



For Immediate Release

August 14, 2023

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**Held v. Montana Youth Climate Litigation Sets Powerful Precedent
Having National Implications For Environmental Rights**

Press Statement

Maya K. van Rossum, Founder of National Green Amendments For The Generations Movement

In a powerful, precedent-setting, and detailed decision in the *Held v. Montana* case, State Judge Kathy Seeley held that two recently passed pieces of state legislation were unconstitutional because they would violate the environmental rights of 16 Youth Plaintiffs, as protected by Article II and Article IX of the state constitution. This ruling is the first time that a court is directly interpreting the constitutional right to a clean and healthful environment as including the right to a safe, life-supporting climate.

This decision instills an obligation on all Montana government to not only prohibit activities that will violate the constitutional right to a safe climate, but also instills an affirmative obligation to protect those rights. And the decision makes clear that when oil and gas operations advanced by Montana government will irreparably harm the health and safety of present and future generations, the people have the highest legal authority available in the state to help protect them – their state constitution.

Quite simply, in Montana, the people now have a powerful legal tool to take on government officials who are failing in their moral, political, and now constitutional duty to protect the environment, the climate and the health and safety of present and future generations.

The oil and gas industry, and their friends in Montana government, are now on notice that the people of Montana have the higher power of the constitution to help them ensure protection of their climate. It is no longer simply the prerogative of the state legislature to determine whether or not the environment and climate will be protected – it is now an entitlement of the people to ensure government protects their environment.

This is not the first time constitutional environmental rights language has been used to defeat state legislation that advances and increases fossil fuel extraction¹, but it is the first time it has done so based primarily on the climate changing ramifications of the legislation. It is also the first time that a constitutional right to a clean and healthful environment has been determined to include the right to a safe climate.

Montana is 1 of only 3 states that currently recognize a RIGHT of all people in their state to a clean, safe and healthy environment in the form of a constitutional Green Amendment. A Green Amendment is a Bill of Rights/Declaration of Rights provision that recognizes and protects the rights of all people to clean water and air, a stable climate, and healthy environment, and places those rights on par with other fundamental rights such as speech, religion, property. As a result:

- ⇒ this ruling should inform how similar constitutional language in Pennsylvania and New York’s constitutions should be interpreted;
- ⇒ the ruling should support the advancement of similar language in a growing number of states considering constitutional Green Amendments for addressing the climate crisis, as well as other significant and growing environmental and environmental justice concerns; and
- ⇒ while this ruling solidified the interpretation of a clean and healthful environment to include climate, it should also support efforts in the 15 other states considering Green Amendment proposals to be explicit in the inclusion of climate rights, in order to avoid the need for lengthy and detailed evidence demonstrating that the climate crisis is harming the essential aspects of the environment critical for healthy lives.

As a result of this decision, Montana government may & must now, in order to fulfill their environmental protection obligations pursuant to law, regulation and the constitution, consider the climate changing ramifications of their actions, and as a result modify the decisions they would otherwise have rendered. Judge Seeley made clear, the state, including its agencies, “do have discretion to deny permits for fossil fuel activities that would result in unconstitutional levels of GHG emissions, unconstitutional degradation and depletion of Montana’s environment and natural resources, or infringement of the constitutional rights of Montanans and Youth Plaintiffs.”

Citing various aspects of the evidence put forth in the June, 2023 trial, Judge Seeley acknowledged the serious impacts of the climate crisis for the health and safety of the Youth Plaintiffs and Montana’s environment. The Judge, citing various credible witnesses, also recognized the unique vulnerability of youth, including the Youth Plaintiffs, to the ramifications of climate change. Notably, Judge Seeley found that, based on credible trial witnesses and evidence, there is “overwhelming scientific consensus that the Earth is warming as a direct result of human GHG emissions, primarily from the burning of fossil fuels;” and that “the science is unequivocal that dangerous impacts to the climate are occurring due to human activities, primarily from the extraction and burning of fossil fuels.” Judge Seeley reiterated an often cited fact at trial, that “every ton of fossil fuel emissions contributes to global warming and impacts and thus increases the exposure of Youth Plaintiffs to harms now and additional harms in the future.”

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¹ Pennsylvania constitutional environmental rights language was relied upon by the Pennsylvania Supreme Court in 2013 to defeat state legislation that would expand fossil fuel extraction in the state. While that case similarly relied upon environmental rights language in the Declaration of Rights section of the constitution, the environmental impacts of concern were not focused on climate. Hence, the case of *Robinson Twp, Delaware Riverkeeper Network, et. al. v. Commonwealth of Pennsylvania* was similarly used to defeat, as unconstitutional, pro-fossil fuel extraction legislation, it is the focus on the climate ramifications of the *Held v. Montana* decision that is precedent-setting and unique.

