

# Land Rich, Cash Poor

*Having friends in high places ended up being Don McIvor's downfall. He just wanted to save his ranch but, in the end, he gave it away. By Dusti Scovel*



*Hands gather for the fall works on the West Texas U Up U Down ranch. Scott McIvor finds himself a tenant on the land his father intended for a legacy. His landlord, The Nature Conservancy, has shown a marked anticattle bias.*

**D**on McIvor was just trying to do the right thing. When his mother, Violet Locke McIvor, died in 1995, Don and his sisters inherited the family ranch and because no family trust had been established, they also inherited an enormous tax bill. It was an all-too-familiar story.

The U Up U Down originally spanned 40,000 acres of the lush high country of the Davis Mountains in far west Texas. G. Scott Locke and his family bought this piece of paradise in 1882 and immediately put 200 head of cattle on it. For well over a century, the ranch has been owned and operated by the same family.

Originally from New Hampshire, the Lockes and McIvors had always run the ranch from the East Coast, maintaining a presence in both places. Then, in 1957, after graduating from the University of Arizona, Don McIvor decided to move back to Texas and assume hands-on management of the family business.

The McIvors were always good stewards and good neighbors in this predominately ranching community. In 1932, Violet McIvor donated land to the University of Texas for the world-renowned Texas McDonald Observatory, a project the McIvors continue to take great pride and interest in. In the '70s and '80s, Don was awarded several conservation awards from The Nature Conservancy (TNC)—as Don liked to say, “back when TNC was still a two-man office out of Austin.”

The observatory became a major attraction for the Davis Mountains and brought thousands of visitors to the pristine sky islands where the dense forests, spectacular canyons and sweeping mountain views soon became the next place to live for claustrophobic city dwellers. It was simply a matter of time before developers moved in to build high-end subdivisions and fancy resorts. Don, along with other area ranchers, watched as two major subdivisions moved in during

the late '70s. He worried that if development crept any closer, the “dark skies” required for the observatory would be at risk.

Thanks in part to the surge of development in the years prior to Violet's death, the value of the ranch skyrocketed which, in turn, took the estate taxes off the charts. The sisters were ready to sell their interest in the ranch but Don had another agenda. He wanted to keep at least a part of the ranch to pass on to the son he was just beginning to get to know.

Years earlier, Don's first marriage ended in a not-so-pleasant divorce and he'd lost contact with his only child, Scott. The relationship would remain strained for over 20 years until the late '90s when some coaxing from Scott's wife, Julie, and Don's ranch manager, Randy Glover, brought the pair back together.

Glover hired Scott for day work at the ranch so father and son would have to see each other every day. Glover later told his wife that he knew bringing Scott onboard would eventually mean he'd have to find another

job, but he also knew it was the right thing to do because “a father and son need to know each other.”

As was true with several of the area ranches, the McIvor Ranch, as it was now called, had a unique quality that had long been admired by state and local agencies. The National Parks Service, Texas Parks and Wildlife and the state of Texas had each at one time attempted to use eminent domain to claim portions of the ranch. Fortunately, all three attempts failed.

Don realized they had to sell part of the land to raise the tax money but the last thing he wanted was to sell to developers who would bring in more resorts. Since he had previous dealings with them, Don called The Nature Conservancy and was put in touch with James King, TNC’s state director of land acquisitions, and told him he wanted to sell a big chunk of his ranch.

James King became Don’s new best pal. They seemed to share the same vision for preserving the rambling vistas of the Davis Mountains from choppy suburban development. In fact, King would soon add his name to the roster of community ranchers with his own 285-acre piece of the valley. Don found a whole new circle of friends in the new, more sophisticated TNC world where he was highly regarded. King often referred to Don as the “father of conservation” in his public presentations.

Many meetings and social gatherings later, a deal was struck and King assembled a grand plan to purchase 32,000 acres of the McIvor Ranch. Nearly 18,000 acres of the ranch would become a nature preserve and to pay for the deal, the other 14,000 acres would be sold to six private buyers (one a distant cousin to King, and another a major donor to TNC). Each parcel was sold with a conservation easement already in place, thereby setting aside hefty portions of their land to forever remain in its natural state. Each landowner has since built a custom home and one has a home, a barn, a workshop and an 18,000-

square-foot indoor riding arena. That left 6,500 acres in the McIvor Ranch.

With the sale complete, Don had the money to pay the estate taxes, had preserved the dark skies for the observatory, and had kept a decent-sized place to hand down to Scott and his wife Julie.

And James King had even more good news for Don. If he would donate a conservation easement on the remaining 6,500 acres back to TNC, it would soften the tax burden from the sale of the larger part of the ranch. It was a one-time tax break but it sounded like a smart move to Don. According to theory, he could still live on and work his ranch just as he always had. What did he have to lose?

Don McIvor had no idea he’d just given away the heritage he worked so hard to keep for his son.

Scott and Julie McIvor were married in October 1996, after dating for nearly 10 years, and settled in west Texas where they both had roots. Scott worked on area ranches and was

By 1999, the young McIvors had two daughters, Locke Anne and Mae, and Don was reveling in the joy of having his family nearby. Don soon asked Scott to move his family out to the ranch where Scott assumed the role of ranch manager in the partnership the two established.

Don’s first clue about the rights he’d given away came only a year after he signed over the easement when he decided to build a home at the base of Blue Mountain, a local landmark which was part of Don’s remaining 6,500 acres. After construction began, Don heard from his bud, James King, now the program director for TNC in Fort Davis, letting Don know that his easement didn’t allow for another home to be built. Don realized he was now a tenant with a landlord. After some discussion, TNC granted Don an amendment to the original easement and allowed his house to go up, but it didn’t take the bitter taste of reality out of Don’s mouth.

The bitterness grew when Don’s young granddaughters inherited a couple of Boer goat kids which needed to be bottle-fed and TNC stepped in to say the animals didn’t comply with its management plan. The girls planned to raise and sell the goat kids to supplement their college fund.

The proverbial straw came when Don heard from several hikers that the tour guides at The Nature Conservancy Preserve, as part of their canned speech, routinely told visi-

tors that the preserve was in such poor shape because the McIvor Ranch ran 1,300 cattle on the land. In fact, there were never more than 250 head of cattle on that particular piece of land and never more than 800 head on the entire 40,000 acres. Never mind the fact that no cattle have been on the 18,000-acre preserve since TNC took it over nearly 10 years ago. “It seems that behind Don’s back, The Nature Conservancy continued to use incorrect propaganda to point the finger at ranchers, making us look evil,” says Julie.

Don truly believed that by donating the conservation easement, he was agreeing that



PHOTOS COURTESY MCVIVOR FAMILY

*Scott McIvor’s great-grandmother Sarah Janes Locke (left) and her father-in-law G.S. Locke pause in front of the lower ranch house, early 1900s. In the 1930s, the family donated land for the Texas McDonald Observatory. Hoping to protect the observatory’s “dark skies,” the McIvors found themselves in a devil’s deal with The Nature Conservancy.*

just beginning to establish a relationship with his dad, one that grew even stronger after he started working on his dad’s ranch.

Julie McIvor’s ranching roots run deep. Five generations deep. A sharp, feisty, outspoken rancher’s wife with strong family ties, Julie has an ingrained love and respect for the land, thanks to sage advice dating back to her great-grandfather, Arthur Lee Judkins. “Be a keeper of the land and its fruits,” he used to say, “and don’t sell the land. It will make you money while you sleep.” Julie also has an unyielding belief in protecting private property rights.





*Christmas 2000. Left to right: Locke Anne, Julie, Mae, Scott and Don McIvor. Don lost his battle with cancer and The Nature Conservancy. Julie now speaks out vehemently for property rights. Scott keeps ranching.*

neither he nor anyone else who controlled the ranch in the future would ever subdivide it, thus maintaining the natural state of the land by preventing development.

The magnitude of what he'd done was beginning to sink in. He no longer made decisions about how to run his ranch operations. TNC did. It was a revelation that both angered him and broke his heart.

While Don had legal counsel when he signed the easement, the long-term ramifications were never clearly explained. James King was Don's friend and knew well what his priorities were in selling the ranch. Don wasn't interested in turning the management of his property over to anyone other than family and certainly not to an agency that was clearly antigrazing. Don was a cattle rancher. He was handing his ranch down to his son, also a cattle rancher. Why would he sign anything that would make either of them subordinates on their own place? Don felt duped.

If the restrictions and control had been made clear, the easement would never have been signed. There was money left over from the land sale to pay the taxes and retaining control over the property would have far outweighed the one-time tax break the easement offered.

On Aug. 31, 2005, Don McIvor lost his last battle, this time to cancer.

His son and daughter-in-law know there's nothing they can do to change things now. They are and will forever be only tenants on their family ranch. But they are hell-bent on educating others, particularly ranchers, about understanding the whole scope of a conservation easement.

Julie is a frequent speaker at property-rights gatherings, explaining the restrictions of living under a conservation easement. Articulate and well-spoken, she does her homework and pulls no punches. She knows Don was sold a bill of goods.

"We just want them to go into it with their eyes wide open," Julie says. "Don was a very good-hearted person who just wanted to believe in the best in people. Because of that, he was easily manipulated."

Not surprisingly, TNC has made little effort to establish a relationship with Scott, though Julie and James King did exchange more than a few blistering e-mails before Don's death last summer. Since then, there's been very little, if any, communication.

Scott and Julie worry about what TNC might do to get them off the ranch. The animals and plants living in the higher elevations

of the Davis Mountains are exclusive to sky-island terrain, such as in the Mimbres range in southwestern New Mexico and the Chiricahuas in southeast Arizona. It's been reported that 1,000 rare or endangered species are thought to thrive in this specialized environment—a fact that makes Scott and Julie nervous because of the implications of the Endangered Species Act.

"I just don't agree with the concept of easements or government control through sustainable development because nobody has a clue what this world is going to be like in a week, a month, 10 years and certainly not perpetuity," Julie told a crowd recently. "I know the only thing inevitable is change," she continued. "We must embrace it but not knowing the future, we need to be careful of the situations we put future generations in. As the past has shown over and over, the knowledge we perceive to be true today could turn out to be very wrong tomorrow."

Don McIvor couldn't have said it better himself. ■

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