

Case No. 18-36082

**IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

KELSEY CASCADIA ROSE JULIANA, *et al.*,
Plaintiffs-Appellees,

v.

UNITED STATES OF AMERICA, *et al.*,
Defendants-Appellants.

On Interlocutory Appeal Pursuant to 28 U.S.C. § 1292(b)

**DECLARATION OF LEVI D. IN SUPPORT OF PLAINTIFFS' URGENT
MOTION UNDER CIRCUIT RULE 27-3(b) FOR PRELIMINARY
INJUNCTION**

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I, Levi D., hereby declare and if called upon would testify as follows:

1. I am an 11-year old citizen of the United States and resident of Satellite Beach, Florida. Our home is right about at sea level and is located about one mile from the Atlantic Ocean and only half a mile from the Indian River Lagoon. Satellite Beach is a town on a barrier island that separates the Indian River Lagoon from the Atlantic Ocean. The barrier island is made up of unconsolidated sand that sits on top of porous limestone bedrock. Because of that, I have been told that it would be impossible to build a seawall to try to protect my home from the rising seas.

2. My grandparents (my mom's parents) live about four miles to the south of me in Indialantic, a city on the same barrier island as Satellite Beach. They have owned their property since 2005, before I was born. My mom and I used to live with them until recently and I still visit them several times a week. Their home is also right at sea level and is located about half a mile from the Atlantic Ocean and a quarter mile from the Indian River Lagoon.

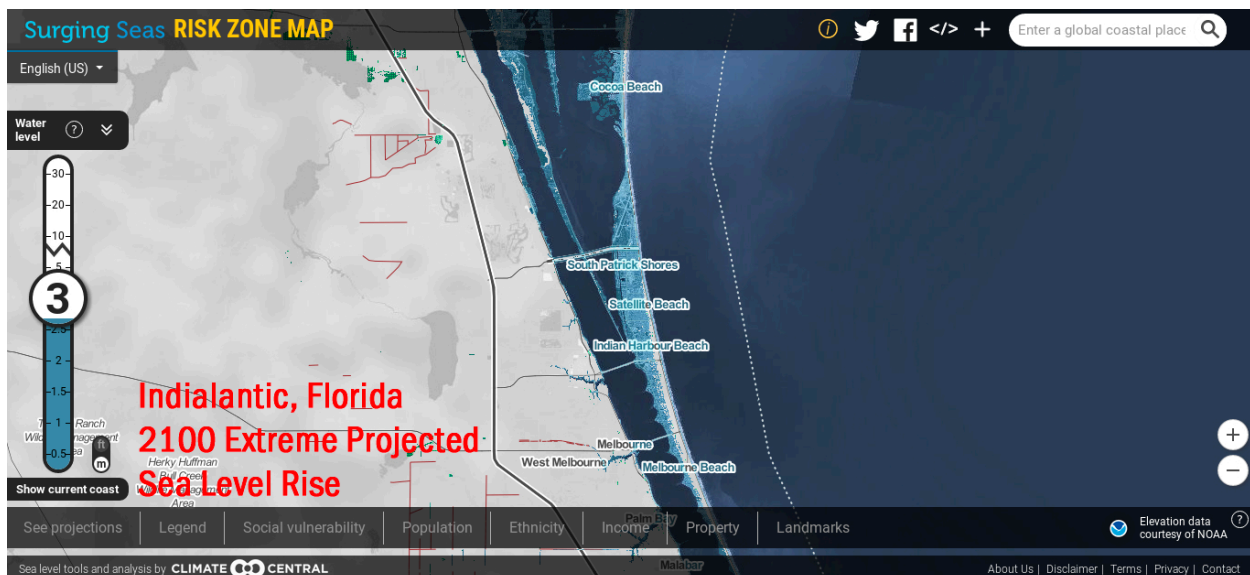
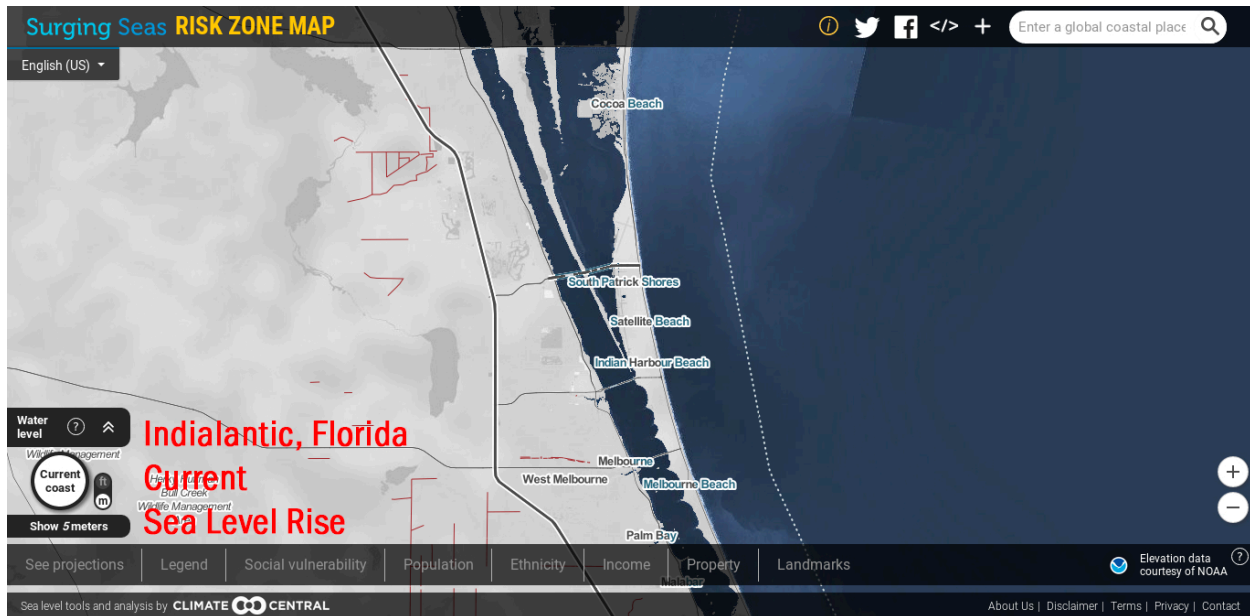
3. I love to experience nature and wilderness in healthy, natural conditions. I'm scared about how climate change impacts and ocean acidification will continue to harm the beaches and springs in Florida and the wildlife that inhabit them. I can already notice the beaches around me getting smaller because of sea level rise. I can also see erosion on the beach and the steps are being taken to combat the erosion,

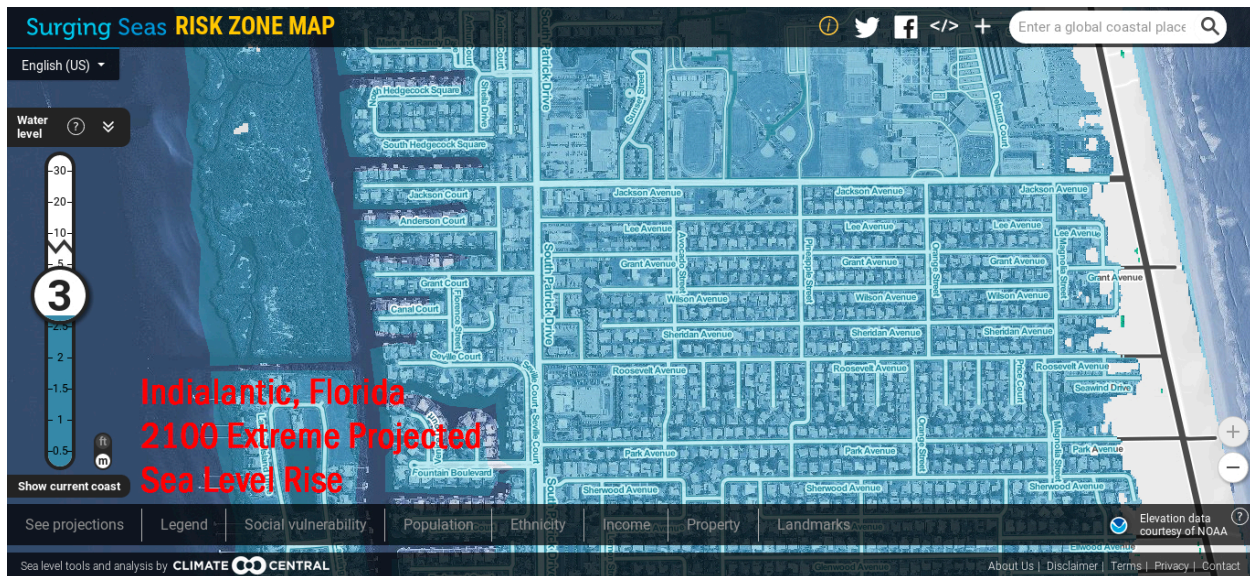
like building an artificial reef and filling the beach with sand. The reason why I care so much is I basically grew up on the beach.



4. I have been provided maps created by Dr. James Hansen, one of the expert witnesses supporting my case, that show how sea level rise will affect my home in Satellite Beach. Maps like this were also put out by the City of Satellite Beach. Dr.

Hansen says that the ocean is going to be at my doorstep within a few decades, and that my home will be full of water by the end of this century if emissions don't substantially decrease. *See maps of sea level rise infra at 3-5.*





5. Dr. Harold Wanless, another one of the expert witnesses supporting my case, agrees with Dr. Hansen and says that long before my house is full of water, I will likely be forced out because the flooding that we are already experiencing will be getting worse and deeper. The flooding and storm surges from hurricanes are soon going to make it impossible for me to live in the place where I have grown up. When I grow up I want to be able to show my kids the house I grew up in, but I'm worried I will have to do this by boat and with scuba gear, as my house may be underwater by that time.

6. I am already being harmed by the impacts of climate change caused by my federal government, the Defendants in my case, and the harms from climate change are getting worse each year.

7. I am anxious, sad, and angry about the current and future effects of climate change on my home and my community. I feel unsafe and fear that I will lose my

barrier-island home and the beaches I have grown up on and love to visit because of rising sea level if my federal government does not begin to reduce greenhouse gas emissions right now, by a lot, and slow the effects of climate change.

8. I am very upset that even though my federal government knows about all of the impacts of climate change, they keep doing things that cause greenhouse gas emissions, like using fossil fuels. They know that the burning of coal for energy is causing the seas to rise, but they keep doing everything they can to make sure coal continues to be used as an energy source. This doesn't make any sense to me since there are so many other forms of clean energy that can be used instead. In my life I do everything I can to try and protect my home, like beach clean ups and eating a vegan diet, but it makes me angry to see that my federal government is actively doing things that harm me.

9. I was only 8 years old when I filed this case and I am so frustrated that we haven't had our trial yet. I am impatient because I'm a kid, and I have spent almost a quarter of my life working on this case, something that should have been done before I was even born because my government has known about climate change for so long. We were so close to trial in October 2018 and then it was canceled right before it was supposed to start. I don't think it's fair that we have to wait so long when every year the climate change impacts I am experiencing are getting worse. Even though my legal team told me I didn't have to be at my trial every day, I told

them that I was going to come live in Eugene for the whole trial because the trial is so important and means so much to me. Because I needed to have an adult with me, my mom and my grandparents agreed to take turns staying with me in Eugene so that I could attend my trial.

10. The beach on the barrier island is my backyard and is the place that I feel most connected to. The beach is like another mother to me because it provides so much in my life. Year round, I spend time playing at parks near the beach, swimming in the ocean, boogie boarding, learning how to surf, and attending my home school group which has adopted a beach to keep clean this school year. In the last couple of years, I've noticed a Sargassum seaweed invasion, with seaweed covering the beach on the barrier island in my backyard. Climate change is likely the cause of the seaweed increase because the water is getting much warmer. I'm now having a harder time enjoying beach activities because the rotting seaweed sometimes smells like sulfur.



11. During the Red Tide outbreak along the Florida coastline in 2018, I was felt physically sick because the contaminated air made me cough and I wasn't able to go to many of the beaches I always visit, like Paradise Beach, Pelican Beach, and Cocoa Beach. When I tried to go to the beach during the Red Tide outbreak, it was really scary and upsetting to see a bunch of dead fish and other dead animals on the beaches. The air was so bad I started coughing, it was difficult to breath and my eyes were burning. I ended up having to wear a gas mask just to go to the beach. Because of the Red Tide I couldn't go on pre-planned field trips to the beach with Explorer's Club, which is my home school group, and even had trouble being outside of my home for more than five minutes at a time. It was a really scary experience for me.



12. I have also seen the negative effects of climate change on other parts of the beach environment that I love. There are fewer sea turtles in the area, which I used to enjoy watching. I recently learned that there has been more mature female sea turtles than male sea turtles. Turtle gender is determined by the temperature of the sand the turtle eggs are buried in. Because of increased temperatures, most sea turtles

are born female instead of male, and this imbalance harms an already delicate species. Where I live is one of the few places sea turtles come to nest so it is very important we protect them and the beaches where they nest.

13. I often waded and kayaked in the Indian River Lagoon on the west side of the barrier island, but I can no longer go in the water there because of increasing flesh-eating bacteria and dead fish. Because of outdated infrastructure on the barrier island, raw sewage has been dumped into the Indian River Lagoon. They do this because increased rain and sea level rise raises the water table and the infrastructure is not able to keep up. The local government has to choose between sewage coming up into homes or dumping it into the water. Increased rainfall and rain at unusual times of the year also means that more fertilizers are washed into the Indian River Lagoon more often. The combination of these things has caused more bacteria in the water, more algal blooms and more fish kills. And it has made the water more dirty and unsafe to spend time in and around. My family and I are able to smell the dead fish in our community whenever there is a fish kill.

14. Satellite Beach and Indialantic both have “worm rock” reefs along their coastlines. These reefs are habitat for sea turtles and other marine life. Because of beach erosion from sea level rise, new sand has been poured along the coast, but the new sand hurts the existing reef. An artificial reef was also built further offshore in the hopes that sea life would use the fake reef instead of the natural reef, but it just

isn't the same. It is much deeper and is made of cement with some natural rock stuck into it, so it looks really different compared to a natural limestone reef. I am afraid that if the Defendants don't stop greenhouse gas emissions, I will have to grow up in a world with only fake "coral" reefs.



15. I have learned that the City of Satellite Beach did a study in 2010 that showed our City is threatened by sea level rise and needs to plan for its impacts. I have learned that the barrier island's real estate prices are declining. The value of my grandparents' home, which they own, has decreased in value, and will eventually be lost completely, due to sea level rise. This would be very hard for me because I spend so much time there and want to continue to live and visit in this area where I have grown up.

16. I love to experience nature and wilderness in healthy, natural conditions. I'm scared about how climate change impacts and ocean acidification will continue to harm the beaches and springs in Florida and the wildlife that inhabit them. I can already notice the beaches around me getting smaller because of sea level rise. The reason why I care so much is I basically grew up on the beach.





17. I am also experiencing other effects of climate change. In the last three years, increased temperatures have caused my allergies to be much more severe, making it harder for me to spend time outdoors.

18. In October 2016, I was forced to evacuate my home and island because of Hurricane Matthew. We were warned that if the hurricane hit full on, our roof would likely be ripped off. Before evacuation, we used sandbags and taped windows and doors to prevent water damage to our home. Sandbags available in Satellite Beach from businesses and the government ran out, leading many people to scoop sand into grocery bags from the beach and dunes. We were fortunate to already have sandbags to protect our home.

19. On October 7, 2016, while I was waiting out the hurricane in Gainesville, Florida, I saw on the news that South Tropical Trail, a road on Merritt Island, another

small barrier island between our barrier island and the mainland in the Indian River Lagoon, was entirely submerged by the Indian River Lagoon storm surge. Seeing this on the news was scary for me because the location was so close to my home.

20. While I was away, my house in Satellite Beach was without power from October 7-10. Over one inch of water flooded our house and our neighbor's home burnt to the ground after a falling tree hit a power line and ignited a fire. The fire could not be put out because the water plant on the mainland had been shut down during the storm to encourage people to evacuate the barrier reef.

21. The hurricane caused erosion and left a lot of debris on the beaches I visit.

22. Then again during the summer of 2017, I had to evacuate my home due to Hurricane Irma. This storm was so severe my school ended up being shut down permanently because of storm damage. This was a very hard experience for me because I am home schooled and my school is a place for other kids who are home schooled to gather and take classes together as a group. My mom worked at the school as well, so she lost her job and her income when the school shut down. My home had at least 18 inches of water in the front yard and I was up to my knees in the flood water. We had to put sandbags around our home to protect it from flood damage. I can't believe I had to evacuate from my home two years in a row and I am scared this is going to happen even more because of how climate change makes hurricanes stronger and more frequent.

23. I'm really worried that the barrier island where I grew up won't exist when I'm older and when my future kids grow up. I fear that my own kids won't get to see where I grew up and do the things that I enjoy doing. I also worry that other parts of Florida will be underwater during my lifetime and that the melting ice caps will harm other people around the planet.

24. I have had recurring nightmares about the impacts of climate change on my home. In these nightmares, the barrier island and beaches are destroyed, and I can't figure out where I am or where I should go. It's dark and there are piles of leaves, sticks, and broken cars. I'm on the beach and there's nobody around me. I see rubble and wonder where my family and everyone else is. I wake up with a feeling of falling, and only then realize that I'm not standing on the beach and that it was just a dream.

25. My family and I have already been harmed by climate change impacts. I desperately need my federal government to stop making the climate crisis worse so that I have a chance to stay on our barrier island and protect what I love. I know that there is a small amount of time left to act to protect our barrier island and my home. I know how important it is for the federal government to begin addressing climate change immediately and stop making it worse. Without changes, I'm afraid I will lose my home and that my nightmares will become real. These Defendants may not

have to wake up to that reality, but me and my future children will be forced to live with their bad choices if we don't do something to stop climate change soon.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on February 5, 2019.

Respectfully submitted,

Levi Drahem

Levi D.