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Date last updated: **September 10, 2010**
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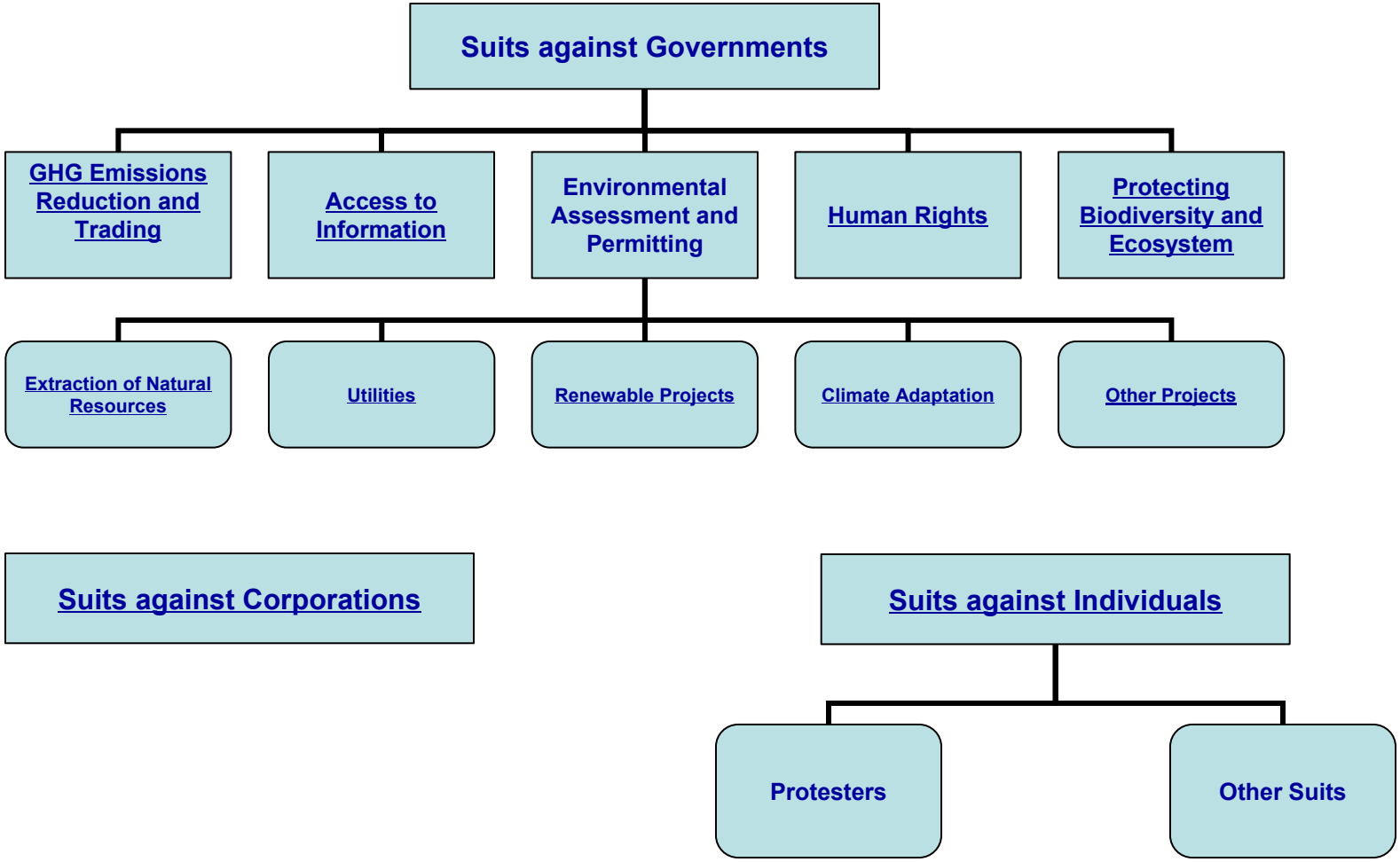

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- Environment-People-Law v. Cabinet of Ministers of Ukraine and National Agency of Environmental Investments (Lviv Circuit Admin. Court, 2009)
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- Re Australian Conservation Foundation v. Latrobe City Council (Victorian Civil and Administrative Tribunal, 2004)
- Thornton v. Adelaide Hill Council (Environment, Resources and Development Court of South Australia, 2006)
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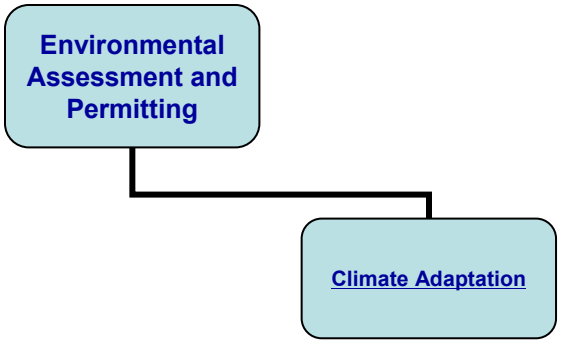

- Aldous v. Greater Taree City Council and Another (Land and Environment Court of New South Wales, 2009)
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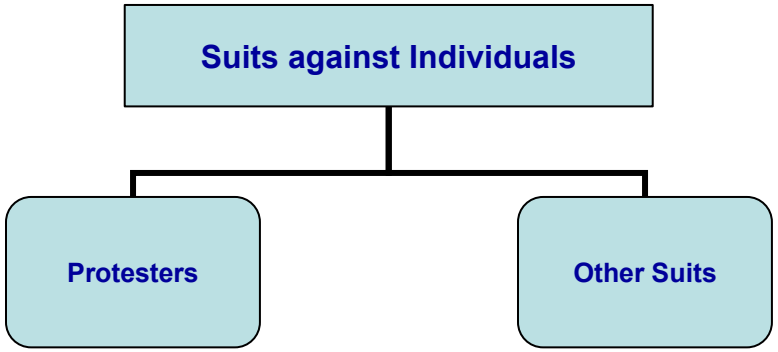

- Heathrow Airport Ltd & Another v. Joss Garman & Others (Queen's Bench Division, 2007)
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Afton Chemical Limited v. Secretary of State for Transport (European Court of Justice, 2010)	European Union	GHG Emissions Reduction and Trading	Directive 98/70/EC	MMT producer challenged limits and labeling requirements on the use of MMT	application dismissed	unknown
Aldous v. Greater Taree City Council and Another (Land and En90 vironment Court of New South Wales, 2009)	Australia	Environmental Assessment and Permitting: Climate Adaptation	Ecologically Sustainable Development (ESD) principles	challenge to city council decision granting development on beachfront property	application dismissed	no appeals pending
Allerdale BC v. Cumbria Wind Farms Ltd. (Planning Inspector Decision, 2000)	United Kingdom	Environmental Assessment and Permitting: Renewable Projects	Planning Policy Statement 22 (PPS22)	appeal of local council decision denying planning permission for wind turbines	Appeal dismissed	closed

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Arcelor SA v. Parliament and Council (General Court, 2010)	European Union	GHG Emissions Reduction and Trading	Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003	steel producer challenged validity of Directive 2003/87/EC	application dismissed	closed
Barbone and Ross (on behalf of Stop Stansted Expansion) v. Secretary of State for Transport (Queen's Bench Division, Administrative Court, 2009)	United Kingdom	Environmental Assessment and Permitting: Other Projects	Town and Country Planning Act 1990	citizen challenge to proposed airport expansion	application dismissed	unknown
Bayer AG v. Commission of the European Communities (Court of First Instance, Fifth Chamber, 2000)	European Union	GHG Emissions Reduction and Trading	Article 81, EC Treaty	chemical and pharmaceutical group sought annulment of Commission decision	application allowed	closed

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BOT Elektrownia Be¦chatów S.A. and Others v. Commission of the European Communities (Court of First Instance, 2008)	European Union	GHG Emissions Reduction and Trading	Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003	sought annulment of Commission decision rejecting part of the Polish Phase II NAP	application dismissed	no appeals pending
Bradford v. West Devon BC (Planning Inspector Decision, 2007)	United Kingdom	Environmental Assessment and Permitting: Renewable Projects	Planning Policy Statement 22 (PPS22)	appeal of local council decision denying planning permission for wind turbines	Appeal dismissed	closed

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Buzzi Unicem SpA v. Commission of the European Communities (Court of First Instance, 2008)	European Union	GHG Emissions Reduction and Trading	Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003	sought annulment of Commission decision rejecting in part the Italian Phase II NAP	application dismissed	closed
Cementownia "Odra" S.A. v Commission of the European Communities (Court of First Instance, 2008)	European Union	GHG Emissions Reduction and Trading	Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003	sought annulment of Commission decision rejecting part of the Polish Phase II NAP	application dismissed	no appeals pending
Cementownia "Warta" S.A. v Commission of the European Communities (Court of First Instance, 2008)	European Union	GHG Emissions Reduction and Trading	Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003	sought annulment of Commission decision rejecting part of the Polish Phase II NAP	application dismissed	no appeals pending
Cemex Polska sp. z o.o. v Commission of the European Communities (Court of First Instance, 2008)	European Union	GHG Emissions Reduction and Trading	Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003	sought annulment of Commission decision rejecting part of the Polish Phase II NAP	application dismissed	no appeals pending
Cemex UK Cement Ltd v. Department for the Environment, Food and Rural Affairs (Queen's Bench Division, Administrative Court, 2006)	United Kingdom	GHG Emissions Reduction and Trading	Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003	challenge to new commission rule under the United Kingdom National Allocation Plan	application dismissed	unknown

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Charles & Howard Pty Ltd v. Redland Shire Council (Queensland Planning and Environment Court, 2008)	Australia	Environmental Assessment and Permitting: Climate Adaptation	Integrated Planning Act 1997	challenge to city council's decision limiting development in a flood zone	application dismissed	unknown
Citizens of Riverdale Hospital v. Bridgepoint Health Services (O.J. No. 2527, 2007)	Canada	Environmental Assessment and Permitting: Other Projects	Planning Act	challenge to municipal board's decision approving the demolition of a hospital	Application dismissed	closed
City of Bradford Metropolitan Council v. Woodhead and Sons Ltd. (Planning Inspector Decision, 1995)	United Kingdom	Environmental Assessment and Permitting: Renewable Projects	Planning Policy Statement 22 (PPS22)	appeal of local council decision denying planning permission for wind turbines	Appeal dismissed	closed
Commission of the European Communities v. Finland (European Court of Justice, 2006)	European Union	GHG Emissions Reduction and Trading	Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003	action against Finland for failure to fulfill obligations	successful	closed
Commission of the European Communities v. Italian Republic (European Court of Justice, 2006)	European Union	GHG Emissions Reduction and Trading	Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003	action against Finland for failure to fulfill obligations	successful	closed

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Drake-Brockman v. Minister for Planning (Land and Environment Court of New South Wales, 2007)	Australia	Environmental Assessment and Permitting: Other Projects	Ecologically Sustainable Development (ESD) principles; Environmental Planning and Assessment Act 1979	challenge to state agency decision approving a concept plan for a mixed-use development project	upheld state agency decision	no appeals pending
Drax Power and others v. Commission of the European Communities (Court of First Instance, 2007)	European Union	GHG Emissions Reduction and Trading	Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003	challenge to Commission decision rejecting UK NAP	application dismissed	closed
Dyckerhoff Polska sp. z o.o. v Commission of the European Communities (Court of First Instance, 2008)	European Union	GHG Emissions Reduction and Trading	Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003	sought annulment of Commission decision rejecting part of the Polish Phase II NAP	application dismissed	no appeals pending

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EnBW Energie Baden-Württemberg AG v. Commission of the European Communities (Court of First Instance, Third Chamber, 2007)	European Union	GHG Emissions Reduction and Trading	Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003	German energy producer sought annulment of German National Allocation Plan (NAP)	annulment denied	closed
Environmental Defence Society v. Auckland Regional council and contact Energy Ltd (Environment Court, 2005)	New Zealand	Environmental Assessment and Permitting: Utilities	Resource Management Act 1991	sought government imposition of mitigation measures in granting consent for a power station	denied	unknown
Environment-People-Law v. Cabinet of Ministers of Ukraine and National Agency of Environmental Investments (Lviv Circuit Admin. Court, 2009)	Ukraine	Access to Information	Aarhus Convention, Constitution of Ukraine	sought access to government information on greenhouse gas emissions trading	pending	pending
Environment-People-Law v. Ministry of Environmental Protection (Commercial Court of Lviv, 2008)	Ukraine	GHG Emissions Reduction and Trading	UNPCCC and the Kyoto Protocol	sought to compel government action on national greenhouse gas reductions	application granted	appeal pending

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Federal Republic of Germany v. Commission of the European Communities (Court of First Instance, Third Chamber, Extended Composition, 2007)	European Union	GHG Emissions Reduction and Trading	Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003	Germany sought annulment of Commission decision rejecting ex post adjustments of the National Allocation Plan (NAP)	annulment granted	closed
Fels-Werke GmbH v. Commission of the European Communities (Court of First Instance, 2007)	European Union	GHG Emissions Reduction and Trading	Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003	sought to annul Commission decision rejecting part of the German Phase II NAP	application dismissed; affirmed by the European Court of Justice	closed
Friends of the Earth v. The Governor in Council et al. (Federal Court, 2008)	Canada	GHG Emissions Reduction and Trading	Kyoto Protocol Implementation Act, 2007 (KPIA)	sought declaration that the government breached its duties under the KPIA	application dismissed; affirmed by Federal Court of Appeal.	closed
Gbemre v. Shell Petroleum Development Company of Nigeria Ltd et al. (Federal Court of Nigeria, 2005)	Nigeria	Human Rights	Constitution of Federal Republic of Nigeria	challenge to the practice of gas flaring in the Niger Delta by oil and gas companies	application granted	awaiting Shell's compliance to court order

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Genesis Power Ltd and the Energy Efficiency and Conservation Authority v. Franklin District Council (Environment Court, 2002)	New Zealand	Environmental Assessment and Permitting: Renewable Projects	Resource Management Act 1991	challenge to district council's decision refusing concent for a proposed windfarm	granted consent for the proposed windfarm	no appeals pending
Gippsland Coastal Board v. South Gippsland Shire Council (Victorian Civil and Adminitrative Tribunal, 2008)	Australia	Environmental Assessment and Permitting: Climate Adaptation	Precautionary Principle	challenge to local council grant of residential development consent	application granted	no appeals pending
Górażdże Cement S.A. v. Commission of the European Communities (Court of First Instance, 2008)	European Union	GHG Emissions Reduction and Trading	Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003	sought annulment of Commission decision rejecting part of the Polish Phase II NAP	application dismissed	no appeals pending
Gray v. Minister for Planning (Land and Environment Court of New South Wales, 2006)	Australia	Environmental Assessment and Permitting: Extraction of Natural Resources	Environmental Planning and Assessment Act 1979	challenge to the adequacy of an environmental impact statement prepared for a large coal mine	rejected environmental impact statement	no appeals pending

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Greenpeace Australia Ltd v. Redbank Power Co. (Land and Environment Court of New South Wales, 1994)	Australia	Environmental Assessment and Permitting: Utilities	Ecologically Sustainable Development (ESD) principles	challenge to state council decision granting development consent for a power station	application dismissed	no appeals pending
Greenpeace New Zealand v. Northland Regional Council (High Court of New Zealand, 2007)	New Zealand	Environmental Assessment and Permitting: Utilities	Resource Management Act 1991	challenge to regional council consent to a proposed coal-fired power station	application granted	unknown
Grupa Ożarów S.A. v Commission of the European Communities (Court of First Instance, 2008)	European Union	GHG Emissions Reduction and Trading	Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003	sought annulment of Commission decision rejecting part of the Polish Phase II NAP	application dismissed	no appeals pending

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Heathrow Airport Ltd & Another v. Joss Garman & Others (Queen's Bench Division, 2007)	United Kingdom	Suits against Protesters	Trespass and Nuisance	request for injunction against environmental activists attempting to disrupt the operations of an airport	injunction granted	closed
Lafarge Cement S.A. v Commission of the European Communities (Court of First Instance, 2008)	European Union	GHG Emissions Reduction and Trading	Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003	sought annulment of Commission decision rejecting part of the Polish Phase II NAP	application dismissed	no appeals pending
Laughton Wind Farm Ltd. v. West Lindsey DC (Planning Inspector Decision, 2006)	United Kingdom	Environmental Assessment and Permitting: Renewable Projects	Planning Policy Statement 22 (PPS22)	appeal of local council decision denying planning permission for wind turbines	Appeal dismissed	closed

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Meridian Energy Ltd. v. Wellington City Council (Environment Court, 2007)	New Zealand	Environmental Assessment and Permitting: Renewable Projects		challenge to city council approval for a windfarm	application dismissed	unknown
Micronesia Transboundary EIA Request	Czech Republic	Environmental Assessment and Permitting: Utilities	Act on Environmental Impact Assessment	challenge to government plans to modernize and extend operations of a coal-fired power plant	Pending	pending

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Minister for Planning v. Walker (Court of Appeal of the Supreme Court of New South Wales, 2008)	Australia	Environmental Assessment and Permitting: Other Projects	Ecologically Sustainable Development (ESD) principles	challenge to state agency approval of a residential development project	application granted	no appeals pending
Northcape Properties v. District Council of Yorke Peninsula (South Australian Supreme court, 2008)	Australia	Environmental Assessment and Permitting: Climate Adaptation	local Development Plan	challenge to local council decision to refuse development consent	application dismissed	closed
Pembina Institute for Appropriate Development, et al v. Attorney General of Canada and Imperial Oil (Federal Court of Canada, 2008)	Canada	Environmental Assessment and Permitting: Extraction of Natural Resources	Canadian Environmental Assessment Act	Challenge to government panel approval of oil sands mine	application granted	closed
Perry v. Hepburn Shire Council (Victorian Civil and Administrative Tribunal, 2007)	Australia	Environmental Assessment and Permitting: Renewable Projects	Planning & Environment Act 1987	challenge to council approval of a community owned windfarm	application dismissed	unknown

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Peter Gray & Naomi Hodgson v. Macquarie Generation (Land and Environment Court of New South Wales, 2010)	Australia	Suits Against Corporations	Protection of the Environment Operations Act 1997	suit against power station for emission of carbon dioxide under its license	summary dismissal denied	pending
Petition To The Inter-American Commission on Human Rights Seeking Relief From Violations Resulting from Global Warming Caused By Acts and Omissions of the United States (Inter-American Commission on Human Rights, 2005)	Australia	Human Rights	The American Convention on Human Rights; UN Framework Convention on Climate Change and the Kyoto Protocol	petition to the Commission seeking relief from human rights violations resulting from global warming caused by acts and omissions of the United States	hearing granted	unknown
Phosphate Resources Ltd v. The Commonwealth (Federal Court of Australia, 2004)	Australia	Environmental Assessment and Permitting: Utilities	Utilities and Services Ordinance	challenge to Administrator of Christmas Island's determination of new electricity fees	upheld Adminitrator decision	no appeals pending

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Queensland Conservation Council Inc. v. Xstrata Coal (Queensland Court of Appeal, 2007)	Australia	Environmental Assessment and Permitting: Extraction of Natural Resources	Environmental Protection Act 1994	challenge to tribunal decision granting extension of a mining lease	reversed tribunal decision	unknown
Re Application of Littlewood v. Bassetlaw DC (Queen's Bench Division, Administrative Court, 2008)	United Kingdom	Environmental Assessment and Permitting: Other Projects	Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999	sought judicial review of local authority's grant of planning permission to a developer.	application dismissed	unknown
R. on the application of People & Planet v. HM Treasury (Queen's Bench Division, High Court of Justice, 2009)	United Kingdom	Environmental Assessment and Permitting: Other Projects	2008 Climate Change Act; Companies Act 2006	sought judicial review of HM Treasury decision to invest public monies with RBS	application dismissed	appeal pending
R. on the application of the London Borough of Hillingdon and others v. Secretary of State for Transport (Queen's Bench Division, High Court, 2010)	United Kingdom	Environmental Assessment and Permitting: Other Projects	2008 Climate Change Act	coalition sought judicial review of government plans on airport expansion	Application granted	unknown

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Re Australian Conservation Foundation v. Latrobe City Council (Victorian Civil and Administrative Tribunal, 2004)	Australia	Environmental Assessment and Permitting: Utilities	Victorian Planning and Environment Act 1987; Environmental Effects Act 1978	challenge to governmental panel refusal to consider the greenhouse gas impacts of burning coal	overturned government panel decision	no appeals pending
Re Greenhouse Gas Emission Allowance: United Kingdom v. Commission of the European Communities (Court of First Instance of the European Communities, First Chamber, 2005)	European Union	GHG Emissions Reduction and Trading	Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003	challenge to a Commission decision that refused to allow an increase in UK's emission of greenhouse gases.	reversed Commission decision	closed

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• Re French Carbon Tax: Decision No. 2009-599 DC of December 29, 2009 (French Constitutional Council, 2009)	France	GHG Emissions Reduction and Trading	Equity	Challenge to law proposing carbon tax in France	law annulled	closed
Republic of Estonia v. Commission of the European Communities (Court of First Instance, Seventh Chamber, 2009)	European Union	GHG Emissions Reduction and Trading	Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003	challenge to Commission's decision, which held that Poland's NAP was inconsistent with Directive 2003/87	Commission decision overturned	closed
Republic of Poland v. Commission of the European Communities (Court of First Instance, Second Chamber, 2009)	European Union	GHG Emissions Reduction and Trading	Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003	challenge to Commission's decision, which held that Poland's NAP was inconsistent with Directive 2003/87	Commission decision overturned	closed
Rivers SOS Inc. v. Minister of Planning (Land and Environment Court, 2009)	Australia	Extraction of Natural Resources	Environmental Planning and Assessment Act of 1979	challenge to the Minister's decision approving a coal mine expansion	application dismissed	no appeals pending
Rockware Glass Ltd. v. Chester City Council (Administrative Court, High Court of Justice 2005)	United Kingdom	Other Projects	Pollution Prevention and Control Regulations	challenge to the granting of an IPPC permit	Application dismissed	closed

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Société Arcelor Atlantique et Lorraine v. Premier Minister (European Court of Justice, Grand Chamber, 2008)	European Union	GHG Emissions Reduction and Trading	Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003	challenge to the directive under the principle of equality	upheld French legislation	closed
Stuart Dimmock v. Secretary of State for Education and Skills (High Court of Justice Queen's Bench Division Administrative Court, 2007)	United Kingdom	Providing Access to Information	Education Act of 1996	Challenge to government decision to show film on global warming in schools	government decision upheld	closed
Taralga Landscape Guardians Inc. v. Minister for Planning (Land and Environment Court of New South Wales, 2007)	Australia	Environmental Assessment and Permitting: Renewable Projects	Environmental Planning and Assessment Act 1979; Ecologically Sustainable Development (ESD) principles	challenge to windfarm proposal	windfarm proposal granted	no appeal pending
The Kingsnorth Six Trial (Maidstone Crown Court, 2008)	United Kingdom	Suits against Protesters	Causing criminal damages	criminal suit against protesters for trespassing and causing damage to a power station	defendants acquitted	closed

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Thornton v. Adelaide Hill Council (Environment, Resources and Development Court of South Australia, 2006)	Australia	Environmental Assessment and Permitting: Utilities	Ecologically Sustainable Development (ESD) principles	challenge to state council decision granting development consent for a coal-fired boiler	appeal dismissed; court found no evidence of likely increase in GHG emissions	no appeal pending
U.S. Steel Košice v. Commission of the European Communities (Court of First Instance, Third Chamber, 2007)	European Union	GHG Emissions Reduction and Trading	Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003	Slovak steel company challenges national allocation plan for the allocation of emissions allowances for greenhouse gases	application dismissed	closed
Weaver v. Corcoran and Others (British Columbia Supreme Court, Canada, 2010)	Canada	Suits Against Corporations	Libel	Plaintiff seeks injunction against newspaper for publishing false, malicious and defamatory words.	NA	claim filed
Wildlife Preservation Society of Queensland Proserpine/Whitsundry Branch Inc. v. Minister for the Environment & Heritage (Federal Court of Australia, 2006)	Australia	Environmental Assessment and Permitting: Extraction of Natural Resources	Environmental Protection and Biodiversity Conservation Act 1999	challenge to federal agency failure to require an environmental impact assessment for a coal mine proposal	application dismissed	closed

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Yelland Wind Farm Ltd. v. West Devon BC (Planning Inspector Decision, 2007)	United Kingdom	Environmental Assessment and Permitting: Renewable Projects	Planning Policy Statement 22 (PPS22)	appeal of local council decision denying planning permission for wind turbines	Appeal dismissed	closed
Your Water Your Say Inc v Minister for the Environment, Heritage and the Arts (Federal Court of Australia, 2008)	Australia	Environmental Assessment and Permitting: Utilities	Environmental Protection and Biodiversity Conservation Act 1999	challenge to federal agency decision to exclude certain environmental assessments in approving a desalination plant proposal	application dismissed	appealed

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Information Resources

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Online Resources:

- Australian Climate Justice Program
  http://www.cana.net.au/ACJP/
- Climate Justice Programme
  http://www.climatelaw.org/
- Global Climate Law Blog
  http://www.globalclimatelaw.com/

Books:

- *Adjudicating Climate Change: State, National and International Approaches*. (William Burns & Hari Osofsky eds., Cambridge University Press 2009).
- Chris Wold, David Hunter & Melissa Powers, *Climate Change and the Law* (LexisNexis 2009).
- *Climate Change: A Guide to Carbon Law and Practice* (Paul Q. Watchman ed., Globe Business Publishing 2008).
- *Global Climate Change and U.S. Law*. (Michael B. Gerrard ed., American Bar Association 2007).
- Joseph Smith & David Shearman. *Climate Change Litigation: Analysing the Law, Scientific Evidence & Impacts on the Environment, Health & Property* (Presidian Legal Publications 2006).
- Roda Verheyen, *Climate Change Damage and International Law* (Martinus Nijhoff Publishers 2005).

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Bundes fur Umwelt und Naturschutz Deutschland e.V. & Germanwatch e.V. v. Bundesrepublik Deutschland, vertreten durch Bundesminister fur Wirtschaft und Arbeit

Berlin Administrative Court (2006), *VG 10 A 215.04*

A German court ordered the government to release information on the climate change impacts of German export credits. The credits have provided financial support for projects that contribute to climate change. BUND and Germanwatch brought suit against the government arguing that citizens have a right to the free access of environmental information under the German Access to Environmental Information Act (UIG). The court, in granting the application, rejected the argument that information on German export credit activities did not constitute "environmental information" within the meaning of the UIG and could not potentially affect elements of the environment, such as climate change.

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Non U.S. Climate Change Litigation Chart

Cemex UK Cement Ltd v. Department for the Environment, Food and Rural Affairs

Queen's Bench Division, Administrative Court (2006), *[2006] EWHC 3207 (Admin)*

A United Kingdom court dismissed an action by a cement company, which asserted that a change in the commissioning rule during Phase II of the National Allocation Plan (NAP) seriously disadvantaged one of its plants, violating the principle of equity. The court held that there was inevitably an element of "rough justice" in the commissioning rule and there is no reason for unusually protracted commissioning difficulties at an individual cement factory to be treated any differently from other difficulties such as marketing, labor or management maintenance problems.

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Drake-Brockman v. Minister for Planning

Land and Environment Court of New South Wales (2007), *158 LGERA 349*

An Australian state court upheld a state agency decision to approve a concept plan for a mixed-use development project. Applicant challenged the agency decision on three grounds, including the agency's failure to consider ecologically sustainable development (ESD) principles in approving the concept plan under the Environmental Planning and Assessment Act 1979. The court held that the agency had considered ESD principles and greenhouse gas emissions when approving the project. A quantitative assessment of GHG emissions was not necessary in this particular case and is not required for every major project.

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Non U.S. Climate Change Litigation Chart

Environmental Defence Society v. Auckland Regional Council and Contact Energy Ltd

Environment Court (2002), *[2002] 11 NZRMA 492*

The New Zealand environmental court accepted the cumulative effects of greenhouse gas (GHG) emissions as a matter of serious concern in an application by Contact Energy for resource consent to construct and operate a 400 megawatt gas fired combined cycle power station in south Auckland. In granting consent for the power station, the Auckland Regional Council failed to impose conditions requiring mitigation of the emissions. The Environmental Defence Society appealed the council's decision, seeking a declaration to require Contact Energy to offset the emissions by a program of forestry sequestration. Although the court accepted the scientific consensus on the contributions of GHG emissions to climate change, it dismissed the appeal, questioning the efficacy of imposing mitigation measures.

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Additional Information:

Friends of the Earth Canada v. The Governor in Council et al.

Federal Court (2008), *2008 FC 1183*

A Canadian federal court dismissed an action by a not-for-profit organization alleging that the Canadian government had breached its duties under the Kyoto Protocol Implementation Act, 2007 (KPIA). Friends of the Earth Canada sought a declaration from the court that the government had failed to meet the legal requirements of the KPIA by missing deadlines and failing to publish regulations. The court ruled that the legislation is not justiciable. The court concluded that it had no role to play reviewing the reasonableness of the government's response to Canada's Kyoto commitments within the four corners of the KPIA.

In 2009, the Federal Court of Appeal affirmed the lower court's decision, finding that there was no judiciable issue for the court to consider. The Supreme Court of Canada declined to accept the case.

Federal Court Decision
Federal Court of Appeal Decision

Additional Information:

- Ecojustice press release (12/15/2009)

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Gbemre v. Shell Petroleum Development Company of Nigeria Ltd et al.

Federal Court of Nigeria (2005)

A Nigerian federal court ruled that oil companies must stop flaring gas in the Niger Delta. Jonah Gbemre, a representative of the Iwherekan community in the Niger Delta filed suit against the Nigerian government and Shell. The court held that the practice of gas flaring is unconstitutional as it violates the guaranteed fundamental rights of life and dignity of human persons provided in the Constitution of Federal Republic of Nigeria and the African Charter on Human and Peoples Rights.

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Genesis Power Ltd and the Energy Efficiency and Conservation Authority v. Franklin District Council

Environment Court (2005), *[2005] NRRMA 541*

New Zealand Environment Court granted consent for a wind farm. The Franklin District Council refused consent for the project on the basis that would have an adverse visual effect on the landscape, local community and equestrian activities. Proponents of the project cite reduction in emission of harmful greenhouse gases and a national need for sustainable and renewable energy sources as support for the project. The court determined that the purpose of the Resource Management Act 1991 would be better served by granting the windfarm proposal. The court found that the benefit of the wind farm proposal, when seen in a national context, outweighed the site-specific effects and the effects on the surrounding area. The court also rejected the council's argument that because the wind farm was relatively small, its climate change benefits were not relevant.

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Gray v. Minister for Planning

Land and Environment Court of New South Wales (2006), *152 LGERA 258*

An Australian federal court rejected an environmental impact assessment (EIA) prepared as part of a development approval process for a large open-cut coal mine at Anvil Hill. Coal from the proposed mine is destined for use in coal-fired power stations in Australia and overseas. The proponents of the project failed to consider the potential greenhouse gas (GHG) emissions from the burning of coal by third parties. The court held that for projects with the potential to directly or indirectly contribute to GHG emissions, the climate change impacts of the proposal should be properly considered and assessed under the Environmental Planning and Assessment Act 1979. It is not sufficient to simply raise the climate change issue in the EIA; the proponent of the project must attempt precise quantifications.

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Greenpeace Australia Ltd v. Redbank Power Co.

Land and Environment Court of New South Wales (1994), *86 LGERA 143*

An Australian state court upheld a state council decision granting development consent for the construction of a power station. Greenpeace asserted that air emissions from the power station would exacerbate the greenhouse effect. Applying the precautionary principle, Greenpeace argued that the court should refuse development consent for the project. The court held that although application of the precautionary principle dictates a cautious approach in determining whether or not development consent should be granted, the principle does not require that the greenhouse gas issue outweigh all other issues.

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Non U.S. Climate Change Litigation Chart

Heathrow Airport Ltd & Another v. Joss Garman & Others

Queen's Bench Division (2007), *[2007 EWHC 1957 (QB)*

A United Kingdom court granted injunctive relief to control a probable campaign of direct action and civil disobedience by environmental activists in the immediate vicinity of a UK airport. Environmental groups were planning to organize a climate change awareness/action event, likely to attract thousands of activists, in the immediate vicinity of Heathrow Airport. The court ordered an injunction under the common law torts of trespass and nuisance forbidding the protesters from disrupting or impairing the operation of the airport.

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Minister for Planning v. Walker

Court of Appeal of the Supreme Court of New South Wales (2008), *161 LGERA 423*

An Australian state court rejected a state agency's approval of a residential development project. The agency failed to address aspects of ecologically sustainable development (ESD) in giving its approval to the concept plan. The court held that the agency had an obligation under the Environmental Planning and Assessment Act 1979 to take into account the principle of ESD and the impact of the proposal upon the environment, including whether the flooding impacts of the project would be compounded by climate change.

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Non U.S. Climate Change Litigation Chart

Perry v. Hepburn Shire Council

Victorian Civil and Administrative Tribunal (2007), *[2007] VCAT 1309*

An Australian tribunal approved a proposal for a community owned windfarm. Among other grounds, local residents challenged that the wind energy generated from the project would not produce sufficient greenhouse gas benefits to justify the negative visual, environmental and amenity impacts of the turbines. The tribunal held that the proposal adequately considered the benefits to the broader community of renewable energy generation as well as the contribution of the project to reducing greenhouse gas emissions, and the probabilities weigh in favor of GHG abatement benefits being achieved.

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Non U.S. Climate Change Litigation Chart

Phosphate Resources Ltd v. The Commonwealth

Federal Court of Australia (2004), *[2004] FCA 211*

An Australian federal court upheld a Determination by the Administrator of Christmas Island setting the fees chargeable for use of electricity on the Island. Phosphate Resources, a major user of electricity on the Island challenged one of the purposes of the Determination – compelling large users of electricity such as Phosphate to examine alternative options for power generation as part of an effort to minimize greenhouse gas emissions. The court held that if the Administrator expressly took into account the reduction of GHG emissions as a factor in setting the electricity fees on the Island, it is a legitimate public policy objective.

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Queensland Conservation Council Inc. v. Xstrata Coal

Queensland Court of Appeal (2007), *[2007] QCA 338*

An Australian state court reversed a lower tribunal's decision, which granted an extension to Xstrata's mining lease and denied Queensland Conservation Council (QCC) the ability to amend the conditions of the extension. The tribunal, concluding that the causal link between the mine's greenhouse gas emissions and harms caused by global warming is an assumption, relied on evidence that was raised in neither Xstrata nor the QCC's case. The court of appeals held that the tribunal, by merely informing the parties that it had become aware of documents which might be relevant to its decision, did not satisfy its obligation to afford the parties procedural fairness by giving them a real opportunity to present information or argument on a matter not already obvious but in fact regarded as important by the decision-maker.

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Non U.S. Climate Change Litigation Chart

R. (On the Application of Littlewood) v. Bassetlaw DC

Queen's Bench Division, Administrative Court (2008), *[2008] EWHC 1812 (Admin)*

A United Kingdom court upheld the grant of planning permission for a project which included a pre-case concrete manufacturing facility. A local resident challenged the district council's decision, citing failure to consider the adverse impacts of the proposed facility on climate change, in particular, from carbon dioxide emissions. The court held that the omission of the effect of concrete production on climate change had not been raised in time, and in any case, did not render the Environmental Statement deficient.

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Re Australian Conservation Foundation v. Latrobe City Council

Victorian Civil and Administrative Tribunal (2004), *140 LGERA 100*

An Australian tribunal overturned the decision of a government panel which refused to consider the greenhouse gas impacts of burning coal. The Hazelwood coal-fired power station is one of the largest in the state of Victoria and a significant contributor to the State's GHG emissions. A government panel set up under the Victorian Planning and Environment Act 1987 and the Environmental Effects Act 1978 to consider the extension of the power station was instructed not to consider matters related to GHG emissions. The tribunal held that the assessment panel must consider the impacts of GHG emissions on the environment.

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Re Greenhouse Gas Emission Allowance: United Kingdom v. Commission of the European Communities

Court of the First Instance of the European Communities, First Instance (2005), *Case T-178/05*

European Court reversed a Commission of the European Communities decision barring the UK from amending its national allocation plan (NAP) under Article 9 of Directive 2003/87, which established a scheme for greenhouse gas (GHG) emission allowance trading within the European Community. A Member State is entitled to propose amendments to its NAP after it has been notified to the Commission, and until its adoption of its decision under Article 11(1), even if the amendments increase the total quantities of GHG emissions. The court found that the Commission made an error of law in rejecting the amendments proposed by the UK as inadmissible.

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Non U.S. Climate Change Litigation Chart

Société Arcelor Atlantique et Lorraine v. Premier minister

European Court of Justice, Grand Chamber (2008), *Case C-127/07*

The European Court of Justice upheld provisions of Directive 2003/87 implemented by French legislation, which applied the greenhouse gas trading scheme to installations in the steel sector. Arcelor, a worldwide steel enterprise, challenged the directive under the principle of equality. Arcelor argued that non-ferrous metals and plastics are both industries emitting greenhouse gases, yet they are not regulated by the Directive. The Court found the differences in treatment between the steel industry and the chemical and non-ferrous metal industries to be justified based on substantial differences among the industries, such as the number of installations and the levels of direct emissions.

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Taralga Landscape Guardians Inc. v. Minister for Planning

Land and Environment Court of New South Wales (2007), *161 LGERA 1*

An Australian state court upheld a proposal for a windfarm, noting that the overall public benefits outweighed any private burdens. A community organization challenged the proposal, citing negative impacts on their village and the surrounding countryside. The court held that the concept of ecologically sustainable development, specifically intergenerational equity, is central to any decision-making process concerning the development of new energy resources. In this case, it is reasonable to substitute an energy source that results in less greenhouse gas emissions for energy sources that result in more GHG emissions.

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The Kingsnorth Six Trial

Maidstone Crown Court (2008)

A United Kingdom trial court acquitted climate change activists of causing criminal damage at a coal-fired power station. Six Greenpeace activists attempted to shut down the Kingsnorth coal-fired power station in Kent by scaling the chimney and painting the Prime Minister's name down the side. The defendants argued that by shutting down the coal plant for a day, they prevented greater damage to even more valuable property. The jury's verdict was the first instance in which prevention of property damage resulting from the impacts of climate change was used as a lawful excuse in court.

Decision Unavailable

Additional Information:

Non U.S. Climate Change Litigation Chart

Thornton v. Adelaide Hill Council

Environment, Resources and Development Court of South Australia (2006), *151 LGERA 1*

An Australian state court upheld a council decision to grant Provisional Development Plan consent to a shed that would house a four megawatt capacity coal-fired boiler. Local landowners challenged the council's decision, asserting that the boiler will have detrimental impacts on the local environment by, among other grounds, releasing greenhouse gases. The court found no evidence in this case of a likely increase in GHG emissions by the proposed development compared with the existing operation. However, it did recognize that increasing GHG emissions may be inconsistent with the principles of ecological sustainable development, including the principles of intergenerational equity and the precautionary principle.

Click here for Decision

Additional Information:

Non U.S. Climate Change Litigation Chart

Wildlife Preservation Society of Queensland Proserpine/Whitsundry Branch Inc. v. Minister for the Environment & Heritage

Federal Court of Australia, (2006), *[2006] FCA 736*

An Australian federal court upheld a federal agency decision to not require an environmental impact assessment (EIA) for a coal mine proposal under the Environmental Protection and Biodiversity Conservation Act 1999 (EPBC Act). Environmental groups argued that the burning of coal harvested from the mines would contribute to global warming, which could have substantial adverse impacts on the ecosystems of world heritage areas like the Great Barrier Reef, triggering the EIA requirement under the EPBC Act. The Court held that the greenhouse gas emissions from the mining and burning of coal had been considered by the agency in its decision not to require an environmental impact statement. The judge was not persuaded that there is a casual link between coal mining activities and damage to ecosystems.

Click here for Decision

Additional Information:

Non U.S. Climate Change Litigation Chart

Your Water Your Say Inc. v. Minister for the Environment, Heritage and the Arts

Federal Court of Australia (2008), *[2008] FCA 670*

An Australian federal court upheld a federal agency decision to exclude certain environmental assessments in approving a desalination plant proposal. A community organization asserted that the agency failed to consider linkages between additional GHG emissions and potential adverse impacts on matters protected by the Environmental Protection and Biodiversity Conservation Act 1999 (EPBC Act). The federal court held that the agency had considered (and dismissed) the impact of GHG emissions on matters protected by the BPBC Act, and had thus acted in accordance with the requirements of the Act.

Click here for Decision

Additional Information:

Non U.S. Climate Change Litigation Chart

Petition To The Inter-American Commission on Human Rights Seeking Relief From Violations Resulting from Global Warming Caused By Acts and Omissions of the United States

Inter-American Commission on Human Rights (2005)

Sheila Watt-Cloutier, an Inuk woman and Chair of the Inuit Circumpolar Conference filed a petition to the Inter-American Commission on Human Rights seeking relief from human rights violations resulting from the impacts of climate change caused by acts and omissions of the United States. Petitioner requests the Commission to recommend that the United States adopt mandatory measures to limits its greenhouse gas (GHG) emissions, consider the impacts of GHG emissions on the Arctic in evaluating all major government actions, establish and implement a plan to protect Inuit culture and resources and provide assistance necessary for Inuit to adapt to the impacts of climate change that cannot be avoided.

Click here for Decision

Additional Information:

Non U.S. Climate Change Litigation Chart

Barbone and Ross (on behalf of Stop Stansted Expansion) v. Secretary of State for Transport

Queen's Bench Division, Admin Court (2009), *[2009] EWHC 463*

A United Kingdom court dismisses an application by the "Stop Stansted Explansion" group challenging the grant of planning permission relating to the increase in capacity of Stansted Airport under the Town and Country Planning Act 1990. Plaintiffs claimed that the government had, inter alia, failed to take into account the project's effects on greenhouse gas emissions prior to granting the planning permission. However, the court held that the government had considered the impacts of the proposed development on climate change. Although the government is committed to tackling the problem of climate change and reducing greenhouse gas emission across the economy, this does not mean that every sector is expected to follow the same path.

Click here for Decision

Additional Information:

Non U.S. Climate Change Litigation Chart

Stuart Dimmock v. Secretary of State for Education and Skills

High Court of Justice, Queen's Bench Division, Admin Court (1991), *[2007] EWHC 2288*

A United Kingdom Court upheld Secretary of State's decision to distribute Al Gore's documentary, "An Inconvenient Truth" to English state schools as a teaching aid. Claimant parent challenged the government's decision to distribute the film on global warming as amounting to the promotion of partisan political views in violation of the Education Act of 1996. The court found the film substantially founded upon scientific evidence and determined that it could be shown, as long as teachers provided guidance explaining that, (1) some matters contained in the film were not supported or promoted by the government, and (2) the errors contained in the film.

Click here for Decision

Additional Information:

Non U.S. Climate Change Litigation Chart

Aldous v. Greater Taree City Council and Another

Land and Environment Court of New South Wales (2009), *[2009] NCWELC 17*

An Australian court upheld approval of a development application by a city council for a dwelling on a beachfront property. Applicant land owner argued, inter alia, that the Council had failed to take into account the principles of ecologically sustainable development (ESD), specifically the principles of intergenerational equity and the precautionary principles by failing to assess climate change induced coastal erosion. The Council was in the process of conducting a coastal impact study, but made its decision prior to the completion of the study. The court concluded that the Council had a mandatory obligation under the Environmental Planning and Assessment Act 1979 to take into consideration the public interest, which included the principles of ESD, but in the present case, the defendant had considered the issue of coastal erosion.

Click here for Decision

Additional Information:

Non U.S. Climate Change Litigation Chart

Gippsland Coastal Board v. South Gippsland Shire Council

Victorian Civil and Administrative Tribunal (2008), *[2008] VCAT 1545*

An Australian tribunal overturned a local council decision granting consent for residential developments in a coastal region. A regional coastal board, set up under the Victorian Coastal Management Act 1995, challenged the council decision, arguing that the proposed developments were inappropriate in light of projected sea level rises as a result of climate change. The tribunal applied the precautionary principle, finding that sea level rise and more extreme weather conditions resulting from climate change presented a reasonably foreseeable risk of inundation of the site, and determined that development consent should not be granted.

Decision Unavailable

Additional Information:

Non U.S. Climate Change Litigation Chart

Northcape Properties v. District Council of Yorke Peninsula

South Australian Supreme Court (2008), *[2008] SASC 57*

The South Australian Supreme Court upheld local council decision to refuse development consent on the basis of unacceptable climate change risks to the proposed development. The court found the proposed development in violation of the goals and objectives of the council's Development Plan, and that hazardous sea level rise over the next 100 years due to climate change was a sufficient basis to support the refusal of the coastal development application.

Decision Unavailable

Additional Information:

Non U.S. Climate Change Litigation Chart

Charles & Howard Pty Ltd v. Redland Shire Council

Queensland Planning and Environment Court (2008), *[2007] QCA 200*

An Australian Court held that a local council's decision requiring the proposed dwelling to be relocated to an area less vulnerable to tidal inundation was justified. The court considered climate change induced flood risks and concluded that the council's decision was compatible with local planning policy.

Decision Unavailable

Additional Information:

Non U.S. Climate Change Litigation Chart

Federal Republic of Germany v. Commission of the European Communities

Court of First Instance, Third Chamber, Extended Composition (2007), *Case T-374/04*

European Court concluded, inter alia, that while Member States have a degree of freedom in establishing a scheme for greenhouse gas emission allowance trading within the Community, the Commission is authorized to verify that the adopted measures are consistent with Directive 2003/87. Furthermore, individual allocation of allowances for greenhouse gas emissions and the national allocation plan (NAP) are open to amendment under Article 11(1) of Directive 2003/87. The Court also noted that ex-post adjustments of allowances allocated by a NAP do not harm the principal objective of Directive 2003/87.

Click here for Decision

Additional Information:

Non U.S. Climate Change Litigation Chart

Republic of Poland v. Commission of the European Communities

Court of First Instance, Second Chamber (2009), *Case T-183/07*

In 2006, the Republic of Poland notified the Commission of its NAP for the period from 2008 to 2012. In 2007, the Commission held that its NAP was incompatible with the criteria set forth in Directive 2003/87 and decided that the total annual quantities of emission allowances should be reduced to 26.7% less than that proposed. Poland appealed the Commission's decision. As a preliminary issue, the Court held that each member state is to decide, on the basis of its NAP, on the total quantity of allowances it will allocate for a period in question, and the Commission's power to review these NAPs is very restricted. In the present case, the Commission's rejection of Poland's plan based on doubts as to the reliability of the data used exceeded the commission's authority and violated the principle of equal treatment.

Click here for Decision

Additional Information:

Non U.S. Climate Change Litigation Chart

Republic of Estonia v. Commission of the European Communities

Court of First Instance, Seventh Chamber (2009), *Case T-263/07*

In 2006, the Republic of Estonia notified the Commission of its NAP for the period from 2008 to 2012. In 2007, the Commission held that its NAP was incompatible with the criteria set forth in Directive 2003/87 and decided that the total annual quantities of emission allowances should be reduced to 47.8% less than that proposed. Estonia appealed the Commission's decision. As a preliminary issue, the Court held that each member state is to decide, on the basis of its NAP, on the total quantity of allowances it will allocate for a period in question, and the Commission's power to review these NAPs is very restricted. In the present case, Estonia claimed that the Commission erred in finding that its NAP had failed to include a "reserve" of allowances. The Court disagreed and held that the Commission did not properly examine the NAP and infringed on the principle of sound administration.

Click here for Decision

Additional Information:

Non U.S. Climate Change Litigation Chart

Bayer AG v. Commission of the European Communities

Court of First Instance, Fifth Chamber (2000), *Case T-41/96*

This decision concerns the question whether or not agreements between companies are valid with respect to Article 81 EC.

Click here for Decision

Additional Information:

Non U.S. Climate Change Litigation Chart

EnBW Energie Baden-Württemberg AG v. Commission of the European Communities

Court of First Instance, Third Chamber (2007), *Case T-387/04*

European Court decision on the implementation of Directive 2003/87/EC establishing the greenhouse gas allowance trading scheme. EnBW (major German energy producer) requested the annulment of the Commission decision of 7 July 2004 on the German National Allocation Plan (NAP). EnBW Energie Baden-Württemberg AG disagreed with the allocation methods for power stations decommissioning nuclear energy installations and considered the generous transfer rule illegal state aid. It claimed that the Commission had failed to initiate state aid procedures under EC law, thereby breaching Article 88 (2) of the Treaty. In its order of 30 April 2007, the Court decided that the request was inadmissible for lack of interest in bringing the proceedings.

Click here for Decision

Additional Information:

Non U.S. Climate Change Litigation Chart

U.S. Steel Košice v. Commission of the European Communities (two cases)

Court of First Instance (2007), Case T-489/04
Court of First Instance (2007), Case T-27/07

In Case T-489/04 ("U.S. Steel Kosice I"), applicant U.S. Steel Kosice requested the annulment of a 2006 Commission decision on the Slovak NAP for Phase I of the EU ETS on the grounds that the Slovak Republic had been pressured by the Commission during allegedly non-transparent, bilateral negotiations into reducing the total number of allowances under the NAP. The court dismissed the application as inadmissible, ruling that the reduction of the total quantity of allowance and the Commission's decision on the NAP did not individually affect the applicant's interests.

In the second case, Case T-27/07 ("U.S. Steel Kosice II"), applicant sought annulment of the Commission's decision regarding the Slovak NAP for Phase II. The court held that the action was inadmissible for the same reason above. Applicant unsuccessfully appealed the decision to the European Court of Justice in Case C-6/08.

Case T-489/04 Decision
Case T-27/07 Decision

Non U.S. Climate Change Litigation Chart

Greenpeace New Zealand v. Northland Regional Council

High Court of New Zealand (2007), *[2007] NZRMA 87*

New Zealand Court ruled in favor of Greenpeace holding that climate change was a relevant consideration in the government's consent of greenhouse gas discharge from a proposed coal-fired power station. The Northland Regional Council had granted consent to Mighty River Power Ltd to discharge contaminants from a proposed coal-fired power station at Marsden Point. The court held, under the Resource Management Act 1991, that a consent authority can consider the effects of such discharge on climate change in applications relating to both renewable and non-renewable energy.

Decision Unavailable

Additional Information:

Non U.S. Climate Change Litigation Chart

Meridian Energy Ltd et al v. Wellington City Council

Environment Court (2007), *W031/07*

New Zealand Environment Court upheld approval for a windfarm. The court found that the generation of electricity on a windfarm, which emits no greenhouse gases, is relevant to whether the windfarm should be approved.

Decision Unavailable

Additional Information:

Non U.S. Climate Change Litigation Chart

Rivers SOS Inc. v. Minister for Planning

Land and Environment Court of New South Wales (2009), *[2009] NSWELC 213*

In June 2009, New South Wales Planning Minister approved a $50 million expansion of the Metropolitan coal mine, allowing longwall mining to take place underneath the Woronora Reservoir. The Minister approved a substantially revised version of the project at a late stage in the assessment process, without providing any further opportunities for public participation and agency involvement. Rivers SOS, a community group, challenged the legality of the mining approval process. On December 16, 2009, the Land and Environment Court upheld the decision of the Minister.

Click here for Decision

Additional Information:

Non U.S. Climate Change Litigation Chart

Commission of the European Communities v. Finland

European Court of Justice (2006), *C-107/05*

Finland failed to apply in full the EU ETS to the province of Aland. The Commission brought this action under the Article 226 EC procedure, contending that Finland had failed to properly implement the Directive. The Court agreed with the Commission, holding that Finland, by not implementing Directive 2003/87/EC in due time, failed to fulfill its obligations.

Click here for Decision

Additional Information:

Non U.S. Climate Change Litigation Chart

R. (on the application of People & Planet) v. HM Treasury

High Court of Justice, Queen's Bench Division (2009), *[2009] EWHC 3020*

Campaigners from the World Development Movement, PLATFORM, and People & Planet brought suit against the United Kingdom Treasury for its lack of adequate environmental and human rights considerations in investing with the Royal Bank of Scotland (RBS). RBS has allegedly used public monies to finance several controversial companies and projects that undermine the UK's commitment to halt climate change. The High Court denied the request for permission to hold a judicial review over the Treasury's actions.

Click here for Decision

Additional Information:

Non U.S. Climate Change Litigation Chart

Commission of the European Communities v. Italian Republic

European Court of Justice (2006), *C-122/05*

Action brought against the Italian Republic by the Commission for its failure to adopt all laws, regulations, and administrative provisions necessary to comply with Directive 2003/87/EC. The court ruled that the Italian Republic had failed to fulfill its obligations under Article 31(1) of the directive.

Decision Unavailable

Additional Information:

Non U.S. Climate Change Litigation Chart

Drax Power and others v. Commission of the European Communities

Court of First Instance (2007), *Case T-130/06*

Applicant contended that the Commission wrongly rejected the United Kingdom national allocation plan (NAP) for a second time following its decision in Case T-178/05, *United Kingdom v. Commission,* on the grounds that the proposed amendments were notified too late. The court dismissed the application as inadmissible.

Click here for Decision

Additional Information:

Non U.S. Climate Change Litigation Chart

Fels-Werke GmbH v. Commission of the European Communities

Court of First Instance (2007), *Case T-28/07*

Applicants sought to annul Commission decision rejecting part of the German Phase II national allocation plan (NAP). The court dismissed the action as inadmissible because the Applicants were not individually affected. The decision as appeal to the European Court of Justice in Case C-503/07, *Saint-Gobain Glass Deutschland v. Commission of the European Communities* (European Court of Justice, 2008). The Court affirmed the lower court's decision and dismissed the appeal, ruling that the Appellant could not sufficiently demonstrate that it was individually affected by the contested decision.

Decision Unavailable

Additional Information:

Non U.S. Climate Change Litigation Chart

Buzzi Unicem SpA v. Commission of the European Communities

Court of First Instance (2008), *Case T-241/07*

Applicant Italian cement producer sought to annual a Commission decision rejecting in part the Italian Phase II national allocation plan (NAP). The court dismissed the action as inadmissible because the Applicant was unable to demonstrate that it was directly and individually affected.

Click here for Decision

Additional Information:

Non U.S. Climate Change Litigation Chart

Górażdże Cement S.A. v. Commission	**Case T-193/07**	**Decision**
Lafarge Cement S.A. v. Commission	**Case T-195/07**	**Decision**
Dyckerhoff Polska sp. z o.o. v. Commission	**Case T-196/07**	**Decision**
Grupa Ożarów S.A. v. Commission	**Case T-197/07**	**Decision**
Cementownia "Warta" S.A. v Commission	**Case T-198/07**	
Cementownia "Odra" S.A. v Commission	**Case T-199/07**	
BOT Elektrownia Bełchatów S.A. and others v. Commission	**Case T-208/07**	**Decision**
Cemex Polska sp. z o.o. v Commission	**Case T-203/07**	**Decision**

Court of First Instance (2008)

Applicants in the above actions challenged the Commission of the European Communities' decision rejecting the Polish Phase II national allocation plan (NAP) for the allocation of GHG emission allowances. The Court dismissed all actions as inadmissible because the Commission's decision did not directly and individually affect the Applicants.

Non U.S. Climate Change Litigation Chart

Petitions to the United Nations Educational, Scientific and Cultural Organization (UNESCO) World Heritage Committee:

Australia Blue Mountains:	Petition	Decision
Australia Great Barrier Reef:		Decision
Belize Barrier Reef:	Petition	Decision
Nepal Sagarmath:	Petition	Decision
Peru Huascaran:	Petition	Decision
Waterton-Glacier Peace Park:	Petition	Decision

More information on the World Heritage Committee petitions and decisions can be accessed on the www.climatelaw.org site).

Non U.S. Climate Change Litigation Chart

Decision No. 2009-599 DC of December 29 2009

French Constitutional Council (2009)

French Constitutional Council annulled a tax on carbon emissions. The tax was set at 17 euros per ton of carbon dioxide. The Council ruled that the proposed tax contained too man exemptions and would not have applied to 93% of industrial emissions.

Press Release of the Constitutional Council

Additional Information:

- Wall Street Journal article

Non U.S. Climate Change Litigation Chart

Citizens of Riverdale Hospital v. Bridgepoint Health Services

Ontario Superior Court of Justice, O.J. No. 2527 (2007)

Ontario Superior Court of Justice, Canada. A citizen's group opposed the demolition of a hospital in the City of Toronto. Among other reasons, the group argued that the Ontario Municipal Board had failed to adequately consider the issue of greenhouse gas emissions. The Court concluded that although CO2 emissions is an important environmental concern, the City and the Board had adequately considered the issue and correctly found the proposal to meet the requirements of section 24(1) of the Planning Act, R.S.O. 1990, c. P-13, as amended.

Click here for Decision

Additional Information:

Non U.S. Climate Change Litigation Chart

Micronesia Transboundary EIA Request

On December 3, 2009, the Federated States of Micronesia requested the Czech Republic, in accordance with § 11(1)(b) of the Act on Environmental Impact Assessment, to initiate a Transboundary Environmental Impact Assessment (EIA) proceeding for its plans to modernize and extend operations of the Prunerov II coal-fired power plant. Micronesia asserted that it has reasonable grounds to believe that its territory will be affected by the continued operation of the power plant.

Transboundary EIA Request

Additional Information:

- Greenpeace Press Release

Non U.S. Climate Change Litigation Chart

Environment-People-Law v. Cabinet of Ministers of Ukraine and National Agency of Environmental Investments

Lviv Circuit Admin. Court (2009)

In October 2009, the Ukrainian public interest organization Environment-People-Law (EPL) filed suit against the government, seeking to compel the dissemination of information on international greenhouse gas emissions trading. EPL specifically seeks information regarding an agreement between Ukraine and Japan, where the Japanese government agreed to buy 30 million tons of carbon offsets from the Ukrainian government. EPL contends that both the Aarhus Convention and the Constitution of Ukraine compels public access to the information.

Decision Unavailable

Additional Information:

- EPL Case Description

Non U.S. Climate Change Litigation Chart

Environment-People-Law v. Ministry of Environmental Protection

Commercial Court of Lviv (2008)

On July 31, 2008, a Ukrainian court ordered the Ministry of Environmental Protection to take certain actions aimed at national greenhouse gas reductions. The Ukrainian public interest organization Environment-People-Law (EPL) sought to compel the Ministry to develop a climate change policy for Ukraine; work towards fulfilling its climate change obligations under the United Nations Framework Convention on Climate Change (UNPCCC), the Kyoto Protocol and the National Plan; and raise public awareness on climate change issues.

Decision Unavailable

Additional Information:

- EPL Case Description

Non U.S. Climate Change Litigation Chart

Arcelor SA v. Parliament and Council

General Court of the European Union (2010), Case T-16/04

General Court of the European Union dismissed an action brought by Arcelor, a steel producer, challenging the validity of the Emissions Trading Directive. Arcelor claimed that application of certain articles of the directive violated several principles of Community law, including the right of property, the freedom to pursue an economic activity, the principle of proportionality, the principle of equal treatment, freedom of establishment and the principle of legal certainty. The General Court dismissed the action for annulment as inadmissible, noting that Arcelor is neither individually nor directly concerned by the directive.

Click here for Decision

Additional Information:

Non U.S. Climate Change Litigation Chart

Pembina Institute for Appropriate Development, et al v. Attorney General of Canada and Imperial Oil

Federal Court of Canada (2008), 2008 FC 302

Federal Court of Canada found legal errors in a government joint review panel's environmental assessment of the Kearl Tar Sands Project. Ecojustice and several non-profit organizations challenged the panel's approval of the project, alleging that it had failed to seriously consider the climate change impacts of the project. The court agreed with the petitioner, holding that the panel failed to adequately support their conclusion that the project would cause only insignificant environmental harm.

Click here for Decision

Additional Information:

Non U.S. Climate Change Litigation Chart

R on the application of the London Borough of Hillingdon and others v. Secretary of State for Transport

High Court, United Kingdom (2010), [2010] EWHC 626

On March 26, 2010, a British high court ordered government officials to consider the implications of climate change prior to making any final decision on a third runway at London's Heathrow Airport. The court ruled that the government had failed to adequately review all environmental and economic issues, and that the aviation policy should probably be revisited in light of the 2008 Climate Change Act.

Click here for Decision

Additional Information:

- *Heathrow third runway opponents win court challenge* (BBC News)

Non U.S. Climate Change Litigation Chart

Peter Gray & Naomi Hodgson v. Macquarie Generation

Land and Environment Court of New South Wales, Australia (2010), [2010] NSWLEC 34

Environmental activists brought suit against a state-owned power company, seeking a declaratory judgment that one of their power stations has been emitting carbon dioxide into the atmosphere in a manner that has harmed or is likely to harm the environment in contravention of § 115(1) of the Protection of the Environment Operations Act 1997. Defendant Macquarie Generation motion for summary dismissal was denied on March 22, 2010. The court found that even if Defendant has an implied authority to emit some amount of carbon dioxide in generating electricity under its license, that authority is limited to an amount which has reasonable regard and care for people and the environment.

Click here for Decision

Additional Information:

- *A licence to change the climate? Court considers whether licence permits emission of carbon dioxide*

Non U.S. Climate Change Litigation Chart

Weaver v. Corcoran and Others

British Columbia Supreme Court, Canada

Professor Andrew Weaver, a renown Canadian climate scientist, has filed suit against the *National Post* for allegedly publishing a series of unjustified libels based on erroneous information. Plaintiff Weaver seeks an injunction against the *National Post*, which would require the newspaper to remove the allegedly false statements from its websites as well as from any sites at which such statements have been reposted.

Click here for Claim

Additional Information:

Non U.S. Climate Change Litigation Chart

Afton Chemical Limited v. Secretary of State for Transport

European Court of Justice, Case C-343/09 (2010)

Afton Chemical, a British MMT producer, challenged the EU limits and labeling requirements for the use of the metallic fuel addictive MMT. The European Court of Justice ruled that the limit on MMT, adopted in the revised fuel quality Directive 98/70/EC, does not violate the precautionary principle and the principles on equal treatment and proportionality. The court concluded that the EC places significant weight on the protection of human health and the environment. Reducing the health and environmental risks associated with MMT use outweighs the economic interests of Afton Chemical.

Click here for Opinion

Additional Information:

Non U.S. Climate Change Litigation Chart

Rockware Glass Ltd. v. Chester City Council

Administrative Court, High Court of Justice [2005] EWHC 2250

A Planning Pollution Control License was challenged by a commercial rival. The High Court of Justice upheld a decision quashing an integrated pollution prevention and control (IPPC) permit granted to operate an industrial plant for the manufacture of glassware since the purpose of the Pollution Prevention and Control (England and Wales) Regulations 2000 was to control pollution by stringent measures not merely by reference to the standards contained in the Environment Quality Standards, which provided only minimum requirements.

Click here for Opinion

Additional Information:

Non U.S. Climate Change Litigation Chart

Yelland Wind Ltd. v. West Devon BC

[2007] P.A.D. 13, United Kingdom

Yelland Wind Farm Ltd. appealed a decision by the West Devon Borough Council refusing planning permission for a proposal to build three 266 feet high wind turbines on the edge of Dartmoor National Park. The Planning Inspector dismissed the appeal, finding the proposal's adverse landscape and visual impacts to be decisive. However, the court did note that the proposal supported the objectives of national policies for the promotion and deployment of renewable energy technologies.

Click here for Opinion

Additional Information:

Non U.S. Climate Change Litigation Chart

Bradford v. West Devon BC

[2007] P.A.D. 45, United Kingdom

Farmers appealed the refusal of planning permission for two wind turbines. The Planning Inspector affirmed the local council's decision, citing the proposal's adverse effects on surrounding landscapes and the residential amenities of nearby occupiers. The Inspector acknowledged the importance of the need to combat global warming, but concluded that this policy goal must be balanced against visual and landscape concerns. Even though the project would supply electricity to more than 1,200 homes and would generate significant revenues over its expected 25-year life span, these benefits, according to the Inspector, are outweighed by the unacceptable harm to the character and appearance of the distinctive local landscape.

Click here for Opinion

Additional Information:

Non U.S. Climate Change Litigation Chart

Laughton Wind Farm Ltd. v. West Lindsey DC

[2006] P.A.D. 37, United Kingdom

Laughton Wind Farm Ltd. appealed a decision by the West Lindsey Borough Council refusing planning permission for a proposal to build ten wind turbines. The Planning Inspector concluded that the proposed wind farm would have an unacceptably substantial impact upon the local landscape and visual amenity of the local area, especially since the turbines would be taller than any other structure in the area and that the rotation of the blades would make them particularly conspicuous in the landscape.

Click here for Opinion

Additional Information:

Non U.S. Climate Change Litigation Chart

Allerdale BC v. Cumbria Wind Farms Ltd.

[2000] 15 P.A.D. 833, United Kingdom

Cumbria Wind Farms Ltd. appealed local council decision refusing planning permission for the erection of six wind turbines near a national park. The Planning Inspector affirmed the local council's decision, concluding that the adverse visual effects in this particular case outweigh the need for renewable energy. Although the proposal tangibly contributes to the government's targets for renewable energy production and for the reduction in the emission of greenhouse gases, its harm to the local landscape is unacceptable.

Click here for Opinion

Additional Information:

Non U.S. Climate Change Litigation Chart

City of Bradford Metropolitan Council v. Woodhead and Sons Ltd.

[1995] 10 P.A.D. 243, United Kingdom

A building and construction company appealed a local council failure to determine within a prescribed period an application for the erection of eight wind turbines. On appeal, the Planning Inspector acknowledged that the production capacity of the turbines would provide a material contribution to the supply of renewable energy in accordance with government policy, but concluded that the proposal would unacceptably ham the surrounding landscapes and the living conditions of nearby residents.

Click here for Opinion

Additional Information: