The AFFORDABILITY FACTOR

Some ranchers are discovering that FWP conservation easements on for-sale properties can help them expand their operations.

By Allen Morris Jones

If you've lived in Montana for any time at all, one of your favorite topics of conversation is no doubt just how fast the state is changing. Driving down Huffine in Bozeman or around the west side of Billings or in that corridor between Kalispell and Whitefish, it's hard not to remark on the new subdivisions, how last year's hay fields are now growing house trusses and Tyvek homewrap.

In this context, there's an improbably important conservation mechanism doing the heavy lifting to keep certain crucial pieces of Montana preserved and, more often than not, in agricultural production.

Sprinkled here and there around the state, roughly 3 million acres of conservation easements—administered by a handful of nonprofit organizations and government agencies—protect wildlife habitat and open space while maintaining that land for crop production or cattle range.

What's more, in recent years some ranchers and farmers are finding that conservation easements on neighboring properties up for sale can make that land affordable for them to expand their operations.

Allen Morris Jones is a novelist, editor, and publisher in Bozeman.

SELLING YOUR DEVELOPMENT RIGHTS

Conservation easements have been around in Montana since 1975, and in wide use since the late 1980s, but they can still be a difficult idea to wrap your head around. Think of them like this: When you buy a piece of property and call yourself owner, what you actually own are a portfolio of rights to the property. These include things like trespass rights, grazing rights, development rights (to, for instance, build subdivisions), and, in some cases, mineral rights to oil, gas, and other natural resources belowground.

> **"We never thought we could afford anything over here," Ostler says, "but the conservation easement brought it down into our price range."**

Conservation easements are voluntary agreements in which the owner sells the development rights while still retaining all the other rights on the deed. Some conservation easements, like those bought by Montana Fish, Wildlife & Parks, may also purchase "sodbusting" rights (preventing the landowner from plowing up intact grasslands). In return, the owner might receive tax breaks, cash, or some other consideration. The easement also provides the reassurance that the land will stay intact—undeveloped—long after the owner is gone. That's especially important to ag families who have lovingly tended their properties for generations. The conservation easement is almost always permanent, traveling with the deed from owner to owner.

ALLEN MORRIS JONES

The specific, intended purpose of a conservation easement is usually to preserve wildlife habitat and open space while still allowing grazing and some other existing ag practices. Agencies and organizations like FWP, Montana Land Reliance, The Nature Conservancy, Rocky Mountain Elk Foundation, and Five Valleys Land Trust all have easement programs that help landowners retain the essential character of their property in perpetuity and, in many cases, protect diverse, high-quality wildlife habitat.

But in recent years, some ranchers and farmers have also been eyeing these preserved parcels for another reason: affordability.

PROUD OWNER Nathan Ostler, shown here, and his wife Holli were able to purchase 800 acres of prime grazing and haying land in the Madison River Valley because the property was under a permanent FWP conservation easement. While lessening the value to developers and privacy-seekers, the easements make land affordable to ranchers.

DOWN TO THEIR PRICE RANGE

Nathan Ostler grew up in Sheridan, part of a large ranching family that he says ran about 500 head of cattle. Sheridan is in the Ruby River Valley—a quiet, Edenic part of the world. It's small-town Montana of the sort that's disappearing elsewhere. And while Ostler would have preferred to stay, the inheritance issue was tricky. "We had to do some estate stuff because there were eight of us kids," he says.

It's not an uncommon story. You're raised to be a rancher, you want to keep being a rancher, but there's just not enough ranch to go around.

Nathan and his brother went off to try their luck elsewhere, first in southeastern Wyoming and then back in Montana near Whitehall. But it wasn't until Nathan and his wife Holli purchased not quite 800 acres in the Madison River Valley in 2018, in the shadow of Sphinx Mountain, that they found a home for themselves and their five children. Pivots in the hay ground, plenty of room for horses, stalls for some 4-H pigs, 1,300 acres of additional land they could rent, elk hunting in the fall, and enough Madison Range alpenglow to last a lifetime. It also sits next to the 3,458-acre Bear Creek Wildlife Management Area, winter range for around 1,000 elk and 250 mule deer. It's a rare piece of ground.

And they could manage to buy it because there was an FWP conservation easement attached to the deed. It dated back to 1994—one of the very first easements purchased by the department. "When we started looking, we never thought we could afford anything over here," Ostler said, "but the conservation ease-

WHAT AG LAND CAN BECOME Top left and right: As traditional ag land is increasingly bought up by speculators and out-of-state ranch hobbyists, many properties once open to public hunting are being posted or turned into housing subdivisions. Above left and right: Conservation easements protect open space for all and usually allow for traditional ag practices like grazing while also providing habitat for elk and other wildlife.

ment brought it down into our price range."

FWP currently administers 81 conservation easements within Montana totaling 600,000 protected acres—prime habitat for wildlife and open space enjoyed by anyone driving past. Unlike other organizations, FWP's easements require some degree of public access.

In the Ostlers' case, the existing easement not only preserved habitat next to a game range—essential for the ecological health of the Madison Valley—but it also kept it in cattle production, leaving it exempt from the elevated price tags on "amenity" ranches.

These ranches are owned primarily for their recreational or lifestyle value rather than for agricultural production. Their primary appeal for the new owners may be privacy, scenery, or trout fishing. Their value as working ranches often comes secondary.

The absence of new housing potential sours real estate developers on land with FWP conservation easements, and the department's public access requirements, though often modest, make the properties less attractive to buyers looking for solitude.

"When the department purchases a conservation easement, the state is effectively purchasing the inflated value of a property—along with the right to keep grasslands intact," Ken McDonald, head of FWP's Wildlife Division, explains. "Many ranches across the state are now being valued based on their amenity value or subdivision potential, which makes the price much higher than what traditional agricultural land value would usually go for."

For ranchers and farmers in future years, the best option for enlarging their operations may be to buy property with "FWP conservation easement" stamped on the deed.

If a tract with a conservation easement comes up for sale, developers rarely are interested, McDonald adds. "But the reduced value can make it affordable to neighboring ag producers."

The original 1994 conservation agreement required hunter access to the Ostlers' new property but didn't stipulate how much. The family opted to enroll in FWP's Block Management Program. Ostler says, "We allow three or four hunters a day—not a lot, because we're so small. I usually just let one party come on, and they can have up to four people. I guess we'll see 60 or 70 hunters in a year."

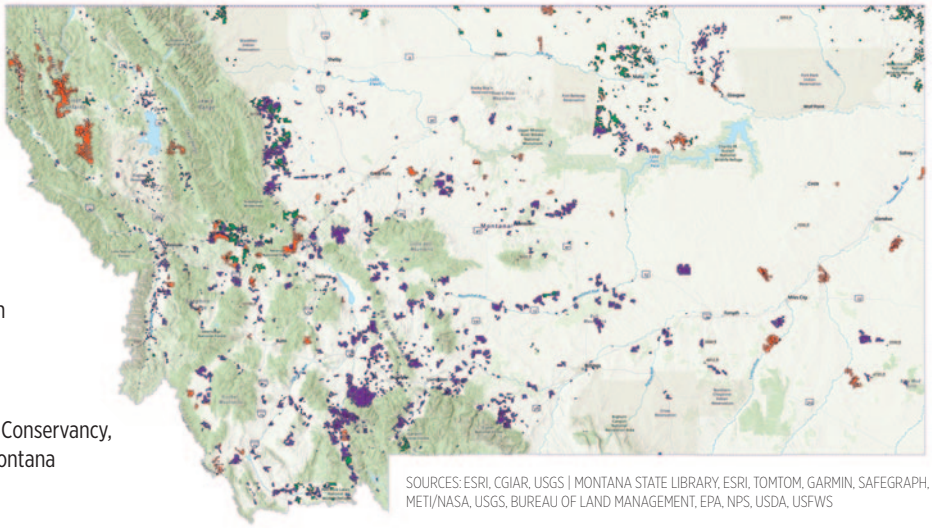
Julie Cunningham, an FWP wildlife biologist in Bozeman, oversees the Ostlers'

CLOCKWISE FROM TOP LEFT: SHUTTERSTOCK; SHUTTERSTOCK; STEVEN AKRE; SHUTTERSTOCK

Montana Conservation Easements

The state's largest easement holder is the Montana Land Reliance, with 1.4 million acres. FWP's 81 easements total about 600,000 acres. Some of the agency's largest easements are in the Thompson and Fisher river valleys in northwestern Montana.

- Federal easement (U.S. Dept. of Agriculture, U.S. Fish & Wildlife Service)
- Montana Fish, Wildlife & Parks easement
- NGO easement (Montana Land Reliance, The Nature Conservancy, Ducks Unlimited, Rocky Mountain Elk Foundation, Montana Conservation Trust, regional land trusts, and others)



SOURCES: ESRI, CGIAR, USGS | MONTANA STATE LIBRARY, ESRI, TOMTOM, GARMIN, SAFEGRAPH, METI/NASA, USGS, BUREAU OF LAND MANAGEMENT, EPA, NPS, USDA, USFWS

MAKING IT WORK **The Ostlers at the family's ranch, which sits next to the Madison Range and FWP's Bear Creek Wildlife Management Area. From left to right: Nathan, Kaidyn (age 9, also shown at right with the family's hogs), Holli, Kayzli (age 16), and Treyer (age 15).**

easement. "FWP always stays involved with the landowners," she says, "and I've really enjoyed working with the Ostlers. They're such a nice family. Kids, pets, 4-H. And they have some substantial challenges they're wrestling with out there, especially fence damage, crop depredation, and potential brucellosis from those big elk herds. But they always stay positive."

MONTANA'S AG CHARACTER

When you look at a map of Montana's conservation easements (above), you're struck first by how much private land (the vast white spaces) there is around the shaded portions (conservation easements). At first blush, the easements don't seem like much—at best, a good freckling across the state. But look closer, and consider the quality of habitat that's been set aside. The benefit to wildlife and to the common good is profound.

"This is a voluntary program," Cunningham says. "And as a piece of land gets sold, the value in the conservation easement is in retaining not only the habitat but also the agriculture on the landscape.

"I think many people can appreciate how important ag land is for the character of Montana," she adds. "I also know that conservation easements may not be for everybody. But for those whose values align with this option, it can be win-win-win for wildlife, the public, and the landowners themselves."

And not just the landowners who originally sell the easement to forever preserve their land. With the way land prices are skyrocketing these days, more future ranchers and farmers may find that one of the best options for enlarging their ag operation is to buy property with "FWP conservation easement" stamped on the deed.

PHOTOS: ALLEN MORRIS JONES