

## **Global warming lawsuit accuses 5 power plants; 8 states, N.Y. City join in seeking legal restrictions**

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California, seven other states and New York City filed the first global-warming lawsuit against power companies Wednesday, accusing five major plant operators of emitting gases that are causing temperatures to rise and threatening the planet's water, air and living creatures.

The suit, filed in U.S. District Court in New York, is an attempt to substitute court-imposed restrictions for the voluntary approach of President Bush. The administration has rejected the Kyoto Protocol limiting emissions and has declined to classify carbon dioxide -- which most scientists identify as the primary "greenhouse gas" -- as a pollutant.

"Global warming poses a serious threat to our environment, our natural resources, our public health and safety and our economy," California Attorney General Bill Lockyer said at a news conference in Los Angeles, one of four on the issue held around the nation. "Requiring these major polluters to do their part is crucial to successfully fighting the threat," he said.

"There is a vacuum at the federal level," said Gail Ruderman Feuer, a lawyer with the Natural Resources Defense Council, which filed a separate suit on behalf of nonprofit groups that claim global warming is harming their East Coast properties. "If there were any regulation, you would not need lawsuits."

In response, the Environmental Protection Agency issued a statement saying it is committed to rules that will require a 70 percent reduction in power plant emissions but has no authority to regulate greenhouse gases. The EPA said it was "building efficient and effective market-driven programs" to reduce cars' effects on the climate.

California is one of 11 states that have sued the EPA over its refusal to classify carbon dioxide as a pollutant. Then-Gov. Gray Davis was part of that suit. Gov. Arnold Schwarzenegger did not take part in Wednesday's suit, Lockyer said. Schwarzenegger's office declined to comment.

The largest of the five companies named in the suit, American Electric Power, does not consider litigation "a constructive approach to addressing climate change," said spokesman Pat Hemlepp.

"The climate change issue is a global issue, not something that's going to

be addressed by one company or one industry or even one country," Hemlepp said.

He said his company, which is based in Ohio and operates plants in 11 states, was committed to a 10 percent reduction in its carbon dioxide emissions by 2006, either by lowering its own emissions or by buying credits from other companies that lower theirs.

The Competitive Enterprise Institute, a business advocacy group, accused Lockyer and his fellow attorneys general of "irresponsible political grandstanding" that would interfere with national policy and raise electricity prices.

The suit said the five companies -- American Electric Power, Southern Co., Xcel Energy, Cinergy Corp. and the Tennessee Valley Authority -- are the nation's largest emitters of carbon dioxide, and among them spew out 652 million tons of the gas a year. That amounts to one-quarter of the industry's emissions and nearly 10 percent of the nation's emissions from any human source, the lawsuit said.

The companies operate 174 fossil-fuel plants in 20 states, mostly in the South and Midwest. None of the plants is in California, but Lockyer said the state was entitled to sue because it faced dangers from global warming in the next few decades. Those include water shortages from a reduction in the Sierra snowpack and from salt contamination of the Sacramento-San Joaquin River Delta, increased wildfires, the inundation of coastal areas and a rise in heat-related deaths, Lockyer said.

The emissions are a "public nuisance," the suit said, like fumes from a stockyard or soot from a smokestack. The effects in this case are worldwide, the suit said, from gases that trap atmospheric heat and have already caused temperatures to rise.

The other states in the suit are Connecticut, New York, Iowa, New Jersey, Rhode Island, Vermont and Wisconsin.

The states are not seeking damages but want court orders requiring the companies to halt the increases in carbon dioxide emissions and then reduce them by a fixed percentage each year for at least a decade.

That could be readily accomplished, the suit said, by increasing plant efficiency, switching to other fuels such as natural gas or gasified coal and using alternatives such as wind and solar power.

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