



June 12, 2023

Press Contact: John Mackin, 646.499.1873, john@ourchildrenstrust.org

Held v. State of Montana, Day 1 Recap

Helena, MT—Trial in the youth-led climate lawsuit, *Held v. State of Montana*, began today at the Lewis & Clark County District Court in Helena, Montana. Supporters of the youth plaintiffs packed the courtroom and a nearby overflow space while over 400 watched proceedings online.

Highlights from the first day of this two-week trial:

- Following the opening statement by Roger Sullivan with McGarvey Law, Judge Seely heard testimony from Mae Nan Ellingson and Dr. Steven Running.
- Ms. Ellingson was the youngest delegate at the time of the 1972 Montana Constitutional Convention. She told the judge that, at the time, Montana was the only state that had a constitutionally-enshrined right to a clean and healthful climate, but now Montana's climate is "neither clean nor healthful."
- Dr. Running described the current climate destabilization caused by anthropogenic greenhouse gas (GHG) emissions and the need to reduce atmospheric concentration of CO₂ to 350 ppm to stabilize the climate system. Dr. Running explained how climate impacts are harmful for the youth plaintiffs and that the severity of their injuries would only get worse if Montana's reliance on fossil fuels continues. Earth's energy imbalance, he said, would become much worse by the end of the century, during the plaintiffs' lifetimes.
- Plaintiffs Rikki, Grace, and Eva each provided testimony. The young plaintiffs shared personal stories concerning how they are being affected by the climate crisis. For example, Rikki described working outdoors on her family's ranch in extreme heat and smoke. Grace talked about playing soccer in high school, including how "a lot of practices were smoked out." Eva shared her experience filling sandbags for seven hours during severe flooding of the Yellowstone River near her home. However, in spite of these emotional stories about how they are being harmed by climate change, the plaintiffs still expressed optimism for the future and explained how a successful outcome in the case would give them hope for the future.

"We had a great first day, with the court hearing testimony from Nobel Peace Prize-winning climate scientist, Dr. Running; and Ms. Ellingson, one of Montana's constitutional delegates. We also heard from three plaintiffs, Rikki, Grace, and Eva, who bravely took the stand and delivered

moving testimony,” said Nate Bellinger, Senior Staff Attorney with Our Children’s Trust. “Tomorrow will be another historic day here in Helena, where our presentations will continue.”

Tomorrow, June 13, the court will hear from Dr. Cathy Whitlock, Dr. Lori Byron, and Dr. Dan Fagre, and youth plaintiffs Mica and Badge.

About [*Held v. State of Montana*](#)

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The youth are suing to protect their state constitutional right to a “clean and healthful environment” as well as the air, waters, wildlife and their public lands that are threatened by drought, heat, fires, smoke, and floods. They are also suing to have their rights to individual dignity and equality enforced under the Montana Constitution.

The youth plaintiffs do not seek money. They are asking the court to declare that Montana’s fossil fuel energy policies and actions violate young people’s state constitutional rights.

The 16 youth plaintiffs in this case are represented by attorneys with Our Children’s Trust, the Western Environmental Law Center, and McGarvey Law.

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Held v. State of Montana, Day 2 Recap

Helena, MT—Trial in the youth-led constitutional climate lawsuit, *Held v. State of Montana*, continued today at the Lewis & Clark County District Court in Helena, Montana.

Highlights from day two of this two-week trial:

- The morning kicked off with Judge Seeley hearing testimony from Dr. Cathy Whitlock, an earth scientist and professor at Montana State University, who is an expert in environmental change and paleoclimatology and was a lead author of the 2017 Montana Climate Assessment. "Montana has warmed more over the last century than other states," she stated. "It is because of our high elevations, which tend to warm faster. We do not have the moderating effects of coastal states."
- Next up was plaintiff Mica K., who spoke of his love for outdoor activities, especially running. He was recently diagnosed with asthma and is especially vulnerable to wildfire smoke. "I hope people try to make a difference and I hope the state of Montana can change its ways on fossil fuels," he said.
- Following Mica was another expert, Dr. Dan Fagre, a 30-year employee of the Department of Interior. Dr. Fagre spoke about Glacier National Park, and the melting of glaciers in the park due to climate change. He explained that Montana's glaciers have existed for 7,000 years, yet many would be gone within the plaintiffs' lifetimes.
- When Dr. Fagre's testimony concluded, plaintiff Badge B. took the stand. Badge shared his love for Montana's beauty and how he enjoys rafting, hunting, fishing, and hiking. He described wildfires threatening his family's home, and how wildfire smoke means not being able to go outside. He called dealing with climate change "a now or never situation."
- Closing out the day was Dr. Lori Byron, a Montana pediatrician, who discussed the impacts of climate change on the physical health of children. Dr. Byron explained that children are more vulnerable to anthropogenic climate change, describing how the health of the youth plaintiffs is already being harmed in Montana.

Julia Olson: “Even though I have heard these young plaintiffs tell their very personal stories throughout our representation of them, hearing them share their truth, their despair, and their hope from the witness stand is profoundly moving.”

Tomorrow, June 14, the court will conclude testimony from Dr. Byron, then hear from Shane Doyle and Michael Durglo, and youth plaintiffs Sariel and Taleah.

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June 14, 2023

Press Contact:

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Held v. State of Montana, Day 3 Recap

Helena, MT—Trial in the youth-led constitutional climate lawsuit, *Held v. State of Montana*, continued today at the Lewis & Clark County District Court in Helena, Montana.

Highlights from day two of this two-week trial:

- The day began by concluding the prior day's testimony with Montana pediatrician Dr. Lori Byron, who discussed climate change-induced adverse childhood experiences (ACEs) and how they can cause long-term health problems such as exposure to substance abuse, physical/mental/sexual abuse, neglect, domestic violence, etc. These elements, which can create fear and anxiety in childhood, often result in health problems in adulthood. "Wildfires, for example, instill fear that you will have to leave your home, as well as the smoke that creates a pall over your life and makes one unable to do the things you enjoy," Dr. Byron said.
- Next up was Shane Doyle, testifying on behalf of his daughters (and youth plaintiffs) Ruby and Lilian. Mr. Doyle is an expert in Indigenous issues, an enrolled member of the Crow Tribe who holds a master's degree in Native American studies from Montana State University. Mr. Doyle described the Crow Fair, an annual week-long gathering of the Crow Tribe which has occurred every August for over a century. It's long been an important cultural event for Mr. Doyle and his daughters, but over the last several years the weather has become hotter and hotter, with temperatures reaching over 100°F, as well as torrential downpours. He described how extreme weather has impeded Crow Fair, with events being canceled or abandoned due to heat.
- Mr. Doyle was followed by Michael Durglo, Jr., head of the Confederated Salish and Kootenai Tribes' Tribal Historic Department. He provided additional testimony on the impact of the climate crisis on Indigenous communities. "As the climate has changed, the times for traditional practices have changed," Mr. Durglo said. "There is a spiritual impact. All those non-human relatives that we rely on to feed us, to mend us as medicines - they all have a spiritual significance."
- The first plaintiff testimony of the day came from Sariel, a member of the Confederated Salish and Kootenai Tribes. Sariel learned about the science behind climate change in high school, including how greenhouse gasses are breaking down the ozone layer. Sariel experienced firsthand the effects of wildfire and wildfire smoke. "It is really scary seeing what you love disappear before your eyes," she said. "This case is important."

- After Sariel, the court heard from Dr. Jack Stanford, director of the Flathead Lake Biological Station. Dr. Stanford discussed the impacts of climate change on Montana's freshwater ecosystems and the connectivity of climate, hydrology, geomorphology, and ecology in those ecosystems. When asked to comment on how climate change affects freshwater ecosystems: "It's already happening, it's a fact, not only for our plaintiffs, but for all of us."
- Plaintiff Taleah was next to provide testimony, noting that as she grew older, she noticed that wildfires and smoke have become much more pervasive. She was employed training and caring for horses, but due to smoky conditions, her work was limited, causing her loss of income.
- Closing out the day was plaintiff Georgi, a competitive Nordic skier, who trains year-round. Wildfire smoke was so bad in the summer of 2021, Georgi was forced to train indoors. She recounted looking out the window and barely seeing the buildings across the street for all the smoke.

"Today we heard from three experts and three plaintiffs, and the father of two more plaintiffs," said Nate Bellinger, Senior Staff Attorney with Our Children's Trust. "This moving and compelling testimony about the ways in which climate change has affected these young Montanans' health, career development, and cultural traditions provided multiple lenses for the devastating impacts of the climate crisis on the youngest generation. We look forward to returning to the courtroom tomorrow."

Tomorrow, June 14, the court will hear testimony from Pete Erickson, Anne Hedges, and youth plaintiffs Kian T. and Claire V.

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June 15, 2023

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Held v. State of Montana, Day 4 Recap

Helena, MT—Trial in the youth-led constitutional climate lawsuit, *Held v. State of Montana*, continued today at the Lewis & Clark County District Court in Helena, Montana.

Highlights from day four of this two-week trial:

- Youth plaintiff Kian T., 18, was first to take the stand. He described trying to play soccer outdoors in excessive heat. "I have had many, many soccer practices canceled for smoke and heat," he said. "Playing soccer on turf in the heat is miserable. Imagine your feet are boiling in your cleats, burning every single step you take on the field. It burns you out."
- The next witness was Anne Hedges, director of policy and legislative affairs at the Montana Environmental Information Center (MEIC). She provided testimony on the actions of the state government to authorize fossil fuel activities, describing the state's knowledge of the dangers posed by fossil fuels and climate change, as well as specific state policies prohibiting the consideration of greenhouse gases (GHG) in environmental reviews. "If this court declared these anti-climate change analysis laws unconstitutional, it would make a profound difference to mitigate the harm of greenhouse gas emissions," she said. Asked whether the state had ever denied a permit for a fossil fuel-related project, she responded: "Not to my knowledge."
- Claire V., 20, testified in the afternoon. Asked what winning this lawsuit would mean to her, she said it would be an affirmation that the legal system works the way it's supposed to. In describing some of her own experiences with climate change, Claire said, "When I think about summer, I think about smoke. It sounds like a dystopian movie, but it's real life." She said she found the prospect of a smoke-free summer unimaginable.
- The last witness of the day was Peter Erickson, a climate change policy researcher for the Stockholm Environment Institute in Seattle, Washington. He provided expert testimony on Montana's contribution to global greenhouse gas emissions - via fossil fuel consumption, extraction, and infrastructure that the state of Montana permits - and how these emissions are both nationally and globally significant. "We are at a decision point about taking action on climate change," Mr. Erickson said. "The world community has decided we must. Montana continues to issue fossil fuel permits."

"Today's testimony laid bare the state of Montana's contributions to the climate crisis," said Nate Bellinger, Senior Staff Attorney with Our Children's Trust. "Experts described the state government's consistent actions to authorize fossil fuel activities - despite knowing its devastating effects on the climate system - and how these resulting emissions harm the 16 young plaintiffs."

Tomorrow, June 16, the court will hear testimony from Dr. Lise Van Susteren, a psychiatrist and expert on how the climate crisis affects the physical and mental health of youth; Mark Jacobson, director of the Atmosphere/Energy Program at Stanford University; and youth plaintiffs Olivia and Lander.

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June 16, 2023

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Held v. State of Montana, Day 5 Recap

State witness Judith Curry abruptly cancels scheduled testimony

Helena, MT—Trial in the youth-led constitutional climate lawsuit, *Held v. State of Montana*, continued today at the Lewis & Clark County District Court in Helena, Montana.

In an unexpected development, during the mid-morning recess, plaintiff counsel Phil Gregory shared with Judge Seeley that Defense expert and climate scientist Judith Curry was canceling her appearance, and that the plaintiff expert testimony that rebutted Dr. Curry's reports would be withdrawn.

"We were surprised to learn we would not be hearing the testimony from Dr. Curry, but we strongly believe our plaintiffs' expert testimony was irrefutable," said Julia Olson, Chief Legal Counsel with Our Children's Trust.

Other highlights from day five:

- Mark Jacobson, director of the Atmosphere/Energy program at Stanford University, was first to provide testimony. Mr. Jacobson described the technological and economical feasibility to transition Montana off of fossil fuels by 2050 and supply its energy needs via water, wind, and solar (WWS). The primary barrier, he stated, was the lack of government direction to move energy policy towards WWS, as well as current government policies that continue to favor a fossil-fuel based energy system.
- The next witness was plaintiff Olivia V., who shared some of her artwork incorporating climate change as a major theme, including a piece called "Gaia" about the despair climate change makes her feel. She also described what it was like experiencing asthma and severe allergies during the smoky summer months when she often doesn't go outside due to debilitating symptoms like swelling and redness. "The state of Montana has an obligation to uphold our right to a clean and healthful environment," she said. "I know they have the power to do this. I know it."
- Following Olivia, Dr. Lise Van Susteren, a psychiatrist and expert on how the climate crisis affects the physical and mental health of youth, took the stand. She described how children

are more susceptible to the impacts of climate change due to unique characteristics like their dependency on adults, their brains and bodies still not being fully developed, and an increased exposure and cumulative toll of trauma. “The kids have told you this week very compellingly how their world is different,” she said. “They are very aware of something called intergenerational injustices. Their world is spinning out of their control and they have first-hand experience.”

- The last witness of the day was plaintiff Lander. He recounted some of earliest memories of going hunting and fishing with his father in the Montana wilderness, a family tradition for generations. “It just really cemented for me what I know as home and what I love and value so much,” he said. Lander then discussed how wildfires and smoke affect his family. “All of this, particularly the smoke, is just a really weird post-apocalyptic experience for me,” he said. “My family spends so much of our time outside, and it ends up taking a pretty big toll on our happiness and comfort.”

“This week, we heard experts on the stand present irrefutable evidence of the best available climate science and the results of Montana's actions to make the crisis worse,” Olson said. “But you also heard from another kind of expert: the youth. These 16 young people are the experts of their own stories, their individual and shared experiences as young Montanans living in the midst of an emergency.”

Trial will continue Monday, June 19, when the State will present its witnesses: Terry Anderson, Christopher Dorrington, and Sonja Nowakowski.

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