COLORADO-POLITICS

Time for the Supreme Court to finally end Boulder's climate shakedown | GUEST COLUMN

By **Amy Oliver Cooke**

Published September 24, 2026 12:45am

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The first case the U.S. Supreme Court hears in its new term won't come from Washington or Wall Street. It will come from Boulder. And if you drive to work, heat a house or buy groceries in this state, you have a stake in how it comes out.

On Oct. 5, the court will hear arguments in the case, which asks whether federal law bars Boulder from using state law to impose liability for alleged harms attributed to worldwide greenhouse-gas emissions.

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The justices must also decide whether they have jurisdiction to review the case at this stage. If they reach the federal law question, there's every reason to believe they may reject Boulder's obvious attempt to use a local damages claim to establish national energy policy.

Boulder's backdoor carbon tax

Boulder says the suit is simply about getting paid back for damage. The lawyers who built the case have been more blunt. David Bookbinder, who spent years on the legal

team representing Boulder, offered a particularly clear explanation of how this litigation could affect consumers.

“Tort liability is an indirect carbon tax,” he said during an October 2025 Federalist Society panel, explaining an energy company facing liability would pass those costs along to customers buying its products.

He was not the only attorney associated with the case to describe that possibility.

In a 2020 interview, another member of Boulder’s legal team — who will argue at the Supreme Court — described collecting damages as the first goal. He then identified a second objective: to “raise the price of the products” for consumers and, consequently, force an energy transition outside the bounds of the democratic process.

For commuters, that means paying more at the gas pump. For farmers and ranchers, it means higher fuel costs for equipment and transportation.

Boulder’s supporters should explain how that outcome fits into Colorado’s broader concern about affordability. The same household budgets squeezed by utility bills and grocery prices would have to absorb any additional costs passed along by energy producers saddled with potentially billions in boundless liability.

Families cannot simply stop needing heat, groceries or a way to get to work because litigation makes the energy supporting those necessities more expensive.

Boulder does not speak for Colorado

The consequences could also reach communities whose economies and public services depend on energy production.

The Associated Governments of Northwest Colorado and eight counties filed a Supreme Court brief supporting the energy companies. Archuleta, Delta, Grand, Garfield, Mesa, Montezuma, Montrose and Rio Blanco counties are asking the justices to consider interests that Boulder’s lawsuit does not represent.

Their brief explains how energy production in Colorado supports local jobs and generates revenues that fund roads, schools and emergency services. In Montezuma County, oil-and-gas production has historically accounted for between 40% and 50% of county tax revenue. The counties warn discouraging production and investment could undermine their ability to provide those services.

Meanwhile, no Colorado county joined the city and county governments' brief supporting Boulder. Neither Sen. Michael Bennet nor Sen. John Hickenlooper signed the congressional brief backing the lawsuit. This unusual division, especially among Democrats, clearly demonstrates Boulder has failed to unite its own political allies, much less the state.

Far-left billionaire backing and unanswered questions

Boulder's case has benefited from a network of outside advocacy groups and wealthy foundations. EarthRights International, which helped bring the case, has received millions in foundation funding, including grants from Soros foundations and the Rockefeller Brothers Fund. The Rockefeller-backed Center for Climate Integrity, which encourages local governments to sue energy producers, has also supported the litigation.

Those connections place Boulder's case within a national campaign with ambitions extending far beyond compensating Colorado communities.

Colorado Attorney General Phil Weiser also officially put his office's weight behind keeping the lawsuit alive. Likewise, Democratic Attorney General candidate Jena Griswold committed to pursuing state climate litigation similar to Boulder's case should she be elected.

Griswold's embrace of Jane Fonda's litigation agenda is hardly surprising. But Weiser's looks opportunistic and political. Despite expressing strong skepticism of Boulder's case after it was filed, Weiser flip-flopped over the summer and co-led a Supreme Court brief with California's attorney general on behalf of 18 states and the District of Columbia, asking the justices to dismiss the appeal or uphold the ruling allowing Boulder's claims to proceed.

Yet recently, when pressed by an NBC News reporter, he would not say whether he supported the merits of Boulder's underlying claims. Ironically, Weiser is committing his office's legal resources to preserving a lawsuit whose central theory he can't bring himself to publicly embrace.

Coloradans deserve an explanation, particularly when attorneys associated with the case have described how liability could translate into higher prices for consumers.

Regardless of the political calculations behind supporting this lawsuit, Coloradans who will ultimately pay for it deserve a voice. Liberal dark-money groups and cynical politicians can champion Boulder's case without having to worry about what higher energy prices would mean for their own household budgets. Working Colorado families have no such luxury.

The Supreme Court should hold that Colorado tort law does not reach worldwide emissions and that no single city gets to write energy policy for the country by handing a jury a blank check.

Coloradans need affordable energy and functioning public services. Neither is served by treating an industry this state runs on as a bottomless well of other people's money — and then pretending the bill will land on someone else.

Amy Oliver Cooke is co-founder and chairman of the board for Always On Energy Research, an energy modeling and analytics nonprofit organization and a senior fellow in energy for the Independence Institute.

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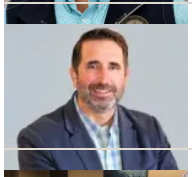

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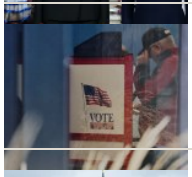

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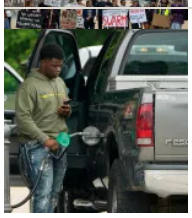

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