



From: [Bartlett, Tasha](#)
To: [Glassman, Steven](#); [Srolovic, Lemuel](#); [Bill Lipton \(blipton@workingfamilies.org\)](#); [Lee Wasserman \(lwasserman@rffund.org\)](#); [Larry Shapiro \(lshapiro@rffund.org\)](#); Micah Lasher; Joshua Meltzer; John Oleske; Janet Sabel; Alvin Bragg; Chad Johnson
Subject: FW: Climate Change Disclosures/Martin Act
Start: Tuesday, February 3, 2015 2:00:00 PM
End: Tuesday, February 3, 2015 3:00:00 PM
Location: 120 Broadway, 25th Floor, Conf Room 25A81

-----Original Appointment-----

From: Tasha L. Bartlett

Sent: Friday, January 30, 2015 12:52 PM

To: Tasha L. Bartlett; Micah Lasher; Joshua Meltzer; John Oleske; Lemuel Srolovic; Janet Sabel; Alvin Bragg; Chad Johnson; Bill Lipton (blipton@workingfamilies.org <mailto:blipton@workingfamilies.org>); Lee Wasserman (lwasserman@rffund.org <mailto:lwasserman@rffund.org>); Larry Shapiro (lshapiro@rffund.org <mailto:lshapiro@rffund.org>)

Subject: Climate Change Disclosures/Martin Act

When: Tuesday, February 03, 2015 2:00 PM-3:00 PM (UTC-05:00) Eastern Time (US & Canada).

Where: 120 Broadway, 25th Floor, Conf Room 25A81

OBTAINED BY GOVERNMENT ACCOUNTABILITY & OVERSIGHT

[REDACTED]

From: Lee Wasserman <lwasserman@rffund.org>
Sent: Tuesday, February 3, 2015 7:01 PM
To: Lemuel Srolovic
Subject: follow up

Lem,
Since we spoke I have been in touch with folks who probably know more about company X's past efforts to obfuscate than just about anyone. They have a trove of material to share that speaks to many of the issues touched upon today.

Can you see what days and time might work for us to get together next week with these folks and their material? I'm hoping Steve G can join us. I know Tue doesn't work, but other dates, depending on time, are possible. Thanks.

Lee Wasserman
Director
475 Riverside Drive, Suite 900 | New York, NY 10115



OBTAINED BY GOVERNMENT ACCOUNTABILITY & OVERSIGHT

[REDACTED]

From: Lee Wasserman <lwasserman@rffund.org>
Sent: Friday, February 6, 2015 12:34 PM
To: Lemuel Srolovic
Subject: FW: follow up
Attachments: 64D1D2E8-811D-40B8-85E0-93FF7C3B8280[115].png

Hi, Lem,
Just want to ge this back on the top of your email.
Hope we can make this happen. I think you'll find the material of great use.

Thanks.
Lee

Lee Wasserman
Director
475 Riverside Drive, Suite 900 | New York, NY 10115
[REDACTED]



From: Lee Wasserman <lwasserman@rffund.org>
Date: Tuesday, February 3, 2015 at 7:00 PM
To: "lemuel.Srolovic@ag.ny.gov" <lemuel.Srolovic@ag.ny.gov>
Subject: follow up

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Since we spoke I have been in touch with folks who probably know more about company X's past efforts to obfuscate than just about anyone. They have a trove of material to share that speaks to many of the issues touched upon today.

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Lee Wasserman
Director
475 Riverside Drive, Suite 900 | New York, NY 10115
[REDACTED]



[REDACTED]

From: Larry Shapiro <lshapiro@rffund.org>
Sent: Sunday, February 8, 2015 1:21 PM
To: Lemuel Srolovic; Steven Glassman
Cc: Lisa Hamilton (lisa_a_hamilton@yahoo.com)
Subject: Peabody and Prairie State

Good to see you guys last week. I thought this AP story might interest you. <http://abcnews.go.com/US/wireStory/illinois-power-plant-center-midwest-rate-fights-28814053>

Larry Shapiro
Associate Director for Program Development
Rockefeller Family Fund
475 Riverside Drive, Suite 900
New York, NY 10115

[REDACTED]
[REDACTED]
[REDACTED]
Email: lshapiro@rffund.org

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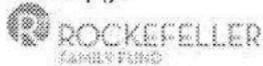
From: Lemuel Srolovic <Lemuel.Srolovic@ag.ny.gov>
Sent: Wednesday, February 11, 2015 5:18 PM
To: Jodi Feld <Jodi.Feld@ag.ny.gov>; Mauricio Roma <Mauricio.Roma@ag.ny.gov>
Subject: FW: follow up

Please calendar meeting below if you're available. **It relates to big oil arctic exploration issue.**

From: Lee Wasserman [mailto:lwasserman@rffund.org]
Sent: Wednesday, February 11, 2015 2:02 PM
To: Lemuel Srolovic
Subject: Re: follow up

Great. In the books for Monday, Feb. 23 at 1 pm. I'll provide you a complete list of attendees before that date. thanks.

Lee Wasserman
Director
475 Riverside Drive, Suite 900 | New York, NY 10115
212.812.4252



From: Lemuel Srolovic <Lemuel.Srolovic@ag.ny.gov>
Date: Wednesday, February 11, 2015 at 11:58 AM
To: Lee Wasserman <lwasserman@rffund.org>
Subject: RE: follow up

1 pm is good.

Anyone you'd like to bring is welcome. If I can get an attendee list, it will make check in downstairs easier and quicker.

From: Lee Wasserman [mailto:lwasserman@rffund.org]
Sent: Wednesday, February 11, 2015 10:56 AM
To: Lemuel Srolovic
Subject: Re: follow up

Lem Monday Feb 23 works for everyone. 1 pm ok?

The other folks' coming are:

John Passacantando & Kert Davies. They may bring an assistant if that works for you. Can Steve join us?

Thanks.

Lee

Lee Wasserman
Rockefeller Family Fund

On Feb 11, 2015, at 10:48 AM, Lemuel Srolovic <Lemuel.Srolovic@ag.ny.gov> wrote:

Lee – confirming our conversation just now, I have penciled in the early afternoons of Monday or Tuesday (2/23-24) for meeting re climate change and fossil fuel companies.

Thanks for arranging this conversation, Lem

FOIL G000316-051423 000019

FOIL160286_000013

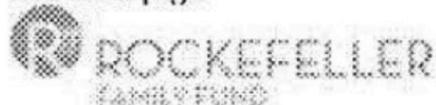
From: Lemuel Srolovic <Lemuel.Srolovic@ag.ny.gov>
Sent: Friday, February 13, 2015 1:00 PM
To: Michael J. Myers <Michael.Myers@ag.ny.gov>
Subject: FW: follow up

Here's the date & time of follow-on re ExxonMobil.

From: Lee Wasserman [mailto:lwasserman@rffund.org]
Sent: Wednesday, February 11, 2015 2:02 PM
To: Lemuel Srolovic
Subject: Re: follow up

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Thanks for arranging this conversation, Lem

FOIL G000316-051423 000017

FOIL160286_000011

[REDACTED]

From: Lemuel Srolovic
Sent: Wednesday, February 11, 2015 10:42 AM
To: 'Lee Wasserman'
Subject: RE: follow up

Lee – last week was crazy and this week front-loaded but this Friday afternoon, 2/13, is clear, as is Thursday and Friday afternoon of next week 2-19-20). Would any of those work? Regards, Lem

From: Lee Wasserman [mailto:lwasserman@rffund.org]
Sent: Friday, February 06, 2015 12:34 PM
To: Lemuel Srolovic
Subject: FW: follow up

Hi, Lem,
Just want to get this back on the top of your email.
Hope we can make this happen. I think you'll find the material of great use.

Thanks.
Lee

Lee Wasserman
Director
475 Riverside Drive, Suite 900 | New York, NY 10115



From: Lee Wasserman <lwasserman@rffund.org>
Date: Tuesday, February 3, 2015 at 7:00 PM
To: "lemuel.Srolovic@ag.ny.gov" <lemuel.Srolovic@ag.ny.gov>
Subject: follow up

Lem,
Since we spoke I have been in touch with folks who probably know more about company X's past efforts to obfuscate than just about anyone. They have a trove of material to share that speaks to many of the issues touched upon today.

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Director
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Director
475 Riverside Drive, Suite 900 | New York, NY 10115



From: Lee Wasserman <lwasserman@rffund.org>
Date: Tuesday, February 3, 2015 at 7:00 PM
To: "Lemuel.Srolovic@ag.ny.gov" <lemuel.Srolovic@ag.ny.gov>
Subject: follow up

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Since we spoke I have been in touch with folks who probably know more about company X's past efforts to obfuscate than just about anyone. They have a trove of material to share that speaks to many of the issues touched upon today.

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Lee Wasserman
Director
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[REDACTED]

From: Larry Shapiro <lshapiro@rffund.org>
Sent: Friday, February 13, 2015 9:34 AM
To: Lemuel Srolovic; Steven Glassman
Cc: Lisa Hamilton (lisa_a_hamilton@yahoo.com)
Subject: FW: Paducah electricity rates climb to perhaps the highest in Kentucky after big bet on coal and other problems

From: prairiestatetrackers@googlegroups.com [mailto:prairiestatetrackers@googlegroups.com] **On Behalf Of** David Schlissel
Sent: Friday, February 13, 2015 9:15 AM
To: prairiestatetrackers@googlegroups.com
Subject: Re: Paducah electricity rates climb to perhaps the highest in Kentucky after big bet on coal and other problems

Good story. Great quotes Sandy.

David A. Schlissel
Schlissel Technical Consulting
45 Horace Road
Belmont, MA 02478
[REDACTED]

From: Sandy Buchanan <sbuchanan@ieefa.org>
Reply-To: <prairiestatetrackers@googlegroups.com>
Date: Friday, February 13, 2015 at 9:06 AM
To: <prairiestatetrackers@googlegroups.com>
Subject: Paducah electricity rates climb to perhaps the highest in Kentucky after big bet on coal and other problems

Good morning everyone, here is a very comprehensive story on Prairie State from today's Louisville Courier Journal:

<http://www.courier-journal.com/story/tech/science/environment/2015/02/13/paducah-power-bets-coal-loses-prairie-state-energy-campus/23322435/>

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You received this message because you are subscribed to the Google Groups "Prairiestatetrackers" group.
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For more options, visit <https://groups.google.com/d/optout>.

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[REDACTED]

From: Lee Wasserman <lwasserman@rffund.org>
Sent: Tuesday, February 17, 2015 2:08 PM
To: Lemuel Srolovic
Cc: Steven Glassman
Subject: Monday meeting

Lem, we're looking forward to our meeting on Monday at 1 pm. We believe the information presented will squarely address Steve's question at our last meeting. I hope Steve will be able to join us to hear about the details. I also hope the investigator who was at the first meeting can be there (afraid I didn't get his name).

Thanks for your assistance with this.

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[REDACTED]

From: Lemuel Srolovic
Sent: Tuesday, February 17, 2015 3:15 PM
To: Steven Glassman; John Oleske
Cc: Michael J. Myers; Alvin Bragg
Subject: FW: Monday meeting

Steven and John – Lee requested this follow-on meeting for 2/23 at 1:00. I presume that we'll host in EPB, but haven't worked out logistical details. Wanted to make sure you have date and time. Lem

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To: Alvin Bragg
Subject: FW: Monday meeting

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[REDACTED]

From: Alvin Bragg
Sent: Tuesday, February 17, 2015 3:26 PM
To: Lemuel Srolovic
Subject: Re: Monday meeting

I think it is fine to keep the invite list where you have it. Thanks.

Message sent from a Blackberry device

From: Lemuel Srolovic
Sent: Tuesday, February 17, 2015 03:18 PM
To: Alvin Bragg
Subject: FW: Monday meeting

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To: Steven Glassman; John Oleske
Cc: Michael J. Myers; Alvin Bragg
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[REDACTED]

OBTAINED BY GOVERNMENT ACCOUNTABILITY & OVERSIGHT

[REDACTED]

From: Steven Glassman
Sent: Tuesday, February 17, 2015 4:04 PM
To: Lemuel Srolovic; John Oleske
Cc: Michael J. Myers; Alvin Bragg
Subject: RE: Monday meeting

I'm available then. Is there any more information on what Lee has in mind?

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Subject: Re: Monday meeting

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From: Steven Glassman
Sent: Tuesday, February 17, 2015 04:03 PM Eastern Standard Time
To: Lemuel Srolovic; John Oleske
Cc: Michael J. Myers; Alvin Bragg
Subject: RE: Monday meeting

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[REDACTED]

From: Lemuel Srolovic
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To: Alvin Bragg
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Great. Thanks.

From: Alvin Bragg
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[REDACTED]

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[REDACTED]

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From: Lemuel Srolovic
Sent: Tuesday, February 17, 2015 5:17 PM
To: 'Lee Wasserman'
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475 Riverside Drive, Suite 900 | New York, NY 10025



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[REDACTED]

From: Lemuel Srolovic
Sent: Tuesday, February 17, 2015 5:21 PM
To: Steven Glassman; John Oleske
Cc: Michael J. Myers; Alvin Bragg
Subject: RE: Monday meeting

I've asked for a heads up on the type of information they plan to present.

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Sent: Tuesday, February 17, 2015 5:11 PM
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Cc: Michael J. Myers; Alvin Bragg
Subject: RE: Monday meeting

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[REDACTED]

From: Lee Wasserman <lwasserman@rffund.org>
Sent: Tuesday, February 17, 2015 6:51 PM
To: Lemuel Srolovic
Subject: Re: Monday meeting

Hi, Lem,
Yes I'll be able to put together some top lines for you so you'll get a sense of what we're planning to share. Should be in a day or two. Thanks.

Lee Wasserman
Rockefeller Family Fund

On Feb 17, 2015, at 2:17 PM, Lemuel Srolovic <Lemuel.Srolovic@ag.ny.gov> wrote:

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Cc: Steven Glassman
Subject: Monday meeting

Lem, we're looking forward to our meeting on Monday at 1 pm. We believe the information presented will squarely address Steve's question at our last meeting. I hope Steve will be able to join us to hear about the details. I also hope the investigator who was at the first meeting can be there (afraid I didn't get his name).

Thanks for your assistance with this.

Lee Wasserman
Director
475 Riverside Drive, Suite 900 | New York, NY 10115
[REDACTED]
<image001.png>

[REDACTED]

From: Lemuel Srolovic
Sent: Wednesday, February 18, 2015 8:02 AM
To: 'lwasserman@rffund.org'
Subject: Re: Monday meeting

Excellent. Thanks, Lee.

Message sent from a Blackberry device

From: Lee Wasserman [mailto:lwasserman@rffund.org]
Sent: Tuesday, February 17, 2015 06:51 PM Eastern Standard Time
To: Lemuel Srolovic
Subject: Re: Monday meeting

Hi, Lem,
Yes I'll be able to put together some top lines for you so you'll get a sense of what we're planning to share. Should be in a day or two. Thanks.

Lee Wasserman
Rockefeller Family Fund

On Feb 17, 2015, at 2:17 PM, Lemuel Srolovic <Lemuel.Srolovic@ag.ny.gov> wrote:

Lee – I believe you're out this week, and if so I apologize. Is there a way I could get a bit of heads up on the kind of information planned to be presented at this meeting so we can come prepared? Thanks, Lem

From: Lee Wasserman [mailto:lwasserman@rffund.org]
Sent: Tuesday, February 17, 2015 2:08 PM
To: Lemuel Srolovic
Cc: Steven Glassman
Subject: Monday meeting

Lem, we're looking forward to our meeting on Monday at 1 pm. We believe the information presented will squarely address Steve's question at our last meeting. I hope Steve will be able to join us to hear about the details. I also hope the investigator who was at the first meeting can be there (afraid I didn't get his name).

Thanks for your assistance with this.

Lee Wasserman
Director
475 Riverside Drive, Suite 900 | New York, NY 10115
[REDACTED]
<image001.png>

[REDACTED]

From: John Oleske
Sent: Wednesday, February 18, 2015 5:45 PM
To: Lemuel Srolovic; Steven Glassman
Cc: Michael J. Myers; Alvin Bragg
Subject: Re: Monday meeting

I can do a 1pm meeting start on Monday but not much later.

Message sent from a Blackberry device

From: Lemuel Srolovic
Sent: Tuesday, February 17, 2015 04:18 PM
To: Steven Glassman; John Oleske
Cc: Michael J. Myers; Alvin Bragg
Subject: Re: Monday meeting

Not a lot but believe that it's info re ExxonMobil's activity re climate denial. I'll try to get further clarification.

Message sent from a Blackberry device

From: Steven Glassman
Sent: Tuesday, February 17, 2015 04:03 PM Eastern Standard Time
To: Lemuel Srolovic; John Oleske
Cc: Michael J. Myers; Alvin Bragg
Subject: RE: Monday meeting

I'm available then. Is there any more information on what Lee has in mind?

From: Lemuel Srolovic
Sent: Tuesday, February 17, 2015 3:15 PM
To: Steven Glassman; John Oleske
Cc: Michael J. Myers; Alvin Bragg
Subject: FW: Monday meeting

Steven and John – Lee requested this follow-on meeting for 2/23 at 1:00. I presume that we'll host in EPB, but haven't worked out logistical details. Wanted to make sure you have date and time. Lem

From: Lee Wasserman [<mailto:lwasserman@rffund.org>]
Sent: Tuesday, February 17, 2015 2:08 PM
To: Lemuel Srolovic
Cc: Steven Glassman
Subject: Monday meeting

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Thanks for your assistance with this.

Lee Wasserman
Director

475 Riverside Drive, Suite 900 | New York, NY 10115



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[REDACTED]

From: Lemuel Srolovic
Sent: Wednesday, February 18, 2015 6:44 PM
To: John Oleske
Subject: Re: Monday meeting

Got it. Thanks, John.

Message sent from a Blackberry device

From: John Oleske
Sent: Wednesday, February 18, 2015 05:44 PM Eastern Standard Time
To: Lemuel Srolovic; Steven Glassman
Cc: Michael J. Myers; Alvin Bragg
Subject: Re: Monday meeting

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Cc: Michael J. Myers; Alvin Bragg
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To: Lemuel Srolovic
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Subject: Monday meeting

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Thanks for your assistance with this.

Lee Wasserman
Director
475 Riverside Drive, Suite 900 | New York, NY 10115



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[REDACTED]

From: Lemuel Srolovic
Sent: Wednesday, February 18, 2015 8:54 PM
To: 'blongstreth@mindspring.com'
Subject: Re: Climate Public Trust, Divestment, and SCC Litigation Group Update

Thanks. I'll plan on calling you as close to 2 as possible.

Message sent from a Blackberry device

From: Bevis Longstreth [mailto:blongstreth@mindspring.com]
Sent: Wednesday, February 18, 2015 10:54 AM Eastern Standard Time
To: Lemuel Srolovic
Subject: RE: Climate Public Trust, Divestment, and SCC Litigation Group Update

Tomorrow 2-5pm works for me. I am at [REDACTED] Look forward to speaking.

From: Lemuel Srolovic [mailto:Lemuel.Srolovic@ag.ny.gov]
Sent: Wednesday, February 18, 2015 8:58 AM
To: 'blongstreth@mindspring.com'
Subject: Re: Climate Public Trust, Divestment, and SCC Litigation Group Update

Bevis -- thank you for this update. Do you have time tomorrow or Friday to talk? I'd like to update you on our developments and a couple of potential asks. I have a gap tomorrow 2-5 and Friday 1-4. If this week's not good, next week works too. Regards, Lem

Message sent from a Blackberry device

From: Bevis Longstreth [mailto:blongstreth@mindspring.com]
Sent: Monday, February 16, 2015 01:52 PM Eastern Standard Time
To: Lemuel Srolovic
Subject: FW: Climate Public Trust, Divestment, and SCC Litigation Group Update

Here's update on the case in UK I told you about a while ago. Any movement in the AG office? The time is right to put out an interpretative release. Bevis

From: Julian Poulter [mailto:julian.poulter@aodproject.net]
Sent: Monday, February 16, 2015 11:54 AM
To: David Weiskopf; Bevis Longstreth
Cc: Ted White; Daniel Lashof; Trip Van Noppen; Rudy E. Verner; Doniger, David; David Nicholas; Vic Sher; Robert Massie; Jamie Court
Subject: RE: Climate Public Trust, Divestment, and SCC Litigation Group Update

FYI attached from Friday's Wall Street Journal and today's RI. It was always going to be difficult to keep the story under wraps!
Regards
Julian

From: Lee Wasserman [mailto:lwasserman@rffund.org]

Sent: Thursday, February 19, 2015 9:43 AM

To: Lemuel Srolovic; Steven Glassman

FOIL160286_000040

FOIL G000617-091423 000046

Subject: meeting

Lem & Steve,

The guys you'll meet, John Passacantando & Kert Davies, have spent well over a decade tracking deceptive or misleading statements by major oil and coal companies and certain utilities. Based on a combination of public and private information, they have identified the creation of grasstops corporate coalitions created for the sole purpose of minimizing the risks associated with climate change. They also are aware of money flows from corporate actors to these coalitions and individual scientists who have made it their career to cast doubt on climate science.

While most of the documents and coalitions formed happened a number of years ago, the material they have demonstrate a long-term and collaborative pattern. Moreover, John & Kert are about to break news—watch your paper in the next couple of days— about one scientist, Willie Soon, who has been taking money for the past several years from one of these companies to sow confusion on the science.

As noted in a Martin Act case I know you're familiar with, *Cadpaz Sponsors*, 69 Misc. 2d at 419, the AG has the authority to go after "all deceitful practices contrary to the plain rules of common honesty" or "acts tending to deceive or mislead the public."

As I understand the law, if the AG were to solely pursue a concealment or a failure to disclose case, then he would have to prove materiality. We believe, however, that there has been a general pattern of deception, which does not require a materiality finding (although I think the AG could readily prove that finding as well).

The energy companies failed to disclose their scientific analyses on climate, certainly, but the other point is that they are actively misleading the capital markets by pumping out misinformation about the reality and consequences of climate change. If the companies admitted what they know about climate science, it would almost certainly hasten greater regulatory changes to restrict the extraction of fossil fuels. In our opinion, [REDACTED]

[REDACTED]. Even if greater regulation were not to occur, climate change will have meaningful financial consequences, both positive and negative, e.g. inundation of infrastructure and opening of the Arctic and other previously inaccessible places for drilling.

Lee

PS for the security guards, please note that Kert Davies' actual name is Roland Davies—Kert is a nickname.

Lee Wasserman
Director
475 Riverside Drive, Suite 900 | New York, NY 10115
212.812.4252



From: Lemuel Srolovic <Lemuel.Srolovic@ag.ny.gov>
Sent: Thursday, February 19, 2015 10:21 AM
To: John Oleske <John.Oleske@ag.ny.gov>, Michael J. Myers <Michael.Myers@ag.ny.gov>
Cc: Alvin Bragg <Alvin.Bragg@ag.ny.gov>, Steven Glassman <Steven.Glassman@ag.ny.gov>
Subject: FW: meeting

Here's the preview to Monday's fossil fuel and climate change meeting.

From: Lee Wasserman [mailto:lwasserman@rffund.org]
Sent: Thursday, February 19, 2015 9:43 AM
To: Lemuel Srolovic; Steven Glassman
Subject: meeting

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Even if greater regulation were not to occur, climate change will have meaningful financial consequences, both positive and negative, e.g. inundation of infrastructure and opening of the Arctic and other previously inaccessible places for drilling.

Lee

PS for the security guards, please note that Kert Davies' actual name is Roland Davies—Kert is a nickname.

Lee Wasserman

Director

475 Riverside Drive, Suite 900 | New York, NY 10115

212.812.4252



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From: Lemuel Srolovic <Lemuel.Srolovic@ag.ny.gov>
Sent: Thursday, February 19, 2015 7:04 PM
To: Joan Smith <Joan.Smith@ag.ny.gov>
Subject: FW: meeting
Attach: image001.png

Another add from outside for Monday climate change meeting.

From: Lee Wasserman [mailto:lwasserman@rffund.org]
Sent: Thursday, February 19, 2015 6:57 PM
To: Lemuel Srolovic
Subject: Re: meeting

Lem, Larry Shapiro will also be joining us. Thanks.

Lee Wasserman
Rockefeller Family Fund

On Feb 19, 2015, at 8:30 AM, Lemuel Srolovic <Lemuel.Srolovic@ag.ny.gov> wrote:

Lee -- for logistics, will it be you, John and Kert (nickname) from outside?

From: Lee Wasserman [mailto:lwasserman@rffund.org]
Sent: Thursday, February 19, 2015 9:43 AM
To: Lemuel Srolovic; Steven Glassman
Subject: meeting

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FOIL160286_000021

From: spam@oag.state.ny.us
Sent: Friday, February 20, 2015 1:01 PM
To: Lemuel Srolovic
Subject: Quarantine Summary Email February 20, 2015

Quarantine summary email for lemuel.srolovic@ag.ny.gov

Displaying up to 250 messages.

Inbound Email Quarantine

Sender	Subject	Date	Size	Score	Reason
emsg-38e9-5b63-replie...	Join us to refresh your writi...	Feb 19	6K	0	RPA
lshapiro@rffund.org	FW: Bundling up in Paducah - ...	Feb 19	9K	320	UCE/spam
LDI@iqmailer.net	=?utf-8?Q?Cato Conference In ...	Feb 19	13K	510	UCE/spam
bounces+58369-5b97-le...	Last Chance, ESI Strategies f...	Feb 20	109K	0	RPA
A7LVtXkBYsrWozTyBxRDH...	MMFS Weekly e-News - All School	Feb 20	54K	785	UCE/spam

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From: Lemuel Srolovic <Lemuel.Srolovic@ag.ny.gov>
Sent: Monday, February 23, 2015 10:22 AM
To: Michael J. Myers <Michael.Myers@ag.ny.gov>; John Oleske <John.Oleske@ag.ny.gov>; Mauricio Roma <Mauricio.Roma@ag.ny.gov>; Jodi Feld <Jodi.Feld@ag.ny.gov>; Guy Ben-Ishai <Guy.Ben-Ishai@ag.ny.gov>
Subject: FW: meeting

Latest development (NY Times story link at bottom) in climate change project of climate researchers coming in at 1 this afternoon from this group:

<http://www.climateinvestigations.org/>

Link below also has recent documents:

<http://www.nature.com/news/documents-spur-investigation-of-climate-scientists-1.16972>

From: Lee Wasserman [mailto:lwasserman@rffund.org]
Sent: Saturday, February 21, 2015 4:02 PM
To: Lemuel Srolovic; Steven Glassman
Subject: Re: meeting

Lem & Steve,

This just went up on the Times website and involves the funding by fossil interests of faux scientists, in this case Willie Soon.

Kert and John, who you'll see on Monday, were responsible for the research that led to this story.

<http://www.nytimes.com/2015/02/22/us/nyt-wants-to-corporate-cash-for-climate-change-researcher-Wei-Hock-Soon.html?hp&action=click>ype=Homepage&module=first-column-region®ion=top-news&WT.nav=top-news&r=0>

Thanks.

Lee Wasserman
Director
475 Riverside Drive, Suite 900 | New York, NY 10115
212.812.4252

From: Lemuel Srolovic <Lemuel.Srolovic@ag.ny.gov>
Date: Thursday, February 19, 2015 at 10:19 AM
To: Lee Wasserman <lwasserman@rffund.org>, Steven Glassman <Steven.Glassman@ag.ny.gov>
Subject: RE: meeting

Lee, thanks much. This is helpful. Lem

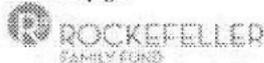
From: Lee Wasserman [mailto:lwasserman@rffund.org]
Sent: Thursday, February 19, 2015 9:43 AM
To: Lemuel Srolovic; Steven Glassman
Subject: meeting

From: Lee Wasserman <lwasserman@rffund.org>
Sent: Monday, February 23, 2015 10:32 AM
To: Lemuel Srolovic <Lemuel.Srolovic@ag.ny.gov>
Subject: final attendee list

Matt Kasper
Larry Shapiro
John Passacantando
Roland Davies
Lee Wasserman

Thanks.

Lee Wasserman
Director
475 Riverside Drive, Suite 900 | New York, NY 10115
212.812.4252



OBTAINED BY GOVERNMENT ACCOUNTABILITY & OVERSIGHT

From: Lemuel Srolovic <Lemuel.Srolovic@ag.ny.gov>
Sent: Monday, February 23, 2015 11:08 AM
To: Alan Belenz <Alan.Belenz@ag.ny.gov>
Subject: RE: meeting

Ok. Good.

From: Alan Belenz
Sent: Monday, February 23, 2015 10:43 AM
To: Lemuel Srolovic
Subject: RE: meeting

Lem. I plan on sitting in on this call. Alan

From: Mauricio Roma
Sent: Monday, February 23, 2015 10:30 AM
To: Alan Belenz
Subject: FW: meeting

From: Lemuel Srolovic
Sent: Monday, February 23, 2015 10:22 AM
To: Michael J. Myers; John Oleske; Mauricio Roma; Jodi Feld; Guy Ben-Ishai
Subject: FW: meeting

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From: Lemuel Srolovic <Lemuel.Srolovic@ag.ny.gov>
Sent: Monday, February 23, 2015 11:09 AM
To: Joan Smith <Joan.Smith@ag.ny.gov>
Subject: FW: final attendee list

Here's the final attendance list for today's meeting at 1 pm in our conference room.

From: Lee Wasserman [mailto:lwasserman@rffund.org]
Sent: Monday, February 23, 2015 10:32 AM
To: Lemuel Srolovic
Subject: final attendee list

Matt Kasper
Larry Shapiro
John Passacantando
Roland Davies
Lee Wasserman

Thanks.

Lee Wasserman
Director
475 Riverside Drive, Suite 900 | New York, NY 10115
212.812.4472



OBTAINED BY GOVERNMENT ACCOUNTABILITY & OVERSIGHT

[REDACTED]

From: Micah Lasher
Sent: Friday, March 13, 2015 4:20 PM
To: Alvin Bragg; John Oleske; Steven Glassman; Lemuel Srolovic
Subject: FW: legal memo
Attachments: Legal memo DB 3-8-15.docx

[REDACTED]

From: Lee Wasserman [mailto:lwasserman@rffund.org]
Sent: Friday, March 13, 2015 4:16 PM
To: Micah Lasher
Subject: legal memo

Memo we discussed.

Lee Wasserman
Director
[475 Riverside Drive, Suite 900 | New York, NY 10115](#)



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Bases for a Martin Act Investigation of Energy Companies

Summary

The Office of the New York Attorney General (“NYAG”) should investigate whether leading energy companies are conducting a scam to prop up their share prices by minimizing the risk that climate change poses to their business models. That risk is simple: energy company valuations are driven by “proven reserves” of oil, gas, and coal. If the reserves cannot be used – because of regulation or an ecological disaster, two very real possibilities – energy stocks must fall. Energy companies prop up their current high valuations by disseminating misinformation about climate change and valuing reserves as if they had no chance of being stranded underground.

Under the Martin Act, this pattern of behavior may well constitute a scheme to defraud investors, misleading them into thinking that “proven reserves” are certain to be sold eventually. The NYAG should use the extraordinary provisions of the Martin Act to conduct a rifle-shot inquiry that will validate whether or not the scheme exists and is actionable.

The Martin Act

The first two paragraphs of the Martin Act (Section 352.1-2 of the NY General Business Law, Article 23-A) set out the NYAG’s power to investigate the energy companies and give it the tools to do so efficiently. Obviously, the Martin Act gives the NYAG a mandate to investigate deceptions in the security markets such as the conduct outlined above. It also specifically mentions energy investments, giving the NYAG jurisdiction over “stocks . . . including oil and mineral deeds or leases and any interest therein . . .”

The NYAG has extremely broad discretion – it may investigate “[w]hen it shall appear to the [NYAG], either upon complaint or otherwise [that there is a scheme to defraud] . . . or [the NYAG] believes it to be in the public interest that an investigation be made.” Our presentation to you constitutes an actionable complaint, and clearly it is in the public interest for the NYAG to look into this matter.

The Martin Act gives the NYAG subpoena power (Section 352.2), but it also allows the NYAG to issue interrogatories and demands for specific data: “[The NYAG] may in his discretion either require or permit [a corporation under

investigation] to file with him a statement under oath or otherwise as to all the facts and circumstances concerning the subject matter which he believes it is to the public interest to investigate, and for that purpose may prescribe forms upon which such statements shall be made. The attorney-general may also require such other data and information as he may deem relevant and make such special and independent investigations as he may deem necessary in connection with the matter.” (Section 352.1)

Companies being investigated by the NYAG have no choice but to comply. As long as the NYAG’s Martin Act discovery requests relate to the investigation (defined by the NYAG), have some factual basis and precede the filing of a complaint, motions to quash are futile. Discovery recipients rarely litigate the point, but in one 2009 case a New York judge quoted with approval an earlier case that stated “[A]ll that the Attorney General need show in the face of a motion to quash is his authority, the relevance of the items sought, and some factual basis for his investigation.” People of the State of New York v. Thain, (Sup. Ct. N.Y. County, March 18, 2009) at 3. <http://online.wsj.com/public/resources/documents/merrillruling20090318.pdf>

Martin Act investigations can also be completely confidential, so if a case fails to materialize the inquiry can be abandoned without publicity. Again, the Thain court quoted an earlier holding that the Martin Act gives “authority in the attorney-general to direct whether the inquiry in its entirety be secret or public.” Id., at 6.

The Scheme to Overvalue “Proven Reserves”

The scheme is simple: the energy companies know that climate change is real and that “proven reserves” must be discounted to reflect the risk of stranding. Publicly, however, they minimize the risk of climate change and deny that stranding is even possible. They do so to prop up their share prices, which are driven in large part by the amount of “proven reserves.”

Parts of the scheme are already public. We know that energy companies accept climate change as real on an operational level, as is shown by their plans to drill under the polar ice cap once it is substantially reduced or completely melted. At the same time, we know that publicly they take the position that there is zero risk of stranded reserves – that is, that there is no chance that climate change will result in less carbon being burned. We also see them paying climate change deniers such as Dr. Willie Soon to spread doubts about the impact of burning reserves.

These facts alone are enough to warrant investigation: why should the oil companies believe one set of facts privately and promote another publicly? Why do they operate under the assumption that the climate is changing but mark their reserves as if it is not? Why do they pay proxies to promote views they understand to be false? What impact does this have on investors?

The energy companies have yet to be investigated on these key questions. The facts that are public today come from FOIA requests and investigative journalists. Focused discovery of the type outlined below will probably reveal the true scope of the scheme, showing internal knowledge of the reality of climate change, pressure to keep this knowledge out of the valuation of reserves because of the impact that would have on share price, and a consciously false public relations campaign. These are all the ingredients of a classic Martin Act fraud: a scheme to use false pretenses to prop up share prices.

Materiality

Depending on how the NYAG decides to proceed after completing its investigation, materiality may or may not be part of its case. Until the NYAG actually decides to sue, however, it is not an issue.

Martin Act cases based solely on omissions or misstatements must show materiality – that is, in a nutshell, that the omitted or misstated facts would have mattered to the average investor. That standard would be met by systematic mismarking of proven reserves.

If, however, the NYAG elects to proceed on the theory that the energy companies are engaged in a scheme to fraudulently prop up their stock prices by mismarking their books and disseminating misinformation, materiality -- while it would clearly be present -- would not necessarily have to be an element of the case. The Martin Act makes any such “scheme to defraud” illegal.

Relief

If the NYAG establishes a scheme to defraud by the energy companies, it should bring an action to enjoin it under Section 353. By publicizing the facts underlying the scheme and demanding that it cease, the NYAG will discharge its duty and render a lasting service to the people of New York (and the rest of the world). There is no need to pursue restitution unless the NYAG chooses to do so.

Streamlined Discovery

The NYAG is in a position to use unique Martin Act discovery tools to quickly determine whether it has a case or not, without getting buried in energy company documents. Using interrogatories, the NYAG could ask for:

- Identities of all outside spokespeople retained to address climate change
- A list of all payments to outside entities for studies of climate change or advocacy on climate change
- An explanation of how stranding risk is incorporated in the valuation of “proven reserves”

- Descriptions of all capital or operational expenditures that are based on projected changes in sea levels, polar ice coverage, or global temperatures

In addition to the foregoing, a subpoena for (1) copies of all internal studies of climate change (including sea level rise, changes to ice caps and extreme weather events), (2) any memoranda on climate change supplied to Board members, and (3) organizational charts or other information sufficient to show who at the company analyzes or projects climate change would round out the picture without being burdensome.

The responses to this discovery would be enough to let the NYAG know whether it has a likely case or not, and would help focus subsequent email discovery.

OBTAINED BY GOVERNMENT ACCOUNTABILITY & OVERSIGHT

[REDACTED]

From: Micah Lasher
Sent: Wednesday, March 18, 2015 6:04 PM
To: Steven Glassman
Cc: Alvin Bragg; Lemuel Srolovic; Janet Sabel
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Lee Wasserman

Director

475 Riverside Drive, Suite 900 | New York, NY 10115



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<Legal memo DB 3-8-15.docx>

[REDACTED]

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From: Andrew Gershon
Sent: Thursday, March 19, 2015 10:10 AM
To: Lemuel Srolovic
Subject: RE: David Brown

I haven't spoken to David recently, but my brother, who lives in Boston and was his college roommate told me that he is working for a non-profit, so that is all consistent with whatever is going on as described below (can't figure out from the chain exactly what that is or how he fits into it). I'm friends with him and happy to reach out if that would be useful and someone would clue me in.

Andrew J. Gershon
Assistant Attorney General
Section Chief, Affirmative Litigation
Environmental Protection Bureau
New York State Department of Law
120 Broadway
New York, NY 10271

[REDACTED]
Andrew.Gershon@ag.ny.gov

This address information above does not constitute a subscription or signature within the meaning of CPLR Rule 2104.

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Too important not to get this right before proceeding, as you rightly made clear.

Mike Gerrard is abroad next week; perhaps we can talk soon thereafter?

Best, Lee

Lee Wasserman
Rockefeller Family Fund

On Mar 14, 2015, at 12:32 AM, Micah Lasher <Michah.Lasher@ag.ny.gov> wrote:

This is helpful.

After our call I gathered our team and pressed them a bit on their views. I think there's a mix of legitimate skepticism and insufficient exploration. I asked everyone to go back to the drawing board first thing Monday so we can have a more fully informed call at the end of the week.

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Talk next week.

MCL

On Mar 13, 2015, at 4:16 PM, Lee Wasserman <lwasserman@rffund.org> wrote:

Memo we discussed.

Lee Wasserman
Director
475 Riverside Drive, Suite 900 | New York, NY 10115

<64D1D2E8-811D-40B8-85E0-93FF7C3B8280[47].png>

<Legal memo DB 3-8-15.docx>

OBTAINED BY GOVERNMENT ACCOUNTABILITY & OVERSIGHT

[REDACTED]

From: Lemuel Srolovic
Sent: Thursday, March 19, 2015 10:14 AM
To: Steven Glassman
Cc: Alvin Bragg
Subject: Fw: David Brown

Here's report from my manager who knows David.

Happy to have Andy play a role here if helpful, but doubt necessary.

Message sent from a Blackberry device

From: Andrew Gershon
Sent: Thursday, March 19, 2015 10:10 AM Eastern Standard Time
To: Lemuel Srolovic
Subject: RE: David Brown

I haven't spoken to David recently, but my brother, who lives in Boston and was his college roommate told me that he is working for a non-profit, so that is all consistent with whatever is going on as described below (can't figure out from the chain exactly what that is or how he fits into it). I'm friends with him and happy to reach out if that would be useful and someone would clue me in.

Andrew J. Gershon
Assistant Attorney General
Section Chief, Affirmative Litigation
Environmental Protection Bureau
New York State Department of Law
120 Broadway
New York, NY 10271

[REDACTED]
Andrew.Gershon@ag.ny.gov

This address information above does not constitute a subscription or signature within the meaning of CPLR Rule 2104.

From: Lemuel Srolovic
Sent: Wednesday, March 18, 2015 10:31 PM
To: Andrew Gershon
Subject: Fw: David Brown

See below. Know current status of David Brown?

Message sent from a Blackberry device

From: Lemuel Srolovic
Sent: Wednesday, March 18, 2015 10:29 PM Eastern Standard Time
To: Steven Glassman

Subject: Re: legal memo

I don't, but one of my managers knows him from law school, I believe.

I'll check to see if he knows.

Message sent from a Blackberry device

From: Steven Glassman
Sent: Wednesday, March 18, 2015 10:27 PM Eastern Standard Time
To: Lemuel Srolovic
Subject: Re: legal memo

Yes, under Spitzer. He then became head of the NY Dormitory Authority. Do you know what he's been up to since then, or who he's working for now?

Message sent from a Blackberry device

From: Lemuel Srolovic
Sent: Wednesday, March 18, 2015 10:23 PM
To: Steven Glassman
Subject: Re: legal memo

Steve -- is the David Brown here the one who formerly was head of IPP?

Message sent from a Blackberry device

From: Steven Glassman
Sent: Wednesday, March 18, 2015 06:08 PM Eastern Standard Time
To: Micah Lasher
Cc: Alvin Bragg; Lemuel Srolovic; Janet Sabel
Subject: RE: legal memo

Will do. Thanks.

From: Micah Lasher
Sent: Wednesday, March 18, 2015 6:04 PM
To: Steven Glassman
Cc: Alvin Bragg; Lemuel Srolovic; Janet Sabel
Subject: FW: legal memo

Steve – see below.

I think it would be helpful if you could open a direct line of communication with Brown (outside of some more formal, one-time conference call). Maybe he has an angle on this that we're not thinking of, or maybe he can come to see that he's wrong. Either way, it will help us reach resolution on this.

From: Lee Wasserman [<mailto:lwasserman@rffund.org>]
Sent: Wednesday, March 18, 2015 5:53 PM
To: Micah Lasher
Subject: Re: legal memo

Great idea to connect David with folks there. He is actually working for a not-for-profit in Boston. Here's his email and phone:

David Brown <daviddbrowniv@gmail.com>

Lee Wasserman

Director

475 Riverside Drive, Suite 900 | New York, NY 10115



From: Micah Lasher <Michah.Lasher@ag.ny.gov>
Date: Wednesday, March 18, 2015 at 5:43 PM
To: Lee Wasserman <lwasserman@rffund.org>
Subject: RE: legal memo

Lee,

What firm is David Brown at? I think there might be some value in our lawyers connecting directly with him.

Thanks,
Micah

From: Lee Wasserman [<mailto:lwasserman@rffund.org>]
Sent: Saturday, March 14, 2015 8:17 AM
To: Micah Lasher
Subject: Re: legal memo

Micah,
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Too important not to get this right before proceeding, as you rightly made clear.

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Rockefeller Family Fund

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Memo we discussed.

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<Legal memo DB 3-8-15.docx>

OBTAINED BY GOVERNMENT ACCOUNTABILITY & OVERSIGHT

[REDACTED]

From: Lemuel Srolovic
Sent: Thursday, March 19, 2015 11:02 AM
To: Steven Glassman; Andrew Gershon
Cc: Alvin Bragg
Subject: Re: David Brown

Andy -- Steven is going to call you re Brown.

Message sent from a Blackberry device

From: Lemuel Srolovic
Sent: Thursday, March 19, 2015 10:13 AM Eastern Standard Time
To: Steven Glassman
Cc: Alvin Bragg
Subject: Fw: David Brown

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Assistant Attorney General
Section Chief, Affirmative Litigation
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[REDACTED]
Andrew.Gershon@ag.ny.gov

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To: Micah Lasher
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David Brown <daviddbrowniv@gmail.com>
[REDACTED]

Lee Wasserman

Director

475 Riverside Drive, Suite 900 | New York, NY 10115
[REDACTED]



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<64D1D2E8-811D-40B8-85E0-93FF7C3B8280[47].png>

<Legal memo DB 3-8-15.docx>

Sheingold, Kathryn

From: David Brown <daviddbrowniv@gmail.com>
Sent: Friday, March 20, 2015 1:53 PM
To: Steven Glassman
Subject: It was great talking!

Here's the trailer for that movie:

<https://www.youtube.com/watch?v=j8ii9zGFDtc>

Please give my best to everyone and have a great weekend!

Best,

David

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From: [Steven Glassman](#)
To: "[David Brown](#)"
Subject: RE: It was great talking!
Date: Friday, March 20, 2015 2:39:48 PM

Thanks, David. Enjoyed talking with you as well.

Steven J Glassman
Senior Enforcement Counsel
Economic Justice Division
New York State Attorney General's Office
120 Broadway, New York, NY 10271
Tel: +1 212-416-6542
steven.glassman@ag.ny.gov

From: David Brown [mailto:daviddbrowniv@gmail.com]
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Please give my best to everyone and have a great weekend!

Best,

David

OBTAINED BY GOVERNMENT ACCOUNTABILITY & OVERSIGHT

Sheingold, Kathryn

From: David Brown <daviddbrowniv@gmail.com>
Sent: Friday, March 20, 2015 3:26 PM
To: Steven Glassman
Subject: Re: It was great talking!

Just saw this -- as you probably know, you guys used the Martin Act to go after shale drillers -- similar theory to what we were discussing (overstating value of gas wells)

<http://www.wsj.com/articles/SB10001424053111904070604576516744070866846>

best,

David

On Fri, Mar 20, 2015 at 2:39 PM, Steven Glassman <Steven.Glassman@ag.ny.gov> wrote:

Thanks, David. Enjoyed talking with you as well.

Steven J Glassman

Senior Enforcement Counsel

Economic Justice Division

New York State Attorney General's Office

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Tel: [+1 212-416-6542](tel:+12124166542)

steven.glassman@ag.ny.gov

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Best,

David

OBTAINED BY GOVERNMENT ACCOUNTABILITY & OVERSIGHT

Sheingold, Kathryn

From: Micah Lasher
Sent: Friday, March 20, 2015 5:04 PM
To: 'daviddbrowniv@gmail.com'; Lee Wasserman (lwasserman@rffund.org); Steven Glassman
Cc: Tasha L. Bartlett
Subject: Call on Monday?

Think it would be helpful for the four of us to talk and get on the same page. Tasha, can you help us find a time?

Thanks,
Micah

Micah C. Lasher
Chief of Staff
Office of the Attorney General of the State of New York
micah.lasher@ag.ny.gov
(212) 416-8040

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Sheingold, Kathryn

From: Lee Wasserman <lwasserman@rffund.org>
Sent: Friday, March 20, 2015 8:23 PM
To: Micah Lasher
Cc: daviddbrowniv@gmail.com; Steven Glassman; Tasha L. Bartlett
Subject: Re: Call on Monday?

I'd prefer as close to end of day as possible but will make anything work if that's not doable. Thanks.

Lee Wasserman
Rockefeller Family Fund

On Mar 20, 2015, at 5:04 PM, Micah Lasher <[Micah.Lasher@ag.ny.gov](mailto:micah.lasher@ag.ny.gov)> wrote:

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Office of the Attorney General of the State of New York
micah.lasher@ag.ny.gov
(212) 416-8040

OBTAINED BY GOVERNMENT ACCOUNTABILITY & OVERSIGHT

Sheingold, Kathryn

From: David Brown <daviddbrowniv@gmail.com>
Sent: Saturday, March 21, 2015 7:05 AM
To: Tasha L. Bartlett
Cc: Micah Lasher; Lee Wasserman (lwasserman@rffund.org); Steven Glassman
Subject: Re: Call on Monday?

The 2-3 slot works for me. Thanks!

Sent from my iPhone

On Mar 20, 2015, at 5:10 PM, "Tasha L. Bartlett" <Tasha.Bartlett@ag.ny.gov> wrote:

Sure.

Micah is available on Monday between 2-3pm and again at 4:15. Please let me know if these time slots can work with your schedule.

Thanks.

From: Micah Lasher
Sent: Friday, March 20, 2015 5:04 PM
To: 'daviddbrowniv@gmail.com'; Lee Wasserman (lwasserman@rffund.org); Steven Glassman
Cc: Tasha L. Bartlett
Subject: Call on Monday?

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Thanks,
Micah

Micah C. Lasher
Chief of Staff
Office of the Attorney General of the State of New York
micah.lasher@ag.ny.gov
(212) 416-8040

Sheingold, Kathryn

From: Tasha L. Bartlett
Sent: Monday, March 23, 2015 10:22 AM
To: 'daviddbrowniv@gmail.com' (daviddbrowniv@gmail.com); Lee Wasserman (lwasserman@rffund.org); Steven Glassman
Cc: Micah Lasher
Subject: Call this Afternoon

Gentlemen,

This call is being scheduled for 2pm this afternoon. You will receive an invite shortly with dial in details. Please contact with any issues or concerns.

Thanks.

Tasha Bartlett
Executive Office Manager and
Assistant to the Chief of Staff
NYS Office of the Attorney General
120 Broadway – 25th Floor
New York, NY 10271
212-416-6335
Tasha.Bartlett@ag.ny.gov

OBTAINED BY GOVERNMENT ACCOUNTABILITY & OVERSIGHT

From: [Bartlett, Tasha](#)
To: [Glassman, Steven](#); "daviddbrowniv@gmail.com" (daviddbrowniv@gmail.com); [Lee Wasserman](#) (lwasserman@rffund.org); Micah Lasher
Subject: Call with Micah/Lee/David/Steve
Start: Monday, March 23, 2015 2:00:00 PM
End: Monday, March 23, 2015 2:45:00 PM
Location: Micah's Office/Dial in: [REDACTED] #

OBTAINED BY GOVERNMENT ACCOUNTABILITY & OVERSIGHT

[REDACTED]

From: Micah Lasher
Sent: Wednesday, April 22, 2015 3:39 PM
To: Steven Glassman; Alvin Bragg; Janet Sabel; Lemuel Srolovic
Subject: FW: follow up
Attachments: NYAG 4-15-15F1(2).docx

From: Lee Wasserman [mailto:lwasserman@rffund.org]
Sent: Wednesday, April 22, 2015 3:36 PM
To: Micah Lasher
Subject: follow up

Dear Micah,
Thanks for your consideration of the issues we've been discussing. I had hoped to have sent the attached memo to the AG earlier. We hope you will have the opportunity to review the memo and share with him.
Sincerely,

Lee Wasserman
Director
475 Riverside Drive, Suite 900 | New York, NY 10115



OBTAINED BY GOVERNMENT ACCOUNTABILITY & OVERSIGHT

Martin Act Discovery Requests to Fossil Fuel Companies

The following memorandum sets out why the Office of the New York Attorney General (“NYAG”) should investigate whether oil and coal (“fossil fuel”) companies have engaged in a Martin Act scheme by spreading misinformation about climate change. The key conclusion is that the NYAG has a robust basis for doing so based on the public record, and that the chance of Martin Act subpoenas being quashed is minimal.

Background

Your office has already received an overview of the fossil fuel industry’s ongoing campaign to promote uncertainty around climate science. Highlights from that campaign include:

- The blueprint set out in the Global Climate Coalition (an oil industry front group) 1996 paper “Predicting Climate Change: A Primer,” which recognizes the scientific basis for the Greenhouse Effect but advises an industry strategy of emphasizing uncertainty;
- The American Petroleum Institute’s 1998 “Global Climate Science Communications Plan” to attack the climate science supporting international efforts to solve global warming;
- The Western Fuels Association’s “Green Earth Society,” which promoted the idea that carbon emissions are good for the planet as they will lead to a flourishing of plant life;
- The 2014 American Coalition for Clean Coal Electricity-funded study on the supposed benefits of carbon emissions for plant life; and
- An estimated \$29 million in grants and gifts from ExxonMobil and \$67 million from Koch Industries supporting climate change denial over the last 25 years.

The campaign of disinformation has been on the front page of *The New York Times*, which reported on February 21, 2015 that Dr. Wei-Hock Soon, a scientist at the Harvard-Smithsonian Center for Astrophysics who claims that changes in the sun explain climate change, received more than \$1.2 million from certain companies in the fossil fuel industry over the last decade without disclosure.

At the same time that they have pursued a communications strategy designed to promote doubt about climate change in the public domain, some fossil

fuel companies have begun to acknowledge it as a serious risk in their financial disclosures. See “When legally liable, companies don’t dispute global warming,” EE News, March 19, 2015, <http://www.eenews.net/greenwire/stories/1060015376> (copy attached). For example, Peabody Energy Corp., the world’s largest private-sector coal company, repeatedly questioned climate change science in its December 2014 comments on the EPA’s Clean Power Plan. In its 2014 10-K discussion of material risks, however, it simply stated that this science has “engendered concern about the impacts of human activity, especially fossil fuel combustion, on global climate issues” without mentioning that it is engaged in an effort to debunk climate science. Similarly, ExxonMobil – one of the companies that have funded Dr. Soon – issued a report in April of 2014 stating that it “takes the risk of climate change seriously, and continues to take meaningful steps to address the risk and ensure that our facilities, operations and investments are managed with this risk in mind.”

These are fine examples of corporate doublespeak -- saying one thing publicly and another in disclosure documents – designed to mislead investors as to the fossil fuel companies’ true positions on climate change. To get an accurate picture of that, investors would have to supplement their reading of official disclosure documents with an effort to ferret out EPA comments, secret payments to scientists like Dr. Soon, initiatives funneled through front organizations, etc.

Three Possible Martin Act Theories

While there is no need for the NYAG to settle on a particular theory of Martin Act liability before launching discovery, the undisputed and public facts set out above give at least three possible bases for an eventual enforcement action:

- (1) At the very least, the above inconsistent messaging suggests an ongoing effort to mislead investors as to the fossil fuel companies’ true position on climate change. Any deceptive practice relating to securities violates the Martin Act. Here we see fossil fuel issuers making incomplete and misleading disclosures on climate change – an issue that goes to the heart of their ongoing profitability -- describing it solemnly as a risk without disclosing that they spend corporate funds to attack its scientific underpinnings. Similarly, fossil fuel companies discount the risk of effective environmental regulation in public disclosures, without revealing that they are the key actors in the effort to prevent such regulation. Such misleading disclosures violate the Martin Act.
- (2) In addition, the fossil fuel companies would not be fighting climate change science if it did not impact their business models and therefore their share prices. As has been thoroughly reported, then-Exxon CEO Lee Raymond opined that worldwide regulatory regime to address climate change was a singular threat to the company. He thereafter committed Exxon to a multi-dimensional effort to confuse the public about climate science. See “Exxon’s 25 Year ‘Drop Dead’ Denial Campaign” in *Oil*

Change International, April 14, 2014,
<http://priceofoil.org/2014/04/14/exxons-25-year-drop-dead-denial-campaign/>. Spreading misinformation to prop up share prices is a Martin Act scheme.

- (3) Finally, the fossil fuel companies' stock prices are driven in large part by their reserves. These are at risk of being stranded if they cannot be used. The companies value them as if there is no risk of stranding. Their own internal analyses of climate change – consistent with their financial disclosure – may well show that this risk is very real and the reserves are therefore being overvalued. Mismarking critical assets is a Martin Act violation.

The NYAG's Martin Act Authority

As you said in a speech at New York Law School last year:

"... the Martin Act, which I hope you've heard of, empowers my office, and our Investor Protection Bureau in particular, to investigate pretty much any fraudulent or deceptive practice in financial dealings."

The first two paragraphs of the Martin Act (Section 352.1-2 of the NY General Business Law, Article 23-A) set out the NYAG's power to investigate such deceptive practices and give it the tools to do so efficiently. Obviously, the Martin Act gives the NYAG a mandate to investigate publicly traded securities such as fossil fuel stocks. It also specifically mentions energy investments, giving the NYAG jurisdiction over "stocks ... including oil and mineral deeds or leases and any interest therein ..."

The NYAG has extremely broad discretion – it may investigate "[w]hen it shall appear to the [NYAG], either upon complaint or otherwise [that there is a scheme to defraud] ... or [the NYAG] believes it to be in the public interest that an investigation be made." Our presentation to you constitutes an actionable complaint, and it is clearly in the public interest for the NYAG to look into this matter.

Martin Act Discovery

The Martin Act gives the NYAG subpoena power (Section 352.2), but it also allows the NYAG to issue interrogatories and demands for specific data: "[The NYAG] may in his discretion either require or permit [a corporation under investigation] to file with him a statement under oath or otherwise as to all the facts and circumstances concerning the subject matter which he believes it is to the public interest to investigate, and for that purpose may prescribe forms upon which such statements shall be made. The attorney-general may also require such other data and information as he may deem relevant and make such special and

independent investigations as he may deem necessary in connection with the matter.” (Section 352.1)

The NYAG is in a position to use these unique Martin Act discovery tools to quickly determine whether it has a case or not, without getting buried in energy company documents. Using interrogatories, the NYAG could ask for:

- Identities of all outside spokespeople who address climate change
- A list of all payments to outside entities for studies of climate change or advocacy on climate change
- An explanation of how stranding risk is incorporated in the valuation of “proven reserves”
- Descriptions of all capital or operational expenditures or expected expenditures that are based on projected changes in sea levels, polar ice coverage, or global temperatures

In addition to the foregoing, a subpoena could be issued for (1) copies of all internal studies of climate change (including sea level rise, changes to ice caps and extreme weather events), and memoranda on how climate change or any of these phenomena (whether or not attributed to climate change) presents financial or other risks and/or opportunities to the company (2) any memoranda or other documents on climate change or any of these phenomena supplied to Board members, and (3) organizational charts or other information sufficient to show who at the company analyzes or projects climate change or any of these phenomena. This information would round out the picture without being burdensome.

The responses to this discovery would be enough to let the NYAG know whether it has a likely case or not, and would help focus subsequent email discovery.

Motions to Quash

Your staff is concerned that the fossil fuel companies might succeed in motions to quash subpoenas aimed at their spreading misinformation about climate change. This fear is misplaced.

Motions to quash Martin Act subpoenas are rare and have never succeeded. A survey of reported decisions from the New York courts indicates that 17 decisions involving motions to quash subpoenas issued under the Martin Act have issued since the 1920s. In not a single case did a court quash a Martin Act subpoena issued by the New York Attorney General. Your staff was likewise unable to identify a single such precedent as of several weeks ago.

In one 2009 opinion a New York judge quoted with approval an earlier case that stated “[A]ll that the Attorney General need show in the face of a motion to

quash is his authority, the relevance of the items sought, and some factual basis for his investigation.” People of the State of New York v. Thain (Sup. Ct. N.Y. County, March 18, 2009) at 3. The Thain court noted that the attorney general enjoys a presumption that his investigatory powers have been invoked “in good faith” and that he therefore is “not required to demonstrate probable cause or disclose the details of the pending investigation.” Id.

<http://online.wsj.com/public/resources/documents/merrillruling20090318.pdf>.

As long as the NYAG’s Martin Act discovery requests relate to the investigation (defined by the NYAG), have some factual basis and precede the filing of a complaint, motions to quash are futile. The evidence set out in this memorandum provides more than sufficient factual basis for the NYAG to win a motion to quash.

Your staff has cited the 2014 *Airbnb* decision as an example of a successful motion to quash. See *Airbnb, Inc. v. Eric T. Schneiderman*, Attorney General of the State of New York (Sup. Ct. Albany County, May 13, 2014). <https://www.nycourts.gov/press/PDFs/AirbnbDecision.pdf>. That decision, however, did not involve a Martin Act subpoena, but rather an inquiry under the Executive Law into possible violations of the New York Multiple Dwelling Law. The court in *Airbnb* held that there was adequate factual basis for the subpoena, but that it was overbroad in that it sought information clearly beyond the scope of the Multiple Dwelling Law (which applies to dwellings in cities with populations of 325,000 or more and recognizes that stays of 30 days or more constitute “permanent residence.”). There are no similar limiting provisions for the Martin Act, and the NYAG can easily craft targeted discovery (as discussed above) that will not be burdensome for the fossil fuel companies.

Your office can reduce the chance of motions to quash ever being filed by sending out initial discovery requests without alerting the press. Martin Act investigations can be completely confidential, so if a case fails to materialize the inquiry can be abandoned without publicity. Again, the Thain court quoted an earlier holding that the Martin Act gives “authority in the attorney-general to direct whether the inquiry in its entirety be secret or public.” Id., at 6. Initial confidentiality will put the fossil fuel companies in the position of breaking the story themselves if they choose to fight discovery. As public companies, they may well opt not to be the ones to publicize the inquiry.

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Your staff has also raised concerns about (1) what showing of materiality would be required in an enforcement action, and (2) what relief the NYAG would seek in such an action. We address each of these below.

Materiality

Depending on how the NYAG decides to proceed after completing its investigation, materiality may or may not be part of its case. Until the NYAG actually decides to sue, however, it is not an issue.

Martin Act cases based solely on omissions or misstatements must show materiality – that is, in a nutshell, that the omitted or misstated facts would have mattered to the average investor. That standard would certainly be met by secret dissemination of misinformation concerning the fossil fuel companies’ risks (and the future of our planet).

If, however, the NYAG elects to proceed on the theory that the energy companies are engaged in a scheme to fraudulently prop up their stock prices by disseminating misinformation, materiality would not necessarily have to be an element of the case. The Martin Act makes any such “scheme to defraud” illegal.

Relief

If the NYAG establishes a scheme to defraud by the energy companies, it should bring an action to enjoin it under Section 353. By publicizing the facts underlying the scheme and demanding that it cease, the NYAG will discharge its duty and render a lasting service to the people of New York (and the rest of the world). Once the facts are known, the NYAG can decide to pursue restitution if justified.

Conclusion

The NYAG has a unique opportunity to protect New York’s investing public and while so doing change the climate debate in the U.S. and beyond. It should pursue this matter with the full investigatory powers provided the NYAG under the Martin Act.

GREENWIRE

COAL:

When legally liable, companies don't dispute global warming

Corbin Hiar and Manuel Quiñones, E&E reporters

Published: Thursday, March 19, 2015

U.S. coal companies that are publicly skeptical of man-made climate change acknowledge in mandatory financial disclosures the widely accepted scientific link between fossil fuel emissions and a warming planet, a *Greenwire* analysis has found.

Sustainable investment advocates warn that such doublespeak undermines the industry's credibility with shareholders. And scientific integrity experts are critical of the coal companies' climate communication strategy, which they argue is detrimental to the long-term health and security of the American people. The highest profile practitioner of targeted climate messaging is Peabody Energy Corp., the world's largest private-sector coal company. Peabody produced more than 180 million short tons of coal -- or nearly 19 percent of national output -- in 2013, according to U.S. Energy Information Administration data. Peabody repeatedly questioned climate science in its December 2014 comments on U.S. EPA's Clean Power Plan, a regulatory effort meant to force states to cut emissions of planet-warming carbon dioxide released from existing coal-fired power plants.

"The climate science upon which EPA relies cannot sustain this dramatic step to remake a significant sector of the American economy," the company said in a 145-page attack on the proposed emission limits.

It then referenced the work of the Nobel Prize-winning Intergovernmental Panel on Climate Change (IPCC), which EPA used to declare CO₂ a pollutant.

"Even if the IPCC report were taken at face value (and it is deeply flawed and should not be accepted at face value), the IPCC has steadily downgraded its projections since 2007. It now predicts a slow and moderate warming trend that the IPCC's own data and own scientists have indicated will be *net beneficial* to the world," Peabody wrote, and then noted CO₂ promotes plant growth and reduces heating costs and cold-related health problems.

Existing climate models are "fatally flawed," the company went on to assert, citing a divergence between predicted atmospheric warming and actual warming that is largely explained by increasing deep ocean temperatures.

"These concerns cannot be brushed aside," Peabody said.

But in the required annual performance summary the coal giant filed with the U.S. Securities and Exchange Commission last month, the company appeared to do just that.

In a section of Peabody's 2014 10-K **report** that discusses risks that "could materially and adversely affect our business," the company acknowledges that IPCC reports have "engendered concern about the impacts of human activity, especially fossil fuel combustion, on global climate issues." No mention was made of the allegedly unreliable science that underpinned those reports from the IPCC. The company then said "increasing government attention is being paid to global climate issues and to emissions of what are commonly referred to as greenhouse gases, including emissions of carbon dioxide from coal combustion by power plants." It went on to downplay the impact any potential climate laws, regulations or other actions could have on its bottom line.

"Outside of SEC filings, companies might feel freer to lobby," said Betty Moy Huber, an expert in environmental law and corporate compliance issues at Davis Polk & Wardwell LLP. "Within an SEC filing, there is a whole different set of liability standards, and they would be ill-advised to say something that cannot be legally backed up."

Publicly traded companies tend to be candid in their 10-K filings because not doing so could result in litigation from investors or regulatory scrutiny if those annual disclosure reports are found to be misleading.

'Reputation risk'

But disclosure advocates express concern when a company's SEC filing appears to differ from other communications.

"That information does not square," said Jim Coburn, a manager at the sustainable investment group Ceres, responding to Peabody's statements. Along with research group CookESG, Ceres created the SEC climate disclosure search **tool** that *Greenwire* used to comb through 10-Ks.

"That's a real problem for the company because the company is misleading investors in its SEC filings," Coburn said. For investors "to understand the company's true stance on climate issues," they would have to seek out its EPA comments, as well as weigh the significance of its trade group memberships and political contributions, he said.

The difference between the straightforward disclosures Peabody made to the SEC and the statements included in its EPA comments poses a "reputation risk problem," Coburn added. Investors may no longer believe what the company says about other threats to its business since -- in the case of climate change, at least -- it prefers to pretend that some risks don't exist, he suggested.

This type of inconsistent messaging extends beyond the climate issue, according to industry critics.

When mines have closed, for instance, some coal companies have loudly blamed the layoffs on Obama administration regulations. At the same time, however, they have offered a more nuanced explanation of their woes to investors, which are mostly the result of competition from abundant natural gas and the spread of

renewables.

Peabody pushed back against any suggestions that the company is espousing contradictory views.

"Peabody's position on carbon and climate and on the importance of continuing to develop clean coal technologies to address the issues has been consistent over time," the company said in a statement, which was limited by what it can legally say about its SEC disclosures.

Widespread practice

Alpha Natural Resources Inc. -- which produced nearly 9 percent of U.S. coal in 2013, the market's fourth-highest share -- also clearly explained the link between global warming and fossil fuel consumption in the regulatory and legal risks section of its 2014 10-K **filing**.

Kevin Crutchfield, chief executive officer of Alpha Natural Resources Inc., during an interview in New York in September 2014. Photo by Victor J. Blue/Bloomberg courtesy of Getty Images.

"Global climate change continues to attract considerable public and scientific attention," Alpha said. "There is concern in particular about the emissions of GHGs [or greenhouse gases], such as carbon dioxide and methane."

The company's document says, "Combustion of fossil fuels like coal and gas results in the creation of carbon dioxide, which is currently emitted into the atmosphere by coal and gas end users, such as coal-fired electric power generators. As a result, there have been and are expected to be numerous GHG emissions initiatives that could reduce the demand for coal."

During a March 2012 event, however, Alpha CEO Kevin Crutchfield cast doubt on the connection between fossil fuel consumption and climate change. He declared that EPA limits on power-plant CO₂ emissions "would be hugely problematic," in part because of uncertainty about global warming, which 97 percent of climate scientists say is very likely caused by human activities.

"It does seem like something is going on," he said in response to a question about climate change, according to West Virginia's *Charleston Gazette*.

But he added that "the question that has to be asked is, 'Is mankind contributing to that?' I don't really know the answer to that."

An Alpha spokesman did not respond to a request for comment.

Companies' 'most material' risk

The SEC issued guidance in 2010 specifically requiring companies to disclose any physical impacts climate change may be having on their operations (*ClimateWire*, Jan. 28, 2010).

Environmentalists considered it a major win. But industry advocates -- both inside and outside the SEC -- said the science wasn't settled enough for the requirement, which some lawmakers tried to overturn.

U.S. coal companies have sought to satisfy these requirements by generally discussing climate change in their 10-Ks in terms of current or potential government scrutiny. But Peabody, Alpha and other majors like Cloud Peak

Energy Inc. and Arch Coal Inc. tend to steer clear of climate-related infrastructure issues posed by sea-level rise or the potential for increasingly severe natural disasters.

"It is possible that future international, federal and state initiatives to control GHG emissions could result in increased costs associated with coal production and consumption," Alliance Resource Partners LP said in one representative passage.

Such efforts could require Alliance's utility industry customers "to install additional controls to reduce carbon dioxide emissions or costs to purchase emissions reduction credits to comply with future emissions trading programs," the company said in its 10-K.

Bob Murray speaking to reporters in August 2007 near Huntington, Utah. Photo by Justin Sullivan courtesy of Getty Images.

Huber said the SEC requires companies to disclose material impacts related to climate change. "Much of it is judgment," she said, "of what a company believes is material."

Beyond physical impacts, Huber said companies must also report whether rules and regulations could hurt the bottom line. For U.S. coal companies, climate change regulations may indeed be "the most material item," she said.

A 2013 Congressional Research Service **report**, citing other studies -- including ones conducted by Ceres and Davis Polk -- said the new SEC guidance had not dramatically changed the reporting habits of many companies. It also suggested the SEC was not cracking down on those who didn't follow the guidelines.

The guidance, however, does not apply to Murray Energy Corp., which is also among the largest U.S. coal producers. The company's private ownership means it doesn't have to file annual disclosure reports with the SEC.

That has left CEO Robert Murray free to offer unrelenting criticism of the climate change science without ever having to show how or if his company is preparing for global warming.

"In the late 1980s, environmental alarmists and liberal politicians and elitists attempted to scare us with the terrible consequences of 'acid rain,'" Murray said during a speech last year. "Today, their platform is 'global warming.'"

Earning shareholder trust

Not all extraction companies focus on regulatory burdens when talking about global warming. International mining giant Rio Tinto PLC, for example, has long been outspoken about the impacts of climate change on its operations.

"We operate in a complex and interconnected world where global and local issues -- such as biodiversity, climate change, livelihoods, and regional economic development -- bring both risk and opportunity to the design, development and management of our operations," its most recent annual report told investors.

"Mining, smelting, refining and infrastructure installations are vulnerable to natural events including earthquakes, subsidence, drought, flood, fire, storm and

climate change," the report says.

Huber, the corporate-compliance attorney, said companies with a strong European presence tend to be more vocal about potential physical climate change impacts, responding to investor wishes. "As compared to U.S. companies, it is more important to them, and they are more conscious about it," she said, "and the reporting tends to be more fulsome and varied."

Coal companies could better earn shareholders' trust, said Ceres' Coburn, by being more candid about the risk climate change poses to their businesses, not just associated with regulations.

That was the main message Ceres and a group of 70 global investors managing more than \$3 trillion of collective assets delivered to 45 fossil fuel-dependent corporations almost two years ago (*ClimateWire*, Oct. 25, 2013).

While companies have a right to vocally oppose regulations they believe could harm shareholders, they shouldn't do so by spreading misinformation, said Gretchen Goldman, lead analyst at the Center for Science and Democracy, a Union of Concerned Scientists project.

"They do not have a right to misrepresent scientific facts," Goldman said. "This is an issue that has seen a tremendous amount of misinformation, and so for them to be spreading that misinformation or otherwise supporting misrepresentations of climate science is immoral and not appropriate."

Twitter: [@corbinhiar](#) | Email: chiar@cenews.net

OBTAINED BY GOVERNMENT ACCOUNTABILITY & OVERSIGHT

[REDACTED]

From: Steven Glassman
Sent: Thursday, April 23, 2015 1:45 PM
To: Micah Lasher
Cc: Alvin Bragg; Janet Sabel; Lemuel Srolovic
Subject: RE: follow up

I've reviewed this latest incarnation of the fossil fuel company climate change subpoena suggestion, and can give you my reaction whenever you're interested.

From: Micah Lasher
Sent: Wednesday, April 22, 2015 3:39 PM
To: Steven Glassman; Alvin Bragg; Janet Sabel; Lemuel Srolovic
Subject: FW: follow up

From: Lee Wasserman [<mailto:lwasserman@rffund.org>]
Sent: Wednesday, April 22, 2015 3:36 PM
To: Micah Lasher
Subject: follow up

Dear Micah,
Thanks for your consideration of the issues we've been discussing. I had hoped to have sent the attached memo to the AG earlier. We hope you will have the opportunity to review the memo and share with him.
Sincerely,

Lee Wasserman
Director
475 Riverside Drive, Suite 900 | New York, NY 10115
[REDACTED]



OBTAINED BY GOVERNMENT ACCOUNTABILITY & OVERSIGHT

From: Micah Lasher
Sent: Wednesday, September 16, 2015 1:45 PM
To: Alvin Bragg; Janet Sabel; Steven Glassman; Lemuel Srolovic
Cc: Simon Brandler
Subject: Fwd: big news
Attachments: 9FFC3469-8ADD-4D30-A674-692287935301[143].png

Begin forwarded message:

From: Lee Wasserman <lwasserman@rffund.org>
Date: September 16, 2015 at 9:57:55 AM EDT
To: Micah Lasher <Michah.Lasher@ag.ny.gov>
Subject: big news

Exxon's own scientists knew since at least '80s that climate was real. More to come. Hope you're well.

<http://insideclimatenews.org/news/15092015/Exxons-own-research-confirmed-fossil-fuels-role-in-global-warming>

Lee Wasserman
Director
475 Riverside Drive, Suite 900 | New York, NY 10015



OBTAINED BY GOVERNMENT ACCOUNTABILITY & OVERSIGHT

[REDACTED]

From: Lemuel Srolovic
Sent: Thursday, September 17, 2015 11:59 AM
To: Micah Lasher; Alvin Bragg; Steven Glassman; Janet Sabel
Cc: Simon Brandler
Subject: RE: big news

[REDACTED]

From: Micah Lasher
Sent: Wednesday, September 16, 2015 1:45 PM
To: Alvin Bragg; Janet Sabel; Steven Glassman; Lemuel Srolovic
Cc: Simon Brandler
Subject: Fwd: big news

Begin forwarded message:

From: Lee Wasserman <lwasserman@rffund.org>
Date: September 16, 2015 at 9:57:55 AM EDT
To: Micah Lasher <micah.lasher@ag.ny.gov>
Subject: big news

Exxon's own scientists knew since at least '80s that climate was real. More to come. Hope you're well.

<http://insideclimate.news.org/news/15092015/Exxons-own-research-confirmed-fossil-fuels-role-in-global-warming>

Lee Wasserman
Director
475 Riverside Drive, Suite 900 | New York, NY 10115



From: Micah Lasher
Sent: Friday, September 18, 2015 3:48 PM
To: Simon Brandler; Lemuel Srolovic
Subject: Fwd: more background
Attachments: 9FFC3469-8ADD-4D30-A674-692287935301[173].png

Begin forwarded message:

From: Lee Wasserman <lwasserman@rffund.org>
Date: September 18, 2015 at 3:41:13 PM EDT
To: Micah Lasher <Michah.Lasher@ag.ny.gov>
Cc: Bill Lipton <blipton@workingfamilies.org>, Daniel Cantor <dcantor@workingfamilies.org>
Subject: more background

Some context:

<http://www.newyorker.com/news/daily-comment/what-exxon-knew-about-climate-change>

Lee Wasserman
Director
475 Riverside Drive, Suite 900 | New York, NY 10113



OBTAINED BY GOVERNMENT ACCOUNTABILITY & OVERSIGHT

[REDACTED]

From: Micah Lasher
Sent: Thursday, October 29, 2015 11:08 AM
To: Steven Glassman; Lemuel Srolovic; Simon Brandler; Alvin Bragg; Janet Sabel
Subject: Fwd: Exxon
Attachments: 9FFC3469-8ADD-4D30-A674-692287935301[903].png

Begin forwarded message:

From: Lee Wasserman <lwasserman@rffund.org>
Date: October 29, 2015 at 11:01:12 AM EDT
To: "[Micah.Lasher@ag.ny.gov](mailto:micah.lasher@ag.ny.gov)" <[Micah.Lasher@ag.ny.gov](mailto:micah.lasher@ag.ny.gov)>
Subject: Exxon

<http://seekingalpha.com/article/3618726-making-the-legal-case-against-exxon-mobil>

Lee Wasserman
Director
475 Riverside Drive, Suite 900 | New York, NY 10115



OBTAINED BY GOVERNMENT ACCOUNTABILITY & OVERSIGHT

[REDACTED]

From: Karla Sanchez
Sent: Monday, November 9, 2015 11:57 AM
To: Micah Lasher; Lemuel Srolovic
Subject: FW: follow up
Attachments: NYAG 4-15-15F1(2).docx; ATT00001.htm

Do either of you have the paper they refer to about the “overview of the fossil fuel industry’s ongoing campaign to promote uncertainty around climate science”?

Karla

From: Micah Lasher
Sent: Friday, November 06, 2015 2:25 PM
To: Karla Sanchez
Subject: Fwd: follow up

Begin forwarded message:

From: Micah Lasher <[Micah.Lasher@ag.ny.gov](mailto:micah.lasher@ag.ny.gov)>
Date: July 10, 2015 at 2:12:43 PM EDT
To: Simon Brandler <[Simon.Brandler@ag.ny.gov](mailto:simon.brandler@ag.ny.gov)>
Subject: Fwd: follow up

Begin forwarded message:

From: Lee Wasserman <lwasserman@rffund.org>
Date: April 22, 2015 at 1:35:55 PM MDT
To: Micah Lasher <[Micah.Lasher@ag.ny.gov](mailto:micah.lasher@ag.ny.gov)>
Subject: follow up

Dear Micah,

Thanks for your consideration of the issues we’ve been discussing. I had hoped to have sent the attached memo to the AG earlier. We hope you will the opportunity to review the memo and share with him.

Sincerely,

Lee Wasserman
Director
475 Riverside Drive, Suite 900 | New York, NY 10115
[REDACTED]

Martin Act Discovery Requests to Fossil Fuel Companies

The following memorandum sets out why the Office of the New York Attorney General (“NYAG”) should investigate whether oil and coal (“fossil fuel”) companies have engaged in a Martin Act scheme by spreading misinformation about climate change. The key conclusion is that the NYAG has a robust basis for doing so based on the public record, and that the chance of Martin Act subpoenas being quashed is minimal.

Background

Your office has already received an overview of the fossil fuel industry’s ongoing campaign to promote uncertainty around climate science. Highlights from that campaign include:

- The blueprint set out in the Global Climate Coalition (an oil industry front group) 1996 paper “Predicting Climate Change: A Primer,” which recognizes the scientific basis for the Greenhouse Effect but advises an industry strategy of emphasizing uncertainty;
- The American Petroleum Institute’s 1998 “Global Climate Science Communications Plan” to attack the climate science supporting international efforts to solve global warming;
- The Western Fuels Association’s “Green Earth Society,” which promoted the idea that carbon emissions are good for the planet as they will lead to a flourishing of plant life;
- The 2014 American Coalition for Clean Coal Electricity-funded study on the supposed benefits of carbon emissions for plant life; and
- An estimated \$29 million in grants and gifts from ExxonMobil and \$67 million from Koch Industries supporting climate change denial over the last 25 years.

The campaign of disinformation has been on the front page of *The New York Times*, which reported on February 21, 2015 that Dr. Wei-Hock Soon, a scientist at the Harvard-Smithsonian Center for Astrophysics who claims that changes in the sun explain climate change, received more than \$1.2 million from certain companies in the fossil fuel industry over the last decade without disclosure.

At the same time that they have pursued a communications strategy designed to promote doubt about climate change in the public domain, some fossil

[REDACTED]

From: Lemuel Srolovic
Sent: Thursday, October 29, 2015 2:40 PM
To: Mandy DeRoche; Kevin Olson
Cc: Monica Wagner
Subject: FW: Exxon
Attachments: 9FFC3469-8ADD-4D30-A674-692287935301[903].png

From: Micah Lasher
Sent: Thursday, October 29, 2015 11:08 AM
To: Steven Glassman; Lemuel Srolovic; Simon Brandler; Alvin Bragg; Janet Sabel
Subject: Fwd: Exxon

Begin forwarded message:

From: Lee Wasserman <lwasserman@rffund.org>
Date: October 29, 2015 at 11:01:12 AM EDT
To: "Micah.Lasher@ag.ny.gov" <Micah.Lasher@ag.ny.gov>
Subject: Exxon

<http://seekingalpha.com/article/3618726-making-the-legal-case-against-exxon-mobil>

Lee Wasserman
Director
475 Riverside Drive, Suite 900 | New York, NY 10115



From: Christina Harvey <Christina.Harvey@ag.ny.gov>
Sent: Monday, November 9, 2015 1:09 PM
To: Siobhan Kennedy <Siobhan.Kennedy@ag.ny.gov>; Kristen Sageser
<Kristen.Sageser@ag.ny.gov>
Subject: Tom Steyer

Do either of you have an office number for him? Eric wants me to follow up with someone in his office.

Christina Harvey
Senior Advisor and Director of Operations
NYS Office of the Attorney General
120 Broadway - 25th Floor
New York, NY 10271
212-416-8095
christina.harvey@ag.ny.gov

OBTAINED BY GOVERNMENT ACCOUNTABILITY & OVERSIGHT

From: Christina Harvey <Christina.Harvey@ag.ny.gov>
Sent: Monday, November 9, 2015 1:55 PM
To: 'esuhr@fharllc.com'
Cc: Alvin Bragg <Alvin.Bragg@ag.ny.gov>; Lemuel Srolovic <Lemuel.Srolovic@ag.ny.gov>; Karla Sanchez <Karla.Sanchez@ag.ny.gov>
Subject: Following up on Conversation with NY AG

Erin-

I am following up on a conversation that New York Attorney General Eric Schneiderman had with NextGen Climate founder Tom Steyer over the weekend. I understand that you may have some studies about climate change or climate change denial groups that you'd like to get to the team working on the Exxon matter. I have included those individuals here (Executive Deputy Attorney General for Social Justice Alvin Bragg, Executive Deputy Attorney General for Economic Justice Karla Sanchez, and Environmental Protection Bureau Chief Lem Srolovic).

Thanks,
Christina

Christina Harvey
Senior Advisor and Director of Operations
NYS Office of the Attorney General
120 Broadway - 25th Floor
New York, NY 10271
212-416-8095
christina.harvey@ag.ny.gov

From: Larry Shapiro <lshapiro@rffund.org>
Sent: Tuesday, December 15, 2015 1:20 PM
To: Lemuel Srolovic
Cc: Lee Wasserman; 'Lisa Hamilton (lisa_a_hamilton@yahoo.com)'
Subject: E&E: After N.Y. legal deal, Peabody ignores climate change in SEC filing

Hi Lem,

You probably saw this, but if not, fyi.

After N.Y. legal deal, Peabody ignores climate change in SEC filing

[Benjamin Hulac](#), E&E reporter

Published: Tuesday, December 15, 2015

Peabody Energy Corp. announced plans yesterday to raise \$1 billion from investors but did not mention climate change or emissions-cutting policies as investment risks. That exclusion came one month after Peabody finalized an agreement with New York's attorney general to file updated public documents about its financial hazards related to climate change and potential climate regulations.

In the [document](#) filed yesterday with the Securities and Exchange Commission, Peabody did not reference climate change, greenhouse gases, carbon emissions, global warming or any comparable terms or phrases.

The St. Louis-headquartered company, the largest publicly traded coal company in the world, listed competition from natural gas and renewable energy as risk factors to would-be investors, as well as "new environmental" regulations -- a general term that could apply to more than climate change.

The document also broadly warns investors that "legislation, regulations and court decisions or other government actions" could harm business. The word "environmental" appears once in the 229-page filing.

Announcing a resolution between his office and Peabody, New York Attorney General Eric Schneiderman (D) said Nov. 9 that Peabody misled the public and investors about how climate change and regulation to curb emissions could affect the company -- behavior that violated state laws.

The company, for example, predicted that "aggressive" regulations for existing power plants and electric generation in the United States could cut into its coal sales by 33 percent or more but kept that information private, according to the attorney general's office.

As part of the November [agreement](#), Schneiderman said Peabody would file new SEC disclosures that "accurately and objectively represent" climate risks.

"Peabody has agreed that all future statements to shareholders and the public will be consistent with the terms of its agreement with the attorney general's office and the disclosures it will file with the SEC," Schneiderman's office said in November.

Company defends 'routine' document

Asked why the document detailing the sale of \$1 billion in securities did not mention climate change and related financial risks, a Peabody spokesman issued the following response to *ClimateWire*: "The shelf statement is a routine filing and replaces a prior shelf statement that expired in October. It incorporates by reference other filings such as the latest quarterly 10Q." (A shelf statement is a financial technique that lets public companies offer securities "off the shelf" to investors.)

Schneiderman said the investigation that resulted in the recent resolution began in 2013.

That investigation found Peabody had been including an International Energy Agency forecast in its investor guidance favorable to coal demand, while omitting two other IEA scenarios that forecast a far bleaker future for global coal consumption.

That forecast was "based on an assumption that governments will fail to adopt any new policies or regulations to reduce the amount of climate change pollution."

In June 2007, when Gov. Andrew Cuomo (D) was state attorney general, his office subpoenaed Peabody for information about the firm's "disclosure to investors of risks associated with possible climate change and related legislation and regulations," according to Peabody.

"Concerns about the environmental impacts of coal combustion" and increased coal regulation, Peabody said Feb. 25, "could significantly affect demand for our products and securities."

Following the Paris climate accord reached during the weekend, Peabody shares finished the day down 13 percent at \$7.66.

Larry Shapiro
Associate Director for Program Development
Rockefeller Family Fund
475 Riverside Drive, Suite 900
New York, NY 10115
[REDACTED]
Email: lshapiro@rffund.org

OBTAINED BY GOVERNMENT ACCOUNTABILITY & OVERSIGHT

From: Lemuel Srolovic
Sent: Wednesday, December 16, 2015 8:49 AM
To: Larry Shapiro
Subject: Re: E&E: After N.Y. legal deal, Peabody ignores climate change in SEC filing

Larry -- I did indeed but thank you. Happy holidays! Lem.

Sent from my iPhone

On Dec 15, 2015, at 1:20 PM, Larry Shapiro <lshapiro@rffund.org> wrote:

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That investigation found Peabody had been including an International Energy Agency forecast in its investor guidance favorable to coal demand, while omitting two other IEA scenarios that forecast a far bleaker future for global coal consumption.

That forecast was "based on an assumption that governments will fail to adopt any new policies or regulations to reduce the amount of climate change pollution."

In June 2007, when Gov. Andrew Cuomo (D) was state attorney general, his office subpoenaed Peabody for information about the firm's "disclosure to investors of risks associated with possible climate change and related legislation and regulations," according to Peabody.

"Concerns about the environmental impacts of coal combustion" and increased coal regulation, Peabody said Feb. 25, "could significantly affect demand for our products and securities."

Following the Paris climate accord reached during the weekend, Peabody shares finished the day down 13 percent at \$7.66.

Larry Shapiro
Associate Director for Program Development
Rockefeller Family Fund
475 Riverside Drive, Suite 900
New York, NY 10115
[REDACTED]
Email: lshapiro@rffund.org

OBTAINED BY GOVERNMENT ACCOUNTABILITY & OVERSIGHT

[REDACTED]

From: Lee Wasserman <lwasserman@rffund.org>
Sent: Tuesday, December 22, 2015 6:39 PM
To: Lemuel Srolovic
Subject: FYI

<http://insideclimatenews.org/news/22122015/exxon-mobil-oil-industry-peers-knew-about-climate-change-dangers-1970s-american-petroleum-institute-api-shell-chevron-texaco>

Lee Wasserman
Director
475 Riverside Drive, Suite 900 | New York, NY 10115
[REDACTED]



OBTAINED BY GOVERNMENT ACCOUNTABILITY & OVERSIGHT

[REDACTED]

From: Lemuel Srolovic
Sent: Tuesday, December 22, 2015 9:40 PM
To: Lee Wasserman
Subject: Re: FYI

Thanks, Lee.

Happy holidays!

Sent from my iPhone

On Dec 22, 2015, at 6:39 PM, Lee Wasserman <lwasserman@rffund.org> wrote:

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Lee Wasserman
Director
475 Riverside Drive, Suite 900 | New York, NY 10115

[REDACTED]
<9FFC3469-8ADD-4D30-A674-692287935301[189].png>

OBTAINED BY GOVERNMENT ACCOUNTABILITY & OVERSIGHT

From: Lee Wasserman <lwasserman@rffund.org>
Sent: Wednesday, December 23, 2015 12:37 AM
To: Lemuel Srolovic
Subject: Re: FYI

Same to you Lem. Hope you get some time off.

Lee Wasserman
Director
475 Riverside Drive, Suite 900 | New York, NY 10115



From: Lemuel Srolovic <Lemuel.Srolovic@ag.ny.gov>
Date: Tuesday, December 22, 2015 at 9:40 PM
To: Lee Wasserman <lwasserman@rffund.org>
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[REDACTED]

From: Lemuel Srolovic
Sent: Thursday, December 31, 2015 8:52 AM
To: Lee Wasserman
Subject: Re: One more

Thanks, Lee.

Happy new year and all the best in 2016.

Sent from my iPhone

> On Dec 31, 2015, at 6:46 AM, Lee Wasserman <lwasserman@rffund.org> wrote:
>
> Before year's end.
> <http://graphics.latimes.com/oil-operations/>
>
> Happy New Year
>
> Lee Wasserman
> Rockefeller Family Fund

OBTAINED BY GOVERNMENT ACCOUNTABILITY & OVERSIGHT

From: Lemuel Srolovic
Sent: Thursday, December 31, 2015 8:53 AM
To: Monica Wagner; Mandy DeRoche; Alan Belensz; Philip Bein; Laura Heslin; Kevin Olson
Subject: Fwd: One more

Latest from LA Times.

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To: Lemuel Srolovic <Lemuel.Srolovic@ag.ny.gov>
Subject: One more

Before year's end.
<http://graphics.latimes.com/oil-operations/>

Happy New Year

Lee Wasserman
Rockefeller Family Fund

OBTAINED BY GOVERNMENT ACCOUNTABILITY & OVERSIGHT

[REDACTED]

From: Philip Bein
Sent: Thursday, December 31, 2015 9:09 AM
To: Lemuel Srolovic
Subject: RE: One more

Lem, I had called earlier in the week to talk about Peabody. Are you working today?

Philip Bein
Watershed Inspector General
New York State Attorney General's Office
The Capitol
Albany, New York 12224

[REDACTED]

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Rockefeller Family Fund

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From: Lemuel Srolovic
Sent: Thursday, December 31, 2015 9:27 AM
To: Philip Bein
Subject: Re: One more

No but I can call you in a few mins if that's good.

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On Dec 31, 2015, at 9:09 AM, Philip Bein <Philip.Bein@ag.ny.gov> wrote:

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From: Monica Wagner
Sent: Thursday, December 31, 2015 10:01 AM
To: Alan Belenz; Lemuel Srolovic; Mandy DeRoche; Philip Bein; Laura Heslin
Subject: RE: One more

It's jampacked. Have we heard of the Waves and Storms of the North Atlantic Group?

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From: Alan Belenz
Sent: Thursday, December 31, 2015 10:25 AM
To: Monica Wagner; Lemuel Srolovic; Mandy DeRoche; Philip Bein; Laura Heslin
Subject: RE: One more
Attachments: WASA Waves and Storms Group.pdf

It appears the WASA Group consisted of a group of European researchers evaluating the potential for increased storminess in the North Atlantic. A 1998 paper listing the scientific researchers is attached.

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Happy New Year

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Changing Waves and Storms in the Northeast Atlantic?



The WASA Group*

ABSTRACT

The European project WASA (Waves and Storms in the North Atlantic) has been set up to verify or disprove hypotheses of a worsening storm and wave climate in the northeast Atlantic and its adjacent seas in the present century. Its main conclusion is that the storm and wave climate in most of the northeast Atlantic and in the North Sea has undergone significant variations on timescales of decades; it has indeed roughened in recent decades, but the present intensity of the storm and wave climate seems to be comparable with that at the beginning of this century. Part of this variability is found to be related to the North Atlantic oscillation.

An analysis of a high-resolution climate change experiment, mimicking global warming due to increased greenhouse gas concentrations, results in a weak increase of storm activity and (extreme) wave heights in the Bay of Biscay and in the North Sea, while storm action and waves slightly decrease along the Norwegian coast and in most of the remaining North Atlantic area. A weak increase in storm surges in the southern and eastern part of the North Sea is expected. These projected anthropogenic changes at the time of CO₂ doubling fall well within the limits of variability observed in the past.

A major methodical obstacle for the assessment of changes in the intensity of storm and wave events are inhomogeneities in the observational record, both in terms of local observations and of analyzed products (such as weather maps), which usually produce an artificial increase of extreme winds. This occurs because older analyses were based on fewer observations and with more limited conceptual and numerical models of the dynamical processes than more recent analyses. Therefore the assessment of changes in storminess is based on local observations of air pressure and high-frequency variance at tide gauges. Data of this sort is available for 100 yr and sometimes more. The assessment of changes in the wave climate is achieved using a two-step procedure; first a state-of-the-art wave model is integrated with 40 yr of wind analysis; the results are assumed to be reasonably homogeneous in the area south of 70°N and east of 20°W; then a regression is built that relates monthly mean air pressure distributions to intramonthly percentiles of wave heights at selected locations with the help of the 40-yr simulated data; finally, observed monthly mean air pressure fields from the beginning of this century are fed into the regression model to derive best guesses of wave statistics throughout the century.

*The WASA Group:

J. C. CARRETERO, M. GOMEZ, I. LOZANO, A. RUIZ DE ELVIRA, AND O. SERRANO, Clima Marítimo, Madrid, Spain.

K. IDEN AND M. REISTAD, Det Norske Meteorologiske Institutt, Bergen, Norway.

H. REICHARDT, V. KHARIN, M. STOLLEY, AND H. VON STORCH, Max-Planck-Institut für Meteorologie, Hamburg, Germany.

H. GÜNTHER, A. PFIZENMAYER, W. ROSENTHAL, AND M. STAWARZ, Institut für Gewässerphysik, GKSS, Geesthacht, Germany.

T. SCHMITH, E. KAAS, AND T. LI, Danmarks Meteorologiske Institut, Copenhagen, Denmark.

H. ALEXANDERSSON, Sveriges Meteorologiska och Hydrologiska Institut, Norrköping, Sweden.

J. BEERSMA, E. BOUWS, G. KOMEN, AND K. RIDER, Koninklijk Nederlands Meteorologisch Instituut, De Bilt, the Netherlands.

R. FLATHER AND J. SMITH, Proudman Oceanographic Laboratory, Bidston, United Kingdom.

W. BIJL AND J. DE RONDE, Rijkswaterstaat, the Netherlands.

M. MIETUS, Institute of Meteorology and Water Management, Gdynia, Poland.

EVA BAUER, Potsdam Institut für Klimafolgenforschung, Potsdam, Germany.

H. SCHMIDT, Seewetteramt, Hamburg, Germany.

H. LANGENBERG, Institut für Meereskunde, Universität Hamburg, Hamburg, Germany.

Corresponding author address: Hans von Storch, Institute of Hydrophysics, GKSS Research Centre, P.O. Box 21502, Geesthacht, Germany.

E-mail: storch@gkss.de

In final form 13 January 1998.

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From: Monica Wagner
Sent: Thursday, December 31, 2015 12:53 PM
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Subject: One more

Before year's end.

<http://graphics.latimes.com/oil-operations/>

Happy New Year

Lee Wasserman

Rockefeller Family Fund

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[REDACTED]

From: Alan Belenz
Sent: Thursday, December 31, 2015 2:15 PM
To: Monica Wagner; Lemuel Srolovic; Mandy DeRoche; Philip Bein; Laura Heslin
Subject: RE: One more

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Happy New Year

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Rockefeller Family Fund

OBTAINED BY GOVERNMENT ACCOUNTABILITY & OVERSIGHT

[REDACTED]

From: Monica Wagner
Sent: Thursday, December 31, 2015 2:31 PM
To: Alan Belenz; Lemuel Srolovic; Mandy DeRoche; Philip Bein; Laura Heslin
Subject: RE: One more

What a skeptic you are (except about climate change).

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