

**IN THE SUPREME COURT OF  
THE STATE OF MONTANA**

**Supreme Court Cause No. DA 24-0328**

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EQT CHAP LLC,

Appellant,

v.

ENVIRONMENTAL HEALTH SCIENCES,

Appellee.

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**APPELLEE ENVIRONMENTAL HEALTH SCIENCES'  
UNOPPOSED PETITION FOR REHEARING**

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APPEARANCES:

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Appellee, Environmental Health Sciences (“EHS”), by and through its counsel of record, respectfully petitions this Court, pursuant to Rule 20 of the Montana Rules of Appellate Procedure, for rehearing of the Court’s Order entered on May, 27, 2025. Appellant EQT CHAP LLC (“EQT”) does not oppose this request.

1. In this appeal, EQT challenges an order issued by the Eighteenth Judicial District Court, quashing a subpoena for documents directed to EHS. That subpoena was issued in connection with an administrative appeal brought by Bryan Latkanich in the Commonwealth of Pennsylvania Environmental Hearing Board (“EHB”) in which he claimed that his property was contaminated as a result of EQT’s oil and gas development. *See* Exhibit A (true and correct copy of subpoena) (hereinafter, “EHB Subpoena”).

2. On February 28, 2024, the District Court issued its order, holding that Montana law applies to EQT’s requests for EHS’s documents and quashing the subpoena pursuant to the Montana Media Confidentiality Act.

3. EQT appealed that decision to this Court. Following briefing on the appeal, the Court heard oral argument on February 26, 2025.

4. On May 5, 2025, EQT and EHS filed a Joint Notice informing the Court that Mr. Latkanich recently had withdrawn his administrative appeal.

5. The parties also informed the Court that Mr. Latkanich had brought a civil action against EQT in a Pennsylvania state court. In that civil action, Mr. Latkanich also claims his property was contaminated as a result of EQT's oil and gas development.

6. Mr. Latkanich's civil action was filed in October 2022. All discovery in that case was stayed for more than two years, during which time the EHB Subpoena was served on EHS and was being litigated.

7. In their Notice, the parties stated that, because the administrative appeal had been withdrawn and the stay in the civil action had been lifted, EQT would be serving an identical subpoena on EHS in the civil action imminently (hereinafter, the "Civil Action Subpoena"). The parties explained that, before domesticating the Civil Action Subpoena in Montana, EQT needed to comply with the procedure for issuing a subpoena in Pennsylvania, which requires a 20-day notice period. *See* Pa. R. Civ. P. 4009.21.

8. In light of this situation, the parties stated in their Notice that they believed the issue presented to the Court in EQT's appeal remained justiciable and was not moot.

9. After the Notice was filed, the 20-day notice period required under the Pennsylvania rules expired, and EQT proceeded with domesticating the Civil Action Subpoena in Montana.

10. On May 27, this Court issued the Order dismissing the appeal as moot.

11. Unbeknownst to the Court, before it issued the Order, the District Court domesticated the Civil Action Subpoena on May 21. *See* Exhibit B (true and correct copy of subpoena). Counsel for EQT emailed the Civil Action Subpoena to Counsel for EHS on May 23.

12. The requests in the Civil Action Subpoena are identical to the requests in the EHB Subpoena. *Compare* Exhibit A, *with* Exhibit B.

13. EQT continues to seek the same documents, and EHS opposes the Civil Action Subpoena on the same grounds, including on the same choice-of-law issue raised before this Court on appeal.

14. The Civil Action Subpoena raises the identical choice-of-law issue raised by the EHB Subpoena. That issue remains alive and is not moot. It has been fully briefed and argued before this Court.

15. The Court was not aware of these material facts when it entered the Order on May 27. In light of these facts, EHS respectfully requests that the Court reconsider the dismissal of the above-captioned appeal.

16. Resolving the choice-of-law issue in this appeal will conserve the resources of the litigants and the judiciary and will promote judicial economy.

WHEREFORE, EHS respectfully requests that the Court grant this Unopposed Petition for Rehearing and continue its consideration of the issue presented in this appeal.

Respectfully submitted this 10th day of June, 2025.

/s/ Peter Michael Meloy

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## **CERTIFICATE OF COMPLIANCE**

Pursuant to Rules 11 and 20 of the Montana Rules of Appellate Procedure, I certify that this petition is printed with proportionately spaced Times New Roman text typeface of 14 points, is double-spaced, and the word count calculated by Microsoft Word is 657 words.

*/s/ Peter Michael Meloy*

## CERTIFICATE OF SERVICE

I, Peter Michael Meloy, hereby certify that on the 10th day of June 2025, I have served true and accurate copies of the foregoing Unopposed Petition for Rehearing via the Court's electronic filing system on the following:

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Service Method: eService

*/s/ Peter Michael Meloy*\_\_\_\_\_