

Written Testimony to the Senate Judiciary

Subcommittee on Federal Courts, Oversight, Agency Action, and Federal Rights

Senator Ted Cruz, chairman

Hearing on “Enter the Dragon—China and the Left’s Lawfare

Against American Energy Dominance”

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Senator Cruz, Ranking Member Whitehouse, distinguished members of the Subcommittee, thank you for the honor of testifying. I’m president of the Capital Research Center, where we study special interest groups and their funding, and I applaud your effort to educate Americans about the dangers of climate lawfare and its obvious threat to the lives of ordinary citizens, especially the poor.

We all know that a healthy environment is good and that inexpensive and abundant energy is also good. Polls show strong democratic majorities reject environmental policies that are expensive. For instance, a study by Ruy Teixeira and Yuval Levin found “An overwhelming 72 percent [of Americans] favored the all-of-the-above approach, including fossil fuels, while just 26 percent backed the rapid transition to renewables. The split was even more lopsided among working-class respondents than among political moderates.” The authors add, “startlingly, our survey found that among voters who planned to support the Democrats in the coming election *and* voters who supported Biden in 2020, solid majorities favored the

all-of-the-above approach and opposed replacing fossil fuels with renewables.”¹ An AP poll in 2023 found “nearly two-thirds of Americans are unwilling to pay any amount of money to combat climate change.”²

It’s easy to guess whether these big majorities would favor intensive climate litigation, which acts as a tax on energy and therefore on most human activity.³ It’s also easy to document that, in opposition to large majorities of Americans, climate activists *want* to raise energy costs and burden nearly all human activity. Last year California’s attorney general said publicly that his climate litigation would make oil and gas “more expensive” and thus disincentivize their use.⁴ In an article he co-authored, the former chief climate counsel of the Sierra Club was even more blunt. He defended climate lawfare because by “holding oil companies responsible” for climate change, this lawfare “hold[s] oil consumers responsible.”⁵ In other words, *pay up*.

Perversely, lawfare often impedes wind and solar power. Consider what a representative of a trade group that represents offshore businesses—not only oil and gas interests but also offshore wind, offshore minerals, and offshore carbon sequestration—told a House committee in 2023:

The U.S. economy relies upon affordable and reliable supplies of all forms of energy ... the U.S. offshore sector is contributing to the development of low and zero carbon energy options, including offshore wind, hydrogen, and carbon removal technologies.... Unfortunately, ... the pathway for investment continues to be riddled with the threat of litigation. In the federal system, no matter the project, companies must factor in the possibility that it could become mired in the muddy spokes of the court system. Whether it is roads and bridges, oil and gas, or wind and solar, excessive litigation serves to sideline investment and jobs and exacerbate inflationary impacts.⁶

¹ <https://www.aei.org/wp-content/uploads/2024/10/Politics-Without-Winners-Can-Either-Party-Build-a-Majority-Coalition.pdf>.

² <https://epic.uchicago.edu/insights/americans-views-on-climate-change-and-policy-in-10-charts/>.

³ A poll conducted for the Manufacturers’ Accountability Project found support for suing companies to pay for or deal with climate change was in the single digits. <https://mfgaccountabilityproject.org/wp-content/uploads/2021/01/NAM-MAP-Nationwide-Poll-Summary-MAP.pdf>.

⁴ Quoted in <https://www.forbes.com/sites/waynewinegarden/2024/06/03/fossil-fuel-lawsuits-are-a-tax-on-consumers/>.

⁵ <https://www.niskanencenter.org/oil-companies-should-be-held-accountable-for-climate-change/>.

⁶ <https://oversight.house.gov/wp-content/uploads/2023/09/Milito-Testimony-House-Oversight-Litigation-9-13-23.pdf>.

At the same hearing, a representative of Minnesota’s mining industry pleaded to be allowed to supply minerals like copper, nickel, and cobalt, which could be used “to build the batteries, windmills, solar panels, and other products needed to achieve carbon-free energy goals.” Unfortunately, she reported, “These resources would be under development today if not for extended, repeated litigation and continued appeals focused on delaying this progress.”⁷

America’s enemies, especially Russia and China, are pleased when we hobble our energy sector. They want to be in a stronger economic position, whether selling Russia’s natural gas in Europe or selling China’s “green” technology in America. This fact shouldn’t be controversial. Hillary Clinton, presumably based on intelligence reports she saw as Secretary of State, famously said that “a lot of the money” supporting messages against fracking came from Russia.⁸ The *New York Times* has reported on the beliefs of leaders in countries like Romania and Lithuania that Russia and its state-owned Gazprom oil company have fueled anti-fracking activists in Europe.⁹

Even the Brookings Institution, in an article that applauds “Accelerating the clean energy revolution by working with China,” confesses, “There is no question that the world has become too dependent on China, especially in the raw ingredients of the clean energy economy.”¹⁰ Just Facts Daily observes that “China dominates the global supply chains for green energy components not merely because of cheap labor but because they have lax environmental standards that tolerate the pollution these products create. Thus, China supplies 78% of the world’s solar cells, 80% of the world’s lithium-ion battery chemicals, and 73% of the world’s finished battery cells.”¹¹ Heavy subsidies by our federal government and others have helped produce these Chinese economic windfalls by distorting markets and artificially boosting consumption.

China’s most passionate supporters include Neville Roy Singham, who sold his software company in 2017 for \$785 million. A multimillionaire Maoist, Singham ignores China’s record of pollution and carbon emissions and instead blames capitalism for climate change. As the newsletter of Tricontinental: Institute for Social Research, one of many groups funded by Singham, explains, “the climate and environmental crisis we live in are driven by the predatory nature of capitalism.”¹² Though an American

⁷ <https://oversight.house.gov/wp-content/uploads/2023/09/MiningMinnesota-Congressional-Hearing-Testimony-1.pdf>.

⁸ <https://www.washingtontimes.com/news/2016/oct/10/clinton-blames-russians-anti-fracking-groups/>.

⁹ <https://www.nytimes.com/2014/12/01/world/russian-money-suspected-behind-fracking-protests.html>.

¹⁰ <https://www.brookings.edu/articles/accelerating-the-clean-energy-revolution-by-working-with-china/>.

¹¹ <https://www.justfactsdaily.com/in-fact/n0000510>.

¹² <https://thetricontinental.org/newsletterissue/anthropocene-capitalism-climate/>.

citizen, Singham is a radical who lives in China and does the bidding of its Communist government. The *New York Times* has done the best reporting on Singham's influence operations, revealing how Singham, "hidden amid a tangle of nonprofit groups and shell companies" in numerous countries, "works closely with the Chinese government media machine and is financing its propaganda worldwide."¹³

Radicals like Singham, who love America's enemies and hate America, easily weave environmental extremism into their full-spectrum left-wing activism. And so we find the Singham-financed Code Pink, best known for its foreign policy agitation, exhorting, "Environmentalists Unite! War Fuels the Climate Crisis." Code Pink explains that "The U.S. enforces its violent empire by maintaining almost 800 military bases around the world," and "Each base contributes to the U.S. military project's status as #1 institutional polluter in the world, as it unleashes over a billion metric tons of CO2 in the atmosphere."¹⁴ Code Pink has also hosted a "Rise of Green China" webinar to laud "China's rise and the evolution of its environmental sustainability practices."¹⁵ "None of Mr. Singham's nonprofits have registered under the Foreign Agents Registration Act, as is required of groups that seek to influence public opinion on behalf of foreign powers," the *Times* reports.

Unfortunately, the Chinese Communist Party-loving Singham is far from the only foreign billionaire powering the environmental movement and its lawfare. There is also an Australian billionaire who funded a foreign charity to pay an American law firm to represent four tax-exempt environmentalist groups in a lawsuit against a major U.S. energy company. The suit alleges ExxonMobil "concealed the harms caused by single-use plastics,"¹⁶ and California's Attorney General has filed a simultaneous suit. Also piling on is the Center for Climate Integrity. As my colleague Robert Stilson reports, the law firm representing the nonprofits (Cotchett, Pitre & McCarthy) was required to register under the Foreign Agents Registration Act (FARA).¹⁷ Materials accompanying that registration disclosed that the firm was acting on behalf of an Australian charity called the Intergenerational Environment Justice Fund, for the purpose of providing "legal services in California lawsuit."¹⁸ Other filings revealed the Fund paid Cotchett \$452,943 from July 2023 through December 2024.¹⁹

¹³ <https://www.nytimes.com/2023/08/05/world/europe/neville-roy-singham-china-propaganda.html>.

¹⁴ <https://www.codepink.org/wing>.

¹⁵ <https://www.codepink.org/greenchina>.

¹⁶ <https://www.cpmlegal.com/news-Surfrider-the-Sierra-Club-Heal-the-Bay-and-San-Francisco-Baykeeper-Sue-Exxon-for-Hiding-the-Truth-About-Plastic-Harms>.

¹⁷ <https://capitalresearch.org/article/foreign-funded-plastic-lawfare/>.

¹⁸ <https://efile.fara.gov/docs/7480-Exhibit-AB-20241021-4.pdf>.

¹⁹ <https://efile.fara.gov/docs/7480-Amendment-20250109-3.pdf>.

What was the Intergenerational Environment Justice Fund's goal in this lawfare? Its contract with the lawyers revealed the Fund "views litigation as a means to achieve environmental objectives" and that the lawsuit's ultimate goal was "to bring positive change to the plastics industry." So in classic lawfare fashion, this litigation was launched to achieve a political objective without the trouble of going through the democratic process. And who was making an end run around American democracy? A billionaire: more specifically, a foreign national billionaire, Australian mining magnate Andrew Forrest, who endowed the \$10 billion Minderoo Foundation,²⁰ which in turn, the FARA registration reveals, controls the Intergenerational Environment Justice Fund.

Is this foreign meddling in American politics via 501(c)(3) "charities" actually a charitable act that should be incentivized through the tax code, my colleague Stilson asks. No wonder the last Congress saw Sen. John Kennedy introduce the bipartisan Protecting Our Courts from Foreign Manipulation Act,²¹ and this Congress has had Rep. Ben Cline introduce the Protecting Our Courts from Foreign Manipulation Act of 2025.²²

I mentioned that the Center for Climate Integrity is a cheerleader for the Australian billionaire's lawsuit,²³ which is grimly appropriate because one of the Center's significant funders is another foreign national billionaire, Christopher Hohn of Britain. Hohn is also a major backer of Extinction Rebellion, one of the world's most prominent environmental extremist groups.²⁴ In 2019 its efforts to "shut down London" lasted for days and resulted in over 1,100 arrests. Dozens of other arrests for its law-breaking have occurred in New York;²⁵ Washington, D.C.,²⁶ and elsewhere.

Still another foreign national billionaire funding environmental activism and lawfare is Hansjörg Wyss of Switzerland and Wyoming, who most recently made headlines for a lawsuit alleging he sexually harassed an employee at his winery.²⁷ As Americans for Public Trust has documented, Wyss has poured over \$650 million into the American Left.²⁸ He has sent millions to such groups as the ClimateWorks Foundation,

²⁰ <https://philanthropynewsdigest.org/news/minderoo-foundation-endowment-could-reach-26-billion-by-2030>.

²¹ <https://www.kennedy.senate.gov/public/2023/9/kennedy-manchin-introduce-bipartisan-protecting-our-courts-from-foreign-manipulation-act-to-end-overseas-meddling-in-u-s-litigation>.

²² <https://www.congress.gov/bills/119th/congress/house-bill/2675>.

²³ <https://climateintegrity.org/lawsuits/case/california-nonprofits>.

²⁴ <https://archive.is/PX1Ni>.

²⁵ <https://www.pbs.org/wnet/peril-and-promise/2019/08/the-radical-philosophy-of-extinction-rebellion/>.

²⁶ <https://extinctionrebellion.us/press-release-sep-23-2019>.

²⁷ <https://www.foxnews.com/politics/swiss-born-liberal-megadonor-slapped-with-lawsuit-for-allegedly-groping-sexually-harassing-winery-employee>.

²⁸ https://americansforpublictrust.org/wp-content/uploads/2025/04/APT_Wyss-Billionaire.pdf.

Earthjustice Legal Defense Fund, and Natural Resources Defense Council. But above all he has sent over \$278 million to the Sixteen Thirty Fund, a 501(c)(4) operated by Arabella Advisors²⁹ and called by the *Atlantic*, “the indisputable heavyweight of Democratic [Party] dark money.”³⁰ Sixteen Thirty in turn has given tens of millions of dollars to the League of Conservation Voters and other environmental groups. Wyss serves on the board of the Wilderness Society,³¹ whose climate lawfare includes the notable case of *Mountain Valley Pipeline v. The Wilderness Society*, which the Society lost in 2023 when the U.S. Supreme Court, with no recorded dissents, issued a brief unsigned order that lifted a 4th Circuit hold on pipeline construction.³²

Incidentally, both the Wyss Foundation and Arabella’s nonprofits use the Elias Law Group, run by Marc Elias, the so-called Democratic “super-lawyer” known for his bare-knuckles partisanship.³³ Before Wyss began passing his dollars through the Arabella Advisors nonprofit network, he violated campaign finance law by sending “hard dollar” donations to various Democratic politicians, including then-Rep. Jay Inslee and Sen. Dick Durbin. These illicit contributions were not discovered until after the statute of limitations expired, but they are documented in the Federal Election Commission’s database³⁴ and are also noted in an extensive report³⁵ by the FEC’s general counsel in response to a complaint filed by Americans for Public Trust.³⁶

Climate lawfare in America is also funded by homegrown billionaires, and many of these billionaires have the same last name: *Foundation*. Especially notable are the Hewlett Foundation and various Rockefeller philanthropies, but there are many more, including the Ford Foundation and the MacArthur

²⁹ The *New York Times* describes Arabella’s nonprofit empire as “an opaque network managed by a Washington consulting firm” that has “funneled hundreds of millions of dollars through a daisy chain of groups supporting Democrats and progressive causes. The system of political financing, which often obscures the identities of donors, is known as dark money, and Arabella’s network is a leading vehicle for it on the left.” Ken Vogel, “Top Bidder for Tribune Newspapers Is an Influential Liberal Donor,” *New York Times*, April 17, 2021, <https://www.nytimes.com/2021/04/13/business/media/wyss-tribune-company-buyer.html>.

³⁰ <https://www.theatlantic.com/politics/archive/2021/11/arabella-advisors-money-democrats/620553/>.

³¹ <https://www.wilderness.org/about-us/our-team/our-governing-council>.

³² <https://www.scotusblog.com/2023/07/supreme-court-rules-in-favor-of-mountain-valley-pipeline/>.

³³ See, e.g., the 2022 IRS Form 990 for the Wyss Foundation, which reports \$61,251 in compensation to Elias’s firm; <https://www.influencewatch.org/app/uploads/2023/12/Wyss-Foundation-Form-990-2022.pdf>.

³⁴

https://www.fec.gov/data/receipts/individualcontributions/?contributor_name=Wyss%2C+Hansjoerg&contributor_name=Wyss%2C+Hansjorg.

³⁵ <https://www.influencewatch.org/app/uploads/2023/06/FEC-gen-counsel-report-on-APT-Wyss-complaint.pdf>.

³⁶ <https://americansforpublictrust.org/document/wyss-complaint/>.

Foundation. This helps to explain why a tally of only a few of the leading climate lawfare groups totals revenues of a half-billion dollars a year:

**Annual Revenues
of
Leading Climate Lawfare Groups**

Center for Biological Diversity (CBD)	\$ 34,484,948
Center for International Environmental Law	\$ 10,266,541
ClientEarth	\$ 8,439,891
Conservation Law Foundation	\$ 16,528,889
Earthjustice	\$ 125,960,142
EarthRights International	\$ 6,108,820
Environmental Integrity Project	\$ 6,400,051
Environmental Law and Policy Center of the Midwest	\$ 10,923,738
Natural Resources Defense Council (NRDC)	\$ 193,144,386
Our Children's Trust	\$ 4,964,407
Public Justice Foundation	\$ 9,705,815
Southern Environmental Law Center	\$ 62,847,748
Western Environmental Law Center	\$ 3,869,418
WildEarth Guardians	\$ 3,989,393
TOTAL	\$ 497,634,187

Source: IRS Form 990s filed for FY ending in 2023.

Many environmentalist groups funded by the multitude of left-wing billionaires have disturbing foreign ties. For example, the Rocky Mountain Institute, best known for its notorious study attacking gas stoves,³⁷ now has a China program³⁸ set up by its current CEO. The Institute's co-chair Martha Brooks previously

³⁷ "This paper does not do any research on possible association between residential natural gas use and risk of childhood asthma," Yale professor of medicine Harvey Risch told the *Free Beacon*. "It only calculates a percent of childhood asthma that could be attributable to residential natural gas use and risk of childhood asthma." The *Beacon* added, "That distinction is important, Risch said, particularly when calling for such a dramatic public policy proposal that would change how tens of millions of Americans prepare their food. The study was also ethically dubious, according to Risch, as its authors stated they held no conflicts of interest despite working for climate change activist groups. The Rocky Mountain Institute's board, for example, is filled with executives at green energy corporations with a financial interest in banning the use of fossil fuels." <https://freebeacon.com/biden-administration/meet-the-green-energy-group-behind-the-study-thats-driving-calls-to-ban-gas-stoves/>.

³⁸ <https://rmi.org/our-work/china-program/>.

chaired the Yale-China Association. Wei Ding, another board member as of 2023, is the founder and chairman of the Chinese private equity firm Broad River Capital, the *Free Beacon* reports, adding that “Ding started the firm after serving as chairman of the China International Capital Corporation (CICC), a partially state-owned investment bank. Former CICC executives include Chinese leader Xi Jinping’s vice president and right-hand man, Wang Qishan, while the corporation’s website highlights its ‘deep participation in China’s economic reforms and development’³⁹ and goal to ‘serve the nation.’”⁴⁰

The *Beacon* also reports how the Institute “joined forces with China’s National Development and Reform Commission—the government agency tasked with planning the communist nation’s economy—to produce a report that advised China to replace existing appliances and generators with ‘clean energy technologies.’⁴¹ The commission went on to set climate goals that included energy reduction targets. When local provinces in 2021 failed to meet those targets, the commission pushed them to implement electricity rations.”⁴²

The California China Climate Institute is another troubling environmentalist group. Housed at U.C. Berkeley, it is a University of California-wide initiative founded and led by former Governor Jerry Brown. It partners with the Institute of Climate Change and Sustainable Development at China’s Tsinghua University, the alma mater of Xi Jinping which the Australian Strategic Policy Institute deems a “very high risk” institution for its alleged role in supporting cyberattacks. The Australian Strategic Policy Institute adds that not only the university’s “dedicated defence laboratories but also a range of key laboratories and research institutions at the university have received funding from the military.”⁴³ Reuters reports that in 2018 hackers operating from this elite university probed “U.S. energy and communications companies, as well as the Alaskan state government.”⁴⁴

The California China Climate Institute also partners with several Chinese Communist Party front groups, the *Free Beacon* reports,⁴⁵ including the Chinese People’s Association for Friendship with Foreign Countries, a group Beijing uses to “malignly influence state and local leaders” to advance China’s “global

³⁹ <https://archive.is/KXCWY>.

⁴⁰ <https://web.archive.org/web/20230201204657/https://en.cicc.com/cmscontent/26.html>.

⁴¹ https://rmi.org/wp-content/uploads/2017/05/OCS_Report_ReinventingFireChina_2016.pdf.

⁴² <https://qz.com/2065891/why-is-china-rationing-electricity>.

⁴³ <https://unitracker.aspi.org.au/universities/tsinghua-university/>.

⁴⁴ <https://www.reuters.com/article/us-usa-china-cyber/chinese-hackers-targeted-u-s-firms-govt-after-trade-mission-researchers-idUSKBN1L11D2/>.

⁴⁵ <https://freebeacon.com/democrats/gavin-newsom-ignores-intelligence-warnings-strengthens-ties-with-ccp-linked-climate-group/>.

agenda,” according to a Department of State warning.⁴⁶ The Office of the Director of National Intelligence issued similar warnings in 2022⁴⁷ and 2023,⁴⁸ noting that China emphasizes influence operations at the state and local levels because it calculates that local officials “are more pliable than their federal counterparts.”

For further evidence of the California Institute’s China ties, consider that it helped organize Gov. Gavin Newsom’s October 2023 junket to China,⁴⁹ which he made “alongside Xie Zhenhua, China’s special representative for climate change affairs,” the *Beacon* reports. In 2021 Gov. Newsom signed a law requiring the Institute to work with Chinese institutions to train California government leaders on climate issues, the *Beacon* adds.⁵⁰ Institute funders include the ubiquitous Hewlett Foundation and the Rockefeller Brothers Fund.

Another wealthy and prominent environmentalist group funded by left-wing billionaires is Energy Foundation China, a 501(c)(3) “charity” headquartered in San Francisco. As a thorough report by State Armor explains, this group “is led by Ji Zou, a former official of an influential Chinese government agency, and most of its employees are in Beijing.”⁵¹ Its most recent IRS filing shows 2023 revenues totaled over \$84 million,⁵² thanks to the generosity of billionaires like the MacArthur and Hewlett foundations and the Children’s Investment Fund Foundation, which is the philanthropic vehicle for Christopher Hohn, the British billionaire mentioned earlier for his support of the Center for Climate Integrity’s lawfare and of the violent radicals at Extinction Rebellion. In the incestuous world of environmentalist funding, Energy Foundation China “has spent millions each year to bankroll climate advocates who promote phasing out fossil fuels and implementing green energy alternatives like the Rocky Mountain Institute and Natural Resources Defense Council, the latter of which was the target of a 2018 Congressional inquiry into whether it should register as a foreign agent based on its Chinese funding,” State Armor observes. More recently, State Armor continues, Energy Foundation China has led a state-level campaign of legislation and litigation against the leading Western fertilizer company, Bayer, which may force the company out of the U.S. market and leave our farmers dependent on a Chinese

⁴⁶ <https://2017-2021.state.gov/designation-of-the-national-association-for-chinas-peaceful-unification-nacpu-as-a-foreign-mission-of-the-prc/index.html>.

⁴⁷ https://www.dni.gov/files/NCSC/documents/SafeguardingOurFuture/PRC_Subnational_Influence-06-July-2022.pdf.

⁴⁸ <https://www.dni.gov/files/ODNI/documents/assessments/ATA-2023-Unclassified-Report.pdf>.

⁴⁹ <https://ccci.berkeley.edu/news/2023/11/california-china-climate-institute-partners-newsom-administration-successful-climate>.

⁵⁰ https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB39.

⁵¹ <https://statearmor.org/who-is-energy-foundation-china/>.

⁵² <https://projects.propublica.org/nonprofits/organizations/943126848/202403199349306005/full>.

company for fertilizer. This neutralization of America's critical advantage over China in food production would be a great victory for the Communist regime. Similarly, the Energy Foundation China has supported efforts to move American homes away from gas appliances to electrical substitutes, but "since neither the United States nor its Western allies produce electrical components at a scale that would be appropriate for such a transition, the re-wiring would likely entail mostly Chinese inputs, a further step in the direction of dependence on the CCP for critical infrastructure," State Armor warns.

Energy Foundation China's employees have deep ties to the China Communist Party. CEO Zou Ji held a leadership position in China's National Center for Climate Change Strategy and, State Armor notes, "was so deeply tied into CCP leadership that he was included as a part of China's delegation to the 2015 Paris Climate Talks. Zou's other affiliations include a position at Tsinghua University," earlier described as a high-risk institution tied to Chinese cyberattacks. The Foundation's environmental program director, Xin Liu, "also held high-ranking positions within Chinese government entities, and Energy Foundation China's board includes Hongjun Zhang, ... who is a member of China's Council for International Cooperation on Environment and Development and previously a legislative director for the China National People's Congress." Zhang's D.C. law firm "touts that he has worked for 'many years in the Chinese government,' including stops at the 'Ministry of Industry and Information Technology (MIIT), Ministry of Commerce (MOFCOM), State Food and Drug Administration (CFDA), Ministry of Agriculture (MOA), and National Development and Reform Commission.'" Zhang has even helped author China's Five-Year Plans.

The Foundation's executive vice president, David Vance Wagner, spent years coordinating with China's Communist Party as a U.S. State Department employee, and before that he worked for China's Ministry of Environmental Protection. He has a master's degree from the high-risk Tsinghua University. The Foundation's headquarters in China for its roughly 80 local staff members are in a building owned by CITIC group, a state-owned Chinese investment corporation. One of the Foundation's top contractors is Beijing China News Network, the website of China's state-owned China News Service that spreads the regime's propaganda around the world.⁵³

On the one hand, State Armor reports, the Foundation "regularly sends grants directly to CCP-controlled agencies in China, including the National Center for Climate Change Strategy, the Chinese Academy of Environmental Planning, and Chinese Academy of Sciences," and it partners with governmental entities

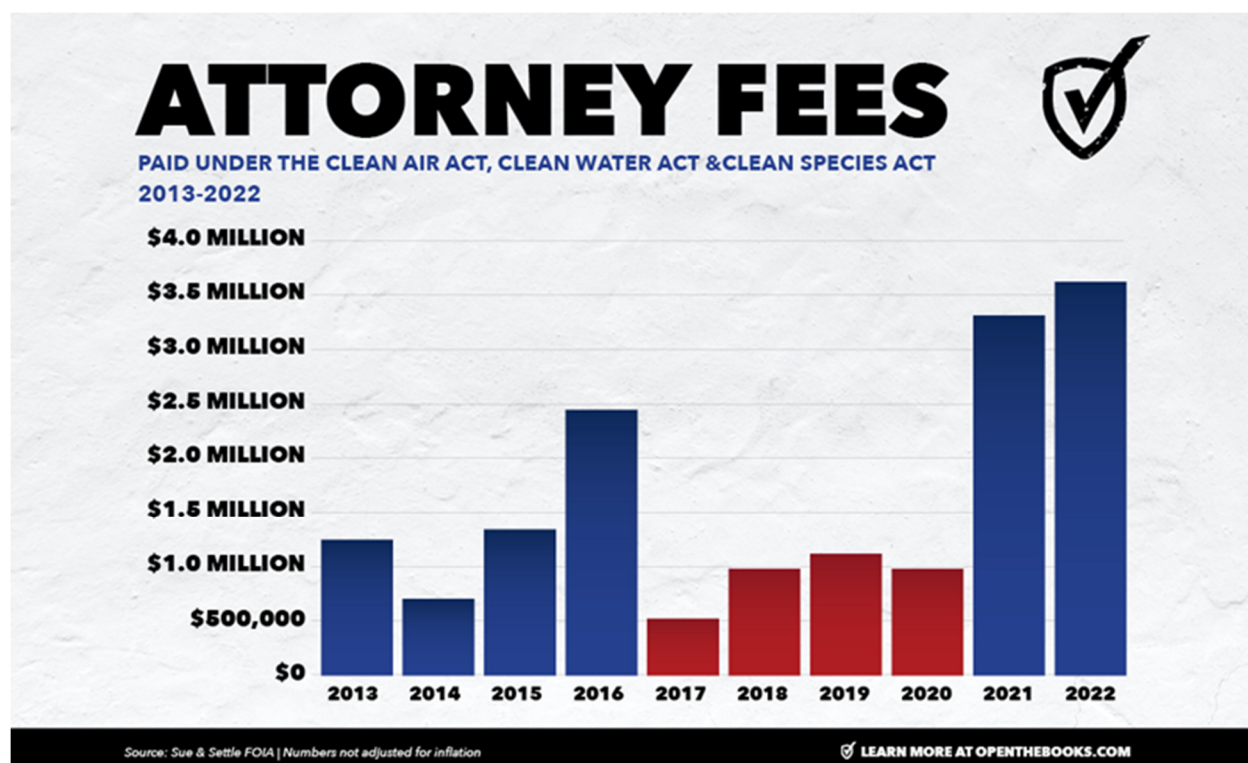
⁵³ <https://www.chinanews.com.cn/common/footer/aboutus.shtml>.

like the Jiangsu Provincial Department of Ecology and Environment, Tsinghua University, and the Tongzhou District People's Government of Beijing. On the other hand, it also sends money to flagship American universities like the University of California Berkeley, UCLA, and Harvard, and it supports studies praising mandatory electrification policies in Berkeley and Brookline, Massachusetts.

In short, all the Foundation's work helps ensure "America is subsidizing China's energy resilience while harming its own," which explains why the Chinese Communist Party "has every incentive to support climate activism in America."

But while climate lawfare's ties to foreign governments are disturbing, lawfare's domestic ties to government at all levels is also problematic. For example, the use by environmentalist nonprofits of so-called sue-and-settle strategies is still another way these activists bypass the democratic process. A nongovernmental organization, or NGO in Washington-speak, colludes with friends in the government—often past and/or future employees of the same organization—to sue those friends' agency and demand a policy change. The government friends then march hand-in-hand with their plaintiffs to a judge, claiming they were fairly caught and are willing to enter into a consent decree, which gives the cover of law to the policy change that otherwise would have required Congressional approval or at least a proper public regulatory process. As icing on the cake, the federal bureaucrats pay legal fees to their NGO friends, who may well be hiring those same bureaucrats at the next change of administrations. Open the Books has a chart⁵⁴ displaying the tax dollars that have been handed to environmental activist attorneys in this way by the Environmental Protection Agency in recent years:

⁵⁴ <https://www.openthebooks.com/substack-secretive-sue-and-settle-back-in-play-at-bidens-epa/>. See also www.realclearinvestigations.com/articles/2024/02/21/sue_and_settle_looks_to_some_like_crony_democracy_and_under_bidens_lawfaring_eco-politics_its_back_1012674.html.



An additional example of disturbing lawfare ties to the federal government involves yet another left-wing billionaire, Michael Bloomberg, who has led a campaign to install environmental activists in state attorneys general offices around the country. The aim is to push state governments to sue energy companies, and the explicit model from the beginning has been the past success of states in suing tobacco companies and thereby turning those companies into cash cows for both the state governments and also for their outside lawyer cronies.

This legal campaign began in a June 2012 gathering in LaJolla, California. Participants included activists like the general counsel for Greenpeace International and leaders at the Union of Concerned Scientists, as well as activist academics and lawyers like Matt Pawa, founder of the Global Warming Legal Action Project.⁵⁵ The fossil fuels industry could, like Big Tobacco before it, become the source of monies for elected officials and collaborating attorneys and activist groups, if state and federal legal officers would assist. Litigation could also bring about political victories that the same activists had failed to achieve through the democratic process in legislatures.

⁵⁵ Union of Concerned Scientists and Climate Accountability Institute. Summary of the Workshop on Climate Accountability, Public Opinion, and Legal Strategies, October 2012; <https://climateaccountability.org/pdf/Climate%20Accountability%20Rpt%20Oct12.pdf>

While the tobacco campaign only saw a pittance of the money extracted go to efforts to prevent or reduce tobacco use,⁵⁶ it enriched the warrior-lawyers with “contingency fees totaling billions in the first five years of the agreement and continuing indefinitely at a rate of \$500 million annually,” observes Stanford professor of economics Jeremy Bulow.⁵⁷ Climate lawfare hopes to replicate this scheme, as Chris Horner has carefully documented with public records requests and lengthy reports.⁵⁸ Unfortunately for these money-hunters, most of their suits have not fared well. For instance, the New York Attorney General’s own staff attorneys initially resisted the pre-fabricated legal strategy proposed by the outside-funded campaign and hoped the attorney who prepared the legal memos “can come to see that he’s wrong.”⁵⁹ When the New York Attorney General later went to court, a 2019 decision by a New York judge denied all claims asserted by the Attorney General and ruled the action “dismissed with prejudice.” The judge also addressed the surprising and abrupt withdrawal by the Attorney General, during the last day of argument, of “its claims of equitable fraud and common law fraud contained in the third and fourth causes of action in its hyperbolic Complaint.”⁶⁰

Unfortunately, the lawfare hasn’t stopped, because there’s apparently no bottom to Big Philanthropy’s wallet supporting this litigation. Consider the millions of dollars sent by MacArthur, Hewlett, the Rockefeller Brothers, et al. to the Collective Action Fund for Accountability, Resilience, and Adaptation, a fiscally sponsored project of Arabella Advisors’ biggest in-house nonprofit, the New Venture Fund. This goes to support the for-profit law firm Sher Edling to sue energy companies on behalf of states like Rhode Island and cities like Charleston and Baltimore. As my colleague Robert Stilson asked in *The Hill*, at what point does this arrangement cease to be “charitable” as Americans understand the term? Isn’t the contentious issue of climate change “exactly the sort of issue that should be resolved through the political

⁵⁶ Since the national tobacco industry settlement, state governments have received \$201.2 billion from 1998-2024, but less than \$1 billion of that has gone to efforts to prevent or reduce tobacco use. Data available at Campaign for Tobacco Free Kids, “Actual Tobacco Settlement Payments Received by the States, 1998-2023”; <https://www.tobaccofreekids.org/assets/factsheets/0365.pdf>.

⁵⁷ Quoted in Bill Snyder, “Fiscal Failings of the Government’s Tobacco Settlement,” Insights by Stanford Business School, January 1, 2007; <https://www.gsb.stanford.edu/insights/fiscal-failings-governments-tobacco-settlement>.

⁵⁸ For example, Chris Horner, “Law Enforcement for Rent: How special interests fund climate policy through State Attorneys General,” Competitive Enterprise Institute; <https://cei.org/wp-content/uploads/2018/08/Christopher-Horner-Law-Enforcement-for-Rent-with-Appendix.pdf>.

⁵⁹ “Amicus Brief Details Climate Litigation Campaign’s Political Origins: Newly obtained records withheld for seven years reveal NYAG attorneys abandoned misgivings about pre-packaged ‘subpoena suggestion’ after months of activists’ climate-lawsuit lobbying,” Climate Litigation Watch, November 29, 2023; <https://climatelitigationwatch.org/amicus-brief-details-climate-litigation-campaigns-political-origins/>.

⁶⁰ *People of the State of New York v. Exxon Mobil Corporation*, <https://climatelitigationwatch.org/wp-content/uploads/2019/12/452044-2018-Op-12.10.19.pdf>.

process, by voters and their elected representatives in Congress, not through a judicial process, by private lawyers and their ideologically motivated funders?”⁶¹

This kind of lawfare also raises ethics issues. Contingency fees for firms like Sher Edling and Lieff Cabraser Heimann & Bernstein presume that the firms are taking a risk, but is there risk with such pre-existing funding? And did these for-profit firms disclose to their government clients their prior funding? And if those government clients were aware of the funding, did they disclose it to the public whose tax dollars they’re sending to their outside counsel cronies?

Any Member of the Subcommittee who supports unions should know that this cronyism has turned into union-busting: the government workers union that represents staff attorneys in the California Attorney General’s office is suing their crusading Attorney General for spending tax dollars on Sher Edling instead of hiring more government attorneys.⁶²

One more ethics problem deserves airing. The Climate Judiciary Project, run by the Environmental Law Institute, seeks to “educate”—from a left-wing perspective—federal and state judges about climate change and related litigation designed to extract billions of dollars from energy companies. As Climate Litigation Watch observes, this is an “effort by the plaintiffs’ climate tort movement, unearthed by Government Accountability & Oversight (GAO) and Energy Policy Advocates (EPA), to brief federal judges on the plaintiffs’ case with what they declare to be ‘the science’ behind climate, with speakers drawn exclusively from the world of plaintiffs’ witnesses or historic amicus brief filers in support of the climate litigation complex.” Climate Litigation Watch has a longer description⁶³ of how the Climate Judiciary Project occupied its initial host organism, the Federal Judicial Center, which as a creature of Congress, deserves your oversight.

In sum, if the public knew the cost of climate lawfare and the degree of foreign influence connected with it, they would be outraged. I hope this hearing begins the process of revelation.

Thank you.

⁶¹ <https://thehill.com/opinion/energy-environment/4422166-why-are-charities-funneling-millions-into-climate-change-lawfare/>.

⁶² <https://www.eenews.net/articles/california-ag-is-sued-by-his-offices-lawyers-for-outsourcing-climate-case/>.

⁶³ <https://climatelitigationwatch.org/prep-the-judges-lest-ye-be-judged/>.