



Vermont AG office tight-lipped about Exxon Mobil investigations workgroup

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Vermont has joined a multi-state working group following a climate change meeting of state attorneys general last month, but details about the newly formed group are being kept from the public.

On March 29, attorneys general from 15 states, the District of Columbia and the U.S. Virgin Islands met at a climate change conference in New York to announce a new climate change coalition.

The meeting, co-sponsored by New York Attorney General Eric T. Schneiderman and Vermont Attorney General William Sorrell, announced that a coalition called AGs United for Clean Power is collaborating on investigations into whether fossil fuel companies misled investors and the public about climate change.

The first action to come out of that meeting took place on April 12, when coalition members held a conference call to launch state-based working groups aimed at defending global warming initiatives and renewable energy. According to [emails obtained from the Vermont Attorney General's office](#) by the Energy and Environment Legal Institute, Vermont has signed on to participating in the "Exxon/Fossil Fuel Companies" working group.

The workgroup, which involves 11 states and the U.S. Virgin Islands, was to be called "Exxon/Fossil Fuel Company Investigations." The group name was changed to "Exxon/Fossil Fuel Companies" after Vermont Assistant Attorney General Scot Kline, chief of the legal division, requested that "investigations" be dropped from the title.

"Not all the states have yet opened a formal investigation and there is some sensitivity here (and I suspect in some other states) to saying or indicating we have," Kline wrote in an email exchange with Peter Washburn, environmental policy advisor in the New York State Attorney General's office.

According to the emails, the April 12 meeting was held to outline goals and strategies for the group. Wendy Morgan, chief of public protection at the attorney general's office, and one of the participants of the group, told Vermont Watchdog that details about the working group are confidential.

"I'm not going to talk about the working groups or what activities they're engaged in," Morgan said.

“Everything is in the formative stages, and if there is a working group that is going to be investigating a particular activity, that’s not something we discuss prior to there being something that’s public.”

Confidentiality about the effort is formalized through a Common Interest Agreement, a document signed by attorneys and staff that requires nondisclosure of shared information. When Watchdog asked Morgan how the agreement guides Vermont’s participation, she replied, “Common interest agreements are agreements between the states when they are engaged in a preliminary ... I’m sorry, I should probably have declined answering any questions for you.”

A Common Interest Agreement covering the March 29 climate change conference outlined a range of goals, including investigating claims companies make about climate change and renewable energy. That agreement also states that officials who receive a request for information through a public records request must “refuse to disclose any Shared Information unless otherwise required by law.”

The secrecy surrounding activities of AGs United for Clean Power was made public on April 18, after a Wall Street Journal reporter contacted Matt Pawa, an environmental lawyer for the Climate Accountability Institute, to see if he attended the March 29 event. When Pawa asked attorneys in the New York and Vermont offices what to tell the reporter, Lem Srolovic, chief of the New York Attorney General’s Environmental Protection Bureau, responded, “My ask is if you speak to the reporter, to not confirm that you attended or otherwise discuss the event.”

In recent months, coalition members have started issuing subpoenas with the intent of prosecuting opponents of climate change policies. Earlier this month, Attorney General Claude E. Walker of the U.S. Virgin Islands subpoenaed the Competitive Enterprise Institute, a free markets think tank, for research documents Exxon may have used to guide business decisions about climate change.

“ExxonMobil is suspected to have engaged in, or be engaging in, conduct constituting a civil violation of the Criminally Influenced and Corrupt Organizations Act ... by having engaged or engaging in conduct misrepresenting its knowledge of the likelihood that its products and activities have contributed and are continuing to contribute to Climate Change in order to defraud the Government of the United States Virgin Islands and consumers in the Virgin Islands,” the subpoena states.

Opponents of AGs United for Clean Power say such actions constitute an attack on First Amendment free speech. Walter Olson, a senior fellow at the CATO Center for Constitutional Studies, recently told Vermont Watchdog that fossil-fuel companies can’t be convicted of fraud over climate change research because companies aren’t responsible for endorsing any particular internal opinion within a company.

State attorneys general acting together to prosecute companies is reminiscent of the Tobacco Master Settlement Agreement of the late 1990s, in which 46 states reached a \$206 billion settlement with U.S tobacco companies. Asked if the tobacco settlement served as a template for activities planned by AGs United for Clean Power, Morgan replied, “I don’t think of any one case as being a template of any other case, or any one settlement as being a template of any other settlement. ... Many of our cases are multi-state cases. States getting together is not new.”

Other states participating in the Exxon/Fossil Fuel Companies workgroup include California, Connecticut, Delaware, Illinois, Massachusetts, Maine, New Mexico, Rhode Island, and Washington, along with the U.S. Virgin Islands.