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ARIZONA COURT OF APPEALS RULES IN CLIMATE CASE

COURT REJECTS GOVERNOR'S ARGUMENT THAT LEGISLATURE CAN DEFEAT THE PUBLIC TRUST, ASSUMES WITHOUT DECIDING THAT ATMOSPHERE IS A PUBLIC TRUST ASSET, AND RULES THAT THE PLAINTIFF DID NOT ASSERT ADEQUATE GROUNDS FOR COURT ACTION

Phoenix, AZ – In one of the Western states most severely affected by climate change, the Arizona Court of Appeals has just ruled that the atmosphere may be an asset of the public trust, but that Jaime Lynn Butler, a 12-year old native of the Navajo Nation, did not assert adequate grounds for it to decide whether Governor Jan Brewer and other state officials violated the Public Trust Doctrine in failing to control greenhouse gas emissions in Arizona.

Before the court were the undisputed facts that between 1990 and 2005, Arizona's net greenhouse gas emissions increased by nearly 56%. In 2006, Arizona officials projected that between 1990 and 2020, the state's greenhouse gas emissions will increase by 148%, the highest rate of increase among all 50 states, and almost five times higher than other states in the West.

Addressing Butler's arguments that Governor Brewer and other officials have failed to protect her rights to sufficient water and moderate temperatures, the court rejected Brewer's argument that the Arizona Legislature can deprive Arizona courts of their authority to declare what is an asset of the Public Trust Doctrine, and what can be done about it. The court also rejected Brewer's argument that the Doctrine is limited to "water-related" issues.

Still, the appeals court ruled that it was appropriate to dismiss Butler's case, because she asserted that the State has failed to protect her rights, instead of asserting that the State has acted affirmatively to violate her rights. In her papers, Butler asserted that Governor Brewer ordered state officials to rescind Arizona's Clean Car Standards, as an example of state actions, but the repeal of those rules was not final when her complaint was considered by the trial court, and was not a part of the record before the appeals court.

"Again today it is dry and hot, and we have not had much snow," said Jaime Lynn, who lives near Flagstaff. "I hope this spring we will have more snow, and it will be wetter."

Pete Frost, who represented Butler, said: “We are encouraged that the court rejected the Governor’s main legal defenses as she aggressively moves Arizona backwards in the face of climate change and we will determine the next step to move forward to protect Jaime’s and other children’s essential rights as the beneficiaries of the public trust.”

Jaime Lynn filed her lawsuit because of the changes she has witnessed in Arizona, including having to sell the family’s horse, due to prolonged drought that has driven up the cost of feed. She also heard stories from her grandfather, James Peshlaki, about what the Navajo Nation used to be like. Her grandfather said: “In the past, we could walk across the desert by going from spring to spring. Now, with the changing climate, our springs are running dry.”

In Trust Arizona, <http://ourchildrenstrust.org/video/95/trust-arizona>, a documentary film from the award-winning series *Stories of TRUST: Calling for Climate Recovery*, Jaime Lynn, a member of Kids vs. Global Warming’s iMatter Campaign, asks judges to “think about their children or their children’s children and about how this decision is going to affect them.”

According to climate scientist Dr. James Hansen, “the science is crystal clear—we must rapidly reduce fossil fuel carbon dioxide emissions if we are to have a chance of protecting Earth’s natural systems for these young people.”

Note to Media: Recent press coverage of other Atmospheric Trust Litigation by Youth can be found here:

<http://ourchildrenstrust.org/page/247/media-coverage-youth-atmospheric-trust-legal-actions-july-2-2012-current> The Iowa opinion can be found here:

http://www.iowacourts.gov/court_of_appeals/Recent_Opinions/20130313/2-1005.pdf

Western Environmental Law Center is a nonprofit public interest law firm that works to protect and restore western wildlands and advocates for healthy environments on behalf of communities throughout the west. www.westernlaw.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 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. In partnership with the 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 Stories of TRUST: Calling for Climate Recovery told by our youth plaintiffs, go to www.ourchildrenstrust.org. ###