

Columbia Law School

## Scholarship Archive

---

Sabin Center for Climate Change Law

Research Centers & Programs

---

2016

### EIS User Case Study: Legal Research and Advocacy

Jessica A. Wentz

Follow this and additional works at: [https://scholarship.law.columbia.edu/sabin\\_climate\\_change](https://scholarship.law.columbia.edu/sabin_climate_change)



Part of the Environmental Law Commons

---



COLUMBIA LAW SCHOOL

---

SABIN CENTER FOR CLIMATE CHANGE LAW

# **EIS User Case Study: Legal Research and Advocacy**

**Jessica Wentz**

Associate Director, Sabin Center for Climate Change Law

**Workshop: Developing an Online Database of EISs (June 16, 2016)**

# Research and Advocacy Goals

- Understand how decision-makers account for climate change in EISs
- Identify common elements, best practices, and problem areas
- Ensure that government agencies are abiding by legal requirements
- Recommendations on how to conduct meaningful analyses

EIA surveys, protocols, comment letters, and other resources available at:

<http://web.law.columbia.edu/climate-change/resources/nepa-and-state-nepa-eis-resource-center/>

# Sabin Center Projects

- Surveys of Climate Change in EISs
- Model Protocols: Accounting for the Effects of Climate Change on Proposed Actions
- Paper: Upstream and Downstream GHG Emissions from Fossil Fuel Production and Transportation
- EIS Comment Letters

EIA surveys, protocols, comment letters, and other resources available at:

<http://web.law.columbia.edu/climate-change/resources/nepa-and-state-nepa-eis-resource-center/>

# EIS Survey, 2012-2014

- 238 Federal EISs prepared from July 2012 – December 2014
- Tracked ten considerations related to GHG emissions and climate change adaptation
- Difficult to find EISs on agency websites
- Relied heavily on EPA EIS Database

EIA surveys, protocols, comment letters, and other resources available at:

<http://web.law.columbia.edu/climate-change/resources/nepa-and-state-nepa-eis-resource-center/>

# Utility of EPA Database

- Finding EISs online
  - EPA online database is reliable location for federal EISs published since Oct. 2012
- Sorting and Filtering EISs
  - EPA database allows EISs to be filtered by agency, date, state, or title
- Searching for Information within EISs
  - Must download EIS from EPA database; no search function for multiple EISs

EIA surveys, protocols, comment letters, and other resources available at:

<http://web.law.columbia.edu/climate-change/resources/nepa-and-state-nepa-eis-resource-center/>

# Designing an Online EIS Database: Key Features

- Sort and filter by project type
- Search text across multiple documents
- Produce list of search results that includes title, agency, and text excerpts
- Broader scope than EPA database: older EISs, state and local EISs

**VIEW:** <<

Overview	15
<b>Cases</b>	<b>83</b>
Key Numbers	10
Trial Court Orders	4
Statutes	50
Regulations	50
Administrative Decisions & Guidance	7,779
Practical Law	37
Secondary Sources	642
Forms	0
Briefs	89
Trial Court Documents	140
Expert Materials	6,355
Jury Verdicts & Settlements	7
Proposed & Enacted Legislation	193
Proposed & Adopted Regulations	756
Arbitration Materials	83
All Results	16,268

**NARROW:**

Select Multiple Filters

Search within results

Q

**Jurisdiction**

Federal 83

## Cases (83)

WestSearch includes documents with concepts related to your terms for more thorough research. To modify these results to just documents that include your precise terms, [click here](#).

1 - 20 Sort by: Relevance Set Default

Select all items | No items selected

**1. Center for Biological Diversity v. National Highway Traffic Safety Admin.**  
United States Court of Appeals, Ninth Circuit. | August 18, 2008 | 538 F.3d 1172 | 2008 WL 3822966

**ENVIRONMENTAL LAW** - Clean Air. **Environmental assessment** prepared in connection with rule setting fuel economy standards for light trucks was deficient.

...Cumulative impacts analysis in **environmental assessment** (EA) prepared by National Highway Traffic Safety Administration (NHTSA) in connection with rule setting corporate average fuel economy (CAFE) standards for light trucks failed to adequately assess cumulative impacts of greenhouse gas emissions on **climate change** and environment as required by NEPA, even though EA quantified expected amount of carbon dioxide emitted from light trucks during six year period, and **climate change** was largely global phenomenon that included actions that were outside of NHTSA's control, where new CAFE standards would not entirely offset projected effect of increases in number of light trucks, and EA did not evaluate incremental impact that those emissions would have on **climate**...

...In sum, the EPCA does not limit NHTSA's duty under NEPA to **assess** the **environmental** impacts, including the impact on **climate change**, of its rule....

**2. Wild Earth Guardians v. United States Forest Service**

United States District Court, D. Wyoming. | August 17, 2015 | 120 F.Supp.3d 1237 | 2015 WL 4886082

**ENVIRONMENTAL LAW** - Impact Statements. Final **environmental** impact statement took hard look at impacts of coal leasing on **climate change** as required by NEPA.

...Bureau of Land Management (BLM) took hard look at impacts of coal leasing on **climate change**, as required by NEPA, in issuing final environmental impact statement (FEIS) approving coal leases that would expand coal mines in area partially within national grassland, where FEIS acknowledged consensus in international community that **climate change** was occurring, adequately disclosed effects of greenhouse gas (GHG) emissions, explored and discussed impacts of global **climate change**, attempted to quantify GHG emissions and cumulative impacts of GHGs and effects of coal combustion, but indicated impacts of coal leases could not be reliably calculated with precision as to GHG emissions and **climate**...

...Various **climate change** models for predicting or projecting future **climate change** are discussed, resulting in some consistency in predictions of climate warming under GHG increases....