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For inquiries or interview requests, please contact:

Phil Gregory	605- 697-6000	pgregory@cpmlegal.com
Julia Olson	415-786-4825	julia@ourchildrenstrust.org
Victoria Loorz	805-200-8747	victoria@imatteryouth.org

Youth Appeal Decision in Landmark Federal Constitutional Litigation Concerning Climate Change

Youth Demand U.S. Court of Appeals for the District of Columbia Circuit

Order a Comprehensive Climate Recovery Plan Based on the Constitution and the Public Trust Doctrine

“What we need in this fight are citizens who will stand up, and speak up,
and compel us to do what this moment demands.”

-President Barack Obama, June 25, 2013

Washington, D.C. – Today, youth plaintiffs took their lawsuit to the U.S. Court of Appeals for the D.C. Circuit, demanding the appeals court issue a decision ordering the Obama Administration to immediately implement a comprehensive Climate Recovery Plan. The youth are appealing the district court’s dismissal of their “Atmospheric Trust” case, continuing their fight to protect their climate and their fundamental constitutional rights as young U.S. citizens. “The Obama Administration has failed to develop, let alone implement, a climate plan that will actually protect our generation,” said Alec Loorz, founder of Kids vs Global Warming, in announcing the filing of the appeal. “The youth of America are forced to look to the courts to protect our constitutional right to clean air.”

Two years ago, as part of the TRUST Campaign, five individual youth plaintiffs and two non-profit organizations, representing thousands of youth, sought immediate court intervention to compel U.S. government action on climate change. Atmospheric Trust Litigation (“ATL”) is based on a government’s obligation to protect the rights of children and future generations. The lawsuits request the court require the Obama Administration to immediately develop and implement a comprehensive Climate Recovery Plan based on undisputed scientific evidence. Numerous internationally respected scientists and legal scholars have submitted declarations in support of this legal action.

Plaintiffs’ appeal comes on the heels of President Obama’s speech on June 25, 2013, where the President detailed an inadequate national plan to address climate change. Many of the points raised in the President’s speech were taken directly from the children’s legal complaint, filed over two years ago. Mirroring the youth’s ATL case, Obama emphasized the need to protect “our posterity,” an open reference to the preamble of the U.S. Constitution. Following the lead of these youth plaintiffs, the President repeatedly noted the need to act on climate change for the benefit of current and future generations, and even asked citizens to compel governments to do what this movement demands. Noting that our founders envisioned government officials not only as “custodians of the present” but also as “caretakers of the future,” President Obama said that our children and our grandchildren will one day ask us if we did “all that we could when we had the chance to deal with this problem and leave them a cleaner, safer, more stable world?”

As lead plaintiff Alec Lorz noted, "While President Obama has adopted the language in our lawsuit, the President's plan lacks any specifics based on scientific standards. For example, he fails to define the emission reductions urgently needed to preserve our climate system and protect my generation and those to follow. At best, the measures he outlines would reduce national emissions only 17% by the end of the decade. All the major scientists agree: that reduction is not enough to address the climate crisis we face today. We are confident that a favorable decision in the appellate court will give the Executive branch a tool both to help implement the President's Climate Action Plan, and to strengthen it. A strong plan will require our nation to reduce our energy use and carbon emissions at the rate scientists say is necessary to preserve the planet for future generations."

Phil Gregory, one of the attorneys for the youth plaintiffs, stated: "Let's be candid here. Over the past decade, the youth of America have been pressuring Congress and the President to prioritize a climate recovery plan to protect their future and protect generations to come. But because children do not vote, do not make significant campaign contributions, or do not establish PACs, their voices are not heard. America's youth believe they need to turn to the courts to require the Obama Administration to do something bold and necessary. The President may be able to ignore our children's call for a real plan, but he can't ignore a court order."

The serious legal questions raised in this appeal are whether the U.S. Constitution protects citizens' rights to protection of land, air, and water by their government for posterity. The case will be briefed this year and likely argued in early 2014. Many legal scholars, and even the federal judge who dismissed the case, have said that this case raises fundamental questions about the nature of our democracy and our Constitution.

As relief, the youth seek a comprehensive Climate Recovery Plan based on nationally-recognized science, including quantifiable emission reduction targets that can guide federal decision-making. The action seeks to reduce our Nation's energy use and carbon emissions at the rate scientists say is necessary to preserve the planet for future generations. The youth's lawsuit also demands a court order to ensure the comprehensive Climate Recovery Plan is fully developed and implemented.

James Hansen, the former head of NASA's Goddard Institute for Space Studies and one of the world's foremost climatologists, said: "President Obama has said he will protect future generations, but until our government pays attention to the science of how to restore the climate system through concrete emissions reductions on a time scale that matters, he will fail our posterity. This is why a judicially-enforced plan to reduce emissions, which the youth in the Federal Atmospheric Trust Litigation case seek, remains necessary."

Justin Gillis, in a front-page analysis for the [New York Times](#) on June 26, 2013, says the President's recent plan "will set off legal and political battles that will last years." Gillis goes on to write that "the main thing" the President announced was that he had "order[ed]" the EPA "to devise an emissions control plan, with the first draft due in a year." Gillis says "experts" believe that, in reality, the President "will be lucky to get a final plan in place by the time he leaves office."

In echoing the New York Times analysis, Alec Lorz stated, "We need a court to issue an order in our litigation to preempt the delay resulting from the President's plan. If Mr. Gillis and his 'experts' are correct, our country won't have a plan in place by 2016. Scientists agree: that date is too late."

The position of the youth plaintiffs has been supported by more than twenty prominent environmental law scholars from across the country and has a broad base of international support. Opposing the lawsuit are fossil fuel industry defendant-intervenors who said that, if the youth win, they will be forced to significantly reduce their greenhouse gas emissions.

In announcing his national climate change plan, President Obama said he is ready to “enlist” the younger generation’s “help in keeping the United States of America a leader – a global leader – in the fight against climate change.” The youth plaintiffs, by and through ATL, are demonstrating that not only are they at the forefront of this fight, they are already working through the courts to get a Climate Recovery Plan in place. Numerous legal scholars, as well as a global coalition of attorneys, law students, prestigious climate scientists, filmmakers, and most importantly youth will continue the litigation to compel state and federal governments to prepare and implement scientifically viable Climate Recovery Plans that ensure a safe planet for today’s children and future generations.

To learn more about the plaintiffs in this case and the international TRUST Campaign, visit: <http://ourchildrenstrust.org>, where you can also watch the 10-part documentary series: *Stories of TRUST: Calling for Climate Recovery*, including the newest film *Climate of TRUST*.

Our Children's Trust is a nonprofit advocating for urgent emissions reductions on behalf of youth and future generations, who have the most to lose. OCT is spearheading the international human rights and environmental TRUST Campaign to compel governments to safeguard the atmosphere as a "public trust" resource. We use law, film, and media to elevate their compelling voices. Our ultimate goal is for governments to adopt and implement enforceable science-based Climate Recovery Plans with annual emissions reductions to return to 350 ppm. www.OurChildrensTrust.org/

iMatter Campaign is a youth-led campaign of the nonprofit group, Kids vs Global Warming, that is focused on mobilizing and empowering youth to lead the way to a sustainable and just world. We are teens and moms and young activists committed to raising the voices of the youngest generation to issue a wake-up call to live, lead and govern as if our future matters. www.imatteryouth.org/

WITNESS is the global pioneer in the use of video to promote human rights. We empower people to transform personal stories of abuse into powerful tools for justice, promoting public engagement and policy change. To view *Stories of TRUST: Calling for Climate Recovery* told by our youth plaintiffs, go to www.witness.org/campaigns/all-campaigns/imatter

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