

A CASE FOR THE CLIMATE

PIELC panels ask whether corporations pay for climate change

It will cost New York almost \$20 billion to prepare the city for the impacts of climate change coming our way, according to Peter Frumhoff, director of science and policy at the Union of Concerned Scientists. “Right now, the default is the taxpayer,” he says. “Why should only taxpayers pick up the cost for increasing climate change damages? What is the responsibility of companies making dangerous products?”

Those dangerous products are fossil fuels such as coal, gas and oil. Frumhoff, fellow climate scientist Richard Heede and attorneys across the globe are bringing science together with the law in an effort to stop climate change by hitting corporations where it counts — in their wallets.

As damages from climate change increase, should taxpayers take on the monetary costs or should the corporations than benefit from fossil fuels pay their share? Scientists and lawyers from the Environmental Law Alliance Worldwide (ELAW) want to take that question to court. Some of the lawyers and scientists involved will be presenting their work at the Public Interest Environmental Law Conference (PIELC) March 5-8.

The work of Richard Heede of Climate Mitigation Services and the Climate Accountability Institute traces which companies are responsible for the bulk of the damage. Heede’s peer-reviewed work published in the journal *Climatic Change* shows that nearly two-thirds of all anthropogenic (manmade) global warming emissions from 1751-2010 can be traced back to 90 companies.

Heede’s research has also shown that, as of the end of 2014, more than half of all industrial emissions of carbon dioxide since the beginning of the Industrial Revolution has been released since 1988 — that’s the same year NASA scientist James Hansen testified before the Senate that global warming was under way, putting the fossil fuel companies on notice, Heede says.

The corporations “could have acted to change their business and change their approach,” he adds, “They’ve known since 1988 there was a potential problem with the product they sold.”

The problems scientists are seeing from climate change include increased flooding around the world, more record highs than record lows in the U.S. this year, faster than anticipated melting in Greenland and the Antarctic, and sea level rise.

Frumhoff works in the area of attribution science. He says, “It’s often a kind of standard thing for scientists to get questions about specific climate change events. ‘Was that particular event caused by global warming?’”

He says that historically, a scientist might not have been able to attribute a particular event to climate change, but “we can see a pattern.” He says that’s beginning to change.

Attribution science allows scientists to follow the fingerprints of climate change in regard to extreme weather events. “One of the things we are beginning to see as a result of climate change are damages,” Frumhoff says. Attribution science increases the “ability to attribute impacts and damages all the way back to emissions sources from companies,” he says.

But, he cautions, “that alone doesn’t tell us they are responsible — that responsibility is a societal and legal question.” Science and data come together with legal debates to address that question, and that means a lawsuit.

Oregon’s oyster industry is one example that Frumhoff gives, demonstrating direct damages from climate change or, more specifically, ocean acidification — when the atmosphere’s increasing CO2 is absorbed by seawater. The changing pH of the seawater is making it difficult for oysters to form the shells they need to survive. Oyster larvae in the Northwest began to die off around 2006.

“The oyster industry has suffered \$100 million in damages from ocean acidification as a result of emissions from the fossil fuel industry,” Frumhoff says.

“We are beginning to see damage from burning and combustion of fossil fuels in real time,” he continues.

Rather than changing their approach with information from climate science, Heede says fossil fuel corporations “invested rather heavily in deceiving the public and misinforming Congress.”

Examples of that misinformation include the recent controversy surrounding climate skeptic Willie Soon, who is accused of receiving funding for his research from the fossil fuel industry and not disclosing it, and the Western States Petroleum Association, which Frumhoff says has created faux grassroots lobbying groups for fossil fuels. He likens the fossil fuel industry’s efforts to the way the tobacco industry once tried to cover up the dangers of smoking.

Heede points out that we tend to look at corporations in terms of their emissions — the effects of the trucks that Walmart uses to ship its products, for example — but for

the fossil fuel industry, we need to look at their product, which is intended to be combusted by millions or billions of customers. Then there is the production of the fuels, with gas leaks from pipelines, CO2 from flaring of methane and other gasses, and other carbon-intensive processes.

All of this is what leads to the fact that, according to Heede’s data, 90 corporations, including Chevron, ConocoPhillips and ExxonMobil, are the largest emitters of the carbon and methane creating havoc with the Earth’s climate.

Jen Gleason, an attorney with ELAW, says that Heede’s data on which corporations are most responsible, in addition to Frumhoff’s work to prove what damages have been caused by anthropogenic climate change, led ELAW to look around the world for jurisdictions where a legal argument might work.

They settled on Brazil, Columbia, Ecuador, India, Kenya and Mexico, where she says the laws about remedying damages “seem really well-designed to address the damages happening from climate change” and where the burden of proof is on the companies to prove that they didn’t cause the problem.

Gleason says “We need one court somewhere to declare [the corporations] are responsible,” and this, she says, could lead to them starting to change.

Heede says that “to the extent that the oil, gas and coal industry have the financial and moral mandate, I think this is an invitation for them to participate in a better future world and not simply destroy the climate for private profit.” ■

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Climate researcher

Two panels on “Who Should Pay for Climate Change?” will take place at PIELC at 9 am and 10:15 am Friday, March 6 at the UO law school. The conference also features Amy Goodman of Democracy Now and a video speech by climate change activist and author Bill McKibben. PIELC continues through March 8. Go to pielc.org for conference details. The event is free and open to the public.

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