

Commissioners OK countywide zoning for gravel pits

By DAVE RICHARDSON Chronicle Staff Writer

Gallatin County commissioners voted 2 n 1 Wednesday to immediately enact interim zoning aimed at regulating gravel pit operations in the county.

The vote came against a backdrop of neighborhood outrage, courtroom intrigue and furious work by county staff to craft regulations with both teeth and respect for commerce and property rights.

On Monday, a Lewis and Clark County District Court judge ordered the state Department of Environmental Quality to issue three permits for gravel pits in the Cameron Bridge Road area n without requiring any environmental review.

Today, three more pit permits will likely be ordered by the same court.

And on Tuesday, residents who live near some of the proposed pits lambasted the commission, demanding that it enact emergency zoning.

In the end, the commission went further than the original plan for areas around Belgrade and Four Corners n by extending the emergency zoning to cover all unincorporated and unzoned areas of the county.

Commissioner Steve White dissented, saying he didn't believe the emergency situation exists in the whole county.

The plan, which will be in effect for one year with a possibility to extend it by another year, will force gravel pit owners to obtain conditional-use permits from the county. Those permits could be denied by the county based on a number of criteria used to determine the suitability of a pit for a given area.

A battery of lawyers representing various pit operators made last-ditch but ultimately futile pleas Wednesday for more time to read the regulations, and attacked the methodology used to come up with them.

One of those, Bozeman attorney Ryan Jackson, said the whole basis for interim zoning n that there is an immediate threat to the health and welfare of county residents n has not been proven and was based on opinions, not facts.

Susan Swimley, an attorney representing pit operators, said far from their image as "evil gravel barons trying to avoid environmental review," her clients offered to pay the DEQ's expenses in the environmental review process, and offered to suspend operations for 120 days while those reviews were completed.

State Sen. Gary Perry, who represents Gallatin Gateway and much of western Gallatin County, disputed Swimley's interpretation, saying the pit operators' offer was contingent on the DEQ dropping all of its appeals in the permit cases.

That, Perry said, was tantamount to blackmail.

"If DEQ had agreed to that ... then the precedent of the decisions made by ... the court in Helena would have stood in other cases all across the state of Montana, and it would have had an immense effect," Parry said.

Paul Shennum, who lives on Norris Road, said as many as 120 gravel trucks a day pass his house heading to and from a nearby gravel pit. The noise from those trucks, he said, is intense. To prove his point he held up a small decibel meter that measures sound volume. Shennum said he measured the sound level of individual trucks as they passed his house.

"The decibel level was anywhere from 95 and 102 decibels," Shennum said. "I'm talking right now, the decibel level is 68."

Shennum raised his voice.

"Now I'm shouting and it's 82," Shennum shouted. "If I scream, that's the sound of 120 gravel trucks passing by my house every day."

Rich Morse, who lives near Gallatin gateway, said the three pits permitted Tuesday and the three likely to be permitted today show a disingenuous intent on the part of the pit owners.

"This is a continued effort to get the permits done prior to our county getting any regulations in place," Morse said. "If Gallatin County allows this to stand, potentially decades of gravel operations will be permitted without any public input or environmental assessment, in blatant disregard to our ongoing planning efforts."

Kathy Story Kohlbeck, who owns a gravel pit near Shennum's house, said she never intended to force the permit issue, and that operators were not rushing to beat the ticking zoning clock. "Our permit has been at DEQ since August of 1997," she said. "That's the kind of backlog we're talking about."

Commission Chairman Bill Murdock, originally against making the plan county-wide, said he changed his mind when owners of the proposed Cameron Bridge Road area sued the DEQ just weeks before Wednesday's vote, forcing the state to issue the permits Tuesday.

Murdock said the DEQ's approval process might indeed be slow and flawed.

"But I don't believe in coincidences either," he said. "They've ramped up the speed-chess game here, so now I'm in favor of countywide zoning of gravel pits today."

Commissioner Joe Skinner agreed. He said the county never intended to ban gravel operations, but Monday's ruling and today's pending rulings made it clear to him that the interim zoning is necessary.

"(The rulings) leave us in a position where pits are being permitted without any environmental assessment being done at all, Skinner said. "That could happen anywhere in the county. There could be gravel pits being permitted every day without any environmental oversight at all."