



High Level Summary: *City of Hoboken v. Exxon Mobil Corporation, et. Al*

The science of climate change is clear: humans have added unprecedented amounts of carbon dioxide to the atmosphere, mostly since the Second World War, and such greenhouse gasses have caused the Earth to warm and have caused a series of knock-on environmental effects, including higher sea levels, more frequent and intense storms, and increased extreme heat days. The most important source of this carbon is fossil fuels, the bulk of which have been extracted, refined, marketed, and sold by a small number of massive corporations that have reaped hundreds of billions of dollars in profits.

Fossil fuel companies knew of the risks of climate change—they in fact pioneered scientific research in the area—as early as 1959. Their scientists, and especially scientists at Exxon, knew that uncontrolled sale of their products would cause sea levels to rise and would massively disrupt the climate, with catastrophic consequences. Instead of sharing this science with the wider community and instead of becoming part of the solution to climate change at a time when efforts could have steered the world to a more sustainable future, these companies buried their research and embarked on a decades-long campaign of misinformation about climate change.

They knew they were lying, and they continued to do so in order to sustain their outsized profits. At the very same time as they were proclaiming to the world that climate change was a hoax, these companies started to update their own extraction facilities to cope with the changes they claimed were the product of hysteria. For instance, *Shell spent billions of dollars increasing the height of its oil rigs in anticipation of anthropogenic sea level rise, all the while funding campaigns that said no sea level rise was likely.*

The City of Hoboken is uniquely vulnerable to the effects of climate change and global warming. As the experiences of Superstorm Sandy, Hurricane Irene, and recent storms show, the City and its people face an existential threat from climate change. Like other urban communities, climate change has had a significant impact on lower income communities and communities of color in Hoboken. Climate change is also a racial justice issue.

The City is today a world leader in environmental resilience and disaster management, but that has cost substantial amounts. It is the City and its people who have had to pick up the tab for these companies' policies, and it is the City and its people who will have to mortgage their future to simply stave off the immediate effects of climate change in the next hundred years. New Jersey law—and the common law going back centuries—have enshrined the basic proposition that those who cause harm must pay for it. The City is holding these Defendants liable for that simple proposition: these companies and their trade groups caused this harm, knowing all the while that their actions would cause this harm but deciding to cynically deceive the public. It is only just that they pay their fair share.

Section A: Anthropogenic climate change is real and it is caused by the actions of fossil fuel companies

It is no longer just a matter of opinion that the global climate is changing, that these changes are incredibly harmful, that they are caused by increasing concentrations of carbon in the atmosphere, and that those increasing concentrations in the last fifty years are the direct result of expansions in the production, marketing, and sale of fossil fuels by multinational companies.

Last year, atmospheric concentrations of carbon dioxide reached levels not seen in the last three million years (Complaint ¶ 34). As a result of these increased concentrations, global temperatures have risen, on average, almost 2° F (Complaint ¶ 28). Oceans have risen on average by 8-9 inches, but the rise in the northeast US has been three times that (Complaint ¶ 49). By 2100, the seas could be (on average) eight feet higher (Complaint ¶ 57).

This has led to a marked increase in flooding and storms. It is estimated that 76% of all flood days in the US between 2005-14 would not have occurred without anthropogenic climate change (Complaint ¶ 52). Higher temperatures have also led to heat waves. Northeastern cities could see up to six times as many dangerously hot summer days by 2100 as they did between 1975 and 2010 (Complaint ¶ 66). And higher temperatures have also disrupted the hydrological cycles, which governs precipitation. It has caused an increase in the frequency and intensity of Atlantic hurricanes and an increase in the intensity of rainfall events (Complaint ¶¶ 71-72).

The companies who have been sued today—Exxon Mobil, Shell, Chevron, BP, and ConocoPhillips—are household names in part because of the huge role they've played in the global climate crisis. Collectively, they are estimated to have contributed to a full 12% of the total carbon added to the atmosphere since 1965. Exxon Mobil—a local company that started out life as Standard Oil of New Jersey—has been one of the prime movers. New Jersey is very familiar with Exxon and its actions: it was subject to lawsuits for massive environmental destruction arising from its Bayway Refinery.

Section B: Defendants knew that their production, marketing, and sale of fossil fuels would cause global climate change

In 1959, Edward Teller, a physicist, informed fossil fuel industry leaders that global warming was likely to happen if fossil fuel production was not limited (Complaint ¶ 76). In 1968, the American Petroleum Institute commissioned a study that stated that increasing concentrations of

carbon dioxide due to fossil fuel production and sale would cause global temperatures to increase, ice caps to melt, and oceans to rise (Complaint ¶ 78). It warned that urgent action was needed to prevent these harmful effects.

In 1969, API commissioned a report that predicted, almost exactly, the kinds of climate effects currently being seen from unrestrained fossil fuel production (Complaint ¶ 80). In 1977, an Exxon scientist delivered a report to the company's Management Committee stating that unrestrained production and combustion of fossil fuels would produce increased temperatures, rising oceans, and increased precipitation (Complaint ¶ 82). He told Exxon that the world had five to ten years before "hard decisions regarding changes in energy strategy might become critical" (Complaint ¶ 85).

In 1979, Exxon's own scientists confirmed that the data showed that fossil fuel caused climate change was taking place and that continued change could lead to "dramatic environmental effect" (Complaint ¶ 88). Between 1981 and 1988, scientists working for fossil fuel companies, and especially Exxon, confirmed this "scientific consensus" and reported on their findings to senior management (Complaint ¶¶ 93-104).

Section C: Defendants lied and deceived the public about anthropogenic climate change

As soon as it looked like the public was becoming aware of the threat of climate change, fossil fuel companies pivoted in the hope of stymying change and protecting their massive profits. Exxon took a new "position" in public starting in 1988 that stressed a newfound concern about the "uncertainty" in climate science (Complaint ¶ 116). Fossil fuel companies began a massive campaign of misinformation, shutting down their own climate change research programs (that had shown that anthropogenic climate change was a real and urgent problem) and instead funneled money to front organizations and sham scientific researchers, all in the hope of sowing doubt in conclusions their own scientists had confirmed (Complaint ¶¶ 118-29).

They and their front organizations committed to making climate change a "theory" not a "fact" so as to protect their profits. Anyone who disagreed was falling for "hysteria" (Complaint ¶¶ 131-34). Fossil fuel companies waged an all-out and expensive public relations blitz to spread this fake news, running "advertorials" in major newspapers and fighting to suppress mainstream science in this area (Complaint ¶¶ 139-42, 145-49, 157-59). Shockingly, these companies had the audacity to claim that, even if warming was taking place, it would be beneficial and not harmful (Complaint ¶¶ 130, 137, 143).

Fossil fuel companies were not shy about explaining why they were doing this. The American Petroleum Institute admitted internally that "Climate is at the center of the industry's business interests. Policies limiting carbon emissions reduce petroleum product use" (Complaint ¶ 151). In other words, if fossil fuel companies let up on their disinformation campaign, fossil fuel use would reduce, carbon concentrations would not rise as quickly, and their profits would suffer.

Section D: Defendants protected their own assets on the expectation that climate change would take place, all while telling the world that climate change was a hoax

Perhaps the most cynical gambit by fossil fuel companies was their decision to prepare to explore for fossil fuels in areas like the Arctic that would only be accessible if global temperatures rose, all the while telling the world that global warming was a hoax (Complaint ¶¶ 163-65).

In 1989, Shell spent \$3 billion dollars redesigning its natural gas platforms so that they were one or two meters higher, to account for expected sea level rise (Complaint ¶ 167). In 1996, Shell and others predicted a 0.5 meter increase in sea levels while planning a gas field project (Complaint ¶ 170). That same year, Shell joined the other defendants in API in stating that “Currently, no conclusive—or even strongly suggestive—scientific evidence exists that human activities are significantly affecting sea levels, rainfall, surface temperatures, or the intensity and frequency of storms” (Complaint ¶ 136).

Section E: Defendants’ deceit continues to this day

In recent years, fossil fuel companies have had a harder time selling this bill of goods and have had to acknowledge the undisputable fact that the climate is changing. Instead of joining efforts to combat this crisis in good faith, they have continued to deceive people by selling themselves as green energy entrepreneurs.

Today, all of the defendants make much of their sustainability projects in public, but internally they confirm that their profits and their strategy depend entirely on making sure they produce and sell more and more fossil fuels, the risks to the world notwithstanding (Complaint ¶¶ 194-208). They have tried to sell various of their products to New Jersey customers as “clean” or environmentally sound, despite knowing well that their products are anything but (Complaint ¶¶ 189-93).

This campaign of “greenwashing” is just another step in the old model of deception, trying to gaslight consumers into believing that the greatest contributors to climate change are in fact champions of the environment (Complaint ¶¶ 173-87).

Section F: The truth is finally coming to light

The recent wave of climate change lawsuits against these defendants is a reflection of a grim fact: fossil fuel companies kept their internal machinations secret for decades, and it was only recently that the public (and governments) have learned of the scope and scale of this deception.

Whistleblowers and journalists have been at the forefront of shining light on this pattern of cynicism and unchecked greed, and municipalities like Hoboken are now finally in a position to hold these companies responsible for their actions.

Section G: Hoboken faces an existential threat from climate change

Climate change of course effects many people around the world, but there are few cities in the United States that are as vulnerable as Hoboken. Lying along the banks of the Hudson, a vast majority of Hoboken is less than five feet above the high tide line and is thus subject to chronic

flooding (Complaint ¶¶ 225-30). Hoboken is also in a region that faces greater risks and effects from anthropomorphic climate change, including greater levels of temperature increase and even greater sea level increases (Complaint ¶¶ 232-54).

The most dramatic effects of climate change were undoubtedly displayed by Hurricane Irene and Superstorm Sandy in 2011 and 2012, which showed the sheer vulnerability of Hoboken to catastrophic flooding that was made worse by anthropogenic climate change. The City suffered billions of dollars of damage and, even with great grit and determination, took years to recover (Complaint ¶¶ 255-63). The city endured another slate of tropical and severe storms during the last two months, putting a finer point on these risks to Hoboken, as recent precipitation has once again broken records (Complaint ¶¶ 264-68).

Hoboken's most vulnerable citizens, and especially communities of color, are at the highest risk from climate change. Low-lying areas of Hoboken are more likely to contain facilities like public housing and City services. As the example of the flooding of the Hoboken Housing Authority during Superstorm Sandy shows, those with the least options are also the worst affected. Climate change is an equity issue (Complaint ¶¶ 231, 260-61).

The City has now become a global leader in climate change mitigation and recovery, and has been recognized as such by the United Nations. It, in coordination with local and state agencies, has put in place a system of major engineering solutions to flooding problems, notably in the form of the Rebuild By Design initiative (Complaint ¶¶ 269-88). It has had to spend hundreds of millions of dollars in revamping its water and sewage systems, public infrastructure, power distribution systems, and community resiliency initiatives, all in order to mitigate the harm fossil fuel companies caused (and knew they were going to cause). It is only fair to Hoboken taxpayers that these companies now pay their fair share towards those costs and costs going into the future.