

## Landmark Climate Change Ruling in Montana Sets Precedent for New York's Environmental Rights Amendment

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A trial court in Montana has issued a landmark ruling in a climate change case that could have significant ramifications for New Yorkers in light of voters' 2022 amendment to the NYS constitution to include a [new environmental rights amendment](#). In [Held v. State of Montana](#), the court issued a 100-page ruling that documents the irrefutable science linking fossil fuel use to climate change and the severe consequences that temperature increases will have on human health and the environment. The court further held that Montana's production and use of fossil fuels is a significant contributor to global climate change—contributing more greenhouse gasses than many major nations on the planet. Finally, the court held that Montana's failure to consider climate change in all agency actions and decisions violates the unique 1972 environmental amendment in the state constitution, which says: "[t]he state and each person shall maintain and improve a clean and healthful environment in Montana for present and future generations."

As our firm's environmental attorneys discussed in a June 21, 2021, [New York Law Journal article](#), New York has now joined just a handful of states like Montana in having a specific right to a clean environment in the state constitution. Per the 2022 constitutional amendment, "each person shall have a right to clean air and water and a healthful environment." New York courts are just starting to consider what this broad amendment means for individual environmental rights and, in particular, whether it creates an individual cause of action. But this Montana court has concluded that a similar constitutional provision does create a robust individual cause of action over government decisions and actions that relate to greenhouse gas emissions. New York courts might find the same, subjecting a host of state and local decisions, actions and permits to litigation. In fairness, New York State is far ahead of Montana and most other states in requiring robust consideration of climate change in all state and local decision-making. Still, [Held v. Montana](#) suggests that state courts might go further and find that individuals have a right to directly challenge a wide range of government decisions that facilitate fossil-fuel usage like power plants, gas pipelines, major construction projects and more.

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