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**SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THURSTON COUNTY**

JAMES TODD MYERS,

*Plaintiff,*

v.

WASHINGTON DEPARTMENT OF ECOLOGY  
and WASHINGTON DEPARTMENT OF  
COMMERCE,

*Defendants.*

No.

**VERIFIED PETITION FOR WRIT OF  
MANDAMUS AND DECLARATORY  
JUDGMENT**

**I. INTRODUCTION**

1. The Washington Department of Ecology (“Ecology”) and the Washington Department of Commerce (“Commerce”) (or collectively “Defendant agencies”) are mandated by the state legislature with reporting the total statewide emissions of greenhouse gases for the preceding two years by December 31st in each even-numbered year. RCW 70A.45.020(2). The legislature entrusted these agencies with this vital task to aid its efforts to combat what it identified as “an existential threat to the livelihoods, health, and well-being of all Washingtonians.” It further noted that “[o]ur state is experiencing a climate emergency in the form of devastating wildfires, drought, lack of snowpack, and increases in ocean acidification caused in part by climate change.” Yet despite the clarion call for action, these Defendant agencies have failed to comply with the

PETITION FOR WRIT OF MANDAMUS  
AND DECLARATORY JUDGMENT



1 mandatory duty to provide the legislature and the public with information they need to be able to  
2 ascertain whether progress is being made to address the “existential threat” that the legislature  
3 identified in state law. This litigation follows.

## 4 **II. PARTIES**

5 2. Plaintiff James Todd Myers is Vice President with the Washington Policy Center and is an  
6 environmental policy expert with more than two decades of experience in climate, forest, and  
7 salmon issues. He relies upon information provided by the Department of Ecology in preparing  
8 his research and reports on the state’s progress in achieving its carbon reduction goals.

9 3. Defendant Washington Department of Ecology is an agency of the state of Washington.

10 4. Defendant Washington Department of Commerce is an agency of the state of Washington.

## 11 **III. JURISDICTION, VENUE, AND STANDING**

12 5. The Superior Court of Thurston County has jurisdiction under RCW 2.08.020, RCW  
13 7.24.010, and RCW 7.24.020.

14 6. Venue in Thurston County is appropriate under RCW 4.92.010.

15 7. Plaintiff has standing to bring this action as a resident of the State of Washington adversely  
16 impacted by the Defendants’ failure to comply with their mandatory duty under the law.

17 8. Plaintiff in his work relies upon the information required in RCW 70A.45.020(2) to analyze  
18 whether the state is making progress on its carbon reduction goals.

19 9. Given the importance afforded by the legislature in its intent statement in legislation  
20 creating RCW 70A.45.020(2), Plaintiff also has standing because this is an issue of serious public  
21 importance: it immediately affects substantial segments of the population, and the outcome of this  
22 suit and whether this information will be available will have a direct bearing on commerce, finance,  
23 labor, or industry generally.

1 10. Conversely, public importance is also demonstrated given the expense of the programs and  
2 policies supported by the executive branch and legislature in past years to address climate change.  
3 The reports would be helpful to evaluate whether the strategies being pursued are having a  
4 meaningful impact in reducing greenhouse gas emissions and whether the cost is worth considering  
5 alternative approaches. This holds even greater weight given the budget crisis facing the state  
6 slated to be addressed in the current legislative session.

#### 7 **IV. STATEMENT OF FACTS**

8 11. RCW 70A.45.020 provides as follows:

9 *Greenhouse gas emissions reductions—Reporting requirements.*

10 *(1)(a) The state shall limit anthropogenic emissions of greenhouse gases to achieve  
the following emission reductions for Washington state:*

11 *(i) By 2020, reduce overall emissions of greenhouse gases in the state to 1990  
levels, or ninety million five hundred thousand metric tons;*

12 *(ii) By 2030, reduce overall emissions of greenhouse gases in the state to fifty  
million metric tons, or forty-five percent below 1990 levels;*

13 *(iii) By 2040, reduce overall emissions of greenhouse gases in the state to twenty-  
seven million metric tons, or seventy percent below 1990 levels;*

14 *(iv) By 2050, reduce overall emissions of greenhouse gases in the state to five  
million metric tons, or ninety-five percent below 1990 levels.*

15 *(b) By December 1, 2008, the department shall submit a greenhouse gas reduction  
plan for review and approval to the legislature, describing those actions necessary  
to achieve the emission reductions in (a) of this subsection by using existing  
16 statutory authority and any additional authority granted by the legislature. Actions  
taken using existing statutory authority may proceed prior to approval of the  
17 greenhouse gas reduction plan.*

18 *(c) In addition to the emissions limits specified in (a) of this subsection, the state  
shall also achieve net zero greenhouse gas emissions by 2050. Except where  
explicitly stated otherwise, nothing in chapter 14, Laws of 2008 limits any state  
19 agency authorities as they existed prior to June 12, 2008.*

20 *(d) Consistent with this directive, the department shall take the following actions:*

21 *(i) Develop and implement a system for monitoring and reporting emissions of  
greenhouse gases as required under RCW 70A.15.2200; and*

22 *(ii) Track progress toward meeting the emission reductions established in this  
subsection, including the results from policies currently in effect that have been  
previously adopted by the state and policies adopted in the future, and report on  
that progress. Progress reporting should include statewide emissions as well as  
23 emissions from key sectors of the economy including, but not limited to, electricity,  
transportation, buildings, manufacturing, and agriculture.*

1 *(e) Nothing in this section creates any new or additional regulatory authority for*  
2 *any state agency as they existed prior to January 1, 2019.*

3 ***(2) By December 31st of each even-numbered year beginning in 2010, the***  
4 ***department and the department of commerce shall report to the governor and the***  
5 ***appropriate committees of the senate and house of representatives the total***  
6 ***emissions of greenhouse gases for the preceding two years, and totals in each***  
7 ***major source sector, including emissions associated with leaked gas identified by***  
8 ***the utilities and transportation commission under RCW 81.88.160. The report***  
9 ***must include greenhouse gas emissions from wildfires, developed in consultation***  
10 ***with the department of natural resources. The department shall ensure the***  
11 ***reporting rules adopted under RCW 70A.15.2200 allow it to develop a***  
12 ***comprehensive inventory of emissions of greenhouse gases from all significant***  
13 ***sectors of the Washington economy.***

14 ***(3) Except for purposes of reporting, emissions of carbon dioxide from industrial***  
15 ***combustion of biomass in the form of fuel wood, wood waste, wood by-products,***  
16 ***and wood residuals shall not be considered a greenhouse gas as long as the***  
17 ***region's silvicultural sequestration capacity is maintained or increased. [emphasis***  
18 ***added]***

19 12. Though not in the actual text of the law, the intent statement provided in the legislation  
20 comprising the statute referenced above is instructive in guiding the Court in this matter and is  
21 worth noting in full:

22 *Intent—2020 c 79: "(1) Global climate change represents an existential threat to*  
23 *the livelihoods, health, and well-being of all Washingtonians. Our state is*  
24 *experiencing a climate emergency in the form of devastating wildfires, drought,*  
*lack of snowpack, and increases in ocean acidification caused in part by climate*  
*change.*

*(2) These threats are not distributed evenly across the state. In particular, rural*  
*communities with natural resource-based economies, tribes, and communities of*  
*lower and moderate incomes will be disproportionately exposed to health and*  
*economic impacts driven by climate change.*

*(3) The longer we delay in taking definitive action to reduce greenhouse gas*  
*emissions, the greater the threat posed by climate change to current and future*  
*generations, and the more costly it will be to protect and maintain our*  
*communities against the impacts of climate change. Unchecked, climate change*  
*will bring ever more drastic decline to the health and prosperity of future*  
*generations, particularly for the most vulnerable communities.*

*(4) According to the climate impacts group at the University of Washington, with*  
*global warming of at least one and one-half degrees Celsius, by 2050 Washington*  
*is projected to experience:*

*(a) An increase of sixty-seven percent in the number of days per year above ninety*  
*degrees Fahrenheit, relative to 1976-2005, leading to an increased risk of heat-*  
*related illness and death, warmer streams, and more frequent algal blooms;*

1 *(b) A decrease of thirty-eight percent in the state's snowpack, relative to 1970-1999,*  
2 *leading to reduced water storage, irrigation shortages, and winter and summer*  
3 *recreation losses;*

4 *(c) An increase of sixteen percent in winter streamflow, relative to 1970-1999,*  
5 *leading to an increased risk of river flooding;*

6 *(d) A decrease of twenty-three percent in summer streamflow, relative to 1970-*  
7 *1999, leading to reduced summer hydropower, conflicts over water resources, and*  
8 *negative effects on salmon populations; and*

9 *(e) An increase of one and four-tenths feet in sea level, relative to 1991-2010,*  
10 *leading to coastal flooding and inundation, damage to coastal infrastructure, and*  
11 *bluff erosion.*

12 *(5) The legislature has taken steps to understand and address the threats posed by*  
13 *climate change as climate change science has continued to evolve. In 2008 with the*  
14 *passage of Engrossed Second Substitute House Bill No. 2815, \*chapter 70.235*  
15 *RCW, the legislature acknowledged Washington's history of national and*  
16 *international leadership in clean energy, and set limits on the greenhouse gas*  
17 *emissions that drive climate change.*

18 *(6) \*Chapter 70.235 RCW recognizes that the state of climate change science will*  
19 *continue to evolve, and so it directs the department of ecology to consult with the*  
20 *climate impacts group at the University of Washington for the purpose of issuing*  
21 *periodic reports that summarize the current climate change science and that make*  
22 *recommendations regarding whether the state's greenhouse gas emissions*  
23 *reductions need to be updated. As required by \*chapter 70.235 RCW, the*  
24 *department of ecology prepared and submitted reviews of current climate change*  
*science and the state of global warming trends in both December 2016, Ecology*  
*Publication No. 16-01-010, and again in December 2019, Ecology Publication No.*  
*19-02-031. The most recent report underscores the need for Washington to take*  
*immediate and aggressive action to reduce greenhouse gas emissions, the primary*  
*cause of global climate change.*

*(7) Based on the current science and emissions trends, as reported by the*  
*department of ecology and the climate impacts group at the University of*  
*Washington, the legislature finds that avoiding global warming of at least one and*  
*one-half degrees Celsius is possible only if global greenhouse gas emissions start*  
*to decline precipitously, and as soon as possible. Restoring a safe and stable*  
*climate will require mobilization across all levels of government and economic*  
*sectors, including agriculture, manufacturing, transportation, and energy*  
*production, to reach net zero greenhouse gas emissions by 2050. Washington must*  
*therefore further strengthen its emissions reduction targets for 2030 and beyond.*  
*In addition, all pathways to one and one-half degrees Celsius rely on some amount*  
*of negative emissions through carbon sequestration. It is therefore the intent of the*  
*legislature to strengthen Washington's statutory greenhouse gas emission limits to*  
*reflect current science and to align with the limits that other jurisdictions are*  
*setting to combat climate change and to encourage voluntary actions that increase*  
*carbon sequestration on natural and working lands and storage in the related*  
*products from those lands.*

1           (8) *In strengthening Washington's statutory greenhouse gas emission limits, it is*  
2           *the intent of the legislature to pursue these limits in a way that:*

3           (i) *Reduces the burdens and creates benefits for vulnerable populations and highly*  
4           *impacted communities with long-term and short-term outcomes for public health,*  
5           *economic well-being, local environments, and community resiliency that benefits*  
6           *all Washington residents;*

7           (ii) *Supports the current skilled and trained construction workforce, retains and*  
8           *creates other high quality employment opportunities, and generates broad, widely*  
9           *shared economic benefits for the state and Washington residents; and*

10           (iii) *Maintains Washington's manufacturing economy and avoids leakage of*  
11           *emissions to other jurisdictions." [2020 c 79 s 1.] [emphasis added]*

12           13. On December 31, 2024 the Defendant agencies failed to comply with RCW  
13           70(A).45.020(2) because neither agency provided a report on the total emissions of greenhouse  
14           gases for the preceding two years' totals in each major source sector, including emissions  
15           associated with leaked gas.

16           14. A report was issued on January 6, 2025. However, it also did not comply with the law  
17           because it did not include the two preceding years – 2022 and 2023 – but instead, covers the years  
18           2020 and 2021.

19           15. While recent media reports have indicated that the agency has hired more staff to process  
20           the data, resources should not be an issue. The Department of Ecology has an operating budget of  
21           \$862.3 million and 2,136.5 FTEs in 2023-25. [https://ecology.wa.gov/About-us/Budget-legislative-](https://ecology.wa.gov/About-us/Budget-legislative-priorities/Our-budget/2023-25-Budget)  
22           [priorities/Our-budget/2023-25-Budget](https://ecology.wa.gov/About-us/Budget-legislative-priorities/Our-budget/2023-25-Budget). The Department of Commerce has even more resources it  
23           could bring to bear to provide information on this existential threat – a \$2.7 billion perating budget  
24           and \$2.4 billion in capital funding. With over nearly \$6 billion in combined resources, it is strange  
25           that both agencies cannot seem to find the necessary funding to prioritize this important and legally  
26           required work.

1 **V. CLAIMS**

2 **A. DECLARATORY JUDGMENT**

3 16. Plaintiff realleges the preceding paragraphs and incorporates them by reference in this  
4 request for declaratory relief.

5 17. This is a petition for declaratory judgment action pursuant to Ch. 7.24 of the Uniform  
6 Declaratory Judgment Act. Plaintiff has rights, status, and other legal relations that are affected by  
7 the requirements in RCW 70A.45.020(2) and seeks to have determined a question of construction  
8 or validity arising under the statute and to obtain a declaration of rights, status, or other legal  
9 relations thereunder.

10 18. Defendants have failed to comply with RCW 70A.45.020(2).

11 19. Plaintiff seeks to have this Court declare whether the Defendant agencies are obligated to  
12 comply with the clear mandatory language in the law.

13 **B. WRIT OF MANDAMUS**

14 20. Plaintiff realleges the preceding paragraphs and incorporates them by reference in this  
15 second cause of action.

16 21. This is a petition for a Writ of Mandamus under Ch. 7.16, RCW. Plaintiff seeks a court  
17 order to Defendants to compel the performance of an act which the law especially enjoins as a duty  
18 resulting from an office, trust or station, or to compel the admission of Plaintiff James Todd Myers  
19 to the use and enjoyment of a right or office to which Plaintiff is entitled, and from which the party  
20 is unlawfully precluded by Defendants. There is not a plain, speedy and adequate remedy in the  
21 ordinary course of law.

1 22. Plaintiff seeks a writ of mandamus from this Court ordering Defendants in their official  
2 capacities to comply with RCW 70A.45.020(2) and provide a report that complies with that  
3 provision of law.

4 **VIII. RELIEF REQUESTED**

5 Plaintiff respectfully requests that the Court provide the following relief:

6 23. For equitable relief in the form of a declaratory judgment;

7 24. For a writ of mandamus against Defendants compelling them to comply with RCW  
8 70A.45.020(2) and provide a report according to that provision of law;

9 25. Award Plaintiff all costs incurred in connection with this action, including reasonable  
10 attorney's fees;

11 26. Award any other relief as it deems just or equitable.

12 DATED this 22<sup>nd</sup> day of January, 2025.

13  
14 /s/ Jackson Maynard  
15 JACKSON WILDER MAYNARD, JR.  
16 WSBA No. 43481  
17 CITIZEN ACTION DEFENSE FUND  
18 111 21<sup>st</sup> Ave SW  
19 Olympia, WA 98501  
20 (850) 519-3495

21 /s/ Sam Spiegelman  
22 SAM SPIEGELMAN  
23 WSBA No. 58212  
24 CITIZEN ACTION DEFENSE FUND  
111 21<sup>st</sup> Ave SW  
Olympia, WA 98501  
(201) 314-9505


*Attorneys for Plaintiff Todd Myers*




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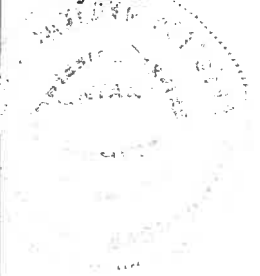
**DECLARATION OF PLAINTIFF IN SUPPORT OF VERIFIED PETITION**

I hereby swear or affirm that the facts alleged in the Verified Petition for Writ of Mandamus and Declaratory Judgement are true and correct to the best of my knowledge and belief.

  
\_\_\_\_\_  
James Todd Myers

Sworn to me this 21 day of Jan, 2025  


\_\_\_\_\_  
Notary Public



1 **CERTIFICATE OF SERVICE**

2 I, Jackson Maynard, hereby declare under penalty of perjury under the laws of the State  
3 of Washington that I am causing a true and correct copy of the foregoing Petition for Writ of  
4 Mandamus and Declaratory Judgment to be served via legal messenger on this date to

5 Defendants at:

6 CASEY SIXKILLER  
7 Director, Washington Department of Ecology  
8 300 Desmond Drive SE  
9 Lacey, WA 98503  
10 360-407-6000

11 JOE NGUYEN  
12 Director, Washington Department of Commerce  
13 1011 Plum St SE  
14 Olympia, WA 98504  
15 360-725-4000

16 NICK BROWN  
17 Office of the Attorney General  
18 1125 Washington St SE  
19 Olympia, WA 98504  
20 *Legal Designee and Counsel for State Defendants*

21 DATED this 22nd day of January, 2025.

22 */s/ Jackson Maynard*  
23 JACKSON WILDER MAYNARD, JR.  
24 WSBA No. 43481  
CITIZEN ACTION DEFENSE FUND  
111 21<sup>st</sup> Ave SW  
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*Attorney for Plaintiff Todd Myers*