

COPY

ENDORSED
FILED
SAN FRANCISCO COUNTY
SUPERIOR COURT

2011 MAY -4 AM 1:08

CLERK OF THE COURT

BY: ~~_____~~
DEPUTY CLERK

1 **SHARON E. DUGGAN** (#105108; foxsduggan@aol.com)
2 **ATTORNEY AT LAW**
3 370 Grand Avenue Suite 5
4 Oakland, CA 94610
5 Telephone: 510-271-0825
6 Facsimile: 510-271-0829

7 **JENNIFER MAIER** (#251276; jennymaier@gmail.com)
8 **ATTORNEY AT LAW**
9 P.O. Box 5277
10 Berkeley, CA 94705
11 Telephone: 925-526-5193

12 **JULIA OLSON** (#192642;
13 jaoearth@aol.com)
14 **WILD EARTH ADVOCATES**
15 2985 Adams Street
16 Eugene, OR 97405
17 Telephone: 541-344-7066
18 Facsimile: 541-344-7061

19 **DAVID H. WILLIAMS** (#144479;
20 davidhwilliams@earthlink.net)
21 **LAW OFFICES OF DAVID H. WILLIAMS**
22 370 Grand Avenue Suite 5
23 Oakland, CA 94610
24 Telephone: 510-271-0826
25 Facsimile: 510-271-0829

26 *Attorneys for Plaintiffs*

27 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
28 **IN AND FOR THE COUNTY OF SAN FRANCISCO**

29 **ROBIN BLADES**, a minor, by **Wes Boyd**, her
30 guardian ad litem; **ISABELLA HARDY**, a minor, by
31 **Mark D. Hardy**, her guardian ad litem; **JORDAN**
32 **HOWARD**, **OLIVIA LOORZ**, a minor, by **Victoria**
33 **Loorz**, her guardian ad litem; **SARAH ROSE**;
34 **ADARSHA SHIVAKUMAR**, a minor, by **Kasturi**
35 **Shivakumar**, his guardian ad litem; **SERENA**
36 **WITHERSPOON**, a minor, by **Michele Witherspoon**,
37 her guardian ad litem,

38 **Plaintiffs,**

39 **v.**

40 **STATE OF CALIFORNIA**; **EDMUND G. BROWN,**
41 **JR**, in his official capacity as **Governor of the State of**
42 **California**, and **DOES 1- 20**,

43 **Defendants.**

44 **CASE NO:**
45 **CGC-11-510725**
46 **COMPLAINT**
47 **(Declaratory Relief,**
48 **Code Civ. Proc. § 1060)**

1 Plaintiffs, Robin Blades, Isabella Hardy, Jordan Howard, Olivia Loorz, Sarah Rose,
2 Adarsha Shivakumar, and Serena Witherspoon allege as follows:

3 **INTRODUCTION**

4 1. This case is about California's failure to protect the atmosphere to secure a future
5 for the Plaintiffs and all children.

6 2. There is no greater duty of parents than the protection and safety of their children.
7 Likewise, there is no greater duty of our government than the protection and safety of its
8 citizens, born and yet to be born. Our atmosphere – a thin blanket of gases surrounding the Earth
9 – allows humans and countless other species to exist and flourish on this planet. The
10 atmosphere, prior to large-scale and ongoing human alteration of its composition over the
11 industrial era, maintained the Earth's climate in a state that allowed human civilization and the
12 Earth's biodiversity to develop and prosper. But, when human activity disrupts that atmospheric
13 equilibrium, jeopardizing the safe climate-zone, human life on Earth is placed in grave danger.

14 3. Our world is in a global crisis: the atmosphere is quickly reaching a point of no
15 return, where both the load of greenhouse gases already in the atmosphere as well as the
16 continual annual emission of carbon dioxide will contribute to detrimental changes to Earth
17 processes which cause permanent injury to human health and safety, property, and the
18 environment.

19 4. Global heating is significantly and adversely impacting the Earth's climate.
20 Although some degree of global heating is a normal and natural phenomenon, the trend of global
21 heating in the past several decades has occurred largely as a result of human activities that
22 release heat-trapping greenhouse gases and intensify Earth's natural greenhouse effect. And it
23 has occurred at an accelerated rate, thereby changing Earth's climate. Greenhouse gases in the
24 atmosphere serve as a blanket over the Earth that prevents some of the heat emitted by the
25 surface from escaping to space. More greenhouse gases in the atmosphere mean more heat being
26 retained on Earth, with less radiating out to space. Greenhouse gas emissions accumulate in the
27 atmosphere and remain there for decades to centuries, thereby increasing the concentration of
28 greenhouse gases which trap heat and drive the other climatic changes which can be observed.

1 This abnormal climate change is unequivocally human-induced, is occurring now, and will
2 continue to occur unless immediate measures are taken to curtail it. Climate change is damaging
3 natural and human systems, and if unrestrained, threatens the planet's habitability for humans as
4 well as countless other species.

5 5. Climate change is a unique problem because it now threatens the integrity of the
6 biosphere in which human life and civilization has developed. Left unchecked, climate change
7 places our human civilization at risk. Observations over recent years, evidence of the Earth's
8 past climate, well-established scientific principles, and the results of sophisticated models of
9 climate unequivocally establish that changes caused by the warming of the planet will
10 detrimentally impact all aspects of life, including not just human health and welfare and the
11 environment, but commerce and the world economy, military security and the stability of
12 governments everywhere. Warming will further exacerbate many problems, such as global and
13 societal inequality, to become worse, with the impacts falling unequally both geographically and
14 socioeconomically. Global warming is a fundamental human rights issue for all.

15 6. California is particularly vulnerable to the impacts of climate change due to,
16 among other things, increased temperatures, reduced water supply, exacerbated air quality
17 problems, human health problems through heat stress, incidence of infectious diseases, ocean
18 loss of fisheries and marine ecosystems due to ocean acidification, and increased risk of asthma,
19 respiratory and other diseases. Rising sea levels threaten California's 1,100 miles of invaluable
20 coastal resources, real estate and natural habitats. These impacts, in turn, affect our agricultural
21 industry, through increased pests and pathogens and variations in crop quality and yield.

22 7. In the midst of this crisis, the State of California refuses to acknowledge that our
23 atmosphere – just like water, tidelands and fish and wildlife – is not susceptible to private
24 ownership, but is instead held by the sovereign government in trust for the benefit of the public.
25 While California prides itself as a leader in trying to address global warming, its failure to
26 embrace the atmosphere as a public trust resource exposes these Plaintiffs and all Californians to
27 inadequate protection of the atmosphere; inadequate carbon dioxide reductions leading to
28 continued growth in atmospheric carbon dioxide concentrations causing temperatures to rise,

1 bringing a host of changes that will make the world unlivable for these Plaintiffs, all children and
2 future generations. California must protect our atmosphere as a public trust resource for the
3 benefit of these Plaintiffs and future generations.

4 8. Plaintiffs bring this action for declaratory relief to establish the atmosphere as a
5 public trust resource, which imposes a continuing, mandatory obligation upon the State of
6 California under the public trust doctrine as a sovereign co-trustee to protect the atmosphere for
7 the benefit of these Plaintiffs and all people of the State, an obligation that requires preservation
8 of the atmosphere with safe levels of greenhouse gases for this and future generations.

9 9. The public trust doctrine requires the Defendants to hold vital natural resources in
10 "trust" for present and future generations of its citizens. These resources are so vital to the
11 well-being of all people that they must be protected by distinctive, long-standing judicial
12 principles. The atmosphere, including the air, is one of the crucial assets of the public trust,
13 providing an overarching mantle as a primary producer and sustainer for all other trust resources
14 such as the water of rivers, lakes, aquifers, snow, ice, and fisheries and wildlife. The public trust
15 imposes a duty on the State of California to affirmatively preserve and protect the people's trust
16 assets from damage or loss, and not to allow use of the asset in a manner that causes injury to the
17 trust beneficiaries, present and future. The sovereign trustee has an affirmative fiduciary duty to
18 prevent waste, to use reasonable skill and care to preserve the trust property and to maintain trust
19 assets. The duty to protect the trust asset means that the sovereign ensures the continued
20 availability and existence of healthy trust resources for present and future generations and in
21 furtherance of the self-sufficiency of California.

22 10. Given the magnitude of the problem and the immediate threat that faces these
23 Plaintiffs, the people of California and the State, California must concede that the atmosphere is
24 a public trust resource and fulfill its public trust responsibility to reduce the level of carbon
25 dioxide concentrations in the atmosphere that promises a livable future, and develop a
26 meaningful plan to ensure carbon dioxide emissions reductions occur consistent with what is
27 required to protect the atmosphere. Delay commits these Plaintiffs and all Californians to higher
28 levels of carbon dioxide in the atmosphere, greater global warming, and a host of human rights,

1 economic, public health, and ecological impacts.

2 **PARTIES**

3 **Plaintiffs.**

4 11. Plaintiffs are California children and young adults of diverse backgrounds and
5 residences, who bring this action because their personal and economic well-being is directly and
6 uniquely dependent upon clean air, water, land, wilderness, fish and wildlife, and forests; they
7 are threatened with injury from climate change due to increasing temperatures and excessive
8 heat, rising sea levels, loss of water resources, diseases and pests, loss of agricultural
9 productivity, wild fire, changes in precipitation patterns, extreme weather events, flooding, and
10 other consequences of climate change. By not protecting and preserving the atmosphere as a
11 public trust resource for these Plaintiffs and children, their lives will be subjected to one long
12 emergency of want and waste, deprived of the very essentials for life and liberty.

13 12. Plaintiffs understand that the failure to adequately reduce carbon dioxide
14 emissions **now** will ensure that warming continues to increase and that reductions will be ever
15 more difficult in the future. Plaintiffs know that the failure to act now circumscribes choices for
16 them in the future.

17 13. Plaintiff **Robin Blades**, a minor, is 14 years old and has lived in California all her
18 life. **Robin Blades** is represented in this action by her guardian ad litem and father, **Wes Boyd**.
19 She is a fourth generation Californian. Her great grandmother was in the 1906 earthquake.
20 Robin loves California and has no desire to live elsewhere. California is Robin's home and her
21 family's home. Robin Blades believes we must protect California. She is deeply concerned
22 about abnormal climate warming, and is harmed by the failure to protect California from the
23 impacts of global warming. Robin will be 53 in 2050.

24 14. Plaintiff **Robin Blades** enjoys the temperate climate, greenery, and animal life of
25 the Bay Area. She plays in a soccer league, hikes in the Berkeley hills, grows peas every
26 summer, makes sand castles at the beach, cooks with the fresh herbs, fruits, and vegetables of the
27 Central Valley, visits the farmers market every Thursday, bikes to Lafayette, shops in San
28 Francisco, snorkels in Hawaii, sleds in the Sierra, and photographs all the stunning views she

1 possibly can. She also hopes to someday sing in Rome, trek in Indonesia, and climb the
2 Himalayas. Any and all of these experiences that she wishes to preserve are endangered by the
3 Defendants' unwillingness to protect the atmosphere as a public trust resource.

4 15. Plaintiff **Robin Blades** is concerned about the impacts of global warming in
5 California because it means a progressive reduction in water supply and loss of food production,
6 which will directly affect her recreational, social, and educational interests as well as future
7 economic interests. Robin has studied the climate crisis enough to know that California is a
8 vulnerable place, particularly because it is so dependent on the snowpack runoff from the Sierra
9 for its water supply. That snowpack will be drastically reduced if temperatures rise as predicted.
10 She is harmed by the loss of food production in the Central Valley, which is necessary now and
11 in the future for herself, as well as for much of the United States.

12 16. Plaintiff **Robin Blades** is harmed by California's unwillingness to accept the
13 atmosphere as a public trust resource because she cannot rely on actual adequate reduction in
14 carbon dioxide emissions in a time frame that promises her a future – not only for her education,
15 her vocation, her recreational and cultural activities – but for her current and future family.
16 Robin Blades desires to pass on the California she has known and experienced to her children
17 and her children's children, and is harmed by the failure to take action immediately, which
18 deprives her of that opportunity. Robin Blades is suing the Defendants because the trust she has
19 placed in the Defendants has been broken, and she is harmed so long as California delays in
20 undertaking protection of the atmosphere as a public trust resource.

21 17. Plaintiff **Isabella Hardy**, a minor, is 9 years old and lives in Santa Monica,
22 California. **Isabella Hardy** is represented in this action by her guardian ad litem and father,
23 **Mark D. Hardy**. Isabella will be 48 years old in 2050. Isabella loves to play on the beach and
24 go to the ocean. She loves to be outdoors. Isabella does not know if she will be able to live in
25 Santa Monica when she is older because of global warming. She is concerned that global
26 warming will affect her home, not only by rising sea levels, but also because of erratic climate
27 events. Isabella is also concerned that her furry friends are dying, especially the polar bears.
28 She is also worried that there will be less oxygen because trees continue to be cut down. Isabella

1 is nervous for humans and animals. She fears that if this is how it is going to be, it will be hard
2 for her children and their children. She fears that the effects of global warming will affect not
3 only her family, but all families and the whole world. Isabella is harmed because California is
4 unwilling to take action now to accept the atmosphere as a public trust resource and protect the
5 atmosphere as a public trust resource.

6 18. Plaintiff **Jordan Howard** is 19 years old, lives in Los Angeles, and is currently a
7 college freshmen studying Political Science & Marketing at Santa Monica College. Jordan will
8 be 58 years old in 2050. Jordan lives with her parents and is the youngest of four children.
9 Jordan has a teenage brother and sister and a two-year old sister. When Jordan was in high
10 school, she learned about climate change and other environmental issues. At that time, Jordan
11 had never had a real lesson about climate change and the subject was foreign to her. After
12 learning about climate change, she was at first surprised that she had not known anything
13 previously of the effects, causes, and solutions to climate change. Jordan wondered why no one
14 taught regular people like herself about climate change; she was bothered by the apparent fact
15 that no one was concerned enough to educate people about climate change, and that political
16 leaders in California and in Washington DC were not doing enough to protect her and the planet.
17 Jordan decided that if the politicians, educators, scientists, community leaders, and parents were
18 not going to spread solutions, it was her job to do so.

19 19. Plaintiff **Jordan Howard** has traveled the country speaking about the importance
20 of sustainability, training youth to become leaders in their communities, and organizing youth
21 movements on issues of climate change at universities, high schools, middle schools, and
22 elementary schools. Jordan has become very passionate about environmental education and
23 green schools in the past four years. She believes that environmental issues as well as solutions,
24 nature efficiency, habitats for wildlife as well as marine life, should all be integrated into classes
25 outside of science. She believes education is necessary to educate people about why we should
26 care for the environment, animals, and people within it. Jordan spends a lot of time in nature
27 through her education work, and is enhanced by its beauty, relying on it as part of her present
28 and future world.

1 20. Plaintiff **Jordan Howard** has a two-year old sister. She was concerned when at
2 17 she learned that her parents were having a baby. After her sister was born Jordan felt a
3 greater sense of purpose. Her sister is remarkable, with beautiful little feet and little body, and
4 with small clothes; she takes in all actions from everyone around as if she is a sponge. Jordan's
5 little sister pays close attention to what Jordan says and does. Jordan wants her sister to grow up
6 in a world where she knows where her food comes from, everyone has a garden in their
7 backyard, and where sustainable renewable energy is the only way. Jordan wants her sister's
8 first car to be an electric car and for her to think petroleum is out of the ordinary. Jordan does
9 not want to preach a "sustainable future" to her little sister; Jordan wants her to live in a
10 sustainable present.

11 21. Plaintiff **Jordan Howard** is harmed by the failure of the State of California to
12 accept the atmosphere a public trust resource, because she fears that the natural resources she
13 loves and depends on are and will be harmed by not doing enough to reduce carbon dioxide
14 emissions and protecting the atmosphere as a public trust resource. Jordan is harmed because
15 she fears that the sustainable future she desires for herself, students she educates, and in
16 particular for her little sister, will not be realized.

17 22. Plaintiff **Olivia Loorz**, a minor, is 12 years old and lives in Ojai, California.
18 **Olivia Loorz** is represented in this action by her guardian ad litem and mother, **Victoria Loorz**.
19 Olivia will be 51 years old in 2050. Olivia has a clear picture of how she wants her future: she
20 wants to go to college, travel the world, write a book, get a dog, and enjoy nature. Olivia knows
21 that all kids have a picture like that, and that they think about their future every day; they think
22 about what job they are going to have when they grow up, where they are going to live, how
23 many children they will have. They do not want to think about climate change. Olivia believes
24 that children do not want to think about all of the species of animals that might not even be here
25 when they grow up; they do not want to think about droughts and floods and not having enough
26 water.

27 23. Plaintiff **Olivia Loorz** goes to the beach every day. She loves the water; it is the
28 number one thing that makes Olivia feel alive. To Olivia the water helps her feel like there is

1 hope for this world. Olivia feels alive in the ocean. Olivia is harmed by seeing the oceans
2 polluted and overflowing with garbage. Olivia is harmed by knowing that if global warming is
3 not dealt with adequately, the ocean will not be a part of her life in the near future.

4 24. Plaintiff **Olivia Loorz** is afraid that her vision for her future will not be available
5 because of climate change. Olivia is afraid that when she, and her whole generation, grow up,
6 they will be dealing with the climate crisis every day. Olivia is passionate about taking action to
7 fix this long term climate crisis that our human world has created. Olivia wants to help her
8 generation recognize the need to start living as if the future matters.

9 25. Plaintiff **Olivia Loorz** cannot presently vote, nor can her friends currently vote.
10 They cannot presently change laws. Olivia places her trust in government leaders to make good
11 decisions. But she sees government and the State of California failing to accept the atmosphere
12 as a public trust resource to be protected as such, which Olivia understands as necessary to
13 adequately reduce global warming. Olivia sees that California seems to care more about money
14 than about protecting our world for her and other children. Olivia knows that there are a lot of
15 children her age who feel like their voices do not matter. Olivia is harmed by California's
16 unwillingness to listen to her and other youth, who demand that California accept the atmosphere
17 as a public trust resource and protect it as such a resource, which Olivia believes is necessary to
18 provide a future for her and her generation of youth. Olivia is harmed by California's failure to
19 accept the atmosphere as a public trust resource because it causes harm to the natural resources
20 Olivia loves and relies on, particularly the ocean and water.

21 26. Plaintiff **Sarah Rose** is 18 years old and lives in Los Angeles, California. Sarah
22 will be 57 years old in 2050. Sarah is a senior in high school. She writes for her school
23 newspaper and this year, she launched the online edition of the paper. She loves music,
24 including her love of playing the guitar, singing, and going to concerts. Sports are a huge part of
25 her life, as she loves to be active and outdoors. Sarah relies on the need for clean air and water.
26 She is an avid runner, and was a member of her school cross-country team for four years. Sarah
27 tries to get out and run in her neighborhood as often as she can. One of her favorite routes
28 involves running along the beach, especially on beautiful sunny days. Sarah also plays softball

1 and is the captain of her team at school. Sarah will soon graduate from high school and attend
2 college in the fall. At college, Sarah is excited to explore and grow as a person through taking
3 interesting classes, gaining new experiences, and meeting lifelong friends. This past fall, she
4 saw "Waiting For Superman," a documentary that illustrated the serious flaws of the public
5 education system in America. The movie really inspired and moved Sarah to want to dedicate
6 herself to the task of fixing the broken system. Moreover, this desire to make a difference and to
7 help others has provoked her to aspire to possibly run for public office one day.

8 27. Plaintiff **Sarah Rose**'s personal goals and aspirations rest on maintaining the
9 quality of life that exists on Earth right now – an atmosphere that allows human beings to grow,
10 flourish, and live at the very least. Thus, she is dedicated to a movement to reverse the adverse
11 affects of global warming because her life, and the lives of those she cares about, rest on it.

12 28. For Plaintiff **Sarah Rose**, the climate crisis is a serious issue. She has taken
13 several steps to do her part in becoming less wasteful. She has made sure that her family
14 recycles. After learning about composting, an important process that removes CO2 from the air,
15 Sarah enrolled her family in efforts to assume responsibility to compost their food scraps. And
16 Sarah has chose to attend a college that values sustainability as much as she does, as seen
17 through their Biodiesel shop, LEED buildings, efforts to be carbon neutral by 2020, and more.
18 Sarah is concerned, however, because the efforts of a few cannot offset the hurtful practices of
19 many, including government. Sarah is harmed by the failure to adequately reduce carbon
20 dioxide emissions sufficiently, because it means soon she will not be able to go for her runs, play
21 softball, attend outdoor events like music festivals. In turn, this will adversely affect her ability
22 to improve our education system, or serve the needs of the people in her community. Sarah also
23 will be harmed because poor air quality impacts and loss of drinking water will not only impact
24 her, but also her current and future family and friends. Sarah wants a future for herself and her
25 family and the children she one day hopes to have, where global warming is no longer a threat to
26 their well being. Sarah is harmed by California's unwillingness to accept the atmosphere as a
27 public trust resource so that it can be fully protected as such a resource, and thus protect all those
28 resources Sarah depends on.

1 29. Plaintiff **Adarsha Shivakumar**, a minor, is nearly 18 years old, and lives in the
2 Bay Area in California. **Adarsha Shivakumar** is represented in this action by his guardian ad
3 litem and mother, **Kasturi Shivakumar**. He will be 57 years old in 2050. Adarsha is a senior at
4 the College Preparatory School in Oakland, and will graduate in June, 2011. He has been
5 accepted and will enroll as a freshman student at Stanford University in the fall, 2011.

6 30. Plaintiff **Adarsha Shivakumar** is a high-energy person, who feels as though he
7 has enough energy to power a large city. He is a good student, values learning, enjoys most
8 every subject, with a definite passion and strength in the sciences. He is always needing to
9 balance his schoolwork, extra curricular activities, and a normal teen life. When he is not doing
10 schoolwork on the weekdays, he swims on the school's varsity swim team. In addition, he is an
11 active member of the school's Green Council.

12 31. Plaintiff **Adarsha Shivakumar** enjoys the many natural wonders of California,
13 especially the beautiful landscape in the Bay Area. When he travels to India, he always goes to
14 the forests and spends time observing the wildlife. Adarsha also loves snorkeling, and has
15 snorkeled several times in the Maldives and in Hawaii. Due to these experiences, he values the
16 aesthetic and material properties of nature. He is acutely aware that these natural resources are
17 at risk, and that many are deteriorating due to climate warming.

18 32. Plaintiff **Adarsha Shivakumar** has long been committed to making the world a
19 better place. He cares deeply not only for his friends and family; he cares about everyone else as
20 well and tries to look beyond just the needs of the people around him to see a larger picture of
21 the world and its needs. As he has grown he has exposed himself to larger issues, with a passion
22 for understanding the world and its many crises, whether they be political, social, economic,
23 environmental, or otherwise. Adarsha works to maintain current knowledge of various issues in
24 the world. When the opportunity arises to make a change to make a better world, Adarsha tries
25 to seize it. Because of this desire to help create a better world, Adarsha has done environmental
26 work in India, Haiti, and in the Bay Area. He works with the Alliance for Climate Education,
27 spreading knowledge about climate change and actions that can be taken to help mitigate it
28 across the nation to thousands of students. In addition, he also works with Ashoka Youth

1 Venture, a venture program that helps young leaders establish youth-lead ventures of varying
2 types in their communities. On his own, Adarsha co-founded Project Jatropa, an international
3 non-profit collaboration dedicated towards alleviating rural poverty and environmental
4 destruction in rural south India by using the biofuel shrub *Jatropha curcas* to provide an
5 economically sustainable and environmentally friendly source of biofuel.

6 33. Plaintiff **Adarsha Shivakumar** is a passionate conservationist who is deeply
7 troubled by the current and future effects on California due to abnormal climate warming. He
8 recognizes the importance of combating climate change on every level - whether it be individual,
9 community, state, federal, or global. Adarsha joins in this action because he wants California to
10 acknowledge the atmosphere as a public trust resource, and protect it as a public trust resource to
11 create a more sustainable way of living that can be emulated in other places. Adarsha is being
12 harmed currently by California's unwillingness to consider the atmosphere as a public trust
13 resource, to be protected as such a resource, which would enable Defendants to take decisive
14 action to restore the carbon balance of the atmosphere.

15 34. Plaintiff **Serena Witherspoon**, a minor, is 14 years old and lives in Berkeley,
16 California. **Serena Witherspoon** is represented in this action by her guardian ad litem and
17 mother, **Michele Witherspoon**. Serena will be 53 years old in 2050. Serena's main focus and
18 goal is to be involved in the Performing Arts. She takes classes three times a week in this area at
19 the East Bay Center for the Arts in Richmond, California. She takes violin lessons weekly, and
20 is a member of her high school's (Berkeley High School) orchestra. Serena is a Teacher's
21 Assistant in ballet classes for kindergartners and first graders at East Bay Center for the Arts.
22 She treasures this opportunity. In her enrichment programs Serena learns techniques for theatre,
23 dance, music, and voice. All of this gives Serena wonderful opportunities to experience nature,
24 and art in nature.

25 35. Plaintiff **Serena Witherspoon** is concerned about the environmental crisis we
26 face from global warming. She does not understand why we face this crisis with inadequate
27 action by our governments. Serena feels that she, as a fourteen year old kid, has a clearer and
28 more rational perspective on the issue than many adults. Serena understands that the

1 environment is what keeps us all alive; it provides precious resources, and life! Serena loves
2 nature and delights in the resources which give life. Serena is upset that despite this beauty,
3 humans have not regarded our Earth as much more than a giant trash can.

4 36. Plaintiff **Serena Witherspoon** believes we cannot continue to push off our
5 responsibilities to the Earth. Serena believes we cannot continue to ruin it in the hopes that we
6 humans will live through it, if only in our lifetime, and that a life-altering problem will not occur.
7 Serena is not so optimistic about the future. She realizes that we need to try to reverse what has
8 been done before it is too late, and before we reach a point of no return. Serena understands that
9 each person's actions matter. Serena is committed to taking action, so she can take
10 responsibility for her own actions. Serena fears that a future with a cloud of smog will make the
11 air less safe to breath. She wants to ensure that this will never happen to her or the rest of her
12 family, or their future. Serena wants to insure that quality of life for all living things is not being
13 deteriorated. Serena is harmed by California's unwillingness to accept the atmosphere as a
14 public trust and protect it as such, which directly impacts Serena's right to clean air, natural
15 resources, and a quality of life for now and the future.

16 37. The above-described health, recreational, scientific, cultural, inspirational,
17 educational, aesthetic and other interests of Plaintiffs will be adversely and irreparably injured
18 by Defendants' failure to protect the atmosphere as a public trust resource, including establishing
19 and enforcing limitations on the levels of greenhouse gas (GHG) emissions, and CO2
20 specifically, as necessary to reduce the level of carbon dioxide (CO2) concentrations in the
21 atmosphere to provide a livable present and future for these Plaintiffs and all children.

22 38. Plaintiffs have standing to bring this action based on the public trust doctrine, as
23 enunciated by California courts which have recognized standing for members of the public
24 claiming violations of the public trust doctrine in cases such as *Marks v. Whitney* (1971) 6 Cal.3d
25 251, *National Audubon Society v. Superior Court* (1983) 33 Cal.3d 419, and *Center for*
26 *Biological Diversity v. FPL Group, Inc* (2008) 166 Cal.App.4th 1349.

27 **Defendants.**

28 39. Defendant **State of California** is a sovereign State of the United States and

1 trustee of trust resources pursuant to the public trust doctrine. The State, as trustee, holds the
2 duty to protect and manage public trust resources for the benefit of its people, including the
3 Plaintiffs and future generations. Defendant State of California has failed in its duty to recognize
4 atmospheric public trust resources and protect atmospheric trust resources, the current injury
5 which harms Plaintiffs.

6 40. Defendant **Edmund G. Brown, Jr.** is sued in his official capacity as the
7 Governor of the State of California. Governor Brown is obligated to adhere to the Constitution
8 of the State of California, to sign legislation and to act as the chief administrator of the State of
9 California, exercising the power and authority of his office consistent with the obligations of the
10 Constitution and other laws of the State and Country. As the highest ranking elected official in
11 the State, Governor Brown is charged with overseeing State actions, including the State's
12 implementation of its public trust duties. Defendant Governor Brown has failed in his duties to
13 oversee and manage the State and its agencies and departments in their conduct or lack thereof
14 regarding recognition and protection of atmospheric trust resources pursuant to the public trust
15 doctrine, causing injury to these Plaintiffs.

16 41. Defendants State of California and Edmund G. Brown, Jr. are collectively
17 referenced herein as "Defendants," "State," "California," or "State of California."

18 42. The true names and capacities, whether individual, corporate or otherwise, of
19 DOES 1 through 20, are unknown to Plaintiffs who therefore sue said Defendants by such
20 fictitious names and will seek leave to amend this Complaint when they have been ascertained.

21 **JURISDICTION & VENUE**

22 43. Jurisdiction of this court is invoked pursuant to California Code of Civil
23 Procedure sections 1060, 525 and 526. This court has jurisdiction to issue an injunction under
24 Code of Civil Procedure sections 525 and 526; and issue a declaration under Code of Civil
25 Procedure section 1060.

26 44. Venue is proper in this court under Code of Civil Procedure section 401(1)
27 because the Attorney General has an office in San Francisco County.

OUR CHILDREN'S FUTURE IS AT UNPARALLELED RISK

Our Atmosphere is Dangerously Heating Up.

45. Since the pre-industrial period, human beings have significantly altered the chemical composition of Earth's atmosphere and its climate system. We have changed the atmosphere and its climate system by engaging in activities that produce or release GHGs into the atmosphere – burning fossil fuels, driving cars, raising livestock on an industrial scale, and cutting down forests. The increase of GHG concentrations resulting from historic and current human activities has altered the Earth's ability to maintain the delicate balance of the energy it receives from the sun and radiates back into space.

46. Human-caused fossil fuel burning and the resulting climate change are already contributing to an increase in asthma, cancer, cardiovascular disease and stroke, heat-related morbidity and mortality, food-borne diseases, and neurological diseases and disorders.

47. These well-documented and observable impacts from the changes in our climate system show us that the current level of atmospheric GHGs (predominantly CO₂) has already taken the planet beyond the threshold of what scientists consider dangerous.

48. The Earth will continue to warm in reaction to concentrations of CO₂ from past emissions as well as future emissions. Warming already in the pipeline is mostly attributable to climate mechanisms that slowly heat the Earth climate system in response to atmospheric CO₂. This lag between GHG increases and climate warming, along with the very long lifetime of CO₂ in the atmosphere, demands that emissions reductions begin immediately in order to minimize future human-induced warming.

49. In addition to carbon dioxide, concentrations of other GHGs in the atmosphere have also increased due to human activities. Atmospheric concentrations of methane (CH₄), for example, have increased nearly 150% since the pre-industrial period, and they too are at higher levels than at any time in at least the last 800,000 years. Concentrations of nitrous oxide (N₂O) are also at the highest levels in at least the last 800,000 years, increasing by about 20% during the industrial era.

50. Atmospheric carbon dioxide (CO₂) levels are currently on a path to reach over

1 400 parts per million (ppm) by 2020. Absent immediate action to reduce CO2 emissions,
2 atmospheric CO2 could reach levels approximately as high as 1000 ppm and a temperature
3 increase of up to 9° F (5° C) by 2100. At these levels the Earth would be transformed and life
4 as we know it is unsustainable.

5 51. Every year we delay, the problem becomes more difficult to correct. Even if
6 global CO2 emissions were instantaneously halted – i.e., if fossil fuel emissions and
7 deforestation were abruptly terminated in 2011 – it would still take until approximately 2060
8 before CO2 levels would decline below 350 ppm. If global fossil fuel CO2 emissions continue
9 to grow at the rate of the past decade (about a two percent increase per year) until the time that
10 emissions are terminated, and termination does not occur until 2030 when CO2 levels have
11 reached about 450 ppm, CO2 would not return to 350 ppm until approximately the year 2250
12 (even if deforestation emissions were halted in 2010). With a 40-year delay (to 2050), CO2
13 levels would surpass 500 ppm, and would not return to 350 ppm until around year 3000.

14 52. Current science tells us that actual emissions of heat-trapping greenhouse gases
15 are growing more rapidly than the highest emissions scenarios used in previous studies. Since
16 2005, the scientific understanding of climate change has increased. Changes are happening
17 much faster than scientists had anticipated, particularly evidenced by sea level rise, more rapidly
18 melting ice sheets, and erratic weather and increasing land and ocean surface and troposphere
19 temperatures. Our understanding of what is needed to address the climate crisis has therefore
20 changed. What seemed reasonable even a few years ago is no longer sufficient in light of what is
21 known today. Every year we wait to meaningfully begin to restore the atmosphere to a balanced
22 state means we must do much more in the following year.

23 53. Global warming poses a serious threat to California's economic well-being,
24 public health, natural resources, and environment. The potential adverse impacts of global
25 warming include the exacerbation of air quality problems, a reduction in the quality and supply
26 of water to the state from the Sierra snowpack, a rise in sea levels and storm surges, resulting in
27 damage to and the displacement of thousands of coastal businesses and residences, damage to
28 marine ecosystems and the natural environment, and an increase in the incidences of infectious

1 diseases, asthma, and other human health-related problems. Society is currently unprepared for
2 these changes.

3 54. Average annual temperatures have been increasing in California since 1920. Due
4 to demographic changes, California is becoming more vulnerable to heat extremes and air
5 pollution, as these will especially affect the elderly, infirm, socially isolated, poor and outdoor-
6 working populations. Warming in urban areas is greater than the averages projected statewide,
7 with more serious health impacts on more people as temperatures increase. Temperature spikes
8 will occur from a higher base level. Overall, projected increases in extreme heat levels are
9 substantial, ranging from approximately double the historical number of extreme heat days for
10 inland cities such as Sacramento and Fresno, and up to four times present-day levels for
11 previously temperate coastal cities such as San Diego. Current-day heat wave conditions may
12 dominate summer months, and patterns of peak electricity demand will be hard to meet. This
13 means an increase in energy usage, particularly with increased reliance on air conditioning, will
14 occur.

15 55. California is the nation's leading producer of 74 different crops, and supplies
16 more than one-half of all domestic fruit and vegetables throughout the United States. It is
17 responsible for more than 90% of the nation's production of almonds, apricots, raisin grapes,
18 olives, pistachios, and walnuts. These crops are sensitive to multiple facets of climate change,
19 needing a certain amount of chill hours to mature. As temperatures during winter months warm,
20 the minimum requirement of chill hours will not occur, causing late or irregular blooming,
21 decreasing fruit quality and reducing production and economic yield.

22 56. The Sierra snowpack, on which California relies for water, has shrunk 10% in the
23 last 100 years. It is expected to decrease by as much as 25% in 2050. This will have a dramatic
24 and adverse impact on California and its water supply.

25 57. Sea-level rise is expected to accelerate and proceed at significantly higher rates
26 than thought as recently as 2005. Scientific projections indicate that it could be at least 8 inches
27 higher within 40 years and at least 1- 2 meters (3-6 feet) higher by 2100. Increasing sea level
28 rise is associated not only with the thermal expansion of the ocean water and melting of the land-

1 based ice, but also an increase in extreme sea-level events, such as storm surges. These coincide
2 with high runoff from rivers into areas such as the San Francisco Bay and the Delta region,
3 placing burdens on our aging levee structures and increasing the risk of catastrophic flooding.
4 Already, an approximate 8-inch increase in sea level rise has been recorded at the Golden Gate
5 Bridge in the San Francisco Bay over the past 100 years.

6 58. Global warming impacts forests, causing changes in stand density, decreased
7 growth, increased tree mortality and susceptibility to disease, and cause complex changes in the
8 interactions among species. The loss of forests will further prevent overall reduction of
9 greenhouse gas emissions, because trees and plants absorb CO₂.

10 59. The number of wildfires could increase by 12-53 percent statewide, depending on
11 the emissions scenario, with the larger increases in Northern California.

12 60. California is significantly responsible for the adverse climate conditions, as the 9th
13 largest greenhouse gas emitter in the world, at 12 tons per capita. California consumes 25%
14 more resources than the rest of the world. As the 5th largest economy in the world, California
15 holds a heightened responsibility to undertake protection of the atmosphere as a public trust
16 resource.

17 **Our Atmosphere Needs Immediate Protection.**

18 61. By altering the composition of the atmosphere, humans are currently causing the
19 planet to absorb more radiation at its surface than it emits to space. To protect Earth's climate
20 for these Plaintiffs, and the people of California, we must restore Earth's energy balance. If the
21 planet once again sends the same amount of radiant energy into space as it absorbs from the sun,
22 this will restore the planet's climate equilibrium.

23 62. Scientists have accurately calculated how Earth's energy balance will change if
24 we reduce long-lived greenhouse gases such as carbon dioxide. We need to reduce CO₂ by
25 about 40 parts per million to increase Earth's heat radiation sufficiently to restore the balance,
26 assuming the sum of all other (non-CO₂) drivers of climate change continues to be roughly zero.
27 That reduction would bring the atmospheric carbon dioxide amount back to the appropriate 350
28 parts per million (ppm).

1 63. To protect Earth's natural systems, average global peak surface temperature must
2 not exceed 1.8 ° F (1° C) above pre-industrial temperatures this century. To prevent global
3 heating greater than 1.8 ° F (1° C) and to protect Earth's oceans (an essential harbor of countless
4 life forms and absorber of greenhouse gases), concentrations of atmospheric CO2 must decline
5 to less than 350 ppm by the end of this century. However, today's atmospheric CO2 levels
6 exceed 390 ppm and are steadily rising, at a rate of over 2 ppm per year.

7 64. Even restoring the planet's energy balance will not immediately stop the warming
8 trend and sea level rise that is already in the pipeline, but it would help keep those rises relatively
9 under control, and subject to the control of human investment and ingenuity. It would also
10 prevent climate change from becoming a huge force for species extinction and ecosystem
11 collapse in the near future.

12 65. Fossil fuel emissions must decrease rapidly if atmospheric CO2 is to be returned
13 to a safe level (below 350 ppm) in this century. In addition, improved forestry and agricultural
14 practices can provide a net draw down of atmospheric CO2, primarily through reforestation of
15 degraded lands that are of little or no value for agricultural purposes, assisting in the return to
16 350 ppm.

17 66. To reduce CO2 in the atmosphere to 350 ppm by the end of the century, CO2
18 emissions need to peak in 2012 and then beginning in 2013, decline at a global average of at
19 least 6% each year, through 2050. After 2050, CO2 emissions should decline at 5% per year.
20 In addition, over the course of the century reforestation efforts would need to sequester an
21 additional 100 gigatons of carbon. Thus, carbon sequestering forests and soils must be preserved
22 and replanted, oceans must be protected and agricultural practices must improve. These
23 reductions are necessary to draw down the excessive CO2 from the atmosphere and to fulfill
24 California's public trust responsibilities.

25 67. If sovereign governments, including Defendants, do not immediately respond to
26 this crisis and act swiftly to reduce human-caused carbon dioxide emissions into the atmosphere,
27 the environment in which humans and other life have thrived will be dramatically, and possibly
28 catastrophically, damaged. If sovereign governments do not act immediately to adequately

1 reduce carbon dioxide emissions into the atmosphere, these Plaintiffs and future generations will
2 face mass suffering on a planet that may be largely uninhabitable. Without immediate action, the
3 catastrophic collapse of natural systems is inevitable. We need swift and concerted action
4 immediately to effectively reduce carbon emissions in the atmosphere.

5 THE ATMOSPHERE IS A PUBLIC TRUST RESOURCE

6 The Public Trust Doctrine is Broad and Far Reaching.

7 68. The public trust doctrine is a well-recognized legal doctrine in California and
8 nearly every other state. Though each state develops its own doctrine to meet the needs of its
9 people, the common origin and common purpose – to protect valuable shared resources –
10 persists with these variations.

11 69. The public trust doctrine is an ancient legal mandate establishing a sovereign
12 obligation in states to hold critical natural resources in trust for the benefit of their citizens. It
13 has been recognized by diverse state and federal authorities, reaching back to the Romans and
14 into modern times. Caesar Flavius Justinian, *The Institutes of Justinian*, Book II, Title I, Of the
15 Different Kind of Things (533) (“The things which are naturally everybody’s are: air, flowing
16 water, the sea, and the sea-shore.”); *Geer v. State of Connecticut*, 161 U.S. 519, 668 (1896)
17 (“There are some few things which . . . must still unavoidably remain in commonSuch
18 (among others) are the elements of light, air, and water” (citing William Blackstone, 2 BL
19 Comm. 14).); *Martin v. Waddell*, 41 U.S. 367, 413 (1842); *Illinois Central Railroad v. Illinois*,
20 146 U.S. 387, 452-453 (1892); *In re Water Use Permit Applications*, 9 P.3d 409, 447 (Haw.
21 2000) (“The public trust by its very nature, does not remain fixed for all time, but must conform
22 to changing needs and circumstances.”); *Matthews v. Bay Head Improvement Ass’n*, 471 A.2d
23 355, 365 (N.J. 1984) (“Archaic judicial responses are not an answer to a modern social problem.
24 Rather, we perceive the public trust doctrine not to be ‘fixed or static,’ but one to be ‘molded and
25 extended to meet changing conditions and needs of the public it was created to benefit.’”);
26 *Weden v. San Juan County*, 958 P.2d 273, 283 (Wash. 1998) (“Since as early as 1821, the public
27 trust doctrine has been applied throughout the United States ‘as a flexible method for judicial
28

1 protection of public interests”). These cases demonstrate the public trust doctrine is
2 sufficiently broad in scope to apply to the atmosphere.

3 70. California’s public trust doctrine is a long-standing principle of law originating
4 from the Institutes of Justinian. It has evolved into a mature legal principle through numerous
5 decisions by the California courts. California’s jurisprudence has developed over the decades,
6 from cases that protected the public’s right to access public trust resources to decisions that
7 affirmed ecological values as something to be protected under the doctrine. California’s public
8 trust doctrine embraces recreational and ecological resources to include aesthetics, air, and
9 species habitat.

10 71. Protection of public trust resources as public trust assets in California law has not
11 only been expressed and reaffirmed numerous times by California courts, but is also manifested
12 in the State Constitution as well as statutory provisions of state law. California’s Constitution
13 embodies the public trust in protection for fish (Cal. Const. Art. I, §25), water, tidelands, and
14 navigable waterways (Cal. Const. Art. X §§ 1-5), Wild and Scenic Rivers (Cal. Const. Art. XA
15 §3) and ecological reserves (Cal. Const. Art. XB §§ 14-15); and our environmental quality law
16 protects common resources such as clean air and water, aesthetic, natural, scenic, historic
17 resources (Pub. Res. Code § 21001, subd.(b)).

18 72. California’s modern day public trust doctrine includes protections for those
19 resources which are “intrinsically important” to all citizens, requiring the state to maintain an
20 ongoing duty to preserve and protect the public’s interest in common natural resources.

21 73. The atmosphere might well be the most critical resource requiring protection
22 under the public trust doctrine, due not only to the grave situation facing current and future
23 generations, but also for the simple fact that the air we breathe, the air that feeds all living
24 processes on this planet is the best example of a resource intrinsically common to all and so vital
25 for the continuance and quality of life. The atmosphere is also vital because it critically affects
26 temperature and ocean and wind currents, all necessary to sustainability on our planet.

27 **As a Trust Resource, the Atmosphere is Entitled to Public Trust Protection.**

28 74. Similar to protections for water resources, the public trust doctrine allows the

1 State to independently exercise authority to manage atmospheric resources when those resources
2 are in danger of being depleted in a manner that does not benefit the people of the State despite
3 the existence of other statutory protections.

4 75. The State has both the authority and the power to protect public trust resources,
5 including the atmosphere. This affirmative duty requires California to manage the atmosphere
6 for the benefit of the people of the State, and to consider the uses and impacts to the atmosphere
7 as a trust resource in its decision-making processes. This duty may be delegated to agencies
8 within the State, but that delegation does not absolve the State itself of its obligations as the
9 primary trustee of the atmosphere. The State's duty is ongoing and continuous, requiring the
10 State to take into account and adjust to current conditions and act in light of changing
11 circumstances and new information, so as to ensure adequate protection of the public trust
12 resources for this and future generations.

13 76. California's constitution, statutes, and court decisions leave no doubt that the
14 atmosphere is squarely within the ambit of the public trust. Defendants have an affirmative
15 constitutional, statutory, and common law duty to protect the atmospheric trust for current and
16 future generations.

17 **FIRST CAUSE OF ACTION**
18 **(ATMOSPHERE AS PUBLIC TRUST - DECLARATORY RELIEF)**

19 77. Plaintiffs incorporate by reference all the allegations contained in the previous
20 paragraphs as though fully set forth herein.

21 78. The atmosphere is a public trust resource under California's public trust doctrine,
22 which establishes that the air, waters, submerged lands, fish and wildlife in the State of
23 California belong to the people of the State and that the State holds those resources in trust for
24 the people and for future generations. The public trust doctrine confers authority and a duty on
25 the State to protect and manage public trust resources for the benefit of its people.

26 79. The atmosphere is a resource common to all and intrinsically important to these
27 Plaintiffs and all citizens of California.

28 80. The quality of the atmospheric resource has a direct effect on waters, lands and

1 wildlife of California, as well as an effect on the quality of life of the people of California.

2 81. An actual and present controversy exists between Plaintiffs and Defendants
3 concerning California's public trust obligation to accept and hold atmospheric resources as
4 public trust resources.

5 82. Plaintiffs contend that the atmosphere is a public trust resource requiring
6 California to protect the atmosphere as a public trust resource for present and future citizens of
7 the State. Defendants deny that the atmosphere is a public trust resource requiring California to
8 protect the atmosphere as a public trust resource for the present and future citizens of the State.

9 83. Plaintiffs seek a judicial determination on the current controversy existing
10 between Plaintiffs and Defendants, and a declaration that the atmosphere is a public trust
11 resource and requiring California to protect the atmosphere as a public trust resource for present
12 and future citizens of the State.

13 84. Such a declaration is necessary and appropriate at this time in order that Plaintiffs
14 may ascertain the right to have Defendants act in accordance with the public trust doctrine for
15 protection and preservation of the atmosphere.

16 85. There is no adequate remedy at law for this injury to public trust resources.
17 Defendants will continue to deny that the atmosphere is a public trust resource requiring the
18 State to protect the atmosphere as a public trust resource for present and future citizens of the
19 State.

20 86. Unless restrained by this Court, Defendants will continue to act as if the
21 atmosphere is not a public trust resource. Absent a declaration from this Court, Defendants'
22 approach is likely to lead to repetitive litigation and a waste of public resources. Thus Plaintiffs
23 seeks declaratory relief that Defendants' failure to accept that the atmosphere is a public trust
24 resource and requiring California to protect the atmosphere as a public trust resource for present
25 and future citizens of the State is unlawful based on the actual and present controversy that has
26 arisen. (*See* Code Civ. Proc. § 1060.)

27 WHEREFORE, Plaintiffs pray for relief as hereinafter set forth.
28

**SECOND CAUSE OF ACTION
(PUBLIC TRUST OBLIGATION - DECLARATORY RELIEF)**

1
2 87. Plaintiffs incorporate by reference all the allegations contained in the previous
3 paragraphs as though fully set forth herein.

4 88. Defendants have not fulfilled their duty to hold atmospheric trust resources for the
5 benefit of its people. Defendants have a duty to protect the atmospheric trust resources.

6 89. Defendants' public trust duty is a continuous one. Presently, injury exists to
7 atmospheric resources, and it is the State's continuous and ongoing duty to correct this injury for
8 the benefit of its people.

9 90. An actual and present controversy exists between Plaintiffs and Defendants
10 concerning the State's public trust duty to protect and manage atmospheric resources pursuant to
11 the public trust doctrine.

12 91. Plaintiffs contend that the State has the affirmative duty to protect and preserve
13 the atmospheric trust as a public trust resource, including establishing and enforcing limitations
14 on the levels of greenhouse gas (GHG) emissions, and CO2 specifically, as necessary to
15 significantly slow the rate and magnitude of global warming so as to prevent climate change
16 from denying these Plaintiffs and all Californians a livable future. Defendants deny that
17 California has a duty to protect and preserve atmospheric resources as public trust assets.

18 92. Plaintiffs seek a judicial determination on the current controversy existing
19 between Plaintiffs and Defendants, and a declaration that California has an affirmative and
20 ongoing duty to protect and preserve the atmospheric trust as a public trust resource, including
21 establishing and enforcing limitations on the levels of greenhouse gas (GHG) emissions, and
22 CO2 specifically, as necessary to significantly slow the rate and magnitude of global warming so
23 as to prevent climate change from denying these Plaintiffs and all Californians a livable future.

24 93. Such a declaration is necessary and appropriate at this time in order that Plaintiffs
25 may ascertain the right to have Defendants act in accordance with the public trust doctrine for
26 the atmosphere.

27 94. There is no adequate remedy at law for this injury to public trust resources.
28

1 Defendants will continue to deny their public trust duty to protect atmospheric trust resources
2 unless a Court finds that they have such a duty.

3 95. Unless restrained by this Court, Defendants will continue to act without
4 exercising their affirmative obligation to protect and preserve the atmosphere as a public trust
5 resource, including establishing and enforcing limitations on the levels of greenhouse gas (GHG)
6 emissions, and CO2 specifically, as necessary to significantly slow the rate and magnitude of
7 global warming so as to prevent climate change from denying these Plaintiffs and all
8 Californians a livable future. Absent a declaration from this Court, Defendants' approach is
9 likely to lead to repetitive litigation and a waste of public resources. Plaintiffs seeks declaratory
10 relief that Defendants' failure to exercise their affirmative obligation to protect and preserve the
11 atmosphere as a public trust resource, including establishing and enforcing limitations on the
12 levels of greenhouse gas (GHG) emissions, and CO2 specifically, as necessary to significantly
13 slow the rate and magnitude of global warming so as to prevent climate change from denying
14 these Plaintiffs and all Californians a livable future is unlawful based on the actual and present
15 controversy that has arisen. (*See* Code Civ. Proc. § 1060.)

16 WHEREFORE, Plaintiffs pray for relief as hereinafter set forth.

17 **PRAYER FOR RELIEF**

18 WHEREFORE, Plaintiffs pray for judgment and further relief as follows:

- 19 1. Declare that the atmosphere is public trust resource under California law;
- 20 2. Declare that the State of California has the affirmative and fiduciary duty to
21 protect and preserve the atmosphere as a public trust resource;
- 22 3. Declare that California has an affirmative and ongoing duty to protect and
23 preserve the atmospheric trust as a public trust resource, including establishing and enforcing
24 limitations on the levels of greenhouse gas (GHG) emissions, and CO2 specifically, as necessary
25 to significantly slow the rate and magnitude of global warming so as to prevent climate change
26 from denying these Plaintiffs and all Californians a livable future;
- 27 4. Declare that the State of California's fiduciary obligation is enforceable by the
28 citizen beneficiaries of the trust who represent present and future generations;

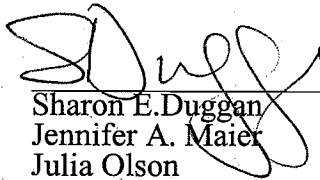
1 5. Award costs of suit herein, including attorney fees, pursuant to the California
2 code of Civil Procedure § 1021.5 or other authority;

3 6. Retain continuing jurisdiction over this matter and enforcement of its orders;

4 7. Grant such other and further equitable or legal relief as the Court deems proper.
5

6 Dated: May 4, 2011

Respectfully submitted,

7
8 

9
10 Sharon E. Duggan
11 Jennifer A. Maier
12 Julia Olson
13 David H. Williams
14 Attorneys for Plaintiffs
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 **DECLARATION OF SERVICE**

2 I, SHARON E. DUGGAN, declare:

3 I am, and was at the time of the service hereinafter mentioned over the age of eighteen
4 and not a party to the above-entitled cause. My business address is 370 Grand Avenue Suite 5,
5 Oakland, California 94610 and I am a resident of or employed in the County of Alameda,
6 California.

7 On May 4, 2011 I served the attached COMPLAINT (Declaratory Relief, Code Civ.
8 Proc. § 1060) on the attorney general addressed as follows:

9 Kamala Harris.
10 California State Attorney General
11 455 Golden Gate Avenue Suite 11000
12 San Francisco, CA 94102

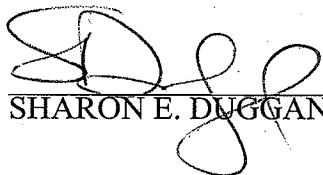
13 XXX **BY FIRST CLASS MAIL** by depositing a sealed envelope in the United States Postal
14 Service in the ordinary course of business on the same day it is collected in Oakland,
15 California postage fully prepaid.

16 **BY FACSIMILE MACHINE** by personally transmitting a true copy thereof via a
17 facsimile machine at approximately ____ a.m./p.m. on _____.

18 **BY FEDERAL EXPRESS or UNITED PARCEL SERVICE** overnight delivery by
19 personally depositing in a box or other facility regularly maintained by Federal Express
20 or United Parcel Service, an express service carrier, or delivered to a courier or driver
21 authorized by said express service carrier to receive documents.

22 **BY HAND DELIVERY** by personally delivering a true copy thereof in an envelope
23 addressed to the parties identified above at the addresses given for those parties.

24 I declare under penalty of perjury under the laws of the State of California that the
25 foregoing is true and correct, and that this declaration was executed on May 4, 2011 in Oakland,
26 California.

27 
28 SHARON E. DUGGAN