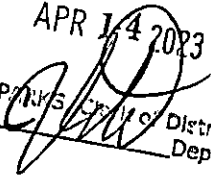


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MONTANA FIRST JUDICIAL DISTRICT COURT
 LEWIS AND CLARK COUNTY

<p>RIKKI HELD, et al., Plaintiffs, v. STATE OF MONTANA, et al., Defendants.</p>	<p>Cause No. CDV-2020-307 Hon. Kathy Seeley DECLARATION OF ANNE HEDGES IN SUPPORT OF PLAINTIFFS' RESPONSE BRIEF IN OPPOSITION TO DEFENDANTS' MOTION TO PARTIALLY DISMISS FOR MOOTNESS</p>
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Pursuant to MCA §1-6-105, Anne Hedges hereby declares as follows:

1. I am a fact and expert witness in the above-entitled action. I am making this declaration in support of Plaintiffs' Response Brief in Opposition to Defendants' Motion to Partially Dismiss for Mootness. I have personal knowledge of the facts I state herein, except as to those stated on information and belief, and if called to testify, I would and could testify competently thereto.
2. I submitted a declaration in support of Plaintiffs' response brief opposing Defendants' motion for summary judgment, which was filed with the Court on February 16, 2023. (Doc. 300). In my declaration, I detailed the legislature's efforts to repeal MCA § 90-4-1001 with HB 170, and included information from the relevant House and Senate hearings on HB 170. I also offered my opinions as to what impact the repeal of MCA § 90-4-1001 would have on Defendants' ongoing state energy policy and fossil fuel permitting activities.
3. I am providing this declaration as a supplement to my declaration and expert report¹ considering new developments that have occurred since I signed my declaration and expert report—specifically, the Montana Legislature's repeal of the State Energy Policy Act, MCA § 90-4-1001.²
4. My staff at Montana Environmental Information Center (MEIC) and I tracked HB 170 since it was first proposed until it was signed by Governor Gianforte on March 16, 2023.
5. HB 170 repealed, in its entirety, MCA § 90-4-1001, State Energy Policy Goal Statements, and MCA § 90-4-1003, Energy Policy Development Process. The repeal of these statutes was effective upon HB 170's passage and approval.³

¹ I explicitly reserved the right to supplement my opinions "[s]hould additional relevant or pertinent information become available." Expert Report at 4.

² 2023 Mont. Laws. Ch. 73, H.B. 170 (Mar. 16, 2023),

[http://laws.leg.mt.gov/legprd/LAW0203W\\$BSRV.ActionQuery?P_SESS=20231&P_BLTP_BILL_TYP_CD=HB&P_BILL_NO=170&P_BILL_DFT_NO=&P_CHPT_NO=&Z_ACTION=Find&P_ENTY_ID_SEQ2=&P_SBJT_SBJ_CD=&P_ENTY_ID_SEQ=](http://laws.leg.mt.gov/legprd/LAW0203W$BSRV.ActionQuery?P_SESS=20231&P_BLTP_BILL_TYP_CD=HB&P_BILL_NO=170&P_BILL_DFT_NO=&P_CHPT_NO=&Z_ACTION=Find&P_ENTY_ID_SEQ2=&P_SBJT_SBJ_CD=&P_ENTY_ID_SEQ=)

³ See 2023 Mont. Laws. Ch. 73, H.B. 170 (Mar. 16, 2023), <https://leg.mt.gov/bills/2023/billpdf/HB0170.pdf>.

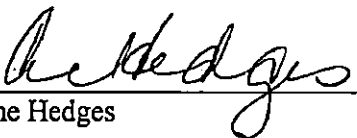
6. I offer this declaration to make clear that the opinions in my expert report and February declaration remain unchanged, notwithstanding the passage of HB 170.
7. My opinion that Montana continues to have an energy policy now that the repeal of MCA § 90-4-1001 is repealed remains unchanged. I believe what Mr. Freeman, Governor Gianforte's Natural Resources Policy Advisor, said: Montana will still have a state energy policy, which is confirmed by the testimony of Mr. Freeman and by State agencies long-standing and systemic promotion of fossil fuel activities that I have experienced during my many years at MEIC and which is detailed in my Expert Report and February declaration.
8. Additionally, it is clear to me that the Defendants in this case will continue to implement Montana's state energy policy to prioritize the increasing utilization, exploration, and development of Montana's fossil fuels, even following the repeal of MCA § 90-4-1001. As I explained in my expert report, Montana has a long history of permitting and approving fossil fuels projects, including power plants, oil and gas pipelines, coal mines, and others, that cause dangerous levels of greenhouse gas emissions. The 2011 amendments to the state energy policy codified Montana's practice of promoting fossil fuels in response to growing concerns about climate change and mounting evidence about the need for Montana to reduce its greenhouse gas emission, as I explain in my Expert Report on pages 21-22. I believe Defendants will continue their longstanding practice to permit and approve fossil fuels projects, including power plants, oil and gas pipelines, coal mines, and projects long into the future unless Montana's Constitution is interpreted by the courts to constrain their authority in doing so.
9. I continue to believe that the reason Defendants repealed MCA § 90-4-1001 this legislative session was to try and undermine this case so that Defendants can continue their conduct without any constitutional oversight. I do not believe that the repeal of MCA § 90-4-1001 and

the Governor's so-called "all-of-the-above" energy policy will result in less fossil fuel permitting in Montana.

10. I have been opposing fossil fuel projects in Montana for 30 years. In my opinion, the only thing that will fundamentally alter the state's historic and ongoing energy policy of prioritizing the development and use of fossil fuels is a court order declaring that policy unconstitutional. Absent such a court order, I have no doubt that Defendants will continue their long-standing state energy policy of approving every permit for fossil fuel exploration, extraction, burning, and transport in Montana.

Pursuant to MCA §1-6-105, I declare under penalty of perjury that the foregoing is true and correct.

Executed this 12th day of April, 2023 in Helena, Montana.


Anne Hedges