

Spitzer Files Nuisance Suit over CO2

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The ever-litigious Eliot Spitzer, New York's Democratic attorney general, and his acolytes in California, Connecticut, Iowa, New Jersey, Rhode Island, Vermont, Wisconsin, and New York City filed suit in federal court in Manhattan yesterday, seeking to get the courts to declare that carbon dioxide is a pollutant and utilities that emit it are public nuisances.

The defendants are the usual suspects from America's coal belt: American Electric Power, Cinergy, Southern Co., Tennessee Valley Authority, Xcel Energy.

Spitzer spokesman Marc Violette said the suit for the first time put global warming on the litigation map. This is a precedent-setting, first-of-its-kind lawsuit.

Scott Segal of the Electric Reliability Coordinating Council, and a lawyer, said, "The action attempts to transform a serious court into a debating society for political bluster. It is hard to believe that a court (a) would find this matter justifiable; (b) would grant the parties standing; or (c) would find that the petition actually states a claim upon which relief can be granted."

Segal called the suit frivolous and an exercise in election-year forum shopping. He scoffed, "This action brings new meaning to the term nuisance lawsuit. Given that every human emits carbon dioxide every day, the next thing we anticipate from these attorney generals is a collective demand to hold our breath."

Edison Electric Institute President Tom Kuhn said, "Climate policy should be fashioned by policymakers with due consideration to environmental, energy and economic implications not by lawyers in the courtroom."

The National Center for Public Policy Research commented, "Attorneys general are elected to enforce laws, not to create them. The separation of powers concept was enshrined in our governmental bodies by our founding fathers for a reason: when too much power is congregated in one source, dictatorship is inevitable. If these state politicians wish to set national environmental policies they should lobby Congress or run for Congress themselves."

Spitzer is widely expected to make a run for governor of New York in 2006.

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