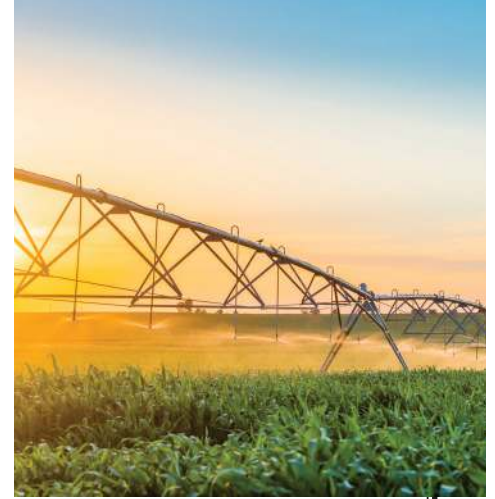


New Option for Water Entities Looking to Keep Water in the Local Community



Farmers and ranchers may feel that their best option is to put their land and water rights on the market if they have medical bills or simply have no one in the next generation interested in taking over. Neighbors and fellow irrigators on a ditch may feel helpless when seeing farm after farm sell and think about a future where the majority of water in the ditch will be in a different use.

The Conservation Easement Enhancement and Rural Stimulus Act, signed into law in July, created a new opportunity for certain types of water entities, including ditch and reservoir companies, water conservancies, and water conservation districts to receive state tax credits for the donation of conservation easements on land owned by any of these entities. The law also increased the benefit for donation of a conservation easement.

Colorado Open Lands believes this presents an opportunity for collective purchasing to protect water rights in a way that may be difficult for any individual.

To use a hypothetical illustration, Joe Smith is considering selling his property. He contacts the Farmers Supply Ditch Company and offers them a right of first refusal for his property. When Joe receives an offer from a third-party, he takes that offer to the Farmers Supply Ditch Company, who decides to take out a loan from the Colorado Water Conservation Board to match the offer and purchase the property. The Ditch Company then places the property in a conservation easement, which allows for water-sharing, but ensures that the water rights can never be separated from the property. They use the sale of the tax credits to re-pay most of their loan and then sell the property to a private buyer for the value of the property after the easement to pay the loan balance.

Hypothetical Financials

Purchase Price: \$5,000,000

Conservation Easement Value: \$3,500,000 (assumes giving up right to sell water and certain development rights is 70% of total property value)

Tax credits = 90% of appraised easement value up to \$5M maximum; tax credits can be sold for 85% of value

Sale of tax credits = $\$3,500,000 \times 90\% \times 85\% = \$2,677,500$

Ditch company may immediately sell farm to another irrigator or consider entering into some kind of Alternative Transfer Mechanism (ATM) agreement prior to sale.

A conservation easement is not a money-making venture, but may help defray the costs of investment while contributing to long-term stability for a ditch company. A conservation easement is a perpetual agreement between a landowner and a conservation easement holder, such as Colorado Open Lands, that restricts certain uses of land and water rights to conserve natural resources and agricultural viability.

Colorado Open Lands is a nonprofit organization founded in 1981. We work across the state and hold 555 conservation easements on land and water rights in 46 counties.

If you would like to discuss how a conservation easement might work, contact Carmen Farmer at 970.829.1014 or CFarmer@ColoradoOpenLands.org.



Photo by Ann Duncan