

Conservation Easement Appeals in the Colorado Courts

Quarterly Report Prepared Pursuant to C.R.S. § 39-22-522.5(13)

March 12, 2013

Prepared by the Colorado State Court Administrator's Office



Colorado law requires the State Court Administrator to compile a report on conservation easement appeals in the trial courts. This report is due quarterly to the Joint Budget Committee and the Finance Committees of the General Assembly [see C.R.S. § 39-22-522.5(13)]. This report will describe (a) the number of taxpayers electing to appeal pursuant to C.R.S. § 39-22-522.5(2); (b) the number of cases pending before the district courts or on appeal before other courts; (c) the number of cases finally resolved; (d) the amount of moneys estimated to have been expended by the courts in administering the appeals; and (e) the amount of deficient taxes, interest, and penalties determined to be owed or waived in connection with the appeals.

A. The number of taxpayers electing to appeal pursuant to C.R.S. § 39-22-522.5(2)

The State Court Administrator’s Office has determined that there are approximately 420 named Tax Matters Representatives and 450 conservation easements involved in the appeals filed before the district courts. Currently, this is the most accurate number that can be provided which reflects the taxpayers electing to appeal. This number is based on the Tax Matters Representatives named and the facts set forth in the Plaintiffs’ Notices of Appeal. The Tax Matters Representative represents and binds all transferees with respect to all issues regarding the credit claim.

There are 235 entities named as Tax Matters Representatives and approximately 149 of the Tax Matters Representative entities are pass-through entities. 137 individuals and 4 entities represent the Named Tax Matters Representative entities. 113 of the Representatives of Tax Matters Representative entities are not also named as an individual Tax Matters Representative in a separate case.

Conservation Easement Tax Credit Appeal Taxpayer Summary

	Number of Named Tax Matters Representatives	Representatives of TMR Entities
Individuals	185	137
Pass-Through Entities	149	0
Other Business Entities, Trusts and Estates	86	4
Total	420	141

B. The number of cases pending before the district courts or on appeal before other courts and the number of cases finally resolved

As of March 8, 2013, approximately 193 conservation easement tax credit appeals had been filed in the district courts. No new cases have been filed with the courts since September 2012. Region 1 has 41 cases, Region 2 has 129 and Region 3 has 23 cases. In Region 1, 22 cases have been closed, and in Region 2, 49 cases have been closed. In Region 3, 12 cases have been closed. Therefore, there are a total of 110 open cases pending before all three regions. Approximately 58 of the cases closed have been consolidated into other conservation easement actions and are pending resolution. A final resolution has been reached in 25 cases. Currently, 4 cases have parties that have attained settlement agreements and are in the process of filing stipulated motions to dismiss the case.

The first preliminary phase hearing on easement validity was held in the Otero County District Court on October 9, 2012. The Court issued its order determining the conservation easement credit invalid as claimed on January 22, 2013. A judgment has yet to be entered in the case. There are approximately 51 additional cases are set for preliminary hearings regarding the validity of the credit and the parties are in the process of conducting discovery.

Conservation Easement Tax Credit Appeal Case Summary as of March 8, 2013

Region	Cases Filed	Cases on Appeal	Cases Closed	Total Open Cases To Date
Region 1	41	0	22	19
Region 2	129	0	49	80
Region 3	23	0	12	11
Total	193	0	83	110

C. The amount of moneys estimated to have been expended by the courts in administering the appeals

Type	Amount
Personal Services	\$249,114
Operating	\$4,947
Total	\$254,061

D. The amount of deficient taxes, interest, and penalties determined to be owed or waived in connection with the appeals

No judgments have been entered in any conservation easement cases to date. The 25 cases that have been resolved were closed due to settlement, voluntary dismissal, or for procedural reasons.