

Colorado's Legacy to its Children

A Report from the Governor's Commission on Saving Open Spaces, Farms & Ranches

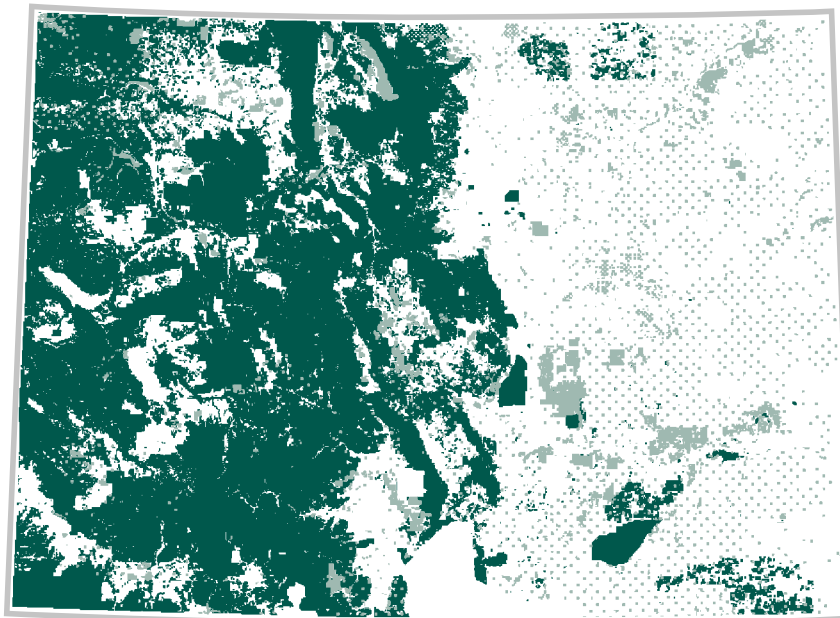
Coloradans place tremendous value on their open spaces, farms and ranches. These undeveloped lands are the places where wildlife lives, vegetation flourishes, water and air are clean, and vistas are beautiful. Open space is essential to the state's quality of life. It is, in fact, one of the principal reasons many Coloradans decide to make this place their home.

Agriculture is vital to the livelihood of many Colorado families and communities, contributing more than \$1 billion in exports from the state (Source: Colorado

Department of Agriculture). It is also the single largest holder of open space in the state. By sustaining much of the habitat for endangered and native species, privately owned farms and ranches provide much more than food. To Coloradans who live in urbanized areas, these lands often symbolize our quality of life and the vastness of the West. Colorado landscapes embody the adventurous

spirit and rugged individualism of the early settlers and serve as a reminder of our heritage and cultural roots.

conservation agency that requires lottery proceeds to be used for open space, parks and wildlife.



Not For Sale

- State Owned Land
- Federal Owned Land

Much of Colorado's land is already owned and protected by the government.

Source: Bureau of Land Management Public Lands Map Database

This is not mere rhetoric. Coloradans put their money where their mouth is when it comes to preserving open spaces, farms and ranches. Voters approved a state lottery and directed that its proceeds fund land conservation. Concerned that some of the money was not being used for this purpose, voters followed this up by approving a constitutionally chartered

Responding to the public, state lawmakers passed some of the most innovative conservation incentives in the country, including state income tax credits for farmers and ranchers who place conservation easements on their land to prevent development. In fact, the use of conservation easements is often as or more important for land preservation in Colorado than outright purchase of the land by

government or other agencies. At the local level, voters in many communities approved the use of taxpayer funds for open space, trails and outdoor recreation projects.

It is no coincidence that Colorado's increased conservation efforts parallel historic population growth in the state. With development pressures concentrated along the Front Range



The Governor's Commission on Saving Open Spaces, Farms & Ranches



Governor Bill Owens appointed the Governor's Commission on Saving Open Spaces, Farms and Ranches in May 2000 to examine Colorado's land preservation efforts and identify the most efficient and effective means of protecting the state's natural landscapes.

The issues of growth, congestion and open space are among the most contentious in Colorado. This was reflected in the Commission's discussions.

Each Commission recommendation is supported by a majority of the commissioners. However, not every recommendation achieved unanimous support from the Commission.

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December 2000

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The Commission's Recommendations

RESOURCES

- Create a revolving conservation loan fund to assist local efforts to preserve open spaces, farms and ranches
- Seek voter approval to let GOCO bond against its revenue stream so it is poised to act quickly on once-in-a-lifetime land preservation projects that exceed its annual budget
- Explore additional funding options for conservation efforts at both the state and local levels
- Create incentives for farmers and ranchers who voluntarily sign management agreements to protect valuable wildlife, soil or water resources on their land
- Strengthen the state conservation easement tax credit
- End the federal estate tax on farms and ranches

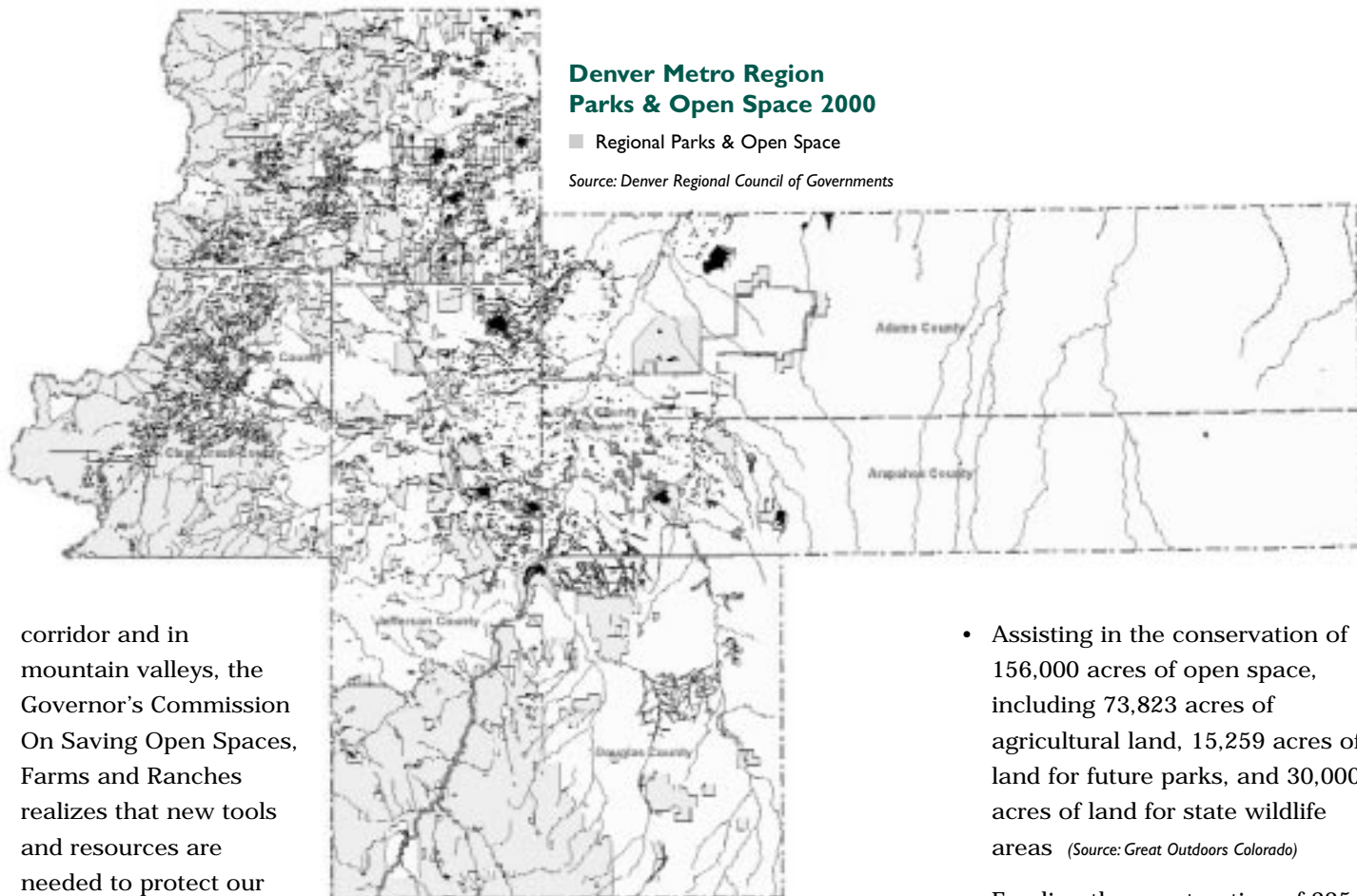
TOOLS

- Enhance local preservation efforts through the Office of Smart Growth at the Department of Local Affairs
- Initiate pilot programs for water trading, banking and easements that provide farmers and ranchers with options to respond to changing market conditions without permanently removing water from the basin
- Encourage the Colorado Water Conservation Board to develop a framework for each basin's future water needs and propose a strategy for the conservation and development of Colorado's water resources
- Provide state assistance to farmers and ranchers to seek new markets for agricultural products and value-added processes
- Measure the impacts of growth on open space



Denver Metro Region Parks & Open Space 2000

■ Regional Parks & Open Space
Source: Denver Regional Council of Governments



corridor and in mountain valleys, the Governor’s Commission On Saving Open Spaces, Farms and Ranches realizes that new tools and resources are needed to protect our natural landscapes. The undeveloped land near Colorado’s most congested areas will be the most expensive to preserve, requiring significant state, local and private funding. The Commission recommends strengthening public and private strategies to ensure the protection of the most valued natural landscapes. This will be one of our legacies we leave for our children.

Governor Bill Owens appointed the Commission to examine Colorado’s public and private land preservation efforts and recommend enhanced approaches to preservation.

In the process of fulfilling this charge, the Commission discovered

what Coloradans already know: the state’s existing land preservation efforts are substantial and on the right track. Colorado devotes significant public and private resources to the preservation of open spaces, farms and ranches.

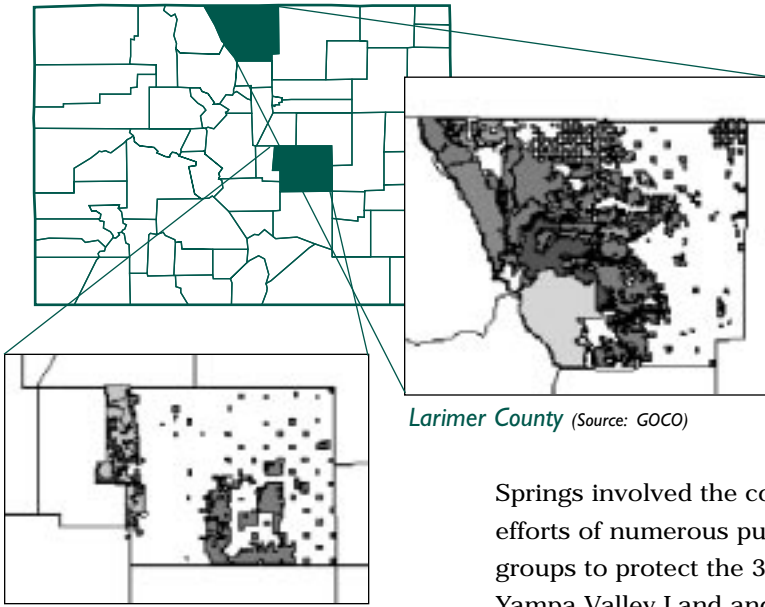
Great Outdoors Colorado (GOCO)—the constitutionally chartered conservation agency created by voters in 1992—invests lottery funds in open spaces, parks, wildlife and outdoor recreation. This includes:

- Awarding \$240.9 million in grants for 1,419 projects (Source: Great Outdoors Colorado)

- Assisting in the conservation of 156,000 acres of open space, including 73,823 acres of agricultural land, 15,259 acres of land for future parks, and 30,000 acres of land for state wildlife areas (Source: Great Outdoors Colorado)
- Funding the construction of 325 miles of nature and hiking trails (Source: Great Outdoors Colorado)

In addition to the lottery funds devoted to GOCO, the state devotes considerable resources to open space related projects. These resources include:

- \$378 million in lottery funds awarded to local governments for open space preservation, parks and recreation purposes since 1983 (Source: Department of Local Affairs)
- \$54 million, including GOGO funding, spent on land by the Division of State Parks and Outdoor Recreation in the last six years, resulting in the preservation of 22,927 more acres of park land (Source: Division of State Parks)



Larimer County (Source: GOCO)

El Paso County (Source: El Paso County)

- \$24 million, including funding from GOCO, spent on land preservation by the Division of Wildlife, resulting in the protection of more than one million acres of critical wildlife habitat (Source: Division of Wildlife)

Local efforts are just as impressive. Several counties initiated open space preservation programs, including some of the counties facing the most development pressure. Douglas County, Colorado's fastest growing county, spent nearly \$24 million—including the funds provided by other public and private groups—protecting more than 37,000 acres of open space (Source: Douglas County). Jefferson County, the most populated county in Colorado, is spending more than \$100 million to protect 13,500 acres of open space (Source: Jefferson County Open Space).

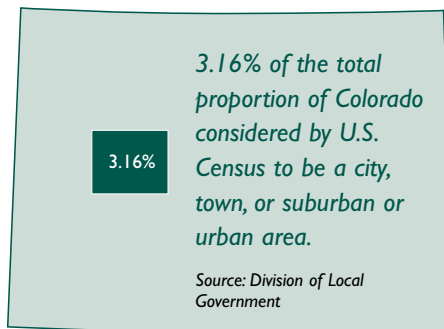
In rapidly growing Colorado Springs, voters approved a one-tenth of one percent sales tax to fund the Trails, Open Space and Parks (TOPS) program. This tax generates

approximately \$5.4 million annually for open space and parks preservation. The Yampa River System Legacy Project in Steamboat

Springs involved the coordinated efforts of numerous public and private groups to protect the 3,291 acre Yampa Valley Land and Cattle Ranch near the city. The preservation of this ranch also included critical habitat area along the Yampa River (Source: Colorado Heritage Report: Best Practices in Preserving Open Space).

These examples are just some of the many local efforts to preserve and

How Big Is Our Footprint?



enhance Colorado's natural heritage. Colorado's land preservation accomplishments are even more remarkable considering that development pressure in Colorado is concentrated in select areas and that over 40% of the state is already exempt from significant development concerns due to federal or state

ownership (Source: National Ecology Research Center). Approximately 3.16% of the land in the state is incorporated or considered densely populated for census purposes.

Although success in conservation has been great, much remains to be done. Colorado is the third fastest growing state in America and its population is predicted to grow by approximately one million people in less than 20 years. Prime farmland near cities and towns is being taken out of production for everything from subdivisions to soccer fields. Some river valleys that support important wildlife habitat and migration corridors face development pressure. Several of the state's wildlife species are in decline, and may become threatened or endangered.

In light of the Commission's findings of both successes and needs in the field of land conservation in Colorado, the Commission believes the message to the Governor is simple: Colorado has made great strides in saving its valuable open spaces, farms and ranches but more remains to be done. State and local governments, conservation groups and private citizens are working together to preserve and enhance Colorado's natural heritage for present and future generations. The Commission believes that what is needed is not a complete overhaul of how Colorado approaches land preservation, but additional tools and resources, such as those outlined in this report, to enhance current efforts.



CREATE A CONSERVATION LOAN FUND



© Tom Wulf

Brush Creek flows within the confines of Sylvan Lake State Park.

Land and preservation efforts often involve complex transactions that include participation by several different government and private agencies. Each of these groups face their own rules and budget constraints that often make closing land deals difficult. In Pitkin County, there is a parcel of land along Independence Pass that is available for purchase. The land has important preservation value, but state and local groups face internal hurdles in preserving it. A local private conservation organization would like to purchase it, but does not have an annual budget with enough funds to purchase it outright. The Forest Service must get congressional approval before pursuing acquisition, a process that could take years if not decades to complete, which will be long after the land is sold for development.

The Commission recommends that the legislature establish a revolving conservation loan fund that would provide a combination of no-interest and low-interest loans to public agencies or private conservation organizations to support the acquisition of critical open spaces, farms and ranches.

The loan fund has many uses. In the example above, the loan fund could lend to the private conservation group the money necessary to quickly purchase the critical land along Independence Pass when it becomes available. Working through a qualified agency, a farmer or rancher might also be able to tap into the fund to receive low-interest loans to acquire a neighboring farm or ranch that went bankrupt and is for sale. If a still profitable or solvent farmer or rancher

agreed to purchase this bankrupt operation and place a conservation easement on it that prevents future development of the land, they should be eligible for these below-market rate loans from the fund. By placing a conservation easement on the new land, the farmer or rancher would receive tax credits that could then be sold, and the proceeds used to pay back the loan fund.

The loan fund could quickly pay for itself by requiring repayment within a two-and-one-half year period, thereby multiplying the conservation value of the fund over time. For example, a fund totaling \$30 million in the beginning could provide \$120 million worth of conservation activity over ten years using this repayment period.


End the Federal Estate Tax on Farms and Ranches

The Commission recommends that:

- The legislature establish a conservation loan fund that provides low-interest or no-interest loans for local efforts to preserve open spaces, farms and ranches
- The legislature determine eligibility to participate in the loan fund to ensure that loans are made in areas of statewide land preservation concern—and not to applicants with no preservation agenda.
- The Governor ask his Office of State Planning and Budgeting to identify potential revenue sources, such as excess cash funds, to capitalize the loan fund. The loan fund should be capitalized with a minimum of \$20 million to \$30 million over a period of several years.
- The legislature create a board to administer the loans through a competitive process following specific criteria, and require any approved borrower to demonstrate the ability to repay the loan
- Interest rates on loans should be graduated and determined by project criteria, while interest earned should be returned to the fund to recapitalize it
- The loan fund sunset in ten years and require repayment of loans within two-and-one-half years




Farmers and ranchers consistently told the Commission that the federal estate tax is a burden that makes land preservation difficult. Upon a landowner's death, the federal tax requires the heirs to pay up to 55% of the value of the estate. Few agricultural operations in Colorado can produce the income—especially on short notice—to pay the price tag of the estate tax, leaving the heirs of the ranch or farm with few options.

The result is that the estate tax often drives heirs to sell the farm or ranch land for development in order to have the funds to pay their estate tax liability. There are stories from across Colorado of farmers and ranchers who wanted to remain on their land, but were forced to sell in order to pay the tax collector. The Commission recommends that the Governor submit a letter to the President and the U.S. Congress explaining how the federal estate tax often harms Colorado farmers and ranchers and encourages the development of valuable open space. Furthermore, the Commission recommends that the Governor consider suggesting in his letter that Congress exempt farmers and ranchers from the federal estate tax. 

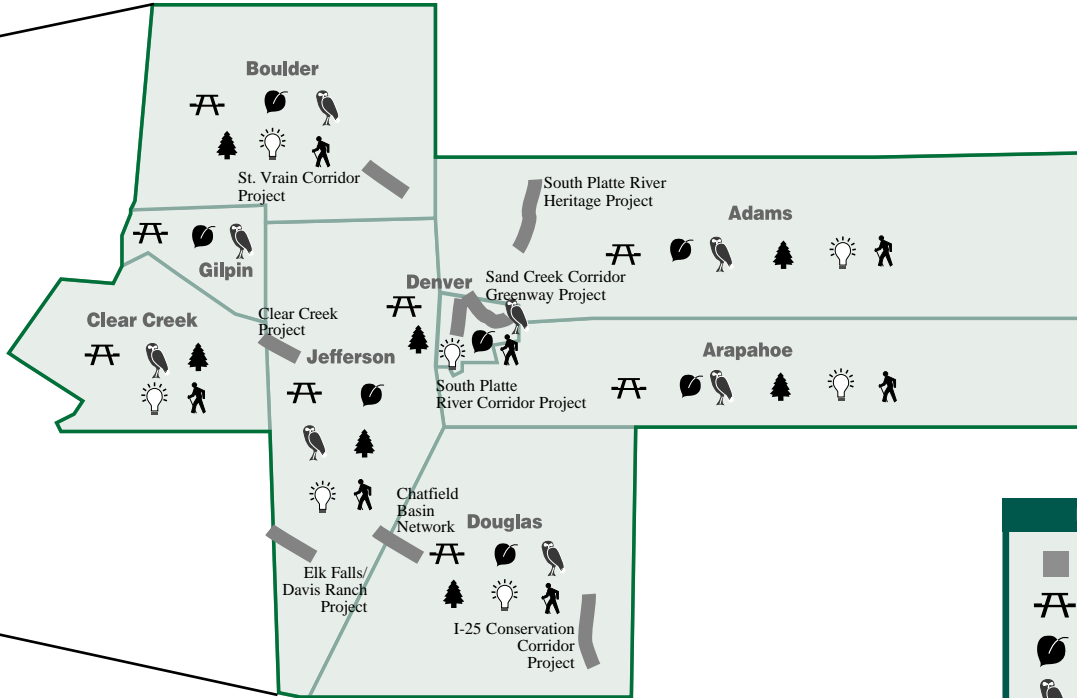
Seek New Markets for Agricultural Products

Farmers and ranchers are busy trying to earn a living off their land, so it's nearly impossible for them to find new buyers for their products. The Commission believes that one way to preserve open spaces, farms and ranches is to help Colorado agriculture remain a viable way of life, and this means promoting Colorado-grown products and exposing farmers and ranchers to new markets.

The Colorado Department of Agriculture's *Colorado Proud* marketing program is one example of an effort to support local products. Another is the Yampa Valley Beef Project, which connects beef producers in the Valley to area restaurants and supermarkets. The Commission supports additional state and local efforts to link Colorado farmers and ranchers with new demand for their products and services. This may include providing farmers and ranchers with Internet marketing assistance.

In addition, the Commission encourages the Office of Economic Development to continue supporting efforts to bring businesses to rural Colorado that provide value-added processes to local agricultural products. If farmers and ranchers can add value to their products in their local community, rather than in distant cities, states or countries, these rural communities will be healthier and ranching and farming will be more viable. 

EAT OUTDOORS COLORADO BOND



L E G E N D

- Legacy Projects
- Local Government Parks & Recreation
- Colorado State Parks
- Colorado Division of Wildlife
- Open Space
- Planning & Capacity Building
- Trails

In addition to the projects shown here, the Colorado Wetlands Initiative and the Priority Landscapes Legacy Projects, 41 Planning and Capacity Building projects, 59 Colorado State Parks projects, 89 Division of Wildlife projects, 10 Trail projects, 3 open space projects and 4 local government projects benefit multiple counties, or are of statewide significance.

the ranch. Most likely, the heirs will be forced to sell to developers – even if they want to preserve it as open space.

Allowing GOCO to issue bonds – take out a loan, in essence – for \$8 million to combine with local funding will allow the ranch to be saved before it must be sold. GOCO could repay the bonds over a number of years using a portion of its annual revenue.

Bonding proceeds could also be used for the purchase of conservation easements on land, a preservation method increasingly favored by GOCO and local conservation agencies. In the above example, GOCO may purchase the development rights for less than the price of fee

title acquisition. This may help the heirs pay their federal estate tax liability but remain on the land as ranchers.

The Commission recommends that any potential bonding authority for GOCO must include an extension of the lottery. Furthermore, the granting of bonding authority for GOCO must be approved by a vote of the people. Citizens will decide, as they did in 1999 regarding state road projects, if they want to bond or continue on a pay-as-you-go basis to fund open space projects. Voters in many local jurisdictions, including fast growing areas like Jefferson County and Douglas County, recently approved bonding for their local open space protection efforts.

GOCO currently receives \$40 million in annual revenue from the state lottery. This revenue must be divided between four areas: state parks, local land preservation, wildlife and open space. The Commission recommends the introduction of legislation that places a referendum on the statewide ballot that gives GOCO the authority to incur multi-year fiscal obligations (bonds). 🍷

CREATE TAX INCENTIVES FOR FARM & RANCH MANAGEMENT AGREEMENTS

Farms and ranches provide many benefits to Coloradans. In addition to economic productivity that generates \$4.5 billion in production value within the state (Source: National Agriculture Statistics Service), farms and ranches sustain much of the habitat for native, threatened and endangered species and provide important amenities like clean water, clean air, soil conservation and recreation opportunities.

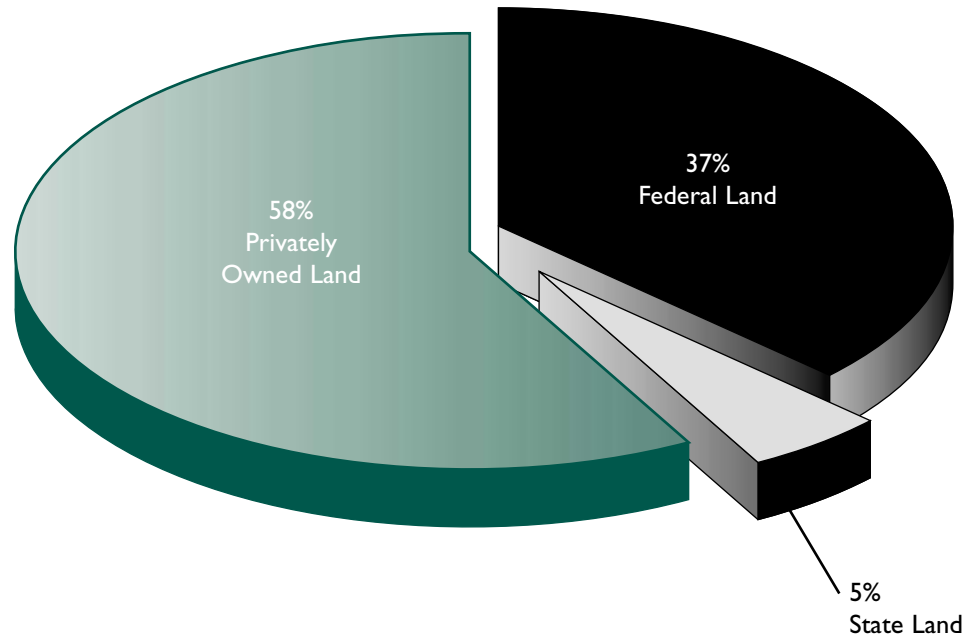
Coloradans have already said that they want to permanently protect farm and ranch land from development through the use of marketable state tax credits for the donation of conservation easements. However, the Commission believes that the State should establish incentives that encourage and acknowledge the environmental stewardship that farmers and ranchers provide.

The Commission recommends that the General Assembly provide tax credits for farmers and ranchers who enter into management agreements to protect critical wildlife, air, water, soil and other natural resources. For example, a farm may often provide habitat for native, threatened and endangered species. A farmer who works with the Division of Wildlife to voluntarily protect this habitat area should be eligible for a tax credit.

The Commission recommends that management agreement tax

Importance of Colorado's Private Land in Environmental Protection

Source: National Ecology Research Center, U.S. Fish and Wildlife Service



credits be structured along the following lines:

- Management agreements must be designed to provide specific environmental benefits such as protecting wildlife habitat and watershed areas. The agreement should last a minimum of 12 years and include a prohibition on subdividing or developing the land.
- The value of the tax credit to the farmer or rancher should increase incrementally the longer the management agreement is enforced — i.e., the tax credit would be larger in year 18 of a management agreement than in year 14.
- State environmental agencies, such as the Division of Wildlife, the Water Conservation Board, and the Soil Conservation Board, should establish a verifiable valuation method for the tax credits. For example, the Water Conservation Board should develop certification criteria for landowners who protect valuable watershed areas.
- Within the first twelve years of a management agreement, material violations of the agreement by a farmer or rancher should result in

Explore Funding Options for Open Space

a penalty that requires a 125% recapture to the state of the value of the tax credit. After the 12th year, any material violations of the agreement should result in 100% recapture of the tax benefit conferred.

- Management agreements could be negotiated and signed with any entity currently eligible to negotiate a conservation easement — i.e. land trusts, as well as state and local government agencies such as the Division of Wildlife.

The Commission recommends the creation of a state-wide pilot program for management agreement tax credits. Since this is a new tool and the demand for this incentive is unknown, the Commission suggests a cap of not more than \$10 million per year on the total value of new tax credits made available as long as there is a state surplus. After the fourth year, the Departments of Revenue, Agriculture and Natural Resources should report to the Governor and the General Assembly on the demand for management agreement tax credits, where they are being used and for what purposes, and the type of agencies signing them with property owners.



The Commission heard testimony from GOCO, the Colorado Division of Wildlife, Colorado State Parks, Colorado's land trust community—including the Colorado Cattlemen's Agricultural Land Trust—ranchers from Custer County and others that current funds available for conserving important lands in the State are inadequate relative to the demand for such dollars. Governor Owens charged the Commission to generate recommendations that will promote saving open spaces, farms and ranches based on the evidence of overwhelming public support for this concept.

To date, Colorado landowners have generously donated many of their development rights. However, a large number of the State's landowners cannot afford to donate their land's value and must secure at least partial compensation for the value they agree voluntarily to forego by giving up some or all of the development value of their land. It is only fair that the public compensate such landowners, based upon the fact that the public benefits from the continuation of land as open space, farms and ranches. Other conservation measures are important components of the State's ability to conserve lands, but without additional funding, these measures will only accomplish a small measure of new conservation.

Therefore, the Commission recommends state, local and private consideration of increased funding of preservation efforts. Some of Colorado's fastest growing communities have yet to enact local open space programs with a dedicated revenue stream. The Commission encourages local communities to consider further efforts to preserve their local open spaces. The Commission heard several suggestions regarding additional funding sources:

- devote a portion of the surplus to GOCO
- allow state capital construction dollars to be used to preserve open space and wildlife habitat as part of blended state projects
- increase the local sales tax cap to fund land preservation.

The Commission recommends that the Governor and the General Assembly examine these and other options to increase state funding of efforts to preserve open spaces, farms and ranches.



EXPLORE INNOVATIVE SOLUTIONS TO COLORADO'S WATER NEEDS

Rapid growth, inadequate water supply and extremely dry conditions have left cities thirsty for more water. This often means buying out and drying up irrigated lands to meet increasing demands for municipal and industrial water use. Meanwhile, the farm economy is in dire straits. Higher production costs, record-low commodity prices and dry conditions leave many farmers and ranchers with little choice but to sell their land—for farming and ranching without water in Colorado's dry climate is nearly impossible. It is ironic that as many of Colorado's urban areas try to stop sprawl, the purchase of water rights from farmers by urban communities actually encourages sprawl by making the land of little use for farming—thus encouraging its sale to developers.

If farms and ranches are to be preserved into the distant future, another solution must be found to the growing need for water in the cities. Conservation measures—in the cities and on the farms—help stretch limited supplies. However, conservation alone may not produce enough new water supply to save agriculture for the long term, since conservation typically yields only a ten percent increase in supply.

In these difficult times, farmers and ranchers need incentives to keep water on the land and continue their operations. Water owners who fail to use their appropriated water risk

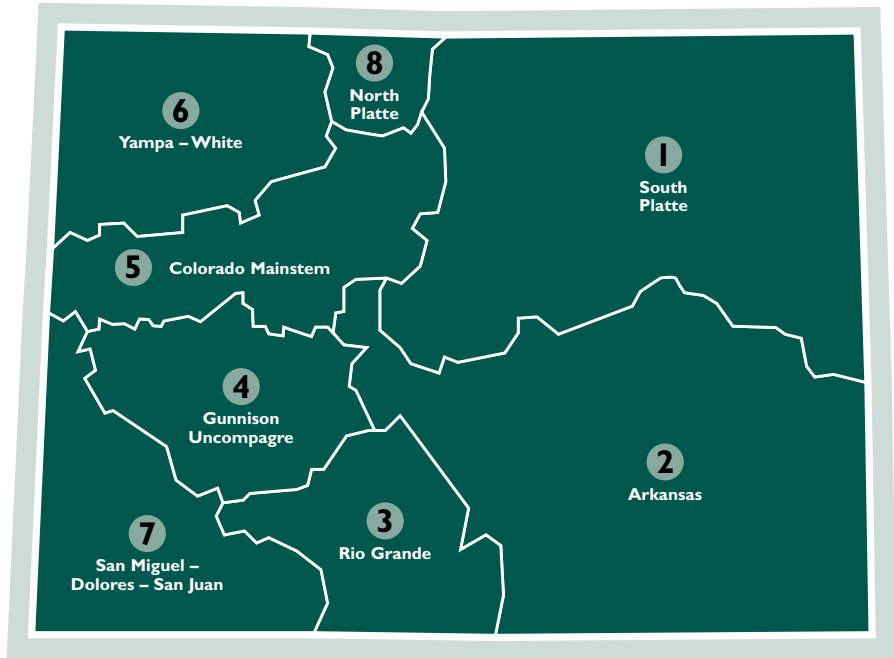
losing it. The Commission recommends alternatives that allow water owners to leverage the value of their water without permanently severing it from the land. These alternatives include:

- The development of water trading and water banking programs. A water market is emerging in some basins of the state as water owners who wish to sell, trade or lease part of their supply look for potential buyers or lessees. The Commission supports the creation of an information exchange that matches those who have supply with those who have demand. The Commission recommends the State Engineer seek legislative authority, if necessary, to conduct a pilot water trading project.
- The use of water conservation easements. Conservation easements on land are an effective tool for protecting open space. Conservation easements may be a useful way to protect water, and the Commission recommends that they receive the same state and federal tax credit benefits as conservation easements on land.
- The creation of a water advisory group. The Commission recommends that the Department of Natural Resources and the Department of Agriculture establish an advisory group consisting of local officials, farmers, ranchers, water law experts, and other interested parties. This advisory group should examine the impact of water trading, banking and conservation easements on downstream users and devise trading, banking and easement pilot programs that can be used in accordance with Colorado water law and/or recommend changes in water law that may be necessary to implement these programs. The advisory group should also consider the need for in-basin storage projects to facilitate these programs.
- The use of interruptible supply agreements between urban and rural water users. These agreements would act as a water lease between a farmer and a city. For example, a city could contract with a farmer to use his water in the event that the city experiences a severe drought. The city would then pay to retain the farmer as a back up supplier and pay the farmer when it used his water. The Commission recommends that the advisory group also develop a template for interruptible supply agreements.
- The development of water basin planning. While improving the use of Colorado's water supply is important, Colorado's water districts should also plan to meet the State's future water needs. The Water Conservation Board is currently conducting public meetings around the state to hear

Where does Colorado's Water Come From?

citizens' concerns about water and complete river basin fact sheets. The Commission recommends that the Board also assess each basin's water needs and utilize the state's existing framework for the development and conservation of Colorado's water resources in coordinating local water plans.

- The mitigation of urban water transfers. Water rights are being transferred from agricultural use to municipal use at an ever increasing rate. This approach to providing water for growing cities dries up agricultural lands and impacts rural communities in Colorado. Current law does not require those who buy and transfer agricultural water rights out of the basin of origin to mitigate or provide compensation for the impacts these transfers and farm land dry ups have on local communities. Therefore, the Commission further recommends that the Water Conservation Board develop and advocate legislation that would place mitigation and compensation requirements on all rural to urban transfers that move water out of the basin of origin. ☺



	PRECIPITATION	MAJOR DEMANDS
1 South Platte	<i>Upper:</i> Wet Dec - Apr Dry Jun & Aug - Oct <i>Lower:</i> Dry Nov - Feb Wet Apr - Jul	Municipal/Industrial, 1.4 million irrigated acres, recreational and environmental uses.
2 Arkansas	<i>Upper:</i> Wet Dec - Mar & Jul - Aug Dry May - Jun <i>Lower:</i> Dry Nov - Feb Wet May - Aug	Some municipal/industrial, irrigated crops including corn, alfalfa, pasture, vegetables, melons, recreational and environmental uses.
3 Rio Grande	<i>Upper:</i> Wet Dec - Mar & mid Jul - early Oct Dry May - mid Jul <i>Lower:</i> Dry Nov - Apr Wet mid Jul - Sep Driest area of Colorado	Mostly crops irrigated with groundwater from San Luis Valley aquifer, some recreational and environmental uses.
4 Gunnison Uncompagne	<i>Upper:</i> Wet mid Nov - Mar Dry mid May - mid Jun <i>Lower:</i> No significant wet season. Dry late May - Jun Slightly wet mid Jul - Aug	Irrigated crops, recreational and environmental uses.
5 Colorado Mainstem	<i>Upper:</i> Wet late Nov - Apr Dry Jun - mid-Jul <i>Lower:</i> No clear wet or dry season.	Irrigated lands, including orchards and crops, as well as recreational and environmental uses, including several of Colorado's largest ski resorts.
6 Yampa - White	<i>Upper:</i> Wet late Nov - May Dry mid Jun - Sep <i>Wettest area in Colorado (one of two)</i> <i>Lower:</i> No clear wet or dry season.	Irrigated lands, livestock, recreational and environmental uses.
7 San Miguel - Dolores - San Juan	<i>Upper:</i> Wet Dec - Mar & late Jul - early Oct. Dry May - early Jul & mid Oct - mid Nov <i>Wettest area of Colorado (one of two).</i> <i>Lower:</i> Wet Dec. - Mar & late Jul - early Oct. Dry May - early Jul & mid Oct - mid Nov	Irrigated lands, recreational and environmental uses.
8 North Platte	<i>Upper:</i> Wet late Nov - May Dry mid Jun - Sep <i>Lower:</i> Wet late Nov - May Dry mid Jun - Sep	Irrigated lands for hay and pasture. Some recreational and environmental uses.

Source: figure relates to and was partially adapted from "A History of Drought in Colorado: Lessons Learned and What Lies Ahead," Thomas B. McKee, Nolan J. Doesken, John Kleist, and Catherine J. Shrier, *Water in the Balance* No. 9 Second Edition, February 2000. Colorado Water Resources Institute. Water demands based on information from "Water, Colorado's Precious Resource," Second Edition, Metro Water Conservation, Inc. and the Colorado Department of Natural Resources. Basin map provided by the Colorado Water Conservation Board.

STRENGTHEN THE CONSERVATION EASEMENT TAX CREDIT

In today's real estate market, Colorado's land is selling at top dollar in many communities. Faced with low commodity prices, farmers and ranchers near urban areas are all too often forced to sell their land to developers. State law provides tax incentives for landowners who donate conservation easements, which



permanently prohibit development of their land, to government entities or charitable organizations. However, these incentives are capped at \$100,000, and often pale in comparison to the land's market value.

In addition, landowners often face financial hurdles to putting an easement on their property. Farmers and ranchers must work with lawyers, estate planners, surveyors and assessors to create the easement, while also meeting I.R.S. requirements for the recognition of the easement. The Commission believes that the legislature should enhance the value of state conservation incentives to provide a greater reason for landowners to preserve their land.

Current state law allows landowners to sell their conservation easement tax credits, giving farmers and ranchers with little tax liability a cash incentive to preserve their land. The impacts of this market for credits


are not known, in part because no information exchange has emerged to link sellers of a tax credit with buyers of the credit. In addition, state law prohibits an individual taxpayer from purchasing more than one credit, further stifling a liquid market. The Commission believes that minor legislative changes will encourage the development of a market. These changes should include allowing corporate and individual taxpayers to purchase more than one credit, directing the Department of Revenue to create a transferable certificate of value and directing Revenue to publish an annual report that tracks the use of the credits.

For instance, a rancher places a conservation easement on his land and receives a corresponding tax credit worth \$50,000. However, if cattle prices are low and the ranch generates no taxable income, then the tax credit is worthless to the

rancher. But a different local business may face a \$300,000 tax liability and want to purchase the rancher's tax credit at a discount rate. The rancher might sell his \$50,000 tax credit for \$40,000. The business would purchase \$300,000 worth of tax credits for \$240,000, thus saving \$60,000. The rancher receives cash benefits for

permanently preserving his land; the business benefits by reducing its tax liability and; the state benefits by protecting ranch land.

The Commission recommends that:

- The value of the conservation easement tax credit/refund should be increased to \$500,000
- Landowners should be allowed to include a reasonable portion of their transaction costs in their conservation easement credits
- A corporate or individual taxpayer should be permitted to purchase more than one easement tax credit
- The Department of Revenue and Department of Natural Resources create a certificate of value for the tax credit and compile an annual report detailing the amount of credits used and the acres preserved. 

Private Land Preservation Efforts

LAND TRUST	TOTAL ACRES PROTECTED	ACRES PRESERVED BY CONSERVATION EASEMENT	ACRES PRESERVED BY FEE OWNERSHIP
American Farmland Trust	11,979	11,979	0
Aspen Valley Land Trust	5,786	5,716	70
Boulder County Land Trust	153	153	0
Centennial Land Trust	3,880	3,880	0
Clear Creek Land Conservancy	1,150.5	890.5	10
Colorado Cattlemen's Agricultural Land Trust**	27,622	27,622	0
Colorado Open Lands	40,260	36,244	2,251
Colorado Wildlife Heritage Fund	91	0	91
Continental Divide Land Trust	202	201.5	0.5
Crested Butte Land Trust	919.55	360.4	556.9
Douglas County Land Conservancy	3,425	2,317	110
Eagle Valley Land Trust**	4,309	1,887	1,782
Estes Valley Land Trust	4,419	4,347	55
Grand County Land Conservancy	742	742	0
Gunnison Ranchland Conservation Legacy**	6,032	6,032	0
La Plata Open Space Conservancy**	4,867	4,083	254
Larimer Land Trust	2,834	2,834	0
Manitou Institute/Crestone Baca	1,457.4	1,457.4	0
Mesa County Land Conservancy	24,092	24,092	0
Montezuma Land Conservancy**	220	220	0
Mountain Area Land Trust	1,064	1,064	0
Palmer Foundation	7,812.6	7,471	70.6
Rio Grande Headwaters Trust	0	0	0
Roaring Fork Land Conservancy	214.25	214.25	0
Rocky Mountain Elk Foundation	98,412	58,502	0
Rocky Mountain National Park Associates	78.19	18.19	0
San Isabel Foundation	3,598	3,118	480
San Miguel Conservation Foundation	2,492	2,246	219
Southern Plains Land Trust	1,280	1,280	0
Southwest Land Alliance	6,231	6,231	0
The Conservation Fund**	117,500	16,663	73,795
The Nature Conservancy (CO Chapter)**	199,091	86,135	24,766
Three Rivers Land Trust	3,000	3,000	0
Trust for Public Land	56,655.86	3,848	0
Valley Land Conservancy	2,693	2,612	81
Wilderness Land Trust	5,050	0	0
Yampa Valley Land Trust	18,115.37	18,115.37	0
TOTAL	659,693.72	339,323.61	102,810

Note:
 ** Indicates that organizations worked in partnership on deals. The amount of land protected in these transactions is shown under each participating organization's line (for example, both the Montezuma Land Conservancy and the La Plata Open Space Conservancy show that they protected 220 acres in one transaction – LPOSC holds the conservation easement for MLC). The total amount of transactions and acreage protected does not double count these types of transactions.

Source: Colorado Coalition of Land Trusts Land Protection Information (1999 Data)


Enhance Local Land Preservation Efforts

Land preservation—much like land use planning—is often a regional issue that requires the cooperation of multiple groups and jurisdictions. For example, the Custer Heritage Committee works with citizens in Custer County to discuss the area’s open space needs and examine potential solutions. In Mesa County, the county government decided to outsource its preservation efforts by hiring a local land trust to help the county meet its open space goals. Local efforts such as these are often the best way to prioritize the local jewels that are most important to the region and its communities.

As part of Governor Owens’ *Smart Growth: Colorado’s Future* initiative, the General Assembly recently created the Office of Smart Growth to address the financial and technical impacts of cross-jurisdictional growth. The Commission believes that the Office provides a good way for the State to assist local land preservation efforts and recommends that the Legislature enhance the Office’s abilities to assist local communities in the following ways:

- Broaden the Colorado Heritage Communities grant program to include land preservation. The Heritage Communities program, which provides grants for regional planning, is one way the state can assist local initiatives to save open spaces, farms and ranches. Private groups, which often spearhead these local efforts, should also be eligible for the grants.
- Encourage the use of cluster development incentives. Under Colorado law, landowners may develop one residential lot per 35 acres of land without going through county subdivision regulations. Counties have the authority to reward landowners with up to one additional lot of bonus development if they protect at least two thirds of the 35 acre parcel as open space.

Some counties, such as Larimer County, already enacted progressive cluster ordinances that allow farmers and ranchers to realize some of the development value of their land while preserving the majority of the land for agricultural use. For example, a clustering program allows a farmer with 280 acres of land to develop 16 lots while preserving over 185 acres of farmland. The Commission believes that counties can use cluster development laws as another tool to preserve open space.

- Assist local communities in their land preservation efforts. In fulfilling its charge, the Commission learned that local partnerships are essential to protecting Colorado’s natural lands. However, the knowledge and resources necessary for land preservation deals are often scarce. The Commission recommends that the Office of Smart Growth establish a liaison to work with local governments, civic leaders and land trust directors to help identify the tools that best fit each community’s unique preservation needs, in addition to locating sources of funding and technical expertise. 

Measure the Impacts of Growth on Open Space

An important part of preserving open spaces, farms and ranches in Colorado is examining the relationship between Colorado’s growth and the state’s open lands. The Commission believes that better data—such as information on wildlife habitat, agricultural land, and watershed areas—will help local communities make land preservation decisions more efficiently and educate the public. One way to do this is to work with certain federal, state, and local agencies to inventory their open space related information and compile an annual report that creates a picture of how growth affects the preservation of natural landscapes. The Office of Smart Growth should coordinate the efforts to collect this data. These agencies could include the Department of Local Affairs, the Department of Agriculture, the Department of Natural Resources and the Department of Public Health and Environment. The Commission also recommends that county assessors send property use information to the Department of Local Affairs, as well as the copies of any open space master plans. This information should include building square footage in the county, the number and size of divided parcels of land, and the number of parcels that are unimproved. 