

Conservation Easements: Protecting America's Working Lands



Herefords have been part of the Orvis family since 1918, and a conservation easement will help this legacy live on.

by **Kim Holt**
photos by **Mark Holt** and **Claricy Rusk**

With each passing day the phrase “when the country was the country” rings more true as urban sprawl spreads, swallowing up open spaces, many of which are working landscapes for farming and ranching families.

Progress is generally termed as productive for society, but it can also prove detrimental. Sprawl can affect agricultural livelihoods, productive farmlands and heritage, as well as food production, water quality, wildlife habitat and open space.

Figures from the American Farmland Trust, based nationally in Washington, D.C., show that America is losing 1.2 million acres of farmland each year, with much of the best and most productive land near where most Americans live.

Rangelands are also affected. According to the Wyoming Stock Growers Agricultural Land Trust, 9.8 million rangeland acres — about the size of Maryland and Delaware — were lost between 1982 and 2001.

While statistics paint developmental gloom, land trusts and conservation easements may be the silver lining that help keep working farm and ranch lands intact and families and future generations on the land.

Land trusts, conservation easements increasing

A land trust, according to the Washington, D.C.-based Land Trust Alliance (LTA), is a nonprofit organization that, as all or part of its mission, actively works to conserve land by undertaking or assisting in land or conservation easement acquisition or by its stewardship of such land or easements.

Land trusts are not government agencies but are independent organizations that work with landowners who are interested in protecting open space.

Land trusts aren't a new concept in the U.S. — some of the oldest entities are found in the Northeast — but their numbers are growing, especially in the West. The LTA reports that in 1950, just 53 land trusts operated in 26 states. Today more than 1,600 land trusts operate across the country and are in every state.

Agricultural land trusts help protect and preserve working farming and ranching landscapes through what are known as conservation easements — also described as long-term preservation agreements or deed restrictions.

An easement is a voluntary, legally recorded agreement between the landowner and the respective trust. It restricts the land to agricultural and open space uses, thus preserving the farm or ranch lands for future generations.

A landowner may choose to donate an easement — basically the value of the development rights — and, in return, gain certain tax advantages. Or he or she may choose a funded conservation easement and get paid for the developmental rights in return for certain restrictions and agreements on the working lands, as decided between the landowner, trust and funders.

The landowner pays an endowment to the entity, such



Bruce and Roma Orvis placed a conservation easement on their ranchlands in 2006 to ensure the land would never be divided.

as a cattlemen's land trust, that will monitor the easement into perpetuity. Typically monitoring is done annually. It is required by law and ensures the values put in place by an easement agreement stay in place on the land.

Protecting land and livelihoods

A recent report conducted by the LTA of its member-trusts shows the pace of private land conservation by local and state land trusts more than tripled from 2000 to 2005.

Not surprisingly, the American West is the fastest-growing region in both the number of land trusts and the number of acres — more than 5 million — defended against development. Four Western states with the highest total acres conserved include California, Colorado, Montana and New Mexico.

The Colorado Cattlemen's Agricultural Land Trust (CCALT) has partnered with landowners in the state to help protect more than 285,000 acres in 34-plus counties. While it is one of 35 active land trusts in Colorado, it is the only one that exclusively serves farmers and ranchers.

In 1995 the Colorado Cattlemen's Association gave the CCALT a strict mission to



Stone gateposts mark the entrance to Orvis Cattle Co., part of the historic Snow Ranch. The gate is designated as a historical monument.

protect Colorado's working lands. Over the CCALT's 13 years in business, numerous other cattlemen's trusts have been patterned from its mold, reports Randy Rusk, vice president of CCALT's board of directors.

These cattlemen's land trusts came together in 2004 and form what's known as PORT — Partnership of Rangeland Trusts — based in Cheyenne, Wyo. Each PORT member-trust has an association with its state livestock organization either through direct affiliations or cooperative agreements. These trusts operate in California, Colorado, Wyoming, Kansas, Montana, Oregon and Nevada.

According to PORT, members of this partnership work to conserve unfragmented agricultural landscapes and economically viable ranches through voluntary, incentive-based methods.

In California, for example, the Rangeland Trust works with a good portion of funded conservation easements. "A lot of the landowners who come to us and apply are generational families," explains Nita Vail, executive director. "The equity and cash are important because they're trying to turn the ranch over to the next generation."

Funding can come from both public and private sources, as well as landowner contributions.

"The Rangeland Trust participates in collaborative efforts with other land conservation groups, conservation-minded agencies and other partners from within the state to gain public support and funding for rangeland protection and stewardship enhancement," explains Erin Davis, the Rangeland Trust's director of communications.

"We're always trying to impart to other federal agencies and environmental groups that ranchers are an asset, not a liability, to the rangelands and the environment, habitat and species. A lot of our endangered or threatened species live on our private rangelands, and they are there because of the stewardship practices that already exist within that landscape."

Similar to the CCALT, the California Rangeland Trust (CRT) was founded by the California Cattlemen's Association in 1998. Ranching families own or manage more than 22 million acres of privately-owned rangelands in this state, and the goal of the CRT is to conserve the open space, natural habitat and stewardship these ranches provide.

Preserving a rich heritage

One such ranch with a rich Hereford heritage that is now protected from development with a conservation easement is the Orvis Ranch near Farmington, Calif. Bruce and Roma Orvis own

the 2,563-acre ranch, part of the historical Snow Ranch, which straddles Stanislaus and Calaveras Counties in the rolling foothills of the Sierra Nevada mountain range in northern California.

Bruce and Roma entered into the conservation easement agreement in spring 2006 with the CRT, ensuring their ranch will forever remain the same — a historical working ranch — preserving their belief that "ranchers are the original environmentalists."

The Orvises run about 200 Herefords, annually marketing about 55 bulls. They also manage about 500 stockers. Bruce has a long history of breed improvement within their state and has served on the American Hereford Association Board.

The Snow Ranch — which was established by Bruce's grandmother's family in 1873 — is home to California's oldest Hereford herd, dating back to 1918. The ranch sits at the edge of old gold mines, and Native American grinding holes are still found in flat rocks. The Snow Ranch has also been the backdrop for many movies including *The Big Country* and *Little House on the Prairie*.

The conservation easement allows ongoing agricultural productivity of the ranch, while it conserves its open space, historical value, scenic character and wildlife habitat — all without the threat of development.

The Orvises sold all development rights because "we didn't want the ranch to be split

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Randy Rusk's grandchildren are the sixth generation to call Colorado's Wet Mountain Valley home. Unwilling to turn loose of his family's ranching heritage and rural values, Randy has spent countless hours helping protect their valley's working lands and rural way of life from urban growth.

Conservation easements draw proponents

Ag producers may be survivors but that doesn't mean they all agree. While there were diehards who were outspoken and opposed to conservation easements in the beginning, Colorado's Randy Rusk has found these same people are realizing easements are a very useful tool in a lot of situations.

"A great number of skeptics have joined ranks and agree with me now. And that makes you feel good. You don't win the world over on anything when you're dealing with these stubborn, bull-headed, independent ranchers of which I'm one."

Bruce and Roma Orvis owned the first ranch in California's Calaveras County with an easement, but they're finding more and more people who are open to the idea of land preservation.

"We've been amazed at how many people think it's a great thing," Bruce says. "We're really happy with it." Bruce and Roma say several of their neighbors are interested in doing something similar.

Statistics from the cattlemen's land trusts in Colorado and California also show conservation easements have caught on. Colorado's Ag Land Trust is working with 180 easements on more than 285,000 acres. Likewise, the California Rangeland Trust (CRT) has doubled its portfolio over the last four years and now includes 183,144 acres under conservation easement with 27 ranching families and a long waiting list to boot.

The CRT's Nita Vail believes its waiting list shows a trust has been built between the CRT and landowners. "Ranchers have seen a few of these happen and they realize that they're working. Agriculture is word of mouth, it's a show-me industry," she observes. **HW**



The view from Randy and Claricy Rusk's back door in late May. Claricy writes: "The replacement heifers are in the pasture with the Sangre de Cristo Mountains in the background. The space between is all under conservation easement with all development rights extinguished. Our view won't change much ever. We are very proud to have been able to be a part of that accomplishment."

Conservation easements and care of the land ensure that this scene — father and son making plans for the day — will continue on Rusk Hereford Ranch. Randy's son, Tate, is the third generation Rusk to run cattle in their mountain valley.



up,” they say, taking that decision out of the hands of future generations. They are only about 15 miles from a big development, and to the south, they can see 40-acre ranchettes dotting the grasslands.

The CRT worked with the Trust for Public Land (TPL) in assembling funds from the State of California Department of Conservation, the U.S. Department of Agriculture and the Great Valley Center to purchase the Orvis Ranch conservation easement.

Because this easement was funded, it helped pay off ranch debt. “We wanted the ranch to stay a big, open ranch,” Bruce says. “It was a win-win for us. We were paid and it stays the same.”

Bruce and Roma believe easements are a good instrument to help people pass on family lands. Succession issues have caused a lot of families to break up, Bruce points out. “This will save a lot of ranches and families.”

Passing on the land's legacy

Near Westcliffe, Colo., Randy and Claricy Rusk desired to continue their family's ranching legacy in the picturesque Wet Mountain Valley in south central Colorado's Custer County, about 60 miles west of Pueblo.

Not unlike other ranching families, however, the Rusks faced family



PHOTO COURTESY OF RUSK FAMILY

Rusk Hereford Ranch was recognized with the prestigious Leopold Conservation Award in 2004. From left are three generations of Rusks: Harvey and Jean Rusk, Randy and Claricy Rusk, and Tate and Wendy Rusk. The Leopold Award recognizes landowner achievement in voluntary conservation. It's presented in just a handful of states, and the Rusks were only the second to win in Colorado.

succession issues compounded by urban growth development.

While this area is known for its historical ranches and excellent hay production, all nestled beneath the rugged Sangre de Cristo Mountains, it is also considered one of Colorado's hidden gems. Increasing developmental pressure has placed Custer County nationally among the top counties in per-capita population growth.

Randy Rusk explains, “I was searching for a solution to not only a family estate problem but to a number of the ranches I was leasing. The dollar amount on these ranches was just astronomical. I was looking for ways, knowing there had to be something different.”

“Something different” turned out to be the TPL, a group knowledgeable about conservation easements and sympathetic to agricultural land preservation.

The Rusk family's first easement was placed on their ranch in 2002, one of the first in their valley. Other easements have since been placed on rangelands they lease and also on neighboring ranches. “I have a 10,000-acre block here that is pretty much protected,” Rusk confirms.

“We started doing one or two [easements] at a time; all of them were funded differently. From that, other guys just followed suit.” The CCALT has participated in the protection of several ranches, including the Rusk's.

Two factors that have helped promote conservation easements in Colorado are open space grants funded from Great Outdoors Colorado (GOCO), which receives a portion of funds from the Colorado Lottery and a state income tax credit. This credit is a great reason, says Rusk, for agricultural people to place land into easements.

Where do I start?

For more information on land trusts and conservation easements, the California Rangeland Trust's (CRT) Nita Vail recommends producers start with their state cattlemen's land trust, if one is in place, or check for local trusts.

“When you look at a land trust, look at the mission statement and the composition of the board of directors. That will tell you a lot about the land trust's personality,” she recommends. “If you're doing an agricultural conservation easement, ideally you'll want to make sure there are agriculturists on that board. The board directs the policies about the easement you'll engage in and how that land trust monitors easements.”

Colorado rancher Randy Rusk points out that land trusts have specific missions and they're all a little different — some want to save riparian areas or certain aspects of wildlife habitat.

“Essentially the Colorado Cattlemen's Agricultural Land Trust's mission is to not ever subdivide and to tie the water to the land forever. It doesn't mean you have to put cattle on it or farm it, but you can't take those abilities away from the land,” he explains.

The name of a land trust can be deceiving, but more information is easily accessible via the Internet. For example, both Rusk and the Orvises also worked with The Trust for Public Land (TPL), a national, nonprofit land conservation organization. One of the TPL's conservation initiatives is to protect the farms, ranches and forests that support land-based livelihoods and rural ways of life.

Landowners can choose who holds the conservation easement and monitors it into perpetuity. In both the Rusk and Orvis cases, they chose their state cattlemen's-affiliated trusts. The board and staff of these groups understand ranching and rangeland values.

Vail points out that everyone on the CRT's board is a cattleman or cattlegirl and is a member of the state cattlemen's organizations. “That's a requirement,” she says, adding they're also very conservation-minded ranchers with a wealth of background and experience.

Based on experience, Rusk summarizes: “Find a land trust that is sympathetic with your views of the care of the land, and look at the legal, accounting and appraisers — get the best, most reputable people possible to do the work for you.” HW

While Rusk would rather just be concerned about raising cattle, his involvement in land protection came about out of necessity: “As a mainstream agriculturist, I need space to produce on,” he says.

The present-day Rusk herd is a Red Angus-Hereford cross that stems from a registered Hereford base, evolved at their elevation of 8,000 feet. Like other high-country ranch owners, the Rusks raised Herefords to curtail high-mountain, or brisket, disease, which can cause congestive heart failure in cattle. This disease is primarily caused by pulmonary hypertension associated with high altitudes. The Rusks also take in stocker cattle, but brisket disease remains a concern.

Today, four generations of Rusks live on Rusk Hereford Ranch, including Randy and Claricy's son, Tate, his wife, Wendy, and young children, Emma and Grant, and Randy's parents Harvey and Jean. On Claricy's side of the family, members trace back six generations to the original German settlers in the valley.

“We're talking of about 150 years of people who have been on the land and cared for it,” Rusk declares. “I don't know how you would duplicate that. That's one reason why I don't want to see it go away. And for a great number of ranchers, it has. That's what has motivated me to do something now.”

“This Wet Mountain Valley was all ag, all open space,” he explains, “and its demise has been subdivisions. And the impact of these subdivisions has just crippled the county, financially. Growth didn't pay for itself.”

Rusk has found especially

disturbing the disconnect urban owners have for the land and its renewable resources. “That concerns people who've lived, depended on and cared for the land,” he says. “The Earth was built to produce, and the best way to measure the care that you give the land is through ag production.”

Randy and Claricy are actively involved in the CCALT; Randy has been a board member since 2002. From his involvement in land preservation, he's heard it said that 20 years from now there will be two types of land: protected and developed.

“I have friends who say we haven't really identified what the values are we're giving up and what their costs are.

“Our work is long from being done if we have the money,” he says. “If we could roll the clock back 20 years before land appreciation got ahead of us, we could have done something really big.”

Funding of easements is a challenge, he says, “We run out of funds quick; too much challenge, too much competition. There's still a lot to be done. If we wait a second, we're losing ground every day. My idea of the whole deal is don't ever holler ‘whoa’ in a horse race. Do as much as you can with what you have at the time.” HW

Is a conservation easement for you?

The Colorado Cattlemen's Agricultural Land Trust (CCALT) outlines these considerations for producers who may be thinking about a conservation easement on their land.

Pros:

- Your land stays intact.
- Heirs and society reap benefits in the form of working landscapes, wildlife habitat, scenic views, clean air and water.
- The financial numbers work to your advantage.
- An easement can help you meet long-term property goals.

Cons:

- It limits potential future uses of the property, particularly development.
- It restricts heirs or future owners.
- It will lower the value of the property on the open market and/or it may take longer to sell.

For more FAQs about conservation easements, visit the CCALT Web site www.ccalt.org. HW

Visit these Web sites for more information about land trusts:

- Colorado Cattlemen's Agricultural Land Trust, www.ccalt.org
- California Rangeland Trust, www.rangelandtrust.org
- Partnership of Rangeland Trusts, www.maintaintherange.com
- The Trust for Public Land, www.tpl.org
- American Farmland Trust, www.farmland.org
- Land Trust Alliance, www.lta.org