



Minnesota Sues ExxonMobil, Koch Industries, & American Petroleum Institute

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The State of Minnesota has joined the scrum of state and local governments seeking to hold the oil industry responsible for a host of behaviors that have harmed their communities and the people who live there. To date, none of those suits has been successful. Will the Minnesota suit be any different? Perhaps.

Unlike other climate change lawsuits, this one was filed in state court and alleges violations of state laws pertaining to consumer fraud, deceptive trade practices, and false advertising. In **the complaint**, Minnesota attorney general Keith Ellison says the companies devised plans to deceive the public about climate change science in order to safeguard their enormously profitable industry. In so doing, they “have harmed Minnesotans’ health and our state’s environment, infrastructure, and economy.”

The named defendants are ExxonMobil, three entities that are part of Koch Industries, and the American Petroleum Institute. The complaint seeks restitution for the harm done by the defendants’ nefarious actions, a restraining order barring them from continuing to lie about their activities, and money to pay for a public education campaign on climate change.

“The State seeks to ensure that the parties who have profited from avoiding the consequences and costs of dealing with global warming and its physical, environmental, social, and economic consequences, bear the costs of those impacts, rather than Minnesota taxpayers, residents, or broader segments of the public,” the lawsuit says.

It goes on to say, “This action seeks to hold Defendants accountable for deliberately undermining the science of climate change, purposefully downplaying the role that the purchase and consumption of their products played in causing climate change and the potentially catastrophic consequences of climate change, and for failing to fully inform the consumers and the public of their understanding that without swift action, it would be too late to ward off the devastation.”

False Advertising

According to a report by **Inside Climate News**, Ellison claims the companies created advertising that was intended to ensure consumers continued to purchase their fossil fuel products and failed to warn consumers of the contrary findings by the industry’s own scientists. Adding insult to injury, ExxonMobil and Koch Industries contributed millions to organizations that attacked climate science.

Inside Climate News says in **other cases filed against ExxonMobil**, it has claimed lawsuits brought by state attorneys general were politically motivated and are not about consumer

protection at all. Instead, they are nothing but an attempt to impose the states' climate beliefs on the company. In other words, the company is setting up a free speech defense that basically says the First Amendment gives it the right to say anything it wants no matter what. Anyone who has studied constitutional law for more than 10 minutes knows that argument is bogus.

“T’ain’t So,” Companies Say

Paul G. Afonso, the chief legal officer and senior vice president for API, said in a statement “The record of the past two decades demonstrates that the industry has achieved its goal of providing affordable, reliable American energy to U.S. consumers while substantially reducing emissions and our environmental footprint. Any suggestion to the contrary is false.” He fails to address how the company has pressured witnesses in other lawsuits **not to testify against the company**.

One of the Koch enterprises named in the lawsuit, Flint Hills Resources, defended itself, saying it was “one of the safest and most efficient refineries operating in the United States.”

Spokesperson Jake Reint added, “We are proud to produce the transportation fuels and other essential products Minnesotans rely on. Since 2010, Flint Hills Resources has invested nearly \$1.7 billion in upgrades and improvements that have helped the refinery continue to lower emissions while producing more of the products people need and use every day.”

Co-Conspirators

The Minnesota lawsuit has one unique feature. It names a number of other organizations as part of a “web of front groups” that that worked hand-in-hand with the industry to help it spread its deceptions and lies. Those groups include the Cato Institute, the Competitive Enterprise Institute, and the American Legislative Exchange Council. If this were a criminal complaint, they would be known as unindicted co-conspirators.

Pat Parenteau, a professor of environmental law at the Vermont Law School, tells *Inside Climate News* that calling out those organizations is a signal that industry enablers may bear some accountability for their actions. “It alleges a broad conspiracy orchestrated by Exxon, API and the Koch Bros. and includes a raft of others who were the instruments of the campaign of deception and successful efforts to prevent meaningful governmental action to address the threat of climate change,” Parenteau says.

Well Documented Harm

The lawsuit is framed around Minnesota’s fraud protection statutes, which offer broad protections for the state’s consumers and could give the attorney general an edge, says Alexandra Klass, a University of Minnesota Law School professor specializing in energy law and environmental law. “The deception and the impact of their products appears well documented. So the attorney general enters the case with a strong position under Minnesota statutes.” Much of that documentation resulted from an *Inside Climate News* investigation that revealed ExxonMobil’s **own scientists warned the company** about the harm it was causing.

Minnesota’s climate has warmed faster than both national and global averages from 1951 to 2012, according to a report by the **Minnesota Pollution Control Agency**. Over that period, the average annual temperature increased by 3.2 degrees Fahrenheit in the Minneapolis–Saint Paul metro area. Such high temperatures can lead to crop loss. Minnesota’s corn harvest is worth \$4.6

billion annually. Heavy rainfall and flooding that scientists have linked to climate change have caused hundreds of millions of dollars in damage to roads, buildings, homes and infrastructure.

Climate Justice Is Social Justice

The lawsuit cites the danger that extreme heat poses to people — particularly people of color — who live in poverty, putting a spotlight on the connection between climate justice and social justice. “Impacts from climate change hurt our low income residents and communities of color first and worst,” Ellison says. “Holding these companies accountable for the climate deception they’ve spread and continue to spread is essential to helping families to afford their lives and live with dignity and respect.”