Climate Law and Litigation Blog – Issue No. 3 (2026)

Biodiversity and Energy Transition in Tension: The Legal and Political Dialectic in Taiwan's Third LNG Terminal Case

By Chun-Yuan Lin



Taiwan's plan to phase out coal by importing more liquefied natural gas (LNG) looked climate-friendly—until conservationists pointed to the 7,000-year-old algal reefs beneath the site of the proposed terminal. From 2018 onward, residents and environmental NGOs fought to halt the project through administrative, judicial, and democratic channels. Though unsuccessful in all channels, their campaign has generated public dialogue and reshaped the project's design. This case reveals the limits of law in resolving "green vs. green" conflicts, but also demonstrates how multi-forum engagement and dialectic process may help to reconcile the tension between climate mitigation and biodiversity protection.

Energy Transition Meets Biodiversity: The Algal Reef at Risk

Though Taiwan is not a party to the Paris Agreement, it has actively pursued decarbonization. The 2016 energy transition policy called for expanding renewables and phasing out nuclear power, a goal reaffirmed in the 2019 energy white paper and codified the 2050 net-zero target in the 2023 Climate Change Response Act.

To bridge short-term energy needs, the Ministry of Economic Affairs (MEA) adopted natural gas as a transitional fuel. A centerpiece of this plan is the Third LNG Terminal

© 2026 BIICL | A company limited by guarantee | Registered in England No. 615025 | Registered Charity No. 209425

at Datan, designed to replace coal-fired generation and stabilize the electricity supply in northern Taiwan. But the terminal's location overlaps with Taoyuan's algal reef—a rare and ecologically critical marine habitat.

The reef supports endangered species such as the scalloped hammerhead shark and Polycyathus chaishanensis, and offers vital services including coastal protection, fisheries support, and carbon cycling. As the government proposed the project, NGOs urged the relocation of the project to avoid irreversible ecosystem harm.

When Science Meets Politics: Administrative Review of the LNG Terminal

To proceed with the construction, the CPC Corporation (the State-owned developer) had to secure approvals under both the Environmental Impact Assessment Act (EIA Act) and the Coastal Zone Management Act. While the project had previously passed an EIA in 2000, its reactivation in 2016 triggered a limited-scope review on the difference between current environmental conditions and environmental conditions at the time original permission was granted. In addition, the MEA and CPC should provide the coastal zone utilization and management statement for review because the terminal project is close to a coastal protection area with endangered species.

Strong opposition from environmental NGOs during the EIA review process prompted CPC to revise its proposal in January 2018, introducing an "avoidance project" that reduced the development footprint and adopted less invasive construction methods. However, expert reviewers deemed the revisions inadequate and returned the proposal in July 2018, citing continued risks of reef degradation. Despite attempts by the MEA and CPC to present counterevidence, the review process remained deadlocked after four rounds of expert meetings due to conflicting scientific opinions.

Amid unresolved expert dissent, political pressure escalated. On the eve of a crucial EIA vote, Taiwan's Premier publicly endorsed the terminal project, intensifying expectations for approval of the EIA. Anticipating that government-affiliated committee members would secure passage, independent experts staged a walkout in protest. With only the remaining members present, the EIA was approved. Shortly after, the Coastal Zone committee also authorized the development plan.

© 2026 BIICL | A company limited by guarantee | Registered in England No. 615025 | Registered Charity No. 209425

While the EIA and coastal zone reviews were designed as legal mechanisms to balance environmental protection with development needs through scientific scrutiny, the process was widely viewed as politically influenced. This perception severely eroded public trust in regulatory integrity.

Legal Challenges and Judicial Deference

Residents and algal reef protection groups filed multiple lawsuits to prevent irreversible harm to the reef's biodiversity. Their initial case, brought under the Environmental Impact Assessment (EIA) Act, argued that the EIA approval was unlawful and should be revoked. They based their claim on three core arguments: (1) The post-EIA discovery of a rare and legally protected species, Polycyathus chaishanensis, constituted "new evidence" warranting reassessment; (2) seven government-affiliated EIA reviewers with conflicts of interest failed to recuse themselves, presenting a procedural flaw; and (3) the terminal's construction violated several laws, including the Wild Animal Protection Act and the Cultural Heritage Preservation Act.

In parallel, plaintiffs challenged the coastal zone development permit. They contended that the project breached principles of minimal environmental impact and failed to provide effective compensatory measures, as required by the Coastal Zone Management Act. They also stressed the need for a climate-conscious review, citing the Act's objectives to mitigate climate change, prevent coastal disasters, and restore marine resources. The Industrial Zone Coastal Utilization Management Statement, they argued, lacked updated data on global climate anomalies and ignored the algal reef's role in carbon sequestration. This, they warned, risked misplacing infrastructure critical to LNG supply, potentially increasing reliance on coal and exacerbating climate change.

In both cases, the Administrative High Court denied standing to environmental NGOs, ruling that only directly affected residents could qualify as stakeholders. On substantive grounds, the courts applied a deferential "manifest error" standard—similar to the U.S. "arbitrary and capricious" doctrine—which grants wide latitude to

© 2026 BIICL | A company limited by guarantee | Registered in England No. 615025 | Registered Charity No. 209425

administrative committees on technical issues. The court upheld both the EIA and coastal development permits.

By deferring to agency discretion and applying a low standard of review, the courts declined to scrutinize scientific claims or address procedural concerns. As a result, the rulings failed to resolve lingering questions about the reef's vulnerability or to establish meaningful precedent for future green vs. green conflicts.

Politicized Referendum and its Impact

Frustrated by setbacks in court and administrative review, environmental NGOs turned to direct democracy. They proposed a national referendum with the question: "Do you agree that CPC Corporation's Third Liquefied Natural Gas (LNG) Terminal should be relocated away from the algal reef coast and marine area of Datan, Taoyuan?"

This initiative presented a rare opportunity for the public to deliberate on the broader implications of green vs. green conflicts. Initially low-profile, the referendum quickly became politically charged. Major parties seized on the issue, transforming it into a battle between the ruling party and the opposition party.

Held in December 2021, the referendum narrowly failed, securing 48.8% of the vote—just shy of the majority required. However, despite falling short procedurally, the campaign succeeded in elevating the algal reef to national prominence. Public pressure forced the Minister of Economic Affairs to defend the project publicly, and CPC was compelled to introduce further design modifications to win back public support. This outcome illustrates how democratic mechanisms, even when unsuccessful in formal terms, can influence policy through visibility and political accountability.

Lessons from a Lost Battle: Shaping Policy Beyond the Court

Despite setbacks in every formal venue—from the EIA process to judicial review and the national referendum—the campaign to protect the algal reef ultimately reshaped the project. These outcomes reveal the limits of existing legal mechanisms in safeguarding biodiversity amid aggressive energy policy. Nevertheless, beneath

© 2026 BIICL | A company limited by guarantee | Registered in England No. 615025 | Registered Charity No. 209425

these formal losses lay a dialectical process: sustained civic pressure gradually pushed institutions to reconcile energy transition goals with environmental protection.

Environmental NGOs and expert reviewers played a key role in forcing revisions. Under their scrutiny, the MEA and CPC replaced the original development blueprint with a scaled-back "avoidance project" in January 2018, followed by a revised version in August 2018. In 2021, amid heightened scrutiny during the referendum campaign, authorities proposed an offshore extension plan. These changes—downsizing the development area, altering construction methods, relocating infrastructure farther offshore, and introducing ecological compensation and restoration measures—collectively aimed to reduce harm to the algal reef while maintaining energy objectives.

Although the project proceeded, the sustained public and scientific debate meaningfully improved its design. This iterative process underscores the importance of an open political and legal framework capable of integrating diverse forms of input over time. Taiwan's democratic evolution enabled this kind of deliberation. Mechanisms such as public participation in the EIA process, expanded standing under the Administrative Litigation Act, progressive judicial precedents, and amendments to the Referendum Act helped broaden dialogue from a limited circle of stakeholders to society at large.

The litigation experience also offers forward-looking insights. First, it illustrates how existing environmental laws can be leveraged to support climate-related arguments, even in the absence of laws addressing green vs. green conflicts. Lawyers invoked the EIA Act's language on "significant environmental impact" to raise climate concerns, while the 2015 Coastal Zone Management Act—which explicitly references climate adaptation—further bolstered their case. These statutes demonstrate how domestic legal reforms aimed at environmental protection can create entry points for climate litigation.

Second, although courts rejected the claims, their rulings carved out important legal precedents. After the Administrative High Court dismissed the initial suits, plaintiffs

© 2026 BIICL | A company limited by guarantee | Registered in England No. 615025 | Registered Charity No. 209425

appealed to the Supreme Administrative Court. In its landmark 2023 decision on the coastal zone case, the Supreme Court redefined both the standard of judicial deference and the scope of legal standing. The court clarified that when development projects do not involve highly technical trade-offs or personal, irreplaceable interests, judges have the authority to conduct substantive legal and reasonableness reviews.

Importantly, it broke with prior practice by holding that environmental standing can extend to individuals residing outside formally designated zones—provided their health, safety, or property may be affected. It suggested that "in cases where the law does not explicitly provide for such protections, or where the nature of the development project and its location involves particular risks……persons who reside outside the formally designated areas but whose life, health, or property rights are evidently impacted should also be considered "affected persons" under the law." In this case, the court recognized that plaintiffs living up to 21 kilometers downwind of the project site could qualify as affected parties.

Together, these developments highlight how even unsuccessful litigation can pave the way for systemic change, setting the stage for more robust environmental and climate jurisprudence in the years to come.

Although environmental advocates lost in every formal venue—administrative approval, courtrooms, and the ballot box—the cumulative pressure reshaped the project. The third LNG terminal was scaled down, relocated farther offshore, and its ecological footprint significantly reduced. These changes did not result from any single victory, but from a sustained, multi-front campaign that exposed regulatory weaknesses, rallied public opinion, and forced political accountability. Taiwan's case shows there is no easy legal resolution for the growing green vs. green conflicts. Instead, the conflicts during energy transition require a continuing and open dialectic process across multiple forums and over years.

© 2026 BIICL | A company limited by guarantee | Registered in England No. 615025 | Registered Charity No. 209425

Author:



Chun-Yuan Lin is an Associate Professor of National Taiwan University, College of Law. He is a scholar of constitutional law and environmental law in Taiwan and the director of the Environmental Jurists Association and the Environmental Rights Foundation. His research interests lie in constitutional law, administrative law, environmental law and climate change law. Recently, his research has focused on climate litigation and just transition.

© 2026 BIICL | A company limited by guarantee | Registered in England No. 615025 | Registered Charity No. 209425