

# Climate accountability litigation



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# WHAT THEY KNEW: CLIMATE SCIENCE

## 1968: American Petroleum Institute commissions report from Stanford Research Institute

In summary, Revelle makes the point that man is now engaged in a vast geophysical experiment with his environment, the earth. Significant temperature changes are almost certain to occur by the year 2000 and these could bring about climatic changes.

- “[T]here seems to be no doubt that the potential damage to our environment could be severe”
- Temperatures might rise by at least 1.1°F if atmospheric CO<sub>2</sub> increased 25 percent, and that temperature increases would “be three times this figure” if CO<sub>2</sub> levels doubled

# WHAT THEY KNEW: NEED FOR REDUCTIONS

## 1980: American Petroleum Institute climate task force

- Recognized “the probability of large [climate] effects 50 years away,” but that the “immediate problem [would be] considerably eased” “[i]f fossil fuel rates are reduced.”

TIME FOR ACTION ? MARKET PENETRATION TIME THEORY SAYS  
THERE IS NO LEEWAY

## 1980: Exxon scientist Henry Shaw

In the next few decades, there are no ~~not~~ likely ~~to-be~~ technological “fixes” (e.g., emission control devices or techniques) that will provide practical means of controlling CO<sub>2</sub> emissions resulting from combustion.

In policy actions to control the increased CO<sub>2</sub> loading of the atmosphere are delayed until climate changes resulting from such an increase are discernible, then it is likely that they will occur too late to be effective.

# REACTION TO PUBLIC CONCERN

- 1988

- Dr. James Hansen testimony to Congress: “The greenhouse effect has been detected, and it is changing our climate **now**.”
- Five bipartisan climate bills in Congress; George H.W. Bush promises action
- IPCC formed with US support

- 1989: Exxon & API form “Global Climate Coalition”

- Emphasize “**uncertainty**”; oppose Kyoto Protocol

- 1998: API Global Science Communications Team

- Goal: to get “[a] majority of the American public” to “recognize[ ] that significant uncertainties exist in climate science” and to make climate change “a non-issue, meaning that the Kyoto Protocol is defeated and there are no further initiatives to thwart the threat of climate change”

# INTERNAL MEMOS AND ACTIONS

- Mobil scientist to industry in 1995:
  - “The scientific basis for the Greenhouse Effect and the potential impact of human emissions of greenhouse gases such as CO<sub>2</sub> on climate is well established and cannot be denied.”
  - “Contrarian theories” to explain climate change are not credible
- Planning for warming:
  - 1996: Mobil used climate science to make “structural allowances for rising temperatures and sea levels” in offshore facilities in Canada
  - 1986-1992: Exxon uses climate change models to conclude that “a warming Arctic” would “only help lower exploration and development costs”



# EXTERNAL COMMUNICATIONS

- 1997 Mobil advertisement:
  - **“Scientists cannot predict with certainty if temperatures will increase, by how much and where changes will occur. We still don’t know what role man-made greenhouse gases might play in warming the planet.”**
- Exxon publicly in 2000: Climate science is “unsettled”
- Advertisements as late as 2004:
  - **Emphasizing “[s]cientific uncertainties” that “limit our ability to make objective, quantitative determinations regarding the human role in recent climate change, or the degree and consequence of future change.”**

# EFFECTIVENESS OF STRATEGY

- 1992:
  - 88% of Americans believed that global warming was a serious problem
- 1997:
  - 42% of Americans believed that global warming was a serious problem
- 2012:
  - Only 45% of Americans agreed that “scientists believe that earth is getting warmer because of human activity”

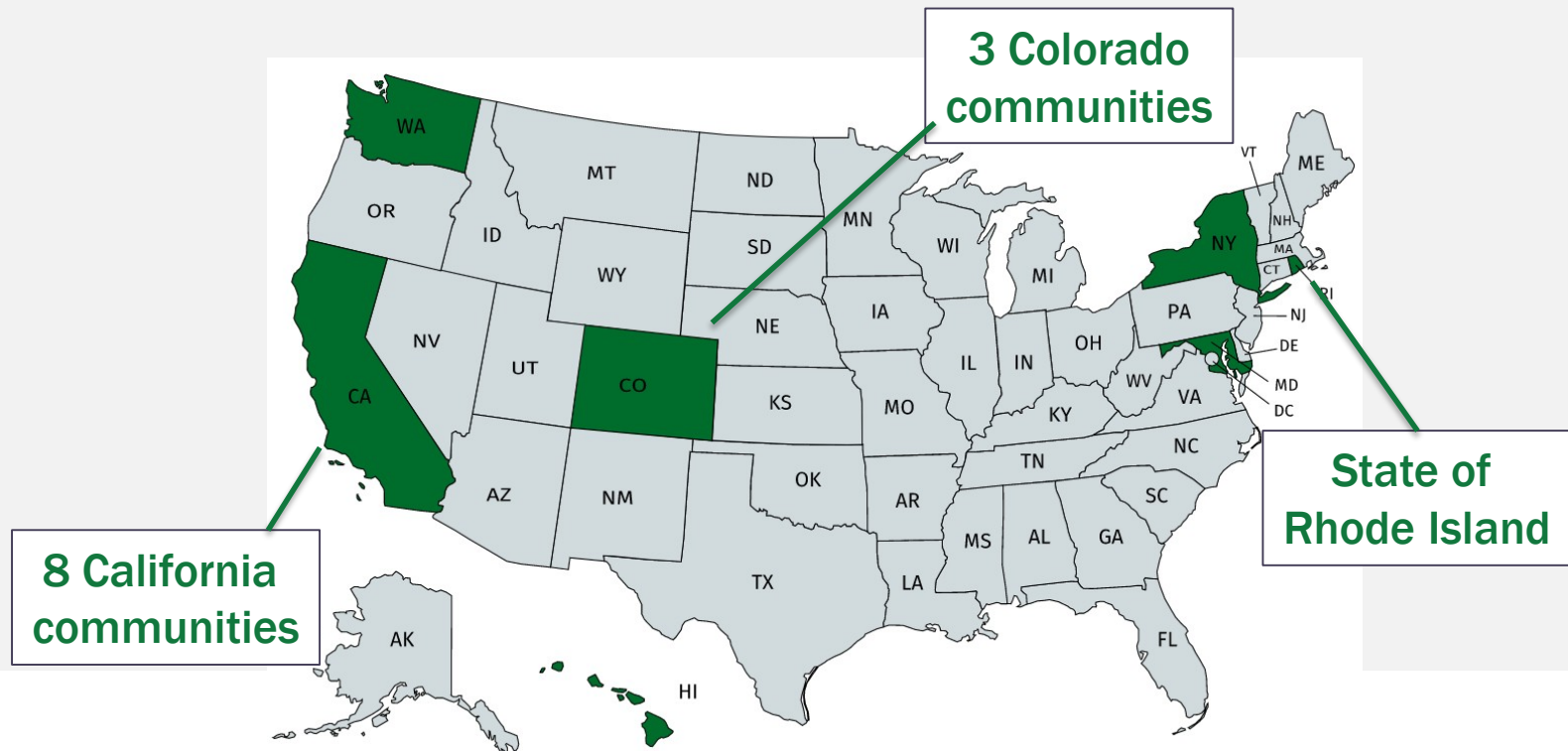


**ACCOUNTABILITY  
LITIGATION**



# PUBLIC NUISANCE SUITS

- “Public nuisance”: unreasonable interference with, or injury to, the rights of the public, including health and safety
  - Little dispute that climate change is harming the public, in myriad ways
  - Other claims include private nuisance, negligence, trespass, and product liability
- Similar to current opioid lawsuits – seeking contribution for climate harms
- 15 lawsuits (mostly governments; one fishermen’s association)



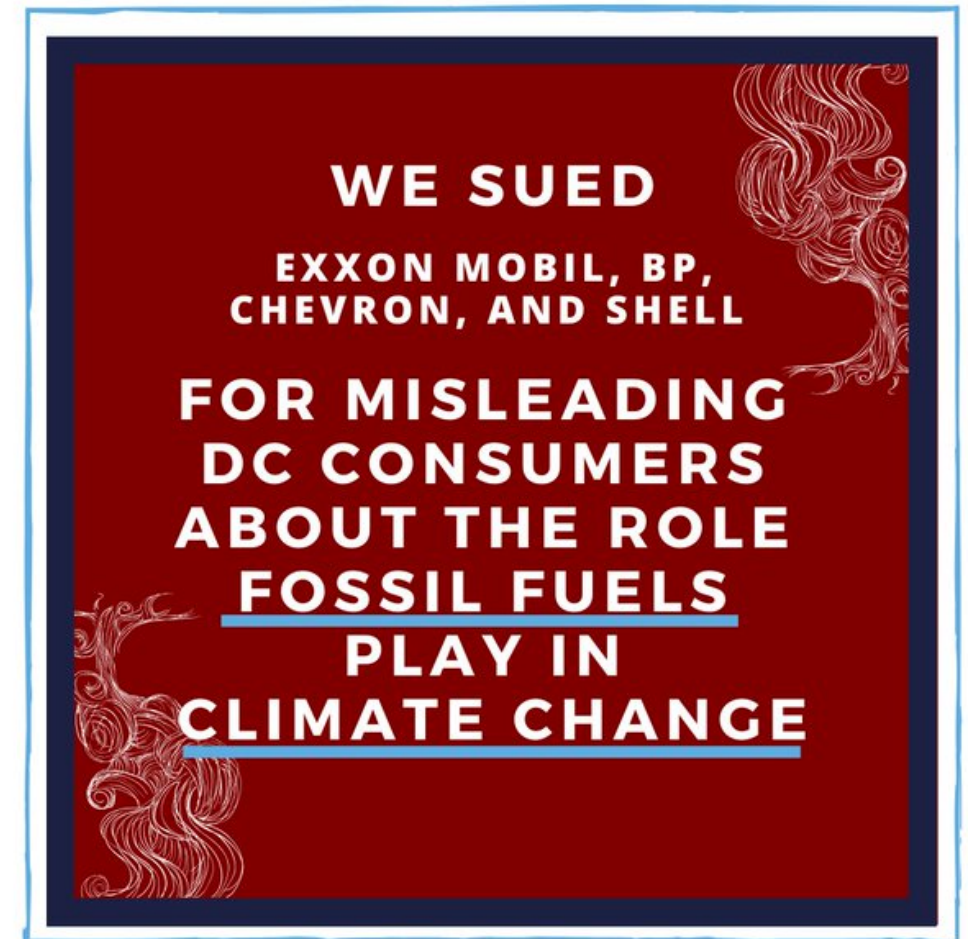
# LITIGATION PROGRESS

- State vs. federal court
  - Communities have won multiple federal decisions sending back to state court
  - Supreme Court petition
  - Three cases (Colorado, Baltimore, Rhode Island) now proceeding in state court; eight California cases probably close behind
- Viability of cases?
  - Dismissal of San Francisco/Oakland case reversed; rehearing pending in Ninth Circuit
  - New York City dismissal on appeal
  - Waiting for state court ruling in Colorado



# FRAUD/CONSUMER PROTECTION SUITS

- Four suits filed by Attorneys General in New York, Massachusetts, Minnesota and D.C.
- NY: Judge found *investors* were not defrauded by Exxon
- Other cases claim *consumer* fraud against Exxon and other companies



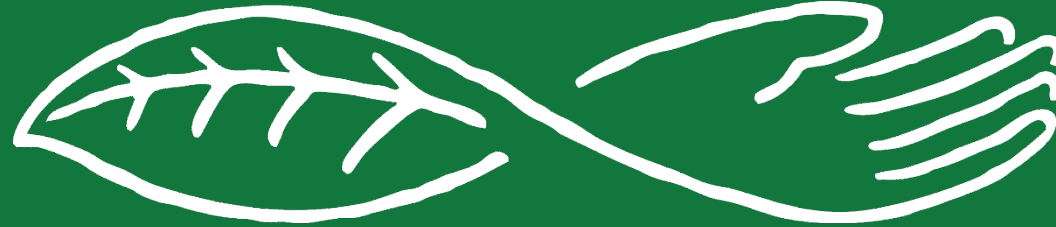


# EXXON: AT HOME IN NEW JERSEY

- Responsible for more than 3% of global CO<sub>2</sub> emissions since 1965
- Over 40 *billion* tons of CO<sub>2</sub> (or CO<sub>2</sub> equivalent) – more than an entire year's global output
- Originally Standard Oil Company of New Jersey; still incorporated in NJ
- Can be regulated by New Jersey, and sued here for its responsibility for causing damage anywhere in the world



Thank you!



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