

Oil giants win New York climate suit as court urges political fix



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New York, April 2 (RHC)-- New York City has suffered another setback in its effort to make Exxon Mobil Corp., BP and other energy companies help cover the public costs of dealing with climate change, as a federal appeals court ruled the global problem demands political rather than legal action.

The ruling by the U.S. Court of Appeals in Manhattan is a warning sign for those trying to use the courts to hold the industry responsible for a problem that could cost taxpayers trillions of dollars in coming years.

Chevron Corp., Royal Dutch Shell Plc and ConocoPhillips were also sued in the case.

The court said global warming “is a uniquely international concern” that requires the federal government to step in rather than judges. Only the U.S. Environmental Protection Agency has the authority to regulate domestic greenhouse gas emissions, the unanimous three-judge panel held.

New York City “sidestepped” federal procedure with a state-law tort suit against the energy companies even though their commercial activity of selling fossil fuel products around the world is “admittedly legal,” U.S. Circuit Court Judge Richard Sullivan wrote for the court. “In so doing, the City effectively seeks to replace these carefully crafted frameworks — which are the product of the political process — with a patchwork of claims under state nuisance law,” Sullivan wrote.

A lower court judge in 2018 tossed out the lawsuit on similar grounds, ruling that the federal Clean Air Act governs carbon dioxide emissions and blocks lawsuits. New York City’s press office didn’t immediately respond to a message seeking comment.

“As we’ve said from the beginning, lawsuits like New York City’s do not belong in the courts and do nothing to advance meaningful efforts that address climate change,” Exxon spokesman Casey Norton said in an email. “We support global efforts from policymakers, companies, and individuals to develop real solutions.”

“Today’s unanimous opinion by a distinguished panel of judges appointed by presidents from both parties explains in clear detail why the U.S. climate tort lawsuits are meritless, applying established law as agreed upon by the Justice Department under the previous two U.S. administrations,” Chevron General Counsel R. Hewitt Pate said in a statement.

About a dozen cities, counties and states across the U.S. have sued Exxon, Chevron, BP, Royal Dutch Shell and their peers. The suits seek to reimburse taxpayers for the costs of adapting to climate change — from building multibillion-dollar sea walls to repairing damage from powerful storms and, perhaps soon, moving whole communities inland.

The federal appeals court in San Francisco in 2019 rejected a lawsuit brought on behalf of young people who sought to force the government to draw up a plan to phase out fossil fuel emissions. The majority in the case held in a split decision that climate change should be addressed by Congress and the electorate, not the courts.

Exxon is also fighting a case in Massachusetts, where the state’s Democratic attorney general last year accused the company of misleading consumers and investors about the financial impact of climate-change on its business as well as the “green” value of some of its products. The company says the suit amounts to illegal punishment for the energy giant’s views about fossil fuels, and has asked the judge to dismiss it.

Exxon in December 2019 prevailed in a similar but narrower lawsuit filed by the state of New York, which also accused the energy company of misleading investors by giving false information about how it accounted internally for the future cost of climate change on its business.

Minnesota and Baltimore are among the other state and local governments that are pursuing climate litigation. The case is City of New York v. Chevron, 18-2188, U.S. Court of Appeals for the Second Circuit (New York).

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