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Held v. State of Montana, Day 6 Recap

Trial expected to conclude late morning Tuesday, June 20

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. The second week of trial began with the defense presenting its witnesses.

Witnesses for the state of Montana who testified today included Christopher Dorrington, Sonja Nowakowski, and Dr. Terry Anderson.

The first witness to testify was Mr. Dorrington, director of the Montana Department of Environmental Quality (DEQ). Quoting the DEQ website, he said, "we are here to help you understand and help you navigate the framework of environmental regulations in Montana." According to Mr. Dorrington, the DEQ's role is to implement the laws of Montana regarding environmental concerns.

During cross examination by Melissa Hornbein, senior attorney with Western Environmental Law Center (WELC) and co-counsel for the youth plaintiffs, Mr. Dorrington was asked if he would agree that the activities the DEQ permits contribute to greenhouse gas (GHG) emissions in Montana. He replied affirmatively, explaining that the DEQ conducts permitting activities that allow industry and individuals to engage in activities that emit GHG emissions. DEQ, he said, does not create the laws, but is tasked with implementing them.

The second witness of the day was Sonja Nowakowski, Administrator for the Air, Energy, and Mining Division at Montana DEQ. Ms. Nowakowski repeatedly stated that DEQ is not allowed to deny permits for fossil fuel activities even though they are contributing to climate change and are harming the environmental life support system of the youth. She also admitted that DEQ could perform an analysis of the environmental impacts of greenhouse gas emissions in Montana on climate change, but that the law prohibits them from doing so.

During cross examination, Barbara Chillcott, senior attorney with WELC, referred Ms. Nowakowski to her deposition transcript, in which she had stated, "I'm not sure that this [greenhouse gas] inventory

accurately depicts emissions overall in Montana because it didn't contemplate emissions generated that were exported out of state." Ms. Nowakowski stood by that statement.

Ms. Nowakowski also said, "The state might have to have some difficult conversations about transportation, agriculture, but fossil fuel activities are the largest contributor in Montana."

Ms. Nowakowski also said that she has spent her career not having an opinion on climate change.

The final state witness of the day was Dr. Terry Anderson, an economist and senior fellow at the Hoover Institution at Stanford University, and emeritus professor at Montana State University. He presented a brief testimony of under 15 minutes to the court, answering questions from defense attorneys related to Energy Information Administration data on GHG emissions.

Dr. Anderson brought notes with him to the stand, which included his original expert report, but not a corrected version he had to submit later.

During cross examination, Philip Gregory, Of Counsel with Our Children's Trust, asked about errors in math and misinterpretation of data in Dr. Anderson's expert report. The state initially objected, stating the question exceeded the scope. Their direct examination consisted of only five questions. However, plaintiffs' counsel argued that the cross examination went to credibility of the witness.

"Are you going to show me the numbers are wrong?" Judge Seeley asked Mr. Gregory.

"Yes, absolutely," Mr. Gregory proclaimed. "100% wrong."

The State declined to call to the stand its single climate science witness, Judith Curry; its only mental health witness, Debra Sheppard; and a number of other government witnesses.

"Anyone listening to the trial last week heard irrefutable expert testimony from the world's top experts in their fields," said Julia Olson, Chief Legal Counsel with Our Children's Trust. "In contrast, the State presented a slim offering of 'we can't stop permitting fossil fuel projects' alongside an economist—their only expert—who presented testimony with mathematical errors and a misunderstanding of emissions data."

Trial will conclude tomorrow, Tuesday, June 20, after plaintiffs' attorneys move additional exhibits into evidence and both sides present brief closing arguments.

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

Held v. State of Montana is a constitutional climate lawsuit brought by 16 Montana youth against their State to protect their equal rights to a healthy environment, life, dignity, and freedom. They are suing because their government keeps promoting and supporting fossil fuel extraction and burning, which is worsening the climate crisis and harming these youths' lives.

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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Our Children's Trust is the world's only nonprofit public interest law firm that exclusively provides strategic, campaign based legal services to youth from diverse backgrounds to secure their legal rights to a safe climate. We work to protect the Earth's climate system for present and future generations by representing young people in global legal efforts to secure their binding and enforceable legal rights to a healthy atmosphere and safe climate, based on the best available science. Globally, we support youth-led climate cases in front of national courts, regional human rights courts, and UN bodies. www.ourchildrenstrust.org