



Letters

Fall 2016

In This Issue

Documents Show AG's Politicize Climate Campaign Against Exxon

by Chris Horner, Senior Legal Fellow
As Appearing in *RealClear Energy*

Environment Legal Institute (E&E Legal) from one of Healey's coalition partners. Since then, we have obtained many more records, affirming the court's "concern" that this coalition is pursuing a political, not a legal agenda.

These records detail a public-private partnership with environmentalist pressure group lobbyists and contingency-fee lawyers looking to surmount the failure of the climate agenda through the proper democratic process.

On Oct. 13, a federal court in Ft. Worth, Texas ruled that Massachusetts Attorney General Maura Healey is subject to legal "discovery" by ExxonMobil. This turns the tables on the Attorney General (AG), who had demanded the company's records as part of an investigation into whether public statements about climate change and related policies rise to the level of lawbreaking. Key to this ruling was Healey's words and deeds as part of a "climate change and energy coalition" of state Attorneys General.

The court is considering whether to enjoin (block) Healey's subpoena previously issued for decades of Exxon's records. After this win ExxonMobil promptly sought to also enjoin New York AG Eric Schneiderman's similar pursuit.

The court cited public records obtained by myself and the Energy &

Since E&E Legal began extracting and publicizing these records, Schneiderman and Healey's erstwhile AG partners have all fled. One email shows the Delaware AG leaving the coalition in response to being informed of freedom of information requests. It seems that these AGs are aware of that details of their scheming will not play well.

Healey has temporarily put her effort on hold, while Schneiderman continues to plow on, alone, abandoned by his wingmen and under pressure from three lawsuits filed by E&E Legal and some concerned New York citizens, all seeking more documentation of the affair. Despite Healey and Schneiderman refusing to let the public see the details, correspondence has flowed from other AG offices.

Such progress has been unnecess-

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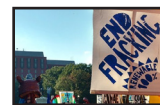
Steyer is the Biggest 2016 Election Loser



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The eye-opening leaks show a pattern of Steyer wielding his fortune to bend Democratic politics in pursuit of his personal green energy agenda.

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Tom Steyer is the Biggest Loser in the 2016 Election

by Craig Richardson, President
As Appearing in *Investor's Business Daily*



Billionaire Tom Steyer vowed to make climate change a major issue in the 2016 election. His plan was to link arms with the AFL-CIO to mobilize the Democratic base and recruit Millennial voters to rise up to defeat Donald Trump and put Hillary Clinton in the White House. He failed abysmally on every count.

One might be tempted to feel pangs of sympathy for the man who is showing every sign of positioning himself for running for governor of California in two years and who presumably hoped his electoral heroics would make his star the shiniest among those Democrats aspiring to even greater heights.

More's the pity that he spent so much of his own money in this failed effort. A lot of it. In fact, the hedge fund tycoon spent more money than any other individual in the 2016 election cycle. His crocodile-tear declaration in July that, "We believe that there is too much emphasis on money in politics" notwithstanding, Steyer and his super PAC NextGen Climate Action poured about \$100 million into the election effort.

The fact that most of that

money came from Steyer's own checkbook suggests that climate change isn't much of a priority among other Democratic donors. Indeed, only 6% of Democrats listed climate change as their top concern, according to a Fox News poll of more than 1,000 registered voters taken just a year ahead of the election.

Just 7% of Democrats identified climate change as the most important issue in determining which candidate to support for the party's presidential nominee in a February 2016 poll from Quinnipiac University. The New Republic calls climate change the biggest nonissue of this election cycle, noting how climate change was discussed for a scant 325 seconds in the presidential debates.

Despite Steyer's spin suggesting this was the year for political action on climate change and that his army of millennials would push the issue over the top, Trump won one out of three millennial voters — 37%. According to the Center for Information & Research on Civic Learning and Engagement (CIRCLE), 55% of voters aged 18 to 29 supported Hillary Clinton in comparison to Donald Trump's 37%. But Clinton had a poor showing in contrast to the 67% millennial voter support for Obama in 2012.

In May, Steyer announced the formation of a new super PAC which would be a partnership between his NextGen Action and the AFL-CIO aimed at coordinating voter turnout efforts. But many union laborers were already furious with Steyer for leading the campaign to kill the Keystone XL

pipeline and the thousands of high paying union jobs that went with it. Outraged officials from eight unions fumed that "the AFL-CIO has now officially become infiltrated by financial and political interests that work in direct conflict to many of our members."

Terry O'Sullivan, president of the Laborers' International Union of North America wrote, "We object to the political agenda of the AFL-CIO being sold to a job-killing hedge fund manager with a bag of cash."

Four years ago — before policies of Steyer's moneyed elite destroyed their jobs and caused green energy poverty by causing utility rates to skyrocket — union households supported Obama by an 18-point margin. In this election, their support for the Democratic candidate dropped a precipitous 10 points, with Clinton eking out an anemic eight-point lead within this traditional Democratic stronghold. In the end, rank-and-file union voters pushed Trump over the top in the critical states of Michigan, Ohio and Pennsylvania.

This isn't the first time Steyer has failed spectacularly. During the 2014 midterm election, in which he was also the largest individual donor, he dumped more than \$73 million in an effort in which very few of the candidates he backed won and in which climate change action actually dropped as a priority (from 37% of Americans before the election season to just 28% by election's end).

With a track record of that kind of "help" Democrats would be well served to deliver one of Donald Trump's most famous lines on Tom Steyer: "You're fired." □

Anything Goes When it Comes to Environmental Extremism

by David Schnare, General Counsel
As Appearing in the *Daily Caller*



The so called “green energy” movement is sinking to a new low in its fanatical mission to eradicate the use of fossil fuels in America. Two examples of this obsessive hostility and deception reveal just how far “green” activists are willing to go to advance their agenda.

Recent efforts by several liberal state attorneys general to investigate those who have contrary views on manmade global warming has become an ugly campaign of intimidation and harassment. In a betrayal of public trust as well as the First Amendment, several attorneys general transformed their offices into partisan political machines, launching probes and issuing subpoenas of individuals, groups and businesses that dared to question whether factors other than man might be responsible for climate change.

After the Energy and Environment Legal Institute exposed the blatant coordination between several state attorneys general and liberal environmental groups, public reaction was widespread and appropriately harsh. As a result, a much lauded group of 17 state attorneys has run for cover and now has dwindled to arguably just one: New York’s Eric Schneiderman.

Red-faced Virgin Islands AG Claude Walker was the first to retreat in a firestorm of criticism over subpoenas against Exxon, think tanks and various research organizations.

Other news reports suggest that California’s AG never started much of an investigation and Massachusetts AG Maura Healey has suspended her probe into climate “deniers.” Counter-subpoenas from the chairman of the House Science, Space and Technology Committee, Lamar Smith (R-Texas) and bold criticism from Texas AG Ken Paxton certainly helped bring about the demise of the, “Clean Power Coalition.”

Another shameful example of the green energy playbook is the Southern Environmental Law Center’s ongoing campaign against Duke Energy in North Carolina. Coal ash, a byproduct of coal after it’s used to produce electricity, is not considered to be a carcinogen by the EPA. Yet, the SELC is portraying it as an environmental monster as means of crushing an energy producer. They’re deceitfully frightening N.C. residents about drinking water quality and demanding remediation “solutions” that will needlessly cost ratepayers billions while pounding the state’s highway infrastructure for years to come.

Additionally, the SELC is actively promoting dubious information from a controversial “expert,” state toxicologist Dr. Kenneth Rudo. Rudo apparently arrived at his own safety “standard” regarding coal ash and the trace amounts of an element called chromium 6 which is found in coal ash but also occurs naturally. Rudo says there is no safe standard for any amount of chromium 6 in any water supply – a statement no other state nor the national EPA recognizes as fact.

Chromium 6 is found in some 70 percent of all water supplies in the United States, according to Paul Driessen, senior policy analyst for the Committee for a Constructive Tomorrow, who notes that arbitrarily proclaiming any amount chromium 6 to be a health hazard, absent of any

known peer-reviewed fact, needlessly alarms people. If the rest of the nation adopted Rudo’s random safety standards, tens of millions of people would be told not to drink their water.

This is not the first time Rudo’s arbitrary standard-setting has been called into question. In a Maryland case, Rudo testified that methyl tertiary-butyl (MTBE), an organic compound added to gasoline is a “probable human carcinogen” and again proclaimed, “...there is no save level.” The EPA disagrees. EPA does not classify MTBE as a human carcinogen saying the present standard for MTBE allows for a person to be exposed to the chemical every day for 70 years with only a negligibly increased risk of cancer. The case, based largely Rudo’s testimony, crumbled and awards to the plaintiffs were reversed. Rudo has also testified in the past how mushrooms, coffee, peanut butter and bread also contain carcinogens.

The green fringe believes its job is to kill off access to the affordable and reliable energy upon which we rely for our quality of life. Meanwhile, energy producers must provide that much-needed supply – while spending multi-millions every year defending themselves against often baseless attacks.

No one is arguing against accountability, remediation, and taking immediate steps to prevent future incidents when environmental accidents occur. But the rabid green movement does not often bother itself with reality, facts or even honesty. Its moral compass is guided solely by the extent to which it can shutter American energy suppliers.

In a crucial election year, we must decide whether we will support policies that want to grow our energy industry and help create thousands of new jobs, or whether to vote for policies that pander to unrealistic environmental extremists. □

AGs Refuse to Release Records of “Climate Denier” Witch Hunt

by Matthew Hardin, FME Counsel



When Attorneys General from seventeen states banded together in a political crusade to “investigate” and threaten to prosecute those who disagree with their climate change agenda, E&E Legal decided to pull back the curtains to expose what the states were really looking for, and what might have spurred these investigations, which trample the First Amendment rights of dissenting scientists and policy researchers. We submitted requests under various transparency laws in dozens of states, seeking correspondence between those involved, as well as certain activist groups like the Democratic Attorneys General Association. E&E is aggressively advancing its campaign to force transparency and accountability, which will likely continue through the winter.

Not surprisingly, several states denied our requests for correspondence relating to their scheme. Citing attorney-client privilege or the similar attorney work-product doctrine, Iowa, New York, Vermont, and Virginia all denied E&E Legal access to public records they shared with each other. While it is doubtful that their political undertaking to investigate dissent is a legitimate use of law enforcement resources, it is only the tip of the illegality of these states’ cavalier actions. Because each state has its own, unique constitution, a state attorney general may only act on matters pertaining to his own state. Thus, each state’s attorney general cannot represent another state’s attorney general, and such correspondence is not protected by attorney-client privilege or related doctrines. Appallingly, states across the country are essentially breaking their own transparency and open records

laws, laws which Attorneys General are sworn to protect and enforce.

To expose the tyrannical efforts of Democratic Attorneys General to use the criminal justice system to prosecute political opponents, and in the face of massive stonewalling and improper denials of E&E Legal’s open records requests, E&E Legal has been forced to turn to the courts. We currently have suits pending in New York, Rhode Island, and Vermont. More lawsuits will undoubtedly follow in other states that continue to hide public records that E&E Legal and the general public are entitled to.

E&E Legal’s first of three current suits in New York was recently heard by Justice Arlene Bluth of the New York Supreme Court. At a hearing on November 29th, Justice Bluth heard arguments relating to New York Attorney General Eric Schneiderman’s use of private email accounts, which the office refuses to search for documents responsive to E&E Legal’s request. More revealingly, the Court was presented with evidence that employees of the New York Attorney General’s office may have communicated with Schneiderman through private email accounts belonging to members of his staff and campaign aides instead of his two work email accounts. E&E Legal expects the New York Supreme Court to rule on the first of three pending lawsuits in the near future, and will continue fighting for records in the other two lawsuits against New York in the upcoming months. We will not rest until the New York Attorney General’s Office provides a full accounting of its activities to the taxpayers.

In addition, E&E Legal currently has two cases pending in Vermont as a result of Attorney General Bill Sorrell’s refusal to produce records evidencing his participation in the “climate denier” targeting scheme. Specifically, E&E Legal requested records shared between the New York Attorney General and the Vermont Attorney General’s Office. After Vermont refused to even begin processing our initial request without

first seeking fees substantially higher than permitted under state law, we were forced to sue in Washington County Superior Court. E&E Legal prevailed in an initial hearing on September 15th, at which the Court ruled that Sorrell had failed to comply with the Vermont Public Records Act, and subsequently ordered the Vermont Attorney General to produce the requested records. Later that day, E&E Legal filed a second suit against the Vermont Attorney General for wrongfully withholding records sought in another request filed by E&E Legal. Thus, Bill Sorrell has made it abundantly clear that he will not comply with his own state open records laws unless forced to do so by E&E Legal and the courts. E&E Legal is currently engaged in motions in both pending suits in Vermont, and expects a court ruling by January. Just like we are in New York, E&E Legal will continue the fight to hold the politically-motivated Vermont Attorney General accountable so that the American people can see the extent of this scandal for themselves.

A rare example of an Attorney General’s office involved with the climate coalition complying with its state’s transparency laws was recently showcased in Virginia. Although Virginia Attorney General Mark Herring initially denied E&E Legal’s two requests for information under Virginia law in part, he quickly backtracked after we filed suit in the Circuit Court for the City of Richmond, almost immediately providing all the records his office previously withheld, in full and unredacted form. E&E Legal is encouraged by the Virginia’s cooperation, and hopes that other state Attorneys General will follow its example.

While politicians seeking to abuse their power to silence free speech prefer to keep their activities hidden from the American people, E&E Legal will not back down. Our attorneys will travel the country for the next several months to urge courts to enforce the very state laws that state officials themselves are refusing to enforce or abide by. And we will prevail. □

Greens' 'Rich Uncle' Buys Poverty for Others

by Craig Richardson, President
As Appearing in *Inside Sources*



One name surfaces again and again in WikiLeaks' email to expose the corrosive influence of the Greens' "rich uncle," hedge fund billionaire Tom Steyer. The eye-opening leaks show a pattern of Steyer wielding his fortune to bend Democratic politics in pursuit of his personal green energy agenda.

Steyer is attempting to force costly and unreliable forms of energy upon Americans. While the San Francisco tycoon can afford to double or even triple energy rates for his six homes, lower- and middle-class families cannot. Household electricity bills run about 40 percent higher than the national average in California, thanks to policies championed by Steyer. In fact, 1 million Golden State households now live in "Green Energy Poverty," paying 10 percent or more of their income on home energy costs alone.

"We believe that there is too much emphasis on money in politics," Steyer declared in July. If his words sounded disingenuous then, the new disclosures confirm him to be the year's most outrageous hypocrite.

Steyer boasts of his commitment to economic and racial justice, yet Politico reminds us this week that, as the hedge fund manager of Farrallon Capital Management, Steyer invested heavily in America's largest private prison corporation.

For-profit prisons have been roundly criticized for their treatment and over-representation of minorities and the economically disadvantaged. It's already well known that Steyer invested in overseas coal production under appalling environmental conditions.

So we know how Steyer made his billions, but, thanks to WikiLeaks, we're gaining a better understanding of how he uses his vast fortune to exert undue influence in Democratic circles.

In one leaked exchange, we learned that Democratic strategist John Podesta approached Steyer to sound out environmental group 350.org founder Bill McKibben "to organize Harvard student protests" against law school professor Laurence Tribe, who had been Obama's mentor there and who recently challenged the EPA in court over the administration's controversial Clean Power Plant rules.

Steyer, who had given at least \$500,000 to the group, responded, "Will try. On it." Whether the protest actually took place is uncertain, but what is clear is that Steyer was willing to use his influence to harass a person who dared to dispute administration policy.

In another email, the editor of ThinkProgress brags to Steyer about waging a campaign to discredit climate researcher Roger Pielke Jr., who, without challenging the validity of climate change, wrote an article for FiveThirtyEight questioning whether climate change was responsible for extreme weather events.

The editor boasts that, after his campaign to discredit Pielke, FiveThirtyEight refused to run additional articles by him. "Thanks for your support of this work," the editor adds to Steyer.

A separate hacked email

sheds more light. Steyer's then-political adviser Chris Lehane wrote a memo to Podesta stating, "TS may have sent you this doc last night — but believe he may have sent a slightly earlier draft so please use this one." The memo proposed that an "extreme weather SWAT team" be established as a context for pushing climate change talking points. The memo adds, "One cannot be handcuffed by data on a fundamental moral issue of this kind," which may explain why Pielke's piece was viewed as such a transgression.

An email by Podesta fretting, "Could be leaving a lot of \$ on the table" in not offering Steyer a formal position in the Clinton campaign speaks to Steyer's financial influence. While the leaked emails paint a picture, perhaps the clearest sign that it is Steyer who pays the Democrats' piper and calls their tunes can be seen in the 2016 Democratic National Convention at which Steyer's Super PAC NextGen Climate Action "Fact Sheet: Powering America With More Than 50 Percent Clean Energy by 2030" was adopted virtually verbatim into the Democratic Party platform. The fact that NextGen Climate donated \$800,000 to the DNC to help cover convention costs can hardly be called a coincidence.

Steyer is responsible for nearly all the funds raised by NextGen Climate Action. The group spent \$25 million to turn out green millennial voters in the 2016 general election. And Steyer himself, who said that he believes there's too much emphasis on money in politics, has donated nearly \$35 million to Democratic political candidates in this year's election cycle.

Perhaps he didn't mean that there's too much of his own money distorting the political process. But that would be hypocritical. □



arily delayed and expensive due to widespread foot-dragging among these AGs after the coalition signed a purported “common interest agreement” earlier this year promising cooperation against public record requests. As Vermont’s Deputy AG noted in an email at the time, the signers of the agreement assume a default position of making requesters sue to get what the public owns.

Indeed, E&E Legal has so far sued Vermont’s AG twice for related public documents that it refuses to let the public see.

Delays and other hurdles aside, the Schneiderman/Healey abuses will be brought to a halt if the discovery ordered by the court affirms the political vs. legal nature of their scheme:

Consider:

* The AGs’ recruiting letter admits their objectives of “ensuring that the promises made in Paris become reality,” referring to the non-binding Paris climate treaty, and to “expand the availability and age of renewable energy.”

* The court focused on an email in which Schneiderman’s office asks activist lawyer Matt Pawa to mislead a reporter about his own role in briefing the AGs before announcing their campaign at a

March 29 press conference along with Al Gore. Two more parts of that email thread, which Vermont somehow forgot to release, reveal Pawa agreeing that this “makes good sense,” and Vermont’s Office of Attorney General thanking him for this willingness to stay mum.

* The court also noted the advisory role of Peter Frumhoff of the environmental activist and lobby group Union of Concerned Scientists. Frumhoff appeared in a July 31, 2015 email I and the Competitive Enterprise Institute obtained earlier this year, in a public records lawsuit against George Mason University. In it, Frumhoff informs an activist academic -- months before any AG subpoenaed records – that he was working on “state (e.g. AG) action” against “fossil fuel companies”.

* Another voice from the faculty lounge pipes up in these documents. Harvard Law School clinical instructor Shaun Goho, previously of the green group Earth Justice, organized an April 2016 briefing for the AGs and their staff on going after “Exxon specifically, and the fossil fuel industry generally.” “[W]e know that there will be people from at least... California, Connecticut, Illinois, Maryland, Massachusetts, and New York.”

* Naturally, Vermont’s Deputy AG Scot Kline responded to Goho’s invitation noting that “Peter Frumhoff also mentioned it last week.” Incredibly, Vermont is refusing to release the meeting’s agenda, drafted by a Harvard instructor/activist, claiming it is privileged.

* And, damningly, before his role was exposed, Pawa himself admit-

ted the campaign’s political nature in an interview with *The Nation* magazine. “I’ve been hearing for twelve years or more that legislation is right around the corner that’s going to solve the global-warming problem, and that litigation is too long, difficult, and arduous a path,” said Matthew Pawa, a climate attorney. “Legislation is going nowhere, so litigation could potentially play an important role.” Voila.

Much more AG correspondence and other documents we’ve obtained already affirm the AGs’ political campaign for an agenda frustrated by the proper democratic process. This supports the claim that Healey and Schneiderman have proceeded in bad faith in this crusade to silence and punish political opposition. Hopefully, now that the shoe is on the other foot and Healey must turn over (public) records, the court can put an end to these abuses. After which, it is the AGs who should be forced to answer for their actions. □

E&E Legal Letter is a quarterly publication of the Energy and Environment Legal Institute (E&E Legal). The publication is widely disseminated to our key stakeholders, such as our members, website inquiries, energy, environment, and legal industry representatives, the media, congressional, legislative, and regulatory contacts, the judiciary, and supporters.

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