



Forrest's \$200m bid to 'influence' senator

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Body

Fortescue pursued a \$200 million deal to buy West Virginia coal assets in 2022 because chairman Andrew Forrest wanted to cultivate a relationship with a key Democratic senator who was playing kingmaker to the Biden administration's flagship climate and energy legislation at the time.

Internal documents provided to a Connecticut court as part of a dispute between the mining giant and its one-time US partner show Democrat senator Joe Manchin was personally trying to broker a deal between **Fortescue** and the American company that owned the coal-fired generators in the same week he cast the deciding vote on the passage of the \$US369 billion Inflation Reduction Act.

Known as the IRA, the scheme had the potential to unlock billions of dollars worth of taxpayer support for the sort of green hydrogen projects that Forrest wanted **Fortescue** to build. The documents show Forrest lost interest in plans to buy the West Virginia assets from Energy Harbor as soon as Manchin used his vote to secure the passage of the green subsidy scheme.

Evidence of a close relationship between Forrest and Manchin has emerged from the lawsuit filed by **Fortescue's** former partner in the bid for the assets, the family office of US billionaire Paul Tudor Jones.

The Tudor Jones camp is seeking compensation from **Fortescue** for costs incurred during their short partnership, and has argued that the ASX-listed company was interested in buying the coal-fired power stations as a way of winning influence over Manchin and, by extension, the IRA.

As evidence, Tudor Jones' flagship company Kid Shelleen presented an email sent by **Fortescue's** then-North American energy president, Paul Browning, to Forrest and other company executives on July 27, 2022.

"We pursued Energy Harbor at AF's [Andrew Forrest's] request based on his Manchin relationship, but there are plenty of other retiring coal assets we can pursue in areas with better renewable resource," Browning said in the email to executives Julie Shuttleworth and David Hunt.

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Browning informed them that **Fortescue** leaders - including energy boss Mark Hutchinson, energy executive Andy Vesey and finance boss Guy Debelle - had decided to walk away from the deal "unless AF wants us to proceed based on Manchin relationship".

The email about **Fortescue** "walking away" from the deal was sent on the same day that Manchin agreed to join his fellow Democratic Party representatives in supporting passage of the IRA through the US Senate.

Manchin's support was critical, and could not be taken for granted because he had defied his Democrat colleagues by blocking earlier versions of the IRA - formerly known as the Build Back Better Act - on three occasions.

Three days after voting for the IRA, Manchin wrote to Forrest asking why Energy Harbor had not heard from **Fortescue** to finalise the transaction.

"[Energy Harbor executive] Jay Bellingham with Pleasants Power Station says he hasn't heard anything from your team in two weeks concerning the sales agreement with you, please reach out and let me know, thank you, Joe Manchin," said a copy of Manchin's message to Forrest on July 30, 2022.

The original \$US135 million offer lobbed by **Fortescue** in May 2022 was downgraded to about \$US50 million in July 2022, much to the displeasure of Bellingham.

Vesey told the court in December that he was involved in a call with Forrest, Manchin and Bellingham as they attempted to solve disagreements over the deal. At the time, Vesey said Forrest was reluctant to take on the cost of rehabilitating land at the coal assets.

"Andrew [Forrest] said, 'we're not cleaning up their mess and that's their responsibility', and Joe Manchin talked to Jay Bellingham and agreed with Andrew and said 'it's not their [**Fortescue**'s] responsibility to clean it up, it's yours', and that was fundamentally the end of the call," Vesey said.

Fortescue planned to buy the plants and convert them to produce clean hydrogen, which can be burned as a fuel or used as a chemical catalyst.

Negotiations with Energy Harbor came amid a frenetic three-year period when **Fortescue** was striking scores of preliminary agreements for clean energy projects around the world.

Vesey told the court that Forrest had targeted West Virginia - a big coal-producing state - so he could demonstrate to the world how carbon-intensive economies could be retrofitted to thrive on cleaner industries.

"The opportunity in West Virginia was important to demonstrate we could go into a heavily [coal] dependent state, take a ... coal asset that was operating, close it down, turn it into a green hydrogen facility, continue to provide the economic benefits to those employees in that community and to have the political support of the two senators and the governor at that time," he said.

"The fact that Joe Manchin supported and took a high-risk political position of supporting a conversion of a coal plant ... we thought we should participate in making this a reality."

In May 2022, Forrest's close relationship with Manchin was cited by Browning as one of the reasons Energy Harbor had selected **Fortescue** as its preferred bidder, despite the company not being the highest bidder.

"We will now move into exclusive negotiations. I'm sure your visit and Senator Manchin's support were important to their decision," Browning wrote in an email sent to Forrest and other executives on May 17, 2022.

Fortescue's \$US135 million preliminary offer to Energy Harbor had not been disclosed to any sharemarkets at the time of the May 2022 email, but regardless, Browning suggested to Forrest that he should let Manchin know that preferred bidder status had been secured.

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"You might want to drop a note to the senator. Something like 'Joe, in confidence I want to let you know that we recently submitted our bid for Pleasants and Sammis power plants and Energy Harbor has accepted it and informed us that we will now move into exclusive negotiations. Your interest and support made all the difference and I thank you.'," Browning said in the same May email to Forrest and other **Fortescue** executives.

On July 10, 2022, Hunt, who at the time was **Fortescue**'s chief commercial officer for the North American energy division, wrote to Vesey, Browning and former **Fortescue** executive Felicity Gooding about the fact **Fortescue** had lowered its offer to Energy Harbor from \$US135 million to about \$US50 million.

Hunt implied that **Fortescue** would have driven a harder bargain were it not for its desire to foster a relationship with Manchin. "If it were not for the Manchin angle, I'd be advocating for taking an aggressive stance, but I think that we need a wider view on the decision," Hunt wrote.

Fortescue declined to comment.

Manchin announced in November 2023 that he would not seek re-election, and is now an adviser at Bondi Partners, a lobbying firm run by former federal treasurer Joe Hockey, and Apollo Global Management.

"Connecting businesses to West Virginia has been a top priority because our state has always been, and must continue to be, a powerhouse for America's future," Manchin said when asked about the transaction.

"I am proud of the work we did in passing the IRA to strengthen America's energy independence. Today, we are producing more fossil and renewable energy than at any point in our history. I have remained steadfast in my commitment to an all-of-the-above energy strategy - one that embraces every resource at our disposal while ensuring economic growth and national security.

"I have always believed that hydrogen is one of the most promising clean fuels for the future, and as we continue to advance and mature the technology, it has the potential to play a major role in our energy landscape."

Manchin and Forrest eventually dropped their support for the IRA.

Fortescue said in February that it was considering pausing its hydrogen projects, including a \$US550 million hydrogen refuelling station it was building in Arizona.

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