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MONTANA ELEVENTH JUDICIAL DISTRICT, FLATHEAD COUNTY

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CITIZENS FOR A BETTER FLATHEAD, the	)	
CONFEDERATED SALISH & KOOTENAI	)	Case No.
TRIBES, and FLATHEAD LAKERS,	)	
	)	
Plaintiffs,	)	
v.	)	COMPLAINT FOR DECLARATORY
	)	AND INJUNCTIVE RELIEF
MONTANA DEPARTMENT OF	)	
ENVIRONMENTAL QUALITY,	)	
an agency of the State of Montana	)	
	)	
Defendant.	)	
	)	
	)	
_____	)	

COMES NOW Plaintiffs, Citizens for a Better Flathead (CBF), the Confederated Salish & Kootenai Tribes (CSKT), and the Flathead Lakers (together, Plaintiffs), through counsel, and in support of their Complaint seeking review and relief from the Department of Environmental Quality's (DEQ or Defendant) final June 15, 2026, decision approving a Phase 2 series of actions for the Lakeside Wastewater Improvements Project (Project), state and allege as follows:

INTRODUCTION

1. Defendant, the Montana Department of Environmental Quality, issued a Final Environmental Assessment for the Lakeside Wastewater Improvements Project - Phase II, on June 15, 2026,

(Phase II EA), a project proposed by the Lakeside County Water and Sewer District (LCWSD).

2. The Phase II EA entails approval of plans and specifications for construction and operation of a new wastewater treatment facility (sequencing batch reactor) and sewage sludge facilities under the Montana public water supply laws; and provision of financial assistance through the Montana Water Pollution Control State Revolving Fund program.
3. Phase II would allow LCWSD to treat additional loads of domestic wastewater from new development and tens of thousands of individual septage systems spread through Flathead County, and to operate Rapid Infiltration Basins and storage lagoons for groundwater discharge and land application disposal as part of an integrated treatment and disposal system.
4. DEQ's decision-making for Phase II was segmented from its consideration of Project elements under Phase I, the latter being approved on April 28, 2025.
5. DEQ's Phase II decision-making violated MEPA by virtue of unlawfully segmenting its review of causally-related, interdependent actions all under DEQ's express authorities, undermining the agency's ability to use its own MEPA criteria to adequately evaluate the Project's significance as a whole.
6. Even if such a myopic analysis were lawful, DEQ failed to consider impacts in concert with other past, present, and reasonably foreseeable future projects that may appear insignificant individually, but which are potentially significant cumulatively.
7. These same failures also constitute an agency failure to "take a hard look at the environmental consequences of its actions before it leaps, which is impossible when the [Agency] intentionally refuses to consider an entire [phase] of significant environmental

consequence[]" in combination with the Project as a whole. *Held v. State*, 2024 MT 312, ¶ 67, 419 Mont. 403, 560 P.3d 1235 (internal citations omitted).

8. DEQ's Phase II decision-making was unlawful, arbitrary and capricious, and as-applied infringed on Plaintiffs' fundamental environmental rights, and failed to satisfy the agencies' constitutional obligations under the Montana Constitution, Art. II, sec. 3 and Art. IX, sec. 1.
9. Because Defendant failed to comply with the requirements of MEPA and constitutional environmental rights, Plaintiffs ask the Court to hold unlawful and set aside the challenged decision-making and vacate the authorization, and to declare that Defendant must fully comply with MEPA before authorizing component parts of the Lakeside Wastewater Improvements Project.

VENUE & JURISDICTION

1. The Eleventh Judicial District has subject matter jurisdiction over claims brought under Article II, Sections 3 & 16, Article VII, Section 4(1), and Article IX, Sections 1 & 3, of the Montana Constitution; MCA § 75-1-101 *et seq.* (MEPA); MCA § 75-5-101 MCA *et seq.* (WQA); MCA § 27-8-202 (declaratory relief); and MCA § 27-19-101 (injunctive relief).
2. Venue lies in the Eleventh Judicial District pursuant to MCA §§ 25-2-126, 75-1-108, 75-5-107, and MCA § 2-4-506(4) because the violation of law at-issue arose in Flathead County.

PARTIES

3. Plaintiff Citizens for a Better Flathead is a Montana non-profit, public-benefit corporation that works to foster informed and active citizen participation in the decisions shaping the Flathead's future, and to champion the democratic principles, sustainable solutions, and shared vision necessary to keep the Flathead special forever.

4. Members of Citizens live in the State of Montana, throughout Flathead County and in and around Kalispell, Somers, Lakeside, and the Flathead watershed. These members use Flathead Lake, including areas proximate to Lakeside County Water and Sewer District's treatment and disposal operations, and have an interest in preserving water quality.
5. In addition, Citizens and its members share the goals of protecting water quality, promoting sound land use planning and lawful process, involving citizens in decision-making affecting land and water resources, protecting the Flathead's rural aesthetic character, and promoting sustainable use of water resources, and such interests are adversely affected by the DEQ's unlawful actions herein.
6. Citizens submitted comments in opposition to DEQ's Phase I and Phase II decisions at issue in this case.
7. Plaintiff the Confederated Salish and Kootenai Tribes (CSKT) are a federally-recognized confederation of Indian tribes organized pursuant to the Indian Reorganization Act of 1934, 25 U.S.C. § 5123.
8. Through the 1855 “Treaty with the Flatheads, Etc.” 12 Stat.975 (“Hellgate Treaty”) the CSKT reserved for themselves a homeland (the Flathead Indian Reservation) and the right to continue taking fish from all usual and accustomed places both on the Flathead Indian Reservation and throughout their aboriginal homeland. Hellgate Treaty of 1855, Art. III. For CSKT Tribal members to fully exercise their treaty-reserved right to harvest fish, there must be water quality sufficient to support sustainable fisheries, and fish that are safe for human consumption.
9. The CSKT also has an interest in ensuring that water that flows from locations under the water quality jurisdiction of the State of Montana does not harm treaty-protected resources

within the Flathead Indian Reservation, such as fish and wildlife that rely on Flathead Lake, the largest natural freshwater lake west of the Mississippi River. The southern half of the lake is located within the Flathead Reservation boundaries and under the jurisdiction of the CSKT.

10. The CSKT commented in opposition to DEQ's proposed Phase I and Phase II decisions on the project at issue in this case.
11. Plaintiff Flathead Lakers (Lakers) is a non-profit membership organization that has worked since 1958 to protect Flathead Lake and its watershed through conservation, education, and advocacy at both the local and state levels. Grounded in best-available science, Lakers champion policies and practices that safeguard clean water, healthy ecosystems, and the communities that depend on those resources. For more than six decades the organization has built broad public support for watershed stewardship, engaging residents, visitors, and decision-makers in efforts to preserve the ecological integrity and high-quality of life that define the Flathead watershed. Lakers possess a long-standing and deeply rooted interest in ensuring strong, science-based standards exist to protect Montana's water resources and aquatic life from harm.
12. Lakers submitted comments raising concerns about Defendant's proposed Phase I decision and Phase II decision, including concerns about evaluation of the proposed Project and potential impacts from its component parts as a whole and in relation to one another, and against the social, ecological, and cultural context of the Flathead Basin.
13. Plaintiffs' ecological, economic, aesthetic, cultural, and social interests are impacted by DEQ's Phase II authorization of a new municipal-scale centralized wastewater treatment

system that will concentrate and contribute more pollution to Flathead Lake and its tributaries, without the agency first performing adequate impact analyses.

14. These adverse impacts may be redressed by the Court granting the relief requested herein.

15. Plaintiffs' possess individual, organizational, and associational standing to challenge DEQ's Phase II decision.

16. Defendant DEQ is the entity with authority to license new public sewage construction and use, the entity responsible for implementing MEPA for its non-ministerial decisions, and the entity that in-fact issued the Final Environmental Analysis authorizing Phases I and II of the Lakeside Wastewater Improvement Project.

FACTUAL BACKGROUND

17. The Phase II EA is the second of two phases for the Lakeside Wastewater Improvement Project (Project).

18. DEQ previously prepared a Final EA dated April 28, 2025, for the issuance of MGWPCS permit MTX000307 and plan and specifications approval for Phase 1 wastewater system improvements to the LCWSD. That Final EA evaluated DEQ's actions to: (1) issue the MGWPCS permit authorizing discharge of 200,000 gpd of treated domestic wastewater to groundwater via a Rapid Infiltration Basin (RIB) system; and (2) approve plans and specifications for Phase 1 wastewater system improvements, which included a new septage receiving facility, new headworks, a buried force main connecting those facilities, and replacement of Lift Station #10 within the District's collection system.

19. The April 2025 Final EA determined that an Environmental Impact Statement was not required for the Phase 1 actions.

20. DEQ's Phase II EA considered (1) approval of plans and specifications for construction and operation of a wastewater treatment facility (sequencing batch reactor) and associated sludge handling facilities under the Montana public water supply laws; and (2) provision of financial assistance through the Montana Water Pollution Control State Revolving Fund (WPCSRF) program.
21. Phase 2 would allow LCWSD to treat additional domestic wastewater and septage and to operate the RIBs and existing storage lagoons as part of an integrated treatment and disposal system.
22. The Final Phase II EA states that it does not re-evaluate Phase I decisions.
23. The Phase II EA scope of review was limited to the direct, secondary and cumulative impacts that may result from DEQ's Phase 2 actions—approval of plans and specifications for the Phase 2 WWTF and RIB system. According to DEQ, those impacts include: construction and operation of the Phase 2 WWTF and RIB system (mechanical treatment plant, three RIBs, and associated underground piping); changes in energy use; as well as human health and safety considerations associated with Phase 2 construction and operation.
24. The Phase II EA's Summary of Proposed Action describes the Project outcome generally as "[t]reated effluent from the Phase 2 WWTF would be discharged to the RIBs and seasonally to the existing irrigation site. The two existing aerated storage lagoons would be abandoned." Phase II EA, Table 1, p. 8.
25. In a table labeled "estimated disturbance," the Phase II EA estimates 8 acres of land utilized for construction.

26. In terms of cultural resources, the Phase II EA is limited to stating basic consultation requirements with the state historic preservation office if historic structures need to be altered or materials are discovered.
27. As regards cumulative impact considerations, past actions were identified as includes previous LCWSD treatment and disposal operations, and the April 28, 2025 issuance of a groundwater discharge permit and related other infrastructure construction authorizations.
28. The same document identified present actions as including construction of the Phase 2 WWTF and RIB system—a new mechanical treatment plant, three RIBs for groundwater disposal, and interconnected piping—and subsequent operation of the Phase 2 WWTF and RIB system. Following construction of the Phase 2 WWTF, the septage receiving facility (constructed under Phase 1) would be allowed to begin accepting and treating septage.
29. As regards cumulative impact considerations of related future actions, the Final EA states that "The District has submitted a separate application for a tertiary treatment system proposed at the existing LCWSD facility site following Phase 2 construction. DEQ does not yet have a complete application for that project, and its specific environmental effects cannot be fully evaluated at this time. The tertiary project would, if approved, involve additional ground disturbance within the existing facility footprint, likely near the constructed SBRs; see the Geography and Soils and Water Quality, Quantity and Distribution sections of this EA for discussion of the proposed tertiary treatment as it relates to cumulative impacts. An environmental review of the tertiary treatment project would be conducted under a separate MEPA process once a complete application is received, if required under applicable law."

Table 3, p. 12.

30. DEQ's Phase II decision-making did not meaningfully assess the Interlocal Agreement between Flathead County & LCWSD, its scope, intent purposes, or relationship to and significance of the funding mechanism such agreement provides.
31. The Final EA's section entitled "Description of Alternatives" lists different types of treatment technologies identified for Phase II's new wastewater treatment system. The analysis does not consider treatment efficiency as regards pollutants of concern for proximate surface waters known to be downgradient from the Project's groundwater discharge locations.
32. The preferred alternative section provides a weighted ranking system, with a finding that the "proposed project would include construction of a sequencing batch reactor (SBR) treatment system capable of meeting the required effluent water quality of the District's groundwater discharge permit for the 10-year growth period." Final EA, p. 48.
33. The gross estimated project cost of Phase 1 and Phase 2 is approximately \$59.5 million.
34. Taxpayer money, included pass-through funding support from DEQ, will and/or is proposed for the Project.
35. The Final EA's section entitled Conclusions and Findings determined operational impacts stable and predictable, including finding the Phase II proposal "a treatment system designed to meet" conditions established under Phase I decision-making. P. 52.
36. Under Uniqueness and Fragility criteria, the Final EA disclaimed any relationship to Phase I EA evaluations of the LCWSD's groundwater discharge permit despite the Project as a whole, and all its elements, being located within and fundamentally inducing new pollutant discharges to the ecologically-sensitive Flathead Basin and the Ashley Creek subwatershed, which DEQ has classified as impaired by nutrient pollutants and unable to attain beneficial surface water uses for decades. P. 53.

37. Neither did the EA consider the agency's own scientific documentation concerning local water resources under the Flathead Lake or Flathead-Stillwater Total Maximum Daily Loads or Watershed Improvement Plans.
38. Regarding resource importance, the scope of resources considered was the "treatment facility and its immediate site" with no significant adverse impacts identified. P. 53.
39. Lastly, the Final EA found no precedent was set, and future reviews were required for any changes to the proposed action. P. 53.
40. Under § 75-6-112, MCA, no person may construct, extend, or use a public sewage system until the Department of Environmental Quality (DEQ) has reviewed and approved the plans and specifications for the project. Both Phase II and Phase I infrastructure were approved by DEQ under this statutory authority.
41. Under the Montana Water Pollution Control State Revolving Fund Act (WPCSRF), the DEQ may loan money for construction of public sewage systems.
42. DEQ's draft and final Environmental Assessments for Phase II of the Project avoided considering the multiple, related phases and elements of as a single project for the purposes of its MEPA review, despite referencing those components and the publicly disclosed Interlocal Agreement between the District and Flathead County treating all phases as a single endeavor.
43. DEQ has authority over permitting both wastewater discharges and the planning, construction, and design of wastewater treatment facilities and infrastructure.
44. DEQ has previously considered wastewater improvement plans for communities and sewer districts, including new treatment technologies and discharge effluent limits, under a single proposed agency decision and MEPA analysis.

45. At the time of its June 15, 2026 decision, DEQ had both notice and knowledge of all related phases and elements of wastewater infrastructure development proposed under the Project.
46. At the time of its June 15, 2026 decision DEQ also had notice and had received a third application from LCWSD for yet another prospective sewer improvement phase involving another level of wastewater treatment.
47. Substantively, Plaintiffs' comments to DEQ on Phase II alleged DEQ had not conducted adequate MEPA analyses because the agency improperly constrained the scope of its MEPA analysis contrary to its own rules and Montana Supreme Court precedent, and because the agency could not make a fully-informed decision as to the Project's significance absent consideration of the project as a whole under one MEPA review.

FIRST CLAIM FOR RELIEF
(Violation of the Montana Environmental Policy Act)

48. The allegations in the foregoing paragraphs are re-alleged and incorporated herein by reference.
49. MEPA is intended to implement the environmental protection imperatives of Article II, Section 3 and Article IX, Section 1 of the Montana Constitution. § 75-1-102, MCA.
50. MEPA requires state agencies to carefully scrutinize the potential environmental consequences of their actions. § 75-1-101, *et seq.*, MCA; ARM 17.4.601 *et seq.* “MEPA requires that an agency be informed when it balances preservation against utilization of our natural resources and trust lands.” *Ravalli County Fish & Game Ass’n, Inc.*, 273 Mont. at 385, 903 P.2d at 1371. Thus, state decision makers are prohibited from “reach[ing] a decision without first engaging in the requisite significant impacts analysis.” *Id.*
51. Under ARM 17.4.608(1), to implement MEPA the agency shall determine the significance of impacts associated with a proposed action. This determination is the basis of the agency’s

decision concerning the need to prepare a more robust review via an environmental impact study and also refers to the agency's evaluation of individual and cumulative impacts in an environmental assessment.

52. To determine a project's significance, "[t]he agency shall consider [...] (b) the probability that the impact will occur if the proposed action occurs; or conversely, reasonable assurance in keeping with the potential severity of an impact that the impact will not occur; (c) growth-inducing or growth-inhibiting aspects of the impact, including the relationship or contribution of the impact to cumulative impacts, (d) the quantity and quality of each environmental resource or value that would be affected, including the uniqueness and fragility of those resources or values, (e) the importance to the state and to society of each environmental resource or value that would be affected, (f) any precedent that would be set as a result of an impact of the proposed action that would commit the department to future actions with significant impacts or a decision in principle about such future actions; and (g) potential conflict with local, state, or federal laws, requirements, or formal plans." ARM 17.4.608(1).
53. Among other items, an EA must include: (d) an evaluation of the impacts, including cumulative and secondary impacts, on the physical environment [.]” ARM 17.4.609(3).
54. "Cumulative impact" means the collective impacts on the human environment of the proposed action when considered in conjunction with other past and present actions related to the proposed action by location or generic type.
55. An EA must also include an evaluation of alternatives to the proposed action. 75-1-201(b)(iv)(C); ARM 17.4.609(3)(f).
56. In the MEPA context, a project is considered controversial if there is a substantial dispute as to the size, nature, or effect of the action. Here, there is a substantial dispute as to the size,

nature, and effect of the action. The Phase II Final EA states that construction and operation of a new centralized wastewater treatment facility aimed at expanding service for new development pressure and with design capacity of up to 900,000 gpd is nonsignificant, and is separate from the agency's Phase I decision-making for the same Project. Yet as Plaintiffs explained in their comments, even if the phases are physically separate, the collective impact of the phases and new facility's operation and sewage treatment capabilities could adversely impact the human and physical environment, and the Phase II EA failed to evaluate significance in light of the Project as a whole.

57. Thus DEQ's Phase II EA is insufficient. It does not adequately assess environmental impacts as required by ARM 17.4.608-609, and by virtue of segmenting review of Phase I actions which bear a reasonably close causal relationship to Phase II actions, all under DEQ's authority.
58. Further, the Project as a whole's effects on the environment appear to be uncertain and involve unique and unknown risks. For example, the Phase II Final EA's conclusions regarding the lack of significant effects are based on the limited perspective of construction and operation of a new centralized wastewater treatment facility, including a choice of treatment level, despite that facility's design being 100% reliant on modeling of a Phase I discharge permit that failed to rationally recognize expert evidence demonstrating erroneous site characterizations and fundamentally flawed assumptions. Thus, the risks to the environment from proposed construction and operation of Phase II elements are uncertain and create unexamined risks based on the interconnected relationship to Phase I elements.
59. The Phase II action could also establish a precedent for future actions with significant effects and represents a decision in principle about future consideration. If the potentially significant

impacts of new regional centralized wastewater systems are allowed to be minimized and ignored through the preparation of piecemeal phases, and within each phase through just a Finding of No Significant Impact and an EA, it may establish a precedent for future actions by Defendant.

60. The action is also cumulatively significant when looked at in light of other related and pending actions, including DEQ's Subdivision and Sanitation authorities in Flathead County, where the agency issues certificates of subdivision approval that can include approvals of additional new individual septage systems which may become reliant on the sewage treatment operations offered by LCWSD's proposed Project. The agency has also recently proposed revision of the water quality standards for Ashley Creek, which is downgradient of and receives pollutant wastes from the Project. The basis for that action relates to longstanding impairment of Ashley Creek and failures of improvement and restoration, and that proposed action is also not considered in relation to authorizing a new regional wastewater treatment and disposal system in the same polluted watershed. Taken together, these and other pending or reasonably foreseeable actions under DEQ's authorities would impact the same action area are cumulatively significant and therefore an EIS is required.
61. DEQ's Phase II EA also recognizes the LCWSD has submitted a new, separate application for a tertiary treatment system proposed at the existing facility site following Phase 2 construction. Despite this application being received, Defendant again - as with segmentation of Phase I and Phase II actions - violates MEPA by failing to exercise its authority to require holistic consideration of all causally related project elements for the same applicant, through one comprehensive and interdisciplinary review.

62. Further, the Final EA's review of the significance of both secondary and cumulative impacts was inadequate and contrary to that required by ARM 17.4.609(3)(d) and (e), again by virtue of segmenting review of Phase II actions from Phase I actions which bear a reasonably close causal relationship. The Phase II EA also fails to consider the collective impact on the human environment when taken in conjunction with the agency's Phase I decision.
63. Similarly, the EA fails to evaluate adequately alternatives within the authority of DEQ, such as better pollution control infrastructure capable of avoiding risks and uncertainties in the underlying local hydrogeology, or as regards the social, ecological, and economic importance of downgradient receiving waters, despite admitting the inextricably connected relationship between Phase I actions and Phase II actions. This failure becomes more acute and absurd in light of the EA's admission that a pending application for a different treatment technology is already proposed by the same applicant for the same facility. A statutory interpretation is considered legally absurd and invalid when its literal application subverts, nullifies, and hollows out the broader legislative framework. DEQ's interpretation of MEPA as applied to the Project produces an absurd, invalid result: that an applicant can dictate the scope of MEPA review by simply withholding, or not completing, an application, or that DEQ has unfettered discretion to allow potentially unlimited sequential phases of development within the same Project without ever triggering a holistic evaluation of the aggregated Project's secondary or cumulative impacts.
64. DEQ's decision also failed to evaluate the probability of potentially serious water resource impacts and degradation that could occur based on record evidence of erroneous agency conclusions, the social, ecological and economic significance of a defensible and durable

sewage solution for Flathead County, and the importance and sensitivity of Flathead Lake's water resources or endangered fish species and critical habitat, violating ARM 17.4.608.

65. DEQ's failure to use MEPA's own criteria in support of its finding did not allow the agency to fully consider the significance of impacts of the proposed action, contrary to ARM 17.4.609.

66. Nor did DEQ rationally explain why an EIS was not required despite Project uncertainties, the level of public concern and engagement, the character of the project and its growth-inducing potential, and against other potentially significant impacts.

67. Because Phase II, much less the overarching Project, is a major state action for the purposes of MEPA, and may have a significant impact on the human environment, Defendant's adoption of a FONSI and reliance on an EA is improper.

68. Because DEQ did not prepare an EIS despite potentially significant impacts it has failed to comply with MEPA and the issuance of the FONSI for Phase II is legal error and arbitrary and capricious.

SECOND CLAIM FOR RELIEF
(Unlawful Segmentation of MEPA Analysis)

69. The foregoing paragraphs are realleged and incorporated by reference.

70. DEQ segmented and piecemealed the analysis of Phase I from Phase II of the overarching Lakeside Wastewater Improvements Project despite these matters being directly related. Each phase will affect the environment and incite social and cultural impacts in the same region, including the potentially to significantly harm local water quality and endangered species.

71. Most importantly, Phase II and Phase I are connected actions, interdependent parts of a larger action - the Project - that depend on each other for justification and therefore should have

been considered together. As the Phase II EA recognizes, both Phase I and Phase II arise from the same core proposal from applicant the LCWSD to, ultimately, allow expanded wastewater treatment and disposal opportunities across the Flathead Valley.

72. The Phases are also intertwined because the Interlocal Agreement between LCWSD and Flathead County, which provides taxpayer funding to support the Project, explicitly considered the Phases as part of one integral project for its funding scope and rationale.

73. The Phases are also necessarily intertwined on a more basic level, because Phase II and Phase I concern construction and ultimate operations in the same subwatershed, such that impacts from both phases and the project as a whole are connected actions and all under DEQ's exclusive authorities.

74. DEQ did not reasonably explain why it was permissible to segment its review of the LCWSD's undisputed, multiple and interrelated phases of infrastructure in multiple EAs, as opposed to a single MEPA decision.

75. DEQ failed to address the whole of the environmental effects of the Project and all other connected or related pending actions, and failed to adequately assess the combined environmental impact of all against the environmental, social, economic and social values and resources of the Flathead Basin. By undertaking piecemeal review of these projects and phases, DEQ understates the impacts of this action and also undermines meaningful alternatives analysis.

76. Therefore, DEQ failed to adequately analyze the environmental impacts of its actions in conjunction with other connected actions in violation of MEPA and its implementing regulations, and also acted in a manner that is arbitrary and capricious and contrary to law.

THIRD CLAIM FOR RELIEF
(Failure to Take a Hard Look)

77. The foregoing paragraphs are realleged and incorporated by reference.
78. For the reason described above, DEQ's flawed analysis of the potential impacts of the Phase II decision provides the basis for a claim that DEQ failed to take a "hard look" at the environmental consequences of the proposed activity in violation of MEPA. *Ravalli County Fish & Game Ass'n, Inc.*, 273 Mont. at 377, 903 P.2d at 1367.
79. "Implicit in the requirement that an agency take a hard look at the environmental consequences of its actions is the obligation to make an adequate compilation of relevant information, to analyze it reasonably, and to consider all pertinent data." *Clark Fork Coal.*, 2008 MT at ¶ 47, 347 Mont. at 211, 197 P.3d at 492. By failing to do so here, DEQ violated MEPA.

FOURTH CLAIM FOR RELIEF
(Violation of Fundamental Environmental Rights)

80. The foregoing paragraphs are realleged and incorporated by reference.
81. Because DEQ's Phase II EA fails to take a hard look at the Project as a whole, it results in the agency failing to consider an entire aspect of potentially significant environmental consequences only produced in the aggregate, rendering Plaintiffs' right to a clean and healthful environment a nugatory, and the right to adequate remedies a paper tiger.
82. Neither Plaintiffs, the public, or DEQ can be informed of anticipated impacts when the agency refuses to consider an authorization to discharge new, socially and ecologically significant, additional loads of sewage to an already nutrient-impaired subwatershed with uncertain and highly disputed impacts, in combination with the connected action of chosen centralized wastewater treatment and construction of new sewer infrastructure essential to

facilitating new development and the collection and disposal of diffuse residential septage from across Flathead County nearby Flathead Lake. *Held v. State*, ¶ 67.

83. DEQ's failure to evaluate the Lakeside Wastewater Improvements Project as a whole violates Plaintiffs' rights to a clean and healthful environment and adequate remedies, and violates the agencies' duty to act in an affirmative, anticipatory and preventative manner, all guaranteed by the Montana Constitution, Article II, sec. 3 and Article IX, sec. 1.

FIFTH CLAIM FOR RELIEF
(Declaratory Judgment)

84. The foregoing allegations are realleged and incorporated by reference.
85. A controversy has arisen between Plaintiff and the Department regarding the rights and responsibilities under and construction of the constitutional, statutory, and regulatory requirements referenced herein and implicated by the agency's Phase I and Phase II decision-making approving elements of the Lakeside Wastewater Improvements Project.
86. Declaratory relief addressing the rights and responsibilities of parties is both necessary and proper.

REQUEST FOR RELIEF

THEREFORE, Plaintiffs respectfully request that this Court:

- a. Declare unlawful, arbitrary and capricious, and set aside DEQ's June 15, 2026 EA and approval of Phase II of the Lakeside Wastewater Improvements Project;
- b. Declare Defendant's segmentation of Phase I and Phase II MEPA decision unlawful, arbitrary and capricious, and a violation of Plaintiffs' fundamental environmental rights;
- c. Vacate and Remand DEQ's Phase II decision as no other narrowly-tailored remedy is possible in light of statutory and constitutional injuries;
- d. Grant temporary and/or permanent injunctive relief prohibiting the Lakeside Wastewater Improvements Project until performance of lawful MEPA analysis;

- e. Grant Plaintiffs their attorney fees and reasonable costs as under the Private Attorney General Doctrine, the Uniform Declaratory Judgments Act, or as otherwise provided at law;
- f. Grant Plaintiff such additional relief as the Court may deem just and proper.

Respectfully submitted on this _14th_ day of August, 2026.

/s/ Guy Alsentzer
Attorney for Plaintiffs