

RE: Next steps

From: Alain Boileau <aboileau@fortlauderdale.gov>
To: Marco Simons <marco@earthrights.org>
Date: Tue, 30 Oct 2018 14:04:18 -0400

Marco:

Next week might be best. I have not received any feedback from anyone since the meeting last Tuesday. I might have some additional information next week.

Alain E. Boileau
City Attorney
City of Fort Lauderdale, Florida
100 North Andrews Avenue, Fort Lauderdale, FL 33301
(954) 828-5038 | aboileau@fortlauderdale.gov

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-----Original Message-----

From: Marco Simons [mailto:marco@earthrights.org]
Sent: Monday, October 29, 2018 4:57 PM
To: Alain Boileau
Subject: Next steps

Hi Alain - should we talk some time this week? We have a Supreme Court argument on Wednesday that will take most of the day, but I have time most other days.

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Marco Simons
General Counsel & Americas Regional Program Director EarthRights International
1612 K Street NW #401
Washington, DC 20006
202-466-5188 x103
marco@earthrights.org
Admitted to practice in the District of Columbia, California, and Washington (inactive).

FW: Followup - Conference Meeting Presentation

From: Alain Boileau <aboileau@fortlauderdale.gov>
To: Jeff Modarelli <jmodarelli@fortlauderdale.gov>
Cc: David Soloman <dsoloman@fortlauderdale.gov>
Bcc: Alain Boileau <aboileau@fortlauderdale.gov>
Date: Mon, 22 Oct 2018 18:42:24 -0400

FYI - with regards to Bus-3 tomorrow at conference, the presenter will have a Powerpoint. I told him to give to us when he gets here.

Alain E. Boileau
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To: Alain Boileau
Cc: Lee Feldman
Subject: Re: Followup - Conference Meeting Presentation

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I had some questions regarding the presentation in terms of how it will be introduced, how much time will be given, whether materials should be circulated in advance, whether there is the capability for graphical presentations, whether others can speak as well - is there a time we can talk today? I am free all afternoon.

Thanks,
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On 10/17/2018 6:24 PM, Alain Boileau wrote:

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> Sent: Wednesday, October 17, 2018 12:15 PM
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Re: Followup

From: Alain Boileau <aboileau@fortlauderdale.gov>
To: Marco Simons <marco@earthrights.org>
Date: Wed, 17 Oct 2018 12:19:44 -0400

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From: Alain Boileau <aboileau@fortlauderdale.gov>
To: Marco Simons <marco@earthrights.org>
Date: Tue, 30 Oct 2018 14:13:22 -0400

Correct.

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Sent: Tuesday, October 30, 2018 2:09 PM
To: Alain Boileau
Subject: Re: Next steps

Great, thanks. So is it safe to assume that the matter will not come up for a vote on 11/6?

On 10/30/2018 2:04 PM, Alain Boileau wrote:

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To: Marco Simons <marco@earthrights.org>
Cc: Lee Feldman <lfeldman@fortlauderdale.gov>
Date: Wed, 17 Oct 2018 18:24:34 -0400

Marco:

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Fwd: Followup

From: Alain Boileau <aboileau@fortlauderdale.gov>
To: Lee Feldman <lfeldman@fortlauderdale.gov>
Bcc: Alain Boileau <aboileau@fortlauderdale.gov>
Date: Wed, 17 Oct 2018 12:21:23 -0400

Lee:

I'm working with the group presenting to try and put something together for a CAM. Hopefully, I'll get some more specifics later this afternoon.

Alain E. Boileau
City Attorney
City of Fort Lauderdale

Sent from my iPad

Begin forwarded message:

From: Alain Boileau <ABoileau@fortlauderdale.gov>
Date: October 17, 2018 at 12:19:44 PM EDT
To: Marco Simons <marco@earthrights.org>
Subject: Re: Followup

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FW: Followup - Conference Meeting Presentation

From: Alain Boileau <aboileau@fortlauderdale.gov>
To: Lee Feldman <lfeldman@fortlauderdale.gov>
Date: Mon, 22 Oct 2018 18:41:27 -0400

I called Marco and answered his questions.

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To: Jeff Modarelli <jmodarelli@fortlauderdale.gov>
Date: Wed, 17 Oct 2018 18:29:00 -0400

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>>> 202-466-5188 x103
>>> marco@earthrights.org
>>> Admitted to practice in the District of Columbia, California, and Washington (inactive).
>>>
>
>
> --
> Marco Simons

- > General Counsel & Americas Regional Program Director
- > EarthRights International
- > 1612 K Street NW #401
- > Washington, DC 20006
- > 202-466-5188 x103
- > marco@earthrights.org
- > Admitted to practice in the District of Columbia, California, and Washington (inactive).
- >

RE: Followup - Conference Meeting Presentation

From: Alain Boileau <aboileau@fortlauderdale.gov>
To: Marco Simons <marco@earthrights.org>
Cc: Lee Feldman <lfeldman@fortlauderdale.gov>
Bcc: Alain Boileau <aboileau@fortlauderdale.gov>
Date: Wed, 17 Oct 2018 18:24:34 -0400

Marco:

My apologies, but the day got away from me. Below is my proposed CAM summary to the Commission regarding Tuesday's conference item. I need to finalize in the morning, so any suggested revisions would be appreciated:

"Representatives from Earthrights International will be making a presentation regarding ongoing national litigation against fossil fuel companies arising from the companies' knowing contribution to the climate crisis by producing, promoting, refining, marketing, and selling fossil fuels, while concealing the dangers to the environment, the results of which municipalities, such as the City of Fort Lauderdale, have had to incur the costs of adapting to the resulting climate changes. Commencing in the summer of 2017, state and local governments around the country, including but not limited to, the State of New York, the City of Oakland, the City of San Francisco, the State of Rhode Island, the City of Baltimore, and the City of Boulder, have filed lawsuits asking fossil fuel companies to pay for their share of costs of adapting to climate change. Earthrights International, with the assistance of co-counsel, currently represent the City of Boulder, Boulder County, and San Miguel County, Colorado in one of these lawsuits."

Alain E. Boileau
City Attorney
City of Fort Lauderdale, Florida
100 North Andrews Avenue, Fort Lauderdale, FL 33301
(954) 828-5038 | aboileau@fortlauderdale.gov

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-----Original Message-----

From: Marco Simons [mailto:marco@earthrights.org]
Sent: Wednesday, October 17, 2018 12:15 PM
To: Alain Boileau
Subject: Re: Followup

Okay - I may be in another call at 4:30, but please try my mobile at 917-696-3304 anytime.

On 10/17/2018 12:11 PM, Alain Boileau wrote:

> Same here. I am in a public meeting for the next couple ours, and in internal meetings probably until 4:30. I will try and give you a call thereafter.

>

> Alain E. Boileau

> City Attorney

> City of Fort Lauderdale

>

> Sent from my iPad

>

>> On Oct 17, 2018, at 12:09 PM, Marco Simons <marco@earthrights.org> wrote:

>>

>> Dear Alain,

>> Nice to see you on Monday. Let me know when is a good time to talk to follow up.

>>

>> Sincerely,

>> Marco

>>

>> --

>> Marco Simons

>> General Counsel & Americas Regional Program Director EarthRights

>> International

>> 1612 K Street NW #401

>> Washington, DC 20006

>> 202-466-5188 x103

>> marco@earthrights.org

>> Admitted to practice in the District of Columbia, California, and Washington (inactive).

>>

--

Marco Simons

General Counsel & Americas Regional Program Director EarthRights International

1612 K Street NW #401

Washington, DC 20006

202-466-5188 x103

marco@earthrights.org

Admitted to practice in the District of Columbia, California, and Washington (inactive).

RE: Conference Presentation for October 23, 2018

From: Alain Boileau <aboileau@fortlauderdale.gov>
To: Seth Platt <gsplatt@lsnpartners.com>
Date: Wed, 17 Oct 2018 10:01:52 -0400

Tomorrow, mid-day

Alain E. Boileau City Attorney

City of Fort Lauderdale, Florida
100 North Andrews Avenue, Fort Lauderdale, FL 33301
(954) 828-5038 | aboileau@fortlauderdale.gov



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From: Seth Platt [mailto:gsplatt@lsnpartners.com]
Sent: Wednesday, October 17, 2018 9:19 AM
To: Alain Boileau
Subject: Re: Conference Presentation for October 23, 2018

Hi Alain,

I forwarded to Earthrights International. I will try and have Marco coordinate with you to get this done. What is your deadline?

Seth

On Tue, Oct 16, 2018 at 6:52 PM Alain Boileau <ABoileau@fortlauderdale.gov> wrote:

Seth:

For purposes of preparing a Commission Agenda Memo (CAM), I need a short paragraph or 2 of what you all will be presenting at the conference meeting on Tuesday. I don't want to paraphrase our discussions in hopes of getting it correct. I have the general gist of it, but you (collectively) may want to put it in your own words). This CAM will be part of the published agenda and serves to inform the Commission and the public on what is being presented to the Commission.

Is Earthrights International the right name of the group that is presenting, or is it a conglomerate of folks?

We can discuss further tomorrow if that is more practicable.

Alain

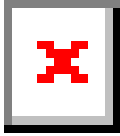
Alain E. Boileau

City Attorney

City of Fort Lauderdale, Florida

100 North Andrews Avenue, Fort Lauderdale, FL 33301

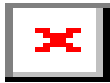
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--

Please note that our office and mailing address has changed effective August 1, 2018. Please direct all correspondence to the new address in my signature.



Seth Platt
Senior Associate
LSN Partners
1512 East Broward Blvd.
Suite 101
Fort Lauderdale, FL 33301
(954) 522-3588 - Office
(954) 522-3578 - Fax
(954) 309-6291 - Cell

LSNpartners.com

Miami • Fort Lauderdale • Tallahassee • Washington D.C.

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necessarily those of LSN Partners, LLC or its subsidiaries. It is possible for data transmitted by e-mail to be deliberately or accidentally corrupted or intercepted.

Re: Judge Dismisses Suit Against Oil Companies Over Climate Change Costs

From: Alain Boileau <aboileau@fortlauderdale.gov>
To: Lee Feldman <lfeldman@fortlauderdale.gov>
Bcc: Alain Boileau <aboileau@fortlauderdale.gov>
Date: Fri, 27 Jul 2018 18:11:17 -0400
Attachments: image002.png (28.9 kB)

I suggested they prepare a presentation for the commission. They just need a target date.

Alain E. Boileau
Interim City Attorney
City of Fort Lauderdale

PLEASE EXCUSE ANY TYPOGRAPHICAL OR GRAMMATICAL ERRORS AS THIS HAS BEEN SENT FROM MY IPHONE IN ORDER TO PROMPTLY RESPOND TO YOUR COMMUNICATION.

On Jul 27, 2018, at 6:04 PM, Lee Feldman <LFeldman@fortlauderdale.gov> wrote:

Yes. If ready.

Lee R. Feldman
City Manager

On Jul 28, 2018, at 3:38 AM, Alain Boileau <ABoileau@fortlauderdale.gov> wrote:

>

Lee:

Are we still shooting for 9/4 to have this topic scheduled for the conference agenda?

Alain

Alain E. Boileau - Interim City Attorney

City of Fort Lauderdale, City Attorney's Office

100 North Andrews Avenue, Fort Lauderdale, FL 33301

T: 954.828.5025 F: 954.828.5915

E: aboileau@fortlauderdale.gov

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From: Alain Boileau

Sent: Friday, July 27, 2018 3:36 PM

To: Dean Trantalis

Cc: Scott Wyman; Lee Feldman

Subject: RE: Judge Dismisses Suit Against Oil Companies Over Climate Change Costs

Inevitably mixed. Conceptually, the potential liability makes sense and there is a factual basis to support the argument, but practically these lawsuits are encountering substantial headwinds in Court with regards to liability and jurisdiction. The governmental plaintiffs are essentially pursuing liability through common law claims at a local level for a global (and not exclusively domestic)

problem upon which the judiciary is taking the position that the issue has been and should be relegated to the executive and legislative branches. On a contingency basis, the risk is low for the City, but we still have to address any potential award of prevailing litigation costs that the firm representing us could not pay on our behalf if our case gets dismissed or if the City does not prevail. There may be an insurance premium solution to that exposure, but we'll have to discuss.

Note that the California and New York dismissals are being appealed.

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T: 954.828.5025 F: 954.828.5915

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From: Dean Trantalis

Sent: Friday, July 27, 2018 2:50 PM

To: Alain Boileau

Cc: Scott Wyman; Lee Feldman

Subject: Re: Judge Dismisses Suit Against Oil Companies Over Climate Change Costs

Hmm. You're sending me mixed messages.

Sent from my iPhone

On Jul 27, 2018, at 1:58 PM, Alain Boileau <ABoileau@fortlauderdale.gov> wrote:

Mayor:

As a follow-up to my email below, as well as our meeting with Seth Plath, please be advised that the New York v. BP, Chrevron, et al. case, which Seth had provided to us for our meeting, was just dismissed by the United States District Court in New York on July 19 (see attached Order), for almost the identical reasons relied upon the U.S. District Court in California in dismissing the City of Oakland and San Francisco's lawsuit against the same oil company defendants.

That being said, I had a positive meeting yesterday with Marco Simons, Esquire of the EarthRights International Group, Matt Edling, Esquire, Vic Sher,

Esquire, of Sher Edling, and Jorge Mursuli. Sher Edling have been able to successfully obtain 6 remands to state court in the cases filed and removed in California, and have yet to suffer any dismissals.

We can discuss in further detail upon your return and at your convenience.

Alain

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From: Alain Boileau

Sent: Tuesday, June 26, 2018 1:41 PM

To: Dean Trantalis

Cc: Scott Wyman

Subject: Judge Dismisses Suit Against Oil Companies Over Climate Change Costs

Mayor:

With regards to the meeting we had yesterday, please see the attached Order, which was issued yesterday in the U.S. District Court for the Northern District of California, as well as the linked NY Times article, describing the dismissal of the City of Oakland and the State of California's lawsuit against BP, Chevron, ConocoPhillips, Exxon, and Shell, under the same nuisance and trespass theories being proposed to us. The articles suggests that similar attempts in years past have also been unsuccessful. The following is the final paragraph of the Order, which notably delegates the remedies to the Legislative and Executive branches of government.

“In sum, this order accepts the science behind global warming. So do both sides. The dangers raised in the complaints are very real. But those dangers are worldwide. Their causes are worldwide. The benefits of fossil fuels are worldwide. The problem deserves a solution on a

more vast scale than can be supplied by a district judge or jury in a public nuisance case. While it remains true that our federal courts have authority to fashion common law remedies for claims based on global warming, courts must also respect and defer to the other co-equal branches of government when the problem at hand clearly deserves a solution best addressed by those branches. The Court will stay its hand in favor of solutions by the legislative and executive branches. For the reasons stated, defendants' motion to dismiss is GRANTED."

From The New York Times:

Judge Dismisses Suit Against Oil Companies Over Climate Change Costs

<https://www.nytimes.com/2018/06/25/climate/climate-change-lawsuit-san-francisco-oakland.html>

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<New York v. BP - Order Granting Motion to Dismiss.pdf>



RE: Judge Dismisses Suit Against Oil Companies Over Climate Change Costs

From: Alain Boileau <aboileau@fortlauderdale.gov>
To: Dean Trantalis <dtrantalis@fortlauderdale.gov>
Cc: Scott Wyman <swyman@fortlauderdale.gov>, Lee Feldman <lfeldman@fortlauderdale.gov>
Bcc: Alain Boileau <aboileau@fortlauderdale.gov>
Date: Fri, 27 Jul 2018 15:36:05 -0400

Inevitably mixed. Conceptually, the potential liability makes sense and there is a factual basis to support the argument, but practically these lawsuits are encountering substantial headwinds in Court with regards to liability and jurisdiction. The governmental plaintiffs are essentially pursuing liability through common law claims at a local level for a global (and not exclusively domestic) problem upon which the judiciary is taking the position that the issue has been and should be relegated to the executive and legislative branches. On a contingency basis, the risk is low for the City, but we still have to address any potential award of prevailing litigation costs that the firm representing us could not pay on our behalf if our case gets dismissed or if the City does not prevail. There may be an insurance premium solution to that exposure, but we'll have to discuss.

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From: Dean Trantalis

Sent: Friday, July 27, 2018 2:50 PM

To: Alain Boileau

Cc: Scott Wyman; Lee Feldman

Subject: Re: Judge Dismisses Suit Against Oil Companies Over Climate Change Costs

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Sent from my iPhone

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Sent: Tuesday, June 26, 2018 1:41 PM

To: Dean Trantalis

Cc: Scott Wyman

Subject: Judge Dismisses Suit Against Oil Companies Over Climate Change Costs

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<https://www.nytimes.com/2018/06/25/climate/climate-change-lawsuit-san-francisco-oakland.html>

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<New York v. BP - Order Granting Motion to Dismiss.pdf>

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From: Alain Boileau <aboileau@fortlauderdale.gov>
To: Lee Feldman <lfeldman@fortlauderdale.gov>
Date: Fri, 27 Jul 2018 15:38:27 -0400

Lee:

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E: aboileau@fortlauderdale.gov

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100 North Andrews Avenue, Fort Lauderdale, FL 33301

T: 954.828.5025 F: 954.828.5915

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<New York v. BP - Order Granting Motion to Dismiss.pdf>

RE: Meeting with Mr. Boileau

From: Alain Boileau <aboileau@fortlauderdale.gov>
To: Maureen Richards <mrichards@fortlauderdale.gov>
Date: Wed, 25 Jul 2018 13:21:50 -0400

Yes.

Alain E. Boileau - Interim City Attorney

City of Fort Lauderdale, City Attorney's Office
100 North Andrews Avenue, Fort Lauderdale, FL 33301
T: 954.828.5025 F: 954.828.5915
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From: Maureen Richards
Sent: Wednesday, July 25, 2018 12:19 PM
To: Alain Boileau
Subject: FW: Meeting with Mr. Boileau

Hello Alain:

Are you going to this meeting tomorrow morning?:

Maureen Richards | Law Office Manager
City of Fort Lauderdale | Office of the City Attorney

100 North Andrews Avenue, Fort Lauderdale, FL 33301
T: 954.828.5037 | F: 954.828.5917 | E: mrichards@fortlauderdale.gov



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From: Lizardo Coronado
Sent: Wednesday, July 25, 2018 11:28 AM
To: Maureen Richards
Subject: FW: Meeting with Mr. Boileau

Maureen- spoke with gentlemen below, who has a meeting with Alain tomorrow and wanted to update the attendance list.

Best,
Lizardo Coronado

From: JorgeMursuli [<mailto:jorge.mursuli@gmail.com>]
Sent: Wednesday, July 25, 2018 11:03 AM
To: Lizardo Coronado
Subject: Fwd: Meeting with Mr. Boileau

I think I misspelled your address. Hope this gets to you.

Begin forwarded message:

From: JorgeMursuli <jorge.mursuli@gmail.com>
Subject: Fwd: Meeting with Mr. Boileau
Date: July 25, 2018 at 10:57:13 AM EDT
To: lcoronado@fortlauderdale.gov

Lizardo,

Thanks very much for helping me ensure we can include my colleagues on the phone during our meeting tomorrow with Mr Boileau. As you know, I received a return email advising me Ms Pineda will be OOT till August.

Please ask whomever is managing this meeting in place of Ms Pineda to confirm with me that phone access to my colleagues during the meeting is doable.

Thanks again,

Jorge Mursuli
Earthrights International
786.236.1049

Begin forwarded message:

From: JorgeMursuli <jorge.mursuli@gmail.com>
Subject: Meeting with Mr. Boileau
Date: July 25, 2018 at 10:47:57 AM EDT
To: Mayda Pineda <MPineda@fortlauderdale.gov>

Hello Ms. Pineda,

We would like to include additional co-counsel on the phone during our face-to face meeting with Mr. Boileau.

They are:

Vic Sher- 415/595-9969
Matt Edling- 415/531-1829

Please let me know if patching them into our meeting is doable. Again, thanks very much.

Jorge Mursuli
786.236.1049

On Jul 24, 2018, at 10:58 AM, Mayda Pineda <MPineda@fortlauderdale.gov> wrote:

Perfect! Thanks again.

Mayda Pineda | Legal Administrative Assistant
City of Fort Lauderdale | City Attorney's Office
100 North Andrews Avenue, Fort Lauderdale, FL 33301
T: 954.828.7452 | F: 954.828.5917 | E: mpineda@fortlauderdale.gov

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-----Original Message-----

From: Jorge Mursuli <jorge.mursuli@gmail.com>
Sent: Tuesday, July 24, 2018 10:41 AM
To: Mayda Pineda <MPineda@fortlauderdale.gov>
Subject: Re: referred by Scott Wyman

At the moment, the only other person scheduled to attend is Marco Simmons, lead counsel EarthRights International. I will let you know if others are added.

Thanks again,

Jorge Mursuli
EarthRights International
786.236.1049

On Jul 24, 2018, at 10:36 AM, Mayda Pineda <MPineda@fortlauderdale.gov> wrote:

Please provide me with the name(s) of the other attendees.

Thank you.

Mayda Pineda | Legal Administrative Assistant City of Fort Lauderdale
| City Attorney's Office
100 North Andrews Avenue, Fort Lauderdale, FL 33301
T: 954.828.7452 | F: 954.828.5917 | E: mpineda@fortlauderdale.gov

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-----Original Message-----

From: JorgeMursuli <jorge.mursuli@gmail.com>
Sent: Tuesday, July 24, 2018 10:32 AM
To: Mayda Pineda <MPineda@fortlauderdale.gov>
Subject: Re: referred by Scott Wyman

Perfect. Thank-you.

On Jul 24, 2018, at 10:12 AM, Mayda Pineda <MPineda@fortlauderdale.gov> wrote:

Okay, understood.

Let's confirm 10:30 a.m. on Thursday, July 26th. --

Meeting will take place at City Hall, 100 N. Andrews Avenue, 7th Floor, Ft. Lauderdale, FL

Please confirm.

Thank you.

Mayda Pineda | Legal Administrative Assistant City of Fort Lauderdale
| City Attorney's Office
100 North Andrews Avenue, Fort Lauderdale, FL 33301
T: 954.828.7452 | F: 954.828.5917 | E: mpineda@fortlauderdale.gov

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-----Original Message-----

From: JorgeMursuli <jorge.mursuli@gmail.com>
Sent: Tuesday, July 24, 2018 9:43 AM
To: Mayda Pineda <MPineda@fortlauderdale.gov>
Subject: Re: referred by Scott Wyman

I'm afraid not. As I explained in my email, Mr Boileau did not confirm a time with me. EarthRights lawyers are in DC and need to fly to Ft. Lauderdale. At this point, it would need to be tomorrow or Thursday.

Thanks in advance for your help.

Jorge Mursuli
EarthRights International
786.236.1049

On Jul 24, 2018, at 9:35 AM, Mayda Pineda <MPineda@fortlauderdale.gov> wrote:

Mr. Mursuli,

Can you come in today at 2 p.m.?

Mayda Pineda | Legal Administrative Assistant City of Fort
Lauderdale
| City Attorney's Office
100 North Andrews Avenue, Fort Lauderdale, FL 33301
T: 954.828.7452 | F: 954.828.5917 | E: mpineda@fortlauderdale.gov

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-----Original Message-----

From: JorgeMursuli <jorge.mursuli@gmail.com>
Sent: Tuesday, July 24, 2018 8:24 AM
To: Mayda Pineda <MPineda@fortlauderdale.gov>
Cc: Alain Boileau <ABoileau@fortlauderdale.gov>; Scott Wyman <SWyman@fortlauderdale.gov>; Dean Trantalis <DTrantalis@fortlauderdale.gov>
Subject: Re: referred by Scott Wyman

Mr. Boileau,

Given the nature of the timing and the related travel, it's clear that today won't work. You mentioned this week was flexible for you. Would tomorrow or Thursday work? Please advise ASAP.

Thanks very much.

Jorge Mursuli
EarthRights International
786.236.1049

On Jul 24, 2018, at 8:19 AM, Mayda Pineda <MPineda@fortlauderdale.gov> wrote:

Good morning Scott,

Please advise what works best for the Mayor -- there is no set time yet. I called you this morning and left you a voicemail message regarding same.

Thank you.

Mayda Pineda | Legal Administrative Assistant City of Fort
Lauderdale
| City Attorney's Office

100 North Andrews Avenue, Fort Lauderdale, FL 33301
T: 954.828.7452 | F: 954.828.5917 | E: mpineda@fortlauderdale.gov

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-----Original Message-----

From: JorgeMursuli <jorge.mursuli@gmail.com>
Sent: Monday, July 23, 2018 4:46 PM
To: Alain Boileau <ABoileau@fortlauderdale.gov>
Cc: Scott Wyman <SWyman@fortlauderdale.gov>; Dean Trantalis <DTrantalis@fortlauderdale.gov>; Mayda Pineda <MPineda@fortlauderdale.gov>
Subject: Re: referred by Scott Wyman

Mr Boileau,

I never heard what time the meeting is tomorrow. I think it would have to be in afternoon at this point.

Please advise ASAP.

Jorge

On Jul 13, 2018, at 10:57 AM, JorgeMursuli <jorge.mursuli@gmail.com> wrote:

07/24 it is. Please let me know what time works best for you and the Mayor.

Look forward to meeting soon,

Jorge Mursuli
786.236.1049

On Jul 11, 2018, at 12:00 PM, Alain Boileau <ABoileau@fortlauderdale.gov> wrote:

Mr. Mursuli:

I am relatively available that week, however, 7/24 must be the most convenient. Please advise if this works for you and we can schedule a time.

I look forward to meeting you and discussing this issue.

Best regards,

Alain

Alain E. Boileau - Interim City Attorney City of Fort Lauderdale,
City Attorney's Office
100 North Andrews Avenue, Fort Lauderdale, FL 33301
T: 954.828.5025 F: 954.828.5915
E: aboileau@fortlauderdale.gov

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Therefore, any e-mail message to or from the City, inclusive of e-mail addresses contained therein, may be subject to public disclosure.

-----Original Message-----

From: JorgeMursuli [<mailto:jorge.mursuli@gmail.com>]
Sent: Wednesday, July 11, 2018 11:07 AM
To: Alain Boileau
Cc: Scott Wyman; Dean Trantalis
Subject: referred by Scott Wyman

Mr Boileau,

My name is Jorge Mursuli. I represent EarthRights International, a worldwide NGO specializing in litigation in support of the environment and in defense of human rights abuses (<https://earthrights.org/about/>). I believe you are already aware of Mayor Trantalis's interest in exploring potential litigation efforts regarding harms to the City of Ft Lauderdale caused as a result of climate change and sea level rise.

Scott Wyman asked that I reach out to you in order to schedule a meeting with EarthRights International (ERI) counsel where you can discuss the details of the effort and related strategies. As you probably know, this topic is one with many moving parts given the growing number of similar lawsuits around the country. We very much look forward to explaining where we are in the process with other key municipalities and answer any and all questions you might have.

The ERI team could be in South Florida anytime from 07/23-07/27. Please let me know ASAP when you would be available, and I will be happy to set that up.

Thanks in advance for your time and consideration. I can be reached at 786.236.1049 if needed.

We look forward to meeting and talking,

Jorge Mursuli
EarthRights International

RE: Judge Dismisses Suit Against Oil Companies Over Climate Change Costs

From: Alain Boileau <aboileau@fortlauderdale.gov>
To: Dean Trantalis <dtrantalis@fortlauderdale.gov>
Cc: Scott Wyman <swyman@fortlauderdale.gov>, Lee Feldman <lfeldman@fortlauderdale.gov>
Bcc: Alain Boileau <aboileau@fortlauderdale.gov>
Date: Fri, 27 Jul 2018 13:58:38 -0400
Attachments New York v. BP - Order Granting Motion to Dismiss.pdf (1.05 MB)
:

Mayor:

As a follow-up to my email below, as well as our meeting with Seth Plath, please be advised that the [New York v. BP, Chevron, et al.](#) case, which Seth had provided to us for our meeting, was just dismissed by the United States District Court in New York on July 19 (see attached Order), for almost the identical reasons relied upon the U.S. District Court in California in dismissing the City of Oakland and San Francisco's lawsuit against the same oil company defendants.

That being said, I had a positive meeting yesterday with Marco Simons, Esquire of the EarthRights International Group, Matt Edling, Esquire, Vic Sher, Esquire, of Sher Edling, and Jorge Mursuli. Sher Edling have been able to successfully obtain 6

remands to state court in the cases filed and removed in California, and have yet to suffer any dismissals.

We can discuss in further detail upon your return and at your convenience.

Alain

Alain E. Boileau - Interim City Attorney

City of Fort Lauderdale, City Attorney's Office
100 North Andrews Avenue, Fort Lauderdale, FL 33301
T: 954.828.5025 F: 954.828.5915

E: aboileau@fortlauderdale.gov



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From: Alain Boileau

Sent: Tuesday, June 26, 2018 1:41 PM

To: Dean Trantalis

Cc: Scott Wyman

Subject: Judge Dismisses Suit Against Oil Companies Over Climate Change Costs

Mayor:

With regards to the meeting we had yesterday, please see the attached Order, which was issued yesterday in the U.S. District Court for the Northern District of California, as well as the linked NY Times article, describing the dismissal of the City of Oakland and the State of California's lawsuit against BP, Chevron, ConocoPhillips, Exxon, and Shell, under the same nuisance and trespass theories being proposed to us.

The articles suggests that similar attempts in years past have also been unsuccessful. The following is the final paragraph of the Order, which notably delegates the remedies to the Legislative and Executive branches of government.

“In sum, this order accepts the science behind global warming. So do both sides. The dangers raised in the complaints are very real. But those dangers are worldwide. Their causes are worldwide. The benefits of fossil fuels are worldwide. The problem deserves a solution on a more vast scale than can be supplied by a district judge or jury in a public nuisance case. While it remains true that our federal courts have authority to fashion common law remedies for claims

based on global warming, courts must also respect and defer to the other co-equal branches of government when the problem at hand clearly deserves a solution best addressed by those branches. The Court will stay its hand in favor of solutions by the legislative and executive branches. For the reasons stated, defendants' motion to dismiss is **GRANTED.**"

From The New York Times:

Judge Dismisses Suit Against Oil Companies Over Climate Change Costs

<https://www.nytimes.com/2018/06/25/climate/climate-change-lawsuit-san-francisco-oakland.html>

Alain E. Boileau - Interim City Attorney

City of Fort Lauderdale, City Attorney's Office

100 North Andrews Avenue, Fort Lauderdale, FL 33301

T: 954.828.5025 F: 954.828.5915

E: aboileau@fortlauderdale.gov



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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
CITY OF NEW YORK, :
 :
 :
 : Plaintiff, :
 -against- :
 :
 :
 BP P.L.C., CHEVRON CORPORATION, :
 CONOCOPHILLIPS, :
 EXXON MOBIL CORPORATION, :
 and ROYAL DUTCH SHELL, PC, :
 :
 :
 : Defendants. :
-----X

No. 18 Civ. 182 (JFK)

OPINION & ORDER

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 7/19/2018

APPEARANCES

FOR PLAINTIFF CITY OF NEW YORK:

Zachary W. Carter
Susan E. Amron
Kathleen C. Schmid
Margaret C. Holden
Noah Kazis
CORPORATION COUNSEL OF THE CITY OF NEW YORK
Steve W. Berman
Matthew F. Pawa
Benjamin A. Krass
Wesley Kelman
HAGENS BERMAN SOBOL SHAPIRO LLP
Christopher A. Seeger
Stephen A. Weiss
Diogenes P. Kekatos
SEEGER WEISS LLP

FOR DEFENDANT CHEVRON CORPORATION:

Caitlin J. Halligan
Andrea E. Neuman
Anne Champion
Theodore J. Boutrous, Jr.
William E. Thomson
Joshua S. Lipshitz
GIBSON, DUNN & CRUTCHER LLP
Herbert J. Stern
Joel M. Silverstein
STERN & KILCULLEN, LLC

Neal S. Manne
Johnny W. Carter
Erica Harris
Steven Shepard
Laranda Walker
Kemper Diehl
Michael Adamson
SUSMAN GODFREY LLP

FOR DEFENDANT EXXON MOBIL CORPORATION:

Theodore V. Wells, Jr.
Daniel J. Toal
Jaren Janghorbani
PAUL, WEISS, RIFKIND, WHARTON & GARRISON, LLP
M. Randall Oppenheimer
Dawn Sestito
O'MELVENY & MYERS LLP
Patrick J. Conlon
EXXON MOBIL CORPORATION

FOR DEFENDANT CONOCOPHILLIPS:

John F. Savarese
Jeffrey M. Wintner
Ben M. Germana
Johnathan Siegel
WACHTELL, LIPTON, ROSEN & KATZ
Tracie J. Renfroe
Carol M. Wood
KING & SPALDING LLP

JOHN F. KEENAN, United States District Judge:

Before the Court is a motion by Defendants Chevron Corporation ("Chevron"), ConocoPhillips, and Exxon Mobil Corporation ("Exxon") (together, the "U.S.-based Defendants") to dismiss Plaintiff City of New York's (the "City") amended complaint under Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6). For the reasons stated below, Defendants' motion is granted and the City's amended complaint is dismissed.

I. Background

The following facts and allegations are taken from the amended complaint. Defendants BP P.L.C. ("BP"), Chevron, ConocoPhillips, Exxon, and Royal Dutch Shell ("Shell") (together, "Defendants") are multinational oil and gas companies. (Am. Compl. ¶¶ 16-20.) Defendants produce, market, and sell mass quantities of fossil fuels, primarily oil and natural gas. (Id. ¶ 1.) Defendants are, respectively, the first (Chevron), second (Exxon), fourth (BP), sixth (Shell), and ninth (ConocoPhillips) largest cumulative producers of fossil fuels worldwide from the mid-nineteenth century to present. (Id. ¶ 76.) Defendants are collectively responsible, through their production, marketing, and sale of fossil fuels, for over eleven percent of all the carbon and methane pollution from industrial sources that has accumulated in the atmosphere since the Industrial Revolution. (Id. ¶ 3.)

Climate science clearly demonstrates that the burning of fossil fuels is the primary cause of climate change. (Id. ¶¶ 69-70.) When combusted, fossil fuels emit greenhouse gases, including carbon dioxide, the "largest contribut[or]" to climate change of any source. (Id. ¶ 74.) Additionally, one of Defendants' primary fossil fuel products, natural gas, is composed of methane, which is the second largest greenhouse gas contributor to global warming. (Id.) Global warming, or the

gradual heating of the Earth's surface and atmosphere caused by accumulation of greenhouse gas pollution in the atmosphere, has led to hotter temperatures, longer and more severe heat waves, extreme precipitation events including heavy downpours, rising sea levels, and other severe and irreversible harms. (Id. ¶ 2.) The City alleges that, through their production and sale of fossil fuel products, Defendants have contributed to the temperature increases and global-warming-induced sea-level rise affecting New York City. (Id. ¶ 24.)

According to the amended complaint, Defendants have known for decades that their fossil fuel products pose risks of severe impacts on the global climate through the warnings of their own scientists, or those of the U.S. trade association, American Petroleum Institute ("API"). (Id. ¶¶ 72, 80.) Beginning in the 1950s, API began warning its members that fossil fuels pose a grave threat to the global climate. (Id. ¶ 82.) Between 1979 and 1983, the API and Defendants, their predecessors, and agents formed a task force to monitor and share climate research, called the "Climate and Energy Task Force" (the "Task Force"). (Id.) The minutes from Task Force meetings show that the Task Force was aware of a scientific consensus on the likelihood of a significant global temperature rise resulting from increased carbon dioxide levels that would cause "globally catastrophic events." (Id.) Defendants' internal documents also demonstrate

that Defendants were aware of the "catastrophic" threat that fossil fuels posed to the global climate. (Id. ¶¶ 85, 88.)

Despite their early knowledge of climate change risks, Defendants extensively promoted fossil fuels for pervasive use, while denying or downplaying these threats. (Id. ¶¶ 93-94.) Defendants engaged in an overt public relations campaign intended to cast doubt on climate science. (Id. ¶ 94.) Initially, the campaign tried to show that climate change was not occurring or was not caused by Defendants' products. (Id.) More recently, the campaign has sought to minimize the risks and harms from climate change. (Id.) Meanwhile, beginning in the mid-1980s, Exxon and other major oil and gas companies, including Mobil and Shell, took actions to protect their own business assets from the impacts of climate change, including raising the decks of offshore platforms, protecting pipelines from coastal erosion, and designing helipads, pipelines, and roads in the warming Arctic. (Id. ¶ 91.) Although the amended complaint contains extensive allegations regarding Defendants' past attempts to deny or downplay the effects of fossil fuel use on climate change, in their motion to dismiss, Defendants do not dispute the scientific consensus that greenhouse gas emissions from fossil fuel use have contributed to global warming.

According to the New York City Panel on Climate Change ("NPCC"), the expert committee convened to provide scientific

advice, guidance, and projections on climate change, climate change is already affecting New York City and will have a significant impact in the future. (Id. ¶ 10.) The average annual temperature in New York City has increased at a rate of 0.79°F per decade over the last thirty years. (Id. ¶ 57.) Without mitigation, the hotter summers projected for 2020 could cause an estimated thirty to seventy percent increase in heat-related deaths in the New York City. (Id. ¶ 61.) In addition, New York City is exceptionally vulnerable to sea-level rise due to its long coastline and its large floodplain that is home to more than 218,000 New Yorkers. (Id. ¶ 64.) Sea-level rise in New York City has averaged 1.2 inches per decade since 1900, nearly twice the observed global rate of 0.5 to 0.7 inches per decade over a similar time period. (Id. ¶ 57.) Approximately sixty percent of the relative sea-level rise is driven by climate-related factors. (Id.)

Given New York City's particular vulnerability to climate change, the City has been forced to take proactive steps to protect itself and its residents from the dangers and impacts of global warming. (Id. ¶ 117.) After Hurricane Sandy, the City launched a \$20 billion-plus multilayered investment program in climate resiliency. (Id. ¶ 119.) The first steps of this effort include constructing levees and sea walls, elevating facilities and streets, and waterproofing and hardening infrastructure.

(Id.) In addition, the City must promptly take more robust measures to make New York City more resilient and protect the public and City property from climate change, including enlarging existing storm and wastewater storage facilities and installing additional new facilities, as well as associated infrastructure and pumping facilities, to prevent flooding in low-lying areas that are vulnerable to rising seas or increasingly severe downpours. (Id. ¶ 122.)

The City alleges that Defendants' ongoing conduct continues to exacerbate global warming and cause recurring injuries to New York City. (Id. ¶ 9.) Defendants continue to produce, market, distribute, and sell fossil fuels in massive quantities; to promote fossil fuel consumption in these massive quantities; and to downplay the threat posed by climate change. (Id. ¶ 131.) This ongoing conduct will cause increasingly severe injuries to New York City, including new and more significant encroachments upon and interferences with City property, and increasingly severe threats to public health. (Id.) The City brings this suit to "shift the costs of protecting the City from climate change impacts back onto the companies that have done nearly all they could to create this existential threat." (Id. ¶ 2.)

The City alleges three causes of action against Defendants: (1) public nuisance, (2) private nuisance, and (3) trespass. (Id. ¶¶ 132-152.) The City requests compensatory damages for

past and future costs incurred by the City to protect its infrastructure and property, and to protect the public health, safety, and property of its residents from the impacts of climate change. (Id. at 73-74.) The City also requests an equitable order ascertaining damages and granting an injunction to abate the public nuisance and trespass that would not be effective unless Defendants fail to pay the court-determined damages for the past and permanent injuries inflicted (a "Boomer injunction"). (Id. at 74.)

On March 30, 2018, the U.S.-based Defendants moved to dismiss the amended complaint under Rules 12(b)(1) and 12(b)(6).¹ The U.S.-based Defendants argue in their joint motion that (1) the City's claims arise under federal common law and should be dismissed, (2) the City's claims are independently barred by numerous federal doctrines, (3) the amended complaint does not allege viable state-law claims, (4) the City's claims are not justiciable, and (5) the City has failed to allege proximate cause.

¹ Exxon and ConocoPhillips also moved to dismiss under Rule 12(b)(2) for lack of personal jurisdiction. Per agreement of the parties, the Court deferred further briefing on this issue until the Court rules on the motion to dismiss under Rules 12(b)(1) and 12(b)(6). In addition, BP and Shell's (the "foreign Defendants") time to respond to the complaint has been adjourned pending the Court's decision on the instant motion to dismiss.

II. Discussion

A. Legal Standard

Rule 12(b)(1) requires dismissal when “the district court lacks the statutory or constitutional power to adjudicate it.” Makarova v. United States, 201 F.3d 110, 113 (2d Cir. 2000). A “plaintiff asserting subject matter jurisdiction has the burden of proving by a preponderance of the evidence that it exists.” Id. (citing Malik v. Meissner, 82 F.3d 560, 562 (2d Cir. 1996)). Under Rule 12(b)(1), the court must accept all factual allegations in the complaint as true and draw inferences in the light most favorable to the plaintiff. Jaghory v. N.Y. State Dep’t of Educ., 131 F.3d 326, 329 (2d Cir. 1997).

To survive a motion to dismiss under Rule 12(b)(6), a complaint need only provide “sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face.” Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009). “A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” Id. On a motion to dismiss, a court must accept the factual allegations in the complaint as true and draw reasonable inferences in the plaintiff’s favor. Tsirelman v. Daines, 794 F.3d 310, 313 (2d Cir. 2015).

B. Analysis

1. Federal Common Law Displaces The City's State Law Claims

The Court agrees that the City's claims are governed by federal common law. The Supreme Court has recognized that there are some limited areas in which a federal rule of decision is "necessary to protect uniquely federal interests." Tex. Indus. Inc. v. Radcliff Materials, Inc., 451 U.S. 630, 640 (1981) (quoting Banco Nacional de Cuba v. Sabbatino, 376 U.S. 398, 426 (1964)). Where "the interstate or international nature of the controversy makes it inappropriate for state law to control . . . our federal system does not permit the controversy to be resolved under state law." Id. at 641. The Supreme Court has held that "the control of interstate pollution is primarily a matter of federal law." Int'l Paper Co. v. Ouellette, 479 U.S. 481, 492 (1987); see also Illinois v. City of Milwaukee, 406 U.S. 91, 103 (1972) ("Milwaukee I") ("When we deal with air and water in their ambient or interstate aspects, there is a federal common law."); Native Vill. of Kivalina v. ExxonMobil Corp., 696 F.3d 849, 855 (9th Cir. 2012) ("Post-Erie, federal common law includes the general subject of environmental law and specifically includes ambient or interstate air and water pollution."). "Federal common law and not the varying common law of the individual States is . . . 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." Milwaukee I, 406 U.S. at 107 n.9.

The City's global-warming tort claims are based on Defendants' worldwide fossil fuel production and "the use of their fossil fuel products [which] continue[] to emit greenhouse gases and exacerbate global warming." (Am. Compl. ¶¶ 76, 143.) As pointed out on page three, Defendants are among the largest cumulative producers of fossil fuels worldwide since the mid-nineteenth century. (Id. ¶ 76.) Defendants are allegedly collectively responsible, through their production, marketing, and sale of fossil fuels, for over eleven percent of all the carbon and methane pollution from industrial sources that has accumulated in the atmosphere since the Industrial Revolution. (Id. ¶ 3.) The City itself alleges that "[g]reenhouse gas molecules cannot be traced to their source, and greenhouse gases quickly diffuse and coningle in the atmosphere. However, because of their rapid and widespread global dispersal, greenhouse gas emissions from each of Defendants' fossil fuel products are present in the atmosphere in New York State." (Id. ¶ 75.) Widespread global dispersal is exactly the type of "transboundary pollution suit[]" to which federal common law should apply. Kivalina, 69 F.3d at 855-58; see also California v. BP P.L.C., No. C 17-06011(WHA), 2018 WL 1064293, at *3 (N.D. Cal. Feb. 27, 2018) ("[T]he transboundary problem of global

warming raises exactly the sort of federal interests that necessitate a uniform solution.”).

Although the City agrees that “federal common law has long applied to” suits against “direct emitters of interstate pollution,” it contends that its claims are not governed by federal common law because “the City bases liability on defendants’ production and sale of fossil fuels—not defendants’ direct emissions of [greenhouse gases].” (Pl.’s Mem. of L. in Opp’n to Defs.’ Mot. to Dismiss at 27-29, ECF No. 101 (filed May 4, 2018) [hereinafter Pl.’s Mem.].) However, regardless of the manner in which the City frames its claims in its opposition brief, the amended complaint makes clear that the City is seeking damages for global-warming related injuries resulting from greenhouse gas emissions, and not only the production of Defendants’ fossil fuels.

According to the amended complaint, “[greenhouse gas] pollution from the burning of fossil fuels is the dominant cause” of global warming. (Am. Compl. ¶ 52.) Indeed, the City alleges that Defendants are substantial contributors to climate change through their production of massive quantities of fossil fuels, because, when combusted, these fossil fuels emit carbon dioxide and other greenhouse gases. (Id. ¶¶ 73-74.) “[Als [Defendants] know, the use of their fossil fuel products continues to emit greenhouse gases and exacerbate global warming

and the City's injuries." (Id. ¶¶ 143, 151.) "Defendants . . . should reasonably expect their tortious acts to have consequences . . . includ[ing] increasing the concentration of [greenhouse gases], including carbon dioxide, as well as global warming injuries, including accelerated sea-level rise and heat impacts." (Id. ¶ 46.) "The City's waterfront is . . . being harmed by global warming . . . due to past and continuing [greenhouse gas] pollution." (Id. ¶ 64.)

Thus, the City's claims are ultimately based on the "transboundary" emission of greenhouse gases, indicating that these claims arise under federal common law and require a uniform standard of decision. See BP, 2018 WL 1064293, at *3 ("If ever a problem cried out for a uniform and comprehensive solution, it is the geophysical problem described by the complaints, a problem centuries in the making (and studying) with causes ranging from volcanoes, to wildfires, to deforestation to stimulation of other greenhouse gases—and, most pertinent here, to the combustion of fossil fuels.").

2. The Clean Air Act Displaces the City's Claims

To the extent that the City brings nuisance and trespass claims against Defendants for domestic greenhouse gas emissions, the Clean Air Act displaces such federal common law claims under American Electric Power Co. v. Connecticut, 564 U.S. 410 (2011) ("AEP") and Native Village of Kivalina v. ExxonMobil Corp., 696

F.3d 849 (9th Cir. 2012). Legislative displacement of federal common law “does not require the ‘same sort of evidence of a clear and manifest [congressional] purpose’ demanded for preemption of state law” because “it is primarily the office of Congress, not the federal courts, to prescribe national policy in areas of special federal interest.” AEP, 564 U.S. at 423-424 (quoting City of Milwaukee v. Illinois & Michigan, 451 U.S. 304, 317 (1981) (“Milwaukee II”). “The test for whether congressional legislation excludes the declaration of federal common law is simply whether the statute ‘speak[s] directly to [the] question’ at issue.” Id. at 424 (quoting Mobil Oil Corp. v. Higginbotham, 436 U.S. 618, 625 (1978)); see also Kivalina, 696 F.3d at 856 (“The salient question is ‘whether Congress has provided a sufficient legislative solution to the particular [issue] to warrant a conclusion that [the] legislation has occupied the field to the exclusion of federal common law.’” (quoting Michigan v. U.S. Army Corps Of Eng’rs, 667 F.3d 765, 777 (7th Cir. 2011))).

In AEP, eight states, the City, and three private land trusts brought a public nuisance suit under federal common law against the five largest emitters of carbon dioxide in the United States. AEP, 564 U.S. at 418. The plaintiffs alleged that “defendants’ carbon-dioxide emissions created a ‘substantial and unreasonable interference with public rights’”

and sought abatement of the carbon-dioxide emissions. Id. at 419. The Supreme Court examined whether plaintiffs' claims were displaced by the Clean Air Act, which directs the EPA Administrator to "establish standards of performance for emission of pollutants" from stationary sources, and to regulate existing stationary sources and issue emission guidelines. Id. at 424 (citing 42 U.S.C. § 7411). The Clean Air Act also "provides multiple avenues for enforcement" by the Environmental Protection Agency ("EPA"), including "impos[ing] administrative penalties for noncompliance" and "commenc[ing] civil actions against polluters in federal court." Id. at 425. The Court noted that the Clean Air Act "itself [] provides a means to seek limits on emissions of carbon dioxide from domestic power plants—the same relief the plaintiffs seek by invoking federal common law." Id. Accordingly, the Court held that "the Clean Air Act and the EPA actions it authorizes displace any federal common law right to seek abatement of carbon-dioxide emissions from fossil-fuel fired power plants." Id. at 424.

In the Kivalina case, a small city in Alaska brought a public nuisance action against multiple oil, energy, and utility companies, alleging that the defendants' "emissions of large quantities of greenhouse gases" had resulted in global-warming related damages, including sea-level rise and severe erosion. Kivalina, 696 F.3d at 854. Unlike in AEP, the plaintiff did not

seek abatement of emissions, but rather damages for harm caused by past emissions. Id. at 857. The Ninth Circuit held that, under AEP, the Clean Air Act displaced plaintiff's federal common law claim seeking damages for harm caused by past emissions, as the Clean Air Act already provides a means to regulate carbon dioxide emissions from domestic power plants. Id. at 856-58. In so doing, the court noted that "the Supreme Court has instructed that the type of remedy asserted is not relevant to the applicability of the doctrine of displacement." Id. at 857.

Here, the City seeks damages for global warming-related injuries caused by greenhouse gas emissions resulting from the combustion of Defendants' fossil fuels. To determine liability for trespass and nuisance, factfinders would have to consider whether emissions resulting from the combustion of Defendants' fossil fuels created an "unreasonable interference" and an "unlawful invasion" on City property. Milwaukee II, 451 U.S. at 348; In re Methyl Tertiary Butyl Ether (MTBE) Prod. Liab. Litig., 725 F.3d 65, 119 (2d Cir. 2013). As an initial matter, it is not clear that Defendants' fossil fuel production and the emissions created therefrom have been an "unlawful invasion" in New York City, as the City benefits from and participates in the use of fossil fuels as a source of power, and has done so for many decades. More importantly, Congress has expressly

delegated to the EPA the determination as to what constitutes a reasonable amount of greenhouse gas emission under the Clean Air Act. See AEP, 564 U.S. at 428-29 (holding that requiring individual federal judges in public nuisance suits to determine what amount of carbon dioxide emissions is unreasonable “cannot be reconciled with the decisionmaking scheme Congress enacted” with the Clean Air Act); Kivalina, 696 F.3d at 857 (“Congress ha[s] acted to empower the EPA to regulate greenhouse gas emissions”). Thus, under AEP and Kivalina, the Clean Air Act displaces the City’s claims seeking damages for past and future domestic greenhouse gas emissions brought under federal common law. See County of San Mateo v. Chevron Corp., 294 F. Supp. 3d 934, 937 (2018) (“Kivalina stands for the proposition that federal common law is not just displaced when it comes to claims against domestic sources of emissions but also when it comes to claims against energy producers’ contributions to global warming and rising sea levels.”).

The City argues that its claims are not displaced because “[d]isplacement of federal common law occurs only where Congress has spoken directly to the particular issue.” (Pl.’s Mem. at 31.) The City concedes that “[i]t is common ground here that the [Clean Air Act] would displace a federal common law public nuisance claim seeking abatement of greenhouse gas emissions from out of state” under AEP, but because the Clean Air Act

“does not regulate the production and sale of fossil fuels,” the City contends that its claims are not displaced. (Id.) As discussed above, however, the City alleges that its climate-change related injuries are the direct result of the emission of greenhouse gases from the combustion of Defendants’ fossil fuels, and not the production and sale of those fossil fuels. Thus, the City ultimately seeks to hold Defendants liable for the same conduct at issue in AEP and Kivalina: greenhouse gas emissions. As Defendants note, “[the City]’s alleged injuries arise (if at all) only because third-party users of fossil fuels—located in all 50 states and around the world—emit greenhouse gases.” (Defs.’ Reply Mem. of L. in Supp. of Mot. to Dismiss at 4, ECF No. 109 (filed May 4, 2018).)

Thus, because the Clean Air Act has spoken “directly to the question” of domestic greenhouse gas emissions, the City’s claims are displaced. See, e.g., San Mateo, 294 F. Supp. 3d at 937 (plaintiffs’ claims that defendant’s contributions to greenhouse gas emissions constitute “a substantial and unreasonable interference with public rights” are displaced by the Clean Air Act under Kivalina).

The City also argues that, if the Clean Air Act displaces its federal common law claims, state law claims then become available to the extent they are not preempted by statute. (Pl.’s Mem. at 30); see also BP, 2018 WL 104293, at *4 (“[W]hen

congressional action displaces federal common law, state law becomes available to the extent it is not preempted by statute."). In AEP, the Supreme Court noted that because the Clean Air Act displaced claims brought against domestic emitters for transboundary pollution, state law claims could be brought, to the extent they are not also preempted, under "the law of each State where the defendants operate power plants." AEP, 564 U.S. at 429.

However, the City has not sued under New York law for claims related to the production of fossil fuels in New York. The City brings claims for damages caused by global greenhouse gas emissions resulting from the combustion of Defendants' fossil fuels, which are produced and used "worldwide." (Am. Compl. ¶ 76.) As discussed above, these types of "interstate pollution" claims arise under federal common law, and the Clean Air Act displaces claims arising from damages caused by domestic greenhouse gas emissions because Congress has expressly delegated these issues to the EPA. Given the interstate nature of these claims, it would thus be illogical to allow the City to bring state law claims when courts have found that these matters are areas of federal concern that have been delegated to the Executive Branch as they require a uniform, national solution. See Milwaukee II, 451 U.S. at 313 n.7 ("[I]f federal common law exists, it is because state law cannot be used."). Climate

change is a fact of life, as is not contested by Defendants. But the serious problems caused thereby are not for the judiciary to ameliorate. Global warming and solutions thereto must be addressed by the two other branches of government.

3. The City's Claims Interfere with Separation of Powers and Foreign Policy

As the City points out, and as courts have recognized, the Clean Air Act regulates only domestic emissions.² See AEP, 564 U.S. at 425 ("The [Clean Air] Act thus provides a means to seek limits on emissions of carbon dioxide from domestic power plants."); see also BP, 2018 WL 104293, at *4 ("The Clean Air Act displaced the nuisance claims asserted in Kivalina and AEP because the Act 'spoke directly' to . . . domestic emissions of greenhouse gases."). Here, the City has brought suit against two foreign oil and gas companies, BP and Shell, in addition to the U.S.-based Defendants, and all of the Defendants produce and sell fossil fuels on a global scale. (See Am. Compl. ¶ 76.) Thus, to the extent that the City seeks to hold Defendants liable for damages stemming from foreign greenhouse gas emissions, the City's claims are barred by the presumption against extraterritoriality and the need for judicial caution in

² One provision of the Clean Air Act, Section 115, authorizes the EPA to address the effects of air pollution from sources inside the United States in foreign countries. 42 U.S.C. § 7415(a). However, the City's claims pertain to "worldwide" greenhouse gas emissions, not only those that originate in the United States.

the face of "serious foreign policy consequences." Jesner v. Arab Bank, PLC, 138 S. Ct. 1386, 1407 (2018).

"The [Supreme] Court's recent precedents cast doubt on the authority of courts to extend or create private causes of action even in the realm of domestic law, where [the Supreme] Court has 'recently and repeatedly said that a decision to create a private right of action is one better left to legislative judgment in the great majority of cases.'" Jesner, 138 S. Ct. at 1402 (quoting Sosa v. Alvarez-Machain, 542 U.S. 692, 727 (2004)). The Supreme Court recently held in Jesner v. Arab Bank, PLC, 138 S. Ct. 1386 (2018), that where an action may have significant foreign relations implications, "recognizing such causes should make courts particularly wary of impinging on the discretion of the Legislative and Executive Branches in managing foreign affairs." Id. at 1399 (quoting Sosa, 542 U.S. at 727). "The political branches, not the Judiciary, have the responsibility and institutional capacity to weigh foreign-policy concerns." Id. at 1403.

Here, the City seeks to hold Defendants liable for the emissions that result from their worldwide production, marketing, and sale of fossil fuels. (Am. Compl. ¶¶ 3, 70, 76, 79.) The City alleges that "Defendants' cumulative production of fossil fuels over many years makes each Defendant among the top sources of [greenhouse gas] pollution in the world." (Id. ¶

76.) Such claims implicate countless foreign governments and their laws and policies. This type of claim is the subject of international agreements, including—although the United States has expressed its intent to withdraw—the Paris Climate Accords. The Court recognizes that the City, and many other governmental entities around the United States and in other nations, will be forced to grapple with the harmful impacts of climate change in the coming decades. However, the immense and complicated problem of global warming requires a comprehensive solution that weighs the global benefits of fossil fuel use with the gravity of the impending harms. To litigate such an action for injuries from foreign greenhouse gas emissions in federal court would severely infringe upon the foreign-policy decisions that are squarely within the purview of the political branches of the U.S. Government. Accordingly, the Court will exercise appropriate caution and decline to recognize such a cause of action.

The City argues that its claims do not present political questions because the Second Circuit in AEP “reviewed this issue in detail and rejected it, and the Supreme Court affirmed.” (Pl.’s Mem. at 23.) However, the plaintiffs in AEP sought only to “limit emissions from six domestic coal-fired electricity plants.” Connecticut v. Am. Elec. Power Co., 582 F.3d 309, 325 (2d Cir. 2009), rev’d on other grounds by AEP, 564 U.S. 410.

The Second Circuit found that "[a] decision by a single federal court concerning a common law of nuisance cause of action, brought by domestic plaintiffs against domestic companies for domestic conduct, does not establish a national or international emissions policy." Id. The City's claims against both foreign and domestic corporations, all five of whom produce and sell fossil fuels worldwide, are thus clearly distinguishable in this regard.

CONCLUSION

For the reasons stated above, the U.S.-based Defendants' motion to dismiss is GRANTED and the City's amended complaint is dismissed with prejudice in its entirety. The Clerk of Court is respectfully directed to terminate the motions docketed at ECF Nos. 95, 99, and 102 and to close this case.

SO ORDERED.

Dated: New York, New York
July 19, 2018



John F. Keenan
United States District Judge

Next steps

From: Marco Simons <marco@earthrights.org>
To: Alain Boileau <aboileau@fortlauderdale.gov>
Date: Mon, 29 Oct 2018 16:56:47 -0400

Hi Alain - should we talk some time this week? We have a Supreme Court argument on Wednesday that will take most of the day, but I have time most other days.

--

Marco Simons
General Counsel & Americas Regional Program Director
EarthRights International
1612 K Street NW #401
Washington, DC 20006
202-466-5188 x103
marco@earthrights.org
Admitted to practice in the District of Columbia, California, and Washington (inactive).

Re: Next steps

From: Marco Simons <marco@earthrights.org>
To: Alain Boileau <aboileau@fortlauderdale.gov>
Date: Tue, 30 Oct 2018 14:08:48 -0400

Great, thanks. So is it safe to assume that the matter will not come up for a vote on 11/6?

On 10/30/2018 2:04 PM, Alain Boileau wrote:

> Marco:

>

> Next week might be best. I have not received any feedback from anyone since the meeting last Tuesday. I might have some additional information next week.

>

> Alain E. Boileau

> City Attorney

> City of Fort Lauderdale, Florida

> 100 North Andrews Avenue, Fort Lauderdale, FL 33301

> (954) 828-5038 | aboileau@fortlauderdale.gov

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>

> -----Original Message-----

> From: Marco Simons [mailto:marco@earthrights.org]

> Sent: Monday, October 29, 2018 4:57 PM

> To: Alain Boileau

> Subject: Next steps

>

> Hi Alain - should we talk some time this week? We have a Supreme Court argument on Wednesday that will take most of the day, but I have time most other days.

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> Marco Simons

> General Counsel & Americas Regional Program Director EarthRights International

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RE: Followup - Conference Meeting Presentation

From: David Soloman <dsoloman@fortlauderdale.gov>

To: Alain Boileau <aboileau@fortlauderdale.gov>, Jeff Modarelli <jmodarelli@fortlauderdale.gov>

Date: Tue, 23 Oct 2018 09:48:35 -0400

Thanks for the heads up. I'll load it onto the computer.

-----Original Message-----

From: Alain Boileau

Sent: Monday, October 22, 2018 6:42 PM

To: Jeff Modarelli

Cc: David Soloman

Subject: FW: Followup - Conference Meeting Presentation

FYI - with regards to Bus-3 tomorrow at conference, the presenter will have a Powerpoint. I told him to give to us when he gets here.

Alain E. Boileau

City Attorney

City of Fort Lauderdale, Florida

100 North Andrews Avenue, Fort Lauderdale, FL 33301

(954) 828-5038 | aboileau@fortlauderdale.gov

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-----Original Message-----

From: Marco Simons [<mailto:marco@earthrights.org>]

Sent: Monday, October 22, 2018 2:02 PM

To: Alain Boileau

Cc: Lee Feldman

Subject: Re: Followup - Conference Meeting Presentation

Hi Alain -

For some reason I missed this when it came it but I did see when it went up on the City website. For what it's worth, this looks fine.

I had some questions regarding the presentation in terms of how it will be introduced, how much time will be given, whether materials should be circulated in advance, whether there is the capability for graphical presentations, whether others can speak as well - is there a time we can talk today? I am free all afternoon.

Thanks,
Marco

On 10/17/2018 6:24 PM, Alain Boileau wrote:

> Marco:

>

> My apologies, but the day got away from me. Below is my proposed CAM summary to the Commission regarding Tuesday's conference item. I need to finalize in the morning, so any suggested revisions would be appreciated:

>

> "Representatives from Earthrights International will be making a presentation regarding ongoing national litigation against fossil fuel companies arising from the companies' knowing contribution to the climate crisis by producing, promoting, refining, marketing, and selling fossil fuels, while concealing the dangers to the environment, the results of which municipalities, such as the City of Fort Lauderdale, have had to incur the costs of adapting to the resulting climate changes. Commencing in the summer of 2017, state and local governments around the country, including but not limited to, the State of New York, the City of Oakland, the City of San Francisco, the State of Rhode Island, the City of Baltimore, and the City of Boulder, have filed lawsuits asking fossil fuel companies to pay for their share of costs of adapting to climate change. Earthrights International, with the assistance of co-counsel, currently represent the City of Boulder, Boulder County, and San Miguel County, Colorado in one of these lawsuits."

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> -----Original Message-----

> From: Marco Simons [<mailto:marco@earthrights.org>]

> Sent: Wednesday, October 17, 2018 12:15 PM

> To: Alain Boileau

> Subject: Re: Followup

>

> Okay - I may be in another call at 4:30, but please try my mobile at

> 917-696-3304 anytime.

>

> On 10/17/2018 12:11 PM, Alain Boileau wrote:

>> Same here. I am in a public meeting for the next couple ours, and in internal meetings probably until 4:30. I will try and give you a call thereafter.

>>

>> Alain E. Boileau

>> City Attorney

>> City of Fort Lauderdale

>>

>> Sent from my iPad

>>

>>> On Oct 17, 2018, at 12:09 PM, Marco Simons <marco@earthrights.org> wrote:

>>>

>>> Dear Alain,

>>> Nice to see you on Monday. Let me know when is a good time to talk to follow up.

>>>

>>> Sincerely,
>>> Marco
>>>
>>> --
>>> Marco Simons
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Re: Followup - Conference Meeting Presentation

From: Marco Simons <marco@earthrights.org>
To: Alain Boileau <aboileau@fortlauderdale.gov>
Cc: Lee Feldman <lfeldman@fortlauderdale.gov>
Date: Mon, 22 Oct 2018 14:02:27 -0400

Hi Alain -

For some reason I missed this when it came it but I did see when it went up on the City website. For what it's worth, this looks fine.

I had some questions regarding the presentation in terms of how it will be introduced, how much time will be given, whether materials should be circulated in advance, whether there is the capability for graphical presentations, whether others can speak as well - is there a time we can talk today? I am free all afternoon.

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> City Attorney

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> -----Original Message-----
> From: Marco Simons [mailto:marco@earthrights.org]
> Sent: Wednesday, October 17, 2018 12:15 PM
> To: Alain Boileau
> Subject: Re: Followup
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>> City Attorney
>> City of Fort Lauderdale
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>> Sent from my iPad
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RE: Followup - Conference Meeting Presentation

From: Jeff Modarelli <jmodarelli@fortlauderdale.gov>
To: Alain Boileau <aboileau@fortlauderdale.gov>
Date: Thu, 18 Oct 2018 16:12:06 -0400

Ok.
We wont publish until we check to make sure it is approved and ready.

Jeff

-----Original Message-----

From: Alain Boileau
Sent: Wednesday, October 17, 2018 6:29 PM
To: Jeff Modarelli
Subject: FW: Followup - Conference Meeting Presentation

FYI - this group is making a presentation in Tuesday's Conference Meeting. I'm in the process of preparing the CAM.

Alain E. Boileau
City Attorney
City of Fort Lauderdale, Florida
100 North Andrews Avenue, Fort Lauderdale, FL 33301
(954) 828-5038 | aboileau@fortlauderdale.gov

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-----Original Message-----

From: Alain Boileau
Sent: Wednesday, October 17, 2018 6:25 PM
To: Marco Simons
Cc: Lee Feldman
Subject: RE: Followup - Conference Meeting Presentation

Marco:

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Commencing in the summer of 2017, state and local governments around the country, including but not limited to, the State of New York, the City of Oakland, the City of San Francisco, the State of Rhode Island, the City of Baltimore, and the City of Boulder, have filed lawsuits asking fossil fuel companies to pay for their share of costs of adapting to climate change. Earthrights International, with the assistance of co-counsel, currently represent the City of Boulder, Boulder County, and San Miguel County, Colorado in one of these lawsuits."

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From: Marco Simons [<mailto:marco@earthrights.org>]
Sent: Wednesday, October 17, 2018 12:15 PM
To: Alain Boileau
Subject: Re: Followup

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Followup

From: Marco Simons <marco@earthrights.org>
To: Alain Boileau <aboileau@fortlauderdale.gov>
Date: Wed, 17 Oct 2018 12:09:03 -0400

Dear Alain,
Nice to see you on Monday. Let me know when is a good time to talk to follow up.

Sincerely,
Marco

--

Marco Simons
General Counsel & Americas Regional Program Director
EarthRights International
1612 K Street NW #401
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Admitted to practice in the District of Columbia, California, and Washington (inactive).

Re: Followup

From: Marco Simons <marco@earthrights.org>
To: Alain Boileau <aboileau@fortlauderdale.gov>
Date: Wed, 17 Oct 2018 12:14:50 -0400

Okay - I may be in another call at 4:30, but please try my mobile at 917-696-3304 anytime.

On 10/17/2018 12:11 PM, Alain Boileau wrote:

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>> --

>> Marco Simons

>> General Counsel & Americas Regional Program Director

>> EarthRights International

>> 1612 K Street NW #401

>> Washington, DC 20006

>> 202-466-5188 x103

>> marco@earthrights.org

>> Admitted to practice in the District of Columbia, California, and Washington (inactive).

>>

--

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EarthRights International

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Re: Conference Presentation for October 23, 2018

From: Seth Platt <gsplatt@lsnpartners.com>
To: Alain Boileau <aboileau@fortlauderdale.gov>
Date: Wed, 17 Oct 2018 09:19:20 -0400
Attachments: image001.png (40.82 kB); image002.jpg (4.61 kB); image001.png (40.82 kB)

Hi Alain,

I forwarded to Earthrights International. I will try and have Marco coordinate with you to get this done. What is your deadline?

Seth

On Tue, Oct 16, 2018 at 6:52 PM Alain Boileau <ABoileau@fortlauderdale.gov> wrote:

Seth:

For purposes of preparing a Commission Agenda Memo (CAM), I need a short paragraph or 2 of what you all will be presenting at the conference meeting on Tuesday. I don't want to paraphrase our discussions in hopes of getting it correct. I have the general gist of it, but you (collectively) may want to put it in your own words). This CAM will be part of the published agenda and serves to inform the Commission and the public on what is being presented to the Commission.

Is Earthrights International the right name of the group that is presenting, or is it a conglomerate of folks?

We can discuss further tomorrow if that is more practicable.

Alain

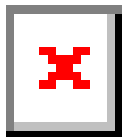
Alain E. Boileau

City Attorney

City of Fort Lauderdale, Florida

100 North Andrews Avenue, Fort Lauderdale, FL 33301

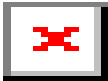
(954) 828-5038 | aboileau@fortlauderdale.gov



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--

Please note that our office and mailing address has changed effective August 1, 2018. Please direct all correspondence to the new address in my signature.



Seth Platt

Senior Associate

LSN Partners

1512 East Broward Blvd.

Suite 101

Fort Lauderdale, FL 33301

(954) 522-3588 - Office

(954) 522-3578 - Fax

(954) 309-6291 - Cell

LSNpartners.com

Miami • Fort Lauderdale • Tallahassee • Washington D.C.

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sending individual and not necessarily those of LSN Partners, LLC or its subsidiaries. It is possible for data transmitted by e-mail to be deliberately or accidentally corrupted or intercepted.





WE BUILD COMMUNITY



Re: Judge Dismisses Suit Against Oil Companies Over Climate Change Costs

From: Lee Feldman <lfeldman@fortlauderdale.gov>
To: Alain Boileau <aboileau@fortlauderdale.gov>
Date: Fri, 27 Jul 2018 18:04:53 -0400

Yes. If ready.

Lee R. Feldman
City Manager

On Jul 28, 2018, at 3:38 AM, Alain Boileau <ABoileau@fortlauderdale.gov> wrote:

>

Lee:

Are we still shooting for 9/4 to have this topic scheduled for the conference agenda?

Alain

Alain E. Boileau - Interim City Attorney

City of Fort Lauderdale, City Attorney's Office

100 North Andrews Avenue, Fort Lauderdale, FL 33301

T: 954.828.5025 F: 954.828.5915

E: aboileau@fortlauderdale.gov

<image003.png><[image004.png](#)>

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From: Alain Boileau

Sent: Friday, July 27, 2018 3:36 PM

To: Dean Trantalis

Cc: Scott Wyman; Lee Feldman

Subject: RE: Judge Dismisses Suit Against Oil Companies Over Climate Change Costs

Inevitably mixed. Conceptually, the potential liability makes sense and there is a factual basis to support the argument, but practically these lawsuits are encountering substantial headwinds in Court with regards to liability and jurisdiction. The governmental plaintiffs are essentially pursuing liability through common law claims at a local level for a global (and not exclusively domestic) problem upon which the judiciary is taking the position that the issue has been and should be relegated to the executive and legislative branches. On a contingency basis, the risk is low for the City, but we still have to address any potential award of prevailing litigation costs that the firm representing us could not pay on our behalf if our case gets dismissed or if the City does not prevail. There may be an insurance premium solution to that exposure, but we'll have to discuss.

Note that the California and New York dismissals are being appealed.

Alain E. Boileau - Interim City Attorney

City of Fort Lauderdale, City Attorney's Office

100 North Andrews Avenue, Fort Lauderdale, FL 33301

T: 954.828.5025 F: 954.828.5915

E: aboileau@fortlauderdale.gov



<image001.png>

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From: Dean Trantalis

Sent: Friday, July 27, 2018 2:50 PM

To: Alain Boileau

Cc: Scott Wyman; Lee Feldman

Subject: Re: Judge Dismisses Suit Against Oil Companies Over Climate Change Costs

Hmm. You're sending me mixed messages.

Sent from my iPhone

On Jul 27, 2018, at 1:58 PM, Alain Boileau <ABoileau@fortlauderdale.gov> wrote:

Mayor:

As a follow-up to my email below, as well as our meeting with Seth Plath, please be advised that the New York v. BP, Chevron, et al. case, which Seth had provided to us for our meeting, was just dismissed by the United States District Court in New York on July 19 (see attached Order), for almost the identical reasons relied upon the U.S. District Court in California in dismissing the City of Oakland and San Francisco's lawsuit against the same oil company defendants.

That being said, I had a positive meeting yesterday with Marco Simons, Esquire of the EarthRights International Group, Matt Edling, Esquire, Vic Sher, Esquire, of Sher Edling, and Jorge Mursuli. Sher Edling have been able to successfully obtain 6 remands to state court in the cases filed and removed in California, and have yet to suffer any dismissals.

We can discuss in further detail upon your return and at your convenience.

Alain

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100 North Andrews Avenue, Fort Lauderdale, FL 33301

T: 954.828.5025 F: 954.828.5915

E: aboileau@fortlauderdale.gov

<image007.png><[image008.png](#)>

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From: Alain Boileau

Sent: Tuesday, June 26, 2018 1:41 PM

To: Dean Trantalis

Cc: Scott Wyman

Subject: Judge Dismisses Suit Against Oil Companies Over Climate Change Costs

Mayor:

With regards to the meeting we had yesterday, please see the attached Order, which was issued yesterday in the U.S. District Court for the Northern District of California, as well as the linked NY Times article, describing the dismissal of the City of Oakland and the State of California's lawsuit against BP, Chevron, ConocoPhillips, Exxon, and

Shell, under the same nuisance and trespass theories being proposed to us. The articles suggests that similar attempts in years past have also been unsuccessful. The following is the final paragraph of the Order, which notably delegates the remedies to the Legislative and Executive branches of government.

“In sum, this order accepts the science behind global warming. So do both sides. The dangers raised in the complaints are very real. But those dangers are worldwide. Their causes are worldwide. The benefits of fossil fuels are worldwide. The problem deserves a solution on a more vast scale than can be supplied by a district judge or jury in a public nuisance case. While it remains true that our federal courts have authority to fashion common law remedies for claims based on global warming, courts must also respect and defer to the other co-equal branches of government when the problem at hand clearly deserves a solution best addressed by those branches. The Court will stay its hand in favor of solutions by the legislative and executive branches. For the reasons stated, defendants’ motion to dismiss is GRANTED.”

From The New York Times:

Judge Dismisses Suit Against Oil Companies Over Climate Change Costs

<https://www.nytimes.com/2018/06/25/climate/climate-change-lawsuit-san-francisco-oakland.html>

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E: aboileau@fortlauderdale.gov

<image005.png><[image006.png](#)>

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<New York v. BP - Order Granting Motion to Dismiss.pdf>

Re: Judge Dismisses Suit Against Oil Companies Over Climate Change Costs

From: Lee Feldman <lfeldman@fortlauderdale.gov>
To: Dean Trantalis <dtrantalis@fortlauderdale.gov>
Cc: Alain Boileau <aboileau@fortlauderdale.gov>, Scott Wyman <swyman@fortlauderdale.gov>
Date: Fri, 27 Jul 2018 18:01:50 -0400

Mayor

I think we need to also look at the recent actions of Boulder County and Boulder Colorado.

We will be scheduling for a future conference meeting.

Lee

Lee R. Feldman
City Manager

On Jul 28, 2018, at 2:50 AM, Dean Trantalis <DTrantalis@fortlauderdale.gov> wrote:

Hmm. You're sending me mixed messages.

Sent from my iPhone

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We can discuss in further detail upon your return and at your convenience.

Alain

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<https://www.nytimes.com/2018/06/25/climate/climate-change-lawsuit-san-francisco-oakland.html>

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Re: Judge Dismisses Suit Against Oil Companies Over Climate Change Costs

From: Dean Trantalis <dtrantalis@fortlauderdale.gov>
To: Alain Boileau <aboileau@fortlauderdale.gov>
Cc: Scott Wyman <swyman@fortlauderdale.gov>, Lee Feldman <lfeldman@fortlauderdale.gov>
Date: Fri, 27 Jul 2018 14:50:23 -0400
Attachments image005.png (40.82 kB); image006.png (28.9 kB); image007.png (40.82 kB);
: image008.png (28.9 kB)

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From The New York Times:

Judge Dismisses Suit Against Oil Companies Over Climate Change Costs

<https://www.nytimes.com/2018/06/25/climate/climate-change-lawsuit-san-francisco-oakland.html>

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City of Fort Lauderdale, City Attorney's Office

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E: aboileau@fortlauderdale.gov

<image005.png><[image006.png](#)>

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<New York v. BP - Order Granting Motion to Dismiss.pdf>









FW: Meeting with Mr. Boileau

From: Maureen Richards <mrichards@fortlauderdale.gov>
To: jorge.mursuli@gmail.com
Cc: Alain Boileau <aboileau@fortlauderdale.gov>
Date: Wed, 25 Jul 2018 13:49:32 -0400

Good Afternoon Mr. Mursuli:

We have a conference telephone in the meeting room, as well as a cordless telephone.

Thank you.

Maureen Richards | Law Office Manager

City of Fort Lauderdale | Office of the City Attorney
100 North Andrews Avenue, Fort Lauderdale, FL 33301
T: 954.828.5037 | F: 954.828.5917 | E: mrichards@fortlauderdale.gov



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From: Lizardo Coronado
Sent: Wednesday, July 25, 2018 11:28 AM
To: Maureen Richards
Subject: FW: Meeting with Mr. Boileau

Maureen- spoke with gentlemen below, who has a meeting with Alain tomorrow and wanted to update the attendance list.

Best,
Lizardo Coronado

From: JorgeMursuli [<mailto:jorge.mursuli@gmail.com>]

Sent: Wednesday, July 25, 2018 11:03 AM

To: Lizardo Coronado

Subject: Fwd: Meeting with Mr. Boileau

I think I misspelled your address. Hope this gets to you.

Begin forwarded message:

From: JorgeMursuli <jorge.mursuli@gmail.com>

Subject: Fwd: Meeting with Mr. Boileau

Date: July 25, 2018 at 10:57:13 AM EDT

To: loronado@fortlauderdale.gov

Lizardo,

Thanks very much for helping me ensure we can include my colleagues on the phone during our meeting tomorrow with Mr Boileau. As you know, I received a return email advising me Ms Pineda will be OOT till August.

Please ask whomever is managing this meeting in place of Ms Pineda to confirm with me that phone access to my colleagues during the meeting is doable.

Thanks again,

Jorge Mursuli
Earthrights International
786.236.1049

Begin forwarded message:

From: JorgeMursuli <jorge.mursuli@gmail.com>

Subject: Meeting with Mr. Boileau

Date: July 25, 2018 at 10:47:57 AM EDT

To: Mayda Pineda <MPineda@fortlauderdale.gov>

Hello Ms. Pineda,

We would like to include additional co-counsel on the phone during our face-to face meeting with Mr. Boileau.

They are:

Vic Sher- 415/595-9969

Matt Edling- 415/531-1829

Please let me know if patching them into our meeting is doable. Again, thanks very much.

Jorge Mursuli
786.236.1049

On Jul 24, 2018, at 10:58 AM, Mayda Pineda <MPineda@fortlauderdale.gov> wrote:

Perfect! Thanks again.

Mayda Pineda | Legal Administrative Assistant
City of Fort Lauderdale | City Attorney's Office
100 North Andrews Avenue, Fort Lauderdale, FL 33301
T: 954.828.7452 | F: 954.828.5917 | E: mpineda@fortlauderdale.gov

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-----Original Message-----

From: JorgeMursuli <jorge.mursuli@gmail.com>
Sent: Tuesday, July 24, 2018 10:41 AM
To: Mayda Pineda <MPineda@fortlauderdale.gov>
Subject: Re: referred by Scott Wyman

At the moment, the only other person scheduled to attend is Marco Simmons, lead counsel EarthRights International. I will let you know if others are added.

Thanks again,

Jorge Mursuli
EarthRights International
786.236.1049

On Jul 24, 2018, at 10:36 AM, Mayda Pineda <MPineda@fortlauderdale.gov> wrote:

Please provide me with the name(s) of the other attendees.

Thank you.

Mayda Pineda | Legal Administrative Assistant City of Fort Lauderdale
| City Attorney's Office
100 North Andrews Avenue, Fort Lauderdale, FL 33301
T: 954.828.7452 | F: 954.828.5917 | E: mpineda@fortlauderdale.gov

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-----Original Message-----

From: JorgeMursuli <jorge.mursuli@gmail.com>
Sent: Tuesday, July 24, 2018 10:32 AM
To: Mayda Pineda <MPineda@fortlauderdale.gov>
Subject: Re: referred by Scott Wyman

Perfect. Thank-you.

On Jul 24, 2018, at 10:12 AM, Mayda Pineda <MPineda@fortlauderdale.gov> wrote:

Okay, understood.

Let's confirm 10:30 a.m. on Thursday, July 26th. --

Meeting will take place at City Hall, 100 N. Andrews Avenue, 7th Floor, Ft. Lauderdale, FL

Please confirm.

Thank you.

Mayda Pineda | Legal Administrative Assistant City of Fort Lauderdale
| City Attorney's Office
100 North Andrews Avenue, Fort Lauderdale, FL 33301
T: 954.828.7452 | F: 954.828.5917 | E: mpineda@fortlauderdale.gov

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-----Original Message-----

From: JorgeMursuli <jorge.mursuli@gmail.com>
Sent: Tuesday, July 24, 2018 9:43 AM
To: Mayda Pineda <MPineda@fortlauderdale.gov>
Subject: Re: referred by Scott Wyman

I'm afraid not. As I explained in my email, Mr Boileau did not confirm a time with me. EarthRights lawyers are in DC and need to fly to Ft. Lauderdale. At this point, it would need

to be tomorrow or Thursday.

Thanks in advance for your help.

Jorge Mursuli
EarthRights International
786.236.1049

On Jul 24, 2018, at 9:35 AM, Mayda Pineda <MPineda@fortlauderdale.gov> wrote:

Mr. Mursuli,

Can you come in today at 2 p.m.?

Mayda Pineda | Legal Administrative Assistant City of Fort
Lauderdale
| City Attorney's Office
100 North Andrews Avenue, Fort Lauderdale, FL 33301
T: 954.828.7452 | F: 954.828.5917 | E: mpineda@fortlauderdale.gov

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-----Original Message-----

From: JorgeMursuli <jorge.mursuli@gmail.com>
Sent: Tuesday, July 24, 2018 8:24 AM
To: Mayda Pineda <MPineda@fortlauderdale.gov>
Cc: Alain Boileau <ABoileau@fortlauderdale.gov>; Scott Wyman
<SWyman@fortlauderdale.gov>; Dean Trantalis
<DTrantalis@fortlauderdale.gov>
Subject: Re: referred by Scott Wyman

Mr. Boileau,

Given the nature of the timing and the related travel, it's clear that today won't work. You mentioned this week was flexible for you. Would tomorrow or Thursday work? Please advise ASAP.

Thanks very much.

Jorge Mursuli
EarthRights International
786.236.1049

On Jul 24, 2018, at 8:19 AM, Mayda Pineda <MPineda@fortlauderdale.gov> wrote:

Good morning Scott,

Please advise what works best for the Mayor -- there is no set time yet. I called you this morning and left you a voicemail message regarding same.

Thank you.

Mayda Pineda | Legal Administrative Assistant City of Fort
Lauderdale
| City Attorney's Office
100 North Andrews Avenue, Fort Lauderdale, FL 33301
T: 954.828.7452 | F: 954.828.5917 | E: mpineda@fortlauderdale.gov

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-----Original Message-----

From: JorgeMursuli <jorge.mursuli@gmail.com>
Sent: Monday, July 23, 2018 4:46 PM
To: Alain Boileau <ABoileau@fortlauderdale.gov>

Cc: Scott Wyman <SWyman@fortlauderdale.gov>; Dean Trantalis
<DTrantalis@fortlauderdale.gov>; Mayda Pineda
<MPineda@fortlauderdale.gov>

Subject: Re: referred by Scott Wyman

Mr Boileau,

I never heard what time the meeting is tomorrow. I think it would have to be in afternoon at this point.

Please advise ASAP.

Jorge

On Jul 13, 2018, at 10:57 AM, JorgeMursuli <jorge.mursuli@gmail.com> wrote:

07/24 it is. Please let me know what time works best for you and the Mayor.

Look forward to meeting soon,

Jorge Mursuli
786.236.1049

On Jul 11, 2018, at 12:00 PM, Alain Boileau <ABoileau@fortlauderdale.gov> wrote:

Mr. Mursuli:

I am relatively available that week, however, 7/24 most be the most convenient. Please advise if this works for you and we can schedule a time.

I look forward to meeting you and discussing this issue.

Best regards,

Alain

Alain E. Boileau - Interim City Attorney City of Fort Lauderdale,

City Attorney's Office
100 North Andrews Avenue, Fort Lauderdale, FL 33301
T: 954.828.5025 F: 954.828.5915
E: aboileau@fortlauderdale.gov

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From: JorgeMursuli [<mailto:jorge.mursuli@gmail.com>]
Sent: Wednesday, July 11, 2018 11:07 AM
To: Alain Boileau
Cc: Scott Wyman; Dean Trantalis
Subject: referred by Scott Wyman

Mr Boileau,

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The ERI team could be in South Florida anytime from 07/23-07/27. Please let me know ASAP when you would be available, and I will be happy to set that up.

Thanks in advance for your time and consideration. I can be reached at 786.236.1049 if needed.

We look forward to meeting and talking,

Jorge Mursuli
EarthRights International

Re: Meeting with Mr. Boileau

From: JorgeMursuli <jorge.mursuli@gmail.com>
To: Maureen Richards <mrichards@fortlauderdale.gov>
Cc: Alain Boileau <aboileau@fortlauderdale.gov>
Date: Wed, 25 Jul 2018 14:39:57 -0400

Thank-you.

On Jul 25, 2018, at 1:49 PM, Maureen Richards <MRichards@fortlauderdale.gov> wrote:

Good Afternoon Mr. Mursuli:

We have a conference telephone in the meeting room, as well as a cordless telephone.

Thank you.

Maureen Richards | Law Office Manager

City of Fort Lauderdale | Office of the City Attorney
100 North Andrews Avenue, Fort Lauderdale, FL 33301

T: 954.828.5037 | F: 954.828.5917 | E: mrichards@fortlauderdale.gov

<image001.png>

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Mayda Pineda | Legal Administrative Assistant
City of Fort Lauderdale | City Attorney's Office
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Okay, understood.

Let's confirm 10:30 a.m. on Thursday, July 26th. --

Meeting will take place at City Hall, 100 N. Andrews Avenue, 7th Floor, Ft. Lauderdale, FL

Please confirm.

Thank you.

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Thanks in advance for your help.

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EarthRights International
786.236.1049

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Mr. Mursuli,

Can you come in today at 2 p.m.?

Mayda Pineda | Legal Administrative Assistant City of Fort
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Subject: Re: referred by Scott Wyman

Mr. Boileau,

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Thanks very much.

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On Jul 24, 2018, at 8:19 AM, Mayda Pineda <MPineda@fortlauderdale.gov> wrote:

Good morning Scott,

Please advise what works best for the Mayor -- there is no set time yet. I called you this morning and left you a voicemail message regarding same.

Thank you.

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Cc: Scott Wyman <SWyman@fortlauderdale.gov>; Dean Trantalis

<DTrantalis@fortlauderdale.gov>; Mayda Pineda

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Jorge

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Alain E. Boileau - Interim City Attorney City of Fort Lauderdale,
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FW: Meeting with Mr. Boileau

From: Maureen Richards <mrichards@fortlauderdale.gov>
To: Alain Boileau <aboileau@fortlauderdale.gov>
Date: Wed, 25 Jul 2018 12:18:47 -0400

Hello Alain:

Are you going to this meeting tomorrow morning?:

Maureen Richards | Law Office Manager

City of Fort Lauderdale | Office of the City Attorney
100 North Andrews Avenue, Fort Lauderdale, FL 33301

T: 954.828.5037 | F: 954.828.5917 | E: mrichards@fortlauderdale.gov



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Alain E. Boileau - Interim City Attorney City of Fort Lauderdale,
City Attorney's Office
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EarthRights International

Conference Presentation for October 23, 2018

From: Alain Boileau <aboileau@fortlauderdale.gov>
To: "Seth Platt (gsplatt@lsnpartners.com)" <gsplatt@lsnpartners.com>
Date: Tue, 16 Oct 2018 18:51:59 -0400

Seth:

For purposes of preparing a Commission Agenda Memo (CAM), I need a short paragraph or 2 of what you all will be presenting at the conference meeting on Tuesday. I don't want to paraphrase our discussions in hopes of getting it correct. I have the general gist of it, but you (collectively) may want to put it in your own words). This CAM will be part of the published agenda and serves to inform the Commission and the public on what is being presented to the Commission.

Is Earthrights International the right name of the group that is presenting, or is it a conglomerate of folks?

We can discuss further tomorrow if that is more practicable.

Alain

Alain E. Boileau
City Attorney

City of Fort Lauderdale, Florida

100 North Andrews Avenue, Fort Lauderdale, FL 33301

(954) 828-5038 | aboileau@fortlauderdale.gov



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RE: referred by Scott Wyman

From: Alain Boileau <aboileau@fortlauderdale.gov>
To: Scott Wyman <swyman@fortlauderdale.gov>
Date: Fri, 13 Jul 2018 11:08:03 -0400

That's what I thought. Thanks.

Alain E. Boileau - Interim City Attorney
City of Fort Lauderdale, City Attorney's Office
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Scott Wyman
Assistant to the Mayor
Mayor Dean Trantalis
100 N. Andrews Ave.
Fort Lauderdale, FL 33301
954-828-5314

-----Original Message-----

From: Alain Boileau
Sent: Friday, July 13, 2018 11:00 AM
To: Scott Wyman <SWyman@fortlauderdale.gov>
Subject: FW: referred by Scott Wyman

Scott:

Is the Mayor supposed to or expecting to be involved in this meeting? I was under the impression he was referred to me by you for a solo meeting, which is why I proposed a date solely based upon my calendar.

Alain E. Boileau - Interim City Attorney City of Fort Lauderdale, City Attorney's Office
100 North Andrews Avenue, Fort Lauderdale, FL 33301

T: 954.828.5025 F: 954.828.5915
E: aboileau@fortlauderdale.gov

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-----Original Message-----

From: JorgeMursuli [mailto:jorge.mursuli@gmail.com]
Sent: Friday, July 13, 2018 10:58 AM
To: Alain Boileau
Cc: Scott Wyman; Dean Trantalis; Mayda Pineda
Subject: Re: referred by Scott Wyman

07/24 it is. Please let me know what time works best for you and the Mayor.

Look forward to meeting soon,

Jorge Mursuli
786.236.1049

> On Jul 11, 2018, at 12:00 PM, Alain Boileau <ABoileau@fortlauderdale.gov> wrote:

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> Mr. Mursuli:

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> I am relatively available that week, however, 7/24 most be the most convenient. Please advise if this works for you and we can schedule a time.

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> Best regards,

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> Alain

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To: Mayda Pineda <mpineda@fortlauderdale.gov>
Bcc: Alain Boileau <aboileau@fortlauderdale.gov>
Date: Tue, 24 Jul 2018 08:20:42 -0400

The mayor is not attending. This is just a meeting with him and me

Alain E. Boileau
Interim City Attorney
City of Fort Lauderdale

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>>> Jorge Mursuli

>>> EarthRights International

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>

10/23 Conference Meeting Item

From: Alain Boileau <aboileau@fortlauderdale.gov>
To: Jennifer Larregui <jlarregui@fortlauderdale.gov>
Cc: Jolene Chism <jchism@fortlauderdale.gov>, Maureen Richards <mrichards@fortlauderdale.gov>, Paul Bangel <pbangel@fortlauderdale.gov>
Bcc: Alain Boileau <aboileau@fortlauderdale.gov>
Date: Thu, 18 Oct 2018 15:17:27 -0400
Attachments Conference Agenda Memo - Fossil Fuel Company Lawsuits.docx (41.44 kB)
:

Jennifer and Jolene:

Can you finalize the attached proposed CAM and create a conference agenda item for the meeting on Tuesday? The manager, the Mayor, and Commissioners are already expecting this presentation and discussion.

Alain E. Boileau

City Attorney

City of Fort Lauderdale, Florida

100 North Andrews Avenue, Fort Lauderdale, FL 33301

(954) 828-5038 | aboileau@fortlauderdale.gov



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**CITY OF FORT LAUDERDALE
City Commission Agenda Memo
CONFERENCE MEETING**

#18-XXXX

TO: Honorable Mayor & Members of the Fort Lauderdale City Commission

FROM: Alain E. Boileau, City Attorney

DATE: October 23, 2018

TITLE: Presentation by Earthrights International regarding ongoing national and proposed litigation against fossil fuel companies due to their contribution to climate crisis and resulting mitigation costs to governmental entities

Representatives from Earthrights International will be making a presentation regarding ongoing national litigation against fossil fuel companies arising from the companies' knowing contribution to the climate crisis by producing, promoting, refining, marketing, and selling fossil fuels, while concealing the dangers to the environment, the results of which municipalities, such as the City of Fort Lauderdale, have had to incur the costs of adapting to the resulting climate changes. Commencing in the summer of 2017, state and local governments around the country, including but not limited to, the State of New York, the City of Oakland, the City of San Francisco, the State of Rhode Island, the City of Baltimore, and the City of Boulder, have filed lawsuits asking fossil fuel companies to pay for their share of costs of adapting to climate change. Earthrights International, with the assistance of co-counsel, currently represent the City of Boulder, Boulder County, and San Miguel County, Colorado in one of these lawsuits."

Resource Impact

<i>Funds available as of</i>					
ACCOUNT NUMBER	INDEX NAME (Program)	CHARACTER CODE/ SUB-OBJECT NAME	AMENDED BUDGET (Character)	AVAILABLE BALANCE (Character)	AMOUNT
			\$	\$	\$
TOTAL AMOUNT ►					\$

Directions for Completing the Resource Impact Section Funding Box:

1. The top of the funding box has a place for a date which should be the date that the department submitting the CAM has verified funding availability.
2. We have combined multiple boxes into one box and are now referring to it as the

ACCOUNT NUMBER. The Account Number consists of the **Fund - Index# - Sub-object.**

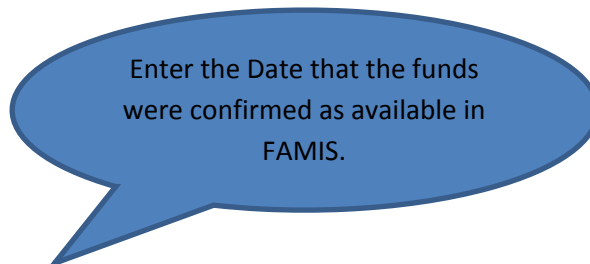
3. The next box is the **INDEX NAME**, which we are also referring to as the *Program*. Enter the actual name of the Index# that is provided in the “Account Number” box below.
4. The next box is the **CHARACTER CODE/SUB-OBJECT NAME**. This is where you will enter the actual name of the Character AND the Sub-object that the purchase will be made from. When checking funding availability in FAMIS, you will report the funding at the Character level.

Here is a list of *all* Character Codes in FAMIS.

- 10 – Salaries and Wages
- 20 – Fringe Benefits
- 30 – Services/Materials
- 40 – Other Operating Expenses
- 50 – Non-Operating Expenses
- 60 – Capital Outlay
- 70 – Debt Service
- 80 – Grant Services
- 90 – Other Uses

5. The next box represents the **Amended Budget** for the Index # at the Character level.
6. The next box represents the **Available Balance** for the Index # at the Character level. If the Character Code has sufficient available funds, the purchase will be allowed.
7. The last box is the **Amount** for the purchase requested on the CAM. If there are multiple accounts, then you will have multiple rows of information with a total in the bottom box.

PLEASE SEE SAMPLE BOX BELOW:



Funds available as of January 7, 2014					
ACCOUNT NUMBER	INDEX NAME (Program)	CHARACTER CODE/ SUB-OBJECT NAME	AMENDED BUDGET (Character)	AVAILABLE BALANCE (Character)	AMOUNT
450- PBS660602- 6499	Pump Station Maintenance	Capital Outlay/ Other Equipment	\$550,000	\$452,600	\$12,500
TOTAL AMOUNT ►					\$12,500

Capital Projects:

For Capital Projects, please use the Project Code to complete the information for the Account Number, Index Name, Amended Budget, and Available Budget boxes.

Strategic Connections

Must have a **Vision Plan** AND **Strategic Connection** Statement, as well as **Commission Annual Action Plan priority**, when applicable (additional instructions are included in the *new Commission Agenda Memo Style Guide* and the **Connecting Strategic Connections** document provided to you.

PLEASE SEE SAMPLE BELOW:

This item is a *Commission Annual Action Plan* priority, included within the Management Agenda, advancing the Code Compliance Process Improvement effort.

This item is a *Press Play Fort Lauderdale Strategic Plan 2018* initiative, included within the Neighborhood Enhancement Cylinder of Excellence, specifically advancing:

- Goal 5: Be a community of strong, beautiful, and healthy neighborhoods.
- Objective 2: Enhance the beauty, aesthetics, and environmental quality of neighborhoods.
- Initiative 4: Implement the finding from the Code Compliance Process Improvement.

This item advances the *Fast Forward Fort Lauderdale 2035 Vision Plan: We Are Community*.

Related CAM(s)

#16-XXXX (only include related CAMs that are on the same meeting agenda otherwise remove section).

Attachment(s)

Exhibit 1 – Sample

Prepared by: CAM Author, Department

Department Director: Director's name, Department

FW: referred by Scott Wyman

From: Alain Boileau <aboileau@fortlauderdale.gov>
To: Scott Wyman <swyman@fortlauderdale.gov>
Date: Fri, 13 Jul 2018 10:59:51 -0400

Scott:

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Alain E. Boileau - Interim City Attorney
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> Jorge Mursuli
> EarthRights International

Legistar ATS - Individual Review Request

From: jchism@fortlauderdale.gov
To: Alain Boileau <aboileau@fortlauderdale.gov>
Date: Thu, 18 Oct 2018 16:23:29 -0400

Alain Boileau

A proposed OLD/NEW BUSINESS, 18-1177 has been submitted by Jolene Chism for your review and approval. The expected introduction date is 10/23/2018. The description is as follows:

Presentation by Earthrights International regarding ongoing national and proposed litigation against fossil fuel companies due to their contribution to climate crisis and resulting mitigation costs to governmental entities

Please review this item at

<http://fortlauderdale.legistar.com/ATS.aspx?From=ATS&ID=77349&Hash=fdda19c362f2531a307e9753fa6b8fe7>.

Or, go to <http://fortlauderdale.legistar.com/MyAccount.aspx?From=ATS&Tab=ATS> to review all items that have been submitted to you.

This email is an automatic email notice from your Legistar® Approval Tracking System. Please do not 'Reply' to this email, but use the links above. Thank you.

RE: referred by Scott Wyman

From: Mayda Pineda <mpineda@fortlauderdale.gov>
To: Alain Boileau <aboileau@fortlauderdale.gov>
Date: Tue, 24 Jul 2018 08:42:02 -0400

Oh ok, I was not aware. Thanks

-----Original Message-----

From: Alain Boileau
Sent: Tuesday, July 24, 2018 8:21 AM
To: Mayda Pineda <MPineda@fortlauderdale.gov>
Subject: Re: referred by Scott Wyman

The mayor is not attending. This is just a meeting with him and me

Alain E. Boileau
Interim City Attorney
City of Fort Lauderdale

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Mr. Boileau,

Given the nature of the timing and the related travel, it's clear that today won't work. You mentioned this week was flexible for you. Would tomorrow or Thursday work? Please advise ASAP.

Thanks very much.

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>>> -----Original Message-----

>>> From: JorgeMursuli [mailto:jorge.mursuli@gmail.com]

>>> Sent: Wednesday, July 11, 2018 11:07 AM

>>> To: Alain Boileau

>>> Cc: Scott Wyman; Dean Trantalis

>>> Subject: referred by Scott Wyman

>>>

>>> Mr Boileau,

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>>> My name is Jorge Mursuli. I represent EarthRights International, a worldwide NGO specializing in litigation in support of the environment and in defense of human rights abuses (<https://earthrights.org/about/>). I believe you are already aware of Mayor Trantalis's interest in exploring potential litigation efforts regarding harms to the City of Ft Lauderdale caused as a result of climate change and sea level rise.

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>>> The ERI team could be in South Florida anytime from 07/23-07/27. Please let me know ASAP when you would be available, and I will be happy to set that up.

>>>

>>> Thanks in advance for your time and consideration. I can be reached at 786.236.1049 if needed.

>>>

>>> We look forward to meeting and talking,

>>>

>>>

>>> Jorge Mursuli

>>> EarthRights International

>>

>

RE: referred by Scott Wyman

From: Scott Wyman <swyman@fortlauderdale.gov>
To: Alain Boileau <aboileau@fortlauderdale.gov>
Date: Fri, 13 Jul 2018 11:07:39 -0400

Yes. I was forwarding to you for you to handle. I'll respond to him.

Scott Wyman
Assistant to the Mayor
Mayor Dean Trantalis
100 N. Andrews Ave.
Fort Lauderdale, FL 33301
954-828-5314

-----Original Message-----

From: Alain Boileau
Sent: Friday, July 13, 2018 11:00 AM
To: Scott Wyman <SWyman@fortlauderdale.gov>
Subject: FW: referred by Scott Wyman

Scott:

Is the Mayor supposed to or expecting to be involved in this meeting? I was under the impression he was referred to me by you for a solo meeting, which is why I proposed a date solely based upon my calendar.

Alain E. Boileau - Interim City Attorney City of Fort Lauderdale, City Attorney's Office
100 North Andrews Avenue, Fort Lauderdale, FL 33301
T: 954.828.5025 F: 954.828.5915
E: aboileau@fortlauderdale.gov

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-----Original Message-----

From: JorgeMursuli [mailto:jorge.mursuli@gmail.com]
Sent: Friday, July 13, 2018 10:58 AM
To: Alain Boileau
Cc: Scott Wyman; Dean Trantalis; Mayda Pineda
Subject: Re: referred by Scott Wyman

07/24 it is. Please let me know what time works best for you and the Mayor.

Look forward to meeting soon,

Jorge Mursuli
786.236.1049

> On Jul 11, 2018, at 12:00 PM, Alain Boileau <ABoileau@fortlauderdale.gov> wrote:
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Cc: Scott Wyman <swyman@fortlauderdale.gov>, Dean Trantalis <dtrantalis@fortlauderdale.gov>, Mayda Pineda <mpineda@fortlauderdale.gov>
Date: Mon, 23 Jul 2018 16:45:32 -0400

Mr Boileau,

I never heard what time the meeting is tomorrow. I think it would have to be in afternoon at this point.

Please advise ASAP.

Jorge

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>> Alain E. Boileau - Interim City Attorney

>> City of Fort Lauderdale, City Attorney's Office

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To: JorgeMursuli <jorge.mursuli@gmail.com>
Cc: Scott Wyman <swyman@fortlauderdale.gov>, Dean Trantalis <dtrantalis@fortlauderdale.gov>, Mayda Pineda <mpineda@fortlauderdale.gov>
Date: Wed, 11 Jul 2018 12:00:24 -0400

Mr. Mursuli:

I am relatively available that week, however, 7/24 must be the most convenient. Please advise if this works for you and we can schedule a time.

I look forward to meeting you and discussing this issue.

Best regards,

Alain

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Jorge Mursuli
EarthRights International

Legistar ATS - Delegation

From: jchism@fortlauderdale.gov
To: Alain Boileau <aboileau@fortlauderdale.gov>
Date: Thu, 18 Oct 2018 15:56:58 -0400

Alain Boileau

File 18-1177 is delegated to you.

Presentation by Earthrights International regarding ongoing national and proposed litigation against fossil fuel companies due to their contribution to climate crisis and resulting mitigation costs to governmental entities

Please review this item at

<http://fortlauderdale.legistar.com/ATS.aspx?From=ATS&ID=77349&Hash=fdda19c362f2531a307e9753fa6b8fe7>.

Or, go to <http://fortlauderdale.legistar.com/MyAccount.aspx?From=ATS&Tab=ATS> to review all items that have been submitted to you.

RE: referred by Scott Wyman

From: Alain Boileau <aboileau@fortlauderdale.gov>
:
To: JorgeMursuli <jorge.mursuli@gmail.com>
Cc: Scott Wyman <swyman@fortlauderdale.gov>, Dean Trantalis <dtrantalis@fortlauderdale.gov>, Mayda Pineda <mpineda@fortlauderdale.gov>
Bcc: Alain Boileau <aboileau@fortlauderdale.gov>
Date: Wed, 11 Jul 2018 12:00:24 -0400

Mr. Mursuli:

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I look forward to meeting you and discussing this issue.

Best regards,

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EarthRights International

RE: referred by Scott Wyman

From: Scott Wyman <swyman@fortlauderdale.gov>
To: JorgeMursuli <jorge.mursuli@gmail.com>
Cc: Alain Boileau <aboileau@fortlauderdale.gov>
Date: Fri, 13 Jul 2018 11:08:45 -0400

Jorge -- The mayor will not be at this meeting. I was wanting you to follow up directly with the city attorney. The mayor has discussed this matter previously and had asked the city attorney to take the lead on exploring the idea.

Scott Wyman
Assistant to the Mayor
Mayor Dean Trantalis
100 N. Andrews Ave.
Fort Lauderdale, FL 33301
954-828-5314

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RE: referred by Scott Wyman

From: Mayda Pineda <mpineda@fortlauderdale.gov>
To: JorgeMursuli <jorge.mursuli@gmail.com>, Alain Boileau <aboileau@fortlauderdale.gov>
Cc: Scott Wyman <swyman@fortlauderdale.gov>, Dean Trantalis <dtrantalis@fortlauderdale.gov>
Date: Tue, 24 Jul 2018 08:19:37 -0400

Good morning Scott,

Please advise what works best for the Mayor -- there is no set time yet. I called you this morning and left you a voicemail message regarding same.

Thank you.

Mayda Pineda | Legal Administrative Assistant
City of Fort Lauderdale | City Attorney's Office
100 North Andrews Avenue, Fort Lauderdale, FL 33301
T: 954.828.7452 | F: 954.828.5917 | E: mpineda@fortlauderdale.gov

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From: JorgeMursuli <jorge.mursuli@gmail.com>
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To: Alain Boileau <ABoileau@fortlauderdale.gov>
Cc: Scott Wyman <SWyman@fortlauderdale.gov>; Dean Trantalis <DTrantalis@fortlauderdale.gov>; Mayda Pineda <MPineda@fortlauderdale.gov>
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