably ally itself.¹⁰⁸

Given these historical connections, it is disturbing that ExxonMobil would continue to associate with some of the very same TASSC personnel who had overseen such a blatant and shameful disinformation campaign for Big Tobacco. The most glaring of ExxonMobil's associations in this regard is with Steven Milloy, the former executive director of TASSC. Milloy's involvement with ExxonMobil is more than casual. He served as a member of the small 1998 Global Climate Science Team task force that mapped out ExxonMobil's disinformation strategy on global warming.

Milloy officially closed TASSC's offices in 1998 as evidence of its role as a front organization

began to surface in the discovery process of litigation against Big Tobacco. Thanks in part to ExxonMobil, however, the “sound science” disinformation campaign continued unabated. Resuscitating TASSC under the slightly altered name The Advancement of Sound Science *Center* (rather than Coalition), Milloy continues to operate out of his home in Maryland. Between 2000 and 2004, ExxonMobil gave \$50,000 to Milloy’s Advancement of Sound Science Center, and another \$60,000 to an organization called the Free Enterprise Education Institute (a.k.a. Free Enterprise Action Institute), which is also registered to Milloy’s home address.¹⁰⁹ According to its 2004 tax return, this group was founded to “educate the public about the American system of free enterprise,” employed no staff, and incurred approximately \$48,000 in expenses categorized as “professional services.”¹¹⁰

In addition to serving as a columnist on *FoxNews.com*, Milloy is also a contributor to Tech Central Station and an adjunct scholar at the Competitive Enterprise Institute, both funded by ExxonMobil.

The irony of the involvement of tobacco disinformation veterans like Milloy in the current campaign against global warming science is not lost on close watchers. Representative Henry Waxman (D-CA), for instance, chaired the 1994 hearings where tobacco executives unanimously declared under oath that cigarettes were not addictive. As Waxman marveled recently about the vocal contrarians like Milloy on global warming science: “Not only are we seeing the same tactics the tobacco industry used, we’re seeing some of the same groups.”¹¹¹ Of course, unlike the tobacco companies, ExxonMobil has yet to receive a court order to force to light internal documents pertaining to its climate change activities. Nonetheless, even absent this information, the case could hardly be clearer: ExxonMobil is waging a calcu-

Given these historical connections, it is disturbing that ExxonMobil would continue to associate with some of the very same TASSC personnel who had overseen such a blatant and shameful disinformation campaign for Big Tobacco.

lated and familiar disinformation campaign to mislead the public and forestall government action on global warming.

BUYING GOVERNMENT ACCESS

Tobacco companies have historically been very successful at cultivating close ties in government and hiring former government officials to lobby on their behalf. This list includes, among others, Craig Fuller, who served in the Reagan and Bush administrations, and former GOP chair Haley Barbour as well as former Senate majority leader George Mitchell, who was recruited in 1997 by the tobacco industry firm Verner, Liipfert, Bernhard, McPherson, and Hand to help negotiate a settlement.¹¹²

When it comes to exerting influence over government policy, however, ExxonMobil, in its global warming disinformation campaign, may have even surpassed the tobacco industry it so clearly emulates. During the 2000 to 2006 election cycles, ExxonMobil’s PAC and individuals affiliated with the company gave more than \$4 million to federal candidates and parties.¹¹³ Shortly after President Bush’s inauguration, ExxonMobil, like other large corporate backers in the energy sector, participated in Vice President Dick Cheney’s “Energy Task Force” to set the

administration's goals for a national energy plan.¹¹⁴ ExxonMobil successfully urged the Bush administration to renege on the commitments to the Kyoto Protocol made by previous administrations.¹¹⁵ Paula Dobriansky, who currently serves as under-secretary for global affairs in the State Department and who has headed U.S. delegations negotiating follow-ons to the Kyoto Protocol in Buenos Aires and Montreal, explicitly said as much in 2001. Just months after she had been confirmed by the U.S. Senate, Dobriansky met with ExxonMobil lobbyist Randy Randol and other members of the Global Climate Coalition. Her prepared talking points, uncovered through a Freedom of Information Act request, reveal that Dobriansky thanked the group for their input on global warming policy. One of her notes reads: "POTUS [the President of the United States] rejected Kyoto, in part, based on input from you."¹¹⁶

A Freedom of Information Act request also revealed that in February 2001, immediately following the release of the authoritative 2001 report on global warming from the Intergovernmental Panel on Climate Change (IPCC),¹¹⁷ ExxonMobil successfully lobbied the Bush administration to try to oust the chair of the IPCC. In a memo sent to the White House, Randol complained that Robert Watson, who had chaired the IPCC since 1996, had been "hand-picked by Al Gore."¹¹⁸ Watson is an internationally respected scientist who has served as the director of the science division at NASA and as chief scientist at the World Bank. His work at the IPCC had met with widespread international approval and acclaim. Nonetheless, the ExxonMobil memo urged: "Can Watson be replaced now at the request of the U.S.?"¹¹⁹ At its next opportunity, the Bush administration's State Department refused to re-nominate Dr. Watson for a second five-year term as head of the IPCC, instead backing an Indian engineer-economist for the

post. In April 2002, lacking U.S. support, Dr. Watson lost his position as chair.¹²⁰ The Bush administration's move outraged many in the scientific community who saw it as a blatantly political attempt to undermine an international scientific effort.¹²¹ At the time, however, ExxonMobil's behind-the-scenes role in the incident remained secret.

Meanwhile, in an equally consequential recommendation, the 2001 ExxonMobil memo suggested that President Bush's climate team hire Harlan Watson (no relation), a staff member on the House Science Committee who had served as a climate negotiator at the 1992 Rio Earth Summit for the administration of George Bush Senior and had worked closely with members of Congress who opposed action on global warming.¹²² Shortly thereafter, the Bush administration announced Harlan Watson's appointment as its chief climate negotiator. He has steadfastly opposed any U.S. engagement in the Kyoto process.¹²³

As successful as ExxonMobil's efforts to lobby the Bush administration have been, perhaps even more striking is the way the company's disinformation campaign on global warming science has managed to permeate the highest echelons of the federal government. Between 2001 and 2005, the nerve center for much of this censorship and control resided in the office of Philip Cooney, who served during this time as chief of staff in the White House Council on Environmental Quality. Thanks to a whistle-blowing researcher named Rick Piltz in the U.S. government's interagency Climate Change Science Program who resigned in protest over the practice, we now know that Cooney spent a significant amount of time censoring and distorting government reports so as to exaggerate scientific uncertainty about global warming.¹²⁴

Cooney, a lawyer with an undergraduate degree in economics, had no scientific credentials

that might qualify him to rewrite the findings of top government scientists. Rather, before coming to the Bush administration in 2001, Cooney had spent roughly a decade as a lawyer for the American Petroleum Institute, the oil industry lobby that worked with ExxonMobil in 1998 to develop a global warming disinformation campaign. In that capacity, Cooney served as a “climate team leader” seeking to prevent the U.S. government from entering into any kind of international agreement or enacting any domestic legislation that might lead to mandatory limits on global warming emissions.¹²⁵ After joining the White House staff in 2001, Cooney furthered much the same work agenda from the top ranks of the Bush administration.

During his tenure, Cooney altered and compromised the accuracy of numerous official scientific reports on climate change issued by agencies of the federal government.¹²⁶ For instance, in 2002, as U.S. government scientists struggled to finalize the Climate Change Science Program’s strategic plan, Cooney dramatically altered the document, editing it heavily and repeatedly inserting qualifying words to create an unwarranted aura of scientific uncertainty about global warming and its implications.¹²⁷ (See Appendix C for sample edit.)

As Rick Piltz explained in his resignation letter when he exposed Cooney’s efforts, the government agencies had adapted to the environment created within the Bush administration by “engaging in a kind of anticipatory self-censorship on this and various other matters seen as politically sensitive under this administration.” Even beyond the outright suppression and distortion by Cooney and others, according to Piltz, this self-censorship on the part of career professionals marked one of the most insidious and “deleterious influences of the administration” on climate research efforts within the government.¹²⁸

As successful as ExxonMobil’s efforts to lobby the Bush administration have been, perhaps even more striking is the way the company’s disinformation campaign on global warming science has managed to permeate the highest echelons of the federal government.

On June 10, 2005, Cooney resigned, two days after the *New York Times* first reported Piltz’s revelations. Despite the suspicious timing, the White House claimed that Cooney’s resignation was unrelated to Piltz’s disclosures.¹²⁹ But it was not surprising when Cooney announced, one week after he left the White House, that he was accepting a high-ranking public relations position at ExxonMobil.¹³⁰

One of the most damning incidents involving Cooney also illustrates the extent of ExxonMobil’s influence over the Bush administration policy on global warming. In May 2002, the administration issued the “U.S. Climate Action Report,” which the U.S. State Department was obligated by treaty to file with the United Nations. Major elements of the report were based on an in-depth, peer-reviewed government research report analyzing the potential effects of global warming in the United States. That report, titled “U.S. National Assessment of the Potential Consequences of Climate Variability and Change,”¹³¹ predates the Bush administration and had already been attacked by ExxonMobil.¹³² The report generated widespread headlines such as one in the *New York Times* proclaiming: “Climate Changing, US Says in Report.”¹³³

Not surprisingly, ExxonMobil vociferously objected to the conclusion of the multiagency “Climate Action Report” that climate change posed a significant risk and was caused by human-made emissions.¹³⁴ Concerned about the matter, Cooney contacted Myron Ebell at the Exxon-Mobil-funded Competitive Enterprise Institute. “Thanks for calling and asking for our help,” Ebell responded in a June 3, 2002, email to Cooney that surfaced as a result of a Freedom of Information Act request.¹³⁵ Ebell urged that the President distance himself from the report. Within days, President Bush did exactly that, denigrating the report in question as having been “put out by the bureaucracy.”¹³⁶

In the June 3 email, Ebell explicitly suggests the ouster of then-EPA head Christine Todd Whitman. “It seems to me that the folks at the EPA are the obvious fall guys and we would only hope that the fall guy (or gal) should be as high up as possible,” Ebell wrote. “Perhaps tomorrow we will call for Whitman to be fired.”¹³⁷ Sure enough, Whitman would last for less than a year in her post, resigning in May 2003.¹³⁸ Finally, Ebell pledged he would do what he could to respond to the White House’s request to “clean up this mess.”¹³⁹

A major piece of Ebell’s “clean-up” effort presumably came on August 6, 2003, when the Competitive Enterprise Institute filed the second of two lawsuits calling for the Bush administration to invalidate the National Assessment (a peer-reviewed synthesis report upon which the U.S. Climate Action Report was based). The CEI lawsuit called for it to be withdrawn because it was not based upon “sound science.”¹⁴⁰

Given the close, conspiratorial communication between Ebell and Cooney that had come to light, the lawsuit prompted the attorneys general of Maine and Connecticut to call upon the U.S. Justice Department to investigate the matter.¹⁴¹

However, the Bush administration Justice Department, then led by John Ashcroft, refused to launch such an investigation, despite the fact that the Maine and Connecticut attorneys general stated forcefully that the evidence suggested that Cooney had conspired with Ebell to cause the Competitive Enterprise Institute to sue the federal government. As Maine Attorney General Steven Rowe noted: “The idea that the Bush administration may have invited a lawsuit from a special interest group in order to undermine the federal government’s own work under an international treaty is very troubling.”¹⁴²

A key piece of evidence, unnoticed at the time, strongly suggests just how the scheme fit together. In 2002, in a move virtually unprecedented in its corporate giving program, Exxon-Mobil offered an additional \$60,000 in support for the Competitive Enterprise Institute — specifically earmarked to cover the organization’s unspecified “legal activities.”¹⁴³

In addition to a high level of administration access, ExxonMobil has cultivated close relationships with members of Congress. In July 2005, ExxonMobil’s generous campaign contributions paid off when Congress passed the Energy Policy Act of 2005. This bill, modeled on the President’s 2001 energy plan, provides more than \$7.4 billion in tax breaks and subsidies to the oil and gas industry over 10 years and excludes any provisions that would mandate reductions in U.S. global warming emissions.¹⁴⁴

Joe Barton (R-TX), chair of the House Energy and Commerce Committee from 2004 through 2006 and the lead author of the 2005 energy bill, has received more than \$1 million from the oil and gas industry over the course of his career, including \$22,000 in PAC contributions from ExxonMobil between 2000 and 2006.¹⁴⁵ In addition to shepherding through the massive oil and gas subsidies in that bill, Representative Barton

has played a key role in elevating misleading information and delaying congressional action on global warming. Before he became chair of the full committee in 2004, Barton chaired the Energy and Air Quality Subcommittee. In that capacity, he stated at a March 2001 hearing that as long as he was the subcommittee chair, regulation of global warming emissions would be “off the table indefinitely.” As Barton put it: “I don’t want there to be any uncertainty about that.”¹⁴⁶ In his capacity as chair of the full committee, Barton has held true to his word, holding only two climate-related hearings, both aimed at attacking reputable climate scientists.¹⁴⁷

In February 2005, the American Petroleum Institute—of which ExxonMobil is a powerful member¹⁴⁸—contacted members of Congress to raise questions about aspects of two climate studies from 1998 and 1999.¹⁴⁹ In June 2005, Representative Barton followed the oil industry’s lead, sending letters to three climate scientists—Drs. Michael Mann, Raymond Bradley, and Malcolm Hughes—as well as the Intergovernmental Panel on Climate Change and the National Science Foundation, questioning many aspects of these studies. The letter to the scientists requested a vast amount of data and information related to their research over the past 15 years. While Rep. Barton’s request specifically targeted the results of the so-called “hockey stick” studies (a 2,000-year record of Northern Hemisphere temperature), it also demanded a significant amount of data irrelevant to that set of peer-reviewed studies.

While a spokesman for the representative claims he was only “seeking scientific truth,”¹⁵⁰ Barton seems to willfully misunderstand that the findings of the study in question are only one among a large body of evidence that support the scientific consensus that global warming is under way and that human activity is contributing significantly over the past several decades. Rather

“The idea that the Bush administration may have invited a lawsuit from a special interest group (ExxonMobil-funded CEI) in order to undermine the federal government’s own work under an international treaty is very troubling.”

— STEVEN ROWE,
ATTORNEY GENERAL, MAINE

than basing his inquiry on a careful review of peer-reviewed scientific literature or documents from leading scientific bodies like the National Academy of Sciences, Barton cited a *Wall Street Journal* editorial as his primary source of global warming information.

The scientific community has weighed in strongly. The National Academy of Sciences and the American Association for the Advancement of Science—which rarely take stands on Congressional investigations—sent letters of concern to Barton, as did twenty leading climate scientists. Representative Sherwood Boehlert (R-NY), chair of the House Science Committee, and Representative Waxman (D-CA), then ranking member on the House Government Reform Committee, both submitted letters protesting the tone and content of this investigation.

Despite this response, Representative Barton held two hearings in July 2006, both aimed at attacking the Mann study. Not surprisingly, the witnesses invited to testify at the second hearing included John Christy, who, as detailed earlier, is one of the scientists affiliated with ExxonMobil funded organizations—the Competitive Enterprise Institute and the George C. Marshall Insti-

tute—and Stephen McIntyre, a mining executive also affiliated with the Marshall Institute.

Meanwhile, the most vocal opponent to climate action in the Senate is James Inhofe (R-OK), chair—until January 2007—of the Environment and Public Works Committee. He adamantly denies the reality of global warming and has prevented consideration of climate bills by his committee during his tenure as chair from 2003 to 2006. In September 2005, he went so far as to invite Michael Crichton, a science fiction writer, to testify at a hearing on climate science and policy. Despite Crichton's lack of expertise, he attempted to undermine peer-reviewed climate science in his testimony. Inhofe was also a coplaintiff in the first Competitive Enterprise Institute lawsuit, filed in 2000, which attempted to bar the distribution or use of the National Assessment. Senator Inhofe has received a total of

\$847,123 from ExxonMobil and others in the oil and gas industry over the course of his career.¹⁵¹ Like Big Tobacco before it, ExxonMobil has been enormously successful at influencing the current administration and key members of Congress. From successfully recommending the appointment of key personnel in the Bush administration, to coordinating its disinformation tactics on global warming with high-ranking Bush administration personnel, to funding climate change contrarians in Congress, ExxonMobil and its proxies have exerted extraordinary influence over the policies of the U.S. government during the Bush administration. The cozy relationship ExxonMobil enjoys with government officials has enabled the corporation to work effectively behind the scenes to block federal policies and shape government communications on global warming.

PUTTING THE BRAKES ON EXXONMOBIL'S DISINFORMATION CAMPAIGN

For more than two decades, ExxonMobil scientists have carefully studied and worked to increase understanding of the issue of global climate change.

—EXXONMOBIL WEBSITE, 2006¹⁵²

In September 2006, the Royal Society, Britain's premier scientific academy, sent a letter to ExxonMobil urging the company to stop funding the dozens of groups spreading disinformation on global warming and also strongly criticized the company's "inaccurate and misleading" public statements on global warming.¹⁵³ ExxonMobil responded by defending the statement in its 2005 Corporate Citizenship Report that scientific uncertainties make it "very difficult to determine objectively the extent to which recent climate changes might be the result of human actions."¹⁵⁴ However, ExxonMobil also stated that it has stopped funding the Competitive Enterprise Institute, although it is unclear whether its support is discontinued permanently. Either way, as of this publication date, this commitment leaves intact the rest of ExxonMobil's carefully constructed echo chamber of climate disinformation.

The unprecedented letter from the British Royal Society demonstrates the level of frustration among scientists about ExxonMobil's efforts to manufacture uncertainty about global warming. ExxonMobil's dismissive response shows that more pressure is needed to achieve a real change in the company's activities.

The time is ripe to call for a dramatic shift in ExxonMobil's stance on global warming. After nearly 13 years, Lee Raymond, an outspoken enemy of environmental regulation, stepped down at the end of 2005 and the company promoted

Rex Tillerson to the position of CEO. While Tillerson has been less confrontational than his predecessor on the global warming issue, he has yet to make real commitments on global warming. He has an opportunity to implement key changes in ExxonMobil's climate change activities and should be encouraged to do so through a wide variety of approaches: congressional action, shareholder engagement, media accountability, and consumer action.

CONGRESSIONAL ACTION

Elected officials can and should assert their independence from ExxonMobil in several ways.

Oversight

Lawmakers should conduct oversight of ExxonMobil's disinformation campaign as well as its effort to delay action on global warming. Congressional investigations played a key role in revealing the extent of Big Tobacco's work to hide the public health impacts of smoking. By requiring ExxonMobil executives to testify before Congress and by obtaining internal documents through subpoena, congressional investigators could expose additional information about ExxonMobil's strategic disinformation campaign on global warming.

Campaign Contributions

Lawmakers and candidates should reject campaign

contributions from ExxonMobil and its executives until the disinformation campaign ceases and the corporation ends its opposition to mandatory regulation of global warming emissions from fossil fuels.

Policy Action

The true signal that ExxonMobil's disinformation campaign has been defeated will come when Congress passes policies that ensure global warming emission reductions. Congress should bring stakeholders—including ExxonMobil—to the table, as lawmakers develop and enact a set of policies to achieve mandatory global warming emission reductions such as improved energy efficiency standards for appliances and vehicles, renewable electricity standards, and economywide caps on global warming emissions. In addition, Congress should shift government energy support and incentives away from conventional coal, oil, and gas and toward clean, renewable energy sources. Lawmakers should also encourage the integration of low carbon fuels into the supply chain by developing policies to ensure that more gas stations sell biofuels such as E85 and that flexible fuel vehicles comprise a greater percentage of the vehicle fleet.

These actions will not only reduce global warming emissions, but will help address national security concerns about our growing oil dependence, reduce demand pressures that are driving up natural gas prices, save energy consumers billions of dollars, and create hundreds of thousands of new jobs producing clean energy and vehicle technologies.¹⁵⁵

Through these and other efforts, our elected representatives can bring ExxonMobil's campaign of disinformation on global warming to an end.

SHAREHOLDER ENGAGEMENT

Investors will pay a steep price if ExxonMobil refuses to prepare to do business in a world where global warming emission reductions are required,

as they most certainly will be over the next several years. Investors can help shift ExxonMobil's position on global warming and clean energy solutions. ExxonMobil shareholders can join major institutional investors in calling on the company to begin to invest in clean energy options that would protect the long-term health of the corporation and the planet.¹⁵⁶

In 2006, shareholders offered a resolution calling on the ExxonMobil board to establish policies designed to achieve the long-term goal of making ExxonMobil the recognized leader in low-carbon emissions in both the company's production and products. In May 2006, 17 leading U.S. pension funds and other institutional investors holding \$6.75 billion in ExxonMobil shares asked for a face-to-face meeting with members of the ExxonMobil board of directors. This request stemmed from growing concerns in the financial world that ExxonMobil is "a company that fails to acknowledge the potential for climate change to have a profound impact on global energy markets, and which lags far behind its competitors in developing a strategy to plan for and manage these impacts," as articulated in a letter to ExxonMobil from investors in May of 2006.¹⁵⁷ Connecticut State Treasurer Denise Nappier elaborated on the group's concerns, stating that "in effect, ExxonMobil is making a massive bet—with shareholders' money—that the world's addiction to oil will not abate for decades, even as its competitors are taking significant steps to prepare for a rapidly changing energy environment. As investors, we are concerned that ExxonMobil is not sufficiently preparing for 'tomorrow's energy' and runs the risk of lagging significantly behind its rivals."¹⁵⁸

ExxonMobil's competition is indeed moving forward in renewable energy research and deployment. In 2005, BP launched BP Alternative Energy, a project that plans to invest \$8 billion

over the next ten years to advance clean energy technologies such as solar, wind, and bioenergy.¹⁵⁹ Similarly, Shell has invested \$1 billion in alternative energy development since 2000. It is a major biofuels distributor, a developer of the next generation of solar technology, and it has 350 MW of operational wind capacity.¹⁶⁰ While these companies could do more to address global warming, their actions represent an important step. Investors can encourage ExxonMobil to convert funds currently used for the disinformation campaign to add to the recent research and development investments ExxonMobil contributes to institutions devoted to legitimate climate science and solutions research.

Shareholders should also support resolutions calling on ExxonMobil to disclose the physical, financial, and competitive risks that global warming poses to the corporation. For example, the 2005 hurricane season suggests that the country's oil refining infrastructure is vulnerable to an increase in the severity of extreme weather events that scientists project are likely to occur with continued warming. ExxonMobil's total natural gas production decreased in 2005 partly as a result of the impacts of Hurricanes Katrina and Rita in the Gulf of Mexico.¹⁶¹

Individuals who do not have a direct investment in ExxonMobil may own pension funds and mutual funds invested in ExxonMobil. These investors can insist that their fund managers assess the global warming risk of ExxonMobil investments and support global warming shareholder resolutions targeting ExxonMobil. While institutional investors increasingly support these resolutions, mutual fund companies are lagging behind and putting investors at risk. None of the top 100 U.S. mutual funds support climate change resolutions. For example, the three largest mutual fund companies: American Funds, Fidelity, and Vanguard all have major holdings in ExxonMobil,

**Investors will pay a steep price
if ExxonMobil refuses to prepare to
do business in a world where global
warming emission reductions are
required.**

but have not yet committed to support future climate resolutions. More pressure from investors is needed to influence these and other mutual fund companies.

MEDIA ACCOUNTABILITY

Too often, journalists' inclination to provide political "balance" leads to inaccurate media reporting on scientific issues. Far from making news stories more balanced, quoting ExxonMobil-funded groups and spokespeople misleads the public by downplaying the strength of the scientific consensus on global warming and the urgency of the problem. Citizens must respond whenever the media provides a soapbox for these ExxonMobil-sponsored spokespeople, especially when the story fails to reveal their financial ties to ExxonMobil or those of their organizations.

Toward this end, citizens can send letters to the editor highlighting the financial ties that quoted "experts" have to ExxonMobil or ExxonMobil-funded organizations. They can also encourage individual reporters and media outlets to report science accurately. Well-established scientific information should be reported as such, and members of the press should distinguish clearly between those views of their sources that are supported in the peer-reviewed scientific literature versus those that have only been propped up in the ExxonMobil-financed echo chamber.

CONSUMER ACTION

Finally, consumers can exercise their influence in

the marketplace by refusing to purchase Exxon-Mobil's gasoline and other products until the company ends its disinformation campaign. ExxposeExxon, a collaborative campaign led by many of the nation's largest environmental and public interest advocacy organizations, has already gathered boycott pledges from more than 500,000 consumers who are calling on the company to change course on global warming.¹⁶² In particular, consumers should demand that ExxonMobil stop funding groups that disseminate discredited information on global warming and require the organizations it funds to disclose their funding sources and to subject their published, science-based information to peer review.

It is time for ExxonMobil customers to hold the corporation accountable for its environmental rhetoric. For example, ExxonMobil's 2005 Corporate Citizen Report states, "We seek to drive incidents with environmental impact to zero, and to operate in a manner that is not harmful to the environment."¹⁶³ Even while making such pronouncements, ExxonMobil has, as this report demonstrates, been engaged in a disinformation campaign to confuse the public on global warming. At the same time, heat-trapping emissions from its operations continue to grow.

It is critical that ExxonMobil impose strict standards on the groups that receive funding for climate-related activities. Not only should it cease funding groups who disseminate discredited information on global warming, it should require funded organizations to acknowledge Exxon-Mobil support for their work. An incident at a September 2005 National Press Club briefing indicates the importance of such disclosure. At the briefing, Indur Goklany, an analyst at the ExxonMobil-funded National Center for Policy Analysis, presented "Living with Global Warming," a paper that favors adapting to global warm-

ing over curbing the problem with emission reduction. Neither the paper nor Goklany advertised the organization's ties to ExxonMobil, which would have remained undisclosed had not an audience member asked Goklany about the organization's \$315,000 in funding from Exxon-Mobil between 1998 and 2004. Requiring individuals like Goklany to disclose this information will help the public more effectively evaluate the independence of their statements.

In June 2005, U.S. State department documents revealed that the White House considered ExxonMobil "among the companies most actively and prominently opposed to binding approaches [like Kyoto] to cut greenhouse gas emissions."¹⁶⁴ Customers should press ExxonMobil to end its opposition to federal policies that would ensure reductions in U.S. global warming emissions. Moreover, it should be urged to set a goal to reduce the total emissions from its products and operations and demonstrate steady progress toward that goal. Consumers should also call on ExxonMobil to prepare to comply with imminent national and international climate policies by transitioning to cleaner renewable fuels and investing in other clean energy technologies. In particular, Exxon-Mobil should develop a plan to increase production of low-carbon cellulosic ethanol and make it available at its fueling stations.

To make their actions visible to the company, consumers should relay their demands directly to Rex Tillerson at ExxonMobil's corporate headquarters (5959 Las Colinas Boulevard, Irving, Texas 75039-2298; phone number 972-444-1000).

To access web tools focused on holding Exxon-Mobil accountable for its activities on global warming, visit www.ExxposeExxon.com. The site includes sample letters to Rex Tillerson and members of Congress.

*Appendix A***THE SCIENTIFIC CONSENSUS ON GLOBAL WARMING**

The scientific understanding of climate change is now sufficiently clear to justify nations taking prompt action. It is vital that all nations identify cost-effective steps that they can take now, to contribute to substantial and long-term reduction in net global greenhouse gas emissions.

—JOINT STATEMENT BY THE SCIENCE ACADEMIES
OF 11 NATIONS, JUNE 7, 2005

Ever since Svante Arrhenius published “On the influence of carbonic acid in the air upon the temperature of the ground” in 1896, scientists have appreciated the fundamental principle regarding heat-trapping emissions and their influence on Earth’s temperature. The burning of fossil fuels in power plants and vehicles releases heat-trapping emissions, principally carbon dioxide, which accumulates in the atmosphere. These emissions function much like a blanket, trapping heat and warming the planet. The concentration of carbon dioxide in the atmosphere has already increased nearly 40 percent since the dawn of the industrial era and average global temperature is around 1 degree Fahrenheit higher than a century ago.

If global warming emissions grow unabated, climate scientists expect mean temperatures around the world will rise dramatically this century.¹⁶⁵ Without concerted human intervention to try to correct or at least stabilize this trend, researchers have identified a host of disruptive and possibly irreversible consequences, including coastal flooding caused by rising sea levels, an increase in powerful tropical storms, extreme heat waves in summer, and reduced productivity of farms, forests, and fisheries worldwide.¹⁶⁶

This unprecedented rate of recent warming is caused primarily by human activity. That, in a nutshell, is the overwhelming scientific consensus about global climate change, ever since the publication of a landmark review in 2001 by an international panel of leading climate experts under the auspices of the United Nations, called the Intergovernmental Panel on Climate Change (IPCC).¹⁶⁷ The 2001 IPCC assessment drew upon more than 1,200 scientists and approximately 120 countries. It quickly became a standard reference and solidified the scientific consensus about global warming internationally. Released just days after the inauguration of President George W. Bush, the IPCC report laid out the mounting and consistent scientific evidence of global warming. In May 2001, the White House officially asked the U.S. National Academy of Sciences (NAS) to conduct its own review of the IPCC assessment.¹⁶⁸ Within a month, in June 2001, the NAS confirmed the conclusions of the IPCC that global warming is occurring and that it is caused primarily by human activity.¹⁶⁹ More recently, 11 of the world’s major national scientific academies including those from the leading industrialized nations issued a joint statement that declared,

“The scientific understanding of climate change is now sufficiently clear to justify nations taking prompt action. It is vital that all nations identify cost-effective steps that they can take now to contribute to substantial and long-term reduction in net global greenhouse gas emissions.”¹⁷⁰

One of the reasons scientists consider the evidence so compelling is that it draws on such a broad range of sources. In addition to climate specialists who use sophisticated computer models to study climatic trends, researchers from an array of disciplines, including atmospheric scientists, paleoclimatologists, oceanographers, meteorologists, geologists, chemists, biologists, physicists, and ecologists have all corroborated global warming by studying everything from animal migration to the melting of glaciers. Evidence of a dramatic global warming trend has been found in ice cores pulled from the both polar regions, satellite imagery of the shrinking polar ice masses, tree rings, ocean temperature monitoring, and so on.

Ralph Cicerone, President of the National Academy of Sciences stated during a U.S. House of Representatives hearing for the Committee on Energy and Commerce on July 27, 2006: “I think we understand the mechanisms of CO₂ and climate better than we do of what causes lung

cancer...In fact, it is fair to say that global warming may be the most carefully and fully studied scientific topic in human history.”¹⁷¹ Similarly, Donald Kennedy, the editor of *Science*, has noted, “Consensus as strong as the one that has developed around [global warming] is rare in science.”¹⁷²

To get a sense of just how powerful the scientific consensus about global warming is, consider this: in a December 2004 article published in the journal *Science*, Naomi Oreskes, a historian of science at the University of California, San Diego, reviewed the peer-reviewed scientific literature for papers on global climate change published between 1993 and 2003. Oreskes reviewed a random sample of approximately 10 percent of the literature; of the 928 studies, *not one* disagreed with the consensus view that humans are contributing to global warming.¹⁷³

Despite what ExxonMobil might try to tell you, today, in 2006, there is widespread agreement among credentialed climate scientists around the world that human-caused global warming is well under way. Without a concerted effort to curb heat-trapping emissions, it spells trouble for the health and well-being of our planet.

Appendix B

GROUPS AND INDIVIDUALS ASSOCIATED WITH
EXXONMOBIL'S DISINFORMATION CAMPAIGNTable 1 **Select ExxonMobil-Funded Organizations Providing Disinformation on Global Warming**¹⁷⁴

Organization	Total ExxonMobil Funding ¹⁷⁵ (1998–2005)	Illustrative Information
Africa Fighting Malaria	\$30,000	AFM received \$30,000 donation in 2004 for “climate change outreach.” This grant represents 10% of their total expenses for that year. AFM’s website has an extensive collection of articles and commentary that argue against urgent action on climate change. ¹⁷⁶
American Council for Capital Formation, Center for Policy Research	\$1,604,523	One-third of the total ExxonMobil grants to ACCF-CPR between 1998 and 2005 were specifically designated for climate change activities. ExxonMobil funds represent approximately 36% of their total expenses in 2005. ¹⁷⁷
American Council on Science and Health	\$125,000	ExxonMobil donated \$15,000 to ACSH in 2004 for “climate change issues.” A September 2006 Better Business Bureau Wise Giving Alliance Charity Report concludes that the ACSH does not meet all the standards for charity accountability. ¹⁷⁸
American Enterprise Institute	\$1,625,000	Lee R. Raymond, retired chair and CEO of ExxonMobil, is vice chairman of AEI’s Board of Trustees. ¹⁷⁹
American Friends of the Institute of Economic Affairs	\$50,000	American Friends of the IEA received a \$50,000 ExxonMobil donation in 2004 for “climate change issues.” This grant represents 29% of their total expenses for that year. The 2004 IEA study, <i>Climate Alarmism Reconsidered</i> , “demonstrates how the balance of evidence supports a benign, enhanced greenhouse effect.” ¹⁸⁰
American Legislative Exchange Council	\$1,111,700	Of the total ExxonMobil grants to ALEC, \$327,000 was specifically for climate change projects. ALEC received \$241,500 in 2005 from ExxonMobil.
Annapolis Center for Science-Based Public Policy	\$763,500	In 2002, ExxonMobil funds represented approximately 20% of their total expenses. The Annapolis Center’s climate work includes production of materials exaggerating the uncertainty about the human contribution to climate change. Climate contrarians Sallie Baliunas and Richard Lindzen serve as scientific advisors. ¹⁸¹
Arizona State University, Office of Climatology	\$49,500	The Office of Climatology at ASU received an ExxonMobil donation in 2001. Robert C. Balling, Jr., directed the office during this time. ¹⁸² ExxonMobil did not donate to any other offices of climatology between 1998 and 2005.
Atlantic Legal Foundation	\$20,000	The Atlantic Legal Foundation filed an <i>amicus</i> brief on behalf of climate contrarians, Sallie Baliunas, David Legates, and Patrick Michaels, in support of the EPA’s decision against the regulation of carbon dioxide emissions as a pollutant. ¹⁸³ The ALF received several ExxonMobil donations between 1998 and 2005.
Atlas Economic Research Foundation	\$680,000	Atlas Economic Research Foundation received \$65,000 in 1998 for a “global climate conference and other support.” In 2003, ExxonMobil funds represented approximately 6% of their total expenses for that year.
Cato Institute	\$105,000	In 2002, ExxonMobil funds represented approximately 0.2% of the total expenses.
Center for the Defense of Free Enterprise	\$230,000	From 2003 to 2005, ExxonMobil funds represent a significant percentage of the total expenses (2003: 61%, 2004: 143%, 2005: 95%). The largest grant (\$130,000 in 2004) was specified by ExxonMobil for “global climate change issues.”
Centre for the New Europe	\$170,000	ExxonMobil gave \$120,000 between 2004 and 2005 to support the centre’s climate change activities.
Center for the Study of Carbon Dioxide and Global Change	\$90,000	In 2003, ExxonMobil funds represented approximately 14% of total expenses.
Citizens for a Sound Economy Educational Foundation [became FreedomWorks]	\$380,250	CSE received \$275,250 from ExxonMobil in 2001, an increase from \$30,000 the year before. CSE merged with Empower America and became FreedomWorks in 2004. ¹⁸⁴ FreedomWorks maintains that the science of climate change is “far from settled” and cites scientists such as Sallie Baliunas. ¹⁸⁵

Table 1 **Select ExxonMobil-Funded Organizations Providing Disinformation on Global Warming**¹⁷⁴
continued

Organization	Total ExxonMobil Funding ¹⁷⁵ (1998–2005)	Illustrative Information
Committee for a Constructive Tomorrow	\$472,000	Approximately 23% of the total ExxonMobil funding for the CCT was directed by ExxonMobil for climate change activities. The 2004 ExxonMobil grant represented approximately a quarter of their total expenses for that year.
Competitive Enterprise Institute	\$2,005,000	Of the organizations analyzed, CEI received 1.2 times more money from ExxonMobil since 1998 than the second most-funded organization, AEI. In FY 2003, ExxonMobil grants represented approximately 16% of CEI's total expenses.
Congress of Racial Equality (CORE)	\$235,000	In 2004, ExxonMobil donated \$135,000 for climate change activities. This organization is not required to file an annual return with the IRS because its income is reportedly less than \$25,000 annually. ¹⁸⁶
Consumer Alert, Inc.	\$70,000	In 2004, the ExxonMobil grants for climate change “opinion leader and public education efforts” and climate change “outreach to opinion leaders” represented approximately 14% of their total expenses for that year.
Federalist Society for Law & Public Policy Studies	\$90,000	S. Fred Singer is a featured expert for the Federalist Society, which received funding from ExxonMobil every year from 2000 to 2005.
Foundation for Research on Economics and the Environment	\$210,000	FREE's federal judicial seminars in Montana, which were reported in a May 2006 <i>Washington Post</i> article as funded by ExxonMobil and other corporations, have been criticized for facilitating special interest lobbying. ¹⁸⁷ In 2004, ExxonMobil donated \$20,000 for a “climate seminar.”
Fraser Institute	\$120,000	All of the funds ExxonMobil donated to the Fraser Institute between 1998 and 2005 were for climate change work.
Free Enterprise Action Institute	\$130,000	The Free Enterprise Action Institute is registered under Steven Milloy's name and home address. In 2005, ExxonMobil funds represented approximately 64% of total expenses. Tax filings from 2004 and 2005 reported no staff.
Frontiers of Freedom Institute	\$1,002,000	A May 2003 <i>New York Times</i> article reported that the \$232,000 ExxonMobil donation in 2002 (up from \$40,000 the year before) represented approximately one-third of FFI's annual budget. Almost half of their total ExxonMobil donations since 1998 were specifically designated by ExxonMobil for climate change projects. ¹⁸⁸
George C. Marshall Institute	\$630,000	The George C. Marshall Institute has received a steady stream of funding from ExxonMobil for its climate science program: \$405,000 between 2001 and 2004. In 2004, ExxonMobil funds represented approximately 21% of total expenses. The Marshall Institute in turn donated \$12,602 to the Tech Central Science Foundation (Tech Central Station) in 2004. ¹⁸⁹
Heartland Institute	\$561,500	Nearly 40% of the total funds that the Heartland Institute has received from ExxonMobil since 1998 were specifically designated for climate change projects. ExxonMobil donated \$119,000 in 2005, its biggest gift to Heartland since 1998.
Heritage Foundation	\$460,000	ExxonMobil gave \$25,000 in 2002 for “climate change issues.”
Hoover Institution on War, Revolution, and Peace, Stanford University	\$295,000	ExxonMobil donated \$30,000 in 2003 for “global climate change projects.” Climate contrarians Sallie Baliunas and S. Fred Singer were Wesson Fellows for the Hoover Institute, a public policy research center. ¹⁹⁰
Independent Institute	\$70,000	Climate contrarians S. Fred Singer, David Legates, and Frederick Seitz are all research fellows at the Independent Institute, which has received money from ExxonMobil from at least 1998 to 2005.
Institute for Energy Research	\$177,000	The Institute received \$45,000 in 2004 for “climate change and energy policy issues” from ExxonMobil. In 2005, ExxonMobil funds represented approximately 31% of total expenses.
International Policy Network	\$295,000	The International Policy Network's largest grant from ExxonMobil since 1998, \$115,000 in 2004, was specifically designated for “climate change” activities. This grant represented 16% of their total expenses for that year.
Lindenwood University	\$10,000	In 2004, ExxonMobil donated \$5,000 for “climate change outreach.” Lectures publicized on the university's Institute for Study of Economics and the Environment, for example, question the human contribution to global warming. ¹⁹¹
Media Research Center	\$150,000	\$100,000 of the total funds the Media Research Center received from ExxonMobil between 1998 and 2005 were specifically designated for climate change activities.

Table 1 **Select ExxonMobil-Funded Organizations Providing Disinformation on Global Warming**¹⁷⁴
continued

Organization	Total ExxonMobil Funding ¹⁷⁵ (1998–2005)	Illustrative Information
Mercatus Center, George Mason University	\$80,000	ExxonMobil funded \$40,000 in 2004 to support the Mercatus Center's work on climate change regulation.
National Association of Neighborhoods	\$100,000	In 2004, an ExxonMobil grant for work on climate change issues represented approximately 6% of total expenses.
National Center for Policy Analysis	\$420,900	The NCPA received funding from ExxonMobil every year from 2000 to 2005. NCPA climate work includes, for example, a paper authored by climate contrarian David Legates that argued the arctic polar bear population was not threatened by global warming. ¹⁹² The NCPA also cites the work of Robert Balling, Jr., John Christy, and other climate contrarians.
National Center for Public Policy Research	\$280,000	In 2003, ExxonMobil gave the center \$30,000 to fund the EnviroTruth website (www.envirotruth.org), which purportedly provides information on the "truths and falsehoods" of a variety of environmental issues, including climate change. ¹⁹³
National Environmental Policy Institute	\$75,000	Steven Milloy is the former director of the NEPI. ¹⁹⁴ ExxonMobil funds in 2000 represented 3% of their total expenses that year. The activities of NEPI's Global Climate Science Project included a Congressional roundtable and white paper referencing several climate contrarians. ¹⁹⁵
Pacific Research Institute for Public Policy	\$355,000	PRI's largest donation from ExxonMobil since 1998 is \$100,000 in 2004 (up from \$45,000 for each of the two previous years). ExxonMobil allocated half of this grant for "climate change and environmental quality research."
Science and Environmental Policy Project	\$20,000	SEPP was founded by climate contrarian S. Fred Singer. ¹⁹⁶ ExxonMobil donated \$10,000 in 2000 for project support.
The Advancement of Sound Science Center, Inc.	\$50,000	ExxonMobil funds represented approximately 65% of total expenses in FY 2002.
Tech Central Station	\$95,000	The DCI Group ran TCS until TCS was sold in September 2006. ¹⁹⁷ The DCI Group is a registered ExxonMobil lobbying firm. ¹⁹⁸
Weidenbaum Center, Washington University (formerly Center for the Study of American Business)	\$345,000	Murray Weidenbaum, honorary chair, has written about the "great uncertainty" of the human contribution to global warming. ¹⁹⁹ The center received \$70,000 from ExxonMobil in 1998 for "Global Climate Change and other support" and published papers by climate contrarians Patrick Michaels (1998) and S. Frederick Singer (1999).

TOTAL: \$15,837,873

Table 2 **Scientific Spokespeople Affiliated with ExxonMobil-Funded Groups**

Name	Affiliation With ExxonMobil-Funded Organizations	Title/Role
Sallie Baliunas	Annapolis Center for Science Based Public Policy	Science and Economic Advisory Council Member ²⁰⁰
	Committee for a Constructive Tomorrow	Academic and Scientific Advisory Board Member ²⁰¹
	Competitive Enterprise Institute	Report Author ²⁰²
	George C. Marshall Institute	Senior Scientist, ²⁰³ and Chair of Science Advisory Board ²⁰⁴
	Global Climate Coalition	Featured Scientist ²⁰⁵
	Heartland Institute	Writer/contributor ²⁰⁶
	Heritage Foundation	Writer/contributor ²⁰⁷
	Hoover Institution on War, Revolution and Peace	Robert Wesson Endowment Fund Fellow (1993-4) ²⁰⁸
Robert C. Balling, Jr.	Tech Central Station	Science Round Table Member ²⁰⁹
	Cato Institute	Book Author ²¹⁰
	Committee for a Constructive Tomorrow	Academic and Scientific Advisory Board Member ²¹¹
	Heritage Foundation	Policy Expert ²¹²
	International Policy Network	Writer/contributor ²¹³
John Christy	Tech Central Station	Science Roundtable Member ²¹⁴
	Competitive Enterprise Institute	Report and Article Authors ²¹⁵
Hugh Ellsaesser	Independent Institute	Report Author ²¹⁶
	Committee for a Constructive Tomorrow	Academic and Scientific Advisory Board Member ²¹⁷
Sherwood B. Idso	Consumer Alert	Advisory Council Member ²¹⁸
	Center for the Study of Carbon Dioxide and Global Change	President ²¹⁹
	Committee for a Constructive Tomorrow	Academic and Scientific Advisory Board Member ²²⁰
David R. Legates	George C. Marshall Institute	Report Author ²²¹
	Competitive Enterprise Institute	Former Adjunct Scholar ²²²
	George C. Marshall Institute	Report Author ²²³
	Heartland Institute	Featured Author ²²⁴
	Independent Institute	Research Fellow ²²⁵
	National Center for Policy Analysis	Adjunct Scholar and E-team Expert ²²⁶
Richard Lindzen	Tech Central Station	Science Roundtable Member ²²⁷
	Annapolis Center for Science Based Public Policy	Science and Economic Advisory Council Member ²²⁸
	Cato Institute	Contributing Expert ²²⁹
	George C. Marshall Institute	Report Author ²³⁰

Table 2 **Scientific Spokespeople Affiliated with ExxonMobil-Funded Groups** continued

Name	Affiliation With ExxonMobil-Funded Organizations	Title/Role
Patrick J. Michaels	American Council on Science and Health	Scientific Advisor ²³¹
	American Legislative Exchange Council	Report Author ²³²
	Cato Institute	Senior Fellow in Environmental Studies ²³³
	Committee for a Constructive Tomorrow	Academic and Scientific Advisory Board Member ²³⁴
	Competitive Enterprise Institute	CEI expert ²³⁵
	Consumer Alert	Advisory Council Member ²³⁶
	George C. Marshall Institute	Book Editor and Contributor ²³⁷
	Heartland Institute	Writer/contributor ²³⁸
	Heritage Foundation	Policy Expert ²³⁹
	Tech Central Station	Science Roundtable member ²⁴⁰
	Weidenbaum Center	Study Author ²⁴¹
Fredrick Seitz	Atlantic Legal Foundation	Director Emeritus ²⁴²
	Committee for a Constructive Tomorrow	Academic and Scientific Advisory Board Member ²⁴³
	George C. Marshall Institute	Chairman Emeritus and Member of the Board of Directors ²⁴⁴
	Independent Institute	Research Fellow ²⁴⁵
	Science and Environmental Policy Project	Chairman of the Board of Directors ²⁴⁶
S. Fred Singer	American Council on Science and Health	Scientific Advisor ²⁴⁷
	Cato Institute	Writer/contributor ²⁴⁸
	Centre for the New Europe	Featured Expert ²⁴⁹
	Federalist Society for Law and Public Policy Studies	Featured Expert ²⁵⁰
	Frontiers of Freedom	Adjunct Fellow ²⁵¹
	Heritage Foundation	Senior Fellow ²⁵²
	Hoover Institution on War, Revolution and Peace	Robert Wesson Endowment Fund Fellow and Featured Author ²⁵³
	Independent Institute	Research Fellow ²⁵⁴
	National Center for Policy Analysis	Adjunct Scholar ²⁵⁵ and E-team Expert ²⁵⁶
	Science and Environmental Policy Project	President ²⁵⁷
	Weidenbaum Center	Study Author ²⁵⁸
Willie Soon	Fraser Institute	Featured Expert ²⁵⁹
	Frontiers of Freedom	Chief Scientific Researcher for the Organization's Center for Science and Public Policy ²⁶⁰
	George C. Marshall Institute	Senior Scientist ²⁶¹
	Heartland Institute	Writer/contributor ²⁶²
	Tech Central Station	Science Roundtable member ²⁶³

Table 3 **Key Personnel Overlap between Tobacco and Climate Disinformation Campaigns**

Person	Tobacco Company Affiliation	Climate Campaign Role*
Doug Goodyear	VP, Walt Klein and Associates, PR firm for R.J. Reynolds tobacco company (RJR) Cofounder, Ramhurst, an ostensibly grassroots organization for "smokers' rights" that received funding from RJR ²⁶⁴	CEO, DCI Group, a registered ExxonMobil lobbying firm that created Tech Central Station, an on-line journal that publishes articles by climate contrarians. Director, Tech Central Science Foundation, funding arm of Tech Central Station ²⁶⁵
Timothy N. Hyde	Senior Director of Public Issues, RJR, 1988 to 1997 ²⁶⁶	Managing Partner, DCI Group
Steven Milloy	Headed The Advancement of Sound Science Coalition (TASSC), a group that the Philip Morris tobacco company covertly created in 1993 to manufacture uncertainty about the health hazards posed by secondhand smoke ²⁶⁷	Member, Global Climate Science Team (GCST), a group created in part by ExxonMobil that outlined an explicit strategy to invest millions of dollars to manufacture uncertainty on the issue of global warming ²⁶⁸ Home address listed for the slightly renamed The Advancement of Sound Science <i>Center</i> (TASSC) and the Free Enterprise Action Institute, both funded by ExxonMobil ²⁶⁹
Frederick Seitz	Employed by RJR to oversee the company's medical research funding, 1979 to 1989 ²⁷⁰	Emeritus chair of the ExxonMobil-funded George C. Marshall Institute ²⁷¹ Wrote and circulated a letter asking scientists to sign a petition calling upon the U.S. government to reject the Kyoto Protocol ²⁷²
Tom Synhorst	Midwestern Field Coordinator, RJR ²⁷³	Chair, DCI Group

* Major climate campaign roles were identified; this is not a comprehensive list.

Appendix C

KEY INTERNAL DOCUMENTS

- 1998 “Global Climate Science Team” memo
- APCO memo to Philip Morris regarding the creation of TASCC
- Dobriansky talking points
- Randy Randol’s February 6, 2001, fax to the Bush team calling for Watson’s dismissal
- Sample mark up of Draft Strategic Plan for the Climate Change Science Program by Philip Cooney
- Email from Mryon Ebell, Competitive Enterprise Institute, to Phil Cooney

1998 "Global Climate Science Team" memo

Global warming: The campaign by the American Petroleum Institute

Page 1 of 6

This is meant as a discussion item within Shell.

The material below contains a memo by the API from April 1998.

Memo

Joe Walker

To: Global Climate Science Team

Cc: Michelle Ross; Susan Meyer

Subject: Draft Global Climate Science Communications plan

As promised, attached is the draft Global Climate Science Communications Plan that we developed during our workshop last Friday. Thanks especially to those of you who participated in the workshop and in particular to John Adams for his very helpful thoughts following up our meeting, and Alan Caudell for turning around the notes from our workshop so quickly.

Please review the plan and get back to me with your comments as soon as possible.

At those of you who were at the workshop from, we have scheduled a follow-up team meeting to review the plan in person on Friday, April 17, from 1 to 3 pm at the API headquarters. After that, we hope to have a "plan champion" help us move it forward to potential funding sources, perhaps starting with the global climate "Coordinating Council." That will be an item for discussion on April 17.

Again, thanks for your hard work on this project. Please e-mail me, call or let me with your comments. Thanks.

Regards,
Joe Walker

Global Climate Science Communications

Action Plan

Situation Analysis

In December 1997, the Clinton Administration agreed in Kyoto, Japan, to a treaty to reduce greenhouse gas emissions to prevent what it purports to be changes in the global climate caused by the continuing release of such emissions. The so-called green house gases have many sources. For example, water vapor is a greenhouse gas. But the Clinton Administration's action, if eventually approved by the U.S. Senate, will mainly affect emissions from fossil fuel (gasoline, coal, natural gas, etc.) combustion.

As the climate change debate has evolved, those who oppose action have argued mainly that signing such a treaty will place the U.S. at a competitive disadvantage with most other nations, and will be extremely expensive to implement. Much of the cost will be borne by American consumers who will pay higher prices for most energy and transportation.

The climate change theory being advanced by the treaty supporters is based primarily on forecasting models with a very high degree of uncertainty. In fact, it's not known for sure whether (a) climate change actually is

http://www.euronet.nl/users/e_wesker/ew@shell/API-prop.html

9/8/2006

occurring, or (b) if it is, whether humans really have any influence on it.

Despite these weaknesses in scientific understanding, those who oppose the treaty have done little to build a case against precipitous action on climate change based on the scientific uncertainty. As a result, The Clinton Administration and environmental groups essentially have had the field to themselves. They have conducted an effective public relations program to convince the American public that the climate is changing, we humans are at fault, and we must do something about it before calamity strikes.

The environmental groups know they have been successful. Commenting after the Kyoto negotiations about recent media coverage of climate change, Tom Wathen, executive vice president of the National Environmental Trust, wrote:

"...As important as the extent of the coverage was the tone and tenor of it. In a change from just six months ago, most media stories no longer presented global warming as just a theory over which reasonable scientists could differ. Most stories described predictions of global warming as the position of the overwhelming number of mainstream scientists. That the environmental community had, to a great extent, settled the scientific issue with the U.S. media is the other great success that began perhaps several months earlier but became apparent during Kyoto."

Because the science underpinning the global climate change theory has not been challenged effectively in the media or through other vehicles reaching the American public, there is widespread ignorance, which works in favor of the Kyoto treaty and against the best interests of the United States. Indeed, the public has been highly receptive to the Clinton Administration's plans. There has been little, if any, public resistance or pressure applied to Congress to reject the treaty, except by those "inside the Beltway" with vested interests.

Moreover, from the political viewpoint, it is difficult for the United States to oppose the treaty solely on economic grounds, valid as the economic issues are. It makes it too easy for others to portray the United States as putting preservation of its own lifestyle above the greater concerns of mankind. This argument, in turn, forces our negotiators to make concessions that have not been well thought through, and in the end may do far more harm than good. This is the process that unfolded at Kyoto, and is very likely to be repeated in Buenos Aires in November 1998.

The advocates of global warming have been successful on the basis of skillfully misrepresenting the science and the extent of agreement on the science, while industry and its partners refuted the science and fought on the economic issues. Yet if we can show that science does not support the Kyoto treaty - which most true climate scientists believe to be the case - this puts the United States in a stronger moral position and frees its negotiators from the need to make concessions as a defense against perceived selfish economic concerns.

Upon this tableau, the Global Climate Science Communications Team (GCSCT) developed an action plan to inform the American public that science does not support the precipitous action Kyoto would dictate, thereby providing a climate for the right policy decisions to be made. The team considered results from a new public opinion survey in developing the plan.

Charlton Research's survey of 1,100 "informed Americans" suggests that while Americans currently perceive climate change to be a great threat, public opinion is open enough to change on climate science. When informed that "some scientists believe there is not enough evidence to suggest that [what is called global climate change] is a long-term change due to human behavior and activities," 58 percent of those surveyed said they were more likely to oppose the Kyoto treaty. Moreover, half the respondents harbored doubts about climate science.

GCSCT members who contributed to the development of the plan are A. John Adams, John Adams Associates; Candace Crandall, Science and Environmental Policy Project; David Rothbard, Committee For A Constructive Tomorrow; Jeffrey Salomon, The Marshall Institute; Lee Garrigan, environmental issues, Council; Lynn Rutchey and Myron Elwell, Frontiers of Freedom; Peter Cleary, Americans for Tax Reform; Randy Randal, Exxon Corp.; Robert Gehri, The Southern Company; Sharon Kneiss, Chevron Corp; Steve Milliny, The Advancement of Sound Science Coalition; and Joseph Walker, American Petroleum Institute.

The action plan is detailed on the following pages.

Global warming: The campaign by the American Petroleum Institute

Page 3 of 6

Global Climate Science Communications

Action Plan

Project Goal

A majority of the American public, including industry leadership, recognizes that significant uncertainties exist in climate science, and therefore raises questions among those (e.g. Congress) who chart the future U.S. course on global climate change.

Progress will be measured toward the goal. A measurement of the public's perspective on climate science will be taken before the plan is launched, and the same measurement will be taken at one or more as-yet-to-be-determined intervals as the plan is implemented.

Victory Will Be Achieved When

- Average citizens "understand" (recognize) uncertainties in climate science; recognition of uncertainties becomes part of the "conventional wisdom"
- Media "understands" (recognizes) uncertainties in climate science
- Media coverage reflects balance on climate science and recognition of the validity of viewpoints that challenge the current "conventional wisdom"
- Industry senior leadership understands uncertainties in climate science, making them stronger ambassadors to those who shape climate policy
- Those promoting the Kyoto treaty on the basis of extent science appears to be out of touch with reality

Current Reality

Unless "climate change" becomes a non-issue, meaning that the Kyoto proposal is defeated and there are no further initiatives to thwart the threat of climate change, there may be no moment when we can declare victory for our efforts. It will be necessary to establish measurements for the science effort to track progress toward achieving the goal and strategic success.

Strategies and Tactics

I. National Media Relations Program: Develop and implement a national media relations program to inform the media about uncertainties in climate science; to generate national, regional and local media coverage on the scientific uncertainties, and thereby educate and inform the public, stimulating them to raise questions with policy makers.

Tactics: These tactics will be undertaken between now and the next climate meeting in Buenos Aires/Argentina, in November 1998, and will be continued thereafter, as appropriate. Activities will be launched as soon as the plan is approved, funding obtained, and the necessary resources (e.g., public relations counsel) arranged and deployed. In all cases, tactical implementation will be fully integrated with other elements of this action plan, most especially Strategy II (National Climate Science Data Centre).

Identify, recruit and train a team of five independent scientists to participate in media outreach. These will be individuals who do not have a long history of visibility and/or participation in the climate change debate. Rather, this team will consist of new faces who will add their voices to those recognized scientists who already are vocal.

- Develop a global climate science information kit for media including peer-reviewed papers that undercut the "conventional wisdom" on climate science. This kit also will include understandable communications,

http://www.eurmet.nl/users/z_weske/ew@shc11/APF-prgm.html

1/16/2000

including simple fact sheets that present scientific uncertainties in language that the media and public can understand;

- Conduct briefings by media-trained scientists for science writers in the top 20 media markets, using the information kits. Distribute the information kits to daily newspapers nationwide with offer of scientists to brief reporters at each paper. Develop, disseminate radio news releases featuring scientists nationwide, and offer scientists to appear on radio talk shows across the country.
- Produce, distribute a steady stream of climate science information via facsimile and e-mail to science writers across the country.
- Produce, distribute via syndicate and directly to newspapers nationwide a steady stream of op-ed columns and letters to the editor authored by scientists.
- Convince one of the major news national TV journalists (e.g., John Stossel) to produce a report examining the scientific underpinnings of the Kyoto treaty.
- Organize, promote and conduct through grassroots organizations a series of campus/community workshops/debates on climate science in 10 most important states during the period mid-August through October, 1998.
- Consider advertising the scientific uncertainties in select markets to support national, regional and local (e.g., workshops / debates), as appropriate.

National Media Program Budget -- \$600,000 plus paid advertising

II. Global Climate Science Information Source: Develop and implement a program to inject credible science and scientific accountability into the global climate debate, thereby raising questions about and undercutting the "prevailing scientific wisdom." The strategy will have the added benefit of providing a platform for credible, constructive criticism of the opposition's position on the science.

Tactics: As with the National Media Relations Program, these activities will be undertaken between now and the next climate meeting in Buenos Aires, Argentina, in November 1998, and will continue thereafter. Initiatives will be launched as soon as the plan is approved, funding obtained, and the necessary resources arranged and deployed.

- Establish a Global Climate Science Data Center. The GCSDC will be established in Washington as a non-profit educational foundation with an advisory board of respected climate scientists. It will be staffed initially with professionals on loan from various companies and associations with a major interest in the climate issue. These executives will bring with them knowledge and experience in the following areas:
 - Overall history of climate research and the IPCC process;
 - Congressional relations and knowledge of where individual Senators stand on the climate issue;
 - Knowledge of key climate scientists and where they stand;
 - Ability to identify and recruit as many as 20 respected climate scientists to serve on the science advisory board;
 - Knowledge and expertise in media relations and with established relationships with science and energy writers, columnists and editorial writers;
 - Expertise in grassroots organization; and
 - Unspoiled organization and administration.

The GCSDC will be led by dynamic senior executive with a major personal commitment to the goals of the campaign and easy access to business leaders at the CEO level. The Center will be run on a day-to-day basis by an executive director with responsibility for ensuring targets are met. The Center will be funded at a level that will permit it to succeed, including funding for research contracts that may be deemed appropriate to fill gaps in climate science (e.g., a complete scientific critique of the IPCC research and its conclusions).

- The GCSDC will become a one-stop resource on climate science for members of Congress, the media, industry and all others concerned. It will be in constant contact with the best climate scientists and ensure that their findings and views receive appropriate attention. It will provide them with the logistical and moral support they have been lacking. In short, it will be a sound scientific alternative to the IPCC. Its functions will include:

- Providing an easily accessible database (including a website) of all mainstream climate science information.
- Identifying and establishing cooperative relationships with all major scientists whose research in this field supports our position.
- Establishing cooperative relationships with other mainstream scientific organizations (e.g., meteorologists, geophysicists) to bring their perspectives to bear on the debate, as appropriate.
- Developing opportunities to maximize the impact of scientific views consistent with ours with Congress, the media and other key audiences.
- Monitoring and serving as an early warning system for scientific developments with the potential to impact on the climate science debate, pro and con.
- Responding to claims from the scientific alarmists and media.
- Providing grants for advocacy in climate science, as deemed appropriate.

Global Climate Science Data Center Budget — \$3,000,000 (Spread over two years minimum)

III. National Direct Outreach and Education: Develop and implement a direct outreach program to inform and educate members of Congress, state officials, industry leadership, and school teachers/students about uncertainties in climate science. This strategy will enable Congress, state officials and industry leaders will be able to raise such serious questions about the Kyoto treaty's scientific underpinnings that American policymakers not only will refuse to endorse it, they will seek to prevent progress toward implementation at the Buenos Aires meeting in November or through other ways. Informing teachers/students about uncertainties in climate science will begin to erect a barrier against further efforts to impose Kyoto-like measures in the future.

Tactics: Informing and educating members of Congress, state officials and industry leaders will be undertaken as soon as the plan is approved, funding is obtained, and the necessary resources are arranged and will continue through Buenos Aires and for the foreseeable future. The teachers/students outreach program will be developed and launched in early 1999. In all cases, tactical implementation will be fully integrated with other elements of this action plan.

- Develop and conduct through the Global Climate Science Data Center science briefings for Congress, governors, state legislators, and industry leaders by August 1998.
- Develop information kits on climate science targeted specifically at the needs of government officials and industry leaders, to be used in conjunction with and separately from the in-person briefings to further disseminate information on climate science uncertainties and thereby arm these influential to raise

serious questions on the science issue.

- Organize under the GCSDC a "Science Education Task Group" that will serve as the point of outreach to the National Science Teachers Association (NSTA) and other influential science education organizations. Work with NSTA to develop school materials that present a credible, balanced picture of climate science for use in classrooms nationwide.
- Distribute educational materials directly to schools and through grassroots organizations of climate science partners (companies, organizations that participate in this effort).

National Direct Outreach Program Budget ---- \$300,000

IV. Funding/Fund Allocation: Develop and implement program to obtain funding, and to allocate funds to ensure that the program is carried out effectively.

Tactics: This strategy will be implemented as soon as we have the go-ahead to proceed.

- Potential funding sources were identified as American Petroleum Institute (API) and its members; Business Round Table (BRT) and its members; Edison Electric Institute (EEI) and its members; Independent Petroleum Association of America (IPIAA) and its members; and the National Mining Association (NMA) and its members.
- Potential fund allocators were identified as the American Legislative Exchange Council (ALEC), Committee For A Constructive Tomorrow (CFAT), Competitive Enterprise Institute, Frontiers of Freedom and The Marshall Institute.

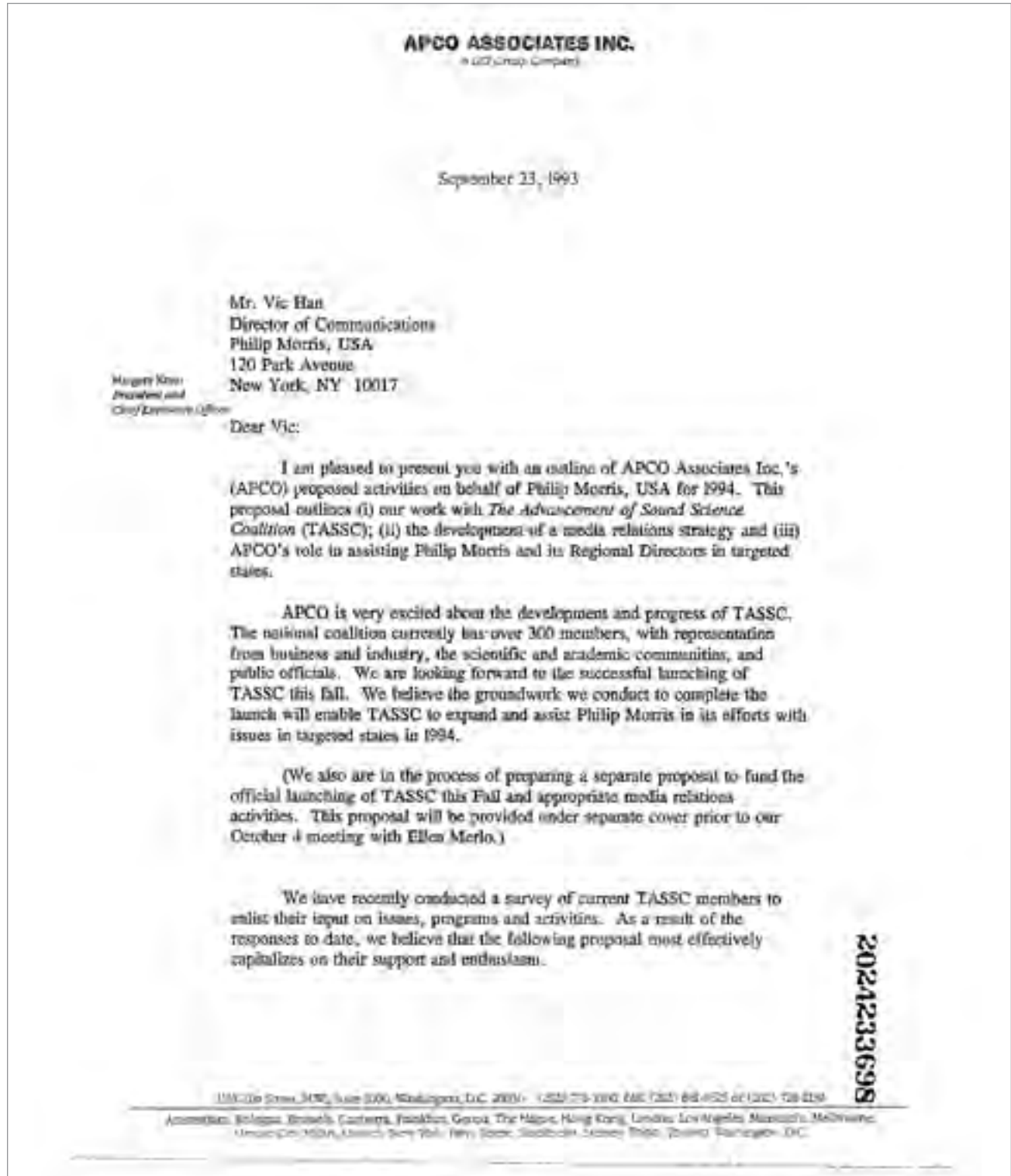
Total Funds Required to Implement Program through November 1998 ---- \$2,000,000 (A significant portion of funding for the GCSDC will be deferred until 1999 and beyond)

Measurements

Various metrics will be used to track progress. These measurements will have to be determined in fleshing out the action plan and may include:

- Baseline public / government official opinion surveys and periodic follow-up surveys on the percentage of Americans and government officials who recognize significant uncertainties in climate science.
- Tracking the percent of media articles that raise questions about climate science.
- Number of Members of Congress exposed to our materials on climate science.
- Number of communications on climate science received by Members of Congress from their constituents.
- Number of radio talk show appearances by scientists questioning the "prevailing wisdom" on climate science.
- Number of school teachers / students reached with our information on climate science.
- Number of science writers briefed and who report upon climate science uncertainties.
- Total audience exposed to newspaper, radio, television coverage of science uncertainties.

APCO memo to Philip Morris regarding the creation of TASCC
(available at <http://tobaccodocuments.org/pm/2024233698-3702.html#images>)



- 2 -

SCOPE OF WORK

APCO proposes three levels of assistance that it can provide to Philip Morris: (i) expanding and overseeing TASSC and its programs; (ii) developing and implementing a comprehensive media relations strategy; and (iii) assisting Philip Morris's Regional Directors in targeted states. Each of these levels are outlined below.

I. EXPANDING AND OVERSEEING TASSC AND ITS PROGRAMS.

APCO proposes services that cover six critical components to the success of TASSC: (i) expanding the membership of TASSC; (ii) broadening the funding base of TASSC; (iii) conducting an on-going and comprehensive research program; (iv) directing the activities and involvement of Garrey Carruthers and other key leaders; (v) coordinating and directing outreach to the scientific and academic communities; and (vi) overseeing and implementing the administrative responsibilities of TASSC.

(i) Expanding the membership of TASSC.

APCO will continue its efforts to develop the direction of TASSC and to expand the membership of the coalition. We will continue to implement a multi-tiered program involving intensive recruitment of high-profile representatives from business and industry, scientists, public officials, and other individuals interested in promoting the use of sound science. This program includes identifying key individuals and groups, researching appropriate issues of importance to them, and developing and implementing the most effective recruitment mechanism. Much of this effort will include extensive research, personal meetings and presentations, and an on-going direct mail membership effort to expand and broaden TASSC's membership.

(ii) Broadening the funding base of TASSC.

APCO will expand its efforts to: (i) enlist additional financial support for TASSC; and (ii) ensure a continuing broad-based source of funds for the national coalition. This effort will require ongoing solicitation of support from Fortune 500 companies and other targeted business and industry groups. The fundraising campaign will include targeting select companies and groups for solicitation, analyzing the most effective way to solicit their support, and conducting personal presentations and "sales pitches". The fundraising effort also will include working closely with Philip Morris to leverage support from its corporate contacts and allies. To ensure that TASSC has a diverse group of contributors, APCO will include a comprehensive direct mail fundraising element in this program.

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- 3 -

(iii) Conducting an ongoing and comprehensive research program.

APCO will conduct a research program which includes monitoring current issues and collecting additional examples of unsound science to ensure that TASSC has the latest information and resources on the issue of unsound science. We also will monitor and maximize leverage with third parties to build and expand the TASSC database of potential allies.

(iv) Directing the activities of Garrey Carruthers and other key leaders.

APCO will direct and manage the activities of Garrey Carruthers and other key leaders participating in TASSC. This includes developing and maintaining his schedule, prioritizing his time and energies, and briefing Carruthers and other appropriate TASSC representatives.

(v) Coordinating and directing outreach to the scientific and academic communities.

APCO will conduct an on-going program of outreach to credible scientists and academicians to enlist their support and participation with TASSC and its related issues. In this regard, APCO will identify and recruit targeted individuals by matching scientists and academicians to key TASSC issues. The scientists and academicians will be encouraged to participate in TASSC media activities.

(vi) Overseeing and implementing the administrative responsibilities of TASSC.

APCO will oversee the day-to-day administrative responsibilities of running the national coalition. This includes the maintenance of member lists and records, directing necessary correspondence on behalf of the coalition, maintaining financial records, and preparing all necessary records and reports.

II. DEVELOPING AND IMPLEMENTING A COMPREHENSIVE MEDIA RELATIONS STRATEGY.

As a follow-up to the launching of TASSC, APCO will implement a comprehensive media relations effort which would include the development of a TASSC Public Information Bureau. The primary objective of the TASSC Public Information Bureau is to (i) maximize coverage of the coalition; (ii) disseminate key messages of the coalition; and (iii) maximize the use of TASSC and its members into Philip Morris's issues in targeted states.

*broader
scope for
media used*

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- 4 -

Our local and regional media efforts will be supplemented with a roll-out of nationally issued press releases. TASSC's Public Information Bureau will release press announcements, news alerts and serve as the "on call" headquarters for coordinating TASSC public information activities. The Bureau's activities will include:

- * Publishing and distributing a monthly update report for all TASSC members, which will quantify media impressions made the prior month and discuss new examples of unsound science.
- * Monitoring the alternative press (i.e., "public interest groups" newsletters and activities) and informing TASSC members of any upcoming studies and relevant news.
- * Arranging media tours.
- * Issuing news releases on a regular basis to news wire services, members, allies, and targeted reporters.
- * Issuing quarterly national "mat" releases to smaller media markets to build grassroots support.
- * Acting as a clearinghouse for speaking requests of TASSC scientists or other members and maintaining a Speakers Bureau to provide speakers for allies and interested groups.
- * Drafting "boilerplate" speeches, press releases and op-eds to be utilized by TASSC field representatives.
- * Placing articles/op-eds in trade publications to serve as a member recruitment tool in targeted industries, such as the agriculture, chemical, food additive, and biotechnology fields.
- * Monitoring the field and serving as a management central command for any crises that occur.

III. ASSISTANCE TO REGIONAL DIRECTORS IN TARGETED STATES

APCO will assist the Regional Directors in states targeted by Philip Morris. This includes utilizing TASSC as a tool in targeted legislative battles, developing and/or working with other coalitions and grassroots groups, and implementing approved campaign tactics and efforts.

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- 3 -

PROPOSED FEES

The proposed fees for each level of assistance is as follows:

I. Expanding and overseeing TASSC and its programs.

Fee of \$20,000 per month, plus appropriate out-of-pocket expenses. In addition to this fee, we will bill an additional amount of \$5,000 to compensate Garrey Carruthers.

II. Developing and implementing a comprehensive media relations strategy.

Fee of \$15,000 per month, plus appropriate out-of-pocket expenses. If there are special media-related projects beyond what currently is anticipated we will provide a special budget for your approval.

III. Assistance to PM's Regional Directors in targeted states.

APCO is currently under contract for \$12,500 per month to respond to the needs of Regional Directors. We hope to work with Tina Walls to understand the number of states targeted for 1994 and the level of assistance required in these states before a final proposed fee can be established.

We have been excited about the progress of TASSC to date and are committed to the continued development and success of the national coalition. If you have any questions, or if I can provide you with additional information, please let me know.


I look forward to discussing this proposal with you.

Sincerely,


Margery Kraus

2021233702

Dobriansky talking points (obtained by ExxonSecrets.org through FOIA request)

	<p style="text-align: center;">UNCLASSIFIED</p> <p style="text-align: right;">200113080</p> <p>United States Department of State Washington, D. C. 20520 <i>02</i> JUN 20 2001</p> <p style="text-align: center;">RELEASED IN FULL</p>
<p style="text-align: center;">BRIEFING MEMORANDUM UNCLASSIFIED S/S</p>	
<p>TO: G - Under Secretary Dobriansky</p> <p>FROM: OES - Ken Brill, Acting <i>KBrill</i></p> <p>SUBJECT: Your Meeting with members of the Global Climate Coalition, June 21, 2001, 9:10 - 9:50 a.m.</p>	
<p>On Thursday morning you will speak to members of the Global Climate Coalition (GCC), a group formed a number of years ago to coordinate the participation of business and industry in domestic and international climate change policy making. GCC members are completely supportive of the Administration's position on climate change and the rejection of the Kyoto Protocol.</p> <p>Our objectives are:</p> <ul style="list-style-type: none">• To emphasize the Administration's commitment to develop a realistic and effective response to climate change;• To brief members on the status of the climate change policy review and principles important to policy development; and• To solicit GCC ideas on alternative to Kyoto as part of continuing dialogue with friends and allies. <p>GCC participants, some of whom are scientific experts, will state that they are 100% behind the remarks articulated by the President on climate change policy. They will be greatly interested in further elaboration of the Administration's domestic and international climate change policy. In general, GCC favors voluntary actions, flexible market-based mechanisms and the development of cost-effective technologies. They will want to know our intentions for the resumed session of COP6.</p> <p>Attachments:</p> <ul style="list-style-type: none">Tab 1 - Talking pointsTab 2 - ScenarioTab 3 - GCC Action Agenda and members	
<p>UNITED STATES DEPARTMENT OF STATE REVIEW AUTHORITY: JOHN L. NILES DATE/CASE ID: 03 MAY 2004 158302595</p>	<p style="text-align: center;"><u>UNCLASSIFIED</u> UNCLASSIFIED</p>

UNCLASSIFIED

02A

RELEASED IN FULL

Talking Points

Climate Change is a serious problem:

- Administration seeks realistic and effective policies.

Protocol was not appropriate response:

- No signal whatsoever that developing countries would have eventually participated.
- Potentially too costly and would never have been ratified. Better to start over now rather than continue charade.

Future constructs:

- Hold to Principles - response must be global, reasoned and flexible; include market incentives and incentives for technological innovation; sustain economic growth.
- Protect U.S. interests in the international negotiations.
- Guard against trade sanctions as means to force Protocol upon the United States.

Solicit views in developing an effective and market-based response:

- POTUS rejected Kyoto, in part, based on input from you.
- POTUS believes, however, we need to show leadership on this issue to advance U.S. domestic and international policy objectives.
- Interested in hearing from you, what type of international alternatives to Kyoto would you support?

UNITED STATES DEPARTMENT OF STATE
REVIEW AUTHORITY: JOHN L. MILLS
DATE/CASE ID: 03 MAY 2004 / 200302592

UNCLASSIFIED

Randy Randol's February 6, 2001, fax to the Bush team calling for Watson's dismissal
(obtained by Natural Resources Defense Council through FOIA request)

FEB-06-2001 10:12 EXXONMOBIL WASH DC

Facsimile Cover Sheet

TO: John Howard
Office: CEQ
FAX: 202.456.2710
Telephone: 202.456.6540

FROM: Randy Randol
Company: ExxonMobil - Washington Office
FAX: 202.862.0267 (Backup: 202.862.0268)
Telephone: 202.862.0220 (Backup: 202.862.0223)
E-Mail: arthur.g.randol@exxon.com

A. G. (Randy) Randol III, Ph.D.
Senior Environmental Advisor

ExxonMobil

Exxon Mobil Corporation
2001 Pennsylvania Avenue, N.W.
Suite 300
Washington, District of Columbia 20005-1813
202 842 0220 Telephone
202 842 0267 Facsimile
arthur.g.randol@exxon.com

Date/Time: 6 Feb 2001, 10:00 a.m.

Pages including Cover: 18

Regarding: Bush Team for IPCC Negotiations

Attached is a brief memo outlining the issues related to the on-going IPCC negotiations on the Third Assessment Report. I have also attached other material that may be useful to you.

I will call to discuss the recommendations regarding the team that can better represent the Bush Administration interests until key appointments and re-assessments are made.

Randy

FEB-06-2001 16:13

EXDND081L WASH DC

2025520258 P.02/18

Global Climate Science-Issues for 2001

A. Intergovernmental Panel on Climate Change (IPCC)

1. The IPCC is on schedule to issue in late September 2001 its Third Assessment Report (TAR), composed of three Working Group Reports on the science, impacts and mitigation of climate change and a Synthesis Report. The IPCC is headed by Robert Watson, an American who is also the chief science person at the World Bank (Director, Environment Dept.) Watson was hand picked by Al Gore and served in the Clinton/Gore White House Office of Science and Technology policy. His tenure at the IPCC ends with the completion of the TAR. However, he could be extended at an IPCC session this year or next.

During the Hague meeting in November, Watson presented a sneak preview of the Third Assessment Report with the following caveat "None of the conclusions presented in this report are taken from the TAR, but are consistent with the draft conclusions, which are subject to change until final government approval and acceptance early next year." His statement belied his real intent, which was to get media coverage of his views before there was a chance for the process to challenge his personal agenda.

Issue: Can Watson be replaced now at the request of the U.S.?

The Working Group Reports are prepared by scientists, economists, engineers, and others, including some persons from industry and environmental organizations. Each report includes a "Summary for Policy Makers" (SPM) that is approved by IPCC governments by consensus in a line-by-line review at a Working Group session with the underlying report (approx. 1000 pages) accepted by the Group at that session.

In the case of the Working Group I report on science, the Group met in plenary in Shanghai, China on January 17-20, approved the SPM, and accepted the report. The US delegation (Moiike lead) was satisfied to raise no objections on the tone and content of the report. To avoid accountability to the Bush Administration, the meeting actually ran until 1:00 a.m. on January 21 which was exactly January 20, 12:00 noon in the U.S. The U.S. was represented by Clinton/Gore carry-overs with aggressive agendas:

1. State Department: **Jeff Moiike**, Deputy Director, Global Change Office, Oceans and International Environmental and Scientific Affairs (and Deputy Chief of Mission, Lesotho)
2. White House Office of Science and Technology Policy: **Rosina Bierbaum**, Associate Director, Environment,
3. White House U.S. Global Change Research Program: **Michael MacCracken**, Executive Director, National Assessment Coordination Office,

IPCC2001
Revised: 2/6/01
Page 1 of 4

FEB-06-2001 10:13

EXXONMOBIL WASH DC

2020020609 P.03/16

Global Climate Science-Issues for 2001

Bierbaum and MacCracken were both actively involved in the production of the US National Assessment that has been roundly criticized for its political and scientific bias. The National Assessment was driven by a political schedule to help the Gore campaign. Several controlled leaks were used to get maximum media attention since Congressional oversight forced a delay in the release of the report.

Issue: *Have Bierbaum and MacCracken been removed from their positions of influence?*

Issue: *What was the U.S. position on the WG1 Report? Did it reflect the comments received?*

While the SPM was written to highlight the "human fingerprint", it also states that: "Further research is required to improve the ability to detect, attribute and understand climate change, to reduce uncertainties, and to project future climate changes."

According to an AP story, Watson, in commenting on the report, which was released by the Group, but which has not yet been accepted by the full IPCC, said:

"The United States is way off meeting its targets," said Watson. "A country like China has done more, in my opinion, than a country like the United States to move forward in economic development while remaining environmentally sensitive."

China, of course, has no commitments under the Kyoto Protocol and its greenhouse gas emissions are growing and will soon exceed those of the U.S.

2. Working Group II is scheduled to meet on the "Impacts of Climate Change" in plenary in Geneva, Switzerland, from February 12-16. Reportedly, the U.S. has submitted comments on the draft report by January 8, which was the deadline. Those comments have not been made public.

Issue: *Who has reviewed those comments?*

Issue: *What is the U.S. position on the report?*

Issue: *Who will represent the U.S. at this meeting?*

Global Climate Science-Issues for 2001

3. Working Group III is scheduled to meet on "Mitigation of Climate Change" in plenary in Accra, Ghana, from February 28 to March 3. Government comments on that draft report/SPM are due to be submitted by January 29.

Issue: *Who has reviewed those comments?*

Issue: *What is the U.S. position on the report?*

Issue: *Who will represent the U.S.? What is U.S. position?*

4. On April 4-8, 2001, the full IPCC is scheduled to meet in plenary in Nairobi, Kenya, to accept by consensus the results of the three Working Groups.

Issue: *Will the U.S. revisit the Working Group I comments of the Clinton/Gore representatives?*

Issue: *Who will represent the U.S. and what will be the U.S. position?*

Issue: *Can this report be deferred until the US has provided updated input(30-45 days)?*

5. The last element of the TAR is the Synthesis Report (SR) that is still being drafted under Robert Watson's control. A draft of the SR, including its SPM, is to be sent out for simultaneous expert and Government review and comment with a deadline of May 29. A second draft is scheduled to be given to Governments only for their review and comment on July 6 with a deadline of August 31. The IPCC plenary will meet in London from September 24-29 to adopt/approve the Synthesis Report by consensus.

Issue: *Can this report be deferred at least 45 days?*

Thereafter the entire TAR will be released(in time for political use at COP-7).

COP-6, held in The Hague last November, ended without finishing its work on implementation of the Kyoto Protocol and with an understanding that it would meet again in 2001, but with no date established. The SBI and SBSTA are scheduled to meet in Bonn, Germany, from May 21-June 1. Some Parties want COP-6 to reconvene during that time. COP-7 is scheduled to meet October 29-November 9 in Marrakech, Morocco, together with the subsidiary bodies.

FEB-06-2001 18:14

EX-02NOBEL WFOH AL

Global Climate Science-Issues for 2001

Recommendations:

1. Restructure the U.S. attendance at upcoming IPCC meetings to assure none of the Clinton/Gore proponents are involved in any decisional activities.

a. Appoint **Dr. John Christy**, University of Alabama-Huntsville(Lead Author-Working Group I) as science lead for the balance of the IPCC process. Phone: 258.981.7783 This replaces Bierbaum and MacCracken.

b. Appoint **Dr. Richard Lindzen**, MIT,(Lead Author-Working Group I) as a co-lead to conduct an immediate review of the comments on the Working Group reports(I, II and III) and to review the US comments to be submitted(II, III). Phone: 617.253.2432

c. Detail **Dr. Joe Friday**, National Research Council-Board on Atmospheric Sciences and Climate(Coordinated the "Research Pathways for the Next Decade" report that the Clinton Admin tried to bury), to work with Christy/Lindzen. Phone: 202.334.3512

d. Detail someone from the State Dept to work under the direction of Christy/Lindzen for the "consensus negotiations". This replaces Moltke.

2. Request that the April 4-6 full IPCC meeting be deferred at least 30 days until a re-assessment of US input can be made.

3. Request that all action related to the Third Assessment Report is deferred until the IPCC process is complete (30-45 days). This must include the Watson release of the draft Synthesis Report.

4. Explore the possibility of asking Speaker Hastert to make **Dr. Harlan Watson**, Hse Science Committee, available to work with the team. Dr. Watson has been recommended for the Assistant Secretary of State for Oceans position.

Sample mark up of Draft Strategic Plan for the Climate Change Science Program, p. 20,
by Philip Cooney, Chief of Staff, White House Council of Environmental Quality, October 2002.
(provided by Rick Piltz, Climate Science Watch)

DRAFT FOR OFFICIAL USE ONLY

1 Representation of polar climate in climate models is not as advanced as that of the lower
2 latitudes. This arises in part because of the limited data available for model development,
3 refinement, and validation, and a limited understanding of the processes at work. An
4 enhanced observation system and the use of existing and future satellite data sets should
5 improve the representation of these areas in climate models, which is necessary to accurately
6 predict future climate changes and assess the potential for these changes to be abrupt.

7

8 Warming temperatures ^{yearly} will also affect Arctic land areas. As continuous permafrost areas
9 become discontinuous and discontinuous areas experience complete summer thawing, the
10 hydrology of northern land areas will be substantially altered. Many of the wetlands,
11 marshes, and perched lakes in the Arctic are underlain by permanent ice. The reduction
12 of this ice ^{would} lead to the infiltration of the water into the soil and widespread changes in
13 vegetation patterns. The release of greenhouse gases such as CH₄ associated with
14 wetlands will expand in areas where meltwater resulting from deeper and longer thaw
15 periods does not have a natural drainage path to the ocean.

16

17 Warming ^{would} also cause reductions in mountain glaciers and advance the timing of the melt
18 of mountain snow packs in polar regions. In turn, runoff rates will change and flood
19 potential ^{would} be altered in ways that are currently not well understood. There will be
20 significant shifts in the seasonality of runoff that will have serious impacts on native
21 populations that rely on fishing and hunting for their livelihood. These changes will be
22 further complicated by shifts in precipitation regimes and a possible intensification and
23 increased frequency of extreme hydrologic events. Reducing the uncertainties in current
24 understanding of the relationships between climate change and Arctic hydrology is critical
25 for evaluating the potential impacts of climate change on Arctic communities and their
26 infrastructure. Further, a better understanding of these relationships may allow the
27 development of monitoring procedures that use changes in the Arctic as a signal of the
28 progress of global climate warming.

29

30 **RESEARCH NEEDS**

31 • Determination of basin-wide Arctic sea ice thickness, particularly in the marginal seas for
32 a period sufficient to determine if observed historic changes are present across the basin.

33 • Modeling of observed sea ice changes to determine the relative role of transport versus
34 net loss.

35 • Establishing the mass balance and ice dynamic regime of the Thwaites/Pine Island
36 drainage system of the West Antarctic Ice Sheet and assessing its stability through
37 observationally-constrained models.

38 • Assessment of the mass balance of the Greenland ice sheet, its variability, and its
39 potential contributions to near-term sea level rise.

40 • Measurement of permafrost temperatures and thaw patterns in sufficient detail for five
41 years to establish regional thaw patterns.

42

43 **PRODUCTS AND PAYOFFS**

44 • Reduced uncertainty in estimates of the future state of the Arctic Ocean, its impact on
45 global climate, and its navigability for strategic and commercial purposes.

*staying from
research
strategy is
speculative
findings jumps
here.*

Draft Date: October 21, 2002

20

Email from Myron Ebell, Competitive Enterprise Institute, to Phil Cooney
(obtained by ExxonSecrets.org through FOIA request)



Myron Ebell <mebell@cei.org>
08/03/2002 05:08:05 PM

Record Type: Record

To: Phil Cooney/CEQ/EOP@EOP

cc:

Subject: Phil, thanks for calling and

Dear Phil,

Thanks for calling and asking for our help. I know you're in crisis mode, but from our end it is a most welcome change from the Administration's SOP, which is to tell conservatives to stop bothering them and to shut up. So it's nice to know we're needed once in a while. I want to help you cool things down, but after consulting with the team, I think that what we can do is limited until there is an official statement from the Administration repudiating the report to the UNFCCC and disavowing large parts of it.

As I said, we made the decision this morning to do as much as we could to deflect criticism by blaming EPA for freelancing. It seems to me that the folks at EPA are the obvious fall guys, and we would only hope that the fall guy (or gal) should be as high up as possible. I have done several interviews and have stressed that the president needs to get everyone rowing in the same direction. Perhaps tomorrow we will call for Whitman to be fired. I know that that doesn't sound like much help, but it seems to me that our only leverage to push you in the right direction is to drive a wedge between the President and those in the Administration who think that they are serving the president's best interests by pushing this rubbish.

The references to the National Assessment in the report are most hurtful to us because we dropped our lawsuit last September 6th after receiving a written assurance that the National Assessment did not represent "policy positions or official statements of the U. S. government." The previous communication from the U. S. government to the UNFCCC was a detailed criticism of the IPCC's Third Assessment Report that reflected that agreement and also implied a disavowal of the National Assessment. So the new transmittal to the UNCCC looks to us much like it looks to the New York Times.

So I'm willing and ready to help, but it won't be possible to do much without some sort of backtracking from the Administration. Unless that occurs, then you have handed an awful lot of ammunition to Jim Jeffords, and the only way we will be able to fight him and all his allies in the Congress is to get much more strident and noisy. Even if the Administration does move quickly to get back on the right side of the issue, it may be too late to save our side in the Senate from being squashed. If it were only this one little disaster we could all lock arms and weather the assault, but this Administration has managed, whether through incompetence or intention, to create one disaster after another and then to expect its allies to clean up the mess. I don't know whether we have the resources to clean up this one.

Best,
Myron.

ENDNOTES

- 1 Fortune 500, 2006, Annual ranking of America's largest corporations, <http://money.cnn.com/magazines/fortune/fortune500/snapshots/496.html>.
- 2 International Monetary Fund, 2006, World Economic Outlook Database, April, <http://www.imf.org/external/pubs/ft/weo/2006/01/data/index.htm>.
- 3 Romero, S., and E.L. Andrews, 2006, At Exxon Mobil, a record profit but no fanfare, *New York Times*, January 31; also cited in Fortune 500, Annual ranking.
- 4 ExxonMobil Corporation, 2005, Carbon Disclosure Project (CDP) greenhouse gas emissions questionnaire, http://www.exxonmobil.com/corporate/files/corporate/cdp_response.pdf; ExxonMobil Corporation, 2005, Corporate Citizen Report, environmental performance section, http://www.exxonmobil.com/Corporate/Files/Corporate/ccr05_enviro.pdf.
- 5 ExxonMobil Corporation, 2005, Annual Report, Section 3: Environmental Performance, http://www.exxonmobil.com/Corporate/Files/Corporate/ccr05_enviro.pdf. This includes direct emissions from production of oil and gas, refining of oil products, manufacture of petrochemicals, and operation of power and cogeneration facilities, as well as company-operated marine vessels and road tankers.
- 6 Ibid., 43. Based on ExxonMobil 2005 total product sales for gasoline, aviation fuels, heavy fuels, heating oils, kerosene, and diesel. See also Environmental Protection Agency (EPA), 2005, *U.S. Inventory of Greenhouse Gas Emissions and Sinks 1990–2003*, Washington, DC, for the conversion coefficients used to determine carbon dioxide emissions for combustion of each product sold by ExxonMobil in 2005. [http://yosemite.epa.gov/oar/globalwarming.nsf/UniqueKey-Lookup/RAMR5CZKVE/\\$File/gbgbrochure.pdf](http://yosemite.epa.gov/oar/globalwarming.nsf/UniqueKey-Lookup/RAMR5CZKVE/$File/gbgbrochure.pdf). Contact Union of Concerned Scientists to obtain calculation.
- 7 Krugman, P., 2006, Enemy of the planet, *New York Times*, April 17.
- 8 See, for instance, Healy, J., 2005, Alternate energy not in cards at ExxonMobil, *USA Today*, October 27.
- 9 Mouawad, J., 2006, Exxon reports 7% increase in earnings: Shares fall, *New York Times*, April 28.
- 10 ABC News, 2006, Oil: Exxon chairman's \$400 million parachute, <http://abcnews.go.com/GMA/story?id=1841989&page=1>, April 14.
- 11 Center for Responsive Politics, Oil & gas: Top contributors to federal candidates and parties (2000), <http://www.opensecrets.org/industries/contrib.asp?Ind=E01&Cycle=2000>.
- 12 Center for Responsive Politics. Visit <http://www.opensecrets.org/lobbyists/index.asp> and search for client Exxon Mobil. For 1998, search for both Exxon Corp and Mobil Oil.
- 13 ExxonMobil corporate reports including: Exxon Corporation, 1998, Public Information and Policy Research, Community and Sponsorships Giving Report; Exxon Corporation, 1999, IRS 990 form; ExxonMobil Foundation, 2000, IRS 990 form; ExxonMobil Corporation, 2001–2002, Annual report; ExxonMobil Corporation, 2003–2005, Worldwide Contributions and Community Investments, Public Information and Policy Research.
- 14 Tobacco Industry Research Committee, 1954, A frank statement to cigarette smokers, <http://tobaccodocuments.org/rjr/512678655-8656.html>, document codes 512678655-512678656.
- 15 See <http://www.tobaccodocuments.org>. See also Glantz, S.A., et al., eds, 1996, *The Cigarette Papers*, Berkeley: University of California Press; and Kessler, D., 2001, *A Question of Intent: A Great American Battle With a Deadly Industry*, New York: Public Affairs.
- 16 Tobacco Industry Research Committee, A frank statement.
- 17 Glantz, et al., *The Cigarette Papers*; Kessler, *A Question of Intent*. See also Wells, J.K., III, 1980, New strategy on smoking & health, <http://tobaccodocuments.org/landman/38769.html>, document codes 680051009-680051014.
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- 19 Brown & Williamson (B&W), 1969, Smoking and health proposal, <http://tobaccodocuments.org/landman/332506.html>, document codes 690010951-690010959.
- 20 Michaels, D., and C. Monforton, 2005, Manufacturing uncertainty: Contested science and the protection of the public's health and environment, *American Journal of Public Health* 95(S1), S39-S48.
- 21 Committee of Experts on Tobacco Industry Documents, World Health Organization, 2000, Tobacco company strategies to undermine tobacco control activities at the World Health Organization, Geneva, Switzerland, July 1, Paper WHO7, <http://repositories.cdlib.org/tc/whotcp/WHO7/>.
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Exhibit E

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Exhibit F

Establishing Accountability for Climate Change Damages: *Lessons from Tobacco Control*

Summary of the Workshop on Climate Accountability,
Public Opinion, and Legal Strategies

Martin Johnson House
Scripps Institution of Oceanography
La Jolla, CA, June 14–15, 2012

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Accountability Institute. All rights reserved.

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The Union of Concerned Scientists is the leading
science-based nonprofit working for a healthy
environment and a safer world. More information
about UCS is available on the UCS website at
www.ucsusa.org.

The Climate Accountability Institute engages
in research and education on anthropogenic
climate change, dangerous interference with the
climate system, and the contribution of fossil fuel
producers' carbon production to atmospheric
carbon dioxide content. This encompasses the
science of climate change, the civil and human
rights associated with a stable climate regime not
threatened by climate-destabilizing emissions of
greenhouse gases, and the risks, liabilities, and
disclosure requirements regarding past and future
emissions of greenhouse gases attributable to
primary carbon producers.

Contents

Preface 3

1. Introduction 5

2. Lessons from Tobacco Control:
 Legal and Public Strategies 7

3. Climate Legal Strategies:
 Options and Prospects 11

4. Attribution of Impacts and Damages:
 Scientific and Legal Aspects 15

5. Public Opinion and
 Climate Accountability 21

6. Conclusion 27

Endnotes 30

Appendices

A. Workshop Agenda 31

B. Participants 34

Preface

The workshop sought to compare the evolution of public attitudes and legal strategies related to tobacco control with those related to anthropogenic climate change.

For many years after scientists first concluded that smoking causes cancer, the tobacco companies continued to win court cases by arguing, among other things, that smokers assumed the risk of smoking and that no specific cancer deaths could be attributed to smoking. At some point, however, the tobacco companies began to lose legal cases against them even though the science had not substantively changed. Juries began to find the industry liable because tobacco companies had known their products were harmful while they publicly denied the evidence, targeted youth, and manipulated nicotine levels.

To explore how this transformation happened, and to assess its implications for people working to address climate change, the Union of Concerned Scientists and the Climate Accountability Institute brought together about two dozen leading scientists, lawyers and legal scholars, historians, social scientists, and public opinion experts for a June 14–15, 2012, workshop at the Scripps Institution of Oceanography in La Jolla, CA.

Specifically, the workshop sought to compare the evolution of public attitudes and legal strategies related to tobacco control with those related to anthropogenic climate change, fostering an exploratory, open-ended dialogue about whether we might use the lessons from tobacco-related education, laws, and litigation to address climate change. The workshop explored which changes now being observed (e.g., increasing extreme heat, sea level rise) can be most compellingly attributed to human-caused climate change, both scientifically and in the public mind. Participants also considered options for communicating this scientific attribution of climate impacts in ways that would maximize public understanding and produce the most effective mitigation and adaptation strategies.

The workshop explored the degree to which the prospects for climate mitigation might improve with public acceptance (including judges and juries) of the causal relationships between fossil fuel production, carbon emissions, and climate change. Participants

debated the viability of diverse strategies, including the legal merits of targeting carbon producers (as opposed to carbon emitters) for U.S.-focused climate mitigation. And finally, the group sought to identify the most promising and mutually reinforcing intellectual, legal, and/or public strategies for moving forward. We are pleased to share the outcome of these preliminary workshop discussions. Among the many points captured in this report, we want to highlight the following:

- A key breakthrough in the public and legal case for tobacco control came when internal documents came to light showing the tobacco industry had knowingly misled the public. Similar documents may well exist in the vaults of the fossil fuel industry and their trade associations and front groups, and there are many possible approaches to unearthing them.
- Drawing upon the forthcoming “carbon majors” analysis by Richard Heede, it may be feasible and highly valuable to publicly attribute important changes in climate, such as sea level rise, to specific carbon producers. Public health advocates were effective in attributing the health impacts of smoking to major tobacco companies.
- While we currently lack a compelling public narrative about climate change in the United States, we may be close to coalescing around one. Furthermore, climate

Climate change may loom larger today in the public mind than tobacco did when public health advocates began winning policy victories.

change may loom larger today in the public mind than tobacco did when public health advocates began winning policy victories. Progress toward a stronger public narrative might be aided by use of a “dialogic approach” in which climate advocates work in partnership with the public. Such a narrative must be both scientifically robust and emotionally resonant to cut through the fossil fuel industry’s successful efforts to sow uncertainty and confusion.

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Climate Accountability, Public Opinion, and Legal Strategies Workshop

*Martin Johnson House, Scripps Institution of Oceanography,
La Jolla, CA, June 14-15, 2012*

1. Introduction

Tobacco companies realized they did not need to prove their products were safe. Rather, they had only to implement a calculated strategy to foster doubt about the science.

For decades after U.S. tobacco firms first became aware of strong scientific evidence linking smoking to cancer in the mid-1950s, the industry adopted a public relations strategy that knowingly sought to confuse people about the safety of its products. As we now know, tobacco industry lawyers long advised their clients that if they admitted to selling a hazardous product they would be vulnerable to potentially crippling liability claims. So, despite the scientific evidence, the industry developed and implemented a sophisticated disinformation campaign designed to deceive the public about the hazards of smoking and forestall governmental controls on tobacco consumption.

As time went on, a scientific consensus emerged about a multitude of serious dangers from smoking. On January 11, 1964, for instance, the U.S. government released the first report by the Surgeon General's Advisory Committee on Smoking and Health,

which specifically warned the public about the link between smoking and lung cancer.¹ Nonetheless, the tobacco industry's disinformation campaign continued. As internal documents have long since revealed, the tobacco companies quickly realized they did not need to prove their products were safe. Rather, they had only to implement a calculated strategy to foster doubt about the science in the minds of the public. As one infamous internal memo from the Brown & Williamson company put it: "Doubt is our product, since it is the best means of competing with the 'body of fact' that exists in the minds of the general public."² The industry also managed to convince juries that smoking was a voluntary act, that the public was well informed of "potential risks," and that smokers therefore only had themselves to blame for whatever harm may have occurred.

It has become increasingly clear during the past decade or more that the fossil fuel industry has adopted much the same strategy:

attempting to manufacture uncertainty about global warming even in the face of overwhelming scientific evidence that it is accelerating at an alarming rate and poses a myriad of public health and environmental dangers. Not only has the fossil fuel industry taken a page from the tobacco industry's playbook in its efforts to defeat action on climate change, it also shares with the tobacco industry a number of key players and a remarkably similar network of public relations firms and nonprofit "front groups" that have been actively sowing disinformation about global warming for years.³

At this pivotal moment for climate change, with international agreement all but stymied and governmental action in the United States largely stalled, the Union of Concerned Scientists and the Climate Accountability Institute sought to build a clearer understanding of the drivers of change that eventually proved effective against the tobacco industry. To be sure, lawyers played a huge role; scientific evidence played an important role as well. But notably, neither science nor legal strategies alone drove the changes in public understanding of the health dangers posed by smoking. Workshop participants were therefore asked to share their perspectives on a key question: given the power and resources of the tobacco industry, how were tobacco control efforts able to finally gain traction?

By gathering a distinguished and complementary group of experts, the Climate Accountability Workshop created the conditions for a well-informed discussion about the history of tobacco prevention as an example for those working on climate change: exploring how science in combination with the law, public advocacy, and possibly new technology can spur a seminal shift in public understanding and engagement on an issue of vital importance to the global community.

What follows is a summary of the workshop designed to highlight some of the major themes that emerged over the course of two days of structured dialogue. Because the discussion was often animated and wide-ranging, this report does not attempt to portray a comprehensive account of all the ideas presented, but rather the key findings that emerged.

When I talk to my students I always say, tobacco causes lung cancer, esophageal cancer, mouth cancer. . . . My question is: What is the "cancer" of climate change that we need to focus on?

—Naomi Oreskes

2. Lessons from Tobacco Control: Legal and Public Strategies

Both the tobacco industry and the fossil fuel industry have adopted a strategy of disseminating disinformation to manufacture uncertainty and forestall government action, and in so doing, have placed corporate interests above the public interest.

Workshop participants reviewed the history of tobacco control in the United States to identify lessons that might be applicable to action on global warming. The first important insight was that the history of tobacco control efforts stretches back much further than most people realize. The American Tobacco Company was broken up as a result of the Sherman Anti-Trust Act of 1890, and several U.S. states banned tobacco entirely between 1890 and 1920 in response to concerns that the powerful tobacco industry was paying off legislators. Those bans were all overturned after successful lobbying efforts by the industry, but a landmark 1900 legal case (*Austin v. Tennessee*) set an important precedent by upholding the legal right of states to ban tobacco.⁴

A second important insight was that the battle for tobacco control continues today, despite substantial gains over the past several decades. In a point made forcefully by Robert Proctor, a science historian who frequently serves as an expert witness in tobacco litigation, “Tobacco is not over.” While the number of cigarettes smoked worldwide may no longer be growing, an estimated 6 trillion were still sold and smoked in 2012. More than 45 million

Americans continue to smoke, some 8 million live with a serious illness caused by their smoking, and more than 400,000 die prematurely each year.⁵

A few principles emerged from the long fight for tobacco control. First, any legal strategies involving court cases require plaintiffs, a venue, and law firms willing to litigate—all of which present significant hurdles to overcome. Robert Proctor generalized about the history of tobacco-related litigation by noting that tobacco opponents typically won with simplicity but lost in the face of complexity. As he noted, it is worth remembering that, “The industry can win by making plaintiffs have to pass a thousand hurdles, any one of which can derail the whole effort.” Second, public victories can occur even when the formal point is lost. In one effort that sought to stop tobacco research at Stanford University, for instance, no formal ban was enacted but the public outcry led the Philip Morris company to stop its external research programs anyway.⁶

The Importance of Documents in Tobacco Litigation

One of the most important lessons to emerge from the history of tobacco litigation is the

value of bringing internal industry documents to light. Roberta Walburn, a key litigator in the pathbreaking 1994 case *State of Minnesota and Blue Cross and Blue Shield of Minnesota v. Philip Morris et al.* [C1-94-8565], explained that her legal team, with strong backing from Minnesota Attorney General Hubert “Skip” Humphrey, made it a goal from the start of the lawsuit to use the process of legal discovery to gain access to Philip Morris’s internal documents and make them part of the public domain. Walburn noted that Humphrey was mocked and scorned by many of his colleagues for this emphasis, but it proved critical to achieving the landmark settlement.

For the previous four decades, the tobacco industry had not lost a single legal case nor been forced to release most of its internal documents. But attorneys began to see the tremendous value of the industry’s memos in an individual New Jersey smoker’s case in the 1980s, and when a paralegal leaked some internal documents in the early 1990s. By making such documents a key part of the Minnesota litigation, the legal discovery process ultimately brought some 35 million pages of industry documents to light.⁷

Of course, the release of so many documents also presented immense challenges, requiring the legal team to pore over them one page at a time. The industry also went to great lengths to hide documents throughout the discovery process, listing them under different corporate entities, “laundering” scientific documents by passing them through attorneys in order to claim attorney-client privilege, and playing word games in order to claim they didn’t have any documents on the topics sought by the plaintiffs. During pre-trial discovery in the Minnesota litigation, Walburn noted, Philip Morris was spending some \$1.2 million dollars every week in legal defense.

In the end, however, the documents proved crucial in helping to shift the focus of litigation away from a battle of the experts over the science of disease causation and toward an investigation of the industry’s conduct. As Roberta Walburn explained, their legal team was able to say to the judge and jury, “You don’t have to believe us or our experts; just look at the companies’ own words.” The strategy of prying documents from the industry also proved effective because once a lawsuit begins, litigants are required by law to retain evidence. The very first order issued by the judge in the Minnesota case was a document preservation order, which meant that the company could be held in contempt of court if it failed to comply. Companies are also required to preserve any documents they think might be pertinent to possible future litigation.

Today, the documents that have emerged from tobacco litigation have been collected in a single searchable, online repository: the so-called Legacy Tobacco Document Library (available at legacy.library.ucsf.edu) currently contains a collection of some 80 million pages. Stanton Glantz, a professor of cardiology at the University of California–San Francisco who directs the project, noted the importance of the decision to create an integrated collection accessible to all. One advantage of such a collection, he said, is that it becomes a magnet for more documents from disparate sources.

Because the Legacy Collection’s software and infrastructure is already in place, Glantz suggested it could be a possible home for a parallel collection of documents from the fossil fuel industry pertaining to climate change. He stressed the need to think carefully about which companies and which trade groups might have documents that could be especially useful. And he underscored the point that bringing documents to light must be

established as an objective independent of the litigation, or else the most valuable documents are not likely be made public.

Documents Helped Establish a Conspiracy

The release of documents from the tobacco industry became front-page news in the 1990s. The headlines did not tout the fact that tobacco causes lung cancer, which had already been widely reported; instead, they focused on the tobacco industry's lies to the public, its efforts to target children in its marketing campaigns, and its manipulation of the amount of nicotine in cigarettes to exploit their addictive properties.⁸ Many of these facts had not come to the public's attention until the industry's internal documents came to light.

Most importantly, the release of these documents meant that charges of conspiracy or racketeering could become a crucial component of tobacco litigation. Formerly secret documents revealed that the heads of tobacco companies had colluded on a disinformation strategy as early as 1953.⁹

Sharon Eubanks noted the importance of documents in a racketeering case against the tobacco industry she prosecuted during the Clinton administration. That case, *U.S.A v. Philip Morris, Inc.*, was filed after President Clinton directed his attorney general to attempt to recover from the tobacco industry the costs of treating smokers under Medicare. The Justice Department brought the case under the Racketeer Influenced and Corrupt Organizations (RICO) statute that was originally enacted to combat organized crime.

The U.S. District Court for the District of Columbia found Philip Morris and other tobacco companies charged in the case guilty of violating RICO by fraudulently covering up the health risks associated with smoking and

by marketing their products to children. The court imposed most of the requested remedies, and rejected the defendants' argument that their statements were protected by the First Amendment, holding that the amendment does not protect "knowingly fraudulent" statements. The tobacco companies appealed the ruling but a three-judge panel of the U.S. Court of Appeals for the District of Columbia unanimously upheld the decision in 2009.

Lessons for the Climate Community

One theme to emerge from this review of tobacco litigation was the similarity between the tobacco industry's disinformation campaign and the fossil fuel industry's current efforts to sow confusion about climate change. As one participant put it, "The tobacco fight is now the climate fight." Both industries have adopted a strategy of disseminating disinformation to manufacture uncertainty and forestall governmental action, and in so doing, have placed corporate interests above the public interest. Several workshop participants presented detailed evidence of the close ties between the two industries in terms of personnel, nonprofit "front groups," and funders.

Given these close connections, many participants suggested that incriminating documents may exist that demonstrate collusion among the major fossil fuel companies, trade associations, and other industry-sponsored groups. Such documents could demonstrate companies' knowledge, for instance, that the use of their products damages human health and well-being by contributing to "dangerous anthropogenic interference with the climate system."¹⁰

Finally, participants agreed that most questions regarding how the courts might rule on climate change cases remain unanswered. Most participants also agreed that pursuing a

legal strategy against the fossil fuel industry would present a number of different obstacles and opportunities compared with those faced by litigants in the tobacco cases. As Roberta Walburn noted, however, both efforts do share an important public interest imperative: “People have been harmed and there should be justice,” she said. “If you want to right a wrong you have to be bold.”

3. Climate Legal Strategies: Options and Prospects

Tobacco started with a small box of documents. We used that to wedge open a large pattern of discovery. . . . It looks like where you are with climate is as good as it was with tobacco—probably even better. I think this is a very exciting possibility.

—Stanton Glantz

A wide variety of potential legal strategies were discussed at the workshop. Participants agreed that a variety of different approaches could prove successful in spurring action and engaging the public on global warming, with suggestions ranging from lawsuits brought under public nuisance laws (the grounds for almost all current environmental statutes) to libel claims against firms and front groups that malign the reputations of climate scientists.

Several participants warned of the potential polarizing effect of lawsuits. While it is never an easy decision to bring a lawsuit, they noted, litigants must understand that if they pursue such a course they should expect a protracted and expensive fight that requires careful planning. Among the issues discussed were the importance of seeking documents in the discovery process as well as the need to choose plaintiffs, defendants, and legal remedies wisely. Another issue of concern was the potential for a polarizing lawsuit to slow the broad cultural shift in public perception (see section 5).

Strategies to Win Access to Internal Documents

Having attested to the importance of seeking internal documents in the legal discovery phase of tobacco cases, lawyers at the workshop emphasized that there are many effective avenues for gaining access to such documents.

First, lawsuits are not the only way to win the release of documents. As one participant noted, congressional hearings can yield documents. In the case of tobacco, for instance, the infamous “Doubt is our product” document came out after being subpoenaed by Congress.¹¹ State attorneys general can also subpoena documents, raising the possibility that a single sympathetic state attorney general might have substantial success in bringing key internal documents to light. In addition, lawyers at the workshop noted that even grand juries convened by a district attorney could result in significant document discovery.

Jasper Teulings, general counsel for Greenpeace International, emphasized that the release of incriminating internal documents

from the fossil fuel industry would not only be relevant to American policy but could have widespread international implications.

Importance of Choosing Plaintiffs, Defendants, and Legal Remedies

Matt Pawa, a leading litigator on climate-related issues, discussed his current case, *Kivalina v. ExxonMobil Corporation, et al.*, now pending on appeal. The lawsuit, brought under public nuisance law, seeks monetary damages from the energy industry for the destruction of the native village of Kivalina, AK, by coastal flooding due to anthropogenic climate change. Damages have been estimated by the U.S. Army Corps of Engineers and the U.S. Government Accountability Office between \$95 million and \$400 million.

The suit was dismissed by a U.S. district court in 2009 on the grounds that regulating global warming emissions is a political rather than a legal issue that needs to be resolved by Congress and the executive branch rather than the courts. An appeal was filed with the Ninth Circuit Court of Appeals in November 2009, but was rejected in September 2012. The plaintiffs have yet to determine whether to take further legal action, either by calling for an *en banc* review of the appeal verdict or by re-filing the case in state court.

Pawa noted that in representing Kivalina, he chose a plaintiff whose stake in the case is patently evident, as is the harm that has come to the village. Because those facts remain largely beyond dispute, it puts the focus of the case squarely on attributing the damage to the defendants. Pawa has used the principle of “joint and several” liability, which (in his words) holds that, “If two guys are outside a bar and the plaintiff gets beaten up and only one technically does it but both of them collude in the activity, they can both be held

responsible.” Because Exxon and the other corporate defendants in the Kivalina case are indisputably large emitters of heat-trapping gases, Pawa said he will argue that they “are basically like the two guys outside that bar.” To help with his argument of causation, Pawa will also argue that Exxon and the other defendants distorted the truth. He said that litigation not only allows him to pursue a remedy for some of those most vulnerable to the effects of climate change, but also serves as “a potentially powerful means to change corporate behavior.”

Jasper Teulings recounted the unusual and controversial case in which Greenpeace International helped representatives from Micronesia—an island nation threatened by rising sea levels—request a transboundary environmental impact assessment (TEIA) in the Czech Republic, hoping to prevent the Czech government from granting a 30-year permit extension for a coal-fired power plant. That action, he said, led to a national debate about global warming in a country led by a climate skeptic, and the Czech environment minister ultimately resigned as a result. The case also drew the attention of the international media, including the *Wall Street Journal*, *Economist*, and *Financial Times*.¹²

Participants weighed the merits of legal strategies that target major carbon *emitters*, such as utilities, versus those that target carbon *producers*, such as coal, oil, and natural gas companies. In some cases, several lawyers at the workshop noted, emitters are better targets for litigation because it is easy to establish their responsibility for adding substantial amounts of carbon to the atmosphere. In other cases, however, plaintiffs might succeed in cases against the producers who unearthed the carbon in the first place.

In lawsuits targeting carbon producers, lawyers at the workshop agreed, plaintiffs need

to make evidence of a conspiracy a prominent part of their case. Richard Ayres, an experienced environmental attorney, suggested that the RICO Act, which had been used effectively against the tobacco industry, could similarly be used to bring a lawsuit against carbon producers. As Ayres noted, the RICO statute requires that a claimant establish the existence of a “criminal enterprise,” and at least two acts of racketeering (with at least one having occurred within the past four years). It is not even clear, he added, whether plaintiffs need to show they were actually harmed by the defendant’s actions. As Ayres put it, “RICO is not easy. It is certainly not a sure win. But such an action would effectively change the subject to the campaign of deception practiced by the coal, gas, and oil companies.”

The issue of requesting an appropriate legal remedy was also discussed. As one of the workshop’s lawyers said, “As we think about litigation, we need to consider: what does our carbon system look like with climate stabilization? It has to be something positive. Only then can we figure out what strategies we need to pursue.” As important as this broad vision of a legal remedy is, this participant also emphasized the advantage of asking courts to do things they are already comfortable doing, noting that, “Even if your ultimate goal might be to shut down a company, you still might be wise to start out by asking for compensation for injured parties.”

Other Potential Legal Strategies

False advertising claims

Naomi Oreskes, a historian of science at the University of California–San Diego, brought up the example of the Western Fuels Association, an industry-sponsored front group that has run ads containing demonstrably false information. Oreskes noted that she has some of the

public relations memos from the group and asked whether a false advertising claim could be brought in such a case. Lawyers at the workshop said that public relations documents could probably be used as evidence in such a case but they cautioned that courts view claims designed to influence consumer behavior differently than they do those designed to influence legislative policy.

Some lawyers at the workshop did note that historical false advertising claims could be deemed relevant, especially if plaintiffs can show that the conduct has continued. In tobacco litigation, for example, plaintiffs have successfully gone back as far as four decades for evidence by establishing the existence of a continuing pattern by the tobacco industry.

Joe Mendelson, director of climate policy at the National Wildlife Federation, suggested that such a strategy might be employed to take on the coal industry’s advertising campaign, which has targeted swing states whose attorneys general are unlikely to call out the ads’ distortions. Such a legal case, Mendelson explained, might achieve a victory in terms of public education and engagement.

Libel suits

Lawyers at the workshop noted that libel lawsuits can be an effective response to the fossil fuel industry’s attempts to discredit or silence atmospheric scientists. Pennsylvania State University’s Michael Mann, for instance, has worked with a lawyer to threaten libel lawsuits for some of the things written about him in the media, and has already won one such case in Canada. Matt Pawa explained that libel cases merely require the claimant to establish falsity, recklessness, and harm. “What could be more harmful than impugning the integrity of a scientist’s reputation?” Pawa asked. Roberta Walburn noted that libel suits can also serve

to obtain documents that might shed light on industry tactics.

Atmospheric trust litigation

Mary Christina Wood, professor of law at the University of Oregon, discussed her involvement with so-called atmospheric trust litigation, a legal strategy she pioneered that is now unfolding in all 50 states. The goal of the litigation—to force massive reforestation and soil carbon sequestration that would return the planet to a sustainable level of atmospheric carbon dioxide (350 parts per million)—is grounded in the internationally recognized principle known as the Public Trust Doctrine, first enunciated by the Roman Emperor Justinian.

Under this doctrine, a state or third-party corporation can be held liable for stealing from or damaging a resource—in this case, the atmosphere—that is held as a public trust. The beneficiaries in the case are citizens—both current and future—who claim that the defendants (the state or federal government or third-party corporations) have a duty to protect and not damage that resource, which they oversee or for which they bear some responsibility.

Wood noted that this legal action has several promising features: it is being brought by children, can highlight local impacts of climate change because it is being brought in every state, and is flexible enough to be brought against states, tribes, the federal government,

or corporations. Wood said that while the atmospheric trust lawsuits are just starting, some 22 amicus briefs (in which law professors from around the country argue that the approach is legally viable) have already been filed.

Disagreement about the Risks of Litigation

Despite widespread endorsement by workshop participants of the potential value in pursuing legal strategies against the fossil fuel industry, some of the lawyers present expressed concern about the risks entailed should these cases be lost. As one participant put it, “We have very powerful laws and we need to think strategically about them so they won’t be diminished by the establishment of a legal precedent or by drawing the attention of hostile legislators who might seek to undermine them.”

Others, such as Sharon Eubanks, took issue with this perspective. “If you have a statute, you should use it,” she said. “We had the case where people said, ‘What if you screw up RICO?’ But no matter what the outcome, litigation can offer an opportunity to inform the public.” Stanton Glantz concurred with this assessment. As he put it, “I can’t think of any tobacco litigation that backfired; I can’t think of a single case where litigation resulted in bad law being made.”

4. Attribution of Impacts and Damages: Scientific and Legal Aspects

Why should taxpayers pay for adaptation to climate change? That is a sound bite that I don't hear used. Why should taxpayers bear the risk? Perhaps that question alone can help shift public perception.

—Myles Allen

Several sessions at the workshop addressed a variety of vexing issues concerning the extent to which localized environmental impacts can be accurately attributed to global warming and how, in turn, global warming impacts might be attributed to specific carbon emitters or producers. Many challenges are involved in these kinds of linkages, from getting the science right to communicating it effectively.

Myles Allen, a climate scientist at Oxford University, suggested that while it is laudable to single out the 400 Kivalina villagers, all 7 billion inhabitants of the planet are victims of climate change. He noted, for instance, that while the United Nations Framework Convention on Climate Change makes an inventory of global warming emissions, it does not issue an inventory of who is being affected. As he put it, “Why should taxpayers pay for adaptation to climate change? That is a sound bite that I don't hear used. Why should taxpayers bear the risk? Perhaps that question alone can help shift public perception.”

Allen also noted that the scientific community has frequently been guilty of talking about the climate of the twenty-second century rather

than what's happening now. As a result, he said, people too often tend to perceive climate change as a problem for our grandchildren.

Challenges of Attributing Environmental Effects to Anthropogenic Climate Change

Several of the climate scientists at the meeting addressed the scientific challenges involved in attributing specific environmental effects to anthropogenic climate change. For example, global warming, natural variability, population exposure, and population vulnerability are all factors in the disasters that make headlines. Myles Allen noted that while scientists can accurately speak about increases in average global temperature, such large-scale temperature measurements are difficult to link to specific individuals.

Claudia Tebaldi, a climate scientist at Climate Central, emphasized the problem of confounding factors: “If you want to have statistically significant results about what has already happened [on the health impacts of climate change],” she said, “we are far from being able to say anything definitive because the signal is so often overwhelmed by noise.”

Given that nearly all consequences have multiple causes, Tebaldi reviewed the difficulties entailed in efforts at so-called *single-step attribution* (in which a single variable is added or removed from a model), *multi-step attribution* (in which two or more attribution linkages are drawn), and *associative patterns of attribution* (in which linkages are mapped over time in order to detect possible patterns). She noted that the authors of the 2007 Intergovernmental Panel on Climate Change report were relatively comfortable attributing certain environmental phenomena to climate change: changes in snow/ice/frozen ground; increased runoff and anticipated snowmelt in spring; warmer water temperatures and changes in salinity, oxygen levels, and ocean acidification. But she added that it is still hard to say anything statistically significant about some key areas of concern.

Climate scientist Mike MacCracken expressed more optimism about the ability of scientists to identify patterns of changes. The traditional view, he explained, is that one cannot attribute a single weather event to human-induced climate change, but climate change reflects a difference in the frequency and intensity of weather events from the past—that is how the term is defined. So, as the distribution of weather events changes, we are seeing an increasing likelihood of what were once very rare events, but are likely to become much more frequent.

Myles Allen agreed that scientists could be far more confident about a group of events rather than a single event, but noted, “Then you are talking again about climate [as opposed to weather]. We can say with confidence how the risks are changing. Absolutely. And some harms can be caused by change in risk. But we are still talking about probabilities.” As an example, Allen cited work

Absolutely crucial is real progress on regional and local consequences of climate change. We have general notions that the Southwest will be drier. But once the science is able to say with confidence what will happen in the states of Colorado and Arizona, then the people who live there will want to pressure their representatives to fix their problem. Then political people will be much more responsive to the issue. That will be real progress in the next few years.

—Lew Branscomb

by Stefan Rahmstorf and Dim Coumou, who found an 80 percent probability that the July 2010 heat record would not have occurred without global warming.¹³

Others agreed that many different types of aggregate findings can be useful. Paul Slovic, for instance, cited the example of the book *At War with the Weather* by Howard Kunreuther. In studying economic losses from natural disasters, Kunreuther found an exponential increase in losses incurred over the last 10 or 20 years.¹⁴ Again, multiple factors need to be teased apart, such as the growth in population exposed to natural disasters, increased infrastructure replacement costs, natural variability, and the influence of climate change.¹⁵

Mike MacCracken suggested that issues related to the science itself are distinct from how findings should be communicated to the public. “The challenge,” he said, “is finding an effective lexicon that scientists are comfortable with.” Along these lines, one participant suggested that it could be helpful to communicate findings framed as a discussion. For example, a farmer could ask a question

saying, “I’m concerned because I’m seeing *this* [particular local weather].” The scientist can comfortably respond: “You’re right to be concerned because we are seeing *this, this*, and *this* [aggregate effect or strong probability of anthropogenic warming].”

Lew Branscomb, a physicist, governmental policy expert, and one of the meeting’s organizers, suggested that the evolution of climate science is an important issue. As he put it, “Absolutely crucial is real progress on regional and local consequences of climate change. We have general notions that the Southwest will be drier. But once the science is able to say with confidence what will happen in the states of Colorado and Arizona, then the people who live there will want to pressure their representatives to fix their problem. Then political people will be much more responsive to the issue. That will be real progress in the next few years.”

Determining Appropriate Standards of Evidence

A discussion arose at the workshop about the appropriate standard of evidence required when attributing specific environmental phenomena to global warming and establishing the culpability of carbon emitters and producers. Naomi Oreskes noted the important differences among standards of evidence in science, in law, and in public perception.

As she explained, “When we take these things to the public, I think we often make a category error. We take a standard of evidence applied internally to science and use it externally. That’s part of why it is so hard to communicate to the public.” Oreskes pointed out that the “95 percent proof rule” widely accepted among scientists might not be appropriate in this application. That standard of proof, she said, “is not the Eleventh Commandment. There is nothing in nature that taught us that

95 percent is needed. That is a social convention. Statistics are often used when we don’t understand the mechanisms of causation. But what if we do know what the mechanisms are? For instance, if we know how a bullet kills a human, we don’t need statistics to prove that bullets can kill.”

Oreskes went on to note that scientific knowledge in the field of climate science is very robust—more robust than in many other fields such as plate tectonics or relativity. This observation led her to wonder why climate scientists have been so reticent about communicating their results, and to postulate that in accepting such a high standard of proof, “The scientific community has been influenced by push-back from industry.”

Stanton Glantz drew a comparison to his work with the Centers for Disease Control establishing a link between smoking and breast cancer. “I fought CDC on the links between smoking and breast cancer,” he recalled. “There were 17 studies. How could you make a statement that there was no link? The epidemiologists focus on statistics but we already knew about the biology of breast cancer and damage to DNA and links to tobacco. My argument was that you needed to look at a whole body of evidence. . . . We compared the breast cancer evidence, which is stronger than the original lung cancer evidence, and that got accepted and became the default position. But the fact is, not everyone who smokes gets cancer.”

For climate change, Glantz said, all the pieces fit together and they represent a consistent body of evidence. He added that criminal trials use the standard of “beyond a reasonable doubt.” But as he put it, “Scientists have been making the ‘reasonable doubt’ standard higher and higher.”

Some of the scientists at the workshop, however, took issue with the idea that they

ought to apply different standards of proof to their work. Claudia Tebaldi, for instance, responded, “As a scientist I need to have two different standards? I don’t see that. I am not convinced that I should lower my standards of skepticism when I talk to the public. As a scientist I give you the probability. It is not my job to change my paper if the consequences are so bad. That is the job of a policy maker working with my results.”

Mary Christina Wood reminded the group that the medical profession is adept at juggling two very different standards: the standard of proof and the standard of care, and suggested that climate scientists might be able to do something similar. Dick Ayres agreed, emphasizing that, “Too high a standard of proof increases the burden on those who seek to protect public health.”

Myles Allen noted that a key problem always comes back to the issue of doubt. “If you grab a scientist off the street and ask whether we *could* have had this weather event without global warming, they will likely say yes, it could have been possible. So the reality is that there will always be a scientist available to fill that role in the court of law.” The vexing thing, Allen said, is “trying to make clear to the public that there are two uncertainties. We can be very certain about what is happening and yet very uncertain about what is going to happen tomorrow or next year.”

Attributing Environmental Damage to Carbon Producers

Richard Heede, co-founder and director of the Climate Accountability Institute, presented a preview of a research project several years in the making, in which he has been quantifying the annual and cumulative global warming emissions attributable to each of the world’s major carbon producers. By closely reviewing

annual reports and other public sources of information from the energy sector, Heede is working to derive the proportion of the planet’s atmospheric carbon load that is traceable to the fossil fuels produced and marketed by each of these companies annually from 1864 to 2010. The work deducts for carbon sequestered in non-energy products such as petrochemicals, lubricants, and road oil, and quantifies annual and cumulative emissions to the atmosphere attributable to each company. The research is still awaiting peer review before it can be finalized and publicized.

Most of the workshop’s participants responded positively to Heede’s research. Matt Pawa thought the information could prove quite useful in helping to establish joint and several liability in tort cases, but he cautioned that, in practice, a judge would likely hesitate to exert joint and several liability against a carbon-producing company if the lion’s share of carbon dioxide in the atmosphere could *not* be attributed to that company specifically. Nevertheless, he said this kind of accounting would no doubt inspire more litigation that could have a powerful effect in beginning to change corporate behavior.

Other participants reacted positively to other aspects of Heede’s research. Angela Anderson, director of the climate and energy program at the Union of Concerned Scientists, noted for instance that it could potentially be useful as part of a coordinated campaign to identify key climate “wrongdoers.” Mary Christina Wood agreed, saying the preliminary data resonated strongly with her, making her feel like “Polluters did this and they need to clean this up.” Other participants noted that it could be helpful in the international realm by changing the narrative that currently holds nations solely responsible for the carbon emitted by parties within their own borders. Finding

the specific companies responsible for emissions, they said, cuts a notably different way.

One concern raised was that some in the “American middle” might perceive it as unfair to go after a company that didn’t know carbon dioxide was harmful for much of the extended period Heede reviewed. To get a sense of this, some suggested reaching out to someone like public opinion specialist Tony Leiserowitz who could undertake polling to see how such research might be received by different segments of the public.

Robert Proctor suggested that the most effective public communication about the research would use the simplest formulation possible. One effective strategy in the fight against tobacco, he observed, was equating a year’s production of cigarettes in a particular factory to a number of deaths. Anti-tobacco activists determined that there was one smoking-related death for every one million cigarettes produced. As Proctor explained, given that the industry made roughly one cent in profit per cigarette, that meant a company such as Philip Morris made \$10,000 in profit for every death its products caused. Proctor suggested a similar strategy could be adapted to link the largest corporate carbon producers to specific climate impacts. If numbers could be generated for how many deaths per year were caused by each degree rise in global temperature, for instance, a similar case could be made against a particular company that produced or emitted a known percentage of the carbon load contributing to global warming.

Picking up on this notion, Naomi Oreskes suggested that some portion of sea level rise could be attributed to the emissions caused by a single carbon-producing company. In essence, she suggested, “You might be able to say, ‘Here’s Exxon’s contribution to what’s happening to Key West or Venice.’” Myles Allen

agreed in principle but said the calculations required, while not complicated, were easy to get wrong.

Whether or not the attribution would hold up in court, Stanton Glantz expressed some enthusiasm about such a strategy, based on his experience with tobacco litigation. As he put it, “I would be surprised if the industry chose to attack the calculation that one foot of flooding in Key West could be attributed to ExxonMobil. They will not want to argue that you are wrong and they are really only responsible for one half-foot. That is not an argument they want to have.” For similar reasons, he said, tobacco companies have never challenged death estimates, noting, “Their PR people tell them not to do that, focusing instead on more general denial and other tactics.”

Evidence of Collusion and Prospects for Constructive Engagement

Participants at the workshop also discussed one other aspect of attribution: the close connections among climate change deniers, the fossil fuel industry, and even the tobacco companies. John Mashey, a computer scientist and entrepreneur who has meticulously analyzed climate change deniers, presented a brief overview of some of his research, which traces funding, personnel, and messaging connections between roughly 600 individuals and 100 organizations in the climate change denial camp.¹⁶ Mashey noted that looking closely at the relationships between these parties—via documents, meetings, e-mails, and other sources—can help clarify the extent of collusion involved in sowing confusion on the issue. Mashey cited, for instance, memos that have surfaced from a 1998 “climate denial” plan involving most of the major oil companies (under the auspices of the American Petroleum Institute) that set the

stage for much of the disinformation of the past 10 years.¹⁷

A number of participants ultimately agreed that the various linkages and attribution data could help build a broad public narrative along the following lines:

- We have a serious problem (as shown by the science)
- We know the people responsible are the same ones responsible for a campaign of confusion
- There are solutions, but we can't get to them because of the confusion these companies have funded

Finally, there was some fundamental disagreement over the potential for engagement with the fossil fuel industry. Richard Heede expressed optimism, saying, "I would love to envision constructive engagement with industry. That would mean convincing them to participate in a plan that 'could make life worth living for future generations.'"

Some veterans of the tobacco control campaign voiced skepticism, however. Stanton Glantz recalled two instances in which activists sought engagement with the industry. In one, the National Cancer Institute met with tobacco companies to try to persuade them to make less dangerous cigarettes. "The tobacco companies used it as an opportunity to undertake intelligence gathering about health groups and it was a disaster," he recalled. Glantz did note a fundamental difference between tobacco and climate change, however: while tobacco companies offer no useful product, he explained, "The fact is we do need some form of energy. Unless other alternative energy firms replace the current carbon producers, which seems unlikely, at some point there will likely have to be some kind of positive engagement. Less clear, however, is how best to create a political environment for that engagement to work."

5. Public Opinion and Climate Accountability

The watershed moment was the congressional hearing when the tobacco companies lied and the public knew it. If that had occurred earlier, the public might not have so clearly recognized that the executives were lying. My question is: What do we know about how public opinion changed over time?

—Peter Frumhoff

Throughout several sessions, workshop participants discussed and debated the role of public opinion in both tobacco and climate accountability. It was widely agreed that, in the case of tobacco control, a turning point in public perception came at the 1994 “Waxman hearings” on the regulation of tobacco products.¹⁸ On this highly publicized occasion, a broad swath of the populace became aware that the heads of the major tobacco companies had lied to Congress and the American public. Naomi Oreskes said tobacco litigation helped make this public narrative possible.

Participants grappled with the question of how climate advocates might create a similar narrative for global warming. While there was a good deal of debate about exactly what such a narrative should be, there was widespread agreement that the public is unlikely to be spurred into action to combat global warming on the basis of scientific evidence alone. Furthermore, climate change science is so complex that skeptics within the scientific community can create doubts in the public

mind without any assistance from the fossil fuel industry or other climate change deniers.

The Importance of Creating a Public Narrative

Jim Hoggan, a public relations expert and co-founder of DeSmogBlog.com, explained the problem this way: “The public debate about climate change is choked with a smog of misinformation. Denial and bitter adversarial rhetoric are turning the public away from the issue. Communicating into such high levels of public mistrust and disinterest is tricky. We need to do some research into a new narrative.” Hoggan emphasized the importance of linking the industry’s “unjust misinformation” back to an overall narrative about sustainability, rather than getting mired in issues of whose fault climate change is and who should do what to ameliorate the situation. Noting the fact that there is broad and deep support for clean energy, Hoggan suggested the following narrative: “Coal, oil, and gas companies are engaging in a fraudulent attempt to stop the development of clean energy.”

Many participants agreed about the importance of framing a compelling public narrative. Dick Ayres added that the simple act of naming an issue or campaign can be important as well. After acid rain legislation passed in 1990, he recalled, an industry lobbyist told him, “You won this fight 10 years ago when you chose to use the words ‘acid rain.’”

Paul Slovic, a psychologist and expert on risk perception, cited his colleague Daniel Kahneman’s book *Thinking, Fast and Slow*, which has shown that people often tend to make snap judgments rather than stopping to analyze.¹⁹ Though a degree of slow thinking is necessary to comprehend climate change, he said, people instead tend to go with their quick first impressions.

Having reviewed two boxes of documents obtained from tobacco marketers by the Justice Department for its RICO case against the tobacco companies, Slovic became convinced that the industry was decades ahead of academic psychologists in understanding the interplay of emotion and reason in decision making. The sophistication of the cigarette makers’ approach showed, he said, in the effectiveness with which they used images of beautiful people doing exciting things, or words like “natural” and “light” that conveyed health (in response to mounting evidence of smoking’s link to lung cancer).

Slovic emphasized that there are huge differences between tobacco and climate risks. “Every hazard is unique, with its own personality, so to speak,” he said. “Does it pose a risk to future generations? Does it evoke feelings of dread? Those differences can make an impact on strategy.” The feeling of dread, specifically, was an important feature in people’s perception of tobacco risks, since they equated smoking with lung cancer.

**Here is one possibility for a public narrative:
“Coal, oil, and gas companies are engaging in a
fraudulent attempt to stop the development of
clean energy.”**

—Jim Hoggan

This differs from “doom-and-gloom” discussions about climate change, which can tend to turn people off rather than instilling dread. The difference is that climate change risks seem diffuse—distant in both time and location. The situation is even more complicated, Slovic added, by the fact that when people receive a benefit from an activity, they are more inclined to think the risk that activity carries is low. If they receive little benefit, they tend to think the risk is higher. As he explained, “The activities that contribute to climate change are highly beneficial to us. We love them; we are addicted to them.” That, he said, makes the problem of communicating the dangers of climate change all the more difficult.

Reaching People “Where They Live”

Several participants emphasized the phenomenon of cultural cognition, including work on the subject by Dan Kahan at Yale Law School.²⁰ Cultural cognition research suggests that we all carry around with us a vision of a just social order for the world in which we live. Kahan’s work identifies a major division between those who tend toward a worldview based on structure and hierarchy, and those who tend toward a worldview based on egalitarianism. Another axis is individualism versus communitarianism (i.e., whether a higher value is placed on the welfare of the individual or the group). In Kahan’s conception, all of us have a blend of such attributes.

Attitudes on climate change are highly correlated with these views. As a result, it is difficult to change people's views on the issue because, when they receive information, they tend to spin it to reflect their favored worldview. In light of this research, several participants expressed concern that a revelation about documents from oil companies might not work to change many minds, given the power of such pre-existing worldviews.

Brenda Ekwurzel, a climate scientist at the Union of Concerned Scientists (UCS), recounted her organization's experience with this variable, explaining that UCS, as a science-based organization, contends with an "information fire hose" when it comes to climate change. As she put it, "We love data. We scientists tend to focus on the frontal lobe and we need communications folks to remind us that there are other parts of our brain too." She said she always wants to begin a discussion by saying, "Let's talk about climate change." But that, it turns out, is not necessarily the best starting point—she has learned that it's better to start with: "Let's talk about what you care about most." The answer is likely to be family, friends, livelihood, health, and recreation.

Ekwurzel highlighted polling data that have shown some 77 percent of people in Kahan's egalitarian/communitarian sector believe experts agree about climate change,

while 80 percent of those in the hierarchical/individualist camp believe experts disagree about climate change. To overcome that barrier, UCS staff responsible for communicating about climate change began experimenting, in one case addressing an issue of great concern to a very specific constituency: the correlation between August high school football practices in Texas and an increase in heat stroke among the student athletes.

This effort, launched to coincide with the first week of football practice in Texas and Oklahoma, proved remarkably successful, Ekwurzel said, drawing local media attention in a region the organization rarely reached. It also encouraged commentary from a different set of voices than those who normally talk about global-warming-related issues, such as medical professionals. It may have been a coincidence, Ekwurzel admitted, but within six weeks of this campaign the state of Texas decided to scale back high school football practices in the summer—and the message about the consequences of warmer summers in the region reached a largely untapped audience for UCS.²¹

Identifying Wrongdoers

Participants at the workshop also discussed the benefits and risks associated with identifying wrongdoers as part of a public narrative. Some participants, such as Paul Slovic, argued that this could prove an effective strategy. Slovic cited research by Roy Baumeister and Brad Bushman suggesting that, when it comes to messages, "bad is stronger than good"—a finding that helps explain the tendency toward negative advertising in political campaigning.²² Claudia Tebaldi said she believed "there is a big difference between convincing people there is a problem and mobilizing them. To mobilize, people often need to be outraged."

Every hazard is unique, with its own personality, so to speak. Does it pose a risk to future generations? Does it evoke feelings of dread? Those differences can make an impact on strategy.

—Paul Slovic

On the other hand, several of the public opinion experts cautioned that “argument tends to trigger counter-argument.” By contrast, they pointed out, emotional messages don’t tend to trigger counter-emotions. “Abuse breeds abuse,” explained Dan Yankelovich, co-founder of Public Agenda, a nonpartisan group devoted to public opinion research and citizen education. “In this case, you have industry being abusive. But you do not want to demonize the industry. The objective ought to be to have the public take this issue so seriously that people change their behavior and pressure industry to alter their current practices. In the end, we want industry to be more receptive to this pressure, not less.”

For this reason and others, several participants expressed reservations about implementing an overly litigious strategy at this political moment. Perhaps the strongest proponent of this view was Yankelovich, who explained, “I am concerned about so much emphasis on legal strategies. The point of departure is a confused, conflicted, inattentive public. Are legal strategies the most effective strategies? I believe they are important after the public agrees how to feel about an issue. Then you can sew it up legally.” In the face of a confused, conflicted, and inattentive public, legal strategies can be a double-edged sword, he continued: “The more adversarial the discourse, the more minds are going to be closed.” In response to a comment by Richard Ayres, however, Yankelovich agreed that a legal strategy focused on the industry’s disinformation campaign could help advance public opinion on global warming, as it did in the case of tobacco.

Jim Hoggan advised, “It’s like that old adage that says, ‘Never get into a fight with a pig in public. The pig likes it. You both get dirty. And, after a while, people can’t tell the difference.’”

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—Daniel Yankelovich

Dan Yankelovich also described his theory of the “public learning curve,” which holds that public opinion moves through three recognizable phases on issues like smoking or climate change. The first is the “consciousness-raising” phase, during which the media can help dramatically to draw attention to an issue. This is followed by the “working-through” phase, during which things bog down as the public struggles over how to adapt to painful, difficult change. Yankelovich noted a paucity of institutions that can help the public work through this phase, which is frequently marked by the kind of denial and wishful thinking recognizable today in public opinion about climate change. He argued that only when the public begins to move into the third phase of “thoughtful public judgment” can legal strategies prove most effective and ultimately produce laws and regulations.

As he explained, “My sense is we are not there yet on climate change. The media has not been a help. The opposition has been successful in throwing sand in the works. People are just beginning to enter the open-minded stage. We are not decades away but I don’t have enough empirical data. My sense is that it may take about three to five more years.”

The Prospects for a “Dialogic” Approach and Positive Vision

Given the fact that the climate advocacy community has not yet coalesced around a compelling public narrative, Dan Yankelovich suggested that the topic could be a good candidate for engaging in a relatively new public opinion technique known as the “dialogic method,” in which representative groups holding different views on a subject meet over the course of a day or more to develop a narrative in an iterative fashion. The benefit of this method, he said, is that climate advocates could essentially work in partnership with the public “by having them help shape a narrative that is compelling.”

Yankelovich argued that the narrative must convey deep emotion to cut through the apathy and uncertainty prevalent in public opinion on the issue today, which has made it easier for the fossil fuel industry to sow confusion. In considering these emotional components of the narrative, he noted that anger is likely to be one of the major candidates but there may be others as well, adding that, “The notion of a custodial responsibility and concern also has deep resonance.” Finding the right public narrative, Yankelovich suggested, could help accelerate public opinion through the second phase of the curve within the next five years.

In one interesting example of mobilizing public opinion on an issue, Mary Christina Wood drew the group’s attention to the “victory speakers” campaign in World War II. When the U.S. government was contemplating entering the war, the threat of Nazi Germany seemed too far away to many Americans, who were reluctant to change their lives to mobilize for war. In response, the government orchestrated a campaign in which some 100,000 speakers, including Wood’s mother and grandmother, made five speeches each day about the need for U.S. involvement.²³ Wood suggested that the campaign helped mobilize the American people remarkably quickly.

Finally, several participants voiced strong support for the need to create a positive vision as part of the public narrative about climate change. As Naomi Oreskes put it, citing Ted Nordhaus and Michael Schellenberger’s article “The Death of Environmentalism,”²⁴ “Martin Luther King did not say, ‘I have a nightmare’! King looked at a nightmare but he painted a positive vision. Abolitionists did not say, ‘We have to collapse the economy of the South,’ even if that is what happened. No one wants to hear you are a bad person or that the way you live is bad.” Lew Branscomb concurred, noting that, “There has got to be a future people think is worth struggling for.”

6. Conclusion

There was widespread agreement among workshop participants that multiple, complementary strategies will be needed moving forward.

Workshop participants unanimously agreed that the sessions yielded a productive and well-timed interdisciplinary dialogue. Participants from the scientific and legal communities seemed especially appreciative for the opportunity to engage so intensively with experts outside their usual professional circles. The only potential gaps identified by attendees were a lack of participants from the insurance industry and a lack of emphasis on the biotic effects of climate change.

Participants made commitments to continue the discussion and collaborate on a number of the efforts discussed at the meeting. In particular, several participants agreed to work together on some of the attribution work already under way, including efforts to help publicize attribution findings in a way that will be easy for the general public to understand, and build an advocacy component around those findings. Others proposed an informal subgroup to pursue Dan Yankelovich's suggestion of using the dialogic method in conjunction with public relations specialists to help develop an effective public narrative.

Participants also made commitments to try to coordinate future efforts, continue discussing strategies for gaining access to internal documents from the fossil fuel industry and its affiliated climate denial network, and to help

build an accessible repository for those documents that are obtained.

Points of Agreement

There was widespread agreement among workshop participants that multiple, complementary strategies will be needed moving forward. For instance, in terms of what the "cancer" analog for global warming might be, participants generally accepted the proposition put forth by Angela Anderson that the answer might differ by region, with sea level rise instilling the most concern on the coasts, and extreme heat proving most compelling in the Midwest. Participants also agreed that it is better to focus on consequences of climate change happening now rather than on those projected for the distant future. Brenda Ekwurzel's anecdote about the public's engagement on the issue of high school football was offered as an example of the power that highlighting such immediate consequences can have.

Equally important was the nearly unanimous agreement on the importance of legal actions, both in wresting potentially useful internal documents from the fossil fuel industry and, more broadly, in maintaining pressure on the industry that could eventually lead to its support for legislative and regulatory responses to global warming. Some participants stated that pressure from the courts offers the best

current hope for gaining the energy industry's cooperation in converting to renewable energy.

Dan Yankelovich expressed a widely held sentiment when he noted what he called "a process of convergence" over the course of the workshop, in which participants with different expertise gradually incorporated broader perspectives on the problem at hand. "I know I found the tobacco example and the range of possible legal strategies very instructive," he said.

Unresolved Issues

Perhaps the largest unresolved issues from the workshop were some disagreement over how adversarial in tone efforts targeting the fossil fuel industry should be, and the extent to which outrage can mobilize the public.

On the latter point, one participant noted, "Outrage is hugely important to generate. Language that holds carbon producers accountable should be an important part of the narrative we create." But a number of participants expressed reservations about any plans that "demonized" the fossil fuel industry.

Myles Allen, for instance, worried that too adversarial a tone "could hand a victory to the 'merchants of doubt.'" He explained that because the fossil fuel industry's disinformation has effectively muted a large portion of the electorate, "Our focus ought to be to bring as many of these people back to the table and motivate them to act. We need to somehow promote a debate among different parts of the legislature to get this happening."

Lew Branscomb agreed that efforts should not seek to demonize the fossil fuel industry, noting that, "There are a lot of companies in the oil and auto business, and some of the companies will come forward on the good side. We all need their cooperation. My notion is to try to find people in the industry producing

It is possible to see glimmers of an emerging consensus on a strategy that incorporates legal action with a narrative that creates public outrage.

carbon who will come around." To accomplish this, he suggested a strategy that emphasizes facts and doesn't impugn motives.

Brenda Ekwurzel lent some historical support to such a view by citing Adam Hochschild's book *Bury the Chains*, about the long campaign to end slavery. Hochschild noted, she said, that one of the most influential pamphlets published in the abolitionists' fight offered a dispassionate accounting of facts and details about the slave trade gathered from witnesses who had participated in it. This publication had no trace of the moral finger-wagging that had marked virtually all prior pamphlets. Instead, the facts—especially a famous diagram of a slave ship—carried the day and became widely accepted. Women in the United Kingdom, for instance, soon started serving tea using only sugar that had been certified as not having come from the slave trade.²⁵ "Maybe," Ekwurzel suggested, "we need an analogous effort to offer certified energy sources from suppliers who do not spread disinformation."

Mike MacCracken supported the need to "win the middle." As he noted, "We have had an international consensus of scientists agreeing to key facts since 1990."

Angela Anderson said she hoped UCS could contribute meaningfully to the public's "working-through" stage of the process outlined by Dan Yankelovich. She noted that local climate adaptation stories offer a way to sidestep the controversy, but acknowledged that it is still an open question whether this

strategy helps people work through the issue and ultimately accept climate science as fact. “This is our theory,” she said, “But we don’t have the research yet to prove this.” Anderson added that many people expect UCS, as a science-based organization, to correct misinformation about climate science. “I don’t want to abdicate that responsibility,” she said, “and I wrestle with this, wondering what is the most effective order in which to do things and the right tone?”

While many questions like these remain unresolved, the workshop made an important contribution to the quest for answers. And it is possible to see glimmers of an emerging consensus on a strategy that incorporates legal action (for document procurement and accountability) with a narrative that creates public outrage—not to demonize industry, but to illuminate the collusion and fraudulent activities that prevent us from building the sustainable future we need and our children deserve.

Endnotes

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Appendix A: Workshop Agenda

Climate Accountability, Public Opinion, and Legal Strategies

Martin Johnson House, Scripps Institution of Oceanography, La Jolla, CA

June 14–15, 2012

Workshop Goals

- Compare the evolution of public attitudes and legal strategies for tobacco control and anthropogenic climate change. Can we use the lessons from tobacco education, laws, and litigation to address climate change?
- Explore which impacts can be most compellingly attributed to climate change, both scientifically and in the public mind, and consider options for communicating the scientific understanding of attribution in ways most useful to inform both public understanding and mitigation strategies.
- Explore the degree to which public (including judge and jury) acceptance of the causal relationships of climate impacts to fossil fuel production and/or emissions would increase the prospects for an effective strategy for U.S.-focused climate mitigation.
- Consider the viability of diverse strategies, including the legal merits of targeting carbon producers—as opposed to carbon emitters—for U.S.-focused climate mitigation.
- Identify promising legal and other options and scope out the development of mutually reinforcing intellectual, legal, and/or public strategies to further them.

June 14, 2012

- 7:45 a.m.** Meet in La Jolla Shores Hotel lobby for shuttle to workshop venue
- 8:00 a.m.** Coffee, light breakfast
- 8:30 a.m.** Welcome and charge to participants
- 9:00 a.m.** **Session 1. The Lay of the Land: Key Issues and Concepts**
Five presentations @ five minutes each, with limit of one image/visual aid; followed by moderated discussion
Proctor: A brief history of the tobacco wars: epidemiology, “doubt is our product,” litigation and other strategies
Allen: Climate science and attribution
Heede: Attribution of emissions to carbon producers
Pawa: The legal landscape: fundamentals of law, climate change, damages, plaintiffs, and defendants
Slovic: Public opinion and risk perception on tobacco and climate
- 10:30 a.m.** Break
- 11:00 a.m.** **Session 2. Lessons From Tobacco Control: Legal and Public Strategies**
Three presentations @ seven minutes each, with limit of one image/visual aid; followed by moderated discussion
Sharon Eubanks, Stanton Glantz, Robert Proctor, Roberta Walburn: Litigation, media strategies, coordination with grassroots efforts, etc.
Key issue: What lessons can we draw from the history of public and legal strategies for controlling tobacco that might be applicable to address climate change?
- 12:30 p.m.** Lunch
- 1:30 p.m.** **Session 3. Attribution of Impacts and Associated Damages to Carbon and Climate Change: State of the Science and Expert Judgment**
Two presentations @ less than 10 minutes each; followed by moderated discussion
On science: Myles Allen and Claudia Tebaldi
Lead discussant: Mike MacCracken
Key issue: What impacts can be most compellingly attributed to carbon and climate change?
- 3:00 p.m.** Break
- 3:15 p.m.** **Session 4. Climate Legal Strategies: Options and Prospects**
Three presentations @ seven minutes each; followed by moderated discussion
Presenters: Matt Pawa, Mims Wood, Richard Ayres
Key issues: What potential options for U.S.-focused climate litigation appear most promising? To what extent would greater public (including judge and jury) acceptance of the causal relationships of climate impacts to fossil fuel production and/or emissions enhance the prospects for success?

- 5:00 p.m.** Wrap up
Shuttle service will be provided for the return trip to the hotel
- 6:30 p.m.** Drinks and dinner at the home of Lew and Connie Branscomb
Shuttle will be provided from La Jolla Shores Hotel

June 15, 2012

- 7:45 a.m.** Meet in La Jolla Shores Hotel lobby for shuttle to workshop venue
- 8:00 a.m.** Coffee, light breakfast
- 8:30 a.m.** **Session 5. Attribution of Emissions to Carbon Producers**
Presentation @ 10 minutes; followed by moderated discussion
Heede: Carbon majors analysis
Lead discussant: Matt Pawa
Key issue: Can new analyses increase the prospect for holding major carbon producers legally and publicly accountable?
- 9:30 a.m.** **Session 6. Innovative Strategies for Climate Accountability**
One to two presentations @ seven minutes each; followed by moderated discussion
Jim Hoggan, John Mashey
Key issues: What potential options for U.S.-focused climate litigation appear most promising? To what extent would greater public (including judge and jury) acceptance of the causal relationships of climate impacts to fossil fuel production and/or emissions enhance the prospects for success? What types of non-litigation public pressure might enhance their prospects for success?
- 11:00 a.m.** Break
- 11:15 a.m.** **Session 7. Public Opinion and Climate Accountability**
Moderated discussion drawing from key perspectives in public opinion
Speakers: Dan Yankelovich, Paul Slovic, Brenda Ekwurzel
Key issues: What is the role of public opinion in climate accountability?
- 12:45 p.m.** Lunch
- 2:00 p.m.** **Session 8. Discussion, outcomes, next steps**
- 4:00 p.m.** Wrap up
Shuttle service will be provided for the return trip to the hotel
- 7:30 p.m.** Drinks and dinner at La Jolla Shores Hotel restaurant

Appendix B: Participants

Climate Accountability, Public Opinion, and Legal Strategies Workshop

June 14–15, 2012

Workshop Organizers

Naomi Oreskes

*Professor of History and Science Studies,
University of California–San Diego
Adjunct Professor of Geosciences, Scripps
Institution of Oceanography*

Peter C. Frumhoff

*Director of Science and Policy,
Union of Concerned Scientists
Cambridge, MA*

Richard (Rick) Heede

*Principal, Climate Mitigation Services
Co-Founder and Director, Climate
Accountability Institute
Snowmass, CO*

Lewis M. Branscomb

*Aetna Professor of Public Policy and
Corporate Management (emeritus), John
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Angela Ledford Anderson

*Director, Climate and Energy Program,
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Workshop Participants

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Brenda Ekwurzel

*Climate Scientist and Assistant Director
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Sharon Y. Eubanks

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University of California Center for
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James (Jim) Hoggan
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Michael (Mike) MacCracken
Chief Scientist for Climate Change
Programs, Climate Institute
Washington, DC

John Mashey
Techviser
Portola Valley, CA

Joseph (Joe) Mendelson III
Director of Policy, Climate and Energy
Program, National Wildlife Federation
Washington, DC

Matt Pawa
President, Pawa Law Group, PC
Founder, The Global Warming Legal
Action Project
Newton Centre, MA

Robert N. Proctor
Professor of the History of Science,
Stanford University

Paul Slovic
Founder and President, Decision Research
Eugene, OR

Claudia Tebaldi
Research Scientist, Climate Central
Boulder, CO

Jasper Teulings
General Counsel/Advocaat, Greenpeace
International
Amsterdam

Roberta Walburn
Attorney
Minneapolis, MN

Mary Christina Wood
Philip H. Knight Professor and Faculty
Director, Environmental and Natural
Resources Law Program, University of
Oregon School of Law

Daniel (Dan) Yankelovich
Chair and Co-Founder, Public Agenda
San Diego, CA

Rapporteur

Seth Shulman
Senior Staff Writer, Union of
Concerned Scientists
Cambridge, MA



Pictured (L to R): Stanton Glantz, Richard Heede, Roberta Walburn (obscured), James Hoggan, Sharon Eubanks, Peter Frumhoff, Richard Ayres (obscured), Angela Anderson, Mary Christina Wood, Lewis Branscomb, Claudia Tebaldi, Brenda Ekwurzel, Naomi Oreskes, Robert Proctor (obscured), Joseph Mendelson, Seth Shulman, John Mashey (obscured), Myles Allen, Alison Kruger, Michael MacCracken. Not pictured: Matt Pawa, Paul Slovic, Jasper Teulings, Daniel Yankelovich.



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App. 146

Exhibit G

The New York Review of Books

The Rockefeller Family Fund Takes on ExxonMobil

David Kaiser and Lee Wasserman
DECEMBER 22, 2016 ISSUE

Merchants of Doubt: How **a** Handful of Scientists Obscured the Truth on Issues from Tobacco Smoke to Global Warming
by Naomi Oreskes and Erik M. Conway
Bloomsbury, 355 pp., \$18.00 (paper)

Private Empire: ExxonMobil and American Power
by Steve Coll
Penguin, 685 pp., \$19.00 (paper)

Exxon: The **Road** Not Taken
by Neela Banerjee, John H. Cushman Jr., David Hasemyer, and Lisa Song
InsideClimate News, 88 pp., \$5.99 (paper)

What Exxon Knew About the Earth's Melting Arctic
an article by Sara Jerving, Katie Jennings, Masako Melissa Hirsch, and Susanne Rust
Los Angeles Times, October 9, 2015

How Exxon Went from Leader to Skeptic on Climate Change Research
an article by Katie Jennings, Dino Grandoni, and Susanne Rust
Los Angeles Times, October 23, 2015

Big Oil Braced for Global Warming While It Fought Regulations
an article by Amy Lieberman and Susanne Rust
Los Angeles Times, December 31, 2015

Archival Documents on Exxon's Climate History
available at www.climatefiles.com

Smoke, Mirrors and Hot Air: How ExxonMobil Uses Big Tobacco's Tactics to Manufacture Uncertainty on Climate Science
a report by the Union of Concerned Scientists, January 2007
available at ucsusa.org

In the first part of this article, we described recent reporting that ExxonMobil's leaders knew humans were altering the world's climate by burning fossil fuels even while the company was helping to fund and propel the movement denying the reality of climate change.¹ Ever since the *Los Angeles Times* and *InsideClimate News* started publishing articles showing this in late 2015, ExxonMobil has repeatedly accused its critics of "cherry-picking" the evidence, taking its statements out of context, and "giving an incorrect impression about our corporation's approach to climate change."² Meanwhile, New York Attorney General Eric Schneiderman is one of several officials who have been investigating whether the company's failures to disclose the business risks of climate change to its shareholders constituted consumer or securities fraud.



Garth Lenz

Since ExxonMobil claims that it has been misrepresented, we encourage it to make public all the documents Schneiderman has demanded, so that independent researchers can consider all the facts. In the meantime we suggest that anyone who remains unconvinced by the record we have collected and published of the company's internal statements confirming the reality of climate change consider its actions, especially its expenditures. Regardless of its campaign to confuse policymakers and the public, Exxon has always kept a clear eye on scientific reality when making business decisions.

In 1980, for example, Exxon paid \$400 million for the rights to the Natuna natural gas field in the South China Sea. But company scientists soon realized that the field contained unusually high concentrations of carbon dioxide, and concluded in 1984 that extracting its gas would make it "the world's largest point source emitter of CO₂ [, which] raises concern for the possible incremental impact of Natuna on the CO₂ greenhouse problem." The company left Natuna undeveloped. Exxon's John Woodward, who wrote an internal report on the field in 1981, told InsideClimate News, "They were being farsighted. They weren't sure when CO₂ controls would be required and how it would affect the economics of the project."²

ADVERTISING

This, of course, was a responsible decision. But it indicates the distance between Exxon's decades of public deception about climate change and its internal findings. So do investments that Exxon and its Canadian subsidiary Imperial Oil made in the Arctic. As Ken Croasdale, a senior ice researcher at Imperial, told an engineering conference in 1991, concentrations of greenhouse gases in the atmosphere were increasing "due to the burning of fossil fuels. Nobody disputes this fact." Accordingly,

any major development with a life span of say 30–40 years will need to assess the impacts of potential global warming. This is particularly true of Arctic and offshore projects in Canada, where warming will clearly affect sea ice, icebergs, permafrost and sea levels.

Croasdale based these projections on the same climate models that Exxon's leaders spent the next fifteen years publicly disparaging. But following his warnings that rising seas would threaten buildings on the coast, bigger waves would threaten offshore drilling platforms, and thawing permafrost would threaten pipelines, Exxon began reinforcing its Arctic infrastructure.⁴

Similarly, as Steve Coll⁵ wrote in *Private Empire: ExxonMobil and American Power* (2012), the company's

investments in skeptics of the scientific consensus coincided with what at least a few of ExxonMobil's own managers regarded as a hypocritical drive inside the corporation to explore whether climate change might offer new opportunities for oil exploration and profit.

The company tried to use the work of one of its most celebrated earth scientists, Peter Vail, to predict how alterations to the planet's surface made by the changing climate could help it discover new deposits of oil and gas. "'So don't believe for a minute that ExxonMobil doesn't think climate change is real,' said a former manager.... 'They were using climate change as a source of insight into exploration.'"⁶

Soon after Rex Tillerson replaced Lee Raymond as CEO at the start of 2006, he created a secret task force to reconsider the company's approach to climate change—"so that it would be more sustainable and less exposed," according to one participant.⁷ Tillerson may have been afraid that the company's aggressive denial campaign had made it vulnerable to lawsuits.⁸

Under his leadership, as Coll has shown, the company gradually began to change its public position on climate. In 2006 its British subsidiary promised the UK's Royal Society it would stop funding organizations that were misinforming the public about climate science.⁹ In 2007 Tillerson stated, "We know the climate is changing, the average temperature of the earth is rising, and greenhouse gas emissions are increasing." (That was more than Raymond had ever admitted, but Tillerson still wouldn't acknowledge that fossil fuel combustion caused global warming)¹⁰ In January 2009—twelve

Case 4:16-cv-00469-K Document 175-3 Filed 02/01/17 Page 44 of 51 PageID 6082
 days before President Obama's inauguration would situate the company in much less welcoming political territory—Tillerson announced that ExxonMobil had become concerned enough about climate change to support a carbon tax.¹¹

The climate measure then under active discussion in Washington, however, was a cap-and-trade bill. There was almost no political support for a carbon tax at the time, and Tillerson's announcement may have been meant to divert support from the reform that seemed most plausible.¹² Indeed, since then, although ExxonMobil continues to claim that it supports a carbon tax, it has given much more money to members of Congress who oppose such a tax than to those who endorse one.¹³ As of last year it was still funding organizations that deny global warming or fight policies proposed to address it.¹⁴ And at its annual shareholder meetings it still fiercely resists almost all meaningful resolutions on climate change.¹⁵

The Securities and Exchange Commission requires companies to disclose known business risks to their investors, and Exxon's leaders have been acutely conscious of the changing climate's danger to the oil business for almost forty years. The company didn't start telling its shareholders about that danger until 2007,¹⁶ however, and in our opinion has never disclosed its full scope. To take just one very important example, the valuation of any oil company depends largely on its "booked reserves," meaning the quantities of buried oil and gas to which it owns the rights.¹⁷ Ultimately, however, ExxonMobil may not be able to sell most of its booked reserves, because the world's governments, in trying to prevent catastrophic climate change, may have to adopt policies that make exploiting them economically unfeasible.

In 2013 the Intergovernmental Panel on Climate Change (IPCC) formally endorsed the idea of a global "carbon budget," estimating that, to keep warming to the two degrees Celsius then considered the largest increase possible without incurring catastrophe, humanity could only burn about 269 billion more tons of fossil fuels.¹⁸ (We are currently burning about ten billion tons a year.)¹⁹ As of 2009, however, the world had 763 billion tons of proven and economically recoverable fossil fuel reserves.²⁰

If ExxonMobil can sell only a fraction of its booked reserves—if those reserves are "stranded"—then its share price will probably decline substantially. The company has long been familiar with the concept of a carbon budget, but claims to believe it is "highly unlikely" that the world will be able to comply with the IPCC's recommendation for such a budget. In 2014 it stated, "We are confident that none of our hydrocarbon reserves are now or will become 'stranded.'" ²¹ Because it is a matter of the highest urgency that humanity find a way to adopt the IPCC's global carbon budget, however, it seems to us that ExxonMobil has been much too sanguine about its business prospects.²² As a Baltimore *Sun* editorial about the company's long history of climate deceptions put it, "Surely there ought to be consequences if a for-profit company knowingly tells shareholders patent falsehoods (and then those investors make decisions about their life savings without realizing they've been lied to)."²³

It is up to government officials, not public interest advocates, to determine whether ExxonMobil's conduct has violated any state or federal laws within the relevant statutes of limitations. Recognizing this, the Rockefeller Family Fund (RFF) informed state attorneys general of our concern that ExxonMobil seemed to have failed to disclose to investors the business risks of climate change. We were particularly encouraged by Schneiderman's interest in this matter, because New York's Martin Act is arguably the most powerful tool in the nation for investigating possible schemes to defraud.²⁴ If ExxonMobil fully complies with Schneiderman's subpoena, he will be able to make a thorough review of the company's disclosures to shareholders on climate change and the history of its internal knowledge. He will then be able to decide whether or not to hold ExxonMobil legally responsible based on all the facts.

No state AG's office can easily compete with ExxonMobil's legal resources, however, not even New York's. Schneiderman has been intrepid so far, but would benefit greatly from cooperation from the AGs of Massachusetts, California, and other states, as well as from the federal government. ExxonMobil has already launched aggressive legal actions against the Virgin Islands, Massachusetts, and New York in response to their investigations, and this may deter others from joining Schneiderman's efforts.²⁵ Still, we hope that other AGs will recognize how dangerous it is when a corporation can use its wealth to discourage enforcement of possible violations of laws governing securities and consumer protection. If they believe the laws of their states may have been violated, they should initiate investigations of their own.

The RFF has also consulted with other advocates about ways to use what we know about ExxonMobil to educate the public about climate change.²⁶ The company's suggestion that our communications with governmental officials and like-minded public interest advocates constitutes "conspiracy," however, is absurd, ignoring the long record American civic associations have of addressing deep societal problems by use of the First Amendment.

ExxonMobil's success in forestalling any sort of adequate response to climate change for a quarter-century makes it imperative that Congress address this swiftly descending crisis now with all possible force and urgency. If the companies that bear so much responsibility for blocking climate action have broken any laws in the process, we hope they will be held accountable. We also hope, secondarily, to make it difficult for elected officials to accept ExxonMobil's money and do its bidding.

Texas Congressman Lamar Smith has taken more money in campaign contributions from oil and gas companies, including ExxonMobil, than from any other industry during his congressional career.²⁷ It is not hard to see why companies intent on blocking new climate policies are eager to support him. Last year, for example, the National Oceanic and Atmospheric Administration published an article in *Science* refuting the already discredited canard that climate data show no warming over the past two decades.²⁸ In response Smith issued a subpoena to the agency, demanding all its internal e-mails about climate research. An article in *US News and World Report* observed that Smith's "brand of oversight may signal a new era for science, one where research itself is subject to political polarization."²⁹ According to Eddie Bernice Johnson, the ranking minority member of the House Science Committee, Smith has repeatedly called former tobacco industry scientists, consultants, and public relations firms to testify at his committee's hearings, and has relied on their guidance in previous investigations.³⁰ *Wired* last year called him "Congress' Chief Climate Denier."³¹

Recently, Smith has accused several AGs and environmental organizations, including the Rockefeller Family Fund, of "undermin[ing] the First Amendment of the Constitution." He has told us at the RFF that "Congress has a duty to protect scientists and researchers from the criminalization of scientific inquiry" and "a responsibility to investigate whether [the state inquiries into ExxonMobil] are having a chilling effect on the free flow of scientific inquiry and debate regarding climate change."³² As the dean of the Yale Law School wrote in *The Washington Post*, "It is hard to exaggerate the brazen audacity of this argument."³³ Johnson wrote to Smith that "in a Congress in which the Committee on Science, Space, and Technology's oversight powers have been repeatedly abused, this latest action stands apart.... Never in the history of this formerly esteemed Committee has oversight been carried out with such open disregard for truth, fairness, and the rule of law."³⁴ The *San Antonio Express-News*, Smith's hometown paper, which had previously endorsed his bids for reelection, declined to do so this year because of his "abuse of his position as chairman" and his "bullying on the issue of climate change."³⁵

Congressional committees have very limited jurisdiction over state law enforcement officers engaged in the good-faith execution of their duties, and never before has Congress subpoenaed a state attorney general.³⁶ The AGs investigating ExxonMobil are trying to determine whether the company has defrauded shareholders according to the laws of their states.³⁷ Fraud, of course, is not protected by the First Amendment, and since the AGs are responsible for prosecuting fraud, they must be free to investigate it.

As for the nonprofit organizations the Science Committee has subpoenaed, including our own, it is obviously not within our power to violate anyone's First Amendment rights. The Supreme Court has called it "a commonplace that the constitutional guarantee of free speech is a guarantee only against abridgment by government, federal or state."³⁸ That aside, we have no wish to silence anyone, or to interfere with free scientific inquiry. For the best ideas to prevail, however, people must be allowed to point out instances of inaccurate or dishonest



Will Rose/Greenpeace

Greenpeace activists preparing to board an ExxonMobil oil rig in Norwegian waters to protest its plans to drill for oil in the Russian Arctic, March 2014

speech. And indeed, by calling attention to the deep, largely orchestrated dishonesty that has characterized the climate denial movement ever since its inception, we are supporting genuine scientific inquiry.

We have tried to reach a reasonable accommodation with the Science Committee. But we do wish to criticize ExxonMobil on moral grounds for its long effort to confuse and deceive the public about climate change. Moreover, we believe that the willingness of some members of Congress to echo and defend ExxonMobil's obfuscation of established climate science is an inexcusable breach of the public trust. It is our First Amendment right to express these views.

In fact, the Science Committee is doing to the people and organizations it subpoenaed exactly what it accuses us of doing. It is trying to chill the First Amendment rights of those who would petition government, speak freely, and freely associate to advocate for responsible climate policies.³⁹ The legal fees we have incurred because of its demands are bearable for the RFF, but they would be crippling for many smaller organizations. We also face civil or criminal liability if we are held in contempt of Congress because we will not accede to these demands.

More seriously, the committee's actions now force all organizations that would collaborate with others when taking on powerful special interests to consider that they might be ordered to reveal their strategies to any hostile member of Congress with subpoena power. This is a clear injury to the First Amendment right of association. As the Ninth Circuit wrote in *Perry v. Schwarzenegger* (2010):

Implicit in the right to associate with others to advance one's shared political beliefs is the right to exchange ideas and formulate strategy and messages, and to do so in private. Compelling disclosure of internal campaign communications can chill the exercise of these rights.⁴⁰

Many commentators have noted that the committee is doing the same things to us that it falsely accuses us of doing.⁴¹ By accusing us of harming the First Amendment rights of others when it is attacking ours, it is trying to turn what would otherwise be self-evidently outrageous conduct into a dispute. This is not so different from ExxonMobil's politicized variant of the "Tobacco Strategy"—people will be tempted simply to take the side with which they sympathize ideologically. Meanwhile, the committee is creating a distraction from the real issues, which are what Exxon knew, and when; what it did with its knowledge; and what options humanity has left to prevent the worst consequences of climate change.

Thousands of scientists from around the world contribute to the Intergovernmental Panel on Climate Change's reports, reviewing and synthesizing the published literature on climate science every few years. The summaries for policymakers that encapsulate those reports must then be considered and approved, line by line, by representatives of over 120 different countries.⁴² Because of the remarkable number of scientists participating in the IPCC's work, it is generally considered the world's greatest institutional authority on climate science.⁴³ But because it requires the approval of so many nations, including oil producers like Saudi Arabia and Kuwait, and because it is subject to political manipulation, as happened when ExxonMobil convinced the Bush administration to have its chairman replaced in 2001,⁴⁴ the IPCC's conclusions are generally considered quite conservative.⁴⁵

Still, the predictions of the IPCC's latest report, published last year, are dire.⁴⁶ In this century, disastrous weather events such as storms, droughts, floods, fires, and heat waves will become more common and more severe. Changes to regional weather will have especially serious consequences in places that are already poor, as areas that are semiarid now, for example, become too dry to farm at all. Low-lying islands and coastal cities around the world will be threatened by rising sea levels. In many parts of the world, both the quantity and the quality of fresh water will decline.

For a time, some places will see agricultural productivity increase as the planet warms and rainfall distribution shifts; but others will face shortages of food and the possibility of famine. Globally, total agricultural output is expected to be lower at the end of the century than it is now. The challenge of feeding the world's people will be exacerbated by declining fisheries as the oceans warm and turn more acidic. Many plant and animal species will become extinct as climatic changes outpace their ability to adapt, others will migrate to new regions, and all of this will have cascading effects on most ecosystems. (For example, the combination of much larger wildfires than we are used to seeing and invasive beetle species may endanger the world's boreal forests—and if they disappear, they will release vast additional quantities of carbon dioxide into the atmosphere.) Old diseases will spread and new ones emerge.

These different effects of climate change will interact with each other in complex ways, some of which may not be predictable now. It seems clear, however, that the poorest parts of the world will become poorer still, and economies everywhere will be threatened. (A 1980 American Petroleum Institute meeting in which Exxon participated concluded that at a “3% per annum growth rate of CO₂, a 2.5° C rise [in average global temperature] brings world economic growth to a halt in about 2025.”)⁴⁷ Conflict over dwindling resources will increase around the world; so, dramatically, will human migration and political instability.

As a group of retired American generals and admirals who studied the national security implications of climate change concluded in 2007:

Economic and environmental conditions in already fragile areas will further erode as food production declines, diseases increase, clean water becomes increasingly scarce, and large populations move in search of resources. Weakened and failing governments, with an already thin margin for survival, foster the conditions for internal conflicts, extremism, and the movement toward increased authoritarianism and radical ideologies.

It is true that scientists still disagree about precisely how severe the effects of climate change will be, and when. But, the generals and admirals wrote, “As military leaders, we know we cannot wait for certainty. Failing to act because a warning isn’t precise enough is unacceptable.”⁴⁸

The world’s governments should have acted decades ago. When the Exxon scientist James Black wrote in 1978 that “the need for hard decisions regarding changes in energy strategies might become critical” in “five to ten years,” he was right.⁴⁹ That was humanity’s best chance to start making the transition to a clean energy economy before so much CO₂ was released into the atmosphere that a great deal of warming became unavoidable. In our opinion, the reason the world has failed to act for so long is in no small part because the climate denial campaign that Exxon helped devise and lead was so successful.

Just as the tobacco industry gained decades of huge profits by obfuscating the dangers of smoking, the oil industry secured decades of profits—in Exxon’s case, some of the largest profits of any corporation in history—by helping to create a fake controversy over climate science that deceived and victimized many policymakers, as well as much of the public. The bogus science it paid for through front groups, which was then repeated and validated by industry-funded, right-wing think tanks and a too-easily cowed press, worked just as well for ExxonMobil as it had for R.J. Reynolds. A 2004 study by Naomi Oreskes in *Science* examined 928 peer-reviewed papers on climate science and found that not a single one disputed global warming’s existence or its human cause.⁵⁰ But according to a recent Yale University study, only 11 percent of Americans understand that there is a scientific consensus on these points.⁵¹

The climate deniers succeeded in politicizing a formerly nonpartisan issue and a threat to all humanity.⁵² In consequence, for decades now, meaningful congressional action to address climate change has been impossible. Without the agreement and leadership of the United States, the world’s largest cumulative emitter of CO₂, it has been impossible to achieve a meaningful global accord on climate change. The recently completed Paris agreement on climate, for which the Obama administration fought, will be effective—but only if the world’s nations live up to the commitments they made in it. Although, as a result in part of the actions of ExxonMobil, we have already missed our best chance to prevent a reordering of the world’s ecological balance due to climate change, we can still avoid its worst effects. There is an enormous difference between the new, local disasters that the changing climate is already causing around the world⁵³ and the global catastrophe that will become unavoidable within a few decades unless humanity takes decisive action soon.

—*This is the second part of a two-part article.*

1 See “The Rockefeller Family Fund vs. Exxon,” *The New York Review*, December 8, 2016. ↵

2 See *Understanding the #ExxonKnew “controversy”*; Paul Barrett and Matthew Philips, “Can ExxonMobil Be Found Liable for Misleading the Public on Climate Change?,” *Bloomberg Businessweek*, September 7, 2016. The company has argued, among other things, that it is unfair to expect that it could have understood the reality of climate change before the rest of the world’s scientific community. So it would be, if anyone expected that. But by the late 1970s there was a scientific consensus that the earth would begin to warm appreciably within the next few decades because of the carbon dioxide released by fossil fuel combustion and by deforestation. Exxon understood and agreed with this scientific consensus as it emerged. It doesn’t seem to have begun seriously trying to create doubt about climate science until the late 1980s. ↵

- 3 See Neelke Doorn, [technology.com/projects/Natuna/](http://www.technology.com/projects/Natuna/). ↵
- 4 See Sara Jerving, Katie Jennings, Masako Melissa Hirsch, and Susanne Rust, “[What Exxon Knew About the Earth’s Melting Arctic](#),” *Los Angeles Times*, October 9, 2015. Other big oil companies like Mobil (before it merged with Exxon) and Shell, which also opposed policies meant to reduce the impact of climate change, were similarly “raising the decks of offshore platforms, protecting pipelines from increasing coastal erosion, and designing helipads, pipelines and roads [for] a warming and buckling Arctic.” See Amy Lieberman and Susanne Rust, “[Big Oil Braced for Global Warming While It Fought Regulations](#),” *Los Angeles Times*, December 31, 2015. We have focused on Exxon in these articles partly because more is known about its record on climate, and partly because it was more aggressive than its competitors in promoting the denial campaign. See Steve Coll, *Private Empire: ExxonMobil and American Power* (Penguin, 2012), pp. 185, 541, 623–624. ↵
- 5 Coll is now the dean of Columbia University’s Graduate School of Journalism. As we explained in the first of these articles, it was a team of independent reporters from the Journalism School that published the articles about Exxon in the *Los Angeles Times*, and our organization, the Rockefeller Family Fund, was the leading funder of this effort. ↵
- 6 Coll, *Private Empire*, pp. 185–186. ↵
- 7 Coll, *Private Empire*, p. 336. ↵
- 8 Coll writes, “What distinguished the corporation’s activity during the late 1990s and the first Bush term was the way it crossed into disinformation. Even within ExxonMobil’s K Street office, a haven of lifelong employees devoted to the corporation’s viewpoints and principles, an uneasy recognition gathered among some of the corporation’s lobbyists that some of the climate policy hackers in the ExxonMobil network were out of control and might do shareholders real damage, in ways comparable to the fate of tobacco companies.” (*Private Empire*, p. 184.) ↵
- 9 See [2006 Letter From the Royal Society to Esso UK Limited](#). In 2007, ExxonMobil also told a group of American environmentalists that it had decided to stop funding the “most controversial” climate denial organizations. (See Coll, *Private Empire*, pp. 343–346.) ↵
- 10 See Coll, *Private Empire*, p. 347. ↵
- 11 See Coll, *Private Empire*, pp. 534–535. ↵
- 12 See Coll, *Private Empire*, pp. 534–541. Cap-and-trade is a market-based mechanism designed to reduce pollution, in this case greenhouse gases. The Waxman-Markey Bill passed by the US House of Representatives in 2009 set a “cap” that established the total amount of allowable greenhouse gas emissions from certain industries. The cap declined over time until emissions would have been reduced by 80 percent in 2050 from 2005 levels. Under the bill, permits to emit carbon—which, when added together, comprised the cap—were either auctioned or allocated to the states, to historic polluters (e.g., utilities, refineries, cement plants), or for other public purposes. The bill required emitters to obtain and submit a permit for each ton of pollution they produced. No industry was allocated so many permits that it would not need to purchase additional ones. This was intended to create a clear financial incentive to reduce emissions. As the cap declined and the number of allocated permits shrank, the incentive would become even stronger.
- By contrast, under a carbon tax regime there is no cap. Instead, typically, the first importer or producer of fossil-based fuel is assessed a tax based on the carbon content of the fuel. Because coal contains the most carbon, it would be charged at the highest rate, followed by oil and then natural gas. The tax would be passed along to consumers, creating a market signal to reduce consumption of the carbon-based fuels. ↵
- 13 See Elliott Negin, “[ExxonMobil’s Latest Campaign to Stymie Federal Climate Action](#),” *The Huffington Post*, August 8, 2016. ↵
- 14 See Elliott Negin, “[ExxonMobil Is Still Funding Climate Science Denier Groups](#),” *The Huffington Post*, July 13, 2016. ↵
- 15 See Steven Mufson, “[Climate Resolutions Fall Short at ExxonMobil’s Annual Meeting](#),” *The Washington Post*, May 25, 2016. ↵
- 16 See Lieberman and Rust, “Big Oil Braced for Global Warming.” ↵
- 17 See Coll, *Private Empire*, pp. 51, 57. ↵
- 18 See [IPCC Report Contains ‘Grave’ Carbon Budget Message](#). ↵
- 19 See [World Sets Record For Fossil Fuel Consumption](#); Avaneesh Pandey, “[Climate Change: 10 Billion Tons of Carbon Are Now Being Released Every Year. The Fastest in 66 Million Years](#),” *International Business Times*, March 22, 2016. ↵
- 20 See Malte Meinshausen, Nicolai Meinshausen, William Hare, Sarah C. B. Raper, Katja Frieler, Reto Knutti, David J. Frame, and Myles R. Allen, “[Greenhouse-Gas Emission Targets for Limiting Global Warming to 2°C](#),” *Nature*, April 30, 2009. ↵
- 21 See [Energy and Carbon — Managing the Risks](#), pp. 1, 12. ↵
- 22 We do not know whether or not ExxonMobil was also being disingenuous in its claims about the likelihood of compliance with the IPCC’s global carbon budget. It is the sort of question that we hope Schneiderman’s investigation will be able to answer. ↵
- 23 See “[Frosh’s Temperature Rise](#),” *The Baltimore Sun*, June 1, 2016. ↵
- 24 The Martin Act is New York State’s version of a “blue sky” law, a statute designed to protect the public against the fraudulent sale of securities or other fraudulent schemes. It gives the New York attorney general extremely broad discretion: he may investigate “all deceitful practices contrary to the plain rules of common honesty” and “acts tending to mislead or deceive the public.”
- The statute does not require that the state prove intent to defraud. Under the Martin Act the attorney general can pursue civil proceedings, which include injunctive relief or restitution, or criminal actions. Prior to commencement of an action the state may subpoena any documents deemed “relevant or material to the inquiry.” (See Nina Hart, “[Moving at a Glacial Pace: What Can State Attorneys General Do About SEC Inattention to Nondisclosure of Financially Material Risks Arising from Climate Change](#),” Center for Climate Change Law, Columbia Law School, pp. 30–31; [Moving at a Glacial Pace: What Can State Attorneys General Do about SEC Inattention to Nondisclosure of Financially Material Risks arising from Climate Change?](#)) ↵
- 25 See [Exxon Fights MASS Investigation](#); Memorandum of law in Support of Defendant Attorney General Maura Healey’s Motion to Dismiss: Plaintiff’s Original Petition for Declaratory Relief; Letter to Gregory Hodges, Esq.; Paul Barrett, “[Exxon Chooses War in New York’s Probe of Climate Change Research](#),” *Bloomberg Businessweek*, October 18, 2016. ↵
- 26 In January the RFF hosted a meeting of public interest advocates at our office. One of the participants (not affiliated with the RFF) circulated an e-mail suggesting “examples” of possible “common goals” for the group, including “to establish in [the] public’s mind that Exxon is a corrupt institution that has pushed humanity (and all creation) toward climate chaos and grave harm,” and “to delegitimize them as a political actor.” Reporters somehow acquired and wrote about this e-mail (see Amy Harder, Devlin Barrett, and Bradley Olson, “[Exxon Fires Back at Climate-Change Probe](#),” *The Wall Street Journal*, April 13, 2016; Alana Goodman, “[Memo Shows Secret Coordination Effort Against ExxonMobil by Climate Activists, Rockefeller Fund](#),” *The Washington Free Beacon*, April 14, 2016), and Congressman Lamar Smith has since cited it in his criticism of us. (See [Letter, June 17, 2016 to Ms. Faith E. Gay](#).)
- From our perspective, the e-mail contained some rhetorical bravado (though it was never intended for publication, of course), and while we consider Exxon’s actions immoral, we have no particular interest in persuading the public that the company is corrupt. Otherwise, however, we don’t think the e-mail said or suggested anything that is far from the truth. ↵
- 27 See [Top Industries: Representative John Boehner](#). ↵
- 28 Thomas R. Karl, Anthony Arguez, Boyin Huang, Jay H. Lawrimore, James R. McMahon, Matthew J. Menne, Thomas C. Peterson, Russell S. Vose, and Huai-Min Zhang, “[Possible Artifacts of Data Biases in the Recent Global Surface Warming Hiatus](#),” *Science*, June 26, 2015. ↵

- 29 See Alan Weisman, "Lamar Smith's Climate Denial," *New York Times*, November 23, 2015. [↵](#)
- 30 See [Letter, June 23, 2016](#). [↵](#)
- 31 See Eric Niller, "Congress' Chief Climate Denier Lamar Smith and NOAA Are at War," *Wired*, November 11, 2015. [↵](#)
- 32 See [Letter to Faith E. Gay, June 17, 2016](#). [↵](#)
- 33 See Robert Post, "ExxonMobil Is Abusing the First Amendment," *The Washington Post*, June 24, 2016. Post was referring to the First Amendment argument made by ExxonMobil's allies generically, not specifically to Smith. [↵](#)
- 34 See [Letter, June 23, 2016](#). [↵](#)
- 35 See "Lamar Smith's Bully Tactics Cross the Line," *San Antonio Express-News*, October 17, 2016. [↵](#)
- 36 See [www.mass.gov/ago/docs/energy-utilities/exxon/lttr-to-congressman-lamar-smith-7-26-16.pdf](#). Senator Sheldon Whitehouse of Rhode Island recently wrote that "the constitutional principle of federalism requires 'proper respect' to states' constitutional functions, and what more proper and inherent state function is there than investigation and prosecution of violations of state law? If the committee is obstructing that state function on behalf of a private party, that raises obvious due process evils of government power unleashed under hidden private control." (Sheldon Whitehouse, "Standoff Over a House Panel's Subpoenas Raises Key Issue," *The National Law Journal*, August 29, 2016.) [↵](#)
- 37 See John Schwartz, "Exxon Mobil Fraud Inquiry Said to Focus More on Future Than Past," *The New York Times*, August 19, 2016. [↵](#)
- 38 *Hudgens v. National Labor Relations Board*, 424 US 507, 513 (1976). [↵](#)
- 39 We were disturbed to see that in an exchange with our lawyers, Smith cited *Barenblatt v. United States* (1959)—a decision that seemed to ratify the infamous witch-hunts of the House Un-American Activities Committee—as precedent and justification for his committee's demand that we turn over our private correspondence. See [Letter to Faith E. Gay, June 17, 2016](#). [↵](#)
- 40 *Perry v. Schwarzenegger*, 591 F.3d 1147, 1162–63 (9th Cir. 2010). [↵](#)
- 41 See, e.g., "House GOP Members Pursue an Objectionable Defense of Fossil Fuels," *Los Angeles Times*, August 4, 2016; Sheldon Whitehouse and Elizabeth Warren, "Big Oil's Master Class in Rigging the System," *The Washington Post*, August 9, 2016; [Letter to Chairman Smith, September 12, 2016](#). [↵](#)
- 42 The IPCC is a body of the United Nations. Any country that is a member of one of two other UN bodies, the World Meteorological Organization and the United Nations Environmental Program, is eligible to participate in the IPCC. [↵](#)
- 43 See Naomi Oreskes and Erik Conway, *Merchants of Doubt: How a Handful of Scientists Obscured the Truth on Issues from Tobacco Smoke to Global Warming* (Bloomsbury, 2010), p. 2. [↵](#)
- 44 See [ExxonMobil Lobbyist Randy Randol 2001 Memorandum to White House on IPCC team](#); David Hasemyer and John H. Cushman Jr., "Exxon Sowed Doubt About Climate Science for Decades by Stressing Uncertainty," *InsideClimate News*, October 22, 2015; Greenpeace, "Denial and Deception: A Chronicle of ExxonMobil's Efforts to Corrupt the Debate on Global Warming," May 12, 2002, p. 14. [↵](#)
- 45 Oreskes and Conway, *Merchants of Doubt*, pp. 204, 206–207. [↵](#)
- 46 Intergovernmental Panel on Climate Change, *Climate Change 2014: Synthesis Report*, edited by the Core Writing Team, Rajendra K. Pachauri, and Leo Meyer (IPCC, 2015). See especially pp. 56–73. [Climate Change 2014: Synthesis Report](#). [↵](#)
- 47 See [CO2 and Climate Task Force](#). [↵](#)
- 48 *National Security and the Threat of Climate Change* (The CNA Corporation, 2007), pp. 6, 7. The admirals and generals involved in the study were General Gordon R. Sullivan, USA (Ret.), Admiral Frank "Skip" Bowman, USN (Ret.), Lieutenant General Lawrence P. Farrell Jr., USAF (Ret.), Vice Admiral Paul G. Gafney II, USN (Ret.), General Paul J. Kern, USA (Ret.), Admiral T. Joseph Lopez, USN (Ret.), Admiral Donald L. "Don" Pilling, USN (Ret.), Admiral Joseph W. Prueher, USN (Ret.), Vice Admiral Richard H. Truly, USN (Ret.), General Charles F. "Chuck" Wald, USAF (Ret.), and General Anthony C. "Tony" Zinni, USMC (Ret.). The RFF supported this convening of generals and admirals, but needless to say they exercised independent judgment in reaching their conclusions. [↵](#)
- 49 See [1978 Exxon Memo on Greenhouse Effect for Exxon Corporation Management Committee](#). [↵](#)
- 50 See Naomi Oreskes, "Beyond the Ivory Tower: The Scientific Consensus on Climate Change," *Science*, December 3, 2004. [↵](#)
- 51 See [Climate Change in the American Mind](#). [↵](#)
- 52 Yale sociologist Justin Farrell told the *Los Angeles Times* that ideological "polarization around climate change...was manufactured by those whose financial and political interests were most threatened." See Lieberman and Rust, "Big Oil Braced for Global Warming." See also Justin Farrell, "Corporate Funding and Ideological Polarization About Climate Change," *Proceedings of the National Academy of Sciences of the United States of America*, January 5, 2016. [↵](#)
- 53 IPCC, *Climate Change 2014: Synthesis Report*, pp. 49–51. [↵](#)

RELATED



[The Rockefeller Family Fund vs. Exxon](#)
David Kaiser and Lee Wasserman



[The Ultimate Corporation](#)
Bill McKibben



[A New Solution: The Climate Club](#)
William D. Nordhaus

Exhibit H

From: Kenny Bruno <kenny.bruno@verizon.net>
Date: Tue, Jan 5, 2016 at 4:42 PM
Subject: Exxon meeting DRAFT Agenda and logistics
To: Lee Wasserman <lwasserman@rffund.org>, Bill McKibben <bill.mckibben@gmail.com>, Jamie Henn <jamie@350.org>, Rob Weissman <rweissman@citizen.org>, Bill Lipton <blipton@workingfamilies.org>, Dan Cantor <dcantor@workingfamilies.org>, John Passacantando <j.passacantando@gmail.com>, Kert Davies <kertmail@gmail.com>, won@ef.org, SFubanks@bordaslaw.com, jkrarup@vkrf.org, mp@pawalaw.com, bcampbell@clf.org, Stephen Kretzmann <steve@priceofoil.org>, Carroll Muffett <cmuffett@ciel.org>, Naomi Ages <naomi.ages@greenpeace.org>

Dear All,

If you are receiving this message then we believe you are attending the meeting this coming Friday Jan 8 regarding Exxon.

The meeting will take place at:

Rockefeller Family Fund

475 Riverside Dr entrance on Claremont @ 120th St. in Upper Manhattan, 1

Train to 116th St. from Penn Station

Please confirm whether you are attending in person (preferred, of course!) or remotely. If remotely see instructions below.

Here is a DRAFT Agenda, your suggestions are welcome.

DRAFT Agenda

Exxon: Revelations & Opportunities

Friday January 8 11 AM – 3 PM

475 Riverside Dr @ 120th ST Manhattan

10:45: Arrival and Coffee

11:00 – 11:15 Introductions and purpose of the meeting (Lee)

11:15-12:00 – Goals of an Exxon campaign

What are our common goals? Examples include:

- To establish in public's mind that Exxon is a corrupt institution that has pushed humanity (and all creation) toward climate chaos and grave harm.
- To delegitimize them as a political actor
- To force officials to disassociate themselves from Exxon, their money, and their historic opposition to climate progress, for example by refusing campaign donations, refusing to take meetings, calling for a price on carbon, etc.
- To call into question climate advantages of fracking, compared to coal.
- To drive divestment from Exxon.
- To drive Exxon & climate into center of 2016 election cycle.

Exhibit I

Memo Shows Secret Coordination Effort Against ExxonMobil by Climate Activists, Rockefeller Fund

Posted By Alana Goodman On April 14, 2016 @ 5:00 pm In Issues | [No Comments](#)

A small coalition of prominent climate change activists and political operatives huddled on Jan. 8 for a closed-door meeting at the Rockefeller Family Fund in Manhattan. Their agenda: taking down oil giant ExxonMobil through a coordinated campaign of legal action, divestment efforts, and political pressure.

The meeting—which included top officials at GreenPeace, the Working Families Party, and the Rockefeller Family Fund—took place as climate change groups have pushed for a federal criminal probe of ExxonMobil's environmental impact, similar to the 1990s racketeering case against Big Tobacco.

A copy of the [meeting's agenda](#), obtained by the Washington Free Beacon, provides a rare glimpse inside the anti-ExxonMobil crusade, which has already spurred investigations into the oil giant by Democratic attorneys general in several states.

According to the memo, the coalition's goals are to "delegitimize [ExxonMobil] as a political actor," "force officials to disassociate themselves from Exxon," and "drive divestment from Exxon." The memo also proposed "creating scandal" by using lawsuits and state prosecutors to obtain internal documents from ExxonMobil through judicial discovery.

The secret meeting was first [reported](#) by the Wall Street Journal on Wednesday, but the group's agenda was not posted in full until now.

The agenda was drafted by Kenny Bruno, an activist with the New Venture Fund. Bruno emailed the memo to a small group of around a dozen attendees, including Naomi Ages at GreenPeace; Dan Cantor, executive director of the New York Working Families Party; Jamie Henn, co-founder at 350.org; and Rob Weissman, president at Public Citizen.

According to the agenda, the meeting would be opened by Lee Wasserman, director of the Rockefeller Family Fund. The organization funds many environmental groups and hosted the meeting at its Manhattan office.

"If you are receiving this message then we believe you are attending the meeting this coming Friday Jan 8 regarding Exxon," wrote Bruno. "The meeting will take place at: Rockefeller Family Fund."

The email included a "DRAFT Agenda" for "Exxon: Revelations & Opportunities."

Under a section headlined “goals,” the agenda listed: “To establish in the public’s mind that Exxon is a corrupt institution”; “To delegitimize them as a political actor; and “To drive Exxon & climate into center of 2016 election.”

The agenda also outlined “the main avenues for legal actions & related campaigns,” including state attorneys general, the Department of Justice, international litigation, and tort lawsuits.

“Which of these has the best prospects for successful action? For getting discovery? For creating scandal?” said the memo.

The Rockefeller Family Fund did not immediately return request for comment.

California announced an investigation into ExxonMobil’s statements on climate change in January, shortly after the meeting took place.

Several other states attorneys general, including New York’s Eric Schneiderman and Massachusetts’ Maura Healey, have also launched investigations into whether ExxonMobil broke the law by allegedly covering up internal conclusions on climate change and misleading investors.

ExxonMobil filed court papers on Wednesday challenging another investigation by the U.S. Virgin Island’s attorney general’s office, the Wall Street Journal reported.

In the filing, the oil company denounced the “chilling effect of this inquiry, which discriminates based on viewpoint to target one side of an ongoing policy debate” and “strikes at protected speech at the core of the First Amendment.”

Article printed from Washington Free Beacon: <http://freebeacon.com>

URL to article: <http://freebeacon.com/issues/memo-shows-secret-coordination-effort-exxonmobil-climate-activists-rockefeller-fund/>

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Exhibit J

Kline, Scot

From: Lemuel Srolovic <Lemuel.Srolovic@ag.ny.gov>
Sent: Wednesday, March 30, 2016 9:01 PM
To: Matt Pawa
Cc: Kline, Scot
Subject: Re: Wall st journal

My ask is if you speak to the reporter, to not confirm that you attended or otherwise discuss the event.

Sent from my iPhone

> On Mar 30, 2016, at 6:31 PM, Matt Pawa <mp@pawalaw.com> wrote:

>

> Lem and Scot - a WSJ reporter wants to talk to me. I may not even talk to her at all but if I do I obviously will have no comment on anything discussed at the meeting. What should I say if she asks if I attended? No comment? Let me know.

>

> MP

>

> Matt Pawa

> Pawa Law Group, P.C.

> 1280 Centre Street, Suite 230

> Newton Centre, MA 02459

> (617) 641-9550

> (617) 641-9551 facsimile

> www.pawalaw.com

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Exhibit K



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

**SUBPOENA FOR PRODUCTION OF DOCUMENTS
THE PEOPLE OF THE STATE OF NEW YORK**

**TO: S. Jack Balagia, Jr.
Vice-President and General Counsel
Exxon Mobil Corporation
Corporate Headquarters
5959 Las Colinas Boulevard
Irving, Texas 75039-2298**

WE HEREBY COMMAND YOU, pursuant to New York State Executive Law Section 63(12) and Section 2302(a) of the New York State Civil Practice Law and Rules, to deliver and turn over to Eric T. Schneiderman, the Attorney General of the State of New York, or a designated Assistant Attorney General, on the **4th day of December, 2015** by 10:00 a.m., or any agreed upon adjourned date or time, at the at the offices of the New York State Office of the Attorney General, 120 Broadway, 26th Floor, New York, New York 10271, all documents and information requested in the attached Schedule in accordance with the instructions and definitions contained therein in connection with an investigation to determine whether an action or proceeding should be instituted with respect to repeated fraud or illegality as set forth in the New York State Executive Law Article 5, Section 63(12), violations of the deceptive acts and practices law as set forth in New York State General Business Law Article 22-A, potential fraudulent practices in respect to stocks, bonds and other securities as set forth in New York State General Business Law Article 23-A, and any related violations, or any matter which the Attorney General deems pertinent thereto.

PLEASE TAKE NOTICE that under the provisions of Article 23 of the New York State Civil Practice Laws and Rules, you are bound by this subpoena to produce the documents requested on the date specified and any adjourned date. Pursuant to New York State Civil Practice Laws and Rules Section 2308(b)(1), your failure to do so subjects you to, in addition to any other lawful punishment, costs, penalties and damages sustained by the State of New York State as a result of your failure to so comply.

PLEASE TAKE NOTICE that the Attorney General deems the information and documents requested by this Subpoena to be relevant and material to an investigation and inquiry undertaken in the public interest.

WITNESS, Honorable Eric T. Schneiderman, Attorney General of the State of New York, this 4th day of November, 2015.

By:



Lemuel M. Srolovic
Kevin G. W. Olson
Mandy DeRoche

Office of the Attorney General
Environmental Protection Bureau
120 Broadway, 26th Floor
New York, New York 10271
(212) 416-8448 (telephone)
(212) 416-6007 (facsimile)

SCHEDULE 1

A. General Definitions and Rules of Construction

1. "All" means each and every.
2. "Any" means any and all.
3. "And" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the Subpoena all information or Documents that might otherwise be construed to be outside of its scope.
4. "Communication" means any conversation, discussion, letter, email, memorandum, meeting, note or other transmittal of information or message, whether transmitted in writing, orally, electronically or by any other means, and shall include any Document that abstracts, digests, transcribes, records or reflects any of the foregoing. Except where otherwise stated, a request for "Communications" means a request for all such Communications.
5. "Concerning" means, directly or indirectly, in whole or in part, relating to, referring to, describing, evidencing or constituting.
6. "Custodian" means any Person or Entity that, as of the date of this Subpoena, maintained, possessed, or otherwise kept or controlled such Document.
7. "Document" is used herein in the broadest sense of the term and means all records and other tangible media of expression of whatever nature however and wherever created, produced or stored (manually, mechanically, electronically or otherwise), including without limitation all versions whether draft or final, all annotated or nonconforming or other copies, electronic mail ("e-mail"), instant messages, text messages, Blackberry or other wireless device messages, voicemail, calendars, date books, appointment books, diaries, books, papers, files, notes, confirmations, accounts statements, correspondence, memoranda, reports, records, journals, registers, analyses, plans, manuals, policies, telegrams, faxes, telexes, wires, telephone logs, telephone messages, message slips, minutes, notes or records or transcriptions of conversations or Communications or meetings, tape recordings, videotapes, disks, and other electronic media, microfilm, microfiche, storage devices, press releases, contracts, agreements, notices and summaries. Any non-identical version of a Document constitutes a separate Document within this definition, including without limitation drafts or copies bearing any notation, edit, comment, marginalia, underscoring, highlighting, marking, or any other alteration of any kind resulting in any difference between two or more otherwise identical Documents. In the case of Documents bearing any notation or other marking made by highlighting ink, the term Document means the original version bearing the highlighting ink, which original must be produced as opposed to any copy thereof. Except where otherwise stated, a request for "Documents" means a request for all such Documents.

8. "Entity" means without limitation any corporation, company, limited liability company or corporation, partnership, limited partnership, association, or other firm or similar body, or any unit, division, agency, department, or similar subdivision thereof.
9. "Identify" or "Identity," as applied to any Document means the provision in writing of information sufficiently particular to enable the Attorney General to request the Document's production through subpoena or otherwise, including but not limited to: (a) Document type (letter, memo, etc.); (b) Document subject matter; (c) Document date; and (d) Document author(s), addressee(s) and recipient(s). In lieu of identifying a Document, the Attorney General will accept production of the Document, together with designation of the Document's Custodian, and identification of each Person You believe to have received a copy of the Document.
10. "Identify" or "Identity," as applied to any Entity, means the provision in writing of such Entity's legal name, any d/b/a, former, or other names, any parent, subsidiary, officers, employees, or agents thereof, and any address(es) and any telephone number(s) thereof.
11. "Identify" or "Identity," as applied to any natural person, means and includes the provision in writing of the natural person's name, title(s), any aliases, place(s) of employment, telephone number(s), e-mail address(es), mailing addresses and physical address(es).
12. "Person" means any natural person, or any Entity.
13. "Sent" or "received" as used herein means, in addition to their usual meanings, the transmittal or reception of a Document by physical, electronic or other delivery, whether by direct or indirect means.
14. "Subpoena" means this subpoena and any schedules, appendices, or attachments thereto.
15. The use of the singular form of any word used herein shall include the plural and vice versa. The use of any tense of any verb includes all other tenses of the verb.
16. The references to Communications, Custodians, Documents, Persons, and Entities in this Subpoena encompass all such relevant ones worldwide.

B. Particular Definitions

1. "You" or "Your" means ExxonMobil Corporation, ExxonMobil Oil Corporation, any present or former parents, subsidiaries, affiliates, directors, officers, partners, employees, agents, representatives, attorneys or other Persons acting on its behalf, and including predecessors or successors or any affiliates of the foregoing.
2. "Climate Change" means global warming, Climate Change, the greenhouse effect, a change in global average temperatures, sea level rise, increased concentrations of carbon dioxide and other Greenhouse Gases and/or any other potential effect on the earth's physical and biological systems as a result of anthropogenic emissions of carbon dioxide

and other Greenhouse Gases, in any way the concept is described by or to You.

3. "Fossil Fuel" or "Fossil Fuels" means all energy sources formed from fossilized remains of dead organisms, including oil, gas, bitumen and natural gas, but excluding coal. For purposes of this subpoena, the definition includes also fossil fuels blended with biofuels, such as corn ethanol blends of gasoline. The definition excludes renewable sources of energy production, such as hydroelectric, geothermal, solar, tidal, wind, and wood.
4. "Greenhouse Gases" or "GHGs" means carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons and sulfur hexafluoride.
5. "Renewable Energy" means renewable sources of energy production, such as hydroelectric, geothermal, solar, tidal, wind, and wood.

C. Instructions

1. Preservation of Relevant Documents and Information; Spoliation. You are reminded of your obligations under law to preserve Documents and information relevant or potentially relevant to this Subpoena from destruction or loss, and of the consequences of, and penalties available for, spoliation of evidence. No agreement, written or otherwise, purporting to modify, limit or otherwise vary the terms of this Subpoena, shall be construed in any way to narrow, qualify, eliminate or otherwise diminish your aforementioned preservation obligations. Nor shall you act, in reliance upon any such agreement or otherwise, in any manner inconsistent with your preservation obligations under law. No agreement purporting to modify, limit or otherwise vary your preservation obligations under law shall be construed as in any way narrowing, qualifying, eliminating or otherwise diminishing such aforementioned preservation obligations, nor shall you act in reliance upon any such agreement, unless an Assistant Attorney General confirms or acknowledges such agreement in writing, or makes such agreement a matter of record in open court.
2. Possession, Custody, and Control. The Subpoena calls for all responsive Documents or information in your possession, custody or control. This includes, without limitation, Documents or information possessed or held by any of your officers, directors, employees, agents, representatives, divisions, affiliates, subsidiaries or Persons from whom you could request Documents or information. If Documents or information responsive to a request in this Subpoena are in your control, but not in your possession or custody, you shall promptly Identify the Person with possession or custody.
3. Documents No Longer in Your Possession. If any Document requested herein was formerly in your possession, custody or control but is no longer available, or no longer exists, you shall submit a statement in writing under oath that: (a) describes in detail the nature of such Document and its contents; (b) Identifies the Person(s) who prepared such Document and its contents; (c) Identifies all Persons who have seen or had possession of such Document; (d) specifies the date(s) on which such Document was prepared, transmitted or received; (e) specifies the date(s) on which such Document became unavailable; (f) specifies the reason why such Document is unavailable, including

without limitation whether it was misplaced, lost, destroyed or transferred; and if such Document has been destroyed or transferred, the conditions of and reasons for such destruction or transfer and the Identity of the Person(s) requesting and performing such destruction or transfer; and (g) Identifies all Persons with knowledge of any portion of the contents of the Document.

4. No Documents Responsive to Subpoena Requests. If there are no Documents responsive to any particular Subpoena request, you shall so state in writing under oath in the Affidavit of Compliance attached hereto, identifying the paragraph number(s) of the Subpoena request concerned.
5. Format of Production. You shall produce Documents, Communications, and information responsive to this Subpoena in electronic format that meets the specifications set out in Attachments 1 and 2.
6. Existing Organization of Documents to be Preserved. Regardless of whether a production is in electronic or paper format, each Document shall be produced in the same form, sequence, organization or other order or layout in which it was maintained before production, including but not limited to production of any Document or other material indicating filing or other organization. Such production shall include without limitation any file folder, file jacket, cover or similar organizational material, as well as any folder bearing any title or legend that contains no Document. Documents that are physically attached to each other in your files shall be accompanied by a notation or information sufficient to indicate clearly such physical attachment.
7. Document Numbering. All Documents responsive to this Subpoena, regardless of whether produced or withheld on ground of privilege or other legal doctrine, and regardless of whether production is in electronic or paper format, shall be numbered in the lower right corner of each page of such Document, without disrupting or altering the form, sequence, organization or other order or layout in which such Documents were maintained before production. Such number shall comprise a prefix containing the producing Person's name or an abbreviation thereof, followed by a unique, sequential, identifying document control number.
8. Privilege Placeholders. For each Document withheld from production on ground of privilege or other legal doctrine, regardless of whether a production is electronic or in hard copy, you shall insert one or more placeholder page(s) in the production bearing the same document control number(s) borne by the Document withheld, in the sequential place(s) originally occupied by the Document before it was removed from the production.
9. Privilege. If You withhold or redact any Document responsive to this Subpoena on ground of privilege or other legal doctrine, you shall submit with the Documents produced a statement in writing under oath, stating: (a) the document control number(s) of the Document withheld or redacted; (b) the type of Document; (c) the date of the Document; (d) the author(s) and recipient(s) of the Document; (e) the general subject matter of the Document; and (f) the legal ground for withholding or redacting the Document. If the legal ground for withholding or redacting the Document is attorney-

client privilege, you shall indicate the name of the attorney(s) whose legal advice is sought or provided in the Document.

10. Your Production Instructions to be Produced. You shall produce a copy of all written or otherwise recorded instructions prepared by you concerning the steps taken to respond to this Subpoena. For any unrecorded instructions given, you shall provide a written statement under oath from the Person(s) who gave such instructions that details the specific content of the instructions and any Person(s) to whom the instructions were given.
11. Cover Letter. Accompanying any production(s) made pursuant to this Subpoena, You shall include a cover letter that shall at a minimum provide an index containing the following: (a) a description of the type and content of each Document produced therewith; (b) the paragraph number(s) of the Subpoena request to which each such Document is responsive; (c) the Identity of the Custodian(s) of each such Document; and (d) the document control number(s) of each such Document.
12. Affidavit of Compliance. A copy of the Affidavit of Compliance provided herewith shall be completed and executed by all natural persons supervising or participating in compliance with this Subpoena, and you shall submit such executed Affidavit(s) of Compliance with Your response to this Subpoena.
13. Identification of Persons Preparing Production. In a schedule attached to the Affidavit of Compliance provided herewith, you shall Identify the natural person(s) who prepared or assembled any productions or responses to this Subpoena. You shall further Identify the natural person(s) under whose personal supervision the preparation and assembly of productions and responses to this Subpoena occurred. You shall further Identify all other natural person(s) able competently to testify: (a) that such productions and responses are complete and correct to the best of such person's knowledge and belief; and (b) that any Documents produced are authentic, genuine and what they purport to be.
14. Continuing Obligation to Produce. This Subpoena imposes a continuing obligation to produce the Documents and information requested. Documents located, and information learned or acquired, at any time after your response is due shall be promptly produced at the place specified in this Subpoena.
15. No Oral Modifications. No agreement purporting to modify, limit or otherwise vary this Subpoena shall be valid or binding, and you shall not act in reliance upon any such agreement, unless an Assistant Attorney General confirms or acknowledges such agreement in writing, or makes such agreement a matter of record in open court.
16. Time Period. The term "Time Period 1" as used in this Subpoena shall be from January 1, 2005 through the date of the production. The term "Time Period 2" shall be from January 1, 1977 through the date of the production.

D. Documents to be Produced

1. All Documents and Communications, within Time Period 2, Concerning any research, analysis, assessment, evaluation, modeling or other consideration performed by You, on Your behalf, or with funding provided by You Concerning the causes of Climate Change.
2. All Documents and Communications, within Time Period 2, Concerning any research, analysis, assessment, evaluation, modeling (including the competency or accuracy of such models) or other consideration performed by You, on Your behalf, or with funding provided by You, Concerning the impacts of Climate Change, including but not limited to on air, water and land temperatures, sea-level rise, ocean acidification, extreme weather events, arctic ice, permafrost and shipping channels, precipitation, flooding, water supplies, desertification, agricultural and food supplies, built environments, migration, and security concerns, including the timing of such impacts.
3. All Documents and Communications, within Time Period 2, Concerning the integration of Climate Change-related issues (including but not limited to (a) future demand for Fossil Fuels, (b) future emissions of Greenhouse Gases from Fossil Fuel extraction, production and use, (c) future demand for Renewable Energy, (d) future emissions of Greenhouse Gases from Renewable Energy extraction, production and use, (e) Greenhouse Gas emissions reduction goals, (f) the physical risks and opportunities of Climate Change, and (g) impact on Fossil Fuel reserves into Your business decisions, including but not limited to financial projections and analyses, operations projections and analyses, and strategic planning performed by You, on Your behalf, or with funding provided by You.
4. All Documents and Communications, within Time Period 1, Concerning whether and how You disclose the impacts of Climate Change (including but not limited to regulatory risks and opportunities, physical risks and opportunities, Greenhouse Gas emissions and management, indirect risks and opportunities, International Energy Agency scenarios for energy consumption, and other carbon scenarios) in Your filings with the U.S. Securities and Exchange Commission and in Your public-facing and investor-facing reports including but not limited to Your *Outlook For Energy* reports, Your *Energy Trends, Greenhouse Gas Emissions, and Alternative Energy* reports, and Your *Energy and Carbon - Managing the Risks* Report.
5. All Documents and Communications, within Time Period 1, presented to Your board of directors Concerning Climate Change
6. All Documents and Communications Concerning Climate Change, within Time Period 1, prepared by or for trade associations or industry groups, or exchanged between You and trade associations or industry groups, or sent from or to trade associations or industry groups, including but not limited to the: (i) American Petroleum Institute; (ii) Petroleum Industry Environmental Conservation Association; (IPIECA); (iii) US Oil & Gas Association; (iv) Petroleum Marketers Association of America; and (v) Empire State Petroleum Association.

7. All Documents and Communications, within Time Period 1, related to Your support or funding for organizations relating to communications or research of Climate Change, including decisions to cease funding or supporting such organizations.
8. All Documents and Communications, within Time Period 1, created, recommended, sent, and/or distributed by You, on Your behalf, or with funding provided by You, Concerning marketing, advertising, and/or communication about Climate Change including but not limited to (a) policies, procedures, practices, memoranda and similar instructive or informational materials; (b) marketing or communication strategies or plans, (c) flyers, promotional materials, and informational materials; (d) scripts, Frequently Asked Questions, Q&As, and/or other guidance documents; (e) slide presentations, power points or videos; (f) written or printed notes from or video or audio recordings of speeches, seminars or conferences; (g) all Communications with and presentations to investors; and/or (h) press releases.
9. All Documents and Communications, within Time Period 1, that are exemplars of all advertisements, flyers, promotional materials, and informational materials of any type, (including but not limited to web-postings, blog-postings, social media-postings, print advertisements, radio and television advertisements, brochures, posters, billboards, flyers and disclosures) used, published, or distributed by You, on Your behalf, or with funding provided by You, Concerning Climate Change including but not limited to (a) a copy of each print advertisement placed in New York State; (b) a DVD format copy of each television advertisement that ran in New York State; (c) an audio recording of each radio advertisement that ran in New York State and the audio portion of each internet advertisement; and (d) a printout, screenshot or copy of each advertisement, information, or communication provided via the internet, email, Facebook, Twitter, You Tube, or other electronic communications system.
10. All Documents and Communications, within Time Period 1, substantiating or refuting the claims made in the materials identified in response to Demand Nos. 4, 8 and 9.
11. All Documents and Communications sufficient to identify any New York State consumer who has complained to You, or to any state, county or municipal consumer protection agency located in New York State, Concerning Your actions with respect to Climate Change; and for each New York State consumer identified: (i) each complaint or request made by or on behalf of a consumer, (ii) all correspondence between the consumer, his or her representative, and You, (iii) recordings and notes of all conversations between the consumer and You, and (iv) the resolution of each complaint, if any.

APPENDIX 1

Electronic Document Production Specifications

Unless otherwise specified and agreed to by the Office of Attorney General, all responsive documents must be produced in LexisNexis® Concordance® format in accordance with the following instructions. Any questions regarding electronic document production should be directed to the Assistant Attorney General whose telephone number appears on the subpoena.

1. Concordance Production Components. A Concordance production consists of the following component files, which must be produced in accordance with the specifications set forth below in Section 7.
 - A. **Metadata Load File.** A delimited text file that lists in columnar format the required metadata for each produced document.
 - B. **Extracted or OCR Text Files.** Document-level extracted text for each produced document or document-level optical character recognition (“OCR”) text where extracted text is not available.
 - C. **Single-Page Image Files.** Individual petrified page images of the produced documents in tagged image format (“TIF”), with page-level Bates number endorsements.
 - D. **Opticon Load File.** A delimited text file that lists the single-page TIF files for each produced document and defines (i) the relative location of the TIF files on the production media and (ii) each document break.
 - E. **Native Files.** Native format versions of non-printable or non-print friendly produced documents.
2. Production Folder Structure. The production must be organized according to the following standard folder structure:
 - data\ (contains production load files)
 - images\ (contains single-page TIF files, with subfolder organization)
 \0001, \0002, \0003...
 - native files\ (contains native files, with subfolder organization)
 \0001, \0002, \0003...
 - text\ (contains text files, with subfolder organization)
 \0001, \0002, \0003...
3. De-Duplication. You must perform global de-duplication of stand-alone documents and email families against any prior productions pursuant to this or previously related subpoenas.
4. Paper or Scanned Documents. Documents that exist only in paper format must be scanned to single-page TIF files and OCR’d. The resulting electronic files should be

pursued in Concordance format pursuant to these instructions. You must contact the Assistant Attorney General whose telephone number appears on the subpoena to discuss (i) any documents that cannot be scanned, and (ii) how information for scanned documents should be represented in the metadata load file.

5. Structured Data. Before producing structured data, including but not limited to relational databases, transactional data, and xml pages, you must first speak to the Assistant Attorney General whose telephone number appears on the subpoena. Spreadsheets are not considered structured data.
6. Media and Encryption. All documents must be produced on CD, DVD, or hard-drive media. All production media must be encrypted with a strong password, which must be delivered independently from the production media.

7. Production File Requirements.

A. ***Metadata Load File***

- Required file format:
 - ASCII or UTF-8
 - Windows formatted CR + LF end of line characters, including full CR + LF on last record in file.
 - .dat file extension
 - Field delimiter: (ASCII decimal character 20)
 - Text Qualifier: þ (ASCII decimal character 254). Date and pure numeric value fields do not require qualifiers.
 - Multiple value field delimiter: ; (ASCII decimal character 59)
- The first line of the metadata load file must list all included fields. All required fields are listed in Attachment 2.
- Fields with no values must be represented by empty columns maintaining delimiters and qualifiers.
- ***Note:*** All documents must have page-level Bates numbering (except documents produced only in native format, which must be assigned a document-level Bates number). The metadata load file must list the beginning and ending Bates numbers (BEGDOC and ENDDOC) for each document. For document families, including but not limited to emails and attachments, compound documents, and uncompressed file containers, the metadata load file must also list the Bates range of the entire document family (ATTACHRANGE), beginning with the first Bates number (BEGDOC) of the “parent” document and ending with the last Bates number (ENDDOC) assigned to the last “child” in the document family.
- Date and Time metadata must be provided in separate columns.
- Accepted date formats:
 - mm/dd/yyyy
 - yyyy/mm/dd
 - yyymmdd
- Accepted time formats:
 - hh:mm:ss (if not in 24-hour format, you must indicate am/pm)

- hh:mm:ss:mmm

B. *Extracted or OCR Text Files*

- You must produce individual document-level text files containing the full extracted text for each produced document.
- When extracted text is not available (for instance, for image-only documents) you must provide individual document-level text files containing the document's full OCR text.
- The filename for each text file must match the document's beginning Bates number (BEGDOC) listed in the metadata load file.
- Text files must be divided into subfolders containing no more than 500 to 1000 files.

C. *Single-Page Image Files (Petrified Page Images)*

- Where possible, all produced documents must be converted into single-page tagged image format ("TIF") files. See Section 7.E below for instructions on producing native versions of documents you are unable to convert.
- Image documents that exist only in non-TIF formats must be converted into TIF files. The original image format must be produced as a native file as described in Section 7.E below.
- For documents produced only in native format, you must provide a TIF placeholder that states "Document produced only in native format."
- Each single-page TIF file must be endorsed with a unique Bates number.
- The filename for each single-page TIF file must match the unique page-level Bates number (or document-level Bates number for documents produced only in native format).
- Required image file format:
 - CCITT Group 4 compression
 - 2-Bit black and white
 - 300 dpi
 - Either .tif or .tiff file extension.
- TIF files must be divided into subfolders containing no more than 500 to 1000 files. Where possible documents should not span multiple subfolders.

D. *Opticon Load File*

- Required file format:
 - ASCII
 - Windows formatted CR + LF end of line characters
 - Field delimiter: , (ASCII decimal character 44)
 - No Text Qualifier
 - .opt file extension
- The comma-delimited Opticon load file must contain the following seven fields (as indicated below, values for certain fields may be left blank):
 - ALIAS or IMAGEKEY – the unique Bates number assigned to each page of the production.
 - VOLUME – this value is optional and may be left blank.

- RELATIVE PATH – the filepath to each single-page image file on the production media.
- DOCUMENT BREAK – defines the first page of a document. The only possible values for this field are “Y” or blank.
- FOLDER BREAK – defines the first page of a folder. The only possible values for this field are “Y” or blank.
- BOX BREAK – defines the first page of a box. The only possible values for this field are “Y” or blank.
- PAGE COUNT – this value is optional and may be left blank.
- **Example:**
ABC00001,,IMAGES\0001\ABC00001.tif,Y,,,2
ABC00002,,IMAGES\0001\ABC00002.tif,,,,
ABC00003,,IMAGES\0002\ABC00003.tif,Y,,,1
ABC00004,,IMAGES\0002\ABC00004.tif,Y,,,1

E. Native Files

- Non-printable or non-print friendly documents (including but not limited to spreadsheets, audio files, video files and documents for which color has significance to document fidelity) must be produced in their native format.
- The filename of each native file must match the document’s beginning Bates number (BEGDOC) in the metadata load file and retain the original file extension.
- For documents produced only in native format, you must assign a single document-level Bates number and provide an image file placeholder that states “Document produced only in native format.”
- The relative paths to all native files on the production media must be listed in the NATIVEFILE field of the metadata load file.
- Native files that are password-protected must be decrypted prior to conversion and produced in decrypted form. In cases where this cannot be achieved the document’s password must be listed in the metadata load file. The password should be placed in the COMMENTS field with the format Password: <PASSWORD>.
- You may be required to supply a software license for proprietary documents produced only in native format.

APPENDIX 2**Required Fields for Metadata Load File**

FIELD NAME	FIELD DESCRIPTION	FIELD VALUE EXAMPLE¹
DOCID	Unique document reference (can be used for de-duplication).	ABC0001 or ###.#####.###
BEGDOC	Bates number assigned to the first page of the document.	ABC0001
ENDDOC	Bates number assigned to the last page of the document.	ABC0002
BEGATTACH	Bates number assigned to the first page of the parent document in a document family (<i>i.e.</i> , should be the same as BEGDOC of the parent document, or PARENTDOC).	ABC0001
ENDATTACH	Bates number assigned to the last page of the last child document in a family (<i>i.e.</i> , should be the same as ENDDOC of the last child document).	ABC0008
ATTACHRANGE	Bates range of entire document family.	ABC0001 - ABC0008
PARENTDOC	BEGDOC of parent document.	ABC0001
CHILDDOCS	List of BEGDOCs of all child documents, delimited by "," when field has multiple values.	ABC0002; ABC0003; ABC0004...
COMMENTS	Additional document comments, such as passwords for encrypted files.	
NATIVEFILE	Relative file path of the native file on the production media.	.\\Native_File\\Folder\\...\\BEGDOC.ext
SOURCE	For scanned paper records this should be a description of the physical location of the original paper record. For loose electronic files this should be the name of the file server or workstation where the files were gathered.	Company Name, Department Name, Location, Box Number...
CUSTODIAN	Owner of the document or file.	Firstname Lastname, Lastname, Firstname, User Name; Company Name, Department Name...
FROM	Sender of the email.	Firstname Lastname <FLastname@domain>

¹ Examples represent possible values and not required format unless the field format is specified in Attachment 1.

FIELD NAME	FIELD DESCRIPTION	FIELD VALUE EXAMPLE¹
TO	All to: members or recipients, delimited by ";" when field has multiple values.	Firstname Lastname < FLastname @domain >; Firstname Lastname < FLastname @domain >; ...
CC	All cc: members, delimited by ";" when field has multiple values.	Firstname Lastname < FLastname @domain >; Firstname Lastname < FLastname @domain >; ...
BCC	All bcc: members, delimited by ";" when field has multiple values	Firstname Lastname < FLastname @domain >; Firstname Lastname < FLastname @domain >; ...
SUBJECT	Subject line of the email.	
DATERCVD	Date that an email was received.	mm/dd/yyyy, yyyy/mm/dd, or yyyymmdd
TIMERCVD	Time that an email was received.	hh:mm:ss AM/PM or hh:mm:ss
DATESENT	Date that an email was sent.	mm/dd/yyyy, yyyy/mm/dd, or yyyymmdd
TIMESENT	Time that an email was sent.	hh:mm:ss AM/PM or hh:mm:ss
CALBEGDATE	Date that a meeting begins.	mm/dd/yyyy, yyyy/mm/dd, or yyyymmdd
CALBEGTIME	Time that a meeting begins.	hh:mm:ss AM/PM or hh:mm:ss
CALENDDATE	Date that a meeting ends.	mm/dd/yyyy, yyyy/mm/dd, or yyyymmdd
CALENDTIME	Time that a meeting ends.	hh:mm:ss AM/PM or hh:mm:ss
CALENDAR DUR	Duration of a meeting in hours.	0.75, 1.5...
ATTACHMENTS	List of filenames of all attachments, delimited by ";" when field has multiple values.	AttachmentFileName.; AttachmentFileName.docx; AttachmentFileName.pdf;...
NUMATTACH	Number of attachments.	1, 2, 3, 4...
RECORDTYPE	General type of record.	IMAGE; LOOSE E-MAIL; E-MAIL; E-DOC; IMAGE ATTACHMENT; LOOSE E-MAIL ATTACHMENT; E-MAIL ATTACHMENT; E-DOC ATTACHMENT
FOLDERLOC	Original folder path of the produced document.	Drive:\Folder\...\...\
FILENAME	Original filename of the produced document.	Filename.ext
DOCEXT	Original file extension.	html, xls, pdf

FIELD NAME	FIELD DESCRIPTION	FIELD VALUE EXAMPLE¹
DOCTYPE	Name of the program that created the produced document.	Adobe Acrobat, Microsoft Word, Microsoft Excel, Corel WordPerfect...
TITLE	Document title (if entered).	
AUTHOR	Name of the document author.	Firstname Lastname; Lastname, First Name; FLastname
REVISION	Number of revisions to a document.	18
DATECREATED	Date that a document was created.	mm/dd/yyyy, yyyy/mm/dd, or yyyyymmdd
TIMECREATED	Time that a document was created.	hh:mm:ss AM/PM or hh:mm:ss
DATEMOD	Date that a document was last modified.	mm/dd/yyyy, yyyy/mm/dd, or yyyyymmdd
TIMEMOD	Time that a document was last modified.	hh:mm:ss AM/PM or hh:mm:ss
FILESIZE	Original file size in bytes.	128, 512, 1024...
PGCOUNT	Number of pages per document.	1, 2, 10, 100...
IMPORTANCE	Email priority level if set.	Low, Normal, High
TIFFSTATUS	Generated by the Law Pre-discovery production tool (leave blank if inapplicable).	Y, C, E, W, N, P
DUPSTATUS	Generated by the Law Pre-discovery production tool (leave blank if inapplicable).	P
MD5HASH	MD5 hash value computed from native file (a/k/a file fingerprint).	BC1C5CA6C1945179FEE144F25F51087B
SHA1HASH	SHA1 hash value	B68F4F57223CA7DA3584BAD7E CF111B8044F8631
MSGINDEX	Email message ID	

AFFIDAVIT OF COMPLIANCE WITH SUBPOENA

State of _____ }

County of _____ }

I, _____, being duly sworn, state as follows:

1. I am employed by _____ in the position of _____;
2. The enclosed production of documents and responses to the Subpoena of the Attorney General of the State of New York, dated November 4, 2015 (the "Subpoena") were prepared and assembled under my personal supervision;
3. I made or caused to be made a diligent, complete and comprehensive search for all Documents and information requested by the Subpoena, in full accordance with the instructions and definitions set forth in the Subpoena;
4. The enclosed production of documents and responses to the Subpoena are complete and correct to the best of my knowledge and belief;
5. No Documents or information responsive to the Subpoena have been withheld from this production and response, other than responsive Documents or information withheld on the basis of a legal privilege or doctrine;
6. All responsive Documents or information withheld on the basis of a legal privilege or doctrine have been identified on a privilege log composed and produced in accordance with the instructions in the Subpoena;
7. The Documents contained in these productions and responses to the Subpoena are authentic, genuine and what they purport to be;
8. Attached is a true and accurate record of all persons who prepared and assembled any productions and responses to the Subpoena, all persons under whose personal supervision the preparation and assembly of productions and responses to the Subpoena occurred, and all persons able competently to testify: (a) that such productions and responses are complete and correct to the best of such person's knowledge and belief; and (b) that any Documents produced are authentic, genuine and what they purport to be; and
9. Attached is a true and accurate statement of those requests under the Subpoena as to which no responsive Documents were located in the course of the aforementioned search.

Signature of Affiant

Date

Printed Name of Affiant

Subscribed and sworn to before me
this 4th day of December 2015.

Notary Public

My commission expires:

Exhibit L

EXXONMOBIL CLIMATE DENIAL FUNDING 1998-2014**TOTAL \$30,925,235**

Documenting
Exxon-Mobil's
funding of climate
change skeptics.

[List Organizations](#)

[Launch Interactive
Map](#)

[FAQ](#)

Search Exxon
Secrets using
Google Search:

A

project.

LAUNCH OUR **INTERACTIVE MAP** TO EXPLORE THE CONNECTIONS.

Dozens of organizations are funded by ExxonMobil and its foundations that work to spread climate denial. Click the links for further details about each organization's funding and activities.

Search:

Organization

AEI American Enterprise Institute	\$3,770,000
CEI Competitive Enterprise Institute	\$2,005,000
ALEC American Legislative Exchange Council	\$1,730,200
American Council for Capital Formation Center for Policy Research	\$1,729,523
Frontiers of Freedom	\$1,272,000
Annapolis Center	\$1,153,500
Atlas Economic Research Foundation	\$1,082,500
National Black Chamber of Commerce	\$1,025,000
US Chamber of Commerce Foundation	\$1,000,000
George C. Marshall Institute	\$865,000
Heritage Foundation	\$830,000
Manhattan Institute	\$800,000
National Taxpayers Union Foundation	\$700,000
Heartland Institute	\$676,500
Pacific Research Institute for Public Policy	\$665,000
National Center for Policy Analysis	\$645,900
CFACT Committee for a Constructive Tomorrow	\$582,000
Communications Institute	\$515,000
Washington Legal Foundation	\$455,000
Center for American and International Law (formerly Southwestern Legal Foundation)	\$452,150
FREE Foundation for Research on Economics and the Environment	\$450,000
George Mason Univ. Law and Economics Center	\$445,000
National Center for Public Policy Research	\$445,000
Smithsonian Astrophysical Observatory	\$417,212

International Policy Network - North America

\$390,000

Citizens for a Sound Economy (FreedomWorks) \$380,250

Mercatus Center, George Mason University \$380,000

Acton Institute \$365,000

Media Research Center (Cybercast News Service formerly
Conservative News) \$362,500

Institute for Energy Research \$337,000

Congress of Racial Equality \$325,000

Reason Foundation / Reason Public Policy Institute \$321,000

Hoover Institution \$295,000

Pacific Legal Foundation \$275,000

Capital Research Center (Greenwatch) \$265,000

Center for Defense of Free Enterprise \$230,000

Federalist Society \$225,000

National Association of Neighborhoods \$225,000

National Legal Center for the Public Interest \$216,500

Center for a New Europe-USA \$170,000

American Council on Science and Health \$165,000

Chemical Education Foundation \$155,000

PERC Property and Environment Research Center (formerly Political
Economy Research Center) \$155,000

Cato Institute \$125,000

Federal Focus \$125,000

Fraser Institute, Canada \$120,000

Media Institute \$120,000

American Spectator Foundation \$115,000

International Republican Institute \$115,000

Center for the Study of CO2 and Global Change \$100,000

Environmental Literacy Council \$100,000

Tech Central Science Foundation \$95,000

American Conservative Union Foundation \$90,000

Landmark Legal Foundation \$90,000

Independent Institute \$85,000

Free Enterprise Education Institute

\$80,000

Texas Public Policy Foundation

\$80,000

Institute for Study of Earth and Man

\$76,500

Independent Women's Forum

\$75,000

Consumer Alert

\$70,000

Mountain States Legal Foundation

\$60,000

Advancement of Sound Science Center

\$50,000

Free Enterprise Action Institute

\$50,000

Regulatory Checkbook

\$50,000

Lindenwood University, St. Charles, Missouri

\$40,000

Institute for Senior Studies

\$30,000

Science and Environmental Policy Project

\$20,000

Lexington Institute

\$10,000

Institute for Policy Innovaton

\$5,000

Organization

Showing 1 to 69 of 69 entries

Exhibit M



MAURA HEALEY
ATTORNEY GENERAL

THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL

ONE ASHBURTON PLACE
BOSTON, MASSACHUSETTS 02108

TEL: (617) 727-2200
www.mass.gov/ago

CIVIL INVESTIGATIVE DEMAND

BY HAND DELIVERY

Demand No.: 2016-EPD-36

Date Issued: April 19, 2016

Issued To: Exxon Mobil Corporation
c/o Corporation Service Company, its Registered Agent
84 State Street
Boston, Massachusetts 02109

This Civil Investigative Demand ("CID") is issued to Exxon Mobil Corporation ("Exxon" or "You") pursuant to Massachusetts General Laws c. 93A, § 6, as part of a pending investigation concerning potential violations of M.G.L. c. 93A, § 2, and the regulations promulgated thereunder arising both from (1) the marketing and/or sale of energy and other fossil fuel derived products to consumers in the Commonwealth of Massachusetts (the "Commonwealth"); and (2) the marketing and/or sale of securities, as defined in M.G.L. c. 110A, § 401(k), to investors in the Commonwealth, including, without limitation, fixed- and floating rate-notes, bonds, and common stock, sold or offered to be sold in the Commonwealth.

This CID requires You to produce the documents identified in Schedule A below, pursuant to M.G.L. c. 93A, § 6(1). The Documents identified in Schedule A must be produced by May 19, 2016, by delivering them to:

I. Andrew Goldberg
Assistant Attorney General
Office of the Attorney General
One Ashburton Place
Boston, MA 02108

The documents shall be accompanied by an affidavit in the form attached hereto. AAG Goldberg and such other employees, agents, consultants, and experts of the Office of the Attorney General as needed in its discretion, shall review Your affidavit and the documents produced in conjunction with our investigation.

Demand No.: 2016-EPD-36
Date Issued: April 19, 2016
Issued To: Exxon Mobil Corporation

This CID also requires You to appear and give testimony under oath through Your authorized custodian of records that the documents You produce in response to this CID represent all of the documents called for in this CID; that You have not withheld any documents responsive to this CID; and that all of the documents You produce were records made in good faith and kept in the regular course of Your business, and it was the regular course of Your business to make and keep such records. This testimony will be taken on June 10, 2016, beginning at 9:30 a.m. at the Boston Office of the Attorney General, 100 Cambridge Street, 10th Floor, Boston, Massachusetts. The testimony will be taken by AAG Goldberg or an appropriate designee, before an officer duly authorized to administer oaths by the law of the Commonwealth, and shall proceed, day to day, until the taking of testimony is completed. The witness has the right to be accompanied by an attorney. Rule 30(c) of the Massachusetts Rules of Civil Procedure shall apply. Your attendance and testimony are necessary to conduct this investigation.

This CID also requires You to appear and give testimony under oath through one or more of Your officers, directors or managing agents, or other persons most knowledgeable concerning the subject matter areas enumerated in Schedule B, below. This testimony will be taken on June 24, 2016, beginning at 9:30 a.m. at the Boston Office of the Attorney General, 100 Cambridge Street, 10th Floor, Boston, Massachusetts. The testimony will be taken by AAG Goldberg or an appropriate designee, before an officer duly authorized to administer oaths by the law of the Commonwealth, and shall proceed, day to day, until the taking of testimony is completed. The witness has the right to be accompanied by an attorney. Rule 30(c) of the Massachusetts Rules of Civil Procedure shall apply. Your attendance and testimony are necessary to conduct this investigation.

Under G.L. c. 93A, § 6(7), You may make a motion prior to the production date specified in this notice, or within twenty-one days after this notice has been served, whichever period is shorter, in the appropriate court of law to modify or set aside this CID for good cause shown.

If the production of the documents required by this CID would be, in whole or in part, unduly burdensome, or if You require clarification of any request, please contact AAG Goldberg promptly at the phone number below.

Finally, please note that under G.L. c. 93A, §7, obstruction of this investigation, including the alteration or destruction of any responsive document after receipt of

Demand No.: 2016-EPD-36
Date Issued: April 19, 2016
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this CID, is subject to a fine of up to five thousand dollars (\$5,000.00). A copy of that provision is reprinted at Schedule C.

Issued at Boston, Massachusetts, this 19th day of April, 2016.

COMMONWEALTH OF
MASSACHUSETTS

MAURA HEALEY
ATTORNEY GENERAL

By: 

I. Andrew Goldberg
Assistant Attorney General
Office of the Attorney General
One Ashburton Place
Boston, MA 02108
Tel. (617) 727-2200

Demand No.: 2016-EPD-36

Date Issued: April 19, 2016

Issued To: Exxon Mobil Corporation

SCHEDULE A

A. General Definitions and Rules of Construction

1. "Advertisement" means a commercial message made orally or in any newspaper, magazine, leaflet, flyer, or catalog; on radio, television, or public address system; electronically, including by email, social media, and blog post; or made in person, in direct mail literature or other printed material, or on any interior or exterior sign or display, in any window display, in any point of transaction literature, but not including on any product label, which is delivered or made available to a customer or prospective customer in any manner whatsoever.
2. "All" means each and every.
3. "Any" means any and all.
4. "And" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the CID all information or Documents that might otherwise be construed to be outside of its scope.
5. "Communication" means any conversation, discussion, letter, email, memorandum, meeting, note or other transmittal of information or message, whether transmitted in writing, orally, electronically or by any other means, and shall include any Document that abstracts, digests, transcribes, records or reflects any of the foregoing. Except where otherwise stated, a request for "Communications" means a request for all such Communications.
6. "Concerning" means, directly or indirectly, in whole or in part, relating to, referring to, describing, evidencing or constituting.
7. "Custodian" means any Person or Entity that, as of the date of this CID, maintained, possessed, or otherwise kept or controlled such Document.
8. "Document" is used herein in the broadest sense of the term and means all records and other tangible media of expression of whatever nature however and wherever created, produced or stored (manually, mechanically, electronically or otherwise), including without limitation all versions whether draft or final, all annotated or nonconforming or other copies, electronic mail ("e-mail"), instant messages, text messages, personal digital assistant or other wireless device messages, voicemail, calendars, date books, appointment books, diaries, books, papers, files, notes, confirmations, accounts statements, correspondence, memoranda, reports, records, journals, registers, analyses, plans, manuals, policies, telegrams, faxes, telexes, wires, telephone logs, telephone messages, message slips, minutes, notes or records or transcriptions of conversations or

Demand No.: 2016-EPD-36

Date Issued: April 19, 2016

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Communications or meetings, tape recordings, videotapes, disks, and other electronic media, microfilm, microfiche, storage devices, press releases, contracts, agreements, notices and summaries. Any non-identical version of a Document constitutes a separate Document within this definition, including without limitation drafts or copies bearing any notation, edit, comment, marginalia, underscoring, highlighting, marking, or any other alteration of any kind resulting in any difference between two or more otherwise identical Documents. In the case of Documents bearing any notation or other marking made by highlighting ink, the term Document means the original version bearing the highlighting ink, which original must be produced as opposed to any copy thereof. Except where otherwise stated, a request for "Documents" means a request for all such Documents.

9. "Entity" means without limitation any corporation, company, limited liability company or corporation, partnership, limited partnership, association, or other firm or similar body, or any unit, division, agency, department, or similar subdivision thereof.
10. "Identify" or "Identity," as applied to any Document means the provision in writing of information sufficiently particular to enable the Attorney General to request the Document's production through CID or otherwise, including but not limited to: (a) Document type (letter, memo, etc.); (b) Document subject matter; (c) Document date; and (d) Document author(s), addressee(s) and recipient(s). In lieu of identifying a Document, the Attorney General will accept production of the Document, together with designation of the Document's Custodian, and identification of each Person You believe to have received a copy of the Document.
11. "Identify" or "Identity," as applied to any Entity, means the provision in writing of such Entity's legal name, any d/b/a, former, or other names, any parent, subsidiary, officers, employees, or agents thereof, and any address(es) and any telephone number(s) thereof.
12. "Identify" or "Identity," as applied to any natural person, means and includes the provision in writing of the natural person's name, title(s), any aliases, place(s) of employment, telephone number(s), e-mail address(es), mailing addresses and physical address(es).
13. "Person" means any natural person, or any Entity.
14. "Refer" means embody, refer or relate, in any manner, to the subject of the document demand.

Demand No.: 2016-EPD-36

Date Issued: April 19, 2016

Issued To: Exxon Mobil Corporation

15. "Refer or Relate to" means to make a statement about, embody, discuss, describe, reflect, identify, deal with, consist of, establish, comprise, list, or in any way pertain, in whole or in part, to the subject of the document demand.
16. "Sent" or "received" as used herein means, in addition to their usual meanings, the transmittal or reception of a Document by physical, electronic or other delivery, whether by direct or indirect means.
17. "CID" means this subpoena and any schedules, appendices, or attachments thereto.
18. The use of the singular form of any word used herein shall include the plural and vice versa. The use of any tense of any verb includes all other tenses of the verb.
19. The references to Communications, Custodians, Documents, Persons, and Entities in this CID encompass all such relevant ones worldwide.

B. Particular Definitions

1. "Exxon," "You," or "Your," means Exxon Mobil Corporation, and any present or former parents, subsidiaries, affiliates, directors, officers, partners, employees, agents, representatives, attorneys or other Persons acting on its behalf, and including predecessors or successors or any affiliates of the foregoing.
2. "Exxon Products and Services" means products and services, including without limitation petroleum and natural gas energy products and related services, offered to and/or sold by Exxon to consumers in Massachusetts.
3. "Carbon Dioxide" or "CO₂" means the naturally occurring chemical compound composed of a carbon atom covalently double bonded to two oxygen atoms that is fixed by photosynthesis into organic matter.
4. "Climate" means the statistical description in terms of the mean and variability of relevant quantities, such as surface variables, including, without limitation, temperature, precipitation, and wind, on Earth over a period of time ranging from months to thousands or millions of years. Climate is the state, including a statistical description, of the Climate System. *See* Intergovernmental Panel on Climate Change (IPCC), 2012: Glossary of terms. In: Managing the Risks of Extreme Events and Disasters to Advance Climate Change Adaptation [Field, C.B., V. Barros, T.F. Stocker, D. Qin, D.J. Dokken, K.L. Ebi, M.D. Mastrandrea, K.J. Mach, G.-K. Plattner, S.K. Allen, M. Tignor, and P.M. Midgley (eds.)]. A Special Report of Working Groups I and II of the IPCC. Cambridge University Press, Cambridge, UK, and New York, NY, USA (the "IPCC Glossary"), p. 557.

Demand No.: 2016-EPD-36

Date Issued: April 19, 2016

Issued To: Exxon Mobil Corporation

5. "Climate Change" means a change in the state of Earth's Climate that can be identified (e.g., by using statistical tests) by changes in the mean and/or the variability of its properties and that persists for an extended period, typically decades or longer. *See IPCC Glossary, p. 557.*
6. "Climate Model" means a numerical representation of the Climate System based on the physical, chemical, and biological properties of its components, their interactions, and feedback processes, and that accounts for all or some of its known properties. Climate models are applied as a research tool to study and simulate the climate, and for operational purposes, including monthly, seasonal, interannual, and longer-term climate predictions. *See IPCC Glossary, p. 557.*
7. "Climate Risk" means the risk that variables in the Climate System reach values that adversely affect natural and human systems and regions, including those that relate to extreme values of the climate variables such as high wind speed, high river water and sea level stages (flood), and low water stages (drought). These include, without limitation, such risks to ecosystems, human health, geopolitical stability, infrastructure, facilities, businesses, asset value, revenues, and profits, as well as the business risks associated with public policies and market changes that arise from efforts to mitigate or adapt to Climate Change.
8. "Climate Science" means the study of the Climate on Earth.
9. "Climate System" means the dynamics and interactions on Earth of five major components: atmosphere, hydrosphere, cryosphere, land surface, and biosphere. *See IPCC Glossary, p. 557.*
10. "Global Warming" means the gradual increase, observed or projected, in Earth's global surface temperature, as one of the consequences of radiative forcing caused by anthropogenic emissions.
11. "Greenhouse Gas" means a gaseous constituent of Earth's atmosphere, both natural and anthropogenic, that absorbs and emits radiation at specific wavelengths within the spectrum of infrared radiation emitted by the Earth's surface, the atmosphere, and clouds. Water vapor (H₂O), carbon dioxide (CO₂), nitrous oxide (N₂O), methane (CH₄), chlorofluorocarbons (CFCs), and ozone (O₃) are the primary Greenhouse Gases in the Earth's atmosphere. *See IPCC Glossary, p. 560.*
12. "Greenhouse Gas Emissions" means the exiting to the atmosphere of Greenhouse Gas.
13. "Methane" or "CH₄" means the chemical compound composed of one atom of carbon and four atoms of hydrogen. Methane is the main component of natural gas.

Demand No.: 2016-EPD-36
Date Issued: April 19, 2016
Issued To: Exxon Mobil Corporation

14. "Radiative Forcing Effect" means the influence a factor has in altering the balance of incoming and outgoing energy in the Earth-atmosphere system and is an index of the importance of the factor as a potential climate change mechanism.
15. "Security" has the same meaning as defined in M.G.L. c. 110A, § 401(k), and includes, without limitation, any fixed- and floating rate-notes, bonds, and common stock, available to investors for purchase by Massachusetts residents.
16. "Sustainable Development" means development that meets the needs of the present without compromising the ability of future generations to meet their own needs. *See* IPCC Glossary, p. 564.
17. "Sustainability Reporting" means the practice of measuring, disclosing and being accountable to internal and external stakeholders for organizational performance towards the goals of Sustainable Development.
18. "Acton Institute for the Study of Religion and Liberty" or "Acton Institute" means the nonprofit organization by that name. Acton Institute is located in Grand Rapids, Michigan.
19. "American Enterprise Institute for Public Policy Research" or "AEI" means the nonprofit public policy organization by that name. AEI is based in Washington, D.C.
20. "Americans for Prosperity" means the nonprofit advocacy group by that name. Americans for Prosperity is based in Arlington, Virginia.
21. "American Legislative Exchange Council" or "ALEC" means the nonprofit organization by that name consisting of state legislator and private sector members. ALEC is based in in Arlington, Virginia.
22. "American Petroleum Institute" or "API" means the oil and gas industry trade association by that name. API is based in Washington, D.C.
23. "Beacon Hill Institute at Suffolk University" means the research arm of the Department of Economics at Suffolk University in Boston, Massachusetts, by that name.
24. "Center for Industrial Progress" or "CIP" means the for profit organization by that name. CIP is located in Laguna Hills, California.
25. "Competitive Enterprise Institute" or "CEI" means the nonprofit public policy organization by that name. CEI is based in Washington, D.C.

Demand No.: 2016-EPD-36

Date Issued: April 19, 2016

Issued To: Exxon Mobil Corporation

26. "George C. Marshall Institute" means the nonprofit public policy organization by that name. George C. Marshall Institute is based in Arlington, Virginia.
27. "The Heartland Institute" means the nonprofit public policy organization by that name. The Heartland Institute is based in Arlington Heights, Illinois.
28. "The Heritage Foundation" means the nonprofit public policy organization by that name. The Heritage Foundation is based in Washington, D.C.
29. "Mercatus Center at George Mason University" means the university-based nonprofit public policy organization by that name. Mercatus Center at George Mason University is based in Arlington, Virginia.

C. Instructions

1. Preservation of Relevant Documents and Information; Spoliation. You are reminded of your obligations under law to preserve Documents and information relevant or potentially relevant to this CID from destruction or loss, and of the consequences of, and penalties available for, spoliation of evidence. No agreement, written or otherwise, purporting to modify, limit or otherwise vary the terms of this CID, shall be construed in any way to narrow, qualify, eliminate or otherwise diminish your aforementioned preservation obligations. Nor shall you act, in reliance upon any such agreement or otherwise, in any manner inconsistent with your preservation obligations under law. No agreement purporting to modify, limit or otherwise vary your preservation obligations under law shall be construed as in any way narrowing, qualifying, eliminating or otherwise diminishing such aforementioned preservation obligations, nor shall you act in reliance upon any such agreement, unless an Assistant Attorney General confirms or acknowledges such agreement in writing, or makes such agreement a matter of record in open court.
2. Possession, Custody, and Control. The CID calls for all responsive Documents or information in your possession, custody or control. This includes, without limitation, Documents or information possessed or held by any of your officers, directors, employees, agents, representatives, divisions, affiliates, subsidiaries or Persons from whom you could request Documents or information. If Documents or information responsive to a request in this CID are in your control, but not in your possession or custody, you shall promptly Identify the Person with possession or custody.
3. Documents No Longer in Your Possession. If any Document requested herein was formerly in your possession, custody or control but is no longer available, or no longer exists, you shall submit a statement in writing under oath that: (a) describes

Demand No.: 2016-EPD-36

Date Issued: April 19, 2016

Issued To: Exxon Mobil Corporation

in detail the nature of such Document and its contents; (b) Identifies the Person(s) who prepared such Document and its contents; (c) Identifies all Persons who have seen or had possession of such Document; (d) specifies the date(s) on which such Document was prepared, transmitted or received; (e) specifies the date(s) on which such Document became unavailable; (f) specifies the reason why such Document is unavailable, including without limitation whether it was misplaced, lost, destroyed or transferred; and if such Document has been destroyed or transferred, the conditions of and reasons for such destruction or transfer and the Identity of the Person(s) requesting and performing such destruction or transfer; and (g) Identifies all Persons with knowledge of any portion of the contents of the Document.

4. No Documents Responsive to CID Requests. If there are no Documents responsive to any particular CID request, you shall so state in writing under oath in the Affidavit of Compliance attached hereto, identifying the paragraph number(s) of the CID request concerned.
5. Format of Production. You shall produce Documents, Communications, and information responsive to this CID in electronic format that meets the specifications set out in Schedule D.
6. Existing Organization of Documents to be Preserved. Regardless of whether a production is in electronic or paper format, each Document shall be produced in the same form, sequence, organization or other order or layout in which it was maintained before production, including but not limited to production of any Document or other material indicating filing or other organization. Such production shall include without limitation any file folder, file jacket, cover or similar organizational material, as well as any folder bearing any title or legend that contains no Document. Documents that are physically attached to each other in your files shall be accompanied by a notation or information sufficient to indicate clearly such physical attachment.
7. Document Numbering. All Documents responsive to this CID, regardless of whether produced or withheld on ground of privilege or other legal doctrine, and regardless of whether production is in electronic or paper format, shall be numbered in the lower right corner of each page of such Document, without disrupting or altering the form, sequence, organization or other order or layout in which such Documents were maintained before production. Such number shall comprise a prefix containing the producing Person's name or an abbreviation thereof, followed by a unique, sequential, identifying document control number.
8. Privilege Placeholders. For each Document withheld from production on ground of privilege or other legal doctrine, regardless of whether a production is electronic or in hard copy, you shall insert one or more placeholder page(s) in the

Demand No.: 2016-EPD-36
Date Issued: April 19, 2016
Issued To: Exxon Mobil Corporation

production bearing the same document control number(s) borne by the Document withheld, in the sequential place(s) originally occupied by the Document before it was removed from the production.

9. **Privilege.** If You withhold or redact any Document responsive to this CID of privilege or other legal doctrine, you shall submit with the Documents produced a statement in writing under oath, stating: (a) the document control number(s) of the Document withheld or redacted; (b) the type of Document; (c) the date of the Document; (d) the author(s) and recipient(s) of the Document; (e) the general subject matter of the Document; and (f) the legal ground for withholding or redacting the Document. If the legal ground for withholding or redacting the Document is attorney-client privilege, you shall indicate the name of the attorney(s) whose legal advice is sought or provided in the Document.
10. **Your Production Instructions to be Produced.** You shall produce a copy of all written or otherwise recorded instructions prepared by you concerning the steps taken to respond to this CID. For any unrecorded instructions given, you shall provide a written statement under oath from the Person(s) who gave such instructions that details the specific content of the instructions and any Person(s) to whom the instructions were given.
11. **Cover Letter.** Accompanying any production(s) made pursuant to this CID, You shall include a cover letter that shall at a minimum provide an index containing the following: (a) a description of the type and content of each Document produced therewith; (b) the paragraph number(s) of the CID request to which each such Document is responsive; (c) the Identity of the Custodian(s) of each such Document; and (d) the document control number(s) of each such Document.
12. **Affidavit of Compliance.** A copy of the Affidavit of Compliance provided herewith shall be completed and executed by all natural persons supervising or participating in compliance with this CID, and you shall submit such executed Affidavit(s) of Compliance with Your response to this CID.
13. **Identification of Persons Preparing Production.** In a schedule attached to the Affidavit of Compliance provided herewith, you shall Identify the natural person(s) who prepared or assembled any productions or responses to this CID. You shall further Identify the natural person(s) under whose personal supervision the preparation and assembly of productions and responses to this CID occurred. You shall further Identify all other natural person(s) able competently to testify: (a) that such productions and responses are complete and correct to the best of such person's knowledge and belief; and (b) that any Documents produced are authentic, genuine and what they purport to be.

Demand No.: 2016-EPD-36

Date Issued: April 19, 2016

Issued To: Exxon Mobil Corporation

14. Continuing Obligation to Produce. This CID imposes a continuing obligation to produce the Documents and information requested. Documents located, and information learned or acquired, at any time after your response is due shall be promptly produced at the place specified in this CID.
15. No Oral Modifications. No agreement purporting to modify, limit or otherwise vary this CID shall be valid or binding, and you shall not act in reliance upon any such agreement, unless an Assistant Attorney General confirms or acknowledges such agreement in writing, or makes such agreement a matter of record in open court.
16. Time Period. Except where otherwise stated, the time period covered by this CID shall be from April 1, 2010, through the date of the production.

D. Documents to be Produced

1. For the time period from January 1, 1976, through the date of this production, Documents and Communications concerning Exxon's development, planning, implementation, review, and analysis of research efforts to study CO₂ emissions (including, without limitation, from fossil fuel extraction, production, and use), and the effects of these emissions on the Climate, including, without limitation, efforts by Exxon to:
 - (a) analyze the absorption rate of atmospheric CO₂ in the oceans by developing and using Climate Models;
 - (b) measure atmospheric and oceanic CO₂ levels (including, without limitation, through work conducted on Exxon's *Esso Atlantic* tanker);
 - (c) determine the source of the annual CO₂ increment that has been increasing over time since the Industrial Revolution by measuring changes in the isotopic ratios of carbon and the distribution of radon in the ocean; and/or
 - (d) assess the financial costs and environmental consequences associated with the disposal of CO₂ and hydrogen sulfide gas from the development of offshore gas from the seabed of the South China Sea off Natuna Island, Indonesia.
2. For the time period from January 1, 1976, through the date of this production, Documents and Communications concerning papers prepared, and presentations given, by James F. Black, at times Scientific Advisor in the Products Research Division of Exxon Research and Engineering, author of, among others, the paper *The Greenhouse Effect*, produced in or around 1978.

Demand No.: 2016-EPD-36
Date Issued: April 19, 2016
Issued To: Exxon Mobil Corporation

3. For the time period from January 1, 1976, through the date of this production, Documents and Communications concerning the paper *CO₂ Greenhouse Effect A Technical Review*, dated April 1, 1982, prepared by the Coordination and Planning Division of Exxon Research and Engineering Company.
4. For the time period from January 1, 1976, through the date of this production, Documents and Communications concerning the paper *CO₂ Greenhouse and Climate Issues*, dated March 28, 1984, prepared by Henry Shaw, including all Documents:
 - (a) forming the basis for Exxon's projection of a 1.3 to 3.1 degree Celsius average temperature rise by 2090 due to increasing CO₂ emissions and all Documents describing the basis for Exxon's conclusions that a 2 to 3 degree Celsius increase in global average temperature could:
 - Be "amplified to about 10 degrees C at the poles," which could cause "polar ice melting and a possible sea-level rise of 0.7 meter[sic] by 2080"
 - Cause redistribution of rainfall
 - Cause detrimental health effects
 - Cause population migration
 - (b) forming the basis for Exxon's conclusion that society could "avoid the problem by sharply curtailing the use of fossil fuels."
5. Documents and Communications with any of Acton Institute, AEI, Americans for Prosperity, ALEC, API, Beacon Hill Institute at Suffolk University, CEI, CIP, George C. Marshall Institute, The Heartland Institute, The Heritage Foundation, and/or Mercatus Center at George Mason University, concerning Climate Change and/or Global Warming, Climate Risk, Climate Science, and/or communications regarding Climate Science by fossil fuel companies to the media and/or to investors or consumers, including Documents and Communications relating to the funding by Exxon of any of those organizations.
6. For the time period from September 1, 1997, through the date of this production, Documents and Communications concerning the API's draft *Global Climate Science Communications Plan* dated in or around 1998.
7. For the time period from January 1, 2007, through the date of this production, Documents and Communications concerning Exxon's awareness of, and/or response to, the Union of Concerned Scientists report *Smoke, Mirrors & Hot Air: How ExxonMobil Uses Big Tobacco's Tactics to Manufacture Uncertainty on Climate Science*, dated January 2007.

Demand No.: 2016-EPD-36

Date Issued: April 19, 2016

Issued To: Exxon Mobil Corporation

8. For the time period from April 1, 1997, through the date of this production, Documents and Communications concerning the decision making by Exxon in preparing, and substantiation of, the following statements in the remarks *Energy – key to growth and a better environment for Asia-Pacific nations*, by then Chairman Lee R. Raymond to the World Petroleum Congress, Beijing, People's Republic of China, 10/13/97 (the “Raymond WPC Statements”):
 - It is highly unlikely that the temperature in the middle of the next century will be significantly affected whether policies are enacted now or 20 years from now. (Raymond WPC Statements, p. 11)
 - Forecasts of future warming come from computer models that try to replicate Earth's past climate and predict the future. They are notoriously inaccurate. None can do it without significant overriding adjustments. (Raymond WPC Statements, p. 10)
 - Proponents of the agreements [that could result from the Kyoto Climate Change Conference in December 1997] say they are necessary because burning fossil fuels causes global warming. Many people – politicians and the public alike – believe that global warming is a rock-solid certainty. But it's not. (Raymond WPC Statements, p. 8)
 - To achieve this kind of reduction in carbon dioxide emissions most advocates are talking about, governments would have to resort to energy rationing administered by a vast international bureaucracy responsible to no one. (Raymond WPC Statements, p. 10)
 - We also have to keep in mind that most of the greenhouse effect comes from natural sources, especially water vapor. Less than a quarter is from carbon dioxide, and, of this, only four percent of the carbon dioxide entering the atmosphere is due to human activities – 96 percent comes from nature. (Raymond WPC Statements, p. 9)
9. Documents and Communications concerning Chairman Rex W. Tillerson's June 27, 2012, address to the Council on Foreign Relations, including those sufficient to document the factual basis for the following statements:
 - Efforts to address climate change should focus on engineering methods to adapt to shifting weather patterns and rising sea levels rather than trying to eliminate use of fossil fuels.
 - Humans have long adapted to change, and governments should create policies to cope with the Earth's rising temperatures.

Demand No.: 2016-EPD-36
Date Issued: April 19, 2016
Issued To: Exxon Mobil Corporation

- Changes to weather patterns that move crop production areas around – we'll adapt to that. It's an engineering problem and it has engineering solutions.
 - Issues such as global poverty [are] more pressing than climate change, and billions of people without access to energy would benefit from oil and gas supplies.
10. Documents and Communications concerning Chairman Tillerson's statements regarding Climate Change and Global Warming, on or about May 30, 2013, to shareholders at an Exxon shareholder meeting in Dallas, Texas, including Chairman Tillerson's statement "What good is it to save the planet if humanity suffers?"
11. Documents and Communications concerning Chairman Tillerson's speech *Unleashing Innovation to Meet Our Energy and Environmental Needs*, presented to the 36th Annual Oil and Money Conference in London, England, 10/7/15 (the "2015 Oil and Money Conference Speech"), including Documents sufficient to demonstrate the factual basis for Chairman Tillerson's representation that Exxon's scientific research on Climate Change, begun in the 1970s, "led to work with the U.N.'s Intergovernmental Panel on Climate Change and collaboration with academic institutions and to reaching out to policymakers and others, who sought to advance scientific understanding and policy dialogue."
12. Documents and Communications concerning any public statement Chairman Tillerson has made about Climate Change or Global Warming from 2012 to present.
13. Documents and Communications concerning changes in the design, construction, or operation of any Exxon facility to address possible variations in sea level and/or other variables, such as temperature, precipitation, timing of sea ice formation, wind speed, and increased storm intensity, associated with Climate Change, including but not limited to:
- (a) adjustments to the height of Exxon's coastal and/or offshore drilling platforms; and
 - (b) adjustments to any seasonal activity, including shipping and the movement of vehicles.
14. Documents and Communications concerning any research, analysis, assessment, evaluation, Climate Modeling or other consideration performed by Exxon, or with funding provided by Exxon, concerning the costs for CO₂ mitigation, including,

Demand No.: 2016-EPD-36

Date Issued: April 19, 2016

Issued To: Exxon Mobil Corporation

without limitation, concerning the 2014 Exxon report to shareholders *Energy and Carbon – Managing the Risks* (the “2014 Managing the Risks Report”).

15. Documents and Communications substantiating or refuting the following claims in the 2014 Managing the Risks Report:

- [B]y 2030 for the 450ppm CO₂ stabilization pathway, the average American household would face an added CO₂ cost of almost \$2,350 per year for energy, amounting to about 5 percent of total before-tax median income. (p. 9)
- These costs would need to escalate steeply over time, and be more than double the 2030 level by mid-century. (p. 9)
- Further, in order to stabilize atmospheric GHG concentrations, these CO₂ costs would have to be applied across both developed and undeveloped countries. (p. 9)
- [W]e see world GDP growing at a rate that exceeds population growth through [the year 2040], almost tripling in size from what it was globally in 2000 [fn. omitted]. It is largely the poorest and least developed of the world’s countries that benefit most from this anticipated growth. However, this level of GDP growth requires more accessible, reliable and affordable energy to fuel growth, and it is vulnerable populations who would suffer most should that growth be artificially constrained. (pp. 3 – 4)
- [W]e anticipate renewables growing at the fastest pace among all sources through [the year 2040]. However, because they make a relatively small contribution compared to other energy sources, renewables will continue to comprise about 5 percent of the total energy mix by 2040. Factors limiting further penetration of renewables include scalability, geographic dispersion, intermittency (in the case of solar and wind), and cost relative to other sources. (p. 6)
- In assessing the economic viability of proved reserves, we do not believe a scenario consistent with reducing GHG emissions by 80 percent by 2050, as suggested by the “low carbon scenario,” lies within the “reasonably likely to occur” range of planning assumptions, since we consider the scenario highly unlikely. (p. 16)

16. Documents and Communications that formed the basis for the following statements in Exxon’s January 26, 2016, press release on Exxon’s 2016 Energy Outlook:

Demand No.: 2016-EPD-36
Date Issued: April 19, 2016
Issued To: Exxon Mobil Corporation

- In 2040, oil and natural gas are expected to make up nearly 60 percent of global supplies, while nuclear and renewables will be approaching 25 percent. Oil will provide one third of the world's energy in 2040, remaining the No. 1 source of fuel, and natural gas will move into second place.
 - ExxonMobil's analysis and those of independent agencies confirms our long-standing view that all viable energy sources will be needed to meet increasing demand.
 - The Outlook projects that global energy-related carbon dioxide emissions will peak around 2030 and then start to decline. Emissions in OECD nations are projected to fall by about 20 percent from 2014 to 2040.
17. Documents and Communications concerning any research, study, and/or evaluation by Exxon and/or any other fossil fuel company regarding the Climate Change Radiative Forcing Effect of natural gas (Methane), and potential regulation of Methane as a Greenhouse Gas.
18. Documents and Communications concerning Exxon's internal consideration of public relations and marketing decisions for addressing consumer perceptions regarding Climate Change and Climate Risks in connection with Exxon's offering and selling Exxon Products and Services to consumers in Massachusetts.
19. Documents and Communications concerning the drafting and finalizing of text, including all existing drafts of such text, concerning Greenhouse Gas Emissions and the issue of Climate Change or Global Warming filed with the U.S. Securities and Exchange Commission (the "SEC") by Exxon, including, without limitation, Exxon's Notices of Meeting; Form 10-Ks; Form 10-Qs; Form 8-Ks; Prospectuses; Prospectus Supplements; and Free Will Prospectuses; and/or contained in any offering memoranda and offering circulars from filings with the SEC under Regulation D (17 CFR § 230.501, et seq.).
20. Documents and Communications concerning Exxon's consideration of public relations and marketing decisions for addressing investor perceptions regarding Climate Change, Climate Risk, and Exxon's future profitability in connection with Exxon's offering and selling Securities in Massachusetts.
21. Documents and Communications related to Exxon's efforts in 2015 and 2016 to address any shareholder resolutions related to Climate Change, Global Warming, and how efforts to reduce Greenhouse Gas Emissions will affect Exxon's ability to operate profitably.
22. For the time period from January 1, 2006, through the date of this production, Documents and Communications concerning Exxon's development of its program

Demand No.: 2016-EPD-36
Date Issued: April 19, 2016
Issued To: Exxon Mobil Corporation

for Sustainability Reporting addressing Climate Change and Climate Risk, including, without limitation, regarding Exxon's annual "Corporate Citizenship Report" and Exxon's "Environmental Aspects Guide."

23. Documents and Communications concerning information exchange among Exxon and other companies and/or industry groups representing energy companies, regarding marketing of energy and/or fossil fuel products to consumers in light of public perceptions regarding Climate Change and Climate Risk.
24. Exemplars of all advertisements, flyers, promotional materials, and informational materials of any type, including but not limited to web-postings, blog-posts, social media-postings, print ads (including ads on op-ed pages of newspapers), radio and television advertisements, brochures, posters, billboards, flyers and disclosures used by or for You, Your employees, agents, franchisees or independent contractors to solicit or market Exxon Products and Services in Massachusetts, including but not limited to:
 - A copy of each print advertisement placed in the Commonwealth;
 - A DVD format copy of each television advertisement that ran in the Commonwealth;
 - An audio recording of each radio advertisement and audio portion of each internet advertisement;
 - A copy of each direct mail advertisement, brochure, or other written promotional materials;
 - A printout, screenshot or copy of each advertisement, information, or communication provided via the internet, email, Facebook, Twitter, YouTube, or other electronic communications system; and/or
 - A copy of each point-of-sale promotional material used by You or on Your behalf.
25. Documents and Communications sufficient to show where each of the exemplars in Demand No. 24 was placed and the intended or estimated consumers thereof, including, where appropriate, the number of hits on each internet page and all Commonwealth Internet Service Providers viewing same.
26. Documents and Communications substantiating the claims made in the advertisements, flyers, promotional materials, and informational materials identified in response to Demand Nos. 22 through 24.
27. Documents and Communications concerning Your evaluation or review of the impact, success or effectiveness of each Document referenced in Demand Nos. 22 through 24, including but not limited to Documents discussing or referring in any way to: (a) the effects of advertising campaigns or communications; (b) focus groups; (c) copy tests; (d) consumer perception; (e) market research; (f) consumer

Demand No.: 2016-EPD-36
Date Issued: April 19, 2016
Issued To: Exxon Mobil Corporation

research; and/or (g) other study or survey or the reactions, perceptions, beliefs, attitudes, wishes, needs, or understandings of potential consumers of Exxon Products and Services in light of public perceptions of Climate Change, Greenhouse Gas Emissions, and Climate Risk.

28. Documents sufficient to show Exxon's organizational structure and leadership over time, including but not limited to organizational charts, reflecting all Exxon Entities in any way involved in:
 - (a) the marketing, advertisement, solicitation, promotion, and/or sale of Exxon Products and Services to consumers in the Commonwealth; and/or
 - (b) the marketing, advertisement, solicitation, promotion, and/or sale to investors of Exxon Securities in the Commonwealth.
29. Documents and Communications sufficient to identify each agreement entered into on or after April 1, 2010, through the present, between and among Exxon and the Commonwealth of Massachusetts, its agencies, and/or its political subdivisions, for Exxon to provide Exxon Products and Services in Massachusetts.
30. Documents sufficient to identify all claims, lawsuits, court proceedings and/or administrative or other proceedings against You in any jurisdiction within the United States concerning Climate Change and relating to Your solicitation of consumers of Exxon Products and Services and/or relating to Your solicitation of consumers of Exxon Securities, including all pleadings and evidence in such proceedings and, if applicable, the resolution, disposition or settlement of any such matters.
31. Documents sufficient to identify and describe any discussion or consideration of disclosing in any materials filed with the SEC or provided to potential or existing investors (e.g., in prospectuses for debt offerings) information or opinions concerning the environmental impacts of Greenhouse Gas Emissions, including, without limitation, the risks associated with Climate Change, and Documents sufficient to identify all Persons involved in such consideration.
32. Transcripts of investor calls, conferences or presentations given by You at which any officer or director spoke concerning the environmental impacts of Greenhouse Gas Emissions, including, without limitation, the risks associated with Climate Change.
33. Documents and Communications concerning any subpoena or other demand for production of documents or for witness testimony issued to Exxon by the New

Demand No.: 2016-EPD-36

Date Issued: April 19, 2016

Issued To: Exxon Mobil Corporation

York State Attorney General's Office concerning Climate Change and Your marketing of Exxon Products and Services and/or Exxon Securities, including, through the date of Your production in response to this CID, all Documents produced to the New York State Attorney General's Office pursuant to any such subpoena or demand.

34. Documents sufficient to Identify all other federal or state law enforcement or regulatory agencies that have issued subpoenas or are otherwise currently investigating You concerning Your marketing of Exxon Products and Services to consumers and/or of Exxon Securities to investors.
35. Documents sufficient to Identify any Massachusetts consumer who has complained to You, or to any Massachusetts state or local consumer protection agency, concerning Your actions with respect to Climate Change, and for each such consumer identified, documents sufficient to identify each such complaint; each correspondence between You and such consumer or such consumer's representative; any internal notes or recordings regarding such complaint; and the resolution, if any, of each such complaint.
36. Documents and communications that disclose Your document retention policies in effect between January 1, 1976 and the date of this production.
37. Documents sufficient to Identify Your officers, directors and/or managing agents, or other persons most knowledgeable concerning the subject matter areas enumerated in Schedule B, below.
38. Documents sufficient to identify all natural persons involved in the preparation of Your response to this CID.

Demand No.: 2016-EPD-36
Date Issued: April 19, 2016
Issued To: Exxon Mobil Corporation

SCHEDULE B

Pursuant to the terms of this CID, you are commanded to produce one or more witnesses at the above-designated place and time, or any agreed-upon adjourned place and time, who is or are competent to testify as to the following subject matter areas:

1. Your compliance with Massachusetts General Law Chapter 93A, § 2, and the regulations promulgated thereunder concerning, the marketing, advertising, soliciting, promoting, and communicating or sale of: (1) Exxon Products and Services in the Commonwealth and/or to Massachusetts residents; and (2) Securities in the Commonwealth and/or to Massachusetts residents.
2. The marketing, advertising, soliciting, promoting, and communicating or sale of Exxon Products and Services in the Commonwealth and/or to Massachusetts residents, including their environmental impacts with respect to Greenhouse Gas Emission, Climate Change and/or Climate Risk.
3. The marketing, advertising, soliciting, promoting, and communicating or sale of Securities in the Commonwealth and/or to Massachusetts residents, including as to Exxon's disclosures of risks to its business related to Climate Change.
4. All topics covered in the demands above.
5. Your recordkeeping methods for the demands above, including what information is kept and how it is maintained.
6. Your compliance with this CID.

Demand No.: 2016-EPD-36
Date Issued: April 19, 2016
Issued To: Exxon Mobil Corporation

SCHEDULE C

**CHAPTER 93A. REGULATION OF BUSINESS PRACTICES FOR CONSUMERS
PROTECTION**

Chapter 93A: Section 7. Failure to appear or to comply with notice

Section 7. A person upon whom a notice is served pursuant to the provisions of section six shall comply with the terms thereof unless otherwise provided by the order of a court of the commonwealth. Any person who fails to appear, or with intent to avoid, evade, or prevent compliance, in whole or in part, with any civil investigation under this chapter, removes from any place, conceals, withholds, or destroys, mutilates, alters, or by any other means falsifies any documentary material in the possession, custody or control of any person subject to any such notice, or knowingly conceals any relevant information, shall be assessed a civil penalty of not more than five thousand dollars.

The attorney general may file in the superior court of the county in which such person resides or has his principal place of business, or of Suffolk county if such person is a nonresident or has no principal place of business in the commonwealth, and serve upon such person, in the same manner as provided in section six, a petition for an order of such court for the enforcement of this section and section six. Any disobedience of any final order entered under this section by any court shall be punished as a contempt thereof.

Demand No.: 2016-EPD-36
Date Issued: April 19, 2016
Issued To: Exxon Mobil Corporation

SCHEDULE D

See attached "Office of the Attorney General - Data Delivery Specification."

Demand No.: 2016-EPD-36
Date Issued: April 19, 2016
Issued To: Exxon Mobil Corporation

AFFIDAVIT OF COMPLIANCE WITH CIVIL INVESTIGATIVE DEMAND

State of _____

County of _____

I, _____, being duly sworn, state as follows:

1. I am employed by _____ in the position of _____;
2. The enclosed production of documents and responses to Civil Investigative Demand 2016-EPD-36 of the Attorney General of the Commonwealth of Massachusetts, dated April 19, 2016 (the "CID") were prepared and assembled under my personal supervision;
3. I made or caused to be made a diligent, complete and comprehensive search for all Documents and information requested by the CID, in full accordance with the instructions and definitions set forth in the CID;
4. The enclosed production of documents and responses to the CID are complete and correct to the best of my knowledge and belief;
5. No Documents or information responsive to the CID have been withheld from this production and response, other than responsive Documents or information withheld on the basis of a legal privilege or doctrine;
6. All responsive Documents or information withheld on the basis of a legal privilege or doctrine have been identified on a privilege log composed and produced in accordance with the instructions in the CID;
7. The Documents contained in these productions and responses to the CID are authentic, genuine and what they purport to be;
8. Attached is a true and accurate record of all persons who prepared and assembled any productions and responses to the CID, all persons under whose personal supervision the preparation and assembly of productions and responses to the CID occurred, and all persons able competently to testify: (a) that such productions and responses are complete and correct to the best of such person's knowledge and belief; and (b) that any Documents produced are authentic, genuine and what they purport to be; and
9. Attached is a true and accurate statement of those requests under the CID as to

Demand No.: 2016-EPD-36

Date Issued: April 19, 2016

Issued To: Exxon Mobil Corporation

which no responsive Documents were located in the course of the aforementioned search.

Signature of Affiant

Date

Printed Name of Affiant

Subscribed and sworn to before me

this ___ day of _____ 2016.

Notary Public

My commission expires:



Office of the Attorney General - Data Delivery Specification ONE – Production Load File

I. General

1. Images produced to the Office of the Attorney General should be single page series IV TIFF images, 300 dpi or better quality. TIFFs may be Black & White or color.
2. Bates Numbers should be placed in the lower right hand corner unless to do so would obscure the underlying image. In such cases, the Bates number should be placed as near to that position as possible while preserving the underlying image. Bates numbers should contain no spaces, hyphens or underscores. Example: AG0000000001.
3. Spreadsheets and Powerpoint ESI should be produced as native ESI and name for the bates number associated with the first page of the item. If the item has a confidentiality designation, please **DO NOT** append it to the bates numbered file name. The designation should be stored in a field in the DAT.
4. For any ESI that exists in encrypted format or is password-protected, instructions on means for access should be provided with the production to the AGO. (For example, by supplying passwords.)
5. All records should include at least the following fields of created data:
 - a. Beginning Bates Number (where TIFF Images are produced)
 - b. Ending Bates Number
 - c. Beginning Attachment Range
 - d. Ending Attachment Range
 - e. RemovedFrom: If records were globally deduplicated, this field should contain a concatenated list of all custodians or sources which originally held the item.
 - f. MD5 Hash or other hash value
 - g. Custodian / Source
 - h. Original file path or folder structure
 - i. FamilyID
 - j. Path/Link to natives
 - k. Path/Link to text files (**do not produce inline text in the dat file**)
 - l. Redacted – Bit Character field (1 or 0 where 1=Yes and 0=No)
 - m. Production date
 - n. Volume name
 - o. Confidentiality or other treatment stamps
6. Email should be produced with at least the following fields of metadata:
 - a. TO
 - b. FROM
 - c. CC
 - d. BCC
 - e. Subject
 - f. Path to text file (**do not produce inline text in the dat file**)

Office of the Attorney General - Data Delivery Specification ONE – Production Load File

- g. Sent Date (dates and times must be stored in separate fields)
 - h. Sent Time (dates and times must be stored in separate fields and without time zones)
 - i. File extension (.txt, .msg, etc.)
 - j. Attachment count.
7. eFiles should be produced with at least the following individual fields of metadata:
- a. Author
 - b. CreateDate (dates and times must be stored in separate fields)
 - c. CreateTime (dates and times must be stored in separate fields with no time zones or am/pm)
 - d. LastModifiedDate (dates and times must be stored in separate fields)
 - e. LastModifiedTime (dates and times must be stored in separate fields with no time zones or am/pm).
8. Deduplication (Removed From data field)
- a. If the producing entity wishes to deduplicate, exact hash value duplicates may be removed on a global basis if the producing entity provides a field of created data for each deduplicated item that provides a concatenated list of all custodians or other sources where the item was original located. This list should be provided in the RemovedFrom data field.
 - b. Any other form of deduplication must be approved in advance by the Office of the Attorney General.

II. File Types and Load File Requirements

a. File Types


Data: Text, images and native files should each be delivered as subfolders in a folder named "DATA". See screen shot "Example Production Deliverable."

- Images: Single page TIFF images delivered in a folder named "IMAGES."
- Text: Multipage text files (one text file per document), delivered in a folder named "TEXT."
- Natives: Delivered in a folder named "NATIVES".

Load Files: Concordance format data load file and Opticon format image load file should be delivered in a folder named LOAD (at the same level as the folder DATA in the structure). See screen shot "Example Production Deliverable."

Office of the Attorney General - Data Delivery Specification

ONE – Production Load File

 Example Production Deliverable

 VOL001

 DATA

 IMAGES

 NATIVES

 TEXT

 LOAD

b. Fields to be Produced in ONE Data Load File – Concordance Format

Field Name	Description/Notes
BegBates	Starting Bates Number for document
EndBates	Ending Bates Number for document
BegAttach	Starting Bates Number of Parent document
EndAttach	Ending Bates Number of last attachment in family
FamilyID	Parent BegBates
Volume	Name of Volume or Load File
MD5Hash	
Custodian_Source	If the source is a human custodian, please provide the name: Last name, first name. If this results in duplicates, add numbers or middle initials Last name, first name, middle initial or # If the source is not a human custodian, please provide a unique name for the source. Ex: AcctgServer
FROM	Email
TO	Email
CC	Email
BCC	Email
Subject	Email
Sent Date	Email
Sent Time	Email
File Extension	
Attch Count	Email
Doc Type	Email, attachment
Original FilePath	Original location of the item at time of Preservation.
FileName	
CreateDate	Loose files or attachments. Date and Time must be in separate fields.
CreateTime	Loose files or attachments. Date and Time must be in separate fields and the Time field should not include Time Zone (EDT, EST etc)
LastModDate	Loose files or attachments (Date and Time must be in separate fields)
LastModTime	Loose files or attachments. Date and Time must be in separate fields and the Time field should not include Time Zone (EDT, EST, AM, PM etc)
Redacted	This is a Boolean/bit character field. Data value should be "0" or "1" where 0 = No and 1=Yes.
Confidentiality Designation	NOTE: <i>Do not append the Confidentiality Designation to the native file name</i>
RemovedFrom	Last name, first name with semi colon as separator Lastname,firstname; nextlastname, nextfirstname etc.

Office of the Attorney General - Data Delivery Specification

ONE – Production Load File

Encrypted_pwp	This is a single character field. Data value should be "N" or "Y". (File is or is not encrypted/password protected)
EncryptKey_password	For those files where Encrypted_pwp is Y, provide password or encryption key information in this field.
ProdDate	MM\DD\YYYY
TextLink	path to the text files should begin with TEXT\
NativeLink	path to the native files should begin with NATIVES\

The Data load file for ONE is the same as a Concordance load file, with the same field delimiters () and text qualifiers (b). Here is a screen shot of part of a ONE load file with the fields identified above:

```
bBeg Bates;bEnd Bates;bBeg Attach;bEnd Attach;bFamilyID;bVolume;bMD5Hash;bCustodian_Source;bFROM;bTO;bCC;bSCC;bSubject;bSent Date;bSent Time;bFile Extension;bDr
bAG000004507;bAG000004510;bAG000004507;bAG000004512;bAG000004507;bVOL001;bDoe, John;bJohnDoe@someplace.com;bJdoe@somewhereelse.com;btheboss@someplace.com;b
bAG000004511;bAG000004512;bAG000004507;bAG000004512;bAG000004507;bVOL001;bDoe, John;bJohnDoe@someplace.com;bJdoe@somewhereelse.com;btheboss@someplace.com;b
```

c. Fields required for an Images Load File – Opticon Format

The Images load file for ONE is the same as an OPTICON load file. It contains these fields, although Folder Break and Box Break are often not used.

Field Name	Description/Notes
Alias	Imagekey/Image link - Beginning bates or ctrl number for the document
Volume	Volume name or Load file name
Path	relative path to Images should begin with IMAGES\ and include the full file name and file extension (tif, jpg)
Document Break	Y denotes image marks the beginning of a document
Folder Break	N/A - leave blank
Box Break	N/A - leave blank
Pages	Number of Pages in document

Here is a screen shot of an opticon load file format in a text editor with each field separated by a comma. Alias, Volume, Path, Document Break, Folder Break (blank), Box Break (blank), Pages.

```
AG000004507,VOL001,IMAGES\00\00\AG000004507.TIF,Y,,,4
AG000004508,VOL001,IMAGES\00\00\AG000004508.TIF,,,,
AG000004509,VOL001,IMAGES\00\00\AG000004509.TIF,,,,
AG000004510,VOL001,IMAGES\00\00\AG000004510.TIF,,,,
AG000004511,VOL001,IMAGES\01\00\AG000004511.TIF,Y,,,2
AG000004512,VOL001,IMAGES\01\00\AG000004512.TIF,,,,
```

Technical questions regarding this specification should be addressed to:

Diane E. Barry
AAG / eDiscovery Attorney
Office of the Attorney General
One Ashburton Place
Boston MA 02108
Diane.E.Barry@state.ma.us
(617) 963-2120

Page 4 of 4

Exhibit N

CLIMATE CHANGE COALITION COMMON INTEREST AGREEMENT

This Common Interest Agreement (“Agreement”) is entered into by the undersigned Attorneys General of the States, Commonwealths, and Territories (the “Parties”) who are interested in advancing their common legal interests in limiting climate change and ensuring the dissemination of accurate information about climate change. The Parties mutually agree:

1. Common Legal Interests. The Parties share common legal interests with respect to the following topics: (i) potentially taking legal actions to compel or defend federal measures to limit greenhouse gas emissions, (ii) potentially conducting investigations of representations made by companies to investors, consumers and the public regarding fossil fuels, renewable energy and climate change, (iii) potentially conducting investigations of possible illegal conduct to limit or delay the implementation and deployment of renewable energy technology, (iv) potentially taking legal action to obtain compliance with federal and state laws governing the construction and operation of fossil fuel and renewable energy infrastructure, or (v) contemplating undertaking one or more of these legal actions, including litigation (“Matters of Common Interest”).

2. Shared Information. It is in the Parties’ individual and common interests to share documents, mental impressions, strategies, and other information regarding the Matters of Common Interest and any related investigations and litigation (“Shared Information”). Shared Information shall include (1) information shared in organizing a meeting of the Parties on March 29, 2016, (2) information shared at and after the March 29 meeting, pursuant to an oral common interest agreement into which the Parties entered at the meeting and renewed on April 12, 2016, and (3) information shared after the execution of this Agreement.

3. Legends on Documents. To avoid misunderstandings or inadvertent disclosure, all documents exchanged pursuant to this Agreement should bear the legend “Confidential – Protected by Common Interest Privilege” or words to that effect. However, the inadvertent failure to include such a legend shall not waive any privilege or protection available under this Agreement or otherwise. In addition, any Party may, where appropriate, also label documents exchanged pursuant to this Agreement with other appropriate legends, such as, for example, “Attorney-Client Privileged” or “Attorney Work Product.” Oral communications among the Parties shall be deemed confidential and protected under this Agreement when discussing Matters of Common Interest.

4. Non-Waiver of Privileges. The exchange of Shared Information among Parties—including among Parties’ staff and outside advisors—does not diminish in any way the privileged and confidential nature of such information. The Parties retain all applicable privileges and claims to confidentiality, including the attorney client privilege, work product privilege, common interest privilege, law enforcement privilege, deliberative process privilege and exemptions from disclosure under any public records laws that may be asserted to protect against disclosure of Shared Information to non-Parties (hereinafter collectively referred to as “Privileges”).

5. Nondisclosure. Shared Information shall only be disclosed to: (i) Parties; (ii) employees or agents of the Parties, including experts or expert witnesses; (iii) government officials involved with the enforcement of antitrust, environmental, consumer protection, or securities laws who have agreed in writing to abide by the confidentiality restrictions of this Agreement; (iv) criminal enforcement authorities; (v) other persons, provided that all Parties consent in advance; and (vi) other persons as provided in paragraph 6. A Party who provides Shared Information may also impose additional conditions on the disclosure of that Shared Information. Nothing in this Agreement prevents a Party from using the Shared Information for law enforcement purposes, criminal or civil, including presentation at pre-trial and trial-related proceedings, to the extent that such presentation does not (i) conflict with other agreements that the Party has entered into, (ii) interfere with the preservation of the Privileges, or (iii) conflict with court orders and applicable law.

6. Notice of Potential Disclosure. The Parties agree and acknowledge that each Party is subject to applicable freedom of information or public records laws, and nothing in this Agreement is intended to alter or limit the disclosure requirements of such laws. If any Shared Information is demanded under a freedom of information or public records law or is subject to any form of compulsory process in any proceeding ("Request"), the Party receiving the Request shall: (i) immediately notify all other Parties (or their designees) in writing; (ii) cooperate with any Party in the course of responding to the Request; and (iii) refuse to disclose any Shared Information unless required by law.

7. Inadvertent Disclosure. If a Party discloses Shared Information to a person not entitled to receive such information under this Agreement, the disclosure shall be deemed to be inadvertent and unintentional and shall not be construed as a waiver of any Party's right under law or this Agreement. Any Party may seek additional relief as may be authorized by law.

8. Independently Obtained Information. Provided that no disclosure is made of Shared Information obtained pursuant to this Agreement, nothing in this Agreement shall preclude a Party from (a) pursuing independently any subject matter, including subjects reflected in Shared Information obtained by or subject to this Agreement or (b) using or disclosing any information, documents, investigations, or any other materials independently obtained or developed by such Party.

9. Related Litigation. The Parties continue to be bound by this Agreement in any litigation or other proceeding that arises out of the Matters of Common Interest.

10. Parties to the Agreement. This Agreement may be executed in counterparts. All potential Parties must sign for their participation to become effective.

11. Withdrawal. A Party may withdraw from this Agreement upon thirty days written notice to all other Parties. Withdrawal shall not terminate, or relieve the withdrawing Party of any obligation under this Agreement regarding Shared Information received by the withdrawing Party before the effective date of the withdrawal.

12. Modification. This writing is the complete Agreement between the Parties, and any modifications must be approved in writing by all Parties.

Dated: May 18, 2016



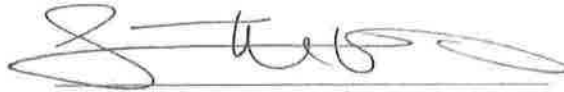
Michele Van Gelderen
Supervising Deputy Attorney General
Consumer Law Section
Office of Attorney General Kamala D. Harris
300 South Spring Street, Suite 1702
Los Angeles, CA 90013
Tel. (213) 897-2000

Dated: May 3, 2016



Matthew I. Levine
Assistant Attorney General
Office of the Attorney General
55 Elm Street
P.O. Box 120
Hartford, CT 06106

Dated: May 2, 2016



Elizabeth Wilkins
Senior Counsel to the Attorney General*
Office of the Attorney General for the District of
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elizabeth.wilkins@dc.gov

*Admitted to practice only in Maryland. Practicing in the
District of Columbia under the direct supervision of Natalie O.
Ludaway, a member of the D.C. Bar pursuant to D.C. Court of
Appeals Rule 49(c).

Dated: May 2, 2016



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jgignac@atg.state.il.us

Dated: April 29, 2016

A handwritten signature in black ink, appearing to read 'C. Courchesne', is positioned above a horizontal line.

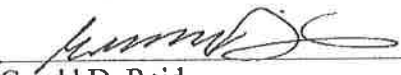
CHRISTOPHE COURCHESNE
Assistant Attorney General
Chief, Environmental Protection Division
One Ashburton Place
Boston, MA 02108
christophe.courchesne@state.ma.us

Dated: May 10, 2016



Joshua N. Auerbach
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Dated: May 5, 2016


Gerald D. Reid
Assistant Attorney General
Chief, Natural Resources Division
Maine Office of the Attorney General
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jerry.reid@maine.gov

Signature: Karen D. Olson Date: 5/16/16

Karen D. Olson
Deputy Attorney General
Minnesota Attorney General's Office
445 Minnesota Street, Suite 900
St. Paul, MN 55101
(651) 757-1370
karen.olson@ag.state.mn.us

Dated: April 29, 2016

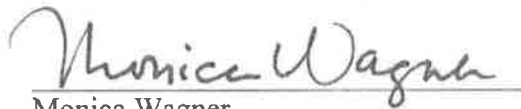

JOSEPH A. FOSTER, ATTORNEY GENERAL
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33 Capitol Street
Concord, NH 03301
(603) 271-3679
allen.brooks@doj.nh.gov

Dated: May 6, 2016

Tania Maestas

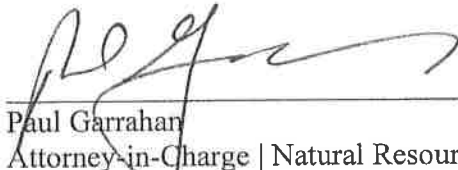
Tania Maestas
Deputy Attorney General Civil Affairs
Office of the New Mexico Attorney General
PO Drawer 1508
Santa Fe, NM 87504

Dated: May 2, 2016

A handwritten signature in dark ink, reading "Monica Wagner". The signature is written in a cursive style with a horizontal line underneath the name.

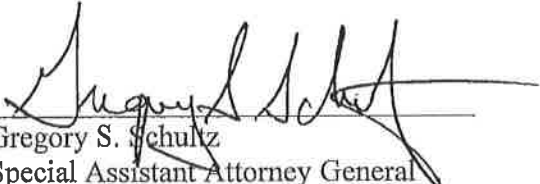
Monica Wagner
Deputy Chief
Environmental Protection Bureau
Office of the Attorney General of New York
120 Broadway, 26th floor
New York, NY 10271
212-416-6351

Dated: April 29, 2016



Paul Garrahan
Attorney-in-Charge | Natural Resources Section |
General Counsel Division
Oregon Department of Justice
1162 Court St. NE, Salem, OR 97301-4096
971.673.1943 (Tue, Thu, Fri) (Portland)
503.947.4593 (Mon, Wed) (Salem)
503.929.7553 (Mobile)

Dated: April 28, 2016


Gregory S. Schultz
Special Assistant Attorney General
Rhode Island Department of Attorney General
150 South Main Street Providence, RI 02903
Tel.: (401) 274-4400, Ext. 2400

Dated: May 9, 2016

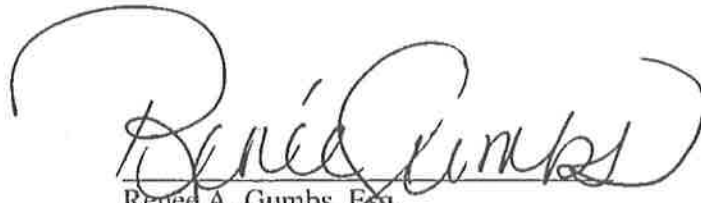
 5/9/16

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 5/9/16


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Dated: May ^{4th}10, 2016




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Dated: April 29, 2016



Nicholas F. Persampieri
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Dated: MAY 1, 2016



Laura J. Watson
Senior Assistant Attorney General
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(360)-586-6743
Laura.watson@atg.wa.gov

Exhibit O

From: Balagia, Jack
Sent: Wednesday, November 04, 2015 9:53 PM
To: McGowan, Marie C; Conlon, Patrick J
Cc: Ebner, Randall M; Johnson, Casey; Johnson, Robert W - Law; Byrne, Richard E; Bell, Annora A; Klafehn, Lynn M; Lee, Joann
Subject: Fwd: Investigatory Subpoena from New York State Attorney General's Office

Sent from my iPhone

Begin forwarded message:

From: "Lemuel Srolovic" <Lemuel.Srolovic@ag.ny.gov>
To: "Balagia, Jack" <jack.balagia@exxonmobil.com>
Subject: Investigatory Subpoena from New York State Attorney General's Office

Mr. Balagia – attached is an investigatory subpoena for documents from the New York State Attorney General's office. The subpoena is returnable on December 4, 2015. If you or a colleague would like to discuss the subpoena, my contact information is below. Very truly yours, Lem Srolovic

Lemuel M. Srolovic
Bureau Chief
Environmental Protection Bureau
New York State Attorney General
212-416-8448 (o)
917-621-6174 (m)
lemuel.srolovic@ag.ny.gov

Exhibit P



U.S. Energy Information
Administration

U.S. States

State Profiles and Energy Estimates

Rankings: Total Energy Production, 2014 (trillion Btu)

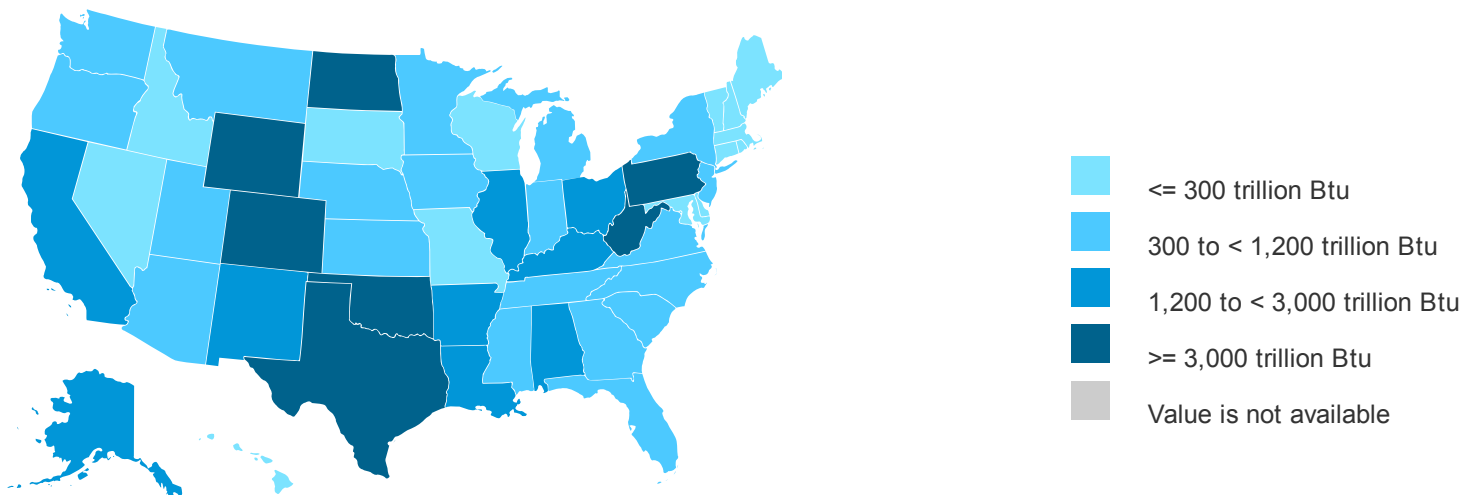
[Download Table Data as CSV](#)

Rank	State	Total Energy Production (trillion Btu)
1	Texas	17,597
2	Wyoming	9,362
3	Pennsylvania	7,087
4	West Virginia	4,154
5	Oklahoma	3,573
6	North Dakota	3,261
7	Colorado	3,042
8	Louisiana	2,852
9	Illinois	2,684
10	New Mexico	2,515
11	California	2,413
12	Kentucky	2,055
13	Ohio	1,547
14	Alaska	1,475
15	Arkansas	1,454
16	Alabama	1,354
17	Utah	1,171
18	Montana	1,162
19	Indiana	1,123
20	Washington	1,027
21	Virginia	980
22	Kansas	881
23	New York	872
24	Iowa	757
25	Michigan	683
26	South Carolina	675
27	Arizona	635
28	Georgia	598
29	North Carolina	596
30	Florida	554
31	Tennessee	500
32	Oregon	480
33	Minnesota	467
34	Mississippi	403

Rank	State	Total Energy Production (trillion Btu)
35	Nebraska	402
36	New Jersey	388
37	Wisconsin	299
38	Maryland	250
39	South Dakota	250
40	Missouri	200
41	Connecticut	197
42	New Hampshire	161
43	Idaho	155
44	Maine	151
45	Massachusetts	125
46	Vermont	86
47	Nevada	71
48	Hawaii	27
49	Rhode Island	4
50	Delaware	4
51	District of Columbia	0

Note: Rankings are based on the full source data values.

Excludes federal offshore production.



Notes & Sources

Consumption

- Total Energy per Capita: EIA, State Energy Data System, Total Consumption Per Capita

Expenditures

- Total Energy per Capita: [EIA, State Energy Data System, Total Expenditures Per Capita](#)

Production

- Total Energy: [EIA, State Energy Data System, Total Energy Production](#)
- Crude Oil: [EIA, Petroleum Supply Annual, Crude Oil Production](#)
- Natural Gas: [EIA, Natural Gas Annual, Natural Gas Gross Withdrawals and Production](#)
- Coal: [EIA, Annual Coal Report, Coal Production and Number of Mines by State](#)
- Electricity: [EIA, Electric Power Monthly, Net Generation by State](#)

Prices

- Natural Gas: [EIA, Natural Gas Monthly, Natural Gas Prices](#)
- Electricity: [EIA, Electric Power Monthly, Residential Electricity Prices](#)

Environment

- Carbon Dioxide Emissions: [State CO₂ Emissions](#)

Exhibit Q

NO. 017-284890-16

EXXON MOBIL CORPORATION	§	IN THE DISTRICT COURT OF
	§	
<i>Plaintiff,</i>	§	
	§	
v.	§	
	§	
CLAUDE EARL WALKER, Attorney	§	
General of the United States Virgin	§	TARRANT COUNTY, TEXAS
Islands, in his official capacity,	§	
COHEN MILSTEIN SELLERS &	§	
TOLL, PLLC, in its official capacity	§	
as designee, and LINDA SINGER, in	§	
her official capacity as designee,	§	
	§	
<i>Defendants.</i>	§	17 TH JUDICIAL DISTRICT

**PLEA IN INTERVENTION OF THE
STATES OF TEXAS AND ALABAMA**

The States of Texas and Alabama intervene under Rule 60 of the Texas Rules of Civil Procedure to protect the due process rights of their residents.

I. Background.

At a recent gathering on climate change in New York City, Claude Earl Walker, Attorney General of the United States Virgin Islands, announced an investigation by his office (“Investigation”) into a company whose product he claims “is destroying this earth.” Pl. Compl. Ex. B at 16. A week earlier, ExxonMobil Corporation, a New Jersey corporation with principal offices in Texas, was served with a subpoena seeking documents responsive to alleged violations of the penal code of the Virgin Islands. *Id.* at ¶ 20, Ex. A at 1. Though General Walker signed the subpoena, it arrived in an envelope postmarked in Washington, D.C, with a return address for Cohen Milstein, a law firm that

describes itself as a “pioneer in plaintiff class action lawsuits” and “the most effective law firm in the United States for lawsuits with a strong social and political component.” *Id.* at ¶¶ 4, 20. ExxonMobil now seeks to quash the subpoena in Texas state court, asserting, *inter alia*, that the Investigation violates the First Amendment and that the participation of Cohen Milstein, allegedly on a contingency fee basis, is an unconstitutional delegation of prosecutorial power. *See generally id.*

The intervenors are States whose sovereign power and investigative and prosecutorial authority are implicated by the issues and tactics raised herein. General Walker’s Investigation appears to be driven by ideology, and not law, as demonstrated not only by his collusion with Cohen Milstein, but also by his request for almost four decades worth of material from a company with no business operations, employees, or assets in the Virgin Islands. *Id.* at ¶ 7. And it is disconcerting that the apparent pilot of the discovery expedition is a private law firm that could take home a percentage of penalties (if assessed) available only to government prosecutors. We agree with ExxonMobil that serious jurisdictional concerns exist, but to protect the fundamental right of impartiality in criminal and quasi-criminal investigations, we intervene.

II. Standard for Intervention.

Rule of Civil Procedure 60 provides that “[a]ny party may intervene by filing a pleading, subject to being stricken out by the court for sufficient cause on the motion of any party.” TEX. R. CIV. P. 60. “Rule 60 . . . provides . . . that

any party may intervene” in litigation in which they have a sufficient interest. *Mendez v. Brewer*, 626 S.W.2d 498, 499 (Tex. 1982). “A party has a justiciable interest in a lawsuit, and thus a right to intervene, when his interests will be affected by the litigation.” *Jabri v. Alsayyed*, 145 S.W.3d 660, 672 (Tex. App.—Houston [14th Dist.] 2004, no pet.) (citing *Law Offices of Windle Turley v. Ghiasinejad*, 109 S.W.3d 68, 71 (Tex. App.—Fort Worth 2003, no pet.)). And an intervenor is not required to secure a court’s permission to intervene in a cause of action or prove that it has standing. *Guar. Fed. Sav. Bank v. Horseshoe Operating Co.*, 793 S.W.2d 652, 657 (Tex. 1990).

There is no pre-judgment deadline for intervention. *Tex. Mut. Ins. Co. v. Ledbetter*, 251 S.W.3d 31, 36 (Tex. 2008). Texas courts recognize an “expansive” intervention doctrine in which a plea in intervention is untimely only if it is “filed after judgment.” *State v. Naylor*, 466 S.W.3d 783, 788 (Tex. 2015) (quoting *First Alief Bank v. White*, 682 S.W.2d 251, 252 (Tex. 1984)). There is no final judgment in this case, thus making the States’ intervention timely.

III. Intervenors Have an Interest in Ensuring Constitutional Safeguards for Prosecutions of its Residents.

The alleged use of contingency fees in this case raises serious due process considerations that the intervenors have an interest in protecting.

To begin, government attorneys have a constitutional duty to act impartially in the execution of their office. The Supreme Court has explained that attorneys who represent the public do not represent an ordinary party in litigation, but “a sovereignty whose obligation to govern impartially is as

compelling as its obligation to govern at all.” *Berger v. United States*, 295 U.S. 78, 88, (1935).

Contingency fee arrangements cut against the duty of impartiality by giving the attorney that represents the government a financial stake in the outcome. Thus, the use of contingency fees is highly suspect in criminal cases and, more generally, when fundamental rights are at stake. *State v. Lead Indus., Ass’n, Inc.*, 951 A.2d 428, 476 n. 48 (R.I. 2008) (doubting that contingent fees would ever be appropriate in a criminal case); *Int’l Paper Co. v. Harris Cty.*, 445 S.W.3d 379, 393 (Tex. App.—Houston [1st Dist.] 2013, no pet.) (contingency fees are impermissible in cases implicating fundamental rights).

Here, the Investigation appears to be a punitive enforcement action, as all of the statutes that ExxonMobil purportedly violated are found in the criminal code of the Virgin Islands. 14 V.I.C. §§ 551, 605, 834. In addition, ExxonMobil asserts a First Amendment interest to be free from viewpoint discrimination. Intervenor, in sum, have a strong interest in ensuring that contingency fee arrangements are not used in criminal and quasi criminal cases where a multitude of fundamental rights, including speech, lie in the balance.

IV. Conclusion and Prayer for Relief.

The States identified herein, Texas and Alabama, by and through this intervention, request notice and appearance, and the opportunity to defend the rule of law before this Court.

Respectfully submitted,

<p>LUTHER STRANGE Attorney General of Alabama 501 Washington Ave. Montgomery, Alabama 36104</p>	<p>KEN PAXTON Attorney General of Texas</p> <p>JEFFREY C. MATEER First Assistant Attorney General</p> <p>BRANTLEY STARR Deputy Attorney General for Legal Counsel</p> <p>AUSTIN R. NIMOCKS Associate Deputy Attorney General for Special Litigation</p> <p><u>/s/ Austin R. Nimocks</u> AUSTIN R. NIMOCKS Texas Bar No. 24002695</p> <p>Special Litigation Division P.O. Box 12548, Mail Code 001 Austin, Texas 78711-2548</p> <p><i>ATTORNEYS FOR INTERVENORS</i></p>
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing pleading has been served on the following counsel of record on this 16th day of May, 2016, in accordance with Rule 21a of the Texas Rules of Civil Procedure, electronically through the electronic filing manager:

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/s/ Austin R. Nimocks
Austin R. Nimocks
Associate Deputy Attorney General for
Special Litigation

Exhibit R



William Francis Galvin
Secretary of the Commonwealth of Massachusetts



Corporations Division

Business Entity Summary

ID Number: 135409005

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Summary for: EXXON MOBIL CORPORATION

The exact name of the Foreign Corporation: EXXON MOBIL CORPORATION		
The name was changed from: EXXON CORPORATION on 12-03-1999		
Entity type: Foreign Corporation		
Identification Number: 135409005		
Date of Registration in Massachusetts: 12-01-1972		
Last date certain:		
Organized under the laws of: State: NJ Country: USA on: 08-05-1882		
Current Fiscal Month/Day: 12/31		Previous Fiscal Month/Day: 00/00
The location of the Principal Office: Address: 5959 LAS COLINAS BOULEVARD City or town, State, Zip code, IRVING, TX 75039-2298 USA Country:		
The location of the Massachusetts office, if any: Address: City or town, State, Zip code, Country:		
The name and address of the Registered Agent: Name: CORPORATION SERVICE COMPANY Address: 84 STATE STREET City or town, State, Zip code, BOSTON, MA 02109 USA Country:		
The Officers and Directors of the Corporation:		
Title	Individual Name	Address
TREASURER	ROBERT N. SCHLECKSER	ATTN: OFFICE OF THE SECRETARY, 5959 LAS COLINAS BLVD. IRVING, TX 75039-2298 USA
SECRETARY	JEFF J. WOODBURY	ATTN: OFFICE OF THE SECRETARY, 5959 LAS COLINAS BLVD. IRVING, TX 75039-2298 USA

App. 251

Case 1:16-cv-00469-K Document 175-5 Filed 02/01/17 Page 37 of 38 PageID 6184

VICE PRESIDENT	WELA. CHAIRMAN	ATTN: OFFICE OF THE SECRETARY, 5959 LAS COLINAS BLVD. IRVING, TX 75039-2298 USA
VICE PRESIDENT	S. JACK BALAGIA	ATTN: OFFICE OF THE SECRETARY, 5959 LAS COLINAS BLVD. IRVING, TX 75039-2298 USA
SENIOR VICE PRESIDENT	MARK W. ALBERS	ATTN: OFFICE OF THE SECRETARY, 5959 LAS COLINAS BLVD. IRVING, TX 75039-2298 USA
VICE PRESIDENT	BRAD W. CORSON	ATTN: OFFICE OF THE SECRETARY, 5959 LAS COLINAS BLVD. IRVING, TX 75039-2298 USA
VICE PRESIDENT	JEFF J. WOODBURY	ATTN: OFFICE OF THE SECRETARY, 5959 LAS COLINAS BLVD. IRVING, TX 75039-2298 USA
PRESIDENT, CEO & CHAIRMAN	REX W. TILLERSON	ATTN: OFFICE OF THE SECRETARY, 5959 LAS COLINAS BLVD. IRVING, TX 75039-2298 USA
VICE PRESIDENT	LYNNE M. LACHENMYER	ATTN: OFFICE OF THE SECRETARY, 5959 LAS COLINAS BLVD. IRVING, TX 75039-2298 USA
VICE PRESIDENT	DAVID S. ROSENTHAL	ATTN: OFFICE OF THE SECRETARY, 5959 LAS COLINAS BLVD. IRVING, TX 75039-2298 USA
VICE PRESIDENT	THOMAS R. WALTERS	ATTN: OFFICE OF THE SECRETARY, 5959 LAS COLINAS BLVD. IRVING, TX 75039-2298 USA
VICE PRESIDENT	D. G. (JERRY) WASCOM	ATTN: OFFICE OF THE SECRETARY, 5959 LAS COLINAS BLVD. IRVING, TX 75039-2298 USA
CONTROLLER	DAVID S. ROSENTHAL	ATTN: OFFICE OF THE SECRETARY, 5959 LAS COLINAS BLVD. IRVING, TX 75039-2298 USA
VICE PRESIDENT	THERESA M. FARIELLO	ATTN: OFFICE OF THE SECRETARY, 5959 LAS COLINAS BLVD. IRVING, TX 75039-2298 USA
VICE PRESIDENT	MALCOLM A. FARRANT	ATTN: OFFICE OF THE SECRETARY, 5959 LAS COLINAS BLVD. IRVING, TX 75039-2298 USA
ASSISTANT SECRETARY	JOEL P. WEBB	ATTN: OFFICE OF THE SECRETARY, 5959 LAS COLINAS BLVD. IRVING, TX 75039-2298 USA
SENIOR VICE PRESIDENT	MICHAEL J. DOLAN	ATTN: OFFICE OF THE SECRETARY, 5959 LAS COLINAS BLVD. IRVING, TX 75039-2298 USA
VICE PRESIDENT	STEPHEN M. GREENLEE	ATTN: OFFICE OF THE SECRETARY, 5959 LAS COLINAS BLVD. IRVING, TX 75039-2298 USA
VICE PRESIDENT	JAMES (JAIME) M. SPELLINGS	ATTN: OFFICE OF THE SECRETARY, 5959 LAS COLINAS BLVD. IRVING, TX 75039-2298 USA

Case 4:16-cv-00469-K Document 175-5 Filed 02/01/17 Page 38 of 38 PageID 6185

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VICE PRESIDENT	ALAN JOHN KELLY	ATTN: OFFICE OF THE SECRETARY, 5959 LAS COLINAS BLVD. IRVING, TX 75039-2298 USA
SENIOR VICE PRESIDENT	JACK P. WILLIAMS, JR.	ATTN: OFFICE OF THE SECRETARY, 5959 LAS COLINAS BLVD. IRVING, TX 75039-2298 USA
VICE PRESIDENT	ROB S. FRANKLIN	ATTN: OFFICE OF THE SECRETARY, 5959 LAS COLINAS BLVD. IRVING, TX 75039-2298 USA
VICE PRESIDENT	WILLIAM M. COLTON	ATTN: OFFICE OF THE SECRETARY, 5959 LAS COLINAS BLVD. IRVING, TX 75039-2298 USA
VICE PRESIDENT	MICHAEL G. COUSINS	ATTN: OFFICE OF THE SECRETARY, 5959 LAS COLINAS BLVD. IRVING, TX 75039-2298 USA
DIRECTOR	DR. MICHAEL J. BOSKIN	ATTN: OFFICE OF THE SECRETARY, 5959 LAS COLINAS BLVD. IRVING, TX 75039-2298 USA
DIRECTOR	PETER BRABECK-LETMATHE	ATTN: OFFICE OF THE SECRETARY, 5959 LAS COLINAS BLVD. IRVING, TX 75039-2298 USA
DIRECTOR	URSULA M. BURNS	ATTN: OFFICE OF THE SECRETARY, 5959 LAS COLINAS BLVD. IRVING, TX 75039-2298 USA
DIRECTOR	DR. LARRY R. FAULKNER	ATTN: OFFICE OF THE SECRETARY, 5959 LAS COLINAS BLVD. IRVING, TX 75039-2298 USA
DIRECTOR	JAY S. FISHMAN	ATTN: OFFICE OF THE SECRETARY, 5959 LAS COLINAS BLVD. IRVING, TX 75039-2298 USA
DIRECTOR	HENRIETTA H. FORE	ATTN: OFFICE OF THE SECRETARY, 5959 LAS COLINAS BLVD. IRVING, TX 75039-2298 USA
DIRECTOR	KENNETH C. FRAZIER	ATTN: OFFICE OF THE SECRETARY, 5959 LAS COLINAS BLVD. IRVING, TX 75039-2298 USA
DIRECTOR	STEVEN S REINEMUND	ATTN: OFFICE OF THE SECRETARY, 5959 LAS COLINAS BLVD. IRVING, TX 75039-2298 USA
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DIRECTOR	WILLIAM C. WELDON	ATTN: OFFICE OF THE SECRETARY, 5959 LAS COLINAS BLVD. IRVING, TX 75039-2298 USA

Case 4:16-cv-00469-K Document 175-5 Filed 02/01/17 Page 39 of 39 PageID 6186
Business entity stock is publicly traded: ☒

The total number of shares and the par value, if any, of each class of stock which this business entity is authorized to issue:

Class of Stock	Par value per share	Total Authorized		Total issued and outstanding
		No. of shares	Total par value	No. of shares
CNP	\$ 0.00	9,000,000,000	\$ 0.00	8,019,424,434

**Consent****Confidential
Data****Merger
Allowed****Manufacturing**

View filings for this business entity:

ALL FILINGS
 Amended Foreign Corporations Certificate
 Annual Report
 Annual Report - Professional
 Application for Reinstatement
 Articles of Consolidation - Foreign and Domestic

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