

**FOR IMMEDIATE RELEASE****March 6, 2006**

## **COURT URGED TO DISMISS GLOBAL WARMING LAWSUIT**

***(Connecticut v. American Electric Power Company, Inc.)***

The Washington Legal Foundation (WLF) filed a brief last week in the U.S. Court of Appeals for the Second Circuit in New York on behalf of itself and its client, U.S. Senator James M. Inhofe, urging the court to reject an appeal filed by several states and environmental groups claiming that global warming is a public nuisance, and that the courts should order the major power companies to restrict their carbon dioxide emissions.

In *Connecticut v. American Electric Power Company*, the States of Connecticut, New York, California, Iowa, New Jersey, Rhode Island, Vermont, and Wisconsin sued American Electric Power Company, Southern Company, Xcel Energy, Inc., Cinergy Corp., and the Tennessee Valley Authority (TVA) in federal court in New York City claiming that global warming constitutes a legal and actionable public nuisance under federal common law. A related lawsuit was filed against the same power companies by the Open Space Institute, the Open Space Conservancy, and the Audubon Society of New Hampshire. The plaintiffs allege that global warming is caused by excessive carbon dioxide, and that the five U.S. companies contribute to 2.5 percent of man-made carbon dioxide worldwide. They allege that if the carbon dioxide levels are not capped, then in the next 100 years, the rising sea (from melting icebergs) "will inundate . . . much of New York City's infrastructure, including airports, tunnels, sewers, and subway stations," and "will continue for at least hundreds of years." They also speculate about other future environmental damages.

WLF argued in its brief that the district court was correct in dismissing the case on political question grounds because the policy issues involved in the case should be resolved by the political branches rather than by a federal court. WLF argued that as Chairman of the Senate Environment and Public Works Committee, Senator Inhofe and the Congress have repeatedly rejected proposed legislation and the Kyoto Treaty that would impose unfair mandatory caps on carbon dioxide emissions on U.S. power companies while leaving countries such as China and India free from any constraints.

"The extent of any global warming and its causes and effects is highly controversial and should not be decided by federal judges," said Paul Kamenar, WLF's Senior Executive Counsel. "If plaintiffs' novel theory is upheld, then even the owner of an SUV could be sued for emitting carbon dioxide," Kamenar said.

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For information, contact Paul Kamenar, WLF Senior Executive Counsel, at 202-588-0302. WLF's brief can be found on its website at [www.wlf.org](http://www.wlf.org).