GROUNDWATER CONSERVATION EASEMENTS:

A TOOL FOR AQUIFER RECOVERY AND CONTINUED FARMING AND RANCHING IN THE SAN LUIS VALLEY

WHAT IS A CONSERVATION EASEMENT?

A conservation easement is a binding agreement that restricts certain uses of a property in order to maintain the public benefits that property and its water provide, such as agricultural production and wildlife habitat. A landowner is eligible for different financial incentives for donating or selling a conservation easement.

Characteristics of all conservation easements:

- Voluntary: between a willing land and water rights owner and a willing holder, like Colorado Open Lands
- Permanent: they are binding on the landowner that completes the easement and future owners
- Specifically tailored to a property: there are some parts of a conservation easement that are consistent across holders and different properties, but the main terms of the agreement are based on the characteristics of a particular farm and ranch
- Land Ownership and Access: ownership of the land and water rights remains in private hands, but it is now subject to certain restrictions. Landowner retains the right to control access to their property.

HOW IS A GROUNDWATER CONSERVATION EASEMENT DIFFERENT THAN A TRADITIONAL CONSERVATION EASEMENT?

In a traditional conservation easement, the landowner and holder agree to define where the primary structures can be built on a property (such as homes, garages, and shops), while allowing for corrals, hay barns, and irrigation infrastructure wherever they are needed. Traditional conservation easements often require water rights to continue to be used for irrigation (with some flexibility for leasing or forbearance).

A groundwater conservation easement includes both land and water rights, but it is more focused on restricting groundwater use, while also protecting the soil resource. The amount of reduction can be tailored to each individual easement; anything from full retirement of a well or wells, to a smaller percentage reduction in annual pumping based on previous pumping rates.

EXAMPLE 1:

Landowner has three circles of potatoes and decides to rotationally fallow one circle per year. Landowner enters into a groundwater conservation easement that limits pumping to 2/3 of average use.

EXAMPLE 2:

Landowner grows alfalfa using both surface and groundwater. Landowner levels field to improve surface irrigation and deficit irrigates, getting one less cutting. Landowner decides it is still critical to have some available groundwater, but agrees to permanently reduce pumping by 50% through a groundwater easement.

While the conservation easement makes the reduction in groundwater use permanent, COL would not dictate how the farmer achieves that reduction. COL also has funds to support on-farm/ranch management transition costs.

FINANCIAL INCENTIVES

Landowners are financially compensated for placing their land and water in groundwater conservation easements. Compensation can come in the form of cash to purchase a portion of the value of the easement, or through state tax credits, or a combination of both. These benefits are determined through an appraisal process, which will determine the fair market value of your land with irrigation and may compare it to sales of farms and ranches that are water-short, or an appraiser may look at the lost future revenue potential based on your reduced pumping.

HYPOTHETICAL FINANCIALS FOR A GROUNDWATER CONSERVATION EASEMENT

Fair Market Value of land and water without restrictions: "Before Value" = $2,000,000
Fair Market Value with easement pumping restrictions: "After Value" = $1,500,000
Value of easement = Before Value – After Value = $500,000

Cash at closing: $250,000
Donated Easement Value: $250,000
Colorado State Tax Credit: 90% of donated value = **$225,000***
*This can be sold for cash and/or used for a period of 20 years
Federal Deduction: Donated easement value – Tax Credit = $25,000**
**This can be applied to offset any years of positive income for up to 16 years

WHO IS COLORADO OPEN LANDS?

Colorado Open Lands holds conservation easements on nearly 600,000 acres across the state, over 100,000 acres on farms and ranches in the San Luis Valley. COL believes that landowners are the best stewards of their land and believes in keeping water rights in the San Luis Valley.

COL has an office in Alamosa. ***If you would like to discuss how a groundwater conservation easement might work on your property, contact Sally Wier at 719.480.8471 or swier@ColoradoOpenLands.org.***

Peachwood Farms, Saguache County
First groundwater conservation easement