



**State Senator Liz Krueger
Assembly Assistant Speaker Félix W. Ortiz**

March 24, 2016

Karen Moreau
Executive Director
API New York
150 State Street
4th Floor
Albany, NY 12207

Dear Ms. Moreau,

Thank you for taking the time to participate in our forum on divesting the state pension fund from fossil fuels, held on Monday, February 29th, in Albany. We heard and read your statement with great interest, and offer the following thoughts in response to several of your comments and concerns.

In your statement, you assert that fossil fuel divestment “would lead to monetary losses for the New York State Retirement Fund.” Evidence suggests that this is not the case. Consider, for example, the MSCI ACWI Ex Fossil Fuels Index. This index is based on the MSCI All Country World Index, one of the main global equity indices, but it excludes companies that own oil, gas, and coal reserves. From its inception on November 30, 2010, to February 29, 2016, the MSCI ACWI Ex Fossil Fuels Index generated a 7.54% annualized gross return, versus a 6.38% return generated by the MSCI ACWI benchmark. This outperformance by the fossil-free index remains consistent over the one- and three-year time periods as well. Similarly, the Fossil Free US Index has generated a 73.84% return over the ten years to December 31, 2015, compared to 63.74% by its S&P 500 benchmark. This outperformance holds true for the past five-, three-, and one-year periods as well.

While it is true that there have been periods during which fossil fuel indices have outperformed those without fossil fuel stocks, particularly during parts of the last century, fossil fuel stocks

have not been a source of outperformance for the past ten years. More importantly, long-term trends toward a low-carbon economy do not suggest a repeat of any sustained fossil fuel boom similar to previous periods.

You claim that “no state has ruled in favor of divesting public funds from fossil fuel companies,” and that “endowment funds continue to reject divestment efforts.” However, worldwide there are currently 505 institutions that have committed to divest, including universities, faith-based organizations, non-profits, municipalities, philanthropic organizations, and national and state pension funds, controlling \$3.4 trillion in assets. Last September the California legislature voted to divest from all coal holdings in the California Public Employees’ Retirement System and the State Teachers’ Retirement System, together the largest public pension system in the country. The Norwegian Sovereign Wealth Fund, the largest in the world, has also divested from coal. At the same time, several universities have committed to full or partial divestment from fossil fuel producers, notably the University of California, Oxford, Georgetown, the London School of Economics, and Stanford, as well as Syracuse University and The New School here in New York. Municipalities that have announced plans to divest include the cities of Boulder, Portland, Seattle, Kansas City, New London, and Ithaca, NY. A full list of commitments can be viewed at www.gofossilfree.org/commitments.

You quote Comptroller DiNapoli as expressing concern that divestment will result in the loss of “clout” to change the behavior of fossil fuel producers. Yet the effectiveness of this clout is highly questionable. After years of shareholder activism and engagement with fossil fuel producers, there is no evidence to suggest these companies are changing the fundamental business models that have led to the climate crisis. From 2000 to 2015, the oil and gas industry spent over \$3 trillion dollars in the U.S. alone to explore and tap new fuel reserves that can never be burned. In that same time period, according to your statement, the industry invested just \$14.8 billion in renewable energy, representing just one half of one percent (0.5%) of total capital spending.

In fact, since Comptroller DiNapoli took office in 2007, several of the largest Carbon Underground 200 (CU200) companies have reduced or ceased their minimal efforts to transition to alternative energy business models. BP sold its solar energy business in 2011 and its wind energy business in 2013; ConocoPhillips divested from all alternative energy in 2012; Shell divested from solar in 2006; Marathon divested from renewables in 2011; Exxon Mobil, which had over \$30 billion in profits last year alone, spent a total of just \$188 million on alternative energy between 2002 and 2013. At the height of their commitment, Chevron and Shell spent no more than 2.5% of their overall expenditures on alternative energy, and none of the world’s other major oil companies have ever committed more than 1%.

Shareholder resolutions addressing climate change also have a history of falling on deaf ears in the fossil fuel industry. According to a report by Elizabeth Douglass of Inside Climate News, between 1990 and 2015 shareholders of ExxonMobil, Chevron, and ConocoPhillips introduced more than 100 climate-related resolutions encouraging those companies to acknowledge and take action on climate risks. Of those, 83 resolutions received a vote, and not one of them passed. Shareholders for Exxon alone, which is the single largest CU200 holding in the state pension fund, put forward 62 of those failed resolutions.

You express concern that passage of the Fossil Fuel Divestment Act would result in “a loss of power by our State Comptroller.” While we have great confidence in and respect for the work that Comptroller DiNapoli has done to ensure a good return on our pension investments, the Comptroller’s authority over the pension fund derives from legislative statute. That statute explicitly anticipates and provides for limitation of the comptroller’s investment discretion, stating that “the comptroller shall invest the available monies in any investments and securities authorized by law.” Currently, limitations are in place relating to the use of certain investment mechanisms, and the Comptroller’s office itself has placed limitations on investments in private prisons and companies that do business with Iran and Sudan.

We have stated on several occasions that the Comptroller could choose at any time to divest from fossil fuels based on his own discretion, rendering the need for legislative action moot. Given the unprecedented and global nature of the threat from fossil fuel-driven climate change and the universal impact of its effects, as well as the considerable institutional barriers to passing divestment legislation, we are not concerned that divestment from fossil fuels will open the door for any future divestment efforts.

Thank you again for your contribution to the discussion of fossil fuel divestment. We look forward to working with you in the future on this and other vital action to confront the crisis of climate change.

Sincerely,



Liz Krueger
State Senator
28th District



Félix W. Ortiz
Assembly Member
51st District

cc:

New York State Comptroller Thomas DiNapoli
State Senator Brad Hoylman
State Senator Roxanne Persaud