

To the Colorado Legislators:

I am Janice M. Hotchkiss, age 80, wife of Richard C. Hotchkiss, age 82, married for 60 years with no other income except from ranching. The easements were perfect to keep the ranches in agriculture and not subdivided for our heirs. We were not told the disallowments could happen. The easements were paid and examined by the experts and paid our tax and a few years later, the Department of Revenue changed their mind. They made us feel like criminals and the women were rude & would not listen to us.

We spent a lot on Lawyer fees & appraisals (\$25,000). Then we had to pay back \$50,000 by December 31, 2018 and \$148,367.00 by March 30, 2019. The mental stress and financial strain was unreal for us at our age. Now we have not retirement.

Billionaire Bill Koch bought ground within a mile from our ranch and paid a lot for his ground that he built his Western town on. This made our comparable high and Mike Nash would not use them. He was definitely for the State. He had big mistakes on his Appraisal. The Department of Revenue is certainly nothing for the State to be proud of and if we, and all landowners are not paid back, I will turn this to the media to investigate it. TV & newspapers would love it. The good thing is we created beautiful open space forever. Please do the right thing and get our money back to us. Make Colorado Proud.

Thank you.

Janice M. Hotchkiss
Richard C. Hotchkiss



HIXSON FARMS
Jillane Hixson
7943 County Road DD
Lamar, CO 81052
719-336-4285 / jrh@centurytel.net

March 04, 2021

Colorado State Legislators
200 E. Colfax Avenue
Denver, CO 80203
via email

RE: Please Vote "Yes" - SB21-033 – Conservation Easement Reparations

Dear Honorable Senators & Representatives

In 2003, with a great deal of due diligence and the with the help of highly credentialed professionals (attorneys, state certified appraisers, wildlife biologists, etc); my family donated Conservation Easements to a qualified land trust. Per the provisions of Colorado statutes, we subsequently sold our state tax credits, and used the proceeds to service debt on our 3rd generation family farm.

Four years after our donation (2007), the **Colorado Department of Revenue** arbitrarily claimed our C/E property had **\$0 value** (see attachments). The CDOR then engaged in relentless efforts, and strong-arm tactics, to claw back the C/E tax credits, +++ 200% penalty & interest, despite the fact the IRS accepted 100% of our C/E appraisal values*.

After seven years of futile appeals, costly litigation, and unable to afford more attorney fees; under extreme stress & financial duress, in 2015 our family took out a 20-year loan, to enter settlement payments with CDOR & Tax Credit buyers. Because of the CDOR's wrongful disallowance, our family's agony will have spanned over **"three" decades of hell**, when our loan is paid in 2035.

Literally, our family suffered severe financial damages and *decades of mental & physical stress*, simply for having donated our property, in perpetuity, for the enjoyment of the State of Colorado.

Countless other farmers and ranchers, have long-suffered immeasurable damages, caused by the **CDOR's arbitrary disallowance and "claw back" of C/E tax credits** ...all while simultaneously suffering multi-year agricultural disasters (*drought, high winds, freezes, wildfires, failing markets*).

SB21-033 will not make my family whole, nor will it erase decades of **"anguish" & "brain damage"**, but it will go a long way to mitigate **"some"** of the financial damages... and it will help restore integrity of the Conservation Easement program, destroyed by the CDOR's abuse of power.

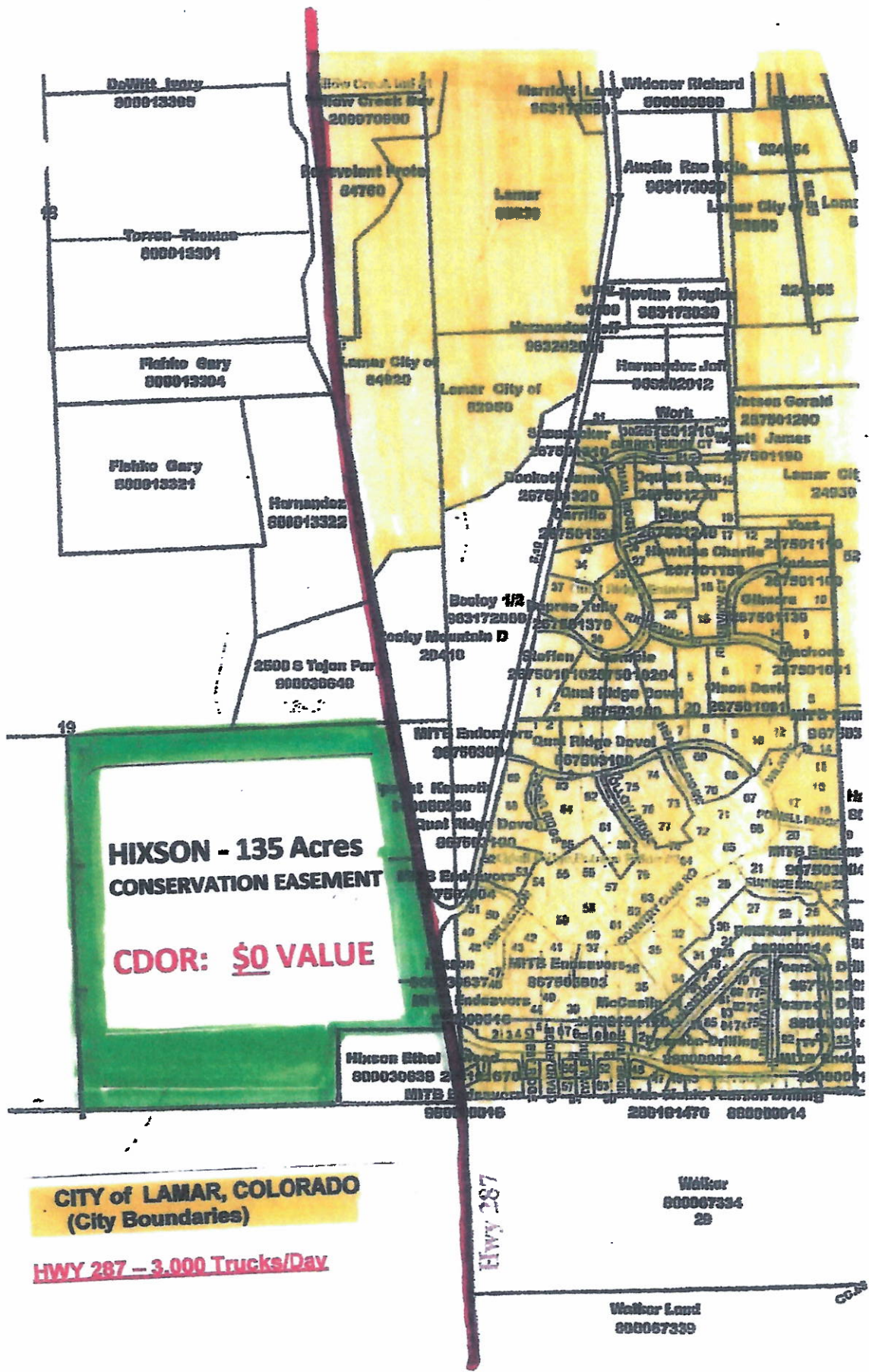
Thus, I strongly urge our Colorado law makers to favorably support SB21-033!

Thank you in advance words cannot convey the heart-felt gratitude, alleviation of despair, and restored faith in government (by the multitudes affected), should this bill be enacted!

Sincerely,

Jillane Hixson

* Colorado Statute - TITLE 39 ... (CRS 39-22-522) identified IRS-170(h) as the only standard.



2003
 "State Certified"
 Appraiser
HIXSON
 CONSERVATION
 EASEMENT

CRS 39-22-522

 IRS 170(h)
 is the only
 standard for
 C/E appraisals

IRS
 2007-2010
 extensive review
 ACCEPTED
 FULL VALUE
 of HIXSON
 CE appraisal

CDOR
 C/E = \$0

Hixsons v. CDOR
 (2007 - 2015)

David v. Goliath
 (Goliath won)

HIXSONS
 paid back
 CE tax credits

* LAND TRUST
 retains
 HIXSONS C/E

STATE OF COLORADO

DEPARTMENT OF REVENUE

State Capitol Annex
1375 Sherman Street
Denver, CO 80261



October 16, 2007
SSN [REDACTED]



JILLANE HIXSON

[REDACTED]
[REDACTED]
[REDACTED]

Tax years 2003-2005

rjg

Credit disallowed \$259,120

Credit reduced on 03 return	\$3,893
Tax increase 2003	\$ 668
Tax increase 2004	\$ 827
Tax increase 2005	\$1,436

Your Colorado income tax return has been adjusted because the gross conservation easement credit listed above has been adjusted/disallowed for the following reasons:

Under authorization of Federal Law Section 6108(d) of the Internal Revenue Code, the Colorado Department of Revenue has obtained information from the Internal Revenue Service that adjustments were made on your Federal Income Tax Return. **FALSE!**

The appraisal did not meet the federal requirements as defined in 26 CFR 1.170A per section 39-22-522(3), C.R.S.

The donation did not meet the requirements of a qualified conservation contribution pursuant to section 170(h) of the Internal Revenue Code per section 39-22-522(2), C.R.S.

The appraisal of the conservation easement donation overstated the fair market value of the donation.

Pursuant to Section 39-22-522(7)(i), C.R.S. and Regulation 39-22-522, as the donor of the conservation easement that generated this credit, you have been designated as the tax matters representative (TMR). As such, you are responsible for requesting a hearing on this matter for all transferees of the tax credit. You should contact the transferees to determine whether they wish to be included in any hearing request.

IRS
allowed
+
accepted
APRIL
2010

If you wish to protest this determination or any part thereof, it will be necessary for you to present, in writing, your facts, the law, and argument in duplicate, which must be filed pursuant to the remedy provided by Title 39, Article 21, Colorado Revised Statutes, as amended, within thirty (30) days from the date of this letter. Any request for hearing must be made pursuant to Regulation 39-21-103. As TMR you must also include information on any transferee on whose behalf you are filing the request for hearing and copies of any notices the transferees have received regarding the adjustment of the credit.

PROTEST
FILED
11-09-07

In lieu of the request for a hearing, you may file a written brief and other written materials or documents as you deem appropriate and request that the Executive Director reconsider the adjustments in the same manner as if the written material submitted had been presented at a hearing. The brief and written material must be submitted within thirty(30) days of the date of this letter.

A bill for the balance of tax due plus penalty and interest will be mailed under separate cover. Please return your bill with the payment to insure proper credit to your account.

R GARDINI
POLICY GROUP ROOM 203
(303) 866-3900 0000

Jillane Hixson - 08/04/10
Legislative Special Committee
Conservation Easements
Exhibit A - Page 1



CONSERVATION VALUES

Credible Solutions to Complex Appraisal Problems

December 15, 2011

Ms. Natalie Barajas
Tax Conferee I
Department of Revenue
1375 Sherman Street, Room 234
Denver, Colorado 80203

RE: Retrospective appraisal of a conservation easement in Prowers County, Colorado donated by Jillane R. Hixson on December 15, 2003.

Dear Ms. Barajas:

In accordance with Department of Revenue Contract Number TAA11/22644 and at your request in the letter October 19, 2010 (attached as *Addendum A*), I have conducted the research and analysis requisite to estimate the *fair market value* (as defined on page 3) of the conservation easement located in the Southeast Quarter of Section 19, Township 23 South, Range 46 West in the County of Prowers, State of Colorado 81052 (as described on page 22) donated by Jillane R. Hixson as of December 15, 2003.

This *summary* appraisal report conforms to the *Uniform Standards of Professional Appraisal Practice of the Appraisal Institute*, as well as Treasury Regulations, Subchapter A, Sec. 1.170A-13, and the Pension Protection Act of 2006. The following report summarizes the methodology employed, the pertinent data considered, and the conclusions reached. These conclusions are subject to the *General Conditions* and *Limiting Conditions* as defined on pages 9 and 10 of this report.

This appraisal was prepared for the use of the Department of Revenue to establish *fair market value* of the donated conservation easement for income tax purposes. Any other use of the appraisal is unauthorized and expressly prohibited.

Considering the analysis presented in the attached appraisal report, the most supportable *fair market value* (as defined on page 8 of the following report) of the conservation easement (as described on page 199) located in the Prowers County, Colorado as of December 15, 2003 is:

CONSERVATION EASEMENT VALUE INDICATION:

ZERO DOLLARS
(\$0)

Respectfully yours,

Steven C. Groh, MAI, President
InterWest Appraisal, Ltd. dba Conservation Values
Certified Appraiser #CG01317274 - State of Colorado
Tax LD. No. 84-1259757

CBOR hired
appraiser - Groh
to produce
pre-determined
value of
\$0

Internal Revenue Service

Appeals Office
1244 Speer Blvd.
Suite 400
Denver, CO 80204

Date: **APR 20 2010**

7943 ROAD DD
LAMAR CO 81052

Department of the Treasury

Person to Contact:

Tom Radow
Employee ID Number: 0232791
Tel: 720-956-4502
Fax: 720-956-4567

Refer Reply to:
AP:FW:DEN:TAR

In Re:
Income Tax Liability
SSN/EIN Number:
[REDACTED]

Tax Period(s) Ended:
12/2003

Dear Ms. Hixson:

The agreement we reached has been approved and we will complete our processing of your case.

Since there is no deficiency or overassessment, you do not need to take any further action.

If you have any questions, please contact the person whose name and telephone number are shown above.

Sincerely,



John A Salazar
Appeals Team Manager

cc: Fred Kelly Grant

IRS Evaluation
2003 Conservation Easement
Appraisal / Tax Credits



EQUILINE

U.S. BANK 0288
THORNTON
PO BOX 790179
ST. LOUIS MO 63179-0179

Account Summary Jan. 12, 2020

Account Number: [REDACTED]
End of Draw Date: Dec. 6, 2022
Maturity Date: Dec. 06, 2032
Approved Credit Line: [REDACTED]
Principal Balance: \$74,246.39
Available Credit: [REDACTED]

Total Minimum Amt. Due: [REDACTED]
Payment Due Date: Feb. 6, 2020

If you do not pay the Total Minimum Amount Due by the Payment Due Date, you may be subject to late charges which will appear on your next statement.
* The Principal Balance is not the final payoff amount. Contact 24-Hour Banking at 1-800-USBANKS for payoff amount.

0.412 106481124135950 P Y

JILLANE R HIXSON
[REDACTED]
[REDACTED] CO [REDACTED]

2003
Conservation Easement

2015
CDOR SETTLEMENT

20 yr Home Equity Loan
Payoff: 2032

Statement Continues on Next Page



Equal Housing Lender



Please detach coupon and send with payment

Account Nbr: [REDACTED]
Statement Date: Jan. 12, 2020
HIXSON

Address Change? Visit your branch, call 24-Hour Banking at 800-USBANKS, or visit www.usbank.com

Send payment to address below:

U.S. BANK 0288
THORNTON
PO BOX 790179
ST. LOUIS MO 63179-0179



Payment Due Date Feb. 6, 2020
MINIMUM AMOUNT DUE [REDACTED]
Amount Enclosed \$ [REDACTED]
For information on making additional or principal payments please contact us at 800-USBANKS (800-672-2657) or usbank.com

000000 [REDACTED]





MEADOWS RANCH

Jimmy R. Guire II
PO Box 550, Nucla, CO 81424
themedowranch@gmail.com
970-270-1986

March 15, 2022

Colorado State Senators
Faith Winter & Cleave Simpson
& all Committee members / Senators
of Senate Finance Committee

Sent to:

julie.gonzales.senate@state.co.us, faith.winter.senate@state.co.us, dennis.hisey.senate@state.co.us,
pete.lee.senate@state.co.us, kpriola@gmail.com, cleave.simpson.senate@state.co.us

RE: 2022 SB 119– Please Support / VOTE YES - Conservation Easement

Dear Senators and Senate Finance Committee Members.

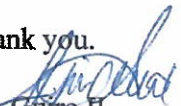
As a sixth generation Coloradoan land owner who's family **DONATED 10 Conservation Easements**, totaling an inholding **1476 acres**, (surrounded by National Forest, Public Lands Managed by the BLM and the Tabeguache Wilderness Area) and who is **still battling in the Colorado Courts, from the Department of Revenue's disallowances of our C/E appraisals/tax credits.**

We ask that you make the following language change on Page 4, Line 10 strike "**THE**" and substitute "**OR AT LEAST TEN YEARS AFTER THE**"

The reason we ask that you add the above verbiage to SB-119 is because we used the money from the sale of our Colorado Tax Credits from our 2009, 2010 Conservation Easements on the east half, to purchase the west half of the ranch in 2010 that had been sold off in 1985. We donated five more Conservations Easements in 2010, 2011 & 2012 on the west portion, and we continue to own all of the parcels of land that comprise and make up the entire Meadows Ranch where we buried my father. September 6, 2022 will be ten years after our last Conservation Easement Donation date and falls withing the September 30, 2022 deadline to file a claim.

I sincerely urge you to adopt our requested language above and to support SB-119!

Thank you.


Jim Guire II
The Meadows Ranch



Colorado Legislators
PLEASE support SB22-119
To restore C/E Tax Credits,
for law abiding land owners

Jimmy R. Guire II
PO Box 550
Nucla, CO 81424
Email: themeadowsranch@gmail.com
970-270-1986

July 20, 2017

CO State Representative Marc Catlin 200 E Colfax, Room 307 Denver, CO 80203 marc.catlin.house@state.co.us	CO State Senator Don Coram 200 E Colfax, Room 346 Denver, CO 80203 don.coram.senate@state.co.us
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RE: Outrageous CDOR -“Disallowances” CONSERVATION EASEMENTS

Dear Honorable Representative Catlin and Senator Coram,

The Guire family ranch, “Meadows Ranch”, is located on the western slope of Colorado, surrounded by five mountain ranges (*San Juan’s, LaSal, Blue Mountains, Uncompahgre, and Lone Cone*). Meadows Ranch has a rich family history of stewardship dating back to the 1890s. Through many generations of blood, sweat, and tears; our family has strived to preserve and protect our ranch from over-grazing, development, mining, and subdividing.

Our deep appreciation of our ranch’s scenic natural beauty, with seventeen ponds, numerous springs, and abundant varieties of wildlife (*Elk, Deer, Turkey, Mountain Lions, Bobcats, Bear, Eagles, Hawks, Wolf, & Lynx*); compelled us to engage in **Conservation Easements**, to forever preserve our family’s legacy, open spaces, wild life habitats, and awesome natural environment for countless generations to come.

Our family was quite pleased with the notion, that by adding a C/E deed restriction, that we were entering into a mutually beneficial contract, so that the State of Colorado would forever enjoy a pristine ranch, and in exchange we would be entitled to CO Tax Credits.

Thus, over the last six years (2009 – 2016), our family donated ten Conservation Easements (over 1400 acres) to qualified land trusts, with C/E values determined by qualified (state certified) appraisers. Our family borrowed and expended approximately \$315,000 in set up costs (see attached), to ensure we had met Federal & State compliance criteria for Conservation Easements.

However, our noble intentions and donations has since evolved to a NIGHTMARE! As each respective Conservation Easement approaches it’s 4 year anniversary (*statute of limitations*) the Colorado Department of Revenue (CDOR) has issued “disallowance notices”. For instance, the most recent **CDOR disallowance notice, dated June 06, 2017**, was issued for our 2013 Conservation Easement. Each respective CDOR **“disallowance notice”** demands a **“claw-back”** of the **tax credits + penalty and interest.**

Upon further inquiries and research, I learned my story is not unique, and that the CDOR has continued this **outrageous unlawful** practice since 2003, and in fact “disallowed” over **800** Conservation Easements (2003 – 2007) ... eventually *extorting* \$265 million in “claw backs” from hundreds of law-abiding farmers and ranchers, through co-erced financial settlements under duress.

It is my understanding, despite the individual and collective protests of “Land Owners United” the State Legislature shirked it’s responsibility to reign in the CDOR and to uphold the existing laws; but instead passed legislation (2011-HB1300) forcing land owners into impossible litigation with the CDOR/State Attorney General.

In 2008, HB1353 was enacted to create the CEOC (Conservation Easement Oversight Commission) to ensure additional oversight & appraisal standards. When that didn’t work, the Legislature enacted 2013-SB221 for “pre-approval of C/E appraisals.

YET, the CDOR’s outrageous unlawful “DISALLOWANCES” continue to present day!

Representative Catlin and Senator Don Coram I urge you to become familiar with this outrageous history, that has consumed **\$1 BILLION of tax payers dollars**, while **bankrupting HUNDREDS of law-abiding land owners**. It is crystal clear that the C/E program (tax credits) only works for “*well-connected billionaires & political cronies*” ... and not for small family farmers/ranchers, with limited resources.

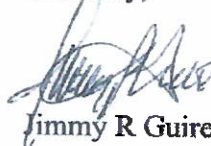
Representative Catlin and Senator Don Coram I urge you to sponsor &/or support legislative bills to:

- 1) SUSPEND Colorado’s C/E program until ALL land owners are made WHOLE
- 2) Extinguish Conservation Easements, that the CDOR disallowed & clawed back tax credits
- 3) Enact regulations on Land Trusts that have run a-muck.

I am enclosing an article on the history of Colorado’s C/E debacle, and copying every member of the Colorado Legislature, in hopes that all of our “*public servants*” will recognize that this horrific injustice against law abiding citizens must be stopped and cured. – I welcome you to contact me for additional information, &/or contact information of others who have been similarly violated.

Thank you for taking action to correct the Conservation Easement debacle.

Sincerely,



Jimmy R Guire II

Attachments: Guire family – C/E set-up costs

Conservation Easement "Set-Up" Costs:

* does not include mounting Attorney Fees to "protest" CDOR Disallowance Notices

C/E YEAR	Appraisal	Land Trust Endowment	Mineral Report	Baseline Report	Land Trust Atty Review	CEOC Application	
1 2009	\$ 5,000	\$ 20,000	\$ 1,200	\$ 5,000	\$ 1,200	\$ 300	
2 2009	\$ 5,000	\$ 20,000	\$ 1,200	\$ 5,000	\$ 1,200	\$ 300	
3 2010	\$ 6,500	\$ 17,000	\$ 1,200	\$ 5,000	\$ 1,200	\$ 300	
4 2010	\$ 6,500	\$ 17,000	\$ 1,200	\$ 5,000	\$ 1,200	\$ 300	
5 2010	\$ 6,500	\$ 17,000	\$ 1,200	\$ 5,000	\$ 1,200	\$ 300	
6 2011	\$ 6,500	\$ 17,000	\$ 1,200	\$ 5,000	\$ 1,200	\$ 300	
7 2011	\$ 6,500	\$ 17,000	\$ 1,200	\$ 5,000	\$ 1,200	\$ 300	
8 2011	\$ 6,500	\$ 17,000	\$ 1,200	\$ 5,000	\$ 1,200	\$ 300	
9 2012	\$ 6,500	\$ 17,000	\$ 1,200	\$ 5,000	\$ 1,200	\$ 300	
10 2012	\$ 6,500	\$ 17,000	\$ 1,200	\$ 5,000	\$ 1,200	\$ 300	
	\$ 62,000	\$ 176,000	\$ 12,000	\$ 50,000	\$ 12,000	\$ 3,000	\$ 315,000

SB22-119

Jim & Judy Butcher
Stone Ridge Bluff Development
1 Judy's Dream Lane
Pueblo, CO 81005
boaterbum2@gmail.com
719-560-9502

March 1, 2021

Colorado State Legislators
200 E Colfax Avenue
Denver, CO 80203

RE: **PLEASE SUPPORT - SB21-033** – Conservation Easement Reparations

Dear Colorado Senators & Representatives

As a successful real estate commercial broker and subdivision developer in Pueblo for over 50 years, I hope to shed light on and simplify the complicated Conservation Easement program from my point of view.

In 2003, I became deeply involved in the Conservation Easement program. In my due diligence, I hired the best attorneys, best “state certified” appraisers, best wildlife & vegetation biologist, best geologist, best CPA, best land planners, surveyors and title companies; prior to donating 100 “prime developable” acres (six conservation easements) to Pueblo County land trust, 2003 - 2007. *Please see two minute video:* <https://drive.google.com/file/d/1ZyFO6cnH9891ds7gX1jRzPugtlutTrxT/view?usp=drivesdk>

However, when the State was suffering from the 2008 recession, the Colorado Department of Revenue (CDOR), set about to claw back \$260 million of C/E tax credits, arbitrarily claiming **our C/E property had ZERO value*** (we later learned we were among 800 other land owners whose C/Es were being disallowed).

** Note, The C/E the program only allowed 50% of development value in the first place, but we didn't even get that, the CDOR claimed the value of our 100 acre C/E donation was a **big fat \$0 (ZERO)**!*

I then hired the best \$500/hour Denver attorneys, in addition to expert witnesses, and even hired my Pueblo attorney to watch them. After spending seven years & \$80,000 in legal fees, to appeal the CDOR's disallowances, I came to the realization that the CDOR had more time, money, and attorneys than I did.

My wife and I (in our late 70's) then decided, we were not going to spend the rest of our lives (& health) in court, to endure MORE STRESS in battling Goliath (CDOR).

Thus, we settled at a fraction of the appraised value and also assumed a substantial portion our Tax Credit Buyer's (TCB) losses. -- It didn't kill us, but it REALLY hurt! We were much more fortunate, than many other C/E landowners who lost everything. *Others suffered bankruptcy, divorce, lost family farms/ranches, raided kid's college funds, &/or took out twenty year loans, as a result of the CDOR's relentless pursuit.*

The atrocity of the CDOR's arbitrary disallowances of C/E values (tax credits) is a shameful, ugly stain on the State of Colorado; ...to have financially annihilated C/E land donors, for lawfully attempting to preserve the natural resources of Colorado. This abomination must be reckoned with! The CO Conservation Easement program, will be forever chilled, until reparations are made for those of us who were cheated.

We strongly urge you to support and enact SB21-033, to repair the damages caused by the Colorado Department of Revenue's wrongful acts.

Sincerely,



Jim Butcher



Judy Butcher

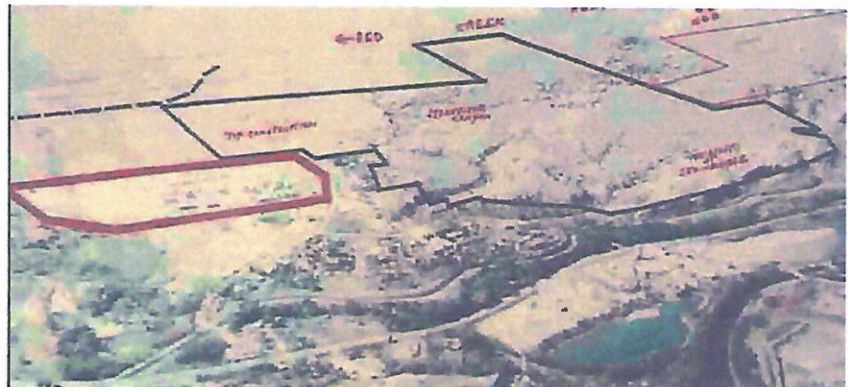
Jim & Judy Butcher
1 Judy's Dream Lane
Pueblo, CO 81005
719-560-9502
boaterbum2@gmail.com

SB21-033 Conservation Easement Reparations
of CDOR arbitrary & unlawful disallowances
Colorado department of Revenue:
\$0 VALUE – 100 Acres “prime development acres”
C/E donations to Pueblo County (2003 -2007)

Video link (2 minutes)

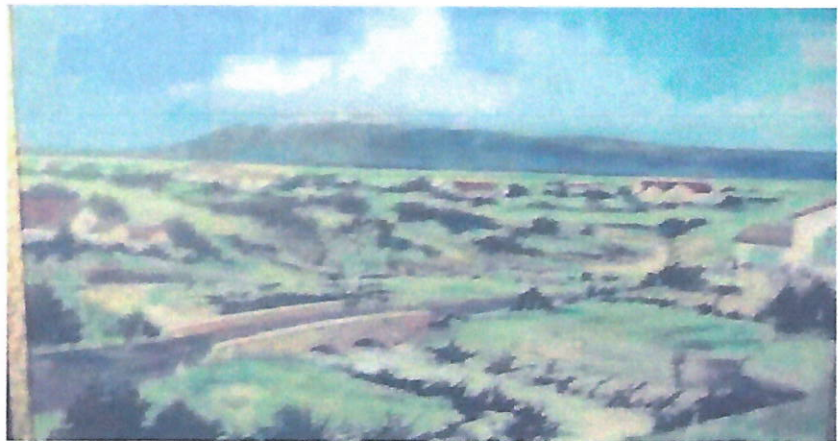
<https://drive.google.com/file/d/1ZyFO6cnH9891ds7gX1jRzPugtlutTrxT/view?usp=drivesdk>

- * **Real Estate Developer**
56 years (1963 – 2019)
- * **Owned “prime / scenic”**
property overlooking
Pueblo Dam
- * **Sold lots @ \$180K/lot**
during the recession
- * **Donated 6 C/Es**
100 +/- acres
(2003 - 2007)
- * **CDOR disallowed**
all six C/Es
(\$ 0 VALUE)
- * **Butchers settled with**
CDOR (in 2014),
- **paid back 65% - 100%**
of C/E tax credits



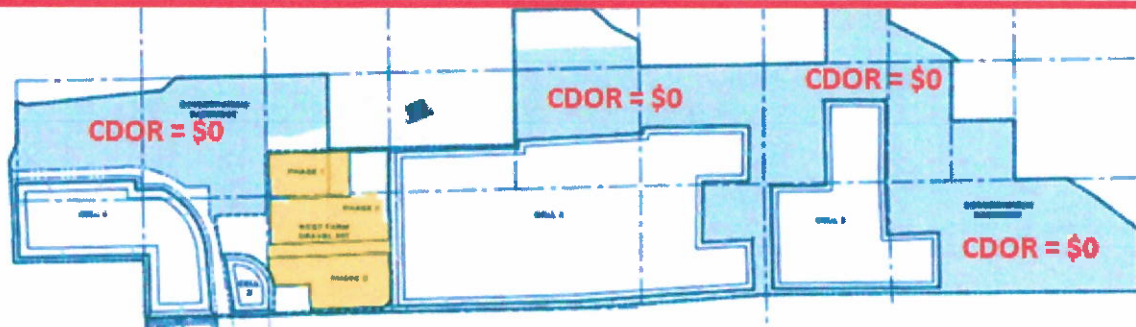
Butcher (now 82)
& dealing with his wife's
terminal illness remarked:

“after 7 years of CDOR appeals
(2007 – 2014), we had no more
capacity for any more stress”



WEST FARM CONSERVATION EASEMENTS restricting Gravel mining = \$0 Value

Lamar, CO
Prowers County



- ❖ **95+/- Acres per C/E**
- ❖ **Appraisal: \$400K / \$1.9M per C/E**
– based on actual proven tons of gravel (500,000 – 2,000,000 tons @ \$1/ton royalty)
- ❖ **IRS accepted C/E appraisal values**

CO Department of Revenue: \$0 Value (per Kevin McCarty, CDOR Appraiser)
Settlement: 10% of Appraised Value(90% disallowed)

WEST FARM - Gravel Pit – Actual Production

Managed by: Prowers Aggregate Operators - *(established after CDOR C/E disallowances)*



\$ Actual Production 2X C/E appraisal estimates

- **2019 1.3 million Tons**
- **2020 2 million Tons** (projected)
- **Potential production 20 – 40 years**

\$ GRAVEL / SAND sold within 100 mile radius

- **140 semi-trucks / day**
- **Local markets: wind farms, highway construction, etc**

\$ GRAVEL / SAND sold to Fort Worth, TX

- **115 rail cars / week** – 3rd largest shipper of aggregates on BNSF
- **largest concrete supplier for Dallas/Fort-Worth market**

\$ 30 Full-time Employees



Colorado Department of Revenue

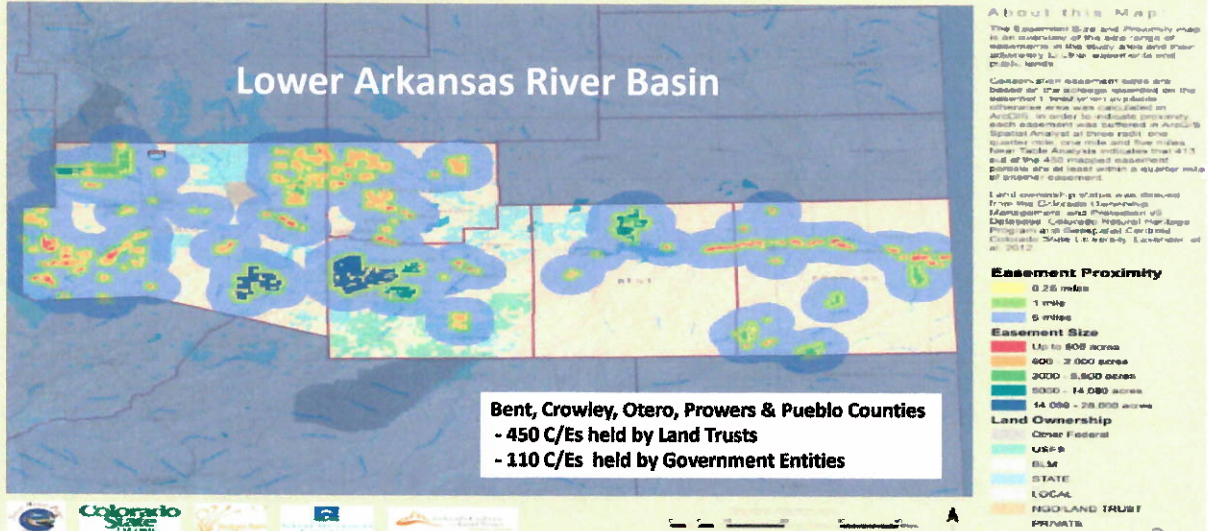
SAND & GRAVEL \$0 Value

WATER \$0 Value

S/E COLORADO - CONSERVATION EASEMENTS

Lower Arkansas Water Conservation District – March 2014

Easement Size and Proximity



The Denver Post

December 19, 2014



Rocky Ford hay farmer **Timothy Crow** despises staring at **bankruptcy**. The 61-year-old says he **hates it even more that Colorado put him there**. "This was supposed to be a good thing for everyone," Crow says of the state's **conservation easement** program

BANKRUPTCY by CONSERVATION EASEMENTS

..... By [DAVID MIGOYA](#) | dmigoya@denverpost.com | The Denver Post

Timothy Crow is broke and faces losing a small farm he has owned in Rocky Ford for decades. Landowners caught up in the **water conservation easement** debacle now face bankruptcy and loss of their land as a result of the state coming after them for back taxes.

"I'm just waiting for my life to shatter over something that was supposed to be a good thing."



Department of Revenue
WATER
= \$0 Value

TheTribune Serving Greeley and Weld County, CO

Conservation easement battle with state leaves many farmers, ranchers in debt

... [Kelly Ragan](#) August 18, 2015

The Holyoke Enterprise

BANKRUPTCIES, DIVORCE AND DEATH

ALL CLAIMS AGAINST 17-YEAR-OLD CONSERVATION EASEMENT PROGRAM

MARIANNE GOODLAND, THE COLORADO INDEPENDENT

Colorado Revised Statutes Title 39. Taxation § 39-22-522.

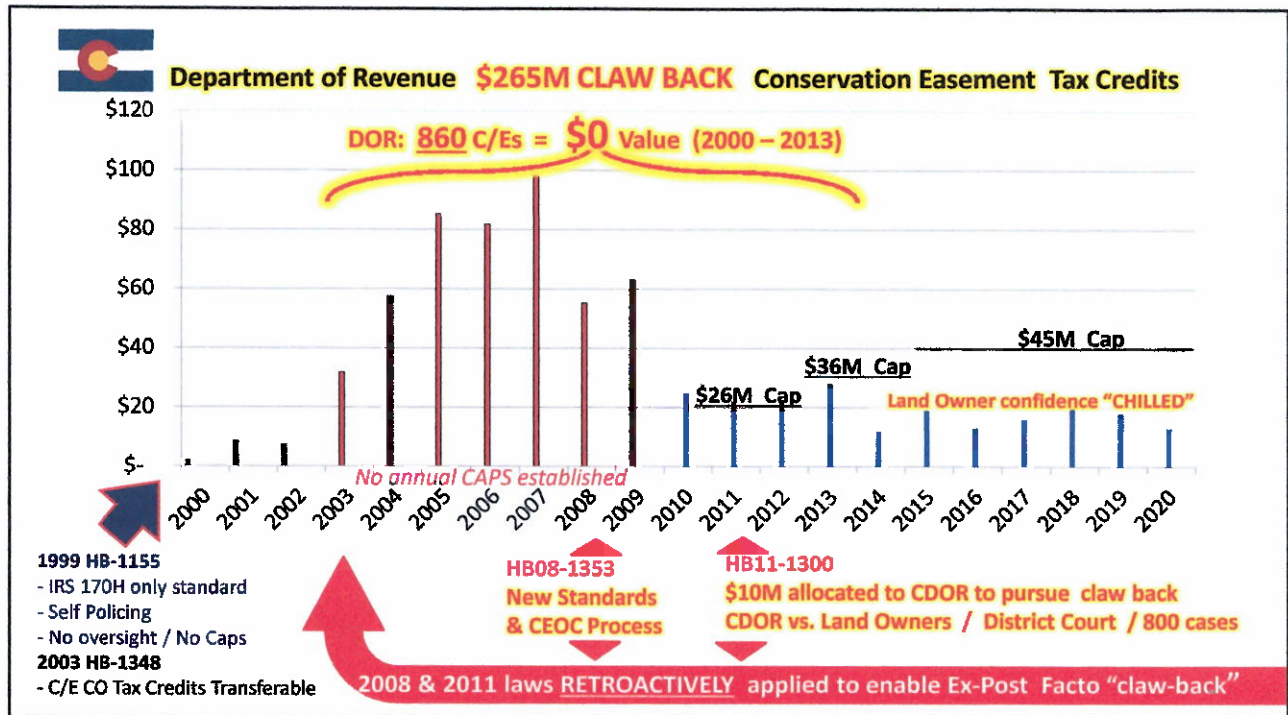
- Conservation Easements & Tax Credits

HB99-1155 (Transcripts)

- **No special “Appraisal” standards**
 - IRS 170(h) is the only standard for Appraisals ...(Qualified / Certified Appraiser)
- **No oversight necessary – Self Regulating**
- **No annual CAP in State Budget or per Donor**
- **No acre restrictions ... 10 acres or 20,000 acres**
 - If LAND TRUST accepts donation, it’s a VALID Conservation Easement

1999 Legislators did NOT heed concerns “opposition testimony”, no amendments
TWO DECADES of CONTROVERSY ... Land Owners punished for legislative omissions

2022 ... *it’s never too late to do the right thing SB22-119*



1 **Chairman:** Representative Spradley.

2

3 **Spradley:** Yes, I'd like to have Larry Kueter answer that question, it is based on his history
4 with conservation easements.

5

6 **Chairman:** Mr. Kueter won't you join us and state your name for the record and who you
7 represent.

8

9 **Kueter:** Yes, my name is Larry Kueter and, uh, I'm an attorney with offices at 633 17th
10 Street, Suite 2200. I'm here with two different hats on this evening. I'm both legal counsel for
11 the Colorado Cattlemen's Agricultural Land Trust, and authorized to speak on behalf of this bill
12 on their behalf. I'm also counsel to the Colorado Coalition of Land Trust, and a board of that
13 organization is also in support of, um, this legislation. If I can, I'll address your question before I
14 make my general comments. Um, there is no limit in size for a conservation easement to qualify
15 as a conservation easement and growth under the Colorado statutes. We, um, have seen them
16 from, uh, from 10 to 15 acres in size to, um, 15 to 20,000 acres in size, and as long as the
17 conservation purposes test are satisfied under the Colorado statute, it qualifies as a conservation
18 easement. The bill doesn't tie to any acreage limit either, but for the generic category of
19 conservation easements, they can fall in, um, any – very, very large range of acreage. You can
20 have a very small [inaudible] area that can be a conservation easement, and you might have, um,
21 some grasslands protected for agricultural purposes – it could be 10,000 or so acres – and all of
22 those could qualify. Um, the Colorado Cattlemen's Agricultural Land Trust is affiliated with the
23 Colorado Cattlemen's Association and, uh, has been in existence for about four years, and is
24 accepting easements from, uh, its members who are desirous of protecting their properties and
25 using that for [estate ?? state ??] tax benefit. Uh, the Colorado Coalition of Land Trust is an
26 umbrella organization for land trusts in Colorado, and those land trusts are all quietly helping
27 private land owners make, what are voluntary decisions, to preserve their property, for both
28 agricultural and open space purposes, and landowners most often do that by the granting of
29 conservation easements, and what the granting of the conservation easement does for the
30 landowner, is that it has, uh, first a significant effect on their ability to develop the property
31 typically restricting most of the development rights, but it gives them very significant [estate ??]
32 tax benefits under federal law, and so we're seeing, uh, landowners use this as an [estate ??]
33 planning technique for getting the ranch from one generation to the next, where in the absence of
34 that, they might have to sell some or large portions of the ranch to accomplish that. Um, so the
35 granting of a conservation easement has the effect of a significant reduction in estate value,

1 actually having to be the stewards of the land. We feel that, uh, the owners, and hopefully the
2 historic owners of the land, probably are better stewards of the land than from a managerial
3 standpoint [inaudible] someone from a local government trying to, uh, take over large tracks of
4 land and maintain those in perpetuity. Thank you.

5

6 **Chairman:** Thank you for joining us. Uh, I believe that's everyone on the pro side. I assume
7 the opponents would be **Douglas Bruce**. [laughter]

8

9 [unidentified male]: [Doctor no ??]

10

11 **Bruce:** Correct name. Again because I think you're blowing a chance for tax reform at this –
12 first, just to mention without going into the reasons, it's an income tax credit—can't have an
13 income tax credit – says so. Um, this bill also has a flaw in that it has no dollar value limit per
14 year, or per donor. So, somebody comes up with an assessment that says it's \$20 million dollars
15 for – you know, Bruce Benson or, um, Phil Anschutz or something -- \$20 million dollars. You're
16 stuck with it. This is a blank check. I think any blank check is [inaudible] responsible. You have
17 to also remember that any tax credit means that you are going to say that four million citizens of
18 Colorado are going to forego services and forego government revenue so that one landowner can
19 benefit, and internalize all the money, um, just because he owns land, and doesn't own a business
20 or doesn't own something else. I think that's arbitrary. Um, I think we all know that normally
21 charitable deductions are, by definition, deductions – they are not credits, but this is going to
22 make it a credit. So it's 100 percent payment by the government. I don't think that that's
23 appropriate. Agriculture already pays a negligible property tax. Residential is subsidized and if
24 you think they're subsidized, agriculture pays about one-fourth of the amount on the actual value
25 – market value of the property, because they're tax-based upon productivity. So they're already
26 getting a tremendous tax subsidy there. Um, it's just a question for the sponsor – but I'm
27 wondering why you're limiting – maybe it's because of the federal tax law that you're mirroring
28 – why you're limiting it to these two entities, and why you can't have a for-profit corporation, or
29 somebody else holding this easement?—if the issue is, in fact, simply planned preservation.
30 When you deal with the open-ended license for appraisers, and I don't see any definition of
31 qualifications or anything in there, unless they're licensed or, you know, have some other kind of
32 restriction, you're letting an appraiser influence the cost of the treasury for the value of donating
33 building rights, which could be to the side of a cliff, it could be a gully, it could be sandy land, it
34 could, you know, be pretty much anything. And you all know that the Department of Revenue is
35 not going to have time to go out and monitor and check these easements. They are not going to

1 have time to send people out to Baca County to count how many prairie dog holes there are in
2 this, you know, 500 acres that's being donated. So, in fact, they're just going to have to trust the,
3 uh, person making the decision – so he just makes an assertion, and you aren't going to be able
4 to question it effectively. Uh, it also means of course, we're going to have another tax form.
5 We're going to complicate the tax law further, and I don't think that's what I call – additional
6 forms is not my idea of reform. Um, I agree with Representative Pfiffner, if it's possible I
7 understand I heard that you would lose your federal tax benefits with this idea of a perpetual
8 easement is – as opposed to a lease or something else. I just can't believe that you would do –
9 that's bad public policy. I don't care if the guy gets federal tax benefits – just because the federal
10 government does something stupid, doesn't mean you have to. [laughter] Now, um, the idea of a
11 perpetual easement – I – I would respectfully say it's the height of arrogance, both by the owner
12 and by the members of the committee, to think you can predict what the needs are going to be
13 200 years from now. You go back and you think about that parcel of land 200 years ago – you
14 have no idea. I think it's also ironic that you're talking capital gains, uh, credit and you heard
15 that one of the purposes of it was to free of capital, and now you're talking about a bill that does
16 just the opposite and freezes capital in place, which is what land is – forever. So, which do you
17 want to do? Do you want to free it up and allow people to make flexible decisions with changing
18 circumstances, or do you want to have the state of Colorado somehow frozen in perpetuity for
19 whoever knows how many parcels are going to, uh, be affected by that. Um, there may be some
20 laws, but I sure don't see it in the bill about whether the holder of the easement can rescind the
21 easement, or even if he can't rescind the easement, if he could just agree to ignore the
22 development. Who else is going to be there to monitor it? After the person gets the tax benefits,
23 and you own land out in, you know, 50 miles east of Springfield, who's going to pay attention,
24 to whether or not there is, in fact, development that goes on? Um, again, there is no safe guards
25 that I see on the assessor qualifications, or anything else having to do with the assessor, um, and
26 we need to try to talk about appraisal – I think it's kind of silly to say that you can have an
27 honest, verifiable appraisal that lots of people agree on when you are talking about what is
28 known in economics as the discounted current value of the best use in infinity. Now how are you
29 going to come out with discounted current value of the infinite use of a piece of property? I don't
30 think that makes any sense. Last point, page 3, lines 8 to 13, um, I don't see – I don't understand
31 the rationality of saying that if you have carried forward part of the credit, you can't claim
32 another tax credit for – if you have a partial credit still to be carried forward. Let's say you have
33 100,000 credits, and you want to give out another parcel, you can't give it out because you still
34 have 5,000 left over that you haven't carried in that year? It appears to be what it says. You have
35 to have, uh, you carry it forward to a year in which you have zero liability – that's – that's how I
36 read that section. Um, I don't understand that, but that's, um, icing on the piece, as far as I'm
37 concerned. [laughter]

1 **Chairman:** Questions for Mr. Bruce. Thank you Mr. Bruce. Um, I believe that is everyone
2 here that signed up to testify opposing the bill. Um, Representative Spradley would you like to
3 warp up?

4

5 **Spradley:** Yes, very briefly. Uh, this is, I think, an important option. A couple of things that
6 were brought up – one of the things is that, uh, a qualified appraisal is based on the market value
7 with and without the development rights based on what people know at this point in time, and a
8 501(c)3 is going to be involved in that – the land trust organization probably, or a governmental
9 entity and the 501(c)3 is not going to want to jeopardize their status by entering into something
10 that is inappropriate or shaky. I can't imagine them – and the Department of Revenue, is, uh,
11 when you take any kind of credit on your income tax, state or federal, you have to justify that,
12 uh, credit and you – you're responsible for that – when you sign your tax form, you say I'm
13 responsible for, you know, supporting whatever deduction I'm taking here. And conservation,
14 uh, leases is an issue where, um, exploring, uh, I think it's a new concept and it needs a little
15 time to be worked out and, uh, so it's an idea that may come forward in the subsequent year. Uh,
16 but this is something we can pattern off based on existing state law that talks about the
17 requirements for an easement – a conservation easement and what's in federal law. I just hope
18 you will support this bill because I think it's a very important option that we need to have in
19 Colorado. Thank you.

20

21 **Bruce:** And the land owner [creates ??] his own 501(c)3?

22

23 **Chairman:** Mr. Bruce you're out of order. Any questions for the bill's sponsor? [inaudible]
24 Representative Spradley, I think they're trying to work on fiscal note and they're [inaudible]
25 paragraphs together, uh, to try to draft it. I think you're going to have some pretty big fiscal
26 problems based on what staff just told me a minute ago. Um, I certainly encourage you look at a
27 way to cap that and amend it, um, [inaudible] that information we'll hear in a minute. In the
28 meantime, between now and tomorrow, we're voting on the bill, uh, just try to find a way to cap
29 that.

30

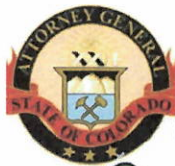
31 **Spradley:** Okay.

32



DEPARTMENT of REVENUE
Claw back of \$265 Million

Conservation Easements = \$0
Payback Tax Credits + Penalty + Interest



HB-1300 allocated \$10,000,000 to CDOR / Atty General
to LITIGATE against Land Owners

2011-HB1300

Resolve in DISTRICT COURT
Legislation mandated Litigation

CDOR v LAND OWNER



- 1) Threshold Hearing**
- 2) Validity Hearing**
- 3) Value Hearing**
- 4) Liability Hearing**

16

All the JUSTICE you can "AFFORD"



2011-HB1300 – 800 Cases

1) Threshold Hearing

C/E Tax Credits + Penalty + Interest
Attorney Fees (\$50K \$500K)

SETTLEMENTS made under **FINANCIAL DURESS**

- 2) Validity Hearing** *could not afford after Threshold Hearing*
- 3) Value Hearing** *could not afford after Threshold Hearing*
- 4) Liability Hearing** *could not afford after Threshold Hearing*

0 LAND OWNERS made it to TRIAL (2011 – 2016) of **800 cases**

Land Owners financially depleted after 1st phase Threshold Hearings

0 APPRAISERS indicted

1 FRAUD conviction, Oregon man (2016)

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