

March 21, 2011

Climate change deniers may have created confusion among the public, but in a court of law, facts matter.

That's why Public Justice has filed an *amicus* brief in a key U.S. Supreme Court case on behalf of the foremost climate change scientists in the country, including Mario Molina, who received the Nobel Prize in chemistry for his role in showing how chlorofluorocarbons damage the Earth's ozone layer.

Likening the scale, momentum and long response time of climate change to a huge supertanker, the scientists warn that "the planet is headed toward a shipwreck" and that "evasive action" and emission reductions "to reduce the throttle" are essential.

The case involves several states that want to restrict carbon dioxide emissions from six electric power companies and the Tennessee Valley Authority, who are jointly responsible for 10% of carbon dioxide emissions from the United States. The states claim that carbon dioxide emissions from the plants contribute to global warming, thereby creating a public nuisance under federal law.

The defendants claim that the states do not have standing because not enough is known about the emissions to warrant the proposed restrictions, but our brief demonstrates that there is no scientific uncertainty about the warming effects of greenhouse gases like carbon dioxide; that the power plants threaten substantial harm to communities in the six plaintiff states; and that the benefits of reduced emissions would be significant. Thus, the classic test for standing is met.

To read our *amicus* brief in *AEP v. Connecticut, et al.*, [click here](#).

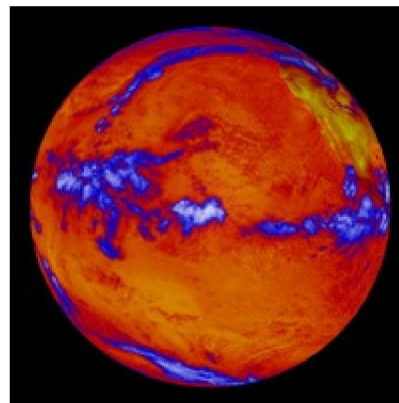
Originally, eight states, including Connecticut, New York, Rhode Island, California, Iowa and Vermont, filed suit in New York in 2004, charging that the utilities' emissions left a wide range of environmental damage in their wake, including coastal flooding, reduced food supplies, water shortages and ecosystem disruptions.

The plaintiffs asked only that the court order the power companies to reduce their carbon dioxide emissions. No economic damages were sought.

Even so, the district court dismissed the suit, ruling that emissions restrictions should be decided by legislation, not litigation. The U.S. Court of Appeals for the Second Circuit reversed that decision, citing well-established principles of tort and public nuisance law and finding that the states' claims were not preempted by the federal Clean Air Act, given that the Environmental Protection Agency had failed to regulate carbon dioxide emissions.

Oral argument in *AEP v. Connecticut et al.*, is scheduled for April 19.

We are grateful to Professor Dan Schrag, director of the Harvard University Center for the Environment, and Harvard Professor Peter Huybers for their leadership in writing the brief. We



'The world revs its heat engine.'  
NASA Image.

applaud Public Justice's Power-Cotchett Attorney Richard Webster, Environmental Enforcement Project Director Jim Hecker and Budd-Kazan Attorney Matt Wessler for their work on the brief. I was privileged to work on it, too.

Thank you, of course, for your continued faith in and support of our fight to ensure that the facts are heard in cases with such significant implications for the public good.

Arthur Bryant  
Executive Director  
Public Justice and the  
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