

## FOR IMMEDIATE RELEASE

### **BOULDER COUNTY SEEKS COVER BEHIND NON-SUBSTANTIVE REPLY TO LAWSUIT AND ASKS COURT TO DISMISS TAXPAYER LAWSUIT TO PROTECT OPEN SPACE**

**February 5, 2021 | BOULDER** – Taxpayer-funded attorneys, defending Boulder County Commissioners, filed a motion in Boulder District Court late today asking the Court to dismiss a lawsuit brought by residents that seeks to protect Open Space. The anticipated maneuver highlights Boulder County’s strong desire to avoid addressing the substance of the case - that Open Space purchased with restricted taxpayer funds should never be exploited for commercial development.

In a show of resolve and conviction that perpetual conservation easements and Open Space lands, purchased with restricted tax revenues, should never be in jeopardy of development – and certainly not by the County itself – Plaintiffs just one week ago amended their complaint to include a new TABOR claim. In short, the amended claim asserts the County is prohibited, under Colorado’s Taxpayer Bill of Rights (TABOR), from knowingly misusing restricted funds for a purpose not approved by voters.

Boulder County’s voter-approved Open Space tax clearly states proceeds may only be used to purchase and maintain Open Space. Despite this, Boulder County is applying to itself for permission to develop and operate a massive commercial sewage, manure, and rotting food factory on the 40-acre Rainbow Tree Farm Open Space lands that were purchased with restricted Open Space tax revenue. The County’s development effort on Open Space is a betrayal of its obligations to the taxpayer and a clear violation of Colorado’s Taxpayer Bill of Rights.

Under Colorado law, Boulder County’s TABOR violation requires it to refund to all taxpayers the full purchase price of the Open Space land plus 10%/year interest. Further, Plaintiffs are seeking a reinstatement of the perpetual conservation easement protections that were purchased on the land by Boulder County taxpayers. The amended action seeks to establish an important precedent in Colorado that no matter how virtuous an entity perceives its development objectives of Open Space to be, the protected status of taxpayer-funded Open Space lands are, in fact, inviolable.

Brandon White, a plaintiff in the suit against Boulder County observed, “I am not at all surprised the County is seeking to have the case dismissed on a non-substantive technicality. That strategy helped the County avoid accountability in past cases including *Wibby v. Boulder County Commissioners* and *Rechberger v. Boulder County Commissioners*.” White added, “just once it would be nice to hear a policymaker in Boulder acknowledge a lapse in judgment, or to simply take responsibility for a mistake. Instead, we taxpayers have to hire attorneys to sue the County, which in turn uses our tax money to hire attorneys to double down and defend its errors. It’s time the Commissioners save us all the aggravation and expense, and simply honor the promises they made when voters approved a sales tax to purchase and protect Open Space lands.”

Mr. White is a founding member of the Open Space Protection Alliance (OSPA). The non-profit was formed to raise community awareness of threats to Open Space and Conservation Easements from policy makers who cannot resist the temptation to overreach. OSPA maintains the website, [www.ProtectRainbowOpenSpace.org](http://www.ProtectRainbowOpenSpace.org)

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