

For general circulation:

## **Court of Appeal refuses judicial review of fiscal fraud on Thames Tunnel**

On 24 November 2015 Lord Justice Neuberger, President of the Supreme Court, gave an excellent lecture on law and science at The Royal Society, including a particular need to know scientific consensus on aspects of a case, such as climate change, before judging cases. On 4 December the Appeal Court refused 'Blue Green London Plan' permission for judicial review of the Government's Thames Tideway Tunnel decision of 12 September 2014, without considering any substantive issue raised, including water's role in global warming and its solutions.

The Court did not consider a fiscal fraud claim of supplying the unnecessary £4.1 billion Tunnel 'exceptional', 'significant', 'unfair', 'unjust' or 'compelling' enough for the court to judicially review the Secretaries of State's decision in the public interest of Londoners, who now have to pay Thames Water more than £21 billion over the next 120 years, unless Parliament reconsiders.

As the court heard no substantive evidence, the lawfulness of the Tunnel has yet to be determined, leaving it open to challenge for 7 years of construction and beyond, placing it under considerable uncertainty, and greater risk to investors. The appropriate medium of challenge now returns to UK Parliament or EU Commission and Court.

It is regrettable that, unlike in the Urgenda case and EU law, the court did not consider it the duty of the State to protect its subjects from the effects of global warming by application of law in every related policy, such as floods, drought, infrastructure and climate change...

The legal instrument of fiscal fraud identified being the National Policy Statement on Water (NPS) of March 2012, which the Secretaries of State irrationally persist in refusing to call in against global expert consensus that there is no need for the Thames Tideway Tunnel. A lawyer's equivalent to Volkswagen's 'defeat device', the NPS defeats any consideration of benefit to the public of better air, water and health by immediate implementation of blue green technologies from the new water industry, which include integrated solutions to global warming.

I was in Paris for the COP21 exhibition of my 1974 film of blue green solutions to global warming, (<http://www.frac-centre.fr/>) following its 6 months at the Venice Biennale on the invitation of the Azerbaijan 2nd Pavilion for the IUCN extinction 'Red List', and to be continued until September next year at the Pompidou, ('ARTCOP21', 'Sublime') . I heard President Putin announce the carbon nanotube blue green solution for climate change to COP21, with presidents of America, China, European countries, etc..., agreeing such solutions were also the best way to global economic recovery.

In 1880, before the 1898 discovery of global warming, Lord Chief Justice Blackburn, in observing any decision-maker is human, held "and being human may misuse any discretion entrusted to them, but so are Judges". The Appeal Court decision in my case was based on the procedural system of the Planning Act, which, after the judge had agreed with me in court (that I was entitled to expect the Secretaries of State to get their law right and not use it against a non lawyer participating in decisions effecting the possible environmental impact of the Tunnel on London), the then Treasury Legal Department changed the law over lunch, before Judgement was given. Now, in both

civil and criminal law, time is to be calculated in the same way as the public calculate it, as I had in making my claim 16hrs too late to be considered by the court as within the statutory time limit under s.118 of the Planning Act, unlike Lord Justice Denning MR, who considered such manoeuvres as 'dies non', or improper use of delay. This, after 23 years delay in proposing compliance to the Urban Waste Water Treatment Directive be delayed further until at least 2023, when Russia, US, China and the rest of the world will be well ahead solving global warming. The Tunnel is against the economic interests of the whole country.

As I would now have been 'within time' on the arguments I made; sufficient to change the law over lunch, I reasoned it was unfair for the Secretaries of State still to benefit from getting the law wrong against the public interest, and showed they never intended to consult the public in good faith before dictating what is effectively a new water tax. ( *The Queen on the application of Blue Green London Plan (as Graham Stevens) v The Secretaries of State for Defra and DCLG [2015] EWHC 495 (Admin) 15 January, [2015] EWCA Civ 876, 24 June* )

The European Commission has recently issued a call for proposals, including the term 'blue-green' solutions, to comply with the Climate Change Act and European Directives. I had claimed that these represent the 'best technical knowledge not entailing excessive cost' that are solutions to global warming.

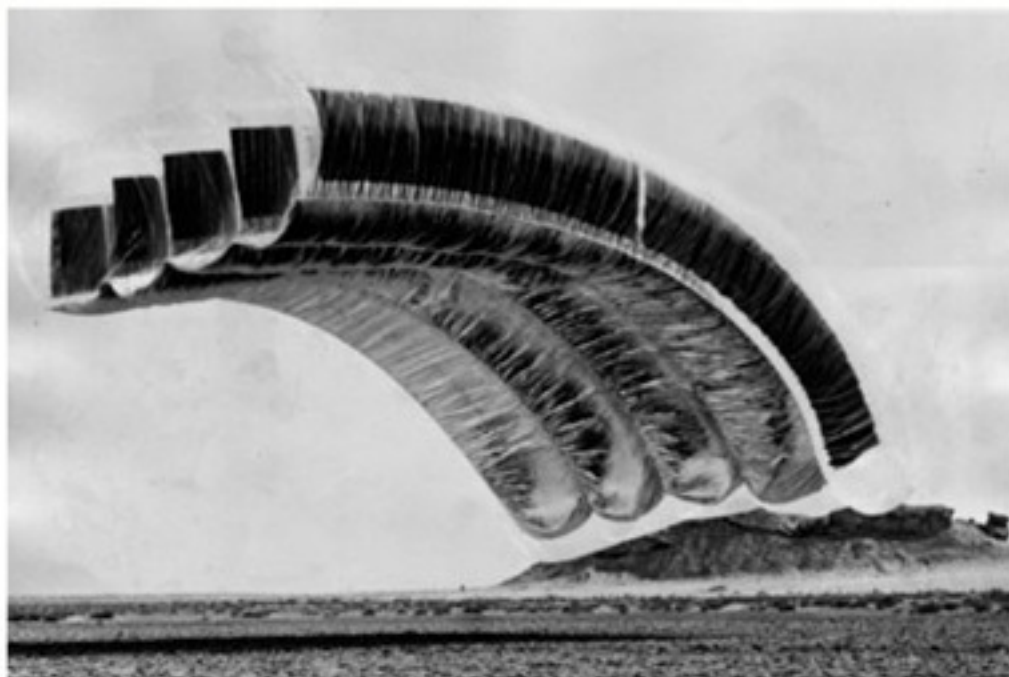
All the reasoning and evidence will now continue to be posted on [Bluegreenuk.com](http://Bluegreenuk.com) , to be utilized by the inevitable court actions resulting from whatever disasters the Tideway Tunnel throws up.

Note to editors: Judges are at pains to point out to the public that they welcome reasoned criticism as exercising freedom of speech on participating in legal decision-making, especially now the UK has transposed the Aarhus Convention into english law.

Graham Stevens LLB, LIP  
Blue Green London Plan  
Aarhus Convention appellant  
Chair, Blue Green Independent Expert Team  
Chair, Justine Greening MP's Thames Tunnel Working Group-Technical Subgroup 2010-

10 December 2015  
Court Order received in this morning's post.

Image from 'Desert Cloud', now on exhibition during COP21



Graham Stevens. Still from the film DESERT CLOUD (1974). Filmed in the Arabian Desert.  
Film & photograph; The Permanent Collection, Centre Georges Pompidou, Paris.  
Reconstruction 2005. Collection FRAC Centre, Orleans, France.

## Exhibition of photographs & telecommunications to guide the walks

### • Utopian Experiments: 1660 Air Science -1960's Air Art

From toy balloons in vacuum jars to global warming solutions

### • Freshwater Dialogues with Robert Hooke

6th August to 31st October 2010

Robert Hooke, born in Freshwater (18 July 1635 – 3 March 1703), was an English natural philosopher, architect and polymath. Start the walk at **Dimbola Lodge**, Freshwater Bay, Julia Cameron's studio where she photographed Darwin, Tennyson and many other artists and scientists. Follow the cliff path ('Walking on Air') to the telecommunications satellite rocket test bed site ('Walking on Fire') in the **Highdown Rocket Exhibition** at The Needles New Battery run by the National Trust. The walk includes accommodation and refreshment in **Tennyson's home at Farringford** as part of **Graham Stevens' new art work in his 'Walking on Earth, Air, Fire and Water' series**, with further photographs by Andrew Tweedie.



'Freshwater Dialogues with Robert Hooke' is a 'Local Heroes' event celebrating 350 years of The Royal Society.  
<http://350.royalsociety.org/calendar>

#### NEXT WALK

Starts & ends **Farringford, 11am**  
(car parking available)

**Sunday 31st Oct**

Details from:

#### **Dimbola Lodge Exhibition:**

[www.dimbola.co.uk](http://www.dimbola.co.uk) Tel: 01983 756814

#### **Highdown Rocket Exhibition,**

The Needles New Battery:  
[needlesoldbattery@nationaltrust.org.uk](mailto:needlesoldbattery@nationaltrust.org.uk)

#### **Tennyson at Farringford,** exhibition and

accommodation: [www.farringford.co.uk](http://www.farringford.co.uk)  
Tel: Kevin Nixon 01983 866000.

Additional **Dialogue Walks** by  
agreement with Charles Davidson  
01983 756788.