



RiO GRANDE

HEADWATERS LAND TRUST



LANDOWNER

INFORMATION PACKET

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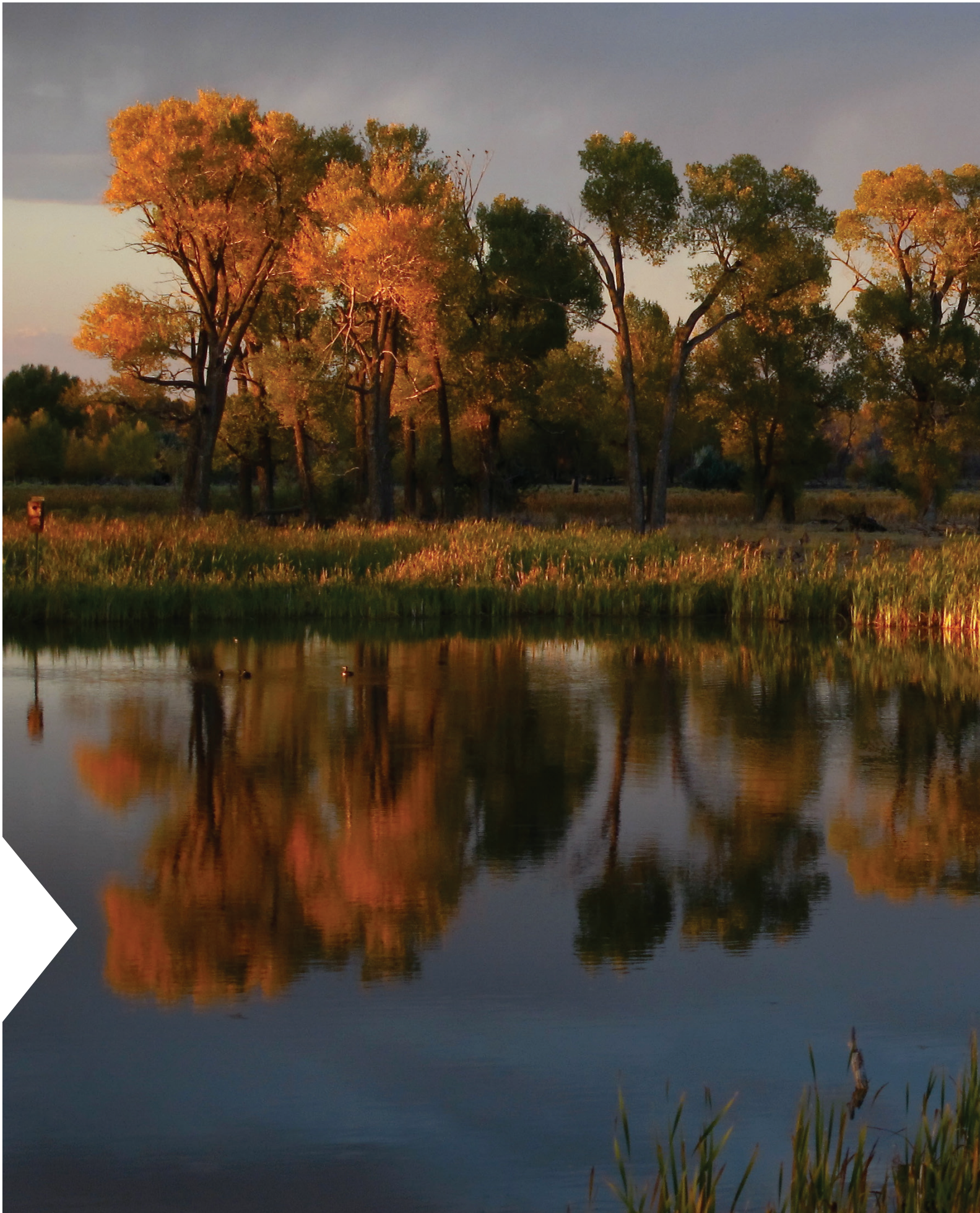




Photo by Rio De La Vista

CONSERVING OUR LAND, WATER, AND WAY OF LIFE IN COLORADO'S SAN LUIS VALLEY

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RIO GRANDE HEADWATERS LAND TRUST

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ABOUT RiGHT

CONSERVING OUR LAND, WATER AND WAY OF LIFE SINCE 1999



Photo By Jane Bernard

Founded in 1999, the Rio Grande Headwaters Land Trust (RiGHT) benefits San Luis Valley communities by conserving our land, water and way of life. We are a local non-profit organization and we act out of a deep-seated belief that land and water conservation has many benefits for all of us.

It secures the future for agriculture, keeping it viable as the Valley's long-term economic base. It conserves important wildlife habitat and supports a variety of recreational opportunities. It sustains the unique beauty of our area, our rich cultural heritage, and the rural quality of life in the San Luis Valley.

The main way we do this is by working with landowners on voluntary agreements called "conservation easements."

RiGHT is both a state certified and nationally accredited land trust, which means we follow the best practices for groups like ours in Colorado and all around the country.

TO DATE RiGHT HAS COMPLETED OVER 52 CONSERVATION PROJECTS PERMANENTLY PROTECTING MORE THAN 28,000 ACRES IN THE SAN LUIS VALLEY AND 30 MILES OF THE RIO GRANDE AND CONEJOS RIVER CORRIDORS.

WHAT IS A CONSERVATION EASEMENT?

A **conservation easement** is a voluntary, binding legal agreement between a landowner and a qualified conservation organization, such as RiGHT, that identifies Conservation Values on a property and permanently restricts uses of the property that would be inconsistent those Conservation Values.

Land under a conservation easement remains private, and the landowner retains ownership of the property and the right to sell or transfer its ownership. While certain terms of conservation easements are required by law, each easement is also unique to the property it is designed to protect and to the needs of the landowner.

What are Conservation Values?

The Internal Revenue Code allows tax deductions for donations of conservation easements on lands that provide one or more of the following "Conservation Values."

- **Scenic Enjoyment** – this means other people can enjoy the scenic view of your property from public places.
- **Agricultural Productivity** – if your property is agriculturally productive, a conservation easement will support keeping it that way.
- **Relatively Natural Wildlife Habitat** – property that wildlife, which can include big game to waterfowl and everything in-between also use.
- **Public Recreation or Education** – this takes many forms: allowing youth hunts, birding access at certain times of year, environmental education events on the property, or a trail with full public access. Note that allowing public access is not a requirement to do a conservation easement.

What are some of the common uses restricted in a Conservation Easement?

Conservation Easements restrict certain uses in order to protect the property's Conservation Values. Typical restrictions in RiGHT's conservation easements are:

- The right to subdivide the property.
- The right to build extensive structures on the property; however, RiGHT's easements generally permit the construction of new farm buildings and a limited number of carefully located homes.
- The right to separate water rights from the land.
- The right to allow commercial mining.

How Long Does a Conservation Easement Last?

Conservation easements last forever because they "run with the land," binding the landowner who originally completed the conservation easement and all subsequent owners to the easement's restrictions. The easement is recorded at the county clerk and recorder's office so that all future owners and lenders will see the easement in the chain of title.

Does a Conservation Easement Require that I Permit Public Access to My Land?

No, it is not required. Most of RiGHT's conservation easements do not allow public access. Public access may be written into a conservation easement at the request of the landowner and in consultation with the land trust.



Photo by Allen Law

WHY SHOULD I CONSIDER A CONSERVATION EASEMENT FOR MY PROPERTY?

Many of us have strong emotional ties to a place. As a landowner you may value the memories you've made on your land just as much as its beauty. You probably know its soils, wildlife, and history better than anyone else and think it is important to keep your land and water intact. Conservation easements honor the labor of love that you and past generations have put into the land and ensure that its special qualities will be protected forever, even as it passes onto future generations.

COMPLETING A CONSERVATION EASEMENT

A STEP-BY-STEP GUIDE TO A COMPLEX PROCESS

Completing a conservation easement on a property is a process that typically takes one to three years, depending on the time needed by the team of professionals and the complexity of the project. The following steps are the most common ones to complete a conservation easement. While we have tried to put the steps in chronological order, several of the steps usually happen simultaneously.



Photo by Rio De La Vista

Pre-Project Approval

1. **Determine if a Conservation Easement Meets Your Goals.** The decision of whether to place a conservation easement on your property can be a challenging one. You may want to discuss the implications of a conservation easement with everyone it may impact. Also, it is helpful to consult your financial advisor early in the process to determine how the potential tax benefits of a conservation easement may fit with your financial and estate planning.
2. **Determine if Your Project is a Fit for RiGHT.** After talking with you, RiGHT will want you to show us around the property. After we learn more about your property and determine if it is a good fit, we will

move forward with your project. RiGHT may decline to accept any conservation easement or other conveyance at any time, for any reason deemed appropriate by the Board.

Determine Your Title and Mineral Rights

3. **Title Commitment, Mineral Rights Search and Title Insurance.** RiGHT will contact a title company and request a Title Commitment. This establishes the legal description for your property, the legal landowners, and determines if any title issues need to be cleared up. If there is a loan on your property, RiGHT requires the lender to subordinate the mortgage to the conservation easement.
4. **Mineral Assessment.** If you don't fully own your mineral rights we will have a geologist assess the potential for development by the person/entity who does own them. The geologist will need to confirm, in what's called a "Mineral Remoteness Letter", that there is only a remote chance that the owner would drill and mine on your land. In certain cases, this letter may be required even if you do own your mineral rights.

If any problematic title exceptions cannot be remedied or you cannot obtain a Mineral Remoteness Letter, RiGHT cannot complete a conservation easement on your property.

Creating Your Conservation Easement

1. **Find an experienced attorney.** You should find an attorney who is knowledgeable about conservation easements to help you. Having sound legal advice will save you time and money. While at a minimum an attorney should review your conservation easement, some attorneys can coordinate the entire process for you.
2. **Determine Which Activities to Allow and Which to Prohibit.** We need to be on the same page about activities permitted and restricted by the conservation easement. RiGHT staff will work with you to ensure that we are all planning for the future.

3. **Obtain a Baseline Document.** RiGHT will contact a biologist to complete a “Baseline Document” (or “Present Condition Report”). Through descriptions, maps and photos, the Baseline documents the condition of the property when the conservation easement is established. This is required to demonstrate that there are significant Conservation Values on the property and be the benchmark against which any violation of the conservation easement is measured.
4. **Obtain an Environmental Assessment.** If necessary we will obtain an environmental assessment for your property to determine if there are any hazardous materials on the property and, if so, what action needs to be taken to clean them up.
5. **Obtain a Survey.** We will usually contact a surveyor to complete a survey to outline property boundaries and in some cases to also outline building envelope boundaries. If you have a relatively current survey, we may be able to use that.
6. **Draft the Conservation Easement Document.** We will work with you and your attorney to create your conservation easement deed based on our mutual understanding and goals.
7. **Obtain an Appraisal.** RiGHT requires a complete “qualified appraisal” of the conservation easement before closing. A “qualified appraiser” must be state certified, meet the Federal IRS requirements under Treasury Regulations 1.170A-13(c), and cannot be compensated based on the value of the land. The appraiser also must have experience with conservation easements, and there should be no conflict of interest between the appraiser, the landowner, and other parties involved in the transaction.

Conservation easement appraisals are substantially different and more complex than other types of property appraisals, so it is critical to work with an appraiser who is experienced and state-certified to value conservation easements.

Although we will help guide the appraisal process, you, the landowner, will ultimately be responsible for determining value if you claim tax benefits for the donation of a conservation easement. For tax purposes the appraisal must be current within 60 days of closing. However, if you need to know the value of your conservation easement for financial planning purposes prior to starting the conservation easement process, you may order an additional appraisal, at your own cost, earlier in the process.

8. **Work with an Experienced Financial Advisor/ Accountant.** If you are considering using the tax benefits provided by the Federal and/or State government, we strongly recommend having your title commitment, appraisal and deed of conservation easement reviewed by a professional accountant or financial advisor before you sign and record the conservation easement.

HOW IS THE MONETARY VALUE OF A CONSERVATION EASEMENT DETERMINED?

The monetary value of the conservation easement is the difference between the value of the land without any restrictions placed upon it by a conservation easement (the “before” value) and the value on the land with those restrictions considered (the “after” value). A qualified appraiser will determine the before and after values and the difference between them is the monetary value of the conservation easement. For example, if the before value is \$1,000,000 and the after value is \$550,000, the value of the conservation easement is \$450,000.

Note that RiGHT will not knowingly participate in any project where we have concerns about the appraised value of the conservation easement.

9. **Prepare a Management Plan.** If required by a funder, a Management Plan will need to be created. The Management Plan helps facilitate communication between RiGHT and the landowner and is updated every five years.

Disclaimer: RiGHT staff members are not attorneys, financial planners, accountants, geologists, biologists, or appraisers. As such, RiGHT is not qualified to dispense specific information regarding these fields of expertise. We can provide you with a list of qualified professionals to help you complete your conservation team.

WHAT ARE THE BENEFITS OF A CONSERVATION EASEMENT?



Photo by Rio De La Vista

On properties with exceptional Conservation Values, RiGHT may pay cash for a portion of the monetary value of the conservation easement by fundraising from private foundations, state, or federal agencies. While this approach is usually more financially beneficial to landowners than donating the full value of the conservation easement, it can also take significantly longer.

Conservation easements are often eligible to receive Federal and State income tax benefits. All tax benefits are based on the donative value of your conservation easement and compliance with the rules and regulations from the IRS and the State of Colorado. Conservation easements can also be a powerful estate planning tool. Due to the restrictions placed on the land, the value of the land is reduced, which can lower inheritance taxes.

CONSERVATION EASEMENTS CAN ALSO BE A POWERFUL ESTATE PLANNING TOOL. DUE TO THE RESTRICTIONS PLACED ON THE LAND, THE VALUE OF THE LAND IS REDUCED, WHICH CAN LOWER INHERITANCE TAXES.

The tax benefits generally follow the guidelines below, although you should talk to a financial adviser or accountant who is familiar with conservation easements to explain how these benefits would apply to your financial situation.

Note that RiGHT cannot offer any guarantees or warranties with regard to any tax benefits.

■ FEDERAL TAX BENEFITS

You may be eligible for a charitable federal income tax deduction for the donated value of the conservation easement if your conservation easement project qualifies for federal IRS benefits.

- The value of the conservation easement donation can be deducted up to 50% of an individual's Adjusted Gross Income (AGI) in the year of the deduction.
- "Qualifying farmers and ranchers" can deduct up to 100% of their AGI.
- There is a 15-year carry-forward on any unused deduction amount.

For example, using the scenario that your conservation easement donation is worth \$250,000 and your AGI is \$50,000 in the year you donate the conservation easement, you can deduct \$25,000 for 10 years. As a "qualifying farmer or rancher" you could deduct \$50,000 a year for five years to reach a total deduction in each case of \$250,000.

■ COLORADO TAX BENEFITS

The State of Colorado also offers a state income tax credit for donating a conservation easement:

- a 90% tax credit on the first \$5,000,000 value of the donation.
- There is a 20-year carry-forward on any unused credit amount.
- The credit can be given to a third party, or can be sold to a third party for cash.

For example, a donation worth \$250,000, could receive \$225,000 in conservation easement tax credits.

Additionally, in Colorado properties with conservation easements that are 80 acres or more and that are designated as "agricultural" for property tax assessments maintain that status.



Photo by Rio De La Vista

WHAT ARE THE COSTS OF A CONSERVATION EASEMENT?

■ TRANSACTION COSTS

The costs to complete a conservation easement, often called “transaction costs,” can vary depending on what your needs are, who you hire, and the complexity of the project. The costs reflected below are estimates only and are meant to provide you with an “average range” of costs. They can be higher if your project is more complex. Many of these costs are required by Colorado and the IRS to prove that your property has monetary and Conservation Values associated with it.

You are responsible for these costs. The good news is many of these costs are due at or after closing, reducing the amount you will need to start your project. Additionally, we may be able to fundraise to cover some costs, and loan programs are available with the loan due to be repaid after closing. Also, be sure to consult a financial professional because many of these costs may be tax deductible as a business expense.

TRANSACTION COSTS	COST RANGE
Legal Fees	\$2,500 - \$5,000
Mineral Remoteness Letter	\$2,000 - \$2,500
Baseline Inventory Report	\$3,500 - \$6,000
Environmental Assessment	\$2,000 - \$4,000
Survey	\$4,000 - \$15,000
Appraisal	\$15,000 - \$25,000
Title Insurance & Closing Costs	\$2,000 - \$4,000
State of Colorado Tax Credit Application	\$2,400 - \$25,000
TOTAL Transaction Costs	\$37,000 - \$86,500

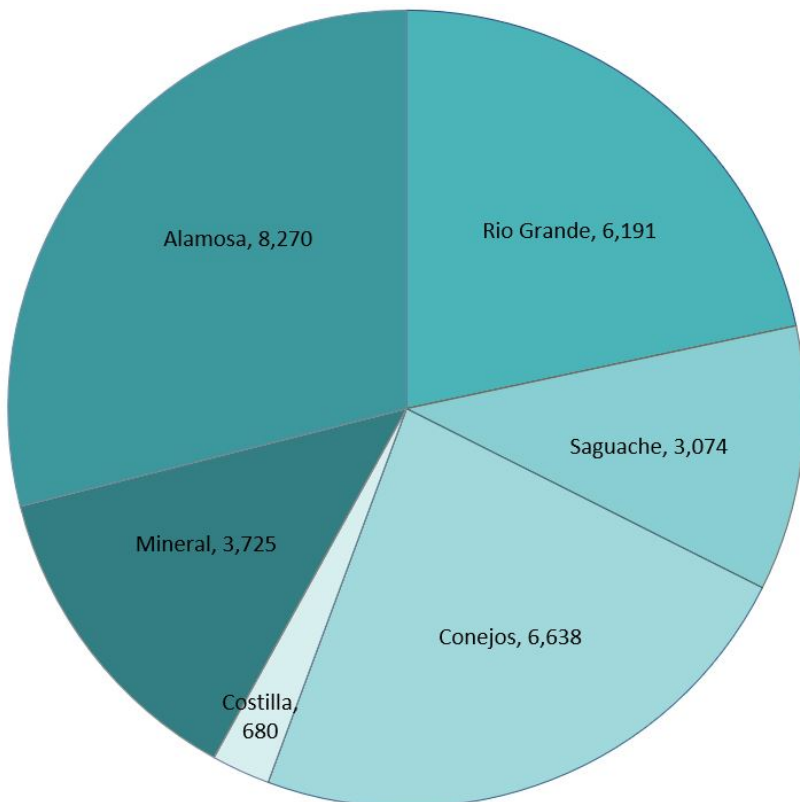
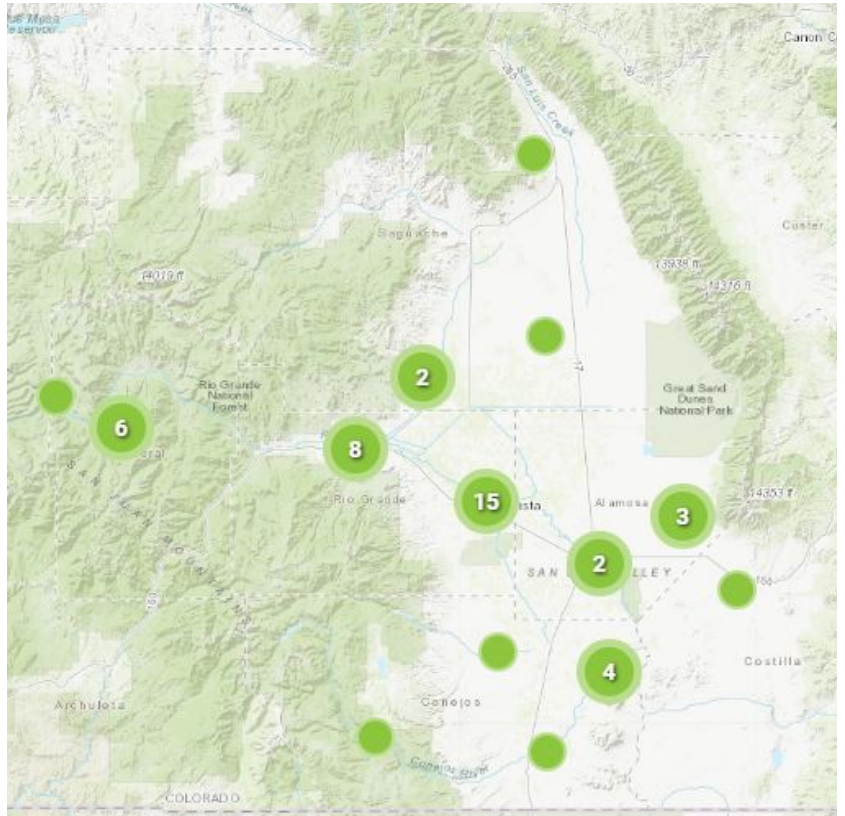
■ RiGHT'S FEES

Completing a conservation easement often takes hundreds of hours of staff time, and even after closing RiGHT has the responsibility to steward the easement in perpetuity. The Fee for Service helps pay a portion of RiGHT’s staff and legal review expenses. RiGHT also requires a contribution to our Stewardship Fund for each project. RiGHT will place these funds in an interest-bearing account and will use the interest accrued for annual monitoring of the property. Additionally, if needed, we may use the principal (as allowed) and the interest for legal costs associated with defending the terms of our conservation easements. These costs are your responsibility and RiGHT cannot fundraise for them.

RiGHT's FEES	COST RANGE
Stewardship Fund	\$15,000 - \$20,000
RiGHT's Fee for Service	\$7,500 or 5% of the amount fundraised, whichever is greater

CONSERVATION SUCCESS

**RIGHT'S
CONSERVATION
EASEMENTS
ACROSS
THE SAN LUIS
VALLEY**



**RIGHT'S
CONSERVATION
EASEMENT
ACREAGE BY
COUNTY**



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