

**Endangered Species Act  
Mitigation Banks  
&**

**Associated Conservation Easements**

**National Cattlemen's Beef Association  
Cattlemen's College**

**January 31, 2007**

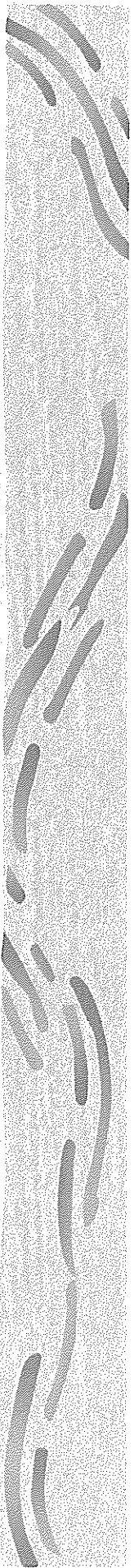
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## Endangered Species Act Statutes/Agencies

- ✓ Federal (7 U.S.C. § 136, 16 U.S.C. § 460).
  - ✓ Consultative Agencies
    - Federal: Fish & Wildlife Service (Interior), National Marine Fisheries Service (Commerce)
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# Historical Application of the ESA

- ✓ Agencies relied on regulatory and enforcement actions
  - ✓ Environmental groups relied on lawsuits
  - ✓ Resulting in Landowners/Operators
    - Resisting:
      - The Act
      - The regulators
      - The environmentalists
    - Taking the Wrong Actions
      - Three "S's" (shoot, shovel, shut up)
      - Avoiding species
      - Avoiding good habitat
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## A. More Enlightened View of the ESA is Emerging

- ✓ 60%+ of the protected species are on private land
  - ✓ Private land is better managed than public lands
  - ✓ Need to reward good stewardship/habitat preservation
  - ✓ Need to allow smart management while protecting the species
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# FWS/ESA Mitigation Banks

## Addresses These Problems:

1. Landowners do not get value for preserving quality ecosystems, enhancing species habitat, or providing environmental protection
2. Regulation and landownership are considered incompatible

## Conservation Offers Benefits:

1. Land use and Conservation can be compatible
  2. Conservation can bring value to landowners
  3. Ranching provides a natural opportunity for conservation
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# ESA Mitigation Banks

- ✓ An agreement is made with the US Fish and Wildlife Service pursuant to Endangered Species Act authority
- ✓ Agree on a conservation easement for continued use of the property (ranching) compatible with the protected species (i.e., vernal pools, tiger salamander, kit fox).
- ✓ FWS designates the number of assigned credits
  - Determines the acres of the valued habitat on the ranch
  - Evaluates the quality of the habitat value
    - This may increase or decrease the number of credits actually assigned
- The credits are sold as buyers (businesses, developers or Gov't Agencies) need the credits to mitigate their projects.
- The value per credit/acre run from \$100/acre (Kit Fox) to \$17,000 (CTS) to \$85,000 (vernal pool) to over \$150,000 for some species
  - In Southern CA, a mitigation bank is selling one credit of Delta Sands Flower – Loving Fly Bank for \$150,000



# Conservation Easement Value

- An easement value is usually the difference between the current appraisal and the value as restricted by the easement.
  - Easement value is generally 40% to 55% of the appraised value, but may vary widely depending on existing use, development potential and geographic area.
  - Landowners can realize value through cash, tax credits, estate tax reductions or a combination thereof.
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# Ranch Can Overlay Mitigations

Example:

On an 800 Acre Winter Grass Non-Irrigated Pasture Ranch:

Approx. Ranch Value: \$3,000/acre (\$2.4 M)  
Approx. Grape Value: \$7,000/acre (\$5.7 M)

Mitigation Bank Credit Value:

Vernal Pool – 68 credits at \$65,000/credit = \$4,420,000

Tiger Salamander – 710 credits at \$17,000/credit = \$12,070,000

TOTAL: \$16,490,000 M

The Easement Restrictions:

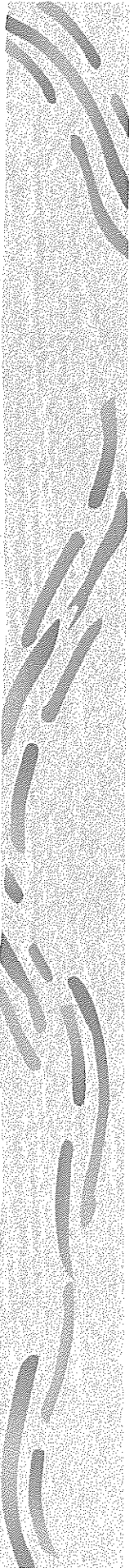
- Don't develop or subdivide
  - Must run historic levels of cattle grazing
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# Transaction Costs/Timeframes

- ✓ Landowners will incur costs associated with creating and conveying a conservation easement or mitigation bank:
    - Land Appraisal
    - Biological Evaluation
    - Baseline documentation
    - Legal/Financial Advice
    - Possible Ecosystem Enhancement
    - Monitoring Endowment
  - ✓ Conservation easements generally take 12 to 18 months to complete, and mitigation banks generally take 6 to 12 months to complete.
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# The End

