

Chairman Rouda, Ranking Member Comer, thank you very much for inviting me to testify today

Last October, I submitted comments with several colleagues to EPA and DOT, laying out disturbing evidence of the fossil fuel industry hijacking this rulemaking; those comments are for the record appended to my testimony.

Before I summarize that evidence, let's summarize the background. In the last administration, the auto industry agreed to greenhouse gas and fuel economy standards for model years 2017 through 2025 in an agreement with the state of California and the federal government. The standards would cut carbon pollution from cars and light trucks in half by 2025, and save American families more than \$1.7 trillion in fuel costs, or \$8,000 per vehicle by model year 2025.

When President Trump took office, the auto industry sought to revisit the standards, apparently for mostly technical changes. The automakers deny arguing for a freeze, or for outright repeal, or against the right of California to set its own standards under the Clean Air Act and for states such as Rhode Island to choose to adopt the California standards.

But someone else was watching. While the fuel economy standards would have little effect on the number of cars sold, they would affect the amount of gasoline sold: that \$1.7 trillion saved by consumers is lost oil industry revenue. So things got weird.

The oil industry activated the web of front groups and trade associations that it uses to block climate action: trade associations, like the American Fuel and Petrochemical Manufacturers or AFPM, which Big Oil pays to do their political dirty work; anodyne-sounding front groups like FreedomWorks, the Competitive Enterprise Institute, and Americans for Tax Reform, that masquerade as public-interest groups but serve as mouthpieces for the fossil fuel industry.

To maintain the masquerade, these groups don't disclose their funders. But all are tied in various ways into this network, run by fossil fuel interests, with a trillion-dollar incentive to undo those fuel efficiency standards.

In March 2018, 11 of these front groups wrote to then-EPA Administrator Scott Pruitt urging him to revoke California's waiver under the Clean Air Act. We found that the 11 groups behind the March letter received a *minimum* of \$49 million from fossil fuel interests. I stress *minimum*; since these groups do not disclose their funders, the total is likely far, far higher.

A month later, in April 2018, a dozen front groups wrote to Pruitt and Secretary of Transportation Elaine Chao thanking them for proposing to undo the standards and urging them to go as far as possible to weaken them. The 12 groups behind the April letter received a *minimum* of \$196 million in funding from fossil fuel interests.

Then in May 2018 senior executives from two front groups wrote to President Trump urging him to roll back the standards and revoke California's waiver. The two groups behind the May letter received a *minimum* of \$7.7 million from fossil fuel interests.

The front groups did not just limit their effort to letters. Americans for Prosperity, a front group at the heart of the Koch Industries political network, launched a national public campaign opposing the fuel economy standards. American for Prosperity also does not disclose its donors, but the Kochs are fossil-fuel billionaires.

Oil industry trade association AFPM sponsored a separate campaign on Facebook against the fuel economy standards.

Oil companies themselves quietly went to work. Disclosure reports for 2017 and 2018 reveal that Marathon Petroleum, the largest U.S. oil refiner; Valero, the second largest oil refiner; and Andeavor, the fifth largest oil refiner, all lobbied on the standards. Koch Companies and AFPM did, too.

Marathon Petroleum pressed particularly hard. We were able to obtain a draft letter to National Highway Traffic Safety Administration Deputy Administrator Heidi King urging that the standards be weakened. The draft still contained the letter's metadata, which showed it was drafted in April 2018 by a Marathon in-house lobbyist. We compared this Marathon lobbyist's draft to three strikingly similar letters sent to the Deputy Administrator by House members from the Indiana, West Virginia, and Pennsylvania congressional delegations. Applying plagiarism software to their letters revealed that, respectively, 37 percent, 40 percent, and 80 percent of their language tracked the Marathon lobbyist's draft.

That's a brief summary of what we do know. It's bad.

More important is what we don't know. We have incomplete information about the funders of these front groups and trade associations. We don't know the substance of communications the groups and associations may have had with their fossil fuel funders. We can't yet determine whether oil companies using these tax-exempt front groups to lobby and campaign for this trillion-dollar revenue boost constitutes unlawful abuse of their tax-exempt status. If evidence showed that the fossil fuel industry used these groups to knowingly lie to the public about the harmful effects of fossil fuel's carbon pollution, it would be appropriate for Congress to uncover and expose this fraud.

I hope this Committee will initiate a detailed investigation examining this network of front groups and trade associations trafficking in climate denial and obstruction, determining who funds them, and exposing how they coordinate with industry. If these groups are perpetrating a fraud on the public, the deceived public has a right to know.

Rep. Henry Waxman spent years investigating how the tobacco industry lied to the public. His work helped put an end to those lies. The public was well served by that effort.

Examining the dark-money funding is an obvious start. There's no legal privilege preventing disclosure of dark-money funding. Congress has every right to investigate a scheme to deceive the public. This hearing and the one last week in Rep. Raskin's subcommittee lay the predicate.

You have a powerful tool at your disposal in the subpoena. Justice Brandeis famously said, “sunlight is the best disinfectant.” Nowhere is there more need for disinfection than in the long and sordid campaign of falsehood the fossil fuel industry has perpetrated.

This saga may well not end there. It seems that the auto industry realized how it was being played by Marathon and others, left that fixed game, and worked out a separate agreement with the State of California. This disrupted the Marathon scheme, reportedly angering the administration and even the President himself, and next thing you know a truly bizarre letter emerged from the Justice Department raising antitrust concerns against the auto industry negotiating with California. One basic principle in antitrust law, founded in the *Noerr-Pennington* doctrine and the Constitution’s Petition Clause, is that industries can combine to lobby and negotiate with government. The oil industry combines in one of the most elaborate lobbying operations anywhere to pursue its interests in government. If the oil industry managed to put the Department of Justice up to that letter to the auto industry, it adds irony as well as mystery. Whatever the irony, the mystery of why such a letter was written, and who was behind it also lends itself to congressional oversight.

Too much dirty politics is waged with dark money; the secrecy is protected by no privilege; and a little sunlight would be very healthy for American democracy. Thank you.