



Written by [James Murphy](#) on December 1, 2020

Climate Activists Plan to Use the Courts to Impose Green New Deal Measures

A coalition of 21 Democrat-led states and the District of Columbia have been exploring the possibility of using the federal court system to obtain official sanction of punitive environmental restrictions on greenhouse gas emissions. Advocates of draconian climate actions have been looking to coordinate environmental litigation against the federal government that would, in effect, cut out the legislative and executive branches from any decision making on certain Green New Deal measures.

A series of e-mails and documents obtained via FOIA requests by [Energy Policy Associates](#) revealed the plan to circumvent the democratic process and have new laws set by environmental activist judges instead of the legislature. The plan would also insulate politicians and the Environmental Protection Agency (EPA) from having to answer to constituents for the actions.

Those documents show that at least 21 states — including New York, California, Illinois, and Massachusetts — are in on the plan to do an end-run around the legislature and create binding climate action through the courts.

“The plan appears to be for activists, attorneys general and bureaucrats to team up ... to avoid democracy and political accountability for a major, costly economic restructuring,” said Rob Schilling of Energy Policy Associates.

The plan is nothing less than a full revival of the “sue and settle” policies of the past where states or climate alarmist groups would sue entities such as the EPA to get environmental restrictions imposed by judicial fiat. A compliant EPA would generally back down and settle the suit, allowing new restrictions to be imposed without a public debate.

With Joe Biden’s media-reported electoral victory, the plan is currently simmering on the back burner, along with the other underhanded strategies used by climate alarmists. But should Biden end up losing as a result of Donald Trump’s legal challenges; or should a Republican majority in the Senate become an obstructionist force to overzealous climate legislation, state attorney generals and climate alarmist groups have already laid the groundwork to attack in court.

Left-wing radical New York State Attorney General Letitia James echoed this sentiment in a recent statement. “Climate change remains one of the greatest threats facing the people of our nation and around the world,” said James, who last year [lost a climate-change suit](#) brought against ExxonMobil. “If



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we are to address this challenge, then all options must be on the table. With that said, we have no plans at this time to bring litigation seeking to promote one particular approach.”

The Trump White House has been aware of the strategy since at least 2017 when Trump’s choice as EPA Director Scott Pruitt [clamped down](#) on the “sue and settle” policies of the EPA under the Obama administration. Still, the strategy exists and seems poised to make a comeback whether Joe Biden is elected or not.

“Partisan Democrat attorneys general appear to want to use litigation to push their preferred policy agendas instead of protecting their citizens based on the rule of law and actual facts,” said White House spokesman Judd Deere.

One law that potential lawsuits could come from is the Clean Air Act of 1990. Under a Biden administration, some states may look to impose National Ambient Air Quality Standards (NAAQS) under the terms of the Clean Air Act. Someone who has championed this approach is Joseph Goffman, the executive director of the Environmental and Energy Law program at Harvard University.

Goffman is currently serving on Biden’s EPA transition team, a perfect place from which to coordinate such efforts.

A potential President Biden will be under [tremendous pressure](#) from climate activists to act immediately on the issue of climate change. It seems almost certain that Biden would simply nod and wink at this approach.

This coordinated push appears to have sprung up as a last-ditch effort to achieve environmental activism against a Trump administration that was certain to fight against unreasonable, unnecessary, and costly measures aimed at “net-zero emissions.” Now — unless Trump can pull off a miracle — it appears that this plan will serve as yet another arrow in the quiver of climate alarmists with which to pull off their people-hating, job killing, and economy-crashing agenda.

It seems that climate alarmists would prefer an America governed by activist judges instead of a duly elected legislature.



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