

IN THE SUPREME COURT OF THE STATE OF MONTANA

DA 22-0064

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MONTANA ENVIRONMENTAL INFORMATION CENTER and SIERRA CLUB,

Plaintiffs and Appellees,

vs.

WESTERN ENERGY CO., NATURAL RESOURCE PARTNERS, L.P.,  
INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL 400, and  
NORTHERN CHEYENNE COAL MINERS ASSOCIATION,

Respondent-Intervenors and Appellants,

and

MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY,

Respondent and Appellant,

and

MONTANA BOARD OF ENVIRONMENTAL REVIEW,

Respondent and Appellant.

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**PLAINTIFFS-APPELLEES' UNOPPOSED MOTION FOR EXTENSION  
OF TIME TO FILE RESPONSE BRIEF UNDER M.R.A.P. 26(2)**

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On appeal from the Montana Sixteenth Judicial District Court, Rosebud County,  
Cause No. DV 19-34, the Honorable Katherine M. Bidegaray, Presiding

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Pursuant to Montana Rule of Appellate Procedure 26(2), Plaintiffs-Appellees Montana Environmental Information Center and Sierra Club (Conservation Groups) respectfully request a 25-day extension of time to file their combined response brief. The brief is currently due on October 10, 2022. The brief was first due on September 9, 2022. With the 25-day extension, the brief will be due on Friday, November 4, 2022.

The Conservation Groups have substantial need for this modest extension to adequately rebut the extensive arguments set forth in three separate briefs of appellants, which together total over 130 pages and 30,000 words. Hernandez Decl. ¶¶ 3–4. Moreover, while there is some overlap between the three opening briefs, each brief raises distinct issues. *Id.* In total, the Conservation Groups must respond to 11 discrete issues related to a preliminary ruling on a motion to dismiss, the merits, the remedy, and the award of costs and attorneys’ fees. *Id.* ¶ 3.

Counsel for the Conservation Groups has exercised diligence in preparing the response brief, a substantial portion of which is already written. *Id.* ¶ 2. However, a significant investment of time is still required to address fully the myriad issues raised by appellants. *Id.* ¶ 3. Addressing each issue involves reviewing extensive records from both the district court and the administrative agency. *Id.* ¶ 4. Additional time will be required to edit the brief to comply with the

15,000-word limitation. *Id.* The Conservation Groups will file their answer brief within the time requested. *Id.*

Counsel for the Conservation Groups has contacted counsel for all appellants, who have no objection. *See* Mont. R. App. P. 26(2)(f). A proposed order accompanies this motion. *See* Mont. R. App. P. 16(1).

For these reasons, the Conservation Groups respectfully request that the deadline for filing their combined response brief be extended by 25 days up to and including November 4, 2022.

Respectfully submitted this 30th day of September, 2022.

/s/ Shiloh Hernandez  
Shiloh Hernandez

## **CERTIFICATE OF SERVICE**

I, Shiloh Silvan Hernandez, hereby certify that I have served true and accurate copies of the foregoing Motion - Unopposed to the following on 09-30-2022:

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Dated: 09-30-2022