

DISTRICT COURT, DENVER COUNTY, COLORADO 1437 Bannock Street, Rm 256 Denver, Colorado 80202	<p>DATE FILED May 15, 2023 7:12 PM CASE NUMBER: 2021CV150 ▲ COURT USE ONLY ▲</p>
Plaintiff: BOARD OF COUNTY COMMISSIONERS OF SAN MIGUEL COUNTY v. Defendants: SUNCOR ENERGY (U.S.A.) INC., et al.	Case Number: 2021CV150 Division: 466
JOINT STATUS REPORT	

The Parties, pursuant to this Court’s Order dated May 2, 2023, submit their Joint Status Report “containing a high-level description of the procedural history and status of this matter, including a list of all pending motions.”

I. PROCEDURAL HISTORY OF THE CASE
(Court of filing in Parentheses)

COLORADO STATE COURTS		FEDERAL COURTS	
4/17/2018	Pls.’ Original Complaint (Boulder County District Court)		
6/11/2018	Pls.’ Amended Complaint (Boulder)		
		6/29/2018	Defs.’ Notice of Removal (D. Colo.)
		7/30/2018	Pls.’ Mot. to Remand (D. Colo.)
		9/5/2019	Order Granting Mot. to Remand (D. Colo.)
12/9/2019	Defs.’ 12(b)(5) Mot. to Dismiss (Boulder)		
12/9/2019	ExxonMobil’s 12(b)(2) Mot. to Dismiss (Boulder)		
12/9/2019	Suncor Energy’s 12(b)(2) Mot. to Dismiss (Boulder)		

12/9/2019	Suncor Defs.' Mot. to Dismiss or Transfer Venue to Denver District Court (Boulder)		
6/1/2020	Oral Argument on Defs.' Mot. to Dismiss (Boulder)		
		7/7/2020	Opinion and Judgment Affirming Remand Order (10th Cir.)
		7/29/2020	Mandate Issues (10th Cir.)
10/28/2020	Order Granting Stay on Mot. to Dismiss (pending resolution of <i>Ford Motor Co. v. Montana Eighth Judicial District Court</i> , U.S. Supreme Court Case No. 19-368) (Boulder)		
		12/4/2020	Defs.' Petition for Writ of Certiorari (U.S. S. Ct.)
1/25/2021	Order Granting Suncor Defs.' Mot. to Transfer Claims of San Miguel County to Denver County & Denying Mot. to Transfer Claims of Boulder County & City of Boulder to Denver County (Boulder)		
3/22/2021	Clerk's Certificate for Change of Venue (Boulder)		
3/23/2021	Clerk's Receipt for Change of Venue (Denver County District Court)		
4/8/2021	Joint Statement Regarding <i>Ford Motor Co. v. Montana Eighth Judicial District Court</i> , No. 19-368 (Denver)		
4/29/2021	Defs.' Supp. Br. in Support of 12(b)(5) Mot. to Dismiss (Denver)		
5/14/2021	Pl's. Supp. Br. in Opposition to 12(b)(5) Mot. to Dismiss (Denver)		
5/21/2021	Defs.' Supp. Reply Br. in Support of 12(b)(5) Mot. to Dismiss (Denver)		
		5/24/2021	Order Granting Petition for Certiorari, Vacating Judgment of 10th Circuit and Remanding for Further Consideration in Light of <i>BP p.l.c. v. Mayor and City Council of Baltimore</i> , 593 U. S. ____

			(2021) (U.S. S. Ct.)
7/14/2021	Order Granting Mot. to Stay (pending the Tenth Circuit's decision after remand from the Supreme Court) (Denver)		
		2/8/2022	Opinion and Judgment Affirming Remand Order (after remand from Supreme Court) (10th Cir.)
2/15/2022	Joint Status Report Regarding 10th Cir. Decision (Denver)		
		3/2/2022	Mandate Issues (10th Cir.)
3/25/2022	Order Granting Mot. to Stay (pending resolution of Defs.' impending petition for certiorari) (Denver)		
		6/8/2022	Defs.' Petition for Writ of Certiorari (U.S. S. Ct.)
		10/3/2022	Order Inviting the Views of the United States (U.S. S. Ct.)
		3/16/2023	United States Brief Filed (U.S. S. Ct.)
		4/24/2023	Order Denying Petition for Writ of Certiorari (U.S. S. Ct.)
5/1/2023	Status Report (regarding resolution of Defs.' petition for certiorari) (Denver)		
5/2/2023	Order Setting Status Conference (Denver)		

II. PENDING MOTIONS

The following motions were argued on June 1, 2020, and remain pending:

Motion to Dismiss Amended Complaint for Failure to State a Claim Pursuant to Colo. R. Civ. P. 12(b)(5) (12/9/2019)

Motion to Dismiss Amended Complaint for Lack of Personal Jurisdiction Pursuant to Colo. R. Civ. P. 12(b)(2) (12/9/2019)

Defendant Suncor Energy Inc.'s Motion to Dismiss for Lack of Personal Jurisdiction (12/9/2019)

Plaintiffs' Motion for Conditional Discovery with Respect to Defendant Suncor Energy, Inc.'s Motion to Dismiss for Lack of Personal Jurisdiction (12/30/2019)

Plaintiffs' Motion for Leave to File Notice of Supplemental Authority in Support of

Plaintiffs' Opposition to Defendants' Motion to Dismiss (5/28/2020)

The briefing on the motions to dismiss was supplemented in filings on April 8, April 29, May 14, and May 21, 2021.

Also pending is the parties' Joint Statement Regarding *Ford Motor Co. v. Montana Eighth Judicial District Court*, No. 19-368 (2021) (04/08/2021).

Dated: May 15, 2023

Respectfully submitted,

On Behalf of Plaintiffs:

s/ Kevin S. Hannon
Kevin S. Hannon, #16015
THE HANNON LAW FIRM, LLC
1641 Downing Street
Denver, CO 80218
Ph: 303-861-8800
Fax: 303-861-8855
khannon@hannonlaw.com

David Bookbinder,
D.C. Bar No. 455525, *pro hac vice*
LAW OFFICES OF DAVID
BOOKBINDER
107 S. West Street, Suite 491
Alexandria, VA 22314
Ph: 301-751-0611
David.Bookbinder@verizon.net

Marco Simons, *pro hac vice*
Michelle C. Harrison, *pro hac vice*
Richard Herz, *pro hac vice*
Sean Powers, *pro hac vice*
EARTHRIGHTS INTERNATIONAL
1612 K Street, NW #800
Washington, DC 2006
Ph: 202-466-5188
Fax: 202-466-5189
marco@earthrights.org
michelle@earthrights.org
rick@earthrights.org
sean@earthrights.org

On Behalf of Defendants:

s/ Hugh Q Gottschalk

Hugh Q. Gottschalk, Atty. Reg. No. 9750

Eric L. Robertson, Atty.Reg. No. 44209

WHEELER TRIGG O'DONNELL LLP

370 Seventeenth Street, Suite 4500

Denver, CO 80202

Telephone: (303) 244-1800

Facsimile: (303) 244-1879

Email: gottschalk@wtotrial.com

robertson@wtotrial.com

Colin G. Harris, Atty. Reg. No. 18215

Matthew D. Clark, Atty. Reg. No. 44704

FAEGRE DRINKER BIDDLE & REATH, LLP

1470 Walnut Street, Suite 300

Boulder, CO 80302

Telephone: (303) 447-7700

Facsimile: (303) 447-7800

Email: colin.harris@faegredrinker.com

matthew.clark@faegredrinker.com

Theodore V. Wells, Jr., *pro hac vice*,

Atty. Reg. 19PHV6026

Daniel J. Toal, *pro hac vice*,

Atty. Reg. 19PHV6024

Yahonnes Cleary, *pro hac vice*,

Atty. Reg. 19PHV6023

Caitlin E. Grusauskas, *pro hac vice*,

Atty. Reg. 20PHV6045

PAUL, WEISS, RIFKIND, WHARTON

& GARRISON LLP

1285 Avenue of the Americas

New York, New York 10019

Telephone: (212) 373-3000

Facsimile: (212) 757-3990

Email: twells@paulweiss.com

dtoal@paulweiss.com

ycleary@paulweiss.com

cgrusauskas@paulweiss.com

Kannon K. Shanmugam, *pro hac vice*,
Atty. Reg. 19PHV6027
Justin Anderson, *pro hac vice*,
Atty. Reg. 20PHV6061
PAUL, WEISS, RIFKIND, WHARTON &
GARRISON LLP
2001 K Street, NW
Washington, DC 20006
Telephone: (202) 223-7300
Facsimile: (202) 223-7420
Email: kshanmugam@paulweiss.com
janderson@paulweiss.com
Attorneys for Defendant Exxon Mobil Corporation

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15th day of May, 2023, a true and correct copy of the foregoing **JOINT STATUS REPORT** was electronically filed with the court through CCE and served on the following counsel of record through CCE:

Hugh Q. Gottschalk (#9750)
Eric L. Robertson (#44209)
Wheeler Trigg O'Donnell LLP
370 Seventeenth Street, Suite 4500
Denver, CO 80202-5647
Telephone: (303) 244-1800
Facsimile: (303) 244-1879
Email: gottschalk@wtotrial.com
robertson@wtotrial.com

*Attorneys for Defendants Suncor Energy
(U.S.A.), Inc., Suncor Energy Sales Inc., and
Suncor Energy Inc.*

Colin G. Harris (#18215)
Matthew D. Clark (#44704)
Faegre Baker Daniels LLP
1470 Walnut Street, Suite 300
Boulder, CO 80302
Telephone: (303) 447-7700
Facsimile: (303) 447-7800
Email: colin.harris@faegrebd.com
matthew.clark@faegrebd.com

Attorneys for Defendant Exxon Mobil Corporation

Theodore V. Wells, J., *PHV*
Daniel J. Toal, *PHV*
Yahonnes Cleary, *PHV*
Caitlin E. Grusaukas, *PHV*
Paul, Weiss, Rifkind, Wharton & Garrison LLP
1285 Avenue of the Americas
New York, NY 10019
Telephone: (212) 373-3089
Facsimile: (212) 757-3990
Email: twells@paulweiss.com
dtoal@paulweiss.com
ycleary@paulweiss.com
cgrusauskas@paulweiss.com

Kannon K. Shanmugam, *PHV*
Justin Anderson, *PHV*
Paul, Weiss, Rifkind, Wharton & Garrison LLP
2001 K Street, N.W.
Washington, DC 20006
Telephone: (202) 233-7300
Facsimile: (202) 223-7420
Email: kshanmugam@paulweiss.com
janderson@paulweiss.com

Attorneys for Defendant Exxon Mobil Corporation

/s/ Kevin S. Hannon
Kevin S. Hannon

Attorney for Plaintiffs