No. 25-170

In the
Supreme Court of the United States

SUNCOR ENERGY (U.S.A.) INC., ET AL.,
Petitioners,

v.

COUNTY COMMISSIONERS OF BOULDER COUNTY;
CITY OF BOULDER,
Respondents.

On Petition for a Writ of Certiorari to the Supreme Court of Colorado

BRIEF OF HOUSE MAJORITY LEADER STEVE SCALISE AND 102 OTHER MEMBERS OF CONGRESS AS *AMICI CURIAE* IN SUPPORT OF PETITIONERS

MICHAEL BUSCHBACHER
JARED M. KELSON
Counsel of Record
JENNIFER K. HARDY
LAURA B. RUPPALT
BOYDEN GRAY PLLC
800 Connecticut Ave NW,
Suite 900
Washington, DC 20006
(202) 955-0620
jkelson@boydengray.com

QUESTION PRESENTED

Whether federal law precludes state-law claims seeking relief for injuries allegedly caused by the effects of interstate and international greenhouse-gas emissions on the global climate.

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases **Page(s)**

STATUTES

EXECUTIVE ORDERS

OTHER AUTHORITIES

INTEREST OF *AMICI CURIAE*[1]

Amici curiae are 103 duly elected Members of Congress. *Amici* sit on various committees with jurisdiction over matters of energy, natural resources, and the environment. *Amici* have a profound and direct interest in preserving the authority vested in the federal government by the Constitution over interstate and international greenhouse-gas emissions, including the fundamental power of Congress to regulate pursuant to the Commerce Clause.

The decision below supplants the legislative prerogative of Congress, permitting a balkanized patchwork of state and local regulation over matters of uniquely federal concern. *Amici* file this brief to defend their role in setting energy policy for the United States—including the regulation of interstate and international emissions—and to prevent state and local governments from undermining the comprehensive statutory schemes that Congress has enacted.

The following is the full list of *amici*:

---

[1] Counsel for *amici curiae* timely provided notice to all parties of intent to file this brief. No party's counsel authored this brief in whole or in part, and no person or entity other than *amici* or their counsel made a monetary contribution intended to fund its preparation or submission.

House of Representatives

Steve Scalise
Brett Guthrie
Bruce Westerman

Robert B. Aderholt
Mark Alford
Jodey C. Arrington
Brian Babin
Troy Balderson
Andy Barr
Aaron Bean
Cliff Bentz
Stephanie Bice
Sheri Biggs
Gus M. Bilirakis
Lauren Boebert
Mike Bost
Vern Buchanan
Ken Calvert
Kat Cammack
Mike Carey
Buddy Carter
Ben Cline
Michael Cloud
Andrew Clyde
Jeff Crank
Warren Davidson
Chuck Edwards
Ron Estes
Gabe Evans
Julie Fedorchak
Randy Fine
Brad Finstad
Scott Fitzgerald
Chuck Fleischmann
Vince Fong
Virginia Foxx
Scott Franklin
Craig Goldman
Tony Gonzales
Lance Gooden
Paul A. Gosar, D.D.S.
Sam Graves
Marjorie Taylor Greene
H. Morgan Griffith
Harriet M. Hageman
Abraham Hamadeh
Mike Haridopolos
Pat Harrigan
Diana Harshbarger
Kevin Hern
Clay Higgins
French Hill
Erin Houchin
Richard Hudson
Bill Huizenga
Jeff Hurd
Ronny L. Jackson
Mike Kennedy
Doug LaMalfa
Nick Langworthy
Julia Letlow

Nicole Malliotakis
Tracey Mann
Michael McCaul
Rich McCormick
Addison McDowell
John McGuire
Mark Messmer
Carol D. Miller
Cory Mills
Barry Moore
Riley Moore
Tim Moore
Gregory F. Murphy, M.D.
Troy E. Nehls
Dan Newhouse
Bob Onder
Burgess Owens
Gary Palmer
Jimmy Patronis
Scott Perry
August Pfluger
Mike D. Rogers
John Rose
David Rouzer
Michael Rulli
John Rutherford
Derek Schmidt
Pete Sessions
Jefferson Shreve
Adrian Smith
Jason Smith
Pete Stauber
Dale Strong
Claudia Tenney
Glenn GT Thompson
Beth Van Duyne
Ann Wagner
Tim Walberg
Daniel Webster
Roger Williams
Rudy Yakym
Ryan Zinke

SUMMARY OF ARGUMENT

In recent years, multiple state and local governments have launched a courtroom war against the American energy industry. Unhappy with national energy policy that—in their view—has not moved quickly enough to replace fossil fuels, they attempt to wield *state* law and *state* court judgments to pursue crushing penalties against American oil and gas companies for harms allegedly caused by *global* greenhouse-gas emissions on the *global* climate. In so doing, these States and localities would dictate national energy policy themselves. This approach upends the constitutional balance between federal and state authority, discards a century of this Court's precedent, and undermines the federal legislative process. It must stop now.

Abundant and reliable energy is fundamental to our national stability, prosperity, and security. Both Congress and the President are unified in prioritizing that reality for all Americans. But Respondents, the City and County of Boulder, Colorado, would substitute their own preferred policies for those of the federal government. They dress their complaint in the language of state law, but they cannot escape that every claim in some way turns on global greenhouse-gas emissions. And the sheer magnitude of the damages at issue—likely *tens of billions* of dollars—would restructure the American energy industry if not bankrupt it altogether, especially when multiplied by the dozens of similar cases around the country.

This has continued long enough. States have no authority to regulate interstate and international emissions that originate beyond their respective borders. This Court has reiterated time and again that "the basic scheme of the Constitution … demands" the application of federal law to "'air and water in their ambient or interstate aspects.'" *Am. Elec. Power Co.* ("*AEP*") *v. Connecticut*, 564 U.S. 410, 421 (2011) (quoting *Illinois v. City of Milwaukee* ("*Milwaukee I*"), 406 U.S. 91, 103 (1972)). That is why "[f]or over a century, a mostly unbroken string of cases has applied federal law to disputes involving interstate air or water pollution." *City of New York v. Chevron Corp.*, 993 F.3d 81, 91 (2d Cir. 2021) (collecting cases).

Congress passed the Clean Air Act against this backdrop. This Court has emphasized that Congress must "enact *exceedingly clear* language if it wishes to significantly alter the balance between federal and state power." *U.S. Forest Serv. v. Cowpasture River Pres. Ass'n*, 590 U.S. 604, 621–22 (2020) (emphasis added). The Clean Air Act contains no indication—much less an "exceedingly clear" one—that Congress intended to disturb the existing line between federal and state authority to regulate interstate and international emissions. Put another way, Congress "does not … hide elephants in mouseholes" and subtly empower state law and state courts to pursue crippling damages against an essential industry for worldwide conduct, especially for claims within the exclusive domain of federal law. *Whitman v. Am. Trucking Ass'ns*, 531 U.S. 457, 468 (2001).

The issues in this case have been developed at length, and the disruption to the country grows daily. This Court should not stand by while Respondents use their state law and state courts to supplant federal authority and set national energy policy.

The Court should grant the petition for certiorari and reverse.

ARGUMENT

I. THIS CASE IS CRITICAL TO THE NATION

A. Energy Is Fundamentally Important

Congress has long recognized the importance of abundant, reliable energy. The United States uses on average over 20 million barrels of petroleum each day, totaling 7.39 billion barrels each year.[2] The energy it provides enables virtually every aspect of American life. It has also been key to the dynamism of the American economy—the largest in the world—enabling the rise of bedrock American industries such as transportation, telecommunications, technology, manufacturing, and finance.

Energy is likewise crucial to securing the future. The U.S. Department of Defense relies extensively on petroleum products.[3] Nascent innovations, including artificial intelligence and machine learning, have the potential to transform society and similarly require substantial energy resources. As Secretary of Energy Chris Wright aptly observed regarding artificial

---

[2] U.S. Energy Info. Admin., *Frequently Asked Questions (FAQs): How Much Oil Is Consumed in the United States?* (updated Oct. 9, 2024), https://perma.cc/HX8T-H4LH.

[3] U.S. Dep't of Energy, *Comprehensive Annual Energy Data: Total Site-Delivered Energy Use in All End-Use Sectors, by Federal Agency (Billion Btu)*, https://ctsedwweb.ee.doe.gov/Annual/Report/TotalSiteDeliveredEnergyUseInAllEndUseSectorsByFederalAgencyBillionBtu.aspx (visited Oct. 9, 2025).

intelligence, "We're at the start of Manhattan Project Two.... We could lose this race in many ways if we don't get energy right, we don't unleash American energy."[4]

Just this year, Congress voted to increase oil and gas production on federal land and the outer continental shelf by raising the frequency of lease sales and expanding areas available for resource extraction. Pub. L. No. 119-21, §§ 50101–05, 139 Stat. 72, 137–44 (2025). Congress similarly expanded coal mining on federal lands and expedited approval of leases. *Id.* §§ 50201–04, 139 Stat. at 144–46; *see also* 42 U.S.C. § 15927(b)(1) (recognizing that "oil shale, tar sands, and other unconventional fuels are strategically important domestic resources that should be developed to reduce the growing dependence of the United States on politically and economically unstable sources of foreign oil imports"). These policies reflect the considered judgment of Congress that such energy sources are vital to the national interest and should be developed.

The Executive Branch similarly recognizes the importance of abundant, reliable energy. The President has placed energy at the forefront of his priorities, even declaring a national energy emergency to address strategic shortfalls. *See Declaring a National Energy Emergency*, Exec. Order No. 14156, § 1, 90 Fed. Reg. 8433, 8433–34 (Jan. 29, 2025). As the President explained, "We need a reliable, diversified, and affordable supply of energy

[4] Daniel Dassow, *U.S. Energy Secretary, OpenAI Co-founder Say AI Race Is 'Manhattan Project 2' In Oak Ridge Visit*, Knoxville News Sentinel (Feb. 28, 2025), https://perma.cc/P6MA-LUDT.

to drive our Nation's manufacturing, transportation, agriculture, and defense industries, and to sustain the basics of modern life and military preparedness." *Id.*

To that end, the President has issued Executive Orders to streamline permitting processes, *id.* § 4, 90 Fed. Reg. at 8434–35; increase leases for oil and gas production, including offshore leases, *Unleashing American Energy*, Exec. Order No. 14154, 90 Fed. Reg. 8353 (Jan. 29, 2025); establish a National Energy Dominance Council, *Establishing the National Energy Dominance Council*, Exec. Order No. 14213, 90 Fed. Reg. 9945 (Feb. 20, 2025); direct resources to strengthen and secure the national electricity grid, *Strengthening the Reliability and Security of the United States Electric Grid*, Exec. Order No. 14262, 90 Fed. Reg. 15521 (Apr. 14, 2025); and protect American energy from state and local overreach, *Protecting American Energy from State Overreach*, Exec. Order No. 14260, 90 Fed. Reg. 15513 (Apr. 14, 2025).

Congress and the Executive Branch agree on the unique necessity of abundant, reliable energy. Its importance to the entire country cannot be overstated.

B. State and Local Governments Are Trying to Usurp Federal Authority

As the President has recognized, "American energy suffers" when "State and local governments seek to regulate energy beyond their constitutional or statutory authorities." Exec. Order No. 14260, 90 Fed. Reg. at 15513. That is exactly what is happening here. State and local governments, such as Respondents, are supplanting the role assigned by the Constitution to the federal government by using their state laws and state courts to set national energy policy and regulate interstate and international greenhouse-gas emissions.

The Colorado Supreme Court insists that Respondents are only "seek[ing] damages from upstream producers for harms stemming from the production and sale of fossil fuels," and thus "do not seek to regulate [greenhouse-gas] emissions." Pet.App.17a, 21a. That is wrong. Respondents openly seek damages related to the effect of interstate and international greenhouse-gas emissions on the global climate.

This Court has been clear that "regulation can be … effectively exerted through an award of damages." *S.D. Building Trades Council v. Garmon*, 359 U.S. 236, 247 (1959). Moreover, "[t]he obligation to pay compensation can be, indeed is designed to be, a potent method of governing conduct and controlling policy." *Id.*; *see Kurns v. R.R. Friction Prods. Corp.*, 565 U.S. 625, 637 (2012). This case is no exception. As dissenting Justices Samour and Boatright astutely concluded, "While Boulder's state-law claims masquerade as tort claims for damages, a closer look at the substance of those claims' allegations reveals that Boulder seeks to effectively abate or regulate interstate emissions." Pet.App.32a (Samour, J., joined by Boatright, J., dissenting).

The enormous damages alleged in cases like this leave no doubt they will compel compliance with the preferred energy policy of Respondents. Although Respondents here declined to put a number on the damages they seek, a similar case filed in Oregon against similar defendants, including Petitioner Exxon, requests more than *$50 billion* to abate the alleged harms that a single county argues are the result of increased global greenhouse-gas emissions. Second Am. Compl. ¶ 552, *County of Multnomah v. Exxon Mobil Corp.*, No. 23-CV-25164 (Or. Cir. Ct.). Dozens of analogous lawsuits remain pending across the country, seeking similar damage awards.

When multiplied across these numerous actions, which only continue to proliferate, the American energy industry could be decimated. Even the threat of such liability serves as a potent warning to any company against maintaining—let alone increasing—production.

Nor can Respondents disclaim the reach of their claims. Their own complaint alleges harms from alleged contributions by Petitioners to "alteration of the climate," *see, e.g.*, Am. Compl. ¶¶ 1–2, 5–6, 62, 82, *Bd. of Cnty. Comm'rs of Boulder Cnty. v. Suncor Energy (U.S.A.), Inc.*, No. 2018CV30349 (Colo. Dist. Ct. June 11, 2018), which is a "global" effect, *see id.* ¶¶ 134, 137, 213. Respondents attribute these harms to the worldwide oil and gas activities of Petitioners, including operations in "the Canadian tar sands," *id.* ¶¶ 384–88, 397; "Latin America," *id.* ¶ 389; and "Angola, Canada, Qatar, Russia and the United Arab Emirates," *id.* ¶ 94. Indeed, the Colorado Supreme Court itself recognized that the case involves "substantial issues of global import." Pet.App.1a.

Other suits turn on similar claims that "[g]lobal production and combustion of fossil fuels is the central" cause of changes to the global climate, and that the relevant defendants "have produced more than 12% of the world's fossil fuels since 1965, the combustion of which has been the driving force behind" the alleged harms. Am. Compl. ¶¶ 32, 319, *City of Hoboken v. Exxon Mobil Corp.*, No. HUD-L-3179-20 (N.J. Super. Ct. Law Div. Apr. 21, 2023). As Judge Stras has observed, despite attempts to characterize such claims as traveling purely under state law, referencing the pressing need to address "climate change" more than 200 times in a complaint reveals an actual intent to regulate an issue of national and international consequence. *See Minnesota v. Am. Petroleum Inst.*, 63 F.4th 703, 717 (8th Cir. 2023) (Stras, J., concurring).

Indeed, the Intergovernmental Panel on Climate Change ("IPCC") has recognized that "[c]limate litigation is an attempt to control, order or influence the behaviour of others," including at the "national and international" level.[5] That is not the role of a single State or locality. The Constitution places that responsibility squarely with the federal government.

II. THIS CASE IS STRAIGHTFORWARD

States lack authority to regulate pollution, including greenhouse-gas emissions, originating beyond their respective borders. That is the exclusive domain of federal law. Congress did not change that by passing the Clean Air Act.

A. Interstate and International Emissions Are the Domain of Federal Law

This Court has long held that disputes related to interstate pollution are governed by federal law. In

[5] IPCC, *Climate Change 2022: Mitigation of Climate Change, Working Group III Contribution to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change* 1375 (2022), https://perma.cc/JS43-77KW.

Georgia v. Tennessee Copper Co., this Court considered an original action by Georgia to enjoin companies operating in Tennessee from "discharging noxious gas" that drifted across the state border. 206 U.S. 230, 236 (1907). The Court explained that "by their union," States "made the forcible abatement of outside nuisances impossible to each," including through operation of their state law and state courts. *Id.* at 237. But they were not left without recourse. The Constitution provided a new forum for such disputes—a "suit in this Court," governed by federal common law. *Id.*

Since *Georgia*, "a mostly unbroken string of cases has applied federal law to disputes involving interstate air or water pollution." *City of New York*, 993 F.3d at 91 (collecting cases). As the Tenth Circuit explained:

> Federal common law and not the varying common law of the individual States is … entitled and necessary to be recognized as a basis for dealing in uniform standard with the environmental rights of a State against improper impairment by sources outside its domain.

Texas v. Pankey, 441 F.2d 236, 241 (10th Cir. 1971).

This Court has repeatedly affirmed the inherently federal nature of interstate pollution claims. In *Milwaukee I*, this Court held that "federal common law" governs claims related to "air and water in their ambient or interstate aspects." 406 U.S. at 103. This Court noted the "overriding federal interest in the need for a uniform rule of decision" and the "basic interests of federalism" in a dispute over pollution in

Lake Michigan, which is "bounded … by four States." *Id.* at 105 n.6. The Court made clear in a follow-on case that federal common law exists in such circumstances because "state law *cannot* be used." *City of Milwaukee v. Illinois* ("*Milwaukee II*"), 451 U.S. 304, 313 & n.7 (1981) (emphasis added).

This Court surveyed its precedent and made similar observations in *International Paper Co. v. Ouellette*, highlighting that "regulation of interstate water pollution is a matter of federal, not state, law." 479 U.S. 481, 488 (1987); *see id.* (explaining that *Milwaukee I* "held that these cases should be resolved by reference to federal common law; the implicit corollary of this ruling was that state common law was preempted").

And most recently, in *AEP*, this Court reiterated that regulation of interstate emissions is "undoubtedly" one of the areas where "the basic scheme of the Constitution … demands" the application of federal law. 564 U.S. at 421. Applying state law "would be inappropriate." *Id.* at 422.

Furthermore, if States lack authority to regulate emissions originating in other States, they undoubtedly cannot apply their law to emissions originating in other countries. This Court has never suggested that state law applies in the context of international emissions. To the contrary, in *Milwaukee I*, this Court emphasized the "overriding federal interest in the need for a uniform rule of decision" by relying on a case about exclusive federal authority over an international matter. 406 U.S. at 105 n.6 (citing *Banco Nacional de Cuba v. Sabbatino*, 376 U.S. 398 (1964)). It would be passing strange if state law somehow had greater purchase in an area implicating the "exclusive authority" of the federal government "in international relations and with respect to foreign intercourse and trade." *Fuld v. Palestine Liberation Org.*, 606 U.S. 1, 15 (2025) (cleaned up); *see also, e.g.*, *Am. Ins. Ass'n v. Garamendi*, 539 U.S. 396, 419–20 (2003). Instead, States have lacked authority to regulate interstate or international emissions originating beyond their borders.

B. Congress Did Not Authorize States to Regulate Interstate and International Emissions in the Clean Air Act

Congress did not subtly transfer the exclusive federal authority over interstate and international emissions to the States when it passed the Clean Air Act. The federalism canon does not allow such implied reordering.

This Court has held that Congress must "enact *exceedingly clear* language if it wishes to significantly alter the balance between federal and state power." *Cowpasture River Pres. Ass'n*, 590 U.S. at 621–22 (emphasis added); *see also, e.g.*, *Gregory v. Ashcroft*, 501 U.S. 452, 460 (1991) ("If Congress intends to alter the usual constitutional balance between the States and the Federal Government, it must make its intention to do so *unmistakably clear* in the language of the statute." (cleaned up) (emphasis added)). Congress provided no indication in the Clean Air Act, much less an "exceedingly clear" one, that it intended to alter this long-standing division between federal and state authority in the context of interstate and international emissions. Nor did the Colorado

Supreme Court identify clear language allowing the application of state law to such disputes. That is the end of the matter.

Congress similarly "does not alter the fundamental details of a regulatory scheme in vague terms or ancillary provisions—it does not, one might say, hide elephants in mouseholes." *Am. Trucking Ass'ns*, 531 U.S. at 468. Thus, Congress did not subtly empower state law and state courts to pursue crippling damages against an essential industry for worldwide conduct, especially for claims within the exclusive domain of federal law. That again is dispositive.

The Colorado Supreme Court also failed a basic analysis of the Clean Air Act itself. That statute is a comprehensive statutory and regulatory regime that "displace[d]" the federal common law of interstate air pollution. *AEP*, 564 U.S. at 424. Substituting one form of federal regulation (the Clean Air Act) for another (federal common law) does not imply any intent to breathe life into state law claims. The text of the Clean Air Act certainly does not expressly or impliedly signal a *new* and expansive role for States to regulate in areas from which they have been excluded. And it would defy logic to say that the Clean Air Act prohibits "*federal* judges" from "set[ting] limits on greenhouse gas emissions" across the country, *id.* at 429 (emphasis added), while silently authorizing *state* judges to do the same around the world.

The Colorado Supreme Court did not address these basic principles of statutory interpretation. Instead, it made a wrong turn at the start by applying a presumption against preemption of state law. Pet.App.11–12a. But as dissenting Justices Samour and Boatright explained, that presumption does not apply "[i]n a case like this one … where state law has *not* traditionally occupied the field." Pet.App.27a (Samour, J., joined by Boatright, J., dissenting).

These dissenting justices share company with this Court, which has been explicit that "in an area where there has been a history of significant federal presence," the "'assumption' of nonpre-emption is not triggered." *United States v. Locke*, 529 U.S. 89, 108 (2000) (quoting *Rice v. Santa Fe Elevator Corp.*, 331 U.S. 218, 230 (1947)). The field of interstate and international pollution claims has always been governed by federal law—first federal common law, and now the Clean Air Act where applicable. *Native Vill. of Kivalina v. ExxonMobil Corp.*, 696 F.3d 849, 857 (9th Cir. 2012) ("If the federal common law cause of action has been displaced by legislation, that means that 'the field has been made the subject of comprehensive legislation' by Congress." (quoting *Milwaukee II*, 451 U.S. at 314)). That leaves no room for state law claims like those Respondents bring now.

C. Confirming Federal Authority Over Interstate and International Emissions Respects States

Confirming federal authority over interstate and international emissions would respect the sovereignty and proper role of States. If each could regulate emissions originating from the others, it would undoubtedly "lead to chaotic confrontation" between them. *Int'l Paper Co.*, 479 U.S. at 496 (quoting *Illinois v. City of Milwaukee* ("*Milwaukee III*"), 731 F.2d 403, 414 (7th Cir. 1984)).

Allowing States to reach beyond their respective borders and set national energy policy is anathema to the principles of horizontal federalism embodied in the Constitution. "It follows from these principles," this Court has said, "that a State may not impose economic sanctions" using its own laws "with the intent of changing … lawful conduct in other States." *BMW of N. Am., Inc. v. Gore*, 517 U.S. 559, 572 (1996); *see Kansas v. Colorado*, 206 U.S. 46, 95 (1907). Doing so would undermine the "equal dignity and sovereignty" of other States. *Franchise Tax Bd. of Cal. v. Hyatt*, 587 U.S. 230, 245 (2019).

Federal authority over interstate and international emissions is thus necessary to protect the proper role and sovereignty of the States.

III. FURTHER PERCOLATION IS UNNECESSARY

The question presented here is fully developed for review. This Court now has the benefit of both a majority opinion and dissent below; another state supreme court decision, *City & County of Honolulu v. Sunoco LP*, 537 P.3d 1173 (Haw. 2023); a decision by the Second Circuit, *see City of New York*, 993 F.3d 81; and analogous decisions by the Fourth and Seventh Circuits, *see North Carolina v. Tenn. Valley Auth.*, 615 F.3d 291 (2010); *Milwaukee III*, 731 F.2d 403. Further percolation is cumulative, at best.

Moreover, the country simply cannot wait for this issue to be decided at some indeterminate point in the future. Dozens of these cases are underway in state courts, and more will surely follow, emboldened by the decision below.[6] A similar case was filed earlier this year by an individual alleging wrongful death based

[6] *See, e.g.*, *California v. BP p.l.c.*, No. RG17875889 (Cal. Super. Ct., Cnty. of Alameda); *California v. BP p.l.c.*, No. CGC-17-561370 (Cal. Super. Ct., Cnty. of S.F.); *California v. Exxon Mobil Corp.*, No. CGC-23-609134 (Cal. Super. Ct.); *City of Imperial Beach v. Chevron Corp.*, No. 17CV01227 (Cal. Super. Ct.); *County of Marin v. Chevron Corp.*, No. 17CV02586 (Cal. Super. Ct.); *County of San Mateo v. Chevron Corp.*, No. 17CV03222 (Cal. Super. Ct.); *City of Richmond v. Chevron Corp.*, No. 18CV00055 (Cal. Super. Ct.); *City of Santa Cruz v. Chevron Corp.*, No. 17CV03243 (Cal. Super. Ct.); *County of Santa Cruz v. Chevron Corp.*, No. 17CV03242 (Cal. Super. Ct.); *Connecticut v. Exxon Mobil Corp.*, No. HHDCV206132568S (Conn. Super. Ct.); *Delaware v. BP Am. Inc.*, No. N20C-09-97 (Del. Super. Ct.); *District of Columbia v. Exxon Mobil Corp.*, No. 2020 CA 002892 B (D.C. Super. Ct.); *Hawaiʻi v. BP p.l.c.*, No. 1CCV-25-717 (Haw. Cir. Ct.); *City & County of Honolulu v. Sunoco LP*, No. 1CCV-20-380 (Haw. Cir. Ct.); *County of Maui v. Sunoco LP*, No. 2CCV-20-283 (Haw. Cir. Ct.); *City of Chicago v. BP p.l.c.*, No. 2024CH01024 (Ill. Cir. Ct.); *Maine v. BP p.l.c.*, No. PORSC-CV24-442 (Me. Super. Ct.); *Massachusetts v. Exxon Mobil Corp.*, No. 1984CV03333 (Mass. Super. Ct.); *Mayor & City Council of Baltimore v. BP p.l.c.*, No. 24-C-18-4219 (Md. Cir. Ct.); *Anne Arundel County v. BP p.l.c.*, No. 02-CV-21-565 (Md. Cir. Ct.); *City of Annapolis v. BP p.l.c.*, No. 02-CV-21-250 (Md. Cir. Ct.); *Minnesota v. Am. Petroleum Inst.*, No. 62-CV-20-3837 (Minn. Dist. Ct.); *Platkin v. Exxon Mobil Corp.*, No. MER-L-1797-22 (N.J. Super. Ct. Law Div.); *City of Hoboken*, No. HUD-L-3179-20; *City of New York v. Exxon Mobil Corp.*, No. 451071/2021 (N.Y. Sup. Ct.); *City of New York v. BP p.l.c.*, No. 18-cv-182 (S.D.N.Y.); *Town of Carrboro v. Duke Energy Corp.*, No. 24CV3385-670 (N.C. Super. Ct.); *County of Multnomah*, No. 23-CV-25164; *Bucks County v. BP p.l.c.*, No. 2024-1836 (Pa. C.P.); *Rhode Island v. Chevron Corp.*, C.A. No. PC-2018-4716 (R.I. Super. Ct.); *Vermont v. Exxon Mobil Corp.*, No. 21-CV-02778 (Vt. Super. Ct.); *King County v. BP p.l.c.*, No. 18-2-11859-0 (Wash. Super. Ct.); *Makah Indian Tribe v. Exxon Mobil Corp.*, No. 23-2-25216-1 (Wash. Super. Ct.); *Shoalwater Bay Indian Tribe v. Exxon Mobil Corp.*,

on a heat wave. *See Leon v. Exxon Mobil Corp.*, No. 25-2-15986-8 (Wash. Super. Ct.). And certain legal academics are now advocating for prosecutors to bring "climate homicide" charges and exercise civil forfeiture to seize company assets, restructuring them into public benefit corporations. David Arkush & Donald Braman, *Climate Homicide: Prosecuting Big Oil for Climate Deaths*, 48 Harv. Env't L. Rev. 45 (2024).

These issues have also created significant friction between the States. *Cf. supra* Part II.C. Nearly half the country was recently before this Court asking for review of the issue in this case, explaining their sister States "threaten not only our system of federalism and equal sovereignty among States, but our basic way of life." Mot. at 2, *Alabama v. California*, 145 S. Ct. 757 (2025) (No. 22O158). An even larger coalition of States has now filed suit against New York and intervened in a suit against Vermont to enjoin their "climate superfund" laws that impose decades of *retroactive* liability on American energy companies for their alleged role in global greenhouse-gas emissions, as well. *West Virginia v. James*, No. 1:25-cv-168 (N.D.N.Y.); *Chamber of Com. of the U.S. of Am. v. Moore*, No. 2:24-cv-1513 (D. Vt.).

The situation has become so fraught that the U.S. Department of Justice has sought to enjoin Hawaii and Michigan from filing their own lawsuits, *see United States v. Michigan*, No. 1:25-cv-496 (W.D. Mich.); *United States v. Hawaii*, No. 1:25-cv-179 (D.

No. 23-2-25215-2 (Wash. Super. Ct.); *Municipality of Bayamón v. Exxon Mobil Corp.*, No. 3:22-cv-1550 (D.P.R.); *Municipality of San Juan v. Exxon Mobil Corp.*, No. 3:23-cv-1608 (D.P.R.).

Haw.); and New York and Vermont from implementing their "climate superfund" laws, *United States v. New York*, No. 1:25-cv-3656 (S.D.N.Y.); *United States v. Vermont*, No. 2:25-cv-463 (D. Vt.).

This case, and others like it, threaten the abundant, reliable energy that underpins *every* aspect of American life, including the standard of living for ordinary Americans. Although national energy policy is the subject of vigorous debate, it is a national issue that must be decided at the national level—by officials elected by the people of all States—not in a local jury room. The federal government must be permitted to fulfill its role in setting national energy policy and regulating interstate and international emissions.

This Court should put an end to these unconstitutional attempts to dictate national energy policy from state courthouses before more, and irreparable, damage is done.

CONCLUSION

The petition for certiorari should be granted.

Respectfully submitted,

MICHAEL BUSCHBACHER
JARED M. KELSON
Counsel of Record
JENNIFER K. HARDY
LAURA B. RUPPALT
BOYDEN GRAY PLLC
800 Connecticut Avenue NW
Suite 900
Washington, DC 20006
(202) 955-0620
jkelson@boydengray.com

October 9, 2025