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## Seattle's big role in fight on global warming

**By Craig Welch**

*Seattle Times staff reporter*

The city of Seattle, a group of Alaska Natives and some of the nation's top climate scientists — including two from the University of Washington — thrust themselves into a high-profile legal battle Monday, hoping to resolve a stalemate over global warming.

The group is fronting an orchestrated, national campaign to convince the Supreme Court that the federal government's failure to regulate automobile emissions is already causing harm, from shrinking mountain snowpack to ecological changes in Arctic Alaska.

And in so doing, they are stepping onto the front lines of a dispute that has already divided the country.

"We should slow climate change now, while we still have a chance to see if we're driving blindly toward the edge of a cliff," said Scott Saleska, a climate scientist at the University of Arizona, who persuaded 14 other prominent scientists to file a court brief. That brief is among several legal documents that the scientists, the city and the Native groups filed Monday with the nation's highest court, arguing that a lower federal appeals court last year misinterpreted science and the law when it ruled that the Environmental Protection Agency does not have to regulate greenhouse gases produced by cars.

The immediate goal is to get the Supreme Court to take up the case. But the ultimate aim is to convince the justices that the EPA has a duty to protect the public from auto pollution that can worsen climate change.

On the other side of the debate are the Justice Department and an industry group, both of which are urging the high court to leave the case alone. Primarily, they say the legal issues aren't worthy of the

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court's consideration. But they also argue that the EPA lacks the authority to regulate greenhouse gases and that it would be impossible to link harm to people directly to the carbon dioxide emitted from cars.

<b>The EPA case</b>	
<b>1999:</b> The Environmental Protection Agency is asked to consider regulating carbon-dioxide emissions from automobiles.	
<b>2001:</b> President Bush asks the National Research Council to review the state of global-warming science.	
<b>2003:</b> The EPA decides not to regulate auto carbon-dioxide emissions. Massachusetts sues, arguing the EPA is required to do so under the Clean Air Act. Eleven other states, including Washington, eventually join in the case.	
<b>2005:</b> An appeals court in Washington, D. C., sides with the EPA, ruling that the agency has discretion about tackling carbon-dioxide emissions and the states have not shown harm it can attribute from auto emissions. Eleven states, such as Michigan, join the legal battle on the EPA's side.	
<b>Monday:</b> The city of Seattle, groups of Alaskan Natives, 14 prominent scientists, the U.S. Conference of Mayors, the National Association of Counties and the American Planning Association ask the Supreme Court to accept the case for review.	

"While climate change is an interesting issue, it's not a legal issue," said Allison Wood, who represents the Utility Air Regulatory Group, an association of electric-generating companies. "The Supreme Court only takes a few limited cases every year, and this is just a vanilla exercise in statutory interpretation; it's not novel."

Nonetheless, judicial experts say the Supreme Court often pays attention to legal battles that draw this kind of intense interest.

"Once the court decides to hear a case, lots of people file briefs; the fact that they're all filing already shows a lot of interest, and those kinds of statements mean a lot," said Richard Lazarus, a Georgetown University law professor and director of the school's Supreme Court Institute. "Whether they will rule the day remains to be seen."

The court is expected to decide in June whether it will take up the case.

At the heart of the issue is a 2003 decision by the EPA that it would not try to control carbon-dioxide emissions from cars. The agency questioned the severity of the problem, argued it didn't have authority to regulate carbon dioxide because it is not a pollutant and said that the Bush administration was already taking steps to deal with climate change.

The state of Massachusetts sued, but the U.S. Court of Appeals in Washington, D.C., upheld the EPA's decision.

The appeals court's decision was based, in part, on a 2001 report by the National Research Council which, the court said, suggested the effects of greenhouse gases on climate was

unclear and that climate-change models might not be accurate.

Monday, some of the scientists who wrote that report filed a motion with the Supreme Court arguing that the lower court had "significantly misrepresented" their findings. Those scientists included James Hansen, head of NASA's Goddard Institute for Space Studies, and John M. Wallace, a University of

Washington professor of atmospheric science.

On the contrary, the scientists wrote, the physics of the greenhouse effect — when gases such as carbon dioxide in the atmosphere cause higher temperatures — are firmly established. Not only that, the scientists said, they are virtually certain that human activities have increased those greenhouse gases to levels not seen in "all of human experience."

David Battisti, another professor of atmospheric sciences at UW, joined their petition, arguing that a decision this important shouldn't be based on a misreading of science.

"I don't have an opinion on whether EPA should regulate carbon dioxide," he said. "That's not my arena. But they have to understand the issue is real."

For scientists, entering such a legal debate is rare because they try to avoid taking sides in what some cast as a political dispute.

The case already has been divisive. Eleven Midwestern and Western states, including Idaho and Utah, have written to the Supreme Court in support of the EPA's right not to regulate auto emissions. And 11 states along the East and West coasts, from Vermont to California and Oregon, have joined Massachusetts' case as plaintiffs, arguing that the EPA must regulate carbon dioxide under the Clean Air Act.

On Monday, the U.S. Conference of Mayors, the National Association of Counties and the city of Seattle weighed in on the side of the coastal states, arguing that global warming may force local governments to respond to more hurricanes, floods and deadly heat waves.

"We're a city in which the stakes are pretty high," said Steve Nicholas, who directs Seattle's Office of Sustainability and Environment. He said a 50 percent reduction in North Cascades snowpack has strained the city's ability to manage drinking-water supplies.

"We have to worry about sea-level rise. We may be in store for wetter, longer winters and our stormwater-drainage system is already a challenge," he said.

Several Native Alaskan groups also filed motions Monday, arguing that climate change is causing animals, plants and ice to disappear.

Yet despite the flurry of legal briefs, there's really no telling whether the Supreme Court will accept the case, Georgetown's Lazarus said. The high court picks cases that not only raise important legal issues but also provide a good vehicle for those issues and seem "ripe" for their review.

In this case, the legal issue is important, and the coastal states have certainly made a case that the issue is ripe, he said.

The biggest hurdle may be that the lower court's ruling was "peculiar," he said.

The two appellate judges who voted to uphold the EPA decision did so for different reasons.

One ruled the EPA had the discretion to deal with carbon dioxide another way. The other argued there was no way to show a specific harm resulted from the EPA's failure to regulate greenhouse gases.

And that may make the case an imperfect one to set such an important precedent.

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