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## Many considerations go into conservation agreements

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- reduce their tax burden and improve cash flow in exchange for restrictions on future development.

**TWO BUTTES, Colo.** — With much of the region in the clutches of historic drought, ranchers are considering every option for protecting ownership of their land, including permanent conservation easements that can reduce their tax burden and improve cash flow in exchange for restrictions on future development.

The Colorado Cattlemen's Association Land Trust, in partnership with similar organizations in Kansas and Texas, received a grant from the U.S. Fish and Wildlife Foundation to conduct conservation outreach meetings throughout the habitat range of the lesser prairie chicken, a bird that is currently being considered for federal listing under the Endangered Species Act.

As part of that effort, a conservation easement workshop was held recently near Two Buttes, Colo., with future meetings tentatively planned in the Kit Carson and Sterling areas as well as in southwest Kansas and in Amarillo, Texas.

The easements vary widely, take time to create and require careful negotiation, but they have worked well for some ranchers.

Nearly 10 years ago, Gordon Barnhardt, a former chemistry teacher and small town banker from Manter, Kan., purchased the 3,000-acre Two Buttes Ranch and set about restoring it. When the opportunity to do a conservation easement came along, it seemed to offer the perfect melding of ranching and conservation benefits.

"It does just what we wanted it to do," Barnhardt said as he welcomed visitors to a secluded campground adjacent to the property.

The easement allows him to maintain it as a working ranch, leased for grazing when precipitation levels are adequate.

Before signing the agreement, he consulted his five children, who each retain the right to build a house on the ranch in the future if they desire. The rest of it will remain open space.

"Our whole family is interested in conservation," he said. "This area is the gem of this part of Colorado in terms of wildlife."

Land trust officials at the workshop carefully enumerated the many trade-offs and considerations involved in reaching such a decision.

As wind turbines twirled on the horizon, Erik Glenn, CCALT's deputy director, emphasized that the easements are not typically compatible with large-scale wind energy development, although they usually allow for small-scale wind and solar projects. They don't typically require granting of public access, although they usually include conservation management plans and periodic monitoring. They can make public condemnation of private land more difficult, although they can't prevent it entirely. Easements typically include the water rights — often quite valuable — that go along with the property.

It's a lot to think about. Corwin Brown, owner of the neighboring Butte Lake Ranch and the real estate agent who negotiated the Two Buttes Ranch sale, cautioned that easements are a tool, not a magic bullet.

"I recommend using the oldest rule of thumb, which is, if it sounds too good to be true, it probably is," said Brown, a member of the CCALT advisory committee.

### Market for tax savings

The agreements are attractive because federal and state governments reward ranchers for giving up control of their property by granting tax deductions that can be sold through exchanges, explained Mike Strugar, founder of the nonprofit Conservation Resource Center in Denver, which brokers those tax credits.

"Colorado was the first state to make these credits transferable 12 years ago," he said, standing under the branches of an enormous cottonwood tree as bullfrogs croaked and birds chirped. "That made it possible for a rancher to sell and monetize those credits. It's turned out to be a pretty big industry."

Claims for tax credits in Colorado peaked in 2007 at \$128.5 million statewide, an increase of more than 750 percent since their enactment in 2000.

But land easements have also generated controversy.

In some cases, they've been criticized as a tax haven vulnerable to abuse, gradually leading to stricter oversight of agreements and appraisals.

"Today every appraisal is reviewed multiple times," said Bill Boortz, an appraiser with Hunsperger and Weston and a member of the Conservation Easement Oversight Commission.

As a result, qualified appraisals have grown more costly. "It takes a lot of time to understand the importance of a property's use and value and then review the process," Boortz said. "There's risk and liability; the IRS can impose fines and penalties on your work."

While easements help attract public and private money from outside of agriculture, in farm country they've also been seen as a federal land grab that threatens traditional property rights. Questions have been raised about whether land trusts are compromised by their heavy reliance on government funding. Others worry onerous estate taxes are being used to compel desperate landowners to forfeit long-term rights to their land in order to keep family ranches intact.



PHOTO / PHOTO BY CANDACE KREBS

Local ranchers say swimmers come here to jump from a rock outcropping called "Old Granddad" into this ravine-sheltered cove with its "black holes" of spring-fed water near Two Buttes Reservoir. The striking boulder-strewn landscape is known for unique rodents, birds, dragonflies and a rare plant, the Colorado green gentian. It was the backdrop for a recent meeting on conservation easements hosted by the Colorado Cattlemen's Association.