

# Congress of the United States

Washington, DC 20515

May 22, 2024

The Honorable Merrick Garland  
Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue NW  
Washington, DC 20530

Dear Attorney General Garland:

We are writing to share evidence of deceptive and misleading practices by ExxonMobil Corporation (Exxon), Chevron Corporation (Chevron), Shell Oil Company (Shell), BP America (BP), the American Petroleum Institute (API), and the U.S. Chamber of Commerce (the Chamber) that was uncovered during a nearly three-year investigation into the fossil fuel industry's history of making deceptive claims about its products, their effects on the climate, and its plans to reduce emissions and combat climate change.

The House Committee on Oversight and Accountability (House Oversight Committee) launched an investigation into Big Oil in September 2021 and was assisted by Majority staff of the Senate Committee on the Budget (Senate Budget) (collectively, the Committees) during the 118th Congress. Our investigation revealed how Exxon, Chevron, Shell, BP, API, and the Chamber worked in concert to mislead the public, policymakers, and investors with public promises to reduce emissions and meaningfully contribute to the transition away from oil and gas, while privately seeking to lock in continued fossil fuel production for decades into the future. The investigation also demonstrated that the fossil fuel industry continues to knowingly obfuscate the dangers of natural gas, which it has billed as a clean and green fuel. This evidence, combined with the entities' failure to comply fully with validly issued congressional subpoenas, suggests that further investigation by the executive branch is warranted.<sup>1</sup>

Our investigation into the fossil fuel industry calls to mind the historic congressional investigation into deceptive practices of the tobacco industry and its trade associations, which led to investigations and litigation by several state attorneys general and the Department of Justice (DOJ). DOJ is well situated to pursue further investigation and take any appropriate legal action, as it has in similar cases involving the tobacco and pharmaceutical industries. Accordingly, we request that you review the Committees' reports and the relevant documents, consulting with other relevant federal agencies as appropriate, to determine what further investigation may be appropriate. Attached for your convenience are our reports and memoranda. As well, thousands

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<sup>1</sup> This refusal provides a basis to infer that there is even more damning evidence of deceptive practices by the companies and their trade associations waiting to be uncovered.

of pages of supporting documents are available publicly on the House Oversight Committee Democrats' website.<sup>2</sup>

### **Summary of the Investigation into Big Oil's Climate Denialism and Disinformation**

In October 2019, the Subcommittee on Civil Rights and Civil Liberties of the House Oversight Committee held the first congressional hearing about climate denialism at which former Exxon scientists confirmed that Exxon knew the reality of climate change as early as the 1960s but concealed that from the public.<sup>3</sup> In September 2021, the House Oversight Committee launched an investigation into the fossil fuel industry's decades-long climate disinformation and greenwashing campaign and requested documents from Exxon, Chevron, BP, Shell, API, and the Chamber.<sup>4</sup> On October 28, 2021, the House Oversight Committee held a hearing with top executives from all six entities who acknowledged the dire threat to humanity posed by climate change and the central role of fossil fuels, but they refused to pledge further meaningful actions to avert the ongoing climate catastrophe.<sup>5</sup> At that hearing, then-Chairwoman Carolyn Maloney announced that she would issue subpoenas to the six entities, which had failed to comply voluntarily with document requests.<sup>6</sup>

Following the hearing, members of the boards of Exxon, Chevron, Shell, and BP were invited to testify before the House Oversight Committee on two occasions, but they declined to appear both times.<sup>7</sup> On September 15, 2022, and December 9, 2022, the House Oversight

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<sup>2</sup> House Committee on Oversight and Accountability Democrats, *Press Release: New Joint Bicameral Staff Report Reveals Big Oil's Campaign of Climate Denial, Disinformation, and Doublespeak* (Apr. 30, 2024) (online at <https://oversightdemocrats.house.gov/news/press-releases/new-joint-bicameral-staff-report-reveals-big-oils-campaign-climate-denial>).

<sup>3</sup> Committee on Oversight and Reform, Subcommittee on Civil Rights and Civil Liberties, *Hearing on Examining the Oil Industry's Efforts to Suppress the Truth About Climate Change*, 116th Cong. (Oct. 23, 2019) (online at <https://oversightdemocrats.house.gov/legislation/hearings/examining-the-oil-industry-s-efforts-to-suppress-the-truth-about-climate-change>); *Exxon's Own Research Confirmed Fossil Fuels' Role in Global Warming Decades Ago*, Inside Climate News (Sept. 16, 2015) (online at <https://insideclimatenews.org/news/16092015/exxons-own-research-confirmed-fossil-fuels-role-in-global-warming/>); *How Exxon Went from Leader to Skeptic on Climate Change Research*, Los Angeles Times (Oct. 23, 2015) (online at <https://graphics.latimes.com/exxon-research/>).

<sup>4</sup> The United Nations defines greenwashing as "misleading the public to believe that a company or other entity is doing more to protect the environment than it is." Committee on Oversight and Reform, *Press Release: Oversight Committee Launches Investigation of Fossil Fuel Industry Disinformation on Climate Crisis* (Sept. 16, 2021) (online at <https://oversightdemocrats.house.gov/news/press-releases/oversight-committee-launches-investigation-of-fossil-fuel-industry>).

<sup>5</sup> Committee on Oversight and Reform, *Hearing on Fueling the Climate Crisis: Exposing Big Oil's Disinformation Campaign to Prevent Climate Action* (Oct. 28, 2021) (online at <https://oversightdemocrats.house.gov/legislation/hearings/fueling-the-climate-crisis-exposing-big-oil-s-disinformation-campaign-to>).

<sup>6</sup> Committee on Oversight and Reform, *Press Release: Chairwoman Maloney Subpoenas Top Fossil Fuel Entities for Key Documents* (Nov. 2, 2021) (online at <https://oversightdemocrats.house.gov/news/press-releases/chairwoman-maloney-subpoenas-top-fossil-fuel-entities-for-key-documents>).

<sup>7</sup> Memorandum from Chairwoman Carolyn B. Maloney, Committee on Oversight and Reform, and Chairman Ro Khanna, Subcommittee on Environment, to Members of the Committee on Oversight and Reform,

Committee released two public memoranda with its initial findings based on documents the entities produced.<sup>8</sup> Upon becoming Ranking Member of the House Oversight Committee at the start of the 118th Congress, Representative Jamie Raskin pledged to continue the investigation into the fossil fuel industry.

On April 30, 2024, House Oversight and Senate Budget released a joint staff report and Ranking Member Raskin made public over 4,500 documents demonstrating either the fossil fuel industry's deceptive practices or their noncompliance with the House Oversight Committee's subpoenas.<sup>9</sup> On May 1, 2024, Ranking Member Raskin appeared as a witness before the Senate Budget Committee to discuss the results of the investigation, the fossil fuel industry's obstruction of it, and recommendations for further government action. Other expert witnesses at the hearing discussed the factual and legal bases for an executive branch investigation into the deceptive practices of the fossil fuel industry.

**Joint Report Demonstrates Big Oil's Campaign of Climate Denial, Disinformation, and Doublespeak**

Despite valid subpoenas, all six entities—Exxon, Chevron, Shell, BP, API, and the Chamber—refused to fully comply with the investigation, making baseless legal arguments and flouting longstanding congressional practices and norms for investigations. For example, some companies claimed that the First Amendment or undefined “privilege” protected them from the House Oversight Committee's subpoena.<sup>10</sup> The companies further obstructed the investigation by significantly redacting or entirely withholding more than 4,000 documents without any valid basis. The subpoenaed companies also produced hundreds of thousands of generic documents that were not responsive to the subpoenas. Of the more than 280,000 documents produced to the House Oversight Committee, more than 125,000 documents—*nearly half*—were mass emails, newsletters, flyers, and otherwise non-responsive documents. The Chamber, for example, provided only 24 documents that were within the scope of the subpoena.

Notwithstanding the companies' noncompliance, the documents produced *still* demonstrate that the oil and gas industry is using deceptive practices to entrench the use of fossil fuels. The examples set out in this letter only begin to illustrate how the documents reviewed by the Committees highlighted an enterprise committed to continued—and even increased—

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*Investigation of Fossil Fuel Industry Disinformation* (Sept. 14, 2022) (online at <https://oversightdemocrats.house.gov/sites/evo-subsites/democrats-oversight.house.gov/files/2022.09.14%20FINAL%20COR%20Supplemental%20Memo.pdf>).

<sup>8</sup> *Id.*; Memorandum from Chairwoman Carolyn B. Maloney and Chairman Ro Khanna to Members of the Committee on Oversight and Reform, *Investigation of Fossil Fuel Industry Disinformation* (Dec. 9, 2022) (online at [https://oversightdemocrats.house.gov/sites/evo-subsites/democrats-oversight.house.gov/files/2022-12-09.COR\\_Supplemental\\_Memo-Fossil\\_Fuel\\_Industry\\_Disinformation.pdf](https://oversightdemocrats.house.gov/sites/evo-subsites/democrats-oversight.house.gov/files/2022-12-09.COR_Supplemental_Memo-Fossil_Fuel_Industry_Disinformation.pdf)).

<sup>9</sup> Committee on Oversight and Accountability Minority Staff and Senate Committee on the Budget Majority Staff, *Joint Staff Report: Denial, Disinformation, and Doublespeak: Big Oil's Evolving Efforts to Avoid Accountability for Climate Change* (Apr. 2024) (online at <https://oversightdemocrats.house.gov/sites/evo-subsites/democrats-oversight.house.gov/files/evo-media-document/2024-04-30.COA%20Democrats%20-%20Fossil%20Fuel%20Report.pdf>).

<sup>10</sup> *Id.* at 52.

production of oil and gas despite knowing of massive harms that would result and choosing to keep the public in the dark about that knowledge. For instance, internal documents demonstrate that Big Oil companies seek to position natural gas as a “bridge fuel” between coal and cleaner, renewable energy, while enmeshing natural gas in the U.S. energy economy for the long-term. In a 2017 email, a senior BP government affairs official wrote that “[p]romoting and protecting the role of gas as an increasing part of our energy mix is a paramount priority. We need to be ready to speak to this wherever there is a credible effort to dis-incentivize gas.”<sup>11</sup>

The documents also demonstrate the companies’ efforts to mislead the public with respect to technologies such as carbon capture and algae biofuels. For example, in emails BP acknowledged third-party scientific studies showing that methane leaks from natural gas offset any potential climate benefits over sources like oil or coal and that, without expensive carbon capture technologies, its natural gas exploration would lock in levels of greenhouse gas emissions inconsistent with the Paris Agreement, all while BP internally expressed unwillingness to make the necessary investments to deploy carbon capture and storage.<sup>12</sup> Internally, Exxon scientists and other officials questioned the practicality of algae biofuels. An Exxon email from 2017 acknowledged, “[a]s you know, [the Senior Vice President of Exxon] has made comments about us getting too far out there on the original algae ads.”<sup>13</sup> One employee cautioned that the images in the algae biofuels advertisement “could suggest the work is in scale-up mode.”<sup>14</sup>

The companies also made public pledges to support the Paris Agreement and to achieve net zero emissions while internally recognizing that those goals were outside of their current business plans. In a 2019 internal memorandum from Exxon’s Director of Greenhouse Gas and Climate Change to Exxon’s CEO concerning an upcoming Oil and Gas Climate Initiative joint industry statement, the Director urged that the statement “[n]eed[ed] to remove reference to Paris Agreement as ... [c]reating a tie between our advocacy/engagements and the Paris Agreement could create a potential commitment to advocate on the Paris Agreement goals.”<sup>15</sup> Similarly, a BP official expressed his feelings in a 2019 email that “it goes a bit too far to state or imply support for net zero by 2050, because that would require policy likely to put some existing assets at risk, and we haven’t discussed that internally.”<sup>16</sup>

The investigation also revealed significant collaboration with trade associations to deceive the public, policymakers, and investors about the fossil fuel companies’ true positions on various climate- and energy-related issues. A 2018 email thread reports backlash after Shell provided funds to the Western States Petroleum Association—one of the oldest oil and gas trade associations—that directly funded a campaign to defeat a Washington state carbon pricing

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<sup>11</sup> BPA\_HCOR\_00072717.

<sup>12</sup> BPA\_HCOR\_00264915; BPA\_HCOR\_00116893.

<sup>13</sup> EM-HCOR3-00084836.

<sup>14</sup> EM-HCOR3-00084836.

<sup>15</sup> EM-HCOR3-00064980.

<sup>16</sup> BPA\_HCOR\_00105125.

initiative, contrary to Shell's publicly-stated support for carbon pricing and claim that it was neutral on the Washington state initiative.<sup>17</sup>

Furthermore, the investigation demonstrated how the fossil fuel industry cultivates partnerships with academic institutions to lend an aura of credibility to its deception campaigns. Funding to academic institutions was conditioned on the extent of their cooperation and sensitivity to business needs. For example, a 2016 internal document marked "confidential" reveals that BP officials recommended cutting the budget for Harvard and Tufts research partnerships because it was finding it difficult to "obtain more value" as compared to the perceived success of BP's partnership with Princeton.<sup>18</sup>

**Senate Budget Hearing Affirms that Further Federal Government Action Is Warranted**

During the May 1, 2024, Senate Budget hearing, Dr. Geoffrey Supran, Associate Professor in the Department of Environmental Science and Policy at the University of Miami's Rosenstiel School of Marine, Atmospheric, and Earth Science, and Sharon Eubanks, former DOJ attorney and lead counsel for the United States in its civil RICO action against the tobacco industry, testified on the need for further federal government action to hold the fossil fuel industry accountable.

Dr. Supran described the similarities between the tobacco industry and the fossil fuel industry's actions. For example, he explained: "They always follow the same four-step playbook. First, they learn about the dangers of their products, then they scheme, then they deny the science and scaremonger about the economy, and then they do their action with propaganda."<sup>19</sup> Dr. Supran concluded that "there is overwhelming evidence that fossil fuel interests have *deliberately* used disinformation, lobbying, propaganda, and academic influence to stop action on climate change for decades."<sup>20</sup>

Ms. Eubanks also testified about the similarities between the conduct of the tobacco industry and the fossil fuel industry, and she emphasized that there is an "adequate foundation" for DOJ to review the actions of the fossil fuel industry:

The similarities between the conduct of the tobacco industry and the petroleum industry form a solid and appropriate basis for investigating the petroleum industry. Furthermore, we should not waste any more time wringing our hands. We have documents that lay out what is currently happening. There exists solid evidentiary basis to support more information being gathered on these companies. Just as the Department of Justice investigated the tobacco industry and ultimately filed a civil racketeering case. Complaints against the industry have similarities in the fraudulent acts in the government

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<sup>17</sup> SOC-HCOR-376287.

<sup>18</sup> BPA\_HCOR\_00308117.

<sup>19</sup> Senate Committee on the Budget, *Hearing on Denial, Disinformation, and Doublespeak: Big Oil's Evolving Efforts to Avoid Accountability for Climate Change*, Transcript [Draft] at 64:8-12 (May 1, 2024).

<sup>20</sup> *Id.* at 70:24-71:2 (emphasis added).

was successful in the tobacco case, so there is certainly an adequate legal foundation for litigation against this industry and individuals and as groups.<sup>21</sup>

The expert testimony gathered at the hearing is a strong indication that a federal, executive branch-led investigation into the fossil fuel industry is warranted as a matter of basic due diligence.

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These examples reflect only a small portion of the evidence uncovered during the Committees' investigation and set out more fully in the attached joint staff report. Based on our investigation, as supported by that joint staff report and testimony elicited during the May 1, 2024, hearing, we believe that there is adequate evidence that fossil fuel industry companies and trade associations may have violated one or more federal statutes and that, accordingly, further investigation is warranted.

For these reasons, we formally refer this matter to DOJ and request that you launch an investigation into the fossil fuel industry's decades-long history of engaging in deceptive practices to determine whether the entities violated any applicable federal statutes.

Sincerely,



Sheldon Whitehouse  
Chairman  
Senate Committee on the Budget



Jamie Raskin  
Ranking Member  
House Committee on Oversight and  
Accountability

Enclosure

cc: The Honorable James Comer, Chairman  
House Committee on Oversight and Accountability

The Honorable Charles Grassley, Ranking Member  
Senate Committee on the Budget

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<sup>21</sup> *Id.* at 73:24-74:13.