

Kids want to put Montana on trial for unhealthy climate policies

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For her birthday every October, Grace Gibson-Snyder and her family explore the Lamar Valley just inside the northern border of Yellowstone National Park.

Carved long ago by meandering glaciers, the valley is home to bison and bald eagles, grizzly bears and gray wolves. Gibson-Snyder has seen them

all. She calls it "my favorite place."

"I know how special it is to have this in my life," said Gibson-Snyder, an 18-year-old from Missoula, Montana, "and I don't want it to go away."

That concern, hypothetical not so long ago, turned tangible in June when unprecedented flooding washed out bridges, ravaged roads, forced the evacuation of thousands of tourists, and temporarily closed the park.

Although park officials described the flooding as a rare event, scientists say this type of extreme weather should be expected as the climate continues to warm.

It also illustrates why Gibson-Snyder and 15 other Montana [young adults](#) and [children](#) are suing their state.

Their lawsuit asserts that Montana—by fostering fossil fuel as its primary energy resource—is contributing to a deteriorating climate and violating the children's right to a clean and healthful environment guaranteed in the state's constitution. By doing so, the lawsuit alleges, Montana is interfering with the children's health, safety, and happiness.

"The state's reliance on [fossil fuels](#), its energy policy, its continued development of fossil fuel extraction has all led to exasperated effects of climate change," Gibson-Snyder said. "It's a betrayal by the government."

In 2021, coal-fired power plants produced 43% of Montana's electricity, compared with hydropower at 41% and wind power at 12%, according to the U.S. Energy Information Administration.

With favorable rulings from a state judge and recently the Montana Supreme Court, the children's lawsuit is on track to become the first

such climate case to go to trial in the United States. Attorneys for Gibson-Snyder and her fellow plaintiffs—ages 2-18 when the lawsuit was filed in 2020—believe the case heralds a shift in climate-related litigation that could reverberate globally.

Already this year, children in Virginia, Utah, and Hawaii have filed similar constitutional challenges, and Our Children's Trust, the nonprofit law firm that represents them in those actions, said other lawsuits by children in other states are likely by the end of the year.

"A win in Montana could very well have implications throughout the country and potentially even the world," said Nate Bellinger, an attorney for Our Children's Trust.

That children are bringing these actions, Bellinger said, should not be surprising. Our Children's Trust, he added, routinely hears from young people interested in filing lawsuits against the states where they live.

"They have the most at stake and the most to lose and they are the least politically powerful group," Bellinger said. "The courts offer them an opportunity to have some of that power to do something to protect their own futures."

Claire Vlases, a plaintiff in the Montana case, noted that she was too young to vote when the lawsuit was filed.

"There are three branches of government for a reason," said Vlases, now 19, of Bozeman, Montana. "If I'm not able to use the other two, this is my way, and it's a way for kids, to have our voices heard."

The cases brought by children against their states will unfold in the aftermath of a June 30 ruling from the U.S. Supreme Court to limit how the Clean Air Act—the nation's main anti-pollution law—can be used to

reduce greenhouse gas emissions from power plants. Although environmental advocates called the decision an egregious setback in the fight against climate change, attorneys for Our Children's Trust said the ruling will not affect the youth-led constitutional lawsuits brought against state governments.

The Supreme Court decision does, however, further demonstrate "how important these children's constitutional climate lawsuits are to address the harmful effects of our government-sanctioned fossil fuel program," said Mat dos Santos, managing attorney at Our Children's Trust.

Previous attempts by youngsters—or on behalf of youngsters—to force government action against climate change have been largely unsuccessful. Courts in Washington, Pennsylvania, Oregon, Florida, and, earlier this year, Alaska have dismissed those constitutional challenges.

Another case brought by Our Children's Trust, *Juliana v. the United States*—the subject of a Netflix documentary—was thrown out by a [federal court](#) in 2020, although the plaintiffs are awaiting a decision on their motion to refile that lawsuit. Seventeen states, led by Alabama and including Montana, have asked to join the case and oppose its going forward.

In dismissing those cases, judges have often concluded that the remedies sought should be pursued not through the courts but through the executive and legislative branches of government.

A judge in Montana, citing the *Juliana* case, agreed with that reasoning when dismissing parts of the lawsuit last summer but allowed other claims to advance toward a trial. Those claims don't assert that Montana isn't doing enough to stop climate change. Rather, they allege, the state's actions are causing climate change.

"These aren't cases where governments are failing to act," Bellinger said. "Governments are acting. They are promoting fossil fuels and permitting pipelines and power plants and extraction."

The young plaintiffs in Montana maintain they are harmed by a state [energy policy](#) that favors [fossil fuels](#) and a law that prohibits environmental reviews by the state from considering the effects of policies outside Montana, which they contend doesn't allow a proper examination of the effects of climate change.

Those actions affect the environment and their health, the lawsuit claims. The children report experiencing, among other medical issues, aggravated asthma, headaches, and throat and eye irritation, mostly brought on by pollution from intense fire seasons in Montana.

The threat of a worsening climate, too, has emotional effects, the lawsuit maintains. Gibson-Snyder, for instance, said she worries about the welfare of any future children of her own.

"At best, they will grow up in an environment different than mine and with the same guilt and fear that I have about this issue," she said. "At worst, they will suffer directly from the fires and the floods and the famines. I think a lot of my peers are going through very similar things."

Aiding the children's case in Montana is the specific constitutional right to "a clean and healthful environment," considered among the nation's strongest environmental protections.

"Our constitution does not require that dead fish float on the surface of our state's rivers and streams before its farsighted environmental protections can be invoked," the Montana Supreme Court concluded in a 1999 case that fortified a clean and healthful environment as a "fundamental right."

On June 10, Montana Attorney General Austin Knudsen filed an emergency motion asking the state Supreme Court to overrule the lower court and dismiss the children's case, which he described as "a climate crusade" and "a scheme" seeking the "radical overhaul of Montana's environmental policy."

"This lawsuit features a special interest group seeking to circumvent Montana's political processes and impose—by judicial fiat—its preferred climate change policies on the people of the state," the motion said.

Four days later, the Montana Supreme Court denied the request. At the request of the attorney general who wanted more time to prepare, the state judge did postpone the trial originally set for next February. A new date hasn't been scheduled, although Bellinger expects the case will go to trial in summer 2023.

Gibson-Snyder said she is frustrated by her government's continued opposition to helping end the climate crisis.

"It's weird to be relied upon to solve an international emergency while also being dismissed by some of the same people who have that responsibility," she said. "I keep holding out hope that the state is going to come around and help its citizens."

Vlases agreed, saying she doesn't understand the resistance to change when there is consensus that Montana's landscape is worth protecting. The inaction of today's leaders, she said, is an existential threat to her and her peers.

"It feels like we are wearing the hand-me-downs of the past generation," she said.

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