

RECEIVED



Terry Ryan
13 Orion Belt Way
Hamilton Mt, 59840



SEP 03 2019

Ravalli County Commissioners

September 3- 2019

Glenda Wiles
215 S 4th St. Suite A
Hamilton, MT 59840

RE: Skalkaho Bend Property No Concessions from Bitterroot Land Trust

Dear Glenda,

Hand Delivered

As you can see from the enclosed letter from the Bitterroot Land Trust, they have only agreed to put "No Trespassing" Signs on the South side of the property and put a bathroom on property in response to the thirteen requests from the nearby ranch owners. Judging from the past experience of the previous owner of this land, and the current owner of the adjacent land (see email from Gary Shook Attached) the "No Trespassing" signs will be quickly torn down. The Land Trust would not commit to replacement of the signs. The bathroom was something they already had planned.

All the rest of the surrounding landowner's concerns were swept aside with specious reasons. They said they could not tie the hands of the nearby Bell Property owner by promising not to alter their existing conservation easement already on the property, though of course trying the land owners hands are exactly what conservation easements are designed to do.

When we suggested a compromise asking them to agree in writing that no current staff member of the Bitterroot Land Trust or future Staff member and no current or future Board member would initiate publicity or approach the current or future owner of the Bell Property regarding extending the public trail by agreeing to public access over their property (currently under a BLT Conservation Easement that does not allow for public access) **they refused to even consider it. That is telling us they are indeed hoping to get public access for an extended trail over that land.** Otherwise there would be no impediment to such an agreement.

We asked for the fence at the south end to be built tall enough to prevent humans from going over it onto the neighboring property. They said no because that would inhibit wildlife from coming on the property. Apparently the Land Trust wants to encourage deer and elk to come into town via their proposed park. Everyone knows where there are deer and elk, mountain lions and bears follow. Apparently they think we should be encouraging all those critters to come right into town. Moose are to be made especially welcome in this new park. Everyone knows moose are the most aggressive, unpredictable and dangerous of all the wildlife. Can you picture a mom with baby in the jogging stroller running along the path, family dog on a leash encountering a moose? The dog starts barking causing the moose to charge. Recall just last year a hiker on a trail through the woods had to shoot a charging moose his dog barked at. Is that really a scene you want at your city park?

Wild game on a public park also provide a temptation to hunters. Every one of the nearby landowners has had to confront trespassers with loaded guns poaching game on our properties. In every case the poacher came on our private property via a public trail. This is a formula for disaster.

The Bitterroot Land Trust completely brushed off other requests saying it would be up to the city to determine those issues.

While its true these must be agree by the town of Hamilton, obviously the Bitterroot Land Trust could recommend them to the City. They are clearly uninterested in helping the surrounding and nearby landowners by supporting the items requested.

Since the Bitterroot Land Trust has made it clear they are not supportive of any viable protections for the surrounding and nearby landowners and they are not prepared to make any concessions or negotiate with the City to help us, **we can't recommend the county provide funds for this land.**

We ask the County Commissioners to negotiate with the Mayor and Council of Hamilton for these protections before the property is annex to the city.

This property was sold to The Land Trust way under list price by the previous land owner precisely because of the trespassing problem due to people coming on to the property illegally from the adjacent Kiwanis Park. "No Trespassing" signs were removed and fencing was cut by the trespassers coming in from the adjacent park. **This is criminal behavior. To expend County Funds and annex this county property rewards this criminal behavior.** The Bitterroot Land Trust announced in the Newspaper ten years ago they wanted a public trail all the way to Angler's Roost. Allowing them to get their way due to criminal behavior is called **Moral Hazard**. This will now encourage trespassing on the next piece of land until that owner gives up and sells it to them and so on.

It lowers the value of a property to be adjacent to a city park. The owners of the Bell Property to the north of this proposed park finally got a viable offer this year after five years on the market. The buyer called the County Planning Department as soon as it was disclosed there would be a nearby park. Upon verification of that possibility from the County, he withdrew his offer, stating specifically he did not want the trespassing problem that came from being near a public park. Please do not subject the surrounding County Land Owners to this hazard.

Sincerely yours,

Terry Ryan, Charlie Moody, Howard Lyon, Gary Shook.

PS: We were assured by BLT we would be notified about any hearings on this issue and that they would not take place until October. They did not notify us about this.

CC: Greg Chilcott
Chris Hoffman
Jeff Burrows
Glenda Wiles
Charlie Moody
Howard Lyons
Gavin Rickfels

From: Garry Shook garryshook@msn.com
Subject: Bitterroot Landtrust
Date: Aug 29, 2019 at 1:11:25 PM
To: Theresa Ryan tryan@eemail.com

Terry,

I appreciate your concern about the proposed transfer of land owned by the Bitterroot Land Trust to the City of Hamilton for a purposed public park.

This property borders over 2000' of my 64 acres tract on northern and western property lines. My property is a beautiful undeveloped tract that I currently use for grazing and personal enjoyment. When I purchased this land in 2005, it was bordered by land of similar character and use. I am concerned that this proposed transfer will change the basic nature of property sounding mine forever. This runs counter to the taxpayer funded BLT mission of preserving open land in Ravalli County while devaluing my property as rural ranch land.

Since announcement of the proposed transfer, there has been an alarming increase in trespassing activity on my property, that will only grow in magnitude as the park is developed. This is becoming a significant nuisance and safety/security concern.

I certainly support measures that would ensure my quiet enjoyment of my own 64 acres and fulfill the BLT's mission of preserving open space. I am sure other nearby property owners agree will me.

Garry T Shook

Sent from Garry Shook's iPhone

July 9, 2019

Terry Ryan
13 Orion Belt Way
Hamilton, MT 59840

RE: Response to Your 5/27/19 Letter

Dear Terry,

I received your letter dated 5/27/19 and mailed copies to those Bitter Root Land Trust (BRLT) board members you were unable to connect with individually. Thanks for your continued interest in and engagement on creation of the Skalkaho Bend Park. We're excited to see the project coming together in a way that creates a lasting community benefit, while respecting adjacent and nearby neighbors.

Per your request, I have included responses to the 13 concerns you raised (a scan of your original document is attached). Broadly speaking, many of the concerns you have raised are issues BRLT is unable to address because they relate to proposed City ordinances, use of law enforcement resources, or other resource allocations only a governmental entity can make. Where applicable, I've noted that below. Your concerns are included below in italics and my responses follow:

1). The City of Hamilton agrees to maintain an eight foot fence at the end of the Trail to the South.

While BRLT cannot make commitments on behalf of the City of Hamilton, we are currently working to install "No Trespassing" signage and fencing on multiple borders of the Skalkaho Bend Park. Because wildlife habitat and passage is an important value of the Skalkaho Bend Park, BRLT is not supportive of installing an eight foot fence. Adjacent neighbors have expressed similar concerns, wanting to ensure that any fencing constructed on the Park allows safe passage for wildlife.

2). The City of Hamilton agrees to put a sign up at the top to the fence that says: "This is the end of the trail. Thank you for not trespassing on private land that belongs to adjacent owners."

As I indicated in my letter dated May 2, 2019, BRLT has "already placed several (No Trespassing) signs on the property and fencing and additional signage will be installed this summer." Your May 27, 2019 letter indicated you walked the Skalkaho Bend Park's Southern boundary on May 23rd and did not find any No Trespassing signs. This is because the Park is not yet open to the public. In May, BRLT held several events to introduce the public to the Park prior to its grand opening, including a veterans' walk, an Audubon-guided birding tour, an opportunity for kids with autism to experience the park, and a general community introduction. These events provided opportunities for the community to get an initial look at the future Park and were guided by BRLT staff.

As indicated in my May 2nd letter, BRLT is in the process of installing signs and other infrastructure designed to reduce conflicts with adjacent neighbors. That work is ongoing. I'm pleased to report that, since your visit to the Park, No Trespassing signs

BITTER ROOT



LAND TRUST

BOARD MEMBERS

Jean Steele
President

Peggy Ratcheson
Vice President

Tonia Bloom
Secretary

Andy Massie
Treasurer

Roger Gantz

Gail Goheen

Kathie Messer

Tori Nobles

John Ormiston

Heather Riley

Lynn Thurber

Bret Young

EXECUTIVE DIRECTOR

Gavin Ricklefs

FARM & RANCH ADVISOR

Rob Johnson, Ravalli County
Extension Agent - *Retired*

PO Box 1806
Hamilton, MT 59840

406-375-0956

have been installed along the Southern boundary, though we intend to install several more prior to opening the Park to the public.

3). The City of Hamilton shall check the fence and the sign referred to above every week and replace them within 24 hours if damaged or missing. If the city of Hamilton fails to repair the fence or is missing the No Trespassing sign for longer than 24 hours, the adjacent landowner shall have the right to make repairs and or replace the sign and bill the City of Hamilton. Said bill shall be paid within 45 days.

BRLT cannot make commitments on behalf of the City of Hamilton. We have discussed the importance of maintaining these No Trespassing signs with City officials and will continue to do so prior to transfer. The City of Hamilton will conduct public meetings prior to taking title to the property and that will be a good time to provide your input.

4). Anyone trespassing from Skalkaho Bend Park onto private land, including on contiguous or nearby private land, shall be issued a citation by the County with a fine of \$200. Repeat violators shall be issued a citation with a fine of \$400.

BRLT cannot make commitments on behalf of the City of Hamilton but, as mentioned above, the City will conduct public meetings prior to taking title to the property and these concerns can be addressed at that time.

5). The County agrees to put these citations on the record the same as a traffic violation or jaywalking ticket. (Because the contiguous Land is not in the City)

Like many of the concerns related to the City listed above, this is a decision for Ravalli County and one BRLT cannot make any commitments to.

6). The Bitterroot Land Trust agrees not to advocate for or publicize any proposal or suggestion regarding extending the riverfront public trail to the south over private land without the written consent of the relevant land owner.

I addressed this concern in my email accompanying the May 2nd letter and have included those comments here:

Generally, the Land Trust will not publicize any proposal for extending the public recreation to private lands south of the park without consent from that private landowner. Our work is voluntary, market-based, and requires a landowner partner willing to exercise his or her private property rights in a sale or donation to the Land Trust. Our projects are completed at the direction of, and with full encouragement from, the private landowners with whom we work.

7). The Bitterroot Land Trust agrees not to change the Bell Property Conservation Easement South of the Skalkaho Bend Park to allow for a public trail at any time in the future.

I also addressed this concern in my email accompanying the May 2nd letter and have included those comments again here.

You also requested the Land Trust agree never to change the Bell conservation easement to allow for a public trail. While the Land Trust has no current plans to pursue a public trail on the Bell conservation easement or amend the easement's terms in any way, the landowner holds the right to invite members of the public onto the Bell conservation easement property, so long as such use does not harm the conservation values associated with the easement. As a matter of precedent, the Land Trust has never preemptively removed a possible public benefit (in this case a public trail on the Bell easement) at the request of a 3rd party. That would be an infringement on the Bell easement landowner's private property rights and

something the Land Trust can't agree to. I'm happy to discuss this further but wanted to make sure I provided you an update on this topic, as well as those discussed in the May 2nd letter.

I have read and considered the compromise you propose in your May 27th letter and our current position remains unchanged: While we have no plans to pursue a public trail on the Bell conservation easement, BRLT will not set a precedent of making promises to a 3rd party that influence our relationship with one of our conservation easement landowners (in this instance, the Bell property owners). This opens the door to neighbors or other 3rd parties attempting to impact or manipulate someone else's private property rights and BRLT won't be a party to such an agreement.

8). The City of Hamilton shall pay for any damage done by trespassers who come onto nearby private property from park premises. This applies to damage done by said trespassers within a mile radius of the park boundary. This is because once a person gets past the park boundary barriers there is nothing to stop them trespassing on the next properties over, as well as property contiguous to the park.

Both BRLT and the City are concerned about public/private conflict and are undertaking reasonable, proactive efforts to reduce those conflicts but, again, BRLT cannot make commitments on behalf of the City of Hamilton.

9). Dogs shall be kept on a leash at all times, no exceptions. The city of Hamilton shall give a citation with a fine of \$200 for a loose dog and \$400 for repeat offenders. The adjacent and nearby ranches run cattle, horses, yaks and sheep. If a Dog comes off Skalkaho Bend Park and trespasses onto adjacent or nearby private property, the County shall issue a \$200 citation to the dog owner, \$400 for repeat offenders.

BRLT is advocating for a leashed dog policy on Skalkaho Bend Park. The City of Hamilton will be the enforcement authority and discussion of any fines or penalties are best addressed by the City.

10). The City of Hamilton shall pay the landowner for any damage done by a dog coming off Skalkaho Bend Park within 45 days of receiving the bill.

BRLT cannot make commitments on behalf of the City of Hamilton but the public process associated with the transfer of the Park to the City is an appropriate time to further explore these concerns.

11). Whenever there is a meeting or a hearing regarding the Skalkaho Bend Park, all landowners from West of 93 to Westside Road, between Main and Roaring Lion shall be notified directly (not a newspaper ad) at least 72 hours prior to the event.

Public meetings and hearings related to the Skalkaho Bend Park (which I assume is the focus of concern #11) are scheduled by Ravalli County and the City of Hamilton. These meetings are generally noticed between 48 hours and 2 weeks in advance paper and we will do our best to provide you additional notice as we learn when such meetings are scheduled.. We remain months away from transferring the land to the City of Hamilton. As a result, I imagine most public discussions regarding the Skalkaho Bend Park will take place later this summer and this fall.

12). The City of Hamilton shall be required to have an outhouse or bathroom within 1/8 mile of the South end of the trail in Skalkaho Bend Park that shall be regularly (more than once a week) serviced. (This could a big selling point to nearby River Front owners because we are all tired of cleaning up piles of human feces.)

A bathroom facility will be constructed on the Skalkaho Bend Park prior to the park being opened to the community. It will be located on the bench in the central portion of the property and will hopefully alleviate some of the issues you reference in your letter.

13). No guns or hunting shall be allowed in the Skalkaho Bend Property. The City of Hamilton shall issue a \$500 citation to anyone carrying a handgun, shotgun, rifle or hunting bow. (The property at issue has been a favorite location for poachers. Most of the poachers we have seen on our land have accessed our private property through

public lands. This condition would go a long way towards reassuring nearby properties the new park won't be used to give poachers access.)

My understanding is that hunting is prohibited in City of Hamilton parks and Skalkaho Bend will be subject to the same prohibition against hunting.

Please let me know if you have any questions and thanks for the many positive investments you and Rob make to improve our community.

Respectfully,



Gavin Ricklefs
Executive Director

Cc:

Jean Steele
Peggy Ratcheson
Tonia Bloom
Andy Massie
Roger Gantz
Kathie Messer
Tori Nobles
John Ormiston
Heather Riley
Lynn Thurber
Bret Young
Greg Chilcott, Ravalli County Commissioner
Jeff Burrows, Ravalli County Commissioner (Chair)
Chris Hoffman, Ravalli County Commissioner
Terry Nelson, Ravalli County Planning Administrator
Glenda Wiles, Ravalli County

**Conditions Regarding Proposed Skalkaho Bend Park
for adjacent and nearby landowners in the County**

We nearby and/or adjacent property owners want to see the following conditions:

- 1). The City of Hamilton agrees to maintain an eight foot fence at the end of the Trail to the South.
- 2). The City of Hamilton agrees to put a sign up at the top to the fence that says: "This is the end of the trail. Thank you for not trespassing on private land that belongs to adjacent owners."
- 3). The City of Hamilton shall check the fence and the sign referred to above every week and replace them within 24 hours if damaged or missing. If the city of Hamilton fails to repair the fence or is missing the No Trespassing sign for longer than 24 hours, the adjacent landowner shall have the right to make repairs and or replace the sign and bill the City of Hamilton. Said bill shall be paid within 45 days.
- 4). Anyone trespassing from Skalkaho Bend Park onto private land, including on contiguous or nearby private land, shall be issued a citation by the County with a fine of \$200. Repeat violators shall be issued a citation with a fine of \$400.
- 5). The County agrees to put these citations on the record the same as a traffic violation or jaywalking ticket. (Because the contiguous Land is not in the City)
- * - 6). The Bitterroot Land Trust agrees not to advocate for or publicize any proposal or suggestion regarding extending the riverfront public trail to the south over private land without the written consent of the relevant land owner.
- * 7). The Bitterroot Land Trust agrees not to change the Bell Property Conservation Easement South of the Skalkaho Bend Park to allow for a public trail at any time in the future.
- 8). The City of Hamilton shall pay for any damage done by trespassers who come onto nearby private property from park premises. This applies to damage done by said trespassers within a mile radius of the park boundary. This is because once a person gets past the park boundary barriers there is nothing to stop them trespassing on the next properties over, as well as property contiguous to the park.
- 9). Dogs shall be kept on a leash at all times, no exceptions. The city of Hamilton shall give a citation with a fine of \$200 for a loose dog and \$400 for repeat offenders. The adjacent and nearby ranches run cattle, horses, yaks and sheep. If a Dog comes off Skalkaho Bend Park and trespasses onto adjacent or nearby private property, the County shall issue a \$200 citation to the dog owner, \$400 for repeat offenders.

10). The City of Hamilton shall pay the landowner for any damage done by a dog coming off Skalkaho Bend Park within 45 days of receiving the bill.

- 11). Whenever there is a meeting or a hearing regarding the Skalkaho Bend Park, all landowners from West of 93 to Westside Road, between West Main and Roaring Lion shall be notified directly (not a newspaper ad) at least 72 hours prior to the event.

- 12). The City of Hamilton shall be required to have an outhouse or bathroom within 1/8 mile of the South end of the trail in Skalkaho Bend Park that shall be regularly (more than once a week) serviced. (This could be a big selling point to nearby River Front owners because we are all tired of cleaning up piles of human feces.)

- 13). No guns or hunting bows shall be allowed in the Skalkaho Bend Property. The City of Hamilton shall issue a \$500 citation to anyone carrying a handgun, shotgun, rifle or hunting bow. (The property at issue has been a favorite location for poachers. Most of the poachers we have seen on our land have accessed our private property through public lands. This condition would go a long way towards reassuring nearby properties the new park won't be used to give poachers access.)