

JUDICIAL – LEGAL ADAPTATION TO CLIMATE SCIENCE

Adaptation to changes in climate will require various adaptations: social, financial, technological, scientific, agricultural, medical, legal and many other forms. (Most forms require funding and/or legislative action)

1. Findings of civil or criminal liability often spurs socially adaptive behavior (DWIs);
2. Legal decisions often add to the body scientific information (Ford Pinto, Tobacco);
3. Exposure to liability or risk spurs legislative action (Medical Mal, Guardianship, Whistleblower Acts)

TYPES OF CLIMATE SCIENCE LITIGATION:

A. Negligence-duty of care.

- Exercise of reasonable care, not industry standards.
- Foreseeability of risk, failure to assess
 - infrastructure and facilities
 - human health
 - natural resources (like water)
 - endangered species
- Mitigation issues

B. Nuisance

- Private or Public
 - failure to abate a foreseeable risk

C. Constitutional and Public Tort Claims

- a. Statutory obligation to regulate
- b. Policy or administrative decision to act, or not act
- c. Failure to disclose or assess
- d. Consumer protection claims

D. Public Trust Doctrine

- a. Generally applies to navigable waters, commerce and fishing

E. Water Law

F. Social Justice

G. Federal Jurisdiction Implications

NM Lawsuits:

James and Linda Cummings, Betty Greenhaw, et al. v. US Forest Service (July 21, 2023 monsoon flood swept cabin in Calf Canyon/Hermits Peak). Albq Journal article (Forest Service sued over loss of life, property from Calf Canyon/Hermits Peak wildfire, by Colleen Heild, 10.23.2023)