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33 **UNITED STATES DISTRICT COURT**

34 **CENTRAL DISTRICT OF CALIFORNIA**

35 **GENESIS B.**, a minor, by and through
36 her Guardian G.P.; **MAYA W.**, a
37 minor, by and through her Guardian
38 R.W.; **MARYAM A.**, a minor, by and
39 through her Guardian M.T.; **ZUBAYR**

40 **Case No.: 2:23-CV-10345**

41 **COMPLAINT FOR**
42 **DECLARATORY RELIEF AND**

43 **COMPLAINT FOR DECLARATORY RELIEF**

1 **M.**, a minor, by and through his
2 Guardian S.W.; **MUAAWIYAH M.**, a
3 minor, by and through his Guardian
4 S.W.; **DANI R.**, a minor, by and
5 through her Guardian A.P.; **MAYA R.**,
6 a minor, by and through their Guardian
7 M.R.; **MARYAM M.**, a minor, by and
8 through her Guardian S.A.; **NOAH C.**,
9 a minor, by and through their Guardian
10 N.M.; **IONE W.**, a minor, by and
11 through her Guardian C.W.; **AVROH**
12 **S.**, a minor, by and through his
13 Guardian P.S.; **ARIELA L.**, a minor,
14 by and through her Guardian E.L.;
15 **HUCK A.**, a minor, by and through his
16 Guardian R.A.; **NEELA R.**, a minor,
17 by and through their Guardian S.R.;
18 **EMMA W.**, a minor, by and through
19 her Guardian S.W.; **ARISHKA J.**, a
20 minor, by and through her Guardian
21 A.J.; **LALI H.**, a minor, by and
22 through her Guardian R.H.; **DEAN S.**,
23 a minor, by and through his Guardian
24 R.K.;

17 **Plaintiffs,**

19 **vs.**

20 **The UNITED STATES**
21 **ENVIRONMENTAL**
22 **PROTECTION AGENCY; The**
23 **UNITED STATES of AMERICA;**
24 **MICHAEL S. REGAN**, in his official
25 capacity as Administrator of the
26 Environmental Protection Agency;

26 **Defendants.**

**FURTHER RELIEF AS
WARRANTED**

**Constitutional Rights;
Declaratory Judgment Action
(28 U.S.C. §§ 1331, 2201, 2202)**

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1 **NATURE OF THE ACTION**

2 1. Children in the United States are growing up with polluted air and a
3 government-imposed and -sanctioned climate crisis. The climate system that is vital
4 to ordered liberty and has fostered and supported all human life for thousands of
5 years no longer exists because it has been destabilized by pollution from burning
6 fossil fuels. Climate crisis is the single greatest driver of the health of every child
7 born today.

8 2. As members of the class of “Children,” Plaintiffs come to this Court as
9 the most vulnerable, unrepresented, powerless people in the Nation. Plaintiffs are
10 actively being harmed and discriminated against by their government’s affirmative
11 allowance of dangerous levels of climate pollution. In a plea for their safety and
12 equal protection of the law, Plaintiffs bring their constitutional claims against the
13 United States Environmental Protection Agency (“EPA”), its Administrator,
14 Michael Regan, and the United States federal government, each of whom is charged
15 with controlling air pollution that harms human health and welfare.

16 3. Children in the western United States regularly breathe into their lungs
17 air polluted by toxic smoke from climate-fueled wildfires and fossil fuel operations.
18 Alternately, Children must stay inside their homes to avoid the heat and air quality
19 dangers posed by the climate crisis and must evacuate the safety of their homes due
20 to encroaching climate-driven fires or floods. Children have lost homes from
21 climate-driven fires. Children have lost weeks of education from climate change-
22 related school closures and unsafe air quality conditions. Children cannot swim in
23 water bodies laden with toxic algae spawned by too-warm water and must ration tap
24 water because of unprecedented climate droughts. Children are losing the ability to
25 practice their Indigenous, religious, spiritual, and cultural traditions. Children face
26 shortened lifespans due to harms to their health and an accumulation of otherwise
27

1 avoidable adverse childhood events, with lifelong consequences. Plaintiffs, as
2 individual Children, have experienced each of these harms.

3 4. Fossil fuel pollution and human-induced climate change specially harm
4 Children and are burdening them with a lifetime of hardship. Children are harmed
5 by the effects of the climate crisis in ways that are different from and worse than
6 fully developed adults because Children’s bodies and minds are still growing, they
7 are still dependent on adults, they have different needs and behaviors from adults,
8 and because of their longevity of life this century and into the next one. Yet, Children
9 are consistently ignored, overlooked, and undervalued. At no time in our Nation’s
10 history has Congress delegated authority to any governmental agency to allow levels
11 of pollution that are harmful to Children. Yet that is what EPA has done.

12 5. Plaintiffs seek redress in this Court because, as members of a protected
13 and disenfranchised class, they are politically and economically powerless in our
14 constitutional democracy and cannot meaningfully participate in and influence the
15 policy decisions that cause the climate crisis, discriminate against them, and
16 irreversibly harm them for the remainder of their lives on Earth. They have no vote—
17 the most important right of citizenship that helps preserve all other rights. By the
18 time they can vote, Plaintiffs have experienced 18 years of climate injuries that they
19 carry for the rest of their lives.

20 6. Defendants will say these Children have no right to be heard, that EPA
21 has the exclusive and unreviewable power to harm these Children, discriminate
22 against them, and take away their right to a stable climate system that is needed to
23 sustain their lives. Defendants will say these Children have no standing to sue and
24 this Court has no jurisdiction because it must leave untouched the political branches’
25 decisions on air pollution and climate crisis, because each separate permit and rule
26 to allow climate pollution must be challenged singularly by these Plaintiffs, because
27 of alleged effects on the whole economy, or because the problem is allegedly “too
28

1 big.” They are wrong. The greater the constitutional grievance against these
2 disenfranchised young Plaintiffs and their class, the greater the responsibility of the
3 judiciary to act as a check on Defendants’ infringement of Plaintiffs’ constitutional
4 rights.

5 7. Our government has made these types of arguments before—against
6 Black children, against Mexican-American children, against Indigenous children,
7 against children of unmarried parents, against children born to undocumented
8 immigrants, against children of Japanese descent, and more—each in an effort to
9 protect powerful status quo interests and deny disenfranchised Americans their equal
10 rights. Courts have prohibited this type of discriminatory government conduct as
11 violative of the very foundation of our democracy.

12 8. The United States, and EPA as its delegated agent, do not have the
13 absolute and unreviewable power to destroy the Nation or the lives of Children,
14 including Plaintiffs. “[T]he Constitution does not condone the Nation’s willful
15 destruction.”¹

16 9. Over 50 years ago, Congress and President Nixon charged EPA with
17 the duty to protect adult and children’s health and welfare from air pollution. Rather
18 than use its congressionally-delegated authority to protect air quality and the climate
19 system for Children by keeping national pollution to levels that protect Children’s
20 rights of equal protection of the law, including their fundamental rights, EPA forged
21 an unlawful path by authorizing levels of climate pollution² that have destabilized
22 the very foundation, and ordered liberty, of Children’s lives, including Plaintiffs’. In
23

24 ¹ *Juliana v. United States*, 947 F.3d 1159, 1175 (9th Cir. 2020) (Staton, J.,
25 dissenting).

26 ² This Complaint uses the phrase “climate pollution” to refer to carbon dioxide
27 (CO₂), methane, nitrous oxide, and fluorinated gases, the “greenhouse gases” that
28 are emitted to, disposed of, and accumulate in the atmosphere by human activity.

1 so doing, EPA has exceeded its delegated authority and injured the lives, health,
2 welfare, safety, security, dignity, happiness, potential for longevity, and an open
3 livable future of Plaintiffs, as Children, in violation of the United States Constitution.

4 10. EPA's conduct in controlling the pollution that enters the Nation's air
5 actively discriminates against Children, and these Plaintiffs, knowingly causing
6 them disproportionate harm compared to similarly situated adults and burdening
7 them with a lifetime of hardship. EPA explicitly and discriminatorily devalues
8 Children when making decisions about levels of climate pollution to allow or
9 restrict.

10 11. Plaintiffs are Children living in California. They bring this declaratory
11 judgment action under the Fifth Amendment Equal Protection and Due Process
12 Clause, and the Declaratory Judgment Act. Plaintiffs seek, in the first instance, a
13 declaratory judgment that as Children they are entitled to a heightened level of
14 judicial review over government conduct that burdens them with lifetimes of
15 hardship, that they are members of a constitutionally protected class, and that
16 Defendants have violated their constitutional rights under the Fifth Amendment
17 Equal Protection Clause, as incorporated by the Fourteenth Amendment, by
18 discriminating against them. They also seek declaratory relief that Defendants have
19 infringed their fundamental rights to life, including their personal security and
20 happiness, and in so doing have also acted outside the scope of their delegated
21 authority. Plaintiffs seek further relief as deemed necessary and proper to enforce a
22 declaratory judgment after the facts are found and the legal conclusions of the district
23 court are rendered on a full evidentiary record.

24 12. Given the dire emergency of the climate crisis, Plaintiffs also
25 respectfully plea that they be granted a swift hearing, including trial, to resolve
26 material issues of disputed facts, on their claims and of their evidence. Fed. R. Civ.
27 P. 57 ("The court may order a speedy hearing of a declaratory-judgment action.")

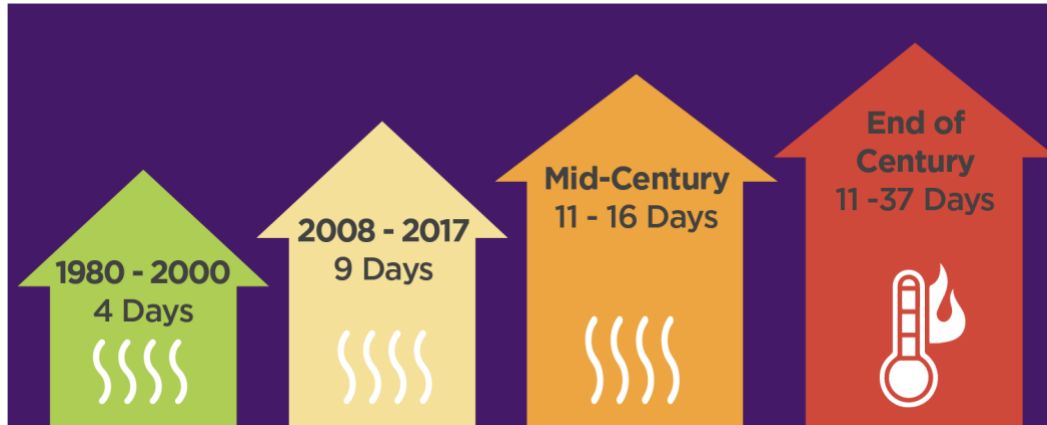
1 the nation's air and the pollution that enters it, Defendants have caused climate
2 destabilization, endangered and discriminated against Plaintiffs, and caused them
3 injuries to rights protected by the Fifth Amendment.

4 19. The actual controversy lies in: (1) whether Defendants have burdened
5 Children with a lifetime of hardship in violation of the Equal Protection Clause; (2)
6 whether Children are a protected class under the Equal Protection Clause; (3)
7 whether EPA has discriminated against Plaintiffs, as part of the protected class of
8 Children, in allowing the injurious climate pollution in violation of the Equal
9 Protection Clause; (4) whether the injurious climate pollution sanctioned and
10 systematically allowed by EPA and the United States federal government rises to a
11 substantive due process violation; and (5) whether EPA has exceeded its statutorily
12 delegated authority in violation of the Constitution. The resolution of these actual
13 controversies involves questions of scientific evidence and a factual record and
14 cannot be decided merely as a matter of law.

15 20. Declaratory and, if necessary, further relief, will redress the actual
16 controversy because it will clarify Plaintiffs' rights as Children, protect Plaintiffs'
17 rights from complete extinguishment, and at least partially alleviate Plaintiffs'
18 injuries. If Defendants can continue to exercise their sovereign and statutorily
19 delegated authority unchecked by the Constitution, with the errant belief that
20 allowing climate pollution that destroys the air and climate system and Children's
21 lives is permissible under the U.S. Constitution, Plaintiffs will face an
22 insurmountable burden in securing their rights compared to adults. Many Children
23 will succumb to physical or mental illness caused by climate change. Some will die
24 from extreme climate events or lack of access to basic life necessities well before
25 their given life expectancy. The gains in life expectancy over the last century are
26 now reversing for Children born today.

1 on a hot day, and had to cancel her appearance to receive an award for her activism
2 from a local youth group.

3 25. Extreme heat days (measuring 95°F and above) in Long Beach,
4 California.



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12 26. Without air conditioning, Genesis must keep the windows in her house
13 open in the summer, which can be unsafe and exposes her to more pollen worsening
14 her allergies and resulting in frequent runny nose, cough, and congestion. Ash from
15 wildfires that are exacerbated by climate change and increasingly close to Genesis's
16 home also blows in through her windows causing headaches, fatigue, and worsening
17 of her allergy symptoms. Genesis wears masks to go outside in particularly bad
18 smoke seasons, including the past two years.

19 27. Genesis feels a deep connection to the earth, tied closely to her Afro-
20 Latina and Indigenous roots. She has made substantial efforts to lessen her
21 contribution to climate change by adopting a vegan lifestyle at the age of six and
22 educating the public about greenhouse gas emissions. Genesis experiences climate
23 anxiety and instead of thinking about college, she constantly worries about the
24 climate crisis and how it will affect her future and the future of her four younger
25 siblings. One way Genesis deals with her anxiety is by being in nature, though this
26 becomes more difficult as climate change worsens. The heat and smoke prevent her
27 from even taking walks near her home. In August 2023, after Tropical Storm Hilary,
28

1 Genesis was unable to take a family trip to the Colorado River, because the route,
2 the I-5 freeway, flooded.

3 28. Plaintiff **Maya W.** is a 17-year-old resident of Los Angeles, California.
4 Maya was diagnosed with bronchospasms due to her asthma and must regularly use
5 a steroid inhaler to participate in physical activities essential for her health, like
6 soccer. Increasing interaction with wildfire smoke, driven by climate change, causes
7 Maya to have chest pains related to her asthma and severe headaches. Maya plays
8 soccer and would like to compete at a competitive level but is unable to do so due to
9 her asthma. Wildfire smoke has caused practices to be cancelled in the past, which
10 also prevents Maya from performing at her highest level. When Maya participated
11 in PE classes, wildfire smoke forced the students to exercise inside, but on several
12 occasions, ash lined the floor of the gym. Wildfires have also increasingly threatened
13 Maya's grandparents' property in Burbank, a home she visits on nearly a weekly
14 basis. While her grandparents' home has thus far been spared from fire, Maya was
15 shocked to see her grandparents' lush backyard turned to ash by wildfires.

16 29. Maya's participation in soccer is also affected by rising temperatures
17 caused by climate change which causes her fatigue, headaches, and more loss of
18 breath when she exercises. Maya plays soccer on turf fields that intensify the heat
19 and cause her feet to feel like they are burning. At times, air conditioning has broken
20 down at Maya's school making it difficult to focus due to the heat. Her school has
21 lost power on especially hot days, which caused school cancellations.

22 30. Maya started experiencing anxiety in 2020. This anxiety is worsened as
23 she learns about climate change and experiences its effects. Maya's anxiety around
24 climate change rises to the level of panic attacks, which she manages by engaging
25 in therapy and climate action. Maya feels compelled to adjust her lifestyle and
26 activities, like eating a vegan diet, choosing not to get her driver's license,
27 purchasing reused items, reducing her consumption, and declining trips involving
28

1 airplanes, to reduce her carbon footprint. Even with these outlets and lifestyle
2 choices, Maya’s anxiety persists as she thinks about her government making climate
3 change worse. She feels like she has been robbed of the bright future adults promised
4 her as she was growing up.

5 31. Plaintiff **Maryam A.** is a 13-year-old resident of Santa Monica,
6 California. Increasing wildfires and wildfire smoke harm Maryam’s physical health
7 and her family’s safety. When Maryam is exposed to wildfires and wildfire smoke,
8 she has difficulty breathing and her nose hurts around her sinuses. When air quality
9 is poor due to wildfires, Maryam is unable to do activities she enjoys like biking,
10 hiking, and enjoying time in nature. In 2019, Maryam’s grandparents came to stay
11 in Maryam’s home because their house in Malibu was unlivable from being filled
12 with ash from frequent wildfires. When they returned two months later, her
13 grandparents’ property had been partially burned and the house had to be remediated
14 to rid it of ash and smoke.

15 32. Maryam has also been impacted by the increasingly hot temperatures
16 which cause Maryam headaches, while the dry air worsens her eczema flare-ups.
17 The heat forces Maryam to limit her outdoor activities, including biking to school.
18 Maryam practices Islam, and because her age, she is considering what practices of
19 the faith she will adopt in the future. The heat makes it difficult for Maryam to fast
20 for Ramadan and has affected her decision on whether to fast. As she looks to the
21 future, Maryam believes that wearing a hijab would be very difficult in the heat. She
22 also is concerned about her ability to participate in the Hajj, the pilgrimage to Mecca
23 that is done on foot, with increasing temperatures. Maryam tries to change her daily
24 activities to reduce water use, given the historical drought in California.

25 33. Until Maryam’s family recently had their roof repaired in Summer
26 2023, it would leak due to increasing extreme precipitation. In August 2023,
27 Maryam had to cancel her thirteenth birthday with friends due to Tropical Storm
28

1 Hilary. Even with the repaired roof, Maryam’s home still experienced some leaks
2 from the storm.

3 34. Maryam enjoys going to Santa Monica Beach over the summer where
4 oil spills often run onto the beach. The oil has ruined her shoes when she takes long
5 walks along the beach. Maryam is concerned about how her future will be affected
6 by climate change and how much she will be able to go outside due to poor air
7 quality. She worries that the state of the planet will affect her ability to live her life
8 and explore opportunities when she becomes a young adult, including going to
9 college, traveling and hiking, choosing her career, and all of the small and big
10 choices adults get to make, like starting a family and having future children. Maryam
11 believes that her generation, and all generations after, are owed a future.

12 35. Plaintiffs **Zubayr M.** and **Muaawiyah M.** are brothers, 11- and 16-
13 years-old respectively. They are residents of Los Angeles, California and live near
14 several oil and gas wells, including 3½ miles from a fracked well. Zubayr and
15 Muaawiyah regularly face climate pollution from fossil fuel infrastructure as they
16 recreate. They enjoy visiting Kenneth Hahn Park, approximately five miles from
17 their home, once or twice a month and which is located next to an oil field. In April
18 2021, their ability to visit the park was disrupted by an oil leak which threatened
19 health of residents by releasing containments in the air and water.

20 36. Zubayr and Muaawiyah experienced increased rainfall in their area due
21 to climate change. In August 2023, winds from Tropical Storm Hilary blew off a
22 panel of the roof of their apartment building, on which they live on the top floor.

23 37. Zubayr and Muaawiyah regularly experience smog, driven by fossil
24 fuel emissions and wildfire smoke. Muaawiyah checks the air quality several times
25 a week and has observed below average air quality on his weather app about half the
26 time. When Zubayr and Muaawiyah visit downtown on smoggy days they have
27 trouble breathing, coughing, and at times, eye irritation.

1 38. Zubayr and Muaawiyah have also experienced an increase of mosquitos
2 in their area. They frequently receive mosquito bites and through the fall of 2023,
3 they could see mosquitos on the inside walkway of their apartment building. In 2022,
4 Zubayr developed a staph infection from a mosquito bite and had to receive medical
5 treatment.

6 39. Zubayr feels angry and sad when he thinks about how fossil fuels will
7 increase in the future and make his future worse. Muaawiyah can feel despair for
8 days at a time if he thinks too deeply about the climate crisis.

9 40. Plaintiff **Dani R.** is a 17-year-old resident of Santa Clarita, California.
10 Dani faces increasing extreme weather events due to climate change. Dani lives in a
11 canyon where heavy rains in 2022 caused mudslides that caused severe damage to
12 the foundation of her home and holes in the ceiling. The repairs on the home took a
13 long time and cost her family \$100,000 as it was not covered by homeowner's
14 insurance.

15 41. Dani has experienced extreme heat and wildfire, which are increasing
16 in frequency and severity with climate change. Wildfire smoke and poor air quality
17 caused severe allergies for Dani in 2021, where she was unable to attend school
18 because of migraines, shakes, and congestion—missing about 15 days of school.
19 Dani worked with a physician to get these allergies under control, which required
20 taking Benadryl. Dani loses power several times a year at her home due to climate
21 related events. In 2019, the Tick fire came very close to her house. Dani's family
22 has housed displaced friends who have been evacuated or lost their homes to
23 wildfires.

24 42. Dani's school and community have issues with contaminated water. In
25 the past, particularly in time of drought driven by climate change, Dani's family has
26 struggled to find packaged water on the shelf.

1 43. Dani is an active member in her community, and frequently volunteers
2 in climate action, works with women and children in need, and in the past, assisted
3 in Covid relief. She has observed inequity and social issues in her community
4 exacerbated by climate change. Dani had hoped to become a nurse practitioner in
5 the future, but her concerns about climate change have made her shift her plans to
6 focus on targeting climate change through non-profit work.

7 44. Plaintiff **Maya R.** is a 10-year-old resident of Fullerton, California.
8 Maya's first encounter with the threat of wildfire and smoke was when they were a
9 baby and their parents were making plans to evacuate from their home in La Habra
10 when it was difficult to know where to safely go. In their young life, Maya has
11 experienced the physical discomfort of smoke from wildfires, which has harmed
12 their ability to safely engage in outdoor activities they enjoy, like biking. Maya has
13 been forced to stay inside at school due to ash falling and unhealthy air quality. Maya
14 has observed burned landscapes while traveling for family vacations such as to
15 Yosemite. Wildfire smoke and orange skies make Maya feel scared. Maya has
16 experienced extremely high temperature days, requiring them to stay indoors at
17 school when it is too hot for recess or lunch. Orange County experienced one of its
18 hottest days ever in September 2022, reaching 111°F in Fullerton, where average
19 high temperatures normally range near 85°F.

20 45. Maya also experiences anxiety about the impacts of drought on the
21 Colorado River and their water supply in Southern California. Maya feels a strong
22 connection to animals and experiences anxiety about climate change's harm to
23 animals and their habitat, especially birds and canines. Maya uses art to help with
24 the anxiety they feel around climate change, and they attend events and marches
25 whenever they can to try to have their voice heard.

26 46. Plaintiff **Maryam M.** is a 15-year-old resident of Garden Grove,
27 California. The effects of climate change are already impacting Maryam's religious
28

1 practices. As a Muslim, Maryam feels a deep connection to Islam's call to care for
2 both the environment and animals. She practices veganism as part of her devotion
3 and is discouraged by governments' neglect of the earth. The increasing heat in
4 Southern California due to climate change burdens Maryam when the month-long
5 fast during Ramadan falls during periods of heat as it has for the last several years.
6 The heat makes it very difficult to abstain from both food and water from dawn to
7 dusk, which is an important part of her religious practice. Maryam also wears a hijab
8 and conforms with other religious attire including long sleeves and long pants, which
9 increasing temperatures make more difficult and lead to physical discomfort.

10 47. Maryam faced a tropical storm warning for the first time in August
11 2023 when Tropical Storm Hilary, caused in part by climate change, hit Southern
12 California. Her home was under threat of evacuation causing stress to her and her
13 family. Along with worsening storms, wildfire and wildfire smoke have harmed
14 Maryam's quality of life. Maryam considers her academics, and her love of
15 mathematics, to be one of the most important aspects of her life and, in middle
16 school, Maryam's school closed down for multiple days each year due to the threat
17 of wildfire and wildfire smoke, interfering with her learning. Even when fires are
18 not close to Maryam's home, she has had ash fall on her property from fires several
19 miles away. Maryam worries for her younger brother with asthma, which is
20 worsened by wildfire smoke, and requires their family to run air purifiers.

21 48. Wildfires, smoke, and heat have also interfered with Maryam's
22 enjoyment of family gatherings. In 2020, Maryam visited her family in Northern
23 California for about a week and was exposed to extremely smoky air and poor air
24 quality in addition to heat, which forced her to stay indoors. In recent years, two
25 campsites that Maryam and her family regularly visited were burned down in
26 wildfires. One campsite was a camp Maryam's mother used to also stay at as a child,
27 a now-broken tradition she had passed down to Maryam and her siblings.

1 49. Maryam worries about how climate change will affect her and her loved
2 ones in the future. She worries about immediate climate related threats to her family
3 and friends, like those living in Pakistan who have been harmed by extreme flooding.
4 She also worries about the long-term future and sustainability of life in California
5 and other parts of the world. As a result of her climate anxiety, she spends her free
6 time outside of school volunteering for youth-led climate organizations, which has
7 left no time for a childhood of play and social time with friends.

8 50. Plaintiff **Noah C.** is a 15-year-old resident of Sebastopol, California.
9 Noah loves Sebastopol and even though they have visited other places in California
10 and the country, Sebastopol is their favorite place and is where Noah feels a sense
11 of connection and belonging. Noah remembers having a great childhood until they
12 were 8-years-old, in third grade, when the 2017 Tubbs Fire started. That was the first
13 time Noah was evacuated from their home for wildfire. Noah lost 19 days of school
14 and ultimately had to leave the state to find safe air quality for their brother with
15 asthma. The Tubbs Fire destroyed homes of Noah's friends and threatened their
16 school and entire community. Noah's home was layered with smoke and ash. Noah
17 remembers being very scared. Both Noah and their younger brother share the month
18 of October for their birthdays. The Tubbs Fire occurred a couple of days after Noah's
19 brother's birthday and shortly before Noah's birthday, ruining an otherwise
20 celebratory time. While nothing had ever happened like that to Noah before, and
21 they thought it was a one-time catastrophe, the Tubbs Fire was just the beginning.
22 Now every year since 2017, Noah has had to be afraid every fall, especially in
23 October—their birth month, that they will lose their house and everything they love.

24 51. Again, in 2018, the Camp Fire caused five more days of school closures
25 for Noah, and their family planned for potential evacuation. In 2019, during the
26 Kincaid Fire, Noah had to evacuate their home once again, leaving their dogs at a
27 neighborhood boarding, causing Noah to fear for their home and pets. Noah packed
28

1 stuffed animals to take with them, knowing they might lose all of their possessions
2 and their home. The evacuation disrupted Noah's Halloween, and they were forced
3 to celebrate the holiday away from home and their community. Noah's school was
4 shut down for several weeks, and they had anxiety that their school might burn down.
5 In 2020, Noah's home was threatened again by an even closer fire, the Walbridge
6 Fire. Noah evacuated to San Francisco and missed the first day of sixth grade at a
7 new school. After the 2020 fire, Noah's family relocated from their farm into town
8 for fear of future wildfires, but they are not free from danger.

9 52. Noah has spent significant portions of their childhood running from
10 fires, spending holidays in rental houses not being able to enjoy their October
11 birthday or Halloween, from feeling constantly afraid about fire and their house
12 burning down. Noah has witnessed their friends struggle with the impact of losing
13 homes. Noah has also spent many days wearing masks to help protect against the
14 inhalation of pollutants like PM_{2.5}, and their family has had to purchase multiple air
15 purifiers for every room in their home to try to keep their indoor air quality safe.

16 53. After the Tubbs Fire, in fourth grade, Noah began to struggle in school
17 and with anxiety and depression for which they have sought medical treatment. Noah
18 uses therapy, meditation, art, and sacred time in nature to help manage their climate
19 anxiety and depression, but the ongoing harms of climate change in Noah's life make
20 it extremely challenging. Climate change has fundamentally changed Noah's
21 childhood.

22 54. In recent years, Noah has been diagnosed with ADHD and manages
23 that neuro-divergence with a helpful medication. However, that medication makes it
24 more difficult for Noah to regulate their temperature and causes sensitivity to heat.
25 Noah also has sensory conditions and hyperhidrosis, which can lead to dehydration,
26 which is exacerbated by hot conditions. With increasing temperatures and heat
27 waves, Noah experiences severe physical and psychological harm that has led to
28

1 hospitalization, which comes with great academic, social, and financial costs. Being
2 stuck inside due to heat or smoke worsens Noah's mental state because walks outside
3 in fresh air are an important part of their self-care.

4 55. After experiencing growing trouble with breathing after years of smoke
5 exposure, in eighth grade Noah was diagnosed with asthma, for which they use an
6 albuterol inhaler. Noah's asthma makes it difficult for them to participate in PE class
7 and other activities like hiking at Noah's favorite summer camp. Noah never had
8 respiratory issues before the fires started.

9 56. Every year of Noah's childhood they attend a month-long camp in the
10 redwoods near the ocean. That ritual and place is important to Noah and their family.
11 Now, due to Noah's asthma and heat sensitivities, Noah is afraid to participate in the
12 camp activities, like hiking, because of the struggle to breathe when Noah's lungs
13 flare up. Noah used to attend camp later in the summer, but they only register to go
14 at the beginning of summer now because of fire danger and heat. Recent fires have
15 come very close to burning down the camp and have burned the corridor and
16 blackened the formerly green trees Noah witnesses traveling to the camp.

17 57. Climate change has also increased flooding in Noah's area. In 2019,
18 Sebastopol experienced a severe flood, closing some of Noah's favorite places in the
19 town square. In January 2023, Noah's home was flooded after record-breaking
20 rainfall. The ground floor of Noah's home sustained water damage that was not
21 covered by Noah's family's homeowner's insurance.

22 58. Noah loves the coastal environment and tidepools of California and
23 wants to study marine biology one day, but knows that some marine species are
24 dying out or moving to different locations due to the increase in ocean temperatures.
25 This additional loss exacerbates Noah's climate anxiety.

26 59. Noah's life has been frequently disrupted by the increasing wildfires,
27 heatwaves, and flooding due to climate change. However, the physical climate harms
28

1 and disruptions cause an even greater psychological harm from the fear and anxiety
2 Noah experiences thinking about their safety and the future as climate change
3 worsens and governments maintain the status quo. Noah has met with members of
4 Congress to ask them to support H. RES. 259 aimed at promoting youth mental
5 health and well-being in a changing climate, including funding school districts to
6 help children cope with climate-related disasters. Noah felt frustrated that many
7 politicians did not listen to them. To date, only 29 members of Congress have
8 supported H. RES. 259.

9 60. Plaintiff **Ione W.** is a 12-year-old resident of Sebastopol, California.
10 Wildfire seasons worsened by climate change are already harming Ione’s home,
11 family, community, and way of life. In 2017, when Ione was 5 years old, she was
12 forced to evacuate her home in the middle of the night due to the Tubbs Fire,
13 California’s most destructive wildfire at that time. Ione’s family had about 15
14 minutes notice before evacuating, and their home was completely destroyed in the
15 fire, losing all possessions except those in their car, and the charred swing set in their
16 yard—the only thing remaining of the property they still own. Ione’s family was
17 fortunate to escape across the bridge that burned down behind them. Ione missed
18 approximately one week of school and was displaced for six months. During that
19 time, Ione had to move three times before settling into her current home, each move
20 adding additional stress to her as a young child.

21 61. Since the Tubbs Fire, Ione feels extreme anxiety around fires. During
22 the growing wildfire seasons, she checks the color of the sky before going to bed to
23 confirm there is no fire in the area. At age 7, Ione photographed the sunset each night
24 on her iPod to compare against prior sunsets, looking for hints of wildfire orange, to
25 feel calm enough to go to sleep. Ione has also worked with a therapist to develop
26 coping skills to address her fire anxiety. Despite these measures, Ione does not feel
27 safe, even in her own home, from September through the first heavy rain, due to the

1 increasing presence of wildfires in her area due to climate change. The smell of
2 smoke heightens her anxiety and causes extreme headaches that sometimes make it
3 difficult to participate in school, harming Ione's health, education, and security.
4 Ione's family has considered rebuilding on their property but is unable to do so due
5 to the inability to insure the property as homeowner insurance companies flee
6 California. Since 2017, Ione has evacuated her home two additional times due to the
7 Kincade (2019) and Walbridge (2020) fires. During the 2018 Paradise fire, Ione
8 evacuated home to escape prolonged smoke exposure. Ione's family ultimately
9 moved to a more coastal and less forested area that should have less wildfire risk,
10 but there is nowhere to live in their community to escape the growing wildfire season
11 from climate change.

12 62. Ione has researched climate change since third grade and believes that
13 climate change is something that needs to be talked about and stopped. She wants to
14 share her story of loss and fear through these claims to prevent additional harm to
15 herself and other children by the choices her government makes.

16 63. Plaintiff **Avroh S.** is a 14-year-old lifelong resident of Palo Alto,
17 California. Avroh first had to wear a mask as a fourth grader in 2018 when the air
18 was filled with ash and smoke from the deadliest and most destructive wildfire
19 season in California history. Avroh was exposed to wildfire smoke that caused
20 headaches, coughing, and discomfort, leading to the cancellation of school. In 2020
21 when he was in sixth grade, Avroh began regularly checking his outdoor air quality
22 after repeatedly waking up to a sky that had turned an apocalyptic orange from yet
23 another series of devastating wildfires. The poor air quality has made it unsafe for
24 Avroh to go outside for months at a time, eliminating his recreational activities
25 important for his health and wellbeing like soccer games, practices, simple daily
26 walks, or hanging outdoors with friends. Avroh's family has canceled family
27 vacations in other parts of California due to extreme heat and smoke from wildfires

1 that cover large parts of the state. Avroh now suffers from more frequent nosebleeds
2 that occur during periods of poor air quality and excessive heat, and has had to have
3 a blood vessel in his nose cauterized during wildfire season. During the 2023 fire
4 and smoke season, Avroh experienced more respiratory symptoms such as
5 congestion, coughing, and a sore throat, which made it hard to concentrate in school.
6 Avroh worries for his safety as each year fires burn closer to his community.

7 64. Avroh has also been exposed to increasingly severe storms that have
8 closed his school, interrupted his education, and prevented participation in activities.
9 For example, at the start of 2023, Avroh's school was canceled for at least five days
10 from an extreme storm event. Extreme precipitation flooded school grounds making
11 it unsafe to access the buildings for several days. High winds from another storm in
12 the winter of 2023 downed power lines on campus, forcing all school children to be
13 sent home while the power lines were fixed and the power restored. Even when
14 school was in session, parts of Avroh's school have been blocked off as unsafe
15 because of the risk that trees weakened by storms may fall. Avroh is scared that
16 another severe storm could send a tree crashing into his classroom in the future.

17 65. Avroh feels a deep, spiritual connection to nature and grieves the
18 sudden loss of wildlife and ecosystems that he is witnessing in Northern California
19 due to climate change. When Avroh was 9 years old, he started a Nature Club, to do
20 his part to clean up the environment. Avroh has known since he was 10 years old
21 that leading climate scientists have warned we have a limited window of opportunity
22 to avert climate disaster, and while he does what he can in his own school and home
23 to care for himself and nature, he feels anxiety wondering whether those in power
24 will continue to perpetuate the harm to him and future generations.

25 66. Plaintiff **Ariela L.** is a 17-year-old resident of San Leandro, California
26 and the first generation of her family to be born in the United States. Ariela feels a
27

1 deep connection to her community in San Leandro as well as her extended family
2 and community in Oaxaca, Mexico, who she visits regularly.

3 67. During the August 2020 Lightning wildfires that ignited across
4 Northern California, Ariela opened her front doors to orange skies with air thick and
5 heavy with smoke, causing throat aches and watering eyes – an experience that now
6 happens every year with the increasing wildfire season made worse by climate
7 change. As part of a low-income immigrant community in San Leandro, Ariela, as
8 well as other students in her community, is forced to suffer climate hazards
9 compounded by social and economic burdens. For example, Ariela has had to go to
10 school during periods of hazardous air quality from wildfires while wealthier area
11 schools have closed. Ariela’s classrooms filled with smoke, disrupting her learning,
12 and causing Ariela and her classmates sore throats and other physical effects.
13 Likewise, Ariela’s mom has had to continue working during hazardous smoke waves
14 because taking time off work as a preschool teacher would cause the family financial
15 hardship.

16 68. Ariela has also endured heat waves, with no air conditioning at her
17 home and in many areas of her school. Frequently, on the hottest days, the air quality
18 is also poor from smoke and it is not safe to cool down her home with open windows
19 at night.

20 69. Ariela has a large extended family in Oaxaca where she spends time.
21 During her childhood, while in Oaxaca in her family’s pueblo, Ariela experienced
22 intense storms whose flood waters demolished homes and crops central to her
23 family’s economic wellbeing and cultural traditions. Ariela experiences anxiety over
24 the impact of extreme weather, like storms and hurricanes, as well as heat, on maize
25 and other crops in Oaxaca because these crops sustain her family, community, and
26 cultural traditions. Shortly after her family lost homes and crops in Oaxaca, Ariela
27 returned home to the Bay Area where smoke engulfed her community. Ariela recalls

1 waking up at dawn to take the bus with her mom to school, breathing in toxic smoke
2 and understanding it was not safe for her or her mom and feeling trapped in the lack
3 of safety for herself and her family.

4 70. Ariela has been a community organizer with Sunrise Movement since
5 age 14, fighting to stop the climate crisis. She has trained students from across the
6 country for a national campaign and has gone to D.C., participating in a
7 demonstration in an effort to be heard by the people in power. She would like to
8 spend time doing other activities or enjoy her hobbies, but Ariela worries about her
9 future, her community, her life, and future generations and knows that we are
10 running out of time, so she has foregone parts of her childhood in order to protect a
11 livable future.

12 71. Plaintiff **Huck A.** is a 13-year-old lifelong resident of Truckee,
13 California. Huck enjoys many outdoor activities including mountain biking, cross-
14 country running, baseball, river inner-tubing, skiing, and other winter activities,
15 which are an important part of his childhood and development. As climate change
16 worsens, Huck's ability to engage in these activities is being harmed.

17 72. Worsening wildfires and air quality due to climate change, are
18 commonplace in Huck's life, a symbolic beginning of the summer. Though Huck
19 would enjoy running or biking throughout the summer and fall, the pervasive smoke
20 during wildfire season often forces him to stay indoors. In 2021, Huck's school was
21 closed for one week due to the Caldor fire that caused evacuation warnings for the
22 Tahoe Truckee Unified School District. That same fire affected Huck's family's
23 ability to safely move his ailing grandparents into their home. In 2022, hazardous
24 smoke from the Mosquito fire, which Huck avoided only by being out of town,
25 impacted Huck's grandma and family members who were stuck in the smoke. When
26 Huck attends school during wildfire season, he wears N95 masks during the day at
27 high air quality indexes. If the air quality index exceeds 150, Huck's cross-country,
28

1 biking, and baseball practices and events are canceled, which occurs regularly.
 2 Though Huck is preparing for high school and would like to compete competitively
 3 in these sports, smoke days cause him to miss training and competition days and
 4 interfere with his performance.

5 73. The Tahoe Truckee Unified School District closes schools for smoke
 6 days when AQI exceeds 400, causing Huck to miss school, and has instituted other
 7 restrictions on student activities to reduce smoke inhalation. The School District
 8 instituted this new smoke protocol in 2021 in response to the increasing number and
 9 severity of wildfires from climate change.

10 74.

TTUSD Guidelines for Outdoor Activity Based On Air Quality Level

Use your best judgment; the AQI reports do not always reflect what we see on the ground.

AQI Value (Air Quality Index)	Level 1: 0-50 Good	Level 2: 51-100 Moderate	Level 3: 101-150 Unhealthy for Sensitive Individuals	Level 4: 151-200 Unhealthy	Level 5: 201-300 Very Unhealthy	Level 6: 301-399 Hazardous	Level 7: 400+ Hazardous
Windows/Doors	OK to Open	OK to Open	Keep Closed	Keep Closed	Keep Closed	Keep Closed	Keep Closed
Lunch/Breaks Outdoors	No Restrictions	No Restrictions	No Restrictions Ensure sensitive individuals are medically managing their condition.*	15-30 minutes max with no physical activity	No Outdoor Activity	No Outdoor Activity	No Outdoor Activity
Recess (15 Minutes)	No Restrictions	Ensure sensitive individuals are medically managing their condition. *	Sensitive individuals should exercise or play indoors. Encouraged to move indoors if AQI exceeds 100, if possible.	Indoors Only	No Outdoor Activity	No Outdoor Activity	No Outdoor Activity
P.E. (1 hour)	No Restrictions	Ensure sensitive individuals are medically managing their condition. *	Sensitive individuals should exercise or play indoors. Encouraged to move indoors if AQI exceeds 100, if possible.	Indoors Only	No Outdoor Activity	No Outdoor Activity	No Outdoor Activity
Athletic Practices & Training and Athletic Competitions (2-4 Hours)	No Restrictions	Ensure sensitive individuals are medically managing their condition. *	<u>Athletic Practice</u> p Limit to 30 minutes per hour of practice time with increased rest breaks and substitutions Encouraged to move indoors if AQI exceeds 100, if possible. <u>Athletic Competitions</u> Increase rest breaks and substitutions per CIF guidelines for extreme heat.** Ensure sensitive individuals are medically managing their condition.*	<u>CT Athletic Practice</u> Indoors <u>Outdoor Athletic Competitions</u> Cancelled or relocated	<u>Athletic Practice</u> Indoors (monitor indoor air quality to ensure it does not exceed 150) <u>Outdoor Athletic Competitions</u> Cancelled or relocated	<u>Athletic Practice</u> Cancelled (Site Administrators have discretion to hold practice if schools remain open. Students will be monitored for health impacts) <u>All Athletic Competitions</u> Cancelled or relocated	<u>Athletic Practice</u> Cancelled <u>All Athletic Competitions</u> Cancelled or relocated
School Status	Open	Open	Open	Open	Open	Potential Smoke Day based on air quality outside and inside of buildings and location of school.	Smoke Day Schools Closed

23 75. At home, Huck’s family has implemented evacuation plans because
 24 wildfires have been near to their home. In 2022, Huck’s family received an
 25 evacuation notice while on vacation, for the Butterfield fire, creating anxiety about
 26 how to evacuate Huck’s grandma who also lived in Huck’s home.

1 76. Huck has been susceptible to heat exhaustion as temperatures increase
2 due to climate change. While attending cross-country meets, Huck has had to run in
3 the heat, causing his lungs to burn, intense sweating, and headaches. On a few
4 occasions, Huck has been biking in his full protective mountain biking gear in high
5 temperatures when he got a severe headache and started vomiting and spent the rest
6 of the day trying to cool down. Huck enjoys inner tubing down the Truckee River
7 and has noticed the water getting warmer in the summer. Some summers, the river
8 levels are too low to float due to drought.

9 77. Extreme weather events, increasing with climate change, have also
10 affected Huck's favorite time of year, winter, and winter sports. Huck loves snow
11 and anxiously awaits the first snowflakes. Some winters, Huck has had difficulty
12 skiing because there were patches of dirt everywhere and little snowpack. On the
13 other side of extreme conditions, Huck has missed school for winter weather events
14 made more extreme by climate change. Record-setting snow in 2016-17 and 2022-
15 23 caused several weeks of school day cancellations. In 2023, the record-setting
16 amount of snow caused concern over school building stability, canceling school for
17 additional days. Huck was not able to ski during this time because the snow blocked
18 roads to the ski resorts, which also had closures. Huck is worried that as climate
19 change worsens, he will not be able to sled or ski because the snow will disappear
20 with rising temperatures and the altered precipitation patterns will forever change
21 winter in the Sierra Nevada. The number of days when air temperatures averaged
22 below-freezing has declined by almost 30 days since 1911. Not only is the snow
23 getting heavier and concrete-like, but there are increasingly fewer days when it is
24 even cold enough to snow. Huck lives at just below 6,000 feet in elevation. The
25 number of average days below freezing at Huck's home are continuing to decline.

26 78. Plaintiff **Neela R.** is an 8-year-old resident of Petaluma, California.
27 Neela experiences smoky seasons every year from increasing wildfires due to
28

1 climate change and cannot remember a year without smoke. The smoke causes Neela
2 headaches so severe that their parents have had to pick them up early from school
3 on many occasions. Neela also experiences stomachaches during smoke seasons.
4 The smoke has caused Neela to miss school, camps, recess, and multiple planned
5 family vacations in California. When Neela was very young, their family faced
6 evacuation threats due to wildfires. Their family continues to prepare for wildfire
7 threats, including plans to ensure the safety of Neela's aging grandparents who also
8 live in California and have faced similar threats from smoke and fire evacuations.

9 79. Neela has an autoimmune disease. There is increasing evidence of a
10 relationship between exposure to PM₁₀ and the risk of developing autoimmune
11 diseases.

12 80. Neela endures increasingly extreme temperatures during the summer
13 due to climate change. Neela feels discomfort as they participate in outdoor activities
14 including soccer, which they sometimes must play on artificial turf that further
15 increases the heat. Drought has, at times, dried up the creek near a friend's house
16 where Neela likes to play. Extreme precipitation from climate change has threatened
17 to flood Neela's home. In 2021, Neela and their parents had to dump buckets of
18 water from immediately outside their home to prevent its flooding.

19 81. Neela has a deep love for animals and nature. Neela worries that as
20 climate change worsens it will affect their family's ability to garden the fruit and
21 vegetables they love to eat, the safety of their pets, and local flora and fauna.

22 82. Plaintiff **Emma W.** is a 16-year-old resident of La Jolla, California.
23 Emma is a citizen of Switzerland, and a permanent resident of the United States
24 since she was 2-years-old, with plans to naturalize into a United States citizen when
25 she turns 18. Emma's parents are also permanent residents and as non-citizens do
26 not vote in U.S. elections.

1 83. Emma was diagnosed in summer 2023 with exercise-induced asthma.
2 She uses an inhaler before physical activity, including field hockey. Increasing heat
3 due to climate change worsens Emma's asthma. Emma also experiences heat
4 sensitivity and has nausea and exhaustion in high temperatures, which are
5 increasing. She has had to sit out field games and practices because of heat,
6 preventing her from competing at the high level at which she would like. Emma
7 visits her extended family every summer in Switzerland. During these visits, Emma
8 has lived through European heat waves and temperatures in excess of 100°F.

9 84. Emma's quality of life improves when she interacts with nature and she
10 worries about losing access to forests, which are her favorite place to be, and
11 underwater habitats where she scuba dives, because of climate change. Emma has a
12 generalized anxiety disorder which is triggered by extreme climate events and
13 politicians not acting to stop climate change. This anxiety is often immobilizing and
14 affects her ability to function at school and in her social life. While being involved
15 in climate activism herself is a way she tries to manage her anxiety, Emma still
16 worries about her future and the lives of vulnerable people. While she dreams of
17 pursuing a career as a history teacher, she believes the only path she can morally
18 take is to work against the climate crisis; because without a stable climate system,
19 she does not have the opportunity to choose a different future. As a minor and a child
20 of non-citizen residents, Emma feels the profound weight of not being able to vote
21 and have decades of decisions made about her future and the climate crisis without
22 having a voice.

23 85. Emma has also noticed a large increase in mosquitos in her area and is
24 highly susceptible to mosquito bites and allergic inflammation. Emma's open skin
25 from scratching the bites will make her more susceptible to infection and disease.

26 86. Plaintiff **Arishka J.** is a 15-year-old resident of Redwood City,
27 California. Arishka lives close to the bay coastal line and worries about sea level rise

1 driven by climate change, which could affect infrastructure near her home by 2030
2 under current government projections. According to the *Sea Level Rise Vulnerability*
3 *Assessment* conducted in 2018 by San Mateo County, her neighborhood of Redwood
4 Shores is likely to be flooded completely if a 100-year flood with 3.3 feet of sea level
5 rise occurs. Arishka enjoys recreating at the beach and has noticed rising tides and
6 erosion that have prevented her from accessing beaches that are important to her.
7 Arishka's life is connected to the sea and coastlines, and her opportunities about
8 where she lives and how she spends her time will be increasingly affected by rising
9 sea levels if climate pollution continues.

10 87. Extreme weather is already harming Arishka today. In late December
11 2022, after record-breaking rainfall, Arishka's kitchen was flooded from water
12 flooding in from their saturated backyard and coming up through the floorboards.
13 Because of the extreme flooding happening in other areas as well as the time of year,
14 most contractors were unavailable to help. Arishka's family tried to reach out to
15 contractors for over a week, but ended up having to spend hundreds of dollars and
16 over 20 hours to repair the damage and prevent further flooding on their own.

17 88. Arishka is regularly impacted by increasing wildfire and wildfire
18 smoke. On smoky days, Arishka has trouble breathing and gets headaches. From 4th
19 to 7th grade, her classes and sports practices were cancelled for more than a week
20 due to wildfires or poor air quality. Safety drills at her high school, including
21 evacuation drills for wildfires, have even been canceled due to poor air quality. On
22 the poor air quality days, the students are forced to stay inside at school. Students
23 had to shelter in place for two days in September 2023 alone. Arishka has had to
24 change her plans and alter activities due to wildfire smoke, including canceling a
25 planned beach clean-up with friends. Arishka is aware of the harm wildfire smoke
26 can have on her health and brain chemistry and worries about how her exposure to
27

1 wildfire smoke, which has become the norm each year in the Bay Area, is affecting
2 her.

3 89. Arishka also worries how climate change will affect her future and is
4 concerned that the world will not be safe for future generations. She also worries
5 about the future of her communities including vulnerable communities near her in
6 California, as well as her extended family in India, who she fears may be affected
7 by extreme weather conditions.

8 90. Plaintiff **Lali H.** is a 12-year-old resident of Berkeley, California. For
9 half of Lali's life, since she was six, Lali has lived with smoke season from the
10 increasing wildfires due to climate change. Lali remembers a Tuesday in second
11 grade when she woke up and her bedroom was red from the light outside, which was
12 created by wildfire and smoke. Lali's mom had her wear long-sleeved clothes to
13 protect her from the ash as they went to school where she was not allowed outside
14 for recess, and afterward they went straight home and stayed indoors. Years before
15 the Covid pandemic began, Lali's family was already wearing masks during periods
16 of poor air quality from smoke. Even inside Lali's home, she cannot escape the
17 smoke because their home is older and drafty and the back door does not close all of
18 the way. During smoke season, Lali can smell the smoke inside her home. Smoke
19 irritates Lali's eyes and makes her teary. She also feels physically weaker when she
20 breathes in the smoky air.

21 91. Lali has missed school because of wildfire smoke. She attended an
22 elementary school that was also drafty and allowed smoke inside the classrooms.
23 The school was not able to install air filtration and parents would bring in portable
24 air filters, but still the children were in poor air quality. There were days during
25 Lali's elementary school when teachers would teach wearing full gas masks.

26 92. Often during smoke season, Lali has not been allowed outside at recess,
27 and she would have PE at her desk in the classroom. Lali is an active child and has
28

1 a harder time paying attention in class without breaks for physical activity. Both
2 smoke and heat make it harder for Lali to pay attention in school and do her
3 homework.

4 93. Lali’s family has canceled trips to visit family in India due to extreme
5 flooding events, which were caused by climate change. They have also canceled
6 summer vacations due to fire. The redwood trees of California are really important
7 to Lali and she values their fire resistance and hopes they will withstand climate
8 change. Her extended family loves to ski together in the winter for vacation, which
9 can only happen in years when there is enough snow to go. Lali has believed adults
10 need to stop hurting the environment since she saw a sign in second grade that said,
11 “There is no Planet B.”

12 94. Plaintiff **Dean S.** is an 11-year-old resident of Lee Vining, California.
13 Dean is a member of the Mono Lake Kutzadika’a Tribe, the southernmost band of
14 the Northern Paiute. Dean has lived his whole life on the lands and waters of his
15 ancestors from time immemorial. It is part of Dean’s and his family’s tradition to
16 gather native food from the land, like the deer, fish, buck berries, and pine nuts.
17 Climate change is changing the availability of these foods and harming Dean’s
18 traditional and nourishing practices. Dean has been fishing since the age of three,
19 learned how to gut a fish when he was 7, and to say the prayers when he takes a life.
20 In recent years, Dean has noticed a lot of dead fish and not as many native fish to
21 catch. In 2023, Dean and his dad did not find any deer during their hunting season.
22 There has also been a decline in buck berries over the last few seasons. The pinyon
23 pine nuts have not been predictable and lately have been rotten. Dean and his family
24 notice these changes from what used to be.

25 95. Dean’s Tribe is named after Mono Lake and the lake is a huge part of
26 them. Kutzadika means “we ate the brine flies.” When the lake is hurting, Dean and
27 his family are hurting. Mono Lake is like medicine for Dean and his family, to heal
28

1 his mosquito bites or other ailments. It is important to Dean to swim in the lake, to
2 sing to her, and to find healing in her waters. When Mono Lake water levels are low,
3 it becomes almost dangerous to swim there because of the higher concentration of
4 minerals, which can cause burning. Dean knows it is important to protect nature and
5 help Mother Earth heal, which will also heal people.

6 96. In the winter of 2023, Dean lived through an extreme snowpack that
7 trapped wild horses who died, but other years there is now very low snowpack and
8 not enough water for the horses. Too much snow is too much water, and too hot is
9 too little water, both of which affect the way things grow. During the hotter drier
10 summers, some of the lakes Dean likes to swim in, like Saddlebag Lake, are
11 contaminated with toxic algae and unsafe to be in. Dean can feel and see these
12 changes worsening during his 11 years. Because Dean is in nature all the time,
13 walking barefoot in the summer, tasting the snow, harvesting food from the land and
14 waters, he notices the changes. The snow or rain used to be more predictable and
15 now with climate change it is hard to know what will happen.

16 97. One of Dean's favorite activities is playing football and he hopes to
17 play college football one day, but his football practices have been canceled for heat
18 and games ended early. Dean gets headaches from the heat. Dean has also had school
19 canceled for several days due to smoke from increasing wildfires. The red skies, and
20 thick smoke that comes inside Dean's house have increased with the increase in fires
21 in Dean's area. Dean wants to help Mother Earth heal so that his brothers, sisters,
22 and friends can have a healthy safe future.

23 98. Plaintiffs cannot escape the air. Their lives depend on clean air. The air
24 they breathe circulates through their bloodstream and fills their lungs so there is no
25 clear line separating where the air ends and where they begin.

26 99. Plaintiffs cannot escape climate pollution or climate destabilization.
27 They are confined by the climate system as now degraded by Defendants, with no
28

1 other solution but to come to the court to seek to repair the damage they have been
2 born into, and stop additional harm by each ton of climate pollution EPA
3 intentionally allows to enter the air.

4 **DEFENDANTS**

5 100. Defendant **United States Environmental Protection Agency** (“EPA”)
6 is the federal agency with delegated authority from Congress to prevent, control, and
7 protect the nation’s air from pollution. Some of EPA’s delegated authorities, most
8 relevant to the allegations herein, come from the Clean Air Act.

9 101. The stated mission of the EPA is “to protect human health and the
10 environment” including “clean air, land and water . . . based on the best available
11 scientific information.”

12 102. Acting as the sovereign’s agent, and under its delegated authorities
13 since 1970, EPA has exercised control over the nation’s air, and air pollution over
14 international waters.

15 103. In exercising control over the quality of the nation’s air, EPA has
16 intentionally allowed an accumulation of climate pollution that EPA’s own
17 documents and the best available scientific information show is harmful to the health
18 and welfare of Children.

19 104. Claiming to act under its delegated authorities, EPA has allowed and
20 permitted substantial amounts of climate pollution to enter the air above the nation’s
21 sovereign territory since 1970. EPA continues to allow and systematically permit
22 large amounts of climate pollution to enter the nation’s sovereign air space.

23 105. By and through its exercise of control over climate pollution, EPA
24 discriminates against Children as a class by treating their lives as less valuable than
25 adults, using discount rates that devalue the benefit to Children of controlling climate
26 pollution, and undervaluing the hardship EPA’s policies will have on Children in the
27 coming decades.

1 106. By permitting the pollution of the air, the destabilization of Earth’s
2 energy balance, and thus the climate crisis, EPA has acted in excess of its
3 congressionally-delegated authority.

4 107. Defendant **the United States of America** (“United States”) is
5 sovereign over our nation’s air space and atmosphere. In its sovereign capacity, the
6 United States controls the climate pollution that enters the nation’s air or emanates
7 from the United States to the air above international waters. As sovereign, the United
8 States has caused constitutionally significant amounts of climate pollution to enter
9 the air, and levels of CO₂ to accumulate in the atmosphere, which have already
10 destabilized Earth’s energy balance and climate system and are causing the planet to
11 heat. The United States Congress and President delegated authority to Defendant
12 Environmental Protection Agency to protect and enhance the quality of the Nation’s
13 air resources to promote the public health and welfare.

14 108. Defendant **Michael Regan** is the Administrator of EPA and, in his
15 official capacity, is responsible for all policies and practices of EPA, including its
16 ongoing allowance of climate pollution that is harming Plaintiffs.

17 **LEGAL BACKGROUND**

18 **Defendants Exert Exclusive Sovereign Control Over the Air and Atmosphere**

19 109. The United States has asserted sovereignty of, and exercised dominion
20 and control over, the air above the nation’s territory. The United States has also
21 exercised dominion and control over the pollution that enters the nation’s air space.
22 The Supreme Court has long affirmed that except for the immediate airshed above
23 private property, air is in the public domain. *United States v. Causby*, 328 U.S. 256,
24 266 (1946).

25 110. At common law, adult citizens have historically had two primary forms
26 of legal recourse against pollution: (1) the public trust doctrine to stop the substantial
27

1 impairment of air and water, *see, e.g., Nat'l Audubon Soc'y v. Superior Ct. of Alpine*
2 *Cnty.*, 658 P.2d 709 (Cal. 1983); or (2) nuisance or other tort law, *see, e.g., Rodgers,*
3 *Environmental Law: Vol. 1 Air and Water*, § 1.1(A) (1986 ed.) (“[T]he legal history
4 of the environment has been written by nuisance law.”).

5 111. The federal common law has been substantially narrowed over the last
6 century and in 2011 the U.S. Supreme Court ruled that any “federal common-law
7 claim for curtailment of greenhouse gas emissions would be displaced by the
8 federal legislation authorizing EPA to regulate carbon-dioxide emissions”;
9 “Congress designated an expert agency, here, EPA, as best suited to serve as primary
10 regulator of greenhouse gas emissions.” *American Electric Power Co. v.*
11 *Connecticut*, 564 U.S. 410, 423, 428 (2011).

12 112. Prior to the establishment of EPA in 1970, Congress recognized “the
13 dangers to the public health and welfare, injury to agricultural crops and livestock,
14 damage to and deterioration of property, and hazards to air and ground
15 transportation, from air pollution,” in the 1955 Air Pollution Control Act that
16 provided funding for the federal government to research air pollution. In the 1955
17 Act, Congress delegated its “authority relating to air pollution control” to the
18 Secretary of Health, Education, and Welfare, and the Surgeon General of the Public
19 Health Service.

20 113. Aiming to “protect the Nation’s air resources so as to promote the
21 public health and welfare and the productive capacity of its population” and “control
22 of air pollution,” the Clean Air Act of 1963 established a federal air pollution
23 program within the U.S. Public Health Service and authorized research into
24 technologies to monitor and prevent air pollution. Congress again recognized “that
25 the growth in the amount and complexity of air pollution brought about by
26 urbanization, industrial development, and the increasing use of motor vehicles, has
27 resulted in mounting dangers to the public health and welfare, including injury to

1 agricultural crops and livestock, damage to and the deterioration of property, and
2 hazards to air and ground transportation.” The 1963 Act authorized the establishment
3 of air quality criteria which were to incorporate “scientific knowledge of the effects
4 of various pollution concentrations.” Rodgers, *Environmental Law*, § 3.1 (citing
5 Pub. L. No. 88-206, 77 Stat. 392 § 3(c)(2), (3) (1963)).

6 114. The Clean Air Act was first amended in 1965 by the Motor Vehicle Air
7 Pollution Control Act, which required the federal government to set standards to
8 control the emission of pollutants from automobiles, beginning in 1968. The Clean
9 Air Act was again amended in 1967, 1970, 1977, 1990, and 2022, but at no time has
10 Congress delegated authority to any governmental agency to allow levels of
11 pollution that are harmful to children. Since 1970 Congress has maintained, and
12 reaffirmed, EPA’s exclusive delegated federal authority to regulate air pollution.

13 **EPA Has Delegated Authority to Protect, Not Harm,**
14 **Human Health and Welfare**

15 115. “Agencies have only those powers given to them by Congress,” and
16 Congress does not “typically use oblique or elliptical language to empower an
17 agency to make a ‘radical or fundamental change’ to a statutory scheme.” *West*
18 *Virginia v. EPA*, 142 S. Ct. 2587, 2609 (2022). “The agency . . . must point to ‘clear
19 congressional authorization’ for the power it claims.” *Id.*

20 116. In 1970, President Nixon proposed to Congress a consolidation of
21 authority over pollution into one federal agency—EPA. Nixon’s proposal found that
22 “for pollution control purposes the environment must be perceived as a single,
23 interrelated system” to coordinate an “attack on the pollutants which debase the air
24 we breathe, the water we drink, and the land that grows our food.”

25 117. The prior National Air Pollution Control Administration, under the
26 Department of Health, Education, and Welfare, was eliminated as part of the
27

1 reorganization and consolidation proposal of pollution control to EPA. President
2 Nixon’s proposal stated the need for EPA in this way: “Because environmental
3 protection cuts across so many jurisdictions, and because arresting environmental
4 deterioration is of great importance to the quality of life in our country and the world,
5 I believe that in this case a strong, independent agency is needed.”

6 118. In response to President Nixon’s Reorganization Plan No. 3 of 1970 to
7 consolidate the United States’ responsibility to protect air and human health from
8 pollution (among other environmental concerns), Congress approved Nixon’s
9 proposal and EPA was created as part of the Executive branch. One of EPA’s most
10 important roles was to establish and enforce environmental protection standards
11 consistent with national goals of protecting public health and welfare and abating
12 pollution. When created by Nixon and the 1970 Congress, EPA was not delegated
13 the statutory authority to allow levels of pollution that would destroy the Nation or
14 harm Children’s health or quality of life.

15 119. In delegating authority to EPA, Congress understood that setting
16 national air quality standards to protect public health from hazardous pollution
17 agents would require major action throughout the nation.

18 120. Since 1970, the United States has delegated authority to EPA to protect
19 the public health and welfare by setting national pollution control standards and
20 regulating pollution from stationary sources like power plants and mobile sources
21 like motor vehicles and airplanes.

22 121. According to EPA, “Congress designed the Clean Air Act to protect
23 public health and welfare from different types of air pollution caused by a diverse
24 array of pollution sources.” The primary goals of the Clean Air Act are pollution
25 prevention and the protection of human health and welfare. 42 U.S.C. § 7401(c).

1 122. The objective of the Clean Air Act is to establish national standards for
2 pollution from stationary and mobile sources and to ensure that states conform their
3 territorial pollution control to those federal standards. 42 U.S.C. § 7401(b).

4 123. EPA sets the national floor for air quality protection. States and Tribes
5 may limit air pollution more stringently than EPA, but they may not allow more air
6 pollution than does EPA. EPA oversees the conduct of states in controlling pollution
7 emanating from within their borders and is authorized to take legal action should
8 states not comply with federal law.

9 124. Congress has delegated EPA statutory authority to systemically control
10 pollution over the following:

- 11 a. All stationary sources of pollution, including factories, chemical and
12 fertilizer plants, petroleum refineries, power plants, cement plants,
13 glass plants, and other industrial facilities;
- 14 b. All mobile sources of pollution, including all motor vehicles, engines,
15 and equipment including small gasoline-powered engines like
16 generators, mowers, chainsaws, and leaf-blowers;
- 17 c. Fuels;
- 18 d. Locomotives;
- 19 e. Ocean-going vessels and large ships with marine diesel engines,
20 including ferry boats, and marine recreational equipment; and
- 21 f. Aircraft.

22 125. The Clean Air Act mandates that the EPA use best available science in
23 setting air quality standards. 42 U.S.C. § 7408 (“Air quality criteria for an air
24 pollutant shall accurately reflect the latest scientific knowledge useful in indicating
25 the kind and extent of all identifiable effects on public health or welfare which may
26 be expected from the presence of such pollutant in the ambient air, in varying
27 quantities.”).

1 126. There is no statutory language in the Clean Air Act that explicitly or
2 implicitly gives EPA the authority to allow pollution at levels that degrade the public
3 health and welfare and the productive capacity of the national population. There is
4 no statutory language in the Clean Air Act that explicitly or implicitly gives EPA the
5 authority to allow pollution from the sources it regulates at levels that discriminate
6 against and injures Children.

7 127. EPA has been delegated no authority by Congress to discount the lives
8 of Children and future generations of Children when it exercises its authority to
9 control air pollution.

10 **Defendants Are Constitutionally Constrained from Denying**
11 **Children Equal Protection of the Law**

12 128. The Equal Protection Clause of the Fourteenth Amendment,
13 incorporated in the Due Process Clause of the Fifth Amendment, constitutionally
14 guarantees that no person or group of people should be denied equal protection of
15 the law that has been enjoyed by similarly situated people or groups of people. *City*
16 *of Cleburne v. Cleburne Living Ctr.*, 473 U.S. 432, 439 (1985).

17 129. The Supreme Court has also long recognized Children’s constitutional
18 rights and liberties and protected Children from government action that harms them
19 under the Equal Protection Clause. *See In re Gault*, 387 U.S. 1, 13 (1967) (“[N]either
20 the Fourteenth Amendment nor the Bill of Rights is for adults alone.”). *See also*
21 *Plyler v. Doe*, 457 U.S. 202, 220 (1982); *Brown v. Bd. of Educ.*, 347 U.S. 483, 494
22 (1954); *Levy v. Louisiana*, 391 U.S. 68, 71 (1968); *Obergefell v. Hodges*, 576 U.S.
23 644, 646 (2015).

24 130. Under the Equal Protection Clause’s traditional tiers of scrutiny, laws
25 that make distinctions based on a suspect or quasi-suspect class, such as race, or
26 gender, are subject to a heightened standard of review. The Court accords less
27 deference to laws making distinctions on the basis of race, national origin, or gender
28

1 to ensure that these groups are not limited in their ability to participate in the political
2 process. On the other hand, laws that do not classify on suspect or quasi-suspect
3 classes are subject to rational basis review.

4 131. The Supreme Court has not decided what level of judicial scrutiny
5 applies to Children as a class or if that traditional framework applies to Children in
6 Equal Protection Clause cases. Yet, the Supreme Court has afforded less deference
7 and applied heightened scrutiny to government action that imposes lifetime
8 hardships on children for matters beyond their control. *Plyler v. Doe*, 457 U.S. 202,
9 220 (1982); *Levy v. Louisiana*, 391 U.S. 68, 71 (1968); *Weber v. Aetna Cas. & Sur.*
10 *Co.*, 406 U.S. 164 (1972).

11 132. This case is not an age-based discrimination case, in contrast with *Mass.*
12 *Bd. of Ret. v. Murgia*, 427 U.S. 307, 312 (1976), which is a case about a 50-year-old
13 challenging a mandatory retirement plan. Children as a class are defined by much
14 more than their chronological age. Children have characteristics that are different
15 from adults. Children are in early phases of human development and are
16 physiologically and psychologically vulnerable. Children have developing lungs,
17 brains, and immune systems that are particularly sensitive to climate harms, and
18 exposure to these harms can subject Children to a lifetime of hardship. While human
19 development continues until a person's mid-twenties, Children are dependent on
20 their caregivers, and are politically and economically powerless until at least age 18.
21 It takes decades for Children born today to have enough political and economic
22 power to become a political majority capable of protecting their air and climate
23 system. Even upon growing to voting age, Plaintiffs and all Children, will remain
24 politically burdened by the First Amendment political speech rights the U.S.
25 Supreme Court has afforded corporations, which have outsize influence in
26 campaigns, elections, and political processes. *Citizens United v. Fed. Election*
27 *Comm'n*, 558 U.S. 310 (2010).

1 133. Courts only defer to government conduct aimed at protecting the well-
2 being of young people based on their capacity as Children. However, the Court has
3 not granted such solicitude when government conduct and laws impose lifetime
4 hardships on Children or significant risks and injury to Children’s well-being, for
5 matters beyond their control. *See, e.g., Plyler v. Doe*, 457 U.S. 202, 220 (1982); *Levy*
6 *v. Louisiana*, 391 U.S. 68, 71 (1968); *Weber v. Aetna Cas. & Sur. Co.*, 406 U.S. 164
7 (1972); *see e.g., Brown v. Bd. of Educ.*, 347 U.S. 483, 494 (1954).

8 134. Under traditional equal protection analysis, government conduct
9 motivated, at least in part, by discriminatory intent against Children as a class, by
10 and through government policies that purposefully value the lives of children less
11 than adults, is a violation of the Equal Protection Clause unless the government can
12 justify their actions under the appropriate level of judicial scrutiny. *See Arlington*
13 *Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 265-66 (1977).

14 135. There is no justification by which Defendants can satisfy their burden
15 under rational basis, intermediate scrutiny, or strict scrutiny at trial. The
16 discrimination and profound harms attributable to Defendants’ conduct, which are
17 already occurring and will only continue to increase absent judicial intervention, are
18 of such magnitude as to “outrun and belie any legitimate justifications” that may
19 possibly be claimed. *Romer v. Evans*, 517 U.S. 620, 635 (1996).

20 **Defendants Are Constitutionally Constrained from Denying**
21 **Children Due Process of Law**

22 136. The Due Process Clause of the Fifth Amendment provides that
23 Defendants shall not deprive any person of life, liberty, or property without due
24 process of law.

25 137. At the time of the Nation’s founding, “life” meant “enjoyment, or
26 possession of terrestrial existence;” “condition; manner of living with respect to
27

1 happiness;” “continuance of our present state;” and “living person.”⁴ The
 2 Declaration of Independence also specified the “pursuit of happiness” as a self-
 3 evident equal right central to human existence.

4 138. James Madison, drafter of the Fifth Amendment, said: “Animals,
 5 including man, and plants may be regarded as the most important part of the
 6 terrestrial creation. They are pre-eminent in their attributes; and all nature teems with
 7 their varieties and their multitudes, visible and invisible. To all of them, the
 8 atmosphere is the breath of life. Deprived of it, they all equally perish. But it answers
 9 this purpose by virtue of its appropriate constitution and character.” Framer Madison
 10 explained in 1818 that the balanced composition of the atmosphere and the climate
 11 system in its natural state formed the ingredients, “which fits it for its destined
 12 purpose, of supporting the life and health of organized beings.”⁵

13 139. Courts across the United States and globally have recognized implicit
 14 rights to a life-sustaining climate system, as part of the body of fundamental
 15 constitutional rights. *Juliana v. United States*, 217 F. Supp. 3d 1224, 1250 (D. Or.
 16 2016) (reversed on other grounds); *Matter of Hawai‘i Elec. Light Co., Inc.*, 152 Haw.
 17 352, 360 (2023) (Wilson, J., concurring); *Navahine v. Hawai‘i Dep’t of Transp.*, No.
 18 1CCV-22-0000631, Order Denying Defs.’ Mot. to Dismiss at 5 (Haw. 1st Circ. Ct.
 19 Apr. 19, 2023); *Held v. Montana*, CDV-2020-307, Findings of Fact, Conclusions of
 20 Law, and Order at 92 (Mont. 1st Jud. Dist. Ct. Aug. 14, 2023); *Stichting Urgenda v.*
 21 *The State of the Netherlands*, No. 19/00135 Judgment ¶¶ 5.8, 6.1, 8.3.4 (Sup. Ct.
 22 Neth. Dec. 20, 2019); *Leghari v. Federation of Pakistan et al.*, W.P. No.
 23 25501/2015, Order ¶¶ 7-8 (Lahore High Court of Lahore, Pak. Sep. 4, 2015).

24 140. In addition to the enumerated rights to life, liberty, and property, the
 25

26 _____
 27 ⁴ Samuel Johnson Dictionary (1755).

28 ⁵ James Madison, Address to the Agricultural Society of Albemarle (May 12, 1818).

1 Supreme Court has long recognized unenumerated substantive due process rights to
2 personal security, bodily integrity, and family autonomy for both adults and
3 Children. *Ingraham v. Wright*, 430 U.S. 651, 673 (1977) (personal security);
4 *Washington v. Glucksberg*, 521 U.S. 702, 719-20 (1997) (bodily integrity); *Moore*
5 *v. City of E. Cleveland, Ohio*, 431 U.S. 494, 504 (1977) (right to keep one’s family
6 together); *Meyer v. Nebraska*, 262 U.S. 390 (1923) (right to learn, practice, and
7 transmit one’s cultural and spiritual traditions); *Kent v. Dulles*, 357 U.S. 116, 125-
8 126 (1958) (right to travel and freedom of movement).

9 141. Governmental conduct that burdens fundamental rights is subject to
10 strict scrutiny. *Att’y Gen. of New York v. Soto-Lopez*, 476 U.S. 898, 904 n.4 (1986).
11 Under a strict scrutiny analysis, Defendants must prove their actions are “necessary
12 to further a compelling state interest.” *Id.*

13 **STATEMENT OF FACTS**

14 **Defendants Allow Climate Pollution and Know it is Dangerous to** 15 **Human Health and Welfare**

16 142. Climate pollution includes greenhouse gases that accumulate in the air:
17 carbon dioxide (“CO₂”), methane, nitrous oxide, and fluorinated gases. The gas in
18 our air that is primarily responsible for destabilizing the climate system is CO₂. CO₂
19 is the primary pollutant driving the climate crisis because of how much CO₂ is
20 entering the air, how long it stays in the air, and because it is efficient at absorbing
21 and emitting radiation, i.e., heat. About 80% of greenhouse gas climate pollution in
22 the United States is CO₂ and a significant portion of it stays in the air for millennia.

23 143. Methane is a more powerful gas at trapping heat, but it dissipates much
24 more quickly than CO₂.

25 144. Scientists have known since the mid- to late-1800s that CO₂ pollution
26 accumulating in the atmosphere, from burning fossil fuels, would heat the planet.

1 145. The United States government has known since at least the White
2 House’s 1965 Report of The Environmental Pollution Panel President’s Science
3 Advisory Committee that CO₂ pollution would alter Earth’s energy balance, heat the
4 planet, and thereby threaten “the health, longevity, livelihood, recreation, cleanliness
5 and happiness of citizens who have no direct stake in their production, but cannot
6 escape their influence.”

7 146. In 1970, EPA’s first Administrator, William Ruckelshaus, ordered
8 EPA’s Air Pollution Control Office to conduct national programs for the definition,
9 prevention, and control of air pollution to achieve wholesome air and sufficiently
10 define air quality to minimize and eliminate the harm from air pollution.

11 147. Early in its inception, recognizing that Earth’s climate is changing, EPA
12 commissioned a report published in 1974 from University of Wisconsin’s Center for
13 Climatic Research on *Changes in the Global Energy Balance*. In 1974, scientists
14 estimated that CO₂ was increasing at 1 ppm annually from human-caused pollution,
15 when CO₂ was 330 ppm. In this report, EPA was advised that by 2000, atmospheric
16 CO₂ would rise from 320 to 379 ppm due to fossil fuel use projections and could
17 increase the earth’s temperature by almost half a degree Celsius. Atmospheric CO₂
18 in 2000 reached about 370 ppm.

19 148. In 1978, EPA reaffirmed the warning of the National Academy of
20 Sciences (“NAS”) “that continued use of fossil fuels as a primary energy source for
21 more than 20 to 30 more years could result in increased atmospheric levels of carbon
22 dioxide. The greenhouse effect and associated global temperature increase and
23 resulting climate changes could, according to NAS be both ‘significant and
24 damaging.’” Atmospheric CO₂ in 1978 reached about 335 ppm.

25 149. In 1983, EPA knew that climate pollution was continuing to accumulate
26 in the air and would substantially raise global temperature. EPA projected a possible
27 2°C (3.6°F) increase by the middle of the 21st century, and a 5°C (9°F) increase by
28

1 2100. EPA said the increased heat would result in dramatic precipitation and storm
2 patterns and rising seas. EPA projected significant effects to agriculture and every
3 other natural and political system and institution. EPA knew that the human
4 habitability of certain regions would be threatened.

5 150. In 1983, EPA reaffirmed a 1979 National Academy of Sciences report
6 that warned against further delay in addressing CO₂ pollution. EPA summed up the
7 CO₂ pollution threat: “A wait and see attitude may mean waiting until it’s too late.
8 (Charney, 1979).”

9 151. In 1983, EPA recommended that a policy of banning fossil fuels could
10 significantly reduce temperature increases by 2100. EPA suggested banning coal and
11 oil shale.

12 152. The summary of EPA’s findings in 1983 were stated as follows: “our
13 findings call for an expeditious response. A 2°C increase in temperature by (or
14 perhaps well before) the middle of the next century leaves us only a few decades to
15 plan for and cope with a change in habitability in many geographic regions. Changes
16 by the end of the 21st century could be catastrophic taken in the context of today’s
17 world. A soberness and sense of urgency should underlie our response to a
18 greenhouse warming.”

19 153. By 1983, four decades ago, EPA knew it had only a few decades to
20 control climate pollution to avoid catastrophic changes to the habitability of the
21 nation for generations of Children.

22 154. In the past 40 years, EPA has continued to allow even more climate
23 pollution to enter the nation’s air than it allowed in 1983. Atmospheric CO₂ in 1983
24 reached about 343 ppm.

25 155. In 1990, EPA published a report, *Policy Options for Stabilizing Global*
26 *Climate*, that called for a 50% reduction in total U.S. CO₂ emissions below 1990
27

1 levels by 2025 to correct climate destabilization. Atmospheric CO₂ in 1990 reached
2 about 354 ppm.

3 156. Over three decades ago, EPA said that climate pollution can be
4 effectively reduced thereby dramatically reducing the rate and ultimate magnitude
5 of climate change in the 21st century.

6 157. The recommendations in EPA's 1990 Report were not followed by
7 EPA. U.S. climate pollution continued to increase thereafter under EPA's control.

8 158. In 1992, the United States ratified the United Nations Framework
9 Convention on Climate Change ("UNFCCC") renewing its sovereign commitment
10 to protect the climate system for present and future generations with the primary
11 commitment to "stabiliz[e] greenhouse gas concentrations in the atmosphere at a
12 level that would prevent dangerous anthropogenic interference with the climate
13 system." EPA remained the U.S. agency with exclusive authority to protect the air
14 from U.S. climate pollution. Atmospheric CO₂ in 1992 reached about 356 ppm.

15 159. With growing levels of climate pollution, in 1999, a group of petitioners
16 asked EPA to initiate rulemaking to make a formal endangerment finding under the
17 Clean Air Act as to greenhouse gases (climate pollution). Atmospheric CO₂ in 1999
18 reached about 369 ppm.

19 160. Ten years later, on December 7, 2009, then-Administrator of EPA, Lisa
20 Jackson, issued EPA's formal Endangerment Finding for climate pollution under the
21 Clean Air Act: *Endangerment and Cause or Contribute Findings for Greenhouse*
22 *Gases Under Section 202(a) of the Clean Air Act*. EPA issued its Endangerment
23 Finding only after being sued and losing the case in the U.S. Supreme Court, in
24 *Massachusetts v. EPA*, 549 U.S. 497 (2007). The Endangerment Finding had been
25 in existence for many years prior to 2007 and was not published by EPA.
26 Atmospheric CO₂ in 2009 reached about 388 ppm.

1 161. EPA’s Endangerment Finding stated that current and projected
2 atmospheric concentrations of greenhouse gases, in particular CO₂, threatened the
3 public health and welfare of current and future generations.

4 162. EPA’s Endangerment Finding specifically named Children as a group
5 of people most vulnerable to these climate-related health harms. The Administrator
6 also specifically found that the threat to public health for current and future
7 generations would likely mount over time as climate pollution continues to
8 accumulate in the air, leading to worsening climate change.

9 163. Also in 2009, two organizations petitioned EPA to establish a National
10 Ambient Air Quality Standard for greenhouse gases (climate pollution) under the
11 Clean Air Act. EPA did not respond to that petition for twelve years until January
12 19, 2021, when former EPA Administrator Andrew Wheeler rejected the 2009
13 petition on the eve of President Biden’s inauguration. Upon taking office, the Biden
14 administration retracted the denial letter, stating it was “withdrawing the denial of
15 [the] petition [by the Trump administration], as the agency did not fully and fairly
16 assess the issues raised by the petition. The EPA intends to further consider the
17 important issues raised by your petition before responding.” Over two years and nine
18 months since EPA withdrew the denial of the 2009 petition, and over 14 years since
19 the petition was initiated, EPA continues to allow approximately 6,680 million
20 metric tons of CO₂ equivalents of climate pollution annually from stationary and
21 mobile sources to enter the air without any national ambient air quality standard.

22 164. EPA scientists have repeatedly recommended setting a national
23 pollution standard for CO₂. EPA has refused to set a national pollution standard for
24 CO₂. EPA is the only federal agency with Congressional authority to set a national
25 pollution standard for CO₂.

26 165. In 2013, a group petitioned EPA to limit climate pollution under Clean
27 Air Act section 115, which governs international air pollution. Atmospheric CO₂ in
28

1 2013 reached about 397 ppm. On information and belief, EPA did not act on this
2 petition to limit international air pollution.

3 166. In 2019, a group petitioned EPA to limit climate pollution as hazardous
4 air pollution under section 112 of the Clean Air Act. Atmospheric CO₂ in 2019
5 reached about 412 ppm. On information and belief, EPA did not act on this petition
6 to limit climate pollution as hazardous air pollution.

7 167. In 2022, a group petitioned EPA under the Toxic Substances Control
8 Act to phase out climate pollution. Atmospheric CO₂ in 2022 reached about 419
9 ppm. EPA denied this petition.

10 168. Since the 2009 Endangerment Finding, Defendants have repeatedly
11 stated that allowing “business as usual” climate pollution will imperil future
12 generations with dangerous risks, including to health and welfare, and that Children
13 were the most vulnerable to those dangers.

14 169. Since the 2009 Endangerment Finding, Defendants have continued to
15 intentionally allow and systematically permit “business as usual” climate pollution
16 to enter the Nation’s air. Defendants have systematically ignored or rejected citizen
17 requests to control climate pollution. Defendants have systematically allowed
18 ongoing climate pollution over which the U.S. Supreme Court has said EPA has
19 exclusive control.

20 170. EPA’s Endangerment Finding is older than many of the Plaintiffs.

21 **Children are Uniquely Vulnerable to and Disproportionately Harmed by**
22 **Climate Pollution and EPA’s Conduct, and EPA Knows It**

23 171. Since the early 20th century, the United States has known that
24 environmental degradation would burden Children and future generations. In 1908,
25 President Theodore Roosevelt said that we should leave our natural national domain
26 to our children, increased in value and not worn out. In 1909, setting the stage to
27 launch an initiative to protect children, President Theodore Roosevelt said: “If we of
28

1 this generation destroy the resources from which our children would otherwise
2 derive their livelihood, we reduce the capacity of our land to support a population,
3 and so either degrade the standard of living or deprive the coming generations of
4 their right to life on this continent.”

5 172. Every president carried forward President Theodore Roosevelt’s
6 Conference on Children and Youth and the message to specially protect Children
7 until 1970. President Nixon was the last to host the conference.

8 173. Over 100 years after President Theodore Roosevelt implored the nation
9 to preserve essential resources for future generations, President Joseph Biden, in his
10 March 2023 remarks at the White House Conservation in Action Summit, stated
11 “[o]ur country’s natural treasures define our identity as a nation. They’re a
12 birthright—they’re a birthright we have to pass down to generation after generation.
13 . . . [W]e owe to our children, our grandchildren, our great-great-grandchildren, and
14 all to come what we have and what we can preserve.”

15 174. In the 1980s, the United States went on to lead the international effort
16 in drafting the United Nations Convention on the Rights of the Child and then never
17 ratified it. Only one other country on the planet has not ratified the Convention on
18 the Rights of the Child besides the United States.

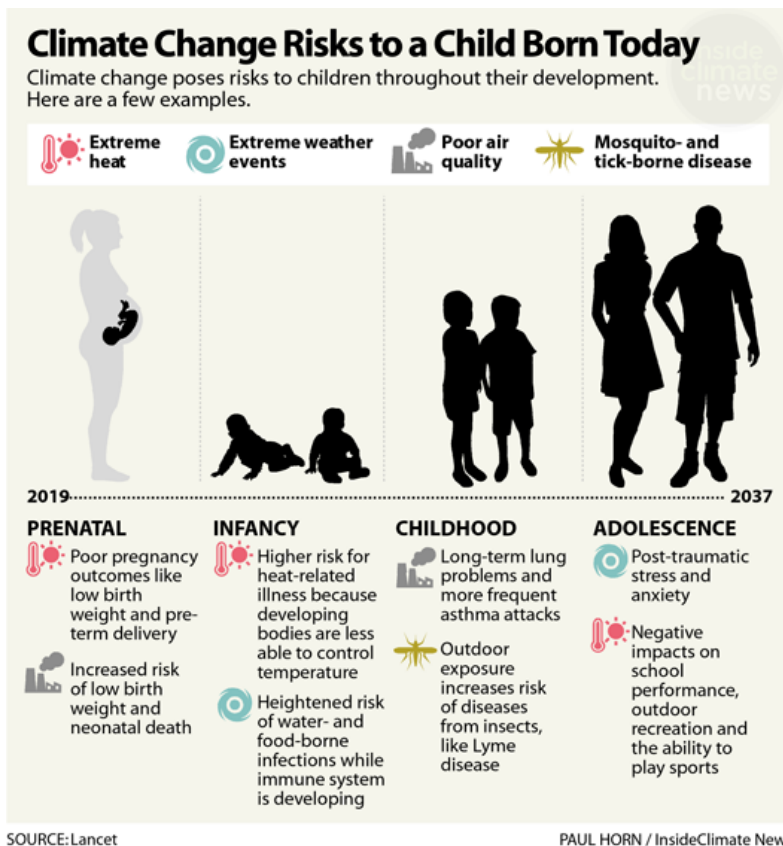
19 175. For decades, EPA has recognized that Children are among the nation’s
20 most fragile and vulnerable populations. EPA has determined:

21 Children can be at a greater risk to environmental hazards due to unique
22 activity patterns, behaviors and biology. They have unique behaviors
23 such as breast feeding, crawling and hand-to-mouth activity that may
24 contribute to increased exposure. Children eat more food, drink more
25 water and breathe more air in proportion to their body size as compared
26 to adults, and the variety of the foods they consume is more limited. As
27 children are still growing and developing, they do not respond to toxic
28 substances in the same way as adults. For instance, their blood-brain
barrier and metabolic processes are less mature. The timing of exposure
to chemicals and other contaminants is critical in protecting human

1 health. The same dose of a chemical during different periods of
2 development can have very different consequences. Children who live
3 in highly exposed or underserved communities may have reduced
4 biological resilience and ability to recover from exposure to
5 environmental hazards. With new threats and worsening conditions
6 resulting from climate change, the EPA has a greater responsibility to
7 provide children with heightened focus, assessment and safeguards to
8 protect their health.

9 176. EPA’s 2021 stated policy acknowledges that “Children’s
10 environmental health refers to the effect of environmental exposure during early life:
11 from conception, infancy, early childhood and through adolescence until 21 years of
12 age.” EPA states that they have a “scientific understanding that children may be at
13 greater risk to environmental contaminants than adults due to differences in behavior
14 and biology and that the effects of early life exposures may also arise in adulthood
15 or in later generations.”

16 177.



1 178. Nearly two decades ago, EPA’s Children’s Health Protection Advisory
2 Committee advised the EPA Administrator that climate change will
3 disproportionately affect Children’s health and that efforts to address climate change
4 need to be substantially strengthened to protect Children.

5 179. EPA has known of the harm climate change causes Children and the
6 increased risk of harm they face. EPA has issued reports over the last several decades
7 and made findings about the dangers of climate change to Children especially.

8 180. Children are especially vulnerable to the dangers of climate change
9 because they are still growing, they have unique behaviors different from adults, and
10 they are dependent on their caregivers and their government, having no independent
11 economic or political power.

12 181. As stated in EPA’s April 2023 *Climate Change and Children’s Health*
13 *and Well-Being in the United States*, “Children are uniquely vulnerable to climate
14 change” and “[c]limate impacts experienced during childhood can have lifelong
15 consequences.” The report also highlights that overburdened children, including
16 Black, Brown, Indigenous, and low-income children, may suffer the most severe
17 impacts.

18 182. Climate pollution causes higher temperatures and heat waves. Children
19 are especially endangered by heat because they need more fluid per pound of body
20 weight than adults and are less capable of controlling their environment and fluids.
21 Children’s bodies are also not as efficient at thermoregulation, or maintaining a
22 normal internal temperature as external temperatures change, as adults. Children,
23 especially the very young, are more vulnerable to heat-related illnesses and death.
24 Heat waves are worsening.

25 183. EPA knows that even small increases in extreme heat can result in
26 increased deaths and illnesses. According to EPA, heat is the leading weather-related
27

1 killer in the United States and Children are most vulnerable to heat. Black Children
2 are at even higher risk for heat related illness and death than other Children.

3 184. Increased heat exposure is particularly devastating for Children at
4 multiple stages of development as the brains and lungs of children are not fully
5 developed until around age 25.

6 185. Climate-induced extreme heat causes fetal death. Extreme weather
7 events can lead to low birthweight and preterm birth of babies. Infant mortality
8 increases 25% on extremely hot days with the first seven days of life representing a
9 period of critical vulnerability.

10 186. Extreme heat places young Children at higher risk of kidney and
11 respiratory disease as well as fever and electrolyte imbalance. Heat illness is also a
12 leading cause of death and illness in high school athletes with nearly 10,000 episodes
13 occurring annually. Plaintiffs Huck, Dean, and Emma have experienced physical
14 injury from heat exposure during athletics and Emma's recent diagnosis of exercise-
15 induced asthma is exacerbated by heat.

16 187. Hotter temperatures lead to more emergency department visits for
17 Children with heat-related illnesses, bacterial enteritis, otitis media and externa,
18 infectious and parasitic diseases, nervous system diseases, and other medical issues.
19 Emergency department visits for Children in the West have been increasing with
20 higher ambient temperatures. Plaintiff Noah is extremely sensitive to heat, which
21 has caused severe discomfort and has led to hospitalization.

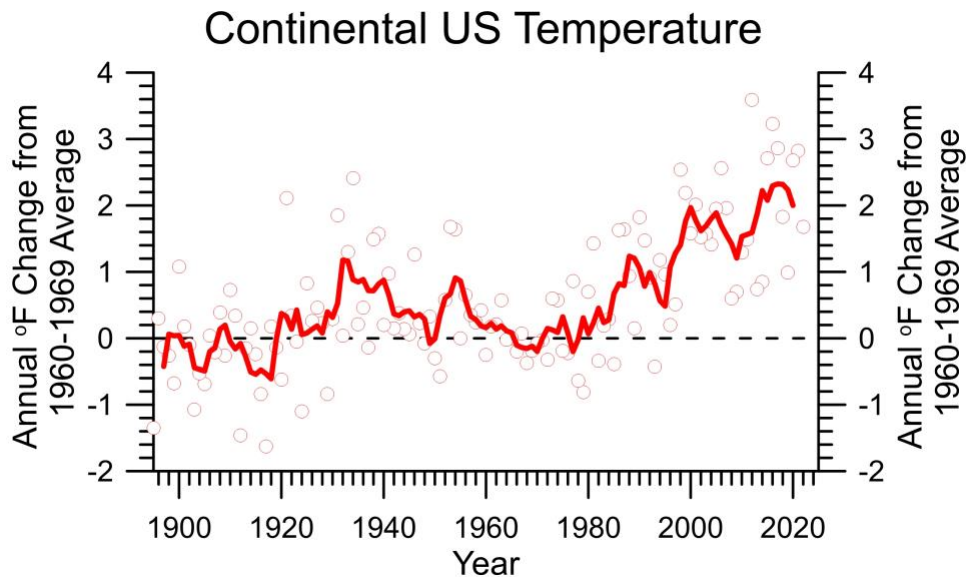
22 188. Heat experienced during the school year reduces learning through poor
23 cognitive function and reduced ability to concentrate or learn. Temperature increases
24 of 2°C and 4°C are associated with 4% and 7% reductions in academic achievement
25 per child and projected lost future income. Plaintiffs Genesis, Maryam M., Avroh,
26 Maya W., and Ariela have all experienced harm to their educational experiences due
27 to excess heat.

1 189. Increasing temperatures interfere with important religious practices like
 2 Maryam M.’s ability to comfortably wear her hijab or fast during Ramadan, and
 3 Maryam A.’s plan to do the pilgrimage to Mecca on foot, which may be physically
 4 dangerous with increasing temperatures. The sacredness of Earth, and protecting her,
 5 is central to several Plaintiffs’ spiritual or religious beliefs and practices.

6 190. Today’s climate-induced heat, and increasing heat, presents substantial
 7 risk to unborn and living Children. All Plaintiffs have altered or canceled their
 8 regular healthy activities on account of rising temperatures.

9 191. The temperature trend in the United States since 1970 is increasing
 10 temperatures, due to climate pollution. Since the late 1970s, the United States has
 11 warmed faster than the global rate and the West, along with Alaska, has seen the
 12 greatest increase in temperatures.

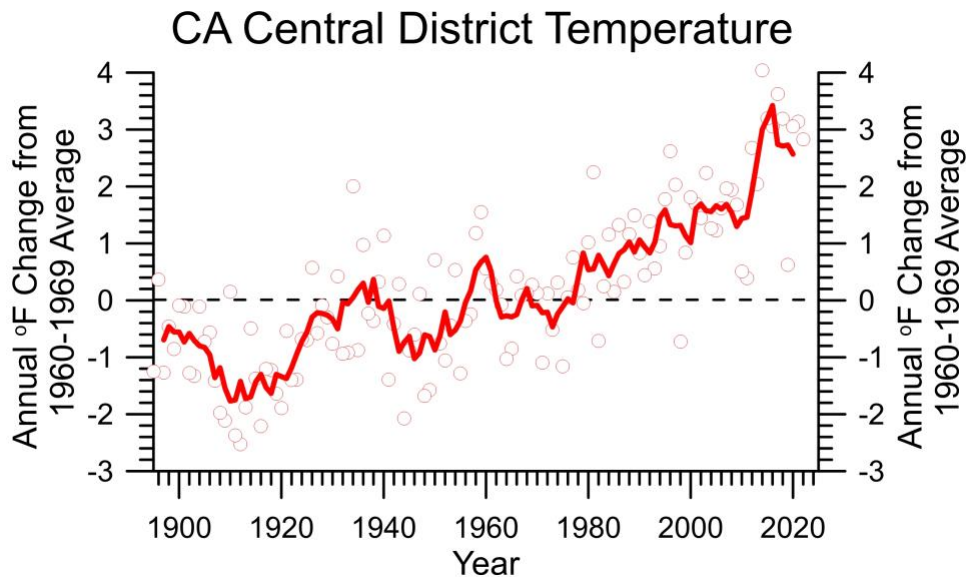
13 192. The graph depicts how the annual average temperatures in the
 14 contiguous 48 states have changed since 1895 relative to the 1960-1969 average
 15 based on National Oceanic and Atmospheric Administration (NOAA) observations.



25 193. The last nine years have been the hottest, globally, in recorded human
 26 history. Temperatures in locales in the western United States have broken all records.
 27

1 Experts predict that 2023 will be the next temperature record-breaking year and is
 2 likely to be the hottest year in human history, with June 2023 the hottest June on
 3 record and July 2023 being the hottest month ever on record. Plaintiffs like Dean
 4 and Maya R. were exposed to temperatures over 100°F, which do not normally
 5 occur.

6 194. Temperatures in the geographic area of the Central District of
 7 California have increased significantly since 1970 as depicted in the graph below.
 8 Since 1970, the Central District has warmed at about 0.6°F per decade whereas the
 9 contiguous United States has warmed at about 0.5°F per decade.



20 195. Higher temperatures and climate changes to the water cycle will
 21 continue to lead to drier conditions, sharply increasing the risk of megadroughts
 22 lasting 10 or more years. Droughts lead to more climate-induced wildfires.

23 196. Prolonged droughts pose a special threat to Indigenous Children, like
 24 Plaintiff Dean, by degrading natural elements important to their culture and
 25 traditions, like water, food sources, and vegetation. Droughts and climate fire threats
 26 also impede important tribal and ceremonial practices. Indeed, the Mono Lake Basin,
 27 home of the Kutzadika Paiute people is experiencing increased warming since 2011
 28

1 in conjunction with declining snow cover (about 28 fewer days of snow cover over
2 the last two decades), which is causing the lake level to fall and the lake to shrink.
3 Mono Lake has decreased in length by about 0.8 miles and in width by about 1.3
4 miles since the 1960s. The lake level protections set in 1994 pursuant to the Public
5 Trust Doctrine to prevent unhealthy water diversions have not protected the lake at
6 those levels because the hydrologic conditions since 1994 have significantly
7 changed due to the declining snowpack in the Sierra Nevada, lower direct
8 precipitation, and more evaporation from warmer temperatures and drought from
9 climate change. In fact, the 2000-2021 western United States drought exceeded in
10 severity any drought in the last 1,200 years, including the period of 900 to 1350
11 when droughts drove Mono Lake to extreme low levels. The continued decline of
12 Mono Lake (“lake of the fly”) will cause severe and costly impacts to human health
13 and ecosystems, including loss of ancient brine shrimp and flies that support
14 numerous water birds and are essential to the Kutzadika Paiute people.

15 197. This decline in Mono Lake comes in conjunction with glacier decline
16 in the adjacent Sierra Nevada. Over the 20th century, Sierra Nevada glaciers lost
17 about 56% of their area, 90-100% of which was due to human-caused climate change
18 since at least the 1960s. Such century scale retreat of glaciers is a consequence of
19 human-caused climate change. These glaciers have existed for more than 3,000
20 years, yet are projected to disappear in the coming decades with current global
21 warming, with the Sierra Nevada becoming like the Trinity Alps of California that
22 gained glacier-free status in 2015. Indeed, four glaciers in the Sierra Nevada recently
23 broke up into multiple smaller ice masses while another three glaciers are no longer
24 considered glaciers. Loss of Sierra Nevada glaciers will fundamentally alter stream
25 temperatures, water quality, and downstream ecosystems, with glacier-fed streams
26 running dry in late summer and some species becoming locally extinct.

1 198. Climate change-fueled wildfires are destroying the landscape upon
2 which Indigenous Children depend for game, fish, and berries. The 2020-2021
3 wildfire burn area in California was unprecedented in the modern record with nearly
4 4.7 million acres burned, which was 10 times greater than the historical average.
5 Fires in these two years burned 3% of the cold desert ecoregion east of the Sierra
6 Nevada that includes Mono Lake, removing vegetation that supplies food such as
7 berries. One-hundred vertebrate species had fire in more than 10% of their range,
8 impacting the ability to find game. Likewise, wildfire poses a high risk to the native
9 Lahontan Trout on the east side of the Sierra Nevada where only 3 of the 15 trout
10 populations were ranked as having a likelihood of persistence in the climate of more
11 than a decade ago.

12 199. Wildfire danger also has an elevation dependence where the higher
13 elevation regions of the Sierra Nevada and the high cold desert of California have
14 had a greater increase in fire danger days and burned area relative to lower elevation
15 regions in the state. In addition to fire, the eastern Sierra Nevada and adjacent cold
16 desert is experiencing the greatest increase in tree mortality from climate stress and
17 insects.

18 200. Wildfires are also impacting water resources in the Sierra Nevada.
19 Burned regions expose snow to direct solar radiation, increasing snowpack loss from
20 sublimation and mid-winter melt events that then reduce summer stream flow. Dark,
21 light absorbing particles supplied by wildfires cause snow to absorb more solar
22 radiation, reducing snow cover and causing earlier snow melting. This process also
23 reduces soil water content and vegetation, impacting the survival of bighorn sheep.
24 Such dark particles from wildfire induce faster melting on glaciers, speeding up their
25 demise.

26 201. Increasing temperatures and declining rainfall has reduced the flow of
27 water in the Colorado River, which is a key source of water in southern California,
28

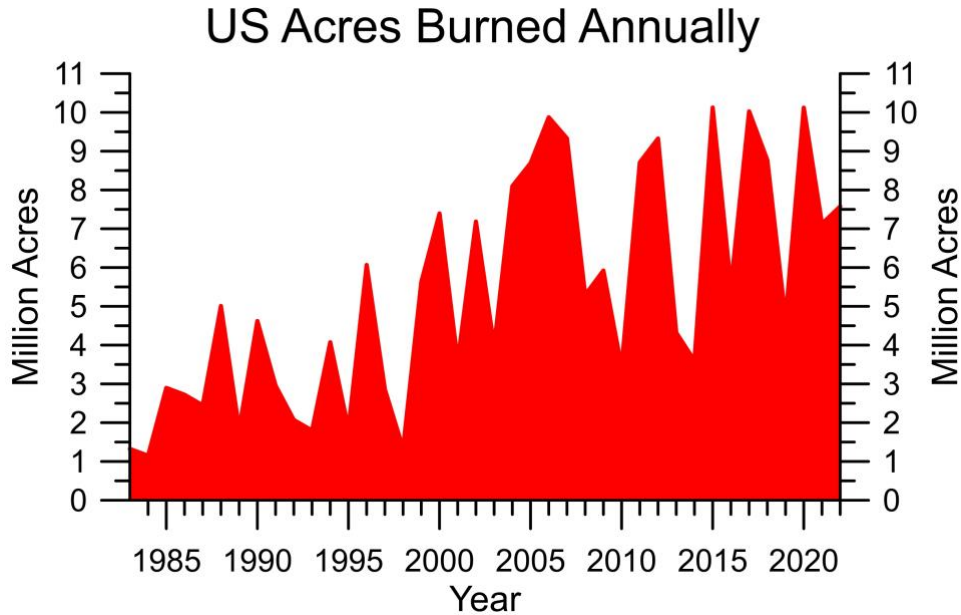
1 exacerbating water shortages and drought conditions. For the first time in history,
2 the federal government is considering shutting down diversions from the Colorado
3 River, which will harm California Children’s access to water, like Plaintiffs Genesis,
4 Maya W., Maya R., and Maryam A.

5 202. Even in arid regions, increased precipitation is causing flash flooding,
6 followed by drought. The recent 22-year-long drought from 2000 to 2021 in the
7 western United States was the driest 22-year drought in at least the last 1,200 years.
8 Climate pollution is responsible for at least 42% of this drought. If climate pollution
9 had not occurred, the drought during Plaintiffs’ lives would either not have been as
10 severe or as long. The climate pollution acted as an additional heating and drying
11 force to maintain the naturally drier years over an extended period of time when the
12 dry years would have otherwise been interrupted by wet years, ending the drought.
13 California’s 2012-2014 drought years are also unprecedented in the last 1,200 years
14 and are caused by climate pollution.

15 203. Climate pollution causes warmer springs, longer summer dry seasons,
16 and drier soils and vegetation which increase wildfire season length, frequency,
17 severity and burned area in the West. The incidence of large climate fires in the
18 western United States has increased since the early 1980s and is continuing to
19 increase, cause profound changes to the West, and harming each of these young
20 Plaintiffs in particularly personal ways. Climate pollution doubled the area burned
21 by wildfire in the western United States from 1984 to 2015. Half of the burned area
22 would not have burned without climate pollution and climate change.

23 204. The largest number of acres burned annually from climate fires have all
24 occurred since 2004, which coincides with the hottest years in the nation’s recorded
25 history. EPA predicts that with more climate pollution and more frequent and longer
26 droughts, longer climate fire seasons and larger climate fire size will continue,
27 increasingly exposing Plaintiffs to even more severe injuries from wildfires.

1 205. This figure shows area burned in the United States between 1983 and
 2 2022 based on National Interagency Fire Center data. In the case of California, the
 3 increase in burn area for 1996 to 2021 relative to 1971 to 1995 is nearly all, if not
 4 entirely, due to anthropogenic climate change, with the best estimate being 172% of
 5 the burn-area increase being due to human-caused climate change.



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 16 206. The wildfire season is longer than it ever has been. In 1970, the wildfire
 17 season in the West was from June to September. Now, the climate fire season in the
 18 West begins in March and goes well into fall. In Pacific U.S. (i.e., CA, OR, WA)
 19 forests, the fire season has increased by >40% (37 more days) from 1979 to 2019,
 20 with extreme fire weather increasing by 166%, the largest increase in any region
 21 analyzed in the world.

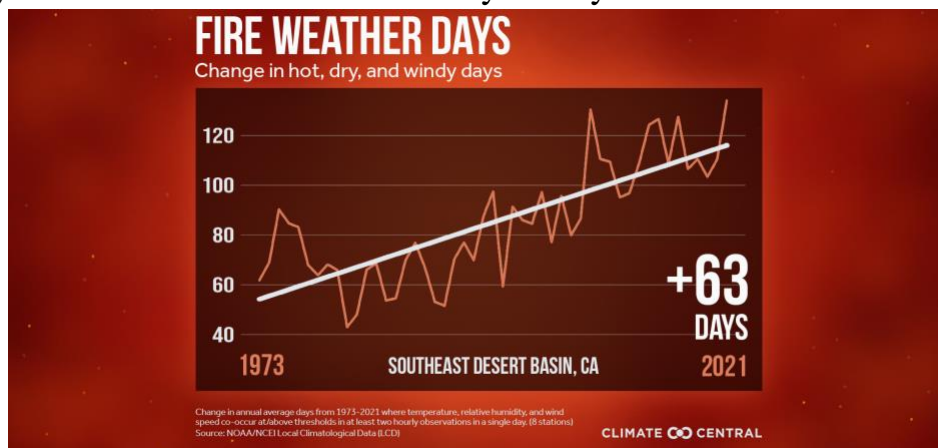
22 207. In the Sierra Nevada Mountains of California, where Plaintiff Huck
 23 resides, the fire season has increased from less than 100 days per year on average
 24 (1981-1990) to close to 150 days (2011-2020). For the Central District of California,
 25 where Plaintiffs Genesis, Maya R., Maya W., Maryam M., Maryam A., Dani,
 26 Muaawiyah, and Zubayr live, since the early 1970s the interior portion of the district
 27 has experienced at least a 63 day increase in fire season length.

1 208. Sonoma County, where Plaintiff Ione lost her home and where
 2 Plaintiffs Ione and Noah have evacuated multiple times, has experienced numerous
 3 recent destructive climate-fueled fires including, the Nuns (55,565 acres), Tubbs
 4 (36,810 acres, 5,636 structures, and 22 deaths) and Pocket (17,000 acres) fires in
 5 2017; the Kincade Fire (77,758 acres) in 2019; and the Walbridge (55,000 acres) and
 6 Glass (67,000 acres) fires in 2020. In the case of the Tubbs Fire, human-caused
 7 climate change increased the rate that the fire rapidly spread by 23%.

8 209. Indeed, the increase in California’s annual burn area over the last 50
 9 years, including Sonoma County and the Tahoe Basin, is entirely attributable to
 10 human-caused climate change with a best estimate of 172% from anthropogenic
 11 greenhouse gas emissions.

12 210. Since 2001 there is no evidence for any other forcing for the rising burn
 13 area besides human-caused climate change. The Tubbs, Kincade, and Mosquito fires
 14 all occurred in the autumn, which is a season where human-caused climate change
 15 has increased the likelihood of extreme fire weather by 40% through drying of fuels
 16 and warmer temperatures.

17 211. The graph from Climate Central shows the change in the number of fire
 18 weather days from 1973 to 2021 for southeast California desert basin within the
 19 Central District of California. Over this time period, the number of hot, dry and
 20 windy days conducive for fire increased by 63 days.



1 212. The increase in aridity between 1984 and 2017 exposed an additional
2 31,500 square miles of western montane forests to climate fires. The greatest rise in
3 fire elevation due to dry air is in the Sierra Nevada where Huck and Dean are
4 threatened with increasing fire. There is greater than 99% certainty that 65% of
5 California’s drying trend, also called vapor pressure deficit or VPD, is due to human-
6 caused climate change. The increase in severity and frequency of fires is also a result
7 of climate change.

8 213. EPA says the “wildfire crisis is a public health crisis, including
9 significant impacts on air quality.”

10 214. The smoke from those climate fires includes fine particulate matter.
11 Inhaling or ingesting even small amounts of these pollutants causes many adverse
12 health conditions. Children are susceptible to health harms from climate fires even
13 in utero. Wildfire smoke may cause 7,700 premature births (< 37 weeks) at 2°C of
14 global warming. At 4°C of global warming, wildfire smoke may cause 13,600
15 premature births, a 92% increase in premature births attributable to wildfire smoke
16 from 1986-2005.

17 215. Children exposed to smoke and particulate matter also have higher risks
18 of respiratory symptoms, decreased lung function, substantial eye symptoms,
19 worsening asthma, increased sinus issues, development of chronic bronchitis, heart
20 failure and premature death. The rate of childhood hospitalizations and emergency
21 department visits is increasing due to climate fire smoke. Plaintiff Avroh’s sinuses
22 have been injured by repeated and prolonged exposure to smoke and heat, leading
23 to a hospital visit and medical procedure. Plaintiffs Ariela, Arishka, Avroh, Dani,
24 Dean, Emma, Genesis, Huck, Ione, Lali, Maryam A., Maryam M., Maya R., Maya
25 W., Muaawiyah, Neela, Noah, and Zubayr have each experienced respiratory
26 symptoms, sore throats, headaches, eye irritations, panic attacks, and/or other
27 physical symptoms of smoke exposure.

1 216. Exposure to PM_{2.5}, a pollutant emitted from wildfires, can aggravate the
2 occurrence and development of bronchial asthma. Since the worsening wildfire and
3 smoke seasons in California, Maya W., Noah, and Emma have each been diagnosed
4 with bronchial asthma or exercise-induced asthma.

5 217. Even among Children who do not suffer from asthma, climate fire
6 smoke exposures lead to decline in Children's lung functioning. California is the
7 least healthy state in terms of air pollution in the nation. Pollution exposure to
8 wildfire smoke in California has risen four-fold in the past decade. Current levels of
9 air pollution in southern California have chronic, adverse effects of lung
10 development in Children, which leads to important deficits in lung function in
11 adulthood. Air pollution harms Children's lungs for life. Air pollution in the western
12 United States is also shown to shorten human life through premature death and other
13 medical harms.

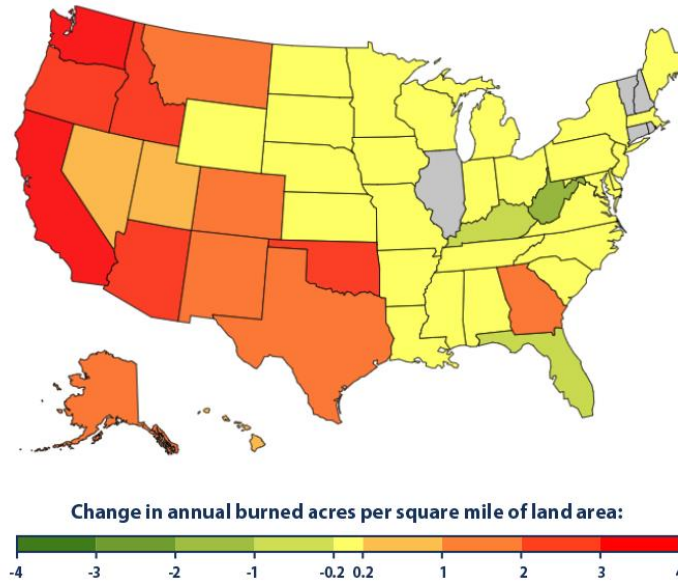
14 218. School closures caused by wildfires have significant negative impacts
15 on academic performance, primarily among elementary school students. Such
16 closures are likely to become more common in California in future years. In the
17 2018-19 school year, wildfires impacted 1,138,463 students across 1,911 California
18 schools. Plaintiffs Arishka, Ione, Huck, Neela, Lali, Noah, Maryam M., Dani, Dean,
19 and Avroh have each faced school closures from wildfire smoke that interfere with
20 their learning and educational opportunities. Plaintiffs Ariela and Huck have had to
21 attend school during unsafe air quality conditions, making it harder to focus or
22 requiring N-95 masks. Plaintiff Maya W. has had PE class in a gym covered in ash.

23 219. Climate fires and smoke in the West are worsening with greater smoke
24 production and chronic exposures for Children. Exposure to wildfire smoke
25 increases depression among some Children, including certain Plaintiffs.

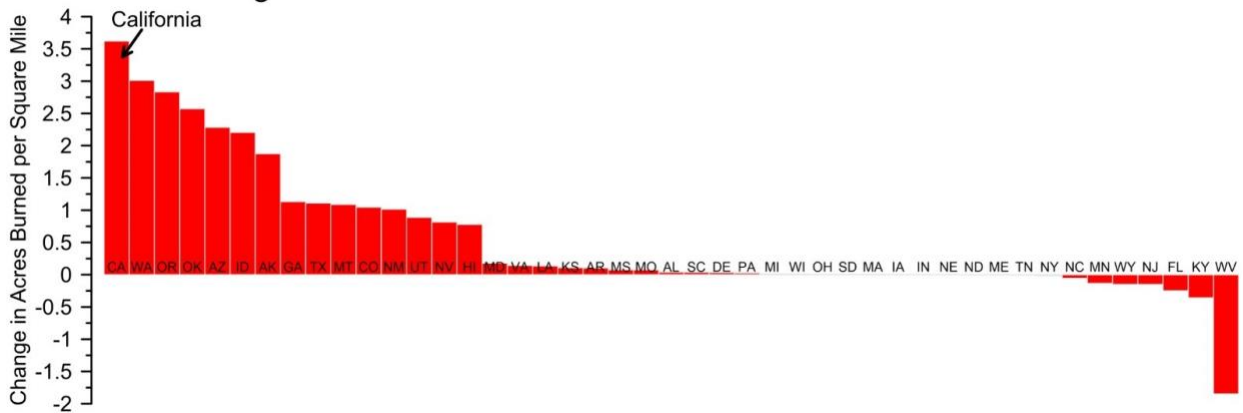
26 220. The map below is from the EPA and shows the change in annual burned
27 acreage per square mile of land from 1984-2001 average to 2002-2020 average. The
28

1 bar graph below is the same data but expressed in a graphic format.

2 **Change in Annual Burned Acreage by State Between 1984–2001 and 2002–2020**



13 **Change in State Burn Area Between 1984-2001 and 2002-2020**



21 215. According to the EPA, California has experienced on average 3.62
22 more acres burned per year per square mile of land for the period 2002-2020 relative
23 to the period 1984-2001. This is the largest increase of anywhere in the United
24 States.

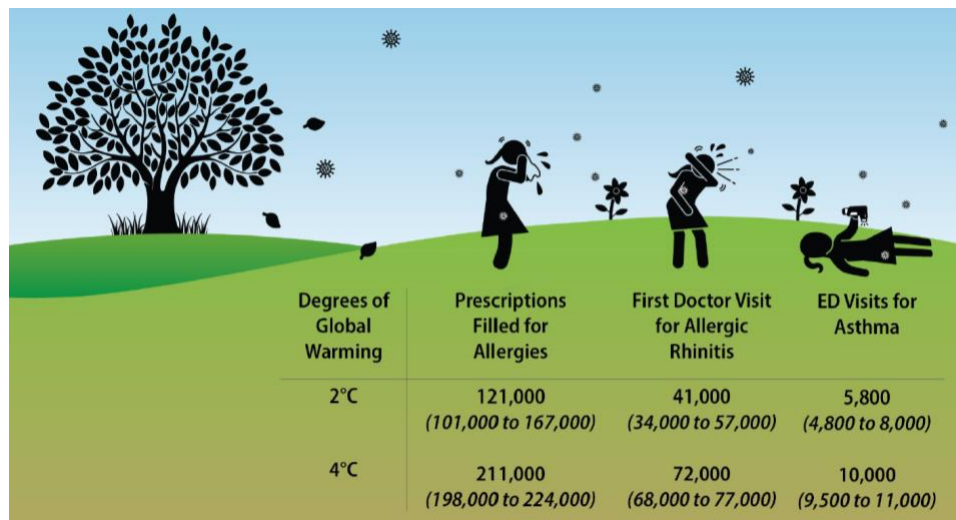
25 221. Climate change also worsens other air pollution, like ozone levels. Air
26 pollution preferentially targets Children because of their immature lungs, narrow
27 airways, high respiratory rates, lower body weights, their outdoor activities, higher

1 level of physical activity, and a high prevalence of asthma. Children’s respiratory
 2 tracts are not fully developed and air pollution permanently reduces lung
 3 development. Air pollution exacerbated by climate change is continuing to worsen.

4 222. In 2023, EPA said climate change will increase the annual cases of
 5 asthma in Children by 4% at 2°C of global warming and 11% at 4°C of global
 6 warming especially in the Southwest, with low-income and Black, Brown and
 7 Indigenous children being more likely than others to develop new asthma because
 8 of particulate matter exposure.

9 223. Over 8% of Children suffer from allergic rhinitis, and the ragweed
 10 pollen season in North America has grown 13-27 days longer since 1995 due to
 11 higher temperatures and greater CO₂ levels. Longer pollen seasons lead to more
 12 asthma episodes, doctor visits, and prescriptions for allergies for Children. Plaintiffs
 13 Genesis and Dani struggle with the combination of worsening allergies, smoke, and
 14 heat that significantly limit her activities both outdoors and indoors. Dani has
 15 resorted to medical treatment to manage her rhinitis.

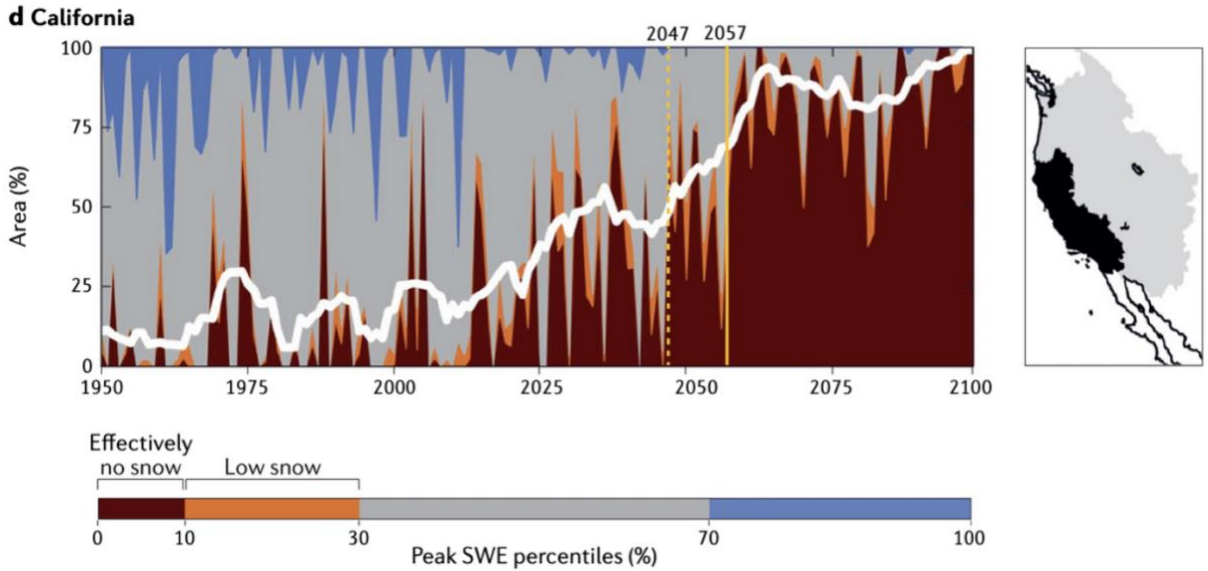
16 224. This graphic depicts projected impacts per year for Children due to
 17 increasing pollen exposure at 2°C and 4°C of global warming.



1 225. In the western mountains, precipitation is falling increasingly as rain
2 rather than snow, with early snowmelt occurring because of climate change, causing
3 an overall reduction in snowpack each year. In 2015, Sierra Nevada snowpack
4 reached a minimum of only 5% of the historical average. A study of tree-rings to
5 reconstruct historical snowpack showed that the 2015 low snowpack was
6 unprecedented in the last 500 years. The majority of the changes to winter air
7 temperature, snowpack, and river flow trends are from climate pollution and climate
8 change.

9 226. The overall trend is that snowpack declines will continue. Until early
10 2022, of the area of California that historically has winter snowpack, 20-25% of the
11 area experienced low-to-no snowpack since 2000. Low-to-no snowpack will
12 increase with half of California's historically snowy regions having low-to-no snow
13 winters for five years in a row by 2047 and 10 years in a row by 2057. Climate
14 change causes extremities in terms of drought, but also unusually high precipitation
15 years that cause flooding. The winter of 2023, which had historically high snowpack,
16 is an example of the climate extremes caused by high CO₂ levels in a La Niña year.
17 Plaintiff Huck experienced 30 days of school closures due to the extreme snowpack
18 near his home, but in many winters of his childhood Huck has not been able to
19 participate in his winter snow activities because of lack of snow. The consequence
20 of unusually high snowpack combined with earlier warm temperatures and rain on
21 snow causes extreme flood events that harm lower elevation areas in California. The
22 flooding of Mono Lake affected Dean.

23 227. As illustrated in the figure below, the area of snowpack and the
24 thickness of snowpack in California is significantly decreasing.



228. Under the climate conditions in which human civilization developed, a large snowpack or glacier acts as a supplemental reservoir or water tower, holding a great deal of water in the form of ice and snow through the winter and spring and releasing it in the summer when rainfall is lower or absent. The water systems of the western U.S., particularly in California and Oregon, heavily rely on this natural water storage. Yet as temperatures increase, not only will these areas lose this supplemental form of water storage, but severe flooding is also likely to increase as rainfall accelerates the melting of glaciers and snowpack.

229. Scientists predict a coming water supply crisis for the western United States. Indeed, all glaciers within the California Trinity Alps disappeared after the 2015 warm summer and extremely low snowpack. The glaciers on Mount Shasta are rapidly receding as are all glaciers in the western United States. The Sierra Nevada are projected to be glacier-free by 2050, where glaciers have existed for more than 3,000 years. California will soon be a glacier-free state, especially if climate pollution continues.

230. During droughts in the West, groundwater pumping increases and results in dramatic groundwater-level declines that lead to worsening groundwater

1 quality. Plaintiff Noah relies on groundwater, which is diminishing.

2 231. Changes in water supply and water quality is also harming agriculture
3 and farming in the West. Increased heat, water shortages, and associated issues such
4 as pests, crop diseases, and weather extremes including fires, hurt crop and livestock
5 production and quality. Climate pollution is threatening food security and will
6 decrease crop yields, increase crop prices, decrease nationwide calorie availability,
7 and increase malnutrition.

8 232. Climate change threatens the basic requirements for protecting
9 Children's lives like clean air, pure water, sufficient food, and adequate shelter.

10 233. Climate pollution leads to an increase in the frequency, severity, and
11 duration of extreme weather events, which can injure, kill, or displace Children and
12 their families, and damage or destroy their homes and schools. Plaintiffs Ariela,
13 Dani, Arishka, and Noah have experienced the loss of extreme flood events on their
14 families' homes, and for Ariela, her family's crops. Plaintiff Avroh's school has
15 been closed from extreme flooding and storm events making his school unsafe.
16 Ione's community flooded one year after a large fire displaced people. Muuawiyah
17 and Zubayr suffered roof damage from Tropical Storm Hilary and many Plaintiffs
18 received flash flood warnings during the storm.

19 234. In urban areas in particular, climate-driven flooding destroys
20 infrastructure Children depend upon, increases pollutant exposures, and increases
21 drowning dangers. The EPA has found 200,000 additional Children may need to
22 evacuate their homes due to inland flooding at 2°C of global warming, and 550,000
23 at 4°C of global warming. Further, coastal flooding is expected to destroy the homes
24 of 185,000 children at a sea level rise of 50 cm above current levels, and the homes
25 of 1.13 million children at sea level rise of 100 cm above current levels. Coastal
26 flooding will also raise groundwater levels. In the San Francisco Bay, 5,282
27 contaminated sites will be inundated by groundwater at 1 m of sea-level rise (3,964
28

1 sites at 0.5 m of sea-level rise) while 24% of California’s superfund site area is at
2 risk from sea-level driven groundwater inundation. Fifty-five percent of the residents
3 near these contaminated sites are Black, Brown, and Indigenous.

4 235. The increase in temperatures along with extreme precipitation and
5 flooding is increasing the prevalence of mosquitos and infectious diseases. Children,
6 who spend more time outside and have more open skin wounds are more susceptible
7 to mosquito bites and contracting water-borne diseases. Zubayr and Emma have
8 experienced these harms.

9 236. Climate pollution is causing a mental health crisis for Children.
10 Extreme events caused by climate change are traumatic for Children and cause
11 depression, anxiety, and post-traumatic stress. The chronic worry about climate
12 change also harms the mental health of Children. Children experience anxiety from
13 the betrayal of their government in causing climate crisis and not protecting the air
14 and climate system. The toxic stress from these mental health harms can last into
15 adulthood and diminish a child’s prospects for healthy adulthood. EPA has
16 acknowledged that climate change puts Children at particular risk for distress,
17 anxiety, and other adversities to their mental health. Every one of these young
18 Plaintiffs lives with some level of climate anxiety, chronic worry, post-traumatic
19 stress, and or depression. Some have diagnoses and seek treatment from therapy
20 where they spend time talking about climate change.

21 237. EPA and mental health experts have identified “climate anxiety”
22 among Children as a chronic stressor that will have adverse effects on Children’s
23 lives. Experts opine that the mental health harms of climate change to Children are
24 akin to cruel, inhuman, and degrading treatment (i.e., the equivalent of torture)
25 because of the mental suffering Children are already experiencing at existing levels
26 of climate pollution. EPA has acknowledged that Children that understand the
27 likelihood of experiencing climate change effects throughout their lives are more

1 predisposed to experiencing climate anxiety and feel hopelessness and trauma.
2 Government betrayal, by continuing to allow the crisis to unfold unabated is also
3 highly linked to the climate anxiety Children are uniquely experiencing.

4 238. EPA knows that climate change causes harm to Children’s mental
5 health.

6 239. Childhood is a condition of life when a person is most susceptible to
7 psychological damage. Childhood trauma can have long-term mental health impacts
8 because Children are more likely to maintain those traumatic memories with greater
9 clarity. The disturbances in childhood from climate crisis can also harm brain
10 development and permanently and adversely affect the prefrontal cortex, with
11 lifelong adverse consequences that impact learning.

12 240. Children will also suffer disproportionate harm from the increased
13 financial burdens climate crisis poses, including lost property values and increasing
14 costs from catastrophic events and harm.

15 241. Black, Brown, and Indigenous Children (referred to by EPA as “BIPOC
16 Children” and “Children of Color”) are the most vulnerable because their families
17 and communities often lack the resources for adequate shelter, air conditioning, air
18 purifiers, and other ways of escaping from heat, climate fires, and air pollution.
19 Black, Brown, and Indigenous Children disproportionately live proximate to fossil
20 fuel infrastructure and the source of climate pollution, which further exacerbates
21 their immediate exposure to dangerous air and water pollution, harming their
22 developing bodies. Climate change also threatens the lives and health of Children by
23 reducing food availability and increased prices, leading to food insecurity within
24 households with fewer resources.

25 242. Black, Brown and Indigenous Children’s injuries from climate
26 pollution are compounded by the historic racism and discrimination experienced by
27 their ancestors and parents as well as the ongoing systemic racism they have been
28

1 born into. These Children, including many of these Plaintiffs, are the most
2 vulnerable of the Children class.

3 243. Black and Brown Children in California are exposed to more air
4 pollution in general than white persons. California’s average disparities between
5 racial minority populations and non-Hispanic white populations are notably larger
6 than other states (on average, 6 times larger). In general, Black and Brown
7 communities bear a “pollution burden” of 56% and 63% excess exposure relative to
8 their consumption of goods and services resulting in pollution.

9 244. Black and African American Children are 34% more likely to live in
10 areas highly impacted by climate change. And they are at higher risk of childhood
11 asthma diagnoses compared to other Children.

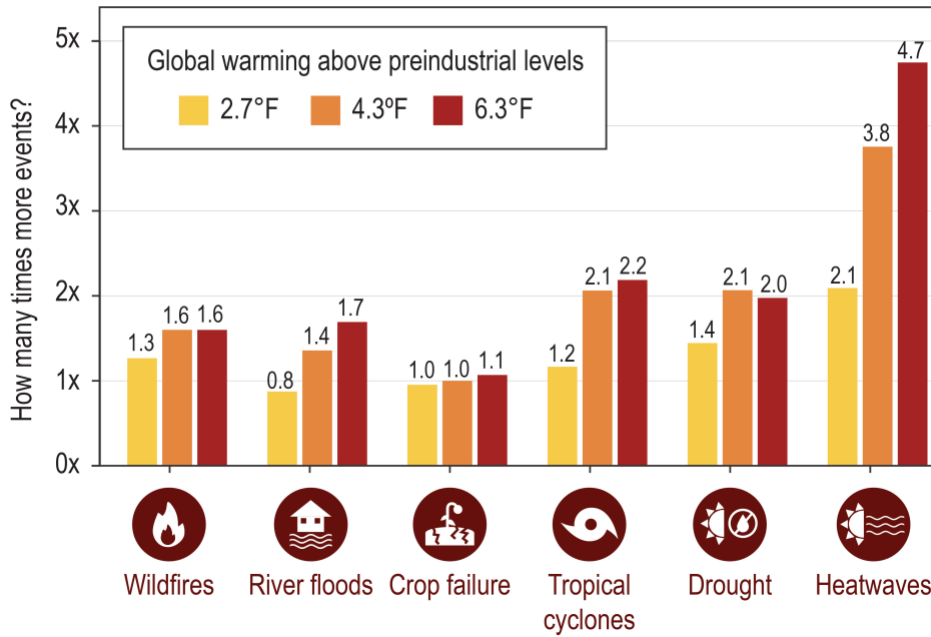
12 245. Adverse childhood experiences (“ACEs”) increase the likelihood of
13 cumulative trauma that leads to mental and physical illness, as well as an increased
14 risk of early death. The more ACEs children experience, the greater the risk of
15 lasting effects on health (increased risk of obesity, diabetes, heart disease,
16 depression, strokes, chronic pulmonary disease), behaviors, and life potential.
17 Exposure to climate pollution and climate change increases the ACEs for these
18 Plaintiffs and Children.

19 246. Experts agree that “[a] child born today will experience a world that is
20 more than four degrees warmer than the pre-industrial average, with climate change
21 impacting human health from infancy and adolescence to adulthood and old age.
22 Across the world, children are among the worst affected by climate change.”

23 247. The U.S. 2023 Fifth National Climate Assessment Summary confirms
24 that Children born in 2020 will suffer disproportionate harm from climate pollution
25 than an adult who was born in 1960.

Intergenerational Inequity

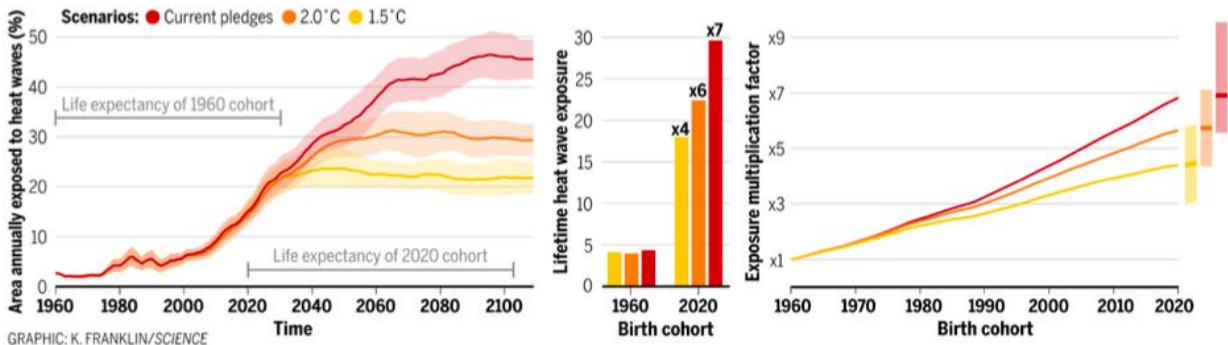
A person born in 2020 will experience more climate hazards during their lifetime, on average, than a person born in 1965.



248. Experts agree with EPA and have documented the disparity in harm that Children born today will experience as compared to adults as depicted in the graphic below. Specifically, Children will experience vastly more severe weather events than living adults and prior generations.

From a period to a cohort perspective on extreme event exposure

(Left) Global land area annually exposed to heat waves under three scenarios. Lines represent multimodel means of a heat wave metric calculated from four global climate models. Lines were smoothed by using a 10-point moving average. Uncertainty bands span 1 standard deviation across the model ensemble. (Middle) Lifetime heat wave exposure for the 1960 and 2020 birth cohorts under the three scenarios. Numbers above bars indicate exposure multiplication factors relative to the 1960 cohort. (Right) Multiplication factors for lifetime heat wave exposure across birth cohorts relative to the 1960 cohort. Uncertainty bands represent the interquartile range for the 2020 cohort exposure relative to the multi-model mean exposure of the 1960 cohort.



EPA Intentionally Discriminates Against Children

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2 249. While EPA fully recognizes the disproportionate harm of climate
3 pollution and climate change to Children, it has actively discriminated against
4 Children by systematically allowing climate pollution for decades at levels that
5 harms Plaintiffs' health and welfare, by disregarding best available science on
6 climate pollution and Earth's Energy Imbalance, and by discounting the lives of
7 children in its regulatory analyses.

8 250. EPA has known for decades that the continued emission of greenhouse
9 gases into the atmosphere would be harmful to children, yet it continued its systemic
10 conduct in allowing pollution that has favored fossil fuel industry and corporate-
11 person's interests and adults over Children's health and welfare.

12 251. The lobbying power and campaign contributions of fossil fuel interests
13 have influenced Defendants' decisions to allow climate pollution to continue at
14 current levels, irrespective of every scientific recommendation from EPA since the
15 1970s that climate pollution must be significantly reduced.

16 252. There is a long history of presidential administrations that directed EPA
17 to allow climate pollution and avoid controlling climate pollution.

18 253. Presidential administrations have stopped EPA from controlling
19 climate pollution for fear of their political party losing elections.

20 254. On information and belief, EPA has been pressured by the Department
21 of Justice, EPA's General Counsel's office, and White House counsel to not control
22 climate pollution to the extent necessary to protect Children.

23 255. On information and belief, EPA has been pressured by the Office of
24 Management and Budget and the Office of Information and Regulatory Affairs to
25 not control climate pollution to the extent necessary to protect Children.

26 256. EPA knows its systemic management and control of climate pollution
27 has discriminated against Children, including Plaintiffs.

**EPA Intentionally Allows Climate Pollution at Levels Known
to Harm Children’s Health and Welfare**

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3 257. Between 1751 and 2021 the United States emitted approximately 25%
4 of the world’s cumulative CO₂ pollution to the air, more than any other country to
5 date. Most of United States CO₂ pollution has been emitted since 1970, when EPA
6 was created. The United States is the nation most responsible for the climate crisis
7 and its cumulative greenhouse gas emissions far exceed those of other nations such
8 as India and China.

9 258. EPA provides a comprehensive accounting of U.S. greenhouse gas
10 emissions and sinks by source, economic sector, and greenhouse gas going back to
11 1990 in their annual report, *Inventory of U.S. Greenhouse Gas Emissions and Sinks*.
12 Since at least 1990, EPA has been aware of the relative contributions from different
13 sources of climate pollution, which are under its regulatory jurisdiction, in the United
14 States.

15 259. Despite fluctuations in the past three decades, U.S. climate pollution is
16 still close to what it was in 1990. Eighty percent of climate pollution in the U.S. is
17 CO₂, largely from the power generation and transportation sectors, sources directly
18 under EPA’s control. More than 90% of CO₂ pollution is from fossil fuels from
19 sources under EPA’s control.

20 260. With climate pollution already recognized by EPA to be at levels that
21 threaten the public health and welfare of current and future generations, the U.S.
22 Energy Information Administration (“EIA”) forecasts that energy-related CO₂
23 pollution from sources under EPA’s control will remain at 99% of 2023 levels in
24 2024, with total U.S. energy-related CO₂ emissions in 2050 projected to be only
25 about 19% lower than the amount in 2022.

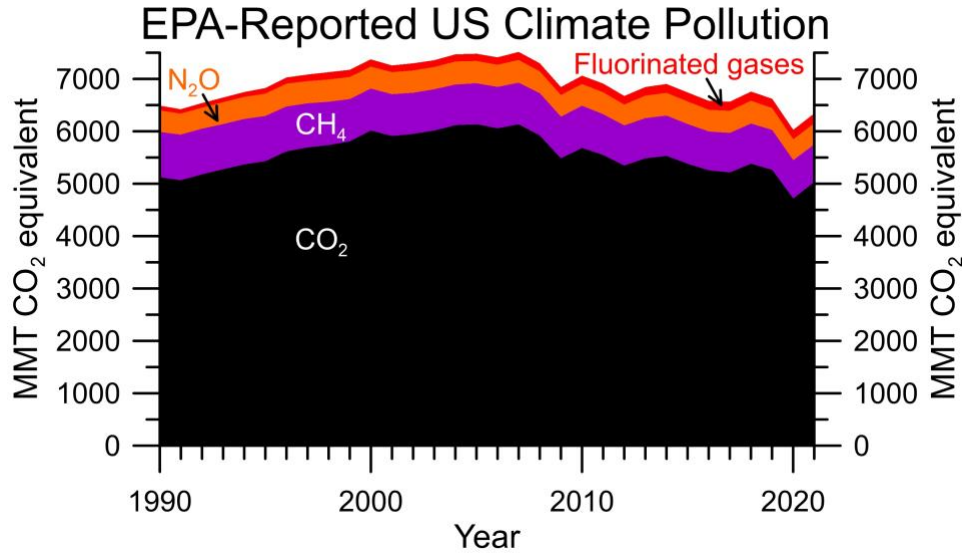
26 261. Between 1970 and 2021, the United States, under EPA’s regulatory
27 control and permitting of climate pollution, has been responsible for intentionally

1 allowing approximately 422,000 million metric tons (“MMT”) CO₂ pollution to
 2 enter the nation’s air from within its territories as depicted in the graph and chart
 3 below.

		U.S. Annual CO₂ Pollution Emissions (MMT)	Cumulative U.S. CO₂ Pollution (MMT)	U.S. Annual Greenhouse Gas Pollution Emissions (MMT CO₂ equivalent)
Year	Historical Moments	Total	Total	Total
1970	U.S. creates EPA to control air pollution	4,340	154,000	Data unavailable
1983	EPA Report: <i>Can We Delay A Greenhouse Warming?</i>	4,429	215,000	Data unavailable
1990	EPA Report: <i>Policy Options for Stabilizing Global Climate</i>	5,122	249,000	6,487
2009	EPA issues Endangerment Finding	5,483	358,000	6,841
2021	Most recent data on annual U.S. CO ₂ pollution	5,032	422,000 (274% increase since 1970)	6,340

18 262. Based on its own data, EPA has continued to authorize high levels of
 19 climate pollution in the past thirty years, resulting in a sustained annual rate of
 20 climate pollution with some highs and lows that never drop below 6,350 MMT CO₂
 21 equivalent a year until the 2020 pandemic that had 6,026 MMT CO₂ equivalent
 22 emitted and in 2021 when the country was still recovering from the pandemic and
 23 emitted 6,340 MMT CO₂ equivalent.

24 263. This graph shows EPA-reported U.S. climate pollution between 1990
 25 and 2021.

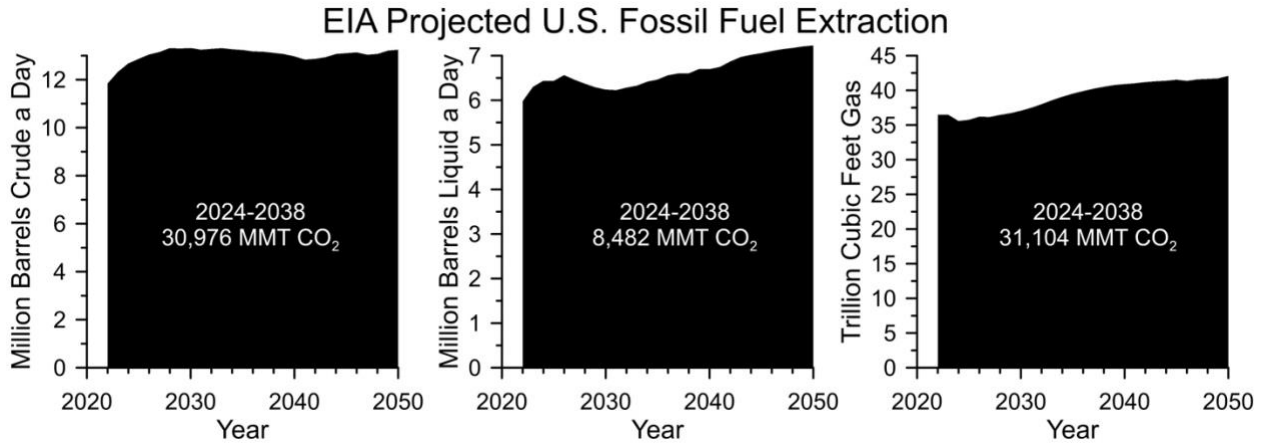


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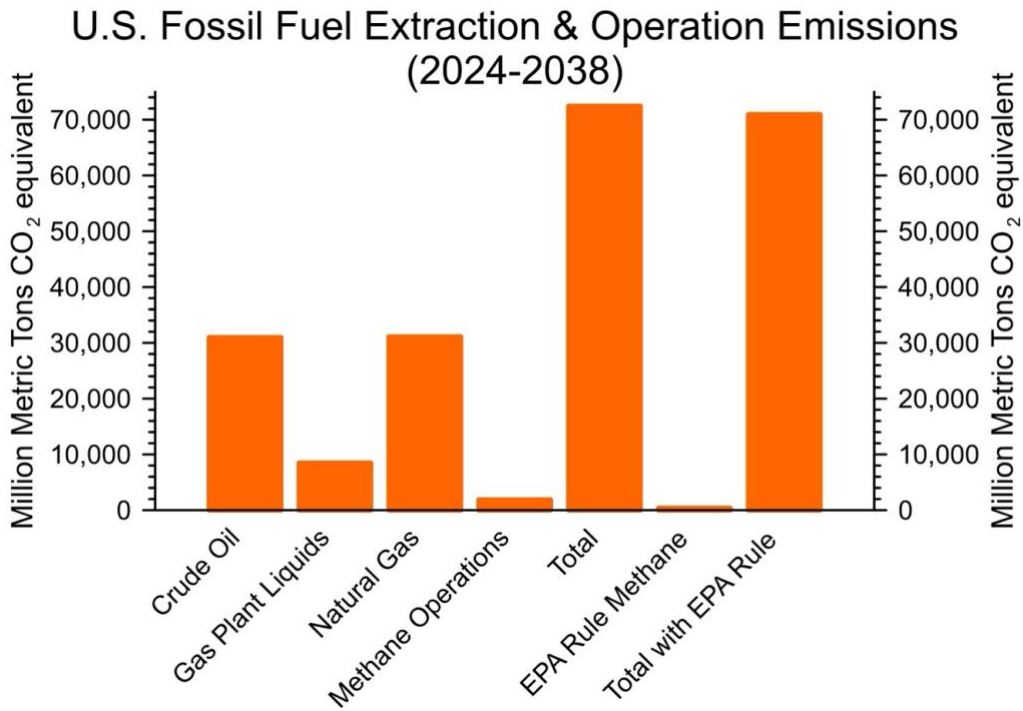
264. In December 2023, EPA issued a new rule to reduce the amount of methane pollution it allows due to leakage from fossil fuel infrastructure and operations. EPA claimed the rule would reduce allowable methane emissions by 80% between 2024-2038. Existing fossil fuel infrastructure sources of pollution will have five years to comply with the rule and can continue operating with existing levels of pollution from operations and extracted fuels during that timeframe. Even if the rule is fully implemented, the pollution avoided is a small fraction of the overall climate pollution EPA allows to be released from the fuels extracted through this infrastructure. Based on projections for the oil and gas extracted via the sources subject to the rule, even by reducing leakage emissions, the rule only reduces total pollution from fossil fuel extraction and operations by approximately 2% between 2024 and 2038 as fossil fuel extraction continues to increase.

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265. EIA’s reference case for extraction through 2050 of crude oil (left) natural gas plant liquids (middle) and natural gas (right) with their cumulative combusted emissions for 2024-2038 labeled.

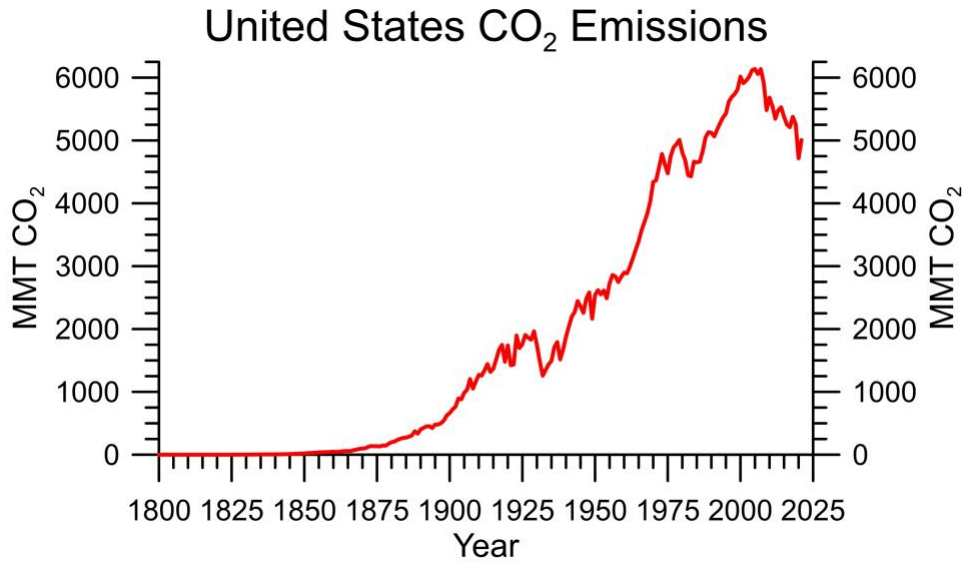


266. EIA’s 2024-2038 extraction emissions and EPA’s operational methane emissions with and without the EPA’s new rule are illustrated in this graph.



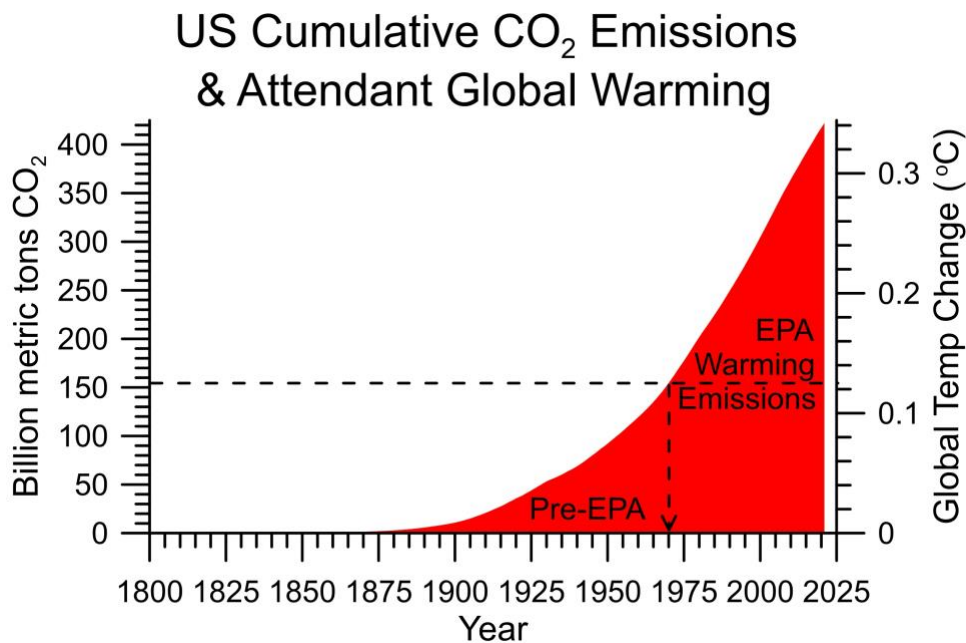
267. Since the EPA was founded, national CO₂ emissions increased to a peak in 2005 of 6132 MMT CO₂. Since then, emissions decreased slowly, with the largest decline during the 2020 pandemic largely due to less travel, and have rebounded again to 5586 MMT CO₂ in 2021.

268.



269. Cumulatively, under EPA’s control and authority, the United States has been responsible for about 271,922 MMT of CO₂ from 1970 to 2021, which is 1.85 times more CO₂ than the U.S. emitted cumulatively in the 169 years prior to the creation of the EPA (149,985 MMT of CO₂ from 1800 to 1969).

270.

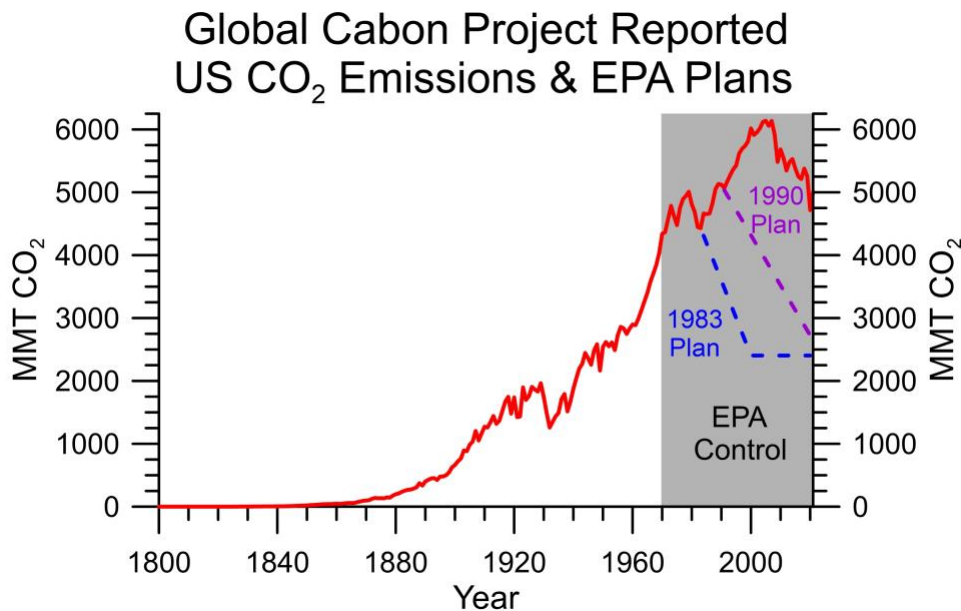


271. International scientific consensus estimates that every 1,000,000 MMT CO₂ emitted causes 0.45°C (0.81°F) of global warming. Based on that calculation,

1 the EPA has allowed about 0.22°F of global warming since 1970 from carbon
 2 dioxide emissions alone, which is about 10% of Earth’s global warming to date. For
 3 comparison, U.S. total CO₂ emissions to date have caused 0.34°F of global warming
 4 since the 1800s.

5 272. EIA projects climate pollution will continue at current levels in the
 6 United States in 2024. The EIA also projects continued climate pollution through
 7 2050, with 2050 pollution being about 81% of 2022 pollution. This continued
 8 climate pollution would add another 0.18°F of global warming on top of the U.S.-
 9 CO₂-caused warming of 0.22°F since 1970. EPA intentionally allows that level of
 10 climate pollution.

11 273. Had Defendants banned climate pollution from coal and oil shale in
 12 1983 as was recommended in EPA’s 1983 Report, *Can We Delay A Greenhouse*
 13 *Warming?*, CO₂ pollution today could have been 47.2% less since 1983. The graph
 14 below depicts this with the blue-dotted line.



25 274. Had EPA heeded its own 1990 Report, CO₂ pollution today could have
 26 been 30.5% less since 1990. The graph above depicts this with the purple-dotted
 27 line.

1 275. EPA ignored its own plans from three decades ago and continues to
2 intentionally allow levels of CO₂ pollution that it knows are harmful to Children’s
3 health and welfare.

4 276. Instead of pursuing their own plans and recommendations to decrease
5 climate pollution, or responding to citizen petitions asking the agency to use its
6 authority to limit climate pollution, and consequently reduce the harm to Children’s
7 health and welfare from climate change, Defendants knowingly acted, and continue
8 to act, to exacerbate the climate crisis. Defendants exercise their control and
9 dominion over the air in a systematic manner that caused, and continues to cause,
10 significant harm to Children, born and unborn, including these Plaintiffs.

11 277. Defendants’ conduct constitutes intentional discrimination against
12 Children.

13 **EPA Systematically Discounts the Lives of Children**

14 278. The economic method of discounting is a weapon of intergenerational
15 oppression that harms Children.

16 279. In deciding whether and how to control pollution, EPA performs
17 regulatory impact analyses (“RIAs”) to look at how it should value benefits and costs
18 that arise at some future date relative to those that occur today.

19 280. In its RIAs, EPA gives less value to future benefits of climate pollution
20 control than to current benefits. The devaluation of future benefits is done through
21 the application of “discount rates.” Discount rates act as intentional and explicit
22 discrimination against Children.

23 281. In conducting cost-benefit analyses of its climate pollution control
24 programs, EPA has used and continues to use in a systematic manner discount rates
25 that devalue the rights and interests of Children and all future generations of
26 Children.

1 282. From 1980 to 1986, EPA exclusively used a 10% discount rate. It
2 continued to use discount rates as high as 10% until 1994. In the 1990s, nearly all of
3 EPA’s discount rates were between 3% and 7%. From 2004 to 2010, EPA
4 exclusively used discount rates of 3% and 7%.

5 283. Applying a 10% discount rate to the cost of a program to save lives
6 results in a life today having the same value as 117 lives in 50 years and 13,781 lives
7 in 100 years, resulting in a valuing of one life today more than thousands in the
8 future. Looked at another way, a proposed regulation that will generate \$100 in
9 benefits in 50 years is worth only \$61 in present value using a 1% discount rate, \$14
10 at 4%, \$3 at 7%, and less than \$1 at 10%.

11 284. Since 2010, EPA typically uses four discount rates to analyze the costs
12 and benefits of policies to regulate climate pollution: 2.5%, 3%, 5%, and 7%. Each
13 of these discount rates is too high and leads to low estimations of the social costs of
14 climate pollution (also called the “Social Cost of Carbon”), and specifically the costs
15 to Children.

16 285. Since the effects of climate pollution are long-lasting and cumulatively
17 worse over time, using a discount rate in a cost benefit analysis on climate pollution
18 says that what happens in the future to Children does not matter as much as the cost
19 of controlling the future effect today, which biases public decision making against
20 Children. The full benefits from controlling climate pollution today may not accrue
21 for many years after society incurs costs to limit the pollution.

22 286. Even a small change in the discount rate can have large effects on
23 present values. Using a 1.4% discount rate, after 36.5 years, future people are worth
24 just three-fifths of a person’s worth today. With a 3% discount rate, a future person
25 just 17 years from now is worth three-fifths of a person today.

26 287. Defendants’ policies that discount the future of Children at
27 inappropriately high rates, which they have no statutory authority to implement,
28

1 continue to steer EPA and the United States on the path of incalculable losses and
2 harm to Children, and away from a constitutionally-compliant course.

3 288. EPA's current and historical decision-making practices based on
4 discriminatory discount rates lead to outcomes that impose undue burdens on
5 Children, such as the harms the Plaintiffs are experiencing which they will carry
6 throughout their lives.

7 289. The discount rates EPA has used in its RIAs, and continues to use,
8 purposely devalue the long-term harm of climate pollution, and the benefit of
9 controlling and abating that pollution, on Children. The decades-long systemic
10 pattern and practice of using discount rates that discriminate against Children has
11 contributed to decisions by EPA that have allowed and continue to allow high levels
12 of climate pollution to enter the air.

13 290. The discount rates EPA uses also underestimate the economic benefits
14 of controlling climate pollution for Children. As a result, EPA's analyses underlying
15 their climate pollution decisions undervalue the benefits of climate action for
16 Children living today and unborn Children of tomorrow, thereby marginalizing an
17 entire class of people as compared to the living population of adults who have both
18 economic and political power to influence those decisions.

19 291. In 2021, EPA issued two proposals regarding climate pollution and
20 each RIA continued to apply discriminatory discount rates of between 2.5% and 7%,
21 skewing the true costs of climate pollution and the true benefits of controlling
22 climate pollution for Children and future generations of Children.

23 292. Experts state that EPA's discount rates result in policies that require
24 less control of climate pollution because the true benefits of controlling climate
25 pollution, and the costs of not doing so, on Children are not analyzed or disclosed
26 publicly.

1 293. In November 2022, EPA issued a draft *Report on the Social Cost of*
2 *Greenhouse Gases: Estimates Incorporating Recent Scientific Advances* in
3 conjunction with its revised proposed rulemaking for standards of performance for
4 stationary sources of climate pollution in the oil and gas sector. EPA conducted a
5 new sensitivity analysis using discount rates of 1.5%, 2%, and 2.5% to set the social
6 cost of carbon and evaluate the economic impact of the proposed rules to limit
7 climate pollution. The use of those three discount rates and the resulting social cost
8 of carbon caused EPA to again underestimate the damages from climate pollution
9 and the benefits of abatement. In its report, EPA wholly disregarded the effect of its
10 discounting practices on Children, who are not mentioned in the entire *Report on the*
11 *Social Cost of Greenhouse Gases*.

12 294. In April 2023, the Office of Management and Budget proposed that
13 federal agencies use a discount rate of 1.7%, yet acknowledged: “Future citizens and
14 residents who are affected by such choices cannot take part in making them, and
15 today’s society must act with some consideration of their interest. Some believe that
16 it is ethically impermissible to discount the utility of future generations. That is,
17 government should treat all generations equally.”

18 295. In 1987, EPA contemplated adopting a zero or negative discount rate
19 when analyzing controlling pollution that caused the hole in the stratospheric ozone
20 layer. EPA understands that a discount rate “may be positive, negative, or zero
21 From a social perspective, the value of this . . . discount factor reflects one’s
22 resolution of some of the ethical considerations discussed above. A zero utility
23 discount factor weighs current and future utilities equally. A positive (negative)
24 value weighs future utilities lower (higher) than current utility.” The “ethical
25 considerations” that EPA stated were relevant to choosing a discount rate were that
26 “the parties who will bear the costs or enjoy benefits may not yet exist”; “the
27 unregulated market will probably not result in the optimal level of saving for the
28

1 future”; “[i]rreversibility of the consequences of some policies is . . . a reason for
2 adopting a more cautious attitude toward imposing burdens on future generations”;
3 it is only justified to “borrow[] from future generations to benefit the present” only
4 if “[f]uture generations may be richer than existing ones”; “[t]he current generation
5 should treat future generations as they treat themselves”; “[t]he current generation
6 should treat future generations so as to improve their life from current conditions”;
7 and “[t]he current generation should not discount future lives, since human life is
8 not fungible.”

9 296. EPA’s own guidance documents indicate that the discount rates should
10 be lower when evaluating programs implicating climate pollution, climate change,
11 and Children. Yet EPA continues to apply discount rates that intentionally
12 discriminate against Children.

13 297. Economists working for and with Defendants have advised for decades
14 that the discount rate be lowered when government makes decisions affecting
15 climate change. Experts have advised Defendants that the long-term catastrophic
16 dangers posed by climate pollution warrant a much lower discount rate of zero
17 percent or even a negative discount rate, if any.

18 298. The economist who invented discounting, Frank Ramsey, advised in
19 1928 that discounting the welfare of future generations was “ethically indefensible.”

20 299. EPA itself has acknowledged that its discount rates are insufficient with
21 respect to the rights of future generations, saying that when considering climate
22 benefits for intergenerational harm, discount rates lower than 2% are warranted.
23 Notwithstanding that acknowledgment, it has been using 3% as its baseline for
24 analysis of its preferred programs.

25 300. EPA’s explicitly discriminatory discount rates used in its regulatory
26 analysis have contributed to EPA’s ongoing allowance of unsafe levels of climate
27 pollution for Children.

1 301. If EPA had not applied discount rates to its economic analyses of how
2 much and whether to limit climate pollution, the true costs of climate change on
3 Children, and the true benefits to eliminating fossil fuel climate pollution would have
4 been disclosed.

5 302. On information and belief, if EPA had not applied discount rates to its
6 economic analyses of how much and whether to limit climate pollution, and had
7 disclosed and evaluated the true costs of climate change on Children and the true
8 benefits of eliminating fossil fuel climate pollution, there would be less climate
9 pollution today in the United States and the Plaintiffs' injuries would be reduced.

10 303. In November 2023, the Biden Administration released new guidance
11 recommending a 2% discount rate be used by March 2024. Even if EPA begins using
12 the 2% rate, it would still intentionally discriminate against Children, devaluing
13 them, in making decisions about whether and how to control climate pollution.

14 304. In addition to the discriminatory discount rates EPA uses, EPA also
15 applies an approach to evaluate the costs and benefits of the health risks and harms
16 to Children from climate pollution that discriminates against Children in favor of
17 adults. Defendants systematically place a lesser economic value on reducing climate
18 pollution health risks to Children than on reducing health risks to adults.

19 305. EPA also economically devalues the lives of Children by treating them
20 as worth fewer dollars than an adult because of Children's lesser earning potential.
21 The devaluing of Children's lives leads to a discriminatory conclusion that smaller
22 economic benefits accrue from protecting Children.

23 306. While the full costs of the climate damages that would result from
24 maintaining a fossil fuel-based economy may be incalculable, there is already ample
25 evidence concerning the enormous extent of those costs. There is no rational calculus
26 that supports any decision not to immediately and swiftly control climate pollution
27 to abate the climate crisis.

**EPA Has Disregarded the Best Science on
Climate Pollution and Earth’s Energy Imbalance**

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3 307. Based on the best scientific information, CO₂ concentrations greater
4 than 350 ppm cause an Earth Energy Imbalance (“EEI”). EEI is increasing and
5 amounted to 0.76 ± 0.2 watts per square meter (W/m²) during 2006–2020. That
6 energy imbalance is also measured cumulatively as 381 ± 61 zeta joules (ZJ, 1,021
7 joules) between 1971 and 2020.

8 308. Between 2005 and 2019, the EEI doubled, representing an
9 unprecedented and rapid heating of our planet. Earth Energy Imbalance is the
10 physical fact that climate pollution is trapping more heat that Earth normally reflects
11 back out to space and it is heating the oceans, the land surface, and the air. It is like
12 wearing extra layers of sweaters in the summer and not being able to take them off.

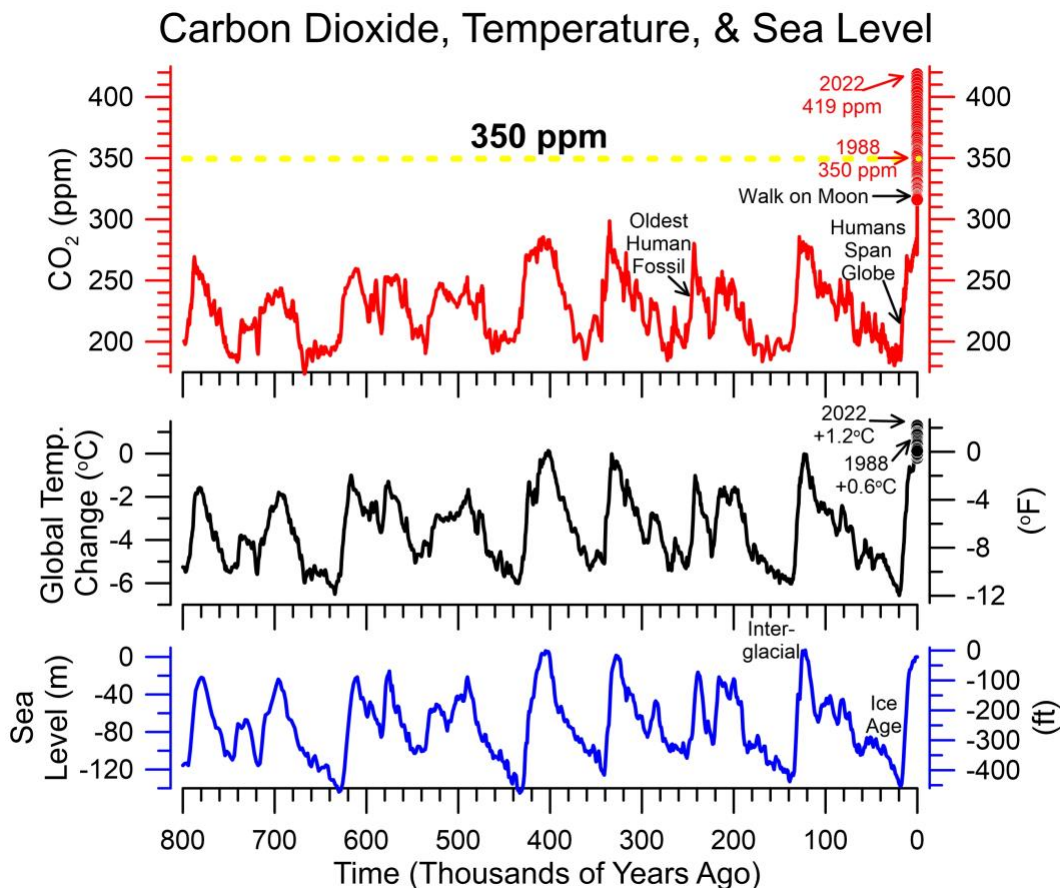
13 309. Restoring Earth’s energy balance is key to abating or alleviating the
14 climate crisis. Scientists say that to restore energy balance, we must swiftly reduce
15 climate pollution by eliminating fossil fuel combustion and protecting and enhancing
16 carbon sinks to sequester already accumulated CO₂ in our air. Earth’s energy balance
17 will only be restored when atmospheric CO₂ is returned to concentrations less than
18 350 ppm, which will restore a stable climate system.

19 310. To illustrate the enormous amount of extra energy that climate pollution
20 traps on Earth, 381 ZJ could power the City of Los Angeles for more than 4.8 million
21 years. The oceans are absorbing most of that extra energy (heat), which is why the
22 surface temperature of the Earth has not heated as quickly, and also why the ocean’s
23 ice sheets are melting and the coral reefs are dying.

24 311. The current annual mean concentration of atmospheric CO₂ is 419 ppm
25 as of 2022, far above scientists’ proposed safe planetary boundary of 350 ppm. The
26 climate pollution concentration in our air is already dangerous for Children. It has
27 already caused an energy imbalance and climate destabilization.

1 312. For comparison, the historical scientific record shows the last time CO₂
 2 was over 400 ppm, about three million years ago, the global average sea level was
 3 at least 20 feet and up to 65 feet higher than today, with best estimate of 55 feet
 4 higher than today, and the planet was about 5°F (~2.8°C) warmer than the pre-
 5 industrial era. No humans lived on Earth at those greenhouse gas concentrations,
 6 which were elevated from a time of enhanced volcanic activity on Earth, which
 7 naturally increased carbon dioxide emissions. The reason the seas have not yet risen
 8 that much today is because it takes time for the ocean's ice sheets to collapse and
 9 melt, which they are in the process of doing faster than any scientists predicted.

10 313. This graph depicts the correlation between atmospheric carbon dioxide
 11 levels, global temperature levels, and global sea level, as well as the unprecedented
 12 rise of CO₂ caused by human activity in an unprecedented short time span on historic
 13 scales.



1 314. Importantly, even during prior natural cycles of climatic change, the
2 increase or decrease in greenhouse gases in the air happened much more gradually
3 over thousands to millions of years and there was no human-caused climate pollution
4 increasing to such extremes as they are now, in such a relatively short time frame of
5 less than 200 years, as depicted in the graph above.

6 315. There is an established scientific prescription to return to below 350
7 ppm this century that requires climate pollution reduction consistent with steadily
8 eliminating nearly all fossil fuel burning by 2050. That prescription was developed
9 by one of the United States' top climate scientists, and former head of NASA's
10 Global Institute for Space Studies, with scientists around the world. Similarly, a
11 growing body of science confirms that atmospheric CO₂ concentrations below 350
12 ppm is also a planetary boundary for a safe climate system. The 350 ppm global
13 prescription cannot be achieved without Defendants ceasing their allowance of
14 nearly all U.S. climate pollution from fossil fuel burning by 2050, with steady
15 reductions each year between now and 2050. In addition, natural carbon sinks,
16 located in lands and waters, need to be protected so they can naturally absorb excess
17 carbon in the air and not become sources of climate pollution themselves.

18 316. EPA finds that the current changes from accumulated climate pollution,
19 and future projected changes, "endanger the physical survival, health, economic
20 well-being, and quality of life of people living in the United States (U.S.), especially
21 those in the most vulnerable communities." Defendants know that ongoing climate
22 pollution, especially from fossil fuels, is actively causing serious and life-threatening
23 environmental and health impacts, yet they continue their course of conduct in
24 allowing climate pollution and discriminating against Children.

25 317. Due to climate pollution, the surface temperature of Earth has heated
26 by 1.1-1.2°C on average (2018-2022 or 2013-2022 average) above pre-industrial
27 temperatures (1880-1920 average). That temperature exceeds the maximum
28

1 temperatures of the Holocene era, the period of climate stability over the last 10,000
2 years that enabled human civilization to develop.

3 318. Politically-set temperature targets of 1.5 to 2°C, which allow the Earth
4 to heat more than it already has, are not in conformance with the accepted best
5 science, are life-threatening for Children, and are not based on peer-reviewed
6 science publications or the opinions of qualified experts.

7 319. EPA has no research, scientific evidence, or reports that say a 1.5°C
8 increase in temperatures from the preindustrial era is safe for Children. In fact, the
9 research, scientific evidence, and reports relied upon by EPA state that a 1.5°C
10 increase in temperatures from the preindustrial era is hazardous for Children and
11 future generations.

12 320. We are already in the danger zone. Every added ton of climate pollution
13 to the air today exacerbates the harm to Children.

14 321. EPA knows that 350 ppm CO₂ is the uppermost level of climate
15 pollution that will protect human health and welfare.

16 322. This climate pollution crisis is urgent beyond measure, in part because
17 of feedback loops. Feedback loops work like this: More climate pollution in the air
18 means more heat. More heat means less ice. Melting ice means less white reflectivity
19 on Earth and more heat is absorbed by dark water. Melting ice means methane
20 trapped in frozen permafrost can escape. Methane escaping from frozen land means
21 even more dangerous climate pollution. More heat also means more drought and
22 more climate fires. More climate fires mean more climate pollution. And the cycle
23 continues. Climate pollution begets more climate pollution. Sooner than later, if
24 more and more methane is released from frozen tundra due to feedback loops,
25 Children will experience runaway, unstoppable climate change as has happened on
26 other planets. That risk should compel everyone at EPA and all three branches of the
27 U.S. government into using every ounce of law, reason, creativity, compassion, and
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1 action they can muster to save this Nation for Children and these Plaintiffs. The
2 Nation's courts should be equally concerned for the massive human rights crisis that
3 is already unfolding.

4 323. If unabated, continued climate pollution, especially CO₂, will initiate
5 dynamic climate change and dangers that spin out of control for Children and future
6 generations as the Earth's Energy Imbalance triggers amplifying feedbacks and the
7 climate system and biological system pass critical tipping points. Such changes
8 would be irreversible on any time scale relevant to Children and future generations,
9 threatening their survival and wellbeing.

10 324. With Defendants' status quo systemic control over air and climate
11 pollution, they project that by 2050, when these Plaintiffs might be starting their own
12 families and bringing Children into the world: climate fire activity will double in the
13 West, increasing burned areas by more than 50%; snowpack will be substantially
14 reduced even from today's levels and snowmelt will shift about four weeks earlier,
15 resulting in warmer and shallower rivers and streams; parasites and diseases will
16 increase; the frequency of high ozone pollution events will increase 50%-100%;
17 more fetuses and Children will prematurely die from climate change; and Children's
18 health will decline further. Each of the injuries detailed above will worsen
19 substantially as our Nation bakes.

20 325. Just in terms of avoiding localized air pollution harm in California,
21 separate from climate change, if all fossil fuel pollution were phased out by 2050,
22 the state would avoid about 10,200 premature deaths per year. The cleaner air from
23 eliminating fossil-fuel pollution will save California about \$134.1 billion per year in
24 2050 in avoided health costs. The national savings of eliminating fossil fuel and
25 climate pollution are far greater.

26 326. Defendants have systematically exerted their influence, dominion,
27 control, custodianship, and sovereignty over the polluted air and fossil fuels, and
28

1 they have not abated the climate pollution or the harm from it.

2 327. Defendants can conform their conduct to control climate pollution
3 while still enabling a viable and more economical energy system in the United
4 States. An energy system that does not result in dangerous amounts of climate
5 pollution has been feasible since before Children were born. Defendants' conduct
6 since 1970 has impeded the development of a non-fossil fuel-based energy system
7 in part by making it cheap and permissible to pollute the air, and by subsidizing
8 climate pollution.

9 328. Climate pollution and dangerous air quality serve no rational,
10 legitimate, important, or compelling government purpose.

11 329. On information and belief, if Defendants' conduct is ruled
12 unconstitutional, Defendants will control the air and climate pollution in a manner
13 that complies with this Court's opinion, the Constitution, and authority delegated to
14 EPA by Congress. Defendants would begin to abate climate pollution based on best
15 available science and in a manner that does not discriminate against Children.

16 330. On information and belief, if Defendants' conduct is ruled
17 unconstitutional, Defendants will control the air and climate pollution to avoid
18 deprivations of rights to life and liberty. As one mechanism, Defendants could
19 establish national ambient air quality standards for climate pollutants, which the U.S.
20 Supreme Court has called "the engine that drives" the Clean Air Act. *Whitman v.*
21 *Am. Trucking Ass'ns*, 531 U.S. 457, 468 (2001). EPA has numerous methods to
22 regulate and control climate pollution. EPA has the exclusive delegated authority
23 and mandate to stop permitting climate polluting activities.

24 331. On information and belief, if Defendants stop allowing and effectively
25 control U.S. climate pollution, other governments will similarly act to do their
26 sovereign part of protecting the climate system.

1 332. Clean renewable energy is the most affordable and reliable form of
2 energy today even without accounting for the cost of carbon and climate pollution.
3 Plans exist to transition the United States to 100% clean renewable energy in all
4 energy sectors by 2050 at the latest. It is technically and economically feasible to
5 eliminate nearly all fossil fuel climate pollution by 2050. All of the mobile and
6 stationary sources of climate pollution over which EPA has control can be powered
7 without fossil fuels.

8 333. Plaintiffs acting alone, other individuals acting alone, and companies
9 acting alone will not control U.S. climate pollution or stop climate change in time to
10 protect Children and future generations. Defendants are essential actors in
11 alleviating this climate crisis for Plaintiffs and all Children.

12 334. Children do not ask this Court to dictate or restructure the Nation’s
13 overall mix of electricity generation, transportation means, or any other aspect of the
14 Nation’s energy system. Children ask the Court to interpret the Constitution for the
15 rights they assert and allege are infringed, and to resolve the controversy that has
16 arisen over EPA’s systemic management and control of climate pollution and air
17 quality, and discriminatory economic discounting practices of the same. EPA must
18 control our Nation’s pollution to protect human health and the environment, the job
19 it was assigned, or else it is acting outside the scope of its delegated authority.
20 Without this Court’s intervention, it will not do so in time to save these Children.

21
22 **CLAIMS**

23 **COUNT I: EQUAL PROTECTION VIOLATION—CHILDREN AS *SUI***
24 ***GENERIS***

25 335. Plaintiffs hereby incorporate the above paragraphs by reference as
26 though fully set forth herein.

1 **COUNT II: EQUAL PROTECTION VIOLATION—CHILDREN AS A**
2 **PROTECTED CLASS**

3 342. Plaintiffs hereby incorporate the above paragraphs by reference as
4 though fully set forth herein.

5 343. Defendants’ systemic control and management of the air and climate
6 pollution violates Plaintiffs’ rights secured to them by the Fifth Amendment, which
7 incorporates the Fourteenth Amendment right of Equal Protection.

8 344. Under the adult-centric traditional equal protection tiers of scrutiny
9 analysis, Children as a class are a prime example of a “discrete and insular” minority
10 requiring close judicial scrutiny of invidious discrimination because Children have
11 characteristics that are different from adults and are entitled to consideration on their
12 own terms as growing young people. Specifically, Children:

- 13 a. Are in early phases of human development and physiologically and
14 psychologically vulnerable.
- 15 b. Have developing lungs, brains, and immune systems that are
16 particularly sensitive to climate harms, and exposure to these harms
17 can subject Children to a lifetime of hardship.
- 18 c. Are dependent on their caregivers and are politically and
19 economically powerless until at least age 18.
- 20 d. Have life expectancy many decades beyond living adults. In the case
21 of the average age of federal policymakers today, Children will live
22 approximately 60 years beyond the federal policymakers and bear
23 the consequences of the decisions of those federal policymakers,
24 especially as to the systemic management and control of climate
25 pollution by Defendants at issue in this litigation.
- 26 e. Have faced a long history of discrimination where they have been
27 continuously subjected to unequal treatment. Like women, Children

1 were once considered property and many children were treated as
2 indentured servants or were enslaved.

3 345. Being a member of the class of Children is thus more than a
4 chronological fact. Plaintiffs, ages 8 to 17 years old, all fall within the protected class
5 of Children.

6 346. All human beings, living adults and living Children alike are similarly
7 situated with respect to their need for air, water, and a stable climate system for life.
8 Our ancestors, including the Framers, also depended on air, water, and a stable
9 climate system for life and were thus also similarly situated to living adults and
10 children with respect to their need for air, water, and a stable climate system for life.

11 347. Through their exercise of sovereign control over the air and the life-
12 threatening amounts of climate pollution they allow to enter the air, Defendants have
13 denied and continue to deny Children equal protection of the laws.

14 348. Defendants intentionally discriminate against Children by discounting
15 the value of their lives and their future when making decisions about climate
16 pollution. Such explicit classification of Children born and unborn generations as
17 less valuable than living adults demonstrates a discriminatory purpose as a matter of
18 law. Defendants' policies and practices overtly and expressly single out Children for
19 disparate treatment from adults in their cost-benefit analyses.

20 349. Defendants' systemic control of the air and climate pollution through
21 the exercise of their authority amounts to unconstitutional differential treatment of
22 Children from the treatment of adults. Children already suffer disproportionate harm
23 from Defendants allowance of climate pollution. The unfairness of the treatment of
24 Children and the higher burden of harm they bear than adults results in unjustified
25 inequality and violates any notion of fairness.

26 350. Plaintiffs' physical and mental health is being harmed by Defendants'
27 conduct. Defendants' systemic control of the air and climate pollution through the

1 exercise of their authority has caused and contributed to Plaintiffs’ homes being
2 threatened with heat, fires, smoke, and floods; Plaintiffs’ education being regularly
3 and increasingly disrupted; Plaintiffs not being able to go outside daily because it is
4 not safe and curtailing of their recreational and physical activities; Plaintiffs’
5 religious, spiritual, and cultural practices being disrupted; and Plaintiffs facing long-
6 term water and food insecurity.

7 351. Defendants have infringed Children’s rights of equal protection by
8 subjugating Children’s vital interests in air quality and a stable climate system to the
9 special financial interests of adult persons living today, and non-human persons, like
10 fossil fuel companies, in violation of Children’s equal protection of the law.

11 352. Defendants’ conduct is neither necessary to achieve a compelling
12 government interest nor is it substantially related to achieving any important
13 government interest.

14 353. Defendants’ discriminatory conduct in allowing dangerous levels of
15 climate pollution into the sovereign air space and in discounting the value of
16 Children’s lives is not rationally related to any legitimate government interest.

17 354. Absent declaratory relief that Defendants’ intentional discrimination
18 through discounting and devaluing practices and their control and systemic
19 management of the air and climate pollution have violated Children’s rights of Equal
20 Protection, Plaintiffs will continue to be harmed in worsening ways over the course
21 of their young lives, depriving them of equal protection of the law.

22 355. As a result of Defendants’ unconstitutional conduct, Plaintiffs are
23 entitled to declaratory relief, and further relief as necessary to enforce the judgment.
24
25
26
27

1 **COUNT III: SUBSTANTIVE DUE PROCESS VIOLATION OF RIGHT TO**
2 **LIFE**

3 356. Plaintiffs hereby incorporate the above paragraphs by reference as
4 though fully set forth herein.

5 357. The Due Process Clause of the Fifth Amendment provides that
6 Defendants shall not deprive any person of the fundamental right to life, liberty, or
7 property without due process of law.

8 358. The fundamental right to life means more than not being put to death.
9 The fundamental right to life, as the Framers intended, includes the right of current
10 and future generations of living persons to enjoy this terrestrial existence and pursue
11 happiness in living. The right to life includes vitality (health) and a person's lifespan.

12 359. The Nation was founded on a balanced atmosphere and a life-sustaining
13 climate system. Children cannot exercise their rights to life without a stable climate
14 system.

15 360. Governmental conduct that knowingly results in a significant
16 diminishment in a child's health, safety, and wellbeing with a lifetime of
17 consequences, such as a reduced lifespan and increased exposure to risk of death, is
18 an infringement of the right to life, unless it is necessary to achieve a compelling
19 governmental interest.

20 361. Defendants have infringed Plaintiffs' rights to life through their
21 systemic control over and management of sources of climate pollution, and by
22 intentionally allowing levels of climate pollution that have diminished Children's
23 health and safety, exposed them to increased adverse childhood experiences with
24 harmful lifelong consequences, are shortening their average lifespan, increasing
25 their risk of death and additional physical injury, and causing loss of enjoyment of
26 life.

1 362. Defendants' allowance of life-threateningly high levels of climate
2 pollution has already deprived Plaintiffs of essential aspects of life, including their
3 bodily integrity and health, their opportunity to pursue happiness, and risks
4 depriving them of their full lifespan and a livable future.

5 363. Defendants' allowance of life-threateningly high levels of climate
6 pollution has deprived Plaintiffs of the liberty to be safely outside and safely inside,
7 and the very sanctity of their homes.

8 364. The deprivations that Plaintiffs have suffered and are suffering is in
9 significant part the result of Defendants' long-standing allowance of climate
10 pollution, while intentionally economically discounting the lives of Children.

11 365. Any compelling government interest that could be asserted in
12 systemically allowing dangerous amounts of climate pollution from sources under
13 its authority to control is not necessary. A secure, jobs-producing, thriving national
14 energy system can be powered with non-fossil fuel energy at low costs that are more
15 stable than the costs of a fossil fuel-based energy system. There is no necessary and
16 compelling government interest in allowing destabilizing amounts of climate
17 pollution to enter the air, endangering the Earth's life support systems and Children's
18 right to life.

19 366. As a result of Defendants' unconstitutional conduct, Plaintiffs are
20 entitled to declaratory relief, and further relief as necessary to enforce the judgment.

21 **COUNT IV: VIOLATION OF FUNDAMENTAL RIGHT TO LIFE-**
22 **SUSTAINING CLIMATE SYSTEM**

23 367. Plaintiffs hereby incorporate the above paragraphs by reference as
24 though fully set forth herein.

25 368. The Due Process Clause of the Fifth Amendment provides that
26 Defendants shall not deprive any person of the fundamental rights to life, liberty, or
27

1 property without due process of law. The rights to life, liberty, and property also
2 imply the fundamental right to a life-sustaining climate system on which all life
3 depends.

4 369. The beneficiaries of the U.S. Constitution included the founding
5 generation as well as “Posterity,” meaning all future generations of Americans,
6 including Children.⁶ Our Constitution begins with intergenerational fairness and
7 justice as a basis for forming our “more perfect Union.” Our Constitution explicitly
8 foreclosed the English rule that children, or remote generations, should be punished
9 for the actions of their parents or ancestors, in order to preserve opportunity for
10 liberty and happiness for each new generation. Art. III, § 3, cl. 2.

11 370. The Supreme Court has long recognized unenumerated fundamental
12 substantive due process liberty rights to personal security, bodily integrity, family
13 autonomy, the right to free movement, the right to transmit religion and culture to
14 children, as fundamental rights that both adults and Children hold.

15 371. A stable climate system that sustains human life is fundamental to
16 ordered liberty and every single one of Plaintiffs’ fundamental rights to life, liberty,
17 and property.

18 372. Defendants have infringed Plaintiffs’ fundamental rights to a life-
19 sustaining climate system through their systemic control over and management of
20 sources of climate pollution, and by intentionally allowing levels of climate pollution
21

22 ⁶ The Fifth and Fourteenth Amendments should be interpreted through the lens of
23 the Posterity Clause in the Preamble of the Constitution, which articulates
24 intergenerational concern: “We the People of the United States, in Order to form a
25 more perfect Union, establish Justice, insure domestic Tranquility, provide for the
26 common defence, promote the general Welfare, and secure the Blessings of Liberty
27 to ourselves *and our Posterity*, do ordain and establish this Constitution for the
28 United States of America.”

1 that have diminished Children’s health and safety, exposed them to increased
2 adverse childhood experiences with harmful lifelong consequences, and increased
3 their risk of death.

4 373. Defendants’ allowance of life-threateningly high levels of climate
5 pollution has already deprived Plaintiffs of essential aspects of their fundamental
6 rights to a life-sustaining climate system, and risks depriving them of the opportunity
7 to repair the destabilized climate system that is causing irreversible harm to them
8 and their home planet.

9 374. The deprivations that Plaintiffs have suffered and are suffering to this
10 fundamental right is in significant part the result of Defendants’ long-standing
11 allowance of climate pollution, while intentionally economically discounting the
12 lives of Children.

13 375. Any compelling government interest that could be asserted in
14 systemically allowing dangerous amounts of climate pollution from sources under
15 its authority to control is not necessary. Defendants know that a secure, jobs-
16 producing, thriving national energy system can be powered with non-fossil fuel
17 energy at low costs that are more stable than the costs of a fossil fuel-based energy
18 system. There is no necessary and compelling government interest in allowing
19 destabilizing amounts of climate pollution to enter the air, endangering the Earth’s
20 life support systems and Children’s right to a life-sustaining climate system.

21 376. As a result of Defendants’ unconstitutional conduct, Plaintiffs are
22 entitled to declaratory relief, and further relief as necessary to enforce the judgment.

23 **COUNT V: VIOLATION OF ARTICLE II TAKE CARE CLAUSE and**
24 **SEPARATION OF POWER**

25 377. Plaintiffs hereby incorporate the above paragraphs by reference as
26 though fully set forth herein.

1 378. Pursuant to Article I, Congress enacted laws consolidating and
2 delegating federal authority to EPA to manage the protection of the Nation’s air and
3 prevent pollution that endangers human health and welfare from entering or
4 accumulating in the air.

5 379. Pursuant to Article II, EPA is an agency of the Executive branch with
6 authority delegated from Congress. As such, EPA is required to take care to
7 faithfully execute the law’s explicit language and effectuate Congress’ intent to
8 protect the sovereign air from pollution that endangers human health and welfare.

9 380. EPA must conduct its programs to protect the quality of the air and
10 water for the benefit of human health and welfare, including for present and future
11 generations, pursuant to the authorities under which EPA operates. EPA can only
12 exercise its authority within the power granted to it by the Clean Air Act or other
13 statutory authority.

14 381. Congress did not delegate to EPA authority or power to execute the law
15 in a manner that would degrade the nation’s air, harm Children’s health, or endanger
16 Children’s welfare. Congress could not have intended to delegate such sweeping
17 authority as EPA has assumed to allow for the significant degradation of air quality
18 and thus, the endangerment of the nation’s climate system, and harm to Children’s
19 lives. By exercising control of the air and systemically managing climate pollution
20 in a manner that endangers human health and welfare and discounts the lives of
21 Children, EPA has acted far in excess of the legal authority granted it by Congress.

22 382. Even if Congress wanted to bestow authority to EPA to allow life-
23 threatening levels of climate pollution and harm Children, Congress has not
24 delegated and cannot delegate to EPA the power to infringe any fundamental right
25 to life or liberty or equal protection of the law. EPA must point to “clear
26 congressional authorization” for the power it claims to permit unhealthy levels of
27

1 climate pollution, which is highly consequential and beyond what authority
2 Congress could reasonably be understood to have granted to EPA.

3 383. The Clean Air Act does not expressly, nor implicitly, authorize
4 Defendants to systematically allow amounts of climate pollution that destabilize the
5 climate system, endangering Children’s health and welfare. Congress cannot
6 delegate authority that it does not possess, including engaging in unconstitutional
7 conduct, and has made no clear statement that it intended such delegation in the
8 Clean Air Act or any other statute delegating authority to EPA.

9 384. Whether to damage the Nation’s climate system and permit dangerous
10 levels of CO₂ and other climate pollution is certainly a question with vast economic
11 and political significance, which would have to be expressly stated in any legislation
12 passed by Congress. Congress’ constitutional mandate is to enact laws that preserve
13 the perpetuity of the nation based on the sovereignty of the People, including future
14 generations of Children who will one day exercise the political franchise and their
15 own sovereign power.

16 385. As a result of Defendants’ conduct that exceeds its delegated authority,
17 Plaintiffs are being injured with no other remedy at law.

18 386. As a result of EPA’s conduct that exceeds its authority as delegated by
19 Congress under Article I, and does not faithfully execute the law under Article II,
20 Plaintiffs are entitled to declaratory relief and further relief to enforce the judgment.

21
22 **PRAYER FOR RELIEF**

23 WHEREFORE, Plaintiffs, and each of them, pray for relief as set forth below:

- 24 1. For a declaration that Defendants’ conduct burdens Children’s, including
25 Plaintiffs’, ability to live and enjoy their lives by imposing on them
26 significant risk of harm and a lifetime of hardship for matters beyond their
27

1 control, thereby depriving Children of their rights to equal protection of
2 the law;

3 2. For a declaration that Children are a protected class under the Equal
4 Protection Clause, as incorporated into the Fifth Amendment of the U.S.
5 Constitution through the Fourteenth Amendment;

6 3. For a declaration that Defendants have violated Children's, including
7 Plaintiffs', rights of equal protection of the law under the Fifth Amendment
8 of the U.S. Constitution by unlawfully discriminating against them in
9 allowing unsafe levels of climate pollution to accumulate in the nation's
10 air;

11 4. For a declaration that Defendants have violated Children's, including
12 Plaintiffs', rights of equal protection of the law under the Fifth Amendment
13 of the U.S. Constitution by applying discriminatory discount rates and
14 other means of devaluing Children's lives in cost-benefit analyses of
15 Defendants' decisions on controlling climate pollution;

16 5. For a declaration that EPA, by intentionally allowing life-threatening
17 levels of climate pollution to enter and accumulate in the air, has
18 significantly diminished Children's, including Plaintiffs', health, safety,
19 and wellbeing with a lifetime of consequences, such as a reduced lifespan
20 and increased exposure to risk of death, thereby depriving them of their
21 fundamental rights to life.

22 6. For a declaration that the fundamental right to a life-sustaining climate
23 system is encompassed within the Fifth Amendment substantive due
24 process fundamental right to life and is also inseparable from fundamental
25 rights to liberty and property.

- 1 7. For a declaration that EPA has exceeded its delegated authority by
2 allowing unsafe levels of climate pollution that endanger Children,
3 including Plaintiffs, to enter and accumulate in the nation's air.
- 4 8. Pursuant to 28 U.S.C. § 2202 and this Court's Article III authority, grant
5 such other and further relief as the Court deems just and proper to redress
6 the constitutional violations so declared and adjudged; and
- 7 9. Award Plaintiffs their costs and reasonable attorneys' fees in this action.
8

9 Respectfully submitted this 10th day of December, 2023, on the 75th anniversary of
10 the Universal Declaration of Human Rights,
11

12 *s/ Julia A. Olson*

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