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California Challenges Bush Administration Low Gas Mileage Standards: Huge Impact on Global Warming Riding on Court Hearing Monday

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On Monday, May 14th, a three-judge panel of the Ninth Circuit Court of Appeals will consider whether the Bush administration violated the law by ignoring global warming when setting extremely low national gas-mileage standards for SUVs and pickup trucks. At issue in the lawsuit are the standards for vehicles from model years 2008-2011. Over their lifetimes, these vehicles will emit 2.8 billion tons of carbon dioxide into the atmosphere – nearly six times the entire annual emissions of the State of California. Promptly improving fuel-economy standards is one of the single most important actions the government can take to address global warming, and this important case is an attempt to hold the Bush administration accountable for its predictable refusal to do so.

The stakes could hardly be higher. Global warming quite literally threatens everything we hold dear. The tragic plight of the polar bear, threatened with extinction as the Arctic melts, has galvanized public opinion and become a symbol of the unprecedented threat to the diversity of life on earth. Individual polar bears are already starving and drowning as the ice melts beneath their feet, but they are only the tip of the extinction iceberg. One leading study estimates that a third of the earth's species will be committed to extinction by the year 2050 if "business as usual" greenhouse gas emissions continue. In Antarctica, emperor penguins are declining, and in the tropics some reef-building corals have declined by over

90 percent. An amazing 74 out of 110 species in the tropical harlequin frog group have already been declared extinct due to climate change.

Global warming's impact on our society is pervasive. We humans are affected by rising temperatures and increasing weather variability as heat waves and droughts increase in many areas of the world, while intense rainfall events and flooding increase in others, sometimes right next door. Rising ocean temperatures increase both the wind speed and moisture content of hurricanes, leading to stronger and more destructive storms. Global warming is also facilitating the spread of many disease vectors to areas from which they were previously excluded due to colder temperatures. Altogether, the World Health Organization estimates that as of the year 2000, over 150,000 people per year already die due to global warming. This number will only increase.

The Stern Review of the Economics of Climate Change, the largest effort undertaken to date to quantify economic impacts, concluded that unabated greenhouse gas emissions will ultimately cost the world between five and 20 percent of global gross domestic product per year, or \$85 per ton of carbon dioxide emitted into the atmosphere. Yet for one percent of global gross domestic product, or about what we have spent so far on the occupation of Iraq, greenhouse gas emissions could be slashed and the worst impacts avoided.

Climate scientists tell us that we have less than ten years to change our ways before we commit ourselves and our descendants to impacts that can only be described as unacceptable. Just ten more years of "business as usual" pollution will very likely commit us to major climate feedbacks, including the melting of the Arctic permafrost and release of large amounts of the powerful greenhouse gas methane, that will accelerate warming still further. Raising temperatures just several more degrees above year 2000 levels will very likely lead to 20 feet or more of sea-level rise and extinction of a third of the world's creatures.

California is particularly vulnerable to climate change in a number of ways. With its long coastline and coastal and delta development, California will suffer a host of problems even from the minimum sea-level rise projections for this century. And a decreasing Sierra snowpack, as well as earlier melting of the snow that remains, profoundly threatens our water supply.

Against this backdrop, the Bush administration established gas mileage standards for SUVs and pickup trucks, the most polluting of passenger cars on American roads today. The standards are set pursuant to the Energy Policy and Conservation Act, a law passed in the wake of the 1973-1974 oil embargo to conserve energy and oil. The law requires the National Highway Traffic Safety Administration to set corporate average fuel-economy (CAFE) standards for SUVs and light trucks at the "maximum feasible" level. The agency chooses the "maximum feasible" standard after considering four factors: the nation's need to conserve energy, technological feasibility, economic practicability, and the impact of other motor-vehicle regulations. The government is also required to consider all of the environmental impacts of its action under the National Environmental Policy Act.

Faced with these stringent legal requirements, the administration then selected fuel economy standards of 22.5, 23.1, and 23.5 miles per gallon for upcoming model years 2008, 2009 and 2010, respectively. These levels leave the United States with the lowest fuel-economy standards of any developed nation in the world, and lower even than some developing nations like China.

In 2006 the Center for Biological Diversity filed suit to challenge these standards. Similar challenges have been filed by California, Connecticut, Maine, Massachusetts, Minnesota, New Jersey, New York, Oregon, Rhode Island, Vermont, the District of Columbia, and the City of New York, and four other public interest groups, the Sierra Club, Natural Resources Defense Council, Public Citizen, and Environmental Defense.

The Plaintiffs argue that the Bush administration violated the Energy Policy and Conservation Act in choosing the low standards, and also that the administration violated the National Environmental Policy Act by failing to consider greenhouse gas emissions and global warming.

The case, Center for Biological Diversity v. National Highway Traffic Administration, No. 06-71891, will be considered during the 9:00 am session at the Ninth Circuit Court of Appeals by Senior Circuit Judge Betty Binns Fletcher, Circuit Judge Michael Daly Hawkins, and Sixth Circuit Senior Judge Eugene E. Siler.

It's not too late too late to stabilize the climate system and protect our children and our planet from the worst consequences of global warming. A victory for the Plaintiffs leading to higher gas-mileage standards would be a major step towards a brighter and safer future.

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