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**To:** [Austin, Carmelita, EMNRD](#)  
**Cc:** [sarah@sfct.org](mailto:sarah@sfct.org); [Melissa Houser - SFCT](#)  
**Subject:** [EXTERNAL] Comment on proposed amendments to Land Conservation Incentives Tax Credit  
**Date:** Thursday, November 9, 2023 5:20:22 PM

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Dear Carmen,

Thank you for circulating the proposed changes to the LCIA rule. The Santa Fe Conservation Trust (SFCT) supports the changes and appreciates that they are proposed in the spirit of making the program function efficiently. To that end we'd like to suggest a slight revision to Section 3.13.20.10 A, which is the section that describes what type of changes to the assessment application do *not* trigger the need for a revised application.

Conservation easements commonly include provisions about land management (general standards for agriculture, forestry, etc) that get tweaked as drafts of the conservation easement deed are refined. We think limiting the types of changes that can skip resubmittal to the categories of acreage and building envelopes is overly simplistic, and that minor or conservation-positive changes to land management sections should also be exempted from resubmittal requirements. Since the assessment application process takes several months to play out, the need to resubmit to gain approval of small or conservation-positive changes adds unnecessary delay to good projects. We have suggested some draft language below. Thanks for considering this.

First, here is the relevant paragraph as proposed in the draft rule change (highlighting is added):

#### 3.13.20.10 APPLICATION FOR CERTIFICATION OF ELIGIBILITY:

A. An applicant who submitted an assessment application to the energy, minerals and natural resources department and received a finding from the secretary ~~[that]~~ the donation or proposed donation is for a conservation or preservation purpose and will protect that conservation or preservation purpose in perpetuity and ~~[that]~~ the resources or areas contained in the donation or proposed donation are significant or important may apply for certification of eligibility for a land conservation incentives tax credit. An applicant may not apply for certification of eligibility for a land conservation incentives tax credit without first submitting an assessment application pursuant to 3.13.20.9 NMAC and receiving a favorable finding from the secretary. 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.

SFCT suggests changing the last two last sentences (highlighted above) to something like:

"If the applicant has not made changes or the changes consist solely of changes that are neutral or positive for the protection of conservation values, such as increasing the acreage of the donation, decreasing the size of a building envelope, removing a building envelope, increasing restrictions on land management activities, or making minor changes to language about land management activities, the Secretary shall review the application for certification of eligibility. If the applicant has changed the donation or proposed donation in a direction that is less protective of conservation values than was specified in the assessment application, such as by reducing protected acreage, increasing the size of building envelopes, adding building envelopes, or otherwise weakening restrictions intended to protect conservation values, 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."

All the best,

Ariel

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