



IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

STATE OF DELAWARE, *ex rel.*
KATHLEEN JENNINGS, Attorney
General of the State of Delaware,

Plaintiff,

v.

BP AMERICA INC., BP P.L.C.,
CHEVRON CORPORATION, CHEVRON
U.S.A. INC., HESS CORPORATION,
CONOCOPHILLIPS, CONOCOPHILLIPS
COMPANY, MARATHON OIL
CORPORATION, MARATHON OIL
COMPANY, PHILLIPS 66, PHILLIPS 66
COMPANY, EXXON MOBIL
CORPORATION, EXXONMOBIL OIL
CORPORATION, XTO ENERGY INC.,
MARATHON PETROLEUM
CORPORATION, MARATHON
PETROLEUM COMPANY LP,
SPEEDWAY LLC, MURPHY OIL
CORPORATION, MURPHY USA INC.,
SHELL PLC, SHELL USA, INC., CITGO
PETROLEUM CORPORATION,
TOTALENERGIES SE,
TOTALENERGIES MARKETING USA,
INC., OCCIDENTAL PETROLEUM
CORPORATION, DEVON ENERGY
CORPORATION, APACHE
CORPORATION, CNX RESOURCES
CORPORATION, CORE NATURAL
RESOURCES, INC., OVINTIV INC., and
AMERICAN PETROLEUM INSTITUTE,

Defendants.

C.A. No. N20C-09-097-EMD-
CCLD

FIRST AMENDED
COMPLAINT

**TRIAL BY JURY OF 12
DEMANDED**

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COMPLAINT AND DEMAND FOR JURY TRIAL

The State of Delaware (“Plaintiff,” “State,” or “Delaware”), by and through the Office of the Attorney General, Kathleen Jennings, on its own behalf, as trustee of State natural resources and property, including that held in trust, as owner, lessor, occupier, and manager of State property, and in its *parens patriae* capacity on behalf of its residents, brings this action against Defendants BP America Inc.; BP p.l.c.; Chevron Corporation; Chevron U.S.A. Inc.; Hess Corporation; ConocoPhillips; ConocoPhillips Company; Marathon Oil Corporation; Marathon Oil Company; Phillips 66; Phillips 66 Company; Exxon Mobil Corporation; ExxonMobil Oil Corporation; XTO Energy Inc.; Marathon Petroleum Corporation; Marathon Petroleum Company LP; Speedway LLC; Murphy Oil Corporation; Murphy USA Inc.; Shell plc (f/k/a Royal Dutch Shell plc); Shell USA, Inc. (f/k/a Shell Oil Company); Citgo Petroleum Corporation; TotalEnergies SE (f/k/a Total S.A.); TotalEnergies Marketing USA, Inc. (f/k/a Total Specialties USA, Inc.); Occidental Petroleum Corporation; Devon Energy Corporation; Apache Corporation; CNX Resources Corporation; Core Natural Resources, Inc. (f/k/a CONSOL Energy Inc.);

and Ovintiv Inc. (the “Fossil Fuel Defendants”); and the American Petroleum Institute (“API”) (collectively, “Defendants”),¹ and alleges as follows:

I. INTRODUCTION

1. Defendants, major members of the fossil fuel industry, have known for decades that fossil fuels can cause catastrophic consequences for the planet and its people, such as warming temperatures, rising seas, stronger storms, and other climate change impacts. But rather than warn consumers and the public in a manner commensurate with the risks known to Defendants, they mounted a decades-long campaign of deception to discredit the scientific consensus on climate change and create doubt in the minds of consumers, the media, and the public about the climate impacts of burning fossil fuels. This case is fundamentally about shifting the costs of climate change-related harms back onto the entities whose failure to warn and deception caused and exacerbated the State’s injuries that it is now suffering, and will continue to suffer, as a result of Defendants’ tortious conduct.

¹ The State brings this First Amended Complaint against the same Defendants as the Original Complaint filed on September 10, 2020. The State has not added any new defendants, but this First Amended Complaint reflects the fact that certain Defendants have changed their name since the State filed the Original Complaint. The updated name changes are Shell plc (f/k/a Royal Dutch Shell plc); Shell USA, Inc. (f/k/a Shell Oil Company); TotalEnergies SE (f/k/a Total S.A.); TotalEnergies Marketing USA, Inc. (f/k/a Total Specialties USA, Inc.); and Core Natural Resources, Inc. (f/k/a CONSOL Energy Inc.).

2. The State has already experienced and will continue to experience the effects of climate change, including, but not limited to, sea level rise and extreme weather. As a result of the fossil fuel industry's lies and deceit, the State is confronted with the real costs of protecting its people, natural resources, businesses, and infrastructure from the hazards of climate change.

3. Defendants are major members of the fossil fuel industry—extractors, producers, refiners, manufacturers, distributors, promoters, marketers, and/or sellers of raw and refined fossil fuel products (together, “fossil fuel products”). Each Defendant funded, staffed, organized, and otherwise supported efforts to deceive the public and consumers—including in Delaware—about the known risks and dangers associated with the use of fossil fuel products.

4. The production and combustion of fossil fuels results in greenhouse gas (“GHG”) emissions—especially CO₂—which are the dominant driver of climate change.² The substantial majority of all anthropogenic³ GHG emissions in history have occurred since the 1950s, a period known as the “Great Acceleration.”⁴ About three-quarters of all industrial CO₂ emissions in history have occurred since the

² See Intergovernmental Panel on Climate Change (“IPCC”), *Summary for Policymakers, in Climate Change 2023* 4–9 (2023), <https://perma.cc/5K56-9DUG>.

³ The term “anthropogenic” is defined by the Merriam Webster Dictionary as “of, or relating to, or resulting from the influence of human beings on nature.” Merriam Webster Dictionary, *Anthropogenic*, <https://perma.cc/LV59-6Y62>.

⁴ Will Steffen et al., *The Trajectory of the Anthropocene: The Great Acceleration*, 2 *The Anthropocene Review* 81, 81 (2015).

1960s,⁵ and more than half have occurred since the late 1980s.⁶ The annual rate of CO₂ emissions from extraction, production, and consumption of fossil fuels has increased substantially since 1990.⁷

5. Defendants have known for more than 60 years that use of their fossil fuel products would have significant adverse impacts on the Earth's climate and sea levels. Although Defendants knew the harms and risks that flowed from the intended and foreseeable use of their products, they did not warn the public about those dangers. Instead, Defendants publicly promoted the unrestrained use of their fossil fuel products to maximize their sales while privately they took steps to protect their own assets from climate change-related harms and risks, and developed plans to exploit new business opportunities in a warming world.

6. Beginning no later than the 1980s, Defendants spent millions of dollars orchestrating a massive disinformation campaign to cast doubt on the science of climate change; to place climate denialist theories into mainstream media and science (despite the fact that Defendants' own scientists had already debunked those theories); and to conceal the role of fossil fuels in driving climate change.

⁵ R.J. Andres et al., *A Synthesis of Carbon Dioxide Emissions from Fossil-Fuel Combustion*, 9 *Biogeosciences* 1845, 1851 (2012).

⁶ *Id.*

⁷ Glob. Carbon Project, *Global Carbon Budget 2021*, <https://perma.cc/2S6Y-NC2A>.

7. More recently, Defendants have pivoted to a campaign of deceptive marketing. Defendants' deceptive marketing, referred to by experts and scientists as "greenwashing," comes in many forms, but Defendants' overarching goal is to falsely portray themselves as leaders in solving the problem of climate change. In reality, however, Defendants' fossil fuel products are the leading cause of climate change.

8. Defendants perpetrated a decades-long campaign of concealment, disinformation, and deception with a singular aim: To deceive consumers and the public about the harms of their fossil fuel products for the purpose of maintaining their business and economic interests, driving up sales of their products, and increasing profits. Defendants' campaign of deception worked, and still works today.

9. This successful climate deception campaign had, and continues to have, the purpose and effect of inflating and sustaining the market for fossil fuels, which drove up GHG emissions, accelerated global warming, and brought about devastating climate change impacts to Delaware.

10. As a direct and proximate consequence of Defendants' wrongful conduct described in this Complaint, the environment in and around Delaware is changing, with devastating adverse impacts on the State and its residents. Critically,

Delaware has the lowest average elevation of any state in the country.⁸ All three of Delaware's counties are federally designated as coastal by the Coastal Zone Management Act, and no part of the state is more than 8 miles away from tidal waters.⁹ The beach communities and coastal economy serve as an essential pillar of the State's economy. As a result, Delaware is vulnerable to the impacts of sea level rise and other climate change impacts.

11. As a direct and proximate result of Defendants' wrongful conduct described in this Complaint, the State has suffered and will continue to suffer severe injuries, including, but not limited to: inundation and loss of State property; inundation of private property and businesses with associated loss of tax revenue; injury or destruction of State-owned or -operated facilities critical for operations, utility services, and risk management, as well as other assets essential to community health, safety, and well-being; increased costs of maintaining public infrastructure; increased costs of providing government services; increased health care and public health costs; increased planning and preparation costs for community adaptation and resiliency to the effects of the climate crisis; displacement, disruption and/or loss of coastal communities, with associated harm to the State; decreased tax revenue due

⁸ Delaware Sea-Level Rise Technical Committee, *Recommendation of Sea-Level Rise Planning Scenarios for Delaware* (Nov. 2017), at 24, <https://perma.cc/857H-AUHC>.

⁹ *Id.*

to impacts on Delaware’s agriculture-, tourism-, and ocean-based economy; and others.¹⁰

12. Accordingly, the State brings this action against Defendants for negligent failure to warn, trespass, common law nuisance, civil conspiracy, and violations of the Delaware Consumer Fraud Act.

13. The State does *not* seek relief with respect to any federal property, land, or assets.

14. The State hereby disclaims injuries arising on federal property and those that arose from Defendants’ provision of non-commercial, specialized fossil fuel products to the federal government for military and national defense purposes. The State seeks no recovery or relief attributable to such injuries.

15. The State does *not* seek to impose liability on Defendants for their direct emissions of GHGs and does *not* seek to restrain Defendants from engaging in their lawful business operations.

¹⁰ See, e.g., Div. of Energy and Climate, Delaware Dept. of Natural Resources and Environmental Control, *Adapting to Sea Level Rise* (2014), <https://perma.cc/RW66-B5V3>; Div. of Energy and Climate, Delaware Dept. of Natural Resources and Environmental Control, *Climate Change Impact Assessment* (2014) (hereinafter “DCCIA”), <https://perma.cc/FH7H-5A9L>; Delaware Emergency Mgmt. Agency, *All-Hazard Mitigation Plan* (Aug. 2018) , <https://perma.cc/X7W6-ERA7>; see also Industrial Economics, Inc., *An Economic Analysis of the Impacts of Climate Change in the State of Delaware*, Prepared for the Del. Dept. of Nat. Res. and Env’t Control (July 2022), <https://perma.cc/83UE-8HWK>.

16. The State seeks to impose liability on Defendants for harm in Delaware attributable to the wrongful conduct of Defendants.

17. This Complaint is about who will pay for the harms caused by Defendants' tortious conduct. The State seeks to ensure that the parties who have profited from externalizing the consequences and costs of dealing with global warming and its physical, environmental, social, and economic consequences, bear the costs of those impacts on Delaware, rather than the State, taxpayers, residents, or broader segments of the public.

II. PARTIES

A. Plaintiff

18. Plaintiff, State of Delaware, is a sovereign state bringing this action by and through its Attorney General, which maintains its principal office at 820 N. French St., Wilmington, DE 19801. The State brings this action in its capacity as sovereign, in its proprietary capacity, in its *parens patriae* capacity as an exercise of its authority to protect public trust resources, and as an exercise of its police power, which includes, but is not limited to, its power to prevent injuries to and pollution of the State's property and waters, to prevent and abate nuisances, and to prevent and abate hazards to public health, safety, welfare, and the environment.

19. The Attorney General is the chief law officer of the State, and is statutorily authorized to initiate and maintain this action pursuant to 29 Del. C. §§ 2504 and 2522 and 6 Del. C. § 2522, and as the common law trustee.

20. The State consists of several offices and departments, each with purview over the State's operations, facilities, natural resources, property, and/or programs that have been injured by Defendants' conduct as alleged herein.

21. The State's natural resources include without limitation aquatic animals, wildlife, biota, air, surface water, groundwater, wetlands, drinking water supplies, soil, sediment, beaches, public lands the State holds in trust,¹¹ and State-owned lands ("State natural resources").

22. The State owns, leases, occupies, and manages extensive real property, some of which is held in trust, which may include but is not limited to: trails, roads, bridges and abutments, culverts, dams, harbors, submerged lands, rivers and other bodies of water, beaches, dunes, boardwalks, piers, seawalls, parks, camping areas, picnic areas, historic sites, islands, lands, buildings and appurtenances, and other improvements and infrastructure thereto ("State property").

¹¹ The State understands that the Court, in its January 9, 2024 Order on Defendants' Motion to Dismiss, concluded that, while the State did state a claim for trespass and nuisance, it failed to do so specifically with respect to land held by the State in public trust. *See* Order at 66. The State continues to believe this conclusion was in error, and the State is preserving for appeal the issue of damages to land held in public trust by the State with respect to its trespass and nuisance claims.

B. Defendants

23. Defendants are among the largest oil and gas companies in the world and a national oil and gas industry trade association.

24. When reference in this Complaint is made to an act or omission of Defendants, unless otherwise stated, such references should be interpreted to mean that the officers, directors, agents, employees, or representatives of Defendants committed or authorized such an act or omission, or failed to adequately supervise or properly control or direct their employees while engaged in the management, direction, operation or control of the affairs of Defendants, and did so while acting within the scope of their employment or agency.

25. BP Entities: BP P.L.C., BP America Inc.

a. Defendant **BP P.L.C.** is a multinational, vertically integrated energy and petrochemical public limited company, registered in England and Wales, with its principal place of business in London, England. BP P.L.C. consists of three main operating segments: (1) exploration and production, (2) refining and marketing, and (3) “gas and low-carbon energy.” BP P.L.C. is the ultimate parent company of numerous subsidiaries, referred to collectively as the “BP Group,” which explore for and extract oil and gas worldwide; refine oil into fossil fuel products such as gasoline; and market and sell oil, fuel, other refined petroleum products, and natural gas worldwide. BP P.L.C. was formerly known as, did or does

business as, and/or is the successor in liability to British Petroleum Company, British Petroleum Company p.l.c., BP Amoco p.l.c., Amoco Corporation, and Atlantic Richfield Company.

b. BP P.L.C. controls and has controlled group-wide decisions about the quantity and rate of fossil fuel production and sales, including those of its subsidiaries. BP P.L.C. is the ultimate decision-maker on fundamental decisions about the BP Group's core business, *i.e.*, the volume of group-wide fossil fuels to produce and market, including production among BP P.L.C.'s subsidiaries. BP P.L.C.'s 2022 Annual Report summarizes the company's "Strategic progress," including on offshore and exploration projects and acquisitions and sales of various oil and gas operations that contributed to a 12% increase in the BP Group's overall fossil fuel product production. These projects were carried out by BP P.L.C.'s subsidiaries.

c. BP P.L.C. controls and has controlled group-wide decisions, including those of its subsidiaries, related to marketing, advertising, climate change, and GHG emissions from its fossil fuel products, and communications strategies concerning climate change and the link between fossil fuel use and climate change-related impacts on the environment and humans. BP P.L.C. makes and has made decisions on the production and use of fossil fuel reserves for the entire BP Group based on factors including climate change. BP P.L.C.'s Board of Directors is the

company's highest decision-making body, with direct responsibility for the BP Group's policies concerning climate change. BP P.L.C.'s chief executive is responsible for maintaining the BP Group's system of internal control that governs the BP Group's business conduct. BP P.L.C.'s senior leadership directly oversees and has overseen a "carbon steering group," which manages climate change-related matters and consists of two committees—both overseen directly by the board—focused on climate change-related investments.

d. Defendant **BP America Inc.** is a wholly owned subsidiary of BP P.L.C. that acts on BP P.L.C.'s behalf and subject to BP P.L.C.'s control. BP America Inc. is a vertically integrated energy and petrochemical company incorporated in the state of Delaware with its headquarters and principal office at 501 Westlake Park Blvd., Houston, Texas 77079. BP America Inc. consists of numerous divisions and affiliates in all aspects of the fossil fuel industry, including exploration for and production of crude oil and natural gas; manufacture of petroleum products; and transportation, marketing, and sale of crude oil, natural gas, and petroleum products. BP America Inc. was formerly known as, did or does business as, and/or is the successor in liability to Amoco Corporation, Amoco Oil Company, ARCO Products Company, Atlantic Richfield Delaware Corporation, Atlantic Richfield Company (a Delaware Corporation), BP Exploration & Oil, Inc., BP Products North America Inc., BP Amoco Corporation, BP Amoco Plc, BP Oil,

Inc., BP Oil Company, Sohio Oil Company, Standard Oil of Ohio (SOHIO), Standard Oil (Indiana), and The Atlantic Richfield Company (a Pennsylvania Corporation) and its division, the Arco Chemical Company.

e. Defendants BP P.L.C. and BP America, Inc., together with their predecessors, successors, parents, subsidiaries, affiliates, and divisions, are collectively referred to herein as “BP.”

f. The State’s claims against BP arise out of and are related to the acts and omissions of BP in Delaware and elsewhere that caused and will cause injuries in Delaware.

g. BP has purposefully directed its tortious conduct toward Delaware by intentionally and wrongfully distributing, marketing, advertising, promoting, and supplying its fossil fuel products in Delaware, with knowledge that the intended use of those products for combustion has caused and will continue to cause climate change-related harms in Delaware, including the State’s injuries.

h. BP’s statements in Delaware and elsewhere made in furtherance of its campaign of deception about and denial of climate change, and BP’s affirmative promotion of its fossil fuel products as safe with knowledge of how the intended use of those products would cause climate change-related harms, were designed to conceal these harms and mislead consumers and the public, including the State and its residents, about the serious adverse consequences that would result

from continued use of BP's products. That conduct was purposefully directed to reach Delaware and obscure the dangers of BP's fossil fuel products from the State and its residents such that use of BP's fossil fuel products in Delaware would not decline.

i. Over the last several decades and continuing to the present day, BP has advertised on television, radio, social media, online, and outdoors in the Delaware market related to its fossil fuel products. BP has also advertised in national and local print publications, including multiple Delaware newspapers, circulated widely to Delaware consumers.¹² As early as 1960, BP was advertising through its predecessors to Delaware consumers that its gasoline was “clean-burning.”¹³ In 2004 BP ran multiple full-page advertisements in a Delaware newspaper that misleadingly described natural gas as a “clean bridge to renewable energy” and “the cleanest burning fossil fuel,” and claimed that BP was “one of the largest providers of solar energy in the world” and “investing in other cleaner, sustainable energy sources for the future.”¹⁴ BP has also advertised on television programs that aired in the Delaware market. For example, in a 2019 advertisement that aired more than 100 times in the Delaware market, BP claimed, “[w]e're producing cleaner burning

¹² See, e.g., The Morning News (Nov. 17, 1969), <https://perma.cc/58QA-U5CS>; The News Journal (Sep. 27, 2020), <https://perma.cc/B6Y5-LQR6>.

¹³ See, e.g., The Morning News (May 24, 1960), <https://perma.cc/7B4L-LPWM>.

¹⁴ See, e.g., The News Journal (Nov. 21, 2004), <https://perma.cc/UU8M-DM4A>; The News Journal (Nov. 14, 2004), <https://perma.cc/W92C-V8ZY>.

natural gas, and solar and wind power.”¹⁵ BP has also extensively advertised its Invigorate gasoline on television in the Delaware market.¹⁶ Similarly, BP has advertised on social media platforms that reach Delaware consumers.¹⁷ In one Facebook advertisement that reached Delaware consumers, BP claimed that it “supports a rapid transition to a lower carbon future” and that it “see[s] possibilities in natural gas, the smart partner to renewables.”¹⁸ As further detailed herein, these and other advertisements contain false or misleading statements, misrepresentations, and/or material omissions obfuscating the connection between the production and use of BP’s fossil fuel products and climate change, and/or misrepresenting BP’s products or BP itself as environmentally friendly.

j. Significant quantities of BP’s fossil fuel products are or have been transported, traded, distributed, marketed, manufactured, promoted, sold, and/or consumed in Delaware, from which activities BP derives and has derived substantial revenue. Through its predecessor, BP owned and operated a plant in at least the 1980s near New Castle, Delaware that produced products derived from

¹⁵ See, e.g., BP, *Family*, aired on WBOC (Feb. 3, 2019). See also BP, *Family* (Jan. 23, 2019), <https://www.ispot.tv/ad/If1H/bp-family>.

¹⁶ See, e.g., BP, *Our Best Fuel Ever*, aired on WCAU (Feb. 18, 2017). See also BP, *Our Best Fuel Ever*, <https://www.ispot.tv/ad/AfWD/bp-our-best-fuel-ever>.

¹⁷ See, e.g., BP America, *We’re turning trash into jet fuel*, Facebook Ad Libr., <https://perma.cc/7EHL-QFQA>; BP America, *Listen now to the Energy Trilemma podcast...*, Facebook Ad Libr., <https://perma.cc/2365-RHUF>.

¹⁸ See, e.g., BP America, *BP supports a...*, Facebook Ad Libr., <https://perma.cc/U549-CNMY>.

fossil fuels. In 2013, BP sent more than \$140 million to Delaware-based vendors and supported more than 100 Delaware-based jobs.¹⁹

k. BP directly and through its subsidiaries and/or predecessors-in-interest has supplied substantial quantities of fossil fuel products to Delaware. BP conducts and controls, either directly or through franchise agreements, retail fossil fuel sales at gas station locations throughout Delaware, at which it promotes, markets, and advertises its fossil fuel products under its BP and/or Amoco brand names. There are currently more than twenty BP-branded stations in Delaware, and BP maintains an interactive website by which it directs prospective customers to BP-branded service stations in Delaware.²⁰ During the period relevant to this Complaint, BP sold a substantial percentage of all retail gasoline in Delaware.

l. BP historically directed its fossil fuel product advertising, marketing, and promotional campaigns to Delaware residents, including through print maps of Delaware identifying the locations of its service stations. BP promotes its products in Delaware by regularly updating and actively promoting, including through television commercials that air in the Delaware market, its mobile device application, “BPme Rewards,” encouraging Delaware users to consume fuel at its stations in Delaware in exchange for rewards and/or savings on every fuel purchase.

¹⁹ BP, *BP’s US Economic Impact Report 2014*, at 7 <https://perma.cc/P92Z-KCDX>.

²⁰ BP, *Find a gas station near me*, <https://perma.cc/NM7N-5NE9> (last visited June 5, 2025).

m. BP has been, and continues to be, a registered motor fuel distributor and special fuel supplier in Delaware.²¹

n. BP also markets and sells other fossil fuel products, including engine lubricant and motor oils, to Delaware consumers under its Castrol brand name. Castrol products are distributed and advertised throughout Delaware and available at multiple service stations, distributors, and retail outlets across Delaware.²² BP's other current operations in Delaware include biogas supply, trading, and shipping.²³

26. **Chevron Entities: Chevron Corporation, Chevron USA, Inc.**

a. Defendant **Chevron Corporation** is a multinational, vertically integrated energy and chemicals company incorporated in Delaware, with its global headquarters and principal office in San Ramon, California. Chevron Corporation was formerly known as, did or does business as, and/or is the successor in liability to Standard Oil Company of California, Texaco Inc., and ChevronTexaco Corporation.

²¹ Delaware Division of Motor Vehicles, *Motor Fuel – MFTA – Listing of Licensed Accounts*, <https://perma.cc/6YCG-92KL> (last visited July 11, 2025).

²² Castrol, *Where to Buy or Service*, Wilmington, DE, https://www.castrol.com/en_us/united-states/home/product-finder.html?page=wheretobuy (last visited June 8, 2025).

²³ BP, *Our US operations*, https://www.bp.com/en_us/united-states/home/where-we-operate.html (choose Enter Location; then search Archaea - Delaware) (last visited June 5, 2025).

b. Chevron Corporation operates through a web of United States and international subsidiaries at all levels of the fossil fuel supply chain. Chevron Corporation and its subsidiaries' operations include, but are not limited to, exploration, development, production, storage, transportation, and marketing of crude oil and natural gas; refining crude oil into petroleum products and marketing those products; and manufacturing and marketing commodity petrochemicals, plastics for industrial uses, and fuel and lubricant additives.

c. Chevron Corporation controls and has controlled group-wide decisions, including those of its subsidiaries, related to marketing, advertising, climate change, and GHG emissions from its fossil fuel products, and communication strategies concerning climate change and the link between fossil fuel use and climate change-related impacts on the environment and humans. Overall accountability for climate change within Chevron Corporation lies with Chevron Corporation's Board of Directors and Executive Committee.

d. Defendant **Chevron U.S.A. Inc.** is a Pennsylvania corporation with its principal place of business located in San Ramon, California. Chevron U.S.A. Inc. is registered to do business in Delaware and has a registered agent for service of process in Wilmington, Delaware. Chevron U.S.A. Inc. is a wholly owned subsidiary of Chevron Corporation that acts on Chevron Corporation's behalf and subject to Chevron Corporation's control. Chevron U.S.A. Inc. was formerly known

as, and did or does business as, and/or is the successor in liability to Gulf Oil Corporation, Gulf Oil Corporation of Pennsylvania, Chevron Products Company, and Chevron Chemical Company.

e. Defendant **Hess Corporation**, formerly known as Amerada Petroleum Corporation and Amerada Hess Corporation, is a multinational fossil fuel company engaged in exploration, development, production, transportation, purchase, sale, marketing, and promotion of crude oil, natural gas liquids, and natural gas. Hess Corporation is incorporated in Delaware and maintains its principal executive office in New York, New York. Hess Corporation is a direct and wholly owned subsidiary of Chevron Corporation that acts on Chevron Corporation's behalf and subject to Chevron Corporation's control.

f. In 2023, Chevron announced its planned acquisition of Hess Corporation for approximately \$55 billion. The acquisition completed on July 18, 2025, with Hess Corporation surviving as a wholly owned subsidiary of Chevron Corporation.

g. Defendants Chevron Corporation, Chevron U.S.A. Inc., and Hess Corporation, together with their predecessors, successors, parents, subsidiaries, affiliates, and divisions, are collectively referred to herein as "Chevron."

h. The State's claims against Chevron arise out of and are related to the acts and omissions of Chevron in Delaware and elsewhere that caused and will cause injuries in Delaware.

i. Chevron has purposefully directed its tortious conduct toward Delaware by intentionally and wrongfully distributing, marketing, advertising, promoting, and supplying its products in Delaware, with knowledge that the intended use of those products for combustion has caused and will continue to cause climate change-related harms in Delaware, including the State's injuries.

j. Chevron's statements in Delaware and elsewhere made in furtherance of its campaign of deception about and denial of climate change, and Chevron's affirmative promotion of its fossil fuel products as safe with knowledge of how the intended use of those products would cause climate change-related harms, were designed to conceal these harms and mislead consumers and the public, including the State and its residents, about the serious adverse consequences that would result from continued use of Chevron's products. That conduct was purposefully directed to reach Delaware and obscure the dangers of Chevron's fossil fuel products from the State and its residents such that use of Chevron's fossil fuel products in Delaware would not decline.

k. Over the last several decades and continuing to the present day, Chevron has advertised on television, radio, social media, online, and outdoors in

the Delaware market related to its fossil fuel products. Since no later than 1955, and continuing to the present day, Chevron and its subsidiaries have advertised in national and local print publications, including multiple Delaware newspapers, circulated widely to Delaware consumers.²⁴ As early as 1955, Chevron was advertising through its predecessors to Delaware consumers that its gasoline was “clean-burning.”²⁵ Chevron has also advertised on television programs that aired in Delaware. For example, in a 2020 advertisement that aired more than sixty times in the Delaware market, Chevron claimed that they “spent over \$1 billion on carbon capture projects, and are investing in startup companies working to transform carbon into new forms of energy to help address climate change.”²⁶ Chevron has also advertised on social media platforms that reach Delaware consumers, including advertisements that claim they are “working toward a lower carbon tomorrow.”²⁷ Similarly, Chevron has directed consumers in Delaware to its “Lower Carbon” website via online advertisements on delawareonline.com, and has advertised its Techron gasoline to Delaware consumers on WBOC.com. As further detailed

²⁴ See, e.g., The News Journal (May 27, 1958), <https://perma.cc/ZK54-29DB>; The Morning News (May 15, 1969), <https://perma.cc/LPA5-JXH6>; The News Journal (Feb. 7, 1974), <https://perma.cc/8UJC-AMW8>; The News Journal (July 12, 1955), <https://perma.cc/HR6W-BRVZ>.

²⁵ See, e.g., The News Journal (July 12, 1955), <https://perma.cc/HR6W-BRVZ>.

²⁶ See, e.g., Chevron, *Butterfly*, aired on WBOC (June 11, 2020). See also Chevron, *Butterfly* (July 24, 2020) <https://www.ispot.tv/ad/nsNI/chevron-butterfly>.

²⁷ See, e.g., Chevron, *Advancing energy progress*, Facebook Ad Libr., <https://perma.cc/6V7U-PS66>.

herein, these and other advertisements contain false or misleading statements, misrepresentations, and/or material omissions obfuscating the connection between Chevron's fossil fuel products and climate change, and/or misrepresenting Chevron's products or Chevron itself as environmentally friendly.

l. A significant amount of Chevron's fossil fuel products are or have been transported, traded, distributed, promoted, marketed, manufactured, sold, and/or consumed in Delaware, from which Chevron has derived substantial revenue. Chevron's predecessors, the Getty Oil Company and Texaco, owned and operated the Delaware City Refinery from approximately 1956–1988. Chevron's subsidiary, Hess Corporation, has also supplied significant quantities of fossil fuel products to Delmarva Power & Light Company for ultimate distribution to Delaware customers in the form of electricity or natural gas.²⁸

m. Chevron conducted and controlled, either directly or through franchise agreements, retail fossil fuel sales at its branded gas stations throughout Delaware, at which it promoted, advertised, and sold its fossil fuel products under its various brand names, including Chevron, Texaco, Gulf, and Hess. Until approximately 2014, there were multiple Chevron, Texaco, or Hess branded gas stations in Delaware.

²⁸ See, e.g., The Liberty Consulting Group, Inc., *Technical Consultant's Final Report To the Delaware Public Service Commission* (Mar. 5, 2013), at 6, <https://perma.cc/PE2Z-2YQH>.

n. Chevron historically directed its fossil fuel product advertising, marketing, and promotional campaigns to Delaware residents, including through maps of Delaware identifying the locations of its service stations.

o. Chevron has been, and continues to be, a registered motor fuel distributor and special fuel supplier in Delaware.²⁹

p. Chevron also markets and sells other fossil fuel products, including engine lubricant and motor oils, to Delaware consumers under its Delo, Techron, and Havoline brand names. These products are sold at auto parts stores across the State.³⁰

27. **ConocoPhillips Entities: ConocoPhillips, ConocoPhillips Company, Marathon Oil Corporation, Marathon Oil Company, Phillips 66, Phillips 66 Company.**

a. Defendant **ConocoPhillips** is a multinational energy company incorporated in Delaware with its principal place of business in Houston, Texas. ConocoPhillips consists of numerous divisions, subsidiaries, and affiliates that carry out ConocoPhillips's fundamental decisions related to all aspects of the fossil fuel

²⁹ Delaware Division of Motor Vehicles, *Motor Fuel – MFTA – Listing of Licensed Accounts*, <https://perma.cc/6YCG-92KL> (last visited July 11, 2025).

³⁰ Chevron Lubricants, *Find a Retailer*, https://www.chevronlubricants.com/en_us/home/where-to-buy/find-a-retailer.html (Search address, Delaware) (last visited June 9, 2025).

industry, including exploration, extraction, production, manufacture, transport, and marketing.

b. ConocoPhillips controls and has controlled group-wide decisions about the quantity and extent of fossil fuel production and sales, including those of its subsidiaries. ConocoPhillips determines whether and to what extent its holdings market, produce, and/or distribute fossil fuel products. ConocoPhillips' most recent annual report subsumes the operations of the entire ConocoPhillips group of subsidiaries under its name.³¹ ConocoPhillips represents that its value—for which ConocoPhillips maintains ultimate responsibility—is a function of its decisions to direct subsidiaries to explore for and produce fossil fuels: “Unless we successfully add to our existing proved reserves, our future crude oil, bitumen, natural gas and natural gas liquids production will decline, resulting in an adverse impact to our business.”³² ConocoPhillips optimizes the ConocoPhillips group's oil and gas portfolio to fit ConocoPhillips's strategic plan. For example, in November 2016, ConocoPhillips announced a plan to generate \$5 billion to \$8 billion of proceeds over two years by optimizing its business portfolio, including its fossil fuel product business, to focus on low cost-of-supply fossil fuel production projects that strategically fit its development plans.

³¹ ConocoPhillips, *2024 Annual Report*, at 2, <https://perma.cc/9YXX-CVWC>.

³² ConocoPhillips, *2019 Annual Report*, at 23, <https://perma.cc/G63W-DA4G>.

c. ConocoPhillips controls and has controlled group-wide decisions, including those of its subsidiaries, related to marketing, advertising, climate change and GHG emissions from its fossil fuel products, and communications strategies concerning climate change and the link between fossil fuel use and climate change-related impacts on the environment and humans. For instance, ConocoPhillips's board has the highest level of direct responsibility for climate change policy within the company. ConocoPhillips has developed and implements a corporate Climate Change Action Plan to govern climate change decision-making across all entities in the ConocoPhillips group.

d. In November 2024, ConocoPhillips acquired Marathon Oil Corporation and its subsidiary, Marathon Oil Company.³³ This acquisition added more than 2 billion barrels of oil equivalent reserves to ConocoPhillips' portfolio.

e. Defendant **ConocoPhillips Company** is a wholly owned subsidiary of ConocoPhillips that acts on ConocoPhillips's behalf and is subject to ConocoPhillips's control. ConocoPhillips Company is incorporated in Delaware and has its principal office in Houston, Texas.

f. Defendant **Marathon Oil Corporation** is a wholly owned subsidiary of ConocoPhillips that acts on ConocoPhillips's behalf and is subject to

³³ ConocoPhillips, *ConocoPhillips completes acquisition of Marathon Oil Corporation* (Nov. 22, 2024), <https://perma.cc/3537-5SEQ>.

ConocoPhillips's control. Marathon Oil Corporation is incorporated in Delaware with its corporate headquarters in Houston, Texas. Marathon Oil Corporation is engaged in the exploration and production of crude oil, natural gas, and oil sands.

g. Defendant **Marathon Oil Company** is a wholly owned subsidiary of ConocoPhillips that acts on ConocoPhillips's behalf and is subject to ConocoPhillips's control. Marathon Oil Company is engaged in the exploration and production of crude oil, natural gas, and oil sands. Marathon Oil Company is incorporated in Ohio.

h. Defendant **Phillips 66** is a multinational energy and petrochemical company incorporated in Delaware and with its principal place of business in Houston, Texas. It encompasses downstream fossil fuel processing, refining, transport, and marketing segments that were formerly owned and/or controlled by ConocoPhillips.

i. Defendant **Phillips 66 Company** is a wholly owned subsidiary of Phillips 66 that acts on Phillips 66's behalf and subject to Phillips 66's control. Phillips 66 Company is incorporated in Delaware and has its principal office in Houston, Texas. Phillips 66 Company was formerly known as, did or does business as, and/or is the successor in liability to Phillips Petroleum Company, Conoco, Inc., Tosco Corporation, and Tosco Refining Co.

j. Defendants ConocoPhillips, ConocoPhillips Company, Marathon Oil Corporation, Marathon Oil Company, Phillips 66, and Phillips 66 Company, and their predecessors, successors, parents, subsidiaries, affiliates, and divisions are collectively referred to herein as “ConocoPhillips.”

k. The State’s claims against ConocoPhillips arise out of and are related to the acts and omissions of ConocoPhillips in Delaware and elsewhere that caused or will cause injuries in Delaware.

l. ConocoPhillips has purposefully directed its tortious conduct toward Delaware by distributing, marketing, advertising, promoting, and supplying its fossil fuel products in Delaware, with knowledge that the intended use of those products for combustion has caused and will continue to cause climate change-related harms in Delaware, including without limitation, injuries to the State’s property, infrastructure, and natural resources.

m. ConocoPhillips’ statements in Delaware and elsewhere made in furtherance of its campaign of deception about and denial of climate change, and ConocoPhillips’ affirmative promotion of its fossil fuel products as safe with knowledge of how the intended use of those products would cause climate change-related harms, were designed to conceal these harms and mislead consumers and the public, including the State and its residents, about the serious adverse consequences that would result from continued use of ConocoPhillips’ products. That conduct was

purposefully directed to reach Delaware and obscure the dangers of ConocoPhillips' fossil fuel products from the State and its residents such that use of ConocoPhillips' fossil fuel products in Delaware would not decline.

n. Over the last several decades and continuing to the present day, ConocoPhillips has advertised on television, online, social media, and outdoors in the Delaware market related to its fossil fuel products. Since no later than 1961, and continuing to the present day, ConocoPhillips has advertised its fossil fuel products in national and local print publications, including multiple Delaware newspapers, circulated widely to Delaware consumers.³⁴ One such advertisement claimed that Phillips 66 gasoline was “a great gasoline made for Delaware.”³⁵ ConocoPhillips has also advertised on its social media platforms that have thousands of followers and reach consumers in Delaware.³⁶ For example, in a 2024 Facebook advertisement that reached Delaware consumers, ConocoPhillips claimed that “the increased use of natural gas in generating electricity is the key reason U.S. CO₂ emissions are the lowest in a decade.”³⁷ ConocoPhillips has also advertised on television programs that aired in the Delaware market. For example, in a commercial which aired in

³⁴ See, e.g., The News Journal (July 5, 1961), <https://perma.cc/43VC-VFXS>.

³⁵ The News Journal (Aug. 7, 1962), <https://perma.cc/HP55-ZV3A>.

³⁶ See, e.g., ConocoPhillips, *Mapping Migration to Enhance Conservation*, Facebook Ad Libr., <https://perma.cc/2PAQ-VFLT>; Phillips 66, *What are renewable fuels?*, <https://perma.cc/7955-S29V>.

³⁷ Power in Cooperation, *Did you know...*, Facebook Ad Libr., <https://perma.cc/HNX6-U6HD>.

Delaware in 2020, Phillips 66 promoted the Kendall GT-1 motor oil as being “better for carbon emissions.”³⁸ As further detailed herein, ConocoPhillips’ advertisements contain false or misleading statements, misrepresentations, and/or material omissions obfuscating the connection between the production and use of ConocoPhillips’ fossil fuel products and climate change, and/or misrepresenting ConocoPhillips’ products or ConocoPhillips itself as environmentally friendly.

o. Significant quantities of ConocoPhillips’ fossil fuel products are or have been transported, traded, distributed, promoted, marketed, manufactured, sold, and/or consumed in Delaware, from which ConocoPhillips derives and has derived substantial revenue.

p. ConocoPhillips has marketed gasoline and other fossil fuel products to consumers in Delaware, including through ConocoPhillips, Phillips 66, and/or 76-branded petroleum service stations located in Delaware. Phillips 66-branded stations began selling gasoline in Delaware no later than 1961.³⁹ In 1999 ConocoPhillips, through its predecessor, purchased at least fifty gas stations in

³⁸ See, e.g., Phillips 66 Company, *Next Generation*, aired on WCAU (July 15, 2020). See also Phillips 66 Company, *Next Generation* (May 14, 2020), <https://perma.cc/TX2F-MLY4>.

³⁹ See, e.g., The News Journal (July 5, 1961), <https://perma.cc/43VC-VFXS>.

Delaware from ExxonMobil. Today, there is at least one 76-branded station in Delaware.⁴⁰

q. Phillips 66 Company has been, and continues to be, a registered motor fuel distributor and special fuel supplier in Delaware.⁴¹

r. ConocoPhillips offers multiple proprietary credit cards, including the “Phillips 66 Credit Card,” the “Conoco Credit Card”, and the “76 Credit Card” which allow consumers and business customers in Delaware to pay for gasoline and other products at 76-branded service stations. Consumers who use ConocoPhillips’ proprietary credit cards receive various rewards, including discounts on gasoline purchases. ConocoPhillips further maintains a smartphone application called the “Fuel Forward App” which offers Delaware consumers a cashless payment method for gasoline and other products at 76-branded service stations, as well as rewards and discounts on gasoline purchases.

28. **Exxon Entities: Exxon Mobil Corporation, ExxonMobil Oil Corporation, XTO Energy Inc.**

a. Defendant **Exxon Mobil Corporation** is a multinational, vertically integrated energy and chemicals company incorporated in New Jersey

⁴⁰ Phillips 66 Company, *Find a Station (76)* (Search address: Wilmington, DE), <https://www.76.com/station-finder/> (last visited June 9, 2025).

⁴¹ Delaware Division of Motor Vehicles, *Motor Fuel – MFTA – Listing of Licensed Accounts*, <https://perma.cc/6YCG-92KL> (last visited July 11, 2025).

with its headquarters and principal place of business in Spring, Texas. Exxon Mobil Corporation is among the largest publicly traded international oil and gas companies in the world. Exxon Mobil Corporation was formerly known as, did or does business as, and/or is the successor in liability to ExxonMobil Refining and Supply Company, Exxon Chemical U.S.A., ExxonMobil Chemical Corporation, ExxonMobil Chemical U.S.A., ExxonMobil Refining & Supply Corporation, Exxon Company, U.S.A., Standard Oil Company of New Jersey Exxon Corporation, and Mobil Corporation. Exxon Mobil Corporation is registered to do business in Delaware and has a registered agent for service of process in Wilmington, Delaware.

b. Defendant **ExxonMobil Oil Corporation** is a wholly owned subsidiary of Exxon Mobil Corporation, acts on Exxon Mobil Corporation's behalf, and is subject to Exxon Mobil Corporation's control. ExxonMobil Oil Corporation is registered to do business in Delaware and has a registered agent for service of process in Wilmington, Delaware. ExxonMobil Oil Corporation was formerly known as, did or does business as, and/or is the successor in liability to Standard Oil Company of New York and Mobil Oil Corporation.

c. Defendant **XTO Energy Inc.** is a wholly owned subsidiary of Exxon Mobil Corporation that acts on Exxon Mobil Corporation's behalf and subject to Exxon Mobil Corporation's control. XTO Energy Inc. is incorporated in Delaware with its principal place of business in Spring, Texas. XTO Energy Inc.

and its subsidiaries are engaged in the acquisition, development, exploitation, and exploration of both producing oil and gas properties and unproved properties, and in the production, processing, marketing and transportation of oil and natural gas.

d. At least forty of Exxon Mobil Corporation's other subsidiaries are incorporated in Delaware, including, but not limited to, Pioneer Natural Resources Company; Ellora Energy, Inc.; Denbury Gulf Coast Pipelines, LLC; and ExxonMobil Sales and Supply LLC.

e. Exxon Mobil Corporation controls and has controlled group-wide decisions about the quantity and rate of fossil fuel production and sales, including those of its subsidiaries. Exxon Mobil Corporation's 2024 Form 10-K filed with the United States Securities and Exchange Commission ("SEC") represents that its success, including its "ability to mitigate risk and provide attractive returns to shareholders, depends on [its] ability to successfully manage [its] overall portfolio."⁴² Exxon Mobil Corporation determines whether and to what extent its subsidiaries market, produce, and/or distribute fossil fuel products. On October 11, 2023, Exxon Mobil Corporation announced its acquisition of Pioneer

⁴² Exxon Mobil Corporation, *Form 10-K* (2024), at 5 <https://perma.cc/H3PY-KLLV>.

Natural Resources in a press release that referred to the corporate family generally as “ExxonMobil.”

f. Exxon Mobil Corporation controls and has controlled group-wide decisions, including those of its subsidiaries, related to marketing, advertising, climate change and GHG emissions resulting from its fossil fuel products, and communications strategies concerning climate change and the link between fossil fuel use and climate change-related impacts on the environment and humans. Exxon Mobil Corporation’s Board of Directors holds the highest level of direct responsibility for climate change policy within the company. Exxon Mobil Corporation’s Chairman of the Board and Chief Executive Officer, its President, and the other members of its Management Committee have been actively engaged in discussions relating to GHG emissions and the risks of climate change on an ongoing basis. Exxon Mobil Corporation requires its subsidiaries, when seeking funding for capital investments, to provide estimates of project costs related to GHG emissions.

g. Defendants Exxon Mobil Corporation, ExxonMobil Oil Corporation, XTO Energy, Inc., and their predecessors, successors, parents, subsidiaries, affiliates, and divisions, are collectively referred to herein as “Exxon.”

h. The State’s claims against Exxon arise out of and are related to the acts and omissions of Exxon in Delaware and elsewhere that caused and will cause injuries in Delaware.

i. Exxon consists of numerous divisions and affiliates in all areas of the fossil fuel industry, including exploration for and production of crude oil and natural gas; manufacture of petroleum products; and transportation, promotion, marketing, and sale of crude oil, natural gas, and petroleum products. Exxon is also a major manufacturer and marketer of commodity petrochemical products.

j. Exxon has purposefully directed its tortious conduct toward Delaware by distributing, marketing, advertising, promoting, and supplying its fossil fuel products in Delaware, with knowledge that the intended use of those products for combustion has caused and will continue to cause climate change-related harms in Delaware, including the State's injuries.

k. Exxon's statements in Delaware and elsewhere made in furtherance of its campaign of deception about and denial of climate change, and Exxon's affirmative promotion of its fossil fuel products as safe with knowledge of how the intended use of those products would cause climate change-related harms, were designed to conceal these harms and mislead consumers and the public, including the State and its residents, about the serious adverse consequences that would result from continued use of Exxon's products. That conduct was purposefully directed to reach Delaware and obscure the dangers of Exxon's fossil fuel products from the State and its residents such that use of Exxon's fossil fuel products in Delaware would not decline.

1. Over the past several decades and continuing to the present day, Exxon has advertised on television, online, social media, and outdoors in the Delaware market related to its fossil fuel products. Since no later than 1950, and continuing to the present day, Exxon and its predecessors have advertised their fossil fuel products in national and local print publications, including multiple Delaware newspapers, circulated widely to Delaware consumers.⁴³ As early as 1950, Exxon was advertising to Delaware consumers that its fossil fuel products were “clean-flowing,” “clean-firing,” and “clean-burning.”⁴⁴ In the 1970s and 1980s, Mobil ran dozens of advertorials in Delaware newspapers under its “Observations” column, which promoted its Mobil 1 gasoline,⁴⁵ touted its investments in solar energy,⁴⁶ and highlighted the negatives of wind energy.⁴⁷ Exxon has also extensively advertised on television programs that aired in the Delaware market. For example, in 2019 Exxon ran a television advertisement more than seventy times in the Delaware market, in which they compared industrial power plants with living plants and claimed that if “industrial plants had technology that captured carbon like trees, we

⁴³ See, e.g., The Morning News (May 25, 1955), <https://perma.cc/SLX3-PJ4N>, The News Journal (Apr. 9, 1993), <https://perma.cc/54JS-MTAN>; The Morning News (Sep. 26, 1950), <https://perma.cc/6CB9-P8WG>.

⁴⁴ See, e.g., The Morning News (Sep. 26, 1950), <https://perma.cc/6CB9-P8WG>.

⁴⁵ See, e.g., The News Journal (Nov. 28, 1982), <https://perma.cc/36EU-5476>.

⁴⁶ See, e.g., The Morning News (Aug. 2, 1981), <https://perma.cc/YGW4-HFTK>.

⁴⁷ See, e.g., The Morning News (Apr. 27, 1980), <https://perma.cc/K2MX-RPTU>.

could help lower emissions.”⁴⁸ Exxon also repeatedly advertised its efforts to produce biofuel from algae in commercials broadcast in Delaware. One such commercial, in which Exxon claimed that algae could one day cut the emissions of planes, ships, and trucks in half, aired more than 140 times in the Delaware market in 2019.⁴⁹ Similarly, Exxon has advertised on websites specifically targeted at the Delaware market. For example, in 2021 Exxon ran an advertisement on delawareonline.com which stated, “[i]magine if 100 million metric tons of CO₂ could be captured and stored every year. It’s possible. ExxonMobil is working to advance climate solutions.” More than 7,000 of Exxon’s advertisements on Facebook and Instagram have reached Delaware consumers, many of which contain misleading and deceptive claims such as, “natural gas is helping shape a cleaner world.”⁵⁰ As further detailed herein, these and other advertisements contain false or misleading statements, misrepresentations, and/or material omissions obfuscating the connection between the production and use of Exxon’s fossil fuel products and

⁴⁸ See, e.g., ExxonMobil, *Carbon Capture*, aired on WBOC (Oct. 19, 2019). See also ExxonMobil, *Carbon Capture* (Mar. 18, 2019), <https://www.ispot.tv/ad/IW6P/exxon-mobil-carbon-capture>.

⁴⁹ See, e.g., ExxonMobil, *Algae Potential*, aired on WBOC (Sept. 21, 2019). See also ExxonMobil, *Algae Potential* (Oct. 19, 2019), <https://www.ispot.tv/ad/ovGn/exxon-mobil-algae-potential>.

⁵⁰ See, e.g., ExxonMobil, *See how natural gas is shaping a cleaner world*, Facebook Ad Libr., <https://perma.cc/ECU9-RCAZ>. See also ExxonMobil, *We support the goals set forth by the Paris Agreement...*, Facebook Ad Libr., <https://perma.cc/P7Q7-EY7Q>.

climate change, and/or misrepresenting Exxon's products or Exxon itself as environmentally friendly.

m. Significant quantities of Exxon's fossil fuel products are or have been transported, traded, distributed, promoted, marketed, manufactured, sold, and/or consumed in Delaware, from which Exxon derives and has derived substantial revenue. For example, Exxon directly and through its subsidiaries and/or predecessors-in-interest supplied substantial quantities of fossil fuel products to Delaware during the period relevant to this litigation.

n. Exxon conducts and controls, either directly or through franchise agreements, retail fossil fuel sales at gas station locations throughout Delaware, at which it promotes, markets, and advertises its fossil fuel products under its Exxon and/or Mobil brand names. During the period relevant to this Complaint, Exxon sold a substantial percentage of all retail gasoline in Delaware. In 1999, there were approximately 100 Exxon and Mobil-branded stations in Delaware.⁵¹ Today, there are more than 20 Exxon stations in Delaware.⁵²

o. Exxon historically directed its fossil fuel product advertising, marketing, and promotional campaigns to Delaware residents, including through print maps of Delaware identifying the locations of its service stations. Exxon

⁵¹ See The News Journal (Dec. 3, 1999), <https://perma.cc/G3VY-CSA7>.

⁵² ExxonMobil, *Find a Gas Station Near Me* (Search address: Delaware), <https://www.exxon.com/en/find-station> (last visited June 11, 2025).

promotes its products in Delaware by regularly updating and actively promoting its mobile device application, “Exxon Mobil Rewards+,” throughout the state of Delaware, which encourages Delaware users to consume fuel at Exxon stations in Delaware in exchange for rewards on every fuel purchase.

p. Exxon has been, and continues to be, a registered motor fuel distributor and special fuel supplier in Delaware.⁵³

q. Exxon also markets and sells petroleum products, including engine lubricants and motor oils sold under the “Mobil 1” brand name, to Delaware customers through local retailers. Exxon maintains an interactive website by which it directs prospective customers to local retailers that sell its engine lubricants and motor oils.⁵⁴

29. **Marathon Entities: Marathon Petroleum Corporation, Marathon Petroleum Company LP, Speedway LLC**

a. Defendant Marathon Petroleum Corporation is a multinational energy company incorporated in Delaware with its principal place of business in Findlay, Ohio. Marathon Petroleum Corporation was spun off from the operations of Marathon Oil Corporation, which is a wholly-owned subsidiary of

⁵³ Delaware Division of Motor Vehicles, *Motor Fuel – MFTA – Listing of Licensed Accounts*, <https://perma.cc/6YCG-92KL> (last visited July 11, 2025).

⁵⁴ Mobil, *Product Locator*, <https://www.mobil.com/en/lubricants/where-to-buy/motor-oil-product-locator> (Search address: Delaware) (last visited June 11, 2025).

ConocoPhillips, in 2011. Marathon Petroleum Corporation consists of multiple subsidiaries and affiliates involved in fossil fuel product refining, marketing, retail, and transport, including both petroleum and natural gas products. Marathon Petroleum Corporation merged in October 2018 with Andeavor Corporation, formerly known as Tesoro Corporation. As a result of this merger, Marathon Petroleum Corporation now owns the “ARCO” trademark and brand. Marathon Petroleum Corporation maintains that the “Marathon and ARCO trademarks are material to the conduct of [its] refining and marketing operations.”⁵⁵

b. Marathon Petroleum Corporation controls and has controlled group-wide decisions about the quantity and extent of its fossil fuel production and sales, including those of its subsidiaries. Marathon Petroleum Corporation determines whether and to what extent its holdings market, produce, and/or distribute fossil fuel products.

c. Marathon Petroleum Corporation controls and has controlled group-wide decisions, including those of its subsidiaries, related to marketing, advertising, climate change and GHG emissions from its fossil fuel products, and communications strategies concerning climate change and the link between fossil fuel use and climate change-related impacts on the environment and humans.

⁵⁵ Marathon Petroleum Corporation, *2024 Annual Report*, at 14, <https://perma.cc/XK3E-A9JU>.

d. Defendant **Marathon Petroleum Company LP** is a wholly owned subsidiary of Marathon Petroleum Corporation that acts on Marathon Petroleum Corporation's behalf and is subject to Marathon Petroleum Corporation's control. Marathon Petroleum Company LP is a vertically integrated fossil fuel refining, marketing, and transporting company. Marathon Petroleum Company LP is incorporated in Delaware with its headquarters and principal place of business in Findlay, Ohio.

e. Defendant **Speedway LLC** was a wholly owned subsidiary of Marathon Petroleum Corporation from approximately 2011 to 2021.⁵⁶ During this time, Speedway LLC acted on Marathon Petroleum Corporation's behalf and was subject to Marathon Petroleum Corporation's control. Speedway LLC was incorporated in Delaware with its principal place of business in Enon, Ohio. Speedway LLC was one of the largest convenience store chains that sold gasoline in the country, including a number of stores in Delaware. Speedway LLC was formerly known as, and did or does business as, and/or is the successor in liability to EMC Marketing, LLC and Speedway Superamerica LLC.

⁵⁶ In May 2021, 7-Eleven acquired Speedway for \$21 billion. Part of the acquisition by 7-Eleven included a 15-year fuel supply agreement with Marathon Petroleum Corporation for approximately 7.7 billion gallons of gasoline per year associated with the Speedway business.

f. Defendants Marathon Petroleum Corporation, Marathon Petroleum Company LP, Speedway LLC, and their predecessors, successors, parents, subsidiaries, affiliates, and divisions, are collectively referred to herein as “Marathon.”

g. The State’s claims against Marathon arise out of and are related to the acts and omissions of Marathon in Delaware and elsewhere that caused and will cause injuries in Delaware.

h. Marathon has purposefully directed its tortious conduct toward Delaware by distributing, marketing, advertising, promoting, and supplying its fossil fuel products in Delaware, with knowledge that the intended use of those products for combustion has caused and will continue to cause climate change-related harms in Delaware, including, without limitation, injuries to the State’s property, infrastructure, and natural resources.

i. Marathon’s statements in Delaware and elsewhere made in furtherance of its campaign of deception about and denial of climate change, and Marathon’s affirmative promotion of its fossil fuel products as safe with knowledge of how the intended use of those products would cause climate change-related harms, were designed to conceal these harms and mislead consumers and the public, including the State and its residents, about the serious adverse consequences that would result from continued use of Marathon’s products. That conduct was

purposefully directed to reach Delaware and obscure the dangers of Marathon's fossil fuel products from the State and its residents such that use of Marathon's fossil fuel products in Delaware would not decline.

j. Over the past several decades and continuing to the present day, Marathon has advertised on television, radio, online, and outdoors in the Delaware market related to its fossil fuel products and brands. For example, Marathon advertised on television programs that aired in the Delaware market that its fuel will “keep your engine running at peak performance.”⁵⁷ Similarly, Marathon has extensively advertised, including on delawareonline.com, that ARCO-branded stations have “Top Tier” gasoline. Marathon has also made misleading statements via its social media posts directed to consumers in Delaware and elsewhere. In one such post, Marathon touts, “[a]t MPC, we are challenging ourselves to lead in sustainable energy,” and claims that “#EarthDay is a special opportunity to reflect on our ongoing efforts and progress towards our commitments of: Reducing the carbon footprint of our operations and the products we process.”⁵⁸ Another social media post claimed that Marathon's gasoline “reduces emissions.”⁵⁹ As further detailed herein, these include advertisements containing false or misleading

⁵⁷ See, e.g., Marathon, *Life Milestones: The Next Level*, aired on WBOC (Sept. 18, 2021). See also Marathon, *Life Milestones: The Next Level* (Apr. 30, 2021), <https://www.ispot.tv/ad/O5UO/marathon-petroleum-life-milestones-the-next-level>.

⁵⁸ Instagram, @marathonpetroleum (Apr. 22, 2023), <https://perma.cc/46VM-7JAH>.

⁵⁹ Instagram, @marathonpetroleum (Apr. 25, 2017), <https://perma.cc/U73X-E9UC>.

statements, misrepresentations, and/or material omissions designed to hide the connection between the production and use of Marathon's fossil fuel products and climate change, and/or misrepresenting Marathon's products or Marathon itself as environmentally friendly.

k. Significant quantities of Marathon's fossil fuel products are or have been transported, traded, distributed, promoted, marketed, manufactured, sold, and/or consumed in Delaware, from which Marathon has derived substantial revenue.

l. Marathon has marketed gasoline and other fossil fuel products to consumers in Delaware, including through Marathon and Speedway-branded petroleum service stations located in Delaware. In 2016, Marathon's marketing area included Delaware.⁶⁰ In 2020, there were four Speedway-branded gas stations in Delaware.⁶¹ As of July 2025, there were at least three Speedway-branded gas stations in Delaware which, pursuant to Marathon's agreement with 7-Eleven (the new owner of Speedway), are supplied with gasoline products by Marathon.⁶²

⁶⁰ See, e.g., Marathon Petroleum Corporation, *Form 10-K for the Fiscal Year Ended December 31, 2016*, at 9, <https://perma.cc/ZDC2-9V7G>.

⁶¹ See, e.g., Marathon Petroleum Corporation, *Annual Report*, at 43, <https://perma.cc/44ZB-H2AS>.

⁶² Marathon Petroleum Corporation, *Marathon Petroleum Corp. Announces Agreement for \$21 Billion Sale of Speedway* (Aug. 2, 2020), <https://perma.cc/6BJQ-RAT2>.

m. Marathon historically directed its fossil fuel product advertising, marketing, and promotional campaigns to Delaware residents, including through print maps of Delaware identifying the locations of its service stations. Marathon also promotes its products in Delaware by advertising the Marathon ARCO Rewards program on radio stations which reach Delaware consumers, which encourages Delaware users to consume fuel at Marathon stations in exchange for rewards on every fuel purchase.

n. Marathon has been, and continues to be, a registered motor fuel distributor and special fuel supplier in Delaware.⁶³

30. **Murphy Oil Entities: Murphy Oil Corporation and Murphy USA Inc.**

a. Defendant **Murphy Oil Corporation** is a vertically integrated, global oil and natural gas exploration and production company headquartered in Houston, Texas and incorporated in Delaware. Murphy Oil Corporation consists of numerous divisions, subsidiaries, and affiliates engaged in various aspects of the fossil industry, including exploration and production of crude oil, natural gas and natural gas liquids worldwide.

⁶³ Delaware Division of Motor Vehicles, *Motor Fuel – MFTA – Listing of Licensed Accounts*, <https://perma.cc/6YCG-92KL> (last visited July 11, 2025).

b. Murphy Oil Corporation controls and has controlled group-wide decisions about the quantity and extent of fossil fuel production and sales, including those of its subsidiaries. Murphy Oil Corporation's Board of Directors determines whether and to what extent its subsidiary holdings produce fossil fuel products.

c. Murphy Oil Corporation controls and has controlled group-wide decisions, including those of its subsidiaries, related to marketing, advertising, climate change and GHG emissions from its fossil fuel products, and communications strategies concerning climate change and the link between fossil fuel use and climate change-related impacts on the environment and humans.

d. Defendant **Murphy USA Inc.** is a Delaware corporation with its headquarters in El Dorado, Arkansas. Murphy USA Inc. was incorporated in 2013 and holds, through its subsidiaries, the former U.S. retail marketing business of its former parent company, Murphy Oil Corporation, plus other assets and liabilities of Murphy Oil Corporation that supported the activities of the U.S. retail marketing operations.

e. Murphy Oil Corporation and Murphy USA Inc., and their predecessors, successors, parents, subsidiaries, affiliates, and divisions, are collectively referred to herein as "Murphy."

f. The State's claims against Murphy arise out of and are related to the acts and omissions of Murphy in Delaware and elsewhere that caused and will cause injuries in Delaware.

g. Murphy has purposefully directed its tortious conduct toward Delaware by distributing, marketing, advertising, promoting, and/or supplying its fossil fuel products in Delaware, with knowledge that the intended use of those products for combustion has caused and will continue to cause climate change-related harms in Delaware, including, without limitation, injuries to the State's property, infrastructure, and natural resources.

h. Murphy's statements in Delaware and elsewhere made in furtherance of its campaign of deception about and denial of climate change, and Murphy's affirmative promotion of its fossil fuel products as safe with knowledge of how the intended use of those products would cause climate change-related harms, were designed to conceal these harms and mislead consumers and the public, including the State and its residents, about the serious adverse consequences that would result from continued use of Murphy's products. That conduct was purposefully directed to reach Delaware and obscure the dangers of Murphy's fossil fuel products from the State and its residents such that use of Murphy's fossil fuel products in Delaware would not decline.

31. **Shell Entities: Shell plc (f/k/a/ Royal Dutch Shell plc), Shell USA, Inc. (f/k/a/ Shell Oil Company)**

a. Defendant **Shell plc** (formerly Royal Dutch Shell plc) is a vertically integrated, multinational energy and petrochemical company. Shell plc is incorporated in England and Wales, with its headquarters and principal place of business in London, England. Shell plc is the ultimate parent company of numerous divisions, subsidiaries, and affiliates, referred to collectively as the “Shell Group,” that engage in all aspects of fossil fuel production, including exploration, development, extraction, manufacturing and energy production, transport, trading, marketing, and sales.

b. Shell plc controls and has controlled group-wide decisions about the quantity and extent of fossil fuel production and sales, including those of its subsidiaries. Shell plc’s Board of Directors determines whether and to what extent Shell subsidiary holdings around the globe produce Shell-branded fossil fuel products.

c. Shell plc controls and has controlled group-wide decisions, including those of its subsidiaries, related to marketing, advertising, GHG emissions and climate change resulting from the company’s fossil fuel products, and communications strategies concerning climate change and the link between fossil fuel use and climate change-related impacts on the environment and humans.

Overall accountability for climate change within the Shell Group lies with Shell plc's Chief Executive Officer and Executive Committee. For instance, at least as early as 1988, Shell plc, through its predecessors and subsidiaries, was researching company-wide CO₂ emissions and concluded that the Shell Group accounted for 4% of the CO₂ emitted worldwide from combustion, and that climatic changes could compel the Shell Group, as controlled by Shell plc, to examine the possibilities of expanding and contracting its business accordingly.

d. Defendant **Shell USA, Inc.** (formerly Shell Oil Company) is a wholly owned subsidiary of Shell plc that acts on Shell plc's behalf and subject to Shell plc's control. Shell USA, Inc. is incorporated in Delaware with its principal place of business in Houston, Texas. Shell USA, Inc. was formerly known as, did or does business as, and/or is the successor in liability to Shell Oil Company, Deer Park Refining LP, Shell Oil, Shell Oil Products, Shell Chemical, Shell Trading US, Shell Trading (US) Company, Shell Energy Services, Texaco Inc., The Pennzoil Company, Shell Oil Products Company LLC, Shell Oil Products Company, Star Enterprise, LLC, and Pennzoil-Quaker State Company.

e. Defendants Shell plc, Shell USA, Inc., and their predecessors, successors, parents, subsidiaries, affiliates, and divisions, are collectively referred to herein as "Shell."

f. The State's claims against Shell arise out of and are related to the acts and omissions of Shell in Delaware and elsewhere that caused and will cause injuries in Delaware.

g. Shell has purposefully directed its tortious conduct toward Delaware by distributing, marketing, advertising, promoting, and supplying its fossil fuel products in Delaware, with knowledge that the intended use of those products for combustion has caused and will continue to cause climate change-related harms in Delaware, including, without limitation, injuries to the State's property, infrastructure, and natural resources.

h. Shell's statements in Delaware and elsewhere made in furtherance of its campaign of deception about and denial of climate change, and Shell's affirmative promotion of its fossil fuel products as safe with knowledge of how the intended use of those products would cause climate change-related harms, were designed to conceal these harms and mislead consumers and the public, including the State and its residents, about the serious adverse consequences that would result from continued use of Shell's products. That conduct was purposefully directed to reach Delaware and obscure the dangers of Shell's fossil fuel products from the State and its residents such that use of Shell's fossil fuel products in Delaware would not decline.

i. Over the past several decades and continuing to the present day, Shell has advertised on television, online, social media, and outdoors in the Delaware market related to its fossil fuel products. Since no later than 1963 and continuing to the present day, Shell advertised its fossil fuel products in national and local print publications, including multiple Delaware newspapers, circulated widely to Delaware consumers.⁶⁴ As early as 1990, Shell advertised to Delaware consumers that its fossil fuel products help reduce air pollution.⁶⁵ Shell has also extensively advertised on television programs that aired in the Delaware market. For example, in 2023 Shell extensively advertised how its “renewable race fuel” was reducing emissions by 60% in Indy Car Racing, explaining that “[Shell] is moving forward with Indy Car because we’re moving forward with everybody.”⁶⁶ Shell also ran a series of television advertisements in 2024 in the Delaware market which posited Shell as a leader in renewable energy.⁶⁷ Shell has also extensively advertised its V-Power gasoline and other fossil fuel products on television commercials that aired

⁶⁴ See, e.g., The News Journal (Nov. 19, 1963), <https://perma.cc/VA34-XDCS>; The News Journal (Dec. 8, 1975), <https://perma.cc/5RXD-ZZDP>.

⁶⁵ See, e.g., The News Journal (May 27, 1990), <https://perma.cc/XHZ4-LACX>.

⁶⁶ Shell, *Progress at 225 MPH*, aired on WCAU (May 28, 2023). See also Shell, *Progress at 225 MPH* (May 29, 2023), <https://www.ispot.tv/ad/1zWK/shell-progress-at-225-mph-renewable-race-fuel>.

⁶⁷ See, e.g., Shell, *Renewable Electricity Plan: Houston Dash*, aired on WPHL (May 27, 2024). See also Shell, *Renewable Electricity Plan: Houston Dash* (June 20, 2023), <https://www.ispot.tv/ad/1XFt/shell-renewable-electricity-plan-houston-dash>.

in the Delaware market. Similarly, Shell has advertised on websites specifically targeted at the Delaware market and via social media posts which have reached Delaware consumers. In one such advertisement that reached Delaware consumers, Shell touted, “Shell’s ambition is to be a net-zero emissions energy business by 2050 or sooner, in step with society.”⁶⁸ As further detailed herein, these include advertisements containing false or misleading statements, misrepresentations, and/or material omissions obfuscating the connection between Shell’s fossil fuel products and climate change, and/or misrepresenting Shell’s products or Shell itself as environmentally friendly.

j. Significant quantities of Shell’s fossil fuel products are or have been transported, traded, distributed, promoted, marketed, manufactured, sold, and/or consumed in Delaware, from which Shell derives and has derived substantial revenue. From approximately 1998–2004, Shell owned and operated the Delaware City Refinery as part of its joint venture Motiva Enterprises LLC. After 2004, Shell continued to supply fossil fuel products to the Delaware City Refinery. Additionally, Shell has also supplied significant quantities of fossil fuel products to Delmarva

⁶⁸ Shell, *Shell’s climate ambition*, Facebook Ad Libr., <https://perma.cc/LU84-4CAZ>.

Power & Light Company for ultimate distribution to Delaware customers in the form of electricity or natural gas.⁶⁹

k. Shell conducts and controls, either directly or through franchise agreements, retail fossil fuel sales at gas station locations throughout Delaware, at which it promotes, markets, and advertises its fossil fuel products under its Shell brand name. For example, in 1964 there were 24 Shell dealers in the Wilmington area alone.⁷⁰ There are currently more than 30 Shell stations in Delaware.⁷¹ During the period relevant to this Complaint, Shell sold a substantial percentage of all retail gasoline in Delaware. Shell also supplies, markets, and promotes its Pennzoil line of lubricants at retail and service stations throughout Delaware.

l. Shell historically directed its fossil fuel product advertising, marketing, and promotional campaigns to Delaware, including through print maps of Delaware identifying the locations of its service stations. Shell markets and advertises its fossil fuel products to Delaware residents by maintaining an interactive website available to prospective customers by which it directs Delaware residents to Shell's nearby retail service stations. Shell offers a proprietary credit card known as

⁶⁹ See, e.g., The Liberty Consulting Group, Inc., *Technical Consultant's Final Report To the Delaware Public Service Commission* (Mar. 5, 2013), at 6 <https://perma.cc/PE2Z-2YQH>.

⁷⁰ See, e.g., The News Journal (Aug. 11, 1964), <https://perma.cc/976F-DF3S>.

⁷¹ See, e.g., Shell, *Shell Stations in Delaware*, <https://perma.cc/Z8GN-X5XD> (last visited July 16, 2025).

the “Shell Fuel Rewards Card,” which allows consumers in Delaware to pay for gasoline and other products at Shell-branded service stations and encourages consumers to use Shell-branded gas stations by offering various rewards, including discounts on gasoline purchases. Shell further maintains a smartphone application known as the “Shell App” that offers Delaware consumers a cashless payment method for gasoline and other products at Shell-branded service stations.

m. Shell has been, and continues to be, a registered motor fuel distributor and special fuel supplier in Delaware.⁷²

32. **Citgo Petroleum Corporation**

a. Defendant **Citgo Petroleum Corporation** is a multinational energy company that is a direct, wholly owned subsidiary of PDV America, Incorporated, which is a wholly owned subsidiary of PDV Holding, Incorporated. Citgo Petroleum Corporation is incorporated in Delaware and maintains its headquarters in Houston, Texas. Citgo Petroleum Corporation is the successor to Cities Services Company.

b. Citgo Petroleum Corporation controls and has controlled group-wide decisions about the quantity and extent of its fossil fuel production and sales, including those of its subsidiaries. Citgo Petroleum Corporation determines whether

⁷² Delaware Division of Motor Vehicles, *Motor Fuel – MFTA – Listing of Licensed Accounts*, <https://perma.cc/6YCG-92KL> (last visited July 11, 2025).

and to what extent its holdings market, produce, and/or distribute fossil fuel products.

c. Citgo Petroleum Corporation controls and has controlled group-wide decisions, including those of its subsidiaries, related to marketing, advertising, climate change and GHG emissions from its fossil fuel products, and communications strategies concerning climate change and the link between fossil fuel use and climate change-related impacts on the environment and humans.

d. Defendant Citgo Petroleum Corporation and its predecessors, successors, parents, subsidiaries, affiliates, and divisions, are collectively referred to herein as “Citgo.”

e. The State’s claims against Citgo arise out of and are related to the acts and omissions of Citgo in Delaware and elsewhere that caused and will cause injuries in Delaware.

f. Citgo has purposefully directed its tortious conduct toward Delaware by distributing, marketing, advertising, promoting, and supplying its fossil fuel products in Delaware, with knowledge that the intended use of those products for combustion has caused and will continue to cause climate change-related harms in Delaware, including, without limitation, injuries to the State’s property, infrastructure, and natural resources.

g. Citgo's statements in Delaware and elsewhere made in furtherance of its campaign of deception about and denial of climate change, and Citgo's affirmative promotion of its fossil fuel products as safe with knowledge of how the intended use of those products would cause climate change-related harms, were designed to conceal these harms and mislead consumers and the public, including the State and its residents, about the serious adverse consequences that would result from continued use of Citgo's products. That conduct was purposefully directed to reach Delaware and obscure the dangers of Citgo's fossil fuel products from the State and its residents such that use of Citgo's fossil fuel products in Delaware would not decline .

h. Over the past several decades and continuing to the present day, Citgo has advertised in print, online, and outdoors in the Delaware market related to its fossil fuel products. Since no later than 1971, and continuing to the present day, Citgo has advertised its fossil fuel products and brand in national and local print publications, including full-page advertisements in multiple Delaware newspapers, circulated widely to Delaware consumers.⁷³ In one newspaper advertisement from 2008, Citgo claimed to be a "locally owned business[]" that was "committed to

⁷³ See, e.g., The News Journal (Oct. 3, 1993), <https://perma.cc/HRG5-FSNC>; The News Journal (May 21, 1995), <https://perma.cc/WS4P-ANQY>; The Morning News (Nov. 19, 1971), <https://perma.cc/4766-Q9ZW>; The News Journal (Dec. 2, 2007), <https://perma.cc/A7NX-35H6>.

providing both the fuel and local jobs that keep our neighborhoods moving ahead.”⁷⁴

Citgo has also made misleading statements via its social media posts which were directed to consumers in Delaware and elsewhere. Citgo has extensively advertised its “TriCLEAN” gasoline as having environmental and emissions-reduction benefits, including via online advertisements that reach the Delaware market and at Citgo stations in Delaware. As further detailed herein, these include advertisements containing false or misleading statements, misrepresentations, and/or material omissions designed to hide the connection between the production and use of Citgo’s fossil fuel products and climate change, and/or misrepresenting Citgo’s products or Citgo itself as environmentally friendly.

i. Significant quantities of Citgo’s fossil fuel products are or have been transported, traded, distributed, promoted, marketed, manufactured, sold, and/or consumed in Delaware, from which Citgo has derived substantial revenue. For example, Citgo has supplied the Delaware City refinery with gasoline that it manufactured for distribution throughout the State. Additionally, Citgo has marketed, sold, and/or distributed heating oil in Delaware including through the CITGO – Venezuela Heating Oil program, a heating oil assistance program.

j. Citgo markets and/or has marketed gasoline and other fossil fuel products to consumers, including through Citgo-branded petroleum service stations

⁷⁴ See, e.g., The News Journal (June 1, 2008), <https://perma.cc/72H8-WW69>.

in Delaware. For example, in 1967 there were eight Citgo dealers in New Castle County, Delaware.⁷⁵ There are currently at least four Citgo-branded gas stations in Delaware. Citgo owns and operates an interactive webpage that allows consumers to locate Citgo-branded gas stations in Delaware.⁷⁶

k. Citgo historically directed its fossil fuel product advertising, marketing, and promotional campaigns to Delaware residents, including through print maps of Delaware identifying the locations of its service stations. Citgo promotes its products in Delaware by regularly updating and actively promoting its mobile device application, “Club Citgo” throughout the state of Delaware, which encourages Delaware users to consume fuel at Citgo stations in Delaware in exchange for rewards on every fuel purchase.

l. Citgo has been, and continues to be, a registered motor fuel distributor and special fuel supplier in Delaware.⁷⁷

m. Citgo also markets and sells other petroleum products, including engine lubricants and motor oils sold under the “Mystik” and “Clarion” brand names, to Delaware customers through local distributors. Citgo maintains an

⁷⁵ See, e.g., The News Journal (Mar. 30, 1967), <https://perma.cc/BZK4-RQ4H>.

⁷⁶ Citgo, *Find a CITGO Station Near Me*, <https://www.citgo.com/station-locator> (last visited June 15, 2025).

⁷⁷ Delaware Division of Motor Vehicles, *Motor Fuel – MFTA – Listing of Licensed Accounts*, <https://perma.cc/6YCG-92KL> (last visited July 11, 2025).

interactive website by which it directs prospective customers to local distributors that sell its engine lubricants and motor oils.⁷⁸

33. **Total Entities: TotalEnergies SE (f/k/a Total S.A.), TotalEnergies Marketing USA, Inc. (f/k/a Total Specialties USA, Inc.)**

a. Defendant **TotalEnergies SE** (formerly known as Total S.A.) is a French energy conglomerate, with its headquarters in Courbevoi, France.

b. TotalEnergies SE controls and has controlled group-wide decisions about the quantity and extent of its fossil fuel production and sales, including those of its subsidiaries. TotalEnergies SE determines whether and to what extent its holdings market, produce, and/or distribute fossil fuel products.

c. TotalEnergies SE controls and has controlled group-wide decisions, including those of its subsidiaries, related to marketing, advertising, climate change and GHG emissions from its fossil fuel products, and communications strategies concerning climate change and the link between fossil fuel use and climate change-related impacts on the environment and humans.

d. TotalEnergies SE does business in the United States through its wholly-owned subsidiaries, including but not limited to TotalEnergies Marketing

⁷⁸ Citgo, *Where to Buy, Product Locator*, <https://www.citgolubes.com/Locator.do> (last visited June 15, 2025).

USA, Inc. and TotalEnergies E&P USA, Inc., both of which are incorporated in Delaware.

e. Defendant **TotalEnergies Marketing USA, Inc.** (formerly known as Total Specialties USA Inc.) is a wholly owned subsidiary of TotalEnergies SE involved in the marketing and distribution of TotalEnergies S.'s fossil fuel products. TotalEnergies Marketing USA, Inc. is incorporated in Delaware and headquartered in Houston, Texas. The TotalEnergies website refers to TotalEnergies Marketing USA, Inc. as being a part of the TotalEnergies Group and operating through a number of business lines representative of the TotalEnergies Group.⁷⁹

f. Defendants TotalEnergies SE, TotalEnergies Marketing USA, Inc., and their predecessors, successors, parents, subsidiaries, affiliates, and divisions, are collectively referred to herein as "Total."

g. The State's claims against Total arise out of and are related to the acts and omissions of Total in Delaware and Total's actions elsewhere that caused the injuries in Delaware.

h. Total's statements in and outside of Delaware made in furtherance of its campaign of deception and denial, and its chronic failure to warn

⁷⁹ See TotalEnergies, *TotalEnergies in the U.S.*, <https://perma.cc/34RV-WUYK> (last visited June 16, 2025).

consumers of global warming-related hazards when it marketed, advertised, and sold its products, were intended to conceal and mislead consumers and the public about the serious adverse consequences from continued use of Total's products. That conduct was intended to reach and influence the State, as well as its residents, among others, to continue unabated use of Defendants' fossil fuel products, resulting in the State's injuries.

i. Over the past decade and continuing to the present day, Total has advertised on television, online, and social media in the Delaware market related to its fossil fuel products or brand. Total has advertised on websites specifically targeted to Delaware consumers. For example, in 2016 TotalEnergies ran an advertisement on delawareonline.com that they were "committed to solar energy" and that "Total is the world's 2nd largest solar company with Sun Energy." Similarly, Total ran an advertisement on the local CBS station website that serves the northern Delaware market that referred to natural gas as the "cleanest fossil fuel." Furthermore, Total has advertised its fossil fuel products, including its Quartz, Rubia, and Talusia engine oils and lubricants, on websites and print outlets that may have reached Delaware consumers. Total also extensively advertised its 2021 rebrand to "TotalEnergies" in national publications that reach Delaware consumers such as *Time Magazine*, the *Economist*, and the *Wall Street Journal*. For example, Total ran a full-page advertisement in *Barron's* on May 31, 2021 that touted, "Total

is transforming and becoming TotalEnergies,” and that “[e]nergy is reinventing itself.” The advertisement misleadingly stated that Total was moving towards new energies “to contribute to the sustainable development of the planet facing the climate challenge.”⁸⁰ Total has also extensively advertised on television commercials that aired in the Delaware market, including its “Road to Carbon Neutral” program, as well as making misleading representations touting that Total is a “broad energy company investing in lower carbon energies such as solar energy, wind energy, and natural gas.”⁸¹ As further detailed herein, these and other advertisements contain false or misleading statements, misrepresentations, and/or material omissions designed to hide the connection between the production and use of Total’s fossil fuel products and climate change, and/or misrepresenting Total’s products or Total itself as environmentally friendly.

j. Quantities of Total’s fossil fuel products are or have been transported, traded, distributed, promoted, marketed, manufactured, sold, and/or consumed in Delaware, from which Total has derived revenue. For example, Total delivers a range of fossil fuel products, including lubricants and engine oils, by truck

⁸⁰ Barron’s (May 31, 2021), at 5. *See also* The Economist (May 30, 2021).

⁸¹ *See, e.g.,* TotalEnergies, *Net Zero Ambitions...*, aired on CNBC, Fast Money (May 24, 2021 at 12:37 PM). *See also* The News Journal (May, 23 2024), <https://perma.cc/4HQT-ACVS> (confirming that CNBC aired Fast Money in Delaware from 12:30-1:00 PM on May 24, 2021). *See also* TotalEnergies, *Net Zero Ambitions* (May 27, 2021), <https://perma.cc/66CM-HNG3>.

or barge to the Wilmington, Delaware port. In one 2017 advertisement that appeared on CNN.com, Total touted that “[f]rom Coast to Coast, our U.S. businesses span the whole energy sector.”

34. **Occidental Petroleum Corporation**

a. Defendant **Occidental Petroleum Corporation** is a multinational, vertically integrated energy and chemical company incorporated in Delaware and with its principal place of business in Houston, Texas. Occidental’s operations consist of three segments: (1) the exploration for, extraction of, and production of oil and natural gas products; (2) the manufacture and marketing of chemicals and vinyls; and (3) the processing, transport, storage, purchase, and marketing of oil, natural gas, and power. Occidental Petroleum Corporation does business in Delaware itself and through wholly owned subsidiaries, including but not limited to Occidental Chemical Corporation.

b. Occidental Petroleum Corporation controls and has controlled group-wide decisions about the quantity and extent of its fossil fuel production and sales, including those of its subsidiaries. Occidental Petroleum Corporation determines whether and to what extent its holdings market, produce, and/or distribute fossil fuel products. Occidental Petroleum Corporation is one of the largest oil exploration and production companies in the US and in 2019 acquired Anadarko Petroleum Corporation, which was incorporated in Delaware in 1985.

c. Occidental Petroleum Corporation controls and has controlled group-wide decisions, including those of its subsidiaries, related to marketing, advertising, climate change and GHG emissions from its fossil fuel products, and communications strategies concerning climate change and the link between fossil fuel use and climate change-related impacts on the environment and humans.

d. Defendant Occidental Petroleum Corporation and its predecessors, successors, parents, subsidiaries, affiliates, and divisions, are collectively referred to herein as “Occidental.”

e. The State’s claims against Occidental arise out of and are related to the acts and omissions of Occidental in Delaware and elsewhere that caused and will cause injuries in Delaware.

f. Occidental’s statements in Delaware and elsewhere made in furtherance of its campaign of deception about and denial of climate change, and Occidental’s affirmative promotion of its fossil fuel products as safe with knowledge of how the intended use of those products would cause climate change-related harms, were designed to conceal these harms and mislead consumers and the public, including the State and its residents, about the serious adverse consequences that would result from continued use of Occidental’s products. That conduct was purposefully directed to reach Delaware and obscure the dangers of Occidental’s

fossil fuel products from the State and its residents such that use of Occidental's fossil fuel products in Delaware would not decline.

g. Over the past decade and continuing to the present day, Occidental has advertised its fossil fuel products or brand on print, online, and social media outlets, including advertisements that reached or likely reached Delaware consumers. For example, in 1993, Occidental ran an advertisement in a Delaware newspaper in which touted that they are “a good neighbor” and “an environmentally responsible company” that “takes its responsibility for protecting the environment seriously.”⁸² Occidental has also marketed its fossil fuel products or brand on online and social media posts that were directed to consumers in Delaware and elsewhere. For example, in 2021 Occidental touted that “Oxy is boldly pursuing a lower-carbon future,” and that they will “lead with solutions to help our world reach net zero.”⁸³ As further detailed herein, these advertisements and representations contain false or misleading statements, misrepresentations, and/or material omissions designed to hide the connection between the production and use of Occidental's fossil fuel products and climate change, and/or misrepresenting Occidental's products or Occidental itself as environmentally friendly.

⁸² See, e.g., The News Journal (Apr. 22, 1993), <https://perma.cc/XMB5-EHLX>.

⁸³ Occidental Petroleum Corporation, *Zero In with Oxy* (Nov. 12, 2021), <https://perma.cc/A2SJ-JNB4>.

h. Quantities of Occidental's fossil fuel products are or have been transported, traded, distributed, promoted, marketed, manufactured, sold, and/or consumed in Delaware, from which Occidental derives and has derived substantial revenue. For example, Occidental owned and operated a chemicals plant in Delaware City from approximately 1986 to 2007 that manufactured a variety of products for use in the fossil fuel industry. By its own description, Occidental's Delaware City plant used natural gas and produced products for use in the fossil fuel industry, including chlorine for use in petroleum-based plastics, caustic soda for use in oil drilling, hydrogen for fuel, and caustic potash used in oil well drilling.⁸⁴

35. **Devon Energy Corporation**

a. Defendant **Devon Energy Corporation** is an independent energy company engaged in the exploration, development, and production of oil, and natural gas. It is incorporated in Delaware and maintains its principal place of business in Oklahoma City, Oklahoma. Devon is engaged in multiple aspects of the fossil fuel industry, including exploration, development, production, and marketing of its fossil fuel products.

b. Devon Energy Corporation controls and has controlled group-wide decisions about the quantity and extent of its fossil fuel production and sales,

⁸⁴ See, e.g., Chemical Guide, *Occidental Chemical Corporation, Delaware City, Delaware*, <https://perma.cc/R7V5-8WFA>.

including those of its subsidiaries. Devon Energy Corporation determines whether and to what extent its holdings market, produce, and/or distribute fossil fuel products.

c. Devon Energy Corporation controls and has controlled group-wide decisions, including those of its subsidiaries, related to marketing, advertising, climate change and GHG emissions from its fossil fuel products, and communications strategies concerning climate change and the link between fossil fuel use and climate change-related impacts on the environment and humans.

d. Defendant Devon Energy Corporation and its predecessors, successors, parents, subsidiaries, affiliates, and divisions, are collectively referred to herein as “Devon.”

e. The State’s claims against Devon arise out of and are related to the acts and omissions of Devon in Delaware and elsewhere that caused and will cause injuries in Delaware.

f. Devon’s statements in Delaware and elsewhere made in furtherance of its campaign of deception about and denial of climate change, and Devon’s affirmative promotion of its fossil fuel products as safe with knowledge of how the intended use of those products would cause climate change-related harms, were designed to conceal these harms and mislead consumers and the public, including the State and its residents, about the serious adverse consequences that

would result from continued use of Devon's products. That conduct was purposefully directed to reach Delaware and obscure the dangers of Devon's fossil fuel products from the State and its residents such that use of Devon's fossil fuel products in Delaware would not decline.

g. Over the past decade and continuing to the present day, Devon has advertised its fossil fuel products or brand on online and social media outlets, including advertisements that reached Delaware consumers. In one 2010 advertisement, Devon claimed that "[w]hile the rest of the world argues about reducing greenhouse gas emissions, we found that adding one little valve as small as a pinky finger to our wells will help us remove the emission-equivalent of 50,000 cars from our highways, and make one big difference to our planet."⁸⁵ In another advertisement from 2016 that appeared on the Philadelphia 76ers website, Devon touted that they saved 10 billion cups of water across their operations. Devon's website, which was available and advertised to consumers, including those in Delaware, contained misleading statements such as claiming natural gas is "the cleanest carbon fuel" and is "positioned to facilitate long-term, environmentally

⁸⁵ Devon Energy Corporation, *Roads to Streams* (archived by web.archive on Dec. 15, 2010), <https://web.archive.org/web/20101215003425/http://devonenergy.com/Newsroom/Documents/Roads%20to%20Streams.wmv>.

sustainable growth.”⁸⁶ As further detailed herein, these advertisements and statements contain false or misleading statements, misrepresentations, and/or material omissions designed to hide the connection between the production and use of Devon’s fossil fuel products and climate change, and/or misrepresenting Devon’s products or Devon itself as environmentally friendly.

36. **Apache Corporation**

a. Defendant **Apache Corporation** is a publicly traded Delaware corporation with its principal place of business in Houston, Texas. Apache is an oil and gas exploration and production company, with crude oil and natural gas exploration and extraction operations in the United States, Canada, Egypt, and in the North Sea.

b. Apache Corporation controls and has controlled group-wide decisions about the quantity and extent of its fossil fuel production and sales, including those of its subsidiaries. Apache Corporation determines whether and to what extent its holdings market, produce, and/or distribute fossil fuel products. Apache Corporation is a wholly-owned subsidiary of APA Corporation, a holding company incorporated in Delaware in 2021.

⁸⁶ Devon Energy Corporation, *Reducing Emissions, Reporting Progress* (Aug. 28, 2016), <https://perma.cc/ET84-ECEW>.

c. Apache Corporation controls and has controlled group-wide decisions, including those of its subsidiaries, related to marketing, advertising, climate change and GHG emissions from its fossil fuel products, and communications strategies concerning climate change and the link between fossil fuel use and climate change-related impacts on the environment and humans.

d. Defendant Apache Corporation and its predecessors, successors, parents, subsidiaries, affiliates, and divisions, are collectively referred to herein as “Apache.”

e. The State’s claims against Apache arise out of and are related to the acts and omissions of Apache in Delaware and elsewhere that caused and will cause injuries in Delaware.

f. Apache’s statements in Delaware and elsewhere made in furtherance of its campaign of deception about and denial of climate change, and Apache’s affirmative promotion of its fossil fuel products as safe with knowledge of how the intended use of those products would cause climate change-related harms, were designed to conceal these harms and mislead consumers and the public, including the State and its residents, about the serious adverse consequences that would result from continued use of Apache’s products. That conduct was purposefully directed to reach Delaware and obscure the dangers of Apache’s fossil

fuel products from the State and its residents such that use of Apache's fossil fuel products in Delaware would not decline.

g. Over the past decade and continuing to the present day, Apache has promoted its fossil fuel products or brand on online and social media outlets, including via statements that may have reached Delaware consumers. For example, in 2022 Apache misleadingly stated on social media that “[t]he use of clean and abundant natural gas has been the primary factor in reducing U.S. CO₂ emissions from electricity production to the lowest levels in a generation.”⁸⁷ In another post, Apache shared an advertisement from API and claimed that “[t]hanks to natural gas, U.S. carbon dioxide emissions are at 25 year lows.”⁸⁸ As further detailed herein, these representations and others contain false or misleading statements, misrepresentations, and/or material omissions designed to hide the connection between the production and use of Apache's fossil fuel products and climate change, and/or misrepresenting Apache's products or Apache itself as environmentally friendly.

⁸⁷ Instagram, @apachecorporation (Apr. 25, 2021), <https://perma.cc/24UT-CUMF>.

⁸⁸ Facebook, Apache Corporation (May 22, 2018), <https://perma.cc/VAK2-YTN5>.

37. **CONSOL Entities: CNX Resources Corporation, Core Natural Resources, Inc. (f/k/a CONSOL Energy Inc.)**

a. Defendant **CNX Resources Corporation** is a vertically integrated energy company that is or has been involved in coal mining, oil and natural gas exploration and production, fossil fuel product distribution, and fossil fuel product marketing. CNX Resources Corporation, formerly known as CONSOL Energy Inc., is incorporated in Delaware with its principal place of business in Canonsburg, Pennsylvania. In 1999, CONSOL Energy, Inc. became a publicly traded company on the New York Stock Exchange under the ticker symbol CNX. In 2017, CONSOL Energy, Inc. changed its name to CNX Resources Corporation, which continued trading under the CNX ticker symbol. When it changed its name to CNX Resources Corporation, CONSOL Energy, Inc. created a new entity for its coal mining and downstream-operations subsidiary, CONSOL Mining Corporation, which assumed the same historical name of CONSOL Energy Inc., but began trading under the ticker symbol CEIX.

b. CNX Resources Corporation controls and has controlled group-wide decisions about the quantity and extent of fossil fuel production, including those of its subsidiaries.

c. CNX Resources Corporation controls and has controlled group-wide decisions, including those of its subsidiaries, related to marketing, advertising,

climate change and GHG emissions from its fossil fuel products, and communications strategies concerning climate change and the link between fossil fuel use and climate change-related impacts on the environment and humans.

d. Defendant **Core Natural Resources, Inc.** (formerly known as CONSOL Energy Inc.) is an energy company involved in coal mining and production. Core Natural Resources, Inc. is incorporated in Delaware and has its principal place of business in Canonsburg, Pennsylvania.⁸⁹ On January 14, 2025, CONSOL Energy Inc. and Arch Resources, Inc. merged to form Core Natural Resources, Inc. Core Natural Resources, Inc. was formerly known as, did or does business as, and/or is the successor in liability to Consol Energy Inc., CONSOL Mining Corporation, Arch Resources, Inc., Mountain Range Merger Sub Inc., and/or CNX Resources Corporation.

e. Core Natural Resources, Inc. controls and has controlled group-wide decisions about the quantity and extent of fossil fuel production, including those of its subsidiaries.

f. Core Natural Resources, Inc. controls and has controlled group-wide decisions, including those of its subsidiaries, related to marketing, advertising, climate change and GHG emissions from its fossil fuel products, and

⁸⁹ See Core Natural Resources, Inc., *2025 Form 10-K*, <https://perma.cc/EKS8-GQW2>; See also Core Natural Resources, Inc., *2025 Form 10-K, Ex-21.4*, <https://perma.cc/PC5R-D3EJ>.

communications strategies concerning climate change and the link between fossil fuel use and climate change-related impacts on the environment and humans.

g. Defendants CNX Resources Corporation, Core Natural Resources, Inc., and their predecessors, successors, parents, subsidiaries, affiliates, and divisions are collectively referred to herein as “CONSOL.”

h. The State’s claims against CONSOL arise out of and are related to the acts and omissions of CONSOL in Delaware and elsewhere that caused and will cause injuries in Delaware.

i. CONSOL’s statements in Delaware and elsewhere made in furtherance of its campaign of deception about and denial of climate change, and CONSOL’s affirmative promotion of its fossil fuel products as safe with knowledge of how the intended use of those products would cause climate change-related harms, were designed to conceal these harms and mislead consumers and the public, including the State and its residents, about the serious adverse consequences that would result from continued use of CONSOL’s products. That conduct was purposefully directed to reach Delaware and obscure the dangers of CONSOL’s fossil fuel products from the State and its residents such that use of CONSOL’s fossil fuel products in Delaware would not decline.

j. Over the past several decades and continuing to the present day, CONSOL has advertised its fossil fuel products or brand on television, print, online,

and social media outlets. CONSOL has extensively and misleadingly advertised its “Coal Hard Truth” campaign on a variety of multimedia platforms to consumers, including via advertisements that reached consumers in Delaware.⁹⁰ As further detailed herein, these representations contain false or misleading statements, misrepresentations, and/or material omissions designed to hide the connection between the production and use of CONSOL’s fossil fuel products and climate change, misrepresent CONSOL’s products or CONSOL itself as environmentally friendly, and ultimately maintain consumer demand for CONSOL’s products and delay the transition to alternative energy sources.

k. Significant quantities of CONSOL’s fossil fuel products are or have been transported, traded, distributed, promoted, marketed, manufactured, sold, and/or consumed in Delaware, from which CONSOL derives and has derived substantial revenue. For example, CONSOL has supplied significant quantities of coal to the Indian River power plant near Dagsboro, Delaware, and “overs[aw] the coal mines that suppl[ied] the [Indian River] power plant.”⁹¹

⁹⁰ See, e.g., *Not So Fast, It’s time to speak up*, Paid for by CONSOL ENERGY INC., Facebook Ad Libr., <https://perma.cc/ZL8K-UA88>. See also CONSOL, *infra* notes 453–456, 466–467.

⁹¹ Molly McVety, *Indian River Power...*, Delaware News Journal (Aug. 3, 2022) <https://perma.cc/VA46-KGZS>.

38. **Ovintiv Inc.**

a. Defendant **Ovintiv Inc.** is an extractor and marketer of oil and natural gas, headquartered in Denver, Colorado and incorporated in Delaware. Ovintiv Inc. was formerly known as Encana Corporation, a Canadian corporation with its principal place of business in Calgary, Alberta, Canada. Ovintiv Inc. has done business through its subsidiaries and affiliates, including Ovintiv Exploration Inc. (formerly known as Newfield Exploration Company), a Delaware corporation. Ovintiv Inc. has facilities, including gas plants and gas wells, in Colorado, Texas, Wyoming, Louisiana, and New Mexico. By approximately 2005, Ovintiv Inc. was the largest independent owner and operator of natural gas storage facilities in North America.

b. Ovintiv Inc. controls and has controlled group-wide decisions about the quantity and extent of its fossil fuel production and sales, including those of its subsidiaries. Ovintiv Inc. determines whether and to what extent its holdings market, produce, and/or distribute fossil fuel products.

c. Ovintiv Inc. controls and has controlled group-wide decisions, including those of its subsidiaries, related to marketing, advertising, climate change and GHG emissions from its fossil fuel products, and communications strategies concerning climate change and the link between fossil fuel use and climate change-related impacts on the environment and humans.

d. Defendant Ovintiv Inc. and its predecessors, successors, parents, subsidiaries, affiliates, and divisions, are collectively referred to herein as “Ovintiv.”

e. The State’s claims against Ovintiv arise out of and are related to the acts and omissions of Ovintiv in Delaware and elsewhere that caused and will cause injuries in Delaware.

f. Ovintiv’s statements in Delaware and elsewhere made in furtherance of its campaign of deception about and denial of climate change, and Ovintiv’s affirmative promotion of its fossil fuel products as safe with knowledge of how the intended use of those products would cause climate change-related harms, were designed to conceal these harms and mislead consumers and the public, including the State and its residents, about the serious adverse consequences that would result from continued use of Ovintiv’s products. That conduct was purposefully directed to reach Delaware and obscure the dangers of Ovintiv’s fossil fuel products from the State and its residents such that use of Ovintiv’s fossil fuel products in Delaware would not decline.

g. Over the past several decades and continuing to the present day, Ovintiv has advertised its fossil fuel products or brand on radio, print, online, and social media outlets, including advertisements that may have reached Delaware consumers. For example, Ovintiv misleadingly and deceptively advertised the purported benefits of natural gas in a variety of formats, including print, social

media, and radio advertisements that may have reached Delaware consumers.⁹² As further detailed herein, these representations contain false or misleading statements, misrepresentations, and/or material omissions designed to hide the connection between the production and use of Ovintiv’s fossil fuel products and climate change, and/or misrepresenting Ovintiv’s products or Ovintiv itself as environmentally friendly.

39. BP, Chevron, ConocoPhillips, Exxon, Marathon, Murphy, Shell, Citgo, Total, Occidental, Devon, Apache, CONSOL, and Ovintiv are collectively referred to as the “Fossil Fuel Defendants.”

40. **American Petroleum Institute**

a. Defendant American Petroleum Institute (“API”) is a national trade association representing the oil and gas industry, created in 1919. It is a nonprofit corporation based in the District of Columbia and registered to do business in Delaware. With more than 600 members, API is the country’s largest petroleum trade association. API’s purpose is to advance its members’ collective business interests, which include increasing the sale and consumer consumption of fossil fuels in Delaware and elsewhere for the financial profit of API’s members, including Fossil Fuel Defendants and other fossil fuel companies. API coordinates members of the petroleum industry, gathers information of interest to the industry, and

⁹² See e.g., Encana Corporation *infra* notes 494–498.

disseminates that information to its members. API acts and has acted as an advertising and marketing arm for its member companies' fossil fuel products, including Fossil Fuel Defendants, in Delaware and elsewhere.⁹³

b. The State's claims against API arise out of and are related to API's tortious and deceptive acts and omissions in Delaware and elsewhere that caused and will cause injuries in Delaware.

c. API has targeted advertising campaigns at Delaware consumers in Delaware newspapers,⁹⁴ advertised on television programs that aired in the Delaware market,⁹⁵ and run social media advertisements that reached Delaware consumers.⁹⁶ These advertisements misleadingly tout the purported benefits of natural gas, including claims that "[n]atural gas is already clean" and "[n]atural gas

⁹³ Through this Complaint, the State is not challenging API's lobbying efforts but is rather upholding and enforcing Delaware law against API for API's illegal acts and omissions in Delaware and elsewhere, which have caused injuries in Delaware. Any API lobbying effort that may incidentally be connected to API's illegal conduct merely exemplifies API's significant contacts with Delaware.

⁹⁴ See, e.g., The News Journal (May 10, 1971), <https://perma.cc/CQ7L-TX34>; The Morning News (Apr. 27, 1971), <https://perma.cc/9599-QBEJ>.

⁹⁵ See, e.g., Am. Petroleum Inst., *Power Past Impossible*, aired on WBOC (Feb. 17, 2017) ("Oil runs cleaner"); Am. Petroleum Inst., *Power Past Impossible*, aired on WBOC (Aug. 21, 2017) ("Natural gas comes cleaner"); See also Am. Petroleum Inst., *Power Past Impossible* (Feb. 5, 2017), <https://perma.cc/2BCV-NTN7>; Am. Petroleum Inst., *Power Past Impossible* (June 17, 2017), <https://perma.cc/PBU7-F6H5>.

⁹⁶ See, e.g., Am Petroleum Inst., *Natural gas is already...*, Facebook Ad Libr., <https://perma.cc/K6XR-5KJ5499>.

has helped reduce CO₂ emissions to the lowest levels in a generation.”⁹⁷ API extensively advertised its misleading and deceptive “Power Past Impossible” campaign in Delaware, with more than 800 social media advertisements reaching Delaware consumers and specific television commercials airing numerous times in the Delaware market.⁹⁸ API also promotes Fossil Fuel Defendants’ fossil fuel products and/or brands by highlighting the operations of certain Fossil Fuel Defendants. For example, in advertisements that reached Delaware consumers, API highlighted Chevron’s carbon reduction efforts, Shell’s research into “cleaner fuels,” and how “Occidental Petroleum is making their operations even cleaner by using solar to power enhanced oil recovery.”⁹⁹ API also promoted the expansion of fossil fuel extraction and consumption in Delaware and to Delaware consumers, and engaged in other Delaware-based activities that promoted fossil fuel products for the financial benefit of API’s members, including the Fossil Fuel Defendants, while misleading Delaware consumers about the environmental and climate impacts of

⁹⁷ *Id.* See also Am. Petroleum Inst., *Natural gas has helped...*, Facebook Ad Libr., <https://perma.cc/V32Y-TLL6>.

⁹⁸ See Am. Petroleum Inst., *The Air Up Here*, aired on WBOC (Mar. 15, 2018). See also Am. Petroleum Inst., *The Air Up Here* (Mar. 14, 2018), <https://www.ispot.tv/ad/w3tw/american-petroleum-institute-the-air-up-here>.

⁹⁹ See Am. Petroleum Inst., *How do we lower emissions?*, Facebook Ad Libr., <https://perma.cc/XH7T-SXSP>; Power Past Impossible, *How a Childhood...*, Facebook Ad Libr., <https://perma.cc/YN77-JWKE>; Power Past Impossible, *Check it out*, Facebook Ad Libr., <https://perma.cc/6YAB-ZJF9>.

those products.¹⁰⁰ As further detailed herein, these representations contain false or misleading statements, misrepresentations, and/or material omissions designed to hide the connection between climate change and the production and use of fossil fuel products, including those of Fossil Fuel Defendants, and/or misrepresenting the fossil fuel industry or Fossil Fuel Defendants themselves as environmentally friendly.

d. API's advertising campaigns that appeared in Delaware promoted, among other things, the expansion of fossil fuel product sale and consumption, expansion of commercial fossil fuel infrastructure, false claims that oil derricks save trees, misleading and repeated assertions that natural gas is "clean-burning" and good for the environment, and misleading advertisements about how API and the fossil fuel industry are protecting the environment by, among other things, working to get the "least pollution" from "every drop of oil."¹⁰¹

¹⁰⁰ See, e.g., Am. Petroleum Inst., *Oil and Natural Gas Stimulate Delaware Economic and Job Growth* (2015), <https://perma.cc/W4CT-HYM3>; Am. Petroleum Inst., *The people of Delaware are part of the oil and natural gas industry* (2015), <https://perma.cc/K424-67Y9>; Am. Petroleum Inst., *Energy is... Delaware* (2015), <https://perma.cc/RHX6-J5HG>; ICF, Prepared for Am. Petroleum Inst., *Benefits and Opportunities of Natural Gas Use, Transportation, and Production, Delaware* (June 2017), <https://perma.cc/7TRB-AGDG>.

¹⁰¹ See, e.g., The Morning News (Apr. 27, 1971), <https://perma.cc/9599-QBEJ>; The News Journal (May 10, 1971), <https://perma.cc/CQ7L-TX34>; S.P. Chamberlain, Am. Petroleum Inst., Letter to the Editor, *Need energy policy*, The News Journal (June 10, 1988), <https://perma.cc/KJ8P-76K8>; Am. Petroleum Inst., *Power Past Impossible*, aired on WBOC (Aug. 21, 2017) ("Natural gas comes cleaner").

e. API has also been active in Delaware through the Delaware Petroleum Council, which maintained an email of delaware@api.org and directed consumers to the API website.¹⁰²

f. All Fossil Fuel Defendants and/or their predecessors-in-interest, parent companies, or subsidiaries are or have been key API members. All Fossil Fuel Defendants and/or their parent companies or subsidiaries are currently API members, except for Citgo, Total, and CONSOL. Multiple Fossil Fuel Defendants held key API leadership roles, including BP, Shell, Exxon, Chevron, and ConocoPhillips.

g. Executives from some Fossil Fuel Defendants served on the API Executive Committee and/or as API Chairman, which is akin to serving as a corporate officer. For example, Exxon's CEO served on API's Executive Committee for 21 of the 29 years between 1991 and 2020, and Exxon's current President and CEO Darren Woods was Board President from 2018 to 2020. BP's CEO served as API's Chairman in 1988, 1989, and 1998. Chevron's CEO served as API Chairman in 1994, 1995, 2003, and 2012. Shell's President served as API Treasurer in 1997 and sat on the Board's Executive Committee from at least 2005 to 2006. ConocoPhillips Chairman and CEO Ryan Lance was Board President from 2016 to 2018. Phillips 66's Chairman and CEO served as API Board President from

¹⁰² See, e.g., The News Journal (Apr. 17, 2005), <https://perma.cc/C2MZ-XPT4>.

2020 to 2022. Executives from ConocoPhillips, Hess, Marathon, Citgo, Total, and Occidental also served as members of API's Board of Directors at various times.

h. Member companies participate in API strategy, governance, and operation through their membership dues and by contributing company officers and other personnel to API boards, committees, and task forces. Fossil Fuel Defendants have collectively steered the policies and trade practices of API through membership, Executive Committee roles, and/or providing budgetary funding for API. Fossil Fuel Defendants have used their control over and involvement in API to develop and execute a long-term advertising and communications campaign centered on climate change denialism. The goal of the campaign was to influence consumer demand for Fossil Fuel Defendants' fossil fuel products. Fossil Fuel Defendants directly controlled, supervised, and participated in API's misleading messaging regarding climate change.¹⁰³ That conduct directly impacted Delaware, as Fossil Fuel Defendants worked with API to create and disseminate misleading advertisements that promote consumption of fossil fuel products throughout Delaware.

¹⁰³ See H.R. Comm. on Oversight and Accountability Democrats & S. Comm. on the Budget, *Denial, Disinformation, and Doublespeak: Big Oil's Evolving Efforts to Avoid Accountability for Climate Change* (April 2024), at 37, 59 (Doc. No. SOC-HCOR-123718) (March 2018 email from Darren Woods to API Executive Committee, including representatives from Shell, Phillips 66, BP, and Chevron, noting that he was about to become API's Chair and that "it will be important to have a clear view of where *we* want to take API." (emphasis added)).

i. Relevant information was shared among API and Fossil Fuel Defendants and Fossil Fuel Defendants' predecessors-in-interest through the following: (1) API's distribution of information to its members, and/or (2) participation of Fossil Fuel Defendants' officers and other personnel, and those of Fossil Fuel Defendants' predecessors-in-interest, on API boards, committees, and task forces. This includes representatives of Exxon, Chevron, BP, Marathon, ConocoPhillips, Citgo (as Cities Services), and Shell sitting on API's Committee for Air and Water Conservation and/or a special advisory group to API's Committee for Public Affairs, which worked together to develop research reports on air emissions and other environmental topics. In addition, representatives from Chevron and Exxon chaired API's Engineering and Technical Research Committee, and representatives from BP and Exxon chaired API's Health and Biological Research Committee, also developing research documents. Different representatives of Exxon, Chevron, BP, Marathon, ConocoPhillips, Citgo, and Shell rotated in and out of these positions throughout the time periods discussed in this Complaint.¹⁰⁴

j. API has acted on behalf of and under the supervision and control of Fossil Fuel Defendants. Under this control and supervision, API has, since no

¹⁰⁴ Am. Petroleum Inst., Comm. for Air and Water Conservation & Comm. on Pub. Affs., *Environmental Research: A Status Report*, 135–46 (Jan. 1972) (listing members of relevant committees and their fossil fuel company affiliations), <https://files.eric.ed.gov/fulltext/ED066339.pdf>.

later than 1988, participated in and led several coalitions, front groups, and organizations that have promoted disinformation about the climate impacts of fossil fuel products to consumers—including, but not limited to, the Global Climate Coalition, Partnership for a Better Energy Future, Coalition for American Jobs, Alliance for Energy and Economic Growth, and Alliance for Climate Strategies. These front groups were formed to promote climate disinformation and advocacy from a purportedly objective source, when in fact these groups were financed and controlled by Fossil Fuel Defendants and other oil and gas companies. Defendants have benefited from the spread of this disinformation because, among other things, it has ensured a thriving consumer market for oil and gas, resulting in substantial profits for Fossil Fuel Defendants.

k. API has admitted its role in promoting Fossil Fuel Defendants' fossil fuel products. For example, in 1964, API President Frank Ikard stated that "API also works hard to promote the use of petroleum products [W]e cannot, of course, engage directly in selling gasoline to customers. But if we can't sell the steak, we can sell the sizzle." Ikard continued, "[w]e can contribute to gasoline sales, for example, by telling as many motorists as possible about the wonderful places to go in this country and about some of the historic trails that connect them. This we are doing by means of a national campaign of localized newspaper ads carrying the

theme: ‘See America Best By Car.’”¹⁰⁵ Dozens of these “See America Best By Car” newspaper ads from Shell and API appeared in Delaware in the 1960s.¹⁰⁶ To this day, API continues to promote Fossil Fuel Defendants’ fossil fuel products and/or brands, including via advertisements that reach Delaware consumers.¹⁰⁷

C. Relevant Non-Parties: Defendants’ Agents and Front Groups

41. Fossil Fuel Defendants employed and financed several industry-created front groups to serve their climate change disinformation and denial mission. These organizations, acting on behalf of and under the supervision and control of Fossil Fuel Defendants, implemented public advertising and outreach campaigns to discredit climate science, funded scientists to cast doubt upon climate science, and overall engaged in a significant marketing campaign that misrepresented and concealed the dangers of Fossil Fuel Defendants’ fossil fuel products. Defendants actively supervised, facilitated, consented to, and/or directly participated in the misleading messaging of these front groups, from which Fossil Fuel Defendants profited significantly, including in the form of increased sales in Delaware.

¹⁰⁵ Address by Frank N. Ikard, President, Am. Petroleum Inst., at the Annual Meeting of the Interstate Oil Compact Commission, Broadwater Beach Hotel, Biloxi, Mississippi, Dec. 11, 1964 (Bernard Majewski Papers, Box 59, American Heritage Center, University of Wyoming).

¹⁰⁶ See, e.g., The News Journal (June 2, 1964), <https://perma.cc/TL5P-GHL4>; The Morning News (July 28, 1964), <https://perma.cc/5UTX-2LU5>.

¹⁰⁷ See Am. Petroleum Inst., *supra* note 99.

42. **The Information Council for the Environment (ICE)** was formed by coal companies and their allies, including Western Fuels Association and the National Coal Association. Associated companies included Pittsburg and Midway Coal Mining (Chevron) and Occidental's subsidiary, Island Creek Coal.

43. **The Global Climate Coalition (GCC)** was an industry group formed to preserve and expand consumer demand for fossil fuel products by publicly casting doubt on climate science and opposing GHG emission reduction initiatives. The GCC was founded in 1989 shortly after the first meeting of the Intergovernmental Panel on Climate Change ("IPCC"), the United Nations body for assessing the science related to climate change, and to NASA scientist James Hansen's presentation to the Senate Committee on Energy and Natural Resources, in which Hansen emphasized that climate change was already happening and would lead to dire consequences if left unaddressed. The GCC disbanded in or around 2001. Founding members included API, Shell Oil Company (currently, Shell); Texaco, Inc. (currently, Chevron); Amoco Corporation (currently, BP); Occidental Chemical Corporation (Occidental); Consolidation Coal Company (CONSOL); and Phillips Petroleum Company (ConocoPhillips).¹⁰⁸ Over the course of its existence, GCC corporate members included Amoco (BP), API, Chevron, Exxon, Shell Oil, Texaco

¹⁰⁸ *Global Climate Coalition Membership*, ClimateFiles (1989), <https://perma.cc/2559-6JVU>.

(Chevron), Occidental, CONSOL (as Consolidation Coal Company), and Phillips Petroleum (ConocoPhillips). Over its existence other members and funders included ARCO (BP), and the Western Fuels Association. The GCC Board of Directors was comprised of high-level executives from the fossil fuel industry: in 1994, for instance, the GCC Board was comprised of executives from API, Exxon, Phillips Petroleum Company (ConocoPhillips), and Texaco (Chevron).¹⁰⁹ In 1995, GCC's Board of Directors included high-level executives from Texaco (Chevron), Chevron, API, and ARCO.¹¹⁰

44. **The National Mining Association (NMA)** is a national trade association incorporated in Delaware and headquartered in Washington, D.C., representing more than 250 corporations and organizations in the mining industry. NMA was formed in 1995 through the merger of the National Coal Association and the American Mining Congress. Both predecessor organizations were members of the GCC.

a. The following Fossil Fuel Defendants and/or their predecessors-in-interest are and/or have been NMA members at times relevant to this litigation:

¹⁰⁹ Glob. Climate Coalition, *Background Information on the Global Climate Coalition*, 4 (Feb. 1, 1994), <https://perma.cc/3W2B-G33X>.

¹¹⁰ Glob. Climate Coalition, *IRS 1024 Attachment C: Global Climate Coalition Board of Directors* (1995), <https://perma.cc/TE7R-4D3A>.

CONSOL, the Pittsburg and Midway Coal Mining Company (Chevron), Island Creek Coal (Occidental), Exxon, Shell, BP, and ConocoPhillips.

b. Core Natural Resources, Inc.'s (CONSOL's) president and CEO currently serves as the Vice Chairman of the Board for NMA, and the former president and CEO of Island Creek Coal (Occidental), previously served as the chairman.

c. NMA and API have been co-members of various organizations that participated in Defendants' campaign of deception, including the GCC,¹¹¹ Alliance for Climate Strategies,¹¹² and Partnership for a Better Energy Future.¹¹³ Moreover, Jack Gerard, who served as API's president and CEO until 2018, previously served as the CEO for the NMA.¹¹⁴

45. **The International Petroleum Industry Environmental Conservation Association (IPIECA)** is a global oil and gas industry association

¹¹¹ See *Global Climate Coalition Membership*, ClimateFiles (1989), <https://perma.cc/2559-6JVU>.

¹¹² Caroline Jones et al., Brown Univ. Climate and Development Lab, *Countermovement Coalitions: Climate Denialist Organizational Profiles* (2018), <http://www.climatedevlab.brown.edu/uploads/2/8/4/0/28401609/covercountermovementcoalitions.2.2019.pdf>.

¹¹³ Herman K. Trabish, *Industry asks EPA to reconsider new emissions rule*, UtilityDive (July 24, 2014), <https://www.utilitydive.com/news/industry-asks-epa-to-reconsider-new-emissions-rule/290259>.

¹¹⁴ Press Release, Am. Petroleum Inst., *API President and CEO Jack Gerard To Depart in August* (Jan. 17, 2018), <https://www.api.org/news-policy-and-issues/news/2018/01/17/api-president-and-ceo-jack-gerard-to-depart-in-august>.

headquartered in London, England. IPIECA is the oil and gas industry's point of contact with the United Nations Framework Convention on Climate Change (UNFCCC) and provides technical input to the Intergovernmental Panel on Climate Change (IPCC).

III. JURISDICTION

46. Jurisdiction of this Court is proper under Article IV, Section 7, of the Delaware Constitution, Section 541 of Title 10 of the Delaware Code, and Section 3104 of Title 10 of the Delaware Code. No federal subject-matter jurisdiction is invoked herein.

47. This case qualifies for assignment to the Superior Court Complex Commercial Litigation Division because the amount in controversy exceeds one million dollars (\$1,000,000).

48. This Court has personal jurisdiction over Defendants because each Defendant is, or was during the relevant time, incorporated in Delaware and/or licensed to do business in Delaware; maintained or maintains their principal place of business in Delaware; is transacting or has transacted business in Delaware; is contracting or has contracted to supply services or things in Delaware; has or does derive substantial revenue from Delaware or engages in a persistent course of conduct in Delaware; had or has interests in, uses, or possess real property in Delaware; and/or caused tortious injury in Delaware and has intentionally engaged

in conduct aimed at Delaware, which caused harm they knew was likely to be incurred in Delaware. Each Defendant has had sufficient minimum contacts with the State and has purposefully directed activities toward this State and/or purposefully availed itself of the privileges and obligations of conducting business in this State such that this Court's exercise of jurisdiction over each Defendant is reasonable and consistent with the Constitution and laws of the United States.

49. Additionally, jurisdiction is proper over each non-resident Defendant for the following reasons:

a. Each non-resident Fossil Fuel Defendant parent controls and has controlled its direct and indirect subsidiaries' decisions about the quantity and extent of its fossil fuel production and sales; determines whether and to what extent to market, produce, and/or distribute its fossil fuel products; and controls and has controlled decisions related to its direct and indirect subsidiaries' decisions related to marketing and advertising, and specifically communications strategies concerning climate change and the link between fossil fuel use and impacts on the environment and humans. Thus, the subsidiaries are agents of the parent. As agents, the subsidiaries of each non-resident Fossil Fuel Defendant conducted activities in Delaware at the direction of their parent companies and for the parent companies' benefit. Specifically, the subsidiaries furthered the parents' campaign of deception and denial through misrepresentations, omissions, and/or affirmative promotion of

the company's fossil fuel products as safe with knowledge of the climate change-related harms that would result from the intended use of those products, all of which resulted in climate injuries in Delaware and increased sales to the parents. Therefore, the subsidiaries' jurisdictional activities are properly attributed to the parents, and serve as a basis to assert jurisdiction over the non-resident Fossil Fuel Defendant parent companies.

b. Through their various agreements with dealers, franchises, or otherwise, the Fossil Fuel Defendants have directed and controlled the branding, marketing, sales, promotions, image development, signage, and advertising of their branded fossil fuel products at their respective branded gas stations in Delaware, including point-of-sale advertising and marketing. The Fossil Fuel Defendants dictate which grades and formulations of their gasoline may be sold at their respective branded stations.

c. All Fossil Fuel Defendants, by and through API and other organizations like NMA, ICE, and GCC, conspired to conceal and misrepresent the known dangers of fossil fuels, to knowingly withhold information regarding the effects of using fossil fuel products, to discredit climate change science and create the appearance such science is uncertain, and to engage in massive campaigns to promote heavy use of their fossil fuel products, which they knew would result in injuries to the State. Through their own actions and through their membership and/or

participation in climate-change denying front groups, each Defendant was and is a member of that conspiracy. Defendants committed substantial acts to further the conspiracy in Delaware by making misrepresentations and misleading omissions to Delaware consumers about the existence, causes, and effects of global warming; by affirmatively promoting Fossil Fuel Defendants' fossil fuel products as safe, with knowledge of the disastrous impacts that would result from the intended use of those products; and by failing to warn Delaware consumers about the disastrous impacts of fossil fuel use. A substantial effect of the conspiracy has also and will also occur in Delaware, as the State has suffered and will suffer injuries from Defendants' wrongful conduct including, but not limited to: sea level rise, flooding, erosion, loss of wetlands and beaches, ocean acidification, and other social and economic consequences of these environmental changes. Defendants knew or should have known, based on information passed to them from their internal research divisions and affiliates, trade associations, and industry groups, that their actions in Delaware and elsewhere would result in these injuries in and to Delaware. Finally, the climate effects described herein are direct and foreseeable results of Defendants' conduct in furtherance of the conspiracy.

IV. FACTUAL BACKGROUND

A. Background on Climate Change.

50. Human-caused warming of the Earth is unequivocal.¹¹⁵

51. The mechanism by which human activity causes global warming and climate change is equally well established: ocean and atmospheric warming is overwhelmingly caused by anthropogenic GHG emissions.¹¹⁶

52. When used as intended to produce energy and create petrochemical products, Fossil Fuel Defendants' fossil fuel products release GHGs into the atmosphere, including CO₂, which trap atmospheric heat and increase global temperatures. With respect to global warming, CO₂ is presently the most important GHG because humans' combustion of massive amounts of fossil fuels has released hundreds of billions of tons of CO₂ into the atmosphere.

53. Prior to World War II, most anthropogenic CO₂ emissions were caused by land-use practices, such as forestry and agriculture, which altered the ability of the land and global biosphere to absorb CO₂ from the atmosphere. Those activities

¹¹⁵ IPCC, *Climate Change 2023: Synthesis Report, Summary for Policymakers. Contribution of Working Groups I, II and III to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change* (2023); <https://perma.cc/5K56-9DUG>.

¹¹⁶ IPCC, *Climate Change 2021: The Physical Science Basis*, at 4, 41, 63, 150, 425, 506 (2021), https://www.ipcc.ch/report/ar6/wg1/downloads/report/IPCC_AR6_WGI_FullReport_small.pdf.

did not significantly alter atmospheric CO₂ concentrations, and their impacts on Earth's climate were relatively minor. Since that time, however, both the annual rate and total volume of anthropogenic CO₂ emissions have increased enormously following the dramatic rise in the combustion of oil, gas, and coal. Figure 1 below shows that, while CO₂ emissions attributable to forestry and other land-use changes have remained relatively constant, total emissions attributable to fossil fuels have increased dramatically since the 1950s.¹¹⁷

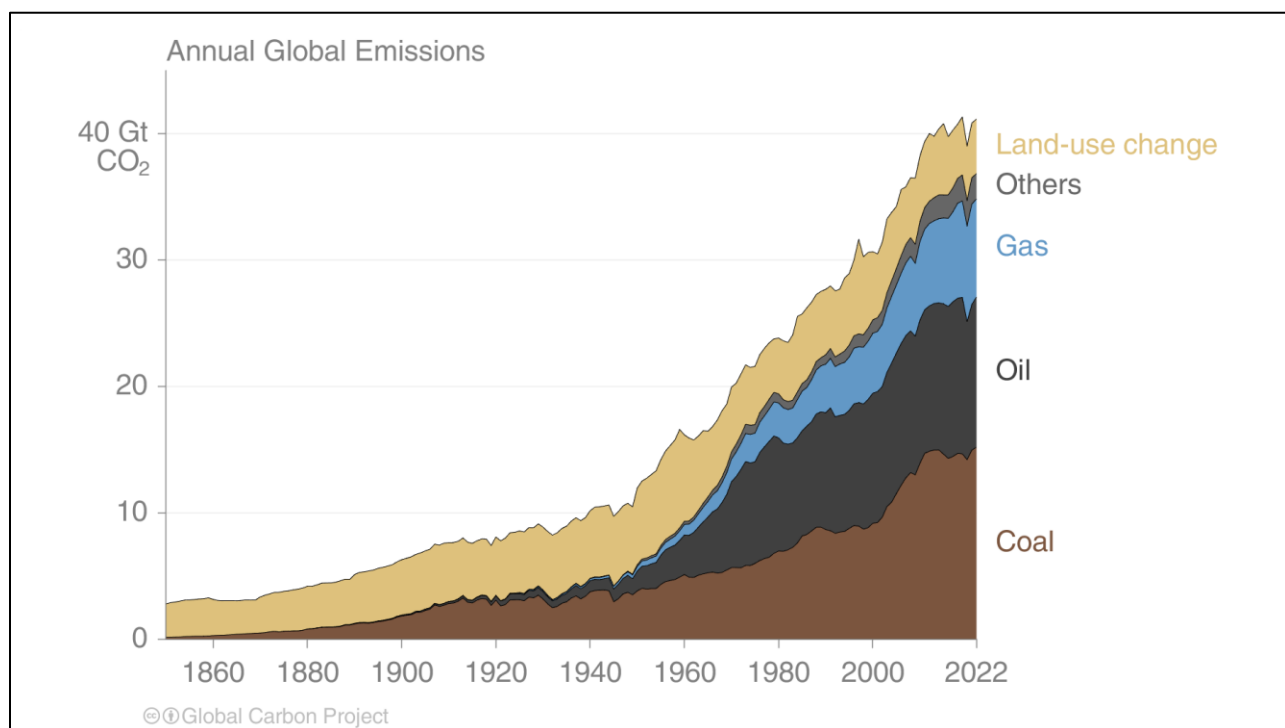


Figure 1: Total Annual Carbon Dioxide Emissions by Source, 1860-2022

¹¹⁷ Glob. Carbon Project, *Global Carbon Budget 2023*, at 85 (Dec. 5, 2023), <https://perma.cc/LE9K-AMBB>.

54. This acceleration of fossil fuel emissions has led to a correspondingly sharp rise in atmospheric concentration of CO₂. Since 1960, the concentration of CO₂ in the atmosphere has gone from under 320 parts per million (“ppm”) to approximately 430 ppm.¹¹⁸ The concentration of atmospheric CO₂ is also accelerating.

55. The graph below (Figure 2) indicates the tight nexus between the sharp increase in emissions from the combustion of fossil fuels and the steep rise of atmospheric concentrations of CO₂.

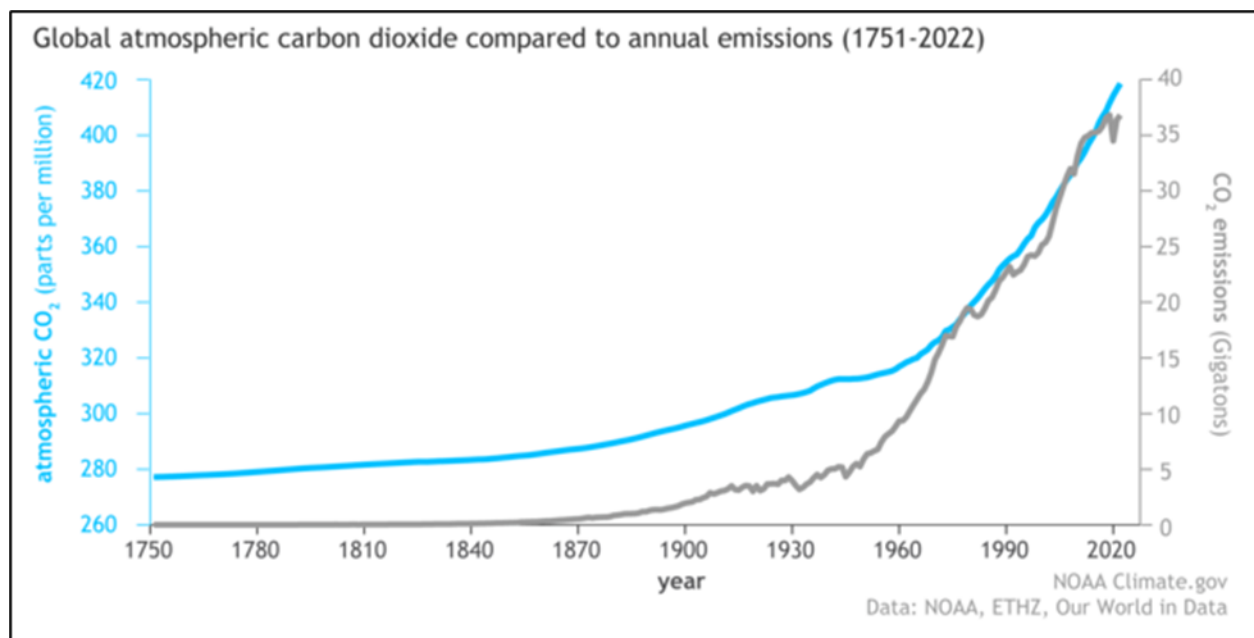


Figure 2: Atmospheric CO₂ Concentration and Annual Emissions¹¹⁹

¹¹⁸ Global Monitoring Laboratory, *Trends in Atmospheric Carbon Dioxide*, NOAA (last visited July 18, 2025), <https://perma.cc/T2E2-SYBW>.

¹¹⁹ Rebecca Lindsey, *Climate Change: Atmospheric Carbon Dioxide*, Climate.gov (Apr. 9, 2024), <https://perma.cc/6MPK-6FE7>.

56. The increase in atmospheric CO₂ caused by fossil fuel combustion has been clearly documented and measured, and the ratio of different carbon isotopes in the atmosphere indicates that fossil fuel combustion is the overwhelming source of the increased concentration of CO₂ in the atmosphere.¹²⁰

57. Because of the increased burning of fossil fuel products, concentrations of GHGs in the atmosphere are now at a level unprecedented in at least 3 million years.¹²¹

58. As GHGs accumulate in the atmosphere, the Earth radiates less energy back to space. The result has been dramatic planetary warming. Ocean and land surface temperatures have increased at a rapid pace during the late 20th and early 21st centuries:

a. 2024 was the hottest year on record by globally averaged surface temperatures, exceeding the mid-20th century mean ocean and land surface

¹²⁰ NOAA, *The Data: What Carbon-14 Tells Us*, Glob. Monitoring Lab'y, <https://perma.cc/83JP-P9AG>.

¹²¹ Potsdam Inst. for Climate Impact Research, *More CO₂ Than Ever Before in 3 Million Years, Shows Unprecedented Computer Simulation*, Sci. Daily (Apr. 3, 2019), <https://perma.cc/4XZB-7BLD>.

temperatures by approximately 2.32°F.¹²² The last ten years have been the hottest on record.¹²³ In Delaware, the 2010 decade was the hottest decade on record.¹²⁴

b. 2024 was the hottest year on record for global ocean temperatures.¹²⁵ The last five years have been the warmest recorded ocean temperatures on record.¹²⁶

59. Increasing surface temperatures, both locally and globally, are disrupting Earth's energy balance and leading to myriad environmental and physical consequences, including, but not limited to, the following:

- a. Increased frequency and intensity of heatwaves;
- b. Sea level rise, due to the thermal expansion of warming ocean waters and runoff from melting glaciers and ice sheets;
- c. Flooding and inundation of land and infrastructure, increased erosion, higher wave run-up and tides, increased frequency and severity of storm surges, saltwater intrusion, and other impacts of higher sea levels;

¹²² NOAA Nat'l Ctr. for Env't Info., *Annual 2024 Global Climate Report* (Jan. 2025). <https://perma.cc/L2HA-LLW2>.

¹²³ *Id.*

¹²⁴ Delaware Department of Natural Resources and Environmental Control, *Delaware's Climate Impacts, Increased Temperatures*, <https://perma.cc/D86W-YYVQ> (last visited July 11, 2025).

¹²⁵ NOAA Nat'l Ctr. for Env't Info, *Assessing the Global Climate in 2024* (Jan. 10, 2025). <https://perma.cc/RJ7V-T97Q>.

¹²⁶ *Id.*

d. Increased frequency and intensity of extreme weather events due to the increase in the atmosphere's ability to hold moisture and increased evaporation;

e. Changes to the global climate generally, bringing about longer periods of drought interspersed with fewer and more severe periods of precipitation, and associated impacts on the quantity and quality of water resources available to both human and ecological systems;

f. Ocean acidification, due to the increased uptake of atmospheric carbon dioxide by the oceans;

g. Changes to terrestrial and marine ecosystems, and consequent impacts on the populations and ranges of flora and fauna; and

h. Adverse impacts on human health associated with extreme weather, extreme heat, decreased air quality, and vector-borne illnesses.

B. Defendants Knew About the Dangers Associated with Fossil Fuel Defendants' Fossil Fuel Products.

60. For decades, Fossil Fuel Defendants have known that their fossil fuel products posed and continue to pose risks of “severe” and even “catastrophic” impacts on the global climate through the work and warnings of their own scientists and/or through trade associations such as API. Defendants consistently researched or funded research into significant issues relevant to fossil fuels and were aware of significant scientific reports on climate change science and impacts at the time the

reports were issued. Thus, Defendants developed a sophisticated understanding of climate change that far exceeded the knowledge of the public, ordinary consumers, and the State. Yet each Fossil Fuel Defendant decided to continue its conduct and commit itself to massive fossil fuel production. This was a deliberate and malicious decision to place company profits ahead of human safety and well-being and to foist onto the public and the State the costs of abating and adapting to the harms of climate change.

61. This industry knowledge was concealed at the time and only recently began to come to light outside of Defendants' spheres. Defendants are still concealing their full knowledge.¹²⁷

62. In 1954, geochemist Harrison Brown and his colleagues at the California Institute of Technology wrote to API, informing the trade association that preliminary measurements of natural archives of carbon in tree rings indicated that fossil fuels had caused atmospheric carbon dioxide levels to increase by about 5% since 1840.¹²⁸ API funded the scientists for various research projects, and measurements of carbon dioxide continued for at least one year and possibly longer,

¹²⁷ See discussion *infra* ¶¶ 267–279.

¹²⁸ See Benjamin Franta, *Early Oil Industry Knowledge of CO₂ and Global Warming*, 8 Nature Climate Change 1024, 1024–25 (2018).

although the results were never published or otherwise made available to the public.¹²⁹

63. In 1957, H.R. Brannon of Humble Oil (predecessor-in-interest to ExxonMobil) measured an increase in atmospheric carbon dioxide attributable to fossil fuels, similar to—and in agreement with—that measured by Harrison Brown. Brannon communicated this information to API.¹³⁰

64. In 1959, API organized a centennial celebration of the American oil industry at Columbia University in New York City.¹³¹ High-level representatives of Fossil Fuel Defendants were in attendance. One of the keynote speakers was the nuclear physicist Edward Teller. Teller warned the industry that “a temperature rise corresponding to a 10 per cent increase in carbon dioxide will be sufficient to melt the icecap and submerge . . . [a]ll the coastal cities.” Teller added that since “a considerable percentage of the human race lives in coastal regions, I think that this chemical contamination is more serious than most people tend to believe.”¹³² Following his speech, Teller was asked to “summarize briefly the danger from

¹²⁹ *Id.*

¹³⁰ H.R. Brannon, Jr. et al., *Radiocarbon Evidence on the Dilution of Atmospheric and Oceanic Carbon by Carbon from Fossil Fuels*, 38 American Geophysical Union Transactions 643, 643–50 (1957).

¹³¹ See Allan Nevins & Robert G. Dunlop, *Energy and Man: A Symposium* (Appleton-Century-Crofts, New York 1960). See also Franta (2018), *supra* note 128, at 1024–25.

¹³² Edward Teller, *Energy patterns of the future*, in *Energy and Man: A Symposium* 53–72 (1960).

increased carbon dioxide content in the atmosphere in this century.” He responded that “there is a possibility the icecaps will start melting and the level of the oceans will begin to rise.”¹³³

65. By 1965, some concern over the potential for fossil fuel products to cause disastrous global warming reached the highest levels of the United States’ scientific community. In that year, President Lyndon B. Johnson’s Science Advisory Committee’s Environmental Pollution Panel reported that a 25% increase in carbon dioxide concentrations could occur by the year 2000, that such an increase could cause significant global warming, that melting of the Antarctic ice cap and rapid sea level rise could result, and that fossil fuels were the clearest source of the pollution.¹³⁴

66. Three days after President Johnson’s Science Advisory Committee report was published, the president of API, Frank Ikard, addressed leaders of the petroleum industry in Chicago at the trade association’s annual meeting. Ikard relayed the report to industry leaders, saying, “[o]ne of the most important predictions of the report is that carbon dioxide is being added to the earth’s atmosphere by the burning of coal, oil, and natural gas at such a rate that by the year

¹³³ *Id.*

¹³⁴ President’s Science Advisory Committee, *Restoring the Quality of Our Environment: Report of the Environmental Pollution Panel 9*, 119–24 (Nov. 1965), <https://hdl.handle.net/2027/uc1.b4315678>.

2000 the heat balance will be so modified as possibly to cause marked changes in climate beyond local or even national efforts” and quoted the report’s finding that “the pollution from internal combustion engines is so serious, and is growing so fast, that an alternative nonpolluting means of powering automobiles, buses, and trucks is likely to become a national necessity.”¹³⁵ Mr. Ikard summarized the report by saying, “[t]he substance of the report is that there is still time to save the world’s peoples from the catastrophic consequences of pollution, but time is running out.”¹³⁶

67. Thus, by 1965, Defendants and their predecessors-in-interest were aware that the scientific community had found that the unrestrained use of fossil fuel products would cause global warming by the end of the century, and that such global warming would have wide-ranging and costly consequences.

68. In 1968, API received a report from the Stanford Research Institute (“SRI”), which it had hired to assess the state of research on environmental pollutants, including carbon dioxide.¹³⁷ The assessment endorsed the findings of President Johnson’s Scientific Advisory Council from three years prior, stating, “Significant temperature changes are almost certain to occur by the year 2000, and

¹³⁵ Frank N. Ikard, *Meeting the Challenges of 1966*, in *Proceedings of the Am. Petroleum Inst.* 13 (1965), <https://perma.cc/CHQ7-HXGA>.

¹³⁶ *Id.*

¹³⁷ Elmer Robinson & R.C. Robbins, *Sources, Abundance, and Fate of Gaseous Atmospheric Pollutants*, Stanford Research Institute (Feb. 1968), <https://perma.cc/A58L-QVPK?type=image>.

. . . there seems to be no doubt that the potential damage to our environment could be severe.” The scientists warned of “melting of the Antarctic ice cap” and informed API that “[p]ast and present studies of CO₂ are detailed and seem to explain adequately the present state of CO₂ in the atmosphere.” What was missing, the scientists said, was work on “air pollution technology and . . . systems in which CO₂ emissions would be brought under control.”¹³⁸

69. In 1969, the SRI delivered a supplemental report on air pollution to API, projecting with alarming particularity that atmospheric CO₂ concentrations would reach 370 ppm by 2000.¹³⁹ This projection turned out to almost exactly match the actual CO₂ concentrations measured in 2000 of 369.64 ppm.¹⁴⁰ The report explicitly connected the rise in CO₂ levels to the combustion of fossil fuels, finding it “unlikely that the observed rise in atmospheric CO₂ has been due to changes in the biosphere.”¹⁴¹

70. By virtue of their membership and participation in API at that time, Fossil Fuel Defendants received or should have received SRI reports and were on notice of their conclusions.

¹³⁸ *Id.* at 108, 110, 112.

¹³⁹ Elmer Robinson & R.C. Robbins, *Sources, Abundance, and Fate of Gaseous Atmospheric Pollutants Supplement*, Stanford Research Institute (June 1969), <https://perma.cc/J5YU-SNZ7>.

¹⁴⁰ Nasa Goddard Institute for Space Studies, *Global Mean CO₂ Mixing Ratios (ppm): Observations*, <https://perma.cc/QE9P-PNYY>.

¹⁴¹ Robinson, *supra* note 139, at 19.

71. In 1972, API members, including Fossil Fuel Defendants, received a status report on all environmental research projects funded by API. The report summarized the 1968 SRI report describing the impact of fossil fuel products—including those of the Fossil Fuel Defendants’—on the environment, including global warming and attendant consequences. Fossil Fuel Defendants and/or their predecessors-in-interest that received this report include, but were not limited to: American Standard of Indiana (BP), Asiatic (Shell), Ashland (Marathon), Atlantic Richfield (BP), British Petroleum (BP), Chevron Standard of California (Chevron), Esso Research (ExxonMobil), Ethyl (formerly affiliated with Esso, which was subsumed by ExxonMobil), Getty (ExxonMobil), Gulf (Chevron, among others), Humble Standard of New Jersey (ExxonMobil/Chevron/BP), Marathon, Mobil (ExxonMobil), Pan American (BP), Shell, Standard of Ohio (BP), Texaco (Chevron), Union (Chevron), Skelly (ExxonMobil), Colonial Pipeline (ownership has included BP, ExxonMobil, and Chevron entities, among others), Continental (ConocoPhillips), Dupont (former owner of Conoco), Phillips (ConocoPhillips), and Caltex (Chevron).¹⁴²

72. In 1977, James Black of Exxon’s Products Research Division presented to the Exxon Corporation Management Committee on the “greenhouse effect.” The

¹⁴² Am. Petroleum Inst., Committee for Air and Water Conservation, *Environmental Research: A Status Report* (Jan. 1972), <https://perma.cc/M63K-85T6>.

next year, in 1978, Black presented his findings to another internal Exxon group, PERCC, which were summarized in an internal memo to the Vice President of Exxon Research and Engineering. Black reported that “current scientific opinion overwhelmingly favors attributing atmospheric carbon dioxide increase to fossil fuel consumption,” and that doubling atmospheric carbon dioxide, according to the best climate model available, would “produce a mean temperature increase of about 2°C to 3°C [3.6°F to 5.4°F] over most of the earth,” with two- to three-times as much warming at the poles.¹⁴³ Black also reported that “[p]resent thinking holds that man has a time window of five to ten years before the need for hard decisions regarding changes in energy strategies might become critical.”¹⁴⁴ The figure below,

¹⁴³ Letter from J.F. Black, Exxon Research and Engineering Co., to F.G. Turpin, Exxon Research and Engineering Co., *The Greenhouse Effect*, at 2, 4, 14, 23, 26 (June 6, 1978), <https://perma.cc/QEX8-GW87>.

¹⁴⁴ *Id.* at 3.

reproduced from Black's memo, illustrates Exxon's understanding of the timescale and magnitude of global warming its products would cause.

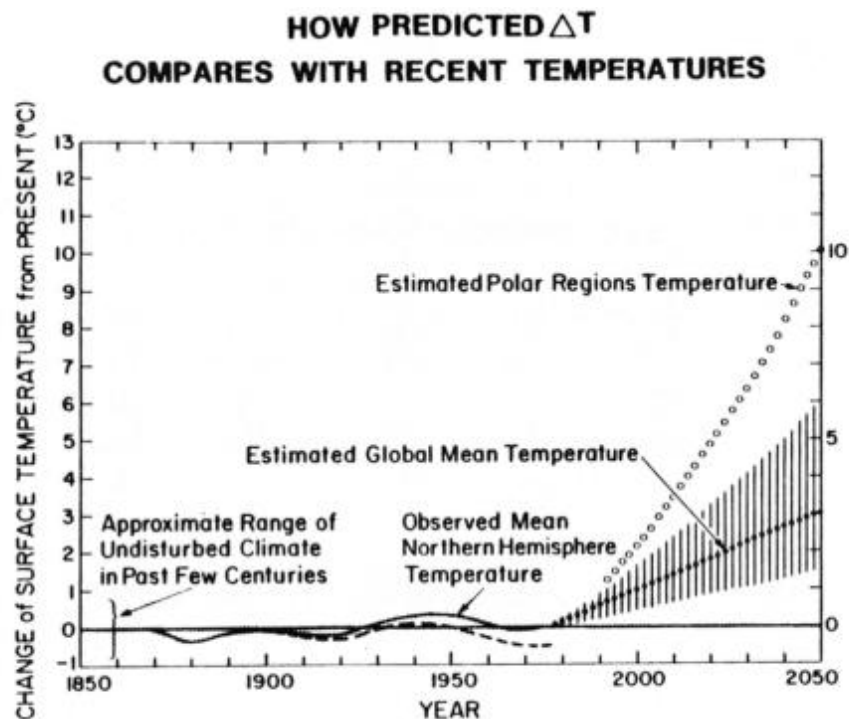


Figure 3: Future global warming predicted internally by Exxon in 1977¹⁴⁵

73. Also in 1977, Henry Shaw of the Exxon Research and Engineering Technology Feasibility Center attended a meeting of scientists and governmental officials in Atlanta, Georgia, on developing research programs to study carbon dioxide and global warming. Shaw's internal memo to Exxon's John W. Harrison

¹⁴⁵ *Id.* The company predicted global warming of 3 $^{\circ}\text{C}$ (1.8 $^{\circ}\text{F}$ to 5.4 $^{\circ}\text{F}$) by 2050, with 10 $^{\circ}\text{C}$ (18 $^{\circ}\text{F}$) warming in polar regions. The difference between the dashed and solid curves prior to 1977 represents global warming that Exxon believed may already have been occurring.

reported that “[t]he climatic effects of carbon dioxide release may be the primary limiting factor on energy production from fossil fuels[.]”¹⁴⁶

74. In 1977, Marathon Oil Company published an internal magazine called “Marathon World,” which contained an article discussing climate change. According to *The Guardian*, the article discussed then-current research on climate science and stated that “industrial expansion during the last century may be affecting the weather through carbon dioxide pollution,” and that a changing climate could lead to “widespread starvation and other social and economic calamities.”¹⁴⁷

75. In 1979, Exxon distributed an internal memorandum that stated. “The most widely held theory [about global warming] is that: The increase [in carbon dioxide] is due to fossil fuel combustion; [i]ncreasing CO₂ concentration will cause a warming of the earth’s surface; [and t]he present trend of fossil fuel consumption will cause dramatic environmental effects before the year 2050. . . . The potential problem is great and urgent.” The memo added that, if limits were not placed on fossil fuel production,

Noticeable temperature changes would occur around 2010 as the [CO₂] concentration reaches 400 ppm. Significant climatic changes occur around 2035 when the concentration approaches 500 ppm. A doubling of the pre-industrial concentration [i.e., 580 ppm] occurs around 2050.

¹⁴⁶ Henry Shaw, *Environmental Effects of Carbon Dioxide*, Climate Investigations Center (Oct. 31, 1977), <https://perma.cc/3EVM-BFNM>.

¹⁴⁷ Geoff Dembicki, *US Oil Company Ran 1977 Article Predicting Climate Crisis Could Cause Starvation*, *The Guardian* (July 18, 2004), <https://perma.cc/6GBE-Q6P8>.

The doubling would bring about dramatic changes in the world's environment[.]¹⁴⁸

Those projections proved remarkably accurate: annual average atmospheric CO₂ concentrations surpassed 400 parts per million in 2015 for the first time in millions of years.¹⁴⁹ Limiting the carbon dioxide concentration in the atmosphere to 440 ppm, or a 50% increase over preindustrial levels, which the memo said was “assumed to be a relatively safe level for the environment,” would require fossil fuel emissions to peak in the 1990s and non-fossil energy systems to be rapidly deployed. Eighty percent of fossil fuel resources, the memo calculated, would have to be left in the ground to avoid doubling atmospheric carbon dioxide concentrations. Certain fossil fuels, such as shale oil, could not be substantially exploited at all.¹⁵⁰

76. But instead of disclosing to the public and consumers any aspects of these internal findings, in November 1979, according to internal correspondence, Exxon urged “a very aggressive defensive program in . . . atmospheric science and climate because there is a good probability that legislation affecting our business

¹⁴⁸ Letter from W.L. Ferrall, Exxon Research and Engineering Co., to Dr. R.L. Hirsch, *Controlling Atmospheric CO₂*, Climate Investigations Center (Oct. 16, 1979), <https://perma.cc/HZ5P-8BNT>.

¹⁴⁹ Nicola Jones, *How the World Passed a Carbon Threshold and Why It Matters*, Yale Environment 360 (Jan. 26, 2017), <https://perma.cc/Z8UG-KGRK>.

¹⁵⁰ *Id.* at 3, 6–7.

will be passed.”¹⁵¹ The Exxon memo stated that an expanded research effort was necessary to “influence possible legislation on environmental controls” and “respond” to environmental groups, which had already opposed synthetic fuels programs based on carbon dioxide emissions. The memo called on Exxon to expand research efforts to “prepare[] for, and [get] ahead of the government in making the public aware of pollution problems.”¹⁵²

77. In 1979, API and its members, including Fossil Fuel Defendants, convened a Task Force to monitor and share cutting edge climate research among the oil industry. The group was initially called the CO₂ and Climate Task Force, but in 1980 changed its name to the Climate and Energy Task Force (hereinafter referred to as “CO₂ Task Force”). API kept and distributed meeting minutes to Task Force members. Membership included senior scientists and engineers from nearly every major U.S. and multinational oil and gas company, including Exxon, Mobil (Exxon), Amoco (BP), Phillips (ConocoPhillips), Texaco (Chevron), Shell, Sunoco, Sohio (BP), as well as Standard Oil of California (Chevron) and Gulf Oil (Chevron, among others), among others. The CO₂ Task Force was charged with monitoring government and academic research, evaluating the implications of emerging science

¹⁵¹ Memorandum from H. Shaw to H.N. Weinberg, *Research in Atmospheric Science*, Climate Investigations Center (Nov. 19, 1979), <https://perma.cc/RLU2-WSWW>.

¹⁵² *Id.*

for the petroleum and gas industries, and identifying where reductions in GHG emissions from Defendants' fossil fuel products could be made.¹⁵³

78. In 1979, API prepared a paper for the CO₂ Task Force on carbon dioxide and climate, stating that CO₂ concentrations were rising steadily in the atmosphere, and predicting that, although global warming would occur, it would likely go undetected until approximately the year 2000, because its effects were being temporarily masked by a natural cooling trend.¹⁵⁴

79. During the 1980s, many Fossil Fuel Defendants formed their own research units focused on climate modeling. API, including the API CO₂ Task Force, provided a forum for Fossil Fuel Defendants to share their research efforts and corroborate their findings related to anthropogenic GHG emissions.¹⁵⁵

80. In 1980, API's CO₂ Task Force invited Dr. John Laurmann, "a recognized expert in the field of CO₂ and climate," to present to its members.¹⁵⁶ The

¹⁵³ Neela Banerjee, *Exxon's Oil Industry Peers Knew About Climate Dangers in the 1970s, Too*, Inside Climate News (Dec. 22, 2015), <https://perma.cc/BZQ8-8KG7>; Am. Petroleum Inst., *AQ-9 Task Force Meeting Minutes* (Mar. 18, 1980), <https://perma.cc/36C9-DM7P>.

¹⁵⁴ Memorandum from R.J. Campion to J.T. Burgess, *The API's Background Paper on CO₂ Effects*, Climate Investigations Center (Sep. 6, 1979), <https://perma.cc/SY47-B2EU>.

¹⁵⁵ Neela Banerjee, *Exxon's Oil Industry Peers Knew About Climate Dangers in the 1970s, Too*, Inside Climate News (Dec. 22, 2015), <https://perma.cc/BZQ8-8KG7>.

¹⁵⁶ Letter from Jimmie J. Nelson, Am. Petroleum Inst., to AQ-9 Task Force, *The CO₂ Problem; Addressing Research Agenda Development*, Climate Investigations Center (Mar. 18, 1980), <https://perma.cc/Q5CQ-LNV5>.

meeting lasted for seven hours and included a “complete technical discussion” of global warming caused by fossil fuels, including “the scientific basis and technical evidence of CO₂ buildup, impact on society, methods of modeling and their consequences, uncertainties, policy implications, and conclusions that can be drawn from present knowledge.”¹⁵⁷ Representatives from Standard Oil of Ohio (predecessor to BP), Texaco (predecessor to Chevron), Exxon, and API were present, and the minutes of the meeting were distributed to the entire CO₂ Task Force. Dr. Laurmann informed the CO₂ Task Force of the “scientific consensus on the potential for large future climatic response to increased CO₂ levels” and that there was “strong empirical evidence that [the carbon dioxide] rise [was] caused by anthropogenic release of CO₂, mainly from fossil fuel burning.” He warned the CO₂ Task Force of a 2.5°C (4.5°F) global temperature rise by 2038, which would likely have “MAJOR ECONOMIC CONSEQUENCES,” and a 5°C (9°F) rise by 2067, which would likely produce “GLOBALLY CATASTROPHIC EFFECTS.” He also suggested that, despite uncertainty in climate modeling, “THERE IS NO LEEWAY” in the time for acting. The API minutes of the CO₂ Task Force’s meeting show that the Task Force discussed topics including “the technical implications of energy source changeover” and “ground rules for energy release of fuels and the cleanup of fuels as they relate to CO₂ creation.” The Task Force also discussed a potential area

¹⁵⁷ *Id.*

for investigation: alternative energy sources as a means of mitigating CO₂ emissions from fossil fuel products. These efforts called for research and development to “Investigate the Market Penetration Requirements of Introducing a New Energy Source into World Wide Use,” including the technical implications of energy source changeover.¹⁵⁸

81. In 1980, Imperial Oil Limited (a Canadian ExxonMobil subsidiary) reported to managers and environmental staff at multiple affiliated Esso and Exxon companies that there was “no doubt” that fossil fuels were aggravating the build-up of CO₂ in the atmosphere and that “[t]echnology exists to remove CO₂ from stack gases but removal of only 50% of the CO₂ would double the cost of power generation.”¹⁵⁹

82. In December 1980, an Exxon manager distributed a memorandum on the “CO₂ Greenhouse Effect,” attributing future buildup of carbon dioxide to fossil fuel use, and explaining that internal calculations performed at Exxon indicated that atmospheric carbon dioxide would double around the year 2060, “most likely” resulting in global warming of approximately $3.0^{\circ} \pm 1.5^{\circ}\text{C}$ (2.7 to 8.1°F).¹⁶⁰ The

¹⁵⁸ *Id.*

¹⁵⁹ Imperial Oil Ltd., *Review of Environmental Protection Activities for 1978–1979*, at 2 (Aug. 6, 1980), <https://perma.cc/AK7D-BEBL>.

¹⁶⁰ Memorandum from Henry Shaw to T.K. Kett, *Exxon Research and Engineering Company’s Technological Forecast: CO₂ Greenhouse Effect*, at 3 (Dec. 18, 1980), <https://www.documentcloud.org/documents/2805573-1980-Exxon-Memo-Summarizing-Current-Models-And.html>.

memo reported that such global warming would cause “increased rainfall[] and increased evaporation,” which would have a “dramatic impact on soil moisture, and in turn, on agriculture” and other “serious global problems[.]” The memo called for “society” to pay the bill, estimating that some adaptive measures would cost no more than “a few percent” of gross national product.¹⁶¹ Calculations predicting a lower temperature increase, such as 0.25°C, were “not held in high regard by the scientific community.” The memo noted that the ability of the oceans to absorb heat could delay (but not prevent) the temperature increase “by a few decades,” and that natural, random temperature fluctuations would hide global warming from CO₂ until around the year 2000. The memo revealed that Exxon had studied various responses for avoiding or reducing a carbon dioxide build-up, including “stopping all fossil fuel combustion at the 1980 rate” and “investigat[ing] the market penetration of non-fossil fuel technologies.” The memo estimated that such nonfossil energy technologies “would need about 50 years to penetrate and achieve roughly half of the total [energy] market.”¹⁶² The memo included the figure below, which illustrates global warming anticipated by Exxon, as well as the company’s understanding that significant global warming would occur before exceeding the range of natural variability and being detected.

¹⁶¹ *Id.* at 3–5.

¹⁶² *Id.* at 5–6.

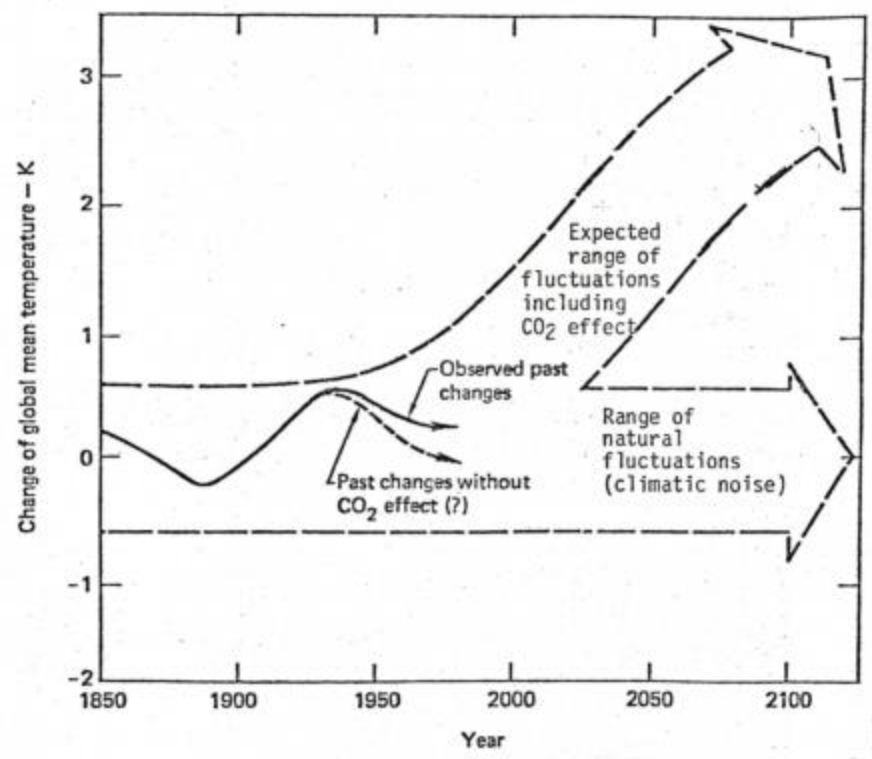


Figure 4: Future global warming predicted internally by Exxon in 1980¹⁶³

83. In February 1981, Exxon’s Contract Research Office prepared and distributed a “Scoping Study on CO₂” to the leadership of Exxon Research and Engineering Company.¹⁶⁴ The study reviewed Exxon’s current research on carbon dioxide and considered whether to expand Exxon’s research on carbon dioxide or global warming further at that time. It recommended against expanding those research areas because Exxon’s current research programs were sufficient for

¹⁶³ *Id.* The company anticipated a doubling of carbon dioxide by around 2060 and that the oceans would delay the warming effect by a few decades, leading to approximately 3°C (5.4°F) warming by the end of the century.

¹⁶⁴ Letter from G.H. Long, Exxon Research and Engineering Co., to P.J. Lucchesi et al., *Atmospheric CO₂ Scoping Study* (Feb. 5, 1981), <https://perma.cc/7ZHP-2Q5T>.

achieving the company's goals of closely monitoring federal research, building credibility and public relations value, and developing in-house expertise with regard to CO₂ and global warming. The study also noted that Exxon employees were actively monitoring and keeping the company apprised of outside research developments, including those on climate modeling and "CO₂-induced effects." The study also noted that other companies in the fossil fuel industry were "auditing Government meetings on the subject." In discussing "options for reducing CO₂ build-up in the atmosphere," the study stated that although capturing CO₂ from flue gases was technologically possible, the cost was high, and "energy conservation or shifting to renewable energy sources[] represent the only options that might make sense."¹⁶⁵

84. Exxon scientist Roger Cohen warned his colleagues in a 1981 internal memorandum that "future developments in global data gathering and analysis, along with advances in climate modeling, may provide strong evidence for a delayed CO₂ effect of a truly substantial magnitude," and that under certain circumstances it would be "very likely that we will unambiguously recognize the threat by the year 2000."¹⁶⁶ Cohen had expressed concern that the memorandum understated the potential effects of unabated CO₂ emissions from Defendants' fossil fuel products,

¹⁶⁵ *Id.* at 13.

¹⁶⁶ Memorandum from R.W. Cohen to W. Glass (Aug. 18, 1981), <https://perma.cc/TMT5-QL4Z>.

saying, “it is distinctly possible that [Exxon Planning Division’s] . . . scenario will produce effects which will indeed be catastrophic (at least for a substantial fraction of the world’s population).”¹⁶⁷

85. In 1981, Exxon’s Henry Shaw, the company’s lead climate researcher at the time, prepared a summary of Exxon’s current position on the greenhouse effect for Edward David Jr., president of Exxon Research and Engineering, stating in relevant part:

- “Atmospheric CO₂ will double in 100 years if fossil fuels grow at 1.4% [per year].
- 3°C global average temperature rise and 10°C at poles if CO₂ doubles.
 - Major shifts in rainfall/agriculture
 - Polar ice may melt”¹⁶⁸

86. Thus, by 1981, Exxon and other fossil fuel companies knew CO₂ accumulation in the atmosphere from fossil fuel consumption would lead to global warming, were actively monitoring all aspects of CO₂ and global warming research, and recognized that a shift away from fossil fuels and towards renewable energy sources would be necessary to avoid a large CO₂ build-up in the atmosphere and resultant global warming.

87. In 1982, another API-commissioned report recognized that atmospheric CO₂ concentration had risen significantly compared to the beginning of the industrial

¹⁶⁷ *Id.*

¹⁶⁸ Memorandum from Henry Shaw to Dr. E.E. David, *CO₂ Position Statement* (May 15, 1981), <https://perma.cc/93QR-EW5H>.

revolution and acknowledged that despite differences in climate modelers' predictions, there was scientific consensus that "a doubling of atmospheric CO₂ from [] pre-industrial revolution value would result in an average global temperature rise of $(3.0 \pm 1.5)^{\circ}\text{C}$ [$5.4 \pm 2.7^{\circ}\text{F}$]." It went further, warning that "[s]uch a warming can have serious consequences for man's comfort and survival since patterns of aridity and rainfall can change, the height of the sea level can increase considerably and the world food supply can be affected."¹⁶⁹

88. Exxon's own modeling research confirmed this. In September 1982, the Director of Exxon's Theoretical and Mathematical Sciences Laboratory, Roger Cohen, wrote Alvin Natkin of Exxon's Office of Science and Technology to summarize Exxon's internal research on climate modeling.¹⁷⁰ Cohen reported:

[O]ver the past several years a clear scientific consensus has emerged regarding the expected climatic effects of increased atmospheric CO₂. The consensus is that a doubling of atmospheric CO₂ from its pre-industrial revolution value would result in an average global temperature rise of $(3.0 \pm 1.5)^{\circ}\text{C}$ The temperature rise is predicted to be distributed nonuniformly over the earth, with above-average temperature elevations in the polar regions and relatively small increases near the equator. There is unanimous agreement in the scientific community that a temperature increase of this magnitude would bring about significant changes in the earth's climate, including rainfall distribution and alterations of the biosphere. The time required

¹⁶⁹ Am. Petroleum Inst., *Climate Models and CO₂ Warming: A Selective Review and Summary*, 3–5 (Mar. 1982), <https://perma.cc/2ZDX-QMTX>.

¹⁷⁰ Memorandum from Roger W. Cohen, Exxon Research and Engineering Co., to A.M. Natkin, Exxon Corp. Office of Science and Technology, ClimateFiles (Sept. 2, 1982), <https://perma.cc/ABC8-778E>.

for doubling of atmospheric CO₂ depends on future world consumption of fossil fuels.

Cohen described Exxon's own climate modeling experiments, reporting that they produced "a global average temperature increase that falls well within the range of the scientific consensus," were "consistent with the published predictions of more complex climate models," and were "also in agreement with estimates of the global temperature distribution during a certain prehistoric period when the earth was much warmer than today." "In summary," Cohen wrote, "the results of our research are in accord with the scientific consensus on the effect of increased atmospheric CO₂ on climate."¹⁷¹ Cohen noted that the results were to be presented to a scientific community by Exxon's collaborator Martin Hoffert at a Department of Energy meeting, as well as by Exxon's Brian Flannery at the Exxon-supported Ewing Symposium, later that year.

89. Also in 1982, Exxon's Environmental Affairs Manager distributed a primer on climate change to a "wide circulation [of] Exxon management . . . intended to familiarize Exxon personnel with the subject." The primer was "restricted to Exxon personnel and not to be distributed externally."¹⁷² The primer compiled science on climate change available at the time, and confirmed fossil fuel

¹⁷¹ *Id.*

¹⁷² Memorandum from M.B. Glaser, CO₂ "Greenhouse" Effect, Exxon Rsch. & Eng'g Company (Nov. 12, 1982), <https://perma.cc/4FXP-LQAU>.

combustion as a primary anthropogenic contributor to global warming. The primer included the figure below, which estimated a CO₂ doubling from pre-industrial revolution levels (i.e., 580 ppm) by 2070.

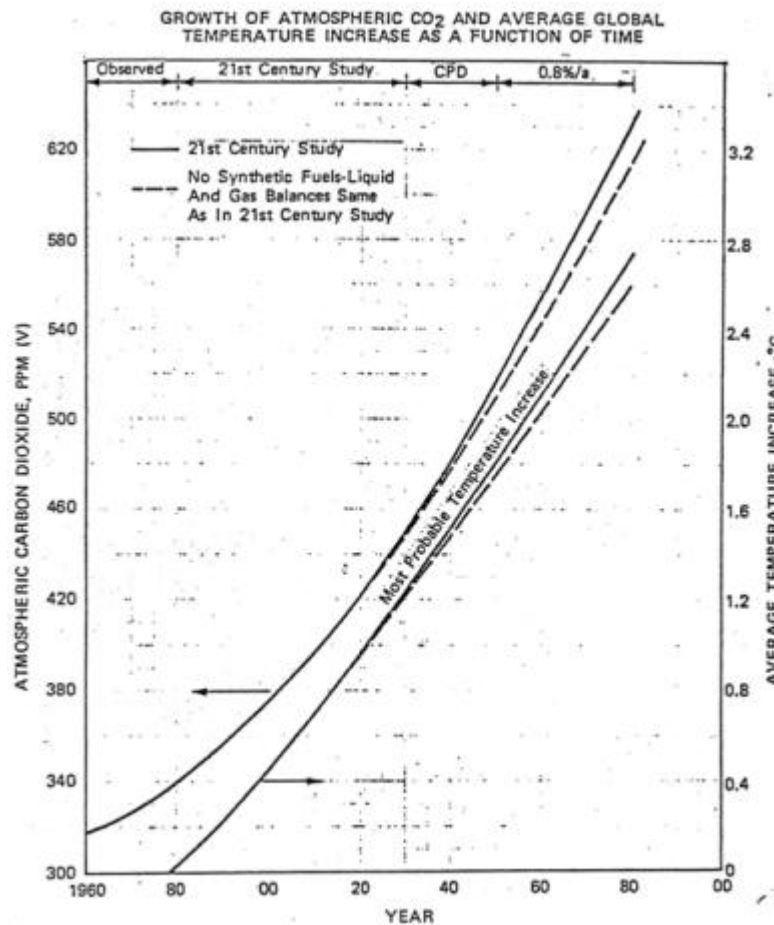


Figure 5: Exxon's Internal Prediction of Future CO₂ Increase and Global Warming from 1982¹⁷³

The primer stated, “there are some potentially catastrophic effects that must be considered,” including the melting of the Antarctic ice sheet, which could result in

¹⁷³ *Id.* Exxon predicted a doubling of atmospheric carbon dioxide concentrations above pre-industrial levels by around 2070 (left curve), with a temperature increase of more than 2°C (3.6°F) over the 1979 level (right curve).

global sea level rise of five meters, “cause[ing] flooding on much of the U.S. East Coast, including the state of Florida and Washington, D.C.”¹⁷⁴ The primer also warned of “positive feedback mechanisms” in polar regions, which could accelerate global warming, such as deposits of peat “containing large reservoirs of organic carbon” becoming “exposed to oxidation” and releasing their carbon into the atmosphere. “Similarly,” the primer warned, “thawing might also release large quantities of carbon currently sequestered as methane hydrates” on the sea floor. “All biological systems would be affected,” and “the most severe economic effects could be on agriculture.” The primer also warned of “uneven global distribution of increased rainfall and increased evaporation,” that “disturbances in the existing global water distribution balance would have dramatic impact on soil moisture, and in turn, on agriculture,” and that the American Midwest would dry out. The primer recommended studying “soil erosion, salinization, or the collapse of irrigation systems” in order to understand how society might be affected and might respond to global warming, as well as “[h]ealth effects” and “stress associated with climate related famine or migration[.]”¹⁷⁵ The primer estimated that undertaking “[s]ome adaptive measures” (not all of them) would cost “a few percent of the gross national product estimated in the middle of the next century” (gross national product was

¹⁷⁴ *Id.* at 13.

¹⁷⁵ *Id.* at 14.

approximately \$30 trillion as of March 2025).¹⁷⁶ To avoid such impacts, the primer discussed a scientific analysis that studied energy alternatives and requirements for introducing them into widespread use, which recommended that “vigorous development of non-fossil energy sources be initiated as soon as possible.”¹⁷⁷ The primer also noted that other GHGs related to fossil fuel production, such as methane, would contribute significantly to global warming, and that concerns over CO₂ would be reduced if fossil fuel use were decreased due to “high price, scarcity, [or] unavailability.”¹⁷⁸ “Mitigation of the ‘greenhouse effect’ would require major reductions in fossil fuel combustion,” the primer stated.¹⁷⁹ The primer was widely distributed to Exxon leadership.

90. In October 1982, at the fourth biennial Maurice Ewing Symposium at the Lamont-Doherty Geophysical Observatory, which was attended by members of API, Exxon Research and Engineering Company’s President, E.E. David, Jr., delivered a speech titled, “Inventing the Future: Energy and the CO₂ ‘Greenhouse Effect.’”¹⁸⁰ His remarks included the following statement: “Few people doubt that

¹⁷⁶ See *Gross National Product*, Federal Reserve Bank of St. Louis (updated Mar. 26, 2020), <https://fred.stlouisfed.org/series/GNPA>.

¹⁷⁷ Glaser, *supra* note 172, at 18.

¹⁷⁸ *Id.* at 18, 29.

¹⁷⁹ *Id.* at 2.

¹⁸⁰ Dr. E.E. David, Jr., President, Exxon Research and Engineering Co., Remarks at the Fourth Annual Ewing Symposium, Tenaflly, NJ, ClimateFiles (Oct. 26, 1982), <https://perma.cc/46A6-5524>.

the world has entered an energy transition away from dependence upon fossil fuels and toward some mix of renewable resources that will not pose problems of CO₂ accumulation.” He went on, discussing the human opportunity to address anthropogenic climate change before the point of no return:

It is ironic that the biggest uncertainties about the CO₂ buildup are not in predicting what the climate will do, but in predicting what people will do. . . . It appears we still have time to generate the wealth and knowledge we will need to invent the transition to a stable energy system.¹⁸¹

91. Throughout the early 1980s, at Exxon’s direction, Exxon climate scientist Henry Shaw forecasted emissions of CO₂ from fossil fuel use. Those estimates were incorporated into Exxon’s 21st century energy projections and were distributed among Exxon’s various divisions. Shaw’s conclusions included an expectation that atmospheric CO₂ concentrations would double in 2090 per the Exxon model, with an attendant 1.3 to 3.1°C (2.3–5.6°F) average global temperature increase.¹⁸²

92. In 1987, Shell published an internal “brief for companies of the Royal Dutch/Shell Group” titled “Air pollution: an oil industry perspective.” In this report, the company described the greenhouse effect as occurring “largely as a result of

¹⁸¹ *Id.*

¹⁸² Neela Banerjee, *More Exxon Documents Show How Much It Knew About Climate 35 Years Ago*, Inside Climate News (Dec. 1, 2015), <https://perma.cc/W25H-KNS8>.

burning fossil fuels and deforestation.”¹⁸³ Shell further acknowledged the “concern that further increases in carbon dioxide levels could cause climatic changes, notably a rise in overall temperature, having major environmental, social and economic consequences.”¹⁸⁴

93. During the 1980s, Fossil Fuel Defendants’ statements expressed an understanding of their obligation to consider and mitigate the externalities of unabated and reckless promotion, marketing, and sale of their fossil fuel products. For example, in 1988, Richard Tucker, the president of Mobil Oil, a predecessor of Exxon, presented at the American Institute of Chemical Engineers National Meeting, the premier educational forum for chemical engineers, where he stated:

[H]umanity, which has created the industrial system that has transformed civilization, is also responsible for the environment, which sometimes is at risk because of unintended consequences of industrialization. . . . Maintaining the health of this life-support system is emerging as one of the highest priorities. . . . [W]e must all be environmentalists.

The environmental covenant requires action on many fronts . . . the low-atmosphere ozone problem, the upper-atmosphere ozone problem and the greenhouse effect, to name a few. . . . Our strategy must be to reduce pollution before it is ever generated—to prevent problems at the source.

Prevention means engineering a new generation of fuels, lubricants and chemical products. . . . Prevention means designing catalysts and processes that minimize or eliminate the production of unwanted byproducts. . . . Prevention on a global scale may even require a

¹⁸³ Shell Briefing Serv., *Air pollution: An Oil Industry Perspective*, 1 SBS 4 (1987), <https://perma.cc/W5AQSV8Q>.

¹⁸⁴ *Id.* at 5.

dramatic reduction in our dependence on fossil fuels—and a shift towards solar, hydrogen, and safe nuclear power. It may be possible that—just possible—that the energy industry will transform itself so completely that observers will declare it a new industry. . . . Brute force, low-tech responses and money alone won’t meet the challenges we face in the energy industry.¹⁸⁵

94. Also in 1988, the Shell Greenhouse Effect Working Group issued a confidential internal report, “The Greenhouse Effect,” which acknowledged global warming’s anthropogenic nature: “Man-made carbon dioxide released into and accumulated in the atmosphere is believed to warm the earth through the so-called greenhouse effect.” The authors also noted the burning of fossil fuels as a primary driver of CO₂ buildup and warned that warming would “create significant changes in sea level, ocean currents, precipitation patterns, regional temperature and weather.” They further pointed to the potential for “direct operational consequences” of sea level rise on “offshore installations, coastal facilities and operations (e.g. platforms, harbors, refineries, depots).”¹⁸⁶

95. Similar to early warnings by Exxon scientists, the 1988 Shell report noted that “by the time the global warming becomes detectable it could be too late to take effective countermeasures to reduce the effects or even to stabilise the situation.” The authors mention the need to consider policy changes on multiple

¹⁸⁵ Richard E. Tucker, *High Tech Frontiers in the Energy Industry: The Challenge Ahead*, AICHE National Meeting (Nov. 30, 1988), <https://perma.cc/ND7P-ZJWR>.

¹⁸⁶ Shell Internationale Petroleum, Greenhouse Effect Working Group, *The Greenhouse Effect* (May 1988), <https://perma.cc/PV2F-J48Q>.

occasions, noting that “the potential implications for the world are . . . so large that policy options need to be considered much earlier” and that research should be “directed more to the analysis of policy and energy options than to studies of what we will be facing exactly.”¹⁸⁷

96. Fossil Fuel Defendants meticulously examined plausible scenarios if they failed to act in the face of their internal knowledge. For instance, Shell evaluated in a 1989 internal confidential planning document the issue of “climate change – the greenhouse effect, global warming,” which the document identified as “the most important issue for the energy industry.”¹⁸⁸ The document compared a scenario in which society “addresses the potential problem” with one in which it does not. Acknowledging that “[c]hanging emission levels . . . and changing atmospheric CO₂ concentration has been likened to turning around a VLCC [very large crude carrier],” even “substantial efforts” by 2010 would have “hardly any impact on CO₂ concentration.” In later years, however, the impacts are “strikingly different;” early efforts “will not prevent the problem arising, but . . . could mitigate the problem.” The document described the consequences of failing to address the problem right away:

These seem small changes but they mask more dramatic temperature changes which would take place at temperate

¹⁸⁷ *Id.* at 1, 6.

¹⁸⁸ Shell, *Scenarios 1989–2010: Challenge and Response*, 33 (Oct. 1989), <https://perma.cc/A2XB-Q9X4>.

latitudes. There would be more violent weather – more storms, more droughts, more deluges. Mean sea level would rise at least 30 cm. Agricultural patterns would be most dramatically changed. Something as simple as a moderate change in rainfall pattern disrupts eco-systems, and many species of trees, plants, animals and insects would not be able to move and adapt.

The changes would, however, most impact on humans [sic]. In earlier times, man was able to respond with his feet. Today, there is no place to go because people already stand there. Perhaps those in industrial countries could cope with a rise in sea level (the Dutch examples) but for poor countries such defences are not possible. The potential refugee problem ... could be unprecedented. Africans would push into Europe, Chinese into the Soviet Union, Latins into the United States, Indonesians into Australia. Boundaries would count for little – overwhelmed by the numbers. Conflicts would abound. Civilization could prove a fragile thing. The logic of [reducing emissions] is a society choosing to channel some investments into environmental maintenance against this contingency.¹⁸⁹

97. In another 1989 confidential internal planning document, Shell anticipated that “public/media pressures” to “adopt[] environmental programmes” such as “much tighter targets for CO₂ emissions” could prompt “effective consumer responses” that “will lead to intense and unpredictable pressures on business.”¹⁹⁰ The scenario envisioned that “[c]oncerns about global warming and depletion will depress production of fossil fuels, their market share declining as renewables are actively promoted,” given that “[w]here there can be real consumer choice it will be

¹⁸⁹ *Id.* at 35-36.

¹⁹⁰ See Shell UK, *UK Scenarios 1989*, 31, 34 (Nov. 1989), <https://perma.cc/3ZBJ-2MWZ>.

a dominant force, especially where interest is heightened by obvious environmental impact.”¹⁹¹

98. In 1989, Esso Resources Canada (ExxonMobil) commissioned a report on the impacts of climate change on existing and proposed natural gas facilities in the Mackenzie River Valley and Delta, including extraction facilities on the Beaufort Sea and a pipeline crossing Canada’s Northwest Territory.¹⁹² It reported that “large zones of the Mackenzie Valley could be affected dramatically by climatic change” and that “the greatest concern in Norman Wells [oil town in North West Territories, Canada] should be the changes in permafrost that are likely to occur under conditions of climate warming.”¹⁹³ The report concluded that, in light of climate models showing a “general tendency towards warmer and wetter climate,” operation of those facilities would be compromised by increased precipitation, increase in air temperature, changes in permafrost conditions, and significantly, sea level rise and erosion damage.¹⁹⁴ The authors recommended factoring those eventualities into future development planning and also warned that “a rise in sea level could cause increased flooding and erosion damage on Richards Island.”

¹⁹¹ *Id.* at 34.

¹⁹² See Stephen Lonergan & Kathy Young, *An Assessment of the Effects of Climate Warming on Energy Developments in the Mackenzie River Valley and Delta, Canadian Arctic*, 7 Energy Exploration & Exploitation 359–81 (1989).

¹⁹³ *Id.* at 369, 376.

¹⁹⁴ *Id.* at 360, 377–78.

99. Also in 1991, Shell produced a film called “Climate of Concern.” The film advises that while “no two [climate change projection] scenarios fully agree, . . . [they] have each prompted the same serious warning. A warning endorsed by a uniquely broad consensus of scientists in their report to the UN at the end of 1990.” The warning was an increasing frequency of abnormal weather, and of sea level rise of about one meter over the coming century. Shell specifically described the impacts of anthropogenic sea level rise on tropical islands, “barely afloat even now, . . . [f]irst made uninhabitable and then obliterated beneath the waves. Wetland habitats destroyed by intruding salt. Coastal lowlands suffering pollution of precious groundwater.” It warned of “greenhouse refugees,” people who abandoned homelands inundated by the sea, or displaced because of catastrophic changes to the environment. The video concludes with a stark admonition: “Global warming is not yet certain, but many think that the wait for final proof would be irresponsible. Action now is seen as the only safe insurance.”¹⁹⁵

100. Also in 1991, BP released a short film called “The Earth – What Makes Weather?” In it, a narrator states: “Our . . . dependence on carbon-based fuels is now a cause for concern. When coal, oil or gas are burned, they release carbon dioxide and other reactive gases.” The narrator then goes on to explain:

¹⁹⁵ Jelmer Mommers, *Shell Made a Film About Climate Change in 1991 (Then Neglected To Heed Its Own Warning)*, de Correspondent (Feb. 27, 2017), <https://perma.cc/6W66-XG24>.

As the earth gives off heat, carbon dioxide, together with water vapor, absorbs and radiates it back, acting like a blanket. . . . If world population growth is matched by energy consumption, even more carbon dioxide will be released, making this greenhouse effect even stronger. An overall increase in temperature of even a few degrees could disrupt our climate with devastating consequences. If the oceans got warmer and the ice sheets began to melt, sea levels would rise, encroaching on coastal lowlands. From warmer seas, more water would evaporate, making storms and the havoc they cause more frequent. . . . Catastrophic floods could become commonplace, and low-lying countries like Bangladesh would be defenseless against them. Too much water or too little. Away from the coasts we could see a return to the conditions which devastated America's Midwest in the 1930s. Global warming could repeat on a more disastrous scale the dustbowl phenomenon which virtually destroyed farming on the Great Plains. . . . The threat of such climatic change is now one of our most urgent concerns.¹⁹⁶

The film was not widely distributed.

101. In a 1997 speech at Stanford University, John Browne, Group Executive for BP America, noted that “there is now an effective consensus among the world's leading scientists and serious and well informed people outside the scientific community that there is a discernible human influence on the climate, and a link between the concentration of carbon dioxide and the increase in temperature.”¹⁹⁷

¹⁹⁶ Vatan Hüzeir, *BP Knew the Truth About Climate Change 30 Years Ago*, Follow the Money (May 26, 2020), <https://perma.cc/8GDP-GVVP>; see also BP Video Library, *This Earth – What Makes Weather?* (1991), <https://perma.cc/4B7S-KXJ4>.

¹⁹⁷ John Browne, *BP Climate Change Speech to Stanford*, ClimateFiles (May 19, 1997), <https://perma.cc/6D53-KQT2>.

102. In yet another scenario published in a 1998 internal report, Shell paints an eerily prescient scene:

In 2010, a series of violent storms causes extensive damage to the eastern coast of the U.S. Although it is not clear whether the storms are caused by climate change, people are not willing to take further chances. The insurance industry refuses to accept liability, setting off a fierce debate over who is liable: the insurance industry or the government. After all, two successive IPCC reports since 1993 have reinforced the human connection to climate change . . . Following the storms, a coalition of environmental NGOs brings a class-action suit against the US government and fossil-fuel companies on the grounds of neglecting what scientists (including their own) have been saying for years: that something must be done. A social reaction to the use of fossil fuels grows, and individuals become ‘vigilante environmentalists’ in the same way, a generation earlier, they had become fiercely anti-tobacco. Direct-action campaigns against companies escalate. Young consumers, especially, demand action.¹⁹⁸

103. Fossil Fuel Defendants did not just consider climate change impacts in scenarios. In the mid-1990s, ExxonMobil, Shell, and Imperial Oil (ExxonMobil) jointly undertook the Sable Offshore Energy Project in Nova Scotia. The project’s Environmental Impact Statement declared: “The impact of a global warming sea-level rise may be particularly significant in Nova Scotia. The long-term tide gauge records at a number of locations along the N.S. coast have shown sea level has been rising over the past century. . . . For the design of coastal and offshore structures, an

¹⁹⁸ Royal Dutch/Shell Group, *Group Scenarios 1998–2020* at 115, 122 (1998), <https://perma.cc/3YDC-DZ5R>.

estimated rise in water level, due to global warming, of 0.5 m [1.64 feet] may be assumed for the proposed project life (25 years).”¹⁹⁹

104. Climate change research conducted by Defendants and their industry associations frequently acknowledged uncertainties in their climate modeling. Those uncertainties, however, were merely with respect to the magnitude and timing of climate impacts resulting from fossil fuel consumption, not that significant changes would eventually occur. Defendants’ researchers and the researchers at their industry associations harbored little doubt that climate change was occurring and that fossil fuel products were, and are, the primary cause. As Ken Croasdale, a senior researcher for Exxon’s subsidiary Imperial Oil, stated to an audience of engineers in 1991, GHGs are rising “due to the burning of fossil fuels. Nobody disputes this fact.”²⁰⁰

¹⁹⁹ ExxonMobil, *Sable Project: Development Plan, Vol. 3: Environmental Impact Statement*, 4–77 (Feb. 1996) (archived by web.archive on November 6, 2015), <https://web.archive.org/web/20151106083051/http://soep.com/about-the-project/development-plan-application>.

²⁰⁰ Sara Jerving et al., *Special Report: What Exxon Knew About the Earth’s Melting Arctic*, L.A. Times (Oct. 9, 2015), <https://perma.cc/7NNH-9QSY>.

C. Defendants Did Not Disclose Known Harms Associated with the Extraction, Promotion, and Consumption of Their Fossil Fuel Products, and Instead Affirmatively Acted to Obscure Those Harms and Engaged in a Campaign to Deceptively Protect and Expand the Use of their Fossil Fuel Products.

105. By 1988, Defendants had amassed an overwhelming body of knowledge about the threats to people and the planet posed by the continued use of fossil fuel products. Instead of informing the public and consumers in the State about the known harms of Fossil Fuel Defendants' fossil fuel products, Defendants chose to conceal those harms from the public, and actively and intentionally misled the public about the threats of global warming and climate change.

106. The fossil fuel industry's role in intentionally obfuscating the science of climate change and misleading the public has recently begun to emerge. For example, in a secretly recorded video from 2021, an Exxon executive stated:

Did we aggressively fight against some of the science? Yes.
Did we join some of these shadow groups to work against some of the early efforts? Yes, that's true. There's nothing illegal about that.
We were looking out for our investments. We were looking out for our shareholders.²⁰¹

107. On notice that their products were causing global climate change and dire effects on the planet, Defendants could and reasonably should have warned the

²⁰¹ Jeff Brady, *Exxon Lobbyist Caught on Video Talking About Undermining Biden's Climate Push*, NPR (July 1, 2021, 11:37 AM ET), <https://perma.cc/MAZ7-TLG4>.

public, including Delaware consumers, of the dangers known to Defendants of the unabated consumption of their fossil fuel products.

108. Instead, Defendants engaged in advertising and communications campaigns—through media including, but not limited to, radio, television, print, and online advertising—intended to obscure the science of climate change, downplay the harms and risks of climate change, and promote consumer demand for Fossil Fuel Defendants’ fossil fuel products. Initially, the campaigns tried to show that global warming was not occurring. More recently, the campaigns have sought to minimize the risks and harms from climate change. The deception campaigns have had the purpose and effect of inflating and sustaining the market for fossil fuels, which—in turn—drove up GHG emissions, accelerated global warming, delayed the energy economy’s transition to a lower-carbon future, and brought about climate change harms to Delaware. These effects are ongoing and continue to worsen in the State due to Defendants’ conduct.

109. Defendants’ conduct was and is an abdication and contravention of their responsibility to consumers and the public, including the State and its residents, to act on their unique knowledge of the reasonably foreseeable hazards of reckless production and promotion of fossil fuel products. Had Defendants acted responsibly to issue reasonable warnings instead of engaging in a disinformation campaign, consumers would have acted sooner and faster to reduce their fossil fuel

consumption and stimulate demand for non-carbon energy alternatives whose use does not imperil the Earth. This process is now underway, but was wrongfully delayed and is still being slowed by Defendants’ deception and continued downplaying of the reality and severity of climate change—and of fossil fuels’ role in causing it.²⁰²

110. As climate change—and the role of fossil fuels in causing it—became an increasingly prominent concern, Defendants realized that accurate consumer and public understanding of the dangers of fossil fuels would pose a paramount threat to Fossil Fuel Defendants’ business models, their assets, and their profits. Several key events between 1988 and 1992 prompted Defendants to change their tactics from researching and discussing climate change internally to affirmatively deceiving consumers and the public, including those in Delaware, about the climate dangers of fossil fuels, including:

a. In 1988, National Aeronautics and Space Administration (“NASA”) scientists confirmed that human activities were actually contributing to global warming.²⁰³ On June 23rd of that year, NASA scientist James Hansen’s presentation of this information to Congress engendered significant news coverage

²⁰² See discussion *infra* Section IV(F).

²⁰³ See Peter C. Frumhoff et al., *The Climate Responsibilities of Industrial Carbon Producers*, 132 Climatic Change 157, 161 (2015), <https://perma.cc/QKA6-VBXP>.

and publicity for the announcement, including coverage on the front page of the New York Times.

b. On July 28, 1988, Senator Robert Stafford and four bipartisan co-sponsors introduced S. 2666, “The Global Environmental Protection Act,” to regulate CO₂ and other GHGs. Three more bipartisan bills to significantly reduce CO₂ pollution were introduced over the following ten weeks, and in August, U.S. Presidential candidate George H.W. Bush pledged that his presidency would combat the greenhouse effect with “the White House effect.”²⁰⁴ Political will in the United States to reduce anthropogenic GHG emissions and mitigate the harms associated with Fossil Fuel Defendants’ fossil fuel products was gaining momentum.

c. In December 1988, the United Nations formed the Intergovernmental Panel on Climate Change (IPCC), a scientific panel dedicated to providing the world’s governments with an objective, scientific analysis of climate change and its environmental, political, and economic impacts.

d. In 1990, the IPCC published its First Assessment Report on anthropogenic climate change,²⁰⁵ in which it concluded that (1) “there is a natural greenhouse effect which already keeps the Earth warmer than it would otherwise be,” and (2)

²⁰⁴ *The White House and the Greenhouse*, N.Y. Times (May 9, 1989), <https://perma.cc/4NSN-KS2D>.

²⁰⁵ See IPCC, *Reports*, ipcc.ch/reports (last visited June 17, 2025).

emissions resulting from human activities are substantially increasing the atmospheric concentrations of the greenhouse gases carbon dioxide, methane, chlorofluorocarbons (CFCs) and nitrous oxide. These increases will enhance the greenhouse effect, resulting on average in an additional warming of the Earth's surface. The main greenhouse gas, water vapour, will increase in response to global warming and further enhance it.²⁰⁶

The IPCC reconfirmed those conclusions in a 1992 supplement to the First Assessment report.²⁰⁷

e. The United Nations began preparing for the 1992 Earth Summit in Rio de Janeiro, Brazil, a major, newsworthy gathering of 172 world governments, of which 116 sent their heads of state. The Summit resulted in the United Nations Framework Convention on Climate Change (UNFCCC), an international environmental treaty providing protocols for future negotiations aimed at “stabiliz[ing] greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system.”²⁰⁸

111. In response to these events, and in order to perpetuate and maximize dependence on fossil fuel products, Defendants—on their own, and jointly through industry and front groups—funded, conceived, planned, and carried out a sustained

²⁰⁶ IPCC, *Policymaker Summary of Working Group I (Scientific Assessment of Climate Change)*, in *Climate Change: The IPCC 1990 and 1992 Assessments*, 63 (1990), <https://perma.cc/2LZV-MV7J>.

²⁰⁷ IPCC, *1992 IPCC Supplement to the First Assessment Report* (1992), <https://perma.cc/2LZV-MV7J>.

²⁰⁸ United Nations, *United Nations Framework Convention on Climate Change*, art. 2 (1992), <https://perma.cc/U8LF-Z778>.

and widespread campaign of denial and disinformation about the existence of climate change and their products' contribution to it. The campaign included a long-term pattern of direct misrepresentations and material omissions to consumers, as well as a plan to influence consumers indirectly by affecting public opinion through the dissemination of misleading research to the press, government, and academia. Although Fossil Fuel Defendants were competitors in the marketplace, they combined and collaborated on this public campaign to misdirect and stifle public knowledge in order to increase sales and protect profits. The effort included promoting their hazardous products through advertising campaigns that failed to warn of the existential risks associated with the use of those products, and were designed to influence consumers to continue using Defendants' fossil fuel products irrespective of those products' damage to the public and the State.

112. For example, in 1988, Joseph Carlson, an Exxon public affairs manager, stated in an internal memo that Exxon "is providing leadership through API in developing the petroleum industry position" on "the greenhouse effect."²⁰⁹ He then went on to describe the "Exxon Position," which included two important messaging tenets among others: (1) "[e]mphasize the uncertainty in scientific conclusions regarding the potential enhanced Greenhouse Effect"; and (2) "[r]esist

²⁰⁹ Memorandum from Joseph M. Carlson, *The Greenhouse Effect*, 2, 7 (Aug. 3, 1988), <https://perma.cc/GHC9-NM2E>.

the overstatement and sensationalization [sic] of potential greenhouse effect which could lead to noneconomic development of non-fossil fuel resources.”²¹⁰

113. Also in 1988 and a few months after NASA scientist James Hansen’s presentation to Congress, Frank Sprow, Exxon’s head of corporate research, sent a memo to Exxon colleagues warning that “[i]f a worldwide consensus emerges that action is needed to mitigate against Greenhouse gas effects, substantial negative impacts on Exxon could occur.” Sprow continued, “[a]ny additional R&D efforts within Corporate Research on Greenhouse should have two primary purposes: 1. Protect the value of our resources (oil, gas, coal). 2. Preserve Exxon’s business options.” According to *The Wall Street Journal*, Sprow stated in an interview that this memo was adopted by Exxon as policy.²¹¹

114. Reflecting on his time as an Exxon consultant in the 1980s, Professor Martin Hoffert, a former New York University physicist who researched climate change, expressed regret over Exxon’s “climate science denial program campaign” in his sworn testimony before Congress:

[O]ur research [at Exxon] was consistent with findings of the United Nations Intergovernmental Panel on Climate Change on human impacts of fossil fuel burning, which is that they are increasingly having a perceptible influence on Earth’s climate. . . . If anything, adverse climate change from elevated CO₂ is proceeding faster than the average

²¹⁰ *Id.* at 7–8.

²¹¹ Christopher M. Matthews & Collin Eaton, *Inside Exxon’s Strategy to Downplay Climate Change*, *The Wall Street J.* (Sept. 14, 2023, 5:30 AM ET), <https://perma.cc/9BQ4-UN3C>.

of the prior IPCC mild projections and fully consistent with what we knew back in the early 1980's at Exxon. . . . I was greatly distressed by the climate science denial program campaign that Exxon's front office launched around the time I stopped working as a consultant—but not collaborator—for Exxon. The advertisements that Exxon ran in major newspapers raising doubt about climate change were contradicted by the scientific work we had done and continue to do. Exxon was publicly promoting views that its own scientists knew were wrong, and we knew that because we were the major group working on this.²¹²

115. Likewise, Shell “shaped a series of influential industry-backed publications that downplayed or omitted key risks; emphasized scientific uncertainties; and pushed for more fossil fuels, particularly coal.”²¹³ In 1992, for instance, Shell had released a publication for wide external distribution purporting to describe the “Basic Scientific Facts” of the “Potential Augmented Greenhouse Effect.”²¹⁴ This document downplayed the scientific consensus (that Shell internally acknowledged) by referring to the “relatively few established scientific fundamentals” regarding the causes of climate change.²¹⁵ It also misleadingly suggested that a “particular cause” of climate change was “difficult” to identify, even

²¹² *Examining the Oil Industry's Efforts to Suppress the Truth About Climate Change*, Hearing Before the Subcomm. on Civil Rights and Civil Liberties of the Comm. on Oversight and Reform, 116th Cong. 7–8 (Oct. 23, 2019) (statement of Martin Hoffert, Former Exxon Consultant, Professor Emeritus, Physics, New York University), <https://perma.cc/6E4K-EERL>.

²¹³ Matthew Green, *Lost Decade: How Shell Downplayed Early Warnings Over Climate Change*, Desmog (Mar. 31, 2023), <https://perma.cc/VBU3-YYPT>.

²¹⁴ Jan Kuyper, *Potential Augmented Greenhouse Effect, & Depletion of the Ozone Layer*, Shell Grp. 3 (Sept. 1992), <https://perma.cc/SM9A-FDAD>.

²¹⁵ *Id.* at 5.

though Shell had identified the use of its products as a significant contributor to the greenhouse effect in the previous decade.²¹⁶ For example, in 1985, a Shell UK environmental scientist published an article laying out the scientific fact that “[b]urning of fossil fuels which have taken millions of years to form has effectively upset the balance [of the Carbon Cycle] leading to an increase in CO₂ in the atmosphere.”²¹⁷

116. A 1994 Shell report entitled “The Enhanced Greenhouse Effect: A Review of the Scientific Aspects” similarly emphasized scientific uncertainty, falsely stating, for example, that “the postulated link between any observed temperature rise and human activities has to be seen in relation to natural variability, which is still largely unpredictable.” The Shell Group position is stated clearly in the report: “Scientific uncertainty and the evolution of energy systems indicate that policies to curb greenhouse gas emissions beyond ‘no regrets’ measures could be premature, divert resources from more pressing needs and further distort markets.”²¹⁸

²¹⁶ *Id.*

²¹⁷ T.G. Wilkinson, *Why and How to Control Energy Pollution: Can Harmonisation Work?*, 8 *Conservation & Recycling* 7, 19 (1985), <https://www.documentcloud.org/documents/24359067-1985-03why-and-how-to-control-energy-pollution-by-tg-wilkinson-shell>.

²¹⁸ P. Langcake, Shell Internationale Petroleum, *The Enhanced Greenhouse Effect: A Review of the Scientific Aspects* (Dec. 1994), <https://perma.cc/FM7F-U8ZP>.

117. In 1996, Exxon released a publication called “Global Warming: Who’s Right? Facts about a debate that’s turned up more questions than answers.” In the publication’s preface, Exxon CEO Lee Raymond inaccurately stated that “taking drastic action immediately is unnecessary since many scientists agree there’s ample time to better understand the climate system.” The publication described the greenhouse effect as “unquestionably real and definitely a good thing,” while ignoring the severe consequences that would result from the influence of the increased CO₂ concentration on the Earth’s climate. Instead, it characterized the greenhouse effect as simply “what makes the earth’s atmosphere livable.” Directly contradicting Exxon’s own knowledge and peer-reviewed science, the publication misleadingly ascribed the rise in temperature since the late nineteenth century to “natural fluctuations that occur over long periods of time” rather than to the anthropogenic emissions that Exxon itself and other scientists had confirmed were responsible. The publication also falsely challenged the computer models that projected the future impacts of unabated fossil fuel product consumption, including those developed by Exxon’s own employees, as having been “proved to be inaccurate.” The publication contradicted the numerous reports prepared by and circulated among Exxon’s staff, and by the API, stating that “the indications are that a warmer world would be far more benign than many imagine . . . moderate warming would reduce mortality rates in the US, so a slightly warmer climate would be more

healthful.” Raymond concluded his preface by attacking advocates for limiting the use of his company’s fossil fuel products as “drawing on bad science, faulty logic, or unrealistic assumptions”—despite the important role that Exxon’s own scientists had played in compiling those same scientific underpinnings.²¹⁹ In a speech presented at the World Petroleum Congress in Beijing in 1997 at which many of the Defendants were present, Exxon CEO Lee Raymond reiterated those views. This time, he presented a false dichotomy between stable energy markets and abatement of the marketing, promotion, and sale of fossil fuel products Defendants knew to be hazardous. He stated:

Some people who argue that we should drastically curtail our use of fossil fuels for environmental reasons . . . my belief [is] that such proposals are neither prudent nor practical. With no readily available economic alternatives on the horizon, fossil fuels will continue to supply most of the world’s and this region’s energy for the foreseeable future.

Governments also need to provide a stable investment climate . . . They should avoid the temptation to intervene in energy markets in ways that give advantage to one competitor over another or one fuel over another.

We also have to keep in mind that most of the greenhouse effect comes from natural sources . . . Leaping to radically cut this tiny sliver of the greenhouse pie on the premise that it will affect climate defies common sense and lacks foundation in our current understanding of the climate system.

²¹⁹ Exxon Corp., *Global Warming: Who’s Right?* (1996), <https://perma.cc/L98T-FJZF>.

Let's agree there's a lot we really don't know about how climate will change in the 21st century and beyond . . . It is highly unlikely that the temperature in the middle of the next century will be significantly affected whether policies are enacted now or 20 years from now. It's bad public policy to impose very costly regulations and restrictions when their need has yet to be proven.²²⁰

118. Imperial Oil (Exxon) CEO Robert Peterson falsely denied the established connection between Defendants' fossil fuel products and anthropogenic climate change in the Summer 1998 Imperial Oil Review, "A Cleaner Canada:"

[T]his issue [referring to climate change] has absolutely nothing to do with pollution and air quality. Carbon dioxide is not a pollutant but an essential ingredient of life on this planet. . . . [T]he question of whether or not the trapping of 'greenhouse' gases will result in the planet's getting warmer . . . has no connection whatsoever with our day-to-day weather.

There is absolutely no agreement among climatologists on whether or not the planet is getting warmer, or, if it is, on whether the warming is the result of man-made factors or natural variations in the climate. . . . I feel very safe in saying that the view that burning fossil fuels will result in global climate change remains an unproved hypothesis.²²¹

119. Exxon paid for a series of "advertorials," advertisements located in the editorial section of the *New York Times* and meant to look like editorials rather than paid ads. These ads discussed various aspects of the public discussion around

²²⁰ Lee R. Raymond, Chairman and Chief Executive Officer, Exxon Corp., Address at the World Petroleum Congress (Oct. 13, 1997), <https://assets.documentcloud.org/documents/2840902/1997-Lee-Raymond-Speech-at-China-World-Petroleum.pdf>.

²²¹ Robert Peterson, *A Cleaner Canada*, Imperial Oil Review 29 (1998), <https://perma.cc/29RV-PXJU>.

climate change and sought to undermine the justifications for tackling GHG emissions as unsettled science. For example, the 1993 Mobil advertorial below argued that “what’s wrong with so much of the global warming rhetoric” is “[t]he lack of solid scientific data,” and quoted a purportedly neutral scientific expert who insisted that “there is a large amount of empirical evidence suggesting that the apocalyptic vision is in error and that the highly touted greenhouse disaster is most improbable.”²²² It also quoted another purportedly neutral scientist who asserted that “the net impact [of a modest warming] may yet be beneficial.”

²²² Mobil, *Apocalypse No*, N.Y. Times, A19 (Feb. 25, 1993), <https://perma.cc/MGA5-W43N>.

Apocalypse no

For the first half of 1992, America was inundated by the media with dire predictions of global warming catastrophes, all of which seemed to be aimed at heating up the rhetoric from the Earth Summit in Rio de Janeiro last June.

Unfortunately, the media hype proclaiming that the sky was falling did not properly portray the consensus of the scientific community. After the Earth Summit, there was a noticeable lack of evidence of the sky actually falling and subsequent colder than normal temperatures across the country cooled the warming hysteria as well.

Everybody, of course, remembers the Earth Summit and the tons of paper used up in reporting on it—paper now buried in landfills around the world. But few people ever heard of a major document issued at the same time and called the "Heidelberg Appeal." The reason? It just didn't make "news."

Perhaps that is because the Appeal urged Summit attendees to avoid making important environmental decisions based on "pseudo-scientific arguments or false and non-relevant data."

The Heidelberg Appeal was issued initially by some 264 scientists from around the world, including 52 Nobel Prize winners. Today, the Appeal carries the signatures of more than 2,300 scientists—65 of them Nobel Prize winners—from 79 countries. If nothing else, its message is illustrative of what's wrong with so much of the global warming rhetoric. The lack of solid scientific data.

Scientists can agree on certain facts pertaining to global warming. First, the greenhouse effect is a natural phenomenon; it accounts for the moderate temperature that makes our planet habitable. Second, the concentration of greenhouse gases (mainly carbon dioxide) has increased and there has been a slight increase in global temperatures over the past century. Finally, if present trends continue, carbon dioxide levels will double over the next 50 to 100 years.

Controversy arises when trying to link past changes in temperatures to increased concen-

trations of greenhouse gases. And it arises again when climate prediction models are used to conclude Earth's temperature will climb drastically in the next century and—based on such models—to propose policy decisions that could drastically affect the economy.

According to Arizona State University climatologist Dr. Robert C. Balling in his book, *The Heated Debate* (San Francisco: Pacific Research Institute for Public Policy, 1992), until knowledge of the interplay between oceans and the atmosphere improves, "model predictions must be treated with considerable caution." Moreover, models don't simulate the complexity of clouds, nor do they deal adequately with sea ice, snow or changes in intensity of the sun's energy.

And they don't stand up to reality testing. Comparing actual temperatures over the last 100 years against model calculations, the models predicted temperature increases higher than those that actually occurred. Moreover, most of the earth's temperature increase over the last century occurred before 1940. Yet, the real build-up in man-made CO₂ didn't occur until after 1940. Temperatures actually fell between 1940 and 1970.

Sifting through such data, Dr. Balling has concluded, "there is a large amount of empirical evidence suggesting that the apocalyptic vision is in error and that the highly touted greenhouse disaster is most improbable."

Other scientists have an even more interesting viewpoint. Notes atmospheric physicist S. Fred Singer, president of the Washington, D.C.-based Science & Environmental Policy Project, "the net impact [of a modest warming] may well be beneficial."

All of which would seem to suggest that the jury's still out on whether drastic steps to curb CO₂ emissions are needed. It would seem that the phenomenon—and its impact on the economy—are important enough to warrant considerably more research before proposing actions we may later regret.

Perhaps the sky isn't falling, after all.

Mobil®

Figure 6: 1993 Mobil Advertorial

The first of those purportedly neutral scientific experts, Robert C. Balling, acknowledged five years after the advertorial ran that he had received \$408,000 in research funding from the fossil fuel industry over the past decade, including from Exxon.²²³ The second, S. Fred Singer, was not a climatologist, and had previously been funded by tobacco companies to spread doubt about the scientific claim that exposure to second-hand smoke causes cancer.²²⁴

120. Many other Exxon advertorials falsely or misleadingly characterized the state of climate science research to the readership of *The New York Times*’ op-ed page. A sample of these untruthful statements includes:

- “[G]reenhouse-gas emissions, which have a warming effect, are offset by another combustion product—particulates—which leads to cooling.”²²⁵
- “The administration downplays the utility of economic models to forecast cost impacts 10-15 years from now, yet its negotiators accept as gospel the 50-100-year predictions of global warming that have been generated by climate models-many of which have been criticized as seriously flawed.”²²⁶
- “We don’t know enough about the factors that affect global warming and the degree to which—if any—that man-made

²²³ DeSmog, *Robert C. Balling, Jr.*, <https://perma.cc/T6YY-SFFY> (last visited Nov. 18, 2024).

²²⁴ Naomi Oreskes & Erik M. Conway, *Merchants of Doubt: How a Handful of Scientists Obscured the Truth on Issues from Tobacco Smoke to Global Warming*, 150–54 (Bloomsbury Press, 1st ed. 2011).

²²⁵ Mobil, *Less Heat, More Light on Climate Change*, N.Y. Times (July 18, 1996), <https://perma.cc/BQJ3-4G2S>.

²²⁶ Mobil, *When Facts Don’t Square with the Theory, Throw Out the Facts*, N.Y. Times (Aug.14, 1997), <https://perma.cc/P5L2-UK8M>.

emissions (namely, carbon dioxide) contribute to increases in Earth's temperature."²²⁷

- “Even after two decades of progress, climatologists are still uncertain how—or even if—the buildup of man-made greenhouse gases is linked to global warming. It could be at least a decade before climate models will be able to link greenhouse warming unambiguously to human actions. Important answers on the science lie ahead.”²²⁸
- “Within a decade, science is likely to provide more answers on what factors affect global warming, thereby improving our decisionmaking. We just don’t have this information today. Answers to questions about climate change will require more reliable measurements of temperature at many places on Earth, better understanding of clouds and ocean currents along with greater computer power.”²²⁹
- “[I]t is impossible for scientists to attribute the recent small surface temperature increases to human causes.”²³⁰

121. A peer-reviewed quantitative analysis of Exxon’s climate communications between 1989 and 2004 found that, while 83% of the company’s peer-reviewed papers and 80% of its internal documents acknowledged the reality and human origins of climate change, 81% of its advertorials communicated doubt

²²⁷ Mobil, *Climate Change: A Prudent Approach*, N.Y. Times (Nov. 13, 1997), <https://perma.cc/8D9V-H88D>.

²²⁸ Mobil, *Climate Change: Where We Come Out*, N.Y. Times (Nov. 20, 1997), <https://perma.cc/YX2Q-EZ87>.

²²⁹ Mobil, *Science: What We Know and Don’t Know* (1997), reproduced in <https://perma.cc/YNM7-QT9J>.

²³⁰ ExxonMobil, *Unsettled Science* (Mar. 23, 2000), reproduced in <https://perma.cc/YNM7-QT9J>.

about those conclusions.²³¹ Put differently, Exxon demonstrated a clear tendency to contradict its own peer-reviewed research in statements meant for lay audiences, including the State and its residents. Based on this “statistically significant” discrepancy between internal and external communications, the authors concluded that “ExxonMobil misled the public.”²³²

122. In 1996, BP emphasized the uncertainties in climate science by claiming on their website that “[s]cientists admit they can’t be sure that human activity is increasing global warming, let alone predict accurately the implications for the environment or for people.”²³³

123. Similarly, CITGO’s website in 2006 claimed that global warming was supported by “controversial science and questionable computer modeling,” and that “President Bush thinks that the science linking CO₂ to climate change is weak.”²³⁴

124. Occidental’s 2006 website called the relationship between climate change and the use of fossil fuels a “controversial topic of public discussion.”²³⁵

²³¹ Geoffrey Supran & Naomi Oreskes, *Assessing ExxonMobil’s Climate Change Communications (1977–2014)*, 12 *Envtl. Rsch. Letter* 12 (2017), <https://perma.cc/K38Q-968P>.

²³² *Id.*

²³³ BP, *Climatic Change* (archived by web.archive on Oct. 20, 1996), <https://perma.cc/3W8S-V5GH>.

²³⁴ CITGO, *Global Warming* (archived by web.archive on Mar. 12, 2006), <https://perma.cc/DRG3-5A7Z>.

²³⁵ Occidental, *Climate Change Summary* (archived by web.archive on Mar. 11, 2006), <https://perma.cc/K5ZX-XSB7>.

125. Devon claimed in 2006 that climate change as a result of GHGs generated from human activity was “heavily debated” and that “[n]ot all scientists agree that increased concentrations of greenhouse gases are changing the climate significantly.”²³⁶

126. In a 2009 presentation, CONSOL claimed that “[h]undreds of scientists and millions of people disagree with the assumption that humans have emitted enough CO₂ to cause a change in the earth’s temperatures,” and provided “data that dispute CO₂ emissions as a factor in global warming,” including that temperatures rose 800 years ago and that “average world temperatures have not increased since 2001 despite increased CO₂ levels.”²³⁷

127. As recently as 2013, Murphy’s website claimed “[t]he complexity of our planet’s climate system makes it difficult to understand past and future consequences of greenhouse gas increases.”²³⁸

128. While Fossil Fuel Defendants each concealed known dangers and affirmatively spread misinformation, they also worked jointly through industry front

²³⁶ Devon Energy Corporation, *Corporate Global Climate Change Position and Strategy*

Devon Energy Corporation (archived by web.archive on Mar. 12, 2006), <https://perma.cc/GD5X-7QR9>.

²³⁷ CONSOL Energy Inc., *Coal Industry Wake-Up Call* (archived by web.archive on Nov. 22, 2010), at 21 <https://perma.cc/5KV7-EQER>.

²³⁸ Murphy Oil Corporation, *Murphy Oil and Climate Change* (archived by web.archive on June 16, 2013), <https://perma.cc/8GUN-J5C5>.

groups, such as Defendant API and other groups like ICE and the GCC to fund, conceive, plan, and carry out sustained and widespread campaigns of denial and disinformation about the existence of climate change and fossil fuel products' contribution to it, despite their own internal knowledge about the climate hazards associated with fossil fuel products.

129. API published an extensive report in 1996 warning against concern over CO₂ buildup and any need to curb consumption or regulate the fossil fuel industry. The introduction stated that “there is no persuasive basis for forcing Americans to dramatically change their lifestyles to use less oil.” The authors discouraged the further development of certain alternative energy sources, writing that “government agencies have advocated the increased use of ethanol and the electric car, without the facts to support the assertion that either is superior to existing fuels and technologies” and that “policies that mandate replacing oil with specific alternative fuel technologies freeze progress at the current level of technology, and reduce the chance that innovation will develop better solutions.” The paper also denied the human connection to climate change, by falsely stating that “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.” The report’s message was false but clear: “Facts don’t support the arguments for restraining oil use.”²³⁹

130. In or around 1998, API distributed a memo to its members illuminating API’s and Fossil Fuel Defendants’ concern over the potential regulation of their fossil fuel products: “Climate is at the center of the industry’s business interests. Policies limiting carbon emissions reduce petroleum product use. That is why it is API’s highest priority issue and defined as ‘strategic.’”²⁴⁰

131. Other than Defendant API, one of the key organizations used by Defendants to coordinate the fossil fuel industry’s response to the world’s growing awareness of climate change was the International Petroleum Industry Environmental Conservation Association (“IPIECA”). In 1987, the IPIECA formed a “Working Group on Global Climate Change” chaired by Duane LeVine, Exxon’s manager for science and strategy development. The Working Group also included Brian Flannery from Exxon, Leonard Bernstein from Mobil, Terry Yosie from API, and representatives from BP, Shell, and Texaco (Chevron). In 1990, the Working Group sent a strategy memo created by LeVine to hundreds of oil companies around the world, including Defendants. This memo explained that, to forestall a global shift

²³⁹ Sally Brain Gentile et al., Am. Petroleum Inst., *Reinventing Energy: Making the Right Choices* (1996), at 2, 11, 79, <https://perma.cc/G9WK-MW98>.

²⁴⁰ *Allegations of Political Interference with Government Climate Change Science, Hearing Before the Comm. on Oversight and Government Reform*, 110th Cong. 324 (Mar. 19, 2007) <https://perma.cc/S7TL-ZMGM>.

away from burning fossil fuels for energy, the industry should emphasize uncertainties in climate science and the need for further research.²⁴¹

132. In 1991, the Information Council for the Environment (“ICE”), whose members included affiliates, predecessors and/or subsidiaries of Defendants, launched a national climate change science denial campaign with full-page newspaper ads, radio commercials, a public relations tour schedule, “mailers,” and research tools to measure campaign success. Included among the campaign strategies was to “reposition global warming as theory (not fact).” Its target audience included older less-educated males who are “predisposed to favor the ICE agenda, and likely to be even more supportive of that agenda following exposure to new info.”²⁴²

133. A goal of ICE’s advertising campaign was to change public opinion and avoid regulation. A memo from Richard Lawson, president of the National Coal Association, a predecessor to the National Mining Association (“NMA”), asked members to contribute to the ICE campaign with the justification that “policymakers are prepared to act [on global warming]. Public opinion polls reveal that 60% of the

²⁴¹ Benjamin A. Franta, *Big Carbon’s Strategic Response to Global Warming, 1950-2020*, at 140 (2022) (Ph. D. Dissertation, Stanford Univ.), <https://perma.cc/GCN6-CBN2>.

²⁴² Union of Concerned Scientists, *Deception Dossier #5: Coal’s “Information Council on the Environment” Sham* (1991), <https://perma.cc/BN2P-FKYS>.

American people already believe global warming is a serious environmental problem. Our industry cannot sit on the sidelines in this debate.”²⁴³

134. The following images are examples of ICE-funded print advertisements challenging the validity of climate science and intended to obscure the scientific consensus on anthropogenic climate change and induce political inertia to address it in order to inflate consumer demand for fossil fuels.²⁴⁴



Figure 7: Information Council for the Environment Advertisements

²⁴³ Naomi Oreskes, *My Facts Are Better Than Your Facts: Spreading Good News About Global Warming* (2010), in Peter Howlett et al., *How Well Do Facts Travel?: The Dissemination of Reliable Knowledge* at 136–66 (Cambridge University Press, 2011).

²⁴⁴ Union of Concerned Scientists, *Deception Dossier #5: Coal’s “Information Council on the Environment” Sham* at 47-49 (1991), <https://perma.cc/BN2P-FKYS>.

135. In addition to ICE, the Global Climate Coalition (“GCC”), on behalf of Defendants and other fossil fuel companies, spent millions of dollars on deceptive advertising campaigns and misleading material to discredit climate science and generate public uncertainty around the climate debate, and thereby inflate consumer demand for fossil fuels. The GCC operated between 1989 and 2001. Its founding members included Defendants Exxon, Shell, and API. Defendants BP and Chevron also participated as members of the GCC. William O’Keefe, former president of the GCC, was also a former executive of API.²⁴⁵ GCC’s position on climate change contradicted decades of its members’ internal scientific reports by asserting that natural trends, not human combustion of fossil fuels, was responsible for rising global temperatures:

The GCC believes that the preponderance of the evidence indicates that most, if not all, of the observed warming is part of a natural warming trend which began approximately 400 years ago. If there is an anthropogenic component to this observed warming, the GCC believes that it must be very small and must be superimposed on a much larger natural warming trend.²⁴⁶

136. The GCC’s promotion of overt climate change denialism also contravened its internal assessment confirming that climate change was real and supported by overwhelming scientific evidence. In December 1995, the GCC’s

²⁴⁵ Jeff Nesmith, *Industry Promotes Skeptical View of Global Warming*, Cox News Service (May 29, 2003).

²⁴⁶ Glob. Climate Coal., *Global Climate Coalition: An Overview*, at 2 (Nov. 1996), <https://perma.cc/2R82-SXZN>.

Science and Technology Advisory Committee (“GCC-STAC”), whose members included employees of Mobil Oil Corporation (an Exxon predecessor) and API, drafted a primer on the science of global warming for GCC members. The primer concluded that the GCC’s contrarian theories “do not offer convincing arguments against the conventional model of greenhouse gas emission-induced climate change.” However, the GCC excluded this section from the publicly released version of the report.²⁴⁷ Nonetheless, for years afterward, the GCC and its members continued to tout their contrarian theories about global warming, even though the GCC had admitted internally these arguments were invalid.

137. Between 1989 and 1998, the GCC spent \$13 million on one ad campaign to obfuscate the public’s understanding of climate science and undermine its trust in climate scientists.²⁴⁸ For example, the GCC distributed a video to hundreds of journalists, which claimed that carbon dioxide emissions would increase crop production and feed the hungry people of the world.²⁴⁹

²⁴⁷ Memorandum from Gregory J. Dana, Assoc. of Int’l Auto. Mfrs., to AIAM Technical Committee, *Global Climate Coalition (GCC) - Primer on Climate Change Science - Final Draft*, 16 (Jan. 18, 1996), <https://perma.cc/C9FV-C35P>.

²⁴⁸ Wendy E. Franz, Kennedy Sch. of Gov’t, Harvard Univ., *Science, Skeptics and Non-State Actors in the Greenhouse*, ENRP Discussion Paper E-98-18, at 1, 13 (Sept. 1998), <https://perma.cc/E4GR-8DK4>.

²⁴⁹ The Center for Media and Democracy, *Global Climate Coalition*, Source Watch, <https://perma.cc/7K47-G6CP>.

138. In a 1994 public report, the GCC stated that “observations have not yet confirmed evidence of global warming that can be attributed to human activities,” and that “[t]he claim that serious impacts from climate change have occurred or will occur in the future simply has not been proven.”²⁵⁰ In 1994, the GCC Board of Directors was composed of high-level executives from API, Exxon, and Texaco (Chevron). Representatives from Shell, Amoco (BP), and BP were also GCC members at that time.²⁵¹ In 1995, the GCC published a booklet called “Climate Change: Your Passport to the Facts,” which stated, “While many warnings have reached the popular press about the consequences of a potential man-made warming of the Earth’s atmosphere during the next 100 years, there remains no scientific evidence that such a dangerous warming will occur.”²⁵² In 1995, GCC’s Board of Directors included high-level executives from Texaco (Chevron), API, ARCO, and Phillips Petroleum Company.²⁵³

139. In 1997, William O’Keefe, chairman of the GCC and executive vice president of API, falsely wrote in a Washington Post op-ed, “[c]limate scientists

²⁵⁰ GCC, *Issues and Options: Potential Global Climate Change*, Climate Files (1994), <https://perma.cc/5RNF-BNH6>.

²⁵¹ GCC, *supra* note 109.

²⁵² GCC, *Climate Change: Your Passport to the Facts*, Climate Files (1995), <https://perma.cc/W3FL-UPDH> (last visited Nov. 14, 2024).

²⁵³ GCC, *supra* note 110.

don't say that burning oil, gas, and coal is steadily warming the earth.”²⁵⁴ This statement contradicted the established scientific consensus as well as Defendants' own knowledge. Yet Defendants did nothing to correct the public record, and instead continued to fund the GCC's anti-scientific climate skepticism.

140. In addition to publicly spreading false and misleading information about the climate science consensus, the GCC also sought to undermine credible climate science from within the IPCC. After becoming a reviewer of IPCC's Second Assessment Report in 1996, the GCC used its position to accuse the convening author of a key chapter in the Report of modifying its conclusions. The GCC claimed that the author, climatologist Ben Santer, had engaged in “scientific cleansing” that “understate[d] uncertainties about climate change causes and effect . . . to increase the apparent scientific support for attribution of changes to climate to human activities.”²⁵⁵ The GCC also arranged to spread the accusation among reporters, editors of scientific journals, and even the op-ed page of the Wall Street

²⁵⁴ William O'Keefe, *A Climate Policy*, The Wash. Post (July 4, 1997, 8:00 PM EDT), <https://perma.cc/3EG7-8GRG>.

²⁵⁵ Wendy E. Franz, Kennedy Sch. of Gov't, Harvard Univ., *Science, Skeptics and Non-State Actors in the Greenhouse*, ENRP Discussion Paper E-98-18, at 1, 13 (Sept. 1998), <https://perma.cc/E4GR-8DK>.

Journal.²⁵⁶ This effort “was widely perceived to be an attempt on the part of the GCC to undermine the credibility of the IPCC.”²⁵⁷

141. In the late 1990s, alarmed by significant legal judgments against Big Tobacco for decades of publicly denying the health risks of smoking cigarettes, Defendants shifted away from openly denying anthropogenic warming and toward peddling a subtler but still deceptive form of climate-change skepticism. A Shell employee explained that the company “didn’t want to fall into the same trap as the tobacco companies who have become trapped in all their lies.”²⁵⁸ Several large fossil fuel companies, including BP and Shell, left the GCC (although all Fossil Fuel Defendants remained members of API),²⁵⁹ and Defendants began claiming they had accepted climate science all along.²⁶⁰

142. Despite the shift in public messaging, Defendants surreptitiously continued to organize and fund programs designed to deceive the public about the weight and veracity of the climate science consensus. In 1998, API convened a Global Climate Science Communications Team (“GCSCCT”) whose members included representatives from Exxon, Chevron, and API. There were no scientists

²⁵⁶ Oreskes & Conway, *supra* note 224, at 205–13; *see also* S. Fred Singer, *Climate Change and Consensus*, 271 Sci. 581 (Feb. 2, 1996); Frederick Seitz, *A Major Deception on ‘Global Warming’*, Wall Street Journal (June 12, 1996).

²⁵⁷ Franz, *supra* note 255, at 15.

²⁵⁸ Nathaniel Rich, *Losing Earth: A Recent History*, 186 (London: Picador 2020).

²⁵⁹ *Id.* at 177.

²⁶⁰ Franta (2022), *supra* note 241, at 170.

on the “Global Climate Science Communications Team.” Steve Milloy (a key player in the tobacco industry’s deception campaigns) and his organization, The Advancement of Sound Science Coalition (“TASSC”), were also founding members of the GCSCT. TASSC was a fake grassroots citizen group created by the tobacco industry to sow uncertainty by discrediting the scientific link between exposure to second-hand cigarette smoke and increased rates of cancer and heart disease. Philip Morris launched TASSC on the advice of its public relations firm, which advised Philip Morris that the tobacco company itself would not be a credible voice on the issue of smoking and public health. TASSC, through API and with the approval of Defendants, also became a front group for the fossil fuel industry beyond its role in GCSCT, using the same tactics it had honed while operating on behalf of tobacco companies to spread doubt about climate science. Although TASSC posed as a grassroots group of concerned citizens, it received significant funding from Defendants. For example, between 2000 and 2004, Exxon donated \$50,000 to Milloy’s Advancement of Sound Science Center; and an additional \$60,000 to the Free Enterprise Education Institute (a.k.a. the Free Enterprise Action Institute), both of which were registered to Milloy’s home address.²⁶¹ The GCSCT, including TASSC, represented a continuation of Defendants’ concerted actions to sow doubt

²⁶¹ Union of Concerned Scientists, *Smoke, Mirrors & Hot Air: How ExxonMobil Uses Big Tobacco’s Tactics to Manufacture Uncertainty on Climate Science*, 20 (July 16, 2007), <https://perma.cc/44CD-ARPN>.

and confusion about climate change in order to inflate consumer demand for fossil fuels.

143. The GCSCT's and Defendants' concerted efforts involved a multi-million-dollar, multi-year plan that, among other elements, sought to: (a) "[d]evelop and implement a national media relations program to inform the media about uncertainties in climate science to generate national, regional, and local media coverage on the scientific uncertainties"; (b) "[d]evelop a global climate science information kit for media including peer-reviewed papers that undercut the 'conventional wisdom' on climate science"; (c) "[p]roduce . . . a steady stream of op-ed columns"; and (d) "[d]evelop and implement a direct outreach program to inform and educate members of Congress . . . and school teachers/students about uncertainties in climate science"²⁶²—a blatant attempt to deceive consumers and the public, including in Delaware, in order to ensure a continued and unimpeded market for fossil fuel products.

144. Exxon, Chevron, and API directed and contributed to the development of the plan, which set forth the criteria by which the contributors would know when their efforts to manufacture doubt had been successful. "Victory," they wrote, "will be achieved when . . . average citizens 'understand' (recognize) uncertainties in

²⁶² E-mail from Joe Walker to Global Climate Science Team, *Draft Global Climate Science Communications Plan*, 5–7 (Apr. 3, 1998), <https://perma.cc/7Y5L-YYA6>.

climate science” and “recognition of uncertainties becomes part of the ‘conventional wisdom.’”²⁶³ In other words, the plan was crafted to achieve Defendants’ goal of using disinformation to plant doubt about the reality of climate change in an effort to prevent consumers from accessing vital information, inflate consumer demand for fossil fuel products, and increase Fossil Fuel Defendants’ already large profits.

145. Another key strategy in Defendants’ efforts to discredit scientific consensus on climate change and the IPCC was to bankroll unqualified or unscrupulous scientists to advance fringe conclusions about climate change. These scientists obtained part or all of their research budget from Fossil Fuel Defendants directly or through Fossil Fuel Defendant-funded organizations like Defendant API.²⁶⁴ During the early- to mid-1990s, Exxon directed some of this funding to Dr. Fred Seitz, Dr. Fred Singer, and/or Seitz and Singer’s Science and Environmental Policy Project (“SEPP”) in order to launch repeated attacks on mainstream climate science and IPCC conclusions, even as Exxon scientists participated in the IPCC.²⁶⁵ Seitz and Singer were not climate scientists. Rather, they and SEPP had previously been paid by the tobacco industry to create doubt in the public mind about the

²⁶³ *Id.* at 4.

²⁶⁴ *E.g.*, Willie Soon & Sallie Baliunas, *Proxy Climatic and Environmental Changes of the Past 1000 Years*, 23 *Climate Rsch.* 89, 105 (Jan. 31, 2003), <https://perma.cc/9V32-EY8H>.

²⁶⁵ Union of Concerned Scientists (2007), *supra* note 261.

hazards of smoking. Singer also acted as a paid consultant for Sun (Sunoco) and Shell.²⁶⁶

146. Industry-funded scientists frequently failed to disclose their fossil fuel industry underwriters.²⁶⁷ At least one, Dr. Wei-Hock Soon, contractually agreed to allow donors to review his research before publication, and his housing institution agreed not to disclose the funding arrangement without prior permission from his fossil fuel donors.²⁶⁸ Between 2001 and 2012, various fossil fuel interests, including Exxon and API, paid Soon over \$1.2 million.²⁶⁹ “Dr. Soon, in correspondence with his corporate funders, described many of his scientific papers as ‘deliverables’ that he completed in exchange for their money.”²⁷⁰ His Defendant-funded research includes articles in scientific journals accusing the IPCC of overstating the negative environmental effects of carbon dioxide emissions and arguing that the sun is responsible for recent climate trends. Soon was the lead author of a 2003 article that argued that the climate had not changed significantly. The article was widely

²⁶⁶ The Center for Media and Democracy, *S. Fred Singer*, Source Watch, <https://perma.cc/X35L-DYUY>; The Center for Media and Democracy, *Frederick Seitz*, <https://perma.cc/TV67-ABUH>.

²⁶⁷ See, e.g., *Smithsonian Statement: Dr. Wei-Hock (Willie) Soon*, Smithsonian (Feb. 26, 2015), <https://perma.cc/A4KY-W3NM>.

²⁶⁸ Union of Concerned Scientists, *The Climate Deception Dossier #1: Dr. Wei-Hock Soon’s Smithsonian Contracts*, 6 (2015), <https://perma.cc/JL2V-XYGL>.

²⁶⁹ Justin Gillis & John Schwartz, *Deeper Ties to Corporate Cash for Doubtful Climate Researcher*, N.Y. Times (Feb. 21, 2015), <https://perma.cc/897V-7B22>.

²⁷⁰ *Id.*

promoted by other denial groups funded by Exxon, including via “Tech Central Station,” a website supported by Exxon.²⁷¹ Soon published other bogus “research” in 2009, attributing global warming to solar activity, for which Exxon paid him \$76,106.²⁷² This 2009 grant was made several years after Exxon had publicly committed not to fund climate change deniers.²⁷³

147. Defendants have also funded dozens of think tanks, front groups, and dark money foundations pushing climate change denial. These include the Competitive Enterprise Institute, the Heartland Institute, Frontiers for Freedom, Committee for a Constructive Tomorrow, and Heritage Foundation. From 1998 to 2014, Exxon spent almost \$31 million funding numerous organizations misrepresenting the scientific consensus that Fossil Fuel Defendants’ fossil fuel products were causing climate change.²⁷⁴ Several Defendants have been linked to other groups that undermine the scientific basis linking Defendants’ fossil fuel products to climate change and sea level rise, including the Frontiers of Freedom Institute and the George C. Marshall Institute.

²⁷¹ Union of Concerned Scientists (2007), *supra* note 261, at 13–15.

²⁷² *Willie Soon FOIA Grants Chart* (Jan. 28, 2011), <https://perma.cc/LJA5-BEQM>.

²⁷³ ExxonMobil, *2007 Corporate Citizenship Report*, at 39 (2007), <https://perma.cc/G4DK-TZGS>.

²⁷⁴ Union of Concerned Scientists, *ExxonMobil Foundation & Corporate Giving to Climate Change Denier & Obstructionist Organizations* (1998–2017), <https://perma.cc/W3Q4-PCX2>.

148. Phillip Cooney, an attorney at API from 1996 to 2001, testified at a 2007 Congressional hearing that it was “typical” for API to fund think tanks and advocacy groups that minimized fossil fuels’ role in climate change.²⁷⁵

149. Creating a false sense of disagreement in the scientific community (despite the consensus that its own scientists, experts, and managers had previously acknowledged) has had an evident impact on public opinion. A 2007 Yale University-Gallup poll found that only 48% believed that there was a consensus among the scientific community that global warming was happening, and 40% believed there was a lot of disagreement among scientists over whether global warming was occurring.²⁷⁶ Eight years later, a 2015 Yale- George Mason University poll found that “[o]nly about one in ten Americans understands that nearly all climate scientists (over 90%) are convinced that human-caused global warming is happening, and just half . . . believe a majority do.”²⁷⁷ Further, it found that 33% of Americans believe that climate change is mostly due to natural causes, compared to the 97% of peer-reviewed papers that acknowledge that global warming is real and

²⁷⁵ Transcript of Deposition of Philip Cooney, U.S., House of Reps., Exec. Session Comm. on Oversight and Gov’t, 32:3–5 (Mar. 12, 2007), <https://perma.cc/M8YK-CWD4>.

²⁷⁶ *American Opinions on Global Warming: A Yale/Gallup/Clearvision Poll*, Yale Program on Climate Change Commc’n. (July 31, 2007), <https://perma.cc/6ANR-J59L>.

²⁷⁷ Anthony Leiserowitz et al., *Climate Change in the American Mind*, Yale Program on Climate Change Commc’n. & George Mason Univ., Ctr. for Climate Change Commc’n, at 9 (Oct. 2015), <https://perma.cc/4M77-25RM>.

at least partly human-caused.²⁷⁸ The lack of progress, and even the regress, in the public understanding of climate science over this period—during which Defendants professed to accept the conclusions of mainstream climate science—demonstrates the success of Defendants’ campaign to thwart dissemination of accurate information to the public regarding the effects fossil fuel consumption.

150. As a result of Defendants’ tortious, false, and misleading conduct, consumers of Fossil Fuel Defendants’ fossil fuel products in Delaware and elsewhere have been deliberately and unnecessarily deceived about: the role of fossil fuel products in causing global warming, sea level rise, disruptions to the hydrologic cycle, and increased extreme precipitation, heat waves, and other consequences of the climate crisis; the acceleration of global warming since the mid-twentieth century and the continuation thereof; and the fact that the continued increase in fossil fuel consumption creates severe environmental threats and significant economic costs for coastal states, including Delaware.

D. In Contrast to Their Public Misrepresentations About the Risks of Climate Change, Fossil Fuel Defendants’ Internal Actions Demonstrate Their Awareness of and Intent to Profit from the Unabated Uses of Fossil Fuel Products They Knew Were Hazardous.

151. In contrast to their public-facing efforts challenging the validity of the scientific consensus about anthropogenic climate change, Fossil Fuel Defendants’

²⁷⁸ *Id.* at 7.

acts and omissions evidence their internal acknowledgement of the reality of climate change and its likely consequences. Those actions include, but are not limited to, making multi-billion-dollar infrastructure investments to protect their own operations against anthropogenic climate-related hazards such as: raising offshore oil platforms to protect against sea level rise; reinforcing offshore oil platforms to withstand increased wave strength and storm severity; and developing and patenting designs for equipment intended to extract and transport crude oil and/or natural gas in areas previously unreachable because of the presence of polar ice sheets.²⁷⁹

152. For example, in 1973 Exxon obtained a patent for a cargo ship capable of breaking through sea ice²⁸⁰ and for an oil tanker²⁸¹ designed specifically for use in previously unreachable areas of the Arctic.

153. In 1974, Chevron obtained a patent for a mobile arctic drilling platform designed to withstand significant interference from lateral ice masses,²⁸² allowing for drilling in areas with increased ice floe movement due to elevated temperature.

²⁷⁹ Amy Lieberman & Susanne Rust, *Big Oil Braced for Global Warming While It Fought Regulations*, L.A. Times (Dec. 31, 2015), <https://perma.cc/PWZ4-L9LC>.

²⁸⁰ ExxonMobil Research Engineering Co., *Patent US3727571A: Icebreaking cargo vessel* (granted Apr. 17, 1973), <https://perma.cc/YF73-R6AG>.

²⁸¹ ExxonMobil Research Engineering Co., *Patent US3745960A: Tanker vessel* (granted July 17, 1973), <https://perma.cc/WL9C-DQ99>.

²⁸² Chevron Research & Technology Co., *Patent US3831385A: Arctic offshore platform* (granted Aug. 27, 1974), <https://perma.cc/MF5D-DSM9>.

154. That same year, Texaco (Chevron) worked toward obtaining a patent for a method and apparatus for reducing ice forces on a marine structure prone to being frozen in ice through natural weather conditions,²⁸³ allowing for drilling in previously unreachable Arctic areas that would become seasonally accessible.

155. In 1984, Shell obtained a patent for an Arctic offshore platform adapted for conducting operations in the Beaufort Sea,²⁸⁴ an area that previously was largely unreachable because of ice but has become increasingly accessible as polar ice has melted.

156. As described below, in 1989, Norske Shell, Royal Dutch Shell's Norwegian subsidiary, altered designs for a natural gas platform planned for construction in the North Sea to account for anticipated sea level rise. Those design changes were ultimately carried out by Shell's contractors, adding substantial costs to the project.²⁸⁵

i. The Troll natural gas and oil field, off the Norwegian coast in the North Sea, was proven to contain large natural oil and gas deposits in 1979, shortly

²⁸³ Texaco Inc., *Patent US3793840A: Mobile, arctic drilling and production platform* (granted Feb. 26, 1974), <https://perma.cc/U46F-JQWK>.

²⁸⁴ Shell Oil Co., *Patent US4427320A: Arctic offshore platform* (granted Jan. 24, 1984), <https://perma.cc/YXH9-CS2B>.

²⁸⁵ *Greenhouse Effect: Shell Anticipates a Sea Change*, N.Y. Times (Dec. 20, 1989), <https://perma.cc/PJV7-6H25>.

after Norske Shell was approved by Norwegian oil and gas regulators to operate a portion of the field.

ii. In 1986, the Norwegian parliament granted Norske Shell authority to complete the first development phase of the Troll field gas deposits, and Norske Shell began designing the “Troll A” gas platform, with the intent to begin operation of the platform in approximately 1995. Based on the very large size of the gas deposits in the Troll field, the Troll A platform was projected to operate for approximately 70 years.

iii. The platform was originally designed to stand approximately 100 feet above sea level—the amount necessary to stay above waves in a once-in-a-century strength storm.

iv. In 1989, Shell engineers revised their plans to increase the above-water height of the platform by 3–6 feet, specifically to account for higher anticipated average sea levels and increased storm intensity due to global warming over the platform’s 70-year operational life.²⁸⁶

v. Shell projected that the additional 3–6 feet of above-water construction would increase the cost of the Troll A platform by as much as \$32 million.²⁸⁷

²⁸⁶ *Id.*; Lieberman & Rust, *supra* note 279.

²⁸⁷ N.Y. Times, *supra* note 285.

157. In 1989, Esso Resources Canada (Exxon) commissioned a report on the impacts of climate change on existing and proposed natural gas facilities in the Mackenzie River Valley and Delta, including extraction facilities on the Beaufort Sea and a pipeline crossing Canada's Northwest Territory.²⁸⁸ It reported that "large zones of the Mackenzie Valley could be affected dramatically by climatic change" and that "the greatest concern in Norman Wells [oil town in North West Territories, Canada] should be the changes in permafrost that are likely to occur under conditions of climate warming."²⁸⁹ The report concluded that, in light of climate models showing a "general tendency towards warmer and wetter climate," operation of those facilities would be compromised by increased precipitation, increase in air temperature, changes in permafrost conditions, and, significantly, sea level rise and erosion damage. The authors recommended factoring those eventualities into future development planning and also warned that "a rise in sea level could cause increased flooding and erosion damage on Richards Island."²⁹⁰

158. In the mid-1990s, Exxon, Shell, and Imperial Oil (Exxon) jointly undertook the Sable Offshore Energy Project in Nova Scotia. The project's Environmental Impact Statement declared, "The impact of a global warming sea

²⁸⁸ See Stephen Lonergan & Kathy Young, *An Assessment of the Effects of Climate Warming on Energy Developments in the Mackenzie River Valley and Delta, Canadian Arctic*, 7 Energy Exploration & Exploitation 359–81 (1989).

²⁸⁹ *Id.* at 369, 376.

²⁹⁰ *Id.* at 360, 377–78.

level rise may be particularly significant in Nova Scotia. The long-term tide gauge records at a number of locations along the N.S. coast have shown sea level has been rising over the past century. . . . For the design of coastal and offshore structures, an estimated rise in water level, due to global warming, of 0.5 m [1.64 feet] may be assumed for the proposed project life (25 years).”²⁹¹

E. Defendants Continue to Deceive Delaware Consumers About the Impact of Their Fossil Fuel Products on Climate Change Through Greenwashing Campaigns and Other Misleading Advertisements That Portray the Fossil Fuel Defendants as Climate-Friendly Companies.

159. Defendants’ coordinated campaign of disinformation and deception continues today. Although Defendants’ misconduct over the years has taken different forms and gone through different phases, the overarching goal of Defendants in perpetrating their misconduct was, and is, to ensure demand for Fossil Fuel Defendants’ fossil fuel products and protect their profits. As described above, Defendants initially concealed the known harms of fossil fuel products from the public. Next, Defendants affirmatively spread disinformation about the science of climate change and the known harms of Fossil Fuel Defendants’ fossil fuel products. Recently, and continuing to this day, Defendants have pivoted to misleading advertisement campaigns that portray Defendants as part of the solution to climate

²⁹¹ ExxonMobil, *Sable Project: Development Plan, Vol. 3: Environmental Impact Statement*, 4–77 (Feb. 1996), <https://perma.cc/LG6P-WJ5D>.

change in an effort to distract from the fact that Defendants’ fossil fuel products are the primary driver of global warming. Collectively, these more recent deceptive advertising and marketing practices are referred to by some social scientists as “greenwashing.”

160. Fossil Fuel Defendants intentionally greenwash their own brands and their fossil fuel products to maximize profit from fossil fuel consumption. Greenwashing is designed to increase consumption by portraying positive but false representations of Fossil Fuel Defendants and their products. While greenwashing occurs in several different forms, the common purpose of all greenwashing is “to induce false positive perceptions”²⁹² of the Fossil Fuel Defendants’ commitment to the environment while downplaying or otherwise concealing the role their fossil fuel products play in bringing about catastrophic climate harms. That false narrative drives brand loyalty and trust among consumers, alters consumer behavior, and thus increases consumption of fossil fuel products. Greenwashing is especially misleading today because consumers increasingly prioritize environmental sustainability, even when that means paying more, and because consumers report

²⁹² Noémi Nemes et al., *An Integrated Framework to Assess Greenwashing*, 14 Sustainability 4431 (2022), <https://perma.cc/H4AF-9VA3>.

positive associations with brands that portray themselves as “green” or as committed to renewable energy.²⁹³

161. Greenwashing—Defendants’ most recent strategy to deceive consumers about the risks associated with fossil fuels—comes in several forms, which can be broken down into general categories:

i. Touting Fossil Fuel Defendants’ investments in renewable energy sources, “green energy” sources, emission reduction technologies, and carbon capture systems. In truth, each Fossil Fuel Defendant has invested minimally in renewable energy while aggressively expanding their fossil fuel production. Furthermore, carbon capture systems (“CCS”) are most often used to produce more, not less, oil and gas: “Of the 12 commercial C.C.S. projects in operation in 2021, more than 90 percent were engaged in enhanced oil recovery,” whereby “captured” carbon dioxide is injected into oil fields to extract additional oil that would otherwise be trapped underground.²⁹⁴ Indeed, BP viewed one of the key benefits of carbon

²⁹³ Ronald S. Friedman & Dylan S. Campbell, *An Experimental Study of the Impact of Greenwashing on Attitudes toward Fossil Fuel Corporations’ Sustainability Initiatives*, 17 Env’t Comm’n 486 (2023), <https://perma.cc/4JNF-UTKZ>; see also Ravi Dutta-Powell et al., *Two Interventions for Mitigating the Harms of Greenwashing on Consumer Perceptions*, BIT Working Paper No. 001 (2023), <https://perma.cc/S59N-ECV2>.

²⁹⁴ Harvey & K. House, Every Dollar Spent on This Climate Technology Is a Waste, New York Times, 16 August 2022, <https://perma.cc/S6SE-ZPPJ>.

capture technology as “sustain[ing] gas demand growth for longer,”²⁹⁵ and Occidental’s CEO stated that direct air capture, a type of carbon capture technology, is going to be “the technology that helps to preserve [the oil and gas] industry over time.”²⁹⁶

ii. Pledges to be carbon neutral or to reduce CO₂ emissions by a certain date, as well as other pledges to reduce GHG emissions. Many such pledges have been modified or scrapped altogether. Other pledges are doublespeak and designed to deceive consumers. For instance, some Fossil Fuel Defendants professed their support for federal methane emissions regulations on one hand while lobbying against them on the other.²⁹⁷ Moreover, in a bid to “stave off future regulation,” Fossil Fuel Defendants, through a program convened by API, voluntarily pledged to limit their methane emissions.²⁹⁸

iii. Expressing support for international agreements and initiatives to lower CO₂ and GHG emissions (i.e. the Paris Agreement). Publicly, multiple Fossil Fuel Defendants pledged to help meet the goals of the Paris Agreement. Privately, they viewed participation and support for the agreement as politically

²⁹⁵ *Denial, Disinformation, and Doublespeak*, supra note 103, at 34 (quoting Doc. No. BPA_HCOR_00037840; BPA_HCOR_00049634).

²⁹⁶ Ben Lefebvre, *Oil industry sees a vibe shift on climate tech*, Politico (Mar. 8, 2023), <https://perma.cc/47J2-V93Y>.

²⁹⁷ *Denial, Disinformation, and Doublespeak*, supra note 103, at 25.

²⁹⁸ *Id.* at 24, 26 (quoting Doc. No. BPA_HCOR_00039279 (“You begin by doing things voluntarily and then that (and not much more) becomes the regulation.”)).

convenient, risk-free, and unburdened by the necessity of any meaningful corresponding action on their part.²⁹⁹ The Paris Agreement proved to be an opportunity for Fossil Fuel Defendants to tout their environmental bona fides by overemphasizing their minimal investments in clean or renewable forms of energy while they knowingly pursued business strategies undermining the agreement’s goal of limiting global warming to 2 degrees Celsius.³⁰⁰

iv. Claiming specific fossil fuel products are green, clean, and/or reduce the dangers of climate change. To the contrary, none of Fossil Fuel Defendants’ fossil fuel products are “green” or “clean,” because the production and use of those products (even products that may yield relatively more efficient engine performance) *increase* GHG emissions to the detriment of public health and consumer welfare. For instance: natural gas, as a fossil fuel, emits greenhouse gases at all phases of its lifecycle, including significant methane releases from extraction and transportation, CO₂ releases when gas is flared at the well, and CO₂ releases at the point of combustion. Methane is a greenhouse gas with a global warming potential many times higher than CO₂. Methane traps more heat in the atmosphere and accelerates climate disruption at a faster rate than CO₂: It has a warming impact that is 86 times that of CO₂ over a twenty-year time horizon. Yet, in Defendants’

²⁹⁹ *Id.* 103 at 17–21.

³⁰⁰ *Id.* at 18.

greenwashing advertisements, they misleadingly portray natural gas as “sustainable” in an effort to paint themselves as working to solve climate change by making energy “cleaner.”³⁰¹ In reality, however, the production and use of natural gas is not clean or green, but instead a significant contributor to GHG emissions and climate change. The Dutch Advertising Code Authority censured Shell and Exxon for advertising natural gas as the “cleanest fossil fuel.” The Advertising Code Authority reasoned that the claim “suggested that fossil fuels can be clean in that they do not cause environmental damage. It is firm . . . that that suggestion is not correct.”³⁰² Yet Exxon and Shell, along with other Defendants, continue to make the same representations in the United States, including in Delaware.³⁰³

v. Broad claims that Defendants care about the environment and about combating climate change. Fossil Fuel Defendants’ conduct belies this claim:

³⁰¹ See, e.g., *The Mobility Quandary* (Content from Shell), Wash. Post, <https://perma.cc/V4G6-F5GU> (“Another critical component of a sustainable energy mix in transportation is further investment in natural gas, a cleaner-burning fossil fuel . . .”).

³⁰² Arthur Neslen, *Shell and Exxon Face Censure over Claim Gas was ‘Cleanest Fossil Fuel’*, The Guardian (Aug. 14, 2017, 12:14 PM EDT), <https://perma.cc/VR3R-TEPN>.

³⁰³ Defendants’ marketing of these fossil fuel products to Delaware consumers as “safe,” “clean,” emissions-reducing,” and impliedly beneficial to the climate—when production and use of such products is the leading cause of climate change—is reminiscent of the tobacco industry’s effort to promote “low-tar” and “light” cigarettes as an alternative to quitting smoking after the public became aware of the life-threatening health harms associated with smoking.

They continue to ramp up the production of their dangerous fossil fuel products while at the same time failing to warn consumers about the harms of their products.

162. Fossil Fuel Defendants' misleading greenwashing campaigns are intended to and do reach and influence the public and consumers in Delaware.

163. Further, Fossil Fuel Defendants continue to fail to warn consumers about the extreme safety risk associated with the use of their dangerous fossil fuel products, which are causing catastrophic climate change.

164. Below are representative excerpts from Defendants' greenwashing campaigns. These greenwashing advertisements are deceptive to Delaware consumers.

i. Exxon's Misleading and Deceptive Greenwashing Campaigns.

165. Beginning in 2009, Exxon ran a series of print, television, and online advertisements in which it misleadingly promoted its efforts to develop energy from alternative sources such as algae and plant waste—investments incredibly small in comparison to the investments Exxon made in fossil fuel production during that same time. For example, an online advertisement in the New York Times, accessible to and marketed toward Delaware consumers, promotes the company's development of algae biofuels. The advertisement misleadingly tells consumers that Exxon is “working to decrease [its] overall carbon footprint,” and that the company's

“sustainable and environmentally friendly” biodiesel fuel could reduce “carbon emissions from transportation” by greater than 50%.³⁰⁴ In a television commercial that aired more than 140 times in the Delaware market in 2019, Exxon touted that the algae it is growing could one day cut the emissions of planes, ships, and trucks in half.³⁰⁵

166. Exxon ultimately invested just \$350 million of the \$600 million it had promised to develop the technology before quietly pulling the plug on the project in December 2022.³⁰⁶ But even \$600 million likely would have fallen short; algae researchers believe several *billion* dollars would be necessary to truly commercialize biofuels, and that does not even account for the “fundamental biological limitations” associated with this technology.³⁰⁷ In fact, statements from Exxon’s spokesperson suggest that the money Exxon spent on advertising its algae biofuel was a substantial portion (more than a third) of what Exxon spent on actual development of algae biofuel.³⁰⁸

³⁰⁴ *The Future of Energy? It May Come From Where You Least Expect* (ExxonMobil Paid Post), N.Y. Times, <https://perma.cc/VBU3-8KH4>.

³⁰⁵ See, e.g., Exxon, *Algae Potential*, aired on WBOC (Sept. 21, 2019). See also Exxon, *Algae Potential* (Oct. 19, 2019), <https://perma.cc/N7KG-ELR4>.

³⁰⁶ Amy Westervelt, *Big Oil Firms Touted Algae as Climate Solution. Now All Have Pulled Funding*, The Guardian (Mar. 17, 2023), <https://perma.cc/MF7Y-5AGS>.

³⁰⁷ *Id.*; see also Ben Elgin and Kevin Crowley, *Exxon Retreats From Major Climate Effort to Make Biofuels From Algae*, Bloomberg (Feb. 10, 2023), <https://perma.cc/7LTQ-644J>.

³⁰⁸ *Id.*

167. A 2019 report by InfluenceMap documented that Exxon’s advertised goal of producing 10,000 barrels of biofuel per day by 2025 would have equated to only 0.2% of its refinery capacity—an amount the report referred to as “a rounding error.”³⁰⁹ This is in sharp contrast to Exxon’s projected increases in oil production, meaning any alternative fuel effort would have been offset by massive oil emissions. In addition to not disclosing the very small scope of these efforts, Exxon’s advertisements do not acknowledge that Exxon’s biodiesel fuel is generally a blend that uses only 5% to 20% biofuel, with the remainder composed of fossil fuel.³¹⁰ Because biodiesel is produced predominantly from fossil fuel, it is not “sustainable” nor “environmentally friendly,” as Exxon claimed in its advertisements.

168. Exxon has also widely promoted its investments in carbon capture, including via advertisements that reached Delaware consumers, which touted Exxon’s investment in carbon capture as helping, “[industrial] plants be a little more like plants.”³¹¹ The goal of such advertising was to convince people that “ExxonMobil is actively working on effective ways to reduce the world’s CO₂

³⁰⁹ InfluenceMap, *Big Oil’s Real Agenda on Climate Change* (Mar. 2019), <https://perma.cc/3ZPL-TAX6>.

³¹⁰ See ExxonMobil, *Mobility Reimagined: On the Road to Lower GHG Emissions*, at 8, <https://perma.cc/HGN3-K5VD>.

³¹¹ See, ExxonMobil, *supra* note 48. See also *Denial, Disinformation, and Doublespeak*, *supra* note 103, at 31 (citing Doc. Nos. EM-HCOR3-00524824, EM-HCOR3-00519383, EM-HCOR3-00519355).

levels.”³¹² In 2021, for example, Exxon ran an advertisement on delawareonline.com which stated, “[i]magine if 100 million metric tons of CO₂ could be captured and stored every year. It’s possible. ExxonMobil is working to advance climate solutions.” However, Exxon itself admitted that to reach net zero by 2050, carbon capture technology would need to be deployed at 185 times its current rate of deployment.³¹³

169. Exxon’s advertisements promoting its investments in “sustainable and environmentally friendly” energy sources also fail to mention that the company’s investment in alternative energy is miniscule compared to its ongoing “business as usual” escalation of global fossil fuel exploration, development, and production activities. From 2010 to 2018, Exxon spent only 0.22% of its capital expenditures on low-carbon energy systems, with nearly the totality of its spending (99.78%) focused on maintaining and expanding fossil fuel production.³¹⁴ Exxon’s 2023 Corporate Plan update states that the company expects its oil and gas production to rise from 3.8 million oil-equivalent barrels per day in 2024 to about 4.2 million oil-

³¹² *Denial, Disinformation, and Doublespeak*, *supra* note 103, at 31 (quoting Doc. No. EM-HCOR3-00298426).

³¹³ *Id.* at 32 (citing ExxonMobil, Emissions (online at <https://corporate.exxonmobil.com/what-we-do/energy-supply/globaloutlook/emissions>) (accessed Apr. 29, 2024)).

³¹⁴ Fletcher et al., *Beyond the Cycle*, at 38, Figure 69 (“Disclosed low-carbon investment as a proportion of total CAPEX (2010-Q3 2018)”) (Nov. 2018), <https://perma.cc/3SY2-PNSX>

equivalent barrels per day by 2027.³¹⁵ In 2023 alone, Exxon spent almost three times as much money acquiring fossil fuel producer Pioneer Natural Resources (\$59.5 billion) than it has stated that it will invest in “lower carbon initiatives” (largely carbon capture technology) through 2027.³¹⁶

170. Exxon has also extensively and misleadingly promoted its professed support for and alignment with the Paris Agreement, including by touting its goal for “net zero greenhouse gas emissions by 2050” and that its plans are “consistent with Paris-aligned pathways.”³¹⁷ However, Exxon admitted that they “do not set Scope 3 targets,” or targets for the emissions released when its products are combusted.³¹⁸ These scope 3 emissions account for the vast majority of the emissions related to Exxon’s fossil fuel activities.³¹⁹ Exxon and other Fossil Fuel Defendants’ advertisements and representations that tout their “net zero” goals or suggest they are aligned with the Paris Agreement are misleading because they

³¹⁵ Press Release, ExxonMobil, *Corporate Plan Update* (Dec. 6, 2023), <https://perma.cc/XAM4-F3WR>.

³¹⁶ Aryn Baker, *How Chevron and Exxon’s Latest Fossil Fuel Deals Compare to Their Green Spending*, Time Magazine (Oct. 25, 2023, 2:31 PM EDT), <https://perma.cc/8ZF6-JL5D>.

³¹⁷ See ExxonMobil, *ExxonMobil announces ambition for net zero greenhouse gas emissions by 2050* (Jan. 18, 2022), <https://perma.cc/WBQ4-BDYR>; See also ExxonMobil, *We support the goals set forth by the Paris Agreement...*, Facebook Ad Libr., <https://perma.cc/P7Q7-EY7Q>.

³¹⁸ ExxonMobil, *Advancing Climate Solutions 2024, Metrics and Data*, <https://perma.cc/DM9F-KQ6F>.

³¹⁹ See, e.g., Eamon Barrett, *Exxon’s new 2050 net-zero ‘ambition’ ignores 80% of its emissions* (Jan. 19, 2022), Fortune, <https://perma.cc/E237-C5KM>.

purposefully fail to account for the emissions released when their fossil fuel products are used and combusted (Scope 3 emissions).³²⁰ These misleading and deceptive advertisements were intended to and did reach the public and consumers in Delaware.

171. Exxon publicly announced its support for the Paris Agreement in 2015, and reiterated its support in 2021. However, in a 2019 memo circulated to high-level executives at the Oil and Gas Climate Initiative (“OGCI”), an Exxon official recommended that the group remove all references to its support for the Agreement in any public-facing document so as to avoid “commit[ting] [OGCI] members to enhanced climate-related governance, strategy, risk management, and performance metrics and targets.”³²¹

172. Moreover, in 2024, Exxon announced that it would increase oil and gas production by about 10% over the next four years.³²² Exxon’s actions directly contradicts its publicly advertised goals to reduce emissions: specifically its goal to “achieve net zero greenhouse gas emissions by 2050.”³²³

³²⁰ ExxonMobil, *We support the goals set forth by the Paris Agreement...*, Facebook Ad Libr., <https://perma.cc/P7Q7-EY7Q>.

³²¹ *Denial, Disinformation, and Doublespeak*, *supra* note 103, at 18 (quoting Doc. No. EM-HCOR3-00064980).

³²² *Id.*

³²³ See ExxonMobil, *ExxonMobil announces ambition for net zero greenhouse gas emissions by 2050* (Jan. 18, 2022), <https://perma.cc/WBQ4-BDYR>; See also ExxonMobil, *We support the goals set forth by the Paris Agreement...*, Facebook Ad Libr., <https://perma.cc/P7Q7-EY7Q>.

173. Exxon also misrepresents natural gas as clean or environmentally friendly. For example, Exxon’s “Lights Across America” television advertisement stated that Exxon’s “cleaner-burning” natural gas is “helping dramatically reduce America’s emissions.”³²⁴ Exxon ran this advertisement on a series of television programs that aired in the Delaware market.³²⁵ As previously explained, natural gas is a fossil fuel that contributes to planetary warming, which harms coastal states, including Delaware. Exxon’s statement that it is “helping dramatically reduce America’s emissions” misleadingly portrays Exxon as a “green” company. As detailed above, in 2017, the Dutch Advertising Code Authority censured Exxon for advertising natural gas as the “cleanest fossil fuel.”³²⁶ Yet Exxon continues to make similar representations in the United States, including in Delaware.

174. Exxon has also engaged in extensive and highly misleading marketing efforts aimed at promoting its specific fossil fuel products as “green” or environmentally beneficial. As early as 1950, Exxon was advertising to Delaware consumers that its fossil fuel products were “clean-flowing,” “clean-firing,” and

³²⁴ Exxon Mobil TV Spot, *Lights Across America*, iSpot TV (Nov. 26, 2015), <https://perma.cc/TJ8G-CBV5>.

³²⁵ See, e.g., CBS, *Face the Nation* (Dec. 6, 2015 at 10:57am EST), <https://perma.cc/W472-RL8X>; See also The News Journal (Dec. 6, 2015), <https://perma.cc/9YK9-5R8X> (confirming that CBS’s *Face the Nation* was aired in Delaware on December 6, 2015 from 10:30-11:00am EST).

³²⁶ Neslen, *supra* note 302.

“clean-burning.”³²⁷ Around 1990, Exxon promoted its “New Exxon 93 Supreme” gasoline that “has been reformulated to reduce emissions.” In September 1996, Exxon discontinued the 93 Supreme gasoline marketing campaign after the Federal Trade Commission accused Exxon of false and misleading advertising. According to studies, high-octane premium gas, such as Exxon’s 93 Supreme, not only consumes more energy to produce than a gallon of regular gas,³²⁸ but also increases emissions.³²⁹

175. More recently, Exxon has advertised that its Synergy Diesel Efficient fuel will permit vehicles to “[r]educ[e] emissions.”³³⁰ Exxon also publishes online content under the banner “Energy Factor,” wherein Exxon claims that it “offers a range of products—including lightweight materials and advanced lubricants and fuels—that improve performance, durability, and efficiency to drive down emissions.” With this “portfolio of solutions,” Exxon claims, it is pursuing “[t]he vital task of reducing greenhouse gas emissions across the transportation sector.”³³¹

³²⁷ See The Morning News, *supra* note 44.

³²⁸ Elizabeth Martin-Malikian, *High Octane: Eco-Adaptive Architecture*, 2012 ACSA Fall Conference at 163 (“Making a gallon of premium gas thus consumes more energy than making a gallon of regular.”), <https://perma.cc/84GU-66VX>.

³²⁹ Cenk Sayin et al., *An Experimental Study of the Effect of Octane Number Higher than Engine Requirement on the Engine Performance and Emissions*, 25 Applied Thermal Eng’g 1315, 1317 (2005) (“The results demonstrated that as the octane number was increased from 91 to 93, CO emissions boosted nearly 5%.”).

³³⁰ Exxon, *Synergy Diesel Efficient Fuels For Fleets, Light-Duty Trucks, and Passenger Vehicles*, <https://perma.cc/Y78T-SVB5>.

³³¹ Exxon, *Transforming Transportation*, <https://perma.cc/P9AY-ZKFA>.

Exxon consistently promotes Synergy fuels as “clean” or “cleaner,” and the company’s climate strategy mentions its Synergy fuel, claiming it can help reduce CO₂ emissions.³³² Similarly, Exxon promoted its Mobil 1™ ESP x2, a motor oil offered for sale in Delaware, as a “green motor oil” that could “contribute to [] carbon dioxide emission-reduction efforts.”³³³ This motor oil is promoted and advertised in Delaware.

176. As previously explained, these misrepresentations, which were intended to and did reach and influence Delaware consumers, were misleading because they emphasize Exxon’s fossil fuel products’ supposedly environmentally beneficial qualities without disclosing the key role these products play in causing climate change.

ii. Shell’s Misleading and Deceptive Greenwashing Campaigns.

177. Shell has misleadingly promoted itself to Delaware consumers through advertisements in publications such as the *New York Times*. The advertisements are targeted to and read by Delaware consumers and intended to influence consumer demand for Shell’s products.

178. As part of Shell’s “Make the Future” campaign, the company has published numerous advertisements currently viewable on the *New York Times*

³³² ExxonMobil, *Environmental Performance*, <https://perma.cc/4GUF-7YVS>.

³³³ Energy Factor, *Green Motor Oil? Exxonmobil Scientists Deliver an Unexpected Solution*, ExxonMobil (Jul. 19, 2016), <https://perma.cc/EW2H-57S6>.

website,³³⁴ in which the company touts its investment in new energy sources, including liquified natural gas (“LNG”) and biofuel, which Shell repeatedly refers to as “cleaner sources.” Shell’s “Make the Future” advertisements also misled consumers about the extent to which Shell has invested in clean energy technology. For example, “The Mobility Quandary” touts Shell’s investments in hydrogen fuel cell technology, promoting hydrogen as “sustainable in the long-term” and “[o]ne of the cleaner sources” that power electric vehicles, stating that “[h]ydrogen fuel cell vehicles . . . emit nothing from their tailpipes but water vapor.”³³⁵ Shell’s “In for the Long Haul” advertisement in *The New York Times* similarly promotes its investment in hydrogen fuel cells, as well as biofuels, as meaningful attempts to mitigate climate change.³³⁶

179. One of Shell’s public relations firms described the intent of Shell’s “Make The Future” campaign, stating: “As part of their efforts to make consumers, particularly millennials, aware of their commitment to cleaner energy, Shell launched the #makethefuture campaign. The company tasked Edelman with the job of giving millennials a reason to connect emotionally with Shell’s commitment to a sustainable future. We needed them to forget their prejudices about ‘big oil’ and

³³⁴ See, e.g., *Moving Forward: A Path To Net-Zero Emissions By 2070* (Shell Paid Post), N.Y. Times, <https://www.nytimes.com/paidpost/shell/ul/moving-forward-a-path-to-net-zero-emissions-by-2070.html>.

³³⁵ Shell, *The Mobility Quandary*, *supra* note 301.

³³⁶ Shell, *Moving Forward*, *supra* note 334.

think differently about Shell.”³³⁷ Shell’s “#makethefuture” advertising campaign targeted young people and misleadingly portrayed the company as heavily engaged in developing and selling clean energy sources.³³⁸ These advertisements were intended to and did reach the public and consumers in Delaware.³³⁹

180. Similarly, a Shell advertisement in the *Washington Post*, “The Mobility Quandary,” emphasizes Shell’s role in working to counteract climate change through investments in alternative energy: “Shell is a bigger player than you might expect in this budding movement to realize a cleaner and more efficient transportation future.”³⁴⁰

181. Shell’s statements emphasizing its involvement in these many areas of energy-related research, development, and deployment are misleading; the company’s investments and activities are substantially smaller than its advertisements lead consumers to believe. Only 1.33% of Shell’s capital spending from 2010 to 2018 was in low-carbon energy sources, and that number continues to be heavily outweighed by Shell’s continued expansion of its fossil fuel business.³⁴¹ Shell’s failure to inform ordinary consumers that its touted clean energy investments

³³⁷ Edelman, *Shell: South Pole Energy Challenge*, <https://perma.cc/FUM8-PE7K>.

³³⁸ See Graham Readfearn, *Hey Millennials, Don’t Fall for Shell’s Pop Star PR*, *The Guardian* (April 25, 2018, 1:28 EDT), <https://perma.cc/T5YD-YWGJ>.

³³⁹ See, e.g., Shell, *Make the Future*, Facebook Ad Libr., <https://perma.cc/R5M9-9E32>.

³⁴⁰ Shell, *The Mobility Quandary*, *supra* note 301.

³⁴¹ Fletcher, *supra* note 314.

comprise only a miniscule percentage of its expenditures—and that it intends to ramp up fossil fuel production and sales in the future—renders its advertisements materially misleading.

182. Shell spent almost six times more money on oil and gas development than on renewable technology in 2022.³⁴² In June 2023, Shell withdrew its 2021 pledge to cut oil production each year for the rest of the decade, announcing instead that it would maintain its current level of oil production until 2030 and would invest \$40 billion in oil and gas production between 2023 and 2035.³⁴³ In 2025, Shell announced that it actually plans to grow its upstream production and integrated gas business by 1% per year through 2030.³⁴⁴ And while Shell states that approximately 12% of its 2021 capital spending went to its “Renewables and Energy Solutions” division, its own financial reporting indicates it dedicated only approximately 1.5% of its capital expenditures to developing renewable energy sources such as wind and

³⁴² Ron Bousso, *Exclusive: Shell Pivots Back to Oil to Win Over Investors*, Reuters (June 9, 2023, 1:06 PM EDT), <https://perma.cc/3MYK-T6TV>.

³⁴³ Lottie Limb, *Shell Joins BP and Total In U-Turning on Climate Pledges ‘to Reward Shareholders’*, euronews (June 15, 2023, 16:10 GMT), <https://perma.cc/9QR8-JQLB>.

³⁴⁴ Adam Whittaker, *Shell to Increase Production, Shareholder Returns Under New Strategy* (Mar. 25, 2025), <https://perma.cc/FHU2-Z6JM>.

solar power production, with the large majority of other spending directed to projects related to natural gas.³⁴⁵

183. In 2023, the United Kingdom’s Advertising Standards Authority banned Shell’s marketing campaign in which Shell advertised itself as providing renewable energy, installing electric vehicle chargers, and catalyzing the energy transition.³⁴⁶ The Authority found that the advertisements “gave the overall impression that a significant proportion of Shell’s business comprised lower-carbon energy products,” but that the campaign was misleading because the “vast majority” of Shell’s business was oil and gas investments and extraction.³⁴⁷ Shell, along with other Defendants, continues to make similar representations in the United States, including in Delaware. For example, Shell posited itself as a leader in renewable energy in multiple television advertisements that aired in the Delaware market in 2023 and 2024.³⁴⁸

184. In a similar vein, Shell has extensively promoted and advertised its net zero targets and support for the Paris Agreement, including via numerous

³⁴⁵ Oliver Milman, *Shell’s Actual Spending on Renewables is Fraction of What It Claims, Group Alleges*, The Guardian (Feb. 1, 2023), <https://perma.cc/3QRS-FZYL>.

³⁴⁶ Ed Davey, *Shell’s Clean Energy Advertising Campaign is Misleading, UK Watchdog Says*, Assoc. Press (June 7, 2023), <https://perma.cc/9G3D-9P8K>; see also Advert. Standards Authority, *ASA Ruling on Shell UK Ltd t/a Shell* (June 7, 2023), <https://perma.cc/7QVU-MGYD>.

³⁴⁷ *Id.*

³⁴⁸ See, e.g., Shell *supra* notes 66–67.

advertisements that reached Delaware consumers.³⁴⁹ These advertisements were misleading and elide Shell’s continued long-term commitments to oil and gas production and internal doubts about the ability of Shell to actually meet their emissions targets.³⁵⁰ In 2024 Shell scaled back a 2030 carbon emissions reduction target and entirely scrapped a 2035 target, announcing instead that it would scale up its LNG business by up to 30% by 2030.³⁵¹

185. Like other Defendants, Shell has widely and misleadingly promoted the purported environmental and climate benefits of natural gas. For example, one Shell advertisement in *The Washington Post*, “The Making of Sustainable Mobility,” refers to LNG as “a critical component of a sustainable energy mix” and a “lower-carbon fuel” that could “help decrease” CO₂ emissions.³⁵² Shell has repeatedly

³⁴⁹ See, e.g., Shell *supra* note 68. See also Shell, *The Rational Middle of Net Zero*, Facebook Ad Libr., <https://perma.cc/NH2T-95UL>; Shell, *Sustainability Report 2022*, at 22, <https://perma.cc/A6DY-EHE8>.

³⁵⁰ See e.g., *id.* at 14 (citing Doc No. SOC-HCOR-045422 (email thread in which Shell employee writes that “any credible route to net-zero emission requires significant electrification of end use as well as biofuels, hydrogen and some degree of carbon capture and storage)), (citing Doc. No. SOC-HCOR-391063 (*New York Magazine* article quoting Shell’s Chief Economist as saying “We’re going to get as much out of [oil and gas] for as long as we can”)).

³⁵¹ See Josh Gabbatiss, *Shell abandons 2035 emissions target and weakens 2030 goal* (Mar. 14, 2024), <https://perma.cc/FBU3-CMG9>.

³⁵² See, e.g., *The Making of Sustainable Mobility* (Content from Shell), Wash. Post, <https://www.washingtonpost.com/brand-studio/shell/the-making-of-sustainable-mobility>.

advertised that they supply “cleaner-burning natural gas” to help limit CO₂ emissions.³⁵³

186. Shell’s promotion of natural gas as “cleaner-burning” and a “critical component” of sustainable energy is misleading and deceptive because it omits critical information about additional emissions from the extraction and transportation of natural gas, which include significant amounts of the potent greenhouse gas methane. As previously explained, the Dutch Advertising Code Authority censured Shell for advertising natural gas as the “cleanest fossil fuel,” yet Shell continues to make the same representations in the United States, including in Delaware.³⁵⁴

187. Shell has also engaged in misleading marketing efforts aimed at promoting its fossil fuel products as “green” or environmentally beneficial. As early as 1990, Shell advertised to Delaware consumers that its fossil fuel products help reduce air pollution.³⁵⁵ More recently, Shell has stated that using its gasoline “produces fewer emissions.”³⁵⁶ As previously explained, these misrepresentations were misleading because they emphasize Shell’s fossil fuel products’ purported

³⁵³ See, e.g., Shell, Shell United States, *Transforming Natural Gas*, <https://perma.cc/T9WV-SXRA>; Shell, *Broader Mix of Energies*, <https://perma.cc/MCY8-AJBR>; Shell, *Natural Gas is...*, Facebook (Nov. 21, 2013), <https://perma.cc/CB9G-BRGA>.

³⁵⁴ Neslen, *supra* note 302.

³⁵⁵ See The News Journal, *supra* note 65.

³⁵⁶ See, e.g., Shell, *Shell Gasolines*, <https://perma.cc/R2SZ-7YNS>.

environmentally beneficial qualities while omitting the key role they play in causing climate change.

iii. BP's Misleading and Deceptive Greenwashing Campaigns.

188. BP has misled Delaware consumers by portraying itself as having diversified its energy portfolio and reducing its reliance on fossil fuel sales, when in reality its alternative energy portfolio is negligible compared to the company's ever-expanding fossil fuel portfolio. To this end, BP has employed a series of misleading greenwashing advertisements, which are intended to influence consumer demand for its products, including consumers in Delaware.

189. BP ran its extensive "Beyond Petroleum" advertising and rebranding campaign from 2000 to 2008 and even changed its logo to a sunburst, evoking the renewable resource of the sun. BP advertised its "Beyond Petroleum" rebrand in Delaware, including via full-page advertisements in Delaware newspapers, where BP misleadingly touted natural gas as a "clean bridge to renewable energy," "the cleanest burning fossil fuel," and claimed that BP was "one of the largest providers of solar energy in the world" and "investing in other cleaner, sustainable energy sources for the future" (reproduced in Figure 8 below).³⁵⁷ BP also uses the sunburst logo to advertise at its Delaware gas stations, where consumers purchase BP's gas. The "Beyond Petroleum" advertising campaign falsely portrayed the company as

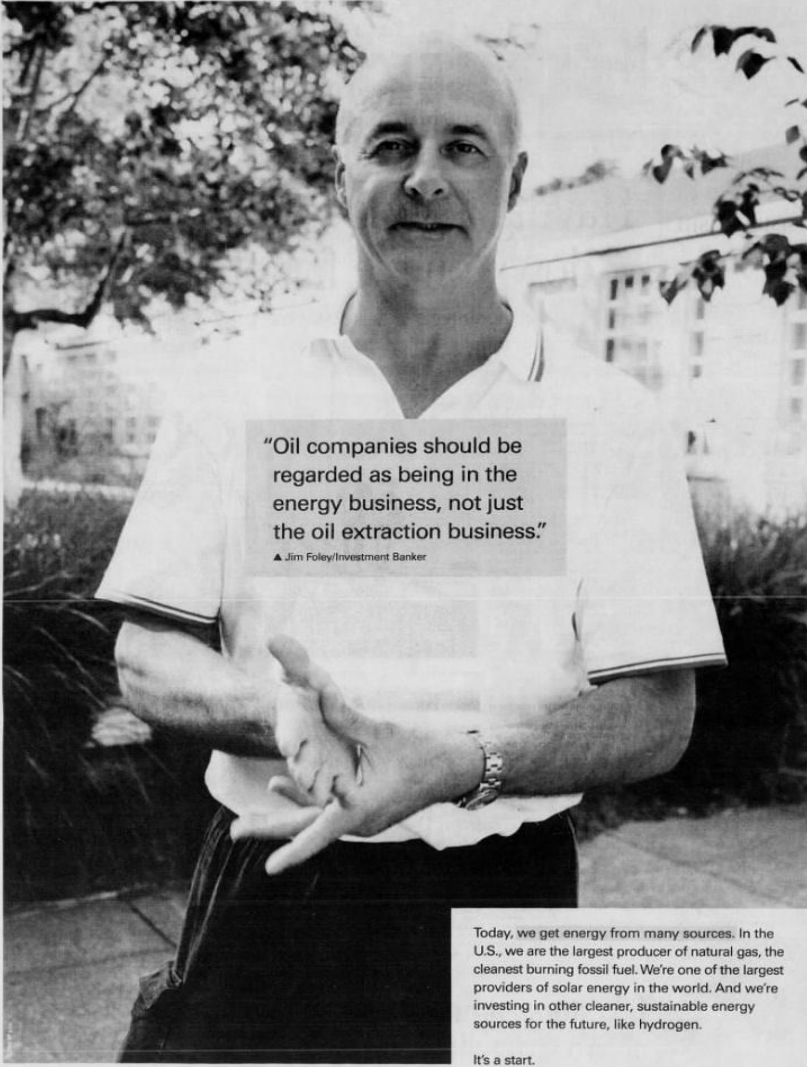
³⁵⁷ See The News Journal, *supra* note 14.

heavily engaged in low-carbon energy sources and no longer investing in, but rather moving “beyond,” petroleum and other fossil fuels. In truth, BP invested a small percentage of its total capital expenditure during this period on alternative energy research. The vast majority of its capital expenditure was focused on fossil fuel exploration, production, refining, and marketing.³⁵⁸ BP ultimately abandoned what had been, until then, its solar and wind assets in 2011 and 2013, respectively, and even the “Beyond Petroleum” moniker in 2013.³⁵⁹

³⁵⁸ See BP, *Annual Reports and Accounts 2008*, <https://www.bp.com/content/dam/bp/business-sites/en/global/corporate/pdfs/investors/bp-annual-report-accounts-2008.pdf>.

³⁵⁹ Javier E. David, ‘*Beyond Petroleum*’ No More? *BP Goes Back to Basics*, CNBC (Apr. 20, 2013), <https://perma.cc/U5UW-MYNK>.

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"Oil companies should be regarded as being in the energy business, not just the oil extraction business."

▲ Jim Foley/Investment Banker

Today, we get energy from many sources. In the U.S., we are the largest producer of natural gas, the cleanest burning fossil fuel. We're one of the largest providers of solar energy in the world. And we're investing in other cleaner, sustainable energy sources for the future, like hydrogen.

It's a start.

bp



beyond petroleum®

bp.com

Figure 8: "Beyond Petroleum" advertisement in *The News Journal*³⁶⁰

³⁶⁰ The News Journal (Nov. 21, 2004), <https://perma.cc/UU8M-DM4A>. See also The News Journal (Nov. 14, 2004), <https://perma.cc/W92C-V8ZY>.

190. In 2019, BP launched an advertising campaign called “Possibilities Everywhere.” These advertisements were misleading both in their portrayal of BP as heavily involved in non-fossil energy systems, including wind, solar, and electric vehicles, as well as in their portrayal of natural gas as environmentally friendly.

191. One “Possibilities Everywhere” advertisement, called “Better fuels to power your busy life,” stated:

We [] want—and need—[] energy to be kinder to the planet. At BP, we’re working to make our energy cleaner and better. . . . At BP, we’re leaving no stone unturned to provide [the] extra energy the world needs while finding new ways to produce and deliver it with 53 fewer emissions. . . . We’re bringing solar and wind energy to homes from the US to India. We’re boosting supplies of cleaner burning natural gas. . . . More energy with fewer emissions? We see possibilities everywhere to help the world keep advancing.³⁶¹

The accompanying video showed a busy household while a voiceover said, “We all want more energy, but with less carbon footprint. That’s why at BP we’re working to make energy that’s cleaner and better.”³⁶² BP advertised its “Possibilities Everywhere” campaign via commercials that appeared on programs that aired in Delaware.³⁶³

³⁶¹ See BP, *Better fuels to power your busy life*, <https://perma.cc/H42Q-LNSB>.

³⁶² *Id.*

³⁶³ See BP, *supra* note 15.

192. But BP’s claim that non-fossil energy systems constitute a substantial portion of BP’s business was materially false and misleading. At the time of the advertisement, BP owned only approximately 1.7 gigawatt (“GW”) of wind capacity, which was dwarfed by other companies including GE, Siemens, and Vestas (with about 39 GW, 26 GW, and 23 GW capacities, respectively).³⁶⁴ Overall, installed wind capacity in the United States was approximately 100 GW, meaning BP’s installed comprised less than 2% of the market.³⁶⁵ Yet, “Blade runners,” another advertisement in BP’s “Possibilities Everywhere” campaign, described the company as “one of the major wind energy businesses in the US.”³⁶⁶ In short, BP’s proportionately small wind power portfolio was materially smaller than that conveyed in the company’s advertisements.

193. The same is true for BP’s activities in solar energy, which consist predominantly of its purchase of the solar company Lightsource (rebranded Lightsource BP).³⁶⁷ The total purchase price (\$454 million) represents only a

³⁶⁴ For BP’s wind capacity, see Press Release, *BP Advances Offshore Wind Growth Strategy* (Feb. 8, 2021), <https://perma.cc/V33G-U6LU>. For wind capacity of GE, Siemens, and Vestas, see Abby McClain, *The 10 Largest Wind Power Companies in the World* (Apr. 18, 2023), <https://perma.cc/UB4P-WMXW>.

³⁶⁵ See Elizabeth Ingram, *U.S. Wind Capacity Grew 8% in 2019, AWEA says*, *Renewable Energy World* (Apr. 10, 2019), <https://perma.cc/4U9D-7S33>.

³⁶⁶ See BP, *Blade runners*, <https://perma.cc/V7ZW-F58W>.

³⁶⁷ BP Annual Report and Form 20-F 42 (2017), <https://perma.cc/PD35-ZML6>; see also Ron Bousso, *BP to Buy Remaining 50% In Solar JV Lightsource BP*, *Reuters* (Nov. 30, 2023), <https://perma.cc/4M4M-NT26>.

miniscule percentage of BP's annual capital spending (\$16 billion in 2023), nearly all of which is spent on fossil fuel production.³⁶⁸ This is a far cry from BP's claim that it was "leaving no stone unturned" to find "new" ways to produce lower-emissions energy and playing a "leading role" in "advancing a low carbon future." These claims convey the misleading impression to ordinary consumers that BP is substantially invested in developing and deploying clean energy technologies whereas, in truth, nearly all the company's present and future expenditures are directed toward oil and gas development that hurtles the world toward climate catastrophe. BP's failure to inform ordinary consumers that its touted clean energy investments comprise only a miniscule percentage of its expenditures—and that it intends to ramp up fossil fuel production and sales in the future—renders these advertisements materially misleading.

194. In a 2019 television advertisement that aired in the Delaware market, BP nevertheless specifically touted its Lightsource partnership. BP claimed, "we make the most of [the sun] when the sun does shine. That's why BP is partnering with Lightsource, Europe's largest solar company." BP described that "should the weather change, yet again, our natural gas can step in to keep the power flowing and the lights shining, no matter the forecast."³⁶⁹ This portrayal of solar power as BP's

³⁶⁸ See BP, *4Q 2023 Quarterly Results*, <https://perma.cc/3FZA-Q3LP>.

³⁶⁹ BP, *Unpredictable* (Sept. 12, 2019), <https://perma.cc/BRT5-YHH2>.

strong interest, with natural gas used only as a backup, is also false. BP's investments in natural gas outstrip its solar investments by a factor of approximately 100 or more, and only a small fraction of its natural gas products, an estimated 5% or less, are used to backup renewables. Thus, the overall impression given by the advertisements—that BP is substantially invested in solar energy, with its natural gas used only for backup—is materially misleading to consumers.

195. Contrary to its messaging about commitments to low-carbon energy and energy diversification, however, BP's spending on low-carbon energy is substantially and materially less than it indicates to consumers: Between 2010 and 2018, BP spent just 2.3% of total capital spending on low-carbon energy sources.³⁷⁰ And in February of 2025, BP announced a “fundamental[] reset” to its strategy when it announced it would increase its oil and gas investments to \$10 billion a year and slash more than \$5 billion from its previously announced low-carbon investment plans.³⁷¹ This recently announced fundamental reset to BP's operations directly contradicts BP's advertisements that reached consumers in Delaware, including one from 2022 where BP touted, “[w]e aim to increase our low carbon investments 10-fold by 2030.”³⁷²

³⁷⁰ Fletcher, *supra* note 314.

³⁷¹ See Jillian Ambrose, *BP blames ‘misplaced’ faith in green transition for its renewed focus on fossil fuels*, The Guardian (Feb. 26, 2025), <https://perma.cc/G56Z-P77N>.

³⁷² BP America, Facebook Ad Libr., <https://perma.cc/PL2Q-3KTT>.

196. BP has also widely advertised its net zero target and associated interim targets, including through advertisements that reached consumers in Delaware.³⁷³ However, BP has extensively scaled back its decarbonization targets. In 2020, BP stated its intention to reduce the company's total upstream emissions 20% by the year 2025, and 35–40% by the year 2030. In February 2023, however, BP reduced those projections to a 10–15% reduction by 2025, and a 20–30% reduction by 2030.³⁷⁴ BP also pledged in 2020 to reduce its total oil and gas production 40% from 2019 levels by 2030,³⁷⁵ but in 2023, however, BP dropped its goal to a 25% reduction.³⁷⁶ In 2025, BP essentially rolled back its entire 2020 pledge when it announced that it is aiming to boost its oil and gas production back up to 2.5 million barrels per day by 2030, roughly 1% below its 2019 production average of 2.6 million barrels per day.³⁷⁷

197. Similar to other Defendants, BP has widely and misleadingly advertised the purported environmental benefits of natural gas to Delaware consumers,

³⁷³ See, e.g., BP America, Facebook Ad Libr., <https://perma.cc/KU7X-48MY>.

³⁷⁴ Evan Halper and Aaron Gregg, *BP Dials Back Climate Pledge Amid Soaring Oil Profits*, The Wash. Post (Feb. 7, 2023), <https://perma.cc/HL7J-YZCV>; see also BP, *Getting to Net Zero*, <https://perma.cc/3SGK-8JGU>; BP, *BP Integrated Energy Company Strategy Update* (Feb. 7, 2023), <https://perma.cc/PA3U-2EZ4>.

³⁷⁵ Shadia Nasralla and Ron Bousso, *BP to Cut Fossil Fuels Output By 40% By 2030*, Reuters, (Aug. 4, 2020), <https://perma.cc/5PNG-ENJT>.

³⁷⁶ Stanley Reed, *BP, in a Reversal, Says It Will Produce More Oil and Gas*, N.Y. Times (Feb. 7, 2023), <https://perma.cc/TV4V-QK2X>.

³⁷⁷ Joe Wallace, *BP to Slash Green Spending, Pivot Back to Oil*, The Wall Street Journal (Feb. 26, 2025), <https://perma.cc/K3EX-RCCL>.

including describing natural gas as “cleaner burning”³⁷⁸ and the “cleanest burning fossil fuel.”³⁷⁹ In fact, BP described in an internal document that one of their “Key Messages” in 2017 was that “[n]atural gas is the cleanest fossil fuel,” with this message supporting their underlying goals to “[p]revent further erosion of near-term support for gas,” “protect [the] role of gas as a bridge fuel,” and “position gas as a destination fuel for the longer-term.”³⁸⁰ As previously explained, representing natural gas as clean is misleading and deceptive.

198. BP has also engaged in extensive marketing efforts aimed at promoting its specific fossil fuel products as “green” or environmentally beneficial. As early as 1960, BP was advertising, through its predecessors to Delaware consumers, that its gasoline was “clean-burning.”³⁸¹ More recently, BP has marketed its Invigorate gasoline as a “proprietary detergent additive” that “help[s] cars become clean, mean, driving machines,” and its “bp diesel” as a fuel that “can reduce emissions with powerful, reliable, and energy efficient fuel made with low sulfur and additives.”³⁸² BP’s website also advertises its fuel selection as “including a growing number of

³⁷⁸ See BP, *supra* note 15.

³⁷⁹ See The News Journal, *supra* note 14.

³⁸⁰ H.R. Comm. on Oversight and Accountability Democrats & S. Comm. on the Budget, *Selected investigation documents from BP*, Doc. No. BPA_HC0R_00153145-153146 (PDF pp.214-15), <https://perma.cc/3U4K-TE4A>.

³⁸¹ See, e.g., The Morning News, *supra* note 13.

³⁸² See, e.g., BP, *Our Fuels*, <https://perma.cc/Q439-PV9S>.

lower-carbon and carbon-neutral products.”³⁸³ As previously explained, these advertisements and statements are misleading and deceptive because they emphasize the purported environmentally beneficial qualities of BP’s fossil fuel products while omitting the key role they play in causing climate change. In 2024, Germany’s Hamburg Regional Court held that BP’s advertising of certain engine oil and lubricants as “climate neutral” was misleading for its omission of key information, including how the purported “climate neutral” claim was achieved.³⁸⁴

199. BP itself has admitted the role that misrepresentations such as these play in influencing consumer demand for BP’s fossil fuel products. For example, BP’s President of U.S. retail operations described, in 2004, that “[b]ased on the research that we’ve done, we think brand identity for premium fuel and fuel in general is very important,” and went on to explain that “[t]here is a certain segment of customers out there that continues to buy premium fuels... because environmentally friendly fuels are important to what they’re doing and how they contribute to their community.”³⁸⁵

³⁸³ BP, *Advanced Fuels and Lubricants*, <https://perma.cc/JC3F-9JLG>.

³⁸⁴ See Peters & Peters, *BP banned from advertising as “climate neutral”* (May 2022), <https://perma.cc/WRH5-PP9T>.

³⁸⁵ Alison Embrey, *Battle of the Brands* (June 14, 2004), CS News, <https://perma.cc/8NRV-SNM9>.

iv. Chevron's Misleading and Deceptive Greenwashing Campaigns.

200. Chevron also engaged in greenwashing campaigns designed to deceive consumers, including consumers in Delaware.

201. Chevron's 2007 "Will You Join Us?" campaign and its 2008 "I Will" campaign both misleadingly portrayed the company as a leader in renewable energy. The campaigns' advertisements portrayed minor changes in consumer choices (e.g., changing light bulbs) as sufficient to address environmental problems such as climate change.³⁸⁶

202. The overall thrust of the campaigns was to shift the perception of fault and responsibility for global warming to consumers and make Chevron's role and that of the broader fossil fuel industry appear small. The misleading solution promoted to consumers was not to switch away from fossil fuels, but instead to implement small changes in consumer behavior with continued reliance on fossil fuel products. By portraying GHG emissions as deriving from numerous sources in addition to fossil fuels, Chevron's ads obfuscated the fact that fossil fuels are the primary cause of increased GHG emissions and the primary driver of climate change.

³⁸⁶ See Mark Robert Wills, *Chevron*, <https://perma.cc/TW6G-W4BV>; see also Jean Halliday, *Chevron: We're Not Big Bad Oil*, AdAge (Sept. 28, 2007), <https://perma.cc/8T8Q-G9QY>.

203. Misleading messages were emblazoned over images of everyday Americans, as in the example highlighted below:

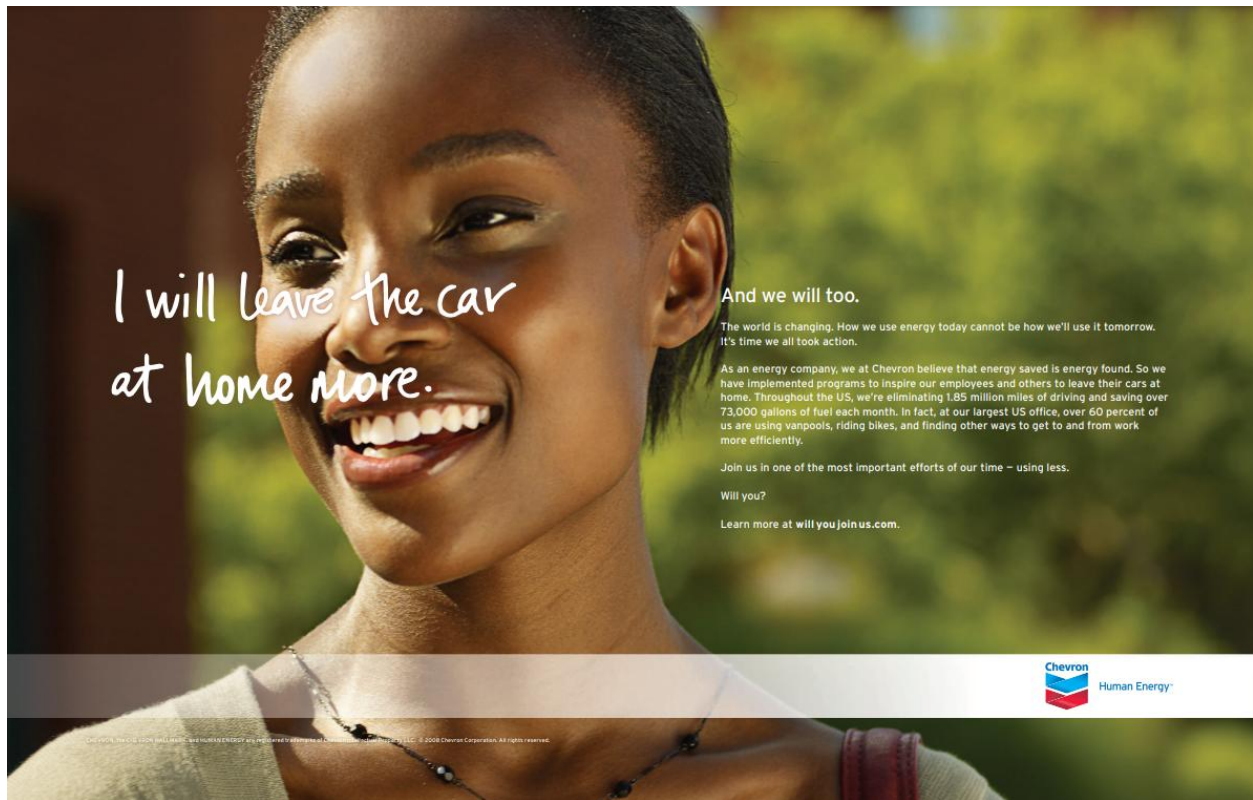


Figure 9: “Will You Join Us?” Chevron advertisement

204. In 2010, Chevron launched an advertising campaign titled “We Agree.” The print, internet, and television ad campaign expanded across the United States and internationally. For example, the advertisement below highlighted Chevron’s supposed commitment to the development of renewable energy, stating in large letters next to a photo of a young girl, “It’s time oil companies get behind the development of renewable energy. We agree.” The advertisement emphasized: “We’re not just behind renewables. We’re tackling the challenge of making them affordable and reliable on a large scale.”



Figure 10: “We Agree” Chevron advertisement

205. By 2013, Chevron’s “We Agree” campaign featured 1,700 print advertisements, 141 online projects, 55 web pages, and a local community advertising kit of more than 100 advertisements.³⁸⁷ The campaign also featured misleading television advertisements. In one focused on renewable energy, a teacher says, “Ok, listen. Somebody has got to get serious. We need renewable energy.” To

³⁸⁷ See Wills, *supra* note 386 (Chevron “We Agree” Case Study, Vimeo, at 03:28).

which a Chevron environmental operations employee responds, “At Chevron we’re investing millions in solar and biofuel technologies to make it work.” This television commercial appeared multiple times on programs that aired in the Delaware market in 2011.³⁸⁸

206. To this day, Chevron has continued to deceptively tout its investments in renewables, low-carbon technologies, and carbon capture to Delaware consumers, including through television commercials, social media, and online advertisements that direct Delaware consumers to Chevron’s “Lower Carbon” website.³⁸⁹

207. In reality, Chevron has continued to overwhelmingly focus on fossil fuel extraction and development, and its investment of “millions” in renewables is miniscule in comparison to its investment of billions in fossil fuels. From 2010 to 2018, only 0.23% of Chevron’s capital spending was in low-carbon energy sources and more than 99% was in continued fossil fuel exploration and development—a stark contrast to the message communicated to consumers through the company’s advertisements.³⁹⁰ An ordinary consumer watching the “We Agree” and “That’s Energy in Progress” advertisements would be misled into believing Chevron has

³⁸⁸ See, e.g., PBS, *PBS News Hour* (Jan. 18, 2011 at 6:01pm EST), https://archive.org/details/WMPPT_20110118_230000_PBS_NewsHour/start/83/end/120; See also The News Journal (Jan. 16, 2011) <https://perma.cc/2CNZ-BHCD> (confirming that *PBS News Hour* aired on PBS from 6:00-7:00pm EST on Jan. 18, 2011).

³⁸⁹ See, e.g., Chevron, *supra* note 27.

³⁹⁰ Fletcher, *supra* note 314.

meaningfully invested in developing and deploying clean technologies, whereas nearly all the company's spending is directed toward oil and gas development. Chevron's failure to inform ordinary consumers that its touted clean energy investments comprise only a miniscule percentage of its expenditures—and that it intends to ramp up fossil fuel production and sales in the future—renders these advertisements materially misleading.

208. While engaging in its deceptive greenwashing campaign to appear to be concerned about climate change, Chevron has aggressively ramped up fossil fuel production. For example, a 2019 investor report touts Chevron's "significant reserve additions in 2018" in the multiple regions in North America and around the world, as well as significant capital projects involving construction of refineries worldwide.³⁹¹ In late 2023, Chevron announced that it would spend between \$18.5 billion and \$19.5 billion on new oil and gas projects in 2024, representing an 11% increase from the year before.³⁹² By contrast, Chevron expected to spend only \$2 billion in 2024 to "lower the carbon intensity of traditional operations and grow new energy business lines."³⁹³ In late 2024, Chevron announced that it would spend only

³⁹¹ Chevron, *Chevron 2019 Investor Presentation* (Feb. 2019), <https://perma.cc/SW4B-EPB8>.

³⁹² Sabrina Valle, *Chevron Increases Project Spending Budget by 11% for 2024*, Reuters (Dec. 6, 2023), <https://perma.cc/JB7J-6UXN>.

³⁹³ Sam Ramon, *Chevron Announces \$16 Billion 2024 Capex Budget*, Chevron (Dec. 6, 2023), <https://perma.cc/H4X5-FH2M>.

\$1.5 billion in 2025 on emissions-reduction efforts and alternative energy initiatives, a 25% drop from 2024.³⁹⁴ In 2023 alone, Chevron spent more than five times as much money acquiring fossil fuel producer Hess as it has stated it will spend on lower-carbon energy projects through 2028.³⁹⁵

209. Chevron has also misleadingly advertised the purported environmental benefits of natural gas, including describing natural gas as the “cleanest burning conventional fuel.”³⁹⁶ A 2019 Chevron advertisement currently available on the *New York Times* website similarly touts the supposed benefits of expanded natural gas production for “unprecedented reductions in U.S. energy-related carbon emissions.”³⁹⁷ But this statement is misleading because the reference to “emissions” relies on studies that measure only CO₂ and ignore other important GHGs, including methane, thereby painting an inaccurate and incomplete picture of natural gas’s climate impacts.

210. Chevron, through its wholly owned subsidiary, Hess Corporation, has also misleadingly promoted Hess’s “goal to reach net zero emissions” and claims that it will “continue reducing [its] carbon footprint consistent with the Paris

³⁹⁴ Kevin Crowley, *Chevron Is Cutting Low-Carbon Spending by 25% Amid Belt Tightening*, Bloomberg (Dec. 6, 2024), <https://perma.cc/N9QX-V6MT>.

³⁹⁵ Baker, *supra* note 316.

³⁹⁶ Chevron, *Natural Gas*, <https://perma.cc/Z5NQ-6A4N> (last visited June 19, 2025).

³⁹⁷ Chevron, *How Abundant Energy Is Fueling U.S. Growth* (Chevron Paid Post), N.Y. Times (2019), <https://perma.cc/35BE-6GJA>.

Agreement’s aim to limit global average temperature rise to well below 2°C.”³⁹⁸

Hess also claims on social media that its GHG targets are consistent with the Paris Agreement. Hess’s net zero target, however, does not consider the end-use of its fossil fuel products, or their scope 3 emissions, which form the vast majority of the emissions associated with Hess’s fossil fuel activities. As previously explained, and similar to other Fossil Fuel Defendants, Hess’s advertisements and representations that tout their “net zero” goals, or suggest they are aligned with the Paris Agreement, are misleading because they fail to account for the emissions released when their fossil fuel products are used and combusted. Meanwhile, in 2024, Hess announced its expansion in Guyana, which adds approximately 250,000 barrels of oil per day to its gross production capacity and places Hess on track to deliver 1.3 million barrels of oil per day from its operations in Guyana by the end of 2027.³⁹⁹

211. Chevron has also advertised misleading claims aimed at promoting its fossil fuel products as “green” or environmentally beneficial. As early as 1955, Chevron was advertising through its predecessors to Delaware consumers that its gasoline was “clean-burning” and “super refined to burn clean.”⁴⁰⁰ More recently,

³⁹⁸ See Hess, *Climate Change and Energy*, <https://perma.cc/89US-EPF2> (last visited June 20, 2025).

³⁹⁹ Hess, *Hess Sanctions Whiptail Development Offshore Guyana* (Apr. 12, 2024), <https://perma.cc/AU4C-Z95V>.

⁴⁰⁰ See, e.g., The News Journal, *supra* note 25.

Chevron’s website has described its EnDura fuel as a “Lower Carbon Solution.”⁴⁰¹ Chevron has advertised its Techron fuel with claims that emphasize its supposed positive environmental qualities, such as: “less is more,” “minimize emissions with Techron,” and “up to 50% cleaner.”⁴⁰² Chevron has made other similar misleading statement through its wholly owned subsidiary, Hess Corporation. For example, Hess’s website in 2004 claimed that its New Jersey facility produced “some of the cleanest burning gasoline available for the environmentally sensitive Northeast markets.”⁴⁰³ As previously explained, these advertisements and misrepresentations are misleading and deceptive because they emphasize the purported environmental benefits of Chevron’s fossil fuel products but omit the key role those products play in causing climate change.

v. Marathon’s Misleading and Deceptive Greenwashing Campaigns.

212. Like other Fossil Fuel Defendants, Marathon has sought to project an environmentally friendly public image in its marketing. For example, in 2023, Marathon stated on its social media accounts that it was “challenging [itself] to lead in sustainable energy” and reflected on Marathon’s commitment of “[r]educing the

⁴⁰¹ Chevron, *EnDura Fuels* (Nov. 15, 2024), <https://perma.cc/2WX9-RAPH>.

⁴⁰² See, e.g., Chevron, *Techron* (Feb. 21, 2022), <https://perma.cc/Ry8S-NWGZ>.

⁴⁰³ Amerada Hess Corporation, *Marketing & Refining* (June 12, 2004), <https://perma.cc/AA6Y-69DF>.

carbon footprint of [its] operations and the products [it] process[es].”⁴⁰⁴ Marathon has repeated the claim that it is challenging itself to “lead in sustainable energy” on numerous occasions,⁴⁰⁵ and in 2018 stated, “[w]e have invested billions of dollars to make our operations more energy efficient, reduce our emissions, diversify our business, and harden our facilities against extreme weather like hurricane-force winds and floods.”⁴⁰⁶ However, only 1% of the company’s capital spend from 2010 to 2018 was on low carbon energy sources, all of which was in carbon capture and storage.⁴⁰⁷

213. Marathon has also advertised its efforts to reduce emissions and its targets for reducing GHG emissions in the future. For example, in 2018, Marathon claimed on Instagram, “[w]e produce fuels more cleanly than ever before,” and that it has “helped to reduce U.S. air pollutants by more than 70 percent from 1970 through 2015.”⁴⁰⁸ In 2020, Marathon promoted on Facebook its goal “to reduce GHG emissions intensity by 30% below 2014 levels by 2030” because they “remain

⁴⁰⁴ See Instagram, *supra* note 58. See also Marathon Petroleum Corporation, Facebook (Apr. 22, 2023), <https://perma.cc/4M74-9RWQ>.

⁴⁰⁵ See, e.g., Instagram, @marathonpetroleum (Aug. 18, 2023), <https://perma.cc/G8W3-UTUT>; Instagram, @marathonpetroleum (Oct. 27, 2022), <https://perma.cc/WG6Q-XRFN>.

⁴⁰⁶ Marathon Petroleum Corp., *Perspectives on Climate-Related Scenarios* (Oct. 2018), <https://perma.cc/4M85-T6ZK>.

⁴⁰⁷ Fletcher, *supra* note 314.

⁴⁰⁸ Instagram, @marathonpetroleum (May 9, 2018), <https://perma.cc/3QD3-ZHMT>.

committed to protecting our people and the world we all share.”⁴⁰⁹ Marathon posits in advertisements that carbon capture technologies are “a strategy to reduce emissions of CO₂ and reduce the carbon intensity of the critical products [they] supply.”⁴¹⁰ These advertisements and representations give consumers, including consumers in Delaware, the misleading impression that Marathon is taking substantial and meaningful steps to tackle climate change and reduce GHG emissions, while omitting critical information on the harmful impacts of Marathon’s core business and fossil fuel products.

214. Marathon also misleadingly advertised the purported environmental benefits of its fossil fuel products while ignoring their harms. For example, Marathon’s website and social media posts misleadingly claim that choosing Marathon gasoline will help “[r]educ[e] emissions.”⁴¹¹ Marathon has also misleadingly claimed that the aviation fuel it produces is “100% renewable” and “100% sustainable aviation fuel.”⁴¹² In 2024, the United Kingdom’s Advertising Standards Authority found an advertisement for “100% sustainable aviation fuel” to

⁴⁰⁹ Marathon Petroleum, *Here at #MPC...* (Mar. 4, 2020), <https://perma.cc/JM5Y-EG43>.

⁴¹⁰ See, e.g., Marathon Petroleum, Facebook Ad Libr., <https://perma.cc/J3S7-GGJT>.

⁴¹¹ See Marathon Petroleum, *Consumer Products*, <https://perma.cc/AE8W-Y9V8> (last visited June 16, 2025). See also Marathon Petroleum, *supra* note 59.

⁴¹² See Instagram, @marathonpetroleum (Dec. 2, 2021), <https://perma.cc/5PWL-UX3F>; Marathon Petroleum, Facebook (Dec. 2, 2021), <https://perma.cc/U5R9-2A3C>.

be misleading because although it reduced emissions when compared with traditional jet fuel, “sustainable aviation fuel still produced significant emissions over its lifecycle.” The Authority reasoned that because the advertisement failed to explain the emissions and other environmental impacts of sustainable aviation fuel, “a significant proportion of listeners were likely to overestimate its environmental benefits.”⁴¹³

vi. ConocoPhillips’s Misleading and Deceptive Greenwashing Campaigns.

215. ConocoPhillips has misleadingly advertised itself to Delaware consumers as supporting the transition to renewable energy, despite the negligible fraction of its business invested in renewable energy compared to fossil fuels. For example, in 2020, ConocoPhillips ran an advertisement on Facebook and Instagram that reached Delaware consumers that highlighted its “plans to support demand for renewable fuels.”⁴¹⁴ From 2010 to 2018, only 0.03% of ConocoPhillips’ capital spending was in low-carbon energy sources—a stark contrast to the message communicated to consumers through the company’s advertisements.⁴¹⁵

⁴¹³ Advert. Standards Authority, *ASA Ruling on Virgin Atlantic Airways Ltd t/a Virgin Atlantic*

(Aug. 7, 2024), <https://perma.cc/2NGR-KABE>.

⁴¹⁴ Phillips 66, *What are renewable fuels?*, Facebook Ad Libr. <https://perma.cc/BJ32-9EGQ>.

⁴¹⁵ Fletcher, *supra* note 314.

216. ConocoPhillips has directed greenwashing campaigns at consumers in Delaware through publications with significant circulation in Delaware. For example, in 2008, ConocoPhillips ran a series of advertisements in publications, such as *The Atlantic*, under the headline “Tomorrow begins today.” The advertisements typically contained a picture of an older person and a child, and the text began with the phrase “[w]e’re defined by what we pass on to the next generation,” followed by statements such as: “That’s why, as one of North America’s leading producers of natural gas, ConocoPhillips is providing clean-burning fuel to homes”; “That’s why ConocoPhillips is working to provide clean, efficient technology to turn coal into clean-burning fuel”; or “That’s why ConocoPhillips is funding college and university programs, like biofuels research at Iowa State University, to develop new energy sources.” The ads continued with statements such as: “And we’re stepping up our own research to create new, cleaner fuels and improve environmental performance.”; or “And, because we believe we’re responsible for finding long-term solutions for future generations, ConocoPhillips is exploring new sources of secure, stable energy.”⁴¹⁶

⁴¹⁶ See, e.g., ConocoPhillips, *Tomorrow begins today* (archived Apr. 20, 2009), <https://perma.cc/4VDM-VHXZ>; ConocoPhillips, *Tomorrow begins today* (archived Apr. 18, 2009), <https://perma.cc/6C4R-GGCB>; ConocoPhillips, *Tomorrow begins today* (archived Nov. 16, 2008), <https://perma.cc/H4YE-H964>.

217. In 2011, ConocoPhillips directed a series of greenwashing television advertisements at consumers in Delaware and elsewhere which promoted natural gas as clean and environmentally friendly. For example, one television advertisement contained the statements: “We need to protect the environment”; “What about our planet?”; and “At ConocoPhillips, we’re helping power America’s economy with cleaner, affordable natural gas. More jobs, less emissions. A good answer for everyone.” This advertisement ran on programs that aired in Delaware.⁴¹⁷ The advertisements directed consumers to a ConocoPhillips website which contained additional misleading statements, including “Natural Gas is best for the environment,” “Natural Gas is Clean,” and “Natural gas for power production avoids some of the challenges facing wind, solar, biofuels and nuclear power generation technologies, such as visual impact, competing land uses, bird strikes and waste disposal.”⁴¹⁸ ConocoPhillips also produced a series of print advertisements around this time with similar misleading statements, with an example reproduced below as Figure 11.

⁴¹⁷ See, e.g., FOX News, *The O’Reilly Factor* (Nov. 18, 2011 at 8:19pm EST), https://archive.org/details/FOXNEWS_20111119_010000_The_OReilly_Factor/start/1169/end/1205; see also The News Journal (Nov. 18, 2011), <https://perma.cc/9PDJ-SRMN> (confirming that *The O’Reilly Factor* was aired on Fox News in Delaware on November 18, 2011 from 8:00-9:00pm EST).

⁴¹⁸ See ConocoPhillips Company, *There’s Power in Cooperation* (archived by web.archive on Oct. 17, 2011), <https://perma.cc/F5F2-V5Q8>; see also ConocoPhillips Company, *Clean* (archived by web.archive on Oct. 8, 2011), <https://perma.cc/24KQ-EJCD>.



Figure 11: ConocoPhillips' Print Advertisement⁴¹⁹

218. Another misleading marketing campaign that ConocoPhillips directed at Delaware consumers was its “Power in Cooperation” campaign. These advertisements included positing that natural gas was “the key reason U.S. CO₂ emissions are the lowest in a decade.”⁴²⁰ However, as previously explained, these advertisements are misleading and deceptive.

⁴¹⁹ ConocoPhillips Company, *There's Power in Cooperation, Class* (archived by web.archive on Mar. 16, 2012), <https://perma.cc/WEM6-YSSC>.

⁴²⁰ See, e.g., *Power in Cooperation*, *supra* note 37.

219. ConocoPhillips' 2012 Sustainable Development report declared developing renewable energy a priority in keeping with their position on sustainable development and climate change.⁴²¹ However, the company's 10-K filing from the same year told a different story: "As an independent E&P company, we are solely focused on our core business of exploring for, developing and producing crude oil and natural gas globally."⁴²²

220. ConocoPhillips has also misleadingly advertised its specific fossil fuel products as having environmental benefits while ignoring their harms. For example, in 2020 ConocoPhillips advertised on television in the Delaware market that its Kendall GT-1 motor oil was "better for carbon emissions."⁴²³

vii. Total's Misleading and Deceptive Greenwashing Campaigns.

221. Total has employed a series of misleading greenwashing advertisements, including advertisements that reached consumers in Delaware.

222. In 2016, Total ran an advertisement that appeared on delawareonline.com, which touted that Total was "committed to solar energy" and described Total as "the world's 2nd largest solar company with Sun Energy."

⁴²¹ ConocoPhillips, *Sustainable Development* (2012), <https://perma.cc/8ETD-PT2J>.

⁴²² ConocoPhillips, *Form 10-K: Annual Report* Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 23 (Dec. 31, 2012), <https://perma.cc/JP5G-MYQN>.

⁴²³ See Phillips 66, *supra* note 38.

223. In 2021, Total began extensively and misleadingly advertising its rebrand to “TotalEnergies,” including via national publications that reach Delaware consumers, including *Time Magazine*, the *Economist*, and the *Wall Street Journal*. According to Total’s CEO, this rebrand reflected that Total was “moving forward, together, towards new energies,” and that Total was “transforming and becoming TotalEnergies” in order to “contribute to the sustainable development of the planet facing the climate challenge.”⁴²⁴ These misleading and deceptive claims appeared on numerous advertisements that reached or likely reached Delaware consumers, including one reproduced below as Figure 12.

⁴²⁴ TotalEnergies, *Total is Transforming and Becoming TotalEnergies* (May 28, 2021), <https://perma.cc/RZ7T-C9G4>.

Energy is life.
We all need it
and it's a source of progress.
So today, to contribute to
the sustainable development of the planet
facing the climate challenge,
we are moving forward, together,
towards new energies.
Energy is reinventing itself,
and this energy journey is ours.
Our ambition is to be a world-class player
in the energy transition.
That is why
**Total is transforming and
becoming TotalEnergies.**



Figure 12: Total Print Advertisement⁴²⁵

224. Alongside its rebrand, Total extensively advertised on television, including on programs that aired in the Delaware market. These included advertisements that promoted Total's net-zero targets and investments in carbon capture. One of Total's television advertisements, which appeared on a program that

⁴²⁵ Barron's (May 31, 2021), at 8.

aired in Delaware, claimed that Total was a “broad energy company investing in lower carbon energies such as solar energy, wind energy, and natural gas.”⁴²⁶ Total also ran a “Road to Carbon Neutral” series of CNBC episodes to “share[] an inspiring and optimistic vision of TotalEnergies’ role in our sustainable future.”⁴²⁷ Total has also advertised its commitment to “contribute to the sustainable development of the planet,” including via advertisements that reached or likely reached consumers in Delaware.⁴²⁸

225. Total’s rebranding, and the extensive advertising that coincided with it, falsely portrayed the company as investing heavily in renewable energy while shifting away from petroleum, engaging in meaningful climate solutions, and advancing sustainable development. In truth, Total’s energy production and investments remained overwhelmingly focused on fossil fuels. In 2023, two years after it began advertising its rebranding, Total’s energy production mix was 94.7% oil and gas extraction and 2.2% gas-based power, while only 2.9% was renewable energy and 0.2% was bioenergy.⁴²⁹ Even if Total meets its 2030 energy production targets, oil and gas extraction will continue to account for 82% of its production mix,

⁴²⁶ See TotalEnergies, *supra* note 81.

⁴²⁷ TotalEnergies, *The Roads to Carbon Neutral*, <https://perma.cc/L8EP-53TB>. See also CNBC, *Roads to Carbon Neutral*, Paid Post by TotalEnergies, <https://perma.cc/X6E8-PM64>.

⁴²⁸ See, e.g., Barron’s, *supra* note 425.

⁴²⁹ Reclaim Finance, *Assessment of TotalEnergies’ Climate Strategy*, at 8 (Apr. 2024), <https://perma.cc/5GNT-E7Z3>.

while renewable energy would account for a maximum of only 10%.⁴³⁰ As of April 2024, Total had more than 10.6 billion barrels of oil equivalent resources under production, more than 6.4 billion barrels under development or evaluation, and owned more than 9.7 billion barrels of oil and gas discoveries.⁴³¹ Although Total's advertisements give the impression that they are currently transitioning away from fossil fuels, they are in fact planning to increase oil and gas production 3% every year until 2030.⁴³² Total's net investment plan also remains focused on fossil fuels. In 2023, Total invested 2.5 times more in its oil and gas business than in its integrated energy business, which includes solar, wind, and gas.⁴³³ Through 2028, Total plans to invest more than two-thirds of its total capital expenditures in oil and gas maintenance and expansion.⁴³⁴

226. In 2024, South Africa's Advertising Regulatory Board determined that Total's use of the term "sustainable development" while promoting a national park was misleading. The Board found that there is "no doubt that the advertiser's core business is directly opposed to the issue of sustainable development," and that "[t]o make a claim out of context would be to claim 'sustainable development' across all

⁴³⁰ *Id.* at 16.

⁴³¹ *Id.* at 13.

⁴³² Nathalie Alonso, *TotalEnergies Plans To Grow Oil And Gas Production Until 2030* (Oct. 2, 2024), <https://perma.cc/R8KG-XQ56>.

⁴³³ Reclaim Finance, *supra* note 429, at 9.

⁴³⁴ *Id.* at 10.

the company’s activities.” The Board stated that “[b]ecause of this, [Total] needs to be very mindful of the context in which it claims ‘sustainable development.’”⁴³⁵

227. Like other Defendants, Total has widely and misleadingly promoted the purported environmental and climate benefits of natural gas. For example, Total ran an advertisement on the local CBS station website that serves the northern Delaware market that misleadingly referred to natural gas as the “cleanest fossil fuel.” As previously explained, these misrepresentations are misleading and deceptive because they omit critical information about the emissions associated with the extraction and transportation of natural gas.

viii. Occidental’s Misleading and Deceptive Greenwashing Campaigns.

228. Occidental has also engaged in greenwashing campaigns designed to deceive consumers, including consumers in Delaware, about Occidental’s products and its commitment to address climate change.

229. Occidental has widely and misleadingly promoted and touted its net-zero targets, support for and alignment with the Paris Agreement, and its plans to provide “net-zero oil and gas.”⁴³⁶ For example, in a 2022 social media post, Occidental claimed that they are “proud to be one of the few oil and gas companies

⁴³⁵ South Africa Advert. Regul. Bd., *Decision No. 3291*, at 12-13 (Aug. 14, 2024), <https://perma.cc/T4S3-SLQ2>.

⁴³⁶ Occidental Petroleum Corporation, *Sustainability*, <https://perma.cc/7UY8-AG6Z> (last visited June 21, 2025).

with #netzero goals recognized as being aligned with the #ParisAgreement 1.5-degree Celsius target.”⁴³⁷ Occidental has also touted via social media, including in posts designed to reach consumers in Delaware and elsewhere, its “innovative plans for a lower-carbon future”⁴³⁸ and the claim they are “the global leader in the safe and permanent storage of CO₂.”⁴³⁹

230. However, these promotions are misleading and deceptive. Occidental has provided an aspirational and vague net-zero goal by 2050—without any interim targets—for its scope 3 emissions, which represent approximately 90% of the GHGs associated with Occidental’s fossil fuel activities.⁴⁴⁰ To reach its purported net-zero goal, Occidental plans to heavily rely on direct air capture (“DAC”) and other carbon capture technologies that extract CO₂ from the atmosphere.⁴⁴¹ Rather than permanently store all of the CO₂ it may capture for actual sequestration of the carbon, Occidental has indicated that it may use the captured CO₂ for the creation and sale

⁴³⁷ Instagram, @weareoxy (Apr. 22, 2022), <https://perma.cc/ZYH5-FJKF>.

⁴³⁸ See, e.g., Occidental Petroleum, Facebook (Nov. 10, 2020), <https://perma.cc/Z7FS-X5Y7>.

⁴³⁹ See, e.g., Occidental Petroleum, Facebook (Mar. 24, 2021), <https://perma.cc/R4QE-J9PD>.

⁴⁴⁰ See Carbon Market Watch, “*Net Zero*” Oil Company: Climate Action or Oxymoron, *Assessing the climate strategy of Occidental Petroleum*, at 9-10 (Apr. 2024), <https://perma.cc/27PG-6LE5>.

⁴⁴¹ Occidental Petroleum Corporation, *Climate Policy Positions*, at 1, <https://perma.cc/WF53-SWYN> (“Our pathway to achieve these [net-zero] milestones focuses on emissions reduction and mitigation efforts, with an emphasis on the rapid deployment of DAC and other CCUS technologies at scale to reduce emissions and remove CO₂ from the atmosphere.”)

of synthetic electrofuels, which will release GHGs when combusted for use, and enhanced oil recovery, which will result in the continued extraction and use of oil and gas.⁴⁴² In fact, Occidental’s CEO stated that storing the captured CO₂ would be a “waste of a valuable product.”⁴⁴³ Moreover, even if Occidental were to use their entire planned capacity for *permanent* carbon storage, and even if it realized the more than 100 DAC plants it envisions before 2035, it would only be able to offset at most 11-22% of its total GHG emissions in 2022, depending on the type of energy used by their DAC facilities.⁴⁴⁴ Occidental’s flagship DAC facility is still under construction and is not yet fully operational.⁴⁴⁵ DAC facilities also require an immense amount of energy to run, and major DAC projects from around the world have drastically underperformed.⁴⁴⁶ On top of this, Occidental has pre-sold or announced its intention to sell up to 90% of the CO₂ it captures to other companies in the form of carbon credits.⁴⁴⁷ Occidental has also entered into offtake agreements

⁴⁴² Carbon Market Watch, *supra* note 440 at 18.

⁴⁴³ Bloomberg, *Construction Begins on the World’s Largest Carbon Removal Plant* (Oct. 27, 2022), <https://perma.cc/9NVZ-JZXJ>.

⁴⁴⁴ Carbon Market Watch, *supra* note 440 at 17.

⁴⁴⁵ 1 Point 5, *Stravos*, <https://perma.cc/CY4C-XE4Q> (last visited June 22, 2025).

⁴⁴⁶ See, e.g., Bjartmar Alexandersson and Valur Grettisson, *Climeworks’ capture fails to cover its own emissions*, Heimildin (May 15, 2025), <https://perma.cc/CFS9-DMW5> (describing that Climeworks, the carbon capture company that owns the largest operating DAC facility in the world, has captured a fraction of the carbon it claimed it would, and has not even captured enough to offset the company’s emissions).

⁴⁴⁷ *Id.* at 18. See also Occidental, *Third Quarter Earnings Conference Call* (Nov. 8, 2023), at 43 <https://perma.cc/4BVQ-XFC4>.

which allow companies the opportunity to purchase Occidental’s “net-zero oil,” which they claim will be made possible by the use of carbon capture technologies like DAC.⁴⁴⁸ This risks Occidental “double-” or even “triple-counting” the same CO₂ it may capture and sequester for its own net-zero targets, for sale to another company in the form of a credit, and for the sale of “net-zero oil,” which will be combusted and release GHGs.

231. Meanwhile, Occidental is heavily investing in the expansion of its oil and gas operations and has not announced plans to phase down its oil and gas production to meet its purported net-zero targets. For example, in 2025 Occidental plans to produce at least 10% more oil and gas than it did in 2022.⁴⁴⁹ In 2024, Occidental planned to spend between \$4.8 billion and \$5 billion on developing its own oil and gas assets (excluding its \$12 billion acquisition of oil and gas producer CrownRock and their fossil fuel assets), vastly outweighing the \$656 million spent in Occidental’s midstream and marketing sector, which includes the development and construction of its carbon capture projects.⁴⁵⁰ In fact, Occidental’s CEO stated

⁴⁴⁸ Occidental Petroleum Corporation, *Climate Report 2022*, at 5 <https://perma.cc/QHX4-YY53>.

⁴⁴⁹ See Occidental Petroleum Corporation, *2023 Form 10-K*, at 48 <https://perma.cc/5NCZ-BMW9>. (reporting actual production for 2023 of 1,223 mboe/d). See also Occidental Petroleum Corporation, *First Quarter Earnings Conference Call* (May 8, 2025), at 12 <https://perma.cc/FXU8-KLVE> (reporting planned production for 2025 of 1,390-1,440 mboe/d).

⁴⁵⁰ See Occidental Petroleum Corporation, *2023 Form 10-K*, at 32, 43 <https://perma.cc/5NCZ-BMW9>.

in 2023 that DAC could be “the technology that helps to preserve our industry over time,” that it gives the oil and gas industry “a license to continue to operate for the 60, 70, 80 years,”⁴⁵¹ and that “there’s no reason not to produce oil and gas forever.”⁴⁵² Occidental’s widely promoted net-zero target, purported support for the Paris Agreement, and plans to sell “net-zero oil,” are misleading and deceptive.

ix. CONSOL’s Misleading and Deceptive Greenwashing Campaigns.

232. CONSOL has also engaged in greenwashing campaigns designed to deceive consumers, including consumers in Delaware, about CONSOL’s commitment to address climate change, the impact of CONSOL’s fossil fuel products, and the purported harms of certain sources of renewable energy.

233. CONSOL has extensively advertised its fossil fuel products and brand, including via advertisements that reached consumers in Delaware, under its “Coal Hard Truth” and “Not So Fast” taglines.⁴⁵³ These advertisements are designed to deceive consumers, including consumers in Delaware, about the purported harmful impacts of renewable energy sources, the claimed beneficial impacts of CONSOL’s fossil fuel products, and ultimately maintain consumer demand for coal and delay

⁴⁵¹ Ben Lefebvre, *Oil industry sees a vibe shift on climate tech*, Politico (Mar. 8, 2023), <https://perma.cc/47J2-V93Y>.

⁴⁵² Camila Domonoske, *This oil company invests in pulling CO₂ out of the sky — so it can keep selling crude*, NPR (Dec. 27, 2023), <https://perma.cc/7CP8-YM4U>.

⁴⁵³ See, e.g., Not So Fast, *It’s time to speak up*, Paid for by Consol Energy Inc., Facebook Ad Libr., <https://perma.cc/ZL8K-UA88>.

the transition to alternative energy sources. CONSOL began advertising under these taglines in 2023, and as of February 2025, had reached more than 500 million people via more than 780 media placements.⁴⁵⁴ CONSOL advertises under these taglines on television, including via misleading and deceptive commercials that attempt to refute that “renewable energy is the only answer,” “only renewables will keep us safe,” and “coal is dead and brings no benefit to our lives.”⁴⁵⁵

234. Similarly, CONSOL’s website, advertised to consumers in Delaware, contains numerous misleading and deceptive statements.⁴⁵⁶ For example, the site stated that “[i]n times of high energy demand such as periods of extreme weather, renewables like wind and solar are intermittent and unreliable forms of power,” and that “[e]xtreme weather in February of 2021 paralyzed much of Texas with freezing cold and clearly demonstrated the vital role coal can play as a dependable and dispatchable form of energy.”⁴⁵⁷ In reality, the 2021 power shortage in Texas occurred because “[e]lectricity generators *of all types* failed to produce enough

⁴⁵⁴ Krakoff Communications, Inc., *Krakoff Communications Honored with Three PRSA Pittsburgh Renaissance Awards* (Feb. 03, 2025), <https://perma.cc/B939-BZFW>.

⁴⁵⁵ Consol Energy, *The Renewable Energy Myth* (Jul. 3, 2024), <https://perma.cc/342B-EYLW>.

⁴⁵⁶ Core Natural Resources, Inc., *Myths About Coal & The Transition to Renewable Energy*, <https://perma.cc/MX9M-M5T6> (last visited June 17, 2025).

⁴⁵⁷ *Id.*

power.”⁴⁵⁸ During the extreme weather, all major fuel sources underperformed except for solar, with natural gas and coal performing 37% and 43% below their expected winter capacity and together making up approximately 85% of the energy deficit.⁴⁵⁹ CONSOL’s website also states, “To build the massive infrastructure needed for renewable power generation, a substantial amount of materials and energy will be required” including “hundreds of tons of coal” to build a wind turbine.⁴⁶⁰ This misleadingly suggests that the carbon emissions from building renewable energy infrastructure are more than miniscule compared to the significant reduced emissions from operation of that infrastructure. Further, According to CONSOL’s site, it is a “myth” that “[r]enewable sources of energy are more economically-friendly than fossil-fuel-based forms of energy, like coal;” the site further states that “rushing too quickly to” renewables “will drive significant energy inflation and, someday soon, could have a devastating impact on the U.S. economy.”⁴⁶¹ Those statements are deceptive; renewables are significantly less

⁴⁵⁸ Mandi Cai et al., *How Texas’ Power Grid Failed in 2021—and Who’s Responsible for Preventing a Repeat*, Tex. Tribune (Feb. 15, 2022), <https://www.texastribune.org/2022/02/15/texas-power-grid-winter-storm-2021/>.

⁴⁵⁹ Joshua W. Busby et al., *Cascading risks: Understanding the 2021 winter blackout in Texas*, Energy Research & Social Science (July 2021), <https://www.sciencedirect.com/science/article/pii/S2214629621001997>.

⁴⁶⁰ Core Natural Resources, Inc., *Myths About Coal*, *supra* note 456.

⁴⁶¹ *Id.*

expensive than coal,⁴⁶² and according to the U.S. Energy Information Administration, “Solar PV [cost] is lower than natural gas combined-cycle [cost] on average and, in most regions, even without the tax credit [for solar].”⁴⁶³ CONSOL’s site also misleadingly claims that “hundreds of thousands of birds are killed every year” by wind turbines,⁴⁶⁴ when in fact the number of birds killed by wind turbines “represent a tiny fraction of the birds killed annually in other ways, like flying into buildings or caught by prowling house cats” and when “two-thirds of bird species in North America are at increased risk of extinction due to rising temperatures and” other climate impacts driven by fossil fuels.⁴⁶⁵

235. CONSOL also extensively promotes its brand and fossil fuel products to consumers on social media platforms such as Instagram, Facebook, TikTok, and YouTube, including via posts that have more than 250,000 views.⁴⁶⁶ In one video,

⁴⁶² Lazard, *2023 Levelized Cost of Energy* (Apr. 12, 2023),

<https://www.lazard.com/research-insights/2023-levelized-cost-of-energyplus/>.

⁴⁶³ U.S. Energy Information Administration, *Levelized Cost of New Generation Resources in the Annual Energy Outlook 2025* at 8 (Apr. 2025),

https://www.eia.gov/outlooks/aeo/electricity_generation/pdf/AEO2025_LCOE_report.pdf.

⁴⁶⁴ Core Natural Resources, Inc., *Myths About Coal*, *supra* note 456.

⁴⁶⁵ MIT Climate Portal, *Do Wind Turbines Kill Birds?* (Dec. 12, 2023), <https://climate.mit.edu/ask-mit/do-wind-turbines-kill-birds>.

⁴⁶⁶ *See, e.g.*, TikTok, *The risks of moving too quickly to renewables far outweigh the benefits* (Sep. 5, 2024), <https://perma.cc/8GQY-HCEZ>. *See also* Instagram, @not_so_fast_official, <https://perma.cc/YW9B-RVZ7>; Facebook, Not So Fast, <https://perma.cc/C4SN-555Z>, TikTok, @not_so_fast_official, <https://perma.cc/8GQY-HCEZ>.

CONSOL’s CEO claims that “wind and solar is not the answer. It’s an intermittent power source. It can’t compete with coal and natural gas.”⁴⁶⁷ As shown above, renewable energy is cost-competitive with fossil fuels, even excluding the latter’s massive climate costs.

236. CONSOL has promoted its “long-term aim to achieve net zero direct operating GHG emissions by 2040 or sooner, if feasible.”⁴⁶⁸ However, this aim does not include CONSOL’s scope 3 emissions, or the emissions released when CONSOL’s fossil fuel products are used, which represent approximately 90% of emissions associated with CONSOL’s fossil fuel activities.⁴⁶⁹ Although CONSOL has promoted its own net-zero target and its emission-reduction efforts, they have simultaneously claimed via social media that society’s net-zero emissions by 2050 goal is “aspirational—if not impossible” and “looking more like a Sisyphean task every day.”⁴⁷⁰ These representations are misleading, deceptive, and designed to maintain and further entrench consumer demand for CONSOL’s coal and other fossil fuel products and delay the transition to alternative energy sources.

⁴⁶⁷ Not So Fast, *Why Coal Matters*, YouTube at 00:11 (June 4, 2025), <https://www.youtube.com/watch?v=7Cmal5Sjhgg>.

⁴⁶⁸ Consol Energy, *2023 Corporate Sustainability Report*, at 13, <https://perma.cc/5U4G-ZKJP>.

⁴⁶⁹ *Id.* at 49.

⁴⁷⁰ Instagram, @not_so_fast_official (Apr. 7, 2025), <https://perma.cc/P8P6-TKG8>.

x. Murphy’s Misleading and Deceptive Greenwashing Campaigns.

237. Murphy has misleadingly advertised itself and its products as beneficial for the climate. For example, in a 2024 LinkedIn post, Murphy misleadingly touted its “commitment to protecting our people and the environment while delivering safe and reliable energy,” while directing consumers to view their sustainability report and learn how it “[r]educ[ed] GHG and methane emissions intensities.”⁴⁷¹ In another post, Murphy claimed that its “commitment to environmental stewardship drives [it] to deliver reliable and responsible solutions,” and that it is monitoring its emissions “to help reduce [its] environmental impact.”⁴⁷² These representations give consumers, including consumers in Delaware, the misleading impression that Murphy is climate-friendly, providing significant benefits to emission-reduction efforts, and committed to protecting the environment, while omitting critical information on the harmful impacts of Murphy’s core business and fossil fuel products.

238. Murphy has also misleadingly represented its specific fossil fuel products as clean or green. For example, Murphy has described the ethanol it uses in its E-10 gasoline as a “clean-burning fuel,” its ultra-low-sulfur diesel as a “cleaner-burning diesel fuel,” and its bio diesel as a “cleaner-burning diesel fuel

⁴⁷¹ Murphy Oil, *We are excited...*, LinkedIn, <https://perma.cc/KX6V-4DJJ>.

⁴⁷² Murphy Oil, *Positively Impacting the Future*, <https://perma.cc/9T2Q-TNA8>.

made from natural, renewable sources.”⁴⁷³ As previously explained, these advertisements and misrepresentations are misleading and deceptive because they emphasize the purported environmental benefits of Murphy’s fossil fuel products but omit the key role they play in causing climate change.

xi. Citgo’s Misleading and Deceptive Greenwashing Campaigns.

239. Citgo has also engaged in greenwashing campaigns designed to deceive consumers, including consumers in Delaware, about Citgo’s products and its commitment to address climate change. Citgo has made statements that misleadingly deflect responsibility to consumers to reduce GHG emissions and that posit that the continued use of Citgo’s fossil fuel products can be environmentally friendly. For example, Citgo has suggested tips for consumers to reduce GHG emissions while continuing to use gasoline, such as accelerating smoothly, carpooling, and inflating tires, while positing that following these tips can “help keep our planet clean” and power “eco-friendly adventure[s].”⁴⁷⁴ Such representations deceptively suggest that consumer actions can meaningfully affect the climate impacts of Citgo’s products and omit that use of Citgo’s gasoline will cause significant climate harms regardless of driving techniques. These representations are

⁴⁷³ Murphy USA, *About us*, <https://perma.cc/DV8H-WN7F> (last visited July 4, 2025).

⁴⁷⁴ See, e.g., Instagram, @citgofuelinggood (Sept. 19, 2023), <https://perma.cc/F4J8-LN5R>.

designed to maintain and further entrench consumer demand for Citgo’s fossil fuel products, and delay the transition to alternative energy sources, by misleadingly claiming that using gasoline in a certain way can “help keep our planet clean” and can be “eco-friendly.”

240. Citgo misleadingly promoted its “TriClean” gasoline as having environmental and emissions-reduction benefits. Citgo has promoted its TriClean gasoline as a “cleaner gas” and one that “improves performance and reduces emissions” by cleaning a car’s engine.⁴⁷⁵ In June of 2025, Citgo touted that “[y]our car deserves high-quality fuel. Keep it clean and running at its best with CITGO TOP TIER TriCLEAN gasoline!”⁴⁷⁶ Citgo’s TriClean promotions have hundreds of thousands of views,⁴⁷⁷ and Citgo has promoted its TriClean gasoline on websites that reach Delaware consumers and at Citgo stations in Delaware. As previously explained, these advertisements and misrepresentations are misleading and deceptive because they emphasize the purported environmental benefits of Citgo’s fossil fuel products but omit the key role they play in causing climate change.

⁴⁷⁵ See, e.g., TikTok, @citgofuelinggood (Apr. 26, 2023), <https://perma.cc/8TX2-BBQC>. See also Facebook, Citgo Fueling Good (Feb. 21, 2017), <https://perma.cc/5L2R-GNLY>.

⁴⁷⁶ Instagram, @citgofuelinggood (June 19, 2025), <https://perma.cc/G3XU-2C83>.

⁴⁷⁷ See, e.g., TikTok, @citgofuelinggood, <https://perma.cc/9P67-T7TB> (with more than 658,000 views as of June 21, 2025).

xii. Devon's Misleading and Deceptive Greenwashing Campaigns.

241. Devon has also misleadingly advertised and promoted itself and its products as helping address climate change and having a positive environmental impact. For example, in 2010 Devon touted in an advertisement that “[w]hile the rest of the world argues about reducing greenhouse gas emissions, we found that adding one little valve as small as a pinky finger to our wells will help us remove the emission-equivalent of 50,000 cars from our highways, and make one big difference to our planet.”⁴⁷⁸ In 2021, Devon announced and began promoting its net-zero ambition for its scope 1 and 2 emissions on social media.⁴⁷⁹ Devon’s advertisements and representations that tout its net-zero goals or suggest that the company is aligned with the Paris Agreement are misleading because they purposefully fails to account for the scope 3 emissions that result from the normal use of their products, which make up more than 90% of the emissions associated with Devon’s fossil fuel activities.⁴⁸⁰

242. Devon’s advertisements give consumers, including consumers in Delaware, the misleading impression of Devon’s environmental impact. For

⁴⁷⁸ Devon Energy Corporation, *supra* note 85.

⁴⁷⁹ See e.g., Instagram, @devonenergy (June 21, 2021), <https://perma.cc/NYK4-9X6J>.

⁴⁸⁰ See Devon Energy Corporation, *Environment, Environmental Performance Metrics*, <https://perma.cc/G8MT-YQLL>.

example, in a 2016 website that appeared on the Philadelphia 76ers website and was available to consumers in Delaware, Devon touted that it saved 10 billion cups of water across their operations. In a 2019 social media post, Devon claimed to go “beyond what is required by law in pursuit of continuous improvement in environmental performance.”⁴⁸¹ Such representations misleadingly and purposefully seek to influence consumers’ perception of Devon while ignoring the environmental harms from its core business of exploring, developing, and producing oil and natural gas.

243. Devon has also made misleading and deceptive statements regarding the environmental benefits of natural gas. For example, in 2016 Devon claimed that natural gas is “the cleanest carbon fuel” and is “positioned to facilitate long-term, environmentally sustainable growth.”⁴⁸² On its social media accounts in 2019, Devon shared a video from API’s “Power Past Impossible” campaign that misleadingly claimed, “natural gas and oil are powering a new age of energy and a cleaner future.”⁴⁸³ In another post, Devon claimed that “America’s air is cleaner today thanks to the increased use of natural gas,” and directed consumers to API’s Power Past Impossible website.⁴⁸⁴ As previously explained, these representations

⁴⁸¹ Instagram, @devonenergy (June 10, 2019), <https://perma.cc/6HR5-8Z6G>.

⁴⁸² Devon Energy Corporation, *supra* note 86.

⁴⁸³ *See, e.g.*, Instagram, @devonenergy (Jan. 11, 2019), <https://perma.cc/E6MR-QR4J>.

⁴⁸⁴ *See* Facebook, Devon Energy (Mar. 28, 2018), <https://perma.cc/875V-XENZ>.

are misleading and deceptive because they omit critical information about the emissions associated with the extraction and transportation of natural gas.

xiii. Apache’s Misleading and Deceptive Greenwashing Campaigns.

244. Apache has also engaged in greenwashing campaigns designed to deceive consumers, including consumers in Delaware, about Apache’s emission-reduction efforts, Apache’s commitment to address climate change, and the impact of Apache’s fossil fuel products. Although Apache has frequently touted its CO₂ emissions-reduction efforts, including through social media posts that may have reached Delaware consumers,⁴⁸⁵ it has increased oil and gas production in recent years, and its CEO stated in 2025 that the company is prepared to continue to “deliver steady and predictable production,” bolstered by major oil operations planned for 2028.⁴⁸⁶

245. For example, in 2021, Apache touted on social media, “The energy products we deliver power increasingly cleaner electricity across the globe helping to advance human and economic development while reducing greenhouse gas

⁴⁸⁵ See, e.g., Instagram, @apachecorporation (Aug. 19, 2023), <https://perma.cc/J6GL-A3AA>; Instagram, @apachecorporation (Nov. 20, 2023), <https://perma.cc/6JSK-VSZT>.

⁴⁸⁶ APA Corporation, *APA Corporation Announces Fourth-Quarter and Full-Year 2024 Financial and Operational Results* (Feb. 26, 2025), <https://perma.cc/T95A-UB5Q>.

emissions.”⁴⁸⁷ Apache has also widely promoted misleading and deceptive claims regarding natural gas, including through sharing a variety of advertisements from API.⁴⁸⁸ For example, Apache claimed in 2022 that “[t]he use of clean and abundant natural gas has been the primary factor in reducing U.S. CO₂ emissions from electricity production to the lowest levels in a generation.”⁴⁸⁹ And in 2023, it misleadingly touted that natural gas producers “account[ed] for 58% of total CO₂ emissions reductions from 2005-2021,” and posited the oil and gas industry as an environmental solution by claiming that “[w]ith further investment in the oil and gas industry and increased development of advanced technologies, we can achieve a lower-emission future.”⁴⁹⁰ As previously explained, such representations are misleading because they purposefully give the impression that Apache and its fossil fuel products are climate-friendly, providing significant benefits to emission-reduction efforts, and a key environmental solution, while omitting critical information on the harmful impacts of Apache’s core business and fossil fuel products.

⁴⁸⁷ Instagram, @apachecorporation (Apr. 22, 2021), <https://perma.cc/9RXN-XTV3>.

⁴⁸⁸ *See, e.g.*, Instagram, @apachecorporation (Jan. 10, 2024), <https://perma.cc/7D6S-Z876> (sharing an image from API that claims the United States is “#1 in the world in producing energy and reducing emissions.”)

⁴⁸⁹ Instagram, @apachecorporation (Apr. 25, 2022), <https://perma.cc/XHE6-KJ27>.

⁴⁹⁰ Instagram, @apachecorporation (Apr. 22, 2023), <https://perma.cc/THJ5-ZPYU>.

xiv. Ovintiv's Misleading and Deceptive Greenwashing Campaigns.

246. Ovintiv has also engaged in greenwashing campaigns designed to deceive consumers, including consumers in Delaware, about Ovintiv's commitment to address climate change and the impact of Ovintiv's fossil fuel products.

247. Ovintiv has frequently promoted its efforts in sustainability and GHG reduction efforts in order to deceive consumers about its environmental impact. For example, when promoting their 2024 sustainability report on social media, Ovintiv touted, "[t]his year marks a milestone, as we celebrate a long track record of sustainability," and claimed that "[e]ach day we strive to reduce greenhouse gas emissions."⁴⁹¹ Ovintiv's GHG emission-reduction targets, however, focus on its emissions "intensity" for scope 1 and 2 emissions, or the emissions relative to a specific activity, rather than its "absolute" emissions, or the total emissions released.⁴⁹² Touting GHG emissions gains and targets in emissions "intensity" is misleading because it ignores the scope 3 emissions that account for the vast majority of Ovintiv's emissions, and does not reflect the fact that Ovintiv has actually increased production of oil and gas, which significantly increases the scope 3 emissions that will be released when this oil and gas is used. For example,

⁴⁹¹ Ovintiv, *Now Live...*, LinkedIn (May 2025), <https://perma.cc/VH7M-3BCM>.

⁴⁹² See, e.g., Ovintiv, *2024 Sustainability Report*, at 15, <https://perma.cc/PQ9C-MTCF>.

Ovintiv’s production of oil and natural gas went from approximately 517 million barrels in 2013 to 572 million barrels in 2023.⁴⁹³

248. Ovintiv has also made misleading and deceptive statements regarding the environmental benefits of natural gas. For example, in a 2014 radio advertisement Ovintiv presented a conversation between a mother and daughter, where the daughter tells her mother that natural gas is the “answer” to “cleaning our air by reducing emissions and how to solve North America’s energy supply issues.”⁴⁹⁴ Another Ovintiv advertisement misleadingly touts that natural gas is “the cleanest-burning fossil fuel,”⁴⁹⁵ and Ovintiv’s website claimed that “[n]atural gas is the cleanest fossil fuel, producing about 25 percent less carbon dioxide (CO₂) emissions than oil and up to 65 percent less CO₂ emissions than coal.”⁴⁹⁶ Ovintiv has made similar misleading statements and promotions of natural gas on its social media accounts. For example, in one post Ovintiv claimed that “clean” natural gas powered an executive’s car,⁴⁹⁷ and in another touted America’s CO₂ emissions

⁴⁹³ Rextag, *Ovintiv 2024 Update* (Mar. 5, 2024), <https://perma.cc/LY8F-8GFW>.

⁴⁹⁴ See, e.g., Encana Corporation, *Learn more about natural gas* (Jan. 19, 2012), <https://perma.cc/J3WG-UYQU>.

⁴⁹⁵ Encana Corporation, *Our source of energy* (July 6, 2014), <https://perma.cc/2X8M-A5AN>.

⁴⁹⁶ Encana Corporation, *Air* (Feb. 14, 2012), <https://perma.cc/TD6V-UB92>.

⁴⁹⁷ Encana Corporation, *Eric Marsh, Executive...* (Feb. 22, 2011), <https://perma.cc/KA37-J297>.

reductions because of the increasing use of natural gas.⁴⁹⁸ As previously explained, these representations are misleading and deceptive because they omit critical information about the emissions associated with the extraction and transportation of natural gas.

xv. API's Misleading and Deceptive Greenwashing Campaigns.

249. The Fossil Fuel Defendants also collectively promote their fossil fuel products through Defendant API, which makes public statements and claims about oil and natural gas. These public statements include advertisements and promotional campaign websites that have been directed at and reached Delaware, and which reasonable consumers would understand to mean that the Fossil Fuel Defendants' fossil fuel products are beneficial or at the very least not harmful to the environment.

250. In particular, API's marketing material falsely promotes the narrative that natural gas is an environmentally friendly fuel. For example, in social media advertisements that reached consumers in Delaware, API misleadingly claimed that "Natural gas is already clean"; "Natural gas has helped reduce CO₂ emissions to the

⁴⁹⁸ Encana Corporation, *Increasing use of...* (May 29, 2013), <https://perma.cc/EKX8-GE84>.

lowest levels in a generation”; and “Cleaner burning natural gas reduces CO₂ emissions at home and bolsters energy security abroad.”⁴⁹⁹

251. API issued several advertisements in *The Washington Post* with titles such as “Why natural gas will thrive in the age of renewables,” “Real climate solutions won’t happen without natural gas and oil,” and “Low- and no-carbon future starts with natural gas,” through which API has misleadingly touted natural gas as “part of the solution” to climate change. API falsely claims natural gas is “clean.”⁵⁰⁰ API also promotes natural gas’s purported benefits through a campaign titled “Energy for a Cleaner Environment.” API claims, falsely, that, “[n]atural gas is an economical, environmentally friendly complement to renewable energy. The sooner green activists realize that, the more effective they’ll be at continuing to slash emissions.”⁵⁰¹

⁴⁹⁹ See Am. Petroleum Inst., *Natural gas is already...*, Facebook Ad Libr., <https://perma.cc/K6XR-5KJ5>; Am. Petroleum Inst., *Natural gas has helped...*, Facebook Ad Libr., <https://perma.cc/V32Y-TLL6>; Am. Petroleum Inst., *LNG is Pro-Environment and Pro-Energy Security*, Facebook Ad Libr., <https://perma.cc/WT8T-JHVW>.

⁵⁰⁰ Am. Petroleum Inst., *Why Natural Gas will Thrive in the Age of Renewables*, Wash. Post Creative Grp., <https://perma.cc/U48M-VA8R>; Mike Sommers, *Real Climate Solutions Won’t Happen Without Natural Gas and Oil*, Wash. Post (Dec. 14, 2020), <https://perma.cc/6RPX-R2SX>.

⁵⁰¹ WP BrandStudio, *Low- And No-Carbon Future Starts with Natural Gas*, Wash. Post Creative Grp. (Content from API) (Feb. 15, 2019), <https://perma.cc/ZRA7-7FDY>.

252. In 2017, API launched an advertising campaign called “Power Past Impossible,” which portrayed the oil and gas industry as a sustainable, healthy, and essential part of societal progress.⁵⁰² When the campaign launched, API President and CEO Jack Gerrard misleadingly stated that “greenhouse gas emissions . . . are near 25 year lows,” when GHG emissions globally were in fact increasing, and total GHG emissions in the U.S. (including methane, not just carbon dioxide) had not been shown to decline as claimed.⁵⁰³ The campaign’s opening advertisement, which aired nationally during the Superbowl, stated: “Oil pumps life. Oil runs cleaner.” The advertisement ignored the climate and public health harms caused by oil.⁵⁰⁴ In 2018, API ran another advertisement under the same campaign, which claimed, “thanks to natural gas the air up here is cleaner than it’s been in 25 years.” This advertisement ran more than a dozen times on television programs broadcast in Delaware.⁵⁰⁵ And as of July 21, 2020, the Power Past Impossible website described oil as “Energy for a Cleaner Environment.” In touting the environmental benefits of

⁵⁰² See Am. Petroleum Inst., *API Launches Power Past Impossible Campaign During Super Bowl Showing Natural Gas and Oil Benefit to Consumers in Everyday Life*, PR Newswire (Feb. 5, 2017, 18:32 ET), <https://perma.cc/UE5Y-QFAQ>.

⁵⁰³ *Id.*

⁵⁰⁴ Am. Petroleum Inst. (@powerpastimpossible), *Oil: Power Past Impossible*, YouTube (Feb. 4, 2017), <https://perma.cc/67CK-3AE9>.

⁵⁰⁵ See Am. Petroleum Inst., *The Air Up Here*, aired on WBOC (Mar. 15, 2018). See also Am. Petroleum Inst., *The Air Up Here* (Mar. 14, 2018), <https://www.ispot.tv/ad/w3tw/american-petroleum-institute-the-air-up-here>.

oil, the website also made the following false or misleading assertions: “This is Energy for a Cleaner Environment,” “99% Fewer Vehicle Emissions,” and “Cleanest Air in More Than a Decade.”⁵⁰⁶ API extensively advertised its Power Past Impossible campaign, with more than 800 social media advertisements reaching Delaware consumers. These advertisements included misleading claims such as, “[t]oday’s cars produce 99% fewer emissions than those in 1970 thanks to cleaner fuels and advanced vehicle technologies,”⁵⁰⁷ and that “[t]he natural gas and oil industry has committed to reducing its environmental footprint.”⁵⁰⁸ These statements are misleading, inter alia, because today’s cars emit significant GHGs and those emissions have not reduced by anything near 99% since the 1970s. Specific Fossil Fuel Defendants have reposted and shared API’s Power Past Impossible advertisements.⁵⁰⁹

253. In 2020, API launched a nationwide advertising campaign called “Energy for Progress,” which portrays the oil and gas industry as a leader in reducing

⁵⁰⁶ See Am. Petroleum Inst., *Energy for a Cleaner Environment*, Power Past Impossible, <https://perma.cc/FAS7-NNXB>.

⁵⁰⁷ Power Past Impossible, *Natural gas and oil...*, Facebook Ad Libr., <https://perma.cc/VQJ9-V7UZ>.

⁵⁰⁸ Power Past Impossible, *The natural gas...*, Facebook Ad Libr., <https://perma.cc/XEV3-PM6M>.

⁵⁰⁹ See, e.g., Devon Energy, *supra* notes 483–484; Apache, *supra* note 88.

GHG emissions.⁵¹⁰ The opening advertisement for the campaign states that “natural gas and oil companies have . . . reduced carbon emission levels to the lowest in a generation.”⁵¹¹ Similarly, in a September 2023 Twitter post, API stated “American natural gas & oil is committed to creating climate solutions.”⁵¹² The Energy for Progress website also contains advertisements such as “Five Ways We’re Helping to Cut Greenhouse Gas Emissions,” which misleadingly portrays the oil and gas industry as an environmental leader by focusing on marginal improvements in operational emissions while ignoring the much greater emissions from the industry’s products.⁵¹³

⁵¹⁰ See API Launches New National Campaign ‘Energy for Progress’, Highlights U.S. Energy Leadership in Annual State of American Energy Event, Am. Petroleum Inst. (Jan. 7, 2010), <https://perma.cc/53NP-SCJZ>.

⁵¹¹ See Am. Petroleum Inst., *Solving Big Challenges Requires Energy*, YouTube (Jan. 7, 2020), <https://perma.cc/32NW-ESFE>.

⁵¹² Am. Petroleum Inst. (@APIenergy), X (Sept. 5, 2023, 12:25 PM), <https://perma.cc/4QJG-WTZB>.

⁵¹³ See Am. Petroleum Inst., *Five Ways We’re Helping to Cut Greenhouse Gas Emissions*, Am. Natural Gas & Oil Energy for Progress (Apr. 17, 2020), <https://perma.cc/Q3KN-RHUC>.



Figure 13: API advertisement from its Energy for Progress campaign, used as the campaign’s Facebook banner.⁵¹⁴

254. API has also promoted and marketed itself, specific Fossil Fuel Defendants, and the oil and gas industry as a whole as advancing meaningful climate solutions, achieving and supporting significant emissions reduction goals, and being environmentally friendly. For example, in 2019 API ran an advertisement on Facebook that reached Delaware consumers that touted that “natural gas and oil companies have reduced emissions by 60%, making the U.S. a world leader in emissions reductions.”⁵¹⁵ This advertisement misleadingly ignores that the touted emissions reduction gains flow from the U.S. being one of the world’s largest emitters of GHGs, and deceptively positions oil and gas companies as the key solution to emission reduction efforts. Furthermore, API has misleadingly touted

⁵¹⁴ Am. Natural Gas & Oil Energy for Progress, *Let’s Create Climate Solutions Together* (photograph), Facebook, <https://perma.cc/GK7X-W9KT>.

⁵¹⁵ Am. Petroleum Inst., *Did you know...*, Facebook Ad Libr., <https://perma.cc/6NPZ-HZ5B>.

specific Fossil Fuel Defendants’ carbon reduction efforts or research into “clean” fuels, including via advertisements that reached Delaware consumers.⁵¹⁶ API’s 2021 Climate Action Framework portrays the organization as a partner in moving towards a climate solution, stating: “Our industry is essential to supplying energy that makes life modern, healthier and better while doing so in ways that tackle the climate challenge: lowering emissions, increasing efficiency, advancing technological innovation, building modern infrastructure and more.”⁵¹⁷ As part of this campaign, API has offered on its website, in social media posts, and in other advertisements that have reached residents of Delaware, the image below, of lush greenery and a message that “88% of Americans favor energy companies helping meet environmental challenges.” API elaborates within the advertisement that “natural gas and oil [] powers and supports modern living . . . with lower emissions.”

⁵¹⁶ See, e.g., Am. Petroleum Inst., *supra* note 99.

⁵¹⁷ Am. Petroleum Inst., *Climate Action Framework*, at 5 (2021), <https://perma.cc/2DQN-2P52>.

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Figure 14: API, We Are America's Generation Energy⁵¹⁸

255. API's strategy, rather than contemplating a reduction in fossil fuel production, focuses on potential technological advances and shifting to heavier reliance on natural gas as a "clean fuel." And an internal API email shows that its Climate Action Framework was in fact organized around the purpose of "the

⁵¹⁸ Am. Petroleum Inst., *We Are America's Generation Energy*, (2019), <https://perma.cc/G9H3-62RP>.

continued promotion of natural gas in a carbon constrained economy.”⁵¹⁹ As discussed above, natural gas is far from a “clean” fuel, as API misleadingly claims, because natural gas production and transmission contribute substantially to climate change by the release of methane, an extremely potent GHG, and combustion, which releases CO₂.

256. API’s misinformation campaign has and continues to reach Delaware consumers. API has and continues to finance advertisements targeting Delaware consumers, including a recent advertisement stating “I am Pro-Natural Gas. It’s Who I Am.”⁵²⁰

F. Defendants’ Deceptive and Tortious Conduct Exacerbated Climate Change.

257. As GHG pollution accumulates in the atmosphere, some of which does not dissipate for potentially thousands of years (namely CO₂), climate changes and consequent adverse environmental changes compound, and their frequencies and magnitudes increase. As those adverse environmental changes compound and their frequencies and magnitudes increase, so too do the physical, environmental, economic, and social injuries resulting therefrom.

⁵¹⁹ See Memorandum from Chairwoman Carolyn B. Maloney & Chairman Ro Khanna to Members of the U.S., House of Rep., Comm. on Oversight & Reform, *Investigation of Fossil Fuel Industry Disinformation* (Dec. 9, 2022), <https://perma.cc/JSX6-JNLK>.

⁵²⁰ Energy Citizens, *I AM PRO-NATURAL GAS. ITS WHO I AM*, Facebook Ad Lib., <https://perma.cc/YU98-3HFM>.

258. Defendants’ decades-long failure to warn and deception campaign in Delaware and elsewhere have successfully inflated and maintained demand for fossil fuels in Delaware and elsewhere; delayed the transition to clean energy sources in Delaware and elsewhere; and thereby increased GHG emissions in Delaware and elsewhere, contributed to climate change, and exacerbated local climate change harms in the State.

259. Defendants’ tortious and deceptive conduct has significantly increased GHG emissions in Delaware specifically by inflating demand for fossil fuels in Delaware and by delaying the transition to clean energy sources in Delaware. As a result, a significant amount of the State’s climate change harms is attributable to an increase in in-state emissions caused by Defendants’ decades-long campaign to conceal and misrepresent the climate impacts of their fossil fuels. Indeed, every additional ton of GHG emissions increases climate change impacts and harms by a measurable amount, including those suffered by the State, its residents, and its natural resources.⁵²¹

⁵²¹ R. Daniel Bressler, *The mortality cost of carbon*, 12 Nature Communications 4467 (2021), <https://perma.cc/F7XJ-FH96>; Christoph Semken, *The marginal impact of emission reductions: Estimates, beliefs and behavior* (May 6, 2025), <https://perma.cc/9DXJ-QDQZ>; Dirk Notz & Julienne Stroeve, *Observed Arctic sea-ice loss directly follows anthropogenic CO₂ emissions*, 354 Science 6313 (2016), <https://perma.cc/9JDC-LN2E>.

260. Defendants' tortious and deceptive conduct has increased demand for fossil fuel products and delayed the clean energy transition by influencing consumers' purchasing decisions and businesses' investment decisions. Knowledge of the harms associated with the routine use of fossil fuel products is material to consumers' decisions to purchase and use such products. As with cigarettes, history demonstrates that when consumers are made aware of the extent of the harmful effects or qualities of the products they purchase, they often choose to stop purchasing them, to reduce their purchases, or to make different purchasing decisions. This phenomenon holds especially true when products have been shown to harm public health or the environment. For example, increased consumer awareness of the role of pesticides in harming human health, worker health, and the environment has spurred a growing market for food grown organically and without the use of harmful pesticides. With access to information about how their food is grown, consumers have demanded healthier choices, and the market has responded.

261. A consumer who received accurate information about how fossil fuel use is a primary driver of climate change, and about the true extent of the resultant dangers and impacts to the environment and to public health, likely would have decreased their use of fossil fuel products and/or demanded lower-carbon transportation options. Indeed, recent studies and surveys have found that consumers with substantial awareness of climate change are largely willing "to

change their consumption habits . . . to help reduce the impacts of climate change.”⁵²²

In addition, informed consumers often attempt to contribute toward solving environmental problems by supporting companies that they perceive to be developing “green” or more environmentally friendly products.⁵²³ If consumers had been aware of what Defendants knew about climate change when Defendants knew it, many consumers likely would have opted to use less carbon-intense travel; avoid or combine car travel trips; carpool; switch to more fuel-efficient vehicles, hybrid vehicles, or electric vehicles; demand more charging infrastructure for electric vehicles; use a car-sharing service; seek transportation alternatives all or some of the time, if and when available (e.g., public transportation, biking, or walking); electrify houses and office buildings; or adopt any combination of these choices. In response to those and other changes in consumer demand, companies would have invested more in the research, development, and deployment of clean energy technologies, thereby accelerating the transition to a clean energy economy in Delaware and

⁵²² *Changes in Consumers’ Habits Related to Climate Change May Require New Marketing and Business Models*, The Conf. Bd. (Oct. 26, 2022), <https://perma.cc/2FFC-WYAY>.

⁵²³ See, e.g., Anthony Leiserwitz et al., *Consumer Activism on Global Warming*, Yale Program on Climate Change Commc’n & George Mason Univ. Ctr. for Climate Change Commc’n, George Mason University, eds (Sept.2021), <https://perma.cc/5VXC-BN2H>.

elsewhere.⁵²⁴ But consumers, including in Delaware, were deprived of the knowledge to make these choices, resulting in more fossil-fuel use and a slower clean energy transition. Defendants' campaign of deception allowed them to exploit public uncertainty to reap substantial profits.

262. Defendants have been aware for decades that clean energy presents a feasible alternative to fossil fuels. In 1980, Exxon forecasted that non-fossil fuel energy sources, if pursued, could penetrate half of a competitive energy market in approximately 50 years.⁵²⁵ This internal estimate was based on extensive modeling within the academic community, including research conducted by the Massachusetts Institute of Technology's David Rose, which concluded that a transition to non-fossil energy could be achieved in around 50 years. Exxon circulated an internal memo approving of Rose's conclusions, stating they were "based on reasonable assumptions."⁵²⁶ But instead of warning consumers about the dangers of burning fossil fuels, Defendants chose to deceive consumers and restrict the availability of truthful information in the market to preserve Fossil Fuel Defendants' profits and

⁵²⁴ Michael Grubb et al., *Induced Innovation in Energy Technologies and Systems: A Review of Evidence and Potential Implications for CO₂ Mitigation*, Environmental Research Letters 16 (2021), <https://perma.cc/7PPL-TJM5>; Jing Cao et al., *Consumers' Risk Perception, Market Demand, and Firm Innovation: Evidence from China*, Plos One 19(5) (2024), <https://perma.cc/9ZP9-7AJG>.

⁵²⁵ Shaw, *supra* note 160, at 5.

⁵²⁶ Exxon Research and Engineering Company, Coordination and Planning Division, *CO₂ Greenhouse Effect: A Technical Review*, at 17–18 (Apr. 1, 1982), <https://perma.cc/83JJ-27CW>.

assets. As a result, much time has been lost during which consumers and market forces would have spurred a societal transition away from fossil fuels, which would have reduced or eliminated entirely the harmful effects of climate change in Delaware.

263. The costs of inaction on anthropogenic climate change and its adverse environmental effects were understood by Defendants. For example, in a 1997 speech by John Browne, Group Executive for BP America, at Stanford University Browne described Defendants' and the entire fossil fuel industry's responsibility and opportunities to reduce use of fossil fuel products, reduce global CO₂ emissions, and mitigate the harms associated with the use and consumption of such products:

A new age demands a fresh perspective of the nature of society and responsibility.

We need to go beyond analysis and to take action. It is a moment for change and for a rethinking of corporate responsibility. . . .

[T]here is now an effective consensus among the world's leading scientists and serious and well informed people outside the scientific community that there is a discernible human influence on the climate, and a link between the concentration of carbon dioxide and the increase in temperature.

The prediction of the IPCC is that over the next century temperatures might rise by a further 1 to 3.5 degrees centigrade [1.8°—6.3° F], and that sea levels might rise by between 15 and 95 centimetres [5.9 and 37.4 inches]. Some of that impact is probably unavoidable, because it results from current emissions. . . .

[I]t would be unwise and potentially dangerous to ignore the mounting concern.

The time to consider the policy dimensions of climate change is not when the link between greenhouse gases and climate change is conclusively proven ... but when the possibility cannot be discounted and is taken seriously by the society of which we are part. . . .

We [the fossil fuel industry] have a responsibility to act, and I hope that through our actions we can contribute to the much wider process which is desirable and necessary.

BP accepts that responsibility and we're therefore taking some specific steps.

To control our own emissions.

To fund continuing scientific research.

To take initiatives for joint implementation.

To develop alternative fuels for the long term.

And to contribute to the public policy debate in search of the wider global answers to the problem.⁵²⁷

264. Despite Defendants' knowledge of the foreseeable climate change harms and their acknowledged responsibility to act to abate climate change, Defendants chose to cast doubt upon the scientific consensus on climate change, to deceive consumers about the relationship between consumption of fossil fuels and climate change, and to promote heavy fossil fuel use. This campaign was intended to and did reach and influence Delaware consumers, along with consumers elsewhere.

265. At all relevant times, Fossil Fuel Defendants were deeply familiar with opportunities to reduce the use of their fossil fuel products and associated GHG

⁵²⁷ John Browne, *BP Climate Change Speech to Stanford*, ClimateFiles (May 19, 1997), <https://perma.cc/6D53-KQT2>.

emissions, mitigate the harms associated with the use and consumption of their products, and promote the development of alternative, clean energy sources. Examples of that recognition include, but are not limited to, the following:

- i. In 1961, Phillips Petroleum Company (ConocoPhillips) filed a patent application for a method to purify gas, among other things, as “natural gas containing gasoline hydrocarbons can contain undesirable amounts of sulfur and other compounds such as carbon dioxide which are undesirable in the finished gasoline product.”⁵²⁸
- ii. Phillips Petroleum Company (ConocoPhillips) obtained a patent in 1966 for a “Method for recovering a purified component from a gas” outlining a process to remove carbon from natural gas and gasoline streams.⁵²⁹
- iii. In 1963, Esso (Exxon) obtained multiple patents on technologies for fuel cells, including on the design of a fuel cell and necessary electrodes,⁵³⁰ and on a process for increasing the oxidation of a fuel, specifically methanol, to produce electricity in a fuel cell.⁵³¹

⁵²⁸ Phillips Petroleum Co., *Patent US3228874A: Method for recovering a purified component from a gas* (filed Aug. 22, 1961), <https://perma.cc/7VZ6-56X8>.

⁵²⁹ Phillips Petroleum Co., *Patent US3228874A: Method for recovering a purified component from a gas* (granted Jan. 11, 1966), <https://perma.cc/7VZ6-56X8>.

⁵³⁰ ExxonMobil Research Engineering Co., *Patent US3116169A: Fuel cell and fuel cell electrodes* (granted Dec. 31, 1963), <https://perma.cc/8NKJ-DEUL>.

⁵³¹ ExxonMobil Research Engineering Co., *Patent US3113049A: Direct production of electrical energy from liquid fuels* (granted Dec. 3, 1963), <https://perma.cc/CWW4-W4MF>.

iv. In 1970, Esso (Exxon) obtained a patent for a “low-polluting engine and drive system” that used an interburner and air compressor to reduce pollutant emissions, including CO₂ emissions, from gasoline combustion engines (the system also increased the efficiency of the fossil fuel products used in such engines, thereby lowering the amount of fossil fuel product necessary to operate engines equipped with this technology).⁵³²

v. In approximately 1972, Exxon invented the rechargeable lithium battery, which is used in most electric vehicles today.⁵³³ Around a similar time, Exxon began developing and promoting its work on hybrid gas-electric cars, and claimed in a 1978 brochure that its technology to power these vehicles’ motors, which was “not in developmental stages” and was “ready now,” made “the theoretical advantages of a hybrid car a full-sized reality.”⁵³⁴ In 1979, Exxon began developing a hybrid gas-electric vehicle with Toyota. Although Exxon delivered a fully functioning hybrid vehicle by 1981, they scaled back investments and dismantled the lithium battery and hybrid vehicle work by the mid-1980s.⁵³⁵

⁵³² ExxonMobil Research Engineering Co., *Patent US3513929A: Low-polluting engine and drive system* (granted May 26, 1970), <https://perma.cc/N4AF-2M67>.

⁵³³ M. Stanley Whittingham and Jie Xiao, *Fifty years of lithium-ion batteries and what is next?* Materials Research Society, Vol. 48 (Nov., 2023), <https://www.osti.gov/servlets/purl/2372719>.

⁵³⁴ Exxon Enterprises Inc., *The Electrocharger from EEI* (Nov. 1978), <https://perma.cc/D38T-MTUT>.

⁵³⁵ Neela Banerjee, *For Exxon, Hybrid Car Technology Was Another Road Not Taken* (Oct. 5, 2016), <https://perma.cc/H3YM-P4S5>.

vi. In 1973, Shell was granted a patent for a process to remove acidic gases, including CO₂, from gaseous mixtures.⁵³⁶

vii. In 1980, Imperial Oil wrote in its “Review of Environmental Protection Activities for 1978–79: “There is no doubt that increases in fossil fuel usage and decreases in forest cover are aggravating the potential problem of increased CO₂ in the atmosphere. Technology exists to remove CO₂ from stack gases but removal of only 50% of the CO₂ would double the cost of power generation.”⁵³⁷

viii. A 1987 company briefing produced by Shell on “Synthetic Fuels and Renewable Energy” noted that while “immediate prospects” were “limited,” “nevertheless it is by pursuing commercial opportunities now and in the near future that the valuable experience needed for further development will be gained.” The brief also noted that “the task of replacing oil resources is likely to become increasingly difficult and expensive and there will be a growing need to develop lean, convenient alternatives. Initially these will supplement and eventually replace valuable oil products. Many potential energy options are as yet unknown or at very early stages of research and development. New energy sources take decades to make

⁵³⁶ Shell Oil Co., *Patent US3760564A: Process for the removal of acidic gases from a gas mixture*, (granted Sept. 25, 1973), <https://perma.cc/WCR3-FUNN>.

⁵³⁷ Imperial Oil Ltd., *Review of Environmental Protection Activities for 1978–1979* at 2 (Aug. 6, 1980), <https://perma.cc/T68E-Q3JB>.

a major global contribution. Sustained commitment is therefore needed during the remainder of this century to ensure that new technologies and those currently at a relatively early stage of development are available to meet energy needs in the next century.”⁵³⁸

ix. A 1989 article in a publication from Exxon Corporate Research for company use only stated: “CO₂ emissions contribute about half the forcing [sic] leading to a potential enhancement of the Greenhouse Effect. Since energy generation from fossil fuels dominates modern CO₂ emissions, strategies to limit CO₂ growth focus near term on energy efficiency and long term on developing alternative energy sources. Practiced at a level to significantly reduce the growth of greenhouse gases, these actions would have substantial impact on society and our industry—near-term from reduced demand for current products, long term from transition to entirely new energy systems.”⁵³⁹

266. Fossil Fuel Defendants could have taken other practical, cost-effective steps to mitigate the risks posed by their fossil fuel products, but chose not to. Those alternatives could have included, among other measures:

⁵³⁸ *Synthetic Fuels and Renewable Energy*, Shell Service Briefing, no. 2, 1987, <https://perma.cc/CK92-YZC4>.

⁵³⁹ Brian Flannery, *Greenhouse Science*, Connections: Corporate Research, Exxon Research and Engineering Company, Fall 1989, <https://perma.cc/A4MC-67LC>.

a. Acknowledging and sharing the validity of scientific evidence on anthropogenic climate change and the injuries it will cause people, communities (including the State), and the environment. Acceptance of that evidence along with associated warnings and actions would have altered the debate from *whether* to combat climate change and sea level rise to *how* to combat it; avoided much of the public confusion that has ensued over more than 30 years (since at least 1988); and contributed to an earlier and quicker transition to energy sources compatible with minimizing catastrophic climatic consequences.

b. Disclosing their internal scientific research, including on the risks of their fossil fuel products, to consumers and the public, so as to increase public understanding of the scientific underpinnings of climate change and its relation to Fossil Fuel Defendants' fossil fuel products.

c. Forthrightly communicating with Fossil Fuel Defendants' stockholders, banks, insurers, consumers, the public, regulators, and the State and warning them about the hazards of Defendants' fossil fuel products that were known to Defendants, which would have enabled those groups to make material, informed decisions about whether and how to address climate change and sea level rise vis-à-vis Fossil Fuel Defendants' products;

d. Refraining from affirmative efforts, whether directly, through coalitions, or through front groups, to distort consumer awareness of the climatic

dangers of fossil fuels, and to cause many consumers and business leaders to think the relevant science was far less certain than it actually was.

G. Defendants’ Deceit Only Recently Became Discoverable, and Their Misconduct Is Ongoing and Yet to be Fully Uncovered.

267. Defendants’ long campaign of deception has just started to be uncovered, with confidential documents beginning to enter certain public spheres. One of the early sources of this information was a niche non-profit news organization focused on covering environmental topics. Journalists at the organization uncovered archives and conducted interviews of former employees of one Defendant—Exxon—demonstrating that Exxon had sophisticated knowledge of the causes and consequences of climate change and the role its products played in causing climate change as far back as the 1970s.⁵⁴⁰

268. Additional journalists then began to expose some information pertaining to Exxon’s knowledge, and other select members of the fossil fuel industry related to the consequences of climate change and the role their products played in causing climate change going back to the 1970s.⁵⁴¹

⁵⁴⁰ Neela Banerjee et al., *Exxon: The Road Not Taken*, Inside Climate News (Sept. 16, 2015), <https://perma.cc/U9L4-U99E>.

⁵⁴¹ See Katie Jennings et al., *How Exxon Went from Leader to Skeptic on Climate Change Research*, L.A. Times (Oct. 23, 2015), <https://perma.cc/5CEU-SUNP>; Jerving et al., *supra* note 200; Lieberman & Rust, *supra* note 279.

269. As information about Defendants’ tortious and deceptive conduct and knowledge of their fossil fuel products slowly trickled to light, the Center for International Environmental Law—another environmental non-profit organization—issued a report summarizing the evidence that had been uncovered up to that point.⁵⁴²

270. Since then, public reporting on Defendants’ deceptive conduct has become more widespread. In 2023, for example, the Wall Street Journal reported that Exxon worked “behind closed doors” to sow public doubt about climate change. The article was based on “documents reviewed by the Journal, which haven’t been previously reported.”⁵⁴³ The fact that new, non-public and potentially confidential documents are still being discovered demonstrates not just Defendants’ efforts to conceal their knowledge of the role their products play in climate change, but also highlights the lengths Defendants went—and continue to go—to conceal their role in obfuscating that science, their knowledge, and their role in bringing about catastrophic climate harms to consumers in Delaware. These recent investigations and reports are but a fraction of Defendants’ knowledge and misconduct. The full

⁵⁴² Caroll Muffett & Steven Feit, *Smoke and Fumes: The Legal and Evidentiary Basis for Holding Big Oil Accountable for the Climate Crisis*, Ctr. for Int’l Env’tl. Law 10 (Nov. 2017), <https://perma.cc/TE6L-DSUL>.

⁵⁴³ Matthews & Eaton, *supra* note 211.

extent of Defendants' deception and concealed knowledge remain unknown to Delaware.

271. The fact that Defendants and their proxies knowingly provided incomplete and misleading information to the public, including Delaware consumers, only recently became discoverable due to, among other things:

- i. Defendants' above-described campaign of deception, which continues to this day;
- ii. Defendants' efforts to discredit climate change science and create the appearance such science is uncertain;
- iii. Defendants' concealment and misrepresentations regarding the fact that their products cause catastrophic harms; and
- iv. the fact that Defendants used front groups such as API, GCC, ICE, IPIECA, and the NMA to obscure their involvement in these actions, which put the State and the public off the trail of inquiry.

272. Moreover, Defendants' tortious misconduct—in the form of misrepresentations, omissions, and deceit—began decades ago and continues to this day. As described above, Defendants continue to mislead the public about the impact of fossil fuel products on climate change through “greenwashing.” And although Defendants' deceptive greenwashing campaigns are presently Defendants' preferred method for spreading disinformation and deceiving the public about their

products’ climate change harms, Defendants still will misrepresent the science behind climate change.

273. For instance, in June 2018, a post on the official Shell blog stated: “the potential extent of change in the climate itself could now be limited. In other words, the prospect of runaway climate change might have passed.”⁵⁴⁴ However, this statement is not supported by valid scientific research, and was and is contradicted by various studies.⁵⁴⁵

274. In March 2018, Chevron issued a report entitled “Climate Change Resilience: A Framework for Decision Making,” which misleadingly stated that “[t]he IPCC Fifth Assessment Report concludes that there is warming of the climate system and that warming is due in part to human activity.”⁵⁴⁶ In reality, the Fifth Assessment report concluded that “[i]t is *extremely likely* [defined as 95–100%

⁵⁴⁴ David Hone, *Has climate change run its course??*, Shell Climate Change Blog (June 14, 2018), <https://perma.cc/C939-ZAEJ>.

⁵⁴⁵ See, e.g., Fiona Harvey, *Carbon emissions from warming soils could trigger disastrous feedback loop*, The Guardian (Oct. 5, 2017), <https://perma.cc/6LWD-KRX2>; Jonathan Watts, *Domino-effect of climate events could move Earth into a ‘hothouse’ state*, The Guardian (Aug. 7, 2018), <https://perma.cc/73FU-6RKE>; Fiona Harvey, *‘Tipping points’ could exacerbate climate crisis, scientists fear*, The Guardian (Oct. 9, 2018), <https://perma.cc/2FBD-Q594>.

⁵⁴⁶ Chevron, *Climate Change Resilience: A Framework for Decision Making* at 20 (Mar. 2018), <https://perma.cc/P6EQ-P47Q>.

probability] that human influence has been the *dominant cause* of the observed warming since the mid-20th century.”⁵⁴⁷

275. Despite this fact, in April 2017, Chevron CEO and Chairman of the Board John Watson said on a podcast, “There’s no question there’s been some warming; you can look at the temperatures data and see that. The question and debate is around how much, and how much is caused by humans.”⁵⁴⁸

276. Similarly, in 2020, ConocoPhillips’s “Climate Change Position” on its website stated that human activity is “contributing to” climate change but emphasized “uncertainties,” even though the science is clear: “ConocoPhillips recognizes that human activity, including the burning of fossil fuels, is contributing to increased concentrations of greenhouse gases (GHG) in the atmosphere that can lead to adverse changes in global climate. While uncertainties remain, we continue to manage greenhouse gas emissions in our operations and to integrate climate change related activities and goals into our business planning.”⁵⁴⁹

277. In 2015, then-Exxon Mobil CEO Rex Tillerson argued that climate models were not strong enough to justify a shift away from fossil fuels, saying:

⁵⁴⁷ IPCC, *Summary for Policymakers: Working Group I Contribution to the Fifth Assessment Report* at 17 (2013),

https://www.ipcc.ch/site/assets/uploads/2018/02/WG1AR5_SPM_FINAL.pdf.

⁵⁴⁸ Columbia Energy Exchange Podcast, *John Watson, CEO, Chevron* (Apr. 10, 2017), <https://perma.cc/HVD6-3FD6>.

⁵⁴⁹ ConocoPhillips, *Climate Change Position* (Oct. 14, 2020), <https://perma.cc/GW35-XE24>.

“What if everything we do, it turns out our models are lousy, and we don’t get the effects we predict? Mankind has this enormous capacity to deal with adversity, and those solutions will present themselves as those challenges become clear.”⁵⁵⁰ But as noted above, in 1982, Exxon’s scientific staff stated, based upon the climate models, that there was a “clear scientific consensus” with respect to the level of projected future global warming and starting shortly thereafter Exxon relied upon the projections of climate models, including its own climate models, in order to protect its own business assets. Tillerson’s statement was made to the public and reasonably relied on by consumers.

278. Until approximately early 2017, Exxon’s website continued to emphasize the “uncertainty” of global warming science and impacts: “current scientific understanding provides limited guidance on the likelihood, magnitude, or time frame” of events like temperature extremes and sea level rise.⁵⁵¹ Exxon’s insistence on crystal-ball certainty was clear misdirection, since Exxon knew that

⁵⁵⁰ Dallas Morning News, *Exxon CEO: Let’s wait for science to improve before solving problem of climate change* (May 27, 2015), <https://www.dallasnews.com/business/energy/2015/05/28/exxon-ceo-let-s-wait-for-science-to-improve-before-solving-problem-of-climate-change>.

⁵⁵¹ ExxonMobil, *Meeting Global Needs – Managing Climate Change Business Risks*, <https://perma.cc/9UW5-8PY5>.

the fundamentals of climate science were well-settled and showed global warming to be an unambiguous danger.⁵⁵²

279. Until approximately 2015, API's website referred to global warming as "possible man-made warming" and claimed that the human contribution is "uncertain."⁵⁵³ API removed this statement from its website in 2016 when journalistic investigations called attention to API's misleading statements on global warming and its participation in the CO₂ and Climate Task Force during the late 1970s and early 1980s.

H. The State Has Suffered, Is Suffering, and Will Suffer Injuries from Defendants' Wrongful Conduct.

280. Defendants' individual and collective misconduct brought about or helped bring about climate change and consequent harms to Delaware. That wrongful conduct includes, but is not limited to, Fossil Fuel Defendants' failures to warn of the known threats their fossil fuel products pose to the world's climate; Defendants' wrongful promotion of fossil fuel products and concealment of known hazards associated with use of those products; and Defendants' public deception campaigns designed to obscure the connection between fossil fuel products and the environmental, physical, social, and economic consequences of global warming.

⁵⁵² See IPCC, *Climate Change 2014, Impacts, Adaptation, and Vulnerability, Summary for Policymakers* (2014), <https://perma.cc/K2WB-XMMX>.

⁵⁵³ Am. Petroleum Inst., *An Overview of the Climate Change Issue from the U.S. Oil and Natural Gas Industry* (Oct. 14, 2015), <https://perma.cc/X2MV-Z68S>.

281. As actual and proximate results of Defendants’ wrongful conduct, the State has suffered and will continue to suffer severe harms and losses, including, but not limited to: injury, obstruction, invasion, or destruction of State-owned or operated facilities and property, natural resources, and infrastructure; increased planning and implementation costs for community adaptation and resilience efforts to respond to climate change’s effects; increased costs associated with public health impacts; and increased costs for public education and awareness.

282. The cost to the State of responding to the harm caused by Defendants’ tortious conduct is severe: “When summed across the century, and across all impact measures, cumulative potential economic impacts of climate change total over \$69 billion for the [S]tate.”⁵⁵⁴

283. As a result of Defendants’ wrongful conduct described in this Complaint, the State has expended, and will continue to expend, resources to abate the existing and projected adverse harms of climate change on the State, including, but not limited to, the harms described below:

i. Sea Level Rise in Delaware.

284. Delaware lies in a sea level rise “hotspot,” where sea levels are rising faster than elsewhere in the world due to a combination of sinking land and climate

⁵⁵⁴ Industrial Economics, Inc., *An Economic Analysis of the Impacts of Climate Change in the State of Delaware*, Prepared for the Del. Dept. of Nat. Res. and Env’t Control 5 (July 2022), <https://perma.cc/83UE-8HWK>.

change.⁵⁵⁵ The State has already experienced over one foot of sea level rise since 1900, and is expected to experience an additional 9-23 inches by 2050.⁵⁵⁶ The associated impacts of sea level rise have and will continue to cause severe harm to the State.

285. Delaware is the state with the lowest mean elevation in the nation, and over five percent of Delaware's land area lies within the 100-year coastal floodplain.⁵⁵⁷ Indeed, 22,000 Delaware residents are already at risk of coastal flooding, and many thousands more will face flooding risk in the coming decades.⁵⁵⁸ For instance, substantial flooding from climate change is expected in east and south Wilmington, an area whose poverty rates reach up to 32 percent.⁵⁵⁹

286. Saltwater intrusion into groundwater will also contaminate the State's drinking water supply, with thousands of domestic wells and thousands of septic systems potentially inundated by a 1.5 meter sea level rise.⁵⁶⁰

⁵⁵⁵ Del. Dept. of Nat. Res. and Env't Control, *Delaware's Climate Action Plan*, at 5 (Nov. 2021), <https://perma.cc/DCP4-DSS2>.

⁵⁵⁶ *Id.*

⁵⁵⁷ Gerald J. Kauffman & Andrew H. Homsey, *The Delaware Floodplain* at 1 (2011), <https://perma.cc/78G4-CKFZ>.

⁵⁵⁸ *Id.*

⁵⁵⁹ Erika Furlong, *Climate Justice for Wilmington Summary Report* at 9 (2018), <https://perma.cc/SD5E-76ZJ>.

⁵⁶⁰ Del. Dept. of Nat. Res. and Env't Control, *Preparing for Tomorrow's High Tide: Sea Level Rise Vulnerability Assessment for the State of Delaware* at 121, 128 (2012).

287. Large areas of Delaware’s agricultural industry, which contributes more than eight billion dollars in economic impact to the State, could also be impacted by saltwater intrusion from sea level rise, and suffer the resulting loss of productivity of those areas.⁵⁶¹ Together, sea level rise and saltwater intrusion will cost Delaware annually an estimated \$1 million in lost crop sales by mid-century and \$2.5 million by late century.⁵⁶²

288. Sea level rise threatens over \$1.5 billion in property value,⁵⁶³ and the loss of Delaware’s beaches, or need for continual, expensive beach replenishment, combined with the risk to coastal transportation and other infrastructure, will harm the State’s \$4.7 billion tourism industry and the 55,240 people who work in tourism.⁵⁶⁴

289. Projections show that 37-44% of Delaware’s protected lands could be inundated by sea level rise of 1.5-5 feet respectively, which could disrupt natural habitats and the availability of parkland for outdoor recreation.⁵⁶⁵

290. The State-owned Port of Wilmington, an economic driver, faces severe structural damage due to sea level rise.⁵⁶⁶

⁵⁶¹ Del. Dept. of Nat. Res. and Env’t Control, *supra* note 555, at 11.

⁵⁶² Industrial Economics, Inc., *supra* note 554, at 101.

⁵⁶³ Del. Dept. of Nat. Res. and Env’t Control, *supra* note 555, at 11.

⁵⁶⁴ See Delaware Tourism Office, *Value of Tourism in Delaware*, <https://perma.cc/YH3J-J2Q9> (last visited July 19, 2025).

⁵⁶⁵ Del. Dept. of Nat. Res. and Env’t Control, *supra* note 555, at 7.

⁵⁶⁶ Delaware Sea-Level Rise Technical Committee, *supra* note 8, at 30.

291. Sea level rise will likely affect 89 EPA-listed contamination sites, including 10 brownfields, three oil facilities, one sewage plant, four extreme hazmat facilities, and 54 hazardous waste sites.⁵⁶⁷ Associated soil removal costs alone will cost an estimated \$1.2 million annually by mid-century.⁵⁶⁸ Many publicly owned roads and highways in the State are already prone to flooding, including Delaware Route 9, which is designated as a hurricane evacuation route.⁵⁶⁹

292. In the coming decades, sea level rise will threaten over 400 miles of roadway, including 62 miles of state roads, and many miles of evacuation routes.⁵⁷⁰ Higher sea levels are already submerging lowlands, exacerbating coastal flooding, and inundating natural resources and the State's property and infrastructure, causing damage and preventing its normal use. By mid-century, climate change is projected to cause up to \$100 million annually in transportation impacts, from damage to roads, bridges, and railways, culvert damage, dam damage risk, and road closures from flooding.⁵⁷¹

⁵⁶⁷ ClimateCentral Risk Finder, *Delaware: What is at Risk?*, <https://riskfinder.climatecentral.org/state/delaware.us> (Filter: "Contamination Risks" for water level below 5 feet) (last visited July 22, 2025).

⁵⁶⁸ Industrial Economics, Inc., *supra* note 554, at 47.

⁵⁶⁹ Wilmington Area Planning Council, *Sea-Level Rise: A Transportation Vulnerability Assessment of the Wilmington, Delaware Region* at 6 (2011), <https://perma.cc/8GWE-BVJ4>.

⁵⁷⁰ ClimateCentral Risk Finder, *supra* note 567.

⁵⁷¹ Industrial Economics, Inc., *supra* note 554, at 71–72.

293. The destructive force and flooding potential from storm surges during coastal storms and other weather events have increased as the mean sea level of Delaware has increased, and the combined effects of storm surge and sea level rise will continue to exacerbate flooding impacts on the State. By mid-century, severe storm surge events are expected to cost Delaware \$120 million in negative annual economic impacts per event from lost crop sales, road flooding, emergency services, and other consequences.⁵⁷²

294. Even if all carbon emissions were to cease immediately, Delaware would continue to experience sea level rise due to the “locked in” greenhouse gases already emitted and the lag time between emissions and sea level rise.

295. The State has incurred significant costs on projects to address sea level rise, including, but not limited to, conducting comprehensive surveys of sea level rise threats to the State, conducting sea level rise analysis in certain transportation infrastructure projects, raising roads and highways such as Route 1 (a section of which was raised to reduce coastal flooding), reconstructing and reinforcing levees and dikes, and restoring dams.⁵⁷³

⁵⁷² *Id.* at 7.

⁵⁷³ Delaware Sea-Level Rise Technical Committee, *supra* note 8, at 24–28; Del. Dept. of Nat. Res. and Env’t Control, *Delaware Climate Resilience Actions Summary 2013-2020* (2020).

296. Sea level rise and coastal storms have also exacerbated erosion. Delaware frequently spends significant resources on beach nourishment and other projects to combat erosion and protect natural, economic, and cultural resources.

297. For example, beach nourishment along the Atlantic Coast and Delaware Bay beaches was a key part of recovery after Hurricane Sandy, costing about \$38 million to replenish the Sussex County ocean beaches.⁵⁷⁴

298. In 2019, Delaware announced beach nourishment projects for the communities of Pickering Beach, Kitts Hummock, and Bowers Beach, and the City of Rehoboth costing the State millions of dollars.⁵⁷⁵

299. Overall, Delaware spent approximately \$200 million between 2001 and 2016 mitigating beach and dune erosion.⁵⁷⁶ From 1996 to 2015, Delaware spent an estimated \$220 million on beach nourishment.⁵⁷⁷

300. The State of Delaware All-Hazard Mitigation Plan estimated shoreline protection measures, including inlet stabilization, beach nourishment, and dune restoration to address coastal riverine and storm surge flooding to cost \$10 to 20

⁵⁷⁴ *Id.* at 26.

⁵⁷⁵ See, e.g., Press Release, State of Delaware, *DNREC Shoreline & Waterway Management beach replenishment projects set for Pickering, Kitts Hummock and Bowers beaches* (Jan. 4, 2019), <https://perma.cc/387U-5AVK>; Press Release, State of Delaware, *Rehoboth Beach nourishment project to begin under direction of DNREC, US Army Corps of Engineers* (Oct. 21, 2019), <https://perma.cc/8E3C-EWKD>.

⁵⁷⁶ Delaware Sea-Level Rise Technical Committee, *supra* note 8, at 8.

⁵⁷⁷ Industrial Economics, Inc., *supra* note 554, at 42.

million annually.⁵⁷⁸ The State's property and resources,⁵⁷⁹ such as the Port of Wilmington, State Route 9, Red Lion Dike, the St. Jones Reserve, Mispillion Nature Center, Gordon's Pond Trail, Pea Patch Island, various state parks, and the DelDOT Bridgeville Maintenance Yard, have been and will continue be inundated and/or flooded by sea water and extreme precipitation, among other climate-change related intrusions, causing injury and damages thereto and to improvements thereon, and preventing free passage on, use of, and normal enjoyment of that real property, or permanently destroying it.

ii. Extreme Weather Events.

301. Global warming is causing more extreme weather events in Delaware, with attendant physical and environmental consequences, including coastal flooding, coastal erosion, inland flooding, extreme heat events, dam and levee failures, and drought.⁵⁸⁰ Coastal storms have already caused tens of millions of dollars in damages in Delaware, along with floods, power outages, sewage spills, and other disasters. Low-income Delawareans who depend on public transportation to access their employment are particularly vulnerable to flooding that accompanies coastal storms and other extreme weather events, as such flooding often disrupts

⁵⁷⁸ Delaware Emergency Mgmt. Agency, *All-Hazard Mitigation Plan* (Aug. 2018), at § 6.2, p. 20.

<https://perma.cc/X7W6-ERA7>.

⁵⁷⁹ Plaintiff disclaims injuries arising on federal property in Delaware.

⁵⁸⁰ All-Hazard Mitigation Plan, *supra* note 578, at § 4.1, p.1.

delivery of public transportation services. In the coming decades, increased rainfall and windspeeds during already-destructive coastal storms will cause even more severe damage to public and private property and infrastructure in Delaware.

302. The average air temperature has increased and will continue to increase in Delaware due to climate change. By 2050, average temperatures in Delaware are expected to increase 2.5-4.5°F,⁵⁸¹ with some parts of the State expected to endure up to 40 days per year of temperatures with a heat index above 105°F.⁵⁸²

303. Warming air temperatures have led and will lead to poorer air quality, more heat waves, expanded pathogen and pest ranges, impacts on agricultural production, greater need for irrigation of agricultural production, increased costs of cooling and other expenses to poultry industry, thermal stress for native flora and fauna, increased electricity demand, and threats to human health such as from heat stroke and dehydration, due to increased evaporation and water demand, and increased allergen exposure.

304. Higher average and more frequent extreme temperatures are expected to drive up energy use due to increased air-conditioning use. By 2060, Delaware is projected to see up to a 70 percent increase in demand for cooling.⁵⁸³

⁵⁸¹ Del. Dept. of Nat. Res. and Env't Control, *supra* note 555, at 5.

⁵⁸² See States at Risk, *Delaware Extreme Heat*, <https://statesatrisk.org/delaware/extreme-heat>.

⁵⁸³ DCCIA, *supra* note 10, at 4–20.

305. More than 20,000 Delawareans are especially vulnerable to extreme heat due to their age or economic status.⁵⁸⁴ Due to systemic inequities, communities of color and low-income communities are particularly vulnerable to extreme heat events. “Pregnant women exposed to high temperatures or air pollution are more likely to have children who are premature, underweight or stillborn, and African-American mothers and babies are harmed at a much higher rate than the population at large.”⁵⁸⁵

306. The urban heat island effect, which affects cities including Wilmington, exacerbates the health impacts of extreme heat on communities of color and low-income communities in urban areas. Delawareans who face housing insecurity are also more vulnerable to the extreme temperatures and air pollution exacerbated by climate change. The annual economic impact of heat-related mortality from lack of access to cooling centers for vulnerable populations is expected to cost up to \$8 million annually by mid-century.⁵⁸⁶

307. Annual average precipitation is projected to increase by 10% by 2100.⁵⁸⁷ These changes in precipitation patterns could result in more flooding events,

⁵⁸⁴ See States at Risk, *supra* note 582.

⁵⁸⁵ Christopher Flavelle, *Climate Change Tied to Pregnancy Risks, Affecting Black Mothers Most*, N.Y. Times (June 18, 2020), <https://perma.cc/C9C9-ZYFY>.

⁵⁸⁶ Industrial Economics, Inc., *supra* note 554, at 151.

⁵⁸⁷ Del. Dept. of Nat. Res. and Env’t Control, *supra* note 555, at 9.

as well as increased risk of damage to agriculture, infrastructure, and coastal habitats.⁵⁸⁸

iii. Harms to Ecological and Agricultural Resources.

308. Climate change is stressing important natural and cultural resources in Delaware.⁵⁸⁹ Nearly a quarter of Delaware's land consists of wetlands, which will face significant damage due to climate change by the end of the century. Delaware's beaches and marshes provide habitat for fish, reptiles, and birds, such as horseshoe crabs, Atlantic sturgeon, and red knots. Delaware's marshes also provide valuable ecosystem services to the State, including by filtering water contaminants, mitigating storm damage, and supporting the State's fishing and hunting industries. Delaware is a hemispherically important area to migratory birds, with harm to Delaware wetlands and coastal areas impacting the reproductive success of many migratory birds, such as red knots. Delaware is likewise a particular center for horseshoe crab spawning, with harm to their habitat impacting food chains, numerous migratory bird species, and potentially significant impacts on human health given the role of horseshoe crabs in medical and biomedical research. Climate change alone will cost the State up to \$230 million annually in natural resource damages by mid-century

⁵⁸⁸ *Id.* at 9–10.

⁵⁸⁹ Del. Dept. of Nat. Res. and Env't Control, *Sea Level Rise Vulnerability Assessment* at 89–90.

from lost ecosystem services, water quality impacts, spread of invasive species, and other associated consequences.⁵⁹⁰

309. Oceans are acidifying at an alarming rate because of fossil-fuel burning, endangering Delaware’s coastal ecosystems and economy. Acidity levels have already increased by roughly 30 percent since the Industrial Revolution, and they are expected to rise at a faster rate over time.⁵⁹¹ This radical change in ocean chemistry has serious and far-reaching consequences. For example, the accumulation of carbonic acid in coastal waters threatens the survival of organisms that build shells and skeletons from calcium carbonate—such as coral, crabs, oysters, and shrimp.⁵⁹² It also risks destabilizing whole marine ecosystems by altering the behavior, growth, reproduction, and migration patterns of critical aquatic organisms.⁵⁹³ Delaware is particularly vulnerable to the effects of human-caused ocean acidification, as its identity, industries, and economy are closely intertwined with its coastal waters, saltwater wetlands, bays, and estuaries.

310. Agriculture is an essential driving force of Delaware’s economy. Almost 40 percent of Delaware’s land is dedicated to agricultural production, and

⁵⁹⁰ Industrial Economics, Inc., *supra* note 554, at 18–19.

⁵⁹¹ Jean Brodeur, *Delaware and Ocean Acidification: Preparing for a Changing Ocean*, Ocean Conservancy (Dec. 2015), <https://perma.cc/XD2Q-A2YN>.

⁵⁹² *Id.* at 4.

⁵⁹³ *Id.* at 14–15.

sole or family proprietorship account for the vast majority of the State's farms.⁵⁹⁴

By exacerbating extreme weather and rising seas, climate change has already and will continue to have major impacts on agriculture in Delaware.

311. Higher temperatures and changing rainfall patterns are likely to have negative effects on crops and livestock, such as crop losses; reduced yield from heavy precipitation, heat, or drought; heat stress on livestock; increased difficulty of nutrient management; and higher infrastructure, irrigation, and energy costs. For example, hotter summers are expected to reduce corn yields. Warmer winters may also increase competition for crops from weeds and insect pests.⁵⁹⁵

312. Severe rainstorms, expected to increase in frequency, can also have serious consequences for crop production, delaying planting or washing out planted crops and increasing disease.

313. In low-lying areas, soil may become too salty for crops as saltwater intrusion progresses due to sea level rise.⁵⁹⁶

314. In total, climate change is projected to cost the State annually up to \$5.2 million and \$6.3 million in lost crop sales from storm surge events and climate

⁵⁹⁴ Del. Dep't of Agric., *Delaware Agricultural History*, <https://perma.cc/SM5F-5U4U>.

⁵⁹⁵ DCCIA, *supra* note 10, at 7–16.

⁵⁹⁶ U.S. Env't Prot. Agency, *What Climate Change Means for Delaware* (Aug. 2016), <https://perma.cc/7SFZ-6WCT>.

change, respectively, and \$1.1 million in increased energy cost for irrigation by mid-century.⁵⁹⁷

315. In terms of livestock, increased heat stress, extreme weather, and drought are likely to affect animal health and reduce feed and growth efficiency for poultry and dairy cows, costing the State annually up to \$0.58 million in lost revenue from milk production and \$0.55 million in increased energy cost for poultry by mid-century.⁵⁹⁸

iv. Harmful Health Outcomes in Delaware.

316. Climate change has caused and will cause significant public health-related injuries to Delaware and its residents.⁵⁹⁹ Greater numbers of extreme heat events in Delaware will result in increased risk of heat-related illnesses (from mild heat stress to fatal heat stroke) and the exacerbation of pre-existing conditions in the medically fragile, chronically ill, and vulnerable.

317. Changes in air temperature, rain and carbon dioxide concentrations in air can lead to more ozone, pollen, mold spores, fine particles and chemicals that can irritate and damage the lungs and airways, particularly of those with pre-existing respiratory problems and conditions. Increased extreme temperatures and heat

⁵⁹⁷ Industrial Economics, Inc., *supra* note 554, at 102, 106, 108.

⁵⁹⁸ *Id.* at 114–116, 121.

⁵⁹⁹ *See, e.g.*, Div. of Energy and Climate, Delaware Dept. of Natural Resources and Environmental Control, *Delaware Climate Health Conference Summary Report* (2017), <https://perma.cc/356Q-QTG7>.

waves have and will contribute to and exacerbate, allergies, respiratory disease, and other health issues in children and adults.

318. In total, climate change is expected to cause Delaware up to \$100 million annually in health impacts by mid-century from associated impacts on heat-related mortality and morbidity, lung and respiratory disease, allergens and mold, and vector-borne diseases.⁶⁰⁰

319. As pest seasons and ranges expand, vector-borne illnesses will increase in Delaware's population. The State has borne and will continue to bear costs associated with mitigating and responding to these public health threats.

320. Compounding these physical and environmental impacts are cascading social and economic impacts that cause injuries to the State and that have and will continue to arise out of localized climate change-related conditions.

321. Delaware's vulnerable populations such as the disabled, the elderly, those with prior health issues, children, people who live alone, people of color, and less-resourced communities are more likely to suffer health effects from higher air temperatures, flooding, air pollution, and other climate change impacts. Climate change is exacerbating, and will continue to exacerbate, underlying inequities faced by populations who are disproportionately exposed to environmental hazards and at risk for many health conditions. The racial and ethnic disparities in Delaware's

⁶⁰⁰ Industrial Economics, Inc., *supra* note 554, at 52.

poverty rate⁶⁰¹ further compound the increased risk that Black and brown Delawareans face from climate change, because low-income communities and communities of color are often unable to prepare in advance for events caused or exacerbated by climate change, and are forced to use a bigger proportion of their resources to rebuild in the aftermath—or are unable to rebuild at all.

322. Climate change will also likely increase food insecurity in Delaware, which more than 12 percent of Delawareans already experience.⁶⁰²

v. Economic Harms of Climate Change to Delaware.

323. Tourism and coastal recreation are important components of Delaware's economy and quality of life and also may be significantly impacted by sea level rise. Tourism contributes \$4.7 billion annually to Delaware's economy and generates over \$724 million in annual tax revenue.⁶⁰³ Based on 2023 data, tourism is Delaware's fourth largest private employment sector, accounting for 14 percent of all new jobs created and 5 percent of the state GDP, with the vast majority of workers along Sussex County beach communities.⁶⁰⁴ The effects of sea level rise

⁶⁰¹ Black Delawareans are more than twice as likely to experience poverty than white Delawareans, and Hispanics are approximately three times as likely to live in poverty than non-Hispanic whites. Ctr. for Cmty. Research & Serv., *An Overview of Poverty in Delaware 2* (2018), <https://perma.cc/96ZS-KHHC>.

⁶⁰² Alex Fossi, et al., *Food Access in Delaware*, Delaware Journal of Public Health (Feb. 15, 2019), <https://perma.cc/U9CN-CMFQ>.

⁶⁰³ Delaware Tourism Office, *supra* note 564.

⁶⁰⁴ *Id.*

will cause damage to historic sites located along coastal roadways and tributaries; flood state parks and wildlife refuges; interrupt travel to and from Delaware Bayshore and beach communities; damage piers and equipment used for fishing and other marine-based industries; significantly increase the cost and time required for beach maintenance; and deter beach goers and tourists from visiting Delaware, which will be detrimental to the livelihood and employment opportunities of Delaware businesses.⁶⁰⁵

324. The economic value of commercial and recreational fishing in the State is more than \$100 million each year.⁶⁰⁶ Warming oceans will impact fish stocks and habitats, jeopardizing the State's fishing industry.

325. The State has already incurred damages as a direct and proximate result of Defendants' conduct. The State has planned and is planning, at significant expense, adaptation and mitigation strategies to address climate change-related impacts in order to preemptively mitigate and/or prevent injuries to itself and its citizens. These efforts include, but are not limited to, capital projects such as improving its drainage system and raising roadways, reconstructing and reinforcing levees and dikes, and restoring dams; partnership initiatives to prepare cities and towns across Delaware for the effects of climate change; and planning efforts such

⁶⁰⁵ Delaware Sea-Level Rise Technical Committee, *supra* note 8.

⁶⁰⁶ *Id.* at 24–25.

as the development of the DelDOT Strategic Implementation Plan for Climate Change,⁶⁰⁷ the Delaware Climate Action Plan,⁶⁰⁸ and a flood avoidance guide for State agencies⁶⁰⁹ pursuant to Executive Order 41,⁶¹⁰ through which former Governor Markell took steps to prepare Delaware for emerging climate impacts.

326. Additionally, the State has incurred and will incur significant expense in educating and engaging the public on climate change issues, and implementing policies to mitigate and adapt to climate change impacts, including through clean transportation programs, electric vehicle incentive programs, assisting Delaware residents with home weatherization, providing incentives for building energy efficiency, restoring plant life to lessen heat impacts and reduce tidal flooding, mapping vulnerable populations and disease patterns. The State has already allocated funds to climate adaptation through the Strategic Opportunity Fund for Adaptation, among other sources, and future climate adaptation will come at a substantial cost to the State.

⁶⁰⁷ Delaware Dept. of Transportation, *Strategic Implementation Plan for Climate Change, Sustainability & Resilience for Transportation* (2017), https://deldot.gov/Publications/reports/SIP/pdfs/SIP_FINAL_2017-07-28.pdf.

⁶⁰⁸ Del. Dept. of Nat. Res. and Env't Control, *supra* note 555.

⁶⁰⁹ Delaware Flood Avoidance Workgroup, *Avoiding and Minimizing Risk of Flood Damage to State Assets: A Guide for Delaware State Agencies* (2016), <https://documents.dnrec.delaware.gov/energy/Documents/DE%20Flood%20Avoidance%20Guide%20For%20State%20Agencies.pdf>.

⁶¹⁰ Exec. Order No. 41 (2013), https://archivesfiles.delaware.gov/Executive-Orders/Markell/Markell_EO41.pdf.

327. The State has incurred costs in responding to incidents such as impacts to water, wastewater, and stormwater infrastructure; flooding; groundwater inundation of infrastructure; erosion; and storm events that injure persons and property within Delaware and/or that the State owns or bears responsibility. For instance, the Delaware Department of Transportation spent \$1.4 million fortifying areas around the Indian River Inlet Bridge that had been heavily eroded.⁶¹¹

V. CAUSES OF ACTION

FIRST CAUSE OF ACTION (Negligent Failure to Warn) (Against All Fossil Fuel Defendants)

328. The State realleges each and every allegation contained above, as though set forth herein in full.

329. Fossil Fuel Defendants are responsible for causing and accelerating climate change. *See e.g.*, Section IV(A) ¶¶ 50–59, *supra*. Fossil Fuel Defendants’ fossil fuel products release GHGs into the atmosphere, causing the harms in Delaware alleged in Section IV(H) ¶¶ 280–327, *supra*—including but not limited to climate destabilization, global warming, more frequent and extreme precipitation and flooding, more frequent and extreme drought, more frequent and severe heat waves and extreme temperature days, greater fire risk, vector-borne illnesses, worsening air quality, more frequent and extreme weather events and storms, sea

⁶¹¹ Del. Dept. of Nat. Res. and Env’t Control, *supra* note 555, at 11.

level rise, storm surge, and ocean acidification. The consequences and injuries associated with climate change include, without limitation, injuries to natural resources, cultural resources, human health and safety, property, infrastructure, and the economy in the State (“Climate-Related Harms”).

330. Fossil Fuel Defendants knew or should have known, based on information passed to them from their internal research divisions and affiliates, trade associations and industry groups, and/or from the international scientific community, of the Climate-Related Harms inherently caused by the normal and foreseeable use and operation of their fossil fuel products, including the likelihood and likely severity of global warming, global and local sea level rise, more frequent and extreme drought, more frequent and extreme precipitation events, increased frequency and severity of heat waves and extreme temperatures, other adverse environmental changes, and the associated consequences of those physical and environmental changes, including the harms and injuries described herein. *See, e.g.*, Section IV(B) ¶¶ 60–61, *supra*.

331. Fossil Fuel Defendants knew or should have known, based on information passed to them from their internal research divisions and affiliates, trade associations and industry groups, and/or from the international scientific community, that the Climate-Related Harms described herein rendered their fossil

fuel products dangerous, or likely to be dangerous, when used as intended or in a reasonably foreseeable manner.

332. Fossil Fuel Defendants, at all times, had a duty to issue adequate warnings to the State, the public, consumers, and public officials, of the reasonably foreseeable or knowable severe risks posed by their fossil fuel products.

333. Throughout the times at issue, Fossil Fuel Defendants breached their duty of care when they advertised, promoted, and/or sold fossil fuel products while failing to adequately warn any consumers, including, but not limited to, the State, its residents, and any other party, of the risk of the Climate-Related Harms that inevitably flow from the intended or foreseeable use of their fossil fuel products.

334. Throughout the times at issue, the risks posed by the use of Fossil Fuel Defendants' fossil fuel products were not obvious or generally known and recognized, and users of said products did not have actual knowledge of the danger, because, among other reasons, Fossil Fuel Defendants actively sought to conceal these risks by disseminating marketing materials in and outside of Delaware, refuting the scientific knowledge generally accepted at the time, advancing pseudo-scientific theories of their own, and developing misleading public relations materials.

335. Fossil Fuel Defendants knew or should have known that consumers, including but not limited to the State and its residents, were not aware of the risks

posed by the use of Fossil Fuel Defendants' fossil fuel products because, among other reasons, Fossil Fuel Defendants actively sought to conceal these risks by disseminating marketing materials in and outside of Delaware, refuting the scientific knowledge generally accepted at the time, advancing pseudo-scientific theories of their own, and developing misleading public relations materials.

336. Any warnings provided by Fossil Fuel Defendants were rendered ineffective by Fossil Fuel Defendants' decades-long tortious campaign of deception described herein, and by their promulgating pseudoscientific theories and false and misleading statements which cast doubt on the consensus of climate scientists—including Fossil Fuel Defendants' own scientists.

337. Given the grave dangers presented by the Climate-Related Harms that inevitably flow from the normal or foreseeable use of fossil fuel products, a reasonable manufacturer, seller, or other participant responsible for introducing fossil fuel products into the stream of commerce, would have warned of those known, inevitable Climate-Related Harms.

338. Fossil Fuel Defendants' misconduct alleged herein, *see* Sections IV(B)–(F), *supra*, was a direct and proximate cause of the State's injuries, and the harms suffered by the State as alleged herein would not have occurred but for Fossil Fuel Defendants' misconduct. Fossil Fuel Defendants' concealment and misrepresentation of their products' known dangers, Fossil Fuel Defendants' failure

to warn of those dangers, and Fossil Fuel Defendants' simultaneous promotion of the unrestrained use of their products drove consumption, and thus GHG pollution, and thus climate change. Fossil Fuel Defendants' misconduct brought about the State's injuries and was necessary in bringing about the State's injuries.

339. As a direct and proximate result of Fossil Fuel Defendants' failure to warn users and the public of the known dangers of their fossil fuel products, the State has sustained and will sustain substantial expenses and damages as set forth in this Complaint, including damage to publicly owned infrastructure and real property, and injuries to State natural resources and State property that interfere with the rights of the State and its residents.

340. Fossil Fuel Defendants' acts and omissions as alleged herein are indivisible causes of the State's injuries and damage as alleged herein, because, *inter alia*, it is not possible to determine the source of any particular individual molecule of CO₂ in the atmosphere attributable to anthropogenic sources, because such greenhouse gas molecules do not bear markers that permit tracing them to their source, and because greenhouse gasses quickly diffuse and commingle in the atmosphere.

341. Fossil Fuel Defendants' wrongful conduct as set forth herein was, and is, particularly reprehensible and exhibited a wanton or willful disregard for the rights of the State, and was committed with actual malice. Fossil Fuel Defendants

had actual knowledge that their products were and are causing and contributing to the injuries complained of, and acted with conscious indifference to the probable dangerous consequences of their conduct's and products' foreseeable impact upon the rights of others, including the State and its residents, motivated primarily by unreasonable financial gain. Fossil Fuel Defendants engaged in persistent distribution of an inherently dangerous product with knowledge of its injury-causing effect among the consuming public. Fossil Fuel Defendants' outrageous conduct exhibits a wanton or willful disregard for the rights of the State. Therefore, the State requests an award of punitive damages in an amount reasonable, appropriate, and sufficient to punish Fossil Fuel Defendants for the good of society and deter Fossil Fuel Defendants from ever committing the same or similar acts.

SECOND CAUSE OF ACTION
(Trespass)
(Against All Fossil Fuel Defendants)

342. The State realleges each and every allegation contained above, as though set forth herein in full.

343. The State has actual and exclusive possession of real property throughout the State of Delaware.

344. Fossil Fuel Defendants, individually and in concert with each other, through their decades-long campaign of deception, their failure to include warnings of the risk of harm associated with fossil fuel products, and their affirmative

advertisement, marketing, promotion, advertisement, sale, and/or distribution of fossil fuel products, have intentionally, recklessly, or negligently caused flood waters, extreme precipitation, saltwater, and other materials, to enter the State's real property.

345. The State did not give Fossil Fuel Defendants permission to cause floodwaters, extreme precipitation, saltwater encroachment, and other materials to enter its property as a result of the use of Fossil Fuel Defendants' fossil fuel products.

346. As a direct and proximate result of the Fossil Fuel Defendants' tortious acts and omissions, the State will be required to expend significant resources to adapt to the impacts of Climate-Related Harms to its properties throughout the State and to abate those trespasses.

347. The State has been and will continue to be actually injured and continues to suffer damages as a result of Fossil Fuel Defendants having caused flood waters, extreme precipitation, saltwater, and other materials, to enter its real property.

348. The State has and will continue to spend funds to plan for, prevent, and rectify the impacts of Climate-Related Harms as a result of these trespasses on the State's real property.

349. Fossil Fuel Defendants' wrongful conduct as set forth herein was, and is, particularly reprehensible and exhibited a wanton or willful disregard for the

rights of the State, and was committed with actual malice. Fossil Fuel Defendants' decades-long campaign of intentional deception was, and is, wantonly designed by Fossil Fuel Defendants to enrich themselves without regard to or remorse for the known and increasingly catastrophic injuries to the State and its property, infrastructure, and natural resources, or to the health, safety, and wellbeing of the State's residents—all of which Fossil Fuel Defendants' scientists long foresaw. Therefore, the State requests an award of punitive damages in an amount reasonable, appropriate, and sufficient to punish Fossil Fuel Defendants for the good of society and deter Fossil Fuel Defendants from ever committing the same or similar acts.

**THIRD CAUSE OF ACTION
(Nuisance)
(Against All Defendants)**

350. The State realleges each and every allegation contained above, as though set forth herein in full.

351. The Attorney General is authorized to bring suit on behalf of the State and its citizens to address a public nuisance.

352. Defendants, individually and in concert with each other, by their affirmative acts and omissions, have created, contributed to, and/or assisted in creating, conditions that significantly interfere with rights general to the public, including the public health, public safety, the public peace, the public comfort, and the public convenience.

353. The nuisance created and contributed to by Defendants is substantial and unreasonable. It has caused, continues to cause, and will continue to cause far into the future, significant harm to the community as alleged herein, and that harm outweighs any offsetting benefit. The health and safety of Delawareans is a matter of great public interest and of legitimate concern.

354. Defendants individually and collectively created, contributed to, and/or assisted, and/or were a substantial contributing factor in the creation of the public nuisance by, *inter alia*, affirmatively advertising, marketing, and promoting the sale and use of fossil fuel products within and outside the State, which Defendants knew would cause or exacerbate Climate-Related Harms in the State, while simultaneously engaging in the decades-long tortious campaign of deception described herein and failing to include warnings of the risk of harm associated with fossil fuel products.

355. Because of their superior knowledge of fossil fuel products, and their position controlling the extraction, refining, development, marketing, and sale of fossil fuel products, Defendants were in the best position to prevent the nuisance, but failed to do so, including by failing to warn customers, retailers, regulators, public officials, or the State of the risks posed by their fossil fuel products, and failing to take any other precautionary measures to prevent or mitigate those known harms.

356. The public nuisance caused, contributed to, maintained, and/or participated in by Defendants has caused and/or imminently threatens to cause special injury to the State. The State has suffered unique harms of a kind that are different from Delaware citizens at large, namely, that the State has been harmed in its proprietary interests. The public nuisance has caused and/or imminently threatens to cause substantial injury to real and personal property directly owned by the State for the cultural, historic, and economic benefit of the Delaware's residents, and for their health, safety, and general welfare.

357. Defendants' actions were, at the least, a substantial contributing factor in the unreasonable violation of public rights enjoyed by the State and its residents as set forth above, because Defendants knew or should have known that their conduct would create a continuing problem with long-lasting significant negative effects on the rights of the public, and absent Defendants' conduct, the violations of public rights described herein would not have occurred, or would have been less severe.

358. Defendants controlled the instrumentality of the nuisance at the time of the nuisance by flooding the marketplace with disinformation concerning their products, and by controlling every step of the fossil fuel product supply chain from extraction, to marketing, to consumer sales.

359. Each Defendant, individually and collectively, engaged in the tortious conduct alleged herein, conspired to do so, and is thereby vicariously liable for the conduct of the other Defendants, individually and collectively, for the commission of public nuisance and civil conspiracy to commit public nuisance.

360. Defendants' wrongful conduct as set forth herein exhibited a wanton or willful disregard for the rights of the State, and was committed with actual malice. Defendants had actual knowledge that their products were defective and dangerous and were and are causing and contributing to the nuisance complained of, and acted with conscious disregard for the probable dangerous consequences of their conduct's and products' foreseeable impact upon the rights of others, including Delaware and its residents. Therefore, the State requests an award of punitive damages in an amount reasonable, appropriate, and sufficient to punish these Defendants for the good of society and deter Defendants from ever committing the same or similar acts.

361. At a minimum, the State seeks an order that provides for abatement of the public nuisance Defendants have created, enjoins Defendants from creating future common-law nuisances, provides all other injunctive relief as permitted by Delaware law, and awards the State damages in an amount to be determined at trial. The State pursues these remedies in its sovereign capacity for the benefit of the general public.

FOURTH CAUSE OF ACTION
(Civil Conspiracy)
(Against All Defendants)

362. The State realleges each and every allegation contained above, as though set forth herein in full.

363. Defendants have engaged in, and continue to engage in, a massive deceptive marketing campaign to conceal and misstate the risks associated with the normal use of Fossil Fuel Defendants' fossil fuel products. Fossil Fuel Defendants, in coordination with Defendant API and other front groups, including, but not limited to, the Global Climate Coalition, Information Council for the Environment, National Mining Association, International Petroleum Industry Environmental Conservation Association, Partnership for a Better Energy Future, Coalition for American Jobs, Alliance for Energy and Economic Growth, and Alliance for Climate Strategies, collaborated to conceal and misstate the risks associated with the use of fossil fuels from the public, while simultaneously promoting the unrestrained development, production, and use of fossil fuels. *See supra* Sections IV(B)–(F).

364. Defendants' deceptive marketing campaign enabled Fossil Fuel Defendants to cover up the risks of their fossil fuel products and significantly increase the demand for their fossil fuel products in Delaware and elsewhere.

365. Defendants knowingly participated in the conspiracy by coordinating deceptive messaging on fossil fuel products and their climate-related harms, both

amongst the Fossil Fuel Defendants themselves, and as members of trade associations, such as Defendant API, and other front groups, including, but not limited to, the Global Climate Coalition, Information Council for the Environment, National Mining Association, International Petroleum Industry Environmental Conservation Association, Partnership for a Better Energy Future, Coalition for American Jobs, Alliance for Energy and Economic Growth, and Alliance for Climate Strategies.

366. The Fossil Fuel Defendants would not have been as successful in misleading the State and public about the dangers of their fossil fuel products or profited as significantly from the aggressive sales of their fossil fuel products, without the concerted conduct of the Defendants through their deceptive marketing campaigns.

367. Defendants' promotion of the unrestrained use of fossil fuels, in tandem with their coordinated deceptive marketing campaigns, occurred despite Defendants having actual or constructive knowledge that they were habitually creating a public nuisance and violating the DCFA, at a minimum.

368. As a result of the concerted coordinated conduct between Fossil Fuel Defendants, Defendant API, and other front groups, the State and its citizens have suffered damages as set forth in this Complaint, including damage to publicly owned

infrastructure and real property, and injuries to State natural resources and State property that interfere with the rights of the State and its residents.

369. Defendants are jointly and severally liable for the damages caused by their concerted conduct.

370. Defendants' wrongful conduct as set forth herein exhibited a wanton or willful disregard for the rights of the State, and was committed with actual malice. Defendants had actual knowledge that their products were defective and dangerous and were and are causing and contributing to the injuries complained of, and acted with conscious disregard for the probable dangerous consequences of their conduct's and products' foreseeable impact upon the rights of others, including Delaware and its residents. Therefore, the State requests an award of punitive damages in an amount reasonable, appropriate, and sufficient to punish these Defendants for the good of society and deter Defendants from ever committing the same or similar acts.

**FIFTH CAUSE OF ACTION
(Delaware Consumer Fraud Act)⁶¹²
(Against All Fossil Fuel Defendants)**

371. The State realleges each and every allegation contained above, as though set forth herein in full.

⁶¹² The State brings this cause of action based on new allegations of deceptive conduct and marketing, i.e. greenwashing, that have occurred since at least July 2020. The State believes its DCFA claims as pleaded in the Original Complaint are again properly pleaded here but notes that Judge Johnston's January 9, 2024

372. In marketing and selling fossil fuel products, Fossil Fuel Defendants have persistently misrepresented material facts, or suppressed, concealed, or omitted material facts, with the intent that consumers will rely thereon.

373. Fossil Fuel Defendants have marketed fossil fuels through misstatements and omissions of material facts regarding: (i) the purported environmental benefits of their fossil fuel products; (ii) the actions they have taken to reduce their carbon footprint, invest in more renewables, or lower their fossil fuel production; and/or (iii) their purportedly diversified energy portfolio with meaningful renewable and low-carbon fuel components.

374. Fossil Fuel Defendants have misrepresented material facts, or used concealment, suppression, or omission of material facts with the intent that others rely upon such misstatements or omissions, in connection with the advertisement and sale of fossil fuels, whether or not any person has been misled, deceived, or damaged thereby, in violation of Section 2513(a) of the Delaware Consumer Fraud Act, 6 *Del. C.* § 2511, *et seq.*, by misrepresenting, suppressing, concealing, or omitting the material facts set forth in the preceding paragraph.

Order appears to have dismissed the DCFA claim in full based on the Original Complaint's allegations as being barred by the five-year statute of limitations. The State preserves those allegations here and all other rights regarding the DCFA claim for purposes of appeal.

375. Since July 2020, Fossil Fuel Defendants deceitfully represented themselves as leaders in renewable energy and made misleading claims that their businesses were substantially invested in lower carbon technologies and renewable energy sources. These practices had a tendency to deceive consumers and the public, including the State and Delaware residents.

376. In advertising and selling their fossil fuel products, Fossil Fuel Defendants misrepresented material facts to Delaware consumers about the environmental impacts of their products, including through Fossil Fuel Defendants' misleading "greenwashing" advertisements, as outlined in Section IV(E) of this Complaint. Fossil Fuel Defendants' misrepresentations in advertising and selling their fossil fuel products occurred in Delaware and elsewhere.

377. Fossil Fuel Defendants misrepresented, omitted, suppressed, or concealed from Delaware consumers their knowledge of the material fact that the use of their fossil fuel products contributes to climate change. Fossil Fuel Defendants intended for consumers, including those in Delaware, to rely on these misstatements and omissions to continue purchasing and using Fossil Fuel Defendants' fossil fuel products without altering their behavior. Fossil Fuel Defendants' misstatements and omissions occurred in Delaware and elsewhere.

378. As a direct and proximate result of Fossil Fuel Defendants' deceptive greenwashing campaigns—i.e., (i) touting their investments in renewable energy

sources, emission reduction technologies, and carbon capture systems; (ii) making, and then breaking, pledges to reduce GHG emission; (iii) expressing support for international initiatives to lower GHG emissions while simultaneously maintaining or increasing production of their fossil fuel products; (iv) marketing and selling fossil fuels as safe, clean, and/or green; and (v) generally marketing themselves as a part of the solution to reducing GHG emissions and combating climate change when the very products they sold were directly causing and worsening the effects of climate change—the State of Delaware and Delaware consumers have sustained and will sustain substantial expenses and damages set forth in this Complaint and to be proven at trial, including damage to publicly owned infrastructure and real property, and injuries to State natural resources and State property that interfere with the rights of the State and its residents. These injuries have occurred as the direct and natural consequence of Delaware consumers’ and other consumers’ reliance upon Fossil Fuel Defendants’ misleading statements and omissions to continue purchasing and using fossil fuel products.

379. Each instance in which the Fossil Fuel Defendants have advertised or sold fossil fuel products and either misrepresented material facts or suppressed, concealed, or omitted material facts related to the harms caused by the intended use of these products was with the intent that consumers, including those in Delaware,

would rely upon such misstatements, suppressions, concealments, or omissions, and constitutes a violation of Section 2513(a) of the Delaware Consumer Fraud Act.

380. Fossil Fuel Defendants' wrongful conduct as set forth herein was gross, oppressive, aggravated, exhibited a wanton or willful disregard for the rights of the State, and was committed with actual malice and involved the breach of the public's trust and confidence. Fossil Fuel Defendants had actual knowledge that their products were and are causing and contributing to the injuries complained of, and acted with conscious disregard for the probable dangerous consequences of their conduct's and products' foreseeable impact upon the rights of others, including the State and Delaware residents, motivated primarily by unreasonable financial gain. Therefore, the State requests an award of punitive damages in an amount reasonable, appropriate, and sufficient to punish Fossil Fuel Defendants for the good of society and deter Fossil Fuel Defendants from ever committing the same or similar acts.

381. Wherefore, the State prays for relief as set forth below.

VI. PRAYER FOR RELIEF

The **STATE OF DELAWARE** seeks judgment against these Defendants for:

1. Compensatory damages, jointly and severally, in an amount according to proof;
2. Penalties against Fossil Fuel Defendants, jointly and severally, in the amount of \$10,000 for each instance in which Fossil Fuel Defendants willfully violated the Delaware Consumer Fraud Act;
3. Reasonable attorneys' fees as permitted by law;
4. Punitive damages;
5. Costs of suit; and
6. For such and other relief as the Court may deem proper.

VII. REQUEST FOR JURY TRIAL

Delaware respectfully requests that all issues presented by its above Complaint be tried by a jury, with the exception of those issues that, by law, must be tried before the Court.

Dated: July 28, 2025

OF COUNSEL:

Victor M. Sher
Matthew K. Edling
Stephanie D. Biehl
SHER EDLING LLP
100 Montgomery Street, Suite 1410
San Francisco, CA 94104
(628) 231-2500
vic@sheredling.com
matt@sheredling.com
stephanie@sheredling.com

KATHLEEN JENNINGS,
Attorney General of the State of
Delaware

/s/ Ian R. Liston

Owen P. Lefkon (#5672)
Ian R. Liston (#5507)
Ralph K. Durstein III (#0912)
Sawyer M. Traver (#6473)
Deputy Attorneys General
DELAWARE DEPARTMENT OF
JUSTICE
820 N. French Street
Wilmington, DE 19801
(302) 683-8899
owen.lefkon@delaware.gov
ian.liston@delaware.gov
ralph.durstein@delaware.gov
sawyer.traver@delaware.gov

*Attorneys for Plaintiff State of
Delaware, ex rel. Kathleen Jennings,
Attorney General of the State of
Delaware*