

# The Juliana Youth Climate Case: What's It Mean for Labor?

Briefing Paper from  
the Labor Network for Sustainability



LABOR NETWORK  
FOR SUSTAINABILITY

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Dozens of national and local unions supported the youth climate strikes September 20. They did so both to put labor forward as a leader on climate protection and to connect with young people who are essential to the future of the labor movement. The *Juliana* case, sometimes referred to as “*Climate Kids*” v. *Trump*, represents another opportunity to build an alliance between labor organizations and the burgeoning youth climate movement.

## What it’s all about

In 2011 the non-profit organization Our Children’s Trust launched a legal campaign in 50 states and Federal court arguing that governments had violated Constitutional rights to life and liberty and their own obligations to protect the public trust. The suits argued that government action causing global warming violated the rights of the plaintiffs – young people and their posterity. These cases are different from most climate lawsuits because they are based not on environmental laws but on fundamental Constitutional rights and because they seek not damages but rather a court-ordered Climate Recovery Plan.

The cases were derided by defendants as nothing but “a child’s wish for a better world.” But there are currently four state cases and the federal *Juliana* case moving through the U.S. courts, multiple related actions in other nations’ courts, and several other state actions working their way through state administrative rulemaking procedures. In addition to constitutional and public trust claims, several of the cases also argue that current GHG emissions discriminate against young people and future generations, since they will get little benefit from current energy policy but will have to pay a terrible price for it in future climate change.

Two days after the election of Donald Trump as President, the *Juliana* 21 youth plaintiffs won a court ruling that could become a critical weapon in the struggle against climate change. In the *Juliana* case, Judge Ann Aiken of the federal district court in Oregon ruled that “the right to a climate system capable of sustaining human life is fundamental to a free and ordered society.” A stable climate system is quite literally the foundation of society, “without which there would be neither civilization nor progress.” Judge Aiken also found that the facts alleged by the plaintiffs would constitute a violation of the government’s Constitutional obligation to protect the public trust – the essential natural resources, like air, water and the seas, on which we all depend.

The Trump administration engaged in multiple legal maneuvers to halt or stall the case. The United States Supreme Court has twice declined to block it. The case was most recently heard on June 4<sup>th</sup>, 2019 by a panel of Ninth Circuit Court of Appeals judges. The plaintiffs await the judges’ decision. When the Ninth Circuit issues its decision, it will almost certainly be appealed by the



losing side all the way to the Supreme Court.

As the *Brown vs. Board of Education* case helped build the civil rights movement, so too can judge Aiken's ruling in the *Juliana* case be a crucial weapon for the climate protection movement, including the growing number of labor organizations that are becoming part of that movement.

## Where labor comes in

Our Children's Trust (OCT), the group supporting the *Juliana* case, is seeking understanding and support from a wide range of constituencies, including religious, nonprofit, business, Congressional, and other sectors. Their goal is to build public support; to show federal judges there is broad social interest and concern about the case; and to ensure implementation of its climate protection remedies when the case is ultimately won. They are asking groups to educate their members and publicly express support. They are also seeking *Amicus* "friend of the court" briefs supporting the case from a range of constituencies.

OCT is explicitly seeking support from organized labor. As a first step they are asking labor organizations that are concerned about climate to educate their members about the case and its significance for climate protection and the climate protection movement. They hope that will lead to public statements of support for the *Juliana 21* and their case. Ultimately they would like to work with interested labor organizations to develop an *Amicus* brief supporting the case. (The Labor Network for Sustainability was a signer of a previous *Amicus* brief in the case.)

There are at least two reasons unions should consider making a positive response to this request for support.

-- It provides a high-visibility, low-cost, low-risk vehicle for unions that want to serve as champions in defense of both youth and the climate.

-- It provides a way for unions to reach out to climate-concerned young people inside and outside their own membership and show labor playing a role in creating a better life for all.

For more information contact Our Children's Trust  
<https://www.ourchildrenstrust.org> and the Labor Network for Sustainability  
[www.labor4sustainability.org](http://www.labor4sustainability.org)



## Appendix: *Juliana* and the law

As Judge Aiken emphasized, “This is no ordinary lawsuit.” The youth’s suit, supported by the nonprofit [Our Children’s Trust](#), challenges decisions “across a vast set of topics” -- decisions like “whether and to what extent to regulate CO2 emissions from power plants and vehicles, whether to permit fossil fuel extraction and development to take place on federal lands, how much to charge for use of those lands, whether to give tax breaks to the fossil fuel industry, whether to subsidize or directly fund that industry, whether to fund the construction of fossil fuel infrastructure such as natural gas pipelines at home and abroad, whether to authorize new marine coal terminal projects.”

The *Juliana* 21 assert that government decisions on these topics over many decades “substantially caused the planet to warm and the oceans to rise.” They draw a “direct causal line” between the government’s policy choices and “floods, food shortages, destruction of property, species extinction, and a host of other harms.”

Judge Aiken noted the personal harms the youth say they face because of climate change. One said the algae blooms harm the water she drinks, and low water levels caused by drought kill the wild salmon she eats. Another says increased wildfires and extreme flooding jeopardize his personal safety.

The Fifth Amendment to the United States constitution bars the federal government from depriving a person of “life, liberty, or property” without “due process of law.” The *Juliana* 21 say that the aggregate actions of the federal government that have permitted, perpetuated, and subsidized our nation’s exploitation of fossil fuels does just that – and that the policies of the federal government violate their rights.

The lawsuit alleges that the government has violated their rights by “directly causing atmospheric CO2 to rise to levels that dangerously interfere with a stable climate system.” The government knowingly endangered their “health and welfare” by “approving and promoting fossil fuel development,” including “exploration, extraction, production, transportation, importation, exportation, and combustion.” And after “knowingly creating this dangerous situation” it continued to “knowingly enhance that danger” by “allowing fossil fuel production, consumption, and combustion at dangerous levels.” These government decisions have caused the planet to warm and the oceans to rise.

The *Juliana* 21 say these policies not only violate their individual constitutional rights, but also the duty of the government to preserve the core natural resources like air and water necessary to provide for the well-being and survival of our citizens – our common property that is legally protected as part of the “public trust.” Their suit says that the government has violated its duty as trustee of the public trust by allowing the depletion and

destruction of the atmosphere – an essential natural resource for the survival of present and future generations.

Government lawyers acknowledged in court that climate change poses “a monumental threat to Americans’ health and welfare” by “driving long-lasting changes in our climate,” leading to an array of “severe negative effects, which will worsen over time.” They then argued that the climate kids don’t have legal standing to bring such a suit; climate change is a “political question” that should be left to other branches of government; and that courts don’t have the power to halt climate change.

Judge Aiken’s decision cuts through this smokescreen to focus on the essential point. “I have no doubt that the right to a climate system capable of sustaining human life is fundamental to a free and ordered society.” A stable climate system is quite literally the foundation of society, “without which there would be neither civilization nor progress.”

The judge framed the fundamental right at issue as “the right to a climate system capable of sustaining human life.” If “governmental action is affirmatively and substantially damaging the climate system in a way that will cause human deaths, shorten human lifespans, result in widespread damage to property, threaten human food sources, and dramatically alter the planet’s ecosystem,” then the youth have a claim for protection of their life and liberty under the fifth amendment. “To hold otherwise would be to say that the Constitution affords no protection against a government’s knowing decision to poison the air its citizens breathe or the water its citizens drink.”

Judge Aiken also refused to halt the *Juliana 21*’s public trust argument. She quoted a judicial opinion that the right of future generations to a “balanced and healthful ecology” is so basic that it “need not even be written in the Constitution” for it is “assumed to exist from the inception of humankind.”

In the last days of the Obama administration, the Justice Department filed the government’s *Answer* to the *Juliana 21*’s case. The government admitted that for over fifty years “officials and persons employed by the federal government have been aware of a growing body of scientific research concerning the effects of fossil fuel emissions on atmospheric concentrations of CO<sub>2</sub>—including that increased concentrations of atmospheric CO<sub>2</sub> could cause measurable long-lasting changes to the global climate, resulting in an array of severe deleterious effects to human beings, which will worsen over time.”

The Justice Department further admitted that the Federal Defendants “permit, authorize, and subsidize fossil fuel extraction, development, consumption, and exportation.” It said that “fossil fuel extraction, development, and consumption produce CO<sub>2</sub> emissions and that past emissions of CO<sub>2</sub> from such activities have increased the atmospheric



concentration of CO<sub>2</sub>." And it admits that "current and projected concentrations of six well-mixed greenhouse gases in the atmosphere, including CO<sub>2</sub>, threaten the public health and welfare of current and future generations."

Judge Aiken's decision said that the *Juliana 21* have a claim for protection of their life and liberty under the Fifth Amendment if "governmental action is affirmatively and substantially damaging the climate system in a way that will cause human deaths, shorten human lifespans, result in widespread damage to property, threaten human food sources, and dramatically alter the planet's ecosystem." The government already seems to have admitted as much.