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**REQUEST UNDER THE MINNESOTA DATA PRACTICES ACT**

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December 20, 2018

Lori Swanson, Esq.  
or Public Records Officer  
Minnesota Attorney General  
1400 Bremer Tower  
445 Minnesota Street  
St. Paul, MN 55101

VIA EMAIL: [attorney.General@ag.state.mn.us](mailto:attorney.General@ag.state.mn.us)

**RE: Certain OAG correspondence**

To Whom It May Concern:

On behalf of Energy Policy Advocates, a non-profit public policy institute incorporated in Washington state, and pursuant to Minnesota Data Practices Act, Minn. Stat. Chapter 13, I request copies of all electronic or hard-copy correspondence as described below, and its *accompanying information,<sup>1</sup> including also any attachments:*

- a) sent to or from **Karen Olson** (including also copying, whether as cc: or bcc:), which *also*
- b) contain *any* of the following, anywhere in the correspondence of which it is a part, whether in the To or From, cc: and/or bcc: fields, the Subject field, and/or the email body or body of the thread or in any attachment thereto: i) SherEdling, ii) Sher Edling, iii) DAGA, iv) @democraticags.org, v) alama@naag.org, and/or vi) Mike.Firestone@state.ma.us.

These terms are not case sensitive.

Records responsive to this request will be dated from **July 1, 2018** through the date you process this request. We request the entire thread in which any email responsive to the above description appears regardless if portions of the thread(s) pre-date **2018**.

**This request contemplates** such information sent or received on official as well as non-official email addresses used at any time for work-related purposes, text and other instant messaging on any phone or device used at any time for work-related correspondence.

Please consider as responsive entire email “threads” containing any information responsive to this request, regardless whether any part of that thread falls outside the cited search parameters.

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<sup>1</sup> See discussion of SEC Data Delivery Standards, *infra*.



Given the nature of the records responsive to this request, all should be in electronic format, and therefore there should be no photocopying costs. If there is any cost associated with the searching, copying or production of these records, however, please also notify me in writing immediately. Please provide an estimate of anticipated costs in the event that there are fees for processing this Request.

Energy Policy Advocates requests records on your system, e.g., its backend logs, and does not seek only those records which survive on an employee's own machine or account. We do not demand your Office produce requested information in any particular form, instead **we request records in their native form, with specific reference to the U.S. Securities and Exchange Commission Data Delivery Standards.**<sup>2</sup> The covered information we seek is electronic information, this includes electronic *records*, and other public *information*.

To quote the SEC Data Delivery Standards, "Electronic files must be produced in their native format, i.e. the format in which they are ordinarily used and maintained during the normal course of business. For example, an MS Excel file must be produced as an MS Excel file rather than an image of a spreadsheet. (*Note: An Adobe PDF file is not considered a native file unless the document was initially created as a PDF.*)" (emphases in original).

In many native-format productions, certain public information remains contained in the record (e.g., metadata). Under the same standards, to ensure production of all information requested, if your production will be de-duplicated it is vital that you 1) preserve any unique metadata associated with the duplicate files, for example, custodian name, and, 2) make that unique metadata part of your production.

Native file productions may be produced without load files. However, native file productions must maintain the integrity of the original meta data, and must be produced as they are maintained in the normal course of business and organized by custodian-named file folders. A separate folder should be provided for each custodian.

In the event that necessity requires your Office to produce a PDF file, due to your normal program for redacting certain information and such that native files cannot be produced as they are maintained in the normal course of business, in order to provide all requested information each PDF file should be produced in separate folders named by the custodian, *and* accompanied by a load file to ensure the requested information appropriate for that discrete record is associated with that record. The required fields and format of the data to be provided within the load file can be found in Addendum A of the above-cited SEC Data Standards. All produced PDFs must be text searchable.

We look forward to your timely response within a reasonable time, as required by law. If you have any questions, or would like to discuss this matter further, do not hesitate to contact me by email at [MatthewDHardin@gmail.com](mailto:MatthewDHardin@gmail.com). I look forward to your timely response.

---

<sup>2</sup> <https://www.sec.gov/divisions/enforce/datadeliverystandards.pdf>.

Sincerely,

A handwritten signature in black ink that reads "Matthew D. Hardin". The signature is written in a cursive style with some loops and flourishes.

Matthew D. Hardin

Executive Director, Energy Policy Advocates



**GAO** GOVERNMENT ACCOUNTABILITY & OVERSIGHT

**REQUEST UNDER THE MINNESOTA DATA PRACTICES ACT**

December 26, 2018

Lori Swanson, Esq.  
or Public Records Officer  
Minnesota Attorney General  
1400 Bremer Tower  
445 Minnesota Street  
St. Paul, MN 55101

VIA EMAIL: [attorney.General@ag.state.mn.us](mailto:attorney.General@ag.state.mn.us)

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- b) contain *any* of the following, anywhere in the correspondence of which it is a part, whether in the To or From, cc: and/or bcc: fields, the Subject field, and/or the email body or body of the thread or in any attachment thereto: i) @Googlegroups.com, ii) "Google doc" (including also in "Google Docs", iii) @ucsusa.org, iv) Dropbox, v) box.com (including as used in any url containing box.com), and/or vi) SharePoint.

These terms are not case sensitive.

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**Securities and Exchange Commission Data Delivery Standards.**<sup>2</sup> The covered information we seek is electronic information, this includes electronic *records*, and other public *information*.

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Sincerely,

A handwritten signature in black ink that reads "Matthew D. Hardin". The signature is written in a cursive style with some loops and flourishes.

Matthew D. Hardin  
Executive Director  
Energy Policy Advocates



STATE OF MINNESOTA  
OFFICE OF THE ATTORNEY GENERAL

January 4, 2019

SUITE 900  
445 MINNESOTA STREET  
ST. PAUL, MN 55101-2127  
TELEPHONE: (651) 297-1075

Mr. Matthew D. Hardin, Executive Director  
Energy Policy Advocates  
c/o Registered Agents Inc.  
170 S. Lincoln, Ste. 150  
Spokane, WA 99201



Dear Mr. Hardin:

I write in response to your correspondence dated December 20, 2018, in which you request that this Office provide you with “copies of all electronic or hard-copy correspondence as described below, and its *accompanying information, including also any attachments:*”

- a) sent to or from **Karen Olson** (including also copying, whether as cc: or bcc:) which *also*
- b) contain *any* of the following, anywhere in the correspondence of which it is a part, whether in the To or From, cc: and/or bcc: fields, the Subject field, and/or the email body or body of the thread or in any attachment thereto: i) SherEdling, ii) Sher Edling, iii) DAGA, iv) @democraticags.org, v) alama@naag.org, and/or vi) Mike.Firestone@state.ma.us.

This Office is obligated to make available “Government data” classified as “public” pursuant to the Minnesota Government Data Practices Act (“MGDPA”). *See* Minn. Stat. § 13.01 *et seq.* The MGDPA defines “Government data” as “all data collected, created, received, maintained or disseminated by any government entity regardless of its physical form, storage media or conditions of use.” Minn. Stat. § 13.02, subd. 7. Not all government data maintained by this Office is public, however, as explained below.

“Data collected by a government entity as part of an active investigation undertaken for the purpose of the commencement or defense of a pending civil legal action, or which are retained in anticipation of a pending civil legal action, are classified as protected nonpublic data ... in the case of data not on individuals ... and confidential ... in the case of data on individuals.” Minn. Stat. § 13.39, subd. 2(a). The MGDPA defines “protected nonpublic data” as “data not on individuals made by statute or federal law applicable to the data (a) not public and (b) not accessible to the subject of the data.” Minn. Stat. § 13.02, subd. 13. “Confidential data on individuals” is defined as “data made not public by statute or federal law applicable to the data and are inaccessible to the individual subject of those data.” *Id.* at subd. 3.

Mr. Matthew D. Hardin, Executive Director  
Energy Policy Advocates  
January 4, 2019  
Page 2

In addition, this Office provides legal services to various state agencies. Minnesota Statutes section 13.393 provides that “dissemination of data by an attorney acting in a professional capacity for a government entity shall be governed by statutes, rules, and professional standards” generally applicable to attorneys. Thus, documents, information, or communications protected by the attorney-client privilege or attorney work product doctrine are not publicly available under the MGDPA. *See, e.g.*, Minn. Stat. § 595.02(b) (attorney-client privilege); Minn. R. Prof. Conduct 1.6 (attorney-client privilege); *Brown v. Saint Paul City Ry. Co.*, 62 N.W.2d 688, 700 (Minn. 1954) (describing attorney-client privilege); *Kobluk v. Univ. of Minn.*, 574 N.W.2d 436, 440 (Minn. 1998) (quotations omitted) (recognizing the purpose of the attorney-client privilege “is to encourage the client to confide openly and fully in his attorney without fear that the communications will be divulged and to enable the attorney to act more effectively on behalf of his client.”)

Accordingly, this Office’s communications are subject to a number of legal privileges, including the attorney work product, the attorney-client, and the deliberative process privileges. *See, e.g.*, Minn. Stat. § 595.02, subd. 1(b) & Minn. R. Evid. 501. Such communications are further subject to the common interest doctrine, which provides an exception to the general rule that the attorney-client privilege is waived when privileged information is disclosed to a third party. *In re Grand Jury Subpoena Duces Tecum*, 112 F.3d 910, 922 (8th Cir. 1997) (if two or more entities with a common interest, whether it be legal, factual or strategic, are represented by counsel and agree to share information in a matter, privileged matters will retain that privilege as to outside parties); *see also, e.g., Cohen v. Beachside Two-I Homeowners’ Ass’n*, No. CIV. 05-706 ADM/JS, 2006 WL 1795140, at \*5-6 (D. Minn. June 29, 2006); *cf. State ex rel. Humphrey v. Philip Morris Inc.*, 606 N.W.2d 676, 682 n.2 (Minn. Ct. App. 2000).

This Office has no documents sent to or from Karen Olson and containing the search terms “DAGA,” “@democraticags.org,” or “alama@naag.org” responsive to your MGDPA request. With regard to the remainder of your MGDPA request, this Office has no public data that is responsive.

I thank you again for your letter. If you have any questions, please do not hesitate to contact me.

Sincerely,



MAX KIELEY  
Assistant Attorney General

(651) 757-1244 (Voice)  
(651) 297-4139 (Fax)



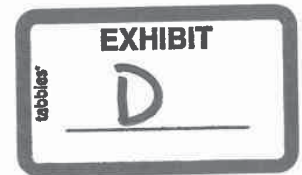


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January 4, 2019

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  - i) @Googlegroups.com, ii) “Google doc” (including also in “Google Docs[.]”)
  - iii) @ucsusa.org, iv) Dropbox, v) box.com (including as used in any url containing box.com), and/or vi) SharePoint.

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Based on your organization’s website and the text of your request, this Office interpreted your correspondence as seeking documents solely related to energy and environmental issues. *See, e.g., http://epadvocates.org* (“Energy Policy Advocates . . . seek[s] to bring transparency to the realm of energy and environmental policy”) (last accessed January 4, 2019). Assuming this Office correctly interpreted your MGDPA request, we have no responsive government data. In the event you intended to seek government data related to subjects other than energy and environmental issues, this Office nevertheless has no public data responsive to your request.

I thank you again for your letter. If you have any questions, please do not hesitate to contact me.

Sincerely,



MAX KIELEY  
Assistant Attorney General

(651) 757-1244 (Voice)  
(651) 297-4139 (Fax)

**From:** [Jean Sideris](#)  
**To:** [Horowitz, Cara](#); [Melling, Daniel](#); [Ja-Rei Wang](#)  
**Subject:** FW: [ExxonKnew] another lawsuit filed in CA -- City of Richmond  
**Date:** Monday, January 22, 2018 1:48:15 PM  
**Attachments:** [Media - Richmond Press Release - FINAL - 012218.pdf](#)

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Another news hook!

-----Original Message-----

From: [exxonknew@googlegroups.com](mailto:exxonknew@googlegroups.com) [<mailto:exxonknew@googlegroups.com>] On Behalf Of Alyssa Johl  
Sent: Monday, January 22, 2018 4:46 PM  
To: ExxonKnew <[exxonknew@googlegroups.com](mailto:exxonknew@googlegroups.com)>  
Subject: [ExxonKnew] another lawsuit filed in CA -- City of Richmond

Hi all,

I wanted to share the news that yet another climate lawsuit has been filed in CA by the City of Richmond.

For those who aren't familiar, Richmond is one of the poorest communities in the Bay Area, also home to the Chevron Richmond Refinery. This lawsuit was filed by Sher Edling -- the complaint is available on their website: <https://www.sheredling.com/complaint-richmond/>. Press release is attached here.

Many thanks,

Alyssa

--

Admins: Brad Johnson <[brad@climatehawksvote.com](mailto:brad@climatehawksvote.com)>, Kenny Bruno [REDACTED], and Steven Feit [REDACTED].  
People can request to join by emailing [exxonknew+subscribe@googlegroups.com](mailto:exxonknew+subscribe@googlegroups.com)

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You received this message because you are subscribed to the Google Groups "ExxonKnew" group.

To unsubscribe from this group and stop receiving emails from it, send an email to [exxonknew+unsubscribe@googlegroups.com](mailto:exxonknew+unsubscribe@googlegroups.com).

To post to this group, send email to [exxonknew@googlegroups.com](mailto:exxonknew@googlegroups.com).

To view this discussion on the web visit <https://groups.google.com/d/msgid/exxonknew/6a2a177f-ca83-4251-f1ca-7c1adcc82b6a%40gmail.com>.

For more options, visit <https://groups.google.com/d/optout>.

**From:** [clean@lists.usclimatenetwork.org](mailto:clean@lists.usclimatenetwork.org) on behalf of [Alden Meyer \(via clean list\)](#)  
**To:** [Can-talk](#); [Clean List](#); [Climate Briefing Service \(climate-briefing-services@googlegroups.com\)](#); [Int-wonks](#); [climatelaw@googlegroups.com](mailto:climatelaw@googlegroups.com)  
**Subject:** [CLEAN] New UCS Analysis: Quantifying fossil fuel industry's climate responsibility  
**Date:** Thursday, September 07, 2017 9:57:52 AM

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Today, a Union of Concerned Scientists-led study published in the scientific journal *Climatic Change* for the first time links changes in global climate to emissions from the products of specific fossil fuel producers, including ExxonMobil and Chevron.

The study looked at the largest oil, gas and coal producers, as well as cement manufacturers, and quantified the amount of sea level rise and global temperature increase that resulted from the carbon dioxide and methane emissions both from the burning of their marketed products and from emissions associated with fossil fuel extraction and production.

**You can join a webinar briefing on Friday, Sept 8 at Noon eastern time** to learn more about the research, finding, and implications. RSVP to Jean Sideris at [jsideris@ucsusa.org](mailto:jsideris@ucsusa.org)

Key findings:

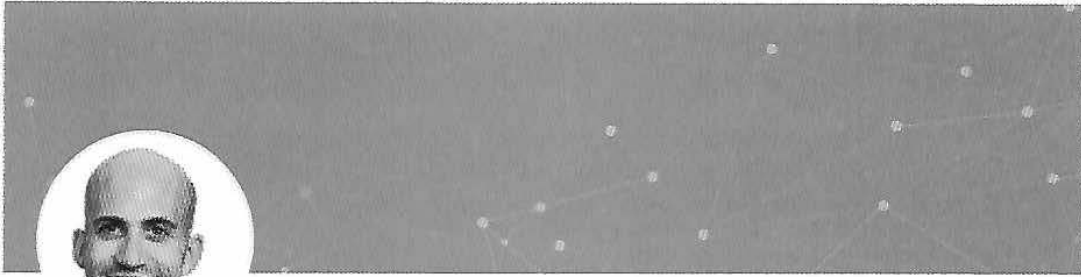
- Emissions traced to the **90 largest carbon producers contributed to** around 57 percent of the observed rise in atmospheric carbon dioxide, **nearly 50 percent of the rise in global average temperature and around 30 percent of global sea level rise since 1880.**
- Emissions traced to the **50 investor-owned carbon producers**, including large companies **such as ExxonMobil, Chevron, Shell, BP, Peabody, ConocoPhillips and Total, contributed around 16 percent of the global average temperature increase from 1880-2010, and around 11 percent of the global sea level rise over this period.**

The question of who is responsible for climate change, and consequently, who should pay for related costs, has taken on growing urgency as climate impacts have worsened and become costlier. In the United States, taxpayers are already footing the bill. As Hurricane Harvey retreats from the Gulf Coast and Hurricane Irma threatens coastal communities, the cost of recovery and rebuilding will mount over the coming years. We hope this new research will inform the question of who pays for climate damages.

Please share the findings with your networks!

- [UCS Press Statement](#): Study Finds Top Fossil Fuel Producers' Emissions Responsible for as Much as Half of Global Surface Temperature Increase, Roughly 30 Percent of Global Sea Level Rise
- [Tracing Who's Responsible for Temperature Increase and Sea Level Rise](#)
- Social media graphics attached, sample tweet : Climate impacts are getting worse and more costly. Who's responsible? #ExxonKnew [www.ucsusa.org/climateresponsibility](http://www.ucsusa.org/climateresponsibility)

Best, Alden



Message

More...

**Pete Surdo** · 3rd

Special Assistant Attorney General at Office of the Minnesota Attorney General

Minneapolis, Minnesota · 500+ connections · [Contact info](#)



Office of the Minnesota Attorney General



Northwestern University School of Law

### About

After 15 years working at Robins Kaplan LLP, I am off on a new adventure as a Fellow with the NYU School of Law's State Impact Center. I will be embedded with the Minnesota Attorney General's Office as an Environmental Litigator and Special Assistant Attorney General.



**Pete Surdo**

Special Assistant Attorney General at Office of the Minnesota Attorney General

### Experience



#### Special Assistant Attorney General

Office of the Minnesota Attorney General

Jun 2019 – Present · 3 mos

Minnesota



#### Fellow

NYU School of Law

Jun 2019 – Present · 3 mos

Greater Minneapolis-St. Paul Area



#### Robins Kaplan LLP

15 yrs

##### Principal

Sep 2004 – Present · 15 yrs

Greater Minneapolis-St. Paul Area

##### Principal

Sep 2004 – Jun 2019 · 14 yrs 10 mos



**Pete Surdo**

Special Assistant Attorney General at Office of the Minnesota Attorney General



**Board Chair**

West Side Community Health Services

Jun 2009 – Dec 2018 · 9 yrs 7 mos



**Adjunct Professor of Trial Advocacy**

University of St. Thomas School of Law

2008 – 2013 · 5 yrs



**Law Student**

Northwestern University School of Law

2002 – 2004 · 2 yrs



**Summer Associate**

Robins, Kaplan, Miller & Ciresi L.L.P.

Jun 2003 – Aug 2003 · 3 mos

Minneapolis, MN



**Legal Intern**

Constellation New Energy

2001 – 2002 · 1 yr

Show fewer experiences ^



**Pete Surdo**

Special Assistant Attorney General at Office of the Minnesota Attorney General

**Education**



Northwestern University School of Law

JD, Law

2002 – 2004



University of Wisconsin-Eau Claire

BA

1998 – 2000



University of Minnesota

**From:** Peter Frumhoff <PFrumhoff@ucsusa.org>

**Sent:** Friday, July 31, 2015 1:03 PM

**To:** Edward W Maibach

**Cc:** Nancy Cole; Alden Meyer; Aaron Huertas

**Subject:** FW: Senator Whitehouse's call for a RICO investigation of the fossil fuel industry

Hi Ed,

I'm following up on the scientists letter proposal that you shared with Nancy and Alden earlier this week to let you know that (1) it prompted a lot of discussion among our staff, including with UCS president Ken Kimmell and (2) after taking a close look, we've decided to not pursue this opportunity with you.

Here's why: In reaching out to climate scientists to sign on, we feel that we'd need to give them some firmer grounding for believing that a federal investigation under the RICO statute is warranted - enough so that they'd be able to explain their rationale for signing on to reporters and others. As you know, deception/disinformation isn't itself a basis for criminal prosecution under RICO. We don't think that Sen Whitehouse's call gives enough of a basis for scientists to sign on to this as a solid approach at this point.

Just so you know, we're also in the process of exploring other state-based approaches to holding fossil fuel companies legally accountable - we think there'll likely be a strong basis for encouraging state (e.g. AG) action forward and, in that context, opportunities for climate scientists to weigh in. It would be interesting - and perhaps very useful - to consider how calls for legal accountability will play out in the court of public opinion in different states/with different subsets of the American public - something perhaps we could work with you all on as this unfolds.

So, I am sorry to decline this particular opportunity. Thanks for proposing this and please keep us in the loop on how this plays out.

Thanks, Ed.

All best,

Peter

---

Peter C. Frumhoff Ph.D.  
Director of Science and Policy  
Chief Scientist, Climate Campaign  
Union of Concerned Scientists  
Cambridge MA

**From:** [Phil Mote](#)  
**To:** [REDACTED]  
**Subject:** [REDACTED]  
**Date:** Friday, April 22, 2016 5:04:43 PM

---

[REDACTED]

I will be showing this Monday at a secret meeting at Harvard that I'll tell you about next time we chat. very exciting!

thanks

Phil

On Apr 21, 2016, at 10:33 AM, [REDACTED] wrote:

> Hi Phil,

>

> [REDACTED]

>

> I can get to this tomorrow or Saturday. And thank you for the suggested caption. Very helpful!

>

> Best,

> [REDACTED]

> On Wed, Apr 20, 2016 at 11:08 AM, Phil Mote <[pmote@coas.oregonstate.edu](mailto:pmote@coas.oregonstate.edu)> wrote:

> [REDACTED]

>

> I'm actually also planning to show this in a secret meeting next Monday - will tell you sometime

>

> Maybe I can help a little bit by writing a caption. use/lose/modify as you see fit.

>

> [REDACTED]

>

>

> On Apr 18, 2016, at 11:00 PM, [REDACTED] wrote:

>

>> Woops. Caught a typo and corrected it in the attached version. [REDACTED]

>>

>> And I forgot to say-- I hope all went well with the proposal submission last week! Thank you again for taking time out of your busy schedule.

>>

>> Best,

>> [REDACTED]

>>

>> On Mon, Apr 18, 2016 at 7:12 PM, [REDACTED] wrote: