

Hon. Leslie Halligan, District Court Judge
Fourth Judicial District, Dept. No. 1
Missoula County Courthouse
200 West Broadway
Missoula, Montana 59802
(406) 258-4771

MONTANA FOURTH JUDICIAL DISTRICT COURT, MISSOULA COUNTY

PROTECT THE CLEARWATER,

Plaintiff,

v.

MONTANA DEPARTMENT OF
ENVIRONMENTAL QUALITY,

Defendant,

And,

LHC, Inc.,

Intervenor-Defendants.

Dept. No. 1

Cause No. DV-32-2023-717-DK

**ORDER VACATING THE
PERMIT, DENYING RULE 54(B)
CERTIFICATION, AND
GRANTING PTC FEES**

Before the Court is Defendant Montana Department of Environmental Quality's ("DEQ") Opposed Motion for Remedy, Rule 54(b) Certification, and Stay of Attorneys Fees and Costs ("DEQ's Motion") (Doc. 80) and its Supporting Brief (Doc. 81). Also before the Court is Plaintiff Protect the Clearwater's ("PTC") Motion for Determination of Entitlement to Award of Attorney's Fees ("PTC's

1 Motion”) (Doc. 85) and its Supporting Brief (Doc. 86). The Court has reviewed the
2 motions, the response briefs, as well as the replies thereto. Having considered the
3 entirety of the record before it, the Court rules as follows:

4 **ORDERS**

5 (1) Defendant DEQ’s Motion is HEREBY DENIED as follows:

6 (A) DEQ’s proposed conditional vacatur is DENIED. The factors under
7 Mont. Code Ann. § 75-1-201(5) support complete vacatur, considering, *inter alia*,
8 that DEQ’s procedure in granting Opencut Mining Dryland Permit No. 3473 has
9 already been found to have infringed on Montanans’ constitutional rights.
10 Accordingly, Opencut Mining Dryland Permit No. 3473 is HEREBY VACATED;

11 (B) DEQ’s request that the Court’s Order Granting Plaintiff’s Motion to
12 Strike (Doc. 78) and Order on Plaintiff’s Motion for Summary Judgment (Doc. 79)
13 be certified under M. R. Civ. P. 54(b) is DENIED, insofar as DEQ fails to satisfy its
14 burden in proving, *inter alia*, this is an ‘infrequent harsh case’; and

15 (C) The Court DECLINES to stay the issue of attorneys’ fees.

16 (2) Plaintiff PTC’s Motion is GRANTED. The Court DECLARES PTC is
17 entitled to attorneys’ fees under Mont. Code Ann. § 2-3-114(2), and the private
18 attorney general doctrine. PTC is ORDERED to submit evidence substantiating its
19 requested amount within 21 days of this Order, any objections thereto must be filed
20 within 14 days thereafter, and a reply may be filed 7 days after any responses.

MEMORANDUM

I. BACKGROUND

On April 2, 2026, the Court issued its Order Granting Plaintiff's Motion to Strike ("MIL Order") (Doc. 78). The MIL Order limited the scope of evidence used in the Court's analysis regarding the adequacy of DEQ's environmental review under the Montana Environmental Policy Act ("MEPA"), Mont. Code Ann. §§ 75-1-101 to -220. To support its claim of inadequacy, PTC sought to supplement the record. The Court granted the request, remanding the matter to DEQ, instructing it to consider PTC's proffered evidence. The proffered evidence did not change DEQ's findings. However, upon recertifying the record, DEQ included additional material beyond what it was instructed to review. Accordingly, DEQ's extra record evidence was stricken from the record. *See* MIL Or. at 2.

On April 22, 2026, the Court issued its Order on Plaintiff's Motion for Summary Judgment ("SJ Order") (Doc. 79). The SJ Order declared that DEQ misinterpreted the statutory and regulatory framework governing its permitting decision under the Opencut Mining Act ("OPA"), Mont. Code Ann. §§ 82-4-401 to -446; because this framework implements provisions of the Montana Constitution, DEQ's actions resulted in violations of Mont. Const. art. IX, § 1, Mont. Const. art. II, §§ 3 and 8, in addition to the statutes and administrative rules implementing these provisions. The SJ Order also concludes DEQ failed to comply with MEPA when

1 it declined to conduct an Environmental Impact Statement (“EIS”) and remanded
2 the matter to DEQ with instruction it complete a MEPA compliant EIS. However,
3 the Court reserved ruling on the issue of vacatur of Opencut Mining Dryland Permit
4 No. 3473 (“Permit”) pending further briefing, as reserved by DEQ. *See* SJ Or. at 5
5 (Doc. 79) (“The parties are DIRECTED to submit briefs addressing the
6 considerations provided under Mont. Code Ann. § 75-1-201(5)(c)-(d)”).

7 One matter pending before the Court concerns the issue of vacatur. Indeed,
8 on May 6, 2026, DEQ filed its Motion seeking, in part, an order adopting its
9 proposed remedy of conditional vacatur. DEQ’s Mot. at 2 (Doc. 80). DEQ proposes
10 the Permit be vacated and held in abeyance pending either: (1) the Montana Supreme
11 Court affirms DEQ’s MEPA analysis in its entirety and the Permit is reinstated; or
12 (2) DEQ complies with the Montana Supreme Court’s order on remand by
13 completing the environmental review process as directed. *Id.* at 6. Under Mont.
14 Code Ann. § 75-1-201(5), however, PTC asserts complete vacatur is more proper.

15 Another pending matter concerns DEQ’s request for certification under M. R.
16 Civ. P. 54(b) of the MIL and SJ Orders as final for purposes of an interlocutory
17 appeal. DEQ’s Mot. at 2. Given that the issues therein are of statewide importance
18 DEQ maintains, the remaining unadjudicated claim (which concerns fees), should
19 not be adjudicated before the appeal of the MIL and SJ Orders are advanced. On
20 June 2, 2026, PTC filed its Response in Opposition to DEQ’s Motion, arguing that

1 DEQ's desired path would unnecessarily extend this litigation, waste judicial
2 resources, and potentially result in multiple appeals and years of additional litigation.
3 *See* PTC's Resp. to DEQ's Mot. at 2 (Doc. 87). Even if certification is granted, PTC
4 argues that the Court should not stay the determination of attorneys' fees pending
5 the appeal of the MIL and SJ Orders as DEQ has failed to demonstrate a stay is
6 proper. *Id.* at 12. In turn, DEQ asserts staying the fees issue poses no risk to PTC
7 and would only impose a moderate delay of a fee proceeding.

8 The final pending matter concerns PTC's Motion, which seeks a
9 determination of its entitlement to an award of attorneys' fees. PTC maintains under
10 Mont. Code Ann. § 2-3-114(2), or alternatively, the private attorney general
11 doctrine, it is entitled to reasonable attorneys' fees, emphasizing that the SJ Order
12 granted judgment to PTC on its declaratory relief claims, and emphasizing that the
13 right to public participation and right to a clean and healthful environment are
14 fundamental constitutional rights enshrined in Article II, of the Montana
15 Constitution. *See* Br. Supp. PTC's Mot. at 2 (Doc. 86).

16 On June 23, 2026, DEQ filed its Brief in Opposition to PTC's Motion,
17 contending that the substance of the case involves a MEPA issue and thus, attorneys'
18 fees would be inappropriately awarded to PTC. DEQ's Resp. to PTC's Mot. at 2
19 (Doc. 90). DEQ maintains that, even if MEPA did not bar fees, PTC still has not
20 carried its burden to show entitlement to fees under either Mont. Code Ann. § 2-3-

114(2), or the private attorney general doctrine. *Id.* at 3. On this same day, DEQ also filed its Reply in support of its Motion, arguing that, *inter alia*, conditional vacatur is the appropriate remedy; that a Rule 54 certification is proper; and that the attorneys' fee issue must be stayed. *See* DEQ's Reply at 3-13 (Doc. 91).

On July 9, 2026, PTC filed its Reply, emphasizing the SJ Order's constitutional holdings and attacking DEQ's argument that the Court's SJ Order only pertained to MEPA. *See* PTC's Reply at 2 (Doc. 94) ("DEQ asks the Court to relabel that constitutional holding as a mere regulatory violation and then to use MEPA's fee bar to nullify the Legislature's separate fee authorization for right-to-participate enforcement actions. The Court should decline that invitation.").

With the matters fully briefed, the issues are ripe for adjudication. Therefore, the Court considers: (1) the parties' briefing under Mont. Code Ann. § 75-1-201(5)(c)-(d) (as directed in the SJ Order), relating to the issue of vacatur of the Permit; (2) whether the Court should certify the MIL and SJ Orders as final under M. R. Civ. P. 54 and stay the issue of attorneys' fees; and (3) whether PTC is entitled to fees under the private attorney general doctrine or Mont. Code Ann. § 2-3-114(2).

II. LEGAL ANALYSIS

A. The factors under Mont. Code Ann. § 75-1-201(5)(c) support complete vacatur of Opencut Mining Dryland Permit No. 3473.

The Court's April 22, 2026, Order reserved ruling on equitable relief and vacatur of the Permit pending further briefing as reserved by DEQ. Hence, the

1 parties were directed “to submit briefs addressing the considerations provided under
2 Mont. Code Ann. § 75-1-201(5)(c)-(d).” SJ Or. at 5. While DEQ seeks a conditional
3 vacatur, PTC asserts outright vacatur is proper. As an initial matter, the Court notes
4 that since PTC is seeking vacatur, Mont. Code Ann. § 75-1-201(5)(d) is inapposite.
5 Therefore, the Court focuses this analysis on Mont. Code Ann. § 75-1-201(5)(c).

6 The Court may not vacate a permit or grant other equitable relief unless it
7 finds that the party requesting relief is more likely than not to prevail on the merits
8 of its complaint in light of the uncontroverted facts and applicable law. Mont. Code
9 Ann. § 75-1-201(5)(c)(iii). Although this standard is framed in prospective terms,
10 the Court already has resolved the merits on summary judgment. In its SJ Order, the
11 Court held that PTC prevailed on its claims. Accordingly, the Court finds PTC has
12 satisfied, and indeed exceeded, the statutory merits requirement.

13 Before granting equitable relief, the Court also must find that: (1) the movant
14 will suffer irreparable harm absent relief; (2) the relief serves the public interest; and
15 (3) the relief is narrowly tailored to address the noncompliance and the irreparable
16 harm at issue. *See* Mont. Code Ann. § 75-1-201(5)(c)(iii)(A)-(C).

17 DEQ’s proposes a conditional vacatur, asserting that such relief would
18 preserve the Court’s ability to prevent further adverse project impacts while an
19 appeal is pending or, if necessary, while DEQ conducts additional analysis on
20 remand. *See* Br. Supp. DEQ’s Mot. at 6 (Doc. 81). PTC responds that the statute

1 does not authorize the proposed conditional vacatur and that DEQ's
2 acknowledgement that vacatur is warranted confirms that the statutory prerequisites
3 for equitable relief have been met. PTC's Resp Br. to DEQ's Mot. at 4 (Doc. 87).

4 The Court's SJ Order establishes that, absent effective relief, the
5 constitutional violations identified therein will continue to cause irreparable harm.
6 The Court further finds that preventing the continued operation of a permit issued in
7 violation of those constitutional requirements serves the public interest. *See* SJ Or.
8 at 2-5 (Doc. 79). Therefore, the requirements of Mont. Code Ann. § 75-1-
9 201(5)(c)(iii)(A) and (B) are both satisfied.

10 The remaining question concerns the scope of relief under Mont. Code Ann.
11 § 75-1-201(5)(c)(iii)(C). DEQ contends a conditional vacatur is sufficiently tailored.
12 PTC contends complete vacatur is the narrowly tailored remedy because the Permit
13 was issued in violation of constitutional provisions and because the Court's foremost
14 obligation is to protect the constitutional rights of Montanans. *See* PTC's Resp. Br.
15 to DEQ's Mot. at 4 (Doc. 87) (*citing Brown v. Gianforte*, 2021 MT 149, ¶ 17,404
16 Mont. 269,488 P.3d 548). The Court agrees with PTC.

17 A conditional vacatur would leave the Permit in effect, notwithstanding the
18 constitutional deficiencies identified in the SJ Order. It thus would fail to fully
19 remedy the noncompliance and the resulting irreparable harm. By contrast,
20 complete vacatur directly addresses the unlawful Permit and prevents further activity

1 authorized by that Permit unless and until DEQ completes a lawful permitting
2 process. The Court finds complete vacatur is narrowly tailored to remedy the
3 specific noncompliance established in this action and the irreparable harm resulting
4 from that noncompliance. Accordingly, the Court vacates the Permit issued to LHC.

5 In reaching this conclusion, the Court has considered the asserted economic
6 consequences of vacatur. Those considerations do not outweigh the need to remedy
7 the constitutional violations identified in the SJ Order and to protect the
8 constitutional rights at stake. The Court incorporates by reference its SJ Order for
9 its analysis of the constitutional harms caused by DEQ's actions. Though DEQ
10 challenges the Court's ruling, it shall be finalized herein and eligible for appeal.

11 **B. DEQ fails to demonstrate any exceptional circumstances which**
12 **warrant piecemeal appeal or delayed fee resolution.**

13 M. R. App. P. 6(6) permits a district court to direct entry of final judgment
14 under M. R. Civ. P. 54(b) only upon an express determination that there is "no just
15 reason for delay." In making that determination, the Court must balance the
16 competing considerations bearing on sound judicial administration and public policy
17 and must articulate the factors supporting certification. *See* M. R. App. P. 6(6). Rule
18 54(b) certification is an exception to the general rule against piecemeal appeals as it
19 is reserved for the "infrequent harsh case" and may not be granted routinely or
20 merely as an accommodation to counsel. *Kohler v. Croonenberghs*, 2003 MT 260,
¶¶ 11-16, 317 Mont. 413, 77 P.3d 531.

1 The party seeking certification bears the burden of demonstrating the
2 circumstances warrant that exceptional remedy. *Kohler*, ¶ 16. The factors
3 considered regarding such a certification include: (1) the relationship between the
4 adjudicated and unadjudicated claims; (2) the possibility that future proceedings in
5 the district court may moot the need for appellate review; (3) the possibility that the
6 appellate court may be required to consider the same issue more than once; (4) the
7 existence of any claim or counterclaim that could result in a set-off against the
8 judgment proposed for certification; and (5) other relevant considerations, including
9 delay, expense, economic or solvency concerns, and judicial efficiency. *See Roy v.*
10 *Neibauer*, 188 Mont. 81, 87, 610 P.2d 1185, 1189 (1980) (citation omitted).

11 First, the Court must consider the relationship between the merits rulings and
12 the unresolved request for attorneys' fees. *Roy*, 188 Mont. at 87, 610 P.2d at 1189.
13 DEQ contends the fee issue is collateral to the merits and appellate review of the SJ
14 Order, and the MIL Order may proceed without a determination of fees. PTC
15 responds that its fee request arises from the constitutional and statutory issues
16 resolved in the Court's merits rulings. PTC also argues that it is the Montana
17 Supreme Court's policy that fees are addressed before an appeal. *See* PTC's Resp.
18 Br. to DEQ's Mot. at 6 ("the Supreme Court amended Rule 4 to bring it into
19 consonance with Rule 58 and to establish a clear process in which all appellate issues
20 are dealt with at once."). On review, it appears the unresolved fee request is not

1 wholly independent of the merits rulings since its resolution may require
2 consideration of the nature and extent of the constitutional violations found by the
3 Court in the SJ Order, the public interests vindicated by this action, and the scope of
4 relief obtained. Resolving the fee request before appeal will allow the parties to
5 present all issues arising from the final judgment in a single appeal. Therefore, the
6 first *Roy* factor weighs against certification.

7 The second and fourth *Roy* factors do not materially bear on the present
8 motion. No further merits proceedings are anticipated that could moot the need for
9 review of the SJ Order and MIL Order, and no claim or counterclaim presents a
10 potential setoff against the proposed judgment.

11 Next, the Court addresses the possibility that the appellate court may have to
12 consider the same issue a second time. *Roy*, 188 Mont. at 87, 610 P.2d at 1189.
13 DEQ maintains litigating fees before appellate review may require additional
14 proceedings if the merits rulings are reversed. Br. Supp. DEQ's Mot. at 12.
15 However, that possibility does not overcome the countervailing risk of successive
16 appeals. If the Court certifies the merits rulings now, and a party later challenges a
17 fee award, the appellate court may be required to consider this litigation in separate
18 appeals. Adjudicating the fee request before entry of a final judgment better
19 promotes a single, complete appeal. *See Holverson v. Lundberg*, 869 N.W.2d 146,
20 149 (N.D. 2015) ("The unadjudicated determination of reasonable attorney fees

1 leaves open the potential for more litigation . . .”). Accordingly, the third *Roy* factor
2 weighs against certification.

3 Lastly, the Court addresses the miscellaneous considerations such as delay,
4 economic and solvency considerations and the like. *Roy*, 188 Mont. at 87, 610 P.2d
5 at 1189 (citation omitted). General considerations of expense, efficiency, or
6 simplification of future proceedings, without more, do not justify certification.
7 *Rogers v. Lewis & Clark Cnty.*, 2020 MT 230, ¶ 13, 401 Mont. 228, 472 P.3d 171.
8 Applied here, DEQ has not established that the asserted economic or practical
9 considerations constitute the exceptional circumstances required for Rule 54(b)
10 certification. In considering the *Roy* factors together, DEQ has not demonstrated
11 that this matter presents the infrequent harsh case warranting a departure from the
12 ordinary rule requiring final resolution of all claims, including any necessary
13 determination of attorneys’ fees, before appeal. *See* M. R. App. P. 4(1)(a),
14 4(5)(a)(iii); M. R. Civ. P. 58(e). Therefore, the Court expressly determines that the
15 request for M. R. Civ. P. 54(b) certification must be denied.

16 Alternatively, DEQ requests that the Court stay proceedings concerning
17 PTC’s request for attorneys’ fees. DEQ contends litigating fees before appellate
18 review of the merits rulings would be inefficient because any fee determination may
19 require reconsideration following an appeal. PTC opposes a stay, asserting further
20 delay would postpone final resolution of the action and frustrate the ordinary process

1 for appellate review. The Court has discretion to stay proceedings, but a stay is an
2 extraordinary measure, and the movant must demonstrate a hardship or inequity in
3 being required to proceed. *Henry v. Dist. Ct. of the Seventeenth Judicial Dist.*, 198
4 Mont. 8, 13, 645 P.2d 1350, 1353 (1982); *Flying T Ranch, LLC v. Catlin Ranch, LP*,
5 2020 MT 99, ¶ 16, 400 Mont. 1, 462 P.3d 218. The Court must exercise that
6 discretion reasonably and in a manner that avoids substantial injustice. *In re Crow*
7 *Water Compact*, 2015 MT 217, ¶ 32, 380 Mont. 168, 354 P.3d 1217.

8 Since DEQ's request for Rule 54(b) certification is denied, no appeal may
9 proceed until entry of a final judgment resolving all matters necessary for finality,
10 including the fee issue. Staying fee proceedings would delay final judgment and
11 appellate review rather than promote judicial economy. DEQ's asserted prospect
12 that a fee determination could require modification following an appeal does not,
13 standing alone, establish the clear hardship or inequity necessary to justify a stay.
14 The Court further finds that prompt resolution of the fee issue serves the interests of
15 judicial economy and permits any appeal to proceed from a complete judgment.
16 Therefore, DEQ's request to stay proceedings concerning fees is denied.

17 **C. PTC's entitlement to attorneys' fees and costs.**

18 Montana adheres to the American Rule, under which each party ordinarily
19 bears its own attorneys' fees unless fees are authorized by contract, statute, or a
20 recognized equitable exception. *Braach v. Graybeal*, 1999 MT 234, ¶ 7, 296 Mont.

138, 988 P.2d 761. PTC seeks fees under Mont. Code Ann. § 2-3-114(2), and, alternatively, under the private attorney general doctrine. Under Mont. Code Ann. § 2-3-114(2), “[a] person alleging a deprivation of rights who prevails in an action brought in district court to enforce the person’s rights under Article II, section 8, of the Montana constitution may be awarded costs and reasonable attorney fees.” The statute thus authorizes an award of fees and costs to a party that prevails on an action enforcing the constitutional right to participate in governmental operations. Further, under the private attorney general doctrine, the Court considers: “(1) the strength or societal importance of the public policy vindicated by the litigation; (2) the necessity for private enforcement and the magnitude of the resultant burden on the plaintiff; and (3) the number of people standing to benefit from the decision.” *Montanans for the Responsible Use of the Sch. Tr. v. State ex rel. Bd. of Land Comm’rs*, 1999 MT 263, ¶¶ 66–67, 296 Mont. 402, 989 P.2d 800; *Montana Envtl. Info. Ctr. v. Dep’t of Envtl. Quality*, 1999 MT 248, ¶ 97, 296 Mont. 207, 989 P.2d 1076.

The SJ Order held that DEQ misinterpreted Mont. Code Ann. § 82-4-432 as eliminating its discretion to adjust public involvement. *See* SJ Or. at 2-4 (Doc. 79). DEQ’s interpretation of Mont. Code Ann. § 82-4-432 unlawfully conditioned the level of public participation upon the operator’s request, rather than requiring DEQ to calibrate public involvement to the complexity and seriousness of the environmental issues and the level of public interest. *Id.* at 2-4. The Court held that

1 DEQ's application of that interpretation deprived PTC of the opportunity for
2 informed public participation guaranteed by Mont. Const. art. II, § 8. *Id.* at 3.
3 Because these rulings establish PTC prevailed on a significant claim enforcing the
4 public-participation right guaranteed by Mont. Const. art. II, § 8, PTC is eligible for
5 an award of reasonable attorneys' fees under Mont. Code Ann. § 2-3-114(2).

6 Furthermore, the private attorney general doctrine independently supports a
7 fee award: PTC vindicated constitutional protections for informed public
8 participation and informed governmental decision-making concerning Montana's
9 environment (*See* Mont. Const. art. II, §§ 3, 8; Mont. Const. art. IX, § 1); private
10 enforcement was necessary because DEQ's interpretation and implementation of the
11 governing framework caused the constitutional deprivation; and the benefits of the
12 action extend beyond PTC's members to Montanans who hold an interest in
13 meaningful participation in environmental permitting decisions and the protection
14 of the State's natural resources. Thus, PTC is entitled to recover fees and costs
15 incurred in litigating its successful declaratory judgment and constitutional claims.

16 However, PTC also prevailed on its MEPA claim. The Court's SJ Order
17 determined that DEQ failed to comply with MEPA when issuing the Permit,
18 compiled incomplete information, conducted an inadequate environmental review,
19 and arbitrarily and capriciously declined to prepare an EIS. *Id.* at 5. The Court
20 remanded the matter to DEQ to complete an EIS in compliance with MEPA. *Id.* at

1 5. The Court recognizes that Mont. Code Ann. § 75-1-201(5)(c)(f) prohibits an
2 award of fees to a prevailing party in an action alleging noncompliance with MEPA.
3 Therefore, the Court awards no fees or costs for work performed solely to establish
4 PTC's MEPA claim, including its claim that DEQ inadequately compiled data,
5 conducted an insufficient environmental review, or arbitrarily and capriciously
6 declined to prepare an EIS. *See* SJ Or. at 5 (Doc. 79).

7 The Court's award instead rests on PTC's successful enforcement of the
8 constitutional right protected by Mont. Const. art. II, § 8 and expressly authorized
9 by Mont. Code Ann. § 2-3-114(2). Construing Mont. Code Ann. § 75-1-201(5)(c)(f)
10 to eliminate the fee remedy provided by Mont. Code Ann. § 2-3-114(2) for an
11 independently successful constitutional-participation claim would render the latter
12 provision unavailable whenever public participation arises in an environmental
13 permitting matter. The Court declines to adopt that construction.

14 PTC shall submit an itemized fee application that segregates, to the extent
15 reasonably practicable, compensable constitutional-participation work from
16 noncompensable MEPA-specific work. The Court will reduce any request that does
17 not permit a reasoned determination of the fees reasonably attributable to the
18 compensable claims. Accordingly, within 21 days of this Order, PTC shall file an
19 itemized application for attorneys' fees and costs, supported by records, affidavits,
20 and other documentation. DEQ and LHC may respond within 14 days after service

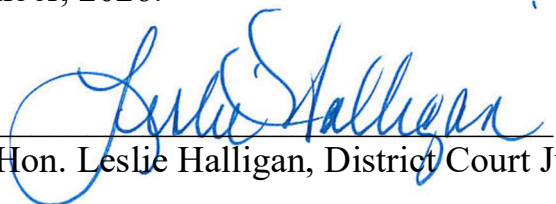
1 of PTC's application. PTC may file a reply within 7 days after service of any
2 response. The Court will determine the amount of reasonable attorneys' fees and
3 costs upon the submitted record or after further proceedings, if necessary.

4 **III. CONCLUSION**

5 Based on the foregoing, DEQ's Motion is DENIED insofar as the Court:
6 declines to adopt its proposed conditional vacatur finding instead that outright
7 vacatur is proper under Mont. Code Ann. § 75-1-201(5)(c); concludes DEQ failed
8 to satisfy its burden in demonstrating M. R. Civ. P. 54(b) certification is proper; and
9 denies DEQ's request to stay proceedings concerning attorneys' fees, as the fee issue
10 shall proceed to final resolution without further delay.

11 PTC's Motion is GRANTED insofar as the Court concludes PTC is entitled
12 to recover fees and costs limited to work attributable to PTC's successful
13 constitutional claims, and not to work incurred solely on its MEPA claim. PTC shall
14 file its supporting material within 21 days of this Order, objections may be filed 14
15 days thereafter, and a reply may be filed 7 days thereafter.

16 DATED this 22nd day of September, 2026.

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18 
Hon. Leslie Halligan, District Court Judge

19 cc: Robert Farris-Olsen, Esq./ Mark L. Stermitz Esq./ Graham J. Coppes, Esq./
20 Jeremiah Radford Langston Esq./ Kaitlin Elizabeth Whitfield Esq.