

COMMISSIONERS APPROVAL

IMAN *[Signature]*

CHILCOTT *[Signature]*

FOSS *[Signature]*

KANENWISHER *[Signature]*

STOLTZ *[Signature]*

PLETTENBERG (Clerk & Recorder)

Members Present.....Commissioner J.R. Iman, Commissioner Greg Chilcott, Commissioner Suzy Foss, Commissioner Ron Stoltz and Commissioner Matt Kanenwisher

Date.....March 28, 2011

▶ Minutes: Beth Perkins

▶ The Board met for the following administrative matters at 9:00 a.m.

- Signatures for Recycling Grant (DEQ): Commissioner Chilcott made a motion to adopt Resolution No. 2670 for supporting the DEQ Recycling Grant application for Ravalli Recycling Inc. Commissioner Stoltz seconded the motion and all voted "aye".
- Commissioner Chilcott's signature for GSK CDBG loan close-out: Commissioner Kanenwisher made a motion to authorize Commissioner Chilcott to close out the GSK CDBG loan with signature. Commissioner Foss seconded the motion and all voted "aye".

▶ Commissioner Chilcott participated in MACo Legislative Conference Call at 12:00 p.m.

▶ The Board met to make a decision on District Court's requested money to complete camera installation in District Courtroom at 1:00 p.m. Present were CFO Klarryse Murphy, Judge Haynes, Becky Knutson and Administrative Assistant Glenda Wiles.

Judge Haynes gave a background of the past grant received to install security cameras. There is a remainder needed to finish the project.

**Commissioner Kanenwisher made a motion to grant \$500 out of the Capital Improvement Fund for the installation of security cameras. Commissioner Foss seconded the motion and all voted "aye".**

► The Board met for review and decision on HB 130 Crisis Grant and HST Grant for Fiscal Year 2011 at 1:30 p.m. Present were Civil Counsel Karen Mahar, CFO Klarryse Murphy, Administrative Assistant Glenda Wiles and Bitterroot Star Reporter Michael Howell.

Klarryse Murphy gave a review of the financial status with the West House. Karen Mahar then reviewed funds awarded from HB 130 & 131 and Montana Mental Health Settlement Trust and how portions are designated towards certain items. **Commissioner Chilcott made a motion to accept HB 130 funding in the amount of \$61,608 (to include the generator). Commissioner Kanenwisher seconded the motion and all voted "aye".**

**Commissioner Kanenwisher made a motion to accept HB 131 funding in the amount of \$25,000 for emergency detention beds with the contract directly between DPHHS and Western Mental Health Center. Commissioner Stoltz seconded the motion and all voted "aye".**

Discussion followed regarding the funding from the Montana Mental Health Settlement Trust and how it would be utilized. **The Board concurred with the proposed disbursement.**

► The Board met for a public hearing for Open Lands Bond Program for Triple J Bar Ranch Bond application at 2:00 p.m. Present were Planner Aaron Wilson, BRLT Representative Gavin Ricklefs, FVLT Representative Juniper Davis and several citizens including Bitterroot Star Reporter Michael Howell and Ravalli Republic Reporter Whitney Bernes.

Commissioner Iman opened the public hearing and requested any conflicts of interest be disclosed. Hearing none, he then requested the Staff Report be read.

Aaron presented the Staff Report as follows:

**OPEN LANDS BOND PROGRAM  
TRIPLE J BAR RANCH CONSERVATION EASEMENT**

**STAFF REPORT FOR BOARD OF COUNTY COMMISSIONERS**

**CASE PLANNER:** Aaron Wilson

**REVIEWED/  
APPROVED BY:** Tristan Riddell

**PUBLIC MEETINGS/  
HEARING:**

Open Lands Board Meeting (site visit)	February 8, 2011
Open Lands Board Meeting	February 17, 2011
BCC Public Hearing	March 28, 2011

**APPLICANT:** Kay Downey

1225 Willow Creek Rd  
Corvallis, MT 59828

**SPONSORING AGENCY:** Five Valleys Land Trust  
Contact: Juniper Davis  
PO Box 8953  
Missoula, MT 59801

### **Introduction**

On November 7<sup>th</sup>, 2006, voters in Ravalli County authorized the Board of County Commissioners to issue and sell bonds up to \$10 million for the purpose of preserving open lands. Building on that mandate, the Open Lands Bond Program (OLBP) was initiated in 2007. The application reviewed in this report, referred to as the Triple J Bar Ranch, requests bond funding to aid in the purchase of a voluntary conservation easement to be held by the Five Valleys Land Trust (FVLT).

Conservation Easements, under the OLBP, are an entirely voluntary restriction placed on the land and defined in Resolution No. 2256 as:

“...an easement or restriction, running with the land and assignable, whereby an owner of land voluntarily relinquishes to the holder of such easement or restriction any or all rights to construct improvements upon the land or to substantially alter the natural character of the land, or to permit the construction of improvements upon the land or the substantial alteration of the natural character of the land, except as this right is expressly reserved in the instruments evidencing easement or restriction.”

The land being considered for permanent conservation consists of 2 parcels covering a total of 160 acres of crop and pasture land in a region of active agriculture along the foothills of the Sapphire Mountains, approximately three miles east of the Community of Corvallis (see figures 1 and 2). Kay Downey owns the property, and has lived on the ranch since the mid-seventies when her and her husband purchased the land. Her two sons, Jeff and Jerry Downey, are assisting her in the process of placing the conservation easement on the property. Their intent is to preserve the current use for agricultural operations in perpetuity.

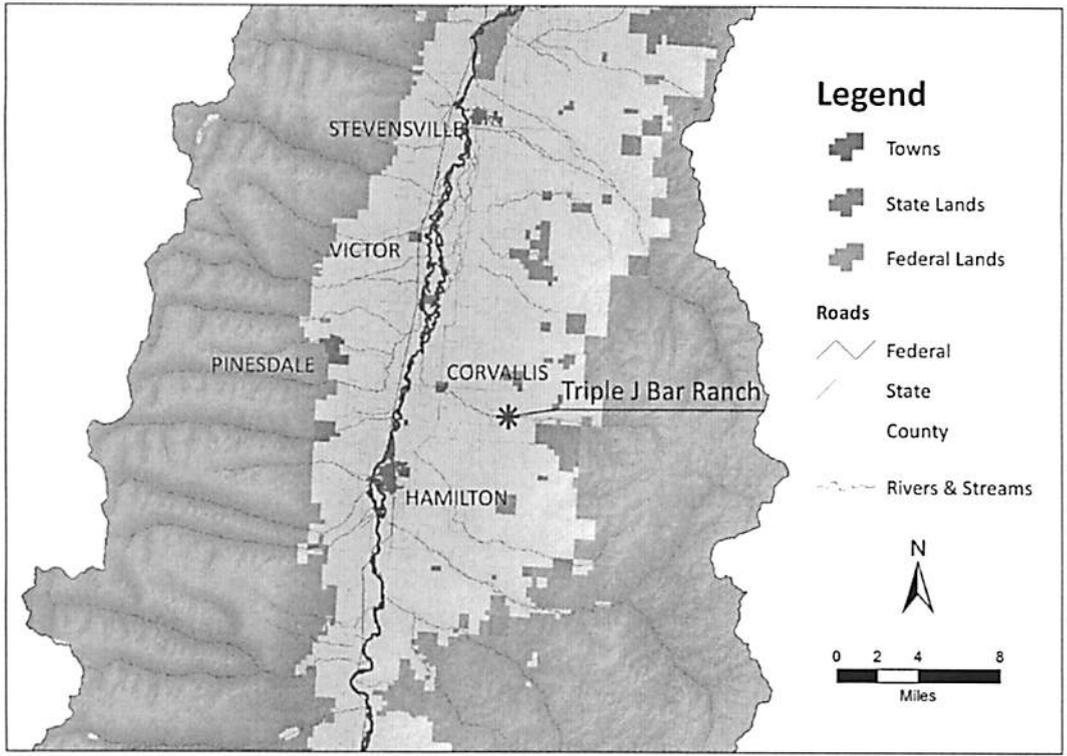


Figure 1 – Regional location of Sunset Bench properties (Map Source Data: Ravalli County GIS).

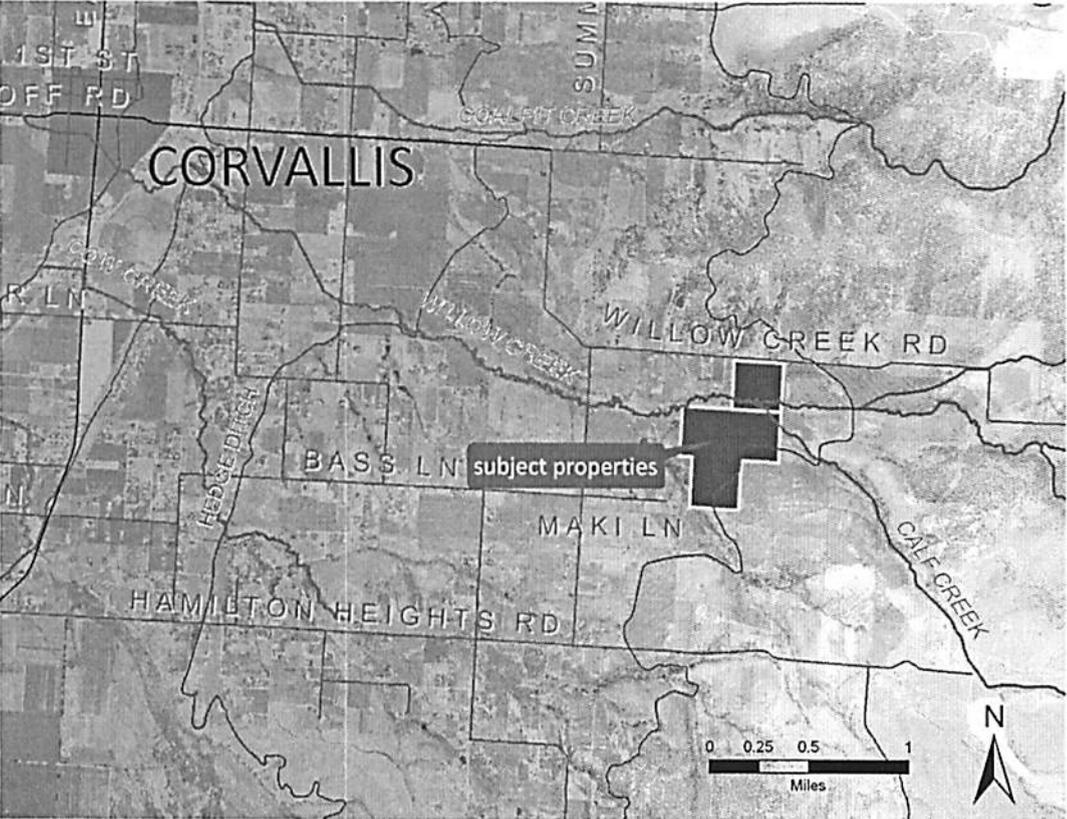


Figure 2 – Proposed conservation easement properties (Map source data: Ravalli County GIS).

## **Background**

On November 15<sup>th</sup>, 2010, the Ravalli County Planning Department (RCPD) received notification of interest on the part of Kay Downey and her family to participate in the OLBP. The initial pre-submission conference was held on December 22<sup>nd</sup>, 2010, with RCPD staff, FVLT and the Downeys attending. At that meeting, the proposed conservation easement was discussed, and the full review process was outlined for FVLT and the landowners.

Subsequent to the pre-submission conference, the RCPD received a full application on January 14<sup>th</sup>, 2011. This application outlined the applicant's proposed easement, rationale, and justification for a funding request from OLBP. Submission of a full OLBP application triggered initiation of Phase I review, which included a site visit by the Open Lands Board (Board) (conducted on February 8<sup>th</sup>, 2010) along with review and scoring of the proposed easement by the Open Lands Board Conservation Subcommittee (completed immediately following the site visit).

Following the site visit and review by the Conservation Subcommittee, the Board met on February 17<sup>th</sup>, 2011 to consider the application. The Board is tasked under section 4-05 of Resolution #2256, establishing the Ravalli County Open Lands Bond Program, with making official recommendations the Board of County Commissioners (BCC) as to the approval or denial of Bond Program applications. Their recommendation to the BCC is included in this report, along with a summary of the Conservation Subcommittee recommendations.

**This Conservation Easement was reviewed under the Ravalli County criteria and procedure as adopted by Resolution 2256 by a majority of the Board of County Commissioners on December 5<sup>th</sup>, 2007.**

## **Staff Analysis**

### *General Project Attributes*

Five Valleys Land Trust, as noted in the project application, ranked the general attributes of the property high (15 out of 16 points). Staff review of the project supports that the land has important and unique general features worth preserving. The property acreage is on the lower end as compared to previously approved projects; however it is large enough to sustain agricultural operations and is part of an important contiguous agricultural neighborhood.

Although the applicants have rated their weed management high, the site visit indicated that weeds are still an issue on the property. There was noticeable presence of common noxious weed species in several locations throughout the property, especially in wooded areas and between agricultural fields. Despite this presence of noxious weeds, placing a conservation easement agreement on the land will establish a baseline and likely support current and future efforts at improving the weed management situation for this property.

The Downeys have documented seniority and quantity of water rights to sustain, at a minimum, current levels of agricultural activity. Several of the rights held by the Downeys date back prior to 1900, indicating a strong likelihood of maintaining the property's water supply well into the future. Based on these factors, the property is appropriately ranked high in general attributes,

although 15 out of 16 possible points may be slightly higher than appropriate given the weed situation.

### *Agricultural Attributes*

The Downeys' intent for the property is to preserve it for agricultural operations. They currently lease a majority of the property to the Maki family, who manage the land for active farm and ranch uses. As preservation of working farms and ranches is one of the fundamental goals of the Open Lands Bond Program (Section 3-01 of Resolution 2256), this is a prime opportunity for meeting that goal. In addition, this is an opportunity to recognize the importance of agriculture within the Willow Creek neighborhood. The Downeys' property is one of many working farms and ranches in the area and establishing this conservation easement will contribute to a sense of security for those wishing to continue the agricultural heritage there.

### *Natural Features*

The natural features associated with the Triple J Bar Ranch property are not the primary focus of this application. However, there are significant attributes that make this an important piece of property for habitat and wildlife: Willow Creek, which flows through approximately ¼ mile of the property, is important bull and westslope cutthroat trout habitat. The landscape throughout the property covers a diverse mix of habitat types, including riparian, elk, deer and a variety of other important native species. In addition to the existing natural features, the Downeys are actively working to restore critical riparian buffer zones along Willow Creek. These riparian areas will be critical to maintaining the water quality of the creek, as well as support current efforts to enhance native trout species habitat.

### *Community Benefits*

Preserving open space and culturally important agricultural activities is a central community benefit, as expressed by the voters when they passed the Open Lands Bond ballot measure. Establishing a conservation easement that will maintain the agricultural use on this property will provide an increased sense of stability for the neighboring properties engaged in active farming and ranching. Several letters have been submitted by neighboring landowners, each extolling the benefits of this particular conservation easement to their own farming and ranching operations as well as the importance of maintaining the rural character that makes much of Ravalli County unique (see Appendix B).

Furthermore, by preserving this land, interested neighbors may be more likely to participate in the Bond Program in the future knowing that this piece of property will be preserved, bolstering their continued agricultural practices. As mentioned above, conservation easements may be an integral tool to ensure agriculture can remain a beneficial community asset to the Willow Creek area, especially given the residential development pressures to the west of this property.

### *Additional Benefits*

The custom log home business currently in operation on the property adds a unique quality to this project. Although some reservations may exist about including commercial uses in a conservation easement, it may be an appropriate opportunity to help support agricultural uses. Farming and ranching has increasingly become more challenging financially; adding supplementary income, such as a custom log home business, can create a level of financial security or cushioning that allows agricultural uses to continue. In this particular situation, the commercial use is only active on a small portion of the property and meshes well with the dominant use of crop production and grazing.

The application also suggests that this project can serve as a catalyst for the Willow Creek area, spurring other landowners to place conservation easements to protect and support active farm and ranch uses. While this may be true, it is not the role of the OLBP to evaluate projects based on their potential to encourage additional conservation easements. However, there is merit to considering the value a larger block of protected active agricultural properties can add to the region.

For Ravalli County, the benefits of this project are expanded through the use of matching funds. If preliminarily approved by the BCC for Bond funding, this project may be eligible for Farm and Ranch Protection Program (FRPP) dollars. For the Triple J Bar Ranch application, that means approximately 65% percent of the total estimated project costs, after landowner donation, will be potentially covered by this federal program. FVLT is also contributing \$20,000 toward the project, further reducing the cost to tax payers (see Appendix A).

### **Staff Recommendation**

Based on the application, site visit, and input from the landowners, it is staff's recommendation that the project be approved and fully funded at the current level requested. The application, as it is currently structured, requires funding from the FRPP so approval should be conditional on successful selection of the project through that program. If the project is not selected for FRPP funding, it is staff's recommendation that the BCC re-examine the application, pursuant to Section 6.02.d. of Resolution No. 2256, in light of any new proposed funding options.

### **Open Lands Board – Conservation Subcommittee Report Summary**

The Conservation Subcommittee of the Open Lands Board met at the site of the proposed easement on February 8<sup>th</sup>, 2011. Based on the application materials submitted and the property site visit, the OLB-CS made the following findings:

- Although the application indicates the property has effective weed management practices, based on the site visit this committee indicated scoring should be lower due to presence of weeds, especially on the hillside and between fields. The committee also noted that the current weed management practices appear to be somewhat driven by the current lessee of the property, and could change in the future unless provisions to address this are included in the contract.
- Placing a conservation easement on this property could have a beneficial impact on weed control if appropriate management practices are included in the easement

requirements. The OLB-CS determined that a guarantee of long-term weed management under a conservation easement represents a positive aspect of the application regardless of current conditions or trends on the property.

- Approval of the proposal would generally meet the goals of the OLBP by protecting, for perpetuity, wildlife habitat and open space in Ravalli County. The presence of Willow Creek and a broad diversity of habitat contribute significantly to local habitat resources. Several important native species, such as bull and Westslope cutthroat trout, elk, deer, a number of species of Special Concern (as designated by the State of Montana) are either directly present on the property or can be supported by the diverse habitat that currently exists there.
- The Triple J Bar Ranch project has the potential to support a relatively large block of existing working agricultural land in the neighborhood. There is a stretch of contiguous agricultural land extending east and south several miles, and adjacent land owners (the Maki family) lease a portion of the property to supplement their operations.
- The Downey family currently operates a small custom log home construction business on the property. Rather than detract from the overall quality of the project, the OLB-CS considers this commercial use to be uniquely beneficial. Committee members noted that agriculture often has a thin margin of profitability, and an operation such as this log home business can create additional income to support continued farming and ranching on the property. It is also a natural resource-based industry, further supporting working lands in the valley.
- All Project Scoring Worksheets completed by the OLB-CS reflected at least the minimum score of 50 points required for the project to be considered past Phase I. Scores ranged from 71 to 73, with a final average of approximately 72 points. After discussion and score adjustment, the OLB-CS settled on 73 as an appropriate score for the project.
- The OLB-CS recognizes the critical importance of being good stewards of taxpayer money through the mindful and deliberate implementation of the OLBP. According to the project funding worksheet, this project will be within the lower range of cost per acre of projects approved in the past, and well below the market value for the land (with a final cost to Ravalli County of \$700/acre, assuming all matching funds are obtained). Proposed funding through the Farm and Ranch Protection Program will significantly lower the cost to the County. The final match, including landowner contribution, will be approximately 1 to 4.

### **Recommendation**

After consideration of the Triple J Bar Ranch OLBP Application within the adopted criteria and procedure for the OLBP, the OLB Conservation Subcommittee unanimously (4-0) advised that the Open Lands Board forward a recommendation to the Board of County Commissioners to approve the Triple J Bar Ranch proposal at the funding level requested.

### **Open Lands Board – Recommendation**

Based on the application materials submitted, the property site visit, and the OLB-CS report the Open Lands Board made the following findings:

- Project scoring by OLB members, including the OLB-CS, ranged from a low of 71 to a high of 75, reflecting a general agreement with the FVLT scoring for the project (76 points) and meeting the 50 point cut-off established by the OLB for project approval.
- The current funding level proposed, including Farm and Ranch Protection Program matching funds, was deemed appropriate (see Appendix A – Amended Project Funding Worksheet).
- The OLB concurred with the findings of the Conservation Subcommittee.

After consideration of the Sunset Bench Conservation Easement Application within the adopted criteria and procedure for the OLBP, the Open Lands Board voted 7 - 0 to recommend the Board of County Commissioners approve the Sunset Bench proposal at the funding level requested.

#### **BCC Review Stage:**

##### *OLBP Phase 4*

When considering a proposal, the BCC will have the following items available for consideration: the full application materials, a possible site visit, all summary reports and recommendations submitted for review, and any discussions held within the public hearing process. Applications for funding from the OLBP must be considered within the adopted criteria and procedure for the OLBP (Res 2256).

Once the BCC has finished their review and public hearing process, they will vote to approve or deny funding.

##### *OLBP Phase 5*

If the proposal is approved by the BCC, the following documentation will be required before the County can release funds. The applicant shall provide the documentation to the Planning Department. The Planning Department will coordinate review of the following materials:

- Conservation Easement Document and Baseline Documentation Report
- Title commitment for the subject property and resolution of title issues
- Final appraisal
- Purchase agreement
- Environmental Hazard Survey concerning hazardous materials (as described by the federal government) that may or may not be located, used or disposed of on the property
- An agreement between the county and the qualifying sponsoring organization regarding joint responsibilities (MOU)

- A narrative describing the Closing Arrangement - where the closing is to occur, closing participants, settlement sheets, Escrow arrangements if required, the cost of closing, etc.
- Additional Documentation as required by decision of the Board of County Commissioners (Res. 2256)

Juniper Davis, representative of Five Valley Land Trust, thanked The Downey family and Bitter Root Land Trust for their participation in this project.

Gavin Ricklefs spoke in support of this project due to great wildlife habitat, water sources and the agriculture.

Kay Downey stated she and her husband came here in 1972 and settled on a ranch. It became a dream for their family to make a living on the land. It is her honor to carry on her husband's dream for their family and the community.

Jerry Downey thanked the Commissioners for visiting the property and the Open Lands Board members for their input. He also thanked Five Valleys Land Trust and Bitter Root Land Trust for their work to get to this point. This project was a decision by the whole family to preserve the land.

Jeff Downey stated it is a cornerstone in the community with an open vista of properties and farmland. He would like to see it preserved.

Commissioner Iman opened public comment.

Dan Huls stated this project and this family fit exactly the vision of the Right to Farm and Ranch Board for the Open Lands Bond program. He requested the Board approve the project.

David Schultz stated the Bitterroot Water Forum supports this project and requested approval of the Board.

Brian Rouse stated this is a very good project and requested approval.

Jerry Swartout stated this is a great project and has worked in the area. He requested approval.

Andy Maki stated he leases land at the Downey place and commended the Downey family for doing this project. It brings back a wealth to the community by preserving the land. He requested the Board support this project.

Alan Maki stated agriculture should provide the community with \$50 million dollars in receipts this year even though most of that goes to seed and labor but the remainder is spent in the community. The Downeys want to see that preserved which will continue to bring money in to the community.

Neil Maki stated in the past the Corvallis School burned down. The Old Corvallis School that was built to replace it was the "Cadillac" of schools. The Downeys supported the school and the community. In the present, there are a lot of hungry people in the world and the future of these farms is necessary. He would like the Board to support this project.

Mike Downey stated it is a special thing if this works out for the preservation of the land. He is the grandson of Kay and would like to see it continue for generations.

Greg Tollefson stated this is a good project and requested approval.

John Robinson stated he is not in favor of this project because if it doesn't get approved, the elk will stay on his land and make it easier to fill his freezer for the winter.

Tonia Bloom is in favor of this project.

Gayle Tinsman stated she resides in Willow Creek and was born and raised there. When the trailer park went in, it devastated the community. The residents are all farmers and ranchers and it woke up the community to preserve what exists. This is one way to save this land from development and stay in agriculture.

Commissioner Iman closed public comment and opened board deliberation.

Commissioner Iman stated two letters received from Andy Maki and Alan Maki as well as numerous phone calls in favor of the project.

**Commissioner Foss made a motion to approve the Triple J Bar Ranch to the Open Lands Bond program at the funding level of \$94,590 and the cost of \$17,410 for the Five Valleys Land Trust for a total of \$112,000. Commissioner Chilcott seconded the motion. Discussion:** Commissioner Iman stated this is a first for a commercial component. Gavin stated most agricultural operations have some family member that works from home such as the log home business. Juniper Davis stated the log home business is adjacent to the house and is a five acre footprint. It is not a dramatic footprint to the property. The easement will allow for the use to continue. Since the impact can be seen immediately, it is a benefit to the family. Commissioner Chilcott asked if the terms of the easement are limited to the log home business. Juniper replied there is still work to do with the family to get the precise language however; it is limited to the use. Dan Huls stated the use be it commercial, is adding value to an agricultural commodity. Commissioner Kanenwisher stated he supports the application. The question is what the role of government for projects like this is. Commissioner Chilcott stated many years ago there was a small subdivision of 5 lots and the neighbors were upset that a small field was going to be developed since they enjoyed watching the agricultural operation on it. He made a comment that the neighbors should buy the land if they want to save it from development. This is what this program does. This is a way for the community to preserve our agricultural heritage. Commissioner Foss is in favor of this project and is proud of the Downey family. Commissioner Iman stated this is a good investment of what this Board is charged with providing in this program. **All voted "aye". (5-0)**

► The Board met for closed door litigation strategy meeting with Civil Counsel at 3:00 p.m.

Civil Counsel Karen Mahar stated the purpose of this meeting is to discuss a public nuisance complaint for an airplane flying low at Conner Cut Off in Darby. She requested this meeting be closed door due to the potential litigation and to discuss litigation strategy. **Commissioner Chilcott made a motion to invoke closed door pursuant to MCA 2-3-203 for the purpose of litigation strategy. Commissioner Kanenwisher seconded the motion. Discussion:** Michael Howell objected to closed door being invoked on potential litigation and not actual litigation. Karen Mahar replied according to the statute MCA 2-3-203, a meeting may be closed to discuss a strategy to be followed with respect to litigation when an open meeting would have a

detrimental effect on the litigating position of the public agency. Michael Howell will contact his attorney. All voted "aye" (5-0)

► Commissioner Iman met with Rod Overfield regarding CTEP easement at 4:00 p.m.



**MONTANA TWENTY-FIRST JUDICIAL DISTRICT  
Ravalli County**

**JAMES A. HAYNES**  
District Court Judge  
Department #2, Courtroom #2  
205 Bedford - Suite B  
Hamilton MT 59840

Phone: (406) 375-6780  
Fax: (406) 375-6785

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**MEMORANDUM**  
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**DATE:** March 28, 2011  
**TO:** Ravalli County Commissioners  
**FROM:** Hon. James A. Haynes, District Judge  
Becky Knutson, Court Administrator  
**RE:** Security Cameras

In May 2008 we were awarded a grant totaling \$18,577 through the Office of Court Administrator, District Court Safety and Security Funding for the following:

- 7 security cameras for the two district courtrooms and lobby areas
- DVR - 16 ports -- We needed 7 ports - and offered the use of the other 9 ports to 911/Ravalli County use (which they are using)
- Revising the door locks on courtrooms and other access to district court rooms - using a proximity reader and fobs
- Can monitor use of rooms/times/control authorization and access with fobs

In completing the project we found we needed one additional door revised and spent monies on that door - leaving insufficient funds to install 4 cameras. The wiring is in place, run through the ceilings, etc. -- the cameras are purchased. We just need to cover \$240/camera labor to complete the project. This includes hooking them up, configuring them with the DVR system and making sure they are all adjusted and working. Walt Martin with ALTA Services (original installer of the initial equipment) has verified he will complete the installation for \$960.00.

Becky Buska at the State OCA office has stated even though this should be a county expense, the State is willing to split the cost if Ravalli County would do the same. That amount would be \$480 each.