

United States Senate

WASHINGTON, DC 20510-4504

July 31, 2023

The Honorable Merrick Garland
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, D.C. 20530-0001

Dear Attorney General Garland,

We write to strongly urge the Department of Justice to bring suits against the fossil fuel industry for its longstanding and carefully coordinated campaign to mislead consumers and discredit climate science in pursuit of massive profits. The actions of ExxonMobil, Shell, and potentially other fossil fuel companies represent a clear violation of federal racketeering laws, truth in advertising laws, consumer protection laws, and potentially other laws, and the Department must act swiftly to hold them accountable for their unlawful actions.

The fossil fuel industry has had scientific evidence about the dangers of climate change and the role that burning fossil fuels play in increasing global temperatures for more than 50 years. As early as 1959, Edward Teller warned the American Petroleum Institute that carbon emissions from the burning of fossil fuels would raise global temperatures. In 1975, Shell-backed research concluded that increasing atmospheric carbon concentrations could cause global temperature increases that would drive “major climatic changes” and compared the dangers of burning fossil fuels to nuclear waste.¹ Beginning in the late 1970s, Exxon—now ExxonMobil—conducted extensive research on climate change that predicted current rising temperatures “correctly and skillfully.”²

Despite these companies’ knowledge about climate change and the role their industry was playing in driving carbon emissions, they chose to participate in a decades-long, carefully coordinated campaign of misinformation to obfuscate climate science and convince the public that fossil fuels are not the primary driver of climate change.³ As stated in a lawsuit filed by the State of Minnesota, the fossil fuel industry “spent millions on advertising and public relations because they understood that an accurate understanding of climate change would affect their ability to continue to earn profits by conducting business as usual.”⁴

¹ <https://www.desmog.com/2023/03/31/lost-decade-how-shell-downplayed-early-warnings-over-climate-change/>

² <https://www.science.org/doi/10.1126/science.abk0063>

³ https://www.climatechangecommunication.org/wp-content/uploads/2019/10/America_Misled.pdf

⁴ https://www.ag.state.mn.us/Office/Communications/2020/docs/ExxonKochAPI_Complaint.pdf

To coordinate their illegal misinformation campaign, the fossil fuel industry funded a multimillion-dollar plan through the American Petroleum Institute that sought to make climate change a “non-issue.”⁵ According to this plan, “victory will be achieved” when “recognition of the uncertainties [in climate science] become part of the ‘conventional wisdom’”. Exxon, whose climate predictions from the 1970s have proved remarkably correct, was a primary contributor to this plan.

This type of misinformation campaign is not completely unprecedented. In 2006, a federal judge found the tobacco industry guilty of a decades-long campaign of lying about the dangers of smoking and pushing cigarettes to young people. The fossil fuel industry’s illegal misinformation campaign bears striking resemblance to that of the tobacco industry for a reason—both industries have used the same public relations firms and researchers since the 1950s.⁶ According to Sharon Eubanks, the United States’ lead prosecutor on that case:

“Big oil was engaged in exactly the same type of behavior that the tobacco companies engaged in and were found liable for fraud on a massive scale...the cover-up, the denial of the problem, the funding of scientists to question the science. The same pattern. And some of the same lawyers represent both tobacco and big oil.”⁷

Like with Big Tobacco, the fossil fuel industry’s illegal, coordinated campaign of misinformation has proven tremendously profitable. From 1990 to 2019, the six largest private fossil fuel companies made \$2.4 trillion in profits.⁸ In 2022, Exxon alone made \$56 billion in profits—a record high for a western oil company.⁹ Shell reported record earnings of \$39.9 billion.¹⁰ Chevron made a record \$36.5 billion.¹¹ BP made a record \$27.7 billion.¹² These profits have been made off the backs of people all around the world, especially frontline communities across the globe who have suffered and are suffering from the worst repercussions of climate change.

Thanks to the illegal lies of the fossil fuel industry, climate change is wreaking catastrophic damage upon the United States. Floods, droughts, extreme weather disturbances, and wildfires are causing unprecedented damage. Deloitte estimates that unchecked climate change, driven by

⁵ <https://www.climatefiles.com/trade-group/american-petroleum-institute/1998-global-climate-science-communications-team-action-plan/>

⁶ <https://www.scientificamerican.com/article/tobacco-and-oil-industries-used-same-researchers-to-sway-public1/#:~:text=%E2%80%9CFrom%20the%201950s%20onward%2C%20the,for%20tobacco%2C%E2%80%9D%20he%20said.>

⁷ <https://www.theguardian.com/environment/2021/jun/30/climate-crimes-oil-and-gas-environment>

⁸ <https://www.taxpayer.net/energy-natural-resources/padding-big-oils-profits/>

⁹ <https://www.cnbc.com/2023/01/31/exxon-smashes-western-oil-majors-earnings-record-with-56-billion-profit-for-2022.html>

¹⁰ <https://www.cnbc.com/2023/02/02/shell-earnings-oil-giant-reports-record-annual-profits.html>

¹¹ <https://www.cnbc.com/2023/01/27/chevron-cvx-2022-profit-doubles-to-record-36point5-billion.html>

¹² <https://www.cnbc.com/2023/02/08/big-oil-rakes-in-record-annual-profit-fueling-calls-for-higher-taxes.html#:~:text=BP%20CEO%20Bernard%20Looney%20on,with%20the%20energy%20it%20needs.>

the fossil fuel industry, could cost the United States \$14.5 trillion over the next 50 years.¹³ These costs, and the costs of repairing our environment and transitioning away from fossil fuels, must not fall on American taxpayers. Instead, they must be borne by the parties responsible for driving climate change and lying about the negative impacts of their products. The polluters must pay.


More than 40 states and municipalities have filed lawsuits that seek to hold the fossil fuel industry accountable for their illegal campaign of misinformation around the global crisis of climate change.¹⁴ The Department of Justice must join the fight and work with partners at the Federal Trade Commission and other law enforcement agencies to file suits against all those who participated in the fossil fuel industry's illegal conspiracy of lies and deception under federal racketeering laws, truth in advertising laws, consumer protection laws, and any other applicable federal law. The future of our planet depends on it.

We look forward to meeting with you to discuss this issue as soon as possible.

Sincerely,



Bernard Sanders
United States Senator



Jeffrey A. Merkley
United States Senator



Elizabeth Warren
United States Senator



Edward J. Markey
United States Senator

¹³ https://www2.deloitte.com/us/en/pages/about-deloitte/articles/economic-cost-climate-change-turning-point.html?icid=learn_more_content_click

¹⁴ <https://climateintegrity.org/cases>