

Conservation Easements and Purchase of Development Rights Programs Two Tools

Upper Verde River Watershed Protection Coalition



The Nature
Conservancy



Protecting nature. Preserving life.™



What we all know : Grasslands= Ranches= Aquifers



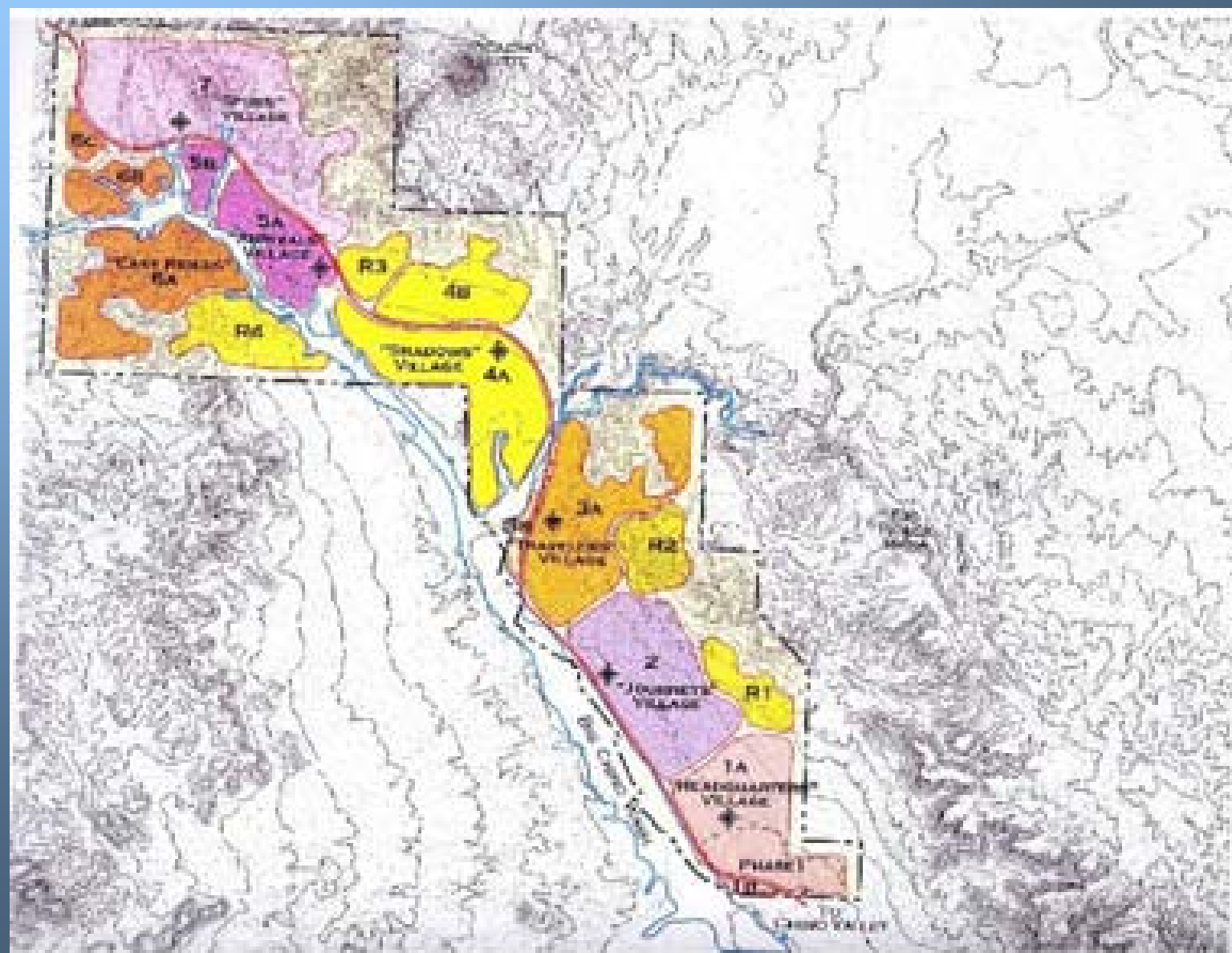


And our ranchlands...

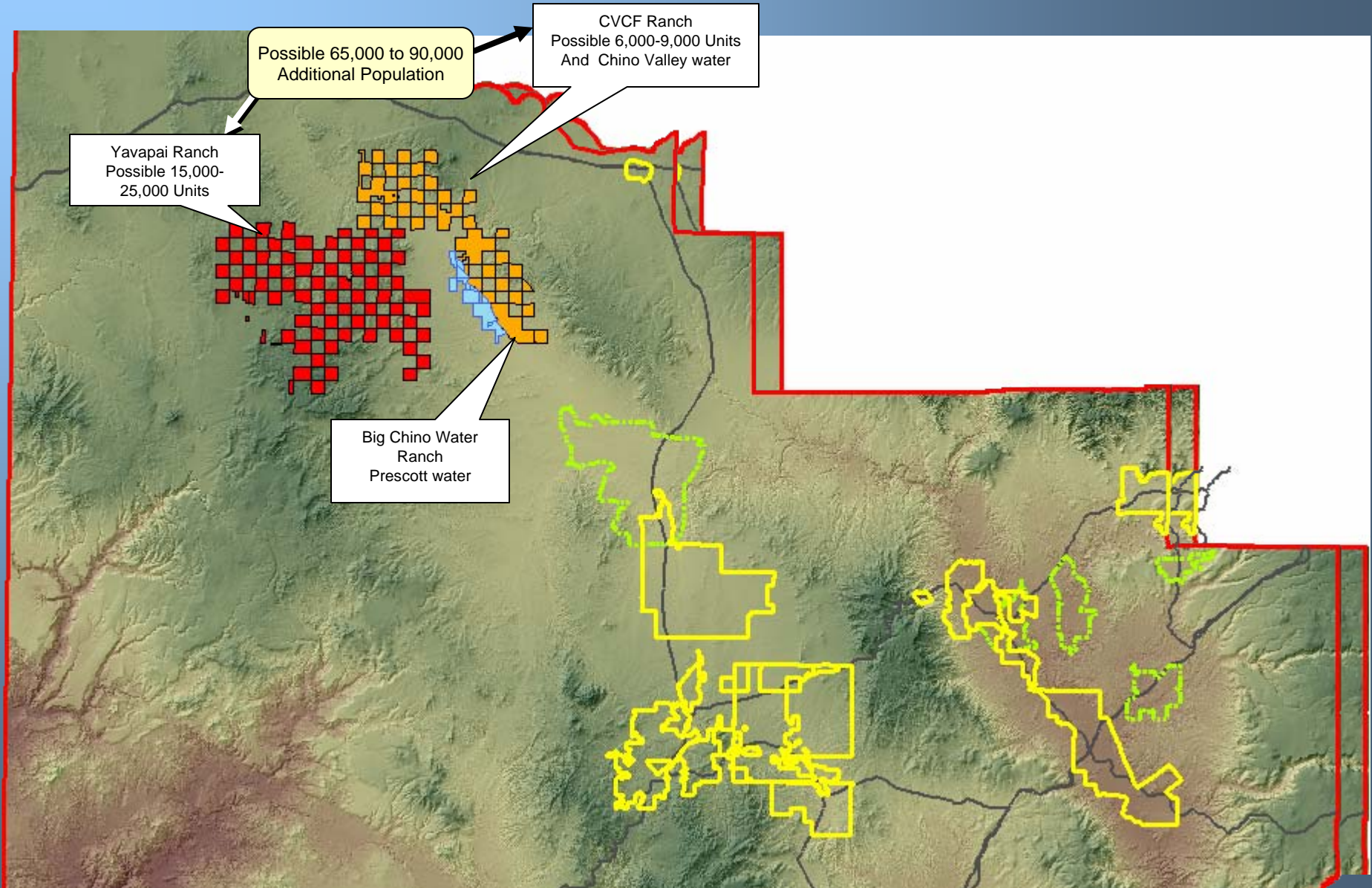


...are going fast



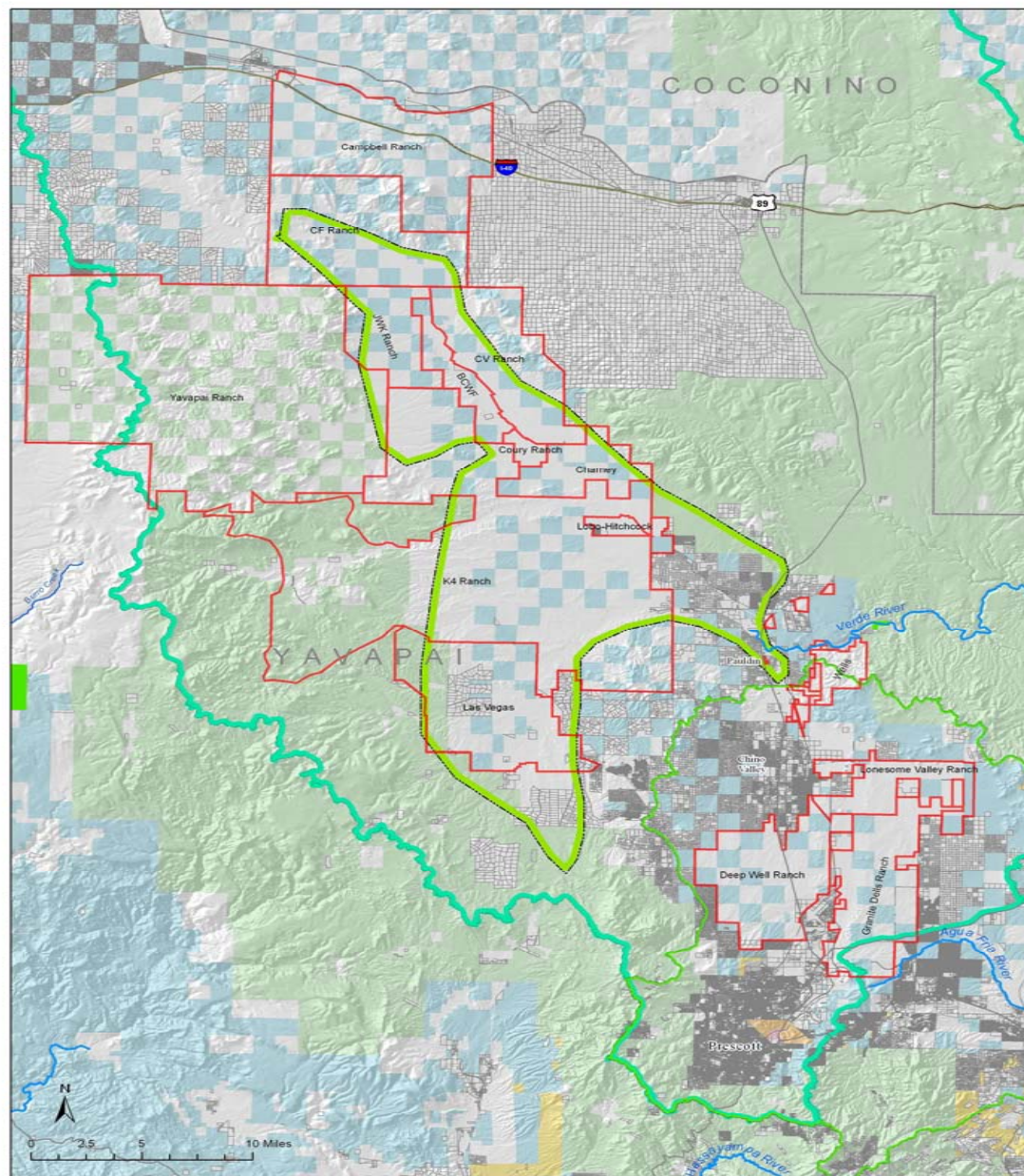


Future Developments

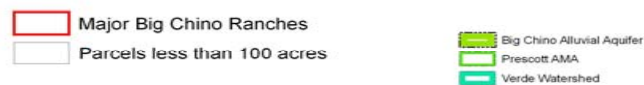


...along with our aquifer,





BGI CHINO: Needs Assessment 2007



antelope habitat,



unique riparian areas,



and endangered species.



Walt Anderson



We need to develop a Community Water Agenda

- **Apportion the Upper Verde aquifer sustainably**
- **To protect the Verde River's base flow**
- **To balance Prescott AMA's water budget**
- **And to provide water equitably between the upper and lower towns for planned developments**



Conservation Easements

A Private Conservation Tool

1. What are they?
2. How do they work?
3. What's the benefit to landowners?
4. What's the benefit to communities?
5. Who can provide assistance?

The law...

Uniform Conservation Easement Act:

- Protection of relatively natural habitat or ecosystems
- Preservation of open spaces, including farmlands and forest lands for scenic enjoyment or in pursuit of governmental conservation policies
- Public outdoor recreation and education



What is a Conservation Easement?

- A legal & binding –recorded real estate transaction subject to AZ property laws
- Permanent – running with the land to future owners
- Can be gifted or sold to a qualified organization:
 - committed to conservation purposes
 - has resources to enforce the restrictions

What they aren't...

- Do not allow trespass
- Not a “taking” of any private rights
- Can be sold, leased or gifted
- Do not necessarily provide public access
- Do not necessarily prohibit grazing, hunting or any other land use

Arizona

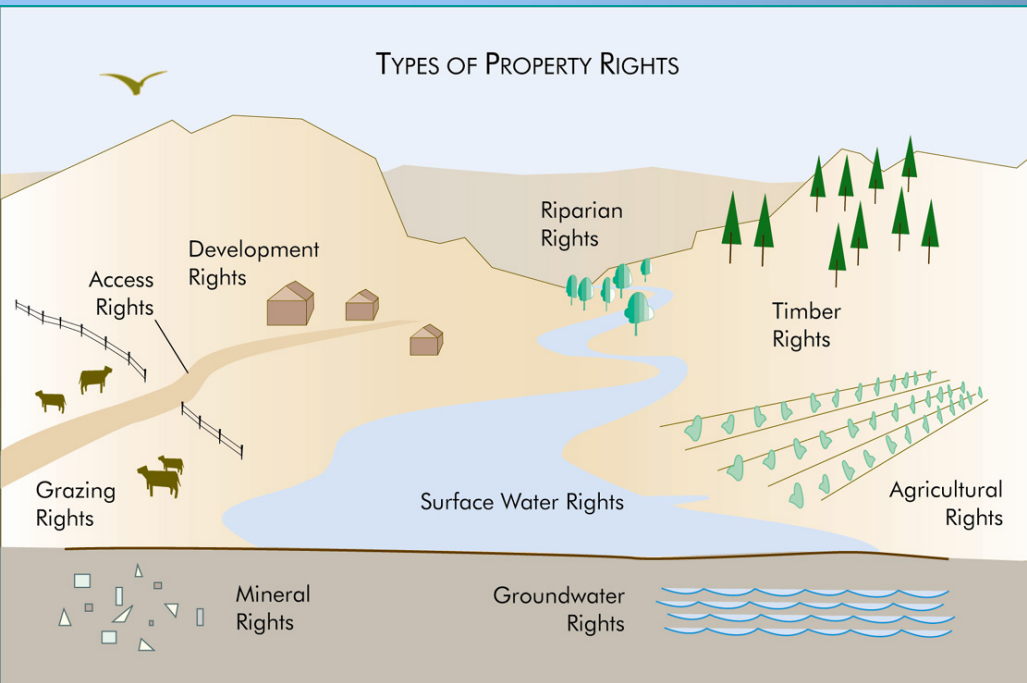
- **First gift: Kolbe's Rail X Ranch to TNC**
- **Largest gift: Babbitt Brothers' Cataract Ranch 34,000 ac. to TNC and 6400 ac. to Coconino Co.**
- **Largest purchased: Sharp's San Rafael Ranch 22,000 ac. to AZ State Parks**
- **And hundreds of others**



Who can hold a conservation easement?

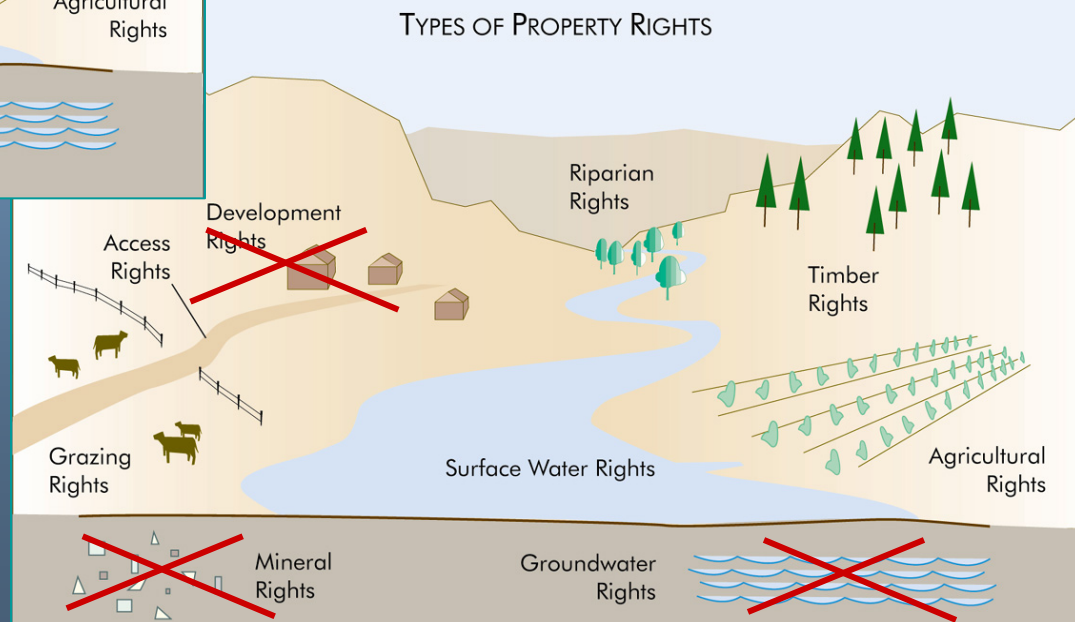
- **Non-profit NGOs with conservation missions (e.g. land trusts, etc.)**
- **Federal land agencies**
- **State, county or city agencies permitted to acquire property (e.g. City of Prescott's Open Space Acquisition Committee)**

What rights can be transferred?



Ranch before CE

Ranch after CE



How is an Easement Valued?

$$\begin{aligned} & \$\$\$ \text{ fair market appraisal of land before the easement} \\ & \quad - \underline{\$ \$ \text{ fair market value of land after the easement}} \\ & \quad = \$ \text{ value of conservation easement} \end{aligned}$$

Financial benefit to landowner?

***IRS* recognizes the donation of a CE as a
“qualifying conservation contribution”**

- Federal tax deduction equal to the value of the gift in that year and five subsequent years (or for qualified ranchers 15 years at 100% AGI)
- Lowers value of the taxable estate so that property can be passed to future generations

Duties of easement holders?

IRS requires permanent protection of the conservation values:

- **Holder must monitor easement restrictions annually**
- **may enter property at reasonable times to conduct monitoring**
- **and may enforce restrictions by appropriate legal proceedings**

What are the disadvantages?

- Reduces property's value
- Requires legal and financial advice
- “runs with the land” in perpetuity
- Holder must follow-through on annual monitoring

What's new?

- TNC and TPL just entered a technical assistance agreement with Yavapai County to research the feasibility of a public funding measure to reflect the priorities of its residents.
- TNC and TPL assistance is specifically designed to provide recommendations on which local options and funding levels are economically prudent and likely to be publicly acceptable.

What's being offered?

Technical assistance in:

- Feasibility Research
- Public Opinion Surveys
- Program Recommendations
- Ballot Measure Design
- Legislative Support

A Public Conservation Tool: Purchase of Development Rights Program

- What are they?
- How do they work?
- Who can help?
- How the community benefits?

What is a Purchase of Development Rights Program?

A publicly financed program to purchase conservation easements:

- which are voluntary
- fully compensate landowners
- can be at city, county, state or federal levels

Development Rights = Conservation Easements

The Law

- **County Planning Act (ARS 11-254.05) provides that a county board of supervisors may purchase or lease development rights on private land from willing property owners using monies from public or private sources.**
- **Arizona Agricultural Protection Act (ARS 3-3301) establishes a state PDR program within the Department of Agriculture and an advisory commission for the purpose of conserving farm and ranch lands through the acquisition of agricultural easements.**

PDR Funding Sources

- **Federal-- Farm Bill**
- **State-- Heritage Fund for Parks, Game & Fish and Dept. of Agriculture**
- **County-- bonds, sales tax & impact fees**
- **Local--real estate transfer, visitor services**
- **Private organizations & foundations**

Why consider a Yavapai County PDR Program?

To protect

- our water quality and quantity
- ranching heritage
- open spaces
- wildlife

Why protect our Aquifer?

- To safeguard the drinking water for Prescott, Prescott Valley, Chino Valley, Clarkdale, Cottonwood, Camp Verde and Phoenix
- To protect the aquifer from random rural development and proliferation of exempt wells and water transfers
- Protect the ecological flow of the Verde River

County Policy?

Yavapai County General Plan:

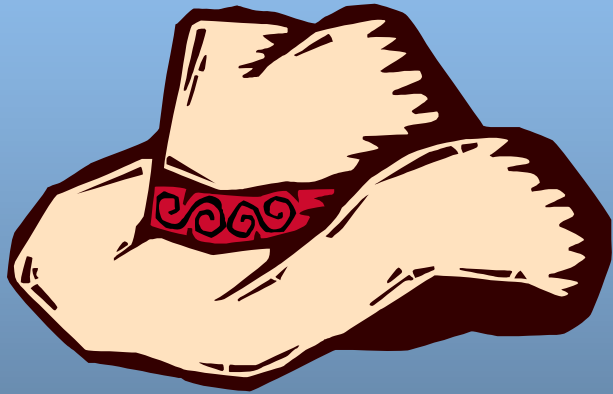
- To preserve county open space character
- Steward water supplies carefully
 - establish extent of available groundwater and coordinate growth in accord with defined water resources
- Secure and protect natural water resources
 - engineer all development to protect natural watersheds
 - maintain water flow, ecosystems, and wildlife corridors for the Verde River and other waterways

Why County funding?

- Traditionally it's the foundation for long-term land conservation efforts, especially to protect regional aquifers
- and to leverage external funding – federal, state, private
- Competition for external funding is fierce and may not be reliable due to ever-changing state and federal budgets

How Do Ranchers Feel?

PDR transactions are completely voluntary



They are initiated by the owners when they decide it's in their best interest. They can shield their working ranches from development and be compensated fairly and retain the right to graze, sell, lease or gift the land.

Summary of Benefits

- **FOR LANDOWNERS:** re-invest cash for other purposes, shelter income, lower estate taxes, and to protect their land base
- **FOR COMMUNITIES:** protects resource permanently, leaves property in private ownership, keeps land economically productive and saves tax dollars

And one of the biggest benefits...



a River still runs through it...

Water Resource Protection

GRASSLANDS

Large intact ranches overlying the Upper Verde aquifer can be protected from rural development, exempt well proliferation and water transfers. The water supply would be protected while the land remains privately owned. The owners retain the right to graze, sell, lease or gift the land.

Water Resource Protection

VERDE CORRIDOR

Critical riparian and floodplain areas along the mainstem and major tributaries can be protected from urban encroachment, channel alteration and loss of the river's "right of way." By purchasing selected rights, the river can be protected from expensive flood structures, channel destabilization, reduced water quality, and loss of wildlife habitat.

