

## **AIRPORT BACKGROUND**

The Ravalli County Airport (Airport Location ID 6S5), serving the City of Hamilton and Ravalli County, is owned and operated by Ravalli County and has existed at its present location since the 1930's. Ravalli County Airport is geographically located in the Bitterroot River Valley of western Montana approximately one mile east of the City of Hamilton. The airport is approximately 50 road miles south of Missoula. Ground access to the airport is provided from Missoula or Darby via US Highway 93 to Hamilton, the Eastside Highway and local roads.

The airport is one of the busiest GA facilities in Montana and currently experiences nearly 23,600 operations (takeoffs or landings) each year and has 78 based aircraft, which include two jets and 7 multi-engine aircraft. It accommodates a variety of activities ranging from access for emergency medical services, disaster relief, aerial firefighting, law enforcement, agricultural services, flight training, charter passenger, recreational flying, and air cargo services.

According to the Airport Layout Plan (ALP), the airport is a B-II facility with non-standard conditions (primarily due to its substandard runway to taxiway separation distance). Existing facilities at Ravalli County Airport include Runway 16/34, a 4,200-foot long x 75-foot wide asphalt runway, and a full length 30-foot wide parallel taxiway with four connecting taxiways to the runway. The airfield has several asphalt apron areas, taxilanes of various widths for hangar access, a lighted wind sock and segmented circle, rotating beacon, and numerous hangars and other airport buildings.

Runway 16/34 is a visual approach runway oriented in a generally north-south direction. The runway has a standard medium intensity runway edge lighting (MIRL) system for aircraft to use during night operations or periods of low visibility. The airport runway does not have any Runway End Identifier Lights (REILs) but each runway end is equipped with Precision Approach Path Indicators (PAPIs). Ravalli County owns the PAPIs and the MIRL system at the airport.

Per FAA Advisory Circular 150/5325-4B, the minimum runway length recommended for the airport is 4,800 feet to accommodate 95% of the "small aircraft fleet." At 4,200 feet, Ravalli County Airport's runway length falls below the FAA's minimum recommended length to accommodate 95% of the "small aircraft fleet." A 5,200-foot-long runway would accommodate 100% of the "small aircraft fleet". The County seeks to provide a 5,200-foot-long runway to accommodate 100% of the "small aircraft fleet" with the appropriate lateral separations for its B-II categorization.

The parallel taxiway has a non-standard width of 30 feet and its centerline is only 200 feet from the runway's centerline. The airport was initially designed for use by small aircraft with shorter wingspans than the types of aircraft currently using the airport. As a result, a parallel taxiway at the facility should be 35-foot wide to comply with the FAA's current design standards for the types of aircraft using and expected to use the facility over the foreseeable future. Additionally, the runway to taxiway lateral separation distance does not meet the FAA's current design standards which require a minimum of 240 feet of separation distance between the runway and full-length parallel taxiway centerlines.

Return: Commissioners



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There are currently 57 hangar buildings used to house private and business aircraft, several businesses including two Fixed Base Operators (FBOs), a cafe, fueling facilities, U.S. Forest Service (USFS) buildings, and vehicle parking areas on the airport. Because of the large number of based aircraft, there are many hangars and there continues to be a strong interest in building hangars at the airport.

The existing apron areas are undersized and present concerns for the safe circulation of aircraft and for parking local and itinerant aircraft. Larger and more efficient apron areas are necessary as the number of aircraft using the airport increases.

The USFS maintains an office and three associated buildings on leased property in the northwest portion of the airport. The USFS facility serves as a headquarters for aerial fire suppression activities in the area.

There are no regularly scheduled commercial passenger flights at the airport although charter flights do occur. Ravalli County Airport lacks cargo facilities at the airport; however, companies such as UPS and USPS occasionally use the facility if other airports are unavailable.

## **PREVIOUS PLANNING**

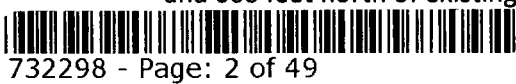
Planning for the proposed facility improvements has been a long and expensive process. It has been a long process because there was, and continues to be, a group of people organized as *Informing Citizens Against Airport Runway Expansion (ICAARE)*, that oppose expansion of the airport – especially lengthening the airport’s only runway. There have been several different County Commissioners throughout the more than 20-year process, and up until recent years, they have not had a majority of commissioners in favor of the project as presented in the planning recommendations. Listed below are planning efforts related to bringing the Ravalli County Airport to B-II standards:

### 1996 Airport Master Plan

In 1996, Ravalli County retained an airport engineer to prepare a Master Plan to examine aviation activity level, identify deficiencies, recommend needed facility modifications, and develop an Airport Layout Plan (ALP). The work completed for the 1996 Master Plan effort identified the appropriate design aircraft category for the Ravalli County Airport (ARC B-II) and developed numerous facility improvement concepts, including lengthening and relocating the runway, to accommodate use by such aircraft. However, the Master Plan and ALP were never completed. In August 2001, Ravalli County and the FAA mutually agreed to terminate the planning effort due to a lack of progress. The 1996 Airport Master Plan effort was conducted under AIP Grant 3-30-0037-003 issued in 1996 and refers to planning activities completed for the airport between 1996 and 2000.

### 2002 Airport Layout Plan Update

A 2002 effort to update the ALP revisited the recommended improvement concept from the 1996 Master Plan effort but dropped the concept in favor of new design configurations. Notably, two improvement concepts were identified that would provide a new 5,200-foot-long runway with either 240 feet or 400 feet of lateral separation distance between the runway and parallel taxiway. This planning effort resulted in an ALP that indicated a future 5,200-foot-long runway shifted 400 feet east and 600 feet north of existing Runway 16/34. The ALP was accepted by Ravalli County and approved by



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the FAA in June 2003 on the condition that relocating and extending Runway 16/34 could not be done without environmental review and approval.

2003 Environmental Assessment

In July 2003, Ravalli County began work on a National Environmental Policy Act (NEPA) Environmental Assessment (EA) to evaluate the potential environmental effects associated with improvements to primarily meet FAA design standards for runway to taxiway separation, comply with FAA guidance for recommended runway length, and address obstructions to Part 77 airspace and runway approaches. Several versions of the Draft EA for the airport were prepared between 2003 and 2008. In November 2008, a Final Draft EA was released for public review. This document was never finalized. In August 2009, Ravalli County determined additional analysis of the 2008 Draft EA was needed. The County requested: an update to the aviation forecasts; an evaluation of additional alternatives identified in the 1996 Master Plan and 2002 ALP planning effort; a review of potential relocation options; and a study of two additional development alternatives.

2010 Environmental Assessment

In June 2010, a revised Final Draft EA was released. A public hearing was held on August 31, 2010. Responses to comments received were incorporated into a Final EA dated November 2010. The Final EA was accepted by Ravalli County on November 17, 2010 and submitted to the FAA for a final environmental determination. In March 2011, the FAA prepared a draft Finding of No Significant Impact and Record of Decision (FONSI/ROD) for relocating Runway 16/34 and the decision document was made available for public review beginning on April 6, 2011. This project included relocating the runway 93-feet to the east, laterally from the existing runway. It also included shifting the runway north, longitudinally 1,000-feet. This alternative maintained the same runway length of 4,200-feet and required the acquisition of approximately 58-acres of land.

Some members of the newly elected County Commission held different opinions about the proposed airport development project and meetings were subsequently held in early 2011 to receive additional public comments and consider the implications of moving forward. On May 5, 2011, the Commission requested the FAA take no further action regarding the environmental determination because a majority of the commissioners did not believe the Proposed Action in the Final EA adequately addressed the future needs of the airport— primarily in the areas of runway length, apron space and hangar development space.

2012 Forecast Report

As a result, Ravalli County chose to undertake additional airport planning in 2011 to review current aviation activity at the airport, develop forecasts of future aviation activity, and elaborate on facility needs based on FAA design standards, policies, and guidance. Another major task of the planning effort was to revisit alternatives from the 2010 EA and determine if there are any new alternatives that merit consideration. The findings of this recent planning effort were presented in the 2012 Forecasting Report

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2017 Environmental Assessment

Along with the new airport planning work, Ravalli County initially intended to revise the EA prepared in 2010 and incorporate newly identified alternatives and update aviation forecasts and environmental information. However, through consultation with the FAA, the scope of work for the EA was expanded and a decision was made to prepare a new EA document incorporating relevant information from the 2010 EA and findings from the 2012 airport planning effort. Several supporting studies (air quality assessment, noise modeling, cultural resources report, and wetland evaluation) were prepared for the new EA. The analysis and findings from the new supporting studies have been incorporated into the new EA document and the FAA used the information as a basis for its environmental determination.

A Finding of No Significant Impact / Record of Decision (FONSI/ROD) determination was issued by the FAA's Northwest Mountain Region Administrator on January 27, 2017 for the *Proposed Action*.

ICAARE filed a lawsuit against the FAA on May 26, 2017 asking for a review of the Federal Aviation Administration's decision to approve the project. Oral arguments took place on December 26, 2018. The 9th U.S. Circuit Court of Appeals rejected the petition.

ICAARE could have appealed to the 9<sup>th</sup> Circuit Court for a re-hearing through February 1, 2019 and to the U.S. Supreme Court until March 18, 2019. ICAARE did not file an appeal to either Court.

The *Proposed Action* includes several major components:

- Construct a 5,200-foot-long by 75-foot-wide runway on a 17/35 orientation parallel to the existing runway. Shift the threshold of the new runway about 1,550 feet to the north and move it 400 feet east of the existing runway.
- Acquire approximately 126 acres of land for airport development;
- Acquire or rezone up to 113 acres of land for compatible land use (for the 65 DNL boundary outside of the minimum required land acquisition);
- Install wildlife fence around the perimeter of the newly acquired airport property;
- Relocate a portion of Stock Farm Road out of the RPZ;
- Convert existing runway into a "partial parallel taxiway" for the new layout;
- Perform preliminary grading and earthwork necessary to eventually extend the partial parallel taxiway to the end of Runway 17;
- Pave a portion of ultimate parallel taxiway (from the 16 end of the existing runway approximately 800 feet north to the first taxiway connector);
- Construct taxiway connectors from new runway to partial parallel taxiway;
- Install a new MIREL system for Runway 17/35;
- Install new NAVAIDS – windcone, segmented circle, and beacon;
- Relocate or replace the County-owned PAPIs;
- Remove the existing runway lighting system and NAVAIDS as the new runway becomes available for use;
- Install new taxiway edge lighting;



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- Reconstruct, reconfigure, and/or expand aprons and aircraft parking areas to increase capacity, efficiency and provide opportunities for future development;
- Remove trees posing obstructions to runway approaches; and
- Amend the existing instrument approach and departure procedures for the airport.

The second bulleted item, *acquire approximately 126 acres of land for airport development*, is the subject of this *Administrative Settlement* proposal.

Although there have been numerous discussions and correspondence with the landowners throughout the years during the historic planning efforts, formal consideration was not initiated by the County Commissioners until the EA was completed in early 2017.

## **DESCRIPTION OF PROPERTIES TO BE ACQUIRED**

**Attachment 1** (Airport Layout Plan's Exhibit 'A') depicts a map of the existing airport site, future runway location, and the proposed acquisitions.

The property to be acquired is currently owned by one landowner, Mildenerger Properties, LLC. All property adjacent to the existing east and north airport boundary, and a portion of the land west of the airport's boundary, are owned by Mildenerger. Mildenerger's property adjacent to the airport, including the property to be acquired, was previously subdivided into parcels ranging between 20 and 49.5 acres. Mildenerger's contiguous property holdings adjacent to the airport in Sections 20 and 29 exceed 600 acres.

All the property adjacent to the airport is currently used for agricultural purposes, primarily cattle grazing and irrigated hay production. Low density residential subdivisions lie further north of the subject property, scattered rural residential to the east of the subject property, and higher density residential south of the existing airport. The City of Hamilton lies approximately  $\frac{3}{4}$  mile west of the airport.

The properties to be acquired can generally be described as follows (See **Attachment 1**):

- A strip of land adjacent to the eastern edge of the existing airport property that averages about 500' in width and is just over 5,300 feet long. This strip contains five separate previously subdivided parcels totaling approximately 156 acres. The portions of these parcels to be acquired in fee includes approximately 60 acres (Parcels 10-C, 11-A-1, 11-A-2, 11-B, and 11-C). There are no uneconomic remnants. Four of these parcels are low-lying properties with high groundwater. The appraiser determined these four parcels have a highest and best use of agricultural as the property has high groundwater and the appraiser felt had an extremely low possibility for development of onsite septic. The appraiser determined that one parcel (Parcel 11-C) had a highest and best use of rural residential with accessory agricultural component, as a portion of the parcel is outside of the high groundwater area. All five of these parcels are historically used for agricultural grazing and there is a stream (Grid Creek) which runs through the northern end of this area.



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- Portions of four parcels of land to be acquired in fee north of the existing airport, centered on the proposed runway centerline. A total of 53 acres of the 60 subdivided acres is to be acquired (Parcels 10-A, 10-B, 10-D, 10-E) There are no uneconomic remnants. Most of this property is on an elevated bench and approximately half of these 53 acres are irrigated grazing land. The remaining portion is agricultural hay production irrigated with a center pivot system. The appraiser determined the highest and best use for the property would be for a rural residential site with an accessory agricultural component.
- An aviation easement on two parcels totaling 13 acres (Parcels 12-A and 12-B) north of the four described above and north of a private access (Stock Farm Road). These parcels protect a portion of the Runway Protection Zone (RPZ). This, in combination with the decision that Stock Farm Road can remain in place as a private road through the RPZ, will allow the Mildenbergers to keep that land in agricultural production if they so choose.

Appraisals to support the necessary land acquisition were initiated in the Fall of 2017. The parcels were appraised in accordance with FAA Advisory Circular 150/5100-17, Change 7 and FAA Order 5100.37B – Land Acquisition and Relocation Assistance for Airport Projects.

## **CHRONOLOGY**

- May 2017 – Landowner submitted a letter to the County Commissioners stating in part, “In an effort to keep the heritage of the historic Stock Farm intact, I have made the final decision not to sell the land necessary for the large expansion of the airport.”  
[http://ravallirepublic.com/news/local/article\\_4110cf95-23ce-5477-a56b-1e20e7330b2e.html](http://ravallirepublic.com/news/local/article_4110cf95-23ce-5477-a56b-1e20e7330b2e.html)
- October 2017 - Landowner submitted a proposal for conditions acceptable for them for the expansion of the airport. See **Attachment 2**. Those conditions did not meet the County’s purpose and need.  
[http://ravallirepublic.com/news/local/article\\_138e5640-f2f4-5867-8c51-299b377955c3.html](http://ravallirepublic.com/news/local/article_138e5640-f2f4-5867-8c51-299b377955c3.html)
- May 2018 - Appraisals were completed on the proposed acquisition. Review Appraisals were completed by the end of May 2018.
- October 2018 - Initial meeting with landowners. Presented offer of \$803,400 to Mildenberger and \$121,000 to Stock Farm Ranches for a total of \$924,400. Mildenberger informed the negotiator that they were in process of completing a trade with Stock Farms. That trade was completed on December 14, 2018 and recorded on January 8, 2019. With this trade, Mildenberger Properties, LLC owns all the property needed for the proposed airport improvements. The following concerns were expressed at this meeting:
  1. The landowner believes that the project is unwarranted.
  2. The landowner's proposal of October, 2017 was rejected.
  3. The landowner believes the property is worth \$21,000 per acre.
  4. The loss of acreage will impact the ranching operation as to make it no longer profitable.



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5. The aviation easement will create a loss in value to future subdivision development.
- November 2018 - Meeting with Brad Mildenerger, Dave Cotner, landowner's attorney, Jeff Burrows, County Commissioner, and Rick Donaldson, RPA. Numerous issues and potential for settlement were discussed. The landowner believes the property is undervalued and that there is a loss of value to the remainder due to two issues:
    1. Devaluation of the property (devalues subdivision potential) due to the proximity of the airport acquisition and aviation easement.
    2. The loss of acreage results in the ranching operation no longer able to sustain a profit. Mildenerger's are working on a separate land trade to offset the loss of acreage to the ranching operation.
  - January 2019 - Received settlement offer for \$5,410,600 from Mildenerger Properties, LLC. See **Attachment 3** that illustrates how the landowner arrived at this amount.
  - March 2019 – Following further negotiations, the Landowner verbally committed to settle for \$3,000,000 compensation. They then followed up with a written counter-offer on March 4, 2019. See **Attachment 4**.
  - March 2019 – Additional negotiations ensued to clarify “...issues that need to be resolved.” in the Landowner’s counter-offer. The result of that negotiation is the “Right-of-Way Agreement” included as **Attachment 5**. (Items 6. – 12. Address the issues to be resolved from the March 4<sup>th</sup> counter-offer.) Ravalli County believes the amount in the counter-offer (\$3M) can be easily justified as explained by this *Administrative Settlement* document.
  - The negotiator’s history summary is included as **Attachment 6**.

## **SETTLEMENT JUSTIFICATION**

Mildenerger's are prominent businessmen and ranchers in the Hamilton valley with significant financial resources and knowledge of the value of similar property in Ravalli County, which causes them to believe their land is worth more than the appraised value. They have provided additional market information that support land values of between \$13,800 to \$21,300 per acre compared to the FMV offers that ranged tightly around \$12,000 per acre for the 53 acres of irrigated grazing and hay production land being acquired. This represents an increase of 15% to 77%, an additional \$95,000 to \$493,000 for the 53 acres. The provided information did not include any appraisal information.

**Attachment 2** includes an estimate of damages in the amount of \$725,000 the Mildenerger’s claim they would incur to their existing irrigation systems due to the acquisition. The appraiser determined that there were no damages. The area with landowner concerns for irrigation damages was determined to have a highest and best use of rural residential with accessory agricultural component, not agricultural use. Therefore, the appraiser determined that potential agricultural impacts would not be applicable. Also in **Attachment 2** is Mildenerger’s estimated a loss of value of \$1,006,600 for 320 +/- acres adjacent to the



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new airport boundary. **Attachment 3** also states their belief that their property outside of the acquisition limits will be detrimentally impacted and that they should be compensated. As noted, the property had been previously subdivided. The appraiser used a before and after sales comparison approach for each parcel. This approach included an adjustment for influence of the airport for each parcel, as appropriate. Depending on the parcels' location, and highest and best use, the adjustment ranged from 0% to 40%. Also as noted, Mildenberger's own much more property adjacent to the airport and outside of the affected parcels. The appraisal did not consider potential loss in value for property outside of the affected parcels.

These items alone range from \$1,826,600 to \$2,224,600 in potential additional costs.

Mildenbergers have made it clear that their March 2019 settlement offer of \$3,000,000 is their final offer and that if we pursue condemnation, they will use their considerable resources to fight the project on a need and necessity basis and it will be as costly and time consuming as possible. It has been difficult to get responses from the Mildenbergers and to establish the details for negotiations. For these reasons, it can be concluded that they are not a willing seller.

As noted, the FONSI/ROD was legally challenged. Those individuals that challenged the FONSI/ROD would likely be interested in helping the landowner further delay the project.

Conversations with an MDT staff attorney indicated that Condemnation Commissions and juries are typically sympathetic with landowners and the loss in value to the remainder issues typically result in larger awards in condemnation actions. Although they are instructed not to, most condemnation commissions and juries in condemnation actions average the two values and try to hit a medium. This then triggers the attorney fee/costs provisions of the Montana Constitution and MCA §70-30-306 which require that if the landowner receives one dollar more than the final offer the condemnor must pay all the landowner's attorney fees and costs.

Montana is not a "quick take" state for highway projects until three-fourths of the right-of-way for a project has already been obtained. Applying this same principle, a quick take option would probably not apply since this project involves one land owner.

The County's Deputy Attorney provided the discussion as an estimate of attorney fees and other costs:

*"I expect the action would require a minimum of 3 years, two at the district court level and one at the MT supreme court. Given who the landowners are and their available resources, prosecuting the case will likely be more time consuming and more expensive than it might otherwise be.*

*Generally in a case like this, experienced lead counsel would be hired as well as an associate counsel for assistance. Lead counsel would probably charge somewhere around \$300 per hour; associate counsel around \$175 per hour. I would also estimate that lead counsel would bill 10 hours per week*



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*on average, and associate counsel twice that. That adds up over three years to \$450,000 for lead counsel and \$525,00 for associate counsel, for a total of \$975,000.*

*I would estimate the cost of defense to be more than that given the caliber of attorneys the landowners would likely hire.*

*Another significant cost of prosecution would be the cost of expert witnesses, which would likely include real estate appraisers and engineers. The cost of expert witnesses could be in the range of \$50,000 to \$100,000."*

Local area condemnation example: An article in the Missoulian by attorney Quentin M. Rhoades on September 25, 2018 summarizes the only condemnation case in the area that right-of-way acquisition experts noted. In regard to the City of Missoula Montana's public taking of a privately-owned water system, "... three years later, the dust has still not settled on the last of the litigation, and costs continue to rise. We paid about \$88 million for the water system, \$4 million for the other side's attorney fees, millions of dollars for bond issuance and other expenses, and \$9 million in our own attorney fees that are continuing to accumulate. All told, the city had to borrow \$140 million to buy a water system Engen (the Mayor) assured us was worth \$50 million." The article is included as **Attachment 7**.

The land acquisition negotiator for Ravalli County, Ron Olson, has had the occasion to negotiate land acquisitions with the Mildenbergers in the past for highway projects. In those negotiations, the Mildenbergers were reasonable but firm in their position. An administrative settlement was reached without condemnation.

Another factor to consider is the substantial increase in construction costs incurred by a delay. MDOT currently uses a 3% per year factor to project delays.

This settlement avoids condemnation and is in the best interest of the FAA, Ravalli County, the landowner and the public. **Attachment 8** contains opinion from the Sponsor's Deputy Attorney on likely condemnation costs.

Below is a summary that illustrates how the Sponsor believes the negotiated \$3,000,000 amount could easily be exceeded during a condemnation process since it does not include any damages or loss of value of adjacent property or landowner attorney fees. It also does not include any compensation for construction easements the Landowner has agreed to for earthwork/grading outside the property limits that may be necessary for airspace clearance in some locations.

Original Valuation	\$924,400
Expected Sponsor Attorney Fees:	\$975,000
Expert Witness and Appraiser Fees:	<u>\$100,000</u>
Total:	\$1,999,400
Construction Cost Escalation <sup>(1)</sup>	<u>\$1,112,724</u>
	<b>\$3,112,124</b>


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<sup>(1)</sup> \$12M worth of planned improvements times 3% construction cost escalation factor for three years.

  
\_\_\_\_\_  
Jeff Burrows  
Ravalli County Commission, Chairman

13 June 2019  
Date

  
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## Glenda Wiles

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**From:** Engebrecht, Steve (FAA) <Steve.Engebrecht@faa.gov>  
**Sent:** Thursday, June 13, 2019 4:13 PM  
**To:** Glenda Wiles  
**Subject:** RE: Emailing: 06-13-19 Administrative Settlement Land Acquisition - Airport

This will do Glenda. Thank you.

Steve L. Engebrecht, P.E.  
Lead Civil Engineer, Compliance Specialist Helena Airports District Office  
(406) 441-5407  
steve.engebrecht@faa.gov

-----Original Message-----

**From:** Glenda Wiles <gwiles@rc.mt.gov>  
**Sent:** Thursday, June 13, 2019 4:08 PM  
**To:** Engebrecht, Steve (FAA) <Steve.Engebrecht@faa.gov>  
**Cc:** 'Rick Donaldson' <RDonaldson@rpa-hln.com>; 'Lance Bowser' <lbowser@rpa-hln.com>  
**Subject:** Emailing: 06-13-19 Administrative Settlement Land Acquisition - Airport  
**Importance:** High

Greetings, this was on Commissioners Calendar this afternoon, with a Board decision to approve - here is the signed adm settlement.  
Steve, do you need the original? I want to record it, but I can print out another one for Jeff to sign and record that one if you need an original too. Let me know, Glenda Wiles, Ravalli County Commissioners Adm. Assistant 406-375-6500 gwiles@rc.mt.gov

Your message is ready to be sent with the following file or link attachments:

06-13-19 Administrative Settlement Land Acquisition - Airport

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.







**October 19, 2017**

**Ravalli County Commissioners**

**Re: Ravalli County Airport**

**Harold and I have been working on an acceptable solution that could be a win win for the aviators and the people of this county with a less invasive intrusion to the historic Stock Farm Ranch.**

- 1) Runway length 4500' – 4600' based on looking at engineering renderings and elevations to determine excavation slopes, cuts, etc. for the property to the north. This will allow us to evaluate whether the irrigation pivot can remain in place.**
- 2) South end of runway stays in the same place in relationship to north and south.**
- 3) Move runway over 45' – 90' to the east to provide separation.**
- 4) We agree to sell up to eight acres at the north end of the runway.**
- 5) Agree to grant avigation easement to the north up to 400' additional from current easement, not to exceed Stock Farm Road. The lesser of the two.**
- 6) Will grant permission to cut cottonwood trees and remove stumps to the north on Stock Farm Road as needed.**
- 7) We believe there are three components to valuation for compensation:**
  - a) Avigation easement**
  - b) Mining of gravel**
  - c) Eight acres of property rectangularly north of the present county property**

Time is of the essence. This offer is revocable in whole after one hundred eighty (180) days from October 20, 2017 unless a reasonable defined agreement has been reached. As an additional consideration to help all involved, we are willing to donate the land portion only of eight acres that we believe to have a value of plus or minus \$160,000.00 to the county to put towards the matching funds, and perpetuate this forward with all the above stipulations starting with number one.

Once again, we are in favor of a safer expanded airport just not in the present approved configuration.



Harold Mildenberger



Brad Mildenberger

**Response to county commissioners and FAA regarding Ravalli County Airport.**

**In November 2018, we received your offer to acquire property for the expansion of the county airport. We presented our concerns to the engineer and the county commissions on the configuration of the proposed new airport and the damage to our historic ranch, The Stock Farm.**

**On October 19, 2017 we gave a letter to the commissioners with a one hundred and eighty day window to reach an agreement, proposing an alternative to accommodate land, aviation concerns and safety. No progress was made.**

**Now as we look at an appraisal for purchase of property it seems the appraiser has very little respect of our long strong cattle operation and cost to replace acreage with equivalent production, or practical common sense of the loss of development value. The growth of Hamilton and Corvallis has continued to surround our borders.**

**We have made it clear to the commissioners we don't oppose a new airport but we disagree with the configuration. Our family has given this much consideration on a potential solution that can mediate the least impact to the ranch and accommodate a long term irrigation plan and cattle operation considering much diminished development value, and arrive at a dollar amount that enables us to exchange for real property adjacent to our ranch.**

**The ranch presently is efficient in its cattle operation to maintain at least a break even financial status. We are not selling any ground without the option to exchange for adjacent productive ground and be compensated for the reconfiguring and infrastructure of the irrigation system, power, underground piping, trees and crops.**

**To have the possibility of acquiring adjacent property, first we need to establish a price that makes this possible. I have enclosed land transactions that are adjacent to our ranch which sold and the settlement statements for some and appraisals for some that we can option to buy. For example the Virginia Dodge property \$21,200 per acre and an appraisal to support it. 106.5 acres bought by the county adjacent to the south of the airport practically non buildable due to its location. 1.2 million, \$11,267 per acre. The Flat Iron property adjacent 400 acres \$15,000 per acre. Arrow Hill Ranch 265 acres 5.15 million, \$19,433 per acre. Ranches at the Stock Farm 560 acres \$17,000 per acre. We have supporting documents and can provide them if necessary.**

**To put this transaction together, a few things need to fall into place. Agree to the payment of the damages and avocational easement as described on a separate sheet.**

**Secondly, it's important for us to 1031 exchange the 165 acres. We have a willing adjacent land owner for the exchange who should be compensated at a reasonable market value. To accommodate our ranching operations and accommodate this transaction, the value to acquire the property is \$21,000 per acre.**

**After twenty years trying, this is the opportunity to get this project done. I'm confident after my meeting with the engineer Rick Donaldson, and commissioner Jeff Barrows we can work through the details.**

Avocational easement damages: \$1,945,600.00  
Property price: 3,465,000.00 (\$21,000 X 165 acres)  
\$5,410,600.00

See attached: Arrow Hill sale. 265 acres. Neighboring acreage.

See attached: Flat Iron. Transaction adjacent acreage. 400 acres.

See attached: Virginia Dodge property. 102 acres adjacent with prior appraisal.

## Avigational Easement and Damages

### Irrigation –

Move present wheel line. Relocate including pump, trenching and pump house, and cleaner cage	\$73,000
New pivot with arms installed; approximately 1350' with retractable arm. Trenching, pump, pump house, cleaner cage	\$283,000
Pivot to the North – reconfigure the Irrigation for long term hold as agriculture includes trenching, pump, cleaner cage, misc.	\$219,000
Relocate underground line from East and West, approximately one mile, pipe trenching we will use our extra, pump, pump house, cage cleaner	\$54,000
Trees – removal of trees in field east of proposed runway. Replant hybrid poplars on road ways. 70 trees drip system – 2 year maintenance plan	\$56,000
Power removal and relocate REA Co-op	\$40,000
<b>“Contingency”</b> – depending on the time of year – cost of replanting production ground to east of proposed runway. 160 acre area - \$165.00 per acre plus seed	\$45,000
<b>“Contingency”</b> – Loss of one year of hay production on 160 acres. To buy: 160 x 5 ton per acre. 800 ton to purchase and deliver round bails at \$180 per ton	\$144,000
<b>Avigation easement</b> – the proposed 13.1 acre avigation easement valued at \$206,600. We feel an additional \$800,000 must be added to the 13.1 acre easement value due to the greater long term effect to the 320 +/- acres remaining of land adjacent to the proposed runway in perpetuity.	\$1,006,600

### Contingency on runway construction:

As discussed with Commissioner Jeff Burrows, FAA Engineer Rick Donaldson: fencing, grading elevations. Mulch to redress the excavated ground. No structure build zone east of the runway and east and west on the bench on the north half of the runway. We want to work together in implementing the least impact to the historical ranch as possible.

### Personal Contract:

This job will take approximately one year to implement the necessary changes. Contracts for excavation, pipe, power, culverts, design, etc. We have added an administrative fee.

\$25,000

**TOTAL COST: \$1,945,600**



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# COTNER LAW

---

PLLC

2700 RADIO WAY  
MISSOULA, MT 59808  
PH (406) 541-1111  
FX (406) 541-1122

DAVID B. COTNER  
KYLE C. RYAN  
ERIC R. HENKEL  
MEGAN M. MELVIN

MARCH 4, 2019

Olson Land Services  
Attn. Ron Olson  
1264 Landmark Dr.  
Helena, MT 59601

[olsonlandservices@gmail.com](mailto:olsonlandservices@gmail.com)

Re: My Clients: Mildenberger Properties, LLC

Dear Ron:

Initially let me thank you for your patience in letting the Mildenberger family consider their options with respect to the property acquisition, and the creation of an easement upon land owned by Mildenberger Properties, LLC for the expansion of the Ravalli County Airport. After much thought, Mildenberger Properties, LLC has authorized me to extend the following proposal.

## Rationale

- The Mildenbergers considered several factors in presenting this proposal. First, the Mildenbergers investigated the real estate market to determine the value of the real property. As you may know, there is probably no family in Ravalli County that better knows land values than the Mildenbergers. They also have given consideration that their family will be required to transfer property which has been used for business operations. Mildenbergers recognize that their business operations will be directly impacted which will require a significant expenditure to modify their operations. The Mildenbergers also considered the cost savings of entering into a transaction at this time. As you know, if an agreement cannot be reached, there could be substantial expense in attorneys and appraisers, expenses which can be avoided if an agreement can be reached. Most importantly, the Mildenbergers desire to work with the FAA and Ravalli County in achieving their collective desire in expanding the airport.



- I personally had discussions with an out of state attorney specializing in eminent domain and appropriate compensation for any taking. I have also had discussions with an appraiser that specializes in airport construction and expansions. Both are anxious and willing to become involved. Both have expressed to me that there is land outside of the fee and easement property to be conveyed which will be detrimentally impacted by the airport expansion. That detrimental impact likely should be the subject of additional compensation. However, instead of retaining these individuals and delaying the process by no less than six months, and possibly as much as two years, Mildenbergers felt compelled to make a definitive proposal as set forth in this letter.

#### Offer

- Mildenberger Properties, LLC has agreed to transfer 123-acres and create an avigation easement on approximately 11-acres, as well as make the necessary modifications to their ranch, in exchange for a total payment of Three Million Dollars (\$3,000,000.00). While the Mildenbergers recognize that this offer is more than the FAA have agreed to pay it is the minimum amount that Mildenberger Properties, LLC can take to make the commitment to transfer the fee property and create the necessary easements.

If the monetary proposal is acceptable, we are proposing a meeting with the necessary representatives at Ravalli County and the FAA, as well as any other project coordinators to discuss issues that need to be resolved. Based on our prior discussions, I have no doubt that a meeting of the minds on these issues will occur. Those issues, without limitation, include the following:

- Mildenberger Properties, LLC desires to reserve the right to complete a 1031 Exchange with some or all of the sale proceeds.
- Mildenberger Properties, LLC must reserve for its business operations an easement, under the airport runway, for the purpose of installing and maintaining a pipeline used for irrigation purposes.
- Fencing and slope issues must be discussed and agreed upon.
- In general, all construction features must be set forth with specificity in a mutually agreed upon right-a-way agreement.
- A restriction that prohibits hangers or other above ground improvements (excepting by definition fencing) from the area lying to the east of the runway after construction.



The Mildenbergers have made every effort to set forth a price that it believes to be the minimum lost value and other out of pocket expenses they will sustain. A significant benefit is that this offer, presented in writing, can be accepted by merely confirming the acceptability of the offer and scheduling a meeting to coordinate and agree upon other issues. In lieu of continued discussions and delay we all would then be in a position to begin processing the necessary paperwork.

This proposal is extended in good faith. The Mildenbergers, long time residents of Ravalli County want to assist the county and the FAA in improving the airport and providing to the county the collateral benefit that comes from these steps.

If you need any clarification with respect to this offer, please contact the undersigned directly.

Thank you.

Sincerely,

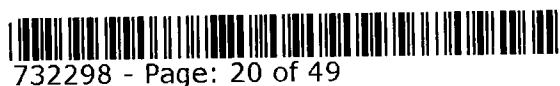
COTNER LAW, PLLC

A handwritten signature in black ink, appearing to read 'David B. Cotner', written over a horizontal line.

David B. Cotner

DBC/ah

cc: Harold Mildenberger  
Brad Mildenberger



---

# COTNER LAW

---

PLLC

2700 RADIO WAY  
MISSOULA, MT 59808  
PH (406) 541-1111  
FX (406) 541-1122

DAVID B. COTNER  
KYLE C. RYAN  
ERIC R. HENKEL  
MEGAN M. MELVIN

APRIL 1, 2019

Olson Land Services  
Attn. Ron Olson  
1264 Landmark Dr.  
Helena, MT 59601

[olsonlandservices@gmail.com](mailto:olsonlandservices@gmail.com)

Re: My Clients: Mildenberger Properties, LLC

Dear Ron:

Enclosed you will find the County of Ravalli Right-of-Way Agreement signed by Harold Mildenberger and Brad Mildenberger. The changes made to the draft you forwarded to me include the following:

- Paragraph 10 is new. This gives the right for Mildenberger Properties, LLC to complete a 1031 Exchange.
- With respect to Stock Farm Road, as referenced in Paragraph 11, you will note that I have added language that the ingress and egress rights will not be impacted.

Let me know if the changes create any concern.

Once the County of Ravalli Right-of-Way Agreement is fully signed, please return to me a conformed copy.

Thank you.

Sincerely,  
COTNER LAW, PLLC

ELECTRONICALLY TRANSMITTED

---

David B. Cotner

DBC/ah  
Encl.



**COUNTY OF RAVALLI  
RIGHT-OF-WAY AGREEMENT**

**RAVALLI COUNTY AIRPORT IMPROVEMENT PROJECT**  
**FAA PROJECT NO.: 17004.00**

Parcel	Subdivision	Section	Township	Range
10-A	W½SW¼NE¼	20	6N	20W
Parcel 10-B	Subdivision W½NW¼SE¼	Section 20	Township 6N	Range 20W
10-C	W½SW¼SE¼	20	6N	20W
10-D	E½SE¼NW¼	20	6N	20W
10-E	E½NE¼SW¼	20	6N	20W
11-A-1	COS 723	29	6N	20W
11-A-2	NE¼	29	6N	20W
11-B	W½SW¼NE¼	29	6N	20W
11-C	NW¼SE¼	29	6N	20W
12-A	W½NW¼NE¼	20	6N	20W
12-B	E½NE¼NW¼	20	6N	20W

**MILDENBERGER PROPERTIES, LLC**  
**P O Box 633**  
**Hamilton, MT 59840**

1. In consideration of the payments herein set forth and the specific agreements to be performed by the parties hereto and written in this agreement, the parties bind themselves to the terms and conditions stated herein. No verbal representations or agreements shall be binding upon either party. Grantor certifies that any encumbrances on the property are shown on this agreement. This agreement is effective upon execution by Ravalli County or a designated representative, and possession of the property is granted to the County of Ravalli when it sends the payment(s) agreed to below. Grantors contract that they will, on County of Ravalli's request, execute a deed and/or easement required by County of Ravalli for all real property agreed to be conveyed by this agreement.

2. **COMPENSATION FOR LAND AND IMPROVEMENTS (List acreage and improvements to be acquired.)**

- Parcel 10-A  
17.8 acres (775,666 sq. ft.) In Fee
- Parcel 10-B  
17.2 acres (748,590 sq. ft.) In Fee
- Parcel 10-C  
16.6 acres (721,516 sq. ft.) In Fee
- Parcel 10-D  
8.7 acres (379,279 sq. ft.) In Fee
- Parcel 10-E  
9.4 acres (407,597 sq. ft.) In Fee
- Parcel 11-A-1  
6.1 acres (267,686 sq. ft.) In Fee
- Parcel 11-A-2  
10 acres (434,536 sq. ft.) In Fee
- Parcel 11-B  
15.2 acres (661,861 sq. ft.) In Fee
- Parcel 11-C  
12.1 acres (528,409 sq. ft.) In Fee
- Parcel 12-A  
9.0 acres (391,604 sq. ft.) by Avigational Easement
- Parcel 12-B  
4.1 acres (178,168 sq. ft.) by Avigational Easement



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Project: Ravalli Airport Relocation

(Continued from Previous Page)

## 3. OTHER COMPENSATION:

Loss in value to the remainder  
Temporary Construction Permit

4. TOTAL COMPENSATION (includes all damages to the remainder): \$3,000,000.00.

## 5. IT IS UNDERSTOOD AND AGREED THE STATE SHALL MAKE PAYMENT AS FOLLOWS:

A warrant in the amount of \$3,000,000.00 to be made payable to Mildenerger Properties LLC, and mailed to PO Box 630, Hamilton, MT 59840.

6. **Easement for installing and maintaining an irrigation pipeline**

The County and FAA agree that an easement to route irrigation main(s) across the acquired properties and easements may be acceptable as part of the agreement provided they are below ground and not in any areas in which the easement will impede planned future development. The easement cannot be within the footprint in the pavement section of the proposed runway or taxiways shown on the Master Plan and EA documents. Installation, maintenance, and repair of the irrigation mains will be Mildenerger's responsibility. A signed easement will be required which will specify the requirements for accessing the property and complying with FAA safety requirements for maintenance and repair operations.

7. **Fencing**

Fencing will be just within or on the property line established by the acquisition for the fee acquisitions. It is expected that the easement portion of the acquisition (Parcels 12-A and 12-B) will not be fenced. Fencing will consist of a 9 to 10-foot high wildlife fence. The fabric of these fences is relatively open as compared to chain link.

8. **Slopes**

For most of the area, slopes related to the improvements must follow FAA grading criteria both longitudinally and transversely across the site. Attached are the FAA's requirements for longitudinal (Figures 3-21) and transverse grades (Figure 3-23). Our engineers will endeavor to keep longitudinal grades as flat as possible since flatter is more desirable for all aircraft. Transversely, our engineers have some latitude as illustrated on Figure 3-23 and annotated with red text. The most flexibility is in the "S-4" region and beyond. The engineers may flatten these areas to balance cut and fill needed. Permission is hereby granted the County and/or its contractors to enter upon the Grantors' land for the earthwork and reclamation that occurs outside the acquisition lines to meet the FAA standards. Reclamation would include replacement of topsoil stripped from the existing surface, seed, fertilizer and mulch. It is understood and agreed that temporary construction permit will commence on the date the County gives its contractor notice to proceed with construction of this project. It is further understood and agreed that upon the completion of the construction of improvements within the temporary construction permit, said improvements will be considered the sole property of the Grantors and the maintenance and repair of said improvements will be the responsibility of the Grantors.

9. **Construction features agreement**

Feature of an FAA supported development are highly restricted to many standards to be eligible for their funding. These features generally cannot be modified, but they can certainly be listed "with specificity". However, there are so many details in the design of an airport, we would need to determine where to draw the line.

A reasonable example might be:

- 75' wide paved runway in the location shown on the Airport Layout Plan
- 35' wide paved parallel taxiway
- Culverts and improvement necessary for crossing Gird Creek.
- 9' Wildlife Fence
- Precision Approach Path Indicators (PAPIs)
- Runway and Taxiway Lighting
- Wind Cone and Segmented Circle

These are all items indicated on the Airport Layout Plan.

10. **Section 1031 Like-Kind Exchange**

Mildenerger Properties, LLC intends for this transaction to be part of a Section 1031 like-kind exchange. FAA shall cooperate in the completion of the like-kind exchange provided FAA does not incur any additional liability or cost in

Project: Ravalli Airport Relocation

(Continued from Previous Page)

doing so. Mildenerger Properties, LLC may assign its rights under this Agreement to a qualified intermediary or any entity expressly created for the purposes of completing a Section 1031 like-kind exchange.

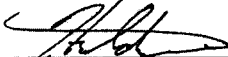
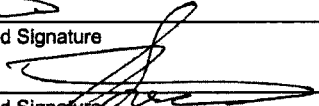
**11. Additional Items**

Grantors agree to cooperate to extinguish encumbrances as necessary on the property's title including the Montana Power Right-of-Way Easement. Existing easements along Stock Farm Road remain in place and the use of (ingress and egress) Stock Farm Road shall not be impacted.

**12. Tree Removal**

Grantors agree to allow the County to remove trees along Stock Farm Road that interfere with the new runways approach slope and other airspace surfaces such as the 7:1 transitional surface.

THE PARTIES HERETO HAVE EXECUTED THIS AGREEMENT ON THE DATES SHOWN:

	4-1-19.
Signature: Authorized Signature	(Date)
	4-1-19
Signature: Authorized Signature	(Date)

RECOMMENDED FOR APPROVAL:

APPROVED FOR AND ON BEHALF OF COUNTY:

\_\_\_\_\_  
Ronald E. Olson - Olson Land Services (Date)

\_\_\_\_\_  
Ravalli County Commissioner (Date)

\_\_\_\_\_  
Consultant Project or RW Manager (if applicable) (Date)

\_\_\_\_\_  
Ravalli County Commissioner (Date)

\_\_\_\_\_  
Ravalli County Commissioner (Date)

RCA.R-W Agreement



**PARCEL ACQUISITION HISTORY**

**LANDOWNER INFORMATION**

Landowner Name, Address & Phone # (address should indicate where copy of completed agreement should be mailed)

MILDENBERGER PROPERTIES, LLC  
 P O Box 630  
 Hamilton, MT 59840

Telephone Number: Home \_\_\_\_\_ Work \_\_\_\_\_ Other Brad Cell -

**From:** Ron Olson [mailto:olsonlandservices@gmail.com]  
**Sent:** Thursday, October 11, 2018 11:46 AM  
**To:** 'Rick Donaldson'  
**Cc:** 'Jeff Burrows - Ravalli County (jburrows@rc.mt.gov)'; 'Page Gough - Ravalli County Airport (pgough@rc.mt.gov)'; 'David R. Hedditch (drh29@bitterroot.com)'  
**Subject:** RE: Ravalli County Airport - Land Acquisition Negotiations

I have a meeting set for next Tuesday with Brad Mildenerger. I'll let you know how that goes. He told me over the phone that they don't want the project.

Thanks

Ron

**October 16, 2018**

Met with Brad and Harold at Mildenerger Motors. Made written offers as follows (consistent with the appraised fair market value for their highest and best use and full amount of just compensation):

**Mildenerger Properties, LLC**

<u>Parcel</u>	<u>Acres</u>	<u>Offer</u>
10-A	17.8	\$219,540.00
10-B	17.2	\$204,800.00
10-C	16.6	\$ 33,200.00
10-D	8.7	\$102,660.00
10-E	9.4	\$ 37,600.00
12-A	9.0	\$124,000.00
12-B	4.1	\$108,800.00
TOTAL	82.8	\$830,600.00

**Stock Farm Ranches LLC**

<u>Parcel</u>	<u>Acres</u>	<u>Offer</u>
11-A-1	6.1	\$ 12,278.00
11-A-2	10	\$ 19,922.00
11-B	15.2	\$ 29,000.00
11-C	12.1	\$ 60,500.00
TOTAL	43.4	\$121,000.00

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Mildenergers are not in favor of the project because of the impacts of the design and the belief that the project is not needed. They believe the loss of ground will cause the operation of the Stock Farm Ranch to run at a loss. Brad showed me his plans for reconfiguring his irrigation wheels to facilitate increased hay production. Said he would also need additional ground to replace the lost acreage. Additionally, they believe the avigation easement will adversely effect the future use of the property as a subdivision.

They also informed me that they are in the process of doing a land trade with Stock Farm Ranches LLC (Charles Schwab) and they would end up owning all of the parcels. That trade was completed on December 14, 2018 and recorded on January 8, 2019.

We agreed to let them consider the offer and information and then meet again at a later date.

---

**October 19, 2018**

Brad called and asked for electronic files for all of the paperwork.

---

**From:** Ron Olson [mailto:olsonlandservices@gmail.com]  
**Sent:** Monday, October 22, 2018 1:30 PM  
**To:** Brad Mildenerger  
**Cc:** 'Ron Olson'  
**Subject:** Ravalli County Airport - Parcel 10-A and 10-B

Brad

I'll be sending you the files for all the paperwork I left with you. I'll do 2 parcels at a time.

Thanks

Ron

---

**From:** Ron Olson [mailto:olsonlandservices@gmail.com]  
**Sent:** Monday, October 22, 2018 2:39 PM  
**To:** Brad Mildenerger  
**Cc:** 'Ron Olson'  
**Subject:** Ravalli County Airport - Summary Offers, and Appraisal Revisions

Brad

Here's the Summary Offers, Appraisal Revisions, and Exhibits for Stock Farm and Mildenerger.

Thanks

Ron

---

**From:** Ron Olson [mailto:olsonlandservices@gmail.com]  
**Sent:** Monday, October 22, 2018 2:41 PM  
**To:** Brad Mildenerger  
**Cc:** 'Ron Olson'



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**Subject:** Ravalli County Airport Sales Catalog and Supplemental Sales

Brad

Here are the sales that were used for the appraisals.

Thanks

Ron

---

**From:** Rick Donaldson [mailto:RDonaldson@rpa-hln.com]  
**Sent:** Wednesday, October 24, 2018 2:58 PM  
**To:** Ronald Olson  
**Subject:** Re: Ravalli County Airport - Land legal fees question

No one has expressed an expectation. I have not suggested or offered it. (Just keeping you in the loop.)

I think it would be good to have all parties at the table, but this seems like one the FAA would traditionally avoid.

I'm all for FAA attendance and can get you included if you'd like. (Two heads are better than one in these settings.). If so, let me know your availability. Thanks.

**Rick Donaldson, P.E. | Vice President**  
Robert Peccia & Associates Inc. | [PO Box 5653 | Helena, MT 59604](#)  
[406.447.5000](#) (o) | [406.447.5036](#) (f) | [406.439.4905\(m\)](#) | [rdonaldson@rpa-hln.com](mailto:rdonaldson@rpa-hln.com)  
<http://www.rpa-hln.com>

---

**From:** Rick Donaldson [mailto:RDonaldson@rpa-hln.com]  
**Sent:** Monday, October 29, 2018 9:02 AM  
**To:** Ronald Olson ([olsonlandservices@gmail.com](mailto:olsonlandservices@gmail.com))  
**Cc:** Jeff Burrows - Ravalli County ([jburrows@rc.mt.gov](mailto:jburrows@rc.mt.gov))  
**Subject:** Ravalli Co Airport - Land

Ron,

The FAA will not be participating in any meeting we set up.

They do not want to get involved in an alternatives discussion – particularly with the on-going legal proceedings over the EA.

<image001.png>**Rick Donaldson, P.E. | Vice President**  
Robert Peccia & Associates Inc. | [PO Box 5653 | Helena, MT 59604](#)  
[406.447.5000](#) (o) | [406.447.5036](#) (f) | [406.439.4905 \(m\)](#) | [rdonaldson@rpa-hln.com](mailto:rdonaldson@rpa-hln.com)  
<http://www.rpa-hln.com>

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On Oct 30, 2018, at 1:33 PM, Ron Olson <[olsonlandservices@gmail.com](mailto:olsonlandservices@gmail.com)> wrote:



OK

We are set to meet Brad at Cotner Law at 2700 Radio Way, Missoula, MT 59808 at 8:30am on Thursday. It's out by Home Depot off Reserve.

Jeff,

Brad asked if you could meet him at the dealership at 7:30. I assume he wants to show you the way or maybe ride together? Not sure.

Can you call him and let him know?

Thanks

---

### NOVEMBER 1, 2018 MEETING AT DAVE COTNER'S OFFICE

Meeting with Brad Midlenberger, Dave Cotner, landowner's attorney, Jeff Burrows, County Commissioner, and Rick Donaldson, RPA. Numerous issues and potential for settlement were discussed. The landowner believes the property is undervalued and that there is a loss of value to the remainder due to two issues:

1. Devaluation of the property (devalues subdivision potential) due to the proximity of the airport acquisition and avigation easement.
  2. The loss of acreage results in the ranching operation no longer able to sustain a profit. Mildenerger's are working on a separate land trade to offset the loss of acreage to the ranching operation.
- 

**From:** Ron Olson <olsonlandservices@gmail.com>  
**Sent:** Saturday, November 3, 2018 1:29 PM  
**To:** Dave Cotner <dcotner@cotnerlaw.com>  
**Cc:** Brad Mildenerger <brad@mildenergermotors.com>  
**Subject:** Right-of-Way Appraisers

Dave

Here's a list of appraisers that have done right-of-way work:

Dave Thomas  
Thomas Appraisal Services Inc  
Po Box 965, Lewistown, MT 59457  
(406) 538-6618

  
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Kraig Kosena  
Kembel, Kosena & Company, Inc.  
PO BOX 16653  
Missoula MT 59808-6653  
432 West Spruce Street, #101 (59802)  
(406) 549-6151

[kraigk@kkmontana.com](mailto:kraigk@kkmontana.com)

Charels Rutherford  
Rutherford & Associates  
2320 3rd Avenue N.  
Billings MT 59101  
[\(406\) 245-5400](tel:(406)245-5400)

Ellie Clark  
Clark Real Estate Appraisal, Inc.  
704-C E. 13th Street  
#509  
Whitefish MT 59937  
[\(406\) 862-8151](tel:(406)862-8151)  
[eclark@clarkappraisal.us](mailto:eclark@clarkappraisal.us)

Steve Repac  
The Appraisal Group, LTD  
1533 Clark Ave  
Billings, Mt 59102  
[\(406\) 248-3945](tel:(406)248-3945)

Thanks

Ron

---


**From:** Dave Cotner [mailto:[dcotner@cotnerlaw.com](mailto:dcotner@cotnerlaw.com)]  
**Sent:** Sunday, November 04, 2018 1:15 PM  
**To:** Ron Olson  
**Cc:** Brad Mildenerger  
**Subject:** RE: Right-of-Way Appraisers

Thank you Ron.

DAVID B. COTNER  
COTNER LAW, PLLC  
2700 Radio Way, Missoula, MT 59808  
(406) 541-1111  
[www.cotnerlaw.com](http://www.cotnerlaw.com)

---

**From:** Rick Donaldson [mailto:[RDonaldson@rpa-hln.com](mailto:RDonaldson@rpa-hln.com)]  
**Sent:** Tuesday, November 13, 2018 11:43 AM  
**To:** [dcotner@cotnerlaw.com](mailto:dcotner@cotnerlaw.com)  
**Cc:** Ronald Olson ([olsonlandservices@gmail.com](mailto:olsonlandservices@gmail.com)); Brad Mildenerger - Mildenerger Motors ([brad@mildenergermotors.com](mailto:brad@mildenergermotors.com))  
**Subject:** RE: Mildenerger meeting

  
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Dave,

I thought I would check in with you regarding the progress on a counter-offer.

Aside from our meeting and the email below, the only land related items I am aware of includes a progress meeting I had with the Airport Board last week where those members inquired about the status of possible land acquisition.

Let me or Ron know if there is anything we can do to help.

Thanks.



**Rick Donaldson, P.E. | Vice President**

Robert Peccia & Associates Inc. | PO Box 5653 | Helena, MT 59604  
406.447.5000 (o) | 406.447.5036 (f) | 406.439.4905 (m) | [rdonaldson@rpa-hln.com](mailto:rdonaldson@rpa-hln.com)  
<http://www.rpa-hln.com>

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**From:** [4064316854@mms.att.net](mailto:4064316854@mms.att.net) [mailto:[4064316854@mms.att.net](mailto:4064316854@mms.att.net)]  
**Sent:** Thursday, November 29, 2018 6:28 PM  
**To:** [olsonlandservices@gmail.com](mailto:olsonlandservices@gmail.com)  
**Subject:**

Ron I have a phone conference with Kathy. Chucks head gal tomarow and a letter going out same time on the ability to buy or exchange the 240 acres I just need to confirm those two things

On Nov 30, 2018, at 11:13 AM, Rick Donaldson <[RDonaldson@rpa-hln.com](mailto:RDonaldson@rpa-hln.com)> wrote:

Dave,

I heard this morning from Jeff Burrows that Mr. Schwab is in agreement with the land swap proposed by the Mildenbergers.

My understanding is this was the main hurdle for them in proceeding with land negotiations.

Aside from that, some cost estimates were being gathered (primarily irrigation adjustments) for you to prepare a counter-offer.

As we discussed, we are hopeful to be well on our way to reaching a consensus by the time the FAA does their thing with the Supplemental Discretionary Funding allocations – whenever that may be. So, if there is anything Ron or I can do to assist, please let us know.

Thanks.

---

**From:** Brad Mildenerger <[brad@mildenergermotors.com](mailto:brad@mildenergermotors.com)>  
**Sent:** Friday, November 30, 2018 11:55 AM



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**To:** Rick Donaldson <[RDonaldson@rpa-hln.com](mailto:RDonaldson@rpa-hln.com)>  
**Cc:** [dcotner@cotnerlaw.com](mailto:dcotner@cotnerlaw.com); Ronald Olson ([olsonlandservices@gmail.com](mailto:olsonlandservices@gmail.com)) <[olsonlandservices@gmail.com](mailto:olsonlandservices@gmail.com)>; Jeff Burrows - Ravalli County ([jburrows@rc.mt.gov](mailto:jburrows@rc.mt.gov)) <[jburrows@rc.mt.gov](mailto:jburrows@rc.mt.gov)>  
**Subject:** Re: Ravalli County Airport - Mildenerger meeting

Rick, Dave has sent a letter on the land today I have a call set up for 4:30 today to confirm that they are will to trade and what price for there 240 acres so that will be one of the three peace's of the puzzle.  
Brad

---

**From:** Catherine Molnar [<mailto:cmolnar@chsmgt.com>]  
**Sent:** Friday, November 30, 2018 6:47 PM  
**To:** Ron Olson  
**Cc:** Brad Mildenerger  
**Subject:** Re: Ravalli County Airport Project

Thank you Ron.  
Is also like to see the appraisals. Could you please forward them as well?

---

On Nov 30, 2018, at 5:05 PM, Ron Olson <[olsonlandservices@gmail.com](mailto:olsonlandservices@gmail.com)> wrote:

Cathy,

I'm doing the right-of-way negotiations for the Ravalli County Airport Project. Per my conversation with Brad Mildenerger, I'm emailing you the Right-of-Way Agreements for the Project. If you want to see the appraisals, I can email them to you as well. They are much larger files, and I believe you are looking for the offer amounts. Just let me know. If there is anything else, please contact me.

Thanks

Ron

---

**From:** Catherine Molnar [<mailto:cmolnar@chsmgt.com>]  
**Sent:** Friday, November 30, 2018 6:47 PM  
**To:** Ron Olson  
**Cc:** Brad Mildenerger  
**Subject:** Re: Ravalli County Airport Project

Thank you Ron.  
Is also like to see the appraisals. Could you please forward them as well?

---

On Nov 30, 2018, at 5:05 PM, Ron Olson <[olsonlandservices@gmail.com](mailto:olsonlandservices@gmail.com)> wrote:

Cathy,

I'm doing the right-of-way negotiations for the Ravalli County Airport Project. Per my conversation with Brad Mildenerger, I'm emailing you the Right-of-Way Agreements for the Project. If you want to see the appraisals, I can email them to you as well. They are much larger files, and I believe you are looking for the offer amounts. Just let me know. If there is anything else, please contact me.



Thanks

Ron

---

**From:** Ron Olson [mailto:[olsonlandservices@gmail.com](mailto:olsonlandservices@gmail.com)]  
**Sent:** Wednesday, December 05, 2018 11:46 AM  
**To:** 'Brad Mildenerger'  
**Cc:** 'Ron Olson'  
**Subject:**

Brad,

Attached are the R/W Agreements for the avigation easements. Let me know if you need more.

**See Attachment 5**

Thanks

Ron

---

On Dec 18, 2018, at 8:37 AM, Ron Olson <[olsonlandservices@gmail.com](mailto:olsonlandservices@gmail.com)> wrote:

Good morning Brad,

Can you update us on the status for getting a counteroffer? Have you completed the land exchange?

Thanks

Ron

---

**From:** Brad Mildenerger [mailto:[brad@mildenergermotors.com](mailto:brad@mildenergermotors.com)]  
**Sent:** Wednesday, December 19, 2018 11:27 AM  
**To:** Ron Olson  
**Subject:** Re: Ravalli County Airport

I will call have some set backs

---

**From:** Rick Donaldson [mailto:[RDonaldson@rpa-hln.com](mailto:RDonaldson@rpa-hln.com)]  
**Sent:** Thursday, December 27, 2018 1:20 PM  
**To:** Jeff Burrows - Ravalli County ([jburrows@rc.mt.gov](mailto:jburrows@rc.mt.gov))  
**Cc:** Ronald Olson ([olsonlandservices@gmail.com](mailto:olsonlandservices@gmail.com))  
**Subject:** Ravalli County Airport - Land

Jeff,

I talked with Ron Olson yesterday.

He had just talked with Brad who said the land exchange had fallen through. (I not sure how that can match up with your



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conversation with Schwab.)

He also said Brad is investigating land availability with other land owners in the vicinity.

It sounds like another telephone conference might be in order (with you, Ron and me).

Please let me know when a good time for you would be to discuss. (Not sure whether you want to call Schwab before we do.)

Thanks.



**Rick Donaldson, P.E. | Vice President**

Robert Peccia & Associates Inc. | PO Box 5653 | Helena, MT 59604

406.447.5000 (o) | 406.447.5036 (f) | 406.439.4905 (m) | [rdonaldson@rpa-hln.com](mailto:rdonaldson@rpa-hln.com)

<http://www.rpa-hln.com>

**From:** Rick Donaldson [mailto:RDonaldson@rpa-hln.com]

**Sent:** Friday, January 04, 2019 10:47 AM

**To:** Steve.Engebrecht@faa.gov; P. E. Chuck Garrison (william.garrison@faa.gov); Diane Stilson - FAA (Diane.Stilson@faa.gov)

**Cc:** Jeff Burrows - Ravalli County (jburrows@rc.mt.gov); Ronald Olson (olsonlandservices@gmail.com)

**Subject:** Ravalli County Airport - Land Acquisition - meeting request

Diane, Steve, and Chuck,

It seems we are to a critical point in the land acquisition process. For this reason, the Sponsor and Land Negotiator **would like to have a meeting with the FAA** before playing the next card. Would you be up for that? And if so, please provide some days / times that would work for you. I'm confident Jeff would travel to Helena if possible. If not, he would surely participate by phone or video conference. We could rally at your office or RPA's.

Although it is a bit convoluted, I'll attempt to summarize:

- RPA was hired to administer the land acquisition project for Ravalli County
- First Montana Title provided the Title Report / Commitment for Title Insurance - complete
- There are a few exceptions in the Title Report that indicate there will be some encumbrances that need to be extinguished or mitigated. None are anticipated to be insurmountable. This will need to be tackled as soon as the land transactions seem assured.
- Hall Widdoss was subcontracted by RPA to complete the appraisals - complete
- Joki & Associates was subcontracted to complete the review appraisals – complete
- RESPEC was subcontracted to complete the Phase I environmental - complete
- Olson Land Services was subcontracted to complete the negotiation process – underway
- Tracts 11-A-1, 11-A-2, 11-B & 11-C show to be under the ownership of Stock Farm Ranches, LLC
- Tracts 10-B, 10-B, 10-C, 10-D, 10-E, 12-A & 12-B show to be under the ownership of Mildenerger Properties, LLC
- There is an indication that the Stock Farm tracts were to be transferred to Mildenerger, but it is unclear if that paperwork has been filed with the County yet. As it appears the transaction is imminent, and Mildenergers are the ones with issues to resolve, all negotiations have been with them.
- RPA (Rick), Ron Olson, Jeff Burrows, Brad Mildenerger and his attorney (Dave Cotner) met 11-1-18. The main take aways from that meeting were that Brad felt the appraisals were probably not disputable. However, to make the ranch whole again / viable he feels other land needs to be acquired (most likely from the Stock Farm) in order



for Mildenergers to consider selling willingly. Also, he thinks there are some items that need to be mitigated (irrigation, road, trees).

- Brad and Dave agreed to get figures from irrigation contractors, etc. in order to make a counter-offer. However, Brad felt that the figure he would consider would be approximately \$1.8 - \$1.9M. (The appraised value for all tracts was just under \$1M.)
- Jeff personally talked with Charles Schwab (controlling interest of the Stock Farm) and he is willing to make a land transaction to facilitate the project. Since a deal was contingent upon that, we have been expecting a counter offer, but have not received one.
- The transaction / deal between the Stock Farm and Mildenerger is somewhat convoluted. Jeff has volunteered to be the person to approach Schwab since Mildenergers feel to get what they need will make them look bad in Schwab's eyes. (This is complicated because of their history and other dealing with each other.) I believe we have not received a counter-offer because the deal seems one-sided and insurmountable to Mildenergers. From Jeff's discussions with Schwab, that does not appear to be the case.
- We feel Jeff has only one shot with Mr. Schwab because he is getting tired of this topic. Although, he is supportive of the airport development. This is why we would like to meet with you to make sure we are all on the same page. We also believe Schwab is willing to bend considerably, but Brad Mildenerger does not want to further negotiate with him – this is our sticking point and why Jeff will be jumping into that process.

Let me know. Thanks.

Jeff / Ron – feel free to interject points or correct me where appropriate.



**Rick Donaldson, P.E. | Vice President**

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406.447.5000 (o) | 406.447.5036 (f) | 406.439.4905 (m) | [rdonaldson@rpa-hln.com](mailto:rdonaldson@rpa-hln.com)

<http://www.rpa-hln.com>

**From:** Ron Olson <[olsonlandservices@gmail.com](mailto:olsonlandservices@gmail.com)>

**Sent:** Friday, January 11, 2019 10:42 AM

**To:** 'Rick Donaldson' <[RDonaldson@rpa-hln.com](mailto:RDonaldson@rpa-hln.com)>; Jeff Burrows <[jburrows@rc.mt.gov](mailto:jburrows@rc.mt.gov)>

**Cc:** 'Ron Olson' <[olsonlandservices@gmail.com](mailto:olsonlandservices@gmail.com)>

**Subject:** RE: Land Discussion

Good news. Just got off the phone with Brad and I think we are pretty close to him agreeing to the deal at \$1.5 million and the Schwab trade. He had set a meeting with Cotner for today but got a message while we were on the phone that Cotner had gotten the flu so the meeting was canceled. Brad promised to get back to me next week with an answer. Told him we need to know by next Friday. He still wants to get us the letter – told him that it would be helpful to justify an administrative settlement.

I'll call him next Tuesday if I haven't heard back.

Ron

**From:** Jeff Burrows [<mailto:jburrows@rc.mt.gov>]

**Sent:** Monday, January 14, 2019 10:50 AM

**To:** 'Ron Olson'; 'Rick Donaldson'

**Subject:** RE: Land Discussion



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Ron,

I have attached the map that Brad and I discussed in regards to the land swap. I just want to make sure I have it exactly correct and if you could get a confirmation from Brad before I present it to Chuck.

On the map you will see 12 lots outlined in black, approximately 240 acres. These are lots 117-124 and lots 139-142. My understanding that Brad wants to trade those 12 lots for the property around the airport and \$1.5M. Chuck would take possession of the land, it would have to go directly to the county as part of the \$1.5M would be for the land acquisition.

I am willing to approach Chuck with this offer, but he has to be willing to just fund the deal. The next issue, is this will not guarantee our 10% funding from the supplemental.

Ideally and what seems the most fair for all parties involved would be as follows:

Brad gets the land swap from Chuck. Brad gets as much as we can negotiate for "damages" and the avigation easement. Chuck would have the option of getting the sales price for the property or donating it back to the county for possible 10% match.

This may an option if Chuck does not want to take a complete hit on the property and still not have the match guaranteed.

Another major negotiation point is that Brad is referring to lost ag production from this deal. I have asked Rick to approximate the actual number of acres lost from production because we will be able to allow them to keep ag operations on some portion of the acres.

I will reach out to Chuck when I get a confirmation from Ron that I am correct on the terms of the deal Brad is agreeable. Not sure it will fly, but I will give it a shot.

Jeff

---

**From:** Ron Olson [mailto:[olsonlandservices@gmail.com](mailto:olsonlandservices@gmail.com)]  
**Sent:** Wednesday, January 16, 2019 1:02 PM  
**To:** 'Jeff Burrows'; 'Rick Donaldson'  
**Cc:** 'Ron Olson'  
**Subject:** FW: Documents From Brad Mildenerger

Just got these from Brad. He called about an hour ago and doesn't want to have to have Schwab just give him the 240 acres. This is an effort to get more money so that part of it can go to Schwab.

Take a look at these and let's do a conference call tomorrow?


Thanks

Ron

---

**From:** Ron Olson <[olsonlandservices@gmail.com](mailto:olsonlandservices@gmail.com)>  
**Sent:** Wednesday, January 16, 2019 4:12 PM  
**To:** Rick Donaldson <[RDonaldson@rpa-hln.com](mailto:RDonaldson@rpa-hln.com)>; 'Jeff Burrows' <[jburrows@rc.mt.gov](mailto:jburrows@rc.mt.gov)>  
**Subject:** RE: Documents From Brad Mildenerger

Rick



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Talked with Brad and also touched base with Jeff again. Basically, we are at 2.5 million to settle. Brad wants to give Schwab a\$1 million.

Can we do a conference call with the FAA tomorrow afternoon?

Ron

---

**From:** Carla Christofferson [mailto:carlac@mildenergermotors.com]  
**Sent:** Thursday, January 17, 2019 3:16 PM  
**To:** olsonlandservices@gmail.com  
**Subject:** Documents From Brad Mildenerger

**Please see three attachments from Brad Mildenerger.**

---

**From:** Jeff Burrows <jburrows@rc.mt.gov>  
**Sent:** Friday, January 18, 2019 2:34 PM  
**To:** Rick Donaldson <RDonaldson@rpa-hln.com>; 'Ron Olson' <olsonlandservices@gmail.com>  
**Subject:** RE: Ravalli County Airport

Rick, Ron,

Below is an amended offer to Mr. Schwab. Please review and let me know if you have any suggestions. I would like to send this today.

Jeff

\*\*\*\*\*

Mr. Schwab,

Thank you for your patience in working towards a solution on the airport. We have agreement with Brad Mildenerger on a land swap and payment deal that would settle the land acquisition for the airport improvement project. I believe the FAA would agree to these terms, and if the deal is executed in the very near future, we have been advised that our project has ranked #1 in the FAA's Northwest Mountain region for supplemental funding. ~~by the FAA and~~ If selected, funding for the development project would not require the 10% local match. Below is an explanation:

- Mildenergers currently own the necessary approximately 126 acres necessary for the project. Mildenergers will receive a \$2,500,000 payment from the County ~~FAA~~ for the 126 acres. (An FAA grant would reimburse the County.)
- Upon payment to Mildenergers ~~by the FAA~~, another agreement would be executed that transfers the following parcels owned by Mr. Schwab to Mildenergers: lots 117-124 and 139-142 for a total of 12 lots (approximately 240 acres). See attachment.
- Mildenergers execute an agreement to transfer ownership of the 126 acres needed for the improvement project to Ravalli County.
- Mildenergers pay Mr. Schwab \$1,000,000 as part of the negotiated settlement.

Brad was insistent on being able to pay you something for this exchange. He, like the rest of us understand it is a losing



proposition for you and this airport improvement project will only be completed through your generosity and desire to complete this project. Please let me know if an agreement as presented is a possibility.

Thank,  
Jeff

Jeff Burrows  
Ravalli County Commissioner  
(406)-375-6503

---

**From:** Angela Hawkaluk [mailto:ahawkaluk@cotnerlaw.com]  
**Sent:** Monday, March 04, 2019 5:40 PM  
**To:** olsonlandservices@gmail.com  
**Cc:** Dave Cotner; Brad Mildenberger  
**Subject:** Ravalli County Airport

Mr. Olson –

Attached please find correspondence from Dave Cotner.

See Attachment 4

Thank you,

ANGELA HAWKALUK  
ASSISTANT TO DAVID B. COTNER  
COTNER LAW, PLLC  
2700 Radio Way, Missoula, MT 59808  
(406) 541-1111

---

From: Brad Mildenberger <brad@mildenbergermotors.com>  
Sent: Sunday, March 17, 2019 5:04 PM  
To: Rick Donaldson <RDonaldson@rpa-hln.com>  
Subject: Airport-

Hi Rick , Dave and Ron and I'm sure yourself have been working on some of the final issues on the Airport . I don't know if you have seen the last correspondence from the FAA looks like the issues are getting narrowed down to a few things the no build zone to the East, easement and construction of pipe line at North end of runway and slope issues to keep the looks of the property good and best for irrigation. A few thoughts on what you might be able to influence , the easement to keep in line of where it is is very helpful and cost effective and can you write it in on the construction cost to be let with the bid of construction cost and if it's got to be moved to the end of the pavement so be it if it's in the design bid and no cost to us. I think on the slope I think there will be no problems it would be nice to work with you and the contractor in the construction stage to get the best results for the land and irrigation I don't see it as a big issue to get along and rely on your expertise on this and would like to review it with you. The no build Zone to the East Jeff didn't have much trouble with it but the FAA seems to be unwilling to restrict. All we care about is building structures I think you get it we are already diminishing value to the North I'm not

wreaking another 300 acres to the East .And the fence design is fine but we have always talking about black Material . Dave is working on this hopefully we can get these issues worked out feel free to call Dave or myself with any ideas or Questions  
Thanks ,Brad

---

**From:** Rick Donaldson [mailto:RDonaldson@rpa-hln.com]  
**Sent:** Monday, March 18, 2019 6:32 AM  
**To:** Brad Mildenberger  
**Subject:** RE: Airport-

Brad,

I don't understand part of your message.

Give me a call sometime today and we can discuss. Topics to include:

Easement Line:

Slopes:

No build zone:

Fence:

Thanks.



**RPA** Rick Donaldson, P.E. | Vice President

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406.447.5000 (o) | 406.447.5036 (f) | 406.439.4905 (m) | [rdonaldson@rpa-hln.com](mailto:rdonaldson@rpa-hln.com)  
<http://www.rpa-hln.com>

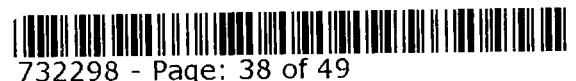
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**From:** Ronald Olson <olsonlandservices@gmail.com>  
**Sent:** Wednesday, March 27, 2019 9:06 AM  
**To:** Dave Cotner <dcotner@cotnerlaw.com>  
**Subject:** Mildenberger

Morning Dave,

Any chance we can have a conversation sometime today? I'm on the road and have a few meetings but if we can set a time, I can make myself available.

Thanks



Ron

---

**From:** Dave Cotner [mailto:dcotner@cotnerlaw.com]  
**Sent:** Wednesday, March 27, 2019 9:09 AM  
**To:** Ronald Olson  
**Cc:** Angela Hawkaluk  
**Subject:** RE: Mildenerger

Yes. I am talking with Brad this morning and then I will call you. Thank you.

DAVID B. COTNER  
COTNER LAW, PLLC  
2700 Radio Way, Missoula, MT 59808  
(406) 541-1111  
www.cotnerlaw.com

---

**From:** Angela Hawkaluk [mailto:ahawkaluk@cotnerlaw.com]  
**Sent:** Monday, April 01, 2019 3:01 PM  
**To:** [olsonlandservices@gmail.com](mailto:olsonlandservices@gmail.com)  
**Cc:** Dave Cotner; Brad Mildenerger  
**Subject:** Ravalli County Airport

Ron –

Attached please find correspondence from Dave Cotner.

See Attachment 5

Thank you,

ANGELA HAWKALUK  
PARALEGAL TO DAVID B. COTNER  
COTNER LAW, PLLC  
2700 Radio Way, Missoula, MT 59808  
(406) 541-1111

---

**From:** Ron Olson <[olsonlandservices@gmail.com](mailto:olsonlandservices@gmail.com)>  
**Sent:** Thursday, April 4, 2019 6:16 AM  
**To:** Angela Hawkaluk <[ahawkaluk@cotnerlaw.com](mailto:ahawkaluk@cotnerlaw.com)>  
**Cc:** Dave Cotner <[dcotner@cotnerlaw.com](mailto:dcotner@cotnerlaw.com)>; 'Brad Mildenerger' <[brad@mildenergermotors.com](mailto:brad@mildenergermotors.com)>  
**Subject:** RE: Ravalli County Airport

Good morning,

The FAA has reviewed the Right-of-Way Agreement and requires only one revision. They would like to add "... use of (ingress and egress) Stock Farm Road shall not be impacted, so long as it remains a private, controlled access road." to Item 11.

If you are agreeable, please revise, execute, and resend me the Right-of-Way Agreement.

Thanks



Ron

---

**From:** Rick Donaldson [mailto:RDonaldson@rpa-hln.com]  
**Sent:** Thursday, April 04, 2019 9:40 PM  
**To:** Ronald Olson; Jeff Burrows - Ravalli County; Steve. Engebrecht  
**Subject:** RE: Ravalli County Airport

The Master Plan and EA both showed re-routing of Stock Farm road around the Runway Protection Zone (RPZ) at the North end of the new runway. This is because FAA guidance is to keep the RPZ clear of virtually everything for the safety of pilots and people / things on the ground. This is because statistically if a plane crashes during approach or departure, it is most likely to happen in that area. See the FAA guidance here:

[https://www.faa.gov/airports/planning\\_capacity/media/interimLandUseRPZGuidance.pdf](https://www.faa.gov/airports/planning_capacity/media/interimLandUseRPZGuidance.pdf)

I've also attached the RPZ section from the FAA's design manual. Sorry I was not able to highlight the extracted pages but take a look at the first paragraph and section d. on page 73. You will also note that they recommend fee acquisition of this area. But a portion (north of Stock Farm) is planned to be acquired as easement.

Both these documents essentially say that anything not specifically listed as permissible requires further evaluation and coordination. And if that happens, the question is whether viable alternatives exist. In this case, there are viable alternatives (especially now) so why should those not be implemented for safety reasons? It will just be harder later.

Because Mildenbergers were concerned over the reroute of the road, since it could alter their agricultural practices, we successfully argued that since it was a private and gated road there is very little traffic and not a public road. We also stated that traffic also often enters from Hamilton Heights Road instead. The FAA agreed and so the reroute was essentially eliminated from negotiation as part of the land acquisition.

If the road becomes public, the FAA would want Ravalli County to reroute the road – outside the RPZ.

We could also argue that if the area is developed to the point of needing to turn this into a public road, that character and use of the property as a ranch is gone and the road could be rerouted without detrimental effect to the ranch operations.

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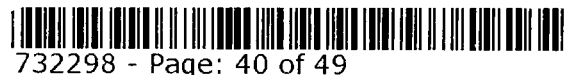
**From:** Dave Cotner <[dcotner@cotnerlaw.com](mailto:dcotner@cotnerlaw.com)>  
**Sent:** Thursday, April 4, 2019 6:56 PM  
**To:** Jason Rice <[jasonr@territoriallandworks.com](mailto:jasonr@territoriallandworks.com)>  
**Cc:** [brad@mildenergermotors.com](mailto:brad@mildenergermotors.com); Angela Hawkaluk <[ahawkaluk@cotnerlaw.com](mailto:ahawkaluk@cotnerlaw.com)>; Courtney Frankl <[cfrankl@cotnerlaw.com](mailto:cfrankl@cotnerlaw.com)>  
**Subject:** FW: Ravalli County Airport

Jason:

Can you review the attached document. It is the Mildenbergers offer to transfer property and create an easement to the County. I also need you to look at the email we received today. It is attached below.

Our concern is that this language, if inserted, will impact Mildenbergers (and others) ability to develop their adjacent property in the future. In other words we could arguably be waiving the right to convert Stock Farm Road to a public road.

Do you share our concerns? Can we talk tomorrow or Monday?



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Thanks Jason.

DAVID B. COTNER  
COTNER LAW, PLLC  
2700 Radio Way, Missoula, MT 59808  
(406) 541-1111  
[www.cotnerlaw.com](http://www.cotnerlaw.com)

---

On Apr 4, 2019, at 6:59 PM, Dave Cotner <[dcotner@cotnerlaw.com](mailto:dcotner@cotnerlaw.com)> wrote:

Ron:

I will talk to Brad in the morning. In the meantime, can you offer any reasoning shared with you as to why FAA wants this change? Are they desiring to prohibit any effort by Mildenergers or others from asking that Stock Farm road become a public road in the future?

If you can, let me know what you know, Thank you.

DAVID B. COTNER  
COTNER LAW, PLLC  
2700 Radio Way, Missoula, MT 59808  
(406) 541-1111  
[www.cotnerlaw.com](http://www.cotnerlaw.com)

---

**From:** Dave Cotner [<mailto:dcotner@cotnerlaw.com>]  
**Sent:** Thursday, April 04, 2019 7:13 PM  
**To:** Ronald Olson  
**Cc:** Angela Hawkaluk; Brad Mildenerger; Courtney Frankl  
**Subject:** Re: Ravalli County Airport

Thanks.

Sent from my iPhone

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On Apr 4, 2019, at 7:12 PM, Ronald Olson <[olsonlandservices@gmail.com](mailto:olsonlandservices@gmail.com)> wrote:

I'll check on it and get back to you.

Ron

---

**From:** Brad Mildenerger [<mailto:brad@mildenergermotors.com>]  
**Sent:** Thursday, April 04, 2019 4:16 PM  
**To:** Ron Olson  
**Cc:** Angela Hawkaluk; Dave Cotner

  
732298 - Page: 41 of 49

**Subject:** Re: Ravalli County Airport

Dave take a look. We most likely need in the future to be able to turn it over to the county or it would be a association road

---

**From:** Dave Cotner <[dcotner@cotnerlaw.com](mailto:dcotner@cotnerlaw.com)>  
**Date:** April 5, 2019 at 7:26:51 AM MDT  
**To:** Ron Olson <[olsonlandservices@gmail.com](mailto:olsonlandservices@gmail.com)>  
**Cc:** Angela Hawkaluk <[ahawkaluk@cotnerlaw.com](mailto:ahawkaluk@cotnerlaw.com)>, 'Brad Mildenerger' <[brad@mildenergermotors.com](mailto:brad@mildenergermotors.com)>, Courtney Frankl <[cfrankl@cotnerlaw.com](mailto:cfrankl@cotnerlaw.com)>  
**Subject: RE: Ravalli County Airport**

Thanks Ron.

The pages you forward come from what document? Can I get you to send the entire document.

I appreciate your assistance.

DAVID B. COTNER  
COTNER LAW, PLLC  
2700 Radio Way, Missoula, MT 59808  
(406) 541-1111  
[www.cotnerlaw.com](http://www.cotnerlaw.com)

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**From:** Rick Donaldson [mailto:[RDonaldson@rpa-hln.com](mailto:RDonaldson@rpa-hln.com)]  
**Sent:** Friday, April 05, 2019 10:00 AM  
**To:** Ronald Olson  
**Subject:** RE: Ravalli County Airport

The FAA's airport design manual:

[https://www.faa.gov/documentLibrary/media/Advisory\\_Circular/150-5300-13A-chg1-interactive-201804.pdf](https://www.faa.gov/documentLibrary/media/Advisory_Circular/150-5300-13A-chg1-interactive-201804.pdf)

Let's chat before you contact Cotner. I have something to pass on to Jeff. I have a meeting at 10am but sill call you after that short meeting.



**RPA** Rick Donaldson, P.E. | Vice President

Robert Peccia & Associates Inc. | PO Box 5653 | Helena, MT 59604  
406.447.5000 (o) | 406.447.5036 (f) | 406.439.4905 (m) | [rdonaldson@rpa-hln.com](mailto:rdonaldson@rpa-hln.com)  
<http://www.rpa-hln.com>

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**From:** Ron Olson <[olsonlandservices@gmail.com](mailto:olsonlandservices@gmail.com)>  
**Sent:** Friday, April 5, 2019 7:20 AM  
**To:** Dave Cotner <[dcotner@cotnerlaw.com](mailto:dcotner@cotnerlaw.com)>  
**Cc:** Angela Hawkaluk <[ahawkaluk@cotnerlaw.com](mailto:ahawkaluk@cotnerlaw.com)>; 'Brad Mildenerger' <[brad@mildenergermotors.com](mailto:brad@mildenergermotors.com)>; Courtney



Frankl <cfrankl@cotnerlaw.com>

**Subject:** RE: Ravalli County Airport

Here's the response on the road.

The Master Plan and EA both showed re-routing of Stock Farm road around the Runway Protection Zone (RPZ) at the North end of the new runway. This is because FAA guidance is to keep the RPZ clear of virtually everything for the safety of pilots and people / things on the ground. This is because statistically if a plane crashes during approach or departure, it is most likely to happen in that area. See the FAA guidance here:

[https://www.faa.gov/airports/planning\\_capacity/media/interimLandUseRPZGuidance.pdf](https://www.faa.gov/airports/planning_capacity/media/interimLandUseRPZGuidance.pdf)

I've also attached the RPZ section from the FAA's design manual. Sorry I was not able to highlight the extracted pages but take a look at the first paragraph and section d. on page 73. You will also note that they recommend fee acquisition of this area. But a portion (north of Stock Farm) is planned to be acquired as easement.

Both these documents essentially say that anything not specifically listed as permissible requires further evaluation and coordination. And if that happens, the question is whether viable alternatives exist. In this case, there are viable alternatives (especially now) so why should those not be implemented for safety reasons? It will just be harder later.

Because Mildenbergers were concerned over the reroute of the road, since it could alter their agricultural practices, we successfully argued that since it was a private and gated road there is very little traffic and not a public road. We also stated that traffic also often enters from Hamilton Heights Road instead. The FAA agreed and so the reroute was essentially eliminated from negotiation as part of the land acquisition.

If the road becomes public, the FAA would want Ravalli County to reroute the road – outside the RPZ.

We could also argue that if the area is developed to the point of needing to turn this into a public road, that character and use of the property as a ranch is gone and the road could be rerouted without detrimental effect to the ranch operations.

Thanks

Ron

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**From:** Dave Cotner [mailto:dcotner@cotnerlaw.com]

**Sent:** Friday, April 05, 2019 7:27 AM

**To:** Ron Olson

**Cc:** Angela Hawkaluk; 'Brad Mildenberger'; Courtney Frankl

**Subject:** RE: Ravalli County Airport

Thanks Ron.

The pages you forward come from what document? Can I get you to send the entire document.

I appreciate your assistance.

DAVID B. COTNER

COTNER LAW, PLLC

2700 Radio Way, Missoula, MT 59808

(406) 541-1111

[www.cotnerlaw.com](http://www.cotnerlaw.com)



**From:** Jason Rice <[jasonr@territoriallandworks.com](mailto:jasonr@territoriallandworks.com)>  
**Sent:** Monday, April 8, 2019 8:09 AM  
**To:** Dave Cotner <[dcotner@cotnerlaw.com](mailto:dcotner@cotnerlaw.com)>  
**Cc:** Jeff Walla <[jeffw@territoriallandworks.com](mailto:jeffw@territoriallandworks.com)>  
**Subject:** RE: Ravalli County Airport

Dave – we will be talking later today, but also wanted to check, now that this is getting a bit more involved, who did you originally say we should contract with? I seem to recall it was with your office. Thanks!

**Jason Rice, P.E., CEO**

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**From:** Dave Cotner <[dcotner@cotnerlaw.com](mailto:dcotner@cotnerlaw.com)>  
**Sent:** Monday, April 8, 2019 8:17 AM  
**To:** Jason Rice <[jasonr@territoriallandworks.com](mailto:jasonr@territoriallandworks.com)>  
**Cc:** Jeff Walla <[jeffw@territoriallandworks.com](mailto:jeffw@territoriallandworks.com)>; [brad@mildenbergermotors.com](mailto:brad@mildenbergermotors.com); Harold Mildenberger ([debbiep@mildenbergermotors.com](mailto:debbiep@mildenbergermotors.com)) <[debbiep@mildenbergermotors.com](mailto:debbiep@mildenbergermotors.com)>  
**Subject:** RE: Ravalli County Airport

You can contract with my office ... that will make it the easiest for you. we both are working for Mildenberger Properties.

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**From:** Jason Rice <[jasonr@territoriallandworks.com](mailto:jasonr@territoriallandworks.com)>  
**Sent:** Monday, April 8, 2019 12:20 PM  
**To:** Dave Cotner <[dcotner@cotnerlaw.com](mailto:dcotner@cotnerlaw.com)>  
**Cc:** Jeff Walla <[jeffw@territoriallandworks.com](mailto:jeffw@territoriallandworks.com)>; [brad@mildenbergermotors.com](mailto:brad@mildenbergermotors.com); Harold Mildenberger ([debbiep@mildenbergermotors.com](mailto:debbiep@mildenbergermotors.com)) <[debbiep@mildenbergermotors.com](mailto:debbiep@mildenbergermotors.com)>  
**Subject:** RE: Ravalli County Airport

All – thanks for the call today. Jeff is copied with this. If you could also put us in contact with anyone representing the Airport and let them know we are helping you to evaluate the situation, then we can ask for more info as needed.

We would like the following:

1. Copies of the appraisals.
2. Airport layout plan

Sounds like Brad can track down the copies, but we may want to verify that they are the latest and greatest.

Thanks

**Jason Rice, P.E., CEO**

On Apr 8, 2019, at 12:34 PM, Dave Cotner <[dcotner@cotnerlaw.com](mailto:dcotner@cotnerlaw.com)> wrote:

Ron:

I asked Territorial Engineering to review the issues relating to Stock Farm Road. Jason Rice and Jeff Walla are working on the issue. They are copied with this email.

One or both will be reaching out to you for information. Please provide them anything they request, copying me with any responses.

Given this new issue I would suggest the offer made by Mildenerger Properties be “planed on hold”. What I mean by this is the offer made, which I understand to be unacceptable to the FAA, cannot be accepted until I confirm it is “renewed”. FYI Territorial has agreed to make this a priority for the Mildenergers.

Call if you have questions. Thank you.

DAVID B. COTNER  
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**From:** Ronald Olson <[olsonlandservices@gmail.com](mailto:olsonlandservices@gmail.com)>  
**Sent:** Wednesday, April 17, 2019 12:22 PM  
**To:** Dave Cotner <[dcotner@cotnerlaw.com](mailto:dcotner@cotnerlaw.com)>  
**Cc:** Jeff Walla <[jeffw@territoriallandworks.com](mailto:jeffw@territoriallandworks.com)>; brad@mildenergermotors.com; Harold Mildenerger (<[debbiep@mildenergermotors.com](mailto:debbiep@mildenergermotors.com)>) <[debbiep@mildenergermotors.com](mailto:debbiep@mildenergermotors.com)>; Jason Rice <[jasonr@territoriallandworks.com](mailto:jasonr@territoriallandworks.com)>; Angela Hawkaluk <[ahawkaluk@cotnerlaw.com](mailto:ahawkaluk@cotnerlaw.com)>  
**Subject:** Re: Ravalli County Airport

Dave

Can you update me as to when we might hear back from you?

Thanks  
Ron

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On Apr 17, 2019, at 3:58 PM, Dave Cotner <[dcotner@cotnerlaw.com](mailto:dcotner@cotnerlaw.com)> wrote:

Ron:

We received information from Territorial. I am scheduling a call with Brad and Territorial to discuss the report. The call will take place tomorrow.

I will give you an update after that call. Thanks.



DAVID B. COTNER

COTNER LAW, PLLC  
2700 Radio Way, Missoula, MT 59808  
(406) 541-1111  
[www.cotnerlaw.com](http://www.cotnerlaw.com)

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**From:** Ronald Olson <[olsonlandservices@gmail.com](mailto:olsonlandservices@gmail.com)>  
**Date:** April 22, 2019 at 10:42:59 AM MDT  
**To:** Dave Cotner <[dcotner@cotnerlaw.com](mailto:dcotner@cotnerlaw.com)>, Brad Mildenerger <[brad@mildenergermotors.com](mailto:brad@mildenergermotors.com)>  
**Cc:** Angela Hawkaluk <[ahawkaluk@cotnerlaw.com](mailto:ahawkaluk@cotnerlaw.com)>  
**Subject:** Re: Ravalli County Airport

Dave,

Any update you can give me?

Thanks

Ron

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**From:** Angela Hawkaluk [<mailto:ahawkaluk@cotnerlaw.com>]  
**Sent:** Thursday, April 25, 2019 5:31 PM  
**To:** Ron Olson  
**Cc:** Dave Cotner  
**Subject:** Ravalli County Airport

Ron –

Attached please find the updated Right of Way Agreement executed by Mildenergers.

Thank you,

ANGELA HAWKALUK  
PARALEGAL TO DAVID B. COTNER  
COTNER LAW, PLLC  
2700 Radio Way, Missoula, MT 59808  
(406) 541-1111

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**STATEMENT OF RIGHT-OF-WAY AGENT**

I CERTIFY:

The Right-of-Way Agreement dated 4-25-19 embodies all of the considerations agreed to between the undersigned and the landowners.

A brochure, written offer and summary statement have been given to all owners and the proposed project explained and described to the best of my ability.

The Agreement was reached without coercion or threats of any kind by either party.

That, I, as Right-of-Way Agent on this parcel(s) have no direct, indirect, present or contemplated future personal interest in the parcel(s) or in any benefit from the acquisition of the subject property.



Right-of-Way Agent's Signature for Statement

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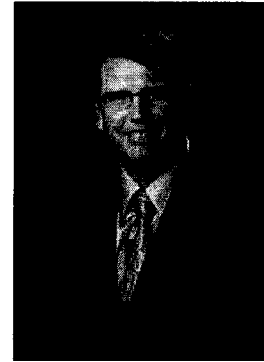
# Missoulian

Guest column

## Costs continue to rise for Missoula's water utility

Sep 25, 2018

Provided by Rhoades and Siefert



On Sept. 24, Mayor John Engen was in Monterey, California, to present “David v. Goliath: The heroic story of how Missoula took their water public.” Invited by a group dedicated to government takings of private property, he pitched the Monterey peninsula on the bad idea he sold Missoulians: public taking of a privately owned water system that had served our city for 100 years was smart and they should do the same. As P.T. Barnum used to say, “There’s a sucker born every minute.”

The City of Missoula’s condemnation of Mountain Water Company took far longer, and cost far more, than Engen ever told us. In the process we lost one of the largest property taxpayers in our little Montana town and borrowed \$140 million in short-term bonds from a foreign bank to get something we already had: a clean, reliable water system.

The immense chasm between what Engen promised and what we live with today grows wider every day. Before condemning the water supply, at a public presentation not unlike what he staged in California, Engen assured us that condemnation could be accomplished in a fairly summary fashion. The water system assets would cost about \$50 million, attorney fees about \$400,000, and other transaction costs about \$3.8 million. The whole thing could be accomplished for under \$55 million.

But now, three years later, the dust has still not settled on the last of the litigation, and costs continue to rise. We paid about \$88 million for the water system, \$4

## ATTACHMENT 7

million for the other side's attorney fees, millions of dollars for bond issuance and other expenses, and \$9 million in our own attorney fees that are continuing to accumulate. All told, the city had to borrow \$140 million to buy a water system Engen assured us was worth \$50 million.

Worse, the city failed to secure stable, low-risk, long-term financing. Because no domestic lender would take the risk of long-term financing for such an overpriced transaction, we had to turn to a foreign bank who refused to offer anything but short-term, variable interest lending. While the rates on the short-term debt might have been pretty good at the time, that period will end shortly. And now financing rates have risen substantially since we "won" the condemnation action, which will make the final cost that much higher. Additionally, the city has decided to use borrowed money to fund a pricey capital improvements program for the water system. Not much of any of this is certain except one thing: the debt will continue to grow.

Meanwhile, water rates — one of the chief complaints the city used to justify the condemnation — remain as high as ever. We still pay the same price we paid for water under private ownership, but without the benefit of a large taxpayer and with a new burden of the \$140 million debt. The city has no realistic plans to lower water rates ever, and every reasonable expectation is they will rise as the city's spending program continues.

The condemnation of Mountain Water Company was a victory not for good government, efficient utilities or the rate-paying public. It was a victory for lawyers, "expert" witnesses and foreign bankers. Citizens got left holding the bag. Our water is the same and our rates are the same, but now we owe a mountain of debt and have to repay it without the help of what used to be one of our biggest taxpayers. I wonder if the folks in California will make the same mistake.

Quentin M. Rhoades is an attorney in Missoula who has represented individuals and groups in proceedings involving Missoula's water utility.

[https://missoulian.com/opinion/columnists/costs-continue-to-rise-for-missoula-s-water-utility/article\\_bd83f3f6-66bd-5160-b4fc-9f9211253670.html](https://missoulian.com/opinion/columnists/costs-continue-to-rise-for-missoula-s-water-utility/article_bd83f3f6-66bd-5160-b4fc-9f9211253670.html)

**From:** Howard Recht <[hrecht@rc.mt.gov](mailto:hrecht@rc.mt.gov)>  
**Sent:** Wednesday, January 23, 2019 1:39 PM  
**To:** Jeff Burrows <[jburrows@rc.mt.gov](mailto:jburrows@rc.mt.gov)>  
**Cc:** Dan Browder <[dbrowder@rc.mt.gov](mailto:dbrowder@rc.mt.gov)>  
**Subject:** Cost of eminent domain

## ATTACHMENT 8

Jeff:

You asked me to estimate the cost of prosecuting an eminent domain action regarding the airport property. Naturally it is difficult to project the cost with any accuracy. I expect the action would require a minimum of 3 years, two at the district court level and one at the MT supreme court. Given who the landowners are and their available resources, prosecuting the case will likely be more time consuming and more expensive than it might otherwise be.

Generally in a case like this, experienced lead counsel would be hired as well as an associate counsel for assistance. Lead counsel would probably charge somewhere around \$300 per hour; associate counsel around \$175 per hour. I would also estimate that lead counsel would bill 10 hours per week on average, and associate counsel twice that. That adds up over three years to \$450,000 for lead counsel and \$525,00 for associate counsel, for a total of \$975,000.

I would estimate the cost of defense to be more than that given the caliber of attorneys the landowners would likely hire.

Another significant cost of prosecution would be the cost of expert witnesses, which would likely include real estate appraisers and engineers. The cost of expert witnesses could be in the range of \$50,000 to \$100,000.

Let me know if I can provide any other assistance.

Howard F. Recht,  
Deputy Attorney  
(406) 375-6750

