

COUNTY LETTERHEAD

Date

STATEMENT

In 2011 the Colorado General Assembly adopted, and the Governor signed, House Bill No. 11-1146. This bill was sponsored by Representative Tom Massey (who represents Park County) and passed with nearly two-to-one majorities in both houses of the legislature. It receiving bipartisan support, including support from legislators representing rural farming and ranching communities such as Park County. The Bill took effect on January 1, 2012.

House Bill No. 11-1146 adopted a requirement that a residence be integral to an agricultural operation in determining whether two acres or less associated with the residence satisfies the definition of agricultural land for property taxation purposes. It was apparently intended to require taxation of so-called "hobby ranches" as residences where they are owned or occupied by persons not engaged in ranching or farming.

Park County Assessor David Wissell, without consulting the Board of County Commissioner for Park County (the "BOCC"), decided not to implement the requirements of House Bill No. 11-1146 for tax year 2012. He has posted his reasons for this decision on the Park County Assessor website. As a result of the Assessor's action the County failed the annual audit conducted by the State of Colorado of all county assessors. The BOCC was informed of this failure at a meeting with the firm conducting the annual audit on September 19, 2012. It is likely that the Colorado State Property Tax Administrator will seek an order from the Colorado Board of Equalization directing Park County to conduct a reappraisal in accordance with the requirements of House Bill No. 11146. Such reappraisal will be conducted at the expense of the County and its taxpayers.

As county commissioners, each of the members of the BOCC took an oath to support the Constitutions of the United States and of the State of Colorado. The County, its elected officials and all citizens are required to respect and obey validly enacted statutes, whether or not we agree with them. This concept is fundamental to the rule of law. None of us, and particularly not public officials entrusted with the power and duty to enforce the law, can pick and choose which laws we obey and which we ignore.

The BOCC is disappointed by the Assessor's actions and does not condone or support the Assessor's decision to violate a lawfully enacted state statute. While we understand the Assessor's concerns about House Bill No. 11-1146, and may even

share some of them, ignoring the requirements of the statute is not an acceptable option.

The BOCC has no means of requiring the Assessor, an elected official, to obey the law. We can, however, make sure that no public funds are expended in pursuing or defending this refusal to comply with House Bill No. 11-1146, and we will do so. We can also respectfully encourage the Assessor to reconsider his position. He may certainly express his disagreement with House Bill No. 11-1146 and work for its amendment or repeal. That is every citizen's right, which we thoroughly respect. But to simply violate the statute is not, in our opinion, a defensible action by a public official.