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Group Urges SEC Probe of California, Cites Climate Hypocrisy.

California officials are downplaying the risks of climate change to bond investors while citing those same risks as the basis for a lawsuit against oil companies, according to a conservative think tank that has asked securities regulators to investigate.

The Washington-based Competitive Enterprise Institute sent a letter to the Securities and Exchange Commission, urging it to investigate a group of cities and counties in California for making contradictory claims about climate risks.

“In these lawsuits the plaintiff cities and counties apparently describe these climate risks in ways that are far different than how they described them in their own bond offerings,” says the letter, dated Feb. 1. “In our view, this inconsistency raises serious questions of municipal bond fraud.”

The accusations by CEI mark the latest twist in a legal fight that began last July, when a group of city and county governments in California filed a lawsuit against 37 oil companies for their role in global warming. The suit claimed that the companies, which include Chevron Corp. and Exxon Mobil Corp., contributed to sea-level rise, and so should be forced to pay part of the cost of protecting coastal California communities against the problem.

Last month, Exxon launched a suit of its own, arguing that those same cities and counties had failed to disclose climate risks when it sold municipal bonds to investors.

CEI’s letter cites San Francisco, which said in the lawsuit against Exxon and other oil companies that it expects “0.3 to as much as 0.8 feet of additional sea level rise by 2030.” But when San Francisco sold $173 million in bonds in January 2017, it told investors that it was “unable to predict whether sea-level rise or other impacts of climate change or flooding from a major storm will occur, when they may occur.”

“Either the City can predict such sea-level rise, as it tells the court, or it cannot, as it tells investors,” CEI wrote to the SEC.

A spokesman for the San Francisco city attorney’s office, John Cote, called the letter “deceptive,” adding that the city “has been disclosing climate change as a risk factor since at least 2014.”

He cited an October, 2017 issuance that noted “substantial increases in sea level rise are projected due to climate change over the coming century” and could put critical infrastructure at risk.

“The assertion that the city does not disclose this risk factor to investors is false,” he said in an email.

Sam Kazman, general counsel for CEI and one of the letter’s authors, said in an interview that his organization is “quite skeptical” about cities’ claims that they face a threat from climate change. “I think they’re quite overblown,” he said of those warnings.

Still, Kazman said, the SEC ought to investigate the “very clear inconsistency between what these entities are saying in their bond offerings and in their court filings.”

The odds of legal sanctions are slim, according to Michael Gerrard, director of the Sabin Center for Climate Change Law at Columbia University.

Even under President Barack Obama, the SEC took no enforcement action against cities or companies for failing to disclose climate risk, Gerrard said Monday. He said that’s unlikely to change under President Donald Trump, who has disputed the science of climate change.

An SEC spokesman, Ryan White, declined to comment.

But that doesn’t mean the letter won’t have any effect. Barbara VanScoy, head of Alpha Impact Investors, said she expects that the letter will encourage cities and investors to take climate risks more seriously. She added that cities’ financial officers also need to talk more to the staff who work on resilience. “If offices remain siloed, nothing will change,” she said by email.

Shalini Vajjhala, a former Obama official who now advises cities on adapting to climate risks, said the charges leveled by CEI could spur those conversations across different parts of local government.

“It might create some uncomfortable conversations between the CFOs office and the offices that are focused on generating the suits against big oil companies,” Vajjhala said. “I think this is a smart move that will cause some thinking and introspection within some cities.”

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