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February 23, 2016

Gov. Shumlin Makes Case for Divestment to Vermont Pension Investment Committee

MONTPELIER – Gov. Peter Shumlin today urged the Vermont Pension Investment Committee (VPIC) to reevaluate their opposition to divesting Vermont of coal and ExxonMobil stocks. The Governor called for Vermont to divest from those assets in his State of the State Address.

The Governor believes strongly that divestment is a tool that should be used to address climate change, especially after California Gov. Jerry Brown signed a bill last year to divest the state's nearly \$500 billion in pension assets from coal and study divestment from oil. Acknowledging VPIC's past opposition to arguments about the moral imperative of using divestment to combat climate change, the Governor focused his remarks on the bad economic investment that coal and ExxonMobil represent.

Gov. Shumlin said, "Let's put aside the fact that as a matter of moral responsibility, Vermont should not be invested in coal when our state is the tailpipe to the dirty energy choices made by states to our West. Let's put aside the fact that coal is responsible for acid rain which has harmed our forests, and mercury pollution that puts poison into our fish such that pregnant women and children have to limit their consumption. Let's put aside the fact that coal burning is a leading contributor to global warming that threatens the future of our planet. Let's put aside the fact that Vermont is a leader in combatting climate change and together with California we can lead the country in making the right choices for our planet. Clearly those arguments have not persuaded this committee to-date to take action."

The Governor instead argued that Vermont should not be invested in coal or ExxonMobil for the following economic reasons.

- ***Financial Institutions Agree, Coal is a Bad Investment*** – Large financial institutions such as Wells Fargo, Morgan Stanley, Citigroup, Bank of America, and Goldman Sachs have pledged to "stop or scale back support for coal projects," according to [Bloomberg Business](#). A new report from [Citigroup](#) shows that moves to combat climate change could lead to \$100 trillion in stranded assets, with coal companies accounting for more than half of that potential loss in value. That's "not the type of industry I would want my money invested in, or Vermont's money invested in," Gov. Shumlin said.
- ***Coal Use and Mining is on the Decline*** – In the mid-2000's coal represented 50 percent of America's power supply. Today it accounts for only 35 percent according to the [Energy](#)

[Information Administration](#), a trend that is likely to continue because few coal plants are being built – [in 2015](#), only one new coal plant came online. “The market has spoken and it’s divesting itself of coal,” Gov. Shumlin said.

- ***Coal Companies are Failing*** – The second-largest coal company, [Arch Coal](#), filed for bankruptcy earlier this year, following bankruptcy filings by other major coal companies such as Walter Energy, Alpha Natural Resources, and Patriot Coal.
- ***Founding Family of ExxonMobil Has Lost Faith in Exxon’s Value*** – Neva Rockefeller Goodwin, the great grand-daughter of ExxonMobil’s founder, has divested from the company. After 15 years of failed shareholder engagement and meetings between the Rockefeller family and ExxonMobil to encourage diversification, she declared that “I lost faith in ExxonMobil’s future value.” She has also said that as “the enormity of the effects of [ExxonMobil’s] lies becomes more evident, ExxonMobil is positioned to supplant Big Tobacco as global Public Enemy No. 1...[t]his is not good for a company’s bottom line.”
- ***ExxonMobil Stock is Underperforming*** – In testimony before the House and Senate Government Operations Committees last week, Vermont Law School Professor and former Public Service Board Chair Michael Dworkin discussed how ExxonMobil has significantly underperformed the S&P 500 over the last five years. Earlier this month several investment advisors indicated they were downgrading ExxonMobil to a sell or an underperform rating. Raymond James senior energy analyst [Pavel Molchanov](#) said even as the oil sector hopes for a recovery of value, “Exxon is probably the last oil stock you want.”

The Governor concluded his remarks by recounting [Vermont’s proud history](#) of using divestment to tackle big challenges and encouraging VPIC to follow that tradition and do the right thing.

“It does not matter if the legislature passes a bill, or if VPIC decides to make the right decision,” Gov. Shumlin said. “The process is not ultimately what this is about. It is about Vermont using our power as an investor to put pressure on coal companies economically, and to protect our pensioners from holding securities that have a bleak future. As the coal industry continues to suffer economically and harm our environment and our health, and as ExxonMobil continues to oppose changing its business model even at the urging of our own Treasurer, this committee can continue to delay and to study. Or this committee can take action. I believe the time has come to act on our values, and divest.”

The Governor’s full testimony, as prepared for delivery, is attached.

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Governor Peter Shumlin

Presentation to VPIC, February 23, 2016

Good morning and thank you for inviting me to talk with VPIC about the urgent need for Vermont to divest from coal and ExxonMobil stocks.

Divest from ExxonMobil

I have called for Vermont to divest from ExxonMobil stocks. As Pulitzer-prize winning journalists have uncovered, ExxonMobil spent millions trying to persuade the American people not to support policies to fight climate change at the same time that their own internal research clearly indicated climate change was real.¹ In the late 1990's, as they designed their own offshore oil rigs to account for sea level rise, Mobil oil paid for advertisements telling the American people that climate science was uncertain and that the U.S. should not join other nations in a global climate agreement.² Neva Rockefeller Goodwin, the great grand-daughter of ExxonMobil's founder, donated her shares this year so that the proceeds could be used to support nonprofit work to fight global warming.³ After 15 years of failed shareholder engagement and meetings between the Rockefeller family and ExxonMobil to encourage diversification, she declared that "I lost faith in ExxonMobil's future value."⁴

Let's be clear – If the Rockefellers cannot convince ExxonMobil to change, Vermont will not succeed in effecting change through shareholder engagement.

¹ Amy Lieberman and Susan Rust, LA Times "Big Oil braced for global warming while it fought regulations," Dec. 31, 2015, available at: <http://graphics.latimes.com/oil-operations/>

² Id.

³ Neva Rockefeller Goodwin, LA Times (published in Valley News), "Giving Up On ExxonMobil," February 16, 2016, available at: <http://www.vnews.com/opinion/21086384-95/column-giving-up-on-exxon-mobil?print=true>

⁴ Id.

Rockefeller Goodwin wonders “[h]ow different things might be if Exxon and others had begun to pivot away from fossil fuels 34 years ago.” Instead, as “the enormity of the effects of its lies becomes more evident, ExxonMobil is positioned to supplant Big Tobacco as global Public Enemy No. 1.”⁵ She goes on to say what should be evident to all of us by now, “[t]his is not good for a company’s bottom line.”⁶

In testimony before the House and Senate Government Operations Committees last week, Vermont Law School Professor and former Public Service Board Chair Michael Dworkin discussed how ExxonMobil has significantly underperformed the S&P 500 over the last five years.⁷ Earlier this month several investment advisors indicated they were downgrading ExxonMobil to a sell or an underperform rating.⁸ Raymond James senior energy analyst Pavel Molchanov said even as the oil sector hopes for a recovery of value, “Exxon is probably the last oil stock you want.”⁹ For these reasons, we must divest from ExxonMobil and ensure we never buy another penny again.

Divest from Coal

As you know, I have also called for Vermont to follow California’s lead and divest from corporations that derive 50 percent or more of their revenue from coal mining used to generate electricity, and put in a screen to ensure we never buy

⁵ Id.

⁶ Id.

⁷ Michael Dworkin, Testimony before Vermont House and Senate Government Operations Committee, February 19, 2016.

⁸ Tom DeChristopher and Christine Wang, CNBC, “ExxonMobil Posts Earnings of 67 cents a share vs 63 cents estimate,” February 2, 2016, available at: <http://www.cnbc.com/2016/02/02/exxon-mobil-reports-fourth-quarter-2015-earnings.html>.

⁹ Id.

such assets again.¹⁰ Based on conversations my staff have had with the Treasurer's Office, it is my understanding that out of the roughly \$4 billion Vermont manages in pension funds, we have approximately \$600 worth of stocks that fit this definition.

In the VPIC invitation letter to me you suggest that when it comes to divesting, "[m]uch of the public discourse has been more about persuasion than a real assessment of the costs and benefits." So for today, let's put aside the fact that as a matter of moral responsibility, Vermont should not be invested in coal when our state is the tailpipe to the dirty energy choices made by states to our West. Let's put aside the fact that coal is responsible for acid rain which has harmed our forests, and mercury pollution that puts poison into our fish such that pregnant women and children have to limit their consumption. Let's put aside the fact that coal burning is a leading contributor to global warming that threatens the future of our planet. Let's put aside the fact that Vermont is a leader in combatting climate change and together with California we can lead the country in making the right choices for our planet. Clearly those arguments have not persuaded this committee to-date to take action.

So today let's discuss the facts about why I believe in addition to being bad moral, environmental, and health policy, it is straight forward bad economic policy for the State of Vermont to be invested in coal stocks:

- ***Financial Institutions Agree, Coal is a Bad Investment*** - Recognizing that for the planet to have any chance to slow and reverse the trends of global warming, many large financial institutions are exiting the coal industry. In

¹⁰ Chris Megerian, LA Times, "California Pension Funds to Drop Coal-Mining Companies," October 8, 2015, available at: <http://touch.latimes.com/#section/-1/article/p2p-84561954/>.

November of 2015, Wells Fargo and Morgan Stanley joined Citigroup, Bank of America, and Goldman Sachs in pledging to “stop or scale back support for coal projects,” according to Bloomberg Business.¹¹ In a statement Morgan Stanley said “[w]e will continue to shift our lending and capital-raising efforts toward cleaner and renewable sources of energy and reduce the proportion of our energy financing to coal mining and coal-fired power generation.”¹² Wells Fargo stated that it “will continue to limit and reduce our credit exposure to the coal mining industry.”¹³ A new report from Citigroup delivers the news that if we are serious about meeting the agreed to climate target of 2 degrees Celsius then fossil fuel companies have stranded assets that have to stay in the ground totaling approximately \$100 trillion, with coal companies accounting for more than half of that potential loss in value.¹⁴ Not the type of industry I would want my money invested in, or Vermont’s money invested in.

- ***Coal Use and Mining is on the Decline*** – In the mid-2000’s coal represented 50 percent of our nation’s power supply, today it accounts for only 35 percent according to the Energy Information Administration.¹⁵ That trend is likely to continue, because no new coal plants are being built. According to the Federal Energy Regulatory Commission, for the entirety of 2015, a total

¹¹ Alex Nussbaum, Bloomberg Business, “Wells Fargo, Morgan Stanley Join Banks Edging Away from Coal,” November 30, 2015, available at: <http://www.bloomberg.com/news/articles/2015-11-30/wells-fargo-morgan-stanley-join-banks-edging-away-from-coal>

¹² Id.

¹³ Id.

¹⁴ Giles Parkinson, Renew Economy, “Citigroup Sees \$100 Trillion of Stranded Assets if Paris Succeeds,” August 25, 2015, available at: <http://reneweconomy.com.au/2015/citigroup-sees-100-trillion-of-stranded-assets-if-paris-succeeds-13431>.

¹⁵ Rory Carroll, Reuters, “California Insurance Commissioner Calls for Coal Divestment,” Jan 25, 2016, available at: <http://www.reuters.com/article/us-california-insurance-coal-idUSKCN0V32SM>

of one new coal plant came online, producing a mere 3 megawatts of capacity. Compare that to 50 new natural gas plants totaling nearly 6,000 megawatts, or 69 wind farms totaling nearly 8,000 megawatts, or 248 solar plants totaling over 2,100 megawatts.¹⁶ The market has spoken and it's divesting itself of coal.

As we use less coal for electric generation, coal mining both in the U.S. and globally is stalling. Reports from China indicate that based on lower demand, it plans to close over 4,000 coal mines.¹⁷ In another blow to the industry, President Obama recently took strong action to halt new coal mining leases on public lands.¹⁸ According to the New York Times, "[t]he move represents a significant setback for the coal industry, effectively freezing new coal production on federal lands and sending a signal to energy markets that could turn investors away from an already reeling industry."¹⁹ Perhaps it is not surprising then that CNN reports that the Dow Jones U.S. Coal Index, which captures the value of large coal corporations, "has lost a stunning 95 percent of its value since July 2011."²⁰

- ***Coal Companies are Failing*** – As a result of the decline in coal mining, coal electric generation, and coal financing outlined above, coal mining companies are failing. The second-largest coal company, Arch Coal, filed for

¹⁶ FERC Office of Energy Projects, Energy Infrastructure Update, December 2015, available at: <http://www.ferc.gov/legal/staff-reports/2015/dec-infrastructure.pdf>

¹⁷ Daniel Cohan, The Hill "Plummeting Coal Use and Peaking Stockpiles," February 17, 2016, available at: <http://thehill.com/blogs/pundits-blog/energy-environment/269684-plummeting-coal-use-and-peaking-stockpiles>

¹⁸ Coral Davenport, NY Times, "In Climate move, Obama Halts New Coal Mining Leases on Public Lands," Jan 14, 2016, available at: http://www.nytimes.com/2016/01/15/us/politics/in-climate-move-obama-to-halt-new-coal-mining-leases-on-public-lands.html?_r=0

¹⁹ Id.

²⁰ Matt Egan, CNN Money "Wall Street Cuts Lending to Coal," December 1, 2015, available at: <http://money.cnn.com/2015/12/01/investing/paris-climate-talks-wall-street-banks-coal/>

bankruptcy earlier this year, and “Arch cited weakening demand for coal in filing for Chapter 11 bankruptcy.”²¹ That follows bankruptcy filings by other major coal companies such as Walter Energy, Alpha Natural Resources, and Patriot Coal.²²

Let me spend just a minute talking about Alpha Natural Resources. Alpha purchased Massey Energy before going bankrupt, and Massey, if you recall, was headed by Don Blankenship, a CEO who was found guilty this past December of willfully conspiring to violate safety standards.²³ Massey is the company found to have covered up safety violations related to the Upper Big Branch mine disaster that killed 29 coal miners in 2010.²⁴ If you think this is an isolated incident, think again. An investigation by NPR in 2014 found 2,700 mine owners who collectively owe \$70 million in outstanding fines for safety violations they have not paid, and who committed a total of 130,000 violations and had nearly 4,000 worker injuries since their initial fines went unpaid.²⁵ I want all of our friends in the Vermont labor community to remember that if we say no to divesting from coal, we are saying yes to the idea of investing your hard-earned dollars in mining companies that have not shown a high regard for the lives and welfare of their workers.

²¹ Timothy Cama, The Hill, “Major coal mining company files for bankruptcy,” January 11, 2016, available at: <http://thehill.com/policy/energy-environment/265395-major-coal-mining-company-files-for-bankruptcy>

²² Id.

²³ Bourree Lam, The Atlantic, “A Guilty Verdict in Don Blankenship’s Trial,” December 3, 2015, available at: <http://www.theatlantic.com/business/archive/2015/12/blankenship-trial-verdict/418641/>; Clifford Krauss, NY Times, “Alpha Natural Resources, a Onetime Coal Giant, Files for Bankruptcy Protection,” August 3, 2015, available at: http://www.nytimes.com/2015/08/04/business/energy-environment/alpha-natural-resources-a-onetime-coal-giant-files-for-bankruptcy-protecton.html?_r=0

²⁴ Id.

²⁵ Howard Berkes, NPR, “Fines Don’t Appear to Deter Mine Safety Violations,” November 16, 2014, available at: <http://www.npr.org/2014/11/16/364479338/fines-dont-appear-to-deter-mine-safety-violations>.

California saw the light. Their legislature passed a bill to divest from coal, Governor Jerry Brown signed it, and it had support from diverse stakeholders including the SEIU public employees union and the Insurance Commissioner.²⁶ The Board of the California State Teachers Retirement System voted affirmatively to divest its holding from U.S. coal companies, and Investment Committee Chair Sharon Hendricks said of the decision “[w]e determined that given the financial state of the industry, the movement of the regulatory landscape and coal’s impact on the environment, its presence reflects a loss of value.”²⁷

Vermont Has a Proud History of Using Divestment as a Positive Tool for Change

I know I don’t need to tell this committee that in each of the preceding three decades, Vermont has stepped up to use divestment, thoughtfully and cautiously, when other recourse for extraordinary societal challenges had been exhausted.

We used divestment to get out of companies that did business with South Africa under Apartheid in the 1980’s, thanks to leadership from then-Senator Peter Welch and Governor Madeleine Kunin. Former Representative Don Hooper said that the year Nelson Mandela was released from jail he visited South Africa and asked business leaders there why Apartheid failed. The answer he got back was “Apartheid failed because all your little divestments in Madison, WI, Cambridge,

²⁶ Rory Carroll, Reuters, “California Insurance Commissioner Calls for Coal Divestment,” January 25, 2016, available at: <http://www.reuters.com/article/us-california-insurance-coal-idUSKCN0V32SM>; Press Release, 350.org

””Unions Add Voice In Support of California Thermal Coal Divestment,” June 12, 2015;

²⁷ Press Release, California State Teachers Retirement System, February 3, 2016, available at: <http://www.calstrs.com/news-release/calstrs-divests-us-thermal-coal-companies>

MA, the state of Vermont...made South Africa an international pariah,” helping reduce capital and investment needed for economic growth.²⁸

We used divestment, under the leadership of then-Treasurer Jim Douglas with support from the legislature, to get out of Big Tobacco in the 1990’s. We owned more than \$21 million in tobacco stocks back in the late 1990’s, but somehow back then it was deemed prudent and within the fiduciary responsibility to get rid of all of them. Then-Treasurer Douglas confirmed with the Attorney General that divestiture does not violate the trustees’ fiduciary responsibility.²⁹ According to Pensions and Investments which wrote about the divestment at the time, “[t]he Vermont funds have some of their tobacco investments in an index fund with Alliance Capital Management, but Alliance indicated it can create a tobacco-free index without a problem, Mr. Douglas said.”³⁰ Today we hear the argument that we cannot possibly divest of \$600 of coal stocks and get our fund managers to screen out coal, but back in the 1990’s Jim Douglas managed to divest of many millions in tobacco stocks and get fund managers to create a tobacco-free index screen without a problem.

We used divestment under the leadership of then-Treasurer Jeb Spaulding to get out of businesses operating in Sudan in 2007, after the tragic events in Darfur. Then-Treasurer Spaulding said:

The Committee believed it would be prudent, from a fiduciary position, to refrain from owning securities in companies listed on the Sudan Divestment

²⁸ Don Hooper, Written Testimony, Vermont Senate Government Operations Committee, February 11, 2016.

²⁹ Vineeta Anand, Pensions and Investments, “Funds Feeling Heat From Tobacco Investments,” April 28, 1997, available at: <http://www.pionline.com/article/19970428/PRINT/704280770/funds-feeling-heat-from-tobacco-investments>

³⁰ Id.

Task Force Highest Offenders list, because the value of our portfolio could suffer if we continue holding these securities while other investors take affirmative action to sell securities on the list. Personally, I hope that by joining with other institutional and individual investors, we can do our part to apply economic pressure on the Sudanese government and companies they do business with to get serious about ending the horrific atrocities still taking place in Darfur.³¹

I want to ask each of you here today, and I do not mean this to be rhetorical, please raise your hand if you believe Vermont should still own Big Tobacco stocks?

Please raise your hand if you think Vermont should not have divested from South Africa at a time when Nelson Mandela was languishing in prison?

Please raise your hand if you think Vermont should not have divested from Sudan while people were killed and starved to death?

Now please raise your hand, if you still think we should invest our money in the coal industry?

Divestment in Vermont has been a seldom-used, but necessary tool to confront major challenges and put us on the right side of history. I take issue with those who say it is a slippery slope. In our form of government, elected officials live on that slope – it's called democracy. I take issue as well with those who view divestment as symbolic, or a meaningless gesture. If Vermont were going it alone, maybe it would be symbolic. But by divesting from coal and ExxonMobil we would

³¹ Treasurer Jeb Spaulding, news release, February 20, 2007, available at: http://www.vermonttreasurer.gov/sites/treasurer/files/pdf/press/20070220_pr.pdf

be joining our \$4 billion in assets with \$3.4 trillion worldwide that has already committed to some type of fossil fuel divestment.³² That is not a meaningless amount of investment. That represents not just our friends in California, but also Europe's largest insurance company, many religious and educational institutions, and many large municipal pension funds and national sovereign wealth funds around the world.

I know the argument to-date seems to be around the process for making this decision. However, it does not matter if the legislature passes a bill, or if VPIC decides to make the right decision. The process is not ultimately what this is about. It is about Vermont using our power as an investor to put pressure on coal companies economically, and to protect our pensioners from holding securities that have a bleak future. As the coal industry continues to suffer economically and harm our environment and our health, and as ExxonMobil continues to oppose changing its business model even at the urging of our own Treasurer, this committee can continue to delay and to study. Or this committee can take action. I believe the time has come to act on our values, and divest.

³² Alex Nussbaum, Bloomberg, "Fossil Fuel Divestment Tops \$3.4 Trillion Mark, Activists Say," December 2, 2015, available at: <http://www.bloomberg.com/news/articles/2015-12-02/fossil-fuel-divestment-tops-3-4-trillion-mark-activists-say>