

Bethany A. Gross (MT Bar #44197891)
BUDD-FALEN LAW OFFICES, LLC
300 East 18th Street
Post Office Box 346
Cheyenne, Wyoming 82003-0346
(307) 632-5105 Telephone
(307) 637-3891 Facsimile
bethany@buddfalen.com

Nancy L. Rohde
Stillwater County Attorney
P.O. Box 179
Columbus, MT 59019
406-322-4333 - Telephone
406-322-4688 - Facsimile

Attorneys for Defendants

MONTANA TWENTY-SECOND JUDICIAL DISTRICT, STILLWATER COUNTY

BEARTOOTH FRONT COALITION,)
LAZY Y DIAMOND BAR LP, LANA)
and CHARLES J. SANGMEISTER,)
WILLIAM A. and CAROLYN F. HAND,)
and MARGARET BARRON and)
DOXEY RAY HATCH,)

Plaintiffs,

v.

BOARD OF COUNTY)
COMMISSIONERS, STILLWATER)
COUNTY, and HEIDI STADEL, in her)
capacity as Clerk and Recorder of)
Stillwater County,)

Defendants.)

Cause No.: DV-18-12

**DEFENDANTS' MOTION TO
DISMISS PLAINTIFFS'
VERIFIED COMPLAINT**

COME NOW the Defendants, Board of County Commissioners,
Stillwater County, and Heidi Stadel, in her capacity as Clerk and Recorder of
Stillwater County (hereinafter "Defendants"), by and through their attorneys,
Bethany A. Gross of the Budd-Falen Law Offices, LLC, and Nancy L. Rohde,
Stillwater County Attorney and hereby respectfully request that Plaintiffs'
Verified Complaint be dismissed in its entirety, with prejudice, pursuant to

Rule 12(b)(6) of the Montana Rules of Civil Procedure, for failing to state a claim for which relief can be granted. As set forth below, Plaintiffs cannot obtain the relief they seek because the County lacks the legal authority to create a zoning district that regulates oil and gas activity in the manner that Plaintiffs propose, since such legal authority has been delegated to and preempted by the authority of the Montana Board of Oil and Gas Conservation (hereinafter "BOGC").

STANDARD OF REVIEW

In considering a motion to dismiss for failure to state a claim for which relief can be granted, the complaint is construed in the light most favorable to the plaintiff, and all allegations of fact contained therein are taken as true.

Plouffe v. State, 2003 MT 62, ¶ 8, 314 Mont. 413, 415, 66 P.3d 316, 318.

Dismissal is proper if the plaintiff would not be entitled to relief based on any set of facts that could be proven to support the claim. Plouffe, 2003 MT 62, ¶ 8, 314 Mont. at 415-416, 66 P.3d at 318. The only relevant documents when considering a motion to dismiss are the complaint and any documents the complaint incorporates by reference. Cowan v. Cowan, 2004 MT 97, ¶ 11, 321 Mont. 13, 17, 89 P.3d 6, 8 (emphasis added).

Here, the Complaint incorporates by specific reference the petition to create a proposed zoning district submitted by Plaintiffs to Defendants in 2015. See Complaint at ¶ 13 (directly quoting p. 7 of the petition). Therefore, even though the Complaint did not attach the petition as an exhibit, Plaintiffs are not surprised by statements contained within the petition, and there is no

need for Plaintiffs to have further time to prepare for or consider the issues the petition presents.¹ While all the factual allegations are taken as true for purposes of this Motion to Dismiss, the Court may consider statements contained within the petition, which is attached hereto as Exhibit A, and incorporated by reference herein, without having to consider information outside of the pleadings.

STATEMENT OF MATERIAL FACTS

Montana law provides for what is commonly known as "Part 1 Zoning;" to wit "whenever the public interest or convenience may require and upon petition of 60% of the affected real property owners in the proposed district, the board of county commissioners may create a planning and zoning district and appoint a planning and zoning commission consisting of seven members." M.C.A. § 76-2-101(1). In an effort to commence Part 1 Zoning, in 2014 Plaintiffs began collecting signatures for a petition to create a zoning district composed of about 83,000 acres within Stillwater County, Montana, for the sole purpose of regulating oil and gas activity. See Complaint at ¶¶ 11 & 13.

On November 10, 2015, Plaintiffs submitted a petition entitled "Proposed Stillwater County Beartooth Front District Submission to the County Commissioners of Stillwater County, Montana November 10, 2015"

¹ Plaintiffs are aware that the petition they submitted in 2015 to Stillwater County for creation of a proposed zoning district raises the subject of preemption by the BOGC, as evidenced by their inclusion of a letter regarding that issue within their petition. See Exhibit A, pp. 32-36.

(hereinafter "Petition"), which proposed the creation of an 83,000 acre² zoning district and included proposed regulations. See Complaint at ¶¶ 13 & 16; see also Exhibit A. The Petition stated that it sought to regulate no other land use except oil and gas activity within the proposed district. See Exhibit A, p. 4.

The proposed regulations required that "oil and gas activity be conducted in a responsible manner within the District to (1) preserve public health, (2) protect private property, (3) protect and improve public infrastructure and public services, (4) protect surface and ground water, (5) protect air quality, (6) protect soil quality, and (7) maintain the quality of life by preserving the rural residential and agricultural character of the area." See Complaint at ¶ 13; see also Exhibit A, p. 7. Particularly, the Petition proposed rules and regulations to govern oil and gas exploration and development, including fracking. See Exhibit A, p. 10.

In furtherance of those goals, the proposed regulations required a permit from Stillwater County and payment of fees before any oil and gas exploration or development commenced. See Exhibit A, p. 11. Upon application for a permit, a public hearing was proposed to be held whereby an applicant must demonstrate that the oil and gas activity will not cause a

² Since the proposed zoning district would encompass state and federal land, the Petition stated that it would exclude approximately 980 acres of Bureau of Land Management land, 147.1 acres of Montana Fish Wildlife and Parks land, and 2,441.9 acres of Montana Department of Natural Resources and Conservation land. Excluding these lands would decrease the actual acreage of the proposed zoning district to approximately 79,500 acres, more or less. See Exhibit A, p. 8.

potentially significant adverse impact on nearby properties and property values, residents, air quality, groundwater, soil, wildlife, fish, streams, and wetlands. Id.

According to the proposed regulations, a permit could (and presumably would) impose terms and conditions including landscaping for containment of possible discharges and spills; lighting restrictions; monitoring of groundwater and surface water, including periodic testing within specified distances of the well head and the surface line above any horizontal or directional well bore; monitoring and periodic testing of odors, smoke, dust, airborne particles, vibration, glare, heat, and noise; monitoring and regulation of vehicle traffic and routes; a well pad location that minimizes visual intrusion in the landscape; prohibition of holding ponds for drilling and waste materials; and restoration of property upon termination of activity. Id.

Verification of the signatures on the Petition took some time, and in March 2016, Defendant Heidi Stadel as Clerk and Recorder submitted signature verification procedures to Plaintiffs. See Complaint at ¶ 16. In February 2017, Plaintiffs resubmitted their Petition to Defendants for verification. Id. On January 24, 2018, Defendant Heidi Stadel as Clerk and Recorder informed the county commissioners, based on the advice of the county attorney, that the Petition did not meet the threshold of 60% of affected real property owners for lack of inclusion of mineral interest owners. Id. at ¶ 23. On or about February 26, 2018, Plaintiffs filed their Complaint, requesting that the Court mandate the Stillwater County Commissioners to

accept Plaintiffs' Petition; as well as declaratory and injunctive relief that would prohibit inclusion of mineral interest owners for purposes of determining the meaning of "affected real property owners" under M.C.A. § 76-2-101(1). See Complaint at pp. 11-12.

ARGUMENT

Plaintiffs' Complaint should be dismissed as a matter of law because it requests the Court to mandate action that the Stillwater County Commissioners cannot legally take, thereby rendering determination of the meaning of "affected real property owners" under M.C.A. § 76-2-101(1) moot. If the Petition is invalid because the County lacks the authority to do what the Petition proposes, Plaintiffs are not injured by the County's denial of the Petition, and Plaintiffs' standing to request declaratory or injunctive relief that mineral interest owners not be included within the meaning of "affected real property owners" under M.C.A. § 76-2-101(1) is eliminated.

As an initial matter, while the Petition stated that state and federal lands were excluded, the Petition for the proposed district did not exclude minerals owned by the federal government." See Exhibit A, p. 8. Besides the minerals underlying federally-owned surface within the proposed district, the federal government also owns minerals that were severed from separately-conveyed surface acreage. Counties lack jurisdiction to administer or regulate federally-owned minerals, as such jurisdiction is reserved to the Department of the Interior. See 43 C.F.R. § 3000.8 (the lease or sale, and administration and management of the use of federally-owned mineral

interests shall be accomplished under the regulations of §§ 3000 and 3100); see also 43 C.F.R. §§ 3100-3, et seq. (onshore oil and gas leasing regulations).

There are no statutes or any published precedent from the Montana Supreme Court addressing the authority of counties and municipalities to regulate oil and gas activities. Nevertheless, even assuming Plaintiffs have obtained the required approval of 60% of the "affected real property owners" in the proposed district under M.C.A. § 76-2-101(1), Stillwater County has no authority to regulate oil and gas activities. In Montana, the BOGC has exclusive jurisdiction to regulate oil and gas activities and any attempt to undermine the BOGC's jurisdiction is preempted by state law.

The BOGC was established in 1953 with the passage of the Montana Oil and Gas Conservation Act. See Montana Wildlife Federation v. Montana Board of Oil and Gas Conservation, 2012 MT 128, ¶ 6, 280 P.3d 877, 880 (Mont. 2012).³ The Montana Oil and Gas Conservation Act, combined with BOGC's pervasive rules and regulations, manifest the state's interest in the efficient and responsible development of oil and gas resources throughout the State of Montana. The BOGC has broad authority over the issuance of permits to drill for and the regulation of oil and gas, including requiring measures to be taken to prevent contamination of or damage to surrounding land under M.C.A. § 82-11-111(2)(a); requiring the drilling, casing, producing and plugging of wells in a manner that prevents the pollution of fresh water supplies under M.C.A. § 82-11-123(3); requiring the restoration of surface

³ The Montana Oil and Gas Conservation Act is codified under Title 82 of the Montana Code.

lands to their previous grade and productive capability after a well is plugged under M.C.A. § 82-11-123(4); requiring necessary measures to prevent adverse hydrological effects from a well under M.C.A. § 82-11-123(4); regulating the drilling, producing, and plugging of wells and the spacing of wells under M.C.A. § 82-11-124(1); and prohibiting pollution of any state waters under M.C.A. § 82-11-127(1).

Similarly, the BOGC, in the exercise of its statutory authority, has promulgated an exhaustive set of administrative rules and regulations governing the technical aspects of oil and gas operations, including drilling permits, spacing units, drilling operations, safety precautions, production requirements, earthen pits and ponds, injection wells, abandonment, plugging, restoration, bonds, etc., etc. See A.R.M. §§ 36.22.101, et seq. In addition, homeowners within ¼ mile of a proposed well are entitled to a public hearing prior to issuance of a permit to the oil and gas operator. See A.R.M. § 36.22.620. Similarly, applications for permits to drill outside the boundaries of a delineated field are subject to public hearing from any member of the public. See A.R.M. § 36.22.601. Delineated fields can only be established after a public hearing as well. Id.

Supplementary to state statutes or regulations, counties may or may not have the authority to enact local laws or rules, depending on what form of local government they take. Local governments generally fall into one of two categories: (1) local governments that depend on express delegations of authority, in other words specifically provided for by statute, or implied as

being incidental to the powers specifically provided for (i.e. general power local governments, see Article XI, Section 4(b) of the Montana Constitution; see also M.C.A. § 7-1-2101(2)); and (2) local governments who have adopted a self-government charter in accordance with Article XI, Section 6 of the Montana Constitution, who may exercise any power not expressly prohibited by the constitution, or any other law or charter (i.e. self-government local governments; see M.C.A. § 7-1-101). Since Stillwater County has not adopted a self-government charter and has a commission form of government (see M.C.A. § 7-3-402 (local governments that adopt this form shall have general government powers)), it is a general power government and its power is limited to what is expressly or impliedly delegated to it by the State.

Prior to adoption of the 1972 Montana Constitution, all local governments were considered general power governments. See City of Missoula v. Armitage, 2014 MT 274, ¶¶ 15-16, 376 Mont. 448, 451-452, 335 P.3d 736, 738-739. After 1972, local governments were given the option to become self-government local governments by adopting a self-government charter. Id. If a local government does not choose to adopt a self-government charter, it remains a general power government, and courts apply the general rules that have been applicable to general power governments since prior to 1972. See id.

The source of a general power government's authority is the State. See City of Billings v. Herold, 130 Mont. 138, 141-142, 296 P.2d 263, 264-265 (1956). General power governments can only exercise those powers expressly

granted them by the Legislature. See D & F Sanitation Serv. v. City of Billings, 219 Mont. 437, 444, 713 P.2d 977, 981 (1986); Tipco Corp. v. City of Billings, 197 Mont. 339, 344, 642 P.2d 1074, 1077 (1982). The State could delegate to a general power government the power to regulate matters of local concern. Herold, 130 Mont. at 142, 296 P.2d at 265. If a matter is one of statewide concern, and the State chose to regulate a particular field, it occupies that field to the exclusion of local governments under the doctrine of implied preemption. D & F Sanitation Serv., 219 Mont. at 444, 713 P.2d at 982.

There are two types of implied preemption. The first is “field preemption,” which, as referenced above, regards the scheme of state regulation that is so pervasive or comprehensive it is reasonable to infer that the Legislature intended to “occupy the field” and leave no room for supplementary local regulation. The second type of implied preemption is “conflict preemption.” Conflict preemption manifests itself as an inability of local government regulations to comply with state law or where local government regulation stands as an obstacle to the accomplishment and execution of the full purposes and objectives of the Legislature. See Dukes v. Sirius Construction, Inc., 2003 MT 152, ¶ 20, 73 P.3d 781, 785 (Mont. 2003); see also Nutter v. Dougherty, 595 Pa. 340, 345-46, 938 A.2d 401, 404 (Pa. 2007) (observing that preemption applies to municipal laws that obstruct the full goals of the Legislature).

Here, there are no express delegations of power to regulate oil and gas activity to general power governments within any Montana state law. Instead, that power was expressly delegated to the BOGC (a state agency) by the Montana Oil and Gas Conservation Act. Whether defined as field preemption or conflict preemption, in its operational effect, Plaintiffs' Petition and associated proposed regulations materially impede the application of state law, namely, the Montana Oil and Gas Conservation Act and the regulations promulgated thereunder. Although counties have general authority to enact zoning ordinances, a local governing body cannot validly enact a zoning ordinance that infringes upon or interferes with state law. The Montana Oil and Gas Conservation Act is not ambiguous. Only BOGC has the express authority under M.C.A. § 82-11-124(1) to regulate the drilling, spacing, producing and plugging of oil and gas wells.

The regulations proposed by Plaintiffs in their Petition cannot be adopted and enforced by Stillwater County. For instance, the proposed regulations' requirement of a permit and public hearing to conduct oil and gas activity would duplicate the oil and gas permitting process through the BOGC and potentially result in the denial or delay of a permit that has already been approved. A drilling permit is required under M.C.A. § 82-11-134 and A.R.M. § 36.22.602(2) provides that an operator may not deviate from the BOGC approved permit to drill and conditions thereon.

Plaintiffs' proposed regulations would also result in duplicate public hearings, since A.R.M. § 36.22.601(5)-(6) already requires public notice and

hearing concerning permits to drill. The proposed regulations state that the purpose of conducting a public hearing prior to issuance of a county permit to conduct oil and gas activity is to demonstrate that the activity will not cause a potentially significant adverse impact on nearby properties and property values, residents, air quality, groundwater, soil, wildlife, fish, streams and wetlands. See Exhibit A, p. 11. However, each of those considerations are thoroughly examined under the Montana Environmental Policy Act (hereinafter, "MEPA"; M.C.A. §§ 75-1-101, et seq.) and associated administrative procedural rules (Environmental Policy Act Procedural Rules under A.R.M. § 36.22.202; Administrative Procedures for MEPA under A.R.M. §§ 36.2.521, et seq., and A.R.M. §§ 36.2.605, et seq.). MEPA requires a comprehensive analysis of environmental impacts, alternatives, and private property rights; and provides for public notice, public comment, public hearings and judicial review. M.C.A. § 75-1-201.

Plaintiffs' proposed regulations would duplicate the MEPA process and potentially result in the denial of a permit that has already been approved by the BOGC. Additionally, there is also a permitting process by the Board of Environmental Review of the Department of Environmental Quality to regulate air contaminants, pollutants and pollution. See M.C.A. § 75-2-211(2)(b) (the Clean Air Act of Montana, requiring air quality permits for oil and gas wells); see also A.R.M. § 17.8.1602 (applicability and coordination with Montana air quality permit rules). Plaintiffs' proposed regulations would

duplicate the Board of Environmental Review's air quality permitting process and potentially result in denial of a permit already approved as well.

Besides the permitting process, Plaintiffs' proposed regulations for permitting terms and conditions are clearly preempted by state law with regard to landscaping, monitoring, locating well pads, prohibiting holding ponds, and reclamation. See Exhibit A, p. 11 (proposed terms and conditions for county oil and gas activity permits). For instance, Plaintiffs' proposed requirement of landscaping for containment of possible discharges and spills is preempted by M.C.A. § 82-11-111(2)(a) (powers and duties of BOGC to prevent contamination and damage to property), A.R.M. § 36.22.1102 (requiring fire walls),⁴ and A.R.M. § 36.22.1104 (control and cleanup of leaks/spills), all of which comprehensively regulate containment of leaks and spills.

Plaintiffs' proposed permitting term and condition regarding monitoring of groundwater and surface water, including periodic testing, is preempted by M.C.A. § 82-11-123(3)-(4) (requirements for oil and gas operations, including those to prevent water contamination), M.C.A. § 82-11-127(a) (prohibition on causing water contamination), and A.R.M. § 36.22.1307(1) (restoration of surface). Those statutes and the regulation require “necessary measures” to prevent adverse hydrological effects from a well. If the BOGC does not determine monitoring to be “necessary,” the County cannot make a contrary

⁴ Even though the regulation is titled “fire walls required,” it clearly requires an earthen dike to surround any tanks. While this “dike” is intended to act as a fire wall, it would also minimize damage caused by any leak or spill, mirroring Plaintiffs' proposal for containment landscaping.

determination. The statutes also require the BOGC to regulate drilling in a manner that prevents the pollution of water supplies.

Similarly, Plaintiffs' proposed permitting term and conditions regarding monitoring of odors, smoke, dust, airborne particles, vibration, glare, heat and noise, including periodic testing is preempted by M.C.A. § 75-2-211(2)(b) (the Clean Air Act of Montana requiring air quality permits for oil and gas wells), A.R.M. § 36.22.1220 (limitation on gas flaring), A.R.M. § 36.22.1221 (burning of waste gas), and A.R.M. § 17.8.1602 (applicability and coordination with Montana Air Quality Permit rules). Those state regulations and the provision from the Clean Air Act of Montana specifically address matters concerning odors, smoke, dust, and airborne particles.

Plaintiffs' proposed permitting term and condition regarding locating a well pad to minimize visual intrusion in the landscape is preempted by M.C.A. § 82-11-124(1) (regulating the drilling and spacing of wells), M.C.A. § 82-11-201 (establishing well spacing units), A.R.M. § 36.22.702 (well spacing/location requirements), and A.R.M. § 36.22.703 (location requirements for horizontal wells). The statutes and regulations are specific in requiring a well to be drilled as authorized by BOGC order. Stillwater County cannot therefore override an order of the BOGC to require different spacing and location for a well.

The proposed permitting term and condition which would prohibit holding ponds for drilling and waste materials is clearly preempted by the BOGC's exclusive jurisdiction over holding ponds and pits associated with

class II injection or disposal wells. See M.C.A. § 82-11-111(5).⁵ Additionally, that permitting term and condition is preempted by M.C.A. § 82-11-111(2)(a) (regulating the disposal of water so as not to contaminate water sources), A.R.M. § 36.22.1005 (drilling waste disposal), A.R.M. § 36.22.1207 (earthen pits and open vessels), and A.R.M. § 36.22.1227 (earthen pits and ponds). BOGC statutory and regulatory authority permits pits and ponds for a variety of reasons, and the County cannot therefore prohibit what the State authorizes via permit.

Lastly, Plaintiffs' proposed permitting terms and conditions would require restoration of the property upon termination of oil and gas activity, which is preempted by M.C.A. 82-11-123(4) (restoration of surface lands to their previous grade and productive capability, as well as prevention of adverse hydrological effects), and A.R.M. § 36.22.1307 (restoration of surface). The statute and regulation both require restoration of the surface lands to their previous grade and productive capability after cessation of oil and gas operations. Plaintiffs' proposed requirement would duplicate those state requirements.

Clearly, the Legislature intended that BOGC would have exclusive jurisdiction of oil and gas activities within the State of Montana (i.e., “The Board shall regulate . . .”). The comprehensiveness of the state laws and

⁵ While these kinds of wells are not common, Plaintiffs' proposed regulations prohibit all holding ponds (see Exhibit A, p. 11), foreclosing the possibility that a class II injection or disposal well pit or pond might occur within the proposed district. Such a result impedes the exclusive jurisdiction of the BOGC over such holding class II injection or disposal well pits and ponds.

regulations leaves no room for doubt that the Legislature intended to preclude enforcement of local laws on the siting of oil and gas wells. Further, the proposed regulations contained within the Petition constitute a regulatory apparatus parallel to and duplicative of the one established by the Montana Oil and Gas Conservation Act and implemented by BOGC. Neither can local regulation prohibit what state enactments allow. If the Legislature intended to grant counties and municipalities the power to regulate oil and gas activities, it could have and should have plainly said so.

Moreover, the goals of the Petition and proposed district are to protect the development of neighboring properties and natural resources. These are laudable ends, but they are already addressed by the Montana Oil and Gas Conservation Act. Under BOGC's regulations, there are abundant opportunities for landowners and members of the public to request a public hearing before BOGC to object to, or otherwise challenge, the issuance of a permit to drill an oil or gas well. The BOGC has been given limitless authority to hear, consider, address or deny virtually every single issue of concern raised by the proposed regulations contained within the Petition.

Allowing counties and municipalities to establish their own substantive oil and gas regulations would undermine the Montana Oil and Gas Conservation Act and its broad policy goals by effectively removing the regulation of the oil and gas industry from the expert statewide regulators charged with its oversight. In this respect, fashioning and maintaining a uniform regulatory scheme without substantial interference from local non-

expert governing bodies is a primary legislative objective underlying the Montana Oil and Gas Conservation Act. Notably, the proposed district's regulations would provide the district with virtually unbridled discretion to deny permission to drill. This is in stark contrast to, and in conflict with, the Montana Oil and Gas Conservation Act's more permissive approach.

In sum, not only does the Petition purport to police many of the same aspects of oil and gas extraction activities that are addressed by the Montana Oil and Gas Conservation Act, but the comprehensive and restrictive nature of its regulatory scheme represents an obstacle to the legislative purposes underlying the Montana Oil and Gas Conservation Act. Even to the extent the proposed provisions pertain to items that are not specifically addressed in the Montana Oil and Gas Conservation Act, they plainly constitute an impermissible form of regulation. This is particularly true considering that Stillwater County, as a general power government, only has the power to act under express authority provided to it by the State. In addition, the proposed regulations would render a state permit meaningless unless the oil and gas operator also satisfied the proposed permitting requirements contained within the Petition. If an oil and gas operator obtains a valid state permit under the Montana Oil and Gas Conservation Act, the proposed district cannot extinguish privileges arising thereunder through the enforcement of zoning regulations.

The Montana Oil and Gas Conservation Act gives the BOGC sole and exclusive authority to regulate the permitting, location and spacing of oil and

gas wells and production operations within Montana; it reserves for the State, to the exclusion of local governments, the right to regulate all aspects of the location, drilling and operation of oil and gas wells, including permitting relating to those activities. Stillwater County cannot act as the Plaintiffs' propose, rendering their Petition invalid as a matter of law, and therefore their Complaint should be dismissed.

CONCLUSION

Defendants respectfully request that Plaintiffs' Complaint be dismissed in its entirety, with prejudice, pursuant to Rule 12(b)(6) of the Montana Rules of Civil Procedure, for failing to state a claim for which relief can be granted.

NOTICE OF APPEARANCE

The undersigned, Bethany A. Gross, is admitted to practice before the courts of the State of Montana. Bethany A. Gross of the Budd-Falen Law Offices, LLC hereby enters an appearance as counsel for Defendants, Board of County Commissioners, Stillwater County, and Heidi Stadel, in her capacity as Clerk and Recorder of Stillwater County in the above-captioned matter.

Pursuant to M.C.A. § 25-3-401, all notices or other papers for service upon Defendants shall be sent to:

Bethany A. Gross
Budd-Falen Law Offices, LLC
Post Office Box 346
Cheyenne, Wyoming 82003

Nancy L. Rohde
Stillwater County Attorney
P.O. Box 179
Columbus, MT 59019

RESPECTFULLY SUBMITTED this 1st day of May 2018.



Bethany A. Gross (MT Bar #44197891)
BUDD-FALEN LAW OFFICES, LLC
300 East 18th Street
Post Office Box 346
Cheyenne, Wyoming 82003-0346
(307) 632-5105 Telephone
(307) 637-3891 Facsimile
bethany@buddfalen.com

Attorney for Defendants

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I caused a true and correct copy of the foregoing to be deposited in the United States Mail, postage prepaid, and delivered via electronic mail on this 1st day of May, 2018 to the following:

David K.W. Wilson, Jr.
Morrison, Sherwood, Wilson & Deola
401 North Last Chance Gulch
P.O. Box 557
Helena, MT 59624
kwilson@mswdlaw.com

