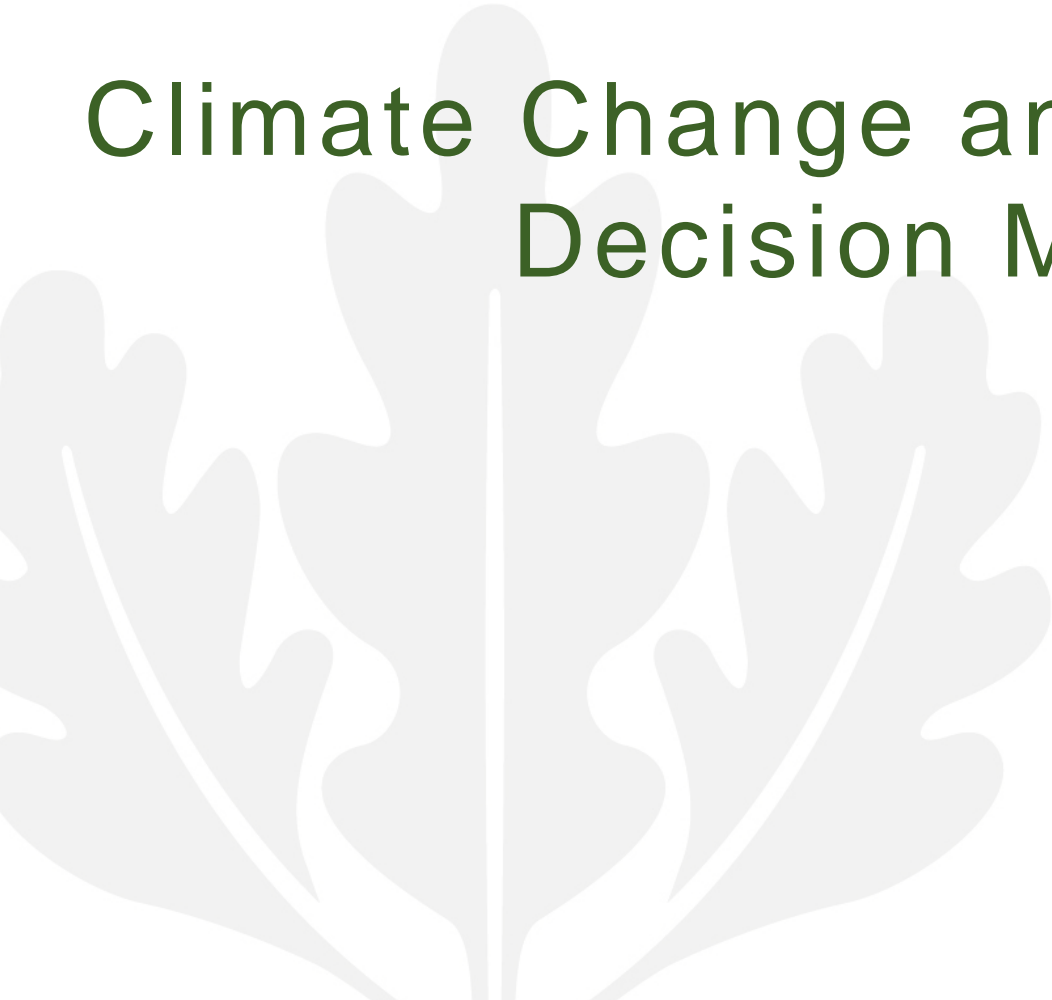


Third Quick Observations

Climate Change and Institutional
Decision Making



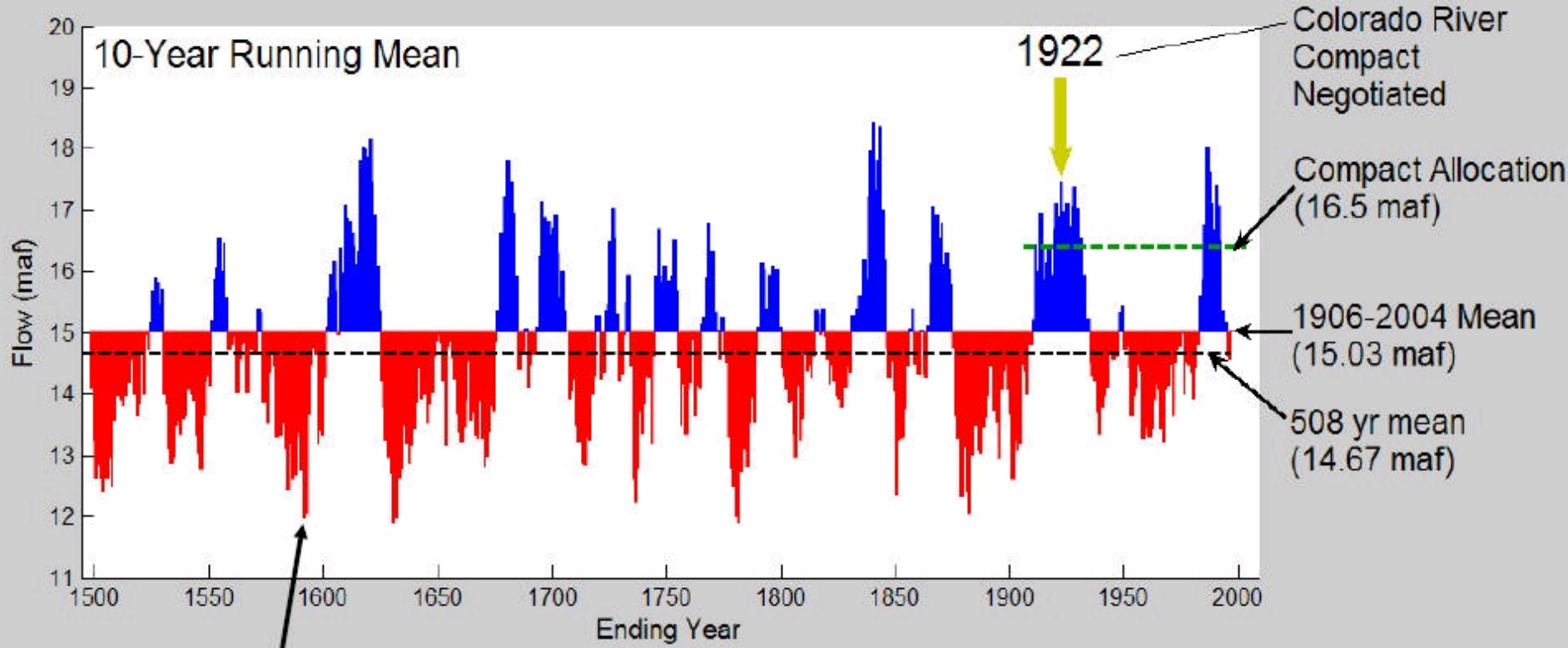
Three ideas

- Lessons from the Colorado River.
- Tyranny of “little” decisions
- If all else fails: lawyers.

Lessons from the Colorado

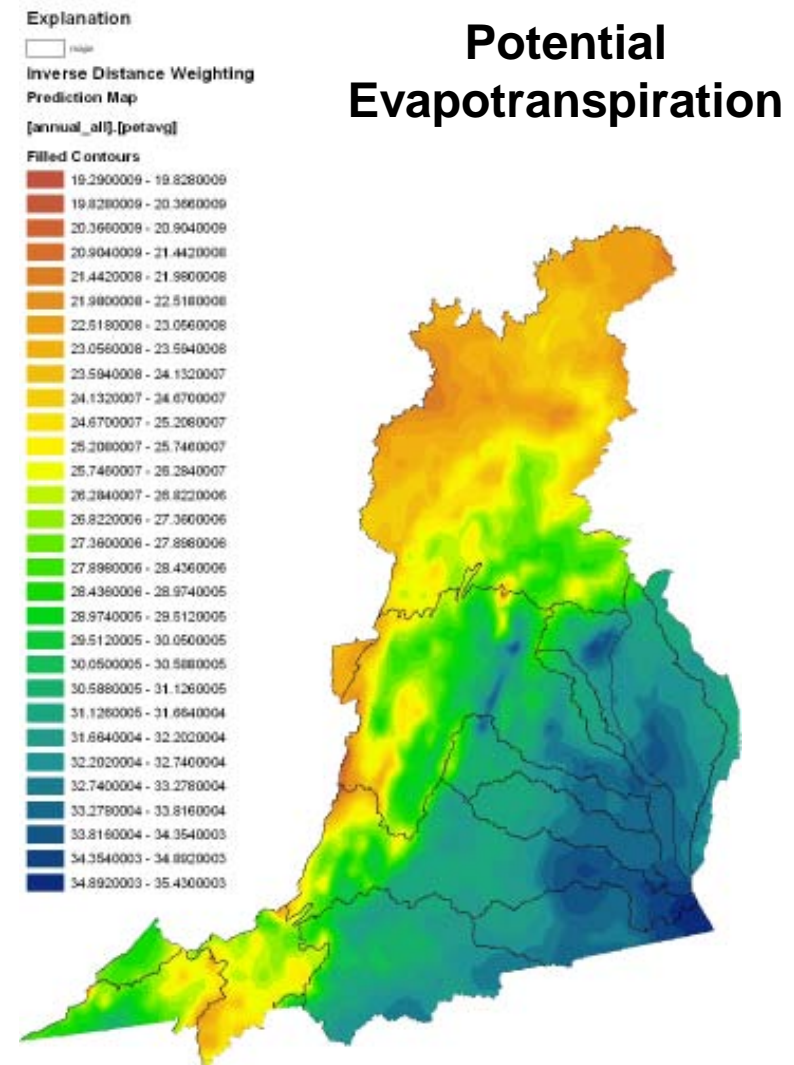
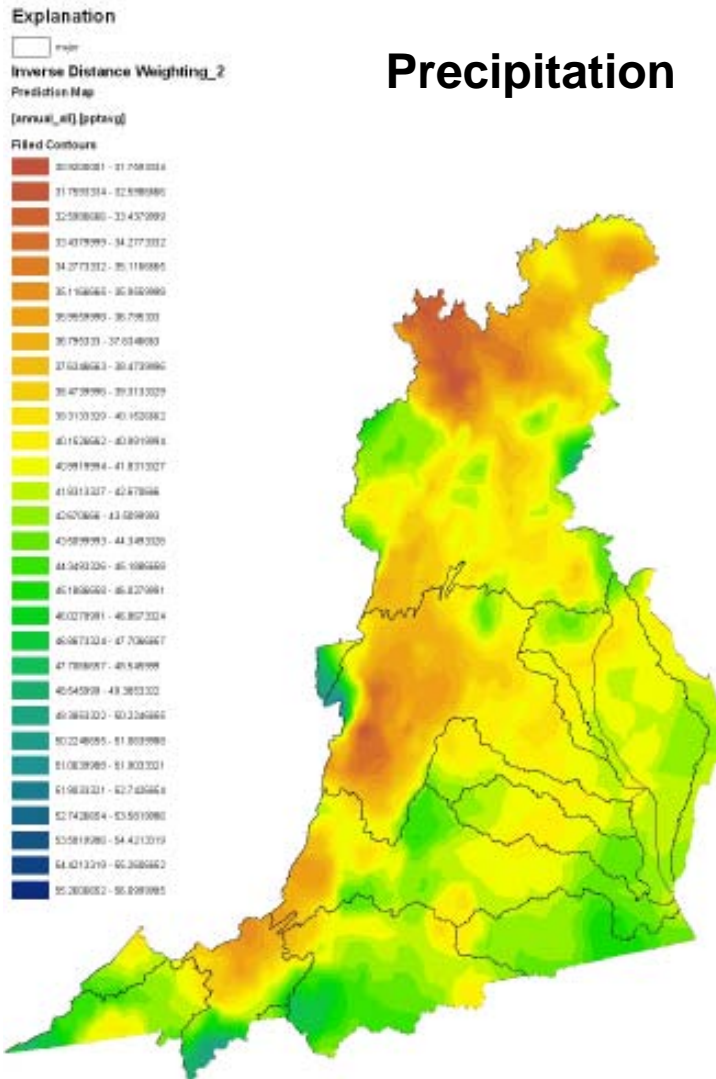
- Colorado River Compact negotiators estimated the flow of the river to be at least **17 MAFY**
- Long-term flow estimates and reconstructions indicate average flows of **14-15 MAFY**
- Consequently, the **sum of apportionments and treaty obligations** exceed the flow of the river in most years.

Historic flows in the Colorado River



Drought

Chesapeake Bay Watershed Model



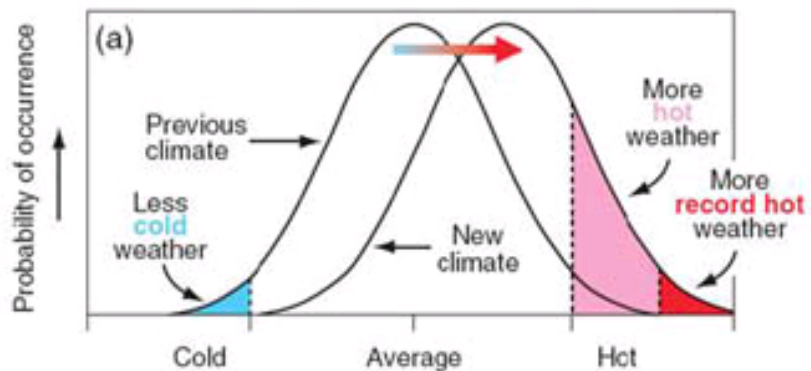
“Normal” based for 18 year simulation period based on meteorological data for 1984-2002

Tyranny of Little Decisions

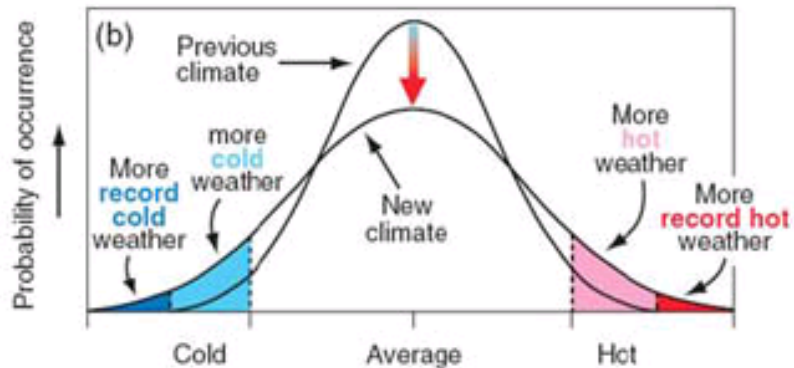
- Climatic assumptions are embedded in many “day-to-day” decisions.
- Changes in climate have the potential to undermine those assumptions



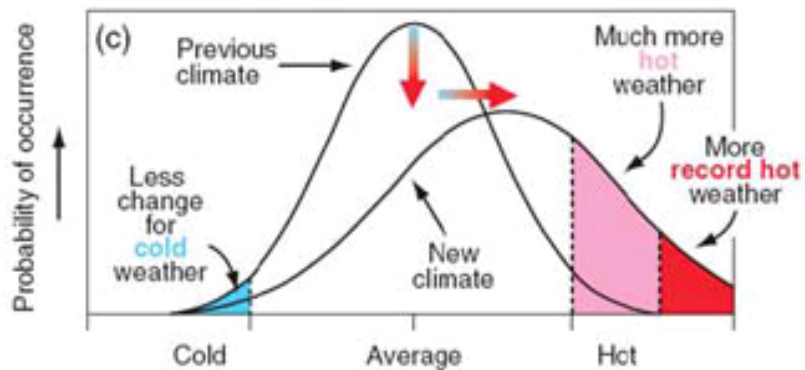
Increase in mean



Increase in variance



Increase in mean and variance



Lawyers

Environmental laws require analysis of the consequences of actions, such as:

- National Environmental Policy Act
- State mini-NEPAs, such as California Environmental Quality Act



INITIATIVES

Carbon Capture & Storage

Gulf Coast Ecosystem Restoration

Steps to Modernize and Reinvigorate NEPA

Review of MMS NEPA Procedures

Federal Sustainability

Interagency Ocean Policy Task Force

Recovery Through Retrofit

Updated Principles and Guidelines for Water and Land Related Resources Implementation Studies

Climate Change Adaptation Task Force

[View Comments](#)



February 18

MEMORANDUM FOR HEADS OF FEDERAL AGENCIES

FROM: NANCY H. SUTLEY, Chair, Council on Environmental Quality

SUBJECT: DRAFT NEPA GUIDANCE ON CONSIDERING CLIMATE CHANGE AND GREENHOUSE GAS EMISSIONS

I. INTRODUCTION

The Council on Environmental Quality (CEQ) is soliciting public consideration and comment on the ways in which to address the effects of greenhouse gas (GHG) emissions¹ and Federal actions under the National Environmental Policy Act (NEPA). This draft guidance is intended to help explain how agencies should consider the environmental effects of GHG emissions and climate change effects of a proposed agency action in accordance with the requirements of the statute and regulations for implementing the Procedural Provisions of NEPA. NEPA affirms the requirements of the statute and regulations that address the impacts of a proposed agency action. CEQ proposes to advise Federal agencies that GHG emissions caused by proposed Federal actions and throughout the NEPA process and to address these issues.

The environmental analysis and documents provide the decision maker with relevant and timely information about the impacts of a proposed action and reasonable alternatives to mitigate those impacts in relation to the consideration of:

- (1) The GHG emissions effects of a proposed action;
- (2) The relationship of climate change effects to proposal design, environmental impacts, and mitigation measures.

NEPA demands informed, realistic government actions. Federal agencies to consider, in scoring their NEPA actions, the impacts of climate change and greenhouse gas emissions.

DRAFT

MEMORANDUM

FOR: Heads of Federal Agencies

FROM: Kathleen A. McGinty, Chairman

SUBJECT: Guidance Regarding Consideration of Global Climatic Change in Environmental Documents Prepared Pursuant to the National Environmental Policy Act

DATE:

Introduction

A growing body of scientific evidence supports the concern that global climate change will result from the continued build-up of greenhouse gases in the atmosphere. While uncertainties remain, particularly in the areas of the exact timing, magnitude and regional impacts of such changes, the vast majority of scientific evidence supports the view that continued increases in greenhouse gas emissions will lead to climate change.

Because of the potentially substantial health and environmental impacts associated with climate change, the Council on Environmental Quality is issuing this guidance today calling on federal agencies to consider, in the context of the NEPA process, both how major federal actions could influence the emissions and sinks of greenhouse gases and how climate change could potentially influence such actions.¹

The NEPA process provides an excellent mechanism for consideration of ideas related to global climate change. The

¹ While this guidance deals specifically with global climate change, it also serves as notice that issues related to stratospheric ozone protection should be considered in the context of the NEPA process. Stratospheric ozone depletion is a similar, though largely distinct environmental concern involving emissions of ozone-depleting substances (e.g., chlorofluorocarbons, halons, methyl chloroform, methyl bromide, and to a lesser extent, hydrochlorofluorocarbons). These compounds are already extensively regulated under Title VI of the Clean Air Act, and therefore detailed guidance, as

URL: www.climatecasechart.com

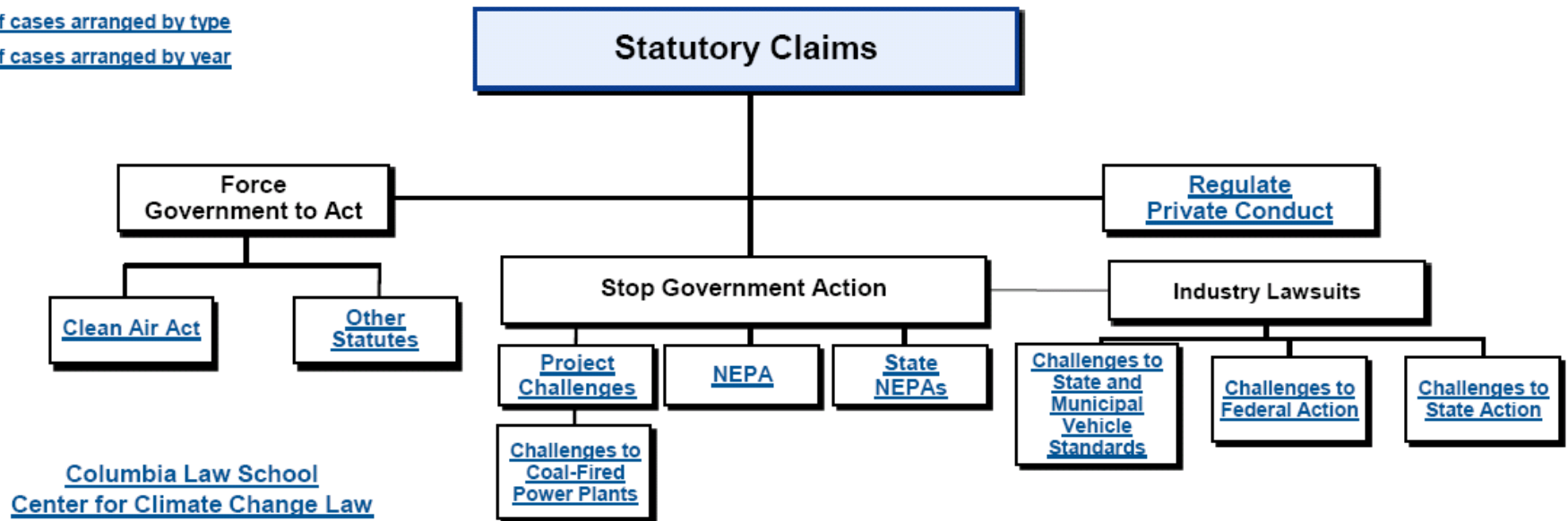
To receive email updates to this chart, send a request to cullen.howe@aporter.com

[Past email updates](#)

[Graph of cases arranged by type](#)

[Graph of cases arranged by year](#)

CLIMATE CHANGE LITIGATION IN THE U.S.



Force
Government to Act

Other Statutes

ESA/MMPA

- [Cntr. for Bio. Div. v. Kempthorne](#) (trans. Alaska, 2007) ±
- [Cntr. for Bio. Div. v. Kempthorne](#) (N.D. Cal. Dec. 2007) ±
- [NRDC v. Kempthorne](#) (E.D. Cal. 2007)
- [Pac. Coast Fed. of Fisherman's Ass'ns v. Gutierrez](#) (E.D. Cal. April 2008)
- [San Luis Water Authority v. Salazar](#) (E.D. Cal., filed March 2009) (pre. Inj. granted May '09) ±
- [Animal Welfare Institute v. Beech Ridge Energy LLC](#) (D. Md, filed June '09) ±
- [San Luis Water Authority v. Salazar](#) (E.D. Cal. Dec. 2009) ±
- [South Yuba River Citizens League v. NMFS](#) (E.D. Cal. July 2010) ±
- [Petitions](#) to list species

Clean Water Act

- Center for Bio. Diversity petitions asking 10 states to declare coastal waters "impaired" (2007)
- Center for Bio. Diversity petition to EPA regarding pH standard (2007)
- [Notice of intent to sue](#) over ocean acidification (Nov. 2008) ([settled](#) March 2010)
- [Center for Bio. Diversity v. EPA](#) (D. Wash, filed May 2009) ([settled](#) March 2010) ±
- [Petition](#) for water quality criteria for black carbon (EPA, filed Feb. 2010)
- [Defenders of Wildlife v. Jackson](#) (D.D.C., filed Nov. 2010) ±

Global Change Research Act

- [Center for Bio. Diversity v. Brennan](#) (N.D. Cal. 2007)

Freedom of Info. Act/1st Amendment

- [Citizens for Resp. and Ethics in Washington v. Council on Env. Quality](#) (D. D.C. 2007)
- [Center for Bio. Diversity v. Office of Management and Budget](#) (N.D. Cal. 2008) ±
- [Center for Bio. Diversity v. Office of Management and Budget](#) (N.D. Cal. Aug. 2009) ±
- [U.S. v. Sholtz](#) (C.D. Cal. Dec. 2009) ±
- [Judicial Watch v. Dept. of Energy](#) (D.D.C., filed Feb. 2010) ±

Alternative Motor Fuels Act

- [Natural Resources Defense Council v. Mineta](#) (S.D.N.Y. 2005)

Energy Policy Act/EISA

- [Center for Bio. Diversity v. Abraham](#) (N.D. Cal. 2002)
- [State of New York v. U.S. Dept. of Energy](#) (2d Cir. 2008)
- [California v. Dept. of Energy](#) (9th Cir. 2009)
- [Center for Bio. Diversity v. NHTSA](#) (9th Cir., filed April 2009) ±
- [Friends of the Earth v. EPA](#) (D.C. Cir., filed May 2010) ±
- [Sierra Club v. U.S. Defense Energy Support Center](#) (N.D. Cal., filed June 2010) (motion to transfer venue granted Jan. 2011) ±

For detailed legal analysis, see [Global Climate Change and U.S. Law \(ABA 2007\)](#)

Click + after case name for description of case

Created by:
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Questions

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