

**MEETING MINUTES
CONSERVATION EASEMENT OVERSIGHT COMMISSION MEETING
September, 28 2023**

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MINUTES
CONSERVATION EASEMENT OVERSIGHT COMMISSION MEETING
September 28, 2023
COLORADO DIVISION OF CONSERVATION
1560 BROADWAY, SUITE 1550
DENVER, CO 80202

Commissioners in Attendance

Paul Holsinger, an individual who is qualified to analyze conservation purpose; Carmen Farmer, representing a certified conservation easement holder; Keli Cavaleri, representing the Great Outdoors Colorado (GOCO) Program; Hollis Glenn, representing the Department of Agriculture; Lee Hancock, representing a member of the general public, appointed by the President of the Senate; and Jill Ozarski, representing a member of the general public.

Staff in Attendance

Aaron Welch, Director, Beatrice Lawson, Compliance Specialist, and Ashley Moller, First Assistant Attorney General.

Notice of the meeting was timely published and the meeting was held pursuant to the Colorado Sunshine Laws, Title 24, Article 6, C.R.S., as amended.

ORDER OF BUSINESS

The meeting was called to order at 9:31 a.m.

Approval of Minutes - September 28, 2023

It was moved by Commissioner Hancock and seconded by Commissioner Farmer to approve the September 28, 2023 minutes.

Motion carried.

Public Comment

None.

POLICY MATTERS

Applications Update

Director Welch summarized application activity since the last meeting. The Division has 12 tax credit certificate applications pending review. The Division has received 37 applications this year (4 applications for conservation easements donated in 2022 and 33 applications for conservation easements donated in 2023). The rate of incoming applications suggests the Division can anticipate 60-65 tax credit applications this year, which would be an increase of 15% to 25% over the average number of applications across the last four years (52 applications per year during 2019-2022). The Division has issued tax credit certificates for 25 applications received this year. The conservation easements involved encumber nearly 44,000 acres in 24 counties. There are no pending applications for new organizations seeking to become certified. Director Welch also addressed the 2023 cap being hit and noted there is \$6,800,000 available in tax credits for 2024. Additionally, Director Welch made note that the Division will now accept signed and recorded deeds of conservation easement with recording receipts, explaining it takes a while for the county clerk to get documents recorded. He proceeded to field questions from members of the Commission.

IRS Notice 2023-30

Director Welch provided a summary of IRS Notice 2023-30, noting that the deadline has already passed to amend CEs. Director Welch asked the Commission if they felt the division's requirement for extinguishment was sufficient and if the Division needs to add a criterion for boundary line adjustments? The Commission discussed and Ashley Moller suggested that the Commission consider how they use language when creating policy because the IRS may change language at any time, so using more general language is recommended. Director Welch asks if the Division should come up with a draft position statement for the Commissioners to review and the Commission agrees to review Policy 10-02 at the next meeting.

Draft Position on Qualified Conservation Contributions and Borrow Pits

At the December 9, 2022 meeting, the Commission discussed Internal Revenue Service Chief Counsel Memo No. 202236010 regarding Retained Surface-Mining Rights in Conservation Easement Deeds. Since that time, at least two tax court cases have touched upon the subject. Director Welch reviewed the tax court cases with the Commission. He then read the draft policy position statement created by the Division and asked the Commission if they wanted to formally adopt the policy. The Commissioners agreed that it was a good and well-written statement that will be helpful for landowners and recognizes that borrow pits are important on ag lands. Commissioner Holsinger motioned to formally adopt Policy 10-01. Commissioner Farmer seconded the motion, Chair Ozarski called for a vote.

Motion carried.

Annual Ethics and Conflict of Interest Training - Ashley Moller, First Assistant Attorney General

Commissioner Farmer read the script in order to enter into executive session and made a motion to enter executive session. Commissioner Holsinger seconded the motion, Chair Ozarski called for a vote.

Motion carried. Executive session began at 10:31a.m, Ashley Moller proceeded with annual training.

Agenda Items for Next Meeting

The next meeting has yet to be scheduled. The date will depend upon the availability of members of the Commission and the capacity of the Division. Topics may include an update on the Division's fee schedule and the creation and review of a draft Policy 10-02.

ADJOURN

The Commission adjourned the meeting at 11:45 a.m. on September 28, 2023.