

Stillwater County

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Heidi L. Stadel
Clerk and Recorder



January 24, 2018

Board of County Commissioners
P.O. Box 795
Columbus, MT 59019

Re: Beartooth Front Zoning District

Dear Commissioners:

This letter is to notify you that the petition submitted by the Beartooth Front District has not met the threshold amount of 60% of signatures of the affected real property owners as required by §76-2-101(1), MCA.

As you are aware, the question arose regarding mineral interests and if those interests should be considered in the global number of affected "real property owners" within the proposed district area. It is the County Attorney's legal opinion that mineral interests must be considered in the global number of affected real property owners. Therefore, based upon the County Attorney's opinion and advice, I, as the Clerk and Recorder, and the official responsible for validating citizen petitions submitted pursuant to §76-2-101, MCA, am advising the Board that the petition submitted by the Beartooth Front District does not meet the threshold amount of 60% of signatures of the affected real property owners, to include the sub-surface mineral interest holders as an affected real property owner. Thus, the petition will be deemed to be invalid.

Thank you.

Sincerely,

Heidi L. Stadel
Heidi L. Stadel
Clerk and Recorder

OFFICE OF THE COUNTY ATTORNEY
STILLWATER COUNTY, MONTANA

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Amanda O'Shea Tiernan/Peter Delmoe
Deputy County Attorney

Nancy L. Rohde
County Attorney

January 23, 2018

Ms. Heidi Stadel
Stillwater County Clerk & Recorder
P.O. Box 149
Columbus, MT 59019

Re: Beartooth Front Zoning District

Dear Heidi:

I am writing with regard to the petition submitted by the citizens of the Beartooth Front proposed zoning district. As you recall, a question arose regarding mineral interests and if those interests should be considered in the global number of affected "real property owners." I submitted the question to the Montana Attorney General's office and asked for an "AG opinion." After several weeks, the Attorney General's office declined to submit an opinion citing its policy that when litigation is apparent, the Attorney General will not become involved.

The County must now make a decision on whether or not mineral interests should be included and thus, whether or not the petitioners have met the 60% threshold of affected real property owners as required by §76-2-101(1), MCA. It is my legal opinion that mineral interests must be considered in the global number of affected real property owners. It is further my opinion that the petition submitted by the Beartooth Front District does not meet the threshold signature amount of 60% because persons holding mineral interests were not counted in the global number of affected real property owners within the proposed district and were not provided an opportunity to participate in the proposed zoning petition process.

Therefore, I am advising you that the petition should not be verified as sufficient to meet the statutory requirements of §76-2-101(1), MCA, and to further notify the Commission of the same information. The Commission can then place the correspondence on the weekly agenda as a file item to inform the public of the results and the reasons why.

Thank you.

Sincerely,

Nancy L. Rohde

Nancy L. Rohde