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STATE OF MONTANA
By: Courtney Miller
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Zink, Ed
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MONTANA THIRTEENTH JUDICIAL DISTRICT COURT, YELLOWSTONE COUNTY

LAUREL CARED, Plaintiff, v. STATE OF MONTANA, Defendant.	Cause No. DV-26-855 JUDGE ED ZINK **ORDER DISSOLVING PRELIMINARY INJUNCTION**

This matter comes before the Court on Defendants' Montana Board of Investments and Montana Department of Public Health and Human Services ("BOI" and "DPHHS," jointly referred to as the Agencies) *Motion to Dissolve Preliminary Injunction* filed on September 18, 2026. [Dkt. 45]. Plaintiff Laurel CARED filed its response to the motion on October 2, 2026 [Dkt. 48]. Defendants filed their reply on October 5, 2026. [Dkt. 55].

On August 26, 2026, the Court issued its *Order Granting in Part Preliminary Injunction*. [Dkt. 35]. The Court's *Order* enjoined BOI and DPHHS from taking any acts in furtherance of construction of the Forensic Mental Health Facility (the Facility) but allowed off-site planning and design work to continue. The *Order* also remanded the Final Environmental Assessment (Final EA) back to the Agencies to provide additional investigation and analysis regarding water supply issues and water availability to service the Facility. Further, the *Order* required the Agencies to allow the public a reasonable opportunity to participate and comment on this additional analysis.

Following issuance of the Court's *Order*, the Agencies filed several additions to the administrative record, including notice of the new public comment period, an updated Final EA with redlined changes, and additional comments submitted to the Agencies for consideration. [*See* Dkt. 36; Dkt. 42; Dkt. 47]. In their *Brief in Support of Motion to Dissolve Preliminary Injunction*, [Dkt. 46], the Agencies assert that the injunction should be lifted because they have complied with all directives of the August 26 Order.

In its response, Laurel CARED "does not oppose dissolution of the existing injunction insofar as that injunction pertains to the prior environmental assessment." *Plaintiff's Response* p. 1. However, Laurel CARED asks that the injunction remains in place until its request for a new injunction regarding the new Final EA can be ruled on. Laurel CARED filed a *Second Motion for Temporary Restraining Order and Preliminary Injunction* on October 2, 2026. [Dkt. 49]. This motion is not yet fully briefed.

ANALYSIS

The Montana Environmental Policy Act is procedural, and it is the legislature's intent that the requirements of MEPA provide for the adequate review of proposed actions consistent with the provisions of the chapter. *See* Mont. Code Ann § 75-1-102(1). The provisions of MEPA focus on "the administrative decision-making process rather than the decision itself." *Montana Trout Unlimited v. Montana Department of Environmental Quality*, 2024 MT 36 ¶ 12, 415 Mont. 214, 223, 544 P.3d 163, 171. In reviewing for MEPA compliance, courts ask whether an agency took a "hard look" at the environmental impacts of a given project or proposal. *Id*. at ¶ 18, *citing Mont. Wildlife Fed'n v. Mont. Bd. of Oil & Gas Conservation*, 2012 MT 128, ¶ 43, 365 Mont. 232, 280 P.3d 877 (citation omitted). "[The Court] does not take a hard look itself but requires that the agency does so. The Court focuses on the validity and appropriateness of the administrative decision-making process without intense scrutiny of the decision itself." *Id*., (internal citation and quotation omitted).

An injunction pursuant to MEPA is an extraordinary remedy which requires a showing of several elements by the party seeking relief. *See* Mont. Code Ann. § 75-1-201(c)(iii). One such

requirement is that the relief granted be "as narrowly tailored as the facts allow to address both the alleged noncompliance and the irreparable harm the party asking for the relief will suffer." Mont. Code Ann. § 75-1-201(c)(iii)(C). To that effect, this Court's previous *Order* expressed the intention that preliminary relief be short-lived to allow the Agencies opportunity to conduct further analysis and consider additional public comment. More specifically, the Court ordered the Agencies to further investigate water supply issues, including issues regarding infrastructure, capacity, and water availability to service the Facility. Additionally, a *revised* Final EA was to be completed by the Agencies following an opportunity to receive and contemplate public comment. As mentioned above, the Agencies have filed both a Revised Final EA containing additional analysis and additional public comments as supplemental materials to the administrative record.

Further, the Court recognizes that the State of Montana continues to suffer financial harm in an amount that is only increasing by the day. The Agencies estimate that currently, the State of Montana incurs daily delay costs of $10,242.10.

The provisions of MEPA place limits on what this Court may do here. First, the Court "shall consider the implications of the [injunctive] relief on the local and state economy. . . ." Mont. Code Ann § 75-1-201(c)(iii)(B)(II). Second, MEPA mandates the Court's injunctive "relief is as narrowly tailored as the facts allow to address both alleged noncompliance and the irreparable harm the party asking for the relief will suffer. In tailoring the relief, the court shall ensure, to the extent possible, that the project or as much of the project as possible can go forward while also providing the relief to which the applicant has been determined to be entitled." Mont. Code Ann § 75-1-201(c)(iii)(C).

In balancing these factors, the Court is compelled to lift the injunctive relief because the economic harms to the State of Montana are significant and growing. As mandated by Mont. Code Ann § 75-1-201(c)(iii)(B)(II), the Court considered the effects of the relief requested on the state and local economy before granting the injunction. While the effects on the local or state economy may not be precisely synonymous to economic harm to the State of Montana, the Court finds the economic

harm is real and is measurable and therefore must be weighed by the Court. At the time the Court entered this injunctive relief, a temporary pause was necessary to ensure the Agencies adequately assessed certain issues regarding water capacity before construction of the Facility began. Now, the Agencies have conducted further analysis as required by this Court. Any further delay has measurable economic harm to the State of Montana, and it continues to suffer economic harm each day construction is delayed. Second, an ongoing full stop to all work is inconsistent with the MEPA statutory mandate "that the project or as much of the project as possible can go forward while also providing the relief to which the applicant has been determined to be entitled." Mont. Code Ann § 75-1-201(c)(iii)(C).

ORDER

The Court finds, and the parties agree, that the Agencies have sufficiently complied with the Court's *Order Granting in Part Preliminary Injunction*. Although Larel CARED has requested that the current preliminary injunction remain in place pending this Court's decision regarding its most recent motion, it does not contend that the Agencies have not fully complied with this Court's previous Order.

Therefore, **IT IS HEREBY ORDERED** that the Court's August 26, 2026, *Order Granting in Part Preliminary Injunction* is **DISSOLVED**. The Agencies are no longer enjoined from taking any actions in furtherance of the construction of the Facility.

The Court is aware that Laurel CARED has filed a second motion for an injunction due to certain alleged MEPA violations and insufficiencies contained in the newest Revised Final EA. The Court will address this motion once it is fully briefed. The Court is mindful that record review will be substantial—more than 5,000 pages have been added to the *Administrative Record* for the Court's evaluation.

ELECTRONICALLY SIGNED AND DATED BELOW

cc: Elizabeth Forster / Timothy Bechtold, *Attorneys for Plaintiff*
Christopher Stoneback, *Attorney for Defendant Montana Board of Investments*
Robert Cameron, *Attorney for Defendant State of Montana*

Electronically Signed By:
Hon. Judge Ed Zink
Tue, Oct 20 2026 01:40:58 PM