

February 3, 2020

The Honorable Michael Dembrow, Chair
Senate Committee on Environment and Natural Resources
Oregon State Legislature
Salem, Oregon

Subject: **Testimony of Mitch Rohse In Support of SB 1530**

Dear Chair Dembrow and Members of the Committee:

On January 17 of this year a three-member panel of the US Court of Appeals for the Ninth Circuit issued a ruling in *Juliana v. United States*. “Juliana” is Ms. Kelsey Juliana, of Eugene, Oregon. She and 20 other young people filed suit against the federal government in 2015 for its failure to combat the greenhouse gas emissions that cause global warming. The present administration fought the appeal every step of the way over a four-year period.

I mention the *Juliana* case here not because the January 17th decision marked a turning point in dealing with the critical issue of global warming. Alas, it did not. Rather, the panel punted. In a 2-1 ruling it said, “Reluctantly, we conclude that [the redress sought by plaintiffs] is beyond our constitutional power.” That ruling probably will be appealed to the next level (an *en banc* hearing before the Ninth Circuit), and perhaps then to the US Supreme Court.

What does make the January 17 *Juliana* case noteworthy, however, is the panel’s unanimity about global warming.* All three judges agreed global warming is real, it poses an existential threat, and immediate action is needed. I quote seven key points from the panel’s *majority* opinion here.

“In the mid-1960s, a popular song warned that we were ‘on the eve of destruction.’ The plaintiffs in this case have presented compelling evidence that climate change has brought that eve nearer. A substantial evidentiary record documents that the federal government has long promoted fossil fuel use despite knowing that it can cause catastrophic climate change, and that failure to change existing policy may hasten an environmental apocalypse.”

“The record leaves little basis for denying that climate change is occurring at an increasingly rapid pace.”

“Copious expert evidence establishes that this unprecedented rise stems from fossil fuel combustion and will wreak havoc on the Earth’s climate if unchecked.”

“The problem is approaching ‘the point of no return.’ Absent some action, the destabilizing climate will bury cities, spawn life-threatening natural disasters, and jeopardize critical food and water supplies.”

“The record also conclusively establishes that the federal government has long understood the risks of fossil fuel use and increasing carbon dioxide emissions.”

“The record also establishes that the [federal] government’s contribution to climate change is not simply a result of inaction. The government affirmatively promotes fossil fuel use in a host of ways, including beneficial tax provisions, permits for imports and exports, subsidies for domestic and overseas projects, and leases for fuel extraction on federal land.”

“The government by and large has not disputed the factual premises of the plaintiffs’ claims.”

If you accept — as I and many others do — the above conclusions from *Juliana*, then your committee faces this reality as it considers SB 1530:

- We know the planet is warming rapidly and the warming is accelerating.
- We know global warming is mostly “anthropogenic” — caused by humans.
- We know time is of the essence, as we are approaching a “point of no return.”
- We know the executive branch of our federal government, though fully aware of the problem, will not act. In fact, it may continue to “affirmatively promote” use of the very fossil fuels most likely to cause global warming.
- We know the judicial branch of government is reluctant to enter the debate.
- And we know the legislative branch of our federal government is paralyzed by partisan divides likely to preclude any national action to limit global warming.

All this means that prompt action by *state* legislatures is one of the few remaining options for undertaking meaningful action against global warming. Yes, Oregon is just one state, and a small one at that in terms of its impact on global climate. But if we and others like us don’t take action, who will?

In the eloquent words of *Juliana*’s dissenter, Judge Josephine Staton, “When the seas envelop our coastal cities, fires and droughts haunt our interiors, and storms ravage everything between, those remaining will ask: Why did so many

do so little?” I urge the committee to step away from those “who have done so little” and to join those who take action to avoid the impending climate crisis. Please support SB 1530.

Sincerely,

Mitch Rohse

*Link to the January 17, 2020, opinion in *Juliana v. United States*:
<http://cdn.ca9.uscourts.gov/datastore/opinions/2020/01/17/18-36082.pdf>