



FOR IMMEDIATE RELEASE

April 22, 2013

For inquiries or interview requests, please contact:

Julia Olson, Our Children's Trust, 415-786-4825, julia@ourchildrenstrust.org

Adam Abrams, Texas Environmental Law Center, 713-444-2252, adamrabrams@gmail.com

On Earth Day Youth Fight For Their Legal Right To A Healthy Atmosphere

Youth Plaintiffs Respond To TCEQ's Request To Throw Out A Texas Court Decision That The Atmosphere Is A Public Trust Resource

Austin, TX – On Earth Day, three youth plaintiffs filed a brief in response to the Texas Commission on Environmental Quality's (TCEQ) argument that the district court did not have jurisdiction to hear the their claims in a climate change lawsuit filed in 2011. Adam Abrams, with the Texas Environmental Law Center, filed the lawsuit, on behalf of the young plaintiffs, against the TCEQ in state court, seeking judicial review of the TCEQ's denial of the plaintiffs' petition for rulemaking to reduce the state's greenhouse gas emissions.

The lawsuit is part of the TRUST Campaign, legal effort in 50 states, the District of Columbia, and against the federal government on behalf of youth to compel reductions of CO₂ emissions that will counter the negative impacts of climate change. The case relies upon the long established principle of the public trust doctrine, which requires all branches of government to protect and maintain certain shared resources fundamental for human health and survival.

Last July, Judge Gisela Triana issued a written decision finding under common law and the state constitution that "the public trust doctrine includes all natural resources of the State including the air and atmosphere." While the court deferred to the TCEQ's decision to deny the plaintiffs' petition for rulemaking while other ongoing litigation over greenhouse gas regulation ensues, the Judge concluded that the TCEQ's determination that the public trust doctrine is exclusively limited to the conversation of water, was legally invalid.

Texas, however, has repeatedly tried to evade any obligation to limit or regulate greenhouse gas emissions in the state. In another recent case over greenhouse gas emissions, the TCEQ admits that, "Carbon dioxide remains unregulated under the Texas Clean Air Act. Indeed, if EPA's GHG regulatory regime is overturned, either by court order or administrative action, CO₂ will not be regulated at all in Texas."¹ The youth plaintiffs are trying to change that and uphold their right to seek judicial review when the TCEQ fails to use its authority to regulate greenhouse gas emissions and abate climate change.

Texas is already experiencing the full gamut of early climate change impacts including drought, water shortages, agricultural losses, wildfires, sea-level rise, flooding, and severe storms, all of which will worsen as temperatures rise. Indeed, on March 22, 2013, Governor Perry issued another emergency

¹ See pg. 6 of Appellant's Response to Appellee's Motion to Dismiss in *TCEQ v. Public Citizen*, No. 03-10-00296-CV (Tex. App.-Austin 2013).

disaster proclamation that “exceptional drought conditions pose a threat of imminent disaster in [183] counties in the State of Texas.”

The Appeals Court will decide in this case whether these youth plaintiffs had the right to take their case to court and whether the court, not TCEQ, is the proper government body to interpret the law.

Texas Environmental Law Center was created to advocate against environmental degradation, promote sustainability, and encourage the use of sound science in making environmental decisions. <http://www.texaselc.org/>

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.imattercampaign.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. In partnership with the iMatter TRUST Campaign we seek to bring visibility to the challenges our youth already face because of the changing climate and call for a massive assault on fossil fuel emissions. Without an all-out assault, effects will range from drought to disease; from food shortages to tainted water supplies; from the loss of homes due to floods, erosion and fire to massive relocations. The human rights challenge is most succinctly summarized by Mary Robinson, “Climate change will, in short, have immense human consequences.” WITNESS partnered on this campaign in hopes that predictions will not become realities. To view the stories from our youth included in the TRUST Series go to www.witness.org/campaigns/all-campaigns/imatter or www.ourchildrenstrust.org.

###