

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
bethanv@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' CROSS-MOTION
FOR SUMMARY JUDGMENT**

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 move for summary judgment pursuant to Rule 56(b) of the Montana Rules of Civil Procedure against the Plaintiffs Beartooth

Front Coalition, Lazy Diamond Bar, LP, Lana and Charles Sangmeister, William and Carolyn Hand, and Margaret and Doxie Hatch ("Plaintiffs").

Even reviewing the record in a light most favorable to the Plaintiffs and giving them all favorable inferences that can be drawn from the facts, there are no genuine issues of material fact and the Defendants are entitled to judgment as a matter of law on the issues set forth herein. The Defendants are entitled to summary judgment on the issue that mineral owners are "affected real property owners" under MCA § 76-2-101 in this case. The Defendant Clerk and Recorder did not act arbitrarily or capriciously in relying on the advice of the County Attorney to deem Plaintiffs' Part 1 citizen-initiated zoning district petition invalid as failing to achieve 60% of affected real property owners. Neither did Defendants Commissioners act arbitrarily or capriciously in not considering a petition that was invalid and was never forwarded to them to consider. Therefore, Plaintiffs are not entitled to declaratory or mandamus relief, and Defendants should be granted summary judgment on the issue that "affected real property owners" under MCA § 76-2-101 in this case includes mineral owners.

RESPECTFULLY SUBMITTED this 30th day of October, 2018.


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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 30th day of October, 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


