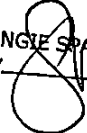


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MONTANA FIRST JUDICIAL DISTRICT COURT
LEWIS AND CLARK COUNTY

<p>RIKKI HELD, ET AL., PLAINTIFFS, v. STATE OF MONTANA, ET AL., DEFENDANTS.</p>	<p>Cause CDV-2020-307 Hon. Kathy Seeley BRIEF IN SUPPORT OF DEFENDANTS' RULE 60(a) MOTION FOR CLARIFICATION OF ORDER ON STATE'S MOTION TO DISMISS</p>
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INTRODUCTION

Plaintiffs filed a 104-page Complaint seeking judicial overhaul of Montana's environmental policy in the guise of injunctive and declaratory relief. (Doc. 1.) The State moved to dismiss Plaintiffs' claims, arguing, among other things, that Plaintiffs

lack constitutional and prudential standing. (Doc. 12 at 6–15.). The Court’s Order on Motion to Dismiss (“Order”) agreed in part. (Doc. 46.) The Order dismissed Plaintiffs’ claims for injunctive relief but allowed their declaratory relief claims “to move forward.” (*Id.* at 22.) But when the last page of the Order lists the dismissed claims, it appears inadvertently to omit one of Plaintiffs’ claims for injunctive relief: Request for Relief 5. *See (Id.* at 25.); *see also* (Doc. 1, 103, ¶ 5.) (requesting injunctive relief). Out of an abundance of caution and to avoid any confusion from clouding this important—and already complicated—case, the State moves this Court to correct this omission. The State respectfully asks for confirmation that the Order dismissed Count 5 along with Counts 6, 7, 8, and 9. *See* Mont. R. Civ. P. 60(a).

ARGUMENT

In its August 4, 2021, “Order on Motion to Dismiss” (Doc. 46), this Court dismissed Plaintiffs’ requests for injunctive relief. (*Id.* at 21–22.) The Court correctly viewed these expansive requests for a judicial overhaul of Montana’s environmental policies as nonjusticiable political questions that the Court lacks power to resolve. (*Id.* at 21.) Accordingly, in the Court’s words, the Order dismissed “Youth Plaintiffs’ claims for injunctive relief” but “allow[ed] Plaintiffs’ claims for declaratory relief to move forward.” (*Id.* at 22.) The clear import of the Order: Plaintiffs’ injunctive relief claims were dismissed but Plaintiffs’ declaratory relief claims would remain. (*Id.* at 21–22)

There appears to be an inadvertent omission, however, on the last page of the order, which states, “Based on the foregoing, Defendants’ motion to dismiss is

GRANTED with respect to Requests for Relief 6, 7, 8, and 9. The motion to dismiss with respect to all other claims is DENIED.” (*Id.* at 25.) One claim for injunctive relief is conspicuously absent from this list: Plaintiffs’ Request for Relief 5. *Id.* That request reads:

If awarded declaratory relief, Youth Plaintiffs respectfully request the Court fashion an equitable remedy that it deems just and proper, including granting the following equitable relief ... 5. Permanently *enjoin* Defendants, their agents, employees, and all persons acting in concert with them, from subjecting Youth Plaintiffs to the State’s Energy Policy, Mont. Code Ann. § 90-4-1001(c)–(g), the aggregate affirmative acts, policies, and conditions described herein, and the Climate Change Exception to MEPA, Mont. Code Ann. § 75-1-201(2)(a)[.]

(Doc. 1 at 103, ¶ 5.) (emphasis added to “enjoin”).

Rule 60(a) allows this Court to correct “correct a clerical mistake or a mistake arising from oversight or omission whenever one is found in a judgment, order, or other part of the record.” Mont. R. Civ. P. 60(a). The final page of Order appears inadvertently to omit Request for Relief 5, which is plainly a claim for injunctive relief. *See* (Doc. 1 at 103, ¶ 5.) The State respectfully requests that this Court do so and clarify that the Order also dismissed Count 5. (Doc. 1 at 103, ¶ 5.) By the Order’s terms, only Counts 1, 2, 3, and 4—which request *declaratory* relief—should remain. *See* (Doc. 46 at 21–22.)

CONCLUSION

For the reasons stated in this Brief, Defendants respectfully request that the Court grant their Rule 60(a) Motion for Clarification of the Court’s August 4, 2021, “Order on Motion to Dismiss.” (Doc. 46.) The Court may clarify its Order by adding

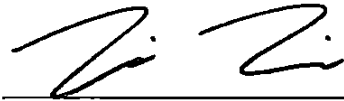
Request for Relief 5 to the list on page 25, line 3 of the Order. See (Doc. 46, 25).

DATED this 6th day of May, 2022.

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CERTIFICATE OF SERVICE

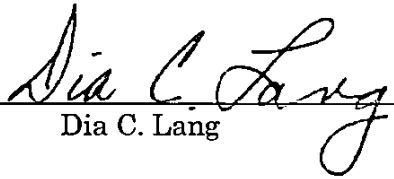
I certify a true and correct copy of the foregoing was delivered by email to the following:

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Dia C. Lang