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CASE #: 23-2-25215-2 SEA

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR KING COUNTY

SHOALWATER BAY INDIAN TRIBE,

Plaintiff,

v.

EXXON MOBIL CORPORATION,
EXXONMOBIL OIL CORPORATION, BP
P.L.C., BP AMERICA INC., CHEVRON
CORPORATION, CHEVRON USA, INC.,
SHELL PLC, SHELL OIL COMPANY,
CONOCOPHILLIPS, CONOCOPHILLIPS
COMPANY, PHILLIPS 66, and PHILLIPS 66
COMPANY,

Defendants.

MAKAH INDIAN TRIBE,

Plaintiff,

v.

EXXON MOBIL CORPORATION,
EXXONMOBIL OIL CORPORATION, BP
P.L.C., BP AMERICA INC., CHEVRON
CORPORATION, CHEVRON USA, INC.,
SHELL PLC, SHELL OIL COMPANY,
CONOCOPHILLIPS, CONOCOPHILLIPS
COMPANY, PHILLIPS 66, and PHILLIPS 66
COMPANY,

Defendants.

Case No. 23-2-25215-2 SEA

**DEFENDANTS' JOINT EMERGENCY
MOTION TO STAY HEARING ON
MOTIONS TO DISMISS AND OTHER
PROCEEDINGS**

Honorable Judge James Rogers

Noted for February 25, 2026

DEFS.' JOINT EMERGENCY MOTION TO
STAY HEARING ON MOTIONS TO
DISMISS AND OTHER PROCEEDINGS
23-2-25215-2-SEA

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I. INTRODUCTION AND RELIEF REQUESTED

On February 23, 2026, the United States Supreme Court granted certiorari in a similar climate change case, *Suncor Energy (U.S.A.) Inc. v. County Commissioners of Boulder County*, No. 25-170 (“*Boulder*”), which presents the question 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. Here, Defendants’ primary argument for dismissing Plaintiffs’ claims presents the exact same question. The Supreme Court’s decision in *Boulder* thus has the potential to determine the outcome of these actions. If the Supreme Court agrees with the petitioners in *Boulder* by holding that state-law claims seeking damages for interstate and international greenhouse-gas emissions—like Plaintiffs’ claims here—are preempted and precluded by federal law, then that will completely dispose of Plaintiffs’ claims.

Accordingly, Defendants respectfully submit that the upcoming hearing on Defendants’ motions to dismiss scheduled for **February 27, 2026**, and all further proceedings in these cases, be stayed pending the Supreme Court’s decision in *Boulder*. It will promote judicial economy and the interests of justice to pause proceedings here to permit the Supreme Court to provide potentially dispositive guidance regarding a core issue in these cases, and will avoid the possibility of a ruling that is inconsistent with that of the Supreme Court. Moreover, such a stay would not unduly prejudice Plaintiffs, as Plaintiffs primarily seek monetary damages that may be awarded at any time. **Defendants respectfully request that the Court resolve this stay motion prior to the Court’s scheduled hearing on this Friday, February 27, 2026.**

II. STATEMENT OF FACTS

These cases are two out of dozens of similar suits that have been brought by state, local, and tribal governments across the country, seeking to impose liability on Defendants and other energy companies under state law for the alleged impacts of climate change. Plaintiffs’ suits, though couched in the language of deception and misrepresentation, are fundamentally premised on interstate and international greenhouse-gas emissions and their alleged global effects. *See* Defendants’ Joint Motion to Dismiss the Shoalwater Bay Indian Tribe’s Complaint for Failure to

1 State a Claim (“Jt. Mot.”) at 1, 7–9. Defendants have moved to dismiss Plaintiffs’ suits; these
2 motions are fully briefed, and the Court has scheduled a hearing on the motions for February 27,
3 2026.

4 As Defendants have explained in their motions to dismiss, Plaintiffs’ claims are legally
5 flawed for many reasons. Most fundamentally, Plaintiffs’ claims must be dismissed because the
6 federal Constitution precludes and preempts the use of state law to remedy harms allegedly caused
7 by out-of-state and worldwide emissions. Jt. Mot. 10–21. A suit, such as these, “seeking to recover
8 damages for the harms caused by global greenhouse gas emissions may [not] proceed under [state]
9 law,” as “a mostly unbroken string of [Supreme Court] cases has applied federal law to disputes
10 involving interstate air or water pollution.” *City of New York v. Chevron Corp.*, 993 F.3d 81, 91
11 (2d Cir. 2021). Moreover, Plaintiffs’ claims are preempted by the federal Clean Air Act, which
12 “precludes a court from applying the law of an affected State against an out-of-state source.” *Int’l*
13 *Paper Co. v. Ouellette*, 479 U.S. 481, 494 (1987); see Jt. Mot. 21–26.

14 Given these fundamental flaws, a “growing chorus of state and federal courts across the
15 United States, singing from the same hymnal,” have dismissed essentially identical suits on the
16 pleadings. *Charleston v. Brabham Oil Co., Inc.*, 2025 WL 2269770, at *2 (S.C. Ct. Com. Pl. Aug.
17 6, 2025) (citation omitted).¹ For example, in a well-reasoned, 43-page opinion, the *Charleston*
18 court held that “all of Plaintiff’s claims are precluded and preempted by the federal Constitution
19 and federal law,” and “also should be dismissed as a matter of state law.” *Id.* at 3. Likewise, in a
20 cogent 34-page opinion, a Maryland court held that “the Constitution’s federal structure does not

21 ¹ See *City of New York*, 993 F.3d 81; *City of Oakland v. BP P.L.C.*, 325 F. Supp. 3d 1017 (N.D.
22 Cal. 2018), *vacated on other grounds*, 960 F.3d 570 (9th Cir. 2020); *Mayor & City Council of*
23 *Baltimore v. BP P.L.C.*, 2024 WL 3678699 (Md. Cir. Ct. July 10, 2024); *State ex rel. Jennings v.*
24 *BP Am. Inc.*, 2024 WL 98888 (Del. Super. Ct. Jan. 9, 2024); *City of Annapolis v. BP PLC*, 2025
25 WL 588595 (Md. Cir. Ct. Jan. 23, 2025); *Platkin v. Exxon Mobil Corp.*, 2025 WL 604846 (N.J.
26 Super. Ct. Feb. 5, 2025); *Bucks Cnty. v. BP P.L.C.*, 2025 WL 1484203 (Pa. Ct. Com. Pl. May 16,
27 2025); *Charleston*, 2025 WL 2269770; see also *Municipality of Bayamón v. Exxon Mobil Corp.*,
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(N.Y. Sup. Ct. 2025); *Carrboro v. Duke Energy Corp.*, 2026 WL 411466 (N.C. Super. Ct. Feb.
12, 2026).

1 allow the application of state law to claims like those presented by [the plaintiff].” *Mayor & City*
2 *Council of Baltimore v. BP P.L.C.*, 2024 WL 3678699, at *6 (Md. Cir. Ct. July 10, 2024)

3 *Boulder* is another one of these climate suits. Like the instant suits, *Boulder* was filed by
4 two governments—Boulder County and the City of Boulder, Colorado—bringing state-law tort
5 claims “for injuries allegedly caused by the contribution of greenhouse-gas emissions to global
6 climate change.” Pet. for a Writ of Certiorari, *Boulder*, Ex. A, at 1, 9 (U.S. Aug. 8, 2025). In
7 *Boulder*, the trial court (incorrectly) rejected the defendants’ arguments that the plaintiffs’ claims
8 were precluded by federal law, and the Colorado Supreme Court agreed. *See Bd. of Cnty. Comm’rs*
9 *of Boulder Cnty. v. Suncor Energy USA, Inc.*, --- P.3d ----, 2025 CO 21 (Colo. 2025).

10 The defendants in *Boulder* sought a writ of certiorari from the United States Supreme
11 Court, and on February 23, 2026, the Supreme Court granted certiorari. The Supreme Court
12 granted certiorari as to the following question: “Whether federal law precludes state-law claims
13 seeking relief for injuries allegedly caused by the effects of interstate and international greenhouse-
14 gas emissions on the global climate.” Pet., Ex. A, at I; *see* Order, 607 U.S. ----, Ex. B, at 2 (U.S.
15 Feb. 23, 2026). The Supreme Court also granted certiorari as to an additional question of whether
16 it has statutory and Article III jurisdiction to hear the case. *See* Order, Ex. B, at 2. It is likely the
17 case will be briefed by fall 2026, oral argument will be heard during the Supreme Court’s Term
18 beginning October 2026, and a decision will be issued by June 2027 at the latest.

19 III. STATEMENT OF ISSUES

20 1. Should the Court’s February 27, 2026 hearing on Defendants’ motions to dismiss,
21 and all further proceedings in this case, be stayed pending the U.S. Supreme Court’s decision in
22 *Boulder*? **YES.**

23 IV. EVIDENCE RELIED ON

24 This motion relies on all pleadings on file in this action and the other papers and materials
25 included herein.

26 V. LEGAL STANDARD

27 “[A] court has inherent power to stay its proceedings where the interest of justice so
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requires.” *King v. Olympic Pipeline Co.*, 104 Wn. App. 338, 350, 16 P.3d 45 (2000). “[T]he power to stay proceedings is incidental to the power inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants. How this can best be done calls for the exercise of judgment, which must weigh competing interests and maintain an even balance.” *Id.* (quoting *Landis v. N. Am. Co.*, 299 U.S. 249, 254 (1936)).

VI. ARGUMENT

A. A Stay Pending the Supreme Court’s Potentially Dispositive Decision Will Promote Judicial Economy and the Interests of Justice.

A stay in these actions will promote judicial economy and “the interest of justice,” *King*, 104 Wn. App. at 350, by permitting the Court to take into account potentially dispositive guidance from the Supreme Court. As federal courts have recognized, “[w]here, as here, other pending judicial proceedings may bear on the case, the Court ‘may order a stay of the action pursuant to its power to control its docket and calendar and to provide for a just determination of the cases pending before it.’” *Great Lakes Ins. SE v. Myers Regulinski 1996 Revocable Trust*, 2023 WL 5206395, at *2 (W.D. Wash. Aug. 14, 2023) (quoting *Leyva v. Certified Grocers of Cal., Ltd.*, 593 F.2d 857, 863–64 (9th Cir. 1979)); see also *Dependable Highway Exp., Inc. v. Navigators Ins. Co.*, 498 F.3d 1059, 1066 (9th Cir. 2007) (“A trial court may . . . find it is efficient for its own docket and the fairest course for the parties to enter a stay of an action before it, pending resolution of independent proceedings which bear upon the case.”).

Here, the Supreme Court’s decision in *Boulder* will bear directly on the issues in these cases. If the Supreme Court holds in *Boulder* that federal law precludes state-law claims seeking relief for injuries allegedly caused by the effects of interstate and international greenhouse-gas emissions, this would affirm Defendants’ federal preemption and preclusion arguments in this case, and leave this Court with little more to do than to give effect to the Supreme Court’s precedent by dismissing all of Plaintiffs’ claims. That is because it is undisputed that all of Plaintiffs’ claims are premised on, and seek damages for, the cumulative impact of interstate and

1 international emissions going back for decades—to the Industrial Revolution and beyond. As one
2 court explained in dismissing similar claims earlier this month: Climate change “is the result of
3 the collective impact of acts by literally billions of unrelated emitters dispersed throughout the
4 globe,” and would necessarily “require a factfinder to make decisions based on pure conjecture
5 divorced from any clearly articulable or objective standards, necessarily requiring rank speculation
6 as to the internal motivations of hundreds of millions of individuals in the United States and the
7 cumulative effect of their actions on a global phenomenon.” *Carrboro v. Duke Energy Corp.*,
8 2026 WL 411466, at *9 (N.C. Super. Ct. Feb. 12, 2026). And even if the Supreme Court does not
9 side with the petitioners in *Boulder*, its decision would still provide important guidance that would
10 undoubtedly shape this Court’s consideration of Defendants’ motions to dismiss. Indeed, the
11 import of *Boulder* in these cases is reflected in the fact that Plaintiffs cited and relied on the *Boulder*
12 decision in “*passim*” in their opposition to Defendants’ motions to dismiss.

13 Under these circumstances, a stay of proceedings, including the forthcoming motions to
14 dismiss hearing, is appropriate. “The mere possibility that a substantial amount of the court’s
15 work, if undertaken now, may shortly prove to have been unnecessary, cautions against undue
16 haste in proceeding.” *King*, 104 Wash. App. at 365 (cleaned up) (discussing stays in the context
17 of parallel civil-criminal proceedings). If the Supreme Court’s ruling in *Boulder* supports
18 dismissal of Plaintiffs’ claims here, then the time and effort expended by this Court and the parties
19 on the case in the interim will have been for naught. Again, if the Supreme Court sides with
20 petitioners in *Boulder*, it would *dispose of all of Plaintiffs’ claims* because they all seek damages
21 for the alleged impacts of interstate and international emissions.

22 A stay is likewise appropriate to avoid the risk of a decision by this Court on Defendants’
23 motions to dismiss that is inconsistent with that of the Supreme Court. Both federal and state
24 courts have recognized the desirability of avoiding such inconsistent or conflicting judgments.
25 *See, e.g., United Ass’n of Journeymen & Apprentices v. Valley Engineers*, 975 F.2d 611, 615 (9th
26 Cir. 1992) (endorsing stay following administrative agency determination because “[l]etting the
27 suit go forward would have produced conflicting or redundant judgments, and a great deal of

wasted effort and expense”); *Samson v. United HealthCare Servs., Inc.*, 2020 WL 3971390, at *3 (W.D. Wash. July 14, 2020) (in first-to-file rule context, noting “burden placed on” the courts by “duplicative litigation” and importance of “prevent[ing] the possibility of conflicting judgments”); *Pac. Lutheran Univ. v. Certain Underwriters at Lloyd’s London*, 2 Wn.3d 628, 643, 541 P.3d 358 (2024) (in priority of action rule context, noting importance of “prevent[ing] unseemly, expensive, and dangerous conflicts of jurisdiction and of process” (cleaned up)).

Nor does the analysis change because the Supreme Court not only granted certiorari on the principal question but also requested briefing on a question of jurisdiction. *See* Order, Ex. B, at 2 (posing the question “[w]hether [the Supreme] Court has statutory and Article III jurisdiction to hear this case”). Instructing the parties to brief those jurisdictional questions indicates that the U.S. Supreme Court intends to carefully and thoroughly consider all issues implicated by the case. But the Court granted the petition even though the plaintiffs raised those jurisdictional objections in opposition to certiorari. Accordingly, there is a substantial probability that the Supreme Court will address the federal law preclusion question at issue here, which provides more than a sufficient basis for a stay.

Given the significant prospect that the Supreme Court will resolve the core issue in Defendants’ motions to dismiss and dispose of Plaintiffs’ claims, it would be sensible and promote judicial economy to permit the Supreme Court to decide *Boulder* before proceeding with these cases.

B. A Stay Will Not Unduly Prejudice Plaintiffs.

For the reasons discussed above, allowing these cases to proceed while *Boulder* is pending would prejudice Defendants, while a stay will benefit the Court, the parties, and the interests of justice. Plaintiffs will not suffer any undue prejudice from a stay of these cases, which are in their early stages, while the Supreme Court decides *Boulder*.

Plaintiffs’ suits are principally based on purported historical conduct and seek primarily damages or other monetary relief. Accordingly, a stay will not prevent Plaintiffs from ultimately securing any compensation to which they are entitled should they prevail on the merits of their

1 claims. As another court noted in a similar suit, “the outcome of this lawsuit cannot turn back the
2 clock on the atmospheric and ecological processes” alleged by Plaintiffs, and, accordingly, “[t]he
3 urgency of the threat of climate change writ large is distinct from” Plaintiffs’ “interest in a speedy
4 determination” of their primarily compensatory claims. *City of Annapolis v. BP P.L.C.*, 2021 WL
5 2000469, at *4 (D. Md. May 19, 2021) (granting stay of remand). In addition, Plaintiffs chose to
6 wait until December 2023 to bring these cases, even though they have long been on notice of the
7 climate-change issues raised by their claims—and numerous other, highly publicized climate cases
8 were filed starting decades earlier, often by the same counsel, including by indigenous populations
9 in 2008² and by King County in 2017—which weighs against any claim of purported prejudice.
10 *See Delaware v. BP Am. Inc.*, 2022 WL 605822, at *3 n.3 (D. Del. Feb. 8, 2022) (explaining that
11 it was “relevant to the Court’s [stay] calculation . . . that Plaintiff waited for approximately three
12 years after the first [similar suit] before bringing its case”).

13 VII. CONCLUSION

14 For the above reasons, the Court should stay the forthcoming hearing regarding
15 Defendants’ motions to dismiss, and all further proceedings in these cases, pending the United
16 States Supreme Court’s decision in *Boulder*.

27 ² *See Native Vill. of Kivalina v. ExxonMobil Corp.*, No. 4:08-cv-1138 (N.D. Cal. filed Feb. 26,
28 2008).

1 Respectfully submitted this 25th day of February, 2025.

2 I certify that this memorandum contains 2,549 words, in compliance with the Local Civil
3 Rules.

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