

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

RIKKI HELD, et al.,

Plaintiffs-Appellees,

v.

STATE OF MONTANA, et al.,

Defendants-Appellants.

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

**UNOPPOSED MOTION FOR LEAVE OF NATIVE NATIONS IN
MONTANA, KATHRYN SHANLEY, AND DENISE JUNEAU TO FILE A
BRIEF AS *AMICI CURIAE* IN SUPPORT OF APPELLEES**

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Proposed *Amici Curiae* respectfully request leave to file a brief in support of the Appellees. Pursuant to Rule 12, paragraph 7, of the Montana Rules of Appellate Procedure, the proposed *Amici Curiae* provide the following information in support of their motion:

1. INTERESTS OF AMICUS CURIAE

Proposed *Amici Curiae* have an important interest in ensuring that the rights and interests of Native Nations and Indigenous peoples, including those afforded by the Montana constitution, are recognized and upheld. *Amici Curiae* are federally recognized tribes with reservations within the state of Montana and individuals who are Indigenous education experts. A complete list of *Amici Curiae* will be appended to any brief filed with this Court and will include, but not be limited to, the following parties:

- a. **Blackfeet Nation**, a federally recognized tribe with 17,321 enrolled members. The Blackfeet Indian Reservation is located in northwest Montana, bordering Glacier National Park. Established by treaty in 1855, it is the third largest reservation in Montana, spanning 1.5 million acres. Blackfeet people have lived on the front lands of the Rocky Mountains for thousands of years, and their culture, religion, traditions, and language are inextricably linked with the natural environment. The

Nation is already impacted by climate change effects such as drought and extreme weather.

- b. **The Chippewa Cree Tribe of the Rocky Boy's Reservation**, a federally recognized tribe with approximately 6,000 members, is headquartered on a reservation of approximately 122,000 acres located in northcentral Montana. The Tribe manages the Chippewa-Cree Recreation Area, including Bear Paw Ski Bowl, a tribally owned ski area in the Bear Paw Mountains. Thus, in addition to impacts like those faced by other Native Nations, the Chippewa Cree Tribe also faces direct economic consequences from decreased snowfall or changing seasons due to climate change.

- c. **The Confederated Salish and Kootenai Tribes of the Flathead Reservation** are comprised of the Bitterroot Salish, Upper Pend d'Oreille, and the Kootenai Tribes, with a confederated government seated in Pablo, Montana. As the first federally recognized tribe in the nation to organize itself pursuant to a constitution adopted according to the federal Indian Reorganization Act, the Tribes' governing body, the CSKT Tribal Council, carries out its sovereign duties to fulfill the purposes set forth in the constitution's preamble: "to establish a more responsible organization, promote our general welfare, conserve and

- develop our lands and resources, and secure to ourselves and our posterity the power to exercise certain rights of self-government ...”.
- d. **The Fort Belknap Indian Community** is comprised of the Gros Ventre (Aaniiih) and Assiniboiné (Nakoda) Tribes and located on the Fort Belknap Indian Reservation, which consists of approximately 675,000 acres lying between the Canadian border to the north and the Missouri River to the south. The Fort Belknap Indian Community Council serves as the governing body on the Reservation and exercises its authority to protect the health, security, and general welfare of the reservation and the approximately 7,000 members of the Community.
 - e. **Kathryn W. Shanley** is Professor Emeritus at the University of Montana-Missoula. Prior to her retirement in 2022, she also worked as the Special Assistant to the Provost for Native American and Indigenous Education and served as chair of Native American Studies. She has published widely in the field of Native American literature. She is an enrolled citizen of the Nakoda Nation of the Ft. Peck Reservation in Montana.
 - f. **Denise Juneau** was the first American Indian woman in the country to be elected to an executive statewide office and was named National Indian Educator of the Year in 2009. She holds a JD from the University of

Montana School of Law in Missoula, Montana, a master's in education from Harvard University Graduate School of Education in Cambridge, Massachusetts, and a bachelor of arts in English and language arts education from Montana State University. Juneau worked as a teacher, lawyer, and director of Indian education before she was elected Montana's Superintendent of Public Instruction. She is an enrolled member of the Mandan Hidatsa Tribes and a descendant of the Blackfeet tribe.

2. BENEFIT OF *AMICUS CURIAE* BRIEF

The proposed *Amici Curiae* have expertise in Indigenous rights from the perspectives of federally recognized tribes and Indigenous educators. They seek to file a brief with this Court to highlight how this Court's consideration of the legislature's interpretation of the constitutional right to a clean and healthful environment implicates other rights enshrined by the Montana Constitution and the sovereign interests of Native Nations; specifically, the right to individual dignity under Article II, Section 4, the right to the preservation of tribal cultures under Article X, Section 1, Clause 2, and the exercise of sovereign and treaty-reserved rights. The *Amici Curiae* offer critical and unique perspectives that will assist the Court in its analysis of the rights afforded by Montana's constitution.

3. PARTY WHOSE POSITION PROPOSED *AMICI CURIAE* WOULD SUPPORT

The Proposed *Amici Curiae* would file their brief in support of Plaintiffs-Appellees, Rikki Held, et al.

4. PROPOSED DATE FOR *AMICI CURIAE* BRIEF

The Proposed *Amici Curiae* request that they be permitted to file their brief as *Amici Curiae* on or before Friday, March 22, 2024.

5. WHETHER OTHER PARTIES CONSENT TO THE REQUEST

Counsel for the proposed *Amici Curiae* affirms that they have reached out by email to counsel for Appellants, who responded that they are not opposed.

CONCLUSION

Wherefore, the Native Nation and individual *Amici Curiae* respectfully seek leave to file a brief in support of Plaintiffs-Appellees on or before March 22, 2024, in the above-captioned matter.

Respectfully submitted this 20th 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 Times New Roman text typeface of 14 points and is double-spaced. The word count calculated by Microsoft Word is 914 and does not exceed 1,250 words, excluding the certificate of compliance.

Dated this 20th day of March, 2024.



Monte Mills

CERTIFICATE OF SERVICE

I, Monte Tyler Mills, hereby certify that I have served true and accurate copies of the foregoing Motion - Unopposed to the following on 03-20-2024:

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