Tax Matters Representative (TMR) Options

Please be advised that the TMR's signed election must be mailed via certified mail on or before October 1, 2011. In accordance with Section 39-22-522(7)(i), C.R.S., the TMR must provide notice of its election to transferees of the credit. All correspondence with the Department pursuant to Section 39-22-522.5, C.R.S., including any notice of appeal or written request for an expedited hearing and final determination, should be addressed to the Department as follows:

Deborah K. Van Wyke, Conservation Easement Tax Credit Program Manager Tax Conferee Section, Room 234 Colorado Department of Revenue State Capital Annex 1375 Sherman Street Denver, CO 80261

Pursuant to Section 39-22-522.5, C.R.S., if you are a TMR, you may now elect one of three options:

<u>TMR Option 1</u>: Waive the administrative hearing provided by Section 39-21-103, C.R.S. and appeal directly to a district court. This option requires the TMR to mail a signed notice of appeal via certified mail on or before October 1, 2011 to the district court and the Department as provided in Section 39-22-522.5(2)(a), C.R.S. If the TMR timely elects this option, additional interest and penalties will cease to accrue while the matter is on appeal before the district court and no surety bond or other deposit will be required. See §§ 39-22-522.5(2)(c) and (d), C.R.S.

TMR Option 2: Request an expedited administrative hearing and final determination. This option requires the TMR to mail a written request for hearing and final determination via certified mail on or before October 1, 2011 to the Department as provided in Section 39-22-522.5(3), C.R.S. If the TMR timely elects this option, the Department must hold a hearing and issue a final determination on or before July 1, 2014 in accordance with Sections 39-21-103 and 39-22-522.5(5), C.R.S.

TMR Option 3: Make no election and receive an administrative hearing and final determination on or before July 1, 2016. If a TMR does not timely elect either Option 1 or Option 2, the Department must hold a hearing and issue a final determination on or before July 1, 2016 in accordance with Sections 39-21-103 and 39-22-522.5(5), C.R.S.

The TMR may appeal the final determination issued under Option 2 or 3 pursuant to Sections 39-21-105 and 39-22-522.5(6), C.R.S. The waiver of a surety bond or other deposit in connection with the appeal and the tolling of additional interest and penalties available under Option 1, however, do not apply. Section 39-22-522.5(5), C.R.S. also now allows the Executive Director to issue certain orders to expedite the equitable resolution of these cases. For example, if the TMR fails to adequately participate in the administrative hearing process, the Executive Director may issue a final determination without further proceedings. See §39-22-522.5(5)(c), C.R.S.