

Testimony on House Bill 1353 to Verify Conservation Easement Tax Credits

My name is Howard Hallman. I am the president and founder of The Greenlands Reserve land trust. Thank you for having me. I support changes to the Conservation Easement Tax Credit Program to reduce costs and clarify standards. I'm here today to provide some facts about the current program.

Program Benefits

We at the Greenlands Reserve are proud of our conservation accomplishments throughout the state. Much of what we have achieved is the direct result of the tax credit program.

To date, we have protected almost 30 miles of riparian habitat along Lower Arkansas River within a 140 mile long corridor. The ecological, historic, cultural and economic significance of the Lower Arkansas River to southeastern Colorado is huge. The public benefit of saving this landmark river is not in dispute.

We have also protected more than 32 square miles of ranchland primarily in Northwest Crowley County where combined with easements held by other land trusts makes up a far larger conservation region.

Conservation Easement Appraisals

I am not an appraiser and Greenlands doesn't hire appraisers. I speak only as a concerned party on this issue.

Conservation easement appraisals can be based on not only on the loss of development rights, but also on the loss of gravel, mineral and water rights forever. This approach is identified by the Colorado Department of Revenue on Form 1303.

The Lower Arkansas Valley has one of the highest quality most easily mined gravel deposits in the state. If the appraisals are right, (and I believe they are), proven gravel reserves along the Arkansas River have royalty values generally ranging from \$15,000 to \$25,000 an acre. There is a current market for this gravel for use throughout southeastern Colorado for new highways and other construction and for shipment by railroad into western Kansas. Through the tax credit program, farmers and ranchers receive less than 30 cents on the dollar for what they give up by their donation of conservation easements forgoing forever

the right to mine. But the story gets better! Last year, Greenlands increased our minimum easement size within the river corridor to 160 acres. This means landowners donating easements to us will receive less than 8 cents on the dollar, through the tax credit program.

The State of Colorado will pay about 10 cents on the dollar to save the Arkansas River's riparian habitat from permanent destruction because of gravel mining too close to the river.

Divided properties

There's nothing new here. There are no secrets. The practice of dividing properties into smaller parcels for the purpose donating conservation easements has been used throughout the state in conjunction with any number of donors, land trusts, towns, counties and other entities. Farmers, ranchers and others have divided properties prior to the donation of conservation easements. People have divided their properties to donate one piece a year. Citizens have done this to take full benefit under the tax credit program for the land they have given up forever.

Transactions have been recorded with county clerk and recorders, and have been openly reported to both the Colorado Department of Revenue and the Internal Revenue Service.

In the more than five years the Colorado Department of Revenue and the Internal Revenue Service have been tracking issues of conservation easement appraisals and dividing of properties for donation. So far we still have no clear guidelines.

Good faith efforts

Landowners donating easements to us have followed the rules. Our conservation programs are open and transparent. Federal and state tax reports are properly filed. Each easement is evaluated for conservation purpose and public benefit. *Last year we declined almost 50% of the easements brought before us.* Each transaction includes a well crafted stringent conservation easement deed, a baseline study, an appraisal, a minerals evaluation, a title policy, subordination agreements and other supporting documentation. We conduct yearly monitoring for each conservation easement. We defend against all threats to conservation purpose.

Conclusions

A complicated, cumbersome process will discourage rural farmers and ranchers from considering conservation easements on their land. Instead they will sell, and Colorado will lose its chance to protect its special places such as the Lower Arkansas River.

There are no good guys or bad guys in all of this. What we currently have is an easily accessible very generous tax credit program with very few rules. It is not surprising that people would take full benefit of the tax credit program. We lack sufficient guidance and feedback from the Colorado Department of Revenue. What we need are clear rules for appraisals, conservation purpose and the dividing of properties.

Thank you. Are there any questions?