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ANGIE SPARKS, Clerk of District Court
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ORIGINAL

MONTANA FIRST JUDICIAL DISTRICT COURT,
LEWIS & CLARK COUNTY

RIKKI HELD, ET AL., Plaintiffs, v. STATE OF MONTANA, ET AL., Defendants.	Cause No. CDV-2020-307 Hon. Kathy Seeley DEFENDANTS' ANSWER
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PREFACE

Plaintiffs' Complaint, Doc. 1, makes numerous allegations through footnotes. Under Mont. R. Civ. P. 10, "[a] party must state its claims or defenses in numbered paragraphs." Defendants State of Montana, et al., (collectively, "Montana" or "State") object to the form of all the allegations contained in footnotes. To the extent a response may be required, Montana denies all allegations contained in footnotes.

FIRST DEFENSE

Montana answers in numbered paragraphs corresponding with those of the Complaint as follows.

1-2. Paragraphs 1 and 2 are Plaintiffs' characterization of the case to which no response is required; to the extent a response may be required, Montana denies all allegations.

3. In response to Paragraph 3, Montana admits that Defendants are governmental entities. Montana denies the remainder of the allegations in Paragraph 3.

4. The first sentence of Paragraph 4 is Plaintiffs' characterization of the case to which no response is required; to the extent a response may be required, Montana denies any remaining allegations. The allegations in the second sentence of Paragraph 4 constitute legal conclusions to which no response is required; to the extent a response may be required, Montana denies these allegations.

5. The allegations in Paragraph 5 purport to characterize the preamble of the Montana Constitution that speaks for itself, is the best evidence of its contents, and no response is required; to the extent a response may be required, Montana denies any remaining allegations.

6. The allegations in Paragraph 6 constitute legal conclusions to which no response is required; to the extent a response may be required, Montana denies any remaining allegations.

7. Montana denies the allegations in Paragraph 7.

8. Montana denies the allegations in the first sentence of Paragraph 8. The remainder of the allegations in Paragraph 8 are Plaintiffs' characterization of the case to which no response is required; to the extent a response may be required, Montana denies any remaining allegations.

9. The allegations in Paragraph 9 constitute legal conclusions to which no response is required; to the extent a response may be required, Montana denies all allegations.

10. The allegations in the first sentence of Paragraph 10 are Plaintiffs' characterization of the case to which no response is required; to the extent a response may be required, Montana denies all allegations. The allegations in the second sentence of Paragraph 10 purport to characterize a statement that speaks for itself, is the best evidence of its contents, and no response is required; to the extent a response may be required, Montana denies all allegations.

11. In response to Paragraph 11, Montana admits only that this Court has personal jurisdiction. Montana denies that a justiciable controversy exists as to all of Plaintiffs' claims.

12. The allegations in the first sentence of Paragraph 12 constitute legal conclusions to which no response is required; to the extent a response may be required, Montana denies any remaining allegations. The allegations in the second sentence of Paragraph 12 purport to characterize a statute that speaks for itself, is the best evidence of its contents, and no response is required; to the extent a response may be required, Montana denies all allegations.

13. In response to Paragraph 13, Montana admits that the First Judicial District Court is a proper venue for this action. In response to the allegations that one or more Plaintiffs live in Lewis and Clark county, Montana lacks sufficient information to admit or deny the allegations and therefore denies them.

14-80. In response to Paragraphs 14 through 80, Montana lacks sufficient information to admit or deny the allegations and therefore denies them.

81. Montana denies the allegations in Paragraph 81.

82. The allegations in the first and second sentence of Paragraph 82 constitute legal conclusions to which no response is required; to the extent a response may be required, Montana denies all allegations. In response to the third sentence of Paragraph 82, Montana admits that the Legislature and the Governor enacted Mont. Code Ann. §§ 90-4-1001 and 75-1-201(2)(a).

83. The first sentence of Paragraph 83 is a Plaintiffs' characterization of the case for which no response is required. The second sentence characterizes a provision of the Montana Constitution that speaks for itself, is the best evidence of its contents, and no response is required. Montana denies the allegations in the third sentence of Paragraph 83 as Defendant Bullock is no longer the governor of Montana but admits them as they pertain to Greg Gianforte, who is currently the Governor of Montana. The allegations in the fourth sentence of Paragraph 83 constitute legal conclusions to which no response is required; to the extent a response may be required, Montana denies all allegations.

84. Montana denies the allegations in this paragraph as they pertain to Bullock, who is no longer the Governor of Montana. Montana admits the allegations in first sentence of Paragraph 84 as they pertain to Governor Gianforte. Montana denies the allegations in second sentence of Paragraph 84.

85. Montana denies the allegations in first and third sentences of Paragraph 85. The allegations in the second sentence of Paragraph 85 purport to characterize a statement that speaks for itself, is the best evidence of its contents, and no response is required; to the extent a response may be required, Montana denies all allegations.

86. Montana admits the allegations in Paragraph 86.

87. The allegations in Paragraph 87 constitute legal conclusions to which no response is required; to the extent a response may be required, Montana denies all allegations.

88. Montana admits the allegations that the Montana Department of Environmental Quality ("DEQ") is the primary administrator of Montana's environmental regulatory, environmental cleanup, environmental monitoring, pollution prevention, and energy conservation laws. Montana denies all other allegations in Paragraph 88.

89. The allegations in Paragraph 89 constitute legal conclusions to which no response is required; to the extent a response may be required, Montana denies all allegations.

90. Montana admits that DEQ issues air quality permits to facilities including coal mining operations, energy power plants, and oil and gas refineries, and denies the remaining allegations in the first sentence of Paragraph 90. Montana admits that the Board of Environmental Review determines appeals under regulatory statutes and denies the remaining allegations in the second sentence of Paragraph 90.

91. Montana admits that it has authority to certify certain pipelines that meet the definition provided in the Major Facility Siting Act, Mont. Code Ann. § 75-20-104(9)(b), and otherwise comply with the requirements of the Act. See Mont. Code Ann. § 75-20-201. Montana denies the remaining allegations in Paragraph 91.

92. Montana admits that DEQ permits coal mining operations and mining and prospecting activities and Montana denies the remaining allegations in first sentence of Paragraph 92. Montana admits the allegations in second sentence of Paragraph 92. Montana denies the remaining allegations in Paragraph 92.

93. Montana denies the allegations in Paragraph 93.

94. The allegations in the first sentence of Paragraph 94 purport to characterize an administrative rule that speaks for itself, is the best evidence of its contents, and no response is required; to the extent a response may be required, Montana denies all allegations. The allegations in the second and third sentences of Paragraph 94 constitute legal conclusions to which no response is required; to the extent a response may be required, Montana denies all allegations.

95. Montana admits the allegations in the first sentence of Paragraph 95. The second and third sentences of Paragraph 95 are legal conclusions for which no response is required; to the extent a response is required, Montana denies these allegations.

96. Montana admits the allegations in first sentence of Paragraph 96. Montana denies the allegations in the second and fourth sentences of Paragraph 96. Montana admits that the Montana Department of Natural Resources and Conservation ("DNRC") issues licenses for exploration and leases for production and extraction of oil and gas in Montana, and permits for drilling, but denies all other allegations in the third sentence of Paragraph 96.

97. In response to the first sentence of Paragraph 97, Montana admits that DNRC, through its Forestry Division, is responsible for planning and implementing forestry and fire management programs, as well as authorizing and permitting commercial timber sales on trust lands but denies all other allegations in the first sentence of Paragraph 97. The allegations in second sentence of Paragraph 97 purport to characterize a report that speaks for itself, is the best evidence of its contents, and no response is required; to the extent a response may be required, Montana denies all allegations.

98. The allegations in Paragraph 98 purport to characterize documents that speak for themselves, are the best evidence of their contents, and no response is required; to the extent a response may be required, Montana denies any remaining allegations.

99. Montana denies the allegations in Paragraph 99.

100. Montana denies the allegations in Paragraph 100.

101. Montana admits the allegations in Paragraph 101.

102. Montana admits the first sentence of Paragraph 102. In response to the second sentence of Paragraph 102, Montana admits that the Montana Public Service Commission ("PSC") sets standard-offer contracts for qualifying facilities and utility rates. Montana denies the remaining allegations in the second sentence of Paragraph 102.

103. The allegations in the first sentence of Paragraph 103 purport to characterize a statute that speaks for itself, is the best evidence of its contents, and no response is required; to the extent a response may be required, Montana denies all allegations. Montana denies the allegations in second sentence of Paragraph 103.

104. Montana admits the allegations in first sentence of Paragraph 104. Montana denies the allegations in the second sentence of Paragraph 104.

105. Montana denies the allegations in Paragraph 105.

106-107. In response to Paragraphs 106 through 107, Montana lacks sufficient information to admit or deny the allegations and therefore denies them.

108. Montana denies the allegations in Paragraph 108.

109. The allegations in Paragraph 109 purport to characterize a statute that speaks for itself, is the best evidence of its contents, and no response is required; to the extent a response may be required, Montana denies all allegations.

110. Montana denies the allegations in first and second sentences of Paragraph 110. The allegations in the third sentence of Paragraph 110 purport to characterize a statute that speaks for itself, is the best evidence of its contents, and no response is required; to the extent a response may be required, Montana denies all allegations.

111. The allegations in the first sentence of Paragraph 111 purport to characterize a statute that speaks for itself, is the best evidence of its contents, and no response is required; to the extent a response may be required, Montana denies all allegations. Montana denies the allegations in the second sentence of Paragraph 111.

112. Montana denies the allegations in the first sentence of Paragraph 112. Montana admits the allegations in the second sentence of Paragraph 112.

113. The allegations in first sentence of Paragraph 113 purport to characterize a statement that speaks for itself, is the best evidence of its contents, and no response is required; to the extent a response may be required, Montana denies all allegations. In response to the second sentence of Paragraph 113, Montana admits that Mont. Code Ann. § 90-4-1001 articulates an aspiration to ensure an adequate supply of energy and avoid a high cost of energy; Montana denies the remaining allegations in the second sentence of Paragraph 113. Montana denies the allegations in the third sentence of Paragraph 113.

114. The allegations in Paragraph 114 purport to characterize a statement that speaks for itself, is the best evidence of its contents, and no response is

required; to the extent a response may be required, Montana denies any remaining allegations.

115. Montana admits the Mont. Code Ann. § 90-4-1001 was amended by the Montana Legislature in 2011. Montana denies the remaining allegations in Paragraph 115.

116-117. Montana denies the allegations in Paragraphs 116 and 117.

118. Montana objects to the form of Paragraph 118 because, pursuant to Mont. R. Civ. P. 10(b), claims must be provided in separate paragraphs. To the extent a response may be required, Montana admits: some Defendants authorize and certify energy projects and facilities within the State of Montana as prescribed by statute; the PSC has regulatory authority over contract lengths and rates for qualifying small power production facilities within the State as prescribed by statute; some Defendants have regulatory authority over coal plants to operate within the State as prescribed by statute; DEQ has regulatory authority over coal mining and reclamation within the State as prescribed by statute; DEQ has regulatory authority over pipelines within the State as prescribed by statute; some Defendants have regulatory authority over petroleum refineries within the State as prescribed by statute; some Defendants have regulatory authority over fuel and fuel tax requirements for vehicles, commercial carries, and aviation within the State as prescribed by statute; and some Defendants have regulatory authority over infrastructure and energy and transportation systems within the State as prescribed by statute. Additionally, these allegations characterize documents,

authorities, and statements that speak for themselves, are the best evidence of their contents, and for which no response is required. To the extent a response may be required, Montana denies the remaining allegations in Paragraph 118.

119-121. Montana denies the allegations in Paragraphs 119 through 121.

122-123. The allegations in Paragraph 122 through 123 purport to characterize documents that speak for themselves, are the best evidence of their contents, and no response is required; to the extent a response may be required, Montana denies any remaining allegations.

124-126. Montana denies the allegations in Paragraphs 124 through 126.

127-130. The allegations in Paragraphs 127 through 130 purport to characterize documents that speak for themselves, are the best evidence of their contents, and no response is required; to the extent a response may be required, Montana denies any remaining allegations.

131. Montana admits that Defendants authorize coal plants in the State. Montana denies the remaining allegations in Paragraph 131.

132. The allegations in Paragraph 132 purport to characterize documents that speak for themselves, are the best evidence of their contents, and no response is required; to the extent a response may be required, Montana denies any remaining allegations.

133. Montana denies the allegations in first, fifth, and sixth sentences of Paragraph 133. The allegations in the second, third, and fourth sentences of Paragraph 133 purport to characterize documents that speak for themselves, are

the best evidence of their contents, and no response is required; to the extent a response may be required, Montana denies any remaining allegations.

134. The allegations in Paragraph 134 purport to characterize documents that speak for themselves, are the best evidence of their contents, and no response is required; to the extent a response may be required, Montana denies any remaining allegations.

135. Montana denies the allegations in the first sentence of Paragraph 135. The allegations in the second, third, and fourth sentences of Paragraph 135 purport to characterize documents that speak for themselves, are the best evidence of their contents, and no response is required; to the extent a response may be required, Montana denies any remaining allegations. Montana admits the allegations in the fifth sentence of Paragraph 135.

136. In response to Paragraph 136, Montana lacks sufficient information to admit or deny the allegations and therefore denies them.

137. The allegations in the first, second, and third sentences of Paragraph 137 purport to characterize documents that speak for themselves, are the best evidence of their contents, and no response is required; to the extent a response may be required, Montana denies any remaining allegations. Montana denies the allegations in the fourth sentence of Paragraph 137.

138. Montana admits the allegations in Paragraph 138.

139. In response to the first sentence of Paragraph 139, Montana admits that the State has an abundance of energy sources including fossil fuels. The

allegations in Paragraph 139 concerning the amount of recoverable coal, oil reserves, and natural gas reserves located in Montana purport to characterize documents that speak for themselves, are the best evidence of their contents, and no response is required; to the extent a response may be required, Montana denies any remaining allegations. Montana lacks sufficient information to admit or deny the remaining allegations in Paragraph 139 and therefore denies them.

140-142. Montana denies the allegations in Paragraphs 140 through 142.

143-156. In response to Paragraphs 143 through 156, Montana lacks sufficient information to admit or deny the allegations and therefore denies them. Additionally, many of the allegations in these paragraphs characterize documents that speak for themselves, are the best evidence of their contents, and for which no response is required.

157. Montana admits the allegations in the first and second sentences of Paragraph 157. Montana lacks sufficient information to admit or deny the allegations in the third and fourth sentences of Paragraph 157 and therefore denies them. Additionally, these allegations characterize documents that speak for themselves, are the best evidence of their contents, and for which no response is required.

158. In response to Paragraph 158, Montana lacks sufficient information to admit or deny the allegations and therefore denies them.

159. Montana admits the allegations in first sentence of Paragraph 159. Montana lacks sufficient information to admit or deny the remaining allegations in

Paragraph 159, and therefore denies them. Additionally, several of the allegations characterize documents or statements that speak for themselves, are the best evidence of their contents, and therefore no response is required.

160-162. In response to Paragraphs 160 through 162, Montana lacks sufficient information to admit or deny the allegations and therefore denies them.

163. Montana admits the allegations in first, second, and third sentences of Paragraph 163. In response to the remainder of Paragraph 163, Montana lacks sufficient information to admit or deny the allegations and therefore denies them.

164-184. In response to Paragraphs 164 through 184, Montana lacks sufficient information to admit or deny the allegations and therefore denies them. Additionally, several of the allegations in these paragraphs characterize documents that speak for themselves, are the best evidence of their contents, and for which no response is required.

185. Montana denies the allegations in the first sentence of Paragraph 185. The allegations in the second sentence of Paragraph 185 purport to characterize statements that speak for themselves, are the best evidence of their contents, and no response is required; to the extent a response may be required, Montana denies any remaining allegations. In response to the third sentence of Paragraphs 185, Montana lacks sufficient information to admit or deny the allegations and therefore denies them.

186. The allegations in Paragraph 186 purport to characterize a document that speaks for itself, is the best evidence of its contents, and no response is

required; to the extent a response may be required, Montana denies any remaining allegations.

187. In response to the first sentence of Paragraph 187, Montana admits in 1972 the State held a constitutional convention. The remaining allegations in Paragraph 187 purport to characterize documents and statements that speak for themselves, are the best evidence of their contents, and no response is required; to the extent a response may be required, Montana denies any remaining allegations.

188-194. The allegations in Paragraphs 188 through 194 purport to characterize documents and statements that speak for themselves, are the best evidence of their contents, and no response is required; to the extent a response may be required, Montana denies any remaining allegations.

195-196. Montana denies the allegations in Paragraphs 195 and 196.

197. Montana denies the allegations in the first and third sentence of Paragraph 197. The allegations in the second sentence of Paragraph 197 purport to characterize statements that speak for themselves, are the best evidence of their contents, and no response is required; to the extent a response may be required, Montana denies any remaining allegations.

198. The allegations in Paragraphs 198 purport to characterize documents that speak for themselves, are the best evidence of their contents, and no response is required; to the extent a response may be required, Montana denies any remaining allegations.

199. The allegations in the first, second, third, fourth, and fifth sentences of Paragraphs 199 purport to characterize documents that speak for themselves, are the best evidence of their contents, and no response is required; to the extent a response may be required, Montana denies any remaining allegations. In response to the sixth sentence of Paragraph 199, Montana lacks sufficient information to admit or deny the allegations and therefore denies them.

200. The allegations in the first sentence of Paragraph 200 purport to characterize documents that speak for themselves, are the best evidence of their contents, and no response is required; to the extent a response may be required, Montana denies any remaining allegations. The allegations in the second sentence of Paragraph 200 constitute legal conclusions to which no response is required; to the extent a response may be required, Montana denies any remaining allegations.

201. In response to the first and second sentences of Paragraph 201, Montana lacks sufficient information to admit or deny the allegations and therefore denies them. Montana denies the allegations in the third sentence of Paragraph 201.

202-208. In response to the Paragraphs 202 through 208, Montana lacks sufficient information to admit or deny the allegations and therefore denies them.

209. The allegations in the first sentence of Paragraph 209 constitute legal conclusions to which no response is required; to the extent a response may be required, Montana denies any remaining allegations. Montana lacks sufficient

information to admit or deny the allegations in the second sentence of Paragraph 209 and therefore denies them.

210. In response to Paragraph 210, Montana lacks sufficient information to admit or deny the allegations and therefore denies them.

COUNT I

211. Montana restates Paragraphs 1 through 210 of this Answer.

212-213. The allegations in Paragraphs 212 through 213 purport to characterize sections of the Montana Constitution that speak for themselves, are the best evidence of their contents, and no response is required; to the extent a response may be required, Montana denies any remaining allegations.

214. The allegations in the first and third sentences of Paragraph 214 constitute legal conclusions to which no response is required; to the extent a response may be required, Montana denies any remaining allegations. The allegations in the second sentence of Paragraph 214 purport to characterize sections of the Montana Constitution that speak for themselves, are the best evidence of their contents, and no response is required; to the extent a response may be required, Montana denies any remaining allegations.

215. The allegations in Paragraph 215 constitute legal conclusions to which no response is required; to the extent a response may be required, Montana denies any remaining allegations.

216. Montana denies the allegations in Paragraph 216.

217-218. The allegations in Paragraph 217 through 218 constitute legal conclusions to which no response is required; to the extent a response may be required, Montana denies any remaining allegations.

COUNT II

219. Montana restates Paragraphs 1 through 218 of this Answer.

220. The allegations in the first and third sentences of Paragraph 220 constitute legal conclusions to which no response is required; to the extent a response may be required, Montana denies any remaining allegations. The allegations in the second sentence of Paragraph 220 purport to characterize a section of the Montana Constitution that speaks for itself, is the best evidence of its contents, and no response is required; to the extent a response may be required, Montana denies any remaining allegations.

221-224. Montana denies the allegation in Paragraphs 221 through 224.

225-226. The allegations in Paragraphs 225 and 226 constitute legal conclusions to which no response is required; to the extent a response may be required, Montana denies any remaining allegations.

COUNT III

227. Montana restates Paragraphs 1 through 227 of this Answer.

228. The allegations in the first sentence of Paragraph 228 purport to characterize a section of the Montana Constitution that speaks for itself, is the best evidence of its contents, and no response is required; to the extent a response may be required, Montana denies any remaining allegations. The allegations in the

second sentence of Paragraph 228 are legal conclusions for which no response is required.

229-230. Montana denies the allegations in Paragraphs 229 and 230.

231. The allegations in the first sentence of Paragraph 231 constitute legal conclusions to which no response is required; to the extent a response may be required, Montana denies any remaining allegations. Montana lacks sufficient information to admit or deny the allegations in the second sentence of Paragraph 231 and therefore denies them.

232-233. The allegations in Paragraphs 232 through 233 constitute legal conclusions to which no response is required; to the extent a response may be required, Montana denies any remaining allegations.

234-236. Montana denies the allegations in Paragraph 234 through 236.

237-238. The allegations in Paragraphs 237 and 238 constitute legal conclusions to which no response is required; to the extent a response may be required, Montana denies any remaining allegations.

COUNT IV

239. Montana restates Paragraphs 1 through 238 of this Answer.

240. The allegations in Paragraphs 240 constitute legal conclusions to which no response is required; to the extent a response may be required, Montana denies any remaining allegations.

241-242. The allegations in Paragraphs 241 and 242 purport to characterize sections of the Montana Constitution and statements that speak for themselves, are

the best evidence of their contents, and no response is required; to the extent a response may be required, Montana denies any remaining allegations.

243. The allegations in the first sentence Paragraph 243 purport to characterize a section of the Montana Constitution that speaks for itself, is the best evidence of its contents, and no response is required; to the extent a response may be required, Montana denies any remaining allegations. The allegations in the second sentence of Paragraphs 243 constitute legal conclusions to which no response is required; to the extent a response may be required, Montana denies any remaining allegations.

244. The allegations in Paragraphs 244 constitute legal conclusions to which no response is required; to the extent a response may be required, Montana denies any remaining allegations.

245. The allegations in the first, second, third, and fourth sentences of Paragraph 245 constitute legal conclusions to which no response is required; to the extent a response may be required, Montana denies any remaining allegations. Montana lacks sufficient information to admit or deny the allegations in the fifth sentence of Paragraph 245 and therefore denies them.

246-247. The allegations in Paragraphs 246 through 247 constitute legal conclusions to which no response is required; to the extent a response may be required, Montana denies any remaining allegations.

248-250. Montana denies the allegations in Paragraphs 248 through 250.

251. The allegations in Paragraphs 251 characterize Plaintiffs' Complaint and constitute legal conclusions to which no response is required; to the extent a response may be required, Montana denies any remaining allegations.

The remainder of the Complaint sets forth Plaintiffs' request for relief, to which no response is necessary. To the extent a response is necessary, Montana denies that Plaintiffs are entitled to relief on any claim alleged in their Complaint.

GENERAL DENIAL

Except as expressly admitted herein, Montana denies every allegation in the Complaint.

AFFIRMATIVE DEFENSES

1. The Complaint fails to state a claim upon which relief can be granted.
3. Montana did not subject Plaintiffs, or cause Plaintiffs to be subjected, to any violation of rights secured by the Montana or United States Constitutions.
5. Plaintiffs lack standing to assert the causes of action and claims of which they complain.
6. Plaintiffs' causes of action and claims are not justiciable.
7. Plaintiffs' causes of action and claims violate the political question doctrine.
8. Plaintiffs have failed to exhaust administrative remedies.
9. Plaintiffs have failed to join all necessary parties.
10. Many of Plaintiffs' claims have been dismissed by this Court's order on Montana's motion to dismiss.

11. Montana reserves the right to amend this Answer to allege new and additional defenses as they might arise or become known through discovery or further investigation.


PRAYER FOR RELIEF

Based on these answers and affirmative defenses, Montana respectfully requests the Court to enter a judgment as follows:

- (a) Dismissing the Complaint with prejudice;
- (b) Denying Plaintiffs' request for declaratory, injunctive, litigation costs and expenses, attorney fees, and other relief;
- (c) Awarding Montana litigation costs and reasonable attorney fees; and
- (d) Awarding such further relief as the Court may find to be just and equitable.

DATED the 17th day of September, 2021.

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By: 
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CERTIFICATE OF SERVICE

I hereby certify that I served a true and correct copy of the foregoing document by email to the following addresses:

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