

NISKANEN

C E N T E R

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Climate Policy and Litigation Program Report
FY 2018-2019

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The Niskanen Center's Climate Policy and Litigation Program Report 2018 through 2019

Over the reporting period, Niskanen's climate team has achieved significant progress toward each of our targeted intermediate outcomes and laid the groundwork to reach our ultimate objectives. We describe those accomplishments and what we have learned in the following report, and discuss where our strategic outlook has been reinforced and where it has been altered. Our focus remains on turning the Niskanen Center's climate program into one of the most influential, informative, and innovative in Washington, D.C.

When the Niskanen Center opened its doors five years ago, and even when the reporting period for our program initiated two years ago, leading Republicans embraced climate skepticism and were occupied with deconstructing the Obama Administration's climate agenda. There had not been a bipartisan bill supporting carbon pricing since the failure of Waxman-Markey in 2009. Now, we see Republicans acknowledging the reality of human-caused climate change and seeking solutions of varying ambition. At the highest levels, several Republican members of Congress have introduced carbon tax legislation with prices over \$30 per ton of CO₂ emissions, which—were they law—would be the most ambitious national climate policy globally. The developments portend further progress in the coming years, as bipartisan groups of legislators can embrace both sectoral and comprehensive reforms.

The Niskanen Center has been at the heart of these developments. Over the reporting period, Niskanen Center staff have provided policy input and advice for carbon pricing bills that have achieved bipartisan support, been asked for information on climate change and the available responses from formal and informal groups of legislators, and maintained a high volume of public appearances and commentary promoting market-based reforms to achieve a low-carbon economy.

The Niskanen Center has clearly demonstrated that its (positive) influence in the national climate debate is unmatched for its size. Niskanen staff are frequently invited to appear with or brief members of Congress. Niskanen President [Jerry Taylor](#) has made the conservative case for climate action in many public speeches and appearances. Director of Climate Policy [Joseph Majkut](#) was invited to testify before the House Science Committee in its first hearing on climate change in the 116th Congress. Niskanen staff have published commentary in the *Washington Post*, *Wall Street Journal*, *The Hill*, and *Vox*. In addition, Niskanen staff are frequently asked to provide commentary for leading national media outlets and the inside-the-Beltway trade press, with steady increases in media requests over the reporting period.

The Niskanen Center has also embraced several litigation campaigns addressing unfair burdens placed on individuals and local governments by the fossil fuel industry. Niskanen represents landowners defending their property from claims of eminent domain by companies building natural gas pipelines. Niskanen staff are actively managing these cases, identifying new opportunities for litigation, and leading new groups into supporting plaintiffs with legal assistance. Niskanen also represents several local governments seeking remuneration from fossil fuel companies for climate damages.

We have demonstrated that we are in the leadership ranks of the climate community. Niskanen staff are central players in the cross-ideological network of political and policy actors engaged in promoting climate action. This reflects the respect we have earned from the influential climate NGOs and their judgement regarding our importance in the climate debate. Beyond a demonstration of influence, our leadership role in the climate policy network is important because active engagement in the governing networks of Washington is critical for building a consensus around climate reforms in the next Congress or beyond.

Describe the progress you have made toward achieving the intermediate and ultimate outcomes you set forth in your proposal. Has your work resulted in any additional outcomes?

Over the reporting period, the Niskanen Center has secured achievements in each of our strategic initiatives:

Educating Conservative Elites

Climate Science

Our top priority is to change the minds of Republican elites regarding the risks associated with climate change. We aggressively challenge the arguments advanced by skeptical scientists and right-wing think tanks and policy activists because they are perhaps the most important, and most underappreciated, driver of climate denialism in the GOP. Our objective is to 1) eliminate climate denialism as a marker of ideological or partisan identity in the GOP, and 2) expose in a clear and compelling fashion the poor analysis that animates most of the Right's arguments against the mainstream scientific consensus or the urgency of climate risk.

Our director of climate policy, Joseph Majkut, has worked publicly and behind the scenes to elevate the status of climate science with conservatives and defend climate science from attack. Privately, Majkut has focused on educating Republican Members of Congress, Capitol Hill staff, and policy elites on the reality of climate change, the trustworthiness of climate science, and the nature and urgency of climate risks. In public, Majkut frequently comments on the state of climate skepticism, designed a section of our website (climateunplugged.com) to provide a fair climate science resource for a right-of-center audience, and engages with notable climate skeptics directly.¹

In a clear sign of our success, Majkut was invited on February 12, 2019, to testify as the sole Republican witness at the first hearing held by the House Science, Space, and Technology Committee after the 2018 midterm elections.² That committee, formerly chaired by Rep. Lamar Smith (R-TX), had long been ground zero for conservative climate denialism. When the new Republican leadership on that committee decided that a pivot towards climate realism was overdue, they called on us to represent our views on the science to a membership that had several notable holdouts, many new members, and an evolving policy stance.

The Case for Action

Ambitious federal legislation is required to tackle climate change. But it is virtually impossible to imagine legislation passing, or remaining in place once passed, without *some* degree of bipartisan support. Accordingly, we will not succeed in holding future warming to manageable levels without changing Republican sentiment regarding the merits of climate action. And changing those sentiments is a priority for the Niskanen Center. As Republicans shift their stance on climate science, the remaining concerns about supporting more ambitious climate action are ideological and practical. Thus, over the reporting period, we have worked to foster climate change policy reform by providing top-quality analysis and commentary on the declining costs of clean energy, the general case for climate action, and the efficiency of carbon taxation.

¹ CO₂ Coalition, [The Social Cost of Carbon—pick a number, any number](#), Congressional Briefing, July 16, 2019

² Niskanen Center, [Joseph Majkut Testifies About the State of Climate Science During Full Committee Hearing](#), Feb. 21, 2019.

One of the key arguments against ambitious climate action has cited the infeasibility of shifting to a low-carbon economy, and specifically skepticism about the prospects for a high-renewables future. In response, our climate policy associate Nader Sobhani published several commentaries directly engaging with the arguments forwarded by skeptics of renewable and clean energy and highlighting the falling costs of clean energy.³ He complimented that work with commentary highlighting the economic co-benefits of the decreases in particulate pollution that will accompany decarbonization and making policy recommendations for revitalizing the U.S. nuclear fleet.⁴

In March 2018, the Niskanen Center published a research report from University of Maryland political scientist David Karol, which investigated the partisan gap on environmental issues that grew in the late 20th century and explained the gap as a steady sorting along party lines.⁵ The paper concludes with Karol's analysis for how the current partisan division over climate may change or shift with changes in business coalitions and voter sentiment. In doing so, it provides a map for how legislators and actors in the GOP can bring their existing political coalition along when supporting climate reforms. The paper published with Niskanen was subsequently expanded into a book.⁶

Niskanen Center President Jerry Taylor has continued to press the case for climate action and carbon taxation offered in his 2015 paper, *A Conservative Case for a Carbon Tax*.⁷ Taylor advances these arguments in public forums and individual speaking events as well as in conservative-leaning policy circles. His public writing on how a risk-based approach to climate change demands much more ambitious climate action has been widely circulated.⁸ He has also written on why the innovation-only agenda that has been embraced by some Republicans is insufficient as a response to climate risks.⁹

Our ability to persuade conservative elites to take climate change seriously and to respond with ambitious market-based policy solutions has been noted by multiple independent observers.¹⁰ While it's difficult to know for certain whether conservative opinion leader x, y, or z has changed their mind due to something we have written or discussed on a podcast, our direct engagement with conservative writers, high profile media presence, and repeated engagement in conservative media outlets has almost certainly been an important positive factor in the newfound interest of conservative elites to embrace climate action in general

³ Nader Sobhani, [Renewables don't rely on magical thinking – they are winning on price](#), Niskanen Center, September 23, 2019; Nader Sobhani, [Don't wrap renewables up in opposition to the Green New Deal](#), Niskanen Center, November 18, 2019.

⁴ Nader Sobhani, [Monetizing the health co-benefits of a carbon tax](#), Niskanen Center, August 22, 2018; Nader Sobhani, [Policy recommendations for revitalizing America's nuclear fleet](#), Niskanen Center, March 5, 2019.

⁵ Joseph Majkut, [Report: The Growing Partisan Divide on the Environment](#), Niskanen Center, May 16, 2018

⁶ David Karol, [Red, Green, and Blue: The Partisan Divide on Environmental Issues](#). Cambridge University Press, 2019.

⁷ Jerry Taylor, [New Study: The Conservative Case for a Carbon Tax](#), Niskanen Center, March 23, 2015.

⁸ Jerry Taylor, [What changed my mind about climate change](#), The Bulwark, May 21, 2019.

⁹ Jerry Taylor, [One \(and only one\) cheer for the Republican "innovation" answer to climate change](#), Niskanen Center, June 17, 2019.

¹⁰ Amber Philips, [What Would It Take for Republicans to Deal with Climate Change?](#) *Washington Post*, August 29, 2019; Lisa Friedman, [Climate Could be an Electoral Timebomb, Republican Strategists Fear](#). *The New York Times*, August 2, 2019; David Leonhardt, [Conservatives for Climate](#), *New York Times*, April 25, 2019; Andrew Sullivan, [A Radically Moderate Answer to Climate Change](#). *New York*. March 1, 2019.

and carbon taxation in particular.¹¹ The increasing support for climate action by conservative elites is the primary explanation for the increased support for climate action among Republican voters.¹² This intellectual and political cover is critically important in our campaign to encourage more Republican officeholders to break with the party's denialist orthodoxy.

Strategic Federal Outreach

Near-term policy agenda

While we prepare for a moment of opportunity for more comprehensive legislation, Niskanen has worked to develop a near-term policy agenda to lower the costs of decarbonization. We are engaged in making the case for aggressive government support for low-carbon energy innovation and deployment. We argue that market failures in research and development require government support for low-carbon energy R&D (particularly for batteries and other energy storage technologies), even if a robust price is placed on carbon. Furthermore, we acknowledge that deployment subsidies for early-stage technologies create learning opportunities to reduce the costs of low-carbon energy and reduce the long-term costs of decarbonization.

The Niskanen Center has been supportive of subsidies to reduce the costs of clean energy and technology and has provided analysis for policymakers to employ as they consider such interventions. The most prominent of these has been legislation to create tax credits for deployment of carbon capture technologies for power plants and industrial facilities, or for CO₂ drawdown from ambient air. That legislation was signed into law in February 2018.¹³ While there are still major hurdles to the actual deployment of carbon capture and storage technologies at large scale, measures like this are taking us in the right direction. We have also offered comments and analysis on legislation to promote clean energy technologies, advance scientific research, improve carbon credit markets, and price carbon in small parts of the economy.

Just as important, we have built good working relationships with key legislative and committee staff members and identified important staff allies in senior leadership circles. In both 2018 and 2019, Niskanen Center staff met with a significant number of hill staff and Members of Congress, sharing our educational materials and providing policy design feedback. Our relationship with actors on Capitol Hill is well

¹¹ See, for instance, the recent change of heart about the merits of climate action from conservative op-ed writers Max Boot ([I Was Wrong on Climate Change: Why Can't Other Conservatives Admit It, Too?](#), *Washington Post*, Nov. 26, 2018); Jennifer Rubin ([Climate Change Deniers Are a Danger to Our Security](#), *Washington Post*, Dec. 18, 2018); Mona Charen ([If You're Serious About Climate ...](#), Creators Syndicate, Mar. 8, 2019); Bill Kristol ([Transcript](#) of CNN's "State of the Union" program, Nov. 25, 2018); Holman Jenkins ([CNN Climate Show Wasn't Just Boring](#), *Wall Street Journal*, Sept. 6, 2019); and Frank Luntz ([Prepared testimony before the Senate Democrats' Special Committee on the Climate Crisis](#), July 25, 2019).

¹² Matto Mildemberger, [Climate Denialists Aren't The Only Voice In The GOP—They're Just The Loudest](#), *Talking Points Memo*, Sept. 17, 2019; Yale Program on Climate Change Communications and the George Mason University Center for Climate Change Communication, [Politics & Global Warming](#), April 2019; Monmouth University Polling Institute, [Climate Concerns Increase: Most Republicans Now Acknowledge Climate Change](#), Nov. 29, 2018; Kathryn Deeg et. al., [Who Is Changing Their Mind About Global Warming and Why?](#) Yale Program on Climate Change Communication, Jan. 9, 2019; For the argument that growing Republican support for climate action is primarily a reflection of changes in elite Republican opinion, see Jerry Taylor, [How to Change Public Opinion](#), Niskanen Center, Feb. 23, 2015; Robert J. Brulle, and Joanna Huxter, [The Great Divide: Understanding the Role of Media and Other Drivers of the Partisan Divide in Public Concern Over Climate Change in the USA, 2001-2014](#), *Climatic Change* 141:4, Apr. 2017.

¹³ Timothy Gardner, [Burying Carbon Emissions Gets Boost in US Budget Deal](#), Reuters, February 9, 2018

developed and we're happy to go into further details on this in-person. Those relationships will prove vital for the future.

Toward Comprehensive Reform

Over the reporting period, the Niskanen Center has played a leading role in rebooting bipartisan discussions around a carbon tax as the preferred legislative approach to climate change and our research and coalition building activities have been instrumental to the development of several pieces of legislation.

In July 2018, Rep. Carlos Curbelo (R-FL) introduced the MARKET CHOICE Act, a bill based on model legislation drafted by the Niskanen Center, that would establish an economy-wide tax on carbon emissions and allocate most of the revenue to infrastructure upgrades. As he crafted his proposal, Rep. Curbelo sought policy advice from Niskanen staff on developing policy tradeoffs to maintain a coalition of industry actors, eco-right groups, and environmental advocates to support the legislation. Subsequently, the Niskanen Center played a key role in the release and analysis of the final bill. In the year since, bipartisan groups of legislators in the House of Representatives and the Senate have introduced or co-sponsored additional carbon tax bills, with the Niskanen Center providing similar contributions regarding policy design and analysis.¹⁴

We are now in a position to continue to analyze the policy outcomes that are likely under those carbon tax proposals, potential refinements, and to offer that information to policymakers. In particular, we are interested in how legislation balances the trade-offs between carbon pricing, revenue use, and regulatory reform and how those trade-offs affect coalitional support. This vetting process is extremely important, as comprehensive legislation like a carbon tax must undergo thorough vetting and amendment from industry and nonprofit groups to have a hope of passage when the political opportunity presents itself.

We meet regularly with leading Democratic policy experts, representatives from industry (coal, railroads, the American Petroleum Institute, oil and gas majors, solar, wind, utilities, consumer goods), environmental groups, like-minded think tanks, Republican thought leaders, and other Washington actors to continue mapping out the prospects for comprehensive legislation in the near term and understand how carbon pricing legislation can be crafted to appeal to a broad coalition for support and fracture opposition.

Climate-Related Litigation

Common Law Cases

Climate-related litigation has had a major impact on public policy.¹⁵ The most promising avenue for legal action at present is the use of common lawsuits in state courts to force fossil fuel companies to compensate

¹⁴ Examples include, The MARKET CHOICE Act of 2019 (Fitzpatrick and Carbajal); The SWAP act of 2019 (Rooney and Lipinski); The Energy Innovation and Carbon Dividend Act of 2018 (Reps. Deutsch and Rooney, Sen. Coons and Flake); and the Climate Action Rebate Act of 2019 (Sen. Coons).

¹⁵ [The Carbon Boomerang: Litigation Risk as a Driver and Consequence of the Energy Transition](#), Investing Initiative and MinterEllison, September, 2-17; Jacqueline Peel and Hari Osofsky, *Climate Change Litigation: Regulatory Pathways to Cleaner Energy* (Cambridge University Press, 2015); and David Markell and J.B. Ruhl, [An Empirical Assessment of Climate Change in the Courts: A New Jurisprudence or Business as Usual?](#) *Florida Law Review* 64:1, October 17, 2012.

property owners and taxpayers for present and future climate-related damages.¹⁶ Accordingly, Niskanen is representing Colorado’s Boulder County, San Miguel County, and the City of Boulder in one of the handful of climate nuisance cases across the nation. Like suits brought by New York City, San Francisco, Baltimore, etc., ours seeks to hold fossil fuel producers liable for the costs their products impose on local governments. However, our case is the first one focusing on climate impacts beyond sea-level rise. Coping with drought, increased wildfires, flooding from extreme precipitation, and other climate effects will be massively expensive. The defendants, we argue, produced and sold fossil fuels knowing what the effects on the climate would be, but failed to disclose what they knew, and at times actively misled the public. Now, after finally admitting that climate change is caused almost entirely by their products, they have announced plans to produce and sell even more of them. We believe that fossil fuel producers — rather than local taxpayers — should bear the costs of adapting to climate change.

In our case, we sued in state court, and defendants then “removed” the case to federal district court. On September 5, the district court granted our motion to “remand” the case back to state court. We’re now simultaneously starting proceedings in state court, and briefing the defendants’ appeal of the remand decision to the 10th Circuit Court of Appeals. In addition to our role in this suit, we are consulting with the two other sets of lawyers who, between them, are handling all of the other climate nuisance cases across the country.

Property Rights and Pipeline Infrastructure

Niskanen’s eminent domain litigation project to protect landowners’ property rights from abuse by oil and gas pipeline companies that seek to seize land for their projects is now active in cases across the country.

Pending Cases

- ***Unnamed Pipelines.*** We are investigating bringing cases on behalf of landowners against pipelines which, by billing themselves as “intrastate” pipelines,¹⁷ can operate under incredibly lax state pipeline permitting scheme. For example, in Texas, an intrastate gas pipeline need only submit a 5-page “check the box” application, and then it automatically receives a 1-sentence permit that allows the company to condemn land and build the pipeline whenever and wherever it chooses to do so. There is no public notice of either the application or the permit, and no state investigation or determination whether the pipeline is necessary or is being built in reasonable locations, no environmental review, etc.; in fact, there are no rules or regulations of any sort aside from the permit applicant agreeing to abide by federal

¹⁶ Douglas Kysar, [What Climate Change Can Do About Tort Law](#), *Environmental Law* 41:1, 2011; Michael Burger, [Do State Common Law Nuisance Claims for Climate Change-Related Harms Even Exist Anymore?](#) Sabin Center for Climate Change Law, September 14, 2017; John Surico, [The Next Millennial Trend is Suing Big Oil for Destructive Climate Change](#), *Vice*, January 11, 2018; United Nations Environment Programme, [The Status of Climate Change Litigation: A Global Review](#), May, 2017; and Center for International Environmental Law, [Smoke and Fumes: The Legal and Evidentiary Basis for Holding Big Oil Accountable for the Climate Crisis](#), November, 2017. For our view on the opening created for these suits by the failure of Congress and the Trump Administration to address climate change, see David Bookbinder, [How Trump’s Reckless Climate Policy Invites a Judicial Backlash](#), *Vox*, December 11, 2017. For empirical assessments of the degree of liability that might be faced by individual fossil fuel companies, see Brenda Ekwurzel et al., [The Rise in Global Atmospheric CO₂, Surface Temperature, and Sea Level from Emissions Traced to Major Carbon Producers](#), *Climatic Change* 144:4, October, 2017, pp. 579-590.

¹⁷ An *intrastate* pipeline operates within a state’s borders and is not subject to FERC’s jurisdiction under the Natural Gas Act.

safety standards. And in Louisiana, there is not even this minimal state process — a pipeline company simply decides what land it wants and condemns it.

No one has ever challenged an intrastate gas pipeline designation in federal court. We will do it by arguing that some of these pipelines are actually “interstate pipelines,”¹⁸ subject not to state law but rather to the jurisdiction of the Federal Energy Regulatory Commission (“FERC”) under the Natural Gas Act (“NGA”). While we have identified many procedural and substantive problems in how FERC implements the NGA’s eminent domain provision, FERC’s overall pipeline process is far more stringent than state systems, including: public notice of the proposed pipeline; specific notice to landowners whose property may be taken; environmental review of the project route; project-specific safety requirements; and ultimately review in federal courts. Compelling pipelines that use this pretext to go through the FERC process would give landowners these protections.

- ***Atlantic Coast Pipeline (ACP)***. We represent landowners in a D.C. Circuit Due Process challenge to ACP’s use of eminent domain. Briefing was completed and oral argument was set for October 16, 2019, but on October 4 the court put the case on hold in light of *Cowpasture River Preservation Association v. Forest Service*, 911 F.3d 150 (4th Cir. 2018), which held that the Forest Service had no legal authority to permit ACP to cross the Appalachian Trail, and thus ACP might never get built; the Supreme Court then granted cert in that case. The D.C. Circuit simultaneously denied landowners’ request for a stay of ACP’s Certificate (ACP’s authority for exercising eminent domain), but “without prejudice to renewal should construction or other relevant activity under the Certificate of Public Convenience and Necessity be undertaken.” If ACP does undertake any such action, we would seek a stay of the Certificate; if the Court grants it, it would be an explicit endorsement of our argument that pipeline companies should not be able to take property either (1) before the pipeline has all of the necessary permits, or (2) while landowners are unable to ask courts for relief.

In conjunction with that case, we submitted a FOIA request to FERC for information as to which landowners ACP actually provided the Constitutionally-required notice of its plan to take their property. FERC refused to provide any documents; we sued FERC for this information in federal district court in D.C. and had oral argument on cross-motions for summary judgment on December 3. In response to a related FOIA request, FERC admitted that it had no policies or procedures in place for overseeing whether pipeline companies do, in fact, provide such notice.

- ***PennEast Pipeline***. At Petitioners’ request, we submitted an amicus brief on constitutional issues in the D.C. Circuit challenge to FERC’s approval of the PennEast Pipeline. Oral argument was scheduled for October 4, 2019, but the State of New Jersey asked the court to put the case on hold in light of the 3rd Circuit’s decision (see next paragraph) that the 11th Amendment barred condemnation actions against state property in federal courts; since it is unlikely the pipeline can be built without going through state lands, the D.C. Circuit then stayed its case pending a resolution of all the 3rd Circuit proceedings.

On September 10, 2019, the 3rd Circuit held that the 11th Amendment barred federal courts from hearing condemnation cases against state property; the State of New Jersey had asked us to do an amicus, which the 3rd Circuit then cited in its decision. The 3rd Circuit then denied PennEast’s petition to rehear the case en banc, and PennEast has said it will ask the Supreme Court to review the decision. To make

¹⁸ An *interstate* pipeline’s gas – but not necessarily the pipeline itself – crosses one or more state lines and is subject to FERC’s jurisdiction under the NGA.

things even more interesting, PennEast has petitioned FERC for its opinion as to the 11^h Amendment issue; presumably FERC will say the 3rd Circuit got it wrong, and PennEast will use that as additional ammunition in its cert petition.

Elsewhere, on August 21, 2019, a federal district court in Maryland also reached the same conclusion as the 3rd Circuit (concerning state property sought by the Potomac Pipeline), and we have been asked by the Maryland Attorney General's office to submit a similar amicus in the pending 4th Circuit appeal of that decision.

- ***Pacific Connector Pipeline/Jordan Cove.*** We represent dozens of landowners in connection with the Pacific Connector Pipeline, via which a Canadian company would transport Canadian gas through Oregon to the proposed Jordan Cove LNG facility for export. We filed our first lawsuit in connection with this pipeline in late April, a FOIA case against FERC for refusing to provide information about which landowners were provided proper notice of the plans to take their land.

We submitted comments for FERC's administrative process and, if FERC approves the pipeline (decision expected in February, 2020), the comments will serve as our basis for challenging the approval. Our primary argument will be that a pipeline being built to transport natural gas from Canada to an LNG facility in Oregon in order to ship it to the Far East does not constitute a "public use" under the Takings Clause. (In *City of Oberlin v. FERC*, the D.C. Circuit recently affirmed that gas exports are not a public use, and remanded the Certificate for the Nexus Pipeline back to FERC for an explanation as to why it had considered exported gas a "public use".) If we're successful, the decision can be used to try and stop the use of eminent domain by other proposed interstate pipelines that will be supplying LNG export facilities. In addition, we will make a variety of Due Process and Takings Clause arguments.

If FERC approves the project, we will also be litigating whether the pipeline company can use a form of "quick-take" condemnation that allows them to take property but not pay for it until years later.

As we did in ACP, we submitted a FOIA request to FERC for the lists of landowners who allegedly were sent the required notices and, as in ACP, FERC is fighting the request. We have completed briefing cross-motions for summary judgment and oral argument is scheduled for February 11.

We also submitted FOIA requests to various federal agencies with regards to federal and state monitoring of Jordan Cove opponents (including landowners) that may lead to a potential lawsuit, and are gathering information as to a possible state court suit against the pipeline's land agents for fraudulent misrepresentations to landowners.

- ***Northern Access.*** We will be submitting an amicus brief to the New York State Court of Appeals (the highest court in the state) in connection with the Northern Access pipeline, represented by a former judge on that court. The issue is whether the pipeline company can exercise eminent domain even though it has not yet received all other necessary regulatory approvals (and may never do so). The intermediate appellate court ruled 3-2 that eminent domain was not available until the pipeline company had secured all the necessary permits.

This is a critical issue for every pipeline, and federal courts have allowed pipelines to use eminent domain in those circumstances. The Northern Access case is a unique opportunity, because the pipeline developer opted to use state court eminent domain procedures instead.

Concluded Cases

- ***Mountain Valley Pipeline (MVP)***. At Petitioners’ request, we filed amicus briefs both in the D.C. Circuit challenge to FERC’s Certificate, and in support of a cert petition from the Fourth Circuit decision allowing MVP to take landowners’ property before paying for it. The D.C. Circuit upheld the Certificate in the former, and the Supreme Court declined to grant cert in the latter.
- ***Dakota Access***. We submitted the only amicus brief in the Iowa Supreme Court in support of landowners fighting the Dakota Access pipeline, arguing that the general economic benefits that will flow to the state from increased employment and taxes do not constitute a “public use” as that term was used during the debates at the Iowa Constitutional Convention of 1857. On May 31, 2019, the Court agreed, holding that mere “economic benefits” do not justify the use of eminent domain (but then held that the takings were legal because Dakota Access is a “common carrier”). We were also asked to submit an amicus brief in support of the landowners’ petition to the U.S. Supreme Court to hear the case, but decided it was not a good use of our resources.

Describe (briefly) any major changes that have occurred within your organization or outside of your organization (e.g., in the community, the political landscape, etc.) that have had or will have an impact on the work supported by the grant (or, in the case of general operating support, on the work of the organization or the program). How have you responded to these changes, or how do you plan to respond to these changes?

Over the reporting period, the Niskanen Center has grown substantially, in reputation, size, and budget. This has allowed us to expand the scope of our work, differentiate ourselves from peer organizations, and do more to achieve our intermediate goals and ultimate objectives. As we continue to mature and grow, we are seeking ways to expand our scope without sacrificing the quality of our work, duplicating the efforts of others, or diluting our core mission. At the same time, we have exciting opportunities to make our organization more diverse and relevant as an institution in D.C. governing networks.

Outside our organization, the most salient changes have been substantial shifts in the stance of many Republican elected officials on climate change and an escalation in policy approaches to climate that are being proposed by climate advocates and elected Democrats. While the changing Republican stance matched our expectations, the shifts on the other side require some response. We perceive a dissipation of consensus about the preferred approach to climate change among environmental and progressive advocates and will accordingly shift our strategy toward supporting moderation from both sides of the climate debate.

Even as climate action and carbon taxes gain traction with Republicans, rising partisanship, a perceived new urgency to address climate change, and frustration about the political opposition to carbon pricing are moving actors on the left away from bipartisan models of policy change and toward sector-by-sector approaches to reducing emissions through subsidy and regulation. One of the most striking developments of the past year was the political rise of the Green New Deal, a broad proposal to link an ambitious climate agenda to a progressive economic and justice agenda. Jerry Taylor has offered the most comprehensive and widely circulated critique of that political strategy, which threatens to draw support away from more achievable reforms and make bipartisan approaches harder to achieve.¹⁹

¹⁹ Jerry Taylor, [An Open Letter to Green New Dealers](#), Niskanen Center, March 31, 2019.

What lessons have you learned that will help you in your continued efforts to achieve your intended outcomes? Describe any alterations you have made or plan to make in light of these lessons.

In the past two years, we have learned that party stances on climate change can shift quickly. Republicans have been increasingly willing to talk about human-caused climate change and the need to reduce emissions. Meanwhile, Democratic aspirations have increased in ambition, with net-zero by 2050 now a common goal. If the trends underlying these shifts continue, it is only a matter of time before the political balance shifts and creates a moment of opportunity for crafting ambitious climate legislation.

To be ready for that time, we will craft concrete, detailed models of carbon tax legislation and make our designs publicly available. This is extremely important for several reasons. It allows us to put up trial balloons for various policy design features, providing valuable feedback regarding important political or policy considerations that are critical to consider if we're to maximize our chance of success in the next Congress.

We will undertake an educational campaign, centered on the recently introduced carbon tax bills, to better inform Republican members and staff about the science, economics, and politics surrounding climate change, to build support for carbon taxation as the preferred vehicle for climate action, and to increase their comfort in promoting and defending carbon taxation against those in the GOP who consider climate action a betrayal of conservative principles. We plan to continue a high volume of in-person meetings towards that end.

We have already established ourselves as knowledgeable and trusted actors for those Republicans interested in having a conversation about ambitious climate policy. Carbon tax legislation now routinely goes through Niskanen for advice and feedback before it is widely circulated, and Republican offices have regularly relied on our expertise and feedback while crafting legislation. This gives us tremendous leverage in informing and directing the course of climate politics in the next Congress.

Lastly, we aim to work with climate activists and members on the Democratic side of the aisle, climate policy stakeholders, and NGOs to ensure that, when a window of opportunity opens, we'll have the coalition at hand to agree on the merits and plausibility of comprehensive and market-based reforms. To accomplish this, we will take the initiative behind the scenes, organizing and coordinating allied stakeholders who can make the case for our policy solutions to their own constituents and stakeholders. This entails engaging in individual and small-group meetings with legislators, their staffs, and with key political and policy actors.

Appendix A

Public Appearances

Total Public Appearances: 52

1. ***Northwestern University*** (December 4, 2019) Panel discussion with Nader Sobhani and Nicholas Bianco (World Resources Institute). discussing potential economic and societal impacts of climate change and what the U.S. climate policy response should be.
2. ***The Future of US Policy and Politics, and How Businesses Should Engage*** (November 2, 2019). Panel discussion with Jerry Taylor, Victoria Mills (Managing Director, Environmental Defense Fund), and Anne Kelly (VP of Government Relations, Ceres) at the Conference “The Power of Business in the Energy Transition” sponsored by the Harvard Business School Energy and Environmental Club in Cambridge, Massachusetts. Taylor discussed climate politics and the political landscape before an audience of approximately 300 students and faculty.
3. ***The Case for Property Rights*** (October 29, 2019). Keynote address by Jerry Taylor at the National Conference of The Property Rights and Pipeline Center in Washington, DC. Taylor forwarded the conservative / libertarian case for property rights when wrestling with eminent domain claims made by oil and gas pipeline companies before an audience of approximately 70 landowners who are fighting pipelines around the country.
4. ***Getting the Solutions Right*** (October 25, 2019). Panel discussion with Joseph Majkut, Ashley Conrad-Saydah (former Deputy Secretary for Climate Policy, California EPA), Phillip Hannam (World Bank), Anne Hoskins (Chief Policy Officer, Sunrun), and Cliff Rechtschaffen (Commissioner, California Public Utilities Commission), moderated by Robert Socolow (Professor, Princeton University) at the 25th anniversary conference for the Princeton University Environmental Institute. Majkut discussed the prospects for federal climate policy and how state-based policies inform and hinder federal progress before an audience of 150 students, faculty, and university alumni with interests in climate and environment.
5. ***Which Policy and Regulatory Changes Would Be Possible After a Carbon Price is Added?*** (October 23, 2019). Panel discussion with Jerry Taylor and Robertson Williams (Resources for the Future and Climate Leadership Council), Christy Goldfuss (former chairman of the Council on Environmental Quality and presently Senior Vice President, Center for American Progress), and Abigail Dillen (President, Earthjustice) at the conference “Economic Policy Innovations to Combat Climate Change,” sponsored by the Hamilton Project of the Brookings Institution and the Stanford Institute for Economic Policy Research in Palo Alto, California. Taylor discussed the merits of various climate policy options before an audience of approximately 300 students, faculty, and state political leaders.
6. ***The Energy Transition in the United States*** (October 23, 2019). Panel discussion with Joseph Majkut, Leah Stokes (Assistant Professor UC Santa Barbara), Vicki Arroyo (Executive Director, Georgetown Climate Center), and Katherine Gensler (VP Regulatory Affairs, Solar Energy Industries Association), moderated by Sarah Jordaan (Assistant Professor Johns Hopkins

University) as part of the Johns Hopkins University School of Advanced and International Studies conference “The Energy Transition: Approaches and Lessons.” Majkut discussed the scope and scale necessary for climate policy in the United States and how carbon pricing was a necessary first step to climate action to an audience of approximately 100 students and energy professionals.

7. ***Landowners for Fairness Conference*** (October 29, 2019). Discussion of the Niskanen Center's proposed amendments to the federal Natural Gas Act designed to protect landowner rights. David Bookbinder and Megan Gibson presented to a group of 50 landowners, lawyers, and pipeline activists at this conference in Washington, DC.
8. ***DOE's Office of Nuclear Energy Millennial Nuclear Caucus: Bridging the Gap Between Science and Policy*** (October 17, 2019) Panel discussion with Nader Sobhani, Suzy Baker (University of Michigan), Jackie Kempher (ThirdWay), Amber Von Ruden (Exelon). Sobhani discussed the role nuclear energy should play in decarbonization strategies, the economic issues facing the industry today, and how carbon pricing is best suited to address these economic issues. The panel attendees (~ 75) were researchers in climate science, engineering, and policy from leading global institutions.
9. ***Pipeline and Property Rights: Are They in Conflict?*** (October 9, 2019). Panel discussion with Megan C. Gibson, Donald F. Santa (President & CEO, Interstate Natural Gas Association of America), William Murray (Energy Manager, R Street Institute) and Josiah Neeley (Senior Fellow in Energy Policy, R Street Institute (Moderator)) at the U.S. Capitol Visitor Center. A discussion of the significant issues that landowners face when an interstate pipeline seeks authorization from the Federal Energy Regulatory Commission (FERC) to take their land and the many problems with eminent domain practices under the federal Natural Gas Act, with an audience of approximately 60 Hill staffers, lawyers, policy experts, and press.
10. ***National Pipeline Eminent Domain Litigation Overview*** (October 9, 2019). Discussion by David Bookbinder and Carolyn Elefant in front of a group of about 50 lawyers, landowners, and pipeline activists, covering all of the major eminent domain issues being litigated around the country and the prospects for future litigation on these issues.
11. ***Deal or Green New Deal: Examining Policies to Address Climate Change*** (September 28, 2019). Panel discussion with Jerry Taylor and Christy Goldfuss (former chairman of the Council on Environmental Quality and presently Senior Vice President, Center for American Progress) at AEI's 2019 Fall Leadership Conference in Washington, DC. Taylor discussed the conservative case for climate action in general, and carbon pricing in particular, before approximately 200 conservative students.
12. ***Perspectives on the Green New Deal*** (September 23, 2019). Jerry Taylor debated the political and policy merits of the Green New Deal with Leah Stokes (University of California, Santa Barbara) at the Eco-Modernism 2019 conference sponsored by the Breakthrough Institute in Middleburg, Virginia. Approximately 250 energy and environmental policy elites were in attendance.
13. ***The Future of Carbon Pricing: Examining 2019's New Proposals*** (September 20, 2019). Panel discussion with Joseph Majkut, Susanne Brooks (Environmental Defense Fund), and Adele Morris (Brookings Institution), moderated by Marc Hafstead (Resources for the Future). Majkut discussed the bipartisan carbon tax bills that were introduced in the 116th Congress and how they grappled

with policy design issues. The audience was approximately 100 energy and climate professionals in Washington DC.

14. ***Business Strategies and Climate Change: A Roundtable Discussion*** (July 19, 2019). Panel discussion with Jerry Taylor, Rep. Patrick McHenry (R, NC-10), Andrew Plepler (Global Head of ESG, Bank of America), Frank Nutter (President, Reinsurance Association of America) and Craig Rushing, (Director, Government Affairs, Ingersoll Rand) sponsored by the North Carolina chapter of The Nature Conservancy in Charlotte, North Carolina. Taylor discussed the economic and risk management case for climate action before approximately 150 business representatives, environmentalists, journalists, and state political leaders.
15. ***Johns Hopkins Science Policy, Funding & Politics Panel*** (June 6, 2019). Panel discussion with Nader Sobhani, Jordan McGilis (Institute for Energy Research), and Nicholas Bianco (World Resources Institute). Sobhani discussed the different climate approaches to climate policy, the economic efficiency of carbon pricing, as well as how to better translate research and science into policy. Panel attendees (~20) were a part of Johns Hopkins Science Writing Program.
16. ***The Political Landscape for Carbon Pricing*** (May 21, 2019). Speech by Jerry Taylor before the L.E.A.D. on Carbon Pricing Lawmaker Education and Advocacy Day Conference sponsored by Ceres in Washington, DC. Taylor discussed the degree of support for carbon pricing in the 116th Congress in general, the nature and extent of the support for meaningful climate legislation within the GOP, and the windows of opportunity that might open in the next Congress before an audience of approximately 150 business representatives.
17. ***Building Bipartisan Support for National Carbon Pricing Legislation*** (May 20, 2019). Panel discussion with Jerry Taylor, Rob Shapiro (Chairman, Sonecon), and Sarah Chieffo (League of Conservation Voters) sponsored by the Pricing Carbon Initiative in Washington, DC. Taylor discussed the need to have a vetted proposal that is ready for political prime-time at the outset of the 117th Congress before approximately 75 climate policy elites.
18. ***In Search of a New Pragmatic Politics: Reflections on the Green New Deal*** (April 25, 2019). Lecture by Jerry Taylor at the Annual Classical Liberalism lecture sponsored by Whitman College in Walla Walla, Washington. Taylor discussed the political and policy weaknesses of the Green New Deal and offered an alternative policy regime centered on carbon pricing as a better means of reducing climate risks before approximately 250 students, faculty members, and community activists.
19. ***Climate Change Nuisance Cases*** (April 25, 2019) David Bookbinder on a panel discussion with Marco Simons (Earthrights International) and Brenda Ekwurzel (Union of Concerned Scientists) at Colorado University Law School about the climate nuisance cases with about 150 attendees.
20. ***Destiny Studies for a Small Planet: Energy technology and policy*** (April 15, 2019). Panel discussion with Joseph Majkut, Ryan Edwards (U.S. Senate), Robert Williamson (Princeton University), and John Holdren (Harvard University) at the Princeton University Ardinger Center for Energy and the Environment. Majkut discussed the technology and policy prospects for carbon capture and storage in the United States and near-term options for increasing the viability of CCS technologies to achieve meaningful emissions reductions. Conference attendees (~150) were scholars and researchers in climate science, engineering, and policy from leading global institutions.

21. **ClimateXChange: Conservative Case for Carbon Pricing** (April 2, 2019). Webinar panel discussion with Nader Sobhani, Alex Bozmoski (RepublicEn) and Josiah Neeley (R-street). Sobhani discussed the economic and climate benefits of carbon taxation for the U.S. and different potential revenue recycling options available to policymakers. The panel attendees (~150 online viewers) had a variety of backgrounds from academia, engineering, and policy analysis.
22. ***Two Steps Forward, One Step Back: State of Climate Policy in the United States*** (March 20, 2019). Panel discussion with Jerry Taylor, Amy Harder (Axios), David Hayes (State Energy & Environmental Impact Center, NYU School of Law), and Ben Grumbles (Secretary, Maryland Dept. of the Environment) at the Climate Leadership Conference sponsored by the Center for Climate and Energy Solutions (C2ES), The Climate Registry, and Bloomberg Philanthropies in Baltimore, MD. Taylor discussed the prospects for climate action in the 116th Congress and the political and policy pitfalls of the Green New Deal before approximately 500 climate actors and corporate leaders.
23. ***The Case for Carbon Pricing*** (March 19, 2019). Panel discussion with Jerry Taylor, Lauren Gardner (*Politico Canada*), Adele Morris (Brookings Institution), Helen Mountford (World Resources Institute), Robertson Williams (Resources for the Future), and Mark Jacobson (Bloomberg New Energy Finance) at the conference “Carbon Pricing: A Driver of Innovation and Risk Mitigation” hosted by the Canadian Embassy and Capital Power in Washington, D.C. Taylor discussed the merits of carbon pricing, why conservative elites are split on the issue, and the shortcomings of the Green New Deal before an audience of approximately 100 policy actors.
24. ***Summit for Democracy: Prospects for Climate Policy*** (February 27, 2019). Panel discussion moderated by Robinson Meyer (the Atlantic) with Joseph Majkut, Heather Reams (Citizens for Responsible Energy Solutions), Julian Noisecat (350 dot org), and Mandy Gunasekara (Energy45). Majkut discussed the case for pursuing bipartisan climate reform and carbon pricing, as the panel discussion focused on excitement for the Green New Deal, the continued growth of energy production in the U.S., and the impending 2020 elections before an audience of approximately 100 pro-democracy activists from left and right.
25. ***Congressional Testimony: Climate Science and Why it Matters*** (February 12, 2019). Joseph Majkut was invited to testify to the House Committee on Science, Space, and Technology as the sole Republican invitee. Majkut’s testimony highlighted that climate science offers little comfort. He emphasized the emergent signals of change in climate and weather, the risks that we face in the next couple of decades of warming, and the challenge of decarbonizing our energy system in the face of growing global demand. This was a full committee hearing with good attendance from members and significant press coverage.
26. ***The Relationship Between Climate Communication, Public Opinion, and Policy Change*** (December 10, 2018). Panel discussion with Jerry Taylor, Richard Alley (Penn State University), and Anthony Leiserowitz (Yale University) at the fall meeting of the American Geophysical Union in Washington, D.C. Taylor discussed how public opinion is driven by elite opinion and why climate actors are too often addressing the wrong audience or offering arguments that fail to resonate with Republican / conservative elites. Approximately 400 scientists were in attendance.
27. ***Implications of the US Mid-Term Elections*** (November 29, 2018). Panel discussion with Jerry Taylor, former Congressman Vic Fazio (Akin Gump), Christy Goldfuss (Center for America

Progress), and former Senator Tim Worth (UN Foundation) at the conference “Emerging Threats and Opportunities: Cybersecurity, Political Change, and the Future of Natural Gas” sponsored by the UN Foundation and the Energy Transition Forum in Washington, D.C. Taylor discussed what the midterm elections mean for the political direction of the United States with regards to energy and environmental policy and U.S. participation in the global energy movement towards decarbonization. Approximately 150 international corporate and political leaders were in attendance.

28. ***Climate Change Nuisance Suits*** (November 17, 2018) Panel discussion with David Bookbinder, Eric Grant (Deputy Assistant Attorney General), Prof. James Huffman (Emeritus Dean and Professor of Law, Lewis & Clark Law School), Mark W. Smith (Smith Valliere PLLC) and Hon. John K. Bush (U.S. Court of Appeals for the Sixth Circuit) at the Federalist Society’s National Lawyers Conference about the climate nuisance cases with approximately 200 attendees.
29. ***Industrial Energy Consumers of America*** (November 14, 2018). Panel discussion with David Bookbinder, Jan Mares (Resources for the Future) and Greg Bertelsen (Climate Leadership Council). Bookbinder discussed the prospects for federal climate legislation and the design considerations for border adjustments in a carbon tax regime before 75 attendees representing manufacturers and heavy industry companies.
30. ***Senate Staff Briefing*** (November 14, 2018). Panel discussion with David Bookbinder, Ilya Somin (George Mason University), Bot McNamara (Institute for Justice) and landowners Bill Gow and Richard Averitt in front of 25 Senate staffers on amending the Natural Gas Act's provisions for eminent domain.
31. ***Elevating Science in Public Policy and Public Discourse*** (November 2, 2018). Panel discussion with Jerry Taylor, Tiffany Lohwater (American Association for the Advancement of Science), Dominique Brossard (University of Wisconsin at Madison; Morgridge Institute for Research), Tamar Haspel (*Washington Post*), and Liz Neeley (*The Story Collider*) at the conference “Science Denial: Lessons and Solutions,” sponsored by the New York Academy of Sciences in New York City. Taylor discussed the drivers of public opinion regarding climate change, how political elites engage with the issue, and the nature of climate skepticism on the right. Approximately 100 academics and policy actors were in attendance.
32. ***Leading Across Policy Divides: Climate Change*** (October 30, 2018). Joint lecture by Jerry Taylor with Phil Duffy, president of Woods Hole Research Center, before a graduate school seminar at Georgetown University in Washington, D.C., titled "Public Leadership: Principles, Practices and Realities." Eighteen graduate students heard Taylor discuss his perspective on climate change, why the Niskanen Center is collaborating with Woods Hole, the outcomes we hope our partnership will achieve, and the lessons we have learned about leading the right towards more ambitious policy action.
33. ***The Rise of Environmental Nuisance Litigation: Can Municipalities Sue Oil Companies for Climate Change?*** (October 30, 2018). Debate between David Bookbinder and Richard Epstein (NYU Law School) about the climate nuisance cases at the New York Federalist Society in front of about 100 attendees.
34. ***Structural Changes to End Eminent Domain Abuse*** (October 18, 2018). Panel discussion at the annual Pipeline Safety Trust conference with David Bookbinder and Rebekah Sale (Property Rights

and Pipeline Center) concerning constitutional issues with the use of eminent domain under the Natural Gas Act before a group of about 100 energy executives, government regulators, and pipeline activists.

35. ***Building Political Bridges over Climate Change*** (October 8, 2018). Panel Discussion with Joseph Majkut, Rich Powell (Clearpath Foundation), John Pudner (Take Back America), and Heather Hurlburt (New America) at the Behavior, Energy, and Climate Change Conference. Majkut discussed the case for climate action as articulated by the Niskanen Center to conservative political elites. The audience was about 150 academics, energy executives, and government employees.
36. ***Congressional Staff Briefing: Clean Energy Innovation*** (September 18, 2018). Joseph Majkut participated in a panel discussion on carbon taxation and inducing innovation in clean energy technology convened by the Information Technology and Innovation Foundation. Majkut joined a panel moderated by David Hart (ITIF) — with Donald Marron (Urban Institute), Alex Brill (AEI), and Joe Kennedy (ITIF) — and spoke about the role innovation has played in reducing clean energy costs and how a carbon tax is a preferable mechanism for inducing innovation in clean production throughout the economy to an audience of approximately 100 congressional staffers and energy policy analysts.
37. ***The Journey from Climate Skeptic to Climate Advocate*** (September 12, 2018). Keynote luncheon address by Jerry Taylor before Expo East 2018 Climate Action Summit in Baltimore, MD. The keynote address was followed by a panel discussion with Hammad Atassi (CEO of the American Sustainable Business Council) and Katherine DiMatteo (Executive Director of the Sustainable Food Trade Association) regarding the importance of engaging with climate skeptics and how best to move them on climate action. Approximately 100 people were in attendance.
38. ***Bipartisan Conversation on Pricing Carbon Emissions*** (August 29, 2018). Webinar panel discussion with Jerry Taylor, Sen. Sheldon Whitehouse (D-RI), Nat Keohane (EDF), and Ted Halstead (Climate Leadership Council). The webinar, jointly sponsored by Arizona State University and the Security and Sustainability Forum, concerned the political prospects for carbon pricing over the next several congresses. Approximately 750 people signed in for the event.
39. ***Science Under the Stars*** (August 11, 2018). Keynote dinner speech by Jerry Taylor at the Woods Hole Research Center Annual Gala in Woods Hole, MA. Taylor discussed before approximately 200 attendees how he moved from climate skeptic to climate realist and the critical role that scientific argument plays in moving Republicans towards embracing climate action.
40. ***Business Strategies and Climate Change: A Real-World View Roundtable Discussion*** (August 7, 2018). Panel discussion with Jerry Taylor, Sen. Thom Tillis (R-NC), Tim Boyum (Spectrum News), Jerry Williams (SAS) and Brian Jones (Ingersoll Rand) at an event sponsored by SAS and the North Carolina chapter of the Nature Conservancy. Taylor argued why conservatives and business organizations should embrace ambitious climate action — preferably via a carbon tax — in front of approximately 200 political, business, and NGO leaders at the SAS campus in Cary, North Carolina.
41. ***Keeling Curve Prize Awards Ceremony (Aspen Ideas Fest)*** (June 29, 2018). Panel discussion with David Bookbinder, Eric Keeling (SUNY New Paltz), Chad Frischmann (Project Drawdown), and Susan Joy Hassol, (Climate Communications) on major climate issues.

42. ***The Political Landscape for Carbon Pricing*** (May 17, 2018). Panel discussion with Jerry Taylor, Sen. Sheldon Whitehouse (D-RI), Nathaniel Keohane (EDF), and Ted Halstead (Climate Leadership Council) before the Arizona State University Global Institute of Sustainability board meeting in Washington, D.C. Taylor discussed the political prospects for carbon pricing over the next few years, with a particular focus on Republican political sentiment. Approximately 75 people were in attendance.
43. ***Communicating the Need for Climate-Related Policies*** (May 11, 2018). Speech by Jerry Taylor before the Council for State Governments Eastern Regional Conference in Princeton, New Jersey. Taylor discussed how best to talk about the need for climate action to conservative audiences before approximately 100 state legislators, staff, and Princeton faculty.
44. ***An Update on Carbon Pricing*** (May 1, 2018). Panel discussion with Jerry Taylor, Sarah Ladislaw (Center for Strategic and International Studies), John Larsen (Rhodium Group), and Tom Kerr (International Finance Corp.) before the Center for Strategic and International Studies in Washington, D.C. Taylor discussed the political terrain on Capitol Hill and the degree of Republican support for carbon pricing in the present Congress. Approximately 150 people were in attendance.
45. ***A Conservative Perspective on Climate Change*** (April 24, 2018). Dinner speech by Jerry Taylor before the Baltimore-Washington chapter of the Air & Waste Management Association. Taylor discussed why he left climate skepticism behind and the prospects for congressional action to address climate change before approximately a dozen dinner guests.
46. ***The Economic Imperative of Climate Action*** (April 23, 2018). Panel discussion with Jerry Taylor, Karina Funk (Brown Advisory), Sanjeev Krishnan (S2G Ventures), and Rich Sorkin (Jupiter Intelligence) before the Brown Navigating Our World (NOW) Conference in Washington, D.C. Taylor discussed why he left climate skepticism behind and the prospects for changing Republican minds about the need to address climate change before approximately 100 attendees from the investment community.
47. ***What Did They Know, and When Did They Know It? The Municipal Climate Litigation, the Fossil-Fuel Industry, and the Municipal Bond Market.*** (April 17, 2018). Panel discussion with David Bookbinder, Andrew Grossman (BakerHostetler), Michael MacCracken (Climate Institute), Patrick Michaels (Cato Institute) and Stephen Winterstein (Wilmington Trust Investment Advisors), hosted by the American Enterprise Institute. Bookbinder argued that ExxonMobil's claim that certain local governments that are suing Exxon for climate nuisance damages did not disclose information about the risk of climate change in their bond disclosure documents is unsubstantiated before an audience of approximately 100 attendees.
48. ***Economics, Trade and National Narratives: Beyond the Headlines*** (April 9, 2018). Panel discussion with Jerry Taylor, Stephen Munro (Bloomberg), Paula Glover (American Association of Blacks in Energy), Samantha Gross (Brookings Institution), and Amy Myers Jaffe (Council on Foreign Relations) before the opening session of the BNEF Future of Energy Global Summit in New York City. Taylor discussed various topical matters pertaining to the energy industry before approximately 1,000 invitation-only attendees.
49. ***Transforming Environmental Health*** (March 19, 2018). Keynote speech by Jerry Taylor at a symposium sponsored by the Johns Hopkins Bloomberg School of Public Health in Baltimore.

Taylor discussed the nature of climate skepticism in the GOP and how best to communicate positively with right-of-center audiences before approximately 200 public health officials.

50. *Institute for Energy Economics and Financial Analysis 2018 Annual Conference* (March 13, 2018). Panel discussion by David Bookbinder and Natalie Karas (EDF) discussing the build-out of natural gas pipelines in the U.S. and legal strategies that landowners have used to enforce their property rights in the face of these proposals before approximately 100 attendees.
51. *Confronting the Climate Challenge: US Policy Options* (March 2, 2018). Comments by Jerry Taylor at book forum hosted by Resources for the Future in Washington, D.C. Taylor discussed the political prospects for carbon pricing in Congress along with Prof. Lawrence Goulder (Stanford) and Mark Hafstead (RFF), the co-authors of the book. Approximately 100 D.C. policy actors were in attendance.
52. *Making Border Carbon Adjustments Work in Law and Practice*, (February 28, 2018). David Bookbinder participated in the Brookings Institution's informal workshop that investigated these issues from a highly pragmatic perspective. The goal was to inform the BCA provisions of U.S. carbon tax legislation with an eye to ensuring effective and efficient policy design and anticipating the implementation challenges through the regulatory and administrative processes. Approximately 30 carbon tax experts were in attendance.

Appendix B

Publications & Media

Niskanen Center Climate Studies

Patrick Anderson and Traci Taylor, [*Analysis of Michigan's Options Under the EPA's Clean Power Plan: Comparing Baseline, Cap-and-Trade, and Carbon Tax Scenarios*](#), Anderson Economic Group for the Niskanen Center, April 20, 2016.

David Bookbinder and David Bailey, [*Why the Coal Industry Should Embrace a Carbon Tax*](#), Niskanen Center, January 27, 2016.

Joseph Majkut, [*Climate Science: A Guide to the Debate*](#), Niskanen Center, March 13, 2017.

Commentaries

[Our climate blog](#) offers sophisticated, high-level analysis regarding the politics, policy, economics, and the science of climate change. It is aimed at well-informed governing elites who influence the climate-related policy discussions in the White House and on Capitol Hill.

Our posts have been frequently referenced, directly and indirectly, by influential media outlets, are read extensively in congressional offices and within the right-of-center policy community, and regularly prompt calls from congressional staff for private briefings, congressional testimony, and follow-up information.

Publications & Citations Summary

Total media citations: 300+

Energy & Environment Publishing: 44+

InsideClimate News: 36+

Selection of Major Media Publications and Citations: 93

1. ["Rex Tillerson back in spotlight at Exxon climate trial."](#) *Houston Chronicle*, October 30, 2019.
2. ["Embracing failure will help us fund climate-saving technology."](#) *Quartz*, November 1, 2019.
3. ["Want to fix the United States' immigration and economic challenges? Try place-based visas."](#) *Washington Post*, November 1, 2019.
4. ["Trump could target Calif. pact with Canada on clean cars."](#) *Energy & Environment News*, October 25, 2019.
5. ["Here's What You Need To Know About Today's Historic Climate Fraud Case Against Exxon."](#) *BuzzFeed*, October 22, 2019.
6. ["Lawsuits heat up the climate change debate."](#) *The Washington Examiner*, October 10, 2019.
7. ["'Swampy symbiosis': fossil fuel industry has more clout than ever under Trump."](#) *The Guardian*, September 29, 2019.

8. Podcast: My Climate Journey, [Episode 39: Joseph Majkut, Director of Climate Policy at Niskanen Center](#), September 23, 2019.
9. [“Trump’s California War Is Fueled by Oil and Rage.”](#) *Washington Post*, September 19, 2019
10. [“The Energy 202: Here's why lawyers suing oil companies are following the opioid cases.”](#) *Washington Post*, September 3, 2019.
11. [“What would it take for Republicans to deal with climate change?”](#) *Washington Post*, August 29, 2019
12. [“Are Conservatives Embracing a Carbon Tax?”](#) *National Review*, August 1, 2019.
13. [“Ahead of 2020, Democrats See Climate ‘Crisis’ Where Republicans See ‘Problem’.”](#) *Morning Consult*, July 11, 2019.
14. [“No, climate action can't be separated from social justice.”](#) *The Guardian*, June 11, 2019.
15. [“It’s Younger and Cooler Than a Carbon Tax.”](#) *The Atlantic*, June 21, 2019.
16. [“The Real Green New Deal Doesn’t Belong to AOC.”](#) *Bloomberg*, May 23, 2019.
17. [“What Changed My Mind About Climate Change?”](#) *The Bulwark*, Jerry Taylor, May 21, 2019.
18. [“This Is What It Would Take for Republicans to Actually Fight Climate Change.”](#) *Vox*, May 14, 2019.
19. [“A Green New Deal ignites an old red scare.”](#) *Washington Post*, May 8, 2019.
20. [“Conservatives for the Climate.”](#) *The New York Times*, April 25, 2019
21. [“Pay attention to the growing wave of climate change lawsuits,”](#) *Vox*, April 10, 2019
22. [“The Art of the Green New Deal.”](#) (podcast), *Vox*, April 5, 2019
23. [“How Trump's climate review could backfire,”](#) *E&E News*, March 8, 2019
24. [“A Radically Moderate Answer to Climate Change.”](#) *New York Magazine*, March 1, 2019
25. [“House Science Committee turns new leaf on climate change with Democrats in charge.”](#) *Washington Post*, February 14, 2019
26. [“Science Marks Its Return To The House Science Committee.”](#) *Huffington Post*, February 13, 2019
27. [“Pipeline wars arrive at Supreme Court. What's next?”](#) *E&E News*, January 16, 2019.
28. [“California set a goal of 100% clean energy, and now other states may follow its lead.”](#) *Los Angeles Times*, January 10, 2019.
29. [“Litigation lags science decades after first climate suit.”](#) *E&E News*, January 7, 2019.
30. [“Crab Fishermen Sue Energy Companies Over Climate Change.”](#) *Smithsonian Magazine* smithsonian.com, December 5, 2018.
31. [“The fallout from France's fuel tax cave,”](#) *Axios*, December 5, 2019.
32. [“This is when the GOP turned away from climate policy.”](#) *E&E News*, December 5, 2018.
33. [“Climate Denialism’s Stupidity Is the Point — And Its Weakness.”](#) *Bloomberg*, December 3, 2018.
34. [“Scientists Respond To Trump’s Latest Unhinged Climate Remarks: ‘It’s Almost Satire’.”](#) *Huffington Post*, November 28, 2018.
35. [“A hopeless carbon tax bill that's still worth watching.”](#) *Axios*, November 28, 2018.
36. [“House lawmakers introduce first bipartisan carbon tax bill in a decade.”](#) *Washington Examiner*, November 27, 2018.
37. [“Republican climate hawks hope administration's report on economic costs sway skeptics.”](#) *Washington Examiner*, November 27, 2018.

38. [“I was wrong on climate change. Why can’t other conservatives admit it too.”](#) *Washington Post*, November 26, 2018.
39. [“Bipartisan group to introduce carbon fee bill.”](#) *E&E News*, November 26, 2018.
40. [“Daily on Energy, presented by GAIN: Will the projected economic toll of climate change sway Republicans?”](#) November 26, 2018.
41. [“After two defeats in Washington State where next for a carbon tax.”](#) *Our Energy Policy*, November 26, 2018.
42. [“Fishermen Sue Oil Companies Over Rising Ocean Temperatures.”](#) *Scientific America*, November 15, 2018.
43. [“Carbon advocates won’t quit after a string of defeats.”](#) *E&E News*, November 14, 2018.
44. [“Welcoming a Congress divided.”](#) *Politico*, November 7, 2018.
45. [“Justices OK climate case, but kids have long way to go.”](#) *E&E News*, November 5, 2018
46. [“Rockefeller Donations Key to Keeping Climate Change Lawsuits Afloat,”](#) *Inside Sources*, October 16, 2018.
47. [“A \\$5K carbon tax sparks questions — and laughter,”](#) *E&E News*, October 11, 2018.
48. [“‘Sobering’ New UN Report Challenges Republican Climate Hawks’ Free-Market Dogma,”](#) *Huffington Post*, October 8, 2018.
49. [“Wealthy Foundations Paid ‘One Of The Largest Conservative Grassroots’ Groups To Promote Liberal Climate Policies,”](#) *The Daily Caller*, October 2, 2018.
50. [“The EPA’s Climate Rollbacks Could Mean Thousands of Premature Deaths,”](#) *E&E News*, October 2, 2018.
51. [“Mountain Valley, Atlantic Coast cases pack 4th Circuit today,”](#) *E&E News*, September 28, 2018.
52. [“Carlos Curbelo, the Republican who’s all in on climate change,”](#) *Washington Examiner*, September 18, 2018.
53. [“Libertarians join battle over pipelines, property rights,”](#) *E&E News*, September 13, 2018.
54. [“Proposed climate rule may help hamstring nuisance claims,”](#) *E&E News*, August 24, 2018.
55. [“Trump can still meet Obama’s coal pollution target, even after gutting signature rule,”](#) *Washington Examiner*, August 22, 2018.
56. [“Trump issues rollback of Obama’s biggest climate rule,”](#) *Politico*, August 21, 2018.
57. [“The Bogus Bipartisanship on a Carbon Tax,”](#) *Capital Research Center*, August 20, 2018.
58. [“There’s No Such Thing as a ‘Conservative’ Carbon Tax,”](#) *Economics 21*, August 20, 2018.
59. [“Climate Lawsuits Face Stiff Headwinds,”](#) *National Journal*, August 7, 2018.
60. [“Republican opposition to climate action is cracking in districts won by Hillary Clinton,”](#) *Quartz Media*, July 25, 2018.
61. [“GOP congressman introduces carbon tax bill,”](#) *Axios*, Jul 23, 2018.
62. [“Curbelo’s Carbon Tax Footprint,”](#) *Politico*, July 23, 2018.
63. [“Conservatives get ready to battle a GOP carbon tax bill,”](#) *Washington Examiner*, July 23, 2018.
64. [“Capitalism Will Solve the Climate Problem: Skeptics try to deny the evidence of global warming, but businesses already are betting on clean energy.”](#) *The Wall Street Journal*, July 22, 2018.
65. [“House passes GOP leadership measure declaring a carbon tax harmful to economy,”](#) *Washington Examiner*, July 19, 2018.

66. [“Republicans Move to Kill Carbon Tax Before It Gains Any Momentum,”](#) *Bloomberg*, July 18, 2018.
67. [“Daily on Energy: Trump and Putin, energy ‘competitors’ together,”](#) *Washington Examiner*, July 16, 2018.
68. [“From Policy To Payday: Former Interior Secretary Says Environmental Lawyers Have Shifted Focus,”](#) *Forbes*, July 16, 2018.
69. [“What Kennedy’s Supreme Court departure means for the environment,”](#) *Popular Science*, July 12, 2018.
70. [“From new leadership to Clean Power Plan, subtle shifts ripple through EPA,”](#) *The Christian Science Monitor*, July 11, 2018.
71. [“Retiring Supreme Court Justice Anthony Kennedy Was A ‘Gettable Vote’ On Environmental Cases, Lawyers Say,”](#) *Buzzfeed*, June 29, 2018.
72. [“San Francisco and Oakland sued oil companies for causing climate change. A judge dismissed the cases: Lawsuits filed by other cities are still underway.”](#) *Vox*, June 26, 2018.
73. [“Big Oil notches climate case win,”](#) *Axios*, June 26, 2018.
74. [“Why climate change is the easiest news to fake,”](#) *Axios*, June 25, 2018.
75. [“Energy lobbyists have a new PAC to push for a carbon tax. Wait, what?”](#) *Vox*, Jun 23, 2018.
76. [“Too hot to handle: Politics of warming part of culture wars,”](#) *Associated Press*, June 20, 2018.
77. [“Climate change fighters turn to Republicans,”](#) *Washington Examiner*, June 19, 2018.
78. [“Inside Exxon Mobil’s fight to stop climate change litigation in its tracks,”](#) *Houston Chronicle*, June 14, 2018.
79. [“The list of oil companies that met with the Pope about climate change has some big names missing.”](#) *Quartz Media*, June 9, 2018.
80. [“Don’t laugh, we’re closer to a bipartisan solution on climate change than you realize,”](#) *The Hill*, June 05, 2018.
81. [“Trump Plan to Prop Up Coal, Nuclear Won’t Protect the Electric Grid,”](#) *U.S. News & World Report*, June 4, 2018.
82. [“What it will take to get Republicans and Democrats to agree on global warming,”](#) *Quartz Media*, May 27, 2018.
83. [“A federal judge in a climate change lawsuit is forcing oil companies to cough up internal documents,”](#) *Vox*, May 29, 2018.
84. [“Carbon taxes, pricing sweep statehouses and foreign governments, even as U.S. resists,”](#) *Houston Chronicle*, May 23, 2018.
85. [“Daily on Energy: Rift grows in GOP over climate change,”](#) *Washington Examiner*, May 18, 2018.
86. [“On Climate, Sharp Generational Divide Within GOP,”](#) *U.S. News*, May 14, 2018.
87. [“California’s bad solar remedy for climate change,”](#) *Chicago Tribune*, May 11, 2018.
88. [“Climate Lawsuits, Once Limited to the Coasts, Jump Inland,”](#) *The New York Times*, April 18, 2018.
89. [“How the science of persuasion could change the politics of climate change,”](#) *MIT Technology Review*, April 16, 2018.
90. [“Are pipeline land takings in the public interest if oil, gas headed overseas?”](#) *Houston Chronicle*, April 5, 2018

91. ["Lawsuits are a poor way to address climate change."](#) *Dallas News*, April 2, 2018.
92. ["Energy Companies Sued for Being Energy Companies."](#) *National Review*, March 28, 2018.
93. ["Trump's Deregulatory Record."](#) *National Review*, January 3, 2018.