ENVIRONMENTAL VALUES

Module

This book concludes with three cases about not-for-profit institutions. The cases raise questions about the problems of management and strategy that not-for-profit organizations confront; they also provide opportunities to explore some larger questions about environmental values and ethics.

The first of these cases is about the Montana Land Reliance, a small organization founded in the late 1970s to preserve the agricultural and scenic character of the river valleys of western Montana. The Reliance encourages landowners to "unbundle" their property rights, retaining rights of usage while donating development rights to the Reliance. The landowner can receive tax benefits, and the Reliance can affect land-use decisions over a large area without having to commit much capital. The Montana case raises questions about organizational objectives and strategy; it also raises questions about the use of market incentives to maintain public goods, and about the governmental policies on which such strategies depend.

The second case is about the Environmental Defense Fund (EDF), one of the most powerful of American not-for-profit environmental groups. EDF has recently broken with environmentalist tradition and its own institutional history to pursue collaborative projects with large companies, of which McDonald's is the most famous. EDF now needs to decide how, if at all, to capitalize on the success of the McDonald's project. This case, too, raises strategy and implementation questions, as well as large questions about the selection of environmental agendas and the uses and limits of market mechanisms for environmental enhancement.

The module concludes with a case on the Brazilian Foundation for Sustainable Development (FBDS in Portuguese), which was established in 1991. Its members, large corporations in environmentally sensitive industries, would like it to serve as a clearinghouse for information about the environment and development, and as a conduit for money from foreign governments and private groups interested in helping the Brazilian environment. The case includes background information about the state of environmental affairs in Brazil, and about flows of public and private funds from the developed world to the developing countries. It raises questions about organizational design and purpose, the meaning of "sustainable development," and especially, the role that companies can play in the provision of public goods in the developing world.

The three not-for-profit cases complement the more numerous company cases in the book. For several interrelated reasons, corporate managers need to understand the behavior of not-for-profit institutions working on the environment.

First, such organizations are an important part of the institutional environment in which companies operate. Business managers in environmentally sensitive industries are sure to encounter not-for-profit organizations, as adversaries, as potential allies, or in some other relationship. It is obvious that managers need to understand the management problems, and institutional perspectives, of their customers, suppliers, regulators, and rivals. Similarly, company managers need to understand the legal and economic forces that affect the behavior of not-for-profit environmental groups, and to develop a sense of the way the world looks to people in such institutions.

A second reason to include cases on the not-for-profit sector is that significant numbers of businesspeople (including, for example, a large majority of the MBA alumni of Harvard Business School) spend time working with not-for-profit institutions, as volunteers, consultants, or board members. The potential for part-time workers and advisors who have business experience to help such organizations is considerable. In order to provide that sort of help, it is useful for managers to think systematically about the ways in which the management problems not-for-profit groups face differ from those ordinarily encountered in corporate life.

The cases offer rich examples of the kinds of management problems not-for-profit environmental groups confront. Some are similar to those faced by companies: the environmental groups need to decide how fast they want to grow, define their objectives, evaluate investment opportunities, and implement their strategies in the marketplace and the non-market arena. Many of the problems, however, are different from those faced by most companies. First, the "product" of not-for-profits is typically hard to define; often it is a public good, which raises the kinds of free-rider problems familiar to readers of this book. Questions of marketing, financial management, and control are all made more difficult if the organization is not selling a discrete product to which the customer acquires legal title. Second, not-for-profits tend to rely heavily on volunteers or on professional staff who are motivated largely by concerns other than financial reward; this raises a particular set of human resource management challenges. Third, the nature of the not-for-profits' work complicates their relations with various stakeholders and makes organizational objectives more difficult to define.

In reading these cases, then, it is useful to think about the management problems that the organizations confront, and about the strategies they have chosen. Are their objectives clear? Are they well suited to accomplish what they have set out to do? Who are their stakeholders, and how can they accommodate them all?

To return to the motives for studying these cases, the third and most important reason is that they offer a rich opportunity to discuss the values that underlie environmental decision making in the United States and elsewhere. For example, recall the traditional distinction between private goods provided by firms and public goods provided by government. We have seen that the real or perceived failures of this traditional division of responsibilities has led to widespread institutional innovation, with companies, trade associations, and other private entities providing public goods. The cases in this section can be seen as examples of that sort of innovation. (All of the organizations are new: the Environmental Defense Fund recently celebrated its twenty-fifth birthday; the Montana Land Reliance is a teenager; the Brazilian Foundation only a couple of years old.)

It is useful, then, in reading each of these cases, to ask questions like the following: Why did this organization come to exist? What goods does it provide, and why was the demand for them not being provided by existing institutions? From a managerial perspective, is the organization well suited to serve the markets it has chosen?

More broadly, all of the organizations featured in this module have to decide where to focus their limited resources. As we have seen, the range of potential environmental problems is vast. Of the three entities featured here, only the Environmental Defense Fund attempts to force change on more than a small fraction of the problems. It is useful, then, to think about how each group chose the problems on which it concentrates, and about whether you think these choices are appropriate.

This last point raises interesting questions about environmental values. In analyzing a traditional business case, we tend to confine our normative analysis about product choice to considerations of profitability and private value. In deciding, for example, whether Pepsico ought to be making and distributing soft drinks, we would think about whether the organization is good at this process, and whether it can make money at it. We might be less likely to ask whether the product is "worthwhile" from a social standpoint: private value serves as a proxy for social value. It seems much more natural, however, to think about whether the Montana Land Reliance's work on landscape preservation, or the EDF's work on solid waste reduction, is worthwhile socially. The goods being provided are public goods, and we are all stakeholders in the operations of the entities that provide them; we help fund the enterprises through exemptions in the tax laws, and participate in the consumption of the goods they provide whether we value those goods highly or not. The organizations' choices about what problems to work on, then, become proxies for broader social choices about what environmental problems are most important and most worthy of social attention.

The answers to this last question will differ, of course, depending on the criteria one uses, and it is helpful to try to be explicit about the criteria. One can tie these questions about criteria all the way back to the readings with which this book begins. Many of the corporate managers depicted in this book's cases adopt, implicitly or explicitly, the utilitarian approach to the environment espoused by Gifford Pinchot. Aldo Leopold takes the contrasting view that utilitarian economics is an inadequate basis for environmental decision making. The gulf between his views and Pinchot's is wide, and the straightforward, sensible way in which both men write makes it seem even harder to bridge than in fact it is. It is surely useful to consider to what extent we agree with Leopold; if we suspect that he may be right, the next difficulty is to make the ethical precepts he outlines operational, given that most public and private institutions currently active thrive on, and perpetuate, a utilitarian, anthropocentric view of the world.

Case 24

MONTANA LAND RELIANCE

Man needs space. He needs elbow room. He needs to be surrounded, when he can, by majesty. By the majesty of the mountains. By the majesty of the rivers. By the majesty of wildlife. These things are part of our heritage and should be preserved.

A. B. Guthrie, Jr.
Big Sky, Fair Land

On December 31, 1992, as snow blanketed the streets of Helena, Montana, the staff of the Montana Land Reliance closed the books on a remarkable year. The Reliance specialized in creating and maintaining conservation easements—restrictions on subdivision and other forms of economic development—for ranches and other large parcels of private land in the mountain valleys of Montana. In 1992, the organization had protected more acres of land than in any previous year, raised more money than ever before, and opened a satellite office in Kalispell to extend the organization's conservation activities to the northwestern portion of the state. By almost every measure, the Reliance had had a terrific year.

In spite of the apparent success, the rush to complete several land projects at the end of the year had left the staff exhausted. Despite many hours of unpaid overtime, they still felt that they had only scratched the surface of private land conservation in Montana. The state's vast open spaces held out promise that there was still time, but every acre of unprotected private land was vulnerable to subdivision and other forms of development. As development pressure mounted in the state, the staff knew that the Reliance was in a race against time.

THE WESTERN CONTEXT

In the nineteenth century, the territory of the United States expanded dramatically, as over 1.6 billion acres were added through purchases and treaties. The nation acquired 523 million acres in the 1803 Louisiana Purchase from France, 180 million acres in the Oregon Compromise with England in 1846, and 397 million acres from Mexico in the Treaty of Guadelupe Hidalgo in 1848 and the Gadsden Purchase in 1853. The purchase of lands from Texas in 1850 and Alaska from the Russians in 1867 added 444 million acres. As a result, the federal government obtained title to vast tracts of western lands.

Various federal programs, such as the Homestead Act of 1862, the Hardrock Act of 1872, and the land grants provided to entice the railroads to reach the West Coast, sought to transfer ownership to private interests. However, large tracts remained in the public domain. In the twentieth century, they were placed under the jurisdiction of government agencies such as the Bureau of Land Management, the Forest Service, and the National Park Service. The "Sagebrush Rebellion" of the 1980s, which sought the transfer of these lands to states or private parties, was unsuccessful. In the early 1990s, the Federal government agencies administered lands comprising 48%

Thomas A. Patterson, MBA '93, prepared this case under the supervision of Professor Forest Reinhardt as the basis for class discussion rather than to illustrate either effective or ineffective handling of an administrative situation.

of the area of the eleven continental western states, including more than 60% of California, Idaho, and Utah, and over 80% of Nevada.[1]

The controversy over the disposition of public lands spawned the Progressive conservation movement. In the late 19th century, the behavior of miners, fishermen, loggers, ranchers, and farmers in the newly opened West fostered a growing concern among citizens and politicians that the government should regulate use of the country's natural resources in order to benefit society at large, not a reckless few. Such thinking flew in the face of the approach advocated by many in the West who preferred to operate with effective government subsidies but without governmental restraint.

The conservation movement took hold due to the support of a wide range of individuals, but the early leadership provided by Theodore Roosevelt and John Muir (founder of the Sierra Club) had a profound influence. The common vision of these two men was that a portion of the public domain should be reserved from unchecked exploitation. They differed, however, in their ideas about the purposes to which the reserved land should be dedicated. Muir favored preservation, excluding economic development in wilderness places he believed sacred, such as the Yosemite Valley, the redwood forests of northern California, and other places of uncommon grandeur. Roosevelt, an avid outdoorsman, favored a more utilitarian approach that placed the stewardship of the country's natural resources in the hands of federal agencies staffed by scientists.

Roosevelt's view was influenced by his close friendship with Gifford Pinchot, who became the first chief of the Forest Service. Pinchot embodied the utilitarian philosophy of early conservationists, believing that management of the West's resources by experts was the only certain means to assure the availability of raw materials to sustain the development of the United States in the future.

Together, these and other contributors to the conservation movement left an indelible imprint on the natural and intellectual landscape of America. The battle lines drawn in the early skirmishes of the conservation movement largely defined the positions argued in the last decades of the twentieth century.

PRIVATE LAND CONSERVATION

Along with efforts to control economic activity on government-owned lands, efforts to protect private land from development also took root in the latter part of the 19th century. To facilitate protection of private lands, Charles Eliot, a landscape architect in Boston, founded The Trustees of Reservations in Massachusetts, the nation's first land trust, in 1891. The Trustees' mission was to administer lands "which possess uncommon beauty and more than usual refreshing power. . . just as the Public Library holds books and the Art Museums pictures for the use and enjoyment of the public."[2] The Trustees, as a non-profit organization, became a model for numerous preservation-minded trusts both in the United States and abroad, including England's National Trust.

By 1991, over 900 land trusts in the United States had helped to protect more than 2.7 million acres, an area twice the size of Delaware (see **Exhibit 1**).[3] The growth in land trusts was concentrated primarily in the Northeast and adjacent to major metropolitan areas. Virtually all land trusts placed protecting open space from development at the core of their mission.

Basic land protection techniques include the donation of land to a land trust or other charity, and the outright purchase of properties by a trust on the free market (see **Exhibit 1**). A related, sophisticated, and frequently used mechanism for protecting land from development is a legal contract known as a conservation easement.[4]

The ownership of land entitles a person to numerous rights, which might include the right to subdivide, raise livestock, construct buildings, or recover minerals. These rights can be unbundled and sold or donated as the landowner wishes. If the landowner wishes to preserve certain aspects of his or her property, a donation of the rights constituting those features via a conservation easement can be made to a land trust.

A conservation easement may include a variety of provisions, but most include language that restricts or prohibits subdivision for new houses. (See **Appendix.**) Forgoing development can result in a substantial change in economic value of a property. For example, the "value" of a working farm can be measured in different

1 The eleven states are Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming. U.S. Bureau of the Census, *Statistical Abstract of the United States, 1992*, p. 207.

2 Charles Eliot, quoted in "The Trustees of Reservations", *A Guide to the Properties of the Trustees of Reservations*, p. 6.

3 Land Trust Alliance, *The National Directory of Conservation Land Trusts, 1991–92*, p. v.

4 The following discussion of conservation easements draws heavily on Stephen J. Small, *Preserving Family Lands* (Stephen J. Small, 1988), and on "An Introduction to Conservation Easements" (Helena: Montana Land Reliance, n.d.). It is intended to serve as a basis for class discussion and is not a substitute for the advice and assistance of lawyers or other professionals.

ways. From the perspective of the farmer making a living from the land, the property may have a value consistent with the income generated by the farm. From the point of view of a real estate developer, the land may be worth a great deal more if a shopping mall or housing subdivision could be built upon the property. The difference in value in this instance represents the "development value" of the property. Completing an easement stating that the land can never be subdivided or used for commercial purposes besides agriculture makes it possible for the property to remain intact in perpetuity.

The change in value of the property that results from the decision to forgo development forms the basis for the value of the easement. The gift of a conservation easement to a non-profit organization, therefore, may entitle the donor to an income tax deduction as a charitable contribution.[5] Once under easement, a property can be sold at any time to whomever the landowner wishes, but the easement, as an encumbrance on the deed of the property, remains in force.

For the landowner wishing to derive tax benefits from the gift of an easement, it is necessary that an unrelated party be responsible for enforcing the terms of the easement. The non-profit organization receiving the easement as a gift will typically assume the responsibility for monitoring and enforcement. Monitoring an easement involves regular (usually annual) inspection of the property to ensure that it is protected according to the terms of the easement. If easement terms are violated, the conservation organization will typically try to work with the landowner to correct the situation, resorting to legal action if necessary to rectify any transgression of easement provisions. Frequent monitoring and enforcement are important for two reasons. First, they lead to consistent and uninterrupted accomplishment of the grantor's objectives. Second, if use inconsistent with the easement is ongoing, the easement may lapse and cease to exist. (Laws governing the lapse of easements vary from state to state.)

The tax benefits of donating an easement obviously depend on the donor's financial status. For this reason, and because of the complexity of tax law, it is difficult to generalize about the tax implications of a conservation easement. Nevertheless, a simple example may be useful. Tax effects of easement donations depend on state as well as federal law; the example here is intended only to sketch the federal effects.

Suppose Mr. and Mrs. Rancher bought a thousand-acre ranch in 1960 for $200,000. By 1992, the land's value for agriculture had appreciated to $1,000 per acre, or $1 million. Also in 1992, however, a real estate developer offered the Ranchers $5 million for the property. The Ranchers, although nearing retirement, wanted to pass the ranch on to their children and to prevent it being subdivided and taken out of agriculture. Two problems exist: the possibility that their children would desire to sell for the highest price obtainable and redeploy their inheritance; and the possibility that the estate would have to sell the property to pay death taxes.

Current federal estate law allows individuals to pass on $600,000 in assets to the next generation without any estate tax due, but amounts in excess of $600,000 are taxed at rates as high as 55%. If Mr. and Mrs. Rancher died tomorrow, and if the ranch were valued in the estate at $5 million, the estate taxes due nine months later could exceed $2 million. Unless the Ranchers had substantial liquid assets (which would themselves be taxed in the estate), their executor might have to sell the property to pay the IRS.

By placing a conservation easement prohibiting development on the land, the Ranchers could eliminate the $4 million premium that the developer was willing to pay over the agricultural value of the land. If the easement was in place when the Ranchers died, the property would be valued in their estate at $1 million, dramatically reducing the estate tax that might be due. Of course, the effect of the easement would also be to reduce dramatically the after-tax value of the children's inheritance.

Placing an easement on the ranch could also allow the Ranchers to reduce their income tax burden. The donation of the easement is a charitable contribution, deductible up to 30% of income. For example, if the Ranchers earned $200,000 per year from all sources and had no deductions, they would owe approximately $55,115 in federal taxes during 1992. The gift of the easement, however, would allow them to deduct roughly 30% of their adjusted gross income, or $60,000,

5 The IRS has established criteria to determine whether or not a conservation easement will qualify for a tax deduction. To qualify for a tax deduction, the easement must be granted in perpetuity and provide at least one of the following: (1) preservation of land for the education of, or outdoor recreation by, the general public; (2) protection of a relatively natural habitat for wildlife and plants; (3) preservation of open space for the scenic enjoyment of the public and/or significant public benefit. The gift must also be made to a qualified organization and prohibit all surface mining. See **Appendix**.

reducing taxable income to $140,000 and their taxes to about $36,515. The Ranchers would be allowed to carry forward any unused portion of their gift for the next five years; benefits that remain unused after the sixth year would expire at that time. In this example, the Ranchers would enjoy six years of tax savings of $55,115 – $36,515 = $18,600 per year, or a total of $111,600.[6] Again, however, these tax savings arise only because the easement donation causes a substantial diminution in the commercial value of the ranch.

The conservation easement has proven to be immensely popular as a land protection tool. If direct ownership of the property by the land trust or other charity is not critical, placing an easement on the property and giving it to the charity is much less expensive than the charity's outright purchase of the land. In the Rancher example above, the land trust might be hard pressed and ultimately unwilling to pay $5 million to own the land and operate it for agricultural purposes. Because of the flexibility inherent in an easement, the landowners can continue to utilize the land as they best see fit, whether that includes ranching, farming, hunting, or any number of uses. Because of the tax consequences that can arise from the gift of a conservation easement, landowners can derive income and estate tax benefits as well.

MONTANA CONTEXT

Montana, a vast, sparsely populated state, is known as "Big Sky Country." To many, the state embodies what one recent travel guide describes as "the Old West as you dreamed of finding it."[7] Montana's economy developed around natural resource intensive industries such as mining, logging, and cattle ranching. As settlement displaced the Native American tribes in the 19th century, the state's many fertile valleys were homesteaded and placed into agriculture. Land not claimed for agriculture, forestry, or mining remained under the jurisdiction of the federal and state governments. Today, 28% of the state's land is under the domain of various federal government agencies charged with administering the land for public benefit.

The productive industries composing Montana's economy have been hampered in the 1980s by drought and depressed prices for minerals.[8] As testimony to the state's lagging economy, between 1950 and 1987, Montana's per capita income went from being 12% above the national average to 20% below.

The natural beauty of the state's ranching valleys and numerous mountain ranges, coupled with rivers famous for fishing such as the Yellowstone, the Madison, and the Bighorn, have made the state a popular destination for recreation-minded tourists. National parks and wilderness areas abound, including Yellowstone and Glacier National Parks and the Bob Marshall Wilderness area. Approximately four million visitors came to Montana in 1991.

The growth in tourism can be attributed to a variety of factors, but increasingly easy access to the state is among the most important. Major airlines offer jet service to several Montana cities and the interstate highways have eased travel to the state by car. Isolation enabled Montana to retain its Old West character, but the vast open spaces which formed a natural barrier since the days of Lewis and Clark have been diminished by modern developments.

Land prices in Montana remained significantly lower than in other areas. On a per acre basis, land lost value in real terms in the late 1980s, and in 1991 was less expensive in Montana than in 46 U.S. states.[9] The combination of the low price of land and abundant outdoor activities resulted in increased pressure on land for second homes. Minimal zoning restrictions on land use meant that the potential for uncontrolled development was very high. Statewide, subdivision applications, after hovering around 50 per year during the 1960s, shot up to 2,500 per year in the 1970s.[10] Real estate developers began placing advertisements in fishing magazines offering the opportunity to own a piece of Montana, often in the form of a 20-acre "ranchette." Nearly a century after the forces transforming the landscape around Boston spurred Charles Eliot to organize The Trustees of Reservations, the conditions were ripe for a similar venture in Montana.

6 This example does not reflect the impact of the Alternative Minimum Tax. For simplicity, it also ignores the possibility that the Ranchers might grant easements on various parts of their ranch at intervals of six years or more in order to reduce the value of benefits that expire unused. Complicated limitations on deductions by high-income taxpayers are ignored as well.

7 Norma Tirrell, *Montana* (Oakland: Compass American Guides, 1991), back cover.

8 *Statistical Abstract 1992*, p. 435.

9 *Statistical Abstract 1992*, p. 648. Average value of farm land and buildings per acre in Montana was $243 in 1991. Only Nevada, New Mexico, and Wyoming had lower values.

10 *Montana Land Reliance Annual Report*, 1987, p. 2.

ORIGINS OF THE MONTANA LAND RELIANCE

The Montana Land Reliance, founded in 1976, achieved its first major milestone when it received tax-exempt status from the Internal Revenue Service in 1978. As a nonprofit land trust, the Reliance was thereafter able to write conservation easements and accept landowners' development rights as tax-deductible, charitable contributions. In 1978, the Reliance received a grant of $105,000 for a three-year period ($35,000/year) from the Whitney Foundation to launch the group's conservation activities. During the first three years, the Reliance completed three conservation easements protecting over 1,800 acres of land. At the end of three years, however, with Whitney funds exhausted and no additional capital available, the Reliance was on the brink of collapse. Almost too late, the organization realized that it had devoted too much of its energies to conservation and neglected the longer term financial viability of the organization.

Faced with the decision to dissolve the organization or find another way to keep it going, the Board of Directors were committed to finding a way to keep the Reliance alive. The first action taken by the Board was to hire a full-time Executive Director to coordinate activities and raise badly needed funds. The new Executive Director was Bill Dunham, a charismatic individual with no prior background in conservation who had previously worked as a door-to-door fire alarm salesman.

Although contributions from a small group of supportive individuals averted financial collapse, Dunham and Bill Long (at the time the only other staff member) realized they had to move quickly to place the Reliance on sound financial footing. The strategy devised by Dunham, Long, and the Board of Directors integrated the Reliance's conservation objectives with the necessity of raising money to fund operations. The primary targets for land conservation were conservation-minded landowners who wanted to ensure their land remained in agriculture. With fundraising, the Reliance targeted wealthy individuals who came to Montana for recreation, primarily fly fishing. The chosen means of communicating with donors was to take them out on Montana's trout streams and rivers on fly fishing trips. Not only did the fishing trips tend to create strong personal relationships between the donors and the Reliance staff but the river environment also provided an excellent setting to communicate that Montana had wonderful natural resources worthy of protection. Because properties with river frontage were under the most intense development pressure, fly fishing provided a natural focal point for fundraising and conservation.

The relationships among land conservation, the preservation of recreational opportunities, and fundraising were implicit in the mission statement for the organization that Dunham, Long, and the Board hammered out in 1981:

> The mission of the Montana Land Reliance (MLR) is to provide permanent protection for private lands that are ecologically significant for agricultural production, fish and wildlife habitat, and open space. The immediate goals of MLR's conservation work are measured in miles of streambank and acres of land protected from unsuitable and irrevocable development. The lasting benefits are the perpetuation of a lifestyle and an economy that rely on responsibly managed private land, and the matchless Montana spaces that will continue to nourish the spirit of future generations.

From 1981 to 1989, the organization operated with Bill Dunham as Executive Director and several full-time staff members. With Dunham's departure in 1989, the Executive Director structure was abandoned and a partnership structure adopted in its place. In the early 1990s, three partners operated out of the Helena office. A fourth partner was hired in 1992 to open a satellite office in the Flathead Lake area near Glacier National Park. The full staff also included a Land Steward, responsible for documenting the natural resources on each easement property and annual monitoring of easement terms, an office manager, and an administrative assistant.

The staff brought a diverse set of experience to the organization. Bill Long, the Financial Director, had joined the Reliance in 1979 after working for the Montana Fish, Wildlife, and Parks Service. Development Director John Wilson previously served as Tourism Director for the State of Montana, managing a staff of 18 and a $5.5 million annual budget. Rock Ringling, the Lands Director, was on the professional rodeo circuit for several years and went on to be a "political activist" on behalf of a number of environmental groups. Glacier/Flathead Director Amy O'Herren, the most recent addition to the partnership, had a background in environmental science and worked for the State of Montana in land planning. Chris Phelps, the Land Steward, joined the Reliance in 1988 after working for six years in West Africa for the Agency for International Development. The staff were all in their thirties and early forties.

STRATEGY AND OPERATIONS OF THE RELIANCE

In 1992, the 1981 mission statement was still in place, and the strategy initiated in the early 1980s remained largely intact. Wilson, Ringling, and Long spent a substantial portion of time each summer organizing and leading fly fishing excursions around the state. Because the staff were outstanding fly fishermen, with a strong knowledge of Montana's many rivers, they were excellent guides. The fishing trips usually lasted two to four days and included two to six people. Participants in the trips were asked to cover the costs incurred and make a contribution to the Reliance. According to Bill Long, "The fishing trips have proven to be extremely popular with donors. The Reliance helps the donors out by taking care of all the details associated with planning and doing a trip, and we have a great time out on the river. We believe that philanthropy should be fun."

To further solidify the relationship with donors, Reliance staff visited major cities across the country in the spring and fall. On these trips, Ringling, Wilson, and Long sought to secure the continued support of current donors and, through referrals and personal contacts, to identify potential new supporters. According to one of the Reliance's major contributors, "When the Reliance staff come to town, it is almost as if they are hosting a reunion. People enjoy getting together to talk about their last trip to Montana or plan the next one. Over time, the fishing trips they lead and the visits they make to my city have allowed me to introduce a lot of people to the Reliance."

In addition to boosting cash contributions, homing in on wealthy individuals for fundraising offered benefits that also directly related to land conservation. Because the gift of a conservation easement represents a sacrifice of wealth and a restriction in how the property can be utilized, families with significant assets have in several instances found it easier to make the commitment. Wealthy individuals have also proven to be more aware of the need to undertake tax and estate planning, and are therefore likely to be more receptive to the tax benefits which accompany the gift of a conservation easement. A number of wealthy families also owned significant ranches, making them natural candidates for conservation easements.

One of the early conservation objectives set out by the Reliance was to establish "beachhead" conservation easements in the spectacularly scenic valleys in the southwestern portion of the state. Because the conservation easement was a relatively novel means of protecting land, the Reliance determined it was critical to make the easement tangible by convincing landowners in targeted valleys to agree to place an easement on their property. Once the first easement was in place, the Reliance believed other landowners would likely follow.

In certain situations, landowners were predisposed to donating an easement on their property. A strong conservation orientation or a catalyzing event, such as a large capital gain or the death of a spouse, often created the opportunity for the Reliance to discuss the benefits of placing a conservation easement on the land. Given the vast area encompassed by Montana, the challenge for the Reliance staff was learning about easement opportunities and making contact with the landowner. Once "beachhead" easements were in place in targeted valleys, MLR could extend its network, relying on local landowners to serve as role models and provide leads on other landowners who were likely candidates for conservation.

To encourage landowners who were committed to conservation but not yet prepared to donate an easement, the Reliance created the Conservation Partners program. A Conservation Partner was a temporary designation that indicated a strong commitment on the part of the landowner and the Reliance to work together towards conservation objectives for a given property. Although the landowner was not formally committed to completing an easement in a given time, the category allowed the Reliance to expand the core group of recognized supporters and the landowner to become more familiar with the Reliance and comfortable with the decision to donate a conservation easement. In 1992, the Reliance had nine Conservation Partners.

Over time, the Reliance staff developed a network of contacts with Montana real estate agents, attorneys, accountants, and ranchers to assist in identifying landowners interested in conservation. To communicate with these parties, the Reliance developed the Conservation Buyer's Guide (CBG). The CBG listed properties for sale in Montana, and was published and distributed by the Reliance on a quarterly basis. The purpose behind the CBG was to focus attention on selected properties which the Reliance would like to see placed under easement. The CBG proved effective not only in attracting conservation-minded buyers but also in establishing ties to the real estate agents operating around the state.

The Reliance did not use more traditional media-based marketing to advertise the benefits of a conservation easement. This was due in part to a desire to conserve funds, but also because the Reliance wanted to maintain a low public profile in the state. Apart from publishing an annual report and a semiannual newsletter with a circulation of under two thousand, the Reliance used very little media.

Unlike many other environmentally oriented groups, the Reliance sought not to become an advocacy group. Reliance staff were loath to alienate the ranching community in Montana. Because ranchers in Montana tended to be very conservative, pursuing an agenda which could lead the Reliance to be stigmatized as "environmentalists" or "radicals" could make it virtually impossible to extend the reach of conservation easements beyond those landowners predisposed to conservation. According to John Wilson, "We have to be very careful. The conservation debate in Montana has polarized the state, and we're trying hard to maintain a neutral image. So far, we've been successful."

Reliance staff regarded a recent experience of Trout Unlimited, a conservation group focusing on fisheries, as instructive. Until the mid-1980s, access to rivers and streams that ran through private property was permitted at the owner's discretion. Even though the state owned the water in the river, fishermen had to request permission from the landowner to fish. Trout Unlimited led the effort to reform the law and permit access to any "navigable" stream between the high water marks on the banks. As a result, fishermen were free to move about as they wished once they were in the water. While the change dramatically improved fishing in the state, it infuriated ranchers. "Trout Unlimited has probably permanently alienated ranchers in Montana. The Reliance did not get involved in the public debate," said Bill Long.

MLR had, however, worked behind the scenes in amending Montana's subdivision regulations. Until 1993, Montana landowners could subdivide their land without any outside review as long as the parcels were larger than 20 acres. As a result, some 90% of subdivisions in Montana in the late 1970s and 1980s escaped review by local and county governments.[11] Growing concern regarding uncontrolled subdivision led the state legislature to reconsider the 20+ acre law in 1993.

According to Rock Ringling, "Along with clear-cutting and strip mining, subdivision poses a serious threat to the Montana landscape. When the opportunity to change the law arose we were actively involved in the debate. But we didn't come out with any public statements. Instead, we worked with parties on a one-to-one basis." The efforts to reform the law were successful, and now any subdivision of 160 acres or less must pass county review; other exemptions or loopholes have also been closed off. "The question now is what the counties will do," stated Chris Phelps, Land Steward at the Reliance. "Many counties in Montana don't even have planning commissions, so it is not clear yet what impact this legislation will have on what we're trying to accomplish."

In addition to its cautious approach to lobbying, the Reliance tried to maintain its independence by not accepting or pursuing public funds. The organization's conservation activities were funded exclusively by private contributions. Because of the near disastrous consequences of becoming overreliant on foundation grant money in 1981, the Reliance focused on annual gifts from individuals and family foundations, a group the Reliance referred to as its "Family of Friends."

The conservation and fundraising strategy adopted by the Reliance proved to be astonishingly successful. By 1992, MLR had grown to become the largest privately funded state-level land trust in America, with over 100,000 acres under easement, $2 million in financial assets, and an annual operating budget of $350,000 (see **Exhibits 2, 3, and 4**). The Reliance was also instrumental in publishing three books on land conservation topics, and had earned a place among the most respected private land conservation organizations active in the United States.[12]

Conservation Easement Process

The process of granting a conservation easement typically took more than a year to complete. The principal party in the transaction was the landowner and his/her heirs, with the Reliance operating as a facilitator to the process. The IRS, too, was a silent party to the process if the landowner sought to derive tax benefits from the gift. Conservation easements were tailored to reflect the individual desires of the landowner and the characteristics of the property. Because of the magnitude and permanence of the decision, it took time to get all the parties

11 "Governor Racicot Signs Subdivision Reform Law," *The Nature Conservancy of Montana Newsletter*, summer 1993, p. 1.

12 Books published by the Reliance include *Private Options: Tools and Concepts for Land Conservation* (1982); *Montana Spaces* (1988); and *Better Trout Habitat: A Guide to Stream Restoration and Management* (1991).

comfortable with the undertaking. The creation of easements required strong negotiation and project management skills on the part of the Reliance staff. "I like to think of the Reliance as a service organization," stated John Wilson. "We help people to articulate and implement their personal conservation philosophy."

Once a landowner decided to donate an easement, and once MLR staff determined, through a preliminary assessment of the property, that the easement was consistent with the Reliance's objectives, the Board reviewed and approved the project. No project proposed by the staff had ever been rejected by the Board.

The Board's involvement in accepting new easements was critical, though, because of the financial obligation that an easement represented. Not only did creating an easement require expenditure of Reliance staff time and resources but the easement also had to be monitored and defended in perpetuity from violations. If violations were permitted to occur for a sufficiently long period, easements could lapse; eventually, the Reliance could lose its charter as a non-profit conservation organization, potentially invalidating not only the lapsed and violated easements but all easements donated to the Reliance.

Frequently, a landowner who donated an easement also made cash contributions to the Reliance to cover the costs of producing and administering the easement. If the donor was unable to make such a contribution, however, the Reliance would still accept the easement, covering the costs out of other fundraising. In the early 1990s, easement-related contributions made up approximately 5% of total funds raised. Such gifts could range from $5,000 to $10,000, depending on the project.

Following acceptance of the easement by the Board, several activities began. First, the staff person coordinating the project met with the landowner, reviewing the standard conservation easement document and discussing modifications or alternatives the person would like to include. Easement provisions spanned the obvious prohibition against subdivision and development to more unusual requirements which could, for example, forbid deer hunting on the property. Provisions included in the easement were negotiated between the individual and the Reliance, with the main criteria being that the provisions be enforceable and consistent with MLR objectives.

As the easement was drafted, the Land Steward visited the property to gather detailed information on soil types, plant species, and wildlife habitat to document the unique features of the property. The Land Steward assimilated the information and created what is called the Baseline Document. Great care was required in completing the Baseline Document since it would form the basis for any legal actions should an easement violation occur. Landowner acceptance of the Baseline Document was essential for completing the easement.

Also while the easement document was drafted, the landowner was responsible for conferring with tax and legal advisors to ensure that the easement was crafted in the most advantageous fashion possible given the person's objectives and circumstances. The landowner was also responsible for obtaining an appraisal from a qualified appraiser to determine the degree to which the easement impaired the value of the property. An appraisal typically cost several hundred dollars, depending upon the complexity of the analysis. This appraisal determined the value of the easement for income and estate tax purposes. The Reliance maintained a list of appraisers which it provided to easement donors, but did not become involved in the valuation process to avoid any potential conflict of interest.

In the 1980s, in consultation with attorneys on its board and in independent firms, the Reliance staff had developed a standard conservation easement. This document served as the initial draft for the particular easements that were crafted to meet individual landowners' needs. It reduced donors' legal costs, and made the Reliance's work more efficient as well. The donors, and their attorneys, needed to make sure that the easements brought about the desired tax benefits; Reliance staff did not formally provide tax or legal advice. In working on individual easements, Reliance staff compared their provisions with those in the standard document, and obtained the advice of outside counsel about any unusual or novel language, to ensure that each easement was legally sound.

A conservation easement was complete when the donor and the Reliance accepted the language of the easement, agreed on the contents of the Baseline Document, and filed the easement as an encumbrance on the property with the county agent. Whereas the donor would most likely receive financial benefit from the tax deduction for several years to come, the Reliance carried the easement on its books as an asset with a value of $1. In the ensuing years, the Land Steward worked with landowners on conservation projects on their property, such as stream rehabilitation and range improvement, and monitored easements annually to ensure that the intent of the easement was being fulfilled.

During most of the Reliance's existence, it had received easement donations in about equal numbers from professional ranchers and from other individuals or organizations. Fourteen of the 27 easements donated to MLR during 1978–89 had come from professional ranchers. Starting in 1990, however, this ratio changed substantially. From 1990 to 1992, the Reliance received easement donations from the ranching community at a faster pace than before, obtaining nine during this three-year period. During those same years, donations of easements from others (mostly wealthy individuals who had recently purchased land in Montana) increased much more rapidly than donations from ranchers; the Reliance received 28 easement donations from non-ranchers during 1990–92.

Financial Management

The funds raised during the course of a year, if not consumed to pay for operating expenses, were added to one of two funds created by the Reliance: the Land Protection Fund or the Education and Research Fund. Income from the Land Protection Fund supported the salary of the Land Steward, and the corpus of the fund was available in the event that legal action became necessary to correct easement violations. The Education and Research Fund supported the public relations activities of the Reliance (such as the publication of the annual report and other materials) and was intended as a resource to sponsor educational programs within Montana. At the close of 1992, the combined funds had assets of about $2 million. (See **Exhibit 4.**)

Bill Long, a partner with the additional responsibility of Financial Director, managed the two funds. Long invested the funds in a mix of equities and bonds, personally overseeing every transaction in the funds. According to an outside audit performed by Merrill Lynch in 1992, the returns generated by Long were consistent with what a conservatively managed portfolio ought to earn. Annual operating expenses were kept to a minimum through low turnover within the portfolio. Estimates of the amount of time Long devoted to fund management varied, but several parties knowledgeable about the Reliance felt that the funds should be managed by an outside party specializing in investing.

Organization

The four partners—Wilson, Long, Ringling, and O'Herren—each had responsibilities in addition to the completion of conservation easements and fundraising. (See **Exhibit 7**.) For the most part, the partnership operated with an entrepreneurial spirit rather than as a coordinated group. Important decisions, though, were based upon consensus. With the exception of the annual budgeting process, the organization did not have a written strategic plan.

The allocation of responsibility for conservation and fundraising was determined on the basis of where a prospective donor resided. For example, if a person owned a ranch in Montana but lived in Los Angeles, John Wilson would take the lead since he covered the West Coast. This would be true even if the Montana property were adjacent to a ranch where Bill Long may have placed an easement. In-state conservation easements were divided according to who had the best relationship with the individual. According to Bill Long, "Although putting conservation easements on land is what MLR is all about, we can't do any conservation if we don't raise money. The relationship with our donors is critical."

Compensation for the partners was largely dependent upon the amount of funds raised during the year. As a new partner built up an annual donor base and exceeded established fundraising objectives, the partner's base salary increased approximately 20%. Once the highest annual objective was met, no further bonuses were built into the system.

Governance

The Reliance was governed by a nine-member Board of Directors which met quarterly. The primary responsibilities of the Board included the acceptance or rejection of conservation easement donations, and review of the Reliance's operating budget. To maintain the local character of the organization, the Board was composed exclusively of Montana residents. Most Board members were ranchers, and all shared a commitment to preserving Montana's agricultural character. While the Board was vested with significant power, the staff initiated virtually every proposal and the Board almost always accepted their recommendations. According to one Board member, "The staff make most of the decisions. In cases where the Board has questioned the staff, it can become uncomfortable."

In addition to a Board of Directors, the Reliance designated Directors-at-Large to accommodate the involvement of individuals who actively support the Reliance but typically reside out of state. In 1992, Directors-At-

Large included Thomas McGuane, a well-known author, James Harvey, Chairman of Transamerica, and other business executives, private investors, and investment bankers. Because the Directors-At-Large had no formal responsibilities and were not provided with information on the Reliance to the same extent as that of the Board, several Directors-At-Large voiced concern over what it was they were supposed to be doing for the Reliance. Beyond providing contacts for fundraising, one described the role as being "little more than a hood ornament" for the organization.

Other Conservation Groups

In addition to MLR, a number of national, regional, and local conservation groups were active in Montana. While conservation organizations did not compete for land protection, a certain degree of rivalry existed among the groups. Among the national organizations, The Nature Conservancy, Audubon Society, and Trout Unlimited were active in Montana, each with a different conservation objective. The Nature Conservancy emphasized protecting rare and endangered plant and animal species, typically by acquiring properties and limiting access by people. The Audubon Society focused on birds and bird habitat. Trout Unlimited chose to protect fish.

At the regional level, the Rocky Mountain Elk Foundation (RMEF), based in Missoula, also was active in seeking to protect habitat for elk and other wildlife. RMEF relied on both purchased and donated conservation easements, targeting primarily winter range and important corridors for elk. On the local level, four land trusts in addition to MLR existed in Montana, although MLR was the dominant land trust in the state.

To differentiate itself from other conservation organizations, MLR sought to establish an image of being a Montana organization intent upon protecting Montana's private lands by working with landowners on a personal basis. According to one easement donor, "I chose to work with the Reliance because they seemed the most reasonable. They listened to what I wanted to do and worked with me. I didn't feel like I had to conform to somebody else's agenda, and that's important to me." The integrity of the Reliance staff and the relationships they developed in the state were also mentioned as qualities which set the Reliance apart.

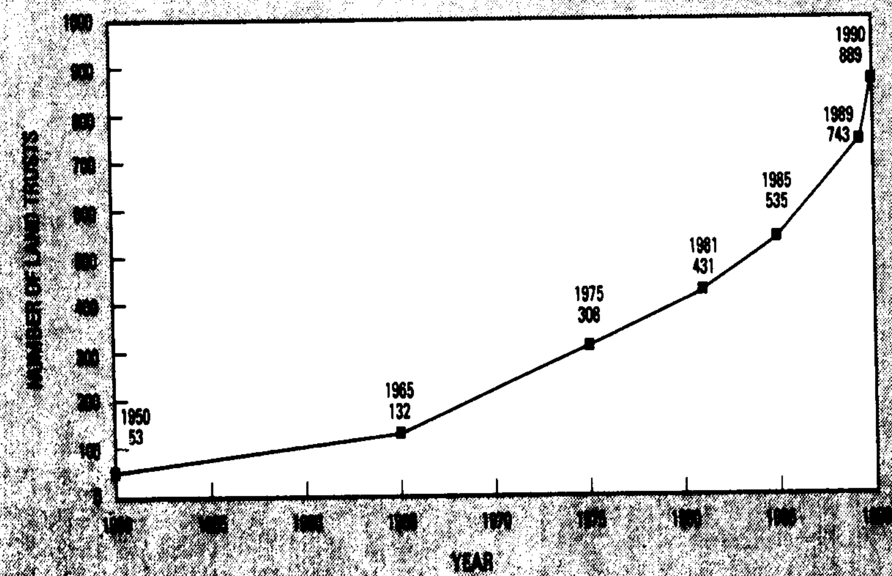
Future Concerns

By almost any measure, the Reliance had grown to become a highly successful conservation organization by 1992. With over 103,000 acres under permanent protection and a $2 million endowment in place to support ongoing operations, the Reliance had become a nationally recognized, professional conservation organization.

In spite of the many strengths exhibited by the organization, trouble spots were evident. Several Board members expressed concern that the Reliance had become too focused on fundraising, which had a spillover effect on the conservation easements that were completed. In recent years, a majority of easements were donated by wealthy landowners who typically resided out of state. Although the Reliance had undoubtedly protected numerous ranches, the traditional ranching community in Montana remained largely unaware of the Reliance and the conservation easement. With the emphasis on fishing and targeting wealthy individuals in fundraising, some believed the Reliance was neglecting Montana ranchers.

The opportunistic approach to easements taken by the Reliance meant that the marketing strategy employed to raise funds essentially became the marketing strategy for identifying easements. Beyond establishing personal contacts with some landowners in various watersheds, very little in-state marketing took place. In spite of the absence of a coordinated marketing effort directed at in-state ranchers, the Reliance staff were having a difficult time coping with growing demand for easements, primarily from individuals who had just recently purchased ranches. To complete more easements, the Reliance would need additional funds or staff, but raising money required staff time. Further, the recent increase in conservation activity had also strained relationships within the organization as the staff struggled to manage the workload.

Exhibit 1
Land Trusts in the United States



MAJOR LAND RESOURCES PROTECTED BY LAND TRUSTS

figures show fraction of all land trusts protecting indicated resource types

Wildlife habitat	74%
Wetlands	73%
Open space	68%
Forests	57%
River corridors/watershed	49%
Recreation/trails	49%
Farmland	38%
Historic/cultural	34%

figures add to more than 100% because most trusts protect more than one kind of resource

MAJOR PROTECTION METHODS USED BY LAND TRUSTS

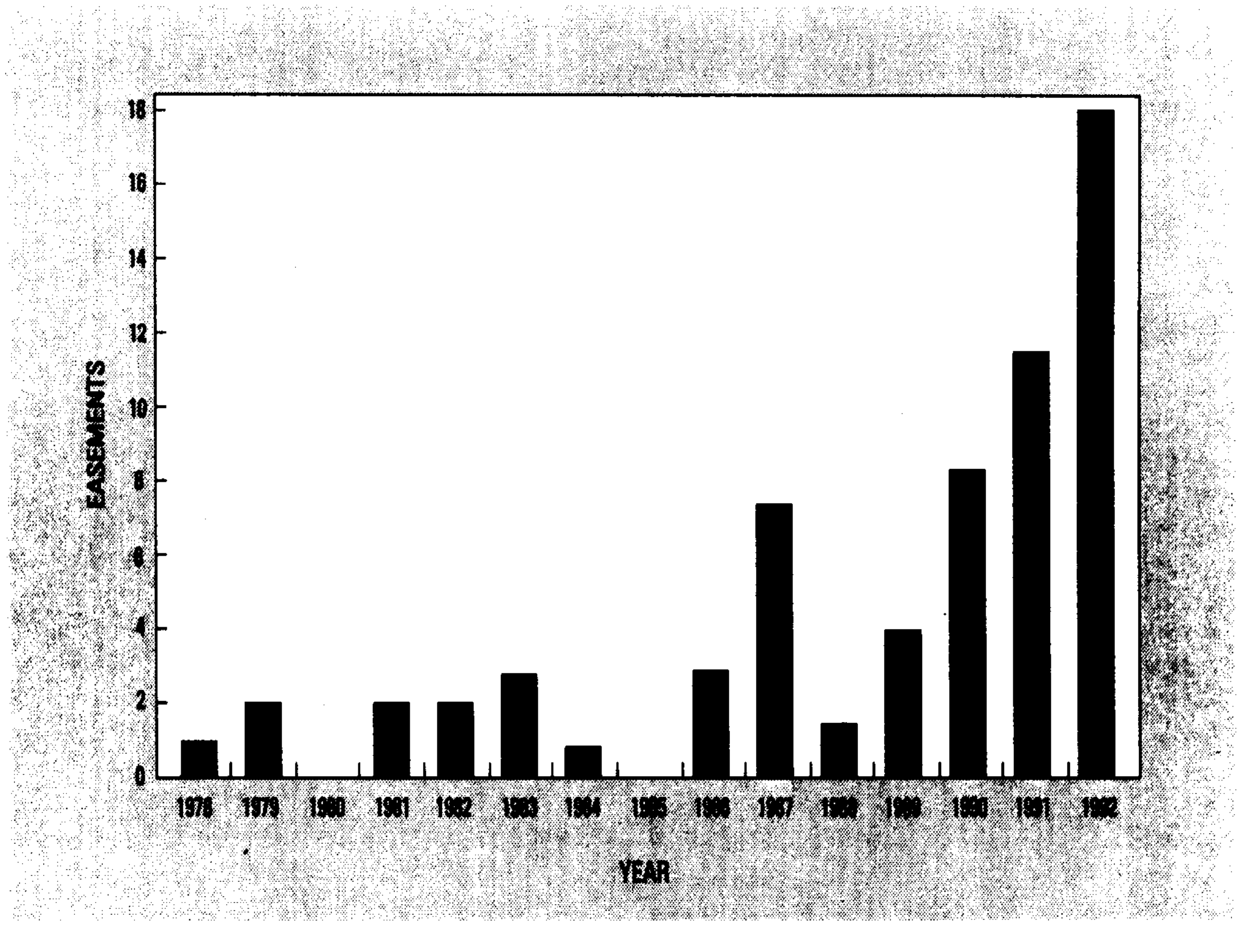
figures show fraction of all land trusts using indicated methods

Land donation	84%
Conservation easement donation	75%
Land purchase	63%
Acquire for transfer to third party	30%
Easement purchase	30%
Negotiations on behalf of third party	27%

figures add to more than 100% because most trusts use more than one method

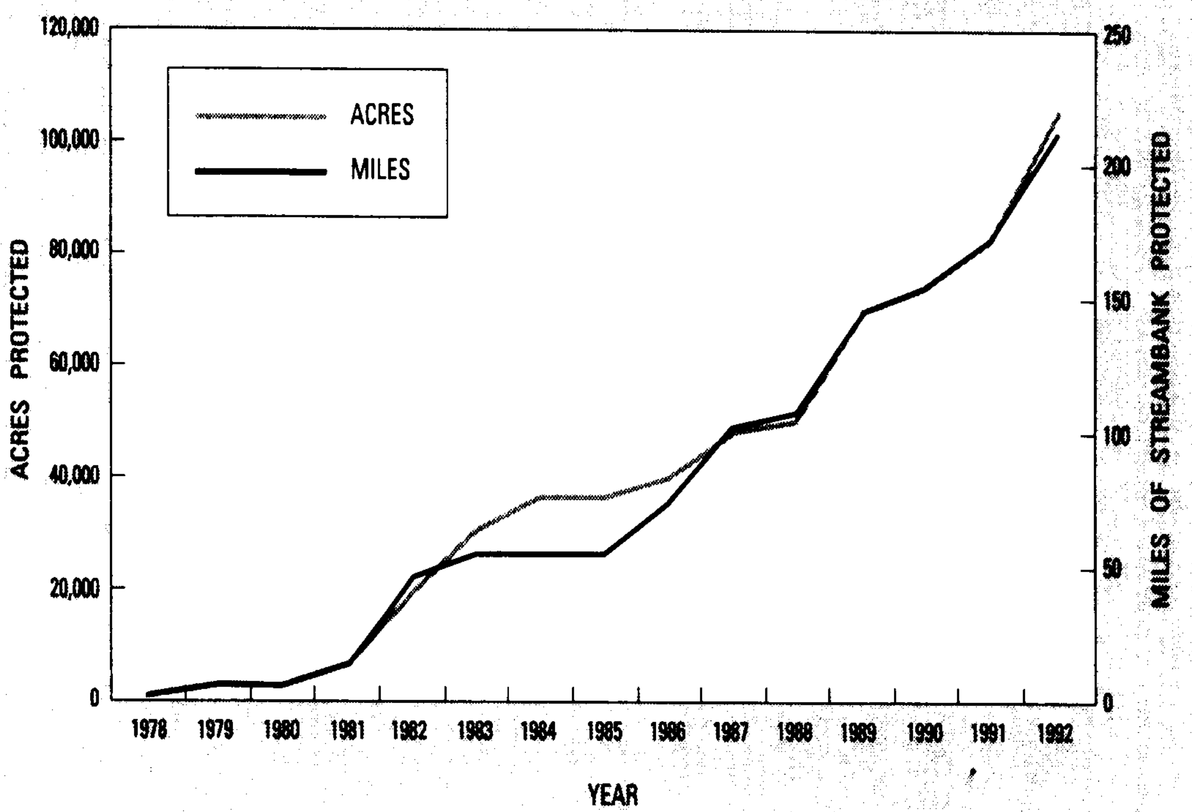
Source: Computed by Land Trust Alliance staff from data in *National Directory of Conservation Land Trusts, 1991–1992* (Washington, DC: Land Trust Alliance, 1991).

Exhibit 2
MLR Easements Completed



Source: MLR.

Exhibit 3
MLR Cumulative Acres and Stream Miles Protected



Source: MLR.

Exhibit 4
MLR Sources and Uses of Funds and Endowment Fund Balances

figures are in thousands of dollars

	1986	1987	1988	1989	1990	1991	1992
Sources							
Foundation contributions	122	137	114	110	100	92	104
Individual contributions	92	80	128	82	109	129	174
Interest on operating funds	7	8	9	10	17	15	10
Transfers from endowment[1]	0	10	20	41	41	51	90
Contributions related to easement gifts	6	4	14	7	8	20	18
Other	2	5	30	43	43	26	26
Total	229	244	315	294	317	333	433
Uses							
Salaries	124	149	155	170	176	202	223
Contracts[2]	27	22	37	21	26	23	36
Travel	15	13	10	12	16	20	14
Postage and supplies	6	6	7	8	8	12	13
Other	19	18	17	21	20	26	27
Extraordinary expenditures[3]	0	13	23	29	15	25	37
Total	191	221	248	263	263	309	350
Operating Surplus	38	24	66	32	54	25	82
Endowment fund balance, at year end[4]	759	908	1,152	1,529	1,683	1,939	2,068

Note: Numbers may not add to totals because of rounding.

1 Certain operating expenses are supported by income generated by endowment funds. See text.
2 Work performed by contractors includes preparation of Baseline Inventory reports and production of the annual report.
3 Extraordinary expenditures include office furniture, computer systems, and a drift boat.
4 The year-end endowment fund balance reflects not only the year's operating surplus but also additions to and interest on the endowment (not shown here).

Source: MLR.