



Grassroots Coalition Sues State for Infringing on Constitutional Rights

Lawsuit claims the Legislature violated the Montana Constitution by preventing citizens and local governments from regulating single-use plastics.

Wednesday, November 29, 2023 – A Bozeman-based conservation organization and a group of nine residents from across Montana filed a lawsuit on Tuesday alleging a law passed by the Montana Legislature violates the Montana Constitution. Cottonwood Environmental Law Center’s lawsuit challenges HB 407, a law passed in 2021 that bans citizens and local governments from regulating single use plastics.

The complaint asks the Lewis and Clark District Court to strike down HB 407 as unconstitutional because it strips plaintiffs of their constitutional right to pass local ballot initiatives that regulate single use plastics. John Meyer, attorney for Cottonwood and the plaintiffs stated, “HB 407 is facially unconstitutional because Article III, Section 4 and Article XI, Section 8 of the Montana Constitution explicitly allow Montana residents to pass local ballot initiatives.”

The cities of Bozeman and Missoula passed resolutions stating they would regulate single use plastics if HB 407 was rescinded. The individual plaintiffs, joined by local government officials, then lobbied the 2023 Montana Legislature to rescind HB 407 via a new bill, HB 413. The Montana Legislature did not pass HB 413, which led to the plaintiffs taking this issue to the courts.

“As soon as HB 407 is ruled unconstitutional, we can finally get to work on locally addressing the single use plastics issue in Montana.” said Isaac Cheek, Grassroots Conservation Coordinator for Cottonwood Environmental Law Center.

In addition to blocking Montana residents from asserting their constitutional right to ballot initiatives, the lawsuit also claims the 2021 law infringes upon their constitutional right to a clean and healthful environment.

“Tying the hands of our local leaders and community members has dire consequences for Montana’s residents and its wild ecosystems. Microplastics, which leach toxic chemicals that have been linked to human health problems, have been found in the snow at Big Sky, water in the



Gallatin River, fishing access sites across the state, and Flathead Lake,” said Youpa Stein, resident of Arlee, MT, and plaintiff.

The same clean and healthful provisions of the Montana Constitution at issue in this case also underpinned the landmark *Held v. Montana* decision earlier this year.

Attorney General Knudsen will be served a copy of the complaint in the coming days, which will trigger a 42-day window for the State of Montana to respond.

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