

BACKGROUND MEDIA BRIEFING CLIMATE CHANGE LITIGATION

December 2004

Summary of legal actions

This document provides more information on 10 legal actions that have been announced around the world under several different legal theories in order to combat climate change. The 10 actions have been grouped together by legal category.

PUBLIC LAW

The five actions detailed below (from the United States of America, Australia, Germany and Argentina) are aimed at the decisions or omissions of public bodies.

In the United States of America, NGOs and affected individuals have been joined by the cities of Boulder, Oakland and Arcata in suing the US export credit agencies for funding fossil fuel projects under the National Environmental Policy Act (NEPA). The Export-Import Bank (Ex-Im) and the Overseas Private Investment Corporation (OPIC) has illegally provided over \$32 billion in financing and insurance for oil fields, pipelines and coal-fired power plants over the past 10 years without assessing their contribution to global warming, or their impact on the US environment as required under NEPA the National Environmental Policy Act (NEPA). More information is here:

<http://www.climatelawsuit.org>.

In addition, twelve US states, several cities, and over a dozen environmental groups today, are suing the Bush administration's Environmental Protection Agency's failure to regulate greenhouse gas emissions under the Clean Air Act.

More information is here:

<http://www.climatelaw.org/media/states.challenge.bush>

In Australia, NGOs challenged a minister's power to prevent a planning body from considering greenhouse gas emissions before deciding to approve a coal mine expansion. The judge agreed with the NGOs and said that these emissions must be taken into account.

More information here:

<http://www.climatelaw.org/media/CANA.Australia>

Copy of the judgment here:

<http://www.austlii.edu.au/au/cases/vic/VCAT/2004/2029.html>

In Germany, NGOs have begun legal action against the German government's secret export credit support for fossil fuel projects since 1997.

More information is here:

<http://www.climatelaw.org/media/german.suit>

“After the 2003 Santa Fe floods in Argentina which killed many people and caused millions of dollars of damage, citizens have successfully used Article 6 of the UN Framework Convention on Climate Change alongside the “Acción Informativa” mechanism to reveal official failure to adapt to climate change. The legal action has so far revealed that infrastructure changes needed to protect people had been drawn up but not acted upon by the authorities.”

CIVIL LAW

The first civil law case was brought by eight US States, New York City and NGOs in July 2004 against the five biggest US power companies. The plaintiffs argue that the huge emissions from the defendants’ power plants are a public nuisance and that the court should order them to be reduced.

More information is here:

<http://caag.state.ca.us/newsalerts/2004/04-076.htm>

<http://www.pawalaw.com/html/cases.htm>

HUMAN RIGHTS

The Inuit Circumpolar Conference has announced that it is developing a human rights case against the Bush Administration at the Inter-American Human Rights Commission. They will argue that the impacts in the Arctic of human-induced climate change infringe upon the environmental, subsistence, and other human rights of Inuit.

More information is here:

<http://www.inuit.org/index.asp?lang=eng&num=244>

<http://www.climatelaw.org/media/inuit>

PUBLIC INTERNATIONAL LAW

In November 2004, petitions from Belize, Nepal and Peru were submitted by NGOs and individuals to the World Heritage Committee to place world heritage glaciers and coral reefs on the List of World Heritage in Danger as a result of climate change.

Danger-listing is a legal mechanism under the UNESCO World Heritage Convention requiring an increased level of protection where the best parts of the planet are facing serious and significant threats. The petitions argue that that the Committee must address both the causes and impacts of climate change when drawing up the required programme for corrective measures, in order to ensure that the legal duty on States under Article 4 of the Convention to transmit

World Heritage Sites to future generations will not be complied with. The three petitions cover the Belize Barrier Reef, the Huarascán National Park in Peru and the Sagarmatha (Everest) National Park in Nepal.

More information and copies of the petitions are here:

<http://www.climatelaw.org/media/UNESCO.petitions.release>

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