

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

EXXON MOBIL CORPORATION,	§	
	§	
Plaintiff,	§	
	§	
v.	§	CIVIL ACTION NO. _____
	§	
MAURA TRACY HEALEY, Attorney	§	
General of Massachusetts, in her	§	
official capacity,	§	
	§	
Defendant.	§	
	§	

**DECLARATION OF JUSTIN ANDERSON**

I, Justin Anderson, declare as follows:

1. My name is Justin Anderson. I have a pending application to practice law *pro hac vice* in the U.S. District Court for the Northern District of Texas and am a counsel with the law firm of Paul, Weiss, Rifkind, Wharton & Garrison LLP. I am one of the attorneys representing 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 Plaintiff Exxon Mobil Corporation’s Complaint.

3. To comply with the civil investigative demand issued by Massachusetts Attorney General Maura Healey on April 19, 2016, ExxonMobil would need to collect, review, and produce millions (and potentially tens of millions) of pages of documents.

4. Based on my experience and my consultation with others, responding to document requests as broad as the ones in the civil investigative demand costs millions of dollars.

5. Attached to this declaration as Exhibit A is a true and correct 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>.

6. Attached to this declaration as Exhibit B is a true and correct copy of the Civil Investigative Demand served on Exxon Mobil Corporation by the Massachusetts Attorney General's Office.

7. Attached to this declaration as Exhibit C is a true and correct copy of a press release by the New York Attorney General's Office, dated March 29, 2016, obtained from <http://www.ag.ny.gov/press-release/ag-schneiderman-former-vice-president-al-gore-and-coalition-attorneys-general-across>.

8. Attached to this declaration as Exhibit D is a true and correct copy of a press release by the Alabama Attorney General's Office, dated March 30, 2016, obtained from <http://www.ago.state.al.us/News-800>.

9. Attached to this declaration as Exhibit E is a true and correct copy of a press release by the Louisiana Attorney General's Office, dated March 30, 2016, obtained from <https://www.ag.state.la.us/Article.aspx?articleID=2207&catID=2>.

10. Attached to this declaration as Exhibit F is a true and correct copy of an article by Michael Bastasch published in the *Daily Caller* on April 4, 2016, obtained from <http://dailycaller.com/2016/04/04/kansas-ag-takes-on-al-gores-alarmism-wont-join-ant-exxon-publicity-stunt>.

11. Attached to this declaration as Exhibit G is a true and correct copy of an article by Kyle Feldscher published in the *Washington Examiner* on April 5, 2016, obtained from <http://www.washingtonexaminer.com/west-virginia-ag-disappointed-in-probes-of-exxon-mobil/article/2587724>.

12. Attached to this declaration as Exhibit H is a true and correct copy of a letter from Representative Lamar Smith to Eric Schneiderman, dated March 18, 2016, obtained from <https://science.house.gov/sites/republicans.science.house.gov/files/documents/05.18.16%20SST%20Letter%20to%20NY%20AG.pdf>.

13. Attached to this declaration as Exhibit I is a true and correct copy of an e-mail from Wendy Morgan to Michael Meade, dated March 18, 2016, obtained from <http://eelegal.org/wp-content/uploads/2016/04/Development-of-Agenda.pdf>.

14. Attached to this declaration as Exhibit J is a true and correct copy of the Union for Concerned Scientists's profile of Peter Frumhoff, obtained from <http://www.ucsusa.org/about/staff/staff/peter-frumhoff.html#.VyT3oYSDFHw> on May 20, 2016.

15. Attached to this declaration as Exhibit K is a true and correct copy of an article published by the Union for Concerned Scientists, obtained from [http://www.ucsusa.org/our-work/global-warming/solutions/global-warming-solutions-fight-misinformation#.Vx-PC\\_krJpg](http://www.ucsusa.org/our-work/global-warming/solutions/global-warming-solutions-fight-misinformation#.Vx-PC_krJpg) on May 20, 2016.

16. Attached to this declaration as Exhibit L is a true and correct copy of the Pawa Law Group's profile of Matthew F. Pawa, obtained from <http://www.pawalaw.com/attorneys/matthew-pawa> on May 20, 2016.

17. Attached to this declaration as Exhibit M is a true and correct copy of the Pawa Law Group's description of its practice areas, obtained from <http://www.pawalaw.com/practice-areas> on May 20, 2016.

18. Attached to this declaration as Exhibit N is a true and correct copy of a report by Seth Shulman, dated October 2012, obtained from <http://www.climateaccountability.org/pdf/Climate%20Accountability%20Rpt%20Oct12>.

19. Attached to this declaration as Exhibit O is a true and correct 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>.

20. Attached to this declaration as Exhibit P is a true and correct copy of an e-mail 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).

21. Attached to this declaration as Exhibit Q is a true and correct copy of an e-mail from Peter Washburn to Lemuel Srolovic, et al., dated March 25, 2016, obtained from <http://eelegal.org/wp-content/uploads/2016/04/Questionnaire-responses.pdf>.

22. Attached to this declaration as Exhibit R is a true and correct copy of Cohen Milstein Sellers & Toll's "About Us" webpage, obtained from <http://www.cohenmilstein.com/about.php> on May 21, 2016.



23. Attached to this declaration as Exhibit S is a true and correct excerpt of Exxon Mobil Corporation's *Corporate Citizenship in a Changing World* report, dated 2002, obtained from ExxonMobil's files.

24. Attached to this declaration as Exhibit T is a true and correct excerpt of Exxon Mobil Corporation's *2006 Corporate Citizenship Report*, dated 2007, obtained from [http://www.socialfunds.com/csr/reports/Exxon\\_Mobil\\_2006\\_Corporate\\_Citizenship\\_Report.pdf](http://www.socialfunds.com/csr/reports/Exxon_Mobil_2006_Corporate_Citizenship_Report.pdf).

25. Attached to this declaration as Exhibit U is a true and correct excerpt of Exxon Mobil Corporation's *Annual Report (Form 10-K)*, dated February 28, 2007.

26. Attached to this declaration as Exhibit V is a true and correct excerpt of Exxon Mobil Corporation's *Annual Report (Form 10-K)*, dated February 26, 2010.

27. Attached to this declaration as Exhibit W is a true and correct copy of the plea in intervention filed in Exxon Mobil Corporation's action against the Virgin Islands Attorney General by the attorneys general of Texas and Alabama, obtained from [pacer.gov](http://pacer.gov).

28. Attached to this declaration as Exhibit X is a true and correct copy of a press release published by the Texas Attorney General's Office, dated May 16, 2016, obtained from <https://texasattorneygeneral.gov/news/releases/attorney-general-paxton-intervenes-in-first-amendment-case>.

29. Attached to this declaration as Exhibit Y is a true and correct copy of a press release published by the Alabama Attorney General's Office, dated May 16, 2016, obtained from <http://www.ago.state.al.us/News-837>.

30. Attached to this declaration as Exhibit Z is a true and correct copy of an article by the Associated Press published in the *New York Law Journal* on June 3, 2016, obtained from <http://www.newyorklawjournal.com/home/id=1202759197079/AG-Wont-Send-Documents-on-Probe-of-Exxon-Mobil?mcode=1202615069279&curindex=1&slreturn=20160503101116>.

31. Attached to this declaration as Exhibit AA is a true and correct copy of an article by Steven Mufson published in the *Washington Post* on June 1, 2013, obtained from <https://www.washingtonpost.com/news/powerpost/wp/2016/06/01/environmental-groups-reject-rep-smiths-request-for-information-on-exxon-mobil-climate-case/>.

32. Attached to this declaration as Exhibit BB is a true and correct copy of a letter from U.S. Senator Mike Lee to U.S. Attorney General Loretta Lynch, dated May 25, 2016, obtained from [http://www.cruz.senate.gov/files/documents/Letters/20160526\\_ClimateChangeLetter.pdf](http://www.cruz.senate.gov/files/documents/Letters/20160526_ClimateChangeLetter.pdf).

33. Attached to this declaration as Exhibit CC is a true and correct copy of an article by Justin Gillis and Clifford Krauss published in the *New York Times* on November 5, 2015, obtained from [http://www.nytimes.com/2015/11/06/science/exxon-mobil-under-investigation-in-new-york-over-climate-statements.html?\\_r=0](http://www.nytimes.com/2015/11/06/science/exxon-mobil-under-investigation-in-new-york-over-climate-statements.html?_r=0).

34. Attached to this declaration as Exhibit DD is a true and correct copy of Stanford University's Global Climate & Energy Project's "About Us" webpage, obtained from <https://gcep.stanford.edu/about/index.html>.

35. Attached to this declaration as Exhibit EE is a true and correct copy of the Environmental Protection Agency's greenhouse gas "endangerment finding," obtained from <http://www3.epa.gov/climatechange/endangerment> on June 10, 2016.

36. Attached to this declaration as Exhibit FF is a true and correct copy of a report by Jeremy Carl and David Fedor, dated 2012, obtained from [http://media.hoover.org/sites/default/files/documents/CarlFedor\\_HooverETF2012\\_RevenueNeutralCarbonTaxesInBCandAUS.pdf](http://media.hoover.org/sites/default/files/documents/CarlFedor_HooverETF2012_RevenueNeutralCarbonTaxesInBCandAUS.pdf).

37. Attached to this declaration as Exhibit GG is a true and correct copy of the declaration signed by Robert Luetttgen on June 14, 2016.

38. Attached to this declaration as Exhibit HH is a true and correct copy of the declaration signed by Geoffrey Grant Doescher on June 10, 2016.

39. Attached to this declaration as Exhibit II is a true and correct copy of a press release by the Energy and Environment Legal Institute, dated April 15, 2016, obtained from <http://eelegal.org/2016/04/15/release-emails-reveal-schneiderman-other-ags-colluding-with-al-gore-and-greens-to-investigate-climate-skeptics>.

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

41. Attached to this declaration as Exhibit KK is a true and correct excerpt of Exxon Mobil Corporation’s *Annual Report (Form 10-K)*, dated February 24, 2016.

42. Attached to this declaration as Exhibit LL is a true and correct excerpt of a report published by the Union of Concerned Scientists, dated 2007, obtained from [http://www.ucsusa.org/sites/default/files/legacy/assets/documents/global\\_warming/exxon\\_report.pdf](http://www.ucsusa.org/sites/default/files/legacy/assets/documents/global_warming/exxon_report.pdf).


43. Attached to this declaration as Exhibit MM is a true and correct copy of an e-mail from Michael Meade to Scot Kline and Wendy Morgan, dated March 22, 2016, obtained from <http://eelegal.org/wp-content/uploads/2016/04/Gore-is-adding-star-power-and-words-to-avoid.pdf>.

44. Attached to this declaration as Exhibit NN is a true and correct copy of an e-mail from Scot Kline to Lemuel Srolovic, dated March 28, 2016, obtained from <http://eelegal.org/wp-content/uploads/2016/04/Common-Interest-Agreement-and-discussion.pdf>.

45. Attached to this declaration as Exhibit OO is a true and correct copy an email from Kenny Bruno to Matthew Pawa, et al., dated January 5, 2016, obtained from <http://freebeacon.com/wp-content/uploads/2016/04/scan0003.pdf>.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 14, 2016.



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# **Exhibit A**

**AGs United For Clean Power Press Conference\***  
**March 29, 2016: 11:35 am – 12:32 pm**

**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.

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

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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 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



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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 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.

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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 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

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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.

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,

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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 . . . 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

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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.

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 29<sup>th</sup>, the same unnatural global warming fuel storm system that created record floods in the Midwest went on up to the Arctic and on December 29<sup>th</sup>, 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

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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 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

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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.

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

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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 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



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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 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,

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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. 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.

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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 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.

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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 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

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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 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?

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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 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.

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**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 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

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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 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.



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**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?

**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

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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.

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

# **Exhibit B**



MAURA HEALEY  
ATTORNEY GENERAL

THE COMMONWEALTH OF MASSACHUSETTS  
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**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, 10<sup>th</sup> 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, 10<sup>th</sup> 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 19<sup>th</sup> 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



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## **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

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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.



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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 "CO<sub>2</sub>" 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.

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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 (H<sub>2</sub>O), carbon dioxide (CO<sub>2</sub>), nitrous oxide (N<sub>2</sub>O), methane (CH<sub>4</sub>), chlorofluorocarbons (CFCs), and ozone (O<sub>3</sub>) 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 "CH<sub>4</sub>" means the chemical compound composed of one atom of carbon and four atoms of hydrogen. Methane is the main component of natural gas.

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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.



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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

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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

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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.



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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 CO<sub>2</sub> 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 CO<sub>2</sub> in the oceans by developing and using Climate Models;
  - (b) measure atmospheric and oceanic CO<sub>2</sub> levels (including, without limitation, through work conducted on Exxon's *Esso Atlantic* tanker);
  - (c) determine the source of the annual CO<sub>2</sub> 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 CO<sub>2</sub> 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.

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3. For the time period from January 1, 1976, through the date of this production, Documents and Communications concerning the paper *CO<sub>2</sub> 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 *CO<sub>2</sub> 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 CO<sub>2</sub> 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.



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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.

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- 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 36<sup>th</sup> 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 CO<sub>2</sub> mitigation, including,

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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 CO<sub>2</sub> stabilization pathway, the average American household would face an added CO<sub>2</sub> 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 CO<sub>2</sub> 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:

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- 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



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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

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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.

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**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.



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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.

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**SCHEDULE D**

*See attached "Office of the Attorney General - Data Delivery Specification."*

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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](mailto:Diane.E.Barry@state.ma.us)  
(617) 963-2120

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# Exhibit C

# Attorney General Eric T. Schneiderman



[Home](#) » [Media Center](#) » [Press Releases](#) » [March 29th 2016](#)

## A.G. Schneiderman, Former Vice President Al Gore And A Coalition Of Attorneys General From Across The Country Announce Historic State-Based Effort To Combat Climate Change

*Unprecedented Coalition Vows To Defend Climate Change Progress Made Under President Obama And To Push The Next President For Even More Aggressive Action*

*Attorneys General From California, Connecticut, District Of Columbia, Illinois, Iowa, Maine, Maryland, Massachusetts, Minnesota, New Mexico, New York, Oregon, Rhode Island, Virginia, Vermont, Washington State And The US Virgin Islands Agree To Coordinate Efforts*

*Schneiderman: Climate Change Is The Most Consequential Issue Of Our Time. This Unprecedented State-To-State Coordination Will Use All The Tools At Our Disposal To Fight For Climate Progress*

[A.G. Schneiderman, Al Gore And Coalition Of A.G.'s ...](#)



NEW YORK – Attorney General Eric T. Schneiderman today joined Attorneys General from across the nation to announce an unprecedented coalition of top law enforcement officials committed to aggressively protecting and building upon the recent progress the United States has made in combatting climate change.

Attorneys General Schneiderman, William Sorrell of Vermont, George Jepsen of Connecticut, Brian E. Frosh of Maryland, Maura Healey of Massachusetts, Mark Herring of Virginia, and Claude Walker of the US Virgin Islands were joined by former Vice President Al Gore for the announcement in New York City. Today's announcement took place during a one-day Attorneys General climate change conference, co-sponsored by Schneiderman and Sorrell.

The participating states are exploring working together on key climate change-related initiatives, such as ongoing and potential investigations into whether fossil fuel companies misled investors and the public on the impact of climate change on their businesses. In 2015, New York State reached a historic settlement with Peabody Energy – the world's largest publicly traded coal company – concerning the company's misleading financial statements and disclosures. New York is also investigating ExxonMobil for similar alleged conduct.

Many of the states in the coalition have worked together on previous multi-state environmental efforts, including pressing the EPA to limit climate change pollution from fossil-fueled electric

New York City Press Office: (212) 416-8060

Albany Press Office: (518) 776-2427

[nyag.pressoffice@ag.ny.gov](mailto:nyag.pressoffice@ag.ny.gov)



**A.G. Schneiderman Announces 20 Felony Charges And Civil Suit Against Major New York City Landlord Steven Croman**

[A.G. Schneiderman Announce...](#)

**A.G. Schneiderman-Led State & Federal Working Group Announces \$5 Billion Settlement With Goldman Sachs**

[A.G. Schneiderman Announce...](#)

**A.G. Schneiderman, Former Vice President Al Gore And A Coalition Of Attorneys General From Across The Country Announce Historic State-Based Effort To Combat Climate Change**

[A.G. Schneiderman, Al Gore An..](#)

[Media Gallery](#)

**Press Releases**

[2016](#)

[January](#)

[February](#)

power plants and industries from emitting greenhouse gases from power plants, refineries, and other industrial facilities, and pushing for federal controls on emissions of the potent greenhouse gas methane from the oil and natural gas industry.

All of the members of the new coalition are part a coalition of 25 states, cities and counties led by Attorney General Schneiderman that intervened to defend the federal Environmental Protection Agency's "Clean Power Plan" against legal challenge. Today, the interveners filed a brief with the DC Circuit Court defending President Obama's Clean Power Plan rule, which establishes a nationwide framework to achieve meaningful and cost effective reductions of carbon-dioxide emissions from power plants—the largest single source of greenhouse gas emissions in the nation—and provides states and power plants flexibility to decide how best to achieve these reductions.

"With gridlock and dysfunction gripping Washington, it is up to the states to lead on the generation-defining issue of climate change. We stand ready to defend the next president's climate change agenda, and vow to fight any efforts to roll-back the meaningful progress we've made over the past eight years," said Attorney General Schneiderman. "Our offices are seriously examining the potential of working together on high-impact, state-level initiatives, such as investigations into whether fossil fuel companies have misled investors about how climate change impacts their investments and business decisions."

"We cannot continue to allow the fossil fuel industry or any industry to treat our atmosphere like an open sewer or mislead the public about the impact they have on the health of our people and the health of our planet. Attorneys General and law enforcement officials around the country have long held a vital role in ensuring that the progress we have made to solve the climate crisis is not only protected, but advanced. The first-of-its-kind coalition announced today is another key step on the path to a sustainable, clean-energy future," said Vice President Al Gore.

Vermont Attorney General William Sorrell said, "We are happy to have worked closely with New York to organize this meeting. As we all know, global warming, if not reversed, will be catastrophic for our planet. We, the states, have a role to play in this endeavor and intend to do our part."

"The states represented here today have long been working 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 emitting millions of tons of dangerous global warming pollution into our air," said Massachusetts Attorney General Maura Healey. "In Massachusetts, we're a leader in clean energy and together we're taking a thoughtful, aggressive approach to ensuring our planet's health for generations to come."

Connecticut Attorney General George Jepsen, said "I am delighted to meet with so many thoughtful leaders to strategize on ways we can protect our citizens from the greatest threat we collectively face, climate change. I am proud to have worked with them and others in defending the Obama Administration's action to combat global warming, and look forward to discussing how we can best further that important work. I also appreciate the opportunity to discuss potential future efforts, including the merits of possible joint investigations in this important area."

U.S. Virgin Islands Attorney General Claude Earl Walker said, "The Virgin Islands, which is especially vulnerable to environmental threats, has a particular interest in making sure that companies are honest about what they know about climate change. We are committed to ensuring a fair and transparent market where consumers can make informed choices about what they buy and from whom. If ExxonMobil has tried to cloud their judgment, we are determined to hold the company accountable."

Maryland Attorney General Brian E. Frosh said, "Climate changes poses an existential threat to Maryland and to the nation. I am proud to join with my colleagues across the country in this important collaboration, and am willing to use every tool at our collective disposal to protect our air, our water and our natural resources. The pledge we are making today can help insure a cleaner and safer future."

Virginia Attorney General Mark Herring said, "As a Commonwealth and as a nation, we can't just put our heads in the sand because we are already confronting the realities of climate change. Hampton Roads is our Commonwealth's second most populated region, it's our second biggest economy, and it is the second most vulnerable area in the entire country as climate change drives continued sea-level rise. State government, local governments, and the military are spending millions to prepare for this challenge, and even more significant investment and resiliency measures will be required. I'm proud to have Virginia included in this first-of-its-kind coalition, which recognizes the reality and the pressing threat of manmade climate change and sea level rise. I'm looking forward to working with my colleagues to explore opportunities to

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"We have been impacted by climate change, and we see its drastic effects in New Mexico—extreme drought, increased risk of severe forest fires, and the ruin of our wildlife and natural habitats," Attorney General Balderas said. "Our efforts will ensure that progress is made on climate change and that the public is fully aware of the effects on the health and well-being of New Mexico families," said **New Mexico Attorney General Hector Balderas**.

Español

Executive	Criminal Justice	Economic Justice	Social Justice	State Counsel	Administration
Community and Intergovernmental Affairs FOI Press Regional Offices Solicitor General Criminal Appeals and Opinions	Criminal Enforcement & Financial Crimes Bureau Organized Crime-Task Force Merlewood Fraud Control Unit Police Integrity Bureau Investigations Bureau Taxpayer Protection Bureau Convictions Review Bureau	Antitrust Bureau Consumer Fraud Bureau Internal Bureau Investor Protection Bureau Real Estate Finance Bureau	Charities Bureau Civil Rights Bureau Environmental Protection Bureau Health Care Bureau Labor Bureau Tobacco Compliance Bureau	Civil Recoveries Bureau Claims Bureau Litigation Bureau Real Property Bureau Sec. Officers Management Bureau	Budget & Fiscal Management Bureau Legal Bureau Human Resources

# Exhibit D

NEWS ADVISORY

**Luther Strange**

Alabama Attorney General



March 30, 2016

For More Information, contact:

Mike Lewis (334) 353-2199

Joy Patterson (334) 242-7491

Page 1 of 1

**STATE AG's STRANGE, PRUITT CONDEMN ATTEMPTS TO SILENCE THOSE  
WHO DISAGREE WITH PRESIDENT OBAMA'S ENERGY AGENDA**

(MONTGOMERY) – Alabama Attorney General Luther Strange and Oklahoma Attorney General Scott Pruitt released the following statement Wednesday:

“Yesterday, Al Gore, New York Attorney General Eric Schneiderman, and a small handful of other East Coast State Attorneys General announced what they called an “unprecedented coalition” that “vows to defend climate change progress made under President Obama and to push the next President for even more aggressive action” by seeking to criminally investigate energy companies for disputing the science behind global warming.

“We won’t be joining this effort, and we want to explain why. Reasonable minds can disagree about the science behind global warming, and disagree they do. This scientific and political debate is healthy, and it should be encouraged. It should not be silenced with threats of criminal prosecution by those who believe that their position is the only correct one and that all dissenting voices must therefore be intimidated and coerced into silence. It is inappropriate for State Attorneys General to use the power of their office to attempt to silence core political speech on one of the major policy debates of our time.

“We are proud to be a part of a different coalition, one driven by respect for the rule of law, rather than by ambition to use the law to silence voices with which we disagree. Our coalition of 29 states is leading the fight to challenge the legality of President Obama’s plan to kill off fossil fuels – his so-called “Clean Power Plan.” The 29 states and state Attorneys General who are part of this effort respect our proper role, which is not to pick winners and losers in the energy sector nor to silence those who disagree with us, but rather to ensure that the EPA is acting consistent with the power granted to it by Congress and to fulfill our statutory duties to ensure that the consumers in our states have access to reliable, affordable energy. In fulfilling these duties, the 29 states and their Attorney Generals understand that all sources of energy should be considered – not just those that we may prefer for one policy reason or another – so that we give ourselves the best possible chance to achieve our goal of energy independence, with reliable and affordable energy available at the lowest possible cost to our citizens.”

--30--

501 Washington Avenue • Montgomery, AL 36104 • (334) 242-7300

[www.ago.alabama.gov](http://www.ago.alabama.gov)



**App. 057**

# **Exhibit E**



## OFFICE OF THE ATTORNEY GENERAL

State of Louisiana

JEFF LANDRY

### RECENT NEWS

3/30/2016 11:47:00 AM

#### Attorney General Jeff Landry Slams Al Gore's Coalition

BATON ROUGE, LA – Louisiana Attorney General issued the following statement after yesterday's press conference by former Vice President Al Gore and those state Attorneys General supportive of the EPA's power plant regulation halted last month by the United States Supreme Court:

"While I was not surprised to see these Attorneys General announce their intention to continue working in support of the unlawful and misguided Clean Power Plan – I was disturbed by their parallel announcement to 'use all tools at [their] disposal to fight for Climate Progress,' including the unfettered investigation of individual coal, oil, and natural gas companies' past or current climate opinions, views, or research. It is one thing to use the legal system to pursue public policy outcomes; but it is quite another to use prosecutorial weapons to intimidate critics, silence free speech, or chill the robust exchange of ideas.

We have seen powerful forces at work nationally targeting, most recently and visibly, our nation's coal industry. It is now abundantly clear that the crosshairs have shifted to our country's oil and natural gas industries.

In contrast to yesterday's news conference by 16 state Attorneys General from largely non-oil and gas producing states, Louisiana stands with more than 29 states and state agencies who remain in steadfast opposition to the EPA's Clean Power Plan. I will continue to work my fellow Attorneys General from across the country to ensure Louisiana workers, job creators, and consumers are not burdened by the EPA's overreach or threatened by this new and disturbing development of unleashing the prosecutorial arsenal to quell dissent on such an important issue of public debate."



[WWW.AG.STATE.LA.US](http://WWW.AG.STATE.LA.US)



# Exhibit F

## Kansas AG Takes On Al Gore's Alarmism — Won't Join Ant-Exxon 'Publicity Stunt'

Posted By Michael Bastasch On 10:49 AM 04/04/2016 In | No Comments

Kansas Republican Attorney General Derek Schmidt had some harsh words for Democratic attorneys general who recently joined former Vice President Al Gore to call for more investigations into ExxonMobil's stance on global warming.

"I want to assure you that the State of Kansas is not participating in the Gore group's initiative, which one reporter at the New York news conference likened to a 'publicity stunt,'" Schmidt wrote in a letter to the Kansas Corporation Commission.

Schmidt sent the letter Friday after 17 Democratic attorneys general met in New York City to announce they would fight to support the Environmental Protection Agency's so-called Clean Power Plan from legal challenges. New York AG Eric Schneiderman, who led the group, also called for more investigations into Exxon's alleged misleading of the public over global warming science.

Currently, New York, California, Massachusetts and the U.S. Virgin Islands are investigating Exxon's activities surrounding global warming, which are all inspired by reporting from InsideClimate News and Columbia University. Schmidt said he would not be joining the other AGs in investigating Exxon.

"Eleven of the 17 attorneys general who participated are the same folks who took part in the 2010 sue-and-settle lawsuit that used federal courts to try to force the adoption of the federal energy regulations that became the 'Power Plan,'" Schmidt wrote.

"If anything was 'unprecedented' about the event this week it was the strictly partisan nature of announcing state 'law enforcement' operations in the presence of a former vice president of the United State who, presumably, has no role in the enforcement of the 17 states' securities or consumer protection laws," he wrote.

At the AG event, Gore claimed Exxon was committing "fraud" by supposedly covering up, for decades, science about how bad global warming would get all while funding groups opposed to energy regulations and those skeptical of climate science.

New York AG Schneiderman even suggested harsher punishments than financial penalties for companies that mislead the public on global warming.

"Financial damages alone may be insufficient," Schneiderman said during the Tuesday event in New York City Tuesday. "The First Amendment does not give you the right to commit fraud."

For months, Democratic politicians have been calling for the Department of Justice (DOJ) to launch a Racketeer Influenced and Corrupt Organizations Act, or RICO, investigation into groups they see as casting doubt on the theory of catastrophic global warming. RICO is what the DOJ used to go after the tobacco industry for misleading the public about the dangers of smoking.

"But, this vast denial apparatus that propagates the false doubt, that props up the phony science, that gets these yahoos who can't survive ... peer-reviewed scrutiny onto Fox News, onto the cable shows, saying that their scientists, they create an artificial conflict about this and that's why I think there's doubt," Rhode Island Democrat Sen. Sheldon Whitehouse, the main proponent of using RICO against skeptics and fossil fuel groups, told attendees at a League of Conservation Voters event in 2015.

"A lot of people haven't seen through the scam that's being perpetrated," Whitehouse said. "So that's one of the reasons I hope that we get another lawsuit out of the Department of Justice, like the one they brought against the tobacco industry that showed that the whole fraudulent scam was a racketeering enterprise, held them accountable for it."

There are, however, major constitutional concerns with launching a RICO probe into groups who disagree with Democrats on global warming. Either way, Schmidt pledged not to go along with the Democratic crusade against Exxon.

"In Kansas, we won't take our eye off the ball," Schmidt wrote. "The federal administration's attempt to impose central economic planning over our nation's energy sector threatens to significantly drive up the cost of electricity for hard-working Kansas families and businesses."

*Follow Michael on [Facebook](#) and [Twitter](#)*

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URL to article: <http://dailycaller.com/2016/04/04/kansas-ag-takes-on-al-gores-alarmism-wont-join-ant-exxon-publicity-stunt/>

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# Exhibit G



# West Virginia AG 'disappointed' in probes of Exxon Mobil

By [KYLE FELDSCHER \(@KYLE\\_FELDSCHER\)](#) • 4/5/16 3:17 PM

The investigation by three attorneys general into what Exxon Mobil knew about climate change and when is driven by political desire to push climate change policies, West Virginia's attorney general said Tuesday.

Speaking on the "Inside Shale Weekly" radio show in West Virginia, Patrick Morrissey said he was deeply disappointed by the attorneys general from New York, Massachusetts and the U.S. Virgin Islands investigating Exxon Mobil for possibly covering up its knowledge of climate change.

Morrissey said he believed the attorneys general are abusing the powers of their office and said he was "disappointed."

"They're looking at additional measures in order to address their policy ideas, but that's not what it's about to be attorney general," he said. "You cannot use the power of the office of attorney general to silence your critics."

New York Attorney General Eric Schneiderman announced he is investigating what Exxon Mobil knew and when, and reports indicate California Attorney General Kamala Harris began doing

the same in January. Last week, Massachusetts Attorney General Maura Healey and U.S. Virgin Islands Attorney General Claude Earle Walker announced they would do the same.

The investigations stem from media reports that Exxon Mobil learned in 1977 from a senior scientist that burning fossil fuels would warm the planet. A year later, the company began researching how carbon dioxide released from the burning of fossil fuels would affect the planet.

Six years after the internal document was produced, Exxon Mobil went on the offensive, according to the report. The company began paying for efforts that would cast doubt on climate change, including founding the Global Climate Coalition.

At the same time, the company was building climate change projections into the company's future plans. Among those plans was future drilling in the Arctic because the polar ice caps would melt.

Exxon Mobil has repeatedly denied the claims and has cast aspersions on the media reports, noting that Inside Climate News received funding from the Rockefeller Brothers Fund, which works against climate change.

Morrissey, who is one of the 30 attorneys general suing the Obama administration to block the Clean Power Plan regulations on power plants, said he believed the attorneys general are acting because they're concerned the regulation may be struck down.

The Supreme Court stayed the plan in February until legal challenges are completed. Morrissey said he thinks the attorneys general got "more aggressive" after that.

"They want to eliminate fossil fuels and that should not be driving anything," Morrissey said. "I won't speak to whether it does, but it should not be driving any legal activity."





# **Exhibit H**

**Congress of the United States**  
**House of Representatives**

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY

2321 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6301

(202) 225-6371  
[www.science.house.gov](http://www.science.house.gov)

May 18, 2016

The Honorable Eric Schneiderman  
Attorney General of New York  
Office of the Attorney General  
The Capitol  
Albany, NY 12224-0341

Dear Mr. Attorney General,

The Committee on Science, Space, and Technology is conducting oversight of a coordinated attempt to deprive companies, nonprofit organizations, and scientists of their First Amendment rights and ability to fund and conduct scientific research free from intimidation and threats of prosecution. On March 29, 2016, you and other state attorneys general – the self-proclaimed “Green 20” – announced that you were cooperating on an unprecedented effort against those who have questioned the causes, magnitude, or best ways to address climate change.<sup>1</sup> The Committee is concerned that these efforts to silence speech are based on political theater rather than legal or scientific arguments, and that they run counter to an attorney general’s duty to serve “as the guardian of the legal rights of the citizens” and to “assert, protect, and defend the rights of the people.”<sup>2</sup> These legal actions may even amount to an abuse of prosecutorial discretion. To assist in the Committee’s oversight of this matter, I am writing to request information related to your office’s role in this investigation.

**The 2012 Workshop to Explore Legal Avenues to Demonize the Fossil Fuel Industry**

According to media reports, efforts to instigate an investigation such as the one announced by the Green 20 on March 29 date back to at least 2012 and are the result of a “four-year, coordinated strategy by environmental organizations and trial attorneys.”<sup>3</sup> In June 2012, the Climate Accountability Institute (CAI) and the Union of Concerned Scientists (UCS) convened a “Workshop on Climate Accountability, Public Opinion, and Legal Strategies” in La

<sup>1</sup> Video Press Conference with Eric Schneiderman, Attorney General, N.Y. State (Mar. 29, 2016); John Schwartz, *Exxon Mobil Climate Change Inquiry in New York Gains Allies*, N.Y. TIMES, Mar. 29, 2016, available at [http://www.nytimes.com/2016/03/30/science/new-york-climate-change-inquiry-into-exxon-adds-prosecutors.html?\\_r=2](http://www.nytimes.com/2016/03/30/science/new-york-climate-change-inquiry-into-exxon-adds-prosecutors.html?_r=2).

<sup>2</sup> Bureaus of Attorney General, New York, May 12, 2016, available at <http://www.ag.ny.gov/bureaus>; Office of the Attorney General, U.S. Virgin Islands, Dept. of Justice, May 12, 2016, available at [http://usvidoj.codemeta.com/DivisionContent\\_1.php?divId=84](http://usvidoj.codemeta.com/DivisionContent_1.php?divId=84).

<sup>3</sup> Phil McKenna, *Activists Step Up Long-Running Campaign to Hold Oil Industry Accountable for Climate Damages* Inside Climate News, Apr. 27, 2016, available at <http://insideclimatenews.org/news/26042016/environmental-activists-campaign-exxon-climate-change-investigation-attorney-general-schneiderman>.

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Jolla, California.<sup>4</sup> The workshop's attendees included UCS Director of Science and Policy Peter Frumhoff and activist trial attorney Matthew Pawa, founder of the Global Warming Legal Action Project.<sup>5</sup>

The goal of the 2012 workshop was to develop a "strategy to fight industry in the courts," as well as to find ways to address what workshop attendees believed to be a "network of public relations firms and nonprofit 'front groups' that have been actively sowing disinformation about global warming for years."<sup>6</sup> According to the workshop's report, a necessary component of their strategy was to bring "internal industry documents to light."<sup>7</sup> Workshop attendees then proceeded to identify ways to procure documents that they admittedly did not know existed (e.g., "many participants suggested that incriminating documents **may** exist").<sup>8</sup>

Having attested to the importance of seeking internal documents ... 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 ... **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.<sup>9</sup>

The strategy decided upon by workshop participants appears clear: to act under the color of law to persuade attorneys general to use their prosecutorial powers to stifle scientific discourse, intimidate private entities and individuals, and deprive them of their First Amendment rights and freedoms.

### **The 2016 Rockefeller Family Fund Meeting and the Attempt to Conceal Collusion between Your Office and Extremist Environmental Groups and Trial Lawyers**

In January 2016, nearly four years later, a group of environmental activists, including 2012 workshop participant Matthew Pawa, as well as representatives from groups such as

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<sup>4</sup> Establishing Accountability for Climate Change Damages: Lessons from Tobacco Control, Climate Accountability Institute, and Union of Concerned Scientists, Oct. 2012, *available at* <http://www.climateaccountability.org/pdf/Climate%20Accountability%20Rpt%20Oct12.pdf>.

<sup>5</sup> *Id.*

<sup>6</sup> Phil McKenna, *Activists Step Up Long-Running Campaign to Hold Oil Industry Accountable for Climate Damages*, Inside Climate News, Apr. 27, 2016, *available at* <http://insideclimatenews.org/news/26042016/environmental-activists-campaign-exxon-climate-change-investigation-attorney-general-schneiderman>; Establishing Accountability for Climate Change Damages: Lessons from Tobacco Control, Climate Accountability Institute, and Union of Concerned Scientists, Oct. 2012, *available at* <http://www.climateaccountability.org/pdf/Climate%20Accountability%20Rpt%20Oct12.pdf>.

<sup>7</sup> Establishing Accountability for Climate Change Damages: Lessons from Tobacco Control, Climate Accountability Institute, and Union of Concerned Scientists, Oct. 2012, *available at* <http://www.climateaccountability.org/pdf/Climate%20Accountability%20Rpt%20Oct12.pdf>.

<sup>8</sup> *Id.* [emphasis added]

<sup>9</sup> *Id.* [emphasis added]

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350.org and Greenpeace, met at the Manhattan offices of the Rockefeller Family Fund.<sup>10</sup> The meeting was held to develop a strategy “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 “[t]o drive Exxon & climate into [the] center of [the] 2016 election cycle.”<sup>11</sup> According to media reports, the meeting also included a discussion of state attorneys general, the Department of Justice, and “the main avenues for legal actions & related campaigns.”<sup>12</sup> Specifically, meeting attendees were to focus on determining “the best prospects for successful action? For getting discovery? For creating scandal?”<sup>13</sup>

Finally, on March 29, 2016, in the hours before you and other members of the Green 20, joined by former Vice President Al Gore, held your widely-publicized press conference announcing your cooperation on investigations against those who question the causes, magnitude, or best ways to address climate change, members of your group were briefed by 2012 workshop attendees Matthew Pawa of the Global Warming Legal Action Project and UCS’s Peter Frumhoff. It has since come to light that your office willfully concealed the fact that this briefing took place. According to emails discovered and posted online by a watchdog group, on March 30, Matthew Pawa wrote to an attorney in your office stating that a *Wall Street Journal* reporter wanted to talk with Pawa about the pre-conference briefing. Pawa asked an attorney in your office, “What should I say if she asks if I attended?”<sup>14</sup> Your attorney replied, “My ask is if you speak to the reporter, to not confirm that you attended or otherwise discuss the event.”<sup>15</sup>

In the weeks since the March 29 press conference, legal actions against those who question climate change orthodoxy by members of the Green 20 have rapidly expanded to include subpoenas for documents, communications, and research that would capture the work of more than 100 academic institutions, scientists, and nonprofit organizations. According to press reports, most of those targeted were identified from lists published on an environmental activist organization’s website.<sup>16</sup>

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<sup>10</sup> Amy Harder, Devlin Barret, and Bradley Olson, *Exxon Fires Back at Climate-Change Probe*, WALL ST. J., Apr. 13, 2016, available at <http://www.wsj.com/articles/exxon-fires-back-at-climate-change-probe-1460574535?cb=logged0.4458549134086849>.

<sup>11</sup> *Id.*

<sup>12</sup> Alana Goodman, *Memo Shows Secret Coordination Effort Against ExxonMobil by Climate Activists, Rockefeller Fund*, WASH. FREE BEACON, Apr. 14, 2016, available at <http://freebeacon.com/issues/memo-shows-secret-coordination-effort-exxonmobil-climate-activists-rockefeller-fund>.

<sup>13</sup> *Id.*

<sup>14</sup> Valerie Richardson, *Democratic AGs, Climate Change Groups Collude on Prosecuting Dissenters, Emails Show*, WASH. TIMES, Apr. 17, 2016, available at <http://www.washingtontimes.com/news/2016/apr/17/democratic-ags-climate-change-groups-colluded-on-p/?page=all>.

<sup>15</sup> *Id.*

<sup>16</sup> Valerie Richardson, *Exxon Climate Change Dissent Subpoena Sweeps Up More than 100 U.S. Institutions*, WASH. TIMES, May 3, 2016, available at <http://m.washingtontimes.com/news/2016/may/3/virgin-islands-ag-subpoenas-exxon-communications/>.



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### **The Committee's Request for Transparency**

This sequence of events – from the 2012 workshop to develop strategies to enlist the help of attorneys general to secure documents, to the 2016 subpoenas issued by you and other members of the Green 20 – raises serious questions about the impartiality and independence of current investigations by the attorneys general. Your office – funded with taxpayer dollars – is using legal actions and investigative tactics taken in close coordination with certain special interest groups and trial attorneys may rise to the level of an abuse of prosecutorial discretion. Further, such actions call into question the integrity of your office.

To assist the Committee in its oversight of a coordinated attempt to attack the First Amendment rights of American citizens and their ability to fund and conduct scientific research free from intimidation and threats of prosecution, we request the following documents and information as soon as possible, but by no later than noon on May 30, 2016. Please provide the requested information for the time frame from January 1, 2012, to the present:

1. All documents and communications between or among employees of the Office of the Attorney General of New York and any officer or employee of the Climate Accountability Institute, the Union of Concerned Scientists, Greenpeace, 350.org, the Rockefeller Brothers Fund, the Rockefeller Family Fund, the Global Warming Legal Action Project, the Pawa Law Group, and the Climate Reality Project, referring or relating to your office's investigation, *subpoenas duces tecum*, or potential prosecution of companies, nonprofit organizations, scientists, or other individuals related to the issue of climate change.
2. All documents and communications between or among employees of the Office of the Attorney General of New York and any other state attorney general office referring or relating to your office's investigation, *subpoenas duces tecum*, or potential prosecution of companies, nonprofit organizations, scientists, or other individuals related to the issue of climate change.
3. All documents and communications between or among employees of the Office of the Attorney General of New York and any official or employee of the U.S. Department of Justice, U.S. Environmental Protection Agency, or the Executive Office of the U.S. President referring or relating to your office's investigation, *subpoenas duces tecum*, or potential prosecution of companies, nonprofit organizations, scientists, or other individuals related to the issue of climate change.

The Committee on Science, Space, and Technology has jurisdiction over environmental and scientific programs and "shall review and study on a continuing basis laws, programs, and Government activities" as set forth in House Rule X.

When producing documents to the Committee, please deliver production sets to the Majority Staff in Room 2321 of the Rayburn House Office Building and the Minority Staff in Room 394 of the Ford House Office Building. The Committee prefers, if possible, to receive all

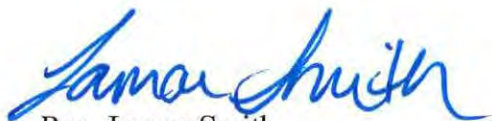
May 18, 2016

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documents in electronic format. An attachment provides information regarding producing documents to the Committee.

If you have any questions about this request, please contact Committee Staff at 202-225-6371. Thank you for your attention to this matter.

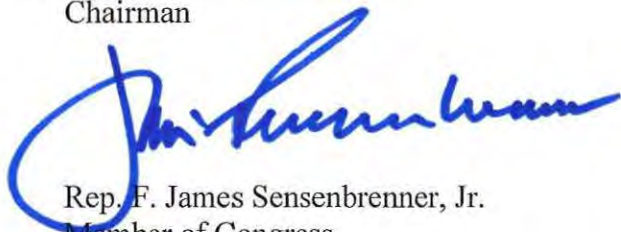
Sincerely,



Rep. Lamar Smith  
Chairman



Rep. Frank D. Lucas  
Vice Chairman



Rep. F. James Sensenbrenner, Jr.  
Member of Congress



Rep. Dana Rohrabacher  
Member of Congress



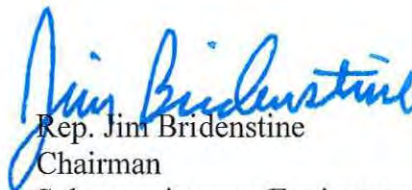
Rep. Randy Neugebauer  
Member of Congress



Rep. Mo Brooks  
Member of Congress



Rep. Bill Posey  
Member of Congress



Rep. Jim Bridenstine  
Chairman  
Subcommittee on Environment



Rep. Randy Weber  
Chairman  
Subcommittee on Energy



Rep. John Moolenaar  
Member of Congress



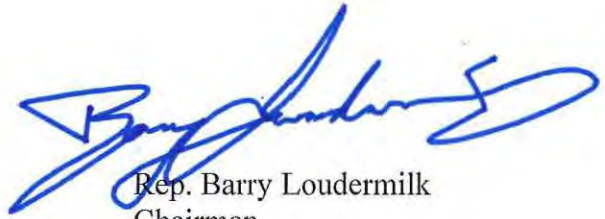
The Honorable Eric Schneiderman

May 18, 2016

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Rep. Brian Babin  
Chairman  
Subcommittee on Space



Rep. Barry Loudermilk  
Chairman  
Subcommittee on Oversight



Rep. Ralph Lee Abraham  
Member of Congress

cc: The Honorable Eddie Bernice Johnson, Ranking Member, Committee on Science, Space,  
and Technology

Enclosure

# **Exhibit I**

**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>

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) <Lem Introduces Peter>

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

To: Morgan, Wendy <[wendy.morgan@vermont.gov](mailto:wendy.morgan@vermont.gov)>; Kline, Scot <[scot.kline@vermont.gov](mailto:scot.kline@vermont.gov)>  
Cc: Brian Mahanna <[Brian.Mahanna@ag.ny.gov](mailto:Brian.Mahanna@ag.ny.gov)>; Peter Washburn <[Peter.Washburn@ag.ny.gov](mailto:Peter.Washburn@ag.ny.gov)>; Damien LaVera <[Damien.LaVera@ag.ny.gov](mailto:Damien.LaVera@ag.ny.gov)>; Natalia Salgado <[Natalia.Salgado@ag.ny.gov](mailto:Natalia.Salgado@ag.ny.gov)>; Lemuel Srolovic <[Lemuel.Srolovic@ag.ny.gov](mailto: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](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](mailto:Michael.Meade@ag.ny.gov)]  
**Sent:** Thursday, March 10, 2016 5:27 PM  
**To:** Kline, Scot <[scot.kline@vermont.gov](mailto:scot.kline@vermont.gov)>; Morgan, Wendy <[wendy.morgan@vermont.gov](mailto:wendy.morgan@vermont.gov)>  
**Cc:** Brian Mahanna <[Brian.Mahanna@ag.ny.gov](mailto:Brian.Mahanna@ag.ny.gov)>; Peter Washburn <[Peter.Washburn@ag.ny.gov](mailto:Peter.Washburn@ag.ny.gov)>; Damien LaVera <[Damien.LaVera@ag.ny.gov](mailto:Damien.LaVera@ag.ny.gov)>; Natalia Salgado <[Natalia.Salgado@ag.ny.gov](mailto:Natalia.Salgado@ag.ny.gov)>; Lemuel Srolovic <[Lemuel.Srolovic@ag.ny.gov](mailto: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)

11:30 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)

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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



1:30 to 2:15 - NY AG office presentation regarding fossil fuel company investigations (AGs and staff only)

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](mailto:scot.kline@vermont.gov)>  
**Cc:** Morgan, Wendy <[wendy.morgan@vermont.gov](mailto:wendy.morgan@vermont.gov)>; Brian Mahanna <[Brian.Mahanna@ag.ny.gov](mailto:Brian.Mahanna@ag.ny.gov)>; Tasha L. Bartlett <[Tasha.Bartlett@ag.ny.gov](mailto: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](mailto: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](mailto:scot.kline@vermont.gov)>; Morgan, Wendy <[wendy.morgan@vermont.gov](mailto:wendy.morgan@vermont.gov)>  
**Cc:** Brian Mahanna <[Brian.Mahanna@ag.ny.gov](mailto:Brian.Mahanna@ag.ny.gov)>; Tasha L. Bartlett <[Tasha.Bartlett@ag.ny.gov](mailto: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](mailto:scot.kline@vermont.gov)>; Morgan, Wendy <[wendy.morgan@vermont.gov](mailto: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.

Lem

---

**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](mailto: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](mailto:scot.kline@vermont.gov)>  
**Cc:** Morgan, Wendy <[wendy.morgan@vermont.gov](mailto: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](mailto: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](mailto: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](mailto: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  
(mailto:[Lemuel.Srolovic@ag.ny.gov](mailto:Lemuel.Srolovic@ag.ny.gov))  
**Sent:** Tuesday, February 09, 2016 1:10 PM  
**To:** Kline, Scot  
<[scot.kline@vermont.gov](mailto:scot.kline@vermont.gov)>  
**Subject:** We Need to Reschedule This Afternoon's Conversation

Scot (and Wendy) – 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 reschedule 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](mailto:lemuel.srolovic@ag.ny.gov)

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# Exhibit J





# Peter Frumhoff

*Director of Science & Policy*

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

Frumhoff, P.C., R. Heede, and N. Oreskes. 2015. The climate responsibilities of industrial carbon producers. *Climatic Change* 132(2): 157-171. doi: 10.1007/s10584-015-1472-5. [Available here.](#)

Frumhoff, P.C., V. Burkett, R.B. Jackson, R. Newmark, J. Overpeck, and M. Webber. 2015. Vulnerabilities and opportunities at the nexus of electricity, water and climate. *Environmental Research Letters* 10:080201. doi:10.1088/1748-9326/10/8/080201. [Available here.](#)

Mera, R., N. Massey, M. Allen, P. Mote, D.E. Rupp, and P.C. Frumhoff. 2015. Climate change, climate justice and the application of probabilistic event attribution to summer heat extremes in the California Central Valley. *Climatic Change*, published online: <http://link.springer.com/article/10.1007/s10584-015-1474-3>. doi: 10.1007/s10584-015-1474-3

Rosenberg, A.A., L.M. Branscomb, V. Eady, P.C. Frumhoff, G.T. Goldman, M. Halpern, K. Kimmell, Y. Kothari, L.D. Kramer, N.F. Lane, J.J. McCarthy, P. Phartiyal, K. Rest, R. Sims, and C. Wexler. 2015. Congress's attacks on science-based rules. *Science* 348(6238): 964-966. doi: 10.1126/science.aab2939. [Available here.](#)

Allison, T.D., T.L. Root, and P.C. Frumhoff. 2014. Thinking globally and siting locally-renewable energy and biodiversity in a rapidly warming world. *Climatic Change* 126: 1-6. doi:10.1007/s10584-014-1127-y. [Available here.](#)

Sanford, T., P.C. Frumhoff, A. Luers, and J. Gullede. 2014. The climate policy narrative for a dangerously warming world. *Nature Climate Change* 4:164-166. doi:10.1038/nclimate2148. [Available here.](#)

Ekurzel, K., P.C. Frumhoff, J.G. Canadell, C.B. Field, D.C. Nepstad, K. Hayhoe, R. Avissar, L.M. Curran, P. Friedlingstein, C.D. Jones, C. Nobre. 2007. Tropical forests and climate policy. *Science*: 316:985-986. doi: 10.1126/science.1136163. [Available here](#).

Meyer, J.L., P.C. Frumhoff, S.P. Hamburg, and C. de la Rosa. 2010. Above the din but in the fray: environmental scientists as effective advocates. *Frontiers in Ecology and the Environment* 8(6): 299-305. doi:10.1890/090143. [Available here](#).

Gullison, R.E., P.C. Frumhoff, J.G. Canadell, C.B. Field, D.C. Nepstad, K. Hayhoe, R. Avissar, L.M. Curran, P. Friedlingstein, C.D. Jones, C. Nobre. 2007. Tropical forests and climate policy. *Science*: 316:985-986. doi: 10.1126/science.1136163. [Available here](#).

Frumhoff, P.C. J.J. McCarthy, J.M. Melillo, S.C. Moser, and D.J. Wuebbles. 2007. *Confronting Climate Change in the U.S. Northeast: Science, Impacts and Solutions*. Synthesis Report of the Northeast Climate Impacts Assessment (NECIA). Union of Concerned Scientists. Cambridge, MA.

Hayhoe, K., D. Cayan, C.B. Field, P.C. Frumhoff, E.P. Maurer, N. Miller, S.C. Moser, S. H. Schneider, K. Cahill, E.E. Cleland, L. Dale, R. Drapek, R.M. Hanemann, L.S. Kalkstein, J. Lenihan, C.K. Lunch, R.P. Neilson, S. C. Sheridan and J.H. Verville. 2004. Emissions pathways, climate change and impacts on California. *Proceedings of the National Academy of Sciences* 101(34): 12422-12427. doi: 10.1073/pnas.0404500101. [Available here](#).

## Opinion Pieces

*Fossil Fuel Firms Are Still Bankrolling Climate Denial Lobby Groups*. The Guardian. March 25 2015. [Available here](#).

*Making Water-Smart Energy Choices in Colorado*. Denver Post. Oct 15 2012 (with Alice Madden). [Available here](#).

*Toward One America on Climate Change*. Multiple newspapers – McClatchy syndicate. February 23 2012 (with Andrew Hoffman). [Available here](#).

*Candidates must deal with facts, not wishes, on climate change*. Multiple newspapers – McClatchy syndicate. September 16 2011 (with Kerry Emanuel). [Available here](#).

*The Limits of Doubt-Mongering*. The Hill. February 23 2011 (with Naomi Oreskes). [Available here](#).

## Other

Peter Frumhoff and a panel discussion (including Gus Speth) on “Who is Responsible for Climate Change?” on October 16, 2015 — watch a [video](#) of the event.

# We Need Your Support to Make Change Happen

We *can* ensure that decisions about our health, safety, and environment are based on the best available science—but not without you. Your generous support helps develop science-based solutions for a healthy, safe, and sustainable future.

\$25                      \$50                      \$100                      \$250                      \$1000                      Other

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PETER FRUMHOFF IS BASED IN CAMBRIDGE, MA

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[ PETER'S BLOG POSTS ]

Farewell to Edward L. Miles (1939-2016): Friend, Colleague, Force for Science-based Policy  
MAY 13, 2016

Scientists, Legal Scholars Brief State Prosecutors on Fossil Fuel Companies’ Climate Accountability  
MAY 11, 2016

Holding the Fossil Fuel Industry Accountable: What We’ve Done and Must Do in the Wake of Paris  
DECEMBER 18, 2015

[READ ALL OF PETER'S BLOG POSTS.](#)



---

[ MEDIA REQUESTS ]

Ashley Siefert

Energy

Communications Officer

202-331-5666

[asiefert@ucsusa.org](mailto:asiefert@ucsusa.org)

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[ SPEAKING REQUESTS ]

Speaker Request Form

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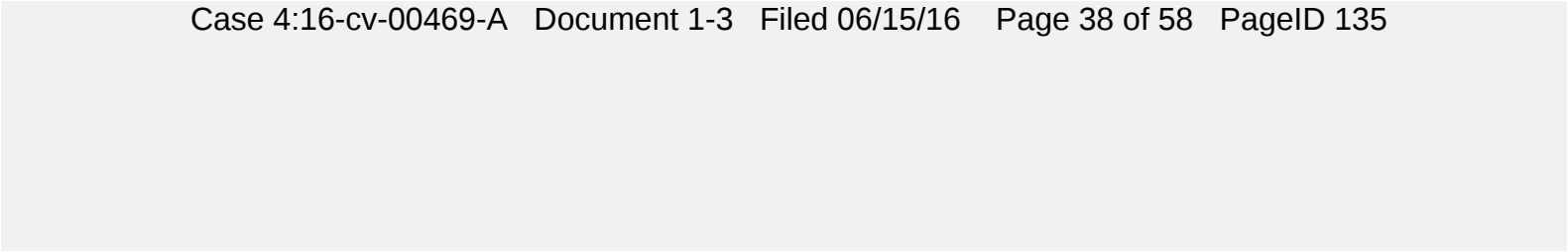
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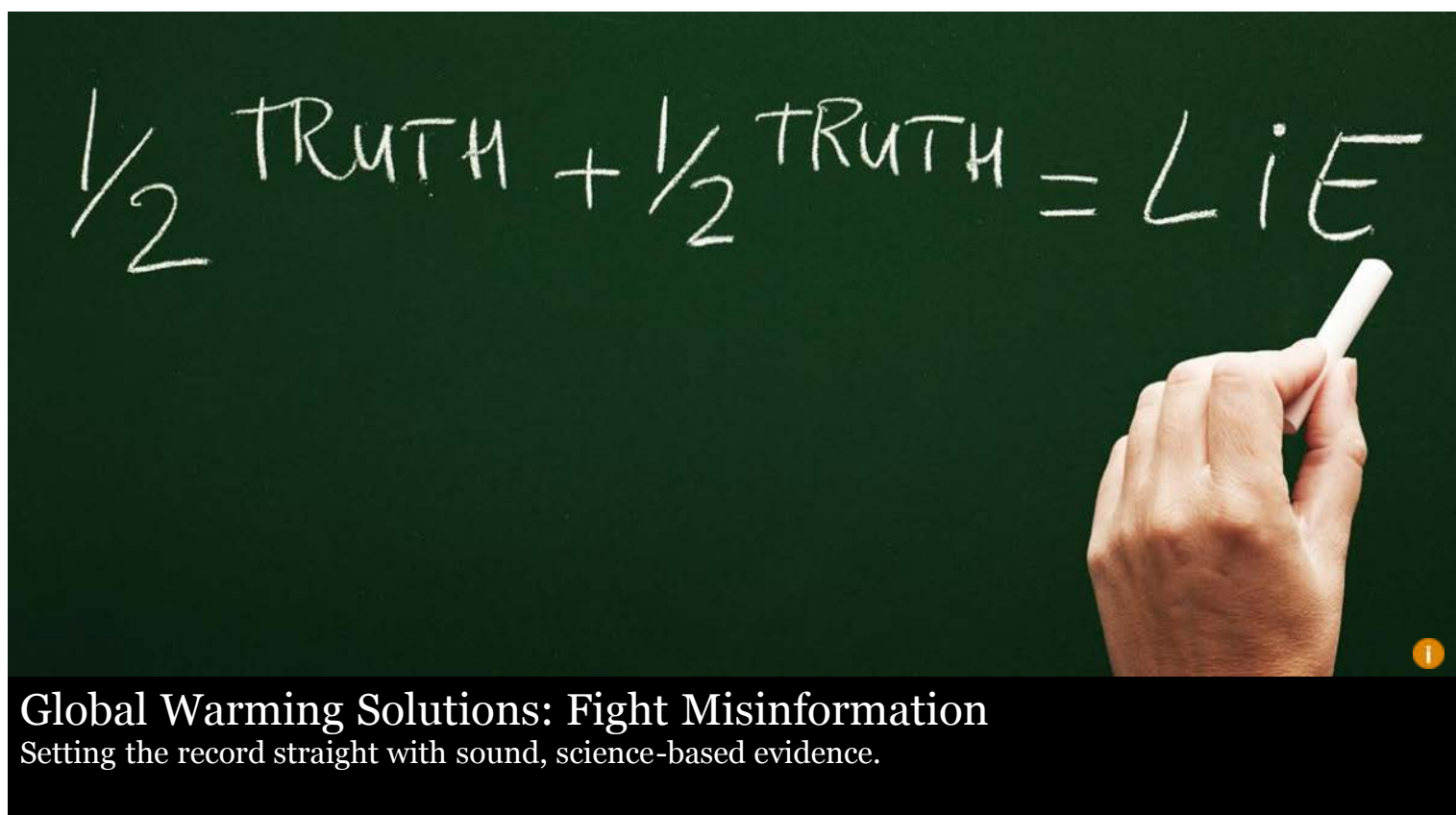
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# **Exhibit K**



## Why has it been so difficult to achieve meaningful solutions to global warming?

Media pundits, partisan think tanks, and special interest groups [funded by fossil fuel and related industries](#) raise doubts about the truth of global warming.

Case 4:16-cv-00469-A Document 1-3 Filed 06/15/16 Page 41 of 58 PageID.138  
These contractors have employed disinformation and other tactics to encourage fossil fuel industries to continue polluting, and attempt to undercut existing pollution standards.

This barrage of misinformation misleads and confuses the public about the growing consequences of global warming — and makes it more difficult to implement the solutions we need to [effectively reduce the man-made emissions](#) that cause global warming.

Together with its members and supporters, UCS actively fights misrepresentations of climate science and provides sound, science-based evidence to set the record straight, including resources to help you communicate the real facts about global warming.

## Holding fossil fuel companies accountable

---



Major fossil fuel companies have known for decades that their products—oil, natural gas, and coal—cause global warming. Their own scientists told them so more than 30 years ago. In response, they decided to deceive shareholders, politicians, and the public—you!—about the facts and risks of global warming.

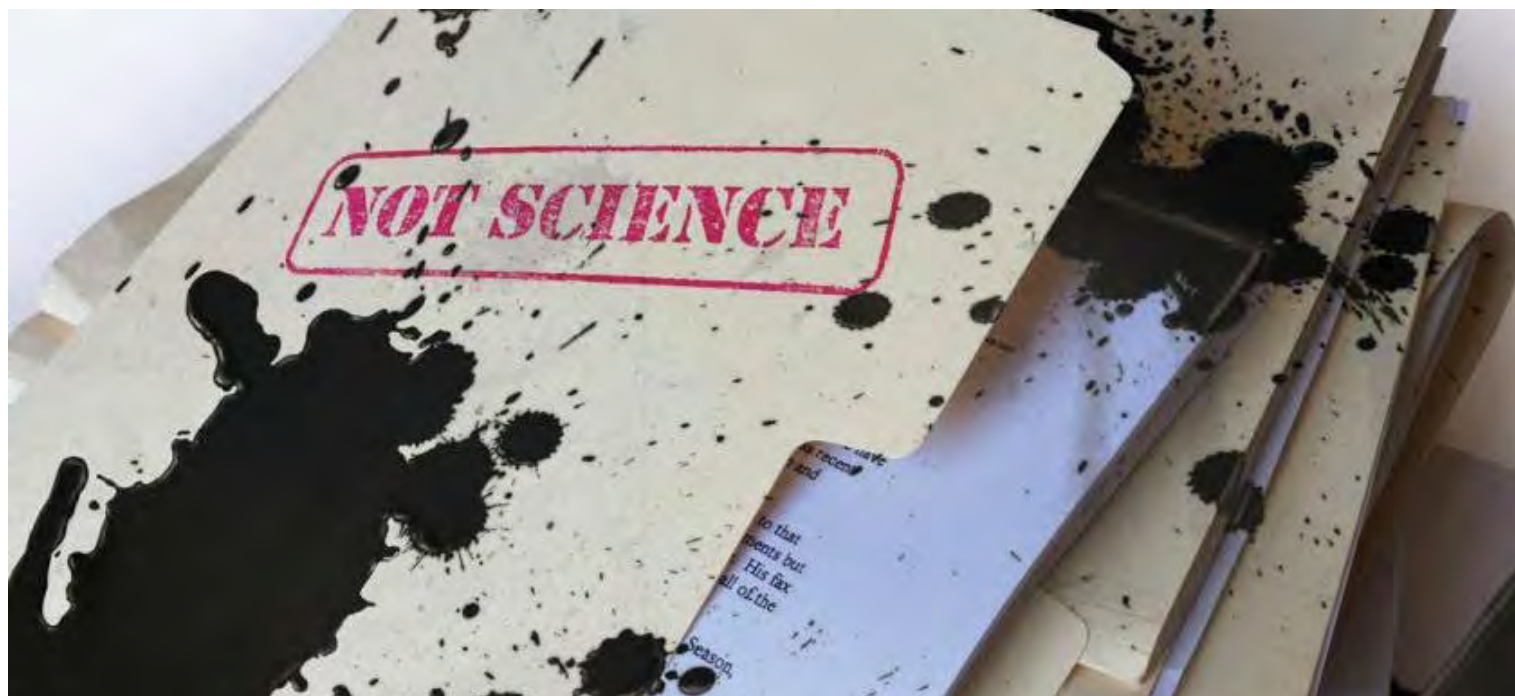
These companies should immediately stop funding climate deception. They should bear their fair share of responsibility for the damage caused by their products.

### Learn more:

- [Major Fossil Fuel Companies Knew about Global Warming...and Did Worse than Nothing](#) >

## The Climate Deception Dossiers

---



For nearly three decades, many of the world's largest fossil fuel companies have knowingly worked to deceive the public about the realities and risks of climate change. They continue to do so today. Their deceptive tactics are now highlighted in The [Climate Deception Dossiers](#)—collections of internal company and trade association documents that have either been leaked to the public, come to light through lawsuits, or been disclosed through Freedom of Information (FOIA) requests. Additional examples of deception can be found in our infographic, [Climate Science vs. Fossil Fuel Fiction](#).

## Documenting inaccurate coverage of climate science by major cable news outlets

---

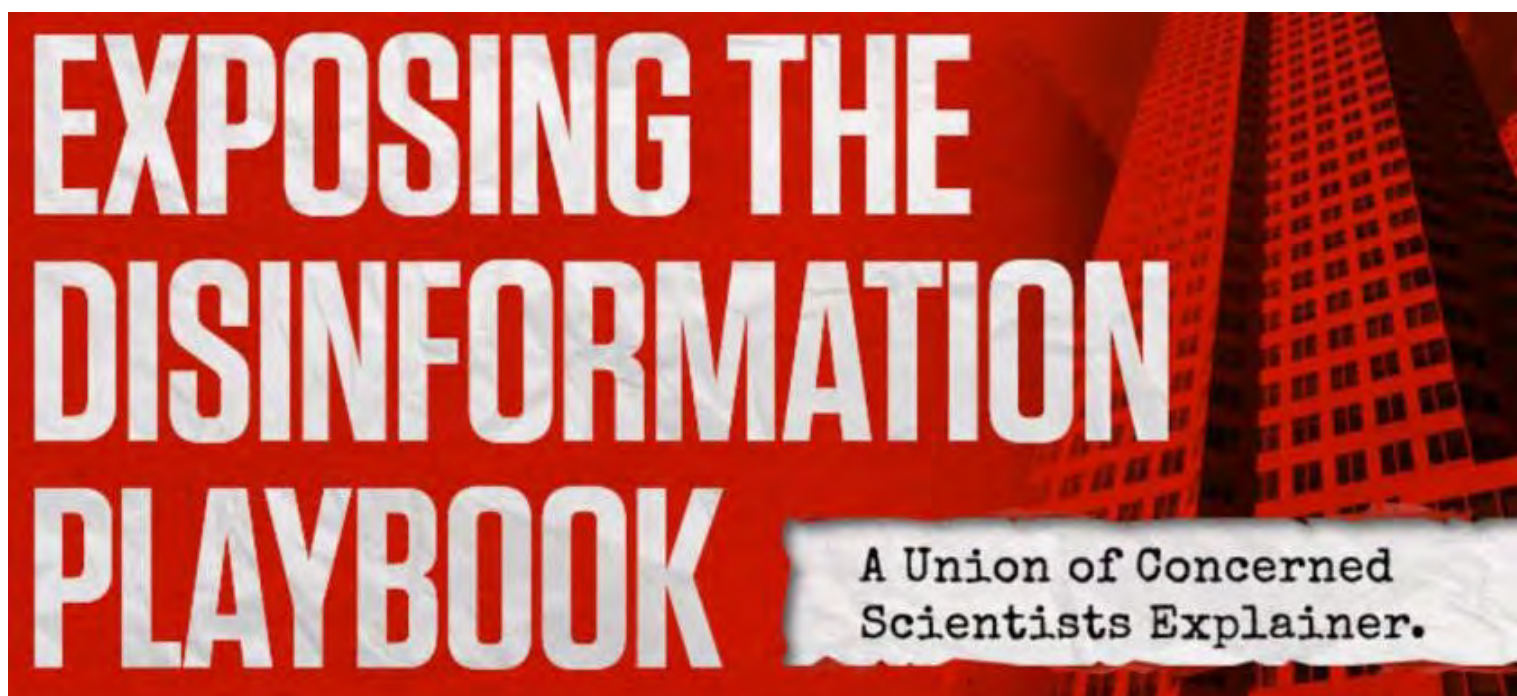




Photo: Grafissimo/iStock

CNN, Fox News, and MSNBC are the most widely watched cable news networks in the U.S. An [analysis of 2013 coverage](#) shows that the accuracy of climate science coverage varies significantly by network — and that all of them can and should take steps to improve.

## Exposing the fossil fuel industry's disinformation playbook



In this [interactive slideshow](#), UCS reveals the secret tactics used by the fossil fuel industry to spread disinformation and delay action on climate change — the very same tactics used by Big Tobacco for years to mislead the public about the dangers of smoking.

**Learn more:**

- [Who's Fighting the Clean Power Plan and EPA Action on Climate Change? >](#)

## Calling out Fox News for misleading coverage of climate science

---



Millions of Americans get information about climate science from the Fox News Channel, yet a 2012 [UCS snapshot analysis](#) found that representations of climate science on Fox News Channel were misleading 93 percent of the time.

Another prominent News Corporation outlet, the Wall Street Journal's opinion page, similarly misled the public in 81 percent of letters, op-eds, columns, and editorials.

## Showing how the news media help the fossil fuel industry spread disinformation

---





A [UCS investigation](#) showed that the U.S. news media routinely fail to inform the public about the fossil fuel industry funders behind climate change contrarian think tanks. From 2011 - 2012, two-thirds of stories from eight top news organizations did not identify the fossil fuel industry funding of eight prominent climate contrarian groups.

## Exposing special interest groups and policy makers who misrepresent climate science

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Case 4:16-cv-00469-A Document 1-8 Filed 06/15/16 Page 46 of 58 PageID 143  
Got Science? Case 4:16-cv-00469-A Document 1-8 Filed 06/15/16 Page 46 of 58 PageID 143  
have run roughshod over scientific evidence. Past columns have [debunked fake government reports](#),  
[countered misinformation about renewable energy](#), and [exposed state-level efforts to suppress research](#)  
[on sea level rise](#).

## Fighting back against attacks on climate science and scientists



Photo: arturbo/iStock

UCS set the record straight in several recent instances of misinformation about climate science, and fought back against deliberate attacks on climate scientists, including:

- [Actively — and successfully — fighting back](#) against attacks on climate scientist Michael Mann by Virginia Attorney General Ken Cuccinelli.
- [Defending the Intergovernmental Panel on Climate Change \(IPCC\)](#) from misleading allegations about its 2007 climate change assessment.
- [Revealing the truth about ExxonMobil's disinformation tactics](#), which included funneling nearly \$16 million to a network of 43 advocacy organizations that seek to confuse the public on climate science.
- [Debunking misinformation about "Climategate,"](#) a manufactured controversy over emails stolen from the University of East Anglia's Climatic Research Unit.
- Setting the record straight in the popular press for books that distort the facts about climate science, including [The Skeptical Environmentalist](#), [SuperFreakonomics](#), and Michael Chrichton's thriller, [State of Fear](#).



# Resources for effectively communicating climate science

---



You can help fight misinformation about global warming by effectively communicating the facts about climate science, whether to your friends, your community, the media, or directly to policy makers.

UCS offers a range of resources to help you improve your science communication skills and develop effective techniques for presenting information about global warming, including a series of webinars designed to provide you with useful tools and best practices for talking about global warming and understanding how people perceive and take in information.

## **Learn more:**

- [Webinar Series: A Scientist's Guide to Communicating Climate Science](#)
- [America's Climate Choices Webinar Series](#)
- [Webinar Series: A Voice for Science and Scientists in California Climate Policy](#)
- [Increasing Public Understanding of Climate Risks and Choices](#)
- [Suggested Scientific Concepts on Urgency](#)
- [Global Warming Materials for Educators](#)

# We Need Your Support to Make Change Happen

---

We *can* reduce global warming emissions and ensure communities have the resources they need to withstand the effects of climate change—but not without you. Your generous support helps develop science-based solutions for a healthy, safe, and sustainable future.

\$25                      \$50                      \$100                      \$250                      \$1000                      Other

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MIKE JACOBS | MAY 19, 2016

[With the First Lawsuit Against ExxonMobil for Climate Deception Announced, What Do We Know About Its Risk from Climate Change Impacts?](#)

GRETCHEN GOLDMAN | MAY 19, 2016

[ VIDEO ]



[ ON TWITTER ]

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[ INFOGRAPHIC ]

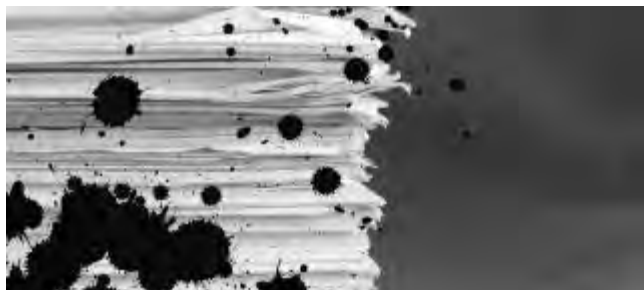
## CLIMATE SCIENCE VS. FOSSIL FUEL FICTION



Fossil fuel companies and their lobbying groups have been deceiving the public for nearly 30 years about the facts of global warming.

---

[ TAKE ACTION ]



ExxonMobil claims that, "We do not fund or support those who deny the reality of climate change." But actions speak louder than words.

[Tell ExxonMobil to stop funding front groups that distort or deny climate change. >](#)





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# **Exhibit L**



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# MATTHEW F. PAWA

## ATTORNEY, PRESIDENT

Matt Pawa has represented governments, environmental organizations and conservation groups, citizens, businesses, and injured persons in a wide range of legal matters. Many of his cases involve issues of national importance and cutting edge legal issues. Mr. Pawa has extensive trial court experience and has argued numerous appeals. He has represented the State of New Hampshire in [MTBE litigation](#) since 2003, which resulted in over \$130 million in pre-trial settlements from the nation's largest oil companies and a jury verdict of \$236 million against ExxonMobil in 2013. In addition to his trial court responsibilities in the MTBE litigation, Mr. Pawa argued and prevailed in three appeals in the New Hampshire Supreme Court. Mr. Pawa was recognized as a [Massachusetts Lawyer of the Year in 2013](#) for his work on the MTBE case. In 2014, in the [Lobsterboat Blockade case](#) he obtained dismissal of all criminal charges against global warming protestors who had used a tiny lobster boat to block a massive coal shipment.

Mr. Pawa is a regular speaker at law schools and at legal symposia and bar association meetings and is frequently quoted in national news outlets. He has taught an environmental law course at Boston College Law School. Mr. Pawa pioneered the field of global warming litigation, having worked closely with eight state attorneys general and the City of New York on the first ever [global warming tort case](#). Prior to entering private practice, Mr. Pawa served as a Deputy State's Attorney in Burlington, Vermont, where he prosecuted a high profile case that entailed an emergency appeal to the Vermont Supreme Court, [garnered national media attention](#), and ultimately resulted in a conviction.

Mr. Pawa attended the University of Pennsylvania Law School, where he served on the law review, graduated with honors, and won a national prize for legal writing. He received a Bachelor of Science degree from Cornell University.

Mr. Pawa is a member of the Board of Trustees of the Center for International Environmental Law. He is also a member of the Boston Triathlon Team and competes in triathlons from spring through fall.

To read a client endorsement of Mr. Pawa, [click here](#). You can follow Mr. Pawa on Twitter [here](#).

TALK TO AN ATTORNEY



**Matthew F. Pawa**  
*Attorney, President*



Matthew F. Pawa

Benjamin A. Krass

Wesley H. Kelman

The Pawa Law Group, P.C. is a litigation and trial firm. Our firm offers significant experience representing governments, large and small businesses, environmental and conservation groups, citizens, property owners, non-profit organizations and injured persons. We handle individual cases and class actions. We have litigated cases in virtually all courts in Massachusetts and the District of Columbia and in numerous courts throughout the country.

**TALK TO US TODAY!**

1280 Centre Street  
Suite 230  
Newton Centre, MA 02459

P: (617) 641-9550  
F: (617) 641-9551

# **Exhibit M**





# PRACTICE AREAS



## Environmental Litigation

Our environmental law practice handles major cases with national and even international significance. We are most well known for our role in launching global warming litigation.

[READ ON](#)



## Personal Injuries

We represent injured persons in a wide variety of cases for recovery of substantial monetary damages against wrongdoers. We currently represent child victims of instant soup spills. We brought personal injury cases arising from the prescription drugs Seroquel and Zyprexa on behalf of numerous individuals and,

terms for our clients.

[READ ON](#)

The Pawa Law Group, P.C. is a litigation and trial firm. Our firm offers significant experience representing governments, large and small businesses, environmental and conservation groups, citizens, property owners, non-profit organizations and injured persons. We handle individual cases and class actions. We have litigated cases in virtually all courts in Massachusetts and the District of Columbia and in numerous courts throughout the country.

**TALK TO US TODAY!**

1280 Centre Street  
Suite 230  
Newton Centre, MA 02459

P: (617) 641-9550  
F: (617) 641-9551

# Exhibit N



# 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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*Organizational affiliations are for identification purposes only. The opinions expressed in this report are the sole responsibility of the participants quoted.*

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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](http://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.

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## 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.**

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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.<sup>1</sup> 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."<sup>2</sup> 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.<sup>3</sup>

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.

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**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.<sup>4</sup>

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.<sup>5</sup>

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.<sup>6</sup>

### **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.<sup>7</sup>

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](http://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.<sup>8</sup> 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.<sup>9</sup>

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."<sup>10</sup>

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.<sup>11</sup> 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*.<sup>12</sup>

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.<sup>13</sup>

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.<sup>14</sup> 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.<sup>15</sup>

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.<sup>16</sup> 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.<sup>17</sup>

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.<sup>18</sup> 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.<sup>19</sup> 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.<sup>20</sup> 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.<sup>21</sup>

### 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.<sup>22</sup> 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."

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**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.’”

**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. Legal strategies themselves are a double-edged sword. The more adversarial the discourse, the more minds are going to be closed.**

—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.<sup>23</sup> 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,”<sup>24</sup> “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.**

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**W**orkshop 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.**

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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.<sup>25</sup> "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.

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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*

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#### 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*

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#### 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  
F. Kennedy School of Government, Harvard  
University*

**Angela Ledford Anderson**

*Director, Climate and Energy Program,  
Union of Concerned Scientists  
Washington, DC*

#### Workshop Participants

**Myles Allen**

*Professor of Geosystem Science, School  
of Geography & the Environment,  
University of Oxford  
Environmental Change Institute, Oxford University  
Centre for the Environment*

**Richard (Dick) E. Ayres**

*Attorney, The Ayres Law Group  
Washington, DC*

**Brenda Ekwurzel**

*Climate Scientist and Assistant Director  
of Climate Research and Analysis,  
Union of Concerned Scientists  
Washington, DC*

**Sharon Y. Eubanks**

*Advocates for Justice, Chartered PC  
Senior Counsel, Sanford Wittels & Heisler, LLP  
Washington, DC*

**Stanton A. Glantz**

*Professor of Medicine, University of  
California–San Francisco  
University of California Center for  
Tobacco Control Research & Education*

**James (Jim) Hoggan**  
*President, Hoggan & Associates*  
*Vancouver, BC*

**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.*



Union of  
Concerned  
Scientists

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Website: [www.climateaccountability.org](http://www.climateaccountability.org)

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Climate Accountability Institute

**App. 150**

# Exhibit O

- Washington Free Beacon - <http://freebeacon.com> -

## **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](#)

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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."

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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 P

**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 Q

**Kline, Scot**

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**From:** Peter Washburn <Peter.Washburn@ag.ny.gov>  
**Sent:** Friday, March 25, 2016 11:49 AM  
**To:** Lemuel Srolovic; Kline, Scot; Morgan, Wendy  
**Cc:** Michael Meade  
**Subject:** Afternoon Discussion: State Responses  
**Attachments:** Question Responses.docx

Wendy, Scot, Lem –

For this afternoon's discussion. See attached responses received from participating states re: what they are looking to add to/get out of the afternoon discussion.

As an overall summary, the responses demonstrate a strong desire among the states to learn what each other are up to -- a validation of the value of this meeting -- as well as to support and sustain coordination on individual and collective efforts into the future -- a validation of the value of a coalition.

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## **Attorneys General Climate Change Coalition Questionnaire Responses**

**(1) What do you hope to get or learn during the afternoon? We want to make sure we cover what we can of your particular interests.**

CT (Matthew Levine) – I hope to learn more about the substance of the disclosure investigation and the legal theories to support taking any action. It would also be helpful to understand the magnitude of such an action and the resources available to undertake it.

DC (Elizabeth Wilkins) – I am interested in hearing generally what other states are doing on climate change-related efforts and, in particular, in how they've staffed these efforts if they do not have a section dedicated to environmental issues.

IL (James Gignac) – Nothing more specific than what the agenda items are designed to draw out (discussion of coordination, possible new initiatives, etc.).

MA (Melissa Hoffer) – We'd like to learn the status of other states' investigations/plans and potential avenues for information sharing and coordination.

ME (Jerry Reid) – I am interested in learning more about potentially unfair and deceptive trade practices of Exxon as they relate to global warming, and the level of interest among our states in pursuing these claims.

OR (Paul Garrahan) – We look forward to learning about NY's oil company investigation, primarily. And to hear any other ideas you and other states may have. And to build our working relationship.

RI (Greg Schultz) – I am most interested in personally meeting the various state AAGs that I have worked with since 2009 on Clean Air Act and Climate Change issues. I would also be interested in looking ahead to our challenges for this year and beyond, such as possible other EPA-related actions and rulemaking, etc.

USVI (Claude Earl Walker) – We are eager to hear what other attorneys general are doing and find concrete ways to work together on litigation to increase our leverage.

VA (Daniel Rhodes) – We are mostly interested in hearing about efforts ongoing in the other jurisdictions present and how Virginia may complement those efforts and move forward here.

WA (Laura Watson) – We are interested in the discussion about utility efforts to barrier renewables. I am told that this has not been a problem in our state, or at least not a problem that we currently have the tools to address. I am interested in hearing what types of issues other states are seeing and what tools they are using to address those.

We are also interested in finding out whether other states are taking action on ocean acidification or whether this is largely a West Coast issue at this point.

We are also wondering whether other states are looking at the insurance side of things. Are states running into issues with insurance companies limiting coverage for climate-related claims?

**(2) Please provide a very brief description of the office activities you will describe at the 1:45 segment of the agenda. We'd like to group related activities together. You will have 2-3 minutes to describe your activities.**

CT (Matthew Levine) – I can briefly describe the various legal actions that Connecticut has participated in (many of which we have joined with New York and the extended coalition of States). I can also discuss Connecticut's extensive efforts to combat climate change through actions by our agency and shifting to renewable sources of energy. We have been successful in defending several legal challenges to the State's commitment to increase renewables sources of energy.

DC (Elizabeth Wilkins) – DC has not previously taken many affirmative steps to combat climate change. To the degree that we have had any involvement, it has been because we represent our Department of Energy and Environment in front of our Public Service Commission on matters related to creating incentives for more widespread use of sustainable energy.

IL (James Gignac) – Climate and energy-related activities of the Illinois Attorney General's Office include:

- Participation in federal multi-state cases involving air quality and carbon emissions;
- Enforcement actions and state regulatory matters involving coal-burning power plant emissions and coal ash;
- FERC and MISO issues involving capacity payments to coal plants;
- Financial challenges of coal industry (both mining and power sectors);
- Involvement in state level policy and regulations on energy efficiency, renewables, and utility business models

MA (Melissa Hoffer) – Advancing clean energy and making smart energy infrastructure investments (addresses our positions on new gas pipelines, LTKs for cleaner energy); promoting utility customer choice (solar incentives, grid mod); readiness and resilience (storm response, grid mod).

ME (Jerry Reid) – Maine has long participated with New York, Massachusetts and other like-minded states in litigation to bring about meaningful federal regulation of greenhouse gas emissions. Today this is primarily in the form of litigation supporting EPA in challenges to the Clean Power Plan.

OR (Paul Garrahan) – I assume this item is asking what work out offices are doing on climate change issues? Other than our CAA litigation with other states, we are also defending Oregon's Clean Fuels Program (low carbon fuel standards) at the 9th Circuit (after successfully getting the challenge dismissed by the district court) and at the Oregon Court of Appeals (rule making challenge). We also continue to defend the state in a public trust doctrine case asserting that the state has not taken sufficient steps to cut GHG emissions. That case is also currently at the Oregon Court of Appeals (for a second time).

RI (Greg Schultz) – I'm not sure exactly what you are looking for here. Perhaps I could discuss the challenges of working in a small state with limited environmental staff. For instance, as part of a 3-person Environmental and Land Use Unit within the RIAG's office, I prosecute a wide variety of civil environmental enforcement actions in state court; defend state agencies on environmental and related matters; litigate state's rights in land, including public rights-of-way, beaches and parks; counsel state agencies on environmental matters, including rulemaking; represent the State in multi-state environmental litigation, etc.

USVI (Claude Earl Walker) We just finished litigation against Hess Oil over an enforcement matter relating to Hess's decision to close its oil refinery in St. Croix, Virgin Islands, after receiving billions of dollars in tax breaks. As part of our \$800 million settlement, we were able to create an environmental response trust that will deal with clean-up of the site and help convert part of it to solar development, we hope. We also have issued a subpoena to ExxonMobil and are preparing third party subpoenas on the common issue of its potential misrepresentations regarding its knowledge of climate change.

VA (Daniel Rhodes) – No response.

WA (Laura Watson) – As you know, Washington State is one of the parties to the multi-state litigation defending the Clean Power Plan. We have also intervened in a lawsuit in defense of Oregon's low carbon fuel standard. We are looking at possible causes of action based on fossil fuel company disclosures and have just started looking at possible common law causes of action (e.g., nuisance suits). Other than that, the bulk of our climate work consists of providing legal support to our clients in the Governor's Office and the Department of Ecology. Specifically, we are supporting a regulatory effort to cap carbon emissions from transportation fuels, natural gas, and stationary sources. We are also providing legal support related to the development of environmental impact statements for two large coal export facilities proposed in Washington and three proposed oil terminals.

**(3) Specific items you would like to discuss in the discussion of expanding the coalition's work beyond the federal/EPA advocacy and litigation.**

CT (Matthew Levine) – None.



DC (Elizabeth Wilkins) – Nothing to add – DC will most likely be primarily in listening mode as this work is new for us.

IL (James Gignac) – Consider how to increase our office's coordination on matters involving DOE, FERC, and ISOs/RTOs. How we can better link the consumer and environmental interests of our offices in these venues? Similarly, regarding state energy and climate policies, can we strengthen or bolster our office's sharing of knowledge, materials, experts, etc. on things like energy efficiency, renewable portfolio standards, demand response, net metering, and utility rate design? Finally, I would be interested in talking with any other states (time permitting) dealing with coal mine or power plant closures and issues of jobs, property taxes, decommissioning or clean-up, and site re-use.

MA (Melissa Uoffer) – See above.

ME (Jerry Reid) – None.

OR (Paul Garrahan) – We don't have any particular ideas, other than our interest in the possible oil company litigation, but we are open to other possibilities.

RI (Greg Schultz) – I am open for any discussion. I would like to hear from the NHAG and other states on their MTBE litigation.

USVI (Claude Earl Walker) – We are interested in identifying other potential litigation targets.

VA (Daniel Rhodes) – Not sure we have specific items for the afternoon discussion at this time but likely will be prompted by the discussions. We would be very interested in any discussion and thoughts about resource sharing through collaborative thinking in the formation of coalition building.

WA (Laura Watson) – I think I probably covered this in response to the first question. The only thing I'd add is that we're interested in the legal theories under section 115 of the federal Clean Air Act, although it looks like the focus in the agenda is on non-federal actions.

**(4) Will any consumer protection or securities staff be participating? Fossil fuel company disclosure investigations raise consumer protection and securities issues as well as climate change. If enough folks from that part of your offices are participating, we could plan a break out session for them.**

CT (Matthew Levine) – We will not have someone from our Consumer protection division but I work closely with that group and am getting familiar with the consumer protection and securities issues related to climate change and we would likely be the group (environment) that works on these issues.

DC (Elizabeth Wilkins) - I will be the only person from DC participating.

IL (James Gignac) - Not in the meeting itself, but we have do have consumer protection staff interested in learning more about the issues. We do not have securities staff.

MA (Melissa Hoffer) - No.

ME (Jerry Reid) - No.

OR (Paul Garrahan) - Yes, Sr AAG Tim Nord will attend from our consumer protection unit.

RI (Greg Schultz) - No.

USVI (Claude Earl Walker) - Yes, we will have our outside counsel/Special Assistant Attorney General, who has specialized in consumer protection work.

VA (Daniel Rhodes) - No response.

WA (Laura Watson) - Our CP folks will not be attending but I have been in contact with them and intend to report back to them after the meeting. I've reviewed our office's internal analysis on the various causes of action available in Washington State and can contribute at least generally to the discussion.

**(5) Any other thoughts about the afternoon's working session?**

CT (Matthew Levine) - None.

DC (Elizabeth Wilkins) - None.

IL (James Gignac) - None.

MA (Melissa Hoffer) - None.

ME (Jerry Reid) - None.

OR (Paul Garrahan) - We look forward to the discussion.

RI (Greg Schultz) - I would be interested in discussing the possibility of setting up additional AG meetings with NESCAUM (Northeast States for Coordinated Air Use Management) on regional air issues (NESCAUM works closely with state air agencies on a variety of air issues). I work closely with my state air agency, but never seem to sit down with them to discuss their specific issues and concerns.

USVI (Claude Earl Walker) - None.

VA (Daniel Rhodes) - None.

WA (Laura Watson) – None.

# **Exhibit R**

# COHENMILSTEIN



## About Cohen Milstein

### OVERVIEW

### RECENT SUCCESSES

### AWARDS & RECOGNITION

### LOCATIONS

### PRO BONO

### DIVERSITY & INCLUSION

## OVERVIEW

A lone consumer is often powerless against a giant company and an individual's rights are sometimes disregarded by powerful corporations. A class action litigation may be the only avenue to compensate victims of corporate wrongdoing.

For over 40 years, Cohen Milstein Sellers & Toll PLLC has been a pioneer in plaintiff class action lawsuits on behalf of victims of such abuses. By creating a group or class, individuals join to fight companies in court and enhance their ability to fight corporations who often have larger resources. As one of the premier firms in the country handling major complex class actions, Cohen Milstein, with over 90 attorneys and offices in Washington, D.C., New York, Philadelphia, Chicago, Denver and Palm Beach Gardens, FL, is a firm that specializes in cases concerning:

- **Antitrust**
- **Catastrophic Injury & Wrongful Death**
- **Civil Rights & Employment**
- **Consumer Protection**
- **Employee Benefits/ERISA**
- **Ethics and Fiduciary Counseling**
- **Human Rights**
- **Managed Care Abuse**
- **Medical Malpractice**
- **Public Client**
- **Securities Fraud & Investor Protection**
- **Unsafe & Defective Products**
- **Whistleblower/False Claims Act**

Cohen Milstein has earned its national and international reputation by winning cases that other law firms did not want to handle. The groundbreaking cases Cohen Milstein has litigated have resulted in landmark decisions on previously untried issues involving price fixing, securities, consumer rights, and civil rights.

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## RECENT SUCCESSES

# 7th Circuit

victory in "church plan" litigation

**Advocate Health Care Church Plan Litigation**

**MORE**

# \$505 million

recovery in mortgage-backed securities action

**Bear Stearns Mortgage Pass-Through Certificates Litigation**

**MORE**

**MORE**

## AWARDS & RECOGNITION

- 2016 - Michael Eisenkraft awarded a rating of "AV" or preeminent by Martindale-Hubbell
- 2016 - Designated a Pennsylvania Rising Star by Super Lawyers
- 2016 - Designated a Pennsylvania Super Lawyer (2013 - present), a distinction awarded to only five percent of the attorneys in the state
- 2016 - AV Peer Review Rated, Martindale-Hubbell, representing the highest rating for professional excellence
- 2016 - Leading Plaintiffs' Attorney, Leading Class Action Antitrust Firm, Legal 500, 2010 - 2015
- 2016 - 2016 Super Lawyers "Rising Star"
- 2016 - Carol V. Gilden Named a Illinois Superlawyer, 2005 - 2016
- 2016 - Law360 names Cohen Milstein one of its "Best Firms for Female Attorneys"

**MORE**

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Philadelphia, PA 19103

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f: 267 479 5701

**WASHINGTON, DC**

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Washington, DC 20005

t: 202 408 4600

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## PRO BONO

Cohen Milstein is deeply committed to providing pro bono representation to those who otherwise could not obtain legal counsel. Since the firm's tremendous achievements in the Swiss Banks case (\$1.25 billion settlement) a few years ago, Cohen Milstein has remained committed to doing important public interest and human rights litigation on a pro bono basis. Each year, Cohen Milstein attorneys and staff devote thousands of hours to pro bono legal services. Cohen Milstein is a signatory to the Law Firm Pro Bono Challenge<sup>SM</sup>, pledging each year to dedicate at least three percent of its total billable hours to pro bono work.

Cohen Milstein has been repeatedly recognized for its dedication to pro bono causes. In 2011, Partner Agnieszka Fryszman was a recipient of The National Law Journal's Pro Bono Award. Ms. Fryszman was recognized for her and colleagues efforts on behalf of Nepali laborers injured or killed at U.S. military bases in Iraq and Afghanistan, for which they obtained several judgments and significant settlements on behalf of the families. Lawyers at the firm also received the 2012 Judith M. Conti Pro Bono Law Firm of the Year Award from the Employment Justice Center, a 2007 Beacon of Justice Award from the National Legal Aid & Defender Association, the 2007 Frederick Douglass award from the Southern Center for Human Rights, a 2006 Fierce Sister Award from the National Asian Pacific American Women's Forum, and a 2005 Outstanding Achievement Award from the Washington Lawyers' Committee for Civil Rights and Urban Affairs. Cohen Milstein was also recognized in 2005 for our successful participation in Human Rights First's Asylum Representation Program.

In recent years, Cohen Milstein has represented, on a pro bono basis:

- families seeking compensation from the September 11th Victim Compensation Fund
- Holocaust victims and their heirs seeking to recover stolen funds from Swiss Banks that collaborated with the Nazi Regime
- victims of political, religious, racial, and gender-based persecution seeking asylum in the United States
- detainees at Guantanamo Bay, Cuba seeking a fair hearing on their detention without charge
- victims of housing discrimination
- indigent tenants in landlord/tenant proceedings
- persons with disabilities in connection with Social Security Disability claims
- employees wrongly denied overtime pay
- utility customers whose heat was cut off for delinquent payment in the dead of winter in violation of state laws
- grassroots environmental organizations seeking to enforce the Clean Water Act.

## DIVERSITY & INCLUSION

Cohen Milstein Sellers & Toll PLLC is committed to recruiting, retaining, and promoting a diverse community within our firm. Diversity is an inclusive concept that encompasses, without limitation, race, color, ethnicity, gender, nationality, religion, age, disability, and sexual orientation. We believe

that diversity enhances the quality of service we provide to clients and makes our firm a more vibrant and fulfilling place to work.

To ensure that the firm continues to make progress in our commitment to diversity, our firm's Hiring and Diversity Committee is dedicated to examining all aspects of our hiring, benefits, training, support, and promotion practices in order to assess progress, identify current needs and implement solutions.

With its long history of advocating for gender equality in the workplace, Cohen Milstein is also proud to be recognized for creating a culture of equality and diversity within the firm. In 2015, Law360 included Cohen Milstein on its "Ceiling Smashers List," identifying the firm as having the **fourth-highest percentage of female partners among 400 U.S. law firms** surveyed and ranking it **seventh among the 100 best law firms in the country for women to work**.

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# Exhibit S



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May 2002  
App. 172





## CONTENTS

*ExxonMobil's long tradition of success requires a deep respect for and an understanding of what our role in society should be. Our core principles provide the basis for our commitments to communities, customers, employees and shareholders. Meeting our commitments to these varied interests is critical to our success. We perform at our best when we maximize the contribution we make across all of these areas, and striving to do so sustainably is what corporate citizenship is all about.*

### THIS IS EXXONMOBIL

<b>Corporate Citizenship in a Changing World</b>	<b>1</b>
A letter from Chairman Lee Raymond.	

<b>ExxonMobil's Investment in Technology Enables Progress</b>	<b>2</b>
ExxonMobil has contributed to social and economic development using technology and innovation for over 120 years.	

### OUR PRINCIPLES

<b>How We Run Our Business</b>	<b>4</b>
How we achieve our results is as important as the results themselves. We insist upon honesty and ethical behavior from all employees. We manage ExxonMobil using a straightforward and disciplined approach to investment decisions, business controls, financial management and operational excellence.	

<b>Safety, Health and Environment</b>	<b>6</b>
We seek to consistently deliver outstanding safety, health and environmental performance that sets the industry standard. Our ultimate goal is to drive injuries, illnesses and environmental incidents to zero.	

### OUR COMMITMENTS

<b>Our Commitment to Governments, Communities and Societies</b>	<b>16</b>
We strive to be a good corporate citizen in all the places we operate worldwide. To us that means being a trusted neighbor and making a positive contribution in communities wherever we do business.	

<b>Our Commitment to Customers</b>	<b>24</b>
Our success depends on continuously meeting the changing needs of our customers. We are dedicated to providing high quality products and services at competitive prices.	

<b>Our Commitment to Employees</b>	<b>30</b>
Corporate citizenship begins at home. We seek to hire the best people and provide them with opportunities for growth and success. We place a priority on creating a safe work environment, as well as one that values open communication, respect and fair treatment.	

<b>Our Commitment to Shareholders</b>	<b>36</b>
We believe managing the business for sustainable results is vital to being a good corporate citizen. We are committed to enhancing the value of the investment entrusted to us by our shareholders.	





## A letter from Chairman Lee Raymond

**Corporate citizenship in a changing world**

ExxonMobil does business in nearly 200 countries and territories on six continents. For more than 120 years we have provided energy and products that have contributed to economic growth and helped improve the lives of billions of people around the world.

Energy use grows as economic prosperity increases. And there is a proven link between economic development and advances in societal welfare and environmental improvement — particularly in the developing areas of the world.

To do business successfully for this long and on this scale requires that we be at the leading edge of competition in every aspect of our business. This requires that ExxonMobil's substantial resources — financial, operational, technological and human — be employed wisely and evaluated regularly.

While we maintain flexibility to adapt to changing conditions, the nature of our business requires a focused, long-term approach. We consistently strive to improve our performance in all aspects of our operations through learning, sharing and implementing best practices.

And to do business successfully for this long and on this scale also requires a deep respect for and understanding of different people and cultures, and a keen appreciation of what our role in society should be.

Social responsibility may be a comparatively new term now applied to corporations, but it is not a new concept for us. For many decades, ExxonMobil has rigorously adhered to policies and practices that guide the way we do business. The methods we employ to achieve results are as important as the results themselves.

We pledge to be a good corporate citizen in all the places we operate worldwide. We will maintain the highest ethical standards, comply with all applicable laws and regulations, and respect local and national cultures. We are dedicated to running safe and environmentally responsible operations.

Like other global companies, ExxonMobil is called upon to address an ever-broadening range of issues and challenges. The resourcefulness, professionalism and dedication of the directors, officers and employees of ExxonMobil make it possible for us to



meet these challenges. We have a well-trained, culturally diverse workforce focused on performance and proud of its high standards of safety and integrity.

This report describes how we translate our commitment to good corporate citizenship into action. I hope you will find it both interesting and helpful.

Sincerely,

Lee R. Raymond  
CEO and Chairman



## This is ExxonMobil

### Technology enables progress

Over the last 120 years ExxonMobil has evolved from a regional marketer of kerosene in the U.S. to the largest petroleum and petrochemical enterprise in the world. Much has changed in that time. When we began, transportation was by horse-drawn wagon. Two decades passed before the Duryea brothers perfected their

early gasoline-powered autos and the Wright brothers experimented with airplanes. Making products for the space program was, obviously, beyond imagining.

Today we operate in nearly 200 countries and territories and are best known by our familiar brand names: *Exxon*, *Esso* and *Mobil*. We make the products that drive modern transportation, power cities,

lubricate industry and provide the petrochemical building blocks that lead to thousands of consumer goods.

As society's needs have changed and products have evolved, our commitment to technology and innovation has allowed us to continuously meet the world's needs for energy and petrochemicals.



**1903** Wilbur and Orville Wright make a successful flight using our gasoline.



**1926** Premium brand Esso motor gasoline goes on sale.

**1954** Our lubricants sail on the *USS Nautilus*, the first atomic-powered submarine.



**1893** The company lubricates the Duryea brothers' gasoline-powered automobile.



**1906** We develop Mei-Foo lanterns to burn kerosene efficiently. These lamps were imported by the millions throughout China.



**1927** Charles Lindbergh uses Mobiloil in the *Spirit of St. Louis*, on the first solo flight across the Atlantic.

1880

1890

1900

1910

1920

1930

1940

1950



**1886** Herman Frasch, our first research chemist, discovers how to remove sulfur from kerosene. Low sulfur technology is still used today to make clean-burning gasoline.



**1901** We help develop the Spindletop oil field near Beaumont, Texas. Spindletop's discovery tripled U.S. oil production and marked the beginning of the modern petroleum industry.



**1900** The first-in-industry product development laboratory leads to a century of breakthrough new product discoveries.

**1920** The company makes isopropyl alcohol, the first commercial petrochemical. Isopropyl alcohol is used in cosmetics and rubbing alcohol.



**1946** We establish the first-in-industry occupational health organization to foster a safe work environment. Today more than 500 employees are devoted to safety, health and environment related science.



**1930s** We invent butyl rubber. Today ExxonMobil is the world's leading producer of this product, used in tire innerliners due to its exceptional air retention properties.



**1938** We invent fluid catalytic cracking, which *Fortune Magazine* calls the most important chemical innovation in the first half of the 20th century. The process helped fuel Allied war planes and today makes clean fuels for cars, trucks and planes.



ExxonMobil's commitment to technology development and commercialization has fueled its growth to become the world's leading petroleum and petrochemical company. The company has three core business areas: **Upstream** — exploration, development and production of oil and natural gas, and natural gas marketing; **Downstream** — refining and marketing of petroleum products such as motor gasoline and lubricants; and **Chemical**.

### Upstream

ExxonMobil explores for oil and natural gas on six of the seven continents. As a result of its technology breakthroughs, the company is a leader in deepwater development in waters deeper than 4,000 feet. We produce more than four million oil-equivalent barrels per day from about 30,000 wells in 25 countries. The company has 72 billion oil-equivalent barrels of petroleum and natural gas resources located in some 40 countries.

### Downstream

ExxonMobil's downstream business includes 46 refineries in 26 countries that supply 6.3 million barrels per day of refined products. We have ownership interests in more than 300 terminals that provide storage as products move to the 43,000 branded service stations, 700 airports and 300 seaports. Under the *Mobil*, *Exxon* and *Esso* names, we provide leading-edge conventional and synthetic finished lubricants. An active research effort on next generation ultra-low emission fuels and fuel cells is underway.

### Chemical

ExxonMobil Chemical Company manufactures petrochemical products that are the building blocks for thousands of packaging, consumer, automotive, industrial, medical, electrical and construction materials that make life better for people around the world. It has 54 major plants in 19 countries. Technology breakthroughs in "smart" catalysts allow creation of "designer" plastics to fit specific product applications.



1964 "Put a Tiger in Your Tank" advertising campaign starts.

1970 Introduction of the first synthetic lubricant extends engine life.



1997 We introduce SpeedPass, which brings convenience to gasoline customers.

2000 Our special lubricants aboard the International Space Station enable space walks.



1960

1970

1980

1990

2000

1965 We set a record for the deepest offshore oil production. Subsequent records were set in 1968, 1970, 1972 and 1977. Deepwater drilling discoveries are producing new supplies to meet the world's growing demand for oil and gas.



1980s Work commences with Toyota on next generation fuels for hybrid engines and fuel cells. These technologies offer the potential for high performance with near-zero greenhouse gas emissions.

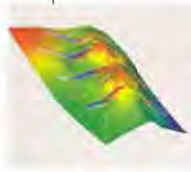
2001 Our latest generation subsurface reservoir computer simulation modeling — EM<sup>3</sup> — allows geologists to predict the movement of oil over time to maximize the amount of oil produced and reduce the number of oil wells.



1980s Metallocene catalysts allow for development of "designer" plastics and synthetic rubber molecules that can be custom built to fit a variety of consumer goods, ranging from car bumpers to wine corks.



1964 Our invention of 3-D seismic technology allows a visual picture of subsurface oil and gas reserves that enables new oil discoveries at reduced cost.





## How we run our business

### Guiding principle:

**The way we conduct our business is as important as the results themselves. Integrity is the cornerstone of corporate citizenship. We expect everyone — directors, officers, employees and suppliers acting on our behalf — to observe the highest standards of ethics.**

At ExxonMobil we have long recognized the importance and value of business integrity. The means by which we achieve our results are just as important as the results themselves. We have communicated this message for decades and remind all of our employees of this policy every year. Our ethics policy, like all of our policies, is clear-cut, straightforward and applies to everyone without exception.

The strength of any policy lies in how well it is implemented. At ExxonMobil, we not only test the effectiveness of our ethics policy, we also ensure that proven management control systems are in place throughout our operations. While we continue to improve upon these systems, they provide the basic framework for ensuring operational excellence throughout our company. We believe that a disciplined approach to managing the business is good business.

#### Board of Directors

The Board of Directors oversees the business affairs of the Corporation. To ensure independence and objectivity, a substantial majority of the board members are non-employees. Five of the seven board committees consist entirely of non-employee directors. The Board Audit

Committee is empowered to investigate any matter brought to its attention — with full access to all books, records, facilities and personnel of the Corporation.

#### Standards of Business Conduct

The *Standards of Business Conduct* is at the heart of our controls system. These policies were first published nearly 40 years ago and have been continually enhanced over the years. The policies deal with business ethics, conflicts of interest, antitrust, equal employment opportunity, harassment in the workplace, and safety, health and environmental performance.

#### A disciplined approach

A disciplined system of business controls guides how we work. It stresses open communication, policies and procedures regarding ethics and other standards of business conduct, proper recording of business transactions, and protection of company assets. No employee, regardless of position, is exempt.

#### Straightforward system of controls

A *System of Management Controls – Basic Standards* document provides the basic criteria for managers to establish effective controls. The system addresses organizational structure, formation of business entities, control of financial instruments, and standards for foreign-exchange operations.

#### Employee authority

Specific procedures outline authority that employees do and don't have, thereby ensuring that business transactions are approved and executed by the appropriate level of management.



Employee dialogue identifies potential problems and improvements.



### **Business practices reviews**

Managers also regularly review and discuss the *Standards of Business Conduct* in employee meetings. Employees are encouraged to raise any issue, question or concern with their direct supervisor or representatives of Audit, Human Resources, Law or Controller's.

### **Formal reporting requirements**

Despite the presence of sound management controls, we recognize that with operations in almost 200 countries and territories, there may be violations of company policies. If a problem occurs, the appropriate managers promptly review the incident and take consistent disciplinary action. Upward reporting guidelines, which extend to the Corporation's Management Committee and Board of Directors, ensure appropriate management review.

### **Management representation letters**

Managers of each organization are required to annually confirm in writing their compliance with our *Standards of Business Conduct*, and financial reporting standards.

### **Auditing and compliance**

The Internal Audit staff independently assesses compliance with policies and procedures, and evaluates the effectiveness of all financial and related controls. Managers are obligated to evaluate all Internal Audit findings and recommendations and take appropriate action. About 300 audits are conducted annually across all business units.

Independent external auditors review corporate financial statements to ensure accuracy and conformity with generally accepted accounting principles.



Specific procedures outline employee authority, thereby ensuring that transactions are properly approved and executed.

ExxonMobil takes many steps to assure the independence of external auditors. For example, we strictly control and review their work on other projects with the Board Audit Committee.

### **Safety, health and environmental compliance**

Many of our operations and products, while vital to the world's interests, present potential risks to our employees and customers, and to the community. Managing such risks is a critical aspect of our business. In 1992 we developed the Operations Integrity Management System, or OIMS, a comprehensive, structured process to manage these safety, health and environmental activities. Under OIMS, management, with support from technical experts, regularly assesses operations. Each year, about one-third of ExxonMobil's major operations are reviewed by experts from outside the organization being evaluated.

Under OIMS, we review specific hazards that we believe could have major incident potential and take steps to mitigate risks. (See next section for a more complete discussion of OIMS.)

### **Drug and alcohol use**

Alcohol, drug or other substance abuse by employees impairs performance and safety. The use or possession of illegal drugs, misuse of legitimate drugs, and use or possession of unprescribed controlled drugs on company business or premises, or being unfit for work due to drug or alcohol use are strictly prohibited. Today, no employee with a history of substance abuse will be permitted to work in a position critical to the safety and well being of employees, the public or ExxonMobil.



## Safety, health and environment

### Guiding principle:

**ExxonMobil is committed to maintaining high standards of safety, health and environmental care. We comply with all applicable environmental laws and regulations, and apply reasonable standards where laws and regulations do not exist. Energy and chemicals are essential to economic growth, and their production and consumption need not conflict with protecting health and safety or safeguarding the environment. Our goal is to drive injuries, illnesses, operational incidents and releases as close to zero as possible.**

on dispersants and bioremediation techniques to speed environmental recovery should a spill occur.

Most important, we initiated a comprehensive program — Operations Integrity Management System (OIMS) — to manage risk and help prevent all types of incidents in the future. Today OIMS has become the respected benchmark approach for the prevention of incidents.

OIMS provides a framework for meeting our commitments to the highest operational standards of safety, health, product safety and environmental protection. OIMS has been updated to comply with the 1996 guidelines set by the International Standards Organization (ISO), which developed standards for environmental management systems (ISO 14001). In verifying ExxonMobil compliance with the standards of ISO 14001, Lloyd's Register Quality Assurance noted in 2001 that

We care deeply about how our products and operations affect our employees, neighbors and customers. Our products, properly used, provide great benefit to society. We know our neighbors have a direct interest in how well we operate.

fund a worldwide network of oil spill cooperatives and stockpiled our own equipment for rapid response. Moreover, we have continued and expanded our research

While our operations do involve risks, such risks can be substantially reduced if managed properly. We spend considerable time, effort and money to do so.

### **Valdez: reflections on learning and improving**

We have learned from the events of the 1989 Valdez oil spill. It was a terrible accident everyone in our company regrets. From the onset of the event to today, we have accepted responsibility for the accident and sought to mitigate its impacts. As a result, we committed to build into the fabric of our company a continuous improvement program to make what were already industry-leading environmental protection policies pre-Valdez even stronger. We have helped establish and



Emergency response drills such as this fire response exercise at a liquefied petroleum gas terminal in Thailand are designed to be as realistic as possible.



"We further believe ExxonMobil to be among the industry leaders in the extent to which environmental management considerations have been integrated into its ongoing business process."

## Safety and Health

### ExxonMobil leads industry in workplace safety

Despite the safety challenges inherent in the work we do, our safety record — both for employees and contractors — is consistently better than the petroleum industry average and continues to improve.

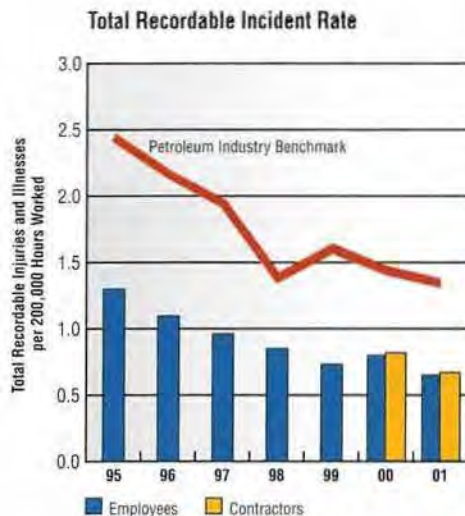
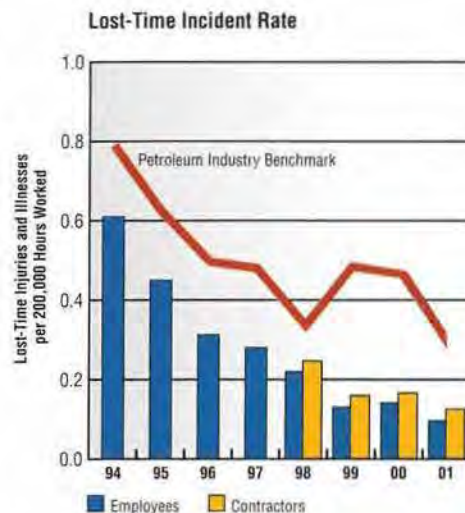
Such safety performance is not the result of happenstance or luck. It's the result of management and employee commitment and accountability. Throughout ExxonMobil operations, safety standards are established, jobs are analyzed, and potential problems and risks are identified. The focus is on recognizing and eliminating hazards before they cause an accident.

Workplace safety also includes protecting the health of employees and contractors working in potentially dangerous environments. In developing countries where ExxonMobil has operations, we've funded programs to combat such health problems as malaria and AIDS.

### Safety improvements continue

ExxonMobil achieved another year of safety improvement in 2001, continuing our pacesetter performance within the industry.

The principal measure of worker safety is the Lost-Time Incident Rate, which we use throughout our operations. It quantifies worker absences due to job-related injury or illness. Lost time is expressed in relation to 200,000 work hours, which roughly equates to 100 people working 40 hours per week for one year.



Our incident rate for 2001 was 0.09. Our contractor rate was 0.13. Both rates are substantially below the average of the top 75 companies working in the petroleum industry.

We constantly seek to manage the work environment to prevent all injuries, and believe that involving every manager, employee and contractor will eventually make it possible to achieve zero job-related injuries.

Our ongoing operations and new facilities construction projects collectively employ about 200,000 workers (employees and contractors). A major disappointment was the three employee and 10 contractor fatalities we had in 2001. Seven of the fatalities involved motor vehicle or related equipment. According to the U.S. National Safety Council, about 70 highway and home fatalities occur annually in a comparable population.

Although fatalities in 2001 were one-third the level of 1995 and lost-time incidents were one-fifth, we will not be satisfied until we have created a work environment free of injury.



Crews recover air-gun floats during a seismic survey in Australia's Bass Strait. ExxonMobil's Geophysical Operations Group has completed seven years and 15 million project hours without an employee or contractor lost-time injury.



## Safety, health and environment

### How OIMS works

The OIMS process requires continuous evaluation and improvement of management systems and standards. OIMS establishes a common language for discussion and internal sharing of successful systems and practices among different parts of ExxonMobil's business.

The OIMS framework comprises 11 elements, each with clearly defined expectations that every operation must fulfill. Management systems put into place to meet OIMS expectations must show documented evidence of the following five characteristics:

- The scope must be clear and the objectives must fully define the purpose and expected results;
- Well-qualified people are accountable to execute the system;
- Documented procedures are in place to ensure the system functions properly;
- Results are measured and verified that the intent of the system is fulfilled; and
- Performance feedback from verification and measurement drives continuous improvement of the system.

OIMS requires each operating unit to be assessed by experienced employee teams from outside that particular unit approximately every three years. Self assessments are required in the other years.

During 2001, more than 70 such outside teams assessed performance at about one-third of all ExxonMobil operating units. This level of activity occurs annually.

### OIMS elements in action

#### 1. Management, leadership, commitment and accountability.

Employees at all levels are held accountable for safety, health and environmental performance.

*Example: Throughout our chemical business, employees annually develop personal safety work plans. Members of senior management share their plans broadly within their organizations.*



#### 2. Risk assessment and management.

Systematic reviews evaluate risks to help prevent accidents from happening.

*Example: A risk assessment in Africa revealed that vehicle fatalities were 30 times higher than in Europe and the U.S. An ExxonMobil driver training program has led to dramatic improvements.*



#### 3. Facilities design and construction.

All construction projects from small improvements to major new expansions are evaluated early in their design for safety, health and environmental impact.

*Example: A focus on facilities design has improved energy efficiency by 37 percent at our refineries and chemical plants.*

#### 4. Information and documentation.

Information that is accurate, complete and accessible is essential to safe and reliable operations.

*Example: In Africa, the fuels and lubes business electronically cataloged country and local procedures to allow access to best practices by all parts of the organization.*

#### 5. Personnel and training.

Meeting high standards of performance requires that employees are well trained.

*Example: Employees were hired well ahead of the start-up of a major new plant in Singapore to allow time for completion of rigorous training and certification.*





#### 6. Operations and maintenance.

Operations and maintenance procedures are frequently assessed and modified to improve safety and environmental performance.

*Example: At Imperial Oil's production operation in Alberta, Canada, flaring and venting of natural gas have been reduced by 69 percent over the last five years as a result of new procedures.*



#### 7. Management of change.

Any change in procedure is tested for safety, health and environmental impact.

*Example: After equipment maintenance and replacement at refineries such as the Torrance, California Refinery, engineers review all changes to confirm that all operating procedures and guidelines are still correct before start-up.*

#### 8. Third-party services.

Contractors are important to safe operations.

*Example: Our 25 geophysical services contractors – working in 20 countries – have worked seven years without a lost-time injury.*



#### 9. Incident investigation and analysis.

Any incident, including a "near miss," is investigated.

*Example: Operations around the world share incident investigation results in a common database to allow key learnings to be broadly shared.*

#### 10. Community awareness and emergency preparedness.

Good preparation can significantly reduce the impact of an accident.

*Example: Like other company business units, ExxonMobil's International Marine Transportation (IMT) affiliate routinely conducts emergency response drills. This training paid off in 2001 when we were called upon to help four non-company vessels in distress.*



#### 11. Operations integrity assessment and improvement.

A process that measures performance relative to expectations is essential to improved operations integrity.

*Example: At ExxonMobil's European region offices in Brussels, Belgium, teams of experts measure OIMS effectiveness and use the findings to plan future improvements in operations.*

#### Milestones

- Our Malaysian upstream affiliate achieved its second consecutive year of zero lost-time injuries. On a combined employee-contractor basis, the affiliate has logged more than 22 million work hours since its last lost-time injury.
- Our Baton Rouge, Louisiana Chemical Plant achieved 7.2 million work hours without a lost-time injury. The adjacent ExxonMobil refinery completed 4.3 million work hours without a lost-time injury.



## Safety, health and environment

### Environment

#### Environmental performance continues to improve

At each of our facilities we track oil and chemical spills, air emissions, water discharges and waste disposal. We closely monitor marine vessel spills.

As shown in the charts below, our emissions continue to decline. The trends in spills and

environmental regulatory compliance also are favorable.

#### Addressing climate change risk

We recognize that the risk of climate change and its potential impacts on society and ecosystems may prove to be significant. While research must continue to better understand these risks and possible consequences, we will continue to take

tangible actions and work with others to develop effective long-term solutions that minimize the risk of climate change from energy use without unacceptable social and economic consequences.

Overall, we believe that steps to address climate change should include:

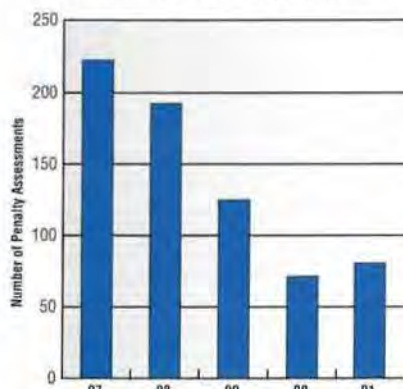
- Scientific research to improve understanding of climate change and its potential risks;
- Implementing economic steps to reduce greenhouse gas emissions now; and
- Research on innovative, advanced technologies that have potential to dramatically reduce emissions in the future. We are actively engaged in this type of research to meet customer demand for new, affordable and environmentally improved products.

#### Greenhouse gas emissions

The charts on page 12 show ExxonMobil's global greenhouse gas emissions. We've worked for several years to establish reliable internal procedures to measure and understand such emissions. We've also worked with others in the industry to

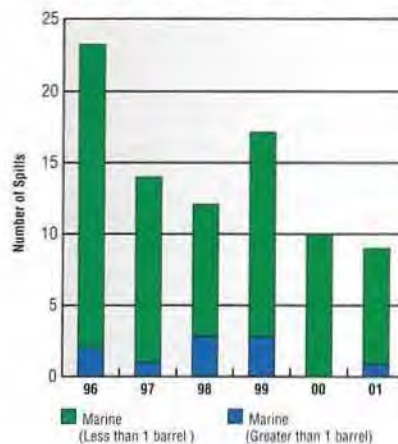
### Regulatory Compliance

Environmental Regulatory Compliance



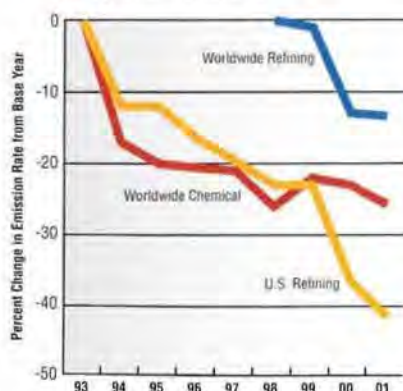
### Spills

Marine Spills (Operated Fleet)



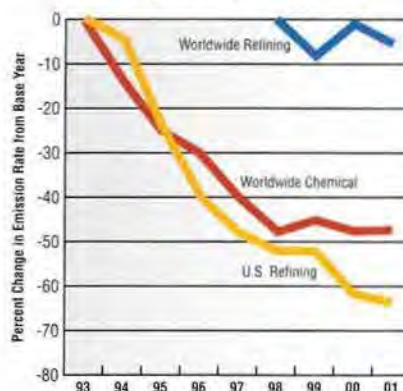
### Air Emissions from Operations

Nitrogen Oxide Emissions



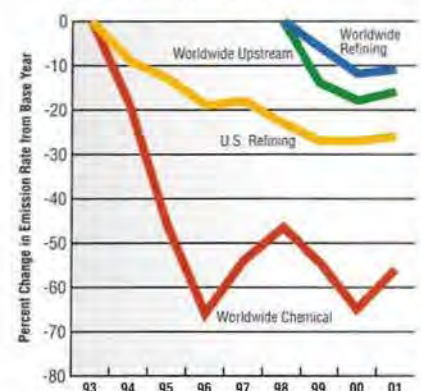
**Emission Rate Bases (amount per 100 tonnes of throughput)**  
 1993: U.S. Refining = 0.034 tonnes NO<sub>x</sub>  
 1993: Worldwide Chemical = 0.070 tonnes NO<sub>x</sub>  
 1998: Worldwide Refining = 0.026 tonnes NO<sub>x</sub>

Volatile Organic Compounds Emissions



**Emission Rate Bases (amount per 100 tonnes of throughput)**  
 1993: U.S. Refining = 0.028 tonnes VOC  
 1993: Worldwide Chemical = 0.130 tonnes VOC  
 1998: Worldwide Refining = 0.033 tonnes VOC

Sulfur Dioxide Emissions



**Emission Rate Bases (amount per 100 tonnes of throughput)**  
 1993: U.S. Refining = 0.055 tonnes SO<sub>2</sub>  
 1993: Worldwide Chemical = 0.022 tonnes SO<sub>2</sub>  
 1998: Worldwide Refining = 0.083 tonnes SO<sub>2</sub>  
 1998: Worldwide Upstream = 0.029 tonnes SO<sub>2</sub>





Efficiency improvements at ExxonMobil refineries and chemical plants have reduced energy use, thereby reducing emissions of greenhouse gases.

develop common measurement techniques and to understand and benchmark emissions from comparable operations.

We believe it's important for companies to understand the greenhouse gas emissions created from their activities. For that reason, we advocate development of reliable, accountable procedures to measure and report greenhouse gas emissions through a registry. Today ExxonMobil can provide reliable information only for business activities that we operate. However, we are working with governments and industry associations to

promote development of procedures for mandatory reporting by all businesses, so that in the future we can report emissions for activities we operate and also those in which we share ownership with others.

Our total emissions exceed those of smaller petroleum companies simply because our operations are bigger. However, when scaled to the volume of oil, gas, chemicals and products that we produce, our emissions are similar to those of our competitors. Despite increases in production volumes and product sales over the last several years, total emissions have

### ***Making things better***

*We're taking important steps to bolster ExxonMobil safety, health and environmental performance:*

- *Our U.S. refineries voluntarily reduced so-called TRI emissions by 23 percent during 2000\*, bringing the level of these emissions to just 34 percent of the 1988 baseline.*
- *Many ExxonMobil operations now apply behavior-based safety programs to reduce injuries. These programs include job task observations to help make safe behavior a habit and to address factors that cause unsafe behavior.*
- *The application of our new Passenger and Service Vehicle Management Guide helps improve safety among employees and contractors whose responsibilities include frequent driving.*
- *Together with the International Petroleum Industry Environmental Conservation Association, ExxonMobil leads the initiative to eliminate lead in gasoline in sub-Saharan Africa.*
- *We're applying new technology to reduce the flaring of natural gas. For example, at facilities in Scotland that support North Sea offshore production, we installed a flare gas recovery compressor and waste gas boiler that together reduce flaring by 90 percent.*

*\*Most recent data available at time of publication.*



## Safety, health and environment

essentially remained flat. Lower energy consumption in refineries and chemical plants helped offset a rise in carbon dioxide emissions in 2001 due to increases in development drilling and production flaring.

We work with automobile manufacturers and others to make the use of our products more efficient. This is critical because greenhouse gas emissions from the use of oil in the global economy occur predominantly (87 percent) from end-users, and less (13 percent) from operations of the oil industry. We have ongoing research programs with General Motors, Toyota and others to develop new technologies to reduce future greenhouse gas emissions.

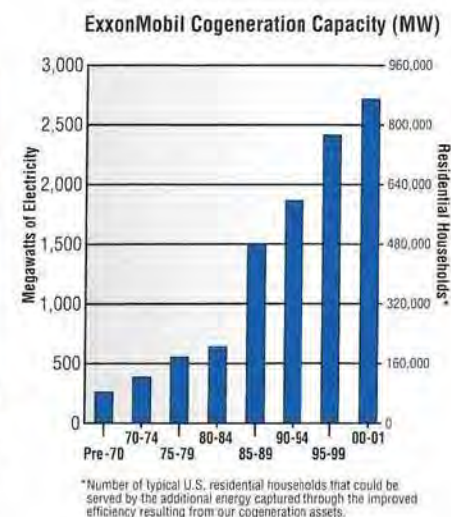
Our efforts to measure and understand operational greenhouse gas emissions and to develop and utilize advanced technologies reflect a two-decade effort to establish a sound scientific, technical and economic basis to address climate change concerns.



ExxonMobil scientists Dr. Brian Flannery and Dr. Haroon Khesghi have authored more than 40 published papers on scientific, technical, economic and policy aspects of climate change. Both served as lead authors in the recently completed United Nations' Third Assessment Report of The Intergovernmental Panel on Climate Change.

### Energy efficiency improved 35 percent

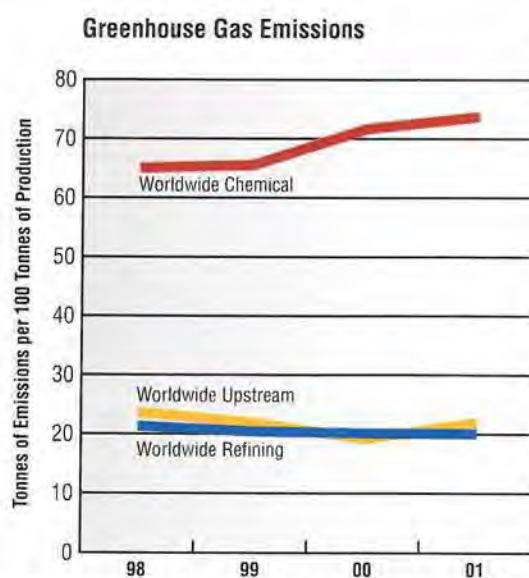
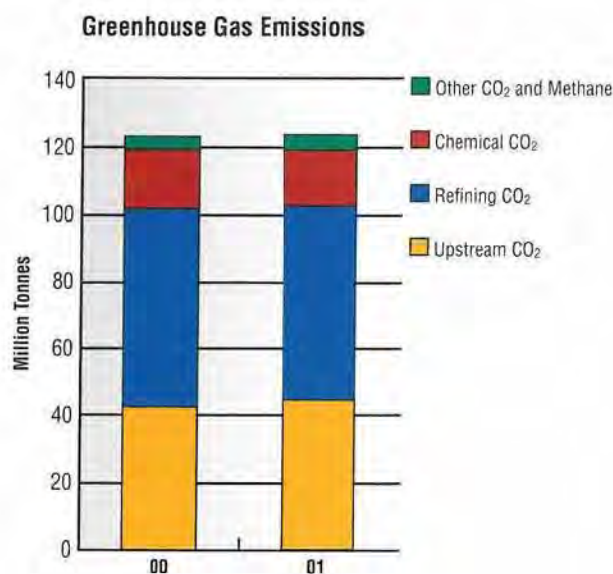
Since the energy crisis of the early 1970s, we have focused on becoming more energy efficient in our operations. In fact, between 1973 and 1998 we have improved energy efficiency in our refineries and chemical plants by more than 35 percent. The energy saved over that 25-year period is equal to all the gasoline consumed by European drivers for two years. Moreover, this energy savings has the effect of avoiding carbon dioxide



emissions equal to the total emissions of the United Kingdom in 1998.

Two ongoing ExxonMobil initiatives contribute significantly to reducing greenhouse gas emissions from our operations.

First, we use cogeneration facilities that can supply 2,700 megawatts of electricity, accounting for over 40 percent of our total power-generating capacity. This







A male Attwater's prairie chicken inflates its orange neck sac as part of the bird's mating ritual. ExxonMobil donated habitat and funds to establish a sanctuary that shelters this bird that is threatened with extinction.

cogeneration reduces carbon dioxide emissions by almost seven million tonnes a year from what they would otherwise have been.

Second, we've extended our efforts in energy efficiency by applying our Global Energy Management System (G-EMS), an approach that reduces energy use, emissions and operating costs at ExxonMobil refineries and chemical plants. Opportunities have been identified to further improve energy efficiency by 15 percent, lowering emissions of carbon dioxide, sulfur dioxide, nitrogen oxide and other gases.

Energy efficiency savings over the next several years will help further reduce air emissions and greenhouse gases per unit of production.

#### **Nurturing biodiversity**

We all have a responsibility to be concerned about sustaining the world's biological diversity (biodiversity). Working with worldwide conservation associations, we seek to preserve habitats that will allow species to flourish. Some of our efforts have included donation of critical habitat to support species such as the Attwater's prairie chicken, to ensure turtle preservation and to actively participate in reforestation efforts by planting more than two million trees in the last five years.

ExxonMobil also has focused on our Save the Tiger initiative. Because of our long history with these magnificent animals as a corporate symbol, we feel a special obligation to ensure their survival.

#### **Sustainability: managing for today and tomorrow**

*Sustainability is a critical consideration in how we operate the company.*

*We recognize the importance of sustainable development, a process that seeks to protect the aspirations of future generations.*

*As a major energy supplier, we seek to maximize the contributions we make to economic growth, environmental protection and social well-being over the long run.*

*Through the use of advanced technology, we have continued to add to the known reserves of oil and gas at a greater rate than they have been depleted, greatly extending the time period when affordable petroleum resources can meet the world's demand for energy. We believe this approach to be consistent with sustainability.*

*Our research and technology have enabled energy producers and consumers to improve efficiency and to reduce carbon dioxide and other emissions. Our operations continually seek ways to reduce the footprint that we leave.*

*We are working on ways to bring our science and technology expertise to energy-related solutions that are technically and economically viable.*



## Safety, health and environment

We also consider the impacts of our operations on habitats and look for ways to meet our business needs without damaging habitats. We will continually look for opportunities to demonstrate that oil and gas development and biodiversity can be mutually sustained.

### Science and technology research delivers improvements

ExxonMobil conducts extensive research relating to safety, health and environmental issues. We are working to improve our manufacturing processes, reduce wastes, minimize our footprint, improve operating standards and ensure the safety of our products.

Nearly 500 employees are engaged in safety, health and environment-related science and technology research.

Much of our environmental research focuses on new ways to remove nitrogen compounds from air and water emissions.

Our extensive testing of products provides information on the properties and potential risks to employees, consumers and the environment. Much of the work is done at laboratories of ExxonMobil Biomedical Sciences, Inc. (EMBSI) in New Jersey.

EMBSI provides services in toxicology, occupational and public health, and product stewardship to affiliates worldwide.

Its 160-member staff of industrial hygienists and medical professionals assists employees and contractors through the occupational health network. This network assures that health and safety standards are applied worldwide.

We developed systems to reduce safety incidents by including human factors in



Barbara Kelly prepares to test the biodegradability of a synthetic fluid. The ping-pong balls serve as a barrier to minimize water evaporation.

engineering projects. We are encouraged by positive safety results in recent major construction projects.

Our highly automated plants use sophisticated alarms to alert personnel of operational upsets. We have worked with

Honeywell for many years to make these systems highly reliable and easy to monitor. We've also co-developed with Akzo Nobel a new refining technology (*SCANining*) that selectively removes sulfur during the gasoline manufacturing process.



*Safety performance is important in its own right. But it also reflects a discipline that carries over into everything we do, including protecting the environment and satisfying customer needs for energy and petrochemicals.*

### Recognition for outstanding performance

- The U.S. Department of the Interior awarded its 2001 National Safety Award for Excellence and its Corporate Citizen Award to ExxonMobil. The SAFE Award cited the company's safety and operations record at offshore facilities in the Gulf of Mexico and offshore California. Minerals Management Service Director R.M. Burton has called recipients "the best of the best."
- ExxonMobil's international marine shipping subsidiary — IMT — won the British Safety Council's Sword of Honor for its world-class safety system and integration of best practices throughout the organization. The group also won the Royal Society for the Prevention of Accidents highest award. The shipping organization has logged more than two million work hours without a lost-time injury.



ExxonMobil's SeaRiver Maritime has been honored for two consecutive years by the State of Washington for exceptional compliance with the state's voluntary standards for safety and environmental protection. Shown at the award presentation are (from left) Paul Revere, president of SeaRiver Maritime; Tom Fitzsimmons, Director of Washington's Department of Ecology; and U.S. Coast Guard Rear Admiral Erroll Brown.



A comprehensive commitment to safe operations by employees like Nazri Ason helped ExxonMobil's Malaysian affiliate achieve two consecutive years of zero lost-time injuries.

- A loss prevention system at the Campana Refinery in Argentina earned Esso the Argentinean Institute of Petroleum and Gas Safety Award.
- Two ExxonMobil employees, Linda Williamson and Mark Hidalgo, received the Outreach Award from the National Voluntary Protection Program Participants Association in 2000 and 2001, respectively. The annual award honors a single individual for his or her efforts to improve worker safety and spread the cooperative approach of the U.S. Occupational Safety and Health Administration program.
- ExxonMobil Canada received the 2001 VCR Upstream Oil and Gas Leadership Award for reducing emissions and improving energy efficiency. Since 1994 the company cut its energy consumption by an amount that would heat more than 43,000 homes for one year, and reduced CO<sub>2</sub> emissions by approximately 580,000 tonnes. During this period production increased 30 percent. VCR is a partnership of government agencies, industrial companies and other organizations.

- The Chamber of Shipping of America awarded its Devlin Award to 21 ExxonMobil marine transportation vessels. The Devlin Award recognizes vessels that have operated two years or longer without a lost-time injury.
- The U.S. Coast Guard presented its prestigious William M. Benkert Gold Award of Excellence for marine environmental protection to ExxonMobil's U.S. marine transportation affiliate, SeaRiver Maritime. The company also secured the Washington State Department of Ecology Exceptional Compliance Award for high standards of operations and oil spill prevention. The company is the first to be recognized by the State of Washington for exceptional compliance.
- Our chemical joint venture with Saudi Basic Industries Corporation in Al-Jubail, Saudi Arabia was recognized for safety excellence by the Construction Users Roundtable.
- The Thailand Ministry of Science, Technology & Environment presented its Outstanding Energy Conservation Award to the Esso Sriracha Refinery.



Linda Williamson, an employee at the Hull, Texas LPG storage facility, and Mark Hidalgo, an employee at the Beaumont, Texas Refinery show the awards they received for their efforts in promoting safety in the workplace.

# **Exhibit T**



**ExxonMobil**

Taking on the world's toughest energy challenges.™



2006  
corporate  
citizenship  
report

## table of contents

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## about this report

The ExxonMobil 2006 *Corporate Citizenship Report* describes our efforts in a range of areas relating to the economic, environmental, and social performance of owned and operated operations. We produced this report in accordance with the reporting guidelines and indicators of the International Petroleum Industry Environmental Conservation Association (IPIECA) and the American Petroleum Institute (API) *Oil and Gas Industry Guidance on Voluntary Sustainability Reporting* (April 2005). The majority of these indicators are also consistent with the indicators used by the Global Reporting Initiative (GRI) in the *G3 Sustainability Reporting Guidelines Version 3.0 (G3)*.

In preparing this report, we benefited from comments on the 2005 *Corporate Citizenship Report*. We solicited feedback through a variety of mechanisms, including the corporate reporting Web site ([exxonmobil.com/citizenship](http://exxonmobil.com/citizenship)), online surveys, business-reply cards, and interviews with opinion leaders from nongovernmental organizations (NGOs), academia, and financial institutions. Business for Social Responsibility (BSR), an advisory organization on corporate social responsibility of which we are a member, also provided a detailed review of our 2005 report.

This report addresses our corporate citizenship accomplishments, the challenges we face, and our future plans to meet these challenges. Additional information about our operation-wide management systems and processes can be found on our Web site ([exxonmobil.com/managementsystems](http://exxonmobil.com/managementsystems)).

We value your feedback on this report and our performance in addressing economic, environmental, and social issues.

For additional information and to provide comments, please contact:

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*Note: This report covers ExxonMobil and all of its corporate subsidiaries under the brands ExxonMobil, Exxon, Mobil, and Esso. Most environmental data are reported in metric units. Financial information is reported in U.S. dollars.*

**LRQA attestation summary statement.** Lloyd's Register Quality Assurance, Inc. (LRQA) believes the ExxonMobil reporting system is effective in delivering safety, health, and environmental indicators, which are useful for assessing corporate performance and for reporting information consistent with the IPIECA/API *Guidance*. For the full attestation statement, see the inside back cover.



# environmental performance

## focus areas:

- Energy efficiency
- Gas flaring
- Greenhouse gas emissions
- Spill prevention
- Operating in sensitive areas

## Case study: Sound and the marine environment

ExxonMobil is committed to operating in an environmentally responsible manner everywhere we do business. Our efforts are guided by in-depth scientific understanding of the environmental impact of our operations, as well as by the social and economic needs of the communities in which we operate. Our operational improvement targets and plans are based on driving incidents with real environmental impact to zero and delivering superior environmental performance. We are committed to our environmental initiative—*Protect Tomorrow. Today.*

## environmental management

We manage our safety, security, health, and environmental risks worldwide using our *Operations Integrity Management System (OIMS)*. This system gives us a rigorous and systematic framework by which to communicate expectations, measure progress, and ensure results. It meets the requirements of the International Organization for Standardization's standard for environmental management systems (ISO 14001).

Our business operations continue to drive improvements in their environmental performance by incorporating *Environmental Business Planning (EBP)* into the annual business planning cycle. The businesses use EBP to identify key environmental drivers, set targets in key focus areas, and identify projects and actions to achieve those targets. The EBP approach has been an effective tool to integrate environmental improvements into the company's overall business plan. We regularly engage with local communities to provide input to our EBP process. For additional information about EBP, please go to our Web site ([exxonmobil.com/ebp](http://exxonmobil.com/ebp)).

For new projects and developments, we conduct environmental and social impact assessments (ESIAs) that review factors such as community concerns, sensitive environmental habitats—for example, sound and the marine environment (see case study, page 24)—and future regulatory developments. The assessment results are integrated into project decision making.

For example, ExxonMobil Development Company, which manages ExxonMobil's major new upstream projects worldwide, is developing *Environmental Standards* as guidelines to help managers plan and integrate best practices for environmental protection into new projects and drilling operations. In 2006, guidelines that address nitrogen oxides (NOx) emissions, flaring and venting, and managing offshore drill cuttings were developed. Additional guidelines for managing waste, water, and land use will be developed in 2007.

**Emergency Preparedness.** Risks are inherent in the energy and petrochemical business, including risks associated with safety, security, health, and the environment. ExxonMobil recognizes these risks and takes a systematic approach to reducing them.



## environmental performance a closer look

### Climate change: policy perspective

A global approach to the risk posed by rising greenhouse gas emissions is needed that recognizes energy's importance to the world's economies. Developing countries will weigh emissions reductions against energy-intensive economic development, which lowers poverty and improves public health.

Policymakers can work today to reduce the risk of climate change due to rising greenhouse gas emissions by seeking to:

- Promote energy efficiency both in energy supply and end use;
- Ensure wider deployment of existing emissions-reducing technology;
- Support research and development of new technologies that can dramatically lower emissions while ensuring energy availability; and,
- Maintain support for climate research, to inform policy and the pace of response.

The choice of policy tools will be important. Each should be assessed for effectiveness, scale, and cost, as well as their implications for economic growth and quality of life. In our view, effective policies will be those that:

- Promote global participation;
- Ensure any cost of carbon is uniform across the economy and is predictable; uniformity ensures economic efficiency in getting the

biggest reduction in emissions at the lowest cost, and predictability facilitates investment in technologies needed to reduce emissions;

- Maximize the use of markets, to aid rapid adoption of successful initiatives;
- Maximize transparency;
- Minimize complexity and administrative costs; and,
- Provide flexibility to adjust to ongoing understanding of the economic impact and evolving climate science.

**Public Policy Research Contributions.** ExxonMobil supports the development of public policy to address the risk posed by rising greenhouse gas emissions.

ExxonMobil contributes to a broad array of organizations that research significant domestic and foreign policy issues and promote discussion on issues of direct relevance to the company. Our support is transparent, and our U.S. contributions can be found on our Web site ([exxonmobil.com/contributions](http://exxonmobil.com/contributions)). These groups range from the Brookings Institution and the American Enterprise Institute to the Council on Foreign Relations and the Center for Strategic and International Studies.

As most of these organizations are independent of their corporate sponsors and are tax-exempt, our financial support does not connote any substantive control over or responsibility for the policy recommendations or analyses they produce.

We place great emphasis on planning to ensure a quick and effective response capability to operational incidents. Operating businesses and major sites have well-trained teams who are routinely tested in a range of scenarios including product spills, fires, explosions, natural disasters, and security incidents. In addition to hundreds of local drills in 2006, we conducted six major regional emergency response drills, which included a major drill conducted together with the U.S. Coast Guard in Alaska. For more information on our emergency prevention and response systems, please go to our Web site ([exxonmobil.com/emergencyresponse](http://exxonmobil.com/emergencyresponse)).

### global climate change and greenhouse gas emissions

**Climate Change.** Addressing the risk posed by rising greenhouse gas (GHG) emissions while providing more energy to support economic growth and to improve global living standards is an important issue facing our world today.

Climate remains an extraordinarily complex area of scientific study. Because the risk to society and ecosystems from rising greenhouse gas emissions could prove to be significant, strategies that address the risk need to be developed and implemented.

## environmental performance a closer look

### Reporting greenhouse gas emissions

ExxonMobil is committed to reporting greenhouse gas emissions from our operations, and we have reported our emissions since 1998. Our calculations are based on the techniques and emissions factors provided in the internationally endorsed *Compendium of Greenhouse Gas Emission Estimation Methodologies for the Oil and Gas Industry* (American Petroleum Institute) and the *Petroleum Industry Guidelines for Reporting Greenhouse Gas Emissions* (International Petroleum Industry Environmental Conservation Association), which we helped to develop.

Calculating global GHG emissions is complex, not least because:

- Emissions from petroleum production and refining operations can vary widely due to differing geological circumstances, natural resource characteristics such as sulfur levels in crude oil, and the range of end-product specifications required in different regions, countries, or even local markets.

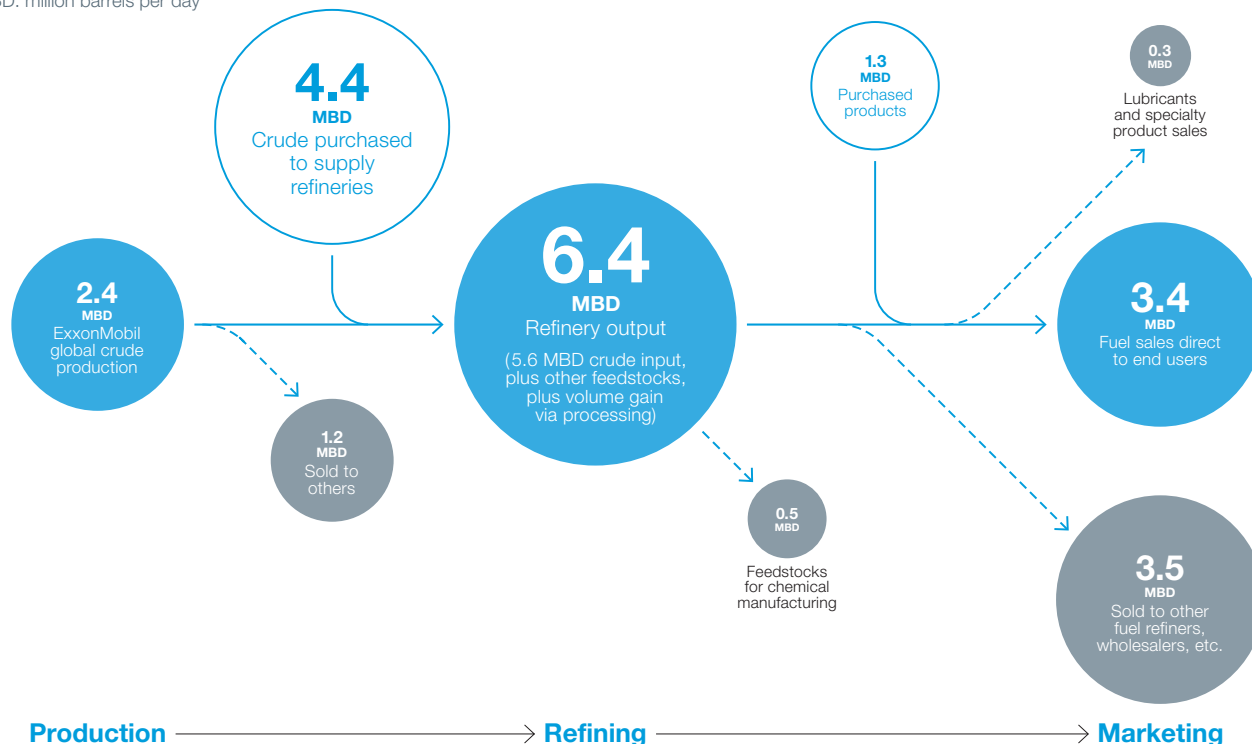
- On average, about 87 percent of petroleum-related GHG emissions are produced by end users, versus 13 percent by petroleum industry production and manufacturing operations. The emissions produced by burning specific fuels are well-known—for example, standard gasoline and diesel fuel emit 20.3 and 22.5 pounds of CO<sub>2</sub> per gallon, respectively. But actual end-user emissions will depend on factors such as vehicle choice, travel habits, and energy-efficiency efforts in businesses, homes, offices, and vehicles.

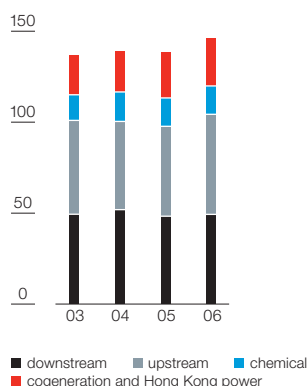
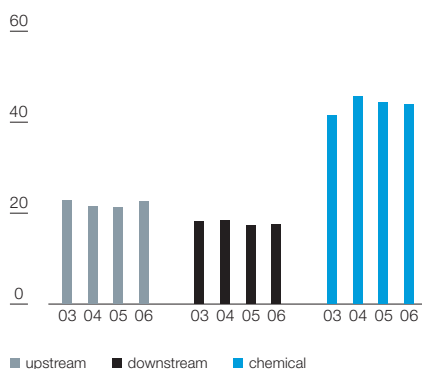
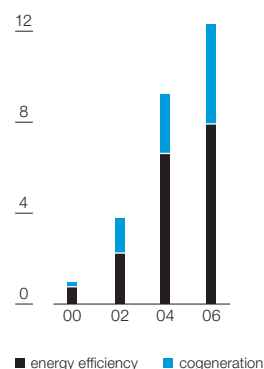
- The supply chain for crude oil from production to product marketing involves numerous changes of ownership such that approximately 20 percent of the crude oil we refined in 2006 came from our own production, and about half of the fuel products that we produced were sold to other companies who in turn sell them to others. This petroleum supply chain is illustrated below.

It is important that producers, refiners, distributors, and end users in the chain take responsibility for managing and accounting for the emissions they generate. Those who operate facilities or use fuels are in the best position to identify opportunities to control emissions.

### ExxonMobil 2006 worldwide petroleum supply overview

MBD: million barrels per day



**greenhouse gas emissions (absolute)**direct equity, CO<sub>2</sub>-equivalent emissions (million metric tons)**greenhouse gas emissions (normalized)**direct equity, CO<sub>2</sub>-equivalent emissions (excluding cogeneration) (metric tons per 100 metric tons of throughput)**avoided GHG emissions from ExxonMobil actions since 1999**CO<sub>2</sub>-equivalent emissions (million metric tons)

Meaningful approaches must be affordable to consumers, applicable in the developed and developing world, and allow for continued economic growth and improvements in living standards. Technological advances will be critical.

**Greenhouse Gas Emissions.** At ExxonMobil, we take the risk posed by rising GHG emissions seriously and are taking action. Our scientists and engineers are working to reduce GHG emissions today, while supporting the development of new technologies that could significantly reduce emissions in the long term. Examples include:

- Improving energy efficiency at our facilities, resulting in CO<sub>2</sub> emissions reduction of about 8 million metric tons in 2006 from steps taken since 1999, equivalent to taking about 1.5 million cars off the road in the United States;
- Investing in cogeneration capacity, reducing global CO<sub>2</sub> emissions by over 10.5 million metric tons in 2006, equivalent to taking about 2 million cars off the road in the United States;
- Continuing to support the *Global Climate and Energy Project* (GCEP) at Stanford University—a pioneering research effort to identify technologies that can meet energy demand with dramatically lower greenhouse gas emissions. Study areas include solar energy, hydrogen, biofuels, and advanced transportation;
- Working with auto and engine manufacturers to improve fuel economy by as much as 30 percent, reducing emissions of CO<sub>2</sub> as well as air pollutants;
- Partnering with the European Commission and other organizations to assess the viability of geological carbon storage;

- Exploring new ways to produce hydrogen for potential long-term applications ranging from vehicles to retail stations and large production facilities; and,

- Engaging with the U.S. Environmental Protection Agency in the SmartWay® Transport Partnership to improve fuel economy and reduce emissions associated with the transportation of our products.

In 2006, our greenhouse gas emissions were 146 million metric tons, a 5.4-percent increase over 2005 due to increases in oil production in Africa and the ramp-up in energy-intensive liquefied natural gas (LNG) production from new facilities in the Middle East.

**Research and Development.** We have been working for more than 25 years with scientific and business communities, taking part in research to create economically competitive and affordable future options for reducing global emissions associated with growing demand for energy. Because the combustion of fuels by consumers generates the majority of GHG emissions, we also work with auto and engine manufacturers, government laboratories, and academia to develop more efficient technologies for the use of petroleum products, especially in transportation. As one example, we are working on separate initiatives with Toyota and Caterpillar to develop more efficient, cleaner-burning internal combustion engines and engine systems that could improve the fuel economy of future vehicles by up to 30 percent versus current gasoline engines.

The *Global Climate and Energy Project*, now entering its fifth year, continues to expand and diversify its portfolio of research activities. Research in the past year included work in biomass energy, advanced coal utilization, solar energy, fuel cells, hydrogen, carbon capture and storage, and advanced combustion for possible transportation and other applications. In 2007, GCEP will begin research on advanced energy storage that offers the potential to enhance the commercial

Through GCEP, research is being conducted to discover affordable options for reducing global greenhouse gas emissions associated with energy use. For example, graduate student-researcher Shannon Miller investigates more efficient combustion engines in the Advanced Energy Systems Lab at Stanford University.



viability of intermittent energy sources such as wind and solar. Increasingly, GCEP funding has been awarded to scientists outside Stanford at other research institutions in the United States, Australia, the Netherlands, Switzerland, and Japan. Specific research programs launched in 2006 include the investigation of the following:

- Genetically engineering an organism that can convert solar energy into chemical energy stored as hydrogen;
- Developing far more efficient engines based on advanced combustion concepts;
- Storing carbon dioxide underground in secure formations for thousands of years;
- Developing inexpensive solar cells from organic materials; and,
- Preparing specific diesel fuels from biological feedstocks.

## improving energy efficiency

In 2006, we consumed approximately 1475 trillion British thermal units (BTUs) of energy running our operations. Since the launch of our *Global Energy Management System* (GEMS) in 2000, we have identified opportunities to improve energy efficiency at our refineries and chemical plants by 15 to 20 percent. We have implemented more than half of these opportunities, with associated cost savings of approximately \$750 million per year in our Refining and Chemical businesses. As a result of these actions, we have avoided the emission of about 8 million tons of associated GHG in 2006, which is roughly equivalent to removing 1.5 million cars from U.S. roads.

We continue to implement a range of operational and facility improvements, conduct targeted research and development of energy-saving new technologies, and apply technological innovations in our projects. As part of the American Petroleum Institute's *Voluntary Climate Challenge Program*, ExxonMobil is committed to improve energy efficiency by 10 percent between 2002 and 2012 across our U.S. refining operations. We are on track to meet this commitment not only in the United States but also globally.

As an example, our Trecate, Italy, refinery improved energy efficiency by over 15 percent since 2000. About half of the improvements to date are the result of low-cost optimization of day-to-day operations. The remainder is attributable to the installation of new energy-efficient facilities. A GEMS assessment in 2006 identified additional energy-saving opportunities equivalent to \$10 million to \$15 million per year.

**Cogeneration.** Cogeneration is the simultaneous production of electricity and thermal heat/steam. By capturing the waste heat that otherwise escapes into the atmosphere or is lost in condensing steam back to water, we are able to use it directly within our manufacturing and production facilities. Cogeneration has been a significant factor in reducing energy consumption and improving energy efficiency at ExxonMobil facilities around the world. With the latest turbine technology, cogeneration can be twice as efficient as traditional methods of producing steam and power separately.

As an industry leader in cogeneration applications, we invested more than \$1 billion into cogeneration projects during 2004 to 2005 alone. We now have interest in about 100 such facilities in more than 30 locations worldwide with a combined capacity of 4300 MW of power. ExxonMobil's current cogeneration capacity reduces global CO<sub>2</sub> emissions by over 10.5 million metric tons annually. The amount of CO<sub>2</sub> reduced is equivalent to taking about 2 million cars off the road in the United States.

# Exhibit U





<b>Company:</b>	EXXON MOBIL CORP
<b>Document:</b>	10-K • 2/28/2007
<b>Section:</b>	Entire Document
<b>File Number:</b>	001-02256
<b>Pages:</b>	118

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2006

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

FORM 10-K

☒ ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF  
THE SECURITIES EXCHANGE ACT OF 1934  
For the fiscal year ended December 31, 2006

or

☐ TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF  
THE SECURITIES EXCHANGE ACT OF 1934  
For the transition period from to  
Commission File Number 1-2256

**EXXON MOBIL CORPORATION**

(Exact name of registrant as specified in its charter)

NEW JERSEY  
(State or other jurisdiction of  
incorporation or organization)

13-5409005  
(I R S Employer  
Identification Number)

5959 LAS COLINAS BOULEVARD, IRVING, TEXAS 75039-2298

(Address of principal executive offices) (Zip Code)

(972) 444-1000

(Registrant's telephone number, including area code)

Securities registered pursuant to Section 12(b) of the Act:

Title of Each Class	Name of Each Exchange on Which Registered
<b>Common Stock, without par value (5,693,398,774 shares outstanding at January 31, 2007)</b>	<b>New York Stock Exchange</b>
<b>Registered securities guaranteed by Registrant: SeaRiver Maritime Financial Holdings, Inc. Twenty-Five Year Debt Securities due October 1, 2011</b>	<b>New York Stock Exchange</b>

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes ☒ No ☐

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes ☐ No ☒

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ☒ No ☐

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, or a non-accelerated filer. See definition of "accelerated filer and large accelerated filer" in Rule 12b-2 of the Exchange Act.

Large accelerated filer ☒ Accelerated filer ☐ Non-accelerated filer ☐

Indicate by check mark whether the registrant is a shell company (as defined by Rule 12b-2 of the Act). Yes ☐ No ☒

The aggregate market value of the voting stock held by non-affiliates of the registrant on June 30, 2006, the last business day of the registrant's most recently completed second fiscal quarter, based on the closing price on that date of \$61.35 on the New York Stock Exchange composite tape, was in excess of \$364 billion.

**Documents Incorporated by Reference:**

**Proxy Statement for the 2007 Annual Meeting of Shareholders (Part III)**

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**EXXON MOBIL CORPORATION**  
**FORM 10-K**  
**FOR THE FISCAL YEAR ENDED DECEMBER 31, 2006**

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[Table of Contents](#)[Index to Financial Statements](#)**PART I****Item 1. Business.**

Exxon Mobil Corporation, formerly named Exxon Corporation, was incorporated in the State of New Jersey in 1882. On November 30, 1999, Mobil Corporation became a wholly-owned subsidiary of Exxon Corporation, and Exxon changed its name to Exxon Mobil Corporation.

Divisions and affiliated companies of ExxonMobil operate or market products in the United States and most other countries of the world. Their principal business is energy, involving exploration for, and production of, crude oil and natural gas, manufacture of petroleum products and transportation and sale of crude oil, natural gas and petroleum products. ExxonMobil is a major manufacturer and marketer of commodity petrochemicals, including olefins, aromatics, polyethylene and polypropylene plastics and a wide variety of specialty products. ExxonMobil also has interests in electric power generation facilities. Affiliates of ExxonMobil conduct extensive research programs in support of these businesses.

Exxon Mobil Corporation has several divisions and hundreds of affiliates, many with names that include *ExxonMobil*, *Exxon*, *Esso* or *Mobil*. For convenience and simplicity, in this report the terms *ExxonMobil*, *Exxon*, *Esso* and *Mobil*, as well as terms like *Corporation*, *Company*, *our*, *we* and *its*, are sometimes used as abbreviated references to specific affiliates or groups of affiliates. The precise meaning depends on the context in question.

Throughout ExxonMobil's businesses, new and ongoing measures are taken to prevent and minimize the impact of our operations on air, water and ground. These include a significant investment in refining infrastructure and technology to manufacture clean fuels as well as projects to reduce nitrogen oxide and sulfur oxide emissions and expenditures for asset retirement obligations. ExxonMobil's 2006 worldwide environmental expenditures for all such preventative and remediation steps, including ExxonMobil's share of equity company expenditures, were about \$3.2 billion, of which \$1.1 billion were capital expenditures and \$2.1 billion were included in expenses. The total cost for such activities is expected to remain in this range in 2007 and 2008 (with capital expenditures approximately 40 percent of the total).

Operating data and industry segment information for the Corporation are contained in the Financial Section of this report under the following: "Quarterly Information", "Note 17: Disclosures about Segments and Related Information" and "Operating Summary". Information on oil and gas reserves is contained in the "Oil and Gas Reserves" part of the "Supplemental Information on Oil and Gas Exploration and Production Activities" portion of the Financial Section of this report. Information on Company-sponsored research and development activities is contained in "Note 3: Miscellaneous Financial Information" of the Financial Section of this report.

The number of regular employees was 82.1 thousand, 83.7 thousand and 85.9 thousand at years ended 2006, 2005 and 2004, respectively. Regular employees are defined as active executive, management, professional, technical and wage employees who work full time or part time for the Corporation and are covered by the Corporation's benefit plans and programs. Regular employees do not include employees of the company-operated retail sites (CORS). The number of CORS employees was 24.3 thousand, 22.4 thousand and 19.3 thousand at years ended 2006, 2005 and 2004, respectively.

ExxonMobil maintains a website at [www.exxonmobil.com](http://www.exxonmobil.com). Our annual report on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K and any amendments to those reports filed or furnished pursuant to Section 13(a) of the Securities Exchange Act of 1934 are made available through our website as soon as reasonably practical after we electronically file or furnish the reports to the Securities and Exchange Commission. Also available on the Corporation's website are the Company's

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Corporate Governance Guidelines and Code of Ethics and Business Conduct, as well as the charters of the audit, compensation and nominating committees of the Board of Directors. All of these documents are available in print without charge to shareholders who request them. Information on our website is not incorporated into this report.

**Item 1A. Risk Factors.**

ExxonMobil's financial and operating results are subject to a number of factors, many of which are not within the Company's control. These factors include the following:

*Industry and Economic Factors* The oil and gas business is fundamentally a commodity business. This means the operations and earnings of the Corporation and its affiliates throughout the world may be significantly affected by changes in oil, gas and petrochemical prices and by changes in margins on gasoline and other refined products. Oil, gas, petrochemical and product prices and margins in turn depend on local, regional and global events or conditions that affect supply and demand for the relevant commodity. These events or conditions are generally not predictable and include, among other things:

- general economic growth rates and the occurrence of economic recessions;
- the development of new supply sources;
- adherence by countries to OPEC quotas;
- supply disruptions;
- weather, including seasonal patterns that affect regional energy demand (such as the demand for heating oil or gas in winter) as well as severe weather events (such as hurricanes) that can disrupt supplies or interrupt the operation of ExxonMobil facilities;
- technological advances, including advances in exploration, production, refining and petrochemical manufacturing technology and advances in technology relating to energy usage;
- changes in demographics, including population growth rates and consumer preferences; and
- the competitiveness of alternative hydrocarbon or other energy sources.

Under certain market conditions, factors that have a positive impact on one segment of our business may have a negative impact on another segment and vice versa.

*Competitive Factors* The energy and petrochemical industries are highly competitive. There is competition within the industries and also with other industries in supplying the energy, fuel and chemical needs of both industrial and individual consumers. The Corporation competes with other firms in the sale or purchase of needed goods and services in many national and international markets and employs all methods of competition which are lawful and appropriate for such purposes.

A key component of the Corporation's competitive position, particularly given the commodity-based nature of many of its businesses, is ExxonMobil's ability to manage expenses successfully. This requires continuous management focus on reducing unit costs and improving efficiency including through technology improvements, cost control, productivity enhancements and regular reappraisal of our asset portfolio as described elsewhere in this report.

*Political and Legal Factors* The operations and earnings of the Corporation and its affiliates throughout the world have been, and may in the future be, affected from time to time in varying degree by political and legal factors including:

- political instability or lack of well-established and reliable legal systems in areas where the Corporation operates;



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- other political developments and laws and regulations, such as expropriation or forced divestiture of assets, unilateral cancellation or modification of contract terms, and de-regulation of certain energy markets;
- laws and regulations related to environmental or energy security matters, including those addressing alternative energy sources and the risks of global climate change;
- restrictions on exploration, production, imports and exports;
- restrictions on the Corporation's ability to do business with certain countries, or to engage in certain areas of business within a country;
- price controls;
- tax or royalty increases, including retroactive claims;
- war or other international conflicts; and
- civil unrest.

Both the likelihood of these occurrences and their overall effect upon the Corporation vary greatly from country to country and are not predictable. A key component of the Corporation's strategy for managing political risk is geographic diversification of the Corporation's assets and operations.

*Project Factors* In addition to some of the factors cited above, ExxonMobil's results depend upon the Corporation's ability to develop and operate major projects and facilities as planned. The Corporation's results will therefore be affected by events or conditions that impact the advancement, operation, cost or results of such projects or facilities, including:

- the outcome of negotiations with co-venturers, governments, suppliers, customers or others (including, for example, our ability to negotiate favorable long-term contracts with customers, or the development of reliable spot markets, that may be necessary to support the development of particular production projects);
- reservoir performance and natural field decline;
- changes in operating conditions and costs, including costs of third party equipment or services such as drilling rigs and shipping;
- security concerns or acts of terrorism that threaten or disrupt the safe operation of company facilities; and
- the occurrence of unforeseen technical difficulties (including technical problems that may delay start-up or interrupt production from an Upstream project or that may lead to unexpected downtime of refineries or petrochemical plants).

See section 1 of Item 2 of this report for a discussion of additional factors affecting future capacity growth and the timing and ultimate recovery of reserves.

*Market Risk Factors* See the "Market Risks, Inflation and Other Uncertainties" portion of the Financial Section of this report for discussion of the impact of market risks, inflation and other uncertainties.

Projections, estimates and descriptions of ExxonMobil's plans and objectives included or incorporated in Items 1, 2, 7 and 7A of this report are forward-looking statements. Actual future results, including project completion dates, production rates, capital expenditures, costs and business plans could differ materially due to, among other things, the factors discussed above and elsewhere in this report.

# Exhibit V



<b>Company:</b>	EXXON MOBIL CORP
<b>Document:</b>	10-K • 2/26/2010
<b>Section:</b>	Entire Document
<b>File Number:</b>	001-02256
<b>Pages:</b>	177

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2009

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**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**

WASHINGTON, D.C. 20549

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**FORM 10-K**

☒ ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF  
THE SECURITIES EXCHANGE ACT OF 1934

For the fiscal year ended December 31, 2009

or

☐ TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF  
THE SECURITIES EXCHANGE ACT OF 1934

For the transition period from to

Commission File Number 1-2256

**EXXON MOBIL CORPORATION**

(Exact name of registrant as specified in its charter)

NEW JERSEY

(State or other jurisdiction of  
incorporation or organization)

13-5409005

(I R S Employer  
Identification Number)

5959 LAS COLINAS BOULEVARD, IRVING, TEXAS 75039-2298

(Address of principal executive offices) (Zip Code)

(972) 444-1000

(Registrant's telephone number, including area code)

Securities registered pursuant to Section 12(b) of the Act:

<u>Title of Each Class</u>	<u>Name of Each Exchange on Which Registered</u>
Common Stock, without par value (4,721,273,113 shares outstanding at January 31, 2010)	New York Stock Exchange
Registered securities guaranteed by Registrant: SeaRiver Maritime Financial Holdings, Inc. Twenty-Five Year Debt Securities due October 1, 2011	New York Stock Exchange
<p>Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. <input checked="" type="checkbox"/></p> <p>Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer or a smaller reporting company. See the definitions of "large accelerated filer," "accelerated filer," and "smaller reporting company" in Rule 12b-2 of the Exchange Act. Large accelerated filer <input checked="" type="checkbox"/> Accelerated filer <input type="checkbox"/> Non-accelerated filer <input type="checkbox"/> Smaller reporting company <input type="checkbox"/></p> <p>Indicate by check mark whether the registrant is a shell company (as defined by Rule 12b-2 of the Act). Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>The aggregate market value of the voting stock held by non-affiliates of the registrant on June 30, 2009, the last business day of the registrant's most recently completed second fiscal quarter, based on the closing price on that date of \$69.91 on the New York Stock Exchange composite tape, was in excess of \$335 billion.</p>	
<p><b>Documents Incorporated by Reference:</b></p> <p>None</p>	

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**FORM 10-K**  
**FOR THE FISCAL YEAR ENDED DECEMBER 31, 2009**

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[Table of Contents](#)[Index to Financial Statements](#)**PART I****Item 1. Business.**

Exxon Mobil Corporation was incorporated in the State of New Jersey in 1882. Divisions and affiliated companies of ExxonMobil operate or market products in the United States and most other countries of the world. Their principal business is energy, involving exploration for, and production of, crude oil and natural gas, manufacture of petroleum products and transportation and sale of crude oil, natural gas and petroleum products. ExxonMobil is a major manufacturer and marketer of commodity petrochemicals, including olefins, aromatics, polyethylene and polypropylene plastics and a wide variety of specialty products. ExxonMobil also has interests in electric power generation facilities. Affiliates of ExxonMobil conduct extensive research programs in support of these businesses.

Exxon Mobil Corporation has several divisions and hundreds of affiliates, many with names that include *ExxonMobil*, *Exxon*, *Esso* or *Mobil*. For convenience and simplicity, in this report the terms *ExxonMobil*, *Exxon*, *Esso* and *Mobil*, as well as terms like *Corporation*, *Company*, *our*, *we* and *its*, are sometimes used as abbreviated references to specific affiliates or groups of affiliates. The precise meaning depends on the context in question.

On December 13, 2009, ExxonMobil and XTO Energy Inc. entered into an Agreement and Plan of Merger. Under the terms of the agreement, (i) each share of XTO Energy common stock will be converted into the right to receive 0.7098 shares of common stock of the Corporation (the “Exchange Ratio”) and (ii) all outstanding XTO Energy options will be converted into options to purchase shares of common stock of the Corporation, with the number of shares of XTO Energy common stock subject to the option, and the option’s exercise price, adjusted based on the Exchange Ratio. The transaction includes XTO Energy debt, which was approximately \$10.5 billion at December 31, 2009. Consummation of the Merger is subject to regulatory clearance, XTO Energy stockholder approval, and other customary conditions.

Throughout ExxonMobil’s businesses, new and ongoing measures are taken to prevent and minimize the impact of our operations on air, water and ground. These include a significant investment in refining infrastructure and technology to manufacture clean fuels as well as projects to monitor and reduce nitrogen oxide, sulfur oxide, and greenhouse gas emissions and expenditures for asset retirement obligations. ExxonMobil’s 2009 worldwide environmental expenditures for all such preventative and remediation steps, including ExxonMobil’s share of equity company expenditures, were about \$5.1 billion, of which \$2.5 billion were capital expenditures and \$2.6 billion were included in expenses. The total cost for such activities is expected to remain in this range in 2010 and 2011 (with capital expenditures approximately 45 percent of the total).

The energy and petrochemical industries are highly competitive. There is competition within the industries and also with other industries in supplying the energy, fuel and chemical needs of both industrial and individual consumers. The Corporation competes with other firms in the sale or purchase of needed goods and services in many national and international markets and employs all methods of competition which are lawful and appropriate for such purposes.

Operating data and industry segment information for the Corporation are contained in the Financial Section of this report under the following: “Quarterly Information”, “Note 17: Disclosures about Segments and Related Information” and “Operating Summary”. Information on oil and gas reserves is contained in the “Oil and Gas Reserves” part of the “Supplemental Information on Oil and Gas Exploration and Production Activities” portion of the Financial Section of this report.

ExxonMobil has a long-standing commitment to the development of proprietary technology. We have a wide array of research programs designed to meet the needs identified in each of our business

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segments. Information on Company-sponsored research and development spending is contained in “Note 3: Miscellaneous Financial Information” of the Financial Section of this report. ExxonMobil held approximately 11 thousand active patents worldwide at the end of 2009. For technology licensed to third parties, revenues totaled approximately \$88 million in 2009. Although technology is an important contributor to the overall operations and results of our Company, the profitability of each business segment is not dependent on any individual patent, trade secret, trademark, license, franchise or concession.

The number of regular employees was 80.7 thousand, 79.9 thousand and 80.8 thousand at years ended 2009, 2008 and 2007, respectively. Regular employees are defined as active executive, management, professional, technical and wage employees who work full time or part time for the Corporation and are covered by the Corporation’s benefit plans and programs. Regular employees do not include employees of the company-operated retail sites (CORS). The number of CORS employees was 22.0 thousand, 24.8 thousand and 26.3 thousand at years ended 2009, 2008 and 2007, respectively.

Information concerning the source and availability of raw materials used in the Corporation’s business, the extent of seasonality in the business, the possibility of renegotiation of profits or termination of contracts at the election of governments and risks attendant to foreign operations may be found in “Item 1A–Risk Factors” and “Item 2–Properties” in this report.

ExxonMobil maintains a website at [exxonmobil.com](http://exxonmobil.com). Our annual report on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K and any amendments to those reports filed or furnished pursuant to Section 13(a) of the Securities Exchange Act of 1934 are made available through our website as soon as reasonably practical after we electronically file or furnish the reports to the Securities and Exchange Commission. Also available on the Corporation’s website are the Company’s Corporate Governance Guidelines and Code of Ethics and Business Conduct, as well as the charters of the audit, compensation and nominating committees of the Board of Directors. Information on our website is not incorporated into this report.

**Item 1A. Risk Factors.**

ExxonMobil’s financial and operating results are subject to a variety of risks inherent in the global oil, gas, and petrochemical businesses. Many of these risk factors are not within the Company’s control and could adversely affect our business, our financial and operating results or our financial condition. We discuss some of these risks in more detail below.

**Supply and Demand.**

The oil, gas, and petrochemical businesses are fundamentally commodity businesses. This means ExxonMobil’s operations and earnings may be significantly affected by changes in oil, gas and petrochemical prices and by changes in margins on refined products. Oil, gas, petrochemical and product prices and margins in turn depend on local, regional and global events or conditions that affect supply and demand for the relevant commodity.

**Economic conditions.** The demand for energy and petrochemicals correlates closely with general economic growth rates. The occurrence of recessions or other periods of low or negative economic growth will typically have a direct adverse impact on our results. Other factors that affect general economic conditions in the world or in a major region, such as changes in population growth rates or periods of civil unrest, also impact the demand for energy and petrochemicals. Economic conditions that impair the functioning of financial markets and institutions also pose risks to ExxonMobil, including risks to the safety of our financial assets and to the ability of our partners and customers to fulfill their commitments to ExxonMobil.

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**Other demand-related factors.** Other factors that may affect the demand for oil, gas and petrochemicals, and therefore impact our results, include technological improvements in energy efficiency; seasonal weather patterns, which affect the demand for energy associated with heating and cooling; increased competitiveness of alternative energy sources that have so far generally not been competitive with oil and gas without the benefit of government subsidies or mandates; and changes in technology or consumer preferences that alter fuel choices, such as toward alternative fueled vehicles.

**Other supply-related factors.** Commodity prices and margins also vary depending on a number of factors affecting supply. For example, increased supply from the development of new oil and gas supply sources and technologies to enhance recovery from existing sources tend to reduce commodity prices to the extent such supply increases are not offset by commensurate growth in demand. Similarly, increases in industry refining or petrochemical manufacturing capacity tend to reduce margins on the affected products. World oil, gas, and petrochemical supply levels can also be affected by factors that reduce available supplies, such as adherence by member countries to OPEC production quotas and the occurrence of wars, hostile actions, or natural disasters that may disrupt supplies. Technological change can also alter the relative costs for competitors to find, produce, and refine oil and gas and to manufacture petrochemicals.

**Other market factors.** ExxonMobil's business results are also exposed to potential negative impacts due to changes in currency exchange rates, interest rates, inflation, and other local or regional market conditions. We generally do not use financial instruments to hedge market exposures.

**Government and Political Factors.**

ExxonMobil's results can be adversely affected by political or regulatory developments affecting our operations.

**Access limitations.** A number of countries limit access to their oil and gas resources, or may place resources off-limits from development altogether. Restrictions on foreign investment in the oil and gas sector tend to increase in times of high commodity prices, when national governments may have less need of outside sources of private capital. Many countries also restrict the import or export of certain products based on point of origin.

**Restrictions on doing business.** As a U.S. company, ExxonMobil is subject to laws prohibiting U.S. companies from doing business in certain countries, or restricting the kind of business that may be conducted. Such restrictions may provide a competitive advantage to our non-U.S. competitors unless their own home countries impose comparable restrictions.

**Lack of legal certainty.** Some countries in which we do business lack well-developed legal systems, or have not yet adopted clear regulatory frameworks for oil and gas development. Lack of legal certainty exposes our operations to increased risk of adverse or unpredictable actions by government officials, and also makes it more difficult for us to enforce our contracts. In some cases these risks can be partially offset by agreements to arbitrate disputes in an international forum, but the adequacy of this remedy may still depend on the local legal system to enforce an award.

**Regulatory and litigation risks.** Even in countries with well-developed legal systems where ExxonMobil does business, we remain exposed to changes in law (including changes that result from international treaties and accords) that could adversely affect our results, such as increases in taxes or government royalty rates (including retroactive claims); price controls; changes in environmental regulations or other laws that increase our cost of compliance; adoption of regulations mandating the use of alternative fuels or uncompetitive fuel components; government actions to cancel contracts or renegotiate terms unilaterally; and expropriation. Legal remedies available to compensate us for

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expropriation or other takings may be inadequate. We also may be adversely affected by the outcome of litigation or other legal proceedings, especially in countries such as the United States in which very large and unpredictable punitive damage awards may occur.

**Security concerns.** Successful operation of particular facilities or projects may be disrupted by civil unrest, acts of sabotage or terrorism, and other local security concerns. Such concerns may require us to incur greater costs for security or to shut down operations for a period of time.

**Climate change and greenhouse gas restrictions.** Due to concern over the risk of climate change, a number of countries have adopted, or are considering the adoption of, regulatory frameworks to reduce greenhouse gas emissions. These include adoption of cap and trade regimes, carbon taxes, increased efficiency standards, and incentives or mandates for renewable energy. These requirements could make our products more expensive and reduce demand for hydrocarbons, as well as shifting hydrocarbon demand toward relatively lower-carbon sources such as natural gas. Current and pending greenhouse gas regulations may also increase our compliance costs, such as for monitoring or sequestering emissions.

**Government sponsorship of alternative energy.** Many governments are providing tax advantages and other subsidies and mandates to make alternative energy sources more competitive against oil and gas. Governments are also promoting research into new technologies to reduce the cost and increase the scalability of alternative energy sources. We are conducting our own research efforts into alternative energy, such as through sponsorship of the Global Climate and Energy Project at Stanford University and research into hydrogen fuel cells and fuel-producing algae. Our future results may depend in part on the success of our research efforts and on our ability to adapt and apply the strengths of our current business model to providing the competitive energy products of the future. See “Management Effectiveness” below.

#### **Management Effectiveness.**

In addition to external economic and political factors, our future business results also depend on our ability to manage successfully those factors that are at least in part within our control. The extent to which we manage these factors will impact our performance relative to competition.

**Exploration and development program.** Our ability to maintain and grow our oil and gas production depends on the success of our exploration and development efforts. Among other factors, we must continuously improve our ability to identify the most promising resource prospects and apply our project management expertise to bring discovered resources on line on schedule.

**Project management.** The success of ExxonMobil’s Upstream, Downstream, and Chemical businesses depends on complex, long-term, capital intensive projects. These projects in turn require a high degree of project management expertise to maximize efficiency. Specific factors that can affect the performance of major projects include our ability to: negotiate successfully with joint venturers, partners, governments, suppliers, customers, or others; model and optimize reservoir performance; develop markets for project outputs, whether through long-term contracts or the development of effective spot markets; manage changes in operating conditions and costs, including costs of third party equipment or services such as drilling rigs and shipping; prevent, to the extent possible, and respond effectively to unforeseen technical difficulties that could delay project startup or cause unscheduled project downtime; and influence the performance of project operators where ExxonMobil does not perform that role.

**Operational efficiency.** An important component of ExxonMobil’s competitive performance, especially given the commodity-based nature of many of our businesses, is our ability to operate

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efficiently, including our ability to manage expenses and improve production yields on an ongoing basis. This requires continuous management focus, including technology improvements, cost control, productivity enhancements and regular reappraisal of our asset portfolio.

**Research and development.** To maintain our competitive position, especially in light of the technological nature of our businesses and the need for continuous efficiency improvement, ExxonMobil's research and development organizations must be successful and able to adapt to a changing market and policy environment.

**Safety, business controls, and environmental risk management.** Our results depend on management's ability to minimize the inherent risks of oil, gas, and petrochemical operations and to control effectively our business activities. We apply rigorous management systems and continuous focus to workplace safety and to avoiding spills or other adverse environmental events. For example, we work to minimize spills through a combined program of effective operations integrity management, ongoing upgrades, key equipment replacements, and comprehensive inspection and surveillance. Similarly, we are implementing cost-effective new technologies and adopting new operating practices to reduce air emissions, not only in response to government requirements but also to address community priorities. We also maintain a disciplined framework of internal controls and apply a controls management system for monitoring compliance with this framework. Substantial liabilities and other adverse impacts could result if our management systems and controls do not function as intended.

**Preparedness.** Our operations may be disrupted by severe weather events, natural disasters, and similar events. For example, hurricanes may damage our offshore production facilities or coastal refining and petrochemical plants in vulnerable areas. Our ability to mitigate the adverse impacts of these events depends in part upon the effectiveness of our rigorous disaster preparedness and business continuity planning.

Projections, estimates and descriptions of ExxonMobil's plans and objectives included or incorporated in Items 1, 1A, 2, 7 and 7A of this report are forward-looking statements. Actual future results, including project completion dates, production rates, capital expenditures, costs and business plans could differ materially due to, among other things, the factors discussed above and elsewhere in this report.

**Item 1B. Unresolved Staff Comments.**

None.



# **Exhibit W**

**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 <sup>TH</sup> 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>
---	--



**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 X**

T H E A T T O R N E Y G E N E R A L O F T E X A S

**KEN PAXTON****Attorney General Paxton Intervenes in First Amendment Case***Monday, May 16, 2016 – Ft. Worth*

Attorney General Ken Paxton on Monday joined Alabama in asking a state judge to put an end to a ridiculous investigation launched against ExxonMobil by Claude Earl Walker, Attorney General of the U.S. Virgin Islands. Walker, working with a Washington, D.C.-based private law firm, issued a subpoena for more than four decades' worth of Exxon records, alleging the company has engaged in racketeering due to its stated position on climate change, in a clear contradiction to the First Amendment to the U.S. Constitution.

"This case is about abusing the power of the subpoena to force Exxon to turn over many decades' worth of records, so an attorney general with an agenda can pore over them in hopes of finding something incriminating," said Attorney General Ken Paxton. "It's a fishing expedition of the worst kind, and represents an effort to punish Exxon for daring to hold an opinion on climate change that differs from that of radical environmentalists."

Case 4:16-cv-00469-A Document 1-5 Filed 06/15/16 Page 53 of 66 PageID 265

The First Amendment ensures that all people are free to hold opinions and promote them in public debate. This action by the Virgin Islands' AG could effectively set a precedent that anyone can be criminally investigated because of their stated opinions. ExxonMobil, which employs thousands in Texas, faces high court costs if the investigation goes forward.

This version updates with the correct brief:

[https://www.texasattorneygeneral.gov/files/epress/files/2016/2016-05-16\\_exxon\\_states\\_intervention.pdf](https://www.texasattorneygeneral.gov/files/epress/files/2016/2016-05-16_exxon_states_intervention.pdf)

AG Ken Paxton Speaks About Exxon Being Targeted for Climate Ch... 



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# **Exhibit Y**

# Luther Strange

Alabama Attorney General



May 16, 2016

For More Information, contact:  
Mike Lewis (334) 353-2199  
Joy Patterson (334) 242-7491  
Page 1 of 1

## ALABAMA JOINS INTERVENTION IN CASE TO PROTECT FIRST AMENDMENT RIGHT OF BUSINESSES FROM GOVERNMENT THREATS OF CRIMINAL PROSECUTION

(MONTGOMERY) – Attorney General Luther Strange announced that Alabama has joined Texas in requesting that a Texas judge rule against an unconstitutional investigation conducted by the Attorney General of the Virgin Islands against ExxonMobil for its views on climate change.

“The fundamental right of freedom of speech is under assault by an Attorney General pursuing an agenda against a business that doesn’t share his views on the environment,” said Attorney General Strange. “The Attorney General of the Virgin Islands, an American Territory, is abusing the power of his government office to punish and intimidate a company for its climate change views which run counter to that of his own.

“This is more than just a free speech case. It is a battle over whether a government official has a right to launch a criminal investigation against anyone who doesn’t share his radical views,” Attorney General Strange added. “In this case an attorney general has subpoenaed ExxonMobil to provide some 40 years’ worth of records so that it can conduct a witch hunt against the company for its views on the environment. This is a very disturbing trend that must be stopped and I am pleased to join with Texas Attorney General Ken Paxton in filing an intervention plea in support of the First Amendment.”

The intervention plea was filed Monday in the case of *ExxonMobil Corporation v. Claude Earl Walker, Attorney General of the United States Virgin Islands*.

*A copy of the intervention plea is attached.*

--30--



**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 <sup>TH</sup> 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.

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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.

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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

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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).

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#### **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>
---	--

**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  
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Associate Deputy Attorney General for  
Special Litigation

# **Exhibit Z**



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# AG Won't Send Documents on Probe of Exxon Mobil

The Associated Press

June 3, 2016

Attorney General Eric Schneiderman is refusing to send requested documents about his investigation into Exxon Mobil to a congressional committee, saying Congress lacks jurisdiction over state law enforcement.

Schneiderman told U.S. Rep. Lamar Smith, a Texan who chairs the House Committee on Science, Space and Technology, that his request two weeks ago "raises serious constitutional concerns."

Smith and 12 other committee Republicans wrote two weeks ago to Schneiderman and 16 other attorneys general, requesting documents and saying they've been pushed by environmental activists "to use their prosecutorial powers to stifle scientific discourse" over climate change.

Schneiderman is investigating whether the Texas-based oil giant misled investors and consumers about global warming from burning fossil fuels and the business risks.

The congressional letter was sent the after the attorneys general on March 29 announced their coordinated effort to use their offices to address threats from climate change. Schneiderman and at least two others are investigating Exxon Mobil's representations. The company has denied any wrongdoing, saying it has provided shareholders information about the business risks for years.

"In the weeks since the March 29 press conference, legal actions against those who question climate change orthodoxy ... have rapidly expanded to include subpoenas for documents, communications and research that would capture the work of more than 100 academic institutions, scientists and nonprofit organizations," the committee members wrote.

In his response, Schneiderman wrote that the lawmakers' letter made "unfounded claims" about his motives. "Second, Congress does not have jurisdiction to demand documents and communications from a state law enforcement official regarding the exercise of a state's sovereign police powers," he said.

Case 4:16-cv-00469-A Document 1-5 Filed 06/15/16 Page 66 of 66 PageID 278

Schneiderman added that his office was unaware of any precedent supporting congressional oversight or investigation of a state attorney general and his investigations of potential violations under state law.

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# **Exhibit AA**

The Washington Post

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**Congress**

# Environmental groups reject Rep. Lamar Smith's request for information on ExxonMobil climate case

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By **Steven Mufson** June 1

The battle over ExxonMobil and the issue of climate change took a new turn Wednesday.

Environmental groups, citing constitutional rights, said they would not comply with a sweeping request for information from the House Committee on Science, Space and Technology, led by Chairman Lamar Smith (R-Tex.).

The environmental groups and foundations said the request was unreasonably broad, violated their rights to free speech and free assembly, and interfered with their right to petition government officials.

On May 18, Smith's committee had asked for any communications that might show that eight leading environmental groups and nonprofit foundations — along with the attorneys general from about 20 states — had coordinated a legal strategy to uncover internal information about climate change that they allege ExxonMobil had concealed for decades. Smith also asked for communications between environmental

groups related to state investigations into ExxonMobil and whether the oil giant had violated securities and consumer fraud laws.

The environmental groups don't think the committee is entitled to see that communication.

"In a democracy built on principles and the rule of law, 350.org cannot in good faith comply with an illegitimate government request that encroaches so fundamentally on its and its colleagues' protected constitutional rights," said a letter sent Wednesday from the group's law firm, Quinn Emanuel Urquhart & Sullivan.

The Smith letter appeared to be part of a tit-for-tat after state attorneys general sought old ExxonMobil documents related to climate.

The environmental groups and foundations have been openly pressing state prosecutors to investigate whether ExxonMobil had violated securities and consumer fraud laws by not fully disclosing what it knew about climate change and its potential impact on the company's business as well as the planet.

The oil giant has asserted that it did not violate disclosure requirements and that much of what it knew was publicly available in scientific papers.

"The Committee is concerned that these efforts to silence speech are based not on sound legal or scientific arguments, but rather on a long-term strategy developed by political activist organizations," Smith said in his May 18 letter to the groups. The letter, signed by a dozen other Republicans on the panel, said the committee feared that environmental groups were part of a "coordinated attempt to deprive companies" of their First Amendment rights and impair their ability to fund scientific research "free from intimidation and threats of prosecution."

Sen. Ted Cruz (R-Tex.) has also joined the fray, demanding in a May 25 letter signed by four other GOP senators that the Justice Department halt any investigations of whether ExxonMobil properly disclosed views on climate issues. The Justice Department has not said whether it is conducting such an investigation.

The environmental and nonprofit groups say Smith and Cruz are turning the issue on its head. Abbe David Lowell, the lawyer for Greenpeace, noted the "irony" that Smith's committee, in the name of protecting ExxonMobil's free speech, would "examine" the free speech of environmental groups.

Quinn Emanuel, which also wrote a response for the Rockefeller Family Fund, said that courts have not supported forced disclosure of communications within advocacy groups. It quoted a decision in one case that said: "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."

A letter from the Union of Concerned Scientists said that while the committee said it was acting in the name of "transparency," the Supreme Court has said that "there is no general authority to expose the private affairs of individuals without justification in terms of the functions of the Congress ... [n]or is the Congress a law enforcement or trial agency."

Harry Sandick, a lawyer at Patterson Belknap Webb & Tyler, representing the Rockefeller Brothers Fund, said that the scope of the committee's request for information was too great a burden. The Smith letter sought all documents and communications of all Fund employees over a four-and-a-half year period when climate change was a core program area for the Fund.

The 350.org letter added that Congress could not interfere with the state attorneys general investigations even if it disagrees with them.

"Because you cannot interfere directly with state investigations and prosecutions, you cannot do so indirectly by requesting communications from private organizations with state attorneys general or others about state investigations and prosecutions," the Quinn Emanuel letter said.

Maryland Attorney General Brian Frosh also rejected the committee's request for information about his internal deliberations on the case. Moreover, he said in a letter posted on his Facebook page, "communications between our office and scientists ought to be cause for praise from the 'Science' Committee, not suspicion." He said that the committee "does not have jurisdiction to intrude upon the law enforcement actions of the chief legal officer of a sovereign state, much less scrutinize the privileged internal deliberations that underlie those actions."

Steven Mufson covers energy and other financial matters. Since joining The Post, he has covered the White House, China, economic policy and diplomacy. Follow @StevenMufson.

 Follow @StevenMufson



# **Exhibit BB**



# United States Senate

WASHINGTON, DC 20510

May 25, 2016

The Honorable Loretta Lynch  
Attorney General  
United States Department of Justice  
Washington, D.C. 20530

**Re: DOJ's investigation into private entities' views on climate change**

Dear Attorney General Lynch:

We write today to demand that the Department of Justice (DOJ) immediately cease its ongoing use of law enforcement resources to stifle private debate on one of the most controversial public issues of our time—climate change.

This past March, during a DOJ oversight hearing before the Senate Judiciary Committee, one of our colleagues from the other side of the aisle lamented that, “[u]nder President Obama, the Department of Justice has done nothing so far about the climate denial scheme.” To our astonishment, you responded as follows:

This matter has been discussed. We have received information about it and have referred it to the FBI to consider whether or not it meets the criteria for what we could take action on.

We also understand that, in 2015, the Department was asked by a “coalition of environmentalists and lawmakers”<sup>1</sup> to investigate whether the past decisions of a private sector company to adopt and publicly disclose certain views on climate issues, and to refrain from adopting and publicly disclosing others, may have violated the Racketeer Influenced and Corrupt Organizations Act and related laws.

Statements from a March 29, 2016, press conference held by Democrat Attorneys General from New York, Connecticut, Maryland, Massachusetts, and Virginia, along with staff from the Democrat Attorney General’s offices in California, Delaware, the District of Columbia, Illinois, Iowa, Maine, Minnesota, New Mexico, Oregon, Rhode Island, and Washington (the “State Attorneys General”) make clear that similar investigations are ongoing. The Attorney

<sup>1</sup> Valerie Richardson, *Democratic AGs, climate change groups colluded on prosecuting dissenters, emails show*, <http://www.washingtontimes.com/news/2016/apr/17/democratic-ags-climate-change-groups-colluded-on-p/> (April 17, 2016).



General of the United States Virgin Islands also issued a subpoena seeking from over 100 private parties, including universities, scientists and nonprofit organizations, decades worth of documents, communications, emails, op-eds, speeches, advertisements, letters to the editor, research, reports, studies and memoranda of any kind—including drafts—that refer to climate change, greenhouse gases, carbon tax, or climate science.<sup>2</sup>

These actions provide disturbing confirmation that government officials at all levels are threatening to wield the sword of law enforcement to silence debate on climate change.<sup>3</sup> As you well know, initiating criminal prosecution for a private entity's opinions on climate change is a blatant violation of the First Amendment and an abuse of power that rises to the level of prosecutorial misconduct.<sup>4</sup> Using such a prosecution to issue intrusive demands targeting individuals who represent the parts of civil society that are most dependent on free inquiry and debate is something categorically different. As the U.S. Court of Appeals for the Sixth Circuit reminded the Justice Department just weeks ago, "no citizen—Republican or Democrat, socialist or libertarian—should be targeted or even have to fear being targeted"<sup>5</sup> on the basis of ideological disagreement with the government.

We encourage you to consider the following statement from Alabama Attorney General Luther Strange and Oklahoma Attorney General Scott Pruitt, issued in response to the announcement of the investigation by the previously referenced State Attorneys General, as you consider your path forward:

[Scientific and political debate] should not be silenced with threats of criminal prosecution by those who believe that their position is the only correct one and that all dissenting voices must therefore be intimidated and coerced into silence. It is inappropriate for State Attorneys General to use the power of their office to attempt to silence core political speech on one of the major policy debates of our time.<sup>6</sup>

In light of the above, please confirm within 14 days that the Department (1) has terminated all investigations or inquiries arising from any private individual or entity's views on climate change and (2) will not initiate in the future any such investigations or inquiries. In addition, we ask that you explain what steps you are taking as the federal official charged with protecting the civil rights of American citizens to prevent state law enforcement officers from unconstitutionally harassing private entities or individuals simply for disagreeing with the prevailing climate change orthodoxy.

We expect your prompt attention to this matter. If you have any questions, please contact Senator Mike Lee's Judiciary Committee staff at (202) 224-2791.

<sup>2</sup> Valerie Richardson, *Exxon climate change dissent subpoena sweeps up more than 100 U.S. institutions*, <http://www.washingtontimes.com/news/2016/may/3/virgin-islands-ag-subpoenas-exxon-communications/> (May 3, 2016).

<sup>3</sup> Megan McArdle, *Subpoenaed Into Silence on Global Warming*, <http://www.bloombergview.com/articles/2016-04-08/subpoenaed-into-silence-on-global-warming> (April 8, 2016).

<sup>4</sup> 18 U.S.C. § 530B; *ABA Model Rule* 3.1.

<sup>5</sup> *United States v. NorCal Tea Party Patriots*, No. 15-3793, slip op. at \*1 (6th Cir., Mar. 22, 2016).

<sup>6</sup> Richardson, *supra*, at note 1.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Mike Lee", written over a horizontal line.

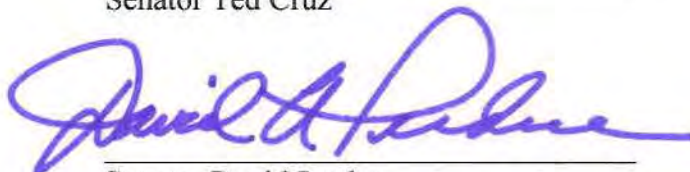
Senator Mike Lee

A handwritten signature in blue ink, appearing to read "Ted Cruz", written over a horizontal line.

Senator Ted Cruz

A handwritten signature in blue ink, appearing to read "Jeff Sessions", written over a horizontal line.

Senator Jeff Sessions

A handwritten signature in blue ink, appearing to read "David Perdue", written over a horizontal line.

Senator David Perdue

A handwritten signature in blue ink, appearing to read "David Vitter", written over a horizontal line.

Senator David Vitter

# Exhibit CC

**The New York Times** | <http://nyti.ms/1WzznSi>

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SCIENCE

# Exxon Mobil Investigated for Possible Climate Change Lies by New York Attorney General

By JUSTIN GILLIS and CLIFFORD KRAUSS NOV. 5, 2015

The New York attorney general has begun an investigation of Exxon Mobil to determine whether the company lied to the public about the risks of climate change or to investors about how such risks might hurt the oil business.

According to people with knowledge of the investigation, Attorney General Eric T. Schneiderman issued a subpoena Wednesday evening to Exxon Mobil, demanding extensive financial records, emails and other documents.

The investigation focuses on whether statements the company made to investors about climate risks as recently as this year were consistent with the company's own long-running scientific research.

The people said the inquiry would include a period of at least a decade during which Exxon Mobil funded outside groups that sought to undermine climate science, even as its in-house scientists were outlining the potential consequences — and uncertainties — to company executives.

Kenneth P. Cohen, vice president for public affairs at Exxon Mobil, said on Thursday that the company had received the subpoena and was still deciding how to respond.

“We unequivocally reject the allegations that Exxon Mobil has suppressed climate change research,” Mr. Cohen said, adding that the company had funded mainstream climate science since the 1970s, had published dozens of scientific papers on the topic and had disclosed climate risks to investors.

Mr. Schneiderman’s decision to scrutinize the fossil fuel companies may well open a new legal front in the climate change battle.

The people with knowledge of the New York case also said on Thursday that, in a separate inquiry, Peabody Energy, the nation’s largest coal producer, had been under investigation by the attorney general for two years over whether it properly disclosed financial risks related to climate change. That investigation was not previously reported, and has not resulted in any charges or other legal action against Peabody.

Vic Svec, a Peabody senior vice president, said in a statement, “Peabody continues to work with the New York attorney general’s office regarding our disclosures, which have evolved over the years.”

The Exxon inquiry might expand further to encompass other oil companies, according to the people with knowledge of the case, though no additional subpoenas have been issued to date.

The people spoke on the condition of anonymity, saying they were not authorized to speak publicly about investigations that could produce civil or criminal charges. The Martin Act, a New York state law, confers on the attorney general broad powers to investigate financial fraud.

To date, lawsuits trying to hold fuel companies accountable for damage they are causing to the climate have failed in the courts, but most of those have been pursued by private plaintiffs.

Attorneys general for other states could join in Mr. Schneiderman’s efforts, bringing far greater investigative and legal resources to bear on the issue. Some



experts see the potential for a legal assault on fossil fuel companies similar to the lawsuits against tobacco companies in recent decades, which cost those companies tens of billions of dollars in penalties.

“This could open up years of litigation and settlements in the same way that tobacco litigation did, also spearheaded by attorneys general,” said Brandon L. Garrett, a professor at the University of Virginia School of Law. “In some ways, the theory is similar — that the public was misled about something dangerous to health. Whether the same smoking guns will emerge, we don’t know yet.”

In the 1950s and ’60s, tobacco companies financed internal research showing tobacco to be harmful and addictive, but mounted a public campaign that said otherwise and helped fund scientific research later shown to be dubious. In 2006, the companies were found guilty of “a massive 50-year scheme to defraud the public.”

The history at Exxon Mobil appears to differ, in that the company published extensive research over decades that largely lined up with mainstream climatology. Thus, any potential fraud prosecution might depend on exactly how big a role company executives can be shown to have played in directing campaigns of climate denial, usually by libertarian-leaning political groups.

For several years, advocacy groups with expertise in financial analysis have been warning that fossil fuel companies might be overvalued in the stock market, since the need to limit climate change might require that much of their coal, oil and natural gas be left in the ground.

The people with knowledge of the case said the attorney general’s investigation of Exxon Mobil began a year ago, focusing initially on what the company had told investors about the risks that climate change might pose to its business.

News reporting in the last eight months added impetus to the investigation, they said. In February, several news organizations, including The New York Times, reported that a Smithsonian researcher who had published papers questioning established climate science, Wei-Hock Soon, had received extensive funds from

fossil fuel companies, including Exxon Mobil, without disclosing them. That struck some experts as similar to the activities of tobacco companies.

More recently, Inside Climate News and The Los Angeles Times have reported that Exxon Mobil was well aware of the risks of climate change from its own scientific research, and used that research in its long-term planning for activities like drilling in the Arctic, even as it funded groups from the 1990s to the mid-2000s that denied serious climate risks.

Mr. Cohen, of Exxon, said on Thursday that the company had made common cause with such groups largely because it agreed with them on a policy goal of keeping the United States out of a global climate treaty called the Kyoto Protocol.

“We stopped funding them in the middle part of the past decade because a handful of them were making the uncertainty of the science their focal point,” Mr. Cohen said. “Frankly, we made the call that we needed to back away from supporting the groups that were undercutting the actual risk” of climate change.

“We recognize the risk,” Mr. Cohen added. He noted that Exxon Mobil, after an acquisition in 2009, had become the largest producer of natural gas in the United States.

Because natural gas creates far less carbon dioxide than coal when burned for electricity, the company expects to be a prime beneficiary of President Obama’s plan to limit emissions. Exxon Mobil has also endorsed a tax on emissions as a way to further reduce climate risks.

Whether Exxon Mobil began disclosing the business risks of climate change as soon as it understood them is likely to be a major focus of the New York case. The people with knowledge of the case said the attorney general’s investigators were poring through the company’s disclosure filings made since the 1970s, but were focusing in particular on recent statements to investors.

Exxon Mobil has been disclosing such risks in recent years, but whether those disclosures were sufficient has been a matter of public debate.

Last year, for example, the company warned investors of intensifying efforts by governments to limit emissions. “These requirements could make our products more expensive, lengthen project implementation times and reduce demand for hydrocarbons, as well as shift hydrocarbon demand toward relatively lower-carbon sources such as natural gas,” the company said at the time.

But in another recent report, Exxon Mobil essentially ruled out the possibility that governments would adopt climate policies stringent enough to force it to leave its reserves in the ground, saying that rising population and global energy demand would prevent that. “Meeting these needs will require all economic energy sources, especially oil and natural gas,” it said.

Wall Street analysts on Thursday were uncertain whether the case would inflict long-term damage on the company, which has already suffered from a plunge in commodity prices.

“This is not good news for Exxon Mobil or Exxon Mobil shareholders,” said Fadel Gheit, a senior oil company analyst at Oppenheimer & Company. “It’s a negative, though how much damage there will be to reputation or performance is very hard to say.”

John Schwartz contributed reporting.

A version of this article appears in print on November 6, 2015, on page A1 of the New York edition with the headline: Inquiry Weighs Whether Exxon Lied on Climate.

# Exhibit DD



STANFORD UNIVERSITY

GLOBAL CLIMATE &amp; ENERGY PROJECT

### [About Us](#)

The Global Climate and Energy Project (GCEP) at Stanford University seeks new solutions to one of the grand challenges of this century: supplying energy to meet the changing needs of a growing world population in a way that protects the environment.

GCEP's mission is to conduct fundamental research on technologies that will permit the development of global energy systems with significantly lower greenhouse gas emissions.

The GCEP sponsors include private companies with experience and expertise in key energy sectors. In December 2002, four sponsors – ExxonMobil, GE, Schlumberger, and Toyota – helped launch GCEP at Stanford University with plans to invest \$225 million over a decade or more. DuPont and Bank of America joined the GCEP partnership in 2011 and 2013, respectively, bringing new perspectives and insights about the global energy challenge.

GCEP develops and manages a portfolio of innovative energy research programs that could lead to technologies that are efficient, environmentally benign, and cost-effective when deployed on a large scale. We currently have a number of exciting research projects taking place across disciplines throughout the Stanford campus and are collaborating with leading institutions around the world.

#### Objectives:

We believe that no single technology is likely to meet the energy challenges of the future on its own. It is essential that GCEP explore a range of technologies across a spectrum of globally significant energy resources and uses.

As a result, our primary objective is to build a diverse portfolio of research on technologies that will reduce greenhouse gas emissions, if successful in the marketplace.

Among GCEP's specific goals:

1. Identify promising research opportunities for low-emissions, high-efficiency energy technologies.
2. Identify barriers to the large-scale application of these new technologies.
3. Conduct fundamental research into technologies that will help to overcome these barriers and provide the basis for large-scale applications.
4. Share research results with a wide audience, including the science and engineering community, media, business, governments, and potential end-users.

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# **Exhibit EE**



## Climate Change

# Endangerment and Cause or Contribute Findings for Greenhouse Gases under Section 202(a) of the Clean Air Act

## ON THIS PAGE

[Action](#)  
[Findings](#)  
[Response to Comments](#)  
[Resources](#)

[Denial of Petitions for Reconsideration](#)  
[Background](#)

## Action

On December 7, 2009, the Administrator signed two distinct findings regarding

## Resources and Tools

- [Findings](#)
- [Technical Support Document](#)
- [Response to Comment Documents](#)
- [Press Release](#)
- [Resources](#)
  - [Legal Basis \(PDF\)](#) (1 p, 117K)
  - [Health Effects \(PDF\)](#) (1 p, 95K)
  - [Environmental and Welfare Effects \(PDF\)](#) (1 p, 45K)
  - [Climate Change Facts \(PDF\)](#) (1 p, 39K)
  - [Light Duty Vehicle Program \(PDF\)](#) (1 p, 39K)
  - [Timeline \(PDF\)](#) (1 p, 30K)
- [Denial of Petitions for Reconsideration of the Endangerment and Cause or Contribute Findings](#)
- [June 26, 2012 Greenhouse Gas Court Decision](#)
- [Frequently Asked Questions \(PDF\)](#) (3 pp, 38K)

greenhouse gases under section 202(a) of the Clean Air Act:

- **Endangerment Finding:** The Administrator finds that the current and projected concentrations of the six key well-mixed greenhouse gases □ carbon dioxide (CO<sub>2</sub>), methane (CH<sub>4</sub>), nitrous oxide (N<sub>2</sub>O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and sulfur hexafluoride (SF<sub>6</sub>) □ in the atmosphere threaten the public health and welfare of current and future generations.
- **Cause or Contribute Finding:** The Administrator finds that the combined emissions of these well-mixed greenhouse gases from new motor vehicles and new motor vehicle engines contribute to the greenhouse gas pollution which threatens public health and welfare.

These findings do not themselves impose any requirements on industry or other entities. However, this action was a prerequisite for implementing greenhouse gas emissions standards for vehicles. In collaboration with the National Highway Traffic Safety Administration, EPA finalized emission standards for [light-duty vehicles](#) (2012-2016 model years) in May of 2010 and [heavy-duty vehicles](#) (2014-2018 model years) in August of 2011.

## Findings

These findings were signed by the Administrator on December 7, 2009. □ On December 15, 2009, the final findings were published in the *Federal Register* ([www.regulations.gov](http://www.regulations.gov)) under Docket ID No. EPA-HQ-OAR-2009-0171. □ The final rule was effective January 14, 2010.

- [Endangerment and Cause or Contribute Findings for Greenhouse Gases under the Clean Air Act \(PDF\)](#) (52 pp, 308K)

Scientific and technical information summarized to support the Endangerment and Cause or Contribute Findings for Greenhouse Gases under the Clean Air Act can be found here:

- [Technical Support Document for the Findings \(PDF\)](#) (210 pp, 2.5MB)

## Response to Comments

EPA's response to public comments received on the Proposed Findings and accompanying Technical Support Document may be found here:

- [Volume 1: General Approach to the Science and Other Technical Issues](#) Download a [PDF version of Volume 1](#) (69 pp, 305K)
  - [Appendix A. IPCC Principles and Procedures](#) (12 pp, 48K)
  - [Appendix B. USGCRP/CCSP Procedures and Responsibilities](#) (30 pp, 151K)
  - [Appendix C. NRC Report Development Procedures](#) (25 pp, 4.3MB)
- [Volume 2: Validity of Observed and Measured Data](#) Download a [PDF version of Volume 2](#) (93 pp, 507K)
  - [Appendix A. Climate Research Unit \(CRU\) Temperate Data Web Site](#) (5 pp, 61K)
  - [Appendix B. CRU Statement on Data Availability](#) (3 pp, 47K)
  - [Appendix C. United Kingdom Hadley Centre Statement on Release of CRU Data](#) (1 pp, 28K)
  - [Appendix D. Response of Keith Briffa to Stephen McIntyre](#) (2 pp, 40K)
- [Volume 3: Attribution of Observed Climate Change](#) Download a [PDF version of Volume 3](#) (58 pp, 283K)
- [Volume 4: Validity of Future Projections](#) Download a [PDF version of Volume 4](#) (81 pp, 418K)
- [Volume 5: Human Health and Air Quality](#) Download a [PDF version of Volume 5](#) (95 pp, 557K)
- [Volume 6: Agriculture and Forestry](#) Download a [PDF version of Volume 6](#) (43 pp, 191K)
- [Volume 7: Water Resources, Coastal Areas, Ecosystems and Wildlife](#) Download a [PDF version of Volume 7](#) (65 pp, 290K)
- [Volume 8: Other Sectors](#) Download a [PDF version of Volume 8](#) (25 pp, 112K)
- [Volume 9: Endangerment Finding](#) Download a [PDF version of Volume 9](#) (37 pp, 159K)
- [Volume 10: Cause or Contribute Finding](#) Download a [PDF version of Volume 10](#) (18 pp, 88K)
- [Volume 11: Miscellaneous Legal, Procedural, and Other Comments](#) Download a [PDF version of Volume 11](#) (36 pp, 172K)
  - [Appendix A. Summary Comments Received Pertaining to Economic Issues \(PDF\)](#) (3 pp, 21K)

## Resources

- [Press Release](#)
- Press Kit

You will need Adobe Reader to view some of the files on this page. See [EPA's PDF page](#) to learn more.

- [Legal Basis \(PDF\)](#) (1 p, 117K)
- [Trasfondo legal \(PDF\)](#) (2 pp, 32K)
- [Health Effects \(PDF\)](#) (1 p, 95KB)
- [Efectos a la salud \(PDF\)](#) (1 p, 79K)
- [Environmental and Welfare Effects \(PDF\)](#) (1 p, 45K)
- [Efectos medioambientales \(PDF\)](#) (2 pp, 32K)
- [Climate Change Facts \(PDF\)](#) (1 p, 39K)
- [Datos sobre el cambio climático \(PDF\)](#) (2 pp, 33K)
- [Light Duty Vehicle Program \(PDF\)](#) (1 p, 39K)
- [Timeline \(PDF\)](#) (1 p, 30K)
- [Frequently Asked Questions \(PDF\)](#) (3 pp, 38K)

To access materials related to the proposed finding, please visit the [Proposed Endangerment and Cause or Contribute Findings for Greenhouse Gases under the Clean Air Act](#) archive.

## Denial of Petitions for Reconsideration

EPA denied [ten Petitions for Reconsideration of the Endangerment and Cause or Contribute Findings](#) on July 29, 2010.

## Background

On April 2, 2007, in *Massachusetts v. EPA*, 549 U.S. 497 (2007), the Supreme Court found that greenhouse gases are air pollutants covered by the Clean Air Act. The Court held that the Administrator must determine whether or not emissions of greenhouse gases from new motor vehicles cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare, or whether the science is too uncertain to make a reasoned decision. In making these decisions, the Administrator is required to follow the language of section 202(a) of the Clean Air Act. The Supreme Court decision resulted from a petition for rulemaking under section 202(a) filed by more than a dozen environmental, renewable energy, and other organizations.

On April 17, 2009, the Administrator signed proposed endangerment and cause or contribute findings for greenhouse gases under Section 202(a) of the Clean Air Act. EPA held a 60-day public comment period, which ended June 23, 2009, and received over 380,000 public comments. These included both written comments as well as testimony at two public hearings in Arlington, Virginia and Seattle, Washington. EPA carefully reviewed, considered, and incorporated public comments and has now issued these final Findings.

WCMS

Last updated on Tuesday, February 23, 2016

# **Exhibit FF**

AN ENERGY POLICY ESSAY

# Revenue-Neutral Carbon Taxes in the Real World

## *Insights from British Columbia and Australia*

by Jeremy Carl and David Fedor

Shultz-Stephenson Task Force on Energy Policy  
[www.hoover.org/taskforces/energy-policy](http://www.hoover.org/taskforces/energy-policy)

### Introduction

While the scientific and economic implications of climate change remain highly contested, the idea of a net revenue-neutral tax on carbon dioxide emissions has been proposed by a number of economists from across the ideological spectrum as one possible way to help level the playing field among different sources of energy by accounting for the potential externalities of carbon emissions. At the same time other economists have criticized carbon pricing, both from the right and the left, as either a utopian scheme inappropriate to address a global problem or as a band-aid that will not fundamentally limit carbon emissions. In a revenue-neutral carbon tax regime, all revenues generated from taxes on carbon emissions would be directly returned to the taxed economy through an equivalent reduction in other existing taxes or through direct payments to taxpayers. Depending on the particular structure utilized, these may be referred to as a “revenue-neutral carbon tax” or a “carbon tax shift/swap” or a “carbon fee and dividend”.

What the arguments for such a policy structure, both pro and con, have often lacked is detailed analysis of the performance and design of revenue-neutral carbon taxes in the real world. This paper attempts to address that gap. It examines the revenue-recycling carbon pricing mechanisms already enacted in British Columbia and Australia in order to assess their approach and efficacy.

### ***Modern Carbon Tax Forays: British Columbia and Australia***

The Canadian Province of British Columbia was an early adopter of a revenue-neutral carbon tax that directly recycles 100% of the revenue it generates. British Columbia now has four years of experience on carbon tax implementation and revenue distribution. Australia, after years of discussion with stakeholders from across the

task force on energy policy



economy, has now designed and implemented a partially-revenue-recycling carbon tax from July 2012. Though both regions adopted broad-based taxes on greenhouse gas (GHG) emissions, they have chosen different design and implementation strategies that reflect their respective existing political, economic, and energy use characteristics.

Taken together, the British Columbian and Australian choices help to illustrate the spectrum of options, dynamics, and pitfalls that can be anticipated by other regions such as the United States that have not yet decided whether or how to value the potential negative externalities of GHG emissions. Key issues include where to apply or exempt a carbon tax within an economy, how to distribute carbon tax revenues, the relationship between carbon and other taxes, and the robustness of the carbon tax to stakeholder petitioning during design or implementation. To this last point, British Columbia presents the very rare case of a straightforward and relatively transparent revenue-neutral carbon tax that has so far managed to avoid major dilution from impacted stakeholders. Australia's proposal, on the other hand, reflects the political challenges of effectively enacting such a tax on carbon-intensive economy while upholding free-market principles. Following these investigations, we offer the case of the United States and consider at a high level how experiences abroad may or may not be relevant given the unique conditions here.

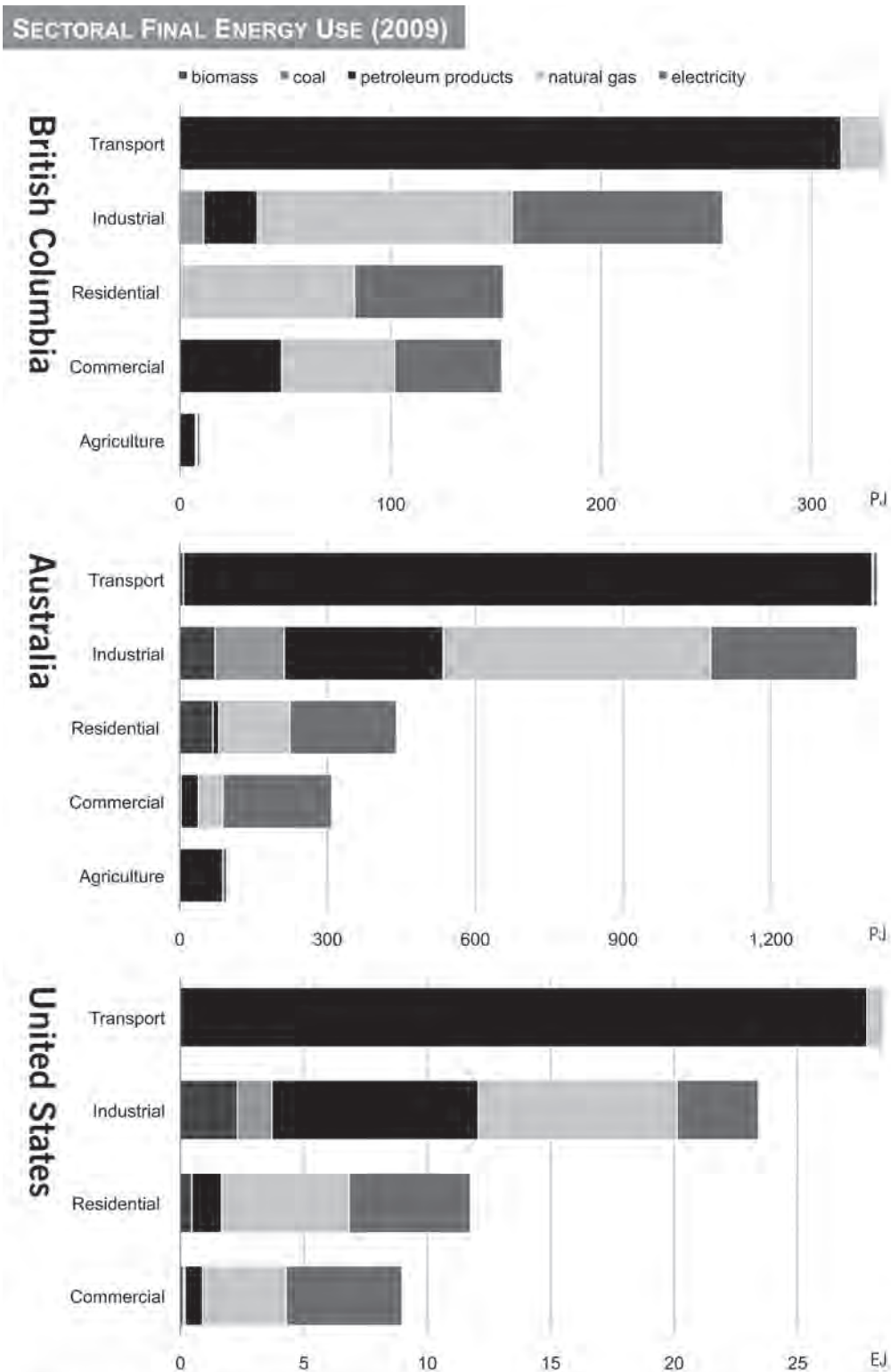
British Columbia presents the very rare case of a straightforward and relatively transparent revenue-neutral carbon tax that has so far managed to avoid major dilution from impacted stakeholders.



## REGIONAL ECONOMIC, ENERGY, AND GHG EMISSION CHARACTERISTICS

	British Columbia	Australia	United States
<b>General</b>			
GPD per Capita	37,200	44,600	46,000
Primary Energy Use per Capita	0.20	0.28	0.33
Carbon Dioxide Emissions per Capita	11.3	18.8	17.7
Carbon Intensity of Final Energy	56.4	108.1	74.7
Carbon Intensity of Economy	0.305	0.406	0.384
			<i>metric tons per 1000 y2009 USD</i>
Average Residential Electricity Price	0.09	0.20	0.12
Average Residential Natural Gas Price	12.50	20.10	11.80
Average Retail Price of Mid-Grade Gasoline	3.60	3.67	2.40
Passenger Vehicle Travel Demand	5,070	4,620	9,540
			<i>y2010 USD per kWh, not including carbon price</i>
			<i>y2010 USD per mmBTU, not including carbon price</i>
			<i>y2009 USD per gallon, including taxes but not carbon price</i>
			<i>passenger-vehicle-miles per person, data for 2007</i>
<b>GHG emission inventory</b>			
Electricity and Heat Generation	2%	38%	33%
Transport	39%	15%	26%
Manufacturing, Construction, Other Industrial	13%	8%	14%
Residential, Commercial, Agricultural	12%	4%	9%
Fossil Fuel Production and Refining	11%	4%	3%
Non-Energy Emissions	15%	26%	13%
Fugitive Emissions	9%	7%	6%
			<i>direct energy use only</i>
			<i>direct energy use only</i>
			<i>US figure estimated</i>
<b>Electricity supply mix</b>			
Coal	0%	75%	44%
Natural Gas	4%	15%	25%
Oil + other	4%	2%	1%
Nuclear	0%	0%	20%
Hydro + Other Primary Renewable	90%	8%	11%

**Source:** Data for 2009, compiled by the authors from national statistics and energy information bureaus; GHG data are from national inventory reports to the UNFCCC.



Source: charts by the authors with data compiled from: Statistics Canada (2011) Report on Energy Supply and Demand in Canada, 2009 Preliminary. Catalogue #57-003-X; ABARE (2011) Energy Update 2011. Australian Government; US EIA (2010) Annual Energy Review 2009. US Department of Energy.

## BRITISH COLUMBIA

### Policy Design

British Columbia's carbon tax policy, originally put forward by the center-right Liberal Party of Canada, was implemented in 2008 amid broader provincial tax reforms and continues to this day. The tax, which began at CAD \$10 per metric ton carbon dioxide and has since risen to CAD \$30, is implemented through a fuel-specific volumetric tax applied the first point of entry or sale and is allowed to filter broadly through the economy. Carbon tax revenues offset existing provincial personal and corporate taxes and now represent about 4% of the total government budget. The tax's relatively simple structure allows very few exemptions or protected entities, and provincial economic growth has so far exceeded the Canadian average over the tax's implementation period. Public and political acceptance for the measure is generally good amid British Columbia's electorate; after five years of experience, however, some tensions have formed over the tax's future form and direction. Though the policy's impact has not been comprehensively modeled, a June 2012 report by the British Columbia government indicates that provincial carbon emissions and fuel use fell relative to historical and broader Canadian trends over the policy's early years.

The tax's relatively simple structure allows very few exemptions or protected entities, and provincial economic growth has so far exceeded the Canadian average over the tax's implementation period.

In originally introducing this so-called “carbon tax shift”, the British Columbia Ministry of Finance laid out five broad implementation principles:

**1. “All carbon tax revenue is recycled through tax reductions”**

The policy includes a legal requirement to demonstrate how all of the carbon tax revenue is returned to provincial taxpayers. The primary mechanisms for this are broad reductions in personal and corporate income tax rates supplemented by direct annual payments to low-income households. A cautious approach toward returning carbon tax revenue has meant that the carbon tax has in fact been revenue-negative in each year for the British Columbia government; income tax reductions are set in advance of tallying annual carbon tax receipts and are calibrated based upon economic forecasts, which creates some uncertainty in the final net revenue level.<sup>1</sup> Nominal net tax refund in the first four years of the program exceed CAD \$500 million (an equivalent, on a population basis, of a USD \$35 billion refund on a nationwide carbon tax in the United States).

Specific historic carbon tax revenue receipts and recycling tax measures are described in the table below. Note the gradual growth in gross carbon tax revenue over time and

the shares of tax benefits and dividends distributed through various mechanisms to business and individuals; total business tax benefits have generally exceeded those for individuals. This has recently become a point of public discontent as some now feel that provincial businesses got too good of a “deal” with the carbon tax’s corporate tax breaks. The table also indicates how tax benefits were gradually ramped up alongside the increasing carbon tax, “rewarding” British Columbians in stages as policy implementation progressed:

	FY 2008/9 @ \$10/ton	2009/10 \$15/ton	2010/11 \$20/ton	2011/12* \$25/ton
<b>Gross Carbon Tax Revenue (million CAD)</b>	<b>\$306</b>	<b>\$542</b>	<b>\$741</b>	<b>\$960</b>
<b>Individual benefits</b>				
Low income climate action tax credit	-106	-153	-165	-188
Reduction of 2% in the first two personal income tax bracket rates				
Reduction of 5% effective Jan 2009	-107	-206	-207	-218
Northern and rural homeowner payment of CAD \$200			-19	-75
<i>Individuals' share of carbon revenue</i>	<i>70%</i>	<i>66%</i>	<i>53%</i>	<i>50%</i>
<b>Business benefits</b>				
General corporate income tax rate cut from 12% to 11%				
To 10.5% effect Jan 1 2010				
To 10% effective Jan 1 2011	-65	-152	-271	-381
Small business corporate tax rate cut from 4.5% to 3.5%				
To 2.5% effective December 2008	-35	-164	-144	-220
Industrial property tax credits		-54	-58	-68
Farm property tax credits			-1	-2
<i>Business' share of carbon revenue</i>	<i>33%</i>	<i>68%</i>	<i>64%</i>	<i>70%</i>
<b>Net Government Carbon Tax Revenue</b>	<b>-\$7</b>	<b>-\$187</b>	<b>-\$124</b>	<b>-\$192</b>

**Source:** Table by authors, data compiled from yearly BC MOF budget and fiscal plans, with updates.

\* Revised forecast from 2012 budget, subject to updates

## 2. “The tax rate started low and increased gradually”

The implementation of the carbon tax was staged over five years with the tax rising from CAD \$10 to CAD \$30 to allow time for British Columbians to adjust their energy use and to provide rate certainty. At its current CAD \$30 rate, the tax is about CAD 25 cents per gallon of gasoline or CAD \$1.58 per mmBTU natural gas.<sup>2</sup> As noted in the revenue chart above, tax revenue-recycling measures were also scheduled to increase alongside expected rising revenues from the carbon tax from 2008 to 2012, though the distribution of these recycling measures across different recipients changed with time. In 2010, average carbon tax payments were about CAD \$200 per household, with a range of CAD \$113 per household in the lowest-income 10% rising to CAD \$300 in the top 10%, and CAD \$617 in the top 1% of households.<sup>3</sup>

### **3. “Low-income individuals and families are protected”**

Because direct energy costs make up a larger proportion of total income and spending for lower-income households, the British Columbia carbon tax policy aimed to use carbon tax revenues to compensate this population for what was otherwise considered to be a regressive tax burden with the intent that most low-income households would actually be better off under the carbon tax policy. As of July 2011, low-income households received a tax benefit of approximately CAD \$115.50 per year for adults and CAD \$34.50 for children, phased out above annual incomes of CAD \$30,000 for individuals or \$35,000 for families. This tax benefit is figured based upon previous year tax returns, and it piggy-backs on the existing Canadian federal general sales tax (GST) credit.

Other *ad hoc* compensation as part of the carbon tax policy included the introduction of a “northern and rural homeowner benefit” of CAD \$200 per year to compensate these British Columbia residents who face higher annual home heating costs and a one-time initial direct “Climate Action Dividend” payment of CAD \$100 to all British Columbia residents at the outset of the carbon tax policy’s implementation (which was actually paid for by the previous year’s general government surplus rather than carbon tax revenues).

### **4. “The tax has the broadest possible base”**

The British Columbia carbon tax targets carbon dioxide, methane, and nitrous oxide that is created and emitted through the combustion of hydrocarbon fuels in all sectors of the economy. While not exhaustive, this gives the tax a relatively broad base, estimated to be approximately 70–75% of total provincial anthropogenic GHG emissions.<sup>4</sup> Emissions from biofuels, fuel sold to First Nations (Canadian indigenous) populations, fuel sold for international marine and air travel, non-energy sources (such as waste, agriculture, or industrial chemical reactions), and fugitive emissions are exempted. A fuel-specific tax, published by the government in the fuel’s natural units, is applied at the wholesale level for fuel that is to be sold and combusted within the province and is administered similarly to conventional motor fuel taxes.<sup>5</sup> Businesses and individuals therefore both pay direct carbon taxes on fuel purchased for combustion within the province and are impacted by increased costs for intra-province embedded emissions in goods and services. Emissions which are “embedded” into a non-energy good or service produced outside of the province and imported to be sold within are not estimated or taxed, and non-energy goods or services produced inside the province for export are not refunded for the carbon tax paid to produce them. That is, in the interest of policy simplicity, there is little attempt to enact “border tax adjustments” for non-energy embedded emissions.<sup>6</sup>

### **5. “The tax will be integrated with other measures”**

According to the British Columbia government, its carbon tax policy was created to help achieve previously established provincial GHG emission mitigation and climate change targets of 33% below 2007 levels by 2020 and an 80% reduction by 2050. At the

time of its introduction, however, it was noted that even at its highest scheduled level of CAD \$30 per ton carbon dioxide-equivalent, the carbon tax alone would not be sufficient to meet these goals. It was therefore accompanied by a package of other targeted emission-mitigation policies and strategies, including a stated intent to join the proposed “Western Climate Initiative” cap-and-trade program with several Canadian provinces and western U.S. states at some future point.<sup>7</sup>

### **Region-specific Considerations**

There are several different considerations that are unique to the British Columbia situation that are worth examining as context for its policy choices.

#### ***Extremely low-carbon electricity supply***

Most importantly, 90% of British Columbia’s electricity supply is generated from hydropower or other primary renewable resources that emit very little GHGs, and an even higher percentage of utility electricity distributed to individual consumers is carbon-free. This means that the British Columbia carbon tax policy essentially does not affect provincial electricity prices; most of its impact for individual households is on the price of gasoline used in private vehicles and natural gas used in home heating, and industrial or commercial electricity use is similarly unaffected in price. This variance is highly salient when attempting to extrapolate the viability of a British Columbia-style system to other regions.<sup>8</sup>

Moreover, on the supply side, this existing low-carbon electricity system meant that British Columbia was able to largely avoid having a concentrated carbon tax burden fall on fossil fuel-fired thermal power generators. This removed a key stumbling block that would be a policy design or political challenge elsewhere.<sup>9</sup>

#### ***Economic structure***

British Columbia has been able to recycle carbon tax revenue to the business sector through a straight reduction in general corporate or small business income taxes. Since the 2009/10 carbon tax year, revenue recycling measures to the business sector have exceeded 50% of total revenue distributions, and in the 2011/2012 year business recycling measures were estimated to be 58% of total allocations, equal to nearly 70% of total collected carbon tax revenue.<sup>10</sup> Combined with a relatively non-concentrated GHG emission business profile, as described above, business acceptance of the carbon tax policy (coupled with business tax breaks) has seemed good—too good, perhaps, as corporate tax breaks have now come under popular fire as having been too generous. Exceptions are GHG-intensive export-oriented businesses, which must compete with out-of-province producers not facing British Columbia’s carbon tax. In British Columbia, such industries include cement production and greenhouse growers. For the first time, in 2012, the British Columbia Ministry of Finance announced a one-time targeted relief grant of CAD \$7.6 million to provincial greenhouse growers.<sup>11</sup>



***Broader ongoing tax reforms***

It is important to note that discussion around and implementation of the British Columbia carbon tax policy, attention-worthy on its own, was contemporaneous with broader dramatic tax reform within the province. In fact, considering the context, it seems unlikely that British Columbia could have accomplished its carbon pricing absent a larger tax reform that took political heat away from the carbon issue.<sup>12</sup>

In particular, British Columbia in the later part of the decade was party to Canadian efforts at the federal level to adjust disparate provincial sales tax systems into a more unified and consistent “harmonized sales tax” (HST) whereby taxes on goods and services at the provincial level would follow similar conventions to the existing federal “general sales tax” (GST) system. The aim of this was to simplify the tax code and reduce the compliance and bureaucratic costs of maintaining parallel systems, but it meant that tax burdens within a province would shift from the *status quo* across products and consumers. For our discussion, this is important because it meant that the carbon tax, though novel, was just one of many tax changes that British Columbians had to consider or be impacted by since 2008.<sup>13</sup> The HST caused substantial rifts in the ruling coalition which in many ways overshadowed the carbon tax’s impact.

Post the carbon tax, British Columbia has the lowest income tax for those making under CAD \$120,000, corporate taxes that are the lowest in the G7, and small-business taxes that are the lowest in Canada.

***Compared to existing motor fuel taxes***

It is useful to consider British Columbia’s total tax burden on gasoline and diesel in relation to the carbon tax, as motor fuel is a major incidence of the carbon tax burden and also is subject to numerous other revenue-raising taxes.<sup>14</sup> Given British Columbia’s nearly carbon-free electricity system, motor fuels are the most salient manifestation of the carbon tax for individuals, yet even here the carbon tax’s incidence is small compared to other motor fuel excise taxes and the short-term volatility in the underlying oil product price itself.

Apart from the provincial carbon tax, British Columbia motor fuels are subject to Canadian federal excise (motor fuel tax), a British Columbia Transportation Financing Authority tax, mass transit-funding taxes that vary by region within the province, and the Canadian GST. Taken together, this means that the provincial carbon tax level of CAD 8.5–25.2 cents per gallon over the 2008–2012 period has so far represented between just 6.1–12.1% of total gasoline taxes, or between 2.0–3.9% of the total price per gallon of gasoline in Vancouver.<sup>15</sup> This is a relatively small share of the existing motor fuel tax burden; in fact, in the Vancouver region, new increases in the local mass transit-funding excise tax on gasoline alone since the outset of the carbon tax policy nearly match the entire incidence of the gasoline carbon tax.<sup>16</sup>

## AUSTRALIA

### Policy Design

The Australian government implemented in July 2012 a broad-based tax on GHG emissions from about 350 of the country's largest GHG emitters as part of its climate change strategy. While not explicitly revenue-neutral, this tax policy stipulates that over 50% of carbon revenues will be directly returned to individual households through a combination of income tax breaks and direct payments and that 40% of carbon tax revenues will be dedicated to government spending programs intended to provide targeted assistance to particularly hard-hit business sectors. Similar to British Columbia, the Australian carbon tax has been implemented alongside a broader comprehensive multi-year tax system reform.<sup>17</sup>

The tax is set at AUD \$23.00 per metric ton carbon dioxide-equivalent in 2012–13, rising to AUD \$24.15 in 2013–14 and AUD \$25.40 in 2014–2015 before a scheduled gradual transition to a market-based floating carbon price in 2015, potentially linked to an international carbon cap-and-trade system. Therefore, the set carbon tax is envisioned as just the first step of a two-stage carbon pricing policy in Australia.

Unlike the general fuel-focused British Columbia carbon tax, the Australian carbon tax is applied quite selectively throughout the economy. Only major emitters' GHG pollution is directly covered, though this coverage does include major non-energy and fugitive GHG emissions;<sup>18</sup> these top emitters, whose annual emissions in general exceed 25,000 metric tons per year of carbon dioxide-equivalent, represent about 60% of total Australian GHG emissions. The Australian carbon tax does not cover motor fuel used for on-road transport and also exempts the agriculture and land use sectors, though fuel used for commercial aviation, shipping, and rail services is set for inclusion.

Similar to British Columbia, the Australian carbon tax has been implemented alongside a broader comprehensive multi-year tax system reform.

Although direct final combustion of hydrocarbon fuels such as motor fuels, natural gas, or biomass by small-scale residential and commercial end-users is not directly affected by the Australian carbon tax, individual households are nevertheless expected to see increased consumer costs from higher carbon-intensive electricity rates and the embedded emissions of other goods and services produced within Australia (including, for example, domestically refined gasoline). The Australian government estimates that the consumer price index will rise by 0.7% in the first year as a result of the carbon tax. To address this, at least 50% of carbon tax revenues are allocated for “household assistance” to compensate households for these higher costs, with an average household compensation of about AUD \$10.10 per week,

according to government estimates. Such household assistance includes:

(1) increases in pensions, allowances, and “family payments”, and; (2) income tax cuts for annual incomes less than AUD \$80,000, including raising the tax-free threshold for lower income brackets.

Australian businesses do not receive a general corporate tax rate deduction funded through the carbon tax as in British Columbia, but 40% of carbon tax revenues have been allocated help major industries reduce emissions, especially those emission-intensive businesses that compete against untaxed foreign competitors.<sup>19</sup> This laundry list of sectoral carve-outs and targeted benefits is extensive, with the coal-fired power and metallurgic industries receiving a significant share of total benefits. These six spending categories, along with estimates of their fiscal impact, are enumerated in the table below. Note that, similar to the British Columbia case, the Australian government expects the entire carbon-tax program to actually be significantly revenue-negative (i.e. a tax cut):

	FY 2011/12	2012/13	2013/14	2014/15
<b>Gross Carbon Tax Revenue (million AUD)</b>		<b>\$8,600</b>	<b>\$9,080</b>	<b>\$9,580</b>
<b>Household Benefits</b>				
Tax reforms		-3,350	-2,370	-2,320
Direct transfer payments (pensions, family payments, veterans, elderly)	-1,470	-746	-2,301	-2,380
Other (low carbon communities, household efficiency, household assistance)	-63	-100	-132	-125
<i>Households' share of carbon revenue</i>	<i>56%*</i>	<i>49%</i>	<i>53%</i>	<i>50%</i>
<b>Business Benefits</b>				
“Jobs and competitiveness program”		-2,851	-3,059	-3,312
“Clean technology program”	-19	-142	-245	-312
Increased small business instant asset write-off			-100	-100
Regional subsidies		-10	-50	-30
Other business energy efficiency measures	-7	-15	-21	-19
<i>Business' share of carbon revenue</i>	<i>1%*</i>	<i>35%</i>	<i>38%</i>	<i>39%</i>
<b>“Transitional” Measures</b>				
Carbon tax credits for coal-fired power producers				
Negotiated government buyouts of inefficient coal-fired power plants	-1,009	-1	-1,003	-1,042
<b>“Clean Energy Finance Corp.”</b>				
Financing to deploy renewable, low-carbon, and efficiency infrastructure +				
Subsidies to manufacturers of renewable energy equipment	-2	-21	-467	-455
<b>Land and Carbon Sink Measures</b>				
“Carbon Farming Initiative” +				
“Biodiversity Fund” +				
Other carbon sink land management subsidy programs	-69	-131	-506	-489
<b>Governance</b>				
Establishment of a “Clean Energy Regulator” and other administrative costs	-78	-90	-106	-107
<b>Net Government Carbon Tax Revenue</b>	<b>-\$2,716</b>	<b>\$1,144</b>	<b>-\$1,279</b>	<b>-\$1,110</b>

**Source:** Table by authors from data published in the “Clean Future Final Plan”, Australian Government 2011.

\* Share of total payments as no carbon revenues are collected in FY 2011/12.

### **Region-specific Considerations**

The form of the Australian carbon tax policy is practically the reverse of British Columbia's. While both aim to apply a fixed carbon price across a broad swath of economy-wide GHG emissions, Australia has chosen to focus on all GHG emissions from only the largest emitting businesses, whereas British Columbia chose a carbon dioxide-focused fuel tax evenly applied across all end-users, including individual direct combustion for vehicles and home heating (two areas specifically exempted in Australia). And though both policies aim to recycle carbon tax revenues similarly for individual households, they take an opposite approach toward compensating businesses.

#### ***Extremely carbon-intensive electricity sector***

One explanation for this different policy strategy is the nature of the two regions' electricity systems; whereas British Columbian electricity relies on hydropower and is nearly carbon-free, nearly 75% of the Australian electricity system is supplied by carbon-intensive coal and only 8% by low-carbon renewables such as hydropower. The Australian government estimates that electricity price rate increases will represent about one-third of the total carbon tax costs borne by households, or about 10% higher electricity costs. Taken together with higher embedded emission costs from other goods and services produced in Australia's particularly carbon-intensive economy, this means that individual households in Australia will face cost-of-living increases that are similar to (or slightly less than) the increases seen in British Columbia at a comparable carbon price—even with Australian household end-use exemptions on motor fuel.<sup>20</sup>

The carbon-intensive nature of the Australian electricity sector also helps explain why the government has chosen to direct carbon tax revenues to sector-specific business assistance rather than the broad tax breaks adopted in British Columbia. Industry is the largest user of electricity in Australia, and carbon costs will be particularly concentrated in electricity-intensive sectors such as aluminum and mining. Moreover, the coal-fired electric generators themselves, as major GHG emitters, face a heavy carbon tax burden the prospect of uneconomic stranded investments.

#### ***Industry focus***

Because of its natural resource and export-heavy economic structure and coal-dependent fuel profile, GHG emissions in Australia are relatively concentrated in singular large emitters. For example, when accounting for indirect GHG emissions from purchased electricity, the Australian manufacturing and mining sectors together account for 39% of total GHG emissions. Adding GHG emissions from the waste sector, fugitive emissions such as those from energy production, and commercial transport services means that about 60% of total GHG emissions can be accounted for simply by focusing on about 350 of the country's largest emitters out of an estimated 2 million registered Australian businesses.<sup>21</sup> Though embedded carbon emission costs do certainly affect the broader economy, such a targeted approach is thought to

potentially lower bureaucratic and compliance costs of implementing the policy, as well as reduce the number of direct stakeholders. Like the comprehensive carbon cap-and-trade bills attempted in the United States, however, this approach opens the political process to significant opportunities for gaming and regulatory capture by organized business interests.<sup>22</sup>

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## THE UNITED STATES

What can the experiences of British Columbia and Australia teach the U.S.?

Though the United States has not implemented a revenue-neutral carbon tax, the debate regarding carbon pricing, both for and against, has recently been attracting considerable public attention for the diversity of its participants.<sup>23</sup> In the wake of failed attempts to pass an ambitious and complex economy-wide cap-and-trade bill, as an alternative to potential court-ordered direct regulation of carbon emissions by the EPA through the Clean Air Act, and with an eye toward comprehensive federal tax reforms, politicians and economists have once again tabled revenue-neutral carbon taxes as one policy option among the many to be considered. And while the carbon tax experiences of British Columbia and Australia to date do illustrate valuable real-world dynamics and design choices, the energy and economic differences between them and the United States limit their direct relevance.

In the wake of failed attempts to pass an ambitious and complex economy-wide cap-and-trade bill, as an alternative to potential court-ordered direct regulation of carbon emissions by the EPA through the Clean Air Act, and with an eye toward comprehensive federal tax reforms, politicians and economists have once again tabled revenue-neutral carbon taxes as one policy option among the many to be considered.

### Region-specific Considerations

At first look, the United States—though much larger than British Columbia or Australia—is not so dissimilar to these two carbon-taxing regions. With a diverse mix of both high-carbon and low-carbon electricity generation capacity, average United States electric system carbon intensity falls between coal-reliant Australia and hydro-rich British Columbia. Existing United States electricity rates are closer to relatively higher Australian rates but natural gas rates closer to relatively lower British Columbia rates. Per capita energy use in the United States easily exceeds that of both British Columbia and Australia, but per capita carbon dioxide emissions and the carbon dioxide emission intensity of economic activity fall between the two other regions.

But the situations quickly begin to diverge. For example, the GHG-economic structure of the United States is relatively diverse. The United States does have concentrated emission-intensive or emission-linked industries (such as coal fired power generation or oil refining) that would face steep costs from a carbon price, but its economy-wide emissions are not dominated by these sources as they are in Australia. For example, about 5,500 reporting facilities in the United States meet the Australian annual 25,000 ton GHG emission threshold; to attain 60% coverage of United States GHG emissions by focusing on final fuel consumers, as achieved by the top-350 emitter



industry-focused carbon tax scheme in Australia, would require coverage closer to 5,000 facilities.<sup>24</sup>

One particularly exceptional characteristic of the United States energy and emission profile is its transport sector: Americans drive significantly more than those in British Columbia<sup>25</sup> and Australia but existing gasoline prices are significantly lower. So while overall household expenditure on gasoline may be similar across all three regions, a price on carbon would raise annual costs to American drivers by both a higher absolute level and a higher relative proportion of volumetric price. In short, it would be more noticeable.

Another important consideration for the United States is its regional diversity—a potentially key design barrier for any sort of carbon price. Given its large size, the average United States energy-economic characteristics described above are actually the result of significant regional heterogeneity.<sup>26</sup> It would be important then to also consider the geographic in addition to the socioeconomic distributional effects of pricing carbon and recycling that revenue in the United States. For example, unlike in British Columbia, a straight carbon tax in the United States would result in customers in states with highly coal-dependent electricity generation portfolios being impacted more than residents in less carbon-intensive states.<sup>27</sup>

## DISCUSSION

The British Columbia and Australia cases highlight key carbon tax design and implementation issues. These choices and experiences are explored below.

### **What is the goal of the revenue-neutral carbon tax?**

The British Columbian and Australian governments both described their carbon taxes in terms of reducing GHG emissions within their economies so as to help mitigate anthropogenic climate change.<sup>28</sup> Neither government expected that the carbon tax alone would be sufficient to achieve various GHG emission-reduction or technology development goals and so presented the carbon tax alongside other programs and measures. Neither policy explicitly determined prior to implementation how the carbon tax would be evaluated or if it would be adjusted based on its impact or lack thereof on GHG-emitting behavior.

A different option for framing the goals of a carbon tax—not explicitly adopted by British Columbia or Australia—would be in terms of fairness, competition, and efficiency. Namely, because current markets generally do not price the potentially negative impacts of GHG emissions, emission-intensive activities are privileged relative to non-intensive options; this distorts technology development, capital deployment, and fuel choice or other behaviors. Applying a tax to carbon to internalize this distortion could therefore be framed as one step towards “level the playing field” for the supply and demand of energy. Alongside reform of other distortionary energy taxes, subsidies, and mandates, the explicit goal of pricing carbon would then be to achieve fairer competition and efficiency in the energy market.<sup>29</sup> Such a “means-based” (i.e. market function) rather than “ends-based” (i.e. aggregate emissions reduction or climate change mitigation) framing would also have the advantage of being easier to directly evaluate.<sup>30</sup>

### **How are carbon tax revenues returned to the economy?**

A revenue-neutral carbon tax directly returns all tax receipts to the economy, though this return of revenue is redistributive by nature; the carbon price signal faced by GHG emitters is therefore independent of any compensation received, even if net emitter costs from the carbon tax are near zero. Drawing from the British Columbia and Australia cases, revenue recipients can be divided into the following general categories:

- (1) Individuals (further stratified by income level, with additional special classes including low income, vulnerable, or particularly emission-intensive groups), and;
- (2) Businesses (with divisions for small businesses, export-oriented or trade-vulnerable sectors, or particularly emission-intensive sectors).

A revenue-recycling policy could arguably identify any number of these categories to receive a portion of total revenue benefits; as such, this “outflow” element of policy design is subject to stakeholder capture just as the tax incidence itself is on the “intake” side of the policy.

A basic approach to revenue distribution, illustrated in British Columbia, is to apply a simple benefit scheme to both businesses and individuals, but to attempt to correct for the regressive nature of a carbon tax on the individual side by calibrating benefits to the average share of income impacted by the carbon tax for different tax brackets, with further special benefits for particularly impacted individuals.<sup>31</sup> Somewhat surprisingly, however, British Columbia was largely able to avoid similarly segregating revenue benefits to business recipients.

Australia, on the other hand, while adopting a similar benefit scheme for individuals, has chosen to also make business benefits extremely targeted on export-oriented or emission intensive sectors. Furthermore, it has supplemented business benefits through government-managed spending programs to the extent that the policy may not truly be considered revenue neutral. In addition to these demographic and sectoral design considerations, were the United States to adopt a similar simple revenue-neutral carbon tax, the regional distribution of tax or dividend beneficiaries might also have to be considered given heterogeneity in regional energy system carbon intensity.

Apart from the question of who receives how much revenue benefit, there is the issue of the benefit’s form. The revenue benefit’s form is important in determining a government’s control over revenue distributions over time as well as stakeholder support or political feasibility of the overall policy. For example, British Columbia has chosen to recycle most carbon tax revenues through reductions in personal income or general business tax rates. Particularly impacted low-income or emission-intensive households are further compensated by tax credits or the proverbial “check in the mail” akin to the State of Alaska’s mineral royalty “Permanent Fund Dividends” paid annually in an equal proportion to each resident.

Direct “check in the mail” payments to individuals can be a politically appealing choice because of the high degree of salience and accountability it provides regarding the revenue-neutrality of the carbon tax. Such flat dividend payments, however, can potentially become vehicles for significantly progressive wealth redistribution: high income, high consumption households who contribute more payments under a carbon tax would likely be refunded far less than their total tax payments under a flat dividend, even if such individuals adopt strong carbon emission-mitigating choices. Similarly, a flat dividend under a very steep carbon tax could become a significant new entitlement to low income households.<sup>32</sup> This distribution represents both a significant political and policy challenge.

In contrast, tax offsets have been chosen to distribute the bulk of revenue benefits to individuals for both the British Columbia and Australia cases. The British Columbia “tax-shift” choice, in particular, can be seen as using a carbon tax to “fund” a desired tax cut on an existing distortionary tax such as a payroll, personal income, or corporate taxes (i.e., taxes on working or earning profits—neither of which are activities that a government likely wishes to discourage through taxation but does anyway because of funding needs and historical precedent).<sup>33</sup> More specifically, the use of corporate tax breaks can be an appealing option to encourage business buy-in for a revenue neutral carbon tax, but begins to create the hazard of regulatory capture as demonstrated very clearly in the Australia case. To this end, it is worth noting that the British Columbia “tax-shift” was designed and enacted by the provincial Ministry of Finance rather than an environmental or energy agency.

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In addition to affecting political feasibility, the form of benefit distribution can also have important operational implications.<sup>34</sup> One substantial operational concern is balancing the need for true revenue neutrality with a desire to ensure fiscal health. The British Columbia experience illustrates this tension:

- (1) The revenue-recycling benefit mechanism is generally set in advance as part of an implicit contract that emphasizes predictability in what is otherwise a novel taxation system; this can make it difficult or legally impossible to update if problems arise during implementation.
- (2) Revenue expectations from a carbon tax are based on estimates of future fuel consumption or GHG emissions and so are uncertain; likewise, non-discrete revenue benefit measures such as general tax rate reductions depend on estimates of future economic activity in particular sectors and are also uncertain. Net accounts of the carbon tax system, which might be politically significant, are therefore shifting at both ends.
- (3) Similarly, the net distributional impacts of a revenue-neutral carbon tax are subject to numerous additional layers of uncertainty. For example, one sector of the economy may face unanticipated high costs from a carbon tax (such as an external need to switch fuels) while another sector may benefit from an unexpected windfall from revenue-recycling tax breaks.

As described above, the result of such operational uncertainty in British Columbia has meant that the “carbon-shift” has actually been revenue-negative for the government and the distribution of revenue benefits between individuals and business has diverged

from initial expectations. Because the policy design largely tied the government's hands for the first five years of implementation, the government had to assume revenue and benefit payment risks that might have become significant. It is possible, however, that a different design might have been more robust to uncertainty without compromising social acceptance; a direct payment system with a proportional benefit amount determined by that year's estimated tax revenue, for example, would disaggregate the benefit payment risk by transferring it from the government to recipients.

Another notable aspect of the British Columbia carbon tax was its structuring in such a way that seemed to "call" for emissions growth to balance revenues with expenses, as is highlighted in the numbers below from the British Columbia Government. As a result, the British Columbia budget has become more dependent on carbon tax revenue than any jurisdiction on earth, with a forecasted 10% jump in emissions over the initial five year period being necessary to hit revenue targets, as outlined in the table below:<sup>35</sup>

Fiscal Year	Carbon Tax Rate	Est. Carbon Tax Revenues	Inferred Carbon Tax Base	Emissions Growth Requirement
2010/11	CAD \$20/t CO <sub>2</sub> e	CAD \$741 million	37.1 million tons CO <sub>2</sub> e/y	
2011/12	CAD \$25/t CO <sub>2</sub> e	CAD \$960 million	38.4 million tons CO <sub>2</sub> e/y	3.5%
2012/13	CAD \$30/t CO <sub>2</sub> e	CAD \$1,166 million	38.9 million tons CO <sub>2</sub> e/y	1.3%
2013/14	CAD \$30/t CO <sub>2</sub> e	CAD \$1,232 million	41.1 million tons CO <sub>2</sub> e/y	5.7%

**Source:** Table by authors; data compiled from BC MOF Budgets and author calculations.

Of course, these are significant revenues, especially in the context of British Columbia's total budget of just CAD \$43 Billion. One problem with the carbon tax is that having already committed this future revenue stream to finance the corporate and personal income tax rate cuts that it enacted, British Columbia is potentially in a difficult fiscal position of not really wanting carbon dioxide to fall too much in the near future, seemingly defeating the emissions reduction purpose of the tax in the first place.<sup>36</sup>

### **How is the integrity of the tax and revenue-returning measures ensured?**

Once implemented, a revenue-neutral carbon tax is potentially subject to both new exemptions on the taxation side and appropriation of revenues by stakeholders or the government itself on the benefits side. Potential adjustments range from small "tweaking" in response to unanticipated tax burdens that befall certain stakeholders to an outright policy overhaul given a changed economic or political environment. In British Columbia, for example, a "Northern and rural homeowner benefit" payment was established in the third year of policy implementation to compensate this energy-intensive stakeholder group for the higher cost they faced from home heating through the carbon tax. This new benefit amounted to 2.6% of collected third year carbon tax revenue and 7.8% of fourth year tax revenue.

These adjustments were enacted through the benefit payout rather than tax intake side—the tax base remained relatively stable. This is in stark contrast to the Australian case where targeted tax base exemptions are central to policy design from the very outset. And though the British Columbia carbon tax appears to enjoy generally solid public support,<sup>37</sup> anecdotally, popular calls for exemptions or even a redirection of revenues towards “green” government spending do remain present, especially in urban areas.

Moreover, it is unclear if this latest target relief grant to the provincial greenhouse agricultural industry, described above, represents a new approach by the Ministry of Finance toward implementation of the policy and if it will now be successfully followed by further stakeholder requests.

#### **Designing a Lockbox—The Alaska Permanent Fund Dividend**

The question of how to create a “lockbox” around the revenues of any new carbon tax, especially in times of government deficits and across political or economic cycles, is central in assuring the key principle of revenue-neutrality. Returning to United States precedent and the Alaska Permanent Fund Dividend, first paid out to residents in 1982 and uninterrupted through today, it is interesting to note that the constitutional amendment creating the fund specifically granted the state legislature broad flexibility in determining how fund earnings could be spent [Austermann 1999]. The dividend, however, has nevertheless been consistently and successfully distributed since.

The most significant challenge to the dividend came in 1999 when oil prices (and fund principal deposits) were very low; a governor’s proposal to redirect some fund earnings towards general budgetary spending was rejected by popular vote by an overwhelming margin. The dividend continued despite persistent government account deficits in Alaska and it has been suggested that officials today are so anathema to be seen as interfering with the annual dividend that they hesitate to even commission research studies on its operation or effect [Goldsmith 2002]. The only “lockbox” for this case then is virtual; historical precedent, alongside a once non-existent but now significant public constituency (supported by the dividend policy’s extreme simplicity and visibility), has preserved continuity.

It is also interesting to note that, unlike the “shared” tax breaks seen in the British Columbia carbon tax case, business entities in Alaska are not directly involved at all on the receiving side of the permanent fund; dividends are returned only to individuals, and to every individual. The simplicity and transparency of this has likely contributed to the robustness of the Alaska Permanent Fund Dividend over time.

Though this model is robust it is not without critique. In particular, many point out that a flat dividend can become a vehicle for cross-subsidy across income and consumption groups, especially as payouts rise beyond compensation for any incurred direct costs.



**Designing a Lockbox—Using a Carbon Tax to Eliminate an Existing Tax**

Another sensible approach to dealing with revenues while ensuring integrity is to explicitly substitute new revenues for an existing revenue stream. Such a 1-for-1 trade would be a true “tax swap”, completely eliminating—and not just marginally reducing—an existing tax.

To illustrate how this could work we can look at the example of a carbon tax in the United States. The easily measurable carbon dioxide emissions of major energy producers in the United States have been roughly 5 billion metric tons in recent years [US EPA 2012, see below]. Therefore, a carbon tax of USD \$30 per ton would yield about USD \$150 billion in government revenues. Unlike many other federal taxes, however, which grow alongside broader economic activity, carbon tax revenues could be expected to gradually fall over time as the economy becomes less carbon intensive. So what does USD \$150 billion buy from federal government revenues today?

<b>Curent Federal Tax</b>	<b>Typical Revenues</b>
Gasoline	\$25 billion
Diesel	\$8–9 billion
Other Manufacturer / Fuels	\$2–3 billion
Air Travel / Freight + Phone	\$11–12 billion
Highway Trust Fund Supplement	\$8 billion
Capital Gains	\$40–140 billion
Capital Gains, income <100k/200k	\$10–15 billion
Estate and Gift	\$20–30 billion
AMT for individuals	\$5–25 billion

Excise and consumption taxes are one potential target and they are similar in form, though narrower, than a carbon tax. In particular, displacing the federal gasoline and diesel taxes would significantly offset a major consumer and small business pain point. Fuel and transport tax eliminations (~USD \$55 billion) could be paired with elimination of capital gains taxes for medium income households, elimination of the estate and gift taxes, and elimination of the AMT for individuals. Or, instead, the capital gains tax could be completely eliminated. As one reference point, the Romney tax cuts would have “cost” about USD \$215 billion (in static terms). With such a tax-swap model, there are a wide variety of potential tax elimination options that might be both politically salient and reasonably transparent enough to mitigate the risk of future tampering.

**Where is the Tax Applied?**

Setting the ideal carbon tax base is a tradeoff between making coverage as broad as possible (to maximize emission mitigation potential, flexibility, and fairness across the economy) and narrowing the number of directly liable entities or events (to minimize administrative costs, policy complexity, and gaming). The varied British Columbia and Australian approaches to both aspects illustrate that potential strategies are the result of both energy-economic structure and political choice.

Namely, British Columbia chose to apply its tax largely upstream and let it filter broadly through the economy while Australia is focusing more downstream at the

major consumer level and at the point of consumption. Australia's approach allows it to better exempt certain protected sectors like personal transport. Moreover, its entity-based approach—seen more commonly in carbon cap-and-trade schemes<sup>38</sup>—sets Australia up for its intended conversion to an internationally-linked cap-and-trade after 2015. But whereas Australia's downstream carbon tax covers just 60% of the country's total GHG emissions (and must include fugitive emissions to achieve even that), British Columbia's upstream energy-focused tax can ultimately operate more efficiently with its 70–75% coverage of total GHG emissions. British Columbia also notes that its volumetric approach was able to use existing fuel tax administration infrastructure, allowing for simpler implementation.

For comparison, in the United States, the carbon dioxide emissions from fossil fuel combustion alone are about 79% of total greenhouse gas emissions.<sup>39</sup> An upstream and midstream-focused energy-only carbon tax with incidence only on oil refiners, coal producers, and natural gas processors could realistically be expected to cover about 70–75% of total United States greenhouse gas emissions from under just 2,500 total liable entities.<sup>40</sup>

### **Border Considerations**

Many proposed carbon pricing policy designs have struggled with the question of border adjustments—that is, how to penalize imports produced in out-of-jurisdiction regions that do not face a similar carbon price, how to compensate domestic exporters for their carbon tax payments, or how to avoid leakage of economic activities across jurisdictional borders. Politically, such competitiveness-related concerns have even been cited as a primary justification for legislative inaction on carbon pricing. It is interesting to note then that in British Columbia's pioneering revenue-neutral carbon tax efforts, the issue of border adjustments was deemed not to be a showstopper: relatively simple provisions were enacted to address the first-order issue of fuel imports and exports, while the second-order issue of embedded emissions within traded products or services was essentially left aside to be evaluated over time as actual (and not simply anticipated) business impacts were observed.<sup>41</sup>

And while the pragmatic spirit of British Columbia's approach is imitable, it may not be sufficient for trade-heavy countries such as the United States. For example, as described above, emission-intensive trade-exposed industries such as refineries, chemicals, metals, cement, paper, or even agriculture in countries like Australia (or the United States) could reasonably be expected to face negative economic impacts from a relative drop in domestic and international competitiveness against untaxed foreign embedded emissions. For its part, Australia is planning to devote significant tax revenues towards compensating such industries domestically in the early years of its carbon tax with the hope that enough of its trade partners will adopt similar or even harmonized carbon pricing policies into the future to mitigate the problem. Presumably, over time, such border adjustments might be rendered unnecessary as trade partners adopt their own commensurate carbon pricing mechanisms.<sup>42</sup>

### The Politics of a Carbon Tax

In addition to the policy aspects of carbon pricing, experiences abroad also have important lessons about the politics of carbon pricing.

In British Columbia, the major left-wing party were very concerned about the effects on working class incomes of such a tax, causing them to initially oppose it. Despite the opposition of these traditional left-wing proponents of environmental regulations, however, the centrist Liberal party achieved re-election after its advocacy of the tax.<sup>43</sup>

Perhaps most interestingly, the carbon tax proposal was designed by the Liberals explicitly to pull environmentally-minded voters from more left-wing parties to the Liberal party, effectively splitting those parties.<sup>44</sup> One observer commented that “The New Democrats, led by Carol James, fiercely opposed the carbon tax, arguing that it especially hurt rural residents. But the party’s opposition to the tax cost them the support of almost all environmental organizations, which sided with Campbell solely on the issue,” while the nonpartisan Conservation Council launched a campaign telling voters to choose “anybody but James.”<sup>45</sup>

Even before the results came in, some commentators began to speculate on the likely electoral effect of the tax. For the *Globe and Mail*, Dirk Meissner reported on suggestions that the NDP’s stance on the carbon tax might hurt it on election day. In particular, he emphasized the views of Harris Decima’s Senior VP Jeff Walker who suggested that “traditional soft environment voters in British Columbia who usually go into every election vowing to vote Green, but end up going with the NDP are now considering staying Green to punish the NDP.”<sup>46</sup>

Yet despite carbon pricing’s reasonably favorable reception by the British Columbia public and the intriguing politics outlined above, by 2011, “The three major provincial parties in Ontario—the governing Liberals, the Conservatives and the NDP—[had] explicitly vowed not to introduce a carbon tax in that province if they win the upcoming provincial election.”<sup>47</sup> Stéphane Dion, of the Liberals, who ran on a similar “Green Shift” in taxation at the national level in 2008, was resoundingly defeated after being opposed by both Canada’s conservatives, under Stephen Harper and the liberal NDP, both of whom criticized his carbon tax proposal, modeled after British Columbia’s.<sup>48</sup> Looking at the British Columbia case, the evidence for the political feasibility of a revenue-neutral carbon tax could be best described as mixed. It seems most likely to occur in the context of a broader overall tax reform, as occurred in Australia and British Columbia.

Looking at the British Columbia case, the evidence for the political feasibility of a revenue-neutral carbon tax could be best described as mixed.

## CONCLUSION

In this paper we have described the real-world design choices and policy experience to date of the most significant major new global forays into revenue-neutral carbon taxes—that is, those carbon taxes that return substantially all of their revenue collected through tax benefits and direct payments to individuals. Interestingly, one of the few things shared between the British Columbian and Australian approaches is that they both enacted their carbon taxes in the context of a comprehensive tax reform process. Policy details such as tax incidence, sectoral coverage, GHG coverage, business revenue benefits, and the schedule of policy implementation are actually all quite different. And time will tell how public and political support for Australian scheme fares in comparison to the British Columbian experience over the past five years.

For example, it is highly salient that the only largely successful revenue-neutral carbon tax enacted worldwide—in British Columbia—was one that essentially exempted the electricity sector. We argued that the reasons for such divergent approaches are due in part to political choices, but they are also grounded in the quite different energy and economic systems of the two regions. One lesson we might draw then is that the path of even something as seemingly straightforward as a revenue-neutral carbon tax—from economic theory, through the political process, to real-world implementation—is in fact long and winding.<sup>49</sup>

The path of even something as seemingly straightforward as a revenue-neutral carbon tax—from economic theory, through the political process, to real-world implementation—is in fact long and winding.

Moreover, having considered the British Columbia and Australian efforts, it is clear to us that a revenue-neutral carbon tax cannot be considered simply from the perspective of climate change mitigation. Because a carbon tax is ultimately an energy tax (albeit a differentiated one), it, like any fundamental energy system reform, should instead be framed more broadly: by how it affects a country's *environment*, by how it affects *energy security*, and by how it affects the broader *economy*.

The first measure—the *environment*—is the natural domain of a revenue-neutral carbon tax and so one could expect it to score well in that regard. As we have noted above, however, many now expect that a price instrument alone may not be sufficient (or efficient) to meet climate change mitigation goals. For example, the United States and other countries continue to suffer from a persistent underinvestment by both public and private sectors in early-stage, long-term energy R&D. Ultimately, significant climate goals require not just marginal shifting but also groundbreaking new technologies, and there are good reasons why a carbon price alone would not support

enough R&D to deliver these. At the same time, a revenue-neutral carbon tax must also explicitly demonstrate how it can help improve not just global but also the local environmental conditions that remain top-of-mind for average citizens.

The *energy security* impacts of a revenue-neutral carbon tax remain particularly unexamined. Neither British Columbia nor Australia explicitly invoked energy security in their program formulation—both Canada and Australia have very low energy import dependency—but it would be a key consideration in the United States. A revenue-neutral carbon tax would affect national energy security on both the consumption and domestic production sides of the energy equation, and in terms of both volume and form. Because of its pervasiveness, a carbon tax could very well become, *de facto*, the most significant energy security policy in an energy import-dependent market economy—positive or negative. We leave this important issue to further consideration.

Finally, the *economy*. A revenue-neutral carbon tax's impact on a region's economy is likely to be the main debate both politically and in terms of policy design. This was certainly the case in British Columbia and Australia and would be for the United States as well. But while much of that discussion turns on projected impacts to particular industrial sectors, household budgets, employment, or even fiscal health, to consider a carbon tax is also an ideal time to consider the *existing* web of taxes and subsidies that our governments enact throughout the energy system today.

Just as in other countries, the modern United States energy policy offers an often mystifying web of production tax credits, investment tax credits, depletion allowances, domestic manufacturing tax deductions, accelerated depreciation schedules, loan guarantees, and portfolio standards. Built up piecemeal, over time and across industries, these affect costs and prices in both directions for most every form of energy such that it becomes unclear just what market distortions do or do not exist for a revenue-neutral carbon tax to try to fix. Whatever the theoretical merits of a revenue-neutral carbon tax in improving energy market function, to add one on top of our current patchwork of energy market manipulations would clearly add to this complexity. For this reason, rationalizing the United States energy market by creating a level playing field and eliminating energy subsidies should be a necessary part of any carbon tax policy discussion. Ultimately, when the negotiation begins over America's energy and fiscal futures, every chip needs to be on the table.

## ANNEX

Carbon tax shares of fuel tax and total fuel price for gasoline and diesel in the British Columbia “Translink” (Vancouver-area) motor fuel taxation region, for both constant hypothetical fuel prices and actual historical provincial fuel price averages over the carbon tax policy implementation period:

[Note: The Translink service area in 2010 was ~2.3 million people, approximately half of the total British Columbia population; calculations for other British Columbia regions available on request]

BC – Translink Area Gasoline for personal vehicles	hypothetical fuel price, cents per liter	Jan. 1 2008	July 1 2008	July 1 2009	Jan. 1 2010	July 1 2010	July 1 2011	April 1 2012	(expected) July 1 2012	(expected) April 1 2013	(expected) July 1 2013
Federal Excise Tax		10	10	10	10	10	10	10	10	10	10
Provincial Excise Tax		8.5	8.5	8.5	8.5	8.5	8.5	8.5	8.5	8.5	8.5
Local Excise Tax		12	12	12	15	15	15	17	17	17	17
Carbon Tax		0	2.34	3.51	3.33	4.45	5.56	5.56	6.67	6.67	6.67
<b>total excise tax</b>		<b>30.5</b>	<b>32.84</b>	<b>34.01</b>	<b>36.83</b>	<b>37.95</b>	<b>39.06</b>	<b>41.06</b>	<b>42.17</b>	<b>42.17</b>	<b>42.17</b>
GST		5%	5%	5%	5%	5%	5%	5%	5%	5%	5%
Provincial element of HST		0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
PST		0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
<b>total sales tax</b>		<b>5%</b>	<b>5%</b>	<b>5%</b>	<b>5%</b>	<b>5%</b>	<b>5%</b>	<b>5%</b>	<b>5%</b>	<b>5%</b>	<b>5%</b>
Total tax on fuel @:	50	34.53	36.98	38.21	41.17	42.35	43.51	45.61	46.78	46.78	46.78
Total fuel + tax bill @:	50	84.53	86.98	88.21	91.17	92.35	93.51	95.61	96.78	96.78	96.78
Tax percentage of fuel bill @:	50	40.85%	42.52%	43.32%	45.16%	45.86%	46.53%	47.71%	48.34%	48.34%	48.34%
Carbon tax percentage of total tax on fuel @:	50	0.00%	6.33%	9.19%	8.09%	10.51%	12.78%	12.19%	14.26%	14.26%	14.26%
Carbon tax percentage of fuel bill @:	50	0.00%	2.69%	3.98%	3.65%	4.82%	5.95%	5.82%	6.89%	6.89%	6.89%
Total tax on fuel @:	75	35.78	38.23	39.46	42.42	43.60	44.76	46.86	48.03	48.03	48.03
Total fuel + tax bill @:	75	110.78	113.23	114.46	117.42	118.60	119.76	121.86	123.03	123.03	123.03
Tax percentage of fuel bill @:	75	32.30%	33.76%	34.48%	36.13%	36.76%	37.38%	38.46%	39.04%	39.04%	39.04%
Carbon tax percentage of total tax on fuel @:	75	0.00%	6.12%	8.89%	7.85%	10.21%	12.42%	11.86%	13.89%	13.89%	13.89%
Carbon tax percentage of fuel bill @:	75	0.00%	2.07%	3.07%	2.84%	3.75%	4.64%	4.56%	5.42%	5.42%	5.42%
Total tax on fuel @:	100	37.03	39.48	40.71	43.67	44.85	46.01	48.11	49.28	49.28	49.28
Total fuel + tax bill @:	100	137.03	139.48	140.71	143.67	144.85	146.01	148.11	149.28	149.28	149.28
Tax percentage of fuel bill @:	100	27.02%	28.31%	28.93%	30.40%	30.96%	31.51%	32.48%	33.01%	33.01%	33.01%
Carbon tax percentage of total tax on fuel @:	100	0.00%	5.93%	8.62%	7.63%	9.92%	12.08%	11.56%	13.54%	13.54%	13.54%
Carbon tax percentage of fuel bill @:	100	0.00%	1.68%	2.49%	2.32%	3.07%	3.81%	3.75%	4.47%	4.47%	4.47%
<b>Actual average fuel price less taxes for period beginning:</b>											
Total tax on fuel @:		92.95	78.12	75.17	77.78	87.53	95.79	102.20			
Total fuel + tax bill @:		36.67	38.39	39.47	42.56	44.22	45.80	48.22			
Total fuel + tax bill @:		129.63	116.51	114.64	120.34	131.75	141.59	150.42			
Tax percentage of fuel bill @:		28.29%	32.95%	34.43%	35.37%	33.57%	32.35%	32.06%			
Carbon tax percentage of total tax on fuel @:		0.00%	6.10%	8.89%	7.82%	10.06%	12.14%	11.53%			
Carbon tax percentage of fuel bill @:		0.00%	2.01%	3.06%	2.77%	3.38%	3.93%	3.70%			



BC – Translink Area Diesel for personal vehicles	hypothetical fuel price, cents per liter	Jan. 1 2008	July 1 2008	July 1 2009	Jan. 1 2010	July 1 2010	July 1 2011	April 1 2012	(expected) July 1 2012	(expected) April 1 2013	(expected) July 1 2013
Federal Excise Tax		4	4	4	4	4	4	4	4	4	4
Provincial Excise Tax		9	9	9	9	9	9	9	9	9	9
Local Excise Tax		12	12	12	15	15	15	17	17	17	17
Carbon Tax		0	2.69	4.04	3.84	5.11	6.39	7.67	7.67	7.67	7.67
<b>total excise tax</b>		<b>25</b>	<b>27.69</b>	<b>29.04</b>	<b>31.84</b>	<b>33.11</b>	<b>34.39</b>	<b>37.67</b>	<b>37.67</b>	<b>37.67</b>	<b>37.67</b>
GST		5%	5%	5%	5%	5%	5%	5%	5%	5%	5%
Provincial element of HST		0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
PST		0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
<b>total sales tax</b>		<b>5%</b>	<b>5%</b>	<b>5%</b>	<b>5%</b>	<b>5%</b>	<b>5%</b>	<b>5%</b>	<b>5%</b>	<b>5%</b>	<b>5%</b>
Total tax on fuel @:	50	28.75	31.57	32.99	35.93	37.27	38.61	42.05	42.05	42.05	42.05
Total fuel + tax bill @:	50	78.75	81.57	82.99	85.93	87.27	88.61	92.05	92.05	92.05	92.05
Tax percentage of fuel bill @:	50	36.51%	38.71%	39.75%	41.81%	42.70%	43.57%	45.68%	45.68%	45.68%	45.68%
Carbon tax percentage of total tax on fuel @:	50	0.00%	8.52%	12.25%	10.69%	13.71%	16.55%	18.24%	18.24%	18.24%	18.24%
Carbon tax percentage of fuel bill @:	50	0.00%	3.30%	4.87%	4.47%	5.86%	7.21%	8.33%	8.33%	8.33%	8.33%
Total tax on fuel @:	75	30.00	32.82	34.24	37.18	38.52	39.86	43.30	43.30	43.30	43.30
Total fuel + tax bill @:	75	105.00	107.82	109.24	112.18	113.52	114.86	118.30	118.30	118.30	118.30
Tax percentage of fuel bill @:	75	28.57%	30.44%	31.35%	33.14%	33.93%	34.70%	36.60%	36.60%	36.60%	36.60%
Carbon tax percentage of total tax on fuel @:	75	0.00%	8.20%	11.80%	10.33%	13.27%	16.03%	17.71%	17.71%	17.71%	17.71%
Carbon tax percentage of fuel bill @:	75	0.00%	2.49%	3.70%	3.42%	4.50%	5.56%	6.48%	6.48%	6.48%	6.48%
Total tax on fuel @:	100	31.25	34.07	35.49	38.43	39.77	41.11	44.55	44.55	44.55	44.55
Total fuel + tax bill @:	100	131.25	134.07	135.49	138.43	139.77	141.11	144.55	144.55	144.55	144.55
Tax percentage of fuel bill @:	100	23.81%	25.41%	26.19%	27.76%	28.45%	29.13%	30.82%	30.82%	30.82%	30.82%
Carbon tax percentage of total tax on fuel @:	100	0.00%	7.89%	11.38%	9.99%	12.85%	15.54%	17.22%	17.22%	17.22%	17.22%
Carbon tax percentage of fuel bill @:	100	0.00%	2.01%	2.98%	2.77%	3.66%	4.53%	5.31%	5.31%	5.31%	5.31%
<b>Actual average fuel price less taxes for period beginning:</b>											
Total tax on fuel @:		98.57	77.74	65.82	71.01	83.21	95.48	105.63	105.63	105.63	105.63
Total fuel + tax bill @:		31.18	32.96	33.78	36.98	38.93	40.88	44.84	44.84	44.84	44.84
Total fuel + tax bill @:		129.75	110.70	99.61	107.99	122.13	136.36	150.47	150.47	150.47	150.47
Tax percentage of fuel bill @:		24.03%	29.78%	33.92%	34.24%	31.87%	29.98%	29.80%	29.80%	29.80%	29.80%
Carbon tax percentage of total tax on fuel @:		0.00%	8.16%	11.96%	10.38%	13.13%	15.63%	17.11%	17.11%	17.11%	17.11%
Carbon tax percentage of fuel bill @:		0.00%	2.43%	4.06%	3.56%	4.18%	4.69%	5.10%	5.10%	5.10%	5.10%

## Notes

- 1 Moreover, the carbon tax policy actually stipulates a salary penalty for the minister of finance if annual carbon revenues exceed payouts.
- 2 This results in an annual natural gas bill increase for home and water heating of about CAD \$120 for the typical British Columbia household according to government estimates.
- 3 Marc Lee, February 2012 Sierra Club Study.
- 4 Canada National Inventory Report to the UNFCCC 2011.
- 5 Sellers who pay a security to the government equal the tax amount are reimbursed when they collect final consumer tax payments at the retail level. The natural gas carbon tax is collected at the retail level.
- 6 The carbon tax liability is considered at the point of sale/purchase (as opposed to production) or, where applicable, following self-consumption. This makes border adjustments for fuels relatively transparent: fuels imported from outside the province are subject to the carbon tax when sold for use inside the province; similarly, fuels produced within the province for consumption outside the province are not taxed as part of that transaction (or taxes paid can be refunded).
- 7 No such linkage program is in effect as of 2012.
- 8 Therefore, in British Columbia, much of government guidance on how individuals can reduce their carbon tax burden (and therefore GHG emissions) has focused on efforts such as driving less, switching to a more fuel-efficient vehicle, improving home insulation, or upgrading gas furnaces [BC MOF Budget 2008], rather than the discussions on improving lighting efficiency or reducing home appliance use that figure prominently in the U.S. or other regions with typically carbon-intensive power systems.
- 9 Oil refineries are another major source of industrial GHG emissions that may face particularly large burdens from a carbon tax and therefore demand special policy attention. British Columbia, however, has only two relatively small oil refineries, with a combined capacity of about 65,000 barrels/day representing about 12% of the province's total carbon dioxide emissions (California, for comparison, has about 20 refineries with a combined capacity that exceeds 2 million barrels/day) [refinery capacity data from Oil and Gas Journal 2009].
- 10 BC MOF 2011.
- 11 This "Carve out" creep is notable, because of the lack of carve-outs in the initial proposal, and because the lack of a greenhouse carve-out was specifically mentioned by BC's finance minister at the time (source: conversation with the minister). This shows the political difficulty of maintaining any carbon tax system without favoritism over time.
- 12 It is also notable that, post the carbon tax, British Columbia has the lowest income tax in Canada for those making under CAD 120,000, corporate taxes that are the lowest in the G7, and small-business taxes that are the lowest in Canada ["Tax Cuts Funded by the Carbon Tax" BC MOF 2012].
- 13 British Columbia implemented such a HST system in July 2010, but ultimately, despite strong support from the provincial government, the HST was defeated in a 2011 ballot referendum and efforts are underway to return to the previous provincial sales tax system by April 2013.
- 14 British Columbia's experiment with the HST did not directly influence motor fuel or home energy use prices; both categories were exempted by both tax systems, though this is not true elsewhere in Canada.
- 15 Specifically, the Vancouver "Translink" region.

16 See the annex for a detailed accounting of the carbon tax shares for gasoline and diesel in the Vancouver, British Columbia motor fuel taxation regions for both constant hypothetical fuel prices and actual historical provincial fuel price averages over the policy implementation period.

17 Known as the “Australia Future Tax System Review”, which began in 2008. One of the more notable and controversial parallel tax reforms has been the simultaneous introduction of a “minerals resources rent tax” which uses revenues from a new windfall tax on iron and coal miners to reduce corporate and small business tax rates and invest in regional infrastructure.

18 Including carbon dioxide, methane, nitrous oxide, and perfluorocarbon emissions.

19 Major initiatives designed to do this include a “Jobs and Competitiveness Program” to assist industry (largely steel and aluminum producers); an “Energy Security Fund” to allocate free carbon units and cash payments to coal-fired power generators who publish “Clean Energy Investment Plans”, also used to negotiate the closure of (i.e. buy out) about 2GW of the most inefficient coal facilities by 2020; and a “Clean Energy Finance Corporation” to help fund renewable electricity projects. Other related spending programs include: a “Coal Sector Jobs Package” focused on mines impacted by the reduction in projected coal use; a sectorally-targeted “Clean Technology Program” to encourage low carbon manufacturing and technology innovation; a “Steel Transformation Plan”; and a land use and “Carbon Farming Initiative” offset scheme.

20 BC and Australian government estimates.

21 Australian government calculations. Originally, the Australian government estimated that 500 businesses would exceed the 25,000 ton per year emission threshold; of those, approximately 130 were primarily in the waste sector, 100 were in mining, 60 were electricity generators, 40 were natural gas retailers, and 50 operated in other fossil fuel-intensive sectors.

22 It is interesting to note that the commercial sector in Australia receives no targeted benefit as a result of the carbon tax. In British Columbia, the commercial sector (along with industries) received general corporate tax rate breaks and small business tax breaks as part of the revenue-neutral carbon tax program. In Australia, even if commercial-sector entities are generally not directly taxed for their own emissions, they will still face higher electricity costs, which is typically the majority of their energy use. It can be argued that this demonstrates the relative strength of major industries in the Australian carbon tax development process.

23 The American Enterprise Institute has since 2011 held a series of ad-hoc left-right workshops around a revenue-neutral carbon tax. One held in July 2012 and titled “Price Carbon Campaign / Lame Duck Initiative: A Carbon Pollution Tax in Fiscal and Tax Reform” prompted vigorous discussion within the conservative think tank community. See “Left-right climate group quietly weighing proposals for carbon tax” (July 12 2012) from The Hill’s E2-Wire (online) and a response from the Competitive Enterprise Institute’s Marlo Lewis, “AEI Hosts Fifth Secret Meeting to Promote Carbon Tax” (July 11 2012).

24 see EPA facility level GHG reporting data, 2012.

25 (which is dominated by low average vehicle-mile per year urban residents in its primate city Vancouver; see region summary statistics compiled from respective government sources).

26 For example, just three states (Texas, Louisiana, and California) represent over half of United States refining capacity. Wyoming alone produces 40% of US coal. Hydroelectric power accounts for 75% of Washington state electricity supply, while coal supplies 90% of electric power in Ohio. Because of fuel price disparity, infrastructure, and policy differences, average retail electricity prices are 17.4 cents per kWh in Connecticut but just 6.7 cents in Kentucky. South Carolina per capita expenditures on gasoline are nearly twice that of New York. Per capita energy consumption in California is half that of Texas [all figures US EIA, 2010 data].

27 Recent studies have attempted to quantify the extend and nature of regional heterogeneity in impacts on household incomes from a flat revenue-neutral carbon tax. See, for example, CBO (July 2009) “Two Recent Studies of Regional

Differences in the Effects of Policies That Would Price Carbon Dioxide Emissions” letter from Douglas W. Elmendorf to James Inhofe. Interestingly, they find that though regional disparities exist, the impact is likely less than anticipated.

28 Australia also emphasized the role of the carbon tax in encouraging a broader shift toward a “clean” economy with potential growth opportunities from the adoption of new technologies.

29 The 2012 Joint Committee on Taxation valued total United States energy sector “tax expenditures” at about \$39.3 billion over the 5 years 2011–2015, or about \$6 billion annually [“Estimates Of Federal Tax Expenditures For Fiscal Years 2011–2015” January 17 2012.] Note that estimates of federal government subsidies or tax preferences in the energy industry vary widely, in part because of different ways to conceptualize what should count as a subsidy or tax preference; a 2011 review by the US DOE’s EIA, for example, pegged the *annual* cost of energy sector tax expenditures much higher, at \$16.3 billion, and included a more expansive valuation of “direct federal financial interventions and subsidies” at \$37.2 billion annually (up from \$11.5 billion and \$17.9 billion, respectively in 2007 before ARRA implementation) [“Direct Federal Financial Interventions and Subsidies in Energy in Fiscal Year 2010” July 2011].

30 Even after a few years of experience in pricing carbon, it is difficult for British Columbia to offer robust analytical support of how the carbon tax is impacting provincial emissions. A recent British Columbia government report [“Making progress on B.C.’s climate action plan” 2012] points out that provincial emissions have fallen over the carbon tax period (by 4.5% from 2007–2010) and that fuel sale declines have exceeded the national average trend, while population and GRP growth has exceeded the national average; though a host of other uncontrolled variables (weather, macroeconomic structural shifts, demographics, other tax changes, etc.) make it difficult to argue with certainty how much of that change was due to the carbon tax, this data has nonetheless helped underpin public support for the carbon tax in recent months.

31 This approach can, however, have the problem of potentially reducing some behavioral effects of the tax. Even though benefits are the same within a recipient class regardless of energy usage (which preserves the behavioral affect), it does effectively insulate entire classes that might in fact have the most potential to reduce energy consumption by shifting classes. For example, the British Columbia special tax benefit for rural or northern homeowners might still incent them to improve the energy efficiency of their homes, but it would not necessarily encourage them to move to the city and reduce energy use even further as they would lose the special tax benefit in doing so.

32 For example, in the United States, a 2009 Congressional testimony from the CBO estimated that a carbon cap-and-trade program that returned permit auction revenues (similar in function to a carbon tax) as a flat dividend on a per household basis would impact after-tax real household income by +1.8%, +0.7%, -0.1%, -0.6%, and -0.7% for the lowest to highest income quintiles, respectively [Congressional Budget Office (May 7 2009) Distribution of Revenues from a Cap-and-Trade Program for CO<sub>2</sub> Emissions. Statement of Douglas W Elmendorf before the United States Senate Committee on Finance.].

33 To the extent that such existing taxes are distortionary within an economy, their displacement by a revenue-generating carbon tax can be an attractive option from a economic efficiency standpoint because it reduces deadweight loss. Aggregate macroeconomic gain achieved through such a pigouvian tax shift (under certain conditions) is referred to as a “double dividend”. See Lawrence Goulder (1995) “Environmental Taxation and the Double Dividend: a reader’s guide” *Tax and Public Finance*, 2:157–183.

34 A significant operational issue is the potential “fence-post” problem with enacting a new carbon tax: to the extent that there exists a time interval between carbon tax payment and revenue dispersal, there is a float generated on the balance of funds. In the British Columbia case, this balance remains with the treasury (mitigated by the accuracy of estimated tax withholdings) and so some taxpayers will see net-negative cash-flow on account of the carbon tax until compensated by end of year tax refunds or more frequent direct payments. The balance can be virtually flipped from the government to the taxpayer over any given time period, however, by distributing benefits in advance of and equal to anticipated tax receipts, though this incurs a temporary but persistent funding deficit to the government.

35 Aldyen Donnelly: British Columbia’s carbon tax quagmire.

36 As noted above, actual British Columbia provincial emissions fell by 4.5% over 2007–2010 on reduced fuel sales.

37 Pembina Institute 2011, Duff 2008.

38 (with entity liability thresholds almost identical to those in cap and trade systems recently announced in California, South Korea, and China's Guangdong Province).

39 US EPA 2012 GHG Emission Inventory, data for 2010.

40 See, for example, the tax liability scheme outlined in Metcalf and Weisbach, 2009, "The Design of a Carbon Tax", Harvard Environmental Law Review Vol 33. Note that this discussion has dealt with tax obligation and not tax incidence—tax incidence will likely spread across each fuel's value chain according to existing market forces. A number of studies have attempted to model price impacts of carbon pricing across various economic subsectors. In the United States, see, for example, the CBO's June 2010 working paper "Input-Output Model Analysis: Pricing Carbon Dioxide Emissions", Kevin Perese.

41 This approach has not been without complaint, as witnessed by the protestations of the British Columbia cement industry, for example, as described above. One small border tax perk in British Columbia, however, has been the net positive capture of carbon tax revenues paid by tourists or other non-provincial travellers through fuel and other energy purchases which are subsequently refunded to British Columbians.

42 To that end, the Australian government fastidiously promulgates news of carbon pricing scheme adoption by trading partners on its program website. See, for example, "South Korea passes ETS legislation", May 3 2012, Australian Government Clean Energy Future website.

43 BC Voters Stand By Carbon Tax, <http://www.carbontax.org/blogarchives/2009/05/13/bc-voters-stand-by-carbon-tax>.

44 The Tyee.

45 British Columbia re-elects Liberals (May 12) AFP.

46 "Canadians cool on carbon tax: poll" May 10 2009, The Canadian Press.

47 Jock Finlayson, spokesman for the Business Council of B.C, in "Three years in, B.C. still on its own with carbon tax" June 30 2011, The Canadian Press.

48 The Globe and Mail. September 11 2008. "Layton Lays in Green Shift". <http://www.theglobeandmail.com/news/politics/layton-lays-into-green-shift/article1061159>.

49 That there is actually flexibility in the design of a revenue-neutral carbon tax may dismay supporters who see it as a relatively simple alternative to complex cap-and-trade mechanisms. This flexibility, however, is also an asset, as it means that what a revenue-neutral carbon tax can be, and what goals it can fulfill, should not be considered pre-defined. A United State revenue-neutral carbon tax, if ever implemented, may not be recognizable from the British Columbian perspective, the Australian perspective, by today's domestic carbon tax opponents—or even today's carbon tax supporters.

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**Jeremy Carl**

*Jeremy Carl is a research fellow at the Hoover Institution and director of research for the Shultz-Stephenson Task Force on Energy Policy. His work focuses on energy and environmental policy, with an emphasis on energy security, climate policy, and global fossil fuel markets. In addition, he writes extensively from his experience on US-India relations and Indian politics. He holds degrees in history and public policy from Yale and Harvard Universities.*



**David Fedor**

*David Fedor is a research analyst for the Hoover Institution's Shultz-Stephenson Task Force on Energy Policy. He has worked in energy and the environment across China, Japan, and the United States. Formerly at APEC's Asia Pacific Energy Research Center, Fedor has also consulted for WWF China, the Asian Development Bank, and the Korea Energy Economics Institute. He holds degrees in earth systems from Stanford University.*

## Shultz-Stephenson Task Force on Energy Policy

The Hoover Institution's Shultz-Stephenson Task Force on Energy Policy addresses energy policy in the United States and its effects on our domestic and international political priorities, particularly our national security.

As a result of volatile and rising energy prices and increasing global concern about climate change, two related and compelling issues—threats to national security and adverse effects of energy usage on global climate—have emerged as key adjuncts to America's energy policy; the task force will explore these subjects in detail. The task force's goals are to gather comprehensive information on current scientific and technological developments, survey the contingent policy actions, and offer a range of prescriptive policies to address our varied energy challenges. The task force will focus on public policy at all levels, from individual to global. It will then recommend policy initiatives, large and small, that can be undertaken to the advantage of both private enterprises and governments acting individually and in concert.

*For more information about this Hoover Institution Task Force, please visit us online at [www.hoover.org/taskforces/energy-policy](http://www.hoover.org/taskforces/energy-policy).*





# Exhibit GG

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

EXXON MOBIL CORPORATION,

Plaintiff,

v.

MAURA TRACY HEALEY, Attorney  
General of Massachusetts, in her  
official capacity,

Defendant.

§  
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§  
§  
§  
§

CIVIL ACTION NO. \_\_\_\_\_

**DECLARATION OF ROBERT A. LUETTGEN**

I, Robert A. Luetgen, declare as follows:

1. My name is Robert A. Luetgen. I am Assistant Corporate Secretary at Exxon Mobil Corporation and have held this position since 2010. I am over 18 years of age and am fully competent in all respects to make this Declaration. The facts stated in this declaration are true and correct and are based on personal knowledge that I have obtained in my capacity as an employee of Exxon Mobil Corporation and from inquiries I made before submitting this declaration.

2. I submit this declaration in support of Plaintiff Exxon Mobil Corporation's Motion for a Preliminary Injunction.

3. Exxon Mobil Corporation maintains its principal office and its central operations in Texas.

4. Exxon Mobil Corporation holds its shareholder meetings in Texas.

5. Exxon Mobil Corporation does not maintain any climate change research facilities or personnel in Massachusetts.

6. In the past five years, Exxon Mobil Corporation has not marketed or sold any securities or debt to the general public in Massachusetts.

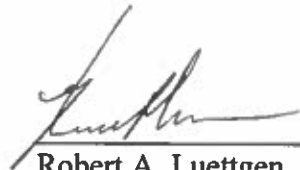
7. In the past five years, Exxon Mobil Corporation has not issued any form of equity for sale to the general public in Massachusetts.

8. Aside from commercial paper, Exxon Mobil Corporation's only sale of debt in the past decade has been to underwriters outside the Commonwealth, and Exxon Mobil Corporation did not market that debt to investors in Massachusetts.

9. During the limitations period, ExxonMobil has sold short-term, fixed-rate notes, which mature in 270 days or less, to institutional investors in Massachusetts.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 14, 2016.



Robert A. Luetngen  
Assistant Corporate Secretary  
Exxon Mobil Corporation  
5959 Las Colinas Blvd  
Irving, Texas 75039

# **Exhibit HH**

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

EXXON MOBIL CORPORATION,	§	
	§	
Plaintiff,	§	
	§	
v.	§	CIVIL ACTION NO. _____
	§	
MAURA TRACY HEALEY, Attorney	§	
General of Massachusetts, in her	§	
official capacity,	§	
	§	
Defendant.	§	
	§	

**DECLARATION OF GEOFFREY GRANT DOESCHER**

I, Geoffrey Grant Doescher, declare as follows:

1. My name is Geoffrey Grant Doescher. I am U.S. Branded Wholesale Manager at ExxonMobil Fuels, Lubricants and Specialties Marketing Company and have held this position since 2013. I am over 18 years of age and am fully competent in all respects to make this Declaration. The facts stated in this declaration are true and correct and are based on personal knowledge that I have obtained in my capacity as an employee of Exxon Mobil Corporation and from inquiries I made before submitting this declaration.
2. I submit this declaration in support of Plaintiff Exxon Mobil Corporation's Motion for a Preliminary Injunction.
3. At no point during the last five years has Exxon Mobil Corporation (1) sold fossil fuel derived products to consumers in Massachusetts, or (2) owned or operated a single retail store or gas station in the Commonwealth.
4. Any service station that sells fossil fuel derived products under an "Exxon" or "Mobil" banner is owned and operated independently.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 10, 2016

  
Geoffrey Grant Doescher



# **Exhibit II**



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## **Press Release: Emails Reveal Schneiderman, Other AG's Colluding with Al Gore and Greens to Investigate Climate Skeptics**

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by Steve Milloy, Senior Policy Fellow On May 13, The Energy &



### **E&E Legal Letters Issue XI: Full DC Circuit to Review Obama Power Plan**

by Chaim Mandelbaum, FME Law Counsel On May 16th, 2016, the D.C. Circuit



**For Immediate Release:**  
April 15, 2016

**Contact:**

Craig Richardson

[Richardson@eelegal.org](mailto:Richardson@eelegal.org)

703-981-5553

**Emails Reveal Schneiderman, Other AG's Colluding with Al Gore and Greens to Investigate Climate Skeptics**

Washington, D.C. (April 15, 2016) – The offices of New York Attorney General Eric Schneiderman (D), and other politically-aligned AGs, secretly teamed up with anti-fossil fuel activists in their investigations against groups whose political speech challenged the global warming policy agenda, according to e-mails obtained by the Energy & Environment Legal Institute (E&E Legal).

E&E Legal released these emails on the heels of a Wall Street Journal [report](#) about a January meeting, in which groups funded by the anti-fossil fuel Rockefeller interests met to urge just this sort of government investigation and litigation against their political opponents. After the Competitive Enterprise Institute (CEI) criticized these AGs' intimidation campaign, the U.S. Virgin Islands' Claude Earl Walker — one of the AGs working with Schneiderman — subpoenaed ten years of CEI records relating to the global warming issue.

The e-mail correspondence between Schneiderman's staff, the offices of several state attorneys general, and activists was obtained under Vermont's Public Records Law, and also show Schneiderman's office tried to obscure the involvement of outside activists. His top environmental lawyer encouraged one green group lawyer who briefed the AGs before their March 29 "[publicity stunt](#)" press conference with former U.S. Vice President Al Gore not to tell the press about the coordination. At that event the AGs announced they were teaming up to target opponents of the global warming agenda.

David Schnare, E&E Legal's General Counsel, noted, "These emails show Schneiderman's office suggested their outside-activist green allies deceive the press; meanwhile, AGs in his coalition have subpoenaed at least one policy group's correspondence with the media. We call on these AGs to immediately halt their investigation and lay out for the public the full extent of this collusion, producing all records or information provided them in briefings or other work with the outside activists, including those they are trying to keep secret through a Common Interest Agreement."

The latter point references the New York and Vermont AGs trying to claim privilege for discussions and emails even with outside groups in this effort to go after shared political opponents, including each state that receives an open records request immediately alerting the rest to that fact. In that case, according to the Schneiderman office's draft, every state was to immediately return any records to New York. To its credit Vermont objected to that as, naturally, being against state laws.

The documents cover the weeks leading up to that aforementioned press conference with numerous AGs, led by Schneiderman and Gore. They show communication and coordination between:

- Lem Srolovic, chief of the New York Attorney General's Environmental Protection Bureau
- Scot Kline, a Vermont assistant attorney general
- Matt Pawa, an environmental lawyer who works with the Climate Accountability Institute and the Global Warming Legal Action Project of the Civil Society Institute
- Peter Frumhoff, director of science and policy for the Union of Concerned Scientists

Pawa and Frumhoff have been pushing for this investigation for years, at least since a 2012 [workshop](#) titled “Establishing Accountability for Climate Change Denial,” a brainstorming session in California for activists on convincing attorneys general to investigate “deniers” through the Racketeer Influenced and Corrupt Organizations Act (RICO).

“These emails strongly suggest the financial motive for AGs to pursue their political opponents, not content with merely silencing and scaring away support for those who dare disagree with their extreme global warming agenda,” said Craig Richardson, E&E Legal’s Executive Director. “Alarming, government officials are actively trying to cover up their coordination by using a Common Interest Agreement, even to claw back records already circulated, which another attorney general properly objected to as violating state law.”

Emails recently obtained by CEI also show academics aspiring to “convince state AGs to file suit” under RICO laws, also plainly with an eye toward obtaining a massive settlement to underwrite the global warming campaign. CEI awaits a ruling by a Virginia court on other related correspondence that should prove highly relevant to these AGs’ campaign.

As the Vermont and New York correspondence show, Pawa and Frumhoff were invited to secretly brief the state attorneys general. They each received 45 minutes to provide arguments on “climate change litigation” and “the imperative of taking action now” immediately prior to the AGs’ press conference, according to schedules prepared by Schneiderman’s office.

The next day, March 30, Pawa wrote to Srolovic of New York and Kline seeking help. A *Wall Street Journal* reporter wanted to talk to Pawa, and he asked the two officials: **“What should I say if she asks if I attended?”**

Srolovic of the New York State Attorney General’s office replied: **“My ask is if you speak to the reporter, to not confirm that you attended or otherwise discuss the event.”**

The documents obtained by E&E Legal also include responses to a questionnaire sent to the state attorneys general by the New York AG’s office. The US Virgin Islands Attorney General noted he had just completed an \$800 million settlement from Hess Oil company — used to create an “environmental response trust” and promote solar power — and was interested in using this coalition to identify “other potential litigation targets” and ways to “increase our leverage”.

***AGs across the country have criticized these investigations, calling them efforts to “silence critics”***

Attorneys General across the country have come out strongly against these investigations. West Virginia AG Patrick Morrisey [said](#), “You cannot use the power of the office of the Attorney General to silence your critics.” Oklahoma AG Scott Pruitt and Alabama AG Luther Strange issued a [joint press release](#) stating, “It is inappropriate for State Attorneys General to use the power of their office to attempt to silence core political speech on one of the major policy debates of our time.” AG Jeff Landry of Louisiana [said](#), “It is one thing to use the legal system to pursue public policy outcomes; but it is quite another to use prosecutorial weapons to intimidate critics, silence free speech, or chill the robust exchange of ideas.”

Following are the actual e-mails E&E Legal received through its open records request:

- [Work groups and first call set](#)
- [Vermont OGA cover letter](#)

- [Vermont OAG intended authorities](#)
- [Vermont & New York OAGs fine with Sharon Eubanks joining Pawa for AGs briefing](#)
- [Questionnaire responses](#)
- [New York OAG wants to call Vermont OAG w something learned](#)
- [New York OAG wants Pawa to not confirm participation to WSJ](#)
- [Gore is adding star power and words to avoid](#)
- [Development of Agenda](#)
- [Common Interest Agreement and discussion](#)
- [Calls with Pawa and Frumhoff](#)
- [Call agenda](#)
- [AG's principles](#)

[The Energy & Environment Legal Institute](#) (E&E Legal) is a 501(c)(3) organization engaged in strategic litigation, policy research, and public education on important energy and environmental issues. Primarily through its petition litigation and transparency practice areas, E&E Legal seeks to correct onerous federal and state policies that hinder the economy, increase the cost of energy, eliminate jobs, and do little or nothing to improve the environment.

-30-

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Posted by [Craig Richardson](#) on Friday, April 15th, 2016 @ 9:30PM

Categories: [Conflict of Interest](#), [Green Groups](#), [Press Releases](#), [Richardson](#), [Scandal](#), [Schnare](#), [Silencing Dissenters](#)

5 Comments to "Press Release: Emails Reveal Schneiderman, Other AG's Colluding with Al Gore and Greens to Investigate Climate Skeptics" [add comment](#)

[Attorneys General Drafted 'Agreement' to Keep #ExxonKnew Strategy Secret, Emails Show](#)  
April 18, 2016 at 10:20 am

[...] how to avoid disclosing public documents relating to an investigation of ExxonMobil, according to newly released emails. The correspondence, first covered by Reuters, also shows the New York Office of the Attorney [...]

[Reply](#)

[AGs, activists accused of 'collusion' on Exxon probe amid new emails - GOP Party](#)

April 18, 2016 at 4:45 pm

[...] obtained and released by the Energy & Environment Legal Institute show a number of state attorneys general and their staff received advice and guidance from [...]



[Reply](#)

**[CLIMATE COLLUSION? AGs accused of working with activists to target oil – WORLD NEWS](#)**

April 18, 2016 at 9:26 pm

[...] obtained and released by the Energy & Environment Legal Institute show a number of state attorneys general and their staff received advice and guidance from [...]

[Reply](#)

**[Climate advocacy subpoenas, III - Overlawyered](#)**

April 19, 2016 at 12:30 am

[...] Al Gore made no mention of huddles with Rockefeller philanthropies that led up to it [Reuters; summaries of conversations via pro-CEI public records [...]

[Reply](#)

**[FERC bars the door - Big Sky Headlines](#)**

May 19, 2016 at 10:54 am

[...] aggressive campaign to shine a spotlight on the Exxon debacle. Exxon's allies — who uncovered separate emails that show an anti-Exxon private lawyer and an official at the Union of Concerned Scientists briefed [...]

[Reply](#)

Leave a Reply

Full name

Email

Website

Comment

☐ Notify me of follow-up comments by email.

☐ Notify me of new posts by email.

## Contact Details


722 12th St., NW, 4th Floor  
Washington, D.C. 20005

Phone: 703-981-5553

Office: [Info@eelegal.org](mailto:Info@eelegal.org)

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## Categories

Categories  

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# **Exhibit JJ**

EXXONMOBIL CLIMATE DENIAL FUNDING 1998-2014

TOTAL \$30,925,235

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



Documenting Exxon-Mobil's funding of climate change skeptics.

List Organizations

Launch Interactive Map

FAQ

Search Exxon Secrets using Google Search:

A GREENPEACE project.

National Center for Public Policy Research	\$415,349
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 Center Science Foundation	\$90,000
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 KK**

2015

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549**

**FORM 10-K**

☒ **ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF  
THE SECURITIES EXCHANGE ACT OF 1934**

For the fiscal year ended December 31, 2015

or

☐ **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF  
THE SECURITIES EXCHANGE ACT OF 1934**

For the transition period from to

Commission File Number 1-2256

**EXXON MOBIL CORPORATION**

(Exact name of registrant as specified in its charter)

**NEW JERSEY**  
(State or other jurisdiction of  
incorporation or organization)

**13-5409005**  
(I R S Employer  
Identification Number)

**5959 LAS COLINAS BOULEVARD, IRVING, TEXAS 75039-2298**

(Address of principal executive offices) (Zip Code)

**(972) 444-1000**

(Registrant's telephone number, including area code)

Securities registered pursuant to Section 12(b) of the Act:

Title of Each Class	Name of Each Exchange on Which Registered
<b>Common Stock, without par value (4,152,756,609 shares outstanding at January 31, 2016)</b>	<b>New York Stock Exchange</b>
<p>Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files) Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K <input checked="" type="checkbox"/></p> <p>Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer or a smaller reporting company See the definitions of "large accelerated filer," "accelerated filer," and "smaller reporting company" in Rule 12b-2 of the Exchange Act</p> <p style="text-align: center;">Large accelerated filer <input checked="" type="checkbox"/> Accelerated filer <input type="checkbox"/> Non-accelerated filer <input type="checkbox"/> Smaller reporting company <input type="checkbox"/></p> <p>Indicate by check mark whether the registrant is a shell company (as defined by Rule 12b-2 of the Act) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>The aggregate market value of the voting stock held by non-affiliates of the registrant on June 30, 2015, the last business day of the registrant's most recently completed second fiscal quarter, based on the closing price on that date of \$83.20 on the New York Stock Exchange composite tape, was in excess of \$346 billion</p> <p style="text-align: center;"><b>Documents Incorporated by Reference: Proxy Statement for the 2016 Annual Meeting of Shareholders (Part III)</b></p>	

**EXXON MOBIL CORPORATION  
FORM 10-K  
FOR THE FISCAL YEAR ENDED DECEMBER 31, 2015**

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## PART I

### ITEM 1. BUSINESS

Exxon Mobil Corporation was incorporated in the State of New Jersey in 1882. Divisions and affiliated companies of ExxonMobil operate or market products in the United States and most other countries of the world. Their principal business is energy, involving exploration for, and production of, crude oil and natural gas, manufacture of petroleum products and transportation and sale of crude oil, natural gas and petroleum products. ExxonMobil is a major manufacturer and marketer of commodity petrochemicals, including olefins, aromatics, polyethylene and polypropylene plastics and a wide variety of specialty products. Affiliates of ExxonMobil conduct extensive research programs in support of these businesses.

Exxon Mobil Corporation has several divisions and hundreds of affiliates, many with names that include *ExxonMobil*, *Exxon*, *Esso*, *Mobil* or *XTO*. For convenience and simplicity, in this report the terms *ExxonMobil*, *Exxon*, *Esso*, *Mobil* and *XTO*, as well as terms like *Corporation*, *Company*, *our*, *we* and *its*, are sometimes used as abbreviated references to specific affiliates or groups of affiliates. The precise meaning depends on the context in question.

Throughout ExxonMobil's businesses, new and ongoing measures are taken to prevent and minimize the impact of our operations on air, water and ground. These include a significant investment in refining infrastructure and technology to manufacture clean fuels, as well as projects to monitor and reduce nitrogen oxide, sulfur oxide and greenhouse gas emissions, and expenditures for asset retirement obligations. Using definitions and guidelines established by the American Petroleum Institute, ExxonMobil's 2015 worldwide environmental expenditures for all such preventative and remediation steps, including ExxonMobil's share of equity company expenditures, were \$5.6 billion, of which \$3.8 billion were included in expenses with the remainder in capital expenditures. The total cost for such activities is expected to decrease to approximately \$5 billion in 2016 and 2017, mainly reflecting lower project activity in Canada. Capital expenditures are expected to account for approximately 30 percent of the total.

The energy and petrochemical industries are highly competitive. There is competition within the industries and also with other industries in supplying the energy, fuel and chemical needs of both industrial and individual consumers. The Corporation competes with other firms in the sale or purchase of needed goods and services in many national and international markets and employs all methods of competition which are lawful and appropriate for such purposes.

Operating data and industry segment information for the Corporation are contained in the Financial Section of this report under the following: "Quarterly Information", "Note 18: Disclosures about Segments and Related Information" and "Operating Summary". Information on oil and gas reserves is contained in the "Oil and Gas Reserves" part of the "Supplemental Information on Oil and Gas Exploration and Production Activities" portion of the Financial Section of this report.

ExxonMobil has a long-standing commitment to the development of proprietary technology. We have a wide array of research programs designed to meet the needs identified in each of our business segments. Information on Company-sponsored research and development spending is contained in "Note 3: Miscellaneous Financial Information" of the Financial Section of this report. ExxonMobil held approximately 11 thousand active patents worldwide at the end of 2015. For technology licensed to third parties, revenues totaled approximately \$158 million in 2015. Although technology is an important contributor to the overall operations and results of our Company, the profitability of each business segment is not dependent on any individual patent, trade secret, trademark, license, franchise or concession.

The number of regular employees was 73.5 thousand, 75.3 thousand, and 75.0 thousand at years ended 2015, 2014 and 2013, respectively. Regular employees are defined as active executive, management, professional, technical and wage employees who work full time or part time for the Corporation and are covered by the Corporation's benefit plans and programs. Regular employees do not include employees of the company-operated retail sites (CORS). The number of CORS employees was 2.1 thousand, 8.4 thousand, and 9.8 thousand at years ended 2015, 2014 and 2013, respectively. The decrease in CORS employees reflects the multi-year transition of the company-operated retail network in portions of Europe to a more capital-efficient Branded Wholesaler model.

Information concerning the source and availability of raw materials used in the Corporation's business, the extent of seasonality in the business, the possibility of renegotiation of profits or termination of contracts at the election of governments and risks attendant to foreign operations may be found in "Item 1A. Risk Factors" and "Item 2. Properties" in this report.

ExxonMobil maintains a website at [exxonmobil.com](http://exxonmobil.com). Our annual report on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K and any amendments to those reports filed or furnished pursuant to Section 13(a) of the Securities Exchange Act of 1934 are made available through our website as soon as reasonably practical after we electronically file or furnish the reports to the Securities and Exchange Commission. Also available on the Corporation's website are the Company's Corporate Governance Guidelines and Code of Ethics and Business Conduct, as well as the charters of the audit, compensation and nominating committees of the Board of Directors. Information on our website is not incorporated into this report.

**ITEM 1A. RISK FACTORS**

ExxonMobil's financial and operating results are subject to a variety of risks inherent in the global oil, gas, and petrochemical businesses. Many of these risk factors are not within the Company's control and could adversely affect our business, our financial and operating results, or our financial condition. These risk factors include:

**Supply and Demand**

The oil, gas, and petrochemical businesses are fundamentally commodity businesses. This means ExxonMobil's operations and earnings may be significantly affected by changes in oil, gas, and petrochemical prices and by changes in margins on refined products. Oil, gas, petrochemical, and product prices and margins in turn depend on local, regional, and global events or conditions that affect supply and demand for the relevant commodity. Any material decline in oil or natural gas prices could have a material adverse effect on certain of the Company's operations, especially in the Upstream segment, financial condition and proved reserves. On the other hand, a material increase in oil or natural gas prices could have a material adverse effect on certain of the Company's operations, especially in the Downstream and Chemical segments.

**Economic conditions.** The demand for energy and petrochemicals correlates closely with general economic growth rates. The occurrence of recessions or other periods of low or negative economic growth will typically have a direct adverse impact on our results. Other factors that affect general economic conditions in the world or in a major region, such as changes in population growth rates, periods of civil unrest, government austerity programs, or currency exchange rate fluctuations, can also impact the demand for energy and petrochemicals. Sovereign debt downgrades, defaults, inability to access debt markets due to credit or legal constraints, liquidity crises, the breakup or restructuring of fiscal, monetary, or political systems such as the European Union, and other events or conditions that impair the functioning of financial markets and institutions also pose risks to ExxonMobil, including risks to the safety of our financial assets and to the ability of our partners and customers to fulfill their commitments to ExxonMobil.

**Other demand-related factors.** Other factors that may affect the demand for oil, gas, and petrochemicals, and therefore impact our results, include technological improvements in energy efficiency; seasonal weather patterns, which affect the demand for energy associated with heating and cooling; increased competitiveness of alternative energy sources that have so far generally not been competitive with oil and gas without the benefit of government subsidies or mandates; and changes in technology or consumer preferences that alter fuel choices, such as toward alternative fueled or electric vehicles.

**Other supply-related factors.** Commodity prices and margins also vary depending on a number of factors affecting supply. For example, increased supply from the development of new oil and gas supply sources and technologies to enhance recovery from existing sources tend to reduce commodity prices to the extent such supply increases are not offset by commensurate growth in demand. Similarly, increases in industry refining or petrochemical manufacturing capacity tend to reduce margins on the affected products. World oil, gas, and petrochemical supply levels can also be affected by factors that reduce available supplies, such as adherence by member countries to OPEC production quotas and the occurrence of wars, hostile actions, natural disasters, disruptions in competitors' operations, or unexpected unavailability of distribution channels that may disrupt supplies. Technological change can also alter the relative costs for competitors to find, produce, and refine oil and gas and to manufacture petrochemicals.

**Other market factors.** ExxonMobil's business results are also exposed to potential negative impacts due to changes in interest rates, inflation, currency exchange rates, and other local or regional market conditions. We generally do not use financial instruments to hedge market exposures.

**Government and Political Factors**

ExxonMobil's results can be adversely affected by political or regulatory developments affecting our operations.

**Access limitations.** A number of countries limit access to their oil and gas resources, or may place resources off-limits from development altogether. Restrictions on foreign investment in the oil and gas sector tend to increase in times of high commodity prices, when national governments may have less need of outside sources of private capital. Many countries also restrict the import or export of certain products based on point of origin.

**Restrictions on doing business.** ExxonMobil is subject to laws and sanctions imposed by the U.S. or by other jurisdictions where we do business that may prohibit ExxonMobil or certain of its affiliates from doing business in certain countries, or restricting the kind of business that may be conducted. Such restrictions may provide a competitive advantage to competitors who may not be subject to comparable restrictions.

**Lack of legal certainty.** Some countries in which we do business lack well-developed legal systems, or have not yet adopted clear regulatory frameworks for oil and gas development. Lack of legal certainty exposes our operations to increased risk of adverse or unpredictable actions by government officials, and also makes it more difficult for us to enforce our contracts. In some cases these risks can be partially offset by agreements to arbitrate disputes in an international forum, but the adequacy of this remedy may still depend on the local legal system to enforce an award.

**Regulatory and litigation risks.** Even in countries with well-developed legal systems where ExxonMobil does business, we remain exposed to changes in law (including changes that result from international treaties and accords) that could adversely affect our results, such as:

- increases in taxes or government royalty rates (including retroactive claims);
- price controls;
- changes in environmental regulations or other laws that increase our cost of compliance or reduce or delay available business opportunities (including changes in laws related to offshore drilling operations, water use, or hydraulic fracturing);
- adoption of regulations mandating the use of alternative fuels or uncompetitive fuel components;
- adoption of government payment transparency regulations that could require us to disclose competitively sensitive commercial information, or that could cause us to violate the non-disclosure laws of other countries; and
- government actions to cancel contracts, re-denominate the official currency, renounce or default on obligations, renegotiate terms unilaterally, or expropriate assets.

Legal remedies available to compensate us for expropriation or other takings may be inadequate.

We also may be adversely affected by the outcome of litigation, especially in countries such as the United States in which very large and unpredictable punitive damage awards may occur, or by government enforcement proceedings alleging non-compliance with applicable laws or regulations.

**Security concerns.** Successful operation of particular facilities or projects may be disrupted by civil unrest, acts of sabotage or terrorism, and other local security concerns. Such concerns may require us to incur greater costs for security or to shut down operations for a period of time.

**Climate change and greenhouse gas restrictions.** Due to concern over the risk of climate change, a number of countries have adopted, or are considering the adoption of, regulatory frameworks to reduce greenhouse gas emissions. These include adoption of cap and trade regimes, carbon taxes, restrictive permitting, increased efficiency standards, and incentives or mandates for renewable energy. These requirements could make our products more expensive, lengthen project implementation times, and reduce demand for hydrocarbons, as well as shift hydrocarbon demand toward relatively lower-carbon sources such as natural gas. Current and pending greenhouse gas regulations may also increase our compliance costs, such as for monitoring or sequestering emissions.

**Government sponsorship of alternative energy.** Many governments are providing tax advantages and other subsidies to support alternative energy sources or are mandating the use of specific fuels or technologies. Governments are also promoting research into new technologies to reduce the cost and increase the scalability of alternative energy sources. We are conducting our own research efforts into alternative energy, such as through sponsorship of the Global Climate and Energy Project at Stanford University and research into liquid products from algae and biomass that can be further converted to transportation fuels. Our future results may depend in part on the success of our research efforts and on our ability to adapt and apply the strengths of our current business model to providing the energy products of the future in a cost-competitive manner. See “Management Effectiveness” below.

#### **Management Effectiveness**

In addition to external economic and political factors, our future business results also depend on our ability to manage successfully those factors that are at least in part within our control. The extent to which we manage these factors will impact our performance relative to competition. For projects in which we are not the operator, we depend on the management effectiveness of one or more co-venturers whom we do not control.

**Exploration and development program.** Our ability to maintain and grow our oil and gas production depends on the success of our exploration and development efforts. Among other factors, we must continuously improve our ability to identify the most promising resource prospects and apply our project management expertise to bring discovered resources on line as scheduled and within budget.

**Project management.** The success of ExxonMobil’s Upstream, Downstream, and Chemical businesses depends on complex, long-term, capital intensive projects. These projects in turn require a high degree of project management expertise to maximize efficiency. Specific factors that can affect the performance of major projects include our ability to: negotiate successfully with joint venturers, partners, governments, suppliers, customers, or others; model and optimize reservoir performance; develop markets for project outputs, whether through long-term contracts or the development of effective spot markets; manage changes in operating conditions and costs, including costs of third party equipment or services such as drilling rigs and shipping; prevent, to the extent possible, and respond effectively to unforeseen technical difficulties that could delay project startup or cause unscheduled project downtime; and influence the performance of project operators where ExxonMobil does not perform that role.



# **Exhibit LL**

# **Smoke, Mirrors & Hot Air**

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**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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## ACKNOWLEDGMENTS

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UCS would also like to thank the following individuals for their helpful comments on various aspects of the report: Naomi Oreskes, Rick Piltz, James McCarthy, Don Wuebbles, Erik Conway, Kevin Knobloch, Alden Meyer, and Peter Frumhoff.

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

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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.

## PUTTING THE BRAKES ON EXXONMOBIL'S DISINFORMATION CAMPAIGN

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

—EXXONMOBIL WEBSITE, 2006 <sup>152</sup>

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.<sup>153</sup> 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."<sup>154</sup> 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.<sup>155</sup>

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.<sup>156</sup>

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.<sup>157</sup> 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."<sup>158</sup>

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.<sup>159</sup> 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.<sup>160</sup> 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.<sup>161</sup>

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.<sup>162</sup> 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."<sup>163</sup> 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."<sup>164</sup> 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](http://www.ExxposeExxon.com). The site includes sample letters to Rex Tillerson and members of Congress.

# **Exhibit MM**



**Kline, Scot**

---

**From:** Michael Meade <Michael.Meade@ag.ny.gov>  
**Sent:** Tuesday, March 22, 2016 4:51 PM  
**To:** Kline, Scot; Morgan, Wendy  
**Cc:** Lemuel Srolovic; Peter Washburn; Eric Soufer; Damien LaVera; Daniel Lavoie; Natalia Salgado; Brian Mahanna  
**Subject:** RE: Climate Change Coalition

A couple of updates to report back to the group. First, after a follow up conversation with our AG, Al Gore will now be joining us for part of the day on 3/29. This will certainly add a little star power to the announcement!

We will also be joined by MA AG Healey, which will bring our total number of AG's to a grand total of 7. I'm waiting to hear back from New Mexico, which is our possible 8<sup>th</sup> Attorney General. On the staff side, a total of 16 states (including DC and USVI) will be joining us for the meetings.

**From:** Kline, Scot [mailto:scot.kline@vermont.gov]  
**Sent:** Tuesday, March 22, 2016 11:41 AM  
**To:** Michael Meade; Morgan, Wendy  
**Cc:** Lemuel Srolovic; Peter Washburn; Eric Soufer; Damien LaVera; Daniel Lavoie; Natalia Salgado; Brian Mahanna  
**Subject:** RE: Climate Change Coalition

Mike:

Looks good. One suggestion. We are thinking that use of the term "progressive" in the pledge might alienate some. How about "affirmative," "aggressive," "forceful" or something similar?

Thanks.

Scot

**From:** Michael Meade [mailto:Michael.Meade@ag.ny.gov]  
**Sent:** Monday, March 21, 2016 2:59 PM  
**To:** Kline, Scot <scot.kline@vermont.gov>; Morgan, Wendy <wendy.morgan@vermont.gov>  
**Cc:** Lemuel Srolovic <Lemuel.Srolovic@ag.ny.gov>; Peter Washburn <Peter.Washburn@ag.ny.gov>; Eric Soufer <Eric.Soufer@ag.ny.gov>; Damien LaVera <Damien.LaVera@ag.ny.gov>; Daniel Lavoie <Daniel.Lavoie@ag.ny.gov>; Natalia Salgado <Natalia.Salgado@ag.ny.gov>; Brian Mahanna <Brian.Mahanna@ag.ny.gov>  
**Subject:** Climate Change Coalition

Wendy and Scott,

Below are the broad goals and principles that we'd like to lay out as part of the coalition announcement next week. The filing of the brief and the defense of the EPA regs will highlight these principles. Let us know if you have any thoughts or edits to this. If it looks okay to you, I'll forward this around to the other offices when we have a draft release ready to go out. I'll also be asking the offices to contribute a quote from their respective AG's for the press release.

Let me know if you have any questions or comments.

\*\*\*\*\*

## **Climate Coalition of Attorneys General**

### Principles:

- **Climate Change is Real**

The evidence that global temperatures have been rising over the last century-plus is unequivocal.

- **Climate Change Pollution Is The Primary Driver**

Natural forces do not explain the observed global warming trend.

- **People Are Being Harmed**

Climate change represents a clear and present danger to public health, safety, our environment and our economy – now and in the future.

- **Immediate Action Is Necessary**

Climate change – and its impacts – is worsening. We must act now to reduce emissions of climate change pollution to minimize its harm to people now and in the future.

### Pledge:

We pledge to work together to fully enforce the State and federal laws that require progressive action on climate change and that prohibit false and misleading statements to the public, consumers and investors regarding climate change.

- **Support Progressive Federal Action; Act Against Federal Inaction**

Support the federal government when it takes progressive action to address climate change, and press the federal government when it fails to take necessary action.

- **Support State and Regional Action**

Provide legal support to progressive state and regional actions that address climate change, supporting states in their traditional role as laboratories of innovation.

- **Defend Progress**

Serve as a backstop against efforts to impede or roll-back progress on addressing climate change.

- **Support Transparency And Disclosure**

Ensure that legally-required disclosures of the impacts of climate change are fully and fairly communicated to the public.

- **Engage The Public**

Raise public awareness regarding the impacts to public health, safety, our environment and our economy caused by climate change.

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# **Exhibit NN**

**Kline, Scot**

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**From:** Kline, Scot  
**Sent:** Monday, March 28, 2016 9:08 AM  
**To:** 'Lemuel Srolovic'  
**Cc:** Brian Mahanna; Michael Meade; Morgan, Wendy  
**Subject:** RF: Climate Change Conference Common Interest Agreement  
**Attachments:** Climate Change Conf. Common Interest Agreement.Vt.edits.docx

Lem:

Thanks for the draft. We have an overall comment and two suggested language changes. First the latter. The suggested changes are redlined in the attached document. One is worth brief explanation: in paragraph 5 (iii), we have a couple of concerns: we don't think we can return documents of which we have taken possession under our state law unless ordered by a court to do so; and our office is okay with refusing to disclose covered documents if we can do so under our law, but we really avoid taking on an affirmative obligation to always litigate those issues.

The overall comment is whether we really need a common interest agreement for the conference, particularly given the short time left before the conference. We are concerned that this will distract people and take away time and focus from the conference itself. Our thought has been that anyone providing anything in writing at the conference should assume that it may get produced because of some state's public record laws. Matt and Peter should stick to what is in the public domain or be prepared to have those materials become public.

Our two cents.

Thanks.

Scot

**From:** Lemuel Srolovic [mailto:Lemuel.Srolovic@ag.ny.gov]  
**Sent:** Friday, March 25, 2016 5:18 PM  
**To:** Kline, Scot <scot.kline@vermont.gov>; Morgan, Wendy <wendy.morgan@vermont.gov>  
**Cc:** Brian Mahanna <Brian.Mahanna@ag.ny.gov>; Michael Meade <Michael.Meade@ag.ny.gov>  
**Subject:** Climate Change Conference Common Interest Agreement

Scot and Wendy – sorry for the delay but here's our proposed common interest agreement which is pared down from the VW template. We'd like to distribute to attending offices asap and ask them to sign.

Look ok to you?

Thanks.

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](mailto:lemuel.srolovic@ag.ny.gov)

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### CLIMATE CHANGE CONFERENCE COMMON INTEREST AGREEMENT

This Common Interest Agreement ("Agreement") is made and entered into by and between the undersigned Attorneys General of the States, Commonwealths, and Territories (the "Parties") who are attending along with their staff and certain outside advisors—a conference sponsored by the Office of the Attorneys General of New York and Vermont that will take place in the City of New York on Tuesday, March 29, 2016 (the "Conference"). The Parties mutually agree:

1. The Parties share common legal interests with respect to the following topics that ~~are expected to~~ will be discussed at the Conference (i) undertaking the defense of claims under federal law in *State of West Virginia, et al. v. United States Environmental Protection Agency*, No. 15-1363 (D.C. Cir.) and related proceedings, (ii) taking other legal actions to compel or defend federal measures to limit greenhouse gas emissions, (iii) conducting investigations of representations made by companies to investors, consumers and the public regarding fossil fuels, renewable energy and climate change, (iv) conducting investigations of potential illegal conduct to limit or delay the implementation and deployment of renewable energy technology, (v) taking legal action to obtain compliance with federal and state laws governing the construction and operation of fossil fuel and renewable energy infrastructure or (vi) contemplating undertaking one or more of these legal actions, including litigation ("Matters of Common Interest").

2. 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 at the Conference, and thereafter as they so choose ("Shared Information").

3. Non-Waiver of Privileges: The exchange of Shared Information among Parties including among Parties' staff and outside advisors attending the Conference—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").

4. 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, or consumer protection 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. 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.

5. Notice of Potential Disclosure. If any Shared Information is subject to any form of compulsory process in any proceeding or is demanded under a public records law ("Request"),



the Party receiving the Request shall: (i) immediately notify all other Parties (or their designees) in writing; (ii) cooperate with any Party responding to the Request; and (iii) if requested return ~~and/or~~ refuse to disclose any Shared Information unless otherwise required by law, administrative order, or court order.

6. 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.

7. 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.

8. Parties to the Agreement. This Agreement may be executed in counterparts. All potential Parties must sign for their participation to become effective.

9. Withdrawal. A Party may withdraw from this Agreement upon thirty (30) 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.

10. Modification. This writing is the complete Agreement between the parties, and any modifications must be approved in writing by all Parties.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
[Name]  
[Title]  
[Office]  
[Phone]  
[Email]

# **Exhibit 00**

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, SEubanks@bordaslaw.com, lkrarup@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.