

Judges make ground-breaking gravel pit rulings

By JODI HAUSEN Chronicle Staff Writer

Litigation on Gallatin County gravel pits continued to mount as judges in two counties made ground-breaking rulings on several motions this week.

Cameron Bridge Road residents Kathy Brekke and Jody Gryder filed suit against two gravel pit operators, the Montana Department of Environmental Quality and its director in Gallatin County District Court Tuesday -- the same day as the Gallatin County Commission voted to adopt interim zoning on gravel pits.

Meanwhile, Lewis and Clark District Judge Dorothy McCarter ruled Thursday on a gravel-pit operator's suit against DEQ and Director Richard Oppen over permit applications stuck in the agency's backlog.

Brekke and Gryder's suit followed previous rulings by McCarter and Lewis and Clark District Judge Jeffrey Sherlock, which ordered DEQ to issue permits to two proposed pits on Cameron Bridge Road and a third, the NOG pit, despite the absence of environmental studies.

The two pits named in Brekke and Gryder's case, Cameron Springs and Spanish Peaks, will be on both sides of Cameron Bridge Road and will surround Brekke's and another landowner's homes there.

DEQ's petitions to delay issuing the permits were denied this week, as was Brekke and Gryder's request for a restraining order to prevent the operations from getting under way.

In requesting the restraining order, the homeowners' attorney, Hertha Lund, called the DEQ's pit permitting "unconstitutional, invalid and unlawful," arguing that the agency did not notify the homeowners prior to the court hearing and "did not adequately represent the homeowners' issues," according to court records.

In denying the request, Gallatin County District Judge John C. Brown called their arguments "speculative, and as such, do not sufficiently establish irreparable environmental harm, property devaluation or deleterious health effects."

It appears operators now have full authority to mine gravel in those three pits in Cameron Springs, Spanish Peaks and NOG -- although DEQ and the residents have petitioned the judges to reconsider. Those requests are still pending. The county's interim zoning decision came too late to stop these three pits.

Meanwhile, in Helena Thursday, Judge McCarter ordered DEQ to give Threeway Mining Company's a permit to expand its Storey Pit on Norris Road. DEQ found the application acceptable in November and should have issued the permit at that time in despite the absence of environmental studies, she ruled.

McCarter also ordered DEQ to determine if TMC's applications for the Nuss Pit in Gallatin Gateway, and the Morgan Pit proposed near Belgrade, are acceptable.

Her ruling came despite an affidavit submitted by County Commission Chairman Bill Murdock, who wrote that because of the new zoning regulations, the commission will not approve the pending expansion permits for the Storey and Nuss pits.