

'OUR CHILDREN'S TRUST' Supremes say: Continue

A landmark climate case brought against the federal government by 21 children and young adults has survived the highest-level attempt by the Trump administration to block the lawsuit.

Last month the Supreme Court unanimously refused to throw out The landmark lawsuit, which seeks to compel the government to preserve a clean atmosphere, and argues that the government is violating its obligation to future generations by not doing so.

The decision came less than two weeks after the administration filed its request to dismiss the case. The court rejected the administration's attempt to block any further legal action, stating, "the government's request for relief is premature and is denied without prejudice."

In what legal experts have called groundbreaking climate litigation, the lawsuit seeks to hold the federal government accountable for its role in perpetuating climate change. A final decision could shape the future of climate litigation for years to come. The case can now proceed to trial. It is currently scheduled for October 29 but this date could be pushed depending on how discovery goes.

"This decision should give young people courage and hope that their third branch of government, all the way up to the Supreme Court, has given them the green light to go to trial in this critical case about their unalienable rights," said Julia Olson, executive director and chief legal counsel of Our Children's Trust and co-counsel for youth plaintiff.

The climate lawsuit, brought by nonprofit organization Our Children's Trust, was first filed in August 2015 against the Obama administration. In January 2017, the Trump administration was named as a defendant in the case.

The lawsuit uses a legal theory known as atmospheric trust litigation, which argues the government must hold certain common elements such as rivers or shorelines, and in this case, the atmosphere, for public use. By failing to protect and preserve a clean atmosphere for future generations — by promoting fossil fuels, for instance — the lawsuit argues that the government is violating its obligation to the public trust.

Since it was first introduced nearly three years ago, the case has survived numerous attempts by government to have it dismissed.

In its decision, the Supreme Court said "the breadth of [the lawsuit's] claims is striking." It ordered the District Court in Oregon — where the trial will take place — to take the federal government's "concerns into account in assessing the burdens of discovery and trial." In its court filing, the government had argued that the process of discovery was too burdensome.

"I am so grateful that the Supreme Court has recognized the importance of this trial and allowed our case to proceed," Jacob L., a 21-year-old plaintiff from Roseburg, Oregon, said in a statement.



"The scientific evidence linking the U.S. government's actions and policies to climate change impacts like wildfire and droughts that harm us youth must be presented before our country's justice system in its entirety to ensure that our rights may be protected."

The plaintiffs — who range in age from ten to 21 in the youth climate case argue that the atmosphere, as a commonly-held element, qualifies for protection by the government as part of the public trust. By failing to act to stave off the worst impacts of climate change — and by actually undermining climate action, through things like fossil fuel subsidies — the plaintiffs argue that the government has in essence violated their constitutional right to a protected atmosphere. The plaintiffs also argue that the government, through its actions, has denied them due process under the Fifth Amendment of the Constitution, which holds that the federal government cannot deprive a person of "life, liberty, or property" without "due process of law."

"What this litigation does is it fast forwards that constitutional principle to the modern urgency of climate crisis," Mary Woods, a law professor at the University of Oregon who first proposed applying public trust doctrine to the atmosphere, "It's a very simple extension of logic. If navigable waters were crucial to the public back then, certainly the air, atmosphere, and climate systems warrant protection as public trust systems as well."

And some reports suggest that, if the case proceeds to trial, the Trump administration will attempt to recruit scientists skeptical of the mainstream consensus on climate change in an attempt to undercut certainty around climate science. Ninety-seven percent of publishing climate scientists agree that climate change is both happening and a product of human activity, though a small, vocal minority has found particular quarter within the Trump administration. Trump himself as repeatedly cast doubt on climate science, calling it a "hoax" created by the Chinese, and has appointed climate-deniers to top posts within his administration.

- thinkprogress.org

GRANDMA SUCKED INTO PENNSYLVANIA PRISON PIPELINE

Since Energy Transfer Partners pipeline construction began on her Pennsylvania property, Ellen Sue Gerhart has spent countless hours monitoring and documenting construction activity. On July 27, four officers with the Huntingdon County Sheriff's Department arrested Ellen, a 63 year old Grandmother, on her own property. The arrest comes after pipeline builder Energy Transfer Partners filed a motion for contempt of court to revoke Gerhart's bail, making a slew of ludicrous claims against her. Among ETP's claims, Ellen baited bears and mountain lions onto the easement of the Mariner East 2 Pipeline which runs through the Gerhart property. Mountain lions have not been spotted in Pennsylvania since the 1930s.

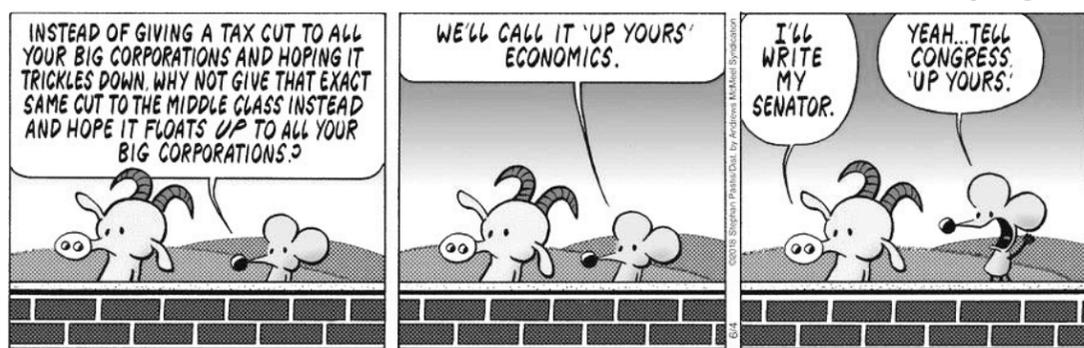
Ellen is a retired special ed teacher and longtime Huntingdon County resident who has lived on her family's land for 35 years in peace. The numerous claims made against her — as well as her late-Friday arrest — appear to constitute direct retaliation for Ellen and her family's legitimate, ongoing advocacy to protect their land and Pennsylvania's waterways from environmental threats posed by the Mariner East 2 project.

Given that ETP has recorded well over 100 spills and contaminated well water of over a dozen families since construction began, Ellen and her family did not trust state regulators to protect their land and water. Ellen has documented dozens of instances of environmental damage to her property during construction thus far. Evidence of sedimentation, spills, improper erosion controls, and more are all available.

This legal bullying adds insult to injury for the Gerhart family, who already have had their land seized and destroyed via eminent domain to enable ETP to build the natural gas liquids pipeline through their property. The Gerharts have never given Sunoco permission to enter their property.

Ellen was put in solitary after she began fasting.. She is taking her meds and drinking water. At one point, a guard told her that she could come out of solitary confinement if she ate. So she ate toast for breakfast, but they did not let her out of solitary. She also saw a doctor and had her vitals taken. The doctor recommended that she have a protein shake so that she can come off her fast without getting sick from eating a meal. Today, the guards said they knew nothing about a protein shake, and won't give her one.

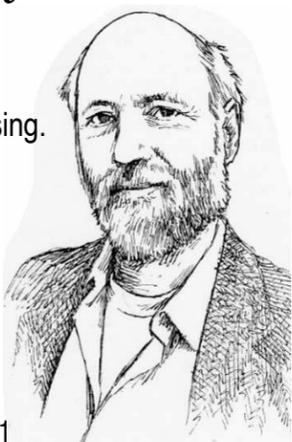
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-Dan Brewer

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