



Columbia **Law School** | COLUMBIA CLIMATE SCHOOL
SABIN CENTER FOR CLIMATE CHANGE LAW

Global Climate Litigation

April 26, 2022

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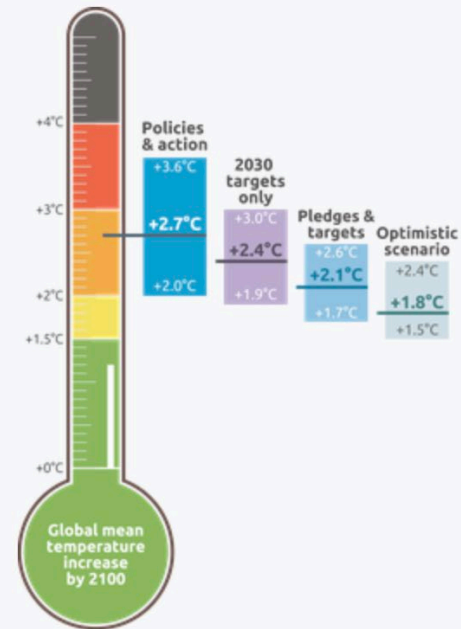
Sabin Center for Climate Change Law

Overview

- **Background & data source**
- The state of climate litigation
- Issues in climate litigation
- Future Directions
- Cases Examples



Carbon budget



TRACKING GLOBAL CLIMATE ACTION SINCE 2009

Assessment of current NDCs



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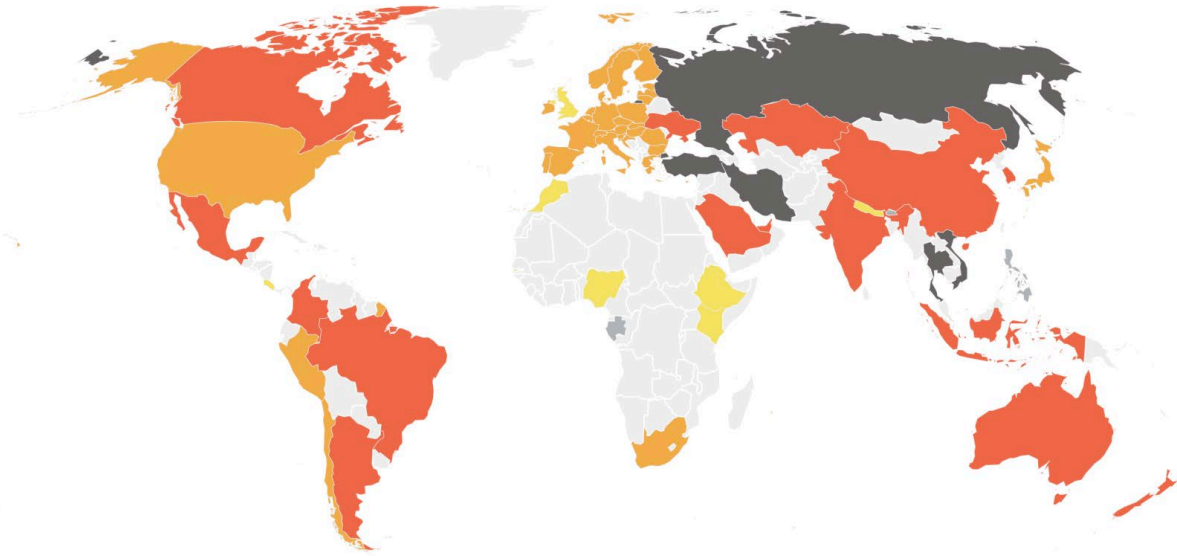
Methodology ▾

Publications ▾

Blog

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Data portal



Assessments of:



AVIATION

[Find out more](#)



SHIPPING

[Find out more](#)

The maps displayed are for reference only.

LAST UPDATE: February 2022

CRITICALLY INSUFFICIENT

HIGHLY INSUFFICIENT

INSUFFICIENT

ALMOST SUFFICIENT

1.5°C PARIS AGREEMENT
COMPATIBLE

What is climate litigation?

Material issue of fact or law

Relationship with the Paris Agreement

Core v. peripheral cases

Advocacy and regulatory strategy (puts pressure on governments and companies)

Strategic climate litigation

Sabin Center's Climate Litigation Database

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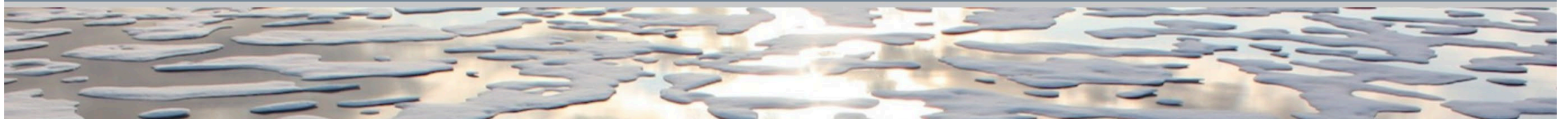
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Climate Change Litigation Databases

**U.S. CLIMATE CHANGE
LITIGATION**

**GLOBAL CLIMATE CHANGE
LITIGATION**

This site provides two databases of climate change caselaw. The Global database includes all cases except those in the U.S. Cases in the databases are organized by type of claim and are searchable. For many cases, links are available to decisions, complaints, and other case documents.



Methodology:

- 70 scholars
- 56 jurisdictions or international / regional adjudicatory bodies



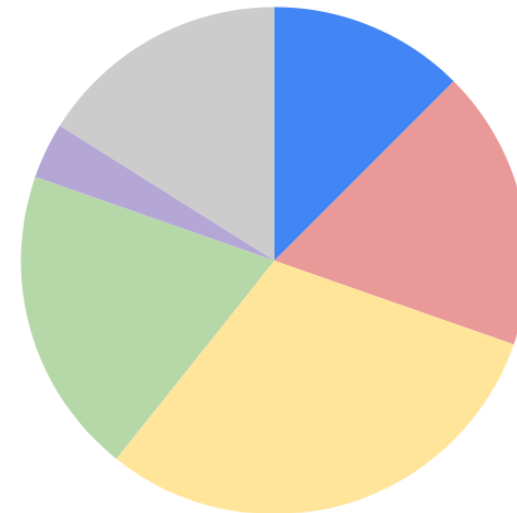
The Sabin Center's Peer Review Network of Climate Litigation, includes practitioners and scholars from around the world who can review the Sabin Center's [Global Climate Litigation database](#) and ensure that it is comprehensive and up to date. This network will also connect like-minded scholars and engage in conversations on legal arguments adopted in climate litigation. Below are our current contributors to the [Global Climate Litigation database](#).

If you would like to join the network and represent one of the jurisdictions not yet covered by the rapporteurs, please fill out this [form](#). For a list of the countries not yet covered by rapporteurs, please visit this [page](#).

Check out upcoming events as part of the Network's monthly webinar series [here](#).

We also publish monthly updates that highlight changes in our database. They are available [here](#).

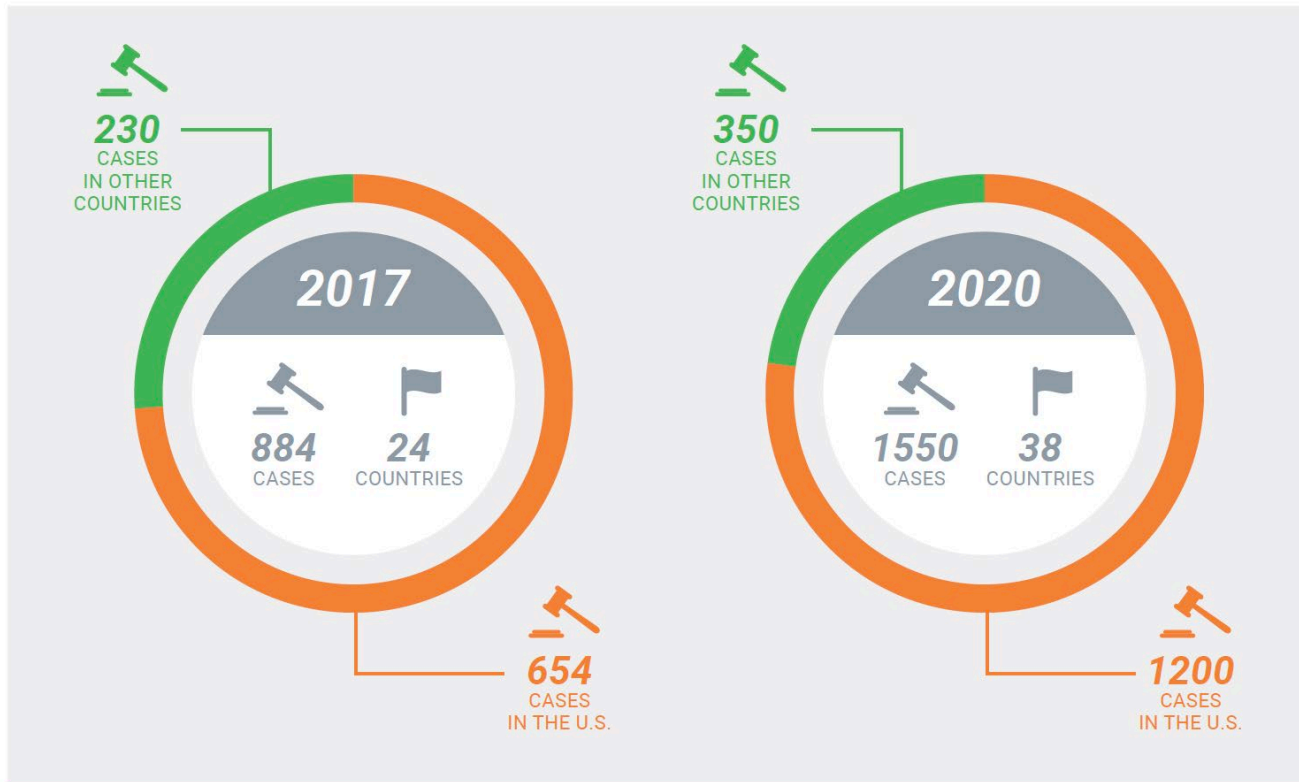
Peer Review Network of Scholars



● Africa ● Americas ● Europe ● Asia & Pacific ● Middle East ● International / Regional

Number of cases

Number of cases



Note: The data is current as of 1 July 2020.

Update as of Apr. 2022:

- Number of cases: **1911**
- Number of countries: **59**
(including international courts and tribunals)
- Cases in the U.S.: **1438**

Jurisdiction	Number of Cases*
United States (75%)	1438
Australia	123
United Kingdom	76
European Union	58
Canada	26
New Zealand	25
Germany	25
France	20
Brazil	17
Spain	15
Mexico	12
UNFCCC	11
Indonesia	11
Argentina	10
International Centre for Settlement of Investment Disputes	9
Poland	9
European Court of Human Rights	8
South Africa	8
Colombia	7
OECD	7
Inter-American Court/Commission	5
Italy	5

*These numbers are current through April 2022. It is possible that some additional cases have not yet come to our attention.

Japan	5
Pakistan	5
Chile	4
India	4
Ireland	4
Netherlands	4
Philippines	3
Ecuador	3
Guyana	3
International Court of Justice, Austria, Belgium, Czech Republic, Norway, South Korea, Stockholm Chamber of Commerce, Switzerland, Ukraine, UN Human Rights Committee	2 each
Denmark, Estonia, European Comm. Social Rights, International Criminal Court, Kenya, Luxembourg, Nepal, Nigeria, Perm. Court of Arbitration, Papua New Guinea, Peru, Slovenia, Sweden, Taiwan, Uganda, UN Comm. on Rights of the Child, UN Secretary General, UN Special Rapporteurs	1 each
TOTAL	1911

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IPCC Reports

- Stressed the need to adopt ambitious measures.
- First mention of **climate litigation** as influencing the outcome and ambition of climate governance (medium confidence).
- “Important arena for actors to confront and interact over how climate change should be governed outside the formal climate policy processes.”

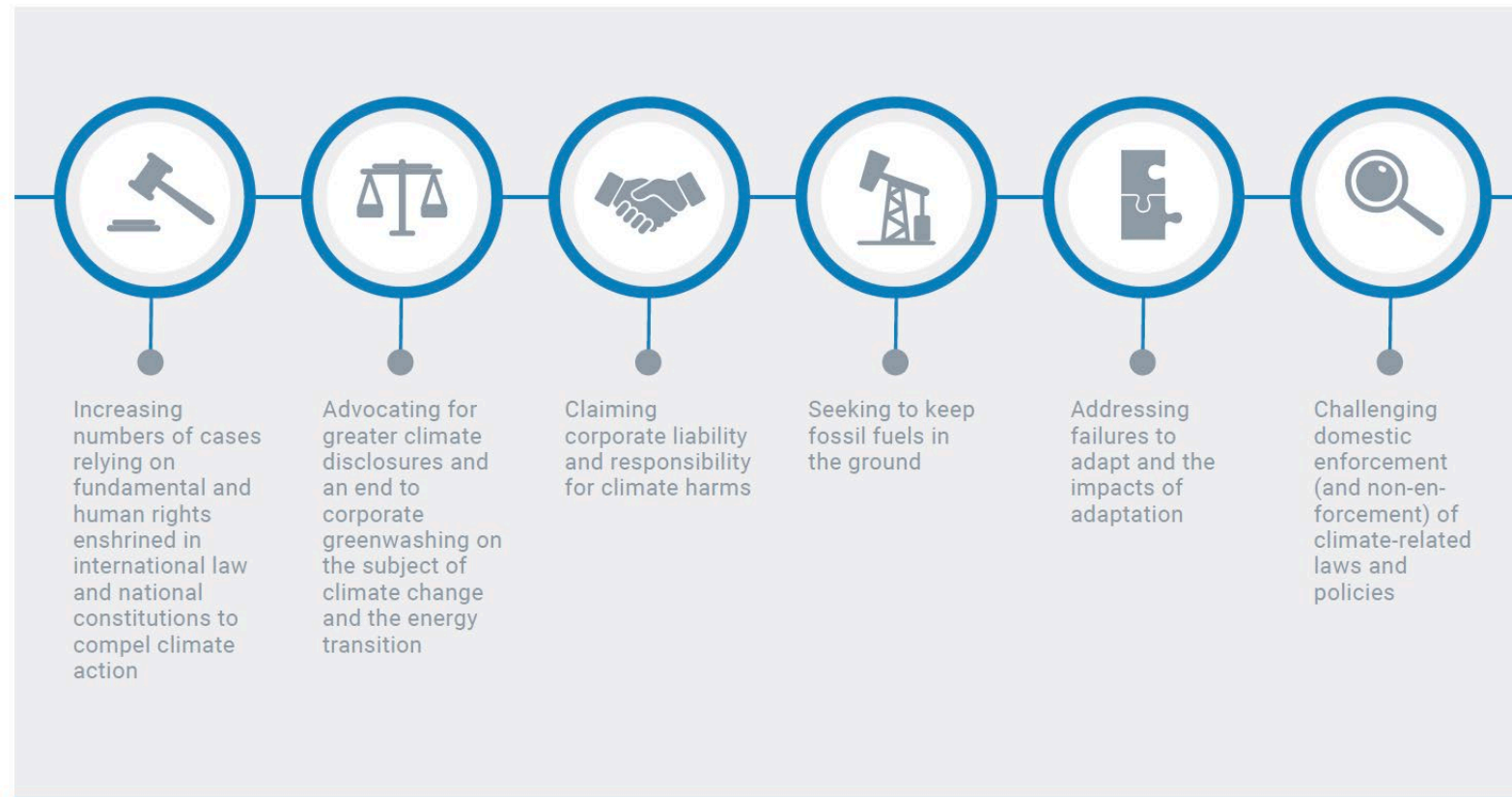


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Key Trends



Changes in the 2022 Update

Increasing use of international adjudicative bodies as a current trend

Youth-based claims and future generations

Litigation in the Global South as current trend (throughout the report)

Who is
bringing
those
cases?

NGOs

Citizens (youth, senior
citizens, Indigenous peoples)

Potentially: governments

Types of cases

Against governments:

- Accountability for reducing GHG emissions (mitigation claims)
- Accountability for protecting from the impacts of climate change (adaptation claims)
- Challenge carbon-emitting projects which significantly contribute to climate change

Against corporations:

- Contribution to climate change
- Investments & financial support to fossil fuel industry
- Information (or lack thereof)

Trends: Climate Rights

- International and constitutional rights
- International fora
- Domestic fora
- Youth and future generations
- In Europe: several cases relying on Article 2 and 8 of the European Convention on Human Rights (ECHR)
- Global South: constitutional right to a healthy environment
- Rights of nature
- International recognition: HRC + UNGA
- Regional recognition: Escazú Agreement + Council of Europe



Right to a healthy environment (cases with decisions)

Leghari v. Federation of Pakistan (Pakistan)

Future Generations v. Ministry of the Environment and Others (Colombia)

Shrestha v. Office of the Prime Minister et al. (Nepal)

EarthLife Africa Johannesburg v. Minister of Environmental Affairs (South Africa)

ENVironnement JEUnesse v. Canada (Canada)

Foster v. Ecology (US)

Friends of the Irish Environment v. Fingal County Council (Ireland)

Friends of the Irish Environment v. Ireland (Ireland)

Salamanca Mancera et al. v. Colombia (Colombia)

Greenpeace Mexico v. Ministry of Energy and Others (Mexico)

Nature and Youth and Greenpeace Nordic v. the Government of Norway (Norway)

In re Court on its own motion v. State of Himachal Pradesh and others (India)

Juliana v. United States (US)

Neubauer v. Germany (Germany)

Notre Affaire à Tous and Others v. France (France)

Notre Affaire à Tous and Others v. Total (France)

Pandey v. India (India)

Philippi Horticultural Area Food & Farming Campaign, et al. v. MEC for Local Government, Environmental Affairs and Development Planning: Western Cape, et al. (South Africa)

Push Sverige and Fältbiologerna v. Sweden (Sweden)

Ruling on Modification to Ethanol Fuel Rule (Mexico)

Sheikh Asim Farooq v. Federation of Pakistan (Pakistan)

Verein Klimaseniorinnen Schweiz et al. v. the Federal Council et al. (Switzerland)

Neubauer Case

2020 claim brought by a group of German youth

Argument

- Federal Climate Protection Act's target of reducing GHGs by 55% until 2030 from 1990 levels was insufficient.
- Violated constitutional human rights: fundamental right to a future consistent with human dignity, right to life and physical integrity (responsibility to future generations).
- Obligation to limit global temperature rise well below 2°C.
- Allowing climate impacts that violate fundamental rights.

Claim

- Need to reduce GHG emissions by 70% from 1990 levels by 2030.

Neubauer Case

2021 decision from the German Constitutional Court

Findings

- Constitution obliges legislature to protect the climate, aim to achieve climate neutrality, environmental burdens spread across generations.
- Fundamental rights protect against GHG reductions burdens being offloaded onto the future.
- Proportionate distribution of budget between current and future generations.

Effect

- Stroke down parts of the law as incompatible with fundamental rights for failing to set sufficient provisions for emissions cuts beyond 2030.
- Ordered legislature to set clear provisions for reduction targets from 2031 onward.

Neubauer Case

Effects of the decision

Immediate effects

- Bill approving a revised climate law.
- Minimum reduction of 65% in GHGs from 1990 levels by 2030.
- Carbon neutrality in 2045.

Steinmetz et al. v. Germany

- Youth brought new claim at the constitutional court.
- IPCC: 1.5°C may be surpassed in 10 years.
- Argument that amended climate law is insufficient.
- Reduction paths exceed budget.
- No coordinated efforts between states.

Trends: Use of International Adjudicatory Bodies

CRC: decision in *Saachi v. Argentina*

- Recognizing the possibility of extraterritorial jurisdiction and violation of children's rights as a result of carbon emissions was reasonably foreseeable.

HRC: Teitiota petition

- Environmental degradation and climate change are serious threats to the ability of present and future generations to enjoy the right to life.
- Risk of a country becoming submerged: conditions of life may be incompatible with the right to life with dignity.

HRC: Torres Strait Islanders petition (pending)

Petitions before UN Special procedures (pending)

ICC: The Planet v. Bolsonaro (pending)

ICJ/ITLOS advisory opinions (potential)

Trends: Climate Rights

- International and constitutional rights
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- Domestic fora
- Youth and future generations
- Rights of nature



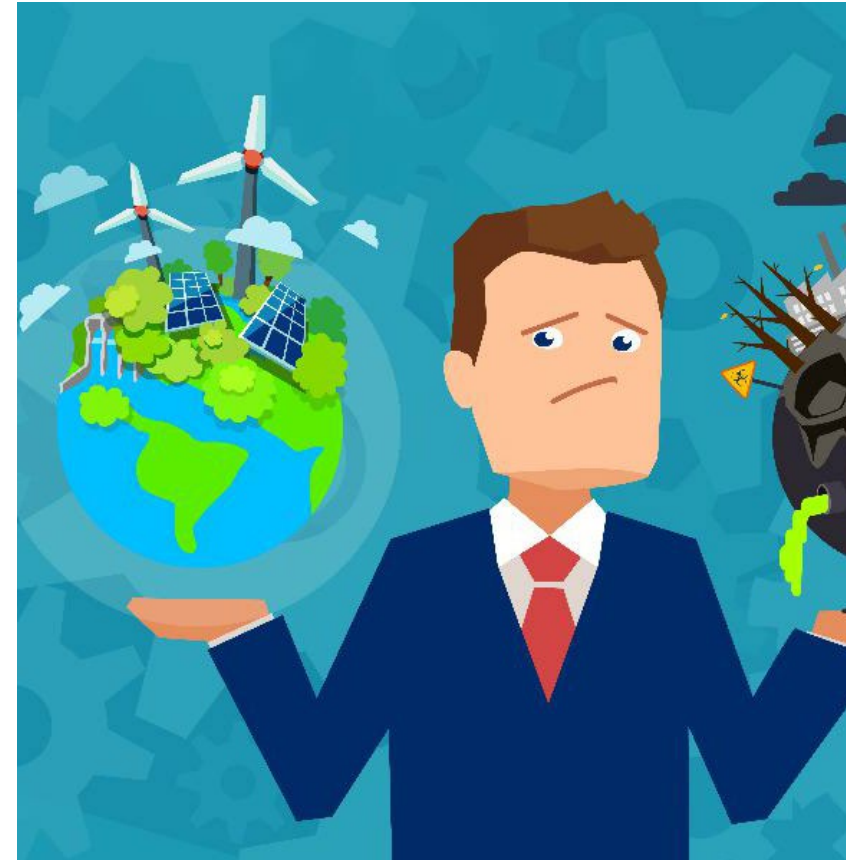
Intergenerational equity



DONNELLY

Just transition

- Human rights impacts on communities affected by decarbonization strategies
- Company Workers Union of Maritima & Commercial Somarco Limited and Others v. Ministry of Energy
 - Union workers questioned the decarbonization plan
 - Fundamental rights of equality, right to participate
 - 2021: Supreme Court: lack of consultation violated government's obligation to ensure a just transition



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Important Links

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-  www.climatecasechart.com
-  blogs.law.columbia.edu/climatechange/
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-  twitter.com/toniatigre