

No. DA 23-0575

IN THE
Supreme Court of the State of Montana

RIKKI HELD, ET AL.,

Plaintiffs and Appellees,

VS.

THE STATE OF MONTANA, ET AL.,

Defendants and Appellants.

ON APPEAL FROM THE MONTANA FIRST JUDICIAL DISTRICT COURT,
LEWIS AND CLARK COUNTY
THE HONORABLE KATHY SEELEY, PRESIDING
CASE No. CDV-2020-307

**UNOPPOSED MOTION OF THE MONTANA CHAMBER OF
COMMERCE, CHAMBER OF COMMERCE OF THE UNITED STATES
OF AMERICA, BILLINGS CHAMBER OF COMMERCE, HELENA
CHAMBER OF COMMERCE, AND KALISPELL CHAMBER OF
COMMERCE FOR LEAVE TO APPEAR AS AN *AMICI CURIAE***

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Pursuant to Mont. R. App. P. 12(7), the Montana Chamber of Commerce, the Chamber of Commerce of the United States of America, Billings Chamber of Commerce, Helena Chamber of Commerce, and Kalispell Chamber of Commerce move for leave to file an *amici curiae* brief in support of the Appellants.

I. Statement of Interest

Established in 1931, the Montana Chamber of Commerce's mission is to advocate on behalf of Montana businesses and be the driving force in promoting a favorable business climate in the State of Montana. The Montana Chamber of Commerce, Billings Chamber of Commerce, Helena Area Chamber of Commerce, and Kalispell Chamber of Commerce ("Montana Chambers") collectively represent over 4,000 businesses large and small across the State of Montana. The Montana Chambers serve business members by working to create and sustain an optimal business climate, business prosperity, and a strong Montana economy. Through their advocacy, education, and collaboration, the Montana Chambers work to provide an empowered and educated workforce, reduce business growth obstacles, and advance positions that promote success for Montana businesses.

The Chamber of Commerce of the United States of America ("U.S. Chamber") is the world's largest business federation. It represents approximately 300,000 direct members and indirectly represents the interests of more than 3 million companies and professional organizations of every size, in every industry

sector, and from every region of the country. The U.S. Chamber regularly files *amicus curiae* briefs in cases, like this one, that raise issues of concern to the nation's business community.

The Montana Chambers and the U.S. Chamber (collectively "Chambers") are concerned about the impacts of this case (including the precedential impacts, in other contexts, of an adverse decision from the Court) on electricity costs and reliability, infrastructure investments, business facilities, business operations, and cost inflation.

First, the Chambers are concerned that an adverse decision in this case would delay or derail necessary investments and expansion of reliable electric supply and infrastructure in Montana.

Second, the Chambers view federal, state, and local investment in infrastructure to be critical for business success and community quality of life across Montana. With limited funds available for roads, bridges, schools, and other infrastructure, it is critical that permitting for construction and materials mining not be delayed and complicated by the onerous requirements that the trial court's decision imposes on state agencies. Similarly, permitting and material supplies for business facilities will also face delays and increased costs if the trial court's decision is not corrected.

Third, for the many businesses that require state permits or access to natural resources for their operations, the Chambers see the trial court's decision as a significant threat to business operations and high-wage employment for Montanans.

Finally, the Chambers are concerned that member businesses will face significant hardship from cost inflation as a result of the new requirements imposed by the trial court's decision. If not corrected, those requirements will drive up costs for materials, transportation and nearly every aspect of business.

II. Statement of Benefit

Numerous members of the Chambers must obtain permits and approvals that are governed by the Montana Environmental Policy Act. An adverse decision in this case would make many of those permits more difficult, time-consuming, and expensive to obtain, as well as cast doubt upon the validity of many existing permits and approvals. It will assist the Court to hear the perspectives of those directly affected by the decision.

III. Identity of the Parties Whose Position the Chamber Supports

The Chambers support the position of Appellants.

IV. Proposed Date for *Amici Curiae* Brief

The Chambers propose to file their *amici curiae* brief no later than three calendar days after the date when Appellants file their opening briefs, which is

currently set for Tuesday, February 13, 2024. That date is the same day – Friday, February 16, 2024 – that the Court set for the Treasure State Resources Association to file its *amicus curiae* brief.

V. Parties’ Positions Regarding the Chambers’ Participation

Counsel for the Appellants and Appellees have been contacted regarding this motion, and they do not oppose the motion.

CONCLUSION

Based on the foregoing, the Chambers request that this Court grant their unopposed motion for leave to submit an *amici curiae* brief.

Respectfully submitted this 31st day of January, 2024.

/s/ Matthew Dolphay

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CERTIFICATE OF SERVICE

I, Matthew Herman Dolphay, hereby certify that I have served true and accurate copies of the foregoing Motion - Unopposed to the following on 01-31-2024:

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