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A. BLAIR DUNN, ESQ.

LICENSED IN NM AND SD

VIA EMAIL ONLY

February 19, 2020

Governor Jared Polis
 State Capitol Building
 200 E. Colfax Ave., Rm. 136
 Denver, CO 80203
Governorpolis@state.co.us

Attorney General Phil Weiser
 Ralph L. Carr Judicial Building
 1300 Broadway, 10th Floor
 Denver, CO 80203
phil.weiser@coag.gov

Executive Director Lu Córdova
 Department of Revenue
 1375 Sherman St.
 Denver, Colorado 80261
lu.cordova@state.co.us

RE: *Admission by Deborah Van Wyke of Fraud Against the Taxpayers in the Settlement of Dispute Conservation Easement Tax Credit Clawbacks; Notice of Potential Section 1983 Litigation for Malicious Prosecution and Referral to the United States Attorney for the District of Colorado for Corruption and Civil Rights Violations*

Dear Governor Polis, General Weiser and Director Córdova,

This law firm represents many landowners in Colorado that are part of Landowners United Advocacy Foundation with regard to the horrible devastation visited upon them by the taking of their private property conservation easements through the clawback of tax credits that they were offered and taken in exchange for those conservation easements. We are also assisting with advocating for SB 20-135 as a means of partially repairing the damage done to these honest people. As result, of the hearing on SB-135 last Thursday in the Senate Ag Committee new evidence was brought to light that is not only extremely disturbing but also appears to be an admission of criminal culpability by Ms. Deborah Van Wyke of the Department of Revenue. We have attached the communication here for reference, but we also quote the relevant portion as follows:

[a]s for the 2nd question, you have the idea right about our settlement process. We do NOT assert any value to the CE when trying to resolve the protests of disallowed tax credit cases. Instead, we try to remain consistent with how each case is settled compared with other

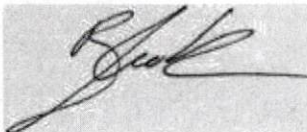
cases. Our settlement figures are not a valuation of the CE but instead are an offer to resolve the outstanding tax liability (since the tax credit used to offset the liability was disallowed).

This is of course an admission that contrary to the direction of the Colorado Legislature and made under threat of incarceration and fines that the State of Colorado knowingly misrepresented and offered zero value for disputed conservation easements even when they knew that was not the case in order to coerce a settlement beyond what the State of Colorado knew they were entitled to receive even under the laws as passed. Whether Ms. Van Wyke was acting under direction from the Governor's Office or with the endorsement of the Attorney General's Office remains to be discovered, but the bottom line is that such action is completely untenable for the government of the State of Colorado to have perpetrated upon her citizens.

We believe that such an action fits squarely into a malicious prosecution prohibited by the Fourth Amendment and is a deprivation of property without the Due Process protected by the Fifth Amendment. This type of fraudulent misrepresentation made for the purposes of coercing a settlement to steal money from citizens that is not due and owing to the government should also likely be actionable under Federal RICO statutes and violates the citizens' civil rights. We will be notifying the United States Attorney for the District of Colorado with our concerns but feel that it is appropriate for your offices to be afforded the opportunity to rectify this illegal activity short of litigation.

We sincerely hope that you will take these concerns seriously and take the opportunity to do right by the citizens that you serve in your respective capacities. We appreciate and understand that the Legislature is taking this seriously to try to repair past wrongs and in light of this admission of egregious conduct by the State of Colorado acting under the color of law thru Ms. Van Wyke we hope to discuss the matter with you as soon as is possible.

Respectfully,



A. Blair Dunn, Esq.

Cc: Senator Jerry Sonnenberg - senatorsonnenberg@gmail.com
Senator Kerry Donovan - kerry.donovan.senate@state.co.us
U.S. Attorney Jason R. Dunn - jason.dunn@usdoj.gov
client
(attachment)

From: Jody Barbour <jody@taxtransfer.net>
Sent: Thursday, February 13, 2020 4:45 PM
To: Jody Barbour
Subject: Email from Revenue re Settlements

From: "Van Wyke - DOR, Deborah" <Deborah.VanWyke@state.co.us>
Date: Monday, June 24, 2019 at 2:02 PM
To: Jody Barbour <jody@taxtransfer.net>
Cc: Eric Bufford <eric.bufford@state.co.us>
Subject: Re: Settlements

Jody,

Sorry for the delay in responding. I was out of the office on Friday and it always takes a bit of time to get caught up with e-mail and phone calls (even for just being gone one day).

As for the 2nd question, you have the idea right about our settlement process. We do NOT assert any value to the CE when trying to resolve the protests of disallowed tax credit cases. Instead, we try to remain consistent with how each case is settled compared with other cases. Our settlement figures are not a valuation of the CE but instead are an offer to resolve the outstanding tax liability (since the tax credit used to offset the liability was disallowed).

I hope this helps.

Debbie Van Wyke
Tax Conferee II
Gross Conservation Easement Program Manager



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On Mon, Jun 24, 2019 at 6:31 AM Jody Barbour <jody@taxtransfer.net> wrote:

Hi Debbie,

We also discussed that Revenue doesn't try to come up with values based on the appraisal or additional information because they are not appraisers, but rather looks at tax liability on the buyer tax payer end and makes a settlement based on what tax liabilities have been settled in cases in similar areas.

Do I have that right? I just want to be sure I communicate the correct information to ____ and ____.

Jody A. Barbour
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