

STATE OF COLORADO

DEPARTMENT OF REVENUE
State Capitol Annex
1375 Sherman Street
Denver, CO 80261
Conferee Section, Room 234



John Hickenlooper
Governor

Roxanne Huber
Executive Director

John Vecchiarelli
Division Director

July 1, 2011

The Honorable Mary Hodge
Chair, Joint Budget Committee
Colorado General Assembly

The Honorable Brian DelGrosso
Chair, House Finance Committee
Colorado General Assembly

The Honorable Michael Johnston
Chair, Senate Finance Committee
Colorado General Assembly

Dear Senators and Representatives:

Section 39-22-522.5(12), C.R.S., requires the Department of Revenue to submit a quarterly report to the Joint Budget Committee and the Finance Committees of the General Assembly which details the following information:

a) CASE SPECIFIC INFORMATION

The number of tax credits claimed pursuant to section 39-22-522 for which the Executive Director mailed a notice of deficiency, notice of rejection of refund claim, or notice of disallowance pursuant to section 39-21-103.

- The Department disallowed conservation easement tax credits in 615 cases.
- Of these 615 cases, 23 subsequently were allowed the tax credit in full, 44 were resolved by the Department prior to the effective date of this legislation, and 2 were disallowed after the effective date of this legislation; thus 546 cases remain to be resolved by the Department.

b) APPRAISAL SPECIFIC INFORMATION

The number of such cases sent to the Conservation Easement Oversight Commission (CEOC) for review pursuant to section 12-61-721, C.R.S.

- As of 06/21/11, the Department sent 611 appraisals (or partial appraisals) to the CEOC for review.
- Of these 611 appraisals, 7 were for 2nd or 3rd appraisals. Therefore, appraisals on 604 cases were sent to the CEOC for review. Of these 604 cases, 51 were never disallowed by the Department, 5 were allowed after the CEOC review, and 2 were disallowed after the effective date of this legislation; thus 546 cases remain to be resolved by the Department after the CEOC review.

c) CEOC RECOMMENDATIONS

The number of such cases returned to the Executive Director with the advice of the CEOC created in section 12-61-721(1), C.R.S., and the action, if any, taken by the Department of Revenue on the cases returned by the commission.

- Of the 611 appraisals sent for review, 209 are scheduled for review in July 2011.
- The CEOC returned recommendations on 402 cases to the Executive Director after review.
- The CEOC recommended approval of 21 cases and the Department allowed the full credit claimed.
- The CEOC recommended rejection of credits in 381 cases.

d) MEDIATION PROCESS

The number and progress of any cases that are in a mediation process and the status of such mediation.

- 51 cases went to mediation without any success because the differences in valuation, and thus the starting points for mediation settlement, were dramatic as is evidenced by the following:
 - The Taxpayers' appraisals in these 51 cases valued the land at \$35,255,800 while the Department's independent appraisers valued the same property at \$620,007. This is a difference of \$34,635,793 or a 5,686.4% overvaluation.
 - The Taxpayers in these 51 cases claimed credits that totaled \$13,186,402 while the Department asserted the credit should be \$600,007. This is a difference of \$12,586,395 or a 2,197.7% over claim of credit.
- No other taxpayer has requested mediation.
- Per pending regulation, the Department will treat a request for mediation as an agreement to extend the statutory deadline to hold administrative hearing.

e) REFERRALS TO THE ATTORNEY GENERAL'S OFFICE

The number of cases referred to the Attorney General's office for resolution.

- 65 cases have been sent forward to the Attorney's General's office for resolution.
- 4 of these cases had a formal hearing pursuant to Section 39-21-103, C.R.S. in which the Executive Director's designee ruled in favor of the Department.
- These 4 cases have filed an appeal in District Court.

f) CASES RESOLVED BY THE DEPARTMENT OF REVENUE

The number of cases finally resolved by the Department of Revenue.

- The Department sent Notices of Final Determination in 4 of the cases sent to the Attorney General's office prior to the effective date of House Bill 11-1300.

g) DOLLAR AMOUNTS OWED OR WAIVED

The amount of deficient taxes, interest, and penalties determined to be owed or waived by the Department of Revenue in administering the resolution of cases.

- In the 4 cases finally resolved by the Department, Notices of Final Determination were issued in the amount of \$1,379,923.00 (\$833,142 in taxes, \$454,942.00 in interest, and \$91,839.00 in penalties); \$2,469.00 was waived (\$1,440.00 in taxes, \$856.00 in interest, and \$173.00 in penalties).

h) CREDITS ALLOWED IN FULL

The number and total amount of credits that were originally contested but subsequently allowed to be claimed in full.

- Of the 21 appraisals the CEOC recommended for approval, only 5 were originally disallowed by the Department. (The remaining 16 were merely reviewed without having had the credit disallowed.) These 5 appraisals consisted of \$1,851,500.00 in credits which were subsequently allowed in full.

i) DOLLAR AMOUNTS EXPENDED

The amount of moneys expended by the Department of Revenue in administering the resolution of cases.

- Between July 2010 and May 2011, the Department spent \$783,949 on the resolution of disputed conservation easement cases as follows:
 - Salary and Benefits: \$346,179;
 - Appraisals: \$125,193;
 - Attorney General Costs: \$291,918; and
 - General Operating Expenses: \$20,659

Sincerely,



Roxy Huber
Executive Director
Colorado Department of Revenue

Cc: Members of the Joint Budget Committee, Colorado General Assembly
Members of the House Finance Committee, Colorado General Assembly
Members of the Senate Finance Committee, Colorado General Assembly

Joint Budget Committee Members:

The Honorable Pat Steadman, Joint Budget Committee, Colorado General Assembly
The Honorable Kent Lambert, Joint Budget Committee, Colorado General Assembly
The Honorable Cheri Gerou, Joint Budget Committee, Colorado General Assembly
The Honorable Jon Becker, Joint Budget Committee, Colorado General Assembly
The Honorable Mark Ferrandino, Joint Budget Committee, Colorado General Assembly

House Finance Committee Members:

The Honorable Keith Swerdfeger, House Finance Committee, Colorado General Assembly
The Honorable Cindy Acree, House Finance Committee, Colorado General Assembly
The Honorable Don Beezley, House Finance Committee, Colorado General Assembly
The Honorable Kathleen Conti, House Finance Committee, Colorado General Assembly
The Honorable Crisanta Duran, House Finance Committee, Colorado General Assembly
The Honorable Dickey Lee Hullinghorst, House Finance Committee, Colorado General Assembly
The Honorable Janak Joshi, House Finance Committee, Colorado General Assembly
The Honorable Daniel Kagan, House Finance Committee, Colorado General Assembly
The Honorable John Kefalas, House Finance Committee, Colorado General Assembly
The Honorable Jeanne Labuda, House Finance Committee, Colorado General Assembly
The Honorable Dan Pabon, House Finance Committee, Colorado General Assembly
The Honorable Spencer Swalm, House Finance Committee, Colorado General Assembly

Senate Finance Committee Members:

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The Honorable Greg Brophy, Senate Finance Committee, Colorado General Assembly
The Honorable Lucia Guzman, Senate Finance Committee, Colorado General Assembly
The Honorable Cheri Jahn, Senate Finance Committee, Colorado General Assembly
The Honorable Keith King, Senate Finance Committee, Colorado General Assembly
The Honorable Mark Scheffel, Senate Finance Committee, Colorado General Assembly