

## **Rogers, Tom**

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**From:** Anne Millbrooke [anne27m@yahoo.com]  
**Sent:** Wednesday, December 02, 2009 6:23 PM  
**To:** Rogers, Tom; Commission; White, Steve; Murdock, Bill; Skinner, Joe  
**Subject:** Gravel

Dear County Commissioners:

Thank you for having stepped in with temporary county-wide zoning for gravel pits. That was a step in the right direction, a step toward balancing the rights of property owners in proximity, a step toward local control of what are appropriately local decisions. Thank you.

Please now approve a Conditional Use Permitting process for gravel mining and associated asphalt and concrete plants in Gallatin County.

As recent disputes have illustrated, there is NEED for a Conditional Use Permitting process for gravel mining and associated asphalt and concrete plants in Gallatin County. Gravel pit operators should apply for permits, public hearings should be held, and under certain conditions pits should be allowed to operate. The CUP process would take decision-making from the richest, who tend to opt out of local zoning efforts.

Representing diverse interests of business, citizen, and planning board, the Gravel Pit Task Force reached compromise and consensus. You assigned them a task, they executed the task with good will and in the public's interests. Please now support the recommendations of your task force.

The single-issue countywide zoning was a great recommendation. I am sorry that the commission lacked the backbone to support that. Gravel pits and associated businesses affect people in the county well beyond the one-mile radius in the current recommendation; for just two examples: look at all the windshields damaged by gravel blowing from trucks to cars driving behind them, and listen to the noise of those trucks from yards - or even from inside homes - along the rural truck routes!

Now you have another opportunity now to mitigate the harmful effects of gravel-related operations, to implement a process respectful of local people and their diverse interests, and to work with gravel operators, so please support the one-mile radius CUP process. Support the work of your own task force.

Respectfully yours,  
Anne Millbrooke

3410 Golden Valley Drive  
Bozeman, MT 59718  
406-599-1096

## Rogers, Tom

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**From:** Gail Richardson [envirogail@msn.com]  
**Sent:** Thursday, December 03, 2009 9:11 AM  
**To:** Rogers, Tom  
**Subject:** Gravel Pit Task Force Recommendations Public Comment for Gallatin County Commissioners

We are strongly in favor of the recommendations of the Gravel Pit Task Force (GPTF) that has worked diligently for many months listening to all sides in this controversy. The environmental future of our county is at stake. Pits must be controlled by local input, conditions, authority and enforcement spelled out in the CUP process. The need for this CUP process is undeniable.

Gravel mining and associated asphalt and concrete plants have spread like a cancer throughout the county, pitting neighborhoods against powerful and environmentally-damaging industry. Noise, air, water and traffic pollution effects the property values of those living nearby these sites. The scenic beauty of our valley is compromised. We understand that gravel mining must be done to grow our local economy, but it must be done right in the right places, not in the haphazard and destructive way it will be done without these regulations. There is not a process in place to regulate gravel mining adjacent to planning or zoning area boundaries. This must change. The GPTF has done an admirable job of dealing with a very contentious subject. Now Commissioners Murdock, Skinner and White, you must do yours. Thanks for listening.

Respectfully,

Gail and John Richardson  
5263 Cimmeron Drive  
Bozeman, MT 59715

## Rogers, Tom

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**From:** cervin@doughertymarkets.com  
**Sent:** Thursday, December 03, 2009 3:51 PM  
**To:** Rogers, Tom  
**Subject:** Gravel pit regulation

Good afternoon Tom,

I'm not certain if you will remember me, my wife and I met you several weeks ago during the gravel pit hearing at the Court House. I want to again thank you for all your hard work on the gravel pit issue. I sent the following email to each of the County Commissioners and thought you would be like to see it as well.

Sincerely,

Charles

Commissioners:

My wife and I are residents Gallatin County with 30 acres in direct sight of the Nuss gravel pit. My wife and I have owned this land since 2001, invested over \$1 million in land and structures, built our retirement home and to our dismay have watched the Nuss pit grow ever larger and ever louder. As of last month the rock crushing operation has been moved ever closer to our house and accordingly to DEQ there is nothing we can do about it. Simply nothing. Not only has our water table dropped precipitously but our property value is plummeting due to the noise and the dust from the Nuss gravel pit. Following our last meeting I was lulled into complacency thinking the gravel pit operator's "Good Neighbor Policy" meant something. I did try and contact Tim Rice twice, but the only answer I've received is from DEQ, saying nothing can be done.

As a conservative commercial banker I am not naive enough to whine about the recession driving down property values, but as a citizen, resident and taxpayer of Gallatin County I do want to raise my voice in support of the Gravel Pit Task Force and their recommendation that there is a need for a Conditional Use Permitting process for gravel mining, asphalt and concrete plants in Gallatin County. We only want there to be a process where our concerns can be addressed not just those of the gravel industry which are destroying our housing values, the water table and our sense of Community.

Please consider that we and our neighbors ask you to help us have a say in our future in the Gallatin Valley. I look forward to speaking with you directly at next weeks public hearing.

Sincerely,  
Charles Ervin

**Please note our office phone number has changed. Our new number is 406-586-5131**

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Charles Ervin  
Senior Vice President  
**DOUGHERTY MORTGAGE LLC**  
7720A Shedhorn Drive, # 97  
Bozeman, MT 59718

Ph: 406-586-5131

## Rogers, Tom

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**From:** Commission  
**Sent:** Thursday, December 03, 2009 3:55 PM  
**To:** Commissioners (Distribution Lists); Rogers, Tom  
**Subject:** FW: Gravel Pit Task Force recommendations

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**From:** Lynea [mailto:lynea@fpcbozeman.com]  
**Sent:** Thursday, December 03, 2009 5:16 PM  
**To:** Commission  
**Subject:** Gravel Pit Task Force recommendations

County Commission,  
I will be attending the meeting Tues in support of the Gravel Pit Task Force recommendations and I am representing 350 homeowners in the Valley Grove subdivision.  
Lynea Seher  
177 Mountain Lion Trail  
Bozeman, MT  
Secretary Valley Grove Homeowners Board of Directors

## Rogers, Tom

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**From:** scriptcasting@aol.com  
**Sent:** Sunday, December 06, 2009 10:15 PM  
**To:** hjensen@cityofbelgrade.net  
**Cc:** O'Callaghan, Sean; Rogers, Tom; White, Steve; bill.murdoch@gallatin.mt.gov; Skinner, Joe  
**Subject:** Re: GPTF Recommendations

To: Heidi Jensen & Jason Karp - Belgrade Planners

I wanted you and others to know that I appreciate all of the hard work and efforts of the Gravel Pit Task Force as well as your planning efforts. However, I recently noticed that there is at least one serious deficiency in the new GPTF regulations.

The existing Interim Zoning Regulation language of **Section 4.3** should be included as a part of the new regulations. Of great importance is the reference to the "**400 cubic yards**" regulation. This is extremely valuable in that it triggers a fair & reasonable review of operations that may negatively impact the environment, neighbors, roads and general public.

This is not a nuisance or inconvenience as some people may think. It has the ability to alert the public to commercial industry which occurs on a smaller level but has significant impacts to the groundwater, domestic wells, the Gallatin River system, native trout, the aquifer, etc.

Numerous projects are simply called "ponds" in order to get around the CUP process. Then, "exempt" wells are drilled to keep these unlined ponds full of water. It can negatively affect agricultural irrigators as well as groundwater quality and quantity. Large ponds are put into high groundwater areas with relatively little review. Yet, there is excavation and gravel mining that must occur to make all ponds.

These issues are important enough to review & regulate at fair levels with multiple agencies. **The gravel mining "loop hole" between 400 cubic yards and 10,000 cubic yards needs to be closed.** The new Gravel Pit regulations need to embrace and reflect this important change. It has worked very well during the Interim Zoning time frame.

Unfortunately, the GPTF New Regulations stated in **Section 5.11** returns to the old ways & unsuccessful standards of the MT DEQ Opencut Mining Law. It exempts all projects less than 10,000 cubic yards from local review, regulation and the CUP process. There is also no state review. This does nothing to help protect the public's needs. Integrate the better regulation into the new regulations; not this inferior section.

Additionally, it now appears that the place to go for gravel mining and/or "pond" projects is the Gallatin River Floodway and Floodplain. There appears to be less regulation in this area. And, drilling an "exempt" water well is part of the plan. Sadly, such projects have the potential to proliferate and become a detriment to a spectacular water source and fisheries habitat that is absolutely irreplaceable.

Please take the time to correct this error prior to formally adopting the new Gravel Pit Task Force Regulations. There is still time to fine tune and solve such issues before May 2010. And, please consider what will be lost if county wide zoning regarding this issue is ignored.

Sincerely,  
Betty Conard

1891 Stagecoach Trail Rd.  
Manhattan, MT 59741  
406-599-2093

## **Rogers, Tom**

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**From:** Pdshennum@aol.com  
**Sent:** Sunday, December 06, 2009 10:00 PM  
**To:** Rogers, Tom  
**Subject:** GPTF Recommendations

Tom: Please pass on my total support for the Gravel Pit Task Force's recommendations that will be presented to the County Commissioners this Tuesday, December 8th. To not approve their recommendations would be a grave injustice to their prudent work and the community interest.

The current CUP Process has been a reasonable success and has provided a means for gravel pit operators becoming a better neighbor than before the process. To discontinue the CUP Process and ignore the GPTF recommendations is to tell the general public their privacy and property values are not important in Gallatin County.

Paul D Shennum  
27793 Norris RD  
Bozeman, MT 59718  
206-586-6405

## Rogers, Tom

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**From:** Commission  
**Sent:** Monday, December 07, 2009 8:12 AM  
**To:** Commissioners (Distribution Lists); Rogers, Tom  
**Subject:** FW: Gallatin County Gravel Pit Zoning Memo  
**Attachments:** Gallatin County Gravel pit zoning revised.doc

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**From:** Cary Hegreberg [mailto:cary@mtagc.org]  
**Sent:** Friday, December 04, 2009 4:09 PM  
**To:** Commission  
**Cc:** ron\_sime@montana.com; Flikkema, Jackie; Jerry Rice  
**Subject:** FW: Gallatin County Gravel Pit Zoning Memo

Commissioners,

Thank you for allowing us the opportunity to provide comments regarding recommendations of the Gravel Task Force that will be discussed at your upcoming meeting. The Montana Contractors' Association represents companies that operate in Gallatin County, in addition to companies from around the state that are concerned about Gallatin County's actions from the standpoint of precedents that might be set. Please take our perspectives into account as you deliberate the matter.

It is unfortunate the Task Force chose not to employ a consensus approach to developing its recommendations. It appears the document you are considering contains several elements in dispute, which leaves you as decision makers in the same quandary you were in to begin with. In an attempt to clarify our specific concerns, we have attached an analysis prepared by the law firm we have been using to advise us on land use, zoning, and gravel permitting issues. We hope it is helpful. Please let us know if we can provide any further information or background.

Cary Hegreberg  
Executive Director

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G. ANDREW ADAMEK  
CHAD E. ADAMS  
DANIEL J. AUERBACH  
KIMBERLY A. BEATTY  
TROY L. BENISON  
SARA S. BERG  
LEO BERRY  
BRAND G. BOYAR  
CARLO CANTY  
MARK D. ETCHART  
OLIVER H. GOE  
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AIMEE GRMOLJEZ  
J. DANIEL HOVEN



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MICHAEL STRAND  
MARK R. TAYLOR  
W. JOHN TIETZ  
CHAD R. VANISKO  
STEVEN T. WADE  
LEO S. WARD  
RYAN C. WILLMORE  
JOANNE MCCORMACK : Of Counsel  
R. STEPHEN BROWNING: Retired

## MEMORANDUM

TO: Montana Contractors Assn.

FROM: Browning, Kaleczyc, Berry & Hoven, P.C.

DATE: December 2, 2009

RE: Gallatin County Zoning Regulation for Operations that Mine Sand and Gravel or Operations that Mix Concrete or Batch Asphalt

The following is a summary of issues presented by the proposed Gallatin County Zoning Regulation for Operations that Mine Sand and Gravel and Operations that Mix Concrete or Batch Asphalt ("Regulation"). The Regulation is intended to apply to all operations that mine sand and gravel, mix concrete or batch asphalt in all of Gallatin County, excepting the cities of Bozeman, Belgrade, Manhattan, Three Forks, and West Yellowstone and existing zoning districts.

### County-Wide Reverse Spot Zoning

The Regulation is county-wide reverse spot zoning. "Reverse spot zoning" is "a land-use decision which arbitrarily singles out a particular parcel for different, less favorable treatment than the neighboring ones." *Penn Central Transportation Co. v. City of New York*, 438 U.S. 107, 132, 98 S.Ct. 2646, 2663 (1978). The Court further stated that "discriminatory zoning ... is the antithesis of land-use control." *Id.*

- Explicit statement of application only to "operations that mine sand and gravel and operations that mix concrete or batch asphalt." (Sections 1.1, 2, 3.2)
- The conditions, restrictions, and mitigation factors applied to a gravel operation prior to issuance of a CUP are unduly restrictive and as applied could operate to eliminate the industry in Gallatin County. (Sections 4, 7)



Gallatin County Gravel pit zoning  
revised/2883.001



- State law is violated if gravel operations are prohibited in areas zoned other than 'residential.' See MCA § 76-2-209.

### Due Process

Federal and State Constitutions provide the right to due process of law. Mont. Const. Art. II, § 17; Const. Amends. 5, 14. Procedural due process requires notice and an opportunity for those affected to be heard. Montana has a three part test for substantive due process. The regulation must "(a) seek to achieve a legitimate governmental purpose; (b) use means that are rationally related thereto; and (c) be neither arbitrary nor unreasonable in its effects." *Town Pump, Inc. v. Board of Adjustment of the City of Red Lodge*, 292 Mont. 6, 11, 971 P.2d 349, 352 (1998).

- Section 4.3(j) is a veiled impact fee without any objective criteria for calculation of the fee. MCA §§ 7-6-1601–1604 are detailed provisions providing definitions, the process for adopting an impact fee, and the factors for calculating an impact fee. MCA § 7-6-1603(8) requires a mechanism for a challenge. Section 4.3(j) does not have an objection fee calculation process nor is there a mechanism to challenge the fee.
- The CUP application process (Section 7) is unreasonable and arbitrary because of the lack of predictability in the process (e.g. undefined terms, number of hearings), the excessive amount of time to complete the process (approximately 10 months), and the potential revocation or modification of a CUP.
  - Section 7 is duplicative of the MDEQ opencut permit process and requiring an almost identical review is not rationally related to achieving a government purpose.
  - Costs associated with permitting an operation will be unreasonably increased making it impracticable to operate a gravel mine in the County.
  - Section 7.5 states that prior to commencing work under a CUP, the operator must obtain all necessary state and federal permits as well as a county land use permit. However the MDEQ permitting statute (MCA § 82-4-432(2)(b)) requires local government certification that the proposed operation complies with local zoning ordinances prior to commencement of the process. This certification is impossible without first obtaining a CUP which requires an MDEQ permit to first be issued.
- Section 8 deals with complaints, enforcement and appeals however, nowhere in Section 8 is the individual accused of violating the Regulation afforded the right to receive a copy of the written complaint and all supporting documentation. This is a violation of a fundamental due process right.

### Equal Protection

Article II, § 4 of the Montana Constitution and the 14<sup>th</sup> Amendment of the U.S. Constitution provide equal protection of the laws. In the context of land use regulation, an equal protection challenge may be demonstrated when shown that the law at issue discriminates by impermissibly classifying individuals or entities and treating them differently on the basis of that classification.

The County is classifying landowners based upon their desire to develop land as an open cut sand or gravel mine. Mining of sand and gravel is a permissible land use in Montana. State statute recognizes this land use and allows gravel operations to be reasonably conditioned, but this Regulation imposes unreasonable and arbitrary conditions. (MCA § 76-2-209)

- Other land uses such as residential development, gas stations, dry cleaners, salvage yards, land fills, dairy farms, etc. all potentially pose risk to the public health or environment, but are not being singled out and regulated to the same extent.
  - Slippery slope—if this extensive regulation of gravel operations is allowed, what industry is next?

### Regulatory Takings

Per se regulatory takings occur when there is a permanent physical invasion of property or when “all economically beneficial or productive use of the land” is denied by operation of the regulation. *Lucas v. South Carolina Coastal Council*, 505 U.S. 1003, 1015, 112 S.Ct. 2886, 2893 (1992); *Tahoe-Sierra Preservation Council, Inc. v. Tahoe Regional Planning Agency*, 216 F.3d 764, 771–773 (9th Cir. 2000). The *Penn Central* Court named three factors to weigh when making an ad hoc regulatory taking determination: (1) “the economic impact of the regulation on the claimant,” (2) “the extent to which the regulation has interfered with investment-backed expectations,” and (3) “the character of the government action.” *Penn Central*, 438 U.S. at 124, 98 S.Ct. at 2659. If the landowner cannot show that all economically beneficial interest is denied, the landowner must show that the regulation does not substantially advance legitimate state interests. *Daniels v. Area Plan Com’n of Allen County*, 306 F.3d 445 (7th Cir. 2002).

- The time delay of approximately 10 months for review of a CUP alone would amount to a regulatory taking because it completely denies the operator its development right and is unresponsive to market forces. The Regulation is unclear whether there are multiple public hearings and fails to provide timeframes for the investigatory and approval portions of the process. (Section 7.6)
  - Compare with MDEQ’s open cut permitting process which can be completed within approximately 45 days.
- MCA § 76-2-208 allows for pre-existing nonconforming uses. If a pre-existing nonconforming operation undergoes “modification” it is subject to CUP approval. (Section 7.8)
  - “modification” is undefined and ambiguous leading to interpretation problems.
  - The statutorily protected nonconforming uses already permitted by MDEQ could be eliminated by requiring a CUP following “modification.”

### Ultra Vires

The County must be granted authority by the state in order to enact local land use regulations. If the County acts without explicit statutory authority, it is said to be acting outside its authority or *ultra vires*. Montana statutes provide authority for a county to engage in county-wide zoning. MCA § 76-2-202. However, aspects of this Regulation either exceed authority granted to the County or the authority does not exist for such action.

- Existing statutes allow for reasonable regulation of gravel pits, but a system that is unreasonable or as applied could prohibit gravel pits is unlawful.
- However, gravel pits may be prohibited only in areas zoned “Residential.” MCA § 76-2-209.
  - This section was not amended during the 2009 Legislature
  - MCA § 76-2-202 which allows for county-wide zoning regulations was amended by HB 486 to specify that these zoning regulations may regulate land uses. This amendment does not provide any additional authority to regulate the gravel industry beyond regulation that existed prior to the session.
  - Any reliance on HB 486 for authorization to pass “single issue” zoning regulations is unfounded.
- The Regulation is more onerous and restrictive than state law concerning the permitting of open-cut gravel pits.
- Section 4.3(j) is a veiled impact fee. MCA §§ 7-6-1601–1604 govern the process for implementation and calculation of impact fees.
- Section 7.5 requires written agreements providing financial guarantees to the County similar to bonding requirements. There is no authorization allowing the county to require bonding. Further, MCA § 82-4-433 requires bonding to cover the cost of reclamation of gravel pits.
- Section 8.4 allows for a fine of up to \$500 per violation, each day may be considered a separate offense. MCA § 76-2-211 states that violation of a regulation adopted pursuant to that part of the code “is a misdemeanor and shall be punishable by a fine not exceeding \$500.” There is nothing in state law that allows each day to be considered a different violation.
- Sections 8.10 and 8.11 limit appeal from Board of Adjustment and County Commissioner decisions to the Eighteenth Judicial District. MCA § 76-2-227 provides that appeal may be made to any “court of record,” including other state or federal district courts.

## **Rogers, Tom**

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**From:** collette brooks-hops [collette.paintbox@gmail.com]  
**Sent:** Sunday, December 06, 2009 5:13 PM  
**To:** Rogers, Tom  
**Subject:** CUP/GPTF

My wife and I strongly believe there is a need for a conditional use permit and support the GPTF. Please act with our best interests in mind and make the right decisions in this matter.

Larry and Collette Hops  
371 Old West Trail

## Rogers, Tom

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**From:** CKLR [roark@imt.net]  
**Sent:** Monday, December 07, 2009 10:54 AM  
**To:** White, Steve; Murdock, Bill; Skinner, Joe; Rogers, Tom  
**Subject:** Adopt the recommendations of the Gravel Pit Task Force

We support adoption of the recommendations of the Gravel Pit Task Force by the Gallatin County Commission.

- 1) It does not outlaw gravel pits -- it simply puts in place a mechanism that will provide some predictability and compromise between heavy industrial and residential land uses.
- 2) Regardless of efforts made in the last legislative session: DEQ and the Opencut Mining Act are still broken -- primarily a permitting system designed to ensure post-mining reclamation.
- 3) This issue is not going to go away.

We need to have local government input on this issue in Gallatin County, not simply shirk the responsibility to the state.

Please validate the expertise, time and effort of the Gravel Pit Task Force and adopt the carefully crafted compromise that this group of industry, citizen, and planning officials has developed.

Sincerely,

Carol Lee-Roark

P.O. Box 90  
Gallatin Gateway, MT 59730

406-763-4228

## Rogers, Tom

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**From:** Anne Millbrooke [anne27m@yahoo.com]  
**Sent:** Monday, December 07, 2009 10:47 AM  
**To:** White, Steve; Murdock, Bill; Skinner, Joe; Rogers, Tom  
**Subject:** Adopt Gavel Pit Task Force's Recommendations

We, voting citizens of Gallatin County, want our elected officials to adopt the recommendations of the Gravel Pit Task Force.

## Rogers, Tom

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**From:** Bill Vaughn [darkacres@montana.com]  
**Sent:** Monday, December 07, 2009 10:42 AM  
**To:** White, Steve; Murdock, Bill; Skinner, Joe; Rogers, Tom  
**Subject:** gravel

As a property owner downstream from Missoula I credit my County Commissioners for having the courage to step in three years ago to prevent the construction of gravel pits, an asphalt plant, and a cement factory next to my home. Massive industrial schemes like these should be banned from all of Montana's exurban neighborhoods. At any rate, I urge you to do the right thing in Gallatin County and abide by the recommendations of the Gravel Pit Task Force.

Regards,

Bill Vaughn  
406 207 1810

## Rogers, Tom

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**From:** Rhogensons@aol.com  
**Sent:** Monday, December 07, 2009 12:20 PM  
**To:** Rogers, Tom  
**Subject:** (no subject)

"I, voting citizen of Gallatin County, want my elected officials to adopt the recommendations of the Gravel Pit Task Force."

Richard Hogenson



**RECEIVED**  
12-7-2009

Gallatin County Commissioners  
311 W. Main St.  
Bozeman, MT 59718

Re: Gravel Pit Task Force Document

Dear Gallatin County Commissioners,

We are writing you concerning the Gravel Pit Task Force (GPTF) document and the CUP process. We have been closely following the CUP process and the Task Force since the emergency zoning was established. We have several concerns.

First the CUP process. This process is too lengthy and costly for the smaller owner/operator and single project pits. Maybe it is just seriously flawed as some pits, like the Zuelke pit, was whisked through in a matter of weeks while other pits, like Huttinga's pit, took months for the process to be completed. If this process is continued it needs to be improved on and streamlined.

As for the GPTF recommendations we feel this is not a bad document or regulation, but question the county's legal authority to implement this. The only way we can see that it can be done is through zoning.

We agree that the current gravel permitting process is flawed, but we don't feel that county wide zoning or zoning a one mile doughnut area around current zoned areas is a solution to anything. We are concerned that a single use zoning will be amended to include other issues. We are also concerned that it will open up the county to more lawsuits, which will be an increased cost to us all.

We asked to be removed from the Gateway Neighborhood Plan area because we were concerned about the zoning regulations that would be imposed on us. We see these as limiting us and taking away our property rights. We have not changed our mind on this. If you zone the one mile doughnut area around the Gateway Plan area we will once again be susceptible to the zoning regulations. We don't want to be zoned!

We would like to see the GPTF, Gallatin County and the state legislatures work together to correct the problem with the current permitting process. Maybe if we start now by the next legislative session, we can have some new laws, if needed, that will accomplish what the county is trying to do. Maybe the state will turn over some of the control of the permitting process to be handled at the county level.

We would like to see that those pits that follow the laws, processes, and are good neighbors, are not left behind and sit waiting for months, or years, for permits at the county level and state level. If you have to spend thousands on lawyer and court fees on top of the permit, engineer, bonds, and other, fees to get a permit, the smaller owner/operator pits and single project pits will not be able to exist. We would rather see smaller pits that are owned and operated by people who live in, are a part of our communities, and who are our neighbors, in existence than the larger pits that are owned by companies based who knows where.

We feel the county and state need to encourage small business not prohibit it by excessive regulation. We encourage you to not implement zoning, and to work with and encourage the state legislature to improve the current permitting process. We don't feel that there needs to be two levels of botched up bureaucracy to go through to be able to do business in the Gallatin County.

Sincerely,

Charlie & Debbie Allsop  
1909 Gateway S. Rd.  
Gallatin Gateway MT  
59730

*Debbie Allsop*  
*Debbie Allsop*

## Rogers, Tom

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**From:** Susan Rabatin [azul1@ix.netcom.com]  
**Sent:** Monday, December 07, 2009 3:21 PM  
**To:** White, Steve; Murdock, Bill; Skinner, Joe; Rogers, Tom  
**Subject:** keep the gravel CUP process; follow task force recommendations

Dear Commissioners,

Please be aware that NONE of the gravel pits in Gallatin Gateway are within the Gallatin Gateway planning zone area. We desperately need continuation of the CUP process for the pits within our community. Please follow the recommendations of the Gravel Pit Task Force! It is very discouraging to think that our elected officials would set up the Gravel Task Force and hear the concerns of numerous property owners expressed prior and during the interim zoning period, and then ignore it all. Hard to believe.

Sincerely,

Susan Rabatin

## Rogers, Tom

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**From:** Margaret Jarrett [jarrett@physics.montana.edu]  
**Sent:** Monday, December 07, 2009 3:34 PM  
**To:** undisclosed-recipients  
**Subject:** Please support the Gravel Pit Task Force . . . .

. . . . and their recommendations to the Gallatin County Commission. As voting citizens of Gallatin County we ask that you, our elected officials, ADOPT the RECOMMENDATIONS of the GRAVEL PIT TASK FORCE (GPTF). We expect some protection from the onslaught of opencut mines (gravel pits) being (and waiting to be) permitted in our rural neighborhoods. Because we are still covered by the Interim Zoning for Opencut Mining and the Conditional Use Permitting (CUP) process until May 7, 2010, some of you are becoming complacent, thinking that your work is done and that the gravel pit issue has been addressed. That is simply not the case! \*We are asking that you adopt the recommendations of the GPTF and a county-wide zoning district to regulate opencut mining.\* YOU selected the GPTF and charged them with a daunting task; please show them the appropriate respect and appreciation for the time, energy, and careful thought that was contributed to produce a set of fair guidelines. Please keep the following thoughts in mind:

\* Pits will continue to be permitted, but adopting a county-wide zoning district and the recommendations of the GPTF would allow the pits to be regulated at the local level. \*We deserve a voice in our own neighborhoods!\*

\* There have been misstatements such as:

1) "The gravel pit issue, for the most part, is already in areas that plan to be zoned." Over 50% of the gravel pits that have been mentioned in our local newspapers in the last 5 years are NOT in areas that plan to be zoned. In Gallatin Gateway, this statement is 100% incorrect.

NONE of the pits in our area are within the planning/zoning area. We need protection from the very people that have opted out of our neighborhood plan area. Note: Gateway has not even begun the zoning process; the committee is currently being selected.

2) "Zoning the whole county right now would interfere with some of these areas that are trying to do their own thing." This is simply incorrect, and is a total misrepresentation of Montana law. The county-wide single-issue zoning would have NO EFFECT on areas that are already zoned/planned or are in the process of zoning/planning. We do not want to "fall through the cracks" and be at the mercy of landowners that have no concern for or respect for their neighbors.

\* We /do not/ want to /prohibit/ gravel pits, but we /do want/ a local mechanism to /regulate/ the permitting process.

\* Many of our friends and neighbors have elected to live in rural areas, in part because we support both agriculture and ranching. However, NO opencut mining operation qualifies as an agricultural or ranching operation! We do not want commercial/industrial sites (including asphalt and cement batch plants) in amongst our homes!

\* We have worked long and hard to get to this juncture; the gains we've made at the legislative level have been marginal at best and hard-won. Please do not set us back by 4+ years. These gravel issues have not been resolved, but local mitigation is within our grasp; please keep this high-dollar industry from trampling the rights of "the little people". \*You are our voice!\* This is your opportunity to have a plan of action and a set of regulations in place for each permitted pit!

Would you instead like to fight this war for every proposed future pit?!

PLEASE ADOPT THE RECOMMENDATIONS OF THE GRAVEL PIT TASK FORCE!

Thank you for your time and serious attention to this matter.

Sincerely,

Margaret & Ron Jarrett  
P.O. Box 231  
2633 Gateway South Road  
Gallatin Gateway, MT 59730

phone: 406-763-4305

## Rogers, Tom

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**From:** Cabinmomk@aol.com  
**Sent:** Monday, December 07, 2009 4:22 PM  
**To:** Rogers, Tom  
**Subject:** (no subject)

"We, voting citizens of Gallatin County, want our elected officials to adopt the recommendations of the Gravel Pit Task Force."

## **Rogers, Tom**

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**From:** britwtexas@aol.com  
**Sent:** Monday, December 07, 2009 8:44 PM  
**To:** Rogers, Tom  
**Subject:** Gravel Pits

We , voting citizens of Gallatin County, want our elected officials to adopt the recommendations of the Gravel Pit Task Force.

Thank you. Jane and Dewitt H Ward.

## Rogers, Tom

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**From:** Elizabeth Marum [emarum@bridgeband.com]  
**Sent:** Monday, December 07, 2009 5:48 PM  
**To:** Rogers, Tom  
**Subject:** Gravel Pits

Dear Tom,

As a voter in Gallatin County, I urge you to adopt the recommendations of the Gravel Pit Task Force, which was appointed at the request of the commissioners. I believe that you have an obligation to very carefully consider their recommendations because these volunteers have spent a year studying the issues and recommending, in a non-partisan way, a consensus that favors no particular group.

Please adopt their recommendations.

Sincerely,  
Elizabeth Marum

Elizabeth Marum  
814 E. Missoula Ave.  
Belgrade, MT 59714  
Ph: 406-388-0224  
Cell: 406-570-1033