

THE  
BIG  
PICTURE  
CONSERVATION EASEMENTS

2016 – HB1174 / HOUSE FINANCE COMMITTEE

March 16, 2016

Lois Court, Chair -- Mike Foote, Vice-Chair

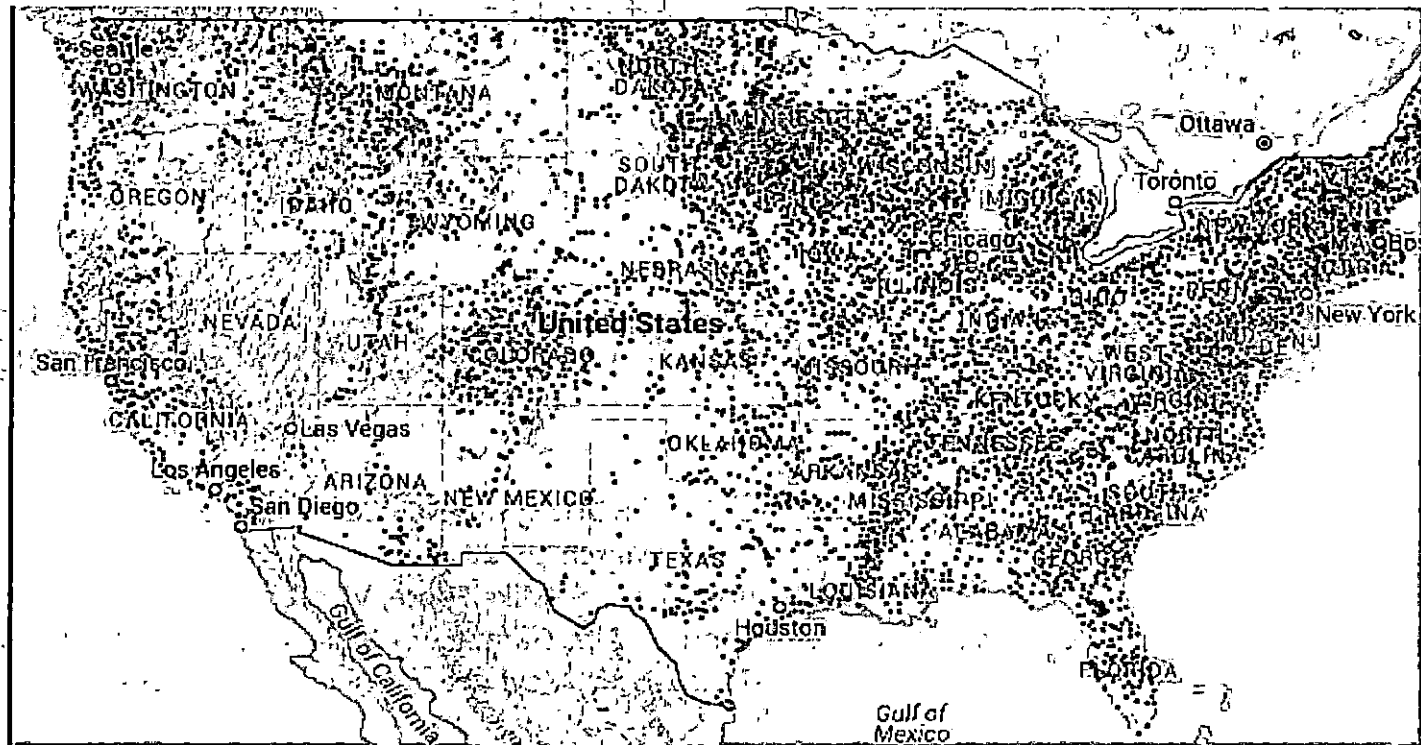
KC Becker \* Kathleen Conti \* Alec Garnett \* Daniel Kagan \* Dan Pabon  
Kevin Priola \* Kit Roupe \* Kevin Van Winkle \* Jim Wilson

**NCED** <http://www.conservationeasement.us/browse/map>

# National Conservation Easement Database – Oct 2015

**# of C/Es**  
113,038

**Total Acres**  
23,532,044

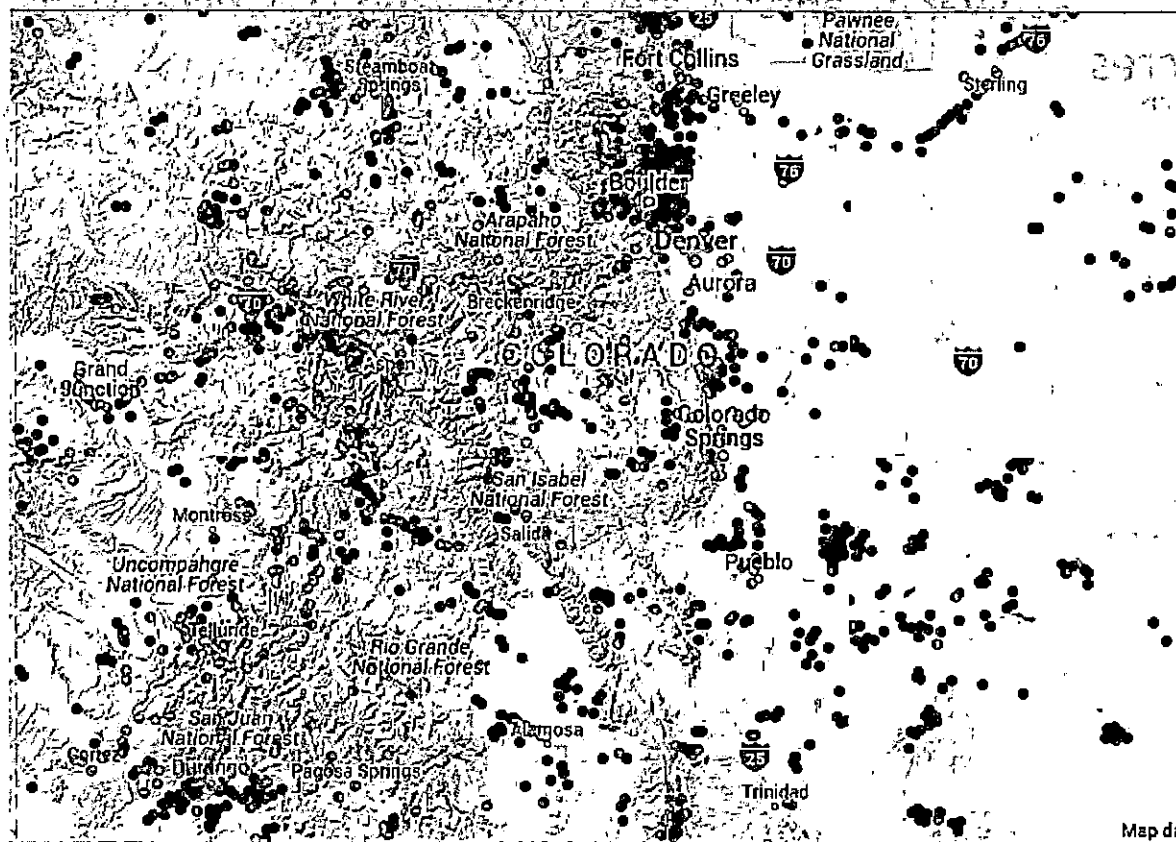


**NCED** <http://www.conservationeasement.us/browse/map>  
**National Conservation Easement Database**

**COLORADO**

# C/Es  
= 2,957

# Acres  
= 1,534,957













# S/E COLORADO - CONSERVATION EASEMENTS

- Lower Arkansas Water Conservation District - March 2014








235,677 acres

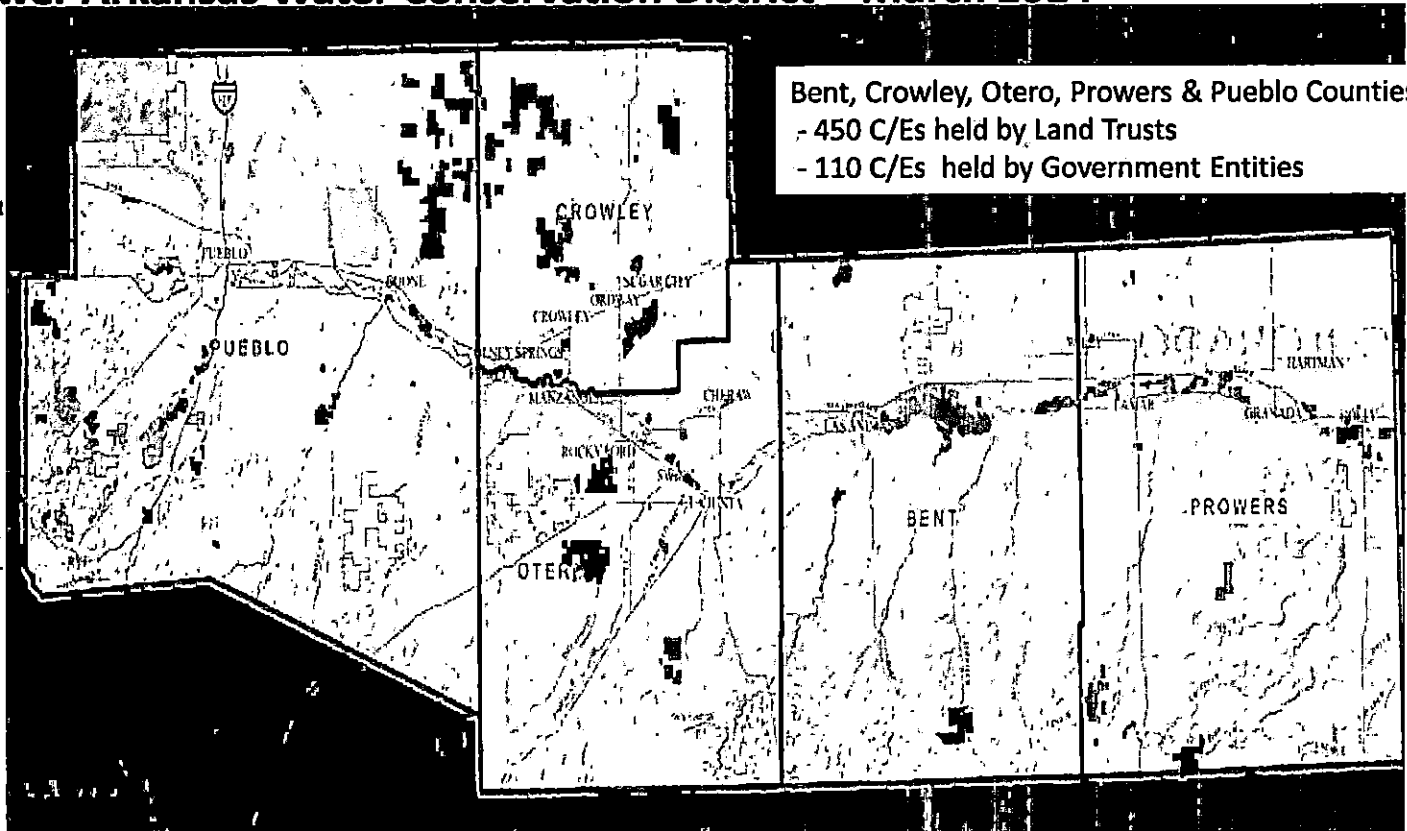
## Conservation Easements

### GRANTEE

-  Arkansas Valley Preservation Land Trust
-  Colorado Cattlemen's Agricultural Land Trust
-  Colorado Open Lands
-  Greenlands Reserve
-  Keep Pueblo Beautiful, Inc
-  Noah Land Conservation
-  San Isabel Protection Land Trust
-  Southern Plains Land Trust
-  The Nature Conservancy
-  William J. Palmer Parks Foundation, Inc.

### Land Ownership

-  Other Federal
-  USFS
-  BLM
-  STATE
-  LOCAL
-  NGO/LAND TRUST
-  PRIVATE





# LAND TRUSTS

*No Regulations*

## NEVER DISCLOSED TO LAND OWNERS

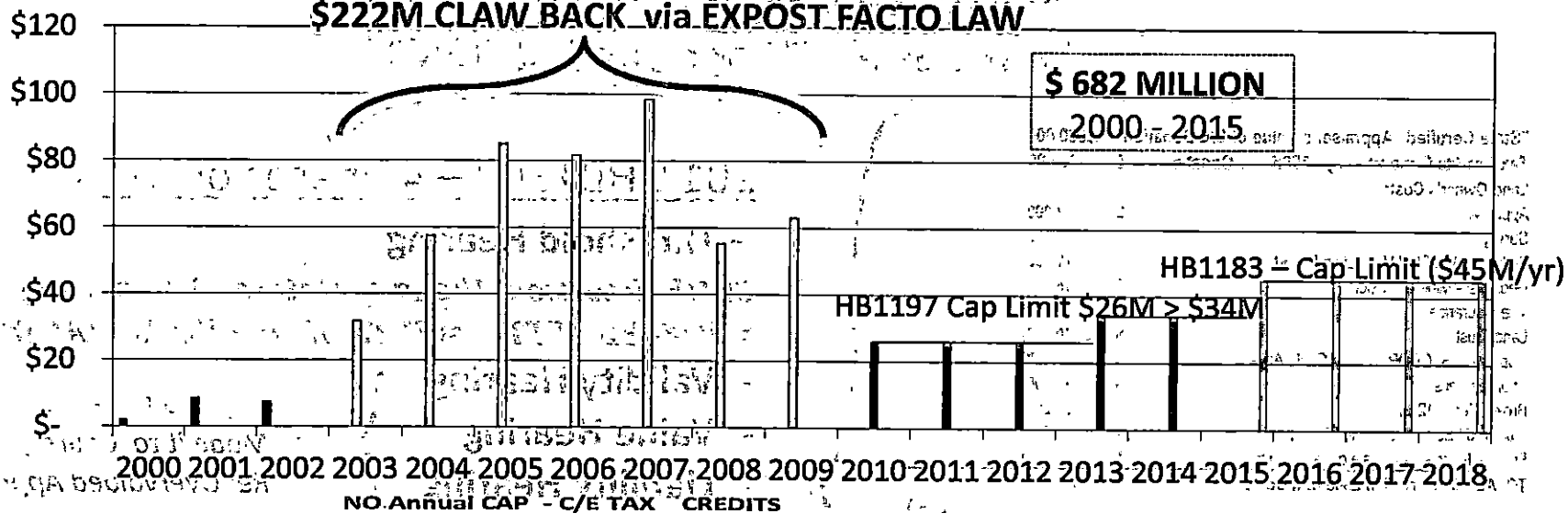
## CONSERVATION EASEMENTS

are subject to:

- Land Trust / Department of Defense – 3 Mile Military BUFFER ZONES
- Land Trust can COLLATERIZE CE, without Land Owners knowledge or consent
- Land Trust can SELL/EXCHANGE CE to other entities, w/o Landowners knowledge
- Land Trust can buy property then MERGE ESTATE (extinguish CE)
- Land Trust can “FRACK” – Conservation Easements

# COLORADO CONSERVATION EASEMENT TAX CREDITS

**\$222M CLAW BACK via EXPOST FACTO LAW**



NO Annual CAP - C/E TAX CREDITS

- HB99-1155**
- IRS 170H only standard
- Created CO TAX Credits
- \* Violated TABOR
- HB00-1348**
- C/E Tax Credits Transferable

- HB08-1353**
- New Standards
- & CEOC Process

- HB11-1300**
- Resolve 2003- 2008 CDOR Disallowances
- in District Court

**COLORADO DEPARTMENT of REVENUE – Arbitrary Disallowances  
\$0 Value, No Due Process, & ExPost Facto Law**

# LAND OWNERS NIGHTMARE

All the JUSTICE one can "AFFORD"

"State Certified" Appraiser's Value of C/E Donation	\$500,000
Tax Credits Generated by \$500K C/E Donation	\$ 260,000
<b>Land Owner's Costs:</b>	
Appraisal	\$ (4,000)
Survey	\$ (2,400)
Biologist - Wildlife / Vegetation Report	\$ (2,600)
Geologist - Mineral Report	\$ (5,000)
Title Insurance	\$ (2,700)
Land Trust	\$ (10,000)
Copies - IRS, CDOR, County Clerk, Attys	\$ (350)
Attorney Fees	\$ (3,000)
Broker Fees (12%)	\$ (31,200)
Tax Credit Sold - Discounted (20%)	\$ (52,000)
Federal Income Tax/ Sale of Tax Credits	\$ (20,000)
<b>TOTAL: Conservation Easement Costs</b>	<b>\$ (133,250)</b>
Land Owner's - Net Gain - prior to CDOR's assault	\$ 126,750

<b>CDOR: Conservation Easement = \$0</b>	
- Tax Credits	\$ (260,000)
- Penalty & Interest	\$ (306,000)
- Attorney Fees (on average)	\$ (100,000)
	<b>\$ (666,000)</b>
<b>Land Owner's NET LOSS</b>	<b>\$(539,250)</b>
- Penalty & Interest Waived	<b>\$ 306,000</b>
	<b>\$(233,250)</b>

## 2011-HB1300 – 4 Phases of Trials

- Threshold Hearing
  - *CDOR Extortion (Penalty/Interest) + Attorney Fees*  
= **FORCED SETTLEMENTS UNDER FINANCIAL DURESS**
  - Validity Hearing
  - Value Hearing
  - Liability Hearing
- 0 of 175 Cases (675 CEs)  
Made it to Court  
Re: Overvalued Appraisals*

## PUNISHMENT for following the LAW:

- PAY BACK 100% TAX CREDITS .... **\$260K**
- Penalty & Interest Waived ..... **\$306K**
- Attorney Fees ..... **\$50K-100K**
- Land remains encumbered with C/E