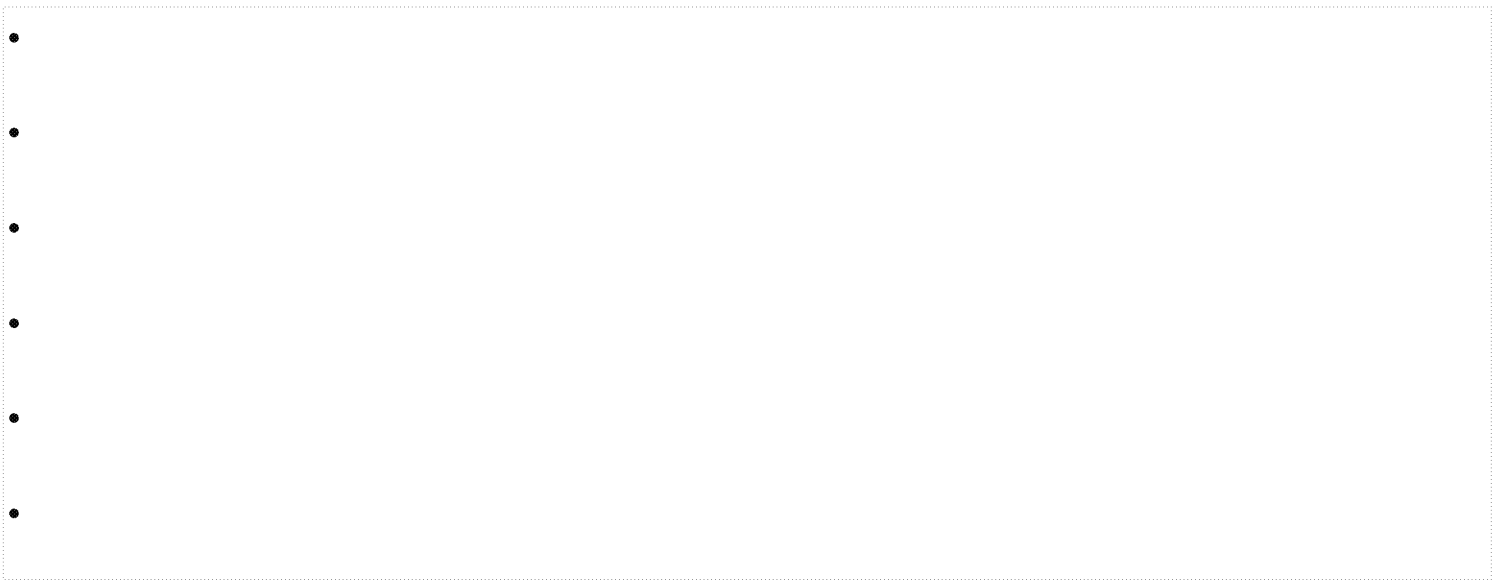


**From:** Tracy Mehan; Ex. 6  
**Sent:** 4/21/2018 12:33:51 PM  
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# Climate change lawsuits: Boulder can do better



By **GALE NORTON** | Special to The Denver Post  
April 20, 2018 at 2:00 pm

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Last week Boulder leaders followed California and New York local governments in suing oil companies about climate change. Their lawsuit is based on a dubious legal premise and is not a productive way to reduce greenhouse gas emissions.

Boulder blames defendants ExxonMobil and Suncor for over \$100 million in climate damages — everything from flood control and wildfires to road maintenance, landscaping and “reduced employee efficiency.”

One of Boulder’s attorneys said the suit is patterned after the 1990’s litigation against tobacco companies. As Colorado’s Attorney General at that time, I joined with other state Attorneys General to hold the major tobacco companies responsible for their aggressive marketing, phony science and outright lies designed to deceive Americans about the dangers of smoking. As one of the negotiators, I helped bring about the \$206 billion national tobacco settlement.

About the only thing that “Big Tobacco” and “Big Oil” have in common, however, are the deep pockets of the defendants. Let me explain some important differences.

First, the connection between cigarette manufacturers and smokers was straightforward. Even at the height of tobacco use, only a few major companies produced tobacco products. Tobacco directly affected smokers.

On the other hand, nearly everyone participates in generating greenhouse gases, even Mother Nature. The relevant impact is not at the point of usage, but distributed worldwide through complex effects on weather. The world reached its current levels of atmospheric greenhouse gases because of countless large and small decisions by governments, companies in different industries, and consumers. Is your neighborhood gas station franchisee responsible for emissions? Are utilities to blame because they moved away from nuclear energy? Car makers for marketing non-electric vehicles? What is our own individual liability, since annual greenhouse gas emissions amount to almost 20 tons per person? Yet Boulder is suing only ExxonMobil and Suncor, and asking them to pay triple the amount of any climate change damage Boulder suffered.

A second difference is that tobacco use is not an integral part of society in the same way as energy, so it is harder to argue energy production is an unreasonable activity or a nuisance. With sufficient motivation, Americans can put out that last cigarette, but no amount of motivation can remove every need to heat our homes, put the kids on a school bus, rush the injured to a hospital, or fly to the next business meeting. In Boulder’s world view, Suncor and ExxonMobil should have stopped producing and marketing their products when climate change concerns surfaced in the 1980’s. But instead, oil and gas companies created jobs, enriched Americans and strengthened our national security.

The “solution” in tobacco litigation was comparatively simple: force the companies to reform their marketing practices. The public policy goal was also clear: get people to stop smoking, or at least to understand the risks.

Climate change litigation has a vastly more ambitious goal: using the courts to shift transportation and power generation toward a low-carbon future. The more complex the issue, the less well suited it is for courtroom resolution. A patchwork of litigation by municipalities should not determine America's path forward on energy and climate.

An example of the complexity of energy policy is the success of hydraulic fracturing, which creates good Colorado jobs while increasing natural gas production. With gas replacing coal in power generation, greenhouse gas emissions in the United States have decreased. Natural gas also facilitates wind and solar power by filling in their down times.

One aspect of the tobacco and climate change litigation is the same: contingent-fee attorneys are seeking huge fees. Some law firms that sued tobacco companies for states came away with *billions* of dollars in fees. One of these firms is now representing San Francisco and Oakland, reportedly with a contract giving them almost 25 percent of any money the cities might win. The firm is clearly seeking another multibillion-dollar windfall. Boulder's attorney fee agreement is for 20 percent of any award.

Energy policy formation should be about scientific understanding, technological advancement, consumer welfare, and economic progress. Boulder's climate change goals are much more likely to be accomplished through its outstanding research laboratories at the University of Colorado and the nearby National Renewable Energy Laboratory than in a courtroom.

*Gale Norton was Colorado Attorney General 1991-1999 and Secretary of the U.S. Department of the Interior 2001-2006.*

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Interesting01

14h

Looks like the cons are running scared. They are apoplectic on Fox News.

Richard Kiefer

5h

No, we, the public did not (as this column asserts) create the demand for fossil fuels. Petroleum pioneers developed the resource and the technology, advertised it and pushed it, and people saw the attraction and use, and found out how well it worked, and how much it added to their lives - and that was good; what was not so good was that once the industry's own handpicked scientists (in the late 70s) found that it would cause or exacerbate climate change, the industry did all it could (very successfully, I might add) for forty years to deceive the public into believing that there was no problem with using fossil fuels. Well, if there's no problem for people doing what they like to do, and what works for them, of course they will demand more, and keep doing it. It's no wonder there's so much denial to the truth of AGW and its causes. This situation is like a doctor blaming a patient who is getting worse for indulging in harmful activities, when it was the doctor himself who repeatedly assured the patient that indulging in those activities could cause no harm. The industry, like one's doctor, was trusted by Americans for giving them such a nice life style, so that the public did not (and does not) want to believe that it could be double-crossed by its benefactors. And that's the way it goes! .

golfnow

12m

This is a tax that taxes the poor, so in reality it would be the most fair of all taxes. Because this tax on carbon is a tax on capitalism. PERIOD. We have been told for more the 40 year if we don't do something NOW regarding global warming/climate change it will be to late. To late for what they never say. So if we pay a carbon tax, what happens with global warming/ climate change. Do they just disappear, to never be heard of again, and where exactly does the money go? Who collects the money, the government, Federal or State. If any of the money goes for something other then global warming/climate change, then we've being taken for a ride.

Seahorse

9h

At least the Nuggets haven't lost any first round playoffs series since we fired the manager and coach of the year.

Evy

13h

Uhhh, Donald, Michael Flynn pleaded guilty to lying to the FBI. And he did that because he would have been charged with much more serious crimes and likely convicted. That's why his life is ruined, Donald, because he's a criminal. Are you a criminal, too, Donald? Is your son Donnie Jr. a criminal? Will your life be ruined because of those pesky law enforcement people? And you thought that law and order stuff you were promising during your campaign only applied to dark people.

Taboot303

16h

Most rural communities don't want to pay taxes and then complain when they don't have services. I'm sure they'll be looking for the state to bail them out again. School districts stand to lose the most, but they've been somewhat insulated because the state is supposed to backfill their losses. If property tax rates keep falling, other local services, ranging from fire protection to elections, could soon require additional state help...

Rex Helmsing

55m

Wow...what is up with Gray??? For the guy who is supposed to be the Ace of this team, he sure is struggling to make the right adjustments in the middle innings...7 runs in one inning...really??? That's not acceptable for your #1 guy...I realize he is not solely responsible for all those runs, but he is the first one to focus on...I thought he learned that lesson of adjusting strategy the 2nd or 3rd time through the opposing lineup, last year, but apparently not...Maybe Black needs to put Gray in the bullpen for awhile to work through this...I know it's still early, but this is a concerning trend, and if Gray doesn't figure it out soon, then sit him for a bit, and get someone else into that starting rotation...

fablevayne

7m

We know what to do with pirates.

FMC

13h

This is a good article. Both parties have been overrun by kooks. People who won't even listen to the other side and are under the stupid belief that compromise is weakness. Legislators run bills that have no chance of passing, not because it's good legislation, but just to pander to fringes in the party. The fringe elements love this, apparently not realizing they're being used.

Scott123061

19h

they're trying to have thier voices heard due to the fact that they've all experienced in one way or another fear from what is becoming an all too real senario of killings at schools. You folks who are going off on them because you're afraid somebody's going to come take your gun, crawl back under a rock. We'll let you know when it's safe. I've hunted and target shot all my life. If you own a gun by the rules , you're golden. Let the kids voices be heard, you're not walking in thier shoes....BTW....we areColumbie...

Sudz Terkel

1h

The extractive industry defies their own mission in the efficient capture of energy resources by balking at a rule requiring them to clean up their mess on public land, likely due to cost considerations. They're acting like spoiled kids who refuse to clean up a room after a Lego play session. Problem here is the spoiled kids are calling the shots these days.

Robert Timmons

16h

It is soooooo funny to see the Denver Post top articles right now. On the one hand you have a moaning article about CEOs making 97 times the median Colorado wage, and on the other you have breathless, elated coverage about thousands on young people gathering on a workday to smoke weed.I wonder how many CEOs are getting baked at the 4/20 celebration. I also wonder how many stoned young people at the 4/20 celebration are whining about not making as much as CEOs.

Fedup with gungrabbers

14h

These people are very shallow thinkers. The sign in the photo proves it. How much blood will it take for what? For bad laws to be passed that curtail the freedom of innocent Americans but do nothing to stop any bloodshed?

Terri Baker

2h

Sad that it's necessary to create laws that enforces common sense. We're in America. Not Vietnam. We walk our dogs. We don't wok them.

Jim Bishop

8h

Wow. Science deny much? As to no comparison to tobacco companies, Exxon-Mobile knew what fossil fuels would do to the atmosphere way back in the 1970's, they studied it, then covered it up! A whole lot like the tobacco companies, claiming nicotine not addictive even though they counted on that for more sales.

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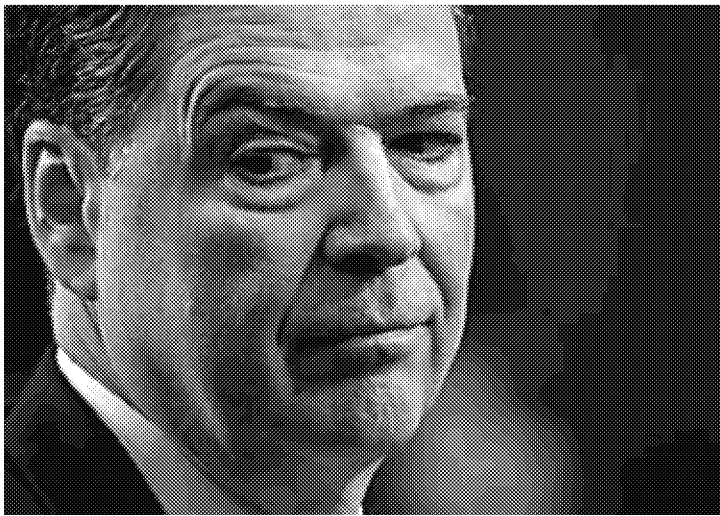
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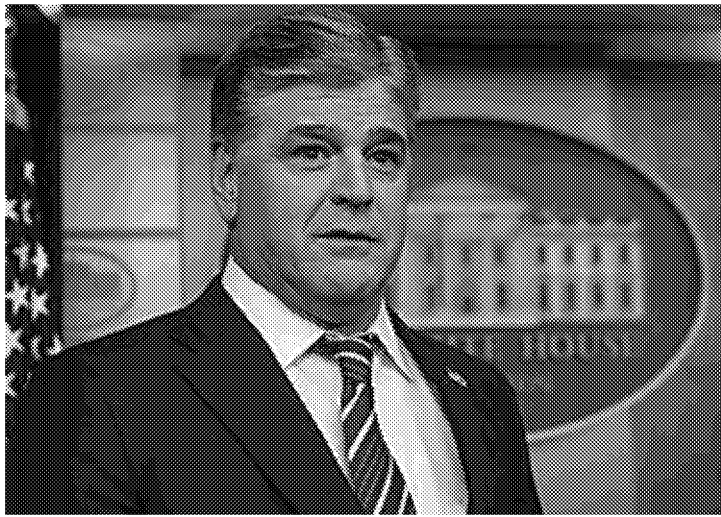
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