

IN THE SUPREME COURT OF THE STATE OF MONTANA
No. DA 23-0575

RIKKI HELD; LANDER B., by and through his guardian Sara Busse; BADGE B., by and through his guardian Sara Busse; SARIEL SANDOVAL; KIAN T., by and through his guardian Todd Tanner; GEORGIANNA FISCHER; KATHRYN GRACE GIBSON-SNYDER; EVA L., by and through her guardian Mark Lighthiser; MIKA K., by and through his guardian Rachel Kantor; OLIVIA VESOVICH; JEFFREY K., by and through his guardian Laura King; NATHANIEL K., by and through his guardian Laura King; CLAIRE VLASES; RUBY D., by and through her guardian Shane Doyle; LILIAN D., by and through her guardian Shane Doyle; TALEAH HERNÁNDEZ,

Plaintiffs and Appellees,

v.

STATE OF MONTANA, GOVERNOR GREG GIANFORTE, MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY, MONTANA DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION, and MONTANA DEPARTMENT OF TRANSPORTATION,

Defendants and Appellants.

On appeal from the Montana First Judicial District Court, Lewis and Clark County
Cause No. CDV 2020-307, the Honorable Kathy Seeley, Presiding

NOTICE OF APPEAL OF GOVERNOR GREG GIANFORTE, MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY, MONTANA DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION, AND MONTANA DEPARTMENT OF TRANSPORTATION

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Notice is given that Appellants-Defendants Governor Greg Gianforte, Department of Environmental Quality, Department of Natural Resources and Conservation, and Montana Department of Transportation, Defendants in Cause No. DV 20–307, First Judicial District, Lewis and Clark County, hereby files this appeal to the Montana Supreme Court from the following Orders, as well as all previous or related orders and rulings that led to or resulted in the orders:

1. Order dated August 4, 2021 (Doc. 46) on Defendants’ Motion to Dismiss (Doc. 11);
2. Order dated June 30, 2022 (Doc. 158), denying Defendants’ Rule 60(a) Motion for Clarification of Order on State’s Motion to Dismiss (Doc. 84);
3. Order dated September 22, 2022 (Doc. 217), denying Defendants’ Second Rule 60(a) Motion for Clarification of Order on State’s Motion to Dismiss (Doc. 167);
4. Order dated October 14, 2022 (Doc. 225), denying Defendants’ Rule 35(a) Motion for Independent Medical Examination (Doc. 163);
5. Order dated May 23, 2023 (Doc. 379) on Defendants’ Motion for Summary Judgment (Doc. 290);
6. Order dated June 1, 2023 (Doc. 381), ruling on Motions *in Limine* (Docs. 260, 262, 264, 266, 268, 270, 272);

7. Order dated June 7, 2023 (Doc. 384), denying Defendants' Motion to Dismiss MEPA Claims (Doc. 376); and

8. Order dated August 14, 2023 (Doc. 405), finding in favor of Plaintiffs on all remaining claims.

Appellants further certify:

1. That this appeal is not subject to the mediation process required by Mont. R. App. P. 7.

2. That this appeal is an appeal from an order certified as final under Mont. R. Civ. P. 54(b). A true and correct copy of the District Court's certification order, entered by the District Court on September 18, 2023, is attached as Exhibit A.

3. That all available transcripts of the proceedings in this case were ordered by the State of Montana from the court reporter contemporaneously with the State of Montana's filing of its notice of appeal.

4. That the Appellants are exempt from filing fee requirements.

5. That pursuant to Mont. R. App. P. 4(4)(d) a copy of the Notice of Appeal will be served via electronic filing to the Clerk of District Court and counsel of record.

DATED this 2nd day of October, 2023.

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CERTIFICATE OF SERVICE

I, Dale Schowengerdt, hereby certify that I have served true and accurate copies of the foregoing Notice - Notice of Appeal to the following on 10-02-2023:

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Electronically Signed By: Dale Schowengerdt
Dated: 10-02-2023