

# Conservation Easements:

**by Mike Mueller**

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*Photos Courtesy of the  
Rocky Mountain Elk Foundation*

The Rocky Mountain Elk Foundation (RMEF) gets calls on a regular basis from people asking how to access RMEF-held conservation easements. Much of the time—but not always—the answer is those easements are not open to the public. That is but one of many misconceptions about conservation easements.

So why does RMEF and similar organizations do them? What's the public benefit?

We *all* share ownership of America's wildlife, and animals tend to travel. The majority of easements that RMEF accepts protect winter, summer, calving or migratory ranges for elk and other big game that spend part of their year—very often including the hunting season—on public lands.

Public access is a huge challenge to the future of hunting, and the Elk Foundation is charging hard to meet it. So far, the RMEF has opened more than 650,000 acres of great elk country to public hunting. But the truth is, without high-quality habitat, wildlife is homeless and hunting is fruitless. Habitat is the bedrock.

Just drive through the Rockies in February or March and you're likely to see hundreds of elk, mule deer and other big game pushed down by heavy snows onto the private ranches that line the valleys. Often these are the very same animals we hunters pursue in the high country come fall. Hopefully the ranch you spot them on is already protected under a



# *Good for Wildlife, Good for Landowners, Good for Hunters*

conservation easement, because if it isn't, that herd could be in jeopardy. How many animals would that ranch support if it were cut into a hundred ranchettes, laced with a web of driveways, echoing with barking dogs? A smaller herd might persist, but once a ranch goes that route, the land and its wildlife are never the same.

This is why RMEF and similar organizations work so hard to secure conservation easements, and why hunters value them even if they can't always hunt them. It's worth noting that RMEF staff always encourage landowners to provide at least limited public access, and more landowners are embracing hunting access as important to the future of wildlife conservation and a valuable tool in managing their agricultural operation.


What's in it for the landowners? What would inspire someone to go through all the paperwork and attorneys, to lower the resale value of their land, all to protect it from a fate they have no intention of allowing? Lower taxes now, far lower inheritance taxes for their heirs, and peace of mind, that's why. Let me explain.

Conservation easement means many things to many people. For some it conjures images of being forced to give up rights like when the government condemns land to widen a highway. Let's clear

that up right now. A conservation easement is strictly voluntary, an agreement negotiated between a willing landowner and a qualified organization, such as a nonprofit land trust like RMEF. It's a tool that has helped countless landowners forever protect family farms and ranches and traditional agriculture, securing wildlife habitat, scenic vistas, open spaces and historical sites.

Such easements are legally binding, but landowners make the final decision to place one on their property and can tailor the agreement in dozens of ways to fit their land and their family's needs. All lands protected by these easements remain in private hands and on county tax rolls. The agreement restricts future development of the land to protect its wildlife habitat, agricultural heritage, and scenic values in exchange for a tax credit, tax deduction or sometimes a cash payment. Conservation easements are one of the strongest and most effective tools ever devised for permanently conserving private land. Thousands of national, regional, and local land trusts, have already protected 40 million acres across America through the use of easements.

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RMEF alone holds 194 fully donated conservation easements in 16 states, forever protecting more than 364,000 acres of precious elk country. In addition, the foundation has helped complete another 52 easements protecting more than 141,000 acres by either securing and granting easements to other land trusts or contributing to purchased easements held by other land trusts.

Landowners who donate easements choose this tool because they love their land. They want to maintain traditional agricultural uses, continue providing a home for the wildlife, and safeguard natural areas and open spaces for their grandchildren to enjoy. Conservation easements allow them to take matters into their own hands, to protect something near and dear to them.

Since accepting its first donated conservation easement in 1990, the RMEF has always taken the responsibility seriously, dedicating significant resources to monitoring easements and making sure the goals and terms are upheld. As a nonprofit public charity providing opportunities for tax deductions from the Internal Revenue Service, the foundation and the landowner must ensure the property protected by an easement provides a public benefit and serves a specific conservation purpose. This includes protecting natural habitats of fish, wildlife or plants, or preserving open space, including farmland and forestlands that provide a significant public benefit. The RMEF maintains a dedicated conservation easement protection fund. This fund provides the resources to legally defend the terms and conditions of every easement with current or future landowners, ensuring the land is protected and enhanced in the way the original landowners and the RMEF envisioned it would be.

When someone calls the Elk Foundation wanting to explore conserving their land, one of the foundation's lands program managers (LPMs) schedules a meeting with the landowners to tour their property and learn their goals. The LPM then visits with local staff from state and federal wildlife and land management agencies to determine how important the property is to the area's wildlife, plant, and human communities. This also helps clarify the bigger picture: who owns the land surrounding the property and how at risk is the area to future development? It's up to the LPM, with final approval from the Elk Foundation's board of directors, to determine whether the land meets the foundation's criteria for accepting an easement. The RMEF determines the quality of the property as elk

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habitat and the severity of threats to it by identifying winter ranges, calving areas, and migration corridors, then factoring in changing land uses, habitat conversion, and human population growth in the area. If the landowner and the RMEF agree they are a good fit, then the two sit down to start drawing up the easement.

The next step is a baseline study that describes the condition of the property at the time the easement is donated. The study records the property's manmade improvements and natural resource values using text descriptions, maps, photos, and plant and animal inventories. This provides a reference point for landowners to use in making decisions about the stewardship of range, forest, and wildlife. It's also a crucial tool for evaluating future condition of the property to determine if management activities are positively or negatively impacting the land and wildlife. Each year the RMEF and the landowner and/or the landowner's representative refer back to the baseline while monitoring the condition of the land under easement. It's often useful for resolving any controversial issues that may arise.

All Elk Foundation easements define both permitted and unacceptable activities on the property to ensure wildlife habitat is protected and traditional uses continue. These activities are mutually agreed upon by the foundation and the landowner, and the RMEF monitors these activities in perpetuity, even as the land itself changes ownership. Commonly permitted uses include ranching, farming, and cultivation activities and facilities, limited residences, recreational facilities, range, and forest management, and habitat improvement projects. Uses that are usually prohibited because they tend to damage wildlife and habitat values include subdivision, game farming, incompatible commercial activities or facilities, introduction of noxious plant species, commercial feedlots, dumping of hazardous wastes, game-proof fences, and any surface or open pit mineral activities.

RMEF works with subsequent owners, who may not have been at the table during the easement negotiation to ensure there is an understanding of what public benefits the easement was put in place to protect.

RMEF easements do not require the landowner to grant public access. However, the landowners the foundation works with believe in and support hunting and fishing, and some do allow public opportunities to hunt and fish on their land.

The foundation prefers to protect large, contiguous parcels of land but accepts smaller acreages—especially if they are in-holdings within public land or provide critical travel corridors between intact blocks of habitat. RMEF's largest easement to date is 80,000 acres, but most average around 1,600 acres. Whatever the size, the land always contains valuable elk habitat and benefits other native plants and animals. In many cases the property lies adjacent to public lands and has already been identified by federal and state agencies as being critical to wildlife.

Another great benefit of easements is they tend to ripple out. Landowners with conservation easements make great ambassadors. As satisfied landowners talk with neighbors, others often decide to go a similar route. As more lands are protected and connected, it keeps important winter range and migratory corridors intact and creates great opportunities to manage wildlife on a landscape scale.

An easement is often the first step in developing a long-term relationship between the RMEF and a landowner that continues to improve the property's habitat values and increase its productivity for ranching and farming activities. Through annual monitoring, RMEF staff can assess wildlife population trends and note any changes such as weed or insect infestation, erosion, impacted riparian areas, new structures, or wildlife depredation.

Conservation easements preserve a way of life. They also protect soil, water and

clean air, and provide food and shelter for elk and other wildlife. Easements play an important role in intelligent land use planning. By protecting traditional land uses and conserving large tracts of land, they actually can do more to help keep the cost of community services low and can save taxpayers money compared to subdividing and selling land and taxing it as residential development. Just as it makes sense to plan for residential development in some areas it also makes sense from a wildlife habitat and agricultural use perspective to conserve some lands with conservation easements.

As land continues to be sold off and developed, we trade wildlife habitat for houses, yards, fences, noise, traffic, dogs, all-terrain vehicles, and more. Taxpayers always pay for development but do not necessarily benefit from it. Suburban sprawl increases the need for roads, power lines, pipelines, law enforcement, fire protection and ambulance service, road signs, weed control, school buses with their spiraling fuel costs, and on and on. It also greatly increases both the risk and cost of fighting wildfires.

We are losing wild places for wild things at an alarming rate, especially in the valleys and foothills so critical to wintering wildlife. Millions of acres will change hands in the next few decades. Conservation easements allow land trusts and landowners to work together to conserve some of our last best places on private lands. It's our chance to put conservation into action—to give something back for all we have received from elk country today—not tomorrow, for tomorrow will be too late.

To learn more about RMEF's Conservation program, call (406)493-6650.

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