

A LANDOWNER INTRODUCTION  
TO CONSERVING LAND WITH



*3R Ranch, Pueblo County, Photo by John Fielder*





# WORKING WITH COLORADO OPEN LANDS

## OUR HISTORY

Colorado Open Lands was founded by a business-minded group in 1981 to work with private landowners to conserve the state's agriculture, wildlife habitat, and scenic vistas. COL has maintained its focus on landowner service and the financial health of the organization to ensure that we fulfill our perpetual promise to the landowners who entrust us to hold conservation easements on their land. Colorado Open Lands was one of the first land trusts in the country to be accredited by the Land Trust Alliance.

## OUR TRACK RECORD



**WE'VE CONSERVED  
OVER 680,000  
ACRES**



**WE CURRENTLY  
HOLD OVER 700  
EASEMENTS**



**WE HOLD  
EASEMENTS IN  
50 COLORADO COUNTIES**

While over 70% of the conservation easements we hold are on agricultural lands, COL holds the most diverse portfolio of conservation easements in the state, from a 13-acre urban farm in the Denver Metro area to an 80,000-acre ranch in the San Luis Valley.

## CONSERVATION EASEMENT PHILOSOPHY

COL believes that landowners are the best stewards of their land. We are not in the business of managing land and our conservation easement template strives to take a hands-off approach to conservation. Each conservation easement is tailored to the needs of a landowner, focusing on the most important issues facing our state: subdivision and water rights. Colorado Open Lands can provide the maximum flexibility for agricultural and hunting operations and structures and allows for subsurface mineral development. We do not pretend to know what the future will bring, so we allow for flexibility with land management. We would never interfere with an operation unless it negatively impacts the conservation values, which the landowner helps to determine and define.

## WHAT SEPARATES COL FROM OTHER LAND TRUSTS?

As a statewide organization with a broad mission, our loyalty is to the landowners and communities where we work. COL is financially stable, with a significant Stewardship Reserve Fund to uphold our promise that these conservation easements will last forever. COL is also small enough to operate in a responsive and innovative manner. Our diverse portfolio of conservation easements means that we have experience working with a variety of land owners and unique project needs

COL supports our landowners. Rather than simply serving as an enforcement entity, we strive to be a resource and partner available to landowners for the long-term. COL will work with landowners to identify opportunities for on-property resource projects. Additionally, COL hosts Conserved Colorado, which is an online directory of goods, services, and experiences available from landowners with conservation easements. We publicize this on statewide social media and mailings to encourage consumers to support landowners who have chosen to conserve their property.

COL also provides leadership within the conservation community within the state and beyond. COL conducts critical research on emerging issues, such as increasing flexibility for water rights within conservation easements, and regularly conducts presentations on stewardship best practices.



*Indian Mountain, Park County*





# CONSERVATION EASEMENTS 101

*Tarryall Creek Ranch, Park County. Photo by Liam Doran, courtesy of Beartooth Capital*

## WHAT IS A CONSERVATION EASEMENT?

A conservation easement is a voluntary legal agreement between a landowner and a land trust or government entity which contains permanent restrictions on the use or development of land in order to protect certain qualities of the property. The conservation easement is recorded in the county records and binds all current and future owners of the land.

If you think of private property rights as a bundle of sticks, conservation easements give you a way to exchange two big sticks—the right to subdivide and the right to commercially develop—for the financial incentives described herein. COL “holds” the conservation easement, but neither owns the property nor becomes involved in day-to-day management.

## WHAT ARE THE TYPICAL RESTRICTIONS?

- No division of the property, or limited division of the property
- Current and future homes and other buildings are limited to being located within identified areas (“building envelopes”)
- No surface mining, though renewable energy and subsurface mining activities can be permitted if they meet certain requirements
- Continued historic use of water rights on the property (may allow for the right to lease)

Though these are the common restrictions in our template deed, each conservation easement is different and is tailored to the needs of the family and property. Please let us know if you are interested in learning more about a groundwater-focused conservation easement or an easement for recreational or educational purposes.

## WHAT RIGHTS STAY WITH THE LANDOWNER?

A conservation easement does not allow the public to access your land (unless you want to allow access). A conservation easement does not prevent you from mortgaging, leasing, selling, or passing on your land. A conservation easement is intended to support working lands and does not require specific agricultural practices.

# WHAT IS A LAND TRUST?

A land trust (like Colorado Open Lands) is a private, non-profit organization with a mission to help landowners conserve properties with outstanding natural and agricultural values. Land trusts typically do this by holding conservation easements and ensuring that the terms of the easements are being followed. The land trust works with you to create the conservation easement document and agrees to care for, or “steward,” your conservation easement forever.

Conserving your land with COL may qualify you for a variety of financial benefits. These benefits are established at the federal, state and local level and by private organizations in order to encourage landowners to conserve their land.

# BENEFITS OF CONSERVING YOUR LAND

## FEDERAL TAX DEDUCTION

The donation of a conservation easement that meets federal tax code requirements may be considered a charitable gift, which can qualify for a charitable income tax deduction. The value of the gift is the difference between the value of the property prior to the easement donation and the value of the property after the easement donation, as determined by a qualified appraiser. The amount of the charitable income tax deduction is generally limited to 50% (10% for C corporations) of the landowner’s Adjusted Gross Income (AGI) in any one year. If the full deduction is not used completely in the first year, it can be carried forward for an additional fifteen years or until the donation is fully expended, whichever comes first.

If you are a farmer or rancher, the benefits are even better. If more than 50% of your gross income comes from agricultural activities, you can deduct up to 100 percent of your income per year up to a maximum of sixteen years up to the donated easement value.

Colorado Open Lands encourages you to engage an experienced tax advisor to understand how federal and state benefits work together, particularly in light of the new State and Local Tax (SALT) deduction rule.

## COLORADO STATE TAX CREDITS

Colorado taxpayers may be eligible for a transferable state income tax credit for the donation of a qualified conservation contribution. Unlike a deduction, a credit provides a dollar for dollar write-off on taxes owed. For conservation easements completed in 2021 or later, the tax credit is valued at 90% of the appraised conservation easement value up to a maximum credit amount of \$5,000,000. These tax credits can be claimed in \$1.5 million increments per year and can be used over a 20-year period. The donor of the qualified conservation contribution can also sell all or part of the tax credit to other Colorado taxpayers at approximately \$0.85 per dollar. Colorado Open Lands can provide information on conservation easement tax credit brokers who assist with the sale of tax credits, including application to the state for a tax credit certificate. Colorado does have an annual cap on available tax credits, so it is important to understand how this could impact your timing and goals.

## NOTICE! 2024 LEGISLATION CHANGES THE COLORADO TAX CREDIT INCENTIVES FOR DONATING A CONSERVATION EASEMENT.

Beginning in 2021, a landowner who donated a conservation easement (or a portion of its value) previously was eligible for a tax credit of up to 90% of appraised value and a landowner could claim a tax refund of up to \$50,000 in years designated as budget surplus years. This new bill, Senate Bill 24-126, changes the tax credit formula and the refund option beginning January 1, 2027. Beginning in 2027, landowners will receive a tax credit for 80% of appraised value for any donated conservation easement and may claim a refund of up to \$200,000, not limited to budget surplus years. Once a tax credit certificate is issued, the landowner may choose to apply the credit to any state income tax owed, sell the credits (typically for a percentage of the full dollar amount), and/or claim a \$200,000 refund. It is the understanding of Colorado Open Lands that:

- A refund from the State of Colorado is not subject to state taxes
- If a landowner donated a conservation easement prior to 2027, but still has a tax credit balance in 2027, they may claim a refund up to \$200,000

However, COL cannot provide tax advice and encourages each landowner to consult with a professional tax adviser. Colorado's state tax credit for conservation easements is subject to an annual cap. Conservation easements are a popular tool for landowners and the combination of program demand and higher land and water values means that the cap has regularly been exceeded. The new legislation immediately increased this cap from \$45M to \$50M (individual tax credits are still capped at \$5 million). The new legislation allows the Division of Conservation to issue tax credit certificates for future years. A landowner may still sell the credits at any time (within 20 years after issuance); however, credits may not be used for tax purposes until their first year of eligibility. For example, a landowner issued a 2026 tax credit certificate may sell those credits in 2025 but cannot use credits against their own taxes until 2026.

*COL does not transfer or sell tax credits. If you are interested in learning more about the market for tax credits or how the process works, we recommend that you reach out to an experienced conservation easement tax credit broker.*

## ESTATE BENEFITS

Extinguishing some or all of the development rights for a property through a conservation easement may reduce the value of the land for estate tax purposes to the after-easement value, thus reducing the estate taxes. This could provide a substantial benefit for family members. In addition, Section 2031(c) of the Internal Revenue Code provides an estate tax exclusion from the gross estate of up to 40% of the remaining encumbered value of the land (excluding any improvements on the land) protected by a qualified conservation easement. The exclusion is capped at \$500,000 and is reduced if the conservation easement reduced the land's value by less than 30% at the time of the contribution. To qualify, the easement must prohibit all but "de minimis commercial recreational use." (26 USC §2055, 26 CFR §1.2055 and 26 USC §2013(c))

## PROPERTY TAX BENEFITS

For agricultural properties consisting of at least 80 acres (or if less than 80 acres and no residential structures), you may be entitled to maintain agricultural classification after a conservation easement is placed on your property, even if agricultural use later ceases. The agricultural property tax rate is typically lower than other classifications. For non-agricultural properties, the donation of a conservation easement on your property may reduce the amount that you pay in property taxes. (House Bill 95-1268, CRS §39-1-102(1.6)(a)(III) and §CRS 38-30.5-109)

## GRANT-FUNDING

In rare cases, Colorado Open Lands may be able to raise funds through various grant programs to pay for a portion of the value of your conservation easement. These funding programs are highly competitive and different funding sources may require particular restrictions in a conservation easement. COL will work with you to determine if your property qualifies for available funding programs. Even when we can raise funds for a conservation easement, a certain percentage of the value of the conservation easement is typically donated. You may then be eligible for tax benefits, based on the donated value of the conservation easement. This is known as a bargain sale. The bargain sale of a conservation easement is usually at least a three-year process.





# THE CONSERVATION EASEMENT PROCESS

*Culebra Creek, Costilla County*

Placing a conservation easement on your property is a very personal, individual process. There are several steps that are necessary to complete before and after the conservation easement is signed. Our staff will assist you with each step, making the process easier for you and your family.

Although a conservation easement is a private transaction between a land trust and landowner, there are other people who are necessary to make it all happen. A conservation easement is, at its core, a mutually agreed upon document that outlines the conservation values of a property and how they are to be protected; however, it is also a real estate transaction and a perpetual legal document. Consequently, a land trust is charged with conducting due diligence in accepting a conservation easement (this due diligence is also used to substantiate your donation or funding). Here we outline these steps and the various partners who will help with different parts of the process (the “Team”).

## THE TEAM

- Landowner
- Land Trust
- Appraiser
- Biologist/Baseline preparer
- Geologist/Mineral report preparer (only necessary if severed or leased minerals)
- Attorneys (COL and landowner)
- Tax Attorney/Accountant
- Bank (only necessary if there is a mortgage)
- Title Company

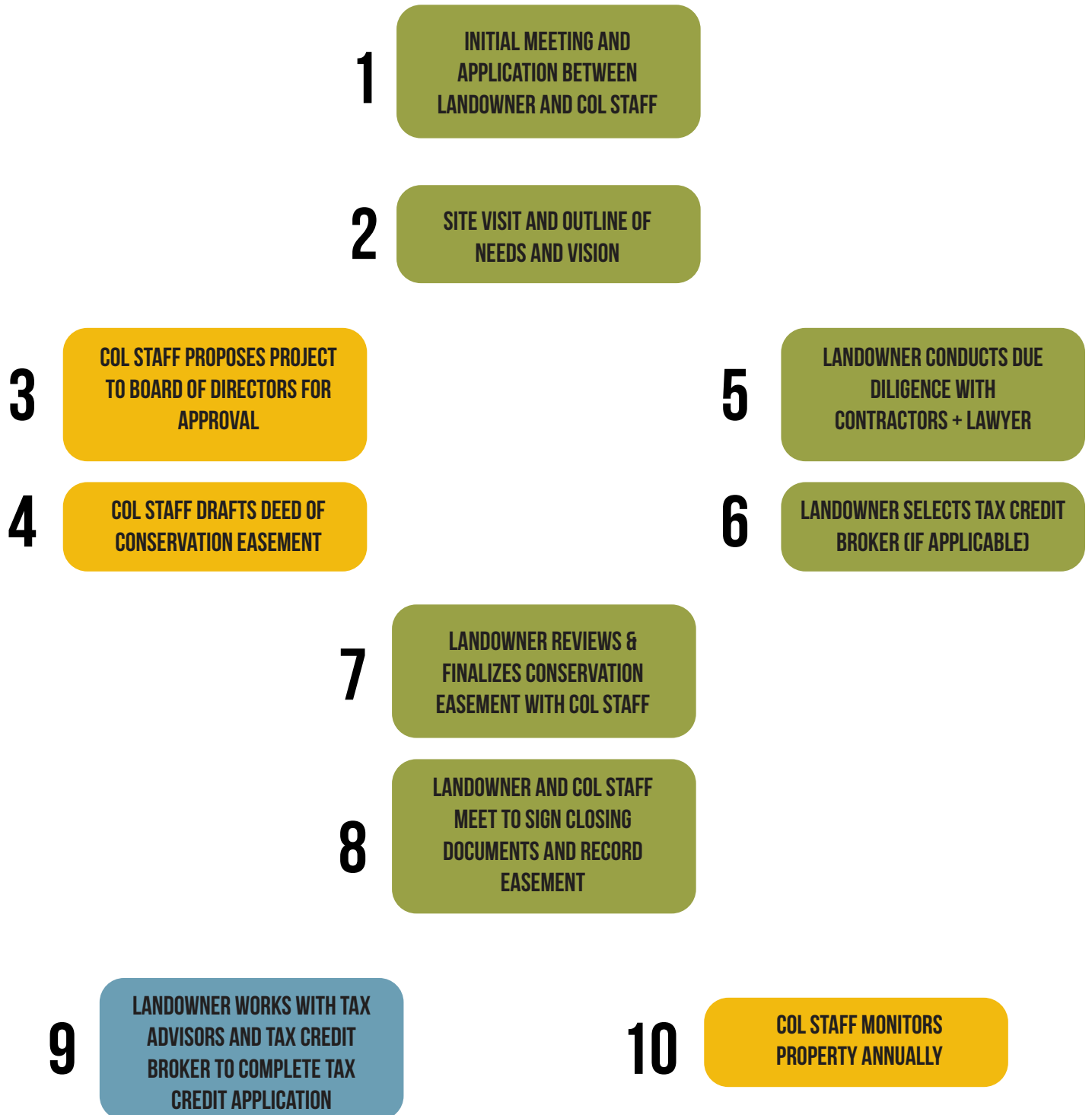
**We strongly encourage you to seek independent professional advice concerning legal, financial, tax, estate planning, real estate, and accounting matters associated with the conveyance of a conservation easement.**

## AFTER CLOSING

Once the easement is in place, COL works with you to ensure that it meets our mutual conservation objectives. We schedule a time to visit your property each year to take photos and ensure that the terms of the conservation easement are being met. We ask you to notify us before doing certain things like building new structures. These conversations foster good communication and provide an opportunity to answer questions or respond to concerns. In addition, we’re available to try to answer any resource questions you may have or connect you with agencies or professionals who can assist you with property issues like weed management, or stream restoration. If you’re interested in this type of information, just let us know. We’ll do our best to help!

# HIGH -LEVEL PROCESS OVERVIEW

SOME OF THESE STEPS ARE ITERATIVE. TOTAL TIME TO COMPLETE A CONSERVATION EASEMENT VARIES, BUT IS OFTEN A 1-5 YEAR PROCESS, DEPENDING ON COMPLEXITY.



TASKS COMPLETED BY COL STAFF



TASKS COMPLETED BY LANDOWNER



TASKS COMPLETED TOGETHER





# ESTIMATED FINANCIAL COSTS AND BENEFITS

*Irby Ranch, Gunnison County, Photo by John Fielder*

## ESTIMATED RANGE OF COSTS

*The higher range of costs of more typical for grant-funded projects*

COL project fee	\$7,500-25,000
Mineral report	\$2,000-4,000
Title insurance policy*	\$1,200-8,000
Appraisal	\$20,000-30,000
Baseline report	\$4,000-8,000
Water rights due diligence	\$1,000-4,000
COL legal costs	\$3,000-20,000
Closing costs	\$300-1,000
State tax credit application fee	\$10,735
Stewardship reserve	\$20,000-50,000
<b>Total estimated costs</b>	<b>\$69,735-170,735**</b>

This does not include expenses for your own legal or tax advice.

*The following tasks are required only for conservation easements receiving federal funds for a bargain sale:*

Environmental Hazards Report	\$3,000-\$5,000
Appraisal reviews	\$1,500-\$4,000

## ESTIMATED FINANCIAL BENEFITS

*Estimated financial benefits for a donated conservation easement valued at \$1,000,000.\*\*\**

Colorado conservation easement tax credit	\$900,000***
Proceeds from sale of tax credit at 83%	\$765,000
<b>Net estimated financial benefits</b>	<b>\$647,565-594,265****</b>

\*COL acquires title insurance in the amount of the appraised value

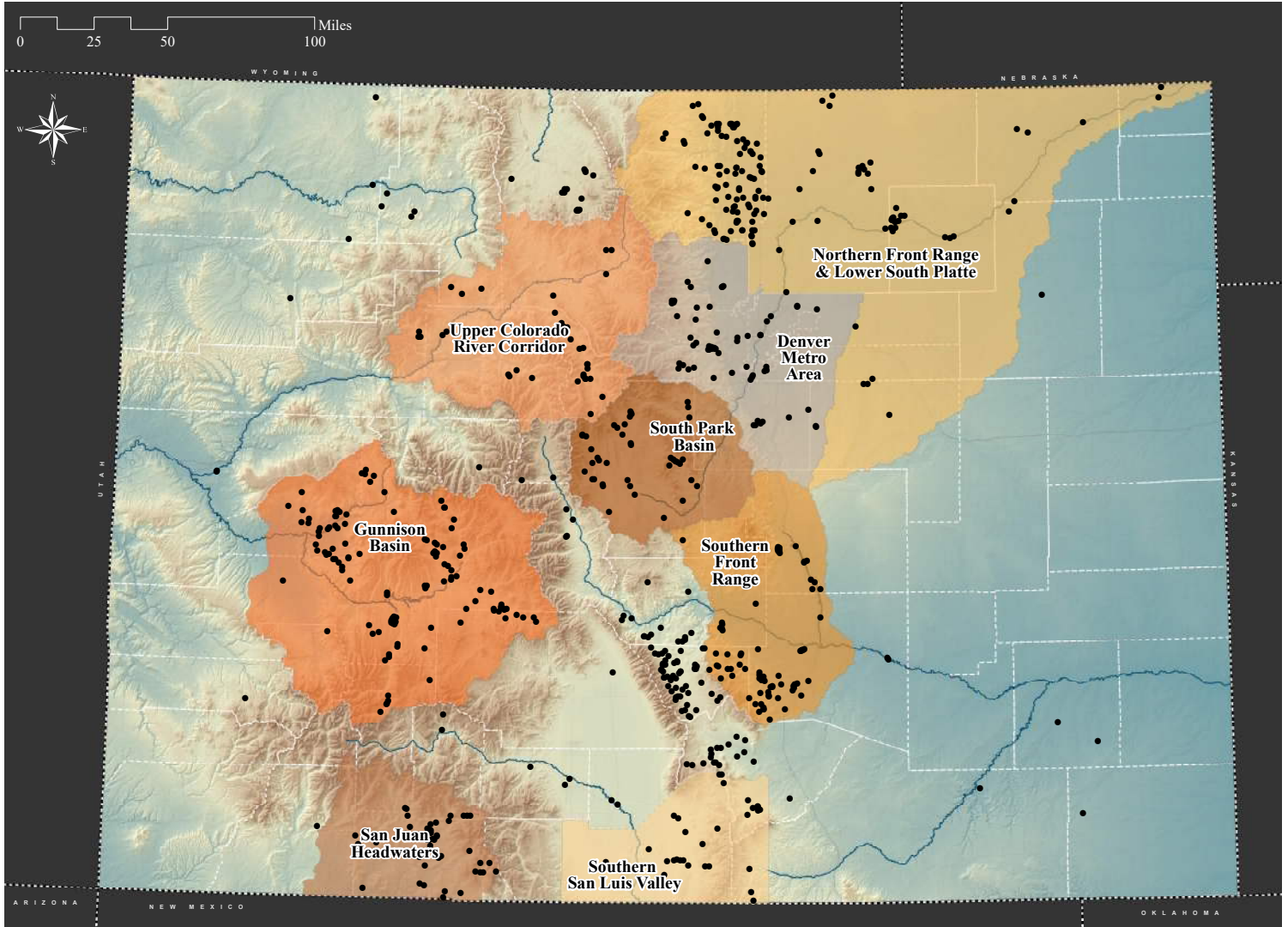
\*\*Bargain sale opportunities will alter these figures and must be discussed with COL staff.

\*\*\*The maximum tax credit that can be claimed is \$5 million, which can be claimed at \$1.5 million per year.

\*\*\*\*This does not include the value of any cost savings realized from federal tax benefits. Individual circumstances will vary. Please consult qualified legal and financial advisors familiar with your circumstances before proceeding.

# WHERE WE WORK

Colorado Open Lands focuses our work in the eight priority landscapes illustrated below. If your land falls outside of our priority landscapes, please feel free to give us a call. If we're not the right fit, we will try to connect you with another organization.



## COLORADO OPEN LANDS' GUIDING PRINCIPLES

### INTEGRITY

We earn the trust of our landowners, partners, donors and community by fulfilling our commitments and holding ourselves to the highest ethical standards in all we do.

### CREATIVITY

We are focused on creating, championing, and celebrating conservation-minded solutions that turn land use challenges into opportunities.

### INSPIRATION

We are driven by a love of Colorado's magnificent lands and a respect for the landowners that steward them and the citizens that cherish them.



# LANDOWNER TESTIMONIALS

*Riverview Farms, Weld County*



“My family has been here for over 100 years; it’s home. We entered into this agreement with Colorado Open Lands to preserve this property and it’s been great. Just knowing that someday when I leave this earth, I know the land will remain the same, it gives me peace.”

## **JOSEPH LOBATO**

**CULEBRA CREEK CENTENNIAL RANCH  
CONSERVATION EASEMENT  
WITH COL SINCE 2017**



“Working with Colorado Open Lands has always been a good experience. They like doing what they do and they do it with a purpose and passion. That’s what I like because that’s what I do out here; I try to do the ranching and the water with passion and purpose.”

## **JIM YAHN**

**YAHN RANCH AND MANAGER OF NORTH  
STERLING IRRIGATION DISTRICT  
CONSERVATION EASEMENT  
WITH COL SINCE 2012**



“The property across the highway is up for development. As time goes on, this is going to be one of the few intact ranches. For me, the highlights are seeing my kids love the ranch. I know they’re all going to appreciate this property as much as I have going into the future. It will be the same 50 years from now as it is today – that’s what a conservation easement means.”

## **JOHN WOODWARD**

**DEER VALLEY PARK ASSOCIATION  
CENTENNIAL RANCH  
CONSERVATION EASEMENT  
WITH COL SINCE 2013**

# WHO WE ARE

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ALSO SEE [WWW.COLORADOOPENLANDS.ORG](http://WWW.COLORADOOPENLANDS.ORG)

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