



Conservation Easements

Preserving Private Land in the Rockies

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The most prominent characteristic of land in the Rockies is that so much of it is relatively untouched by human development. This remote, rugged setting defines the West's historical identity and is the source of inspiration for the Western imagination. Even today, as the most remote pockets of the West have been tamed, the Rockies region is still open, wild, and untouched compared to the rest of the country. Although human impact has increased to some degree on every stretch of land in the Rockies, less than two percent of the region is actually covered by highways, housing developments, or large urban footprints.¹ The rest of the land is publicly and privately held natural forest, desert, and grassland or partially developed agriculture and ranch lands.

Nearly half (46 percent) of the Rockies' land is owned by the federal government, which administers these public lands through different government agencies, such as the Bureau of Land Management, Forest Service, and National Park Service. We tend to



think of public lands, which are often the most visually impressive parts of the region, from stark desert to towering mountains to deep canyons, as the region's characteristic wild lands. The other half of the Rockies is mostly private ranch and farmland. Although private land may seem like a less integral component of what defines the West, agriculture lands, especially ranches, play a vital role in creating

the West's scenic vistas, protecting its abundant wildlife, and giving the region a rugged character. Private ranches and farms cover most of the Rockies' fertile lands, following the wide river valleys that were homesteaded and serving as key arteries that link the public lands together. This complex interplay between public and private land forms the mosaic of the West that we know and love.

Western public lands face a variety of threats, from booming energy development and recreation to weapons testing and nuclear waste storage, but the development of private lands is altering the greatest percentage of the Rockies landscape. Between 1970 and

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2001, the Rockies' population grew 124 percent, or three times faster than the U.S.² And from 2000 to 2004, the Rockies' population has grown at over three times the national rate.³ Agricultural lands are being converted to subdivisions at a rapid rate, as home seekers drive development and sprawl. This unprecedented growth is causing a significant impact in the rural West where open agricultural lands are being converted to residential uses as fast as, and sometimes faster than, the population growth rate.⁴

Multi-thousand acre ranches, that once represented a significant part of the rural economy, maintained scenic view sheds, and provided numerous ecosystem services, are losing their traditional value as they are developed into ranchettes and subdivisions. As a result, the Western heritage, natural lifestyle, scenic beauty, and recreational opportunities provided by the region's mountain landscapes, vast open spaces, and remote populations are being lost. Consequently, threatened and endangered species are declining at a much faster rate on private lands than on federally protected public lands.⁵ As the Rockies region continues to attract new residents and second-home buyers, the cultural and environmental integrity of the wide open private ranches and agricultural lands will continue to decline.

Land trusts are leading the way in protecting the Rockies' private land by developing and implementing tools to impede the suburban race to the range and to preserve key undeveloped or lightly developed private land in the Rockies. Conservation easements are the tool used by these preservation groups and landowners nationwide to preserve cultural, historical, and ecological sites.

Gaining prominence during the 1970s, conservation easements allow landowners to capitalize financially by forever forfeiting some of their development rights, ensuring the land's conservation values will not be degraded by development or subdivision. Many in the conservation movement consider easements one of the most successful methods of preserving environmentally important private lands in the country. It is estimated that more than two million acres of private land—about the size of Yellowstone National Park—have already been protected in the Rockies, a number that is expected to grow rapidly as the easement movement gains popularity among landowners and legislators.

But how successfully do conservation easements prevent unplanned, rampant growth? How widespread are easements in the Rockies and where are they being used? And what role can they play in the future considering some of their controversial elements? This report addresses these critical questions by tracking the rise of land trusts and conservation easements in the U.S., critiquing conservation easements in general, and geographically tracking the use of easements throughout the Rockies.

Land Trusts and Conservation Easements in the United States

According to Land Trust Alliance (LTA) President Rand Wentworth, "The [collective] mission of land trusts is not just to save land, but to protect the traditional lifestyles of a community, a way of life that remains connected to that land." The LTA, an umbrella organization representing small, local trusts, defines a land trust as "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

Survey of 1,350 Land Trust Alliance Land Trusts:

Primary Conservation Purpose of Land Trusts, 2003

Figure 1

Source: Land Trust Alliance



land or easements."⁶ Although different land trusts have different missions, a survey of approximately 1,350 land trusts suggests the primary purpose of most trusts is to protect habitat for plants or wildlife or to preserve open space. Figure 1 shows the primary purposes of land trusts outlined in their mission statements or activities of the entire survey field.⁷

Land trusts preserve private land either by accepting a conservation easement donation from a private landowner or by purchasing land themselves via fee-simple ownership and then either placing an easement on it or committing it to little or no development. Private property comes with a set of bundled rights such as agriculture, mineral, water, timber, and development rights that can be kept in aggregate or unbundled and sold separately. Landowners can give up the current and future development rights on their land in perpetuity and donate the land for a "conservation purpose" as defined by the Internal Revenue Service (IRS) to a certified nonprofit land trust. This is a conservation easement. In return, the federal government and, often, state and local governments, recognize the transaction as a charitable donation worthy of income-tax relief. Additionally, once the development rights are held by a nonprofit land trust, the property value significantly decreases, which reduces capital gains, estate, and gift taxes for the landowner.

In certain cases, preserving private land through fee-simple ownership still serves an important role, but preserving with conservation easements is becoming the preferred method for land trusts because of lower acquisition and monitoring costs and an evolving federal tax-incentive program.⁸ Easements are, in turn, increasingly attractive to large-scale, private landowners because each agreement is tailored to a specific case, giving the landowner much control over the process. Additionally, easements give cash-poor, land-rich ranchers a means to generate needed revenues, combat development pressures, and most importantly, preserve their way of life for many generations.

Development of Land Trusts

In 1891, the Massachusetts Trustees of Reservations became the first land trust founded to preserve land free of taxes. Within a decade, similar land trusts were established in New England, but nationwide, the land trust movement remained stagnant until the middle of the 20th century.⁹ In the U.S., approximately 53 land trusts were operating in 1950; 308 in 1975; 867 in 1990; and 1,263 in 2000.¹⁰ Today, more than 1,500 nonprofit land trusts operate across the country with a general mission to preserve natural landscapes.

Conservation Success Stories

Montosa Ranch, New Mexico

West of Magdalena, New Mexico, at the edge of the sandy Plains of San Agustin, lays the Montosa Ranch. Co-owner and manager of the ranch, B.W. Cox, proudly states, "This old country promises less and delivers more than any country I've ever been in... It's because of the sand." The ancient lake bed that makes up the Plains of San Agustin carries silt onto the ranch, creating a soil complex where root depths reach 60 inches, runoff and erosion are subdued, and healthy wild grasses thrive. These unique natural features make the land ideal for raising cattle.

After years of working on ranches, Cox and his wife, along with a friend, bought the Montosa Ranch in 1989. Through his previous ranching experience, Cox developed an appreciation and keen understanding of the intimate relationship between a successful ranch and the health of its land. As a result, he works hard to know his land and to preserve a vibrant ecosystem. He knows the first spot where the sun hits the ranch and where the warmest place is for calving. Cox rotates his herd on a daily basis to ensure the native grasses continue to flourish.

The largest operating land trust in the U.S. is The Nature Conservancy (TNC), a global nonprofit organization founded in 1950 "to preserve the plants, animals, and natural communities that represent the diversity of life on Earth by protecting the lands and waters they need to survive."¹¹ TNC holds more acres under conservation easement or through fee-simple ownership than any other land trust, operates with a targeted area greater than the entire U.S., and has a budget larger than any environmental organization in the world.¹² TNC is currently protecting 14.2 million acres in the U.S. through all conservation methods, which include but are not limited to easements. TNC holds around 2,000 conservation easements throughout the nation that protect an estimated two million acres.

In addition to seven other major national or international land trusts, the rest of the nation's conservation easements are represented by

As Cox considered retiring, he and his wife looked into how they could generate monetary wealth from their land without completely developing the ranch. They considered passing the land on to their sons, but one is unable to run the ranch and the other is unwilling. Cox was initially hesitant about conservation easements, because easement donations are forever. But eventually, Cox and his ranching partner worked through a variety of easement options with a land trust to create a more flexible type of easement, called a development conservation easement. The final plan would generate a fair amount of revenue by allowing regulated development on portions of the ranch while placing 27,000 acres under easement.

Five thousand acres of the ranch were carefully surveyed and split into seven 640-acre lots to be sold. Each lot carries its own easement and other development restrictions. Once sold, the lot owner can only build on a predetermined, five-acre development site and can only fence in a 50-acre plot around the development. The development sites were carefully positioned to minimize ecological impact and to ensure that no building at one site is visible from another site. This creative, intricately tailored plan meets Cox's needs. The easement forever preserves much of the ranch and gives Cox the opportunity to pass the wealth from selling the ecologically sensitive ranchettes down to his children without compromising Cox's conservation values.

1,500 local and regional land trusts that often focus on conservation in a single valley, county, or group of adjacent counties. LTA, based in Washington, D.C., "promotes voluntary land conservation and strengthens the land trust movement by providing the leadership, information, skills, and resources land trusts need to conserve land for the benefit of communities and natural systems."¹³ LTA provides helpful services, like technical and operational assistance, to small land trusts. LTA trusts have cumulatively protected over nine million acres as of 2004. Of those protected acres, 5.1 million are protected by conservation easement as of 2003, up from 1.4 million easement acres in 1998. In just five years, LTA nearly quadrupled the number of acres preserved by easement.

A survey of LTA's constituency of land trusts by region shows that the Northeast has the most conserved acres in the U.S. at nearly three million. Next are the Pacific, Mid-Atlantic, and Southwest regions, each with around 1.5 million conserved acres. The Northwest, Southeast, and Midwest regions each reported less than one million conserved acres.¹⁴

Conservation Success Stories

Hilger Hereford Ranch, Montana

Nicholas Hilger immigrated to the United States from Luxemburg at the age of 26. He homesteaded a ranch on the Missouri River outside Helena, Montana, built the ranch's first cabin in 1867, and became a thriving cattle rancher. Hilger faced his share of hardships, like in 1908 when a dam broke upstream from the ranch and a 30 foot wall of water destroyed everything he owned and nearly killed him and his family, but Hilger rebuilt and passed his ranch on to his four children. They continued to work the land and made it through the Great Depression.

Nobody in the family married or had children, so there were no heirs in line to take over the ranch as Nicholas Hilger's four children receded into old age. Across the Missouri River they watched neighboring ranchers sell to developers, who built several estate homes on what was once open ranchland. Hoping to preserve the character of their land, the surviving family members made an oath to resist daily offers from developers and other ranchers to buy the land.

When the Hilger family was no longer physically able to ranch, they donated all the land's development rights to the Montana Land Reliance in a conservation easement. No new home sites are allowed to be built, except within a small parcel of the property at the ranch's headquarters. The family's dying wish was to keep the land as a cattle ranch forever. People passing by the ranch today may not see the Hilgers, but they will always see open pastures and thick cow bellies.

National land trusts and local land trusts have different strengths and fulfill complementary roles important to sustaining the growing conservation easement movement. Sandy Pew, a rancher in Belgrade, Montana, used TNC to place easements on parts of his 7,000-acre ranch, but now, Pew indicates he will use a local land trust headquartered in nearby Bozeman for his future easement plans. Sandy thinks the local trust is more personal and better understands local ecology in this case.¹⁵ But in other instances, national trusts may be equally or more personal and knowledgeable of local conditions, and national trusts tend to have the advantage of firmer financial footing and stronger assurances that they can maintain the easement into the future.

Land trusts represented by LTA outpaced TNC in conservation easement acreage growth from 1984 to 2000,¹⁶ and local land trusts are being formed at a rate of two per week across the country.¹⁷ The increasing presence of local land trusts is good for the conservation movement. Local trusts have the means to adequately meet the conservation needs of many local landowners. This takes some burden away from TNC, allowing them to focus more on large-scale easements and other conservation projects that are beyond the scope of local trusts.

Current Controversies

Although the future of using conservation easements to protect private land in the U.S. looks promising, it is important to note that there are a few controversial elements of easements that may weaken the movement. These controversies are being dealt with at local and national levels, and the outcome of these dealings could largely determine whether or not easements continue to play a growing role in protecting private land in the U.S.

The most significant controversy is the overvaluation of a donated easement. Valuing the sacrificed development rights of land placed under an easement at more than their conservation value gives the property owner more tax benefits than deserved and leads to significant costs for taxpayers. In recent years, some notable instances of overvaluation were uncovered, generating public opposition to conservation easements. Third party appraisers with an incentive to overvalue a property's development value are largely responsible for this problem. LTA, other land trusts, and the IRS are leading a movement to identify and exorcise dishonest appraisers. These organizations have worked with Congress to update the easement legislation discussed below.

Other controversies arise from shady dealings with land trusts (not involving overvaluation) where land trust board members are paid or insider transactions take place, which tarnish the image of land trusts and conservation easements.

Another controversy with easements is that, in certain cases, easement donations benefit wealthier landowners more handsomely than poorer landowners, even if they were to place the exact same land under easement. A rancher with valuable land, but low income, cannot capitalize on the full tax relief of placing an easement on his/her land, whereas a rancher earning a higher income (potentially outside of ranching) with a similar easement deal will realize larger benefits. The federal laws enabling conservation easements give particular authority to individual states to mandate stricter standards. Some states have enacted more progressive easement policies that address the wealth discrepancy and boost the incentive for cash-poor, land-rich property owners to put an easement on their land.

The Senate recently passed the Tax Reconciliation Bill (S. 2020) to deal with the aforementioned easement controversies. Section 307

Conservation Success Stories

Blackfoot River Valley, Montana

The Blackfoot River Valley is home to one of the most prestigious conservation programs in the country, and is a classic example of regional cooperation conservation easements. Because of the valley's "blue ribbon" trout fishing, big-game hunting, and other world-class outdoor activities, the recreation industry took off during the 1960s. At the same time, subdivisions started popping up, replacing ranches that once kept the area open and rural. A number of remaining ranch owners in the valley organized to slow the growth and subsequent development of the pristine valley.

The ranchers considered a variety of conservation options. Seeking a Wild and Scenic River designation was rejected because of opposition to bringing in the federal government. Zoning regulations were dismissed, because they take too much power away from landowners. In the end, conservation easements were the right fit. Piece by piece, a 30-mile stretch of the Blackfoot River and its surrounding lands were placed under easement with the help of three land trusts: The Montana Land Reliance, Five Valleys Land Trust, and The Nature Conservancy.

Most easements in the Blackfoot Valley focused on prohibiting subdivision, mining, and building industrial facilities while allowing farming and ranching to continue. Ranchers Edna Brunner and her son, Paul, filed the first easement in the valley in 1974. Other landowners quickly followed suit. Fanny Steele, champion horseback rider and movie star, donated land on The 5 Star Double R Ranch. Then, easements were placed on the Blackwood Ranch, a purebred cattle operation whose glacial ponds are popular with migratory birds. Otto and Jean Eder, who owned a 1,280-acre parcel of prize real estate, donated all the land's development rights to raise cattle for the rest of their lives.

Although landowners had addressed the development issue, another problem loomed in the valley. The steady flow of outdoor recreators led to a variety of access problems as recreators tromped across private land to get to the Blackfoot River. Eventually, a limited access plan to the private Blackfoot was worked out in the valley, which put in place an access reevaluation program to ensure that landowners continue working together to maintain an effective and satisfying access plan. Today, over 35,000 acres are under easement in the Blackfoot River Valley, allowing the ranching community to coexist with recreators.

of the bill expands the limits on an easement donor's tax deductions. It raises the percentage of the maximum deduction a donor can take on his/her income from 30 to 50 percent. Recognizing the importance of agriculture and the threats facing the industry, the bill allows farmers and ranchers to deduct 100 percent of their income. The bill also increases the time span over which easement donors can take tax deductions from six years to 16 years. Section 302 of the bill addresses the overvaluation controversy by setting higher restrictions on easement appraisers and increasing the penalty for dishonest appraisals.

Land trusts and the conservation movement generally support this bill, because it increases the beneficial aspects of easements for landowners while addressing the most significant problem: appraisal abuse. At the time of this writing, the bill must pass the House and be signed by the president before it becomes a law. If assimilated into law, it is estimated this bill will cost the government \$69 million in lost tax revenue.¹⁸ That price tag must be considered together with the positive value of land conservation and the beneficial externalities associated with easements.

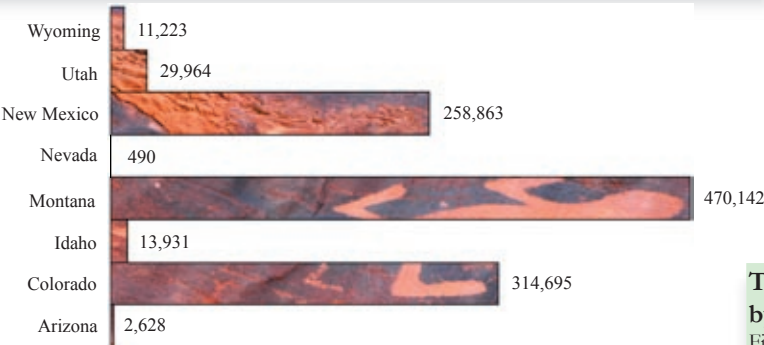




Land Trust Alliance Conservation Easement Acres by State

Source: See "About the Data"

Figure 2



Conservation Success Stories
Local/Regional Land Trusts

In addition to national organizations, like The Nature Conservancy, more than 1,500 local land trusts operate around the country. These nonprofits generally target local, and therefore smaller, conservation areas.

Ochs Ranch, Colorado – Colorado Open Lands Land Trust

In Gunnison County, Colorado, seven neighboring ranching families joined together to create Ochs Ranch. In 1988, Bill Trampe, president of Gunnison Ranchland Conservation Legacy (GRCL), and Susan Lohr, a GRCL Board member, designed this unique cooperative operation, which calls for the landowners to donate 2,770 aggregate acres toward a conservation easement.

The area's lower elevation ungulate habitat contains a diversity of meadow vegetation, which is important to the surrounding ecosystem, and provides seasonal migratory bird habitat. GRCL worked closely with Colorado Open Lands and a number of other nonprofits and government agencies to meet their conservation goals.

Benson Ranch, New Mexico – Taos Land Trust

Below the Taos Volcanic Field, Tony and Holly Benson's working ranch is a natural corridor for wildlife moving between protected public lands to the ranches north, west, and south. Elk, antelope, bears, eagles and peregrine falcon move through and live off of the ranch's pinon-juniper forests. The Taos Land Trust helped the Bensons donate 960 acres, which is not the entire ranch but is enough to ensure a major portion of the wildlife corridor stays intact and undeveloped into the future.

About the Data

Figure 2 through Figure 7 present state- and county-level acres held under conservation easement by The Nature Conservancy (TNC) and the Land Trust Alliance (LTA). TNC data on conservation easement acres by county were updated in August 2005 and obtained directly from TNC. LTA conservation easement and fee-simple ownership acres by county in 2000 were obtained from the Property and Environment Research Center (PERC). LTA's fee-simple ownership acres cannot be separated from the data. Other sources of data were considered, and for Colorado, the other data were incorporated to make the figures more accurate. The additional Colorado data is from Colorado Conservation Trust's (CCT) 2005 report for the state of Colorado. Acres under easement outside of TNC and LTA (and CCT in Colorado) are not included in the study.

The accuracy of the data varies with the source. The TNC and CCT data is very accurate. The LTA dataset is less accurate, because PERC had to make some generalizations and assumptions to extrapolate county-level acres from the multi-county regional acres reported by LTA. But the PERC data have been checked against other sources and are deemed sufficiently accurate.

State and county conservation easement acres are normalized by the privately owned acres in the geographic area to generate more meaningful figures. Private acres were generated in GIS using the GAP Analysis.

The Nature Conservancy Conservation Easement Acres
by State

Figure 3

Source: See "About the Data"

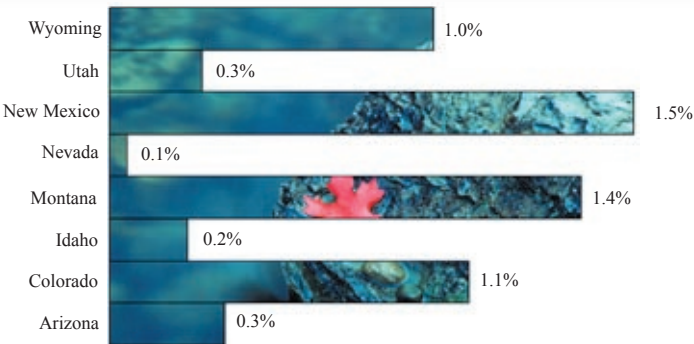


Land Trust Alliance and The Nature Conservancy
Easement Acres

As a Percentage of All Privately Owned Acres

Figure 4

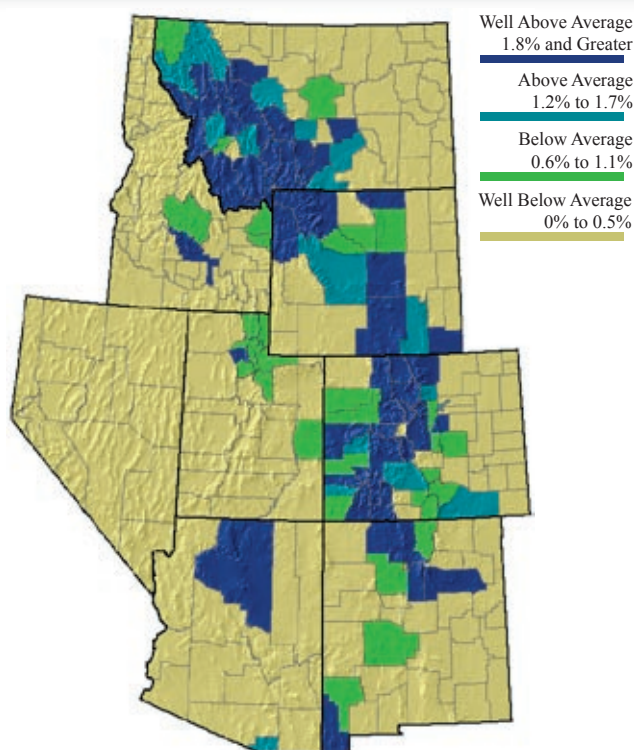
Source: See "About the Data"



County Acres Eased As a Percentage of Privately Owned County Acres

Source: See "About the Data"

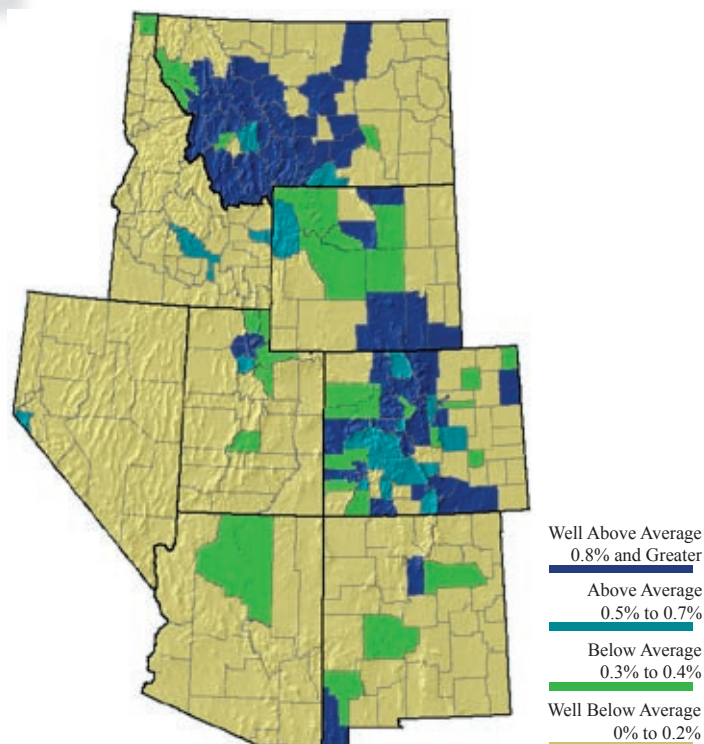
Figure 5



County Acres Eased As a Percentage of All County Acres

Figure 6

Source: See "About the Data"



Tracking Conservation Easements in the Rockies

Ninety-nine local land trusts operate in the eight-state Rockies, along with seven land trusts that operate across the nation and/or internationally. Over one third of the local land trusts, or 34, operate in Colorado alone. The rest of the states in the Rockies have four to 13 local land trusts each.

Easement Acres by State

Acres under easement vary dramatically from state to state. Over 90 percent of LTA's easement acres are in just Colorado, Montana, and New Mexico (Figure 2). Over 70 percent of TNC's easement acres are in just Montana, New Mexico, and Wyoming (Figure 3).

Combining the TNC and LTA conservation-easement acres clearly breaks the Rockies' states into two groups. The Eastern Rockies, which are Colorado, Montana, New Mexico, and Wyoming, are home to over 90 percent of the region's easement acres. Less than 10 percent of the region's easement acres are in the Western Rockies, which are Arizona, Idaho, Nevada, and Utah.

Total acres under easement is not the best gauge of state success in protecting private land, because states come in different sizes and have different amounts of private versus government land, meaning they each have different quantities of land available for protection by conservation easement. It is more meaningful to look at easement acres per acre of private land.

In the Rockies region, about one percent of all private acres are protected by conservation easement region-wide. Figure 4 shows

New Mexico and Montana, with 1.5 and 1.4 percent of private acres conserved by easement respectively, are well above average for the region. Colorado and Wyoming, 1.1 and 1.0 percent, are close to average. Arizona, Idaho, Nevada, and Utah are significantly below average with only somewhere from 0.1 to 0.3 percent. By this measure, the Eastern Rockies states again have more easement acres than the Western Rockies states.

Easement Acres by County

In the average Rockies county, 1.2 percent of all private land is under TNC or LTA conservation easement, but these acres are not evenly distributed throughout the region and tend to be clustered in counties along the Continental Divide.

Figure 5 shows that most counties with above-average and well-above-average acres as a percent of all private land trace the Continental Divide from the Montana-Idaho border south through central Wyoming, Colorado, and New Mexico. Away from the Continental Divide, almost every county falls into the well-below-average classification.

Looking at easement acres as a percentage of all county land, not just private land, reveals similar results. On average, each Rockies county has 0.5 percent of its total acres (private and public) under easement. Figure 6 shows again that most above-average counties follow the Continental Divide, but by this measure there are more above-average counties away from the Continental Divide. The metro, micro, and rural counties with the most eased acres as a percentage of all private land are displayed in Figure 7.

Conservation Success Stories

The Nature Conservancy (TNC)

TNC is the single largest nonprofit land trust in the country with jurisdiction over 15.4 million acres of preserved land throughout the United States.

Sylvester Ranch, Arizona

Through the collaborative work by TNC, the U.S. Bureau of Land Management (BLM), and the U.S. Fish and Wildlife Service, Charles and Evelyn Sylvester donated an easement on their 909-acre ranch in Cochise County, Arizona, in 2000. TNC designed the easement to prevent subdivision and development and to turn over 200 million gallons of annual groundwater rights to the Fish and Wildlife Service. The BLM helped fund the easement and facilitate communication between TNC and the Fish and Wildlife Service. As a result of the easement, more water flows down the San Pedro River, critical wildlife migration routes are protected, and more land is preserved adjacent to the San Pedro Riparian National Conservation Area.

Meadow Vue Ranch, Idaho

Next to pristine Henry's Lake, Dennis Moedl's 400-acre Meadow Vue Ranch is a dream spot for development. Instead of selling the ranch for offers of up to \$2.5 million, Moedl donated 380 acres to TNC. Moedl explained to the community, "I never want to look out there and see a hundred houses on that meadow. If it gets built down there, it'll take away the scenic value of the whole valley."

TNC designed the easement to ensure Moedl can still raise 800 Black Anguses and keep 90 horses on the property as he has done for 66 years. The Land and Water Conservation Fund purchased Moedl's development rights, giving him

enough money to donate the easement and still manage the ranch's mortgage and work the land. To raise additional revenue, the ranch now has a summer camp for school children interested in learning about the cowboy tradition.

Bar J Ranch, Utah

Dan Jorgensen is the fourth generation in his family to own and manage the 5,776-acre Bar J Ranch in Utah. Because of ranch debt and high inheritance taxes, Jorgensen feared he would have to sell the land and not be able to pass it on to his children. Instead, he donated a significant portion of the ranch's development rights to TNC: "I would hate to see this property, which has meant so much to me and my family, have to be sold and developed. Today our Christmas wish has come true. The Bar J Ranch will remain intact forever." Jorgensen's donation helps Utah's biologically important Fishlake National Forest. The ranch serves as important lowland, winter habitat for deer, elk, and sage grouse. Bears, cougars, raptors, and endangered Bonneville cutthroat trout also use the natural resources of Jorgensen's land.

Eagle Ridge Ranch, Wyoming

Near Casper Mountain, Wyoming, Oliver and Deborah Scott's Eagle Ridge ranch includes unique forest and river habitat for bald and golden eagles. In 1981, the Scotts donated 8,561 acres of their ranch that abuts the Jackson Canyon Eagles Area of Critical Environmental Concern to TNC. Because of the easement, Oliver was able to pass the land on to his son, Stacey, who now manages the ranch. To further promote conservation on Eagle Ridge, Stacey practices Holistic Resource Management. He credits this practice and his parents' easement donation with making his ranching lifestyle economically sustainable into the future: "The conservation easement has had a very positive impact because my children and future generations can continue ranching without fear of housing developments threatening their livelihood."

Conclusions

Private land is a vital component of the open and wild character of the Rockies region. This Western ruggedness plays a large role in attracting more and more people to the region, which is a critical driver of economic growth but which, ironically, takes away from that very character. Population growth does not require the rapid conversion of natural and open lands into subdivisions and strip malls, but that is what is happening today at a swift rate.

The region must strive to accommodate growth in ways that reap its benefits while mitigating its harm. To do so requires sensible, comprehensive growth management both within communities and across the landscape. Conservation easements are one tool for slowing down rapid private-land development. As more private land is placed under easement, less developable land remains, forcing developers and communities to craft more efficient growth policies.

The conservation-easement movement is firmly rooted in the Rockies and shows signs of strong growth. Local land trusts are being rapidly established and developing support, while large, national land conservation organizations continue to play a large role in protecting private land. Together, these groups are amassing a large portfolio of land in the Rockies, where around one percent of all private land has been placed under easement by TNC or LTA.

One limitation to the conservation-easement movement in the Rockies region is that it is geographically isolated (Figures 2 and 3). Much more private land is protected along the Continental Divide percentage-wise than elsewhere. Even along the Continental Divide, certain regions have hardly any easements, and the discrepancy in easement acres from state to state is large. The conservation-easement movement can grow by expanding its geographic coverage.

Another challenge the movement faces is ensuring conservation easements are a possibility in the future. It is critical that supporters of conservation easements participate in resolving the current controversies surrounding easements. They must do what they can to curb abuse of the system and must play an active role in drafting legislation and policy to ensure that any changes curtail abuse without taking away from the value and convenience of placing land under easement.

Conservation Success Stories

Colorado Conservation Easement State Tax Program

In 2000, Colorado implemented one of the most progressive conservation easement tax programs in the country. Landowners with conservation worthy property are permitted to take a dollar-for-dollar state tax credit for development rights they donate up to \$100,000. For donations above \$100,000, a second tier of tax credits at 40 percent of the dollar value is applied. The maximum state tax credit is capped at \$260,000. With the two-tiered program, a \$500,000 donation would be required to receive the full \$260,000 tax credit limit.

What makes Colorado's easement program unique is the flexibility it provides landowners. Landowners can either apply the donation directly to their state taxes, or, if their income is insufficient to capture much financial benefit, they can sell the credits to businesses around the state. The program has allowed cash-poor, land-rich ranchers and farmers to significantly increase the financial benefits they receive from an easement, which has consequently increased the number of easements across the state. The Colorado Conservation Trust estimates this state tax credit program has led to the protection of more than 220,000 acres of private land via easements since 2000.

The program has received some criticism, however. Most notably, because the value captured by an easement donation is capped at \$260,000, there has been a trend to donate a series of easements to maximize tax credits for the landowner. When land is donated in a piecemeal fashion, many conservation goals are sacrificed. It also decreases the efficiency to land trusts and landowners when five separate easements are negotiated in five years.¹⁹

Counties with the Most Eased Acres As a Percentage of Privately Owned County Acres

Figure 7

Top 10

Metropolitan Counties

Of 61 Metropolitan Counties	Percentage of Private Acres Eased
1 - Santa Fe, New Mexico	29.8%
2 - Park, Colorado	5.2%
3 - Mesa, Colorado	4.9%
4 - Missoula, Montana	4.6%
5 - Clear Creek, Colorado	2.8%
6 - Davis, Utah	2.8%
7 - Larimer, Colorado	2.8%
8 - Gilpin, Colorado	2.6%
9 - Natrona, Wyoming	2.2%
10 - Douglas - Colorado	2.2%

Top 10

Micropolitan Counties

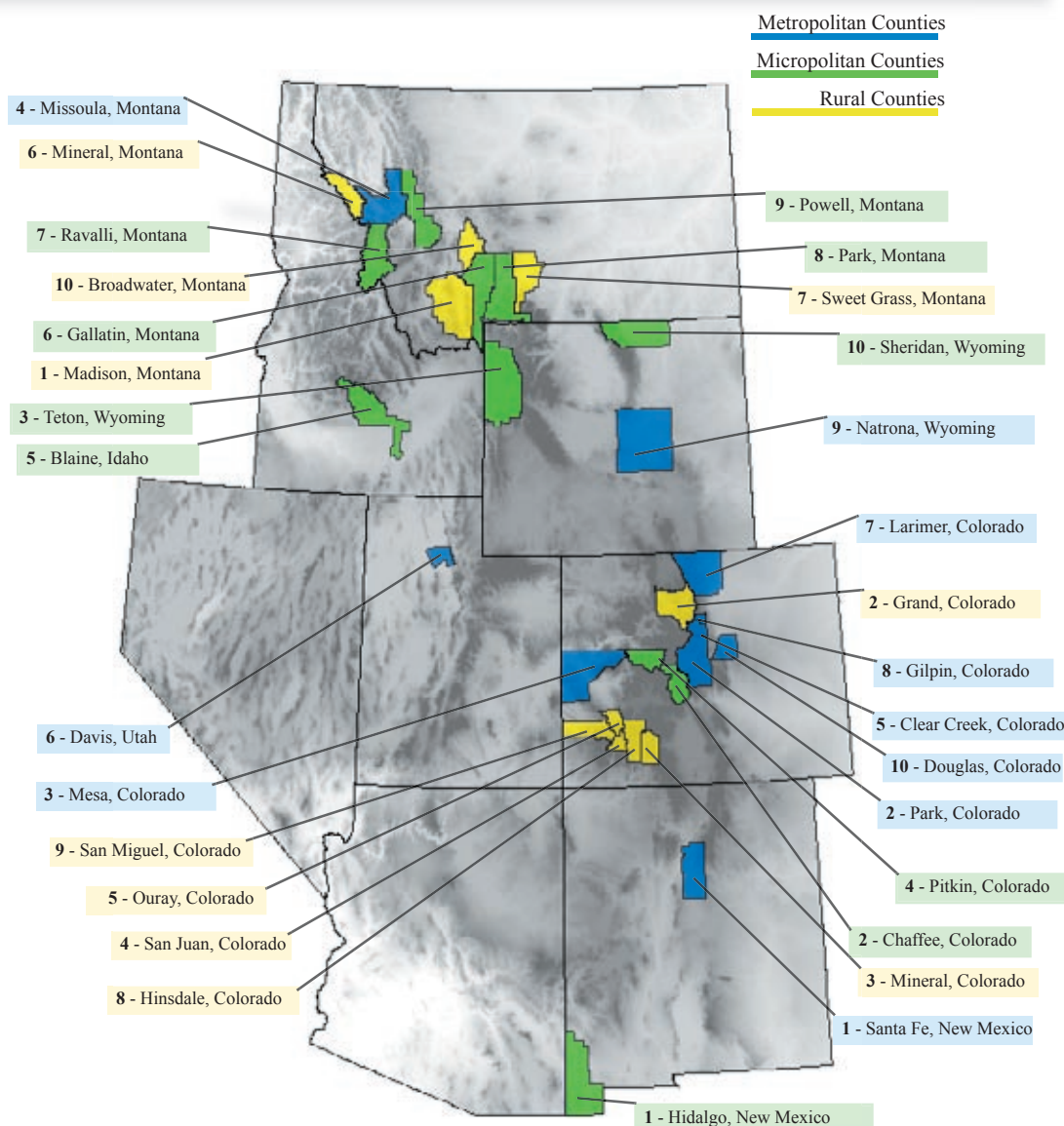
Of 138 Micropolitan Counties	Percentage of Private Acres Eased
1 - Hidalgo, New Mexico	104.8%*
2 - Chaffee, Colorado	12.9%
3 - Teton, Wyoming	11.3%
4 - Pitkin, Colorado	6.7%
5 - Blaine, Idaho	6.6%
6 - Gallatin, Montana	5.7%
7 - Ravalli, Montana	5.6%
8 - Park, Montana	5.3%
9 - Powell, Montana	5.1%
10 - Sheridan, Wyoming	4.8%

*Some federal land associated with the Malpai Borderlands was likely included in acres eased for Hidalgo, New Mexico.

Top 10

Rural Counties

Of 81 Rural Counties	Percentage of Private Acres Eased
1 - Madison, Montana	13.9%
2 - Grand, Colorado	7.8%
3 - Mineral, Colorado	7.7%
4 - San Juan, Colorado	4.7%
5 - Ouray, Colorado	4.6%
6 - Mineral, Montana	4.4%
7 - Sweet Grass, Montana	4.0%
8 - Hinsdale, Colorado	4.0%
9 - San Miguel, Colorado	3.6%
10 - Broadwater, Montana	3.0%



Endnotes

¹ Walter E. Hecox and F. Patrick Holmes, *The 2004 Colorado College State of the Rockies Report Card*, (Colorado Springs: The Colorado College Sustainable Development Workshop, 2004), 13.

² *Ibid.*, 2.

³ Walter E. Hecox, F. Patrick Holmes, and Bryan Hurlbutt, *The 2005 Colorado College State of the Rockies Report Card*, (Colorado Springs: The Colorado College Sustainable Development Workshop, 2005), 11.

⁴ Jon Christensen, "Who Will Take Over the Ranch?," *High Country News*, March 29, 2004, 7.

⁵ David M. Theobald and N. Thompson Hobbs, "A Framework for Evaluating Land Use Planning Alternatives: Protecting Biodiversity on Private Land," *Ecology and Society* 6, no. 1 (2002), 5.

⁶ The Land Trust Alliance, *National Land Trust Census*, 2003, <http://www.lta.org/aboutlt/census.shtml>.

⁷ *Ibid.*

⁸ Dominic Parker, "Cost-Effective Strategies for Conserving Private Land: An Economic Analysis for Land Trusts and Policy Makers" (2002), http://www.perc.org/pdf/land_trusts_02.pdf.

⁹ *Ibid.*

¹⁰ The Land Trust Alliance, *Land Trust Standards and Practices*, Revised 2004, http://www.lta.org/sp/land_trust_standards_and_practices.pdf.

¹¹ The Nature Conservancy, "About Us" (2005), <http://nature.org/aboutus/>.

¹² Joe Stephens and David B. Ottaway, "Nonprofit Sells Scenic Acreage to Allies at a Loss; Buyers Gain Tax Breaks with Few Curbs on Land Use," *Washington Post*, May 6, 2003, <http://www.lexisnexis.com/>.

¹³ The Land Trust Alliance, LTA homepage (2005), <http://www.lta.org/index.shtml>.

¹⁴ The Land Trust Alliance, *National Land Trust Census*, 2003.

¹⁵ Sandy Pew, personal conversation, Pew Ranch, Belgrade, Montana, July 18, 2005.

¹⁶ Dominic Parker and Walter Thurman, "Crowding Out Open Space: Federal Land Programs and Their Effects on Land Trust Activity," preliminary draft, September 27, 2004.

¹⁷ Jim Wyerman and John Bernstein, "Private Land Conservation in U.S. Soars: Land Trusts Double the Acres Under Protection" (2004), http://www.lta.org/newsroom/pr_111804.htm.

¹⁸ Trust for Public Land.

¹⁹ Colorado Conservation Trust, "Colorado Conservation at a Crossroads," 2005 Report.