IN THE SUPREME COURT OF THE STATE OF ALASKA

Supreme Court No. S-17297
Superior Court No. 3AN-17-09910 CI

ESAU SINNOK; LINNEA L., a minor, by and through her guardian, HANK LENTFER; TASHA ELIZARDE; CADE TERADA; KAYTLYN KELLY; BRIAN CONWELL; JODE SPARKS; MARGARET "SEB" KURKLAND; LEXINE D., a minor, by and through her guardian, BERNADETTE DEMIENTIEFF; ELIZABETH BESSENYEY; VANESSA DUHRSEN; ANANDA ROSE AHTAHKEE L., a minor, by and through her guardian, GLEN "DUNE" LANKARD; GRIFFIN PLUSH; CECILY S. and LILA S., minors, by and through their guardians, MIRANDA WEISS and BOB SHAVELSON; and SUMMER S., a minor, by and through her guardian, MELANIE SAGOONICK,

Appellants,

v.

STATE OF ALASKA; MICHAEL DUNLEAVY, Governor of the State of Alaska, in his official capacity; ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION; JASON DUNE, Commissioner of Alaska Department of Environmental Conservation, in his official capacity; ALASKA DEPARTMENT OF NATURAL RESOURCES; ALASKA OIL AND GAS CONSERVATION COMMISSION; ALASKA ENERGY AUTHORITY; and REGULATORY COMMISSION OF ALASKA,

Appellees.

APPEAL FROM THE SUPERIOR COURT, THIRD JUDICIAL DISTRICT AT ANCHORAGE, THE HONORABLE GREGORY MILLER, PRESIDING

BRIEF OF *AMICUS CURIAE* LEAGUE OF WOMEN VOTERS ALASKA IN SUPPORT OF APPELLANTS

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Filed in the Supreme Court of the State of Alaska this 16th day of April, 2019
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AMICUS CURIAE BRIEF IN SUPPORT OF APPELLANTS

JURISDICTIONAL STATEMENT

Amicus Curiae League of Women Voters Alaska concurs with the jurisdictional statement of the Appellants ("Plaintiffs").

STATEMENT OF ISSUES PRESENTED

Amicus Curiae League of Women Voters Alaska concurs with the statement of issues presented made by Plaintiffs.

STATEMENT OF THE CASE

Amicus Curiae League of Women Voters Alaska concurs with the statement of the case presented by Plaintiffs.

STANDARD OF REVIEW

Amicus Curiae League of Women Voters Alaska concurs with the standard of review presented by Plaintiffs.

IDENTITY AND INTEREST OF *AMICUS CURIAE*

The League of Women Voters of Alaska (LWVAK) is a grassroots, nonpartisan, nonprofit organization that encourages informed, active, and inclusive participation in government in order to promote political responsibility and so that Alaska's government may better serve the democratic interests and principles of *all* peoples of Alaska, including underrepresented groups. LWVAK's primary mission is to ensure effective representative government through voter registration, education, and mobilization.

LWVAK has a particular interest in ensuring that the voices and interests of all individuals, particularly those underrepresented in government such as children, are spoken and accounted for in political decision-making.

Complementary to LWVAK's pursuit of equal rights and opportunity for all, LWVAK supports policies that protect the health and safety of people and the environment and that will ensure a sustainable long-term cultural, environmental, and economic future for Alaska, and for all Alaskans. LWVAK supports science-based solutions and works to build support for action on climate change at the state and local levels to avoid irreparable damage to our planet and to preserve a path to economic prosperity for all. LWVAK believes that climate change is the greatest environmental challenge of our generation and that averting the damaging effects of climate change requires immediate solutions at all levels of government.

The effects of climate change disproportionately affect vulnerable communities, particularly children, who cannot vote and therefore cannot protect their interests through the democratic process. LWVAK aims to address practices that harm children by urging government policies that protect public health for all. As part of the effort to ensure that all branches of government are held politically accountable to underrepresented groups, including children, LWVAK supports judicial remedies when necessary to safeguard the fundamental rights of underrepresented individuals when other branches of government have failed them. Based on these principles, LWVAK has an interest in ensuring that

Alaska's courts fulfill their duty to maintain an outlet for young Appellants to seek vindication of their constitutional rights by exercising jurisdiction over this case.

Amicus submit this brief to the Court in its consideration of the issues presented in this case, including the principles behind the separation of powers and political question doctrine that dictate the role of courts in cases involving fundamental rights. LWVAK files this brief in support of Appellants to emphasize that Appellants' claims do not implicate a nonjusticiable political question because of the heightened obligation of courts to serve as a check and balance on the other branches of government when affirmative governmental action has, as here, infringed upon the fundamental rights of young people who cannot otherwise protect their interests through the democratic process and because of the urgency of climate change.

SUMMARY OF ARGUMENT

The separation of powers and related political question doctrine are, at their core, mechanisms for protecting individual civil liberties from unlawful government encroachment. By design, the judiciary has a duty to serve as a 'check and balance' by evaluating governmental action for constitutional compliance. This judicial duty is heightened in this case involving the fundamental rights of politically powerless young people who stand to suffer disproportionate harms from Appellees' ("Defendants'") actions. The best available climate science and the allegations of the political branches' affirmative conduct in exacerbating the climate crisis indicates that urgent and immediate

judicial intervention is needed to vindicate Plaintiffs' rights and to protect their vulnerable futures. The fundamental constitutional interests at stake here are exactly the kind that the judiciary is designed to protect. This Court should reverse the superior court's dismissal of Plaintiffs' claims.

ARGUMENT

I. Separation of Powers Principles Support Reversal Because Vindicating Individual Constitutional Rights from Government Infringement is a Core Duty of the Judiciary

Plaintiffs assert that the legislative and executive branches have violated their fundamental rights under the Alaska Constitution's due process, equal protection, and public trust provisions through continued implementation of the State's Energy Policy[1]. Amended Compl. ¶¶ 244–82.[2] While courts may decline, based on separation of powers

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[1] Pointing to the explicit statutory declaration of the State's energy policy in AS § 44.99.115(2)(A) and the State's systemic implementing action, Plaintiffs have credibly alleged the existence of a State Energy Policy that causes, contributes to, and exacerbates climate change in Alaska. Amended Complaint, ¶¶ 7, 235-239. The current administration's affirmative actions are consistent with and provide additional evidence of the existence of the Energy Policy delineated by Plaintiffs. For example, on February 23, 2019, current Governor Mike Dunleavy disbanded the Climate Action for Alaska Leadership Team, stating that it was "no longer needed." Nathaniel Herz et al., *Alaska GOP Gov. Dunleavy Disbands State Climate Response Team*, Alaska Pub. Media (Feb. 23, 2019), https://www.alaskapublic.org/2019/02/23/alaska-gop-gov-dunleavy-disbands-state-climate-response-team/.

[2] At this stage of the litigation, Plaintiffs' allegations, including those detailing the State's Energy Policy, must be taken as true. *Kanuk ex rel. Kanuk v. State, Dep't of Nat. Res.*, 335 P.3d 1088, 1091 (Alaska 2014). LWVAK supports Plaintiffs' allegations regarding

considerations, to adjudicate issues requiring policy choices and value determinations "in the first instance", *Kanuk ex rel. Kanuk v. State, Dep't of Nat. Res.*, 335 P.3d 1088, 1098 (Alaska 2014), courts ***must*** step in "when infringement of a constitutional right results from" affirmative actions and implementation of existing policies by the other branches of government. *State, Dep't of Health & Soc. Servs. v. Planned Parenthood of Alaska, Inc.*, 28 P.3d 904, 914–15 (Alaska 2001) ("It is legally indisputable that a trial court order requiring state compliance with constitutional standards does not violate the separation of powers doctrine."). Plaintiffs called upon the superior court to adhere to this elemental role of the judiciary, but the court below abdicated its duty by dismissing the case. Contrary to the superior court's conclusion that the case should be dismissed based on separation of powers concerns, those very same concerns in fact require the court to give voice to Plaintiffs' allegations that the executive and legislative branches have affirmatively infringed upon their fundamental rights.

Alaska's Constitution, modeled after the federal Constitution, separates governmental power into three branches—the executive, legislative, and judiciary—intending for each to serve as a check on the others' exercise of governmental power. *See Pub. Def. Agency v. Superior Court, Third Judicial Dist.*, 534 P.2d 947, 950 (Alaska 1975) ("[I]t can fairly be implied that the state does recognize the separation of powers

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the State's Energy Policy. Plaintiffs should be entitled to present evidence of the State's Energy Policy to prove their claims at trial consistent with their well-pleaded allegations.

doctrine."); THE FEDERALIST NO. 51 ("[M]aintaining in practice the necessary partition of power among the several departments, as laid down in the Constitution" requires that "its several constituent parts may, by their mutual relations, be the means of keeping each other in their proper places."). Rather than absolutely insulating each branch from interference, the tripartite system was envisioned "to provide avenues for the operation of checks on the exercise of governmental power" because "each branch [is] responsible ultimately to the people." *Bowsher v. Synar*, 478 U.S. 714, 722 (1986); *see also* THE FEDERALIST NO. 48 (James Madison) ("[U]nless these departments be so far connected and blended as to give each a constitutional control over the others, the degree of separation which the maxim requires, as essential to a free government, can never in practice be duly maintained."). The separation of powers doctrine is intended, at its core, "to diffuse power the better to secure liberty." *Bowsher*, 478 U.S. at 721 (quotation, citation omitted). The judicial authority to monitor the activities of the other branches of government includes the obligation to interpret the Constitution and to investigate legislative and executive actions for infringements on constitutional rights of citizens. *Hickel v. Cowper*, 874 P.2d 922, 932 n.24 (Alaska 1994); *Marbury v. Madison*, 5 U.S. (1 Cranch) 137, 177 (1803) ("It is emphatically the province and duty of the judicial department to say what the law is.").

The political question doctrine is, then, a "narrow exception" to the rule that "the Judiciary has a responsibility to decide cases properly before it, even those it would gladly avoid." *Zivotofsky ex rel. Zivotofsky v. Clinton*, 566 U.S. 189, 194 (2012). Rather

than prohibiting any case with political overtones as its name might suggest, the political question doctrine is "essentially a function of separation of powers." *Baker v. Carr*, 369 U.S. 186, 217 (1962); *Kanuk*, 335 P.3d at 1096. The doctrine permits courts to abstain from hearing a claim if "deciding the claim would require [the court] to answer questions that are directed to the legislative or executive branches of government." *Kanuk*, 335 P.3d at 1096. Such prohibited inquiries do ***not***, however, include allegations that the legislative or executive branches of government have affirmatively infringed upon constitutional rights, as is alleged here. The duty to investigate such allegations goes to the heart of the founders' justification for separating powers: "keeping each [branch] in their proper places." THE FEDERALIST NO. 51; *see also Malone v. Meekins*, 650 P.2d 351, 356 (Alaska 1982) ("[T]he judicial branch of government has the constitutionally mandated duty to ensure compliance with the provisions of the Alaska Constitution, including compliance by the legislature."); *Abood v. Gorsuch*, 703 P.2d 1158, 1161 (Alaska 1985) (a question concerning Alaska constitutional law is one "to which the nonjusticiability doctrine does not apply."). Courts have, in fact, frequently stepped in to address systemic infringements perpetuated by the other branches of government without implicating the political question doctrine. *See, e.g.*, *Planned Parenthood of Alaska*, 28 P.3d at 914 (collecting cases); *Brown v. Plata*, 563 U.S. 493 (2011); *Brown v. Bd. of Educ. of Topeka, Shawnee County, Kan*, 347 U.S. 483 (1954). Separation of powers considerations support full judicial evaluation of Plaintiffs' claims of constitutional infringements by Defendants.

II. Courts Have a Duty to Account for the Special Vulnerability and Lack of Representation of Children

A. *Plaintiffs' Unique Vulnerability and Disproportionate Burdens Favor Justiciability*

Noting their unique vulnerability, courts have consistently interceded in government action to protect the constitutional rights of children. *See, e.g.*, *State v. Planned Parenthood of Alaska*, 171 P.3d 577, 582 (Alaska 2007) (minors' fundamental right to privacy); *Planned Parenthood of Cent. Missouri v. Danforth*, 428 U.S. 52, 74 (1976) ("Minors, as well as adults, are protected by the Constitution and possess constitutional rights."); *In re Gault*, 387 U.S. 1, 33, 41 (1967) (minors' right to notice and counsel); *Goss v. Lopez*, 419 U.S. 565, 574 (1975) (minors' property right to public education). As an important example, in the seminal case *Brown v. Bd. of Educ.*, the U.S. Supreme Court premised its decision ordering public school desegregation on the societal, psychological, and economic harms specific to children that resulted from state-sanctioned deprivations of their liberty and property interests. *See* 347 U.S. at 494. The Alaska Supreme Court has similarly acknowledged that the rights set forth in the Alaska Constitution must be contextualized to "the unique vulnerabilities and needs that accompany minority." *Planned Parenthood of Alaska*, 171 P.3d at 582; *see also Bellotti v. Baird*, 443 U.S. 622, 634 (1979) ("Children have a very special place in life which law should reflect. Legal theories and their phrasing in other cases readily lead to fallacious reasoning if uncritically transferred to determination of a State's duty toward children.") (quotations, citations omitted).

Like the children in *Brown v. Bd. of Educ.*, the importance of hearing Plaintiffs' claims is heightened by their unique vulnerabilities to the harms alleged. Children are disproportionately harmed by climate change both because of their present unique vulnerability and because the worst climate impacts will be unfolding during their lifetimes. *Cf. Planned Parenthood of Alaska*, 171 P.3d at 582; *see also Bellotti*, 443 U.S. at 634. The alarming nature of earth's current energy imbalance, primarily caused by carbon dioxide emissions from burning fossil fuels, is that worsening and catastrophic climate impacts will be irreversibly locked in without rapid and immediate emissions reductions. James Hansen et al., *Assessing "Dangerous Climate Change": Required Reduction of Carbon Emissions to Protect Young People, Future Generations and Nature*, 8 PLOS ONE 1, 1 (2013).[3] Carbon emissions remain in the atmosphere for millennia such that emissions from Defendants' continuing implementation of their Energy Policy lock in rising temperatures and other climate impacts for our children and future generations. *Id.* While older generations will escape the worst of climate change, children and posterity will endure a future of rising temperatures, ice melt, rising seas, and more frequent and severe extreme weather events such as drought and flooding. *Id.* at 6–9.

In addition to the disproportionate burden of future impacts that children will bear

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[3] Available at: https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0081648.

due to climate change's progressive nature, children are also *presently* disproportionately impacted due to their unique physiological vulnerability. According to the U.S. Environmental Protection Agency (EPA), "[c]hildren are especially vulnerable to the impacts of climate change because of (1) their growing bodies; (2) their unique behaviors and interactions with the world around them; and (3) their dependency on caregivers." EPA, *Fact Sheet: Climate Change and the Health of Children* 1 (May 2016)[4]; *see also* Am. Acad. Pediatrics, Council on Environmental Health, *Policy Statement on Global Climate Change and Children's Health*, at e3 (2015)[5] ("Their immature physiology and metabolism; incomplete development; higher exposure to air, food, and water per unit body weight; unique behavior patterns; and dependence on caregivers place children at much higher risk of climate-related health burdens than adults."). For example, children are more susceptible to poor air quality caused by wildfires and severe pollen seasons because their lungs are still developing, leading to higher rates and frequency of asthma and allergies. EPA, *Fact Sheet*, at 1. These "unique vulnerabilities and needs that accompany minority" associated with climate change further support justiciability of Plaintiffs' claims. *See Planned Parenthood of Alaska*, 171 P.3d at 582.

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[4] Available at: https://archive.epa.gov/epa/sites/production/files/2016-10/documents/children-health-climate-change.pdf.
[5] Available at: https://pediatrics.aappublications.org/content/pediatrics/early/2015/10/21/peds.2015-3233.full.pdf.

B. *That Children Without the Right to Vote Cannot Assert Their Constitutional Rights Through Normal Political Processes Compels Justiciability of Plaintiffs' Claims*

Compounding the disproportionate burden children stand to face from climate change, children, including many of the Plaintiffs here, are unable to vote on decisions made by the political branches that substantially affect their futures or otherwise protect their rights through the democratic process. This political reality, coupled with the civil liberties at stake, compels the judiciary to provide an outlet for Plaintiffs to assert their interests and constitutional rights. Without the right to vote, children cannot rely on the representational political process to safeguard their fundamental rights. This political exclusion is particularly threatening to the civil liberties that the separation of powers is designed to protect where, as here, the government has historically, continuously, and knowingly engaged in conduct discounting children's futures and rights in favor of present economic gain. *See Marbury*, 5 U.S. at 163 ("The very essence of civil liberty certainly consists in the right of every individual to claim the protection of the laws, whenever he receives an injury."). The unique vulnerability and political powerlessness of children underscores the importance of the judiciary's role in safeguarding the rights of Plaintiffs.

Like disenfranchised persons denied a voice in the political branches of government, children's interests are not adequately represented in government despite having the most to lose from climate change. *See, e.g.*, *Baker*, 369 U.S. 186; *Reynolds v. Sims*, 377 U.S. 533 (1964). In *Baker v. Carr*, a malapportionment case that supplies the

modern test for whether a claim presents a nonjusticiable political question, the U.S. Supreme Court focused on notions of justice similar to those presented here in finding the *Baker* plaintiffs' claims justiciable. 369 U.S. 186. The *Baker* court determined that judicial intervention was justified because the debasement of the plaintiffs' votes made the harm to their fundamental rights unreasonably difficult to redress through normal political processes. *Id.* at 186. Like the *Baker* plaintiffs, these youth are unable to engage normal political processes to protect their fundamental rights. If this Court maintains the dismissal of Plaintiffs' claims, Plaintiffs will have lost their constitutional right to "claim[] the protection of the laws" to preserve their liberties, *Marbury*, 5 U.S. at 163, because, as the urgency of the climate crisis and the political branches' commitment to an Energy Policy that exacerbates the crisis demonstrate, Plaintiffs' cannot seek redress through normal political processes before damage to the climate system has already become irreparable. These considerations emphasize the judiciary's duty to serve as a check on the unconstitutional conduct of the political branches and adjudicate the merits of Plaintiffs' constitutional claims.

III. The Best Available Climate Science Demonstrates the Urgent Necessity and Justiciability of Plaintiffs' Claims

The scientific community has long warned that continued CO_2 emissions from burning fossil fuels would disrupt the Earth's climate system and lead to lasting and irreversible economic, societal, and environmental burdens. *See* James Hansen et al.,

Young People's Burden: Requirement of Negative CO_2 Emissions, 8 Earth System Dynamics 577, 578 (2017).[6] The warning has grown increasingly dire and urgent as CO_2 emissions continue largely unabated and as humanity begins to experience tangible impacts of climate change. Alaska's Energy Policy, the harms alleged by Plaintiffs, and the judiciary's role all must be viewed in the light of these long-issued and increasingly urgent scientific warnings.

As climate scientist Dr. James Hansen[7] has emphasized, we are rapidly approaching a point at which, without immediate action, "slow feedbacks [in the climate system] are activated to a degree that continuing climate change will be out of humanity's control." *Id.* at 578. In order to avoid irreversible catastrophic climate change, Dr. Hansen concludes that global atmospheric CO_2 concentrations must be urgently reduced by the end of this century to no more than 350 ppm—the prior maximum of the Holocene Era in which a sufficiently stable climate has permitted human civilization to develop—in order to avoid dangerous climate tipping points and self-reinforcing feedback loops. *Id.* However, as a result of continuing emissions, including those resulting from implementation of Defendants' Energy Policy, global atmospheric CO_2 concentrations currently exceed 410 ppm and continue to rise. *Recent Monthly Average Mauna Loa*

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[6] Available at: https://www.earth-syst-dynam.net/8/577/2017/esd-8-577-2017.pdf.
[7] Dr. James Hansen is the former Director of the NASA Goddard Institute for Space Studies and current Adjunct Professor at Columbia University's Earth Institute. He has testified before the United States Senate and House of Representatives on numerous occasions regarding climate change.

CO_2, NOAA, https://www.esrl.noaa.gov/gmd/ccgg/trends/ (last updated Mar. 5, 2019). Any delay of the urgently necessary emissions reductions makes it increasingly difficult to reduce atmospheric CO_2 concentrations to safe levels, heightens the danger of crossing irreversible tipping points, and makes the required rate of yearly reductions steeper, costlier, and less feasible. *See* Hansen et al., *Assessing "Dangerous Climate Change"*, at 10.

Global CO_2 concentrations are "the dominant control knob on global temperature," Hansen et al., *Young People's Burden*, at 580, explaining why sixteen of the last seventeen years were the warmest years on record globally. U.S. Global Change Research Program, *Climate Science Special Report: Fourth National Climate Assessment, Volume I*, at 31 (D.J. Wuebbles et al. eds. 2017) [hereinafter *Fourth National Climate Assessment*]. Global average temperature has already increased more than 1°C above preindustrial averages, with Dr. Hansen warning that the last time that the Earth reached the temperatures of today, sea levels were 6–9 meters higher. Hansen et al., *Young People's Burden*, at 580. Meanwhile, Alaska is "warming faster than any other state," and has been warming "twice as fast as the global average since the middle of the 20th century." *Fourth National Climate Assessment* at 1190.

These temperature increases and other related effects of anthropogenic carbon dioxide emissions are already causing—and will increasingly cause—melting Arctic sea ice, species loss, flooding, coastal erosion, high energy storms and storm surges, glacial melt, thawing permafrost, increasingly severe wildfires, and many other impacts to

Alaska's environment and citizens. *See Fourth National Climate Assessment* at 1 187–88; Amended Compl. ¶¶ 169–204. Indicative of the urgent need for action, the scientific community has had to accelerate projected impacts and steepen emission reduction requirements to account for changes happening faster than expected while emissions, including those resulting from Defendants' Energy Policy, continue unabated. Amended Compl. ¶ 163 n.1; Hansen et al., *Assessing "Dangerous Climate Change"*, at 4 (2013). Dr. Hansen's research demonstrates that the climate crisis is one of urgency that requires immediate emission reductions to preserve a habitable planet for youth and future generations. *See* Hansen et al., *Young People's Burden*, at 595 ("We conclude that the world has already overshot appropriate targets for GHG amount and global temperature, and we thus infer an urgent need for (1) rapid phasedown of fossil fuel emissions, (2) actions that draw down atmospheric CO_2, and (3) actions that, at minimum, eliminate net growth of non-CO_2 climate forcings."). Despite this, Defendants continue to administer an Energy Policy that results in dangerous levels of CO_2 emissions.

Contrary to the superior court's interpretation, Plaintiffs do not ask the court to make a policy determination or independent scientific evaluation but rather request a judicial determination that the political branches' actions violate their fundamental rights in the context of what is known about the causes and impacts of climate change. *See* Stephen Breyer, *Science in the Courtroom*, 16 *Issues in Sci. & Tech.* (2000), https://issues.org/breyer/ ("The Supreme Court . . . has recently decided cases involving basic questions of human liberty, the resolution of which demanded an understanding of

scientific matters."); *Juliana v. United States*, 217 F. Supp. 3d 1224, 1239 (D. Or. 2016) ("The science may well be complex, but logistical difficulties are immaterial to the political question analysis."); *Warwick v. State ex rel. Chance*, 548 P.2d 384, 391 (Alaska 1976) ("Like its federal counterpart, [Alaska's Constitution] must be considered as a living document adaptable to changing conditions and circumstances unanticipated at the time it was written."). The court would be acting well within its proper sphere in weighing established scientific evidence against Defendants' actions.

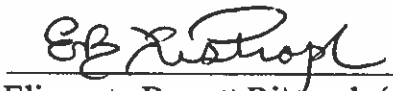
The need for judicial intervention to protect against the political branches' deprivation of youth Plaintiffs' fundamental rights is frighteningly illuminated by the latest and best available climate science, some of which is detailed above. The youngest Plaintiff, Lila S., will not reach voting age until 2031. Without urgent and immediate emissions reductions, by the time Lila S. and many of the other Plaintiffs can meaningfully engage with the political process, many climate harms and impacts will be irreversibly locked in. *See* James Hansen et al., *Young People's Burden*, at 578 (noting that CO_2 emissions continue at rates that make meeting climate stability targets increasingly improbable). The science underlying the urgency of the climate crisis underscores the justiciability of Plaintiffs' claims and demonstrates the impropriety of the superior courts' deference under the political question doctrine to the very branches exacerbating the current climate emergency through their Energy Policy. Without a voice in the judiciary, these youth Plaintiffs will have no means of protecting their fundamental

rights from Defendants' continuing implementation of the State's unconstitutional Energy Policy.

CONCLUSION

The urgency of Alaska's climate crisis, the political branches' affirmative role in contributing to the crisis, and the political powerlessness of the children and future generations who bear the disproportionate burden of climate change necessitate judicial intervention to protect the fundamental rights of these youth Plaintiffs. The superior court abdicated its duty to guard against violations of Plaintiffs' fundamental rights, leaving children and future generations without redress for violations of the fundamental rights that Alaska's judiciary was created to protect. This Court should reverse the dismissal of Plaintiffs' claims.

Respectfully submitted this 26th day of March, 2019,



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