

Language Explainer for the Right to a Clean and Healthy Environment

Proposed Language for Review

(Preamble)

Whereas a clean and healthy environment is necessary for life, liberty and other rights fundamental to a free and ordered society;

Whereas governmental actions and inaction have allowed or worsened environmental harms such as polluted air, soils and water; extreme heat, drought and wildfire; and the decline of important native species, habitats and ecosystems;

Whereas this Section ensures just and equitable protection for all people; now, therefore,

Section **. Right to a Clean and Healthy Environment.

(1) All people, including children and future generations, have the right to a clean and healthy environment. This right is inherent, inalienable and fundamental.

(2) The State holds Oregon's natural resources in trust and, as trustee, shall carry out its fiduciary obligations to protect such resources for the benefit of all people, including generations yet to come. Natural resources include, but are not limited to, surface water, groundwater, air, atmosphere, fish and wildlife.

(3) Any person may enforce the rights and duties guaranteed under this Section against the State. Courts shall liberally construe this Section, which is self-executing, and shall recognize successful enforcement as an important and substantial benefit for all people.

Explanations behind the choice of words, phrases and formats:

<i>Preamble, 1st statement</i>	We included a preamble to provide instructive meaning, background and purpose for the amendment language. We intentionally introduce the right by clarifying its basic meaning and rightful position as something inherent and implied in all other fundamental rights and necessary for life in general – what we need to sustain our natural life support systems, enjoy outdoor recreation, seek environmental serenity, engage in family / cultural traditions and other features of basic liberty. It should be abundantly clear this amendment is not for private nuisances, corporate abuse or “NIMBY” complaints, but something much greater and meaningful to communities, societies and future generations. The final clause is drawn from a quote by Judge Aiken in her landmark <i>Juliana</i> opinion: “ <i>The right to a climate system capable of sustaining human life is fundamental to a free and ordered society.</i> ”
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<i>Preamble, 2nd statement</i>	This illustrates the current reality that must be changed to protect our fundamental rights. Government action (such as permitting) and inaction (such as an official policy to allow or ignore certain harmful activities or to not enforce certain protective laws) is the crux of the matter, not private conduct. The non-exhaustive list of environmental harms shows how degraded conditions of the natural environment can infringe on our other basic rights – to live – to drink clean water, breathe clean air, survive extreme temperatures / weather or disasters, etc. The anecdotal evidence of these issues can be seen in the 2026 Ground Truth Listening Tour Preliminary Findings Report we compiled after a months-long statewide tour collecting stories from Oregonians. We also added “important native species, habitats and ecosystems” due to the evidence-based link between Oregon’s flora, fauna and biodiversity of species and benefits to the public interest, including known and yet-to-be-discovered “ecosystem services.” Allowing the denigration, diminution or degradation of such ecological functions and processes can directly and indirectly threaten human lives, livelihoods, economies, industries, and so on. It may be especially important these days as the federal government attacks (rolls back protections of) Oregon’s forests, federally-managed lands in Oregon, waters (esp. wetlands), air / atmosphere and endangered / threatened species. This amendment empowers the State of Oregon to fight back with substantive constitutional standards and requirements.
<i>Preamble, 3rd statement</i>	While this shouldn’t be necessary to say explicitly due to existing legal safeguards, we chose to be abundantly clear with our intent to ensure the interests of Oregon’s historically-marginalized and vulnerable communities, especially those who have not realized justice on these matters, are clearly protected under the amendment.
Subject (1)	Here, we enshrine the right, clarify its application to those without political (voting) power such as children and future generations and describe the right in no uncertain terms to trigger strict scrutiny review. As is repeated in the next subsection, protecting the interests of future generations ensures a long-term view of impacts in decision-making. With context provided in the Preamble, this is a right against bad government actions / inaction that allow environmental harms to present and future generations.
Subject (2)	As it relates to the fundamental right, it is necessary to clarify the State’s higher duty and role in guarding it. Here, we also use clear terms to ensure all concerned understand the State’s affirmative fiduciary duties as trustee of Oregon’s natural resources. Such level of care includes duties of loyalty (to the public interest over private), of prudence (due care, expertise and precaution), of impartiality (fair and equitable treatment, without bias), and other substantive and procedural duties.
Subject (3)	Including a private cause of action (to enforce rights and duties) lifts the amendment language up and out of mere advisory policy or guidance where power-politics can control implementation / enforcement, to a matter of law where rules of best evidence and cross-examined expert testimonies reign. While courts cannot dictate budgets or policy, they are well suited – intentionally and historically – to determine whether other branches of government have crossed the line and violated the consent of the governed. Guidance for courts to “liberally construe” the Section was necessary because legal research shows that Oregon courts are historically textualist. For similar reasons, we included “self-executing” to ensure the amendment does not hinge on legislative implementation, and that courts prioritize, guard and make whole the public interest. Not saying so risks courts not finding it.

Questions? Please contact the Oregon Coalition for an Environmental Rights Amendment (OCERA) at team@oceraunited.org.