

Pre-Approval Conservation Easement Tax Credit Certificates

Applications Submitted in Calendar Year 2014



COLORADO

**Department of
Regulatory Agencies**

Division of Real Estate

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Senate Bill 13-221 went into effect on January 1, 2014 to ensure that conservation easement donations were sufficiently examined for compliance before a tax credit certificate was issued. As a result, a conservation easement tax credit certificate application and review process was established.

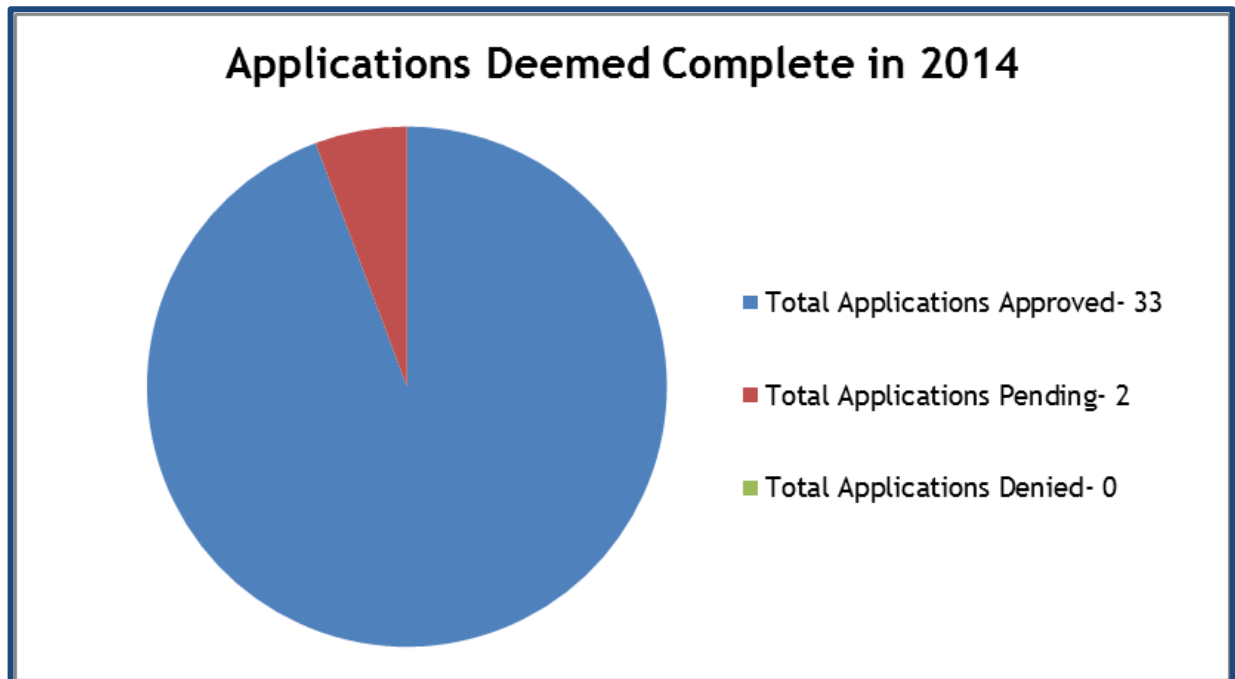
The Conservation Easement Oversight Commission (Commission) and the Director of the Division of Real Estate (Director) make the determination to approve or deny an application for a tax credit certificate. In making that determination, the Commission assesses whether the conservation easement donation associated with the application is a qualified conservation contribution under section 170(h) of the federal Internal Revenue Code. The Director determines whether the donation is supported with a credible appraisal prepared by a qualified appraiser. Applications that meet both requirements are approved and issued tax credit certificates. The Division of Real Estate (Division) assists the Commission and Director with their determination by reviewing each application for compliance with state law. Specifically, the Division staff reviews the appraisal, the conservation easement deed, and other aspects of the donation using objective compliance checklists. The Division also administers the tax credit cap, which is an annual aggregate limit on the total dollar amount of conservation easement tax credits available for a given year. For 2014, the tax credit cap was \$45 million.

Beginning in 2014 and for each calendar year thereafter, the Division within the Department of Regulatory Agencies must prepare a public report with aggregate information collected from pre-approval conservation easement tax credit certificate applications.

In 2014, the Division received 35 tax credit certificate applications. **This report only contains information relating to tax credit certificate applications deemed complete by the Division in the calendar year of 2014.** This information is current as of November 16, 2015. This report will be updated when there is a final determination on all 35 applications.

Tax Credit Certificate Applications Deemed Complete

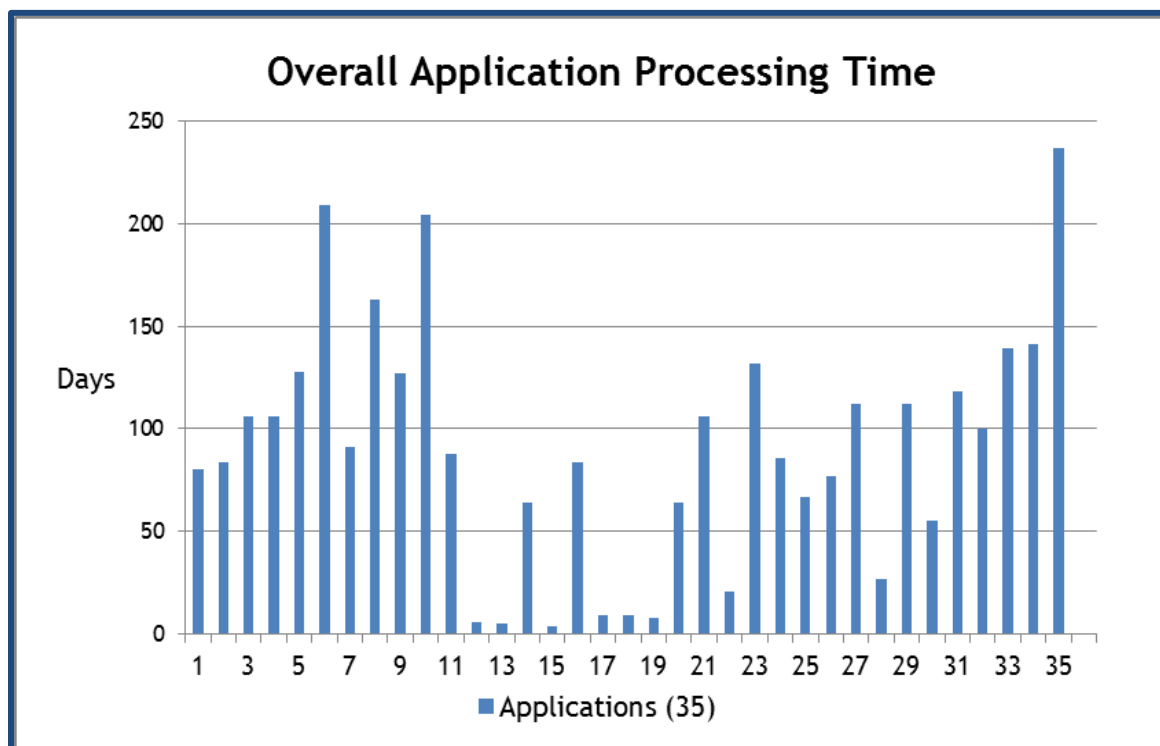
Of the 35 tax credit certificate applications deemed completed in 2014: 94% have been approved, 6% are pending, and none have been denied.



Overall Application Processing Time

As mandated by statute, the Division must review applications on average within 120 days by either issuing the tax credit certificate; sending a notice identifying potential concerns with the application or denying the application. Of the 35 applications deemed complete, the overall average application processing time was 91 days.

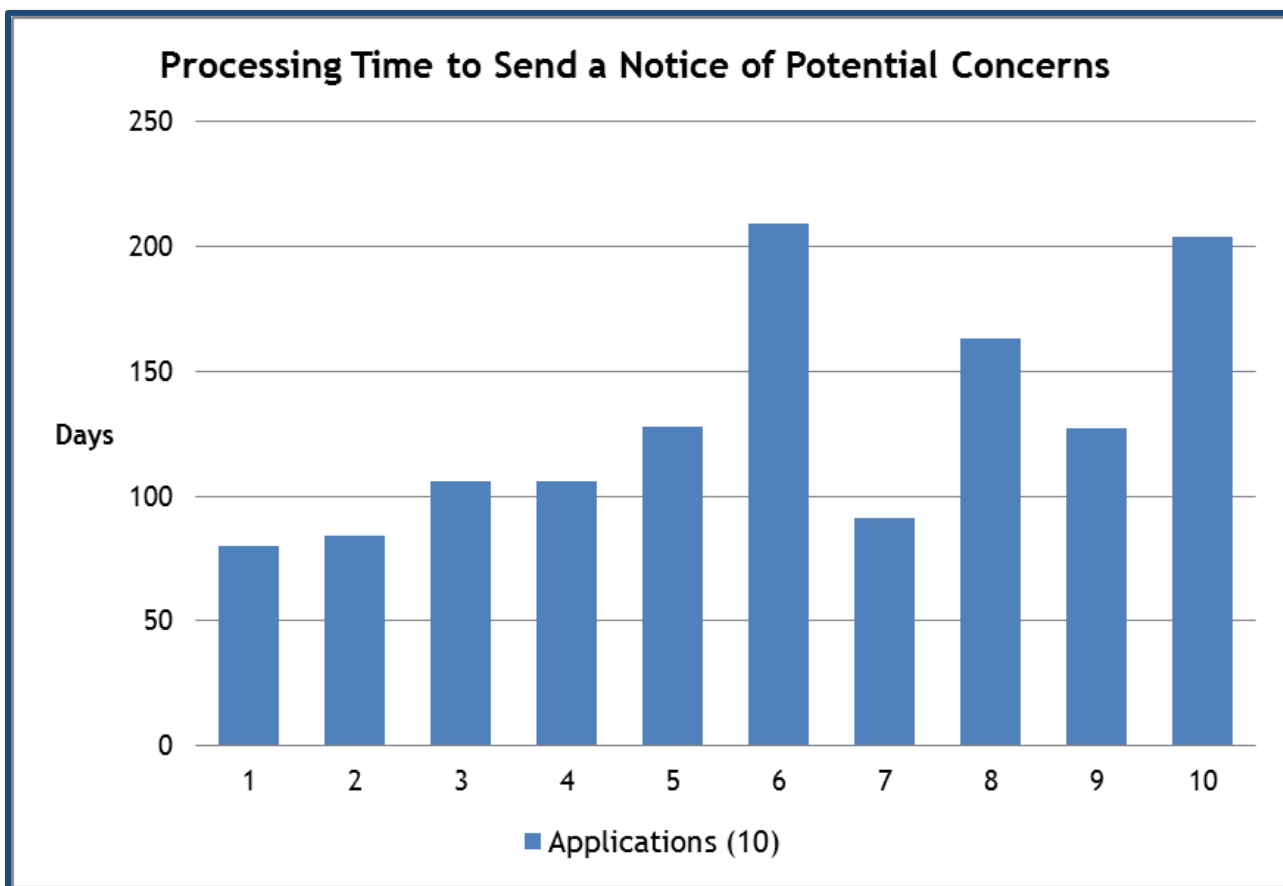
The below bar graph shows the processing time required to review and process the 35 applications by either issuing the tax credit certificate or sending a notice identifying potential concerns. 74% of the applications were processed in 120 days or less.



Processing Time to Send a Notice of Potential Concerns

Of the 35 applications, 89% of the applications had concerns with the appraisal that required correction on the part of the appraiser. Ten applications had significant appraisal issues warranting a denial. Instead, the Division sent a notice of potential concerns to the landowners who have the opportunity to address the concerns with their application.

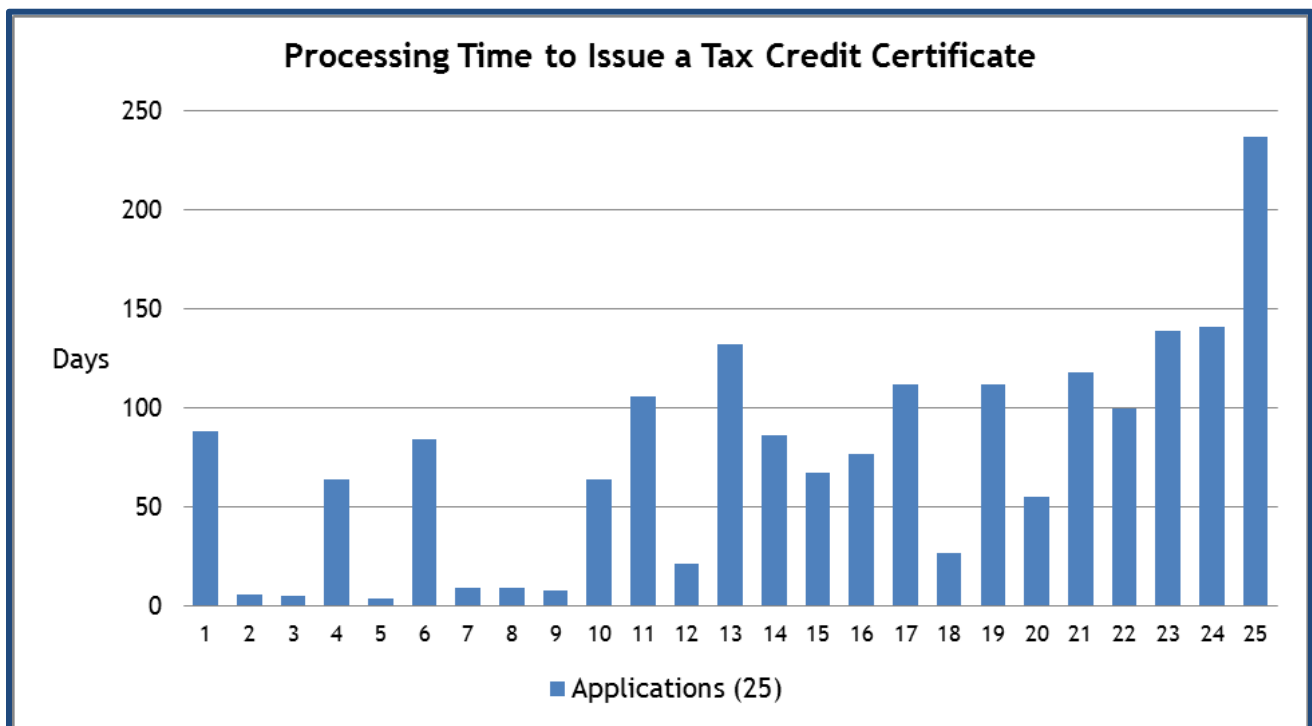
The below bar graph details the processing time involved to review and send the notice of potential concerns for each of the 10 applications. Due to the complexity of the appraisal issues and inadequate program staffing, the average processing time to send a notice was 130 days. 50% of the notices were sent in 120 days or less. If the potential appraisal concerns are corrected, the Division will issue a tax credit certificate to the landowner. Of the 10 notices sent: 80% have corrected the appraisal concerns and the tax credit certificates have been issued, 20% are pending, and none have been denied.



Processing Time to Issue a Tax Credit Certificate

For a majority of the applications, the Division is able to address the appraisal concerns with the appraiser, have corrections made to the appraisal and issue the tax credit certificate. The average processing time to approve an application and issue a tax credit certificate was 75 days, excluding the 10 applications where the Division identified significant concerns with the appraisals and sent a notice of potential concerns to the landowner.

The below bar graph details the processing time to review, discuss the appraisal concerns with the appraiser, obtain corrections from the appraiser, approve, and issue the tax credit certificate for each of the 25 approved applications. 84% of the approved applications were processed in 120 days or less. Ten of these applications were preceded by an optional preliminary advisory opinion that resulted in an expedited review time.

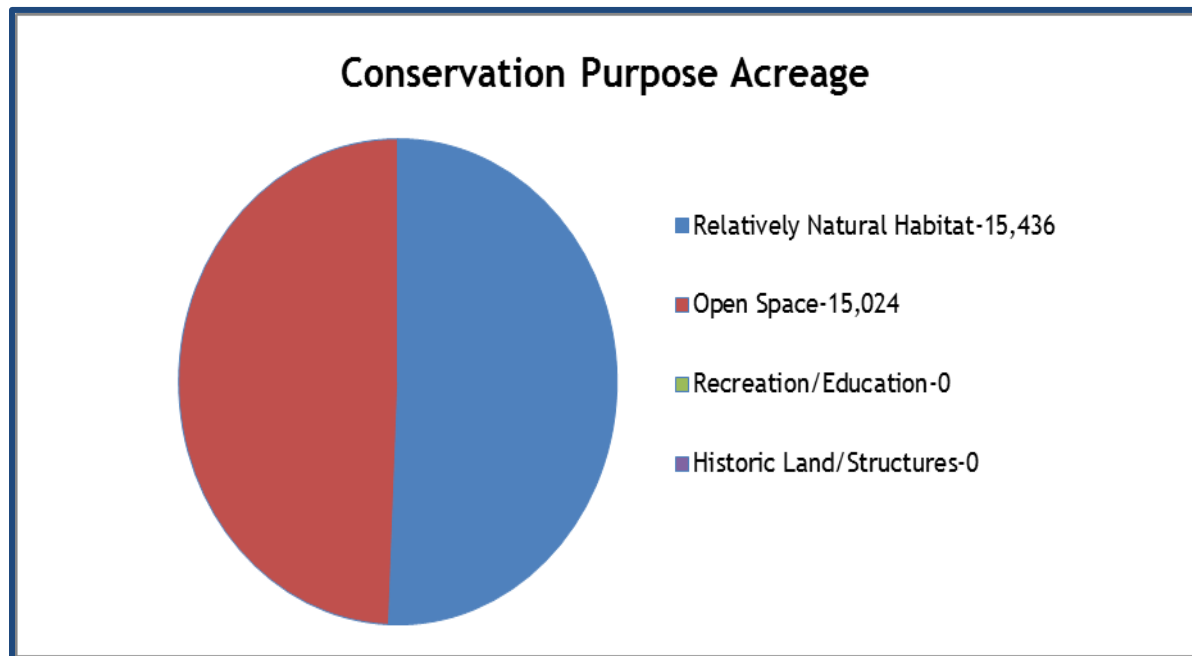


Conservation Purposes by Acreage for Approved Applications

The table below represents the conservation purpose for applications approved for a tax credit certificate, as defined in section 170(h) of the Internal Revenue Code (IRC). There are four conservation purpose categories:

1. Land area for outdoor recreation by, or the education of, the general public.
2. Relatively natural habitat for fish, wildlife, or plants, or similar ecosystem.
3. Open space (include scenic enjoyment and agriculture).
4. Historically important land area or a certified historic structure.

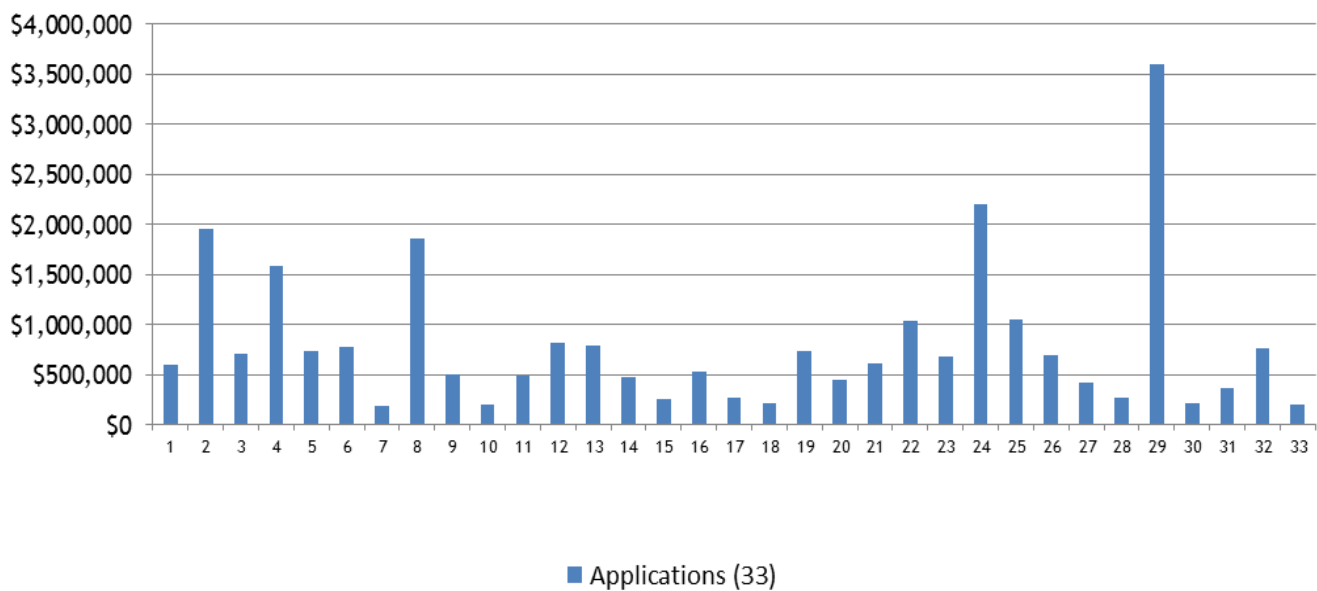
An application must satisfy one or more of the conservation purposes in order to be considered a qualified conservation contribution. All 33 applications approved for a tax credit certificate were either donated with the purpose to protect relatively natural habitat, open space or both. A total of 15,436 acres have been protected for relatively natural habitat and a total of 15,042 acres have been protected for open space.



Total Appraised Value of Approved Conservation Easements

The appraisal determines the fair market value of the conservation easement, which is the basis to calculate the state income tax credit. The below graph reflects the fair market values of the conservation easements approved for a tax credit certificate. The total aggregate of the fair market values of conservation easements approved for a tax credit certificate was \$26,355,171. The average fair market value for a conservation easement was \$798,642.

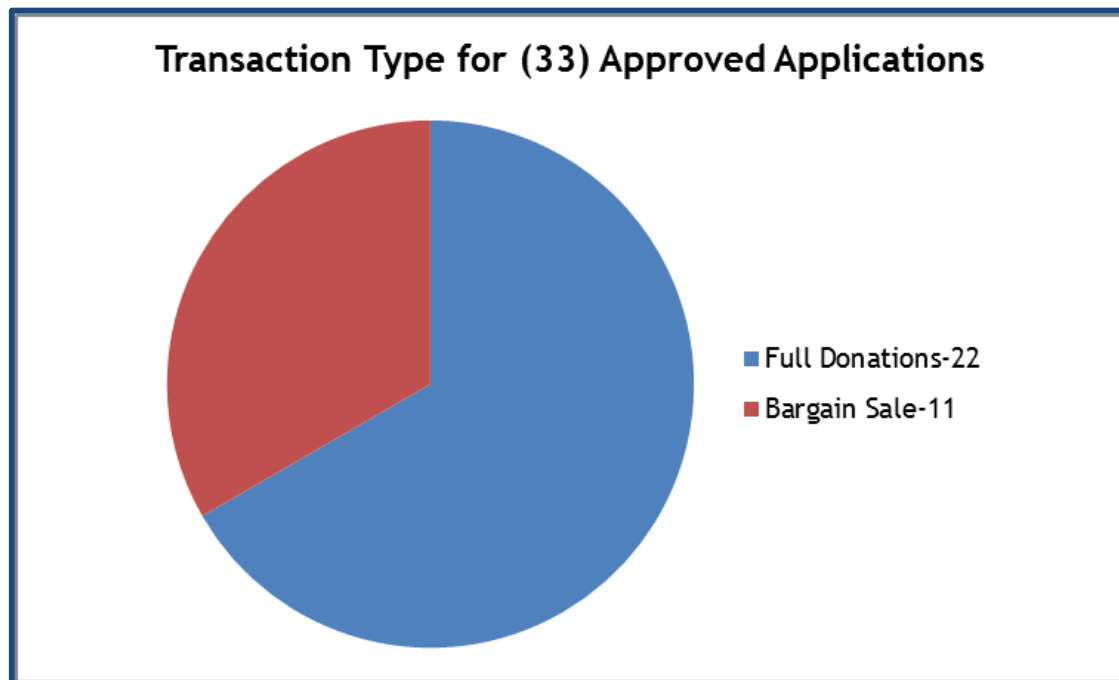
Appraised Values of Approved Conservation Easements



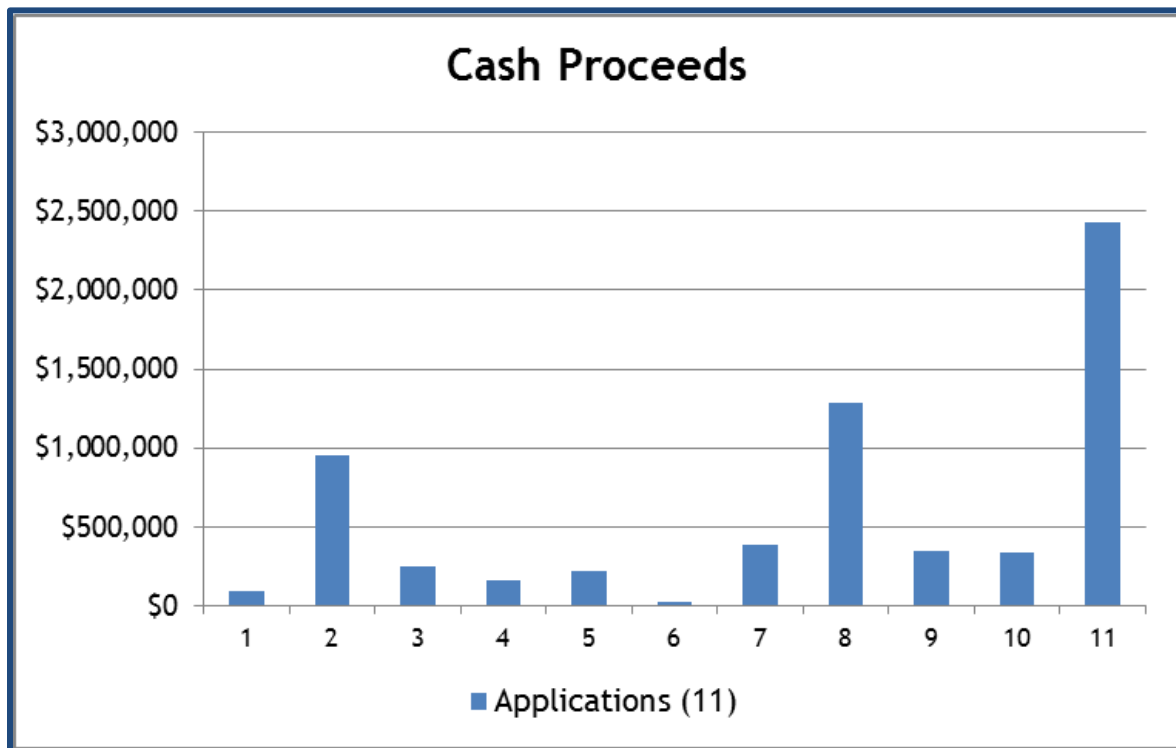
Conservation Easement Transaction Type for Approved Applications

The conservation easement transaction must have a charitable component to be eligible for the state income tax credit. The two types of conservation easements with a charitable component include full donations and bargain-sale transactions (part sale, part gift).

Of the 33 approved applications: 67% were full donations and 33% were bargain-sale transactions.



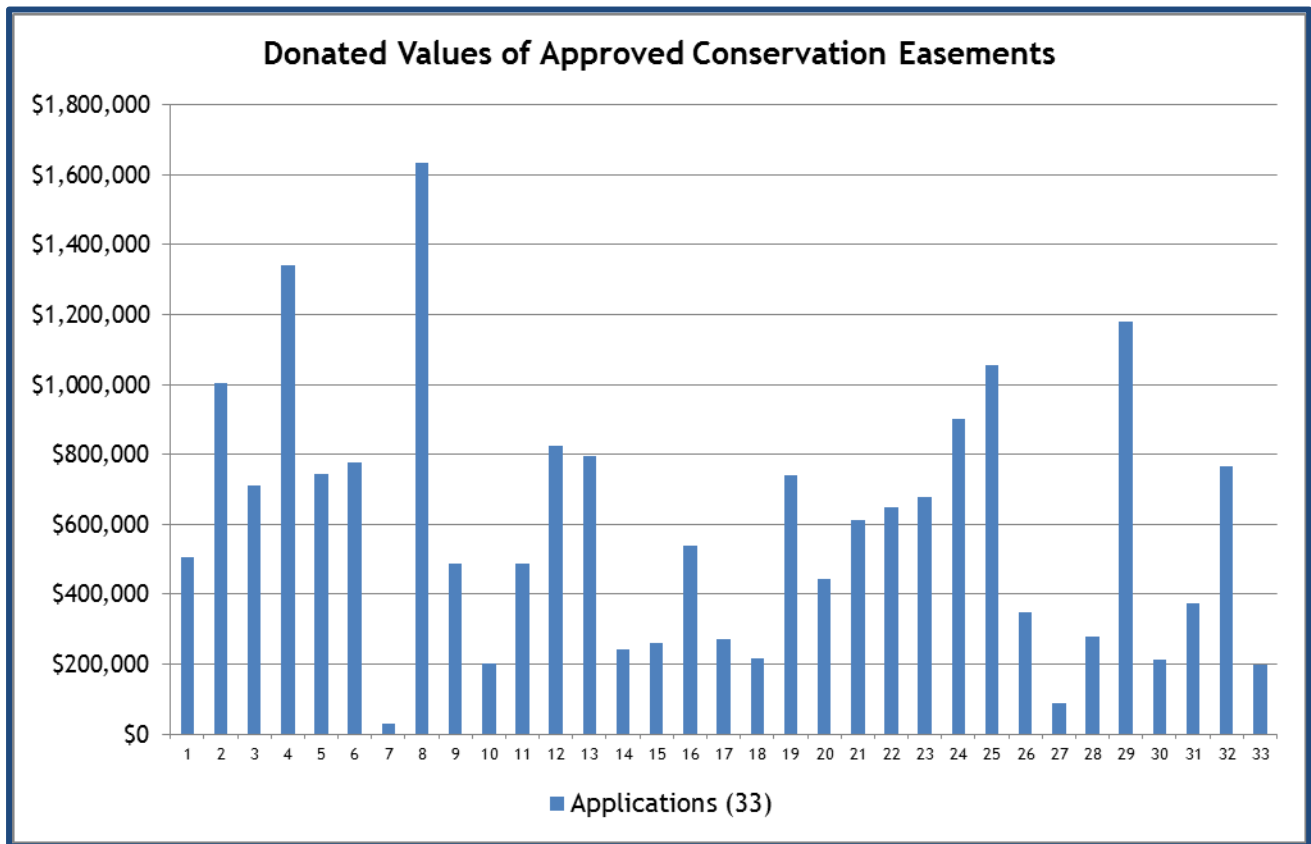
The below bar graph reflects the cash proceeds from the sale portion of the 11 bargain-sale conservation easements approved for a tax credit certificate. The total aggregate of the cash proceeds was \$6,509,498.



Total Donated Value of Conservation Easements

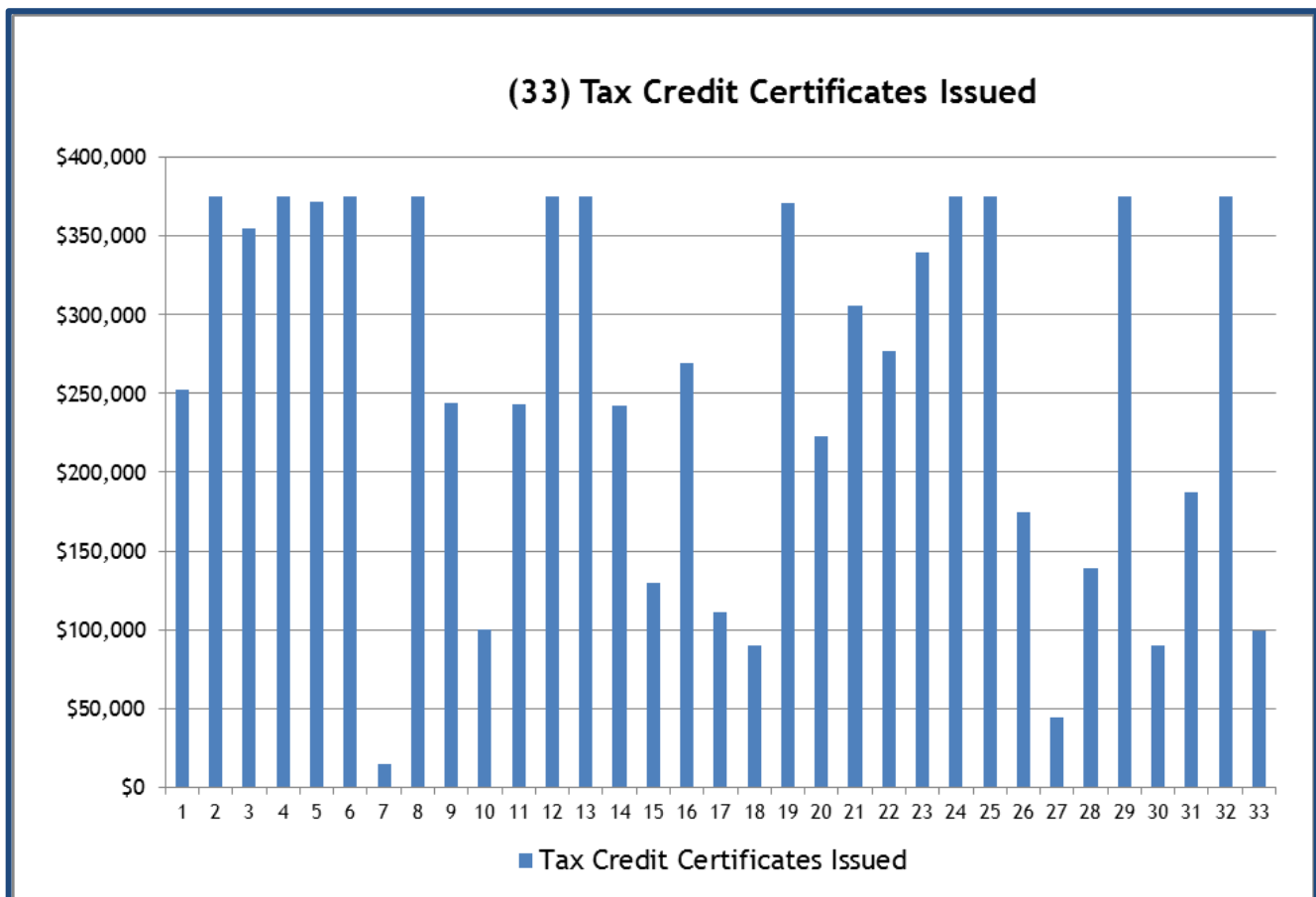
The total donated value of conservation easements approved for a tax credit certificate was \$19,594,173. The donated value represents the fair market value of the conservation easement as determined by the appraisal minus any cash proceeds for the purchase of a portion of the conservation easement's value. This is the amount the landowner may claim as a charitable donation. For 2014, the tax credit certificate may be issued for 50% of this amount up to \$375,000.

The chart below shows the donated value of each conservation easement approved for a tax credit certificate.



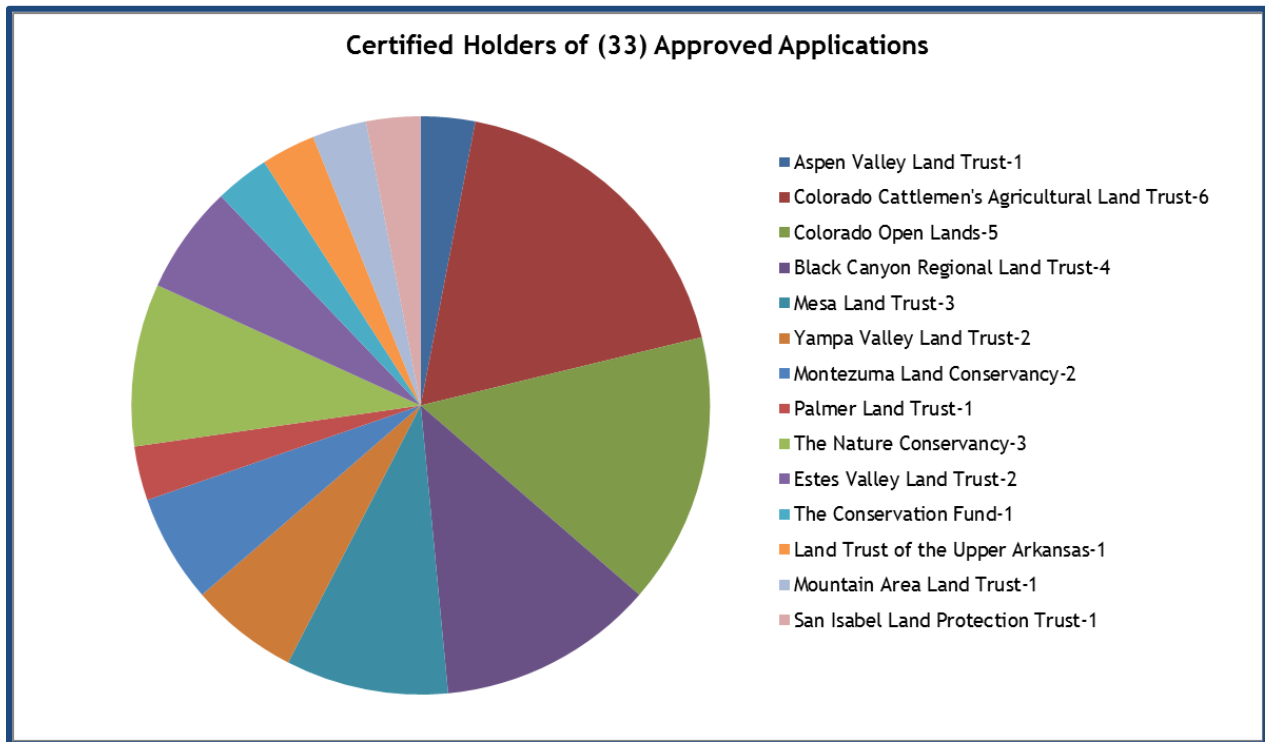
Total Value of Tax Credit Certificates Issued

For 2014, the Division may issue up to \$45 million in tax credit certificates. The Division received 35 applications requesting \$8,955,800. The total dollar amount of the 33 tax credit certificates issued by the Division was \$8,425,414. The average tax credit certificate was \$255,316. The chart below represents the value of each tax credit certificate issued by the Division.



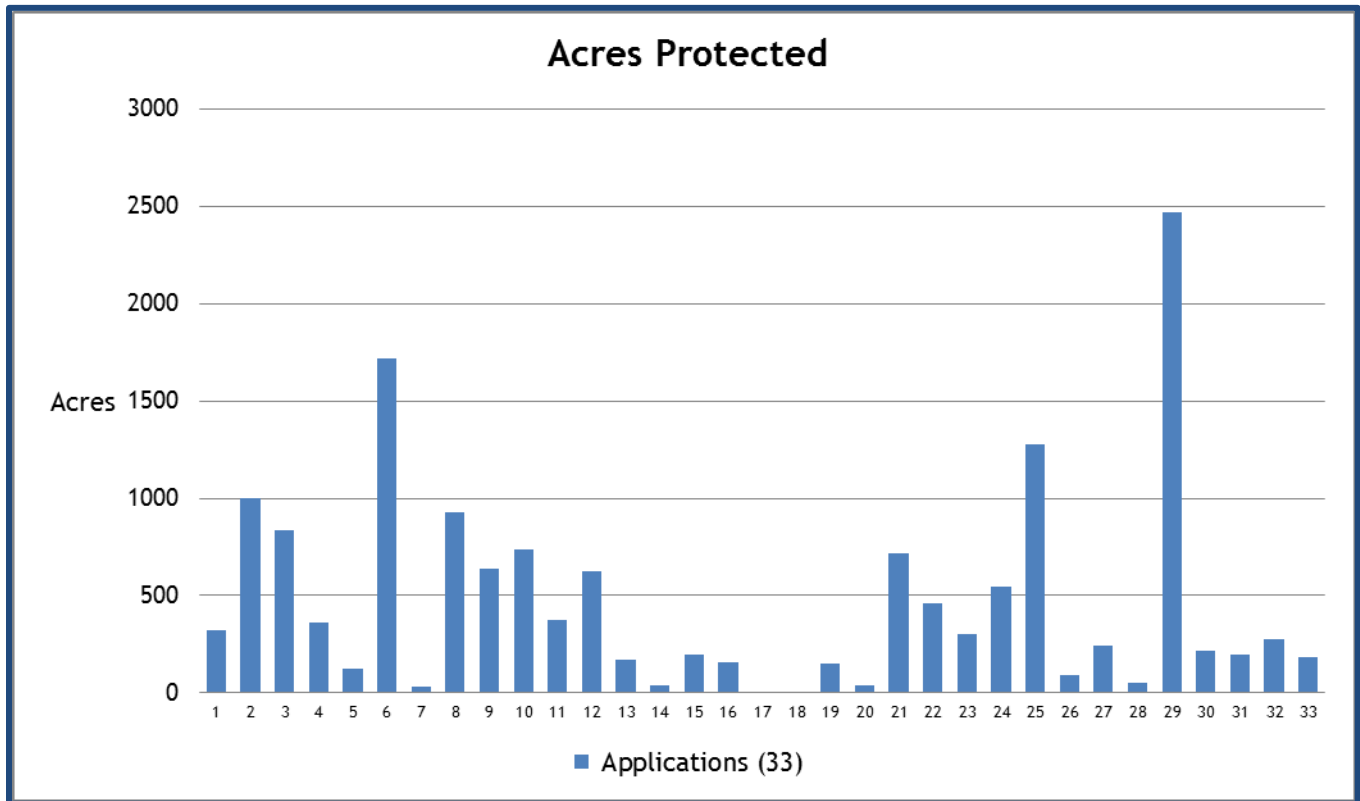
Conservation Easement Holders of Approved Applications

Of the total 41 conservation easement holders certified by the Division, only 14 holders are associated with the 33 approved applications for a tax credit certificate.

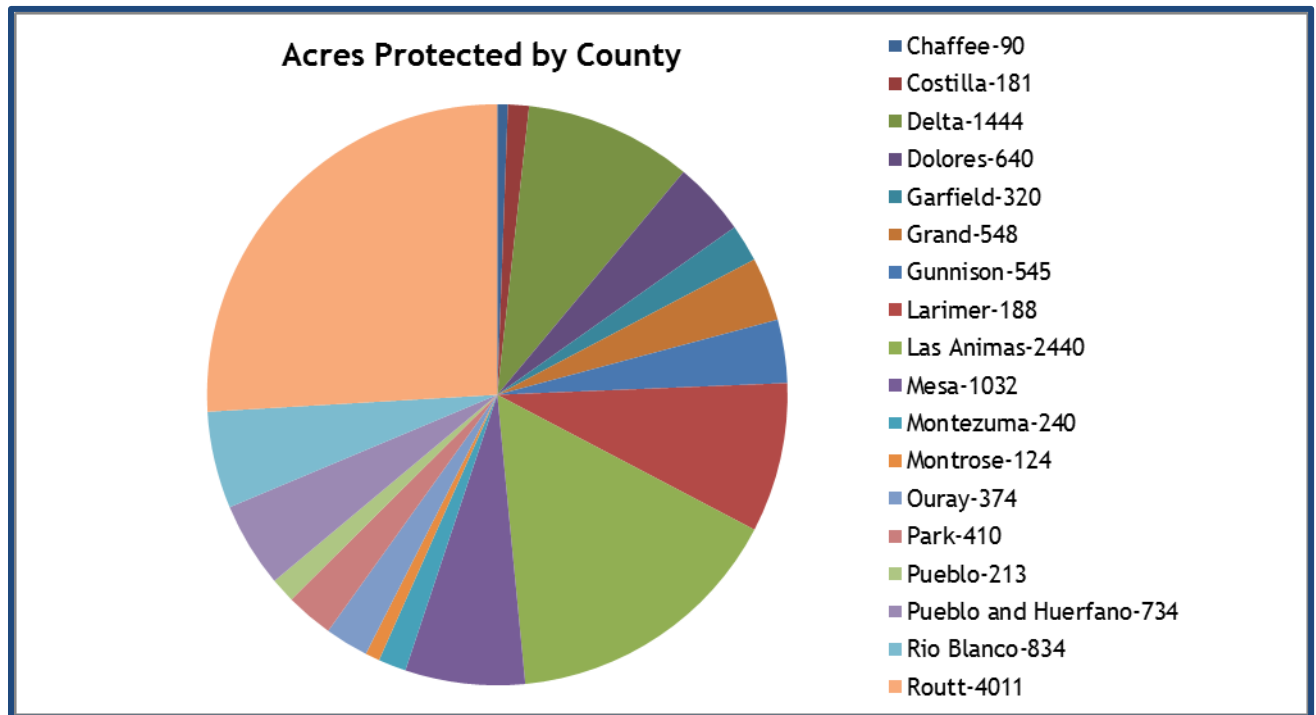


Total Acres Protected by Approved Applications

The total acreage protected by applications approved for a tax credit certificate was 15,468 acres. The sizes of the conservation easements range from 3 acres to more than 2,400 acres, with an average of 469 acres. The chart below shows the acreage of each application approved by the Division.

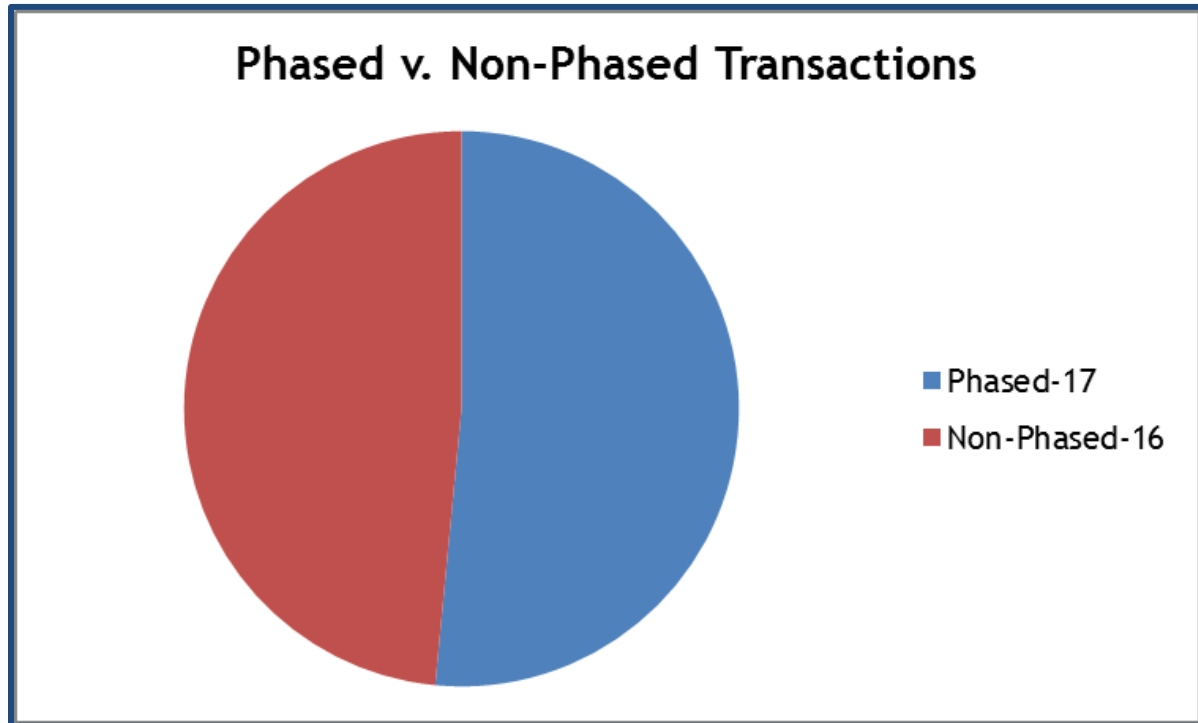


Applications approved for a tax credit certificate have protected properties in 18 counties. The breakdown of acres per county is depicted in the below pie chart. One application is located in two counties.



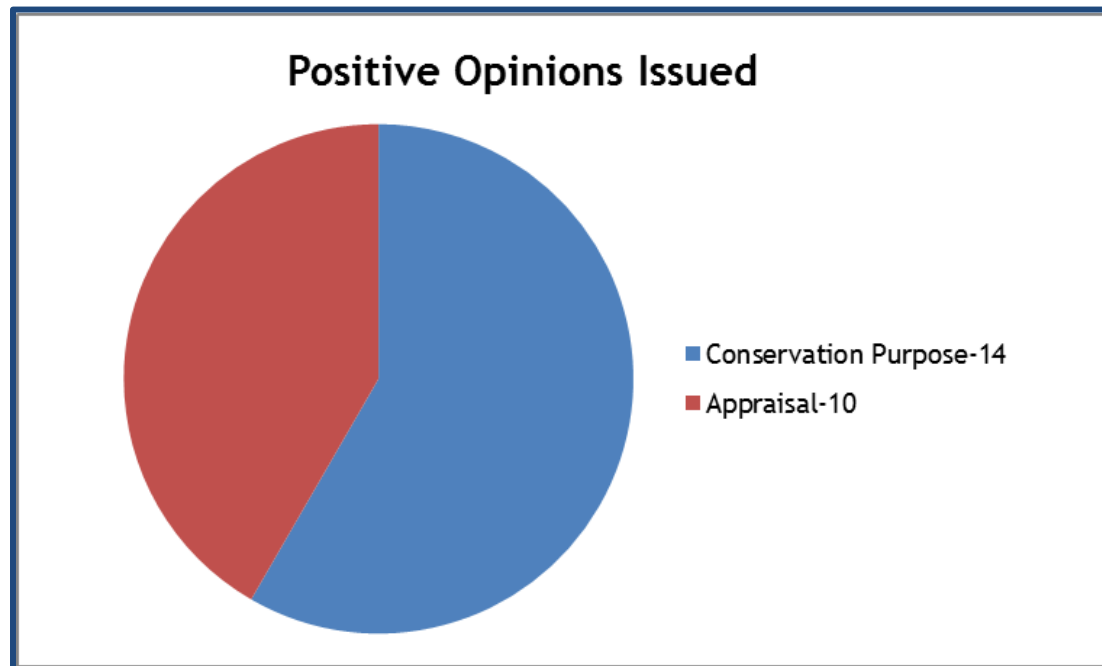
Phased Conservation Easement Transactions

Seventeen of the 33 approved applications (or 52%) indicated that the landowner has donated or is planning to donate, multiple conservation easements on their property.



Preliminary Advisory Opinions

The Division offers an optional Preliminary Advisory Opinion (PAO) for a conservation easement tax credit certificate. A PAO determines whether the anticipated donation is likely to be approved for a tax credit certificate. PAOs may be requested for a proposed donation's conservation purpose and/or appraisal. For 2014, the Division issued 24 opinions; all of which were positive. Of the 24 positive opinions issued, 58% were for conservation purpose and 42% were for the appraisal.



For more information regarding conservation easement tax credit certificates, please contact the Division at 303-894-2166.