

# Young Montana residents bring climate change case to court for first time ever

Plaintiffs say state violated constitutional guarantee to a ‘clean and healthful environment’ for ‘present and future generations’

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**Dharna Noor** in *Helena, Montana*

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- Plaintiffs say that the state’s energy policy and part of the Montana Environmental Policy Act are unconstitutional. Photograph: Robin Loznak/Zuma Press Wire/Shutterstock
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A groundbreaking climate change trial will begin on Monday in a courtroom in Montana’s capital city, involving 16 young residents who allege state officials violated their constitutional rights to a healthy environment.

Filed in March 2020, the lawsuit, *Held v Montana*, will mark the first-ever constitutional climate trial in US history.



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“We’re asking the government and the courts to do their job and protect us, along with the rest of Montana’s citizens and our incredible home state; this case is one big opportunity for the state to become a leader in preserving a safe, beautiful and prosperous future for Montana,” Grace Gibson-Snyder, a 19-year-old plaintiff, said.

Advocates hope the trial could set precedent for similar cases to move forward and that it could inspire legal action in other states.

The state’s constitution has since 1972 guaranteed that the “state and each person shall maintain and improve a clean and healthful environment in Montana for present and future generations”. By propping up fossil fuels, the plaintiffs argue, the state has failed to uphold this responsibility.

“I’m thrilled about this unique opportunity to lay out the whole story of how the government promotes fossil fuel development, how those policies exacerbate climate change, and how that in turn harms me and the other youth plaintiffs,” said Gibson-Snyder.

Jim Nelson, a retired Montana supreme court justice, says Montana has “never, never” fulfilled its duty to maintain a healthy environment. Just this session, he said, the state’s legislature enacted two dozen bills that will “adversely affect the environment”.

“The legislature basically thumbed its nose at these constitutional provisions,” Nelson said.

A favorable judgment, he said, could “force the legislature and public officials in the state administration to actually do what the constitution requires”.

The two-week trial in Helena, Montana, is scheduled to run from 12 to 23 June. A judge is expected to issue a ruling sometime after its conclusion.

“Given the urgency of the climate crisis, we would hope that she would make a decision fairly promptly, but we totally understand that she’s going to have a whole lot of evidence and a whole lot of testimony to consider as well as to research,” said Philip Gregory, an attorney for the plaintiffs. “So it could be a matter of weeks or it could be a matter of months.”

The court case specifically alleges that two Montana statutes are unconstitutional: the state energy policy, which directs statewide energy production and use, and a part of the Montana Environmental Policy Act which prevents the state from considering how its energy economy may contribute to climate change.

Earlier this year, state lawmakers repealed the state energy policy in what attorneys on the case **assert was a thinly veiled attempt** to avert a trial. But in May, Judge Kathy Seeley of the first judicial district court, who is scheduled to hear the case, **rejected** the state’s bid to throw out the suit, allowing the trial to proceed.

“The judge saying the case can go to trial is always a win,” said Gregory, adding that he felt “very excited” and “honored” about the opportunity for the judge to hear the case.

Last week, the state's supreme court rebuffed a **last-ditch attempt** by the state attorney general to delay the trial, clearing the path for it to open on Monday as planned.

“The very fact that we are going to trial is empowering, because it means that the courts are willing to hold the government accountable,” said Gibson-Snyder.

Held v Montana follows the highly publicized 2015 Juliana v United States in which 21 young people sued the US government for violating their constitutional rights to life, liberty and property by enacting pro-fossil fuel policies that drove climate change. Last week, a US district court ruled in favor of the youth plaintiffs, allowing that their claims can be decided at trial in open court.

Both the federal and Montana suits were filed by the non-profit law firm Our Children's Trust. Litigation based on state constitutional rights, brought by the same firm, is currently pending in **four other states**. One of those cases, brought by Hawaii youth plaintiffs, is set to go to trial, possibly as soon as this fall.