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Conservation Easement Update



By **Bill Silberstein**, Attorney
 Conservation easements throughout Colorado and the Rocky Mountain West are alive and well. According to the state of Colorado, as of September 2011, there were more than 4,300 conservation easements in Colorado covering approximately 1.6 million acres. This translates into 3.5% of the private land in Colorado. Since the beginning of 2011, over \$45 million of Colorado conservation easement tax credits have been claimed.

The cap for each tax credit is \$375,000, thus the pace of conservation easements in Colorado alone, may be as many as one hundred new conservation easements per year.

More good news is that the wave of audits of conservation easements by the IRS in Colorado and the region has abated. Beginning in 2006, when the taxing authorities received reports of abuse of conservation easements by a few promoters using overinflated appraisals, the IRS started auditing conservation easement transactions. Unfortunately, it seemed that the IRS had trouble distinguishing the good deals from the bad deals. Some landowners who had done everything correctly got caught up in this. Currently, it appears that the IRS is not starting new audits of Colorado conservation easements, and I have not heard reports of any new audits in Colorado during the last two years. The attention of the IRS appears to be focused on other parts of the country, including the southeast region.

The land trusts, appraisers and others involved with conservation easements have emerged from this dark period stronger than ever. With reforms enacted by the state of Colorado in 2008, the bad players have been removed from the business. As a sign of health in the Colorado land trust community, Colorado has 15 land trusts that have been accredited by the Land Trust Alliance Accreditation Commission, more than all states except California and Pennsylvania.

As has been the case historically, many conservation easement conveyances have been driven by the tax benefits available to conservation easement donors. The tax benefits include the federal charitable deduction for the appraised value of the conservation easement. There is also a transferrable Colorado income tax credit of up to \$375,000 per

conservation easement. These are powerful tax incentives that have motivated many conservation easement donors. Congress just extended the enhanced conservation easement tax benefit in the Fiscal Cliff Tax Bill for 2013.

In the last several years, there have been more funds available for the purchase of conservation easements. Sources of these funds include Great Outdoors Colorado, Colorado Division of Parks and Wildlife, Federal programs including the Farm and Ranch Protection Program, County Open Space Funds and private foundations. Because there is far less money available than needed to fund all the willing sellers, these grants are made on a competitive basis and usually the funders will require that the conservation easement be sold at less than its appraised value, often at 75% of appraised value. Putting together funded deals is complicated, and it is a process handled by the land trust. Whether it is a pure donation or a cash funded transaction, the conservation easement remains a popular and powerful tool for voluntary protection of open space and stewardship of wildlife habitat.

For further information, contact:

Bill Silberstein | **Kaplan Kirsch & Rockwell LLP** | 303-825-7000

1675 Broadway, Suite 2300 | Denver, CO 80202 | bsilberstein@kaplankirsch.com

Meet Robb Nelson, Attorney & Broker



Raised in South Dakota, Robb has farming, ranching and the outdoors in his blood. His real estate career has focused on high-end hunting and fishing properties, as well as working cattle ranches and farms. As an attorney, his expertise is very valuable in educating clients in complex property issues with extensive experience, contacts and knowledge of the hunting and ranching industry. An avid hunter, Robb is on the Pro Staffs of Mossy Oak, Hunter's Specialties, Under Armour, Outdoor Edge and Mathews Bows. Prior to entering the real estate profession, Robb and his partner, NFL Hall of Fame Member Anthony Munoz, represented more than 200 professional athletes, musicians,

high wealth individuals and corporations. Robb is a frequent national speaker on contract negotiations, conservation easements, water law, habitat enhancement, hunting, land management, charitable fundraising, marketing and other property issues. He is tirelessly devoted to the charity he and his wife created in honor of their late son Hunter, Hunter's Dream for a Cure, which has raised well over \$1 Million for special needs children and pediatric neurological disorders.

Affiliations: Life Member of the NRA, Rocky Mountain Elk Foundation, Safari Club International, Kenai River Sportsfishing Association, National Wild Turkey Federation, Pheasants Forever, Colorado Bowhunters Association, American Quarter Horse Association, Colorado Cattleman's Association, Colorado Coalition of Land Trusts, board member and legal counsel for the NFL Alumni Rocky Mountain Chapter.

TV Appearances: The World of Beretta, Craig Morgan's All Access Outdoors, Upland Bird Hunters Journal, Hunter's Specialties, Driven 24/7, Bass Pro Shops Outdoor World and more.



Rocking Chair Springs

Location: Laramie, WY

Price: \$14,000,000

Acreage: 11,911 Acres

Features:

- New cabin
- Epic big game hunting
- Stunning mountain views
- Several springs & ponds



Prairie Swamp

Location: Lewellen, NE

Price: \$3,200,000

Acreage: 502 Acres

Features:

- Trophy waterfowl hunting
- Fully-developed blinds
- North Platte fishery
- Hunter's dream property



On Top of Colorado

Location: Gunnison, CO

Price: \$2.3M, Was \$3.9M

Acreage: 325 Acres

Features:

- Stunning Castle views
- Borders Gunnison National Forest and West Elk Wilderness



SOLD! Upper 84 Ranch

Location: Brady, NE

Price: \$3,000,000

Acreage: 3,268 Acres

Features:

- 7,875 sqft luxury home
- 20,000 sqft horse barn with indoor riding arena
- Waterfowl & big game



SOLD! Heartland Sportsman's Paradise

Location: Valentine, NE

Price: \$2,200,000

Acreage: 1,021 Acres

Features:

- 2,648 sqft log home
- Nicobara National River
- Abundant big game



Mountain Spirit Lodge

Location: Chromo, CO

Price: \$5M, Was \$5.9M

Acreage: 273 Acres

Features:

- 6,000 sqft main lodge
- 4 bedroom river house
- Navajo River frontage
- Stellar fly fishing

Joshua Spies, Wildlife Artist

Joshua Spies is an internationally renowned wildlife artist. Master artist Terry Redlin mentored Joshua for many years. He won the Federal Duck Stamp



competition in 2009 and has been selected for the Ducks Unlimited and Pheasants Forever national art packages numerous times. The Outdoor Channel's "Wildlife Art Gallery" has featured Joshua's artwork. In the fall of 2006 Wildlife Art Magazine named Joshua one of the top 16 wildlife artists. Joshua's work recently appeared on the cover of Safari Club International's catalog. Dallas Safari Club announced Joshua as the winner of their Artist of the Year award in 2007 and in 2011, Joshua was named the Safari Club International Artist of the Year. Recently, Joshua's artwork was chosen to be featured on a Cabela's gift card. Joshua is a dedicated conservationist and through his artwork, has helped raise millions of dollars worldwide for this effort. He is a life member of the Grand Slam Club, Foundation for Wild Sheep, the Rocky Mountain Elk Foundation, Pheasants Forever, Safari Club International, Ducks Unlimited, Dallas Safari Club and ISHA. He

is also a member of Grand Slam Club, Whitetails Unlimited, Mule Deer Foundation, Delta Waterfowl and the National Rifle Association. Joshua is also a major supporter of Hunter's Dream for a Cure **www.huntersdream.org**, a foundation started by Live Water Properties Broker Robb Nelson and features the foundation on his website.

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