

**STATE OF RHODE ISLAND  
PROVIDENCE, SC.**

**SUPERIOR COURT**

**Alexandra Duryea; Carmen Boyan, a minor  
child by next best friend Justin Boyan;  
Neelam Ahmed; Stephan Follett; Victoria  
Huertas a minor child by next best friend  
Monica Huertas; Jeremi Huertas by next best  
friend Monica Huertas; Meghan Janicki,  
a minor child by next best friend Scott Janicki  
Eve Kelley; Chloe Moers, a minor child  
by best friend Ewa Roselli; Greg (Chip)  
Slaybaugh; Philip Tierney, a minor child  
by next best friend Jenn Tierney; Catherine  
Scott; Jamiel Conlon;  
Nature's Trust Rhode Island; Sisters of Mercy  
Ecology; and Mercy Ecology, Inc.**  
*Plaintiffs*

vs.

**Rhode Island Department of Environmental  
Management; Janet Coit, in her capacity as  
Director of the Rhode Island Department of  
Environmental Management**  
*Defendants*

**C.A. NO. PC-2018-7920**

**COMPLAINT**

**NOW COME** the Plaintiff/Appellants and hereby file this appeal of an administrative decision by the Rhode Island Department of Environmental Management (DEM) to deny a Petition for Rulemaking.

**PARTIES**

1. Alexandra Duryea, a resident of the State of Rhode Island.
2. Carmen Boyan, a minor child residing in Providence, Rhode Island, by next best friend and parent Justin Boyan.
3. Neelam Ahmed, a resident of the State of Rhode Island.
4. Stephen Follett, a resident of the State of Rhode Island.

5. Victoria Huertas a minor child residing in Providence, Rhode Island, by next best friend and parent Monica Huertas.
6. Jeremi Huertas, a minor child residing in Providence, Rhode Island, by next best friend and parent Monica Huertas.
7. Meghan Janicki, a minor child residing in West Warwick, Rhode Island, by next best friend and parent Scott Janicki.
8. Eve Kelley, a resident of the State of Rhode Island.
9. Chloe Moers, a minor child in Providence, by next best friend and parent Ewa Roselli.
10. Greg (Chip) Slaybaugh, a resident of the State of Rhode Island.
11. Philip Tierney, a minor child residing in Providence, Rhode Island, by next best friend and parent Jenn Tierney.
12. Catherine Scott, a resident of the State of Rhode Island.
13. Jamiel Conlon, a resident of the State of Rhode Island.
14. Nature's Trust Rhode Island (NTRI), is a Rhode Island non-profit organization, with its main place of business located at 52 Nichols Road, South Kingstown, Rhode Island
15. Sisters of Mercy Ecology, is a Rhode Island non-profit organization, located at 99 Philmore Street, Pawtucket Rhode Island.
16. Mercy Ecology, Inc., is a Rhode Island non-profit organization, 15 Highland View, Cumberland, Rhode Island.
17. The Rhode Island Department of Environmental Management ("DEM") is an administrative agency, located at 235 Promenade Street, Providence, Rhode Island.
18. Janet Coit is the Director of the Rhode Island Department of Environmental Management and is included only in her official capacity.

## JURISDICTION AND VENUE

19. The Superior Court has jurisdiction over such actions pursuant to R.I. Gen Laws §§ 8-2-13; 8-2-14; 42-35-15; and 42-35-7.

## FACTS

20. On September 5, 2018, Plaintiffs filed a Petition with the Defendant, pursuant to the appropriate provisions of law and agency regulations, a copy of which is attached and incorporated herein.

21. The Petition requested the DEM to initiate rulemaking activities to address urgent problems posed by climate change to the health of Petitioners.

22. The Petition provided Defendant with extensive evidence of the best available science demonstrating both the urgent need for action and Defendant's authority to do so.

23. The Petition proposed eleven (11) specific, diverse and critical items for Defendant to address in the proposed rule, and specifically asked Defendant to consider them individually.

24. Defendant denied the Petition in full on October 5, 2018 with an inadequate rationale, and one that moreover failed to address individually the eleven specific proposals in the Petition.

## COUNT I

### *(Administrative Appeal)*

25. The Plaintiffs hereby re-allege and incorporate by reference Paragraphs 1-24 as if set forth fully herein.

26. The DEM provided an inadequate explanation for its administrative denial.

27. The DEM's actions constitute an "agency action" within the meaning of the Administrative Procedures Act.

28. The DEM's action and/or failure to act has harmed the Plaintiffs.

29. The DEM's Decision was made:

- (1) In violation of constitutional or statutory provisions;
- (2) In excess of the statutory authority of the agency;
- (3) Made upon unlawful procedure;
- (4) Affected by other error or law;
- (5) Clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or
- (6) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion

**WHEREFORE**, the Plaintiffs respectfully request that this Honorable Court reverse the DEM Decision and remand this issue back to the DEM to initiate a rulemaking process utilizing the specific recommendations in the Plaintiffs' Petition.

#### COUNT II

*(Declaratory Judgment Pursuant to R.I.G.L. §§ 42-35-7 and 42-30-1)*

30. The Plaintiffs hereby re-allege and incorporate by reference Paragraphs 1-29 as if set forth fully herein.

31. The DEM Decision and the DEM rules as written interferes with, impairs, or threatens to interfere with or impair the legal rights and privileges of the Plaintiffs.

**WHEREFORE**, pursuant to R.I.G.L. § 9-30-1 et seq., the Plaintiffs respectfully request that this Honorable Court issue a Declaratory Judgment that the DEM Decision is invalid and the current DEM rules, or lack thereof, are harmful to the Plaintiffs and interfere with their rights and privileges. Accordingly, the Plaintiffs respectfully request that this Honorable Court remand this issue back to the DEM to initiate a rulemaking process utilizing the specific recommendations in the Plaintiffs' Petition.

Plaintiffs,

By and through their attorney,

/s/ Allyson M. Quay  
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Dated: November 15, 2018