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FILED

NOV 10 2021

ANGIE SPARKS, Clerk of District Court
 By *Angie Sparks* Deputy Clerk

MONTANA FIRST JUDICIAL DISTRICT COURT, LEWIS AND CLARK COUNTY

MARK PIELOCH, DENNIS GREANY,)
 And RICHARD KOLLARS,)
)
 Plaintiffs,)
)
 vs.)
)
 MARK C. BELEW, and MISSOURI)
 RIVER AND EAGLE CANYON)
 RANCHES LANDOWNERS')
 CORPORATION,)
)
 Defendants.)

Cause No. DDV-2021-841 *(emend)*

**ANSWER OF DEFENDANT
 MISSOURI RIVER AND EAGLE
 CANYON RANCHES LANDOWNERS'
 CORPORATION TO PLAINTIFFS'
 AMENDED COMPLAINT FOR
 DECLARATORY AND INJUNCTIVE
 RELIEF AND DEMAND FOR JURY
 TRIAL**

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COMES NOW Defendant Missouri River and Eagle Canyon Ranches Landowners' Corporation (hereafter "Missouri River") by and through undersigned counsel of record, and in answer to Plaintiffs' Amended Complaint for Declaratory and Injunctive Relief, answers as follows:

1. Upon information and belief, Missouri River admits Paragraph 1 of the Amended Complaint.
2. Missouri River admits Paragraph 2 of the Amended Complaint.
3. Upon information and belief, Missouri River admits Paragraph 3 of the Amended

Complaint.

4. To the extent Paragraph 4 of the Complaint sets forth a legal conclusion, no response is required. To the extent Paragraph 4 requires an answer, Missouri River admits venue and jurisdiction are proper in this Court.

5. Upon information and belief, Missouri River admits Paragraph 5 of the Amended Complaint.

6. Upon information and belief, Missouri River admits Paragraph 6 of the Amended Complaint.

7. The Section of the Covenants referenced in Paragraph 7 of the Amended Complaint speaks for itself, and Missouri River admits that the language set forth in Paragraph 7 corresponds to the referenced section of the Covenants.

8. Missouri River admits Paragraph 8 of the Amended Complaint.

9. The Section of the Amended Bylaws referenced in Paragraph 9 of the Amended Complaint speaks for itself, and Missouri River admits that the language set forth in Paragraph 9 corresponds to the referenced section of the Amended Bylaws.

10. The Section of the Amended Bylaws referenced in Paragraph 10 of the Amended Complaint speaks for itself, and Missouri River admits that the language set forth in Paragraph 10 corresponds to the referenced section of the Amended Bylaws.

11. The Section of the Amended Bylaws referenced in Paragraph 11 of the Amended Complaint speaks for itself, and Missouri River admits that the language set forth in Paragraph 11 corresponds to the referenced section of the Amended Bylaws.

12. The Section of the Amended Bylaws referenced in Paragraph 12 of the Amended Complaint speaks for itself, and Missouri River admits that the language set forth in Paragraph

12 corresponds to the referenced section of the Amended Bylaws.

13. The allegations of Paragraph 13 of the Amended Complaint are not directed to this Defendant, but to the extent the allegations of Paragraph 13 of the Amended Complaint are related to this Answering Defendant, this Answering Defendant lacks sufficient information to admit or deny the allegations, and therefore denies the same.

14. The allegations of Paragraph 14 of the Amended Complaint state a legal conclusion to which no response is required. To the extent a response is required, this Answering Defendant lacks sufficient information to admit or deny the allegations, and therefore denies the same.

15. The allegations of Paragraph 15 of the Amended Complaint state a legal conclusion to which no response is required. To the extent a response is required, this Answering Defendant lacks sufficient information to admit or deny the allegations, and therefore denies the same.

16. The allegations of Paragraph 16 of the Amended Complaint state a legal conclusion to which no response is required. To the extent a response is required, this Answering Defendant lacks sufficient information to admit or deny the allegations, and therefore denies the same.

17. The allegations of Paragraph 17 of the Amended Complaint are not directed to this Defendant, but to the extent the allegations of Paragraph 17 of the Amended Complaint are related to this Answering Defendant, this Answering Defendant lacks sufficient information to admit or deny the allegations, and therefore denies the same.

18. The allegations of Paragraph 18 of the Amended Complaint are not directed to this Defendant, but to the extent the allegations of Paragraph 18 of the Amended Complaint are

related to this Answering Defendant, this Answering Defendant admits a document was filed with the Montana Secretary of State and contains quoted language, but denies any allegation inconsistent with the filing.

19. The allegations of Paragraph 19 of the Amended Complaint are not directed to this Defendant, but to the extent the allegations of Paragraph 19 of the Amended Complaint are related to this Answering Defendant, this Answering Defendant lacks sufficient information to admit or deny the allegations, and therefore denies the same.

20. The allegations of Paragraph 20 of the Amended Complaint are not directed to this Defendant, but to the extent the allegations of Paragraph 20 of the Amended Complaint are related to this Answering Defendant, this Answering Defendant lacks sufficient information to admit or deny the allegations, and therefore denies the same.

21. The allegations of Paragraph 21 of the Amended Complaint are not directed to this Defendant, but to the extent the allegations of Paragraph 21 of the Amended Complaint are related to this Answering Defendant, this Answering Defendant lacks sufficient information to admit or deny the allegations, and therefore denies the same.

22. The allegations of Paragraph 22 of the Amended Complaint state a legal conclusion to which no response is required. To the extent a response is required, this Answering Defendant lacks sufficient information to admit or deny the allegations, and therefore denies the same.

23. The allegations of Paragraph 23 of the Amended Complaint state a legal conclusion to which no response is required. To the extent a response is required, this Answering Defendant admits the quoted language appears in Section 13.1, but lacks sufficient information to admit or deny the remaining allegations in Paragraph 23, and therefore denies the

same.

24. The allegations of Paragraph 24 of the Amended Complaint are not directed to this Defendant, but to the extent the allegations of Paragraph 24 of the Amended Complaint are related to this Answering Defendant, this Answering Defendant lacks sufficient information to admit or deny the allegations, and therefore denies the same.

25. The allegations of Paragraph 25 of the Amended Complaint are not directed to this Defendant, but to the extent the allegations of Paragraph 25 of the Amended Complaint are related to this Answering Defendant, this Answering Defendant lacks sufficient information to admit or deny the allegations, and therefore denies the same.

26. The allegations of Paragraph 26 of the Amended Complaint are not directed to this Defendant, but to the extent the allegations of Paragraph 26 of the Amended Complaint are related to this Answering Defendant, this Answering Defendant lacks sufficient information to admit or deny the allegations, and therefore denies the same.

27. The allegations of Paragraph 27 of the Amended Complaint are not directed to this Defendant, but to the extent the allegations of Paragraph 27 of the Amended Complaint are related to this Answering Defendant, this Answering Defendant lacks sufficient information to admit or deny the allegations, and therefore denies the same.

28. The allegations of Paragraph 28 of the Amended Complaint are not directed to this Defendant, but to the extent the allegations of Paragraph 28 of the Amended Complaint are related to this Answering Defendant, this Answering Defendant lacks sufficient information to admit or deny the allegations, and therefore denies the same.

29. The allegations of Paragraph 29 of the Amended Complaint are not directed to this Defendant; but to the extent the allegations of Paragraph 29 of the Amended Complaint are

related to this Answering Defendant, this Answering Defendant lacks sufficient information to admit or deny the allegations, and therefore denies the same.

30. The allegations of Paragraph 30 of the Amended Complaint are not directed to this Defendant, but to the extent the allegations of Paragraph 30 of the Amended Complaint are related to this Answering Defendant, this Answering Defendant lacks sufficient information to admit or deny the allegations, and therefore denies the same.

31. The allegations of Paragraph 31 of the Amended Complaint are not directed to this Defendant, but to the extent the allegations of Paragraph 31 of the Amended Complaint are related to this Answering Defendant, this Answering Defendant lacks sufficient information to admit or deny the allegations, and therefore denies the same.

II. COUNT ONE – DECLARATORY RELIEF

32. Missouri River restates and re-alleges Paragraphs 1-31 above as fully incorporated herein.

33. The allegations of Paragraph 33 of the Amended Complaint are not directed to this Defendant, but to the extent the allegations of Paragraph 33 of the Amended Complaint are related to this Answering Defendant, this Answering Defendant lacks sufficient information to admit or deny the allegations, and therefore denies the same.

34. The allegations of Paragraph 34 of the Amended Complaint state a legal conclusion to which no response is required. To the extent a response is required, this Answering Defendant admits the cited statute governs some portion of Plaintiff's claim.

35. The allegations of Paragraph 35 of the Amended Complaint state a legal conclusion to which no response is required. To the extent a response is required, this Answering Defendant lacks sufficient information to admit or deny the allegations, and therefore

denies the same.

II. COUNT TWO – REMOVAL OF BELEW AS BOARD MEMBER

36. Missouri River restates and re-alleges Paragraphs 1-35 above as fully incorporated herein.

37. The allegations of Paragraph 37 of the Amended Complaint state a legal conclusion to which no response is required; however, to the extent a response is required, this Answering Defendant admits the quoted language can be found at Section 35-14-809, M.C.A.

38. The allegations of Paragraph 38 of the Amended Complaint are not directed to this Defendant, but to the extent the allegations of Paragraph 38 of the Amended Complaint are related to this Answering Defendant, this Answering Defendant lacks sufficient information to admit or deny the allegations, and therefore denies the same.

39. The allegations of Paragraph 39 of the Amended Complaint are not directed to this Defendant, but to the extent the allegations of Paragraph 39 of the Amended Complaint are related to this Answering Defendant, this Answering Defendant lacks sufficient information to admit or deny the allegations, and therefore denies the same.

III. COUNT THREE – INJUNCTIVE RELIEF

40. Missouri River restates and re-alleges Paragraphs 1-39 above as fully incorporated herein.

41. The allegations of Paragraph 41 of the Amended Complaint are not directed to this Defendant, but to the extent the allegations of Paragraph 41 of the Amended Complaint are related to this Answering Defendant, this Answering Defendant lacks sufficient information to admit or deny the allegations, and therefore denies the same.

42. The allegations of Paragraph 42 of the Amended Complaint are not directed to

this Defendant, but to the extent the allegations of Paragraph 42 of the Amended Complaint are related to this Answering Defendant, this Answering Defendant lacks sufficient information to admit or deny the allegations, and therefore denies the same.

IV. COUNT FOUR – ATTORNEY FEES CLAIM AGAINST BELEW FOR BAD FAITH AND MALICIOUS CONDUCT

43. Missouri River restated and re-alleges Paragraphs 1-42 above as fully incorporated herein.

44. The allegations of Paragraph 44 of the Amended Complaint are not directed to this Defendant, but to the extent the allegations of Paragraph 44 of the Amended Complaint are related to this Answering Defendant, this Answering Defendant lacks sufficient information to admit or deny the allegations, and therefore denies the same.

45. The allegations of Paragraph 45 of the Amended Complaint are not directed to this Defendant, but to the extent the allegations of Paragraph 45 of the Amended Complaint are related to this Answering Defendant, this Answering Defendant lacks sufficient information to admit or deny the allegations, and therefore denies the same.

46. The allegations of Paragraph 46 of the Amended Complaint are not directed to this Defendant, but to the extent the allegations of Paragraph 46 of the Amended Complaint are related to this Answering Defendant, this Answering Defendant lacks sufficient information to admit or deny the allegations, and therefore denies the same.

47. The allegations of Paragraph 47 of the Amended Complaint are not directed to this Defendant, but to the extent the allegations of Paragraph 47 of the Amended Complaint are related to this Answering Defendant, this Answering Defendant lacks sufficient information to admit or deny the allegations, and therefore denies the same.

AFFIRMATIVE DEFENSES

1. This Defendant denies each and every allegation found in the Amended Complaint which is not specifically admitted, denied or qualified.
2. Plaintiffs fail to state a claim upon which relief can be granted.
3. Plaintiffs' claims are barred, in whole or in part, by the principles of waiver.
4. This Defendant denies all allegations of negligence and any other blameworthy or wrongful conduct.
5. Plaintiffs' claim for fraud are barred on the basis that it has not been plead with sufficient particularity as required by the Montana Rules of Civil Procedure and Montana case law.
6. This Defendant is entitled to have the negligence, conduct, and fault of all other persons, including the Plaintiffs, other Defendants, and other named or unnamed Counterclaimants, Cross-Claimants and named or unnamed Defendants and their respective agents apportioned and paid in accordance with the percentage of fault which contributed to Plaintiffs' alleged damages, if any, pursuant to Montana law, including but not limited to Mont. Code Ann. § 27-1 -701 through 27-1-703, *et seq.*
7. Plaintiffs' damages, if any, must be eliminated or reduced because of their failure to mitigate damages.
8. This Defendant complied with all of its duties and obligations owed to any party herein.
9. Plaintiffs' damages, if and, were wholly caused by the acts and/or omissions of other persons or entities.

10. Plaintiffs' claims are barred, in whole or in part, by the doctrines of:

- (a) Accord and Satisfaction;
- (b) Caveat Emptor;
- (c) Unclean hands;
- (d) Release;
- (e) Parol Evidence;
- (f) Estoppel;
- (g) Laches;
- (h) Assumption of Risk; and/or
- (i) Statutory, contractual or common law immunity.

16. Missouri River incorporate herein any and all affirmative defenses raised by any other named or unnamed Defendant that is or becomes part of this action.

AVAILABILITY OF DEFENSES

At this time, this Defendant is uncertain what affirmative defenses may apply if this case goes to trial. Discovery, trial preparation and the facts of the case may make additional affirmative defenses applicable and, thus, are hereby raised in this Defendant's Answer to avoid being waived. Further, this Defendant will dismiss any affirmative defenses so raised prior to the date of the final pretrial conference if such defenses do not appear to be reasonably supported by the facts, the existing law or a good faith argument for extension, modification or reversal of existing law. The purpose of raising these defenses is not to create a defense where none exists or for any other improper purpose. Instead, it is recognition that the pleadings, discovery and trial preparation require an examination and evaluation of evolving facts and law. The trier-of-fact should have available for consideration all defenses that may apply.

WHEREFORE, this Defendant prays as follows:

1. That Plaintiffs take nothing by their claim;
 2. That this Court dismiss this Defendant from this action with prejudice, and that judgment be entered in this Defendant's favor;
 3. That this Court award this Defendant attorney fees and costs as permitted by law;
- and,
4. That this Court award this Defendant such other and further relief as this Court deems just and proper.

Dated this 10th of November, 2021.

**MILODRAGOVICH, DALE &
STEINBRENNER, P.C.**

*Attorneys for Defendant Missouri River
and Eagle Canyon Ranches Landowners
Corporation*

By: _____

Hannah Stone

DEMAND FOR JURY TRIAL

COMES NOW Defendant, Missouri River, by and through undersigned counsel of record, and demands a jury trial on all issues of fact in the above case.

Dated this 10th of November, 2021.

**MILODRAGOVICH, DALE &
STEINBRENNER, P.C.**

*Attorneys for Defendant Missouri River
and Eagle Canyon Ranches Landowners
Corporation*

By: _____

Hannah Stone

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was served upon the following individuals by the means designated below this 10th day of November, 2021

CM/ECF
 U.S. Mail
 Fed Ex
 Hand-Delivery
 Facsimile
 Email
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