

IN THE SUPREME COURT OF THE STATE OF MONTANA

No. DA 23-0575

RIKKI HELD, ET AL.,

Plaintiffs and Appellees,

v.

STATE OF MONTANA, ET AL.,

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

**OUTDOOR RECREATION INDUSTRY MEMBERS' UNOPPOSED
MOTION FOR LEAVE TO FILE BRIEF AS AMICI CURIAE IN SUPPORT
OF APPELLEES**

Rebecca Davis (*pro hac vice pending*)
Brian B. Flynn (*pro hac vice pending*)
LOZEAU | DRURY LLP
1939 Harrison Street, Suite 150
Oakland, CA 94612
Telephone: (510) 836-4200
rebecca@lozeaudrury.com
brian@lozeaudrury.com

Paul J. Lawrence, MSB#7235
PACIFICA LAW GROUP LLP
1191 2nd Avenue, Suite 2000
Seattle, WA 98101
Telephone: (206) 245-1700
Paul.Lawrence@pacificallawgroup.com

ATTORNEYS FOR AMICI CURIAE OUTDOOR RECREATION INDUSTRY MEMBERS

Additional Counsel Information on Following Pages

Attorneys for Plaintiffs/Appellees:

Roger Sullivan
Dustin Leftridge
McGarvey Law
345 1st Avenue East
Kalispell, MT 59901
(406) 752-5566
rsullivan@mcgarveylaw.com
dlefridge@mcgarveylaw.com

Nathan Bellinger (*pro hac vice*)
Andrea Rodgers (*pro hac vice*)
Julia Olsen (*pro hac vice*)
Our Children's Trust
1216 Lincoln Street
Eugene, OR 97401
(413) 687-1668
nate@ourchildrenstrust.org
andrea@ourchildrenstrust.org
julia@ourchildrenstrust.org

Barbara Chillcott
Melissa Hornbein
Western Environmental Law Center
103 Reeder's Alley
Helena, MT 59601
(406) 708-3058
chillcott@westernlaw.org
hornbein@westernlaw.org

Philip L. Gregory (*pro hac vice*)
Gregory Law Group
1250 Godetia Drive
Redwood City, CA 94062
(650) 278-2957
pgregory@gregorylawgroup.com

*Attorneys for Defendants / Appellants Department of Environmental Quality,
Department of Natural Resources and Conservation, Department of
Transportation, and Governor Gianforte:*

Dale Schowengerdt
Landmark Law PLLC
7 West 6th Ave., Suite 518
Helena, MT 59601
(406) 457-5496
dale@landmarklawpllc.com

Lee M. McKenna
Montana DEQ
P.O. Box 200901
Helena, MT 59620-0901
(406) 444-6559
Lee.mckenna@mt.gov

Attorneys for Defendant / Appellant State of Montana:

Austin Knudsen
Montana Attorney General
Michael D. Russell
Thane Johnson
Montana Department of Justice
PO Box 201401
Helena, MT 59620-1401
(406) 444-2026
michael.russell@mt.gov
thane.johnson@mt.gov

Emily Jones
Special Assistant Attorney General
Jones Law Firm, PLLC
115 N. Broadway, Suite 410
Billings, MT 59101
(406) 384-7990
emily@joneslawmt.com

Mark L. Stermitz
Crowley Fleck, PLLP
305 S. 4th Street E., Suite 100
Missoula, MT 59801-2701
(406) 523-3600
mstermitz@crowleyfleck.com

Selena Z. Sauer
Crowley Fleck, PLLP
PO Box 759
Kalispell, MT 59903-0759
(406) 752-6644
ssauer@crowleyfleck.com

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I. INTRODUCTION

Pursuant to Montana Rules of Appellate Procedure Rule 12(7), proposed amici curiae Outdoor Recreation Industry Members hereby move this Court for leave to file an amicus curiae brief in support of Plaintiffs and Appellees.

II. INTEREST OF THE APPLICANT

Outdoor Recreation Industry Members are businesses and nonprofits with direct interests in how the State of Montana and its agencies respond to the climate crisis through the Montana Environmental Policy Act and the Constitution. A complete list of amici curiae Outdoor Recreation Industry Members would be included in any brief filed with this Court and would include, but not be limited to: Patagonia, Inc., Trail Head Inc., School of Trout, LLC, Conservation Hawks, Inc., Yaak Valley Forest Council, The Montana Project, Big Hole Lodge, and Grant Oswald Fly Fishing LLC (collectively “Outdoor Recreation Industry Members”).

The Outdoor Recreation Industry Members support the passions of their customers and members to explore, recreate in, and preserve the natural world. As climate change destroys natural resources, melts glaciers, exacerbates air pollution, and wreaks havoc on our water, the Outdoor Recreation Industry Members’ customers and members may be prevented from engaging in the many outdoor activities—hiking, camping, climbing, skiing, running, cycling, boating, hunting, and fishing—that they love. Put simply, soaring temperatures, extreme weather

events, reduced winter snowpack, smoke-filled skies from wildfires, degraded rivers and lakes, and diminished wildlife populations will reduce access to outdoor recreation opportunities, which will in turn impact demand for the goods and services the outdoor recreation industry provides. The Outdoor Recreation Industry Members, therefore, have a direct economic interest in how the State of Montana and its agencies respond to the climate crisis, including through the Montana Environmental Policy Act and the Constitution.

Patagonia, Inc. plays a leading role in the outdoor recreation economy. Patagonia was founded in 1973 and has a 50-year history of environmental advocacy. It is now a California benefit corporation, with its purpose of being in business to save our home planet enshrined in its articles of incorporation. Patagonia employs 38 people in Montana, including 23 people as staff at its retail store in Dillon.

Trail Head Inc. operates The Trail Head, a specialty outdoor gear and clothing store based in Missoula offering gear for camping, hiking, backpacking, climbing and skiing for the last 50 years, and Trail Head River Sports in Missoula, which offers boating gear.

School of Trout, LLC is headquartered in Bigfork and is one of the world's finest and most comprehensive fly fishing schools. The School of Trout brings together some of the planet's most respected fly fishing instructors to share their

experiences, their knowledge, their passion, and their accumulated wisdom with students during the school's week-long classes.

Conservation Hawks is a Montana-based 501(c)(3) nonprofit whose mission is to defend Montana's sporting heritage and pass on a healthy natural world to future generations of Americans. Conservation Hawks works to educate and engage both hunters and anglers on the single largest threat we face: anthropogenic climate change.

Yak Valley Forest Council (YVFC) works for a wild Yaak through science, education, and bold action. YVFC seeks to help recover the state's endangered grizzly bears—particularly in the Yaak—and to designate the country's first Climate Refuge. YVFC envisions a "Curtain of Green" spreading around the world in a series of protected old and mature forests absorbing up to 12% of the world's annual carbon emissions.

The Montana Project preserves, promotes, and connects Montana's craft, artisan, and nature communities so as to nurture and protect the natural resources, open spaces, clear skies, clean water, and wildlife that foster and inspire them.

Big Hole Lodge, established in 1984, is one of the classic fly fishing lodge experiences in the American West. Big Hole Lodge offers world-renowned wild trout fishing and comfortable accommodations in a secluded mountain setting in Wise River.

Brant Oswald Fly Fishing LLC is based in Livingston and has served clients with guided fly fishing on waters around the area, principally on the Yellowstone River and the Paradise Valley spring creeks since 1988.

III. REASONS WHY A BRIEF BY PROPOSED AMICI CURIAE IS DESIRABLE

The Outdoor Recreation Industry Members have a unique interest in this litigation that the other parties and amici do not present. The outdoor recreation economy plays a vital role in the economic and physical health of Montana. Accounting for 4.4% of Montana's GDP,¹ as of 2022 the outdoor recreation economy provided over 29,000 jobs in Montana with a total of \$1.38 billion in wages.²

The climate crisis threatens to disrupt the foundation upon which the outdoor recreation economy is built. Yet, the interests of the Outdoor Recreation Industry Members and others similarly situated in the outdoor recreation economy are often overlooked in discussions of climate change. These interests (and their undeniable economic and social benefits) cannot continue to thrive unless climate change is taken seriously and government agencies ensure that the climate impacts of their decisions are understood and disclosed. The Outdoor Recreation Industry

¹ Headwater Economics, *The Outdoor Recreation Economy by State* (Updated November 2023), <https://headwaterseconomics.org/economic-development/trends-performance/outdoor-recreation-economy-by-state>.

² *Id.*

Members’ amici curiae brief would provide the Court with the unique perspective of the thousands of businesses that depend on a stable climate and a thriving planet.

IV. PARTY WHOSE POSITION PROPOSED AMICI CURIAE WOULD SUPPORT

The proposed Amici Curiae would file their brief in support of Plaintiffs-Appellees Ricki Held, et al.

V. DATE UPON WHICH BRIEF CAN BE FILED

Plaintiffs-Appellees’ brief must be filed by March 14, 2024. The Outdoor Recreation Industry Members request leave to file their amicus curiae brief by the same date.

VI. WHETHER OTHER PARTIES CONTEST THE REQUEST

Counsel for the Outdoor Recreation Industry Members contacted counsel for Defendants-Appellants and Plaintiff-Appellees prior to filing this motion. No party opposes or objects to this motion for leave to file an amicus brief.

VII. CONCLUSION

For the foregoing reasons, the Outdoor Recreation Industry Members respectfully request the Court grant their motion for leave to file an amicus curiae brief.

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Respectfully submitted on March 12, 2024.

/s/ Rebecca L. Davis

Rebecca L. Davis (*pro hac vice pending*)

rebecca@lozeaudrury.com

Brian B. Flynn (*pro hac vice pending*)

brian@lozeaudrury.com

LOZEAU DRURY LLP

1939 Harrison St., Suite 150

Oakland, CA 94612

Telephone: (510) 836-4200

/s/ Paul J. Lawrence

Paul J. Lawrence, MSB#7235

PACIFICA LAW GROUP LLP

1191 2nd Avenue, Suite 2000

Seattle, WA 98101

Telephone: (206) 245-1700

Paul.Lawrence@pacificallawgroup.com

Attorneys for proposed amici curiae

Outdoor Recreation Industry Members

CERTIFICATE OF SERVICE

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

Nathan Bellinger (Attorney)

1216 Lincoln St

Eugene OR 97401

Representing: Badge B., Lander B., Lilian D., Ruby D., Georgianna Fischer, Kathryn Grace Gibson-Snyder, Rikki Held, Taleah Hernandez, Jeffrey K., Mika K., Nathaniel K., Eva L., Sariel Sandoval, Kian T., Olivia Vesovich, Claire Vlasses

Service Method: eService

Andrea K. Rodgers (Attorney)

3026 NW Esplanade

Seattle WA 98117

Representing: Badge B., Lander B., Lilian D., Ruby D., Georgianna Fischer, Kathryn Grace Gibson-Snyder, Rikki Held, Taleah Hernandez, Jeffrey K., Mika K., Nathaniel K., Eva L., Sariel Sandoval, Kian T., Olivia Vesovich, Claire Vlasses

Service Method: eService

Roger M. Sullivan (Attorney)

345 1st Avenue E

MT

Kalispell MT 59901

Representing: Badge B., Lander B., Lilian D., Ruby D., Georgianna Fischer, Kathryn Grace Gibson-Snyder, Rikki Held, Taleah Hernandez, Jeffrey K., Mika K., Nathaniel K., Eva L., Sariel Sandoval, Kian T., Olivia Vesovich, Claire Vlasses

Service Method: eService

Melissa Anne Hornbein (Attorney)

103 Reeder's Alley

Helena MT 59601

Representing: Badge B., Lander B., Lilian D., Ruby D., Georgianna Fischer, Kathryn Grace Gibson-Snyder, Rikki Held, Taleah Hernandez, Jeffrey K., Mika K., Nathaniel K., Eva L., Sariel Sandoval, Kian T., Olivia Vesovich, Claire Vlasses

Service Method: eService

Philip L. Gregory (Attorney)

1250 Godetia Drive

Woodside CA 94062

Representing: Badge B., Lander B., Lilian D., Ruby D., Georgianna Fischer, Kathryn Grace Gibson-Snyder, Rikki Held, Taleah Hernandez, Jeffrey K., Mika K., Nathaniel K., Eva L., Sariel Sandoval, Kian T., Olivia Vesovich, Claire Vlasses
Service Method: eService

Barbara L Chillcott (Attorney)
103 Reeder's Alley
Helena MT 59601

Representing: Badge B., Lander B., Lilian D., Ruby D., Georgianna Fischer, Kathryn Grace Gibson-Snyder, Rikki Held, Taleah Hernandez, Jeffrey K., Mika K., Nathaniel K., Eva L., Sariel Sandoval, Kian T., Olivia Vesovich, Claire Vlasses
Service Method: eService

Dustin Alan Richard Leftridge (Attorney)
345 First Avenue East
Montana
Kalispell MT 59901

Representing: Badge B., Lander B., Lilian D., Ruby D., Georgianna Fischer, Kathryn Grace Gibson-Snyder, Rikki Held, Taleah Hernandez, Jeffrey K., Mika K., Nathaniel K., Eva L., Sariel Sandoval, Kian T., Olivia Vesovich, Claire Vlasses
Service Method: eService

Michael D. Russell (Govt Attorney)
215 N Sanders
Helena MT 59620
Representing: State of Montana
Service Method: eService

Mark L. Stermitz (Attorney)
304 South 4th St. East
Suite 100
Missoula MT 59801
Representing: State of Montana
Service Method: eService

Thane P. Johnson (Govt Attorney)
215 N SANDERS ST
P.O. Box 201401
HELENA MT 59620-1401
Representing: State of Montana
Service Method: eService

Emily Jones (Attorney)
115 North Broadway
Suite 410
Billings MT 59101
Representing: State of Montana
Service Method: eService

Selena Zoe Sauer (Attorney)
1667 Whitefish Stage Rd.
#101
Kalispell MT 59901-2173
Representing: State of Montana
Service Method: eService

Dale Schowengerdt (Attorney)
7 West 6th Avenue, Suite 518
Helena MT 59601
Representing: Greg Gianforte, MT Dept Environmental Quality, Department of Natural Resources,
Billings Regional Office, MT Dept of Transportation
Service Method: eService

Lee M. McKenna (Govt Attorney)
1520 E. Sixth Ave.
HELENA MT 59601-0908
Representing: MT Dept Environmental Quality
Service Method: eService

Quentin M. Rhoades (Attorney)
430 Ryman St.
2nd Floor
Missoula MT 59802
Representing: Friends of the Court
Service Method: eService

Brian P. Thompson (Attorney)
PO Box 1697
Helena MT 59624
Representing: Treasure State Resource Association of Montana
Service Method: eService

Steven T. Wade (Attorney)
PO Box 1697
Helena MT 59624
Representing: Treasure State Resource Association of Montana
Service Method: eService

Hallee C. Frandsen (Attorney)
PO Box 1697
801 N. Last Chance Gulch, Ste. 101
Helena MT 59624
Representing: Treasure State Resource Association of Montana
Service Method: eService

Keeley Cronin (Attorney)
c/o Baker & Hostetler LLP
1801 California Street, Suite 4400

Denver CO 80202
Representing: The Frontier Institute
Service Method: eService

Lindsay Marie Thane (Attorney)
1211 SW 5th Ave
#1900
Portland OR 97204
Representing: Navajo Transitional Energy Company, LLC
Service Method: eService

Ryen L. Godwin (Attorney)
1420 Fifth Ave., Ste. 3400
Seattle WA 98101
Representing: Navajo Transitional Energy Company, LLC
Service Method: eService

Matthew Herman Dolphay (Attorney)
401 N. 31st Street, Suite 1500
P.O. Box 639
Billings MT 59103-0639
Representing: Montana Chamber of Commerce, Chamber of Commerce of The United States of America, Billings Chamber of Commerce, Helena Chamber of Commerce, Kalispell Chamber of Commerce
Service Method: eService

Frederick M. Ralph (Attorney)
125 Bank Street
Suite 600
Missoula MT 59802
Representing: Northwestern Corporation
Service Method: eService

John Kent Tabaracci (Attorney)
208 N. Montana Ave. #200
Helena MT 59601
Representing: Northwestern Corporation
Service Method: eService

Abby Jane Moscatel (Attorney)
PO Box 931
Lakeside MT 59922
Representing: Montana Senate President as Officer of the Legislature and Speaker of the House of Representatives as Officer of the Legislature
Service Method: eService

Timothy M. Bechtold (Attorney)
PO Box 7051
317 East Spruce Street

Missoula MT 59807
Representing: Public Health Experts and Doctors
Service Method: eService

James H. Goetz (Attorney)
PO Box 6580
Bozeman MT 59771-6580
Representing: Environmental and Constitutional Law Professors'
Service Method: eService

Lawrence A. Anderson (Attorney)
Attorney at Law, P.C.
P.O. Box 2608
Great Falls MT 59403-2608
Representing: Former Justices
Service Method: eService

John Martin Morrison (Attorney)
401 North Last Chance Gulch
P.O. Box 557
Helena MT 59624-0557
Representing: Children's Rights Advocates
Service Method: eService

Juan Carlos Rodriguez (Interested Observer)
Service Method: Conventional

Byron L. Trackwell (Amicus Curiae)
7315 SW 23rd Court
Topeka KS 66614
Service Method: Conventional

Alex Guillen (Interested Observer)
Service Method: Conventional

Rebecca Leah Davis (Other)
1939 Harrison St., Suite 150
Oakland CA 94612
Service Method: Conventional

Brian Flynn (Other)
1939 Harrison St., Suite 150
Oakland CA 94612
Service Method: Conventional

Julia A. Olson (Attorney)
1216 Lincoln St.
Eugene OR 97401

Representing: Badge B., Lander B., Lilian D., Ruby D., Georgianna Fischer, Kathryn Grace Gibson-Snyder, Rikki Held, Taleah Hernandez, Jeffrey K., Mika K., Nathaniel K., Eva L., Sariel Sandoval, Kian T., Olivia Vesovich, Claire Vlases
Service Method: Conventional

Shannon M. Heim (Attorney)
2898 Alpine View Loop
Helena MT 59601-9760
Representing: Northwestern Corporation
Service Method: Conventional

Robert Cameron (Attorney)
203 N. Ewing Street
Helena MT 59601
Representing: State of Alabama, State of Alaska, State of Arkansas, State of Idaho, State of North Dakota, State of Indiana, State of Mississippi, State of Missouri, State of Nebraska, State of South Carolina, State of South Dakota, State of Utah, State of Wyoming, Commonwealth of Virginia, State of Iowa
Service Method: Conventional

Rebecca Leah Davis (Attorney)
1939 Harrison St., Suite 150
Oakland CA 94612
Representing: Outdoor Recreation Industry
Service Method: Conventional

Brian Flynn (Attorney)
1939 Harrison St., Suite 150
Oakland CA 94612
Representing: Outdoor Recreation Industry
Service Method: Conventional

Electronically Signed By: Paul J. Lawrence
Dated: 03-13-2024