

Opinion: Politicians can't have it both ways

By Dan Walters, CALmatters

Suing oil companies for causing climate change has become a popular exercise in California's coastal communities.

Officials in five cities and three counties have filed suits, alleging that the companies knowingly emitted greenhouse gases that will damage those communities as oceans rise, and should pay for it.



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As CALmatters environmental writer Julie Cart says in a recent article about the phenomenon, "California is the epicenter of so-called climate-attribution science." She quotes Peter Frumhoff, director of science and policy for the Union of Concerned Scientists, on the theory behind the suits: "There's really a quite robust ability to characterize the extent to which climate change impacts have worsened."

Moreover, Frumhoff told Cart, by combining data from oil companies' annual accounting and reports from environmental monitors, "one can then connect the dots and assign a cost."

It's easy to file a lawsuit that pleases "progressive" local voters. However, winning in court is another matter, and by just filing the actions, California governments may be risking

their ability to borrow money at low rates.

Jay Newman, a former hedge fund manager specializing in governmental debt, points out in a recent Wall Street Journal article that localities alleging calamitous effects of climate change are not mentioning those supposed effects in the required disclosures accompanying their debt issues.

“By the end of this century Oakland, Calif., will be experiencing a ‘100-year flood’ every week,” Newman writes. “At least that’s what the Oakland city government argued last year, when it filed a lawsuit against several oil companies for contributing to climate change. The city forecasts that rising water levels in the San Francisco Bay will threaten the sewer system and other property ‘with a total replacement cost of between \$22 billion and \$38 billion.’

“Suppose you hold some of Oakland’s municipal bonds. This climate apocalypse sounds like a serious risk, right? Yet a recent prospectus for Oakland’s general-obligation bonds shrugs off the threat. ‘The city is unable to predict when seismic events, fires or other natural events, such as sea rise or other impacts of climate change or flooding from a major storm, could occur,’ the prospectus states. And even if such events occur, the city can’t be sure ‘whether they will have a material adverse effect on the business operations or financial condition of the city or the local economy.’

“Other California localities have told courts one thing and investors another regarding climate change. In a similar lawsuit, San Francisco claims it faces ‘imminent risk of catastrophic storm surge flooding.’ But in a bond offering last year, the city said it is ‘unable to predict whether sea-level rise or other impacts of climate change or flooding . . . will occur.’ San Mateo County claims in another suit that there is a 50 percent chance that a ‘devastating three-foot flood . . . occurs before 2030.’ The county uses boilerplate similar to San Francisco’s to play down such risks in its

communications to bondholders.”

Newman notes that Exxon is citing these discrepancies in fighting the suits in a Texas court, arguing that they “indicate that the plaintiff municipal governments do not actually believe the allegations in their complaints and that the allegations were not made in good faith.”

The bigger effect, potentially, is what happens when the plaintiff localities seek additional loans. If they include their apocalyptic projections of their lawsuits into their debt disclosures, they might find that they can't borrow or will be paying much higher interest rates. But if they don't, they will undermine their lawsuits.

They can't – or shouldn't – have it both ways. Actions, even filing lawsuits, have consequences.

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