

**The Case Claiming Cancellation of the Notice of Finalization of the Environmental
Impact Assessment of two new coal-fired power plants in Kobe City
Court denied citizen's rights to dispute CO2:
Japanese countermeasures against global warming questioned
By the Plaintiffs and the Attorneys of the Case**

Today, March 15th, 2021, The Second Civil Affairs Department of the Osaka District Court dismissed the residents' claim for the nullification of the final notice of the Environmental Impact Assessment (EIA) Report issued by the Minister of Economy, Trade and Industry (METI) to the two coal-fired power plants (CFPPs) (with the capacity of 1.3 million kW in total, emitting approximately 7 million tons of CO₂ annually) under construction by Kobe Steel Co., Ltd..

The final notification means, so to speak, "an acceptance letter for the examination". It means that METI determined that the EIA of the CFPPs by Kobe Steel Co., Ltd. legally appropriately considered the environmental conservation countermeasures in METI's examination ("The Examination").

The plaintiffs (the residents) have strictly criticized that the conducted EIA process is inconsistent with Japan's CO₂ reduction targets under the Paris Agreement, by omitting investigation, prediction, and evaluation of the impact of PM_{2.5}, a severe air pollutant that the CFPPs will enormously emit.

However, the court ruled that The Examination is not illegal because the evaluation method for PM_{2.5} has not yet been established, and the suspended particulate matter (SPM) was evaluated and taken into consideration instead.

PM_{2.5} is an air pollutant that has smaller particles than SPM and can penetrate deep into the lungs. Therefore, it cannot be substituted by the evaluation of SPM. The developed countries commonly examine PM_{2.5} in EIA. The Japanese EIA Law needs to be fundamentally reviewed, as long as it considers the PM_{2.5} examination emitted by the CFPPs in densely populated areas as unnecessary.

Moreover, the court denied citizen's standings to claim for CO₂ emissions, and stated, in Obiter Dictum, that The Examination for the EIA regarding CO₂ based upon the "Director-General Meeting Summary" is within the government's discretion and cannot be regarded as completely unreasonable. This inter-governmental-body Agreement is a policy that has promoted the construction of CFPPs. It regards that high-efficiency coal-fired power generation is consistent with the national CO₂ reduction target. However, the world moves ahead with the decarbonization by 2050 to achieve the target of 2 ° C (1.5 ° C) under the Paris Agreement. Additionally, the UN Secretary-General Guterres

reiterated that CFPPs should be abolished by 2030. He sent this message to Japan that continues new construction of CFPPs.

This ruling refrained from entering into the evaluation of ways how to achieve the reduction target and how to make the business operators consider environmental protection obligation because of its highly political feature. It consequently allows the construction of accused CFPPs to jeopardize the achievement of decarbonization both in 2030 and 2050.

Still, the court indicates that the only way to address to the concern raised by the Ministry of Environment, fearing a failure to limit emissions from CFPPs within the 2030 targets will be to regulate unthoughtful new & additional construction of fossil fuel power plants. In order to achieve this objective, the Court suggests, that the current legislature is obviously so insufficient that the new permit system might be introduced.

It is the current generation's obligation to limit global temperature within 1.5 degrees for our future children, and simultaneously the obligation toward international societies.

We strongly request the government take the court's suggestions about the defects of the law seriously in Japan's first authentic climate case. Also, we strongly urge the government immediately to establish an effective legal system of climate change countermeasures, including the revision of the Environmental Impact Assessment Act and the Electricity Business Act that were indicated by the court. Simultaneously, we strongly request both Kobe Steel Co., Ltd., who is constructing and operating The CFPPs, and Kansai Electric Power Co., who will continuously purchase the produced electricity, to reconsider their CFPPs businesses. CFPPs will continue to emit an enormous amount of CO₂, which should be denounced as "global environmental disruption."

Finally, we widely ask each citizen for choosing "no dirty electricity" and "not to waste resource" toward the decarbonization by 2050 to ensure the bright future of the earth and the future generations.

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