

## OPINION | JAMES HANSEN AND SOPHIE KIVLEHAN

### OK, US government — see you in court

By James Hansen and Sophie Kivlehan AUGUST 14, 2017

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We are a 76-year-old grandfather and his oldest grandchild, who just graduated from high school in Pennsylvania. We are among 22 plaintiffs in a lawsuit filed by Our Children's Trust on behalf of young people and future generations against the federal government.

The suit will show that the government, by authorizing and subsidizing production, transport, and burning of fossil fuels, is substantially responsible for growing climate disruptions that could lead to irreparable harm to young people. These federal actions, we assert, violate young people's constitutional rights to life, liberty, property, and equal protection of the law.

The reality and intergenerational nature of human-made climate change are undeniable. It takes decades and centuries for the ocean to warm and ice sheets to melt in response to changes of atmospheric composition. Benefits of burning fossil fuels occur today, but the principal climate effects will be felt by young people and their offspring.

If high fossil fuel emissions continue, eventual effects include loss of coastal cities on time scales [as short as 50 to 150 years](#). Regional climate extremes are already increasing. Growing numbers of climate refugees are a harbinger of the future, if we let low latitudes become too hot for outdoor activity.

We expect to win the lawsuit, but that will not be enough. We could win the battle in court, but lose the war. Indeed, unless the public understands the situation, and asserts its potential to use the democratic process, young people will be consigned to diminishing prospects for their future.

Civil rights provide a relevant example. The Supreme Court ruled in 1954, in *Brown v. Board of Education*, that segregation was unconstitutional. Yet the government dithered. Only with public outrage in the 1960s did the civil rights war begin to be won.

A similar delay in the climate case would be deadly. Continued high emissions for decades will lock in a warmer ocean, likely pushing the system beyond a point of no return, as the warmer ocean melts the ice shelves around Antarctica and Greenland. Loss of coastal cities would become likely. Other climate disruptions would be magnified.

Our well-oiled, coal-fired Congress and president, predictably, will try to dither. The court may require “all deliberate speed,” as it did with civil rights, but it cannot usurp roles of the executive and legislative branches. It may even require the president to report on progress in reducing emissions. But that guarantees almost nothing about solving the global climate problem.

The fundamental fact is that as long as fossil fuels are cheap, as long as they are not required to pay their costs to society, somebody will burn them. The United States alone has the leverage to address the global issue, but the court cannot order that.

The economics is not rocket science. The price of fossil fuels should be made to rise steadily by collecting a rising carbon fee from fossil fuel companies at the domestic mine or port of entry. All of the funds should be distributed equally to all legal residents. Economic studies show that this would spur the economy, increase gross national product, and create millions of jobs.

The United States burned five billion tons of fossil fuel CO<sub>2</sub> last year. A carbon fee of \$55 per ton yields \$275 billion, or \$1,000 for each adult, \$3,000 to a family with two or more children, if children get half a share, for up to two per family. This market-based approach provides incentives for the public and businesses, rapidly phasing down fossil fuel use and modernizing infrastructure.

The United States would quickly make the carbon fee near-global by imposing a border duty on products from countries that did not have an equivalent carbon fee or tax. Most countries would prefer to have their own fee, rather than let us collect the money at the border.

The best thing citizens can do is join the Citizens Climate Lobby, even start a local chapter. There are 425 chapters with over 78,000 members in the United States, and chapters in 30 other countries. The members write op-eds and visit lawmakers, being polite but persistent.

Senators Barbara Boxer and Bernie Sanders adopted the carbon fee-and-dividend idea, but their Senate bill would grab 40 percent of the money for the government. In that case, it won't work — it becomes a tax that depresses the economy. Most people would lose money. The public would not allow the fee to rise.

James A. Baker III, George P. Shultz, and leading conservative economists have come out in favor of a carbon fee with 100 percent dividend, exactly as we propose. Unfortunately, Republicans are afraid that they will be challenged in their primaries if they appear to admit that climate change is real.

Citizens Climate Lobby needs to grow bigger and stronger, so that, when we win the court case, politicians and the public are aware of the centrist political compromise that would work. Incidentally, it would restore America's leadership and address domestic economic issues.

Why are we confident of winning our lawsuit, which surely would need to survive scrutiny by a conservative Supreme Court? Our case is based on the rock-solid foundation of our Constitution.

Thomas Jefferson, [in correspondence with James Madison in 1789](#) about the proposed Bill of Rights, wrote, "The question whether one generation of men has a right to bind another . . . is a question of such consequences as not only to merit decision, but place also among the fundamental principles of every government. . . . I set out on this ground, which I suppose to be self-evident, 'that the earth belongs in usufruct to the living.' "

Jefferson was saying that the present generation can enjoy the fruits of the land, but with an obligation to leave comparable conditions for the next generation. A reasonably stable seashore, our nation's Founders would agree, is an asset that should not be stolen from young people.

The young plaintiffs, and all youth today, confront a gathering storm. They have at their command considerable determination, a dog-eared copy of our beleaguered Constitution, and rigorously developed science. The courts will decide if that is enough.

*James Hansen, former director of the NASA Goddard Institute for Space Studies, is director of the Climate Science, Awareness and Solutions program at the Columbia University Earth Institute. Sophie Kivlehan will be a freshman at Dickinson College in Carlisle, Pa., this fall.*