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Climate Change on Trial: Why Suncor Energy v. Boulder County Matters

In February 2026, the U.S. Supreme Court agreed to hear one of the most consequential climate change cases to reach the Court in decades: No. 25-170, *Suncor Energy Inc. v. County Commissioners of Boulder County*. At stake is not merely a dispute between a Colorado county and major fossil fuel producers, but a foundational question about who gets to decide responsibility for climate-related harms in the U.S. – Congress, federal agencies, or state courts.

The Court's decision to grant certiorari places it squarely at the center of a growing national conflict over climate accountability lawsuits, many of which seek billions of dollars in damages under state tort law.

Background: Boulder's Climate Accountability Lawsuit

The case began in 2018, when Boulder County and the City of Boulder sued Suncor Energy and Exxon Mobil in Colorado state court. Boulder alleges that the companies:

- Knowingly contributed to climate change through decades of fossil fuel production, refinement, and marketing; and
- Misrepresented or concealed the risks associated with greenhouse gas emissions;
- Caused localized harms including flooding, wildfire risks, drought impacts, and damage to public infrastructure.

Importantly, Boulder seeks monetary damages, not an injunction regulating emissions or fossil fuel production. The complaint advances traditional state-law causes of action such as public nuisance, private nuisance, trespass, unjust enrichment, and civil conspiracy.

The Preemption Fight in Colorado Courts

The defendant companies moved to dismiss, arguing that:

1. Federal law, particularly the Clean Air Act, preempts any state tort claims related to greenhouse gas emissions; and
2. Climate change necessarily implicates interstate and international policy, an area constitutionally reserved to the federal government.

In May 2025, the Colorado Supreme Court rejected those arguments, holding that federal law did not automatically preempt Boulder's claims. The court emphasized that Boulder sought damages for local harms and explicitly declined to rule on the ultimate merits of the case.

That ruling kept the lawsuit alive – and intensified pressure on the U.S. Supreme Court to intervene as similar cases advanced nationwide.

The Supreme Court Steps In

On February 23, 2026, after considering the petition at five consecutive conferences, the U.S. Supreme Court granted certiorari. The grant was notable for two reasons:

1. The Court agreed to review whether federal law precludes state‑law claims seeking damages for harms allegedly caused by interstate and international greenhouse gas emissions.
2. The Court added a second question: whether it has statutory and Article III jurisdiction to hear the case at all, given that the Colorado Supreme Court's decision arose from an interlocutory posture.

This jurisdictional issue could allow the Court to dismiss the case without reaching the merits.

The Federal Government's Unusual Role

Before the Court requested it, the U.S. filed an amicus brief urging review and arguing that Colorado may not apply its law to out‑of‑state conduct. Such unsolicited intervention underscores the case's national significance and the federal

government's concern about fragmented climate policy through state tort litigation.

Current Status After March 2, 2026

Certiorari has been granted on February 23, 2026. The case is docketed as No. 25-170, set for October Term 2026. Merits briefing and jurisdictional briefing are underway. Oral argument has not occurred yet and no decision has been issued.

The Court is expected to hear oral argument in fall 2026, with a decision likely sometime in 2027, depending on whether the Court resolves the case on jurisdictional grounds or reaches the preemption question.

Why This Case Is So Important

1. It Could End – or Unleash – Climate Damages Lawsuits Nationwide

As of early 2026, more than 30 climate-damages lawsuits brought by states, counties, and cities are pending across the U.S.[1] Most seek monetary damages under state tort or consumer-protection law, not regulation of emissions. The cases cluster geographically but span every major U.S. region.

A ruling that federal law preempts state climate tort claims could effectively shut them down. Conversely, a ruling for Boulder could potentially could lead to widespread damages litigation against energy companies.

2. *It Reframes Federalism in Environmental Law*

This case is not about environmental regulation – it is about who pays for climate harms. The Court must decide whether allowing state courts to assign financial liability amounts to an unconstitutional intrusion into federal policymaking. The answer will shape the balance of power between states and the federal government.

3. It Tests the Limits of Traditional Tort Law

Boulder's lawsuit repurposes centuries-old tort theories for a global phenomenon. The Supreme Court's response will influence whether common-law doctrines can adapt

to modern, systemic harms – or whether climate change is categorically beyond judicial competence.

4. Jurisdiction Alone Could Decide Everything

If the Court concludes it lacks jurisdiction, the Colorado Supreme Court's decision will stand – without resolving the national conflict. That outcome would still be a major victory for state and local plaintiffs, signaling that industry challenges must wait until final judgments.

Looking Ahead

Suncor Energy Inc. v. County Commissioners of Boulder County is poised to become the Court's first direct confrontation with climate change damages litigation. Whether the Court shuts the courthouse doors, narrows them, or leaves them wide open will shape climate accountability litigation – and energy sector risk – for decades.

One certainty remains: this case will not stay confined to Boulder.

This blog was drafted by Amy Mitchell, an attorney in the Spencer Fane Houston, Texas office. For more information, visit www.spencerfane.com.

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1 Pending lawsuits are in California, Colorado, Connecticut, Delaware, District of Columbia, Illinois, Hawaii, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, New Jersey, New York, Oregon, Pennsylvania, Puerto Rico, Rhode Island, South Carolina, Vermont, and Washington.

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