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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

May 18, 2016

The Honorable Ellen F. Rosenblum
Attorney General of Oregon
Oregon Department of Justice
1162 Court Street NE
Salem, OR 97301-4096

Dear Ms. 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, a number of state attorneys general – the self-proclaimed "Green 20" – announced cooperation on an unprecedented effort against those who have questioned the causes, magnitude, or best ways to address climate change.[1] 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."[2] These legal actions may even amount to an abuse of prosecutorial discretion. To assist in the Committee's oversight of this matter, we are 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."[3] 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

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[1] 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.

[2] 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.

[3] 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.

Jolla, California.[4] 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.[5]

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."[6] According to the workshop's report, a necessary component of their strategy was to bring "internal industry documents to light."[7] 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):"[8]

> 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.[9]

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 the New York Attorney General 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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[4] 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.
[5] *Id.*
[6] 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.
[7] 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 .
[8] *Id.* [emphasis added]
[9] *Id.* [emphasis added]

350.org and Greenpeace, met at the Manhattan offices of the Rockefeller Family Fund.[10] 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."[11] 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."[12] Specifically, meeting attendees were to focus on determining "the best prospects for successful action? For getting discovery? For creating scandal?"[13]

Finally, on March 29, 2016, in the hours before members of the Green 20, joined by former Vice President Al Gore, held a widely-publicized press conference announcing cooperation on investigations against those who question the causes, magnitude, or best ways to address climate change, members of the 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 the New York Attorney General's 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 the New York Attorney General's office stating that a *Wall Street Journal* reporter wanted to talk with Pawa about the pre-conference briefing. Pawa asked the attorney, "What should I say if she asks if I attended?"[14] The attorney replied, "My ask is if you speak to the reporter, to not confirm that you attended or otherwise discuss the event."[15]

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.[16]

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[10] 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.

[11] *Id.*

[12] 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.*

[13] *Id.*

[14] 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.

[15] *Id.*

[16] 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/.

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 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 in close coordination with certain special interest groups and trial attorneys that 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 Oregon 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, or the Climate Reality Project, referring or relating to your office's investigation 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 Oregon and any other state attorney general office referring or relating to your office's investigation 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 Oregon 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 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 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

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