

IN THE SUPREME COURT OF THE STATE OF MONTANA  
No. DA 22-0406

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MONTANA TROUT UNLIMITED, MONTANA ENVIRONMENTAL  
INFORMATION CENTER, TROUT UNLIMITED, EARTHWORKS, AND  
AMERICAN RIVERS,

*Plaintiffs and Appellees,*

v.

MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY,

*Defendant and Appellant,*

AND

TINTINA MONTANA INC.,

*Defendant and Appellant,*

AND

STATE OF MONTANA, BY AND THROUGH THE OFFICE OF  
THE ATTORNEY GENERAL,

*Defendant-Intervenor,*

AND

MEAGHER COUNTY AND BROADWATER COUNTY,

*Defendants-Intervenors.*

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PLAINTIFFS AND APPELLEES UNOPPOSED MOTION  
FOR EXTENSION OF TIME

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ON APPEAL FROM THE MONTANA FOURTEENTH JUDICIAL DISTRICT  
COURT, MEAGHER COUNTY, CAUSE NO. DV-20-10,  
HON. KATHERINE M. BIDEGARAY PRESIDING

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Quality*

Appellees Montana Trout Unlimited et al. hereby move the Court to extend its briefing deadline in this matter. Mont. R. App. P. 26(2). Appellees' brief currently is due December 2, 2022. Appellees move the Court for a 40-day extension, to and including January 11, 2023. This is Appellees' first request for an extension. Appellees' counsel contacted counsel for Appellants Montana Department of Environmental Quality and Tintina Montana, Inc., who represented that they do not object to this motion. As explained in the supporting affidavit of Benjamin Scrimshaw, Appellees have been working diligently on their brief. However, due to multiple competing litigation deadlines and the intervening holidays, the undersigned has a substantial need for a 40-day extension. If granted the extension, Appellees will file their brief on or before January 11, 2023.

Respectfully submitted this 22<sup>nd</sup> day of November, 2022,

s/Benjamin J. Scrimshaw  
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**AFFIDAVIT OF BENJAMIN SCRIMSHAW IN SUPPORT OF  
PLAINTIFFS AND APPELLEES UNOPPOSED MOTION FOR  
EXTENSION OF TIME**

---

ON APPEAL FROM THE MONTANA FOURTEENTH JUDICIAL DISTRICT  
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I, Benjamin Scrimshaw, declare under penalty of perjury:

1. I am an attorney for Appellees Montana Trout Unlimited et al. I have primary responsibility for drafting Appellees' response brief in this matter.

2. Appellees' brief currently is due December 2, 2022.

3. Appellees have not previously sought an extension of their briefing deadline in this matter.

4. Pursuant to Montana Rule of Appellate Procedure 26, Appellees move the Court for a 40-day extension, to and including January 11, 2023, in which to file and serve their brief.

5. Although I am working diligently on Appellees' brief, I have been unable to devote sufficient time to briefing due to a competing briefing deadline in a matter pending before the Ninth Circuit Court of Appeals, *Swan View Coalition and Friends of the Wild Swan v. Steele, et al.*, Case No. 22-35137 (9th Cir.). I filed that brief on this date, November 22, 2022, and will now devote substantial attention to briefing in the present matter. Due to planned travel and the intervening holidays, however, I request an extension to January 11,

2023, to allow Appellees to fully respond to the important issues in the case.

6. Counsel for Appellees contacted counsel for Montana Department of Environmental Quality, Jeremiah Langston, and counsel for Tintina Montana, Inc., Dale Schowengerdt, who do not oppose this motion.

7. I declare under the penalty of perjury that the foregoing is true and correct.

DATED this 22nd day of November, 2022

s/Benjamin J. Scrimshaw

Benjamin J. Scrimshaw

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## **CERTIFICATE OF SERVICE**

I, Jenny Kay Harbine, hereby certify that I have served true and accurate copies of the foregoing Motion - Unopposed to the following on 11-22-2022:

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