



## Energy & Environment Legal Institute Report:



### Private Interests & Public Office:

Coordination Between Governors,  
the Obama White House and the  
Tom Steyer-“Founded and Funded”  
Network of Advocacy Groups to  
Advance the “Climate” Agenda

**As Revealed by Public Records Requests**

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## **Introduction and Executive Summary**

James Madison famously wrote: “the public good is disregarded in the conflicts of rival parties.”<sup>1</sup> We now see what Madison warned against in a carefully planned and heavily funded “orchestration” by individuals who have placed their personal interests ahead of the public weal. This report chronicles a campaign by “major environmental donors” to provide — and governors’ willing participation to obtain — private funding and other resources to advance policies that the same governors’ aides recognize threaten political consequences if the campaign is revealed (this in turn explains the need for massive private underwriting of “orchestrators” “closely tied to each governor” to promote the same campaign). The policies at issue are the economically harmful war on affordable and reliable energy — and wealth transfers to uneconomic industries to, as the President has vowed, finally make renewable energy profitable. Their popular names are the Obama “Clean Power Plan”, the “clean energy economy”, and the Paris global warming treaty expected this coming December to replace the Kyoto Protocol.

On the other side, as a recent *New York Times* headline blared, “Move to Fight Obama’s Climate Plan Started Early”.<sup>2</sup> Not long before that story, the *Times* received a Pulitzer Prize for its coverage of the state attorneys general most actively resisting that same plan.<sup>3</sup> Supported by dozens of emails and attachments in the accompanying appendices, this report tells the rest of that story: a campaign to use governors’ and state attorneys general offices to advance President Obama’s climate change regulatory and treaty agenda, done in close collaboration with the Obama White House but privately underwritten by ideologically aligned benefactors.

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The author acknowledges and thanks Chaim Mandelbaum for his assistance in the preparation and review of this report.

<sup>1</sup> James Madison, Federalist No. 10, The New York Packet, Nov. 23, 1787.

<sup>2</sup> Coral Davenport and Julie Hirschfeld Davis, “Move to Fight Obama’s Climate Plan Started Early,” *New York Times*, August 3, 2015, [http://www.nytimes.com/2015/08/04/us/obama-unveils-plan-to-sharply-limit-greenhouse-gas-emissions.html?\\_r=1](http://www.nytimes.com/2015/08/04/us/obama-unveils-plan-to-sharply-limit-greenhouse-gas-emissions.html?_r=1).

<sup>3</sup> As such, this report presents much of the rest of the story of, e.g., “Energy firms in secretive alliance with attorneys general” (<http://www.nytimes.com/2014/12/07/us/politics/energy-firms-in-secretive-alliance-with-attorneys-general.html>). However, instead of “Lobbyists, bearing gifts, pursu[ing] attorneys general” ([http://www.nytimes.com/2014/10/29/us/lobbyists-bearing-gifts-pursue-attorneys-general.html?\\_r=0](http://www.nytimes.com/2014/10/29/us/lobbyists-bearing-gifts-pursue-attorneys-general.html?_r=0)), these records reflect governors pursuing donor interests and seeking gifts to underwrite parallel political operations to support use of public office in pursuit of shared objectives.

This coordinated and multi-million dollar campaign by governors and wealthy donors began to take shape with a White House meeting in December 2013, or a few months before the “early” meetings reported by the *Times*. These emails show the campaign continued to be developed with active participation by the Obama White House, which boasted to governors’ aides, “We’ve got a few other tracks with private sector and unusual allies”. Possibly related, the campaign described pursuing its objectives in tandem with advocacy groups dedicated to the “clean energy economy”, “founded and fund[ed]” by the Democrats’ “environmentalist megadonor Tom Steyer”<sup>4</sup>.

Led by government employees in more than a dozen states, the campaign as designed represents an “Organizing for America”-style advocacy network and political operation with outside staff funded by some of the biggest names in left-liberal political and foundation giving. Emails appended to this report cite Steyer, Bloomberg, the Rockefeller Brothers, and the Hewlett Foundation among others.

Recognizing the “Need [for] Midwest and flyover states” support, the emails cite one tactic seemingly lifted from an episode of “House of Cards”: Democratic governors will “creatively engage” electric utilities under their jurisdiction to bring Republican governors on board, instead of using green groups to pressure Republicans — or utilities — because the “standard NGO-shaming strategy might not deliver.”

That clever idea was part of one of three revealed tracks: in addition to White House coordination “with private sector and unusual allies”, and the OFA-style campaign led by governors, is one underwritten and coordinated by Tom Steyer’s network of 501(c)(3) advocacy groups in close coordination with his investment company.

The governors’ component remains the most enigmatic, having gone by three different names, the latest of which claims to have somehow hired a director, despite not existing as a formally organized entity. The latest incarnation of this campaign only appears as a tagline that director added to her GMail account. Like every aspect of this effort, the director the governors’

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<sup>4</sup> “Founded and funded” by Steyer is the description of Steyer’s own managing partner Ted White. “Environmentalist megadonor” comes from National Public Radio, “With Climate Change Plans, Democratic Candidates Aren’t Just Courting Voters” <http://www.npr.org/2015/08/06/430077430/with-climate-change-plans-democratic-candidates-arent-just-courting-voters>. Viewed August 7, 2015.

campaign hired also has direct ties to a scandal involving “clean energy” donors and conflicts of interest, one which felled Oregon’s sitting governor earlier this year.

Whomever signs her checks, she meets with senior administration officials on behalf of this “core group” of governors. The taxpayers of Kentucky might be surprised to learn that this group includes their own governor, who publicly decried Obama’s climate rules as “disastrous” for that state, rules his Washington representative privately worked for two years to advance. That aide is all over these emails, one of which also cites Kentucky as among the states “that can’t commit to the GCC [Governors Climate Compact] publicly now but would welcome quiet engagement (CO, KY, TN, AR, PA).”

The rules, however, are not disastrous for “major environmental donors”, those whom these emails describe the as “key allies” in the effort to build this new, parallel governors’ operation. This effort is expressly designed to avoid the baggage of traditional environmental pressure groups whose “standard NGO-shaming strategy...might not deliver.”

### **Highlights of Governors, Steyer-Group, White House climate plan**

- Using his Fahr, LLC email account (“an umbrella entity for prominent investor and philanthropist Tom Steyer’s extensive business, policy, political, and philanthropic efforts”), Steyer’s managing director Ted White describes the “affiliated groups that we founded and fund (such as NextGen Climate Action, or Next Generation, or AEE [Advanced Energy Economy]”. They retained former Al Gore and George Soros executive Cathy Zoi “to help us make that assessment and determination” of “which of the affiliated groups ... will be taking the lead for us on this (or it could be a combination).”
- Fahr “coordinates” these “affiliated” operations, describing the political also as business: Steyer’s “three areas of focus” are “housed in three **independent but coordinated entities: business (accelerating the transition to an advanced energy future): policy (related to climate and energy); and political (acting politically to prevent climate disaster and to enable advanced energy businesses to succeed).**” (emphases added)
- Democratic governors’ aides referenced a plan of “creative engagement” to pressure certain electric utilities — those subject to their jurisdiction whose businesses cross lines into states led by Republicans — to bring parties around to support the Steyer/Obama/ governors’ agenda: “[B]ecause there are key utilities whose service territories cross red and blue states Governors in these states could quietly engineer a breakthrough strategy that compels utilities in key red states to lead the charge to win over a key Governor, rather than rely on a standard NGO-shaming strategy that might not deliver.”

- The governors designed an advocacy campaign to be spearheaded by “a nimble network of ...designated state coordinators closely tied to each Governor” — called privately funded “non-governmental in-state orchestrators” running parallel political/policy operations to “align in-state advocacy capacity with each Governor’s implementation and political goals”.
- This creates “a standard setting left flank,” part of “a nationally-coordinated, multi-year ‘states strategy’ focused on driving outcomes contemplated by the President’s climate action plan, 111d [one of EPA’s leading ‘war on coal’ regulations, addressing existing coal-fired power plants, uses Clean Air Act section 111d], resilient infrastructure and international treaty objectives at scale.”
- “The tentative Ask to Funders: Support right now the hiring of a “grown-up” in each state [the “orchestrators”], trusted and recommended by each engaged Governor who is capable and committed to developing and managing an integrated and multi-issue climate outcomes campaign through Paris 2015... independent of any specific in-state or national NGO, yet would work closely with these NGOs and other experts to develop a national “state strategy” that makes sure we are using existing capacity wisely, and making new investments intelligently.”<sup>5</sup>
- These “grown ups” or “orchestrators” would also “orchestrate the work of NGOs”.
- This campaign included close coordination with the White House at senior levels, beginning with a December 2013 meeting followed by further meetings, direct correspondence, arranged calls, and copying White House staff on other discussions and emails to left-liberal foundations targeted to underwrite the supportive campaign.
- White House involvement was early, ongoing, coordinated and influential. The White House went so far as to instruct the governors’ aides to coordinate with what a sympathetic trade outlet calls a “shadowy” Podesta-affiliated coalition of pressure groups.
- Followup steps include the governors hiring a director of this campaign who, emails show, was lobbying senior Obama administration officials as recently as this Spring.
- The *six-month* budget of \$1,030,000 *solely* for the “orchestrators” and multistate coordinator offers a hint at the magnitude of this campaign these donors underwrote on behalf of political benefactors. Illustrative other expenses identified in these emails include, for example, \$180,000 for the first paper and presentations by Synapse Economics, only one among that group’s numerous projects for the campaign.

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<sup>5</sup> Ellipses added, entire quote provided in the main body of the report below.

- Some public offices are shielding their records from review through tactics including invoking blanket privilege for every word of every document (California Gov. Jerry Brown; Kentucky Attorney General Jack Conway (after first denying having any records)), retroactively claiming all relevant emails are “Governor’s working papers (Virginia Gov. Terry McAuliffe’s DEQ), and **falsely claiming “no records” exist** — specifically denying even the existence of specific emails that E&E Legal can show do exist because it obtained copies from other states (Kentucky Gov. Steve Beshear).
- Emails reflect an awareness that the agenda’s lack of popularity in the “flyover states” necessitated a flexible timeline and keeping some offices’ involvement quiet, particularly citing elections as a concern.

In summary, these emails reveal a broad-based campaign to use public office along the lines of Organizing for America, guided by “orchestrators” underwritten by private contributions. These orchestrators would be (are?) “closely tied to each governor”, and coordinate with their governor to protect and support the main priorities of both the so-called “clean energy” industry and President Obama’s climate agenda. The campaign includes participation by financial backers who had or who created one or two degrees of separation from the obvious appearance of having “an angle being played” with the agenda,<sup>6</sup> and a White House whose occupant frequently asserted the objective of making renewable energy “the profitable kind of energy.”<sup>7</sup> That is of course a promise that he might manage to temporarily satisfy but one that cannot be sustained,<sup>8</sup> but regardless is one that he can cause enormous harm with in the course of pursuing.

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<sup>6</sup> “Steyer’s crony plan’s return on investment A \$100 million investment in Democrats pays off with \$1 billion in taxpayer benefits”, Editorial, Washington Times, August 13, 2014, <http://www.washingtontimes.com/news/2014/aug/13/editorial-steyers-crony-plan/>; see also Greener Capital’s investments in Project Frog which stands to gain from “greening” initiatives, and e.g., People Power, Codexis, and Xtreme Power, which obtained millions in taxpayer-funded “stimulus” grants. Additionally, his non-profit TomKat Charitable Trust has a stake in a “green energy” investment firm. <http://freebeacon.com/politics/steyer-nonprofit-owns-stake-in-green-energy-investment-firm/>.

<sup>7</sup> “See e.g., “[W]e need to ultimately make clean, renewable energy the profitable kind of energy.” Remarks of President Obama - Address to Joint Session of Congress, February 24, 2009. [http://www.whitehouse.gov/the\\_press\\_office/Remarks-of-President-Barack-Obama-Address-to-Joint-Session-of-Congress](http://www.whitehouse.gov/the_press_office/Remarks-of-President-Barack-Obama-Address-to-Joint-Session-of-Congress). “This legislation will finally make clean energy the profitable kind of energy.” A Historic Energy Bill, Address by President Barack Obama, June 29, 2009. <http://www.whitehouse.gov/blog/A-Historic-Energy-Bill>. “We will move forward with investments to transform our energy economy, while providing incentives to make clean energy the profitable kind of energy.” Obama’s Speech to the United Nations General Assembly, September 23, 2009, <http://www.nytimes.com/2009/09/24/us/politics/24prexy.text.html?pagewanted=all>.

<sup>8</sup> See Taylor & Tanton, “The Hidden Costs of Wind Electricity - Why the full cost of wind generation is unlikely to match the cost of natural gas, coal or nuclear generation”, [eelegal.org/wp-content/uploads/2013/09/Hidden-Cost.pdf](http://eelegal.org/wp-content/uploads/2013/09/Hidden-Cost.pdf).

Neither the governors nor the President can claim a legitimate purpose of government in making the politically selected wind- and solar-power industries “finally profitable,” much less through an effort to “bankrupt” a more successful competitor of 125 years, coal-powered electricity generation: absent some actual public good such as reduced electricity costs, increased reliability, any claim of an impact on climate (beneficial or otherwise), or reduced emissions, this is a “naked transfer of wealth”. Yet finally making these uneconomic industries profitable was plainly one principal objective of these government officials and their private underwriters.

The thrust of the campaign was to ensure that states did not oppose, but instead actively implemented President Obama’s Clean Air Act rules rationing carbon dioxide emissions; to support Obama’s plan to enter into a successor to the Kyoto Protocol in December 2015; and to create a political “climate compact” of governors from coast-to-coast plus some “flyover states”.

This report reveals how wealthy “environmental donors” pursued these objectives, underwriting and supporting the use of public offices to support the individuals’ politically selected industry sectors in an effort to “finally” make them profitable. Thanks to open records laws and despite several stonewalling holdout states, this report documents a convergence of big money and big government to underwrite pressure groups and echo chambers, to scheme behind closed doors and “creatively engage utilities” to craft and impose a transformative and unpopular agenda, far more insidious than “devising a legal strategy” in opposition to the same agenda which recently sent the *New York Times* to the fainting couch.

Context and common sense indicate that the emails E&E Legal obtained and detail in this report do not represent all relevant correspondence pulling together the scheme they describe. Public records laws extend to those records created, sent or received by public servants; private sector correspondence is only captured when copying public offices, with the caveat that most of the White House is exempt. Further, however, the records we have obtained reflect more than the time and other parameters of our requests; they are also a function the thoroughness of offices’ responses, the willingness of former and current staff to search nonofficial accounts, and even several stonewalls as noted in the following pages.



## **The Genesis of the Findings — The Kitzhaber Scandal Continues**

On February 13th, 2015, Oregon Governor John Kitzhaber resigned from office amid allegations of criminal wrongdoing for the role his fiancée, Cylvia Hayes, held in his office and whether she used that role to obtain private consulting work promoting the climate agenda.<sup>9</sup> This scandal unfolded as the campaign revealed in this report got underway. It shares several major players and numerous parallels also making it directly relevant to these revelations.

The organic document that prompted further the Energy & Environment Legal Institute open records requests was a ten-page thread of email discussions among senior-level aides to the governors of California, Oregon and Washington State, plus Canadian officials and an activist private sector lawyer. E&E Legal obtained these emails under Washington State’s freedom of information law made after reading news accounts of Tom Steyer’s efforts to influence Washington state and local elections. Washington Gov. Jay Insee’s office owed E&E Legal the documents well before those November 2014 elections, but the records were not released until afterward. Coincidentally or otherwise, follow-up emails obtained by E&E Legal and described herein affirm that keeping details about this plan away from the public — specifically until at least after the elections — were a paramount consideration.

This original email chain prompted E&E Legal to submit more than two dozen other requests of governor and attorney general offices, now in over fifteen states. Some of these requests are recent and others remain outstanding due to slow-walking and outright stonewalling by offices in California, Kentucky and Virginia.<sup>10</sup> (See “Stonewalling” discussion below.)

Those records of which we are aware and being held as privileged by, for example, California Gov. Brown’s and Kentucky Gov. Beshear’s offices, are more embarrassing for their

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<sup>9</sup> Laura Gunderson, “Sweeping FBI investigation targets Oregon Governor John Kitzhaber, Cylvia Hayes”, The (Portland) Oregonian, February 13, 2015 [http://www.oregonlive.com/politics/index.ssf/2015/02/oregon\\_governor\\_john\\_kitzhaber\\_10.html](http://www.oregonlive.com/politics/index.ssf/2015/02/oregon_governor_john_kitzhaber_10.html).

<sup>10</sup> In the same vein, despite the state offices demonstrably working so hard to woo and satisfy wealthy donors to underwrite outside campaigns, some were unable to perform actual statutory duties like providing proper responses to our requests. Information requests are, apparently, deemed less helpful to achieving the offices’ objectives. Numerous states that did not stonewall our requests nonetheless often produced responsive records in the least user-friendly format possible (paper despite a request that electronic records be delivered electronically, or non-searchable PDF), and delaying its ability to sort, organize and educate the public on the contents and needlessly consuming a public-interest requester’s resources.

candid and revealing nature than they are privileged in any traditional sense and, by definition, were released by other states who were also part of the email chain. Whatever the motivation behind refusing to let the public see public records as a matter of discretion, it seems likely related to the fact that similar revelations have already wreaked dramatic political fallout such as Gov. Kitzhaber's forced resignation.

Indeed, it is not possible to separate the campaign this report details from that situation. Kitzhaber and his most highly paid aide Dan Carol left their public positions after appearing to have too closely intertwined government and the taxpayer-dependent "clean energy" industry with interest group lobbies.<sup>11</sup> Carol arranged for that "clean energy" consulting money for Hayes, who in addition to serving as First Lady also officially advised the Governor on energy policy while being a well-compensated consultant, receiving "at least \$213,000 in consulting fees since Kitzhaber took office in 2011."<sup>12</sup>

Emails obtained by E&E Legal show Hayes and Carol, and then other aides, "chat every Monday at 1:30 Pacific" about this very agenda, specifically to stay in sync on the progress of efforts they expressly attribute to Steyer. Hayes also participated in weekly calls regarding the regional climate compact which the plan described herein seeks to expand across the country, the Pacific Coast Collaborative. Emails cited below show the two "stay[ed] on the same page". Another email reflects that Tom Steyer also raised the idea of the compact to one of the "core group" governors' aides.

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<sup>11</sup> Donors and "clean energy" wealth transfers seem to flock together. "Whether it is Solyndra or Tesla or Fisker or Beacon Power, or Ener1, the list goes on and on." Rep. Marsha Blackburn, "Highlights From RNC Conference Call On Crony Capitalism in the Obama Administration", July 18, 2012. <https://www.gop.com/highlights-from-rnc-conference-call-on-crony-capitalism-in-the-obama-administration/>. See e.g., Lachlan Markay, "Harry Reid Secured Subsidies for Aides' Donors", Washington Free Beacon, March 5, 2015, <http://freebeacon.com/issues/harry-reid-secured-subsidies-for-aides-donors/>; Lachlan Markay, "Former Employees: Reid-Backed Firm Lied to Get Stimulus Cash", Washington Free Beacon, March 19, 2015, <http://freebeacon.com/issues/former-employees-reid-backed-firm-lied-to-get-stimulus-cash/>; Lachlan Markay, "Report: 80% of DOE Green Energy Loans Went to Obama Backers", The Daily Signal, November 14, 2011, <http://dailysignal.com/2011/11/14/report-80-of-doe-green-energy-loans-went-to-obama-backers/>; Michelle Malkin, "Obama's Green Robber Barons", Real Clear Politics, January 25, 2012, [http://www.realclearpolitics.com/articles/2012/01/25/obamas\\_green\\_robber\\_barons\\_112897.html](http://www.realclearpolitics.com/articles/2012/01/25/obamas_green_robber_barons_112897.html).

<sup>12</sup> Les Zeitz, "Cylvia Hayes discloses another \$118,000 for consulting fees", The (Portland) Oregonian, January 28, 2015, [http://www.oregonlive.com/politics/index.ssf/2015/01/cylvia\\_hayes\\_discloses\\_another.html](http://www.oregonlive.com/politics/index.ssf/2015/01/cylvia_hayes_discloses_another.html)

Carol was not only the pivot-man for Hayes's arrangement<sup>13</sup> but also the principal in-house organizer for the governors' "core group" detailed in this report, pushing a scheme originally characterized as "Dan's concept".

According to the Portland *Oregonian*, "Carol is a former Democratic opposition researcher who worked on behalf of Bill Clinton and Barack Obama."<sup>14</sup> Carol copied governors' aides and contractors/consultants on emails, also including Steyer — "a billionaire spending \$50 million of his own money to elect, among other things, senators who would push his issues"<sup>15</sup> (as Daily Tech put it in an editorial, "Billionaire's "Charity" Plans to Spend \$100M to Break Climate Critics"<sup>16</sup>). Steyer in fact prepared to go all-in on policy through his "NextGen Climate Action group [which] was reportedly ready to spend as much as \$100 million or more in 2014."<sup>17</sup> As of August 2015, NextGen had resumed its major expenditures, timed with President Obama's tour promoting the same climate agenda<sup>18</sup>. Steyer's point man was his group's managing partner, Ted White, discussed further below.

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<sup>13</sup> "How did Hayes end up with a fellowship funded by an organization with an interest in clean-energy policy in Oregon? A Kitzhaber campaign adviser, Dan Carol, helped arrange the funding following Kitzhaber's election in 2010...Carol subsequently landed a position within the Kitzhaber administration. That position, [Willamette Week has reported](#), pays more than \$165,000, making Carol Kitzhaber's highest-paid aide". Editorial, "John Kitzhaber Must Resign", The (Portland) *Oregonian*, February 4, 2015, [http://www.oregonlive.com/opinion/index.ssf/2015/02/john\\_kitzhaber\\_must\\_resign\\_edi.html](http://www.oregonlive.com/opinion/index.ssf/2015/02/john_kitzhaber_must_resign_edi.html).

<sup>14</sup> Nick Budnick, "Cylvia Hayes scandal: Kitzhaber associates helped create jobs for her that had Oregon influence in mind", Portland *Oregonian*, February 3, 2015, [http://www.oregonlive.com/politics/index.ssf/2015/02/cylvia\\_hayes\\_kitzhaber\\_associa.html](http://www.oregonlive.com/politics/index.ssf/2015/02/cylvia_hayes_kitzhaber_associa.html).

<sup>15</sup> The Sunlight Foundation, "Win or lose, big money still matters in politics", Huffington Post Blog, November 6, 2014, [http://www.huffingtonpost.com/the-sunlight-foundation/win-or-lose-big-money-sti\\_b\\_6114990.html](http://www.huffingtonpost.com/the-sunlight-foundation/win-or-lose-big-money-sti_b_6114990.html).

<sup>16</sup> "Editorial: Billionaire's "Charity" Plans to Spend \$100M to Break Climate Change Critics", [DailyTech.com](#), May 24, 2014, <http://www.dailytech.com/Editorial+Billionaires+Charity+Plans+to+Spent+100M+to+Break+Climate+Change+Critics/article34952.htm>.

<sup>17</sup> [FactCheck.org](#)"NextGen Climate Action", February 20, 2014, updated November 5, 2014, <http://www.factcheck.org/2014/02/nextgen-climate-action/>.

<sup>18</sup> See e.g., Politico's Morning Energy, August 11, 2015, "Tom Steyer's NextGen Climate Action group today launched a seven-figure ad campaign touting clean energy as a jobs creator. The 30-second spot, featuring kids talking about the creation of the light bulb and the moon landing (and the internet, sans any mention of Al Gore), will run in markets in Iowa, New Hampshire, Ohio and Washington, D.C. According to a source tracking ad buys, NextGen spent more than \$840,000 on the ads. The ad is the first in what NextGen says will be a series of spots in the group's campaign to get candidates to support the U.S. getting 50 percent of its power from clean sources by 2030."

Details of Carol’s Oregon-specific work continue to inform the public in ways relevant to the plans we see to spin that campaign out at the national level. A recent Oregon production of two former Kitzhaber aides’ work-related, private-account correspondence confirms that “Kitzhaber told his staff that new state energy policies should match those that special interests were paying his fiancée to promote.”<sup>19</sup> One damning directive from Kitzhaber, which contradicts previous denials, stated in blunt and pertinent part, “Cylvia needs to be advocating the same clean economy policy in her role as spokesperson/advocate for the Governor’s Office and her role as a Clean Economy fellow. There cannot be any daylight between them.... This is another reason why she needs a role in developing the (state) policy itself.”<sup>20</sup>

There is even less daylight between these relationships the closer one looks. Hayes’ angel Carol, on behalf of the governors’ group, then hired as director an alum of the same 501(c) (3) that arranged for the payments to Hayes. (As discussed, below, Carol and other governors’ aides later discussed notifying key donors that the “core group” had hired CEDC alum Michelle Wyman; curiously, despite having a “director” who to this date appears to be lobbying on its behalf, the governors-led group — renamed for a second time — is itself ethereal, leaving no other ready trace that it exists under *any* of the three names it has used in emails obtained by E&E Legal.)

“Starting in July or August of 2011, Hayes began a fellowship Carol arranged with the Clean Economy Development Center, a Washington, D.C. non-profit. That fellowship would pay her \$118,000 over 18 months, for work that Hayes and Kitzhaber’s office have yet to describe in any detail.

Right after Carol arranged that work for Hayes, Kitzhaber hired Carol to be his director of multi-state initiatives, a job that [paid] Carol \$165,720, according to state figures. That’s far more than anybody else on Kitzhaber’s staff and nearly twice Kitzhaber’s salary of \$98,600....

“I came up with the idea of the CEDC fellowship,” Carol writes.”<sup>21</sup>

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<sup>19</sup> Kitzhaber told staff state policies should match Cylvia Hayes’ paid agenda [http://www.oregonlive.com/politics/index.ssf/2015/07/kitzhaber\\_told\\_staff\\_state\\_pol.html](http://www.oregonlive.com/politics/index.ssf/2015/07/kitzhaber_told_staff_state_pol.html).

<sup>20</sup> Id. Memo available at [http://media.oregonlive.com/politics\\_impact/other/Emailed%20memo.pdf](http://media.oregonlive.com/politics_impact/other/Emailed%20memo.pdf).

<sup>21</sup> Nigel Jacquiss, “Kitzhaber Hired Ally Who Arranged Cylvia Hayes’ Fellowship, Making Him Highest-Paid Aide: Right after finding lucrative work for first lady, Dan Carol joined governor’s staff”, Willamette Week, February 4, 2015, [http://www.wweek.com/portland/blog-32782-kitzhaber\\_hired\\_ally\\_who\\_arranged\\_cylvia\\_hayes\\_fellowship\\_making\\_him\\_highest\\_paid\\_aide.html](http://www.wweek.com/portland/blog-32782-kitzhaber_hired_ally_who_arranged_cylvia_hayes_fellowship_making_him_highest_paid_aide.html).

“The clean economy center did not respond to questions about the fellowship which was funded with \$75,000 from the Energy Foundation<sup>22</sup> ... Carol said he brought the Energy Foundation<sup>23</sup> and the Rockefeller Brothers Fund<sup>24</sup> together to fund the fellowship for Hayes....”<sup>25</sup>

As the Washington Free Beacon reports, “The IRS revoked CEDC’s tax exempt status in August after it failed to file annual reports for three straight years.”<sup>26</sup> Not filing a 990 form obviously raised red flags about the sources of the group’s income and their expenditures.

The Energy Foundation and Rockefeller Brothers Fund also appear throughout the emails revealed by this report, and the campaign’s projects cite these groups as underwriters. Other coincidental roles are played throughout these conversations, such as “Kate Gordon, a member of the CEDC’s board. Gordon leads the energy and climate division of Next Generation, an environmental nonprofit group founded by Steyer. Another director of the group, according to the website, was Mike Casey. Casey runs a media and public relations firm called Tigercomm that does polling and advertising work for Steyer’s Super PAC, NextGen Climate Action”.<sup>27</sup>

“Casey reportedly wrote NextGen’s communications strategy for its involvement in elections in Massachusetts and Virginia in 2013. NextGen and another Steyer group, the CE

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<sup>22</sup> <http://www.ef.org/grant/clean-economy-development-center/>.

<sup>23</sup> “Steyer’s TomKat Charitable Trust has donated more than \$3 million to the Energy Foundation.” Lachlan Markay, “Tom Steyer’s Deep Ties to Oregon Corruption Scandal”, Washington Free Beacon, February 13, 2015 <http://freebeacon.com/issues/tom-steyers-deep-ties-to-oregon-corruption-scandal/>, linking to <http://www.insidephilanthropy.com/fundraising-for-climate-change/tomkat-charitable-trust-grants-for-climate-energy.html>.

<sup>24</sup> <http://www.rbf.org/grant/14468/clean-economy-development-center-0>

<sup>25</sup> Lachlan Markay, “Tom Steyer’s Deep Ties to Oregon Corruption Scandal”, Washington Free Beacon, February 13, 2015. We note that Mr. Steyer’s lawyer, Martin Singer, said in a letter to the Washington Times that while his client’s charitable trusts donated various monies to the Energy Foundation between 2009 and 2013, including the \$200,000 in 2012 for general operating purposes, the funds were explicitly restricted so they could not be used for lobbying, legislative or electoral purposes. Therefore, Mr. Steyer’s money had no connection to the work that Ms. Hayes performed under the Energy Foundation funding, Mr. Singer said. See Kellan Howell, “FLASHBACK: Oregon Gov. John Kitzhaber, fiancée provide new green energy scandal for Democrats: Controversy creates new questions for billionaire environmental activist Tom Steyer”, Washington Times, February 12, 2015 <http://www.washingtontimes.com/news/2015/feb/12/oregon-gov-john-kitzhaber-fiancee-cylvia-hayes-pro/?page=all>.

<sup>26</sup> Id. See also <http://www.guidestar.org/ViewPdf.aspx?PdfSource=0&ein=27-1762207>;

<sup>27</sup> Lachlan Markay, Tom Steyer’s Deep Ties to Oregon Corruption Scandal, Washington Free Beacon, February 13, 2015.

Action Committee, paid Tigercomm \$387,000 that year.”<sup>28</sup> This was the campaign about which the *New York Times* wrote, “Tom Steyer, a Democrat who founded one of the world’s most successful hedge funds, burst onto the national political scene during last year’s elections, when he spent \$11 million to help elect Terry McAuliffe governor of Virginia”.<sup>29</sup>

Emails obtained by E&E Legal reflect more staff looped into the process of joining the fold on this agenda by the McAuliffe administration than by any other governor, a priority that Team Steyer seems to have given an assist, as discussed, below.

Casey also appears in these emails as a key contact. All of these overlapping appearances foreshadow a comment by the activist NextGen hired to run its multi-state campaign, that one Team Steyer-affiliated consultant, ICF, “seems to be advising everyone” in on the climate scheme.

E&E Legal’s followup campaign of open records requests documented how this tangled “intertwining [of] private and public roles”, as the *Oregonian* describes the public/private efforts to impose a global warming agenda, extends far beyond the disgraced Gov. Kitzhaber, through numerous statehouses and all the way to the uppermost staff levels of the Obama White House.

### **The Governors’ Plan**

These emails show the development of a detailed Governors Climate Accord, promoted quietly by more than a dozen Democratic governors and enabled by an entire network of groups underwritten by wealthy party benefactors. The name has changed but, with the exception of a White House suggestion to redesign it slightly, the plan barely seems to have done so.

The four-point plan reflects a coordinated push for the “climate agenda” shared by these governors, activist donors, the White House and “non-governmental in-state orchestrators” paid to run it. Those “major environmental donors” include, in addition to Steyer, Michael Bloomberg and Henry Paulson (see below). According to various versions of the concept

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<sup>28</sup> Id. “Casey denied having served on the group’s board, though he admitted to doing communications work for CEDC through Tigercomm. When asked why the website listed him as a member of the board, Casey said, “Best I can tell, there’s a cached page from June 2013 saying I’m a board member. I never was, as CEDC has confirmed to you. Not sure what else to tell you.””

<sup>29</sup> Nicholas Confessore, “Financier Plans Big Ad Campaign on Climate Change”, *New York Times*, February 17, 2014, [http://www.nytimes.com/2014/02/18/us/politics/financier-plans-big-ad-campaign-on-environment.html?\\_r=0](http://www.nytimes.com/2014/02/18/us/politics/financier-plans-big-ad-campaign-on-environment.html?_r=0).

described in the emails, an early step discussed with the White House was a private dinner including them and others to “get the right group of Governors, White House representatives and select strategic funders” together, designed “to create buy-in”, and “signal where funders should support filling holes in missing capacity we need to pull off the Multi-state strategy...to keep outcomes and momentum moving on top of the public approach”.

This would “serve as a standard setting left flank,” part of “a nationally-coordinated, multi-year ‘states strategy’ focused on driving outcomes contemplated by the President’s climate action plan, 111d, resilient infrastructure and international treaty objectives at scale.” The “Desired outcome: Spur the funding and development of a strategic play and multistate campaign structure to create this new approach to implementation.”

111d refers to EPA’s Clean Air Act greenhouse gas regulation imposed upon the nation’s existing coal-fired power plant fleet, the “Clean Power Plan” announced in the first week of August 2015. That is the same regulation that EPA developed on a private email account with the head of the Sierra Club’s anti-coal campaign, as E&E Legal revealed in its recently released report detailing collusion with green pressure groups.<sup>30</sup> One email sent on an EPA official’s Yahoo account included a memo to unlawfully assist EPA in drafting its rule in a manner specifically intended to be out of public view. That email is a confession of EPA’s unlawful collusion with Sierra Club’s John Coequyt. In a memo on the Clean Power Plant 111(d) rule then under development, he explicitly stated it was a plan he “didn’t want to send in public.” It concluded, “EPA can therefore establish a performance standard for existing plants that is not achievable by any plant nearing the end of its “remaining useful life” as defined by EPA.”<sup>31</sup>

This uses green-group slang, but “resilient infrastructure” references involves President Obama’s push for windmills and solar panels (which require backup) to supplant the existing network of electricity generation and distribution (which would back them up) the treaty references are to the Kyoto II treaty expected to be reached in December 2015 in Paris.

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<sup>30</sup> See, Energy & Environment Legal Institute, “Back to Square One: Unlawful Collusion with Green Pressure Groups should Doom U.S. EPA’s Greenhouse Gas Regulation” July 30, 2015, *available at* [eelegal.org/wp-content/2015/07/EE-Legal-GHG-Collusion-Report-Final.pdf](http://eelegal.org/wp-content/2015/07/EE-Legal-GHG-Collusion-Report-Final.pdf).

<sup>31</sup> *Id.*

Possibly most worth followup inquiry are the serial references to “creatively engaging” electric utilities to lobby the agenda into place, at their ratepayers’ expense if to the benefit of many of those utilities. And numerous other politically selected players.

### **Implementing the Plan**

These emails appended to this report not only lay out the plan but numerous follow-up steps involving governors in multiple states, the White House, and the Steyer-underwritten groups. This makes untenable the typical effort to waive away revelations that if they do not also show follow-up steps the detailed plan should be ignored. Followup was continuous and is ongoing.

These emails show an ugly confluence of wealthy ideological funders, otherwise uneconomic “investments” whose proponents seek to use government policy to succeed (“rent-seeking”), and high-level staff for numerous activist governors and even the White House to run a parallel operation in support of the shared global warming agenda. All of this mimicked Organizing for America, the renamed post-election organization the Obama campaign formerly called “Obama for America” used to promote his political agenda once in office. The emails reveal the climate industry’s roadmap on how to impose President Obama’s climate agenda on America, beginning with imposing and defending EPA’s costly greenhouse gas rules. This roadmap continues to unfold in the run-up to the December 2015 Paris treaty. It also provides one reason why other governors, Congress and the Courts should block EPA’s plans.

As already noted, the emails E&E Legal obtained represent only that correspondence responsive to requests with specific time and search parameters, which public offices agreed to produce with varying levels of thoroughness and willingness to search nonofficial accounts that is wholly unknown to us. Occasional email threads pre-date January 2014 by which time, the emails make clear, the plan was already somewhat developed, as was the participation of key financiers, and particularly Tom Steyer.

Regardless, of several email threads E&E Legal obtained that reach back into 2013, one from Monday July 29, 2013, shows Ted White writing to Curtis Robinhold, then-Governor Kitzhaber’s Chief of Staff, to note “Tom Steyer and I enjoyed meeting with the Governor, the First Lady, and you last Friday [July 26, 2013].”



White is Managing partner of Steyer's Fahr LLC, "an umbrella entity for prominent investor and philanthropist Tom Steyer's extensive business, policy, political, and philanthropic efforts,"<sup>32</sup> and taking its name from Steyer's full name, Thomas Fahr Steyer. White is an occasionally candid correspondent who also keeps other oars in the "advanced energy" waters<sup>33</sup>. Fahr, LLC "coordinates the political advocacy donations for billionaire Tom Steyer [and by last August had] funneled \$20.3 million to liberal candidates and organizations."<sup>34</sup> Calculating "donations from employees of the organization, its PAC and in some cases its own treasury" it was the top overall giver of "campaign contributions to federal candidates, parties, political action committees (including superPACs), federal 527 organizations, and Carey committees" in 2014.<sup>35</sup>

White candidly lays out what partisans on these issues no longer need bother debating:

As you now know, there are three areas of focus for us, housed in three **independent but coordinated entities: business (accelerating the transition to an advanced energy future); policy (related to climate and energy); and political (acting politically to prevent climate disaster and to enable advanced energy businesses to succeed).**" (emphases added)

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<sup>32</sup> <http://www.moyewhite.com/newsdetails.aspx?NewsID=234> viewed August 14, 2015.

<sup>33</sup> White is also name partner in the 51-lawyer Denver-based firm Moyer White which, among other practice areas, "provides full-service representation for renewable and next-generation energy producers, developers and manufacturers... Our attorneys are involved in more than just the legal issues associated with renewable energy and conservation. For example, one of our partners, Ted White, is on the board of directors of a research and consulting company (a "think-and-do tank") that collaborates with and advises on advanced energy projects and distributed resources" <http://www.moyewhite.com/legalservices/services.aspx?SpecificAreaID=45>, viewed August 14, 2015.

<sup>34</sup> Ian Tuttle, "Only 2 of Top 20 Corporate Political Donors in 2014 Favor GOP", August 8, 2014, National Review Online, <http://www.nationalreview.com/corner/384979/only-2-top-20-corporate-political-donors-2014-favor-gop-ian-tuttle>.

<sup>35</sup> <https://www.opensecrets.org/overview/toporgs.php>

White states that “this email makes the introductions to move forward”, including to Tom Adams. “Tom heads up NextGen Climate Action, our (c)4, and will be interested in learning about the political issues we discussed.”<sup>36</sup>

White continues, “The policy entity is Next Generation, and we can help with policy issues too should the need arise (Kate Gordon is the Director in charge of climate and energy issues). Regarding working with California, we recommend that you have a conversation with Hal Harvey who is a key outside advisor to Governor Brown on climate and energy policy. Let me know if you would like an introduction or for me to call him about this, I gather he already knows Dan Carol and Margi Hoffman”, the latter being then-Gov. Kitzhaber’s energy advisor.

It seems noteworthy that Harvey’s bio<sup>37</sup> cites connections to the (Henry) Paulson Institute and a long history with the Hewlett Foundation. The emails obtained by E&E Legal cite both Paulson and the Hewlett Foundation, to one extent or another, as relevant to this campaign.

By the same email White also introduces Robinhold to Richard Graham, CEO of Advanced Energy Economy (AEE), a group that (according to White) Steyer founded and funds, on whose board Ted White sits and whose “mission is transforming public policy to enable rapid growth of advanced energy companies.”<sup>38</sup> Those members and benefactors certainly stand to be pleased in the event the “coordinated” trio that White describes as Team Steyer’s focus succeeds, one of promoting politically preferred if uneconomic industries, policy and political action.

Graham in turn offers, “our AEE team stands ready to assist you and the Governor”, asking if a telephone call would be the place to start and turning matters over to AEE COO Mike Aaron. Robinhold responds positively noting that his assistant will arrange for the call.

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<sup>36</sup> “[Steyer’s] NextGen Climate Action group states that its mission is “to avert climate disaster and preserve American prosperity.” NextGen reported spending \$57 million as of Oct. 25, 2014. ... NextGen Climate Action says it was incorporated in early 2013 as a 501(c)(4) advocacy organization. A NextGen Climate Action Committee also registered July 22, 2013 with the Federal Election Commission as a super PAC, making only independent expenditures. As of Oct. 25, Steyer had personally contributed \$66.9 million over two years to the super PAC in the 2014 cycle, and an unknown amount to the 501(c)(4), which is not required to disclose its donors.” (links omitted) [FactCheck.org](http://www.factcheck.org/2014/02/nextgen-climate-action/) “NextGen Climate Action”, February 20, 2014, updated November 5, 2014, <http://www.factcheck.org/2014/02/nextgen-climate-action/>.

<sup>37</sup> <http://energyinnovation.org/team-member/hal-harvey/>

<sup>38</sup> <https://www.aee.net/about/aee>

White notes that “already AEE has had discussions with Dan Carol”, and “AEE can play a central role” in working with politicians “to enable the rapid growth of advanced energy business” of great interest to certain investors and other Democratic Party/climate agenda financiers.

More detail about these parties are discussed in further detail, below, in the discussion of funders.

The correspondence obtained in these requests then picks up in December 2013, when Carol and aides to the governors of Washington and California and an attorney for an outside activist firm called Cascadia Law discuss “Dan’s concept”. It seems, according to a “Concept Note” circulated soon thereafter, that the governors’ aides presented the plan to the White House in December 2013. It was “a useful and frank discussion about how a group of engaged Governors (not just from the West) could work with the WH on transformational multi-state work around 111d regulatory challenge, sub-national climate action, resilient infrastructure outcomes.”

A timeline Dan Carol circulated in February 2014 described that December 2013 meeting as the “1st multi-state strategy session at [the] White House with Dan Utech, Rohan Patel, key agencies and PCC [Pacific Coast [climate] Collaborative] representatives”.

According to the emails, White House Special Assistant to the President for Energy and Climate Change Utech liked the idea, as did his aide Patel. Numerous emails report White House buy-in following that, as well as followup meetings and calls. Sam Ricketts, director of Washington Governor Jay Inslee’s Washington, DC office, also assured his colleagues that “CEQ staff were interested and felt [White House's David] Agnew [and then-Counselor to the President John] Podesta et al” would be interested as well.

Initial discussions focused on using the White House for a dinner to “build[] excitement among key allies”. Led by Carol, the governors’ offices met with senior White House aides on several occasions, kept them regularly informed by emails and calls (e.g., with John Podesta and Dan Utech), even copying them on correspondence with funders.

This aforementioned organic memo tellingly concluded (CAPS and sneer-quotes in original): “IT WOULD BE OPTIMAL TO HAVE THIS COMPACT ‘HOSTED’ BY AN

ENTITY LIKE THE GEORGETOWN CLIMATE LAW CENTER”. We shall see that this body is only one among the broad network of groups engaged to echo this campaign.

On January 7, 2014, Dan Carol wrote back to White to inform him of “discussions here among multiple Gov offices about getting together the right group of Govs, WH folk and select strategic funders...to cement some smart steps on how we can structure and move forward on the transformative multi-state work around 111d regulatory challenge, sub-national climate action, resilient infrastructure outcomes. Tom seemed interested in learning more and he could be a great catalyst and leader here if he was able to be in town then.”

Taken with the aforementioned July 29, 2013 correspondence, these emails suggest that the scheme that led to Kitzhaber’s resignation in scandal, and “Dan’s concept” spun out to over a dozen states and the White House, originated in discussions with the Steyer network.

White responded the same day in typically revealing fashion, copying two Fahr colleagues:

**“Tom’s office (Fahr LLC) is currently determining which of the affiliated groups that we founded and fund (such as Next Gen Climate Action, or Next Generation, or AEE) will be taking the lead for us on this (or it could be a combination). We have retained Cathy Zoi to help us make that assessment and determination...I will get this information to Tom’s scheduling team (at Fahr) so we can try to block time for him.”** (emphasis added)

Zoi was CEO of Al Gore’s pressure group Alliance for Climate Protection. She left the Gore operation for DoE, then moved her agenda of promoting taxpayer mandates and underwriting of the renewable energy industry into the Obama administration as Deputy Assistant Secretary of Energy for Energy Efficiency and Renewable Energy. While Zoi held that position, a FOIA by the Competitive Enterprise Institute outed her having worked closely with the American Wind Energy Association on an effort to try and discredit the damning Spanish “green jobs” study that caused the Obama White House tremendous public embarrassment.<sup>39</sup> After her conflict-and-controversy laden tenure at DoE, Zoi was “hired by George Soros and the

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<sup>39</sup> See e.g., Editorial, “The Big Wind-Power Coverup”, Investors Business Daily, March 12, 2010, <http://news.investors.com/ibd-editorials/031210-527214-the-big-wind-power-cover-up.htm>.

private equity firm Silver Lake to run an “investment strategy focused on providing growth capital to business innovators in the energy and resource sectors.”<sup>40</sup>

On January 21, 2014 Carol wrote to White, providing the Concept Note, “following up on the matter I raised before — getting together the right group of Govs, WH folk and select strategic funders...to cement some smart steps on how we can structure and move forward on the transformative multi-state work around 111d regulatory challenge, sub-national climate action, resilient infrastructure outcomes. The WH has responded favorably to the below concept note... which I am sharing confidentially with you now.”

Carol noted that Steyer was in DC to speak on a public panel on the date the “core group” of governors and staff planned to next meet and discuss this,<sup>41</sup> but that “we see this meeting as a separate *non-public* way to better structure outcomes and leverage the work.” (emphasis added)

“In a perfect world, Tom, Bloomberg and Paulson would meet with Podesta, Utech and a six pack of engaged Governors (west coast, east coast, Midwest) to cement a new strategic paradigm for maximizing state climate linkages and funder investments on the road to Paris 2015.

Tom could frame and catalyze this new, smarter paradigm at low cost by funding new ‘state leads’ in WA and OR as described below. The alternative we fear is misallocation of resources to the usual national NGO players without a higher level of accountability that only engaged Governors and this new campaign framework will provide.”

Podesta is John Podesta, the then-Chief of Staff to President Obama, currently chairman of the Hillary Clinton for President 2016 campaign, and previously head of the George Soros-backed Center for American Progress. Utech is Dan Utech, Special Assistant to the President for Energy and Climate Change.

That same day, Carol wrote to Podesta, stating “Hey John, another item moving up the chain...towards you I suspect/hope”, “this idea involves standing up a new implementation paradigm less driven by the traditional NGO model — and instead envisions the creation of a

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<sup>40</sup> Wikipedia entry on Cathy Zoi, [https://en.wikipedia.org/wiki/Cathy\\_Zoi](https://en.wikipedia.org/wiki/Cathy_Zoi), viewed July 26, 2015.

<sup>41</sup> “FYI, we know that Tom Steyer is in town that day and there are active discussions with his team about this idea as well.”

**nimble network of** already engaged Governors and **designated state coordinators closely tied to each Governor** (eg, a network of state “grown-ups”).” (*emphases added*)(*ellipses in original*).

A week prior, on January 13, 2014, Carol’s counterpart with Gov. Brown, Wade Crowfoot, described the plan. “The purpose of the agreement is to formalize a shared approach of climate-oriented Governors in a way that reinforces the Obama administration stepping up on climate.” (In response to this, Carol wrote to California and Washington State counterparts, “Is the play here to email the dem caucus list and see who wants to do a call on a line that doesn’t make [Gov. Brown aide Katie Wheeler Matthews] rightly paranoid? :).”

Crowfoot was responding to an email from Inslee aide Sam Ricketts about “the private dinner, Ill [sic] send a concept piece to Rohan for the WH team to begin to consider...But it seems we are all on board with a private Govs + Sr WH staff + funders meeting aimed at demonstrating Govs’ commitments in advancing climate, and building excitement among key allies to support said commitments and in-state climate agendas.” Rohan is Rohan Patel, Special Assistant to the President and Deputy Director of Intergovernmental Affairs.

Then, in February, 2014, one of Kitzhaber’s aides writes the Chief Operating Officer of the Steyer group AEE,<sup>42</sup> Mike Aaron, to inform him that Kitzhaber had changed chiefs of staff and indicating that Aaron should use Dan Carol as the point of contact. The emails indicated no introduction was necessary, and of course the 2013 emails indicated a pre-existing relationship between Carol and Advanced Energy Economy.

On February 3, Carol wrote to then-Deputy Director of White House Intergovernmental Affairs David Agnew, and Special Assistant to the President and Deputy Director of White House Intergovernmental Affairs Adrian Saenz. The email forwarded the “Climate Meeting Concept Note” attached in Word format, which “flesh[ed] out” the idea discussed at the White House in December, laying out a schedule to meet several times over the course of the month. The first suggested meeting, for February 21, was to discuss “the idea of a climate-infrastructure-111d strategy session with key governors, funders, WH. Idea has been floated with Podesta, Rohan, Utech. Concept note attached”.

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<sup>42</sup> See footnote 25.

This concept note is central to the plan that, these emails show, was developed by these key governors, funders, and the White House. Fighting challenges to, and promptly implementing EPA's 111(d) rule is central to that concept, which is "to get the right group of Govs, WH folk and select strategic funders" to meet in Washington, DC, February 20, 2014.

To advance this, they sought this meeting coordinated by the White House "to create... buy-in among major environmental donors that efforts to stand up a new state action model will be most effective if defined by state leaders and the White House first — not by NGOs...to create a networked plan to leverage funder investments in advocacy and maximize outcomes."

Particularly intriguing was the illustrative scenario of leveraging political influence on — explicitly, "compel[ing]" — presumably certain vulnerable players in the electric utility industry to lead them to lobby Republican governors to champion the cause. "[B]ecause there are key utilities whose service territories cross red and blue states, Governors in these states could quietly engineer a breakthrough strategy that compels utilities in key red states to lead the charge to win over a key Governor, rather than rely on a standard NGO-shaming strategy that might not deliver." Of course, some utilities have been behind this plan for many years, and thus requires no compulsion. An open question is which utilities engaged in this creative way.

In a February 21, 2014, email to California and Washington State counterparts, Carol elaborated somewhat on this scheme, which he called "Creative Utility engagement on 111D", "nobody knows how better to balance a utility system than utilities themselves. So we want to work with you to be creative in structuring the EPA rule and in engaging utilities whose borders cross red and blue states in interesting ways. For example..." (*ellipses in original, no example provided*).

Possible examples are as limitless as the sky, but we do know that when regulators ask of utilities they shall receive. We know this in part because, in the words of a *Los Angeles Times* headline about a still-unfolding scandal in California, "Emails show close ties between state regulators and utility executives".

That scandal involves the use of a private email account by Michael Peevey, then the president of the state Public Utilities Commission, which oversees utilities operating in that state. When Gov. Brown needed the utility PG&E to spend heavily to oppose an initiative rolling back

that state's global warming law, Peevey "stated very clearly that he expects PG&E to step up big and early in opposition to the AB 32 ballot initiative, [PG&E's vice president for rates and regulations Brian] Cherry wrote. The memo went to his boss, Thomas Bottorff, senior vice president for regulatory relations, who was fired along with Cherry. "Mike said ... we need to spend at least \$1 million," Cherry wrote. The company later contributed \$500,000 to the No on 23 campaign, according to Maplight.org, a nonpartisan campaign finance information service."<sup>43</sup>

Given the political affiliation of all governors among the "core group", this means Democratic governors would employ their persuasive skills on utilities under their regulatory agencies' and their appointees' jurisdiction. This reflects a certain determination to obtain the desired outcome through innovative yet time-tested approaches that Francis Underwood might envy.

Parties suggest to E&E Legal that the activities of Duke Energy in "red states" such as Indiana and South Carolina might provide examples of efforts to creatively engage. Duke, however, was one of those early climate "rent-seeker" utilities seeking to profit from the climate mandates and restrictions, and thus needed no governors to get heavy with it before lobbying for the scheme. Anyway, for the most part Republican governors require a little more than possibly even Duke and its ilk can offer given that Obama's climate rules take "a whack at red states."<sup>44</sup> E&E Legal is informed that other candidates meriting scrutiny include PacifiCorp, Ameren, Entergy and SWEPCO.

The emails E&E Legal obtained continue, about "The tentative Ask to Funders: Support right now the hiring of a "grown-up" in each state, trusted and recommended by each engaged Governor who is capable and committed to developing and managing an integrated and multi-

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<sup>43</sup> Marc Lifsher, "Emails show close ties between state regulators and utility executives", Los Angeles Times, October 8, 2014, <http://www.latimes.com/business/la-fi-puc-scandal-20141009-story.html>. See also, e.g., "Emails released later that year showed PUC and PG&E executives apparently coordinating the selection of a judge in a rate-setting case, and Peevey pressuring PG&E for political contributions to favored causes... As the president of the state's chief regulatory agency, Peevey wielded immense power over utilities such as PG&E." David Siders, "Probe of back-channel dealing continues at California PUC", Sacramento Bee, March 29, 2015, <http://www.sacbee.com/news/politics-government/capitol-alert/article16859606.html#storylink=cpy>.

<sup>44</sup> Michael Grunwald, "Hidden in Obama's new climate plan, a whack at red states", Politico, August 5, 2015, <http://www.politico.com/agenda/story/2015/08/hidden-in-obamas-new-climate-plan-a-whack-at-red-states-000188>.



issue climate outcomes campaign through Paris 2015. The network of state leads we would propose would each be independent of any specific in-state or national NGO, yet would work closely with these NGOs and other experts to develop a national ‘state strategy’ that makes sure we are using existing capacity wisely, and making new investments intelligently.” To be clear, the investments the memo and other emails discuss are investments in advocacy groups — what they called a “steering structure”— and staff — called “non-governmental in-state orchestrators”.<sup>45</sup>

This presaged the broad-based echo chamber the Steyer network and its allies assembled and helped underwrite, discussed in further detail below, promoting the Obama climate agenda but also the political aspirations of certain elected officials including those seeking reelection.

On the morning of February 22, 2014, Carol wrote to Podesta and Utech seeking to follow up further “about this idea of standing up a governors climate compact and related action commitments, (including the multistate 111d strategic options)...”, and “this multi-state governor idea for NGA”, noting that “tomorrow we are briefing all the wash reps here about options, staging, etc.” Utech later responded that he couldn’t “do coffee right now but would like to connect soon on this,” copying his assistant “to help find a time we can connect later this week.” Utech’s assistant arranged a phone call for later that day.

Carol then laid out which governors’ offices were meeting, including Minnesota, Rhode Island, Illinois, Connecticut, California, Oregon, Washington, Massachusetts, “Plus 3 more I am forgetting.” Other emails indicate that other states involved in the the planning include Kentucky, Tennessee, Delaware, Maryland, Colorado, New York, Vermont and Virginia. See further discussion below.

On February 18, 2014 Carol had written to his counterparts in Washington State setting forth a desired timeline for the plan, in preparation for “this WH meeting now scheduled for Saturday [February 22, 2014]”<sup>46</sup>, focusing specifically on the multi-state climate agreement

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<sup>45</sup> The April 25, 2014 version of the plan described the “designated in-state orchestrator, trusted by the Governor, who can help align in-state advocacy capacity with each Governor’s implementation and political goals”.

<sup>46</sup> February 19, 2014 email from Dan Carol to Katie Wheeler Matthews, Margi Hoffman, Sam Ricketts and Wade Crowfoot, subject “GCC/Road to Paris discussion timeline.”

(Governors Climate Compact). “To support the White House Climate Action Plan and strengthen Paris 2015 commitments, as well as realize positive outcomes on 111d... a robust “multi-state” strategy is critical. The culmination event would be the signing of the proposed Governors Climate Compact”, in which there was “[s]trong interest by states as diverse as IL, KY and TN. Issue for everyone is best timing.”

That timing, Carol originally suggested, would be in early 2014. However, in an email back to Carol the next morning, Inslee aide Ricketts cautioned that, “if we’re beginning a longer march toward a climate compact for announcement later this year, we might scare off some important names (like KY’s [Governor Steve] Beshear, much less TN’s [Governor Bill] Haslam) by putting this in writing so fast. It might be better to let the compact come up “organically” in this WH conversation — well-planted, of course — as a key Gov action on the road to 111d and Paris success...” (ellipses in original)

The timeline referred back to the aforementioned December 2013 “1st multi-state strategy session at White House”.

Carol suggested Spring 2014 activities. “Strategic plan to better coordinate implementation efforts which are being led by engaged states and Governors, not by NGOs, is developed....Supported by Tom Steyer and key funders?”

In the February 21, 2014, email to California and Washington counterparts in which he somewhat fleshes out the scheme to use utilities under their jurisdiction to flip Republican governors on Obama’s climate agenda, Carol also set forth “**What We Need From White House**”. This included “**White House advocacy for new multistate funding models to support and defend our commitments on the Road to Paris, e.g. state grown ups like Tim Raphael (OR) and Rogers Weed (WA) who can help better orchestrate the work of NGOs, rather than the other way around, as we move from an era of advocacy to one of implementation**”. (bold in original)

In the thread thread immediately preceding this, Inslee’s Ricketts wrote (ellipses added):

1) In Dem Govs meeting with POTUS and VPOTUS today [February 21, 2014], Inslee brought up climate change and they spent the last 20 mins of their 60 discussing it. POTUS called it a legacy issue...Some states (you can guess who) talked about moving fwd

alongside EPA and POTUS climate plan, but said it was politically difficult in their states and they wouldn't be so loud....

3) Rohan [Patel, of the White House] ok'd this basic agenda for tomorrow...

- Road to Paris — best role for Govs
- Someone floats idea of Govs climate compact (This [linking RGGI & PCC] came up a bunch at the Dem Govs policy panel...Ill [sic] try to make this Inslee<sup>47</sup>
  - C) Potential private/inside strategies
- how to engage states who can't be so public (like those from this morning's discussion with POTUS)
- creative cross-border utility engagement on 111d

On May 2, 2014, Carol shared an April 25, 2014 draft of the plan with Canadian environmental activist Tzeborah Berman (a Canadian province was one of the West Coast states' partners in their climate arrangement). He spoke of how "creating powerful local success stories in other more politically challenging regions of clean energy success — and telling those stories until we were absolutely SICK of them is critical." He was able to cite two such examples the environmentalists had flogged as typical, then asked if Berman could think of any more ("(what else do we have for your advocates to talk about?)").

Carol described the plan of a multi-state treaty or "compact" (possibly with Canadian provinces as well, hence the inclusion of Berman in the discussion) as "a good way to diversify our bet on 111d and the international game that lies ahead...Can't happen if we rely on standard organizing models."

Another Carol email to Berman the day before stated bluntly, "Need the Midwest and flyover states".

Toward that end, this April 25 version of the plan noted, *inter alia* (italics in original), "This Governors-led strategy would support the White House Climate Action Plan, aim to strengthen potential 2015 international commitments, as well as maximize our ability for realizing positive outcomes under 111d....

Achieving this aggressive goal will require:

- \* Recasting the critical 111d regulatory rollout in key opportunity states like Illinois...
- \* Developing a strategic network of state *orchestrators*...utilizing and leveraging supportive states who may want to sign up for the GCC *after* November...

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<sup>47</sup> On the email's previous page, Ricketts noted that Tom Steyer had just asked about linking these pacts.

Also sympathetic to this recognition that embracing this plan was not popular and is therefore politically risky in certain target/cooperating states, an attached “Standing Up A Multi-State Implementation Network Key States Orchestration Matrix” asserted in pertinent part:

- \* Other states have Governors or candidates that can’t commit to the GCC publicly now but would welcome quiet engagement (CO, KY, TN, AR, PA).
- \* Still other states are key bellwethers seeking to manage the challenges of messaging 111d in battleground environments like the Midwest (IL, MN) who are open to the GCC approach.

Under “Orchestration Challenge and Initial Focus” the document specifically cautioned about Illinois and Minnesota, “Need to manage 111d issue in critical Midwest states. Focus first on business voice to support a 10-year *energy opportunity* agenda”. (emphasis in original)

About Pennsylvania, it cautioned, “Needs to quietly plan for transition to becoming a GCC state after November”, noting that the group should “engag[e Republican then-Gov. Tom] Corbett’s opponent after May 21 (May 20, 2014 was the Pennsylvania Democratic primary to determine the party’s gubernatorial nominee).

About Kentucky, Colorado and Arkansas, it noted “Interested in joining GCC after November election. Focus first on quiet engagement and developing analytical support for climate plan”. Kentucky’s remarkable stonewall about its now-revealed “quiet engagement” is described, below; after hearing in August 2015 of possible “creative engagement” of Arkansas utilities, E&E Legal filed an open records request for 111d, Steyer, compact et al.-related records there. The new Republican governor’s counsel denied the request on the grounds that E&E Legal did not have an Arkansas address. The next day, E&E Legal made the same request joined by an Arkansas citizen; the governor’s office immediately declared that each and every one of “The requested records are exempt from disclosure from our office” as “unpublished memoranda, working papers and correspondence of the Governor”.

Whether Kentucky’s false “no records” claims, or blanket claims of privilege and refusal to release records as a discretionary matter reflect a fear of public disclosure, the emails at least acknowledge that the earlier steps at keeping the public in the dark about this campaign, which the planners also recognize would cost many millions, were grounded in knowledge that the voters do not support it and, if aware of it, would add to the scheme’s political toll.

## **Further Detail on the Players: Team Steyer and Government**

In addition to the Steyer groups<sup>48</sup> already cited above, other emails identify key players in this collaboration who include, at the federal level — specifically for “another WH meeting”, “to talk with some of the same federal players as last year” — John Podesta, EPA administrator Gina McCarthy, the State Department’s top climate official (“U.S. Special Envoy for Climate Change”) Todd Stern, the White House’s Dan Utech, and “whomever is filling the Podesta void, etc.” That meeting apparently took place on February 22, 2014.

### **“The core group”**

The “core group” of governors’ offices soon expanded to more than a dozen states, coast-to-coast, and the occasional what Carol calls “flyover state”, embracing a four-point plan which they soon called the Governor’s Climate Compact or GCC (later changed to Governor’s Climate Accord). A “compact” is an agreement among states, and/or foreign governments, increasingly discussed in the “climate” context”. Under Article I, Section 10 of the U.S. Constitution,<sup>49</sup> these instruments require approval by Congress, a role Congress has so far pretended does not exist when it came to the first few, limited regional compacts. Possibly for that reason the governors rebranded it the Governors’ Climate Accord or GCA<sup>50</sup> and then, it appears according to the latest email E&E Legal obtained, the Governors Clean Energy Initiative.

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<sup>48</sup> See footnote 25.

<sup>49</sup> **“No State shall, without the Consent of Congress, lay any Duty of Tonnage, keep Troops, or Ships of War in time of Peace, enter into any Agreement or Compact with another State, or with a foreign Power, or engage in War, unless actually invaded, or in such imminent Danger as will not admit of delay.** Art. I, Sec. 10, Clause 3, the “Compacts Clause” (emphasis added).

<sup>50</sup> Recently, the Texas Public Policy Foundation has suggested a compact among states which seek to oppose doing what EPA acknowledges it has no power to force them to do. Another key distinction: this proposal suggests proceeding lawfully under the Compacts Clause — that is, obtaining congressional approval as the Constitution requires but which all pro-regulation compacts preceding the Governors Climate Accord to date have avoided and no GCA proponent has suggested. The Interstate Power Compact to allow “states to maintain their sovereignty by allowing them to act collectively outside the confines of federal legislation or regulation”, agreeing “that no state agency or official would submit a filing to fulfill some or all of state plan requirements under a 111(d) rule, unless it” comports with certain traditional understandings of how far Clean Air Act regulatory authority extends. <http://fuelingfreedomproject.com/wp-content/uploads/2015/07/Interstate-Power-Compact.pdf> That is, EPA would be unable to impose a federal measures under the Obama Clean Power Plan (111(d)) if a member state didn't file a state plan for approval.] Edward Klump, “Foundation floats interstate compact to fight Clean Power Plan”, E&E News, July 22, 2015, <http://www.eenews.net/energywire/2015/07/22/stories/1060022210> (subscription required).

The plan's central element was to coordinate state implementation of the Obama EPA's rules regulating greenhouse gases (GHGs) under the Clean Air Act, preempting what is nonetheless a growing sentiment among states to refuse to do what EPA requests. That need for state acquiescence relates to a particular legal vulnerability to legal challenge, EPA's inventive effort in the rule to coerce states to impose restrictions the Agency is unable to impose (another sign that the Clean Air Act plainly never intended these measures). The plan therefore also emphasized that the states must oppose the inevitable lawsuits. As should reasonably be expected, the Steyer-funded groups — or, more accurately, groups funded by Steyer-funded groups — recruited state attorneys general as non-paying clients.

An April 24, 2014 email from Dan Carol to Malcolm Woolf of Advanced Energy Economy (AEE), one of those groups that Ted White called Steyer “founded and fund[ed]”, lists “the core group” of governors’ aides and consultants. This came in response to, and to assuage, Woolf’s concerns about whether the parties on the email and likely in attendance at a presentation Carol arranged for Woolf would be “a group of friendlies or [include] any sensitivities I should be aware of?”

The “core group”, which the same email thread notes have a “weekly governors energy and climate commitment conversation”, includes:

- Sam Ricketts (Washington State Gov. Inslee)
- Alexander Cochran (New York Gov. Cuomo)
- Blake Oshiro (Hawaii Gov. Abercrombie)
- Dana Thompson (Maryland Gov. O’Malley)
- Emily Kuiken, Garth Spencer (Delaware Gov. Markell)
- Jena Griswold (Colorado Gov. Hickenlooper)
- Pamela Walsh (New Hampshire Gov. Hassan)
- Rebecca Byers (Kentucky Gov. Beshear)
- Sam Reid (unknown, using a private email account)
- Valerie Young (of States Services Organization, a joint venture of the Council of State Governments, the National Conference of State Legislatures and the National Governors Association)
- William Richard (private email account but a consultant for Minnesota Gov. Dayton)
- Alyson Richards (Vermont Gov. Shumlin)

- Shayna Cherry, Kevin Greene, and Lauren Eiten (Illinois Governor Quinn), and Jonathan Feipel, a Quinn appointee as Executive Director of the Illinois Commerce Commission)
- Traci DeShazor, Maribel Ramos (Virginia Gov. McAuliffe)

One would never know from Gov. Beshear’s public statement, when EPA issued its rules on August 3, 2015, that his office was among this “core group” of governors quietly working to promote the climate agenda. Publicly, Beshear called the rule “disastrous” for Kentucky, somehow claiming, “I have remained steadfast in my support of Kentucky’s important coal and manufacturing industries, and the affordable energy and good jobs they provide the Commonwealth and the nation.” (See Stonewalls in California, Kentucky and Virginia discussion, below.) Either a tad late or in with feigned concern he vowed to “meet[] with stakeholders to assess its potential impacts.”

Some correspondence copies other states such as Connecticut, and as already noted others such as Tennessee are discussed in ways indicating that talks had taken place but that the governor’s office has to lie low until after the 2014 elections. Indeed, it wasn’t long before an Energy Foundation-funded report by a group called Environmental Entrepreneurs (E2), “a partner of NRDC” — Dan Lashof’s group for more than two decades before recently migrating over to head this multi-state effort for Team Steyer — supplied the “analytical framework” to claim that these regulations were good for Tennessee’s economy.<sup>51</sup>

A May 2014 “Backgrounder” on 111(d) obtained from Minnesota Gov. Mark Dayton’s office notes, *inter alia*, “Whether states will be able to overcome politics to make a multi-state approach feasible is uncertain.” We also received, from the same office, May 21, 2014 polling by Hart Research claiming “Four in Five Voters Support the Climate Action Plan”, the sort of push-polling often touted in public by politicians, even those who we see privately acknowledge the real-world political opposition to this agenda.

Woolf makes another appearance, recently and well after the period covered by E&E Legal’s requests ended. This comes in media coverage of precisely what the plan envisioned. A

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<sup>51</sup> [http://cleanenergyworksforus.org/wp-content/uploads/2015/07/TNJobsReport\\_Final\\_lowres.pdf](http://cleanenergyworksforus.org/wp-content/uploads/2015/07/TNJobsReport_Final_lowres.pdf), p. 2.

late July 2015 *Washington Post* story proclaimed, “Outrage over EPA emissions regulations fades as states find fixes.”<sup>52</sup>

With either duplicity or a touching naiveté, the *Post* expresses surprise to find acquiescence where it expected “outrage”, among key players in the “core group” of the Steyer-governors’ complex. For example, ““We can meet it,” Kentucky Energy and Environment Secretary Leonard Peters, speaking at a climate conference, said of the EPA’s mandate.... “Our utilities don’t want a federal plan; they want a state plan they can control,” said John Lyons, Kentucky’s assistant secretary for climate policy under outgoing Gov. Steve Beshear (D). “We have an obligation to the next administration to prepare.””

““It’s frankly the norm,” said Malcolm Woolf, a former Maryland state energy official and now senior vice president for Advanced Energy Economy, an industry association that includes electricity providers and major manufacturers. While some power companies have logistical concerns about meeting the EPA’s targets, Woolf said, ‘we’ve yet to find a state that is going to have a real technical challenge meeting this.’”

As the saying goes, it’s always in the last place you look. Or when you look there. However persuasively Kentucky’s outrage found its voice days later when EPA issued its final rules. Beshear declared “the proposed rule [that] is being proposed for Kentucky is disastrous”<sup>53</sup> Somehow the draft rule with the same objectives was fine. Regardless, the assertions of state difficulties imposing the agenda so elusive to the *Post* were readily available among those equally numerous states not seeking to capitalize on a long-held political plan or on continued transfer payments to their pet, if uneconomic, industries.<sup>54</sup>

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<sup>52</sup> Joby Warrick, “Outrage over EPA emissions regulations fades as states find fixes”, *Washington Post*, July 23, 2015 [http://www.washingtonpost.com/national/health-science/with-new-epa-regulations-looming-some-states-gain-from-coals-free-fall/2015/07/23/80001208-2c93-11e5-bd33-395c05608059\\_story.html](http://www.washingtonpost.com/national/health-science/with-new-epa-regulations-looming-some-states-gain-from-coals-free-fall/2015/07/23/80001208-2c93-11e5-bd33-395c05608059_story.html).

<sup>53</sup> Beshear declared himself “disappointed and frustrated by the huge changes that EPS made from the proposed rule. What is being proposed for Kentucky is disastrous”; somehow the draft rule with the same objectives was fine. Gov. Beshear’s Statement on EPA Rule Announced Today, August 3, 2015, <http://kentucky.gov/Pages/Activity-Stream.aspx?viewMode=ViewDetailInNewPage&eventID=%7B5B1B5341-CA58-4ACB-ADDB-6B6304301A46%7D&activityType=PressRelease>.

<sup>54</sup> For example, Iowa, another of the *Post*’s examples, takes cash from taxpayers all over the country to support wind farms producing sporadic electricity sold to neighboring states obligated by renewable energy mandates but possessing even less hospitable conditions for renewable energy.



Promoting this idea of state harmony and ease is the outcome pursued throughout these approximately twenty-two months of emails among the self-described “Pro-climate action Governors” offices and their representatives — including Kentucky’s Governor as seen in the February 19, 2014 email arranging a February 22, 2014 White House meeting among parties described precisely as such. The Plan was for states to claim not only an ability, but an economic incentive and “analytical framework” for agreeing to implement what Obama’s EPA enlisted them to do in the absence of statutory authority to mandate on its own. Notably, 16 states have asked EPA to stay the final rules until the courts have determined whether they are legal, approximately the same number of states that claimed they could live with the rule.

On February 19, 2014, then-Kitzhaber aide Carol wrote to White and Steyer, copying his counterparts in Washington Governor Jay Inslee’s office, enthusiastic about “lots of promising cross-talk” about their shared four-point plan. White wrote the team back in agreement, also estimating that within the month he “will have selected a point person for our involvement in multi-state efforts. We will keep you apprised.”

Carol replied to White, Steyer and the rest that he “mentioned your plan for a multistate point person to Wade Crowfoot with Gov Brown...and he agreed that this was great news and observed (and I would concur as would Sam [Ricketts, with Inslee] I suspect) that it would be great to have some input into the job description.” He offered to share their strategic timeline to assist Team Steyer’s hiring decision.

Crowfoot, who Carol copied on the exchange, replied, “Ted, we in the California Governor’s Office are very enthusiastic about this effort. We look forward to working with you.” Inslee’s Ricketts, also copied, added, “Hear, hear. The Governor Inslee shop is also excited to be collaborating on this, and we’re looking forward to working with you all.”

Approximately 8 weeks later, White introduced the team to longtime Natural Resources Defense Council (NRDC) lobbyist Dan Lashof as “the new COO of NextGen Climate America, our (c)3 policy. Dan spent the last 25 years leading NRDC’s climate efforts (he continues that connection as a Senior Fellow at NRDC) and has been a key architect in the current approach to rule 111(d) in carbon emissions reduction efforts. He will be your contact regarding our multi-

state policy efforts.” (Carol wrote to a colleague at NRDC, Linda Greer, without explanation that this was “Comedy”).

In a notable twist on Washington, DC’s unseemly revolving door practices, the *New York Times* describes Lashof as an architect of the NRDC proposal that, in “a remarkable victory”, provided EPA’s “blueprint” for establishing state-specific GHG emission limits to be implemented through a variety of policy options.<sup>55</sup> After that, all that was lacking was someone intimately familiar with the plan, someone like Dan Lashof, to switch jobs to help walk states through implementing the rules inspired by the Lashof, et al., blueprint.

Of course, it costs a lot of money to hire someone like Lashof as the Steyer network’s in-house coordinator, “as seasoned and well connected as Washington’s best-paid lobbyists”; this is in addition to the numerous groups that Steyer “founded and funds” which then — in one more layer of expense — engage the activist and consultant classes to provide the politicians’ echo chamber to support their promotion of policies that these same champions acknowledge are unpopular among the voting publics.

These public records show how the “major environmental donors” hired staff and engaged consultants to directly work with the governors by producing papers and offering presentations claiming that the agenda is actually economically beneficial.<sup>56</sup> (Obviously it can be to those profiting from it, but nothing in the public record here, or where President Obama no longer tells us to look for lessons, Europe, suggests it is beneficial on net.) The advocates repeatedly call this the “analytical framework”, which framework was joined with public affairs air support and, on the ground, an echo chamber across a broad spectrum of groups which the network “founded and fund”, and groups which they in turn engaged.

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<sup>55</sup> “OBAMA’S CARBON MANDATE: AN ACCOUNT OF COLLUSION, CUTTING CORNERS, AND COSTING AMERICANS BILLIONS”, Majority Staff Report, Committee on Environment and Public Works, U.S. Senate, 114th Congress, Congress, August 4, 2015; citing to Coral Davenport, “Taking Oil Industry Cue, Environmentalists Drew Emissions Blueprint,” *New York Times*, July 6, 2015.

<sup>56</sup> The most recent salvo by one of the groups identified in the emails as having been engaged to provide “analytical framework”, was reported on July 23, 2015, by Politico’s Morning Energy. “States can achieve significant savings on consumer electricity bills under the Clean Power Plan by investing heavily in renewable energy and energy efficiency, according to an analysis out today from Synapse Energy Economics.”

Added to this, these emails show the design and creation of the new governor-controlled organization to “orchestrate” NGOs and otherwise run their part of the plan.

For example, Lashof emailed Michelle Wyman, hired by the “core group” as its “new coordinator” — though their organization does not appear to exist<sup>57</sup> so it is unclear who Carol meant when he said “we” hired her, or who is paying her. His purpose was to provide her information for his contacts in Virginia Gov. McAuliffe’s office. “Jay Swanson is in the Governor’s office and is the deputy policy director responsible for climate change. I would start with him. Michael Halle is on McAuliffe’s political team” (contact information omitted).

Other correspondence show a large crowd participating in Virginia’s necessarily delicate move into an extant climate compact among northeastern states, called “RGGI”<sup>58</sup> (Evan Feinman, Adam Thiel, Michelle Kirby, Angela Jenkins, Michael Dowd, William Hayden, David Paylor, Alice DePalma and Carlos Hopkins; also, William Resigner and Charles Burton, Jr. both of the Attorney General’s office). Outside parties participating in discussions regarding Virginia’s recruitment include Chesapeake Climate and Lashof’s previous stomping ground, NRDC.

Recall the *New York Times* report of “Tom Steyer, a Democrat who founded one of the world’s most successful hedge funds, burst onto the national political scene during last year’s elections, when he spent \$11 million to help elect Terry McAuliffe governor of Virginia”.<sup>59</sup>

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<sup>57</sup> An August 2015 search of the District of Columbia business filings online database reveals no entity by any of these names or anything close thereto (<https://corp.dcrd.dc.gov>).

<sup>58</sup> Under RGGI, it seems most likely that Virginia would pay northeastern states for the right to continue using coal-fired power until those sources were phased out. What happens after that is the subject of intense warnings from the community tasked with ensuring the reliability of the electricity system.

<sup>59</sup> Nicholas Confessore, “Financier Plans Big Ad Campaign on Climate Change”, *New York Times*, February 17, 2014, [http://www.nytimes.com/2014/02/18/us/politics/financier-plans-big-ad-campaign-on-environment.html?\\_r=0](http://www.nytimes.com/2014/02/18/us/politics/financier-plans-big-ad-campaign-on-environment.html?_r=0).

## **Stonewalls in California, Kentucky and Virginia**

As noted above, the emails obtained by E&E Legal surely do not represent all relevant correspondence pulling together the scheme they describe. Further, some of these requests remain outstanding due to slow-walking and outright stonewalling by offices in California, Kentucky and Virginia. Illinois' slow processing of a narrowly tailored request is also troubling.

The Virginia stonewall is in litigation at this writing,<sup>60</sup> over a scramble by Gov. Terry McAuliffe's appointees to retroactively classify the relevant records as "Governor's working papers."

The Office of Kentucky Governor Steve Beshear implausibly asserted that "no records" exist in its files involving the Steyer campaign. Yet, E&E Legal obtained numerous emails from other governors copying a senior Beshear aide on her official account, emails which Beshear's office surely possesses, unless it has chosen to destroy politically damaging emails. Indeed, Beshear's appointee to run Kentucky's Washington, DC office, Rebecca Byers, is among the "core group" of staffers as styled by none other than ringleader Dan Carol, with Kentucky listed among the states with "Pro-climate action Governors", in an email copied to Byers and that very much *does* exist, an email arranging a meeting of that select crowd.

Though the Governor claimed to be distressed by EPA's final rule, the sincerity of this posture is challenged by emails uncovered through an Oregon open records request showing Ms. Byers' regular, behind-the-scenes involvement with avid supporters and promoters of the EPA's war on Kentucky's affordable and reliable energy (and export product), in a long-running effort to both bring the Obama Administration's plans to reality and to protect them.

E&E Legal appealed the Governor's obviously improper "no records" claim to Kentucky's Attorney General Jack Conway.<sup>61</sup> Incredibly, yet consistent with the Governor's office's behavior, upon inquiry on August 18, 2015 when his deadline for providing an opinion expired, Conway's office claimed that it never received the appeal. It did, in 1 attempt confirmed

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<sup>60</sup> *Christopher Horner v. Virginia Department of Environmental Quality*, Circuit Court of the City of Richmond, CL15002505-00. Motions were argued in Richmond on August 18, 2015. The court took the matter under advisement without ruling from the bench.

<sup>61</sup> Conway's office owed a decision on E&E Legal's administrative appeal of the Governor's obviously false assertion of "no records" by August 18, 2015.

at 9:24 AM on July 21, 2015, delivering 14 pages over 1.9 minutes at a baud rate of 33600. As such, on August 20, 2015 E&E Legal filed suit against the Governor for his violation of the law.

Like California Governor Jerry Brown, gubernatorial aspirant and self-styled defender of coal Conway asserts that executive privilege exempts every word of every email and attachment responsive to E&E Legal's requests to his office.<sup>62</sup> It is therefore worth recalling that dozens of emails obtained by E&E Legal from others show that many such "privileged" emails are often nothing more than discussions about orchestrating, and pitches to help orchestrate, this political campaign with outside funders and their "founded and funded" activist groups.

Conway's public insistence that he would be a pro-coal warrior as governor is doubted in some political quarters.<sup>63</sup> In August 2015 he nonetheless called on Gov. Beshear to have nothing to do with a campaign<sup>64</sup> in which — this report proves, and exemplars provided to Conway as part of the appeal leave no doubt that he knows — Beshear's office was long a "core" member. Of course, Conway's unique, blanket invocation of privilege eschewed by other attorneys general hardly puts to rest the question whether his office is among those state AGs working with these Steyer-affiliated groups — indeed it is little more convincing than Gov. Beshear's claim to being shocked, shocked by EPA's rule.

The same holds true for Conway's office declaring that it never received an appeal sent by confirmed fax, which claim seems more likely borne of a desire to duck the issue instead of being forced to produce a ruling, while running to succeed Beshear as governor in a coal state, with an anti-coal political base, at a time of heightened concern for those whom he hopes to woo as supporters, and those he hopes to keep.

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<sup>62</sup> With certain exceptions discussed herein, governors offices invoked fewer privilege claims in response to E&E Legal's requests than AG offices. As such this report reflects much more of the effort dedicated to a strategy of counseling the states through their implementation than to fending off legal challenges.

<sup>63</sup> See e.g., "That's why Kentucky political analyst Al Cross isn't sure candidates opposing the Clean Power Plan will stand by their words when it's time to submit a state implementation plan.... "They're just saying this for political reasons." He added, "It wouldn't surprise me to find them picking up where [Kentucky Secretary of the Environment Len] Peters and Beshear have done.'" Manuel Quiñones, "Ky. race may alter Clean Power Plan fortunes", E&E News, May 19, 2015.

<sup>64</sup> Statement from Attorney General Conway Regarding New EPA Rules, August 3, 2015, <http://kentucky.gov/Pages/Activity-Stream.aspx?viewMode=ViewDetailInNewPage&eventID=%7B0E1E698E-9C8A-4FDD-B2E9-945D8DF3ABDF%7D&activityType=PressRelease>.

## **Further Detail on the Players: Echo Chamber**

The Steyer et al. “founded and funded” client groups and the coordinated campaign they promote includes a range of voices, from economic consulting/advocacy firms to more typical left-liberal activists for a larger regulatory state, at least one university, an association of state attorneys general in their capacity as utility consumer advocates, the National Governors Association Best Practices Center, the Governors Wind Coalition, and at least one public affairs/image promoter of renewable energy interests.

This plan entailed, for example, having contractors get in touch with identified governor or state attorney general offices asserting that they had been engaged by the Energy Foundation, a Steyer-funded group,<sup>65</sup> to assist with walking the public official through implementing President Obama’s global warming agenda. One group — Underwritten Group A — would engage another — Underwritten Group B — to prepare a paper advocating, for example, carbon taxes, or claiming that the global warming agenda would benefit that state or constituency. Underwritten Group B would then present webinars for A, and at A’s annual meeting, at which A would also invite Underwritten Group C to present, affirming the soundness of Underwritten Group B’s advice. Voila, *experts agree*, and you have a manufactured consensus.

Pure public affairs advocates appear in the emails obtained by E&E Legal for the first time in a message from TigerComm President Mike Casey on February 5, 2014, at 12:26 in the morning. TigerComm holds itself out as a company “Helping cleantech clients increase sales, build brands, and secure fair policies that expand markets. From pre-commercial startups to publicly traded global powerhouses, we specialize in generating attention for companies”<sup>66</sup>. Casey’s bio notes that “he counsels cleantech executives, investors and philanthropists on strategies for meeting their business objectives”.<sup>67</sup> The same bio touts public affairs successes for the solar energy industry.

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<sup>65</sup> See footnote 25.

<sup>66</sup> <http://www.tigercomm.us/about>

<sup>67</sup> [www.tigercomm.us/about/staff/mike-casey](http://www.tigercomm.us/about/staff/mike-casey)

Casey's email was to Josh Fryday, Chief Financial Officer of Steyer's NextGen, copying Dan Carol. The email's subject line was "Re: Want to hand off a line of comms to you from Kitzaber's [sic] guy, Dan Carol". In the same email thread Casey had written that he was "[c]onnecting you with Josh RE White House meeting, per our conversation yesterday" (February 4, 2012).

At 7:04 AM Carol writes back, "See a leadership role for your power trio Steyer-Paulson-Bloomberg in here...not sure how grouchy you are all around Keystone but this is all about driving a critical commitments agenda linking governments on the road to Paris no matter what happens on that." (*ellipses in original*). Neither the organic email that this partial thread responded to nor the "line of comms" were included in the Oregon document production that yielded this partial thread.

Since 2011 Michael Bloomberg committed at least \$80 million — and attracted at least \$30 million more — to "[t]he Sierra Club's anti-coal campaign.<sup>68</sup> Steyer provided Democrats a financial surge in 2014 on a par with longtime-force the teachers' unions, expressly for the purpose of advancing the "climate" agenda,<sup>69</sup> a key component of which is transferring enormous sums of taxpayer money to otherwise uneconomic "clean energy" ventures. Henry Paulson is a longtime environmental group donor, former Goldman Sachs executive, Bush Treasury Secretary during the financial meltdown, and climate-agenda activist.<sup>70</sup> Paulson and Robert Rubin — Steyer is described as Rubin's "protégé"<sup>71</sup> — are key players behind the "climate risk disclosure"<sup>72</sup> effort, which would have the SEC compel companies to claim they

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<sup>68</sup> See e.g., Andrew Restuccia, "Michael Bloomberg, other donors add \$60 million to Sierra Club's coal fight", *Politico*, April 8, 2015, <http://www.politico.com/story/2015/04/michael-bloomberg-donate-sierra-club-116761.html>.

<sup>69</sup> Andrew Restuccia, "Tom Steyer planning \$100 million campaign push", *Politico*, February 18, 2014, [www.politico.com/story/2014/02/tom-steyer-campaign-donor-103617.html](http://www.politico.com/story/2014/02/tom-steyer-campaign-donor-103617.html).

<sup>70</sup> See e.g., Ben German, "Wall Street your warming war has arrived," *National Journal*, June 26, 2014 <http://www.nationaljournal.com/energy/wall-street-your-climate-war-has-arrived-20140626>.

<sup>71</sup> Adam Lashinsky, "California's Hedge Fund King," CNN Money, September 22, 2008, original link disabled but excerpt available at <https://www.gop.com/meet-tom-steyer-the-man-stopping-keystone/>.

<sup>72</sup> Ben Geman, "Former Treasury Chiefs Agree: Get the SEC Into the Climate Mix", *National Journal*, June 24, 2014, <http://www.nationaljournal.com/energy/former-treasury-chiefs-agree-get-the-sec-into-the-climate-mix-20140624>. Bloomberg, Steyer and Paulson are co-chairs of a similar advocacy effort called "Risky Business," on whose "Committee" Rubin also sits.

are part of a climate change catastrophe waiting to happen, with hydrocarbon companies in particular suffering by being forced to restate the value of their reserves and basically confessing to a pre-“disclosure” history of committing securities fraud. Whether that would impact the value of Steyer’s, Bloomberg’s or Paulson’s investments is a question for journalists to ask.

By May 2014, NextGen Climate America COO Lashof mentioned that the consultant ICF was providing work for numerous parties (“ICF seems to be advising everyone”). He sent that note to senior aides to the governors of California, California and Washington, as well as Ted White and ICF. About this, Lashof referenced “our Gov Compact work, need for multi-state analysts and all that good stuff” in the same email following up having dined with ICF to discuss his hunch “that they could serve a key strategic integration role as we sort through different implementation pathways and fund ways to measure and model them.”

Lashof stated that he and, it appears from the context, ICF “are gathering up a bunch of state policy jocks to revise and improve the current GCC draft very soon, led by Cliff [Rechtschaffen of Gov. Brown’s office] and Wade [Crowfoot, also with Brown] copied above. Perhaps an alignment before/after that meeting might be useful.”

As noted above, the original “Dan’s concept” thread tellingly concluded that, “IT WOULD BE OPTIMAL TO HAVE THIS COMPACT ‘HOSTED’ BY AN ENTITY LIKE THE GEORGETOWN CLIMATE LAW CENTER”. Indeed, that very entity appears repeatedly as a central, coordinating hub of advocacy. For example, a May 2, 2014 email from Dan Carol to the “core group” reminded them of “recent and future Georgetown issue convenings.”

Among the less public convenings was an April 2014 “very productive multi-state 111d conversation that [GCLC] hosted with many if [sic] our environment commissioners/air program managers”. GCLC has an “Implementation Group”, hosting meetings to advance the project, including coordinating with EPA for public events, at which GCLC coordinated “core group” states’ testimony.

The ubiquitous Malcolm Woolf of the Steyer founded-and-funded group AEE, “which is organizing clean energy voices in a number of states around the country”, similarly provided briefings.



An April 29, 2014 email from Ricketts to the Core Group mentioned one such briefing, referencing the Georgetown Center’s “ongoing conversations with state agencies, and the “analytics” resources they have available for states (or multi-state partnerships)”, adding:

“Dan and I met separately yesterday with representatives from the Climate Action Campaign, Georgetown Climate Center, and NextGen Climate America, Inc (Steyer’s C3 org), as we continue to identify tools and connect with allies that will be useful to governors who want to advance climate and clean energy policies in their states (including 111d success, and building a Governors Climate Compact)...Soon we will pull in some communications experts to discuss strategic messaging on climate. We will also soon host the Georgetown Climate Center to discuss their work with state environmental commissioners, federal agencies and others in helping to shape the 111d rule on behalf of states, and their plan to react to the forthcoming proposal and continue working to create a successful rule (for the *states and the feds*).” (bold added, italics in original)

Reminiscent of Lashof’s comment that “ICF seems to be advising everyone”, one of these echo-chamber groups, Synapse Energy Economics, is also by chance an EPA GHG-rule contractor, and prepared papers for “core group” states supporting a carbon tax (documented in a Massachusetts open records production). Also, the Steyer-funded Energy Foundation underwrote the National Association of State Utility Consumer Advocates (NASUCA) to engage Synapse to help it on the issue, oddly to portray as beneficial for consumers a scheme that puts into practice Obama’s vow to cause electricity rates to “necessarily skyrocket”.

In touting itself as a “Leader for public interest and government clients in providing rigorous analysis of the electric power sector”, Synapse further notes on its website that it:

- Presented [its] reports at more than 5 conferences, and had discussions with dozens of entities including consumer advocates, environmental advocates, state governments, other consulting firms, and private companies
- Before 111(d) was released, created and distributed the Coal Asset Valuation Tool (CAVT) and the Avoided Emissions and Generation Tool (AVERT)” [produced under contract with EPA in 2013])”

The Synapse website also boasts that Media Matters for America interviews its experts to counter other consultants’ reports asserting major costs from, e.g., EPA’s ozone rule.<sup>73</sup>

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<sup>73</sup> [www.synapse-energy.com/about-us/news/synapse-news-frank-ackerman-cited-article-flawed-report-about-epa-ozone-regulations](http://www.synapse-energy.com/about-us/news/synapse-news-frank-ackerman-cited-article-flawed-report-about-epa-ozone-regulations).

About the NASUCA work, in the memo to a broader universe of state utility advocates, including less receptive states outside the “core group” such as Texas and Ohio, Synapse takes pains to not frighten the horses, vowing that “this effort would not be an advocacy piece for or against the EPA’s CPP, nor would it constitute any kind of position paper of NASUCA”; instead it “would be more in the nature of a “toolbox to help us understand issues that we hope will be of interest to all of” NASUCA's membership.”

Deliverables for that project include a Webinar, memo, and report, all part of a Clean Power Plan Planning Tool (CP3T). “The tool is available now on the Synapse website ... [www.synapse-energy.com/cp3t](http://www.synapse-energy.com/cp3t).” Tools suggested include regional or larger climate compacts, citing RGGI.

Costs for the group’s non-position-paper, non-advocacy piece in 2014 were apparently \$180,000, made up of \$120,000 from Energy Foundation and \$30,000 in travel from NASUCA. The latter sum also appears to have come from Energy Foundation as Synapse also told the broad-based audience, “*As with the last round of Energy Foundation funding*” they would seek travel reimbursement for NASUCA members as well, which “would probably be ca. \$30,000.” (*emphasis added*).

In the summer of 2014, “the Energy Foundation recently offered another \$30,000 for additional 111(d) work between Synapse and NASUCA to create an appendix to its report.”<sup>74</sup>

The National Association of State Utility Consumer Advocates “is a voluntary association of advocate offices in more than 40 states and the District of Columbia, incorporated in Florida as a non-profit corporation. NASUCA’s members are designated by laws of their respective jurisdictions to represent the interests of utility consumers before state and federal regulators and in the courts. Members operate independently from state utility commissions as advocates primarily for residential ratepayers. Some NASUCA member offices are separately established advocate organizations while others are divisions of larger state agencies (e.g., the state Attorney General’s office). [NASUCA’s associate and affiliate members](#) also serve utility consumers but are not created by state law or do not have statewide authority.” (*emphasis added*) These

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<sup>74</sup> An example of the Synapse presentation is found at <http://nasuca.org/nwp/wp-content/uploads/2014/01/biewald-stanton.pdf>. The webinar video and slides are available at <http://www.synapse-energy.com/tools/clean-power-plan-planning-tool-cp3t>.

advocacy groups linked there, at [nasuca.org/members/](http://nasuca.org/members/), are accessible under separate links at <http://nasuca.org.s80874.gridserver.com/about-us/>. NASUCA is also a reliable advocate for Obama administration/left-liberal policies in the name of consumer protection and even cost reduction, as well as net neutrality.

Another group, the Regulatory Assistance Project, introduced themselves to and sought out statewide officeholders expressly on the basis that the Energy Foundation had paid them to, presumably a credibility-building credential. It noted to the Minnesota Office of Attorney General that “many state advocates may be compelled to engage this topic [but] the subject matter falls outside the normal range of consumer advocacy issues before regulatory commissions”. The link RAP offered to an introductory memo is no longer active, but you can obtain a feel for what it likely contained at its website <http://www.raonline.org> and in its presentation given to NASCUA’s annual meeting affirming that Synapse got it right, <http://nasuca.org/nwp/wp-content/uploads/2014/01/biewald-stanton.pdf> (consistent with this objective, a March 18, 2014 email from Dan Carol to Minnesota Governor Mark Dayton’s consultant, William Richard, described the governor’s plan to develop “a technical analysis which will help policy makers” as “Nice **Great cover for 111d**”) (emphasis added).

Its presentation to an NASUCA annual meeting concluding that the plan is spot on also asks “why are we doing this?”<sup>75</sup>, then incongruously implies its opposition to higher electricity rates, despite precisely that being the obvious and historic impact of the policies they advocate, and even President Obama’s asserted outcome. This is not the same answer as provided in their memos recruiting state officials, which is because the Energy Foundation asked them to.

Similarly, as a January 2014 email shows, the same groups are then lined up as “consumer advocates” in favor of EPA’s plan: EPA and NASCUA arranged a call to produce feedback for the record on the Clean Power Plan (111d), continuing the theme of keeping the counsel flowing from the Steyer-backed family. One meeting agenda shows that Energy

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<sup>75</sup> [http://nasuca.org/nwp/wp-content/uploads/2014/01/RAP\\_Colburn\\_111dFramingforNASUCA\\_2014-NOV-16.pdf](http://nasuca.org/nwp/wp-content/uploads/2014/01/RAP_Colburn_111dFramingforNASUCA_2014-NOV-16.pdf).

Foundation consultant and reportedly Steyer-backed nominee to chair the Federal Energy Regulatory Commission, Ron Binz also briefed NASUCA in July of the same year<sup>76</sup>.

Emails obtained from then-Illinois Governor Quinn’s staff show that the Governors Wind Coalition (GWC) — a group whose director wrote to Dan Carol suggesting that Tom Steyer could fund the group for two years — also hosted briefings for “core group” staff to advocate their plan, as well as for the wind industry’s chief lobbyist. As noted below, the work plan for which the GWC lobbyist sought funding was almost identical to that of what we then saw called the Governors Climate Accord.

Emails obtained from Illinois also show the National Governors Association Center for Best Practices promoting seminars to implement the agenda, “Policy Academy on Helping States Prepare for Federal Greenhouse Gas Rules”, focused on options to comply with EPA’s 111 rules (dispensing with the path of defiance chosen by as many states as claim an intention to comply with the plan), and “access to leading researchers; and technical assistance on policy options.” The latter recalls the Dan Carol email to Cylvia Hayes referencing the “Steyer-NGA effort”.<sup>77</sup>

Also presenting recruiting materials to governors’ offices seeking membership in a climate compact were, of course, NextGen Climate and NRDC.

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<sup>76</sup> Binz’s nomination hit a wall after emails E&E Legal obtained under the federal FOIA led to Sen. Lisa Murkowski (R-AK) questioning his candor during the confirmation process.

<sup>77</sup> Illinois’s production has proceeded very slowly and indeed has now effectively ground to a halt, though in order to help remedy a process hampered by a search the state has admitted was improper we have narrowed the request to specific Illinois staff whose correspondence we seek, who we know were involved. However, as we have seen with Kentucky, specifying parties we know and can demonstrate as having correspondence does not mean the state will admit to the correspondence existing.

## **Further Detail on the Funders**

Clearly, numerous emails discussed above document the underwriters of this coordinated campaign of parallel advocacy in support of government offices which closely coordinated the campaign. Among the most notable is Ted White, Steyer's managing director, candidly describing the "affiliated groups that we founded and fund (such as NextGen Climate Action, or Next Generation, or AEE [Advanced Energy Economy])", which groups, like the Steyer-affiliated Energy Foundation, are behind most of the effort described in the emails revealed in this report. As the campaign came together (March 14, 2014), White wrote to Carol, "Regarding the multi-state initiative, we are addressing supporting the efforts with two groups: NextGen Climate and Advanced Energy Economy". This followed Carol's specific suggestion that "Tom could frame and catalyze this new, smarter paradigm".

An earlier email from an Inslee aide to the Executive Director of the Governors Wind Coalition stated, "Ted White is leading a lot of Tom's climate advocacy work", in response to the windmill advocate's request for a contact to arrange funding. "Steyer's foundation might be able to help fund the wind coalition for the next two years." Indeed, *the work plan for which this lobbyist sought funding was almost identical to that of what we now see called the Governors Climate Accord* arranged by the network described, herein ("formulate a consensus position for the governors on 111d...and defend, support, state renewable electricity standards. There are probably other tasks we can think of...All of these tasks should resonant [sic] well with what Steyer has in mind and could produce some very tangible results.")

Cascadia Law's Jay Manning asked Carol, "question— should we (Cascadia/Ross [Strategic, an environmentalist public affairs firm]) be putting a proposal together for multi-state coordination to share with Steyer and White House?" This pairing of Steyer and the White House indicates an assumption of close collaboration, by one of the movement's lead attorneys, just like those emails relating to fund-raising for the campaign that copy the White House. Carol reasonably responded, "Possibly. Right now we should find out what Steyer thinks he is funding on Multi state.

That close coordination including the White House and funders — as originally anticipated in the December 2013 "Dan's concept" email chain — includes an April 29, 2014

email from Dan Carol to follow up a meeting of potential funders held in Cleveland the weekend before. He sent this message to Erin Rogers of the Hewlett Foundation and two staffers from Steyer's Energy Foundation ("EF"), copying Inslee's aide Ricketts, and Kathleen Welch with Corridor Partners ("a firm headquartered in Washington, D.C., and New York, where she is focused primarily on advising donors regarding advocacy and political strategies on climate and clean energy issues").

Carol noted "there is a lot of state by state "mapping" to do before we could say you *must* hire X "in-state orchestrators" tomorrow" (*emphases in original*), repeating the focus on "harness[ing] direct gubernatorial engagement, orchestrat[ing] stakeholders and maximiz[ing] funder investment". He noted that "It also sounded like EF/Hewlett were looking to hire a firm to carry out some kind of carbon rule coordination across states", similar to Steyer's group having just hired of NRDC's Lashof to serve in the same capacity for their interests.

Revealing the White House's continuing involvement, the first party Carol saw fit to "cc:" on this was Rohan Patel of the White House.

Carol forwarded this discussion to Gov. Brown aide Cliff Rechtschaffen, noting that Hewlett's Rogers was "a key target at this weekend conclave". Carol noted Lashof was now with Steyer, "so feel free to make him our biggest funder." It is important to recall that this email, and others like it (indeed, most of the emails appended to this report), are the kind that Gov. Brown's office are refusing to release to the public on the grounds of executive privilege.

On May 1, 2014 Carol forwarded the plan to Tzeporah Berman who asserted, "There are a number of funders interested in this and of course a couple of NGO leaders that would be useful...I think Patti at Energy Foundation, Heidi at RBF [Rockefeller Brothers Fund] and Michael Northrup would be very useful. As well as a couple from NRDC. Perhaps NextGen too." Michael Northrup "directs the Sustainable Development grantmaking program at the Rockefeller Brothers Fund in New York City, where he focuses on energy and climate change."<sup>78</sup>

On May 7, 2014, NextGen's Lauren Reed thanked Carol for his proposal for funding what became called the Governor's Climate Accord (now Governors Clean Energy Initiative), stating she would get back to him shortly about next steps. Carol was moved to forward this,

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<sup>78</sup> <http://www.rbf.org/people/michael-northrop>

with only a smiley icon as comment, to a Daniel Bates. This is the name of a wind energy company “chairperson”, and a registered lobbyist for Clean Energy Works Oregon.

On that same day, Carol reported to White he had had his first meeting with Team Steyer’s new hire “Dan Lashof on multi-state work”.

Later in the year, after the GCC had become the GCA, the team’s email setting up their rollout announcement charged Inslee aide Sam Ricketts with coordinating with the White House’s Rohan Patel, and instructed Gov. Jerry Brown’s aides to “hit” Michael Northrup of the Rockefeller Brothers and Kathleen Welch of Corridor Partners. Carol tasked himself with coordinating with “some Bloomberg folk.”

## **Further Documentation of Followup**

Most of the emails discussed above document certain followup steps taken in this coordinated campaign of parallel advocacy to support close coordination of public offices. Early followup steps reflected in the emails are found in the February 18, 2014 GCC Timeline circulated by Dan Carol. Presumably this followup is what Carol referenced to Steyer partner Ted White, that “the WH has responded positively” to the plan as laid out in the Concept note (Rohan Patel of the White House had just asserted on the same day, “I like it a lot, and so does Utech. Will see what we can do”).

On Saturday February 22, 2014, Patel promised the governors’ aides that he would “take a run at this doc and get input from a few folks”, telling them to meet in the meantime with Utech and “rakis/cac”. The latter refers to George Rakis, director of a group called the Climate Action Coalition (formerly Clean Air Defense Campaign), described as a “shadow campaign to support coming power plant rules”, “a coordinated effort by...groups that came together in late 2010, after Republicans won control of Congress”, as part of “a more offensive movement”.

That was green trade-press outlet E&E News writing about the coalition, which includes establishment green pressure groups and the Center for American Progress (which Podesta founded):

Long before the White House’s plans [for EPA’s CAA section 111 rules] became public this weekend, green groups began quietly reorganizing a project that coordinated political message, strategy and grass-roots lobbying [in a]...new campaign, called the Climate Action Coalition (CAC)...

The exact structure of the campaign is shadowy -- members were reluctant to discuss how many staff are devoted to it, what its budget is or where its funding comes from. The campaign itself declined to comment for this story.

But interviews with staff from its member organizations sketch an outline of a team of 30 or fewer staff, many of whom are dividing their time between the coordinated campaign and their day jobs at the organizations.

Some of the campaign's staff is housed in Washington, D.C., at the I Street Northwest headquarters of the Partnership Project, a coalition of nonprofits that work on a variety of issues. Some work remotely from other offices or telecommute from as far away as California. Two sources tagged political strategist George Rakis as the group's campaign manager, but he could not be reached to confirm that. It is apparent, however, that some of the people involved with CAC have nuts-and-bolts political campaign experience and have not just done environmental work.



League of Conservation Voters (LCV) President Gene Karpinski said in an interview last week with E&E Daily that CAC is poised to play a critical role in selling the president's climate plan. But it will work under the radar as “a sharp, smart, strategic, coordinated entity ... both inside and, even more importantly, outside the Beltway,” he said.<sup>79</sup>

White House coordination and involvement in the campaign went beyond instructing the governors' team to meet with aides and a “shadowy” Podesta-affiliated group. As noted, for some reason Carol felt compelled even to copy the White House on emails to funders, following up their Cleveland meeting “about how best to drive short and long term outcomes involving states and Governors...[and] looking to hire a “multi-state coordinator...[and a foundation, in addition to NextGen] looking to hire a firm to carry out some kind of carbon rule coordination across states”.

Also, other governor offices forwarded the concept note to other White House aides “[David] Agnew and Adrian [Saenz]” (with whom Carol did correspond on the desired timeline) and offered to share with John Podesta (who had it). Patel put forward talking points to discuss when they next met, also referencing that “We’ve got a few other tracks with private sector and unusual allies”. In another email, responding to Patel, Dan Carol writes, “Very much agree with john podestas [sic] 2 pillars/tracks of effort”, separating the “compact as a commitment document” and “111d and other linking mechanisms to make these commitments real and measurable”. Patel then volunteered, “Podesta has this draft” — which simply affirms that the plan was a topic of discussion at the White House, since we know this already from a January 21, 2014 email to Podesta from Carol. Patel directed Carol to the “shadowy” coalition they “will need to follow up with...to get their input”. Other emails among governors aides as well as Team Steyer reference White House meetings that took place, and calls with Podesta and Utech.

Appended email threads show an awareness that some things were best *not* put in writing, which should be reserved for only what the circumstances of the moment require. This preempts the inevitable rhetoric seeking to wave away such specifics, committed in writing nonetheless

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<sup>79</sup> Jean Chemnick and Elana Schor, “Shadow campaign ramps up to support coming power plant rules”, E&E News, June 24, 2013, <http://www.eenews.net/stories/1059983338>.

(such as Ted White, otherwise characteristically blunt in admitting the Steyer-affiliated groups' functions and sustenance, obliquely referring to "the political issues we discussed").

And of course, the recent *Oregonian* revelations remind us that often, "The records from personal email accounts weren't maintained in state files. Instead, *The Oregonian*/OregonLive obtained them through public records requests to Kitzhaber's two former chiefs of staff, Curtis Robinhold and Mike Bonetto. The release underscores how the Kitzhaber administration operated through back channels that couldn't be traced through government records. Kitzhaber himself relied on a personal email account to conduct government business – emails his attorneys are now fighting to keep from the public and investigators." Emails E&E Legal received from Oregon show that Dan Carol also would forward emails about the governors' multi-state scheme to his GMail account, after which point their trail goes cold. Nothing E&E Legal received indicates any governor's office provided any records from such accounts, however.

The "core group" of governors' offices held a weekly call on the climate compact and 111d campaign on Mondays. Cylvia Hayes joined Dan Carol's Monday call on climate compact and "national energy issues, etc.", into which Carol looped Hayes "to talk about the "Caldera-Steyer-NGA efforts and where that sits".<sup>80</sup>

Other emails illustrate expansion of the West Coast team of governors offices coordinating the scheme to include Kentucky, Illinois, Delaware, Colorado, New York, Connecticut, Vermont, Minnesota, Hawaii, Maryland, New Hampshire and Virginia.

After months of directly coordinating with the governors' offices, Steyer's Team hired its "multi-state person" Dan Lashof from NRDC, and presumptuously (with good cause, it seems), instructed governors' aides Lashof is "your contact regarding our multi-state policy efforts."

Numerous Steyer-funded groups engaged these governors' offices in the coordinated, Energy Foundation-underwritten effort to walk them through the Steyer-commissioned efforts (analyses and plans); also, Steyer-funded groups briefed the governors' aides collectively ("the core group", per Dan Carol, representing "a slightly smaller DGA (Democratic Governors

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<sup>80</sup> It is not clear to what this acknowledgement of the Steyer-NGA collaboration, and Hayes's involvement, refers. One possibility is the renewable (geothermal) energy company Caldera Energy.

Association)” per Malcolm Woolf of AEE in an April 25, 2014 email to Dan Carol. The group is actually not that much smaller, DGA membership having shrunk appreciably in recent elections).

Finally, in that email, we see Inslee aide Sam Ricketts tasked with “hit[ting]” the White House’s Rohan Patel, Gov. Jerry Brown’s aides to “hit Podesta/Dan Utech”, also of the White House. This was followed by the January 20, 2015 emails addressing followup recruitment of more, particularly Republican, governors.

At this point the correspondence ends, due to the time parameters of our requests. The story surely continued beyond these details, and is properly the subject of detailed media inquiry.

The reader can determine whether these emails detailing a campaign’s development and coordination over the course of 18 months reflect followup. In fact we now know the campaign continued into this Spring, with the latest relevant email E&E Legal has obtained (see below). Therefore the question seems to answer itself. More appropriate questions involve what *other* followup occurred, and the parties to answer those questions are those identified, above.

In addition to questions that should be asked of the “grown ups” these emails identify for hiring, other questions that journalists may wish to ask include, what transpired following a January 20, 2015, email among the original governors offices mentioning that then-Oregon Kitzhaber “is scheduled to call [newly elected Republican Illinois] Gov. Rauner on Feb. 2 to introduce Accord and get ball rolling”? This email came in the context of next steps, given that “we don’t yet have a progress point of note (eg, a GOP governor)”, noting the targeting of Republican “prospect governors” for bilateral discussions with newly elected Maryland Republican governors Larry Hogan (MD), Charlie Baker (MA), and recently re-elected Republican Gov. Rick Snyder (MI) — who by April had thrown in with the campaign<sup>81</sup> — as well as other Democratic governors. Particularly now given Illinois’s failure to respond to what is a very narrow request, it makes sense to learn if that call was made, and did Gov. Rauner, or any Republican governor, quietly buy in?

The same email focused on reconnoitering at that year’s NGA meeting, and referenced “reconvening” numerous governors, for “another WH meeting”, “to talk with some of the same

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<sup>81</sup> Maureen Groppe, “Snyder splits with GOP colleagues in seeing coal alternatives”, Battle Creek (MI) Enquirer, April 9, 2015, <http://www.battlecreekenquirer.com/story/news/local/2015/04/09/snyder-splits-gop-colleagues-seeking-coal-alternatives/25536225/>.

federal players as last year (Podesta, McCarthy) and some new ones (Todd Stern, Dan Utech, whomever is filling the Podesta void, etc.)...[to] include the Accord as a point of discussion to ensure they know about it and, to Dan's point, will help us where we ask for it. But more broadly this would be a conversation about the federal climate strategy and the road to Paris." This came in response to Crowfoot's concerns that openly involving the White House "might scare some Governors away".

This latter discussion usefully revisits prior assertions that this campaign is about using governors' offices to advance a federal and international global warming strategy.

This is ratified in a February 19, 2014 email arranging a February 22, 2014 "Governors Climate meeting at White House" among "EPA Admin Gina McCarthy John Podesta, Counselor to the President Dan Utech, Special Assistant to the President for Energy and Climate Change [and] Pro-climate action Governors."

Indeed, a late July 2015 production in an otherwise unrelated FOIA case, *E&E Legal v. State Department*, yielded an email request for climate activist governors to meet with various State Department officials including the aforementioned Todd Stern (Obama's chief Paris treaty negotiator). The purpose of the meeting was "to discuss the governors' initiative and the COP" (the December 2015 Conference of the Parties in Paris to agree to Kyoto II).

The email came from Ms. Wyman, using a GMail account with a tag line at the bottom of her message "Director, Governors' Clean Energy Initiative, Hall of States, 444 North Capitol Street NW, Washington DC 2001." That address is a Capitol Hill office building where many governors rent space for their state's Washington, DC offices.<sup>82</sup> This represents the third name for the group, if it actually exists beyond a tagline in its director's GMail, and whatever relationship under which she is paid each month by... a governor? Other?

Wyman wrote Stern on behalf of a "governors-led initiative I am supporting in the United States on climate and clean energy. This is a voluntary effort with a domestic focus however we

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<sup>82</sup> "Conveniently located just blocks from the U.S. Capitol and Union Station, the Hall of the States is home to many Washington offices of the fifty states, U.S. territories and associations of the state officials. SSO, which manages the 225,000 square feet of office space that make up the Hall of the States, is proud to offer a broad range of services to more than 90 organizations." <http://www.sso.org/about-us.html>

anticipate that the work will lend great support to your efforts in Paris”.<sup>83</sup> The reasonable implication is that this is the Governors’ Clean Energy Initiative. Notably, this affirms the talking points set forth following a February 21, 2014 meeting between the activist governors “with POTUS and VPOTUS” (see “What We Need From White House”, above), again making it inarguable that followup steps proceeded apace.<sup>84</sup>

An October 1, 2014 email from Carol proposing a rollout plan for 2015 also provided language to inform the “core group”, the White House, and “key funders” of the hiring of Wyman “as the new coordinator for the Governors Climate Accord (GCA)”. In this, he noted that she was key to “a bigger fundraising play” — Wyman had already met with “some Bloomberg folk” in New York, apparently, but Carol specifically cites Rockefeller Brothers, and Corridor Partners in addition to “key funders” but, taken together, it seems fair to conclude from this that Wyman’s position and organization is funded by outside parties.

If not, the questions remain what state’s or states’ taxpayers hired her to run this inherently political group for governors, and are taxpayers also paying for the parallel, OFA-style advocacy campaign that anyway is largely being executed by public employees? Ms. Wyman is not listed on state payroll records as an employee of Washington State, Oregon, California, Connecticut, and does not appear on the Western Governors Association’s website, the most likely parties to be the “we” Dan Carol said hired her, or to provide her with office space. OpenSecrets.org lists Wyman as a registered lobbyist for the law firm Reed Smith on behalf of the Washington State Department of Information...in 2000.<sup>85</sup>

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<sup>83</sup> “Supporting” indicates that this may be part of Ms. Wyman’s “public sector practice focused on climate protection and sustainable development working with states, local governments and related national nonprofits, based in Washington DC”, according to one of her bios available online, at <http://www.me2umedia.com/#!/people/c1b21> (viewed August 10, 2015).

<sup>84</sup> A later Wyman email in the thread sated “[w]e look forward to the chance to discuss how governors, individually and collectively, might be able to assist your important work, and to telling you about what we’ve been working on”. Stern’s reply to Wyman “added some people from my team as well”, suggesting that her point of contact be among those five others he copied, Karen Florini, “my deputy [who] is concentrating on the sub-national and private sector part of Paris”, though he would join the meeting. He told his assistant and scheduler to make the meeting happen.

<sup>85</sup> <https://www.opensecrets.org/lobby/lobbyist.php?id=Y0000026033L&year=2000>, viewed August 8, 2015.

The Hall of States lists its tenants, but GCC, GCA and Governors' Clean Energy Initiative are not among them. It does list the Western Governors Association<sup>86</sup> and, e.g., Connecticut, Kentucky and Washington State.<sup>87</sup>

Using a GMail address describing herself as Director of the "Governors' Clean Energy Initiative", Wyman successfully grabs time with the President's Special Envoy for Climate Change, fitting into his busy schedule of meetings with (according to the State Department FOIA productions) celebrity environmental activist filmmakers, bankers, foreign leaders. Stern told his aides to make the meeting happen, and carry the issue. Meanwhile, this director of the variously named GCC/GCA/GCEI, directs an organization that does not appear to formally exist, with no Washington corporate registration or presence of any kind on the internet. This amorphous organization is housed in a prestigious, prime-location office building known as home, principally, to governors' Washington, DC offices.<sup>88</sup>

Given that these activities are inherently political and at the direction of public employees, questions about the campaign's adherence to applicable rules are fair game. To answer them requires first answering who hired and who is paying for an organization of governors to advocate and lobby, which may not exist yet has staff.

Such obvious questions notwithstanding, this oddity does seem to bring the story full circle. Ms. Wyman appears in a January 30, 2015 story as the Cylvia Hayes scandal unfolded. Specifically, she is described in news reports as working for none other than the Clean Economy Development Center, at the time it paid Hayes \$118,000 while she served as an adviser to Dan Carol's boss, her fiancée, then-Gov. John Kitzhaber. Wyman was one of two CEDC advisers the *Bend (OR) Bulletin* sought to contact for insight, both of whom declined to return the calls.<sup>89</sup>

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<sup>86</sup> WGA sponsors are listed at <http://www.westgov.org/sponsors>.

<sup>87</sup> <http://www.sso.org/about-us/our-clients.html>

<sup>88</sup> Ms. Wyman's email tag also does not provide a suite number, so we do not know which state governor's office is providing the group office space. The tenant roster indicates this is most likely Washington State, which is also the sole governor's office Wyman copied on her email to Stern. <http://www.sso.org/about-us/our-clients.html>

<sup>89</sup> Taylor W. Anderson, "Governor drops Hayes as adviser", *Bend (OR) Bulletin*, January 30, 2015, <http://www.bendbulletin.com/newsroomstafflist/2834726-151/governor-drops-hayes-as-adviser>.

## **Conclusion**

The above describes the genesis, players and early organization of a remarkable coalescence of private financial and ideological interests with public offices to advance the officeholders' agenda and political aspirations. The appended emails document it. These discussions show invested, long-term involvement by numerous governors and senior Obama White House staff, as well as "major environmental donors", particularly free-spending Tom Steyer (these same facts also illustrate how thoroughly disingenuous it would be to claim that the scheme lived and died with Dan Carol's employment with Gov. Kitzhaber after both resigned after a scandal directly related to the same subject matter, which rolls on in various other forms).

Further, *other aides'* correspondence cite to plans such as the "creative engagement" with utilities to satisfy the pressure-group function of traditional green NGOs; to be sure, enough utility pressure on "red state" governors to adopt rules implementing 111d is known of to prompt questions whether these utilities' lobbying reflects this scheme.

Obstruction tactics E&E Legal experienced affirm that some governors or their handlers simply do not want any facts related to this to come to light. E&E Legal has been forced into court to pry these emails out from under the secrecy with which these governors hope to shroud their activities. E&E Legal is being forced to expand its time- and resource-consuming legal efforts to extract records that belong to the public, not politicians.

Regardless, what we already know is that the Democrats' "environmentalist megadonor Tom Steyer" has "founded and funds" a network of groups to enable and support this parallel operation, groups that then engage a still broader network of advocates and hand-holders to walk governors through the steps needed to implement Mr. Steyer's ardently expressed agenda, and defend it from challenge. Claims of what his millions were or were not intended to support must be read in context with his managing partner's emails about "our multi-state policy efforts".

Together, this network of 501(c)(3) advocacy groups and their PR consultants represent modern politics' twist on the Madison Avenue of lore, combining image making, advocacy and political heft, selling not soap but government policy. Much greater sums are involved, however, particularly given that this involves energy, the lifeblood of the U.S. economy. Of course, another unique twist is the involvement of many governors, and the White House.

Contemporaneous with the Steyer-led efforts, the governors designed a parallel organization with “orchestrators” for “a nimble network...[of] coordinators closely tied to each Governor”, coordinating interests including traditional environmentalist NGOs. What legal issues these facts raise, if any, we leave to experts in the field of coordination. The benefit here is to inform the public and policymakers how the Obama climate agenda is being advanced at other than — but still in close coordination with — the federal leviathan.

E&E Legal’s findings add invaluable context to the governors’, White House’s and Steyer team’s campaign to inform the public in a biased and incomplete manner. In addition to the need for public officials to break down the stone walls they have erected, the public deserves answers, at minimum, to obvious questions begged by these revelations, to wit: *what is this group*, originally conceived as the Governors Climate Compact, renamed to as the Governor’s Climate Accord, and which now holds itself out to Obama administration officials/allies (but apparently no one else) as the Governors’ Clean Energy Initiative. Is there some reason for the light official or internet footprint? What other followup has occurred outside of the timeframe of E&E Legal’s requests (and outside of states’ efforts to comply with these requests)?

The group’s director is most likely housed with a governor’s Washington, DC office. She is not listed as being an employee of any of the most likely states to have hired or be housing her. **So, what group is the “we” that hired, and pays Ms. Wyman, a woman styled in governor-aides and her own emails alternately as running or assisting this inherently political outside campaign under the direction of governors? What is the entity advancing the “orchestration” described in these emails? What pot of private or taxpayer money pays for this overhead, “orchestrators” and any other elements of the campaign? What lobbying and election law questions does this coordination raise and how are they answered?**

The answers to whether the GCC/GCA/GCEI actually exists, if so what is it, and who is paying for it certainly will raise further questions about private interests funding operations the players of which the emails acknowledge are controlled by the governors themselves, and otherwise about coordination.

From its inception, every aspect of the campaign documented in this report and its appendices operated in the shadows, with the exception that much of the discussion occurred on



publicly owned email servers. Some state officials are fighting to keep more information about the coordination, and the Steyer-funded operations, from coming to light despite the fact that these emails are public records and the state laws begin with a presumption that they should be disclosed. All of this is to implement, or hide discussion of implementing, policies rejected twice by the proper democratic process and posing tremendous economic and human consequences, as well as national security implications no different than outside threats to our electricity grid.

Further questions arise about why so many public officials are devoting so much of their time to working with “major environmental donors”, and otherwise, on a scheme they recognize the voters would reject. Similarly, how much taxpayer money is being dedicated to this campaign and what level of private underwriting is advancing the use of public offices this way. Ultimately the questions are who is paying for, and who is benefiting from, all of this. The answer to the latter certainly isn’t the American people.

E&E Legal will continue to press in those states that are stonewalling its efforts, and proceed where the documents lead. All of this deserves to see the light of day, and sooner rather than later.