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Oregon County Sues Fossil Fuel Companies For Heat Wave Damages

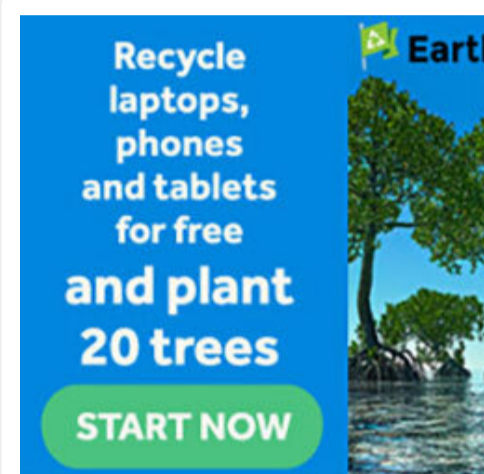


By [Gemma Alexander](#)

🕒 AUG 29, 2023 📌 [Climate Change](#), [climate litigation](#), [heat domes](#), [Multnomah County](#)

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Lawsuits have always been a useful strategy for the environmental movement. But historically, environmental nonprofits like [Earthjustice](#) usually brought those lawsuits against the government. They often hinged on government’s failure to enforce its own laws or negligence in protecting citizens. Now cash-strapped governments dealing with unprecedented natural disaster recovery costs are suing corporations for damages, opening another front in the battle to hold companies accountable for climate impacts.

Recently environmental litigation has taken some creative new turns, such as [Montana youth](#) who [won a lawsuit](#) that holds their state government accountable for denying their right to a clean and healthy environment.

The latest example of a new approach to litigation over climate impacts comes in Oregon where [Multnomah County is suing](#) fossil fuel companies for damages from the 2021 heat dome that killed dozens of the county's residents and sent many more to the hospital with heat-related illness.

The Portland Heat Dome

During the week of June 27, 2021, Multnomah, the Oregon county in which Portland is located, experienced an extreme weather event called a [heat dome](#). Extreme heat broke records across the Pacific Northwest and British Columbia.

Heat domes occur when strong, high-pressure atmospheric conditions create a "dome" that traps hot air. A dome can extend the duration and severity of a heat wave, creating [dangerous conditions](#) for humans and [animals](#). A study indicated that the temperatures reached during the heat dome were virtually [impossible to account](#) for without anthropogenic climate change, which made the heat event at least 150 times more likely to occur.

During that week in June, and during the two heatwaves that followed it in July and August of 2021, Multnomah County residents discovered just how dangerous extreme heat could be. Temperatures in the Portland area [rarely exceed 89F](#). But during the heat dome, temperatures reached 116F, the highest temperature ever recorded there. Based on tree ring data, it was the hottest temperature experienced in the region [in a thousand years](#).

In a typical year, the Pacific Northwest county does not experience any heat related deaths. A [county report](#) on the health impacts of the 2021 heat waves found 72 heat-related deaths in Multnomah County in 2021, with 69 of them taking place during the heat dome. Heat-related emergency room and urgent care visits in 2021 were more than triple the average.

Multnomah County Sues

Almost exactly two years after the heat dome struck, Multnomah County filed a [lawsuit](#), Multnomah County v. ExxonMobil et al., against 17 of the largest companies that generate income from fossil fuels. The defendants include 16 oil and natural gas companies, and one communications company that represents them.

The lawsuit seeks to hold the companies accountable for the damages arising from the 2021 Pacific Northwest heat dome. Multnomah County is asking for \$50 million in actual damages and \$1.5 billion in future damages. In addition, the County seeks an abatement fund, that it estimates will cost \$50 billion, to fund the study, planning, and upgrading the public health care services and infrastructure necessary to make their community [more climate resilient](#) and safeguard public health from future heat events.

The [legal principles](#) underlying the lawsuit are well established and applicable to fossil fuels, and could apply strategies that were used to bring the tobacco industry to heel for its health impacts. The [polluter pays](#) principle maintains that producers of pollution should bear the costs of the damage. Commonly used in torts claims, "polluter pays" is also the basis of emissions trading systems.

Product liability claims hold producers responsible for design defects or failure to warn consumers when the producer knew or should have known that its product would cause harm. The lawsuit may also draw on consumer protection



precedents, such as the tobacco litigation of the 1990s, that hold companies liable for misleading and deceptive marketing that present as harmless products that producers know to be harmful.

“What is new about this case is how the leadership of Multnomah County is utilizing irrefutable climate science to hold corporate polluters accountable for their role in causing a discrete and disastrous event,” attorney Roger Worthington [told Oregon Public Broadcasting](#).

Public statements from defendant companies like ExxonMobile and Chevron have unsurprisingly called the suit a waste of time, baseless, and counterproductive.

A Growing Trend

Multnomah County’s lawsuit is the first to seek damages for a specific climate event, but it is part of a growing trend among government agencies looking for ways to hold corporations accountable for environmental damage from climate change. According to the Center for Climate Integrity, more than [40 states and municipalities](#) have filed lawsuits against major oil and gas corporations for their role in creating the climate crisis and deceiving the public about it.

At this point the impacts of climate change are being felt much more quickly than the results of lawsuits. Multnomah County’s attorneys estimate their case will take 5-10 years to work its way through the legal system. If estimates are correct, by that time, the Pacific Northwest is likely to have experienced [one or two more heat domes](#) like the [one-thousand-year event in 2021](#).

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Gemma Alexander has an M.S. in urban horticulture and a backyard filled with native plants. After working in a genetics laboratory and at a landfill, she now writes about the environment, the arts and family. See more of her writing [here](#).

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