

NEWSLETTER

INSIDE THIS ISSUE:

REG news 1

*Role of Litigation
in combating
Climate Change* 2

Please contact us:

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- If you have any suggestions for articles for future newsletters or would like to comment on this one
- If you would like to offer to help
- If you have any comments on any matter related to resource and environment

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RESOURCE AND ENVIRONMENT GROUP—2011 DEVELOPMENTS

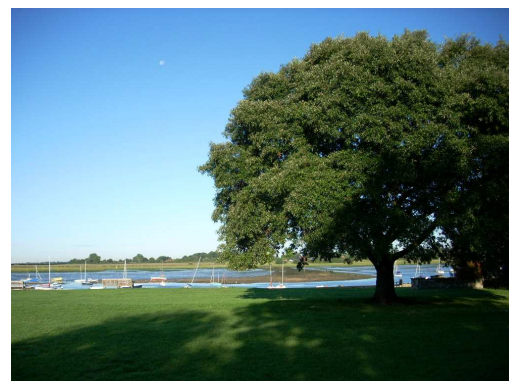
If you have not yet done so, sign up for the networking evening at Staple Inn on 13 September 2011. We have speakers on green finance, energy consulting, GI pricing and sustainable investment. It's chaired by Marjorie Ngwenya and will be a great opportunity to discuss and find out more about new work areas involving environmental issues.

Proposals for our major research project on "limits to growth" are currently being evaluated.



Our second review of literature relating to resource and environmental issues is underway, leading up to a presentation at Staple Inn on 17 October 2011. If you would like to attend, please get in contact.

REG IS ONE OF THE
LARGEST ACTUARIAL
MEMBER INTEREST
GROUPS AND ALSO
INCLUDES MANY NON-
ACTUARIES FROM
ACADEMIA, OTHER
PROFESSIONS AND NGOS.





Environmental campaigners were disappointed but given encouragement that some possibilities remain on the table.

ROLE OF LITIGATION IN COMBATING CLIMATE CHANGE - US SUPREME COURT RULING

In June 2011, the US Supreme Court ruled on a case (American Electric Power v. Connecticut) involving greenhouse gas (GHG) emissions from energy providers. In a highly complex ruling (which is only briefly summarised here), those looking for the courts to provide ammunition for environmental campaigners were disappointed but given a measure of encouragement that some possibilities remain on the table.



The Supreme Court rejected lawsuits based on federal, public nuisance grounds, that a coalition of states and private land trusts had brought against the owners of mid-western coal-fired power plants in 2004, challenging their GHGs emissions. Plaintiffs ranged from eight states and New York City, to three non-profit land trusts. The complaint stated that the defendants were the five largest emitters of carbon dioxide in the US, that public lands, infrastructure, and health were at risk from climate change, and sought to have emissions from utilities limited.

The District Court had dismissed the lawsuits as presenting non-jurisdictional political questions, but the next higher court (the Second Circuit Court) reversed that decision.

The Supreme Court stated that the US Congress, through the Environmental Protection Agency (EPA), decides climate change policy, not a group of states and cities attempting to use federal common law. By enacting the Clean Air Act, the US Congress had spoken on who should regulate GHGs.



The Court noted that, in 2009, the EPA had issued proposals, and is committed to issuing a proposed greenhouse gas performance standard for electric utilities in 2011. The Court did find that, if the EPA does not set emissions limits for a particular source of pollution, a petition can be filed and the EPA response can then be reviewed in the federal courts.

The judgment did leave open the possibility that a public nuisance case could be brought under state law, some of which may be more predisposed to

such an action, despite the role of the EPA. Campaigners are also arguing that scientific information had been misrepresented and that the case has narrow applicability.

It is understood that other cases are still being pursued, for example: Village of Kivalina v Exxon Mobil and Comer v Murphy Oil. The former claims damages for the flooding of an Alaskan village allegedly resulting from climate change. The latter that hurricane Katrina was made more intense for the same reason. It is interesting that, despite the reluctance of the United States to take the lead

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in climate change issues, its much criticised legal system does provide the means for private individuals and organisations to attempt to force action.

Unfortunately the legal route takes time, as the history of tobacco litigation demonstrates. After the first evidence of the link between smoking and health was published in the 1950s it took many decades before substantial punitive damages were awarded against the tobacco companies. Such a timescale would of course be of little value in combating climate change.

On the other hand, liability insurers are no doubt watching developments carefully, and their actions, in terms of pricing and exclusions, could have an earlier, positive market impact on polluters, anticipating the courts?

Outside of the United States, it is reported that the Pacific island state of Micronesia has begun a legal challenge to plans to expand a coal-fired power plant in the Czech Republic, 10,000 miles away, on the grounds that climate change could threaten its very existence, given that many areas are not much above current sea levels. The government of the Maldives were no doubt trying to make the same point when they held one of their cabinet meetings underwater....



SOME USEFUL WEB LINKS

Following the demise of the Sustainable Development Commission, Defra provide a useful newsletter, albeit from a Government perspective:

<http://sd.defra.gov.uk/news/register/>

An authoritative newsletter is also offered by the Climate Change Committee, an independent body established under the Climate Change Act 2008:

<http://www.theccc.org.uk/>

ARE YOU AN IT ENTHUSIAST?

REG needs you! We need someone prepared to take the lead in working with the Profession's staff to progress a number of IT issues, including the transfer of files, email lists, setting up webinars etc. IT is crucial to the development of REG and involving all members in our activities, especially bearing in mind that, at the last count, over a third of members are based overseas.



Visit the webpage:

<http://www.actuaries.org.uk/members/pages/resource-and-environment-member-interest-group>