

Client Alert: Law Firms Tell Fossil Fuel Companies They Could Be Next in “Exxon Knew” Probe

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Some of the country’s biggest law firms have recently penned “client alert” memoranda, suggesting to their clients that they closely monitor the ongoing Attorneys General investigations [occurring in states nationwide](#) on the potentially fraudulent behavior of ExxonMobil.

DeSmog tracked down alerts written by three different firms: [Crowell & Moring](#), [Pillsbury Winthrop Shaw Pittman](#), as well as [King & Spalding](#). All of them have maintained fossil fuel industry clients as well as tobacco industry clients, a DeSmog review has revealed.

A [previous DeSmog investigation](#) pointed out that Exxon has hired Ted Wells, who represented Philip Morris in Big Tobacco’s racketeering lawsuit filed against it by the U.S. Department of Justice, to its legal defense team for the ongoing state AGs’ probe.

The AGs’ investigation centers around [what Exxon knew about climate change](#) and its potential impacts over the past several decades. That’s juxtaposed with what the oil giant did about it: funding climate denial to the tune of at least [\\$31 million between 1998-2015](#).

Two of the alerts came out in recent weeks, published in the aftermath of a press conference in New York City in which many new states announced they would join New York Attorney General [Eric Schneiderman’s Exxon investigation](#), launching the “[AGs United for Clean Power](#)” coalition.

All of the attorneys whose names are listed on the client alerts denied requests for on-the-record comment when contacted by DeSmog.

Crowell & Moring

Crowell’s three-page alert came out just five days after Schneiderman’s office subpoenaed ExxonMobil.

The memo, titled “The Widening Circles of the Exxon Mobil Climate Disclosure Investigation and Its Implications for Energy Companies,” took note of both the [Los Angeles Times](#) and [InsideClimate News](#) investigations that put “[Exxon Knew](#)” as a meme on the map. It pointed to them as evidence that the investigation has already gotten off to a head start, given the breadth and depth of the journalism.

“The Exxon Mobil investigation could prove even more complex, and the results more far-reaching, because of the long history of the company’s own research into climate-related

issues and its own public disclosures (including SEC filings) on the topic,” reads the alert.

“[I]n addition to the information likely to be yielded by the scope of the [New York AG] subpoenas, the Exxon Mobil public record has already been enhanced by two widely reported independent private investigations by news organizations, including a joint Los Angeles Times/Columbia University School of Journalism study, which describes in detail Exxon’s climate research in the Arctic and the company’s corresponding statements to, and omissions from, the investing public about the perceived business threat from climate change.”

Former Crowell attorney [Victor Schwartz](#) — now with Shook, Hardy & Bacon and a [member](#) of the [American Legislative Exchange Council](#)’s board of scholars — [formerly represented tobacco giant Philip Morris](#) on behalf of the firm. Crowell has maintained Shell, Chevron, Koch Industries subsidiary Georgia-Pacific, Duke Energy, Alpha Natural Resources, Peabody Energy, General Electric, American Petroleum Institute, Arch Coal, Schlumberger and others as [legal clients](#).

A Koch-funded front group, the Competitive Enterprise Institute, has [already received a subpoena](#) from the Attorney General of the Virgin Islands. And the American Petroleum Institute serves as one of the subjects of an InsideClimate News investigative piece, having [studied the impacts](#) of industry-created carbon dioxide in the atmosphere beginning back in the late-1970’s only to proceed with funding climate denial in the following decades.

King & Spalding

On April 18, King & Spalding published its four-page client alert.

One of King’s clients is Chevron, which it [represented](#) in the still-ongoing pollution case in Ecuador. It also has [represented](#) Shell Oil, ConocoPhillips, Georgia-Pacific, Halliburton, General Electric, Anadarko Petroleum, Peabody Energy, Occidental Petroleum, Marathon Oil, Motiva Enterprises, [BP](#) and [Big Tobacco companies](#).

King & Spalding opened up the alert by stating that the “growing focus by state AGs on climate change could present significant challenges for energy companies going forward.”

“These new investigations are a striking reminder of the increasingly aggressive role that state AGs play in the government investigations arena,” King went on to write.

“In recent years, state AGs have become increasingly involved in high-profile policy issues like climate change that are part of ongoing national debates. In some situations, these investigations look more like prospective policymaking than retrospective enforcement action.”

In the alert, King & Spalding also touted its “strategic partnership” with former Wisconsin Republican Attorney General J.B. Van Hollen, [launched in October 2015](#), and its past attorney-client relationship with Brown and Williamson Tobacco Company (which has since merged into R.J. Reynolds Tobacco Company).

Pillsbury Winthrop Shaw Pittman

Pillsbury, like the others, told its clients that although Exxon has come first in this

investigation, there's a chance they could fall next in line. Not only that, the firm recommended deferring the legal costs of such an investigation to their insurance companies.

"Although the details of future enforcement activity are not clear, it is reasonable to expect increasing government scrutiny of climate change-related disclosures," wrote the firm to its clients.

"Our White Collar and Insurance Recovery and Advisory attorneys routinely evaluate CIDs and subpoenas and help clients not only to develop strategies to respond, but to maximize the potential that our clients' insurance companies pay for that response. In most cases, we are able to review and evaluate specific situations for relatively low cost or fixed fee arrangements, which enable us to assist our clients to proactively improve our clients' position and minimize their risk."

The [firm's client list](#) has included the likes of Chevron, British American Tobacco, Schlumberger, as well as [Duke Energy](#).

Contemplating Similar Fate?

A recent report published by the Center for International Environmental Law (CIEL), based on documents put up on the website [SmokeAndFumes.org](#), moved back the time clock of what the fossil fuel industry knew and when it knew it with regards to carbon dioxide pollution and global warming. The report concluded that knowledge dated back at least to the 1950's, which coincided with the industry proceeding to create a disinformation campaign to confuse the public about the impacts of emitting carbon dioxide into the atmosphere.

CIEL president Carroll Muffett described DeSmog's findings as important on a number of levels.

"These notices to clients demonstrate that, even as Exxon and its allies attempt to minimize and dismiss the AGinvestigations in the media, the fossil fuel industry recognizes their significance for individual companies and for the industry as a whole," Muffett told DeSmog.

"That oil companies are turning to the same firms that represented tobacco is telling: once it began, tobacco litigation continued for decades and ultimately ensnared the entire industry. Fossil fuel producers are now clearly-and legitimately-contemplating a similar fate," Muffett said.

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