



March 2023

For more information see:

www.suebigoil.ca

When Regional Districts Sue Big Oil

What could be the role of *regional districts* in the Sue Big Oil campaign?

The Sue Big Oil campaign calls on local governments to file a class action lawsuit against Big Oil. This brief builds on the information contained in the [Suing Fossil Fuel Giants: An Introduction for Local Governments](#) (read it first), but responds to specific questions about whether and how regional districts can participate.

Can regional districts join the Sue Big Oil class action lawsuit?

Yes. Like other local governments, regional districts are experiencing increased climate costs associated with damage to their infrastructure as well as the costs of building new infrastructure to withstand future climate impacts. Taxpayers and regional districts shouldn't bear the full brunt of these costs.

Municipalities and regional districts are legally similar, but different, and we recommend that local governments bringing the case include both a municipality and a regional district as representative plaintiffs.¹ The legal team selected by local governments to bring the case may recommend a separate "sub-class" representing regional districts, to make it easier for the court to address any issues unique to regional districts; however, these are details that can be worked out as the case moves forward.

There is no legal barrier to regional districts joining the class action lawsuit. Becoming involved early in the process can help ensure that the particular circumstances of regional districts are considered in the design of the lawsuit.

Regional District services and climate litigation

Unlike municipalities, which have a broader authority, regional districts focus on offering specific services to some or all of their residents. For example, a regional district may offer services related to waste disposal, water systems, fire services or other matters. These services may be offered throughout the regional district, in the areas which are not incorporated into a municipality, or in just part of the regional district. Each regional district is unique.

We've heard some people argue that "climate litigation" is not a service that regional districts offer, or that a new "climate litigation" service would be required before a regional district could join a lawsuit. But this argument misunderstands the nature of the Sue Big Oil class action. The legal focus of the case is on compensating the regional district (or municipality) for costs that they are incurring, or will incur, **within the services** that they offer.

For example, a regional district offering community water service may need to drill deeper wells or find and build new sources of water infrastructure to address climate-fueled drought, or may need to increase water treatment capacity to keep up with winter storms. Many other common regional district

¹ "Representative plaintiffs" are the lead plaintiffs who bring a class action lawsuit on behalf of the other participating governments.

services are also being negatively impacted by climate change, including sewers, fire protection, parks and recreation, and emergency services, to mention a few. It would be fiscally irresponsible of the Directors to simply allocate taxpayer dollars to these increased costs of services without attempting to recover them from Big Oil.

Financial logistics for regional districts' participation in the class action

The Sue Big Oil campaign is asking local governments to pay \$1 per resident towards the costs of the class action lawsuit. But what does that mean for regional districts, given that they generally include several municipalities within their boundaries, each of which are also being asked to pay \$1 per resident. Who should pay for the overlapping residents?

Moreover, what if several services offered by a regional district are suffering climate impacts? Which service or services should pay the \$1 per resident? Although we do need all levels of local government to step up and provide some level of funding, the important thing is that each local government signal its support for, and willingness to participate in, the class action lawsuit. Each regional district and its member municipalities should come up with solutions that work for their unique circumstances.

We offer the following suggestions for consideration:

- Unless a regional district and their member municipalities come up with a different arrangement, regional districts should be responsible for funding an amount equal to their residents in unincorporated areas, while municipal governments pay for their residents.
- Most regional districts offer emergency services that need to be ready to respond to climate (and other) emergencies affecting the regional district's residents, and incur expenses when flooding, fires or other impacts occur. This type of service may be well placed to provide funds for, and liaise with other local governments regarding, the litigation.
- A regional district, through its general governance service, could work to calculate the financial losses that each of its services face due to climate change. This could provide a basis to apportion contributions to the class action across multiple services.
- A regional district could select one service that is facing particularly large climate costs (perhaps water or emergency management, for example) to budget for the costs of participating in the lawsuit and to take the lead in liaising with other local governments.

Given the differences in governance amongst BC's regional districts, regional districts will need to determine how best to structure their participation in a potential class action lawsuit. We trust that regional district directors and staff will work in good faith to determine what funding and administrative arrangement will work best for their community.

Conclusion

Regional districts generally control a large area, often without a dense tax-base. As such, they are even more vulnerable than municipalities to the costs of climate change. Infrastructure spread over a large area may be more expensive to repair or upgrade to address climate change. Far from being beyond a regional district's authority, participation in the class action lawsuit against fossil fuel companies may be one of the few options open to regional districts to get much needed resources to protect the residents served by their services and infrastructure.