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She Inspired Laws to Hold the Fossil Fuel Industry Accountable. Now She's a Target.

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Fresh out of law school in 2022, Rachel Rothschild wrote a [memo](#) laying out the legal justification for a new strategy to fight climate change: States could force oil and gas companies to pay for the damage caused by extreme floods and wildfires that are made worse by the use of their products.

Ms. Rothschild's work was foundational. It provided the basis for the nation's first "climate superfund" laws, which were passed in New York and Vermont last year and could be adopted by as



many as six more states as soon as this year. If implemented, they could cost oil companies billions of dollars.



Her work made Ms. Rothschild a target. She is one of a number of lawyers, law professors and judges who have been the focus of a campaign to discredit them led by a conservative group with ties to the fossil fuel industry and the Trump administration.

Shortly after the passage of the Vermont law last June, the group sued the University of Michigan, where Ms. Rothschild now teaches, after the university refused its request for Ms. Rothschild's emails related to "climate superfunds." As a public institution, the university is subject to the state's public records law. The group, called Government Accountability and Oversight, has also sought to have Ms. Rothschild undergo a deposition.

The university, which has filed a motion to dismiss the lawsuit, maintains Ms. Rothschild's communications are not subject to public records requests because they were written on her private email account. Still, the university told Ms. Rothschild that she must comply with the request for a deposition.

Experts said the actions against Ms. Rothschild seemed designed to discourage her or others from similar work.

"Legal actions and public records requests may be used in a manner that can intimidate or silence scholars, and when that happens, it threatens not only the targeted individuals but also the progress of knowledge and informed debate," Kyle Logue, the interim dean of the University of Michigan Law School, said in a statement.

The actions regarding Ms. Rothschild appear to be part of a campaign by the fossil fuel industry to quash new legal tools for holding companies accountable for climate pollution. As President Trump moves to end federal efforts to fight climate change, the new state-level "polluter-pays" laws and lawsuits are seen as the next frontier in the battle over global warming.

Executives from nearly two dozen oil and gas companies raised their concerns about the climate superfund laws at a meeting last week with President Trump at the White House. They want the Justice Department to file briefs in support of their litigation against the state laws, said two people familiar with the matter who spoke on the condition of anonymity because they were not authorized to publicly discuss the private meeting.



The campaign is being waged by a group that has largely been funded by the foundation created by Joseph Craft III, chief executive of the nation's third largest coal company and an ally of and campaign donor to President Trump.

Ms. Rothschild's initial memo — now making its way through statehouses — laid out the case for states to use the model of the 1980 Superfund law, which requires polluters to pay to clean abandoned toxic waste sites, and apply it to the climate damage caused by emissions from the burning of oil, gas and coal. Lawmakers in California, Maryland, Massachusetts, New Jersey, Oregon, Rhode Island and Connecticut are now considering climate superfund legislation.

In addition, more than 30 lawsuits have been filed by states and municipalities aimed at forcing oil and gas companies to pay for repairs or adaptations linked to damage from climate change. Many of those cases, some of which could end up before the Supreme Court, argue that the companies knew for years about the dangers of climate change linked to their products but concealed that information.

The approach is similar to those of past lawsuits that led to landmark settlements with the tobacco industry and opioid manufacturers.

The fossil fuel industry counters that climate change is a global problem and that individual state laws are an unconstitutional attempt to assert control over the nation's energy system.

"These extraordinary, unprecedented laws impose massive retroactive penalties going back decades for lawful, out-of-state conduct that was regulated by Congress," said Daryl Joseffer, executive vice president and chief counsel for the litigation arm of the United States Chamber of Commerce, which has sued both New York and Vermont to overturn the climate superfund laws.

Twenty-two other states, led by their Republican attorneys general, are challenging the New York law in federal court.

Ryan Meyers, senior vice president and general counsel at the American Petroleum Institute, an industry group that is also fighting to overturn the climate superfund laws in New York and Vermont, said they were part of "a coordinated campaign against an industry that is vital to everyday life and serves as the engine of America's economy."

A key player in the campaign to stop the effort to hold fossil fuel companies financially accountable for damages is Christopher Horner, a lawyer and conservative activist who served on the transition team for the Environmental Protection Agency during Mr. Trump's first term.

For years, Mr. Horner has used public records laws to unearth emails of climate scientists and disseminate them in ways that aim to undermine their work.



“Chris Horner is the nation’s most prolific user of FOIA and its state equivalents to go after anyone fighting climate change who works for a public entity,” said Michael Gerrard, an expert in climate law at Columbia University.

In 2011, the board of the American Association for the Advancement of Science complained that Mr. Horner was making “unreasonable, excessive Freedom of Information Act requests for personal information and voluminous data that are then used to harass and intimidate scientists.”

When President Barack Obama tried to pass a climate law, allies of Mr. Horner worked to spread the emails of climate scientists, gathered by Mr. Horner, to Republicans in Congress.

[In a 2017 interview](#) with The New York Times, Mr. Horner said that had helped kill the bill.

Now, Mr. Horner and his allies are focused on the architects behind the “polluter pays” laws.

Mr. Horner did not respond to several requests for comment.

From 2018 to 2021, Mr. Horner served as a board member for Government Accountability and Oversight, the group that filed suit against Ms. Rothschild. As recently as January, Mr. Horner wrote an article for The Washington Reporter, a conservative media website, in which [he said he represented the Government Accountability and Oversight group](#) in federal and state open records matters.

According to public records, a major donor to the group is a nonprofit foundation formed by Mr. Craft, the chief executive of Alliance Resource Partners, the country’s third largest coal company. The Joseph Craft III Foundation contributed \$300,000 a year to the Government Accountability and Oversight group from 2020 to 2023, for a total of \$1.2 million, according to its [public tax](#) filings. That appears to make it a major funder of the group’s activities: During those years, [G.A.O.’s total annual revenue averaged \\$576,172](#).

Mr. Craft and his wife, Kelly, who served as ambassador to the United Nations in the first Trump administration, have given nearly \$3 million to Mr. Trump’s presidential campaigns, the Republican Party and a Republican super PAC.

The Craft foundation and Alliance Resource Partners did not respond to requests for comment.

Matthew Hardin, who serves on the board of Government Accountability and Oversight, wrote in a statement, “Like all nonprofits, G.A.O. relies on contributions from donors to fulfill its independent, charitable mission of seeking transparency in public institutions and educating the public.”



The group's interest in Ms. Rothschild appears focused on her communications with Lee Wasserman, the director of the Rockefeller Family Fund, a philanthropy that has supported efforts to sue oil companies over what it calls climate deception.

It was Mr. Wasserman who first wondered if lawmakers could combine the old Superfund law with new penalties for climate polluters.

Mr. Wasserman brought the idea to the Institute for Policy Integrity, a nonprofit research organization that is housed in New York University's law school, where Ms. Rothschild was then working as a fellow. She researched whether the idea could stand up legally. The Rockefeller Family Fund donated \$50,000 to the Institute for Policy Integrity to fund her research, which led New York and Vermont lawmakers to propose legislation.

When it comes to climate and environmental matters, states often rely on academics for legal advice because many private law firms represent fossil fuel companies, which can create a conflict of interest.

After writing her memo, Ms. Rothschild joined the faculty at the University of Michigan, where she continued to work on climate superfund legislation in her free time, briefing lawmakers and testifying before legislative committees.

"I'm proud of the fact that I do a lot of pro bono work in areas where I have particular expertise, and I was glad I could help states like Vermont and New York draft these laws," she said in a statement.

Ms. Rothschild's pro bono work was "critical" to passage of the law in New York, said Justin Flag, director of environmental policy for Liz Krueger, a Democratic New York state senator who sponsored the legislation. "This was something that had not yet been tested in court," he added. "So we really hung our hat on her analysis."

Environmental law professors at other public universities have been targets of similar campaigns. During the Biden administration, Mr. Horner used the state public records law to obtain the emails of Ann Carlson, who teaches at the University of California, Los Angeles.

Ms. Carlson, who had consulted on climate damage lawsuits, was nominated by President Joseph R. Biden Jr. to run a federal agency that writes rules aimed at reducing climate-warming tailpipe pollution — a position requiring Senate confirmation.

Government Accountability and Oversight gave Ms. Carlson's emails to Fox News, which published stories about her on its website including one titled, "[Biden nominee coordinated dark money climate nuisance lawsuits involving Leonardo DiCaprio.](#)"



Senator Ted Cruz, Republican of Texas, used the emails to fight Ms. Carlson's confirmation, at one point calling her an “[ethically challenged, environmental zealot](#).” He introduced an amendment on the Senate floor to strip the salary from her position.

While the amendment failed, she ultimately withdrew her nomination, although she did end up serving in the role in an acting capacity.

“It was ruthless, relentless and baseless,” Ms. Carlson said of the experience of having her emails used against her. “This is a tactic designed to dissuade people from working on important climate policies.”

The campaign has extended to at least one judge. In 2023, Mark Recktenwald, the chief justice of the Hawaii Supreme Court, wrote a unanimous decision that the local government in Honolulu could move forward with a climate liability lawsuit against major oil companies.

Justice Recktenwald gave a remote presentation to the Environmental Law Institute, a Washington, D.C.-based nonprofit group that runs seminars on environmental litigation.

Conservative media outlets including as The [Daily Caller](#) and [Fox News](#) ran stories noting that a member of the institute's board had worked at a law firm that defended the climate law in the Honolulu case. The stories did not mention that oil executives also serve on the institute's board. Justice Recktenwald had also asked both parties in the Honolulu lawsuit for any concerns about his plans to speak at the seminar, and neither side had objected.

But in virtually every story, a group called Energy Policy Advocates, which has named Mr. Horner as its lawyer, charged that Justice Recktenwald's participation showed improper bias.

Justice Recktenwald declined to comment. The effort to devalue the legal scholars involved in the climate cases reflects the potential impact of the new laws and litigation, experts said.

“These new state laws and this avalanche of lawsuits are threatening the survival of these fossil fuel companies,” said Patrick Parenteau, an emeritus professor at the Vermont Law and Graduate School.

The post [She Inspired Laws to Hold the Fossil Fuel Industry Accountable. Now She's a Target](#). appeared first on [New York Times](#).



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