

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON**

**WEST VIRGINIA RIVERS COALITION, INC.,
and 350.ORG,**

Plaintiffs,

v.

Civil Action No. 2:26-cv-_____

**JOHN B. MCCUSKEY, in his official capacity as
Attorney General of the State of West Virginia,**

Defendant.

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

1. This is an action under 42 U.S.C. § 1983 to enjoin baseless and retaliatory investigations that the Attorney General of West Virginia has opened into the environmental advocacy of nonprofit organizations, and to enjoin enforcement of the investigative subpoenas, each dated September 16, 2026, that he issued in those investigations to West Virginia Rivers Coalition, Inc. (“WV Rivers”), a nonprofit conservation organization, and to 350.org, a nonprofit climate advocacy organization.

2. Each subpoena purports to invoke the Attorney General’s authority under the West Virginia Consumer Credit and Protection Act, W. Va. Code § 46A-7-104(1). It identifies no consumer, no transaction, no complaint, and no act by either recipient that the Act regulates. None of its demands concern the sale of any goods or services.

3. Each subpoena instead demands nearly ten years of the recipient’s records concerning its public statements on climate and energy, its internal deliberations about those statements, its requests for donations, the organizations that have funded its work and the amounts they gave, the organizations it has paid, the officers, directors, staff, and board members it shares

with renewable energy entities, its dealings with coalitions and other advocacy organizations on energy permitting and regulation in West Virginia, and its submissions to regulatory agencies.

4. The subpoenas were issued after the Attorney General had, over the preceding eighteen months, publicly urged federal agencies and the Department of Justice to investigate and defund climate advocacy organizations, including 350.org by name; after he had described environmental groups engaged in permitting litigation as “extreme” activists who “weaponize” the law; and while his office was litigating against WV Rivers in the United States Court of Appeals for the Fourth Circuit, where it had accused WV Rivers of relying on “slanted,” “cherry-picked,” and “deceiving” data.

5. The Attorney General issued materially identical subpoenas on the same day to at least four other nonprofit organizations engaged in similar environmental advocacy.

6. A government demand for an organization’s funders, members, partners, and internal communications burdens the constitutional right of freedom of association from the moment it is made and for as long as it remains outstanding. *First Choice Women’s Resource Centers, Inc. v. Davenport*, 608 U.S. 174, 189 (2026). The subpoenas’ demands for donor and associational information burdens Plaintiffs’ First Amendment rights. The Attorney General’s demands here also retaliate against WV Rivers and 350.org for speech, association, and petitioning that the First Amendment protects, and they are unreasonable demands under the Fourth Amendment, issued in investigations that the Attorney General has no authority to conduct.

7. Plaintiffs seek a declaration that the subpoenas, and the investigations in which they were issued, violate the First, Fourth, and Fourteenth Amendments, and an injunction barring the Attorney General from enforcing the subpoenas and proceeding with the investigations in any manner.

JURISDICTION AND VENUE

8. This action arises under the Constitution and laws of the United States, including the First, Fourth, and Fourteenth Amendments and 42 U.S.C. § 1983. The Court has subject-matter jurisdiction under 28 U.S.C. §§ 1331 and 1343(a)(3).

9. The Court may grant declaratory relief under 28 U.S.C. §§ 2201 and 2202 and Federal Rule of Civil Procedure 57, and injunctive relief under Federal Rule of Civil Procedure 65.

10. Defendant is an officer of the State of West Virginia sued in his official capacity for prospective relief. *Ex parte Young*, 209 U.S. 123, 155–56 (1908).

11. Venue lies in this district under 28 U.S.C. § 1391(b)(1) and (b)(2). Defendant resides in this district. The subpoenas were issued from Charleston, direct production to Defendant's office in Charleston, and are part of investigations Defendant conducts from Charleston. WV Rivers maintains an office and records in this district, and the injuries alleged here have occurred and are occurring in this district. Because Defendant resides in this district, venue is proper as to every claim of each Plaintiff. 28 U.S.C. § 1391(b)(1).

12. WV Rivers and 350.org are properly joined as plaintiffs under Federal Rule of Civil Procedure 20(a)(1). Their claims arise out of the same series of occurrences, materially similar investigations in which Defendant issued materially identical subpoenas on the same day, and they present common questions of law and fact, including whether Defendant has authority under W. Va. Code § 46A-7-104(1) to conduct the investigations and whether the subpoenas' demands survive scrutiny under the First and Fourth Amendments.

PARTIES

13. Plaintiff West Virginia Rivers Coalition, Inc., is a nonprofit corporation organized under the laws of West Virginia and recognized as exempt under Section 501(c)(3) of the Internal Revenue Code. Its office is at 3501 MacCorkle Avenue SE, #129, Charleston, West Virginia 25304. Its mission is to promote clean and healthy West Virginia waters for all.

14. WV Rivers is funded by contributions from individuals, foundations, and other organizations. Apart from incidental sales of stickers, t-shirts, and similar items bearing its name and artwork, which it no longer markets online and provides only on request and at events, it does not sell goods or services.

15. Plaintiff 350.org is a nonprofit corporation and recognized as exempt under Section 501(c)(3) of the Internal Revenue Code. It takes its name from 350 parts per million, the concentration of carbon dioxide in the atmosphere that its founders identified as the upper limit consistent with a stable climate. Its mission is to build a grassroots movement to end the use of fossil fuels and to accelerate the transition to renewable energy.

16. 350.org pursues that mission through public education; grassroots organizing; and advocacy directed at governments and international bodies. It is funded by contributions from individuals, foundations, and other organizations. Like WV Rivers, it sells a de minimis amount of merchandise bearing its name. It maintains no office, employees, or property in West Virginia. It is registered with the West Virginia Secretary of State to solicit charitable contributions in the State.

17. WV Rivers and 350.org are referred to together as “Plaintiffs.” The subpoenas from them are indistinguishable except for the recipient’s name. Allegations in this Complaint about “the subpoena” and its definitions, instructions, and demands apply to each subpoena, and

allegations that a demand reaches WV Rivers's records apply equally to 350.org's records, except where this Complaint states otherwise.

18. Defendant John B. McCuskey is the Attorney General of the State of West Virginia. He commenced the investigations and issued the subpoenas at issue and holds the authority under W. Va. Code § 46A-7-104(3) to apply to a circuit court for an order compelling compliance with it. He is sued in his official capacity only.

19. At all relevant times, Defendant acted under color of state law.

FACTS

Plaintiffs and Their Protected Activity

20. WV Rivers was founded in 1990 as a statewide river advocacy organization. Today, it is the West Virginia affiliate of the National Wildlife Federation.

21. WV Rivers has 15 staff members and an annual budget of approximately \$2 million. More than eighty percent of its funding comes from foundations and other organizational funders. Its Executive Director, who has led the organization since September 2024, devotes 30 to 50 percent of her time to fundraising to keep the work of WV Rivers going.

22. WV Rivers advocates for clean water and healthy rivers through research, public education, policy advocacy, citizen water-quality monitoring, and engagement with state and federal agencies.

23. WV Rivers regularly submits comments to state and federal agencies on permits, rules, and water-quality standards, and testifies before legislative and administrative bodies.

24. WV Rivers has participated as a party in litigation challenging permits and approvals for energy infrastructure and industrial projects in West Virginia. That litigation includes challenges to the Clean Water Act certifications and other permits for the Mountain Valley Pipeline,

see, e.g., *Sierra Club v. West Virginia Department of Environmental Protection*, 64 F.4th 487 (4th Cir. 2023); a challenge to the Army Corps of Engineers's permit for the Atlantic Coast Pipeline, in which the Fourth Circuit issued an order stopping instream work in November 2018, Order, *Sierra Club v. U.S. Army Corps of Eng'rs*, ECF No. 23, No. 18-2273 (4th Cir. Nov. 7, 2018); and a pending petition for review of EPA's approval of West Virginia's program for permitting carbon-dioxide injection wells, *West Virginia Surface Owners' Rights Organizations v. Zeldin*, No. 25-1384 (4th Cir.), in which the State of West Virginia, represented by Defendant's office, has intervened, and is currently ripe for decision.

25. In that litigation, WV Rivers has acted jointly with other organizations through shared counsel. Its communications with co-plaintiffs and/or co-petitioners and counsel about litigation strategy are confidential and privileged.

26. WV Rivers publishes statements about the effects of climate change on West Virginia's waters and communities, and about the environmental effects of fossil-fuel extraction, transport, and combustion. In September 2025, for example, WV Rivers's Executive Director joined leaders of other West Virginia organizations in a letter urging EPA to retain its 2009 finding that greenhouse gas emissions endanger public health and welfare, a finding that Defendant, in a letter he co-led the same month, urged EPA to repeal.

27. WV Rivers leads and participates in coalitions of organizations concerned with water, public lands, and energy policy in West Virginia, including small community groups and local churches.

28. WV Rivers solicits charitable contributions from the public through its website, mailings, emails, and events. WV Rivers does not publish the identities of its funders. Most funders ask that their support not be disclosed, to avoid unsolicited contact and because of the threats that

have been directed at WV Rivers and those associated with it. Individual donors ask for confidentiality more often than foundations do, but foundations and other organizations also give on the understanding that the fact and amount of their support will not be disclosed to the government.

29. WV Rivers's staff have been the targets of threats and harassment, online and in person, because of the organization's positions. WV Rivers has provided safety training to its staff in response.

30. WV Rivers's policy and community-engagement staff work directly with state executive agencies, including the West Virginia Department of Environmental Protection and the West Virginia Department of Agriculture, with legislators, county commissions, public service districts, and local development authorities, and with local community groups, churches, and watershed associations. That work depends on those officials and groups regarding WV Rivers as a reasonable partner.

31. All of the activity described in paragraphs 22 through 30 is protected by the First Amendment. WV Rivers complies with all state and federal laws.

32. 350.org publishes statements about the causes and effects of climate change and about the role of fossil fuels in causing it. It organizes and supports public demonstrations concerning climate and energy policy. It solicits charitable contributions from the public to support that work, and it associates with other organizations, including local organizations in West Virginia, the United States, and abroad, that share its aims.

33. 350.org solicits charitable contributions from the public through grant applications and through its website, mailings, emails, and events. 350.org voluntarily lists all institutional funders who have consented by name in its Annual Report, which is publicly available on its

website. However, some funders give on the understanding that their identity, or the amount they gave, will not be disclosed. 350.org has a small number of grant agreements with confidentiality terms, and some of its support comes through donor-advised funds, which are not required to disclose their donors. Funders have asked for confidentiality for reasons that include disagreement within a family about the gift and concern about the funder's own standing with the government. Even funders willing to be named publicly do not expect the terms of their grants to be disclosed to a government investigator.

34. All of 350.org's activity described in paragraphs 32 and 33 is protected by the First Amendment. 350.org complies with all state and federal laws.

The Attorney General's Public Campaign Against Climate Advocacy Organizations

35. Defendant took office as Attorney General in January 2025. His office's website describes coal, oil, and natural gas as "strategic assets to be defended" and claims that "radical state and local governments are now stepping in to continue the war on coal."

36. On February 6, 2025, Defendant announced a suit by the State of West Virginia against the State of New York over New York's Climate Change Superfund Act. The West Virginia Coal Association, the Gas and Oil Association of West Virginia, and Alpha Metallurgical Resources joined the suit as co-plaintiffs with the State.

37. On May 8, 2025, Defendant's office moved to intervene for the State of West Virginia in *West Virginia Surface Owners' Rights Organization v. Zeldin*, No. 25-1384 (4th Cir.), a petition for review in which WV Rivers is a petitioner. The motion, signed by Defendant and his Solicitor General, described the petitioners as "four advocacy" groups and told the court that the State anticipated that the petitioners would "attack the Department of Environmental Protection's ability or willingness to operate the program effectively," that "[t]hese reputational arguments are

of particular and unique concern to the State alone,” and that the petition could harm the State “by stymying anticipated carbon-sequestration-related projects,” citing an opinion piece by the president of the Gas and Oil Association of West Virginia.

38. On June 12, 2025, Defendant co-led a letter to the Attorney General of the United States recommending that the Department of Justice stop climate lawsuits, which the letter described as being funded by activist organizations.

39. On August 26, 2025, Defendant joined a letter from 23 state attorneys general urging the United States Environmental Protection Agency (“EPA”) to cancel its grants to the Environmental Law Institute because of its climate-related education programs for judges. The letter invoked state consumer-protection laws against the Institute, asserting that those laws prohibit deceptive statements made to market a product and that the Institute had misrepresented its training as objective. In announcing the letter on August 28, 2025, Defendant stated that courts had been “weaponized to promote the liberal agenda.”

40. On August 28, 2025, Defendant joined an amicus brief in the Supreme Court of the United States supporting a nonprofit advocacy organization’s challenge to a state attorney general’s investigative subpoena. The brief argued that the subpoena, which sought the organization’s donor information, violated the First Amendment. Brief of Florida et al. as *Amici Curiae*, *First Choice Women’s Resource Centers, Inc. v. Platkin*, No. 24-781 (U.S. Aug. 28, 2025).

41. In September 2025, Defendant co-led a letter from 26 attorneys general urging EPA to repeal its 2009 finding that greenhouse gas emissions endanger public health and welfare.

42. On December 16, 2025, Defendant signed a letter from 26 state attorneys general to the Department of Justice describing “well-funded, coordinate efforts to undermine American

energy independence through impact litigation, government lobbying, public relations campaigns” and “a broad network of climate activists supporting climate litigation.”

43. On January 29, 2026, Defendant led a letter from 27 state attorneys general to the Federal Judicial Center demanding the withdrawal of a chapter on climate science from a reference manual for federal judges. His office’s announcement stated that the chapter’s authors were tied to programs that “promote legal warfare against States and energy producers.” The Center withdrew the chapter on February 6, 2026.

44. On February 12, 2026, Defendant joined a letter from 19 state attorneys general asking the United States Department of Justice to investigate more than 150 U.S.-based organizations that, according to the letter, had received money from foreign funders of climate advocacy. The letter identified 350.org by name, citing a grant of “over \$300,000 to 350.org for fossil-fuel-divestment campaigns.” It described the conduct it asked the Department to investigate as including policy advocacy, media campaigns, “grassroots organizing; and planning and funding climate protests”; stated that it highlighted organizations that had “engaged in particularly extreme climate-related activism”; and concluded that the organizations were “engaging in coordinated funding and advocacy efforts to influence U.S. energy policy.”

45. On February 17, 2026, Defendant signed a letter from 18 state attorneys general on EPA’s rules under Section 401 of the Clean Water Act. The letter cited the Fourth Circuit’s decision vacating West Virginia Section 401 certification of the Mountain Valley Pipeline, in the case WV Rivers brought and the Attorney General’s office defended, as an example of a court demanding that States impose “additional expansive conditions” to survive judicial review.

46. On April 16, 2026, the Attorney General of Florida issued an investigative subpoena under Florida's deceptive trade practices statute to the Environmental Law Institute seeking its funding sources, its communications with Florida judges, and its role in climate litigation.

47. On May 18, 2026, Defendant's office filed the State's brief in the pending Fourth Circuit challenge to West Virginia's underground carbon sequestration program. The brief, signed by Defendant and his Solicitor General, named WV Rivers; accused it and its co-petitioners of proffering "stale, slanted data" and of "reliance on stale and cherry-picked data"; said of a report on which they relied that "[t]he report's data is deceiving, too" and that it was "published by an advocacy organization"; and told the court that it "shouldn't allow Petitioners to meddle" with the State's program.

48. On May 20, 2026, Defendant filed suit under the Consumer Credit and Protection Act against a proxy-advisor firm, alleging that comments supporting the firm's positions were "carbon copies from ESG activists, working in obvious coordination," and announced that the firm had been "coordinating with activist groups."

49. On June 1, 2026, Defendant announced an amicus brief that West Virginia filed on behalf of 21 states in the Supreme Court of the United States in *Department of the Air Force v. Prutehi Guahan*, No. 25-579, a case concerning an environmental group's suit over a federal agency's permit application. He stated that "[e]xtreme environmentalist activists are trying to weaponize laws and add unnecessary layers to an established and workable permit process," and that "[i]f activist groups can run to federal court before a state agency has even looked at an application, then the federal courts become the decision-makers, and states are left on the sidelines." The brief itself, filed on May 29, 2026, with Defendant's Solicitor General as counsel

of record, offered the Atlantic Coast Pipeline as an example, which was the subject of permit litigation in which WV Rivers was a petitioner.

50. On August 7, 2026, Defendant led a letter from 21 state attorneys general, where they urged EPA to reconsider its National Environmental Policy Act reviews to speed up reviews and get rid of red tape for businesses. Therein, Defendant accuses “[l]iberal eco-activist special interest groups” of weaponizing the Act to the detriment of industry.

51. On August 24, 2026, Defendant joined a letter from 16 state attorneys general to four accounting firms asserting that the firms’ climate related statements “may have violated state UDAP laws by making deceptive representations.”

52. On August 27, 2026, Defendant co-signed, as the third of 25 signatories, a letter urging federal agencies to suspend or debar the National Academies of Sciences, Engineering, and Medicine from federal contracts and grants because of a July 2026 report on the attribution of climate impacts, which the letter characterized as aiding climate litigation. The letter suggested that federal agencies “may wish to investigate” the relationship between the report and climate litigation.

53. On September 10, 2026, U.S. House Science, Space, and Technology Committee Chairman Brian Babin (R-Texas) and Investigations and Oversight Subcommittee Chairman Rich McCormick (R-Georgia) sent letters to 350.org, among other organizations, seeking to investigate alleged potential foreign influence operations opposing data centers.

54. Plaintiffs have engaged in protected activities that these statements, letters, and filings target or attack. WV Rivers has challenged permitting decisions in federal court, including against the State represented by Defendant’s office. Both Plaintiffs have published statements relying on climate science and have associated with other organizations engaged in climate

advocacy. 350.org has organized the divestment campaigns that the February 12, 2026 letter identified. These are all lawful activities protected by the First Amendment.

55. On or about September 16, 2026, Defendant served the subpoena described below on WV Rivers in Morgantown, West Virginia. Its caption identifies it as issued in the matter of the investigation of WV Rivers.

56. On or about September 16, 2026, Defendant sent an identical subpoena (except for the recipient's name) to 350.org by certified mail addressed to its office in Washington, D.C. Its caption identifies it as issued in the matter of the investigation of 350.org.

57. On or around the same day, Defendant served subpoenas that are materially identical except for the recipient's name on at least four other nonprofit organizations engaged in environmental and climate advocacy in West Virginia.

58. On information and belief, none of the known subpoenas were preceded by a consumer complaint concerning the recipient. Neither Plaintiff has any reason to believe that it possesses information relevant to any violation of the West Virginia Consumer Credit and Protection Act.

59. Defendant's statements since issuing the subpoenas also confirm their purpose. On September 21, 2026, he told a reporter that if any other State enacts a climate superfund law, "we will be suing them almost instantaneously."

60. On September 24, 2026, his office promoted his Solicitor General's appearance at an event titled "Climate Lawfare."

61. On September 29, 2026, on his personal social-media account, he endorsed, with the caption "That's a fact," a pipeline company's statement about its court judgment against an environmental advocacy group.

62. On October 2, 2026, on the same account, Defendant described climate advocates as “insane leftist greeno’s” who are “willing to destroy our economy, and harm our citizens in the name of a quasi religion and adherence to the doctrine of climate insanity”; and declared himself “proud to stand with my friends” at the Gas and Oil Association of West Virginia and the West Virginia Coal Association.

63. On October 5, 2026, he wrote that anyone who follows a pending climate case and “can’t see the insidious nature of the green cabal” should “wake up,” and his office described climate suits as “eco-radical lawsuits” and “climate warfare.”

64. On October 9, 2026, he wrote that his office “will keep fighting, in every courtroom it takes, to protect the energy producers and working families of this state.”

The Subpoena

65. The subpoena to WV Rivers is dated September 16, 2026, and is attached as Exhibit A. The subpoena to 350.org is also dated September 16, 2026, and is attached as Exhibit B.

66. The subpoenas cites W. Va. Code § 46A-7-104(1) as their sole source of authority. That provision permits the Attorney General to investigate only “[i]f the Attorney General has probable cause to believe that a person has engaged in an act which is subject to action by the Attorney General” under the Consumer Credit and Protection Act.

67. The subpoena does not identify any consumer, any consumer transaction, any complaint, or any act by Plaintiffs that the Attorney General contends violates the Act. It does not state the basis for any belief that WV Rivers or 350.org have engaged in such an act.

68. The subpoenas’ captions identify them as issued in the matter of the investigation of West Virginia Rivers Coalition, Inc and 350.org, respectively. Each subpoena states that it “concerns an investigation into alleged unfair or deceptive acts or practices and other possible

violations of” the Act “by the persons and entities that are the subject of this investigation.” It does not say what the alleged acts or practices are, who alleged them, or who the other persons and entities are.

69. The subpoena defines the “Relevant Period” as January 1, 2017, through the date of full compliance.

70. The subpoena defines “Climate Claim” as “a statement asserting, on a purportedly scientific or statistical basis, a demonstrable or otherwise traceable connection” between greenhouse gas emissions from fossil fuels and changes in climate, weather patterns, or extreme weather events, including weather event attribution, impacts to public health, and economic harm, where the harm is allegedly caused by energy companies or projects or the statement is linked to a specific WV Energy Business. The definition excludes statements expressed as personal or political opinion, statements made exclusively in litigation “as part of advocacy before a court,” and scientific research published in peer-reviewed journals “absent evidence of knowing misrepresentation.” It does not exclude comments submitted to regulatory agencies, testimony, and other petitioning activity outside a courtroom.

71. The subpoena defines “WV Energy Business” to include any entity that extracts, processes, transports, stores, or burns coal, lignite, natural gas, or petroleum in or from West Virginia, and any predecessor, successor, parent, subsidiary, or affiliate of such an entity.

72. The subpoena defines “Published” to include any communication to at least one person outside of the recipient organization. Under that definition, a private letter or email to a single person is “Published.” The definition also covers content “Published anonymously or under a coalition or trade name,” content “authored by a third party that” WV Rivers or 350.org “funded commissioned, approved, or reposted,” and content that was “access-restricted, embargoed, later

deleted or retracted.” A request for a Published item “also seeks all drafts and versions of it, including drafts never released, redlines, comments, and approval communications.”

73. The subpoena defines “Pertaining” to include “relating to,” “alluding to,” and “mentioning,” “either directly or indirectly, in whole or in part.” Every demand seeks documents “Pertaining” to its subject.

74. The subpoena defines “Document” to include drafts, notes, diaries, e-mails, minutes, and records of telephone conversations, as well as “website and social media content (including posts, reposts, comments, and videos on organizational or work-related individual account),” “whether prepared by you or by any other person.”

75. The subpoena contains sixteen demands.

a. Demand 1 seeks all documents pertaining to every statement the recipient has “Published” that names a WV Energy Business, or a facility, mine, well, pipeline, plant, or project it owns or operates, and that makes a Climate Claim about it. Because “Published” includes a communication to a single person outside the recipient organization, and because a request for a Published item also seeks all drafts, redlines, comments, and approval communications, Demand 1 reaches private correspondence and unreleased drafts.

b. Demand 2 seeks all documents pertaining to anything the recipient Published that uses the emissions scenarios known as RCP 8.5 or SSP5 8.5; which organizations supplied those projections; communications with third parties regarding those scenarios; whether to maintain, retire, replace, or qualify them; and the description of them as “business as usual,” “baseline,” or similar terms, including any objection to that description and any decision to retain or abandon it.

c. Demand 3 seeks all documents relied upon, consulted, or referenced in preparing, reviewing, approving, or Publishing the materials identified in Demand 2. Neither demand refers to a Climate Claim.

d. Demand 4 concerns each Published projection concerning West Virginia. It seeks all documents pertaining to the emissions scenario chosen, why it was chosen, the key assumptions, applied, whether the projection was reviewed for technical accuracy before publication, and the outcome of any such review. Demand 4 does not refer to a Climate Claim.

e. Demand 5 concerns the recipient's requests for donations containing a Climate Claim that the recipient aimed, in whole or in part, at "West Virginia Recipients," a term defined to include any person or entity associated with a West Virginia mailing address, billing address, IP geolocation, or telephone number. For each such request, Demand 5 seeks documents pertaining to each version sent; how the recipients were selected, including targeting criteria and audience segments; and the total amounts solicited from and received from West Virginia Recipients.

f. Demand 6 concerns any climate model that recipient used, licensed, funded, commissioned, or otherwise institutionally supported and that produced a West Virginia-specific output. Demands 6(a) and 6(b) seek documents pertaining to the model, its version, and its source, and to the West Virginia inputs, assumptions, and scenarios used. Demand 6(c) seeks the model's outputs, "whether Published or not." Demand 6(d) seeks communications about any gap between model output and a Published figure.

g. Demand 7 concerns any "Identified Claim," defined as a Climate Claim that appears in a Published item responsive to Demands 1, 2, 4, or 5.

h. Demand 7(a) seeks documents pertaining to the recipient or any person, including its officers, directors, employees, contractors, or agents, disputing, contradicting, or qualifying the attribution model, study, or method behind an Identified Claim.

i. Demand 7(b) seeks communications with World Weather Attribution or any other climate attribution organization about an Identified Claim.

j. Demand 7(c) seeks documents pertaining to internal objection or disagreement about an Identified Claim's accuracy or confidence level.

k. Demand 7(d) seeks regulatory comments, agency submissions, testimony, and materials prepared for any judicial education programs on climate science or climate litigation that repeat, discuss, rely upon, or otherwise concern an Identified Claim, including drafts, approvals, amendments, and withdrawals.

l. Demand 8 concerns each Published document quantifying fossil-fuel subsidies, externalities, the social cost of carbon, health costs, or economic damages. It seeks documents pertaining to the underlying data, the method, the discount rate, the damage function, and any pre-publication review. Demand 8 does not refer to a Climate Claim.

m. Demand 9 concerns each study, report, model, or paper that the recipient funded, commissioned, or otherwise institutionally supported and that concerns West Virginia, a WV Energy Business, or an Identified Claim. Demand 9(a) seeks funding agreements, statements of work, and contracts. Demand 9(b) seeks "the amount paid and the organization paid." Demands 9(c) and 9(d) seek communications about scope, method, assumptions, scenario choice, review, revision, approval, and publication timing. Demand

9(e) seeks documents pertaining to whether and how the sponsorship was disclosed in any Published work.

n. Demand 10 seeks documents pertaining to how any assumption, uncertainty range, confidence interval, model limitation, or contrary finding behind an Identified Claim “should be described, simplified, emphasized, downplayed, qualified, or left out of public materials.”

o. Demand 11 seeks documents pertaining to any review, discussion, or analysis of new or updated evidence, data, or technical studies that may have contradicted, undermined, limited, or lowered confidence in the recipient’s previous Identified Claims, and to any decision or action by which the recipient withdrew, qualified, or reconsidered a previous Identified Claim.

p. Demand 12 seeks documents pertaining to efforts to coordinate with any third party to develop communications, strategies, or public relations campaigns or messaging about an Identified Claim or a WV Energy Business, including strategy memos, campaign plans, communications calendars, talking points, message testing, polling or focus groups, embargo coordination, and agreed divisions of subject matter or audience.

q. Demand 13 seeks, for each Identified Claim, documents pertaining to any involvement by a renewable energy company, developer, trade association, or other entity engaged in solar, wind, geothermal, hydroelectric, biomass, biofuel, biogas, or hydrogen energy in the development, funding, review, approval, timing, publication, or distribution of the claim. Demand 13(a) seeks communications about the content, timing, funding, or distribution of an Identified Claim. Demand 13(b) seeks the total funding received that was earmarked for work producing an Identified Claim and which organization provided it.

Demand 13(c) seeks contracts, retainers, sponsorships, consulting arrangements, grant agreements, statements of work, or other arrangements related to the Identified Claim.

r. Demand 14 seeks documents pertaining to the recipient's financial, contractual, organizational, or governance relationships with renewable energy companies, developers, trade associations, or other entities engaged in solar, wind, geothermal, hydroelectric, biomass, biofuel, biogas, or hydrogen energy. Demand 14(a) seeks contracts, retainers, sponsorships, consulting arrangements, grant agreements, and other financial arrangements with such entities. Demand 14(b) seeks funding received from or provided to such entities, including its amount, purpose, and source. Demand 14(c) seeks documents pertaining to officers, directors, employees, contractors, consultants, or board members shared with such entities. Demand 14(d) seeks agreements or arrangements concerning joint projects, research, advocacy, communications, public relations, or other coordinated activity. Demand 14 does not refer to a Climate Claim.

s. Demand 15 concerns third-party studies, models, or datasets that the recipient cited or Published and that were not produced under Demands 1 through 14. It seeks documents pertaining to what they are and who produced them; communications with the author, publisher, or sponsor about method, assumptions, scenario choice, or conclusions and the recipient's "own assessment of their reliability or limits." Demand 15 does not refer to a Climate Claim.

t. Demand 16 seeks documents pertaining to dealings with "any coalition, advocacy group, or organization operating in or targeting West Virginia" about a WV Energy Business, an Identified Claim, or "advocacy on West Virginia energy facilities,

permitting, or regulation,” including coalition agreements, joint work plans, shared budgets, grants, and funding given or received.

76. Demands 2, 3, 4, 6, 8, 9, 12, 14, 15, and 16 are not limited to documents concerning a Climate Claim. No demand is limited to statements made to consumers.

77. Instruction 2 defines “West Virginia Rivers Coalition” or “350.org,” respectively to include its “predecessors, successors, divisions, subsidiaries, and affiliates,” and “any officer, director, employee, contractor, or agent acting on its behalf.” The instruction states that the subpoena does not reach materials those persons hold in their “individual/personal capacity” or materials “that solely reflect their private associations.”

78. Instructions 4 and 5 require recipients, “[i]f necessary,” to “assist the designated representative(s)” of the Attorney General’s office in locating the demanded documents and, for documents kept outside West Virginia, in inspecting them “at their location.”

79. Instruction 6 requires electronically stored data to be produced “in its native format (with all metadata intact) when reasonably practicable.”

80. Instruction 8 states that the subpoena does not seek the identity of any individual donor, member, subscriber, or supporter “solely on the basis of that individual being a member, subscriber, or supporter,” and does not require production of membership lists, donor lists, or records identifying individual supporters, members, subscribers, or volunteers in that capacity. The instruction excepts “organizational (not individual) funding sources” that are “specifically identified in a request,” and states that where funding is requested, “totals and the names of organizations are sufficient.” Instruction 8 does not exclude the names of organizations that have funded WV Rivers or 350.org, respectively, the total amounts they gave, the organizations the

recipient has paid, the officers, directors, employees, and board members the recipient shares with other entities, or the coalitions and organizations with which the recipient has worked.

81. Instruction 9 states that nothing in the subpoena requires production of attorney-client, work-product, or “First Amendment associational privilege material.” It then requires Plaintiffs, if they withhold any document on those grounds, to produce by the return date a log identifying “the Document or category of Documents withheld,” the privilege asserted, “the factual basis for the assertion,” and the specific request to which the withheld document responds. To state the factual basis for withholding a document on associational grounds, Plaintiffs would have to disclose facts about the association the withholding and privilege is meant to protect.

82. The subpoena sets a return date of November 2, 2026, and directs production to Zachary Viglianco, Director of Strategic Litigation, at the State Capitol Complex, 1900 Kanawha Boulevard East, Charleston, West Virginia.

83. The subpoena does not describe any process by which the recipient may seek to quash or modify it. The Consumer Credit and Protection Act provides none.

84. Under W. Va. Code § 46A-7-104(3), if the recipient does not comply, Defendant may hale it into circuit court for an order compelling compliance. Violation of such an order is punishable as contempt. Defendant’s office has petitioned for contempt against recipients of an investigative subpoena in at least one prior matter. *See Cavalry SPV I, LLC v. Morrissey*, 232 W. Va. 325, 330–31 n.9 (2013).

85. Under W. Va. Code § 46A-7-104(4), the Attorney General may not make public the identity of a person he investigates or the facts disclosed in the investigation, except in actions or enforcement proceedings under the Act. That provision does not restrict the use of produced material within the Attorney General’s office, its disclosure in any enforcement proceeding, or its

exposure through unauthorized disclosure. The subpoena itself states that the information produced “shall not be made public except upon the commencement of a subpoena enforcement proceeding” or “a civil action to enforce the WVCCPA” or “other law.”

86. Defendant has not withdrawn the subpoena, narrowed it, or disclaimed any intention to enforce it.

87. Demand 12 reaches each recipient’s efforts to coordinate with “any third party.” Demand 16 reaches each recipient’s dealings with “any coalition, advocacy group, or organization operating in or targeting West Virginia.” To the extent the recipients of subpoenas have worked with one another in the past ten years, through coalition work or otherwise, production by any one of them under those demands would disclose the other’s communications and associations.

The Subpoena Serves No Legitimate Investigative Purpose

88. The Consumer Credit and Protection Act prohibits unfair or deceptive acts or practices “in the conduct of any trade or commerce.” W. Va. Code § 46A-6-104. The Act defines “‘trade’ or ‘commerce’” as “the advertising, offering for sale, sale or distribution of any goods or services” and as including “any trade or commerce, directly or indirectly, affecting the people of this state.” W. Va. Code § 46A-6-102(6). It defines “sale” to include a sale, offer for sale, or attempt to sell goods or services “for cash or credit.” W. Va. Code § 46A-6-102(5).

89. WV Rivers’s only sales of goods are incidental sales of stickers, t-shirts, and similar items bearing its name and artwork, which it no longer markets online but provides on request at events. 350.org engages in similar de minimis sales of merchandise and, after searching its records, has only collected £32 GBP in merchandise sales from consumers in West Virginia. The subpoenas do not mention these merchandise sales. None of the sixteen demands concerns a sale

or an offer of goods or services, and the subpoenas identify no statement made in connection with any sale.

90. The only demand that concerns money from the public, Demand 5, concerns requests for charitable donations. A donor to either Plaintiff purchases nothing.

91. West Virginia regulates charitable solicitation under the Solicitation of Charitable Funds Act, W. Va. Code § 29-19-1 *et seq.*, which assigns the power to investigate charitable organizations to the West Virginia Secretary of State. W. Va. Code § 29-19-15(a). The subpoena does not invoke that Act.

92. The subpoena's stated statutory basis requires probable cause to believe that a person has engaged in an act subject to action by the Attorney General. The Supreme Court of Appeals of West Virginia has described that requirement as facts that would warrant a reasonable and prudent person's honest belief that an offense has been or is being committed and that information about the offense is in the possession of the person to whom the subpoena is directed. *Cavalry SPV I, LLC v. Morrissey*, 232 W. Va. 325, 334 (2013). The subpoenas captions identify Plaintiffs themselves as the subjects of investigations.

93. The subpoenas recite no such facts supporting probable cause. Defendant served materially identical subpoenas on at least four other nonprofit organizations on or around the same day, showing that no particularized determination about either Plaintiff has been made.

94. The subpoena's demands do not correspond to any consumer-protection interest. They correspond to the subjects of Defendant's public campaign and his office's litigation against WV Rivers and 350.org: funding sources (Demands 13(b), 14(b), and 16), judicial education (Demand 7(d)), climate attribution science (Demands 7(a) and 7(b)), and advocacy by coalitions

on energy permitting (Demand 16), coordination among advocacy organizations (Demand 12), and the selection, qualification, and omission of data in public statements (Demands 4, 7, 10, and 11).

The Subpoena's Premise

95. The subpoena defines a "Climate Claim" as a statement asserting, "on a purportedly scientific or statistical basis," a connection between greenhouse gas emissions from fossil fuels and changes in climate, weather patterns, or extreme weather events. The investigation's stated premise is that such statements may be unfair or deceptive acts or practices.

96. Carbon dioxide and methane are greenhouse gases.

97. Greenhouse gases absorb infrared radiation emitted by the Earth's surface and re-emit it, warming the lower atmosphere.

98. That property of greenhouse gases has been known since the nineteenth century.

99. The combustion of coal, oil, and natural gas releases carbon dioxide into the atmosphere.

100. The extraction, processing, and transport of coal and natural gas release methane.

101. The concentration of carbon dioxide in the atmosphere has risen from approximately 280 parts per million before the industrial era to more than 420 parts per million today.

102. The National Oceanic and Atmospheric Administration's observatory at Mauna Loa, Hawaii, which has measured atmospheric carbon dioxide continuously since 1958, recorded a monthly mean of 426.07 parts per million in September 2026.

103. Human activity, chiefly the combustion of fossil fuels, is the principal cause of that increase.

104. The Earth’s average surface temperature has risen by about 1 degree Celsius, or about 2 degrees Fahrenheit, since the late nineteenth century.

105. The National Aeronautics and Space Administration reports that human activity is the principal cause of that warming and that the warming is driven largely by increased carbon dioxide emissions into the atmosphere.

106. The Supreme Court of the United States has observed that “[a] well-documented rise in global temperatures has coincided with a significant increase in the concentration of carbon dioxide in the atmosphere,” that “[r]espected scientists believe the two trends are related,” and that “[t]he harms associated with climate change are serious and well recognized.” *Massachusetts v. EPA*, 549 U.S. 497, 504–05, 521 (2007).

107. In 2009, EPA found that six greenhouse gases, including carbon dioxide and methane, endanger public health and welfare, and that emissions of those gases from motor vehicles contribute to that endangerment. 74 Fed. Reg. 66,496 (Dec. 15, 2009).

108. The United States Court of Appeals for the District of Columbia Circuit upheld the finding alleged in Paragraph 102. *Coalition for Responsible Regulation, Inc. v. EPA*, 684 F.3d 102 (D.C. Cir. 2012).

109. When EPA rescinded the finding described in Paragraph 102 on February 12, 2026, it rested the rescission on its interpretation of the Clean Air Act, declined to adopt the scientific rationale it had proposed, and made no finding that greenhouse gas emissions do not contribute to climate change.

110. In May 2026, in the brief that Defendant’s office filed against WV Rivers in No. 25-1384, the State of West Virginia, through Defendant’s office, told the Fourth Circuit that carbon-dioxide injection wells capture carbon dioxide from “fossil-fueled power plants or other emission

sources” and “reduce CO2 emissions [going into] the atmosphere and help mitigate climate change.” Brief of Intervenor at 4, *West Virginia Surface Owners’ Rights Organization v. Zeldin*, No. 25-1384 (4th Cir. May 18, 2026).

111. Businesses that fit within the subpoenas’ definition of “WV Energy Businesses” have made similar statements.

112. The Gas and Oil Association of West Virginia, whose members extract and transport natural gas in West Virginia, publishes statements that its members are reducing greenhouse gas emissions to advance “a lower carbon future.”

113. EQT Corporation, which produces natural gas in West Virginia, reports to investors and the public that it has achieved “net zero” greenhouse gas emissions in its upstream operations and that natural gas is “the most effective pathway to reducing global emissions through coal displacement.”

114. FirstEnergy Corp., whose subsidiary Monongahela Power Company generates electricity from coal in West Virginia and sells it to West Virginia consumers, has announced a goal of carbon neutrality by 2050 and an interim goal of reducing the greenhouse gas emissions within its operational control by 30 percent by 2030, citing the need to mitigate the risks of climate change.

115. On information and belief, Defendant has not issued a subpoena under the Consumer Credit and Protection Act to any WV Energy Business concerning those statements.

116. Defendant does not dispute that greenhouse gas emissions from the combustion of fossil fuels contribute to changes in the Earth’s climate.

117. Defendant has not identified, in the subpoenas or anywhere else, any statement by either Plaintiff asserting a connection between fossil-fuel emissions and climate change that he contends is false.

118. Defendant possesses no information that would warrant a reasonable and prudent person's belief that any such statement by either Plaintiff is false.

119. The subpoenas do not ask whether any Climate Claim is true. They ask who funded it, who reviewed it, which emissions scenario it used, with whom it was coordinated, and how its uncertainties were "described, simplified, emphasized, downplayed, qualified, or left out."

120. There is no basis on which to assert that drawing a connection between fossil fuel emissions and climate change is a deceptive practice. That premise is contradicted by the Supreme Court of the United States, by the federal government under administrations of both parties, by the State of West Virginia in a brief Defendant signed, by the businesses the subpoena is ostensibly meant to protect, and by the scientists the current federal administration selected to review the question. Plaintiffs plead the facts in paragraphs 95 through 120 to show that the subpoenas' premise is pretextual, that the investigation serves no governmental interest, and that Defendant lacks authority to conduct it.

121. Plaintiffs plead the facts in paragraphs 95 through 120 to show the absence of any substantial governmental interest served by the subpoena, to show its retaliatory purpose, and to show the Attorney General's lack of authority to issue the subpoena.

Injury to Plaintiffs and Those Who Associate With Them

122. Defendant's investigations have injured Plaintiffs from the day they learned about them and continue to injure them each day they are ongoing.

123. The subpoenas have injured Plaintiffs from the day they were served and continue to injure them each day they remain outstanding.

124. WV Rivers is self-censoring its internal communications because of the subpoena and investigation. The Executive Director specifically is self-censoring and she has instructed the staff to do so as well because she does not want the Attorney General to read their internal deliberations. This reduced communication amongst staff hinders WV Rivers' work.

125. WV Rivers's Executive Director has spoken with a majority of its organizational funders since the subpoena was served. WV Rivers depends on foundations and other organizational funders for more than eighty percent of its budget, and the subpoena demands the names of those funders and the amounts they gave (Demands 13(b), 14(b) and 16). WV Rivers cannot assure them that their support can remain confidential. The subpoenas have increased the risk of reduced or withdrawn funding, and WV Rivers expects the investigation and subpoena to scare off new funders.

126. WV Rivers's policy staff work with state agencies and legislators on water-infrastructure and other matters on which WV Rivers and the State agree. The investigation and attendant subpoena, pursued and issued by the State's chief legal officer, has put that cooperation in doubt. WV Rivers's Executive Director does not know whether its staff will be permitted to continue to work cooperatively with state agencies while the Attorney General's investigation is pending, and she expects the investigation to affect the receptiveness of legislators and local officials to WV Rivers's staff.

127. The subpoena and investigation have affected WV Rivers's staff in the way they were designed to. Within days of service, one staff member asked management whether WV Rivers should rewrite a public "story map" about petrochemical development along the Ohio River in

light of the subpoena. Another asked whether a planned public webinar should go forward or its content be changed. Just this week, staff were also questioning whether they should continue their practice of commenting on important water discharge permits. WV Rivers's deputy director has also reported second-guessing her own work.

128. The Executive Director has directed the staff to push on. But the subpoena reaches internal deliberations about climate and energy matters (Demands 2, 3, 4, 6(d), 7(a), 7(c), 8, 10, 11, and 15), a request for a Published item also seeks unreleased drafts, comments, and approval communications, and the Relevant Period runs through the date of compliance, so that everything the staff writes while the subpoena is outstanding is within its reach. The Executive Director is concerned that her staff will not continue to speak as forcefully as they did before they learned of the investigation and received the subpoena, and she expects that, even without intending to, they will be less assertive out of fear of further action by the state.

129. WV Rivers recently completed a major project: a story map about the petrochemical industry. It planned to publicize the story map (on social media, among other ways) but it has not done so because of the subpoena and investigation.

130. WV Rivers gives out community action mini-grants to small community groups or individuals each year, to further their important work defending headwaters, uplifting community voices, and improving water quality. With great reluctance, WV Rivers paused that program after receiving the subpoena so as to protect exposing any additional groups or individuals to the attorney general's investigation.

131. The subpoena is distracting WV Rivers from doing its other work. In the week after service, the subpoena and investigation consumed most of the Executive Director's time, including the time required to notify and communicate with WV Rivers's board. WV Rivers has fifteen staff

members and no capacity of its own to collect, review, and log nearly ten years of records. Compliance would require it to retain an outside vendor to do several months' worth of work, at a cost of \$150 per hour, and would hinder its scheduled program work while its staff searched their files. In the Executive Director's assessment, compliance would completely overwhelm the organization.

132. The subpoena has injured 350.org in similar ways. 350.org was for years a leading voice speaking out against fossil fuel companies. Beginning in March 2025, as climate organizations became targets of the current administration and its allies, 350.org became more cautious in what it says about fossil fuel companies and in the associations it enters into. The Subpoena and Investigation have deepened that caution. It will delay any return to its prior outspoken positions and will shift its work toward different, less controversial topics. 350.org's effectiveness depends on being able to speak out as it once did without fear of reprisal from government officials, but doing so is not an option while the Investigation is pending.

133. To reduce its risk, 350.org's U.S. program team was instructed to submit all public facing documents and communications to the executive director, and sometimes the general counsel, for approval before release. 350.org put this screening in place after receiving the September 10, 2026 House letter. 350.org expected the measure to be short-lived, as the executive director does not ordinarily review the staff's day-to-day work and does not do so for any other region, but extended the process indefinitely after learning of the Subpoena and Investigation. The executive director is screening content with the Subpoena and Investigation in mind, and she has altered or withheld content as a result—specifically content 350.org believes will make it a further target of elected officials hostile to climate action. This screening takes time from the executive director's and other staff members' work for 350.org.

134. While the Subpoena and Investigation are pending, 350.org will not undertake new work in West Virginia.

135. 350.org is no stranger to the effects that a hostile political environment can cause on its ability to fundraise. Since 2024, climate organizations have been targeted by conservative lawmakers in the United States, which has caused 350.org to experience a nearly 20% reduction in its funding. As a result, 350.org had to restructure and laid off its U.S. program staff. Since then, 350.org has regained some of its funding, which has allowed it to re-hire some U.S. program staff but expects the funding to once again be reduced once funders learn of the subpoena and investigation. In fact, funders understand that funding relationships are being used to target organizations; Defendant's February 12, 2026 letter identified 350.org because of a grant it received. Some funders will likely believe it is too risky to continue associating with 350.org.

136. Instruction 8's exclusion of individual donors, members, subscribers, and volunteers does not remove these injuries. The subpoena still demands the names of organizations that have funded Plaintiffs' work and the total amounts they gave (Demands 13(b), 14(b), and 16), the organizations Plaintiffs have paid (Demands 9(b), 14(b), and 16), the officers, directors, employees, and board members it shares with renewable energy entities (Demand 14(c)), and the coalitions and organizations with which they have worked (Demands 12, 14(d) and 16).

137. The confidentiality provision of W. Va. Code § 46A-7-104(4) does not remove those injuries. Funders and partners do not know whether their information will be protected, and disclosure within the Attorney General's office, in enforcement proceedings, or through leak or breach remains possible.

138. The possibility that Defendant may later narrow the subpoena, or that a court may later decline to enforce it in full, does not remove these injuries. Plaintiffs cannot tell their funders and partners what will or will not be disclosed.

139. Plaintiffs face a credible threat that Defendant will apply for an order compelling compliance under W. Va. Code § 46A-7-104(3) if they do not produce the demanded material by November 2, 2026, and that contempt sanctions will follow.

140. Plaintiffs face a credible threat that Defendant will further escalate the investigation by commencing additional proceedings in retaliation for Plaintiffs seeking relief from the subpoena.

141. Plaintiffs have no adequate remedy at law. The Consumer Credit and Protection Act provides no procedure by which a recipient may challenge the subpoena before Defendant seeks to enforce it, and any state proceeding would begin only after the injuries described above had continued for weeks or months.

142. Unless enjoined, Defendant will continue the investigations and Plaintiffs will continue to suffer irreparable injury to their First and Fourth Amendment rights.

CLAIMS FOR RELIEF

Count I – Retaliation for Protected Speech, Association, and Petitioning (First and Fourteenth Amendments; 42 U.S.C. § 1983)

143. Plaintiffs incorporate paragraphs 1 through 142.

144. WV Rivers’s public statements on climate and energy, its comments and testimony to agencies and legislative bodies, its litigation challenging permitting decisions, its coalition work, and its solicitation of support for those activities are protected by the First Amendment. 350.org’s public statements on climate and energy, its divestment campaigns, its organization of public demonstrations, its coalition work, and its solicitation of support for those activities are likewise

protected. Speech about climate change and energy policy is speech on a matter of public concern, which occupies the highest rung of First Amendment protection. *Snyder v. Phelps*, 562 U.S. 443, 451–53 (2011).

145. A government official may not take action against a person because of that person’s protected activity where the action would deter a person of ordinary firmness from continuing to exercise First Amendment rights. *Constantine v. Rectors & Visitors of George Mason Univ.*, 411 F.3d 474, 499–500 (4th Cir. 2005).

146. The investigations and subpoenas are such actions. They are state inquisitions and formal commands, backed by the threat of court orders and contempt, that demand, *inter alia*, disclosure of the targets’/recipients’ organizational funders, coalition partners, shared board members and staff, internal deliberations, and dealings with other organizations about permitting advocacy. It would deter a person of ordinary firmness from engaging in the speech, petitioning, and association that the subpoena targets. Given Defendant’s pattern of public statements against climate advocacy organizations and his service of materially identical subpoenas on other organizations, a person of ordinary firmness would reasonably expect that continued advocacy of the same kind would draw a similar demand.

147. Not only would a person of ordinary firmness be deterred, but WV Rivers and 350.org have, in fact, been deterred as a result of Defendant’s subpoenas and investigations. WV Rivers has paused its mini-grant program after receiving the subpoena, and is self-censoring its own internal communications, which hinders their work. 350.org has implemented a special review process for any public statements or documents from the U.S. team before they are published, and will not work in West Virginia at least while the investigation remains open.

148. Defendant commenced the investigations and issued the subpoenas because of Plaintiffs' protected activity. The subpoenas' demands track the subjects of Defendant's public statements, letters, and filings described in paragraphs 35 through 64: climate attribution science, judicial education, funding of climate advocacy, coordination among advocacy organizations, advocacy by coalitions on energy permitting, and the selection and presentation of data. Defendant signed a letter asking the Department of Justice to investigate 350.org by name seven months before he issued a subpoena to it. His office was litigating against WV Rivers, and had accused it of relying on slanted and deceiving data, when he issued a subpoena to WV Rivers. The subpoenas identify no consumer-protection basis. Defendant served materially identical subpoenas on other nonprofit environmental organizations engaged in the same protected activity on or around the same day.

149. But for Plaintiffs' protected activity, Defendant would not have commenced the investigations or issued the subpoenas. Defendant cannot show that he would have commenced the investigations or issued the subpoenas in the absence of that activity.

150. Defendant's retaliatory purpose is further shown by the absence of any complaint, transaction, or act within the Consumer Credit and Protection Act, by the departure from the statutory requirement of individualized probable cause, and by the subpoena's demands for information that has no relationship to any consumer-protection purpose. To the extent a retaliation claim arising from an investigation requires a showing that the investigation lacked probable cause, Plaintiffs allege that Defendant lacked probable cause under W. Va. Code. § 46A-7-104(1) to believe that either Plaintiff, or anyone else, had engaged in any act subject to the Act, and that Defendant has identified none. Plaintiffs further allege, for the reasons stated in Paragraphs 35

through 64 and 88 through 121, that the stated premises for the investigations and subpoenas are pretextual.

151. Defendant acted under color of state law.

152. Plaintiffs are entitled to declaratory and injunctive relief under 42 U.S.C. § 1983.

Count II – Freedom of Association (First and Fourteenth Amendments; 42 U.S.C. § 1983)

153. Plaintiffs incorporate paragraphs 1 through 152.

154. The First Amendment, applicable to the States through the Fourteenth Amendment, protects the right to associate with others for the advancement of beliefs and ideas, including through financial support, board service, and coalition work. *NAACP v. Alabama ex rel. Patterson*, 357 U.S. 449, 460–63 (1958).

155. A government demand that an advocacy organization disclose its funders, its board members, its partners, or its internal communications burdens that right, whether or not the information is later made public. *Americans for Prosperity Found. v. Bonta*, 594 U.S. 595, 606–07, 616 (2021); *First Choice Women’s Resource Centers, Inc. v. Davenport*, 608 U.S. 174, 189, 198–99 (2026).

156. Such a demand must survive exacting scrutiny: it must be narrowly tailored to a sufficiently important governmental interest. *Bonta*, 594 U.S. at 607–08; *First Choice*, 608 U.S. at 187.

157. The investigations and the attendant subpoenas impair Plaintiffs’ freedom to associate. Demands 13(b), 14(b), and 16 compel disclosure of organizations that have funded each Plaintiff’s work and the amounts they gave. Demands 9(b), 14(b), and 16 compel disclosure of organizations each Plaintiff has paid and the amounts. Demand 14(c) compels the disclosure of officers, directors, employees, contractors, consultants, and board members whom each Plaintiff

shares with renewable energy entities. Demands 12, 14(d), and 16 compel disclosure of the organizations with which each Plaintiff has coordinated and its communications with them. Demands 2, 3, 4, 6(d), 7(a), 8, 10, 11, and 15 compel disclosure of internal deliberations. Instruction 9 compels disclosure of the factual basis for every claim that a withheld document is protected by the right of association.

158. The subpoena serves no sufficiently important governmental interest. Defendant has identified no consumer, transaction, complaint, or act in the conduct of trade or commerce that is subject to the Consumer Credit and Protection Act, and none of the demands concern any sale of goods or services.

159. The subpoena is not tailored to any interest. It reaches nearly ten years of records, extends through the date of compliance, and demands categories of associational information that bear no relationship to any consumer-protection purpose.

160. Defendant issued the subpoena under color of state law and, by maintaining it and threatening enforcement, is depriving Plaintiffs of rights secured by the First and Fourteenth Amendments.

161. Plaintiffs are entitled to declaratory and injunctive relief under 42 U.S.C. § 1983.

Count III – Right to Petition and to Associate for Litigation (First and Fourteenth Amendments; 42 U.S.C. § 1983)

162. Plaintiffs incorporate paragraphs 1 through 161.

163. The First Amendment protects the right to petition the government for redress of grievances, including through comments to agencies, testimony, and litigation, and the right to associate with others and with counsel for the purpose of litigation. *NAACP v. Button*, 371 U.S. 415, 429–31 (1963).

164. Demand 7(d) compels disclosure of each Plaintiff's regulatory comments, agency submissions, and testimony that repeat, discuss, reply upon, or otherwise concern an Identified Claim, including drafts, approvals, amendments, and withdrawals. Demand 16 compels disclosure of each Plaintiff's dealings with coalitions, advocacy groups, and other organizations about "advocacy on West Virginia energy facilities, permitting, or regulation," and contains no exclusion for dealings with co-plaintiffs or co-petitioners in litigation over permits. Instruction 9 requires a log stating the factual basis of withholding any such document.

165. Those demands burden Plaintiffs' petitioning and their association with counsel and co-plaintiffs, and they were issued because of that petitioning.

166. No governmental interest justifies a consumer-protection subpoena directed at an organization's submissions to regulatory agencies or its dealings with co-plaintiffs about permitting litigation.

167. Defendant acted under color of state law.

168. Plaintiffs are entitled to declaratory and injunctive relief under 42 U.S.C. § 1983.

Count IV – Unreasonable Demand (Fourth and Fourteenth Amendments; 42 U.S.C. § 1983)

169. Plaintiffs incorporate paragraphs 1 through 168.

170. The Fourth Amendment, applicable to the States through the Fourteenth Amendment, protects against baseless investigations and unreasonable demands for private papers. An investigative subpoena is reasonable only if it is authorized for a legitimate governmental purpose, limited in scope to reasonably relate to and further that purpose, sufficiently specific, and not overly broad. *In re Subpoena Duces Tecum*, 228 F.3d 341, 349 (4th Cir. 2000); *Oklahoma Press Publishing Co. v. Walling*, 327 U.S. 186, 208–09 (1946); *See v. City of Seattle*, 387 U.S. 541, 544

(1967). The Fourth Amendment protects corporations and associations against unreasonable subpoenas duces tecum for their papers. *Hale v. Henkel*, 201 U.S. 43, 76 (1906).

171. Investigations and subpoenas are authorized only if they meet the prerequisites prescribed by the legislature. In the case of a subpoena, the Fourth Amendment's requirement of reasonableness is satisfied by a court's determination that the investigation is one the legislature has authorized, is for a purpose the legislature can order, and seeks documents relevant to that inquiry. *Oklahoma Press*, 327 U.S. at 209.

172. Whether an inquiry is one the Legislature has authorized is a question this Court decides for itself. Plaintiffs do not assert state law claims in this proceeding. They plead the limits of W. Va. Code § 46A-7-104(1) and of the Consumer Credit Protection Act as the measure of the authorities and purposes prescribed the Legislature, which are the measures the Fourth Amendment applies. *Oklahoma Press*, 327 U.S. at 209; *United States v. Morton Salt Co.*, 338 U.S. 632, 652 (1950).

173. The Attorney General's power to investigate under the Act is no broader than his power to enforce it. "If the defendant is prohibited from enforcing the Act against [a person], it follows that the defendant cannot use a subpoena to investigate whether [that person] violated the Act." *Capital One Bank (USA), N.A. v. McGraw*, 563 F.Supp.2d 613, 618 (S.D. W. Va. 2008). In *Capital One*, this Court permanently enjoined the Attorney General from issuing subpoenas or demanding records in connection with an investigation under the Act of conduct he had no authority to reach, and from seeking to enforce, in a state proceeding he had already begun, a subpoena he had already issued.

174. An investigation premised solely on lawful activity is a fishing expedition that the Fourth Amendment forbids. *Major League Baseball v. Crist*, 331 F.3d 1177, 1182, 1187–89 (11th

Cir. 2003). In *Crist*, the Attorney General of Florida issued investigative demands to Major League Baseball concerning a decision that, because of baseball's exemption from the antitrust laws, could not violate the law he was charged with enforcing. The Eleventh Circuit held that the demands violated the Fourth Amendment; rejected the argument that the investigation might uncover something else, because an investigator must have "something" to justify an inquiry; and affirmed a judgment declaring that the Attorney General "cannot proceed with the investigation." *Id.* at 1179 & 1187 n.23.

175. The Legislature has authorized the Attorney General to investigate, and to subpoena, only "[i]f the Attorney General has probable cause to believe that a person has engaged in an act which is subject to action by the Attorney General." W. Va. Code § 46A-7-104(1). The Supreme Court of Appeals of West Virginia has held that "the existence of probable cause is a necessary prerequisite to the issuance of an investigative subpoena" under that provision, and it declined to follow authorities from other jurisdictions that do not require probable cause for administrative subpoenas. *Cavalry SPVI, LLC v. Morrissey*, 232 W. Va. 325, 334–35 & n.13 (2013).

176. The investigations and subpoenas here are not authorized. They identify no act by either Plaintiffs subject to the Consumer Credit and Protection Act, no consumer, no transaction, and no complaint. Defendant served materially identical subpoenas on other organizations on or around the same day. An investigation begun without probable cause is not one the Legislature has authorized, and a subpoena issued in it is not authorized for a legitimate governmental purpose.

177. The activity the subpoenas target cannot violate the Act, for two independent reasons. First, it is not conduct in "trade or commerce." Public statements about climate and energy, comments and testimony to agencies and legislative bodies, litigation, coalition work, public demonstrations, and the solicitation of charitable contributions are not "the advertising, offering

for sale, sale or distribution of any goods or services.” W. Va. Code § 46A-6-102(6). Second, the First Amendment forbids the State to treat that activity as a deceptive trade practice. Speech on climate change and energy policy is speech on a matter of public concern, at the highest rung of First Amendment protection, *Snyder v. Phelps*, 562 U.S. 443, 451–53 (2011); charitable solicitation is protected speech, not commercial speech, *Riley*, 487 U.S. at 787–89; litigation to advance a cause is “a form of political expression,” *Button*, 371 U.S. at 429; and petitioning the government is immune from liability under state law, *IGEN International, Inc. v. Roche Diagnostics GmbH*, 335 F.3d 303, 310 (4th Cir. 2003). A State may proceed against a knowingly false statement of material fact made to mislead donors, *Illinois ex rel. Madigan v. Telemarketing Associates, Inc.*, 538 U.S. 600, 620 (2003), but Defendant has identified no such statement, and a statement’s alleged falsity alone does not strip it of protection, *United States v. Alvarez*, 567 U.S. 709, 718–22 (2012) (plurality opinion).

178. Because Defendant has no authority to enforce the Act against the activity the subpoenas target, he has no authority to investigate it, and the subpoenas serve no purpose the Legislature has authorized. That conclusion follows with particular force here, where the materials demanded are themselves protected by the First Amendment and the Fourth Amendment’s requirements must be applied with “scrupulous exactitude.” *Zurcher v. Stanford Daily*, 436 U.S. 547, 564 (1978).

179. Narrowing the subpoenas would not cure the defect. The defect is not only that the demands are too broad, though they are. It is that the investigation has no lawful subject. Any demand issued in it, however narrow, would serve the same unauthorized purpose. The relief to which Plaintiffs are entitled therefore runs to the investigation, not only to the subpoenas.

180. The subpoena is not limited in scope to any purpose and is not relevant to any lawful inquiry. Because the subpoena identifies no inquiry, no document can be relevant to it. Demands 2, 3, 4, 6, 8, 9, 12, 14, 15, and 16 are not limited to any Climate Claim, no demand is tied to any statement to a consumer, and no demand concerns a sale or offer of goods or services. A demand for records “in the hope that something will turn up” is unreasonable. *FTC v. American Tobacco Co.*, 264 U.S. 298, 306 (1924).

181. The subpoena is overbroad and indefinite. It reaches nearly ten years of records, extends through the date of compliance, defines “WV Energy Business” to include any entity that burns natural gas or petroleum in West Virginia, defines “Published” to include any communication to one outside person, defines “Pertaining” to include “alluding to” or “mentioning” a subject “either directly or indirectly, in whole or in part,” and demands all documents pertaining to Plaintiffs’ dealings with any coalition, advocacy group, or organization operating in or targeting West Virginia about advocacy on West Virginia energy facilities, permitting or regulation.

182. The demand is itself an intrusion. It would require each Plaintiff to identify, review, and segregate nearly ten years of records, and it imposes that burden, and the threat of court-ordered compliance, for as long as it remains outstanding.

183. Defendant acted under color of state law.

184. Plaintiffs are entitled to declaratory and injunctive relief under 42 U.S.C. § 1983.

Count V – Charitable Solicitation as Protected Speech (First and Fourteenth Amendments; 42 U.S.C. § 1983)

185. Plaintiffs incorporate paragraphs 1 through 184.

186. Charitable solicitation is protected speech. *Village of Schaumburg v. Citizens for a Better Environment*, 444 U.S. 620, 632–33 (1980); *Riley v. National Federation of the Blind of North Carolina, Inc.*, 487 U.S. 781, 787–89 (1988); *First Choice*, 608 U.S. at 190 n.2.

187. The right to charitable solicitation “limits a government’s ability to make demands of charities that would have the ‘predictable result’ of rendering their ‘solicitations ... unsuccessful.’” *First Choice*, 608 U.S. at 190 (quoting *Riley v. National Federation of Blind of N.C., Inc.*, 487 U.S. 781, 799–800 (1988)).

188. Courts “may make ‘commonsense inferences’ . . . , including inferences about ‘third party behavior.’” *First Choice*, 608 U.S. at 189 (quoting *Diamond Alternative Energy*, 606 U.S. at 116). In the First Amendment context, it is reasonable inference that a subpoena request for private donor information will “give its targets a very good reason to clam up [and] give the target organization’s members and supporters a very good reason to abandon the cause” and that state officials “sometimes issue[] subpoenas and other investigatory demands in order to secure just these results.” *Id.* at 189–90 (citations and internal quotations omitted)

189. Demand 5 targets each Plaintiffs’ donation requests that contain a Climate Claim and were aimed, in whole or in part, at West Virginia Recipients. It singles out solicitations by what they say. A request asserting a connection between fossil-fuel emissions and climate harm is covered. A request that is silent on that connection, or denies it, is not.

190. A donor to either Plaintiff purchases no goods or services. A request for a donation is not the “advertising, offering for sale, sale or distribution of any goods or services” that the Consumer Credit and Protection Act regulates, and Defendant has no consumer-protection interest in the content of Plaintiffs’ donor appeals.

191. Defendant opened an investigation into Plaintiffs and sought donor information from them in order to chill their funding. From Plaintiffs’ prior experience, Defendant’s tactics will cause funders to reduce their funding or stop funding them altogether.

192. Defendant acted under color of state law.

193. Plaintiffs are entitled to declaratory and injunctive relief under 42 U.S.C. § 1983.

Count VI – Viewpoint Discrimination and Selective Enforcement (First and Fourteenth Amendments; 42 U.S.C. § 1983)

194. Plaintiffs incorporate paragraphs 1 through 193.

195. The First Amendment forbids the government to direct its investigative power at a speaker because of the viewpoint the speaker expresses. The Fourteenth Amendment forbids selective enforcement of the law on the basis of protected expression.

196. The subpoena defines its subject by viewpoint. A “Climate Claim” is a statement “asserting” a connection between greenhouse gas emissions from fossil fuels and changes in climate or weather, including resulting harm to public health and the economy. A statement denying that connection is not a Climate Claim. The subpoena also demands documents concerning each Plaintiff’s relationships with renewable-energy entities and its dealings with other organizations about advocacy on energy permitting and regulation. It demands nothing concerning statements on the other side of those questions.

197. Entities engaged in trade or commerce in West Virginia make statements about climate change, energy, and the environmental effects of fossil fuels in advertising and in soliciting customers and investors, including the statements by the Gas and Oil Association of West Virginia, EQT Corporation, and FirstEnergy Corp. described in paragraphs 112 through 114. On information and belief, Defendant in not investigating has not issued subpoenas under the Consumer Credit and Protection Act to any of them concerning those statements.

198. Defendant issued subpoenas to WV Rivers, 350.org, and certain other organizations that share their viewpoint on climate and energy.

199. Defendant’s selection of Plaintiffs for investigation on the basis of their viewpoint serves no legitimate governmental interest and is not narrowly tailored to any.

200. Defendant acted under color of state law.

201. Plaintiffs are entitled to declaratory and injunctive relief under 42 U.S.C. § 1983.

PRAYER FOR RELIEF

Plaintiffs respectfully request that the Court:

1. Set Plaintiffs' motion for a preliminary injunction for hearing at the earliest opportunity, and before November 2, 2026;
2. Declare that the subpoenas served on Plaintiffs on or about September 16, 2026, and the investigations of which they are a part, violate the First and Fourteenth Amendments to the United States Constitution;
3. Declare that the subpoenas and the underlying investigations violate the Fourth and Fourteenth Amendments to the United States Constitution, and that the Fourth Amendment bars Defendant from compelling the production of Plaintiffs' records to investigate, under the Consumer Credit and Protection Act, their public advocacy, litigation, submissions to government agencies and legislative bodies, coalition communications, charitable solicitations, or the funding of those activities;
4. Preliminarily and permanently enjoin Defendant, his successors in office, and his officers, agents, and employees from enforcing the subpoenas or proceeding with the underlying investigations, including by applying for an order compelling compliance under W. Va. Code § 46A-7-104(3), by issuing any further subpoena or demand for documents or testimony in connection with the investigations, or by any other proceeding;
5. In the alternative, preliminarily and permanently enjoin enforcement of the subpoena to the extent they demand the identities of organizations that have funded Plaintiffs or that Plaintiffs have paid, and amounts of that funding; the identities of officers, directors,

employees, and board members that a Plaintiff shares with other entities; its communications and dealings with coalitions, advocacy groups, other organizations, co-plaintiffs, and counsel; its internal deliberations; its regulatory submissions and testimony; and its charitable solicitations; and to the extent Instruction 9 requires a log disclosing any of that information.

6. Preliminarily and permanently enjoin Defendant, his successors in office, and his officers, agents, and employees from issuing to either Plaintiff any subpoena or demand that is substantially similar to the subpoenas or that is based on the protected activity described in this Complaint;
7. Award Plaintiffs their reasonable attorney's fees and costs under 42 U.S.C. § 1988(b); and
8. Grant such other relief as the Court deems just.

DATE: October 22, 2026

Respectfully submitted,

s/ Derek Teaney

DEREK TEANEY (WVBN 10223)
AMANDA DEMMERLE (WVBN 13930)
APPALACHIAN MOUNTAIN ADVOCATES, INC.
P.O. Box 507
Lewisburg, WV 24901
Telephone: (304) 646-1182
Email: dteaney@appalmad.org
ademmerle@appalmad.org

Counsel for Plaintiffs

Ex. A



**State of West Virginia
Office of the Attorney General
John B. McCuskey
Attorney General**

INVESTIGATORY SUBPOENA

IN THE MATTER OF THE INVESTIGATION OF

West Virginia Rivers Coalition, Inc.¹
1000 Elkins Dr.
Morgantown, WV 26505

YOU ARE HEREBY COMMANDED to answer this Subpoena and produce the documentary material in your possession, custody, or control described below for examination and copying on or before the **Return Date, November 2, 2026** to Zachary Viglianco, Director of Strategic Litigation, 1900 Kanawha Boulevard, East, State Capitol Complex, Charleston, West Virginia 25305. Copies may also be provided by mail to Post Office Box 1789, Charleston, West Virginia 25326.

This Subpoena is issued pursuant to W. Va. Code § 46A-7-104(1) and concerns an investigation into alleged unfair or deceptive acts or practices and other possible violations of the West Virginia Consumer Credit and Protection Act ("WVCCPA"), W. Va. Code §§ 46A-1-101 *et seq.* by the persons and entities that are the subject of this investigation. All information provided to the Office of the Attorney General pursuant to this Subpoena shall be retained in a confidential manner consistent with the provisions of W. Va. Code § 46A-7-104(4) and shall not be made

¹ **Notice of Process Address:** Jennie Smith.
3501 MacCorkle Ave. SE, #129
Charleston, WV 25304

public except upon the commencement of a subpoena enforcement proceeding as authorized by W. Va. Code § 46A-7-104(4) or a civil action to enforce the WVCCPA, W. Va. Code §§ 46A-1-101 *et seq.* or other law.

INSTRUCTIONS AND DEFINITIONS

The following Instructions and Definitions shall apply when responding to this Subpoena:

Instructions

1. The scope of this Subpoena is the Relevant Period, which began January 1, 2017 and continues up through the date of full compliance with this Subpoena, unless otherwise noted.

2. The term “West Virginia Rivers Coalition” shall mean and refer collectively to the recipient of this subpoena, including any of its corporate or trade names, predecessors, successors, divisions, subsidiaries, and affiliates, and any officer, director, employee, contractor, or agent acting on its behalf and not in a personal capacity only. For the avoidance of doubt, this subpoena is not intended to and does not reach materials held by any officer, director, employee, contractor, or agent of West Virginia Rivers Coalition in their individual/personal capacity or materials that solely reflect their private associations.

3. The Subpoena encompasses all of the Documents, as defined in this Subpoena, that are within West Virginia Rivers Coalition’s possession, custody, or control, wherever situated, including in the possession, custody, or control of one of its owners, officers, operators, managers, employees, agents, subcontractors, successors in interest, and assigns.

4. If necessary, West Virginia Rivers Coalition shall assist the designated representative(s) from the West Virginia Attorney General’s Office in locating the Documents and information that are required to be produced in response to this Subpoena.

5. If the Documents requested are located or maintained outside the State of West Virginia, the West Virginia Office of the Attorney General may designate representatives to

inspect the Documents at their location and, if necessary, West Virginia Rivers Coalition shall assist the designated representative(s) to inspect the Documents that are required to be produced by this Subpoena.

6. Whenever data requested by this Subpoena is stored electronically, you shall produce the data electronically in its native format (with all metadata intact) when reasonably practicable and when doing so will not hinder or frustrate accessibility, and if not practicable or accessible, in a manner and format such as Microsoft Excel, Access, or in another mutually agreeable, electronic format with all metadata intact.

7. When asked to produce Documents in your "possession, custody or control," you must produce the Documents if you have the legal right to control the Documents or things even if you do not have actual possession at the time of this request. *See Buckley v. Vidal*, 50 F.R.D. 271, 274 (E.D.N.Y. 1970) and *Colon v. Blades*, 268 F.R.D. 129, 132 (D. Puerto Rico 2010) ("Legal ownership or actual possession is not required; Documents are considered to be under a party's 'control' when that party has the right, authority or ability to obtain those Documents upon demand.")

8. This subpoena does not seek the identity of any individual donor, member, subscriber, or supporter solely on the basis of that individual being a member, subscriber, or supporter and does not require production of: (i) membership lists, (ii) donor lists, or (iii) records identifying individual supporters, members, subscribers, or volunteers in that capacity, except to the extent that organizational (not individual) funding sources are specifically identified in a request below. Where funding is requested, totals and the names of organizations are sufficient.

9. Nothing here requires production of attorney-client, work-product, or First Amendment associational privilege material. In the event that West Virginia Rivers Coalition

declines to produce any Documents required by this Subpoena on the grounds of privilege, you shall specifically identify such Documents and timely disclose the grounds for such claim of privilege. To the extent West Virginia Rivers Coalition asserts any privilege, it shall produce a privilege log by the Return Date identifying: (1) the Document or category of Documents withheld; (2) the privilege asserted; (3) the factual basis for the assertion; and (4) the specific request(s) to which the withheld Document is responsive. Where only a portion of a responsive Document is privileged, West Virginia Rivers Coalition shall redact the privileged portion, produce the remainder, note each redaction on the privilege log, and mark the location of each redaction on the face of the produced Document.

Definitions

1. “Document” shall mean and include, but shall not be limited to, the original and all drafts or non-identical copies of all written or graphic matter of any kind, however produced or reproduced, including facsimiles, summaries, financial statements, diaries, communications, invoices, receipts, log books, e-mails, telegrams, ledgers, accounts, press releases, reports, white papers, paid advertising, website and social media content (including posts, reposts, comments, and videos on organizational or work-related individual accounts), minutes, pamphlets, notes, interoffice communications, training materials, records of meetings, conferences, and telephone or other conversations or communications, and any electronic or magnetic record of the foregoing, or non-identical copies thereof, whether prepared by you or by any other person, that are in your possession, custody, or control.

2. The word “Pertaining” includes relating to, containing, alluding to, responding to, commenting upon, discussing, showing, disclosing, explaining, mentioning, analyzing,

constituting, comprising, evidencing, setting forth, summarizing or characterizing, either directly or indirectly, in whole or in part.

3. The word “Published” means distributed, disseminated, made available, or otherwise conveyed by West Virginia Rivers Coalition, or anyone acting on its behalf, to any person outside West Virginia Rivers Coalition’s own personnel, whether to one recipient or many and in any medium. It includes content that was access-restricted, embargoed, later deleted or retracted, Published anonymously or under a coalition or trade name, or authored by a third party that West Virginia Rivers Coalition funded, commissioned, approved, or reposted. A request for a Published item also seeks all drafts and versions of it, including drafts never released, redlines, comments, and approval communications.

4. The word “West Virginia Recipient” means any natural person or legal entity associated with a West Virginia mailing address, billing address, IP geolocation, or telephone number.

5. “Climate Claim” means a statement asserting, on a purportedly scientific or statistical basis, a demonstrable or otherwise traceable connection between emissions of greenhouse gases from the extraction, processing, transport, combustion, or petrochemical conversion of fossil fuels (including, but not limited to, coal, lignite, oil, and natural gas) to changes in climate, weather patterns, and/or extreme weather events, including, but not limited to, climate/weather event attribution, impacts to public health, and economic harm (i) allegedly or purportedly caused by energy companies and/or projects or (ii) linked by name, or by clear and specific implication, with sufficient clarity that a reasonable recipient would understand the statement to refer to a specific WV Energy Business. This term does not include: (i) statements expressed as personal opinion or political opinion; (ii) statements made exclusively in the context

of litigation as part of advocacy before a court; or (iii) pure scientific research published in peer-reviewed academic journals, absent evidence of knowing misrepresentation.

6. “Identified Claim” means a Climate Claim that appears in a Published item that is responsive to Demands Nos. 1, 2, 4, or 5.

7. “WV Energy Business” means any entity that, during the Relevant Period, is or was engaged, in any way, in extracting, processing, transporting, storing, burning, or petrochemically converting coal, lignite, natural gas, natural gas liquids, or petroleum in or from West Virginia and any predecessor, successor, parent, subsidiary, or affiliate of one.

MATERIALS DEMANDED

Public Statements and Climate Projections

1. All Documents Pertaining to every statement West Virginia Rivers Coalition Published that: (a) names a WV Energy Business, or a facility, mine, well, pipeline, plant, or project it owns or operates; and (b) makes a Climate Claim about it.

2. All Documents Pertaining to everything West Virginia Rivers Coalition Published that uses Representative Concentration Pathway (“RCP”) 8.5 or Shared Socioeconomic Pathway 5 (“SSP5”) 8.5; Documents Pertaining to which organizations supplied those projections; and Documents Pertaining to communications regarding RCP 8.5 or SSP5 8.5 to any third parties. Documents Pertaining to whether to maintain, retire, replace, or qualify RCP 8.5 or SSP5 8.5, including any assessment of its plausibility or suitability as a baseline, any recommendation to switch scenarios, and any decision to retain the model notwithstanding such assessment(s) or recommendation. Documents Pertaining to RCP 8.5 or SSP5 8.5 being described as “business as usual,” “baseline,” “current policy,” “reference,” “no-policy,” or anything similar, including

whether that description was accurate, any objection to it, and any decision to retain or abandon that description.

3. All Documents relied upon, consulted, Pertaining to or referenced in preparing, reviewing, approving, or Publishing any of the materials identified in Demand No. 2.

4. For each Published projection concerning West Virginia: all Documents Pertaining to the emissions scenario chosen, why it was chosen, the key assumptions applied, and whether it was reviewed for technical accuracy before publication and the outcome of any such review.

*Solicitations to West Virginia Recipients &
West Virginia Specific Material*

5. For each donation request containing a Climate Claim that West Virginia Rivers Coalition aimed, in whole or in part, at West Virginia Recipients, Documents Pertaining to:

- a. each version sent;
- b. how West Virginia Recipients were selected and the targeting criteria and audience segments;
- c. total amounts solicited and received from West Virginia Recipients.

6. For each climate model that West Virginia Rivers Coalition used, licensed, funded or commissioned, in whole or in part, or otherwise institutionally supported, and that produced a West Virginia-specific output, Documents Pertaining to:

- a. the model, its version, and its source;
- b. the West Virginia inputs, assumptions, and scenarios used;
- c. the outputs, whether Published or not; and
- d. communications about any gap between model output and a Published figure.

Scientific Basis, Knowledge, and Contrary Evidence

7. For any Identified Claim, Documents Pertaining to:

- a. West Virginia Rivers Coalition or any person, including but not limited to officers, directors, employees, contractors, or agents, disputing, contradicting, or qualifying the attribution model, study, or method behind it;
 - b. communications with World Weather Attribution or any other climate attribution organization about it;
 - c. internal objection or disagreement about its accuracy or confidence level; and
 - d. regulatory comments, agency submissions, testimony, and materials prepared for judicial education programs on climate science or climate litigation that repeat, discuss, rely upon, or otherwise concern the Identified Claim, including drafts, approvals, amendments, and withdrawals.
8. For each Published Document quantifying fossil-fuel subsidies, externalities, social cost of carbon, health costs, or economic damages: Documents Pertaining to the underlying data, the method, the discount rate, the damage function, and any pre-publication review.
9. For each study, report, model, or paper West Virginia Rivers Coalition funded, commissioned, in whole or in part, or otherwise institutionally supported that concerns West Virginia, a WV Energy Business, or an Identified Claim, Documents Pertaining to:
 - a. funding agreements, statements of work, or contracts;
 - b. the amount paid and the organization paid;
 - c. communications about scope, method, assumptions, or scenario choice;
 - d. communications about review, revision, approval, or publication timing; and
 - e. whether and how the sponsorship was disclosed in any Published work.

10. Documents Pertaining to how any assumption, uncertainty range, confidence interval, model limitation, or contrary finding behind an Identified Claim should be described, simplified, emphasized, downplayed, qualified, or left out of public materials.

11. Documents Pertaining to:

- a. any review, discussion, or analysis of new or updated evidence, data, or technical studies that may have contradicted, undermined, limited, or otherwise lowered confidence in previous Identified Claims of West Virginia Rivers Coalition with regard to climate science and related Climate Claims; and
- b. any decisions or other actions whereby West Virginia Rivers Coalition actually withdrew, qualified, or reconsidered previous Identified Claims on the basis of new evidence, data, or studies.

Third-Party Relationships & Coordination Efforts

12. Documents Pertaining to efforts to coordinate with any third party to develop communications, strategies, or public relations campaigns or messaging about an Identified Claim or a WV Energy Business, including but not limited to strategy memos, campaign plans, communications calendars, talking points, message testing, polling or focus groups, embargo coordination, and agreed divisions of subject matter or audience.

13. For each Identified Claim, Documents Pertaining to any involvement by a renewable energy company, developer, trade association, or other entity engaged in solar, wind, geothermal, hydroelectric, biomass, biofuel, biogas, or hydrogen energy in the development, funding, review, approval, timing, publication, or distribution of the Identified Claim, including:

- a. communications about the content, timing, funding, or distribution of an Identified Claim;
- b. total funding received that was earmarked for work producing an Identified Claim, and which organization provided it; and
- c. contracts, retainers, sponsorships, consulting arrangements, grant agreements, statements of work, or other arrangements relating to the Identified Claim.

14. Documents Pertaining to West Virginia Rivers Coalition's financial, contractual, organizational, or governance relationships during the Relevant Period with renewable energy companies, developers, trade associations, or other entities engaged in solar, wind, geothermal, hydroelectric, biomass, biofuel, biogas, or hydrogen energy, including:

- a. contracts, retainers, sponsorships, consulting arrangements, grant agreements, or other financial arrangements;
- b. funding received from or provided to such entities, including the amount, purpose, and source of such funding;
- c. shared officers, directors, employees, contractors, consultants, or board members; and
- d. agreements or arrangements concerning joint projects, research, advocacy, communications, public relations, or other coordinated activity.

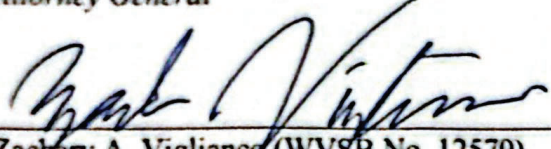
15. For third-party studies, models, or datasets West Virginia Rivers Coalition cited or Published but not previously produced under Demand Nos. 1 through 14, Documents Pertaining to what they are and who produced them; communications with the author, publisher, or sponsor about method, assumptions, scenario choice, or conclusions; and West Virginia Rivers Coalition's own assessment of their reliability or limits.

16. Documents Pertaining to dealings with any coalition, advocacy group, or organization operating in or targeting West Virginia about a WV Energy Business, an Identified Claim, or advocacy on West Virginia energy facilities, permitting, or regulation, including coalition agreements, joint work plans, shared budgets, grants, and funding given or received.

Given under my hand this 16th day of September, 2026.

John B. McCuskey
Attorney General

BY:


Zachary A. Viglianco (WVSB No. 12579)
Director of Strategic Litigation
Office of the West Virginia Attorney General
State Capitol Complex
1900 Kanawha Blvd, East
Charleston, WV 25305
(304) 558-8986 | Fax: (304) 558-0184

Ex. B



State of West Virginia
Office of the Attorney General
John B. McCuskey
Attorney General

INVESTIGATORY SUBPOENA

IN THE MATTER OF THE INVESTIGATION OF

350.org¹
P.O. Box 843004
Boston, MA 02284

YOU ARE HEREBY COMMANDED to answer this Subpoena and produce the documentary material in your possession, custody, or control described below for examination and copying on or before the **Return Date, November 2, 2026** to Zachary Viglianco, Director of Strategic Litigation, 1900 Kanawha Boulevard, East, State Capitol Complex, Charleston, West Virginia 25305. Copies may also be provided by mail to Post Office Box 1789, Charleston, West Virginia 25326.

This Subpoena is issued pursuant to W. Va. Code § 46A-7-104(1) and concerns an investigation into alleged unfair or deceptive acts or practices and other possible violations of the West Virginia Consumer Credit and Protection Act ("WVCCPA"), W. Va. Code §§ 46A-1-101 *et seq.* by the persons and entities that are the subject of this investigation. All information provided to the Office of the Attorney General pursuant to this Subpoena shall be retained in a confidential manner consistent with the provisions of W. Va. Code § 46A-7-104(4) and shall not be made

¹ **Notice of Process (WV):** Humphreys Munai
20 Jay Street, Suite 732
Brooklyn, NY 11201

(DC): Corporate Creations Network, Inc.
1629 K Street NW, Suite 300
Washington, D.C. 20006

Investigatory Subpoena – 350.org

public except upon the commencement of a subpoena enforcement proceeding as authorized by W. Va. Code § 46A-7-104(4) or a civil action to enforce the WVCCPA, W. Va. Code §§ 46A-1-101 *et seq.* or other law.

INSTRUCTIONS AND DEFINITIONS

The following Instructions and Definitions shall apply when responding to this Subpoena:

Instructions

1. The scope of this Subpoena is the Relevant Period, which began January 1, 2017 and continues up through the date of full compliance with this Subpoena, unless otherwise noted.
2. The term “350.org” shall mean and refer collectively to the recipient of this subpoena, including any of its corporate or trade names, predecessors, successors, divisions, subsidiaries, and affiliates, and any officer, director, employee, contractor, or agent acting on its behalf and not in a personal capacity only. For the avoidance of doubt, this subpoena is not intended to and does not reach materials held by any officer, director, employee, contractor, or agent of 350.org in their individual/personal capacity or materials that solely reflect their private associations.
3. The Subpoena encompasses all of the Documents, as defined in this Subpoena, that are within 350.org’s possession, custody, or control, wherever situated, including in the possession, custody, or control of one of its owners, officers, operators, managers, employees, agents, subcontractors, successors in interest, and assigns.
4. If necessary, 350.org shall assist the designated representative(s) from the West Virginia Attorney General’s Office in locating the Documents and information that are required to be produced in response to this Subpoena.
5. If the Documents requested are located or maintained outside the State of West Virginia, the West Virginia Office of the Attorney General may designate representatives to

Investigatory Subpoena – 350.org

inspect the Documents at their location and, if necessary, 350.org shall assist the designated representative(s) to inspect the Documents that are required to be produced by this Subpoena.

6. Whenever data requested by this Subpoena is stored electronically, you shall produce the data electronically in its native format (with all metadata intact) when reasonably practicable and when doing so will not hinder or frustrate accessibility, and if not practicable or accessible, in a manner and format such as Microsoft Excel, Access, or in another mutually agreeable, electronic format with all metadata intact.

7. When asked to produce Documents in your “possession, custody or control,” you must produce the Documents if you have the legal right to control the Documents or things even if you do not have actual possession at the time of this request. *See Buckley v. Vidal*, 50 F.R.D. 271, 274 (E.D.N.Y. 1970) and *Colon v. Blades*, 268 F.R.D. 129, 132 (D. Puerto Rico 2010) (“Legal ownership or actual possession is not required; Documents are considered to be under a party’s ‘control’ when that party has the right, authority or ability to obtain those Documents upon demand.”)

8. This subpoena does not seek the identity of any individual donor, member, subscriber, or supporter solely on the basis of that individual being a member, subscriber, or supporter and does not require production of: (i) membership lists, (ii) donor lists, or (iii) records identifying individual supporters, members, subscribers, or volunteers in that capacity, except to the extent that organizational (not individual) funding sources are specifically identified in a request below. Where funding is requested, totals and the names of organizations are sufficient.

9. Nothing here requires production of attorney-client, work-product, or First Amendment associational privilege material. In the event that 350.org declines to produce any Documents required by this Subpoena on the grounds of privilege, you shall specifically identify

Investigatory Subpoena – 350.org

such Documents and timely disclose the grounds for such claim of privilege. To the extent 350.org asserts any privilege, it shall produce a privilege log by the Return Date identifying: (1) the Document or category of Documents withheld; (2) the privilege asserted; (3) the factual basis for the assertion; and (4) the specific request(s) to which the withheld Document is responsive. Where only a portion of a responsive Document is privileged, 350.org shall redact the privileged portion, produce the remainder, note each redaction on the privilege log, and mark the location of each redaction on the face of the produced Document.

Definitions

1. “Document” shall mean and include, but shall not be limited to, the original and all drafts or non-identical copies of all written or graphic matter of any kind, however produced or reproduced, including facsimiles, summaries, financial statements, diaries, communications, invoices, receipts, log books, e-mails, telegrams, ledgers, accounts, press releases, reports, white papers, paid advertising, website and social media content (including posts, reposts, comments, and videos on organizational or work-related individual accounts), minutes, pamphlets, notes, interoffice communications, training materials, records of meetings, conferences, and telephone or other conversations or communications, and any electronic or magnetic record of the foregoing, or non-identical copies thereof, whether prepared by you or by any other person, that are in your possession, custody, or control.

2. The word “Pertaining” includes relating to, containing, alluding to, responding to, commenting upon, discussing, showing, disclosing, explaining, mentioning, analyzing, constituting, comprising, evidencing, setting forth, summarizing or characterizing, either directly or indirectly, in whole or in part.

Investigatory Subpoena – 350.org

3. The word “Published” means distributed, disseminated, made available, or otherwise conveyed by 350.org, or anyone acting on its behalf, to any person outside 350.org’s own personnel, whether to one recipient or many and in any medium. It includes content that was access-restricted, embargoed, later deleted or retracted, Published anonymously or under a coalition or trade name, or authored by a third party that 350.org funded, commissioned, approved, or reposted. A request for a Published item also seeks all drafts and versions of it, including drafts never released, redlines, comments, and approval communications.

4. The word “West Virginia Recipient” means any natural person or legal entity associated with a West Virginia mailing address, billing address, IP geolocation, or telephone number.

5. “Climate Claim” means a statement asserting, on a purportedly scientific or statistical basis, a demonstrable or otherwise traceable connection between emissions of greenhouse gases from the extraction, processing, transport, combustion, or petrochemical conversion of fossil fuels (including, but not limited to, coal, lignite, oil, and natural gas) to changes in climate, weather patterns, and/or extreme weather events, including, but not limited to, climate/weather event attribution, impacts to public health, and economic harm (i) allegedly or purportedly caused by energy companies and/or projects or (ii) linked by name, or by clear and specific implication, with sufficient clarity that a reasonable recipient would understand the statement to refer to a specific WV Energy Business. This term does not include: (i) statements expressed as personal opinion or political opinion; (ii) statements made exclusively in the context of litigation as part of advocacy before a court; or (iii) pure scientific research published in peer-reviewed academic journals, absent evidence of knowing misrepresentation.

Investigatory Subpoena – 350.org

6. “Identified Claim” means a Climate Claim that appears in a Published item that is responsive to Demands Nos. 1, 2, 4, or 5.

7. “WV Energy Business” means any entity that, during the Relevant Period, is or was engaged, in any way, in extracting, processing, transporting, storing, burning, or petrochemically converting coal, lignite, natural gas, natural gas liquids, or petroleum in or from West Virginia and any predecessor, successor, parent, subsidiary, or affiliate of one.

MATERIALS DEMANDED

Public Statements and Climate Projections

1. All Documents Pertaining to every statement 350.org Published that: (a) names a WV Energy Business, or a facility, mine, well, pipeline, plant, or project it owns or operates; and (b) makes a Climate Claim about it.

2. All Documents Pertaining to everything 350.org Published that uses Representative Concentration Pathway (“RCP”) 8.5 or Shared Socioeconomic Pathway 5 (“SSP5”) 8.5; Documents Pertaining to which organizations supplied those projections; and Documents Pertaining to communications regarding RCP 8.5 or SSP5 8.5 to any third parties. Documents Pertaining to whether to maintain, retire, replace, or qualify RCP 8.5 or SSP5 8.5, including any assessment of its plausibility or suitability as a baseline, any recommendation to switch scenarios, and any decision to retain the model notwithstanding such assessment(s) or recommendation. Documents Pertaining to RCP 8.5 or SSP5 8.5 being described as “business as usual,” “baseline,” “current policy,” “reference,” “no-policy,” or anything similar, including whether that description was accurate, any objection to it, and any decision to retain or abandon that description.

3. All Documents relied upon, consulted, Pertaining to or referenced in preparing, reviewing, approving, or Publishing any of the materials identified in Demand No. 2.

Investigatory Subpoena – 350.org

4. For each Published projection concerning West Virginia: all Documents Pertaining to the emissions scenario chosen, why it was chosen, the key assumptions applied, and whether it was reviewed for technical accuracy before publication and the outcome of any such review.

*Solicitations to West Virginia Recipients &
West Virginia Specific Material*

5. For each donation request containing a Climate Claim that 350.org aimed, in whole or in part, at West Virginia Recipients, Documents Pertaining to:

- a. each version sent;
- b. how West Virginia Recipients were selected and the targeting criteria and audience segments;
- c. total amounts solicited and received from West Virginia Recipients.

6. For each climate model that 350.org used, licensed, funded or commissioned, in whole or in part, or otherwise institutionally supported, and that produced a West Virginia-specific output, Documents Pertaining to:

- a. the model, its version, and its source;
- b. the West Virginia inputs, assumptions, and scenarios used;
- c. the outputs, whether Published or not; and
- d. communications about any gap between model output and a Published figure.

Scientific Basis, Knowledge, and Contrary Evidence

7. For any Identified Claim, Documents Pertaining to:

- a. 350.org or any person, including but not limited to officers, directors, employees, contractors, or agents, disputing, contradicting, or qualifying the attribution model, study, or method behind it;

Investigatory Subpoena – 350.org

- b. communications with World Weather Attribution or any other climate attribution organization about it;
 - c. internal objection or disagreement about its accuracy or confidence level; and
 - d. regulatory comments, agency submissions, testimony, and materials prepared for judicial education programs on climate science or climate litigation that repeat, discuss, rely upon, or otherwise concern the Identified Claim, including drafts, approvals, amendments, and withdrawals.
8. For each Published Document quantifying fossil-fuel subsidies, externalities, social cost of carbon, health costs, or economic damages: Documents Pertaining to the underlying data, the method, the discount rate, the damage function, and any pre-publication review.
9. For each study, report, model, or paper 350.org funded, commissioned, in whole or in part, or otherwise institutionally supported that concerns West Virginia, a WV Energy Business, or an Identified Claim, Documents Pertaining to:
- a. funding agreements, statements of work, or contracts;
 - b. the amount paid and the organization paid;
 - c. communications about scope, method, assumptions, or scenario choice;
 - d. communications about review, revision, approval, or publication timing; and
 - e. whether and how the sponsorship was disclosed in any Published work.
10. Documents Pertaining to how any assumption, uncertainty range, confidence interval, model limitation, or contrary finding behind an Identified Claim should be described, simplified, emphasized, downplayed, qualified, or left out of public materials.
11. Documents Pertaining to:

Investigatory Subpoena – 350.org

- a. any review, discussion, or analysis of new or updated evidence, data, or technical studies that may have contradicted, undermined, limited, or otherwise lowered confidence in previous Identified Claims of 350.org with regard to climate science and related Climate Claims; and
- b. any decisions or other actions whereby 350.org actually withdrew, qualified, or reconsidered previous Identified Claims on the basis of new evidence, data, or studies.

Third-Party Relationships & Coordination Efforts

12. Documents Pertaining to efforts to coordinate with any third party to develop communications, strategies, or public relations campaigns or messaging about an Identified Claim or a WV Energy Business, including but not limited to strategy memos, campaign plans, communications calendars, talking points, message testing, polling or focus groups, embargo coordination, and agreed divisions of subject matter or audience.

13. For each Identified Claim, Documents Pertaining to any involvement by a renewable energy company, developer, trade association, or other entity engaged in solar, wind, geothermal, hydroelectric, biomass, biofuel, biogas, or hydrogen energy in the development, funding, review, approval, timing, publication, or distribution of the Identified Claim, including:

- a. communications about the content, timing, funding, or distribution of an Identified Claim;
- b. total funding received that was earmarked for work producing an Identified Claim, and which organization provided it; and

Investigatory Subpoena – 350.org

- c. contracts, retainers, sponsorships, consulting arrangements, grant agreements, statements of work, or other arrangements relating to the Identified Claim.

14. Documents Pertaining to 350.org's financial, contractual, organizational, or governance relationships during the Relevant Period with renewable energy companies, developers, trade associations, or other entities engaged in solar, wind, geothermal, hydroelectric, biomass, biofuel, biogas, or hydrogen energy, including:

- a. contracts, retainers, sponsorships, consulting arrangements, grant agreements, or other financial arrangements;
- b. funding received from or provided to such entities, including the amount, purpose, and source of such funding;
- c. shared officers, directors, employees, contractors, consultants, or board members; and
- d. agreements or arrangements concerning joint projects, research, advocacy, communications, public relations, or other coordinated activity.

15. For third-party studies, models, or datasets 350.org cited or Published but not previously produced under Demand Nos. 1 through 14, Documents Pertaining to what they are and who produced them; communications with the author, publisher, or sponsor about method, assumptions, scenario choice, or conclusions; and 350.org's own assessment of their reliability or limits.

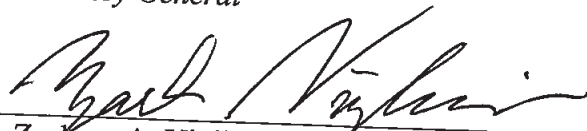
16. Documents Pertaining to dealings with any coalition, advocacy group, or organization operating in or targeting West Virginia about a WV Energy Business, an Identified Claim, or advocacy on West Virginia energy facilities, permitting, or regulation, including coalition agreements, joint work plans, shared budgets, grants, and funding given or received.

Investigatory Subpoena – 350.org

Given under my hand this 16th day of September, 2026.

John B. McCuskey
Attorney General

BY:



Zachary A. Viglianco (WVSB No. 12579)

Director of Strategic Litigation

Office of the West Virginia Attorney General

State Capitol Complex

1900 Kanawha Blvd, East

Charleston, WV 25305

(304) 558-8986 | Fax: (304) 558-0184

SEP 19 2026

SEP 19 2026

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

West Virginia Rivers Coalition, Inc., and 350.org

(b) County of Residence of First Listed Plaintiff Kanawha
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Appalachian Mountain Advocates, P.O. Box 507
Lewisburg, WV 24901, (304) 646-1182**DEFENDANTS**

JOHN B. MCCUSKEY, in his official capacity as

Attorney General of the State of West Virginia

County of Residence of First Listed Defendant Kanawha
(IN U.S. PLAINTIFF CASES ONLY)NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question
(U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | ☐ 1 | ☐ 1 | Incorporated or Principal Place of Business In This State | ☐ 4 | ☐ 4 |
| Citizen of Another State | ☐ 2 | ☐ 2 | Incorporated and Principal Place of Business In Another State | ☐ 5 | ☐ 5 |
| Citizen or Subject of a Foreign Country | ☐ 3 | ☐ 3 | Foreign Nation | ☐ 6 | ☐ 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
☐ 110 Insurance ☐ 120 Marine ☐ 130 Miller Act ☐ 140 Negotiable Instrument ☐ 150 Recovery of Overpayment & Enforcement of Judgment ☐ 151 Medicare Act ☐ 152 Recovery of Defaulted Student Loans (Excludes Veterans) ☐ 153 Recovery of Overpayment of Veteran's Benefits ☐ 160 Stockholders' Suits ☐ 190 Other Contract ☐ 195 Contract Product Liability ☐ 196 Franchise	PERSONAL INJURY ☐ 310 Airplane ☐ 315 Airplane Product Liability ☐ 320 Assault, Libel & Slander ☐ 330 Federal Employers' Liability ☐ 340 Marine ☐ 345 Marine Product Liability ☐ 350 Motor Vehicle ☐ 355 Motor Vehicle Product Liability ☐ 360 Other Personal Injury ☐ 362 Personal Injury - Medical Malpractice PERSONAL INJURY ☐ 365 Personal Injury - Product Liability ☐ 367 Health Care/Pharmaceutical Personal Injury Product Liability ☐ 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY ☐ 370 Other Fraud ☐ 371 Truth in Lending ☐ 380 Other Personal Property Damage ☐ 385 Property Damage Product Liability	☐ 625 Drug Related Seizure of Property 21 USC 881 ☐ 690 Other LABOR ☐ 710 Fair Labor Standards Act ☐ 720 Labor/Management Relations ☐ 740 Railway Labor Act ☐ 751 Family and Medical Leave Act ☐ 790 Other Labor Litigation ☐ 791 Employee Retirement Income Security Act IMMIGRATION ☐ 462 Naturalization Application ☐ 465 Other Immigration Actions	☐ 422 Appeal 28 USC 158 ☐ 423 Withdrawal 28 USC 157 INTELLECTUAL PROPERTY RIGHTS ☐ 820 Copyrights ☐ 830 Patent ☐ 835 Patent - Abbreviated New Drug Application ☐ 840 Trademark ☐ 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY ☐ 861 HIA (1395ff) ☐ 862 Black Lung (923) ☐ 863 DIWC/DIWW (405(g)) ☐ 864 SSID Title XVI ☐ 865 RSI (405(g)) FEDERAL TAX SUITS ☐ 870 Taxes (U.S. Plaintiff or Defendant) ☐ 871 IRS—Third Party 26 USC 7609	☐ 375 False Claims Act ☐ 376 Qui Tam (31 USC 3729(a)) ☐ 400 State Reapportionment ☐ 410 Antitrust ☐ 430 Banks and Banking ☐ 450 Commerce ☐ 460 Deportation ☐ 470 Racketeer Influenced and Corrupt Organizations ☐ 480 Consumer Credit (15 USC 1681 or 1692) ☐ 485 Telephone Consumer Protection Act ☐ 490 Cable/Sat TV ☐ 850 Securities/Commodities/Exchange ☐ 890 Other Statutory Actions ☐ 891 Agricultural Acts ☐ 893 Environmental Matters ☐ 895 Freedom of Information Act ☐ 896 Arbitration ☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision ☐ 950 Constitutionality of State Statutes
REAL PROPERTY ☐ 210 Land Condemnation ☐ 220 Foreclosure ☐ 230 Rent Lease & Ejectment ☐ 240 Torts to Land ☐ 245 Tort Product Liability ☐ 290 All Other Real Property	CIVIL RIGHTS ☒ 440 Other Civil Rights ☐ 441 Voting ☐ 442 Employment ☐ 443 Housing/Accommodations ☐ 445 Amer. w/Disabilities - Employment ☐ 446 Amer. w/Disabilities - Other ☐ 448 Education PRISONER PETITIONS Habeas Corpus: ☐ 463 Alien Detainee ☐ 510 Motions to Vacate Sentence ☐ 530 General ☐ 535 Death Penalty Other: ☐ 540 Mandamus & Other ☐ 550 Civil Rights ☐ 555 Prison Condition ☐ 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTIONCite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
42 U.S.C. § 1983

Brief description of cause:

Civil rights action to protect against unconstitutional subpoenas that violate Plaintiffs' 1st and 4th Amendment rights

VII. REQUESTED IN COMPLAINT:☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE _____ DOCKET NUMBER _____

DATE

10/22/2026

SIGNATURE OF ATTORNEY OF RECORD

/s/ Amanda Demmerle

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* _____
 was received by me on *(date)* _____ .

☐ I personally served the summons on the individual at *(place)* _____
 _____ on *(date)* _____ ; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____, a person of suitable age and discretion who resides there,
 on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____ ; or

☐ I returned the summons unexecuted because _____ ; or

☐ Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON**

**WEST VIRGINIA RIVERS COALITION, INC.,
and 350.org,**

Plaintiffs,

v.

Civil Action No. 2:26-cv-_____

**JOHN B. McCUSKEY, in his official capacity as
Attorney General of the State of West Virginia,**

Defendant.

**PLAINTIFFS' MOTION FOR A TEMPORARY RESTRAINING ORDER
AND PRELIMINARY INJUNCTION**

Plaintiffs West Virginia Rivers Coalition, Inc., and 350.org received investigatory subpoenas from Defendant John B. McCuskey, the West Virginia Attorney General. The subpoenas, which violate the First, Fourth and Fourteenth Amendments to the United States Constitution, announce an investigation into each recipient and demand extensive information related to Plaintiffs' work on climate change, including donor information. The subpoenas were not issued for any legitimate governmental purpose but are a political action by the Attorney General that is intended to stifle speech that he does not like and to otherwise harass and retaliate against groups to which he and his allies are politically opposed.

The subpoenas and the related "investigations" violate Plaintiffs' constitutional rights, including chilling their First Amendment activities and subjecting them to unreasonable investigations and demands in violation of the Fourth Amendment. These harms will continue until the subpoenas and investigations are enjoined. For the reasons set forth in the memorandum accompanying this motion and the attached exhibits, pursuant to Federal Rule of Civil Procedure 65(a), Plaintiffs respectfully request that the Court issue a temporary restraining order and preliminary injunction against Defendant, prohibiting Defendant from taking any steps to further his sham investigations

into Plaintiffs, including enforcing the subpoenas he has issued and/or initiating any other judicial proceedings under the West Virginia Consumer Credit and Protection Act or any other law predicated on the subjects of the investigations. Plaintiffs have notified Defendant, via email to Zachary Viglianco, of this Motion.

DATED: October 22, 2026

Respectfully submitted,

/s/ Derek Teaney

DEREK TEANEY (WVBN 10223)
AMANDA DEMMERLE (WVBN 13930)
APPALACHIAN MOUNTAIN ADVOCATES, INC.
P.O. Box 507
Lewisburg, WV 24901
Telephone: (304) 646-1182
Email: dteaney@appalmad.org
ademmerle@appalmad.org

Counsel for Plaintiffs

Ex. 1



JB McCuskey ✓
@mccuskeyforwv



Want to know the difference between carbon fuel advocates and insane leftist greeno's? Read this.

We support American energy. We understand rational energy policy maximizes all of our incredible resources. We stand up for American consumers to ensure they have access to low cost energy. We stand up for the amazing American energy producers and their millions of employees. And we understand that legislation requires compromise.

They are willing to destroy our economy, and harm our citizens in the name of a quasi religion and adherence to the doctrine of climate insanity.

Pass this bill now, America needs it. I'm proud to stand with my friends @APIEnergy , @USChamber , @GasOilWV , @WV_coal1 , @wvmanufacturers and all of my @RepublicanAGs colleagues to fight to get permitting reform across the line.



Joshua Siegel @SiegelScribe · Oct 2

Scoop: Enviros held a call Thurs in which progressive opponents tried to rally fence-sitters against the permitting bill. I obtained the transcript.

"We really have to have a pretty clear agreement by all parties that this is an effort to stop this bill, not to make it better"

Greens plot. Environmental groups are split over how to handle a permitting bill negotiated by two longtime allies of the movement: Sen. **Sheldon Whitehouse** (D-R.I.) and Sen. **Martin Heinrich** (D-N.M.), the ENR ranking member.

On a Thursday call organized in part by the Sierra Club, [a transcript of which was leaked to us](#), progressive opponents tried to rally fence-sitters against the bill. Some of the 89 participants said they hadn't fully reviewed it yet.

At the outset of the call, one speaker, **Brett Hartl**, government affairs director at the Center for Biological Diversity, stressed he wanted to keep their strategy a secret from Whitehouse and Heinrich.

"**Our tactics and** information cannot get back to Dan Dudis and Whitehouse and Heinrich. We really have to have a pretty clear agreement by all parties that this is an effort to stop this bill, not to make it better," Hartl said.

Hartl later confirmed the transcript's authenticity with us and said he had no regrets for calling out Whitehouse and his staff director, Dudis, along with Heinrich.

"**I don't want** our strategy being relayed back to them, and now it is. Someone on the call decided to betray all of us," Hartl said.

— Josh Siegel

10:26 AM · Oct 2, 2026 · 756 Views



Ex. 2

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON**

**WEST VIRGINIA RIVERS COALITION, INC.,
and 350.ORG,**

Plaintiffs,

v.

Civil Action No. 2:26-cv-_____

**JOHN B. MCCUSKEY, in his official capacity as
Attorney General of the State of West Virginia,**

Defendant.

DECLARATION OF WV RIVERS' EXECUTIVE DIRECTOR JENNIE SMITH

I, Jennie Smith, hereby declare and state as follows:

1. I am employed as the executive director of West Virginia Rivers Coalition, Inc. ("WV Rivers"). I have held this position since September 9, 2024. As executive director, I oversee the daily operations of WV Rivers, I am the primary spokesperson, fundraiser, and strategic director for the organization, and I support the board and organization's governance. Approximately 30 to 50 percent of my time as executive director is devoted to fundraising.

2. Before becoming the executive director of WV Rivers, I was the executive director of Philanthropy West Virginia.

3. I completed an MBA program at the University of Maryland in 2024. My education, as well as my training, professional development, and mentoring during my education and prior jobs over the past twenty years, has helped me understand how to build fundraising systems that create long-term sustainable cash flow for organizations. Fundraising is about prioritizing relationships, figuring out what drives or motivates them, and understanding how donors' interests align with the organization's mission. Building trust with donors and actually following through

with promises made is critical to retaining a sustainable funding base. Cultivating a donor is time-consuming work. It requires constant care to understand what motivates the donor and to make sure the donor's interests are aligned with the organization's interests.

4. I have personal knowledge of the facts set out below.

5. WV Rivers is a nonprofit environmental advocacy organization in West Virginia, whose mission is to promote clean and healthy West Virginia waters for all. WV Rivers has 15 staff members and an annual budget of approximately \$2 million.

6. On or about September 21, 2026, I received a subpoena issued to WV Rivers from West Virginia Attorney General John B. McCuskey seeking a broad range of documents and communications from WV Rivers since January 1, 2017, to be produced by November 2, 2026 (the "Subpoena").

7. The Subpoena seeks records concerning WV Rivers' public statements on climate and energy, its internal deliberations about those statements, its requests for donations, the organizations that have funded its work and the amounts they gave, the organizations it has paid, the officers, directors, staff, and board members it shares with renewable energy entities, its dealings with coalitions and other advocacy organizations on energy permitting and regulation in West Virginia, and its submissions to regulatory agencies.

8. The Subpoena seeks this information under the West Virginia Consumer Credit and Protection Act. It is my understanding that this Act only applies to the sale of goods or services or organizations that are engaged in trade or commerce. WV Rivers does not sell any goods or services but for a small amount of merchandise that bears our name or logo. WV Rivers used to have an online store to sell this merchandise, but discontinued it at the end of 2025 and only sells a small amount of merchandise at events or when people specifically inquire. Such merchandise

sales comprise less than 0.10% of our annual budget. The merchandise sales are not related to any requests made in the Subpoena.

9. According to the Subpoena, it seeks this information as part of an investigation of WV Rivers (the “Investigation”).

10. It is my understanding that at least five other nonprofit organizations have also received materially similar subpoenas from the West Virginia Attorney General seeking the same information pursuant to similar investigations.

11. I received a call from a reporter who knows about the subpoenas and investigations.

12. Pursuant to contracts with certain donors that require disclosure of government investigation, I have had to alert these donors about the Subpoena and Investigation. I have voluntarily notified the rest so they heard it from me first, to hopefully keep their trust and support.

13. The Subpoena and related Investigation have and will impact WV Rivers as follows:

Impact on WV Rivers’ Speech

14. The Subpoena and Investigation has and will continue to impact our ability to carry out our normal day-to-day activities. As the West Virginia Legislative session nears, the Subpoena and Investigations are detracting from our ability to adequately prepare for our lobbying and advocacy efforts, as my time is being devoted to the Subpoena and how to respond instead. In the first week after we received the Subpoena, responding to it consumed most of my time, including the time required to notify and advise WV Rivers’ board and funders. My staff has also been distracted by the Investigation and worrying about what it means for their work going forward.

15. Our year-end fundraising appeal is about to be sent out, and the Subpoena and Investigation are making me second-guess its language. These events have added a second layer

of scrutiny. I intend to review the appeal with the Subpoena and Investigation in mind before it is sent. Other staff are also rethinking their communications strategy in light of the Subpoena and Investigation.

16. Since learning of the Investigation, the staff have asked me whether WV Rivers should continue doing public events related to controversial topics, like the petrochemical industry, data centers, flooding and fracking, as it increases their visibility and risk.

17. I have been self-censoring my speech in internal work chats since receiving the Subpoena now that I know the Attorney General may read what I write. I have also instructed the staff to say less in work chats in light of the Subpoena and Investigation. These restrictions impede our ability to communicate candidly and without fear of repercussions and ultimately hamper our ability to carry out our work effectively.

18. Staff are also second-guessing current projects. They have asked me whether we should delay the roll out of certain projects, or re-write portions of the project in light of the Subpoena and Investigation. For example, one staff member asked me whether WV Rivers should revisit or potentially even rewrite portions a soon-to-be-published public “story map” concerning the petrochemical industry in West Virginia in light of the Subpoena. They have also inquired whether they should refrain from attending public permit hearings and providing public comments on behalf of WV Rivers, as is our normal practice for many projects that are receiving a controversial water discharge permit. While I have told them not to delay or hold back, I do not have confidence that they will be as steadfast as they otherwise would have been. Even if they do not intentionally pull their punches or water down their work, I fear that they will be less assertive than they would otherwise be, out of fear of retaliation from the government.

19. Once a project is complete, we would normally publicize our work but, until the Subpoena and Investigation are resolved, we are withholding doing any press on the Petrochem storymap, in part to hopefully protect the citizens whose stories are included in the story map from any political retribution or harassment.

20. Another staff member asked me whether we should go forward with a public webinar related to WV Rivers's petrochemical work in light of the Subpoena. I directed the staff member to proceed with the webinar as planned.

21. The staff have expressed the emotional weight the Subpoena and Investigation has burdened them with. My deputy director has expressed concerns that she is now second-guessing herself and her work. The staff have continued to show up and do their work, and I check in with them, but this Investigation is a source of stress and anxiety for them.

Impact on WV Rivers' Associations

22. WV Rivers regularly works with groups across the ideological spectrum to advance sound environmental solutions that are grounded in science. For instance, we meet regularly with the West Virginia Department of Environmental Protection (DEP) on behalf of communities to advocate for local concerns, discuss ongoing environmental priorities, identify critical watershed issues, and strengthen environmental permits. As part of this cooperative relationship, we serve on the DEP's Environmental Protection Advisory Council (EPAC) and host the WV Stream Watch app to vet citizen complaints, allowing us to forward credible concerns to DEP Environmental Enforcement and serve as a vital liaison between the DEP and the public. Furthermore, WV Rivers collaborates closely with the West Virginia Department of Commerce, the West Virginia Department of Agriculture, and other state agencies. Our community engagement staff also reach out to and work with local stakeholders, including community groups, churches, local watershed

groups, county commissioners, local development authorities, and public service districts. Much of this outreach relies on overcoming initial skepticism to demonstrate that WV Rivers is a reasonable, reliable, fact-based and trusted partner. Beyond agency collaboration, WV Rivers actively lobbies lawmakers across the political spectrum in the West Virginia Legislature. I believe our work with these more neutral or conservative groups will be negatively affected, or will even end, once they hear that our organization is being investigated for consumer protection violations by the state attorney general. I am particularly concerned about how our policy team will be received by the legislature, the Department of Commerce and other agencies, and whether they will be permitted to continue working cooperatively with those agencies while the Attorney General's investigation is pending. I also expect the investigation to erode the receptiveness of legislators to our staff and our message, and to hinder our community engagement staff's ability to build trust with communities. A core strength is our proven ability to work across the aisle, and I believe this sham investigation will lead groups to wrongly believe we are a partisan organization.

23. The Subpoena and Investigation have also made me reevaluate our associations with other organizations and individuals that we work with if we continue to work on the issues addressed in the Subpoena. I do not want to expose those groups or individuals to subpoenas like the one we received, as it could cripple their organization and prevent them from carrying out their own missions. The Subpoena and Investigation has already changed how I think about whom we bring into our work and with whom we build coalitions. For instance, I have considered asking the community engagement team to stop building new partnerships until the Subpoena is resolved, but that would hamper their work and put them in an impossible place, as a substantial part of their work is coalition building.

24. One important aspect of WV Rivers' relationship with these small community groups is its community action mini-grant program. In 2026, WV Rivers planned to give out \$50,000 in mini-grants. Recipients receive \$2,500 with a possible additional \$1,000 in funding to further their important work defending headwaters, uplifting community voices, and improving water quality. WV Rivers is obligated to disperse this funding pursuant to some of the grants it receives, and it will be out of compliance if it does not disperse the remaining funding by the end of the year. WV Rivers has dispersed most of its mini-grants for 2026, and was set to dole out the remaining funding this week. However, the Subpoena and Investigation have caused us to pause that program. I am worried that, by giving these mini-grants to new recipients, I will be exposing them to similar harassment by the West Virginia Attorney General, and I cannot do that. I do not want to pause these mini-grants, as we may get blowback and break trust with partners and communities that rely on grants like these as one of their only funding sources, but I cannot in good conscience expose these groups to what WV Rivers is going through as a result of the Subpoena and Investigation. Simply put, it would cripple them. We are pausing indefinitely our mini-grant program in light of the Subpoena and Investigation. Not knowing when we can safely reinstate it creates undue burden and stress for the communities that rely on these funds as their projects are time sensitive.

25. I also expect the Subpoena and Investigation may cause staff members to leave or will make it harder to attract new staff members.

26. WV Rivers' funding will likely be negatively affected by the Subpoena and Investigation. We are a nonprofit, and more than 80 percent of our funding comes from foundations and government funders; most of the rest comes from individual donors. The Investigation could

create a funding cliff: funders who pause or withdraw their support in response to it may never return.

27. From numerous conversations I have had with donors, they like giving to WV Rivers because they see it as a neutral organization that is grounded in science and works in coalition with others around common values we all share and avoids political polarization. I believe that the Investigation will change these donors' opinion of WV Rivers and lead them to abandon their donations and associations with WV Rivers. I expect the Subpoena and Investigation to be off-putting to a number of donors. My experience bears this out. In my prior role at Philanthropy West Virginia, I saw that work perceived as politically unpopular or contrary to the position of government was much harder to fund.

28. The Subpoena is asking WV Rivers to disclose its donor names and amounts, but some donors give with the understanding that their name and/or the amount they have donated will not be disclosed. This is for many reasons, including to keep the focus on the organization receiving the funds rather than on them or their organization. It also protects them from getting unwarranted and unsolicited inquiries from organizations who also want that same funding. It is common for environmental organizations to keep their funding sources private for safety and security reasons as well, as environmental organizations can be targeted by those who are dissatisfied with their work or are opposed to their mission. WV Rivers' own staff has been the target of threats, both online and in person, because of the positions WV Rivers has taken. WV Rivers has provided safety training to its staff because of these threats. Because of them, public association with WV Rivers carries risk, and anonymity helps reduce that risk for our founders.

29. I also expect that disclosing names of donors could open those donors up to similar investigations, which will deter their continued financial support.

30. Both institutional donors and individual donors will be less likely to donate to WV Rivers once they learn of the Subpoena and Investigation.

31. If WV Rivers experiences a decrease in funding, we will be forced to scale back our work. While our immediate funding for a 16th staff member remains secure, any budget reductions will force us to reevaluate our overall staffing structure and operational costs. A significant loss of funding would prevent future organizational growth, necessitate staff layoffs, and in a severe case threaten the long-term survival of WV Rivers.

Impact on WV Rivers If Subjected to Document Discovery

32. If WV Rivers had to comply with the Subpoena, it would require an extensive search of WV Rivers' system and would likely require searching on multiple devices.

33. I have already spent 50 hours since receiving the Subpoena, and expect it to take up even more of my time if we had to comply.

34. I expect it would take at least 10 hours of my week each week, as well as 5 to 10 hours of staff members' time each week—including Autumn Crowe (Deputy Director), Shannon Cunningham-Snead (Director of Finance and Operations), Carrie Decker (Community Engagement Manager) and/or Maggie Stange (Communications Manager)—to sort through and organize everything being requested. That would take us away from meeting directly with donors, focusing on our end-of-year fundraising campaign, and participating in legislative interims; stalls our work on financial oversight; and delays the creation of sustainable organizational systems, delays working on our end of year annual report; hinders our ability to run community meetings and educate residents on clear water issues, and delays the creation and preparation of materials and communications for the upcoming legislative session. It would make overseeing and supporting the Board difficult because my plate would be too full to support them, make going to

the legislative session difficult and burdensome, and would impact all of the supervisors' ability to manage our staff effectively, and could even create burnout.

35. Complying with the Subpoena would also impose a financial burden. WV Rivers would likely have to hire an outside vendor to collect and process nearly ten years of records, at a cost of \$150 per hour. I expect this to be a full-time job for someone for several months. WV Rivers does not have in-house counsel capable of completing this review and so would also have to hire an attorney to review the documents for relevance and privilege. WV Rivers maintains a financial reserve as a safety net, and it is critical to the organization that we not spend that reserve down rapidly, as it supports the organization's long-term viability and health.

36. Because WV Rivers is a small organization, complying with the Subpoena would divert significant staff time and financial resources away from our critical work to complying with this Subpoena. Put simply, it would drown us.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: October 22, 2026

A handwritten signature in black ink, appearing to read "Jennie Smith", is written over a horizontal line.

Jennie Smith

Ex. 3

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON**

**WEST VIRGINIA RIVERS COALITION, INC.,
and 350.ORG,**

Plaintiffs,

v.

Civil Action No. 2:26-cv-_____

**JOHN B. McCUSKEY, in his official capacity as
Attorney General of the State of West Virginia,**

Defendant.

DECLARATION OF 350.ORG'S BOARD CHAIR TERESA ODENDAHL

I, Teresa Odendahl, hereby declare and state as follows:

1. I am the board chair of 350.org, an unpaid position. I reside in Sante Fe, New Mexico, and I am retired. I have been the board chair since October 1, 2026, and have served on the board of 350.org for over six years. I was previously the chair of the board's fundraising committee and I have also served on the executive committee and the finance and risk committee.

2. The facts set out below are based on my personal knowledge or information I have received in my capacity as chair of the fundraising committee, member of the finance and risk committee, and more recently board chair from 350.org's executive director, managing director, general counsel, and staff, and from the reports described below. I believe them to be true.

3. 350.org is a nonprofit organization incorporated in the District of Columbia. Its mission is to build a grassroots movement to transition from fossil fuels to renewable energy because of the effects of climate change. 350.org has no office, employees, or property in West

Virginia, and it has no West Virginia chapter or affiliate. It is registered with the West Virginia Secretary of State to solicit charitable contributions. 350.org has approximately 94 staff members worldwide. Nine staff members and two contractors are in the United States; only two of the eleven are program staff although it is in the process of hiring an additional member of the U.S. program team. 350.org's annual budget is approximately \$17 million.

4. 350.org pursues its mission through public education, coalition building, grassroots organizing, and advocacy directed at governments and international bodies. It publishes statements about the causes and effects of climate change and about the role of fossil fuels in causing it; it organizes and supports public events concerning climate and energy policy; it has organized campaigns urging institutions to divest from fossil fuels; it makes modest grants to other organizations that share its aims; and it works in coalition with other organizations in the United States and abroad. 350.org is funded by contributions from individuals, foundations, and other organizations. Its policy is not to accept any corporate or government funding, and it receives no funding from renewable-energy companies.

5. I am familiar with the operations of 350.org. My knowledge of them comes through quarterly board meetings, regular executive and finance committee meetings, and separate bi-weekly meetings with the executive director and managing director of 350.org. I receive monthly finance, fundraising, and risk reports, and quarterly reports to the board. I also regularly converse with 350.org's general counsel, who is responsible for the organization's risk management. I was involved in the search for and hiring of the current executive director approximately eighteen months ago. I am in 350.org meetings at least once a week, and I have participated in 350.org's internal meetings concerning the Subpoena and Investigation described below.

6. I have an extensive background in fundraising and philanthropy. I was the president of the Global Greengrants Fund, a grantmaking organization, for more than a decade. Before that, I worked for the Wyss Foundation in New Mexico, was Executive Director of the New Mexico Association of Grantmakers and earlier, the National Network of Grantmakers. I have conducted and published scholarly research on philanthropy and fundraising. From that experience, I am familiar with how the political climate affects organizations' abilities to raise funds. When organizations are targeted by officials in power, even the most progressive foundations become more risk averse and try to reduce their exposure to political harassment by pulling their funding back or shifting away from funding controversial groups. Funders talk to one another and follow each other's lead, and a general panic can ensue when funders believe that they themselves may become targets. Since President Trump began his second term, his administration and his allies have targeted environmental organizations like 350.org, decrying their work on climate change and a just transition, which has diminished funding opportunities for organizations in this field. I know from philanthropic advisors with whom I have spoken, and from reporting in the philanthropic press, that newer foundations are staying away from climate funding altogether because they want to remain in good standing with the federal government. They have identified less controversial topics and groups to associate with.

7. 350.org is no stranger to these effects. Because the political climate has become more hostile to organizations with messages such as ours, funders have become more hesitant to associate with us, and 350.org's funding has fallen significantly. Since President Trump's second term began in January 2025, 350.org's annual budget has fallen from approximately \$21 million to under \$17 million, a decrease of nearly 20 percent. Both U.S. and non-U.S. funders have reduced their support, and non-U.S. funders have become markedly more reluctant to send

money to U.S. organizations. 350.org has also received less general-support funding and has had to rely more on funding restricted to specific programs. In response, 350.org restructured, laying off most U.S. program staff.

8. 350.org has also been singled out by name by government officials. On February 12, 2026, the West Virginia Attorney General joined a letter from 19 state attorneys general asking the United States Department of Justice to investigate more than 150 U.S.-based organizations that, according to the letter, had received money from foreign funders of climate advocacy. The letter identified 350.org by name, citing a grant of “over \$300,000 to 350.org for fossil-fuel-divestment campaigns.” It described the conduct it asked the Department to investigate as including policy advocacy, media campaigns, “grassroots organizing[,] and planning and funding climate protests”; stated that it highlighted organizations that had “engaged in particularly extreme climate-related activism”; and concluded that the organizations were “engaging in coordinated funding and advocacy efforts to influence U.S. energy policy.” More recently, on September 10, 2026, U.S. House Science, Space, and Technology Committee Chairman Brian Babin (R-Texas) and Investigations and Oversight Subcommittee Chairman Rich McCormick (R-Georgia) sent 350.org, among other organizations, a letter requesting documents concerning its foreign funding and affiliations and its activities relating to opposition to data centers. 350.org received that letter about two weeks before it received the Subpoena described below. Such letters and investigations are baseless and meant to harass and chill our speech and association. They have been successful in chilling both.

9. On or about September 22, 2026, 350.org received a subpoena dated September 16, 2026, from West Virginia Attorney General John B. McCuskey. The Subpoena demands a broad range of documents and communications from January 1, 2017, through the date of

compliance, to be produced by November 2, 2026 (the “Subpoena”). Its caption identifies it as issued in the matter of an investigation of 350.org (the “Investigation”).

10. The Subpoena seeks records concerning 350.org’s public statements on climate and energy, its internal deliberations about those statements, its requests for donations, the organizations that have funded its work and the amounts they gave, the organizations it has paid, the officers, directors, staff, and board members it shares with renewable energy entities, its dealings with coalitions and other advocacy organizations on energy permitting and regulation in West Virginia, and its submissions to regulatory agencies.

11. The Subpoena states that it is issued under the West Virginia Consumer Credit and Protection Act. 350.org does not sell any goods or services, except for a small amount of merchandise that bears our name or logo. Merchandise sales are a de minimis source of income. 350.org’s staff searched its records and found one merchandise sale to a purchaser with a West Virginia address: a single sale in 2024 for £32 GBP. 350.org has never charged for any service in West Virginia. The merchandise sales that 350.org makes are not related to any requests made in the Subpoena.

12. It is my understanding that at least five other nonprofit organizations have also received materially similar subpoenas from the West Virginia Attorney General seeking the same information pursuant to similar investigations.

13. The Subpoena and related Investigation have affected 350.org and will continue to affect it, as follows:

Impact on 350.org’s Speech

14. The Subpoena and Investigation have affected, and will continue to affect, 350.org’s ability to carry out its day-to-day work. Since the Subpoena was received, responding

to the Investigation has been a main focus of the work of 350.org's senior leadership, including the executive director and the general counsel, and it will continue to take their time until the Investigation is resolved. 350.org has a small operation in the United States, and the time its leadership and U.S. staff spend on the Subpoena and Investigation is time taken from the work the organization was founded and funded to do.

15. 350.org was for years a leading voice speaking out against fossil fuel companies. Beginning in March 2025, as climate organizations became targets of the current administration and its allies, 350.org became more cautious in what it says about fossil fuel companies and in the associations it enters into. The Subpoena and Investigation have deepened that caution. They will delay any return to our prior outspoken positions and will shift our work toward different, less controversial topics. 350.org's effectiveness depends on being able to speak out as we once did without fear of reprisal from government officials, but doing so is not an option while the Investigation is pending.

16. To reduce our risk, the U.S. program team has been instructed to submit all public facing documents and communications to the executive director, and sometimes the general counsel, for approval before release. We put this screening in place after receiving the September 10, 2026 House letter. We expected it to be short-lived, as the executive director does not ordinarily review the staff's day-to-day work and does not do so for any other region, but after the Subpoena and Investigation we have extended it indefinitely. This screening takes time from the executive director's and other staff members' work for 350.org.

17. In reviewing the U.S. team's public-facing documents and communications, the executive director screens their content with the Subpoena and Investigation in mind, and she has altered or withheld content as a result. Senior leadership has repeatedly vetoed or toned down

messages that we believe could cause 350.org to be targeted by elected officials hostile to climate action.

18. The Subpoena and Investigation have made us more cautious about what work we do in the United States, and where. 350.org still works in states with Republican attorneys general and plans to continue that work. But 350.org now evaluates any proposed work in West Virginia or with West Virginia partners, in light of the risk of further investigation and the risk of a subpoena is now part of its evaluation of any proposed work in the United States. While the Subpoena and Investigation are pending, 350.org will not undertake new work in West Virginia.

19. Some staff have expressed anxiety about the Subpoena and Investigation, and it has made their work harder. I have been directly told this by two senior staff members. Staff have asked the General Counsel questions about what they put in emails and internal messages, with anxiety knowing that those messages may be searched and produced. They are more likely to clam up and say less than they otherwise would for fear of saying the wrong thing. There is a general chilling effect on their work.

Impact on 350.org's Associations

20. The Subpoena and Investigation are affecting, and will affect, 350.org's associations. I expect that the Subpoena and Investigation may make it harder to attract new staff members in the United States. 350.org currently has two open seats on its board of directors and is recruiting to fill them. I expect the Subpoena and Investigation to reduce the number of qualified candidates willing to serve, by deterring them from associating with an organization that is the target of a state consumer protection investigation, even though it is baseless.

21. The Subpoena demands the names of the organizations that have funded 350.org's work and the amounts they gave, the terms of 350.org's grant agreements and other funding

arrangements, and the organizations 350.org has paid. Some funders give on the understanding that their identity, or the amount they gave, will not be disclosed. 350.org has a small number of grant agreements with confidentiality terms, and some of its support comes through donor-advised funds, which are not required to disclose their donors. Funders have asked for confidentiality for reasons that include disagreement within a family about the gift and concern about the funder's own standing with the government. Even funders willing to be named publicly do not expect the terms of their grants to be disclosed to a government investigator. Funders also understand that funding relationships are being used to target organizations; the February 12, 2026 letter identified 350.org because of a grant it received. I expect that disclosure of this information to the Attorney General would cause some current funders to reduce or end their support and would deter prospective funders.

22. 350.org has prided itself on transparency about its funding, and it voluntarily lists all institutional funders, who have given consent, by name in its Annual Report which is publicly available on our website. Because of the Subpoena and Investigation, 350.org is reconsidering whether to continue that practice, in order to protect its funders from harassment and to keep their support.

23. 350.org has identified one funder whose grant agreement requires 350.org to notify it of a government investigation, and five other funders that 350.org has determined it should notify. The funder that it has already notified would like to have a further discussion with the organization about the Subpoena and Investigation, which is scheduled. In addition, the application materials of many funders ask whether the applicant is the subject of any government investigation. For as long as the Investigation is pending, 350.org will have to disclose it to every

prospective funder that asks and to existing funders at renewal. I believe funders ask the question because the answer is a factor in their decisions.

24. Based on my experience, I expect that both institutional and individual donors will be less likely to give to 350.org once they learn of the Subpoena and Investigation.

25. One funder has already contacted 350.org after learning of the September 10, 2026 House letter, to express concern about its own risk if it continues to fund 350.org. I expect other funders to raise similar concerns once they learn of the Subpoena and Investigation.

26. If 350.org's funding decreases further, it will have to cut back even further on its work in the United States. For example, 350.org is currently recruiting a manager for its U.S. program. The position is being offered for a fixed term because 350.org cannot commit funding beyond that, and whether it can be continued depends on future funding.

Impact on 350.org If Subjected to Document Discovery

27. 350.org does not have the capacity to collect, review, and log nearly ten years of records with its own staff. If 350.org had to comply with the Subpoena, it would have to hire an outside consultant for at least two weeks of work, at a rate of at least \$800 per day. If 350.org had to retain outside counsel to review the documents before production, the cost would be far greater.

28. Complying with the Subpoena would also divert significant board and staff time and financial resources from 350.org's already reduced work in the United States.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: October 22, 2026



Teresa Odendahl

Ex. 4



**State of West Virginia
Office of the Attorney General
John B. McCuskey
Attorney General**

INVESTIGATORY SUBPOENA

IN THE MATTER OF THE INVESTIGATION OF

West Virginia Rivers Coalition, Inc.¹
1000 Elkins Dr.
Morgantown, WV 26505

YOU ARE HEREBY COMMANDED to answer this Subpoena and produce the documentary material in your possession, custody, or control described below for examination and copying on or before the **Return Date, November 2, 2026** to Zachary Viglianco, Director of Strategic Litigation, 1900 Kanawha Boulevard, East, State Capitol Complex, Charleston, West Virginia 25305. Copies may also be provided by mail to Post Office Box 1789, Charleston, West Virginia 25326.

This Subpoena is issued pursuant to W. Va. Code § 46A-7-104(1) and concerns an investigation into alleged unfair or deceptive acts or practices and other possible violations of the West Virginia Consumer Credit and Protection Act ("WVCCPA"), W. Va. Code §§ 46A-1-101 *et seq.* by the persons and entities that are the subject of this investigation. All information provided to the Office of the Attorney General pursuant to this Subpoena shall be retained in a confidential manner consistent with the provisions of W. Va. Code § 46A-7-104(4) and shall not be made

¹ **Notice of Process Address:** Jennie Smith.
3501 MacCorkle Ave. SE, #129
Charleston, WV 25304

public except upon the commencement of a subpoena enforcement proceeding as authorized by W. Va. Code § 46A-7-104(4) or a civil action to enforce the WVCCPA, W. Va. Code §§ 46A-1-101 *et seq.* or other law.

INSTRUCTIONS AND DEFINITIONS

The following Instructions and Definitions shall apply when responding to this Subpoena:

Instructions

1. The scope of this Subpoena is the Relevant Period, which began January 1, 2017 and continues up through the date of full compliance with this Subpoena, unless otherwise noted.

2. The term “West Virginia Rivers Coalition” shall mean and refer collectively to the recipient of this subpoena, including any of its corporate or trade names, predecessors, successors, divisions, subsidiaries, and affiliates, and any officer, director, employee, contractor, or agent acting on its behalf and not in a personal capacity only. For the avoidance of doubt, this subpoena is not intended to and does not reach materials held by any officer, director, employee, contractor, or agent of West Virginia Rivers Coalition in their individual/personal capacity or materials that solely reflect their private associations.

3. The Subpoena encompasses all of the Documents, as defined in this Subpoena, that are within West Virginia Rivers Coalition’s possession, custody, or control, wherever situated, including in the possession, custody, or control of one of its owners, officers, operators, managers, employees, agents, subcontractors, successors in interest, and assigns.

4. If necessary, West Virginia Rivers Coalition shall assist the designated representative(s) from the West Virginia Attorney General’s Office in locating the Documents and information that are required to be produced in response to this Subpoena.

5. If the Documents requested are located or maintained outside the State of West Virginia, the West Virginia Office of the Attorney General may designate representatives to

inspect the Documents at their location and, if necessary, West Virginia Rivers Coalition shall assist the designated representative(s) to inspect the Documents that are required to be produced by this Subpoena.

6. Whenever data requested by this Subpoena is stored electronically, you shall produce the data electronically in its native format (with all metadata intact) when reasonably practicable and when doing so will not hinder or frustrate accessibility, and if not practicable or accessible, in a manner and format such as Microsoft Excel, Access, or in another mutually agreeable, electronic format with all metadata intact.

7. When asked to produce Documents in your "possession, custody or control," you must produce the Documents if you have the legal right to control the Documents or things even if you do not have actual possession at the time of this request. *See Buckley v. Vidal*, 50 F.R.D. 271, 274 (E.D.N.Y. 1970) and *Colon v. Blades*, 268 F.R.D. 129, 132 (D. Puerto Rico 2010) ("Legal ownership or actual possession is not required; Documents are considered to be under a party's 'control' when that party has the right, authority or ability to obtain those Documents upon demand.")

8. This subpoena does not seek the identity of any individual donor, member, subscriber, or supporter solely on the basis of that individual being a member, subscriber, or supporter and does not require production of: (i) membership lists, (ii) donor lists, or (iii) records identifying individual supporters, members, subscribers, or volunteers in that capacity, except to the extent that organizational (not individual) funding sources are specifically identified in a request below. Where funding is requested, totals and the names of organizations are sufficient.

9. Nothing here requires production of attorney-client, work-product, or First Amendment associational privilege material. In the event that West Virginia Rivers Coalition

declines to produce any Documents required by this Subpoena on the grounds of privilege, you shall specifically identify such Documents and timely disclose the grounds for such claim of privilege. To the extent West Virginia Rivers Coalition asserts any privilege, it shall produce a privilege log by the Return Date identifying: (1) the Document or category of Documents withheld; (2) the privilege asserted; (3) the factual basis for the assertion; and (4) the specific request(s) to which the withheld Document is responsive. Where only a portion of a responsive Document is privileged, West Virginia Rivers Coalition shall redact the privileged portion, produce the remainder, note each redaction on the privilege log, and mark the location of each redaction on the face of the produced Document.

Definitions

1. “Document” shall mean and include, but shall not be limited to, the original and all drafts or non-identical copies of all written or graphic matter of any kind, however produced or reproduced, including facsimiles, summaries, financial statements, diaries, communications, invoices, receipts, log books, e-mails, telegrams, ledgers, accounts, press releases, reports, white papers, paid advertising, website and social media content (including posts, reposts, comments, and videos on organizational or work-related individual accounts), minutes, pamphlets, notes, interoffice communications, training materials, records of meetings, conferences, and telephone or other conversations or communications, and any electronic or magnetic record of the foregoing, or non-identical copies thereof, whether prepared by you or by any other person, that are in your possession, custody, or control.

2. The word “Pertaining” includes relating to, containing, alluding to, responding to, commenting upon, discussing, showing, disclosing, explaining, mentioning, analyzing,

constituting, comprising, evidencing, setting forth, summarizing or characterizing, either directly or indirectly, in whole or in part.

3. The word “Published” means distributed, disseminated, made available, or otherwise conveyed by West Virginia Rivers Coalition, or anyone acting on its behalf, to any person outside West Virginia Rivers Coalition’s own personnel, whether to one recipient or many and in any medium. It includes content that was access-restricted, embargoed, later deleted or retracted, Published anonymously or under a coalition or trade name, or authored by a third party that West Virginia Rivers Coalition funded, commissioned, approved, or reposted. A request for a Published item also seeks all drafts and versions of it, including drafts never released, redlines, comments, and approval communications.

4. The word “West Virginia Recipient” means any natural person or legal entity associated with a West Virginia mailing address, billing address, IP geolocation, or telephone number.

5. “Climate Claim” means a statement asserting, on a purportedly scientific or statistical basis, a demonstrable or otherwise traceable connection between emissions of greenhouse gases from the extraction, processing, transport, combustion, or petrochemical conversion of fossil fuels (including, but not limited to, coal, lignite, oil, and natural gas) to changes in climate, weather patterns, and/or extreme weather events, including, but not limited to, climate/weather event attribution, impacts to public health, and economic harm (i) allegedly or purportedly caused by energy companies and/or projects or (ii) linked by name, or by clear and specific implication, with sufficient clarity that a reasonable recipient would understand the statement to refer to a specific WV Energy Business. This term does not include: (i) statements expressed as personal opinion or political opinion; (ii) statements made exclusively in the context

of litigation as part of advocacy before a court; or (iii) pure scientific research published in peer-reviewed academic journals, absent evidence of knowing misrepresentation.

6. “Identified Claim” means a Climate Claim that appears in a Published item that is responsive to Demands Nos. 1, 2, 4, or 5.

7. “WV Energy Business” means any entity that, during the Relevant Period, is or was engaged, in any way, in extracting, processing, transporting, storing, burning, or petrochemically converting coal, lignite, natural gas, natural gas liquids, or petroleum in or from West Virginia and any predecessor, successor, parent, subsidiary, or affiliate of one.

MATERIALS DEMANDED

Public Statements and Climate Projections

1. All Documents Pertaining to every statement West Virginia Rivers Coalition Published that: (a) names a WV Energy Business, or a facility, mine, well, pipeline, plant, or project it owns or operates; and (b) makes a Climate Claim about it.

2. All Documents Pertaining to everything West Virginia Rivers Coalition Published that uses Representative Concentration Pathway (“RCP”) 8.5 or Shared Socioeconomic Pathway 5 (“SSP5”) 8.5; Documents Pertaining to which organizations supplied those projections; and Documents Pertaining to communications regarding RCP 8.5 or SSP5 8.5 to any third parties. Documents Pertaining to whether to maintain, retire, replace, or qualify RCP 8.5 or SSP5 8.5, including any assessment of its plausibility or suitability as a baseline, any recommendation to switch scenarios, and any decision to retain the model notwithstanding such assessment(s) or recommendation. Documents Pertaining to RCP 8.5 or SSP5 8.5 being described as “business as usual,” “baseline,” “current policy,” “reference,” “no-policy,” or anything similar, including

whether that description was accurate, any objection to it, and any decision to retain or abandon that description.

3. All Documents relied upon, consulted, Pertaining to or referenced in preparing, reviewing, approving, or Publishing any of the materials identified in Demand No. 2.

4. For each Published projection concerning West Virginia: all Documents Pertaining to the emissions scenario chosen, why it was chosen, the key assumptions applied, and whether it was reviewed for technical accuracy before publication and the outcome of any such review.

*Solicitations to West Virginia Recipients &
West Virginia Specific Material*

5. For each donation request containing a Climate Claim that West Virginia Rivers Coalition aimed, in whole or in part, at West Virginia Recipients, Documents Pertaining to:

- a. each version sent;
- b. how West Virginia Recipients were selected and the targeting criteria and audience segments;
- c. total amounts solicited and received from West Virginia Recipients.

6. For each climate model that West Virginia Rivers Coalition used, licensed, funded or commissioned, in whole or in part, or otherwise institutionally supported, and that produced a West Virginia-specific output, Documents Pertaining to:

- a. the model, its version, and its source;
- b. the West Virginia inputs, assumptions, and scenarios used;
- c. the outputs, whether Published or not; and
- d. communications about any gap between model output and a Published figure.

Scientific Basis, Knowledge, and Contrary Evidence

7. For any Identified Claim, Documents Pertaining to:

- a. West Virginia Rivers Coalition or any person, including but not limited to officers, directors, employees, contractors, or agents, disputing, contradicting, or qualifying the attribution model, study, or method behind it;
 - b. communications with World Weather Attribution or any other climate attribution organization about it;
 - c. internal objection or disagreement about its accuracy or confidence level; and
 - d. regulatory comments, agency submissions, testimony, and materials prepared for judicial education programs on climate science or climate litigation that repeat, discuss, rely upon, or otherwise concern the Identified Claim, including drafts, approvals, amendments, and withdrawals.
8. For each Published Document quantifying fossil-fuel subsidies, externalities, social cost of carbon, health costs, or economic damages: Documents Pertaining to the underlying data, the method, the discount rate, the damage function, and any pre-publication review.
9. For each study, report, model, or paper West Virginia Rivers Coalition funded, commissioned, in whole or in part, or otherwise institutionally supported that concerns West Virginia, a WV Energy Business, or an Identified Claim, Documents Pertaining to:
 - a. funding agreements, statements of work, or contracts;
 - b. the amount paid and the organization paid;
 - c. communications about scope, method, assumptions, or scenario choice;
 - d. communications about review, revision, approval, or publication timing; and
 - e. whether and how the sponsorship was disclosed in any Published work.

10. Documents Pertaining to how any assumption, uncertainty range, confidence interval, model limitation, or contrary finding behind an Identified Claim should be described, simplified, emphasized, downplayed, qualified, or left out of public materials.

11. Documents Pertaining to:

- a. any review, discussion, or analysis of new or updated evidence, data, or technical studies that may have contradicted, undermined, limited, or otherwise lowered confidence in previous Identified Claims of West Virginia Rivers Coalition with regard to climate science and related Climate Claims; and
- b. any decisions or other actions whereby West Virginia Rivers Coalition actually withdrew, qualified, or reconsidered previous Identified Claims on the basis of new evidence, data, or studies.

Third-Party Relationships & Coordination Efforts

12. Documents Pertaining to efforts to coordinate with any third party to develop communications, strategies, or public relations campaigns or messaging about an Identified Claim or a WV Energy Business, including but not limited to strategy memos, campaign plans, communications calendars, talking points, message testing, polling or focus groups, embargo coordination, and agreed divisions of subject matter or audience.

13. For each Identified Claim, Documents Pertaining to any involvement by a renewable energy company, developer, trade association, or other entity engaged in solar, wind, geothermal, hydroelectric, biomass, biofuel, biogas, or hydrogen energy in the development, funding, review, approval, timing, publication, or distribution of the Identified Claim, including:

- a. communications about the content, timing, funding, or distribution of an Identified Claim;
- b. total funding received that was earmarked for work producing an Identified Claim, and which organization provided it; and
- c. contracts, retainers, sponsorships, consulting arrangements, grant agreements, statements of work, or other arrangements relating to the Identified Claim.

14. Documents Pertaining to West Virginia Rivers Coalition's financial, contractual, organizational, or governance relationships during the Relevant Period with renewable energy companies, developers, trade associations, or other entities engaged in solar, wind, geothermal, hydroelectric, biomass, biofuel, biogas, or hydrogen energy, including:

- a. contracts, retainers, sponsorships, consulting arrangements, grant agreements, or other financial arrangements;
- b. funding received from or provided to such entities, including the amount, purpose, and source of such funding;
- c. shared officers, directors, employees, contractors, consultants, or board members; and
- d. agreements or arrangements concerning joint projects, research, advocacy, communications, public relations, or other coordinated activity.

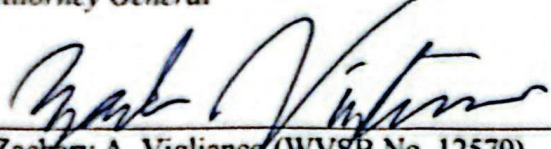
15. For third-party studies, models, or datasets West Virginia Rivers Coalition cited or Published but not previously produced under Demand Nos. 1 through 14, Documents Pertaining to what they are and who produced them; communications with the author, publisher, or sponsor about method, assumptions, scenario choice, or conclusions; and West Virginia Rivers Coalition's own assessment of their reliability or limits.

16. Documents Pertaining to dealings with any coalition, advocacy group, or organization operating in or targeting West Virginia about a WV Energy Business, an Identified Claim, or advocacy on West Virginia energy facilities, permitting, or regulation, including coalition agreements, joint work plans, shared budgets, grants, and funding given or received.

Given under my hand this 16th day of September, 2026.

John B. McCuskey
Attorney General

BY:


Zachary A. Viglianco (WVSB No. 12579)
Director of Strategic Litigation
Office of the West Virginia Attorney General
State Capitol Complex
1900 Kanawha Blvd, East
Charleston, WV 25305
(304) 558-8986 | Fax: (304) 558-0184

Ex. 5



State of West Virginia
Office of the Attorney General
John B. McCuskey
Attorney General

INVESTIGATORY SUBPOENA

IN THE MATTER OF THE INVESTIGATION OF

350.org¹
P.O. Box 843004
Boston, MA 02284

YOU ARE HEREBY COMMANDED to answer this Subpoena and produce the documentary material in your possession, custody, or control described below for examination and copying on or before the **Return Date, November 2, 2026** to Zachary Viglianco, Director of Strategic Litigation, 1900 Kanawha Boulevard, East, State Capitol Complex, Charleston, West Virginia 25305. Copies may also be provided by mail to Post Office Box 1789, Charleston, West Virginia 25326.

This Subpoena is issued pursuant to W. Va. Code § 46A-7-104(1) and concerns an investigation into alleged unfair or deceptive acts or practices and other possible violations of the West Virginia Consumer Credit and Protection Act ("WVCCPA"), W. Va. Code §§ 46A-1-101 *et seq.* by the persons and entities that are the subject of this investigation. All information provided to the Office of the Attorney General pursuant to this Subpoena shall be retained in a confidential manner consistent with the provisions of W. Va. Code § 46A-7-104(4) and shall not be made

¹ **Notice of Process (WV):** Humphreys Munai
20 Jay Street, Suite 732
Brooklyn, NY 11201

(DC): Corporate Creations Network, Inc.
1629 K Street NW, Suite 300
Washington, D.C. 20006

Investigatory Subpoena – 350.org

public except upon the commencement of a subpoena enforcement proceeding as authorized by W. Va. Code § 46A-7-104(4) or a civil action to enforce the WVCCPA, W. Va. Code §§ 46A-1-101 *et seq.* or other law.

INSTRUCTIONS AND DEFINITIONS

The following Instructions and Definitions shall apply when responding to this Subpoena:

Instructions

1. The scope of this Subpoena is the Relevant Period, which began January 1, 2017 and continues up through the date of full compliance with this Subpoena, unless otherwise noted.
2. The term “350.org” shall mean and refer collectively to the recipient of this subpoena, including any of its corporate or trade names, predecessors, successors, divisions, subsidiaries, and affiliates, and any officer, director, employee, contractor, or agent acting on its behalf and not in a personal capacity only. For the avoidance of doubt, this subpoena is not intended to and does not reach materials held by any officer, director, employee, contractor, or agent of 350.org in their individual/personal capacity or materials that solely reflect their private associations.
3. The Subpoena encompasses all of the Documents, as defined in this Subpoena, that are within 350.org’s possession, custody, or control, wherever situated, including in the possession, custody, or control of one of its owners, officers, operators, managers, employees, agents, subcontractors, successors in interest, and assigns.
4. If necessary, 350.org shall assist the designated representative(s) from the West Virginia Attorney General’s Office in locating the Documents and information that are required to be produced in response to this Subpoena.
5. If the Documents requested are located or maintained outside the State of West Virginia, the West Virginia Office of the Attorney General may designate representatives to

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inspect the Documents at their location and, if necessary, 350.org shall assist the designated representative(s) to inspect the Documents that are required to be produced by this Subpoena.

6. Whenever data requested by this Subpoena is stored electronically, you shall produce the data electronically in its native format (with all metadata intact) when reasonably practicable and when doing so will not hinder or frustrate accessibility, and if not practicable or accessible, in a manner and format such as Microsoft Excel, Access, or in another mutually agreeable, electronic format with all metadata intact.

7. When asked to produce Documents in your “possession, custody or control,” you must produce the Documents if you have the legal right to control the Documents or things even if you do not have actual possession at the time of this request. *See Buckley v. Vidal*, 50 F.R.D. 271, 274 (E.D.N.Y. 1970) and *Colon v. Blades*, 268 F.R.D. 129, 132 (D. Puerto Rico 2010) (“Legal ownership or actual possession is not required; Documents are considered to be under a party’s ‘control’ when that party has the right, authority or ability to obtain those Documents upon demand.”)

8. This subpoena does not seek the identity of any individual donor, member, subscriber, or supporter solely on the basis of that individual being a member, subscriber, or supporter and does not require production of: (i) membership lists, (ii) donor lists, or (iii) records identifying individual supporters, members, subscribers, or volunteers in that capacity, except to the extent that organizational (not individual) funding sources are specifically identified in a request below. Where funding is requested, totals and the names of organizations are sufficient.

9. Nothing here requires production of attorney-client, work-product, or First Amendment associational privilege material. In the event that 350.org declines to produce any Documents required by this Subpoena on the grounds of privilege, you shall specifically identify

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such Documents and timely disclose the grounds for such claim of privilege. To the extent 350.org asserts any privilege, it shall produce a privilege log by the Return Date identifying: (1) the Document or category of Documents withheld; (2) the privilege asserted; (3) the factual basis for the assertion; and (4) the specific request(s) to which the withheld Document is responsive. Where only a portion of a responsive Document is privileged, 350.org shall redact the privileged portion, produce the remainder, note each redaction on the privilege log, and mark the location of each redaction on the face of the produced Document.

Definitions

1. “Document” shall mean and include, but shall not be limited to, the original and all drafts or non-identical copies of all written or graphic matter of any kind, however produced or reproduced, including facsimiles, summaries, financial statements, diaries, communications, invoices, receipts, log books, e-mails, telegrams, ledgers, accounts, press releases, reports, white papers, paid advertising, website and social media content (including posts, reposts, comments, and videos on organizational or work-related individual accounts), minutes, pamphlets, notes, interoffice communications, training materials, records of meetings, conferences, and telephone or other conversations or communications, and any electronic or magnetic record of the foregoing, or non-identical copies thereof, whether prepared by you or by any other person, that are in your possession, custody, or control.

2. The word “Pertaining” includes relating to, containing, alluding to, responding to, commenting upon, discussing, showing, disclosing, explaining, mentioning, analyzing, constituting, comprising, evidencing, setting forth, summarizing or characterizing, either directly or indirectly, in whole or in part.

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3. The word “Published” means distributed, disseminated, made available, or otherwise conveyed by 350.org, or anyone acting on its behalf, to any person outside 350.org’s own personnel, whether to one recipient or many and in any medium. It includes content that was access-restricted, embargoed, later deleted or retracted, Published anonymously or under a coalition or trade name, or authored by a third party that 350.org funded, commissioned, approved, or reposted. A request for a Published item also seeks all drafts and versions of it, including drafts never released, redlines, comments, and approval communications.

4. The word “West Virginia Recipient” means any natural person or legal entity associated with a West Virginia mailing address, billing address, IP geolocation, or telephone number.

5. “Climate Claim” means a statement asserting, on a purportedly scientific or statistical basis, a demonstrable or otherwise traceable connection between emissions of greenhouse gases from the extraction, processing, transport, combustion, or petrochemical conversion of fossil fuels (including, but not limited to, coal, lignite, oil, and natural gas) to changes in climate, weather patterns, and/or extreme weather events, including, but not limited to, climate/weather event attribution, impacts to public health, and economic harm (i) allegedly or purportedly caused by energy companies and/or projects or (ii) linked by name, or by clear and specific implication, with sufficient clarity that a reasonable recipient would understand the statement to refer to a specific WV Energy Business. This term does not include: (i) statements expressed as personal opinion or political opinion; (ii) statements made exclusively in the context of litigation as part of advocacy before a court; or (iii) pure scientific research published in peer-reviewed academic journals, absent evidence of knowing misrepresentation.

Investigatory Subpoena – 350.org

6. “Identified Claim” means a Climate Claim that appears in a Published item that is responsive to Demands Nos. 1, 2, 4, or 5.

7. “WV Energy Business” means any entity that, during the Relevant Period, is or was engaged, in any way, in extracting, processing, transporting, storing, burning, or petrochemically converting coal, lignite, natural gas, natural gas liquids, or petroleum in or from West Virginia and any predecessor, successor, parent, subsidiary, or affiliate of one.

MATERIALS DEMANDED

Public Statements and Climate Projections

1. All Documents Pertaining to every statement 350.org Published that: (a) names a WV Energy Business, or a facility, mine, well, pipeline, plant, or project it owns or operates; and (b) makes a Climate Claim about it.

2. All Documents Pertaining to everything 350.org Published that uses Representative Concentration Pathway (“RCP”) 8.5 or Shared Socioeconomic Pathway 5 (“SSP5”) 8.5; Documents Pertaining to which organizations supplied those projections; and Documents Pertaining to communications regarding RCP 8.5 or SSP5 8.5 to any third parties. Documents Pertaining to whether to maintain, retire, replace, or qualify RCP 8.5 or SSP5 8.5, including any assessment of its plausibility or suitability as a baseline, any recommendation to switch scenarios, and any decision to retain the model notwithstanding such assessment(s) or recommendation. Documents Pertaining to RCP 8.5 or SSP5 8.5 being described as “business as usual,” “baseline,” “current policy,” “reference,” “no-policy,” or anything similar, including whether that description was accurate, any objection to it, and any decision to retain or abandon that description.

3. All Documents relied upon, consulted, Pertaining to or referenced in preparing, reviewing, approving, or Publishing any of the materials identified in Demand No. 2.

Investigatory Subpoena – 350.org

4. For each Published projection concerning West Virginia: all Documents Pertaining to the emissions scenario chosen, why it was chosen, the key assumptions applied, and whether it was reviewed for technical accuracy before publication and the outcome of any such review.

*Solicitations to West Virginia Recipients &
West Virginia Specific Material*

5. For each donation request containing a Climate Claim that 350.org aimed, in whole or in part, at West Virginia Recipients, Documents Pertaining to:

- a. each version sent;
- b. how West Virginia Recipients were selected and the targeting criteria and audience segments;
- c. total amounts solicited and received from West Virginia Recipients.

6. For each climate model that 350.org used, licensed, funded or commissioned, in whole or in part, or otherwise institutionally supported, and that produced a West Virginia-specific output, Documents Pertaining to:

- a. the model, its version, and its source;
- b. the West Virginia inputs, assumptions, and scenarios used;
- c. the outputs, whether Published or not; and
- d. communications about any gap between model output and a Published figure.

Scientific Basis, Knowledge, and Contrary Evidence

7. For any Identified Claim, Documents Pertaining to:

- a. 350.org or any person, including but not limited to officers, directors, employees, contractors, or agents, disputing, contradicting, or qualifying the attribution model, study, or method behind it;

Investigatory Subpoena – 350.org

- b. communications with World Weather Attribution or any other climate attribution organization about it;
 - c. internal objection or disagreement about its accuracy or confidence level; and
 - d. regulatory comments, agency submissions, testimony, and materials prepared for judicial education programs on climate science or climate litigation that repeat, discuss, rely upon, or otherwise concern the Identified Claim, including drafts, approvals, amendments, and withdrawals.
8. For each Published Document quantifying fossil-fuel subsidies, externalities, social cost of carbon, health costs, or economic damages: Documents Pertaining to the underlying data, the method, the discount rate, the damage function, and any pre-publication review.
9. For each study, report, model, or paper 350.org funded, commissioned, in whole or in part, or otherwise institutionally supported that concerns West Virginia, a WV Energy Business, or an Identified Claim, Documents Pertaining to:
- a. funding agreements, statements of work, or contracts;
 - b. the amount paid and the organization paid;
 - c. communications about scope, method, assumptions, or scenario choice;
 - d. communications about review, revision, approval, or publication timing; and
 - e. whether and how the sponsorship was disclosed in any Published work.
10. Documents Pertaining to how any assumption, uncertainty range, confidence interval, model limitation, or contrary finding behind an Identified Claim should be described, simplified, emphasized, downplayed, qualified, or left out of public materials.
11. Documents Pertaining to:

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- a. any review, discussion, or analysis of new or updated evidence, data, or technical studies that may have contradicted, undermined, limited, or otherwise lowered confidence in previous Identified Claims of 350.org with regard to climate science and related Climate Claims; and
- b. any decisions or other actions whereby 350.org actually withdrew, qualified, or reconsidered previous Identified Claims on the basis of new evidence, data, or studies.

Third-Party Relationships & Coordination Efforts

12. Documents Pertaining to efforts to coordinate with any third party to develop communications, strategies, or public relations campaigns or messaging about an Identified Claim or a WV Energy Business, including but not limited to strategy memos, campaign plans, communications calendars, talking points, message testing, polling or focus groups, embargo coordination, and agreed divisions of subject matter or audience.

13. For each Identified Claim, Documents Pertaining to any involvement by a renewable energy company, developer, trade association, or other entity engaged in solar, wind, geothermal, hydroelectric, biomass, biofuel, biogas, or hydrogen energy in the development, funding, review, approval, timing, publication, or distribution of the Identified Claim, including:

- a. communications about the content, timing, funding, or distribution of an Identified Claim;
- b. total funding received that was earmarked for work producing an Identified Claim, and which organization provided it; and

Investigatory Subpoena – 350.org

- c. contracts, retainers, sponsorships, consulting arrangements, grant agreements, statements of work, or other arrangements relating to the Identified Claim.

14. Documents Pertaining to 350.org's financial, contractual, organizational, or governance relationships during the Relevant Period with renewable energy companies, developers, trade associations, or other entities engaged in solar, wind, geothermal, hydroelectric, biomass, biofuel, biogas, or hydrogen energy, including:

- a. contracts, retainers, sponsorships, consulting arrangements, grant agreements, or other financial arrangements;
- b. funding received from or provided to such entities, including the amount, purpose, and source of such funding;
- c. shared officers, directors, employees, contractors, consultants, or board members; and
- d. agreements or arrangements concerning joint projects, research, advocacy, communications, public relations, or other coordinated activity.

15. For third-party studies, models, or datasets 350.org cited or Published but not previously produced under Demand Nos. 1 through 14, Documents Pertaining to what they are and who produced them; communications with the author, publisher, or sponsor about method, assumptions, scenario choice, or conclusions; and 350.org's own assessment of their reliability or limits.

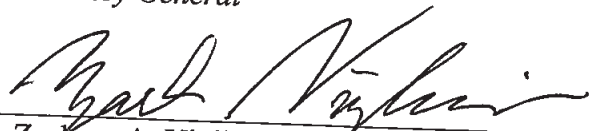
16. Documents Pertaining to dealings with any coalition, advocacy group, or organization operating in or targeting West Virginia about a WV Energy Business, an Identified Claim, or advocacy on West Virginia energy facilities, permitting, or regulation, including coalition agreements, joint work plans, shared budgets, grants, and funding given or received.

Investigatory Subpoena – 350.org

Given under my hand this 16th day of September, 2026.

John B. McCuskey
Attorney General

BY:



Zachary A. Viglianco (WVSB No. 12579)

Director of Strategic Litigation

Office of the West Virginia Attorney General

State Capitol Complex

1900 Kanawha Blvd, East

Charleston, WV 25305

(304) 558-8986 | Fax: (304) 558-0184

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Ex. 6



State of West Virginia
Office of the Attorney General
John B. McCuskey
Attorney General

October 23, 2025

The Honorable Doug Burgum
Secretary
Department of the Interior
1849 C Street, NW
Washington, DC 20240

The Honorable Christopher A. Wright
Secretary
Department of Energy
1000 Independence Avenue, SW
Washington, DC 20585

The Honorable Lee Zeldin
Administrator
Environmental Protection Agency
Office of the Administrator, 1101A
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Secretaries Burgum and Wright and Administrator Zeldin,

We write to urge you to put the safety, security, and economic interests of Americans first by declining to send a delegation to the upcoming United Nations' Conference of the Parties meeting in Brazil (COP-30). Now, more than ever, America needs to take a strong stance against the anti-coal, anti-gas and anti-oil policies that the COP promotes—policies driven by adverse actors and propped up by often contested climate theory.¹ If the United States participates in COP-30, it would serve only to legitimize such unsound science and policies.

¹ INT'L. ENERGY AGENCY, FROM TAKING STOCK TO TAKING ACTION 3, 14 (Sept. 2024).

Our nation is facing an unprecedented energy reliability and affordability crisis.² In the midst of this crisis, electric demand continues to outpace supply, with projections for 2025 and 2026 showing that demand levels will continue to reach record highs.³ Innovation has fueled this demand. America is poised to lead the charge in developing artificial intelligence—but we need consistent and cost-effective electric generation to continue to rapidly expand data centers and other tech-focused facilities.⁴

Coal, natural gas, and oil can solve that crisis; they have long supported American prosperity and security by providing affordable, safe, and reliable energy generation.⁵ President Trump has repeatedly recognized this reality. We applaud his efforts to enact common-sense policies to remove regulatory barriers and to support infrastructure development for traditional energy sources. Those policies will lower energy costs, increase reliability, power innovation, and foster American energy independence.⁶

But at a time when demand for energy is greater than ever, the prior administration embraced COP policies that dismantled—rather than supported—coal, oil, and gas production. The COP and other international actors favor less reliable and more expensive renewable energy sources, and that preference has proven harmful to American energy stability.⁷

The COP's policy initiatives disregard the realities of renewable energy generation. Solar and wind power have significant reliability issues, and they are more expensive than traditional energy sources.⁸ Coal, gas, and oil can generate power as necessary to meet demand. Solar and wind cannot.⁹ Even in ideal weather and geographic conditions, solar and wind power generation is unreliable—cloud coverage and wind speeds are consistently varied and impossible to predict.¹⁰ America cannot afford to entrust the future of its electric grid on energy sources that operate only when the wind blows or the sun shines.

At the international level, the data speaks for itself. Countries that primarily rely on solar and wind energy have more expensive electricity.¹¹ And overreliance on renewable energy generation destabilizes the electric grid and heightens the risk of dangerous and costly blackouts. Just earlier

² *Declaring a National Energy Emergency*, Exec. Order No. 14156, 90 Fed. Reg. 8433, 8433-37 (Jan. 29, 2025).

³ See Scott Disavino, *US power use to reach record highs in 2025 and 2026, EIA says*, REUTERS (October 7, 2025 5:22 p.m. EST), bit.ly/3VTvn1I.

⁴ U.S. DEPT. OF ENERGY, *EVALUATING THE RELIABILITY AND SECURITY OF THE UNITED STATES ELECTRIC GRID* 1 (July 2025).

⁵ The White House, *Fact Sheet: President Donald J. Trump Strengthens the Reliability and Security of the United States Electric Grid* (Apr. 8, 2025), bit.ly/3VTg4GI; see also U.S. Dept. of Energy, *The Economic Benefits of Oil & Gas*, <https://bit.ly/3VXmDri> (last visited Oct. 14, 2025).

⁶ *Unleashing American Energy*, Exec. Order No. 14154, 90 Fed. Reg. 8353, 8353-59 (Jan. 29, 2025); *Reinvigorating America's Beautiful Clean Coal Industry and Amending Executive Order 14241*, Exec. Order No. 14261, 90 Fed. Reg. 15517, 15517-20 (April 8, 2025).

⁷ Diana Furchtgott-Roth, *Restoring America's Energy Renaissance*, THE HERITAGE FOUNDATION (May 30, 2023), <https://bit.ly/47iotJK>.

⁸ See James Taylor, *Affordable, Reliable, And Clean: an Objective Scorecard to Assess Competing Energy Sources*, THE HEARTLAND INSTITUTE 7 (April 2025), bit.ly/3J03Sk9.

⁹ See Kerry Jackson and Wayne Winegarden, *The Cost of Going Green*, PACIFIC RESEARCH INSTITUTE 6 (April 2025), <https://bit.ly/4q7EgTi>.

¹⁰ See Taylor, *supra*, at 7.

¹¹ Bjørn Lomborg, *Solar and Wind Power are Expensive*, FRASER INSTITUTE (March 25, 2025), <https://bit.ly/4ofq48Y>.

this year, a large-scale blackout in Spain and Portugal left millions of people without power, all because traditional energy was not there to support the grid.¹²

COP-aligned policies have also already caused serious problems at the state level. Since California adopted a net-zero emissions target in 2018, for example, Californian consumers have paid more for less reliable energy. Estimates show each California household will pay up to \$20,182 over the next twenty-five years to fund the state's transition to renewable energy.¹³ And even while costs have risen, the reliability and stability of California's electric grid has suffered.¹⁴

But consumers in States that enact policies targeting traditional energy production are not alone in seeing increased costs from renewable generation. Driven by policies adopted in Minnesota, for instance, Xcel Energy has sought to decrease its use of coal and to supplant it by developing infrastructures to produce solar power.¹⁵ Xcel's policy-driven transition from coal to solar has come at a cost to its 97,000 North Dakotan consumers, who have had rates increase by around 12% in the past year (and may face more rate increases in the coming months).¹⁶

Cost and reliability aside, increased reliance on renewable energy also endangers America's national security and energy independence. Renewable energy generation relies heavily on materials procured outside of the United States, with China supplying many of the materials needed for renewable generation.¹⁷ So renewable energy requires the United States to become only further entangled with hostile interests. And wind and solar also face the very real threat of cyberattacks, opening the door for foreign attackers to undermine the security and stability of our grid.¹⁸

Renewable energy sources also present both known and (currently) unknown hazards for which the COP fails to account. For instance, damage to wind turbines can lead to the spread of toxic debris in nearby areas. Just last year, six beaches in Nantucket closed to swimmers after an offshore wind blade broke and fell into the water, causing fiberglass shards and other hazardous debris to wash up on the shores.¹⁹ Photovoltaic solar panels are fire hazards—an especially concerning reality given that solar panels are most often viable in wildfire-prone areas.²⁰ Lithium battery energy storage of wind and solar generated power likewise carries serious fire risks and environmental hazards; the extreme difficulty of containing lithium-generated fires only

¹² Paige Lambermont, *Spanish blackout should serve as a warning*, COMPETITIVE ENTERPRISE INSTITUTE (May 27, 2025), <https://bit.ly/3VZLR8v>.

¹³ See Jackson and Winegarden, *supra*, at 26.

¹⁴ *Id.*

¹⁵ Jeff Beach, *Xcel's coal exit an issue in North Dakota electric rate case*, NORTH DAKOTA MONITOR (Oct. 6, 2025 5:00 a.m. EST), <https://bit.ly/48nTRYu>.

¹⁶ *Id.*

¹⁷ Int'l Energy Agency, *Clean energy supply chains vulnerabilities* (2023), <https://bit.ly/4n264Wn>.

¹⁸ Robert Walton, *Renewable energy, microgrids face growing cyber threats: FBI*, UTILITY DIVE (July 3, 2024), available at <https://bit.ly/4q3jFPQ>.

¹⁹ See Jackson and Winegarden, *supra*, at 9, 20-21; see also Brian Bushard, *Blown Away*, NANTUCKET MAGAZINE (Aug. 30, 2024), <https://bit.ly/43kevoL>.

²⁰ See generally Nur Aliah Fatin Mohd Nizam Ong, et al., *Fault tree analysis of fires on rooftops with photovoltaic systems*, 46 J. BUILDING ENG'G 103752 (April 1, 2022), <https://bit.ly/4h6gfaY>; see also U.S. Dept. of Energy, *Solar Photovoltaic Hardening for Resilience – Wildfire* (last visited Oct. 14, 2025), <https://bit.ly/3VZddvv>.

exacerbates those risks.²¹ Consider the fire that broke out at the Moss Landing battery storage plant in California early this year: around 1,500 people had to be evacuated, and noxious gases were emitted into the surrounding areas.²²

Equally as alarming are the COP's climate-finance proposals, which seek to require the American people to pay billions of dollars to fund COP objectives globally.²³ The prior administration wasted taxpayer dollars that could have been put toward fostering American energy independence and reliability on the COP's global aims.²⁴ America should not now feel compelled to spend additional taxpayer dollars to appease adverse interests.

Sending a delegation to COP-30 would do little more than lend credibility to the COP's policies. Yet we should not permit international actors to dictate our energy and environmental choices; the federal government (alongside States) should be making those calls. And while we understand the hope that participating might allow for an "honest dialogue" about the realities of climate change,²⁵ we're less hopeful. These kinds of international meetings and the like have already been used as justification for more aggressive climate-related impositions at the international level.²⁶ On the other hand, by refusing to participate in COP-30, America will safeguard its national security, energy independence and economic interests.

We urge this administration to continue to putting America first by declining to participate in COP-30.

Sincerely,



John B. McCuskey
West Virginia Attorney General

²¹ See EPA, *Battery Energy Storage Systems: Main Considerations for Safe Installation and Incident Response* (last visited Oct. 14, 2025), <https://bit.ly/3KKf1Gc>; see also U.S. Fire Admin, *Risks and Response Strategies for Lithium-ion Battery Fires* (last visited Oct. 14, 2025), <https://bit.ly/46IJqgN>.

²² Olga R. Rodriguez & Isabella O'Malley, *Smoke from fire at California lithium battery plant raises concerns about air quality*, ASSOCIATED PRESS (Jan. 17, 2025 9:35 p.m. EST), <https://bit.ly/4mWJEG0>.

²³ United Nations, *Introduction to Climate Finance* (last visited Oct. 14, 2025), <https://bit.ly/4hbykVe>.

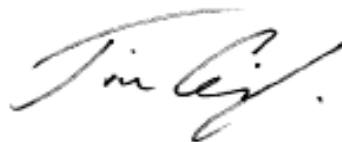
²⁴ U.S. Dept. of State, *COP 29 Update: U.S. International Public Climate Finance* (Nov. 18, 2024), <https://bit.ly/4mYmGOH>.

²⁵ John Ainger & Ewa Kurkowska, *US Weighs COP30 Climate Summit Attendance for 'Honest Dialogue'*, BLOOMBERG (Sept. 12, 2025 1:45 p.m. UTC), <https://bit.ly/4qech4o>.

²⁶ See, e.g., *Obligations of States in Respect of Climate Change*, Advisory Opinion ¶ 288 (July 23, 2025), <https://bit.ly/3J7duJP> (citing "COP decisions" and other COP-related matters as evidence of purported customary international law requiring nations to participate in aggressive anti-energy measures).



Steve Marshall
Alabama Attorney General



Tim Griffin
Arkansas Attorney General



James Uthmeier
Florida Attorney General



Christopher M. Carr
Georgia Attorney General



Raúl Labrador
Idaho Attorney General



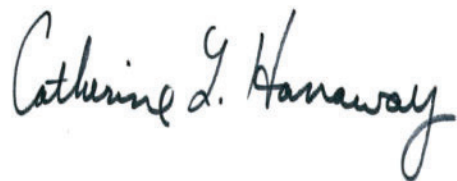
Brenna Bird
Iowa Attorney General



Kris W. Kobach
Kansas Attorney General



Liz Murrill
Louisiana Attorney General



Catherine L. Hanaway
Missouri Attorney General



Austin Knudsen
Montana Attorney General

Handwritten signature of Mike Hilgers in blue ink.

Mike Hilgers
Nebraska Attorney General

Handwritten signature of Gentner Drummond in blue ink.

Gentner Drummond
Oklahoma Attorney General

Handwritten signature of Alan Wilson in black ink.

Alan Wilson
South Carolina Attorney General

Handwritten signature of Marty J. Jackley in black ink.

Marty J. Jackley
South Dakota Attorney General

Handwritten signature of Ken Paxton in black ink.

Ken Paxton
Texas Attorney General

Handwritten signature of Keith G. Kautz in blue ink.

Keith Kautz
Wyoming Attorney General

Ex. 7



JB McCuskey ✓
@mccuskeyforwv



If you've followed be [#Suncor](#) case at all and can't see the insidious nature of the green cabal, wake up.

If you're not following it, and you care at all about rational energy policy, the constitution, or even fair results, check it out. You'll understand what [@RepublicanAGs](#) are fighting for.

11:31 PM · Oct 5, 2026 · **1,600** Views



Relevant ▾

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Ex. 8



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ATTORNEY GENERAL MCCUSKEY LEADS STATES IN URGING THE EPA TO CUT BUREAUCRATIC RED TAPE SLOWING INFRASTRUCTURE PROJECTS

August 7, 2026

Attorney General JB McCuskey is leading a coalition of 21 states supporting the U.S. Environmental Protection Agency's (EPA) proposal to rewrite how the agency handles the National Environmental Policy Act (NEPA) reviews.

Since it was signed into law in 1970, NEPA required that before the federal government can approve or fund a major infrastructure project—highways, water systems, power plants or pipelines—it must study and document the environmental impacts first. The coalition writes in its letter, "For too long, NEPA has entangled States, industry, and everyday citizens in years-long reviews, ballooning environmental reports, and endless litigation risk."

According to the States, Congress meant for NEPA to execute its objectives through modest procedural requirements. But that soon shifted. Shortly after its enactment, special interest groups weaponized NEPA to challenge projects they

opposed. The proposed update to EPA's procedures for implementing NEPA will result in the environmental review process being faster and more predictable without any accountability lost. EPA's proposed rule requires firm deadlines, page limits, and streamlined categorical exclusions so vital projects like roads, water systems and energy infrastructure can move forward without getting tied up in years of red tape and litigation.

"Liberal eco-activist special interest groups weaponized this Act so that it bogged down critical infrastructure projects, simply because they didn't like them. Over time, this legislation ballooned to take power Congress didn't authorize it to have. The EPA's proposed rule reins in how NEPA is used and streamlines the process, which means essential infrastructure projects that West Virginians need move forward faster. It's a win for everyone," Attorney General McCuskey said.

The States refer to several changes made in recent years, beginning with the passage of the Fiscal Responsibility Act which was signed into law in 2023. Additionally, President Trump, the Supreme Court and Congress have all forged ahead in correcting NEPA abuse. If EPA adopts the proposed rule, it will take another substantial step toward protecting critical infrastructure from being stalled, or even stopped, by procedural hurdles.

The coalition's letter concludes, "The result is a NEPA process that works better for everyone it touches: States get faster review for the projects their residents depend on; project sponsors get predictability and, where they want it, the option to pay for speed; the public gets a process still grounded in real accountability; and EPA gets a rule it can defend with confidence, on the merits and in court."

Alabama, Alaska, Arkansas, Florida, Georgia, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Montana, Nebraska, North Dakota, Ohio, South Carolina, South Dakota, Tennessee, Texas and Wyoming joined West Virginia's letter in support of the EPA's proposed rule, which can be read in its entirety [here](#).

###

Contact Name

Kallie Cart

Contact Phone

304-558-2021

Contact Email

kcart@wvago.gov

WV Office of the Attorney General

1900 Kanawha Blvd. E
WV State Capitol Building Room E-26
Charleston, WV 25305

Ph 304-558-2021

Fx 304-558-0140

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About
Us

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Us

[Home](#)

WEST VIRGINIA AND ALABAMA LEAD STATES DEFENDING ENERGY WORKERS AS SUPREME COURT HEARS CLIMATE LAWSUIT

October 5, 2026

Today, the U.S. Supreme Court heard argument in *Suncor Energy v. Boulder County*, an important case that will affect energy production nationwide. That is why Attorney General JB McCuskey, alongside Alabama Attorney General Steve Marshall, led a 26-state coalition in filing an amicus brief in the case to stand up for West Virginia's energy workers and states' rights.

The amicus, or "friend of the court" brief, filed in this case argues that allowing a single Colorado locality to hold the entire energy industry liable for global climate change under state law would unconstitutionally allow one jurisdiction to dictate national energy policy — and deal a devastating blow to states like West Virginia that depend on traditional energy production.

"Today's argument confirmed what we've said all along: federal law closes the book on these eco-radical lawsuits. As Justice Kavanaugh suggested, we think it's 'crystal clear' that interstate issues like these must be governed by federal law, not by varying state law in dozens of state courts. State, county or municipal

governments cannot weaponize their radical environmental laws to enrich their treasuries to the detriment of the nation. We have fought this kind of climate warfare before, and we will keep fighting to protect West Virginia's energy workers. We are confident the Court will agree," Attorney General McCuskey said.

In August, Attorney General McCuskey led a lawsuit and won against New York's Climate Change Superfund Act, which aimed to impose \$75 billion in retroactive fines for lawful energy production outside New York State. The U.S. District Court for the Northern District of New York held that the Climate Change Superfund Act was "simply beyond the limits of state law" and conflicted with federal interests in applying uniform air pollution regulations. The Court also ruled that the foreign affairs doctrine preempted the Superfund law's attempt to regulate international emissions.

Attorney General McCuskey has made protecting West Virginia's energy industry against attacks from other States a priority, from filing this amicus brief in *Suncor* to suing Vermont and New York over their state Superfund laws.

Today is the first day of the Supreme Court's new term. A decision in the *Suncor* case is expected by May 2027.

###

Contact Name

Kallie Cart

Contact Phone

304-558-2021

Contact Email

kcart@wvago.gov

WV Office of the Attorney General

1900 Kanawha Blvd. E
WV State Capitol Building Room E-26
Charleston, WV 25305

Ph 304-558-2021

Fx 304-558-0140

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Ex. 10

AUSTIN KNUDSEN



STATE OF MONTANA

February 12, 2026

Hon. Pamela Bondi
Attorney General of the United States
United States Department of Justice
950 Pennsylvania Ave., NW
Washington, D.C. 20530

Hon. John Eisenberg
Assistant Attorney General for National Security
United States Department of Justice
950 Pennsylvania Ave., NW
Washington, D.C. 20530

Dear Attorney General Bondi and Assistant Attorney General Eisenberg:

We write to respectfully request that the Justice Department investigate over 150 U.S.-based organizations which over the past decade have collectively received nearly \$2 billion in foreign dark money from five organizations that push extreme policies and fund left-wing green-energy and climate advocacy: (1) Oak Foundation (“Oak”); (2) Children’s Investment Fund Foundation (“CIFF”)¹; (3) Quadrature Climate Foundation (“QCF”); (4) KR Foundation (“KR”); and (5) Laudes Foundation (“Laudes”). At least one of the five foreign organizations, CIFF, has documented ties to the Chinese Communist Party. And all five foreign entities use funding to direct climate activism and influence energy policy in the United States, including by funding U.S. policy fights, litigation, research, protests, and lobbying to advance an extreme, foreign, activist agenda.² An October 2025 report from Americans for Public Trust traces the foreign dark money from these five left-wing organizations to over 150 U.S.-based 501(c)(3) entities.

¹ A coalition of State Attorneys General recently sent a letter on December 16, 2025, highlighting CIFF’s ties to China, as well as requesting that the Department of Justice investigate two U.S.-based groups, Energy Foundation China and Center for Climate Integrity for potential violations of FARA. This letter requests that the Department likewise investigate the other 37 organizations identified in the APT report into which CIFF has funneled millions of dollars of foreign money. Letter from 26 State Attorneys General to DOJ (Dec. 16, 2025), <https://perma.cc/VKR3-783U>.

² *Foreign Charities Fueling Extreme Policies in the U.S.*, AMS. FOR PUB. TR. (Oct. 2025), <https://perma.cc/AT4Q-GTGS> (“APT Report”).

DEPARTMENT OF JUSTICE

215 North Sanders
PO Box 201401
Helena, MT 59620-1401

(406) 444-2026
Contactdoj@mt.gov
mtdoj.gov

Letter to DOJ re: APT Report
 February 12, 2026
 Page 2

The over 150 domestic entities that have received funding from the five foreign organizations engage in policy advocacy on local, state, and federal levels; media and messaging campaigns; climate litigation funding; research coordination and funding; policy consulting; climate grantmaking; coordinated lobbying; grassroots organizing; and planning and funding climate protests.³ Among those organizations which have accepted the most money from these foreign funding groups are the following:

- ClimateWorks Foundation (\$344 million)
- Energy Foundation China (\$88 million)
- Grantham Foundation (\$80 million)
- Growald Climate Fund (\$80 million)
- New Venture Fund (\$67 million)
- The Windward Fund (\$49 million + \$12 million)
- The Sunrise Project (\$35 million + \$9 million)
- Oceana (\$30 million)
- NEO Philanthropy (\$26 million)
- Carter Center (\$25 million)
- Rockefeller Philanthropy Advisors (\$22 million + \$108 million)
- World Resources Institute (\$17 million)
- Center for International Environmental Law (\$5 million)

There is substantial evidence that many of the over 150 organizations identified in the APT Report have acted as unregistered agents of foreign principals. For these reasons, we respectfully request that the Justice Department investigate the over 150 U.S.-based organizations for potential violations of the Foreign Agents Registration Act (“FARA”).

I. Background

A. Foreign Funding Sources

1. Oak Foundation

The Oak Foundation is a Swiss-based group established in 1983 by British billionaire Alan M. Parker. Oak has supported extreme “net zero” initiatives, groups pushing to implement the Paris Climate Accords, and groups opposing the Keystone XL pipeline.⁴ Oak has supported the approach of “using finance as a lever for change to challenge the fossil fuel sector,” and Oak itself states that it supports “efforts that use innovative and disruptive finance strategies to end public money for coal, oil, and gas expansion or production.”⁵ Among the “disruptive financial strategies” Oak employs is funding U.S.-based groups that facilitate climate litigation against energy companies at local, municipal, and state levels.⁶ In total,

³ The names of the over 150 groups registered as U.S.-based 501(c)(3) charitable organizations and the amounts they received from each of the foreign funding organizations are listed in the APT Report. *Id.* at 21–31.

⁴ *Id.* at 11.

⁵ *Id.* (internal quotations omitted).

⁶ *Id.*

Letter to DOJ re: APT Report
 February 12, 2026
 Page 3

Oak has given \$750 million of foreign money to 152 U.S.-based groups.⁷ Among the top U.S.-based groups receiving Oak funding are ClimateWorks Foundation (\$186 million), Rockefeller Philanthropy Advisors (\$108 million), New Venture Fund (\$67 million), Energy Foundation China (\$13 million), the Natural Resources Defense Council (\$6.5 million), and Center for International Environmental Law (\$5 million).⁸

Oak's grant-making page describes that Oak makes grants only to organizations that align with their "programme areas."⁹ Oak subjects grantees to a "rigorous due diligence and selection process, which includes extensive discussion, financial reviews, and site visits to ensure that organisations have robust internal processes and controls, a clear strategy, and the capacity to thrive."¹⁰ Oak also states that "the majority of awards are multi-year in duration," demonstrating that grantees enter into an ongoing relationship with Oak.¹¹ These expectations are formalized in a letter to the grantee which "aligns expectations about the terms of the grant" and which both Oak and the grantee sign.¹² Oak also states "[w]e support our partners' capacity to assess and measure progress," suggesting an ongoing involvement and supervision of grantees' "progress."¹³

2. Quadrature Climate Foundation

The Quadrature Climate Foundation was established in 2019 as the philanthropic arm of the London-based hedge fund Quadrature Capital, which gave the "largest single donation ever" to the UK's Labour Party.¹⁴ Members of the hedge fund, including its two secretive billionaire founders, Greg Skinner and Suneil Setiya, provide funding to QCF to issue grants. QCF uses its grants to fund research and campaign groups, aiming to "steer[] the direction of both research and *lobbying on the green transition*," including through almost \$530 million in foreign money to 41 U.S.-based groups.¹⁵ Among the top recipients of QCF funding and grants are ClimateWorks Foundation (\$147 million), Growald Climate Fund (\$80 million), the Grantham Foundation (\$80 million), the Windward Fund (\$49 million), and the Sunrise Project (\$36 million).¹⁶

QCF describes itself as taking a "strategic approach" to "help[] us drive meaningful climate solutions that influence systems, policies, and practices globally."¹⁷ It describes its three key objectives as "reducing greenhouse gas emissions, removing greenhouse gasses, and

⁷ *Id.*

⁸ *Id.* at 12.

⁹ [Grant-making](#)

¹⁰ [Grant-making](#).

¹¹ [Grant-making](#)

¹² [2. Grant Application Review Stages Mia](#)

¹³ [Grant-making](#)

¹⁴ APT Report at 4, *supra* n.2.

¹⁵ *Id.* (emphasis in original)

¹⁶ *Id.* at 5.

¹⁷ *Impact Framework*, QUADRATURE CLIMATE FOUND. at 2, <https://perma.cc/58RY-R2LW> ("QCF Impact Framework").

Letter to DOJ re: APT Report
 February 12, 2026
 Page 4

responding effectively to climate impacts.” To accomplish these goals, QCF lists among the tools in its “toolkit” engaging in policy advocacy and “running movements and campaigns.”¹⁸

Additionally, QCF monitors grantees and collects data from their programs “to assess QCF’s contributions.”¹⁹ According to QCF’s “Impact Framework,” it closely “track[s] the contribution of our programmes to climate solutions that reduce and remove emissions.”²⁰ QCF collects and monitors data from its partners through a “structured approach to data collection across our goals and our portfolio.”²¹ In part, QCF uses its data collection to “understand how programmes are progressing, so we can provide tailored support.”²² As one would expect when receiving grants for tens or even hundreds of millions of dollars, QCF grantees are subject to ongoing monitoring and reporting requirements to QCF so that QCF can provide “tailored support” and involvement.

3. Children’s Investment Fund Foundation

The Children’s Investment Fund Foundation,²³ run by billionaire and activist hedge-fund manager Christopher Hohn, has sent over \$553 million to U.S.-based groups to push extreme climate and environmental policies.²⁴ In addition to its extreme climate agenda, CIFF maintains ties to China and the CCP.²⁵ From 2014 to 2023, CIFF has given money to 39 U.S.-based groups, including The Energy Foundation China (“EFC”) (\$70 million), The Sunrise Project (\$36 million), the Institute for Governance and Sustainable Development (\$25 million), and the Environmental Defense Fund (\$17 million).²⁶

CIFF is a registered charity in England and Wales committed to “accelerating solutions that will mitigate climate change.”²⁷ In particular, Hohn has funded and supported efforts to “batter companies with litigation and threats” to pressure businesses to report and reduce their carbon emissions.²⁸ In addition, CIFF has documented ties to China, where it is registered as an NGO, and the Chinese Communist Party (CCP) whose former officials now serve on the NGO’s board.

CIFF describes a rigorous process for selection and oversight of grantees, including “a full programme budget and mapped work plan [] developed by the grantee and the [Foundation]

¹⁸ *Id.*

¹⁹ *Id.* at 3.

²⁰ *Id.* at 2.

²¹ *Id.* at 3.

²² *Id.*

²³ A coalition of State Attorneys General recently sent a letter on December 16, 2025, highlighting CIFF’s ties to China, as well as requesting that the Department of Justice investigate two U.S.-based groups, Energy Foundation China and Center for Climate Integrity for potential violations of FARA. This letter requests that the Department likewise investigate the other 37 organizations identified in the APT report into which CIFF has funneled millions of dollars of foreign money. Letter from 26 State Attorneys General to DOJ (Dec. 16, 2025), <https://perma.cc/VKR3-783U>.

²⁴ APT Report at 16, *supra* n.2.

²⁵ See Letter from 26 State Attorneys General to DOJ (Dec. 16, 2025), <https://perma.cc/VKR3-783U>.

²⁶ APT Report at 17, 30–31, *supra* n.2.

²⁷ *Id.*

²⁸ *Id.* at 16.

Letter to DOJ re: APT Report
 February 12, 2026
 Page 5

sector teams during the due diligence phase,” and approvals obtained by the Board and/or Programme Investment Committees.²⁹ Additionally, all grantees must submit “performance reviews” and grant funding is conditioned “upon adherence to the work-plan, budget[s],” “milestones,” and other criteria.³⁰ This express contracting, as well as ongoing supervision and monitoring of grantees for compliance with CIFF’s goals is strong evidence of agency relationships between CIFF and its grantees.

4. KR Foundation

The KR Foundation, based in Copenhagen, Denmark, has spent over \$36 million to influence U.S. climate policy, including “almost \$500,000 to Sustainable Markets Foundation for ending fossil fuel advertising, over \$300,000 to 350.org for fossil-fuel-divestment campaigns, and \$250,000 to Center for International Environmental Law for accelerating the managed decline of oil and gas.”³¹ While the overall size of KR’s grants is not as large as the other foreign charities listed above, KR “has had a significant hand in American energy policy by funding everything from climate litigation, to U.S. climate protests, to pushing back against pro-energy legislation passes on the state level.”³²

KR strategically seeks groups and movements that will have a sway on American opinion or policy on climate-related issues. KR has given nearly \$400,000 to the Conservation Law Foundation, a group that has initiated multiple climate lawsuits against the Trump administration and energy companies and has engaged in aggressive lobbying campaigns, including for the passage of climate superfund laws in Vermont and New York.³³ Likewise, KR has given nearly \$1.4 million to CIEL, a key proponent of legal and messaging campaigns for climate liability for carbon producers.³⁴

KR has also given over \$300,000 to Stop the Money Pipeline, a fiscally sponsored project of 350 Seattle.³⁵ That foreign money was expressly earmarked for “Advancing Climate Financial Regulation and Pushing Back on the Anti-ESG Movement in the USA,” indicating a clear desire to influence public opinion in the U.S.³⁶

KR’s terms and conditions for administration of grants imposes “regular reporting requirements” which include a “Narrative Progress Report” and an “Interim Financial Statement.”³⁷ KR also conditions the release of the final ten percent of the grant amount “upon approval of the grantee’s final reporting.”³⁸ Additionally, the grant terms provide that

²⁹ *Annual Report 2024*, CHILDREN’S INV. FUND FOUND. at 40 (May, 22 2025), <https://perma.cc/DW5P-5PA8> (“CIFF 2024 Ann. Report”).

³⁰ *Annual Report 2023*, CHILDREN’S INV. FUND FOUND. at 35 (June 13, 2024), <https://perma.cc/6VWW-DVQS> (“CIFF 2023 Ann. Report”).

³¹ APT Report at 7 (internal quotations omitted), *supra* n.2.

³² *Id.*

³³ *Id.* at 9.

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Terms and Conditions for Administration of Grants*, KR FOUND. at 2 (Nov. 12, 2019), <https://perma.cc/75AY-PXXQ> (“KR Found. Grant Terms”).

³⁸ *Id.*

Letter to DOJ re: APT Report
 February 12, 2026
 Page 6

“[t]he Foundation reserves the right to demand supervision, research, monitoring and evaluation of the activities using own consultants, who should at any time have unlimited access to all information. The grantee accepts to bear own costs related to presenting information and participating in meetings and in activities relating to such monitoring, research and evaluation activities as may be required by the Foundation.”³⁹ Such ongoing reporting and supervisory provisions set forth in a detailed grant agreement is strong evidence of an agency relationship.

5. Laudes Foundation

The Laudes Foundation was established in Switzerland in 2020 by the Brenninkmeijer family as a philanthropic venture with a mission to combat climate change, biodiversity loss, and social inequality.⁴⁰ Since then it has funneled nearly \$20 million of foreign funding into U.S.-based groups.⁴¹ Its goals include influencing policymakers, businesses, and the financial sector “to do the right thing,” which it defines as implementing laws and policies requiring action on climate and equity and inclusion.⁴² Among the top U.S.-based groups Laudes has funded are The Pulitzer Center for Crisis Reporting (\$3.7 million), the World Resources Institute (\$2.8 million), Ceres (\$1.7 million), and Community Initiatives (\$1 million).⁴³

Laudes’ grant information page states its requirement that each grantee’s “project aligns with our mission and priorities.”⁴⁴ Additionally, under the heading “Start of partnership” Laudes provides “[u]pon approval, we will sign a grant agreement outlining the grant activities, intended outcomes, general terms and conditions as well as the reporting and disbursement schedule.”⁴⁵ Laudes also publishes a guide for reporting requirements for grantees described as “Measurement and Evaluation.”⁴⁶ This guide describes annual reports and follow-up meetings with a Laudes point of contact for the duration of the grant.⁴⁷ These ongoing reporting requirements, express grant agreements and terms, and continued “partnership” with Laudes strongly suggest an agency relationship between Laudes and its U.S.-based grantees.

B. U.S. Domestic Entities

A recent report from Americans for Public Trust (“APT”) provides a complete list of the U.S.-based 501(c)(3) charitable organizations that collectively receive hundreds of millions of dollars annually from the five organizations discussed above.⁴⁸ While this letter does not

³⁹ *Id.*

⁴⁰ APT Report at 14, *supra* n.2.

⁴¹ *Id.*

⁴² *Id.*

⁴³ *Id.* at 15.

⁴⁴ *Becoming a Partner*, LAUDES FOUND. at 1–2, <https://perma.cc/CJR8-WFQJ> (“Laudes Becoming a Partner”).

⁴⁵ *Id.*

⁴⁶ *Measurement and Evaluation for Learning and Improvement*, LAUDES FOUND., <https://perma.cc/WUM4-6R7Q> (“Laudes Initiative Requirements”).

⁴⁷ *Id.* at 2.

⁴⁸ APT Report at 21–31, *supra* n.2.

Letter to DOJ re: APT Report
 February 12, 2026
 Page 7

provide a complete investigation of each of the over 150 domestic entities listed in the APT report, it highlights those entities which have received the largest grants or which have engaged in particularly extreme climate-related activism.

1. ClimateWorks Foundation

ClimateWorks Foundation is the largest recipient of foreign money documented in the APT Report with a combined nearly \$344 million over the past decade from the foreign entities discussed above.⁴⁹ ClimateWorks is a San Francisco-based 501(c)(3) and left-wing pass-through funding entity “that distributes funds from donors to environmentalist advocacy groups around the world.”⁵⁰ ClimateWorks aims to combat global warming and cut emissions by “fund[ing] bold climate strategies.”⁵¹ ClimateWorks has received large grants to “support the acceleration of electric vehicles” and “financial regulation advocacy to address climate risk.”⁵² ClimateWorks in turn has issued over 2,800 grants totaling over \$2 billion since 2008, including to “Center for American Progress (CAP), CERES, Environmental Defense Fund (EDF), League of Conservation Voters (LCV), New Venture Fund, and Windward Fund,” operating as a “foreign dark money ATM to fuel other liberal climate advocacy groups.”⁵³ Many of the groups it funds “lobby for climate-based policies including emissions taxes, restricting coal use, international climate treaties with strict enforcement mechanisms, and diminishing the use of cars.”⁵⁴ In addition to its grantmaking, ClimateWorks “advances its left-of-center environmentalism through a wide array of projects, international partnerships, and campaigns, including its [] Project Catalyst and its 2021 ‘Drive Electric Campaign’ which seeks to prohibit the new sale of combustion engine vehicles in phases by 2040.”⁵⁵

2. Grantham Foundation

The Grantham Foundation for the Protection of the Environment (private foundation) and the related Grantham Trust (public charity) have received over \$80 million from QCF, \$50 million of which is earmarked for a “partnership to unlock neglected climate opportunities.”⁵⁶ Grantham’s website landing page boldly claims “[c]limate change is the greatest challenge humanity has ever faced,” and that “[h]umanity’s impact on the planet is out of control.”⁵⁷ Grantham reveals its ultimate goal of upending the economic order claiming we need “[n]ew kinds of breakthroughs [to] make the remaking of our economy easier.”⁵⁸ To that end,

⁴⁹ *Id.*

⁵⁰ *ClimateWorks Foundation*, INFLUENCEWATCH, <https://perma.cc/L4LJ-BGPL> (“ClimateWorks Information”).

⁵¹ *How We Work*, CLIMATEWORKS FOUND., <https://perma.cc/U4XH-JTQT> (“ClimateWorks Approach”).

⁵² APT Report at 5, *supra* n.2.

⁵³ *Id.*; *ClimateWorks Approach*, *supra* n.51.

⁵⁴ *ClimateWorks Information*, *supra* n.50.

⁵⁵ *Id.*; *Home*, DRIVE ELEC. CAMPAIGN, <https://perma.cc/4A4L-GCNW> (“Drive Electric Campaign Information”); Monica Araya & Anthony Eggert, *The Drive Electric Campaign: 100% Electric Road Transportation for the World*, CLIMATEWORKS FOUND. (Mar. 17, 2021), <https://perma.cc/EB9N-KN39> (“Drive Electric Article”).

⁵⁶ APT Report at 5, *supra* n.2.

⁵⁷ *Home*, GRANTHAM FOUND., <https://perma.cc/69CS-NQQM>.

⁵⁸ *Id.*

Letter to DOJ re: APT Report
 February 12, 2026
 Page 8

Grantham funds a range of climate initiatives from “grassroots efforts to stop the development of coal plants” to funding the “Global Trends in Climate Change Litigation” annual report, which tracks climate-related litigation.⁵⁹ The Grantham Foundation was founded in 1997 in Boston by British billionaire Jeremy Grantham.⁶⁰ Jeremy Grantham is a known “supporter of population control, having suggested the critical population limit of the earth at 10 billion.”⁶¹ The Grantham Foundation has used money it receives to provide grants to numerous climate and environmentalist organizations.⁶²

3. Growald Climate Fund

Founded in 2007 by Eileen Rockefeller Growald, the Growald Climate Fund distributes grants to fund left-wing “environmentalist causes with a focus on environmentalist energy and the electricity sector.”⁶³ The Growald Climate Fund has received over \$80 million from QCF which it will presumably use for additional grantmaking for U.S. climate initiatives. Growald uses a “venture philanthropy” model, actively “invest[ing]” in early-stage or innovative climate organizations similar to a venture capital fund.⁶⁴ Growald’s stated goal is to engage in high-impact “venture philanthropy” to “catalyz[e] the rapid transition to a clean energy future.”⁶⁵ A “core practice of [Growald’s] venture philanthropy approach is to provide grantees with resources and high-touch organizational development and programmatic guidance to help them grow into . . . effective . . . organizations.”⁶⁶ Growald emphasizes that their “grantees inspire key financial actors, policymakers, the media and wider movements

⁵⁹ APT Report at 5, *supra* n.2.

⁶⁰ *Grantham Foundation for the Protection of the Environment*, INFLUENCEWATCH, <https://perma.cc/7DGG-LR5A> (“Grantham Found. Information”).

⁶¹ *Id.*; Carlo Rotella, *Can Jeremy Grantham Profit From Ecological Mayhem?*, THE NEW YORK TIMES, (Aug. 11, 2011), <https://perma.cc/EW83-TFLX>.

⁶² Grantham grantees include “the Acadia Center, American Association for the Advancement of Science, Azuero Earth Project, the Carbon Tracker Initiative, Center for Public Integrity, Climate and Health Research, Climate Foundation, CO2 Sciences, Community Foundation of Southeastern Massachusetts, Conservation Law Foundation, Conservation X Labs, Divecha Centre for Climate Change, Earth Innovation Institute, Environmental Defense Fund, Environmental League of Massachusetts, Greenpeace Fund, Health in Harmony, Linden Trust for Conservation, Lost Light Projects, Metafoundation, New England Forestry Foundation, Oxfam America, Rainforest Action Network, Rethinking Economics, Rockefeller Family Fund, Rocky Mountain Institute, Sierra Club, South Carolina Coastal Conservation, Stichting European Climate Foundation, Sustainability Accounting Standards Board, the Energy Foundation, Union of Concerned Scientists, WGBH Education Foundation, WILD AID, Woods Hole Research Center, and the World Resources Institute.” Grantham Foundation for the Protection of the Environment - InfluenceWatch; A 990-PF: Grantham Foundation for the Protection of the Environment, Return of Private Foundation Exempt From Income Tax (Form 990-PF), 2017, Form 990-PF, Part XV Line 3 – Grants and Contributions Paid During the Year or Approved for Future Payment.

⁶³ *Growald Climate Fund*, INFLUENCEWATCH, <https://perma.cc/AXP3-ULAA> (“Growald Climate Fund Information”).

⁶⁴ *Our Approach*, GROWALD CLIMATE FUND, <https://perma.cc/U53L-WGQC> (“Growald Climate Fund Approach”).

⁶⁵ *Id.*

⁶⁶ *Id.*

Letter to DOJ re: APT Report
 February 12, 2026
 Page 9

to take on the challenge of change at a critical moment for our collective future.”⁶⁷ Among the fund’s first grants was an award “to the ‘Beyond Coal’ campaign, a project of the left[-wing] Sierra Club that works to retire coal plants in favor of environmentalist energy.”⁶⁸ The Growald Fund has also issued grants to organizations including the Anti-Defamation League, the Natural Resources Defense Council, the New Venture Fund, and the World Wildlife Fund.⁶⁹

4. New Venture Fund

New Venture Fund was founded in 2006 by Eric Kessler, and it acts as a fiscal sponsor to 170 nonprofit projects, many of which engage in lobbying and civic engagement on behalf of left-wing causes.⁷⁰ New Venture Fund provides operational support to the projects that operate under its tax-exempt status, as well as serving as an incubator for early-stage or seed-funded initiatives to eventually become operational nonprofits.⁷¹ NVF also administers grants and provides resources to the projects it houses, including climate and sustainability-related groups.⁷² NVF “is the largest 501(c)(3) nonprofit in the network of five nonprofits created and managed by Arabella Advisors, a Washington, D.C.-based philanthropy consulting company that caters to major foundations and organizations on the political Left.”⁷³ Critics of NVF, “including the *New York Times*, argue that New Venture Fund is a ‘dark money’ organization, serving as a way for left-leaning foundations and donors to anonymously funnel money toward various political advocacy issues, such as attacking vulnerable Republicans or pushing environmental restrictions.”⁷⁴ NVF was implicated by the *New York Times*’ criticism of “Arabella’s ‘system of political financing, which often obscures the identities of donors,’ as ‘dark money,’ calling the network ‘a leading vehicle for it on the Left.’”⁷⁵ According to public filings, “in 2018, NVF spent \$90,387,850 on ‘civil rights, social action, and advocacy,’ of which \$44,453,476 was spent in grants to other nonprofits,” and “spent \$87,959,941 on ‘environmental programs,’ of which \$60,616,035 was spent in grants to other nonprofits.”⁷⁶

5. Windward Fund

Windward Fund is a nonprofit fiscal sponsor “managed by ‘behemoth liberal dark money nonprofit network’ Arabella Advisors.”⁷⁷ It formerly operated under Stacey Abrams and

⁶⁷ *Id.*

⁶⁸ Growald Climate Fund Information, *supra* n.63.

⁶⁹ *Id.*

⁷⁰ APT Report at 13, *supra* n.2.

⁷¹ 2024 Impact Report, NEW VENTURE FUND at 3,6, <https://perma.cc/HC25-4FTM> (“NVF 2024 Impact Report”).

⁷² *Id.*

⁷³ *New Venture Fund*, INFLUENCEWATCH, <https://perma.cc/U3EM-2U2A> (“New Venture Fund Information”).

⁷⁴ *Id.*; Kenneth P. Vogel & Katie Robertson, *Top Bidder for Tribune Newspapers Is an Influential Liberal Donor*, THE NEW YORK TIMES (Apr. 13, 2021), <https://perma.cc/CQ2G-9A4X>.

⁷⁵ New Venture Fund Information

⁷⁶ *Id.*; New Venture Fund Information; Form 990, Department of the Treasury, Internal Revenue Service, New Venture Fund, Return of Organization Exempt from Income Tax 2018, Part III — Statement of Program Service Accomplishments, <https://perma.cc/9L5T-KW7Q>.

⁷⁷ APT Report at 5, *supra* n.2.

Letter to DOJ re: APT Report
 February 12, 2026
 Page 10

worked to ban gas stoves and push extreme environmental regulations.⁷⁸ In 2024, “Windward Fund awarded over \$154 million to 337 grantees across 48 states and territories,” distributing the money it received from foreign organizations into the U.S.⁷⁹ The Windward Fund operates in conjunction with its “sister” nonprofits, the 501(c)(4) Sixteen Thirty Fund and 501(c)(3) New Venture Fund, which both provide similar funding and fiscal sponsorship services to radical left-wing advocacy organizations.⁸⁰ Windward acts as “a fiscal sponsor of ‘various projects.’”⁸¹ Windward’s activities include “provid[ing] legal compliance, finance, and HR services to its projects, and additionally seek[ing] to help its projects create greater impact through facilitating connections, providing access to information, and capacity building.”⁸²

6. The Sunrise Project

The Sunrise Project is a left-wing nonprofit that uses aggressive tactics to bring about the transition from fossil fuels to renewables “as fast as possible.”⁸³ Among its tactics is coordinating protests against the fossil fuel industry to influence public opinion about U.S. energy policy.⁸⁴ Sunrise Project “serves as an activist hub, receiving tens of millions of dollars in grants, that it then disburses in accordance with its strategic plan,” which includes “end[ing] the use of traditional energy” and “campaign[ing] to de-bank the oil and gas industry by pressuring the financial sector and various industries to not do business with it.”⁸⁵ Of the tens of millions the group receives in grants, it “regrants roughly two-thirds of the funds out” to “organizations that it believes fit into its global change strategy.”⁸⁶ Beyond its grantmaking strategy, “the project also runs a specific initiative aimed at cajoling various aspects of international finance into cutting out traditional energy providers from finance markets and to facilitate weather-dependent energy projects instead. These efforts include targeting and pressuring insurers, asset managers, private banks, central banks, private equity, bond markets, and automakers to shut out the oil and gas industry.”⁸⁷

7. Rockefeller Philanthropy Advisors

Rockefeller Philanthropy Advisors (RPA) was among the top recipients of funding from Oak Foundation, from whom it received over \$108 million since 2016.⁸⁸ RPA issues hundreds of

⁷⁸ *Id.*

⁷⁹ C. Lynn McNair, *Collaboration is Key to Solving Climate Change*, WINDWARD FUND (Nov. 15, 2024), <https://perma.cc/BG6B-GQCU>.

⁸⁰ *Windward Fund*, INFLUENCEWATCH, <https://perma.cc/3BWZ-XFZ7> (“Windward Fund Information”).

⁸¹ *Id.*

⁸² *Id.*

⁸³ APT Report at 5, *supra* n.2.

⁸⁴ *Id.*

⁸⁵ *The Sunrise Project*, INFLUENCEWATCH, <https://perma.cc/LSD7-9U6U> (“Sunrise Project Information”); *About*, THE SUNRISE PROJECT, (Apr. 23, 2018), <https://perma.cc/3EY6-AXRK>; *Grants*, THE SUNRISE PROJECT (June 26, 2018), <https://perma.cc/K33V-MYRW>.

⁸⁶ Sunrise Project Information, *supra* n.85.

⁸⁷ *Id.*; *Shifting Global Finance Beyond Fossil Fuels*, THE SUNRISE PROJECT (Apr. 14, 2025), <https://perma.cc/4L38-YHGL>.

⁸⁸ APT Report at 12, *supra* n.2.

Letter to DOJ re: APT Report
 February 12, 2026
 Page 11

millions of dollars in grants to progressive groups, including over \$400 million in 2023 alone.⁸⁹ RPA dispenses contributions it receives from foreign organizations to U.S.-based left-wing groups. Among its largest grants in 2023 were “\$10,247,809 to the Climate Leadership Initiative, \$7,797,805 to Climate Breakthroughs, \$6,633,000 to the Sustainable Markets Foundation, \$5,082,261 to Climate Arc, \$3,910,000 to Oil Change International, \$3,069,696 to the Global Alliance for Incinerator Alternatives, and \$2,853,658 to the World Wildlife Fund.”⁹⁰ Aside from its grantmaking operations, RPA also “engages in research, writes papers, and creates coalitions for purposes of guiding donors and foundations,” including “a series of donor guides, addressing issues like gender and climate change.”⁹¹

8. Center for International Environmental Law

CIEL is a public interest, not-for-profit environmental law firm founded in 1989 in the United States.⁹² CIEL accepts foreign grants and uses this money to fund whitepapers and policy research related to extreme climate policies.⁹³ Among the titles of publications by CIEL are “Accelerating the Managed Decline of Oil and Gas,” “Climate Law, Liability, and Litigation: A New Era in Climate Advocacy,” and “Leveraging legal and financial risk to end global reliance on fossil fuels.”⁹⁴ More recently, in an attempt to aid litigation against traditional energy companies, CIEL published “Smoke and Fumes: The Legal and Evidentiary Basis for Holding Big Oil Accountable for the Climate Crisis.”⁹⁵ CIEL’s policy advocacy include “oppos[ition] the use of carbon emitting fuels such as petroleum, coal, and low carbon natural gas.”⁹⁶ In addition, “CIEL has also joined coalitions that oppose the use of carbon free nuclear power, produced reports opposing the development of carbon free hydro-electric dams, and opposed the deployment of technologies that would remove carbon emissions from the atmosphere.”⁹⁷ In 2023, CIEL co-produced a “report that advocated for the World Bank Group to restrict its energy financing to only ‘renewable’ projects.”⁹⁸ CIEL also opposes net-zero goals in favor of even more extreme “real zero” goals.⁹⁹ CIEL has criticized net zero goals as “hollow” attempts to “mask climate inaction and provide cover for business-as-usual fossil fuel production that spells planetary destruction.”¹⁰⁰ CIEL engages directly in policy advocacy in the U.S. to influence public opinion regarding domestic energy policy.

⁸⁹ *Id.*

⁹⁰ *Rockefeller Philanthropy Advisors*, INFLUENCEWATCH, <https://perma.cc/9SFX-9255> (“RPA Information”); *Rockefeller Philanthropy Advisors Inc.*, PROPUBLICA NONPROFIT EXPLORER (2024), <https://perma.cc/D5NJ-WMVT> (“RPA Data”)

⁹¹ RPA Information, *supra* n.90,

⁹² *Center for International Environmenal Law*, INFLUENCEWATCH, <https://perma.cc/CYW7-BAWQ> (“CIEL Information”).

⁹³ APT Report at 9, *supra* n.2.

⁹⁴ *Id.*

⁹⁵ *Id.*

⁹⁶ CIEL Information, *supra* n.92.

⁹⁷ *Id.*

⁹⁸ *Id.*

⁹⁹ *Id.*

¹⁰⁰ *Id.*

Letter to DOJ re: APT Report
 February 12, 2026
 Page 12

9. Environmental Law Institute

ELI is a left-wing environmentalist legal advocacy organization that runs judicial education programs to teach judges left-wing climate policy and legal theories.¹⁰¹ The group is also known for teaching and advocating for the “far-left concept of environmental justice.”¹⁰² The group’s Climate Judiciary Project was the subject of a House Judiciary Committee investigation to determine whether the group sought to influence judicial decision-making in climate-related litigation.¹⁰³ ELI “develops law and policy, advocates environmentalist policy outcomes to professionals and the public, provides data and analysis, and convenes various groups to address environmental issues.”¹⁰⁴ Additionally, ELI “supports the creation of regulatory rules to address the critical race theory-influenced concept of racial justice, operates the Climate Equity for Local Governments initiative that supports the far-left concept of environmental justice, publishes *The Environmental Law Reporter*, operates an Emerging Leaders Initiative, runs a podcast, and seeks to influence global environmental law and governance practices.”¹⁰⁵

10. Ceres

Ceres Inc. is a Boston-based 501(c)(3) that coordinates institutional investors to influence corporate behavior and push the adoption of radical ESG policies in “every aspect of decision-making” and costly climate disclosures for public energy companies.¹⁰⁶ Ceres was a founding partner and driving force behind the Net Zero Asset Managers Initiative and Climate Action 100+, which brought together asset managers from around the world to engage in a coordinated effort to push for ESG policies and emissions disclosures from portfolio companies.¹⁰⁷ Ceres and its related initiatives “leverage[d] a network of investors totaling more than \$32 trillion in assets to pressure companies into adopting Ceres’ preferred [climate and ESG] policies.”¹⁰⁸ Ceres’ own stated purpose is to “pressure stock exchanges and capital market regulators to improve climate and sustainability risk disclosure, and opportunities to advocate for stronger climate, clean energy and water policies at all levels of government.”¹⁰⁹ Ceres also operates the Business for Innovative Climate and Energy Policy (BICEP) Network which “provides members with the tools and knowledge they need to effectively engage with state and federal policymakers on climate

¹⁰¹ *Environmental Law Institute*, INFLUENCEWATCH, <https://perma.cc/ZDQ5-5D7H> (“ELI Information”).

¹⁰² *Id.*; *Welcome to the Environmental Justice Initiative at ELI*, ENV’T L. INST., <https://perma.cc/C6J5-VVY5> (“Environmental Justice at ELI”).

¹⁰³ Katelynn Richardson, *Exclusive: House Committee Opens Probe into Climate Activist Group Attempting to ‘influence’ Judges*, THE DAILY CALLER, (Sep. 1, 2025), <https://perma.cc/LFP8-DTTN>.

¹⁰⁴ ELI Information, *supra* n.101; *2021 Annual Report*, ENV’T L. INST. at 19, <https://perma.cc/J6KR-UZ4S> (“ELI 2021 Report”).

¹⁰⁵ ELI Information, *supra* n.101.

¹⁰⁶ APT Report at 15, *supra* n.2.

¹⁰⁷ <https://www.ceres.org/initiatives/climate-action-100>.

¹⁰⁸ Ceres, INFLUENCEWATCH, <https://perma.cc/5ZWX-BGWJ> (“Ceres Information”).

¹⁰⁹ *Ceres Investor Network*, CERES, <https://perma.cc/J563-GAJH> (“Ceres Investor Network”).

Letter to DOJ re: APT Report
 February 12, 2026
 Page 13

and energy policies.”¹¹⁰ Additionally, “[b]etween 2020 through October 2023, Ceres increased the amount it spent on lobbying, from around \$80,000 in 2020 to at least \$270,000 in 2022, an amount which the organization claimed was on track to match or exceed as of the second quarter of 2023.”¹¹¹

11. Rocky Mountain Institute

RMI, founded by activist Amory Lovins in 1982, is a China-linked, U.S.-based nonprofit and think tank that engages in climate policy analysis and advocacy.¹¹² RMI’s goal is to replace fossil fuel usage with renewable energy sources, though the group also opposes nuclear energy projects.¹¹³ The group also has ties to China through an official partnership with the National Development and Reform Commission, a Chinese government agency.¹¹⁴ In 2022, RMI published a study claiming that gas stoves are linked to childhood asthma and advocating for a ban on gas stoves.¹¹⁵ RMI is also linked to billionaire activist donor Fred Stanback and his family, who has been noted as a “proponent of anti-humanist environmentalism . . . the belief that protecting the environment hinges on population control.”¹¹⁶ RMI’s research is used by RMI and other left-wing climate organizations to push radical environmentalist views in their efforts to influence public opinion and legislation concerning energy policy in the United States.

12. Environmental Defense Fund

Founded in 1966, EDF is a nonprofit environmental activist group whose annual revenues have ballooned to nearly \$250 million in 2023.¹¹⁷ EDF uses “litigation programming” to advance its extreme left-wing climate agenda, which includes “a federally mandated 20 percent decrease in carbon emissions in less than a decade; a 40-50 percent reduction in methane emissions resulting from natural gas production; and mandated reductions in chemicals that the EDF argues impact human health.”¹¹⁸ EDF has deep ties to former President Barack Obama, and has pledged to oppose President Donald Trump’s environmental policies.¹¹⁹ The group has a related lobbying arm in the Environmental

¹¹⁰ Ceres Information, *supra* n.108; *Client Profile: Ceres*, OPENSECRETS, <https://perma.cc/T2HT-3MMT> (“Ceres Client Profile”).

¹¹¹ Ceres Information, *supra* n.108.

¹¹² *Rocky Mountain Institute*, INFLUENCEWATCH, <https://perma.cc/6V2U-77ZJ> (“RMI Information”).

¹¹³ *Id.*

¹¹⁴ Colin Anderson & Joseph Simonsan, *Meet the Green Energy Group Behind the Study That’s Driving Calls To Ban Gas Stoves*, THE WASHINGTON FREE BEACON (Jan. 16, 2023), <https://perma.cc/XE9R-4YL2>.

¹¹⁵ *Id.*

¹¹⁶ Ken Braun, ‘Anti-Humanist Environmentalism’ and the Foundation for the Carolinas, CAP. RSCH. CTR. (June 18, 2019), <https://perma.cc/JFR8-8LGA> (internal citations omitted).

¹¹⁷ *Environmental Defense Fund*, INFLUENCEWATCH, <https://perma.cc/TK5S-EMTV> (“EDF Information”).

¹¹⁸ *Id.*

¹¹⁹ Don’t Give Up: Stand Against Trump’s Climate Attacks.” Environmental Defense Fund. Undated. Accessed September 22,

Letter to DOJ re: APT Report
 February 12, 2026
 Page 14

Defense Action Fund, a 501(c)(4) organization.¹²⁰ EDF's activities include "lobbying, research, communications, litigation, and providing legal advisory to other organizations."¹²¹ Among the initiatives EDF supports are expanding California's cap and trade program, a federally mandated 30% cut in power-plant emissions, and an approximately 40-50% reduction in methane emissions from natural gas production.¹²²

13. Institute for Governance and Sustainable Development

IGSD is a radical left-wing climate advocacy organization that supports the Green New Deal and other extreme climate initiatives to "eliminate the use of conventional fuels."¹²³ In addition to its climate advocacy in the U.S., the group "works with international organizations to promote agreements to combat climate change."¹²⁴ Within the U.S., "IGSD targets professionals to push its environmentalist agenda, working with lawyers, political scientists, economists, and scientists," including through establishing "the Program on Governance for Sustainable Development at the University of California-Santa Barbara" to direct research to support environmentalist projects.¹²⁵ Additionally, "IGSD has received over \$6.2 million in grants from the U.S. government since 2008."¹²⁶ Among its most radical initiatives, since 2017 IGSD has operated the Center for Climate Integrity (CCI). "CCI supports lawsuits against energy companies to push for environmental regulation. CCI works to encourage citizen groups and governments to sue energy companies, billing the lawsuits as necessary to force polluters to pay for the damage of climate change instead of shifting the costs to taxpayers."¹²⁷

14. Tides Nexus (Tides Foundation and Tides Center)

The Tides Nexus, a system of related nonprofits founded in 1976 by left-wing activist Drummond Pike, includes the Tides Network, a 501(c)(3) nonprofit headquartered in San Francisco which operates as the controlling organization for the system; the Tides Center, the group's fiscal sponsorship organization; the Tides Foundation, the system's pass through funder and grantmaking organization; and Tides Advocacy, the group's 501(c)(4) entity.¹²⁸ In

2017. https://secure2.edf.org/site/Advocacy?cmd=display&id=2852&page=UserAction&utm_source=twitter&utm_campaign=edf_content-share_upd_mem&utm_medium=referral&utm_id=1478728172&utm_content=alert-short.

¹²⁰ EDF Information, *supra* n.117.

¹²¹ *Id.*

¹²² *Id.*

¹²³ *Institute for Governance and Sustainable Development*, INFLUENCEWATCH, <https://perma.cc/EU4G-MKGW> ("IGSD Information").

¹²⁴ *Id.*

¹²⁵ *Id.*; *Research & Education*, IGSD (2020), <http://www.igsd.org/about/research-and-education/>.

¹²⁶ IGSD Information, *supra* n.123; Robert Stilson, *Green New Deal Supporters Use Taxpayer Dollars*, CAP. RSCH. CTR. (June 21, 2019) <https://perma.cc/2388-YG66>.

¹²⁷ IGSD Information, *supra* n.123.

¹²⁸ *Tides Nexus*, INFLUENCEWATCH, <https://perma.cc/U2NA-ZFRQ> ("Tides Nexus Information"); *Tides Network*, INFLUENCEWATCH, <https://perma.cc/AM23-V9SE> ("Tides Network Information"); *Tides*

Letter to DOJ re: APT Report
 February 12, 2026
 Page 15

2023 alone, the Tides Nexus—through its associated entities—issued over 4,000 grants and served as fiscal sponsor for over 120 different groups.¹²⁹ The Tides Foundation, in addition to receiving millions of dollars in foreign money from groups like CIFF, has been noted as “George Soros’ Favorite Money Handler” when it was discovered that Soro’s Open Society Foundation had given at least \$17.2 million to the Tides Foundation between 2009 and 2022.¹³⁰ Additionally, “[t]he Tides Nexus has been described as an organization that ‘washes’ away the paper trail between its grants and the original donor.”¹³¹ Tides founder Drummond Pike reportedly stated, “Anonymity is very important to most of the people we work with.”¹³²

II. FARA

Absent an exemption, an individual or entity must register under FARA if it acts as an “agent” of a “foreign principal” and engages in certain activities that trigger registration. See 22 U.S.C. § 612(a).

A. Foreign Principal

FARA defines a foreign principal to include “a government of a foreign country and a foreign political party,” as well as a “partnership, association, corporation, organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country.” *Id.* § 611(b); *see also* 28 C.F.R. 5.100(a)(8). The foreign entities identified in the APT Report all appear to fall within this definition.

OF. As a charitable foundation incorporated in Switzerland and seemingly headquartered in Geneva,¹³³ OF (registered as Oak Philanthropy Ltd) appears to be an “organization” or “combination of persons organized under the laws of” a foreign country with a “principal place of business in a foreign country.” 22 U.S.C. § 611(b)(3). As a result, it qualifies as a foreign principal.

QCF. As a U.K.-registered charity with headquarters seemingly in London,¹³⁴ QCF appears to be an “organization” or “combination of persons organized under the laws of” a foreign country with a “principal place of business in a foreign country.” 22 U.S.C. § 611(b)(3). As a result, it qualifies as a foreign principal.

CIFF. As a U.K.-registered charity seemingly headquartered in London,¹³⁵ CIFF appears to be an “organization” or “combination of persons organized under the laws of” a foreign

Foundation, INFLUENCEWATCH, <https://perma.cc/78XK-9CKB>; *Tides Center*, INFLUENCEWATCH, <https://perma.cc/LQ29-AK63>.

¹²⁹ Tides Network Information, *supra* n.128.

¹³⁰ Carl Horowitz, *The Tides Center: George Soros’ Favorite Money Handler?*, NAT’L LEGAL AND POL’Y CTR. (April 21, 2025) <https://perma.cc/28AR-NNEC>.

¹³¹ Tides Nexus Information, *supra* n.128.

¹³² *Charitable Money-Laundering*, CTR. FOR CONSUMER FREEDOM (Mar. 9, 2004), <https://perma.cc/MH6U-N2SJ>.

¹³³ *Our Values*, OAK FOUND., <https://perma.cc/TA3P-A6CX>.

¹³⁴ *About Us*, QUADRATURE CLIMATE FOUND., <https://perma.cc/B3RE-MJZP>.

¹³⁵ *About Us*, CHILD’S INV. FOUND., <https://perma.cc/5ZXB-A4DL>. [Contact](#)

Letter to DOJ re: APT Report
 February 12, 2026
 Page 16

country with a “principal place of business in a foreign country.” 22 U.S.C. § 611(b)(3). As a result, it qualifies as a foreign principal.

KR. As a charitable foundation incorporated in Denmark and seemingly headquartered in Copenhagen,¹³⁶ KR appears to be an “organization” or “combination of persons organized under the laws of” a foreign country with a “principal place of business in a foreign country.” 22 U.S.C. § 611(b)(3). As a result, it qualifies as a foreign principal.

Laudes. As a charitable foundation incorporated in Switzerland and seemingly headquartered in Zug,¹³⁷ Laudes appears to be an “organization” or “combination of persons organized under the laws of” a foreign country with a “principal place of business in a foreign country.” 22 U.S.C. § 611(b)(3). As a result, it qualifies as a foreign principal.

B. Agency Relationships

“Agent of a foreign principal” is defined to include “[a] any person who acts as an agent, representative, employee, or servant, or [b] any person who acts in any other capacity at the order, request, or under the direction or control, [i] of a foreign principal or [ii] of a person any of whose activities are directly or indirectly supervised, directed, controlled, financed, or subsidized in whole or in major part by a foreign principal” and engages in specified activities. *Id.* § 611(c)(1); *see* 28 C.F.R. § 5.100(b) (defining control “[a]s used in the Act”). Each domestic entity appears to have or have had an agency relationship with a foreign principal.

1. Each Grantee of the Oak Foundation is an Agent of Oak within the United States. As outlined above, each of Oak’s grantees has received hundreds of thousands or millions of dollars of grants from Oak¹³⁸, which generally claims that grantees go through a “rigorous due diligence and selection process, which includes extensive discussions, financial reviews, and site visits to ensure the organisations have robust internal processes and controls, a clear strategy, and the capacity to thrive.”¹³⁹ Oak also states that “the majority of awards are multi-year in duration,” demonstrating an ongoing relationship between Oak and grantees.¹⁴⁰ Finally, Oak “creates a grant letter to align expectations about the terms of the grant. The letter is reviewed and signed by both Oak and the grantee partner.”¹⁴¹ Assuming Oak followed its procedures with each grantee identified in the APT report, its requirements and grant-making process are strong evidence of an agency relationship. For example, an October 15, 2021 FARA Advisory Opinion addressing a grant to a domestic nonprofit concluded an agency relationship existed where (1) there was a contract between the parties that “obligated” the requester “to perform specified and detailed obligations for the benefit of [the foreign principal] in order to receive funding,” and (2) the requester, to continue to receive funding, had to provide “detailed narrative reports of its progress in achieving the

¹³⁶ *About Us*, KR FOUND., <https://perma.cc/4Y9M-68GY>.

¹³⁷ *Privacy Statement*, LAUDES FOUND., <https://perma.cc/D4XT-L6MA>.

¹³⁸ OF claims that the average award is \$900,000 USD. OF Grant-Making Pol’y, *supra* n.9.

¹³⁹ *Id.*

¹⁴⁰ *Id.*

¹⁴¹ OF Grant Application Process at 3, *supra* n.12.

Letter to DOJ re: APT Report
 February 12, 2026
 Page 17

objectives set out in the” parties’ agreement along with “a final narrative report at the completion of the project.”¹⁴² Even if there were not an express agreement—Oak’s policies suggest there is one—an agency relationship may still exist. According to a December 21, 2023 Advisory Opinion from the DOJ FARA Unit to a nonprofit, any mutual understanding as to how a domestic entity can best “support” a foreign principal’s initiatives can potentially give rise to an agency relationship.¹⁴³

2. *Each Grantee of QCF is an Agent of QCF within the United States.* As outlined above, each of QCF’s grantees has received hundreds of thousands or millions of dollars of grants from QCF,¹⁴⁴ and as one would expect when receiving grants for tens or hundreds of millions of dollars, QCF grantees are subject to ongoing QCF monitoring and reporting requirements so that QCF can provide “tailored support” and involvement.¹⁴⁵ Additionally QCF monitors grantees and collects data from their programmes “to assess QCF’s contributions.”¹⁴⁶ According to QCF’s “Impact Framework,” it closely “track[s] the contribution of our programmes to climate solutions that reduce and remove emissions.”¹⁴⁷ QCF collects and monitors data from its partners through a “structured approach to data collection across [its] goals and [its] portfolio.”¹⁴⁸ In part, QCF uses its data collection to “understand how programmes are progressing, so we can provide tailored support.”¹⁴⁹

Assuming QCF followed its procedures with each grantee identified in the APT report, its requirements and grant-making process are strong evidence of an agency relationship. As stated above, DOJ FARA advisory opinions have found an agency relationship where (1) there was “a contract between the parties” that “obligated” the requester “to perform specified and detailed obligations for the benefit of [the foreign principal] in order to receive funding,” and (2) the requester, to continue to receive funding, had to provide “detailed narrative reports of its progress in achieving the objectives set out in the” parties’ agreement along with “a final narrative report at the completion of the project.”¹⁵⁰ Even if there were not an express agreement—QCF’s policies suggest there is—an agency relationship may still exist. As stated above, according to a December 21, 2023 Advisory Opinion from the DOJ FARA Unit to a nonprofit, any mutual understanding as to how a domestic entity can best “support” a foreign principal’s initiatives can potentially give rise to an agency relationship.¹⁵¹

¹⁴² Advisory Opinion Pursuant to 28 C.F.R. § 5.2 at 2–3 (U.S. Dep’t of Justice Oct. 15, 2021), <https://perma.cc/QU7H-SYCH> (“DOJ Advisory Opinion”).

¹⁴³ DOJ, FARA Unit, *Advisory Opinion*, at 6 (Dec. 21, 2023), <https://www.justice.gov/nsdfara/media/1355096/dl?inline>.

¹⁴⁴ APT Report at 21–31, *supra* n.2.

¹⁴⁵ See Section I.A.2., above.

¹⁴⁶ QCF Impact Framework at 3, *supra* n.2.

¹⁴⁷ *Id.* at 2.

¹⁴⁸ *Id.* at 3.

¹⁴⁹ *Id.*

¹⁵⁰ DOJ Advisory Opinion at 3, *supra* n.142.

¹⁵¹ DOJ, FARA Unit, *Advisory Opinion*, at 6 (Dec. 21, 2023), <https://www.justice.gov/nsdfara/media/1355096/dl?inline>.

Letter to DOJ re: APT Report
 February 12, 2026
 Page 18

3. *Each Grantee of CIFF is an Agent of CIFF within the United States.* As described above and in the December 16, 2025 DOJ Letter, CIFF exercises considerable continuing control and oversight of its grantees, providing strong evidence of an agency relationship under FARA. CIFF describes a rigorous process for selection and oversight of grantees, including “a full programme budget and mapped work plan [] developed by the grantee and the [Foundation] sector teams during the due diligence phase,” and approvals obtained by the Board and/or Programme Investment Committees.¹⁵² Additionally, all grantees must submit “performance reviews” and grant funding is conditioned “upon adherence to the work-plan, budget[s],” “milestones,” and other criteria.¹⁵³ This express contracting, as well as ongoing supervision and monitoring of grantees for compliance with CIFF’s goals is strong evidence of agency relationships between CIFF and its grantees.

4. *Each Grantee of KR is an Agent of KR within the United States.* As described above, KR’s terms and conditions for administration of grants imposes “regular reporting requirements” which include a “Narrative Progress Report” and an “Interim Financial Statement.”¹⁵⁴ KR also conditions the release of the final ten percent of the grant amount “upon approval of the grantee’s final reporting.”¹⁵⁵ Additionally, the grant terms provide that “[t]he Foundation reserves the right to demand supervision, research, monitoring and evaluation of the activities using own consultants, who should at any time have unlimited access to all information. The grantee accepts to bear own costs related to presenting information and participating in meetings and in activities relating to such monitoring, research and evaluation activities as may be required by the Foundation.”¹⁵⁶ Such ongoing reporting and supervisory provisions set forth in a detailed grant agreement is strong evidence of an agency relationship.

5. *Each Grantee of Laudes is an Agent of Laudes within the United States.* As described above, Laudes’ grant information page states its requirement that each grantee’s “project aligns with our mission and priorities.”¹⁵⁷ Additionally, under the heading “Start of partnership” Laudes provides “[u]pon approval, we will sign a grant agreement outlining the grant activities, intended outcomes, general terms and conditions as well as the reporting and disbursement schedule.”¹⁵⁸ Laudes also publishes a guide for reporting requirements for grantees described as “Measurement and Evaluation.”¹⁵⁹ This guide describes annual reports and follow-up meetings with a Laudes point of contact for the duration of the grant.¹⁶⁰ These ongoing reporting requirements, express grant agreements and terms, and continued “partnership” with Laudes strongly suggest an agency relationship between Laudes and its U.S.-based grantees.

¹⁵² CIFF 2024 Annual Report at 40, *supra* n.29.

¹⁵³ CIFF 2023 Annual Report at 35, *supra* n.30.

¹⁵⁴ KR Found. Grant Terms at 2, *supra* n.37.

¹⁵⁵ *Id.*

¹⁵⁶ *Id.* at 3.

¹⁵⁷ Laudes Becoming a Partner, *supra* n.44.

¹⁵⁸ *Id.*

¹⁵⁹ Laudes Initiative Requirements at 1, *supra* n.46.

¹⁶⁰ *Id.* at 2.

Letter to DOJ re: APT Report
 February 12, 2026
 Page 19

C. Registrable Activities

While many activities give rise to the obligation to register under FARA, most relevant here are the activities of engaging in “political activities for or in the interests of [a] foreign principal.” 22 U.S.C. § 611(c)(1)(i), and “solicit[ing], collect[ing], disburse[ing], or dispense[ing] contributions, loans, money, or other things of value for or in the interest of” a foreign principal. *Id.* § 611(c)(1)(iii). Political activities are defined to include “any activity that the person engaging in believes will, or that the person intends to, in any way influence any agency or official of the Government of the United States or any section of the public within the United States with reference to formulating, adopting, or changing the domestic or foreign policies of the United States or with reference to the political or public interests, policies, or relations of a government of a foreign country or a foreign political party.” *Id.* § 611(o) (emphasis added).

i. ClimateWorks Foundation

ClimateWorks engages in political activities intended to “influence . . . the public within the United States with reference to formulating, adopting, or changing the domestic or foreign policies of the United States.” 22 U.S.C. § 611(o). ClimateWorks has received large grants to support “the acceleration of electric vehicles” and “financial regulation advocacy to address climate risk.”¹⁶¹ In addition, ClimateWorks “advances its left-of-center environmentalism through a wide array of projects, international partnerships, and campaigns, including its [] Project Catalyst and its 2021 ‘Drive Electric Campaign’ which seeks to prohibit the new sale of combustion engine vehicles in phases by 2040.”¹⁶² Such campaign and advocacy activities are apparently intended to “influence . . . the public within the United States with reference to formulating, adopting, or changing the domestic or foreign policy of the United States,” and therefore constitute political activity triggering registration obligations under FARA.

ClimateWorks “disburses, or dispenses contributions . . . money, or other things of value for or in the interest of [a] foreign principal” within the United States. 22 U.S.C. § 611(c)(iii). As stated above, ClimateWorks is left-wing pass-through funding entity “that distributes funds from donors to environmentalist advocacy groups around the world.”¹⁶³ ClimateWorks aims to combat global warming and cut emissions by “fund[ing] bold climate strategies.”¹⁶⁴ ClimateWorks has received large grants to “support the acceleration of electric vehicles” and “financial regulation advocacy to address climate risk”¹⁶⁵ including a combined over \$344 million from the five foreign organizations identified by the APT Report.¹⁶⁶ ClimateWorks in turn has issued over 2,800 grants totaling over \$2 billion since 2008, including to “Center for American Progress (CAP), CERES, Environmental Defense Fund (EDF), League of Conservation Voters (LCV), New Venture Fund, and

¹⁶¹ APT Report at 5, *supra* n.2.

¹⁶² ClimateWorks Information, *supra* n.50; Drive Electric Article, *supra* n.55.

¹⁶³ ClimateWorks Information, *supra* n.50.

¹⁶⁴ ClimateWorks Approach, *supra* n.51.

¹⁶⁵ APT Report at 5, *supra* n.2.

¹⁶⁶ *Id.* at 21, 23, 25, 29, 30.

Letter to DOJ re: APT Report
 February 12, 2026
 Page 20

Windward Fund,” operating as a “foreign dark money ATM to fuel other liberal climate advocacy groups.”¹⁶⁷ Many of the groups it funds “lobby for climate-based policies including emissions taxes, restricting coal use, international climate treaties with strict enforcement mechanisms, and diminishing the use of cars.”¹⁶⁸ ClimateWorks’s activities appear to come within the ambit of FARA because they constitute “disburs[ing]” or “dispens[ing] contributions . . . money, or other things of value for or in the interest of [a] foreign principle,”—registrable activity that triggers registration obligations under FARA.

ii. Grantham Foundation

Grantham “disburses, or dispenses contributions . . . money, or other things of value for or in the interest of [a] foreign principal” within the United States. 22 U.S.C. § 611(c)(iii). As stated above, Grantham funds a range of climate initiatives from “grassroots efforts to stop the development of coal plants” to funding the “Global Trends in Climate Change” annual report, which tracks climate-related litigation.¹⁶⁹ Grantham provides grants to dozens of left-wing climate organizations that are either pass-through funding organizations themselves or else engage in direct climate and environmental activism and advocacy.¹⁷⁰ As the APT Report shows, Grantham received over \$80 million from QCF to fund its grantmaking activities, money which Grantham “disburses, or dispenses” . . . “in the interest of a foreign principal” within the United States.

iii. Growald Climate Fund

Growald “disburses, or dispenses contributions . . . money, or other things of value for or in the interest of [a] foreign principal” within the United States. 22 U.S.C. § 611(c)(iii). As stated above, the Growald Climate Fund distributes grants to fund left-wing “environmentalist causes with a focus on environmentalist energy and the electricity sector.”¹⁷¹ The Growald Climate Fund has received over \$80 million from QCF which it will presumably use for additional grantmaking for U.S. climate initiatives. Growald uses a “venture philanthropy” model, actively “investing” in early-stage or innovative climate organizations similar to a venture capital fund.¹⁷² Growald’s stated goal is to engage in “high-impact venture philanthropy” to “catalyz[e] the rapid transition to a clean energy future.”¹⁷³ Growald’s grantmaking activities using funds it receives from foreign agents apparently constitute “disburs[ing], or dispens[ing] contributions” or “money, or other things of value for or in the interest of [a] foreign principal” within the United States. As such, Growald’s activities likely trigger registration obligations under FARA.

¹⁶⁷ APT Report at 5, *supra* n.2; ClimateWorks Approach, *supra* n.51.

¹⁶⁸ ClimateWorks Information, *supra* n.50.

¹⁶⁹ APT Report at 5, *supra* n.2.

¹⁷⁰ See Section I.B.2., above.

¹⁷¹ Growald Climate Fund Information, *supra* n.63.

¹⁷² Growald Climate Fund Approach, *supra* n.64.

¹⁷³ *Id.*

Letter to DOJ re: APT Report
 February 12, 2026
 Page 21

iv. New Venture Fund

NVF “disburses, or dispenses contributions . . . money, or other things of value for or in the interest of [a] foreign principal” within the United States. 22 U.S.C. § 611(c)(iii). As stated above, NVF acts as a fiscal sponsor to 170 nonprofit projects, many of which engage in lobbying and civic engagement on behalf of left-wing causes.¹⁷⁴ New Venture Fund provides operational support to the projects that operate under its tax-exempt status, as well as serving as an incubator for early-stage or seed-funded initiatives to eventually become operational nonprofits.¹⁷⁵ NVF also administers grants and provides resources to the projects it houses, including climate and sustainability-related groups.¹⁷⁶ NVF’s activities using funds it receives from foreign agents apparently constitute “disburs[ing], or dispens[ing] contributions” or “money, or other things of value for or in the interest of [a] foreign principal” within the United States. As such, NVF’s activities likely trigger registration obligations under FARA.

v. Windward Fund

Windward “disburses, or dispenses contributions . . . money, or other things of value for or in the interest of [a] foreign principal” within the United States. 22 U.S.C. § 611(c)(iii). As stated above, Windward Fund is a nonprofit fiscal sponsor part of the Arabella Advisors-managed group of funds.¹⁷⁷ Windward received over \$72 million from the foreign funding groups analyzed in the APT Report.¹⁷⁸ In 2024, “Windward Fund awarded over \$154 million to 337 grantees across 48 states and territories,” distributing the money it received from foreign organizations into the U.S.¹⁷⁹ The Windward Fund operates in conjunction with its “sister” nonprofits, the 501(c)(4) Sixteen Thirty Fund and 501(c)(3) New Venture Fund, which both provide similar funding and fiscal sponsorship services to radical left-wing advocacy organizations.¹⁸⁰ Windward’s activities include “provid[ing] legal compliance, finance, and HR services to its projects, and additionally seek[ing] to help its projects create greater impact through facilitating connections, providing access to information, and capacity building.”¹⁸¹ Windward’s activities using funds it receives from foreign agents apparently constitute “disburs[ing], or dispens[ing] contributions” or “money, or other things of value for or in the interest of [a] foreign principal” within the United States. As such, Windward’s activities likely trigger registration obligations under FARA.

¹⁷⁴ APT Report at 13, *supra* n.2.

¹⁷⁵ NVF 2024 Impact Report at 2, 3, 6, *supra* n.71.

¹⁷⁶ *Id.*

¹⁷⁷ APT Report at 5, *supra* n.2.

¹⁷⁸ *Id.* at 24, 28, 31.

¹⁷⁹ McNair, *supra* n.79.

¹⁸⁰ Windward Fund Information, *supra* n.80.

¹⁸¹ *Id.*

Letter to DOJ re: APT Report
 February 12, 2026
 Page 22

vi. The Sunrise Project

Sunrise Project engages in political activities intended to “influence . . . the public within the United States with reference to formulating, adopting, or changing the domestic or foreign policies of the United States.” 22 U.S.C. § 611(o). As stated above, the Sunrise Project uses aggressive tactics to bring about the transition from fossil fuels to renewables “as fast as possible.”¹⁸² Among its tactics is coordinating protests against the fossil fuel industry to influence public opinion about U.S. energy policy.¹⁸³ Additionally, “the project also runs a specific initiative aimed at cajoling various aspects of [] finance into cutting out traditional energy providers from finance markets and to facilitate weather-dependent energy projects instead. These efforts include targeting and pressuring insurers, asset managers, private banks, central banks, private equity, bond markets, and automakers to shut out the oil and gas industry.”¹⁸⁴ Such campaign and advocacy activities are apparently intended to “influence . . . the public within the United States with reference to formulating, adopting, or changing the domestic or foreign policy of the United States,” and therefore constitute political activity triggering registration obligations under FARA.

Sunrise Project “disburses, or dispenses contributions . . . money, or other things of value for or in the interest of [a] foreign principal” within the United States. 22 U.S.C. § 611(c)(iii). As stated above, the Sunrise Project “serves as an activist hub, receiving tens of millions of dollars in grants, that it then disburses in accordance with its strategic plan,” which includes “end[ing] the use of traditional energy” and “campaign[ing] to de-bank the oil and gas industry by pressuring the financial sector and various industries to not do business with it.”¹⁸⁵ Of the tens of millions the group receives in grants, it “regrants roughly two-thirds of the funds out” to “organizations that it believes fit into its global change strategy.”¹⁸⁶ Sunrise Project’s activities using funds it receives from foreign agents apparently constitute “disburs[ing], or dispens[ing] contributions” or “money, or other things of value for or in the interest of [a] foreign principal” within the United States. As such, Sunrise Project’s activities likely trigger registration obligations under FARA.

vii. Rockefeller Philanthropy Advisors

RPA engages in political activities intended to “influence . . . the public within the United States with reference to formulating, adopting, or changing the domestic or foreign policies of the United States.” 22 U.S.C. § 611(o). As stated above, in addition to considerable grantmaking activities, RPA “engages in research, writes papers, and creates coalitions for purposes of guiding donors and foundations,” including “a series of donor guides, addressing issues like gender and climate change.”¹⁸⁷ Such campaign and advocacy activities are apparently intended to “influence . . . the public within the United States with reference to formulating, adopting, or changing the domestic or foreign policy of

¹⁸² APT Report at 5, *supra* n.2.

¹⁸³ *Id.* at 6.

¹⁸⁴ Sunrise Project Information, *supra* n.85; *Shifting Global Finance Beyond Fossil Fuels*, *supra* n.87.

¹⁸⁵ Sunrise Project Information, *supra* n.85; *About*, *supra* n.85; *Grants*, *supra* n.85.

¹⁸⁶ Sunrise Project Information, *supra* n.85.

¹⁸⁷ RPA Information, *supra* n.90.

Letter to DOJ re: APT Report
 February 12, 2026
 Page 23

the United States,” and therefore constitute political activity triggering registration obligations under FARA.

RPA “disburses, or dispenses contributions . . . money, or other things of value for or in the interest of [a] foreign principal” within the United States. 22 U.S.C. § 611(c)(iii). As stated above, RPA was among the top recipients of funding from Oak Foundation, from whom it received over \$108 million since 2016.¹⁸⁸ RPA issues hundreds of millions of dollars in grants to progressive groups, including over \$400 million in 2023 alone.¹⁸⁹ RPA dispenses contributions it receives from foreign organizations to U.S.-based left-wing groups. Among its largest grants in 2023 were “\$10,247,809 to the Climate Leadership Initiative, \$7,797,805 to Climate Breakthroughs, \$6,633,000 to the Sustainable Markets Foundation, \$5,082,261 to Climate Arc, \$3,910,000 to Oil Change International, \$3,069,696 to the Global Alliance for Incinerator Alternatives, and \$2,853,658 to the World Wildlife Fund.”¹⁹⁰ RPA’s activities using funds it receives from foreign agents apparently constitute “disburs[ing], or dispens[ing] contributions” or “money, or other things of value for or in the interest of [a] foreign principal” within the United States. As such, RPA’s activities likely trigger registration obligations under FARA.

viii. Center for International Environmental Law

CIEL engages in political activities intended to “influence . . . the public within the United States with reference to formulating, adopting, or changing the domestic or foreign policies of the United States.” 22 U.S.C. § 611(o). As stated above, CIEL accepts foreign grants and uses this money to fund whitepapers and policy research related to extreme climate policies.¹⁹¹ Among the titles of publications by CIEL are “Accelerating the Managed Decline of Oil and Gas,” “Climate Law, Liability, and Litigation: A New Era in Climate Advocacy,” and “Leveraging Legal and Financial Risk to End Global Reliance on Fossil Fuels.”¹⁹² More recently, in an attempt to aid litigation against traditional energy companies, CIEL published “Smoke and Fumes: The Legal and Evidentiary Basis for Holding Big Oil Accountable for the Climate Crisis.”¹⁹³ CIEL’s policy advocacy include “oppos[ition] the use of carbon emitting fuels such as petroleum, coal, and low carbon natural gas.”¹⁹⁴ In addition, “CIEL has also joined coalitions that oppose the use of carbon free nuclear power, produced reports opposing the development of carbon free hydro-electric dams, and opposed the deployment of technologies that would remove carbon emissions from the atmosphere.”¹⁹⁵ In 2023, CIEL co-produced a “report that advocated for the World Bank Group to restrict its energy financing to only ‘renewable’ projects.”¹⁹⁶ CIEL also opposes net-

¹⁸⁸ APT Report at 12.

¹⁸⁹ *Id.*

¹⁹⁰ RPA Information, *supra* n.90; RPA Data, *supra* n.90.

¹⁹¹ APT Report at 9.

¹⁹² *Id.*

¹⁹³ *Id.*

¹⁹⁴ CIEL Information, *supra* n.92.

¹⁹⁵ *Id.*

¹⁹⁶ *Id.*

Letter to DOJ re: APT Report
 February 12, 2026
 Page 24

zero goals in favor of even more extreme “real zero” goals.¹⁹⁷ CIEL has criticized net zero goals as “hollow” attempts to “mask climate inaction and provide cover for business-as-usual fossil fuel production that spells planetary destruction.”¹⁹⁸ CIEL engages directly in policy advocacy in the U.S. to influence public opinion regarding domestic energy policy. Such campaign and advocacy activities are apparently intended to “influence . . . the public within the United States with reference to formulating, adopting, or changing the domestic or foreign policy of the United States,” and therefore constitute political activity triggering registration obligations under FARA.

ix. Environmental Law Institute

ELI engages in political activities intended to “influence . . . the public within the United States with reference to formulating, adopting, or changing the domestic or foreign policies of the United States.” 22 U.S.C. § 611(o). As stated above, ELI runs judicial education programs to teach judges left-wing climate policy and legal theories.¹⁹⁹ The group is also known for teaching and advocating for the “far-left concept of environmental justice.”²⁰⁰ The group’s Climate Judiciary Project was the subject of a House Judiciary Committee investigation to determine whether the group sought to influence judicial decision-making in climate-related litigation.²⁰¹ ELI “develops law and policy, advocates environmentalist policy outcomes to professionals and the public, provides data and analysis, and convenes various groups to address environmental issues.”²⁰² Additionally, ELI “supports the creation of regulatory rules to address the critical race theory-influenced concept of racial justice, operates the Climate Equity for Local Governments initiative that supports the far-left concept of environmental justice, publishes *The Environmental Law Reporter*, operates an Emerging Leaders Initiative, runs a podcast, and seeks to influence global environmental law and governance practices.”²⁰³ Such campaign and advocacy activities are apparently intended to “influence . . . the public within the United States with reference to formulating, adopting, or changing the domestic or foreign policy of the United States,” and therefore constitute political activity triggering registration obligations under FARA.

¹⁹⁷ *Id.*

¹⁹⁸ *Id.*

¹⁹⁹ ELI Information, *supra* n.101.

²⁰⁰ Environmental Justice at ELI, *supra* n.102; ELI Information, *supra* n.101.

²⁰¹ Richardson, *supra* n.103.

²⁰² ELI Information, *supra* n.101; ELI 2021 Report at 19, *supra* n.104.

²⁰³ ELI Information, *supra* n.101.

Letter to DOJ re: APT Report
 February 12, 2026
 Page 25

x. Ceres

Ceres engages in political activities intended to “influence . . . the public within the United States with reference to formulating, adopting, or changing the domestic or foreign policies of the United States.” 22 U.S.C. § 611(o). As stated above, Ceres coordinates institutional investors to influence corporate behavior and push the adoption of radical ESG policies in “every aspect of decision-making” and costly climate disclosures for public energy companies.²⁰⁴ Ceres was a founding partner and driving force behind the Net Zero Asset Managers Initiative and Climate Action 100+, which brought together asset managers from around the world to engage in a coordinated effort to push for ESG policies and emissions disclosures from portfolio companies.²⁰⁵ Ceres and its related initiatives “leverage[ed] a network of investors totaling more than \$32 trillion in assets to pressure companies into adopting Ceres’ preferred [climate and ESG] policies.”²⁰⁶ Ceres’ own stated purpose is to “pressure stock exchanges and capital market regulators to improve climate and sustainability risk disclosure, and opportunities to advocate for stronger climate, clean energy and water policies at all levels of government.”²⁰⁷ Ceres also operates the Business for Innovative Climate and Energy Policy (BICEP) Network which provides members with the tools and knowledge they need “to engage with state and federal policymakers on” climate and energy policies.²⁰⁸ Additionally, “[b]etween 2020 through October 2023, Ceres increased the amount it spent on lobbying, from around \$80,000 in 2020 to at least \$270,000 in 2022, an amount which the organization claimed was on track to match or exceed as of the second quarter of 2023.”²⁰⁹ Such campaign and advocacy activities are apparently intended to “influence . . . the public within the United States with reference to formulating, adopting, or changing the domestic or foreign policy of the United States,” and therefore constitute political activity triggering registration obligations under FARA.

xi. Rocky Mountain Institute Environmental Defense Fund

RMI engages in political activities intended to “influence . . . the public within the United States with reference to formulating, adopting, or changing the domestic or foreign policies of the United States.” 22 U.S.C. § 611(o). As stated above, RMI engages in climate policy research, analysis, and advocacy.²¹⁰ RMI’s goal is to “replace fossil fuel usage” with renewable energy sources, though the group also opposes nuclear energy projects.²¹¹ RMI also has ties to China through an official partnership with the National Development and Reform Commission, a Chinese government agency.²¹² As an example of the kinds of policy research and analysis RMI provides, in 2022 RMI published a

²⁰⁴ APT Report at 15, *supra* n.2.

²⁰⁵ <https://www.ceres.org/initiatives/climate-action-100>.

²⁰⁶ Ceres Information, *supra* n.108.

²⁰⁷ Ceres Investor Network, *supra* n.109.

²⁰⁸ *Id.*

²⁰⁹ Ceres Information, *supra* n.108.

²¹⁰ RMI Information, *supra* n.112.

²¹¹ *Id.*

²¹² Anderson & Simonsan, *supra* n.114.

Letter to DOJ re: APT Report
 February 12, 2026
 Page 26

study claiming that gas stoves are linked to childhood asthma and advocating for a ban on gas stoves.²¹³ RMI's research is used by it and other left-wing climate organizations to push radical environmentalist views in their efforts to influence public opinion and legislation concerning energy policy in the United States. Such campaign and advocacy activities are apparently intended to "influence . . . the public within the United States with reference to formulating, adopting, or changing the domestic or foreign policy of the United States," and therefore constitute political activity triggering registration obligations under FARA.

xii. Environmental Defense Fund

EDF engages in political activities intended to "influence . . . the public within the United States with reference to formulating, adopting, or changing the domestic or foreign policies of the United States." 22 U.S.C. § 611(o). As stated above, EDF's activities include "lobbying, research, communications, litigation, and providing legal advisory to other organizations."²¹⁴ Among the initiatives EDF supports are expanding California's cap and trade program, a federally mandated 30% cut in power-plant emissions, and an approximately 40-50% reduction in methane emissions from natural gas production.²¹⁵ EDF uses "litigation programming" to advance its extreme left-wing climate agenda, which includes "a federally mandated 20 percent decrease in carbon emissions in less than a decade; a 40-50 percent reduction in methane emissions resulting from natural gas production; and mandated reductions in chemicals that the EDF argues impact human health."²¹⁶ EDF also has ties to former President Barack Obama, and has pledged to oppose President Donald Trump's environmental policies.²¹⁷ Such campaign and advocacy activities are apparently intended to "influence . . . the public within the United States with reference to formulating, adopting, or changing the domestic or foreign policy of the United States," and therefore constitute political activity triggering registration obligations under FARA.

xiii. Institute for Governance and Sustainable Development

IGSD engages in political activities intended to "influence . . . the public within the United States with reference to formulating, adopting, or changing the domestic or foreign policies of the United States." 22 U.S.C. § 611(o). As stated above, IGSD is a climate advocacy organization that supports the Green New Deal and other extreme climate initiatives to "eliminate the use of conventional fuels."²¹⁸ In addition to its climate advocacy in the U.S., the group "works with international organizations to promote

²¹³ *Id.*

²¹⁴ EDF Information, *supra* n.117.

²¹⁵ *Id.*

²¹⁶ *Id.*

²¹⁷ Don't Give Up: Stand Against Trump's Climate Attacks." Environmental Defense Fund. Undated. Accessed September 22, 2017. https://secure2.edf.org/site/Advocacy?cmd=display&id=2852&page=UserAction&utm_source=twitter&utm_campaign=edf_content-share_upd_mem&utm_medium=referral&utm_id=1478728172&utm_content=alert-short.

²¹⁸ IGSD Information, *supra* n.123.

Letter to DOJ re: APT Report
 February 12, 2026
 Page 27

agreements to combat climate change.”²¹⁹ Within the U.S., “IGSD targets professionals to push its environmentalist agenda, working with lawyers, political scientists, economists, and scientists,” including through establishing “the Program on Governance for Sustainable Development at the University of California-Santa Barbara” to direct research to support environmentalist projects.²²⁰ Additionally, “IGSD has received over \$6.2 million in grants from the U.S. government since 2008.”²²¹ Among its most radical initiatives, since 2017 IGSD has operated the Center for Climate Integrity (CCI). “CCI supports lawsuits against energy companies to push for environmental regulation. CCI works to encourage citizen groups and governments to sue energy companies, billing the lawsuits as necessary to force polluters to pay for the damage of climate change instead of shifting the costs to taxpayers.”²²² Such campaign and advocacy activities are apparently intended to “influence . . . the public within the United States with reference to formulating, adopting, or changing the domestic or foreign policy of the United States,” and therefore constitute political activity triggering registration obligations under FARA.

xiv. Tides Network (and Related Entities)

Tides Foundation and Tides Center “disburse[], or dispense[] contributions . . . money, or other things of value for or in the interest of [a] foreign principal” within the United States. 22 U.S.C. § 611(c)(iii). As stated above, the Tides Foundation and the Tides Center provide thousands of grants each year and fiscal sponsorship of over 100 different groups. In 2023 alone, the Tides Network—through its associated entities—issued over 4,000 grants and served as fiscal sponsor for over 120 different groups.²²³ As the APT Report notes, the two Tides entities, Tides Foundation and Tides Center, received a combined \$10 million from two of the foreign funding organizations analyzed in that report.²²⁴ The Tides Foundation, in addition to receiving millions of dollars in foreign money from groups like CIFF, has been noted as “George Soros’ Favorite Money Handler” when it was discovered that Soros’ Open Society Foundation had given at least \$17.2 million to the Tides Foundation between 2009 and 2022.²²⁵ The Tides Center, which provides fiscal sponsorship in the form of “incubation services” to emerging left-wing groups, allows these groups to accept tax-deductible donations before the groups become independent organizations.²²⁶ This fiscal sponsorship arrangement “has the added effect of obscuring the donors to these individual projects, as grants to incubated organizations are paid to the Tides Center.”²²⁷ Tides’ grantmaking and fiscal sponsorship activities using funds it receives from foreign agents apparently constitute “disburs[ing], or dispens[ing] contributions” or “money, or other things

²¹⁹ *Id.*

²²⁰ *Id.*; “Research & Education”. 2020. IGSD. <http://www.igsd.org/about/research-and-education/>.

²²¹ IGSD Information, *supra* n.123; Stilson, *supra* n.126.

²²² IGSD Information, *supra* n.123.

²²³ Tides Network Information, *supra* n.128.

²²⁴ APT Report at 28, 31, *supra* n.2.

²²⁵ Horowitz, *supra* n.130.

²²⁶ Tides Nexus Information, *supra* n.128.

²²⁷ *Id.*

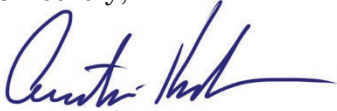
Letter to DOJ re: APT Report
February 12, 2026
Page 28

of value for or in the interest of [a] foreign principal” within the United States. As such, Tides’ activities likely trigger registration obligations under FARA.

III. Conclusion

For the foregoing reasons, we respectfully submit there is substantial evidence that many of the over 150 U.S.-based organizations that collectively have received nearly \$2 billion from five foreign-registered charities are acting as unregistered agents of foreign principals by engaging in coordinated funding and advocacy efforts to influence U.S. energy policy and undermine American energy independence. Nor does it appear that the nonprofit organizations’ activities would be covered by any of FARA’s exemptions.²²⁸

Sincerely,



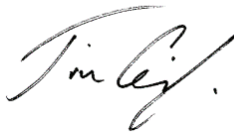
Austin Knudsen
ATTORNEY GENERAL OF MONTANA



Steve Marshall
ATTORNEY GENERAL OF ALABAMA



Stephen J. Cox
ATTORNEY GENERAL OF ALASKA



Tim Griffin
ATTORNEY GENERAL OF ARKANSAS



James Uthmeier
ATTORNEY GENERAL OF FLORIDA



Christopher M. Carr
ATTORNEY GENERAL OF GEORGIA



Raúl Labrador
ATTORNEY GENERAL OF IDAHO

²²⁸ “The burden of establishing the availability of an exemption from registration under the Act shall rest upon the person for whose benefit the exemption is claimed.” 28 C.F.R. § 5.300

Letter to DOJ re: APT Report
February 12, 2026
Page 29



Todd Rokita
ATTORNEY GENERAL OF INDIANA



Brenna Bird
ATTORNEY GENERAL OF IOWA



Kris W. Kobach
ATTORNEY GENERAL OF KANSAS



Russell M. Coleman
ATTORNEY GENERAL OF KENTUCKY



Liz Murrill
ATTORNEY GENERAL OF LOUISIANA



Lynn Fitch
ATTORNEY GENERAL OF MISSISSIPPI



Mike Hilgers
ATTORNEY GENERAL OF NEBRASKA



Gentner F. Drummond
ATTORNEY GENERAL OF OKLAHOMA



Alan Wilson
ATTORNEY GENERAL OF SOUTH CAROLINA



Marty J. Jackley
ATTORNEY GENERAL OF SOUTH DAKOTA



Ken Paxton
ATTORNEY GENERAL OF TEXAS



John B. McCuskey
ATTORNEY GENERAL OF WEST VIRGINIA

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

WEST VIRGINIA RIVERS COALITION, INC.,
and 350.org,

Plaintiffs,

v.

Civil Action No. 2:26-cv-_____

JOHN B. MCCUSKEY, in his official capacity as
Attorney General of the State of West Virginia,

Defendant.

**MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION FOR A
TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION**

DEREK TEANEY
AMANDA DEMMERLE
APPALACHIAN MOUNTAIN ADVOCATES, INC.
P.O. Box 507
Lewisburg, WV 24901
(304) 646-1182
dteaney@appalmad.org
ademmerle@appalmad.org

Counsel for Plaintiffs

On September 16, 2026, the Attorney General of West Virginia, John B. McCuskey (Defendant), opened deceptive trade practices investigations into the two Plaintiff charities and served each with a subpoena. The subpoenas to Plaintiffs invoked only one source of authority: W. Va. Code § 46A-7-104(1), which permits an investigative subpoena only on probable cause that a person violated the Consumer Credit and Protection Act (the Act). The Act regulates deception in the “sale or distribution of any goods or services.” *Id.* § 46A-6-102(6). The subpoenas identify no consumer, no transaction, no complaint, no sale of goods or services, and no act of deception, but they demand nearly ten years of records relating to Plaintiffs’ funders and their communications, internal documents, drafts of documents, and testimony to governmental agencies.

Plaintiffs West Virginia Rivers Coalition, Inc. (“WV Rivers”) and 350.org are non-profit organizations that raise money from charitable contributions, not by selling goods or services. They engage in no deceptive practices, and the subpoenas identify none. Simply put, the investigations and the subpoenas are illegitimate.

The subpoenas come due November 2. Plaintiffs ask the Court to enjoin the investigations before that date to protect their constitutional rights. The true goal of the subpoenas and investigations is to stifle speech and activities that Defendant does not like. The subpoenas make clear Defendant’s refusal to accept the science of climate change and his willingness to abuse the power of his Office to retaliate against and harass groups to which he is politically opposed. Defendant’s animus toward environmental groups is no secret—sixteen days after serving the subpoenas, he described climate activists as “insane leftist greeno’s” and himself as “proud to stand with my friends” in the coal and gas industry. Ex. 1. And Defendant knows exactly what effect his subpoenas will have: in August 2025, he signed a brief telling the Supreme Court of the United States that an attorney general’s subpoena to a nonprofit opposed to abortion is a “state-backed inquisition” conducted through “burdensome and harassing subpoenas for swaths of sensitive information,” and that the subpoena power can be

“weaponize[d]” against disfavored groups. Br. of Florida et al. as Amici Curiae at 5–6, First Choice Women’s Res. Ctrs., Inc. v. Platkin, No. 24-781 (U.S. Aug. 28, 2025).

In First Choice Women’s Resource Centers, Inc. v. Davenport, 608 U.S. 174, 189 (2026), a unanimous Supreme Court held that a state attorney general’s demand for a nonprofit’s donor information injures the right of association from the moment the demand is made. So too here: Plaintiffs’ speech and associations have been chilled since they received the subpoenas. WV Rivers has paused its mini-grant funding as a result of the subpoena; its staff is reconsidering what type of work it should do; its Executive Director cannot promise the funders of its work that their support will remain confidential; and its staff can no longer communicate freely even among themselves. Ex. 2 (“Smith Decl.”) ¶¶ 14–20, 24, 28. Similarly, 350.org’s Executive Director now reviews every public-facing document and communication from its United States team before release, and 350.org will not do any new work in the State while the sham investigation is outstanding. Ex. 3 (“Odendahl Decl.”) ¶¶ 16–18.

WV Rivers and 350.org therefore ask the Court to enjoin Defendant from taking any further steps in these investigations, including enforcing the subpoenas at issue, applying for an order under W. Va. Code § 46A-7-104(3), issuing any further demand, initiating any proceeding under the Act or any other law predicated on the subjects of the investigations, and from using the power of his office to investigate, retaliate against, or harass Plaintiffs because of their efforts to explain climate science.

FACTS

Plaintiff WV Rivers advocates for clean water and healthy waters for all in the Mountain State through research, public education, policy advocacy, citizen water-quality monitoring, and engagement with state and federal agencies. Smith Decl. ¶ 5. Plaintiff 350.org advocates for a transition from fossil fuels to renewable energy. Odendahl Decl. ¶ 3. To further their missions, Plaintiffs publish statements or otherwise speak about the impacts of climate change on the environment and on communities, and

about the environmental effects of fossil-fuel extraction, transportation, and combustion. Compl. ¶¶ 22, 32. WV Rivers regularly submits comments to state and federal agencies, testifies before legislative and administrative bodies, and participates as a party in litigation challenging permits and approvals for energy infrastructure and industrial projects in West Virginia. *Id.* ¶¶ 23–24. Those activities constitute political speech protected by the First Amendment. *See* § II.A.1, *infra*.

To fund their activities, Plaintiffs rely on grants from various organizations; they solicit charitable contributions from the public through their websites, mailings, emails, and events. Compl. ¶¶ 28, 33. Some of their funders, including charitable foundations, give on the understanding that the fact or amount of their support will not be disclosed. Smith Decl. ¶ 28; Odendahl Decl. ¶ 21. Plaintiffs also provide grants to other nonprofit organizations with similar missions to support their work. Smith Decl. ¶ 24; Odendahl Decl. ¶ 4.

On September 16, 2026, Defendant served investigatory subpoenas on WV Rivers (Ex. 4), 350.org (Ex. 5), and at least four other nonprofit organizations. Smith Decl. ¶¶ 6, 10; Odendahl Decl. ¶¶ 9, 12; Exs. 4 & 5. Defendant commanded Plaintiffs to turn over documents and communications dating back to January 1, 2017, including those related to their public statements on climate and energy, their internal deliberations about those statements, their requests for donations, the organizations that have funded their work (and the amounts those organization gave), the organizations they have paid, their dealings with coalitions and other advocacy organizations on energy permitting and regulation in West Virginia, and their submissions to regulatory agencies. Exs. 4 & 5. The subpoenas focus on Plaintiffs’ “Climate Claims,” defined as “statement[s] asserting, on a purportedly scientific or statistical basis, a demonstrable or otherwise traceable connection” between fossil-fuel greenhouse gas emissions and changes in climate or weather, including resulting harm to health or the economy, attributed to energy companies or projects or linked to a specific West Virginia energy business. Ex. 4 at 5–6; Ex. 5 at 5. The subpoenas contain 16 demands, many of which have subparts and not all of

which apply solely to “Climate Claims.” See generally Exs. 4 & 5. No demand is limited to statements made to consumers. Exs. 4 & 5. The subpoenas set a return date of November 2, 2026. Ex. 4 at 1; Ex. 5 at 1. If Plaintiffs do not comply, Defendant can hale them into State circuit court to compel compliance. W. Va. Code § 46A-7-104(3).

The sole claimed basis for issuing these subpoenas was W. Va. Code § 46A-7-104(1), a provision of the West Virginia Consumer Credit and Protection Act. That provision permits Defendant to investigate only if he “has probable cause to believe that a person has engaged in an act which is subject to action by the Attorney General.” The Act prohibits any “[u]nfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce.” Id. § 46A-6-104. But “‘trade’ or ‘commerce’” is defined as “the advertising, offering for sale, sale or distribution of any goods or services and shall include any trade or commerce, directly or indirectly, affecting the people of this state.” Id. § 46A-6-102(6). The subpoenas describe the investigations as ones into “unfair or deceptive acts or practices.” Thus, to commit the violation the subpoenas describe, one must deceive in the sale of goods or services.¹ Despite this, the subpoenas do not identify any consumer, any consumer transaction, any complaint, or any act by Plaintiffs that Defendant contends violates the Act. Indeed, the Act does not apply to Plaintiffs at all, but for their de minimis sales of merchandise (T-shirts, etc.) bearing their names or logos—sales the subpoenas do not mention. Smith Decl. ¶ 8; Odendahl Decl. ¶ 11. Plaintiffs otherwise do not engage in trade or sell any goods or services. Smith Decl. ¶ 8; Odendahl Decl. ¶ 11.

The subpoenas also presuppose that Plaintiffs’ statements about climate change are deceptive. Remarkably, the subpoenas do not identify any such deception. Defendant should be aware that there

¹ The Act’s remaining articles—consumer credit sales, loans, leases, and debt collection—have no conceivable application to a charity’s advocacy, still require a sale of goods and services, and were not mentioned in the subpoena.

is a greater than 99% consensus in the peer reviewed literature that climate change is occurring and that it is human-caused² and that its impacts on West Virginia are devastating.³ The U.S. Environmental Protection Agency observes that “the earth is warming” because “[p]eople have increased the amount of carbon dioxide in the air” by burning fossil fuels.⁴ Far from engaging in deceptive practices, Plaintiffs’ statements are performing a public service by informing citizens about climate change and its impacts.

ARGUMENT

I. Plaintiffs Have Standing to Protect Their Constitutional Rights.

Plaintiffs bring this action under 42 U.S.C. § 1983, which “authorizes suits against any person who, under color of state law, deprives another of his federal constitutional rights.” First Choice, 608 U.S. at 181. Plaintiffs allege violations of their First and Fourth Amendment rights (as incorporated through the Fourteenth Amendment) and bring this action against Defendant in his official capacity. Ex parte Young, 209 U.S. 123, 155–56 (1908).

² See Mark Lynas et al., Greater than 99% consensus on human caused climate change in the peer-reviewed scientific literature (Oct. 2021), available at <https://iopscience.iop.org/article/10.1088/1748-9326/ac2966>.

³ See, e.g., Jessica Riley, Rising waters, rising risks: How climate change and aging infrastructure are affecting flood risk in West Virginia (Dec. 2025), available at <https://journalism.wvu.edu/wv-today/wvtoday-story/2025/12/05/rising-waters-rising-risks-how-climate-change-and-aging-infrastructure-are-affecting-flood-risks-in-west-virginia>). Even if the scientific consensus were mistaken (it is not), a nonprofit does not deceive anyone by accurately reporting it. A conclusion drawn from non-fraudulent data and accurately described is not actionable as false advertising or as a deceptive practice because “the conclusions of empirical research are tentative and subject to revision” and “the trial of ideas plays out in the pages of peer-reviewed journals.” ONY, Inc. v. Cornerstone Therapeutics, Inc., 729 F.3d 490, 496–99 (2d Cir. 2013) (dismissing Lanham Act and N.Y. Gen. Bus. Law § 349 claims). “Scientific controversies must be settled by the methods of science rather than by the methods of litigation.” Underwager v. Salter, 22 F.3d 730, 736 (7th Cir. 1994).

⁴ EPA, What Climate Means for West Virginia (Aug. 2016), available at <https://19january2017snapshot.epa.gov/sites/production/files/2016-09/documents/climate-change-wv.pdf>.

Article III of the Constitution requires standing, “consisting of three elements: injury in fact, causation, and redressability.” First Choice, 608 U.S. at 183 (cleaned up). Plaintiffs satisfy all three.

First, as to injury-in-fact, the injury alleged must involve “an invasion of a legally protected interest which is (a) concrete and particularized, and (b) actual or imminent, not conjectural or hypothetical.” Lujan v. Defs. of Wildlife, 504 U.S. 555, 560 (1992). Just last term, the Supreme Court clarified in First Choice that parties suffer cognizable injury-in-fact when they receive subpoenas like the ones Plaintiffs have received here. A unanimous Supreme Court held that the issuance of a state attorney general’s subpoena for a nonprofit’s donor information “established a present injury to [First Choice’s] First Amendment associational rights.” First Choice, 608 U.S. at 188. The Court made this finding against the backdrop of decades of its prior First Amendment decisions that have applied exacting scrutiny to government demands for donor and member information. Id. at 187.

The Supreme Court has “long recognized that demands for a charity’s private member or donor information ... discourage people from associating with groups engaged in protected First Amendment advocacy” and also “encourage groups and individuals to cease or modify protected First Amendment advocacy the government disfavors.” First Choice, 608 U.S. at 189 (cleaned up). “All this occurs not just when a demand is enforced, but when it is made and for as long as it remains outstanding.” Id. at 189. In other words, “demands for private donor information inevitably carry with them a deterrent effect on the exercise of First Amendment rights.” Id. at 186 (cleaned up).

The Fourth Circuit has similarly held that “the injury-in-fact element is commonly satisfied by a sufficient showing of ‘self-censorship, which occurs when a claimant is chilled from exercising his right to free expression.’” Edgar v. Haines, 2 F.4th 298, 310 (4th Cir. 2021) (quoting Cooksey v. Futrell, 721 F.3d 226, 235 (4th Cir. 2013)). Plaintiffs need only show that the “chilling effect” is “objectively reasonable,” not that “the government action led them to stop speaking altogether.” Id. (cleaned up).

The Fourth Circuit applied First Choice in TitleMax of S.C., Inc. v. Spicher, 185 F.4th 141, (4th Cir. 2026), a title lender’s challenge to a non-self-executing subpoena. The court held that challenge unripe because the lender did “not allege that the issuance of the subpoena itself changed its business practices or otherwise inflicted a present injury.” Id. at 165–66. Plaintiffs here are on the other side of that line: Defendant’s demands for their funders, partners, and internal deliberations are themselves the injury First Choice recognized, and they have already changed how Plaintiffs operate.

Defendant’s subpoena and investigation have caused WV Rivers to self-censor its speech and be more careful about its associations. For example, WV Rivers recently completed a project but is not promoting this project, like it planned to and normally does through social media and other press, because of the subpoena and fear that the citizens whose stories it tells will be targeted. Smith Decl. ¶ 19. WV Rivers’s staff also regularly uses internal digital platforms to message amongst themselves about their work, but they are limiting this communication now that they know Defendant may one day read it and gain insights into their deliberative process. Id. ¶ 17. WV Rivers also, with great reluctance, decided to pause its mini-grant funding to protect smaller groups from being revealed to and targeted by Defendant. Id. ¶ 24.

350.org is also experiencing present injuries as a direct result of Defendant’s subpoena and investigation. After two House committee chairmen sent 350.org a letter on September 10, 2026, 350.org began requiring its U.S. team to submit all public-facing documents and communications to its executive director for approval before release. Odendahl Decl. ¶¶ 8, 16. 350.org expected that measure to be short-lived. Id. ¶ 16. Since receiving Defendant’s subpoena, however, it has extended the review process indefinitely. Id. The executive director now screens content with the subpoena and investigation in mind and has vetoed or toned down messages that could cause 350.org to be targeted based on the content of its speech. Id. ¶ 17. 350.org has also decided not to undertake any new work in West Virginia while the subpoena and investigation are pending. Id. ¶ 18.

The injuries Plaintiffs currently suffer are directly traceable to the issuance of the subpoenas. Both WV Rivers and 350.org were required to inform at least some donors of the investigation and understand, and indeed expect, that this could impact their funding. Plaintiffs reasonably fear that continuing to work with groups or engaging with new groups may put others on Defendant's investigation list, and they are changing their behavior because of it. They are also self-censoring their speech as a direct result of the subpoena. These chilling effects will be redressed if the Court enjoins enforcement of the subpoenas and their related investigations.

II. The Court Should Issue a Temporary Restraining Order and Preliminary Injunction to Protect Plaintiffs' Constitutional Rights.

Plaintiffs seek a temporary restraining order ("TRO") and preliminary injunction pursuant to Federal Rule of Civil Procedure 65(a) and (b) prohibiting any furtherance of Defendant's investigations (including enforcement of the subpoenas) before November 2, 2026—the return date in the subpoenas. Plaintiffs file this Motion on October 22, 2026, eleven days before that compliance date, and have alerted Defendant of this filing. A TRO "preserv[es] the status quo only until a preliminary injunction hearing can be held." Hoechst Diafoil Co. v. Nan Ya Plastics Corp., 174 F.3d 411, 422 (4th Cir. 1999). Plaintiffs ask this Court to hold a preliminary injunction hearing as soon as practicable and to enter a TRO, a preliminary injunction, or both before November 2.

Plaintiffs' request is not unusual. In recent years, state attorneys general of both parties have opened investigations and used their subpoena powers against entities to which they are politically opposed, requiring the targets to seek injunctive relief. That was the posture in First Choice, 608 U.S. at 183. The D.C. District Court recently prohibited the enforcement of the Texas Attorney General's subpoenas against Media Matters, finding they were issued as retaliation for unfavorable news coverage. Media Matters for Am. v. Paxton, 732 F.Supp.3d 1, 8, 27–30 (D.D.C. 2024), aff'd, 138 F.4th 563 (D.C. Cir. 2025). Even more recently, an Indiana district court enjoined enforcement of a subpoena from the Indiana Attorney General to a nonprofit that serves immigrants and engages in

protected speech against U.S. Immigration and Customs Enforcement (“ICE”). Exodus Refugee Immigr., Inc. v. Rokita, No. 1:25-CV-01885, 2026 WL 2249397 (S.D. Ind. Aug. 5, 2026), appeal docketed, No. 26-2811 (7th Cir. Sept. 2, 2026).

Plaintiffs ask for similar injunctive relief. The standard for a temporary restraining order is the same standard for granting a preliminary injunction. See, e.g., Williams v. Rigg, 458 F.Supp.3d 468, 474 (S.D. W. Va. 2020). A plaintiff seeking a preliminary injunction must make a clear showing that it is likely to succeed on the merits, that it is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in its favor, and that an injunction is in the public interest. Winter v. NRDC, 555 U.S. 7, 20 (2008); Real Truth About Obama, Inc. v. Fed. Election Comm’n, 575 F.3d 342, 346 (4th Cir. 2009). Plaintiffs satisfy all four Winter factors.

A. Plaintiffs Are Likely to Succeed on Their First and Fourth Amendment Claims.

“Although ... plaintiffs seeking injunctions [must] make a ‘clear showing’ that they are likely to succeed at trial, plaintiffs need not show a certainty of success.” Pashby v. Delia, 709 F.3d 307, 321 (4th Cir. 2013) (citations omitted). Plaintiffs are likely to succeed on all of their claims, but likelihood of success on any one of them suffices. See, e.g., League of Women Voters of N.C. v. N.C., 769 F.3d 224, 248 n.7 (4th Cir. 2014) (reversing district court denial of preliminary injunction on Voting Rights Act claim and therefore not addressing constitutional claims).

1. The First Amendment protects against retaliatory investigations like these.

Defendant’s subpoenas are part of retaliatory investigations that violate Plaintiffs’ First Amendment rights to free speech, association, and to petition. The Supreme Court unanimously held that “the First Amendment prohibits government officials from subjecting individuals to retaliatory actions after the fact for having engaged in protected speech.” Hous. Cmty. Coll. Sys. v. Wilson, 595 U.S. 468, 474 (2022). To establish a likelihood of success on the merits of a retaliation claim, Plaintiffs must demonstrate that “(1) [they] engaged in protected First Amendment activity, (2) the defendant[]

took some action that adversely affected [their] First Amendment rights, and (3) there was a causal relationship between [their] protected activity and the defendant[s] conduct.” Constantine v. Rectors & Visitors of George Mason Univ., 411 F.3d 474, 499 (4th Cir. 2005). Plaintiffs can establish all three.

First, Plaintiffs engage in protected First Amendment activity. “The First Amendment guarantees all Americans the rights to speak, worship, publish, assemble, and petition their government freely. Each of these rights, this Court has long understood, necessarily carries with it a corresponding right to associate with others.” First Choice, 608 U.S. at 184 (cleaned up). Plaintiffs’ public statements on climate and energy, their comments and testimony to agencies and legislative bodies, their litigation challenging permitting decisions, their coalition work with other groups, and their solicitation of support for those activities fall within the scope of the First Amendment. See, e.g., Nat’l Rev., Inc. v. Mann, 589 U.S. 1088, 1093 (2019) (Alito, J., dissenting from denial of certiorari) (debate over climate change is core political expression protected by the First Amendment); Snyder v. Phelps, 562 U.S. 443, 452 (2011) (speech on public issues occupies “the highest rung of First Amendment values”); Americans for Prosperity Found. v. Bonta, 594 U.S. 595, 606–07 (2021) (“[Effective advocacy of both public and private points of view, particularly controversial ones, is undeniably enhanced by group association” and there is a “vital relationship between freedom to associate and privacy in one’s associations.” (cleaned up)).

Second, Plaintiffs suffer an adverse impact to their First Amendment activities. To make this showing, Plaintiffs need only show that the governmental action “would deter a person of ordinary firmness from continuing to exercise First Amendment rights,” and not that it “actually ... deprived [them of] First Amendment rights” or “to cease First Amendment activity altogether.” Constantine, 411 F.3d at 499–500. In other words, the chilling effect must be objectively reasonable, and it is not dependent on Plaintiffs’ “will to fight.” Id. at 500. As explained in Section I, Plaintiffs’ speech has already been chilled—individuals in the organizations are questioning whether to talk about climate

change and considering modifying their language because of the subpoenas and investigation. WV Rivers is reducing its internal communications because of the investigation, worried that Defendant may get an intimate view of their internal private deliberations. 350.org is screening all of its U.S. content through its executive director and its content is being vetoed or toned down. Plaintiffs' associations are also chilled. WV Rivers has paused its mini-grant funding so as to protect small organizations from associating with them and subjecting themselves to Defendant's harassing probe. Plaintiffs also reasonably understand that individuals and organizations may be less likely to donate or otherwise associate with them as the result of the subpoena and investigation. First Choice, 608 U.S. at 189–90.

The chill Plaintiffs are experiencing from Defendant's investigation is objectively reasonable. In Media Matters, because there was a "threat of invoking legal sanctions," a threat of intrusion into their process, and other "punitive consequences," the Court found "Plaintiffs' claim of chilled expression objectively reasonable." 732 F. Supp.3d at 28. Plaintiffs in the instant action are subjected to similar threats. See W. Va. Code § 46A-7-104(3).

Third, Defendant's subpoenas and related investigations are retaliatory and would not exist but for Plaintiffs' exercise of their Constitutional rights. In other words, Plaintiffs' protected activity caused the investigations. Causation requires, at a minimum, that the defendant knew of the protected activity and acted with some temporal proximity to it. Constantine, 411 F.3d at 501; Shaw v. Foreman, 59 F.4th 121, 130–31 (4th Cir. 2023). Causation may be shown through circumstantial evidence. See Trulock v. Freeh, 275 F.3d 391, 405 (4th Cir. 2001) (recognizing that timing can "raise[] an inference of retaliatory motive"). And "[o]nce a plaintiff establishes his protected conduct was a substantial or motivating factor in the defendant's decision to take adverse action, the defendant is appropriately tasked with explaining why her decision was not animated by retaliatory motives." Martin v. Duffy, 977 F.3d 294, 301 (4th Cir. 2020).

Defendant's own words show his retaliatory motive. Before he issued the subpoenas, he described opposition to fossil fuels as "policies driven by adverse actors and propped up by often contested climate theory." Ex. 6. Sixteen days after he issued the subpoenas, he called climate advocates "[i]nsane leftist greeno's" and declared himself "proud to stand with my friends" at the Gas and Oil Association of West Virginia and the West Virginia Coal Association. Ex. 1. These are not isolated remarks. On his personal account and in his office's official statements, he has described climate activists and their activities using false and inflammatory language: a "green cabal," Ex. 7; "[l]iberal eco-activist special interest groups," Ex. 8; "[e]co-radical lawsuits"; and "[c]limate warfare," Ex. 9. He has made such heated statements on his personal X account, on official press releases, and through accounts from the office of the West Virginia Attorney General.

He has also made similar accusations in official public letters and court filings. See Compl. ¶¶ 35–64. In February 2026, Defendant signed the letter asking the Department of Justice to investigate 350.org by name. Ex. 10. In May 2026, his office told the Fourth Circuit that WV Rivers and its co-petitioners were relying on "deceiving" data and should not be allowed "to meddle" with a State carbon sequestration program. Brief of Intervenor at 1–2, 39, W. Va. Surface Owners' Rights Org. v. Zeldin, No. 25-1384 (4th Cir. May 18, 2026). Four months after the brief and seven months after that letter, he served the subpoenas at issue here. Indeed, a total of six nonprofits each received an identical subpoena except for the recipient's name. That reflects no particularized determination about anyone. And the demands track the subjects of his own letters and filings: attribution science and judicial education (Demand 7), the funders of climate advocacy (Demands 13(b), 14(b), 16), coordination among advocacy organizations (Demand 12), advocacy on energy permitting (Demand 16), and the selection and qualification of data (Demands 4, 7, 10, 11)—the very accusation his office leveled at WV Rivers in the Zeldin case.

Defendant knew what the subpoenas would do. A year before he issued them, he told the Supreme Court that an attorney general’s subpoena to a nonprofit is a “state-backed inquisition” conducted through “burdensome and harassing subpoenas for swaths of sensitive information,” and that the subpoena power can be “weaponize[d].” Fla. Amicus Br. at 5–6; see also Media Matters, 138 F.4th at 578, 580 (Texas Attorney General’s acknowledgement in other litigation that investigative demands chill speech supported a finding of retaliatory motive).

The fact that Defendant’s investigation had no lawful basis also shows the retaliatory motive. The Act permits investigations and attendant subpoenas only on probable cause that a person has violated the Act. W. Va. Code § 46A-7-104(1); Cavalry SPV I, LLC v. Morrissey, 232 W. Va. 325, 334–35 & n.13 (2013). The Act only regulates deception in the sale of goods or services. W. Va. Code §§ 46A-6-102(6), 46A-6-104. The subpoenas identify no consumer, no transaction, no complaint, no sale, and no deceptive practice. Defendant articulated no probable cause and none exists. The demands for Plaintiffs’ funders are further evidence of their true purpose: such demands “give [their] targets a very good reason to clam up [and] give the target organization’s members and supporters a very good reason to abandon the cause,” and officials “sometimes issue[] subpoenas and other investigatory demands in order to secure just these results.” First Choice, 608 U.S. at 190 (cleaned up).

2. The Fourth Amendment bars baseless investigations and subpoenas like these.

The Fourth Amendment also forbids these investigations. An official may compel a citizen’s papers only in an investigation the law authorizes and only for a purpose the law permits. Oklahoma Press Publishing Co. v. Walling, 327 U.S. 186, 209 (1946); United States v. Morton Salt Co., 338 U.S. 632, 652 (1950).

The Fourth Amendment prohibits investigations premised on lawful conduct. In Major League Baseball v. Crist, 331 F.3d 1177, 1180, 1186 (11th Cir. 2003), the Florida Attorney General issued antitrust investigative demands to Major League Baseball—but baseball is exempt from the

antitrust laws, and thus the League could not violate them. The Court held, in a pre-enforcement § 1983 suit like this one, that an investigation “premised solely upon legal activity” is a “baseless ‘fishing expedition’” prohibited by the Fourth Amendment. Id. at 1182, 1187–89. The court rejected the argument that the inquiry might turn up information: an investigator must have “something” before demanding a citizen’s papers. Id. at 1187 n.23. The court affirmed a judgment declaring that the Attorney General “cannot proceed with the investigation.” Id. at 1179.

Additionally, an official’s power to investigate ends where his power to enforce ends. Capital One Bank (USA), N.A. v. McGraw, 563 F.Supp.2d 613, 618 (S.D. W. Va. 2008). There, the West Virginia Attorney General subpoenaed Capital One under the Consumer Credit and Protection Act and petitioned a circuit court to enforce the subpoena. Id. at 614–15. Once Capital One became a national bank, however, federal law vested exclusive “visitorial” authority over it in the federal Comptroller of the Currency, which barred state officials from enforcing the Act against it. Id. The Court held that the bar on enforcement was a bar on investigation: “If the defendant is prohibited from enforcing the Act against Capital One, it follows that the defendant cannot use a subpoena to investigate whether Capital One violated the Act.” Id. at 618. The Court permanently enjoined the Attorney General from issuing any subpoena in the investigation and from enforcing the one he had issued. Id. at 622.

Defendant’s investigations here are baseless under both Crist and Capital One, and Plaintiffs are likely to succeed for two independent reasons. First, the investigations lack a statutory predicate. The Legislature permits Defendant to investigate, and to subpoena, only “[i]f the Attorney General has probable cause to believe that a person” has violated the Act. W. Va. Code § 46A-7-104(1); Cavalry SPV I, 232 W. Va. at 334–35 & n.13. Defendant has identified none, and cannot. A subpoena issued without the predicate is unauthorized, and an unauthorized demand for a citizen’s papers is the “fishing expedition” the Fourth Amendment forbids. Crist, 331 F.3d at 1187 & n.23.

Second, Defendant has no power to enforce the Act against Plaintiffs because their conduct that he is investigating is not covered by the Act. Advocacy, litigation, agency comments, coalition work, and charitable solicitation are not “trade or commerce.” See W. Va. Code § 46A-6-102(6). Yet those are the sole activities that Defendant seeks to investigate through the subpoenas. Charitable appeals are “inextricably intertwined with otherwise fully protected speech” and are not treated as commercial. Riley v. Nat’l Federation of the Blind of N.C., Inc., 487 U.S. 781, 796 (1988). Litigation is “a form of political expression.” NAACP v. Button, 371 U.S. 415, 429 (1963). And a campaign to influence government is immune from liability under state law for its content. Eastern R.R. Presidents Conference v. Noerr Motor Freight, Inc., 365 U.S. 127, 138–40, 145 (1961); IGEN International, Inc. v. Roche Diagnostics GmbH, 335 F.3d 303, 310 (4th Cir. 2003) (immunity extends to state-law claims).

Nor may the Act reach such conduct based on a theory of deception by Plaintiffs.⁵ Deception is ground for regulating only commercial speech because that speech proposes a transaction and its claims are “more easily verifiable” by the one who makes them. Va. State Bd. of Pharmacy v. Va. Citizens Consumer Council, Inc., 425 U.S. 748, 771–72 & n.24 (1976). Plaintiffs’ speech, however, is not commercial—it proposes no transaction, promotes no product, and earns no profit. Bolger v. Youngs Drug Products Corp., 463 U.S. 60, 66–67 (1983); Greater Baltimore Center for Pregnancy Concerns, Inc. v. Mayor of Baltimore, 879 F.3d 101, 108–110 (4th Cir. 2018). It is speech on a public issue, at “the highest rung of the hierarchy of First Amendment values.” Snyder, 562 U.S. at 452.

⁵ Even if deception by Plaintiffs (nonprofit advocacy organizations) were something that Defendant could investigate under the Act (it is not), there is no plausible deception that Defendant could show. Plaintiffs stand behind every statement the subpoenas describe and, indeed, the connection between fossil-fuel emissions and a changing climate is one the Supreme Court has called “well-documented.” Massachusetts v. EPA, 549 U.S. 497, 504–05 (2007). In fact, in a brief Defendant signed just four months before he issued these subpoenas, the State of West Virginia admitted that capturing carbon dioxide in carbon sequestration wells will “help mitigate climate change.” Brief of Intervenor at 4, W. Va. Surface Owners’ Rights Org. v. Zeldin, No. 25-1384 (4th Cir. May 18, 2026). If there is deception related to climate change in this case, it does not come from Plaintiffs.

Accordingly, even if Defendant's investigation did turn up "something," he could not act on anything the subpoenas produced because Plaintiffs' activity is not regulated by the Act. Under Capital One, that ends the inquiry: an official who cannot enforce cannot investigate. And under Crist, the investigation violates the Fourth Amendment because it is "premised solely upon legal activity."

The subpoenas fall with the investigation because they are not reasonable. Hale v. Henkel, 201 U.S. 43, 76 (1906). The Fourth Circuit stated that "an investigative subpoena, to be reasonable under the Fourth Amendment, must be (1) authorized for a legitimate governmental purpose; (2) limited in scope to reasonably relate to and further its purpose; (3) sufficiently specific ...; and (4) not overly broad." In re Subpoena Duces Tecum, 228 F.3d 341, 349 (4th Cir. 2000). A subpoena issued in an unauthorized investigation fails the first requirement. It serves no legitimate governmental purpose because it serves no authorized inquiry. And where, as here, the papers demanded are themselves protected by the First Amendment, the court must apply those requirements with "scrupulous exactitude." Zurcher v. Stanford Daily, 436 U.S. 547, 564 (1978).

To afford necessary relief, therefore, an injunction issued by this Court must enjoin the investigation. Enjoining the subpoenas alone would invite the Attorney General to reissue them, narrower or not, in an inquiry that has no lawful subject, or attempt to obtain them in an enforcement action in state court. Capital One enjoined the Attorney General from issuing any subpoena in the investigation and declared that he could neither investigate nor sue the recipient on its subject. 563 F.Supp.2d at 622. Crist affirmed that the Attorney General could not proceed with the investigation. 331 F.3d at 1179. Capital One also declared that the Attorney General could neither investigate nor sue the subpoena recipient on the subject of the investigation. 563 F.Supp.2d at 622. Plaintiffs respectfully request the same: an order restraining enforcement of the subpoenas, any application under § 46A-7-104(3), any further demand, and any action under the Act or other law predicated on the subjects of the investigations.

3. The subpoenas compel disclosure of association and burden charitable solicitation without any justifying interest.

Independently, Plaintiffs are likely to succeed on their compelled-disclosure and charitable-solicitation claims. The subpoenas demand the Plaintiffs turn over information regarding organizations that fund each Plaintiff, the amounts they gave, the organizations each Plaintiff pays, board members' affiliations with renewable-energy entities, and each Plaintiff's dealings with every coalition partner. Demands 9(b), 12, 13(b), 14(b)–(d), 16. Compelled disclosure of affiliation with groups engaged in advocacy “may constitute as effective a restraint on freedom of association” as direct suppression. NAACP v. Alabama ex rel. Patterson, 357 U.S. 449, 462 (1958); First Choice, 608 U.S. at 185. Such demands require exacting scrutiny: “a substantial relation between the disclosure requirement and a sufficiently important governmental interest,” and a demand “narrowly tailored to the government’s asserted interest.” Bonta, 594 U.S. at 607–08. Defendant bears the burden of justifying these demands, and he has identified no interest at all: no consumer, no transaction, no complaint, and no deception. Accordingly, there is no governmental interest at play that would warrant this violation of Plaintiffs’ rights to free association, let alone a “sufficiently important governmental interest” that would withstand exacting scrutiny. First Choice, 608 U.S. at 198–99.

The subpoenas likewise burden Plaintiffs’ right to solicit charitable contributions, which “limits a government’s ability to make demands of charities that would have the ‘predictable result’ of rendering their ‘solicitations ... unsuccessful.’” First Choice, 608 U.S. at 190 n.2 (quoting Riley, 487 U.S. at 799–800). Plaintiffs’ funders give on the understanding that their support will not be disclosed to the government, and Plaintiffs reasonably expect that disclosure—and the risk that a named funder will draw a demand of its own—will cause funders to reduce or withdraw support. Smith Decl. ¶¶ 26–30; Odendahl Decl. ¶¶ 6–8, 21, 23–25. Courts may draw that “commonsense inference[]” about third-party behavior, First Choice, 608 U.S. at 189–90, and Plaintiffs’ experience confirms it, Smith Decl. ¶¶ 27; Odendahl Decl. ¶¶ 6–8.

Because the investigations' only-identified subjects are Plaintiffs' protected speech and association, no demand issued in them—however narrowed—could satisfy exacting scrutiny, and the injury First Choice recognized continues “for as long as [the demand] remains outstanding.” 608 U.S. at 189. Relief on these claims must therefore enjoin the investigations, not just the subpoenas.

B. Plaintiffs Are Suffering Irreparable Harm from the Subpoenas and Investigations.

Plaintiffs will suffer irreparable harm without a TRO and preliminary injunction. Plaintiffs have already curtailed their speech and associations because of the issuance of the subpoenas. For example, employees at WV Rivers are now forced to consider whether to move forward with events or programs it had planned before the subpoena was issued despite the fact that its activities comply with all laws and are a benefit to the community. Smith Decl. ¶¶ 18–20, 23. WV Rivers is actively self-censoring its internal communications and has also paused its mini-grant funding as a direct result of the subpoena. Id. ¶¶ 17, 24. 350.org will undertake no new work in West Virginia while the subpoena and investigation are pending. Odendahl Decl. ¶ 18. And WV Rivers and 350.org have both also expressed reasonable concerns that groups and donors may not want to continue associating with the organization out of fear of becoming Defendant's newest investigative target. Smith Decl. ¶ 26–30; Odendahl Decl. ¶¶ 21–25.

This chilled speech and association are irreparable harms. It is a well-recognized principle that “[t]he loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury.” Elrod v. Burns, 427 U.S. 347, 373–74 (1976) (plurality opinion) (citing N.Y. Times Co. v. United States, 403 U.S. 713 (1971)). One district court recently found that the same types of First Amendment injuries that Plaintiffs have shown here—a more cautious staff hesitating to collect or disseminate information and the deterrence of partners or donors from associating with the organization—constituted irreparable harm. Exodus Refugee, 2026 WL 2249397, at *24–25. And

a “campaign of retaliation against [Plaintiffs] in response to their exercise of their First Amendment rights ... is also an irreparable injury.” Media Matters, 138 F.4th at 585.

Plaintiffs’ Fourth Amendment injuries are irreparable as well. The Fourth Circuit, analyzing the Baltimore Police Department’s surveillance program, determined that the program likely violated the Fourth Amendment and found that, “[b]ecause there is a likely constitutional violation, the irreparable harm factor is satisfied.” Leaders of a Beautiful Struggle v. Baltimore Police Dep’t, 2 F.4th 330, 346 (4th Cir. 2021) (en banc). Defendant’s unlawful subpoenas and investigations are themselves Fourth Amendment injuries. See Hale, 201 U.S. at 76 (order to produce papers “may constitute an unreasonable search and seizure”); Crist, 331 F.3d at 1187–88 (affirming judgment for recipients of attorney general’s investigative demands in pre-enforcement § 1983 suit because a baseless investigation “violates the Fourth Amendment”). Further injury to Plaintiffs is imminent: the subpoena return date is November 2. By then, to preserve attorney-client privilege or other relevant privileges, Instruction 9 of the subpoena requires Plaintiffs to produce by the return date a log identifying “the Document or category of Documents withheld,” the privilege asserted, “the factual basis for the assertion,” and the specific request to which the withheld document responds. But to state the factual basis for withholding a document on associational grounds, Plaintiffs would have to disclose facts about the association the privilege is meant to protect.

These constitutional injuries are not the only irreparable harm Plaintiffs are suffering. Plaintiffs are diverting significant staff and leadership time towards dealing with the fallout from the subpoenas and investigation—time they should be spending on their important advocacy work. This, too, is irreparable harm that will continue until the subpoenas and investigations are enjoined. Every hour spent answering Defendant’s demands is an hour not spent on the speech or associations he targets.

C. The Balance of Equities and Public Interest Tip in Plaintiffs' Favor.

The final two Winter factors “merge when the Government is the opposing party.” Nken v. Holder, 556 U.S. 418, 435 (2009). Plaintiffs satisfy both factors. Neither Defendant nor the public has an interest in pursuing unconstitutional sham investigations. Newsom ex rel. Newsom v. Albemarle County Sch. Bd., 354 F.3d 249, 261 (4th Cir. 2003). In fact, the Fourth Circuit has held on numerous occasions that “a state is in no way harmed by issuance of a preliminary injunction which prevents the state from enforcing restrictions likely to be found unconstitutional. If anything, the system is improved by such an injunction.” Giovani Carandola, Ltd. v. Bason, 303 F.3d 507, 521 (4th Cir. 2002); see also Newsom, 354 F.3d at 261 (same); Leaders of a Beautiful Struggle, 2 F.4th at 346 (same). An injunction here is also in the public interest—courts have held time and again that injunctions preserving constitutionally protected rights or freedoms are almost always in the public interest. See, e.g., Newsom, 354 F.3d at 261 (“Surely, upholding constitutional rights serves the public interest.”).

Plaintiffs have therefore satisfied all four Winter factors, and an injunction is appropriate. A bond is unnecessary because an injunction would impose no economic hardship on Defendant.

CONCLUSION

“There can be no greater judicial function of the court than to stand between the government and the citizen, and, thus, to protect the latter from harassment and unfounded intrusion.” State ex rel. Hoover v. Berger, 199 W. Va. 12, 19 (1996). Plaintiffs need that protection here. The West Virginia Attorney General is entitled to hold an uninformed opinion of climate change. But he may not legally harass groups because they hold opposing (and in this case scientifically valid) views. By investigating Plaintiffs, Defendant has violated their constitutional rights, and he will continue to do so until the subpoenas and the concomitant investigations are enjoined. Plaintiffs therefore respectfully request that the Court grant their motion for a TRO and preliminary injunction.

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Respectfully submitted,

s/ Derek Teaney

DEREK TEANEY (WVBN 10223)
AMANDA DEMMERLE (WVBN 13930)
APPALACHIAN MOUNTAIN ADVOCATES, INC.
P.O. Box 507
Lewisburg, WV 24901
Telephone: (304) 646-1182
Email: dteaney@appalmad.org
ademmerle@appalmad.org

Counsel for Plaintiffs