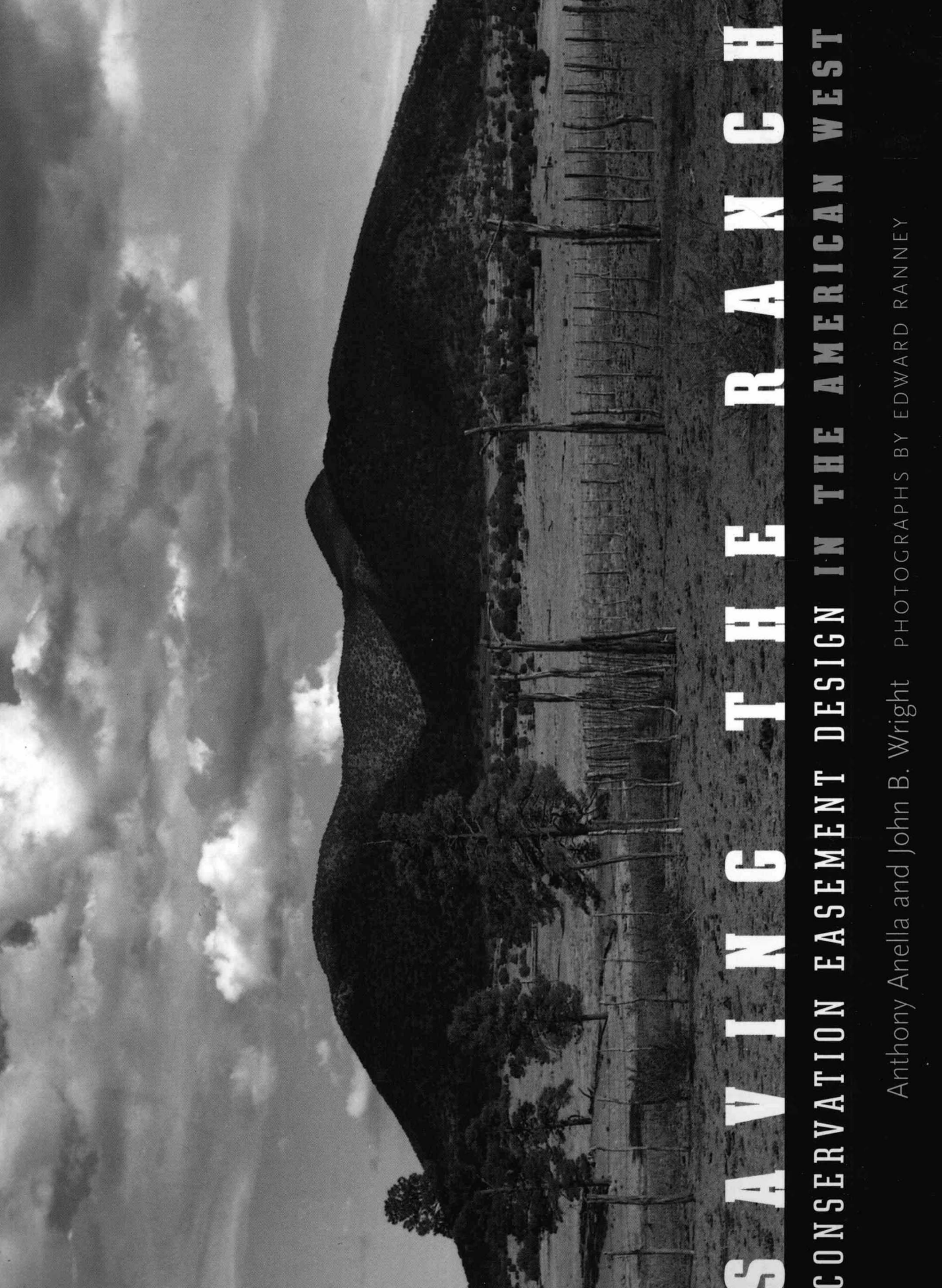




SAVING THE RANCH CONSERVATION EASEMENT DESIGN IN THE AMERICAN WEST

Anthony Anella and John B. Wright PHOTOGRAPHS BY EDWARD RANNEY

S A V I N G T H E R A N C H

Anthony Anella and John B. Wright

PHOTOGRAPHS BY EDWARD RANNEY

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Frontispiece: Montosa Ranch near Magdalena, New Mexico (2003).

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For Gibb, Kate, and Clare
A.A.

For Terry Jordan, Geographer
J.B.W.

Acknowledgments

Anthony Anella
John B. Wright

This book is inspired by B.W. and Billie Cox, the co-owners of the Montosa Ranch near Magdalena, New Mexico, and their tough-minded commitment to taking care of the land. The conservation of private land can be achieved only if landowners choose to care.

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240 View of Ranch near the New York State line, looking south from the road near the line.

Foreword

I am writing this foreword after watching a television report describing the dramatic population growth for the United States that demographers believe will happen. It is impossible to listen to such a report without thinking about the consequences for the land and about the development pressures that such growth will place on the finite resource of land in the American West.

Representing and working with many landowners and agricultural land trusts over the last fifteen years have given me a unique view of private land conservation. I believe that if the great landscapes of the American West are protected, it will be done one property at a time. I also believe that it will be primarily by the private decisions of private landowners.

I think it would be wonderful if every ranch owner in the American West would read this book, not because a conservation easement is the appropriate decision for every ranch owner, but because development pressures and death and taxes are inevitable, and their impact will be worse for people who do not plan. This book is primarily about educating landowners about one of the choices available to them to be proactive about planning for these eventualities.

You cannot plan if you do not understand the choices available to you. *Saving the Ranch* describes, from a wonderful perspective, what a conservation easement can do for a landowner in the American West. Understanding this choice, and making a conscious decision about whether or not to protect the land, is something that every ranch owner should do.

Because placing a conservation easement to protect a ranch will be a decision that many landowners make, I do believe that we will still preserve much of the great landscapes of the American West, one property at a time. This book can help to make that happen.

Lawrence R. Kuefer
Isaacson, Rosenbaum,
Woods & Levy, P.C.
Denver, Colorado

The American West is in conflict over the wise use of land. In fact, “wise use” means many different things to westerners. These points of view are based on a wide range of politics, science, and ideals. Environmentalists, seeing a diminishing of natural resources, say we need to preserve what is left. The most extreme even argue for an end to ranching. Land use planners try to zone property to keep it “scenic open space.” Ranchers, seeing their livelihood threatened, say that neither preservation nor zoning compensates for lost grazing or development rights. Between these diverging points of view is a sensible center, a fair and market-driven way of conserving land.

Too often, opponents of ranching stress the overgrazing allowed by some ranch managers, while ignoring the good stewardship of most. Although we don’t seek to romanticize ranching, we clearly don’t agree with those who make blanket condemnations of it.

Ranches are worth saving. In addition to being a traditional and valued way of life in our country, competent cattle ranching makes elegant ecological sense. It is a sustainable, solar-powered system for producing food on arid and semi-arid land. Cattle ranching also protects open lands and supports wild animals. More than 75 percent of the West’s winter range and migration corridors for wildlife are found on private land. National parks, forests, monuments, and wilderness areas are simply not sufficient to keep wildlife populations healthy. Wetlands, river corridors, ponds, lakes, historic sites, and scenic vistas are also found on private land. Yet ranchers are typically not compensated for providing many “conservation services”—those afforded by the sustainable production of cattle on grassland. We simply cannot afford to lose America’s ranches.

Most Americans today are removed from earning their living on the land by four or five generations. As a result, we lose sight of our interdependence with the earth and forget how to sustain a balanced relationship with the land. In this regard there is a growing divide between the urban and rural points of view. Whatever your perspective about the proper balance between human beings and nature, the fate of ranches is strongly linked to the fate of the region. As the West grows, one thing unites us: a concern for the future of the land.

Land trusts, national conservation groups, certain agricultural organizations, and city/county open space programs are helping willing landowners keep their land from being extensively developed. A conservation easement that trades land protection for income tax benefits and estate tax benefits is often the tool to get this done. When you consider that most of the West's open space is ranchland and that ranch owners are an aging population increasingly concerned with estate planning, conservation easement becomes a potent and timely way of conserving land.

We wrote this book to provide ranchers and their advisers with a reliable, evenhanded explanation of what conservation easements are and how they work. Solid decisions are based on having solid information. We hope that *Saving the Ranch* forms a stronger bridge between ranchers and the various land conservation organizations across the West. The stakes are high. The legacy we leave to the next generation depends on it. Let's move forward with facts and mutual respect.



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Introduction

This book is based on a straightforward idea: a well-managed ranch is good for the land. The truth of this hinges on self-interest. Ranchers who carefully practice rotational grazing know that, by not doing so, they jeopardize their livelihood. It doesn't take long to wear out pastures. It is in a rancher's self-interest to manage the land in a sustainable way. If the realtor's mantra is "location, location, location," the rancher's is "stewardship, stewardship, stewardship." Take care of the land and the land will take care of you.

The biggest threat to ranching is conventional development—when the land ends up as a poorly planned subdivision. But, as the newcomers arrive, populations grow, and the demand for land in the West increases, how can any rancher stay in business when the financial rewards of subdividing are so high and the cattle prices are so low? That's a serious question. This book helps sort it out.

The success or failure of a cattle ranch is influenced by many variables, one of which is weather. Growing grass depends not only on the amount of rain, but on when it falls. There is a critical window during the growing season for rain to produce the most grass. And if the rain falls in the summer after a winter with little or no snowfall, the results can still be disappointing. The moisture delivered to the land as snowmelt seeps deep into the ground for an enduring benefit that allows the grass to take full advantage of the rains, when they come.

The changing demographics of this country also influence cattle ranching as an enterprise. As America becomes increasingly urbanized, political influence tilts away from the country. Grazing policies change based on the wishes of urban residents. The struggle to earn a living from the land becomes less understood. Ranchers are sometimes attacked as "fat cats" and "destroyers" of the West. Ranch families feel the strain as realtors watch from the sidelines, waiting for the call.

I consider myself to be the luckiest person in the world to be able to live and work in God's creation on the Montosa Ranch. I want the ranch to be protected so that it looks like this for the next fifty generations and beyond. I want the land left as it is. I don't want to see the kind of subdivisions that are being developed around Datil on this land. I want other people to see that nature can be managed for the future, and that it doesn't have to be abused.

—B. W. Cox, Rancher,
Magdalena, New Mexico

The cattle market is another variable outside the rancher's control. Global free trade, the European Union's restrictions on importing American beef, and the power of meat packers with their captive supplies of feeder cattle all influence the price of steers. In a country inspired in part by the Jeffersonian ideal of the citizen-farmer, we have seen the individual family ranch give way to the economic efficiency of agribusiness.

The West is changing right before our eyes. There is no way to wish it away. It's time to move forward and take charge of what we can. As someone once said, you can't control the weather, but you can control what the weather does to you. But this is tough. How can ranchers possibly stay on the land with so many forces against them?

The answer for some people is a real estate tool called a conservation easement. A landowner can voluntarily donate some or all of the subdivision and development rights to a qualified agricultural organization or land trust and receive income tax and estate tax deductions. This is a way of claiming the financial benefits of conservation by leaving the ranch basically as is. A landowner can also use the income tax benefits of a donated conservation easement to offset the income received from selling some carefully sited lots. In both cases, the result can keep a ranch family on the land.

Conservation easement design offers a way to counterbalance the economic and demographic forces working against the rancher while protecting the land. This idea isn't new in the United States but is unfamiliar to many westerners. At first, a conservation easement may seem risky, but it is based on fact: how land is valued changes over time.

The story of a third generation New Mexico rancher illustrates the point. When his grandfather founded the family ranch, the land was valued based on its capacity to produce cattle. The land was viewed as a resource that allowed the production of this commodity. When his father took over the ranch, he found that selling hunting rights helped supplement his income from producing cattle. In addition to its commodity production value, the land had acquired a recreational value. Today, this third generation rancher has discovered that the land also has a *conservation* value. Like the recreational value, the conservation value can be used to supplement the income from producing cattle. By donating a conservation easement to a qualified

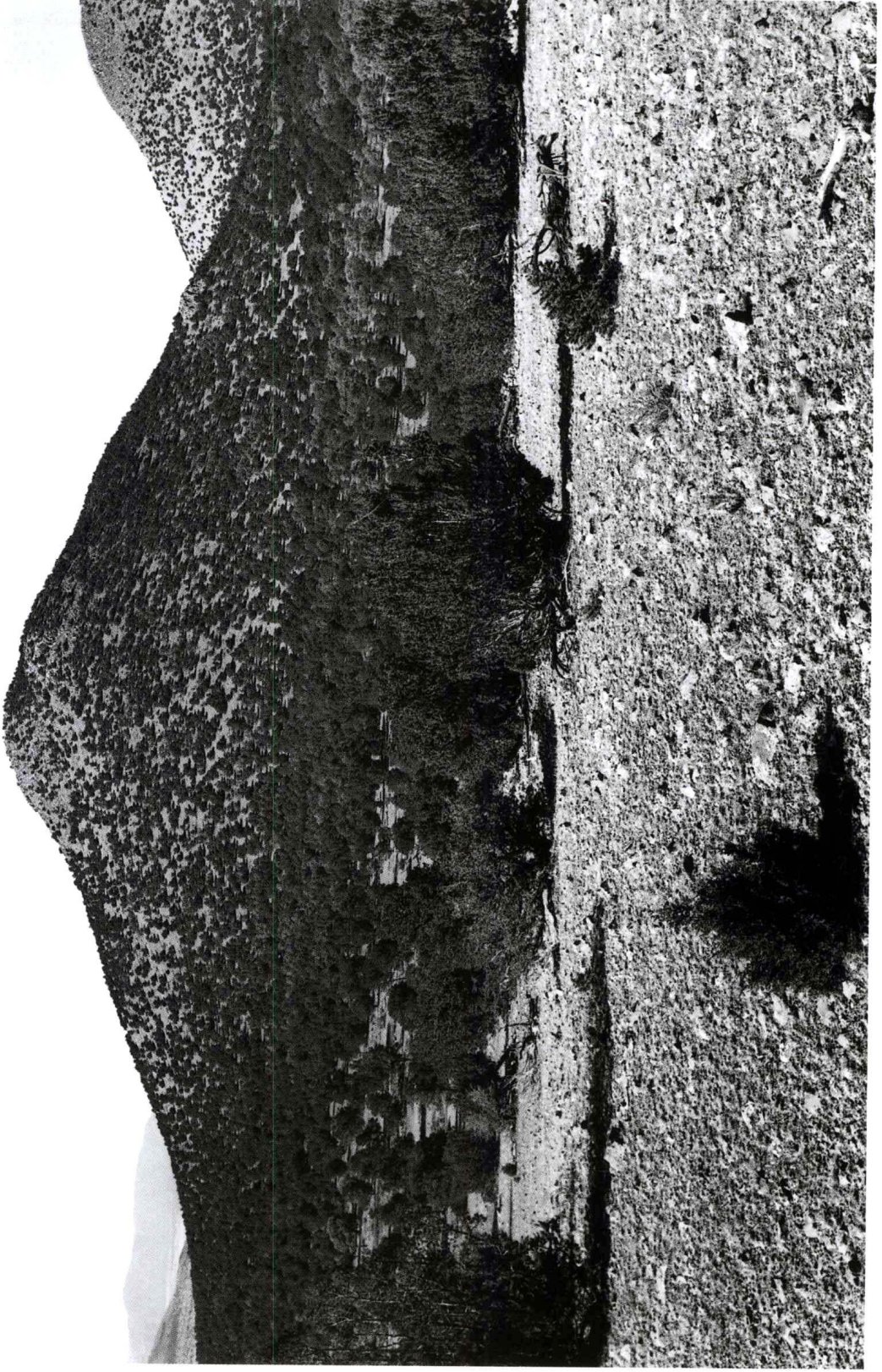
group he trusted, the rancher claimed the financial benefits of this conservation value. Under the terms of the conservation easement, some lots can even be sold to raise cash as long as they don't destroy the land. That is what conservation easement design is all about: identifying and capturing the conservation value of the land for the benefit of the rancher while protecting the land by keeping most of the ranch open and in production. Conservation easements are a way of honoring and rewarding land stewardship.

The goal of this book is to show ranchers how to formalize their stewardship while capitalizing on the conservation value of the land. Lots of questions are raised and answered. How can land be appraised based on its potential for conservation? How can the rancher capitalize on this value? And how can conservation easement design help create this value?

Most ranchers are not interested in seeing their land subdivided. They value the land for the ranching way of life it provides. Most people buying land for a home are not interested in running a ranch. They value the land for the scenery, recreational opportunities, and privacy afforded by open space. Conservation easement design balances these two sides of the equation. On one side, it allows the land-rich and cash-poor rancher a way to get some equity out of the land while maintaining the viability of the land for agriculture. On the other side, it also protects the qualities of the land that make it attractive to conservation buyers. Conservation easement design is a way of putting the market to work for the rancher by capturing the economic value of conservation. It also puts the market to work for the land as an effective way of promoting—and financing—stewardship.

Ranchers must take care of their family's economic needs. This is hard-boiled reality. What follows is a different way of dealing with that reality. We will discuss a set of options ranging from “sell the place for development” to “put a conservation easement on the whole ranch.” No judgments are made of whatever choice works for a family. But give conservation easement options a clear-eyed look. Ask tough questions. Demand straight answers. We believe conservation easement design can put the market to work in a positive way by financing the continued stewardship of western land by the people who know it best: ranchers.

Judge for yourself.



Looking south to Tres Montosas Mountain, Montosa Ranch.

At some time most ranch families must decide whether to stay in agriculture or to sell their land. This decision is often influenced by whether the next generation wants to continue ranching. Declining cattle prices, the increasing value of land for development, and other forces that are largely outside the family's control are also involved. There is a tipping point at which the weight of all these economic and personal considerations decides the future of a property (see Figure 1.1). That point is different in every case, and most families are used to thinking that they have only two choices—ranching or development. However, this book shows that options exist between the status quo and subdividing the whole ranch.

Once again, the goal of this book is to help conserve the integrity of ranchland and ranching as a way of life in the American West. It was written in response to certain economic and social realities that often lead the land-rich and cash-poor rancher to conclude that development is the only option for getting a lifetime of investment out of the land. However, this book does not promote development. Rather, it presents options so ranchers can make informed decisions about their future. The best way to maintain control of your destiny is to be clear about your goals and understand all your options. And the more options ranchers have, the better.

That's why this book was written primarily for ranchers. You are the audience we're talking to. However, land trust staff, lawyers, appraisers, accountants, realtors, developers, conservationists, and the general public may find value here as well. Conservation easements are a subject worth knowing for many westerners.

All options discussed in this book respect private property rights. Making solid decisions about the land you own is the key to controlling your future. To do this, you have to ask some tough questions: If your children inherited your ranch today, what would the tax bill be? How