



Constitutional scholars to House climate deniers: No witch hunt of Exxon critics

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Nothing better illustrates curious current priorities in Congress than a strategy to defend oil giant ExxonMobil, conjured up by climate change deniers in the House of Representatives. They have set out to investigate the investigators.

The House Science Committee, under Rep. Lamar Smith, R-Texas, has sent out subpoenas and sweeping information requests to state attorneys general, as well as such respected environmental groups as the Union of Concerned Scientists.

Washington Attorney General Bob Ferguson has joined fellow AGs in flatly refusing to provide information to a panel that wags dub the "House Anti-Science Committee."

The committee claims it is seeking evidence of collusion between AGs, the Obama administration and green groups.

The attorneys general of New York and Massachusetts are probing whether ExxonMobil withheld, from investors and the public, information developed by its own scientists on potential impacts of human-caused warming of the Earth.

Smith has called a committee hearing Wednesday on how to enforce its subpoenas. On the eve of the hearing, the Texas congressman received a blistering letter from nine constitutional scholars, put together by the Abrams Institute for Freedom of Expression at Yale Law School. Its namesake, famed First Amendment lawyer Floyd Abrams, was the first to sign.

"These subpoenas violate the separation of powers, exceed the committee's delegated authority, abridge the First Amendment, and undermine fundamental principles of federalism," the scholars said in a letter to Rep. Smith.

"The subpoenas should not have been issued and should not be enforced," they added.

AG Ferguson was of a similar mind, and scorned Wednesday's hearing.

"Lamar Smith can hold all the hearings he wants, but I won't let his grandstanding interfere with legitimate state investigations," he added.

The House Science Committee is due to hear from two law professors sympathetic to its majority's point of view.

One, Elizabeth Price Foley of Florida International University, is affiliated with the conservative, Koch-funded Cato Institute. The other, Ronald Rotunda, is associated with the Heartland Institute, which has sought repeatedly to debunk evidence of human-caused climate change.

"The climate prosecutors can't dodge Congress forever; the state officials who subpoenaed Exxon face questions from the House and they have to answer," headlined a recent article by Foley on the Wall Street Journal editorial page.

"The subpoenas to state attorneys general regarding their climate crusade easily fall within Congress' legislative and oversight competence. The House Science Committee has jurisdiction over matters of scientific research," she wrote.

Others see the issue far differently, namely a bid by Big Oil's allies in Congress to shut down legitimate probes into three questions: What did ExxonMobil know about the warming of the planet? When did it know? Did it fail to share its scientists' findings?

Subpoenas directed at such groups as the Union of Concerned Scientists are "invalid" and "constitutionally impermissible," the nine constitutional scholars told the committee. The letter was first reported by Inside Climate News.

"The subpoenas, and the threat of future sanctions, themselves threaten the First Amendment -- directly inhibiting the rights of their recipients to speak, to associate and to petition state officials without interference from Congress," they wrote.

"Should Congress seek to enforce them, we are confident that a federal court will take seriously the lesson this country learned from McCarthyism and refuse to do so."

The courts can decide separation-of-powers issues, but the House Science Committee subpoenas post a real-life question: Is investigating ExxonMobil a punishable offense?