

September 18, 2009

Gallatin County Gravel Task Force,

On behalf of the Board of Directors of the Montana Contractors' Association, I am offering comments on proposed zoning regulations for operations that mine sand and gravel.

The MCA represents sand and gravel producers and paving contractors throughout Montana as well as in Gallatin County. We have been actively involved in passing legislation at the State level involving permitting/regulation of gravel operations, and we strive to work constructively with local governments.

We recognize that a great deal of work went into developing and drafting this document, and we have several suggestions for improvement. First, under Section 4 "Purposes and Intent," we suggest a statement be included affirming the understanding that sand and gravel is a vital building block for any/all future development. The county should make an affirmative statement that it is in the best interest of the residents, businesses, and future taxpayers to have affordable sources of gravel in a reasonable proximity to future growth.

We are concerned about Section 4.3, "specific purposes of this regulation," because it duplicates and possibly usurps the authority of the Montana Department of Environmental Quality (DEQ), which is statutorily charged with some of the same responsibilities Gallatin County proposes to assume for itself. We would argue that subsections a, f, g, h, and i are all redundant and unnecessary in light of DEQ's existing mandates and enforcement authority under state law. DEQ, by law, "regulates sand and gravel operations and concrete or batch asphalt mixing operations..." (4.3a) Similarly, DEQ is charged with "protecting surface and groundwater quality, (4.3f) preventing the degradation of soil, water, air, and plant life from potential and non-point pollution sources (4.3g), preventing erosion...(4.3h), and preventing the unreasonable depletion and degradation of natural resources including air quality, water quality, wildlife habitat (4.3i).

Gallatin County does not possess the scientific/professional expertise to either perform the level of analysis required under Section 4.3 or to enforce these provisions. It is highly unlikely the County will secure the resources in the future to perform these functions, unless an extraordinary tax or fee is imposed on the gravel industry to pay these costs. Nothing in this document explains how Gallatin County proposes to supersede, duplicate,

or replicate the activities of DEQ, or how it proposes to resolve conflicts with DEQ findings. What role will science play in the regulation of gravel operations in Gallatin County versus the role politics will play?

It is our position that Gallatin County should defer to the DEQ on all potential impacts that DEQ has enforceable standards and regulations for.

Section 7 of the document dealing with Conditional Use Permits also presents several problems. Under subsection (7.1c), it states: "The operations will not have *significant adverse impacts* on nearby properties, property values, nearby land uses, or nearby residents." What is *significant* and who makes the determination? The subjectivity of this section will lead any opponent of any proposed gravel operation to emphatically insist that his/her property value or their health/safety will be significantly impacted, and there will be no objective measure to the contrary. Further, what is the definition of "nearby?" Many opponents to gravel operations will argue that they are "nearby" because they live in that school district, they drive by every day, etc. This needs clarification.

Similarly, section 7(d) states: "the operations will not have significant adverse impact on groundwater, streams or wetlands..." If the operation had these types of impacts, DEQ would not issue the permit. How will the county ascertain that DEQ's analysis was insufficient or flawed? This section further states, "if significant impacts are identified, the Applicant shall enter into a written agreement with Gallatin County providing for mitigation, including the provisions of financial security, for the identified impacts." The result of this provision is double bonding with both the DEQ and the County, with no sideboards given for how extensive the county's requirements can be. This section should be deleted.

We do wish to convey our support for the concept of Section 7.2, which allows an applicant to secure a CUP for an area larger than the initial permitted acreage. This is good for the applicant, good for neighbors, and good for the county.

We are highly concerned about Section 7.6(g), which states, "...Notwithstanding the above, if the conditions of approval under this Regulation conflict in any way with the MDEQ's Opencut Mining Program permit approval, the more stringent condition shall apply." This says the County's science is better, more credible, and more rigorous than the DEQ's science. In reviewing Gallatin County's personnel roster, we fail to see anyone with the professional expertise necessary for the County to even comply with this proposed regulation, not to mention have it supersede DEQ's oversight.

Finally, we question the County's ability under Section 7 to investigate alleged violations and impose proper administrative remedies. Who specifically is charged with this responsibility and what are his/her qualifications? We request the County give serious thought to the financial ramifications a gravel operator could suffer, for example, if an unwarranted cease and desist order is issued by the county. A company could pay significant liquidated damages for failing to complete a project because one angry

resident and one sympathetic county employee arbitrarily decided the company was out of compliance.

In conclusion, we ask that more time be given to resolve some of these issues. A win-win outcome is possible, but it will take more time. Thank you for allowing us to provide input.

Respectfully,

Cary Hegreberg  
Executive Director  
Montana Contractors Association

TO: My fellow members of the Gallatin County Gravel Pit Task Force

FROM: Jackie Flikkema

DATE: 9/24/09

I apologize for the fact I can not personally attend the final meeting of the Task Force. As many of you know, I now a proud mother, currently on maternity leave. I appreciate the fact that I have been allowed to participate by proxy. I give my proxy to the Chairperson of the Task Force, to be voted as explained below.

I find myself in the uncomfortable position of having to vote "no" on all but one of the votes we will be taking. My position is uncomfortable because the company for which I work, Knife River, is committed to being a good neighbor to its fellow landowners. My votes today should not be viewed as a rejection or retreat from a good neighbor policy. My votes reflect my view that my fellow members on the Task Force have not given adequate consideration to what I believe to be the serious legal issues surrounding what I assume will be forwarded to Gallatin County as the product of the Task Force.

It seems the Task Force has taken as a given that there will be no new gravel pits in Gallatin County, and no expansion of existing gravel pits, unless local government is persuaded to the contrary. The voting matrix which was sent to me describes a vote in favor of the draft county regulations as a vote "to allow gravel pit operations in the un-zoned areas of Gallatin County." Under Montana law, a gravel pit is an open cut mine. It is the State of Montana, acting through its Department of Environmental Quality, which is responsible for permitting and regulating an open cut mine. It is the State, not the County, which decides whether or not to "allow" the operation of a gravel pit, concrete mixing plant, or asphalt batch plant.

Gallatin County does have the power to adopt reasonable zoning regulations which effectively prohibits gravel pits, concrete mixing plants, or asphalt batch plants in an area which is zoned residential. It also has the power to "reasonably condition," through zoning, the operations of gravel pits, concrete mixing plants, and asphalt plants in non-residential areas. What my fellow members of the Task Force seem committed to recommend as the product of the Task Force resembles the permitting process which has been vested by state law in the Department of Environmental Quality, not zoning. It has seemingly rendered zoning irrelevant, as the same "regulations" would be applied to every possible gravel pit location in the county, regardless of the underlying zoning. Indeed, the identified purpose of one of the votes on the voting matrix seems to be to assure landowners in the county that there is no intent to actually zone the areas to which the gravel pit regulations would be applied.

I do not believe that what the Task Force is poised to recommend to Gallatin County is bona fide zoning regulations. I believe it is a misguided effort to superimpose over a state regulatory scheme a second county regulatory scheme, for which I question the county's legal authority.

With one exception, please record a "No" vote for Jackie Flikkema on each item in the voting matrix you provided to me. The exception is the second to the last item. I vote "Yes" on the question of whether county gravel pit regulations should apply to all gravel pits. If there are any other votes which arise during the course of the meeting, please record "Abstain" on my

behalf.

I would like to thank each member of the Task Force for the opportunity to serve with you. I hope the fact that we are not in agreement at the current time does not mean we will stop trying to find a common ground.

## Rogers, Tom

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**From:** mertensmorse@aol.com  
**Sent:** Tuesday, November 10, 2009 8:55 AM  
**To:** White, Steve; Murdock, Bill; Skinner, Joe  
**Cc:** Rogers, Tom  
**Subject:** open cut mining regulations

Dear Commissioners,  
I urge you to continue the recommendations of the Gravel Pit Task Force.

My particular concern is that the Huttinga, Nuss, Fluke and Morgan pits are all outside of the Gallatin Gateway Planning Area Boundary, so county-wide zoning is still needed to manage areas such as ours.  
Sincerely,

Karla Mertens-Morse  
12821 Axtell-Gateway Rd.  
Bozeman, MT 59718  
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## Rogers, Tom

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**From:** Cabinmomk@aol.com  
**Sent:** Tuesday, November 10, 2009 3:12 PM  
**To:** Rogers, Tom  
**Subject:** I hope this get's to you before tonights meeting. Thank's for your time.

November 10, 2007

Dear Mr. Roger's;

My name is Lois Kahler. My husband, Wally and I have several significant adverse impacts on our property and ourselves which is located directly across from the Spanish Peaks Gravel Pit. Their permit was granted one day before zoning became effective. I wanted to get an email to you before tonight's meeting.

I'm praying you and the rest of the planning board can do something to keep what's happening to us from happening to anyone else.

I realize the gravel people have rights but what about the residents that have been here before them? Listed below are some of the impacts we have now and will have down the road.

- 1.) The worst part is the 20 year permit that was granted. Should anyone have to live and endure all that goes along with a gravel pit for 20 years? I know it's said that one doesn't lose property value because when the pit is reclaimed your property value should be the same or better. This doesn't apply to us whatsoever. Being in our 60's now we may no longer be on this earth by then. Regardless; it's much to long to take away anyone's normal way of life 6 days out of every week for 20 long years.
- 2.) Having a gravel pit across the road from us will cause us to move due to my health. No one should have to move from their home because of a gravel pit. All the stress has caused a very negative impact on my health and it will only get worse.
- 3.) We have been told by realtor's that it will be very difficult to get someone out here to even look at our beautiful home on 20 acres. If we are lucky enough to be able to sell we are to expect a 30%-40% decrease in our property value. For us that's a huge decrease in what was suppose to be our retirement.
- 4.) We have well water that is only 53' deep. We have been told that the gravel pit will mess up our water.
- 5.) The gravel people have chosen not to even speak with us about any adverse impacts their operation may cause us....and they pride themselves as being a good neighbor's?
- 6.) We live in an area that has many young people that ride the school bus. We already have a dangerous road due to all the increasing fast traffic. Directly across from us we are expected to have up to 100 trucks coming and going a day. Even though there is a stop sign 1/8 mile away by Cameron Bridge Rd; people fly though it. Imagine what 100 trucks a day will add, along with whatever trucks the other two pits will have. It's not going to be a good outcome.

I appreciate your time Mr. Roger's. I do hope with all the effort the planning board has put into this you will be able to pass regulations that will be fair to both the gravel pit's and it's neighbor's instead of a one way street.

Beat Regards;

Lois E. Kahler.

## Rogers, Tom

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**From:** Jill Allen [a2andj2@imt.net]  
**Sent:** Tuesday, November 10, 2009 3:59 PM  
**To:** Commission; Rogers, Tom; White, Steve; Murdock, Bill; Skinner, Joe  
**Subject:** Gravel Pit Public Comment

Gentlemen-

I am a resident and property owner in Gallatin Gateway. I urge you to adopt the recommendations of the Gravel Pit Task Force. I believe this group is an excellent cross-section of concerned citizens and business owners, and that they have created recommendations that represent an outstanding compromise over an issue that is extremely divisive and emotional.

I appreciate your consideration.

Sincerely-  
Jill Allen  
638 Lower Tom Burke Road  
Gallatin Gateway, MT 59730  
763-5410  
[a2andj2@imt.net](mailto:a2andj2@imt.net)



## Rogers, Tom

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**From:** Margaret Jarrett [jarrett@physics.montana.edu]  
**Sent:** Tuesday, November 10, 2009 4:38 PM  
**To:** Rogers, Tom  
**Subject:** ATTN: Gallatin County Planning Boards, RE: GRAVEL PITS

PLEASE put this on your radar: there are numerous people in Gallatin County that are \*expecting some protection\* from the onslaught of opencut mines (gravel pits) being 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), many of the "powers that be" are becoming complacent, thinking that their work is done and that the gravel pit issue has been addressed.

\*That is simply not the case!\* The following is a quick summary of where we're at to date in the Gallatin Gateway area:

1. We have been protected by the Interim Zoning and the Conditional Use Permitting process that was put in place during that interim zoning period since May 7, 2008. \*\_That protection will expire on May 7,

2010.\_\* During the Interim Zoning, three gravel pits in the vicinity of Gallatin Gateway / Four Corners were permitted through the CUP process

-- the Morgan Family Pit, the Huttinga Pit, and the Storey Pit. The process gave the public more opportunity for input, resulted in more thorough review of the proposed pits and has required more / better mitigation of the impacts of those operations on adjacent lands and neighborhoods.

2. Although extraordinary efforts were made by some of our legislators, the legislative session made only "baby steps" in the right direction:

--requiring more notification for landowners and neighborhoods adjacent to and surrounding proposed gravel pits, --instituting permit fees to fund additional DEQ personnel in the Opencut Mining Division, and --re-organization of the administrative procedures and process of applying for a permit to mine gravel.

3. As part of the Gallatin County Interim Zoning, a Gravel Pit Task Force (GPTF) has been meeting and will be presenting their recommendations on actions that the Gallatin County Commissioners take when the Interim Zoning expires. They have worked hard and pretty much come up with something rather similar to the CUP process that was in effect during the Interim Zoning.

<http://www.belgrade-news.com/archives/view.php?article=11180> ;

<http://www.belgrade-news.com/archives/view.php?article=11344>

4. The Gallatin County Commissioners have already given interviews to the press indicating that they will not likely support the recommendation of the GPTF for county-wide single-issue (gravel mining) zoning, which is the mechanism by which the CUP process can be implemented.

<http://www.belgrade-news.com/archives/view.php?article=11501> They have lost whatever backbone they had during the economic boom, and are caving in to the anti-zoning folks, even though this single-issue county-wide zoning is by no means the kind of regulation that is typically thought of as zoning. In one infamous mis-statement quoted in the Belgrade Valley News, Commissioner White even mentioned (paraphrase) that all the problem pits are in proposed planning/zoning areas so that the county-wide single-issue zoning is not needed -- which is 100% INCORRECT FOR GALLATIN GATEWAY! / The Huttinga, Nuss, Fluke and Morgan pits are all \*outside\* of the Gallatin Gateway Planning Area Boundary.

PLEASE\_ encourage our County Commission to make use of the recommendations of the GPTF and endorse county-wide single-issue zoning for opencut mining in Gallatin County. Regulated use of the CUP process is the \*only\* mechanism available to us that will allow some sense of predictability in our lives. Please support our planning efforts so that we, as a community, can co-exist with opencut mines. We all need gravel products. However, our health, safety, and welfare are literally at risk here. \*Our intent is to regulate, not prohibit opencut mining.\* Let's work together towards a viable solution of a quality of life that /is still worth fighting for/.

Thank you for your time and attention to this matter.

Respectfully,

Margaret & Ron Jarrett  
P.O. Box 231  
2633 Gateway South Road  
Gallatin Gateway, MT 59730-0231

(406) 763-4305



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# Obama Asks Mom Return to School

Financial Aid Available to Those Who

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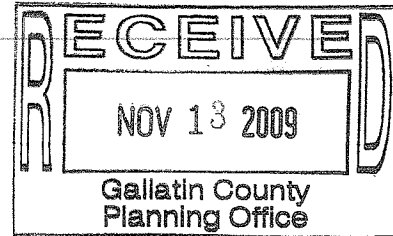
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### Delivery Status Notification (Failure)

From: postmaster@gallatin.mt.gov

To: DiamondRRoth@aol.com

Date: Tue, Nov 10, 2009 1:49 pm



This is an automatically generated Delivery Status Notification.

Delivery to the following recipients failed.

[tomrogers@gallatin.mt.gov](mailto:tomrogers@gallatin.mt.gov)

Final-Recipient: rfc822;[tomrogers@gallatin.mt.gov](mailto:tomrogers@gallatin.mt.gov)

Action: failed

Status: 5.1.1

#### Attached Message

From: diamondthroth@aol.com

To: tomrogers@gallatin.mt.gov

Subject: gravel pits

Date: Tue, 10 Nov 2009 15:48:49 -0500

Dear Mr. Rogers, I am writing to ask you to support the adoption of the recommendations of the gravel pit task force. I do not know you, but you may have heard of me. I am a disapproved citizen of Gallatin County who has dared to expect INTEGRITY from our county officials. Of course, that has proven to be an impossible feat. I will naturally, give you the benefit of the doubt and assume that you will have the integrity to do what THE PEOPLE want instead of what the RULING CLASS wants. Pete Rothing

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## Rogers, Tom

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**From:** Jan McGurk [jemcgurk70@sbcglobal.net]  
**Sent:** Friday, November 20, 2009 8:47 PM  
**To:** White, Steve; Murdock, Bill; Skinner, Joe; Rogers, Tom; tamcgurk@hotmail.com  
**Subject:** Gravel Pit Permit Process

To: Commissioners  
Steve White  
Bill Murdock  
Joe Skinner

Re: Zoning and Permitting Process regarding gravel pits

On January 27th of this year you acted upon an expansion request for Huttinga Gravel Pit. This was partly based on the recommendations of the Interim Zoning Process, the Gravel Task Force and the Conditional Use Permits.

It was decided that all gravel operations would monitor the quality of the water, suppress dust emissions, reclaim the land on an ongoing basis and provide noise suppression which is verified by a certified specialist at locations determined by surrounding landowners.

This was, like many decisions that have to be made, not what either group was hoping for but a fair compromise.

These requirements are considered permanent as we move forward. We are writing this letter to request that the vote you rendered on the 27th of January, 2009 will continue to give us reassurance and protection in the years ahead.

Without the requirements of county wide zoning and permitting processes, private landowners and homeowners have no protection against possible harm to their property. We understand that the requirements you voted on in January, 2009 are binding and will remain in effect for the duration of the permit.

We would gladly meet with you at a date that is suitable for all parties. We will await your reply regarding an appropriate date.

Thank you.

Tom and Jan McGurk, Jr.  
444 Bear Crossing Rd.  
Gallatin Gateway, MT 59730  
[jemcgurk@hotmail.com](mailto:jemcgurk@hotmail.com)

## Heidi Jensen

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**From:** Cabinmomk@aol.com  
**Sent:** Monday, November 23, 2009 6:17 PM  
**To:** Heidi Jensen  
**Subject:** (no subject)

November 23; 2009

Dear Belgrade Planning Board Members:

I feel that I can firmly say that there is not a doubt in my mind that the gravel pits on Alaska Rd. and Cameron Bridge Rd. would have never had a chance of surviving if any of the voting members on the Belgrade Planning Board and the Gallatin County commission were in our situation. It's a very difficult position to be put in; a position that we would have never thought would be legal to do to anyone. I really have my doubts that any of you would want the constant noise of trucks coming and going 6 days of the week for TWENTY long years, the stink of the asphalt, breathing in the cancer causing agents of the asphalt .....the list goes on. I especially feel sorry for all the children in this area. Would it have had more of an impact if it were one of yours?

This issue should have never gone beyond the Belgrade Planning Board. It was listed as residential property and it should have stayed that way considering all the resident's that were already calling this their home. One of the board members talked to us after the voting to let us know he voted for the Chesley's because he's known them for a long time and the pits would never go through anyway. Is this someone any of us want voting on important issues such as this? An issue that we will have to live with the rest of our lives. I really feel the need to listen to people and putting yourselves in their shoes can be a big asset with situations such as this. It can be a HUGE stab in the back to people like us.

I recall one of the county commissioners saying, "we're working with the big boys now." Does that mean we shouldn't stand up for the citizen's of this county. The gravel people sued Gallatin County for not issuing their encroachment permit in due time. They said the county's failure to issue the permits amounted to a "taking without just compensation." Isn't that what they are doing to us!! Yes; they have deeper pocket's but that's not a good reason not to stand up for the citizen's of Gallatin County. I also recall the commissioners saying a gravel pit should only run for 1-3 years. That would be wonderful at this point in our lives, but no, instead we are given a 20 year sentence. With the age we are it would be more appropriate to say a life sentence.

For several years now it has kept me from living a happy, healthy and normal way of life. My health will continue to spiral downward. My energy is zapped from all the emotional stress and they haven't even started digging. We have spent most of our time over the last few years far away to try and lessen the impacts but it's always with us.

We all know that no human being should be shoved into this position so I ask of you to PLEASE not let this to happen to anyone else. Don't let all the time and hard efforts that so many of us have fought for be lost. Put yourselves in our situation. Is anything right about it??? If so; we have a beautiful home and property that we worked on for 26 yrs. for sale. If anyone would like to come out and look at the situation we've been dealt, please give me a call.

Thank you for your time and consideration.

Lois Kahler  
388-4615

11/23/2009

## Rogers, Tom

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**From:** Paul Durham [contact@blacklabworld.com]  
**Sent:** Tuesday, November 24, 2009 2:15 PM  
**To:** Rogers, Tom  
**Subject:** Gallatin Gateway gravel pits

Dear Mr. Rogers,

I am writing to plead for mercy from out here in Gallatin Gateway. The current gravel pit West of town has moved its crusher above ground and is destroying our quality of life. We moved here to get out of town and now it sounds like we live next to a giant factory. It's become so bad in the last week we are considering moving -- except, who would buy our property now? They are destroying our property values as well.

Please consider some sort of zoning to hold this at bay before the additional gravel pits begin operation. Surely there is someplace in this whole valley, far away enough from where people live, for them to dig for gravel. Is gravel such an essential material that it is worth invading and destroying entire neighborhoods for?

Gallatin County has done a great job of keeping development reasonably zoned. Please don't allow mining in residential areas to undermine what you have fought hard to protect.

Thanks for your consideration.

Paul Durham  
406-763-4027

## Rogers, Tom

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**From:** Cindy Taylor [ctaylor@gre-llc.com]  
**Sent:** Tuesday, November 24, 2009 3:05 PM  
**To:** Rogers, Tom  
**Cc:** Commission  
**Subject:** Gravel pits

My husband, Steve Olson, and I are in favor of requiring a one mile radius of zoning for gravel pits that would required a CUP. Thank you!

Cindy Taylor  
Steve Olson  
12550 Axtell Gateway Road  
Gallatin Gateway, MT 59730

406-763-5120 (home)

## Rogers, Tom

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**From:** Commission  
**Sent:** Tuesday, November 24, 2009 3:20 PM  
**To:** Skinner, Joe; Murdock, Bill; White, Steve; 'Heidi Jensen'; Rogers, Tom  
**Cc:** Miller, Mary A  
**Subject:** FW: Gravel pits

For 12/8's hearing.

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**From:** Cindy Taylor [mailto:ctaylor@gre-llc.com]  
**Sent:** Tuesday, November 24, 2009 3:05 PM  
**To:** Rogers, Tom  
**Cc:** Commission  
**Subject:** Gravel pits

My husband, Steve Olson, and I are in favor of requiring a one mile radius of zoning for gravel pits that would required a CUP. Thank you!

Cindy Taylor  
Steve Olson  
12550 Axtell Gateway Road  
Gallatin Gateway, MT 59730

406-763-5120 (home)



## Rogers, Tom

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**From:** mertensmorse@aol.com  
**Sent:** Wednesday, November 25, 2009 11:04 AM  
**To:** Commission; Rogers, Tom  
**Subject:** please adopt one-mile extension

Dear Commissioners and Planners

I have expressed my concern about the areas outside of places you would have jurisdiction to manage use--particularly open-cut mining. This new idea of a one-mile donut extension seems like a good option. I don't know all the ins and outs of it, but it appears to be a good compromise.

Please support it or come up with something that will not leave us between the cracks.

Thanks much for all your effort !

Karla Mertens-Morse  
12821 Axtell-Gateway Rd.  
Bozeman, MT 59718

## **Rogers, Tom**

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**From:** Jan McGurk [jemcgurk70@sbcglobal.net]  
**Sent:** Tuesday, December 01, 2009 9:15 PM  
**To:** Rogers, Tom; tamcgurk@hotmail.com  
**Subject:** zoning and permitting process

Dear Tom,

Re: Zoning and Permitting Process for gravel pits

Your approach has always been to view the overall process in a bipartisan manner. As you summarized for the January 27, 2009 meeting, both sides had valid points of view. After the meeting when the decision was made to give some protection to nearby landowners, your comments indicated a fair compromise had been reached.

Your input as to the future of zoning and gravel permits is needed. It appears that certain areas will have area zoning, but that land outside the zoning borders may not have any recourse or protection. All landowners in the county are equal and should be allowed equal rights and protection regardless of location inside or outside of zoning borders.

Your thoughtful input for all citizens of the county is appreciated.

Thank you.

Sincerely,

Tom and Jan McGurk

**Administration Division-Mountain Region**

PO Box 30238  
Billings, MT 59107  
(406) 651-2500  
(406) 652-3619 FAX

RECEIVED  
12/2/09

November 17, 2009

Gallatin County Commissioners  
311 West Main, Room 306  
Bozeman, MT 59715

Re: Gravel Task Force

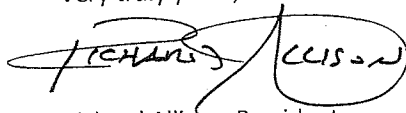
Dear Commissioners:

The Gallatin County Gravel Task Force recently completed meetings and discussions related to gravel mining operations in Gallatin County. It was Knife River's expectation that a list of Good Neighbor policies would be discussed and an agreement on reasonable impact mitigation methods would be reached by the Task Force. Unfortunately, a majority on the Task Force sought to effectively outlaw gravel mining in Gallatin County. The document produced by the Task Force will soon be presented to the County Commission for consideration. This letter will serve as notice of Knife River's opposition to the regulations proposed by the majority on the Gallatin County Gravel Task Force.

In Montana, regulation of gravel pits is the exclusive jurisdiction and authority of the Montana Department of Environmental Quality. Under current laws, counties do have the right to "reasonably condition" gravel mining operations through zoning. However, the proposed regulations drafted by the Task Force seek to expand local authority over gravel pits in a way that Knife River believes is in conflict with state law.

Current DEQ regulations provide a mechanism for review of applications to open, expand or modify gravel mining operations. State law provides for notification of county planning offices and nearby residents. In addition, counties have the authority to prohibit mining operations in areas zoned as residential. Good Neighbor policies are a set of guidelines that outline the mitigation of impacts within the counties right to "reasonably condition" gravel mining operations in other zoned areas. Knife River views the document prepared by the majority on the Gallatin County Gravel Task Force as a broad over-reach of county authority over gravel mining operations and a circumvention of state law. We urge the Gallatin County Commission not to adopt the document submitted by the Gallatin County Gravel Task Force. Appendix B, that section of the document dealing exclusively with the Good Neighbor Policy, should be given consideration as a guideline for county applied "reasonable conditions" as allowed under state law.

Very truly yours,



Richard Allison, President

Knife River – Mountain Region

**Sandy S. Lee  
509 Kathy Lane  
Belgrade, MT 59714**

November 30, 2009

Commissioners Steve White, Joe Skinner and Bill Murdoch:

I hope that when you are in the midst of reviewing this draft that you recall what our task force was directed to do by the County Commissioners in response to the grass roots effort from the people of Gallatin County. We were directed to provide viable long-term solutions for neighbors and industry for gravel pit mining in Gallatin County. I feel that our committee has done its job. What an awesome task force this was to be on! ***It is the first task force that I've ever served on that actually achieved its goal; instead of imploding, for whatever reason, and ending up disbanding with nothing achieved.*** Two totally opposing groups--the industry & the neighbors--got together with the representatives from planning and worked for almost a year and a half to find and provide solutions to the "problems" and achieve a common ground approach to allow the continuation of gravel pit mining in an ever expanding community. Everyone worked with respect for one another, and the majority of us came away with much more knowledge of both sides.

The State has ruled that single issue zoning is legal. Even though zoning is not a palatable word for many of us it does help to protect personal property rights on all sides of the issue. ***(I'd be willing to bet that none of you ever thought you'd hear those words coming out of my mouth since I am vehemently opposed to the single use zoning as it came forth for density and will continue to be so.)*** This zoning gives the industry and the neighbors the predictability that they are both requesting. DEQ must still be responsible for the interior workings of the industry; and, Gallatin County can achieve "its place at the table" (this could include local control in regards to permitting & complaints—these were huge items because of the different ways of handling them compared to DEQ) in regards to the off-site issues (such as road impacts, fugitive dust, noise, operation hours, depth as in the groundwater, aquifer) by implementing zoning. Our sub-committee spoke with the Gallatin County Attorney's office regarding single issue zoning to make sure that it will not allow for the addition of other zoning without the map, notification, resolution, regulation, public hearing and a protest period. This is not the first use of single issue zoning by the County. In fact, I believe the County just passed single issue zoning last month in regards to billboards in Gallatin Canyon. The task force document does not ask for any stricter requirements than DEQ, no mitigation different than that of subdivision. In fact, I feel we tried to make sure that no commission could ever make a ruling for mitigation that could not be achieved. I do want to bring to your attention that when you are reviewing the exhibits submitted by MCA many of their concerns were addressed and implemented into the document that you have before you. No further comments were received and Ron Pike, a member of the task force, is the MCA president. Letters from the Task Force members were submitted after the 9/24 vote and voting by proxy was not allowed

under Roberts rules. The Task Force was not able to read the opinions expressed by 1 in a formal group setting.

However, should the Commission decide not to go with the "z" word, I hope that you three will not allow the work and the desires of many go by the wayside. The interim zoning has worked for both the industry and the neighbors (their words, not mine!). Isn't it strange that "we" are fine with the words interim zoning but not just single issue zoning. The industry repeatedly asked to be held to "a higher standard" during our process and provided many workable options for this. When we held our final vote on September 24th, 2009; to the surprise of many, 4 out of the 6 recommendations to you, the commission, were unanimous. Again, this shows that this was a document that was worked out and approved by all involved.

In closing, it is my hope that the Gallatin County Commissioners recognize the voice of the people and note the consequences of allowing this interim zoning to expire. The work done was not just that of 9 people; the work, instead, represents the people of Gallatin County as a whole.

Sincerely,

Sandy S. Lee  
Planning Board Task Force Member