Re: Beartooth Front Zoning Decision

To Whom It May Concern,

On March 10th, 2021, at a Special Agenda Meeting dually posted 48hrs+ in advance of the meeting, the Stillwater County Board of Commissioners took formal action on the consideration of a citizen initiated zoning district of ±84,000 acres in the southern part of Stillwater County. During this meeting, there was a motion made and seconded to not create the zoning district. Board discussion was opened and one comment was provided, which stated with the county attempting to move forward with countywide planning regulations, the Board should let that process continue. In addition, the Board took into account other factors in the making of the decision as follows, in no particular order:

1. The Stillwater County Planning Board heard comment on the Citizen Initiated Zone and potential county zoning for Part 2 zoning in the same area. The Planning Board’s decision was to not pursue or recommend Part 2 zoning for the citizen-initiated zone or potential county zoning. According to the Planning Board’s minutes, the Board based its decision on the potential duplication of regulations, concerns of aggressive regulations, potential cost/liability to the county and residents, concerns with mineral right owners, and the lack of need for the proposed regulations.

2. Pursuant to §82-11-201, MCA, the Board of Oil and Gas Conservation has the authority to establish temporary and permanent spacing units to prevent or assist in preventing waste of oil or gas prohibited by Title 82, Chapter 11, to avoid the drilling of unnecessary wells, or to protect correlative rights.

3. Surface owners, defined as persons who hold record title to or have a purchaser’s interest in the surface of the land (§82-10-502(7), MCA), have the ability to negotiate in good faith an agreement on damages sustained by the surface owner for loss of agricultural production and income, lost land value, and lost value of improvements caused by oil and gas operations. Title 82, Chapter 10, Part 5 effectuates the legislative findings and purpose of providing for the protection of surface owners of land underlaid with oil and gas reserves while allowing for the necessary development of those reserves. See §82-10-501(1), MCA.

4. A “person” as defined in §82-11-101(10), MCA, can protest an application for a permit to drill. Administrative Rule 36.22.601(6) states “A demand for opportunity to be heard concerning any application for permit to drill for which published notice is required must:

a) Be in writing; and

b) Set forth the name, address, and telephone number of each party making the demand, and their ownership interest, if any, in the lands surrounding the drill site; and

c) Set forth the specific reasons why the party requests a hearing regarding the issuance of the proposed drilling permit; and

d) Be received by the board no later than ten (10) days after the date of the publication of the notice. Where the notice is not published on the same day in the newspapers specified in paragraph (1)(a) of this rule, the deadline for receiving demands for hearing will be measured by the later publication date. Service of such demand may be made on the board personally, by mail, or by FAX transmission; and

e) Be simultaneously served upon the applicant for the permit by written copy mailed or FAX transmitted to the address or number set forth in the published notice. A certificate of such service must accompany the demand as filed with the board.
Many of the issues identified by the petitioners can be included in Countywide Development Regulations, such as, water sampling, road use agreements, weed agreements, and storm water plans, thus benefiting the entire county not just one area.

As pointed out in Judge Wald’s decision, this Part 1 Zoning District would raise property taxes within the district to pay for the costs of operation. §76-2-102(3), MCA.

Air and water quality are already controlled by the Environmental Protection Agency and the Department of Environmental Quality through the Administrative Rules of Montana:

a) Air Quality - ARM 17-8-1601 → 1606
b) Water Quality - ARM 17-30-601 → 641 (Surface)
c) Water Quality - ARM 17-30-1001 → 1045 (Groundwater) and §§75-5-301 and 302, MCA.

Oil and Gas development is regulated through Title 82, Chapters 10 and 11, and the Administrative Rules of Montana Sections 36-22-101 → 1707.

If created this zone would be the first sole purpose zone ever created in the State of Montana

In closing, the Stillwater County Commission acknowledges that the current development pattern for the county as a whole is ever changing and continues to look at the best options to protect the citizens of the county. At this time, the exploration and implementation of countywide development regulation appears to be the best solution to incorporating best practices for development of all kinds.

Thank you to all the citizens both for and against the formation of the zoning district. All comments were reviewed and considered during the Commission’s decision-making process.

Sincerely,
Stillwater County Board of Commissioners

[Signatures]
Mark Crigo, Chair
Kyle Hamilton
Steve Riveland