

## **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)