

# Protecting water rights



Water is often key to protecting land in the arid West. Safe-guarding water rights in our watersheds and on our conserved land is essential for the future of Colorado's water-dependent working landscapes and natural heritage.

In Colorado, water rights, like mineral rights, may be transferred or sold separately from the land. In 2003, the Colorado legislature became the first state to legally permit a conservation easement to protect water rights by attaching these rights to conserved land. Protecting water in this way is important if the purpose of the conservation easement is to preserve productive agricultural lands.

Many farms and ranches use water rights to irrigate and fill stock ponds. Irrigated land tends to be scenic and green, relatively weed-free, and economically productive. As irrigation runoff returns to the river, it may provide critical "instream flows" in late summer and winter, when river levels naturally drop. Return flows may also provide water for wetlands and help recharge springs and aquifers. Preservation of water rights on historically irrigated land preserves the ability to farm and ranch productively, and may enhance other natural resources. When preserving agricultural lands through a conservation easement, the water used for irrigation is included in the easement.

By tying water rights to land in this way, the landowner maintains ownership and control of the water rights, while AVLT has the right to ensure that they are not lost through abandonment or transfer, and that they remain with the property to preserve historic agricultural use.

Following are some typical conservation easement provisions tying water to conserved lands:

- allow continued irrigation of historically irrigated lands;
- restrict transfer of the water rights off the conserved lands;
- allow the land trust to take action to prevent abandonment of water rights; and
- allow for the donation of water to instream flow in the event of drought or a finding of non-use.

*For more information on how you can protect your land and water rights in perpetuity, call Aspen Valley Land Trust at 970.963.8440. The legal implications of including water rights in a conservation easement should be reviewed by a water attorney and water engineer hired by the donor. The comments made here cannot be relied upon for legal or engineering advice.*