From time to time, there is talk about giving standing to future generations. Although this is an idea whose time may not have come in the U.S., it's important to know that the law has for many, many years allowed appointment of lawyers to represent future individuals.

Typically, this is a procedure that is used in estate or trust cases. In California, this procedure is a matter of statute. Section 373.5 of the Civil Procedure Code provides:

"If . . . a person or persons of a designated class who are not ascertained or who are not in being, or a person or persons who are unknown, may be or may become legally or equitably interested in any property, real or personal, the court in which any action. . . affecting the property is pending, may . . . appoint a suitable person to appear and act therein as guardian ad litem of the person or persons not ascertained, not in being, or who are unknown."

This provision is used only when there is a conflict of interest between existing beneficiaries and future ones.

This provision could conceivably be used outside the domain of trust or estate law, given the breadth of the statutory language. There seems to be a conflict of interest in the case of climate policy, where the stake of future generations is much larger than the current generation. Arguably, given the interest of future generations in coastal lands that may be destroyed by future climate change or in water rights that could be rendered worthless by climate change, the statute could be used to ensure their representation in relevant litigation. Or perhaps the public trust could be considered sufficiently analogous to a conventional trust to support use of this technique.

That may be a bit too much of a stretch of section 373.5 , although perhaps it shouldn't be ruled out. More importantly, however, it shows that there's a very legitimate pedigree for the concept of legal representation for future generations. Who knows? Maybe the idea of standing for future generations isn't quite so zany after all.