

## *Held v. State of Montana Press Kit*

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On March 13, 2020, 16 young people from across Montana filed their constitutional climate lawsuit, [Held v. State of Montana](#), against their state government. These young Montanans assert that, by supporting a fossil fuel-driven energy system that causes and contributes to the climate crisis, Montana is violating their explicit constitutional rights to a “clean and healthful environment”; to seek safety, health, and happiness; and to individual dignity and equal protection of the law. This youth-led climate lawsuit also argues that the state’s fossil fuel energy system degrades and depletes Montana’s constitutionally protected public trust resources, including the atmosphere, rivers, lakes, fish, and wildlife.

Article II, Section 3 of Montana’s Constitution states: “All persons are born free and have certain inalienable rights. They include the right to a clean and healthful environment. . . .”

Article IX, Section 1 of the Montana state constitution reads “The state and each person shall maintain and improve a clean and healthful environment in Montana for present and future generations.”

**Trial in *Held v. State of Montana* will take place from June 12-23, 2023, at the First Judicial District Court in Helena, Montana. This will be the first-ever constitutional climate trial, and first ever children’s climate trial, in U.S. history.**

The 16 youth plaintiffs are represented by Nate Bellinger, Philip Gregory, Julia Olson, Andrea Rodgers, and David Schwartz of Our Children’s Trust, Melissa Hornbein and Barbara Chillcott of the Western Environmental Law Center, and Roger Sullivan of McGarvey Law.

*Held v. State of Montana* is one of several youth-led climate change lawsuits supported by the nonprofit law firm [Our Children’s Trust](#). Our Children’s Trust also represents the 21 youth plaintiffs in the landmark federal constitutional climate lawsuit [Juliana v. United States](#), as well as youth in climate litigation and legal actions in multiple other states and countries. Our Children’s Trust is the world’s only nonprofit public interest law firm exclusively dedicated to representing young people securing their legal right to a safe climate.

The Western Environmental Law Center uses the power of the law to safeguard the wildlife, wildlands, and communities of the American West in the face of a changing climate. As a public interest law firm, WELC does not charge clients and partners for services, but relies instead on charitable gifts from individuals, families, and foundations to accomplish their mission. [www.westernlaw.org](http://www.westernlaw.org)

McGarvey Law is a law firm in Northwest Montana that since 1975 has been advocating on behalf of individuals and businesses for healthy communities and a clean environment. [www.mcgarveylaw.com](http://www.mcgarveylaw.com)

## Abridged *Held v. State of Montana* Timeline

A full timeline of events in this case can be found [here](#).

**March 13, 2020:** Sixteen Montana youth filed a constitutional climate lawsuit against the state.

**February 18, 2021:** Oral arguments on the state's motion to dismiss are held.

**August 4, 2021:** Judge Kathy Seeley denied the state's attempt to prevent the youth plaintiffs from proceeding to trial. She ruled that the plaintiffs can sue the state over its aggressive expansion of the fossil fuel industry, a substantial contributor to the climate crisis.

**Today:** The plaintiffs and their attorneys are preparing for historic trial, which begins on Monday, June 12, 2023, at the First Judicial District Court in Helena, Montana, and will conclude Friday, June 23, 2023.

## Frequently Asked Questions About *Held v. State of Montana*

**Q: Is this case about Montana's lack of action or inadequate response to climate change?**

**A:** No. This case is about the state's *affirmative* actions -- things Montana's state government has actually done and continues to do -- to create and exacerbate climate change and violate the constitutional rights of the youth plaintiffs. For example, state agencies permit the extraction of Montana's vast coal reserves, as well as the extraction of oil and gas, and lease state lands for fossil fuel activities.

**Q: What are the youth plaintiffs asking for in their lawsuit?**

**A:** The plaintiffs are seeking a constitutional declaration of their fundamental right to a stable climate system and a declaration that Montana is violating that right. The youth plaintiffs are also challenging the constitutionality of a provision in the Montana Environmental Policy Act ("MEPA) that prohibits the state from considering the impacts of climate change when making decisions about which projects to permit. Plaintiffs are seeking a declaration that this provision in MEPA violates their fundamental constitutional rights, including their right to a clean and healthful environment, their right to individual dignity and equal protection of the law, as well as their public trust doctrine rights.

**Q: Is this case about children's rights, human rights, or climate change?**

**A:** This litigation is at the intersection of all three of these critical issues. Before Our Children's Trust filed legal actions on behalf of children being harmed by the climate crisis due to the actions of their governments, human rights -- especially the rights of children -- and the climate crisis were rarely linked in active litigation. However, since Our Children's Trust pioneered the work representing and supporting youth plaintiffs in 2010, human rights and the right to a safe climate have been litigated together around the globe.

**Q: Do you charge the plaintiffs for your legal services?**

**A:** No. All of our services are provided at no cost to the young people we represent and support.

Additional information about *Held v. State of Montana* can be found at [www.ourchildrenstrust.org/montana](http://www.ourchildrenstrust.org/montana)

## Attorney Bios



### **Julia Olson Founder- Executive Director & Chief Legal Counsel, Our Children's Trust**

Julia Olson graduated from the University of California, Hastings College of the Law, with a J.D. in 1997. For the first part of her 25-year career, Julia represented grassroots conservation groups working to protect air, water, forests, wildlife, and human health. After becoming a mother, and realizing the greatest threat to her children and children everywhere was climate change, she focused her work on representing young people and elevating their voices on the issue that will most determine the quality of their lives and the well-being of all future generations. Julia founded Our Children's Trust in 2010 to lead this strategic legal campaign on behalf of the world's youth against governments everywhere. Julia also leads *Juliana v. United States*, the constitutional climate change case brought by 21 youth against the U.S. government for violating their Fifth Amendment rights to life, liberty, property, and public trust resources.



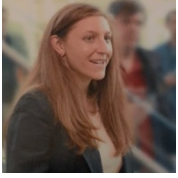
### **Phil Gregory- Of Counsel, Our Children's Trust**

Since 2010, Phil Gregory has served as Of Counsel with OCT on a pro bono basis, all while maintaining his litigation practice with the Gregory Law Group. Phil's representative cases litigated issues like title to real property on the California coast and decades-long groundwater contamination, while his pro bono trial work has addressed flooding during Hurricane Katrina, preserving old growth redwoods in Richardson Grove, and saving Coho salmon in the Smith River. In 1976, Phil obtained his B.A. from Bowdoin College, graduating magna cum laude in two majors. In 1980, Phil obtained his J.D. and M.B.A. from Santa Clara University. He is a Master of the Bench and former past President with the Hon. William Ingram American Inn of Court. He is also a Fellow with the International Academy of Trial Lawyers and a member with the American Board of Trial Advocates. For 16 years in a row, Phil has been recognized as a Super Lawyer by superlawyer.com.



### **Nate Bellinger- Senior Staff Attorney, Our Children's Trust**

Nate Bellinger earned a B.S. from the University of Massachusetts before moving to Oregon. After spending three years working as a firefighter, ski instructor, and rafting guide, Nate returned to school and earned a Master's degree in Geography from the University of Oregon. His thesis documented the social and environmental impacts of Ecuador's commercial tuna fishing industry. Nate then decided to pursue a law degree to develop an additional skill set to fight for solutions to the multitude of injustices in the world, and in 2014, graduated from the University of Oregon School of Law. As a Senior Staff Attorney at Our Children's Trust, Nate works to protect the constitutional rights of youth to a stable climate system and advocates for science-based solutions to the climate crisis. Nate's scholarship has been published in the ABA magazine, Natural Resources & Environment, and the Wake Forest Journal of Law & Policy.



### **Andrea Rodgers- Litigation Attorney, Our Children's Trust**

Andrea is Senior Litigation Attorney at Our Children's Trust, where she serves as cocounsel on *Juliana v. United States* and as lead counsel on *Aji P. v. State of Washington* and *Reynolds v. State of Florida*. After graduating from the University of California, Santa Barbara in 1998 and Arizona State University School of Law in 2001, where she served as co-Executive Editor of *Jurimetrics: The Journal of Law, Science and Technology*, Andrea clerked for the Hon. John C. Gemmill on the Arizona Court of Appeals. She has served as an Honors Attorney for the U.S. Department of Transportation, In-House Legal Counsel for the Snoqualmie Indian Tribe, and Staff Attorney for the Western Environmental Law Center. Her law practice has focused on reducing pollution from industrial agricultural operations, protecting and enhancing instream flows for people and fish, and fighting climate change for young people and future generations.



### **David Schwartz- Staff Attorney, Our Children's Trust**

David Schwartz is a native of sunny Southern California, but has lived across the United States. He earned his B.A. in History from the University of Michigan in 2012 and his J.D. from Duke University School of Law in 2015. David has worked exclusively in the non-profit environmental and public interest law sphere since graduating law school, with stints at Duke Law's Environmental Law and Policy Clinic, People for the Ethical Treatment of Animals, and Georgetown Institute for Public Representation (Environmental Law and Justice Clinic). During these positions, he worked on a wide array of environmental, administrative, and freedom of information law matters - most notably working on amicus curiae briefs on behalf of coalitions of public health organizations in two D.C. Circuit Court of Appeals cases challenging Trump Administration Clean Air Act rollbacks. Now as a Staff Attorney at Our Children's Trust, David works on a range of matters for OCT's litigation in state and federal cases.



### **Roger Sullivan- Senior Partner, McGarvey Law**

Over the course of the last 35 years Roger's legal career has focused on two objectives: securing justice for Montana's workers and advocating for Montanans' constitutional right to a clean and healthful environment. Roger has litigated a number of landmark cases in both the environmental and workers' rights fields. He has been named Trial Lawyer of the Year by the Montana Trial Lawyers Association for his advocacy on behalf of Montana's workers, and Conservationist of the Year by the Montana Environmental Information Center for his environmental advocacy. Roger is especially proud that his clients have twice been honored with the Citizens Award by the Montana Trial Lawyers Association: the Advisory Committee for the Columbia Falls Aluminum Company Profit Sharing Class Action which succeeded in securing settlements in the range of \$100 million; and Libby asbestos victims recognized for their successful efforts in the courts and in defeating corporate bailout legislation at the state and national levels. Roger is admitted to practice in Montana's state and federal courts; the U.S. Court of Appeals, Ninth Circuit; and the U.S. Supreme Court.

**Melissa Hornbein- Senior Attorney, Western Environmental Law Center**

Melissa Hornbein joined WELC in January 2020 after working in state and federal government. She holds a B.S. in botany and a B.A. in anthropology from the University of Washington, and obtained her J.D. in 2008 from Hastings College of the Law. The next year, she earned a M.S. in environmental studies from the University of Montana. Before practicing as an attorney, Melissa worked in the field as a botanist/biological technician for various academic and governmental entities, including the National Park Service and U.S. Geological Survey. She worked as an attorney with the Montana Department of Natural Resources and Conservation on tribal and federal water rights issues, and as an Assistant U.S. Attorney in Montana with the Department of Justice.

**Barbara Chillcott- Senior Attorney, Western Environmental Law Center**

Barbara Chillcott joined WELC in 2021 after 15 years working on water law and policy in Montana. Originally from South Carolina, Barbara earned a B.A. in economics from the University of North Carolina-Chapel Hill and her law degree from the University of Montana School of Law. She previously worked to restore instream flows across Montana as a project manager and executive director of a statewide water trust. From 2010 through 2016, as the legal director for the Clark Fork Coalition, Barbara developed and advanced strategies for protecting and restoring the Clark Fork River watershed. She joined WELC after working as an attorney for the Montana Department of Natural Resources & Conservation for five years on water rights law and policy.

**Mat dos Santos- General Counsel & Managing Attorney, Our Children's Trust**

Mat dos Santos is the General Counsel and Managing Attorney at Our Children's Trust. Mat currently oversees the legal program at Our Children's Trust, which brings climate litigation on behalf of youth in federal and state courts in the United States and tribunals across the globe. Prior to joining Our Children's Trust, Mat served as the legal director at the ACLU of Oregon and worked on a variety of civil rights issues including LGBT rights, immigration, and criminal justice reform. Mat is currently on the board of directors at the Transgender Law Center, Latino Network, and the Chosen Family Law Center.

**Climate Crisis Impacts:**

Some of the climate impacts the 16 youth plaintiffs have experienced include:

- Frequent and more destructive wildfires
- Lack of winter snowpack
- Severe flooding
- Worsened air quality
- Extreme drought and heat conditions

## Montana Climate Crisis Facts

- In 2019, total annual fossil fuels extracted in Montana led to about 70 million tons of CO<sub>2</sub> being released into the atmosphere once those fuels were combusted; these extraction levels were far higher than in major economies such as Brazil, Japan, Mexico, Spain, or the United Kingdom.<sup>1</sup>
- In 2019, total annual fossil fuels consumed in Montana led to about 32 million tons of CO<sub>2</sub> being released into the atmosphere; CO<sub>2</sub> emissions from these fossil fuels are on par with the total CO<sub>2</sub> emissions of entire countries around the world, including Ecuador, Ireland, New Zealand, Norway, Sweden, and Switzerland.<sup>2</sup>
- Montana is a fossil fuel thoroughfare, meaning that annual fossil fuels transported through or refined in Montana led to at least 80 million tons of CO<sub>2</sub> being released into the atmosphere, once those fuels were combusted in 2019.<sup>3</sup>
- As of 2015, 11 of the 37 named glaciers in Glacier National Park had retreated so much they are no longer glaciers; 30% of the Park's glaciers had disappeared as of 2015.<sup>4</sup>
- Over the last century, Montana has warmed by ~2.5°F, which is greater warming than the lower 48 as a whole.<sup>5</sup>
- The last five years (2022-2018) were ~2.9°F warmer than the last five years of the 19<sup>th</sup> century (1895-1899).<sup>6</sup>
- Montana has warmed ~0.2°F per decade since 1900 and the rate of warming from 1950-2022 is 0.4°F per decade as a result of anthropogenic climate change due to fossil fuels emissions.<sup>7</sup>
- The decline in western Montanan snowpack since the 1950s is unprecedented in more than 1,000 years and is due to anthropogenic climate change caused by fossil fuel emissions.<sup>8</sup>
- Parts of Montana have experienced an increase of up to 26 more fire weather days in the last 50 years.<sup>9</sup>
- More than 100,000 more Montanan's homes are at the wilderness-urban interface in 2020 than in 1990, exposing 62% of the state's residents to direct fire impacts.<sup>10</sup>
- Since the 1950s, western Montana's snowpack has significantly declined by up to 80%, diminishing summer water resources.<sup>11</sup>

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<sup>1</sup> Expert Report of Peter A. Erickson, *Held v. Montana*, Cause No. CDV-2020-307 (Sept. 30, 2022).

<sup>2</sup> Expert Report of Peter A. Erickson, *Held v. Montana*, Cause No. CDV-2020-307 (Sept. 30, 2022).

<sup>3</sup> Expert Report of Peter A. Erickson, *Held v. Montana*, Cause No. CDV-2020-307 (Sept. 30, 2022).

<sup>4</sup> [https://d9-wret.s3.us-west-2.amazonaws.com/assets/palladium/production/s3fs-public/media/files/Table%20of%20Area%20of%20the%20Named%20Glaciers\\_USGS%20Logo.pdf](https://d9-wret.s3.us-west-2.amazonaws.com/assets/palladium/production/s3fs-public/media/files/Table%20of%20Area%20of%20the%20Named%20Glaciers_USGS%20Logo.pdf)

<sup>5</sup> <https://statesummaries.ncics.org/chapter/mt/>

<sup>6</sup> <https://www.ncei.noaa.gov/access/monitoring/climate-at-a-glance/statewide/time-series/24/tavg/ann/12/1895-2022>

<sup>7</sup> [https://www.ncei.noaa.gov/access/monitoring/climate-at-a-glance/statewide/time-series/24/tavg/ann/12/1895-2022?trend=true&trend\\_base=10&begtrendyear=1950&endtrendyear=2023](https://www.ncei.noaa.gov/access/monitoring/climate-at-a-glance/statewide/time-series/24/tavg/ann/12/1895-2022?trend=true&trend_base=10&begtrendyear=1950&endtrendyear=2023)

<sup>8</sup> <https://agupubs.onlinelibrary.wiley.com/doi/epdf/10.1002/grl.50424>

<sup>9</sup> [https://www.ncei.noaa.gov/access/monitoring/climate-at-a-glance/statewide/time-series/24/tavg/ann/12/1895-2022?trend=true&trend\\_base=10&begtrendyear=1950&endtrendyear=2023](https://www.ncei.noaa.gov/access/monitoring/climate-at-a-glance/statewide/time-series/24/tavg/ann/12/1895-2022?trend=true&trend_base=10&begtrendyear=1950&endtrendyear=2023)

<sup>10</sup> [https://assets.ctfassets.net/cxgsgstp8r5d/1RwINCKT1zYQFz5NtKW9ue/9a843df6ca96446b1f507a1acabfe0bc/FINAL-Fire\\_Weather\\_2023\\_\\_EN\\_.pdf](https://assets.ctfassets.net/cxgsgstp8r5d/1RwINCKT1zYQFz5NtKW9ue/9a843df6ca96446b1f507a1acabfe0bc/FINAL-Fire_Weather_2023__EN_.pdf)

<sup>11</sup> <https://www.epa.gov/climate-indicators/climate-change-indicators-snowpack>

### Plaintiff Harms:

The 16 youth plaintiffs have experienced a variety of harms due to the climate crisis, worsened by the actions of their state government. Some of these physical and psychological harms include: ☐

- Climate anxiety when thinking about the future
- Loss of ability to partake in sports and recreational activities
- Loss of ability to partake in traditional cultural, family, and spiritual activities, including fishing, hunting, and Indigenous cultural practices

### Plaintiff Voices

#### ***Hear from Some of the Youth Plaintiffs Below:***

“As youth, we are exposed to a lot of knowledge about climate change. We can’t keep passing it on to the next generation when we’re being told about all the impacts that are already happening.”-[Rikki H.](#)

“I am eager to have our day in court so all of the plaintiffs’ voices can be heard. Young people will be the ones to suffer the most if Montana continues the promotion of fossil fuels and I hope our trial will help turn our future for the better.” -[Mica K.](#)

“Going to trial means a chance for me and my fellow plaintiffs to have our climate injuries recognized and a solution realized. It means our voices are actually being heard by the courts, the government, the people who serve to protect us as citizens and Montana’s youth.” -[Grace G-S.](#)

“We've only got one planet to live on, and the sooner we start taking care of it and taking the risks against it seriously, the better it's going to be.”-[Taleah H.](#)

“All I can really do is try and influence and point out to my peers: This is happening, and if you want to live in a world like we live in today, with the nature that we have today, you actually have to act.” -[Kian T.](#)

"A lot of this is just rooted in how many Montanans, including us, live life on an everyday basis, and how ingrained the wildlife and the land and the nature is in who we are." -[Lander B.](#)

“I am worried about climate change worsening the devastation it has already brought on my family, community, the local ecosystem and my well-being—especially if immediate action to curb greenhouse gas emissions is not taken.” -[Eva L.](#)

“When you have this relationship to the land, it’s hard seeing the way climate change is affecting it, the harm that’s being done.” -[Sariel S.](#)



*The 16 Held v. State of Montana Youth Plaintiffs*



*Named Plaintiff, Rikki Held*



*Plaintiffs Taleah, Mica, and Grace, 2022 (Photo by Robin Loznak; Courtesy of Our Children's Trust)*





*Plaintiffs Lander, Badge, Taleah, and Mica, 2023 (Photo by Robin Loznak; Courtesy of Our Children's Trust)*