



Agenda

Fourth Symposium on Advanced Legal Topics in Land Conservation *Convening leading legal experts and practitioners on emerging issues in land conservation*

Peppermill Resort Spa Casino
Reno, Nevada
February 5-6, 2014

Earn up to 11 hours of CLE Credit

Program Committee

Julie Turrini Resources Law Group	Bill Silberstein Kaplan Kirsch & Rockwell LLP	Joan Dwoskin The Nature Conservancy	Leslie Ratley-Beach Land Trust Alliance
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Tuesday February 4

6:00 PM **Social Hour**
Meet your colleagues and make dinner plans

Wednesday February 5

7:00 AM **Registration and Continental Breakfast**

8:00 AM **Welcome**
Bill Silberstein, Kaplan Kirsch & Rockwell LLP (CO)
Joan Dwoskin, Senior Attorney, The Nature Conservancy (GA) - Moderator

8:15 AM **Conservation in Court: Lessons Learned**
Melinda Beck, Attorney, Lewis, Bess, Williams & Weese P.C. (CO)
will delve deeply into these cases and dissect the implications for landowners, land trusts and attorneys including practice pointers.

10:00 AM **Break**

10:15 AM **Anatomy of a Conservation Lawsuit**
Susan Gretz, Attorney, The Nature Conservancy (MN) and
Bill Kohlhase, Attorney, Miller Hall & Triggs (IL)
dissect a breach of contract case involving environmental contamination on fee property, including assessing the merits of litigation for a client with a “non-adversarial approach” to conservation, regulatory obligations vs. conservation obligations re cleanup; working with environmental consultants in the litigation context; preparing witnesses for deposition; pretrial strategy; collecting on judgments and “what if we hadn’t had such a great indemnity?”

12:15 PM

Lunch with expert-anchored topic tables

Topic:

Experts TBD

Land trusts and mitigation project;

Farm Bill and USDA

Conservation in cities

Tax

Executive directors

Solo practitioners

Pipelines/Keystone/transmission lines

Commercial solar and wind on conserved land

Nevada Land Trust on water projects

Risk management

Trial practice for conservation

Western water issues

2:15 PM

Surface Use Agreement and Negotiation Issues

Joseph Fitzsimons, Attorney, Uhl, Fitzsimons, Jewett & Burton, PLLC (TX)

Drills down into nuances and negotiation of surface use agreements relevant to oil and gas extraction. Even if you think oil and gas issues are not relevant in your region, you should attend this session because the technology and economics of extraction are expanding over most of the country.

3:30 PM

Break

3:45 PM

Terraforma Risk Retention Group LLC

Carl Silverstein, Executive Director, Southern Appalachian Highlands Conservancy (NC)

Jim Phillippi, Attorney, Knapp, Petersen & Clarke (CA)

Leslie Ratley-Beach, Vice President, Alliance Risk Management Services LLC (VT)

How the new Conservation Defense Liability Insurance company really works, a first year retrospective, recent challenges and how your land trust can use the mere existence of coverage to mitigate future challenges.

5:00 PM

Welcome Reception

Hosted by The Nature Conservancy and Kaplan Kirsch & Rockwell

Thursday February 6

7:00 AM

Continental Breakfast

8:00 AM

Orientation

Leslie Ratley-Beach, Conservation Defense Director, Land Trust Alliance (VT) – moderator

Bring your collaborative problem-solving skills to an intensive six-hour practical examination of land trust risk assessment focusing on the challenges of conservation easement modification. How can attorneys be most helpful to landowner and land trust comprehension of all the issues surrounding modification requests? We begin with grounding in various existing laws, then move to an overview of risk assessment and problem solving and conclude with practical application to real problems in a case study and in conservation easement drafting. We will address all types of perpetual conservation easements: donated, bargain sold, purchased and exacted.

8:15 AM

Survey of State Approaches to Conservation Easement Modification

Rob Levin, Attorney, Law Office of Robert H. Levin (ME)

will begin the day with a synopsis of the states' varying statutory or regulatory approaches to conservation easement modification.

- 9:15 AM **Primacy of the Legal Regimes Affecting Perpetual Conservation Easements**
Jessica Jay, Conservation Attorney, Conservation Law, P.C. (CO)
 will speak on the interaction of relevant federal, state and local laws as the basis for an on-the-ground risk assessment of conservation easement modification as well as the foundation of any related land trust policies and procedures, guiding us through the weighting, balancing and uncertainties of all the laws at play as well as the role of various treatises, commissions, and *Land Trust Standards and Practices*.
- 10:15 AM **Break**
- 10:30 AM **Risk Assessment and Problem Solving for Easement Modifications**
Konrad Liegel, Attorney, Konrad J. Liegel, Attorney-At Law, PLLC (WA)
 demonstrates classic risk analysis for attorneys in supporting land trust staff and boards' evaluation and decisions on whether to modify a conservation easement, the downside risks and upside mission advancement potentials, alternatives and mitigants, as well as perspectives of various stakeholders.
- 11:30 AM **Large-group discussion of the morning topics**
 We discuss the morning presentations about principled and practical approaches for attorneys to assist their land trust clients with problem solving for easement modifications.
- Noon **Lunch – informal – find a partner and a comfortable spot**
- 1:00 PM **Shades of Gray: A Conservation Easement Stewardship Conundrum**
Scott Howard, Attorney, Olson, Bzdok & Howard, P.C. (MI)
Victor Lane, Manager of Easement Stewardship and Forestry, Grand Traverse Regional Land Conservancy(MI)
 interact in a real-life replay of a typical stewardship challenge and the parties' roles in a conservation easement modification request.
- 2:00 PM **Drafting for Perpetuity and Principled Conservation Easement Modification**
Tamara Galanter, Attorney, Shute, Mihaly & Weinberger LLP (CA)
Julie Turrini, Attorney, Resources Law Group, LLP (CA)
Bill Silberstein, Attorney, Kaplan Kirsch & Rockwell LLP (CO)
 Dissect an amendment and modification clause arising from unforeseen new developments, discuss merits of approaches, identify potential risks and mitigants, and examine landowner and land trust perspectives on modification.
- 3:00 PM **Conclude**

Seminar Notes:

- Perpetuity and ethics are constant considerations in conservation work.
- This program committee chose depth over breadth in topics based on your comments from the first three Advanced Topics Symposiums.
- The program committee allowed additional time for vigorous discussion on every topic
- Please use the evaluation forms to suggest topics for the Fifth Advanced Topics Symposium.