

## NEW LEGISLATION CREATES FUNDING FOR CONSERVATION AND RESTORATION IN NEW MEXICO



**THE 2010 LEGISLATIVE** session was proof that, even against all odds, small miracles can happen. With budget deficits looming, the legislature was able to pass SB186 — the Natural Heritage Conservation Act — which will help protect land, water, wildlife, and working farms and ranches across New Mexico. This new legislation was sponsored by state Senator Carlos Cisneros of Questa and signed into law by Governor Bill Richardson in early March. It will establish a permanent fund enabling the state to make grants to fund conservation easement and restoration projects on private lands having important natural, agricultural, and cultural values.

As a member of the coalition of conservation organizations, land trusts, agricultural associations, and state agencies that came together to promote this legislation, the New Mexico Land Conservancy (NMLC) was proud to host the signing ceremony with the Governor's Office at the Petchesky Conservation Center.

"For the first time, New Mexico will have a permanent funding mechanism for conservation projects across our state," said Governor Richardson at the ceremony. "I am also pleased that

we were able to secure \$5 million during the legislative session, so that we will be able to start funding these important initiatives right away."

Despite the state's current financial problems, New Mexico House Speaker Ben Lujan (D-Santa Fe) said it was important to earmark funding for conservation. "If we don't do it now, when? When the land is developed?" he asked.

"Every year, New Mexico is losing thousands of acres of productive farm and ranch land, along with the conservation values they provide, to unbridled growth and development," remarked Larry Winn, Chair of the New Mexico Soil and Water Commission. "Conservation easements can help keep agricultural land in family ownership and in production, and are an important option for farmers and ranchers to consider as an alternative to simply selling, subdividing, and developing their lands."

"This year, New Mexico was the only state in the country to pass new land conservation funding," said Scott Wilber, NMLC's Executive Director. He noted that the successful passage of this legislation marks the culmination of a five-year effort on the part of the conservation community to create a dedicated state fund for land conservation and restoration. "We are grateful to everyone who helped make this happen, particularly the New Mexico Cattle Growers' Association, the New Mexico Soil and Water Commission, and many of the individual soil and water conservation districts throughout New Mexico, without whose support this legislation would not have passed."

Wilber pointed out that landowners can already receive significant federal and state tax incentives by donating part or all of the value of a conservation easement, but added that in a state like New Mexico where many private landowners, particularly

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[www.nmlandconservancy.org](http://www.nmlandconservancy.org)

## Funding (continued from page 1)

within the agricultural community, are land-rich and cash-poor, tax benefits alone are not always enough to get the job done. A combination of state funding and tax incentives will further enhance the ability of conservation organizations, public agencies, municipalities, land grants, tribes, and soil and water conservation districts to work with private landowners to conserve their lands.

The Natural Heritage Conservation Act will also help leverage other sources of conservation funding, through federal programs such as the Land & Water Conservation Fund, the Farm Bill, the Clean Water Act, the USDA Farm & Ranchland Protection and Forest Legacy programs, as well as state wildlife grants and local conservation funding from New Mexico's cities and counties. Studies have shown that New Mexico misses out on approximately \$20 million in federal land and water conservation funding each year because it does not have adequate state matching funds.

By creating this program, New Mexico is capitalizing on an opportunity to draw more resources to the state to help preserve what makes it the "Land of Enchantment" — its natural, agricultural, and cultural heritage. ❖



Governor Bill Richardson



Speaker Ben Lujan



Sen. Carlos Cisneros



# FROM OUR EXECUTIVE DIRECTOR: CONSERVATION LEADERSHIP AND ACCOUNTABILITY

DEAR FRIENDS,

Notwithstanding the conservation motivations and incredible generosity of our landowners, tax incentives — alone or in conjunction with other financial incentives — have been one of the principal drivers behind the private land conservation movement. Over the past several years, tax benefits and funding for conservation easements have fluctuated at the federal level, but collectively these incentives have gradually expanded. This has helped land trusts



greatly increase the amount of private land conservation throughout the country, particularly in the western states.

New Mexico has shown tremendous leadership and innovation in recent years by creating complementary benefits at the state level. In 2004, a tax credit for land conservation was created under the Land Conservation Incentives Act. In 2007, this tax credit was expanded

from \$100,000 to \$250,000, and, perhaps more importantly, made transferable. Landowners now have the option to use the tax credit for up to 20 years to offset their state tax liabilities or to turn their credits into real cash by selling part or all of their credits on the open market.

This state tax credit has become a powerful tool for private land conservation in New Mexico. For the approximately \$7 million of tax credits issued to date, the state has helped land trusts protect over 35,000 acres of significant agricultural land, wildlife habitat, and scenic open space with a combined appraised value of over \$28 million.

But these kinds of incentive programs always run the risk of abuse if not properly monitored and managed. The state of Colorado, which has had a tax credit program for ten years, provides some lessons for New Mexico.

Over the ten years, Colorado has issued hundreds of millions of dollars of tax credits, which have helped conserve over half a million acres of land. This is a remarkable conservation success story, but it has not come without a price.

Unfortunately, because Colorado started out with no direct oversight of its tax credit program, a few unscrupulous individuals began taking advantage of the unregulated program. After a few years, word came of millions of dollars of suspect transactions, perpetrated not by land trusts, but by entities previously

unknown to the land conservation community.

Concern over these transactions from state tax authorities ultimately led to increased scrutiny by the Internal Revenue Service (IRS) to the point where Colorado was singled out by the IRS over a period of several years. Some of this scrutiny was well deserved. During one three-year period reviewed, the IRS determined that at least half the credits issued during that period (totaling approximately \$300 million) were tied to bad or fraudulent transactions that had little or no conservation value and/or were grossly over-valued.

The unfortunate down-side to this experience was that it prompted the IRS to audit a number of conservation easement transactions. This ultimately led to the IRS questioning the validity of all easements in Colorado — even the good transactions completed by reputable land trusts, many of which used state or federal funding backed by government approved appraisals.

The situation got so bad in Colorado that the tax credit program might have been repealed altogether, were it not for the land trust community stepping up to work with the state to make certain improvements to the program. Colorado now has an oversight commission and requires appraisal reviews by its Division of Real Estate as well as certification of both land trust and government holders

*(continued on page 4)*



## *Leadership* (continued from page 3)

of conservation easements.

Fortunately, New Mexico had the foresight to put a certification process in place from the very beginning to specifically prevent the kinds of problems and abuses that were occurring in Colorado. New Mexico's two-part certification process requires an initial determination by the New Mexico Energy, Minerals and Natural Resources Department that a

project has significant conservation value to merit a tax credit, followed by a complete review of all the project documentation, including an appraisal review by the New Mexico Tax & Revenue Department. While this process might seem onerous, landowners and tax credit

buyers can rest assured that their tax credits have a much better chance of withstanding any potential scrutiny by the IRS, since they have been certified by the state using IRS guidelines.

Recently, however, there has been increasing criticism of how the state is administering the tax credit program, due primarily to delays in appraisal reviews and a number of recent appraisal rejections which have resulted in some landowners not receiving anticipated tax credits. In some cases, it appears that these appraisal rejections were justified and the state was doing what it is supposed to do — protect the public interest. In other cases, the state has challenged the findings of experienced appraisers and rejected some appraisals based on their own interpretations of the notoriously vague IRS regulations, even concluding in a few cases that easements produced no diminution in the subject property's value.

In fairness, there are some serious capacity issues that need to be addressed both at the state and within the New Mexico

appraisal and land trust communities to improve the program over the long term. As is common with many programs that are legislatively created, the state has been given a mandate to administer the tax credit with insufficient staff and financial resources. Also, it is not unusual for new programs to experience some fits and starts as the state gets up to speed. Having said that, it is apparent that there needs to be more consistency

and predictability in the state's review process and how staff are communicating their findings to applicants, appraisers, and land trusts. There is a shortage of appraisers in the state with the qualifications and experience needed to accurately appraise conservation easements. Finally, conservation easements involving tax credits or

public funding are more complex and typically require a high level of documentation and attention from the land trusts involved in these transactions.

The New Mexico Land Conservancy is working with the other land trusts and the state to address these issues and identify positive solutions. As we move forward, it is incumbent upon us in the land conservation community to ensure that not only are we bringing forward the best conservation projects, but we anticipate potential legal and valuation issues and, to the best of our abilities, inform landowners about their potential implications and consequences. Only in this way can we ensure optimal results for our landowners, the public, and conservation. ❖

*Scott Wilber*

Executive Director



# NMLC BOARD PROFILE:

## ELIZABETH RICHARDSON

ELIZABETH RICHARDSON HAS one foot placed solidly on the land and the other in the land trust movement. She is one of two founding members on NMLC's board — and the one who has traveled the farthest to attend NMLC meetings and events, commuting for years from Denver and now from her new home base in Los Angeles.

Elizabeth's passion for land conservation, combined with her education in business administration and background in public affairs, has resulted in someone who is driven to be helpful in very practical ways. "She is a great resource to the organization, both because she has so much experience with land conservation and land trust issues, and because she's always ready to roll up her sleeves and help take on whatever challenges may lie in the way of building a viable and sustainable statewide land trust for New Mexico," said Scott Wilber, NMLC's Executive Director.

"Over the past seven years, I have seen NMLC grow from a three-person board with one staff, to what it is now," Elizabeth reflects. "It has always been a good organization, but I have watched it grow into a first-class organization doing high quality work. Under Scott's leadership, it has continued to be self-sustaining and taking advantage of all the opportunities that can help advance the cause of land conservation in New Mexico."

Elizabeth started her conservation work in 1991 with Colorado Open Lands (COL), a statewide land trust based in the Denver area. "I was at a point where I was trying to decide what I really wanted to work on. I was talking to a friend and she asked 'What is it you really care about?' I thought about it and said 'I really care about the protection of wildlife habitat.' Then someone knew of a position at a land trust." She worked her way up within COL, as a conservation specialist on conservation easements and then eventually heading up their stewardship program.

"I left Colorado Open Lands with a first-rate conservation easement stewardship program and I'm very proud of that," she says. "I also developed a spreadsheet on how to calculate the costs of monitoring and

enforcing an easement over the years, which has ended up being used extensively and has been provided as a model by the Land Trust Alliance."

"But what I really loved was the contact with the landowners. I am still in contact with many of them and consider them old friends. Over the years, I even gave advice on families, divorces..." she laughs.

While at COL, she also joined the board of the Colorado Coalition of Land Trusts (CCLT), where she continued to serve for three years after her retirement in 2002.



In 2007, she left Colorado and moved to California to be closer to her family. In her short time there, she has already lent her talents to the area's land trusts, and is training to become an accreditation facilitator for the Land Trust Alliance (LTA). She will be especially helpful to NMLC as we continue to pursue LTA accreditation over the next year.

But Elizabeth's heart still lies in the Rockies. Every summer she heads back to Colorado where she continues to do volunteer easement monitoring for COL.

The landscape that inspires her the most is the South Park area of Colorado. "It's a very high open area ringed by snowcapped mountains. It was the hunting grounds for the Ute Indians in the summer. There are high mountains with slight ridges with trees running down them, and the views are spectacular.

"At one point in my life I was able to take the trip of a lifetime around the world. I visited New Guinea, Israel, and Paris. Then I came home and the next day I put my dogs in the car and drove up to South Park. I sat there and I thought 'This is as beautiful as anything I've ever seen. This is home.'

"Every time I drive through the Southwest I feel the same way. That's no knock on Los Angeles, where I am now... but New Mexico is just such a beautiful, open landscape. I love the sky and I love the mountains."

NMLC is lucky to continue to have Elizabeth helping to guide the organization toward fulfillment of its mission to preserve those landscapes for others to enjoy in the future. ♦



# CATRON COUNTY: AUTHENTIC LANDSCAPES, RICH HISTORY

ENCOMPASSING MUCH OF west-central New Mexico along the border with Arizona, Catron County is a region steeped

access to the great outdoors, cooler temperatures, favorable land values, and the charm of a rural lifestyle.



in western history and lore. It is also an area of great natural beauty and resources.

Over 80% of the county is in public land ownership, with the Cibola, Apache and Gila national forests comprising much of the rugged, higher elevation areas and a mix of Bureau of Land Management, State and private lands occupying the lower elevation areas, including the Plains of San Augustin on the eastern side of the county. The Continental Divide reaches its highest point in New Mexico at Alegres Mountain, one of the most prominent natural features in the area.

Catron County has had a long history of natural resource extraction and cattle and sheep ranching, beginning in the 1880s and continuing today. Historically, population densities have been low, but increasing development pressure is starting to bear along U.S. Highway 60 from Arizonans and New Mexicans in search of

Increasing subdivision and development of the limited private land base have prompted many Catron County residents to consider preserving their lands. In the past few years, NMLC has been working to help landowners place several conservation easements in the area of Alegres Mountain, stitching together a patchwork

of agricultural lands and open space that will be protected from residential development in perpetuity.

"It's a priority for NMLC to help preserve the natural and cultural landscapes of Catron County," remarks Michael Scisco, NMLC's Conservation Special-

ist. "This is a unique part of New Mexico and if we don't offset the pace of development with conservation, we are going to lose what little undeveloped private land remains, and the character of the local communities is going to change as well."

So far, NMLC has helped to preserve over 6,000 acres in this area, and another project underway will protect an additional 2,000. Together the properties help maintain an important wildlife corridor between the Apache and the Cibola National Forests, and help preserve the scenic viewshed along the Continental Divide.

Alegres Mountain Ranch, just south of Pie Town, exemplifies the quality and importance of the scenic, wildlife, and agricultural land values of the area. As a result of the collaborative efforts of NMLC and the New Mexico State Forestry Division, there are now over 3,200 acres of protected forest land on the western flanks of Alegres Mountain. The natural



habitat within the ranch supports many wildlife species including elk, mule deer, black bear, and mountain lion. The easement over the ranch will also help protect the headwaters of the Nester Draw and Middle Mangas Creek watersheds.

Blake Tollett, the ranch's owner, says, "When I first bought the original section of the ranch, every neighbor I met told me how special this piece of land was and that they hoped it would never be subdivided. I took their words to heart."

Tollett purchased four more sections in 1992 and his appreciation of the land grew. As development pressures on the area intensified, he became determined to protect his land. He first approached the New Mexico Land Conservancy in 2007 and decided to work to complete a conservation easement in two phases. "I made the right decision," reflects Tollett. "This isn't land you maximize your profits on. This is land you caretake, improve, and then pass along."

The Shortes family of Pie Town has also been working with NMLC to place portions of their ranch under easement. The Shortes XX Ranch has been in the family for four generations. NMLC has partnered with the Natural Resources Conservation Service (NRCS) and secured funding through their Farm and

Ranchland Protection Program to protect the ranch's grasslands and piñon-juniper woodlands for agriculture and conservation. The family is considering providing public access to parts of the land.

Zeke Shortes explains that the family wants to preserve the legacy provided by his grandfather, V.M. Shortes. "He loved the history, the rugged beauty, the pristine nature of the place. The area has suffered from the influx of subdivisions, and that has threatened the sacredness that first entranced my grandfather. A conservation easement will forever preserve his legacy, respect my grandfather's wishes, and allow us to provide an unspoiled landscape for generations to come."

Protecting ranchland in this unique area is important from a historic perspective as well. The Beefsteak Trail, the last regularly used cattle trail in the United States, wound through Catron County and the Alegres Mountain area from 1885 to the 1950s. At its peak in 1919, more than 21,000 cattle and 150,000

sheep were driven along the trail, ending up in Magdalena where they were loaded onto the railroad for further destinations.

The close-knit communities along Highway 60 are unique in their own right. In Pie Town, restaurants welcome visitors to have a slice of what gave the town

its name. Quemado (meaning "burnt" in Spanish) is a typical, small New Mexican highway town with a place or two to get a decent meal and fill your tank. But off the highway lies the mysterious Lightning Field art installation, built in 1977 by sculptor Walter De Maria.

Datil lies on the eastern edge of the Plains of San Augustin, and is the gateway to the Very Large Array, one of the world's premier astronomical radio observatories. It also contains an important prehistoric archeological site, the Ake Site, which is not open to the public. Other evidence of this area's use by ancient peoples can be found at the Bat Cave Shelters in Old Horse Springs, where the maize dates to 1350 BC, making it one of the earliest agricultural sites in the Southwest.

So next time you're passing through this area, whether you're hiking the Continental Divide, stopping for a piece of that pie, or taking in a beautiful sunset as you drive on to somewhere else, remember that it is thanks to landowners like Blake Tollett and the Shortes family that some of the magnificent surrounding landscape will be preserved, forever. ❖





# FEATURED PROJECT: FORKED LIGHTNING RANCH

**THE FORKED LIGHTNING** Ranch has a long and colorful history that dates back to 1925. In that year, Tex Austin bought up 5,500 acres of land in the old Pecos Pueblo Grant, located between the villages of Pecos and Rowe in the southwestern corner of San Miguel County along the flanks of the Sangre de Cristo Mountains. Over the years, the ownership and size of the ranch have changed, but its current owner, actress Jane Fonda, is working to protect its natural and historic resources from future development.



Tex Austin was a very industrious man. Initially, he drove cattle from the ranch to Las Vegas, but couldn't find the help he needed for the drives from the local citizens. He eventually enlisted the help of "dudes" from other parts who were willing to travel at their own expense for the chance to work on a cattle drive.

Tex ultimately combined his deeded lands with leased lands to build the Forked Lightning Ranch into a 100,000-acre cattle

operation. He had John Gaw Meem design and build a ranch house on a bluff overlooking the Pecos River — one of Meem's first assignments. The new house attracted tourists who would pay \$125 a week to stay at the ranch and live the "western" life.

Tex operated his ranch for only seven years. In 1933, with the property heavily mortgaged, he moved to Santa Fe and opened the Los Ranchos restaurant near the Plaza. Then, in 1938, he discovered he was going blind and committed suicide.

The ranch was sold to Texas oilman Buddy Fogelson in 1941.

Over the next 25 years, Fogelson expanded the ranch to over 13,000 acres of deeded land on which he conducted a small cattle operation.

Today, the ranch is more commonly associated with Fogelson's famous wife, actress Greer Garson, whom he married in 1949. The ranch and Garson were a good fit. At the ranch house, the couple hosted the rich and famous from around the world.

After Fogelson's death in 1987, Garson inherited the "old" northern portion of the Forked Lightning Ranch and subsequently donated a portion of it to the National Park Service to become part of what is now the Pecos National Historical

Park. Fogelson's son inherited the southern portion of the ranch which was subdivided and sold in the ensuing years. In 2000, Jane Fonda purchased what was left of the ranch, and today the Forked Lightning Ranch contains 3,200 acres with more than three miles of the Pecos River.

The setting of the ranch is spectacular. The river meanders through the center of the property and flows past large cliff outcroppings and intermittent patches of cottonwood and willow



gallery forests. The river and the surrounding piñon-juniper woodlands provide excellent natural habitat for native wildlife species.

Ms. Fonda regularly hosts family and friends at the ranch, but generally keeps to herself and enjoys the beauty and solitude of what has become her New Mexico retreat. She has proven to be an excellent steward of the land and has invested considerable resources into ensuring the health of the natural communities and wildlife on the ranch.

In 2009, Ms. Fonda approached NMLC with a desire to permanently protect the Forked Lightning Ranch. The Pecos River easement is the first phase of a two-phase project whereby Ms. Fonda has committed to place over 80% of the ranch under conservation easements. NMLC anticipates completing the second phase of this unique and important conservation project sometime this summer.

It has been a tremendous honor to work with Ms. Fonda in the pursuit of her conservation goals for the Forked Lightning Ranch. Through her efforts, the legacy of this important part of New Mexico's natural and cultural history will be preserved for future generations of New Mexicans to enjoy. ❖

## OTHER RECENTLY COMPLETED PROJECTS

For more information and photos, please see our web site at [www.nmlandconservancy.org](http://www.nmlandconservancy.org)

### Diamond Cross Ranch

3,220 acres northeast of Deming along Highway 27  
Eco-Region: Chihuahua Desert Grasslands  
Conservation Values: Agriculture, Scenic Open Space, & Wildlife Habitat  
Type of Project: Donated Conservation Easement  
Date Completed: December 2009

### Shortes XX Ranch – Phase I

2,880 acres south of Pie Town in Catron County  
Eco-Region: Arizona-New Mexico Mountains  
Conservation Values: Agriculture, Wildlife Habitat & Scenic Open Space  
Type of Project: Purchased Conservation Easement  
Date Completed: March 2010

### Sierra y Llanos Land & Cattle

225 acres just east of Las Vegas in San Miguel County  
Eco-Region: Southern Rockies  
Conservation Values: Agriculture, Scenic Open Space, & Wildlife Habitat  
Type of Project: Donated Conservation Easement  
Date Completed: December 2009

### EC Bar Ranch

94 acres south of Springerville, near Nutrioso in Arizona  
Eco-Region: AZ/NM Mountains  
Conservation Values: Agriculture, Wildlife Habitat & Scenic Open Space  
Type of Project: Donated Conservation Easement  
Date Completed: December 2009

### Eagle Heights

64 acres north of the Village of Jemez Springs in the Jemez Mountains  
Eco-Region: Southern Rockies  
Conservation Values: Scenic Open Space & Wildlife Habitat  
Type of Project: Donated Conservation Easement

### Rutheron Land & Cattle

53 acres south of Chama, near Los Ojos in Rio Arriba County  
Eco-Region: Southern Rocky Mountains  
Conservation Values: Agriculture, Scenic Open Space & Wildlife Habitat  
Type of Project: Donated Conservation Easement  
Date Completed: October 2009

### Sparks - West

5 acres within the Village of Los Ranchos de Albuquerque  
Eco-Region: Rio Grande Floodplain  
Conservation Values: Agriculture & Scenic Open Space  
Type of Project: Donated Conservation Easement  
Date Completed: December 2009



# UPDATES

## *New Staff: Lisa Adkins*

WE ARE VERY pleased to welcome Lisa Adkins, our new Administrative Assistant, to the NMLC offices at Petchesky Ranch!

Lisa comes to us with more than 18 years experience providing support in all areas of business and finance. She has a BA in Accounting and a MBA from the College of Santa Fe. Prior to working at NMLC, she was employed by Los Alamos National Laboratory as a Senior Financial Analyst. Lucky for us, Lisa's interest now lies in supporting non-profit organizations. In addition to her work at NMLC, Lisa volunteers with the Cub Scouts/ Boy Scouts, Big Brothers Big Sisters, and is on both the Board of Directors and the Marketing Committee for The Food Depot.

She has a passion for land conservation, as she spent her childhood visiting and living in National Parks. Her father was one of the first Hispanic Park Superintendents for the National Park Service. Lisa has two sons, Cameron and Nicholas, and is married to Ken Adkins. ❖



## *Small Agriculture Land Conservation Initiative (SALCI)*

FOR THE PAST year, NMLC has been actively involved in a collaborative effort with the Santa Fe Farmer's Market Institute and several New Mexico land trusts called the Small Agriculture Land Conservation Initiative (SALCI). The group has been working to generate interest in the enhancement of small agriculture among municipalities, state agencies, and private foundations.

One of the most interesting outcomes of the SALCI's efforts has been a partnership with the Permaculture Credit Union and the Permaculture Guild, who have offered to set up small loan programs for land trusts through which private

landowners can apply for low-interest loans. The loan funds will be used to help cover the costs of completing a conservation easement. NMLC has committed to contribute funds to the revolving loan program which will be matched with funds from the Permaculture Guild.

The Permaculture Credit Union has graciously offered to manage and administer the loan program.

If you are interested in learning more about the program, please contact our Conservation Specialist, Michael Scisco, at 505-986-3801. ❖





# Many Thanks to our Supporters

## Individuals

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## JANE PETCHESKY NAMED ONE OF SANTA FE'S LIVING TREASURES

THE NEW MEXICO Land Conservancy is thrilled to hear that our friend Jane Petchesky has been named one of Santa Fe's Living Treasures for 2010. The Santa Fe Living Treasures, an all-volunteer 501(c)(3) organization, publicly honors elders who have generously served our community with kind hearts and good deeds. Their oral histories and photographs are recorded, archived, and made available to the public at the Fray Angélico Chávez History Library.

Jane and her fellow Treasures will be honored at a ceremony Sunday, June 13th at 2:00 pm at the Unity Church in Santa Fe. For more information, go to <http://sflivingtreasures.org/index.php/events.html>.

Congratulations to Jane for this very well-deserved award! ❖

