

Center for Law, Energy & the Environment (CLEE)

Waiting to Exhale: The Law of Climate Change

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Massachusetts v. Environmental Protection Agency **549 U.S. 497 (2007)**

Key Holdings:

- Plaintiffs (states) have standing to sue
- GHGs are “pollutants” under the Clean Air Act
- USEPA abused its discretion in declining to regulate GHG under the CAA

The Enduring Significance of *Massachusetts v. Environmental Protection Agency*

- For the lower courts
- For Congress
- For the Executive Branch
- For the States
- For the public policy debate over climate change

A Handful of Other, Key Climate Change Precedents

Center for Biological Diversity v. NHTSA **538 F.3d 1172 (9th Cir. 2008)**

- National Environmental Policy Act
- Energy Policy & Conservation Act

Central Valley Chrysler Jeep v. Goldstene **529 F.Supp.2d 1151 (E.D. Cal. 2007)**

- State of California's "Pavley" Regulations
- Preemption Theories Rejected

Green Mountain Chrysler Plymouth v. Crombie **508 F. Supp. 2d 295 (D. Vt. 2007)**

- District Court ruling following multi-week trial
- Industry preemption challenge to Pavley regulations rejected
- Admissibility of scientific evidence under *Daubert*

NRDC v. Kempthorne
506 F. Supp. 2d 322 (E.D. Cal. 2007)
Pacific Coast Federation of
Fishermen's Assn. v. Gutierrez
606 F. Supp. 2d 1122 (E.D. Cal. 2008)

- Climate change & the Endangered Species Act
- Operation of water projects in California Delta

California v. General Motors Corp. 2007 U.S. Dist. LEXIS 68547 (N.D. Cal. 2007)

- Nuisance law & climate change
- Is climate change a non-justiciable question?
- Appeal pending

The panelists:

- David Bookbinder, Sierra Club
- Sam Katzman, Competitive Enterprise Institute
- Ellen Peter, California Air Resources Board
- Robert Wyman, Latham & Watkins

For further information:

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