

## IN THE SUPREME COURT OF THE STATE OF MONTANA

No. DA 23-0575

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RIKKI HELD, et al.,

*Plaintiffs / Appellees*

v.

STATE OF MONTANA, et al.,

*Defendants / Appellants*

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**DECLARATION OF ROGER SULLIVAN  
IN SUPPORT OF PLAINTIFFS'/APPELLEES' UNOPPOSED MOTION  
FOR LEAVE TO FILE OVERLENGTH ANSWER BRIEF**

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

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I, Roger Sullivan, hereby declare as follows:

1. I am counsel of record for Plaintiffs/Appellees in this appeal.
2. This case began in 2020 when Plaintiffs filed a Complaint for Declaratory and Injunctive Relief against Defendants/Appellants the State of Montana, the Governor, Montana Department of Environmental Quality, Montana Department of Natural Resources and Conservation, Montana Department of Transportation, and Montana Public Service Commission. Prior to the trial in the District Court and this appeal, this case was litigated for over three years, with extensive discovery and motions practice—including the completion of

thirty-six depositions, the exchange of twenty-two expert reports, the exchange of over 50,000 pages of documents, and responses to dozens of interrogatories. During the seven-day trial, the District Court admitted 168 Plaintiffs' exhibits and 4 Defendants' exhibits. Thereafter, the District Court issued a 103-page Opinion, containing 289 detailed findings of fact. Accordingly, the record and procedural history of this case is long and detailed.

3. Appellants have filed two separate opening briefs in this appeal, with a combined word count of 17,813. In addition, 9 *amici* briefs in support of Appellants have been filed. Appellees are preparing a single, consolidated answer brief to Appellants' two opening briefs. Appellees submit that a consolidated Answer brief is more efficient and convenient for this Court and will assist this Court's review of the issues presented.
4. The parties agree that this case concerns constitutional issues of statewide importance which are of crucial environmental, economic, and social consequence. Given the constitutional issues of statewide importance presented in this appeal, this Court will be benefited if Appellees are permitted the requested word length to adequately address these issues and to adequately detail the thorough findings of fact and factual record that underpin the District Court's ruling.

5. In preparing and drafting Appellees' combined answer brief, I have determined that it would not be possible to adequately present Appellees' response to Appellants' arguments made in two separate briefs in a single brief of 10,000 words as provided by M. R. App. P. 11(4)(a). My co-counsel and I have exercised diligence in preparing our combined response brief. Together we have spent many hours reviewing, researching, outlining, drafting, and editing the response brief. To ensure the Court receives suitable argument from Appellees on all the important issues presented, the undersigned respectfully submits that an expansion of the word limit for Appellees' single unified brief, not to exceed 17,500 words, is warranted.
6. I contacted counsel for Appellants, and they do not oppose this motion.

Pursuant to § 1-6-105, MCA, I declare under penalty of perjury that the foregoing is true and correct.

Dated March 7, 2024.

/s/ Roger Sullivan  
Roger Sullivan