



**Our Children's
Trust** *Youth v. Gov*



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Judge Rules in Favor of Hawai'i Youth Plaintiffs in Climate Case *Navahine F. v. Hawai'i Department of Transportation*; Case Will Proceed to Trial

Case argues state's transportation system causes high levels of greenhouse gas emissions, violating youth plaintiffs' state constitutional rights and public trust doctrine

HONOLULU, Hawai'i—Following the January 26, 2023 hearing in which the youth plaintiffs and their attorneys in the constitutional climate case [*Navahine F. v. Hawai'i Department of Transportation*](#) argued in a packed courthouse before the Honorable Judge Jeffrey P. Crabtree at the Environmental Court of First Circuit, the judge today [ruled in favor](#) of the youth plaintiffs, denying the state's attempt to prevent their case from proceeding to trial.

This case will now move forward to a September trial, becoming only the second constitutional climate trial, and second youth-led climate trial, in U.S. history. *Navahine F. v. Hawai'i Department of Transportation* is also the world's first constitutional climate change case directed at stopping climate pollution from transportation systems.

Judge Crabtree in his decision noted that the "Plaintiffs are minors. Article XI, Section 1 [of the Hawai'i Constitution] is 'For the benefit of present and future generations.' Plaintiffs allege nothing less than that they stand to inherit a world with severe climate change and the resulting damage to our natural resources." He said that "[s]ince Defendants essentially argue Hawai'i law does not *require* them to take action *now*, it appears a declaratory judgment action will help resolve the parties' different views of what the Legislature and the Constitution require."

Less than a month ago, in a different climate case over the Hu Honua biomass power plant, the Supreme Court of Hawai'i upheld a decision to deny the plant's operation due to its impact on climate change, ruling that a life-sustaining climate system is protected by the state constitution. In his concurrence, Justice Mike Wilson cited *Juliana v. United States*, as well as an article by Our Children's Trust Senior Litigation Attorney Andrea Rodgers, in reasoning that "the right to a life-sustaining climate system is also included in the due process right to 'life, liberty, [and]

property' enumerated in Article I, section 5 and the public trust doctrine embodied in Article XI, section 1's mandate that the State of Hawai'i 'conserve and protect Hawai'i's... natural resources' '[f]or the benefit of present and future generations[s].'" Judge Crabtree relied on the Hawai'i Supreme Court's opinion in today's decision.

Navahine F. v. Hawai'i Department of Transportation, filed in June 2022, contends the state's department of transportation (HDOT) operates a transportation system that emits high levels of greenhouse gasses (GHG), violating the youth plaintiffs' state constitutional rights, causing them significant harm, and impacting their ability to "live healthful lives in Hawai'i now and into the future," according to the [complaint](#). Hawai'i is recognized as a leader in state-level climate action, yet HDOT has missed every interim benchmark to reduce overall GHG emissions since 2008. Transportation emissions are already the largest source of climate pollution in the state and are expected to rise 41% over the next decade. The youth plaintiffs are seeking to hold HDOT accountable to ensure they meet the state's goal to decarbonize Hawai'i's transportation sector and achieve a zero emissions economy by 2045.

Lead attorneys Andrea Rodgers, with Our Children's Trust; and Leinā'ala L. Ley, with Earthjustice, both responded to today's decision:

"Today Judge Crabtree recognized that these young people are entitled to have their constitutional rights to a safe climate protected by the Courts," Rodgers said. "The ruling makes it clear that the state government will be held accountable to comply with its own commitments to address the climate crisis, and that elected leaders can't just talk about solving the climate emergency, without real emission reductions from transportation."

"We are pleased that the Court rejected the Defendants' attempt to shut the courthouse door on the youth Plaintiffs," Ley said. "These young people can now pursue their constitutional claims to a clean and healthful environment and for protection of Hawai'i's public trust resources on the merits. As recognized by the other branches of government, Hawai'i is facing an existential climate emergency, and it's past time for the Department of Transportation to do its part to reduce greenhouse gas emissions and protect the next generation's right to a healthy future on a livable planet."

"I am glad that my story is helping to advance climate action in Hawai'i. I don't want anyone else to suffer the way I and my family have," said Kaliko T., one of the younger plaintiffs in the lawsuit. Her home was destroyed in a flood during Tropical Storm Olivia, while her community was still recovering from massive wildfires sparked by Hurricane Lane in 2018.

"It is reassuring to have a court acknowledge our right to hold the Transportation Department accountable for their contribution to the climate crisis. I am excited to finally get to the substance of our claims," said the eldest plaintiff in the case, Kalālapa W.

"I and my fellow plaintiffs are holding this so-called state of Hawai'i to its own promises and its own laws because we have a fundamental right to a safe climate. We will not allow our public trust resources to be further desecrated by state agencies working to make the climate crisis

worse for all of us,” said Navahine F., the lead plaintiff in the youth lawsuit and a tenth generation taro farmer.

For additional information, read the Our Children’s Trust and Earthjustice joint press release covering the initial hearing, “[First Court Hearing in Historic Youth Climate Rights Case Held in Hawai‘i.](#)”

The youth plaintiffs are represented by Andrea Rodgers, Kimberly Willis, and Joanna Zeigler with Our Children’s Trust, and Isaac Moriwake and Leinā‘ala L. Ley of Earthjustice. This is one of several youth-led constitutional climate lawsuits brought by Our Children’s Trust with local counsel like Earthjustice’s Mid-Pacific Office.

Our Children’s Trust also represents and supports young people in active global and U.S. state climate litigation like *Natalie R. v. State of Utah*, *Layla H. v. Commonwealth of Virginia*, and *Held v. State of Montana*, which will be the first-ever constitutional climate trial, and first-ever children’s climate trial, in U.S. history when it proceeds to court on June 12, 2023. Our Children’s Trust also represents the 21 youth plaintiffs in the landmark federal constitutional climate lawsuit, *Juliana v. United States*, where the youth are currently awaiting a decision in their case that could put them back on the path to trial.

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Our Children’s Trust is the world’s only nonprofit public interest law firm that exclusively provides strategic, campaign based legal services to youth from diverse backgrounds to secure their legal rights to a safe climate. We work to protect the Earth’s climate system for present and future generations by representing young people in global legal efforts to secure their binding and enforceable legal rights to a healthy atmosphere and safe climate, based on the best available science. www.ourchildrenstrust.org

Earthjustice is a premier non-profit public interest law firm committed to environmental justice. We wield the power of the law and the strength of partnership to protect people’s health, to preserve magnificent places and wildlife, to advance clean energy, and to combat climate change. www.earthjustice.org