

# Litigation Demands for Climate Science

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# Sarewitz and Pielke

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- “It is precisely those engaged in defining the demand function for science who are most likely to benefit from its outcomes.”
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# Mapping Supply and Demand

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- Will help to match science to particular users
  - May enhance usefulness to those identified as users
  - Overall usefulness will demand on the inclusiveness of the supply and demand functions
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# Identify Users Inclusively

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- Identifying stakeholders privileges some uses
  - Some uses may be hard to identify in advance
  - Responding to particular users
    - Makes science more useful to them
    - Does not necessarily achieve best balance
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# Courts as Climate Science Consumers

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- May not be taken into consideration
  - Difficult to anticipate demands
    - Depends on needs of litigants
    - Many different legal theories
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# Potentially Significant Effects

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- Law and other policy
  - Public understanding of climate issues
  - Government, corporate, and individual behavior
  - Climate science
    - Credibility
    - Salience
    - Legitimacy
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# Use of Science in Litigation

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- Will use best available science
  - Battle of the experts
  - Role of uncertainty
  - New information opens new litigation opportunities
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# Massachusetts v. U.S. Environmental Protection Agency

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- Issue:

- Whether the Clean Air Act gives EPA the authority to regulate greenhouse gas emissions from motor vehicles, and, if so, whether EPA should regulate such emissions.
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# Massachusetts v. U.S. Environmental Protection Agency

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- Science needed:
    - General science linking greenhouse gas emission to climate change
    - Likely effects of climate change on public health and welfare
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# Massachusetts v. U.S. Environmental Protection Agency

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- Significance of outcome:
    - Authority of U.S. government to regulate greenhouse gas emissions under current law
    - Whether EPA can and should take action now, or must wait for clearer direction from Congress
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# Friends of the Earth v. Watson

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- Issue:
    - Whether federal agencies must consider climate effects when conducting environmental reviews under the National Environmental Policy Act
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# Friends of the Earth v. Watson

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- Science needed:
    - General understanding of the link between human activities and climate change
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# Friends of the Earth v. Watson

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- Significance of outcome:
    - Makes climate a routine component of environmental reviews
    - Likely to extend to all U.S. federal agencies
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# Connecticut v. American Electric Power Company, Inc.

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- Issue:
    - Whether major power companies constitute a public nuisance under U.S. tort law
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# Connecticut v. American Electric Power Company, Inc.

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- Science needed:
    - Link between power plant emissions and effects on human welfare, including health, economic, and other values
    - Attribution of climate change to specific causes, both natural and human
    - Indication that change in power plant emissions can make a difference
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# Connecticut v. American Electric Power Company, Inc.

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- Significance of outcome:
    - Highlights impacts
    - Establishes responsibility
    - Allocates costs
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# Inuit Circumpolar Conference

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- Issue:
    - Whether the United States has violated the rights of the Inuit people affected by global climate change
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# Inuit Circumpolar Conference

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- Science needed:
    - Link between climate change and observed environmental effects, such as melting of permafrost and sea ice
    - Relative attribution of climate change to specific causes, both natural and human
    - Specific harm suffered by Inuit resulting from climate change
    - Link to actions by the United States
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# Inuit Circumpolar Conference

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- Significance of outcome
    - Links climate change to real human problems
    - Considers ethical issues such as responsibility of nations to people beyond their borders
    - Identification of winners and losers in climate change
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# Conclusions

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- Define users of climate science as broadly as possible
  - Consider the significance of the uses by particular stakeholders
  - Include climate litigation as an important user of climate science
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