Supreme Court Not So Hot on Global Warming

E&E, a publisher that covers environmental and energy news, outlined the parameters of the case:

> The plaintiffs — six states, New York City and several land trusts — wanted utilities that operate fossil fuel-fired electric power plants to reduce emissions by invoking federal 'public nuisance' common law.
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> They argued that the power companies are contributing to a public nuisance by releasing greenhouse gases into the air.
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> Therefore, the states maintained, they can turn to the courts to require the defendants to reduce emissions.

In its *American Electric Power v. Connecticut* decision, the high court ruled 8-0 — with Justice Sonia Sotomayor recused — against the states. The court determined "that the Clean Air Act and the Obama administration's efforts to regulate emissions had displaced the states' federal common law argument" because, under the manner in which federal law is interpreted, if a segment of the federal government is already in control of an issue, federal "nuisance law" no longer applies because aggrieved parties can argue their claims to the appropriate federal bureaucrats to get relief when problems arise. The EPA already has claimed jurisdiction over greenhouse-gas emissions, so *that* agency and Congress are the federal powers to which the states go to address grievances, according to the court.

The wording of this ruling may sound bland and unremarkable, but most assuredly it is not. For now at least, it applies to just six states, but the ruling will no doubt be considered precedent-setting because it represents a big step backward for the court in its willingness to regulate emissions by judicial fiat, implying that even the court recognizes the the global-warming train is running out of steam.

This ruling comes less than a week after scientists announced findings from three independent studies revealing solid evidence of sunspot activity as responsible for wild weather swings and pointing to a impending cool-down period, not only for Earth but other planets in our solar system. Some of the justices, being who they are, may have gotten a heads-up of the announcement, lending some urgency to their decision. Given that even the liberal U.K. recently went on record as having second thoughts about global-warming curriculum in its schools, the timing probably is not coincidental.

Steve Milloy, himself an expert with two masters degrees, a doctorate and two highly acclaimed books on the subject (*Green Hell* and *Junk Science Judo*, wrote in the *Washington Times* that "the startling part of the decision … is that the court quietly but clearly backed away from alarmist climate 'science'." Milloy states that, whereas, "in its 2007 decision *Massachusetts v. EPA* …, authored by the very liberal Justice John Paul Stevens, a bare majority of the court (*i.e.,* all the liberals plus Justice Anthony Kennedy) embraced Al Gore-type climate alarmism in ruling that the EPA could regulate greenhouse gases under the Clean Air Act," now the Supremes have "retreated to neutrality on climate science."

Milloy cites a host of scandals, all of them well-publicized in recent years — Climategate, Glaciergate, Rainforestgate, Pachaurigate, and NASAgate. And now there are the three independent studies citing recent findings in sunspot activity (by household-name experts, no less), saying that neither global warming nor cooling have anything to do with human activity. Taken together, these can't help but call into question not only the whole dogma of man-made global climate change, but the motives behind flagrant violations of scientific method that underlie global-warming alarmism. Even ultra-liberal Justice Ruth Bader Ginsburg now states, "The Court, we caution, endorses no particular view of the complicated issues related to carbon dioxide emissions and climate change."

What this means, says Milloy, is that environmental activist-extremists will no longer be able to "claim that the Supreme Court has validated the science of climate alarmism and ordered the EPA to regulate greenhouse gases."

The tangential, but nevertheless important, issue of "whether federal courts even [have jurisdiction] to hear the claims," was split 4-4, and thus the decision wasn't exactly a slam-dunk win for utility companies. This means that if Congress takes away the EPA's power to regulate greenhouse gasses, which it is contemplating, there will likely be a flurry of public nuisance lawsuits, unless Congress' legislation specifically forbids the judiciary from hearing public nuisance cases regarding greenhouse gasses. However, what the ruling will do, is to greatly exacerbate the political differences between left-leaning members of Congress (as well as Barack Obama), who want to use global-warming alarmism to regulate citizens, and more prudent legislators and other objecting factions who would put the brakes on the Environmental Protection Agency's ability to wield control over the American economy.

Advocates for the lawsuit in question must have considered this possible outcome for *American Electric Power v. Connecticut*, especially back at the second-circuit court level in 2010, when they employed the term "public nuisance" as opposed to "public danger," in the hope that it would improve the chances of a pro-EPA carbon-emissions ruling (i.e., forcing utility companies to cap and then reduce their carbon emissions). But in the end, the "Supremes" rejected the "nuisance" allegation and, in effect, tossed the hot potato back to radical activists. They, in turn, will fling the hot potato to politicians who will have to decide whether, in the coming election, they want to risk offending teams of wealthy, left-leaning extremists like Greenpeace (who don't want new findings to get in the way of their fanaticism), or risk angering grass-roots citizens who still expect their toast to pop up in the morning and their air conditioning to spring into action on hot summer nights.

Greenpeace, meanwhile, is in hot water in the Arctic Ocean, given its current effort to protest and otherwise impede Scottish, Irish, American, and other nations from their missions of deep-water drilling some 90 billion-plus barrels of oil (recently estimated by the U.S. Geological Survey), locked under the frozen Arctic ice cap. Greenpeace lost its legal standoff with the Scottish oil-exportation company, Cairn Energy, on June 10, when a court in the Netherlands issued an injunction barring the group from obstructing drilling operations off the coast of Greenland. Greenpeace was fined more than $71,000.

Moreover, global-warming-minded environmentalists are no longer as untouchable as they used to be. The June 20 Supreme Court decision here in America makes it not just a question of whether citizens will be taxed and over-regulated in the name of a "science" that is increasingly under fire from within its own ranks, but whether drilling for fossil fuels will be vigorously pursued in an era of Middle East madness, and whether the average worker will be saddled with scores of expensive, unreliable, inconvenient and sometimes unworkable mandates — be it wind energy, ethanol fuels, electric cars, bans on Freon (in developed countries only) or compact fluorescent light bulbs (the curly kind that

contain small amount of mercury sealed within the glass tubing that require special disposal).

For sure, the ramifications of this decision will be anything but unremarkable; indeed, they are likely just the tip of the iceberg.

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Beverly K. Eakman began her career as a teacher in 1968. She left to become a science writer for a NASA contractor, then editor-in-chief of NASA's newspaper in Houston. She later served as a speechwriter and research-writer for the director of Voice of America and two other federal agencies, including the U.S. Dept. of Justice. She has since penned six books, scores of feature articles and op-eds covering education policy, mental-health, data-trafficking, science, privacy and political strategy. Her e-mail, a detailed bio, speaking appearances and links to her books all can be found on her website: www.BeverlyE.com.