

**IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF NEW YORK
COMPLAINT**

1. The States of Connecticut, New York, California, Iowa, New Jersey, Rhode Island, Vermont, Wisconsin and the City of New York bring this action against defendant electric power corporations under federal common law and, in the alternative, state law, to seek abatement of defendants' ongoing contributions to a public nuisance. <62>
2. Defendants, by their annual emissions of approximately 650 million tons of carbon dioxide, are substantial contributors to elevated levels of carbon dioxide and global warming. Defendants are the five largest emitters of carbon dioxide in the United States and are among the largest in the world. Defendants' emissions constitute approximately one quarter of the U.S. electric power sector's carbon dioxide emissions and approximately ten percent of all carbon dioxide emissions from human activities in the United States.

Injuries to the Plaintiffs and Their Citizens and Residents from Global Warming

110. Global warming is expected to cause intensified and prolonged summertime heat waves in the plaintiffs' jurisdictions, resulting in increases in heat deaths, heat illnesses, and heat-related hospitalizations.... The elderly and poor will be at highest risk.

111. [Defendant's emissions]...will increase smog levels [which will in turn] cause increased incidence of, and susceptibility to, respiratory illnesses including asthma, pneumonia and bronchitis.
- 113-118. Global warming will cause accelerated sea-level rise...[that will] inundate low-lying property, especially during coastal storms, in the coastal plaintiffs' jurisdictions [and] cause saltwater intrusion into groundwater aquifers or other water supplies....
119. In California, the mountain snowpack is the single largest freshwater source....Global warming will severely reduce the size of the snowpack....
120. Global warming will result in more intense precipitation events.
126. A drop in Great Lakes levels from global warming will reduce access to marinas and docks for recreational boaters, require thousands of municipal water intakes and wells to be moved or extended, and damage wetlands that are important for fish and other wildlife.
130. Global warming will...increase stress to crops, thereby reducing crop yields.
133. The hardwood forests that give Vermont, Connecticut, New York, New Jersey, Rhode Island and Wisconsin their fall colors and that give Vermont and several other plaintiff States their maple sugar industry are threatened by global warming....

141....Global warming will...increase[e] the number of escaped wildfires, increasing the area burned by wildfires and shortening the return period of wildfires.

CLAIMS FOR RELIEF

First Claim for Relief—Federal Common Law of Public Nuisance

153Defendants, by their emissions of carbon dioxide from the combustion of fossil fuels at electric generating facilities, are knowingly, <63> intentionally or negligently creating, maintaining or contributing to a public nuisance—global warming—
injurious to the plaintiffs and their citizens and residents.

154. Defendants' emissions...constitute a substantial and unreasonable interference with public rights in the plaintiffs' jurisdictions, including, *inter alia*, the right to public comfort and safety, the right to protection of vital natural resources and public property, and the right to use, enjoy, and preserve the aesthetic and ecological values of the natural world.

155. Carbon dioxide emissions and global warming are inherently interstate in nature.

156. Defendants could generate the same amount of electricity while emitting significantly less carbon dioxide by employing readily available processes and technologies.

157. Defendants know or should know that their emissions of carbon dioxide contribute to global warming and to the resulting injuries and threatened injuries to the plaintiffs, their citizens and residents, and their environment.
158. Defendants' carbon dioxide emissions are a direct and proximate contributing cause of global warming and of the injuries and threatened injuries to the plaintiffs, their citizens and residents, and their environment, from global warming.
159. Defendants, individually and collectively, are substantial contributors to global warming and to the injuries and threatened injuries claimed herein.
160. The injuries and threatened injuries from global warming are indivisible injuries.
161. The injuries from global warming claimed herein are imminent.
162. The injuries from global warming claimed herein are irreparable and monetary damages are inadequate to remedy the injuries.
164. Defendants are jointly and severally liable under the federal common law of public nuisance....

PRAYER FOR RELIEF

WHEREFORE, plaintiffs pray that judgment be entered against defendants as follows:

1. Holding each defendant jointly and severally liable for creating, contributing to, and/or maintaining a public nuisance;
2. Permanently enjoining each defendant to abate its contribution to the nuisance by requiring it to cap its carbon dioxide emissions and then reduce them by a specified percentage each year for at least a decade; and
3. Granting such other relief as this Court deems just and proper. <64>