



Summary and Status Update on *Held v. State*
As of January 10, 2024

1. **Litigation:** *Held v. State*¹ is the “youth climate lawsuit” that went to trial during the summer of 2023.
 - The main issue was the provision in the Montana Environmental Policy Act (MEPA), 75-1-201(2)(a), MCA, that prohibited state agencies from evaluating greenhouse gas (GHG) emissions and corresponding climate impacts in Montana or beyond the state borders. The Plaintiffs claimed that provision violated their constitutional right to a clean and healthful environment (Article II, Section 3).
 - In August 2023, the District Court judge issued her ruling, declaring that specific MEPA provision, 75-1-201(2)(a), MCA unconstitutional, thus invalidating the prohibition.
 - While, if the ruling stands, agencies would no longer be prohibited from considering greenhouse gas emissions and climate impacts when conducting environmental reviews under MEPA, the District Court does not have the power to affirmatively order State agencies to analyze greenhouse gas emissions or climate change or to direct them how to conduct such an analysis.

2. **Appeal:** The executive branch agencies (Defendants) are appealing the decision to the Montana Supreme Court to correct specific procedural issues, not to dispute the subject of a changing climate. For example, the District Court order conflates DEQ’s procedural duties under MEPA with its substantive permitting authority under the various state permitting statutes. The defendants must file briefs for the Appeal to the Supreme Court on or before February 13, 2024.

3. **Stay:** The agency Defendants, including the Department of Environmental Quality, the Department of Natural Resources and Conservation, and the Montana Department of Transportation, are requesting a stay of the District Court’s August decision so agencies can focus their attention on determining next steps in a potentially complex analysis and process, until the Supreme Court decides all the issues on appeal. The stay process includes:
 - a. Requesting the District Court to stay its own decision and order. Defendants made that request on October 16, 2023, and the District Court declined to issue the stay on November 21, 2023.
 - b. Requesting the Supreme Court to stay the District Court decision, pending appeal. Defendants filed that motion December 1, 2023. There is no deadline by which the Supreme Court needs to rule on that request, and defendants are awaiting a decision.

4. **Next Steps:** The MEPA working group is one part of DEQ’s continual process to improve the MEPA implementation procedures and analyses, while awaiting the Supreme Court’s decision.

¹ *Held v. State*, No. CDV-2020-307 (Mont. 1st Jud. Dist. Ct. Aug. 14, 2023).