

Public Campaign Against Exxon Has Roots in a 2012 Meeting

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May 23, 2016

4 MIN READ

The activists who have painted a bright target on the back of Exxon Mobil have “colluded to push politically motivated investigations of climate dissent,” and conducted a “real-life RICO-type conspiracy.”

So say defenders of the energy company, who in recent weeks have tried to flip the script on the activists whose work helped set the stage for the current investigations of possible conflicts between Exxon Mobil’s public and private statements on climate change.

They say the environmentalists have been holding a series of meetings and discussions to plot their strategy, dating back to a gathering in La Jolla, a San Diego community, in 2012. That meeting was conceived of by Naomi Oreskes, a historian of science at Harvard whose work has drawn parallels between the public affairs strategies of the tobacco industry and fossil fuel companies.

Critics refer to that founding group as the La Jolla Junta. The discussions would grow over time to include groups like the climate campaigners 350.org and the Rockefeller family philanthropies.

But any accusations that the group engaged in a conspiracy would seem to violate the first rule of conspiracies: that they operate in secret.

For anyone curious about the strategy developed at the workshop in La Jolla, it is no mystery — the group produced a 36-page report that is readily available online.

In addition, groups like the Union of Concerned Scientists have been open about their collaboration and consultation with attorneys general.

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“There’s nothing hidden here,” said Peter Frumhoff, director of science and policy at the Union of Concerned Scientists.

The 2012 report offers a road map of sorts that helps explain why those taking on Exxon Mobil and other fossil fuel companies might find the courts a promising battleground.

Here are some highlights:

Connect Big Oil to Big Tobacco

The participants, including several veterans of the tobacco wars, discussed a turning point in the fight against tobacco: the unearthing of industry documents that showed the industry had long been aware of the health risks of its products, and the enormous lengths to which the companies went to sow doubt about the science.

The Department of Justice won a victory against the industry in a case relying largely on the Racketeer Influenced and Corrupt Organizations Act, also known as RICO — despite the tobacco companies’ insistence that its public statements were protected under the First Amendment. Fraud, the judge noted, is not protected by the Constitution.

The 2012 report stated, “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.”

It also said, “State attorneys general can also subpoena documents, raising the possibility that a single sympathetic state attorney general might have substantial success in bringing key internal documents to light.”

Since November, several attorneys general, beginning with Eric T. Schneiderman in New York, have sent extensive subpoenas to Exxon Mobil seeking internal documents related to climate change. The state attorneys general have said that while they consult widely in preparing an inquiry, the decision to proceed is based on the merits of the case alone.

Lamar Smith, a Republican from Texas who is chairman of the House Science Committee, has sent a letter to Mr. Schneiderman, citing the collaboration and resulting subpoenas as possible “abuse of prosecutorial discretion.”

Get the Companies Into Court

The group also discussed other strategies for lawsuits based on theories that included false advertising, libel suits brought by climate scientists who have been maligned by industry surrogates, and “atmospheric trust” litigation, which is now being pursued in many states by groups like Our Children’s Trust.

Dragging the companies into court risked backfiring on the activists, they acknowledged, as the public might dismiss the lawsuits as frivolous. But there was a clear upside, too: The cases would allow discovery of internal company documents.

Lay Blame

Part of the workshop reviewed continuing research purporting to show individual companies’ contributions to climate change. For example, Professor Oreskes suggested, “You might be able to say, ‘Here’s Exxon’s contribution to what’s happening to Key West or Venice.’”

The group also talked about publicizing “the close connections among climate change deniers, the fossil fuel industry and even the tobacco companies.”

Establishing these connections has been a big part of Professor Oreskes’s work, and the work of several other organizations.

Tell the Story

Part of the fight, the participants said, would involve creating a “public narrative” that could do what scientific evidence alone could not — provoke public outrage. That is what happened when it became clear that the tobacco industry had lied about its products.

As one participant in the 2012 workshop noted: “Outrage is hugely important to generate. Language that holds carbon producers accountable should be an important part of the narrative we create.” Others, however, expressed concerns about a potential negative reaction to any plans that “demonized” the fossil fuel industry.

The effort to stoke public outrage has played out in protests, and on social media through hashtags like #ExxonKnew.

The Road Ahead

The workshop concluded with ideas for what should come next:

“Participants also made commitments to try to coordinate future efforts, continue discussing strategies for gaining access to internal documents from the fossil fuel industry and its affiliated climate denial network, and to help build an accessible repository for those documents that are obtained.”

A lot of that has in fact happened.

In an interview, Professor Oreskes said that Exxon Mobil was not the focus of the 2012 meeting, and that “the point of the meeting was not to say we should prosecute Exxon Mobil.”

Instead, she said, the point was “to ask the question, given the similarities between what the fossil fuel industry did and what the tobacco industry had done, was it worth looking at it, and did it make sense to consider whether legal approaches could help break the climate deadlock?”

She said that she had been pleasantly surprised by how many of the things envisioned during the workshop had come to pass. “It’s kind of amazing, actually.”

A correction was made on May 23, 2016: An earlier version of this article misspelled the surname of the director of science and policy at the Union of Concerned Scientists. He is Peter Frumhoff, not Fromhoff.

A version of this article appears in print on , Section B, Page 4 of the New York edition with the headline: A Campaign Against Exxon Mobil Has Its Roots in a 2012 Gathering