



Mitigating Oil and Gas Impacts on Urban and Rural Landscapes **Conservation Easements**

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A Conservation Easement is:

- A legal document that contains permanent restrictions on use and development of land
- A perpetual negative easement in gross
- A primary tool to protect open space, scenic views, and wildlife habitat

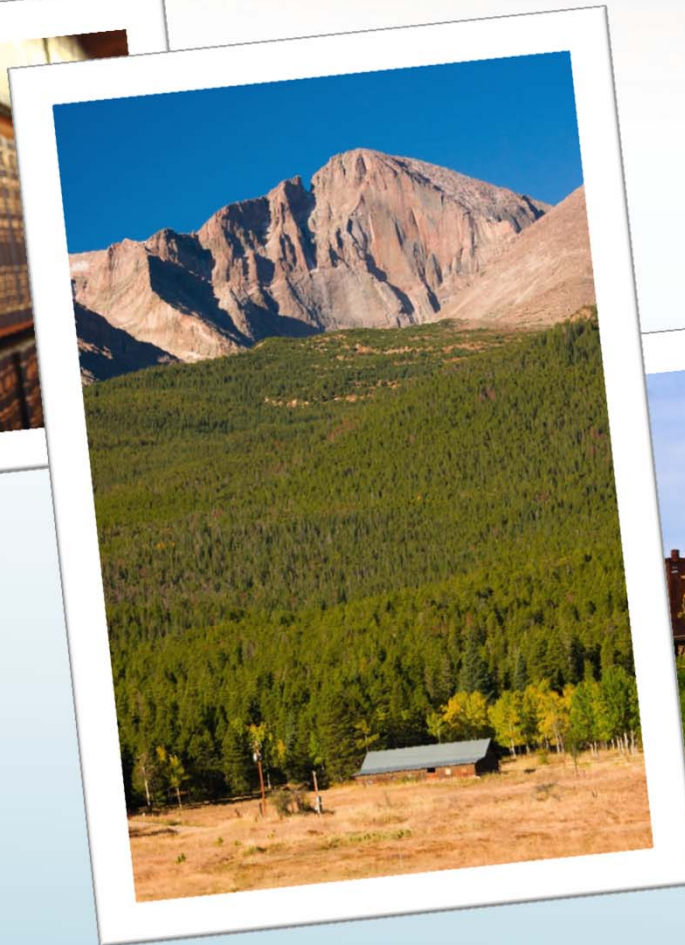


A Conservation Easement is:

- A conservation easement is conveyed by donation or sale, voluntarily by a land owner to a land trust (conservation organization) or federal, state or local government



State enabling acts (COLO. REV. STAT. §§ 38-30.5-101 et seq.)



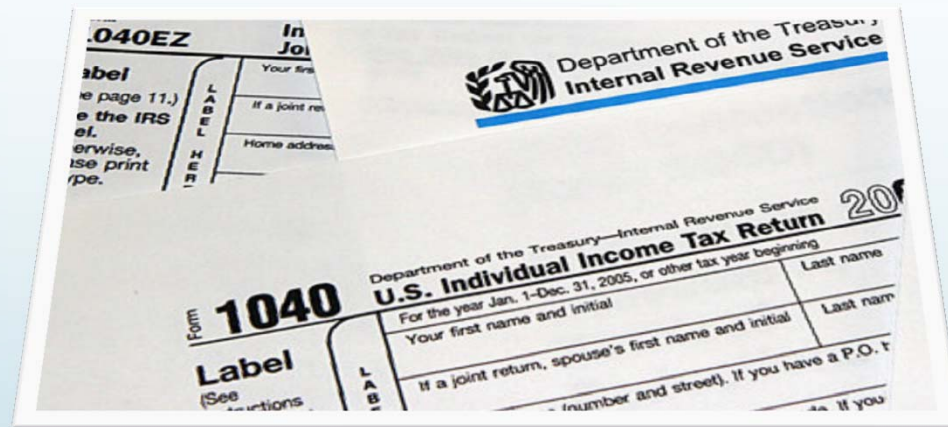
Tax benefits

- Federal charitable deduction for the appraised value of the conservation easement
- Some states issue tax credits
- Colorado Conservation Easement tax credit



Internal Revenue Code requirements (IRC §170(h))

- Conservation Purposes Test
- Must protect natural habitat or open space in perpetuity



Thus the challenge of oil and gas development



Conservation Easements and Split Estates

- Land and minerals are encumbered by a conservation easement
 - Some older conservation easements prohibit oil and gas development
 - Modern conservation easements give the conservation organization approval rights over leases and surface use agreements
- Landowner owns minerals and is considering a conservation easement
 - Restrictions in conservation easement are designed to mitigate surface impacts
 - Conservation organization will acquire approval rights over leases and surface use agreements

Conservation Easements and Split Estates

- Land is encumbered by conservation easement and minerals are not
 - Conservation organization can help draft a surface use agreement
- Landowner does not own minerals and is considering a conservation easement
 - In order to qualify for tax benefits open space, scenic vistas, and wildlife habitat must be protected
 - Conservation organization can help draft a surface use agreement



Questions?

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