

## PART 1 CITIZEN INITIATED ZONING CASES

### ***Beartooth v Stillwater Co.***

**22nd Jud. Dist., September 1, 2020**

- Citizens petitioned for Part 1 zoning to regulate oil and gas activity with signatures of >60% of “affected property owners.”
- County concluded owners of mineral estates were “affected” and must also be included in the total ownership; citizens did not meet 60% petition threshold with this denominator.
- Court holds that term “affected real property owners” for Part 1 zoning petitions are limited to surface holders:
  - ▣ Would make successful petition difficult and costly
  - ▣ Only the first step in the process
  - ▣ Not required before or in other jurisdictions

### ***Rukstad v Yellowstone Co.***

**13th Jud. Dist., June 8, 2021**

- Citizens petitioned for and County created new Part 1 zoning district in response to proposed sand and gravel operation
- Two landowners– including owner of proposed operation constituting more than 50% of the titled property ownership in the district successfully protested
- Court finds Part 1 zoning protest provision unconstitutional on same grounds as Part 2 zoning protest provision
  - ▣ Unconstitutional delegation of legislative authority
    - No standards for protest
    - No bypass by elected body
  - ▣ Violation of procedural due process– no notice and hearing on protest
  - ▣ Violation of substantive due process– no rationale required