



Climate Change and Strategic Environmental Litigation

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ClientEarth



- ClientEarth is a non-profit environmental law, science and policy organisation.
- Aim of ClientEarth: protection of the environment, including the protection of human health, for the public benefit.
- Based in London and Brussels
ClientEarth is different to other NGO's, we are lawyers not campaigners.

Why use litigation?



- Protecting the environment in the UK is not about traditional politics (left/right).
- It is about taking a long term view of what is best for the planet and the people.
- Governments and businesses do not always take a long term view.
- Climate Change is a good example of this.

We must act now to fight Climate Change



- 4th report of IPPC in 2007 warming of climate system is unequivocal and likely to have been caused by man.
- Stern Review of the Economics of Climate Change “business as usual” is not acceptable.
- Both economists and environmentalists agree, we must act now.

Climate Change “tipping points”



- Danger from Climate Change is that “tipping points” will be passed in the planet’s climate system.
- If “tipping point” is passed no going back-irreversible damage.
- If West Antarctica ice sheet “tipping point” is passed the sea level will rise by 6 metres.

UK NGOs are not extreme radicals



- Lots of mainstream organisations are very unhappy with the UK and EU position on coal.
- Christian Aid, the Royal Society not just environmental NGOs like Greenpeace.
- They are not radicals but normal concerned people who are worried about Climate Change.

UK and EU say that they are world leaders on Climate Change



- Climate Change is a good example of the difference between what governments say and what they do.
- UK government very keen to be seen as a world leader on Climate Change (first Climate Change law now going through UK Parliament).
- EU says we need US and China to enter an international agreement on greenhouse gases (CO₂).

But the reality is different...



- Coal is the dirtiest fossil fuel.
- In England E.on has applied to build a 1600MW coal power station at Kingsnorth.
- It will emit 8 million tonnes of CO₂ a year (400 million tonnes over 50 years).
- 50 new coal power stations are now being planned across Europe.
- Coal power stations are a direct and immediate risk to the environment and human life (like asbestos)
- They represent the biggest risk to irreversible Climate Change.

Bad international message



- China is currently building 2 500MW coal power stations a week.
- Estimated that at beginning of 2005 25% of Chinese coal power plants “illegal” -never formally approved.
- How can Europe convince China to stop building coal power stations if Europe itself keeps on building new coal power stations?

US demonstrates value of litigation



- 50% of US electricity generated from coal.
- In US at start of 2007 151 new coal power stations planned.
- But by the end of 2007 60 coal stations had been dropped, many blocked by US state governments.
- Many other plans to build coal power stations are stuck in US court challenges.

CCS-Carbon Capture Storage



- Only way to have clean coal is CCS.
- CCS technology captures and safely stores the CO₂ emissions from coal power plants in old oil fields.
- But CCS has not yet been demonstrated on a large scale.
- CCS technology is estimated to add up to 75% to the price of building a new coal power station.
- Big question is: Who is going to pay for CCS technology?

“Capture ready” coal stations



- Until CCS becomes available UK and EU want to allow energy companies to build “capture ready” coal power stations.
- To be “capture ready” a new coal power station will have to: have empty space next to it for the CCS equipment to be fitted in the future; be near a suitable storage site (such as an old oil field); and have a technical retrofit assessment report.
- “Capture ready” does not mean much. It is the same as “business as usual”.
- All CO₂ emissions will go into the atmosphere-until CCS is installed.

The EU Emissions Trading Scheme (EU ETS)



- When will CCS technology be installed?
- EU and UK want the EU ETS for CO2 permits to decide.
- EU ETS is a cap and trade scheme. If it works it may be the cheapest way to reduce emissions.
- But to make EU ETS work the risks and costs need to be understood. The current uncertainty surrounding the cost and regulation of CCS technology will delay private sector investment in CCS.
- Using the EU ETS is a very dangerous strategy to fight Climate Change.
- The fact that there are 50 planned coal power stations is a very bad sign that it won't work.

California Emissions Performance Standard (EPS)



- We want the EU and UK to follow the example of California and introduce an EPS.
- An EPS would require that any new power station must meet an emissions standard of 350kg CO₂ per MWh.
- This would mean that a new coal power station must have CCS.
- Projected net emissions of the coal power station with CCS must be approved before the coal power station is built.
- This will force energy companies to face the real cost of CCS technology.

The big problem with taking a short term view-nothing happens!



- The EU and UK want to use coal.
- They are worried about short term problems - not having enough energy and becoming dependent on gas.
- UK and EU does not want to pay for clean coal and CCS.
- CCS is too risky. Energy companies will not build clean coal power stations until CCS has been demonstrated.
- The result “business as usual”.

Strategic Environmental Assessment (SEA)



- ClientEarth has written to the UK government explaining that they are required to carry out a SEA (Directive 2001/42).
- We want to force the UK to carry out a SEA of its plan to approve “capture ready” coal power stations.
- The SEA could also involve consultation with all Member States (and force the UK government to refuse to allow E.on to build Kingsnorth power station).

Climate Change and Human Rights



- 26 March 2008 UN Human Rights Council Resolution.
- Climate change - an **immediate** and **far-reaching threat** to people and communities around the world and has **implications for the full enjoyment of human rights**.



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