

Conserving California

A federal plan to protect millions of acres of foothills through conservation easements would make the government a partner in ranch decisions. Who would benefit?

By Bob Perkins

Long before the Gold Rush heralded its future prosperity as a state, California was cattle country. Hardy, self-reliant families raised beef to help feed a growing nation. They withstood all the challenges that man and capricious nature could throw at them, but today they are facing their most relentless ones—from the economy, the government, and environmental interests.

Cattlemen have always been at the mercy of the economy, with cash tied up in land and cattle, as they pursue a seasonal and unpredictable business. Compounding the problems today are uncertainties about government demands, lack of money to pay property and estate taxes, and land restrictions to meet environmental rules. It's no wonder that conservation easements—selling future development rights for ready cash today—look appealing. Cattlemen have found growing support from environmental groups and government agencies for easement programs that keep rangeland in production. In turn, those environmental groups and government agencies see an opportunity to control future use of rangeland and, therefore, to protect wildlife and habitats. They acknowledge that some of the best habitat in California is on private rangelands precisely because it is being actively managed by cattlemen.

So when the U.S. Fish & Wildlife Service (FWS) proposed that hundreds of millions of dollars could be made available to buy conservation easements on rangeland around California, it expected its offer would be welcome news. Instead, the June 2011 unveiling of FWS's sprawling California Foothills Legacy Area plan shocked ranchers and split cattlemen over the potential risks and rewards of the program. The origin of the program was in doubt, the payoff could be a long time

coming, if ever, and the consequences to ranch families seemed questionable.

The money looked good. The plan calls for acquiring easements on 900,000 acres of rangeland using \$900 million from the federal Land and Water Conservation Fund, suggesting an average buyout of \$1,000 an acre. Fans and foes of the plan agree that it may not happen soon. FWS admits that funding—which must be appropriated by Congress each year—varies and may not be available at all during some years. Owners of remote, isolated properties who want to sell easements may find themselves left out for decades to come, while FWS targets properties that seem more at risk of conversion to other uses.

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Individual cattlemen are understandably apprehensive about this newfound enthusiasm for working ranches. They know the interest is not in profitable production of beef, but rather in protecting wildlife and plants. They understand that the Endangered Species Act mandates federal agencies to protect species above all other considerations. If there are any doubts about the future use of the land, species would prevail, not cattle.

The massive scale of the plan frightened ranchers. FWS presented a map designating 18 million acres as a study area for habitat preservation, a ring of foothills completely surrounding California's vast Central Valley and affecting 36 of the state's 58 counties. Within that ring, FWS highlighted four draft focal areas totaling 3.4 million acres. Those focal areas would be the starting point for buying conservation easements—enforceable contracts “in perpetuity”—that would limit use of the land. Ranchers in these areas believe the maps made their ranches targets for what many saw as a federal landgrab.

It seemed clear to everyone in retrospect



PHOTO © ALI PURA, SAN BENITO FARM BUREAU

that rollout of the California Foothills Legacy Area plan could have been handled better. Agency employees failed to involve local ranchers before unveiling their vision. Leaders of both environmental and agricultural groups said they were surprised at the way FWS confronted ranchers with an apparently finished plan, and they were disappointed by the angry, if understandable, reaction.

“We don't have a plan yet, just a concept,” says Mark Pelz, chief of FWS Refuge Planning in California. “Some of the opposition was a surprise, but it's rare that you have a project that everyone is happy with. We're hoping to have a draft plan in early spring [2012]. Once that's released, there will be another round of hearings.”



Moving grass-fed cattle to a fresh pasture on the Pacheco Ranch outside Hollister, Calif. From left: Brett Pura, Bret Bonfantini, Jamii Pura and Emery Pura.

Ranchers expressed suspicions about how maps were created for the plan without consulting affected property owners. Suspicion focused on two organizations: The Nature Conservancy (TNC) and the California Rangeland Conservation Coalition (CRCC). The maps looked very similar to those originally created by TNC for the CRCC. This in turn fueled more doubts about CRCC, a broad consortium of environmental groups, government agencies, land trusts and agricultural organizations. This uneasy alliance was formed back in 2005. Of its 117 members, the environmental organizations, land trusts, conservancies, and local, state and federal

government agencies heavily outweigh the five nonprofit organizations strictly representing agricultural interests. Many ranchers doubted the motives of participating groups, and the revelation of the California Foothills Legacy Area plan only seemed to confirm those suspicions.

A printed announcement of the plan says, "This proposed easement initiative was developed through the work of the California Rangeland Conservation Coalition," and named a handful of the most prominent member groups, including the California Farm Bureau Federation and California Cattlemen's Association.

CCA felt a backlash from its members, who believed their organization was involved in the early development of the California Foothills Legacy Area plan without their knowledge. CCA president Kevin Kester denied this, saying: "I want to make it clear that CCA had no participation in the development of the plan. It was strictly the FWS. [It] developed all the details." Kester said after the plan was introduced, CCA "came out strictly opposed. We think it harms our members, especially in those four subareas."

The environmental community has kept a low profile concerning the FWS plan. Kester thinks it's because the groups partici-

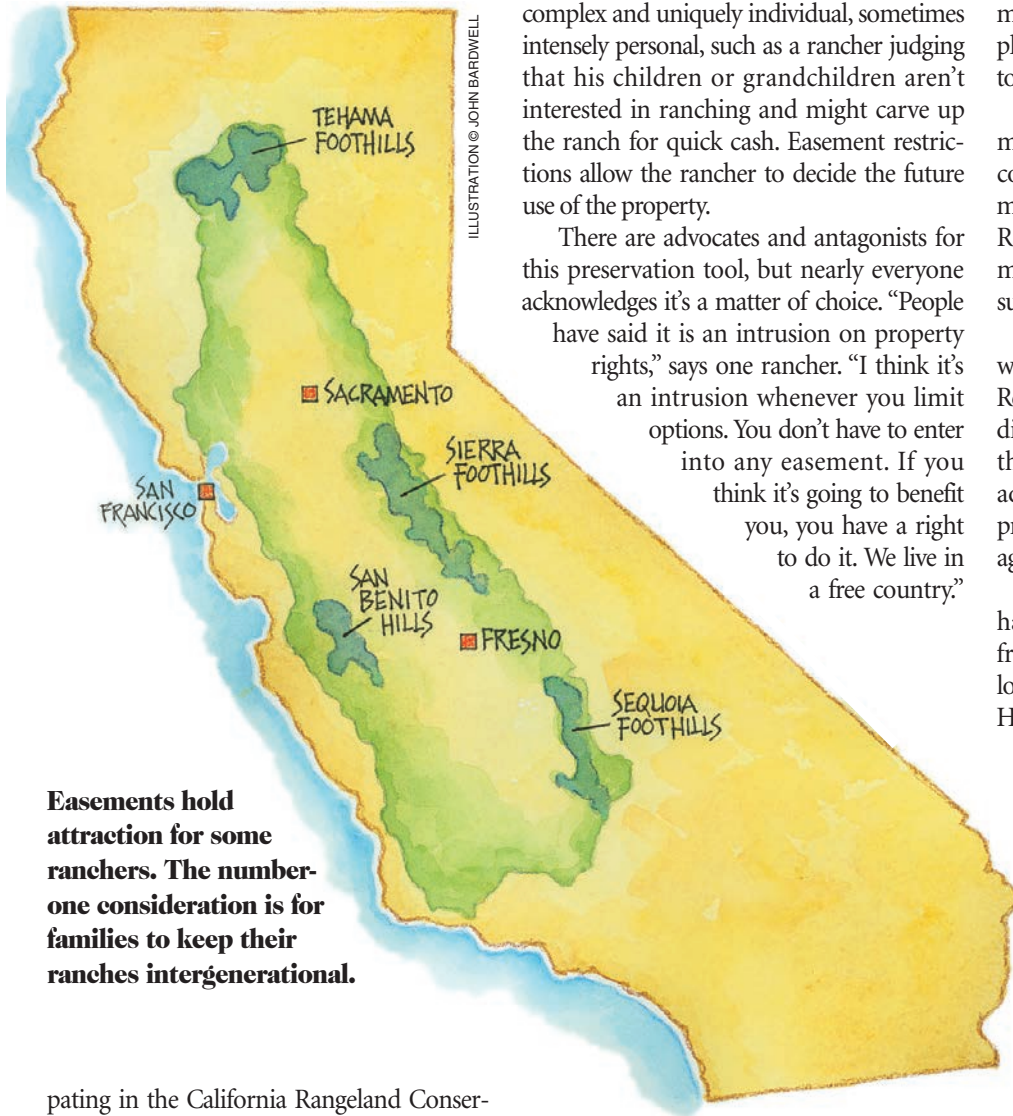


ILLUSTRATION © JOHN BARDWELL

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participating in the California Rangeland Conservation Coalition see there's not much consensus. Many ranchers believe it's because those groups have accomplished their purpose, to set in motion a massive government plan to control millions of acres of private rangeland.

Still, easements hold attraction for some ranchers, Kester says. To meet that need, CCA members founded the California Rangeland Trust in 1998 to acquire and hold easements. Today, Kester explains: "The California Rangeland Trust waiting list stands at over 120 families, and there would be dozens and dozens more if there was funding. The number-one consideration is for families to keep their ranches intergenerational. Easement is a tool in the toolbox to help accomplish that."

Conservation easements have increased in popularity among ranchers as a way to resolve estate-tax issues, forestall family disputes, prevent heirs from dividing or selling the land, preserve natural qualities, and retain the family ranch intact. The reasons can be

complex and uniquely individual, sometimes intensely personal, such as a rancher judging that his children or grandchildren aren't interested in ranching and might carve up the ranch for quick cash. Easement restrictions allow the rancher to decide the future use of the property.

There are advocates and antagonists for this preservation tool, but nearly everyone acknowledges it's a matter of choice. "People

have said it is an intrusion on property rights," says one rancher. "I think it's an intrusion whenever you limit options. You don't have to enter into any easement. If you think it's going to benefit you, you have a right to do it. We live in a free country."

The plan would require FWS to hold the conservation easements, in effect, to be a permanent partner in rangeland. As a federal regulatory agency with broad police powers to enforce species' protections, FWS is feared and mistrusted by many rural landowners. That's a problem for a lot of cattlemen.

"I'm a proponent of voluntary easements," says Kester. "We've used it for estate-tax purposes. I know dozens of ranchers in and out of California who have entered in easements, and I don't know of a single one who said they wished they hadn't done it.... [W]e would be very reluctant to have FWS hold the easement."

Noelle Cremers is director of natural resources for the California Farm Bureau Federation. "The program is there for anyone who is interested," she says. However, "an easement is a huge decision for every landowner, regardless of who holds the ease-

ment. The questions and decisions get multiplied when the federal government is going to be the holder of the easement."

Kester says the problem with FWS easements could be eliminated if the agency could grant federal money to nongovernmental organizations like the California Rangeland Trust, so it could acquire and hold more conservation easements. Unfortunately, such authority requires an act of Congress.

Other federal agencies are able to work with private groups. USDA's Natural Resources Conservation Service works with different partners to hold easements under three different conservation programs it administers. Those easements are held by private land trusts and other federal and state agencies.

The California Foothills Legacy Area plan has also drawn questions and opposition from elected officials, from Washington to local government offices. Congressman Wally Herger, a Republican member of the House Ways and Means Committee, submitted many of the same objections voiced by his Northern California constituents. Herger—who grew up on a cattle ranch—says he would oppose the program, "and I will oppose the use of federal funds to implement it."

While agreeing that putting land in a conservation easement is one of the rights of private ownership, he believes the FWS plan is different because it would use "federal money to essentially pay people to preclude, forever, any development of their property." He says using federal dollars could expose property owners to more regulatory strings and land-use restrictions than they would otherwise face.

Proponents of the plan argue it won't actually use taxpayer dollars, because it would be primarily funded by royalties collected on offshore oil rigs. "It is still federal revenue," answer opponents. They believe the federal government should use the fund to manage the lands it already controls.

The plan could also upend local government planning. California law requires local governments to prepare 20-year land-use plans, which must take into account federal designations. So the California Foothills Legacy designation shown on FWS maps could trump local decisions.

County officials lashed out at FWS for serving up the plan without first talking to

local governments about its impacts in the 36 affected counties. For example, the plan encompasses a half-million acres in San Benito County alone, over half its land area. Where the federal plan differs from the county's land-use plan, it would undermine established efforts to anticipate economic growth while conserving resources. FWS met with the county governing boards only after hearing complaints at the introductory meetings. County officials also believe the shadow of land-use restrictions by acquisition of development rights could alter the tax value of the land and cripple counties' ability to supply and maintain infrastructure. FWS's Mark Pelz says, "We're going to have some economists look at it, to evaluate questions like effects on taxes."

Selling an easement definitely changes the value of the property, but the consequences to property taxes could depend on different factors. Easement restrictions would have more effect on land closer to urban growth. However, a large percentage of agricultural land is already covered under California's Williamson Act, which adjusts taxes based on agricultural production value. It trades property-tax breaks for long-term—but not permanent—contracts limiting land use to agriculture. Those properties wouldn't see much change.

Complicating this picture is the steady erosion of the Williamson Act. For decades the state reimbursed counties to offset lower taxes. Facing recent budget problems, the California legislature almost completely eliminated funding to the counties. As a result, some cash-strapped counties are making decisions to reduce or eliminate the program. One rancher sums up the feeling thusly, "The legislature put an end to the Williamson Act, so the bottom line is they really don't want to have to pay for conservation." At the same time, the possible loss of Williamson Act benefits has increased ranchers' anxiety about other ways to shield their operations from increasing taxes, such as conservation easements.

Ranchers suggested that FWS develop a federal program similar to California's Williamson Act, to reduce taxes in exchange for contracts restricting land uses for a period of time...but not forever. Agriculture leaders believe such a program would be a win-win solution to keep working ranches in business and continue landowner protection for the environment.

Ranchers accustomed to the Williamson



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San Benito County ranch country, not far from Silicon Valley. It is just a mountain range inland from the Salinas Valley and the "salad bowl of the world." The San Benito River runs like a creek in summer and parallels the San Andreas Fault for much of its 100-plus-mile journey to the Pacific Ocean.

Act's provisions are worried about restrictions that could come with the California Foothills Legacy Area plan's conservation easements. The Williamson Act has a history of allowing compatible uses on the land, such as horse breeding and training, employee housing, roadside stands, mining and agritourism, to generate extra ranch income. Without that extra cash, some ranches might not survive. Ranchers fear that the FWS easements will offer few, if any, additional uses.

The risk of conversion seems more remote these days, because the economy is in such bad shape. But if land values do start moving, county assessors will be faced with calculating the change in taxes. The FWS plan adds uncertainty about future revenue for local governments.

FWS's bull-in-a-china-shop introduction of the California Foothills Legacy Area plan has awakened old animosities and cracked a fragile veneer of trust forming among environmental and agricultural groups. It has left ranchers wondering why they weren't asked to help develop the plan, who would benefit, and how the plan would affect their neighbors...and their descendants.

FWS heard all these questions from cattlemen. The next step—presentation of the draft plan—will test whether the agency listened and learned. ■

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