

Onley, Kameran L.

From: Onley, Kameran L.
Sent: Thursday, October 23, 2003 3:46 PM
To: Perino, Dana M.; Cooney, Phil
Subject: FW: 12 States file CO2 lawsuit

I know you know the story, but it is a different version

1 CLIMATE CHANGE <<http://www.eenews.net/images/lilprint.jpg>> PRINT THIS STORY

Twelve states appeal EPA decision on GHG emissions

Brian Stempeck, Greenwire reporter

Twelve states, 14 environmental groups and two cities are filing suit today in federal court to appeal the U.S. EPA's decision to reject a petition from environmentalists that sought to have the federal government regulate greenhouse gas (GHG) emissions from new motor vehicles.

State attorneys general from Massachusetts, New York, New Jersey and eight other states filed suit in the U.S. Court of Appeals for the District of Columbia this morning, six weeks after EPA rejected a petition from the International Center for Technology Assessment, Greenpeace and Sierra Club. California is filing a separate suit, as are the environmental groups and the cities of Baltimore and New York City. The four appeals are expected to be rolled into one case.

In rejecting the petition, EPA said that the Clean Air Act does not give it the authority to regulate GHG emissions. "Based on a thorough review of the CAA, its legislative history, other congressional action and Supreme Court precedent, EPA believes that the CAA does not authorize regulation to address global climate change," the agency wrote in the Federal Register on Sept. 8.

Even if the federal government did have the authority to regulate carbon dioxide emissions, that power would be to "effectively regulate car and light truck fuel economy," EPA said, which is the responsibility of the Department of Transportation. (To view EPA's full statement in the Federal Register, click here <<http://www.eenews.net/Greenwire/Backissues/images/102303gwr2.pdf>> .)

Environmental groups say that the appeal could be the one of the biggest court cases related to climate change issues. "This is THE greenhouse case," said Joseph Mendelson, legal director at ICTA. "This is the one that will determine whether the Clean Air Act grants authority to regulate greenhouse gas emissions," he said. "We're challenging EPA's finding that Congress never intended to give authority under the Clean Air Act to regulate greenhouse gases."

"The Bush administration tried to say yet again that it's not their job to fight global warming," said David Bookbinder, Washington legal director at the Sierra Club. "In fact, they have both the legal and moral responsibility to tackle global warming pollution."

EPA spokesman John Millett said that the agency's reaction to the environmentalists' claims hasn't changed. "No Clean Air Act provision specifically authorizes climate change regulation," Millett said. "Congress has taken up the issue of climate change numerous times, but hasn't enacted legislation that gives EPA authority to regulate greenhouse gas emissions."

"That said, the agency is moving forward with a number of voluntary programs that will reduce the intensity of greenhouse gas emissions," Millett added, all to help meet the Bush administration's goal of reducing GHG intensity by 18 percent over the next 10 years. The Energy Star program has reduced GHG emissions equivalent to taking 10 million cars off the road, he said.

The three environmental groups originally filed the motor vehicle petition with the

Clinton administration in October 1999, shortly after then-EPA Administrator Carol Browner testified to Congress that the agency believed it did have authority under CAA to deal with greenhouse gas emissions (Greenwire <http://www.eenews.net/Greenwire/searcharchive/test_search-display.cgi?q=&file=%2FGreenwire%2Fsearcharchive%2FNewsline%2F2003%2FSept2%2F09020307.htm> , Sept. 2).

Despite Browner's comments, the Clinton administration sat on the environmentalists' petition for more than a year before opening a 90-day public comment period on the topic shortly before it left office in January 2001. The Bush administration allowed the comment period to continue, one of the few environmental articles to make it past a divisive memo from White House Chief of Staff Andrew Card which halted publication of a majority of Clinton's final actions (Greenwire <http://www.eenews.net/Greenwire/searcharchive/test_search-display.cgi?q=&file=%2FGreenwire%2Fsearcharchive%2FNewsline%2F2001%2FMarch19%2F03190105.htm> , March 19, 2001).

A range of industry groups urged EPA to deny the environmentalists' petition, including the American Petroleum Institute, Alliance of Automobile Manufacturers, American Forest and Paper Association, National Mining Association and U.S. Chamber of Commerce. Ultimately, the Bush administration followed the same pattern it has taken on climate change matters since coming into office, and one that was most prominently displayed in March 2001 through the shunning of the Kyoto Protocol, an international treaty that calls for industrialized countries to cut emissions of carbon dioxide and five other greenhouse gases an average 5 percent below 1990 levels by 2012.

The environmentalists' petition spawned a series of lawsuits under the Clean Air Act over the Bush administration's climate policies (Greenwire <http://www.eenews.net/Greenwire/searcharchive/test_search-display.cgi?q=&file=%2FGreenwire%2Fsearcharchive%2FNewsline%2F2003%2FMay14%2F05140305.htm> , May 14). In Oakland, Calif., a federal district court judge is expected to soon issue a ruling on a separate environmental group motion that seeks to force EPA to establish Clean Air Act new source performance standards (NSPS) for power plants and other industrial facilities that incorporate carbon dioxide restrictions.

The states suing EPA are: California, Connecticut, Illinois, Maine, Massachusetts, New Jersey, New Mexico, New York, Oregon, Rhode Island, Vermont, Washington, American Samoa, and the District of Columbia. The cities suing the agency are Baltimore and New York City. The environmental groups suing the agency are: Bluewater Network, Center for Biological Diversity, Center for Food Safety, International Center for Technology Assessment, Conservation Law Foundation, Environmental Advocates, Environmental Defense, Friends of the Earth, Greenpeace, National Environmental Trust, Natural Resources Defense Council, Sierra Club, the Union of Concerned Scientists and U.S. Public Interest Research Group.

Officials at the state AG offices did not return calls seeking comment.