

IN THE SUPREME COURT OF THE STATE OF MONTANA  
Supreme Court Cause No. DA 24-0369

James R. Zadick  
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PARKER NOLAND,

Appellant,

v.

STATE OF MONTANA, et. al.,

Appellees,

EVERGREEN DISPOSAL, INC.,

Appellee-Intervenor.

**MOTION FOR LEAVE TO  
APPEAR AS AMICUS CURIAE**

The Montana Solid Waste Contractors, by and through the undersigned counsel of record, respectfully seeks leave pursuant to Rule 12(7) of the Montana Rules of Appellate Procedure to file an *amicus curiae* brief in support of the Appellees and Appellee-Intervenor in the above-captioned matter.

Counsel for the MSWC has contacted counsel for all parties. Counsel for the Appellees and Appellee-Intervenors have indicated that they do not oppose

MSWC's Motion. Counsel for the Appellant indicates that they do not oppose MSWC's Motion but reserve the right to respond to the substance of any *amicus* brief.

**I. Statement of Interest of the Montana Solid Waste Contractors.**

No association stands to be more directly impacted by Noland's challenge to Montana's Class D permitting scheme than the Montana Solid Waste Contractors ("MSWC"). Formed in 1974, MSWC is a trade association that represents businesses engaged in solid waste collection, disposal, and recycling in Montana. MSWC's Class D certificate holder members are subject to regulation under Title 69, ch. 12 of the Montana Code Annotated. MSWC members are subject to Montana's Class D garbage hauling regulations. MSWC's fifteen members serve communities and markets across Montana. MSWC members routinely appear before the PSC in contested cases and hearings. MSWC members include both Class D certificate holders that protested Noland's application *and* Class D certificate holders that have recently successfully applied for Class D permits over protests.

More fundamentally, MSWC members rely upon the value of their Class D certificates as security to support business investments and obtain financing. Garbage hauling is a capital-intensive industry, requiring trucks, dumpsters, and the transportation of waste across miles of Montana roads. MSWC members rely upon

the decades-old regulatory bargain that the Montana Legislature struck to ensure stable access to garbage hauling in a state of far-flung consumers. MSWC members have a clear legal interest in the constitutionality of the Class D certificate system, as MSWC members rely upon the system to support market stability and business investment.

If the Court were to declare that Montana's Class D permitting is unconstitutional, MSWC members stand to lose valuable property rights—their Class D certificates—and Montana stands to lose market stability and predictability. MSWC members possess a statewide perspective born from decades of experience operating under the Class D scheme. MSWC members are accordingly uniquely positioned in this case to provide perspective on the operation, rationale, and history of Montana's Class D permitting scheme.

## **II. Identity of the parties whose position the amicus supports.**

MSWC, if granted leave to appear as *amicus* in this case, supports the position of the Appellees and Appellee-Intervenor.

## **III. Date upon which the brief can be filed.**

MSWC understands that all Appellee response briefs are due on or before October 18, 2024. MSWC would file its brief on or before October 18, 2024.

**IV. Whether the other parties consent to the request.**

As noted above, Counsel for MSWC has contacted counsel for all parties. Counsel for the Appellees and Appellee-Intervenors have indicated that they do not oppose MSWC's Motion. Counsel for the Appellant indicates that they do not oppose MSWC's Motion but reserve the right to respond to the substance of any *amicus* brief.

DATED THIS 11<sup>th</sup> day of September, 2024.

UGRIN ALEXANDER ZADICK, P.C.

/s/James R. Zadick

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## **CERTIFICATE OF SERVICE**

I, James Robert Zadick, hereby certify that I have served true and accurate copies of the foregoing Motion - Unopposed to the following on 09-11-2024:

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Electronically signed by Andrea J Callender on behalf of James Robert Zadick  
Dated: 09-11-2024