

# **Conservation Easement Appeals in the Colorado Courts**

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

December 14, 2016

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)**

There are approximately 420 named Tax Matters Representatives (“TMR”) and 450 conservation easements involved in the appeals filed before the district courts.

This number is based on the TMRs named and the facts set forth in the Plaintiffs’ Notices of Appeal. The Tax Matters Representatives represents and binds all transferees with respect to all issues regarding the credit claim.

There are 235 entities named as Tax Matters Representatives. Approximately 149 of the TMR entities are pass-through entities, which have separate individual taxpayers claiming the credits or selling the credits to transferee taxpayers.

Conservation Easement Tax Credit Appeal Taxpayer Summary

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

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

The table below contains a summary of the number of cases filed, cases closed, cases pending, and cases on appeal. Please note that the number of cases on appeal is a subset of the total open cases.

Conservation Easement Tax Credit Appeal Case Summary as of December 14, 2016

Region	Cases Filed	Cases Closed	Total Open Cases To Date	Cases on Appeal
Region 1	41	40	1	1
Region 2	130	129	1	0
Region 3	24	24	0	0
Total	195	193	2	1

As of December 14, 2016, 195 conservation easement tax credit appeals had been filed in the district courts. There are a total of two open cases. The remaining open case in Region 1 is somewhat more complicated than usual because it started as thirteen separate cases that were later consolidated into a single case. The cases were consolidated because all had the same tax matters representative. While consolidation has aided in the administration of the case, it is anticipated to take longer than normal to resolve.

There is one appeal before the Colorado Court of Appeals. An opinion was issued in Jackson County case 2011CV14, Court of Appeals case number 2015CA1514 on October 20, 2016. The case is pending a mandate.

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

<b>Type</b>	<b>Amount</b>
Personal Services	\$599,586
Operating	\$6,322
Total	\$605,908

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

There has been no change in the amount of judgements entered by the court since the quarterly report submitted in December of 2015. The Court has entered \$1,122,675.30 in judgments for tax, interest and penalties in favor of the Department of Revenue in 20 cases. The Court has also entered \$2,639,226.17 in judgments in favor of Tax Matters Transferees and third party intervenors, resulting in a total of \$3,761,901.47 of judgments entered by the Court in 24 cases. In cases resolved through settlement where parties have not sought a judgment, the Court retains jurisdiction to enforce the settlement agreements and enter judgment in event of a party's failure to comply.