

FIELD NOTES

FROM THE TRM RANCH

CONSERVATION EASEMENTS A Tool for Private Lands Conservation

By Thomas Baumeister
B&C RESEARCH ASSISTANT

The development potential on these newly acquired lands may devastate both wildlife and traditional ranching lifestyles.

In recent years, high demand for wild and remote places has heightened the interest in the Rocky Mountain Front. Developers first began prospecting Montana in the western valleys of the Bitterroot, Flathead and Madison Rivers. Since then, many large ranches in these valleys have changed ownership, some of which have subsequently been developed. The availability of land, infrastructure and milder

climates have made these valleys more attractive to developers than more wild and remote places like the Rocky Mountain Front. The situation has changed, however, as demand remains high and opportunities for land purchase have dwindled. Recently, the interest in purchasing private rangelands on the Front has surged; some ranch properties have sold for more than \$1,000/acre, compared to a more common rate of \$300-400/acre for land sold as rangeland only. The development potential on these newly acquired lands may devastate both wildlife and traditional ranching lifestyles.

Recent efforts addressing conservation issues on private lands are responses to the realization that, often, the future of wildlife and its habitat depends on the condition of rangelands bordering public lands, which in Montana, are often owned privately. A conservation strategy for private lands is needed that integrates the needs of people in rural ranching communities with those of wildlife. This may be best accomplished by developing incentive programs

that boost the economic vitality and competitiveness of ranching with that of other land uses. In the last issue of *Fair Chase*, I reported on a new economic incentive program for private landowners who are interested in granting access rights to hunters. This program provides incentives as part of a larger private lands/public wildlife initiative of the state, with the proximate goal of halting the precipitous decline of hunting opportunities on private lands. In a broader context, however, the initiative also aims at boosting the economic vitality of rural ranching communities. However, the private lands/public wild-

life initiative alone will not be sufficient to comprehensively accomplish this difficult and complex task.

For a number of years now, conservation easements have been popular with landowners and the conservation community as a tool for private lands conservation in the West. A conservation easement is a legally-binding agreement regarding the voluntary transfer of property rights from a landowner to a qualified conservation organization, such as a land trust. To illustrate property rights, imagine landownership to be equivalent to a bundle of rights for use of land and its resources, such as the right to grow crops, graze livestock, harvest timber, mine for minerals, grant public access and even the right to subdivide land for development purposes.

By donating a conservation easement, the landowner transfers the development rights to a conservation organization with the result that the existing character of the land—agricultural production, valuable fish and wildlife habitat and open space—will not be jeopardized through future development. This protection is given in perpetuity since the easement is permanently attached to the fee title, regardless of ownership. Although some of the land value is transferred and no longer available, full ownership of the land remains with the landowner who may continue to live on the property, sell it, or pass it on to heirs.

Conservation easements permanently protect private lands in a way that benefits both the landowner and the community. Tax reliefs are the primary financial incentive for a landowner donating a conservation easement. By meeting certain criteria of federal law, a conservation easement is recognized by the Internal Revenue Service as a charitable gift, thereby entitling the landowner to a reduction in income taxes. The tax-deductible value of a gift is the difference between the value of land before and after the donation of an easement. A landowner may wish to adjust the annual gross income over several years; the magnitude of adjustment depends on the value of the gift and the annual gross income. Also, through the transfer of development rights, the market value of property is lowered, which subsequently reduces the value for estate purposes and eases the financial burden on heirs.

Although popular with conservation groups, conservation easements

have generated some criticism from the agricultural community and the general public due to concerns regarding the fair and equitable distribution of costs and benefits. Traditionally, conservation easements have been most attractive to those landowners which can take full advantage of the income tax reliefs. Many agricultural operations on the Front, however, do not generate income great enough for operators to capitalize on the potential benefit of adjusting income taxes. To these individuals, the value of donating a conservation easement lies primarily in knowing that the relief in estate taxes will allow heirs to continue agricultural use of the land in the family tradition. On the flip side, the public has expressed concern that conservation easements are subsidizing agricultural operations by granting tax reliefs. Both of these concerns need to be addressed to make conservation easements more fair and equitable for all people.

In lieu of conservation easements, government agencies and private conservation groups in the 1970s and '80s secured many of the important wildlife habitats on the Front through fee title acquisition. At the time, this was relatively inexpensive because land was appraised primarily on its value for livestock grazing. Today, however, land prices have increased to often more than twice the value of rangeland, which has made acquisition less affordable. Also, land acquisition has become less desirable, in part due to evidence that in many instances, livestock grazing and quality wildlife habitat can be compatible entities on private lands. On the Front, low-intensity and rest-rotation grazing systems have provided the backbone for a flourishing abundance and diversity of wildlife.

Donating an easement is currently one of the most innovative approaches to land conservation because it recognizes the social and economic well-being of people that depend on the resources the land provides. Non-profit land trusts such as the Montana Land Reliance have been instrumental in bringing the conservation easement program to Montana, and Montana to the national forefront of conservation easements. Conservation easements have the potential to improve the overall well-being of ranchers, ensure quality habitats for wildlife and maintain the regional character through the recognition of the role and importance of ranching in shaping the future of the Front.