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(410) 576-7036

STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL

WRITER'S DIRECT DIAL NO.
(410) 576-6327
phughes@oag.state.md.us

April 25, 2019

Via Electronic Mail

Christopher C. Horner
Government Accountability & Oversight
724 Bielenberg Drive PMB #14
Woodbury, MN 55125
chris@govoversight.org

Dear Mr. Horner:

This letter supplements the response that my colleague, Ann MacNeille, sent to you on March 25, 2019, regarding your request under the Public Information Act ("PIA"), *see* Md. Code Ann., Gen. Prov. ("GP") §§ 4-101, et. seq., for "all correspondence sent to, from, or copying (whether as cc: or bcc:) Brian Frosh, Grace O'Malley and/or Carolyn Quattrocki, that includes, anywhere, 'NYU', be it in an email address (e.g., @nyu.edu), or otherwise" from August 1, 2017 to January 31, 2018. As Ms. MacNeille noted in her letter of March 25, she was still trying to tie up some loose ends regarding that request. One of those loose ends was to make sure that we had provided any responsive documents involving the transaction of public business from the Attorney General's personal email account.¹

Attached to this letter are those public records from the Attorney General's personal email account that are both responsive to your request and disclosable under the PIA. In

¹ I am aware that, since that time, you have submitted new PIA requests that specifically ask for certain emails from the Attorney General's personal email account. We will respond to those requests separately and provide—or withhold, as permissible under Maryland law—any additional public records responsive to that request which were not already covered by this earlier request. This supplemental response also fully responds to your PIA request of April 1, 2019 for communications from the AG's personal email account that was "sent to or from or copies . . . i) djh466@nyu.edu, ii) davidjhayes01@gmail.com, iii) david.hayes@nyu.edu, iv) ek3041@nyu.edu, and/or v) elizabeth.klein@nyu.edu, and c) is dated between August 1, 2017 and September 30, 2017, inclusive." There are no additional emails responsive to that request that are not already covered by this response.

some cases you will see my name or the name of my assistant, Deborah Spence, at the top of the email. That is merely a function of how your request was processed; it does not mean that either of us participated in the underlying communication. We have redacted from these documents certain communications between our Office and the State Energy & Environmental Impact Center ("Impact Center") that are protected by the attorney-client privilege, the attorney work product doctrine, the deliberative process privilege, and the executive privilege. See GP § 4-301(1) (incorporating common-law privileges into the PIA); GP § 4-344 (providing that a custodian may "deny inspection of any part of an interagency or intra-agency letter or memorandum that would not be available by law to a private party in litigation"); see also *Gallagher v. Office of Attorney Gen.*, 141 Md. App. 664, 674-76 (2001). As noted in a prior response to one of your earlier requests, the deliberative process privilege extends to deliberations with private outside experts that, like the Impact Center here, are consulting with a government agency. See, e.g., *National Inst. of Military Justice v. Department of Defense*, 512 F.3d 677, 681 (D.C. Cir. 2008); *Hanson v. Agency for Int'l Dev.*, 372 F.3d 286, 292 (4th Cir. 2004). Finally, we have redacted the Attorney General's email address.

In addition, we have also withheld a few categories of documents in their entirety. First, we have withheld the applications of several candidates for employment, as well as discussions about the qualifications and merits of those candidates, and references concerning those candidates. We have withheld those records under the exemptions for personnel records in GP § 4-311 and letters of reference in GP § 4-310. Second, we have withheld, on the grounds of attorney-client privilege, two email chains involving discussions about a draft retainer agreement between our Office and the Impact Center. Third, we have withheld a handful of emails involving legal advice given to our Office by the Impact Center, as well as related discussions with the Impact Center about potential legal action and strategy. We have withheld those records on the grounds of the attorney-client privilege, the attorney work product doctrine, the deliberative process privilege, and the executive privilege. See GP § 4-301(1); GP § 4-344; see also *Gallagher*, 141 Md. App. at 674-76 (explaining the common-interest work product privilege).

As for those records redacted or withheld, disclosure would not be in the public interest because it would threaten to discourage the free exchange of ideas among government decision-makers, their lawyers, and their consultants. In addition, for those records that we have withheld in their entirety, they are either privileged in their entirety or we are not able to provide any non-privileged information that is severable from the protected material.

Christopher Horner
April 25, 2019
Page 3

As Ms. MacNeille stated in her letter of March 25, 2019, in providing you with earlier documents responsive to this same request, we already more than exhausted the \$100 that you had pre-paid. It then took 3 additional hours of chargeable time to search, review, and prepare this supplemental response. Based on the pro-rated hourly rates of the employees who spent time on that search and review process, the remainder of the fee is \$164.18. Although we would have the right to ask that you pay that fee before providing these additional documents, we will go ahead and provide the documents in question with the understanding that you will provide prompt payment. Please submit, to my attention at the address on this letterhead, a check for \$164.18 payable to the "Office of Attorney General" with a notation that it is payment for this April 25, 2019 PIA response.

As always, please let me know if you have any questions or concerns. Alternatively, you may refer any concerns about this response to the Public Access Ombudsman under Subtitle 4-1B of the General Provisions Article. The Ombudsman's procedures are posted at <http://news.maryland.gov/mpiaombuds/>. You also have the right to seek judicial review of our Office's decision under GP § 4-362.

Sincerely,



Patrick B. Hughes
Assistant Attorney General

cc: Ann MacNeille
Barbara Bond

Spence, Deborah

From: brian frosh <[REDACTED]>
Sent: Tuesday, April 2, 2019 1:24 PM
To: Hughes, Patrick
Subject: Fwd: State Energy & Environmental Impact Center
Attachments: State Impact Center Staff Attorney Position Description.docx

----- Forwarded message -----

From: David J. Hayes <david.hayes@nyu.edu>
Date: Fri, Aug 25, 2017 at 12:54 PM
Subject: Fwd: State Energy & Environmental Impact Center
To: <[REDACTED]>

Brian:

Brian Mahanna did not have someone from your office on his list, so I'm sending this directly to you.

Thanks.

David

----- Forwarded message -----

From: David J. Hayes <david.hayes@nyu.edu>
Date: Fri, Aug 25, 2017 at 12:50 PM
Subject: State Energy & Environmental Impact Center
To: Eleanor.Blume@doj.ca.gov, PerryZR@ct.gov, LaKresha.Roberts@state.de.us, Natalie.Ludaway@dc.gov, Joshua.A.Wisch@hawaii.gov, ASpillane@atg.state.il.us, Eric.Tabor@iowa.gov, Latasha.Buckner@ky.gov, Linda.Pistner@maine.gov, Brian Mahanna <Brian.Mahanna@ag.ny.gov>, Mike.Firestone@state.ma.us, MMCCL@ago.state.ms.us, MBaca@nmag.gov, SDearmin@ncdoj.gov, BThomas@ncdoj.gov, Kamala.H.Shugar@doj.state.or.us, JRadosevich@attorneygeneral.gov, DWade@attorneygeneral.gov, MFischer@attorneygeneral.gov, MLenz@riag.ri.gov, Natalie.Silver@vermont.gov, KOHolleran@oag.state.va.us, KateK@atg.wa.gov
Cc: "David J. Hayes" <david.hayes@nyu.edu>, Elizabeth Klein <elizabeth.klein@nyu.edu>



State Energy &
Environmental Impact Center
NYU School of Law

To: State OAG Leaders [list kindly provided by Brian Mahanna][please share this email with your Attorney General]

From: David J. Hayes

Re: State Energy & Environmental Impact Center at the NYU School of Law

I hope that you received word about the formation of the State Energy & Environmental Impact Center (State Impact Center) at the NYU School of Law. NYU issued a press release on the formation of the Center, and it also was referenced in recent articles in the Washington Post and in Greenwire.

I am writing to give you and your Attorney General more information about the new State Impact Center.

The goal of the State Energy & Environmental Impact Center is to enhance the resources that your office has to champion your citizens' interests in clean energy, climate change and environmental matters. We admire the vitally important work that you have been doing in this area and are dedicated to giving more support to you, and other Attorneys General – regardless of party affiliation -- who pursue clean energy, climate change and environmental issues.

As explained on our NYU web site, the State Impact Center looks forward to providing assistance to interested AGs in a number of ways.

First, our Center will have three full time attorneys who will be available to provide direct legal assistance to interested AGs on specific administrative, judicial or legislative matters involving clean energy, climate change, and environmental interests of regional and national significance. We look forward to developing a working relationship with your offices and serving as a source of ideas, materials, and contacts on these matters. In that regard, we will maintain a set of on-going relationships with advocates working in the area, and we also are identifying pro bono services that may be available to your offices on individual matters. We are engaged with ethics experts and individuals in some of your offices to ensure confidentiality and work product privilege for matters that State Impact Center attorneys work with you on.

Second, our Center will have a full time communications expert experienced in the clean energy, climate and environmental field to work with, and help leverage, the communications resources in your offices. It is a primary goal of the State Impact Center to draw regional and national attention to the important clean energy, climate and environmental initiatives that your offices are pursuing.

Third, we have funding to recruit and hire 10 NYU fellows who will serve as Special Assistant AGs, working as part of the state OAG's staff. It's in everyone's interest that we work with the relevant AGs and hire these lawyers as soon as practicable.

I have inserted below language from our website which lays out the process for placing NYU fellows as SAAGs. **Please note the September 15 application date.** This deadline is coming up quickly. We set a short deadline at the request of several AGs who are anxious to get the process for placing NYU Fellows into AG offices as soon as possible.

How to Hire an NYU Fellow

The State Impact Center is announcing an opportunity for state attorneys general to recruit and hire a limited number of NYU Fellows with five to 10 years of experience in clean energy, climate change, and environmental issues as special assistant attorneys general (SAAGs). These SAAGs would be available for a two-year period to provide a supplemental, in-house resource to attorneys general and their senior staffs on clean energy, climate change and environmental matters of regional and national importance.

State attorneys general who are selected for this program will work cooperatively with the State Impact Center to recruit and hire NYU Fellows as SAAGs. NYU Law will pay the salaries of the SAAGs, and the State Impact Center will provide ongoing support to the SAAGs and their offices. Once hired, however, the SAAGs' duty of loyalty shall be to the attorney general who hired them.

Basic Eligibility Requirements and Application Process

The opportunity to potentially hire an NYU Fellow is open to all state attorneys general who demonstrate a need and commitment to defending environmental values and advancing progressive clean energy, climate change, and environmental legal positions. Initial funding will support a limited number of NYU Fellows in state attorneys general offices for a two-year term, with the possibility of adding additional NYU Fellows in year two of the program.

Candidates who are approved by the attorneys general and the State Impact Center will receive offers to serve as SAAGs (or the equivalent appropriate title within the office) from the attorneys general, based on an understanding that they will devote their time to clean energy, climate change and environmental matters.

Interested state attorneys general should prepare an application as detailed below and return it to stateimpactcenter@nyu.edu no later than Friday, September 15, 2017.

The State Impact Center will review all applications received for completeness and will contact attorneys general if additional information is needed. State Impact Center staff are available for questions regarding this program.

Application Requirements

To be considered for the NYU Fellows/SAAG program, an application must contain the following:

1. Program Eligibility and Narrative

State attorneys general should describe the particular scope of needs within their offices related to the advancement and defense of progressive clean energy, climate change, and environmental matters. Relevant details include the extent to which funding or other capacity constraints have limited the ability to work on these issues or how additional dedicated support could help advance the work of the state attorney general on behalf of his or her constituents.

Priority consideration will be given to state attorneys general who demonstrate a commitment to and acute need for additional support on clean energy, climate change, and environmental issues of regional or national importance, such as those matters that cross jurisdictional boundaries or raise legal questions or conflicts that have nationwide applicability.

2. Program Structure

Applications should include specific details about the scope of expertise the state attorney general needs in a SAAG to advance his or her priorities. Details should also be provided about how the SAAG would be incorporated into the Office of the Attorney General, including the relevant internal reporting structure.

3. Budget Proposal and Confirmation of Authority

To be considered complete, applications must identify a proposed salary (or range) for a SAAG, with an explanation of how it would conform with the existing salary structure in the state AG office.

Applications also should identify any state-specific limitations or requirements governing the appointment of an employee paid by an outside funding source, and include a written confirmation that the attorney general has the authority to hire an NYU Fellow as a SAAG (or equivalent title).

Application Review

Complete applications will be reviewed on an expedited basis, with decisions on proposed placements of NYU Fellows made as soon as practicable thereafter. Proposed placement decisions will be made by the executive director of the State Impact Center, in consultation with the advisory council. Approximately 10 NYU Fellow slots for five to seven states are expected to be available for the first year of the program. Additional slots may be available in subsequent years.

Once agreements are finalized, the State Impact Center will coordinate directly and immediately with state attorneys general to identify, recruit, and extend SAAG offers to appropriate candidates, with a goal to have SAAG hires in place by the end of 2017.

The State Impact Center will provide ongoing support to the SAAGs. The State Impact Center's support will not be limited, however, to those AG offices that include NYU Fellows. Where appropriate and upon request, and consistent with available resources, the State Impact Center will work with all attorneys general who are pursuing clean energy, climate change, and environmental initiatives.

Finally, please note that the State Energy & Environmental Impact Center's attorneys and communications staff will be located in Washington, D.C. Our offices are at 1616 P Street NW, near DuPont Circle. (The 10 Special Assistant AGs, of course, will be located in the host AG's offices.)

I am heading up the Center, and Liz Klein is the Deputy Director. You can reach us at David.Hayes@nyu.edu and Elizabeth.Kline@nyu.edu. We are in the process of hiring an additional attorney and our full-time communications staff. I am attaching a job descriptions for the attorney position in case you have any recommendations.

Our Center will be guided by a distinguished Advisory Council, chaired by Richard (Ricky) Revesz, the Dean Emeritus of the NYU School of Law. The Advisory Council also includes two former State Attorneys General, Anne Milgram (New Jersey) and Bruce Babbitt (Arizona), as well as Dan Firger, environmental program officer for Bloomberg Philanthropies.

If you have any questions, please do not hesitate to contact Liz Klein or me via email or by phone.

Thanks.

--
David J. Hayes
Executive Director
State Energy & Environmental Impact Center
NYU School of Law
c/o Resources for the Future
1616 P Street, NW
Washington, DC 20036
Cell: 202-258-3909
Personal email: davidjhayes01@gmail.com
Twitter: @djhayes01

Position Description
State Energy & Environmental Impact Center Staff Attorney

Position: Staff Attorney

Reports to: State Energy & Environmental Impact Center Executive Director

Location: Washington, D.C.

Position classification: Exempt, full-time

Summary

The State Energy & Environmental Impact Center ("State Impact Center") at the NYU School of Law supports State Attorneys General ("AGs") in defending and promoting clean energy, climate and environmental laws and policies. The non-partisan State Impact Center provides assistance to AGs in a number of ways, including:

- Providing legal assistance to interested AGs on specific administrative, judicial or legislative matters involving clean energy, climate change, and environmental interests of regional and national significance;
- Working with interested AGs to identify and hire NYU Fellows who will serve as Special Assistant AGs in State AG offices, focusing on clean energy, climate, and environmental matters;
- Helping to coordinate efforts across multiple State AG offices, and with other parties that may be aligned with their interests;
- Identifying and coordinating pro bono representation for AGs;
- Serving as a centralized source of information for on-going Attorneys General initiatives and helping to enhance the public's understanding of the importance of the clean energy, climate change and environmental matters that AGs are pursuing.

The State Impact Center seeks a talented, early-to-mid-level attorney to help advance these efforts. The Staff Attorney will support the whole range of the State Impact Center programs, including working directly with NYU Fellows/Special Assistant Attorneys General on clean energy, climate change, and environmental matters; coordinating the efforts of multiple state AG offices; and identifying, researching, and preparing relevant work product of the State Impact Center.

The Staff Attorney will be an employee of NYU School of Law for a two-year term and will report to the State Impact Center Executive Director. Salary will be commensurate with experience.

As an equal opportunity affirmative action employer, NYU is strongly committed to diversity and welcomes applicants of all races, ethnicities, genders, and sexual orientations.

Responsibilities include, but are not limited to the following:

- Defend environmental values and advance progressive clean energy, climate change, and environmental legal and policy positions.
- Produce excellent legal research and analysis for projects including litigation, policy reports, and public awareness materials, such as blog pieces and op-eds.
- Provide advice to State Impact Center Executive and Deputy Directors as well as state AG offices regarding potential and ongoing matters.
- Participate in potential litigation, including work on case development, motions, and briefs.
- Build long-term relationships and coordinate with interested allies on legal, regulatory, and communications efforts regarding clean energy, climate change, and environmental issues.
- Assist in implementing the terms of the funding agreement between the State Impact Center and Bloomberg Philanthropies, including the preparation of periodic progress reports.
- Contributing to the effective administration of a new and dynamic NYU Center, including assisting in operations and management issues, as appropriate.
- Other duties as assigned.

Requirements and qualifications:

- Applicants must be duly licensed, authorized, and eligible to practice as an attorney under the laws of a state or the District of Columbia. Active bar membership is required.
- Five to ten years experience in clean energy, climate change, and environmental issues, with preference for relevant experience in legal or policy issues of regional or national importance, such as those matters that cross jurisdictional boundaries or raise legal questions or conflicts that have nationwide applicability.
- Litigation and/or regulatory experience, with preference for experience working in state or federal government.
- Strong interpersonal skills and sound judgment, including ability to work diplomatically and effectively with colleagues, interested allies, and state AG offices.
- Excellent writing, editing, research, and verbal communication skills.
- Exceptional organizational skills and ability to proactively manage many simultaneous issues, multitask, and prioritize.
- Strong entrepreneurial spirit and passion for the work of the State Impact Center with a demonstrated interest in public service.
- Eligibility to work in the United States.

Spence, Deborah

From: brian frosh <[REDACTED]>
Sent: Tuesday, April 2, 2019 1:22 PM
To: Hughes, Patrick
Subject: Fwd: NYU Law Fellows

----- Forwarded message -----

From: David J. Hayes <david.hayes@nyu.edu>
Date: Fri, Sep 29, 2017 at 5:43 PM
Subject: NYU Law Fellows
To: <gomalley@oag.state.md.us>
Cc: Elizabeth Johnson Klein <Elizabeth.Klein@nyu.edu>, David J. Hayes <david.hayes@nyu.edu>

Grace:

Thank you for General Frosh's application for NYU Law Fellow(s) to work on clean energy, climate and environmental matters in your office.

We are pleased to let you know that the State Energy & Environmental Impact Center has approved your application. We would like to move forward and support two NYU Fellows, serving as Special Assistant Attorneys General.

We will be back in touch with you next week to discuss the process of bringing these additional resources on board in your office.

Congrats!

David

--
David J. Hayes
Executive Director
State Energy & Environmental Impact Center
NYU School of Law
c/o Resources for the Future
1616 P Street, NW
Washington, DC 20036
Office phone: 202-328-5052
Cell phone: 202-258-3909
Email: david.hayes@nyu.edu; davidjhayes01@gmail.com
Twitter: @djhayes01

Spence, Deborah

From: brian frosh <[REDACTED]>
Sent: Tuesday, April 2, 2019 1:18 PM
To: Hughes, Patrick
Subject: Fwd: nyu forum

----- Forwarded message -----

From: brian frosh <[REDACTED]>
Date: Fri, Oct 20, 2017 at 5:00 PM
Subject: nyu forum
To: Brian Frosh <[REDACTED]>

<http://www.law.nyu.edu/news/institute-for-policy-integrity-green-states-energy-climate-federalism-environmental-law>

Spence, Deborah

From: brian frosh <[REDACTED]>
Sent: Tuesday, April 2, 2019 1:10 PM
To: Hughes, Patrick
Subject: Fwd: NRP

----- Forwarded message -----

From: David J. Hayes <david.hayes@nyu.edu>
Date: Fri, Jan 5, 2018 at 9:09 AM
Subject: NRP
To: Brian Frosh <[REDACTED]>

Brian:

Great job this morning on NPR!

David

--
David J. Hayes
Executive Director
State Energy & Environmental Impact Center
NYU School of Law
Cell phone: 202-258-3909
Email: david.hayes@nyu.edu; davidjhayes01@gmail.com
Twitter: @djhayes01

Spence, Deborah

From: brian frosh <[REDACTED]>
Sent: Tuesday, April 2, 2019 1:22 PM
To: Hughes, Patrick
Subject: Fwd: Maryland Attorney General News Releases Update

----- Forwarded message -----

From: David J. Hayes <david.hayes@nyu.edu>
Date: Wed, Sep 27, 2017 at 5:41 PM
Subject: Fwd: Maryland Attorney General News Releases Update
To: brian frosh <[REDACTED]>
Cc: Christopher Moyer <chris.moyer@nyu.edu>, Elizabeth Johnson Klein <Elizabeth.Klein@nyu.edu>

Brian:

This is big news! Keep us in mind for a heads-up on this sort of announcement in the future. [REDACTED]
[REDACTED]

Thanks again for participating in yesterday's session. Everyone is excited at how well it went.

David

----- Forwarded message -----

From: Christopher Moyer <chris.moyer@nyu.edu>
Date: Wed, Sep 27, 2017 at 12:36 PM
Subject: Fwd: Maryland Attorney General News Releases Update
To: "David J. Hayes" <djh466@nyu.edu>, Elizabeth Klein <elizabeth.klein@nyu.edu>

Fyi

----- Forwarded message -----

From: Maryland A.G. Press <press@info.marylandattorneygeneral.gov>
Date: Wed, Sep 27, 2017 at 3:30 PM
Subject: Maryland Attorney General News Releases Update
To: <chris.moyer@nyu.edu>



Press Release

BRIAN E. FROSH
MARYLAND ATTORNEY GENERAL

Attorney General Frosh Files Suit Against EPA

Complaint Alleges EPA Failed to Require States to Implement Pollution Controls


BALTIMORE, MD (September 27, 2017) – Maryland Attorney General Brian E. Frosh today filed a [complaint](#) in the United States District Court for the District of Maryland against the Environmental Protection Agency (EPA) and Administrator Scott Pruitt for failing to act on a petition requiring power plants in five upwind states to implement air pollution controls. Full Press Release Here: <http://www.marylandattorneygeneral.gov/press/2017/092717.pdf>



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Chris Moyer
Communications Director
State Energy & Environmental Impact Center
NYU School of Law
1616 P Street, NW
Washington, DC 20036
Office phone: 202.328.5150
Cell phone: 603.479.1402
Email: chris.moyer@nyu.edu
Twitter: @Moyer__Chris

--
David J. Hayes
Executive Director
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1616 P Street, NW
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Office phone: 202-328-5052
Cell phone: 202-258-3909
Email: david.hayes@nyu.edu; davidjhayes01@gmail.com
Twitter: @djhayes01

Spence, Deborah

From: brian frosh <[REDACTED]>
Sent: Tuesday, April 2, 2019 1:20 PM
To: Hughes, Patrick
Subject: Fwd: Many thanks

----- Forwarded message -----

From: Revesz, Richard <Revesz@exchange.law.nyu.edu>
Date: Tue, Oct 3, 2017 at 10:10 AM
Subject: Many thanks
To: brian frosh <[REDACTED]>

Brian:

I wanted to thank you for all the efforts you made to come to the Institute for Policy Integrity conference last week and for your truly terrific remarks. You made a really wonderful impression on my colleagues and students. People are still talking about oysters in the Chesapeake Bay and about the consideration paid for the entry of Maryland into the Union!

I very much hope that our paths will cross again soon.

All the best,

Ricky

Spence, Deborah

From: brian frosh <[REDACTED]>
Sent: Tuesday, April 2, 2019 1:26 PM
To: Hughes, Patrick
Subject: Fwd: WaPost

----- Forwarded message -----

From: David Hayes <dhayes@law.stanford.edu>
Date: Wed, Aug 16, 2017 at 10:04 PM
Subject: WaPost
To: Brian Frosh <[REDACTED]>

Brian:

Juliet Eilperin's story is up. Your quote is great.

http://wapo.st/2i7imRV?tid=ss_tw&utm_term=.ccb14fe5a287

The web site for the new Center also just went live: <http://www.law.nyu.edu/centers/state-impact>

We're off to the races. This would never have happened without your leadership.

David

--

David J. Hayes
Distinguished Visiting Lecturer in Law
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dhayes@law.stanford.edu
twitter: @djhayes01
personal email: davidjhayes01@gmail.com

Spence, Deborah

From: brian frosh <[REDACTED]>
Sent: Tuesday, April 2, 2019 1:08 PM
To: Hughes, Patrick
Subject: Fwd: hello again

----- Forwarded message -----

From: brian frosh <[REDACTED]>
Date: Fri, Jan 26, 2018 at 3:28 PM
Subject: hello again
To: Gerken, Heather <heather.gerken@vale.edu>

Heather

It turns out that our first Bloomberg Fellow, Josh Segal, was a student of yours at Harvard. He's a big fan. We are looking to fill our second position, and Josh suggested that you might be able to help us identify candidates. Do you know anyone 5-10 years out of school who would be interested in saving the planet from the predations of Scott Pruitt and Ryan Zinke? This is a link to information about the program: <http://www.law.nyu.edu/centers/state-impact/apply>

It was great talking to you a couple of weeks ago. If there are ways in which we can work together, we would look forward to exploring them.

Warm regards.

Brian

Spence, Deborah

From: brian frosh <[REDACTED]>
Sent: Tuesday, April 2, 2019 1:09 PM
To: Hughes, Patrick
Subject: Fwd: From Climatewire -- CLEAN POWER PLAN: Hearing on proposed repeal mixes science and politics

----- Forwarded message -----

From: David J. Hayes <david.hayes@nyu.edu>
Date: Fri, Jan 12, 2018 at 8:54 AM
Subject: Fwd: From Climatewire -- CLEAN POWER PLAN: Hearing on proposed repeal mixes science and politics
To: Brian Frosh <[REDACTED]>

Brian:

Great press! Everyone in the field reads this.

David

----- Forwarded message -----

From: david.hayes <email_this@eenews.net>
Date: Fri, Jan 12, 2018 at 8:52 AM
Subject: From Climatewire -- CLEAN POWER PLAN: Hearing on proposed repeal mixes science and politics
To: david.hayes@nyu.edu

This Climatewire story was sent to you by: david.hayes@nyu.edu

CLIMATEWIRE

AN E&E NEWS PUBLICATION

CLEAN POWER PLAN Hearing on proposed repeal mixes science and politics

Josh Kurtz, E&E News

Published: Friday, January 12, 2018

ANNAPOLIS, Md. — Maryland's unique natural properties — the Chesapeake Bay, extensive wetlands and more than 3,000 miles of coastline — took center stage yesterday as state Attorney General Brian Frosh (D) and legislative leaders held a hearing here on the Trump administration's plans to kill or dramatically diminish the Clean Power Plan.

State and national politics were a key element of the conversation during the 3 ½-hour hearing on the plan, the Obama administration's signature initiative to reduce greenhouse gas emissions at power plants.

U.S. EPA Administrator Scott Pruitt was a frequent target of criticism, labeled biased and lawless by officials and people who testified. Gov. Larry Hogan (R), whose administration this week wrote to Pruitt expressing its support for the Clean Power Plan and joined the bipartisan alliance of governors committed to meeting the goals of the Paris climate accord, was the object of some partisan attacks ([see related story](#)).

The "people's hearing" was called by Frosh, state Senate President Mike Miller (D) and state House Speaker Mike Busch (D) — one of a series of sessions that Democratic attorneys general have scheduled this month on the CPP repeal, after EPA rejected their entreaties to hold hearings in their states ([Energywire](#), Jan. 10).

Frosh pulled no punches when it came to discussing Pruitt, a former Oklahoma attorney general who sued the Obama administration's EPA to block the Clean Power Plan and other environmental initiatives. Frosh said Pruitt should recuse himself from any Trump administration deliberations over the future of the CPP.

"He made up his mind when he sued EPA," Frosh said. "He is undeniably biased."

Frosh also blasted Pruitt for refusing to hold an official EPA hearing on the CPP anywhere on the East Coast, except for West Virginia coal country.

"We're here because we believe Maryland has a story to tell and that Marylanders deserve to be heard," he said.

That story included Maryland's vulnerability to sea-level rise, already evident in frequent flooding in the Annapolis historic district; the erosion of historic Smith Island in the Chesapeake Bay; and a "thousand-year" flood that raged through the old mill town of Ellicott City in 2016 ([Climatewire](#), Nov. 17, 2015; [Greenwire](#), Aug. 1, 2016).

"The science is increasingly clear," said Donald Boesch, a marine biology professor at the University of Maryland Center for Environmental Science, who warned of "disastrous consequences" if the state and nation do not embrace "net-zero" power emissions.

Boesch said scotching the Clean Power Plan would make it impossible for the state to attain its emissions reduction goals.

Dallas Burtraw, a senior fellow at Resources for the Future, said the air quality improvements from the Clean Power Plan as proposed by the Obama administration would result in 100 fewer premature deaths. But the alternative proposed by Pruitt, he said, would lead to six additional premature deaths compared with the baseline.

"It could very well worsen public health and environmental outcomes in the state compared to doing nothing," Burtraw said.

In addition to Maryland's natural resources, the Rev. Lennox Yearwood Jr., president of the Hip Hop Caucus, said repealing the Clean Power Plan could hurt urban areas, as well, noting that many African-American neighborhoods are close to coal-fired plants. Yearwood praised state officials for banning hydraulic fracturing last year.

Maryland, he said, is "not only the Free State, but the Fossil-Free State."

While Hogan, who is girding for a tough re-election campaign, works to burnish his environmental credentials, two of the Democrats running for governor turned up at Frosh's hearing yesterday. Former NAACP President Ben Jealous and his running mate, former state Democratic Chairwoman Susan Turnbull, were particularly pointed in their criticism. Jealous sought to link Hogan, who has worked to distance himself from the Trump administration, to Pruitt.

The EPA leader, Jealous said, "has become a threat to our state in too many ways, and the silence of our governor has frankly put our state at risk."

The other Democratic gubernatorial contender who testified, Prince George's County Executive Rushern Baker, did not launch any partisan attacks, speaking instead about how climate change has impacted his jurisdiction in the Washington, D.C., suburbs and about the county's new stormwater management program.

Earlier this week, Hogan's environment secretary, Ben Grumbles, wrote a letter to Pruitt emphasizing the state's support for the Clean Power Plan as written by the Obama administration. Douglass Mayer, Hogan's spokesman, lamented the criticism his boss has received on the environment.

"The governor's record on the environment is incredibly strong, as evidence by his strong actions on clean air and clean water," Mayer said.

In all, several dozen people testified at Frosh's hearing — and they all decried the Trump administration's plan to debilitate the Clean Power Plan. Raquel Guillory Coombs, a spokeswoman for Frosh, said one person emailed the attorney general's office this week to signal his support for repealing the CPP. Frosh said yesterday's testimony would be submitted to EPA and, he hoped, added to the official record.

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David J. Hayes

Executive Director

State Energy & Environmental Impact Center

NYU School of Law

Cell phone: 202-258-3909

Email: david.hayes@nyu.edu; davidjhayes01@gmail.com

Twitter: @djhayes01

Spence, Deborah

From: brian frosh <[REDACTED]>
Sent: Tuesday, April 2, 2019 1:27 PM
To: Hughes, Patrick
Subject: Fwd: Conference invitation
Attachments: Policy Integrity NYU Law_Invitation_Schneiderman[3].pdf

----- Forwarded message -----

From: David Hayes <dhayes@law.stanford.edu>
Date: Wed, Aug 9, 2017 at 7:43 AM
Subject: Fwd: Conference invitation
To: Brian Frosh <[REDACTED]>

Brian:

FYI. This was Ricky's invite to Eric S. that I just referenced in my recent email.

David

----- Forwarded message -----

From: Revesz, Richard <Revesz@exchange.law.nyu.edu>
Date: Thu, Jul 20, 2017 at 5:30 PM
Subject: Conference invitation
To: "eric.schneiderman@ag.ny.gov" <eric.schneiderman@ag.ny.gov>
Cc: David Hayes <dhayes@law.stanford.edu>

Dear Eric,

We would like to invite you to speak at the Institute for Policy Integrity's annual conference on September 26, 2017 in New York City. This year's conference will focus on state leadership in energy and environmental policy, and as the centerpiece of the event we are organizing a conversation with a small group of attorneys general to discuss energy, climate change, and environmental issues, and explore the work of NYU Law's new State Energy and Environmental Impact Center. We would be delighted to have you take part and discuss New York's environmental efforts. The conversation will be led by David Hayes, who will direct the State Impact Center. This discussion is tentatively scheduled for 10:15 a.m. until noon, but we can be flexible to accommodate your schedule. We would be pleased to cover your travel expenses.

The Institute for Policy Integrity at NYU School of Law is a non-partisan think tank dedicated to improving the quality of government decisionmaking. Our past projects include Supreme Court briefs for major environmental cases and economic research on important energy regulations. Since our inception in 2008, we have hosted this annual conference to discuss critical policy issues. Our past speakers have included prominent members of Congress, high-ranking energy company executives, and other notable figures, some of whom have used the event to announce significant policy proposals.

Your insights would add tremendous value to the event, and we would be very pleased if you could accept our invitation. A letter with more information is attached. We very much look forward to hearing from you.

Warm regards,

David and Ricky

P.S.: I enjoyed our conversation over the July 4 weekend!

Richard L. Revesz

Lawrence King Professor of Law and Dean Emeritus

New York University School of Law

40 Washington Square South, 411I

New York, NY 10012

tel (212) 998-6185

fax (212) 995-4590

richard.revesz@nyu.edu

www.law.nyu.edu

--

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personal email: davidjhayes01@gmail.com

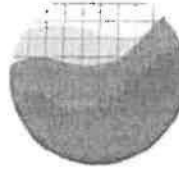


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Telephone: (212) 998-6185
E-mail: richard.revesz@nyu.edu

Richard L. Revesz
Lawrence King Professor of Law and Dean Emeritus
Director, Institute for Policy Integrity



Institute for
Policy Integrity

NEW YORK UNIVERSITY SCHOOL OF LAW

July 20, 2017

The Honorable Eric T. Schneiderman
Attorney General of the State of New York
State Capitol
Albany, NY 12224

Dear Eric,

We would like to invite you to speak at the Institute for Policy Integrity's annual conference on September 26, 2017. This year's conference will focus on state leadership in energy and environmental policy, and it will take place at the New York University School of Law in Manhattan. As the centerpiece of the event, we are organizing a conversation with a small group of attorneys general to discuss energy, climate change, and environmental issues, and explore the work of NYU Law's new State Energy and Environmental Impact Center. We would be delighted to have you take part and discuss New York's environmental efforts. The conversation will be led by David Hayes, who will direct the State Impact Center. This discussion is tentatively scheduled for 10:15 a.m. until noon, but we can be flexible to accommodate your schedule. We would be pleased to cover your travel expenses.

The Institute for Policy Integrity at NYU School of Law is a non-partisan think tank dedicated to improving the quality of government decisionmaking. Our past projects include Supreme Court briefs for major environmental cases and economic research on important energy regulations. Since our inception in 2008, we have hosted this annual conference to discuss critical policy issues. Our past speakers have included prominent members of Congress, high-ranking energy company executives, and other notable figures, some of whom have used the event to announce significant policy proposals. The conference draws a sizeable crowd of attendees from the public, private, and nonprofit sectors, including many respected academics and journalists.

Given your extensive work on these issues and New York's leadership on environmental policy, we believe your insights would add tremendous value to the event. We would be very excited to have you participate, and please let us know as you have any questions. We would be honored to have you involved.

Warm regards,

David J. Hayes

Richard L. Revesz

Spence, Deborah

From: brian frosh <[REDACTED]>
Sent: Tuesday, April 2, 2019 1:20 PM
To: Hughes, Patrick
Subject: Fwd: bloomberg

----- Forwarded message -----

From: brian frosh <[REDACTED]>
Date: Tue, Oct 10, 2017 at 4:57 PM
Subject: bloomberg
To: Coombs, Raquel <rcoombs@oag.state.md.us>

here is the bloomber communications guy. let's talk.

chris.moyer@nyu.edu

Spence, Deborah

From: brian frosh <[REDACTED]>
Sent: Tuesday, April 2, 2019 1:23 PM
To: Hughes, Patrick
Subject: Fwd: Tuesday in NY

----- Forwarded message -----

From: David Hayes <dhayes@law.stanford.edu>
Date: Fri, Sep 22, 2017 at 9:47 AM
Subject: Tuesday in NY
To: Brian Frosh <[REDACTED]>

Brian:

I'd be happy to talk with you today, or over the weekend, about your talk at the NYU event next Tuesday.

I'm out at Stanford, so am on pacific time.

Thanks.

David

--
David J. Hayes
Visiting Lecturer in Law
Stanford Law School
c/o Resources for the Future
1616 P Street, N.W.
Washington, D.C. 20036
cell: 202-258-3909
office phone: 202-328-5052
dhayes@law.stanford.edu
twitter: @djhayes01
personal email: davidhayes01@gmail.com

Spence, Deborah

From: brian frosh <[REDACTED]>
Sent: Tuesday, April 2, 2019 1:16 PM
To: Hughes, Patrick
Subject: Fwd: Schneiderman piece on Full Frontal

----- Forwarded message -----

From: David J. Hayes <david.hayes@nyu.edu>
Date: Thu, Nov 9, 2017 at 12:40 PM
Subject: Fwd: Schneiderman piece on Full Frontal
To: brian frosh <[REDACTED]>

Brian:

I assume that you have seen this. It's hilarious.

David

----- Forwarded message -----

From: Christopher Moyer <chris.moyer@nyu.edu>
Date: Thu, Nov 9, 2017 at 9:08 AM
Subject: Schneiderman piece on Full Frontal
To: "David J. Hayes" <david.hayes@nyu.edu>, Elizabeth Klein <elizabeth.klein@nyu.edu>

A must watch.

<https://twitter.com/FullFrontalSamB/status/928653409636384769>

--
Chris Moyer
Communications Director
[State Energy & Environmental Impact Center](#)
[603.479.1402](tel:603.479.1402)
chris.moyer@nyu.edu
[@ChrisMoyerNH](#)

--
David J. Hayes

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Cell phone: 202-258-3909
Email: david.hayes@nyu.edu; davidjhayes01@gmail.com
Twitter: @djhayes01

Hughes, Patrick

From: brian frosh - [REDACTED]
Sent: Tuesday, April 2, 2019 2:13 PM
To: Hughes, Patrick
Subject: Fwd: David Hayes - "State Energy and Environmental Impact Center" FELLOW APPLICATION DEADLINE 9/15

----- Forwarded message -----

From: Jennifer Song <jennifer@progressivestateleaders.org>
Date: Wed, Sep 13, 2017 at 1:16 PM
Subject: Re: David Hayes - "State Energy and Environmental Impact Center" FELLOW APPLICATION DEADLINE 9/15
To: Sean Rankin <sean@democraticags.org>, Jennifer Song <Jennifer@democraticags.org>

Dear All,

Here is the contact information for David Hayes:

- David.Hayes@nyu.edu
- (202) 258-3909

From: Jennifer Song <jennifer@progressivestateleaders.org>
Date: Wednesday, September 13, 2017 at 12:05 PM
To: Sean Rankin <sean@democraticags.org>, Jennifer Song <Jennifer@democraticags.org>
Subject: David Hayes - "State Energy and Environmental Impact Center" FELLOW APPLICATION DEADLINE 9/15

Dear All,

As a follow-up to David Hayes presentation today on the funding available for environmental Special Assistant positions in AG offices, I am recirculating the below information and application link. PLEASE NOTE THE DEADLINE TO SUBMIT APPLICATIONS IS THIS FRIDAY, SEPTEMBER 15.

- David Hayes spoke on the creation and launch of the "State Energy and Environmental Impact Center" out of the NYU law School. This Center supports state attorneys general in "[d]efending and promoting clean energy, climate, and environmental laws and policies." This Center will help AGs identify and hire NYU Fellows "who will serve as special assistant AGs in state AG offices, focusing on clean energy, climate, and environmental matters."

o APPLICATION LINK: <http://www.law.nyu.edu/centers/state-impact/hire-nyu-law-fellow>

o Information on the Center: <http://www.law.nyu.edu/centers/state-impact/>

o https://www.washingtonpost.com/politics/nyu-law-launches-new-center-to-help-state-ags-fight-environmental-rollbacks/2017/08/16/e4df8494-82ac-11e7-902a-2a9f2d808496_story.html?utm_term=.ff7056bff39a

Thanks,
Jennifer

Jennifer Song

Director of Policy

Progressive State Leaders

M: (310) 499-3179 | E: Jennifer@ProgressiveStateLeaders.org

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Spence, Deborah

From: brian frosh [REDACTED]
Sent: Tuesday, April 2, 2019 1:26 PM
To: Hughes, Patrick
Subject: Fwd: Frosh talking points
Attachments: State Impact Center Talking Points 17-0810.docx

----- Forwarded message -----

From: David Hayes <dhayes@law.stanford.edu>
Date: Mon, Aug 14, 2017 at 1:24 PM
Subject: Fwd: Frosh talking points
To: Brian Frosh <[REDACTED]>

Brian:

Here are some talking points for your DAGA call tomorrow. Also attached is an internal Q&A document.

- NYU School of Law expects to announce tomorrow the creation of the State Energy & Environmental Impact Center dedicated to supporting state attorneys general who are pursuing clean energy, climate change, and progressive environmental initiatives.
- The non-partisan State Impact Center will support state AGs in these efforts in a number of ways, including providing legal, analytic, and communications support, as well as facilitating coordination across multiple AG offices.
- One of the first and primary functions of the State Impact Center will be to support capacity-building within state AG offices through the hiring of NYU Fellows who will work in selected AG offices on clean energy, climate change, and environmental matters.
- State AGs who are interested in the NYU Fellow opportunity will be able to apply to the State Impact Center for support, and the Center will be selecting offices based on criteria such as demonstrated commitment to progressive environmental laws and policies and immediate need for additional capacity in this area.
- Selected offices will work together with the State Impact Center to recruit and hire NYU Fellows with five to ten years of experience in clean energy, climate change, and environmental issues to serve as Special Assistant Attorneys General (or an appropriate title for the particular office).
- The salaries of the Fellows will be paid by NYU law, but they will be stationed in AG offices and report to the state AG.
- The State Impact Center expects to launch its website tomorrow, in connection with the announcement, and there will be information available there on how to apply to participate in the NYU Fellows program.

I

also hope that you'll describe your role in helping make this happen and perhaps introduce me as the Executive Director and Ricky Revesz as the Chair of the Center's Advisory Council. Other members of the Advisory Council are Dan Firger of Bloomberg Philanthropies and former AGs Anne Milgram & Bruce Babbitt, and me.

Let me know if you need more. Thanks for doing this!

David

--

David J. Hayes

Distinguished Visiting Lecturer in Law

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personal email: davidjhayes01@gmail.com

Talking Points Q&A
[internal – not for distribution]

Why is this Center being created today?

State attorneys general (AGs) have a unique role in defending the citizens of their states from environmentally destructive actions and in advocating for the clean energy, climate change, and environmental interests of their constituents. The State Energy & Environmental Impact Center (State Impact Center) is dedicated to helping state AGs fight against regulatory roll-backs and other actions that undermine key clean energy, climate change, and environmental values and protections.

What is the Center's relationship with NYU School of Law?

The Center is a part of NYU School of Law, where it joins other centers and institutes that participate in non-partisan scholarship and advocacy in important policy areas.

Where will the center be located?

The State Impact Center operates out of the NYU School of Law, but its staff will be based primarily in Washington, D.C. Also, NYU fellows hired as special assistant AGs will be located in state AG offices.

Who runs the Center?

The executive director of the State Impact Center is David J. Hayes, former deputy secretary and chief operating officer of the Department of the Interior for Presidents Clinton and Obama. A five-member advisory council will provide advice and oversight to the State Impact Center. The advisory council is chaired by Richard Revesz, Lawrence King professor of law and dean emeritus at NYU Law, and includes State Impact Center Executive Director Hayes; Daniel Firger of the environment program at Bloomberg Philanthropies; Anne Milgram, former attorney general for New Jersey and now professor of practice and distinguished scholar in residence at NYU Law; and Bruce Babbitt, former attorney general and governor of Arizona and secretary of the Interior during the Clinton Administration.

Will the Center have a particular issue focus?

The State Impact Center will support state attorneys general on clean energy, climate, and environmental initiatives of regional or national importance, such as those matters that cross jurisdictional boundaries or raise legal questions or conflicts that have nationwide applicability.

Will the Center operate in a non-partisan manner?

Yes. The U.S. has a long history of bipartisan support for clean energy, climate change, and environmental initiatives. The State Impact Center will work with AGs that embrace progressive positions on these issues, regardless of party affiliation.

Who are these fellows or special assistant attorneys general and who will pay for them?

The State Impact Center will work with interested AGs to recruit and hire NYU fellows as special assistant AGs to work in state AG offices on clean energy, climate change, and environmental issues. Special assistant AGs will provide a supplemental, in-house resource to AGs and their senior staffs to address pressing clean energy, climate change, and environmental issues.

The State Impact Center will provide on-going support to the special assistant AGs and their offices, along with other AGs that are advancing clean energy, climate change, and environmental initiatives, including research, analysis in administrative, legislative and litigation contexts and with an emphasis on issues of regional and national importance.

The salaries of the special assistant AGs will be paid by the NYU School of Law, in accordance with agreements entered into with the relevant state AGs.

There seem to be a number of new initiatives being created dealing with environmental issues, how is this Center different?

The State Impact Center focuses exclusively on providing support to the efforts of state AGs, by:

- Providing legal assistance to interested AGs on specific administrative, judicial, or legislative matters involving clean energy, climate change, and environmental interests of regional and national significance;
- Working with interested AGs to identify and hire NYU fellows who will serve as special assistant AGs in state AG offices, focusing on clean energy, climate, and environmental matters;
- Helping to coordinate efforts across multiple state AG offices, and with other parties that may be aligned with their interests;
- Identifying and coordinating pro bono representation for AGs;
- Serving as a centralized source of information for on-going AG initiatives and helping to enhance the public's understanding of the importance of the clean energy, climate change, and environmental matters that AGs are pursuing.

A number of AGs are already pursuing environmental litigation against the Trump Administration, so why is this Center needed?

State AGs are playing a crucial role in defending existing environmental laws and policies that will help transition our nation to cleaner energy and address the impacts of a changing climate. Unfortunately, in many states, AGs do not have sufficient resources to participate fully in complex energy and environmental

matters. The State Impact Center will provide interested AGs with additional resources through the placement of special assistant AGs in AG offices around the country, as well as through on-going legal, analytical, and communications support from the Center itself.

Is this really about giving money to Democrats who are fighting the Trump Administration?

The State Impact Center is a non-partisan effort. The Center stands ready to support any state AG who is advancing important clean energy, climate change, and environmental initiatives subject.

Will Bloomberg be choosing the issues that the Center and the AGs will be working on?

No. Bloomberg Philanthropies has provided the initial financial support to launch the State Impact Center, but the AGs will set their own offices' agendas, in accordance with their statutory responsibilities. The State Impact Center will work with interested AGs, and with special assistant AGs, to provide additional support on clean energy, climate change and environmental initiatives that state AGs have decided to pursue.

Spence, Deborah

From: brian frosh [REDACTED]
Sent: Tuesday, April 2, 2019 1:25 PM
To: Hughes, Patrick
Subject: Fwd: NAAG

----- Forwarded message -----

From: David J. Hayes <david.hayes@nyu.edu>
Date: Fri, Aug 25, 2017 at 4:50 PM
Subject: NAAG
To: <[REDACTED]>

Brian:

As you can see below, Jim McPherson asked that an AG request that NAAG circulate information about the State Impact Center. He's concerned that if I am the source of the request, it will be viewed as being too partisan.

Would you mind helping me out by sending out a message to Jim McPherson along these lines (or something similar)?

To: Jim McPherson

From: Brian Frosh

Re: The State Energy & Environmental Impact Center at NYU School of Law

I would appreciate it if you would send out the following message to the AGs:

"AG Brian Frosh (MD) asked that I alert you to the recent formation of the State Energy & Environmental Impact Center at the NYU School of Law ("State Impact Center"). As explained in the [NYU press release](#) announcing the State Impact Center, the non-partisan Center has been formed to support state attorneys general on clean energy, climate change, and environmental initiatives. It is supported by Bloomberg Philanthropies.

The State Impact Center web site provides additional information about the Center: <http://www.law.nyu.edu/centers/state-impact>"

Thanks.

David

----- Forwarded message -----

From: James McPherson <jmcpherson@naag.org>

Date: Fri, Aug 25, 2017 at 3:16 PM

Subject: RE: State Energy & Environmental Impact Center

To: "david.hayes@nyu.edu" <david.hayes@nyu.edu>

Cc: Chris Toth <ctoht@naag.org>, Albert Lama <ALama@naag.org>, "Manning, Jeanette" <jmanning@naag.org>, Jeffrey Hunter <jhunter@naag.org>

Thanks David.....

James E. McPherson

Executive Director

National Association of Attorneys General

1850 M Street, NW., 12th Floor

Washington, DC 20036

Office: 202.326.6260

Cell: 202.701.9115

From: David J. Hayes [mailto:david.hayes@nyu.edu]

Sent: Friday, August 25, 2017 3:07 PM

To: James McPherson

Cc: Chris Toth; Albert Lama; Manning, Jeanette; Jeffrey Hunter

Subject: Re: State Energy & Environmental Impact Center

Jim:

Thanks for your note. I understand the importance of non-partisanship, and the NYU State Impact Center is eager to work with AGs from both sides of the aisle on clean energy, climate change and environmental protection issues. Historically, these have not been partisan issues but in recent years, they all too frequently have divided along partisan lines. This is unfortunate. I am hopeful that the State Impact Center will find some matters that will attract involvement AGs from both sides of the aisle. Clean energy issues, in particular, hold some promise in that regard.

In the meantime, I'll gladly take your advice and will seek to have the information go out via an AG.

Best,

David

On Fri, Aug 25, 2017 at 1:55 PM, James McPherson <jmcpherson@naag.org> wrote:

Good Afternoon David,

The answer is we would be happy to however

While I appreciate NYU's initiative, I also noted in your announcement that the supporting AGs all belong to one political party. The strength of NAAG, and the touchstone for our credibility and effectiveness, is our non-partisanship. Both in practice and perception. If we were to forward any material from you to the AG Community it could be easily misunderstood as a partisan gesture. I am sure you understand and appreciate.

So, how do we get this done? Pretty easy actually. We will be happy to send out an announcement and the link if it is from an Attorney General. If you can ask one of your supporting AGs to send us the information and ask us to distribute it, we will be happy to.

Thanks,

Jim

James E. McPherson

Executive Director

National Association of Attorneys General

1850 M Street, NW., 12th Floor

Washington, DC 20036

Office: 202.326.6260

Cell: 202.701.9115

From: David J. Hayes [mailto:david.hayes@nyu.edu]
Sent: Friday, August 25, 2017 12:14 PM
To: James McPherson; Chris Toth
Subject: State Energy & Environmental Impact Center

Messrs. McPherson and Toth:

You may have heard about the recent announcement regarding formation of the State Energy & Environmental Impact Center.

In talking with a couple of AGs about the new Center, we thought it would be helpful to send a short informational item to all AGs about the State Impact Center. AG Brian Frosh suggested that I contact you directly about this.

We would appreciate it if you could circulate the short note below, as you see fit. I'd be happy to discuss. My cell is 202-258-3909.

Thanks.

David

To: State Attorneys General

From: David J. Hayes

Re: The State Energy & Environmental Impact Center at NYU School of Law

Through the auspices of the National Attorneys General Association, I am writing to alert you to the recent formation of the State Energy & Environmental Impact Center at the NYU School of Law ("State Impact

Center"). As explained in the NYU press release announcing the State Impact Center, the non-partisan Center has been formed to support state attorneys general on clean energy, climate change, and environmental initiatives. It is supported by Bloomberg Philanthropies.

The State Impact Center web site provides additional information about the Center: <http://www.law.nyu.edu/centers/state-impact>

If you have any questions, please do not hesitate to contact us.

--

David J. Hayes

Executive Director

State Energy & Environmental Impact Center

NYU School of Law

c/o Resources for the Future

1616 P Street, NW

Washington, DC 20036

Personal email: davidjhayes01@gmail.com

Twitter: [@djhayes01](https://twitter.com/djhayes01)

--

David J. Hayes

Executive Director

State Energy & Environmental Impact Center

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1616 P Street, NW

Washington, DC 20036

Personal email: davidjhayes01@gmail.com

Twitter: @djhayes01

--

David J. Hayes

Executive Director

State Energy & Environmental Impact Center

NYU School of Law

c/o Resources for the Future

1616 P Street, NW

Washington, DC 20036

Personal email: davidjhayes01@gmail.com

Twitter: @djhayes01

Hughes, Patrick

From: brian frosh <[REDACTED]>
Sent: Tuesday, April 2, 2019 1:56 PM
To: Hughes, Patrick
Subject: Fwd: FW: State Energy & Environmental Impact Center at NYU

----- Forwarded message -----

From: brian frosh <[REDACTED]>
Date: Tue, Apr 2, 2019 at 1:24 PM
Subject: Fwd: FW: State Energy & Environmental Impact Center at NYU
To: Hughes, Patrick <phughes@oag.state.md.us>

----- Forwarded message -----

From: Frosh, Brian <[REDACTED]>
Date: Fri, Aug 25, 2017 at 5:18 PM
Subject: FW: State Energy & Environmental Impact Center at NYU
To: Brian Frosh <[REDACTED]>

From: Frosh, Brian
Sent: Friday, August 25, 2017 5:18 PM
To: 'James McPherson' <jmcpherson@NAAG.ORG>
Subject: FW: State Energy & Environmental Impact Center at NYU

Jim

The last email got away from me before I intended to send it. A completed version is below, I hope.

Best, Brian

From: Frosh, Brian
Sent: Friday, August 25, 2017 5:14 PM
To: 'James McPherson' <jmcp@NAAG.ORG>
Subject: State Energy & Environmental Impact Center at NYU

Dear Jim:

As I am sure you have heard, a State Energy & Environmental Impact Center has been formed at the NYU School of Law. The Center is non-partisan and has been formed to support state attorneys general on clean energy, climate change, and environmental initiatives. The Center will provide direct legal assistance to AGs and proposes to hire NYU Fellows who will serve as special assistants in state AG offices. It is supported by Bloomberg Philanthropies

The State Impact Center web site provides additional information about the Center: <http://www.law.nyu.edu/centers/state-impact>.

I think the Center could be a valuable resource for many of our colleagues. If you wouldn't mind distributing this information, I would appreciate it.

Warm regards.

Brian

Spence, Deborah

From: brian frosh <[REDACTED]>
Sent: Tuesday, April 2, 2019 1:08 PM
To: Hughes, Patrick
Subject: Fwd: Offshore Drilling Public Meeting

----- Forwarded message -----

From: David J. Hayes <djh466@nyu.edu>
Date: Tue, Jan 16, 2018 at 9:43 PM
Subject: Fwd: Offshore Drilling Public Meeting
To: Brian Frosh <[REDACTED]>

Great story, great work, Brian!

David.

Sent from my iPhone

Begin forwarded message:

From: Christopher Moyer <chris.moyer@nyu.edu>
Date: January 16, 2018 at 9:36:43 PM EST
To: "David J. Hayes" <djh466@nyu.edu>
Cc: Brittany Whited <brittany.whited@nyu.edu>, "David J. Hayes" <david.hayes@nyu.edu>, Elizabeth Klein <elizabeth.klein@nyu.edu>
Subject: Re: Offshore Drilling Public Meeting

Here's the HuffPost story:

https://m.huffpost.com/us/entry/us_5a5a4c7ce4b03c4189661637

On Sat, Jan 13, 2018 at 2:33 PM David J. Hayes <djh466@nyu.edu> wrote:
Thanks.

Sent from my iPhone

On Jan 13, 2018, at 2:19 PM, Christopher Moyer <chris.moyer@nyu.edu> wrote:

It sounds like the HuffPost reporter plans to go on Tuesday: "Oh interesting. I think I can swing out there. Thanks for the heads up."

[REDACTED]

On Fri, Jan 12, 2018 at 5:39 PM, David J. Hayes <david.hayes@nyu.edu> wrote:

Thanks for doing that. [REDACTED]

On Fri, Jan 12, 2018 at 5:15 PM, Christopher Moyer <chris.moyer@nyu.edu> wrote:

I also put a bug in the ear of a HuffPost reporter to see if he'll cover Frosh at the hearing.

[REDACTED]

On Fri, Jan 12, 2018 at 9:45 AM, Christopher Moyer <chris.moyer@nyu.edu> wrote:

[REDACTED]

On Fri, Jan 12, 2018 at 9:40 AM, Elizabeth Klein <elizabeth.klein@nyu.edu> wrote:

[REDACTED]

On Fri, Jan 12, 2018 at 9:36 AM, Elizabeth Klein <elizabeth.klein@nyu.edu> wrote:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

On Thu, Jan 11, 2018 at 9:21 PM, David J. Hayes

<david.hayes@nyu.edu> wrote:

[REDACTED]

As you may have noticed from the description that Brittany identified, BOEM is not doing a traditional public hearing, but instead an "open house" with an opportunity to talk with a BOEM rep and leave behind a statement! Here's the blurb from Brittany's note:

Public meetings will be held in an open-house format. Participants can arrive any time during the scheduled meeting time. At the meetings, attendees can have one-on-one conversations with BOEM scientists, researchers and other staff to ask questions and share information. Attendees can also provide comments for the record at the meetings; comment forms and computers will be available.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

David

[REDACTED]

[REDACTED]

On Thu, Jan 11, 2018 at 12:52 PM David J. Hayes

<david.hayes@nyu.edu> wrote:

Brian:

I am writing to make sure you know about the public hearing that the Interior Department has scheduled in Annapolis on January 16. Needless to say, this is not much notice!

Details are in the attached.

[REDACTED]

David

--
David J. Hayes

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State Energy & Environmental Impact Center

NYU School of Law

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Deputy Director
State Energy & Environmental Impact Center
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--

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chris.moyer@nyu.edu

Spence, Deborah

From: brian frosh <[REDACTED]>
Sent: Tuesday, April 2, 2019 1:11 PM
To: Hughes, Patrick
Subject: Fwd: Clean Power Program

----- Forwarded message -----

From: Williams, Antha <antha@bloomberg.org>
Date: Wed, Jan 3, 2018 at 12:01 PM
Subject: RE: Clean Power Program
To: Sheekey, Kevin <kevin@sheekey.com>, brian frosh <[REDACTED]>

Hi Brian,

I've been so glad to hear about your new hire!

We've fed some ideas for testimony to David Hayes and I know NYU is on top of this, working to get people like Gina McCarthy, but a couple additional people could be good—

- Locally impacted coal communities via Sierra Club (we'll ask)
- Frontline communities and/or military speakers—there were some excellent retired military from Hampton Roads, VA who testified in support of Clean Power Plan, they may have ideas about MD colleagues and we will reach out. Will also keep thinking.

Thanks for all you are doing!

Onward!

Antha

From: Kevin Sheekey [mailto:kevin@sheekey.com]
Sent: Wednesday, January 03, 2018 5:40 AM
To: brian frosh <[REDACTED]> Williams, Antha <antha@bloomberg.org>
Subject: Re: Clean Power Program

Brian -

Sorry for the delay. I think we'll take a pass on testifying. I'm cc'ing Antha who will come up with some other suggestions if still time, or some thoughts on who could recommend some.

Let me know how it goes with Heather. Think there is real potential there.

Happy New Year.

K

On Fri, Dec 22, 2017 at 9:08 PM, brian frosh <[REDACTED]> wrote:

Kevin

Another possibility for collaboration: We are going to do a hearing on the Clean Power Program in Annapolis with the General Assembly. It will be a counterweight to EPA's hearings in coal country. The hearing will be January 11. Is there any chance that Mayor Bloomberg would like to testify? If not, any other suggestions? In full disclosure, Schneiderman will be doing the same thing in NYC on January 9th, probably much less hassle for you guys.

Heather Gerkin and I connected by email. I think the wheels are in motion for us to talk. Thanks for that.

Warm regards.

Brian

This e-mail message is intended only for the named recipient(s) above. It may contain confidential information. If you are not the intended recipient you are hereby notified that any dissemination, distribution or copying of this e-mail and any attachment(s) is strictly prohibited. If you have received this e-mail in error, please immediately notify the sender by replying to this e-mail and delete the message and any attachment(s) from your system. Thank you.

Spence, Deborah

From: brian frosh <[REDACTED]>
Sent: Tuesday, April 2, 2019 1:24 PM
To: Hughes, Patrick
Subject: Fwd: Sept 26 event at NYU
Attachments: 2017 Conference Agenda_08-24-17[1].docx

----- Forwarded message -----

From: David J. Hayes <david.hayes@nyu.edu>
Date: Thu, Sep 14, 2017 at 1:56 PM
Subject: Fwd: Sept 26 event at NYU
To: [REDACTED]

Brian:

Let's chat next week about your talk at the NYU event on the 26th.

Here is some color that I provided to Lisa Madigan's staff.

David

----- Forwarded message -----

From: David J. Hayes <david.hayes@nyu.edu>
Date: Thu, Aug 31, 2017 at 9:03 PM
Subject: Sept 26 event at NYU
To: "Ryan, Patrick" <pryan@atg.state.il.us>
Cc: Elizabeth Klein <elizabeth.klein@nyu.edu>

Patrick:

In response to your questions about the September 26 event:

- I will moderate the event, introducing AGs Schneiderman, Madigan and Frost.
- I will open up the session with a short discussion about the important role that state AGs play in our fed/state system, generally. I will then turn my attention to the dynamic, current areas of citizen interest and concern around clean energy, climate change and the environment -- and the important role that AGs are playing now with these issues.
- We then would like each of the AGs, including AG Madigan, to speak for 10 to 13 minutes.
- In his or her opening remarks, each AG can touch whatever subjects they'd like. Topics might include:

- An explanation and/or perspective of why he or she puts a priority on clean energy, climate and environmental issues, perhaps by providing a bit of background on his/her values and experience as they pertain to these issues;
 - Provide color by recounting some past cases involving these issues (war stories are good!);
 - Provide a look ahead at issues that may be bubbling in his/her state or region, or nationally, including areas that are of special interest to Lisa, with a special focus on clean energy, climate change and environmental issues. (Lisa obviously is welcome to reference some of her important initiatives in other areas as well.)
 - A discussion of how AGs combine forces and work together on matters of regional and national importance, perhaps with a reference to the AGs' hopes for the role that the new State Impact Center at NYU might play in that regard.
- After initial presentations, I will ask a series of questions of the three AGs in a relaxed "conversation" setting. The types of questions that I will ask of the three AGs include:
 - How important are each of these issue areas (clean energy; climate; environmental protections) to your constituents?
 - What's your sense of the public's views regarding the shift in the federal government's positions on these issues?
 - Are there issues of special interest in your region that you are particularly interested in keeping an eye on? (e.g., Great Lakes, Chesapeake Bay restoration)
 - How do you judge the effectiveness of what you do when it comes to clean energy, climate and the environment? Are court victories the measure of success? Or does raising awareness and influencing policy also count?
 - Early indications suggest that the feds' environmental enforcement activity is down in the Trump administration. Do AGs have a role in picking up some of the slack under delegated authority from the feds, or by bringing prosecutions under state law? Are there any specific areas that you watching and/or concerned about in terms of potentially needing an augmented enforcement effort?
- I also would like to develop a Q-and-A on a specific topic that is of special interest to each of the AGs. Through the Q-and-A, we could review a prior case that each AG would like to delve into in more detail because it illustrates some broader points made in the discussion and/or underscores the AG's personal commitment to work in the area, etc.

As we come closer to the 26th, I would be delighted to talk directly to you and AG Madigan to flesh out these questions, and the topics that she would like to highlight, in more detail.

I also may have some additional questions for potential consideration before the 26th, and will pass them along.

Also, per your request, I have attached the latest version of the agenda for the event.

Thanks.

David

--
 David J. Hayes
 Executive Director
State Energy & Environmental Impact Center
 NYU School of Law

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Institute for
Policy Integrity

NEW YORK UNIVERSITY SCHOOL OF LAW

Green States: Energy, Climate, and a Different Federalism

September 26, 2017

New York University School of Law | 40 Washington Square South – Vanderbilt Hall | New York, NY

All times are tentative.

- 9:30 a.m. – 10:00 a.m. **REGISTRATION** (*light breakfast provided*)
- 10:00 a.m. – 10:15 a.m. **INTRODUCTORY REMARKS**
- **Trevor Morrison** (*invited*), Dean, NYU School of Law
 - **Richard Revesz**, Director, Institute for Policy Integrity; Lawrence King Professor of Law and Dean Emeritus, NYU School of Law
- 10:15 a.m. – 11:45 p.m. **STATES MODERNIZING ENERGY POLICY**
- **Lorraine Akiba**, Commissioner, State of Hawaii Public Utilities Commission
 - **Asim Haque**, Chair, Public Utilities Commission of Ohio
 - **John Rhodes**, Chair, New York Public Service Commission
 - **Nancy Lange** (*invited*), Chair, Minnesota Public Utilities Commission
- 11:45 a.m. – 12:15 p.m. **KEYNOTE REMARKS**
- **Senator Michael F. Bennet** (*invited*), United States Senator for Colorado
- 12:15 p.m. – 1:00 p.m. **LUNCH** (*lunch will be provided*)
- 1:00 p.m. – 2:30 p.m. **STATE-LEVEL CLIMATE ACTION**
- **Ignacia Moreno**, Member, Virginia State Air Pollution Control Board
 - **Ellen Peter**, Chief Counsel, California Air Resources Board
 - **Katie Theoharides**, Director of Climate and Global Warming Solutions, Massachusetts Executive Office of Energy and Environmental Affairs
 - **Michael Regan** (*invited*), Secretary, North Carolina Department of Environmental Quality
- 2:30 p.m. – 2:45 p.m. **BREAK**
- 2:45 p.m. – 4:30 p.m. **A CONVERSATION WITH ATTORNEYS GENERAL ON ENVIRONMENTAL LITIGATION**
- **Brian Frosh**, Attorney General for the State of Maryland
 - **Lisa Madigan**, Attorney General for the State of Illinois
 - **Eric Schneiderman**, Attorney General for the State of New York
 - Moderator: **David J. Hayes**, Director, State Energy and Environmental Impact Center at NYU Law; former Deputy Secretary of the Interior
- 4:30 p.m. **CLOSING REMARKS**

Spence, Deborah

From: brian frosh <[REDACTED]>
Sent: Tuesday, April 2, 2019 1:10 PM
To: Hughes, Patrick
Subject: Fwd: Offshore Drilling Public Meeting
Attachments: BOEM public meetings.docx

----- Forwarded message -----

From: David J. Hayes <david.hayes@nyu.edu>
Date: Thu, Jan 11, 2018 at 12:52 PM
Subject: Offshore Drilling Public Meeting
To: Brian Frosh <[REDACTED]>
Cc: Elizabeth Johnson Klein <Elizabeth.Klein@nyu.edu>

Brian:

I am writing to make sure you know about the public hearing that the Interior Department has scheduled in Annapolis on January 16. Needless to say, this is not much notice!

Details are in the attached.

[REDACTED]

David

--
David J. Hayes
Executive Director
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NYU School of Law
Cell phone: 202-258-3909
Email: david.hayes@nyu.edu; davidjhayes01@gmail.com
Twitter: @djhayes01

Bureau of Ocean Energy Management Public Meetings on the 2019-2024 National Outer Continental Shelf Oil and Gas Leasing Program

The Interior Department recently announced a new draft five-year plan that would allow oil and gas drilling in the Atlantic, Pacific and Arctic oceans. The plan would schedule 47 lease sales from 2019 to 2024, including nine in the Atlantic region. The Interior Department will be holding public meetings on the plan beginning on January 16th. Since the announcement, Secretary Zinke has decided to withdraw Florida's federal waters from the five-year offshore drilling plan.

Public meetings will be held in an open-house format. Participants can arrive any time during the scheduled meeting time. At the meetings, attendees can have one-on-one conversations with BOEM scientists, researchers and other staff to ask questions and share information. Attendees can also provide comments for the record at the meetings; comment forms and computers will be available. RSVPs are recommended but not required so that BOEM can manage logistics. There are no public speaker lists or invites. For those unable to attend one of the 23 scheduled meetings, BOEM will be offering a Virtual Meeting Room which will allow virtual participants to review and download the same handouts and posters offered at the meetings. Comment online [here](#), deadline of March 9th, 2018.

Schedule

January 16 Annapolis, MD

Double Tree by Hilton

210 Holiday Court, Annapolis, MD 21401

(410) 224-3150

Meeting Time:

3 - 7 p.m. EST

January 16 Jackson, MS

Jackson Marriott

200 East Amite Street, Jackson, MS 39201

(601) 969-5100

Meeting Time:

3 - 7 p.m. CST

January 17 Richmond, VA

Four Points by Sheraton Richmond Airport

4700 South Laburnum Avenue, Richmond, VA 23231

(804) 226-4300

Meeting Time:

3 - 7 p.m. EST

January 18 Dover, DE

Holiday Inn Dover – Downtown

561 North Dupont Highway, Dover, DE 19901

(302) 747-5050

Meeting Time:

3 - 7 p.m. EST

January 22 Augusta, ME

Augusta, Civic Center

76 Community Drive, Augusta, ME 04330

(207) 626-2405

Meeting Time:

3 - 7 p.m. EST

January 22 Baton Rouge, LA

Crown Plaza Executive Center Baton Rouge

4728 Constitution Avenue, Baton Rouge, LA 70808

(225) 224-7030

Meeting Time:

3 - 7 p.m. CST

January 23 Anchorage, AK

Dena'ina Center

600 W. Seventh Avenue, Anchorage, AK 99501

(907) 263-2850

Meeting Time:

6 - 10 p.m. AKST

January 23 Concord, NH

Holiday Inn Concord Downtown

172 North Main Street, Concord, NH 03301

(603) 224-9534

Meeting Time:

3 - 7 p.m. EST

January 24 Boston, MA

Hyatt Regency Boston

One Avenue de Lafayette, Boston, MA 02111

(617) 912-1234

Meeting Time:

3 - 7 p.m. EST

January 24 Montgomery, AL

Hilton Garden Inn Montgomery – East Chase

7665 Eastchase Parkway, Montgomery, AL 36117

(334) 244-0101

Meeting Time:

3 - 7 p.m. CST

January 25 Providence, RI

Marriott Providence Downtown

1 Orms Street, Providence, RI 02904

(401) 272-2400

Meeting Time:

3 - 7 p.m. EST

February 5 Tacoma, WA

Tacoma's Landmark Catering and Convention Center

47 St. Helens Ave., Tacoma, WA 98402

(253) 272-2042

Meeting Time:

3 - 7 p.m. PST

February 6 Austin, TX

Embassy Suites by Hilton

5901 North IH-35, Austin, TX 78723

(512) 454-8004

Meeting Time:

3 - 7 p.m. CST

February 6 Salem, OR

Embassy Suites by Hilton

5901 North IH-35, Austin, TX 78723

(512) 454-8004

Meeting Time:

3 - 7 p.m. CST

February 8 Tallahassee, FL

Four Points by Sheraton Tallahassee Downtown

316 West Tennessee Street, Tallahassee, FL 32301

(850) 422-0071

Meeting Time:

3 - 7 p.m. EST

February 8 Sacramento, CA

Tsakopoulos Library Galleria

828 I Street, Sacramento, CA 95814

(916) 264-2800

Meeting Time:

3 - 7 p.m. PST

February 13 Hartford, CT

Hartford Marriott Downtown

200 Columbus Blvd., Hartford, CT 06103

(860) 249-8000

Meeting Time:

3 - 7 p.m. EST

February 13 Columbia, SC

Doubletree by Hilton

2100 Bush River Road, Columbia, SC 29210

(803) 731-0300

Meeting Time:

3 - 7 p.m. EST

February 14 Trenton, NJ

Hilton Garden Inn, Hamilton

800 US Highway 130, Hamilton, NJ 08690

(609) 585-6789

Meeting Time:

3 - 7 p.m. EST

February 15 Albany, NY

Hilton Albany

40 Lodge Street, Albany, NY 12207

(518) 462-6611

Meeting Time:

3 - 7 p.m. EST

February 22 Washington, DC

Hilton Garden Inn

1225 First Street NE, Washington, DC 20002

(202) 408-4870

Meeting Time:

3 - 7 p.m. EST

February 26 Raleigh, NC

Hilton North Raleigh/Midtown

3415 Wake Forest Road, Raleigh, NC 27609

(919) 872-2323

Meeting Time:

3 - 7 p.m. EST

February 28 Atlanta, GA

Renaissance Concourse Atlanta Airport Hotel

One Hartsfield Centre Parkway, Atlanta, GA 30354

(404) 209-9999

Meeting Time:

3 - 7 p.m. EST

Spence, Deborah

From: brian frosh [REDACTED]
Sent: Tuesday, April 2, 2019 1:13 PM
To: Hughes, Patrick
Subject: Fwd: Close Hold
Attachments: 1Dec17_StateImpactCenter_Report --final.docx

----- Forwarded message -----

From: David J. Hayes <david.hayes@nyu.edu>
Date: Sun, Dec 17, 2017 at 9:34 PM
Subject: Fwd: Close Hold
To: Brian Frosh <[REDACTED]>

Brian: here's the earlier biweekly report, as an fyi.

David

----- Forwarded message -----

From: David J. Hayes <david.hayes@nyu.edu>
Date: Fri, Dec 1, 2017 at 5:09 PM
Subject: Close Hold
To: Anne M Milgram <anne.milgram@nyu.edu>, Bruce Babbitt <bruce.babbitt@raintreeventures.com>, Daniel Firger <daniel@bloomberg.org>, "David J. Hayes" <david.hayes@nyu.edu>, Richard Revesz <Revesz@exchange.law.nyu.edu>
Cc: Christopher Moyer <chris.moyer@nyu.edu>, Elizabeth Johnson Klein <Elizabeth.Klein@nyu.edu>

Advisory Council colleagues:

Attached is the latest version of a bi-weekly report that the State Impact Center has begun preparing to provide updates regarding our major activities.

Please keep these reports on a close hold basis; they are not appropriate for public circulation. We will not include any privileged information in the reports, and will avoid discussing potentially sensitive matters as well.

If you any questions regarding matters referenced in these internal reports, please do not hesitate to call Liz Klein or me directly.

Thanks, and have a great weekend!

David

--

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State Energy & Environmental Impact Center

NYU School of Law

Bi-Weekly Report

November 18-December 1, 2017

HIGHLIGHTS

- **Opposing Proposed Fee Hikes at National Parks.** The State Impact Center worked on comments that a coalition of state attorneys general filed last week opposing a proposed hike in National Park entrance fees. The comments documented a number of serious legal, factual, and policy issues in the poorly constructed proposal.

The AG coalition opposing the proposed fee hike was bipartisan; the Republican AG from Arizona joined with 10 Democratic AGs in the comments. The filing generated a significant amount of press, as noted below.

- **Evaluating EPA Directive Regarding Science Advisors.** Per the request of state AGs, we have been reviewing the recent directive from EPA Administrator Scott Pruitt that prohibits academics and other scientists whose institutions receive EPA funding from serving on EPA advisory committees. Meanwhile, the directive allows industry scientists to serve on panels, even though their employers may have a direct interest in issues addressed by advisory panels. The State Impact Center is exploring potential legal vulnerabilities in the policy.
- **Hiring of Special Assistant Attorneys General.**
 - The seven jurisdictions that have been selected to receive NYU Law Fellows are at varying stages of negotiating secondment agreements with the State Impact Center and recruiting Law Fellows. We have a signed secondment agreement with MA; we hope to finalize NY's agreement this week; and both MD and DC will likely be finalized soon thereafter. WA, NM, and IL are continuing their internal reviews, and we are communicating closely with them as questions arise.
 - We expect that MD will be the first state to bring on an NYU Law Fellow. AG Brian Frosh has selected a highly skilled, experienced attorney who has a distinguished academic pedigree and top flight experience in both government and private practice. We will be providing personal information in future newsletters about the NYU Law Fellows/SAAGs as they come on board.

- We are looking to provide three additional state AG offices the opportunity to hire NYU Law Fellows as SAAGs. If we go forward with this plan, we will have a total of 13 NYU Law Fellows/SAAGs in 10 jurisdictions. More information will be forthcoming on this subject under separate cover.
- **Establishing Confidential Relationships with State AG Offices.** One of the State Impact Center's top goals in our early months has been establishing good relationships with progressive AG offices and their top staffs, and putting in place agreements that will enable confidential consultations with AGs on pending and prospective matters.

We now have signed retainer agreements that establish confidential attorney/client relationships with both NY and MA, and we expect to finalize an agreement with MD shortly. We are discussing entering into retainer agreements with several additional jurisdictions.

We also have had early success in pairing our confidential attorney/client relationship with select AG offices with common interest agreements that enable the State Impact Center to engage in confidential, pre-filing discussions with a broader universe of AG offices.

- **Filling Available Center Staff Positions.** As we indicated in the last bi-weekly report, we have been interviewing candidates for two positions at the Center – Program Assistant and Staff Attorney.
 - We are excited to report that Brittany Whited has accepted our Program Assistant offer. Brittany comes to us from the World Health Organization where she has been consulting on the impacts of climate change on public health and health systems in the Americas. She has a Masters of Public Health from GW, a BS in Environmental Health Science from the University of Wisconsin at Eau Claire, and has spent time working at both GW and EPA on climate change issues, including a project at GW that involved a review of over 600 climate change-related court cases. We expect Brittany to join us on December 11. Among other tasks, she will be helping the Center set up a monitoring project that state AG partners have asked us to implement.
 - We are continuing to interview candidates for the Staff Attorney position and have received a number of promising applications. The position is geared toward attorneys with one to five years of legal experience.
- **Recent Media Coverage.**
 - **State Impact Center Press Release: 11 Attorneys General Oppose National Parks Fee Increase in New Comments Filed Today** "State attorneys general are once again defending the people of their states against a reckless and misguided Trump Administration proposal. As they lay out in comments filed today, Secretary Zinke's proposal does not follow the letter, or the spirit, of our National Parks laws."

▪ **COVERAGE:**

- Associated Press
- Los Angeles Times
- Sacramento Bee
- Sacramento Bee (LTE by David Hayes)
- San Francisco Chronicle
- San Francisco Chronicle (editorial)
- Maine Free Press
- NPR Phoenix
- International Business Times
- Washington Examiner
- Cape Code Times

- **State Impact Center Press Release: State Attorneys General Ready to Sue EPA Over Clean Power Plan Repeal** "EPA is shutting out the voices of citizens, business owners and other critical stakeholders who have legitimate concerns about repealing the Clean Power Plan... Thankfully, New York Attorney General Eric Schneiderman is leading a coalition of state attorneys general who will fight tooth and nail to defend the landmark Clean Power Plan."

▪ **COVERAGE:**

- New York Times: "In similar fashion, a number of Democratic state attorneys general, including Maura Healey of Massachusetts and Eric T. Schneiderman of New York, have pledged to fight the repeal in court."
- Washington Examiner: "'EPA is shutting out the voices of citizens, business owners and other critical stakeholders who have legitimate concerns about repealing the Clean Power Plan,' David J. Hayes, executive director of the State Energy and Environmental Impact Center at the New York University School of Law, which is representing the state attorneys general, said Tuesday morning."
- VICE: "Democratic attorneys general in several states, however, have already vowed to fight a repeal and sue if necessary."
- West Virginia Metro News: "New York's Attorney General A.G. Schneiderman was among those from states in support of the plan. Schneiderman has said his office will sue to prevent repeal."
- Bangor Daily News: "Maine Attorney General Janet Mills has asked the EPA to hold a hearing in Maine. Attorneys general in Maryland, Massachusetts, New York, Oregon and Virginia have

also asked for hearings in their states. The EPA has not responded to their requests.”

- Maine Public News Service: “The Maine Attorney General's Office and officials from seven other states wrote to EPA Administrator Scott Pruitt requesting additional hearings, but none has been granted.”
- ClimateWire: 5 ways to pick a fight on climate change (11/28/17): State AGs fight Washington: ‘The state AG category is a whole bunch of things,’ said Richard Revesz, a professor at New York University School of Law. Indeed, it is. ‘I’m worried and yet determined,’ Maryland Attorney General Brian Frosh (D) said in September, speaking in New York City at an event organized by NYU Law’s State Energy & Environmental Impact Center. ‘We’ll continue to sue the bastards.’”
- **Flagging Communications Opportunities for AGs.** Chris Moyer has been working closely with AG communications directors to identify prime opportunities to highlight AG activity around major news events. During this reporting period, Chris spearheaded State Impact Center outreach to reporters in connection with the Bonn climate meetings, the Clean Power Plan hearing and EPA’s anniversary.

OUTREACH MEETINGS

We have had a number of productive outreach meetings with allies in the environmental community working on similar issues, including AG offices, NGOs and other interested parties.

LOOKING AHEAD

- Chris Moyer is organizing a year-end press call that will highlight for reporters the important role of AGs as they write stories looking back on 2017.
- InsideClimate is writing a story on AG actions in 2017. Chris Moyer provided a detailed list of AG actions that provides the foundation for this story, and the reporter interviewed David earlier this week for the piece. It will be published in the last week of December.
- Chris Moyer is setting up meetings with communications directors for the AGs of Massachusetts, New York and Virginia to discuss further ways in which we can collaborate.

Spence, Deborah

From: brian frosh [REDACTED]
Sent: Tuesday, April 2, 2019 1:14 PM
To: Hughes, Patrick
Subject: Fwd: Bi-Weekly Report
Attachments: 15Dec17_StateImpactCenter_Report (1).docx

----- Forwarded message -----

From: David J. Hayes <david.hayes@nyu.edu>
Date: Sun, Dec 17, 2017 at 9:33 PM
Subject: Fwd: Bi-Weekly Report
To: Brian Frosh [REDACTED]

Brian:

Per our conversation on Friday, attached is our latest biweekly report, which we prepare for Dan Firger at Bloomberg. I don't know if he shares these with Kevin Sheeky. My next email will attach the preceding biweekly report.

Please give Kevin my best. I hope that he'll meet with Chris Moyer, our communications director, and me when we come up to NY to visit with AG Schneiderman's top comms person during the second week of January. (We are having the meeting with Schneiderman's comms director at Eric's suggestion.) I will reach out to him directly, copying Dan.

Thanks!

David

----- Forwarded message -----

From: David J. Hayes <david.hayes@nyu.edu>
Date: Fri, Dec 15, 2017 at 10:26 AM
Subject: Bi-Weekly Report
To: Anne M Milgram <anne.milgram@nyu.edu>, Bruce Babbitt <bruce.babbitt@raintreeventures.com>, Daniel Firger <daniel@bloomberg.org>, "David J. Hayes" <david.hayes@nyu.edu>, Richard Revesz <Revesz@exchange.law.nyu.edu>
Cc: Elizabeth Johnson Klein <Elizabeth.Klein@nyu.edu>, Christopher Moyer <chris.moyer@nyu.edu>

Advisory Council colleagues:

Attached is our latest bi-weekly report.

Have a great weekend!

David

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David J. Hayes
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State Energy & Environmental Impact Center

NYU School of Law

Bi-Weekly Report

December 2-December 15, 2017

HIGHLIGHTS

- **Three Additional States Awarded Special Assistant Attorneys General.** This week, the State Impact Center announced SAAG/Law Fellow awards to three additional states – Oregon, Pennsylvania and Virginia. David Hayes was able to deliver the news in person to Oregon AG Ellen Rosenblum and Virginia AG Mark Herring at a Democratic Attorneys General Association reception in Washington, D.C. All of the offices are excited to participate, and we have had productive conversations with their staff to discuss logistics and next steps. (Chris Moyer also attended the reception and connected with the AGs and their key staff who attended.)
- **Evaluating EPA Directive Regarding Science Advisors.** In response to a request from the NY AG's office, Liz Klein has taken the lead in evaluating potential legal challenges to a recent directive from EPA Administrator Scott Pruitt that prohibits academics and other scientists whose institutions receive EPA funding from serving on EPA advisory committees. Several NGOs as well as advisory committee members affected by the policy are also exploring potential challenges.
- **Evaluating Tax Reform Impacts to Renewable Energy.** In response to a request from one of our AG partners, we assisted the office in analyzing the potential impacts that House and Senate versions of tax reform legislation may have on the clean energy industry. David Hayes and Liz Klein contacted leaders in the solar and wind industry to obtain the latest intelligence on proposed solutions to maintain current tax incentives for the renewable energy industry.
- **State Impact Center Staff.** Our new Program Assistant, Brittany Whited, started in our office this week. As we noted in our last report, Brittany comes to us from the World Health Organization where she has been consulting on the impacts of climate change on public health and health systems in the Americas. She has a Masters of Public Health from GW, a BS in Environmental Health Science from the University of Wisconsin at Eau Claire, and has spent time working at both GW and EPA on climate change issues, including a project at GW that involved a review of over 600 climate change-related court cases. Brittany has already hit the ground running, helping out with several research

projects and taking on some of the operational tasks associated with running the Center. We continue to interview candidates for Staff Attorney at the Center. We have conducted several second-round interviews and hope to make an offer soon.

- David Hayes met with New Mexico AG Hector Balderas and top staff in Albuquerque to discuss priorities. AG Balderas is particularly excited about the prospect of working with the State Impact Center to promote clean energy policies that AGs are championing in New Mexico, and across the nation. He is deeply appreciative of Bloomberg Philanthropies' generosity in supporting two SAAG slots in his office. He expects to devote one of the slots to clean energy issues. Public lands issues also are a top priority for AG Balderas.
- **Recent Media Coverage.**

As we had hoped, state AG offices are beginning to recognize that the State Impact Center can provide effective amplification of their activities, as illustrated by press coverage of the AGs' role in resisting monument rollbacks.

- **State Impact Center Press Release: 3 More Attorneys General Selected to Boost Legal Work on Energy, Environment & Climate**

"Pennsylvania Attorney General Josh Shapiro, Oregon Attorney General Ellen Rosenblum and Virginia Attorney General Mark Herring were chosen after submitting applications this fall."

- **COVERAGE:**

- *Politico* (12/14/17): "MORE REINFORCEMENTS: Pennsylvania Attorney General Josh Shapiro, Oregon Attorney General Ellen Rosenblum and Virginia Attorney General Mark Herring will receive backing from the State Energy & Environmental Impact Center at NYU School of Law to hire staff focused on clean energy, climate and environmental matters. They join the AGs of seven other states who already received fellows through the program."

- *Pittsburgh Tribune-Review*: **NYU funds new environmental prosecutor in Pennsylvania Attorney General's office** (12/13/17) "A New York University School of Law program will pay for Pennsylvania Attorney General Josh Shapiro to hire a new prosecutor for regional and national environmental issues, the school announced Wednesday."

- **State Impact Center Press Release: State AGs Challenge Trump's Legal Power to Shrink National Monuments (12/4/17)**

"Several state attorneys general have been closely tracking actions by the Trump Administration to roll back protections for monuments."

▪ **COVERAGE:**

- *Washington Post*: “More litigation could be coming. **Oregon Attorney General Ellen Rosenblum** said to Zinke in a letter in July that the state was “ready to take appropriate legal action” if Trump rescinds or reduces the size of Cascade-Siskiyou.”
- *E&E News*: “Numerous state attorneys general — from California, Washington and New Mexico — also pledged legal challenges to the Trump administration, although it remains to be seen whether a case will emerge unless Trump targets monuments in those states. ‘Progressive state attorneys general are on record: The president does not have the authority under the Antiquities Act to override previous presidents’ decisions to protect special public lands for the benefit of future generations through national monument designations. Only the Congress can do that,” said former Obama administration Interior official David Hayes, now executive director of the **State Energy & Environmental Impact Center at New York University’s School of Law**.”
- *Washington Examiner*: “Environmental groups and tribes, including the Navajo Nation, have already said they will sue the Trump administration for shrinking national monuments, and several Democratic **attorneys general**, most in the West, have vowed to challenge the actions.”
- *Think Progress*: ““President Trump’s attempt to dismember two of America’s most remarkable National Monuments is a blatant attack on the integrity of one of our nation’s oldest and most important conservation laws,” **David J. Hayes, executive director of the State Energy & Environmental Impact Center at NYU School of Law** and former Interior deputy secretary during both the Obama and Clinton administrations, said in a press statement. “**Progressive state attorneys general** are on record: the President does not have the authority under the Antiquities Act to override previous Presidents’ decisions to protect special public lands for the benefit of future generations through national monument designations. Only the Congress can do that.”
- *NY Daily News LTE: NY Daily News: Keep the parks affordable* (12/7/17) “As the deputy secretary of the interior from 2009 to 2013, I’m encouraged to see a bipartisan group of 11 state attorneys general fighting Interior Secretary Ryan Zinke’s reckless and misguided proposal to double or triple entrance fees at our most popular national parks...This bipartisan coalition of attorneys general,

including New York AG Eric Schneiderman, should be commended for defending access to our awe-inspiring parks.”

- Law360: The Biggest Energy Rulings Of 2017 (12/14/17): “The courts could not have spoken more clearly that the APA needs to be followed,” said David Hayes, a former deputy interior secretary during the Clinton and Obama administrations who now directs New York University Law School's State Energy & Environmental Impact Center. “The real winner [this] year was the rule of law.”

ATTORNEY GENERAL ACTIONS

- **RELEASE: AG Balderas: Trump Lacks Legal Authority to Shrink National Monuments (12/5/17)** “President Trump simply has no legal authority to alter monument designations under the Antiquities Act. His drastic reduction of the Utah monuments is a direct attack on the proud natural, historical and cultural heritage of the Southwest, and it ignores critical voices of tribal leaders and local stakeholders on these lands. If the President chooses to continue these attacks and comes after either Organ Mountains - Desert Peaks or Rio Grande del Norte, I will fight him every step of the way.”
Note: The State Impact Center suggested and drafted a statement on this topic, leading to significant positive media coverage for AG Balderas.

- *Coverage:*

- Los Alamos Monitor: “On Tuesday, responding to Trump’s announcement Monday that he would scale back the size of two national monuments in Utah – Grand Staircase-Escalante and Bears Ears – Balderas took aim again. ‘President Trump simply has no legal authority to alter monument designations under the *Antiquities Act*,’ he said in a prepared statement. Balderas’ office wrote a letter to Interior Department Secretary Ryan Zinke earlier this year, asking him to drop his planned review of national monuments, including New Mexico’s. He went on to note that if Trump goes after New Mexico’s newest national monuments, Organ Mountains-Desert Peaks or Rio Grande del Norte: ‘I will fight him every step of the way,’ according to a press release issued by his office on Tuesday.”
- Las Cruces Sun-News EDITORIAL: “...state Attorney General Hector Balderas made clear he was ready. ‘President Trump simply has no legal authority to alter monument designations under the *Antiquities Act*,’ Balderas said in a press release Tuesday. From the start of this process, we have had the same opinion.”
- Santa Fe New Mexican: “‘President Trump simply has no legal authority to alter monument designations under the *Antiquities Act*,’ Attorney General Hector Balderas said in a statement Tuesday.”

- **RELEASE: A.G. Schneiderman Leads 15 AGs In New Lawsuit Against Trump EPA For Flouting Clean Air Requirements (12/5/17)** "New York Attorney General Eric T. Schneiderman, leading a coalition of 15 state Attorneys General, today filed a lawsuit against the Environmental Protection Agency (EPA) and EPA Administrator Scott Pruitt for failing to meet the Clean Air Act's statutory deadline for designating areas of the country impacted by unhealthy levels of ground-level ozone (commonly referred to as smog)."
- **RELEASE: Attorney General Shapiro Calls on Army Corps of Engineers to Protect Great Lakes, including Lake Erie, from Asian Carp (12/12/17)** "Pennsylvania Attorney General Josh Shapiro and the Attorneys General of Michigan and Minnesota today called on the U.S. Army Corps of Engineers to change plans for an expensive lock redesign and instead close a major lock now to keep the invasive Asian carp species from entering the Great Lakes, including Lake Erie, potentially causing widespread harm to its ecosystem and economy."
- **E&E News: DOJ strikes cleanup project from Harley-Davidson settlement (12/12/17)** "The attorneys general of New York, Massachusetts, Delaware, Illinois, Iowa, Maine, Maryland, Oregon, Rhode Island, Vermont, Washington and the District of Columbia and the Puget Sound Clean Air Agency asked DOJ to restore the mitigation project or require an equivalent project to counter excess emissions."

OUTREACH MEETINGS

We have had a number of productive outreach meetings with allies in the environmental community working on similar issues, including AG offices, NGOs and other interested parties.