

Attorney General William Tong
Charity Enforcement
Department of Consumer Protection
450 Columbus Blvd, Ste. 901
Hartford, CT 06103

Dear Attorney General Tong:

The Board of Trustees of Yale University (“the Yale Corporation”), as fiduciary of a non-profit educational institution, is bound by the laws of Connecticut to promote the well-being of Yale’s students and community. According to its mission statement, the Yale Corporation “is committed to improving the world today and for future generations through outstanding research and scholarship, education, preservation,”¹ while the Corporation notes that the “trustees undertake to see that Yale’s excellence continues for generations and across the entire community. Corporation members act as stewards for the generous gifts of their fellow alumni, protecting hundreds of years of giving; they safeguard the physical resources of the campus, from its hundreds of buildings to its open spaces . . . This commitment to preserving and deepening excellence across all aspects of the university also reflects a commitment to New Haven and beyond, and to Yale’s mission to improve the world.”²

Under the Connecticut Uniform Prudent Management of Institutional Funds Act, the Corporation has a fiduciary duty to invest with consideration for the University’s charitable purposes — a duty that distinguishes non-profit institutions from other investors. It is problematic, then, that the Corporation has invested a portion of the University’s 42.3 billion dollar endowment in the fossil fuel industry — damaging the world’s natural systems, disproportionately harming youth, low-income people, and communities of color, and imperiling the University’s financial and physical condition. In the midst of the climate crisis, powerful institutions must take responsibility for their contributions to global warming. As concerned students, faculty, alumni, political leaders, civic groups, and community members, we ask that you investigate this conduct and use your enforcement powers to bring the Corporation’s investment practices into compliance with its fiduciary obligations.

Connecticut law provides rules that charitable managers and investors must follow in managing institutional funds. As stewards of the Yale endowment, the Corporation is required to act in good faith and with loyalty, taking care that its investments further the purposes of the University. The Corporation may not seek profit at any cost: the privileges that Yale enjoys as a non-profit institution come with the responsibility to ensure that its resources are put to socially beneficial ends. By investing an estimated 800 million to 2.5 billion dollars in fossil fuel stocks, the Corporation is in violation of these duties to Yale and the public.

The values that should guide the Corporation’s investments are clear. According to the Yale charter, the Corporation was established to “employ the moneys or any other estate which shall be Granted by this Court or otherwise Contributed” for an institution “wherein Youth may

¹ [Mission Statement](#), Yale University (last visited Feb. 15, 2022).

² [Board of Trustees](#), Yale University (last visited Feb. 15, 2022).

be instructed in the Arts & Sciences who . . . may be fitted for Publick employment both in Church & Civil State.”³ University President Peter Salovey has recognized that Yale’s mission includes an obligation to address climate change: “Around the globe, carbon emissions are at an all-time high. We must do our part to change the course we are on. We must reach higher and do more to create a better future.”⁴ Yale’s Committee on Fossil Fuel Investment Principles has acknowledged that “climate change is an urgent, existential threat to humanity and a grave social injury,” that fossil fuel producers bear a “special responsibility” in the climate crisis, and that the industry causes social injury by spreading disinformation about climate change and by polluting air and water, which exacerbates pre-existing racial and economic health disparities.⁵ And yet, despite the demonstrable financial and social benefits of institutional fossil fuel divestment, the Corporation continues to provide financial support for an industry whose business model inexorably leads to environmental destruction and social injustice.

It is now widely recognized that climate change is an existential threat to humanity and our environment. In addition to sea-level rise, extreme weather events, and species extinction, climate change causes injuries to all members of society, and particularly to the most vulnerable. Pollution from the combustion of fossil fuels results in an estimated 10,000 premature deaths daily. Communities of color disproportionately suffer pollution and health burdens from fossil fuel extraction and combustion. Low-income people bear the brunt of climate-based economic dislocation, as illustrated by the plight of climate migrants and refugees already forced from their homes by drought, flooding, and social conflict. Indigenous communities are regularly invaded and harmed by the spread of fossil fuel infrastructure. And as a result of the economic precarity and increased burden of care work that results from climate disruptions, women suffer more serious detriments.

The need to refrain from promoting such outcomes is obvious for any institution that calls itself a charity. Yet the Corporation has repeatedly refused to apply Yale’s values to its investment activity. From managers of an institution of higher education, this conduct is especially galling. Fossil fuel companies have long engaged in a well-documented campaign to undermine climate science and distort public debate about how to deal with the climate crisis. The industry’s spread of scientific misinformation and funding of questionable research undermines the work of Yale faculty and students who are designing solutions for a sustainable future. Likewise, the flow of fossil fuel money to politicians and think tanks has diverted or delayed serious government action to address the climate crisis, placing a special burden on young people whose futures will be most affected by these investments. Even as Yale pledges to “advocate for the vulnerable and promote environmental justice,”⁶ the Corporation channels funds to an industry committed to short-term profit at the expense of the public good.

A similar inversion of values underlies the Corporation’s funding of climate degradation despite its duty to protect Yale’s physical property and to serve its community. As extensively documented by scientific experts, including many employed at the University, the New Haven

³ [Act for Liberty to Erect a Collegiate School, 1701](#), The Yale Corporation: Charter and Legislation at 4 (1976).

⁴ [Task force to probe how quickly Yale can achieve net zero carbon emissions](#), Yale News (Sep. 19, 2019).

⁵ [Report of the Committee on Fossil Fuel Investment Principles](#), Yale Committee on Fossil Fuel Investment Principles at 2, 9-10 (2021).

⁶ [Planetary Solutions Project Framework](#), Yale Planetary Solutions Project (last visited Feb. 15, 2022).

area stands to suffer increased heat, deteriorating air quality, sea level rise, severe weather events, increased prevalence of disease and pests, and damage to the natural environment as a result of climate change. Area infrastructure, including housing, will be threatened; these risks extend to Yale's own campus. Overall, warming impacts will be especially borne by low-income communities and communities of color. In sharp distinction to the financial actions of the Corporation, the New Haven Board of Alders has declared a climate emergency to address these dangers. Instead of facilitating climate injuries, the Corporation should be doing everything in its power to prevent them.

The Corporation is bound by an additional legal duty: the requirement to manage Yale's assets with prudence. Prudent investment practice cannot be squared with the ownership of fossil fuel assets. Investment in the oil, gas, and coal sectors has become excessively risky thanks to increased government regulation and the fossil fuel industry's own failure to diversify its operations and avoid capital-intensive extraction. Fossil fuel stocks have performed significantly worse than market averages in recent years. The domestic coal sector has nearly collapsed, and natural gas stands to lose much of its value as cheaper, more sustainable energy sources become more readily available. For any prudent investor, continuing to plow money into fossil fuels is a losing proposition.

Exacerbating the industry's poor financial performance is a well-documented pattern of alleged fraud. This office sued ExxonMobil in 2020, alleging that the company has for decades "misled and deceived Connecticut consumers about the negative effects of its business practices on the climate" and that "ExxonMobil's strategy to create uncertainty about climate science successfully kept consumers purchasing ExxonMobil products by deceiving consumers about the serious harm caused by ExxonMobil's industry and business practices."⁷ Fossil fuel companies such as ExxonMobil have also been accused of misleading investors by concealing the anticipated impact of climate change and energy regulation on the value of assets such as untapped oil reserves. Despite its legal duty to exercise care and prudence in avoiding dangerous securities, however, the Yale Corporation continues to invest in the fossil fuel sector.

The Corporation cannot plead ignorance of its duty to divest. For years, Yale students and faculty have pushed for investment practices that align with the University's mission. Since 1972, the Corporation has signaled its adherence to ethical investment standards, committing itself to the "avoidance and correction of social injury" as the "moral minimum obligation" to which its investments are ethically bound.⁸ These principles have led Yale to divest from companies operating in South Africa and Darfur, as well as assault weapons retailers and certain private prison operators. Since 2013, members of the Yale community have pushed for fossil fuel divestment, enlisting the support of a majority of Yale College students and the College student government; continued petitions and protests have alerted the Corporation to its legal duty. The Corporation's Committee on Investor Responsibility recently recommended a limited divestment from coal producers and some oil and gas producers deemed especially irresponsible. Nonetheless, the Corporation continues to hold positions in fossil fuel companies that violate its own stated standards for divestment. Potential conflicts of interest posed by members of the

⁷ Complaint, [Connecticut v. ExxonMobil](#), No. HHDCV206132568S at 1, 2 (Conn.. Super. Ct. Sep. 14, 2020).

⁸ John G. Simon, Charles W. Powers, Jon P. Gunnemann, [The Ethical Investor: Universities and Corporate Responsibility](#) at 18 (Yale University Press, 1972).

Corporation's ties to the fossil fuel industry, the undue influence of Yale's donors, and a lack of transparency in the Corporation's policies and practices further compound the fiduciary violations involved in its profit-making from fossil fuels.

It is too late for the Corporation to deny the relationship between its investments and climate change. Its obligations under Connecticut law and under its own governing documents are clear: fossil fuel investment is incompatible with those obligations.

We have included below a fuller description of the Corporation's violations, along with documents and reports supporting the claims in this complaint. Under Chapter 35, § 3-125 of the General Statutes of Connecticut, your office may investigate violations of Connecticut's charitable contribution laws. We would appreciate the opportunity to have members of our group meet with your staff to discuss legal avenues to address this matter.

Sincerely,

Concerned students, faculty, alumni, financial and political leaders, scientists, civic groups, and community members (listed on the pages that follow):

The Yale Endowment Justice Coalition

Elected Officials

Sen. Timothy Wirth, *former US Senator, State of Colorado and former President, United Nations Foundation*

Bevis Longstreth, JD, *former Commissioner, US Securities and Exchange Commission; former Instructor, Columbia Law School*

Darryl Brackeen, *New Haven Board of Alders, Ward 26*

Sarah Miller, *New Haven Board of Alders, Ward 14*

Steven Winter, *New Haven Board of Alders, Ward 21*

Climate Science and Policy Community

Philip Alston, *John Norton Pomeroy Professor, New York University School of Law*

Dr. Jason Box, *Professor in Glaciology at the Geological Survey of Denmark and Greenland*

Dr. Robert Brulle, *Visiting Professor of Environment and Society, Brown University*

Dr. Joyce Chaplin, *Environmental Historian and James Duncan Phillips Professor of Early American History, Harvard University*

Dr. J. Mijin Cha, *Assistant Professor of Urban and Environmental Policy, Occidental College*

Dr. Daniel Aldana Cohen, *Assistant Professor of Sociology and Director, Socio-Spatial Climate Collaborative, University of California, Berkeley*

Judith Enck, *former Regional Administrator, US Environmental Protection Agency; Senior Fellow and Visiting Faculty Member, Bennington College*

Dr. Gabriel Filippelli, *Chancellor's Professor of Earth Sciences, Executive Director, Environmental Resilience Institute, Indiana University - Purdue University Indianapolis IUPUI*

Dr. Dana R. Fisher, *Professor of Sociology, University of Maryland; Contributing Author for Working Group 3 of the Intergovernmental Panel on Climate Change (IPCC), Assessment Report 6 (AR6)*

Dr. Benjamin Franta, JD, *PhD Candidate in History of Science, Stanford University*

Dr. Jacquelyn Gill, *Associate Professor of Paleoecology & Plant Ecology, School of Biology and Ecology and Climate Change Institute, the University of Maine*

Karenna Gore, *Executive Director, Center for Earth Ethics at Union Theological Seminary*

Dr. Jade d'Alpoim Guedes, *Associate Professor, Department of Anthropology and the Scripps Institution of Oceanography, University of California, San Diego*

Dr. Genevieve Guenther, *Founder and Director, End Climate Silence; Affiliate Faculty, Tishman Environment and Design Center, The New School*

Dr. James E. Hansen, *Director, Climate Science and Awareness Program, Earth Institute, Columbia University*

Dr. Noel Healy, *Associate Professor of Geography and Sustainability, Salem State University; Contributing Author for Working Group 3 of IPCC AR6*

Richard Heede, *Climate Accountability Institute*

Dr. Jessica Hernandez, *Climate Justice Policy Strategist for the International Mayan League*

Dr. Jason Hickel, *Professor, Institute for Environmental Science and Technology, Autonomous University of Barcelona; Visiting Senior Fellow, London School of Economics*

Dr. Robert W. Howarth, *David R. Atkinson Professor of Ecology & Environmental Biology, Cornell University; Co-Editor in Chief, Ocean-Land-Atmosphere Research (OLAR)*

Dr. Peter Kalmus, *Climate Scientist, NASA Jet Propulsion Laboratory (JPL) ()*

Dr. Regina Larocque, *Associate Professor of Medicine, Harvard Medical School; Associate*

Director, Massachusetts General Hospital Center for the Environment and Health
 Dr. Simon Lewis, *Professor of Global Change Science, University College London (UCL)*
 Bill McKibben, *Schumann Distinguished Scholar, Middlebury College; Co-founder and Senior Advisor, 350.org*
 Dr. Naomi Oreskes, *Henry Charles Lea Professor of the History of Science and Affiliated Professor of Earth and Planetary Sciences, Harvard University*
 Dr. Mark Paul, *Assistant Professor of Economics and Environmental Studies, New College of Florida*
 Dr. Nathan Phillips, *Professor, Department of Earth & Environment, Boston University*
 Dr. Thea Riofrancos, *Associate Professor of Political Science, Providence College*
 Dr. Juliet Schor, *Ecological Economist and Professor of Sociology, Boston College*
 Dr. Drew Shindell, *Nicholas Distinguished Professor of Earth Science, Duke University; Coordinating Lead Author for IPCC AR5 and 2018 Special Report*
 Dr. Julia Steinberger, *Professor of Social Ecology & Ecological Economics, University of Leeds; Lead Author for Working Group 3 of IPCC AR6*
 Dr. Richard C. J. Somerville, *Distinguished Professor Emeritus, Scripps Institution of Oceanography, University of California, San Diego; Coordinating Lead Author for IPCC AR4*
 Dr. Olúfẹ́mi O. Táíwò, *Assistant Professor of Philosophy, Georgetown University*
 Evi Steyer, *Co-Founder, Ponderosa Ventures*
 Dr. Aradhna Tripathi, *Associate Professor, UCLA Institute of the Environment and Sustainability; Department of Atmospheric and Oceanic Sciences; Department of Earth, Planetary, and Space Sciences; Institute for Geophysics and Planetary Physics (IGPP); California Nanosystems Institute (CNSI); American Indian Studies Center; Director of the Center for Diverse Leadership in Science*
 Natalie Unterstell, *President, Institute Talanoa; former Climate Finance Negotiator, United Nations*
 Dr. Gernot Wagner, *Visiting Associate Professor, Columbia Business School; Clinical Associate Professor, Department of Environmental Studies, New York University; Associated Clinical Professor, Robert F. Wagner Graduate School of Public Service, New York University*

Alumni and Community Members

Dr. Alyssa Battistoni, *Assistant Professor of Political Science, Barnard College (PhD Yale '19)*
 Seth Baruch, *CEO, Carbonomics (B.A. Yale '93)*
 Kahlil Greene, *First Black YCC President (B.A. Yale '21)*
 Dr. Peter H. Gleick, *Member, US National Academy of Sciences; MacArthur Fellow (B.S. Yale '78)*
 Miranda Massie, *Founder and Director, The Climate Museum (M.A. Yale '91)*
 The Rev. Dr. Robert K. Massie, *Founder of the Investor Network on Climate Risk (M.Div. Yale '82)*
 Fitz Patton, *Tony Award-winning sound designer & composer (M.F.A. Yale '01)*
 Dr. Mick Smyer, *former Provost and Emeritus Professor of Psychology, Bucknell University; Senior Fellow in Social Innovation, Babson College (B.A. Yale '72)*
 Gus Speth, *Former Dean, Yale School of the Environment; Co-founder, National Resources Defense Council; Founder, World Resources Institute (B.A. Yale '64, JD YLS '69)*
 Dr. Mary Woolsey, *Developmental Editor (B.A. Yale '80)*
 Dr. Gary Yohe, *Huffington Foundation Professor of Economics and Environmental Studies Emeritus, Wesleyan University (MPhil Yale '74, PhD Yale '75)*

Dr. Benjamin Zaitchik, *Professor, Department of Earth and Planetary Sciences, Johns Hopkins University (PhD Yale '06)*

Faculty

Dr. Frederick L. Altice, *Professor of Medicine and Public Health*

Dr. Hazel Carby, *Charles C. & Dorathea S. Dilley Professor Emeritus of African American Studies*

Dr. Joe Cleary, *Professor of English*

Dr. Pat Devlin, *Lecturer in Mathematics, Yale University*

Dr. Michael R. Dove, *Margaret K. Musser Professor of Social Ecology, Yale School of the Environment*

Keller Easterling, *Enid Storm Dwyer Professor of Architecture*

Dr. Anne Eller, *Associate Professor of History and Affiliate Professor of African American Studies and Spanish and Portuguese*

Dr. Joseph Errington, *Professor of Anthropology*

Dr. Greg Grandin, *Peter V. and C. Vann Woodward Professor of History (PhD Yale '99)*

Dr. Annie Harper, *Program for Recovery and Community Health, Department of Psychiatry, Yale School of Medicine*

Dr. John Harte, *Professor of the Graduate School in the Department of Environmental Science, University of California, Berkeley; former Assistant Professor of Physics, Yale*

Dr. Kaveh Khoshnood, *Associate Professor, Yale School of Public Health*

Dr. Issa Kohler-Hausmann, *Professor of Law and Sociology, Yale Law School*

Dr. Greta LaFleur, *Associate Professor of American Studies*

Dr. Jennifer Marlon, *Research Scientist, Yale School of the Environment*

Dr. Daniel Martinez HoSang, *Associate Professor of Ethnicity, Race, & Migration & American Studies*

Hope Metcalf, *Clinical Lecturer in Law; Research Scholar in Law; and Executive Director, Orville H. Schell, Jr. Center for International Human Rights*

Dr. Stephanie Newell, *Professor of English, Interim Chair for Council on African Studies, Senior Research Fellow in International and Area Studies*

Dr. Asghar Rastegar, *Professor of Medicine, Emeritus*

Dr. Peter Raymond, *Professor of Ecosystem Ecology, Lead of YSE Climate Initiative*

Dr. John E. Roemer, *Elizabeth S. and A. Varick Stout Professor of Political Science and Economics*

Dr. Joseph S. Ross, *Professor of Medicine and Public Health (MD, MHS)*

Dr. Elihu Rubin, *Associate Professor, Architecture, Urbanism, and American Studies; Director of Undergraduate Studies, Urban Studies (BA Yale '99)*

Dr. Evren Savcı, *Assistant Professor of WGSS, Yale*

Dr. James Scott, *Sterling Professor, Political Science; Acting Director, Agrarian Studies (M.A. Yale '63, PhD Yale '67)*

Adam Sexton, *Lecturer in English, Critic in the School of Art*

Dr. Peter A. Swenson, *C.M. Saden Professor, Department of Political Science (PhD Yale '86)*

Dr. Kirk Wetters, *Professor of Germanic Languages & Literatures, Department Chair*

Dr. Marla Geha, *Professor of Astronomy and Physics, Director of Yale Telescopes*

For individual signatories, institutional affiliation is for identification purposes only.

Organizations

350 CT

Asian American Students Alliance, Yale University

Beyond Extreme Energy

Black Students for Disarmament at Yale

Center for Biological Diversity

Connecticut Climate Crisis Mobilization

Despierta Boricua, the Puerto Rican Student Organization at Yale

Divest Ed

Divest Princeton

Fossil Free Stanford

Fossil Fuel Divest Harvard

Interfaith Power and Light

MIT Divest

Mothers Out Front

Movimiento Estudiantil Chicano de Aztlán (MEChA) de Yale

Native & Indigenous Student Association at Yale (NISAY)

New Haven Climate Movement

Promoting Enduring Peace

Students Promoting Environmental Awareness & Responsibility (SPEAR)

Unitarian Society of New Haven Green Sanctuary & Environmental Justice Task Force

Vanderbilt University, Dores Divest

Yale Student Environmental Coalition

Yale Young Democratic Socialists of America

Prepared with assistance from attorneys at Climate Defense Project.

cc:

Peter Salovey
President, Yale University
Member, Yale Board of Trustees

Joshua Bekenstein
Senior Trustee, Yale Corporation

Michael J. Cavanaugh
Trustee, Yale Corporation

Charles W. Goodyear
Trustee, Yale Corporation

Catharine B. Hill
Trustee, Yale Corporation

William E. Kennard
Trustee, Yale Corporation

Ann Miura-Ko
Trustee, Yale Corporation

Carlos R. Moreno
Trustee, Yale Corporation

Emmett J. Rice, Jr.
Trustee, Yale Corporation

Joshua L. Steiner
Trustee, Yale Corporation

David Sze
Trustee, Yale Corporation

Annette Thomas
Trustee, Yale Corporation

David A. Thomas
Trustee, Yale Corporation

Kathleen E. Walsh
Trustee, Yale Corporation

Michael Warren
Trustee, Yale Corporation

SUPPORTING DOCUMENTATION

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I. The Yale Corporation's violation of Connecticut law

The Board of Trustees of Yale University (“the Yale Corporation”) is a charitable corporation organized under Chapter 602 of the General Statutes of Connecticut. Its charter was granted in 1701 by the Governor and General Court of the Colony of Connecticut and is recognized in Article 8, Section 3 of the Constitution of the State of Connecticut. Under the 1701 Charter, the Yale Corporation is empowered to “employ the moneys or any other estate which shall be Granted by this Court or otherwise Contributed” for an institution “wherein Youth may be instructed in the Arts & Sciences who . . . may be fitted for Publick employment both in Church & Civil State” (these powers were reiterated in the 1745 Charter of Yale College).⁹

Today, Yale’s mission statement reads, “Yale is committed to improving the world today and for future generations through outstanding research and scholarship, education, preservation, and practice.”¹⁰

According to its website, “[t]he Yale Corporation, or board of trustees, is the university’s principal governing body. As fiduciaries, the trustees ensure that Yale’s academic and administrative leadership are guided by sound policies and practices and equipped with adequate resources to further Yale’s mission. In this work, they balance the needs of today’s faculty, students, alumni, and staff with those of future generations, and promote the well-being and excellence of the university . . . In their role, trustees undertake to see that Yale’s excellence continues for generations and across the entire community. Corporation members act as stewards for the generous gifts of their fellow alumni, protecting hundreds of years of giving; they safeguard the physical resources of the campus, from its hundreds of buildings to its open spaces . . . This commitment to preserving and deepening excellence across all aspects of the university also reflects a commitment to New Haven and beyond, and to Yale’s mission to improve the world.”¹¹

- Continued investment in fossil fuels by the Yale Corporation *violates the fiduciary duties spelled out in the Connecticut Uniform Prudent Management of Institutional Funds Act (CUPMIFA)*.
 - CUPMIFA states that, “[s]ubject to the intent of a donor expressed in a gift instrument, an institution, in managing and investing an institutional fund, shall consider the charitable purposes of the institution and the purposes of the institutional fund.”¹²
 - The model UPMIFA drafting committee describes consideration of “charitable purposes” as a “fundamental duty.”¹³ This requirement distinguishes charitable investors like the Yale Corporation from other entities such as pension funds.
 - CUPMIFA further requires that, “[i]n addition to complying with the duty of loyalty imposed by law other than sections 45a-535 to 45a-535i,

⁹ [Act for Liberty to Erect a Collegiate School, 1701](#), The Yale Corporation: Charter and Legislation at 4 (1976).

¹⁰ [Mission Statement](#), Yale University (last visited Feb. 15, 2022).

¹¹ [Board of Trustees](#), Yale University (last visited Feb. 15, 2022).

¹² Conn. Gen. Stat. Ann. § 45a-535b(a).

¹³ National Conference of Commissioners on Uniform State Laws, [Uniform Prudent Management of Institutional Funds Act, with Prefatory Notes and Comments](#) at 15 (2006).

inclusive, each person responsible for managing and investing an institutional fund shall manage and invest the fund in good faith and with the care an ordinarily prudent person in a like position would exercise under similar circumstances.”¹⁴

- CUPMIFA lists several factors that must be considered in managing and investing an institutional fund, including: “general economic conditions . . . the role that each investment or course of action plays within the overall investment portfolio of the fund . . . the expected total return from income and the appreciation of investments . . . [and] an asset’s special relationship or special value, if any, to the charitable purposes of the institution.”¹⁵
- Although the directors of charitable institutions may delegate investment authority to an external agent,¹⁶ such delegation does not suspend the duty of each director to act “(1) In good faith; (2) with the care an ordinarily prudent person in a like position would exercise under similar circumstances; and (3) in a manner he reasonably believes to be in the best interests of the corporation.”¹⁷ Notably, “[a] director is not acting in good faith if he has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (b) of this section unwarranted.”¹⁸
- The Yale Corporation has *failed to consider the charitable purposes of the institution and the purposes of the institutional fund* by financially supporting the degradation of the climate, widespread damage to ecological and human health, and massive injuries to environmental and social equity. The duty to consider the charitable purposes for which Yale was established distinguishes the Yale Corporation from other investors, imposing a special legal responsibility to screen assets for their possible interference with the university’s goals. Yet the outcomes of the Yale Corporation’s fossil fuel investments are directly contrary to Yale’s mission of “improving the world today and for future generations through outstanding research and scholarship, education, preservation, and practice”¹⁹ and its plan to “[d]emonstrate local and global leadership in sustainability teaching, research, service, and operations.”²⁰ The well-known scientific disinformation campaigns of the fossil fuel industry likewise contravene Yale’s avowed goal, with respect to climate change, of “do[ing] our part to change the course we are on” “reach[ing] higher and do[ing] more to create a better future.”²¹ As such, continued investment in fossil fuel holdings *violates the Yale Corporation’s duty to consider an asset’s special relationship or special value, if any, to the charitable purposes of the institution*.
- The Yale Corporation has *violated its duty of loyalty* to the Yale community by funding activity that directly imperils the lives and prospects of young people and that poses a physical threat to Yale property, thus failing to act in the best interests of the institution. Members of the Yale Corporation have also violated their duty of loyalty by indulging

¹⁴ Conn. Gen. Stat. Ann. § 45a-535b(b).

¹⁵ Conn. Gen. Stat. Ann. § 45a-535b(e)(1).

¹⁶ Conn. Gen. Stat. Ann. § 45a-535d(a).

¹⁷ Conn. Gen. Stat. Ann. § 33-1104(a).

¹⁸ Conn. Gen. Stat. Ann. § 33-1104(c).

¹⁹ [Mission Statement](#), Yale University.

²⁰ [Yale Sustainability Plan 2025](#) at 11, Yale University (2021).

²¹ [Task force to probe how quickly Yale can achieve net zero carbon emissions](#), Yale News (Sept. 19, 2019).

conflicts of interest with the fossil fuel industry, maintaining personal, professional, and financial ties to oil, gas, and coal companies even as these companies harm Yale.

- The Yale Corporation has *violated its duty to act in good faith* by refusing to abide by its previous commitments to socially responsible investing; by ignoring the warnings of students, faculty, alumni, and regulators that investments in fossil fuel companies are immoral, financially risky, and based on fraudulent information; and by spurning efforts by campus groups to push the university's investment practices toward a more consistent and sustainable approach.
- The Yale Corporation has *violated its duty of care* by investing the university's endowment in financially risky fossil fuel stocks, which have underperformed for years and are currently at risk of a general collapse in value. This violation is exacerbated by the Corporation's failure to follow the lead of peer institutions which, in a similar position under similar circumstances, have recognized the prudence of divestment.
- Former Securities and Exchange commissioner Bevis Longstreth, whose scholarship on non-profit investment helped inform the drafting of the original UPMIFA, has called for the application of the prudence standard to the threats of climate change. As Longstreth writes, the risks posed by fossil fuel investments are so serious that institutional investors will be hard-pressed to justify continued holdings in the industry: "The prudence standard of the Act can easily support a decision not to continue to hold or invest in fossil fuel companies. The risks and rewards now offered by such securities are asymmetric, in the sense that the foreseeable rewards are not likely to be equal to the foreseeable risks. The risk that, at some unknown and unknowable, yet highly likely, point in the future, markets will begin to adjust the equity price of fossil fuel company securities downward to reflect the swiftly changing future prospects of those companies, is as serious as it is immense. Moreover, the possibility of that adjustment being a swift one is also a serious risk. A decision to linger in an investment with such an overhanging risk, and expect to time one's exit before the danger is recognized in the market, is a strategy hard to fit within the concept of prudence."²²
- In a report analyzing fiduciary duties owed by public pension funds, the Center for International Environmental Law concludes that "climate change should be considered an independent risk variable when making investment decisions, and it will trigger the obligations of pension fund fiduciaries . . . If pension fund fiduciaries do not take the financial risks posed by climate change seriously, they may be subject to liability. A failure to properly consider climate change as a risk factor could result in lawsuits under various theories of liability for breaches of fiduciary duties."²³
 - The report identifies four categories of risk to the value of fossil fuel assets: 1) impact risk (the risk of loss due to the physical effects of global warming, such as sea level rise and wildfires); 2) carbon asset risk (the risk that fossil fuel reserves will never be exploited and remain unprofitable); 3) transition risk (the risk that regulation and the growth of renewable energy will render fossil fuel products too expensive for or unappealing to consumers); and 4) litigation risk (the risk of financial penalties from lawsuits and other legal actions, such as the Attorney General's action against ExxonMobil).

²² Bevis Longstreth, [Outline of Possible Interpretative Release by States' Attorneys General Under The Uniform Prudent Management of Institutional Funds Act](#) (Jan. 26, 2016).

²³ [Trillion Dollar Transformation](#), Center for International Environmental Law at 1-2 (Dec. 2016).

- As a result of these risks, the report concludes that fossil fuel investments may violate the fiduciary duties of inquiry, monitoring, loyalty, diversification, impartiality, and acting with reasonable care. The report concludes that “[t]he cleanest and simplest way to avoid climate vulnerability in a portfolio is to divest or, at minimum, dramatically reduce exposure to fossil fuel and other highly climate-vulnerable holdings.”²⁴
- The public benefit purpose of non-profits like Yale distinguishes charitable corporations from private trusts and makes the fiduciary duties of loyalty and care more specific. As the Restatement of the Law for Charitable Nonprofit Organizations states: “. . . in the case of a private trust, property is devoted to the use of specified or described persons who are designated as beneficiaries of the trust, whereas in the case of a charitable trust, property is devoted to purposes the law deems appropriately beneficial to the public . . . unlike in the case of a private trust in which fiduciary duties are owed to the beneficiaries, *in the case of a charity, fiduciary duties are owed to the charity’s purposes rather than to a specific person or persons* . . . the fiduciaries of a charity owe the duty of loyalty to the charity’s purposes rather than the entity.”²⁵
- In the context of investment, the standard prudent investor rule carries the additional burden of considering charitable purposes. “[T]he test of prudence evaluates the care, diligence, and skill demonstrated by the actor considering the relevant circumstances, as well as whether the person acted in good faith . . . *In the case of charities, however, the most relevant circumstance is the purpose to which the funds must be devoted.*”²⁶
- Yale’s fossil fuel holdings are estimated to total between 800 million dollars and 2.5 billion dollars. A lack of transparency precludes a more precise estimate.²⁷

II. Yale’s social and environmental commitments

In addition to its general duties to the public as manager of a charity, the Yale Corporation is legally bound to uphold the particular *charitable purposes* and values of Yale. These include serving the public, advancing social justice, and working to solve global problems, including climate change. The Yale Corporation has clearly acknowledged in the past that this legal duty extends to the manner in which it invests the university’s assets.

The Yale Corporation’s investments in fossil fuels constitute a violation of this duty. First, Yale has committed to a set of policies surrounding investments in fossil fuel companies which are not only insufficiently responsive to the scope of the climate crisis, but also fail to bring Yale’s investments practices in line with its charitable purposes and values. Furthermore, Yale has failed to comply with even these insufficient policies.

²⁴ *Id.* at 5-7, 12-17, 19.

²⁵ Restatement of the Law for Charitable Nonprofit Organizations, § 2.02, cmt. (2021) (emphasis added).

²⁶ *Id.* at § 2.04 (“Management, Investment, and Expenditure of a Charity’s Assets”), cmt. (emphasis added).

²⁷ See Section IV below. See also Rose Horowitz and Philip Mousavizadeh, [Yale creates new principles for divestment from fossil fuels](#), Yale Daily News (Apr. 16, 2021) and [Yale University Financial Report 2020-2021](#) at 40 (2021).

- Yale was founded to serve the public through its educational mission, and was granted the ability to hold property free of taxation in service of this mission. Its founding charter commits it to preparing youth for “Publick employment both in Church and Civil State.”²⁸
- According to its mission statement, the Yale Corporation “is committed to improving the world today and for future generations through outstanding research and scholarship, education, preservation, and practice. Yale educates aspiring leaders worldwide who serve all sectors of society.”²⁹
- University President and Board of Trustees member Peter Salovey has repeatedly identified climate change as a grave threat to humanity at large, and in particular to the families and communities of Yale students who come from climate-distressed areas.
 - Announcing the creation of a task force to advance Yale’s Climate Action Initiative, President Salovey wrote: “Around the globe, carbon emissions are at an all-time high. We must do our part to change the course we are on. We must reach higher and do more to create a better future.”³⁰
 - Addressing Yale freshmen at the Yale College Opening Assembly in August 2021, Salovey said: “This summer we have witnessed terrible wildfires, drought, and flooding in many corners of the globe. Some of you have experienced these climate disasters firsthand. Not only climate change but also racism, extremism, the widening gulf between rich and poor—these are complex challenges that call out for urgent and concerted action.”³¹
- Yale has recognized the specific role the University can play in combating the climate crisis, announcing in 2021 an initiative to reduce the carbon emissions of the campus itself “to zero as soon as possible and no later than 2050,”³² to conduct and disseminate research on environmental degradation, and to collaborate with other institutions of higher education.
 - The Joint Statement of Global University Leaders on the 2030 Agenda for Sustainable Development for the Role of Universities, in which Yale will take part in March, reads, “With their unique advantages in generating knowledge, uniting stakeholders and enabling transformation, leading universities around the world should play an active and essential role in forging a sustainable future through dialogue, solidarity and collaboration.”³³
 - The Yale Sustainability’s Climate Action Strategy reads, “A commitment to climate action requires a change in culture. In adopting innovative policies, systems, and work habits across all academic units on campus, Yale has the opportunity to lead by example.”³⁴

²⁸ [Act for Liberty to Erect a Collegiate School, 1701](#), The Yale Corporation: Charter and Legislation at 4 (last visited Feb. 15, 2022).

²⁹ [Mission Statement](#), Yale University (last visited Feb. 15, 2022).

³⁰ [Task force to probe how quickly Yale can achieve net zero carbon emissions](#), Yale News (Sept. 19, 2019).

³¹ Peter Salovey, [When the World is On Fire: Yale College Opening Assembly Address, Class of 2025](#) (Yale University Office of the President, Aug. 28, 2021).

³² [Climate Action Strategy](#), Yale Sustainability (last visited Feb. 15, 2022).

³³ [Joint Statement of Global University Leaders on the 2030 Agenda for Sustainable Development](#), ZJU Newsroom (Mar. 24, 2021).

³⁴ [Climate Action Strategy](#), Yale Sustainability (last visited Feb. 15, 2022).

- Yale is home to a world-renowned School of the Environment, which has several high-profile climate change-related initiatives and research centers. These include the Program on Climate Change Communication, the Planetary Solutions Project, the Justice, Equity, Diversity and Sustainability Initiative, the SEARCH (Solutions for Energy, Air, Climate and Health) Center, and the Center for Environmental Justice.³⁵
- A 100 million dollar gift from FedEx in March 2021 will fund a new center “focused on developing natural solutions for reducing atmospheric carbon.”³⁶ The University, in establishing the Yale Center for Natural Carbon Capture, recognized that “[g]reenhouse gas emissions, especially carbon dioxide, mainly from fossil fuel use, deforestation, and agriculture, have induced changes to our climate that impact our lives, health, and economic security. Without intervention, potentially catastrophic consequences may be unavoidable.”³⁷
- University leaders have, in public statements and in research objectives, articulated Yale’s commitments to racial and environmental justice.
 - President Salovey wrote in an address to the Yale community regarding diversity and inclusion initiatives: “Addressing systemic racism, inequality, and injustice is crucial to improving the world today and for future generations.”³⁸
 - After the murder of George Floyd in May 2020, President Salovey stated that “all of us at Yale must do what we can to replace fear with hope—and not with anything less than action.”³⁹
 - The Yale Planetary Solutions Project aims to “advocate for the vulnerable and promote environmental justice,” drawing on Yale’s “support for vulnerable individuals through its work in nursing, medical, public health, and clinical law practice all over the world. We have rich scholarship in social justice and equity, and are building strength in fields related to environmental justice.”⁴⁰
- Yale’s endowment exists to serve the mission of the University. As Yale Provost Scott Strobel has stated: “Yale is committed to tackling the most significant human problems of the day. The endowment helps Yale’s people — dynamic teachers, world-class scholars, pioneering researchers, committed staff, and enterprising students and alumni — carry out this mission. The endowment reflects the generosity and care of those who came before, aids in the urgency of our present work, and assists us in building a better future.”⁴¹
- To align its investment practices with its charitable purpose, Yale has committed to “avoidance and correction of social injury” as the “moral minimum obligation” to which its investments are ethically bound.⁴²

³⁵ See generally [Yale School of the Environment](#) (last visited Feb. 15, 2022).

³⁶ [At Yale, new FedEx-supported center to focus on climate change solutions](#), Yale News (Mar. 3, 2021).

³⁷ [Yale Center for Natural Carbon Capture](#), Yale Planetary Solutions Project (2022).

³⁸ Philip Mousavizadeh, [Salovey provides updates on University’s diversity initiatives](#), Yale Daily News (Oct. 15, 2021).

³⁹ Peter Salovey, [In memory of George Floyd](#), Yale University Office of the President (May 31, 2020).

⁴⁰ [Planetary Solutions Project Framework](#), Yale Planetary Solutions Project (last visited Feb. 15, 2022).

⁴¹ [The Yale Investments Office](#) (last visited Feb. 15, 2022).

⁴² John G. Simon, Charles W. Powers, Jon P. Gunnemann, [The Ethical Investor: Universities and Corporate Responsibility](#) at 18, Yale University Press (1972).

- *The Ethical Investor*, the 1972 text which guides Yale’s investment policy, argues that Yale should divest from companies in cases where the social injury is sufficiently grave and where there is no chance of correcting the social injury through shareholder engagement,⁴³ or where correcting the social injury would diminish the returns on the investment.⁴⁴
- In the past, these principles have led Yale to divest from companies operating in South Africa and Darfur, as well as assault weapons retailers and certain private prison operators.⁴⁵
- Yale’s Committee on Fossil Fuel Investment Principles (CFFIP) has recognized that “climate change is an urgent, existential threat to humanity and a grave social injury.”⁴⁶
- The CFFIP further recognized that fossil fuel producers bear a “special responsibility” in the climate crisis, and that, beyond greenhouse gas emissions, their role in spreading disinformation about climate change and in polluting air and water, which exacerbates pre-existing racial and economic health disparities, may also constitute grave social injury.⁴⁷
- Yale’s Corporation Committee on Investor Responsibility (CCIR) has recommended a limited divestment from coal producers and some oil and gas producers deemed especially irresponsible.⁴⁸ However, Yale has failed to comply with its own policies.
 - According to Yale’s most recent SEC Form 13F, as of November 2021, Yale maintains an investment of 453 million dollars in Vanguard Emerging Markets Stock Index Fund,⁴⁹ which is highly exposed to coal companies and has direct holdings in three oil and gas companies — Pakistan Petroleum Limited, PT Medco Energi, and Petro Rio S.A. — which the CCIR announced were ineligible for investment due to their failure to comply with best practices for limiting greenhouse gas emissions.⁵⁰
 - Furthermore, Yale continues to pursue significant investments utterly incompatible with its social and environmental commitments. Yale’s November SEC Form 13F filing shows a direct investment of 263 million dollars in EQT Corporation,⁵¹ the largest producer of fracked gas in the United States, which has a record of lobbying for the increased use of fracking and the expansion of dangerous and environmentally unsound pipeline projects carried out in violation of Indigenous sovereignty, including the Mountain Valley Pipeline.⁵²

⁴³ *Id.* at 106.

⁴⁴ *Id.* at 10.

⁴⁵ [Policy and Past Actions](#), Yale University Advisory Committee on Investor Responsibility (last visited Feb. 15, 2022).

⁴⁶ [Report of the Committee on Fossil Fuel Investment Principles](#), Yale Committee on Fossil Fuel Investment Principles at 2 (2021).

⁴⁷ *Id.* at 9-10.

⁴⁸ [Implementation of the Fossil Fuel Investment Principles](#), Yale University Advisory Committee on Investor Responsibility (last visited Feb. 8, 2022).

⁴⁹ [Yale University SEC Form 13F](#), United States Securities and Exchange Commission EDGAR (Nov. 22, 2021).

⁵⁰ [Vanguard Emerging Markets Stock Index Fund](#), Fossil Free Funds (last visited Feb. 15, 2022).

⁵¹ [Yale University SEC Form 13F](#), *supra* at note 49.

⁵² Mark Armao, [North Carolina tribes fear pipeline will damage waterways, burial grounds](#), *Grist* (October 15, 2021).

III. Yale's investments in the fossil fuel industry

Yale's fossil fuel holdings are estimated to total between 800 million dollars and 2.5 billion dollars. The Endowment Justice Coalition (EJC) has attempted to gain more information about the extent of fossil fuel exposure in the Yale endowment, but a lack of transparency makes accessing comprehensive information — and holding the Yale Corporation accountable to its own stated policies — impossible without legal intervention. Such opacity is deeply troubling given the *charitable purposes* to which Yale is dedicated as a non-profit institution of higher education; the numerous benefits Yale derives from this status, including significant tax exemptions; the grant and contract revenue Yale receives from the federal government, totaling 669 million dollars in 2021;⁵³ and the sheer volume of wealth comprising the Yale endowment, valued at 42.3 billion dollars.

- As of April 2021, the Yale Investments Office estimated that investments in fossil fuel producers constituted 2.6 percent of the endowment, or around 800,000,000 dollars.⁵⁴ However, the exact current value of Yale's fossil fuel investments is unknown. The Yale Corporation's long-standing lack of transparency, its reliance on shell corporations for certain asset classes, and its ongoing failure to comply with the recommendations of its own Committee on Fossil Fuel Investment Principles with regard to financial exposure to corporations deemed bad actors,⁵⁵ make it impossible to know how much of the 40.2 percent growth of the endowment in fiscal year 2021 is due to fossil fuel investment.⁵⁶
- Despite limited publicly available information on Yale's current investments, the documents available indicate that Yale remains significantly invested in natural resources, an asset class which includes fossil fuels, agriculture, and timber. According to its most recent financial report, the university's holdings in natural resources are valued at 1,915,773,000 dollars.⁵⁷
- Analysis of SEC Form 13F filings reveals a minimum of 317,872,000 dollars invested in the energy sector — including a direct investment of 263 dollars million in EQT Corporation, the largest natural gas company in the United States — and exposure through investments in exchange-traded funds to coal-producing companies and specific oil and gas companies from which the Yale corporation claims to have divested⁵⁸ (see Yale's Social And Environmental Commitments, *supra* at Part II). Similar analysis of Yale's 2019 IRS Form 990 Schedule R suggests that Yale's fund managers held portfolios with a minimum of 2,460,186,000 dollars potential exposure to the energy sector.⁵⁹
 - A breakdown of the investments in the energy sector reveals 1.45 million dollars invested through the SPDR S&P 500; 49.44 million dollars invested through the Vanguard Emerging Markets ETF; 3.7 million dollars invested through the Vanguard Europe ETF; 19,000 dollars invested through the iShares Core S&P

⁵³ [Financial Report 2020-2021](#), Yale University (2021).

⁵⁴ Rose Horowitz and Philip Mousavizadeh, [Yale creates new principles for divestment from fossil fuels](#), Yale Daily News (April 16, 2021).

⁵⁵ [Report of the Committee on Fossil Fuel Investment Principles](#), *supra* at note 46.

⁵⁶ [Yale endowment earns 40.2% investment return in fiscal 2021](#), Yale News (Oct. 14, 2021).

⁵⁷ [Financial Report 2020-2021](#), *supra* at note 53.

⁵⁸ [Yale University SEC Form 13F](#), *supra* at note 49.

⁵⁹ [Yale University SEC Form 990, Schedule R](#), Propublica Nonprofit Explorer (May 17, 2021).

Total U.S. Stock Market ETF; 136,000 dollars through the iShares MSCI EAFE ETF; and 75,000 dollars invested through the Vanguard FTSE Developed Markets ETF.⁶⁰

- Through the Vanguard Emerging Markets Fund, Yale's endowment is heavily exposed to coal,⁶¹ despite university policy of divestment from coal-producing companies, as well as at least three of the additional oil and gas companies Yale has committed to divest from (Petro Rio S.A., Pakistan Petroleum Ltd., and PT Medco Energi).⁶²
- The other 263,052,000 dollars of the Form 13F energy investments is directly invested in EQT Corporation. According to a response provided to the Yale College Council by Andrew Forsyth, a strategic advisor at Yale, the EQT Corporation shares were "a distribution from the winding down of an investment partnership."⁶³
- Yale's 2021 financial report indicates that in 2020 and 2021, Yale made investments of seventy-three million dollars and thirteen million dollars, respectively, in new natural resources holdings. These figures represent only purchases made by Yale's consolidated entities and do not account for likely purchases made by external fund managers.⁶⁴
- According to Yale's IRS Form 990 Schedule R for the fiscal year ending in June 2020, Yale had 182 related organizations taxable as partnerships also managing Yale's endowment.
 - These 182 companies are private shell companies; Yale's ownership of them ranges from 49.66 percent to 100 percent.⁶⁵
 - The companies are managed by external fund managers and fund management organizations, the details of which are withheld from the public and from the Yale community. The companies are reported in Yale's public tax documents under vague names that make public scrutiny impossible.
- Yale's admission that the winding down of one investment partnership revealed hundreds of millions of dollars invested in EQT Corporation suggests the possibility that other investments of this size may be hidden in any of the 182 other shell companies that manage Yale's endowment. Using IRS Form 990 Schedule R, the EJC attempted to determine the extent of Yale's potential fossil fuel exposure through external fund managers by investigating 272 related organizations and unrelated partnerships.
 - The fund managers of these 272 companies and organizations could only be found through a mixture of luck and instances in which the names of the shell company and fund manager were related through online tax forms, such as SEC forms.
 - Of the 182 organizations taxable as a partnership, the EJC was able to discover information about five companies using online resources such as the financial databases PitchBook, Private Fund Data, and WhaleWisdom. The rest remained opaque.⁶⁶

⁶⁰ [Yale University SEC Form 13F](#), *supra* at note 49.

⁶¹ [Vanguard Emerging Markets Stock Index Fund](#), *supra* at note 50.

⁶² [Implementation of the Fossil Fuel Investment Principles](#), *supra* at note 48.

⁶³ Email correspondence available upon request.

⁶⁴ [Financial Report 2020-2021](#), *supra* at note 53.

⁶⁵ [Yale University SEC Form 990, Schedule R](#), *supra* at note 59.

⁶⁶ Data sourced from PitchBook about these organizations have not been reviewed by PitchBook analysts.

- The five companies about which information was available through these sources — MEP IX LP, CYR Fund LP, Long Meadow LP, Bluebart LP, and YB Institutional LP — represent Yale’s ongoing exposure to the energy sector but likely do not account for the full extent of investments made by private funds. In partnerships such as MEP IX LP, controlled by Merit Energy, the EJC found 2,460,186,000 dollars in potential exposure to the energy sector.⁶⁷
- According to SEC Form 13Fs, the fund managers above were publicly invested in companies such as BHP Billiton Petroleum, Rangely Oil Field, Merit Energy Company, Plantation Petroleum, Denbury, International Seaways, USA Compression Partners LP, Cheniere Energy Incorporated, Archaea Energy Incorporated, Antero Resources Corporation, and Kinder Morgan.
- Aside from the 182 organizations taxable as partnerships, the remaining ninety organizations may also contain investments in natural resources. Although the EJC could find no information related to specific funds, Yale’s annual financial report showed that its staff pension fund was invested in natural resources.⁶⁸
 - The fair value of investments in natural resources held by the staff pension fund as of June 30, 2021 was 21,364,000 dollars. The asset allocations for the natural resources asset class are 1.8 percent and 1.2 percent for the 2021 staff pension and retiree health plans respectively.⁶⁹
 - More investigation is needed to confirm what percentage of these numbers represents investments in fossil fuels.
- Clearly there is still much to be uncovered. According to the 2021 report on Yale’s endowment, the planned allocation for the natural resources asset class was 4.5 percent, a figure which remained static from 2020, despite university commitments to reduce financing of fossil fuels in that timeframe. Yale’s earlier financial reports indicate that target allocations have tended to hew closely to the actual ones, but it is impossible to determine the amount invested without further investigation.
- The EJC cross-checked Yale’s figures to confirm the actual value of its natural resources investments. Yale values its investments at fair value using a three-tiered fair value hierarchy. In certain cases, it uses net asset value as determined by external investment managers if market values are not readily accessible.⁷⁰

⁶⁷ MEP IX LP (also known as Merit Energy Partners IX LP) is controlled by [Merit Energy Company](#), which both operates oil and gas fields and facilitates institutional investment in the oil and gas industry. Merit Energy Company is invested in [BHP Billiton Petroleum, Rangely Oil Field, Merit Energy Company, and Plantation Petroleum Holdings IV](#) to the tune of \$300,000,000, \$105,000,000, \$950,000,000, and \$326,300,000 respectively. These data have not been reviewed by PitchBook analysts. CYR Fund LP is managed by [Cyrus Capital Partners LP](#). Cyrus Capital Partners LP is invested in [Denbury, International Seaways, and USA Compression Partners LP](#), for \$122,300,000, \$73,400,000, and \$5,300,000 respectively. Long Meadow LP is managed by [Freshford Capital Management LLC](#). Freshford Capital Management LLC is invested in [Cheniere Energy Inc and Archaea Energy Inc](#), for \$75,855,000 and \$8,436,000 respectively. Bluebart LP is managed by [FPR Partners LLC](#). FPR Partners LLC is invested in [Antero Resources Corp and Kinder Morgan](#), for \$104,538,000 and \$330,090,000 respectively. YB Institutional LP is managed by [Baupost](#) Group; Baupost is invested in [Archaea Energy Inc](#) for \$58,967,000.

⁶⁸ [Financial Report 2020-2021](#), *supra* at note 53, at 55.

⁶⁹ *Id.*, at 55, 58.

⁷⁰ *Id.* at 27, 36.

- As of June 30, 2021, the fair value of natural resources investments valued using Level three inputs of its fair value hierarchy totaled 618,580,000 dollars. Investments valued using a net asset value totaled 1,297,193,000 dollars.⁷¹
- In total, the two types total 1,915,773,000 dollars in natural resources, which is identical to the value shown in the 2021 financial report's table of natural resource investments made under agreements with external investment managers.⁷²
- As of June 30, 2021, Yale's endowment was valued at 42.3 billion dollars.⁷³ A 4.5 percent planned investment in the natural resources asset class would thus represent 1,915,773,000 dollars — the same amount as the figure in the 2021 financial report.⁷⁴
- The EJC cannot be certain how many of these investments are held in fossil fuels rather than timber, agriculture, and other natural resources. Based on statements from the investments office, we estimate a minimum exposure of 800,000,000 dollars. Given the opaqueness of the university's investment practices, further exposure to oil, coal, and especially fracked gas is likely. Further investigation is required to assess the full scope of Yale's investments and the extent to which they diverge from the Yale Corporation's stated policy.

IV. The environmental health and safety risks of climate change

The current and future effects of climate change jeopardize the health and safety of the global community, undermining the Yale Corporation's *charitable purposes*. By investing in companies disproportionately responsible for the climate crisis, the Yale Corporation exposes society at large to severe harm. The Corporation's continued investments in the fossil fuel industry are in conflict with the findings of Yale's own researchers and faculty, such as those at the Yale Center on Climate Change and Health, who have generated compelling scholarship about the adverse effects of climate change on public health, infrastructure, racial equity, and the economy.

Climate change is directly connected to the fossil fuel industry.

- Historically unprecedented and potentially irreversible changes are taking place in the Earth's oceans, atmosphere, and biospheres. These changes are collectively known as climate change. Such changes are unequivocally the result of human activities — primarily greenhouse gas emissions resulting from extraction and combustion of fossil fuels, including but not limited to coal, oil, and fracked gas — according to the Intergovernmental Panel on Climate Change (IPCC), the leading global authority responsible for synthesizing and producing much of the scientific research on climate change across the globe.⁷⁵
- A small number of fossil fuel producers have been disproportionately responsible for greenhouse gas emissions since the Industrial Revolution: twenty companies account for

⁷¹ *Id.* at 35, 36.

⁷² *Id.* at 40.

⁷³ [Yale endowment earns 40.2% investment return in fiscal 2021](#), YaleNews (Oct. 14, 2021).

⁷⁴ [The Yale Endowment 2020](#) at 2, Yale Investments Office (2020).

⁷⁵ See [“Summary for Policymakers”](#) at 7, in Climate Change 2021: The Physical Science Basis, Working Group I Contribution to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change (Aug. 2021).

nearly thirty percent of all emissions between 1751 and 2010.⁷⁶ A 2017 report by the Carbon Disclosure Project found that seventy-one percent of all global greenhouse gas emissions since 1988 “can be traced to just 100 fossil fuel producers.”⁷⁷

- Yale’s former Chief Investments Officer David Swensen wrote in a 2018 position paper on climate change, “Yale’s guiding principles are predicated on the idea that consumption of fossil fuels, not production, is the root of the climate change problem.”⁷⁸
- There is a near-linear relationship between the cumulative amount of carbon dioxide emitted and the amount of global warming it causes.⁷⁹ Every half-degree Celsius of further global warming results in discernible increases in intensity and frequency of temperature extremes, heavy precipitation, and agricultural, hydrological and ecological droughts.⁸⁰ If warming is held to two degrees Celsius — the target set by the 2015 Paris Agreement and the point at which the consequences for human and other species’ life may become catastrophic — the global economy will still suffer significant damage from climate change.
- As a result of human-caused warming, climate change is already affecting every inhabited region across the globe, leading to changes in weather and climate extremes.⁸¹
- Continued global warming is projected to further intensify the severity of wet and dry events.⁸² Many changes due to past and future greenhouse gas emissions are irreversible for centuries or millennia, especially changes to the ocean, ice sheets and global sea level.⁸³
- Global warming will exceed two degrees Celsius by the end of this century unless drastic reductions in carbon dioxide and other greenhouse gas emissions occur in the coming decades.⁸⁴ To limit warming, cumulative carbon dioxide emissions must reach net zero, along with strong reductions in other greenhouse gasses.⁸⁵

Climate change is hazardous to human health.

- The World Health Organization has found that climate change is responsible for 150,000 deaths annually,⁸⁶ and a peer-reviewed study published this year projected that there will be a total of eighty-three million excess deaths associated with climate change by the year 2100.⁸⁷

⁷⁶ Richard Heede, [Tracing anthropogenic carbon dioxide and methane emissions to fossil fuel and cement producers, 1854–2010](#), 122 Climatic Change 229, 234 (2014). These companies include Chevron, ExxonMobil, BP, Shell, ConocoPhillips, and Peabody. *Id.* at 237.

⁷⁷ [New report shows just 100 companies are source of over 70% of emissions](#), Carbon Disclosure Project (July 10, 2017).

⁷⁸ [Position Paper on Climate Change](#), Yale Investments Office (Oct. 9, 2018).

⁷⁹ IPCC, [Summary for Policymakers](#), *supra* at note 75, at 37.

⁸⁰ *Id.* at 19.

⁸¹ *Id.* at 10.

⁸² *Id.* at 19.

⁸³ *Id.* at 9.

⁸⁴ *Id.* at 20.

⁸⁵ *Id.* at 7.

⁸⁶ Health and Environmental Linkages Initiative, [Climate change](#), World Health Organization (last visited Jan. 30, 2022).

⁸⁷ R. Daniel Bressler, [The mortality cost of carbon](#), 12 Nature Communications 4467 (2021).

- Air pollution associated with fossil fuel combustion is responsible for one in five premature deaths worldwide.⁸⁸
- In remarks delivered to the Yale Faculty of Arts and Sciences Senate in support of fossil fuel divestment, Professor Robert Dubrow, the director of the Yale Center on Climate Change and Health, stated that the transition towards renewable energy will prevent “several million deaths each year” due to air pollution from fossil fuel combustion.⁸⁹
- Food safety is also threatened by climate change. For example, the prevalence of foodborne illnesses may increase with sewage overflow after heavy flooding, contamination of water used in irrigating and rinsing crops, and difficulty storing foods at safe temperatures.⁹⁰ Warming coastal waters will likely contribute to increased prevalence of bacteria that cause human illnesses such as *vibrio* infections over time. Connecticut has already experienced an increase in infections over the past decade.⁹¹ In a study of the State of New York, the risk of Salmonella, another food-borne disease, is associated with rising air temperatures due to climate change.⁹²
- Extreme heat, which will increase in severity and frequency as a result of climate change, causes heat stroke, heat exhaustion, and death.⁹³
- Flooding caused by climate change poses serious health risks from injury, drowning, exposure to toxins and pathogens in floodwaters, increased mold growth, and formation of air contaminants.⁹⁴
- The existential threat posed by climate change is also contributing to a global mental health crisis through increased prevalence of PTSD, anxiety, and psychosocial effects caused by changing weather and conditions.⁹⁵ Research co-authored by members of Yale’s CHEN (Climate, Health, and Environment Nexus) Lab showed a strong correlation between higher levels of particulate matter and outpatient visits for mental illness,⁹⁶ as well as a correlation between extreme heat and emergency room visits for mental illness.⁹⁷
- Rising temperatures, changes in precipitation patterns, and increasing levels of pollutants such as ozone, carbon dioxide, and carbon monoxide are expected to cause significant increases in respiratory diseases.⁹⁸

⁸⁸ Karn Vohra, Alina Vodonos, Joel Schwartz, Eloise A. Marais, Melissa P. Sulprizio, & Loretta Mickley, [Global mortality from outdoor fine particle pollution generated by fossil fuel combustion](#), 195 Env’tl Res. 110754 (2021).

⁸⁹ Robert Dubrow, [Dubrow: A statement on divestment](#), The Yale Daily News (Feb. 20, 2020).

⁹⁰ [Healthy Connecticut 2025 State Health Assessment](#), Connecticut Department of Public Health (last visited Jan. 30, 2022).

⁹¹ *Id.*

⁹² Kevin Welch, [Climate Change and Salmonella, New York State](#), ProQuest Dissertations (last visited Jan. 30, 2022).

⁹³ [The Impacts of Climate Change on Connecticut Agriculture, Infrastructure, Natural Resources and Health](#) at 24, Connecticut Department of Energy and Environmental Protection, Adaptation Subcommittee (2010).

⁹⁴ *Id.*

⁹⁵ Thomas Doherty & Susan Clayton, [The psychological impacts of global climate change](#), APA PsycNet (2011).

⁹⁶ Sarah Lowe, Ce Wang, Yiqun Ma, & Kai Chen, [Particulate matter pollution and risk of outpatient visits for psychological diseases in Nanjing, China](#), 193 Env’tl Res. 110601 (2021).

⁹⁷ Eun-Hye Yoo, Youngseob Eum, John E Roberts, Qi Gao, & Kai Chen, [Association between extreme temperatures and emergency room visits related to mental disorders: A multi-region time-series study in New York, USA](#), 792 Sci. Total Env’t 148246 (2021).

⁹⁸ [Climate and Health Assessment](#), GlobalChange.gov (last visited Jan. 31, 2022).

- Further research from the CHEN Lab demonstrates that high particulate matter concentrations are associated with increases in deaths related to both extremely high and extremely low temperatures.⁹⁹
- In addition to these grave public health threats, climate change increases the frequency and likelihood of devastating pandemics such as COVID-19. According to the Intergovernmental Platform on Biodiversity and Ecosystem Services, climate change will “cause substantial future pandemic risks and other localized disease emergence.”¹⁰⁰
- A recent paper in The New England Journal of Medicine concludes that the climate crisis is exacerbating the severity of the COVID-19 pandemic.¹⁰¹ High heat, wildfire smoke, and high pollen counts amplify underlying conditions such as pulmonary disease and emergency responses to events such as hurricanes and fires reduce the ability to mitigate COVID-19 spread. These effects are felt particularly by the most vulnerable communities. Further, COVID-19 is unlikely to be an isolated event; according to the Intergovernmental Platform on Biodiversity and Ecosystem Change, climate change will “cause substantial future pandemic risks and other localized disease emergence.”¹⁰²

V. The effects of climate change on social inequality

The effects of climate change are disproportionately borne by already-marginalized communities at both a national and global scale, deepening the impact of social injury associated with climate change. Investments in the fossil fuel industry entrench global inequality and contravene the *charitable purposes* of the Yale Corporation.

- A study published in the Proceedings of the National Academy of Sciences concluded that between-country inequality, which has increased twenty-five percent over the last fifty years, is partially attributable to the impact of warming on annual economic growth. Over the course of decades there have accumulated robust and substantial declines in economic output in hotter, poorer countries—and increases in many cooler, wealthier countries—relative to a world without anthropogenic warming. Thus, the authors conclude, global warming caused by fossil fuel use has exacerbated global economic inequality.¹⁰³
- A 2020 World Bank report estimated that an additional sixty-eight to 135 million people could be pushed into poverty by 2030 because of climate change.¹⁰⁴

⁹⁹ Kai Chen, *et al.*, [Two-way effect modifications of air pollution and air temperature on total natural and cardiovascular mortality in eight European urban areas](#), 116 *Env't Int'l* 186 (2018).

¹⁰⁰ [IPBES Workshop on Biodiversity and Pandemics: Workshop Report](#), Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (Oct. 29, 2020).

¹⁰¹ Renee Salas, James Shultz, & Caren Solomon, [The Climate Crisis and Covid-19 — A Major Threat to the Pandemic Response](#), 383 *New England J. Med.* e70 (2020).

¹⁰² [IPBES Workshop on Biodiversity and Pandemics: Workshop Report](#), Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (Oct. 29, 2020).

¹⁰³ Noah Diffenbaugh & Marshall Burke, [Global Warming has increased global economic inequality](#), Proceedings of the National Academy of Sciences of the United States of America (May 14, 2019).

¹⁰⁴ [Global Action Urgently Needed to Halt Historic Threats to Poverty Reduction](#), The World Bank (Oct. 7, 2020).

- Forced migration due to climate change has already skyrocketed in recent years and is anticipated to grow exponentially as many areas of the globe become inhospitable to agriculture and human habitation, provoking political and social instability.¹⁰⁵
- Compounding geographic and developmental differences at the level of the nation-state, demographic patterns within affected areas show that poor people,¹⁰⁶ women,¹⁰⁷ people with disabilities,¹⁰⁸ racial minorities, and Indigenous people¹⁰⁹ will be disproportionately affected by the encroaching crisis. These groups, often referred to as frontline communities, will first and most severely experience the effects of air pollution, sea level rise, drought and other warming consequences.
- Within the United States, there is substantial evidence of disparate climate impact. Exposure to environmental toxins and vulnerability to natural disasters is significantly higher in Black communities.¹¹⁰
- People of color are more likely to live in flood-prone and high-heat areas. These communities tend to have fewer economic resources to adjust to rising temperatures and receive less government assistance to deal with emergencies.¹¹¹
- According to a study from the Program for Environmental and Regional Equity at the University of Southern California, racial minorities will disproportionately suffer from an inability to pay for basic necessities and from decreased job prospects in sectors such as agriculture and tourism as the climate crisis accelerates.¹¹²
- Indigenous peoples' lands are often invaded and polluted by private companies working in concert with state actors. According to the United Nations Department of Economic and Social Affairs, "Climate change exacerbates the difficulties already faced by indigenous communities including political and economic marginalization, loss of land and resources, human rights violations, discrimination, and unemployment."¹¹³
- Yale's investment of 263 million dollars in EQT, the country's largest producer of natural gas and the company primarily responsible for the construction of the Mountain Valley Pipeline in Appalachia, contributes to the occupation and poisoning of Monacan and Sioux land.¹¹⁴

¹⁰⁵ See, e.g., Michael Werz & Laura Conley, [Climate Change, Migration, and Conflict: Addressing complex crisis scenarios in the 21st century](#), at 3-5, 12-14, Center for American Progress (Jan. 2012); see also Abrahm Lustgarten, [The Great Climate Migration](#), The New York Times Magazine (last visited Feb. 3, 2022).

¹⁰⁶ S. Nazrul Islam & John Winkel, [Climate Change and Social Inequality](#), UN Department of Economic and Social Affairs (Oct. 2017).

¹⁰⁷ Balgis Osman-Elasha, [Women...In The Shadow of Climate Change](#), United Nations (last visited Feb. 2, 2022).

¹⁰⁸ Gianna Cacciatore, [The Intersection of Disability and Climate Change](#), Harvard Graduate School of Education (Mar. 31, 2021).

¹⁰⁹ Rachel Baird, [The Impact of Climate Change on Minorities and Indigenous Peoples](#), Minority Rights Group International (2008).

¹¹⁰ [Environmental & Climate Justice](#), National Association for the Advancement of Colored People (last visited Feb. 2, 2022).

¹¹¹ Steven Hsieh, [People of Color Are Already Getting Hit the Hardest by Climate Change](#), The Nation (Apr. 22, 2014); Office of Health Equity's Climate Change and Health Equity Program, [Racism Increases Vulnerability to Health Impacts of Climate Change](#), California Department of Public Health (Aug. 17, 2020).

¹¹² Rachel Morello Frosch, Manuel Pastor, Jim Sadd, & Seth Shonkoff, [The Climate Gap: Inequalities in How Climate Change Hurts Americans & How to Close the Gap](#) at 5, University of Southern California Program on Environmental and Regional Equity (May 2009).

¹¹³ [Climate Change](#), United Nations Department of Economic and Social Affairs — Indigenous Peoples (2020).

¹¹⁴ Kevin Ridder, [The Appalachian Pipeline Resistance Movement: "We're Not Going Away."](#) The Appalachian Voice (Oct. 28, 2020).

- A Yale School of Environment Study conducted by Professor Justin Farrell found that “Indigenous nations across the United States have lost 98.9 percent of their historical land base” and that “historical land dispossession is associated with current and future climate risk,” as “Indigenous peoples were forced to lands that are more exposed to a range of climate change risks and hazards and less likely to lie over valuable subsurface oil and gas resources.”¹¹⁵

VI. The environmental health and safety risks of climate change in Connecticut

Yale’s ongoing support of the fossil fuel industry endangers its students and staff, as well as other residents of New Haven and the State of Connecticut. Fossil fuel industry activities threaten human health and safety through increased disease prevalence, more frequent and more severe weather events, compromised water supplies, extreme heat, damaged ecosystems, and other climate-related harms that are incompatible with the Yale Corporation’s *charitable purposes*. Yale’s fossil fuel investments also create disproportionate burdens on low-income and historically disadvantaged communities, and on coastal areas such as New Haven. By investing without regard to the dangers posed to its own community and property, the Yale Corporation has violated its *duty of loyalty*.

Extreme heat

- Over the past 170 years, global surface temperature increased 1.09 degree Celsius (1.96 degree Fahrenheit). In Northeastern North America, there is an observed increase in “hot extremes” — daily maximum temperatures in addition to heatwave duration, frequency, and intensity — from the 1950s to the present, mirroring a global trend.¹¹⁶
- Researchers at the Yale School for Public Health as well as the National Oceanic and Atmospheric Administration (NOAA) have projected more extreme heat events — days in which temperature surpasses ninety degrees Fahrenheit — in Connecticut.¹¹⁷
- An increase in extreme heat events is correlated with increased mortality. In 2017, researchers quantified the health risks of extreme heat days in New England and found that days with a heat index greater than ninety-five degrees Fahrenheit were associated with an annual average of 784 excess Emergency Department visits and twenty-two excess deaths.¹¹⁸ Similarly, in a study published in *Nature*, researchers analyzed the effects of climate change and rising temperatures on mortality in New England. They found evidence that temperature anomalies and increased average temperatures heightened mortality rates across the region. For example, “a rise in summer mean

¹¹⁵ [Forced Relocation Made Native Americans More Vulnerable to Climate Change, Study Shows](#), Yale Environment 360 (Oct. 29, 2021).

¹¹⁶ See IPCC, “Summary for Policymakers,” *supra* at note 75.

¹¹⁷ See Runkle, J., K. Kunkel, S. Champion, D. Easterling, B. Stewart, R. Frankson, & W. Sweet, [2022: Connecticut State Climate Summary 2022](#), at 4, NOAA Technical Report NESDIS (last visited Feb. 8, 2022); Lauren Bozzi & Robert Dubrow, [Climate Change and Health in Connecticut 2020 Report Executive Summary](#), at 5, Yale Center on Climate Change and Health (2020).

¹¹⁸ See Gregory A. Wellenius, Melissa N. Eliota, Kathleen F. Bush, Dennis Holt, Rebecca A. Lincoln, Andy E. Smith, Julia Gold, [Heat-related morbidity and mortality in New England: Evidence for local policy](#), Environmental Research (July, 2017) at 845.

temperature of one degree Celsius was associated with a one percent higher death rate.”¹¹⁹

- Extreme heat days are especially dangerous for people living in New Haven and other urban areas due to the urban heat island (UHI) effect, “a phenomenon in which urban areas are hotter than surrounding areas because of the density of buildings and roads and the lack of trees, other greenery, and streams, rivers, ponds, and lakes.”¹²⁰
- Heat-related risks are especially high for populations that do not have access to air conditioning; lower-income and elderly populations are more likely than others to belong to this group.¹²¹ In 2011, approximately one in ten households in Connecticut did not have air conditioning.¹²² These health effects have consequences for racial equity, as non-Hispanic Black populations are at the highest risk for heat-related illness.¹²³ In New Haven, the predominantly Black neighborhoods of the Hill and Dixwell face the highest levels of heat exposure and vulnerability.¹²⁴
- Average nighttime temperatures have also increased dangerously.¹²⁵ Cool nights allow people’s bodies to reset while warm nights continue to tax bodies already stressed by high daytime temperatures. According to the Yale School for Public Health’s 2020 report on Climate Change and Health in Connecticut, Connecticut’s urban heat islands (UHIs), where the temperature is far higher than in rural areas, are often located in low-income and minority communities.¹²⁶ While facing the worst of the heat, these communities are less likely to have air conditioning and are at a much higher risk of heat exhaustion, heat stroke and death.

Reductions in air quality

- Connecticut is routinely cited by federal sources as having some of the worst air quality on the East Coast, especially in terms of levels of ozone, a pollutant and lung irritant linked to fossil fuel combustion.¹²⁷ In 2019, the American Lung Association gave all eight Connecticut counties an F grade for ozone pollution, which is expected to worsen with climate change.¹²⁸
- Robert Klee, former commissioner of the Connecticut Department of Energy and Environmental Protection, now a lecturer at the Yale School of the Environment, said,

¹¹⁹ Liuhua Shi, Itai Kloog, Antonella Zanobetti, Pengfei Liu, & Joel Schwartz, [Impacts of temperature and its variability on mortality in New England](#), 5 *Nature Climate Change* 988, 988 (2015).

¹²⁰ Bozzi & Dubrow, *supra* at note 117, at 5.

¹²¹ Bozzi & Dubrow, *supra* at note 117, at 5.

¹²² [2009 Residential Energy Consumption Survey Data](#), Air conditioning by type of housing unit, U.S. Energy Information Administration (last visited Jan. 31, 2022).

¹²³ [Climate Change Indicators: Heat Related Deaths](#), United States Environmental Protection Agency (last visited Feb. 15, 2022).

¹²⁴ Logan M. Howard, [Heat Stress in Urban Environments: A Case Study of Heat Vulnerability in New Haven, CT](#), Library Map Prize (2021).

¹²⁵ Bozzi & Dubrow, *supra* at note 117, at 5.

¹²⁶ *Id.*

¹²⁷ [The Ozone Problem](#), United States Environmental Protection Agency (last visited Feb. 15, 2022).

¹²⁸ Gregory Hladky, [New Study: Air Pollution Killing 168 in Connecticut Each Year](#), *The Hartford Courant* (Aug. 10, 2016); Bozzi & Dubrow, *supra* at note 117, at 8.

“Connecticut has the highest ozone levels in the Northeast, which adversely impacts the health of our citizens and the quality of life in our state.”¹²⁹

- Ground-level ozone concentration has decreased in Connecticut over the past few decades as part of a larger national trend due to state and federal interventions, but Yale scientists predict that this will not last. The 2020 Climate Change and Health in Connecticut report found that “past progress on reducing climate change is likely to be counteracted in the future by a ‘climate penalty’: everything else being equal, higher temperatures, as well as changes to atmospheric circulation patterns caused by climate change, are expected to bring higher ground-level ozone concentrations, especially in already polluted areas.” Yale researchers state that increased ozone concentrations will increase mortality rates and incidences of severe illness in the state of Connecticut, especially among low-income communities and people of color.¹³⁰ In 2016, a report from New York University found that New Haven County has the highest mortality rate in Connecticut from ozone pollution: 54.9 deaths per year.¹³¹
- The Yale Climate Change and Health in Connecticut report also states that ground-level ozone may contribute to the development of asthma in children. New Haven, CT is ranked nationally as the fifth most-challenging place to live with asthma¹³² and has the highest rate of asthma hospitalizations in the state of Connecticut.¹³³
- The Global Health Justice Partnership at Yale Law School has called the prevalence of asthma in New Haven “alarmingly high” and said that “the most significant disparities [in asthma rates] in New Haven were seen across lines of gender, income and race.” The Yale Global Health Justice Partnership identified poor air quality as one of the main triggers of asthma in New Haven.¹³⁴
- The 2019 Connecticut Natural Hazards Mitigation Plan Update recommended that the State prepare for climate-related respiratory risks from airborne allergens and conditions such as asthma. Along with the formation of ground-level ozone and other pollutants, climate change contributes to the increased severity of allergens as plants such as ragweed experience longer and more intense pollen seasons.¹³⁵
- As New Haven residents struggle with the economic, health, and safety impacts of worsening air quality, as well as rising sea levels and flooding, their experience is compounded by Yale’s direct pollution of the city of New Haven. Yale operates three natural-gas power plants which heat, cool, and provide electricity to Yale facilities.¹³⁶
- In an interview with the *Yale Herald*, Paul Sabin, a professor in Yale’s Department of History specializing in U.S. energy history, expressed concern regarding the plants:

¹²⁹ Hladky, *supra* at note 128.

¹³⁰ Bozzi & Dubrow, [Climate Change and Health in Connecticut 2020 Report Executive Summary](#), *supra* at note 117, at 8.

¹³¹ Hladky, *supra* at note 128.

¹³² [Asthma Capitals 2021](#), Asthma and Allergy Foundation of America (last visited Feb. 2, 2022).

¹³³ Julio Taku, [New Haven climate activists want the city to commit to moving away from using fossil fuels](#), WSHU (Dec. 6, 2021).

¹³⁴ Alexia Akbay, Emilie Davis, Monique Morales, and Rebeca Vergara Greeno, [Asthma: A Health Justice Issue in New Haven, Connecticut](#), Yale Global Health Justice Partnership’s Asthma Working Group (Nov. 2018).

¹³⁵ *Id.*

¹³⁶ [Utilities & Energy Management](#), Yale University (last visited Feb. 2, 2022).

“Even if it’s a pretty clean facility, it’s emitting particulate matter into the city and the city’s air quality is not great.”¹³⁷

Sea level rise

The risks posed by climate change to Connecticut are profound. According to the NOAA Office of Coastal Management, sixty-one percent of the state population lives in coastal areas.¹³⁸

Worldwide, sea levels have risen by 0.2 meters, or 0.66 feet, since 1901, and the rate of acceleration is increasing.¹³⁹ In 2018 the Connecticut Department of Energy and Environmental Protection (DEEP) adopted a sea level rise scenario of 0.5 meters, or one foot eight inches, above the mean sea level 1983–2001, for Long Island Sound in 2050. DEEP has further concluded that “it is likely that sea level will continue to increase after 2050.”¹⁴⁰ States at Risk, a project of Climate Central, has found that 57,000 residents of Connecticut are at risk of coastal flooding, with 32,000 more expected to be rendered vulnerable by 2050 as a result of sea level rise.¹⁴¹

Severe weather events

According to the IPCC, “human-induced climate change increases heavy precipitation associated with tropical cyclones,” and “the global proportion of major (Category three to five) tropical cyclone occurrences has increased over the last four decades.”¹⁴² Connecticut has been severely affected by four major tropical weather events — contributing to flash flooding, loss of life, and billions of dollars in property damage — in the last two hurricane seasons: Hurricane Isaias (August 2020), Tropical Storm Elsa (July 2021), Tropical Storm Fred (August 2021), and Hurricane Ida (September 2021).¹⁴³ According to Peter Raymond, a professor of ecosystem ecology at the Yale School of the Environment, the occurrence and severity of heavy rainfall events will continue to increase as a result of global warming.¹⁴⁴

Increased prevalence of disease and pests

- Climate change increases the threat of diseases carried by insects. Existing diseases such as Lyme disease — named for its prevalence in southeastern Connecticut — will become more common.¹⁴⁵ New diseases will be introduced, carried by insects such as the Asian

¹³⁷ Kapp Singer, [Transfer of Power](#), The Yale Herald (Apr. 22, 2021).

¹³⁸ [Connecticut](#), Office for Coastal Management (last visited Feb. 2, 2022).

¹³⁹ *Id.* at 33.

¹⁴⁰ [Sea Level Rise in Connecticut](#), Connecticut Department of Energy and Environmental Protection (Sept. 25, 2020).

¹⁴¹ [America’s Preparedness Report Card 2015: Connecticut Coastal Flooding](#), States at Risk (2015).

¹⁴² IPCC, “Summary for Policymakers,” *supra* at note 75, at 9.

¹⁴³ [Events: Billion-Dollar Weather and Climate Disasters](#), National Centers for Environmental Information (last visited Feb. 2, 2022).

¹⁴⁴ Sai Rayala, [A warming climate can help explain New Haven’s intense flooding](#), The Yale Daily News (Sept. 10, 2021).

¹⁴⁵ [Climate Change Indicators: Lyme Disease](#), United States Environmental Protection Agency (2021).

Tiger Mosquito, the population of which scientists predict will expand rapidly through the Northeast as the region warms.¹⁴⁶

- According to a report from the Yale Center on Climate Change and Health, ten of Connecticut's twenty-eight disease-carrying mosquito species have shown trends of increasing since 2001. These trends lead to greater likelihood of epidemics of diseases such as Cache Valley, Eastern equine encephalitis, Jamestown Canyon, and Trivittatus.¹⁴⁷
- In a study of the local impacts of climate change, the University of Connecticut found that the state will suffer longer algal bloom seasons. As a result of too much algal productivity, water supplies may experience eutrophication (excessive richness of nutrients in a lake or other body of water) and hypoxia (oxygen deficit), both associated with poor water quality. Rising temperatures lead to conditions more conducive to blooms of blue-green algae in particular, releasing harmful toxins into the water. Harmful algal blooms can cause serious illness and death.¹⁴⁸ Because Connecticut has so many small reservoir systems, the state may be especially vulnerable to these threats.¹⁴⁹

Interference with ecosystem services

- Yale's continued investments in the fossil fuel industry actively harm local and global ecosystem services and biodiversity. By maintaining these investments, the Yale Corporation participates in the degeneration of the ecosystem on which it relies to generate financial revenue and support critical scholarship.
- Fossil fuels contribute to the degradation and poisoning of soils, food sources, water quality, air quality, and other ecosystem services around the world.¹⁵⁰ In Connecticut, increased greenhouse gas emissions, fossil fuel extraction, and processing have impacted food systems, increased the number of invasive species, and critically altered the natural ecosystem and species composition.¹⁵¹ As a result, food sources for Connecticut's wildlife and human population have been reduced.¹⁵² Fossil fuel emissions also threaten agriculture in Connecticut, endangering livelihoods and the local food systems that feed the state.¹⁵³
- According to the EPA 2016 report *What Climate Change Means for Connecticut*, warmer average temperatures will cause cows to eat less and produce less milk, threatening the state's seventy million dollar dairy industry. Heat stress leads to reduced lactation and poor animal health, reducing herd sizes and lowering milk production.¹⁵⁴ High

¹⁴⁶ *Id.*

¹⁴⁷ Bozzi & Dubrow, [Climate Change and Health in Connecticut 2020 Report Executive Summary](#), *supra* at note 117, at 7.

¹⁴⁸ [Drinking Water Vulnerability Assessment and Resilience Plan](#), Connecticut Department of Public Health (Nov. 2018).

¹⁴⁹ [2019 Connecticut Natural Hazards Mitigation Plan Update](#), Department of Emergency Services and Public Protection (Jan. 2019).

¹⁵⁰ Melissa Denchak, [Fossil Fuels: The Dirty Facts](#), NRDC (June 29, 2018).

¹⁵¹ Michael Harfoot, *et al.*, [Present and Future Biodiversity Risks from Fossil Fuel Exploitation](#), 11(4) Conservation Letters e12448 (2018); [Facing Our Future: Biodiversity & Habitat Adapting to Connecticut's Changing Climate](#), Connecticut Department of Environmental Protection (March 2009).

¹⁵² [2019 Connecticut Natural Hazards Mitigation Plan Update](#), *supra* at note 149, at 87.

¹⁵³ *Id.* at 85.

¹⁵⁴ [What Climate Change Means for Connecticut](#) at 2, U.S. Environmental Protection Agency (Aug. 2016).

precipitation will make manure harder to contain, overwhelming runoff infrastructure and contaminating waterways.¹⁵⁵

- A 2010 report from the Governor’s Steering Committee found that rising temperatures mean it will no longer be possible to produce maple syrup in Connecticut by 2080.¹⁵⁶ In addition, increased heat and precipitation will increase disease prevalence and pest populations and decrease fruit formation.¹⁵⁷ Rising levels of ozone are expected to lower crop production and may inhibit pollinators’ sense of smell, preventing pollination.¹⁵⁸

Forestry

- Climate change poses serious risks to New England forest ecology and the extensive holdings of timberland owned and managed by Yale and the Yale School of the Environment (YSE). YSE, the USDA, and the Connecticut Department of Energy and Environmental Protection (DEEP) anticipate changes in New England forests that will compromise Yale’s commercial and educational investments in these ecosystems.
 - YSE owns and manages 10,880 acres of forestland in New England, encompassing Yale Myers (CT), Crowell Ravine (VT), Bowen Forest (VT), Crowell Forest (VT), Yale Tuomey Forest (NH), and Goss Woods (NH). All of this forestland has commercial, recreational, and scientific significance to Yale and YSE, but YSE warns that these “forests of New England are challenged by... climate change,” and will lose significant value as they struggle to adapt.¹⁵⁹
- Yale University has direct financial interests in other forestland as part of its investment portfolio; these financial interests are also at risk from climate change.
 - The university owns Timber Investment Management Organizations (TIMOs), including 98.8 percent of Bayroot, which is “valued at 58.6 million dollars, as of 2018 according to university tax returns,” and 91.3 percent of Typhoon LLC, comprising 471,000 acres in Maine.¹⁶⁰
 - According to the USDA New England and northern New York Forest Ecosystem Vulnerability Assessment and Synthesis, “boreal species such as balsam fir, red spruce, and black spruce are projected to have reductions in suitable habitat and biomass over the next century.”¹⁶¹
- In 2021, the Connecticut Department of Energy and Environmental Protection (DEEP) outlined a list of climate change-associated stressors on forestland, including:

¹⁵⁵ [2019 Connecticut Natural Hazards Mitigation Plan Update](#), *supra* at note 149, at 132.

¹⁵⁶ [The Impacts of Climate Change on Connecticut Agriculture, Infrastructure, Natural Resources and Health](#), *supra* at note 93, at 13.

¹⁵⁷ *Id.* at 14.

¹⁵⁸ *Id.* at 15.

¹⁵⁹ [Yale Forests](#), Yale School of the Environment (last visited Feb. 8, 2022).

¹⁶⁰ Max Graham, [Unclear Cutting](#), *The New Journal* (Dec. 7, 2019).

¹⁶¹ Maria K. Janowiak, *et al.*, [New England and northern New York Forest Ecosystem Vulnerability Assessment and Synthesis: A report from the New England Climate Change Response Framework Project](#) at 2 (2018).

- Higher temperatures: Connecticut has experienced temperature increases of over three degrees Fahrenheit since the beginning of the twentieth century. As a result of warmer, drier conditions, trees are suffering from more environmental stress.¹⁶²
- Droughts: Although climate change will likely lead to increased overall precipitation each year, the number of consecutive days without precipitation is also predicted to increase. Within the forest ecosystem, droughts can increase insect and disease outbreaks and lead to higher fire risk. Droughts are already increasing in extent, duration, and frequency, shaping Connecticut's forested landscape.¹⁶³
- Destructive wind events: Climate change has also been found to alter weather patterns, such as wind events. Connecticut forests will be further burdened by the increasing intensity and frequency of hurricanes and tornadoes.¹⁶⁴
- Invasive species: "Invasive plants are already a major issue threatening Connecticut forest health, and it is likely that they will disproportionately benefit under changing climatic conditions."¹⁶⁵

Compounding social inequality in Connecticut

- Due to decades of segregated development, unequal economic opportunity, and governmentally sanctioned policies of dispossession such as redlining, the City of New Haven is already a site of significant social inequality. There are pronounced race and gender gaps across indicators of well-being such as life expectancy, income, wealth, home ownership, and educational attainment.¹⁶⁶ The effects of the climate crisis will continue to be felt unevenly across the city and state and will exacerbate existing inequities.
- Looking ahead, the Federal Emergency Management Administration (FEMA) has identified five special flood hazard areas in New Haven: the East Shore, West River, Quinnipiac River, Mill River, and Harbor.¹⁶⁷ Low-lying neighborhoods adjacent to these bodies of water are at heightened risk of severe damage associated with climate change, compounding the effects of historic disinvestment.¹⁶⁸
- One such example is Fair Haven, where flood-prone properties are concentrated.¹⁶⁹ 85.5 percent of Fair Haven's population is Black and Hispanic (versus sixty-nine percent of New Haven's overall); it also has one of the lowest median household incomes in the city, at 31,900 dollars per year.¹⁷⁰ It is already a site of environmental degradation; within a one-mile radius of Fair Haven's John S. Martínez School, which educates children as young as four, there are at least ten brownfields — disused properties at which

¹⁶² [How Climate Change Impacts Forests](#), Connecticut Department of Energy and Environmental Protection (July 2021).

¹⁶³ *Id.*

¹⁶⁴ *Id.*

¹⁶⁵ *Id.*

¹⁶⁶ Mark Abraham & Camille Seaberry, [Greater New Haven Community Index 2019](#), DataHaven (2019).

¹⁶⁷ Maya McFadden, [Flood Risk on East Shore Radar](#), New Haven Independent (Feb. 13, 2020).

¹⁶⁸ [Environmental Justice](#), Save the Sound (last visited Feb. 2, 2022).

¹⁶⁹ [Flood risk overview for New Haven County](#), Flood Factor (last visited Feb. 3, 2022).

¹⁷⁰ [Household Income in Fair Haven, New Haven, Connecticut](#), Statistical Atlas (last visited Feb. 3, 2022); [Race and Ethnicity in Fair Haven, New Haven, Connecticut](#), Statistical Atlas (last visited Feb. 3, 2022).

redevelopment is complicated by the presence of hazardous contaminants — out of a total of seventeen in New Haven.¹⁷¹

Political consensus in New Haven

- The urgency of combating climate change is deeply felt in New Haven and Connecticut, and there is a strong political consensus about the kinds of actions that should be taken by powerful institutions like Yale.
- Surveys conducted by the Yale Program on Climate Change Communication indicate that seventy-seven percent of New Haven County residents believe that global warming will harm future generations, and seventy-three percent believe that corporations should do more to address global warming. Both of these proportions are higher than the national averages.¹⁷²
- The advocacy undertaken by grassroots organizations such as the New Haven Climate Movement has led to historic commitments to combat the climate crisis — including an emergency resolution passed by the Board of Alders — and demonstrated local consensus, especially among young people, about the urgency of environmental action.¹⁷³
- In September 2019, the emergency resolution passed by New Haven Board of Alders declared “an existential climate emergency that threatens our city, region, state, nation, civilization, the natural world, and humanity.” Citing previous warming-related severe weather events and their disparate impact on marginalized communities, the Alders wrote, “[T]he Earth is already too hot for safety or justice...it is an act of unspeakable injustice and cruelty to knowingly subject our fellow humans now and into the future to societal disintegration, food and clean water shortages, economic collapse, and early death on an increasingly uninhabitable planet. . . . [J]ustice requires that those countries, classes and sectors that have contributed the most to this global climate and ecological cataclysm foot a commensurate financial burden in reversing it and protecting those most impacted from the lethal impacts underway already.”¹⁷⁴
- Despite the overwhelming evidence demonstrating both the scientific and social risks of climate change, and the community’s commitment to climate action, the City of New Haven is hampered in its ability to act by Yale’s presence.
 - New Haven’s operating deficit was fifty-four million dollars in fiscal 2021;¹⁷⁵ that same year, Yale — as a non-profit institution — was exempt from 157 million dollars in property taxes.¹⁷⁶

¹⁷¹ Garret Reich, [“Solution Driven”: New Haven can save impoverished communities from the impending climate change threat](#), Hamden Quinnipiac News Network (May 5, 2021); [Connecticut Brownfields Inventory](#), Connecticut Department of Energy and Environmental Protection (last visited Feb. 3, 2022); [Overview of EPA’s Brownfields Program](#), United States Environmental Protection Agency (last visited Feb. 3, 2022).

¹⁷² Jennifer Marlon, Peter Howe, Matto Mildenerberger, Anthony Leiserowitz, & Xinran Wang, [Yale Climate Opinion Maps 2020](#), Yale Program on Climate Change Communication (Sept. 2, 2020).

¹⁷³ [Climate Emergency Resolution](#), New Haven Climate Movement (last visited Feb. 3, 2022).

¹⁷⁴ [Resolution of the New Haven Board of Alders Endorsing the Declaration of a Climate Emergency to Restore a Safe Climate](#), The New Haven Board of Alders (Sept. 3, 2019).

¹⁷⁵ Hilary Burns & Craig M. Douglas, [Yale University’s looming ‘big deal’ with city highlights growing outcry for greater accountability](#), The Business Journals (Aug. 12, 2021).

¹⁷⁶ [Yale: Respect New Haven](#), New Haven Rising (last visited Feb. 3, 2022).

- Sixty percent of all real estate in New Haven is tax-exempt, totaling 8.5 billion dollars in value. Yale's holdings account for approximately half of this value.¹⁷⁷
- Speaking to NBC Connecticut, New Haven resident Anthony Bacote said, "Our neighborhoods aren't invested in. Nobody cares."¹⁷⁸

VII. The economic and infrastructural impacts of climate change

The Yale Corporation's investments in fossil fuels threaten Connecticut's infrastructure and economic standing. Extreme weather events and sea level rise associated with the climate crisis will cause extensive damage to Yale's facilities and to the homes of Yale students, faculty, and staff, violating the Yale Corporation's duties to *consider the charitable purposes* of Yale and to act with *loyalty* toward its community and property.

- The Fourth National Climate Assessment, released in 2018 by thirteen federal agencies comprising the U.S. Global Change Research Program (USGCRP), noted that "[t]he impacts of climate change are already being felt in communities across the country. More frequent and intense extreme weather and climate-related events, as well as changes in average climate conditions, are expected to continue to damage infrastructure, ecosystems, and social systems that provide essential benefits to communities. Future climate change is expected to further disrupt many areas of life, exacerbating existing challenges to prosperity posed by aging and deteriorating infrastructure, stressed ecosystems, and economic inequality."¹⁷⁹ The USGCRP report concluded that, as a result of climate change, "annual losses in some economic sectors are projected to reach hundreds of billions of dollars by the end of the century — more than the current gross domestic product (GDP) of many U.S. states," including Connecticut.¹⁸⁰
- Climate change is causing precipitation events to become more extreme, more frequent, and more damaging. In *What Climate Change Means for Connecticut*, the EPA states that severe storms will "increasingly cause floods that damage property and infrastructure."¹⁸¹ As evidenced most recently by Hurricane Ida in September of 2021, which left a ninety-five billion dollar path of destruction in its wake,¹⁸² the consequences of climate change are already damaging the property of Yale and its affiliates and will continue to worsen under most emissions scenarios projected by the IPCC.¹⁸³

Housing

- In advance of COP26 — the latest international climate summit hosted by the United Nations — the UNHCR reported that twenty million people, largely in coastal

¹⁷⁷ Kyle Jones, [New Haven Looks to Recoup Millions as Tax-Exempt Properties Grow](#), NBC Connecticut (Jan. 14, 2021).

¹⁷⁸ *Id.*

¹⁷⁹ U.S. Global Change Research Program, [Fourth National Climate Assessment, Volume II](#) at 25 (2018).

¹⁸⁰ [What are the Principles for Responsible Investment?](#), Principles for Responsible Investment (2021).

¹⁸¹ [What Climate Change Means for Connecticut](#), *supra* at note 154, at 1.

¹⁸² Pippa Stevens, [Hurricane Ida's Damage Tally Could Top \\$95 Billion, Making It 7th Costliest Hurricane since 2000](#), CNBC (Sept. 8, 2021).

¹⁸³ [Future Climate Changes, Risks and Impacts](#), IPCC (last visited Feb. 3, 2022) (describing Representative Concentration Pathways, or RCPs).

communities, are displaced from their homes annually due to hazards resulting from the increasing intensity and frequency of extreme weather.¹⁸⁴

- Sixty-one percent of the Connecticut population lives along the shoreline, amounting to 2.2 million residents, 976,600 workers, and sixty-six billion dollars in earned wages annually.¹⁸⁵ This includes 130,250 and 854,757 estimated residents living in the City of New Haven and New Haven County, respectively, in 2019.¹⁸⁶
- In the next three decades, nearly 2,000 homes in New Haven County will be at risk of destruction due to coastal flooding alone, representing 800 million dollars in property value.¹⁸⁷ In that same time frame, more than 26,000 properties in New Haven County have a greater than twenty-six percent chance of being severely affected by flooding, representing twelve percent of all real estate.¹⁸⁸
- The New Haven Register reported that more than 18,000 Connecticut residents were left without power in the aftermath of Hurricane Ida in September 2021, including all of Yale's on-campus undergraduate student population.¹⁸⁹
- Ida also caused "a majority of college basements [to] flood"¹⁹⁰ and forced several students in Yale's Timothy Dwight College to relocate to temporary housing after their ceiling caved in due to heavy precipitation.^{191, 192}
- Yale community members residing in New Haven reported losses in the aftermath of the extreme weather events of summer 2021. The Yale Daily News profiled one such student, Donasia Gray, a native of the Newhallville neighborhood. Gray's family home was engulfed in eleven feet of water after Hurricane Ida, causing "huge financial hardship."¹⁹³
- Such flooding events pose longer-term risks as well; New Haven's industrial history has caused significant soil contamination, which runs off into rivers during severe storms and creates toxic floods.¹⁹⁴

Businesses

- In the aftermath of Hurricane Ida, Yale spokesperson Karen Peart said that "[s]everal buildings across campus sustained water damage."¹⁹⁵ Ida's nine inches of water in a three-hour span caused extensive flooding damage to Yale buildings, including the newly

¹⁸⁴ [Climate change and disaster displacement](#), UNHCR (last visited Feb. 3, 2022).

¹⁸⁵ [Connecticut](#), Office For Coastal Management (last visited Feb. 15, 2022).

¹⁸⁶ [Sea Level Rise in Connecticut](#), *supra* at note 140.

¹⁸⁷ [New Haven County, Connecticut, USA Summary](#), Surging Seas: Risk Finder (last visited Feb. 3, 2022).

¹⁸⁸ [Flood risk overview for New Haven County](#), *supra* at note 169.

¹⁸⁹ Ben Lambert, [New Haven official: Cars stuck, basements flooded as Hurricane Ida drops month's worth of rain](#), New Haven Register (Sept. 2, 2021).

¹⁹⁰ Rose Horowitch, Isaac Yu, & Julia Bialek, [Yale Dorms, Some Buildings Lose Power, Flood](#), The Yale Daily News (Sept. 7, 2021).

¹⁹¹ Lambert, *supra* at note 189.

¹⁹² Horowitch, Yu, & Bialek, *supra* at note 190.

¹⁹³ Anastasia Hufham & Zaporah Price, [Hurricane Ida catches New Haven by surprise](#), The Yale Daily News (Sept. 8, 2021).

¹⁹⁴ Reich, *supra* at note 171.

¹⁹⁵ Ben Lambert, [New Haven official: Cars stuck, basements flooded as Hurricane Ida drops month's worth of rain](#), New Haven Register (Sep. 2, 2021).

renovated Schwarzman Center, which required weeks-long remediation activities during the fall semester.¹⁹⁶

- Rising global temperatures will increase the carrying costs of Yale's buildings. More electricity will be used for fans and air conditioning to keep classrooms, offices, and dorms cool, and more water will be used for nourishment and food preparation as well as for Yale's landscaping upkeep, further increasing campus greenhouse gas emissions.¹⁹⁷
- The port of New Haven is one of the busiest in the Northeast and the busiest on Long Island Sound.¹⁹⁸ Damages to port infrastructure will cost the state of Connecticut not just in repairs, but also in lost revenues from delayed shipping. Yale's investments in climate disaster thus come at a cost to New Haven and Connecticut businesses.

Infrastructure

As a coastal city that relies on its public transportation system, rail connections to nearby states and cities, and the I-95 corridor, New Haven has already seen the serious effects of climate change on vital infrastructure.

- Less than ten years ago, although New Haven was spared the worst damage of the storm, Hurricane Sandy devastated New England, causing over three million dollars in cleanup costs and infrastructure repairs in New Haven.¹⁹⁹ Researchers found that the storm was intensified by anthropogenic climate change.²⁰⁰ Scientific models show that the hurricane caused an additional eight billion dollars in monetary losses beyond what the costs would have been in the absence of anthropogenic sea level rises.²⁰¹ Such storms are becoming more frequent and severe due to climate change.²⁰²
- Over the next thirty years, 1,620 out of 5,827 miles of road within New Haven are at risk of becoming impassable due to flooding.²⁰³ Roads at risk include critical transportation arteries such as the I-95 harbor bridge approaches, New Haven Union Station and its adjacent rail yard facilities, and Tweed-New Haven Airport.²⁰⁴
- Flooding is not the sole climate change-related cause of infrastructural and economic damage. "Extreme heat can cause road buckling and freeze-thaw cycles can cause pavement cracking and potholes, adding costs to design and retrofit, as well as decreasing reliability for users."²⁰⁵

¹⁹⁶ Horowitch, Yu, & Bialek, *supra* at note 190.

¹⁹⁷ [Climate Change Indicators: Residential Energy Use](#), U.S. Environmental Protection Agency (last visited Feb. 14, 2022).

¹⁹⁸ [Port of New Haven](#), The City of New Haven (last visited Feb. 4, 2022).

¹⁹⁹ Paul Bass, [City Issues Climate Change "Call to Action,"](#) New Haven Independent (Feb. 2, 2018).

²⁰⁰ [Anthropogenic Climate Change Exacerbated Impacts of Hurricane Sandy, Study Says](#), Climate Program Office (June 2, 2021).

²⁰¹ Benjamin H. Strauss, *et al.*, [Economic Damages from Hurricane Sandy attributable to sea level rise caused by anthropogenic climate change](#), 12 *Nature Communications* 2720 (May 18, 2021).

²⁰² Working Group I, [Climate Change 2021: The Physical Science Basis](#), IPCC (Aug. 6, 2021).

²⁰³ [Sea Level Rise Effects on Roads & Marshes](#), CT Environmental Conditions Online (last visited Feb. 4, 2022). The flood prediction tool used to calculate risk considers only sea level rise and does not consider hurricanes, tropical cyclones, or other extreme precipitation events.

²⁰⁴ *Id.*

²⁰⁵ Luisa Low, [How Climate Change Impacts Infrastructure: Experts Explain](#), The University of Sydney (Nov. 27, 2019).

- The New Haven City Plan Department has identified additional potential hazards related to the climate crisis: inland flooding, summer and winter storms, land subsidence, earthquakes, and rockslides.²⁰⁶
- Almost half of all New Haven infrastructure buildings, which include hospitals, fire stations, airports, seaports, power stations, wastewater station plants, hazardous waste sites, water outfalls, and wastewater treatment facilities, are at major risk due to flooding.²⁰⁷
- Transportation infrastructure throughout New Haven, and in the surrounding towns that directly service Yale staff, students, and faculty, have already been compromised by flooding associated with extreme weather events. Hurricane Ida flooded Tweed Airport, forcing it to shut down; motorists were forced to abandon their cars on flooded streets; CTtransit experienced system-wide service disruptions; and Metro-North had to suspend train service on the New Haven Line.²⁰⁸
- Ida left multiple rivers “at or above flood stage across the state, threatening numerous dams.”²⁰⁹ These include the Beaver Dam in East Haddam, which ultimately broke, resulting in home evacuations and the closure of bridge crossings over the Yantic River.²¹⁰
- In a request for a federal declaration of disaster regarding flooding associated with Hurricane Ida, Governor Ned Lamont wrote, “The effects from the remnants of Hurricane Ida were of such severity that effective recovery is beyond the capabilities of state and local governments, and as a result, supplemental federal assistance is necessary.” Connecticut saw “dozens of federal, state, and local roads [that] were flooded and impassable, including I-95 in Bridgeport, I-395 in Waterford, and I-91 in Cromwell. Amtrak, MetroNorth, and Shoreline East all suspended rail service.”²¹¹
- New Haven is home to the terminal station of the New Haven Line, operated by Metro-North. With over 100,000 daily and forty million annual passengers,²¹² this rail connection is integral to the economy of the region.
 - The flood risk to Union Station is severe, as the station’s first floor is only four feet above sea level.²¹³ Research from the Union of Concerned Scientists reveals that flooding and rising sea levels will create chronic inundation that will overwhelm Union Station, rendering it unusable by the end of the century.²¹⁴
 - As connected stations experience inundation, New Haven rail transit will experience delays and disruptions to service.²¹⁵ The entire Northeast rail corridor will become flooded over time.²¹⁶

²⁰⁶ New Haven City Plan Department, [City of New Haven Natural Hazard Mitigation Plan Update](#), at 1-7, City of New Haven (June 15, 2011).

²⁰⁷ [Flood risk overview for New Haven County](#), *supra* at note 169.

²⁰⁸ Paul Bass and Nora Grace-Flood, [Ida’s Remnants Flood New Haven](#), New Haven Independent (Sep. 2, 2021).

²⁰⁹ Ned Lamont, [Request for Presidential Major Disaster Declaration for Remnants of Hurricane Ida](#), at 6, CT office of the Governor (Oct. 22, 2021).

²¹⁰ *Id.* at 6.

²¹¹ Associated Press, [Lamont Seeks Disaster Declaration for Flooding Caused by Ida](#), U.S. News (Oct. 23, 2021).

²¹² Amanda Kennedy & Richard Barone, [Getting Back on Track](#), RPA (Jan. 2014).

²¹³ [Flood risks are increasing as sea levels rise and weather patterns change](#), Flood Factor (last visited Feb. 4, 2022).

²¹⁴ Christopher Flavelle & Jeremy C.F. Lin, [Rising Waters Are Drowning Amtrak’s Northeast Corridor](#), Bloomberg Businessweek (Dec. 20, 2018).

²¹⁵ Jan Ellen Spiegel, [Climate change threatens Connecticut’s vital shoreline rail](#), CT Mirror (July 15, 2015).

²¹⁶ *Id.*

- Recent literature has begun to address other potential impacts of climate change on rail systems within the United States. For instance, track expansion caused by temperature increases can lead to delays and derailments, which will soon be of concern to New Haven rail systems.²¹⁷
- Finally, over the past decade, approximately seventy-two percent of Connecticut public water systems “either lost power or relied on a generator during extreme weather events.”²¹⁸ Such weather events will only increase in frequency.
- Along with the immense cost required to repair climate-damaged infrastructure, these failures will pose direct dangers to students, staff, and faculty who occupy Yale’s campus and the city of New Haven.

VIII. The failure of fossil fuel companies to address climate risks

The fossil fuel industry remains resolutely committed to a business model that produces and exacerbates climate change and suppresses nonviolent protest. Yale’s *charitable purposes* are directly contravened by investments that promote these activities.

- Fossil fuel companies knew about the connection between their products and climate change for decades before the general public, “as early as the 1950s and no later than 1968.”²¹⁹
 - Coal industry publications suggested as early as 1966 that the combustion of fossil fuels could cause “vast changes in the climates of the earth.”²²⁰ By 1968, the American Petroleum Institute, an industry trade group, was familiar with a study concluding that the burning of fossil fuels was likely to create significant environmental consequences.²²¹
 - As early as 1977, Exxon scientists had privately concluded that “there is general scientific agreement that the most likely manner in which [hu]mankind is influencing the global climate is through carbon dioxide release from the burning of fossil fuels.”²²²
 - Shell internally reached similar conclusions by at least the 1980s,²²³ as did Mobil (then separate from Exxon).²²⁴ By the 1980s, major fossil fuel companies had

²¹⁷ Paul Chinowsky, Jacob Helman, Sahil Gulati, James Neumann, & Jeremy Martinich, [Impacts of climate change on operation of the US rail network](#), Transport Policy (Mar. 2019).

²¹⁸ [Healthy Connecticut 2025 State Health Assessment](#), *supra* at note 90.

²¹⁹ Brief of Amici Curiae Robert Brulle, Center for Climate Integrity, Justin Farrell, Benjamin Franta, Stephan Lewandowsky, Naomi Oreskes, and Geoffrey Supran in Support of Appellees and Affirmance, [County of San Mateo v. Chevron Corporation, et al., County of Imperial Beach v. Chevron Corporation, et al., County of Marin v. Chevron Corporation, et al., County of Santa Cruz, et al., v. Chevron Corporation, et al.](#), Nos. 18-15499, 18-15502, 18-15503, 18-16376 at 2 (9th Cir. 2019).

²²⁰ Elan Young, [Exxon knew -- and so did coal](#), Grist (Nov. 29, 2019).

²²¹ Oliver Milman, [Oil industry knew of ‘serious’ climate concerns more than 45 years ago](#), The Guardian (Apr. 13, 2016).

²²² Shannon Hall, [Exxon Knew about Climate Change almost 40 years ago](#), Sci. Am. (Oct. 26, 2015).

²²³ John H. Cushman Jr., [Shell Knew Fossil Fuels Created Climate Change Risks Back in 1980s, Internal Documents Show](#), Inside Climate News (Apr. 5, 2018).

²²⁴ Nicholas Kusnetz, [Exxon Turns to Academia to Try to Discredit Harvard Research](#), Inside Climate News (Oct. 20, 2020).

“internally acknowledged that climate change was real, it was caused by fossil fuel consumption, and it would have significant impacts on the environment and human health.”²²⁵

- A 2017 report by the Carbon Disclosure Project found that seventy-one percent of all global greenhouse gas emissions since 1988 “can be traced to just 100 fossil fuel producers.”²²⁶
- No major fossil fuel company has established itself as a willing participant in the transition to renewable energy.
 - In 2018, all fossil fuel majors approved projects that are noncompliant with the Paris Agreement goals.²²⁷ That same year, the fossil fuel industry as a whole spent only about one percent of capital expenditures on renewable energy initiatives.²²⁸
 - A study by the London School of Economics found that no fossil fuel major has carbon-reduction plans that are Paris-compliant as of October 2020.²²⁹ A September 2020 report by climate research group Oil Change International concluded that “[n]one of the evaluated oil majors’ climate strategies, plans, and pledges come close to alignment with the Paris Agreement.”²³⁰ The most recent assessment by shareholder advocacy group Climate Action 100+ found that no oil and gas companies have fully committed to long-term alignment with the goals of the Paris Agreement.²³¹ A 2021 study from the University of Sussex found that fossil fuel executives’ compensation packages are structured as to incentivize violation of the Paris Agreement.²³²
- Fossil fuel companies continue to bet on long-term fossil fuel reliance, undermining the potential value of shareholder engagement as a strategy to reshape the trajectory of these corporations away from their central business practices.
 - Approximately half the oil under BP’s financial control is excluded from the company’s decarbonization commitments.²³³ As recently as November 2020, BP was purchasing Canadian offshore oil parcels.²³⁴

²²⁵ Brief of Amici Curiae Robert Brulle, *et al.*, *supra* at note 219, at 15.

²²⁶ [New report shows just 100 companies are source of over 70% of emissions](#), Carbon Disclosure Project (July 2017).

²²⁷ [Breaking the Habit - Why none of the large oil companies are “Paris-aligned”, and what they need to do to get there](#), Carbon Tracker Initiative (Sept. 2019).

²²⁸ Ron Bousso, [Big Oil spent 1 percent on green energy in 2018](#), Reuters (Nov. 11, 2018).

²²⁹ Anjali Raval, [Big fossil fuel groups all failing climate goals, study shows](#), Financial Times (Oct. 6, 2020).

²³⁰ [Big Oil Reality Check: Assessing Oil and Gas Company Climate Plans](#), Oil Change International (Sept. 2020).

²³¹ [Oil and Gas](#), Climate Action 100+ (last visited Feb. 15, 2022).

²³² Jonathan Watts, [Oil firm bosses’ pay ‘incentivises them to undermine climate action:’ Lucrative pay and share options linked to continued extraction of fossil fuels by ExxonMobil, Chevron, Shell and BP](#), The Guardian (Apr. 15, 2021).

²³³ Kelly Trout, [The Loopholes Lurking in BP’s New Climate Aims](#), Oil Change International (Mar. 11, 2020) (“BP’s accounting of its production excludes any oil and gas that it produces but does not sell . . . BP also excludes the production related to its 20% stake in Russia-based oil company Rosneft. We estimate that these accounting loopholes exclude from BP’s net zero aim 46% of the total carbon that the company invested in extracting in 2018 . . .”).

²³⁴ Julianne Geiger, [From Billions To Millions: Canada’s Offshore Oil Disappointment](#), OilPrice.com (Nov. 5, 2020).

- According to leaked internal documents, ExxonMobil, one of the world’s largest oil companies, is betting on increases in future carbon emissions.²³⁵ The 2018 investment plan by ExxonMobil predicted that the firm’s expanded oil and gas production would release an additional twenty-one million tons of carbon dioxide annually by 2025. When added to the emissions released by “end uses” of the company’s products by consumers, the total additional emissions of ExxonMobil’s growth strategy would amount to around 100 million tons of carbon dioxide per year. This figure — which represents only the anticipated *expansion* of ExxonMobil’s business — is roughly equivalent to the entire annual emissions of the country of Greece.²³⁶
- Several leading executives from Shell’s renewable energy sectors recently quit in response to the company’s lackluster efforts to decarbonize.²³⁷ The company’s former chair has called divestment the “rational approach” given the industry’s “distressing” lack of progress on climate.²³⁸ Although Shell claims to possess emissions reduction goals, the company has itself disclosed that “Shell’s operating plans and budgets do not reflect Shell’s Net-Zero Emissions target.”²³⁹ In December 2020, the company was actively engaged in litigation in the Netherlands in which it argued that emissions reduction commitments should not be legally binding.²⁴⁰ In February 2021, the company revealed that it planned significant expansion of its gas export and production operations.²⁴¹
- Chevron plans to increase spending on fossil fuel exploration and extraction in the Gulf of Mexico and the lower forty-eight states in 2021.²⁴² In September 2021, Chevron’s CEO stated in an interview that the company has no plans to meaningfully invest in renewables, and that Chevron would instead encourage investors to plant trees if concerned about climate risk.²⁴³
- The American Petroleum Institute recently asserted that the oil industry remains essential to the American economy and promised to resist President Biden’s climate agenda.²⁴⁴ At an October 2021 congressional hearing, executives from Exxon, BP, Chevron, and Shell were asked if they would pledge to terminate their API membership if the organization continues to lobby for policies that run

²³⁵ Kevin Crowley & Akshat Rathi, [Exxon Carbon Emissions and Climate: Leaked Plans Reveal Rising CO2 Output](#), Bloomberg Green (Oct. 5, 2020); Emily Pontecorvo, [Exxon’s ‘emission reduction plan’ doesn’t call for reducing Exxon’s emissions](#), Grist (Dec. 15, 2020).

²³⁶ Crowley & Rathi, *supra* at note 235. ExxonMobil’s growth strategy has since changed in light of the Covid-19 pandemic.

²³⁷ Anjali Raval & Leslie Hook, [Shell Executives Quit Amid Discord Over Green Push](#), Financial Times (Dec. 8, 2020).

²³⁸ Damian Carrington, [Fossil fuel divestment is rational, says former Shell chair\[man\]](#), The Guardian (Jun. 4, 2015).

²³⁹ Shell, [Shell accelerates drive for net-zero emissions with customer-first strategy](#), (Feb. 11, 2021).

²⁴⁰ Laurel Wamsey, [Climate Case Against Shell Begins In The Netherlands](#), NPR (Dec. 1, 2020).

²⁴¹ Jillian Ambrose, [Shell to expand gas business despite pledge to speed up net zero carbon drive](#), The Guardian (Feb. 11, 2021).

²⁴² Carolyn Davis, [Chevron Sharply Reduces '21 Spending, but Permian, Gulf of Mexico Still Priorities](#), Natural Gas Intelligence (Dec. 3, 2020).

²⁴³ Molly Taft, [Chevron CEO: ‘Let Them Plant Trees’](#), Gizmodo (Sept. 17, 2021).

²⁴⁴ Nicholas Kusnetz, [American Petroleum Institute Chief Promises to Fight Biden and the Democrats on Drilling, Tax Policy](#), Inside Climate News (Jan. 14, 2021).

counter to these companies' own purported commitments on climate. All refused to do so.²⁴⁵

- Given the publicly stated commitment of the fossil fuel industry to continue and expand the extraction and combustion of fossil fuels, their business practices are incompatible with international targets to reduce greenhouse gas emissions. In a recent report, the International Energy Agency concluded that, in order to reach net zero emissions by 2050, “[t]here is no need for investment in new fossil fuel supply in our net zero pathway.”²⁴⁶
 - In another recent report, the United Nations Environment Programme and partners concluded that fossil fuel producers' current plans wholly contradict the aims of the Paris Agreement and IPCC report, with governments currently allowing nearly twice as much fossil fuel production as is compliant with a 1.5 degree Celsius limit.²⁴⁷
 - Christiana Figueres, who was the lead architect of the Paris Agreement and head of the United Nations Framework Convention on Climate Change, has warned that given these misalignments, a university which remains invested in fossil fuels is “at the point of breaching its true fiduciary responsibility.”²⁴⁸
- Shareholder engagement has not been an effective tactic for changing the industry's core business model, with recent attempts by shareholders to persuade fossil fuel companies to address climate risks going largely unheeded.
 - The Interfaith Center on Corporate Responsibility found that “150 requests from various responsible shareholders asking fossil fuel companies to evaluate financial risk from climate change regulation [between 1992 and 2015] were ignored or met with a dismissive reply,” with leaders of companies including ExxonMobil and Shell explicitly stating their intentions to continue producing fossil fuels without interruption.²⁴⁹
 - Shareholder engagement group As You Sow noted in a 2018 report that although oil and gas companies are disproportionate targets of shareholders' attempts to engage and intervene, the companies have been singularly unresponsive to requests to reduce greenhouse gas emissions.²⁵⁰
 - A number of large-scale institutional investors initially attempted to change the industry's business models via engagement alone and have subsequently turned to divestment after realizing that an engagement-only strategy is ineffective and insufficient to manage climate risk.²⁵¹

²⁴⁵ House Oversight Committee, At Historic Hearing, Fossil Fuel Executives Admit Climate Crisis Is an “Urgent” Threat (October 28, 2021).

²⁴⁶ International Energy Agency, [Net Zero by 2050: A Roadmap for the Global Energy Sector](#) at 21 (July 2021).

²⁴⁷ Stockholm Environment Institute et. al., [The Production Gap Report](#) (2021).

²⁴⁸ Fossil Fuel Divest Harvard, [Christina Figueres on Divestment](#), (Apr. 2023, 2021).

²⁴⁹ Taavi Tillmann, Jonny Currie, Alistair Wardrobe, & David McCoy, [Fossil fuel companies and climate change: the case for divestment](#), 350 Brit. Med. J. (June 2015).

²⁵⁰ As You Sow, [2020: A Clear Vision for Paris-Compliant Shareholder Engagement](#) (Sept. 2018). The report urges fiduciaries to divest from the oil and gas sector so as to “protect their beneficiaries” if the companies do not adopt Paris-compliant plans by the close of the 2020 proxy season. *Id.* at 25. That deadline has now passed without any meaningful change of course by the industry. Raval, [Big fossil fuel groups all failing](#), *supra* at note 229.

²⁵¹ See, e.g., Anne Barnard, [New York's \\$226 Billion Pension Fund Is Dropping Fossil Fuel Stocks](#), The New York Times (Dec. 9, 2020) (“But Mr. DiNapoli, who also long advocated for engagement over divestment, said a turning point for him came with what he called ExxonMobil's ‘disappointing, frustrating’ rebuffs in recent years to the New

- The fossil fuel sector continues to undermine climate-friendly policymaking.
 - In the three years following the Paris Agreement, the five largest public fossil fuel companies “invested over one [billion] dollars of shareholder funds on misleading climate-related branding and lobbying.”²⁵²
 - Each year, “the world’s five largest publicly owned oil and gas companies spend approximately 200 million dollars on lobbying designed to control, delay or block binding climate-motivated policy.”²⁵³
 - In 2018, the industry spent nearly 100 million dollars to stymie three proposed climate initiatives in Western states: a carbon emissions fee in Washington, restrictions on hydraulic fracturing in Colorado, and improved renewable energy standards in Arizona.²⁵⁴
 - In June 2021, a top Exxon lobbyist was caught in leaked video admitting that the company continues to bet on long-term fossil fuel reliance, has funded scientific disinformation campaigns, and actively undermines policies like a carbon tax and other steps that might encourage an energy transition.²⁵⁵
- As a 2013 article by environmental sociologists explained: “[a]lthough many factors have contributed to the failure to enact strong international and national climate change policies... a powerful and sustained effort to deny the reality and significance of human-induced climate change has been a key factor.”²⁵⁶
- Finally, the fossil fuel industry has engaged in a sustained effort to silence climate protesters and increase the severity of criminal punishment for their activities.
 - Since 2017, the industry has pushed for the passage of numerous “critical infrastructure” bills in U.S. state legislatures, thirteen of which have become law.²⁵⁷ Many of the bills are similar or identical to model legislation authored by the corporate lobbying group American Legislative Exchange Council, and at least three were accompanied by political contributions from oil and gas companies to the bills’ sponsors.²⁵⁸

York State fund, California’s teachers’ pension fund and other shareholders that have pushed for a more environmentally sustainable business plan.”); Toby Sterling & Simon Jessop, [Dutch pension giant spurns fossil fuels as funds shift before COP26](#), Reuters (Oct. 26, 2021) (“We [are parting] with our investments in fossil fuel producers because we see insufficient opportunity for us as a shareholder to push for the necessary significant acceleration of the energy transition at these companies.”)

²⁵² [Big Oil’s Real Agenda on Climate Change](#), InfluenceMap (Mar. 2019).

²⁵³ Niall McCarthy, [Oil and Gas Giants Spend Millions Lobbying to Block Climate Change Policies](#), Forbes (Mar. 25, 2019). BP spends approximately \$53 million, Shell \$49 million, and ExxonMobil \$29 million per year. *Id.*

²⁵⁴ Amy Harder, [With deep pockets, energy industry notches big midterm wins](#), Axios (Nov. 7, 2018).

²⁵⁵ Lawrence Carter, [Inside Exxon’s playbook: How America’s biggest oil company continues to oppose action on climate change](#), Unearthed (Jun. 30, 2021).

²⁵⁶ Shaun W. Elsasser & Riley E. Dunlap, [Leading Voices in the Conservative Choir: Conservative Columnists’ Dismissal of Global Warming and Denigration of Climate Science](#), 57(6) Am. Behav. Scientist 754, 755 (2013).

²⁵⁷ Institute for Policy Studies, [Muzzling Dissent: How Corporate Influence Over Politics Has Fueled Anti-Protest Laws](#) (Oct. 2020). See [US Protest Law Tracker](#), International Center for Not-for-Profit Law (last visited Feb. 10, 2022).

²⁵⁸ [New Report Details Impact of Secretive American Legislative Exchange Council on Communities of Color](#), Center for Constitutional Rights (Dec. 23, 2019); Gabrielle Cochette & Basav Sen, [Muzzling Dissent: How Corporate Influence Over Politics Has Fueled Anti-Protest Laws](#) at 8-9 (Oct. 2020).

- The majority of enacted “critical infrastructure” laws contain provisions for organizational as well as individual criminal liability.²⁵⁹
 - A wide range of commentators have criticized “critical infrastructure” laws as unnecessary, vague, and overly punitive, and two of the laws face litigation challenging their constitutionality.²⁶⁰
- The industry has also used lawsuits and subpoenas to accuse environmental advocates of defamation, racketeering, and other crimes, to label advocates as terrorists, and to chill advocacy targeting the industry’s activities.²⁶¹
- There is mounting evidence of collusion between paramilitary firms hired by fossil fuel companies and local police departments in suppressing climate protest, and the use of heavy-handed tactics to suppress protest against fossil fuel infrastructure projects such as Energy Transfer Partners’ Dakota Access pipeline.
 - In response to protests at the Standing Rock reservation in 2016 and 2017, Energy Transfer Partners hired TigerSwan, a military contractor with experience in Iraq and Afghanistan. In collaboration with local police, TigerSwan used legally questionable tactics against protesters, including digital surveillance.²⁶² Water cannons, tear gas, and rubber bullets were also used, resulting in hundreds of injuries.²⁶³
 - Energy Transfer Partners also retained TigerSwan to respond to vandalism targeting the Dakota Access pipeline in Iowa in 2017, using scare tactics, residential surveillance, and the hiring of locals to pursue suspects in a wide-ranging operation that swept in dozens of people.²⁶⁴
 - A multi-part reporting series by the investigative journalism publication The Intercept concluded that “[l]eaked documents and public records reveal a troubling fusion of private security, public law enforcement, and corporate money in the fight over the Dakota Access pipeline.”²⁶⁵
 - In 2019, the Canadian pipeline company Enbridge used digital and aerial surveillance, along with embedded informants, against nonviolent protesters targeting the company’s Line three pipeline in Minnesota,

²⁵⁹ Namely, those enacted in Kentucky, Mississippi, North Dakota, Ohio, Oklahoma, North Dakota, South Dakota, Tennessee, Texas, and West Virginia. [US Protest Law Tracker](#), *supra* at note 257.

²⁶⁰ Nicholas Kusnetz, [More States Crack Down on Pipeline Protesters, Including Supporters Who Aren’t Even on the Scene](#), Inside Climate News (Mar. 28, 2019); Susie Cagle, [‘Protesters as terrorists’: growing number of states turn anti-pipeline activism into a crime](#), The Guardian (Jul. 8, 2019).

²⁶¹ See, e.g., Amal Ahmed, [Energy Transfer Partners Files Lawsuit Against Greenpeace](#), Texas Monthly (Dec. 15, 2017); [Exxon’s Campaign of Intimidation against Climate Defenders Ushers in a New McCarthy Era](#), EarthRights International (Dec. 21, 2016); [Green Group Holdings v. Schaeffer: Defense of Environmental Protesters Against Defamation Lawsuit](#), American Civil Liberties Union (Feb. 7, 2017). A national coalition of civil rights organizations called Protect the Protest tracks and opposes these tactics.

²⁶² Antonia Juhasz, [Paramilitary security tracked and targeted DAPL opponents as ‘jihadists,’ docs show](#), Grist (Jun. 1, 2017).

²⁶³ Alleen Brown, [Medics Describe How Police Sprayed Standing Rock Demonstrators with Tear Gas and Water Cannons](#), The Intercept (Nov. 21, 2016).

²⁶⁴ Alleen Brown, Will Parrish & Alice Sperr, [Tigerswan Responded to Pipeline Vandalism by Launching Multi-State Dragnet](#), The Intercept (Aug. 26, 2017).

²⁶⁵ *Id.*

attempting to follow the same playbook used by law enforcement at Standing Rock.²⁶⁶

- The militarized response to climate protest by fossil fuel companies is at least a decade old. At a 2011 conference attended by members of the fossil fuel industry, an executive of Anadarko Petroleum recommended military-style tactics against citizen groups protesting hydraulic fracturing (also known as fracking): “I want you to download the US Army/Marine Corps counterinsurgency manual because we are dealing with an insurgency here.”²⁶⁷
 - The following year, Yale Corporation Fellow Charles W. “Chip” Goodyear was elected to Anadarko’s board of directors and became a member of the corporate governance committee.²⁶⁸

IX. The financial risk of fossil fuel investments

As an asset manager, the Corporation has violated its *duty of care* by failing to adequately consider the risk of continued investment in fossil fuels despite ample evidence of the industry’s financial precarity. The untenable value thesis of fossil fuel investments should be especially concerning for investors at charitable institutions. As a public charity that is “committed to improving the world today and for future generations through outstanding research and scholarship, education, preservation,”²⁶⁹ Yale is ostensibly committed to mitigating the worst effects of climate change. Such mitigation requires government regulation to reduce greenhouse gas emissions and the growth of the green technology sector — developments that pose an existential threat to the fossil fuel industry. Since the Corporation’s fiduciary duties oblige it to promote the financial non-viability of the fossil fuel sector, continued investment in the sector is unreasonable on its face.

- Oil, gas, and coal companies face an extremely uncertain financial future due to mismanagement, the failure to prepare for a renewable energy economy, social pressures and unrest created by the unequally distributed health and economic burdens of fossil fuel products, and the pressures of COVID-19.
 - Oil and gas stocks have greatly underperformed other investments over the last ten years. While the S&P 500 has gained approximately 189 percent in value since 2011, the S&P Oil and Gas Exploration and Production Index has lost approximately fifty-six percent of its value and the S&P Oil and Gas Equipment Select Industry Index has lost approximately eighty-six percent of its value.²⁷⁰ Even prior to the COVID-19 crisis, leading financial analyst Jim Cramer stated

²⁶⁶ Will Parrish & Alleen Brown, [How Police Are Preparing for a Standoff Over Enbridge Line 3](#), The Intercept (Jan. 30, 2019).

²⁶⁷ Bill McKibben, [Shake Harvard Free of Oil Stock](#), The Boston Globe (Apr. 7, 2015).

²⁶⁸ Andarko Petroleum Corporation, [Andarko Announces Election and Nominations to its Board of Directors](#) (Feb. 2, 2012).

²⁶⁹ [Mission Statement](#), Yale University (2022).

²⁷⁰ Data from [S&P Dow Jones Indices](#), S&P Global (Dec. 23, 2021).

- that fossil fuel stocks were “just done” as profitable investments, thanks to falling demand and the impact of divestment campaigns.²⁷¹
- From the fourth quarter of 2019 to August 2020, seven of the world’s largest oil companies lost eighty-seven billion dollars in value as a result of increased emissions regulations and collapsing demand during the COVID-19 pandemic.²⁷²
 - In January 2021, the S&P rating agency warned leading fossil fuel companies that they were at risk of imminent credit downgrades due to economic pressures resulting from the energy transition.²⁷³
 - In August 2020, ExxonMobil was dropped from the Dow Jones stock index, a reflection of the company’s rapidly declining business: Since 2008, its market capitalization has shrunk from 500 billion dollars to around 260 billion dollars.²⁷⁴
 - In February 2021, ExxonMobil reported quarterly losses of 20.1 billion dollars.²⁷⁵
 - Since 2010, the world’s five oil “supermajors” — ExxonMobil, BP, Chevron, Shell, and Total SA — have spent far more on dividends and stock buybacks (556 billion dollars) than they have earned from business operations (340 billion dollars), indicating an unsustainable reliance on borrowing and asset sales to inflate their financial performance.²⁷⁶
 - The coal industry, especially in the United States, is collapsing: the share of U.S. electricity produced by coal has declined from forty-five percent in 2008 to twenty-four percent in 2020, while eight coal companies, including the largest private coal firm, declared bankruptcy in 2019.²⁷⁷
 - As outlined in “The Financial Case for Fossil Fuel Divestment” by the Sightline Institute and the Institute for Energy Economics and Financial Analysis, investment in the fossil fuel sector is now unacceptably risky thanks to price volatility, the rise of renewable energy sources, and government climate regulations. The traditional value thesis that justified investment in the sector — based on the assumptions that demand for oil, gas, and coal will continue to grow and that companies’ extensive untapped reserves represent a sure source of future profits — is no longer tenable.²⁷⁸
 - There are various reasons for the fossil fuel industry’s transformation from a secure source of investment returns to a dangerously speculative risk sector: “The world economy is shifting toward less energy-intensive models of growth, fracking has driven down commodity and energy costs and prices, and renewable energy and electric vehicles are gaining market share. Litigation on climate change and other environmental issues is expanding and campaigns in opposition

²⁷¹ Kevin Stankiewicz, [There’s no more money to be made in oil and gas stocks, Jim Cramer says](#), CNBC (Feb. 3, 2020).

²⁷² Jillian Ambrose, [Seven top oil firms downgrade \\$87bn in nine months](#), The Guardian (Aug. 14, 2020).

²⁷³ Ben Butler, [Rating agency S&P warns 13 oil and gas companies they risk downgrades as renewables pick up steam](#), The Guardian (Jan. 27, 2021).

²⁷⁴ Avi Salzman, [Why Exxon Is Being Dropped From the Dow](#), Barron’s (Aug. 25, 2020).

²⁷⁵ [ExxonMobil reports results for fourth quarter 2020 and provides perspective on forward plans](#), ExxonMobil (Feb. 2, 2021).

²⁷⁶ Clark Williams-Derry, Tom Sanzillo, & Kathy Hipple, [In Q1, Four of Five Oil Majors Paid More Cash to Investors Than They Made From Operations](#), Institute for Energy Economics and Financial Analysis (May 2020).

²⁷⁷ Fred Pearce, [As Investors and Insurers Back Away, the Economics of Coal Turn Toxic](#), Yale Environment 360 (Mar. 10, 2020).

²⁷⁸ Tom Sanzillo, Kathy Hipple, and Clark Williams-Derry, [The Financial Case for Fossil Fuel Divestment](#), Sightline Institute and the Institute for Energy Economics and Financial Analysis (July 2018).

to fossil fuels have matured. They are now a material risk to the fossil fuel sector and a force for the reallocation of capital to renewable energy and electric vehicles as a source of economic growth. The risks, taken cumulatively, suggest that the investment thesis advanced by the coal, oil, and gas sector that worked for decades has lost its validity.”²⁷⁹

- The report notes that “[t]he financial case for fossil fuel divestment is strong. Over the past three and five years [prior to 2018], respectively, global stock indexes without fossil fuel holdings have outperformed otherwise identical indexes that include fossil fuel companies. Fossil fuel companies once led the economy and world stock markets. They now lag . . . Fossil fuel stocks, once prime blue-chip contributors to institutional funds, are now increasingly speculative. Revenues are volatile, growth opportunities are limited, and the outlook is decidedly negative.”²⁸⁰
- Comparing fossil fuel-free funds to traditional funds, the report concludes that divesting endowments of oil, gas, and coal holdings poses no risk to future returns: “Over the past five years, the MSCI-All Country Global Index without fossil fuels has outperformed the Index that includes fossil fuels.”²⁸¹
- The Carbon Tracker Initiative calculates the remaining amount of carbon dioxide that may be released into the atmosphere if international warming limits are to be met. As of November 2019, the world could continue to release carbon dioxide at current rates for only thirteen more years in order to have a fifty percent chance of meeting the 1.5 degree Celsius target. Under this limited “carbon budget,” fossil fuel majors would have to reduce emissions from oil and gas production forty percent below 2019 levels by 2040. Such reductions — which represent only a moderate chance at avoiding catastrophe — would render the majority of oil and gas reserves unexploitable and unprofitable.²⁸²
- According to a 2019 study by the Mercer consulting firm, investment portfolios will be greatly affected by future global warming. If warming is held to two degrees Celsius — the target set by the 2015 Paris Agreement and one which will still result in widespread harm — the global economy will suffer significant damage from climate change while also transitioning to a renewable energy base. In this scenario, according to the study, portfolio assets in the coal industry will suffer cumulative impacts of 58.9 percentage points by 2030 and 100 percentage points by 2050, while assets in oil and gas will suffer cumulative impacts of 42.1 and 95.1 percentage points, respectively.²⁸³ Other studies have concluded that major energy companies that continue to rely on fossil fuels would lose between thirty and sixty percent of their value.²⁸⁴
- In its 2020 financial stability report, the Federal Reserve reported that “climate change, which increases the likelihood of dislocations and disruptions in the economy, is likely to increase financial shocks and financial system vulnerabilities that could further amplify these shocks.”²⁸⁵

²⁷⁹ *Id.* at 4.

²⁸⁰ *Id.* at 1.

²⁸¹ *Id.* at 38.

²⁸² Carbon Tracker Initiative, [Balancing the Budget: Why deflating the carbon bubble requires oil & gas companies to shrink](#) (Nov. 1, 2019).

²⁸³ Mercer LLC, [Investing in a Time of Climate Change: The Sequel 2019](#) at 34 (2019).

²⁸⁴ European Green Party, [The Carbon Bubble: The financial risk of fossil fuels and need for divestment](#) at 7 (2020).

²⁸⁵ Board of Governors of the Federal Reserve System, [Financial Stability Report](#) at 58 (Nov. 2020).

- A wave of litigation against companies responsible for climate change damages poses an additional risk to investment in the fossil fuel sector. A report from the law firm Clyde & Co LLP concludes that “[o]il majors are currently facing threatened or pending litigation on a number of fronts and across a number of jurisdictions. Their liability insurers and reinsurers will undoubtedly be watching these cases with keen interest . . . Companies in a number of sectors may find themselves exposed not just to damages claims for climate change, but also the cost of defending litigation, the reputational harm of being associated with such litigation and the consequential impacts on operations and value.”²⁸⁶
- In a sign of the growing consensus that fund managers have a duty to assess climate risks in their portfolios, the multibillion-dollar Australian Retail Employees Superannuation Trust (REST) recently settled a beneficiary lawsuit that faulted the fund for failing to disclose how it would manage the risks posed by climate change and the plummeting value of fossil fuel stocks. REST acknowledged that “climate change is a material, direct and current financial risk” and committed to manage its investments in a way that would support net-zero greenhouse gas emissions by 2050 and the Paris Agreement goal of 1.5 degrees Celsius warming.²⁸⁷
- In a 2020 report, the Commodity Futures Trading Commission warned that “Climate change poses a major risk to the stability of the U.S. financial system and to its ability to sustain the American economy.”²⁸⁸
- In an August 2020 open letter, over 100 leading economists, including Nobel Prize laureate Joseph Stiglitz and former Secretary of Labor Robert Reich, identified the continued existence of the fossil fuel economy as “fundamentally incompatible” with long-term social and economic well-being and cited divestment as an essential tactic for bringing about systemic change: “When our largest banks, most influential investors and most prestigious universities place bets on the success of the fossil fuel industry, they provide it with the economic and social capital necessary to maintain the dangerous status quo. Instead, these institutions should divest from fossil fuel companies and end financing of their continued operations while reinvesting those resources in a just and stable future.”

X. The financial prudence of fossil fuel divestment

Despite the frequent claim that removing an asset class like fossil fuels from an endowment would violate the fiduciary duty to maintain a diverse portfolio, fossil fuel divestment poses no risk to a portfolio’s diversity and flexibility, nor does it impact returns. The Yale Corporation has violated its *duty of care* and its *duty of loyalty* by failing to embrace a divestment strategy that would both improve the endowment’s performance and cure the fiduciary violations created by fossil fuel investment.

- A 2018 London School of Economics analysis led by Jeremy Grantham, one of the world’s leading asset managers, concluded that removing any one of ten major asset

²⁸⁶ Clyde & Co LLP, [Climate change: Liability risks](#) at 37 (Mar. 2019).

²⁸⁷ Michael Slezak, [Rest super fund commits to net-zero emission investments after Brisbane man sues](#), ABC News (Nov. 2, 2020).

²⁸⁸ [Managing Climate Risk In the U.S. Financial System](#), Climate-Related Subcommittee, Market Risk Advisory Committee of the U.S. Commodity Futures Trading Commission at i (Sept. 2020).

classes such as technology or utilities from a portfolio produced no discernible impact on overall long-term returns. The analysis states that the purported financial peril of fossil fuel divestment was “mythical,” and that “[i]nvestors with long-term horizons should avoid oil . . . on investment grounds.”²⁸⁹

- Divestment from fossil fuels does not threaten the profitability of invested funds and thus does not violate a fiduciary’s duty to ensure the prudent management of an endowment. In recent years, investment portfolios lacking fossil fuel holdings have matched or outperformed funds still containing the risky investments.
 - The most comprehensive study to date of the endowment performance at universities that have divested from fossil fuels concludes that divestment does not have a negative effect on investment returns.²⁹⁰ Other research indicates that fossil fuel divestment does not significantly limit portfolio diversification opportunities, allowing investors to satisfy their fiduciary duty to maintain balanced holdings even as they avoid the risks posed by stranded assets and the energy transition.²⁹¹
 - A 2019 study of university endowments that adopt “socially responsible investment” [SRI] policies concludes that such policies benefit the universities. Surveying SRI endowment returns from 2010 to 2019, the study reports that “donations are 33.3 percent per year higher among universities that incorporate SRI policies into their endowments” and that “SRI policies predict greater university donations, higher student enrollment, and more extensive risk management practices by the endowment fund.”²⁹²
 - In 2020, the financial research agency Morningstar reported that European sustainable investment funds — defined as “funds that use environmental, social, and governance criteria as a key part of their security selection and portfolio-construction process, and/or indicate that they pursue a sustainability-related theme, and/or seek a measurable positive impact alongside financial return” — had outperformed traditional funds over the past ten years, generally posting higher returns and surviving longer than traditional funds.
 - A 2018 analysis concluded that the New York State Common Retirement Fund would have earned an additional 22.2 billion dollars (137 billion dollars versus 114.8 billion dollars) from 2008 to 2018 had it divested from fossil fuels.²⁹³

²⁸⁹ Jeremy Grantham, [The mythical peril of divesting from fossil fuels](#), London School of Economics (June 13, 2018).

²⁹⁰ Christopher Ryan & Christopher Mariscano, [Examining the Impact of Divestment from Fossil Fuels on University Endowments](#), 17 NYU J. L. and Business, Roger Williams Univ. L. Studies Paper No. 195 (June 23, 2020).

²⁹¹ Auke Plantinga & Bert Scholtens, [The financial impact of fossil fuel divestment](#), 21 Climate Policy 1 (2020).

²⁹² George O. Aragon, Yuxiang Jiang, Juha Joenväärä, & Cristian Ioan Tiu, [Socially Responsible Investments: Costs and Benefits for University Endowment Funds](#) at 5 (July 21, 2020).

²⁹³ Toby A.A. Heaps, [Divestment would have made NY pension fund \\$22B richer](#), Corporate Knights (Oct. 4, 2018).

XI. Industry fraud and the fiduciary duty to avoid fraudulent investments

Despite well-known facts regarding the fossil fuel industry's alleged efforts to defraud investors, the Yale Corporation has persisted in buying industry securities, violating its *duty of care*.

- Fossil fuel companies have allegedly long engaged in a fraudulent attempt to hide the financial risks associated with emissions regulations and future fossil fuel extraction. This alleged fraud has been a matter of public record since at least 2015 and a matter of common knowledge for investors since at least 2019.²⁹⁴
 - In September 2020, the State of Connecticut sued ExxonMobil for violations of the state's Unfair Trade Practices Act, alleging that the company has for decades "misled and deceived Connecticut consumers about the negative effects of its business practices on the climate."²⁹⁵
 - The lawsuit alleges that, beginning in the 1980s, ExxonMobil defied its own scientists' warnings dating back to the 1950s and "began a systematic campaign of deception to undermine public acceptance of the scientific facts and methods relied upon by climate scientists who knew that anthropogenic (human-caused) climate change was real and dangerous to humanity."²⁹⁶
 - The complaint goes on to note that "ExxonMobil's strategy to create uncertainty about climate science successfully kept consumers purchasing ExxonMobil products by deceiving consumers about the serious harm caused by ExxonMobil's industry and business practices."²⁹⁷
 - In 2019, the Massachusetts Attorney General sued ExxonMobil, one of the world's leading oil companies, for three alleged violations of the Massachusetts Consumer Protection Act, based on similar claims to those contained in the Connecticut action.
 - The Massachusetts Attorney General concluded that ExxonMobil's value will fall precipitously in coming years, thanks in large part to an expected transition to renewable energy that will make the companies' oil and gas reserves valueless: "When those reserves cease to have future value, other things being equal, ExxonMobil securities are likely to decline in value as well, perhaps dramatically, much as the market value of coal companies has collapsed in recent years as the deployment of cleaner, more efficient fuel sources has reduced expected future coal demand."²⁹⁸
 - According to the Complaint, "[t]he systemic risk climate change poses to the world's financial markets is comparable to, and could well exceed, the impact of the 2008 global financial crisis . . . The risks of climate change and regulatory responses to it pose an existential threat to [the company's]"

²⁹⁴ Neela Banerjee, Lisa Song, & David Hasemyer, [Exxon's Own Research Confirmed Fossil Fuels' Role in Global Warming Decades Ago](#), Inside Climate News (Sept. 16, 2015).

²⁹⁵ Complaint, [Connecticut v. ExxonMobil](#), No. HHDCV206132568S (Conn. Super. Ct. Sept. 14, 2020) at 1.

²⁹⁶ *Id.* at 1.

²⁹⁷ *Id.* at 2.

²⁹⁸ Second Amended Complaint, [Massachusetts v. ExxonMobil](#), No. 1984-CV-03333-BLS1 (Mass. Sup. Ct. June 5, 2020) at 8.

business model and therefore to investments in ExxonMobil securities, including by Massachusetts investors.”²⁹⁹

- The Massachusetts Attorney General explicitly stated that investment in companies like ExxonMobil puts investors like the Yale Corporation in danger of serious financial damage: “ExxonMobil’s omissions and misrepresentations put its Massachusetts investors at increased risk of losses in the future, as greater recognition of the physical and transition risks of climate change to ExxonMobil, other fossil fuel companies, and the global economy increasingly diminishes the market valuation of ExxonMobil securities, potentially under sudden, chaotic, and disorderly circumstances.”³⁰⁰
- In January 2021, a former senior accounting analyst for ExxonMobil alleged in a whistleblower complaint to the Securities and Exchange Commission that the company has repeatedly overstated the value of its U.S. oil and gas assets — which will likely prove unprofitable due to the collapse of the fracking boom — fraudulently inflating the company’s worth to investors by as much as fifty-six billion dollars.³⁰¹
- In April 2021, neighboring New York City sued Exxon Mobil, Royal Dutch Shell, and the American Petroleum Institute (an industry trade association) for systematically and intentionally deceiving consumers.³⁰²
- In June 2021, an Exxon lobbyist admitted that ExxonMobil was engaged in a concerted effort to block climate change and deceive the public.³⁰³ This revelation led the House Oversight Committee to ask the chief executives of Exxon Mobil, Chevron, BP, and Shell, along with the American Petroleum Institute and the Chamber of Commerce, to appear at a hearing and provide emails and documents about whether the industry led an effort to mislead the public and prevent action to fight climate change.³⁰⁴
- Despite the revelation of this alleged fraudulent behavior, and in the face of existential threats to their business models, oil companies continue to refuse to provide investors with any assurances that they are preparing for the effects of climate change. ExxonMobil and Chevron, for example, have blocked shareholder proposals that ask the companies to describe how they will adjust their operations to satisfy the warming targets established under the Paris Agreement.³⁰⁵

²⁹⁹ *Id.* at 65, 80-81.

³⁰⁰ *Id.* at 138.

³⁰¹ Nick Cunningham, [Exclusive: Whistleblower Accuses Exxon of 'Fraudulent' Behavior for Overvaluing Fracking Assets For Years](#), DeSmog Blog (Feb. 2, 2021).

³⁰² [New York City Sues ExxonMobil, Shell, BP, and The American Petroleum Institute for Systematically and Intentionally Deceiving New Yorkers](#), The Official Website of the City of New York (Apr. 22, 2021).

³⁰³ Hiroko Tabuchi, [In Video, Exxon Lobbyist Describes Efforts to Undercut Climate Action](#), The New York Times (Jun. 30, 2021).

³⁰⁴ Timothy Gardner, [U.S. House panel to probe oil companies over climate disinformation](#), Reuters (Sept. 16, 2021).

³⁰⁵ Dana Drugman, [Exxon, Chevron, Chase Reject Shareholder Requests to Address Climate Risk](#), The Climate Docket (Jan. 29, 2020).

XII. The fossil fuel industry’s scientific disinformation campaigns and attacks on academia

Yale’s *charitable purposes* are contravened by the decades-long efforts of fossil fuel companies to obscure scientific reality and undermine academic research. These anti-academic activities have been undertaken in bad faith and cannot be attributed to intellectual disagreement. By funding this activity, the Yale Corporation exposes the Yale community and society at large to injury, violating its *duty of loyalty*.

- Beginning in the 1980s, and in response to mounting evidence of climate risks, fossil fuel companies halted their climate research and “began a campaign to discredit climate science and delay actions perceived as contrary to their business interests.”³⁰⁶ This campaign was multi-pronged, consisting of the development of internal policies to suppress the companies’ own knowledge, public communications to sow doubt about the dangers of fossil fuels, and the funding of organizations and research to undermine climate science.³⁰⁷
 - In 2019 testimony to the Senate Special Committee on the Climate Crisis, Yale’s Dr. Justin Farrell described a decades-long movement “to deceive the American people about the reality of climate change.”³⁰⁸ This movement has been largely successful “sowing seeds of widespread popular doubt, transforming climate change into a sharply politicized issue, infusing climate denial into the highest levels of government, and obstructing policy solutions that are so direly needed to decarbonize our economy and mitigate the impacts of warming.”³⁰⁹ Research shows that fossil fuel companies launched a “multi-pronged manipulation effort” to manufacture uncertainty around climate science by funding climate denial groups as well as creating “fake grassroots efforts” to promote climate disinformation.³¹⁰ “Money facilitated coordination between 200 organizations,” said Farrell, to create the “appearance of scientific credibility.”³¹¹
 - In his analysis of the funding sources of 164 climate denialist organizations, Farrell found that ExxonMobil and the Koch family foundations were “the most reliable and theoretically important across-time indicators of corporate involvement.”³¹²

³⁰⁶ Brief of Amici Curiae Robert Brulle, Center for Climate Integrity, Justin Farrell, Benjamin Franta, Stephan Lewandowsky, Naomi Oreskes, & Geoffrey Supran in Support of Appellees and Affirmance at 17, [County of San Mateo v. Chevron Corporation, et al.](#), [County of Imperial Beach v. Chevron Corporation, et al.](#), [County of Marin v. Chevron Corporation, et al.](#), [County of Santa Cruz, et al., v. Chevron Corporation, et al.](#), Nos. 18-15499, 18-15502, 18-15503, 18-16376 (9th Cir. 2019).

³⁰⁷ *See id.*

³⁰⁸ Senate Democrats, [Senate Democrats Special Committee on the Climate Crisis Hearing](#) (Oct. 29, 2019).

³⁰⁹ *Id.*

³¹⁰ *Id.*

³¹¹ *Id.*

³¹² Justin Farrell, [Corporate Funding and Ideological Polarization About Climate Change](#), 113(1) Proceedings of the National Academy of Sciences 92-97 (2016). While Yale recently made Exxon and Chevron ineligible for investment on the basis of opposing environmental legislation and “sensible government regulation on the industry,” *supra* at note 48, funding disinformation about climate science is widespread practice in the fossil fuel industry. Many of Exxon’s actions are described below because Exxon’s disinformation campaign has been exposed by

- Between 1998 and 2005, ExxonMobil alone spent nearly sixteen million dollars funding groups that promote climate denial, according to a report by the Union of Concerned Scientists.³¹³
- Since 1997, Koch Industries, through its various foundations and institutes, has donated more than 145 million dollars from 1997 to 2018, financing ninety organizations that attack climate science and policy solutions.³¹⁴
- Over the last three decades, “five major U.S. oil companies have spent a total of at least \$3.6 [billion] on advertisements.”³¹⁵ These ads, along with other public communications, have promoted narratives the companies know to be false: In the case of ExxonMobil, for example, between 1977 and 2014, only twelve percent of ads acknowledged that anthropogenic climate change is real, compared to eighty percent of internal documents.³¹⁶
- These activities were summarized in an amicus brief by academics and researchers as part of the ongoing tort litigation by California counties against fossil fuel companies³¹⁷ and by Massachusetts’s complaint against ExxonMobil in its deceptive advertising litigation.³¹⁸
- Yale’s Advisory Committee on Investor Responsibility met with Exxon representatives in 2016 and subsequently rejected a proposal from Fossil Free Yale to divest. ACIR chair Jonathan Macey stated that Exxon was not engaging in conduct that would warrant divestment.³¹⁹ Until January 2022, the Yale Corporation refused to declare Exxon ineligible for current or future investment,³²⁰ despite having identified dissemination of climate misinformation as a justification for divestment in the Report of the Committee on Fossil Fuel Investment Principles.³²¹ In January 2022, Exxon was quietly added to a list of companies ineligible for investment, with no announcement by Yale officials.³²²
- Shell and BP, the fourth and fifth largest fossil fuel companies by revenue in 2021, respectively,³²³ are still eligible for investment, according to the ACIR. Both companies are active in fueling the climate denial and disinformation machine. For example, BP and Shell continue to donate to the American Petroleum Institute (API). API, an oil and gas lobbying group, has been a major actor in the climate denial campaign for decades. Shell’s contribution in 2020 alone was ten million dollars, its biggest donation to any

decades of investigation. However, these actions are illustrative of the actions of the fossil fuel industry as a whole, and of many companies Yale that has not declared ineligible for investment.

³¹³ Union of Concerned Scientists, [Smoke, Mirrors & Hot Air: How ExxonMobil Uses Big Tobacco's Tactics to Manufacture Uncertainty on Climate Science](#) at 5 (Jan. 2007).

³¹⁴ [Koch Industries: Secretly Funding the Climate Denial Machine](#), Greenpeace (last visited Jan. 31, 2022).

³¹⁵ Emily Holden, [How the oil industry has spent billions to control the climate change conversation](#), The Guardian (Jan. 8, 2020).

³¹⁶ Geoffrey Supran & Naomi Oreskes, [Assessing ExxonMobil’s climate change communications \(1977–2014\)](#), 12(8) *Envtl. Res. Letters* (Aug. 2017).

³¹⁷ See Brief of Amici Curiae Robert Brulle, *et al.*, *supra* at note 306.

³¹⁸ See Second Amended Complaint, [Massachusetts v. ExxonMobil](#), *supra* at note 298, at Part IV.B.

³¹⁹ David Yaffe-Bellany, [Despite student pressure, Yale will not divest from Exxon](#), Yale Daily News (June 2, 2017).

³²⁰ Alex Ye & Charlotte Hughes, [ExxonMobil and Chevron deemed ineligible for Yale Investment](#), Yale Daily News (Feb. 1, 2022).

³²¹ [Report of the Committee on Fossil Fuel Investment Principles](#) at 3, Committee on Fossil Fuel Investment Principles (2021).

³²² Ye & Hughes, *supra* at note 320.

³²³ Matt Farmer, [Top 10 highest-earning oil and gas companies in 2021](#), Offshore Technology (Sept. 16, 2021).

lobbying group that year. BP did not disclose the amount it donated. The API also receives significant donations from by Exxon and Chevron.³²⁴

- The API's current mission statement reads: "API's mission is to promote safety across the industry globally and to influence public policy in support of a strong, viable U.S. oil and natural gas industry."³²⁵
- Shortly after more than 150 countries committed to reducing carbon emissions by signing the Kyoto Protocol in 1997,³²⁶ API launched a campaign in response with the purpose of spreading disinformation and climate change denial.³²⁷ As of 2016, API spent \$65 million annually on lobbying and public relations in support of climate obstruction.³²⁸
- In 2020, the Minnesota Attorney General sued API (along with Exxon and Koch Industries) for waging a "multi-pronged campaign of deception" with respect to climate change that has "harmed Minnesotans' health and our state's environment, infrastructure, and economy."³²⁹
- API has funded numerous climate denier think tanks over the years, including the Heartland Institute, Americans for Tax Reform, and the American Enterprise Institute,³³⁰ whose attacks on Yale's own climate and environmental scientists' research are discussed in this section.
- Academic research has confirmed that the fossil fuel industry's "major tactic was and continues to be manufacturing uncertainty . . . [and] constantly asserting that the evidence is not sufficient to warrant regulatory action. Historically these efforts focused on specific problems such as secondhand smoke, acid rain, and ozone depletion, but in the case of [climate change] they have ballooned into a full-scale assault on the multifaceted field of climate science, the IPCC, scientific organizations endorsing [climate change], and even individual scientists."³³¹
- Undermining the work of academics and scholars has been a key tactic of the fossil fuel industry, and Yale researchers have been among those targeted.³³² In a speech delivered to the Yale Faculty of Arts and Sciences Senate in February 2020, Paul Sabin, History professor at Yale, said that the "well-documented and extraordinarily successful effort" by fossil fuel companies to discount climate science research "has directly undercut Yale's academic values and diminished the work of our faculty and students."³³³ Think tanks especially prolific in climate change denial that have perpetrated direct attacks on Yale climate change research and scientists include the Heartland Institute, Committee for a Constructive Tomorrow, and Energy in Depth.

³²⁴ Chris McGreal, [How a powerful US lobby group helps big oil to block climate action](#), The Guardian (July 19, 2021).

³²⁵ [About API](#), American Petroleum Institute (last visited Feb. 14, 2022).

³²⁶ [Dec 11, 1997 CE: Kyoto Protocol Signed](#), Nat'l Geographic (last visited Feb. 14, 2022).

³²⁷ [Global Climate Science Communications Action Plan](#), American Petroleum Institute (last visited Feb. 14, 2022).

³²⁸ [An investor enquiry: how much big oil spends on climate lobbying](#), InfluenceMap (Apr. 2016).

³²⁹ [AG Ellison sues ExxonMobil, Koch Industries & American Petroleum Institute for deceiving, defrauding Minnesotans about climate change](#), Office of Minnesota Attorney General Keith Ellison (June 24, 2020).

³³⁰ [American Petroleum Institute](#), DeSmog (last visited Feb. 3, 2022).

³³¹ Riley E. Dunlap & Peter J. Jacques, [Climate Change Denial Books and Conservative Think Tanks: Exploring the Connection](#), 57(6) Am. Behav. Scientist 699, 700 (2013) (internal citations omitted).

³³² The account provided here of disinformation and attacks on academia is far from exhaustive.

³³³ Paul Sabin, [SABIN: Comments on Fossil Fuel Divestment](#), Yale Daily News (Feb. 20, 2020).

- The Heartland Institute’s leaked documents revealed that one of its main goals was to “cast doubt on the scientific finding that fossil fuel emissions endanger the long-term welfare of the planet.”
 - From 1998 to 2006, Exxon-Mobil donated at least 736,500 dollars to the Heartland Institute, nearly forty percent of which was earmarked for climate-focused projects. The Heartland Institute also accepted 130,000 dollars from Murray Energy, a company which remains eligible for Yale investment,³³⁴ which is owned by a known climate denier; 100,000 dollars from the Charles G. Koch Foundation; and 25,000 dollars from the American Petroleum Institute.³³⁵
 - The Heartland Institute has waged a long campaign to influence public opinion toward climate change denial, including taking out 20,000 dollars in Facebook ads to spread disinformation about climate change, sea level rise, and the Green New Deal.³³⁶ It has even gone so far as putting up billboards comparing those who raise awareness about the dangers of climate change to the Unabomber, Ted Kaczynski.
 - In addition to aggressively spreading disinformation, the Institute has sought to influence environmental policy throughout the United States, including helping to write legislation in 2012 aimed at repealing state renewable energy mandates.³³⁷ In 2018, The Heartland Institute announced it was “working with the EPA on policy and personnel decisions,” and the EPA acknowledged that it has a “close working relationship” with the institute.³³⁸
- Farrell has also identified the Committee for a Constructive Tomorrow (CFACT) as part of the “climate counter-movement.”³³⁹ CFACT espouses climate change denial and disinformation, claiming that global temperatures are not rising, carbon dioxide levels have no effect on global climate, and sea level rise is decelerating.³⁴⁰ CFACT has even taken out Facebook ads falsely claiming that carbon dioxide has a beneficial impact on ocean life.³⁴¹ CFACT has received 582,000 dollars from ExxonMobil since 1998, 29,752 dollars from Koch-related foundations since 2014, and 5,000 dollars from Murray Energy in 2018.³⁴²
- Energy in Depth (EID) claims to be a project of the Independent Petroleum Association of America. However, in 2011, an industry memo revealed it was actually created by major oil and gas companies including BP, Halliburton, Chevron, Shell, XTO Energy (now owned by Exxon), and others. EID is an

³³⁴ [Implementation of the Fossil Fuel Investment Principles](#), Yale Advisory Committee on Investor Responsibility (last visited Feb. 11, 2022).

³³⁵ DeSmog, [The Heartland Institute](#) (last visited Jan. 31, 2022).

³³⁶ Scott Waldman, [Climate Denial Spreads on Facebook as Scientists Face Restrictions](#), Sci. Am. (July 6, 2020).

³³⁷ Juliet Eilperin, [Climate skeptic group works to reverse renewable energy mandates](#), The Washington Post (Nov. 24, 2012).

³³⁸ Ellen Knickmeyer, [Emails show cooperation among EPA, climate-change deniers](#), AP News (May 25, 2018).

³³⁹ Justin Farrell, [Corporate Funding and Ideological Polarization About Climate Change](#), *supra* at note 312, at 94.

³⁴⁰ Marc Morano, [Committee for a Constructive Tomorrow Climate Truth Report Report](#) at 2 (Nov. 3, 2016).

³⁴¹ Waldman, *supra* at note 336.

³⁴² DeSmog, [Committee for a Constructive Tomorrow](#) (last visited Jan. 31, 2022).

aggressive defender of fracking, rejecting any notion that fracking causes harm to public health and attacking legitimate research indicating otherwise.³⁴³

- Following publication of his famous “hockey stick graph,” climate scientist Michael E. Mann (Yale ‘98 PhD) faced years of efforts to discredit him and his work, and “many [of these] attacks . . . trace directly to involvement by the fossil fuel industry.”³⁴⁴ Mann began his work on the hockey stick graph as a physics graduate student at Yale. At the Yale Forestry and Environmental Studies Research Seminar speaker series, he described a coordinated effort by the fossil fuel industry to sow doubt about his work and about mainstream climate science more broadly.³⁴⁵
- Dr. Rajendra Pachauri, founding director of the Yale Climate and Energy Institute (YCEI), which he led for thirty-four years,³⁴⁶ served as chair of the IPCC from 2002 to 2015 and directed the fourth and fifth assessment cycles.³⁴⁷ Fossil-fuel-funded think tanks such as the Heartland Institute and the Science and Public Policy Institute, as well as mainstream media such as the Sunday Telegraph, attacked him over his financial ties to carbon-trading companies and oil and gas advisory boards, groups that “stand to benefit from the IPCC’s recommendations.”³⁴⁸ Pachauri was also attacked as a fraud since he holds a doctorate in industrial engineering and economics rather than climate science.³⁴⁹
 - In 2016, Yale University cut all funding for the YCEI, which the *Yale Daily News* described as “one of the only research-focused climate change programs for undergraduates on campus.” Since its founding in 2008, the YCEI operated as an interdisciplinary institute that “fostered collaborations across science departments and between universities outside of Yale, as well as supported scholarships and postdoctoral fellowships that address the changing climate.”³⁵⁰ The university did not provide a clear reason as to why the program’s budget was cut. Although the YCEI was closed, the corollary Energy Studies program — an academic program at Yale College — is still operative.³⁵¹ The Energy Studies program is currently run by geophysics research scientist Michael Oristaglio, who was executive director of the YCEI at the time of its closure.³⁵² Before his arrival at Yale in 2009, Oristaglio spent over two decades as a scientist and research manager for

³⁴³ Brendan DeMelle, [‘Energy in Depth’ was Created by Major Oil and Gas Companies According to Industry Memo](#), Desmog (Feb. 17, 2011).

³⁴⁴ Union of Concerned Scientists, [How the Fossil Fuel Industry Harassed Climate Scientist Michael Mann](#) (Oct. 12, 2017).

³⁴⁵ Kevin Dennehy, [Defending Science on the Climate War’s Front Lines](#), Yale School for the Environment (Sept. 23, 2013).

³⁴⁶ John Schwartz, [Rajendra Pachauri, 79, Dies; Led Nobel-Winning Climate Agency](#), The New York Times (Feb. 14, 2020).

³⁴⁷ The Intergovernmental Panel on Climate Change, [Obituary: Rajendra K. Pachauri](#) (Feb. 14, 2020).

³⁴⁸ See Christopher Booker & Richard North, [Questions Over Business Deals of U.N. Climate Change Guru Dr. Rajendra Pachauri](#), The Heartland Institute (Dec. 20, 2009); Dennis Ambler, [Dr. Rajendra Pachauri and the IPCC—No Fossil Fool](#), Science and Public Policy Institute (April 24, 2010); Elisabeth Rosenthal, [Skeptics Find Fault with U.N. Climate Panel](#), The New York Times (Feb. 8, 2010).

³⁴⁹ See Christopher Booker & Richard North, [Questions Over Business Deals of U.N Climate Change Guru Dr. Rajendra Pachauri](#), The Heartland Institute (Dec. 20, 2009).

³⁵⁰ Finnegan Schick, [Climate change institute shut down](#), Yale Daily News (Mar. 1, 2016).

³⁵¹ Department of Earth and Planetary Sciences, [Energy Studies](#), Yale University (last visited Jan. 31, 2022).

³⁵² Department of Earth and Planetary Sciences, [The People of Earth and Planetary Sciences: Michael Oristaglio](#), Yale University (last visited Jan. 31, 2022).

Schlumberger Limited, an oilfield services company,³⁵³ where he worked to develop remote-sensing technologies for oil and gas exploration.³⁵⁴

- In 2007, the American Enterprise Institute, an ExxonMobil and American Petroleum Institute-funded think tank, offered scientists and economists 10,000 dollars to undermine the 2007 report from the UN's Intergovernmental Panel on Climate Change. The institute was looking for articles that "explored the limitations of climate model outputs" and offered to provide travel expenses and additional payments. As of 2008, The American Enterprise Institute had received at least 1.6 million dollars from ExxonMobil.³⁵⁵
- Robert Post, former dean of Yale Law School, published an essay in the Washington Post in 2008 in which he argued that investigations into whether ExxonMobil committed fraud by misrepresenting climate change were not an attack on First Amendment rights, as ExxonMobil had insisted.³⁵⁶ Post was then attacked by the Heartland Institute, which claimed that there was no scientific consensus around climate change, so Exxon-Mobil could not be tried for fraud; therefore the investigation was an infringement on free speech.³⁵⁷ Non-profit groups do not have to publish their funding sources, but it is known that from 1998 to 2006, Exxon-Mobil donated at least 736,500 dollars to the Heartland Institute.³⁵⁸ ExxonMobil also donated two million dollars to the Competitive Enterprise Institute (CEI) over seven years, before publicly ending support in 2006.³⁵⁹ ExxonMobil has donated more than thirty-seven million dollars to climate science denier organizations from 1998 through 2019.³⁶⁰
- In 2008 the Heartland Institute asserted that a meeting hosted by Yale, consisting of state governors to discuss restrictions on greenhouse gas emissions, was "global alarmism." Heartland praised Yale professors Robert Mendelsohn and William Nordhaus as "outstanding scholars" for their conclusion "that the rash action advocated by these governors is unwise."³⁶¹ Robert Mendelsohn, a fellow of Ezra Stiles College, was sponsored by Peabody Energy, a coal mining company, to testify in a legal battle against Minnesota's social cost of carbon.³⁶² The judge ruled unambiguously in favor of a higher social cost of carbon, and the science cited by Peabody Energy was found to be incorrect.³⁶³
- The Yale Program on Climate Change Communication (YPCCC) is a group of Yale experts that investigates "public climate change knowledge, attitudes, policy preferences,

³⁵³ Schlumberger Limited, [Who We Are](#) (last visited Jan. 31, 2022).

³⁵⁴ LinkedIn, [Michael Oristaglio](#) (last visited Jan. 31, 2022).

³⁵⁵ Ian Sample, [Scientists offered cash to dispute climate study](#), The Guardian (Feb. 2, 2007).

³⁵⁶ See Robert Post, [Exxon-Mobil is abusing the first amendment](#), The Washington Post (June 24, 2016); Rich Lowry, [Eric Schneiderman and his gang of AGs are trampling the first amendment](#), The National Review (Apr. 16, 2019).

³⁵⁷ Joseph Bast, [Global Warming Skepticism is Not Fraud](#), The Heartland Institute (July 12, 2016).

³⁵⁸ Juliet Eilperin, [Climate skeptic group works to reverse renewable energy mandates](#), The Washington Post (Nov. 24, 2012).

³⁵⁹ Climate Investigations Center, [Competitive Enterprise Institute](#) (last visited Jan. 31, 2022).

³⁶⁰ Union of Concerned Scientists, [ExxonMobil Claims Shift on Climate but Continues to Fund Climate Science Deniers](#) (Oct. 22, 2020).

³⁶¹ Dan Miller, [U.S. Governors Meeting at Yale Fuels Global Warming Alarmism](#), The Heartland Institute (Apr. 18, 2008).

³⁶² John Mashey, [Peabody's Outlier Gang Couldn't Shoot Straight In Minnesota Carbon Case, Judge Rebuffs Happer, Lindzen, Spencer, Mendelsohn, Bezdek, DeSmog](#) (June 7, 2016).

³⁶³ John Abraham, [Peabody coal's contrarian scientist witnesses lose their court case](#), The Guardian (May 2, 2016).

and behavior, and the underlying psychological, cultural, and political factors that influence them.”³⁶⁴ YPCCC’s research and staff have come under repeated attack by fossil fuel-backed think tanks.

- The fossil fuel-backed Heartland Institute released think pieces in 2010, 2012, and 2014 attacking YPCCC research, calling scientific consensus on climate change “opinion and speculation” and decrying YPCCC poll results as “patently ridiculous.”³⁶⁵
- In 2020, CFACT attacked YPCCC research about people’s attitudes toward the terms “natural gas” versus “methane.”³⁶⁶ CFACT vigorously defended the natural gas industry, claiming that the United States was leading the world in carbon emissions reductions because of natural gas, which is false.³⁶⁷ Without evidence, they also accused the researchers of taking money from foreign governments and trying to undermine the US’s energy independence.³⁶⁸
- After the catastrophic BP oil spill in 2010, the Heartland Institute accused YPCCC head Anthony Leiserowitz of “exploiting” the disaster to further his agenda to curb greenhouse gases with “fraudulent scare tactics, guilt trips, and stupid messaging,” and called him and other experts raising concern about climate change “alarmists.”³⁶⁹
- In 2019, the YPCCC released a study polling Americans on the fossil fuel industry’s level of responsibility for climate change and whether Americans think fossil fuel companies should pay for costs associated with global warming.³⁷⁰ EID attempted to cast doubt on the study’s methodology and called the results “dubious.”³⁷¹
- In 2015 the YPCCC released a study polling Republicans on global warming and the EPA’s climate plan, finding that a significant number of Republicans acknowledge climate change and support climate action.³⁷² The American Energy Alliance, a think tank funded by oil companies and run by a former lobbyist for Koch Industries,³⁷³ accused the researchers of asking biased questions and cherry-picking data, quipping that they “ought to bone up on basic statistics.”³⁷⁴

³⁶⁴ [What We Do](#), Yale Program on Climate Change Communication (last visited Jan. 31, 2022).

³⁶⁵ James Taylor, [Are Americans Really Ignorant About Global Warming?](#), *The Heartland Institute* (Oct. 27, 2010); James Taylor, [Alarmists Cite Mythical Weather Events to ‘Prove’ Global Warming Crisis](#), *The Heartland Institute* (Apr. 20, 2020); James Taylor, [Alarmists: Americans Too Stupid to Understand Climate](#), *The Heartland Institute* (Jan. 17, 2014).

³⁶⁶ See Mark Mathis, [Hijacking Natural Gas #1](#), Committee for a Constructive Tomorrow (July 28, 2021); Mark Mathis, [Hijacking Natural Gas #2](#), Committee for a Constructive Tomorrow (Aug. 25, 2021).

³⁶⁷ See Kieran Mulvaney, [Climate change report card: These countries are reaching targets](#), *Nat’l Geographic* (Sept. 19, 2019).

³⁶⁸ See Mark Mathis, [Hijacking Natural Gas #2](#), *supra* at note 366.

³⁶⁹ Paul Chesser, [Environmentalists Lose Battle for Public Mind](#), *The Heartland Institute* (July 14, 2010).

³⁷⁰ Jennifer Marlon, *et. al.*, [Support for Lawsuits Against Fossil Fuel Companies](#), Yale Program on Climate Change Communication (June 19, 2019).

³⁷¹ Spencer Walrath, [Union of Concerned Scientists’ Climate Liability Survey Findings Based on Flawed Methodology](#), *Energy in Depth* (June 21, 2019).

³⁷² [Not All Republicans Think Alike About Global Warming](#), Yale Program on Climate Change Communication (Jan. 12, 2015).

³⁷³ [American Energy Alliance](#), DeSmog (last visited Jan. 31, 2022).

³⁷⁴ Alex Fitzsimmons, [No, Republicans Don’t Really Support EPA’s Climate Agenda](#), *American Energy Alliance* (Jan. 14, 2015).

- Fossil fuel-backed think tanks and organizations have also directly and indirectly attacked researchers and scientists across the nation as well as at Yale for their work studying climate change and the climate denial movement.
 - When researchers at Yale raised concerns about fracking’s impact on public health with studies in 2014 and 2017,³⁷⁵ Energy in Depth accused the researchers of being dishonest and “trying to get the public to buy their predetermined anti-fracking narrative,”³⁷⁶ and suggested that the researchers used falsified data.³⁷⁷ Marcellus Drilling News, a far-right site funded by a fracking company, echoed these claims.³⁷⁸
 - In 2015 Justin Farrell’s paper investigating climate denialist organizations came under attack by one of those very organizations.³⁷⁹ Energy in Depth attempted to undermine Farrell’s research, chalking up climate change denial to “policy disagreements” and accusing Farrell of taking part in a campaign to “harass energy companies.”³⁸⁰
 - In 2015, the think tank Americans for Tax Reform attacked a Yale School of the Environment poll showing widespread national support for Obama’s environmental agenda, calling the polling data “a patchwork that supports environmentalists’ extremist narrative.”³⁸¹ Americans for Tax Reform has received funding from the American Petroleum institute, the American Natural Gas Alliance, and the Charles G. Koch Charitable Foundation.³⁸²
 - CFACT labeled Yale Environment 360, the Yale School of Public Health, and Yale History Professor Timothy Snyder as climate “alarmists” to discount their work studying climate change.³⁸³
 - In 2018 Bill McKibben published an article in Yale Environment 360 pointing out the harmful effects of fracking, including methane leaks that worsen climate change.³⁸⁴ Energy in Depth accused him of spreading misinformation.³⁸⁵

³⁷⁵ See Peter M. Rabinowitz, *et. al.*, [Proximity to Natural Gas Wells and Reported Health Status: Results of a Household Study in Washington County, PA](#), 123(1) *Env’tl Health Perspectives* 21 (2015); Elise G. Elliott, *et. al.*, [Unconventional oil and gas development and risk of childhood leukemia: Assessing the evidence](#), 576 *Sci. Total Env’t* 138 (2017).

³⁷⁶ Seth Whitehead, [Six Flaws in a Yale Study That Tries \(and Fails\) to Link Fracking to Cancer](#), Energy in Depth (Oct. 26, 2016).

³⁷⁷ Katie Brown, [Yale Health Study Misses the Mark on Fracking](#), Energy in Depth (Sept. 11, 2014).

³⁷⁸ See [Why is Yale U Trying to Change the Name of NatGas & Who is Funding It?](#), Marcellus Drilling News (Aug. 18, 2021); [Yale U Launches Another Sham Fracking Study, Predetermined Outcome](#), Marcellus Drilling News (Sept. 8, 2017).

³⁷⁹ See Farrell, [Corporate Funding and Ideological Polarization](#), *supra* at note 312.

³⁸⁰ Katie Brown, [Yale Study on Climate and Corporate Funding Confuses Policy Disagreement with Climate Denial](#), Energy in Depth (Dec. 2, 2015).

³⁸¹ Chris Prandoni, [The Environmental Lobby’s Ludicrous Polls](#), Americans for Tax Reform (Jan. 16, 2015).

³⁸² DeSmog, [Americans for Tax Reform](#) (last visited Jan. 31, 2022).

³⁸³ See [Pakistan is Ground Zero for Global Warming: Or is that Chad? Canada? Miami?](#), Committee for a Constructive Tomorrow (Aug. 15, 2018); [Pushing climate alarmism the medical way](#), Committee for a Constructive Tomorrow (Aug. 15, 2018); Larry Bell, [Desperate climate alarmists attack skeptics](#), Committee for a Constructive Tomorrow (Dec. 28, 2015).

³⁸⁴ Bill McKibben, [How Climate Activists Failed to Make Clear the Problem with Natural Gas](#), Yale Environment 360 (Mar. 13, 2018).

³⁸⁵ Seth Whitehead, [Yale Lets Bill McKibben Spread More Methane Misinformation](#), Energy in Depth (Mar. 21, 2018).

- Yale’s mission statement commits the University “to improving the world today and for future generations through outstanding research and scholarship, education, preservation, and practice,” and to carrying out this mission “through the free exchange of ideas in an ethical, interdependent, and diverse community of faculty, staff, students, and alumni.” Yale’s fossil fuel investments run directly contrary to this mission. Many of the companies in which Yale invests have long engaged in campaigns to undermine and discredit Yale’s own climate change programs and researchers, with disastrous consequences for climate policy.

XIII. Divestment by peer institutions

In recent years, hundreds of large institutional investors have opted to divest from fossil fuel producers, including many universities situated similarly to Yale. Their reasons for divestment apply to Yale’s circumstances as well as to their own; thus the Yale Corporation has failed to *invest with the care that an ordinarily prudent person in a like position would exercise under similar circumstances*.

- Institutional divestment from the fossil fuel industry has become increasingly common. Many institutions have pointed to the moral and financial imperative of abandoning holdings in oil, gas, and coal. There is broad consensus that fossil fuel divestment is both necessary and effective as a means of mitigating climate disaster.³⁸⁶
 - Institutional investment in fossil fuel firms “provid[es] [them] with the capital to continue oil and gas production, to persuade members of Congress to provide industry-specific tax breaks and other favors, and to thwart carbon taxes and new public-transportation projects and other policies — actions that ultimately delay the transition from the greenhouse gas-emitting fuels,” reported *The American Prospect* in 2021.³⁸⁷
 - In its lawsuit against ExxonMobil, the Massachusetts Attorney General concluded that institutional divestment is effective in reducing the fossil fuel industry’s harmful effects on the climate: “Insofar as they damage companies’ reputations for their social responsibility and environmental stewardship, and thus their societal ‘license to operate,’ divestment efforts pose an additional climate-related risk to oil and gas companies. In 2018, an oil major that competes with ExxonMobil acknowledged that divestment campaigns and related efforts pose a material risk to its business and the price of its securities.”³⁸⁸
 - The 2018 statement referenced above by the Massachusetts Attorney General was an investor disclosure by Shell in which the company stated

³⁸⁶ See, e.g., [How falling demand for oil is set to transform international relations](#), World Economic Forum (Aug. 20, 2019) (citing the “global campaign in support of divestment from fossil fuels” as one of the key factors in the ongoing energy transition worldwide); Gunther Thallinger, [The zero that every investment portfolio needs](#), World Economic Forum (Jan. 14, 2021) (“To address climate change effectively, investors must steer their entire portfolios towards climate neutrality. . . . [I]t could become necessary to reduce assets with a non-satisfactory sustainability approach. In the extreme case of non-existence of such approaches, divestment is the ultima ratio.”).

³⁸⁷ Prem Thakkar, [Reading the Fine Print of University Fossil Fuel Divestment Pledges](#), *The American Prospect* (Mar. 1, 2021).

³⁸⁸ Second Amended Complaint, *Massachusetts v. ExxonMobil*, *supra* at note 298, at 108-09.

that the divestment movement “could have a material adverse effect on the price of our securities and our ability to access equity capital markets . . . other financial institutions also appear to be considering limiting their exposure to certain fossil fuel projects. Accordingly, our ability to use financing for future projects may be adversely impacted.”³⁸⁹

- Other fossil fuel companies have likewise acknowledged the effects of investors’ decisions to pull their funds. For example, prior to its bankruptcy declaration, Peabody Energy stated in SEC filings that “[t]here have also been efforts in recent years affecting the investment community, including investment advisors, sovereign wealth funds, public pension funds, universities and other groups, promoting the divestment of fossil fuel equities and also pressuring lenders to limit funding to companies engaged in the extraction of fossil fuel reserves. The impact of such efforts may adversely affect the demand for and price of securities issued by us, and impact our access to the capital and financial markets.”³⁹⁰
- In addition to “hasten[ing] the [fossil fuel] industry’s decline,” divestment commitments from large institutions exert pressure on governments to take action toward a structural shift away from fossil fuels.³⁹¹
- Yale’s peer institutions, in the Ivy League and elsewhere, have pledged to abandon their fossil fuel assets, citing financial and ethical obligations to divest. Such institutions have often chosen divestment *in addition* to a suite of other policies, including producing climate- and sustainability-related research, reducing on-campus environmental impact through emissions reductions and other measures, and engaging in shareholder advocacy with companies that have demonstrated their real commitment to the goals of the Paris Agreement and whose core business model is not at odds with those goals. Many of Yale’s peer institutions have also committed to meaningful climate action on a much more rapid timetable.
 - On September 9, 2021, Harvard University divested from fossil fuels.³⁹²
 - Harvard’s President Lawrence Bacow stated: “Given the need to decarbonize the economy and our responsibility as fiduciaries to make long-term investment decisions that support our teaching and research mission, we do not believe such investments are prudent.”³⁹³
 - President Bacow also noted that “[c]limate change is the most consequential threat facing humanity . . . without concerted action, this dire situation is only going to get worse.”³⁹⁴
 - In March 2020, Brown University made public that it had begun selling its investments in fossil fuel extraction companies in October 2017, arguing that the climate crisis called for serious action beyond teaching and research. “The

³⁸⁹ Royal Dutch Shell PLC, [Annual Report and Form 20-F 2017 — Strategic Report](#) at 13 (2017).

³⁹⁰ Peabody Energy Corporation, [Form 10-K: Annual Report](#) at 30 (2014).

³⁹¹ Emma Howard, [A beginner’s guide to fossil fuel divestment](#), The Guardian (June 23, 2015) (quoting Jamie Henn of 350.org, who explains that institutional divestment commitments “hasten the [fossil fuel] industry’s decline and help push governments to take action,” while also serving to stigmatise fossil fuel companies in order to “make the space for progress” and reduce those companies’ corrupting influence on politics).

³⁹² Anemona Hartocollis, [Harvard Says It Will Not Invest in Fossil Fuels](#), The New York Times (Oct. 13, 2021).

³⁹³ [Harvard Office of the President](#), Harvard University (last visited Feb. 8, 2022).

³⁹⁴ *Id.*

urgency of the situation calls for additional action,” Brown’s president Christina Paxson wrote in a letter to the Brown community.³⁹⁵

- Paxson explained the move as aligning with “the view that, as the world shifts to sustainable energy sources, investments in fossil fuels carry too much long-term financial risk.”³⁹⁶
- On May 22, 2020, the Cornell University Board of Trustees announced a moratorium on new private investments focused on fossil fuels and a phase-out of existing investments in that area, effectively divesting the endowment from the fossil fuel industry.³⁹⁷
 - Like many investors, Cornell’s Trustees cited the financial imperative prompting their moratorium on fossil fuel investment: : “We’re doing the right thing from an investment perspective, particularly for an endowment with a perpetual time horizon,” said Ken Miranda, the university’s chief investment officer, in a Cornell press release.³⁹⁸
- In February 2020, Georgetown University announced the divestment of its endowment from all public and private fossil fuel assets.³⁹⁹
 - In its announcement, Georgetown stressed the financial risk of continued investment, with Michael Barry, Georgetown’s chief investment officer, noting that “climate change, in addition to threatening our planet, is increasing the risk of investing in oil and gas companies, as we expect a more volatile range of financial outcomes.”⁴⁰⁰
 - Georgetown President John J. DeGioia also identified moral concerns as important to the decision, noting that “caring for our environment is one of the most urgent moral and practical concerns of our time.”⁴⁰¹
- In September 2019, the University of California system announced divestment of its over eighty-three billion dollar endowment and pension fund from fossil fuels.⁴⁰²
 - In an op-ed in the Los Angeles Times, fund managers cited their fiduciary duty to the long-term financial wellbeing of the institution, writing that “[t]he reason we sold some 150 million dollars in fossil fuel assets from our endowment was the reason we sell other assets: They posed a long-term risk to generating strong returns for UC’s diversified portfolios.”⁴⁰³
 - The fund managers also pledged to take the opportunity to reinvest in climate change solutions, writing that “[w]e have been looking years, decades and centuries ahead as we place our bets that clean energy will

³⁹⁵ Christina Paxson, [Letter from President Paxson: Brown’s actions on climate change](#), Brown University, (Mar. 4, 2020).

³⁹⁶ *Id.*

³⁹⁷ Kathryn Stamm, [Cornell to Effectively Divest from Fossil Fuels, Trustees Vote](#), Cornell Daily Sun (May 22, 2020).

³⁹⁸ James Dean, [Cornell announces moratorium on fossil fuel investments](#), Cornell Chronicle (May 22, 2020).

³⁹⁹ [Fossil Fuels Divestment Continues Georgetown’s Commitment to Sustainability](#), Georgetown University (Feb. 6, 2020).

⁴⁰⁰ *Id.*

⁴⁰¹ *Id.*

⁴⁰² Jagdeep Singh Baccher & Richard Sherman, [Opinion: UC investments are going fossil free. But not exactly for the reasons you may think](#), Los Angeles Times (Sept. 17, 2019).

⁴⁰³ *Id.*

fuel the world's future. That means we believe there is money to be made.”⁴⁰⁴

- On October 1, 2020, the University of Cambridge announced plans to divest all direct and indirect holdings from the fossil fuel industry and to achieve net-zero greenhouse gas emissions by 2038 — commitments that are more ambitious than Harvard's in both their scope and timeframe.⁴⁰⁵
 - As of December 2020, the university had already withdrawn investments in “conventional energy-focused public equity measures,” and planned to divest from “all meaningful exposure in fossil fuels” by 2030. It now aims to achieve net-zero greenhouse gas emissions across its entire investment portfolio by 2038 — twelve years before Harvard's 2050 deadline.⁴⁰⁶
 - Cambridge justified its announcement on moral grounds. “The University is responding comprehensively to a pressing environmental and moral need for action with an historic announcement that demonstrates our determination to seek solutions to the climate crisis,” said Stephen Toope, the university's vice-chancellor.⁴⁰⁷
 - In addition to leveraging the university's endowment, Cambridge also made clear its continued commitment to research and teaching, emphasizing that all research funding and donations will now be scrutinized against the university's goal of reducing greenhouse gas emissions “before any funding is accepted.”⁴⁰⁸
- In April 2020, the University of Oxford announced plans to divest its endowment from fossil fuel companies.⁴⁰⁹
 - Oxford's divestment decision was made in accordance with its Oxford Martin Principles for Climate-Conscious Investment, a set of guidelines that led the university to determine that fossil fuel investments “hinder” worldwide efforts to (1) bring CO2 emissions to zero and (2) limit global warming to 1.5 degrees Celsius.⁴¹⁰
 - While some universities have insisted on “shareholder engagement” instead of divestment, Oxford chose to pursue both strategies, divesting from fossil fuel companies while also pledging to work with companies around the world to help them “assess whether investments are compatible with transition to a more stable climate and the goals of the Paris Agreement on climate change.” Oxford also plans to engage with fund managers “to request evidence of net-zero carbon business plans across their portfolios.”⁴¹¹

⁴⁰⁴ *Id.*

⁴⁰⁵ Matthew Taylor, [Cambridge University to divest from fossil fuels by 2030](#), The Guardian (Oct. 1, 2020).

⁴⁰⁶ *Id.*

⁴⁰⁷ [Cambridge to divest from fossil fuels with ‘net zero’ plan](#), University of Cambridge (Oct. 1, 2020).

⁴⁰⁸ *Id.*

⁴⁰⁹ [University of Oxford cuts ties to fossil fuels industry](#), BBC News (Apr. 28, 2020).

⁴¹⁰ [Oxford Martin Principles for Climate-Conscious Investment](#), Oxford Martin Net Zero Carbon Investment Initiative (Feb. 2018) (adapted from R.J. Millar, C. Hepburn, J. Beddington, J., & M.R. Allen, [Principles to guide investment towards a stable climate](#), 8 Nature Climate Change 2-4 (2018)).

⁴¹¹ [Oxford announces historic commitment to fossil fuel divestment](#), University of Oxford (Apr. 27, 2020).

- Oxford’s divestment pledge was seen as consistent with the university’s academic and teaching mission, and administrators did not see divestment as precluding climate- and sustainability-related research or efforts to promote sustainable campus operations. In fall 2020, months after announcing its divestment pledge, Oxford released drafts of a sustainability plan to achieve net-zero carbon and biodiversity net gain by 2035⁴¹² — fifteen years before Harvard committed to neutralize its greenhouse gas emissions.
- In addition to peer universities, many other large-scale charitable funds with analogous fiduciary duties have divested from the fossil fuel industry.
 - Pension funds that have divested from fossil fuels include the California Public Employees’ Retirement System (coal), the California State Teachers’ Retirement System (coal), the country of Ireland, the New York City Employees Retirement System, the New York State Common Retirement Fund, the Teachers Retirement System of the City of New York, and the City of Providence, Rhode Island (partial).⁴¹³ In September 2021 the Caisse de dépôt et placement du Québec — Canada’s second-biggest pension fund at 310 billion dollar — announced it was divesting from oil production investments by the end of 2022.⁴¹⁴
 - Other major funds that have divested include numerous faith-based organizations,⁴¹⁵ major philanthropic foundations such as the five-billion-dollar Rockefeller Foundation,⁴¹⁶ the Rockefeller Brothers Fund,⁴¹⁷ Norway’s 1.1 trillion dollar sovereign wealth fund (oil and gas exploration and production),⁴¹⁸ and the 90 billion dollar Storebrand hedge fund (ExxonMobil, Chevron, and other environmental bad actors).⁴¹⁹

XIV. The Corporation’s ties to the fossil fuel industry and conflicts of interest

Yale Corporation members maintain significant professional or financial ties to the fossil fuel industry. These apparent conflicts of interest violate the Corporation’s *duty of loyalty* because fossil fuel companies’ business models are in fundamental tension with Yale’s espoused values and commitments to decarbonization. Additionally, although Yale’s investment decision-making process is unreasonably opaque, existing information suggests improper influence by the fossil fuel industry.

- Four members of the Yale Corporation, none of whom have recused themselves from matters pertaining to divestment, maintain or have recently maintained ties to the fossil fuel industry.

⁴¹² [Aiming for zero carbon and biodiversity net gain by 2035](#), University of Oxford (Nov. 20, 2020).

⁴¹³ [1000+ Divestment Commitments](#), GoFossilFree.org (updated Dec. 9, 2020).

⁴¹⁴ [CDPO announces its new climate strategy](#), Caisse de dépôt et placement du Québec (Sept. 28, 2021).

⁴¹⁵ [Faith institutions call for a just recovery by divesting from fossil fuels](#), 350.org (May 18, 2020)

⁴¹⁶ *Id.*

⁴¹⁷ [Fossil Fuel Divestment](#), Rockefeller Brothers Fund (last visited Feb. 11, 2022).

⁴¹⁸ Terje Solsvik, [Norway sovereign wealth fund to divest oil explorers, keep refiners](#), Reuters (Oct. 1, 2019).

⁴¹⁹ Jillian Ambrose, [Major investment firm dumps Exxon, Chevron and Rio Tinto stock](#), The Guardian (Aug. 24, 2020).

- Charles Goodyear IV, who first joined the Yale Corporation in 2011,⁴²⁰ has repeatedly held high-level positions in fossil fuel companies.
 - Goodyear served as the CEO of BHP Billiton, an oil, mining, and gas company, from 2003-2007.⁴²¹
 - Goodyear also served on the board of Directors of Anadarko Petroleum from 2012⁴²² through 2015,⁴²³ a period that coincided with a university decision against fossil fuel divestment.⁴²⁴ Goodyear has refused to comment on this conflict.⁴²⁵
 - Goodyear sits on the Corporation's Investments committee.⁴²⁶
- Joshua L. Steiner, a successor trustee appointed in 2018,⁴²⁷ currently maintains professional ties to the fossil fuel industry.
 - Steiner currently sits on the board of Castleton Commodities International,⁴²⁸ a company that invests and trades in the natural gas industry. CCI's website describes investments "across the entire natural gas value chain, including storage facilities, wells, minerals, leases, processing and gathering infrastructure."⁴²⁹
 - CCI owns direct natural gas assets and continues to increase its stake in them. As the company states on its website, "CCI acquired its East Texas upstream portfolio, TG Natural Resources (formerly Castleton Resources), through multiple transactions, starting in 2014. CCI continued to build its portfolio position through multiple acquisitions, including the acquisition of certain upstream assets from Anadarko in 2016 and Shell in 2019."⁴³⁰
- William Earl Kennard, named a successor trustee in 2014,⁴³¹ has maintained significant professional ties to fossil fuel companies.
 - Kennard was a member of the Board of Directors of Duke Energy from January 2014 to May 2021.⁴³² Duke Energy has the largest carbon footprint of any American power company.⁴³³ It has also repeatedly violated environmental law in its pursuit of profit.
 - In May of 2015, Duke Energy pled guilty to violations of the Clean Water Act and was sentenced to pay 102 million dollars. According to the US Justice Department, "Four of the charges [against Duke Energy] are the direct result of the massive coal ash

⁴²⁰ Drew Henderson, [Two join Yale Corp.](#), Yale Daily News (May 10, 2011).

⁴²¹ [Leaving On a High](#), Forbes (July 13, 2007).

⁴²² [Press Release of Anadarko Petroleum Corporation](#), Anadarko Petroleum Corporation (Feb. 29, 2012).

⁴²³ [Anadarko makes BoD changes](#), Offshore Energy (Feb. 11, 2015).

⁴²⁴ [Statement of the Yale Corporation Committee on Investor Responsibility](#), Yale Corporation Committee on Investor Responsibility (Aug. 26, 2014).

⁴²⁵ David Shimer, [Goodyear '80, Corp. member, provides business perspective](#), Yale Daily News (Feb. 3, 2016).

⁴²⁶ [Committees](#), Yale University (last visited Feb. 8, 2022).

⁴²⁷ [Joshua L. Steiner, '87 B.A., M.St.](#), Yale University (last visited Feb. 8, 2022).

⁴²⁸ *Id.*

⁴²⁹ [Our Business](#), Castleton Commodities International (last visited Feb. 8, 2022).

⁴³⁰ *Id.*

⁴³¹ [William Earl Kennard](#), Yale University (last visited Feb. 8, 2022).

⁴³² [Duke Energy board elects William Kennard as new member](#), Duke Energy News Center (Nov. 22, 2013); John Downey, [Duke Energy board to lose three members in May](#), Charlotte Business Journal (Mar. 4, 2021).

⁴³³ Tim McDonnell, [America's Dirtiest Power Companies, Ranked](#), Mother Jones (July 14, 2015).

spill from the Dan River steam station into the Dan River near Eden, North Carolina, in February 2014. The remaining violations were discovered as the scope of the investigation broadened based on allegations of historical violations at the companies' other facilities."⁴³⁴ The spill in question "left miles of [the Dan River] coated in hazardous coal ash... Hazardous substances like arsenic and selenium poured into the river at levels high enough to harm aquatic life."⁴³⁵

- In July 2020, climate justice groups filed a legal petition with the North Carolina Utilities Commission asserting that Duke Energy is violating state law by quietly building large amounts of inefficient gas-burning capacity without commission approval."⁴³⁶
- Also in July 2020, Duke Energy halted its plans to construct the Atlantic Coast Pipeline project, "a natural gas pipeline that was to stretch hundreds of miles across West Virginia, Virginia and North Carolina, citing 'legal uncertainty.'"⁴³⁷
 - Kennard was formerly the Managing Director and Global Partner in the Global Telecommunications and Media group at the Carlyle Group.⁴³⁸ The Carlyle Group has invested at least 2.5 billion dollars in fossil fuels⁴³⁹ and recently purchased a forty-eight percent stake in Natural Gas Partners, a private equity firm which exclusively invests in oil and gas.⁴⁴⁰
 - Paul Joskow, who served as a successor trustee from 2008 to 2020,⁴⁴¹ maintained ties to fossil fuel companies during that time.
 - Joskow has served as a member of Exelon's Board of Directors since 2007.⁴⁴² Exelon is an energy company using fossil fuels such as natural gas and oil to power its grid.⁴⁴³
 - Additionally, Joskow served as a director of TransCanada from 2004 to 2013. TransCanada was the primary force pushing for the controversial Keystone XL pipeline system.⁴⁴⁴
- Yale's decision-making process is opaque to students and community members. Still, there are indications that the process is influenced by the fossil fuel industry — especially when comparing decisions on fossil fuel divestment to decisions on divestment from other industries.

⁴³⁴ [Duke Energy Subsidiaries Plead Guilty and Sentenced to Pay \\$102 Million for Clean Water Act Crimes](#), United States Department of Justice (May 14, 2015).

⁴³⁵ Emery Dalesio, [Duke Energy sued for 2014 coal ash spill environmental harm](#), Associated Press (July 18, 2019).

⁴³⁶ [Legal action challenges Duke Energy's buildout of unapproved gas-fired power units](#), Appalachian Voices (July 30, 2020).

⁴³⁷ Clare Duffy, [Dominion Energy and Duke Energy cancel construction of Atlantic Coast Pipeline](#), CNN (July 5, 2020).

⁴³⁸ [William Earl Kennard, B.A., '81 J.D.](#), Yale University (last visited Feb. 8, 2022).

⁴³⁹ [International Energy Partners](#), Carlyle (last visited Feb. 8, 2022).

⁴⁴⁰ Kevin Connor, Robert Galbraith and Aaron Cantu, [The Oil Tanks](#), Public Accountability Initiative (Dec. 4, 2015).

⁴⁴¹ [Former Trustees](#), Yale University (last visited Feb. 8, 2022).

⁴⁴² [Paul L. Joskow](#), Exelon (last visited Feb. 8, 2022).

⁴⁴³ [Natural Gas](#), Exelon (last visited Feb. 8, 2022).

⁴⁴⁴ [TransCanada board member Joskow retires](#), Argus Media (Mar. 22, 2013).

- Yale uses a multi-stage process that moves through two separate committees before reaching the Yale Corporation itself: The Advisory Committee on Investment Responsibility (ACIR) makes recommendations to the Corporation Committee on Investor Responsibility (CCIR), which in turn makes recommendations to the Yale Corporation.
- The ACIR has maintained and deepened ties with the fossil fuel industry even while actively considering divestment.
 - Jonathan Macey, head of the ACIR from 2013 to the present,⁴⁴⁵ was nominated as an alternative to the board of Hess Corporation in both 2013 and 2016 by Elliott Management.⁴⁴⁶ Hess Corporation describes itself as “a leading oil and shale gas producer.”⁴⁴⁷
 - Rachel Calnek-Sugin and Rain Metteba, two activists with Fossil Free Yale, wrote in a 2016 op-ed that “the ACIR convinced Fossil Free Yale to pursue a strategy of divestment from Exxon Mobil Corp. on the grounds that Exxon perpetuated climate denial. We agreed to pursue this reluctantly — it didn’t account for the unique culpability of the fossil fuel industry — because the ACIR implied it would be easy to win. After a year of producing evidence to the ACIR to bolster our case, the committee postured a readiness to make the recommendation. Then they met with Exxon executives who reportedly convinced them not to recommend divestment.”⁴⁴⁸
- Yale’s lack of action to address fossil fuel conflicts is especially telling when compared with its divestment from assault weapons. Within a year, and in response to a recommendation from a single faculty member, the ACIR and CCIR recommended,⁴⁴⁹ and the Yale Corporation adopted,⁴⁵⁰ a policy of divestment from assault weapons retailers.
- The Yale Corporation’s investment-related decision-making is extremely opaque, and Yale has repeatedly acted against transparency measures.
 - At present, Yale Corporation minutes are sealed for fifty years.⁴⁵¹ Not only does this prevent access to the Corporation’s recent decision-making, but it also has prevented examination of the discussion surrounding the adoption of guidelines proposed in *The Ethical Investor*, which were adopted in 1972.⁴⁵²
 - Recently, the Corporation eliminated a longstanding petition process that allowed Yale alumni who met a signature threshold to be elected to the

⁴⁴⁵ Jonathan Macey, [MACEY: On divestment](#), Yale Daily News (Nov. 15, 2013); [Advisory Committee on Investor Responsibility \(2021-22\)](#), Yale Office of the President (last visited Feb. 8, 2022).

⁴⁴⁶ Paul Quintaro, [Elliott Mgmt Announces Slate of Execs for Hess Board of Directors](#), Benzinga (Jan. 29, 2013); Matthew Rocco, [Elliott Nominates 5 to Hess Board](#), Fox Business (Jan. 25, 2016).

⁴⁴⁷ [Operations](#), Hess Corporation (last visited Feb. 8, 2022).

⁴⁴⁸ Calnek-Sugin & Metteba, [Dismantle the ACIR](#) (Nov. 5, 2018).

⁴⁴⁹ [CCIR Statement Regarding Investment in Assault Weapon Retailers](#), Yale Corporation Committee on Investor Responsibility (Aug. 2018).

⁴⁵⁰ Hailey Fuchs & Adelaide Feibel, [Yale pledges not to invest in assault weapon retailers](#), Yale Daily News (Aug. 24, 2018).

⁴⁵¹ [Miscellaneous Regulations](#), Yale Board of Trustees (last visited Feb. 8, 2022).

⁴⁵² [Yale: Moral Investor](#), The New York Times (Apr. 15, 1972).

Corporation against the University-nominated candidates.⁴⁵³ This decision came after two candidates supported by the Yale Forward campaign, a movement supporting climate-conscious candidates who backed fossil fuel divestment and increased transparency measures, among other things,⁴⁵⁴ successfully completed the petition process to be on the Corporation ballot.

- Yale’s largest donors are heavily implicated in the fossil fuel industry. These ties represent additional conflicts of interest given the extensive evidence of undue influence in curricular (Grand Strategy) and financial (trustees’ self-dealing) matters at Yale.
 - In 2015, Stephen Schwarzman gave 150 million dollars, then the second-largest gift in Yale’s history, to create a dining hall and center for student life named in his honor.
 - Schwarzman is the co-founder, chair, and CEO of Blackstone, a major investment firm that owns two Brazilian companies responsible for a significant proportion of the deforestation of the Amazon and the displacement of Indigenous peoples.⁴⁵⁵
 - The Intercept reports that these two companies, Hidrovias do Brasil and Pátria Investimentos, have wrested control of protected land, deforested it, and helped build a controversial highway to their new terminal in the Amazon to facilitate the cultivation and export of grain and soybeans.⁴⁵⁶
 - More than a fifth of the total land mass of the Brazilian Amazon has been deforested in the last half-century,⁴⁵⁷ and the rate of deforestation reached a fifteen-year high in 2020.⁴⁵⁸
 - Schwarzman has publicly advocated against divestment, saying divestment impacts his firm’s ability to pursue new wells. “If you try and raise money to drill holes, it’s almost impossible to get that money,” he said.⁴⁵⁹
 - Nicholas Brady, a major donor, currently owns over eight million dollars of stock in the Hess Corporation, a fossil fuel company.⁴⁶⁰

XV. The Corporation’s refusal to consider divestment from fossil fuels

The Yale Corporation has failed to act in *good faith* or with *due care* by ignoring repeated efforts by Yale students and faculty to align the university’s investment practices with its charitable mission. The timeline below shows the evolution from 2012 to 2022 of the student-led

⁴⁵³ Rose Horowitz, [Outraged and offended: Corporation cuts petition process, alumni react](#), Yale Daily News (May 25, 2021).

⁴⁵⁴ [Yale Forward Policy Plan - Endowment Justice](#), Yale Forward (Sept. 2020).

⁴⁵⁵ Ryan Grim, [A Top Financier OF Trump and McConnell is a Driving Force Behind Amazon Deforestation](#), The Intercept (Aug. 27, 2019).

⁴⁵⁶ *Id.*

⁴⁵⁷ [Deforestation in the Amazon](#), Council on Foreign Relations (last visited Feb. 8, 2022).

⁴⁵⁸ [Brazil: Amazon sees worst deforestation in 15 years](#), BBC (Nov. 19, 2021).

⁴⁵⁹ Andrew Ross Sorkin, Sarah Kessler, Stephen Gandel, Michael J. de la Merced, Lauren Hirsch, & Ephrat Livni, [Why This Billionaire Is Worried About Green Investing](#), The New York Times (Oct. 27, 2021).

⁴⁶⁰ [Nicholas F Brady Net Worth](#), Wallmine (June 18, 2019).

movement to compel Yale to invest ethically, and of the university's obfuscatory tactics. Throughout, this history is characterized by specious and cynical arguments from university administrators and a complicated bureaucracy, especially as it relates to the Advisory Committee on Investor Responsibility (ACIR) and the Committee on Fossil Fuel Investments Principles (CFFIP). This structure has created the illusion that students were and are being listened to while unflinching preserving the status quo.⁴⁶¹

- In Fall 2012, Fossil Free Yale (FFY) was founded to call on Yale to divest its endowment from the fossil fuel industry.
- In January 2013, FFY presented a ninety-six-page report on responsible energy to the Yale Corporation's Advisory Committee on Investor Responsibility (ACIR). The report recommended that Yale prioritize divestment from the companies whose projected greenhouse gas emissions would be most out of line with reasonable climate targets.⁴⁶²
- In February 2013, over 100 students attended an FFY kickoff meeting to determine action strategies in the aftermath of the presentation of the report.⁴⁶³
- Yale students participated in the February 2013 climate rally in Washington, D.C., then the largest climate rally in history.⁴⁶⁴
- On February 8, 2013, former Vice President Al Gore declared his support for the divestment movement.⁴⁶⁵
- In October 2013, Yale activists participated in the Power Shift Convergence in Pittsburgh, along with over 17,000 activists from over 720 campuses.⁴⁶⁶
- On November 12, 2013, Gus Speth, former Dean of the Yale School of Forestry and Environmental Studies, publicly affirmed his support for divestment in a letter to the Yale Daily News.⁴⁶⁷
- In a November 2013 Yale College Council referendum, eighty-three percent of students voted in support of fossil fuel divestment.⁴⁶⁸ The *Yale Daily News* published an editorial supporting the vote for divestment.⁴⁶⁹
- Over the course of 2013, over 1,000 university affiliates, including students, faculty, and alumni, signed a petition calling on Yale to divest.⁴⁷⁰

⁴⁶¹ A note on nomenclature: the student organization leading the divestment movement at Yale from 2012 to 2018 was Fossil Free Yale (FFY) and from 2018 to 2022 was the Yale Endowment Justice Coalition (EJC), a larger group that included FFY. The EJC was founded with two demands: that Yale disclose and divest its investments in fossil fuels and that Yale cancel its holdings in Puerto Rican debt. EJC believes that these demands together form the bare minimum for environmental justice: Yale must refuse to invest in the industry destroying the planet, and it must refuse to profit from the vulnerability of communities like Puerto Rico that are on the front lines of the climate crisis.

⁴⁶² Alice Buckley, Abigail Carney, Gabriel Levine, Minh Alexander Nguyen, Patrick O'Rourke Reed, Max Weinreich, Hannah Nesser, David Gabriel Rissman, Yonatan Landau, & Liz Bullock, [A Report on Responsible Energy Investing](#), Fossil Free Yale (Jan. 2013, revised Nov. 4, 2013).

⁴⁶³ Fossil Free Yale, [Divestment Kickoff Meeting](#), Facebook.com (Feb. 2, 2013).

⁴⁶⁴ Fossil Free Yale, [Over 40 Yalies were part of this incredible action in DC today!](#) Facebook.com (Feb. 18, 2013).

⁴⁶⁵ Carey L. Biron, [Al Gore backs growing fossil fuel divestment campaign](#), The Guardian (Feb. 11, 2013).

⁴⁶⁶ Liz Dennerlein, [Students from 720 campuses rally for energy, climate change](#), USA Today (Oct. 24, 2013).

⁴⁶⁷ James Gustave Speth, [Time To Divest](#), Yale Daily News (Nov. 12, 2013).

⁴⁶⁸ Finnegan Schick, [Invest by the Book, Divest by the Book?](#), Yale Daily News (Mar. 3, 2016).

⁴⁶⁹ [NEWS' VIEW: Vote to divest](#), Yale Daily News (Nov. 18, 2013).

⁴⁷⁰ Jed Finley and Larry Milstein, [Faculty join push for divestment](#), Yale Daily News (Apr. 9, 2015).

- In January 2014, FFY and the ACIR collaborated to send letters to the companies with the largest coal, oil, and gas reserves, asking for better data on their carbon emissions.⁴⁷¹
- Throughout fall 2013 and spring 2014, Fossil Free Yale worked closely with the ACIR, which recommended parts of FFY's proposal for divestment to the Corporation Committee on Investor Responsibility (CCIR).
- In the week of March 31, 2014, two separate demonstrations were organized outside of Yale's Woodbridge Hall to urge the CCIR to approve Fossil Free Yale's divestment proposal.⁴⁷²
- On April 10, 2014, Archbishop Emeritus Desmond Tutu wrote an op-ed in the Guardian declaring his support for the fossil fuel divestment movement.⁴⁷³
- On August 27, 2014, the first day of fall-semester classes, University President Peter Salovey and ACIR Chair Jonathan Macey invited members of FFY to a meeting four hours before it was scheduled to take place. At the meeting, Salovey and Macey communicated the decision made by the CCIR to reject FFY's divestment proposal.⁴⁷⁴
- On August 27, 2014, in a statement explaining the decision to reject FFY's divestment proposal, the Yale Corporation argued that individual consumers of fossil fuels and energy, not fossil fuel producers, bore primary responsibility for climate change.⁴⁷⁵ As an investor in the fossil fuel industry, Yale promised to "support well-constructed shareholder resolutions that call for company disclosures that address climate change issues."⁴⁷⁶
- On August 27, 2014, Chief Investment Officer David Swensen wrote a letter to investment managers requesting that they "assess the greenhouse gas footprint of prospective investments, the direct costs of the consequences of climate change on expected returns, and the costs of policies aimed at reducing greenhouse gas emissions on expected returns."⁴⁷⁷ The letter did not promote divestment and did not provide goals for an improved portfolio, but Swensen baselessly told Yale Daily News that the letter might have a similar effect to divestment.⁴⁷⁸ Under the new policy, Yale would not consider the overall carbon footprint of companies, merely the effects of climate change and environmental degradation on Yale's own returns.⁴⁷⁹
- FFY responded, reiterating the special culpability of fossil fuel suppliers, and stating that to comply with the principles of *The Ethical Investor* (Yale's investment guidebook), "a plan for action is necessary should proxy voting fail to correct the identified harms. Exit, or divestment if other attempts to correct social injury fail, is an essential part of Fossil Free Yale's proposal that is missing in Yale's decision."⁴⁸⁰

⁴⁷¹ Adrian Rodrigues, [Fossil Free Yale mulls next step](#), Yale Daily News (Jan. 31, 2014).

⁴⁷² Adrian Rodrigues, [Protests continue outside Woodbridge Hall](#), Yale Daily News (Apr. 4, 2014).

⁴⁷³ Desmond Tutu, [We need an apartheid-style boycott to save the planet](#), The Guardian (Apr. 10, 2014).

⁴⁷⁴ Scott Stern, [STERN: Divesting our trust](#), Yale Daily News (Sept. 3, 2014).

⁴⁷⁵ [Statement of the Yale Corporation Committee on Investor Responsibility](#), *supra* at note 424.

⁴⁷⁶ *Id.*

⁴⁷⁷ David Swensen, [Letter to investment managers](#) (Aug. 27, 2014).

⁴⁷⁸ Adrian Rodrigues, [Investments Office addresses climate change](#), Yale Daily News (Sept. 12, 2014).

⁴⁷⁹ Geraldine Fabrikant, [Yale Fund Takes Aim at Climate Change](#), The New York Times (Sept. 7, 2014).

⁴⁸⁰ [Response to CCIR Statement](#), on file with Fossil Free Yale (Aug. 2014).

- In the aftermath of the 2014 ACIR decision, President Salovey announced that the ACIR would only reconsider divestment if new information about the actions of the fossil fuel industry came to light.⁴⁸¹
- On September 21, 2014, over 300 Yale students participated in the People’s Climate March in New York.⁴⁸²
- In October 2014, Yale students delivered over 181 letters and more electronic letters to President Salovey’s office in support of divestment.⁴⁸³
- On November 5, 2014, members of FFY presented a rebuttal against the August decision not to divest at an open meeting of the ACIR.⁴⁸⁴
 - FFY argued that the ACIR’s “response indicates that they misunderstand or choose to overlook the significant categorical distinctions that make investment in fossil fuel industry specifically unethical, and our new proposal seeks to highlight this significance.”⁴⁸⁵
 - The presentation further stated that “the business model of fossil fuel companies is inherently destructive and cannot improve. We cannot expect to create the necessary change by engaging with these companies, so we must divest. They have a vested interest in continuing to function as they are, and they stand in the way of solutions.”⁴⁸⁶
- In a meeting between the ACIR and FFY on December 10, 2014, ACIR head Jonathan Macey told activists to find a “poster child” to target for divestment which employed particularly egregious environmental practices and which had a history of lobbying against sensible regulation and for the funding of climate-denial groups.⁴⁸⁷
- On February 14, 2015, FFY held a protest in honor of Global Divestment Day.⁴⁸⁸
- On February 26, 2015, Fossil Free Yale held a protest criticizing the Yale Corporation’s lack of transparency and accountability to the student body. The CCIR had met the previous Saturday and ignored sustained FFY requests to see the meeting schedule.⁴⁸⁹
- On March 5, 2015, sixty members of FFY delivered another letter to the President’s office in Woodbridge Hall, demanding that the University construct a plan to “address the multiple injustices created by the fossil fuel industry” or face “escalated direct action.”⁴⁹⁰
- On March 16, 2015, *The Guardian* announced its support for divestment.⁴⁹¹
- On April 7, 2015, FFY released a letter co-written with Yale School of Public Health (YSPH) Professor Robert Dubrow calling upon the CCIR to reconsider their refusal to divest. The letter was also signed by Professors Matthew Jacobson and Glenda Gilmore.⁴⁹²

⁴⁸¹ Larry Milstein, [FFY demands University reconsider divestment decision](#), Yale Daily News (Oct. 7, 2014).

⁴⁸² Fossil Free Yale, [Just a fraction of the estimated 3000 Yalies who came out to the march this weekend!](#) Facebook.com (Sept. 22, 2014).

⁴⁸³ Fossil Free Yale, [Delivery of letters to President Salovey’s office](#), Facebook.com (Oct. 6, 2014).

⁴⁸⁴ Larry Milstein, [FFY unveils new rebuttal at investor meeting](#), Yale Daily News (Nov. 5, 2014).

⁴⁸⁵ [Presentation ACIR Meeting 11/4](#), on file with Fossil Free Yale (Nov. 4, 2014).

⁴⁸⁶ *Id.*

⁴⁸⁷ [Notes from ACIR meeting 12/10/14](#), on file with Fossil Free Yale (Dec. 10, 2014).

⁴⁸⁸ Jed Finley and Larry Milstein, [FFY postpones Global divestment Day action](#), Yale Daily News (Feb. 13, 2015).

⁴⁸⁹ Larry Milstein, [FFY confronts Corporation, calls for change](#), Yale Daily News (Feb. 27, 2015).

⁴⁹⁰ Jed Finley and Larry Milstein, [Fossil Free Yale issues ultimatum to Yale Corp.](#), Yale Daily News (Mar. 6, 2015).

⁴⁹¹ Emma Howard and Damian Carrington, [Everything you wanted to ask about the Guardian’s climate change campaign](#), *The Guardian* (Mar. 16, 2015).

⁴⁹² Finley & Milstein, [Faculty join push for divestment](#), *supra* at note 470.

- On April 9, 2015, forty-nine students staged a sit in at Woodbridge Hall demanding that Yale reopen the conversation on divestment. At 5:00 PM, when the building was scheduled to close, 150 students rallied outside, making a human chain around the building. Nineteen students remained in Woodbridge Hall. They were threatened by University Secretary Kimberly Goff-Crews with “temporary or permanent separation from the University” and ultimately arrested for trespassing and issued “infraction tickets” carrying fines of ninety-two dollars.⁴⁹³ They were also charged by the Yale College Executive Committee.⁴⁹⁴ Yale was the first university to arrest students protesting for divestment from fossil fuels rather than to engage in a dialogue with them.⁴⁹⁵
- In December 2015, Yale made a direct investment of 190 million dollars in Antero Resources, a fracking company with a record number of safety violations.⁴⁹⁶
- In January 2016, the Dwight Hall Socially Responsible Investing Fund purchased 2,000 dollars worth of stock in ExxonMobil and introduced a shareholder resolution calling on Exxon to disclose its political lobbying expenditures and gifts to groups that disputed climate science. They called on Yale to support this shareholder resolution, in keeping with Yale’s policy of supporting third-party shareholder resolutions.⁴⁹⁷ Dwight Hall SRI’s resolution did not succeed.⁴⁹⁸
- On January 25, 2016, FFY presented a new proposal to the ACIR, calling on Yale to divest from the entire fossil fuel industry on the grounds that the industry funds climate change denial and actively obstructs climate action and sensible climate legislation.⁴⁹⁹ FFY’s report focused on Exxon and on the failure of shareholder resolutions to affect positive change at Exxon even when the shareholder resolutions had been initiated by members of the Rockefeller family, which founded the company.⁵⁰⁰
- In February 2016, FFY held a speak-out on Beinecke Plaza, protesting the ongoing refusal of the CCIR to meet with student activists. Activists stated, “Throughout our campaign at Yale, the Yale Corporation has become less and less receptive towards the idea of engaging with the student divestment movement... This week, Fossil Free Yale is told to present to an Advisory Committee on Investor Responsibility (ACIR), a group whom we’ve met on numerous occasions with little effect on the actual decision makers in the Yale Corporation.”⁵⁰¹
- In March 2016, Yale’s administration cut all funding to the Climate and Energy Institute, leading to confusion and consternation among students and faculty.⁵⁰²

⁴⁹³ Noah Daponte-Smith and Larry Milstein, [19 Fossil Free Yale protesters threatened with arrest at Woodbridge Hall sit-in](#), Yale Daily News (Apr. 10, 2015).

⁴⁹⁴ Lorenzo Arvanitis, [Filing reveals University’s fossil fuel investment](#), Yale Daily News (Dec. 4, 2018).

⁴⁹⁵ Skyler Inman and Larry Milstein, [With sit-in, FFY raises the stakes](#), Yale Daily News (Apr. 10, 2015).

⁴⁹⁶ Jingyi Cui, [Students criticize University investments at teach-in](#), Yale Daily News, (Feb. 5, 2018).

⁴⁹⁷ Finnegan Schick, [Shareholder resolution filed against Exxon](#), Yale Daily News (Jan. 26, 2016).

⁴⁹⁸ [Dwight Hall SRI Leaders Reflect on Shareholder Resolution Experience](#), Dwight Hall (last visited Feb. 5, 2022).

⁴⁹⁹ [Report to the ACIR](#), on file with Fossil Free Yale, at 6 (Jan. 25, 2016).

⁵⁰⁰ *Id.* at 9.

⁵⁰¹ Finnegan Schick and David Shimer, [FFY protests Corporation](#), Yale Daily News (Feb. 22, 2016); [Speak Out Narrative](#), on file with Fossil Free Yale (Feb. 2016).

⁵⁰² Finnegan Schick, [Climate change institute shut down](#), Yale Daily News (Mar. 1, 2016).

- In April 2016, FFY staged a rally at a keynote address by UN Secretary General Ban Ki-Moon, at which he thanked FFY for their work towards divestment and “leading by example.”⁵⁰³
- On April 12, 2016, Chief Investment Officer David Swensen released a public letter discussing the positive impacts of his 2014 letters to Yale’s investment managers. He cited a ten million dollar partial divestment from unnamed companies, and efforts by ARC Financial to research impacts on how climate change might impact their future investment returns.⁵⁰⁴
- On December 12, 2016, then UN Secretary General Ban-Ki Moon declared his support for the divestment movement and the 5.2 trillion dollar divested over the first five years of its existence.⁵⁰⁵
- In a meeting on February 23, 2017, ACIR head Jonathan Macey told FFY activists the ACIR would support divestment from Exxon if it could be shown that Exxon’s support of climate denial was “ongoing,” and pointed to Exxon’s funding of the American Legislative Exchange Council (ALEC), a right-wing organization that promotes climate denial. Macey told activists he had an upcoming meeting with Exxon but would not disclose details.⁵⁰⁶
- In March 2017, the Yale Corporation made gestures toward a policy of increased transparency and accessibility to student groups. These changes were seen as largely cosmetic and failed to address the opacity of the actual decision making process of the board of trustees.⁵⁰⁷
- On April 13, 2017, students at Yale-NUS College (an educational institution launched as a collaboration between Yale and the National University of Singapore) staged the first demonstration calling for Yale-NUS to divest from fossil fuels.⁵⁰⁸
- In June 2017, after working with FFY and faculty to investigate whether or not the company caused “grave social injury,” a criterion for divestment per *The Ethical Investor* (Yale’s investment guidebook), the ACIR announced that they would not divest from ExxonMobil.
 - ACIR head Jonathan Macey told the Yale Daily News, “Exxon does not appear to be engaging in any conduct or activity that would warrant divestment... [Exxon] seems to be certainly no worse than any other fossil fuel company, with respect to their position on climate change. There doesn’t seem to be any basis for singling them out for divestment.”⁵⁰⁹
 - The Yale Daily News reported that the ACIR had “delayed its decision so members could meet with Exxon officials.”⁵¹⁰
- In September 2017, Hurricanes Irma & Maria, fueled by climate change, devastated Puerto Rico, taking the lives of at least 2,975 people and causing billions of dollars in

⁵⁰³ Fossil Free Yale, [BREAKING: Ban Ki-moon addresses Fossil Free Yale](#), Facebook.com (Apr. 12, 2016).

⁵⁰⁴ David Swensen, [Chief Investment Officer Letter to the Yale Community](#), Yale University (Apr. 12, 2016).

⁵⁰⁵ Damian Carrington, [Fossil fuel divestment funds double to \\$5tn in a year](#), The Guardian (Dec. 12, 2016).

⁵⁰⁶ [Notes from meeting with Jonathan Macey](#), on file with Fossil Free Yale (Feb. 23, 2017).

⁵⁰⁷ David Yaffe-Bellany, [Students skeptical of Corporation transparency measures](#), Yale Daily News (Mar. 29, 2017).

⁵⁰⁸ Ishaan Srivastava, [Yale-NUS students join divestment movement](#), Yale Daily News (Apr. 13, 2017).

⁵⁰⁹ David Yaffe-Bellany, [Despite student pressure, Yale will not divest from Exxon](#), Yale Daily News (Jun 2, 2017).

⁵¹⁰ *Id.*

infrastructural damage.⁵¹¹ The Trump administration intentionally delayed congressionally approved aid, reportedly telling officials that the President “did not want a single dollar going to Puerto Rico.”⁵¹²

- In October 2017, The Intercept revealed that the hedge fund Baupost Group, one of Yale's largest investment managers, was also the largest holder of Puerto Rico's debt and was suing to be repaid before any hurricane recovery could take place.⁵¹³ David Swensen, Yale's Chief Investment Officer, sat on the advisory board of Baupost.⁵¹⁴
- In December 2017, a coalition of activists, including Despierta Boricua (the Yale Puerto Rican students association), started a campaign demanding that Yale disclose and cancel holdings in Puerto Rican debt. This was part of a larger campaign across the U.S. and Puerto Rico to cancel the debt. Because of its status as a colony of the United States, Puerto Rico lacks the freedom of either a sovereign nation or a state in the structuring of its own debt.⁵¹⁵
- On December 8, 2017, FFY co-hosted a rally with as-yet-unrecognized Yale graduate student union Local 33, protesting Yale's holdings in Antero and demanding disclosure of the extent of the endowment's exposure to fossil fuels. A contingent of organizers also delivered a petition with one thousand signatories to the Office of the President. The petition called for disclosure of and divestment from fossil fuel holdings and asked Yale to sign the We're Still In pledge, affirming American commitment to environmental action following withdrawal from the Paris Climate Agreement.⁵¹⁶
- In Spring 2018, Fossil Free Yale, Despierta Boricua, Yale Students for Prison Divestment, the Association of Native Americans at Yale, and other groups held a teach-in on various endowment related issues. The Yale Endowment Justice Coalition was formed, with two demands: Yale must divest from fossil fuels and cancel all holdings in Puerto Rican debt.⁵¹⁷
- On April 13, 2018, Fossil Free Yale submitted new demands — which included the call to cancel Puerto Rican debt — to the Yale Investments Office (YIO).⁵¹⁸
 - ACIR head Jonathan Macey told the Yale Daily News, “Thus far we haven't seen [any] allegations of unethical debt collection efforts or practices.”
 - To the contrary, these debt-collection tactics, used by the same vulture funds during Argentina's sovereign debt crisis (which Yale also profited from⁵¹⁹) were

⁵¹¹ Nicole Acevedo, [Puerto Rico sees more pain and little progress three years after Hurricane Maria](#), NBC News (Sept. 20, 2020).

⁵¹² Nicole Acevedo, [New probe confirms Trump officials blocked Puerto Rico from receiving hurricane aid](#), NBC News (Apr. 23, 2021).

⁵¹³ David Dayen, [Yale University Under the Spotlight for Its Investment in Puerto Rican Debt](#), The Intercept (Feb. 20, 2018).

⁵¹⁴ Seth Alexander and Seth Klarman, [Opinion: Remembering a legend at Yale](#), New Haven Register (May 13, 2021).

⁵¹⁵ Adriana Colón-Adorno and Alejandro Comas-Short, [Yale Benefits From the Puerto Rican Debt—These Students Are Fighting to End That](#), The Nation (Mar. 1, 2019).

⁵¹⁶ Hailey Fuchs and Jingyi Cui, [Fossil Free Yale, Local 33 rally outside Woodbridge](#), Yale Daily News (Dec. 9, 2017).

⁵¹⁷ Yale Endowment Justice Coalition, [Our Campaign](#) (last visited Feb. 8, 2022).

⁵¹⁸ Jingyi Cui, [FFY submits new demands to Swensen](#), Yale Daily News (Apr. 17, 2018).

⁵¹⁹ David Dayen, [Yale University Under the Spotlight for Its Investment in Puerto Rican Debt](#), *supra* at note 513.

referred to as “financial and economic terrorism” by Argentinian president Cristina Fernández on the floor of the United Nations.⁵²⁰

- On August 23, 2018, Yale divested from assault weapons retailers, citing recent mass shootings as a grave social harm.⁵²¹
- In October 2018, Chief Investment Officer David Swensen released position papers reiterating the investments office’s opposition to divestment. Once again, Swensen argued that consumers of fossil fuels bore primary responsibility for global greenhouse emissions, and stated, “Given the world’s current (and growing) energy needs, modern society could not exist without fossil fuel consumption.”⁵²²
- FFY responded to the 2018 position paper on fossil fuels, saying, “In their position papers, the ACIR and Yale have shifted blame away from the corporations responsible for seventy percent of the world’s emissions, ignoring the decades in which fossil fuel companies have discredited scientific research, funded climate denial, and vowed to keep extracting as much profit as possible no matter the consequences.”⁵²³
- On November 5, 2018, FFY members publicly called for the dismantling of the ACIR, stating that student activists had come to “see the ACIR primarily as a buffer between students and the CCIR, the body with actual decision-making power.”⁵²⁴
- In December 2018, forty-eight students were arrested at a sit-in at the Yale Investments Office, demanding that Yale divest from fossil fuels and cancel holdings in Puerto Rico’s debt. Hundreds of other students rallied in support.⁵²⁵
- Following the sit-in, Yale quietly reduced its investments in Antero from seventy-seven million dollars to 350,000 dollars, a reduction of over ninety-nine percent.⁵²⁶
- In spring 2019, students staged two more sit-ins in the Investments Office.⁵²⁷ Students disrupted a talk given by Chief Investment Officer Swensen, asking him to respond to the demands of the people staging sit-ins in his office. Swensen refused to discuss student demands.
- In April 2019, following the string of sit-ins, the university released a statement saying, “Regarding the protests, our students are engaged and passionate, and freedom of expression is central to their education. Peaceful demonstrations about various issues are going to be part of that from time to time.” The university refused to comment on divestment.⁵²⁸
- In the first quarter of 2019, Baupost quietly sold its holdings in Puerto Rican debt.⁵²⁹
- In September 2019, over 1,000 students walked out of classes and rallied to demand that Yale divest from fossil fuels and cancel the debt.⁵³⁰

⁵²⁰ Jesse Barron, [The Curious Case of Aurelius Capital v. Puerto Rico](#), The New York Times Magazine (Nov. 26, 2019).

⁵²¹ [CCIR Statement Regarding Investment in Assault Weapon Retailers](#), Yale Corporation Committee on Investor Responsibility (Aug. 2, 2018).

⁵²² [Position Paper on Climate Change](#), Yale Investments Office (Oct. 9, 2018).

⁵²³ Fossil Free Yale, [UPDATE: Yale Investments Office publishes position papers on investments in Puerto Rico's debt and fossil fuels!](#) Facebook.com (Oct. 14, 2018).

⁵²⁴ [Calnek-Sugin and Metteba](#), *supra* at note 448.

⁵²⁵ Lorenzo Arvanitis and Serena Cho, [YPD arrests 48 people at divestment sit-in](#), Yale Daily News (Dec. 8, 2018).

⁵²⁶ Jesse Nadel, [Yale sells 99 percent of Antero holdings](#), Yale Daily News (Mar. 1, 2019).

⁵²⁷ Jesse Nadel, [YPD cites 17 students at divestment sit-in](#), Yale Daily News (Mar. 5, 2019).

⁵²⁸ Fossil Free Yale, [From Time To Time](#), Facebook.com (Apr. 1, 2019).

⁵²⁹ Michael McDonald, [Baupost Sheds Puerto Rico Debt That Drove Ivy League Protest](#), Bloomberg (Feb. 7, 2020).

⁵³⁰ Matt Kristoffersen, [Hundreds walk out of class to protest climate change](#), Yale Daily News (Sept. 26, 2019).

- On November 23, 2019, over 150 students from the Endowment Justice Coalition and Fossil Fuel Divest Harvard disrupted the Harvard-Yale football game, demanding both universities divest and cancel the debt.⁵³¹ Hundreds of spectators rushed onto the field to join them.
 - The action made national and international news,⁵³² and garnered statements of support from local and national political leaders, including multiple presidential candidates.⁵³³
 - Local leaders in New Haven, including the Board of Alders and Mayor Justin Elicker, issued statements of support, calling for charges against the student-protestors to be dropped.⁵³⁴
- In January 2020, Archbishop Emeritus Desmond Tutu and former US Vice President Al Gore reaffirmed their support for divestment from fossil fuels and compared it to their push for divestment from South Africa during apartheid.⁵³⁵
- In February 2020, the Yale College Council, Yale's student government, voted unanimously to join the Endowment Justice Coalition and endorse the EJC's demands.⁵³⁶
- On February 20 2020, the Faculty of Arts and Sciences (FAS) Senate met to discuss divestment for the first time.⁵³⁷
 - Paul Sabin, Professor of American Environmental History at Yale, called on Yale faculty to support divestment, saying, "Making clear that the University stands in opposition to those who are perpetuating and exacerbating our climate crisis is a moral imperative."⁵³⁸
 - Robert Dubrow, Professor of Epidemiology at the School of Public Health said, "Some issues are so urgent that even usually reluctant academics and their institutions need to take a stand. It's time for Yale to exert its moral leadership and considerable influence by divesting from the fossil fuel industry."⁵³⁹
- After the FAS Senate meeting of February 2020, Chief Investment Officer Swensen posted an update on the Yale Investment Office website, defending Yale's refusal to divest from fossil fuels and saying that the university's policy when it came to climate change was to "provide substantial, stable financial support for current and future scholars through the prudent management of Yale's Endowment." This, he said, allows

⁵³¹ Britton O'Daly, [Climate Change Protesters Disrupt Yale-Harvard Football Game](#), The New York Times (Nov. 23, 2019).

⁵³² Emily Holden, [Harvard and Yale students disrupt football game for fossil fuel protest](#), The Guardian (Nov. 23, 2019).

⁵³³ See Justin Elicker, [I submitted a letter in support of the students who lead the protest on 11/23](#), Twitter.com (Dec. 6, 2019); Bernie Sanders, [When people come together to stand up for justice, we win](#), Twitter.com (Nov. 23, 2019); Elizabeth Warren, [I support the students, organizers, and activists demanding accountability on climate action and more at #HarvardYale](#), Twitter.com (Nov. 23, 2019).

⁵³⁴ See Ben Lambert, [Yale and Harvard students arrested in protest given community service](#), New Haven Register (Dec. 6, 2019); Mackenzie Hawkins, [Alders support divestment activists](#), Yale Daily News (Dec. 3, 2019).

⁵³⁵ [Archbishop Emeritus Tutu and former US Vice President Gore reaffirm support for fossil fuel divestment and investment in renewable energy](#), algore.com (Jan. 7, 2020).

⁵³⁶ Kaye Paddyfote, [Yale College Council calls on Yale to divest from fossil fuels after historic vote to join Yale Endowment Justice Coalition](#), WTNH News (Feb. 3, 2020).

⁵³⁷ Matt Kristoffersen, [FAS Senate discusses divestment](#), Yale Daily News (Feb. 21, 2020).

⁵³⁸ Paul Sabin, SABIN: [Comments on fossil fuel divestment](#), Yale Daily News (Feb. 20, 2020).

⁵³⁹ Robert Dubrow, [DUBROW: A statement on divestment](#), Yale Daily News (Feb. 20, 2020).

Yale to, “contribute to climate change solutions through its greatest areas of strength: research, scholarship and education.”⁵⁴⁰

- On April 22, 2020, Yale alumna Maggie Thomas announced her intention to petition for a place on the ballot of Yale’s 2021 Alumni Fellow Election for the Board of Trustees, campaigning primarily on a platform of fossil fuel divestment and climate action.⁵⁴¹
- On September 8, 2020, Maggie Thomas’ petition reached the required 4,394 signatures from Yale alumni, qualifying her for a position on the ballot for the 2021 Yale Alumni Fellow Election.⁵⁴²
- In October 2020, Yale students occupied Cross Campus, Yale’s central quad, for three days, ending on International Divestment Day, and continued the call for Yale to divest.
 - On the first day of the occupation, Yale proposed a new Committee on Fossil Fuel Investment Principles (CFFIP). The committee was headed by Jonathan Macey, who also heads the ACIR. President Salovey stated, “Climate change poses an existential threat to life on our planet, and we have a responsibility to examine whether our investment policies are appropriate or need to be modified with respect to this challenge.” No mention was made of student protest.⁵⁴³
 - Members of FFY and the EJC argued that the new committee, headed by the same person as the ACIR, had essentially the same function: to placate students by assuring students their voices were being heard, and to issue recommendations to the CCIR, the body with actual decision making power.⁵⁴⁴
- In fall 2020, hundreds of students submitted comments on the CFFIP website in support of divestment.⁵⁴⁵
- In fall 2020, a YCC annual survey showed that seventy-one percent of Yale students either strongly or very strongly agree that Yale should immediately divest from all fossil fuels.⁵⁴⁶ In spring 2021, members of the EJC and the Yale College Council participated in several meetings with the CFFIP and continued to call for full divestment.
- In April 2021, the CFFIP released its findings and recommendations. For the first time, members of the Yale administration acknowledged that climate change constitutes a grave social injury as defined in *The Ethical Investor* and that fossil fuel companies are uniquely culpable in the climate crisis.⁵⁴⁷
 - The CFFIP recommended that Yale divest from companies that produce fossil fuels with higher GHG emissions than feasible alternatives, from fossil fuel producers that do not comply with industry-set best standards and practices, that oppose government regulation, that promote disinformation about climate change, and that fail to be transparent with Yale as an investor.⁵⁴⁸
 - The Yale Board of Trustees accepted the recommendations of the CFFIP, and committed to divest from coal producers and from a list of oil and gas producers

⁵⁴⁰ Valerie Pavilonis, [Swensen breaks silence on divestment](#), Yale Daily News (Feb. 21, 2020).

⁵⁴¹ Valerie Pavilonis, [Former Warren climate policy advisor aims for Corp run](#), Yale Daily News (Apr. 22, 2020).

⁵⁴² Valerie Pavilonis, [Corp candidate Thomas reaches support threshold](#), Yale Daily News (Sept. 10, 2020).

⁵⁴³ [Yale committee to propose new fossil fuel investment principles](#), Yale News (Oct. 22, 2020).

⁵⁴⁴ Rose Horowitz & Emily Tian, [A good-faith effort or a red herring? Salovey debuts committee for ethical investment](#), Yale Daily News (Oct. 23, 2020).

⁵⁴⁵ [Report of the Committee on Fossil Fuel Investment Principles](#) at 9 (Apr. 2021).

⁵⁴⁶ [Yale College Council Fall Survey](#), on file with the Yale College Council (last visited Feb. 15, 2022).

⁵⁴⁷ [Report of the Committee on Fossil Fuel Investment Principles](#), *supra* at note 545.

⁵⁴⁸ *Id.*

deemed to be particularly bad actors.⁵⁴⁹ The original list did not include many of the most notorious bad actors in the industry, including Exxon, Chevron, BP, or Shell.⁵⁵⁰

- The EJC released a response reiterating the call for a complete divestment, arguing that the university's continued preference for shareholder engagement in the face of the climate crisis was insufficient and immoral, and that the new recommendations "[held] the door wide open for the University to continue to invest in fracked gas, furthering the myth that it is the "good" fossil fuel."⁵⁵¹
- In January 2022, the ACIR quietly added Exxon and Chevron to the list of companies ineligible for investment.⁵⁵²
- In October 2021, it was reported that Yale's endowment earned a 40.2 percent return in fiscal year 2021, growing to 42.3 billion dollars during the pandemic.⁵⁵³ In November 2021, Yale students gathered on Beinecke Plaza to protest growing inequality in New Haven, and to continue the call for divestment from fossil fuels.⁵⁵⁴
- The most recent of Yale's publicly available tax returns, filed on November 22, 2021, show that Yale continues to invest in Exchange Traded Funds (ETFs) like the Vanguard Emerging Markets Fund⁵⁵⁵ that are heavily exposed to coal,⁵⁵⁶ despite university policy, and that are exposed to at least three of the oil and gas companies Yale has committed to divest from (Petro Rio S.A., Pakistan Petroleum Ltd., and PT Medco Energi).⁵⁵⁷
- The November 22 2021 amendment shows that Yale has also holds a direct investment valued at over 263 million dollars in EQT Corporation, the largest producer of fracked gas in the United States,⁵⁵⁸ a company with a history of reckless environmental malpractice⁵⁵⁹ and lobbying for the expansion of LNG pipeline infrastructure.
- As of January 2022, over 1,600 Yale students, alumni, and community members have pledged not to donate to Yale until Yale divests from fossil fuels.^{560,561}

Conclusion

The Department of Consumer Protection is responsible for ensuring that charitable assets are allocated appropriately and for investigating charitable managers' violations of fiduciary duties. We ask that you investigate the violations described above and that you take action to ensure that

⁵⁴⁹ [New Principles regarding fossil fuels to guide Yale's endowment](#), Yale News (Apr. 16, 2021).

⁵⁵⁰ [Implementation of the Fossil Fuel Investment Principles](#), Yale Advisory Committee on Investor Responsibility (last visited Feb. 11, 2022).

⁵⁵¹ The Yale Endowment Justice Coalition, [A Half-Step in the Right Direction](#), The Yale Herald (Apr. 22, 2021).

⁵⁵² [Implementation of the Fossil Fuel Investment Principles](#), *supra* at note 550.

⁵⁵³ [Yale endowment earns 40.2% investment return in fiscal 2021](#), Yale News (Oct. 14, 2021).

⁵⁵⁴ Lucy Hodgman and Alessia Degraeve, ["Hey, Yale, where are you?": At EJC protest, students call on Yale to divest from fossil fuels](#), Yale Daily News (Nov. 8, 2021).

⁵⁵⁵ [Yale University SEC Form 13F](#), United States Securities and Exchange Commission EDGAR (Nov. 22, 2021).

⁵⁵⁶ [Vanguard Emerging Markets Stock Index Fund](#), Fossil Free Funds (2022).

⁵⁵⁷ [Implementation of the Fossil Fuel Investment Principles](#), *supra* at note 550.

⁵⁵⁸ [Yale University SEC Form 13F](#), *supra* at note 555.

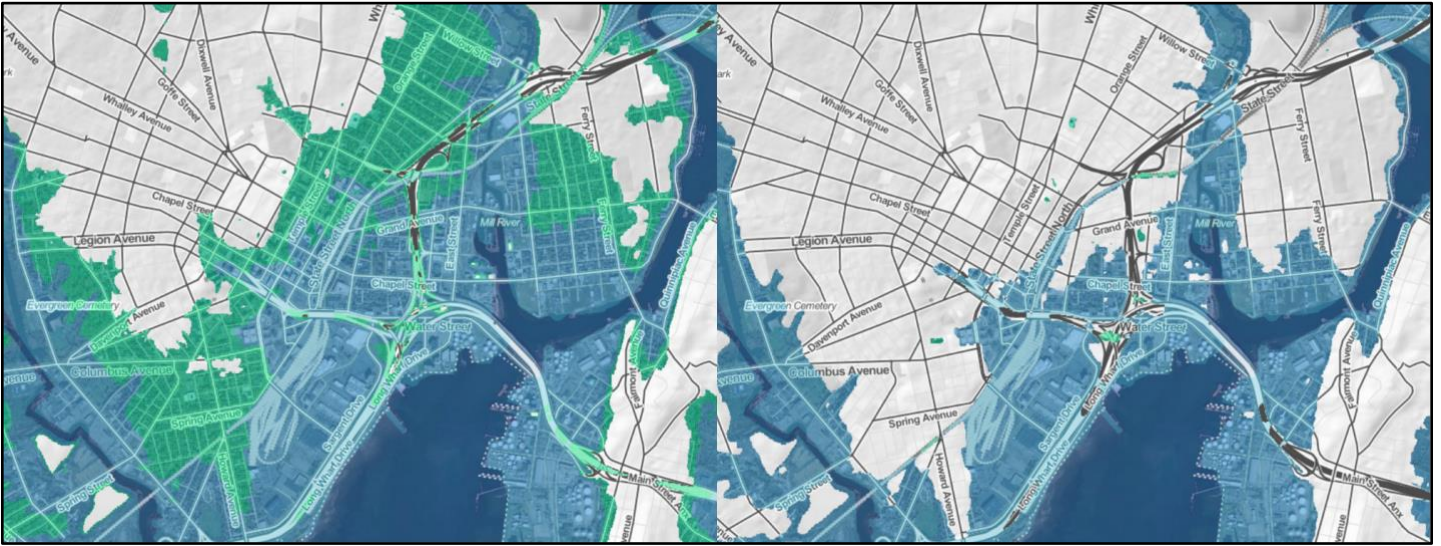
⁵⁵⁹ [Court upholds \\$1.1M against EQT in water contamination case](#), AP News (Sept. 11, 2018).

⁵⁶⁰ Yale Endowment Justice Coalition, [Pledge not to Donate to Yale until it Divests from Fossil Fuels and Commits to Endowment Transparency and Investing in New Haven](#), Google Forms (last visited Feb. 5, 2021).

⁵⁶¹ [Pledge Not to Donate to Yale Until It Divests From Fossil Fuels and Commits to Endowment Transparency](#), on file with the Yale Endowment Justice Coalition (last visited Feb. 15, 2022).

the investment activity of the Yale Corporation no longer harms the Yale community, the State of Connecticut, and the public.

Appendix A



Simulated map of Yale University and environs with ten meters (left) and five meters (right) of sea level rise. Source: [Climate Central Risk Zone map](#). The five- and ten-meter amounts were chosen based on scientific estimates of 5-9 meters of sea level rise as a lower bound given current warming trends. See James Hansen, *et al.*, *Ice Melt, Sea Level Rise and Superstorms: Evidence from Paleoclimate Data, Climate Modeling, and Modern Observations That 2 °C Global Warming Could Be Dangerous*, 16(6) *Atmospheric Chemistry & Physics* 3761 (2016).

Appendix B

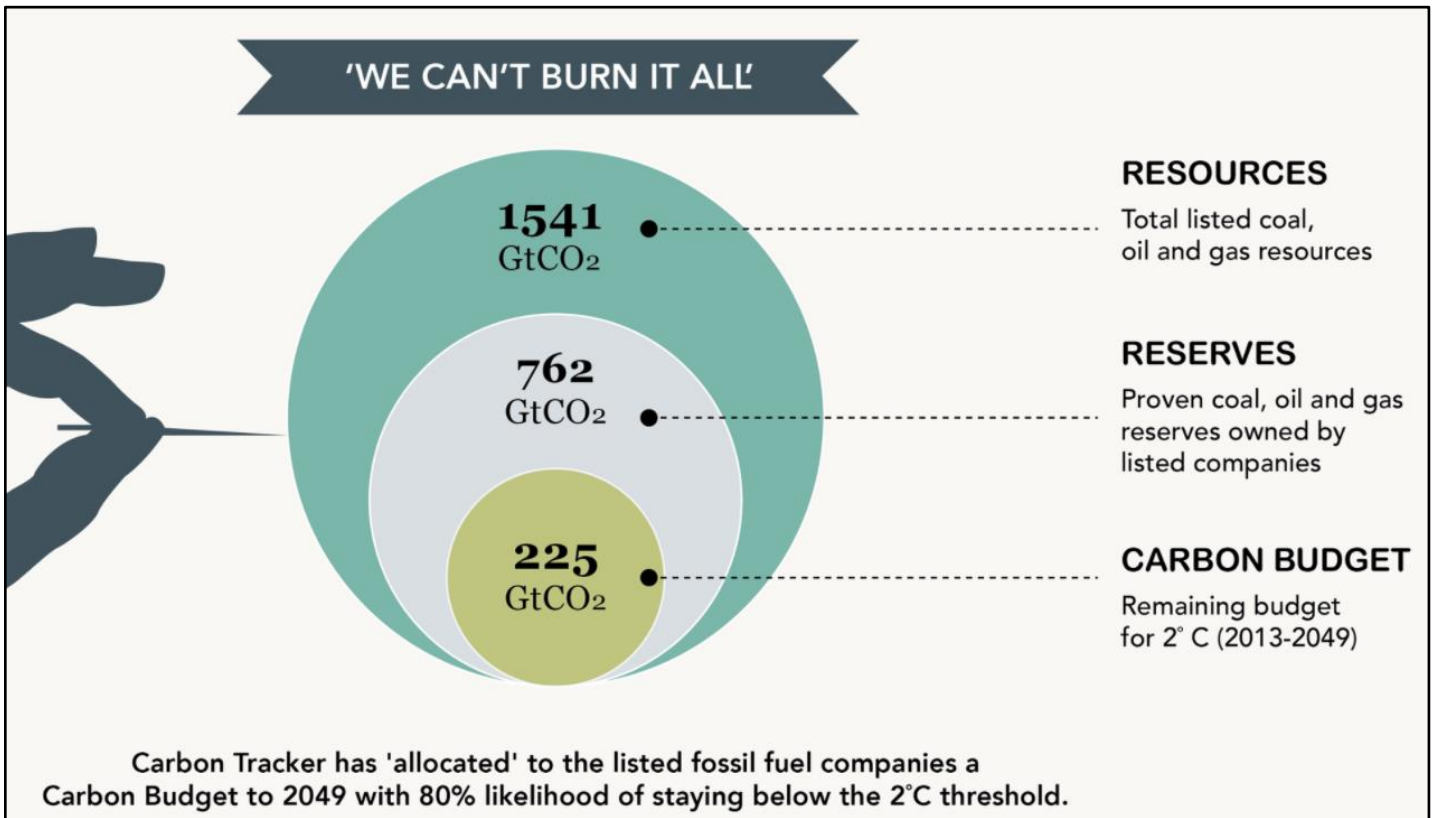
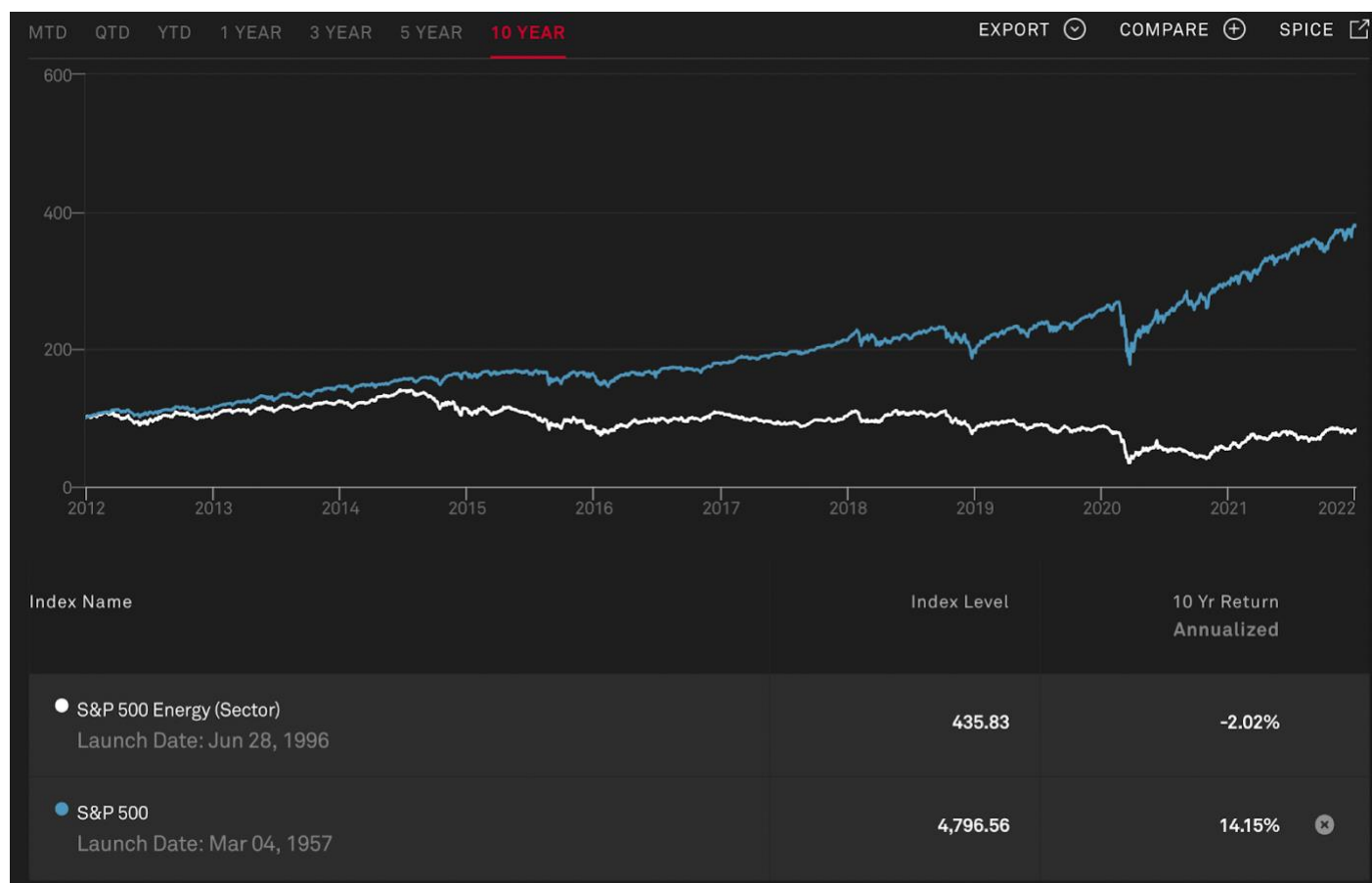


Illustration of carbon bubble, as reprinted in Katharine Earley, [Carbon Tracker measures oil and coal risk for investors](#), The Guardian (Apr. 30, 2015). Source: Carbon Tracker Initiative.

Appendix C



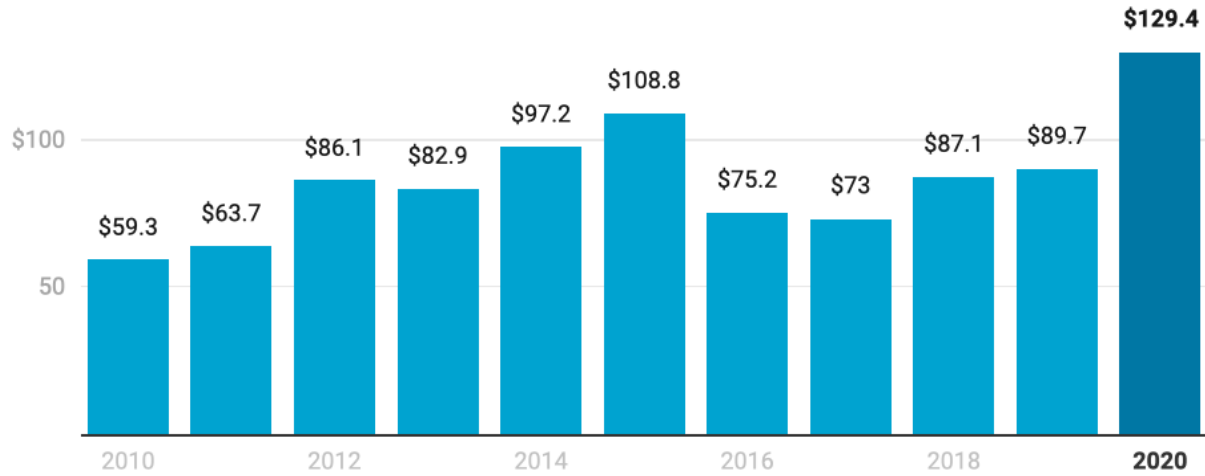
Comparison of ten-year performance of S&P 500 Energy Index⁵⁶² (white) with S&P 500 Index (blue).⁵⁶³ Created using comparison tool at [S&P 500 Dow Jones Indices](#) (as of Jan. 3, 2022).

⁵⁶² The S&P 500 Energy Index includes only fossil fuel companies and does not encompass renewable energy.

⁵⁶³ The energy sector's recovery in late 2020 came in part thanks to a large bailout of corporate debt markets by the federal government. *See* Lukas Ross, Alan Zibel, Dan Wagner & Chris Kuveke, [Big Oil's \\$100 Billion Bender](#), Public Citizen (Sept. 30, 2020).

Appendix D

U.S. Energy Sector Debt Issuance Through Q3 (\$Billions)

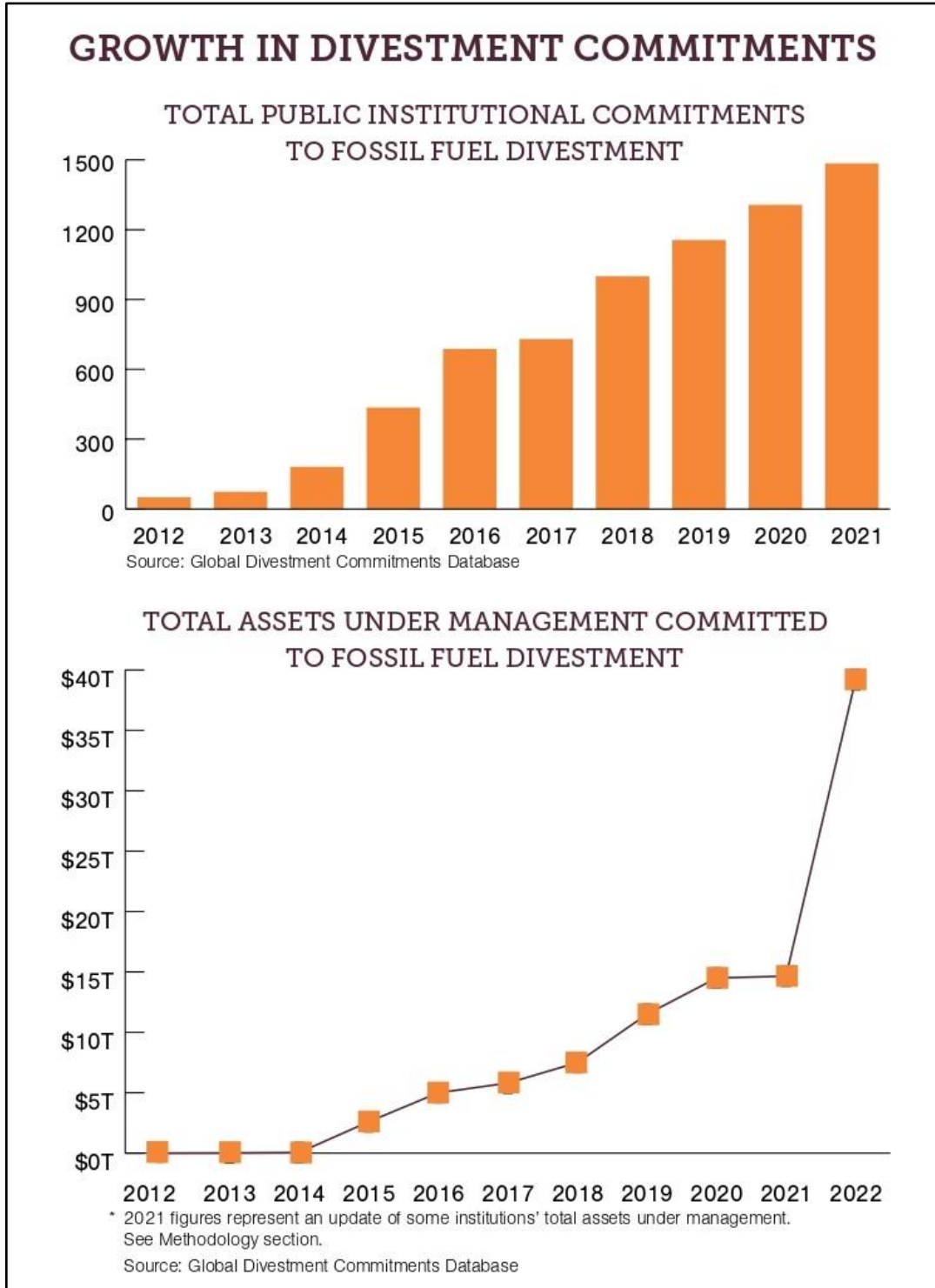


2020 data is through Sept 18

Source: Bloomberg • [Get the data](#) • Created with [Datawrapper](#)

U.S. Energy Sector Debt Issuance Through Q3 (\$Billions), as reprinted in Lukas Ross, Alan Zibel, Dan Wagner & Chris Kuveke, [Big Oil's \\$100 Billion Bender](#), Public Citizen (Sept. 30, 2020). Source: Bloomberg.

Appendix E



Growth in Divestment Commitments. Source: [A Decade of Progress Towards a Just Climate Future](#), Institute for Energy Economics and Financial Analysis, Stand.earth, C40, & Wallace Global Fund (2021).