

OFFICE OF THE GOVERNOR
STATE OF MONTANA

GREG GIANFORTE
GOVERNOR



KRISTEN JURAS
LT. GOVERNOR

July 25, 2025

Rylee Sommers-Flanagan
Upper Seven Law
P.O. Box 31
Helena, MT 59601
Email: rylee@uppersevenlaw.com

Via email only

Dear Ms. Sommers-Flanagan:

The appointment of Marta Bertoglio as Director of the Department of Commerce does not violate Article V, Section 9 of the Montana Constitution.

All agency directors act under the supervision of the governor. Mont. Code Ann. § 2-15-1801. It is the governor, not agency directors, who formulates and administers the policies of the executive branch. Mont. Code Ann. § 2-15-103. If a conflict arises as to the administration of executive branch policies between an agency head and the governor, the governor's decision controls. *Id.*

As noted in your July 10, 2025 letter, to constitute a civil office, Director Bertoglio's duties "must be performed independently without control or superior power, other than the law." *State ex rel. Barney v. Hawkins*, 79 Mont. 506, 528 (1927). This requirement is not satisfied because Director Bertoglio does not act independently and without control of the governor.

For these reasons, the Governor declines your demand to remove Director Bertoglio from her office.

Sincerely,

A handwritten signature in blue ink, appearing to read "Anita", followed by a long horizontal flourish.

Anita Milanovich
General Counsel

cc: Attorney General Austin Knudsen
Director Marta Bertoglio