

IN THE SUPREME COURT OF THE STATE OF MONTANA

No. DA 23-0575

RIKKI HELD, et al.,

Plaintiffs and Appellees,

v.

THE STATE OF MONTANA, et al.,

Defendants and Appellants.

**UNOPPOSED MOTION
FOR LEAVE TO FILE *AMICUS CURIAE* BRIEF**

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Pursuant to Montana Rules of Appellate Procedure 12(7), the Confederated Salish and Kootenai Tribes, Fort Belknap Indian Community, Alternative Energy Resources Organization, Citizens for a Better Flathead, Climate Smart Missoula, District XI Human Resource Council, Earthworks, Families for a Livable Climate, Forward Montana, Friends of 2 Rivers, Montana Audubon, Montana Environmental Information Center, Northern Plains Resource Council, NW Energy Coalition, Park County Environmental Council, Sierra Club, and SustainaBillings (“Tribal and Conservation Amici”) respectfully move for leave to file an *amicus curiae* brief in support of the Appellees.

I. STATEMENT OF INTEREST

The proposed amici are tribal, conservation, civic, and human service organizations which all have a vested interest in upholding Montanans’ constitutional “right to a clean and healthful environment.” Mont. Const. art II, § 3. The Tribal and Conservation Amici have strong interests in ensuring that a key statutory mechanism designed to actualize their constitutional right—the Montana Environmental Policy Act (MEPA)—is implemented in a manner that facilitates the State’s

evaluation and consideration of all foreseeable impacts of agency actions, including climate impacts.

The Confederated Salish and Kootenai Tribes (CSKT) of the Flathead Reservation consist of the Bitterroot Salish, Upper Pend d'Oreille, and the Kootenai Tribes. CSKT's Tribal Council is entrusted to protect and preserve the tribal property, wildlife and natural resources, and the health, security, and general welfare of the Confederated Tribes. To meet this responsibility, CSKT confronts climate challenges and honors their longstanding relationship with the land. This is done, in part, through CSKT's Climate Change Strategic Plan, and through a resolution recognizing the impacts from climate change on the Reservation, and directing staff and resources to develop climate change mitigation, adaptation, and resource sustainability measures to address these impacts.

The Gros Ventre (Aaniiih) and Assiniboiné (Nakoda) Tribes, which form the Fort Belknap Indian Community, reside on the Fort Belknap Indian Reservation. Fort Belknap Indian Reservation is located forty miles south of the Canadian border and twenty miles north of the Missouri River. The Fort Belknap Indian Community Council is

entrusted with protecting the health and general welfare of the Fort Belknap Indian Community, which includes ensuring a clean and healthy climate.

Through grassroots organizing and community advocacy, Citizens for a Better Flathead, Earthworks, Friends of 2 Rivers, Montana Audubon, Northern Plains Resource Council, Park County Environmental Council, Sierra Club and SustainaBillings protect and enhance Montana's natural environments for the benefit of current and future generations.

Alternative Energy Resources Organization, Climate Smart Missoula, Families for a Livable Climate, Montana Environmental Information Center (MEIC) and NW Energy Coalition promote climate-healthy solutions for a clean and equitable energy future. Forward Montana is dedicated to promoting policies that reflect a livable climate for all future generations.

District XI Human Resource Council (HRC) operates programs to alleviate poverty and enhance public health. Advocating for safe, affordable, and energy efficient housing is a focal point of HRC.

All of the Tribal and Conservation Amici participate in state decision-making processes, including MEPA processes, which significantly impact their members' health and quality of life. Ensuring that MEPA continues to allow for informed state decisions that account for the environmental risks posed by projects state agencies authorize—including their impacts to Montana's climate—is essential to protecting these interests. Together, the Tribal and Conservation Amici will provide essential context for the Court's decision, which will have significant impact on Montanans' constitutional right to a clean and healthful environment and the vitality of MEPA.

II. STATEMENT OF BENEFIT

The Tribal and Conservation Amici—which collectively represent many thousands of Montanans who depend on a healthy environment and sustainable climate—have significant interests in this litigation that neither current parties nor other amici represent. The Tribal and Conservation Amici frequently participate in MEPA processes. To ensure those processes continue to fulfill their vital, constitutional purpose, the Tribal and Conservation Amici will address the proper scope of MEPA review, agency statutory and constitutional authority to

prevent climate-harming activities, and the public's standing to enforce MEPA. The arguments in the proposed *amicus curiae* brief are not duplicative and will offer a unique perspective that will assist the Court in its decision.

III. PROPOSED DATE FOR *AMICI CURIAE* BRIEF

The Appellees response brief deadline is currently March 14, 2024. The Tribal and Conservation Amici request leave to file a brief as *amici curiae* no later than March 19, 2024, which is five (5) days after the Appellees' response brief deadline.

IV. PARTIES' POSITIONS REGARDING THE TRIBAL AND CONSERVATION AMICI'S MOTION

The undersigned contacted counsel for Appellees and Appellants regarding the motion. Appellees and Appellants do not oppose the motion.

CONCLUSION

For the foregoing reasons, the Tribal and Conservation Amici respectfully request the Court grant them leave to file a brief as *amici curiae*, on or before March 19, 2024.

Respectfully submitted this 13th day of March, 2024.



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CERTIFICATE OF COMPLIANCE

Pursuant to Rule 16(3) of the Montana Rules of Appellate Procedure, I certify that this motion is printed with proportionately spaced Century Schoolbook text typeface of 14 points and is double-spaced. The word count calculated by Microsoft Word is 797 and does not exceed 1,250 words, excluding the certificate of compliance.

Dated this 13th day of March, 2024.



Amanda D. Galvan

CERTIFICATE OF SERVICE

I, Amanda D. Galvan, hereby certify that I have served true and accurate copies of the foregoing Motion - Unopposed to the following on 03-13-2024:

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