



*Montana Fish,
Wildlife & Parks*

- Exhibit A-9 -

Region 2 Office
3201 Spurgin Road
Missoula, MT 59804-3101
406-542-5500
April 11, 2006

Jason Rice
Landworks Consulting & Design, Inc.
PO Box 7908
Missoula, MT 59807-7908

Dear Mr. Rice:

Reference: Legacy Ranch--Proposed major (580 lots on ~395 acres), 4 miles north of Stevensville and adjacent to the Lee Metcalf National Wildlife Refuge

I appreciate the opportunity FWP wildlife and fisheries biologists had to visit with you on-site on October 27, 2005, and also for myself and wildlife biologist John Vore to meet recently with you and Mr. and Mrs. Morton on March 29th. We have reviewed the proposed Legacy Ranch subdivision and offer the following comments.

The proposed subdivision is on a mixture of agricultural and dry upland ponderosa pine forest habitats adjacent to the Lee Metcalf National Wildlife Refuge (LMNWR). The property is currently used by a variety of wildlife including white-tailed deer, coyote, fox, pileated woodpecker, pheasant, and a number of small mammals, birds, reptiles and amphibians. Waterfowl, including both geese and ducks, feed in the agricultural fields, and there may be occasional upland nesting by ducks, particularly on the west edge of the property. Elk, moose, black bear, mountain lion and turkey may occasionally use the property.

Direct impact of the development on wildlife habitat would be the loss of white-tailed deer habitat and the open fields used by waterfowl for feeding. Some of the ponderosa pine habitat important to species like pileated woodpecker would be lost and that remaining would be compromised. Undesirable non-native species like European starling and English sparrow find suitable habitat in subdivisions and compete with native birds for food and nesting sites. Starlings are aggressive cavity nesters and compete with native cavity-nesters like flicker, Lewis's woodpecker, mountain bluebird and tree swallow, to name a few.

Domestic dogs and cats chase, harass and kill wildlife, and this problem would increase with the proposed development. These pets, especially dogs, range up to several miles from their homes, and the area affected by their disturbance is much greater than the footprint of the subdivision.

itself. Cats are effective predators on small mammals and birds in size up to and including pheasants and small ducks, and are known to reduce prey populations near subdivisions (K. Foresman, pers. comm.). Nesting birds are often at risk as are young chicks and ducklings. Dogs harass and kill wildlife in size up to and including deer and calf elk. This problem becomes worse when several dogs (pets) band together in a loose pack or when dogs have no home and become a feral pack. It is likely that dogs from the Legacy Ranch subdivision would range over the entire adjacent wildlife refuge as well as in the productive wildlife habitats along the river bottom north of the refuge. Dogs and cats at large on the LMNWR, already a problem, would increase, most likely markedly so, with development of the proposed subdivision.

Wildlife and subdivisions are often an uneasy mix. Deer eat ornamental flowers and gardens, skunks smell, wandering bears and mountain lions pose safety risks, and woodpeckers peck on house siding. Development of the subdivision would increase such wildlife-related problems, while at the same time limit FWP's options for responding. Hunting as a management tool is not an option in or around the subdivision, and practices like trapping and using hounds are limited and costly. Additionally, increased traffic associated with the subdivision would result in increased human personal and property damage and wildlife mortality.

While FWP can appreciate the design benefits that vegetated small-parcel common areas have within the development, these same areas provide avenues of ingress and temporary harbor for animals like deer, skunk, raccoon, mountain lion, etc. that are unwanted in subdivisions. We suggest such areas be minimized to prevent future problems. Also, the planned tree and other vegetation planting along the Eastside highway could harbor deer that would become a danger to traffic when they cross the highway.

An important concern for FWP is the effect that the proposed subdivision would have on the LMNWR. In addition to the impacts to wildlife mentioned above, the proposed development, especially those houses nearest the refuge, would impact hunting on the refuge. Hunting is a management tool used by the refuge, as well as a recreational activity it is mandated to provide. If houses were built adjacent to the refuge without a significant buffer of open space, there would be issues of safety and noise that might limit hunting on the refuge. Regardless of covenants and warnings, nothing would prevent future homeowners from voicing their concerns about hunting when the first shots are fired at sunrise on opening day, and the eventual result could be restrictions on hunting within the LMNWR.

What is of most concern to FWP is the location of Legacy Ranch. FWP has reviewed many subdivisions this large and larger close to towns about which we have not made such extensive comments. Legacy Ranch is different because it proposes to develop what is basically a small town in a rural area abutting a National Wildlife Refuge. It would set a precedent for future development, and FWP is vitally concerned about the total cumulative impacts of this and future developments. If Legacy Ranch were to be the only one, our concern might be less. But there is sure to be further development in the decades ahead, and that is why Legacy Ranch, as a precedent, is so important. And that is why it is most important that Legacy Ranch be developed with full consideration and sensitivity to wildlife, the National Wildlife Refuge, agriculture and open space.

Several of the goals and policies outlined in the Ravalli County Growth Policy are relevant in evaluating the proposed subdivision. They include:

Countywide Goal 1A: Promote public open space, and recognizing agriculture and forestry as valued land resources.

Countywide Goal 1B: Promote private open land, farmland, ranch land, and recognition of agriculture and forestry as valued land resources.

- **Countywide policy 1.3:** Encourage new development that allows continued agricultural and forestry activities.

Countywide Goal 5: Protect and enhance natural resources & public open space.

- **Countywide Policy 5.1:** While recognizing the private property rights of landowners conserve and enhance the quality and quantity of wildlife, fisheries, forest and other natural resources in the Bitterroot Valley.
- **Countywide Policy 5.3:** Use planning tools to ensure consideration is given to natural resources.
- **Countywide Policy 5.6:** Recognize the value and encourage the protection of the Lee Metcalf National Wildlife Refuge.

The proposed subdivision of 580 homes and 45 equivalent residences on approximately 400 acres: is high-density, is directly adjacent to the LMNWR, usurps important wildlife habitat, leaves little open space suitable to wildlife, and includes no provision for agriculture. As we stated in our meeting with you and the Mortons on March 29th, the best mitigation for these impacts would be to cluster development away from the refuge and the Eastside Highway, up the hillside above the Houtchens-Johnson Ditch, and to maintain the area below the hill and hillside, including the 23 acres west of the highway, in agriculture.

Clustering development on the hill above the ditch would create a logical landform buffer to protect the LMNWR, conserve the undeveloped area as open space for development residents, conserve open space as seen by the public, minimize the appearance of crowding as viewed from the highway, and conserve an important area for wildlife and agriculture. The fruits of such visionary planning to conserve and maintain these important resources could best be guaranteed into the future through an agricultural conservation easement on the undeveloped land (i.e., the flats located between the Eastside Highway and the hill above the ditch). This approach would best mitigate the impacts on the natural resources and open space that Ravalli County citizens have identified as important, while at the same time promote responsible, sensitive development.

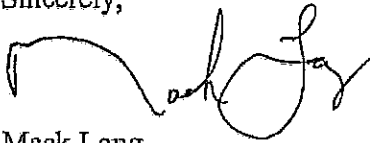
If the above mitigation scenario proves unworkable, then we suggest that at a minimum the 23 acres west of the highway not be developed. I was glad at our meeting of March 29th that Mr. Morton said he would consider selling these 23 acres. These are the most important of any 23 acres in the development in terms of their contribution to the integrity of the National Wildlife Refuge.

For the portions of the development that would include houses and/or businesses, we appreciate your inclusion of our Living with Wildlife guidelines and requirements in your draft covenants

(Section 6.t.i through 6.t.xi, 2/7/2006). Strict adherence to these covenants--as well as active enforcement by the Homeowners' Association--would help minimize human-wildlife interactions and problems. We would like to offer some minor changes to these covenants; rather than make changes item by item, we believe it would be simpler and more efficient to recommend use of the enclosed, updated version of the covenants in lieu of those in the subdivision's current draft.

We thank you for providing the opportunity for MFWP to comment on this subdivision.

Sincerely,

A handwritten signature in black ink, appearing to read "Mack Long". The signature is fluid and cursive, with a large initial "M" and "L".

Mack Long
Regional Supervisor

ML/sr

C: Ravalli County Planning Department, Attn: Rense Van Hoven, 215 S. 4 St., Ste. F, Hamilton, MT 59840

*Covenants for Legacy Ranch subdivision, recommended by Montana Fish, Wildlife & Park, Missoula;
April 11, 2006*

Section t. Wildlife

Homeowners must accept the responsibility of living with wildlife and must be responsible for protecting their vegetation from damage, confining their pets, and properly storing garbage, pet food, livestock feed and other potential attractants. Homeowners must be aware of potential problems associated with the occasional presence of wildlife such as deer, elk, black bear, mountain lion, coyote, fox, skunk, raccoon and magpie. Please contact the Montana Fish, Wildlife & Parks office in Missoula (3201 Spurgin Road, Missoula, MT 59804) for brochures that can help homeowners "live with wildlife." Alternatively, see FWP's web site at www.fwp.mt.gov.

The following covenants are designed to help minimize problems that homeowners could have with wildlife, as well as helping homeowners protect themselves, their property and the wildlife that Montanans value.

- i. Homeowners must be aware of the potential for **vegetation damage by wildlife**, particularly from deer feeding on green lawns, gardens, flowers, ornamental shrubs and trees in this subdivision. Homeowners should be prepared to take the responsibility to plant non-palatable vegetation or protect their vegetation (fencing, netting, repellents) in order to avoid problems. Also, consider landscaping with native vegetation that is less likely to suffer extensive feeding damage by deer.
- ii. **Gardens and fruit trees** can attract wildlife such as deer and bears. Keep produce and fruit picked and off the ground, because rotting vegetable material can attract bears, skunks and other wildlife. To help keep wildlife such as deer out of gardens, fences should be 8 feet or taller. Netting over gardens can help deter birds from eating berries.
- iii. **Garbage** shall be stored in secure bear-resistant containers or indoors to avoid attracting animals such as bears, raccoons, and dogs. If stored indoors, garbage cans may not be set out until the morning of garbage pickup, and must be taken back indoors that day after garbage pickup.
- iv. **Do not feed wildlife** or offer supplements (such as salt blocks), attractants, or bait for deer or other wildlife. Feeding wildlife results in unnatural concentrations of animals that could lead to overuse of vegetation and disease transmission. Such actions unnecessarily accustom wild animals to humans, which can be dangerous for both. It is against state law (MCA 87-3-130) to purposely or knowingly attract bears with supplemental food attractants (any food, garbage, or other attractant for game animals) or to provide supplemental feed attractants in a manner that results in "an artificial concentration of game animals that may potentially contribute to the transmission of disease or that constitutes a threat to public safety." Also, homeowners must be aware that deer might occasionally attract mountain lions to the area.

- v. **Birdseed** is an attractant to bears. Use of bird feeders is not recommended from April 1st through the end of November. If used, bird feeders must: a) be suspended a minimum of 20 feet above ground level, b) be at least 4 feet from any support poles or points, and c) should be designed with a catch plate located below the feeder and fixed such that it collects the seed knocked off the feeder by feeding birds.
- vi. **Pets** must be confined to the house, in a fenced yard, or in an outdoor kennel area when not under the immediate control of the owner, and not be allowed to roam as they can chase and kill big game and small birds and mammals. Under current state law it is illegal for dogs to chase hooved game animals and the owner may also be held guilty (MCA 87-3-124). Keeping pets confined also helps protect them from predatory wildlife.
- vii. **Pet food** must be stored indoors, in closed sheds or in animal-resistant containers in order to avoid attracting wildlife such as bears, mountain lions, skunks, raccoons, and other wildlife. **When feeding pets** do not leave food out overnight. Consider feeding pets indoors so that wild animals do not learn to associate food with your home.
- viii. **Barbecue grills** must be stored indoors, and permanent outdoor barbecue grills are not allowed in this subdivision. Keep all portions of the barbecues clean. Food spills and smells on and near the grill can attract bears and other wildlife.
- ix. Consider **boundary fencing** that is no higher than 3-1/2 feet (at the top rail or wire) and no lower than 18 inches (at the bottom rail or wire) in order to facilitate wildlife movement and help avoid animals such as deer and/or elk becoming entangled in the fence or injuring themselves when trying to jump the fence. We encourage the use of split rail fences.
- x. **Compost piles** can attract skunks and bears and should not be used in this subdivision. If used they should be kept indoors or built to be wildlife-resistant. Compost piles should be limited to grass, leaves, and garden clippings, and piles should be turned regularly. Adding lime can reduce smells and help decomposition. Do not add food scraps. (Kitchen scraps could be composted indoors in a worm box with minimum odor and the finished compost can later be added to garden soil.)
- xi. Apiaries (bee hives) could attract bears in this area and should be avoided. (If used, consult Montana Fish, Wildlife & Parks or the U.S. Fish & Wildlife Service for help in planning and constructing an apiary system that will help deter bears.)
- xii. Purchasers of lots within this subdivision must recognize that portions of this subdivision are located less than ½ mile from the Bitterroot River and its side sloughs, where lawful **waterfowl hunting** and the associated discharge of shotguns could occur from early morning until sunset, and the season can run from September into January. Additional forms of hunting, including various firearms use, could legally occur during the fall and into the winter in areas nearby this subdivision.
- xiii. These "living with wildlife" covenants cannot be altered or eliminated without consent of the governing body (county commissioners).