ENERGY & ENVIRONMENT

Why Are Texas Children Suing Environmental Regulators?

By Mark Gwin (/people/mark-gwin)

(http://media1.publicbroadcasting.net/p/kut/files/201309/TCEQ.JPG)
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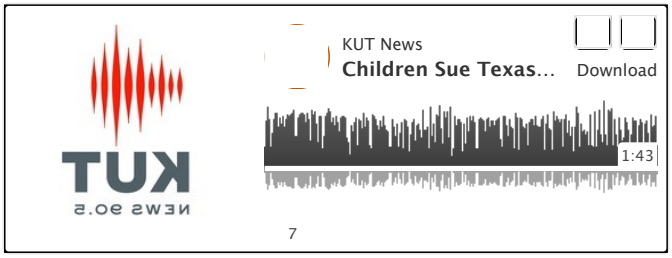
Credit KUT News

Children are suing the Texas Commission on Environmental Quality, saying the agency should regulate air pollution under the Public Trust Doctrine.



Texas children are suing the Texas Commission on Environmental Quality (http://www.tceq.state.tx.us/), claiming the TCEQ should have to protect the quality of the air the same way it's required to protect the quality of water.

As part of a nationwide movement (http://ourchildrenstrust.org/), the youth are asking the agency to protect water under the public trust doctrine – the historic idea that the state is responsible for the quality of a shared resource.

A court had agreed in 2012 (http://stateimpact.npr.org/texas/2012/07/16/why-a-bunch-of-kids-are-suing-the-tceq/) that the TCEQ didn't have to regulate air pollution in a shifting legal landscape. It was only a partial victory for the agency, however. In her opinion, District Judge Gisela Triana said that the public trust doctrine shouldn't be limited to the conservation of water, prompting the agency's appeal.

"It seems bizarre to me that the state – and the attorney general is the one doing it – is spending taxpayer dollars to appeal a case that they won just because they don't like a judge's opinion," says Austin environmentalist

Brigid Shea. Her son Eamon Umphress is one of the children filing the suit.

TCEQ officials said they do not comment on pending litigation, but their appeal was based on the premise that the district court didn't have jurisdiction, according to Adam Abrams, the attorney representing the children before the Third Court of Appeals this week.

"I do think it is kind of a sad day in Texas when the State of Texas fights so hard to wipe from the books the proposition that the air and atmosphere is a public resource belonging to everybody," he says.

A ruling isn't expected for several weeks.

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