

**From:** [Ron Troy](#)  
**To:** [Austin, Carmelita, EMNRD](#)  
**Cc:** [Claire Catlett](#); [Raena Kamakahi](#); [Traci Burnsed](#); [Chantell Victorino](#)  
**Subject:** [EXTERNAL] RE: 2023 Notice of Public Meeting -- Land Conservation Incentives Tax Credit  
**Date:** Tuesday, November 14, 2023 9:59:57 AM  
**Attachments:** [LCIA Rulemaking NMLC Comment Letter sig 11-14-2023.PDF](#)

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**CAUTION:** This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Hello Carmen,

Thank you for your email and the opportunity to comment on rulemaking relative to the Land Conservation Incentives Tax Credit (LCITC). Please see the attached letter regarding the proposed amendments and other thoughts regarding the LCITC in general.

Thank you so much for all of your time and hard work these past months.

Best regards always,

Ron

Ron Troy

Southern New Mexico Program Manager/Interim Executive Director

New Mexico Land Conservancy

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**From:** Austin, Carmelita, EMNRD <carmelitam.austin@emnrd.nm.gov>  
**Sent:** Wednesday, October 11, 2023 8:30 AM  
**Subject:** re: 2023 Notice of Public Meeting -- Land Conservation Incentives Tax Credit

Good morning All,

The New Mexico Energy, Minerals, and Natural Resources Department and Taxation and Revenue Department are proposing the attached amendments to the Land Conservation Incentives Tax Credit (3.13.20 NMAC). A public hearing is scheduled for Wednesday, November 14th, at 10 AM, at the Montoya Building, 3<sup>rd</sup> Floor, 1100 South St. Francis Drive, Santa Fe, NM 87504. Those wishing to comment on the proposed rule amendment may make oral or written comments or submit information at the hearing or may submit written comments by November 14, 2023, by 10 AM by mail or email.

Thank you,  
Carmen

*Carmen Austin*

Climate Change Specialist

(505) 617-0119



November 14, 2023

To: Secretary Sarah Cottrell Propst  
New Mexico Energy, Minerals and Natural Resources Department (EMNRD)  
1220 South St. Francis Drive  
Santa Fe, NM 87505

Secretary Stephanie Schardin Clarke  
New Mexico Taxation and Revenue Department (TRD)  
1200 South St. Francis Drive  
Santa Fe, NM 87505

Cc: Carmen Austin  
Climate Change Specialist  
New Mexico Energy, Minerals and Natural Resources Department (EMNRD)  
Forestry Division, 1220 South St. Francis Drive  
Santa Fe, NM 87505  
[carmelitam.austin@emnrd.nm.gov](mailto:carmelitam.austin@emnrd.nm.gov)

**Re: 2023 EMNRD and TRD proposed rulemaking and amendments for 3.13.20 NMAC, Land Conservation Incentives Tax Credit**

**EXECUTIVE SUMMARY**

Established in 2002, New Mexico Land Conservancy (NMLC) is an accredited member of the Land Trust Alliance (LTA) since 2015, and currently holds 119 conservation easements across 655,644 acres. Our portfolio of conservation easements is valued near \$1 billion as appraised by a qualified conservation easement appraiser.

Since the creation of the Land Conservation Incentives Act (LCIA) in 2004, NMLC has led landowners who have donated conservation easements in their applications to EMNRD and TRD for the LCIA state tax credit program. Largely, the state tax credit program has fueled the transactions for private land conservation in New Mexico, as tax credits are the needed financial benefit allowing landowners to keep their land intact, in their families, working as farms and ranches, with intact forests and grasslands, ensuring water rights run with the land, conserving fish and wildlife habitat as well as protecting valuable cultural and historic resources.

NMLC would like to thank EMNRD and TRD for examining the current LCIA program and associated rules under NMAC to see how the program could be improved upon. NMLC believes that the current rulemaking proposed by to update the LCIA with amendments to 3.13.20 NMAC is well intentioned to reflect the modernization of policy to keep up with current business practices, considers needed flexibility for applications within the legal framework of conservation easements and state tax code, and provides much needed clarity on internal EMNRD procedures. NMLC urges EMNRD and TRD to consider the proposed rulemaking in light of efficiency for their staff and committee's time required to review and approve LCIA applications as well as the time required by the applicants themselves. We believe it is

important that the program runs efficiently so that the process does not become unnecessarily burdensome to applicants and tax filers who seek efficient reviews to meet their tax filing deadlines to claim qualified charitable donation tax deductions. Often times these landowners depend on state tax credits for income that repays them the administrative and legal costs of a conservation easement transaction.

One key need in land conservation is to address equity and access to LCIA tax credits for all conservation easements, large and small. The current cap for tax credit value assessed at 50% of the appraised easement value severely limits the access of smaller conservation easement landowners who are often underserved family farms and ranches, as these are the types of landowners who cannot afford the administrative and legal costs of an easement, thus the 50% cap of appraised value makes the financial benefit of an easement null for a smaller family farm. To incentivize conservation easements in our state that can benefit small landowners and underserved families who often are traditional farmers and ranchers, we would like the state to consider an increase the LCIA tax credit value from 50% to upwards of 100% of the appraised value of a conservation easement so that we can protect more of our small farming operations across the state.

Additionally, the state's annual limit of \$250,000 per individual/entity for tax credits authorized in total undermines the expansion of an increased cap for conservation value to above 50% and puts New Mexico behind in environmental protections for private lands and waters. NMLC would like to see the cap increase from \$250,000 to \$1,000,000, even if the limitation for utilizing the tax credits was limited to \$250,000 per year. States like Colorado have recently increased the value of state tax credits for conservation easements to value up to 90% of appraised value, and a maximum credit amount for a tax filer is now \$5,000,000. These Colorado tax credits can be claimed in \$1.5 million increments per year and can be used over a 20-year period. With the current inflation in real estate markets and surplus in the state's tax revenue budget, New Mexico's LCIA limitations for \$250,000 and 50% of appraised value are out of date with market demand for conservation easement transactions and real estate values alike.

NMLC is a qualified land trust that accepts charitable donations of fee interest in land or less-than-fee-interest in land and has the capacity to steward and monitor easement properties to ensure the conservation values are protected in perpetuity (per LCIA, NMSA 1978, Sections 75-9-1 to 75-9-6). NMLC provides stewardship, monitoring and legal defense for all of the conservation easements that it currently holds. It has created a special Stewardship Fund, which is managed separately from its operating accounts, in which it has set aside and pooled funds for these specific purposes and conducts compliance monitoring of all its easements on an annual basis. Since 2013, NMLC has been enrolled in Terraforma, a national conservation easement defense insurance company owned and operated by LTA, which provides insurance coverage for qualifying legal defense claims associated with violations against any of the easements in NMLC's current portfolio.

#### **SUMMARY OF NMLC COMMENTS FOR EMNRD & TRD PROPOSED RULEMAKING**

- **Need for rules to reflect new legal terms for tax code and accepted business practices.** NMLC supports these changes to reflect the legal domestic partnerships that are accepted for federal and state tax agencies. NMLC regularly communicates with EMNRD electronically through email and submit files using an online shared drive that is a secure link to view and download assessment and certification application packages.



- **Need for LCIA assessment applications to be accepted on a rolling basis, with a minimum of 3 regularly scheduled, and all committee meetings are required to provide a 30-day public notice for the meeting's scheduled date.** Often, an applicant may wait 6 months for their assessment application to be reviewed, only to then wait another 6 months for the certification package to be reviewed. The up to 12-month delay commonly experienced with LCIA assessment and certification applications impacts the application's tax filer's ability to file their taxes on time and requires that they request a filing extension at the federal and state level while they wait for EMNRD to schedule the committee meetings and send the required letters of approval from the secretary.
- **Need for more flexibility in changes for minor changes to the assessment and certification application packages, as EMNRD must define a process for how the secretary can review such changes as long as they remain minor and legally compliant with the criteria under 3.13.20.13.** NMLC has found that there are certain cases whereby a LCIA assessment or certification application may change due to last minute edits to the conservation easement's deed language prior to recording the final conservation easement. Often, these are minor edits made to be legally consistent with the easement's entire language, such as removing duplication in text or editing terms for clarity. Specific changes to a certification that may differ from the assessment application that may be subject to the secretary's should not be limited to changes the acreage of the donation or decreasing the size of or removing a building envelope, as there are many other minor corrections to a final conservation easement deed that would not change the protections that the conservation easement's terms hold for the conservation values, nor would such changes impact the final appraisal for the conservation easement. To be most effective and efficient with the limited time and effort of EMNRD, the committee and the secretary in the review of LCIA applications, the applicant should be able to submit in writing the requested changes to the certification application and be reviewed by the secretary on a case-by-case basis for compliance with 3.13.20.13 NMAC.

Please find the following outline for NMLC's public comment: All of NMLC's recommendations are *shown in italics for new additions* and/or ~~strikeout~~ for deletions. ENMRD suggested amendments to 3.13.20 NMAC, amending Sections 7 through 15, for new additions are shown in underline (as issued public notice).

- 3.13.20.8 GENERAL PROVISIONS: Section H
- 3.13.20.9 ASSESSMENT APPLICATION: Sections C & F
- 3.13.20.10 APPLICATION FOR CERTIFICATION OF ELIGIBILITY: Sections A, C & D
- 3.13.20.11 CERTIFICATION OF ELIGIBILITY APPLICATION REVIEW PROCESS AND CERTIFICATION OF ELIGIBLE DONATION: Sections C, D & E

### **3.13.20.8 GENERAL PROVISIONS**

**Section H: Change from "a husband and wife" to "married individuals."** NMLC supports these changes to reflect the legal domestic partnerships that are accepted for federal and state tax agencies.

### 3.13.20.9 ASSESSMENT APPLICATION

**Section C (3.13.20.9.C):** Change submission of application package from “one completed paper original and eight paper/electronic copies” to “one completed paper original and one electronic copy,” submitted to EMNRD as “a PDF of the application package as a USB flash drive or by other methods that EMNRD approves.” NMLC supports these changes as a commonsense approach to meet current accepted business practices and technology standards. Often, NMLC will communicate with EMNRD electronically through email and submit files using an online shared drive that is a secure link to view and download assessment and certification application packages.

**Section E (3.13.20.9.E):** **Suggested clarification on meeting schedule for committee.** NMLC seeks to have EMNRD clarify the timeline for ease of applications to the secretary and committee. NMLC has found that on occasion, the committee does not meet three times a year, nor does the secretary take up applications on a rolling basis for consideration of the committee without the need for a formal meeting to keep the minimum of three annual reviews for new assessment applications. For example, in 2022 and 2023, the committee could not meet in December due to holiday schedules, and so a committee meeting was not held until January the following year, which reduced the annual committee meetings from three to two. The impact of reducing the number of annual meetings of the committee is that applications are not reviewed and approved on a timely basis. Often, an applicant may wait 6 months for their assessment application to be reviewed, only to then wait another 6 months for the certification package to be reviewed (see comments for **3.13.20.10**). The up to 12-month delay commonly experienced with LCIA assessment/certification applications impacts the tax filer’s ability to file their taxes on time and requires that they request a tax filing extension at the federal and state level while they wait for EMNRD to schedule the committee meetings and send the required letters of approval from the secretary. NMLC requests that EMNRD host the committee meetings a minimum of three times a year on a regular basis, with meetings scheduled within 45 days of the assessment deadline and with a 30-day public notice for the meeting’s scheduled date.

- **NMAC/EMNRD existing 3.13.20.9.E:** The secretary initiates consultation by sending the assessment application package to the committee members for review and comment or by calling a meeting of the committee. The secretary shall accept assessment application packages on a rolling basis or not fewer than three times per year spaced throughout the year, the deadlines for which shall be published in advance on the energy, minerals and natural resources department’s website. The committee shall meet not fewer than three times per year (within approximately 45 days after a set deadline for assessment application package submittals or otherwise spaced throughout the year) to consider timely and complete assessment applications unless no assessment applications are currently pending, or the limited volume of the assessment application enables the secretary to consult with the committee without the need for a formal meeting.
- **NMLC recommended text:** The secretary shall accept assessment application packages on a rolling basis *and* not fewer than three times per year spaced throughout the year, the deadlines for which shall be published in advance on the energy, minerals and natural resources department’s website. The committee shall meet not fewer than three times per year (within approximately 45 days after a set deadline for assessment application package submittals or otherwise spaced throughout the year) to consider timely and complete assessment applications



unless no assessment applications are currently pending or the limited volume of the assessment application enables the secretary to consult with the committee without the need for a formal meeting. *All committee meetings are required to provide a 30-day public notice for the meeting's scheduled date.*

**Section F (3.13.20.9.F): Suggested clarification for certification application.** NMLC has found that there are certain cases whereby a LCIA assessment application may change due to last minute edits to the conservation easement's deed language prior to recording the final conservation easement. Often, these are minor edits made to be legally consistent with the easement's entire language, such as removing duplication in text or editing terms for clarity. These changes might be made at the request of the land trust's attorney or landowner's attorney and represent minor changes which are compliant with 3.13.20.13 NMAC, and often do not change the protections that the conservation easement's terms hold for the conservation values. Furthermore, the conservation easement's appraisal is rarely affected by these types of changes from an assessment application since the appraisal is retrospective and values the donation of the conservation easement after the recording of the conservation easement. The final appraisal, in being retrospective, sufficiently reviews the recorded easement's terms for the appraisal's valuation methods and analysis and does not apply any earlier easement's terms, such as those potentially offered by an assessment application that has been edited to be legally exact to the final easement's terms.

- **NMAC/EMNRD existing 3.13.20.9.F.** To apply for certification of eligibility, the applicant may not change a proposed donation, donation assessment report or, if a proposed donation, the public or private conservation agency to which the applicant is making the donation after the applicant submits the assessment application. If the applicant makes such changes, the applicant shall submit a new assessment application and must receive a favorable finding from the secretary before applying for certification of eligibility.
- ***NMLC recommended text:*** Applicants may submit minor changes to the assessment application in advance of submitting a certification application by written notice sent to the secretary. Should the secretary find the requested changes to the assessment minor and legally compliant with the criteria under 3.13.20.13 NMAC, a letter from the secretary will be sent to the applicant acknowledging the requested changes to the have been accepted by EMNRD. The applicant may continue with a certification application that reflects all requested changes agreed upon and provided in writing by the secretary and the applicant. If the applicant is denied such changes by the secretary, the applicant shall submit a new assessment application and must receive a favorable finding from the secretary before applying for certification of eligibility.

### **3.13.20.10 APPLICATION FOR CERTIFICATION OF ELIGIBILITY**

**Section A: Clarification for certification application submission with changes.** NMLC has found that there are certain cases whereby a LCIA assessment application may change due to last minute edits to the conservation easement's deed language prior to recording the final conservation easement. Often, these are minor edits made to be legally consistent with the easement's entire language, such as removing duplication in text or editing terms for clarity. These changes might be made after the

submission of an assessment application but before the completion of the conservation easement and certification package and could be made at the request of the land trust's attorney or landowner's attorney and represent minor changes which are compliant with 3.13.20.13 NMAC, and often do not change the protections that the conservation easement's terms hold for the conservation values. Specific edits that may be subject to the secretary's review for a certification application package should not be limited to changes the acreage of the donation or decreasing the size of or removing a building envelope, as there are many other minor corrections to a final conservation easement deed that would not change the protections that the conservation easement's terms hold for the conservation values. To be most effective and efficient with the limited time and effort of EMNRD and the secretary in the review of LCIA applications, the applicant should be able to submit in writing the requested changes to the certification application and be reviewed by the secretary on a case-by-case basis for compliance with 3.13.20.13 NMAC. In the case that the secretary finds the requested changes non-compliant with 3.13.20.13 NMAC, the secretary shall provide a written response explaining the rationale for the rejection, as well as provide a decision to either reject the certification application and/or request a new assessment application be submitted by the applicant to EMNRD.

- **NMAC/EMNRD recommended text (3.13.20.10.A):** The applicant shall certify in writing [that] the applicant has not changed the donation or proposed donation, donation assessment report or the public or private conservation agency to which the applicant conveyed or planned to convey the donation since the applicant submitted the assessment application; or, if the applicant has made changes, the applicant shall describe the changes and provide a redline copy showing the changes. If the applicant has not made changes or the changes consist solely of increasing the acreage of the donation or decreasing the size of or removing a building envelope, the Secretary shall review the application for certification of eligibility. If the applicant has made changes other than increasing the acreage of the donation or decreasing the size of or removing a building envelope the applicant shall submit a new assessment application pursuant to 3.13.20.9 NMAC and receive a favorable finding from the secretary before applying for certification of eligibility and would be compliant with 3.13.20.13 NMAC.
- **NMLC new/recommended text:** *At the time of the certification application submission, the applicant shall certify in writing [that] the applicant has not changed the donation or proposed donation, donation assessment report or the public or private conservation agency to which the applicant conveyed or planned to convey the donation since the applicant submitted the assessment application. Applicants may submit minor changes to the assessment application in advance of submitting a certification application by written notice sent to the secretary. Upon the secretary's request, the applicant shall submit a copy of the recorded deed of conservation easement showing the redline changes that differ from the original proposed donation or assessment application report. Should the secretary find the requested changes to the assessment minor and legally compliant with the criteria under 3.13.20.13 NMAC, a letter from the secretary will be sent to the applicant acknowledging the requested changes to the have been accepted by EMNRD. The applicant may continue with a certification application that reflects all requested changes agreed upon and provided in writing by the secretary and the applicant. If the applicant is denied such changes by the secretary, the secretary shall provide a written response explaining the rationale for the rejection, as well as provide a decision to either*



*reject the certification application and/or request a new assessment application be submitted by the applicant to EMNRD.*

**Section C (3.13.20.10.C):** Change submission of certification package from “one completed paper original and eight paper/electronic copies” to “one completed paper original and one electronic copy,” submitted to EMNRD as “a PDF of the application package as a USB flash drive or by other methods that EMNRD approves.” NMLC supports these changes a commonsense approach to meet current accepted business practices and technology standards. Often NMLC will communicate with EMNRD electronically through email and submit files using an online shared drive that is a secure link to view and download assessment and certification application packages.

**Section D (3.13.20.10.D):** To be consistent with NMLC’s recommended new text for Section 3.13.20.10.A and 3.13.20.11.C, and 3.13.20.11.D, EMNRD should update 3.13.20.10.D to allow for changes to the donation or proposed donation or donation assessment report to be considered by the secretary on a case-by-case basis if the changes requested are submitted in writing by the applicant in advance of the certification application. Should the secretary find the requested changes to the assessment minor and legally compliant with the criteria under 3.13.20.13 NMAC, a letter from the secretary will be sent to the applicant acknowledging the requested changes to the have been accepted by EMNRD. The applicant may continue with a certification application that reflects all requested changes agreed upon and provided in writing by the secretary and the applicant. NMLC recommends these changes to 3.13.20.11.D to extend transparency to the applicant on the complete process for decision making within EMNRD and the secretary’s office, including those cases where an assessment or certification application may have corrections or changes that were found appropriate and approved of by the secretary.

**NMAC/EMNRD existing/recommended text (3.13.20.10.D):** The certification of eligibility application package shall consist of a land conservation incentives tax credit application form, with the following required attachments as well as any attachments required in Subsection H of 3.13.20.10 NMAC for fee donations or Subsection I of 3.13.20.10 NMAC for less-than-fee donations:

- (1) a copy of the letter from the secretary stating after reviewing the applicant's assessment application the donation or proposed donation is for a conservation or preservation purpose and will protect the conservation or preservation purpose in perpetuity and the resources or areas contained in the donation or proposed donation are significant or important; or
- (2) written certification signed by the applicant since the applicant submitted the assessment application the applicant has not changed the
  - (a) donation or proposed donation or donation assessment report, or if the applicant has made changes, the changes consist solely of increasing the acreage of the donation or decreasing the size of or removing a building envelope, or
  - (b) public or private conservation agency to which the applicant conveyed or planned to convey the donation [since the applicant submitted the assessment application.

**NMLC new/recommended text:** (2) written certification signed by the applicant since the applicant submitted the assessment application and verifies that: ~~the applicant has not changed the~~

(a) *the applicant has not changed the donation or proposed donation or donation assessment report; or*

(b) *if the applicant has requested changes to the donation or proposed donation or donation assessment report to be considered by the secretary, that all changes have been submitted in writing by the applicant in advance of the certification application, and a letter from the secretary has been received by to the applicant acknowledging the requested changes to the have been accepted by EMNRD; or if the applicant has made changes, the changes consist solely of increasing the acreage of the donation or decreasing the size of or removing a building envelope; or*

(c) ~~(b)~~ *the applicant has not changed the public or private conservation agency to which the applicant conveyed or planned to convey the donation [since the applicant submitted the assessment application].*

### **3.13.20.11 CERTIFICATION OF ELIGIBILITY APPLICATION REVIEW PROCESS AND CERTIFICATION OF ELIGIBLE DONATION:**

- **Section C (3.13.20.11.C): Clarify rejection of certification of eligibility applications.** To be consistent with NMLC's recommended new text for Section 3.13.20.10.A, EMNRD should update 3.13.20.11.C.2(a-b) to allow for changes to the donation or proposed donation or donation assessment report to be considered by the secretary on a case-by-case basis if the changes requested are submitted in writing by the applicant in advance of the certification application. Upon the secretary's request, the applicant shall submit a copy of the recorded deed of conservation easement showing the redline changes that differ from the original proposed donation or assessment application report. NMLC recommends these changes to 3.13.20.11.D to extend transparency to the applicant on the complete process for decision making within EMNRD and the secretary's office, including those cases where an assessment or certification application may have corrections or changes that are rejected by the secretary.

**NMAC/EMNRD existing/recommended text (3.13.20.11.C):** The secretary shall reject a certification of eligibility application if:

- 1) the certification of eligibility application is incomplete or incorrect;
- 2) since the applicant submitted the assessment application, the applicant changed the
  - (a) donation or proposed donation or donation assessment report, and the changes consist of more than increasing the acreage of the donation or decreasing the size of or removing a building envelope, or
  - (b) public or private conservation agency to which the applicant conveyed or planned to convey the donation;
- 3) does not meet the requirements of 3.13.20.8 NMAC or 3.13.20.10 NMAC;
- 4) appraisal bureau provides an unfavorable recommendation of the appraisal; or
- 5) the filed conservation easement or deed does not accurately reflect the donation the applicant described in its assessment application;



**NMLC new/recommended text:** The secretary shall reject a certification of eligibility application if *since the applicant submitted the assessment application:*

- 1) the certification of eligibility application is incomplete or incorrect and the applicant fails to provide adequate written answers to the secretary's requests for corrections;
  - 2) the applicant changed the *donation's conservation easement terms or values inconsistent with the proposed donation or donation assessment report without written notice to request the secretary's review of such changes prior to the submission of the certification application package;*
  - 3) *the applicant changed the donation's conservation easement terms or values inconsistent with the proposed donation or donation assessment report with written notice to the secretary, and/or the secretary found such changes inconsistent with 3.13.20.8 NMAC or 3.13.20.10 NMAC; ~~(a) donation or proposed donation or donation assessment report, and the changes consist of more than increasing the acreage of the donation or decreasing the size of or removing a building envelope, or~~*
  - 4) ~~(b)~~ *the applicant has changed the public or private conservation agency to which the applicant conveyed or planned to convey the donation; or*
  - 5) the appraisal bureau provides a final unfavorable recommendation of the appraisal.
- **Section D (3.13.20.11.D) Notice of cause to reject.** To be consistent with NMLC's recommended new text for Section 3.13.20.10.A and 3.13.20.11.C, EMNRD should update 3.13.20.11.D to allow for changes to the donation or proposed donation or donation assessment report to be considered by the secretary on a case-by-case basis if the changes requested are submitted in writing by the applicant in advance of the certification application. If the applicant is denied such changes by the secretary, the secretary shall provide a written response explaining the rationale for the rejection, as well as provide a decision to either reject the certification application and/or request a new assessment application be submitted by the applicant to EMNRD. NMLC recommends these changes to 3.13.20.11.D to extend transparency to the applicant on the complete process for decision making within EMNRD and the secretary's office, including those cases where an assessment or certification application may have corrections or changes that are rejected of by the secretary.

**NMAC/EMNRD existing text (3.13.20.11.D):** If the secretary determines that there is cause to reject the certification of eligibility application, the secretary shall issue notice to the applicant pursuant to 3.13.20.12 NMAC.

**NMLC new/recommended text:** If the secretary determines that there is cause to reject the certification of eligibility application, the secretary shall issue notice to the applicant pursuant to 3.13.20.12 NMAC. *The secretary shall provide a written response explaining the rationale for the rejection, as well as provide a decision to either reject the certification application and/or request a new assessment application be submitted by the applicant to EMNRD.*

- **Section E (3.13.20.11.E) Resubmittal of rejected certification of eligibility applications.**

**NMAC/EMNRD existing text (3.13.20.11.E):** The applicant shall submit a new assessment application pursuant to 3.13.20.8 NMAC, if the secretary rejects the certification of eligibility application because the applicant changed the

(a) donation or proposed donation or donation assessment report, and the changes consist of more than increasing the acreage of the donation or decreasing the size of or removing a building envelope, or

(b) the public or private conservation agency to which the applicant conveyed or planned to convey the donation since the applicant submitted the assessment application.

**NMLC new/recommended text:** (2) The applicant shall submit a new assessment application pursuant to 3.13.20.8 NMAC, if the secretary rejects the certification of eligibility application because the applicant changed the

(a) ~~donation or proposed donation or donation assessment report, and the changes consist of more than increasing the acreage of the donation or decreasing the size of or removing a building envelope, or~~ *donation's conservation easement terms or values inconsistent with the proposed donation or donation assessment report without written notice to request the secretary's review of such changes prior to the submission of the certification application package; or*

(b) ~~donation or proposed donation or donation assessment report, and the changes consist of more than increasing the acreage of the donation or decreasing the size of or removing a building envelope, or~~ *donation's conservation easement terms or values inconsistent with the proposed donation or donation assessment report with written notice to the secretary, and/or the secretary found such changes inconsistent with 3.13.20.8 NMAC or 3.13.20.10 NMAC; and the changes consist of more than increasing the acreage of the donation or decreasing the size of or removing a building envelope, or*

(c) the public or private conservation agency to which the applicant conveyed or planned to convey the donation since the applicant submitted the assessment application.

## CONCLUSION

NMLC thanks EMNRD Secretary and staff for their consideration of these recommendations to improve the LCIA state tax credit program for New Mexicans who seek to permanently protect their land and water with conservation easements. NMLC is grateful for the opportunity to protect New Mexico's land heritage and owes much of the success of our work to protect 655,644 acres in perpetuity to the New Mexico LCIA program. The proposed rulemaking for 3.13.20 NMAC, Sections 7 through 15 can improve the efficiency, effectiveness and equity of the state tax credit program to serve its purpose of rewarding the donors of conservation easements for their generosity and vision to preserve our lands and waters for future generations.

Sincerely,



Ron Troy  
Interim Executive Director  
New Mexico Land Conservancy  
5340 Richards Ave.  
Santa Fe, New Mexico 87508