



Written by [David Kelly](#) on August 15, 2023

## Young Activists Prevail in Landmark Climate-change Trial in Montana

A Montana judge [ruled](#) in favor of a group of young climate activists on Monday, citing that state agencies were violating the activists' constitutional rights by failing to consider climate change when approving fossil-fuel projects.

Our Children's Trust (OCT), a legal nonprofit representing 16 young people from across the state of Montana, [filed](#) the constitutional climate lawsuit in March 2020. [According](#) to OCT, the plaintiffs brought the suit "asserting that, by supporting a fossil fuel-driven energy system, which is contributing to the climate crisis, Montana is violating their constitutional rights to a clean and healthful environment; to seek safety, health, and happiness; and to individual dignity and equal protection of the law. The youth plaintiffs also argue that the state's fossil fuel energy system is degrading and depleting Montana's constitutionally protected public trust resources, including the atmosphere, rivers and lakes, and fish and wildlife."



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District Court Judge Kathy Seeley found in the 103 page [ruling](#) that the state's approval process for fossil-fuel permits is unconstitutional, as it does not evaluate the effects of greenhouse gas (GHG) emissions. Seeley based her opinion on the Montana Environmental Policy Act ([MEPA](#)), a state policy that protects the states "ecological systems and natural resources."

Seeley's ruling on this case clearly follows the 2003 amendments to MEPA, which [declared](#) that the Montana legislature must be "mindful of its constitutional obligations" under Article II, section 3, and Article IX of the [Montana Constitution](#), which states: "All persons are born free and have certain inalienable rights. They include the right to a clean and healthful environment and the rights of pursuing life's basic necessities, enjoying and defending their lives and liberties, acquiring, possessing and protecting property, and seeking their safety, health and happiness in all lawful ways. In enjoying these rights, all persons recognize corresponding responsibilities."

"Montana's emissions and climate change have been proven to be a substantial factor in causing climate impacts to Montana's environment," [wrote](#) Judge Seeley. "Plaintiffs have proven that as children and youth, they are disproportionately harmed by fossil fuel pollution and climate impacts."

Julia Olson, chief legal counsel and executive director with OCT, celebrated the landmark decision,



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stating in a [press release](#):

Today, for the first time in U.S. history, a court ruled on the merits of a case that the government violated the constitutional rights of children through laws and actions that promote fossil fuels, ignore climate change, and disproportionately imperil young people.... In a sweeping win for our clients, the Honorable Judge Kathy Seeley declared Montana's fossil fuel-promoting laws unconstitutional and enjoined their implementation. As fires rage in the West, fueled by fossil fuel pollution, today's ruling in Montana is a game-changer that marks a turning point in this generation's efforts to save the planet from the devastating effects of human-caused climate chaos. This is a huge win for Montana, for youth, for democracy, and for our climate. More rulings like this will certainly come.

Even though the ruling is a landmark decision and a "win" for climate activists, according to the [Las Vegas Sun](#), "it will be up to the Montana Legislature to determine how to bring the state's policies into compliance. That leaves slim chances for prompt changes in a fossil fuel-friendly state where Republicans dominate the statehouse."

The Sun continued:

"The ruling really provides nothing beyond emotional support for the many cases seeking to establish a public trust right, human right or a federal constitutional right" to a healthy environment, said James Huffman, dean emeritus at Lewis & Clark Law School in Portland.

The State of Montana plans to appeal the ruling. According to [USA Today](#), Emily Flower, spokeswoman for Montana Attorney General Austin Knudsen, said in a statement:

This ruling is absurd, but not surprising from a judge who let the plaintiffs' attorneys put on a weeklong taxpayer-funded publicity stunt that was supposed to be a trial.... Montanans can't be blamed for changing the climate — even the plaintiffs' expert witnesses agreed that our state has no impact on the global climate. Their same legal theory has been thrown out of federal court and courts in more than a dozen states. It should have been here as well, but they found an ideological judge who bent over backward to allow the case to move forward and earn herself a spot in their next documentary.

With this court victory in the books, OTC has [more states](#) in its sights with similar pending lawsuits, all of which supposedly focuses on the "dangerous climate crisis." The bottom line is that the Montana lawsuit has emboldened radical climate activists in their efforts to use the courts to legislate their unrealistic and unobtainable GHG goals.



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