



Dora
Department of Regulatory Agencies

MINUTES

COLORADO DIVISION OF REAL ESTATE

**CONSERVATION EASEMENT OVERSIGHT
COMMISSION MEETING
December 7, 2010**

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MINUTES
CONSERVATION EASEMENT OVERSIGHT COMMISSION MEETING
December 7, 2010
Colorado Division of Real Estate
1560 Broadway, Suite 110 D
Denver, CO 80202

A Conservation Easement Oversight Commission public meeting was held on December 7, 2010. The commissioners in attendance were; Cindy Lair, representing the Colorado Department of Agriculture; Martha Cochran, representing a local land trust; Chris West, representing a statewide land trust; R. Jay Winner, representing a local government land conservation agency; Janis Whisman, representing a historic preservation organization with experience in easements on properties of historical significance; Lise Aangeenbrug, representing Great Outdoors Colorado; and Doug Robotham, representing the Colorado Department of Natural Resources. Mark Weston, representing certified general appraisers; and Max Vezzani, representing landowners who have donated a conservation easement were absent.

Also in attendance were Marcia Waters, Director of the Division of Real Estate; Hollis Glenn, Conservation Easement Program Manager; Harold Ovsowitz, Compliance Investigator and Jordan Beezley, Compliance Investigator for the Division of Real Estate; Lisa Brenner Freimann, Assistant Attorney General; Stacy Chapman, Assistant Attorney General; Eric Meyer, Assistant Attorney General; Lyle McDonald, from the Tax Conferee Section of the Department of Revenue; Ted Wiatr, from the Conservation Easement Section of the Department of Revenue; and other staff and legal counsel for the Department of Revenue. The meeting was open to the public.

Full and timely notice of the meeting was given to the public and the meeting was held pursuant to the Colorado Sunshine Law, Title 24, Article 6, C.R.S., as amended.

Call to order, determination of a quorum:

The meeting was called to order by Commission-Chair Cochran at 10:10 AM and a quorum was determined. Commissioner Weston and Vezzani were absent.

Public comment:

No one from the public made a comment.

Executive Session:

Motion: It was motioned by Commissioner Robotham and seconded by Commissioner Winner at 10:15 AM that the Commission enter into Executive Session for the purpose of discussing disputes that are subject of pending or imminent court action, pursuant to C.R.S. section 24-6-402(3)(a)(II) and for matters required to be kept confidential by federal law or rules and state statutes, pursuant to C.R.S. section 24-6-402(3)(a)(III). Specifically, the Department of Revenue has requested consultation upon matters pursuant to C.R.S. sections 39-22-522(3.5)(a) and 12-61-721(3) which are required to be kept confidential pursuant to C.R.S. sections 39-21-113(4)(a) and (17) and 39-22-522(3.5)(b). These matters for consultation include the review of conservation easement appraisals referenced as #51 and #59-106.

Motion unanimously carried.

The Commission re-entered open session at 1:15 PM.

Commission's Recommendations

- Eric Meyer, Assistant Attorney General, and counsel for the Department of Revenue, requested the Commission make a motion (recommendation) on each conservation easement individually.
- Commissioner Winner announced he would recuse himself due to a potential conflict of interest regarding easements within his conservancy district.

In compliance with C.R.S. section 39-22-522(3.5)(a), It was motioned by Vice-Chair Whisman and seconded by Commissioner Lair that the Commission recommends the Executive Director of the Department of Revenue reject the tax credit associated with the appraisal referenced as **#62**.

Commission-Chair Cochran called for discussion:

Commissioner's Comments: None.

Motion unanimously carried.

In compliance with C.R.S. section 39-22-522(3.5)(a), It was motioned by Commissioner Robotham and seconded by Vice-Chair Whisman that the Commission recommends the Executive Director of the Department of Revenue reject the tax credit associated with the appraisal referenced as **#63**.

Commission-Chair Cochran called for discussion:

Commissioner's Comments: None.

Motion unanimously carried.

In compliance with C.R.S. section 39-22-522(3.5)(a), It was motioned by Commissioner Lair and seconded by Commissioner Aangeenbrug that the Commission recommends the Executive Director of the Department of Revenue reject the tax credit associated with the appraisal referenced as **#64**.

Commission-Chair Cochran called for discussion:

Commissioner's Comments: None.

Motion unanimously carried.

In compliance with C.R.S. section 39-22-522(3.5)(a), It was motioned by Commissioner West and seconded by Commissioner Aangeenbrug that the Commission recommends the Executive Director of the Department of Revenue reject the tax credit associated with the appraisal referenced as **#65**.

Commission-Chair Cochran called for discussion:

Commissioner's Comments: None.

Motion unanimously carried.

In compliance with C.R.S. section 39-22-522(3.5)(a), It was motioned by Commissioner Aangeenbrug and seconded by Vice-Chair Whisman that the Commission recommends the Executive Director of the Department of Revenue reject the tax credit associated with the appraisal referenced as **#66**.

Commission-Chair Cochran called for discussion:

Commissioner's Comments: None.

Motion unanimously carried.

In compliance with C.R.S. section 39-22-522(3.5)(a), It was motioned by Commissioner Robotham and seconded by Commissioner Lair that the Commission recommends the Executive Director of the Department of Revenue reject the tax credit associated with the appraisal referenced as #70.

Commission-Chair Cochran called for discussion:

Commissioner's Comments:

Vice-Chair Whisman: Found the quality of the conservation values more problematic than the quality of the appraisal.

Commission-Chair Cochran: Agrees with Vice-Chair Whisman.

Motion unanimously carried.

A discussion was held among the Commission, Staff, Commission's Counsel, and Department of Revenue Staff on the language of the written motion; specifically on the conservation value versus appraisal value and whether the conservation easement be rejected in whole or in part. An agreement was made that the Commission would continue to adhere to the language of the statute and recommend the Executive Director of the Department of Revenue accept or reject the conservation easement through a motion and vote. Commissioners may make individual comments on the specific conservation easement after the call for discussion before the vote.

In compliance with C.R.S. section 39-22-522(3.5)(a), It was motioned by Vice-Chair Whisman and seconded by Commissioner Lair that the Commission recommend that the Executive Director of the Department of Revenue reject the tax credit associated with the appraisal referenced as #79.

Commission-Chair Cochran called for discussion:

Commissioner's Comments:

Commissioner Robotham: Stated he believes there are substantial conservation values despite the deficiencies in the appraisal. Old platted town sites propose a problem that conservation easements, such as this one, can solve. Despite the valuation issues, which appear to him to be real, he will oppose the motion to recommend rejection of the tax credit. He encouraged the Department of Revenue to recognize the conservation values in these unique situations.

Commissioner Lair: Stated she is concerned about the increase in value/acre within one year without any changes in property. She echoed Commissioner Robotham's comments regarding conservation values and old platted town sites. However, because of the problems with the appraisal, she will vote to approve the motion to recommend rejection of the tax credit.

Commissioner Winner: Stated that there is value in these properties that the landowners gave up. He agreed with Commissioner Robotham and will oppose the motion to recommend rejection of the tax credit.

Commissioner West: Also agreed with Commissioner Robotham on the importance for the Department of Revenue to identify these unique situations.

Commissioner Aangeenbrug: Agreed with the comments made by Commissioner West.

Commission-Chair Cochran: Stated she will vote to recommend rejecting the conservation easement although she is very hesitant and not sure the easement is overvalued.

Commissioner Robotham and Commissioner Winner opposed the motion.

Motion carried 5 to 2.

In compliance with C.R.S. section 39-22-522(3.5)(a), it was motioned by Vice-Chair Whisman and seconded by Commissioner Lair that the Commission recommends the Executive Director of the Department of Revenue reject the tax credit associated with the appraisal referenced as **#80** and incorporate all comments regarding appraisal #79.

Commissioner's Comments: see comment for appraisal referenced as #79.

Commissioner Robotham and Commissioner Winner opposed the motion.

Motion carried 5 to 2.

In compliance with C.R.S. section 39-22-522(3.5)(a), it was motioned by Vice-Chair Whisman and seconded by Commissioner Lair that the Commission recommends the Executive Director of the Department of Revenue reject the tax credit associated with the appraisal referenced as **#81** and incorporate all comments regarding appraisal #79.

Commissioner's Comments: see comment for appraisal referenced as #79.

Commissioner Robotham and Commissioner Winner opposed the motion.

Motion carried 5 to 2.

In compliance with C.R.S. section 39-22-522(3.5)(a), it was motioned by Vice-Chair Whisman and seconded by Commissioner Lair that the Commission recommends the Executive Director of the Department of Revenue reject the tax credit associated with the appraisal referenced as **#82** and incorporate all comments regarding appraisal #79.

Commissioner's Comments: see comment for appraisal referenced as #79.

Commissioner Robotham and Commissioner Winner opposed the motion.

Motion carried 5 to 2.

In compliance with C.R.S. section 39-22-522(3.5)(a), it was motioned by Vice-Chair Whisman and seconded by Commissioner Lair that the Commission recommends the Executive Director of the Department of Revenue reject the tax credit associated with the appraisal referenced as **#83** and incorporate all comments regarding appraisal #79.

Commissioner's Comments: see comment for appraisal referenced as #79.

Commissioner Robotham and Commissioner Winner opposed the motion.

Motion carried 5 to 2.

In compliance with C.R.S. section 39-22-522(3.5)(a), it was motioned by Vice-Chair Whisman and seconded by Commissioner Lair that the Commission recommends the Executive Director of the Department of Revenue reject the tax credit associated with the appraisal referenced as **#84** and incorporate all comments regarding appraisal #79.

Commissioner's Comments: see comment for appraisal referenced as #79.

Commissioner Robotham and Commissioner Winner opposed the motion.

Motion carried 5 to 2.

In compliance with C.R.S. section 39-22-522(3.5)(a), it was motioned by Vice-Chair Whisman and seconded by Commissioner Lair that the Commission recommends the Executive Director of the

Department of Revenue reject the tax credit associated with the appraisal referenced as #85 and incorporate all comments regarding appraisal #79.

Commissioner Robotham and Commissioner Winner opposed the motion.

Motion carried 5 to 2.

In compliance with C.R.S. section 39-22-522(3.5)(a), it was motioned by Vice-Chair Whisman and seconded by Commissioner Lair that the Commission recommends the Executive Director of the Department of Revenue reject the tax credit associated with the appraisal referenced as #86 and incorporate all comments regarding appraisal #79.

Commissioner's Comments: see comment for appraisal referenced as #79.

Commissioner Robotham and Commissioner Winner opposed the motion.

Motion carried 5 to 2.

In compliance with C.R.S. section 39-22-522(3.5)(a), it was motioned by Vice-Chair Whisman and seconded by Commissioner Lair that the Commission recommends the Executive Director of the Department of Revenue reject the tax credit associated with the appraisal referenced as #87 and incorporate all comments regarding appraisal #79.

Commissioner's Comments: see comment for appraisal referenced as #79.

Commissioner Robotham and Commissioner Winner opposed the motion.

Motion carried 5 to 2.

In compliance with C.R.S. section 39-22-522(3.5)(a), it was motioned by Vice-Chair Whisman and seconded by Commissioner Lair that the Commission recommends the Executive Director of the Department of Revenue reject the tax credit associated with the appraisal referenced as #88 and incorporate all comments regarding appraisal #79.

Commissioner's Comments: see comment for appraisal referenced as #79.

Commissioner Robotham and Commissioner Winner opposed the motion.

Motion carried 5 to 2.

In compliance with C.R.S. section 39-22-522(3.5)(a), it was motioned by Vice-Chair Whisman and seconded by Commissioner Lair that the Commission recommends the Executive Director of the Department of Revenue reject the tax credit associated with the appraisal referenced as #89 and incorporate all comments regarding appraisal #79.

Commissioner's Comments: see comment for appraisal referenced as #79.

Commissioner Robotham and Commissioner Winner opposed the motion.

Motion carried 5 to 2.

In compliance with C.R.S. section 39-22-522(3.5)(a), it was motioned by Vice-Chair Whisman and seconded by Commissioner Lair that the Commission recommends the Executive Director of the Department of Revenue reject the tax credit associated with the appraisal referenced as #90 and incorporate all comments regarding appraisal #79.

Commissioner's Comments: see comment for appraisal referenced as #79.

Commissioner Robotham and Commissioner Winner opposed the motion.

Motion carried 5 to 2.

In compliance with C.R.S. section 39-22-522(3.5)(a), it was motioned by Vice-Chair Whisman and seconded by Commissioner Lair that the Commission recommends the Executive Director of the

Department of Revenue reject the tax credit associated with the appraisal referenced as #91 and incorporate all comments regarding appraisal #79.

Commissioner's Comments: see comment for appraisal referenced as #79.

Commissioner Robotham and Commissioner Winner opposed the motion.

Motion carried 5 to 2.

In compliance with C.R.S. section 39-22-522(3.5)(a), it was motioned by Vice-Chair Whisman and seconded by Commissioner Lair that the Commission recommends the Executive Director of the Department of Revenue reject the tax credit associated with the appraisal referenced as #92 and incorporate all comments regarding appraisal #79.

Commissioner's Comments: see comment for appraisal referenced as #79.

Commissioner Robotham and Commissioner Winner opposed the motion.

Motion carried 5 to 2.

In compliance with C.R.S. section 39-22-522(3.5)(a), it was motioned by Vice-Chair Whisman and seconded by Commissioner Lair that the Commission recommends the Executive Director of the Department of Revenue reject the tax credit associated with the appraisal referenced as #93 and incorporate all comments regarding appraisal #79.

Commissioner's Comments: see comment for appraisal referenced as #79.

Commissioner Robotham and Commissioner Winner opposed the motion.

Motion carried 5 to 2.

In compliance with C.R.S. section 39-22-522(3.5)(a), it was motioned by Vice-Chair Whisman and seconded by Commissioner Lair that the Commission recommends the Executive Director of the Department of Revenue reject the tax credit associated with the appraisal referenced as #94 and incorporate all comments regarding appraisal #79.

Commissioner's Comments: see comment for appraisal referenced as #79.

Commissioner Robotham and Commissioner Winner opposed the motion.

Motion carried 5 to 2.

In compliance with C.R.S. section 39-22-522(3.5)(a), it was motioned by Vice-Chair Whisman and seconded by Commissioner Lair that the Commission recommends the Executive Director of the Department of Revenue reject the tax credit associated with the appraisal referenced as #95 and incorporate all comments regarding appraisal #79.

Commissioner's Comments: see comment for appraisal referenced as #79.

Commissioner Robotham and Commissioner Winner opposed the motion.

Motion carried 5 to 2.

In compliance with C.R.S. section 39-22-522(3.5)(a), it was motioned by Vice-Chair Whisman and seconded by Commissioner Lair that the Commission recommends the Executive Director of the Department of Revenue reject the tax credit associated with the appraisal referenced as #96 and incorporate all comments regarding appraisal #79.

Commissioner's Comments: see comment for appraisal referenced as #79.

Commissioner Robotham and Commissioner Winner opposed the motion.

Motion carried 5 to 2.

In compliance with C.R.S. section 39-22-522(3.5)(a), it was motioned by Vice-Chair Whisman and seconded by Commissioner Lair that the Commission recommends the Executive Director of the

Department of Revenue reject the tax credit associated with the appraisal referenced as #97 and incorporate all comments regarding appraisal #79.

Commissioner's Comments: see comment for appraisal referenced as #79.

Commissioner Robotham and Commissioner Winner opposed the motion.

Motion carried 5 to 2.

In compliance with C.R.S. section 39-22-522(3.5)(a), it was motioned by Vice-Chair Whisman and seconded by Commissioner Lair that the Commission recommends the Executive Director of the Department of Revenue reject the tax credit associated with the appraisal referenced as and incorporate all comments regarding appraisal #79.

Commissioner's Comments: see comment for appraisal referenced as #79.

Commissioner Robotham and Commissioner Winner opposed the motion.

Motion carried 5 to 2.

In compliance with C.R.S. section 39-22-522(3.5)(a), it was motioned by Vice-Chair Whisman and seconded by Commissioner Lair that the Commission recommends the Executive Director of the Department of Revenue reject the tax credit associated with the appraisal referenced as #99 and incorporate all comments regarding appraisal #79.

Commissioner's Comments: see comment for appraisal referenced as #79.

Commissioner Robotham and Commissioner Winner opposed the motion.

Motion carried 5 to 2.

In compliance with C.R.S. section 39-22-522(3.5)(a), it was motioned by Commissioner Aangeenbrug and seconded by Commissioner Robotham that the Commission table the recommendation regarding the tax credit associated with appraisal referenced as #100 until Commission staff can provide additional information on whether there was separate appraisal completed regarding the wetland reserve.

Commissioner's Comments:

Vice-Chair Whisman: Stated if the Commission can't see an appraisal, it may be sufficient to ask the question of whether there was an additional appraisal and was that appraisal used for the value paid or for a higher value.

Commissioner West: Encouraged Staff to find other relevant information to give a better picture.

Commission-Chair Cochran: Had a question about the zoning in the wetlands.

Motion unanimously carried.

In compliance with C.R.S. section 39-22-522(3.5)(a), it was motioned by Commissioner West and seconded by Vice-Chair Whisman that the Commission recommends the Executive Director of the Department of Revenue **reject** the tax credit associated with the appraisal referenced as #101.

Commission-Chair Cochran called for discussion:

Commissioner's Comments:

Commissioner Winner: Stated he believes this is a good easement.

Commissioner Robotham: Stated he believes mining claims are unique and difficult to value and often have significant conservation easement benefits. He encouraged the Department of Revenue to take into account that most normal valuation methodologies often don't apply to

mining claims. Even though the per/acre value, and other aspects of the appraisal seem to have a high value, he will oppose the motion to recommend rejection of the tax credit associated with the conservation easement.

Commissioner Winner: Stated he agrees with Commissioner Robotham, and believes the value is not far off.

Vice-Chair Whisman: Stated she agreed with both Commissioner Winner and Robotham about the value of mining claims but noted the appraisal is seriously flawed. Her decision on this easement is based on whether the appraisal was adequate. She wondered if the Department of Revenue can either get a second appraisal or just settle with the taxpayer and move forward with some offer that is reasonable.

Commissioner West: Stated he believes there is conservation value in the property and mining claims are hard to value. However, because the appraisal is flawed, he is in favor of the motion to recommend rejection of the tax credit. He encouraged the Department of Revenue to work towards finding a solution

Commissioner Lair: Stated this is a hard decision, but will reject the motion to recommend rejection based on her belief that there is a lot of value in the easement despite the problematic appraisal.

Commission-Chair Cochran: Stated she will oppose the motion. There is an oddity to this easement that provides it a unique conservation opportunity and value.

Commissioner Robotham, Commissioner Winner, Commission Lair, and Commission-Chair Cochran opposed the motion.

Motion failed 3 to 4.

In compliance with C.R.S. section 39-22-522(3.5)(a), It was motioned by Commissioner Winner and seconded by Commissioner Robotham that the Commission recommends the Executive Director of the Department of Revenue accept the tax credit associated with the appraisal referenced as **#101**.

Commission-Chair Cochran called for discussion:

Commissioner's Comments: None.

Commissioner West, Commissioner Aangeenbrug, and Vice-Chair Whisman opposed the motion.

Motion carried 4 to 3.

- Commissioner Winner recused himself from the discussion and vote for the remainder of conservation easements and left the room at 2:15 PM.

In compliance with C.R.S. section 39-22-522(3.5)(a), it was motioned by **Commissioner Robotham** and seconded by **Commissioner Lair** that the Commission recommends the Executive Director of the Department of Revenue **reject** the tax credit associated with the appraisal referenced as **#51**.

Commission-Chair Cochran called for discussion:

Commissioner's Comments: None.

Motion unanimously carried.

In compliance with C.R.S. section 39-22-522(3.5)(a), it was motioned by Commissioner Robotham and seconded by Commissioner Lair that the Commission recommends the Executive Director of the Department of Revenue reject the tax credit associated with the appraisal referenced as #59.

Commission-Chair Cochran called for discussion:

Commissioner's Comments:

Commissioner West: Stated the Department of Revenue should take into account that landowners have attempted to provide the Department of Revenue with a second appraisal to settle the matter.

Commission-Chair Cochran: Agreed with Commissioner West.

Motion unanimously carried.

In compliance with C.R.S. section 39-22-522(3.5)(a), it was motioned by Vice-Chair Whisman and seconded by Commissioner Lair that the Commission recommends the Executive Director of the Department of Revenue reject the tax credit associated with the appraisal referenced as #60.

Commission-Chair Cochran called for discussion:

Commissioner's Comments:

Vice-Chair Whisman: Easements claimed in 2003 are really old and encouraged the Department of Revenue to resolve the matter quickly for the landowner.

Commissioner Aangeenbrug: Echoed the comments made by Vice-Chair Whisman.

Commission-Chair Cochran: Agreed with Vice-Chair Whisman, seven years to resolve the matter is cruel and unusual.

Commission Lair: Stated that 10 commercial sites in this remote location are hard to fathom.

Motion unanimously carried.

In compliance with C.R.S. section 39-22-522(3.5)(a), it was motioned by Commissioner West and seconded by Vice-Chair Whisman that the Commission recommends the Executive Director of the Department of Revenue reject the tax credit associated with the appraisal referenced as #61.

Commission-Chair Cochran called for discussion:

Commissioner's Comments:

See all comments regarding appraisal referenced as #60.

Motion unanimously carried.

In compliance with C.R.S. section 39-22-522(3.5)(a), it was motioned by Commissioner Robotham and seconded by Commissioner Aangeenbrug that the Commission recommends the Executive Director of the Department of Revenue reject the tax credit associated with the appraisal referenced as #67.

Commission-Chair Cochran called for discussion:

Commissioner's Comments:

See all comments regarding appraisal referenced as #60.

Commission-Chair Cochran: Repeated her comment about the conservation easement being seven years old and that the landowner deserves a response.

Vice-Chair Whisman: Stated she is concerned about the appraisal and the condition of the easement and wondered if this one has conservation values.

Motion unanimously carried.

In compliance with C.R.S. section 39-22-522(3.5)(a), it was motioned by Commissioner West and seconded by Vice-Chair Whisman that the Commission recommends the Executive Director of the Department of Revenue reject the tax credit associated with the appraisal referenced as #68. Commission-Chair Cochran called for discussion:

Commissioner's Comments:

See all comments regarding appraisal referenced as #60 and #67.

Motion unanimously carried.

In compliance with C.R.S. section 39-22-522(3.5)(a), it was motioned by Commissioner West and seconded by Commissioner Robotham that the Commission recommends the Executive Director of the Department of Revenue reject the tax credit associated with the appraisal referenced as #69. Commission-Chair Cochran called for discussion:

Commissioner's Comments:

Commissioner West: Stated that based on the size of the easement, he believes this property has conservation value and the appraised value, if overvalued, is not as egregious as others discussed at the meeting.

Commissioner Lair and Vice-Chair Whisman: Agreed with Commissioner West's comments.

Commission-Chair Cochran: Agreed with Commissioner West and further stated she had a hard time recommending rejection of the tax credit because of the perceived length of time since this easement was done.

Motion unanimously carried.

In compliance with C.R.S. section 39-22-522(3.5)(a), it was motioned by Vice-Chair Whisman and seconded by Commissioner Aangeenbrug that the Commission recommends the Executive Director of the Department of Revenue reject the tax credit associated with the appraisal referenced as #71. Commission-Chair Cochran called for discussion:

Commissioner's Comments:

Vice-Chair Whisman: Stated this is another easement where the size of the easement could indicate significant conservation values; but information about the property being developed into a wind-farm makes her question the protection of the property's conservation value. She stated her vote will be based on the fact that the appraisal is flawed.

Commissioner West: Stated this property has more conservation value than any of the other easements he had seen during the day's review. He has concerns about the structure of the easement; particularly the Highest and Best Use. However this is a mainstream agricultural producer and this transaction occurred seven years ago. He encourages the Department of Revenue to work toward a speedy resolution.

Commission-Chair Cochran: Stated she is going to vote against the motion because she does not have enough information to recommend rejection of the tax credit. There are a lot of factors and it is hard to comprehend the size and quality of this property not being supported by the appraisal.

Commissioner West: In response to Commissioner Lair's inquiry about commercial wind-farms in the area, he stated that he is not an expert on wind-farms but, as far as he is aware, this is a part of Colorado with active and potentially expanding commercial wind-farm development.

Commissioner Lair: Stated she is bothered that a wind-farm was not disclosed as a Highest and Best Use. She is going to vote to recommend rejecting the tax credit but has some reservations because of the conservation values on the property.

Commissioner Robotham: Claimed the value of the land as a wind-farm was not considered in the appraisal and was unknown in 2003.

Commission-Chair Cochran and Commissioner Aangeenbrug opposed the motion.

Motion carried 5 to 2.

In compliance with C.R.S. section 39-22-522(3.5)(a), it was motioned by Commissioner Robotham and seconded by Vice-Chair Whisman that the Commission recommends the Executive Director of the Department of Revenue reject the tax credit associated with the appraisal referenced as #72.

Commission-Chair Cochran called for discussion:

Commissioner's Comments:

Vice-Chair Whisman: Stated the property seems to have good conservation value; it appears the deal was soundly completed and removed home-sites. Even though the per-acre value may not be too high, there still are flaws in the appraisal.

Commissioner Lair and Aangeenbrug: Agrees with Vice-Chair Whisman

Commissioner West: Stated this is a property with clear agricultural and conservation viability and seven years is too long to have people's lives put on hold.

Commission-Chair Cochran opposed the motion.

Motion carried 6 to 1.

In compliance with C.R.S. section 39-22-522(3.5)(a), it was motioned by Commissioner West and seconded by Commissioner Aangeenbrug that the Commission recommends the Executive Director of the Department of Revenue reject the tax credit associated with the appraisal referenced as #73.

Commission-Chair Cochran called for discussion:

Commissioner's Comments: None.

Motion unanimously carried.

In compliance with C.R.S. section 39-22-522(3.5)(a), it was motioned by Commissioner West and seconded by Commissioner Aangeenbrug that the Commission recommends the Executive Director of the Department of Revenue reject the tax credit associated with the appraisal referenced as **#74**. Commission-Chair Cochran called for discussion: None.

Commissioner's Comments:

Motion unanimously carried.

In compliance with C.R.S. section 39-22-522(3.5)(a), it was motioned by Commissioner West and seconded by Commissioner Lair that the Commission recommends the Executive Director of the Department of Revenue reject the tax credit associated with the appraisal referenced as **#75**. Commission-Chair Cochran called for discussion:

Commissioner's Comments: None.

Motion unanimously carried.

In compliance with C.R.S. section 39-22-522(3.5)(a), It was motioned by Commissioner West and seconded by Commissioner Lair that the Commission recommend's the Executive Director of the Department of Revenue reject the tax credit associated with the appraisal referenced as **#76**. Commission-Chair Cochran called for discussion:

Commissioner's Comments: None.

Motion unanimously carried.

In compliance with C.R.S. section 39-22-522(3.5)(a), it was motioned by Commissioner West and seconded by Commissioner Lair that the Commission recommends the Executive Director of the Department of Revenue reject the tax credit associated with the appraisal referenced as **#77**. Commission-Chair Cochran called for discussion:

Commissioner's Comments: None.

Motion unanimously carried.

In compliance with C.R.S. section 39-22-522(3.5)(a), it was motioned by Commissioner West and seconded by Commissioner Lair that the Commission recommends the Executive Director of the Department of Revenue reject the tax credit associated with the appraisal referenced as **#78**. Commission-Chair Cochran called for discussion:

Commissioner's Comments: None.

Motion unanimously carried.

In compliance with C.R.S. section 39-22-522(3.5)(a), it was motioned by Commissioner Robotham and seconded by Commissioner Aangeenbrug that the Commission recommends the Executive Director of the Department of Revenue reject the tax credit associated with the appraisal referenced as **#102**. Commission-Chair Cochran called for discussion:

Commissioner's Comments:

Commissioner West and Lair: Both sought clarification on the quid pro quo issue related to this conservation easement; particularly regarding the rezoning of a cluster development prior to the donation of the conservation easement.

Motion unanimously carried.

In compliance with C.R.S. section 39-22-522(3.5)(a), it was motioned by Vice-Chair Whisman and seconded by Commissioner Aangeenbrug that the Commission recommends the Executive Director of the Department of Revenue **reject** the tax credit associated with the appraisal referenced as **#103**.

Commission-Chair Cochran called for discussion:

Commissioner's Comments:

Commissioner West: Stated he believes this easement has conservation values particularly as it pertains to the water rights which entail special considerations; in particular the importance of restriction of significant Arkansas River Water.

Vice-Chair Whisman: Stated it is possible that water could be the primary conservation value because, according to staff, the easement restrictions may not be any greater than the current zoning restrictions for development.

Commission-Chair Cochran: Stated she would like to echo Commissioners West's comments regarding the conservation values, but also thinks the appraisal has a lot of problems.

Commissioner West: Further commented that he has seen severability of water rights in places in the state, including a watershed up river from the easement. Often the water and the ability to sever the water is worth more than the land and the development potential of that land with or without water. This is a very unique circumstance that is very hard to value. It appears to be an odd situation that the Department of Revenue has picked up on and will have to work though.

Commissioner Robotham: Agreed with Commissioner West.

Motion unanimously carried.

In compliance with C.R.S. section 39-22-522(3.5)(a), it was motioned by Vice-Chair Whisman and seconded by Commissioner Aangeenbrug that the Commission recommends the Executive Director of the Department of Revenue **reject** the tax credit associated with the appraisal referenced as **#104**.

Commission-Chair Cochran called for discussion:

Commissioner's Comments:

See all comments regarding appraisal referenced as #103.

Motion unanimously carried.

In compliance with C.R.S. section 39-22-522(3.5)(a), it was motioned by Vice-Chair Whisman and seconded by Commissioner Aangeenbrug that the Commission recommends the Executive Director of the Department of Revenue **reject** the tax credit associated with the appraisal referenced as **#105**.

Commission-Chair Cochran called for discussion:

Commissioner's Comments:

See all comments regarding appraisal referenced as #103.

Motion unanimously carried.

In compliance with C.R.S. section 39-22-522(3.5)(a), it was motioned by Vice-Chair Whisman and seconded by Commissioner Lair that the Commission recommend the Executive Director of the Department of Revenue **reject** the tax credit associated with the appraisal referenced as **#106**. Commission-Chair Cochran called for discussion:

Commissioner's Comments:

Vice-Chair Whisman: Commented that this conservation easement presented many problematic issues.

Motion unanimously carried.

Adjournment:

Motion: It was motioned by Commissioner West and seconded by Commissioner Winner to adjourn the meeting.

Motion unanimously carried

The meeting adjourned at 3:55 PM on December 7, 2010.

Lise Aangeenbrug, Great Outdoors Colorado

Doug Robotham, Colorado Department of
Natural Resources

Cindy Lair, Colorado Department of Agriculture

Martha Cochran, Commissioner

R. Jay Winner, Commissioner

Janis Whisman, Commissioner

Chris West, Commissioner

Absent
Mark Weston, Commissioner

Absent
Max Vezzani, Commissioner