



A BEACON IN THE SMOG

## Will Exxon face a lawsuit for denying climate science?

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When listening to the garbled blender noises that come out of politicians or businessmen when they're denying the scientific consensus on climate change, it's natural to be frustrated, angry, even irate. But can you sue them?

Environmentalists and their allies in Congress are putting pressure on the Department of Justice to consider its options. In a letter sent last October, two Democratic congressmen asked the Department of Justice to investigate ExxonMobil for decades of promoting climate denial, when the company's own scientists knew better. In a Senate Judiciary Hearing on Wednesday, Democratic Sen. Sheldon Whitehouse pressed Attorney General Loretta Lynch on the interesting, albeit fantastical, proposal: whether the government has the ability to bring a civil lawsuit against a company for its climate denial.

Whitehouse, a climate hawk who's pushed for reform on environmental issues, questioned Lynch:

“The similarities between the mischief of the tobacco industry pretending that the science of tobacco's dangers was unsettled and the fossil fuel industry pretending that the science of carbon emissions' dangers is unsettled has been remarked on widely, particularly by those who study the climate denial apparatus that the fossil fuel industry has erected ... Under President Clinton, the Department of Justice brought and won a civil RICO action against the tobacco industry for its fraud. Under President Obama, the Department of Justice has done nothing so far about the climate denial scheme ... My question to you

is other than civil forfeitures and matters attendant to a criminal case, are there other circumstances in which a civil matter under the authority of the Department of Justice has been referred to the FBI?”

Lynch answered her office is reviewing it. “This matter has been discussed,” Lynch said. “We have received information about it and have referred it to the FBI to consider whether or not it meets the criteria for which we could take action on.”

Earlier this month, the Justice Department passed along the congressional request for a probe of Exxon to the FBI’s criminal division. When Whitehouse asked Lynch for more details on the DOJ and FBI’s role in the matter, Lynch said she’d need to get back to him.

The Exxon campaign is not the first time climate advocates have suggested taking legal action to address climate denial. Last September, 20 scientists sent a letter to President Barack Obama asking federal investigation of climate science denial under the Racketeering Influenced and Corrupt Organization (RICO) statute, a 1970 law that allows civil action for alleged misconduct to be filed in state or federal court (a similar strategy was used against the tobacco industry in 1999). The implications of such a move are a point of contention for conservatives, like Walter Olsen of the Cato Institute, who argue the case could hamper advocacy and free speech.

The chances of a DOJ review leading to an actual lawsuit is slim, but even the speculation of a suit means added public pressure on the fossil fuel industry’s associated political activities. If the feds really did bring a civil suit against the fossil fuel giant, then the message this sends to climate deniers would be all the more powerful.