

The Held Decision: Montana Kids Win!

Our system of justice was primarily conceived by an orphan named Alexander Hamilton, who was [born into crushing poverty on a West Indies Island](#). The rich ran the island, and their wealth came from slaves raising sugar cane in deplorable, disease-ridden conditions. Hamilton resented the way the British rigged the system to ensure the nobility always got its way.

Our courts, [Hamilton wrote in *Federalist 78*](#), are an “excellent barrier to the encroachments and oppressions of the representative body.” To this day the courtroom remains an independent forum where facts, rather than whims or convenient beliefs, direct the outcomes. When the courthouse doors close and the judge takes a seat, the lying and machinations end, and truth takes center stage.

In Montana, over the past five years, the ghost of Alexander Hamilton stood in the back of several courtrooms in Helena as [16 Montana kids backed by skilled, climate-wise lawyers presented a profound challenge to America’s oil-a-garchy](#).

Held v Montana

Held v Montana asked the question – to all Montanans – that could no longer be ducked: Why is the State of Montana allowing the burning of fossil fuels when we know greenhouse gases (GHGs) are degrading our climate, and when our state’s Constitution guarantees the right to a “clean and healthful environment”?

Taking his cue from other high-profile legal cases, Montana’s Attorney General Austin Knudsen filed pretrial motion after motion to delay or deny the kids their day in court. It took three years of briefings and hearings before the case, *Held v Montana*, went live in Montana District Judge Kathy Seeley’s courtroom on June 12, 2023.

The kids made their case with 24 witnesses over eight days and the State of Montana scheduled three witnesses and only called one to the stand. The kids presented 168 exhibits. The State presented four.

Montana’s premier scientists were the first to take the stand. Nobel Prize winner, UM scientist Steve Running and Montana State scientist Cathy Whitlock, the lead author of the 2017 Montana Climate Assessment, explained how the science about climate change has been settled since the 1850s. They established the following [undisputed facts](#):

- Global temperatures have already risen 2.2 degrees Fahrenheit. Temperatures will rise to 9.5 F, enough to scorch the face of the Earth, by 2100 if we keep pouring GHGs into the atmosphere.
- Montana is warming faster than the rest of the U.S., and we see this most clearly in our mild winters, early spring runoff, and multi-year drought.

- Snow at high elevation provides 85 percent of Montana’s fresh water. This snowpack is shrinking, as is the water in our lakes and rivers. Irrigation suffers in our fields. Our forest turn to tinderboxes.
- Our wildfire season is two months longer than the 1980s, and fires will get even progressively worse if we don’t reduce greenhouse gas emissions.
- “The unrefuted testimony established that [the kids] have been and will continue to be harmed by the State’s disregard of GHG production and climate change,” says the Court record.

[Two-thirds of Americans say climate change is noticeably affecting their local communities](#). An unknown but significant number of Americans are afraid to even say as much out loud for fear of being scorned by their peers. But the 16 fearless kids in the Held trial did not shy away from the obvious truth that every Montanan knows in their hearts: our climate is changing, and it isn’t a good thing.

One of the plaintiffs, a young girl, said her ranch had less water than it used to, so it costs more to get water to the cattle. She said a recent fire took out 70 miles of powerlines and left her family without electricity for a month. Two brothers talked about degraded skiing, fishing, and hunting, while two indigenous kids said their cultural practices have been negatively affected. Several kids are asthmatic, and their breathing worsened during the summer wildfire smoke. Fires had forced other kids and their families to evacuate their homes, and one girl watched the Yellowstone River spill its banks – caused by an extreme weather event called “an atmospheric river” – and take out the bridge to her family’s home. And a competitive junior Olympic skier documented that wildfire smoke and a lack of snow have adversely affected her training.

The kids’ lawyers worked *pro-bono*, without payment, and the nonprofit Our Children’s Trust paid the travel expenses of the kids’ witnesses. [The State paid its three witnesses a whopping \\$95,000](#), even though only one of them made it to the stand at trial. The judge said that person, Terry Anderson, a senior fellow a conservative think tank, offered testimony that “was not well-supported, contained errors, and was not given weight by the Court.”

The State argued that climate change is a global problem, and Montana shouldn’t be singled out for its GHG contribution, which Knudsen said is a drop in the bucket in the grand scheme of things. None of the experts agreed with Montana’s Attorney General.

It's hard to explain the State’s weak defense. Was Knudsen caught off guard when the case made it past his barbed-wire motions to dismiss? Was he inexperienced at organizing and presenting a case of such magnitude? Or, after all the blather and bluster we hear out of Helena that climate change poses no danger, did Knudsen find it impossible to dispute the credible science – the facts – the kids brought out?

Perhaps it’s simple. There is no longer any plausible defense for climate change.

On August 24, 2023, Judge Seeley rendered [her decision, which included 269 Findings of Fact and 75 pages of description of the damage GHGs are doing to Montana's climate](#). These findings were affirmed, five to one, [by the Montana Supreme Court in December 2024](#), with the Supreme Court justices concluding, “[the kids] showed at trial – without dispute – that climate change is harming Montana’s environmental life support system now and with increasing severity for the foreseeable future.”

That phrase, “without dispute,” probably wakes Knudsen up in the middle of the night.

The Petro-State

The State’s argument is a cover-your-mouth, cover-your-ears, cover-your-eyes argument. The State pretends to see no evil, but by acknowledging the global impacts of fossil fuel combustion, it recognizes that climate change is causing extensive damage. It’s just not something Montana officials want to take any responsibility for. In response, the kids brought to the stand two experts the judge deemed “well-qualified . . . informative and credible,” to talk about Montana’s fossil fuel economy, which has, *per capita*, the sixth largest GHG footprint in the nation.

Anne Hedges of the Montana Environmental Information Center and Peter Erickson, an expert in tallying GHG emissions, told the Court that the State permits extensive fossil fuel mining, combustion, and transportation. The variety and scope of fossil fuel development and subsequent GHG emissions boggles the mind. If Montana were a candy store, our shelves would be stacked full, and out back there would be a couple of dozen Walmart-sized warehouses with a never-ending supply of sweets.

Montana has six functioning coal mines producing 34 million tons a year, with an estimated reserve of 707 tons, the best coal reserves in the U.S. Four thousand oil wells produce 23 million barrels a year, with 298 million barrels in reserve. Natural gas – better known as methane, which is 80 times more powerful as a greenhouse gas than CO₂ – is our fastest growing fossil fuel, with over 5,000 wells producing 43 billion cubic feet. We have 613 billion cubic feet of gas in reserve.

And the State can’t plead ignorant of the price humanity pays when its industries scrap, frack, drill, blow up, transport, and consume these fossil fuels. In fact, the State has sponsored, in one way or another, reports such as the [2007 Greenhouse Gas Inventory](#), the [2017 Montana Climate Assessment](#), and the [2020 Montana Climate Solutions Council](#). These efforts have documented the amount of GHGs and their impact on our climate and our kids’ and grandkids’ future. And the impact is grim.

It’s no wonder State officials jump immediately into white-veined hysteria when climate activists threaten this burgeoning economy, this chocked full candy store . . . er . . . *fossil fuel store* known to the world as Montana.

[The Findings of Fact](#) – from undisputed testimony – at trial revealed that the total CO₂ emissions due to Montana’s fossil fuel economy is more than 166 million tons a year. That includes the fossil fuels extracted, consumed, processed, burned, and transported in a state of just over a million people. This is the equivalent of the annual emissions of many countries, like Holland (18 million people), Argentina (47 million people), or Pakistan (248 million people).

The Environmental Protection Agency’s research estimates that the cost in damage to [the climate from every ton of GHG at about \\$200](#). The damage to our climate from Montana’s 166 million annual loading of GHGs, then, is more than \$33 billion a year.

It’s the devil’s bargain. *Held v Montana* pulled back the curtain, revealing the depth of Montana’s fossil fuel economy and its downside, its GHG emissions, which are rapidly heating the planet and beginning the death spiral in the natural world . . .

A “Roadmap” To Solving the Problem

It’s phenomenally expensive to scrape, mine, frack, drill, blow up, refine, and transport all these fossil fuels. This is why the cost of electricity rose 28 percent last year for the 403,000 ratepayers supplied by NorthWestern Energy. [The company has requested a 26 percent increase in 2025](#) and is poised to [charge its ratepayers to pay its bill for its new \\$325 million methane generator in Laurel](#).

Other, carbon-free ways of generating electricity are orders of magnitude cheaper and cleaner and can repair the damage done to the natural world.

To prove this, the kids brought to the stand Mark Jacobson, an environmental engineer from Stanford University, director of [The Solutions Project](#), who testified – unrefuted by the Attorney General – that Montana can transition to a 100 percent GHG-free energy system by 2050.

With our currently available technologies for generating, storing, and distributing energy, we don’t need fossil fuels. Jacobson presented a roadmap for Montana becoming the first state to transition to a wind, hydro, geothermal, and solar energy system, which would benefit the climate, create jobs, reduce air pollution, save lives, and cost 70 percent less.

According to Jacobson, here’s what it would take to build a clean, 13.27-gigawatt system that would drop Montana’s total annual energy costs from \$9.1 billion to \$2.8 billion by 2050:

- 4.5 gigawatts of wind
- 3 GW of rooftop photovoltaics (solar panels)
- 2.9 GW of utility-scale solar
- .17 GW geothermal energy

Judge Seeley put it this way: “Transitioning to [wind, water, and solar energy] will keep Montana’s lights on while saving money, lives, and cleaning up the air and the environment, and ultimately using less of Montana’s land resources.”

The barriers to this clean-energy future are not technical or economic, Jacobson told the Court. We have the money, the skilled workers, and the technology. The barriers are social and political. “Such barriers primarily result from government policies that slow down and inhibit the transition to renewables, and laws that allow utilization of fossil fuel development and preclude a faster transition to a clean, renewable energy system,” [the Court record says](#).

Conclusions of Law

In technical terms, the *Held v Montana* decision – [upheld in a 48-page Montana Supreme Court judgement](#) – is a far cry from a legal sledgehammer that will force the State to generate clean energy. It means only that from now on State agencies must inform the Legislature and the citizens of Montana about the impacts of greenhouse gas pollution whenever they seek to permit new fossil fuel development.

[The case cements Montana citizens’ right to a “clean and healthful environment,”](#) as described in our Constitution. That language, said the Judge, “indicates that Montanans have a right not only to reactive measures after a constitutionally proscribed environmental harm has occurred, but to be free of its occurrence in the future.”

This hard-fought legal case proved that Alexander Hamilton’s independent judiciary works as he envisioned. These kids broke through the smoke and mirrors, the propaganda, and vested interests and shined a bright light on what is true . . . *and undisputed*.

The existential threat that our children and grandchildren face as our climate fails is now beyond debate, at least in Montana. The Court record makes it clear. We also have a roadmap for a cleaner, cheaper energy system. With our hydro backbone (36 percent of our electricity) and world-class solar and wind resources, Montana could be the first state to achieve a 100-percent clean energy system.

It’s up to us as Montana citizens whether we want a hot-house Earth, or whether we choose the “clean and healthful” future this decision envisions.