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一、国际气候司法实践

2005

American Commission on Human Rights

[1]

American Declaration of the Rights and Duties of Man

Inter-

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[1]William C. G. Burns Hari M. Osofsky Adjudicating Climate Change State National and International approaches. Cambridge University Press 2009 p.25.

2004 2006

List of World Heritage in

Danger

Strategy to As-

sist State Parties to Implement Appropriate Management Responses

[1]

International Court of Justice

[2]

## 二、国内气候诉讼

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2009 6 26

Emission Trading System [3]

Border Carbon Adjustment

Environmental Protection Agency, EPA

2007 Massachusetts v. EPA

EPA

EPA

2009 12

EPA

Endangerment Finding

EPA

National Highway Traffic Safety Administration

Corporate Average Fuel Economy, CAFÉ

Cars/light trucks Rule EPA

250 /

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EPA

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Tailoring Rule

100,000 /

[1][2]William C. G. Burns Hari M. Osofsky Adjudicating Climate Change State National and International approaches. Cambridge University Press 2009 p.25, at 334-356.

[3] Regional Greenhouse Gas Initiative

Midwestern Regional Greenhouse Gas Reduction Accord

2012 " " Western Climate Initiative " " Federal Cap

and Trade

2006 2007 2009 2010

EPA 24%

[1]

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a.

Administrative Procedure Act

EPA

Steel Institute U.S. Chamber of Commerce U.S. Iron and  
can Chemistry Council National Association of Manufacturers The Ameri-  
Coalition for Responsible Regulation

EPA EPA " " EPA  
EPA

American Farm Bureau Association v. EPA (D.C. Cir., filed Feb. 2010)  
Alabama v. EPA (D.C. Cir., filed Feb. 2010) American Iron & Steel Institute v. EPA (D.C. Cir., filed Feb.  
2010) Chamber of Commerce v. EPA (D.C. Cir., filed Feb. 2010) EPA  
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American Chemistry Council v. EPA (D.C.  
Cir, Index No. 10-1167, filed July 6, 2010) Chamber of Commerce v. EPA (D.C. Cir., Index No.10-1199,  
filed July 29, 2010) EPA American Gas Association v. EPA (D.C.  
Cir., filed Jan. 2011) EPA  
American Iron & Steel Institute v. EPA (D.C. Cir., filed June 29, 2010) EPA  
Arcadia First v. City of Arcadia (L.A. Co. Sup. Ct. May 2008)

[1]See Growth of U.S. Climate Change Litigation Trends & Consequences [https://www.dbadvisors.com/content/\\_media/US\\_CC\\_Litigation.pdf](https://www.dbadvisors.com/content/_media/US_CC_Litigation.pdf).

Center for Biological Diversity v.  
 EPA (D.C. Cir., filed May 2010) EPA  
 Chamber of Commerce v. EPA (D.C. Cir., filed Sept. 2009) EPA EPA  
 Chase Power Dev., LLC v. EPA (D.C. Cir., filed Feb. 2011)  
 EPA EPA Cleveland Nat. Forest  
 Found. v. San. Diego Association of Governments (Cal.Super. Ct., filed Nov. 2011)

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 " " 2006 A.B. 32

Air Conditioning, Heating and Refrigeration Institute v.  
 City of Albuquerque (D. N.M., Oct. 2008)  
 b.

2007 Massachusetts v. Environmental Protection Agency  
 EPA  
 The Clean Air Act CAA 202 EPA  
 EPA EPA  
 CAA EPA  
 CAA 202

<sup>[2]</sup>  
 American Nurses Assoc. v. EPA (D. D.C., filed Dec. 2008)  
 EPA Appalachian Voices v. Bodman(D.D.C.,  
 filed March 2008) DOE Center  
 Center for Biological Diversity v. EPA (D.C. Cir., filed June 2010) EPA EPA  
 Citizens for Env. Inquiry v. Mich. Dept. of Env. Quality (Mich. Cir. Ct.,  
 filed Jan. 2008) Citizens for Re-  
 sp. and Ethics in Washington v. Council on Env. Quality (D.D.C., filed 2007)  
 Freedom of Information Act

②  
 Public Nui-  
 sance Federal Common Law  
 California v. General Motors Corp.

[1]Ass'n of Irrigated Residents v. United States EPA 423 F.3d 989 9th Cir. 2005 .

[2]Massachusetts v. Environmental Protection Agency 549 U.S. 497 2007

2009

Comer v. Murphy Oil USA

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" Political Question Doctrine

2012 3

[1]

2012 4

Connecticut v. AEP

8 [2]

3

Land Trust

Tennessee Valley Authority

6.5

25%

10%

2.5%<sup>[3]</sup>

Interstate nuisance

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3 #

<sup>[1]</sup> Australian Conservation Foundation v. Latrobe City Council

<sup>[2]</sup>

Greenpeace New Zealand Inc. v. Northland Regional Council and Mighty River Power Limited

<sup>[3]</sup>

### 三、气候诉讼之总结、分析与检讨

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"	"	Marshall	1803	Marbury v. Madison
"	"	"	Marshall	
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Marbury Marshall

Marbury Mar-

Baker v. Carr

Brennan

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<sup>[4]</sup> Baker

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" " Cases " " Controversies

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Standing

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Article III Standing

Article III

Standing

Article III Standing

Article III Standing

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[1]Shawn M. LaTourette Global Climate Change a Political Question In 40 Rutgers L.J. 219.

[2]MacMahon v. Presidential Airways Inc 502 F. 3d 1331 1364 11th Cir2007 .

[3]MacKay v. United States 703 F.2d 464 470 1983 .

[4]Connecticut v. AEP 406 F.Supp.2d 265 S.D.N.Y. 2005 Comer v. Murphy Oil U.S.A 585 F.3d 855 5th Circuit 2009 .

[5] Connecticut v. AEP

[1]

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People of the State of California v. General Motors Corporation and Ors 2007 WL  
2726871 Dimmock v. Secretary of State for Education and  
Skills 2007 EWHC 2288<sup>[2]</sup>

Massachusetts v. Environmental Pro-  
tection Agency EPA  
EPA  
[3]  
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Group v. Department of Energy 260 F.Supp.2d 997 S.D. Cal.2003  
Mid States Coalition for Prog-  
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Center for Biological Diversity v. National Highway Traffic Safety Administration

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" [4]

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Cal. Ct. App. Nov.29 2012 Sierra Club v. County of Tehama Cal. Ct. App. Nov. 30 2012 Cleveland

[1]

[2]Walker v. Minister for Planning 2007 NSWLEC 741 [http //www.lawlink.nsw.gov.au/lecjudgments/2007nswlec.nsf/c45212a2bef99be4ca256736001f37bd/03dbc0a7b81845efca2573a60020290d](http://www.lawlink.nsw.gov.au/lecjudgments/2007nswlec.nsf/c45212a2bef99be4ca256736001f37bd/03dbc0a7b81845efca2573a60020290d) OpenDocument 2013-5-1

[3] " " 2007 6

[4]Center for Biological Diversity v. National Highway Traffic Safety Administration Nos.06-71891 06-72317 slip op. at 14909 9th Cir. Nov. 15 2007



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Gray

v. Minister for Planning

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202

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<sup>[2]</sup>

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1996 1

1997 4

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EPA