

DISTRICT COURT, DENVER COUNTY, COLORADO		DATE FILED July 24, 2024 CASE NUMBER: 2021CV150
Court Address: 1437 BANNOCK STREET, RM 256, DENVER, CO, 80202		
<b>Plaintiff(s)</b> COMMISSIONERS OF SAN MIGUEL COUNTY v. <b>Defendant(s)</b> SUNCOR ENERGY USA INC et al.		<p style="text-align: center;"><b>△ COURT USE ONLY △</b></p> Case Number: 2021CV150 Division: 466      Courtroom:
<b>Order:Joint Motion to Adjourn Oral Argument</b>		

The motion/proposed order attached hereto: GRANTED.

The oral argument on Defendants' motions to dismiss, which is currently scheduled for August 2, 2024, is hereby adjourned until after the later of the final resolution of Defendants' C.A.R. 4.2 Motion currently pending before the Boulder County District Court, in the matter of Board of County Commissioners of Boulder County, et al. v. Suncor Energy (U.S.A.) Inc., et al. ("Boulder"), No. 2018CV30349, and any attendant appeal, or the resolution of ExxonMobil's C.A.R. 21 Petition, currently pending before the Colorado Supreme Court, under Case No. 2024SA000206, and any subsequent merits review.

The Parties are to file a notice advising the Court, within 5 business days, of the later of those proceedings being resolved. If both proceedings are not resolved within 120 days of this Order, the parties shall file a joint status update.

In the interim, this case will be administratively closed. Administrative closure does not prevent the parties from filing any otherwise appropriate motion.

Issue Date: 7/24/2024



MARK T BAILEY  
District Court Judge

<p>DISTRICT COURT, DENVER COUNTY,          COLORADO          1437 Bannock Street, Room 256          Denver, Colorado 80202          (303) 606-2300</p>	<p><b>▲ COURT USE ONLY ▲</b></p>
<p><b>Plaintiffs:</b></p> <p>BOARD OF COUNTY COMMISSIONERS OF          SAN MIGUEL COUNTY, et al.</p> <p>v.</p> <p><b>Defendants:</b></p> <p>SUNCOR ENERGY (U.S.A.) INC., et al.</p>	<p>Case Number: 2021CV150</p> <p>Division: 466</p>
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**JOINT MOTION TO ADJOURN ORAL ARGUMENT**

Plaintiff Board of County Commissioners of San Miguel County (“Plaintiff”), and Defendants Suncor Energy (U.S.A.) Inc., Suncor Energy Inc., Suncor Energy Sales Inc., and Exxon Mobil Corporation (“ExxonMobil” and, collectively, “Defendants”), move for an order adjourning oral argument on Defendants’ motions to dismiss pending resolution of interlocutory appeal proceedings arising out of *Board of County Commissioners of Boulder County, et al. v.*

*Suncor Energy (U.S.A.) Inc., et al. (“Boulder”)*, No. 2018CV30349.<sup>1</sup> In support thereof, the parties state as follows:

1. On April 17, 2018, Plaintiff, along with the Board of County Commissioners of Boulder County and the City of Boulder, filed suit against Defendants in Boulder Country District Court. All of Plaintiff’s claims against all Defendants were subsequently severed and transferred to this Court.
2. On June 21, 2024, the *Boulder* Court: (i) granted in part and denied in part Defendants’ Motion to Dismiss for Failure to State a Claim under Rule 12(b)(5); (ii) granted Suncor Energy Inc.’s Motion to Dismiss for Lack of Personal Jurisdiction under Rule 12(b)(2); and (iii) denied ExxonMobil’s Motion to Dismiss for Lack of Personal Jurisdiction under Rule 12(b)(2).
3. On July 5, 2024, Defendants filed a Motion for Certification under Colorado Appellate Rule 4.2, requesting that the *Boulder* Court certify for immediate appeal its Order on Defendants’ Motion to Dismiss for Failure to State a Claim, so they may petition the Colorado Court of Appeals for permission to appeal the following question: “Whether federal law precludes state law claims for injuries allegedly caused by global climate change.” *See* C.A.R. 4.2 Motion, at 1 (July 5, 2024). The Board of County Commissioners of Boulder County and

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<sup>1</sup> By submitting this joint motion, Defendants do not waive any right, defense, affirmative defense, or objection, including any objection to personal jurisdiction. ExxonMobil and Suncor Energy Inc. have moved to dismiss for lack of personal jurisdiction.

City of Boulder's deadline to respond to Defendants' Rule 4.2 Motion is July 26, 2024.

Defendants thereafter have until August 2, 2024 to reply.

4. On July 16, 2024, ExxonMobil filed a Petition to Show Cause Pursuant to Colorado Appellate Rule 21 in the Colorado Supreme Court. *See* C.A.R. 21 Petition, Colorado Supreme Court Case No. 2024SA000206 (July 16, 2024). The Petition seeks review of the *Boulder* Court's Order on ExxonMobil's Motion to Dismiss for Lack of Personal Jurisdiction, and Defendants' Motion to Dismiss for Failure to State a Claim. *Id.* at 5. Specifically, ExxonMobil requests that the Supreme Court decide: (1) "Whether a Colorado tribunal may exercise personal jurisdiction over an out-of-state defendant for its alleged contributions to interstate and international greenhouse gas emissions that are not traceable to conduct in Colorado"; and (2) "Whether federal law precludes the application of state law to claims seeking redress for alleged in-state injuries from the effects of interstate and international greenhouse gas emissions on the global climate." *See* C.A.R. 21 Petition, at 9.

5. This court has scheduled oral argument on Defendants' motions to dismiss for August 2, 2024. Both the C.A.R. 4.2 Motion seeking interlocutory appeal and the C.A.R. 21 Petition seeking exercise of original jurisdiction by the Colorado Supreme Court have the potential to address the arguments the Parties have raised in motion to dismiss briefing which would be presented at the August 2, 2024 hearing before this Court. Accordingly, it would promote judicial economy and would not cause prejudice to any of the parties (who have

stipulated to the relief requested in this Motion), to adjourn oral argument in this case until after the interlocutory appeal proceedings arising out of *Boulder* are fully resolved.

6. For these reasons, the parties respectfully request that the Court enter an Order: (i) adjourning oral argument on Defendants' motions to dismiss until after the later of the final resolution of Defendants' C.A.R. 4.2 Motion and any attendant appeal, or the Colorado Supreme Court's resolution of ExxonMobil's C.A.R. 21 Petition and any subsequent merits review; and (ii) instructing the parties to advise this Court, within 5 business days, of the later of those proceedings being resolved.

Respectfully submitted this 23<sup>rd</sup> day of July 2024.

s/ Colin G. Harris

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 23<sup>rd</sup> day of July 2024, a true and correct copy of the foregoing **JOINT MOTION TO ADJOURN ORAL ARGUMENT** was electronically filed with the Court through CCES and served on all counsel of record.

*s/ Paul D. Bryant*

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Paul D. Bryant, Legal Assistant

Attachment to Order - 2021CV150