

Charges Dropped Against Climate Activists

By Jess Bidgood

Sept. 8, 2014

FALL RIVER, Mass. — In May 2013, two environmental activists piloted a lobster boat close to the vast pile of coal at the Brayton Point Power Station, the hulking plant that overlooks this industrial inlet near the border between Massachusetts and Rhode Island.

With the tiny boat, the two men — Jay O’Hara, 32, and Ken Ward, 57 — dropped anchor and for a day blocked a freighter with a 40,000-ton shipment of coal, and they were charged with conspiracy, disturbing the peace and other violations.

The two were scheduled to be tried on Monday, and they planned to deploy an old legal argument called the necessity defense: They had no choice but to act because the consequences of climate change are so dire. But instead of a jury trial, the major charges were dropped or downgraded by the district attorney, who said, in effect, that he was sympathetic to the defendants’ point of view on climate change.

Sam Sutter, the Bristol County district attorney who dropped the conspiracy charge and downgraded the others to civil infractions, strode out of the Fall River Justice Center clutching an article on climate change written by the environmentalist and author Bill McKibben, who was prepared to testify as an expert witness for the defense. Mr. Sutter told more than 100 climate activists who had gathered outside that he had reached his decision in part because of environmental concerns.

“Climate change is one of the gravest crises our planet has ever faced,” Mr. Sutter said. “In my humble opinion, the political leadership on this issue has been sorely lacking.”

It is by no means the first time prosecutors have downgraded charges for civil disobedience, but Mr. Sutter’s strong words about climate change surprised many of the advocates gathered outside the courthouse.

You have 2 free articles remaining.

Subscribe to The Times

“I think it was very bold; I don’t know of another politician — maybe including Al Gore — who has said it as quickly, as forthrightly, at the point of decision in something under his purview,” said Mr. Ward, who, like Mr. O’Hara, still has to pay \$2,000 in restitution to settle the case.

Mr. Sutter, who ran unsuccessfully for Congress in the Ninth District in 2012, describes himself as a “fervent environmentalist,” and said a trial could have put him in an awkward position. Despite his personal beliefs, he said, he was not sure the defense team would meet the legal burdens required for the necessity defense.

“I would have been in a position of saying, ‘Well, I legally don’t think you have a necessity defense, but this is a crisis,’ ” said Mr. Sutter, who says he is interested in running for another office in the future.

Tim DeChristopher, a Harvard Divinity School student who spent nearly two years in federal prison after he disrupted an oil and gas auction in Utah in 2008, was in Fall River on Monday, and he said he hoped Mr. Sutter’s action would encourage other elected officials to take bolder action on climate change.

“We rarely ask people in official positions to make the kind of risks that activists take,” Mr. DeChristopher, 32, said. “What D.A. Sutter did today is to show that there’s no reason for that.”

Correction: Sept. 11, 2014

Because of an editing error, an article on Tuesday about a decision by prosecutors in Fall River, Mass., to drop charges against two environmental activists who blocked a coal delivery to a power plant referred incorrectly to legal action taken against the men. While the men were charged, they were not arrested. (The men quit the blockade after being ordered to do so by the Coast Guard and were charged later.)

A version of this article appears in print on Sept. 8, 2014, on Page A18 of the New York edition with the headline: Charges Dropped Against Climate Activists