



LAND



WATER



WAY OF LIFE

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RIO GRANDE HEADWATERS LAND TRUST

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BOARD OF DIRECTORS

- | | |
|-------------------------------------|-------------------|
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Conserving Our Land, Water, and Way of Life
in Colorado's San Luis Valley

ABOUT THE RIO GRANDE HEADWATERS LAND TRUST

Founded in 1999, the Rio Grande Headwaters Land Trust (RiGHT) is a local non-profit organization that works with private landowners, public agencies and other conservation organizations to protect and support working ranches and farms, water resources, wildlife habitat, and scenic landscapes. RiGHT is the only local land trust that serves the entire San Luis Valley. We have a local Board of Directors with expertise and knowledge in land management, biology, water issues, archeology, and fundraising. Additionally, two of our Board members are active ranchers who have completed conservation easements on their own property (*these easements are held by other organizations*).

At RiGHT, we act out of a deep-seated belief that land and water conservation benefits us all. It secures the future for agriculture, keeping it viable as our long-term economic base. It maintains critical wildlife habitat and supports a variety of recreation. It sustains the unique beauty of our area, our rich cultural heritage, and the rural quality of life in the San Luis Valley.

To accomplish our mission, RiGHT works in the following three areas:

1. LAND & WATER PROTECTION

RiGHT works to conserve land and water for agriculture, wildlife, and scenic views in the San Luis Valley for present and future generations. We do this by working with interested landowners on a permanent, voluntary restriction of development rights known as a conservation easement. We also partner with other conservation groups, community organizations, and local governments to assess conservation needs.

To date, RiGHT has completed 31 conservation projects permanently protecting 20,450 acres in the San Luis Valley and over nineteen miles of the Rio Grande river corridor.

2. STEWARDSHIP

The goal of RiGHT's Stewardship Program is to ensure the ongoing protection of our conserved lands and to promote a culture of conservation. Once we place a conservation easement on a property, RiGHT has the responsibility to ensure that the terms of that easement are upheld. We visit our protected properties at least annually to meet with the landowner and conduct a site visit. RiGHT is also prepared to enforce the terms of our easements.

At RiGHT, we believe that just protecting land and water isn't enough without having knowledgeable people care for the land. RiGHT is developing a new program focused on providing resources and information to landowners on land management practices, efficient water use, habitat improvements, marketing, and other economic opportunities.

3. OUTREACH & EDUCATION

The goal of RiGHT's educational program is to expand awareness and understanding of land protection tools, and how land conservation and estate planning can complement one another. We provide educational workshops for family farmers and ranchers that address issues of economic sustainability while encouraging land stewardship. We also work hard to educate our partners, elected officials, and the general public on the importance of our work for the entire San Luis Valley.

We also have an active outreach program that provides opportunities for the public to visit some of our protected properties. Events include birding tours, photography workshops, plein-air paint outs and more.

WHAT IS A LAND TRUST?

A land trust is a non-profit organization set up as a charitable entity under the laws of the United States that is qualified to “hold” conservation easements. Land trusts work with landowners on a voluntary basis to establish conservation easements that protect open space, working lands, wildlife habitat, and scenic views. Land trusts also continue to verify that the terms of the conservation easements will be enforced in the future.

RiGHT is qualified under IRS standards and the laws of Colorado to accept charitable donations and to “hold” conservation easements. Additionally, RiGHT is both a state-certified land trust as well as a nationally accredited land trust.

WHAT IS A CONSERVATION EASEMENT?

A conservation easement is a voluntary, binding legal agreement between a landowner and a qualified conservation organization that identifies Conservation Values (see below) on a property and protects those Conservation Values by restricting non-compatible uses of the property.

Land under conservation easement remains private land and the landowner retains ownership of the land and keeps the right to sell or transfer ownership of the property. Each easement is unique to the parcel it is designed to protect and to the needs of the landowner completing the conservation easement.

WHAT ARE CONSERVATION VALUES?

The Internal Revenue Code allows tax deductions for donations of conservation easements on lands that provide one or more of the following “Conservation Values.”

- Scenic enjoyment
- Open space
- Relatively natural wildlife habitat
- Public recreation and/or education
- Historic preservation

WHY SHOULD I CONSIDER A CONSERVATION EASEMENT FOR MY PROPERTY?

There are often deep emotions tied to land. Many landowners value the open space, agricultural productivity, wildlife habitat, and historic features that their land provides. It is important to them to keep their land intact. For some it is a life-long goal to be able to pass their land onto the next generation. When communities work together, conservation easements can serve to conserve an entire area with valuable agricultural land, wetlands, river and riparian corridors, and scenic viewsheds.

DOES A CONSERVATION EASEMENT REQUIRE THAT I PERMIT PUBLIC ACCESS TO MY LAND?

No. Public access may be written into a conservation easement only at the request of the landowner.

COMMONLY ASKED QUESTIONS (CONTINUED)

WHAT ARE SOME OF THE COMMON USE RESTRICTIONS INCLUDED IN A CONSERVATION EASEMENT?

Conservation Easements restrict certain uses in order to protect the property's conservation values. They are specifically tailored to the property and the property owner's wishes. Typical restrictions in RiGHT's basic conservation easement restrict or limit:

- The right to subdivide or to do extensive building on the property. However, an easement generally permits the construction of new farm buildings and can allow the construction of a carefully located home for family members.
- The right to allow commercial mining, surface or subsurface.
- The right to allow commercial logging.
- The right to separate water rights from the land.

HOW LONG DOES A CONSERVATION EASEMENT LAST?

Conservation easements "run with the land," and bind the original owner and all subsequent owners to the easement's restrictions. Only perpetual easements can qualify for income and estate tax benefits. The easement is recorded at the county clerk and recorder's office so that all future owners and lenders will learn about the restrictions when they obtain title reports.

HOW IS THE MONETARY VALUE OF A CONSERVATION EASEMENT DETERMINED?

The value of the conservation easement is the difference between the value of the land without any restrictions and the value on the land with restrictions as defined by the conservation easement. Usually, that amount is also the value of the charitable donation when the conservation easement qualifies under IRS regulations. A qualified appraiser determines those values and the difference between the two.

A "qualified appraiser" must be state certified and cannot be compensated based on the value of the land. The appraiser also must have experience with conservation easements and there should be no conflict of interest between the appraiser, the landowner, and other parties involved in the transaction.

Completing a conservation easement on your property has several benefits. Foremost is the knowledge that your land will be conserved and protected forever. Conservation easements can also be an important financial and estate planning tool. Due to the restrictions placed on the land, the value of the land is reduced, which in turn lowers inheritance taxes. Conservation easements can be a way to continue to use the land and receive potential Federal and State income and estate tax benefits. In Colorado, the donation of a perpetual conservation easement may allow the donor to claim a state income tax credit. All tax benefits hinge on the value of your conservation easement and compliance with the rules and regulations from the IRS and Colorado State government.

Disclaimer: RiGHT staff are not attorneys, financial planners, accountants, geologists, biologists, or appraisers. As such, RiGHT is not qualified to dispense specific information regarding these fields of expertise. We urge you to hire experienced consultants to complete your conservation team.

RiGHT will not knowingly participate in any project where we have concerns about the tax deduction. RiGHT cannot offer any guarantees or warranties with regard to any tax deduction.

QUALIFYING FOR FEDERAL & STATE TAX BENEFITS

In order to qualify for any tax benefits, a conservation easement must meet the following requirements:

- ☞ The donation of the conservation easement must be made to a qualified organization that is exempt under section 501(c)(3) of the Internal Revenue Code, is a public charity, and has been in operation for a minimum of two years. The organization must be able to monitor the conservation easement and, if necessary, take enforcement action to uphold the easement.
- ☞ The donation of the conservation easement must meet the requirements of the Internal Revenue Code section 170(h) and the accompanying Treasury Department regulations as well as the requirements of the State of Colorado. The due diligence that RiGHT performs as we work on your conservation easement is designed to help you meet these requirements. This work will include:
 - An appraisal in accordance with the IRS requirements (For more information on appraisal requirements, see Conservation Easements: The Process);
 - A Baseline Inventory, also called a Present Conditions Report;
 - A mineral remoteness assessment to verify that the likelihood of developing minerals on your property is so remote as to be negligible (Required if the mineral ownership is severed from the ownership of the surface of the land);
 - Identification and documentation of conservation values; and
 - Identification of governmental policies supporting the implementation of your conservation easement.

CONSERVATION EASEMENT BENEFITS (CONTINUED)

FEDERAL TAX BENEFITS:

You may be eligible for the following tax benefits if your land qualifies for federal IRS benefits for a donation of a conservation easement:

1. A charitable income tax deduction for the donated value of the conservation easement.
 - a. The value of the conservation easement donation can be deducted up to 30% of an individual's Adjusted Gross Income (AGI) for the year of the gift.
 - b. There is a 5-year carry-forward on any unused deduction amount.

Enhanced Tax Incentive: The enhanced tax incentive available for conservation easement donations expired at the end of 2011, although an effort is underway to make it permanent. The enhanced incentive increases the deduction a donor can take from 30% of their AGI in any year to 50%, allows qualifying farmers and ranchers to deduct up to 100%; and extends the carry-forward period from 5 to 15 years. For more information on the enhanced tax incentive contact RiGHT or visit <http://www.landtrustalliance.org/policy/tax-matters/campaigns/incentive-faqs>.

For information on how the tax incentive applies to your situation, contact your financial advisor.

COLORADO TAX BENEFITS:

The State of Colorado also offers these potential benefits for donating a conservation easement:

1. **A State income tax credit.** For a qualifying donation, a landowner can receive a 50% tax credit of the value of their donation up to \$750,000. Therefore, the maximum amount of tax credits a landowner can receive is \$375,000. (*Example: For a donation worth \$500,000 a landowner could receive \$250,000 in tax credits*) The credit can be carried forward for 20 years or transferred once to a third party who can then claim the credit. This enables people who cannot use the tax credit to receive cash by selling their credits at a reduced rate to a party that can use the credits. However, the entire credit must be used before a new credit can be claimed for an additional conservation easement donation. For more information on the current Colorado Tax Incentives see the Colorado Department of Revenue website at:

www.revenue.state.co.us - *FYI Income 39: Gross Conservation Easement Credit.*

2. A charitable income tax deduction for the value of the conservation easement in excess of \$750,000.
3. Agricultural properties larger than 80 acres will remain taxed as agricultural. For non-agricultural land, there may be a property tax reduction.

The Tax Credit Cap: HB 10-1197 placed an overall, statewide annual cap on the amount of tax credits available for conservation easements. This annual cap is \$22 million per year for 2011 and 2012, and \$34 million for 2013. Once the cap is reached in any given year, landowners who complete easement donations in that year will receive tax credit certificates and be placed on a wait list to use their credits. After 2013, the bill is set to sunset and remove the annual cap.

For more information, contact RiGHT, your financial advisor, or your tax credit broker.

Placing a conservation easement on a property is a process that typically takes six to eighteen months. The time frame relies on how prepared the landowner is, the turnaround time when dealing with the conservation team of professionals, and how complex the project may be.

The following will give you a general idea of the most common steps involved when placing a conservation easement on your property. It is not meant to be a conclusive list for all projects and while we have tried to put the steps in chronological order, several of these steps can be happening simultaneously.

PRE-PROJECT APPROVAL

1. DETERMINE IF A CONSERVATION EASEMENT MEETS YOUR GOALS

Often the decision of placing a conservation easement on your property is a family matter. Discuss the implications of an easement with the concerned parties and determine if a consensus can be reached. Consult with your financial advisor early and throughout this process to determine the federal and state tax benefits of completing a conservation easement and how that fits with your estate planning.

2. DETERMINE IF YOUR PROJECT IS A FIT FOR RIGHT

Call RiGHT to determine if your property meets our criteria. After talking with you, RiGHT may choose to conduct a site visit on your property. RiGHT staff will present information on your property (notes from the site visit and discussion with the landowner, maps, photos, etc.) to the Board of Directors. If the Board determines that the property is a good fit, they will grant preliminary approval to move forward. RiGHT may decline to accept any conservation easement or other conveyance at any time, for any reason deemed appropriate by the Board.

DETERMINE YOUR TITLE AND MINERAL RIGHTS

3. TITLE COMMITMENT, MINERAL RIGHTS SEARCH AND TITLE INSURANCE

Contact a title company and request a Title Commitment and mineral rights search. This will establish the legal description for your property, the legal landowners, determine if any title complications need to be cleared up, and indicate if your mineral rights are severed from the ownership of the property. If we complete the project, RiGHT requests title insurance in the amount of value of the conservation easement. If you have mortgages on your property, RiGHT will require the holder to subordinate the mortgage to the conservation easement.

4. MINERAL REMOTENESS LETTER

RiGHT requires that all projects with a severed mineral estate receive a Mineral Remoteness Assessment, and you will need to contact a qualified geologist to receive a "Mineral Remoteness Letter." This letter indicates that the surface or subsurface minerals are highly unlikely to be mined because the likelihood of mining is "so remote as to be negligible." In certain cases, this letter may be required even if you own your mineral rights.

If any problematic title exceptions cannot be remedied or you cannot obtain a Mineral Remoteness Letter for the majority of the property, RiGHT cannot complete a conservation easement on your property.

COMPLETING A CONSERVATION EASEMENT (CONTINUED)

WORKING TO COMPLETE YOUR PROJECT

1. FIND AN EXPERIENCED ATTORNEY

It is important to have sound legal advice. Seek professionals who are knowledgeable about this subject and have them review all your documentation. It will save you time and money.

2. DETERMINE WHICH ACTIVITIES TO ALLOW AND WHICH TO PROHIBIT

Work with the RiGHT staff to create a list of restrictions and permitted activities that will be addressed in your conservation easement.

3. OBTAIN A BASELINE DOCUMENT

Contact a biologist to complete a "Baseline Document" (also called a Present Condition Report). Through narrative, maps and photos the Baseline Document establishes the present condition of the property when the easement is put on it. It is required by the IRS and serves to: 1) demonstrate that there are significant Conservation Values on the property, and 2) be the benchmark against which any violation of the conservation easement is measured.

4. OBTAIN AN ENVIRONMENTAL SITE ASSESSMENT (IF NECESSARY)

If necessary, obtain an environmental site assessment for your property to determine if there are any hazardous materials on the property and what action needs to be taken to clean them up.

5. OBTAIN A SURVEY (IF NECESSARY)

In some cases it may be necessary to complete a survey to outline property boundaries and create a new legal description or to outline building envelopes.

6. DRAFT THE CONSERVATION EASEMENT DOCUMENT

Each easement is tailored to the desires of the landowner and the needs of the land. You, your attorney, and the staff at RiGHT will work together to create mutually agreeable terms for your conservation easement deed. This deed may need to be passed back and forth several times to produce the final product.

7. OBTAIN AN APPRAISAL

A complete appraisal is required for all projects. Appraisals of conservation easements are substantially different from typical residential property appraisals, making it critical that you work with an experienced, state certified appraiser who is familiar with valuing conservation easements and follows the Uniform Standards of Professional Appraisal Practice. You must obtain a written "qualified appraisal" of the property that meets federal IRS requirements under Treasury Regulations 1.170A-13(c) and is completed no more than 60 days prior to closing your conservation easement. If you need to know the value of your property beforehand for financial planning purposes, you may order an additional appraisal earlier in the process. The cost of this additional appraisal is your expense and the appraisal must be updated prior to closing.

8. WORK WITH AN EXPERIENCED FINANCIAL ADVISOR/ACCOUNTANT

If you are considering using the benefits provided by the Federal or State Government, RiGHT suggests having your documentation reviewed before you sign and record the Deed of Conservation Easement. They should specifically review your title, appraisal, and Deed of Conservation Easement.

9. PREPARE A MANAGEMENT PLAN

RiGHT requires a management plan for all of our conservation projects. The management plan helps facilitate communication between RiGHT and the landowner and is updated every five years. We encourage the active use of "best management practices" that will provide sound management of the Property's soil, vegetative and water resources, restoration and/or enhancement of the agricultural productivity and other Conservation Values.

CONSERVATION EASEMENT COSTS

The costs to complete a conservation easement vary widely depending on what your needs are, who you hire and how complex the project is. The costs reflected below are approximate estimates only and meant to provide you with an “average range” of costs; they can be higher if your project is more complex. Many of these costs are necessitated by the IRS to prove that your property has monetary and Conservation Values associated with it.

You are responsible for these costs. The good news is many of these costs are due at or after closing, lessening the amount you will need to start your project. RiGHT may be able to pursue funding to cover some costs and loan programs are also available with the loan due to be repaid after closing. You may wish to consult with your tax professional to determine the deductibility of these costs.

REQUIRED EXPENSES	COST RANGE
Accountant/Financial Advisor	\$1,000 - \$2,000
Legal Fees	\$4,000 - \$15,000
Title Insurance & Closing Costs	\$2,000 - \$4,000
Appraisal	\$8,000 - \$15,000
Baseline Inventory Report	\$3,500 - \$6,000
Stewardship Fund	\$15,000 - \$20,000
Mineral Remoteness Letter	\$1,500 - \$2,500
Survey	\$3,000 - \$6,000
RiGHT's Fee for Service	\$7,500 or 5% of amount fundraised
TOTAL REQUIRED EXPENSES	\$45,000 - \$75,500
IF NEEDED EXPENSES	COST RANGE
Mortgage Subordination	\$1,000 - \$2,000
Environmental Assessment	\$2,500 - \$3,500
TOTAL IF NEEDED EXPENSES	\$3,500 - \$5,500

LEGAL FEES:

Obtaining experienced legal counsel is necessary for completing a conservation easement. At a minimum, you will need to hire an attorney to review the actual conservation easement document. Additionally, some attorneys are available to coordinate the entire easement process for you.

STEWARDSHIP FUND:

RiGHT requires a contribution to our stewardship fund for each project. As the holder of a conservation easement, RiGHT uses this fund for annual monitoring of the property as well as any legal costs associated with defending the terms of the easement.

RIGHT'S FEE FOR SERVICE:

This fee helps pay a portion of RiGHT's staff and legal review expenses. For donated Conservation Easements, the fee is a flat \$7,500. If RiGHT does any fundraising for a project, the fee is the higher amount of \$7,500 or 5% of the amount raised.

Please note: If RiGHT does any fundraising for these transaction costs, our entire fee for service and at least 50% of the Stewardship Fund will not be covered by that fundraising. You are responsible for at least these costs.

RESOURCE PROVIDERS LIST

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John Norton	(970) 247.8088 (970) 247.8306 (fax) norton@frontier.net	Norton Appraisal Services 2009 Highland Ave. P.O. Box 4506 Durango, CO 81032
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Kevin D. Shea, SR/WA	(303) 424.1616 (303) 424.0319 (fax) sheakd@comcast.net	Shea Appraisal Company, LLC 707 Parfet St. Arvada, CO 80004
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RESOURCE PROVIDERS LIST

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RESOURCE PROVIDERS LIST

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MORE INFORMATION

Rio Grande Headwaters Land Trust

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Colorado Coalition of Land Trusts

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Land Trust Alliance

www.landtrustalliance.org