



## Minnesota Alleges ExxonMobil, Koch and API Deceived Public About Climate Change

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Minnesota has jumped into the climate litigation fray with a lawsuit seeking to hold ExxonMobil, Koch Industries and the American Petroleum Institute accountable for their role in accelerating climate change and the damage it has already caused.

Attorney General Keith Ellison filed the lawsuit Wednesday in Ramsey County District Court to stop deceptive practices by Exxon, three Koch industries entities and API related to the sale and promotion of petroleum products known to cause climate change, saying in a statement that they "have harmed Minnesotans' health and our state's environment, infrastructure, and economy."

The lawsuit includes claims for consumer fraud, deceptive trade practices and false advertising. In addition to asking for an injunction barring further violation of these laws, the complaint seeks restitution for the harms Minnesotans have suffered, and asks the court to require the defendants 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 said.

In an **84-page complaint**, the plaintiffs say the companies had devised plans to deceive the public about climate-change science in order to safeguard their enormously profitable industry.

"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," the complaint said.

In the lawsuit, Ellison said the companies' advertising was aimed at ensuring that consumers continued to purchase fossil-fuel products, and failed to warn of the contrary findings by the industry's own scientists, according to the lawsuit. Further, Exxon and Koch contributed millions to climate-change denial organizations that obfuscated climate science.

Exxon did not respond to a request for comment. In previous cases, Exxon has said climate lawsuits brought by state attorneys general were politically motivated and that they were not about consumer protection but an attempt to impose the states' climate beliefs on the company.

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."

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."

"We are proud to produce the transportation fuels and other essential products Minnesotans rely on," said company spokesman Jake Reint.

"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," he said.

Minnesota joins **a growing number** of state and local governments seeking to hold petroleum companies responsible for harms associated with climate change. To date, the state Massachusetts, as well as more than a dozen cities and counties from New York to California, have filed litigation based on public nuisance laws. Although the claims differ among the various jurisdictions, the central theme is that the industry knew about the catastrophic consequences of climate change yet did nothing to halt the foreseeable harm.

The attorney general of the District of Columbia announced late Wednesday afternoon that "a major climate change action" will be unveiled on Thursday morning.

The Minnesota case casts a broader net than many of the other lawsuits by including API, the country's largest oil trade association; and Koch, a multinational parent company for numerous subsidiaries involved in the fossil fuel industry.

Although not named as defendants in the lawsuit, Ellison named other organizations as part of a "web of front groups" that includes the Cato Institute, the Competitive Enterprise Institute, and the American Legislative Exchange Council that worked hand-in-hand with the industry.

Calling out those organizations is seen as a signal that industry enablers bear some accountability, said Pat Parenteau, a professor of environmental law at the Vermont Law School.

"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** said.

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, said 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," **Klass** said. "So the attorney general enters the case with a strong position under Minnesota statutes."

Many of the documents cited by Ellison to support the lawsuit were first revealed by InsideClimate News as part of **an investigative series of stories** that disclosed that Exxon's own scientists confirmed the role of fossil fuels in global warming as early as the 1970s and then engaged in a campaign to downplay the severity of climate change. (The Los Angeles Times later **published stories** addressing Exxon's climate denial history.)

Ellison's office is also overseeing the investigation into the killing of George Floyd, the Minneapolis man whose death at the hands of police officers has ignited protests across the country calling for police reform.

The Exxon lawsuit highlights the financial and human impacts that Minnesota has incurred and will incur as a result of climate change.

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.

High temperatures can lead to crop loss, most notably the \$4.6 billion annual corn harvest. 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.

Most ominously, the lawsuit cites the danger that extreme heat poses to people, particularly people of color, those living in poverty, and those residing in urban areas like Minneapolis and St. Paul.

"Impacts from climate change hurt our low-income residents and communities of color first and worst," Ellison said in his prepared statement. "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."

The legal skirmish ahead for Minnesota promises to be long and hard fought, against multi-billion dollar industry foes determined to **protect their business at all costs**.

The Minnesota case comes four years **after a coalition of Democratic state attorneys general** vowed to hold the fossil fuel industry accountable for climate change. Although Ellison was not the state's AG at the time, his predecessor, Lori Swanson, was a member of the coalition.

Since then three attorneys general have gone after Exxon, with varying success.

The New York Attorney General **lost a high profile case last year** when a judge cleared Exxon of allegations that it misled investors about the risks posed to its business by climate regulations.

Years earlier, the attorney general of the tiny U.S. Virgin Islands blinked under the overwhelming odds of tackling one of the world's largest oil companies in court. Four months after opening an investigation of Exxon, **the case was abruptly closed** when the attorney general agreed to withdraw subpoenas.

The Massachusetts Attorney General filed **a consumer fraud complaint against Exxon** last year, alleging violations of the state's consumer and investor protection law and related regulations. That action concluded a three-year investigation by the attorney general in which **Exxon waged a furious battle to halt** the investigation.

More broadly, the Minnesota case comes at a time when the fossil fuel industry is fighting **more than a dozen civil lawsuits** filed by cities, counties and states across the country seeking billions in damages to mitigate the effects of climate change.