

To: Jackson, Ryan[jackson.ryan@epa.gov]
From: POLITICO Pro Energy
Sent: Wed 8/23/2017 9:43:27 AM
Subject: Morning Energy: Peer-reviewed study finds Exxon misled public on climate — Monument decisions imminent — U.S. biodiesel sector gets trade win

By Anthony Adragna | 08/23/2017 05:40 AM EDT

With help from Esther Whieldon, Alex Guillén, Adam Behsudi and Eric Wolff

PEER-REVIEWED STUDY FINDS EXXON MISLED ON CLIMATE: Harvard researchers are out this morning with a [peer-reviewed analysis](#) concluding Exxon Mobil misled the public over the course of 40 years of climate change communications. After poring over its scientific research, internal company memos, and paid, editorial-style advertisements, the study concluded that 83 percent of Exxon scientists' peer-reviewed papers and 80 percent of the company's internal communications acknowledged climate science — but just 12 percent of its advertisements did so, and 81 percent actually doubted human activity's role in the problem.

"We conclude that ExxonMobil misled the public," the report concludes. "We stress that the question is not whether ExxonMobil 'suppressed climate change research,' but rather how they communicated about it." The study, supported by Harvard University Faculty Development Funds and by the Rockefeller Family Fund, acknowledges "textual analysis is inherently subjective" but says the overall trends are "clear." The findings will be published in the journal *Environmental Research Letters*.

Exxon, which did not have advance access to the study, did not immediately respond to a request for comment on Tuesday night. A spokesman for the fossil fuel giant [previously said](#) allegations from environmental groups it misled the public and investors on climate change were based on "distorted reports that they have commissioned and a distorted history of climate research that we've done openly with government bodies."

MONUMENT DECISIONS IMMINENT: Rumors are swirling around Washington that Interior Secretary Ryan Zinke may send over his verdict as soon as today on what to do with the nearly two dozen national monuments the White House put up for review. The House Natural Resources Democratic staff released [a report](#) complaining Zinke used a secretive review process, obscuring the true purpose was to open up lands for fossil fuel development. "If President Trump and Secretary Zinke don't listen, then the courts and the voters will teach them that our public lands are not industry playthings to dispose of as they see fit," Ranking member [Raul Grijalva](#) said in a statement.

Religious leaders weigh in: A group of Christian leaders sent Vice President Mike Pence [a letter](#) Tuesday urging the administration to "not rescind or rollback any designations" of the national monuments currently under consideration. They called the Antiquities Act an "important tool" for "protecting the special places of God's Creation where we play, pray and learn."

Irony alert: During an interview with Fox News' "[Fox and Friends](#)," Pence said he was in favor of building more monuments around the country rather than tearing down existing ones. "I'm

someone who believes in more monuments, not less monuments," he said in response to questions about whether statues commemorating the Confederacy should be removed. We'll see if that desire to preserve monuments extends to ones designated by other presidents. Remember Zinke already preliminarily suggested shrinking Utah's Bears Ears National Monument back in April.

WELCOME TO WEDNESDAY! I'm your host Anthony Adragna, and ACC's Jonathan Corley nailed Nashville as the biggest U.S. city to glimpse Monday's total eclipse. For today: What is the only U.S. state to grow coffee commercially? Send your tips, energy gossip and comments to aadragna@politico.com, or follow us on Twitter [@AnthonyAdragna](https://twitter.com/AnthonyAdragna), [@Morning_Energy](https://twitter.com/Morning_Energy) and [@POLITICOPro](https://twitter.com/POLITICOPro).

DO YOUR DUTIES: Biodiesel shipments from Argentina and Indonesia will face import duties after the National Biodiesel Board notched up an early victory in a trade case from the Commerce Department Tuesday, Pro's Eric Wolff reports. In light of the preliminary ruling, Argentine and Indonesian companies will have to pay a cash deposit on shipments to the U.S. to cover potential future penalties. The Commerce Department will now take comment on the preliminary ruling and then issue a final decision likely next year. Here are the decisions on Argentine and Indonesian biodiesel.

RIN-sanity: The price for credits in biodiesel jumped 8 cents on the news, to \$1.17, the oil tracking service OPIS tells ME. Biodiesel credits are critical for refiners who need to buy them to comply with the Renewable Fuel Standard. EPA requires more ethanol blending than happens in reality, and some refiners buy the biodiesel credits to make up the difference. The ruling from Commerce has now raised their compliance costs.

MORE MURKOWSKI INTRIGUE: Zinke's July calendar, which the agency released Tuesday, was relatively light compared to prior months on meetings with energy industry interests. But it did provide further evidence that the secretary may have pressed Alaska Sen. Dan Sullivan on July 26 over Sen. Lisa Murkowski's vote on the healthcare bill, something the secretary has not denied doing. Hours before calling Sullivan that day, Zinke had a number of White House meetings and calls, including with Vice President Mike Pence, then-White House chief strategist Steve Bannon and Trump's top energy aide Mike Catanzaro. Zinke's calendar did not include a call with Murkowski, but the senator has said they did talk that day.

Zinke's July calendar also included a meeting with President Donald Trump's daughter-in-law Lara Trump on wild horses and animal welfare issues and a call with a number of lawmakers on both sides of the aisle, including Senate Energy and Natural Resources Committee ranking Democrat Maria Cantwell.

Fascinating tidbit: From an excellent New York Times report on the simmering feud between Trump and Senate Majority Leader Mitch McConnell: "Senator Lisa Murkowski of Alaska told colleagues that when Mr. Trump's interior secretary threatened to pull back federal funding for her state, she felt boxed in and unable to vote for the health care bill." Back in late July, Murkowski told the Alaska Dispatch News that Zinke's forceful call didn't sway her vote on the healthcare bill.

FIRSTENERGY'S TOUGH SELL: FirstEnergy Solutions, a unit of FirstEnergy Corp., wanted the federal government to use its emergency powers to save coal plants that teetered on the edge of insolvency — saving some of Trump supporter Robert Murray's coal mines that supply fuel for the plants — but it had a major problem: The power from the plants isn't deemed especially critical. The federal government has authority to keep plants open when crucial to local supplies, but PJM Interconnection, which manages the largest grid in the country, has plenty of power. In an April [letter](#), the grid operator told Ohio Governor John Kasich that thanks to its capacity market, which pays power plants to remain on standby even if they don't run, it had 6 percent more power on reserve than it needed. The letter also said the operator maintained a robust process for managing retirements, and that typically new plants could come in to replace older ones.

That badly undermined FirstEnergy's position, as did the fact that the company asked for a three-year commitment to keep the plants operating. Normally the authority granted under section 202 of the Federal Power Act is used for short periods when there's an unexpected disruption, like when in April [lightning struck](#) a plant in Oklahoma, creating a need to change how nearby transmission operated for a few months. Keeping the plants open for so long would entail paying their owners to stay available — which presumably was FirstEnergy's point, but it adds costs for PJM and its ratepayers.

ICYMI: Pro's Alex Guillén and Eric Wolff [look at](#) how two wealthy backers of Trump — coal magnate Robert Murray and Wall Street billionaire Carl Icahn — failed to get their policy priorities turned into action despite the president's backing. Murray's failure to get DOE to use its emergency powers to force some Rust Belt coal-fired power plants to stay open, and Icahn's earlier inability to convince EPA to alter its ethanol rule, show the limits of trying to circumvent the federal bureaucracy even with a sympathetic ear in 1600 Pennsylvania.

INSIDE TRUMP WORLD'S NAFTA STRUGGLES: The Trump administration is grappling with its position on an investor-state dispute settlement mechanism in NAFTA, ratcheting up concerns among businesses eager to see the U.S. make a clear commitment to continue with the controversial provision as it has in past trade deals, according to sources with knowledge of the deliberations. The controversial international arbitration mechanism allows private companies to seek damages from government actions that violate their investment rights under a trade deal. Business groups, particularly in the oil and gas sector, have launched a full-court press on Hill offices to request that they put pressure on the administration to include the dispute provision. One lobbyist source said the energy sector's support of a modernized NAFTA deal hinges directly on the inclusion of ISDS.

Speaking of which, Trump on Tuesday night in Phoenix: "I think we'll probably end up terminating NAFTA at some point."

DEVIL'S IN THE DETAILS, GUYS: Trump's administration may seek to secure stakes in Afghanistan's vast mineral deposits — estimated at \$1 trillion by one U.S. government [report](#) — as a way to offset ongoing military costs there, Pro's Ben Lefebvre [reports](#). "We're looking at all those types of options," a senior White House adviser said. Analysts caution extracting and

processing tons of minerals from a war zone and then transporting them out of a country with little modern infrastructure won't be happening anytime soon.

MARK YOUR CALENDAR: A coal industry source tell ME the Energy Department's big grid study will finally be released on Thursday.

DAKOTA ACCESS COMPANY SUES 'ECO-TERRORIST' GROUPS: Energy Transfer Partners, the owner of the Dakota Access pipeline, filed a lawsuit Tuesday against Greenpeace International and Earth First!, asserting they worked to spread misinformation about the project and damage the company, Diamond Naga Siu [reports](#). The federal racketeering lawsuit alleges the groups launched "attacks [that] were calculated and thoroughly irresponsible, causing enormous harm to people and property along the pipeline's route."

In response, Greenpeace USA General Counsel Tom Wetterer bashed the filing as the second "meritless" lawsuit filed against them by the law firm led by Trump's former personal attorney Marc Kasowitz. And Earthjustice President Trip Van Noppen called the lawsuit "an unprovoked and malicious attack on those who would use the power of the law and free speech for good."

EPA IG TO REVIEW TSCA DATA REPORTING: EPA's inspector general has begun an inquiry into chemical data reporting under the reformed Toxic Substances Control Act, according to a newly posted [memo](#). The reformed law requires chemical makers and importers to give EPA key data about those chemicals used to review potential risks, and to update that data every four years. Investigators will look specifically at "how the EPA is ensuring that companies are compliant" and whether EPA is using that data to prioritize which chemicals to review for health and environmental risks.

PELOSI, OTHERS TALK MARINE MONUMENTS: House Minority Leader [Nancy Pelosi](#), Reps. [Jared Huffman](#) and [Jackie Speier](#), and others are hosting a public forum today at the Bay Model Visitor Center in Sausalito, Calif. on protecting national marine sanctuaries and monuments. As a reminder, Commerce Secretary Wilbur Ross has until Oct. 25 to send Trump a report on the potential for offshore fossil fuel production, among other things, in 11 marine national monuments and sanctuaries. Members of the public will have an opportunity to comment at the event, which kicks off at 10:30 a.m. PST and can be streamed [here](#).

MAIL CALL! PUMP THE BRAKES ON LNG EXPORTS: The Industrial Energy Consumers of America sent a [letter](#) Tuesday to the Trump administration asking for a moratorium on additional approvals of natural gas exports. "If we export too much LNG, prices will eventually rise to global levels," Paul Cicio, the manufacturing group's president, wrote. "At that point, foreign nations demand for LNG will dictate what price Americans pay. This is certainly not in the interests of the American public."

ELECTRIC CONTRACTORS OPPOSE SUNIVA PETITION: The National Electrical Contractors Association sent a [letter](#) to the International Trade Commission Tuesday opposing an effort from Suniva and SolarWorld to have imported solar cells or panels slapped with steep tariffs. "We believe the proposed remedies will significantly harm American manufacturers of solar parts and panels and ultimately crush demand for solar installations nationwide," the group

wrote.

ME FIRST — CLEAN ENERGY WEEK EXPANDS! The Center for Liquefied Natural Gas has joined the steering committee of National Clean Energy Week, bringing the number of groups planning the events of the week of Sept. 25 to 29.

HERE'S ZINKE IN AN APRON: His wife, Lola, tweeted a picture of him cooking breakfast in a pretty sweet apron. Check it out [here](#).

REPORT: HERE'S HOW TO BOOST RGGI: Resources for the Future released [a report](#) Tuesday outlining ways to strengthen the Regional Greenhouse Gas Initiative. Their top idea is a new mechanism known as an emissions containment reserve, which would be triggered when carbon allowance prices drop below a threshold that would be set to ensure it was still driving emissions reductions.

MOVER, SHAKER: Colin O'Neil has been promoted to legislative director at the Environmental Working Group where his portfolio includes agriculture and food, cosmetics and chemicals outreach efforts on Capitol Hill. Before joining EWG, he was director of government affairs at the Center for Food Safety.

QUICK HITS

— In Italy's Drought-Hit Vineyards, the Harvest of a Changing Climate. [New York Times](#).

— Chris Christie Leaves A Trumpian Legacy On Climate Change. But It Won't Last. [Huffington Post](#).

— Kentuckians to Trump: Restart study of how surface mining hurts health. [Lexington Herald-Leader](#).

— California sees strong results from cap-and-trade auction after program extension. [Los Angeles Times](#).

— Oil prices climb as traders eye another U.S. crude drawdown. [Reuters](#)

— In Alaska, One Man Fights To Save Oil Fund As Reserves Dry Up. [NPR](#).

— Climate change serves as central concern at annual Lake Tahoe Summit. [Tahoe Daily Tribune](#).

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Exxon scrambles to contain climate crusade [Back](#)

By Andrew Restuccia | 05/09/2016 05:28 AM EDT

On Nov. 3, ExxonMobil dispatched its top lobbyists to Capitol Hill on an urgent mission — tamping down an escalating campaign aimed at making the country's largest oil company pay a legal and political price for its role in warming the planet.

The meeting marked a striking shift in Exxon's handling of the controversy. The notion of holding oil companies responsible for global warming, in the same way tobacco companies had to pay billions of dollars in damages over the health effects of cigarettes, had long been seen as a quixotic quest led by scruffy, oil-hating extremists. But POLITICO's interviews with dozens of activists, industry officials and lawmakers suggest that support for a legal crusade against Exxon is growing far beyond the political fringe — and now poses the biggest existential threat the company has faced in decades.

Just five days before the meeting on Capitol Hill, Democratic presidential front-runner Hillary Clinton had urged the Justice Department to investigate whether the petroleum giant spent decades deceiving the public about the threat of climate change. State attorneys general had Exxon in their sights as well, preparing to issue subpoenas that would eventually rope in virtually all of Washington's conservative policy apparatus. A four-year effort by green activists, scientists and lawyers to turn Big Oil's biggest player into the poster child for climate change — deliberately patterned after the successful campaign to take down tobacco — was shaking the descendant of John D. Rockefeller's Standard Oil empire to its core.

So the four Exxon executives arrived at the office of California Democrat Rep. [Ted Lieu](#) with one job: convincing four of their most vocal congressional critics that the company wasn't the polluting villain its enemies were making it out to be.

Exxon supports "sound climate policy" and has tripled its greenhouse-gas cuts since 2008, the executives boasted to the lawmakers in a 10-page [glossy presentation](#), later obtained by POLITICO. Exxon was even on record in favor of a tax on carbon emissions — a climate remedy more radical than anything President Barack Obama has proposed.

The company left empty-handed, though, after refusing to directly answer questions about whether it had suppressed internal research that underscored the threat of climate change while publicly sowing doubt about climate science, according to people in the room.

The presentation made at least one thing clear, however: After years of shrugging off pressure from eco-activists, Exxon was showing signs of worry.

And Exxon wasn't the only one with reasons to be nervous.

Interviews with advocates on both sides of the feud reveal how quickly the anti-Exxon movement has sprouted, to the point that it's now consuming op-ed pages, airwaves and courtrooms across the country. Once merely intent on shaming the oil giant into better behavior, environmentalists are pursuing a strategy to discredit the company, weaken it politically and perhaps make it pay the kinds of multibillion-dollar legal settlements that began hitting the tobacco industry in the 1990s.

The campaign — led by some of the same climate activists who defied Beltway wisdom by killing the Keystone XL oil pipeline — has mushroomed into far more than a greens-versus-Exxon feud.

Just last week, a leaked subpoena from the attorney general in the U.S. Virgin Islands revealed a vast probe that demanded Exxon's communications with more than 100 free-market think tanks, conservative consulting firms and climate-skeptic scientists — proof, the company's supporters say, that environmentalists are using the legal system to launch a broad attack on their political opponents. The subpoena targets Exxon's dealings with parties including the Competitive Enterprise Institute, the U.S. Chamber of Commerce Foundation, the Hoover Institution, George Mason University and scientists at the Massachusetts Institute of Technology, the University of Alabama and the University of Delaware.

The first subpoena to Exxon came from New York Attorney General Eric Schneiderman, who used his state's powerful consumer fraud law to hit the company with legal papers just a day after the lobbyists' meeting on the Hill. AGs in California and Massachusetts have also launched investigations into the company.

Members of Congress have weighed in too, with Sen. Sheldon Whitehouse (D-R.I.) and presidential contender Sen. Bernie Sanders (I-Vt.) urging DOJ to consider bringing civil racketeering cases against oil companies.

"Obviously, we take it extremely seriously," Exxon spokesman Alan Jeffers told POLITICO, noting that the company is complying with the New York subpoena while it fights the racketeering summons from Virgin Islands Attorney General Claude Walker. The greens' campaign is built on "distorted reports that they have commissioned and a distorted history of climate research that we've done openly with government bodies," Jeffers added.

Both sides describe the political stakes of the campaign as huge.

"Exxon's been able to work its political will for a quarter of a century — they shouldn't be able to," said climate activist Bill McKibben, a leader of the fight against Keystone. "They should be a toxic political brand."

"Exxon is taking this real seriously, and that tells you something, doesn't it?" Matt Pawa, a Massachusetts lawyer who has repeatedly gone after Exxon in court, said in an interview. "Maybe they've got something to hide."

Even rival oil companies that disdain Exxon's support for a carbon tax are spooked about how far the greens' campaign has gotten, especially when the industry is already reeling from a huge slump in fuel prices.

"Industry doesn't look at this and say, 'Too bad for Exxon,'" one fossil-fuel lobbyist said. "We say it's very chilling, a horrible precedent, and no one wants to see themselves next."

Underscoring the industry's anxiety is the breadth and intensity of the counterattack it has mounted. Industry consultants are accusing the state AGs of colluding with environmentalists, and have questioned the role of foundations created by the Rockefeller family — petroleum heirs turned anti-oil activists — in helping bankroll some news organizations' Exxon investigations.

The industry is even exploring the idea of launching a counter-probe: A lobbyist for one of Exxon's industry rivals told POLITICO he has reached out to red-state attorneys general to gauge their interest in probing where environmental groups are getting their funding. No takers have emerged so far.

But industry backers' main argument is that the greens are assaulting the constitutional rights of anyone who dissents from mainstream climate science. Heritage Foundation fellow Hans von Spakovsky has denounced Schneiderman's probe as a "Soviet-Style investigation," while conservative columnist George Will called it an example of "gangster government."

"Instead of honoring legitimate academic and scientific inquiry, the far-left has gone to extremes to silence those who disagree," Oklahoma Republican Sen. Jim Inhofe, the chairman of the Environment and Public Works Committee, said Wednesday. He added, "This is nothing more than a misuse of power to score cheap political points."

Exxon itself has made similar arguments, fighting the Virgin Islands subpoenas in court as an infringement on the company's free-speech rights. But Walker, the territory's AG, dismissed that reasoning.

"The First Amendment is not a defense to fraud," Walker told POLITICO through a spokesman, and "the Constitution provides no right to mislead shareholders."

"The tobacco companies," he added, "raised exactly these arguments. ... That was soundly rejected by the courts."

The seeds of the Venus flytrap closing around Exxon were planted in June 2012 in the wealthy seaside town of La Jolla, Calif., where two dozen scientists, lawyers and academics huddled for a scholarly conference on an issue that had vexed the environmental movement for decades: How,

on a planet filled with 7 billion people, do you hold oil companies liable for their role in worsening climate change?

"This wasn't a strategy session," said Peter Frumhoff, a conference organizer and the director of science and policy at the Union of Concerned Scientists. "This was a kind of first cut at, for lack of a better word, an exercise in applied scholarship."

But attendees emerged with two strategies that would set the tone for today's anti-Exxon fight.

First, they underscored the importance of building a catalogue of peer-reviewed research making the case that individual corporations could be held responsible for their contributions to climate change, a step that could serve as Exhibit A in future legal action. That tactic took a page from Exxon itself, which funded research after its 1989 Valdez spill arguing that Alaska's Prince William Sound was already recovering from the damage.

Richard Heede, a climate researcher who helped organize the La Jolla conference, said the attendees realized the "value" of having credible peer-reviewed research.

Working with other academics like Naomi Oreskes, whose book "Merchants of Doubt" drew parallels between the climate and tobacco fights, Heede published articles in peer-reviewed journals that placed the responsibility for climate change at the feet of major fossil fuel companies. In a November 2013 [study](#), for example, Heede estimated that 63 percent of worldwide emissions of industrial carbon dioxide and methane came from a group of 90 "carbon major" entities. (ExxonMobil was prominent in the list.) Environmental groups like Greenpeace immediately [trumpeted](#) the research.

"For a long time, fossil fuel companies have benefited from the idea that everyone is responsible for climate change — and if everyone is responsible, then nobody is responsible," said Carroll Muffett, the president of the Center for International Environmental Law. "Now the science is moving into a much finer resolution."

Second, the La Jolla attendees agreed that obtaining and publicizing internal corporate documents was the key to turning public opinion against the oil companies and eventually securing a legal victory.

"A key breakthrough in the public and legal case for tobacco control came when internal documents came to light showing the tobacco industry had knowingly misled the public," the 2012 conference organizers wrote in a [memo](#) on the meeting. "Similar documents may well exist in the vaults of the fossil fuel industry and their trade associations and front groups, and there are many possible approaches to unearthing them."

Exxon's opponents are likely to get hold of more internal records as the attorneys general proceed with their investigations. Schneiderman's aides are culling through tens of thousands of pages of documents from the company, according to a person familiar with the probe.

"I'd be amazed if there aren't several paper trails that will be found through subpoenas," said

veteran lawyer Richard Ayres, one of the Natural Resources Defense Council's co-founders and an attendee at the 2012 conference. "Once subpoenas are answered, the trails will begin to be more visible and people will find this idea of litigation a lot more appealing."

The source familiar with Schneiderman's probe said the wide leeway afforded by his state's financial fraud law, the Martin Act, aided his request for documents. Those include records of Exxon's internal research into climate change's causes, the role of climate information in business decisions, and marketing, advertising and company communications.

From the start, Exxon's critics drew heavily on the lengthy legal crusade against tobacco companies that culminated in a massive settlement in 1998 totaling hundreds of billions of dollars.

Tobacco critics made little headway in the 1950s, when few Americans knew of the dangers of smoking. But the anti-tobacco fight gained steam as studies directly linked cigarettes to cancer and other ailments, eventually allowing the states to collect huge windfalls from the tobacco companies as compensation for smoking's health costs.

For the people gathered in La Jolla, even getting to the lawsuit stage would be a victory. "No matter what the outcome, litigation can offer an opportunity to inform the public," anti-tobacco litigator Sharon Eubanks said at the meeting, according to the meeting notes.

At the heart of any legal strategy is proof of a conspiracy or fraud — in this case, an alleged effort by oil companies to conceal their internal knowledge of their product's contributions to climate change. The activists' big break came in September and October, when the nonprofit investigative website InsideClimate News and the Los Angeles Times published stories alleging that Exxon's scientists had known as far back as the 1970s that the company's fossil fuels would cook the planet, even as its executives hid that knowledge.

The stories, citing internal Exxon documents, didn't make an immediate splash in Washington. Lieu and Rep. Mark DeSaulnier (D-Calif.) didn't ask DOJ to launch an investigation until Oct. 15. Exxon addressed the controversy for the first time on Oct. 21, singling out InsideClimate as "an anti-oil and gas activist organization" — the first of many times that the industry would slam the news outlet for taking money from the anti-fossil-fuel Rockefeller Brothers Fund and Rockefeller Family Fund.

Then the activists scored a political coup on Oct. 29 by injecting the issue into the mainstream of the presidential race. Responding to a question at a New Hampshire town hall, Hillary Clinton told an activist from McKibben's climate group that the Justice Department should look into Exxon's activities, saying, "There's a lot of evidence they misled."

Days later, Exxon's lobbyists were taking the meeting in Lieu's office with Lieu, DeSaulnier and two other liberal House Democrats. They aimed to "show the source documents that we think are the complete opposite of what the media reports have showed," Exxon spokesman Jeffers said afterward.

Their message: Exxon "believes in climate change, they believe it's largely caused by the burning of fossil fuels and human activity, and they support a fee on carbon," Lieu recalled in an interview. "That is the company line."

But when Lieu asked if Exxon supported any current proposal to tax the carbon in its nearly 25 billion barrels in proved worldwide oil reserves, the lobbyists said no. Nor would the company admit to the greens' accusations of deceiving the public.

"The basic questions were not at all resolved or seriously addressed in the meeting," Rep. [Peter Welch](#) (D-Vt.) told POLITICO. DeSaulnier called Exxon's pitch an attempt at "damage control," rather than an effort to be "open and honest and corrective."

American oil companies are coping with the anti-Exxon campaign at a uniquely vulnerable time, with oil prices dropping to a 13-year low in February. Exxon lost its top-ranked credit rating last month thanks to a debt load that has more than tripled since 2012 and earnings that fell by 50 percent last year.

To be sure, Exxon's status as one of the world's most profitable companies remains unshaken. Its market value is nearly double that of Chevron, the nation's second-biggest oil and gas company.

But as the greens' campaign matures, Washington's conservative firmament is broadcasting its fury at what it sees as a fishing expedition aimed at ferreting out embarrassing information about the company.

Among those fighting back is CEI-affiliated conservative activist Chris Horner, who has used public records requests to uncover internal documents about coordination between activists and state attorneys general. Horner, who runs an anti-environmentalist research machine called E&E Legal, [released emails](#) last month that showed the attorneys general consulting with an anti-Exxon lawyer and an official at the Union of Concerned Scientists before holding a news conference in March with former Vice President Al Gore.

Two BakerHostetler litigators, David Rivkin and Andrew Grossman, have also founded a project called Free Speech in Science accusing the environmentalists of attacking climate skeptics' constitutional rights.

"You don't normally choose a target first, based on their speech, and say you're going to pursue all theories" available to attack that target, said Grossman, also an adjunct scholar at the conservative Cato Institute. "What's really going on here is intimidation."

Leaders of the Federalist Society, an alliance of conservative lawyers that counts Supreme Court Justices Clarence Thomas and Samuel Alito as members, have penned lengthy [attacks](#) on Schneiderman and other attorneys general investigating Exxon. [National Review](#), [Reason](#), [Powerline](#) and others followed suit in defending the oil giant, as have [members](#) of The Wall Street Journal's editorial board.

Exxon is "considering all of our options" for potential legal action against InsideClimate News, the Los Angeles Times or activist groups, spokesman Jeffers told POLITICO.

Aside from the company itself, the most vocal resistance to the greens has come from FTI Consulting, a firm filled with former Republican aides that has helped unify the GOP in defense of fossil fuels. Under the banner of Energy in Depth, a project it runs for the Independent Petroleum Association of America, FTI has peppered reporters with emails that suggest "collusion" between green activists and state AGs, and has raised questions over InsideClimate's Rockefeller grants.

The intensity of Energy in Depth's counter-assault reflects the degree of potential pain the entire industry faces from Exxon's troubles. IPAA senior vice president Jeff Eshelman said its efforts "haven't been to defend one company or interest, but rather to showcase [InsideClimate's] ongoing attacks on the American oil and gas industry that seem to be funded by multi-million-dollar activists."

InsideClimate News, which was named a Pulitzer Prize finalist last month for its Exxon stories, says it has received \$25,000 from the Rockefeller Family Fund, or about 2 percent of the company's budget. The idea that the funding is influencing its news coverage is "an easy accusation, but it's completely baseless," founder and publisher David Sassoon told POLITICO. "Our funders have no access to our editorial and they never have."

As for Exxon, he said: "They have never asked us for a correction. They don't dispute the authenticity of the documents that our report is based on."

While nearly 200 nations hammered out a global climate agreement in Paris in December, many establishment environmentalists took a victory lap. But the anti-Exxon forces were girding for their next fight.

On the sidelines of the United Nations conference in Paris, Pawa — the Massachusetts lawyer — delivered a private talk to activists that McKibben described as his "opening argument in the case" against Exxon. Columbia Law School professor Michael Gerrard also spoke that day at Pawa's request about what he described as "some of the defenses that would be raised" by a corporation facing legal threats linked to its greenhouse gas emissions.

Pawa is a veteran Exxon antagonist, having won a \$236 million judgment against Exxon in 2013 for polluting New Hampshire's groundwater. He helped an Alaskan Inuit village sue the company in 2008 over the rising seas that threatened the local economy.

And the previously unreported closed-door huddle in Paris wasn't the only place Pawa has touted his legal theory of Exxon's culpability.

He delivered a courtroom-style presentation titled "What Exxon Knew About Global Warming,

and What it Did Anyway" in March at an [environmental law conference](#) in Oregon. Later that month, he led a closed-door briefing with Democratic attorneys general and their staff, according to [emails](#) obtained by Horner's conservative think tank.

Pawa's central role in the escalating bombardment of Exxon has made him a target, as the company's allies liken him to a puppet master orchestrating the campaign behind the scenes. But he told POLITICO that he is not formally involved in any state investigations, even as he suggested that more AGs could jump into the fray.

"There will be a successful outcome some day, whether it's my or another generation of lawyers," Pawa said. He added: "I do think we will be successful. I hope it's in the short term."

Activists plan to make a public stand at Exxon's annual shareholder meeting May 25, where several resolutions intended to force the company into acknowledging the climate threat will come to a vote.

The calls for a DOJ racketeering investigation from Clinton, Sanders, Lieu and Whitehouse, a former state attorney general, are also paying off. The Justice Department told Lieu in March that it had referred the requests to the FBI, a move that doesn't preclude DOJ later filing a civil complaint.

Walker, the Virgin Islands' AG, predicted that his Exxon probe will take longer than the four months it took for his office to secure an \$800 million settlement in a separate case against Hess Oil. But otherwise, he said, a thorough inquiry "takes time, and my job is to get it done right, not fast."

Oil companies may face yet another headache if Democrats regain the Senate in November: Lawmakers such as Whitehouse told POLITICO they will push to hold hearings like those in the 1990s where tobacco executives had to testify under oath.

The prospect of intensifying political trouble for Exxon and other major oil companies while a legal case drags on is an integral design feature of activists' campaign against the company. Whether the endgame is the type of multibillion-dollar settlement that crippled cigarette makers, or whether it's a Beltway surrender that forces the company to do more on climate change, no longer matters.

What matters, the company's critics say, is sending a message to the industry that its days of climate obstructionism are over.

In the meantime, Whitehouse is betting that the flood of internal Exxon documents emerging as a result of the investigations will uncover damaging information.

"It wouldn't surprise me if some of these organizations were busily scrubbing their files to get rid of culpatory materials," he said.

Meanwhile, the industry's seemingly united pro-Exxon front belies a paradox: Other American

oil companies are frustrated by the company's stated advocacy of a "revenue-neutral" carbon tax. No Democrat or environmentalist takes that stance seriously, but Exxon's willingness to even utter the phrase makes it an outlier among U.S. drillers and refiners, which fear that a levy on greenhouse gases could gain momentum if Clinton wins in November.

Many in the industry are also skeptical of Exxon's ties to the Democratic front-runner: The company's Washington office includes senior lobbyist Theresa Fariello, who bundles contributions for Clinton's campaign, and former Democratic aide Dan Easley, both of whom attended the Election Day meeting in Lieu's office.

"Exxon was one of the first companies out of the gate on a carbon tax, and they've made no secret they want to get along with the Clinton guys," said one fossil-fuel lobbyist unaffiliated with the company. "Their chickens are coming home to roost."

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Zinke recommends shrinking Bears Ears monument [Back](#)

By Esther Whieldon | 06/12/2017 04:07 PM EDT

Interior Secretary Ryan Zinke proposed shrinking the Bears Ears National Monument on Monday, trimming back the controversial Utah monument created by former President Barack Obama during his final days in office.

A preliminary review of the 1.4 million-acre monument that Zinke sent to the White House over the weekend shows his "belief that the monument needs to be right-sized," Zinke said in a statement.

Any move by President Donald Trump to alter the monument designed to protect thousands of sensitive archaeological sites will set off a legal fight with tribes and conservation groups that have complained the Native American ruins there were being damaged and would be threatened by oil and gas development in the area.

Zinke's [preliminary recommendations](#) to Trump show he did not plan to go as far as revoking Obama's monument designation — a move that has been sought by the state's congressional delegation.

"Rescinding the monument was an option, but looking at it, there are some antiquities within the monument that I think deserve to be protected," he said in a press call.

Trump has ordered Zinke to review 22 of the national monuments that were established in the past two decades to determine if they should be altered or revoked. The secretary has until Aug. 24 to send his final recommendations to the White House, and Zinke has extended the comment

period on Bears Ears to July 10.

Zinke is also pressing Congress to look at the Bears Ears boundaries "to see whether the lands are more appropriately designated as national conservation areas or national recreation areas," he said. "There's certainly a high demand of recreation. There's certainly a demand for conservation in some parts, but we believe that those areas are better suited under congressionally mandated designations than they are a monument."

The secretary also asked Congress to grant tribes the ability to co-manage specific areas within Bears Ears, and for Congress to clarify how wilderness areas that overlap with monuments should be treated, an issue for Bears Ears and some other monuments under review.

A former congressman from Montana, Zinke cited his concern that the federal government restricts activities on the land it designates as protected, saying that designating a monument the size of Bears Ears where "multiple-use management is hindered or prohibited is not the best use of the land and is not in accordance with the intention of the Antiquities Act."

President Barack Obama created the monument in southeast Utah in December, angering Republicans who accused the administration of federal overreach by ignoring locals who opposed the move and using the Antiquities Act to cut off commercial activity such as mining and oil and gas drilling.

Prior legislative attempts by the Utah delegation to curb federal monuments in the state have failed. Utah Republicans Rob Bishop and Jason Chaffetz did manage last year to get their Utah Public Lands Initiative legislation through the Natural Resources Committee, which Bishop chairs, but it never received a floor vote.

If Trump ultimately decides to alter Bears Ears or the other monuments on the list, he is certain to face legal challenges from environmental groups. "An attack on one monument is an attack on all of them," said Jesse Prentice-Dunn, advocacy director at the Center for Western Priorities.

Past presidents have changed the size of monuments but none have revoked them entirely, and legal questions remain as to whether the law allows a president to fully undo their predecessor's actions.

Zinke last month traveled to the Bears Ears and Grand Staircase-Escalante monuments and this week he will head to New England to visit the Katahdin Woods and Waters National Monument in Maine, which is also under review.

Zinke has repeatedly talked about the need to balance conservation with commercial and recreational demands on public lands, and has already this year ended the moratorium on new coal leases and launched reviews on ways to open up more areas for oil and gas development.

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U.S. biodiesel industry gets early win in trade case [Back](#)

By Eric Wolff | 08/22/2017 05:05 PM EDT

The Commerce Department will impose import duties on biodiesel shipments from Argentina and Indonesia as a result of a trade case brought by domestic producers, Commerce Secretary Wilbur Ross said Tuesday.

"The U.S. values its relationships with Argentina and Indonesia, but even friendly nations must play by the rules," Ross said in a statement announcing the rulings.

The department found the Argentine and Indonesian governments set up subsidies in violation of international trade laws, and penalties are needed to even out prices. "The subsidization of goods by foreign governments is something that the Trump administration takes very seriously, and we will continue to evaluate and verify the accuracy of this preliminary determination," Ross added.

Because the ruling is preliminary, companies in Argentina and Indonesia will have to pay a cash deposit on exports to the U.S. to cover potential future penalties. The cash deposit rates will range from 50.29 percent to 64.17 percent of the value of Argentine biodiesel, and from 41.06 percent to 68.28 percent for product from Indonesia.

Commerce also imposed a retroactive penalty so that the deposit rates will apply to biodiesel exports to the U.S. from those countries dating back to May, rather than starting Tuesday, as would normally be the case.

The National Biodiesel Board and 15 biodiesel producers brought the case in response to rapidly increasing imports of biodiesel from the two countries.

"The Commerce Department has recognized what this industry has known all along — that foreign biodiesel producers have benefited from massive subsidies that have severely injured U.S. biodiesel producers," Doug Whitehead, NBB's chief operating officer, said in a statement.

The National Association of Truck Stop Operators opposed the rulings, arguing they would raise fuel prices in the U.S. and ultimately lead to higher costs for consumer goods transported by truck in the U.S. "Any outcome that results in cutting off Americans' access to cleaner burning fuels, such as biodiesel, from foreign markets is a bad day for the United States," David Fialkov, NATSO's vice president of government relations, said in a statement.

Commerce will take comment on the preliminary rulings and then issue final decisions, which are likely to come next year.

Commerce is expected in October to issue a preliminary ruling in a separate case on whether Argentina and Indonesia deliberately dumped biodiesel in the U.S., undermining U.S. producers. NBB and the 15 biodiesel producers brought that action as well.

A memo Commerce released Tuesday on Argentine imports is [here](#). The decision is [here](#). A memo on Indonesian imports may be read [here](#). The decision is [here](#).

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Trump rejects wealthy friends' pleas for help [Back](#)

By Alex Guillén and Eric Wolff | 08/22/2017 07:30 PM EDT

Coal magnate Robert Murray has just joined Wall Street billionaire Carl Icahn in an exclusive club — wealthy backers of President Donald Trump who tried and failed to get lucrative concessions from his administration.

Murray, CEO of Murray Energy, one of the nation's biggest and most politically active coal miners, complained in an Aug. 4 [letter](#) made public Tuesday that the Energy Department had dragged its feet on his request that it use its emergency powers to force some Rust Belt coal-fired power plants to stay open. Trump was so taken by the idea that he immediately turned to Energy Secretary Rick Perry and ordered him to do it, wrote Murray, who said he had witnessed the conversation.

But DOE said no.

Murray's failure to shift the policy, and Icahn's earlier inability to convince the Environmental Protection Agency to alter its ethanol rule, raises questions about the limits of bulldog business leaders to circumvent the government's bureaucracy, even in an administration run by a sympathetic billionaire.

"These are two people who really don't understand how government works talking to a president who came into office not understanding how government works," said Jeff Navin, a founder of Boundary Stone Partners and former acting chief of staff at the Department of Energy under President Barack Obama. "What they're asking for causes serious legal problems for the agencies they're asking to take these steps."

Some conservatives, meanwhile, praised Trump for sticking up for market principles by refusing to grant favors to individual supporters.

The Trump administration "is committed to making sound policy decisions based on market principles and the rule of law, not political favoritism," said Tom Pyle, president of the industry-funded American Energy Alliance and former head of the Trump transition team at the Energy Department. "This is welcome news for Main Street and a wake-up call for K Street."

Icahn was an early Trump supporter — the two men go back decades — and though Murray

started 2016 backing Texas Sen. Ted Cruz, he eventually boarded the Trump train, hosting a major fundraiser in West Virginia and offering to educate Trump on coal issues. Trump's victory in November meant both had a chance to advance pet policies, especially since it seems both men have regular access to the president.

Yet both met with defeat.

The Energy Department rejected Murray's request that it use a special authority meant to protect the electric grid during emergencies to order FirstEnergy Solutions, part of Ohio-based utility FirstEnergy Corp., to keep open its coal-fired plants supplied by Murray's mines, even if the utility enters bankruptcy proceedings and would otherwise shut them down. Murray said that if those power plants shut down, it would force his company into bankruptcy.

Trump seemed fully supportive in private meetings, Murray revealed in letters to the White House, which were first published by The Associated Press.

At one meeting with the president, Trump turned to Perry in front of Murray "and said three (3) times 'I want this done,'" the coal company owner wrote. During a subsequent meeting with Murray and FirstEnergy Corp. CEO Charles Jones, Trump told an aide to "'tell [National Economic Council Director Gary] Cohn to do whatever these two want him to do.'"

But despite Trump's reported enthusiasm about granting Murray's unusual request, and despite Murray's assurances that other coal producers would benefit as well, the administration this week rejected it. DOE said in a short statement that "the evidence does not warrant the use of this emergency authority."

A White House spokeswoman did not address whether Trump had made the promises to Murray but said the president had acted on behalf of coal miners by killing Obama-era rules.

"Whether through repealing the Clean Power Plan and the 'Waters of the U.S. Rule,' removing the U.S. from the Paris Climate Agreement, or signing legislation to overturn rules and policies designed to stop coal mining, President Trump continues to fight for miners every day," White House spokeswoman Kelly Love said in a statement.

Similarly, Icahn's push to change a federal biofuel program to help his oil refining company CVR Energy suffered defeat earlier in the month. The Wall Street investor for years had railed against the EPA's Renewable Fuel Standard, which requires gasoline refiners to blend ethanol into their fuel, and Icahn's role as an unofficial Trump adviser on regulations presented him the opening he had sought.

In the early weeks of the Trump administration, Icahn presented the White House with language for an executive order to overturn the rule, which was costing his company hundreds of millions of dollars. But Icahn's effort hit a wall of opposition from oil companies and biofuel makers, and by spring, the proposal was largely left for dead. Sources told POLITICO earlier this month that the president would not be changing the biofuel program, though EPA has yet to make the decision official.

Icahn "comes in hot, his guy wins, Trump places a crown on Icahn's head, and Icahn says 'OK, it's corporate raider time,'" said Tyson Slocum, energy director for the nonprofit consumer advocacy group Public Citizen. "He knows hardball tactics. What Carl Icahn doesn't know is D.C."

Last week, Icahn resigned his title, and in another sign that he was wrapping up his affairs in D.C., he settled a court challenge to an enforcement action brought by the Federal Railroad Administration against American Railcar Industries, another Icahn-controlled company. That final settlement largely resembles the inspection regime the agency originally imposed, an FRA spokeswoman said.

One critic said the lack of experience in the new administration appeared to open the door for both Icahn and Murray, even if neither managed to step through it.

"I think we've seen, in this administration, at least, reports of an under-attentiveness to those procedural and institutional safeguards. That creates risk for unsound decisions to be made," said Ali Zaidi, a former Obama White House energy adviser now at the law firm Morrison & Foerster.

Icahn and Murray aren't the only ones seeking special treatment.

Coal billionaire-turned-West Virginia Gov. Jim Justice has proposed a federal subsidy for Appalachian coal in a plan that could net his own mines millions of dollars.

Justice privately pitched Trump on a subsidy that would pay utilities \$15 per ton of Appalachian coal burned, and he said in a [recent interview](#) the president was "really interested" in the plan, which would cost an estimated \$4.5 billion a year and likely require congressional approval.

But Justice's proposal has not been received well by key circles. It's gone over "like a fart in church" with Western coal miners, according to Travis Deti, executive director of the Wyoming Mining Association. And Wyoming's congressional delegation — including Senate Environment and Public Works Chairman [John Barrasso](#), a Republican — [panned the idea](#) in a letter to Trump. Democrats, environmentalists and budget-hawk Republicans are also opposed to any coal subsidy.

Justice might look to the results that Icahn and Murray got.

Icahn and Murray "both became completely consumed with their own narrow self-interest, and they completely lost sight that there are a lot of stakeholders — including corporate stakeholders — that may not like their proposals," said Public Citizen's Slocum.

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White House eyes Afghanistan resources to defray costs [Back](#)

By Ben Lefebvre | 08/22/2017 03:01 PM EDT

President Donald Trump may press for a U.S. role in tapping Afghanistan's vast mineral reserves to defray the cost of military operations there, a senior adviser to Trump confirmed to POLITICO Tuesday.

Trump, who repeatedly called for the U.S. to take Iraqi oil to pay for its mission in that country, [plans to increase](#) troop levels in Afghanistan. But while he vowed in his policy [speech](#) on Monday that the U.S. would not engage in "nation-building again," he also said the U.S. would "participate in economic development to help defray the cost of the war to us."

Asked whether Trump was considering grabbing a stake in Afghanistan's vast mineral deposits — estimated at \$1 trillion by one U.S. government [report](#) — a senior White House adviser said it was on the table.

"We're looking at all those types of options," the adviser said.

A White House spokeswoman said there were no new announcements at the moment.

The war-torn country has an estimated 60 million metric tons of copper and 2.2 billion metric tons of iron ore, plus deposits of magnesium, gold, silver, rubies and other valuable resources spread across the country, according to a U.S. Geological Survey [study](#). It also holds up to 1.6 billion barrels of recoverable oil and 16 trillion cubic feet of natural gas, according to [government](#) data — a relative pittance compared to some of its Middle East neighbors, but enough that Exxon Mobil and other oil companies [sniffed](#) around the area briefly.

But extracting and processing tons of minerals in a war zone and transporting it out of the mountainous country with few modern roads or bridges is not something that can be done anytime soon, analysts said. Armed guerrilla groups and warlords currently mine the deposits to fund their own operations, according to a [study](#) by Global Witness, a nonprofit that campaigns for transparency in mining, oil and gas sectors.

Afghanistan's inherent infrastructure difficulties, both physical and political, blocked the building of a natural gas pipeline through the country in the late 1990s.

In 1997, Unocal, which was later bought by Chevron, joined a group of companies seeking to build a \$2.5 billion pipeline transporting natural gas from across the country, but it [abandoned](#) the effort. A company executive [told](#) the House Foreign Relations Committee in 1998 the lack of a strong government in the country posed a serious challenge to getting any energy infrastructure built there.

Trump can look at China for an example of how things can go wrong on the mining front, said Tony Cordesman, Burke chair in strategy at the Center for Strategic International Studies.

In 2007, two Chinese mining companies obtained Afghan government permission to extract copper from the country's Aynak region. A decade later, the project has stalled amid security concerns, contract disputes and controversy over the Chinese consortium's handling of Buddhist relics at the site.

"Above all it's a security problem. Is there mineral wealth there? Yes. Are we in position to secure a mine? If you don't have security, it is extremely difficult," Cordesman said.

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Dakota Access owner sues green groups [Back](#)

By Diamond Naga Siu | 08/22/2017 04:44 PM EDT

Dakota Access Pipeline owner Energy Transfer Partners filed a federal racketeering lawsuit today against Greenpeace International and Earth First!, contending the environmental groups worked together to spread false information about the company to raise money and damage Energy Transfer's business.

"The alleged Enterprise is comprised of rogue environmental groups and militant individuals who employ a pattern of criminal activity and a campaign of misinformation for purposes of increasing donations and advancing their political or business agendas," ETP and its parent company said in a statement. "The Complaint asserts that the attacks were calculated and thoroughly irresponsible, causing enormous harm to people and property along the pipeline's route."

The 187-page complaint additionally alleges that "smaller, more violent eco-terrorist organizations and radicalized individuals" are mishandling their funds and instead of using it to help the environment, they used the money for personal gain.

"Under the 'Greenpeace Model,' raising money and the network's profile is the primary objective, not saving the environment," their complaint wrote. "Greenpeace's most senior leaders have admitted that their goal is not to present accurate facts, but to 'emotionalize' issues and thereby 'pressure' (i.e. manipulate) their donor audiences into parting with their money."

Greenpeace USA General Counsel Tom Wetterer said this is the second "meritless" lawsuit filed against them by the law firm led by President Donald Trump's former personal attorney Marc Kasowitz.

"They are apparently trying to market themselves as corporate mercenaries willing to abuse the legal system to silence legitimate advocacy work," Wetterer said in a statement.

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