

Amanda D. Galvan
Mary Cochenour
Emily Qiu
Earthjustice
313 East Main Street
P.O. Box 4743
Bozeman, MT 59772-4743
(406) 586-9699 | Phone
(406) 586-9695 | Fax
agalvan@earthjustice.org
mcochenour@earthjustice.org
equiu@earthjustice.org

Attorneys for Plaintiffs

MONTANA THIRTEENTH JUDICIAL DISTRICT COURT
YELLOWSTONE COUNTY

THIEL ROAD COALITION,
NORTHERN PLAINS RESOURCE
COUNCIL, and MONTANA
ENVIRONMENTAL INFORMATION
CENTER,

Plaintiffs,

v.

CITY OF LAUREL, YELLOWSTONE
COUNTY, and NORTHWESTERN
ENERGY, INC.,

Defendants.

Case No. DV-56-2022-0001087-OC

Mary Jane Knisely

**COMPLAINT FOR
DECLARATORY RELIEF**

INTRODUCTION

1. The Thiel Road Coalition, Northern Plains Resource Council, and Montana Environmental Information Center (Plaintiffs) seek a declaratory judgment to settle uncertainty over which government entity—the City of Laurel or

Yellowstone County—maintains zoning jurisdiction over a previously undeveloped, 36-acre property near the banks of the Yellowstone River near Laurel, Montana.

2. The property encompasses two parcels and is the building site of NorthWestern Energy’s proposed 175-megawatt methane gas-fired power plant. If constructed, the plant would include 18 exhaust stacks that would rise seven stories above the river corridor and dominate the Plaintiffs’ residential and recreational viewsheds.

3. In addition, the power plant would generate constant noise emanating beyond the property’s boundary, require 24-hour lighting that would obscure Montana’s rural night sky, and emit a steady stream of hazardous pollutants that would harm human health, including aggravating respiratory illnesses and causing other ailments. In the face of these harms, Plaintiffs have actively opposed NorthWestern’s construction of the power plant in local and state government forums.

4. The two parcels sit just outside Laurel city limits but within Laurel’s 4.5 mile zoning “jurisdictional area” as defined by Laurel Mun. Code 17.08.620, and “within one mile beyond” city limits in which zoning ordinances “may be enforced,” Laurel Mun. Code 1.20.010.

5. Under this authority, the western portions of both parcels where NorthWestern plans to build its plant were originally zoned by the City of Laurel (City) as “Heavy Industrial” use and a portion of each parcel was zoned as “Agricultural Open” use.

6. Up until December 21, 2021, the City, County, and NorthWestern Energy (NorthWestern) all expressly recognized the City’s zoning jurisdiction over the property, as well as the need for the City to rezone the parcels for “Heavy Industrial” use before the power plant may be constructed and operated. The City has since abandoned this view, the County has been silent on the issue, and NorthWestern has rushed to begin constructing the plant without any local government oversight. As a result, the City has dismissed Plaintiffs’ attempts to raise concerns about the proposed plant and Plaintiffs are left without any forum for their advocacy.

7. Declaratory judgment is urgently necessary to allow Plaintiffs—including City of Laurel residents who would be directly harmed by the plant’s construction—to direct their concerns and advocacy to the appropriate governing body, and to ensure that governmental body in control of zoning jurisdiction can act confidently in applying and enforcing its zoning regulations on NorthWestern’s parcels. Absent such relief, NorthWestern will continue constructing the power plant without oversight or scrutiny.

8. Plaintiffs request that the Court settle this uncertainty in zoning jurisdiction, declaring that the City retain zoning jurisdiction over the two parcels where NorthWestern intends to build its massive gas-powered plant.

9. In the alternative, should the Court find that jurisdiction does not rest with the City, Plaintiffs request that the Court declare that Yellowstone County’s zoning jurisdiction and regulation apply to NorthWestern’s construction site.

JURISDICTION AND VENUE

10. Plaintiffs bring this action pursuant to the Uniform Declaratory Judgments Act, MCA §§ 27-8-201, 202.

11. Venue is proper in this District because Defendants City of Laurel and Yellowstone County, and Plaintiffs Thiel Road Coalition and Northern Plains Resource Council, reside in Yellowstone County, and this claim arose in Yellowstone County. MCA §§ 25-2-117, -126.

PARTIES

12. Plaintiff Thiel Road Coalition is a grassroots collective of citizens and property owners who are concerned about the harms they will suffer if NorthWestern's gas-powered plant is built in their community. Thiel Road Coalition brings this action on its own behalf and on behalf of its members whose health, financial interests, and property values will be adversely affected by the construction and operation of NorthWestern's power plant. Thiel Road Coalition members actively participated in local government processes to oppose the zoning of the power plant but were abruptly stripped of their public participation opportunities when the City of Laurel changed course and abandoned its zoning authority over NorthWestern's construction site.

13. Plaintiff Northern Plains Resource Council (Northern Plains) is a grassroots conservation and family agriculture non-profit organization based in Billings, Montana. Northern Plains organizes Montana citizens to protect water quality, family farms and ranches, and Montana's unique quality of life. Northern

Plains is dedicated to providing the information and tools necessary to give citizens an effective voice in decisions that affect their lives. Northern Plains formed in 1972 over the issue of coal strip-mining and its impacts on private surface owners who own the land over federal and state mineral reserves as well as the environmental and social impacts of mining and transporting coal. While Northern Plains was founded on coal issues, the group quickly expanded into helping preserve the land, air, and water of its members from similar threats caused by irresponsible oil and gas development. Many of the organization's roughly 3,000 members farm, ranch, and recreate in Eastern Montana, and their livelihoods depend entirely on clean air and water, a healthy climate, native soils and vegetation, and lands that remain intact. Northern Plains members also live, work, and recreate in the City of Laurel area where NorthWestern plans to build its power plant and have participated in advocacy efforts opposing the plant's zoning designation. Northern Plains brings this action on its own behalf and on behalf of its affected members.

14. Plaintiff Montana Environmental Information Center (MEIC) is a non-profit environmental advocacy organization founded in 1973 by Montanans concerned with protecting and restoring Montana's natural environment. MEIC plays an active role in promoting Montana clean energy projects and policies, including advocating for the expansion of responsible, renewable energy and energy efficiency, while opposing unnecessary reliance on fossil fuel energy that leads to air and water pollution and contributes to climate change. MEIC is also dedicated to assuring that state agencies comply with and fully uphold state laws and

constitutional provisions that are designed to protect the environment from pollution. MEIC has approximately 5,000 members and supporters, many of whom are in NorthWestern Energy's Montana service territory and seek increased access to affordable renewable energy. MEIC and its members have intensive, long-standing health, recreational, aesthetic, professional, and economic interests in the responsible production and use of energy, the reduction of greenhouse gas pollution as a means to ameliorate the climate crisis, and the protection of land, air, water, and communities impacted by fossil-fuel energy projects and other industrial development. MEIC members live, work, and recreate in areas that will be adversely impacted by NorthWestern Energy's building of a gas-powered plant on the banks of the Yellowstone River. MEIC brings this action on its own behalf and on behalf of its adversely affected members, several of whom have attempted to participate in the local government process regarding the zoning of the power plant but have been thwarted by local government's abandonment of zoning authority over the site.

15. The City's failure to exercise its jurisdiction to address or enforce current zoning designations on NorthWestern's parcel causes direct injury to Plaintiffs' ability to participate in the governmental decision-making process. Additionally, by rejecting zoning jurisdiction over the plant site, the City and the County have effectively allowed NorthWestern to move forward on its building plans free from any local zoning regulation. The building and operation of this heavy industrial plant near Plaintiffs' homes, businesses, and recreation spaces

would harm their health, recreational, property, and aesthetic interests, yet, because of this jurisdictional issue, they are prevented from invoking the government regulations and processes designed to protect those interests.

16. Defendant City of Laurel is a self-governing city that maintains zoning jurisdiction and authority over parcels located inside city limits and within an extraterritorial radius surrounding the city limits, including the property where NorthWestern intends to build its power plant.

17. Defendant Yellowstone County is a political subdivision of the State of Montana that maintains planning and zoning authority within the boundaries of Yellowstone County, excluding the City of Billings, City of Laurel, and Laurel's zoning jurisdictional area.

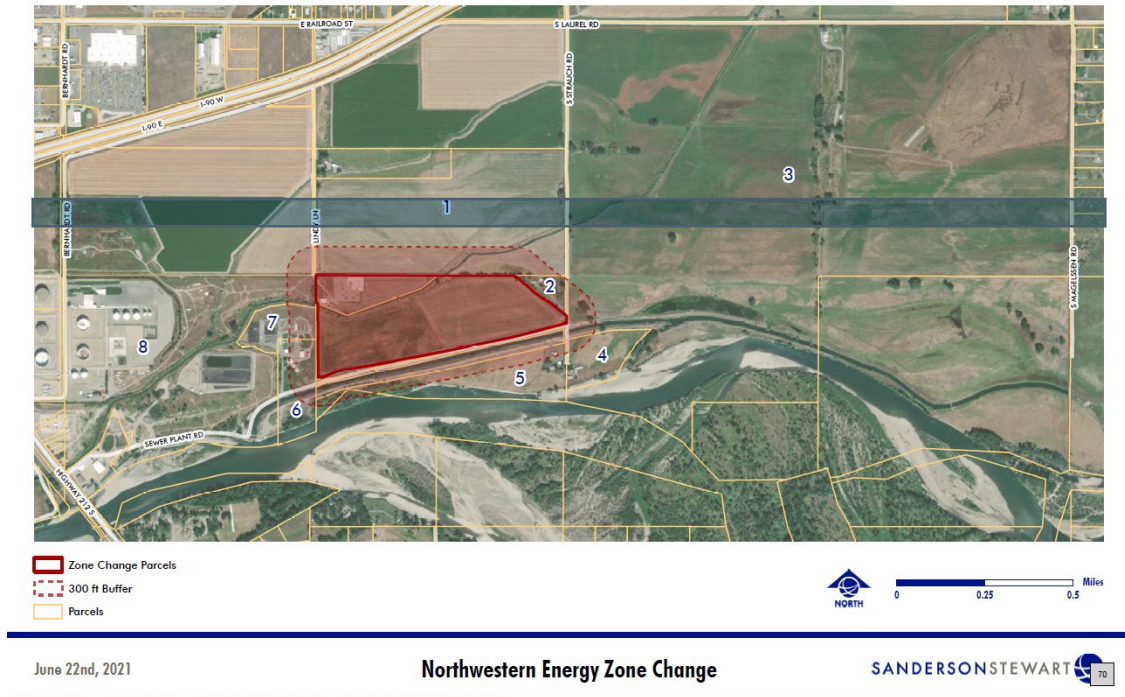
18. Defendant NorthWestern Energy, Inc. is a Delaware corporation doing business in the State of Montana as the state's largest public utility. NorthWestern owns the property that is the subject of this complaint and is therefore a proper party to this action. MCA § 27-8-301.

FACTUAL ALLEGATIONS

19. NorthWestern, Montana's largest utility provider, proposes to build a 175-megawatt methane gas-fired power plant on a previously undeveloped 36-acre property on the north bank of the Yellowstone River, near Laurel, Montana.

20. The proposed construction site consists of two parcels that are surrounded by agricultural uses to the north and the east, and a wastewater treatment plant to the west. To the south, the parcels are bordered by the river,

across from which lie the City of Laurel's Riverside Park, a public boat launch, and a rural residential area.



21. The plant, which is proposed to be built 300 feet from the river's edge, includes the construction of eighteen 9.7 megawatt-electrical combustion engines, each with its own seven-story-tall exhaust stack. These exhaust stacks would loom over the river corridor, obstructing and dominating Plaintiffs' residential and recreational viewsheds.

22. The power plant would generate constant noise beyond its property boundaries and into the Laurel city limits and through the river's wildlife habitat, disrupting both the natural ecosystem as well as residential and recreational areas. The power plant would also require 24-hour lighting, visible from residences and park visitors across the river.

23. The plant would also emit a steady stream of harmful air pollutants that are known to harm human health, including by aggravating respiratory illnesses and more.

24. In the face of these harms, Plaintiffs and other community members have organized grassroots efforts and participated in government processes to oppose NorthWestern's proposed heavy industrial use within sight and sound of residential areas and the Yellowstone River.

25. On information and belief, the City adopted zoning designations over the construction site's two parcels well before 2021, designating a portion of the two parcels as "Heavy Industrial" and another portion as "Agricultural Open." In order to lawfully build and operate the power plant, NorthWestern would have to obtain zoning designation as "Heavy Industrial" across the entirety of its two parcels.

26. At all times up until approximately December 21, 2021, NorthWestern, the City's planning staff, the City Council, and the County expressly recognized the City's zoning jurisdiction over the plant construction site and took action consistent with that understanding.

27. Recognizing the City's zoning authority, in August 2021, Northwestern applied to the City for a zoning change to accommodate "Heavy Industrial" use across the entire property. At the same time, the utility company also applied for an easement for an underground pipeline across the River Front city park property. NorthWestern attached a plat map to its application, showing "Laurel's Zoning

Jurisdiction” over the two parcels. *See* NorthWestern Energy’s Zone Change Amendment Application at 66–67, 71–72 (dated Jul. 23, 2021) (attached as Ex. 1).

28. As early as August 2021, NorthWestern believed that the City maintained zoning authority over its parcels. In an email to Montana Department of Environmental Quality officials, NorthWestern’s Manager for Lands and Permitting explained: “All the paperwork and fees have been submitted to the City of Laurel (100% within their zoning jurisdiction) to make the entire site Heavy Industrial. This will now have to go through the public comment period and be approved at a future City Council meeting. We do not anticipate any difficulties at this time.” Email from R. Ishkanian to C. Jones (dated Aug. 12, 2021) (attached as Ex. 2).

28. Under the City’s municipal code, zoning amendment requests that impact land within a 4.5-mile radius of the City are transferred to the City-County Planning Board (“Joint Planning Board”) to evaluate the proposed amendment’s consistency with the City’s growth policy, among other things, and make a recommendation to the City. Laurel Mun. Code 2.72.010, 2.72.030, 17.72.060; *see also* MCA § 76-2-304 (criteria for zoning regulations).

29. On September 15, 2021, the Joint Planning Board forwarded NorthWestern’s rezoning application to the City Council with a recommendation to approve the request.

30. The matter was scheduled for vote at the October 12, 2021 regularly scheduled City Council meeting. During that meeting, the Council tabled the

discussion by a vote of 5-1. Shortly after the City Council tabled its vote on the rezoning, Plaintiffs learned of NorthWestern's application and began advocating against the plant within the Laurel community. Plaintiffs and other community members appeared at the October 26, 2021 City Council meeting, and several meetings thereafter, and submitted public comments in opposition to the power plant and against the City's proposed Resolution No. R21-109A: "RESOLUTION APPROVING ZONE CHANGES FOR PROPERTY OWNED BY NORTHWESTERN CORPORATION D/B/A NORTHWESTERN ENERGY LOCATED NEAR LINDY LANE WITHIN THE CITY OF LAUREL'S ZONING JURISDICTION." *See* Proposed Resolution No. R21-109 (dated Oct. 12, 2021) (attached as Ex. 3).

31. Plaintiffs expressed concerns over the proposed plant's negative impacts to their health, the plant's environmental degradation of the river and clean water, and the blight the plant would create on the river corridor and residential skyline, including the noise and aesthetic impacts, among other issues they will face if the plant is allowed to be built in its proposed location.

32. Given the opposition raised over the course of multiple City Council meetings, on November 16, 2021, the City Council voted to delay the vote on NorthWestern's rezoning application to further study the issues raised by opponents.

33. The City Council again scheduled a public hearing on NorthWestern's rezoning request for November 23, 2021. Neither NorthWestern nor any other proponents of the zone change request appeared or spoke at the hearing. Numerous

community members spoke in opposition to the zone change. Following the hearing, the Council discussed the resolution. A contract planner for the City stated, “unfortunately, it is my opinion as your Planner and as a certified Planner that your record City Council is incomplete. Montana law requires that an analysis as found in Title 76-2-304 be completed. Those documents, those findings, those conclusions are notably absent.” Nov. 23, 2021 City Council Mtg. Minutes 10.¹

34. Consistent with the Planner’s recommendation, the Council voted unanimously to remand the matter back to the City-County Planning Board for further investigation.

35. The City-County Planning Board discussed the zone change at its December 15, 2021, meeting and made plans for a public hearing in January, 2022.

36. While the matter was pending review at the planning level, on or about December 21, 2021, NorthWestern suddenly and without providing any explanation withdrew its application for rezoning.

37. On December 29, 2021, a concerned citizen wrote to a City-County planner for Yellowstone County to inquire if NorthWestern had dropped the City rezoning application in order to pursue zoning approval with Yellowstone County instead. The planner replied that the County would have “no jurisdiction” over NorthWestern’s parcel and confirmed that the City maintains jurisdiction on zoning

¹ Available at <https://mccmeetings.blob.core.usgovcloudapi.net/laurelmt-pubu/MEET-Minutes-4bcef149276a44afa19c57f009f7f595.pdf> (last visited on Oct. 13, 2022).

matters outside the Laurel city limits, extending 4.5 miles into the County. *See* Email from D. Green to S. Krum (dated Dec. 29, 2021) (attached as Ex. 4).

38. Following months of silence by the City and County on the zoning issue, the City Attorney issued a legal opinion dated May 5, 2022, disclaiming the City's authority to enforce zoning regulations in the area of NorthWestern's property. The City Attorney advised the City Council to not undertake any enforcement of its zoning regulations in the extraterritorial area.

39. Following the City Attorney's advice, the City Council has taken no further action on rezoning or zoning enforcement for NorthWestern's parcels. The two parcels remain partially zoned for "Agricultural Open" and partially zoned for "Heavy Industrial" use.

40. The City's sudden abandonment of its zoning authority opened the door for NorthWestern to build its heavy industrial plant in violation of current zoning designations and ordinances, which the City has explicitly refused to apply and enforce.

41. NorthWestern is proceeding under the apparent belief that no zoning ordinances apply to its power plant construction site.

42. NorthWestern has taken advantage of the lack of local government oversight over its properties and is swiftly moving forward with construction, recently laying gravel and pouring concrete foundation over a significant portion of the previously undeveloped property with no regard to the City or County's zoning ordinances.



T. Lutey, Commissioners approve large NorthWestern Energy rate hike, *Billings Gazette* (Sep. 27, 2022).²

43. The City’s failure to recognize its zoning authority has left Plaintiffs without any government process to participate in.

44. Even more troubling, the City Attorney has communicated directly with members of the Plaintiff organizations, asking them to “cease and desist” organizing constituents and to stop communicating with elected officials and staff over this matter. In a letter to a member of Plaintiff Northern Plains Resource Council, the City Attorney stated, “I also respectfully ask that these communications, moving forward, come through my office. Inundating Council Members that have ‘a lot on their plate’ in respect to City business is not

² Available at https://billingsgazette.com/news/state-and-regional/commissioners-approve-large-northwestern-energy-rate-hike/article_890287ae-3eb1-11ed-92ed-f354f186efa9.html (last visited at Oct. 13, 2022).

productive, and it further alienates parties/issues.” Letter from M. Braukmann to Northern Plains Resource Council (dated Sep. 8, 2022) (attached as Ex. 5).

45. Thus, Plaintiffs are left without meaningful recourse, or even a forum for raising concerns, regarding NorthWestern’s construction and operation of a large power plant on the Yellowstone River that is contrary to existing zoning regulations and incompatible with neighboring rural residential land uses.

APPLICABLE ZONING LAWS AND ORDINANCES

46. Zoning laws are enacted to promote public health, safety, and the general welfare of a community “by separating incompatible land uses, such as industrial and residential.” *Williams v. Bd of Cty. Commr’s*, 2013 MT 243, ¶ 42, 371 Mont. 356, 308 P.3d 88.

47. To that end, local municipalities are empowered to enact zoning ordinances restricting the use of property in their jurisdictional area. MCA § 76-2-301. The Montana Supreme Court has long held that zoning ordinances enacted under this statutory authority will be found to be a constitutional exercise of police power if the ordinance has a substantial bearing upon the health, safety, morals, or general welfare of the community. *Freeman v. Bd. of Adjustment*, 97 Mont. 342, 34 P.2d 534 (1934); *Mack T. Anderson Ins. Agency, Inc. v. City of Belgrade*, 246 Mont. 112, 116-17, 803 P.2d 648, 650-51 (1990).

48. The City of Laurel, as a self-governing city created under the powers of Mont. Const. art. XI, § 5, has enacted the “Laurel Zoning Ordinance” to conserve the value of buildings, to stabilize property values, to preserve recreation and

agricultural lands from conflict with urban development, to promote the interest of health, safety, and general welfare, to secure safety from fire, and to provide adequate open space for light and air, and to facilitate the economic provision of adequate transportation, water, sewer, schools, parks, and other public requirements. Laurel Mun. Code 17.04.020.

49. The Laurel Zoning Ordinance applies to “all lands in the incorporated limits of the city; *and any additional territory authorized by either state statutes or the county commissioners.*” Laurel Mun. Code 17.04.030.A. (emphasis added). Montana statutes clearly authorize extension of Laurel’s municipal zoning and subdivision regulations beyond its municipal boundaries. MCA § 76-2-311.

50. More specifically, the Laurel Zoning Ordinance defines the City’s zoning “jurisdictional area” as “the area included within *the unincorporated areas, a distance of four and one-half miles, in all directions, from the city’s limits.*” Laurel Mun. Code 17.08.620 (emphasis added).

51. For areas like the City’s 4.5-mile “jurisdictional area” as defined in Laurel’s municipal code, where both a city and county have an interest in land use decisions, the two governmental bodies may form joint planning boards to make recommendations to a city or county—whichever body has jurisdictional authority over the proposed district—regarding the establishment of a zoning district. MCA § 76-2-101(1).

52. A joint planning board has a prescribed organizational structure, including members from the city as well as from the county commission. MCA § 76-

2-102(1). Importantly, a joint planning board is empowered *only* to make recommendations, and either the city or county has the authority to vote on zoning district proposals. Laurel Mun. Code 17.60.010.

53. Here, the City created a “Joint City-County Planning Board” to act as a zoning commission to review and take action upon each application in accordance with the Laurel Zoning Ordinance and, after a public hearing, to submit a report on the commission’s recommendation and the planning director’s findings and conclusions to *the City Council*. Laurel Mun. Code 17.60.010, 17.60.020, 17.72.060.

54. This process is subject to public hearing requirements as set forth in Laurel Mun. Code 17.72.070. This ordinance requires that the City Council shall give notice and hold a public hearing on any application for an amendment to the official map, signifying the importance of public participation in the City’s governance of its zoning authority.

55. The City also asserts its extraterritorial zoning jurisdiction in Laurel Mun. Code 1.20.010, allowing zoning and subdivision ordinances and regulations to be enforced within one mile beyond its corporate limits.

56. The City’s 2020 growth policy further confirms that “[t]he extraterritorial zoning of Laurel extends approximately one mile outside the municipal city limits.” Laurel Growth Policy 28; *see also id.* at 79.

57. The City is thus authorized to enforce zoning ordinances in areas beyond the corporate limits to the same extent as if such property were situated within the corporate limit, at least until Yellowstone County adopts a masterplan

and accompanying zoning or subdivision resolutions, or both, which include the area beyond the corporate limits. Laurel Mun. Code 1.20.010; MCA § 76-2-311.

58. The County has not adopted any masterplan that would extinguish the City’s zoning jurisdiction in the extraterritorial area. Rather, the opposite is true. Yellowstone County’s 2003 Growth Policy denotes that “[t]he town of Laurel lies outside the Yellowstone County Planning Board’s jurisdiction and is not covered in the Growth Policy,” and confirms that Laurel’s “zoning jurisdiction [] extends approximately one mile outside the city limits.” Yellowstone County and City of Billings 2003 Growth Policy 145.³ Yellowstone County’s 2008 Growth Policy update confirmed Laurel’s extraterritorial zoning jurisdiction. Yellowstone County and City of Billings 2008 Growth Policy Update 31.⁴

59. On information and belief, Yellowstone County has not adopted an update to its growth policy since 2008. And Yellowstone County has never adopted a growth policy addressing land within the City of Laurel’s jurisdictional area.

60. Together, Montana law, City ordinances, and County policies form the legal basis for the City’s zoning jurisdiction within one mile of City limits. MCA §§ 76-2-310, -311.

61. Despite the law’s clear intent for the City to exercise jurisdiction over the extraterritorial area where NorthWestern plans to build and operate its gas

³ Available at <http://www.bigskyeconomicdevelopment.org/pdf/city-of-billings-yellowstone-county-growth-policy-2003.pdf> (last visited Oct. 13, 2022).

⁴ Available at http://www.healthybydesignyellowstone.org/docs/cdata/GrowthPolicy_2008.pdf (last visited Oct. 13, 2022).

plant, the City has abandoned its jurisdictional authority of the area, causing confusion in the applicability of these laws and ordinances and obstructing Plaintiffs' right to participate in government decision-making as it relates to the health and welfare of the community.

**FIRST CAUSE OF ACTION
(Declaratory Relief)**

62. Plaintiffs hereby reallege and reincorporate all preceding paragraphs herein.

63. The purpose of the Montana Uniform Declaratory Judgments Act is to “settle and to afford relief from uncertainty and insecurity with respect to rights, status, and other legal relations.” MCA § 27-8-102.

64. Any person “whose rights, status, or other legal relations are affected by a statute, municipal ordinance, contract, or franchise” may obtain a declaration of rights, status, or other legal relations therein. MCA § 27-8-202.

65. Plaintiffs' rights to rely on the local government's application and enforcement of local zoning ordinances to protect them from nuisances and otherwise incompatible land uses are affected by the uncertainty over which governmental agency maintains zoning jurisdiction in the area where NorthWestern plans to build a massive power plant.

66. Plaintiffs' rights to participate in government decision making and process are affected by the uncertainty over which governmental agency maintains zoning jurisdiction in the area where NorthWestern plans to build a massive power plant.

67. In order to restore Plaintiffs’ rights, the uncertainty surrounding which government entity maintains zoning jurisdiction over the parcel where NorthWestern Energy intends to build a power plant must be resolved.

68. State law authorizes the extension of municipal zoning regulations “up to 2 miles beyond the limits of a city of the second class”, such as Laurel. MCA § 76-2-310(1)(b). Such extension is authorized in all cases where the City has adopted a growth policy, and unless and until the county adopts a growth policy and zoning or subdivision regulations applicable to the area. MCA § 76-2-311(1). The City of Laurel has met these prerequisites.

69. Further, the City has expressly asserted its extraterritorial zoning authority through the adoption of local ordinances. Laurel Mun. Code 17.08.620 (applying Laurel’s zoning code to “to all lands in the incorporated limits of the city; and any additional territory authorized by . . . state statutes) (emphasis added); *see also id.* at 1.20.010(f) (“Zoning and subdivision ordinances and regulations may be enforced within the corporate limits of the city and within one mile beyond its corporate limits”).

70. Yellowstone County has not adopted a growth policy addressing this area that could extinguish the City’s extraterritorial zoning jurisdiction.

71. Under these authorities, Plaintiffs are entitled to a declaration that the City’s zoning jurisdiction extends up to one mile beyond city limits, giving it the ability to treat property in that extraterritorial zone—including NorthWestern’s

property on which it is constructing a gas power plant—as though it were situated within the City’s corporate limits.

**SECOND CLAIM FOR RELIEF
(Declaratory Relief, In the Alternative)**

72. Plaintiffs hereby reallege and reincorporate all preceding paragraphs herein.

73. In the alternative, if the Court finds that zoning jurisdiction does not rest with the City of Laurel, then the Court should declare that Yellowstone County has planning and zoning jurisdiction over NorthWestern Energy’s property that is the subject of this complaint.

REQUEST FOR RELIEF

THEREFORE, Plaintiffs respectfully request that this Court:

1. Declare that the City of Laurel maintains zoning jurisdiction and authority over the 36-acre property where NorthWestern plans to build a power plant.

2. Declare in the alternative, should the Court find that the City of Laurel does not maintain jurisdiction, that Yellowstone County maintains zoning jurisdiction and authority over the 36-acre property immediately outside of Laurel, Montana where NorthWestern Energy proposes to build its power plant.

3. Award reasonable attorney’s fees and costs incurred by Plaintiffs in bringing this action as the Court may deem equitable and just, pursuant to the relief provisions of the Montana Uniform Declaratory Judgments Act. MCA § 27-8-311.

4. Grant Plaintiffs such additional relief as the Court may deem just and proper.

Respectfully submitted this 14th day of October, 2022.



Amanda D. Galvan
Mary Cochenour
Emily Qiu
Earthjustice
313 East Main Street
P.O. Box 4743
Bozeman, MT 59772-4743
(406) 586-9699 | Phone
(406) 586-9695 | Fax
agalvan@earthjustice.org
mcochenour@earthjustice.org
equi@earthjustice.org

Attorneys for Plaintiffs