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Jurisdiction delays lawsuits against Big Oil: the Biden administration can help

BY DELTA MERNER, OPINION CONTRIBUTOR - 12/15/22 2:30 PM ET

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AP Photo/Rick Bowmer

Steam is emitted from smokestacks at a coal-fired power plant on Nov. 17, 2021, in Craig, Colo.



caused. The case aims to hold the companies accountable for their role in today's climate crisis, which includes devastating impacts from more frequent and destructive wildfires. Since the case was filed, Colorado has suffered from [four of the five biggest fires](#) in its history. As time progresses climate change worsens and impacts, such as wildfires, are growing.

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Today, the nearly half-a-decade-old case is still [pending](#) in state court due to the defendants' stall tactics, such as attempts to [move the case out of state courts](#). In the meantime, Boulder residents await any sense of justice.

Boulder is one of [nearly 30 states](#), cities and counties taking major oil and gas corporations to court. Local leaders are demanding justice for communities damaged by fossil fuel-driven climate change and seeking to hold fossil fuel companies accountable for deceiving the public about their role in accelerating the climate crisis.

As momentum builds at the state and local levels, the [Biden](#) administration has a unique opportunity to support groundbreaking climate litigation and follow through on President Biden's [campaign promise](#) to "strategically support" climate change-related lawsuits against polluters. Nationwide, fossil fuel companies are using deliberate delay tactics to keep cases out of state courts where they're filed and where the concerns of impacted communities are



In October, the U.S. Supreme Court asked the solicitor general to state their position in the Colorado communities' case. To date, every court to consider this issue has sided with communities and rejected Big Oil's arguments. They agree that local governments can pursue their claims in state court, where they were filed. Six state attorneys general have also asked the Department of Justice to side with impacted communities. The Biden administration needs to confirm clear judicial consensus. This important decision will majorly impact the fate of dozens of climate accountability cases nationwide.

Both President Biden and the DOJ have made admirable commitments to climate action through initiatives like executive orders and new offices. The October request from the U.S. Supreme Court provides our leaders a chance to make good on those promises and demonstrate a meaningful commitment to justice for communities impacted by climate change.

This wave of climate lawsuits wouldn't be possible without extreme weather event and source attribution science that traces global climate changes to emissions from individual fossil fuel companies, as well as social science documenting the fossil fuel industry's relentless and ongoing public deception campaigns. Climate attribution studies, for example, have connected emissions from the extraction and sale of fossil fuel products to increased surface temperature, sea level and ocean acidification. The growing body of research enables communities to seek redress against those responsible for losses and damages and limit future climate harm.



I've seen the impact of this firsthand when Hurricane Sandy devastated New Jersey, my home state, in 2012. Per a recent study, the proportion of sea-level rise attributable to human-driven climate change in New York, New Jersey and Connecticut resulted in an additional \$8 billion of damage when Sandy raged through the region. New Jersey is now the latest state to sue Big Oil. Like New Jerseyans, communities across the country are dealing with massive costs associated with damage from extreme climate events. Forcing the economic burden of actions taken by fossil fuel companies onto taxpayers is harmful and unjust.

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Climate litigation is already succeeding. United Nations climate science research has now concluded that disinformation has impeded climate action, and recognized climate litigation as an important strategy for confronting the climate crisis. Now it's time for the United States to do its part to hold ExxonMobil and other major fossil fuel polluters accountable.

The Union of Concerned Scientists and our allies in the environmental, legal and justice spaces are calling on the Biden administration and the DOJ to side with communities seeking access to justice in state courts. We — along with a growing number of public officials — also hope the department will take the additional step of launching its own investigation into the fossil fuel industry for its decades of lying and bring a civil suit against



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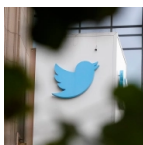
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