

REPORT OF THE CHIEF LEGISLATIVE ANALYST

DATE: June 26, 2017

TO: Honorable Members of the Rules, Elections, Intergovernmental Relations, and Neighborhoods Committee

FROM: Sharon M. Tso *Sharon M. Tso* Council File No.: 17-0002-S92
Chief Legislative Analyst Assignment No.: 17-06-0648

SUBJECT: Administrative action by the California Attorney General to investigate ExxonMobil

CLA RECOMMENDATION: ADOPT the attached Resolution (Koretz-Bonin) to include in the City's 2017-2018 State Legislative Program SUPPORT for administrative action by the California Attorney General regarding ExxonMobil's possible public deception about the risks associated with climate change.

SUMMARY

The Resolution (Koretz-Bonin), introduced on June 9, 2017, states that the National Oceanic and Atmospheric Administration declared 2016 to be the hottest year in recorded history. It further notes that ExxonMobil (Exxon) is a leading producer and marketer of fossil fuels. Recent public reports have raised the issue of whether Exxon accurately informed the public, policymakers or its shareholders about the risks associated with Exxon's business. These reports have also raised questions regarding whether the company's public statements were consistent with its own internal documents.

The Resolution states that the City of Los Angeles is already being affected by climate change and the impacts are disproportionately borne by low-income communities and vulnerable populations. The Resolution seeks support for any administrative action by the California Attorney General to initiate an investigation into whether, and to what extent, Exxon may have violated the law by contributing to and deceiving the public about the risks associated with climate change.

BACKGROUND

In late 2015, two separate multipart investigations were published detailing previously unknown information regarding Exxon's climate related research and lobbying. The investigations were conducted by the *Los Angeles Times* and Columbia University's Energy & Environmental Reporting Project and *InsideClimate News*. Both series relied on archived Exxon documents, peer-reviewed published materials, and interviews with former Exxon employees to trace the evolution of Exxon's climate change research and the eventual disconnect between its internal understanding of climate change and its public conduct.

Both investigations detailed cutting edge climate research conducted by Exxon in the late 1970s

and early 1980s. The investigations revealed that Exxon conducted research into the impact of CO₂ emissions from fossil fuels on the planet's climate. Exxon's work involved both CO₂ sampling and climate modeling and strove to address uncertainties in the then current understanding of climate change.

InsideClimate News reported that in the early 1980s, Exxon boasted the novelty of its climate research and was recognized as a leader in the field. Archived documents reviewed by journalists indicate Exxon received praise from the United States Energy Department, which expressed hope that Exxon's research would "serve as a model for research contributions from the corporate sector." Exxon's scientists published several peer reviewed papers and their climate models supported the emerging consensus regarding the risk associated with global warming. Further, *InsideClimate News* indicated that archived internal documents show that conclusions derived from Exxon's climate models were shared with corporate executives and managers as early as 1982. The documents reveal that management was specifically warned that policy changes aimed at addressing climate change had the potential to harm Exxon's profitability.

Despite Exxon's early understanding of the projected impacts of climate change and the role of fossil fuel emissions, internal documents indicate that as public awareness of climate change grew and members of Congress began calling for regulations addressing CO₂ emissions, Exxon devoted funds to sowing doubt about climate science. *InsideClimate News* reported that in 1988 Exxon adopted an internal position regarding climate change to "emphasize the uncertainty in scientific conclusions regarding the potential enhanced greenhouse effect" and "urge a balanced scientific approach." To that end, Exxon joined major oil and automotive companies to form the Global Climate Coalition (GCC), an alliance which lobbied to defeat government efforts at reducing fossil fuel emissions. Between 1989 and 2002, Exxon worked with the GCC and purchased ads in the Washington Post, Wall Street Journal, and the New York Times. Exxon's ads emphasized the uncertainty of climate science and took the position that proposed regulations were premature. Between 1998 and 2005, Exxon spent \$16 million on these efforts.

InsideClimate News's investigation found that by the early 2000s, Exxon's financing of climate doubt had far exceeded its earlier investment in groundbreaking climate science, attracting scorn from the scientific community. *InsideClimate News's* investigation also detailed Exxon's efforts, partly through collaboration with the Bush administration, to publicly emphasize uncertainty in climate science and successfully remove the United States from the Kyoto Protocol. Federal filings from the same period indicate that Exxon's management did not detail concerns regarding CO₂ levels in its annual securities filings. However, at the same time Exxon began to factor the impacts of climate change into the design of new infrastructure projects while repeatedly rejecting shareholder requests to address the threat of climate change.

Four weeks after *InsideClimate News* published the first article in its six part investigation, California Representatives Ted Lieu and Mark DeSaulnier asked then United States Attorney General Loretta Lynch to initiate a federal racketeering investigation of Exxon. Three weeks later, 40 environmental and social justice groups authored a letter to Attorney General Lynch, supporting the Representatives' call for a racketeering investigation. The matter was referred to the Federal Bureau of Investigation for an initial inquiry and a determination is still pending. In 2016, the Securities and Exchange Commission began investigating how Exxon accounts for the

effects of climate change when valuing its assets.

At the state level, the attorneys general of New York and Massachusetts have initiated investigations under their respective securities and consumer protection laws to determine whether Exxon properly disclosed climate related risk facing the corporation. These investigations are ongoing but have been subjected to scrutiny by the chair of the House Committee on Science, Space, and Technology, Representative Lamar Smith of Texas. Representative Smith has issued subpoenas seeking to understand the investigative strategies of the New York and Massachusetts attorneys general. Representative Smith contends their investigations are an attempt to silence those with alternative opinions on climate change, thereby endangering the First Amendment rights of academic institutions, scientists, and companies performing climate research.

While never publicly acknowledged by her office, in January 2016 the *Los Angeles Times* reported that then California Attorney General Kamala Harris had opened an investigation into whether Exxon's efforts to sow doubt regarding climate change amounted to fraud against its shareholders. In recent months there have been public calls for the current California Attorney General Xavier Becerra to continue that investigation. Among those calling for Becerra to continue the investigation are 18 of California's 53 members of the House of Representatives, 30 environmental groups, and the Editorial Board of the *Los Angeles Times*.

Los Angeles is already experiencing the effects of climate change and it is predicted that the City will experience warmer temperatures, increased smog, and more frequent drought conditions. UCLA's "Climate Change in the Los Angeles Region Project" predicts that across the Los Angeles region, average temperatures will increase by 4.3 degrees Fahrenheit by midcentury and the number of days hotter than 95 degrees will also increase, with the biggest changes occurring in the interior areas of the region. Researchers have also warned that the effects of climate change will be disproportionately borne by those in less affluent communities, as poorer communities have less green space and fewer apartments with air conditioning.

Facing the threat of climate change, the City has taken a proactive approach on climate issues and is working to drastically reduce its greenhouse gas emissions. According to the second annual report on the Mayor's Sustainable City pLAN, as of 2013 Los Angeles had already reduced its greenhouse gas emissions by 20 percent below 1990 levels and is nearly halfway to its goal of 45 percent below by 2025. The Sustainable City pLAN also focuses on building resilience to ensure the City is prepared for the impacts of climate change and less vulnerable as a result. The City's Resiliency Plan, which will address the issue of climate adaptation, is forthcoming.

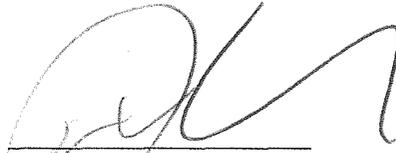
The City is also a member of C40, a network of megacities committed to addressing climate change and Mayor Garcetti has expressed his desire to incorporate the principles of the Paris Climate Agreement into City policy. On May 31, 2017, a Motion (Bonin-Martinez) was introduced requesting that the Council instruct the Department of Water and Power (DWP) and all other relevant City departments to adopt the stipulations of the Paris Climate Agreement as the policy of the City of Los Angeles. Currently, DWP's goals exceed the nation's previous commitments under the Paris Climate Agreement. DWP has taken significant action in

confronting the threat of climate change and reducing its greenhouse gas emissions. DWP has committed to ending its use of coal by 2025, is increasing investments in renewable energy from 25 percent to 55 percent, and has reduced its greenhouse gas emissions by 42 percent from 1990 levels. The Bureau of Sanitation is also currently engaged in several sustainability efforts. The Bureau is the clearinghouse for clean technology and alternative fuel vehicles in connection with the City's involvement in the United State Department of Energy's Clean Cities Program.

Departments Notified

Bureau of Sanitation

Department of Water and Power



Jennifer Quintanilla
Analyst

Attachments: 1. Resolution

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RESOLUTION

WHEREAS, any official position of the City of Los Angeles with respect to legislation, rules, regulations or policies proposed to or pending before a local, state or federal governmental body or agency must first have been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, the National Oceanic and Atmospheric Administration (NOAA) once again declared the past year (2016) to be the hottest in recorded history; and

WHEREAS, climate change is already jeopardizing the health, the environment and the economy of California and of Los Angeles; and

WHEREAS, climate change disproportionately impacts low-income communities and vulnerable populations; and

WHEREAS, ExxonMobil is a leading producer and marketer of fossil fuels; and

WHEREAS, public reports have raised questions about whether ExxonMobil has accurately informed the public, policymakers or its shareholders about the serious risks associated with the company, its products and investments related to climate change, as well as questions about whether the company's public statements with respect to these risks were consistent with its own internal documents; and

WHEREAS, these potentially deceptive practices may have been carried out not only through the company's own statements, but through its funding of organizations that have distorted the facts about climate change; and

WHEREAS, the City of Los Angeles is being impacted by climate change;

NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by adoption of this Resolution, the City of Los Angeles hereby includes in its 2017-2018 State Legislative Program SUPPORT for any administrative action by the California Attorney General to initiate an investigation into whether, and to what extent, ExxonMobil may have violated the law by contributing to and deceiving the public about the risks associated with climate change.

PRESENTED BY:



PAUL KORETZ
Councilmember, 5th District

SECONDED BY:



JUN 09 2017



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