IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

AJI P., a minor child by and through his guardian HELAINA PIPER; ADONIS W., a minor child, by and through his guardian HELAINA PIPER; WREN W., a minor child by and through her guardian MIKE WAGENBACH; LARA F. & ATHENA F., minor children by and through their guardian MONIQUE DINH; GABRIEL M., a minor child by and through his guardians VALERY and RANDY MANDELL; JAMIE M., a minor child by and through her guardians MARK and JANETH MARGOLIN; INDIA B., a minor child by and through her guardians, JIM BRIGGS and MELISSA BATES; JAMES CHARLES D., a minor child by and through his guardian DAWNEEN DELACRUZ; KYLIE JOANN D., a minor child, by and through her guardian DAWNEEN DELACRUZ; KAILANI S., a minor child, by and through her guardian, JOHN SIROIS; DANIEL M., a minor child, by and through his guardian, FAWN SHARP; and BODHI K., a minor child, by and through his guardian MARIS ABELSON,

Plaintiffs,

v.

STATE OF WASHINGTON; JAY INSLEE, in his official capacity as Governor of Washington; WASHINGTON DEPARTMENT OF ECOLOGY; MAIA BELLON, in her official capacity as Director of the

No.

COMPLAINT FOR DECLARATORY & INJUNCTIVE RELIEF

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WASHINGTON DEPARTMENT OF ECOLOGY; WASHINGTON DEPARTMENT OF COMMERCE; BRIAN BONLENDER, in his official capacity as Director of the WASHINGTON DEPARTMENT OF COMMERCE; WASHINGTON STATE TRANSPORTATION COMMISSION; WASHINGTON DEPARTMENT OF TRANSPORTATION; and ROGER MILLER, in his official capacity as Secretary of the WASHINGTON DEPARTMENT OF TRANSPORTATION,

Defendants.

INTRODUCTION

1. Plaintiffs are twelve young Washingtonians, under the age of 18, who have serious ongoing injuries because of Defendants' deliberate indifference to their rights to life, liberty, property, and a healthful and pleasant environment, including a stable climate system, in violation of Washington's Constitution and the Public Trust Doctrine. They bring this action on behalf of themselves because the fossil fuel-based energy and transportation system created, supported, and operated by the Defendants, and the systematic, affirmative aggregate actions which make up and support that system, severely endangers Plaintiffs and their ability to grow to adulthood safely and enjoy the rights, benefits, and privileges of past generations of Washingtonians due to the resulting climate change.

2. Defendants have created, operate and maintain a fossil fuel-based energy and transportation system that has caused and is causing widespread harm to the Plaintiffs in violation of the constitution and Public Trust Doctrine. Although Washington law grants explicit responsibility and authority to the state entities and officials sued herein to develop and

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promulgate energy and transportation policy, these Defendants have implemented this responsibility in a way that violates Plaintiffs' constitutional rights.

3. Because the Defendants have long known that Plaintiffs would and currently are living under dangerous climatic conditions that create an unreasonable risk of present and future harm as a result of greenhouse gas emissions resulting from the fossil fuel-based energy and transportation system they have created, operate, and maintain, but have not responded reasonably to this urgent crisis and instead have affirmatively acted to exacerbate the climate crisis and delay meaningful science-based action, Plaintiffs seek an injunction compelling Defendants to develop and implement a comprehensive plan targeted to achieving Washington's obligation to stabilize the climate system and protect the vital natural resources on which Plaintiffs now and in the future will depend.

4. Pursuant to Revised Code of Washington ("RCW") 7.24 (the Uniform Declaratory Judgment Act), RCW 34.05 (Administrative Procedure Act), the Washington State Constitution, and the Public Trust Doctrine, Aji P., Adonis W., Wren W., Lara and Athena F., Gabriel M., Jamie M., India B., James Charles D., Kylie Joann D., Kailani S., Daniel M., and Bodhi K., all minor children by and through their respective guardians (collectively, "Plaintiffs") hereby ask this Court to declare and enforce the State of Washington's constitutional and Public Trust obligations to protect their inalienable and fundamental common law and constitutional rights to life, liberty, property, public trust resources, and a healthful and pleasant environment, rights that include a stable climate system that sustains human life and liberty.

5. Plaintiffs are and will continue to be mutually and adversely impacted by excessive human-caused atmospheric carbon dioxide ("CO_2") concentrations that now exceed 403 parts per million ("ppm"), as compared to the natural pre-industrial levels of 280 ppm. These

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unconstitutional conditions, which Defendants have created and exacerbated in part through their creation and management of a fossil fuel-based energy and transportation system, have caused substantial impairment to the vital natural resources on which Plaintiffs and both current and future generations of Washingtonians depend, in the exercise of their inherent rights.

6. CO_2 and other greenhouse gas pollutants (collectively, "GHGs") in Washington are causing dangerously increasing temperatures, changing precipitation patterns, heatwaves, rising seas and storm-surge flooding, increasing droughts and violent storms, ocean acidification and warming, beach and farmland soil erosion, freshwater degradation, increased wildfires, resource and species extinctions, increased pestilence with resultant diseases and other adverse health risks, and other adverse impacts (collectively, "Climate Change Impacts"), all of which threaten the habitability of Washington and the life, liberty and property of these Plaintiffs.

7. The viability of all of Washington's Public Trust resources, including the atmosphere (air), tidelands and shorelands, navigable waters, lakes, rivers, beaches, forests, and wild flora and fauna (each individually, a "Public Trust Resource," and collectively, "Public Trust Resources"), and access to and use of such resources, including but not limited to public access, fishing, navigation, and environmental quality, are essential rights secured by the Constitution and common law of Washington.

8. The Defendants have common-law fiduciary and constitutional duties to refrain from actions that exacerbate Climate Change Impacts. The Defendants, through their actions and inactions as public officials who create and manage Washington's fossil fuel-based energy and transportation system and are responsible for responding to the threat of climate change, are materially causing and contributing to the increasing injurious effects of Climate Change

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Impacts. Defendants' systemic course of conduct with respect to CO_2 and GHG emissions has exacerbated the dangerous situation Youth Plaintiffs presently face.

9. The Defendants have common-law fiduciary and constitutional duties to take action on behalf of the Youth Plaintiffs and the State of Washington to reduce and mitigate the adverse effects of Climate Change Impacts. Defendants have not used their authority, or fulfilled their duty, to mitigate Washington's GHG emissions and safeguard Plaintiffs' fundamental and inalienable rights.

10. Defendants have had decades of knowledge and opportunity to address the catastrophic harms the Plaintiffs face and have acted with shocking deliberate indifference and abdication of duty to address this crisis, which threatens to destroy vast areas of Washington State that are essential to the lives, liberties, and property of Plaintiffs.

11. Plaintiffs bring this lawsuit so the Court can declare and enforce their rights under the Public Trust Doctrine, sections 3, 12, and 30 of Article I, and section 1 of Article XVII of the Washington State Constitution, before it is too late.

PARTIES

Plaintiffs

12. Plaintiff Aji P., by and through his guardian and mother Helaina Piper, is a 17- year-old citizen of the U.S. and a resident of West Seattle, Washington. Aji is experiencing Climate Change Impacts caused by Defendants, and has been harmed by the increasing severity of such impacts. Aji's health and wellbeing has been harmed by the increasing number of wildfires in the Cascade Mountains and the smoke and ash-filled skies of Seattle, where air quality is dangerous. Aji's physical outdoor activities are limited by the increasing summer temperatures and days over 90 degrees F. Aji's ability to recreate in and enjoy the Puget Sound is harmed by

Climate Change Impacts, which are causing dead zones to occur in Puget Sound and ocean acidification that is killing fish and shellfish. Climate Change Impacts are also harming Aji's recreational and aesthetic interests in the forests in the west where Aji visits and plans to continue visiting, including forests that have been decimated by pine beetles. Aji's ability to snowboard has been limited by the reduced snow in the mountains where he recreates during the winter months.

13. Plaintiff India B., by and through her natural guardians Jim Briggs and Melissa Bates, is a 16-year old who lives with her mother and father on a small farm in Cle Elum, Washington, on the east slopes of the Cascades in an important agricultural community. India has lived her whole life on the same small, family farm, raising sheep for wool and meat, dairy goats, horses, and chickens. India is terrified, and experiences emotional and mental distress, knowing that she could lose her family farm, which is becoming increasingly threatened by Climate Change Impacts. Already, India's family has had to sell off much of their flock of sheep and many of the horses due to the rising costs of feed, which is largely due to Climate Change Impacts. India's brother grew up on horseback, helping her father train horses, but now horses have become a luxury instead of a way of life. Their animals ordinarily would graze off the land and feed on hay in the winter, but with climate change-induced drought, wildfires, and extreme weather events, India's family struggles to feed animals year-round. Even though India's family has water rights that are more than 100 years old, two years ago, because of drought, her family was only able to access half the water needed to provide for their farm. The Climate Change Impacts harming India's family farm and the economic vitality of the whole farming region are projected to worsen, according to experts, and the prognosis will not change without action from Defendants on climate recovery. India has already been repeatedly harmed and her life and farm

threatened by wildfires made worse by climate change. Severe wildfires have burned forests near India's farm and forced her family to make evacuation plans for them and their animals. India has had to evacuate to escape the terrible asthma attacks she suffers because of the smoke, and which threaten her health and personal safety. India has suffered from asthma since she was a child and her symptoms get much worse when air quality is diminished due to the smoke from the increasing number of climate change-induced and exacerbated wildfires near her home. In the summer of 2017, India also lost days of school and extracurricular activities from the hazardous air quality from wildfires.

14. Plaintiff James Charles D., by and through his natural guardian, Dawneen DeLaCruz, is a 17-year-old member of the Quinault Indian Nation, who lives with his family and attends school in Taholah, on the Washington coast. Taholah is the lower village of the Quinault Indian Nation that must be relocated because of sea level rise caused by Climate Change Impacts. James enjoys traditional cultural activities such as digging for clams both on and off the Reservation, but his ability to do so has been, and continues to be, limited because of algal blooms, ocean acidification, and warmer ocean temperatures, all Climate Change Impacts. James' personal security and property interests in his home are injured and threatened because his home of Taholah now floods every winter. James' educational interests are also harmed because his school has to close when there is flooding because his teachers cannot make it into town to teach. As he has grown up, James has been harmed by increasingly severe storms along the Washington coast. James and his family lose their power supply every year and had to purchase a backup generator as a result. He has lived in his home in Taholah for about 11 years, over half of his life, but will be forced to leave his home when the village is relocated as a result of Climate Change Impacts. All of the Quinault Indian Nation's essential services for young people are in

Taholah and will have to be relocated, even though there is very little funding to do that. This forced relocation from Climate Change Impacts injures James' cultural, spiritual, familial, property and recreational interests. This critical loss of his place-based heritage, a heritage that dates back to time immemorial, is irreplaceable and permanent. This loss affects James' ability to practice his religion, to choose how and where to raise family, to continue his subsistence and medicinal harvest, and to choose a career path based on his Nation's traditions and culture. These losses cause James emotional and mental distress. Climate Change Impacts are already harming James' practice of his native cultural traditions and these harms will only worsen over time absent meaningful action from governments to stop climate change.

15. Plaintiff Kylie JoAnn D., by and through her natural guardian, Dawneen DeLaCruz, is a 12-year-old member of the Quinault Indian Nation, who lives with her family and attends school in Taholah, Washington. Like her brother, Kylie will have to leave her home in Tahola when the village is relocated to higher ground, leaving the only home in which she has ever lived. Also like her brother, Kylie enjoys participating in traditional cultural activities, including the canoe journey, digging for clams, and fishing, but her ability to access and enjoy all of these activities is lessened due to Climate Change Impacts.

16. Plaintiff Kailani S., by and through her natural guardian John Sirois, is a 13-year old who lives with her family in Spokane, Washington. Kailani is an enrolled member of the Confederated Tribes of the Colville Reservation, which is located in the North-Central part of Washington State. Kailani just recently moved to Spokane, Washington from the Colville Reservation, but she returns regularly to visit her grandmother and to participate in cultural activities. Kailani is being harmed by the diminishing snowpack in Washington compared to the snow that used to exist in her Tribe's history. Kailani loves to go fishing with her family and has

been harmed by the devastating Climate Change Impacts on fisheries for Chinook and sockeye in recent years, including high water temperatures and decreased instream flows. Her ability to enjoy the Spokane River, the Colville Indian Reservation, the Okanogan River, the Columbia River, and the Icicle River of the Wenatchi people has been harmed because climate change has contributed to the extremely low flows in the rivers in recent years. The Icicle River area, which is traditional for her Wenatchi people, is especially important to Kailani for exercising her traditional cultural and spiritual practices, recreating, and harvesting food. Kailani also gathers and fishes on and around the Okanogan and Columbia Rivers as well. Kailani loves to camp near the Icicle River. All of these practices are being harmed by Climate Change Impacts on the river, the fishery and the surrounding terrestrial ecosystem, including drought conditions. Kailani also digs for Camas and bitterroot and picks berries with her grandmother and other relatives on the Colville Reservation, where she spends much of her time. The increasing wildfires have harmed Kailani's interests by burning a substantial part of the Reservation, including homes and large tracts of fish, wildlife, and subsistence harvest habitat. Climate change is harming traditional tribal foods like deer, elk and huckleberries, which further harms Kailani's interests.

17. Plaintiff Adonis W., by and through his natural guardian Helaina Piper, is a 12-year old student in the City of Seattle. Adonis spends a significant amount of time in the outdoors, enjoying activities like sitting on a rock outcropping in the Puget Sound and staring off into the beautiful Sound that is in his backyard. These activities are important for Adonis's physical, mental, and emotional wellbeing. Ocean heating and acidification is harming the waters and marine life that are important to Adonis' wellbeing. Adonis experiences fear and traumatic reactions to seeing Climate Change Impacts and knowing climate change will ruin the natural places that he loves to visit and the animals he adores seeing in the wild. Already, knowing how

ocean acidification is affecting marine life significantly diminishes Adonis' enjoyment of the beach. Adonis is also deeply and emotionally impacted by the death and destruction of other wildlife and living creatures. Adonis finds it hard to think about, imagine, and plan for his future when that future is constantly and quickly being destroyed by ocean acidification, droughts, wildfires, and other Climate Change Impacts.

18. Plaintiff Gabriel M., by and through his natural guardians, Valery and Randy Mandell, is a 16-year-old high school student who lives in Seattle, Washington. Gabriel's ability to enjoy the sandy beaches of the Puget Sound, the natural tides, tidal marshes, the lush forests and wildlife of the Pacific Northwest are being harmed by Climate Change Impacts, which will worsen with time. Gabriel's formative experiences of his youth have been tarnished by greenhouse gas pollution, ocean acidification, temperature increases, and other Climate Change Impacts. Gabriel's mental and emotional health are deeply impacted by the fact that Climate Change Impacts threaten all the living things and places that Gabriel values and that Defendants have spent decades blaring alarms about the "climate emergency," while simultaneously making it worsen. Defendants have been either labeling feasible and necessary responses to the climate crisis as impossible, or mischaracterizing the state's meager and insufficient proposals as groundbreaking or amazing, thereby misleading the public. Having Washington's government officials, who are charged with protecting his wellbeing, publicly praise his rights to a safe and healthy climate while quietly taking actions that cause perilously high CO_2 concentrations and levels of GHG pollution, causes Gabriel emotional distress and anxiety about the future. Without urgent government action to reduce emissions at scientifically necessary rates, Gabriel suffers profound distress knowing that he and his entire generation have no hope to a future that will be

livable, sustainable, or in any way protected from the ecological disasters and Climate Change Impacts his state is already experiencing.

19. Plaintiff Wren W., by and through her natural guardians, Mike Wagenbach and Linda Wordeman, is a 17-year old from Seattle, Washington. Wren frequently visits the Ballard Locks that are in her neighborhood to see the salmon in the fish ladder and is already being harmed by seeing fewer salmon returning each year because of Climate Change Impacts. If current trends continue, she will forever lose her ability to see running salmon, losing a source of spiritual and recreational beauty. Wren wants to be a nature photographer and protect endangered species. Her ability to photograph wildlife and enjoy the species that live today is being harmed by Climate Change Impacts, injuring not only her present enjoyment, but also her future career plans.

20. Plaintiff Lara F., by and through her natural guardian, Monique Dinh, is a 15-year old student living in Seattle, Washington. Lara is harmed by the drought conditions plaguing Washington with less winter precipitation. Lara enjoys skiing in the winter, but her ability to participate in this activity has been harmed by warmer early season conditions that persist all ski-season long, diminishing snow cover. As a result, Lara is no longer able to ski as much as she used to or as much as she would like to and knows that in the future she may lose her ability to ski all together absent a stable snowpack as temperatures continue to warm. Lara is a pescatarian, and the availability of the seafood Lara eats is threatened by Climate Change Impacts. Lara's hometown of Seattle is also threatened with additional sea level rise, which will harm her ability to access coastal areas in her city, making transit, recreation, and other basic life functions difficult. Lara's identity as a Washingtonian is based on the health of the Puget Sound,

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the health of the Cascades and the health of her city, all of which are threatened by Climate Change Impacts.

21. Plaintiff Athena F., by and through her natural guardian, Monique Dinh, is a 14-year old student living in Seattle, Washington. Natural places, like Carkeek Park and its surrounding forests, are Athena's safe haven and provide physical, spiritual, and emotional benefits. The physical, emotional, mental, and spiritual enjoyment she derives from animals and from natural places is lost to her when the trees and the birds she loves are threatened by Climate Change Impacts. Athena experiences emotional harm and mental distress knowing that if government does not act to prevent the disastrous climate crisis into which she was born, she will not be able to visit and enjoy the natural places that mean so much to her.

22. Plaintiff Jamie M., by and through her natural guardians, Mark and Janeth Margolin, is a 16-year old from Seattle, Washington. During September 2017, Jamie was harmed by the smoke that shrouded the city of Seattle due to wildfires in the Cascade Mountains, which were caused or exacerbated by climate change. The thick and hot air made her throat hurt and made breathing outside difficult. Ash covered many parts of the city she calls home. She was unable to take the long walks that she usually enjoys during the summer or otherwise enjoy being safely outside because of the hazardous air quality. Absent reductions in GHG emissions and concentrations, Jamie will continue to experience more and more frequent and severe days of poor air quality, thick and hot smoke, and ash covering her home city, as temperatures continue to rise and the wildfire season continues to lengthen with more wildfires affecting the Pacific Northwest. Jamie's injuries from climate change-induced and exacerbated wildfires will worsen into the future if her government continues the same or similar fossil fuel energy and transportation system. Jamie enjoys playing in the snow, watching it fall, seeing the snow-

covered peaks of the Cascades, and knowing that the snowpack will feed the summer and fall runs of salmon in Pacific Northwest rivers, but these interests are all being harmed by the diminishing snowpack from Climate Change Impacts. Since she was a young child, Jamie has enjoyed visiting and spending time on Alki Beach, which is close to her home. Her interests in these special coastal areas, and the marine life they support, are harmed by the acidifying and rising waters. Jamie is also emotionally and mentally distressed that climate change is causing and will cause drought, famine, and water shortage -- which is projected to fuel more instability, violence, and wars over resources, profoundly impacting the most disadvantaged communities and creating millions of climate refugees. Jamie has deep empathy for, and is emotionally and mentally distressed about, the millions of refugees who have already been displaced by the climate crisis, and those who have been killed as a result of Climate Change Impacts. With the direction the climate crisis is heading, Jamie experiences emotional distress and anxiety that her future and those of other generations will likely be full of violence and instability.

23. Plaintiff Daniel M., by and through his natural guardian and mother Fawn Sharp, is a 13-year-old member of the Quinault Indian Nation, who lives with his family on the Quinault Indian Reservation at the confluence of the Quinault River and Lake Quinault. Daniel enjoys fishing for salmon, including King salmon and Blueback, a species of salmon that is found only in the Quinault River, both species which are of traditional cultural importance to Daniel and the Quinault Indian Nation. Daniel has witnessed the decline of instream flows in the Quinault River by his home, as the River was once fed by the Anderson Glacier, but the glacier no longer exists. The Anderson Glacier disappeared during Daniel's lifetime because of climate change. Because of decreased streamflows and increased temperatures in the Quinault River, Daniel has seen reduced runs of salmon, which negatively affects his ability to fish, an important recreational

and cultural activity for him. One of his favorite classes involves going to the Washington Coast and working with scientists to monitor and collect seabirds, which are increasingly dying because of changing ocean and weather conditions due to climate change. Daniel consumes mussels and razor clams, but his ability to do so is more limited due to ocean acidification and other Climate Change Impacts. When he was younger, Daniel created his own tribally-licensed business, where he collects wood from nearby forest lands and creates kindling for tribal elders. A healthy forest ecosystem is important for Daniel to continue these activities, but the forests at Quinault are already experiencing the negative effects of climate change. Even though they live 30-40 miles away from the Washington coast, in recent years, Daniel has experienced flooding events at his home due to high rains and high tides, both of which are being made more significant due to climate change. He and his family have been told that they need to start preparing for more flooding events and are investing in trying to make their home safe from future flooding events.

24. Plaintiff Bodhi K., by and through his natural guardian and mother, Maris Abelson, is a 7-year-old resident of the state of Washington who lives with his family and attends school in the Seattle area. Bodhi has been working to fight climate change since he was 4 years old because he wants a healthy environment for himself, the next generation and the animals. Bodhi was brought up as a vegetarian because it is one way he can take steps to protect the animals that he loves. Bodhi loves to be outside and to visit parks because he appreciates trees. But in his lifetime he has seen how climate change, caused by an unbalanced atmospheric system, is negatively effecting evergreen trees throughout Washington state. Bodhi believes that much needs to be done to protect the trees because they help sequester CO_2 and clean the air. During the summer of 2017, Bodhi was not able to do family activities such as take bike rides as a family because

of the unhealthy air quality caused by the smoke from nearby wildfires that shrouded his community. Bodhi is afraid that if steps aren't taken to reduce CO_2 emissions and transition to renewable energy, many of the plants and animals he loves will not survive the warmer temperatures that climate change will bring to the Pacific Northwest.

25. All Plaintiffs are residents of the State of Washington and beneficiaries of the essential Public Trust Resources managed by Defendants. Plaintiffs are currently, and will increasingly be, harmed and injured from anthropogenic Climate Change Impacts to Washington's Public Trust Resources, which are essential to Youth Plaintiffs' rights to life, liberty, property, and a healthful and pleasant environment.

26. Plaintiffs all have knowledge of how climate change will impair their ability to pursue their hopes, dreams, and enjoyment of the natural resources on which they depend and with which they have grown up. They also know that Defendants, by and through their actions relative to fossil fuels and GHG emissions, are continuing to facilitate harms that threaten their lives and wellbeing. Defendants have caused and continue to cause psychological, and emotional, and mental health harm to Plaintiffs through their role in causing and contributing to Climate Change Impacts that threaten Plaintiffs' lives and wellbeing. Additionally, Plaintiffs' personal security, health, recreational, cultural, spiritual, subsistence, educational, aesthetic, economic, property, and other interests are being, and will continue to be, adversely and irreparably injured by Defendants' fossil fuel-based energy and transportation system and the aggregate actions making up that system. As a result of the affirmative aggregate acts of Defendants, Plaintiffs will not be able to continue to engage in many of the activities they currently enjoy and depend upon, nor will they be able to share those experiences with their children and grandchildren, without a remedy from this Court.

27. The harms that Plaintiffs are experiencing are not just threatened future harms, but present harms as well as has been acknowledged by officials within Washington State government. On June 23, 2017, Commissioner of Public Lands Hilary Franz acknowledged the severity of the climate crisis in Washington state and that the impacts are being experienced by Washingtonians *today*. Commissioner Franz admitted that Climate Change Impacts are seen every day, "from the wildfires we fight in ailing forests, to the drying soils of our farm lands, to our changing shorelines. Across the state, climate change threatens the families and communities who rely on the bounty of our farms, the production of our forests, and the shells of our oysters. These climate change impacts are happening now and are affecting communities across Washington."

28. Plaintiffs have taken on the burden at very young ages of trying to protect their lives and the lives of future generations and other species. Many of the Plaintiffs have spent much of their young lives trying to educate the public and government officials and advocate for their climate rights. While they attempt to use their voices to influence elected officials, they cannot vote for those officials and they do not have money to compete with the lobbying power of the industries that profit from the status quo energy and transportation system that the government supports and keeps in place. The adults in power are not responding to their pleas for help. Much like the children of the civil rights movement seeking equal education free from discrimination, or the children of Washington today seeking adequate funding for education, this Court is their last resort to protect their fundamental rights to the natural systems that support life on Earth.

Defendants

29. Defendant State of Washington is the sovereign trustee over Public Trust Resources within its domain, including air, water, the sea, shores of the sea, and fish and wildlife, and it

maintains control over those and other Public Trust Resources and must protect them from substantial impairment, waste, and alienation, for the benefit of present and future generations of Washingtonians. Defendant State of Washington must exercise a duty of care over Public Trust Resources and a duty of loyalty and impartiality to the citizen beneficiaries of Washington's Public Trust, including Youth Plaintiffs and future generations.

30. Defendant State of Washington has asserted "primary jurisdiction over the management of coastal and ocean natural resources within three miles of the coastline." RCW 43.143.005(4). Even though the federal government has primary jurisdiction "[f]rom three miles seaward to the boundary of the two hundred mile exclusive economic zone," the State has found that "[s]ince protection, conservation, and development of the natural resources in the exclusive economic zone directly affect Washington's economy and environment, the state has an inherent interest in how these resources are managed." *Id.*

31. Notwithstanding its trustee obligations, Defendant State of Washington has explicitly authorized dangerous levels of fossil fuel use and has exempted some activities from compliance with statutory greenhouse gas reduction measures through its adoption of RCW 70.235.020. RCW 70.235.020(1)(a) requires only 25 and 50 percent overall state GHG emissions reductions by 2035 and 2050 respectively from 1990 emissions levels. RCW 70.235.050(1)(a)-(c) requires only 15, 36, and 57.5 percent reductions in GHG emissions by state agencies from 2005 levels by 2020, 2035, and 2050, respectively. Those statewide reductions, including by state agencies, if achieved, would still allow GHG emissions far greater than the reductions required to achieve Washington's part of its responsibility to stabilize the climate system and to avert the worst and most severe Climate Change Impacts. GHG emissions that would continue under full compliance with RCW 70.235.020(1)(a) and RCW 70.235.050(1)(a)-(c) would continue to cause and

exacerbate dangerous Climate Change Impacts described herein. Defendant State of Washington also creates and directs the state's energy and transportation system, which is responsible for producing and under which Defendants' have authorized and continue to authorize dangerous levels of GHG emissions.

32. Defendant Jay Inslee is the Governor of Washington and is sued in his official capacity. The Governor has a constitutional obligation to "see that the laws are faithfully executed." Wash. Const. art. III, § 5. The Governor must approve bills passed by the legislature before they become law and has the authority to veto legislation. Wash. Const. art. III, § 12.

33. The Governor is the head of the executive branch of government, including the Departments of Ecology, Commerce, Transportation, and is responsible for appointing heads of departments and agencies and ensuring that the agencies comply with their legal responsibilities. The Governor holds cabinet meetings, communicates with other state officers, oversees budget expenditures, serves as an ex-officio member on a number of boards and commissions, and has the authority to issue executive orders. The Governor has the authority to approve, reject or condition proposed sites for energy facilities in the state of Washington. The Governor is statutorily required to provide the legislature with policy recommendations on how the state can achieve greenhouse gas reductions. The Governor is required to designate a person as the single point of accountability for all energy and climate change initiatives within state agencies to ensure that the State complies with RCW 70.235. The Governor, along with Defendants Commerce and Washington State Department of Transportation ("WSDOT"), create and implement the energy and transportation policy of Washington state.

34. Governor Inslee, adding to the dangerous acts of his predecessors, has used his expansive authority and directed Ecology, Commerce, WSDOT and other state agencies under his control,

to encourage, allow, and authorize the emission of dangerous levels of CO_2 and GHGs in Washington, thus causing, contributing and exacerbating the climate crisis. For example, he has pursued, endorsed and implemented policies that allow high levels of GHG emissions and deliberately defer emissions reductions through 2050, which will knowingly cause and contribute to dangerous Climate Change Impacts. He has taken these actions while simultaneously telling the public that "the full responsibility of climate action [falls] on states and cities throughout our nation." Similarly, Governor Inslee has not used his authority, nor directed Ecology, Commerce, WSDOT and other state agencies to implement their authority, to prevent and reduce Washington's emissions of dangerous levels of GHGs and CO_2, and protect its biologic carbon sinks.

35. Defendant Washington State Department of Ecology ("Ecology"), P.O. Box 47600, Olympia, WA 98504-7600, is responsible for protecting the state's air quality and water resources, preventing flooding, and developing plans to prevent climate change. The legislature has granted Defendant Ecology broad powers to achieve Washington's "public policy to preserve, protect, and enhance the air quality for current and future generations." RCW 70.94.011. Defendant Ecology is authorized to "adopt rules establishing air quality objectives and air quality standards" and establish rules requiring emission sources to "apply reasonable and available control methods." RCW 70.94.331. Ecology is responsible for developing regulations governing the issuance of permits to control air pollution. RCW 70.94.161.

36. Ecology issues air quality and other permits to facilities that emit GHG emissions, including but not limited to projects that burn and promote the use of fossil fuels. Consistent with these efforts that exacerbate the climate crisis, Ecology has not utilized its authority to

initiate any effort to phase out GHG emissions consistent with levels that could avert dangerous disruption of the climate system.

37. Defendant Ecology is entrusted with "the supervision of public waters within the state," RCW 43.21A.064, in accordance with the directive to retain "waters within streams and lakes in sufficient quantity and quality to protect instream and natural values and rights." RCW 90.03.005. When managing Washington's waters, Ecology has been directed to adopt "policies as are necessary to insure that the waters of the state are used, conserved and preserved for the best interest of the state." RCW 43.27A.090. Defendant Ecology's duty to supervise public waters includes a responsibility to prevent flooding. RCW 43.21A.069.

38. Defendant Ecology also has specific duties to prevent and mitigate against Climate Change Impacts. The legislature has designated Defendant Ecology as "a central clearinghouse for relevant scientific and technical information about the impacts of climate change" and "a central convener for the development of vital programs and necessary policies to help the state adapt to a rapidly changing climate." RCW 43.21M.010. To that end, Defendant Ecology is tasked with developing Washington's initial climate change response strategy. RCW 43.21M.020. Defendant Ecology is charged with reviewing and reporting to the legislature regarding the state's GHG emissions targets to determine its need, applicability and effectiveness and to recommend updates as necessary.

39. Defendant Maia Bellon is the Director of Defendant Ecology and is sued in her official capacity. As Director of Ecology, Defendant Bellon has "complete charge of and supervisory powers over the department" of Ecology, including the actions the agency takes with respect to climate change. RCW 43.21A.050.

40. Defendant Washington State Department of Commerce, P.O. Box 42525, Olympia, WA 98504-2525, is the state agency charged with enhancing and promoting sustainable community and economic vitality in Washington. Washington State's Energy Office is within the Department of Commerce and plays a significant role in developing and implementing the energy policy of Washington. Defendant Commerce has the legislative directive to "supervise and administer energy-related activities" and to "advise the governor and legislature with respect to energy matters affecting the state." Defendant Commerce sets the priorities and implements "the state energy strategy elements and on other energy matters." RCW 43.21F.045.

41. Defendant Commerce, through the Washington State Energy Office, is the state agency responsible for developing and coordinating implementation of the state energy strategy. Among the guiding principles to guide the state's energy strategy are to "[e]nsure that the state's energy system meets the health, welfare, and economic needs of its citizens with particular emphasis on meeting the needs of low-income and vulnerable populations," to "[r]educe dependence on fossil fuel energy sources," and to "[m]eet the state's statutory greenhouse gas limits and environmental requirements as the state develops and uses energy resources." RCW 43.21F.088. The State Energy Office "follows, analyzes and reports on key energy issues, policies and programs related to alternative fuels, energy efficiency, renewable energy development, greenhouse gas emissions, energy supply, prices, security and reliability." Defendant Commerce has not utilized its authority to initiate any effort to create an energy system that is compliant with the Washington Constitution, Public Trust Doctrine, or other mandates to decarbonize Washington's energy system and phase out GHG emissions consistent with levels that could avert dangerous disruption of the climate system. Defendant Commerce is required to develop a Strategic Plan for Energy Efficiency every three years, which includes the consideration of

developing aspirational codes that contain economically and technically feasible standards to achieve higher standards of energy efficiency.

42. Defendant Brian Bonlender is Director of Defendant Commerce and is sued in his official capacity. Defendant Bonlender oversees and supervises the activities of Defendant Commerce, including the agency's work on climate change and energy policy.

43. Defendant Washington State Transportation Commission ("WSTC") is composed of seven voting members, all of whom are appointed by the Governor. WSTC's responsibilities include proposing transportation policies to be adopted by the Governor, providing for public involvement, proposing transportation budgets to the Governor and legislature, and working to minimize adverse environmental and energy impacts of transportation services. The WSTC is responsible for developing the Washington Transportation Plan which establishes a 20-year vision for development of the statewide transportation system, and is designed, in part to enhance Washington's quality of life through transportation investments that promote energy conservation, enhance healthy communities, and protect the environment.

44. Defendant Washington Department of Transportation ("WSDOT") is the state agency responsible for implementing Washington state transportation policy. WSDOT has been repeatedly directed to develop and implement transportation policies designed to reduce greenhouse gas emissions from the transportation sector, including the directive to "gradually reduce the per capita vehicle miles traveled." In spite of these directives, transportation accounts for nearly half of Washington state's GHG emissions and the state is not on track to meet the constitutionally inadequate goal of reducing transportation emissions to 37.5 million metric tons by 2020. WSDOT is responsible for emitting the largest share of GHG emissions of any other state agency.

45. Defendant Roger Miller is the Secretary of Defendant WSDOT and is sued in his official capacity. As Secretary of WSDOT, Defendant Miller oversees and supervises the activities of Defendant WSDOT and is responsible for "18,600 lane miles of highway, 3294 bridges, general aviation airports, passenger- and freight-rail programs, and Washington State Ferries," as well as Defendant Transportation's climate change programs and policies.

46. At all material times, each Defendant acted under the color of the laws of the State of Washington.

47. The acts and omissions of the Defendants described herein were taken pursuant to the laws, policies and customs of the State of Washington.

JURISDICTION & VENUE

48. This Court has jurisdiction to issue a declaration that the Plaintiffs have fundamental rights under the Public Trust Doctrine and Washington State Constitution, that RCW 70.235.020(1)(a)-(b) is unconstitutional, and that the State, the Governor, Ecology, Commerce, WSTC, WSDOT, and their Directors, are not complying with their constitutional and public trust mandates. RCW 7.24.010; .020; .050; RCW 34.05.570.

49. This Court has jurisdiction to enforce the Washington Constitution and State Public Trust Doctrine.

50. This Court has jurisdiction over this action under Article IV, Section 6 of the Washington State Constitution and RCW 2.08.010 because this is a case in equity.

51. This Court has jurisdiction over this action under Article IV, Section 6 of the Washington State Constitution and RCW 2.08.010 because exclusive jurisdiction over this matter has not been vested in some other court.

52. This Court has jurisdiction to enforce fundamental rights contained in and reserved by the Washington State Constitution. Wash. Const., Art. IV, § 6; RCW 7.24; RCW 34.05; RCW 7.40.

53. Venue for this action properly lies in this Court. RCW 4.92.010; 7.24; 34.05.514.

54. Plaintiffs have no alternative adequate remedy at law.

STATEMENT OF FACTS

Anthropogenic Climate Change Is Dangerous To Plaintiffs Unless Atmospheric CO_2 Concentration Declines to 350 ppm or Less By 2100

55. Climate change is human-caused, primarily from burning fossil fuels, and is already dangerous. Climate change results from excess levels of GHG pollution, deforestation, and degradation of soils. Climate Change Impacts are already injuring and irreversibly destroying human and other natural systems, causing loss of life and pressing species to extinction. The time to reverse the dangerous situation is quickly dwindling. Scientists do not know precisely when we will pass a point of no return, but they agree we are nearing a critical threshold of locking in climate danger for generations to come.

56. The global average CO_2 concentration in 2016 was approximately 403 ppm and is increasing at a rate of 2-3 ppm per year, compared to the pre-industrial concentration of 280 ppm. For hundreds of thousands of years prior to the industrial revolution, CO_2 levels naturally fluctuated between 180 and 280 ppm. Atmospheric CO_2 is the primary forcer of climate change. However, the concentrations of other GHGs in the atmosphere have also increased. For example, methane concentrations have increased approximately 250% since the pre-industrial period as a result of human activity.

57. For decades, the U.S. Government and the State of Washington have acknowledged that climate change is occurring from burning fossil fuels, that its adverse effects are underway and that a continuation of a fossil fuel-based energy and transportation system and failure to reduce GHG emissions would consign future generations to irreversible and catastrophic consequences.

58. The impacts of CO_2 emissions on the State of Washington are already severe. Changes in the natural timing of water availability, as well as sea level rise and ocean acidity, among other Climate Change Impacts, are bringing and will increasingly bring significant consequences for the economy, infrastructure, natural systems, and human health of the region.

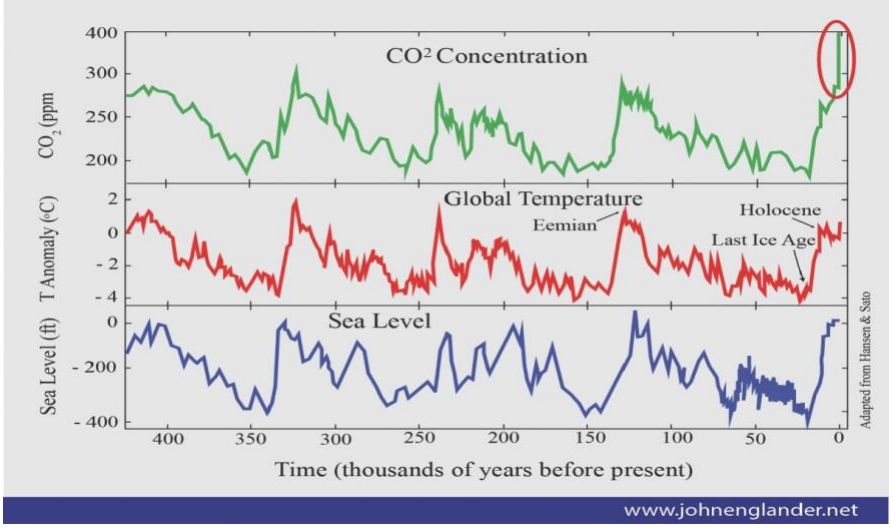
59. Scientists have known since the late 1800s that atmospheric concentration of greenhouse gases, like CO_2, were the control knob for the temperature of the earth. The increased concentrations of greenhouse gases in our atmosphere have raised global surface temperature by approximately 1°C (1.8°F) from 1880 to 2016, causing the end of the Holocene, the epoch in which human civilization developed. 2016 was the hottest year in the human record, with 2012 falling into second place, and 2017 the third hottest year in recorded history. The five hottest years have been in the last decade and every year since 1997 has been warmer than average in the United States. Ocean temperatures have also risen, changing circulation patterns and threatening marine life and ice sheets.

60. Between 1891 and 2011, the average regional temperatures in the Pacific Northwest increased by approximately 1.3°F. In the Puget Sound Region, every year but six from 1980 to 2014 was warmer than the 20th century average.

61. By midcentury, when the Plaintiffs will be adults, conservative models project average annual temperatures will be 2.9 to 5.4°F warmer under a low greenhouse gas emissions scenario

and 5.5 to 7.1°F warmer under a high greenhouse gas emissions scenario, compared to temperatures recorded from 1970 – 1999. The increase will be the largest in the summer. Extreme heat and weather events will occur more often. Increasing temperatures will lead to increases in stream and river temperatures, with Puget Sound rivers projected to increase 4.0 to 4.5°F by the 2080s compared to 1970 – 1999.

62. Atmospheric CO_2 levels, global temperature and sea levels are all closely correlated as depicted in the graph below. When CO_2 levels rise, so too do temperature and the seas.



63. For the first time in the measurable paleo-record, CO_2 levels have risen by more than 125 ppm and within only 150 years. In the past, this type of differential in CO_2 levels drove a series of sea level rise pulses over tens of thousands of years that totaled 120 meters of sea level rise in response to warming and ice melt. The last time in the measured paleo-record when CO_2 levels were as high as present levels, the seas were approximately 70 feet higher than today.

64. Over 93.4 percent of the excess heat caused by rising CO_2 levels is being absorbed by the oceans, causing the largest ice sheets on the planet to melt into the oceans. Oceans will retain that heat for much longer than the surface of the earth because water must lose more energy in

order to cool. Thus, Plaintiffs and future generations will continue to be harmed by the warming oceans long after climate pollution is eliminated.

65. Sea level rise can occur very rapidly. Geologic evidence shows that once ice sheets are destabilized rapid ice sheet disintegration occurs. Scientists are already observing and recording these accelerating feedbacks with rapid ice sheet melt occurring on Greenland and Antarctica. According to the National Oceanic and Atmospheric Administration, between 1992 and 2001, Greenland lost an average of 34 gigatons of ice each year and Antarctica lost an average of 30 gigatons of ice each year. Between 2002 and 2011, the rate of Greenland ice loss increased six-fold to 215 gigatons of ice lost each year and the rate of Antarctic ice loss quadrupled to an average of 147 gigatons of ice lost each year.

66. In January 2017, the U.S. government, through NOAA, projected between 0.9-8 feet global mean sea level rise by 2100. However, for certain coastlines across the U.S., the high ranges could be an additional 1-3.3 feet higher ("or more," according to the NOAA report). NOAA's 2017 projections are higher than the projections it made just five years ago in its 2012 assessment.

67. Under NOAA's 2017 projected scenarios, there could be 2 feet of sea level rise by 2050, 3.9 feet by 2070, 6.6 feet by 2090, 11.8 feet by 2120, 18 feet by 2150, and 31.8 feet by 2200. A 2 or 3-foot rise of sea level will make nearly all of the barrier islands of the world uninhabitable, result in inundation of a major portion of the world's deltas, and challenge low-lying coastal zones like Puget Sound to maintain infrastructure and public welfare and to assure protection of life and property.

68. NOAA reports that even 3 feet of sea level rise would permanently inundate 2 million American's homes and communities and 6.6 feet of sea level rise would put 6 million U.S. homes

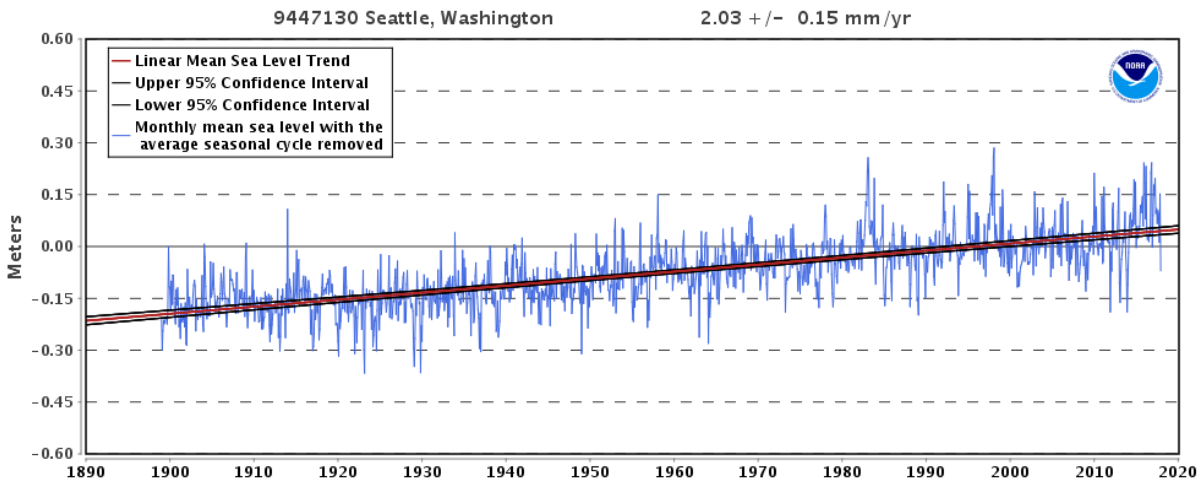
underwater. Already nuisance flooding is 300%-900% more frequent than it was 50 years ago. Sixty percent of Washington's population lives in the Seattle Metro area around the Puget Sound.

69. NOAA's projection of up to 8 feet of sea level rise by 2100 is representative of sea level projections typically made in the scientific literature based on current modeling, including the current rate of accelerated melting in the poles, but it does not constitute the best scientific information available because it ignores other plausible high-risk scenarios. The scientific consensus regarding the historic rapid pulses in sea level rise as ice sheets disintegrate is not incorporated in NOAA's 2017 model, or any of the modeling summarized by the Intergovernmental Panel on Climate Change. Thus, all of those governmental reports likely underestimate the severity and speed with which the seas will rise.

70. The best scientific information available projects a 15-40 foot rise in sea level by 2100 if current trends continue, with even greater rises in subsequent centuries. This projection is based on the historic record, rapid sea level rise pulses, and current rates of sea level rise acceleration, much of which is not taken into account by NOAA in their latest projections.

71. Scientific evidence demonstrates that non-linear sea level rise will submerge many Washington coastal areas, impacting thousands of Washingtonians and billions of dollars of property, unless there are immediate reductions in CO_2 and greenhouse gas emissions.

72. Sea level is rising at most locations in and near Puget Sound. From 1899 to 2016, sea level rose 0.67 feet in Seattle, Washington.



73. There are nearly 2300 miles of Washington shoreline that are being affected and will be further impaired by rising sea levels.

74. Real estate analysts have projected that if sea levels are to rise by six feet, a conservative estimate for the latter part of the century, 31,235 homes in Washington (1.32% of the total housing stock) would be underwater, a loss of $13.7 billion dollars. In Seattle, 1,663 homes (0.9% of the Seattle housing stock), worth a combined total of $2.3 billion would be underwater if sea levels rose 6 feet. Those projections do not include other properties affected by high tides and storm surges, and infrastructure submerged by the rising seas.

75. Sea level rise will seriously impact coastal infrastructure and transportation systems, with severe social and economic consequences. For example, by 2050, dozens of King County Wastewater Treatment Division facilities will be directly inundated by rising seas or through the conveyance systems.

76. Sea level rise will also increase the frequency of extreme coastal and coastal river flood events during high tides and storm surges.

77. Sea level rise will alter coastal habitats, as brackish marshlands are converted into tidal flats and other saltwater habitats. Up to 11% of inland swamps are projected to be flooded by

salt water. Marine animal habitats will also be affected by sea level rise, and resulting erosion, impacting Chinook salmon, Pacific mackerel, Pacific hake, oysters, mussels, English sole, and yellowtail rockfish, as well as phytoplankton and zooplankton, sea otters, and other marine species.

78. Increased CO_2 emissions are having a severe negative impact on ocean health. The oceans absorb around 25-30% of global CO_2 emissions, resulting in acidification of marine waters. Ocean acidity has been rising at a geologically unprecedented rate. Currently, acidity is rising at least 100 times faster than at any other period during the last 100,000 years, threatening marine life, including human food sources, and killing coral reefs.

79. Ocean acidification in the Northeast Pacific Ocean surface waters has severely increased, with a 26% increase in acidity since pre-industrial times. Rising acidity is negatively impacting ocean life, including reducing the availability of calcium carbonate, an essential material for shell growth. Washington is experiencing ocean acidification earlier than other parts of the world leading to devastating effects on the State's oyster industry. Moreover, up to a quarter of pteropods (sea snails comprising a critical part of the marine food web along the west coast of the United States) have been experiencing shell dissolution due to increasing ocean acidity.

80. Washington's seafood industry, which is particularly important to the state's tribal communities, is exceptionally vulnerable to the effects of ocean acidification. Over 30% of the marine life in Puget Sound consists of calcifiers (including oysters, clams, scallops, mussels, abalone, crabs, geoducks, barnacles, sea urchins, sand dollars, sea stars, and sea cucumbers) that will be impacted by declining availability of calcium carbonate, a necessary ingredient for shell construction.

81. While the uptake of atmospheric carbon dioxide is the primary driver of open-ocean acidification, secondary contributions, such as nutrient pollution from land-based sources, also contribute to the acidification of Puget Sound. In the spring and summer, the waters of the Puget Sound experience algal blooms, which have significant health impacts. These blooms, while natural to a limited extent, are made worse by anthropogenic nutrient pollution and increasing temperatures, setting in motion a chain of chemical and biological reactions that increase local acidification.

82. Ocean acidification is disrupting marine ecosystems more generally. Many common single-celled organisms and protists that act as prey for many marine species and some forms of seaweed all produce calcium carbonate structures. Declines in plankton and mollusk populations are expected to result in 10% to 18% declines in the abundance of important west coast groundfish as soon as 2028, including English sole, arrowtooth flounder, and yellowtail rockfish from loss of prey. Additionally, Washington's calcifiers provide important services to society, other organisms and local food webs, the loss or decline of which will further impact these systems. For instance, filter feeders improve water quality by removing organic particles and corals provide habitat and shelter for many plants and animals.

83. Changes in the water cycle as a result of climate change also increase the potential for, and the severity of drought. Western states like Washington will be particularly impacted by drought, reduced precipitation during summer months, increased evaporation, and increased water loss from plants. These changes are already occurring. In 2015, Defendant Governor Jay Inslee declared a state-wide drought emergency for Washington, citing historically low snowpack, falling river levels, and rising temperatures. Washington did not return to a drought-free condition until April, 2016, the first time since 2013.

84. Precipitation is expected to decrease during the summer and increase during other seasons. Models project a decline of 22-50% for summer precipitation in the Puget Sound region in the 2050s. Most models also project the number of days with precipitation greater than one inch (in winter and spring) will increase by 13% between 2041 and 2070. The heaviest 24-hour winter rain events in western Washington will intensify by 22% by the 2080s. These high intensity events are also projected to occur more frequently.

85. Rising temperatures and decreasing snowfall will lead to declining snowpack and earlier melting. The nature of precipitation will shift from snow to rain. By the end of the century, the dominant form of precipitation in most Puget Sound watersheds will be rain. By the 2040s, April 1st snowpack is projected to be up to 47% less than during 1970 to 1999. By the 2080s, average spring snowpack in the Puget Sound region is projected to decline by up to 55%. These projected snowpack losses will increase the probability of landslides. By 2050, snowmelt will begin three to four weeks earlier than the average timing in the 20th century. Peak stream flows are projected to shift four to nine weeks earlier in the Sultan, Cedar, Green, and Tolt watersheds and in the Yakima basin by the 2080s. This shift in snowmelt timing, compounded with reduced snow accumulation, will result in substantially smaller summer stream flows and larger late-winter and early-spring stream flows.

86. Snowpack in the Washington Cascades has declined by about 25% since the mid-20th century, and spring snowmelt has occurred up to thirty days earlier depending on location. These changes have resulted in up to 15% declines in summer stream flows and 20% increases in late winter/early spring flows.

87. Washington's glaciers are in crisis because temperatures are warming faster at higher elevations and precipitation is increasingly falling as rain instead of snow. Fifty-three glaciers in

the North Cascades have disappeared since the 1950s. Glacier area has decreased 56% in the North Cascades and 34% in the Olympic Mountains. In 1982, Olympic National Park had 266 glaciers; by 2009, that number was 184. At Olympic National Park, glacial area has declined 34% in only 30 years, and glacial volume decreased by at least 15% from 1987 to 2009. The Blue Glacier, for example, has retreated 325 feet and lost 178 feet of thickness over approximately 20 years. In the North Cascades, 10% to 44% of total summer streamflow is estimated to originate from glaciers, depending on the watershed. Even if temperatures merely remain at presently elevated levels, only two of the 12 North Cascades glaciers are expected to survive. The Anderson Glacier shrank by 90% between 1927 and 2009, resulting in lower and warmer stream flows in the Quinault River, which it feeds. The Anderson Glacier has lost its ability to survive without its zone of accumulation of snow and ice and has now disappeared.

88. Drier summers from climate change have also created a greater risk of wildfires. The growing number of wildfires has resulted in increasing hospitalizations for respiratory emergencies caused by smoke. The average number of large wildfires in Washington has increased from 6 per year in the 1970s to over 21 per year in the beginning of the 21st century. In 2015, Defendant Governor Jay Inslee called 2015 the worst wildfire season in state history and "an unprecedented cataclysm." The 2017 wildfire season in Washington was also catastrophic, choking the state with ash-filled skies and prompting Governor Inslee to declare a state-wide state of emergency. During the summer of 2017, wildfires burning throughout Washington state caused ash to rain down across the Seattle metro area. Air quality reached hazardous levels in many parts of the state. By 2050, wildfire activity is expected to double in the Pacific Northwest, increasing by 78% the annual mean area burned.

89. The average annual area burned by wildfires in the Northwest is projected to increase to 2 million acres by the 2080s, four times the average area burned annually between 1916 and 2007. Fires are also projected to begin to occur in areas where they do not usually occur, with the annual area burned west of the Cascade Range crest projected to increase by 150% to 1000% in 2070-2099 relative to 1971-2000.

90. Climate Change Impacts will cumulatively impact Washington's forests by increasing tree stress, vulnerability to insects, and flammability. Warmer temperatures will cause forests to be more susceptible to diseases. By mid-to-late century the Northwest habitat for Douglas-fir and pine species will decline substantially, up to 85%.

91. These climatic changes are disrupting the developmental, behavioral, and life cycle experiences and strategies of non-human species. Sockeye migrations are happening earlier, and changes to seasonal events have already caused certain migratory birds to arrive after the peak of their food resources has occurred. Warmer water has caused increased fish kills and has resulted in a decrease in the amount of habitat that is available for salmon species. Lake Washington has experienced a 50-year warming trend, reducing the food available for fish and causing harmful algal blooms. Stream flows in Washington are peaking earlier in the year in many watersheds throughout the state, resulting in lower stream flows during the critical summer months. For example, the Quinault River is projected to shift to a single-peak hydrograph by the 2040s, experiencing significantly reduced flows from April-September.

92. Climate change kills salmon in multiple ways. Drought conditions have caused hundreds of thousands of juvenile salmon to be stranded by low flows in Washington rivers, preventing them from traveling to the Pacific Ocean. Above-normal precipitation and rapid spring snow melt has increased temporal river flows at levels that also kill hundreds of thousands of fish in

Washington rivers. Increasing air temperatures cause high stream temperatures that kill hundreds of thousands of salmon returning from the ocean to spawn in Washington rivers.

93. Climate change unabated will result in the extinction of salmon, steelhead, and trout. Changes in flows and increased water temperature will threaten freshwater fish species, including salmon, steelhead, and trout. Puget Sound rivers are projected to increasingly exceed the thermal tolerances of cold-water fish. By the 2080s, the number of river miles where August stream temperatures surpass the thermal tolerances of adult salmon and char will increase by 1,016 and 2,826 miles, respectively. Durations for which temperatures will exceed thermal tolerances will also increase, and many streams are projected to exceed tolerances for the entire summer season (despite rarely being in excess of these temperatures in the recent past). Increases in forest fire frequency can completely burn out root systems, which contribute to erosion and sedimentation of rivers that salmon frequent. Increased sedimentation in rivers and streams reduces areas of suitable gravel for salmon spawning and kills eggs and juveniles. Sea level rise is likely to flood estuaries, a critical habitat for salmon transitioning between river and ocean life. Flooding from increasingly heavy winter precipitation can wash away salmon eggs and destroy spawning beds completely.

94. Climate change is now threatening and will in the future threaten numerous other species of mammals and birds by causing declining populations and extinction.

95. Climate change will further disrupt Washington's ecosystems by facilitating the increased spread of invasive species, such as western juniper and cheat grass.

96. Washington's agricultural industry is also being harmed by Climate Change Impacts. Rising temperatures increase the heat stress of crops and reduce milk production in livestock. Low annual precipitation forces farmers to depend on irrigation, but decreasing summer flows

mean that the risk of water-short years (for example, those years in which Yakima basin junior water rights holders are allowed only 75% of their water right amount) will increase from 14% to 32% by 2020 and to 77% by 2080. One study found that tuber production decreased by 8% to 17% in response to only modest decreases in irrigation. Increased flooding during other seasons will inundate farmland, negatively affecting crops, preventing planting, and directly damaging farm infrastructure. Many agricultural pests are projected to increase with rising temperatures, including codling moths and cereal leaf beetles. Increasing air temperatures are likely to negatively impact the production of some berries and fruit due to insufficient winter chilling necessary for fruiting and flowering.

97. Communities within Washington state are being forced to relocate because of climate change, sea level rise, and associated Climate Change Impacts. In 2014, rising sea levels breached a seawall that was constructed to protect a Quinault Indian tribal community, Taholah. Taholah is home to the Quinault Indian Nation's school, courthouse, police station and the homes of 700 tribal members, including two Plaintiffs. The seawall was rebuilt, but the flooding continued. The Quinault Indian Nation has now commenced relocation efforts and has developed a plan to move the entire village to upland property, an endeavor estimated to cost $350 million. Similarly, the Hoh Indian Nation is relocating its tribal village on the Olympic Peninsula in response to climate change, resulting in the displacement of 130 Washingtonians. The Quileute and Sauk-Suiattle Indian Tribes are also planning relocation efforts because of climate change. The cultural impacts associated with relocation are significant.

98. Climate change already harms public health and welfare, including an increase in asthma, cancer, cardiovascular disease, stroke, heat-related morbidity and mortality, food-borne diseases, infectious diseases, and neurological diseases and disorders, which will only worsen without

immediate action. Climate change threatens the basic requirements for maintaining health like clean air and water, sufficient food, and adequate shelter. Increased atmospheric concentrations of CO_2 results in food crops with decreased nutritional content.

99. Climate change poses significant risks to the health, personal security, and wellbeing of the Youth Plaintiffs. Health impacts due to climate change include temperature-related effects, the effects of severe weather and disasters, the impact of reduced air quality, aggravation of allergies, increased risk of infectious diseases, nutritional effects, population displacement, civil conflict, and mental health impacts.

100. The increased occurrence and scale of wildfires will severely impact human health by worsening respiratory and cardiovascular illnesses because of the resulting air pollution. Extreme heat events (days above 95°F) are projected to increase. These events will result in increased occurrences of heat exhaustion, heart attacks, strokes, and drownings and will compound problems with respiratory illnesses, cardiovascular disease, and kidney failure.

101. Increased winter flooding will result in injuries or deaths caused directly by exposure to dangerous pollutants, respiratory illnesses from resulting mold growth, and the disruption of infrastructure. Increased forest fires due to drought conditions, warming, and increased tree die off due to climate related beetle and pest increases will result in more respiratory problems, including asthma and pneumonia.

102. Increased production of allergens due to longer pollination seasons will result in more severe allergies and increased asthma attacks.

103. Higher water temperatures promote harmful algal blooms by allowing harmful algae to expand into new areas and extend their blooming seasons. Due to warming temperatures, algal blooms in Washington state are becoming more severe. Toxic algal blooms can cause the shut

down of shellfish harvesting operations and can poison marine mammals and humans who eat contaminated shellfish.

104. Mental health disorders are likely to be one of the most dangerous indirect health effects of climate change. Youth, including the Plaintiffs, are particularly vulnerable to adverse mental health impacts from climate change. The mental health effects include elevated levels of anxiety, depression, PTSD, and a distressing sense of loss. The impacts of these mental health effects include chronic depression, increased incidences of suicide, substance abuse, and greater social disruptions like increased violence. These mental health impacts are exacerbated because climate change is, in part, a direct result of actions taken by their state government, which is supposed to be protecting them, not taking actions that endanger them.

105. Some groups, including children such as these Plaintiffs, are more vulnerable than others to the mental and physical health risks associated with climate change detailed herein.

106. A substantial portion (around 20%) of every ton of CO_2 emitted by human activity persists in the atmosphere for as long as a millennium or more; therefore, the impacts associated with the CO_2 emissions of today will be mostly borne by our children and future generations. The Earth will continue to warm in reaction to concentrations of CO_2 from past emissions, as well as future emissions. This scientific concept has been well understood and accepted by Defendants since at least the early 1980s.

107. In 2008, Defendant Ecology explicitly recognized the disparate impact of their failure to reduce GHG emissions: "[f]ailure to act now will make future Washingtonians vulnerable to the fluctuations in energy prices, political instability, and the effects of climate change resulting

from reliance on carbon-based fuels. We must challenge ourselves to find the political will to look ahead, work together, and act on their behalf."[1]

108. If science-based action is not taken to address the climate crisis and Defendants do not cease taking actions that cause climate change, the costs of climate change and ocean acidification impacts to Washington are projected to reach $10 billion per year by 2020 as the State struggles to deal with increased health costs, storm damage, coastal destruction, rising energy costs, increased wildfires, drought, and other impacts.

109. The best available climate science today prescribes that global heating must be limited to no more than 1°C in the long-term, with a short-term peak of no more than 1.3°C, in order to avert the worst and most catastrophic impacts of climate change. According to the current climate science, to prevent long-term global heating greater than 1°C and to avoid short-term heating of more than 1.3°C, concentrations of atmospheric CO_2 must decline to 350 ppm or less by the end of this century. If CO_2 emission reductions begin in 2018, the global average annual rate of reduction would need to be 9.2% per year. In addition to eliminating CO_2 emissions, the scientific prescription to return to 350 ppm requires the global sequestration of 100 gigatons of carbon through improved land management practices and protection of forests and soils throughout the 21st century. The best available science dictates that this prescription is necessary to restore balance to Earth's climate system and avoid the worst and most catastrophic Climate Change Impacts.

110. In the longer run, beyond this century, to avoid catastrophic ice sheet melt and sea level rise, atmospheric CO_2 levels need to continue to decrease and likely need to return closer to

[1] Ecology & CTED, Growing Washington's Economy in a Carbon-Constrained World: A Comprehensive Plan to Address the Challenges and Opportunities of Climate Change, Ecology Publication No. 08-01-025 (December 2008) at 8.

levels of the Holocene epoch at 280 ppm. There is only one way to accomplish this: by significantly and swiftly reducing fossil fuels as a source of energy. For every additional year of delay, it becomes that much more difficult to reach 350 ppm by 2100.

111. Oceans require the same scientific standard of protection. Critically important ocean ecosystems, such as coral reefs and shellfish beds, and critical foundational food web species, like phytoplankton and zooplankton, are substantially impaired and threatened with increasingly devastating impacts by today's global annual mean CO_2 concentrations of approximately 403 ppm. According to current science, atmospheric CO_2 levels should be reduced to no more than 350 ppm in order to protect ocean ecosystems, foundational food web species, and coral reefs from dangerous acidification and warming. As new scientific studies become available, the best science may show the need to reduce CO_2 concentrations to levels lower than 350 ppm to protect ocean systems.

112. Opportunities to sequester carbon through improved land use practices are technically and economically feasible. For example, improved forestry and agricultural practices can provide a net drawdown of atmospheric CO_2, primarily via reforestation of degraded lands that are of little or no value for agricultural purposes, helping to return to safe levels of atmospheric CO_2.

113. A zero-CO_2 energy and transportation system for Washington state can be achieved by 2050 without acquiring carbon credits from other states or countries. In other words, actual physical emissions of CO_2 from fossil fuels can be eliminated with technologies that are now available or under development.

114. Experts have already concluded the feasibility of, and prepared a roadmap for, the transition of all of Washington's energy use (for electricity, transportation, heating/cooling, and

industry) to a 100 percent renewable energy system by 2050. In addition to the direct benefits of avoiding a destabilized climate system, this transition will reduce air pollution and save lives and costs associated with air pollution. Experts have already analyzed and identified three distinct feasible pathways to achieve emissions reductions in Washington State 80% below 1990 levels by 2050. Each of these pathways retains an economy and lifestyle similar to today, employs commercially demonstrated or near-commercial technologies, does not retire infrastructure early, ensures the reliability of the electric system, and limits unsustainable use of biomass and hydropower resources. Experts point out, however, that the 80% reduction in statewide emissions by 2050 pathway results in cumulative CO_2 emissions that are double what they would be if the state were to achieve a 96% reduction by 2050, consistent with the scientific prescription of returning to 350 ppm of atmospheric CO_2 by 2100. Experts also agree that an 80% reduction by 2050 pathway will lead to at least 2 degrees C of warming, which will be catastrophic. In order to retain a reasonable chance to preserve a stable climate system, the state needs to transition almost completely off of natural gas and gasoline and diesel fuel within the next 15 years, and then generate 90% of its electricity from carbon-free sources by 2030. Every year of delay makes it that much more difficult to physically accomplish the transition without overshooting the target and further endangering Plaintiffs.

Defendants' Long-Standing Knowledge and Perpetuation of Climate Danger

115. Since at least the late 1980s, well before these Plaintiffs were born, Defendants have been aware of the dangers of climate change. Washington initiated two global climate change assessment projects in 1988: the Sea Level Rise Response Program and Washington Environment 2010. The Sea Level Rise Task Force and later the 2010 Global Warming and Ozone Depletion Subcommittee conducted a comprehensive review of the issues. The Sea Level

Rise Project predicted that a doubling of atmospheric CO_2 concentrations would lead to 3 to 6 feet of sea level rise in Washington by 2100. Defendant Ecology also forecasted this rise would lead to the drowning of coastal wetlands, increased shoreline erosion and landslides, decreased fish and shellfish productivity and harvests, intensified storm surges and coastal flooding, the contamination of groundwater, and the corrosion of utility and waste storage infrastructure.

116. In 1989, Defendant Ecology reported that a doubling of atmospheric CO_2 concentrations would lead to a 3° to 5°C temperature increase, increasing rain fall, decreasing snowpack, shifting peak stream flows, a possible decrease in water available for irrigation, the dwindling or disappearance of Washington's salmon, and instability in marine food chains. An Ecology report from this era acknowledged the "difficult policy choices, particularly with respect to decisions regarding protection or abandonment of developed areas" that will arise with sea level rise:

> Clearly we will choose to protect lowlying areas such as Harbor Island in Seattle, the Olympia central business district, and the Tacoma waterfront – the cost of relocation would be substantially greater than [the] cost of [adaptation]. It is unlikely that we would choose to spend public monies [to] protect private agricultural, timber, or rural residential lands – the cost of protection would likely exceed the value of the land and structures. The difficult choices will arise with respect to lowlying residential areas where the cost of protection slightly exceeds the value of the developed properties.

117. In 1989, scientists at the University of Washington Climate Impacts Group described the possible impacts of human-induced climate change and advised that "[t]his knowledge must make its way from the realm of research to the realm of decisions, *and be used in decisions*. . . . Meeting the challenges posed by climate variations and climate change will require considerable revision of the policies and practices concerning how the region's natural resources are managed."

118. In the Spring of 1989, the state legislature adopted Joint Memorial No. 8011 finding that "[a]n acceleration of sea level rise due to global warming caused by the greenhouse effect will aggravate existing as well as cause additional problems including (1) An increased frequency and intensity of coastal storm surges and flooding, coastal erosion, and landsliding threatening life and property; (2) Loss of wetlands and shallow water habitat essential to the economic health of this state's fish and shellfish industry; (3) An eventual inundation of low-lying coastal lands causing an adverse financial and fiscal impact upon private and public coastal property and facilities owners." The state legislature asked the U.S. Congress to "continue to support federal and international greenhouse effect and sea level rise research and management programs."

119. On November 21, 1989, the state legislature's House Energy and Utilities and Environmental Affairs Committees held a Joint Legislative Workshop on Ecology's Global Climate Change Programs. The legislators learned that a sea level rise of 3-6 feet is anticipated by 2100, "with a continuing sea level rise continuing beyond that time." The report from Ecology indicated that "Washington's energy system has not yet been analyzed in detail with respect to possible climate changes from the greenhouse effect. However, preliminary analysis reviewed in this report suggests that an increase of 4.5 degrees C in the Northwest could have significant impacts on electricity supply and demand."

120. In 1990, Defendant Ecology acknowledged, "[t]he potential impacts of global warming dwarf those of other environmental threats." Thus, it has been nearly thirty years since Defendants acknowledged "it was clear the societal threat that climate change presents is of a nature and magnitude unlike any other we have faced."

121. Beginning in the early 1990s, Governors of the State of Washington, as well as Ecology, publicly acknowledged the climate crisis and recognized the need to take action to address

climate change to protect the rights of young people. Former Governor Gregoire said in the early 1990s that, "[h]istorically, Washington has risen to great challenges, and we can meet the challenge of climate change. Our children's future depends on the action we take."

122. In 2005, in a report to the legislature, Ecology recognized that "Washington appears to be moving into ongoing climate change." One year later, Ecology issued another report finding that "[c]limate change impacts are visible in Washington State and their economic effects are becoming apparent" and that "[t]he economic effects of climate change in Washington will grow over time as temperatures and sea levels rise." Ecology predicted that the economic consequences of climate change in Washington are likely to grow as temperatures increase. Ecology stated that the needed efforts to reduce greenhouse gas emissions would create economic opportunities for the state. Ecology found that "[b]y focusing now on greenhouse gas emissions reduction while taking prudent steps to prepare the state for climate change impacts, Washington can do its part to resolve global climate change and increase the likelihood that its citizens will prosper in a time of unprecedented changes."

123. In a 2007 Ecology document providing factual information about Washington's retreating glaciers and declining snowpack, Ecology acknowledged "[s]everal well documented trends in Washington provide compelling evidence in support of Washington's aggressive response to climate change."

124. A decade ago, in 2008, Ecology published, *Growing Washington's Economy in a Carbon-Constrained World: A Comprehensive Plan to Address the Challenges and Opportunities of Climate Change*. In the Plan, Ecology stated "[t]he urgent need for a veritable energy revolution, involving a wholesale global shift to low-carbon technologies, is now widely recognized." Ten years later, no such "energy revolution" has been pursued by the Defendants.

125. The "central policy" of the plan was participation in a regional cap-and-trade program designed by the Western Climate Initiative, but this never occurred.

126. Ecology recognized in 2008 that "[b]y capping emissions, we will achieve the environmental certainty scientists say is critical if we are to slow the rate of climate change." Ecology acknowledged that even without a cap-and-trade program, it could regulate emissions under Ecology's existing authority under Washington's Clean Air Act.

127. Ecology concluded in 2008 that it possessed significant regulatory authority to reduce emissions in the transportation sector, including operational standards and fuel standards.

128. In 2007, Governor Gregoire established the Climate Action Team, a group of Washington business, academic, tribal, State and local government, labor, religious, and environmental leaders. Upon information and belief Defendants have not implemented many recommendations originally developed by Washington's Climate Action Team and then endorsed by Ecology in its 2008 plan.

129. In response to a May 2009 executive order directing Ecology to issue recommendations to address climate change, Ecology prepared the April 2012 report *Preparing for a Changing Climate: Washington State's Integrated Climate Response Strategy*. Although the report details "how existing state policies and programs can better prepare Washington State to respond to the impacts of climate change," upon information and belief Washington has completed only 12 of the report's 287 goals.

130. In 2011, the state recognized that "generating electricity from the combustion of coal produces pollutants that are harmful to human health and safety and the environment," but in spite of this knowledge, the state continues to get about 15% of its energy from combustion of coal and Defendants have affirmatively authorized and encouraged the use of coal as a power

source in the state of Washington. In fact, the state has authorized the burning of coal for energy from Washington's sole coal-fired generating station through 2025. RCW 80.80.040(3)(c)(i).

131. In spite of the current scientific knowledge regarding the use of fossil fuels and the need to transition off of fossil fuels in the near-term, in 2011 then-Governor Gregoire executed a Memorandum of Agreement explicitly finding that energy generated by coal "is a climate responsible transition product that will substantially contribute to the state meeting its climate change policies and achieve the greenhouse gas reductions in RCW 70.235.020(1)(a)." This MOA purportedly binds the ability of future legislators to require near-term reductions of greenhouse gas emissions from Washington's sole coal-fired generating station, even if such reductions are scientifically and legally required.

132. In 2012, Defendant Commerce issued the Washington State Energy Strategy in response to a legislative directive. This strategy recognizes that "evidence has accumulated of damage to health, safety and economic well-being caused by climate change" and that "energy production and consumption drive climate effects." However, "the 2012 Energy Strategy does not address the effects of climate change or incorporate climate projections of temperature and hydrology in the forecasting of supply and demand." Defendant Commerce promised that "future updates will" address climate change, but the energy sector is not currently on track to meet the state's greenhouse gas reduction requirements.

133. In June 2014, a coalition of young people aged 10-14, including some of these Plaintiffs, filed a petition for rulemaking with Ecology under the APA seeking a rule capping and regulating carbon dioxide emissions based upon best available science. Ecology denied that petition for rulemaking and has taken no further administrative actions designed to reduce carbon dioxide

emissions in the state of Washington as called for by current science, in spite of additional requests to do so.

134. In December 2014, Ecology issued a report entitled *Washington Greenhouse Gas Emission Reduction Limits: Report Prepared Under RCW 70.235.040*, Ecology Publication No. 14-01-006. This report summarized the current climate change science and found that "[c]limate change is not a far off risk. Globally, it is happening now and is worse than previously predicted, and it is forecasted to get worse. We are imposing risks on future generations (causing intergenerational inequities) and liability for the harm that will be caused by climate change that we are unable or unwilling to avoid. Washington State's existing statutory limits should be adjusted to better reflect the current science. The limits need to be more aggressive in order for Washington to do its part to address climate risks . . . ."

135. Notwithstanding its recognition of the urgency of the climate crisis and the social and intergenerational injustices resulting from its ongoing energy and transportation system actions and inaction on emission reductions, in its December 2014 Report, Ecology recommended further delay. Ecology recommended that no changes be made to the state's statutory emission limits until after the December 2015 United Nations Framework Convention on Climate Change Conference of the Parties (COP) in Paris, France in spite of being in possession of scientific information confirming the need to update the limits.

136. As of 2014, twenty states have reduced their energy-related carbon dioxide emissions by more than Washington State.

137. In June 2015, Governor Inslee directed Ecology to abandon its efforts to develop a Clean Fuel Standard designed to reduce the overall carbon intensity of transportation fuels and signed into law a bill that prohibited promulgation of a Clean Fuel Standard for Washington State. This

directive was in response to a 2015 legislative provision in the transportation budget discouraging the state from adopting a clean fuel standard using executive authority prior to July 1, 2023.

138. On July 28, 2015, in response to the youth's petition for rulemaking seeking a rule regulating carbon dioxide emissions based upon best available science, Governor Inslee directed Ecology to use its existing statutory authority under RCW 70.94 and 70.235 to develop a rule that would cap carbon emissions in Washington, stating: "Carbon pollution and the climate change it causes pose a very real existential threat to our state. Farmers in the Yakima Valley know this. Shellfish growers on the coast know this. Firefighters battling Eastern Washington blazes know this. And children suffering from asthma know this all too well and are right to question why Washington hasn't acted to protect them." The Governor did not direct Ecology to promulgate a rule based upon best available climate science targeted to achieving climate stability as requested by the youth, but rather directed the rule be targeted to achieving the dangerous GHG emission limits contained in RCW 70.235.020, limits Ecology admits are not based on current science and need to be more aggressive. The Governor also did not direct Ecology to develop a comprehensive plan or strategy to reduce GHG emissions as called for by best available science and by Ecology's 2008 strategy.

139. On January 5, 2016, Ecology released its first proposed Clean Air Rule. On February 26, 2016, Ecology withdrew its proposed Clean Air Rule. After being court ordered to promulgate the Clean Air Rule by the end of 2016 in *Foster v. Wash. Dep't of Ecology*, No. 14-2-25295-1 (Wash. Super. Ct. May 16, 2016) *rev'd* No. 75374-6-I (Wash. Ct. App. Sep. 5, 2017) (unpublished), Ecology released a modified Clean Air Rule on June 1, 2016. After soliciting both written and oral comments, the final version of the Clean Air Rule was released on

September 16, 2016. The Clean Air Rule was supported by the International Emissions Trading Association, a business organization that includes fossil fuel companies such as BP, Chevron and Shell. Ecology specifically exempted the state's only coal-fired generating station from compliance with the minimal emission reductions required by the Clean Air Rule. The Clean Air Rule has since been partially invalidated by a Thurston County Superior Court judge and its viability remains in question. *Ass'n of Wash. Business, et al. v. Ecology, et al.*, No. 16-2-03923-34 (consolidated) (Thurston County Super. Ct.).

140. In December 2016, in response to a court order issued in *Foster v. Wash. Dep't of Ecology*, No. 14-2-25295-1 (Wash. Super. Ct. May 16, 2016) *rev'd* No. 75374-6-I (Wash. Ct. App. Sep. 5, 2017) (unpublished), Ecology made a recommendation to the legislature to update the state's existing greenhouse gas emission reductions in RCW 70.235.020. Specifically, Ecology advised the legislature to enact greenhouse gas emission reductions of 80% below 1990 levels by 2050, a level which would do little to avert the climate crisis and would lock in dangerous amounts of temperature increase and sea level rise. The legislature did not act on this recommendation and as of today, Washington's existing greenhouse gas reduction limits are "less stringent than most other states with emission limits"[2] and are not consistent with what the scientific consensus says is needed to stabilize the climate system.

141. In December 2016, Defendant Commerce issued its most recent Report and State Energy Strategy Update to the Legislature. The Report acknowledges that "the region's carbon dioxide emissions from the electricity sector could be reduced by 20 million metric tons, from 54 million metric tons in 2015 to 34 million metric tons by 2035, due to retiring coal generation, and could

[2] Ecology, Washington Greenhouse Gas Emission Reduction Limits: Report Prepared Under RCW 70.235.040 (December 2016) at 21.

be reduced to 16 million tons by 2035 with investments in efficiency and demand management," but the report contains no requirements or recommendations to facilitate the state's transition to 100% renewable energy or to decarbonize Washington state. Nor does it demonstrate compliance with the state's mandatory GHG emission reduction requirements.

142. In December 2016, Defendant Commerce recognized that "Washington's reliance on fossil fuels has led to steady growth in emissions of carbon dioxide, the principal human-caused greenhouse gas" and that "Washington's continued dependence on fossil fuels, particularly petroleum, for energy has led to growth in emissions of CO_2, for much of the last 25 years." Defendants Ecology and Commerce have acknowledged that Washington is not currently on track to meet its 2020 greenhouse gas reduction targets set in RCW 70.235.020.

Defendants' Systemic and Aggregate Actions Allowing and Perpetuating Climate Change Danger Violate Plaintiffs' Public Trust and Other Constitutional Rights

143. As described above, Defendants are responsible for establishing and implementing state-wide energy and transportation policy.

144. In spite of the long-standing knowledge of climate danger described above and Defendants' rhetoric regarding the need to act on climate and "solve climate change," Defendants have a systemic policy, custom and practice of authorizing projects, activities, and policies that cause emissions of dangerous and substantial levels of GHG pollution into the atmosphere. Defendants have also acted to affirmatively exempt many emitters from requirements to reduce greenhouse gas emissions and failed to fully implement and enforce plans and recommendations designed to address the climate crisis.

145. Defendants' actions reflect system-wide deficiencies in the management of Public Trust resources that, taken as a whole, subject Plaintiffs to substantial risk of serious harm and demand judicial intervention. For example:

a. In 2013, the most recent year for which data is available, Washington was responsible for emitting 94.4 million metric tons of greenhouse gases (CO_{2e}), 6 million metric tons *more* than the 1990 baseline of 88.4 million metric tons CO2e. Greenhouse gas emissions went up approximately 8.7% between 1990 and 2010.

b. In 2013, the largest sources of greenhouse gas emissions in Washington resulted from burning fuels for transportation purposes (42.8% of statewide emissions) with gasoline-burning vehicles accounting for 23.0% of statewide emissions. The next largest source of greenhouse gas emissions was electricity (19.3%), and specifically coal-fired electricity that produces 14.1% of statewide emissions. The third largest source of emissions comes from fuels combusted in residential, commercial, and industrial buildings (22.3%). This is primarily natural gas, generating 12.8% of statewide emissions.

c. The U.S. Energy Information Administration reports that Washington emissions from fossil fuel consumption were 70.3 MMT CO_2 in 2011 and grew by 4% to 73.4 MMT CO_2 in 2014.

d. According to Washington State official greenhouse gas inventories, statewide transportation emissions have increased from the 1990 baseline of 37.5 MMT CO_{2e} to 40.4 MMT CO_{2e} in 2013. This coincides with a 37% increase in the number of vehicle miles driven on state highways between 1990 and 2013.

Vehicle miles travelled on state highways grew by 9% in just five years between 2011 and 2016. This is in spite of a legal requirement to decrease the annual per capita vehicle miles traveled by 18% by 2020. 40 R.C.W. 47.01.440(1).

e. State government operations are responsible for 1% of total statewide emissions (941,667 metric tons CO_{2e}). In 2015, Defendant Ecology emitted 4,146 metric tons of CO_{2e}, largely from agency buildings and transportation. In 2015, Defendant WSDOT emitted 248,814 metric tons of CO_{2e}, well above its 2020 goal.

f. Of the 6.4 million cars and trucks registered in the state of Washington, only 25,000 (less than 4%) are electric.

g. In 2015, Washington used 2.61 billion gallons of gasoline, with entities in Washington spending more than $6 billion annually on gasoline.

h. According to the US Energy Information Administration, Washington relied on petroleum to meet more than 1/3 (33.7%) of its total energy needs in 2015. Fossil fuels (petroleum, coal, and natural gas) provided more than half (54.1%) of total energy use in 2015. Petroleum fuels accounted for over 97 percent of transportation energy use in 2015.

i. Defendants authorize private parties to burn large areas of land, releasing significant quantities of GHG pollution into the atmosphere.

j. Defendants authorize and certify energy projects and facilities within the state of Washington that emit significant levels of greenhouse gases and inhibit and delay efforts to decarbonize Washington state.

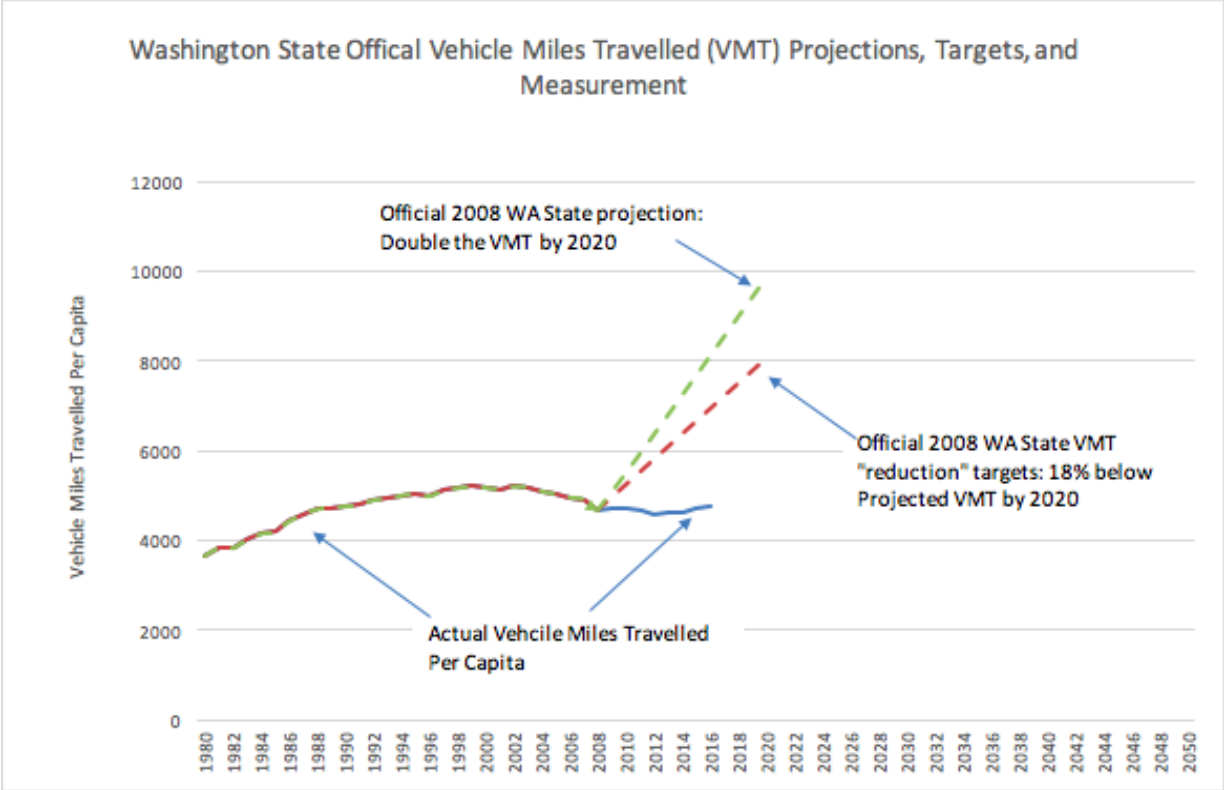
k. Defendants engage in a systemic pattern and practice of issuing permits across departments and offices without adequate consideration of climate change or adequate limits on the amount of greenhouse gas emissions that can be released.

l. Defendants have adopted and enforced GHG emissions standards for petroleum refineries that authorize dangerous levels of GHG emissions and do not put Washington on a path towards decarbonization.

m. Defendants have authorized substantial shoreline development permits for facilities that emit dangerous levels of greenhouse gas emissions. For example, on June 8, 2017, Defendant Ecology issued a shoreline development permit and granted a water quality certification for a proposed project to manufacture and export methanol at the Port of Kalama, a project that would emit 1.24 million tons per year of CO_{2e}, the annual equivalent of CO_2 emissions from 260,000 passenger cars. This amount of emissions authorized by Defendant Ecology would increase Washington's annual emissions by 1.28%.

n. Defendant Ecology has issued a Clean Air Rule that authorizes dangerous levels of GHG emissions, particularly in the near-term to the specific detriment of Plaintiffs, and does not put Washington on a path towards climate stability.

o. Defendants have explicitly adopted and endorsed vehicle miles traveled reduction requirements that lock in dangerous levels of GHG emissions from the transportation sector, as illustrated below:



p. Defendants have explicitly authorized TransAlta's Centralia Generating Facility, the state's largest emitter of greenhouse gas emissions, to continue emitting more than one million tons of greenhouse gases per year through 2025. As to this facility, Defendants have purported to have given up their rights to impose necessary, near-term greenhouse gas emission reductions to adequately address the climate crisis.

q. Defendants have exempted certain energy facilities that burn fossil fuels from present and future compliance with greenhouse gas emission standards.

r. Defendants have adopted and implemented a State Energy Strategy that does not fulfill the state's legal obligations to reduce greenhouse gas emissions, facilitate decarbonization of Washington state, and protect the rights of young people.

s. Defendants continue to invest in fossil fuel infrastructure and energy and transportation systems that are endangering Plaintiffs.

146. As a result of the dangerous levels of GHG emissions caused and contributed to by Defendants' aggregate acts, including but not limited to those identified above, Plaintiffs are being harmed and face an imminent and substantial risk of increasing and likely catastrophic harm.

147. Defendants' aggregate acts, taken pursuant to their systemic policy, custom, and practice of authorizing and implementing projects, activities, and plans that cause emissions of dangerous and substantial levels of GHG pollution into the atmosphere, are ongoing, in spite of their knowledge of their dangers and in spite of requests by these Youth Plaintiffs to mitigate the harm they are causing to Plaintiffs. There is a substantial risk that Defendants' aggregate acts will continue and will further deprive Plaintiffs of their rights. Among other things:

a. Defendants have persisted and continue to persist in a wrongful and systemic course of conduct affirmatively authorizing, permitting, and promoting dangerous levels of greenhouse gas emissions since at least the 1980s;

b. Defendants know and have long known that their wrongful and systemic conduct causes the rights of Plaintiffs to be violated;

c. Defendants have not implemented their authority to reduce Washington's greenhouse gas emissions by levels that preserve the rights of Plaintiffs; and

d. Plaintiffs reasonably believe similar illegal conduct will continue in the future in light of their status as young people, past experience, and Defendants' continuing policies, practices and customs.

148. Non fossil-fuel based energy systems across all sectors, including electricity generation and transportation systems, are feasible and technologically available to employ in Washington but are not being deployed and implemented in Washington on a scale or timeline consistent with GHG emissions reductions rates necessary to protect Plaintiffs.

CLAIMS FOR RELIEF

First Claim for Relief:
Violation of Youth Plaintiffs' Substantive Due Process Rights

149. Plaintiffs hereby re-allege and incorporate by reference each of the allegations set forth above.

150. Article I, Section 3 of the Washington State Constitution recognizes and preserves the fundamental right of citizens to be free from government actions that harm life, liberty, and property without due process of law. These inherent and inalienable rights reflect the basic societal contract of the Constitution to protect citizens and posterity from government infringement upon basic freedoms and basic (or natural) rights. The rights to life, liberty, and property have evolved, and the United States Supreme Court has recognized that there are certain liberty interests protected by the due process clause that are not explicitly enumerated in the Bill of Rights. These rights, including "unenumerated rights," belong to present generations as well as to our "posterity" (or future generations).

151. A stable climate system, including the atmosphere and oceans, is an essential component of Plaintiffs' rights to life, liberty, and property because it is foundational and fundamental to a free and ordered society.

152. Defendants, in pursuing and implementing policies, customs and pervasive practices that result in dangerous levels of GHG emissions, have breached their duty to refrain from actions

that result in a climate system that exposes plaintiffs to dangerous Climate Change Impacts and presents an unreasonable risk of danger, harm, and pain to plaintiffs.

153. Plaintiffs substantive due process rights have been infringed because Defendants have caused and contributed to dangerous levels of atmospheric CO_2 concentrations that interfere with a stable climate system required by Plaintiffs and future generations. The present CO_2 concentration and continuing CO_2 and GHG emissions, caused and contributed to by Defendants' historic and continuing actions, exposes the Plaintiffs to an unreasonable risk of harm and endangers Plaintiffs' lives, liberties, and property and other unenumerated rights, including the right to reasonable safety and the right to a stable climate system that preserves human life and liberties.

154. The affirmative aggregate acts of Defendants described herein have been and are infringing on Plaintiffs' right to life and liberty interests by causing dangerous CO_2 concentrations in our nation's atmosphere and dangerous interference with the stability of Washington's climate system. Defendants have knowingly endangered Plaintiffs' health and welfare by and through their affirmative aggregate acts. All of these actions by Defendants have cumulatively resulted in dangerous levels of atmospheric CO_2, which expose Plaintiffs to an unreasonable risk of harm and deprive Plaintiffs of their fundamental rights to life, liberty, and property and other unenumerated rights, including the right to reasonable safety, the right to a stable climate system that preserves human life and liberty, the right to personal security, and other liberty interests, such as their capacity to provide for their basic human needs, safely raise families, learn and practice their religious and spiritual beliefs, maintain their bodily integrity, and lead lives with sufficient access to clean air, water, shelter, food, and biodiversity

155. Furthermore, Defendants' acts, if not brought into constitutional compliance without delay, will contribute to effecting a complete deprivation of some of Plaintiffs' property interests by virtue of the sea level rise inundation that is an incident of Defendants' unlawful actions.

156. Defendants' acts and omissions described herein constitute a policy, pattern, practice, custom, final policymaking act and/or ratification of action that deprives Plaintiffs of constitutional rights.

157. Defendants' affirmative acts described herein have been and continue to be performed by Defendants and their agents and employees in their official capacities and are causing and contributing to the Plaintiffs' ongoing deprivation of rights secured by the Washington Constitution.

158. Defendants' affirmative acts described herein are the proximate result of the official policies, customs and pervasive practices of Defendants. The Defendants have been and are aware of all of the deprivations described herein and have condoned such conduct.

159. The affirmative aggregate acts of Defendants cannot and do not operate to secure, and are not narrowly tailored to achieve, a more compelling state interest than Plaintiffs' rights to life, liberty, and property, and other unenumerated rights, including the right to a stable climate system that preserves human life and liberty, the right to be free from an unreasonable risk of harm and the right to reasonable safety, nor can such aggregate acts satisfy intermediate scrutiny or rational basis review.

160. Plaintiffs are entitled to declaratory and injunctive relief against Defendants' conduct as described herein because they are suffering and will continue to suffer substantial and immediate irreparable injury from such conduct unless and until Defendants are restrained.

Second Claim for Relief:

State-Created Danger Violates Youth Plaintiffs' Substantive Due Process Rights

161. Plaintiffs hereby re-allege and incorporate by reference each of the allegations set forth above.

162. Defendants' acts and omissions as alleged herein deprive Plaintiffs of their clearly established and well-settled rights to life, liberty, and property under the Washington state constitution. For at least thirty years, Defendants have known about the danger to Plaintiffs' safety created by excessive emissions of CO_2 and other GHGs. Notwithstanding this longstanding knowledge, acting with full appreciation of the consequences of their acts, by and through their affirmative historic and ongoing aggregate actions Defendants knowingly caused and contributed dangerous interference with our atmosphere and climate system, placing Plaintiffs in a position of danger with deliberate indifference to their safety.

163. After knowingly creating this dangerous situation for Plaintiffs, Defendants continue to knowingly enhance that danger with deliberate indifference to Plaintiffs safety by authorizing, allowing, and endorsing activities resulting in ever greater and more dangerous levels of greenhouse gas emissions, thereby violating Plaintiffs' substantive due process rights under Article I, Section 3 of the Washington State Constitution.

164. After placing Plaintiffs in a position of climate danger, Defendants have continued to act with deliberate indifference to the known danger they helped create and enhance. A destabilized climate system poses unusually serious risks of harm to Plaintiffs' lives, personal security, and their bodily integrity and dignity. Defendants have had longstanding, actual knowledge of the serious risks of harm and have not taken necessary and feasible steps to address and ameliorate the known, serious risk to which they have exposed Plaintiffs. With deliberate indifference, Defendants have not implemented their own laws, plans, policies, and recommendations for

climate stabilization or any other comprehensive remedial measures to effectively reduce Washington's CO_2 emissions consistent with levels that would adequately protect Plaintiffs from dangerous climate destabilization. With deliberate indifference, Defendants have also pursued and implemented policies, customs and practices that authorize, allow, and lock in dangerous levels of CO_2 emissions.

165. Defendants, by pursuing and implementing policies, customs and pervasive practices that result in dangerous levels of GHG emissions, have placed Plaintiffs in a position of danger with deliberate indifference to their safety in a manner that shocks the conscience. Having placed plaintiffs in such a position, Defendants' ongoing act of omission in not reducing Washington's GHG emissions consistent with rates that would avoid dangerous climate interference constitutes a breach of their duty to protect plaintiffs' fundamental and inalienable constitutional rights to life, liberty, and property, personal security, reasonable safety, and to a stable climate system that sustains human life and liberty.

166. Defendants' acts and omissions described herein have caused and contributed to the violation of Plaintiffs' constitutional rights.

167. Plaintiffs are entitled to declaratory and injunctive relief against Defendants' conduct as described herein because they are suffering and will continue to suffer substantial and irreparable injury from such conduct unless and until Defendants are restrained.

Third Claim for Relief:
Violation of the Fundamental Right to a Healthful and Pleasant Environment

168. Plaintiffs hereby re-allege and incorporate by reference each of the allegations set forth above.

169. The legislature has expressly recognized that a right retained by the people of Washington is the "fundamental and inalienable right of the people of the State of Washington to live in a healthful and pleasant environment." RCW 43.21A.010.

170. This fundamental right is a substantive legal right constitutionally reserved through Article I, Section 30 of the Washington Constitution.

171. Without a stable climate system, Plaintiffs are unable to exercise their rights to a healthful and pleasant environment, nor their rights to life, liberty and property.

172. The actions of the Defendants in promoting, authorizing, encouraging, and facilitating greenhouse gas emissions are a contributing cause of the degree and pace of climate change. Defendants have authorized dangerous levels of GHG emissions and have not implemented their authority to mandate and ensure science-based reductions of GHG emissions within the state of Washington, thereby depriving Plaintiffs of their fundamental right to live in a healthful and pleasant environment.

173. The affirmative aggregate acts of Defendants cannot and do not operate to secure, and are not narrowly tailored to achieve, a more compelling state interest than Plaintiffs' rights to a healthful and pleasant environment, including the right to a stable climate system that sustains human life and liberty. Nor can Defendants' actions satisfy intermediate scrutiny or rational basis review.

Fourth Claim for Relief:
Violation of the Public Trust Doctrine

174. Plaintiffs hereby re-allege and incorporate by reference each of the allegations set forth above.

175. The Washington Constitution incorporates the common law Public Trust Doctrine, an ancient legal doctrine that is an attribute of sovereignty predating and preserved by Washington's Constitution.

176. Plaintiffs are beneficiaries of rights under the Public Trust Doctrine, rights that are secured by Article I, Section 30 and Article XVII, Section 1 of the State Constitution as well as under Washington common law. The Washington Supreme Court has interpreted Article XVII, Section 1, stating: "the sovereignty and dominion over this state's tidelands and shorelands, as distinguished from title, always remains in the state and the state holds such dominion in trust for the public. It is this principle which is referred to as the 'public trust doctrine.'" *Caminiti v. Boyle*, 107 Wash. 2d 662, 669-70, 732 P.2d 989 (1987).

177. Public trust rights secured by the Public Trust Doctrine include the rights of present and future generations to access, use and enjoy those essential resources that are of public importance to the citizens of the state of Washington. These vital natural resources include the air (atmosphere), water, seas, the shores of the sea, submerged lands, and wildlife. The overarching public trust resource is the climate system, which encompasses the atmosphere, waters, oceans, and biosphere. The public's interest in using and accessing such vital natural resources includes the right "of navigation, together with its incidental rights of fishing, boating, swimming, water skiing, and other related recreational purposes generally regarded as corollary to the right of navigation and the use of public waters." *Id*. (quoting *Wilbour v. Gallagher*, 77 Wn.2d 306, 316, 462 P.2d 232 (1969)).

178. "The navigable waters and the atmosphere are intertwined and to argue a separation of the two, or to argue that GHG emissions do not affect navigable waters is nonsensical. Therefore, the Public Trust Doctrine mandates that the State act through its designated agency to protect

what it holds in trust."[3] Harm to the atmosphere negatively affects water, wildlife, and fish resources, as well as other Public Trust Resources. Harm to the atmosphere also impairs the public's ability to use, access, enjoy, and navigate other Public Trust Resources, purposes and interests protected under the Public Trust Doctrine and for which Public Trust Resources must be managed, preserved, and protected. The dangerous levels of greenhouse gas emissions that Defendants have allowed into the atmosphere have a scientifically demonstrable effect on the public's ability to use, access, enjoy and navigate the state's tidelands, shorelands, and navigable waters and other Public Trust Resources.

179. The Public Trust Doctrine requires all sovereign governments as trustees to maintain control over, protect, preserve, and prevent waste and substantial impairment to Public Trust Resources for the beneficiaries of the trust—all present and future generations within the government's jurisdiction.

180. Defendants, as trustees, have the duty of loyalty to administer and manage Public Trust Resources in the interest of trust beneficiaries—both present and future generations of citizens. Defendants have the duty of impartiality to not favor one beneficiary over another. Present and future generations are equally protected classes of beneficiaries of the Public Trust Doctrine, both under Washington's Constitution and its common law. Thus, when carrying out its Public Trustee obligations, Defendant trustees must treat present and future generations equally and cannot be shortsighted. Defendants, as trustees, may not manage Public Trust Resources in a manner that benefits the present class of beneficiaries at the expense and to the detriment of future beneficiaries.

[3] *Foster, et al. v. Ecology*, No. 14-2-25295-1 SEA (King County Superior Court) (Order Affirming the Department of Ecology's Denial of Petition for Rulemaking) (November 19, 2015).

181. Defendants, as trustees, have a duty of care to exercise appropriate skill, prudence, and caution in managing the Public Trust Resources.

182. Plaintiffs have no political representation in Washington but do hold these constitutional and public trust rights and may seek, in a court of law, to protect them. They are beneficiaries, both now and into the future, of the State's vital natural resources, which are secured by the Washington Constitution and the Public Trust Doctrine.

183. Defendants have unconstitutionally caused, and continue to cause and allow, substantial impairment to essential Public Trust Resources. Defendants have abdicated their control over and impermissibly alienated Public Trust Resources and have abrogated their duty of care to safeguard, and prevent substantial impairment to Public Trust Resources and the interests of Plaintiffs therein as the present and future beneficiaries of the Public Trust. Such abdication of duty abrogates the ability of succeeding members of the legislative and executive branches of state government to provide for the survival and welfare of our citizens and to promote the endurance of our state.

184. By and through their affirmative acts, Defendants have abdicated control over substantial portions of the atmosphere in favor of the short-term interests of private parties, allowing them to treat the state's atmosphere as a dump for carbon emissions. These affirmative acts prejudice the Public Trust rights and interests of Plaintiffs and future generations of beneficiaries in violation of Defendants' duties of loyalty, impartiality, and prudence. In so doing, Defendants have abrogated their duty of care as trustees to manage the atmosphere in a manner that promotes and does not substantially impair the public interest. Such abdication of control abrogates the sovereign powers of succeeding members of the executive and legislative branches of state government to provide for the survival and welfare of Plaintiffs.

Fifth Claim for Relief:
Violation of the Equal Protection Clause

185. Plaintiffs hereby re-allege and incorporate by reference each of the allegations set forth above.

186. The equal protection clause of Article I, Section 12 of the Washington State Constitution prohibits Defendants from taking actions that harm the climate system the stabilization of which is essential to Plaintiffs' fundamental rights as set forth above.

187. Acting under color of state law, Defendants have a systemic policy, practice, and custom of delaying action to reduce greenhouse gas emissions and pursuing affirmative aggregate acts, policies, practices and customs that cause and contribute to irreversible climate change. As a result, the harm caused by Defendants has denied Plaintiffs the same protection of fundamental rights afforded to prior and present generations of adult citizens. The imposition of this disability on Plaintiffs serves only to disrespect and subordinate them.

188. Plaintiffs, as young people under the age of 18, are a separate suspect and/or quasi-suspect, class in need of extraordinary protection from the political process pursuant to the principles of equal protection. As evidenced by their affirmative aggregate acts identified herein, Defendants have a long history of deliberately discriminating against children and future generations, including Plaintiffs, in exerting their sovereign authority for the economic benefit of industry and present generations of adults. Plaintiffs are an insular minority with no voting rights and little political power or influence over Defendants and their actions. Plaintiffs have immutable age and generational characteristics that they cannot change. They are the living generation that will be most affected by the actions of Defendants.

189. Plaintiffs have no avenue of redress other than this Court, as Plaintiffs cannot challenge

or alter the systemic policies, practices, customs, and actions of Defendants. Plaintiffs are and will disproportionately experience the irreversible and catastrophic impacts of a destabilized climate system and ocean acidification. The adults living in our country today will not experience the full scope of catastrophic harms that will be experienced by Plaintiffs.

190. For purposes of the present action, Plaintiffs should be treated as a protected class because the overwhelming majority of harmful effects caused by the acts of Defendants will occur in the future. As Plaintiffs include citizens presently below the voting age, this Court should determine they must be treated as a protected class, and state actions that disproportionately discriminate against and endanger them must be invalidated.

191. The affirmative aggregate acts of Defendants reflect a *de facto* policy choice to favor the present generation's interests to the long-term detriment of Plaintiffs – precisely the sort of dysfunctional majoritarian outcome that our constitutional democratic system of government is designed to check. Such a check is especially appropriate here because our country will soon pass the point where Plaintiffs will no longer be able to secure equal protection of the laws and protection against an uninhabitable climate system.

192. The aggregate acts, policies, practices and customs of Defendants, which discriminate against Plaintiffs as members of the protected class of youth, and with respect to their fundamental rights, cannot and do not operate to secure, and are not narrowly tailored to achieve, a more compelling state interest than Plaintiffs' rights to life, liberty, and property, and other unenumerated rights, nor their right to be free from unlawful discrimination under principles of equal protection, nor can such aggregate acts satisfy intermediate scrutiny or rational basis review.

193. The harm that Plaintiffs have suffered is caused in substantial part by Defendants'

aggregate acts that authorize dangerous levels of GHG emissions in the state of Washington.

194. Unless enjoined by the Court, Defendants will violate and cause violation of the constitutional rights of Plaintiffs.

195. As a result of Defendants' unconstitutional actions, Plaintiffs are entitled to declaratory and injunctive relief.

Sixth Claim for Relief:
RCW 70.235 is Partially Unconstitutional

196. Plaintiffs hereby re-allege and incorporate by reference each allegation set forth above.

197. RCW 70.235.020(1)(a) and RCW 70.235.050(1)(a)-(c) legalize dangerous levels of cumulative GHG emissions and allow the perpetuation of an unconstitutional energy and transportation system that harms the Plaintiffs.

198. By requiring only 25 and 50 percent overall statewide GHG emissions reductions by 2035 and 2050 respectively from 1990 emissions levels, RCW 70.235.020(1)(a) unlawfully authorizes ongoing GHG emissions at rates substantially greater than the emissions reductions necessary to stabilize the climate system and to avert the worst and most severe Climate Change Impacts.

199. By requiring only 15, 36, and 57.5 percent reductions in GHG emissions by state agencies from 2005 levels by 2020, 2035, and 2050 respectively, RCW 70.235.050(1)(a)-(c) unlawfully authorizes ongoing GHG emissions at rates substantially greater than the emissions reductions necessary to stabilize the climate system and to avert the worst and most severe Climate Change Impacts. GHG emissions that would continue under full compliance with RCW 70.235.020(1)(a)

and RCW 70.235.050(1)(a)-(c) would continue to cause dangerous Climate Change Impacts described herein.

200. On their face, RCW 70.235.020(1)(a) and RCW 70.235.050(1)(a)-(c) authorize substantial impairment of Public Trust Resources in violation of the Public Trust Doctrine and further constitute a breach of Defendants' fiduciary duties to protect and refrain from infringement of the constitutional and common law public trust rights of the Plaintiffs and the residents of Washington. Additionally, on their face RCW 70.235.020(1)(a) and RCW 70.235.050(1)(a)-(c) violate Plaintiffs' rights to substantive due process set forth in Claim 1.

201. RCW 70.235.020(1)(a) and RCW 70.235.050(1)(a)-(c)'s authorization of dangerous levels of GHGs to be emitted in the state through mid-century discriminates against Plaintiffs by exacerbating already-dangerous levels of atmospheric CO_2 and an increasingly dangerous climate system, the consequences of which will be irreversible and catastrophic in Plaintiffs' lifetimes. These statutory provisions unconstitutionally deprive Plaintiffs of equal protection of the law because the full impacts of excess atmospheric CO_2 and the destabilized climate system, caused in part by Defendants' conduct, will be disproportionately imposed upon minor children, including Plaintiffs.

202. RCW 70.235.020(1)(a) and RCW 70.235.050(1)(a)-(c) violate Plaintiffs' rights of equal protection under the law by discriminating against Plaintiffs as members of a protected class of youth in favor of the short-term economic interests of industry and present generations of adults and by further discriminating against Plaintiffs as youth with respect to their fundamental rights to life, liberty, property, and other unenumerated rights including their right to personal security, to reasonable safety, and to a stable climate system capable of sustaining human life and liberty. The discriminatory nature of these statutory provisions towards Plaintiffs' as members of the

class of youth, and with respect to Plaintiffs' fundamental rights, cannot and does not operate to secure, and is not narrowly tailored to achieve, a more compelling state interest than Plaintiffs' rights to life, liberty, and property, and other unenumerated rights, nor their right to be free from discrimination under principles of equal protection, nor can such aggregate acts satisfy intermediate scrutiny or rational basis review.

203. By enacting RCW 70.235.020(1)(a) and RCW 70.235.050(1)(a)-(c), the State has alienated to private polluters, and allowed waste of, the *jus publicum*, including but not limited to the air (atmosphere), water, seas, the shores of the sea, wildlife, and our climate system, which encompasses the atmosphere, waters, oceans and biosphere in violation of the Public Trust Doctrine secured by Article I, Section 30 and Article XVII, Section 1 of the State Constitution as well as under Washington common law.

204. By enacting RCW 70.235.020(1)(a) and RCW 70.235.050(1)(a)-(c), the State has abrogated its duty to promote the interests of the public in the *jus publicum* and has caused the substantial impairment of all Public Trust Resources within the state of Washington in violation of the Public Trust Doctrine secured by Article I, Section 30 and Article XVII, Section 1 of the State Constitution as well as under Washington common law.

205. RCW 70.235.020(1)(a) and RCW 70.235.050(1)(a)-(c) are unconstitutional on their face and violate the Public Trust Doctrine.

206. The unconstitutional provisions can be segregated and eliminated without destroying the purpose, intent, and other important provisions of RCW 70.235 that pertain to greenhouse gas monitoring, reporting, planning and emissions reductions. The act was intended to address climate change by ensuring an adequate inventory, reporting, and monitoring, creating a regional multisector market-based system, and developing a GHG reduction plan that reduces emissions.

Eliminating the unconstitutional targets will not destroy other provisions of the act and will ensure the act will be implemented in a manner that protects the constitutional rights of the Plaintiffs.

207. Having an emissions level target of 50% (statewide) and 57% (state agencies) by 2050 embedded in law inevitably permits the State and its agencies (Defendants) to violate constitutional rights of children, including the Plaintiffs. It is akin to saying in a statute that public education for children can be funded at 50%, or only 50% of public schools need be desegregated to protect the rights of African-American children. Absent court intervention, as history has shown, government will do the minimum required of it by the legislature, and young people will suffer. The State's current target to reduce emissions 50% by 2050 is *grossly inadequate*, maintains dangerous dependency on fossil fuels, and will put young people in the difficult position of being forced to choose between heated homes and stable coastlines; between expensive climate adaptation or energy rationing. The unconstitutional targets that lock in climate danger and threaten the lives and fundamental rights of these Plaintiffs should be segregated from the act and set aside as unconstitutional.

REQUEST FOR RELIEF

For the reasons set forth herein, Plaintiffs respectfully request that the Court issue the following relief:

A. Declare that Plaintiffs have fundamental and inalienable constitutional rights to life, liberty, property, equal protection, and a healthful and pleasant environment, which includes a stable climate system that sustains human life and liberty.

B. Declare that Defendants have constitutional duties under the Public Trust Doctrine to protect Washington's Public Trust Resources, including the atmosphere, from substantial

impairment, waste, and alienation, and to manage such resources prudently and with impartiality and loyalty to present generations, including Plaintiffs, and future generations and declare further that Defendants have violated those duties.

C. Declare that Defendants' systemic policy, practice, and customs described herein have materially caused, contributed to, and/or exacerbated climate change, in violation of Plaintiffs' fundamental and inalienable constitutional rights to life, liberty, property, equal protection, and a healthful and pleasant environment, including a stable climate system that sustains human life and liberty, and other unenumerated rights, including the right to be free from unreasonable risk of harm, and the right to reasonable safety.

D. Declare that Defendants have placed Plaintiffs' in a positon of danger with deliberate indifference to their safety in a manner that shocks the conscience such that Defendants' ongoing act of omission in not reducing Washington's GHG emissions consistent with rates that would avoid dangerous climate interference further violates Youth Plaintiffs' fundamental and inalienable constitutional rights to life, liberty, and property, to be free from unreasonable risk of harm, to personal security, and to a stable climate system that sustains human life and liberty.

E. Declare that RCW 70.235 authorizes dangerous levels of CO_2 emissions in violation of Plaintiffs' inalienable and fundamental constitutional and Public Trust rights and is therefore partially facially invalid.

F. Enjoin Defendants from acting pursuant to policies, practices, or customs that violate the Plaintiffs' rights under the Washington Constitution and Public Trust Doctrine;

G. Order Defendants to prepare a complete and accurate accounting of Washington's GHG emissions, including those emissions caused by the consumption of goods and services within the state;

H. Order Defendants to develop and submit to the Court by a date certain an enforceable state climate recovery plan, which includes a carbon budget, to implement and achieve science-based numeric reductions of GHG emissions in Washington consistent with reductions necessary to stabilize the climate system and protect the vital Public Trust Resources on which Plaintiffs now and in the future will depend;

I. Retain jurisdiction over this action to approve, monitor and enforce compliance with Defendants' Climate Recovery Plan and all associated orders of this Court;

J. Award Plaintiffs their reasonable attorneys' fees and costs; and

K. Grant such other and further relief as the Court deems just and proper.

Respectfully submitted this 16th day of February, 2018

s/ Andrea K. Rodgers
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