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**IN THE SUPREME COURT OF THE STATE OF MONTANA**  
**No. DA 21-0079**

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EAST BENCH IRRIGATION DISTRICT;  
UNITED STATES OF AMERICA (Bureau of Land Management),  
*Claimants/Appellees*

EAST BENCH IRRIGATION DISTRICT;  
POINT OF ROCKS ANGUS RANCH INC.,  
*Objectors/Appellees*

MADISON VALLEY GARDEN RANCH, LLC,  
*Counterobjector*

OPEN A RANCH, INC.,  
*Counterobjector/Appellant*

GEODUCK LAND & CATTLE, LLC;  
SMITH'S ELK MEADOWS RANCH, LLC,  
*Notice of Intent to Appear/Appellees*

BAR J RANCH; DAVID E. & SHELLI SCHUETT; BALDY VIEW  
ENTERPRISES, LLC; WILLIAM C. MANCORONAL; ROXANNE E.  
MANCORONAL; JUSTIN D. DEVERS; WILLIAM R. GROSE; POINT OF ROCKS ANGUS  
RANCH, INC.; CLARK CANYON WATER SUPPLY,  
*Intervenors/Appellees*

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On Appeal from Montana Water Court Case No. 41B-0265-P-2015

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*UNOPPOSED* JOINT MOTION BY APPELLEES

EAST BENCH IRRIGATION DISTRICT; CLARK CANYON WATER SUPPLY COMPANY;  
THE UNITED STATES; POINT OF ROCKS ANGUS RANCH INC.; MADISON VALLEY  
GARDEN RANCH, LLC; GEODUCK LAND & CATTLE, LLC; SMITH'S ELK MEADOWS  
RANCH, LLC; BAR J RANCH; DAVID E. & SHELLI SCHUETT; BALDY VIEW  
ENTERPRISES, LLC; WILLIAM C. MANCORONAL; ROXANNE E. MANCORONAL;  
JUSTIN D. DEVERS; AND WILLIAM R. GROSE;

FOR A 30-DAY EXTENSION OF TIME UP TO AND INCLUDING AUGUST 23, 2021  
FOR FILING APPELLEE BRIEFS

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Pursuant to Mont. R. App. P. 26(1), the above-named Appellees respectfully ask this Court for a 30-day extension of time, up to and including August 23, 2021, within which to file their answering briefs.

The opening brief of Objector/Appellant Open A Ranch, Inc. ("Open A") was filed and served, after one 30-day extension of time, on May 21, 2021. After one extension filed by Appellees, answering briefs were to have been due on July 21, 2021. This is the second extension request by Appellees who include: the United States; East Bench Irrigation District: ("EBID"); Clark Canyon Water Supply Company ("CCWSC"); Point Of Rocks Angus Ranch Inc.; Madison Valley Garden Ranch, LLC; Geoduck Land & Cattle, LLC; Smith's Elk Meadows Ranch, LLC; Bar J Ranch; David E. & Shelli Schuett; Baldy View Enterprises, LLC; William C. Mancoronal; Roxanne E. Mancoronal; Justin D. Devers; And William R. Grose, hereinafter ("Appellees"). To satisfy the requirements of Mont. R. App. P. 26(2), counsel for Appellee EBID and CCWSC explains that an unexpected absence from the state for the week preceding the July 21, 2021 deadline makes the submission of the answer brief especially difficult.

This motion is supported by counsel for Appellees who have cite additional good cause including one who is in the midst of an eight-day trial over a two-week span in federal court and

another whose summer plans were interrupted by a death in the family, necessitating unexpected travel.

Undersigned counsel has contacted counsel for Appellant Open A Ranch and counsel for the other parties of record. No party objects to the requested 30-day extension, and Open A agreed on condition that the extension be no fewer than 30 days for purposes of timing its reply.

For the foregoing reasons, Appellees respectfully request a 30-day extension of time, up to and including August 23, 2021, within which to file their answering briefs.

Respectfully submitted,

/s/ John L. Smeltzer  
John L. Smeltzer  
United States Department of Justice

/s/ Ryan McLane  
Ryan McLane  
Franz & Driscoll, PLLP

/s/ Jean Bergeson  
Jean Bergeson  
Suenram & Bergeson

/s/ Max A. Hansen  
Max A. Hansen  
Max A. Hansen & Associates, P.C.

/s/ William C. Fanning  
William Fanning  
Fanning Law, PLLC

/s/ Walter E. Congdon  
Walter E. Congdon, Attorney

/s/ W. John Tietz  
W. John Tietz  
Browning, Kaleczyc, Berry & Hoven, P.C.

/s/ Rick Tappan  
Rick Tappan  
Bloomquist Law Firm, P.C.

/s/ Dana E. Pepper  
Dana E. Pepper  
River and Range Law, PLLC

## AFFIDAVIT

Pursuant to Mont. Code Ann. § 1-6-105, I, William C. Fanning, hereby declare as follows:

1. I am a licensed, practicing attorney in the State of Montana, and I am the attorney for Appellees, East Bench Irrigation District and Clark Canyon Water Supply Company.
2. Objectors/Appellants opening brief was filed May 21, 2021 after one 30 day extension. The original deadline for Appellees Answer was June 21, 2021. Appellees asked for and received a first extension making the current deadline July 21, 2021. This is Appellees' second extension request.
4. This extension is requested under M.R.App.P. 26(1)(2). By its motion, Appellees request a thirty (30) day extension of time to file their answer brief in this matter until August 23, 2021.
5. The reason for this request is due to an unexpected absence by counsel for the Appellees from the office in the week preceding July 21, 2021, thus necessitating additional time to prepare the answer brief.
6. Opposing counsel has been contacted and agrees with the request as long as it is for not fewer than thirty (30) days.
7. I hereby declare under penalty of perjury that the above is true and correct.

/s/ William C. Fanning

William C. Fanning

July 7, 2021

Date

## **CERTIFICATE OF SERVICE**

I, Richard Charles Tappan, hereby certify that I have served true and accurate copies of the foregoing Motion - Unopposed to the following on 07-07-2021:

Bina Ruth Peters (Attorney)

PO Box 477

Bozeman MT 59771

Representing: Baldy View Enterprises, LLC, Bar J Ranch, Justin Devers, William R. Grose, William C. and Roxanne E. Mancoronal

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Electronically signed by Laura Schultz on behalf of Richard Charles Tappan  
Dated: 07-07-2021