6 youth insist state of Alaska addresses climate change

Evan Erickson

Last Thursday the Alaska Supreme Court traveled to Barrow to hear oral arguments in a lawsuit brought against the State of Alaska and the Alaska Department of Natural Resources. The plaintiffs are asking the courts to rule that the atmosphere is a public trust resource as a way of compelling the state of Alaska to regulate its carbon emissions.

Students and members of the community packed the Barrow High School auditorium to observe the judicial process as part of Alaska’s Supreme Court LIVE program.

Oregon-based nonprofit Our Children’s Trust and Eagle River attorney Brad De Noble represent the six young plaintiffs.

“Our Children’s Trust has supported youth in the filing of legal actions in all 50 states and against the federal government to compel reductions of CO2 emissions that will meaningfully reverse global warming,” states the group’s press release.

The arguments heard Thursday in Barrow are part of an appeal process to bring the suit back to trial court after Anchorage Superior Court Judge Sen Tan dismissed the original suit in 2012. Tan’s ruling was based on the political question doctrine, which says courts only have the authority to hear and decide legal questions, not political ones.

“When the legislative and executive branches are violating the law it’s the responsibility of the courts,” said Julia Olson, executive director of Our Children’s Trust.

The public trust doctrine protects natural resources for public use and requires the government to maintain them as necessary. Legal uses of public trust go back well over 100 years, but recently environmental groups have used the doctrine effectively in the fight against perceived human-induced climate changes.

In the 2012 case Angela Bonser-Lain, et al. v. Texas Commission on Environmental Quality, Texas district court judge Gisela Triana ruled “the public trust doctrine is not exclusively limited to water, but all natural resources.”

Some scientists believe that 350 parts per million is the maximum amount of atmospheric carbon dioxide the earth can withstand without triggering runaway climate change. According to the National Oceanic and Atmospheric Administration, global CO2 is now hovering around 400 ppm. The lawsuit against the state of Alaska calls for a 6 percent reduction in state carbon emissions.

Two of the six plaintiffs in the suit, Nelson Kanuk and Katherine Dolma, were present for the hearing in Barrow.

Kanuk, 19, is from Kipnuk, a village of around 600 people in southwestern Alaska. He has become the face of the group’s Alaska actions. A short documentary about Kanuk is featured on the Our Children’s Trust website. Nelson’s village and his family’s home are being threatened by severe erosion he believes to be a consequence of rapid human-induced climate change.

“I thought being able to sit during the hearing was a good opportunity to understand what we’re facing. If the courts agree to the atmosphere being a public trust, hopefully there could be a climate reaction policy plan assisting villages,” Kanuk said.
Kanuk was spurred to action when as a high school sophomore he attended a 2011 conference of the Alaska Association of Student Government in Cordova. There he met another high school student, Alec Loorz, who was the plaintiff in a similar suit against the federal government also citing the public use doctrine.

“I think it shows a lot of courage. It shows these young people are feeling empowered in taking on the state of Alaska,” UAA Alaska Native Studies Director Maria Williams said.

Arguments made Thursday on behalf of the state of Alaska acknowledged the gravity of atmospheric issues but continued to emphasize the political question doctrine.

“We think the superior court got it right. The policy decisions on what to do about greenhouse gases is something for the legislature to decide,” said Steve Mulder Alaska assistant attorney general for environment.

The six young plaintiffs have at least several months before they will learn whether their appeal was successful. Federal and state governments will continue to grapple with these tough issues in the meantime.