

The Rocky Mountain Land Use Institute Presents
the 24th Annual RMLUI Conference

WESTERN PLACES

BUILDING FAIR & RESILIENT COMMUNITIES

WESTERN SPACES



MARCH 12-13, 2015

University of Denver Sturm College of Law • Denver, Colorado

PROGRAM GUIDE

Western Spaces

RMLUI
ROCKY MOUNTAIN
LAND USE INSTITUTE



UNIVERSITY of
DENVER

STURM COLLEGE OF LAW

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WESTERN PLACES/WESTERN SPACES BUILDING FAIR AND RESILIENT COMMUNITIES

Across the West, communities large and small are grappling with change. Our largest cities are thriving, but gentrification is making urban living unaffordable for many. As suburban communities transition towards more compact development and public transit, they are starting to lose the small town appeal that attracted so many. Rural communities struggle to balance their wild and rustic roots in the face of a changing economy. Set against a backdrop of increased risks associated with long-term drought, violent storms, flooding, and wildfire, the West is embracing its latest challenges.

The 2015 RMLUI Conference focuses on the innovative ways cities and towns across the West are building more resilient, equitable, and vital communities. The theme addresses how we can meet the many challenges of the future—including threats posed by climate change, a modern economy, and demographic shifts—while better addressing issues of social and environmental justice. The featured track focuses on resilience. In the wake of fires, flood, and on-going drought, communities across the West are thinking about resilience in many different contexts as they work both to rebuild and to mitigate future risks.

ABOUT THE ROCKY MOUNTAIN LAND USE INSTITUTE

The Rocky Mountain Land Use Institute seeks to elevate the law, policy and practice of sustainable development in the West to promote nature-friendly, prosperous and equitable communities. Through innovative research, education and professional development programs and its renowned annual conference, the Institute trains and connects students and professionals across disciplines, sectors and regions to build the sustainable development field while creating new possibilities for the future of the West's landscapes and livelihoods.

ABOUT THE STURM COLLEGE OF LAW

The University of Denver Sturm College of Law is a top 100 law school with nationally ranked programs in environmental and natural resources law, legal writing, clinical training, international law, trial advocacy and tax law. At the heart of the law school's mission is the integration of skills and professional identity with a balanced curriculum. Our goal is to graduate practice-ready, client-focused students who understand and embrace the responsibilities of legal practice, both as a representative of the client and as a professional committed to improvement of the law and the community.

WESTERN SPACES

From large landscapes spanning state and national boundaries, to urban parks and town commons, these spaces are a defining characteristic of the Western landscape. This session will not only look at how these spaces are being conserved, but also how they are being used.

CONSERVATION EASEMENTS: CONTEMPORARY ISSUES AND CHALLENGES

DESCRIPTION

An estimated 40 million acres are now encumbered by conservation easements, or an area about 18 times the size of Yellowstone National Park. As the number of easements continues to grow and existing easements age, a variety of issues and challenges have arisen, from the impact easements are having on land use planning to concerns about their proper interpretation and enforcement over the long term. The panelists will address these issues and challenges, highlighting the increasing role federal and state regulators play in both policing the tax incentives and ensuring the proper administration of easements on behalf of the public.

SPEAKER INFORMATION

MODERATOR:

Nancy McLaughlin

Robert W. Swenson Professor of Law, University of Utah SJ Quinney College of Law
Salt Lake City, UT

Nancy A. McLaughlin is the Robert W. Swenson Professor of Law at the University of Utah S.J. Quinney College of Law in Salt Lake City, where she teaches federal income tax, trusts and estates, estate planning, and courses on conservation easements. She is a member of the American Law Institute; a fellow of the American College of Trust and Estate Counsel and Co-Chair of its Legal Education Committee; a member of the American Bar Association's Real Property, Trust, and Estate Law Section, Co-Chair of its Legislative and Regulatory Issues Committee, and a professional editor of its academic law journal. She currently serves on the advisory boards of Vital Ground and the Wildlife Land Trust, and as an advisor to Utah Open Lands, a statewide land trust. Her research focuses on conservation easements, tax, and nonprofit governance issues and she writes and lectures extensively on these issues. She blogs about current developments around conservation easements on the Law Professors Nonprofit Law Blog at lawprofessors.typepad.com/nonprofit/. Her articles can be downloaded at ssrn.com/author=95358.

SPEAKERS:

Federico Cheever

Professor of Law, University of Denver Sturm College of Law
Denver, CO

Federico Cheever is Professor of Law at the University of Denver Sturm College of Law. He came to Denver as an Associate Attorney for the Sierra Club Legal Defense Fund in 1987, and began teaching at the University of Denver College of Law in 1993, specializing in environmental law, wildlife law, public land law, land conservation transactions and property, and served as the Hughes/Rudd Research Professor at the University of Denver College of Law in 2002. Professor Cheever writes extensively about the Endangered Species Act, federal public land law and land conservation transactions. He has recently co-authored a natural resources casebook, *Natural Resources Law: A Place-Based Book of Problems and Cases*, with Christine Klein and Bret Birdsong.

Eric Meyer

First Assistant Attorney General, Office of the Colorado Attorney General
Denver, CO

Eric Meyer is a First Assistant Attorney General for the Revenue and Utilities Section of the Colorado Office of the Attorney General. He has been an assistant attorney general since 2007. Prior to that time, Mr. Meyer worked as an in-house attorney at various title companies in the Denver area. He has spearheaded the litigation of abusive conservation easement tax credits over the past four years. Mr. Meyer is currently the lead attorney for the Department of Revenue on corporate and individual income tax matters and also leads litigation of transportation matters for the State of Colorado before the Public Utilities Commission.

Luke Ortner

Attorney, Office of Chief Counsel, Internal Revenue Service
Denver, CO

Luke Ortner is an attorney with the Office of Chief Counsel of the Internal Revenue Service in Denver, Colorado. He has worked on a number of high-profile Tax Court cases involving challenges to deductions claimed with regard to conservation easement donations. In addition to his work on litigation and advice related to conservation easements and other charitable gifts, Mr. Ortner handles litigation for the IRS involving offshore transactions and shelters, civil fraud, and general tax and collection issues. He is also the IRS's designated counsel in Colorado for issues related to taxing and collecting from medical and recreational marijuana businesses. He received a J.D. from Duke University School of Law and a B.A. from the State University of New York at Geneseo.

THE GENESIS AND FUTURE OF FEDERAL LARGE LANDSCAPE CONSERVATION POLICY

DESCRIPTION

Far-reaching issues—like preserving our national landscapes, mitigating the impacts of climate change, protecting biodiversity, and managing natural resources—increasingly overlap local and state boundaries, requiring that any solutions be addressed at the scale of large landscapes. Spanning twenty years and three presidential administrations in the Department of the Interior, our distinguished panelists come together to discuss the past, present, and future of conservation policy in the United States.

SPEAKER INFORMATION**MODERATOR:****James Levitt**

Fellow & Principal Investigator, Lincoln Institute of Land Policy; Director of the Program on Conservation Innovation, Harvard Forest, Harvard University,
Cambridge, MA

Jim Levitt focuses his work on conservation innovation—present-day and historic innovations that protect land and biodiversity. He has a particular interest in the role that innovations in conservation finance play in advancing the work of professional and volunteer conservation practitioners. In addition to his responsibilities as coordinator of the Lincoln Institute's annual Conservation Leadership Dialogue meetings, Mr. Levitt directs the Program on Conservation Innovation at The Harvard Forest, Harvard University, and is a research fellow at the Ash Institute for Democratic Governance and Innovation at Harvard's Kennedy School of Government. He is the editor of *From Walden to Wall Street: Frontiers of Conservation Finance* (Island Press/Lincoln Institute of Land Policy, 2005) and *Conservation in the Internet Age: Threats and Opportunities* (Island Press, 2002).

SPEAKERS:**Jim Lyons**

Deputy Assistant Secretary for Land and Minerals Management, U.S. Department of the Interior; Former Advisor to Secretary Babbitt, Clinton Administration

Washington, DC

Jim Lyons is Deputy Assistant Secretary for Land and Minerals Management at the United States Department of the Interior. A veteran of the Interior Department, Mr. Lyons also served as an advisor to Interior Secretary Bruce Babbitt during the Clinton administration. Prior to his current assignment, he worked at Defenders of Wildlife promoting wildlife-friendly renewable energy on public lands. In his current position, Mr. Lyons is working to implement the secretarial order on landscape-scale mitigation planning, which includes working closely with Secretary Sally Jewell on sage grouse conservation, in addition to promoting development of commercial-scale wind, solar and geothermal on public lands. Mr. Lyons, holds a master's degree from the Yale School of Forestry, where he still teaches part-time.

Lynn Scarlett

Managing Director of Public Policy, The Nature Conservancy; Former Acting Secretary of the Interior & Chief Operating Officer and Deputy Secretary of the Interior to Secretary Kempthorne, George W. Bush Administration

Arlington, VA

Lynn Scarlett is the Managing Director for Public Policy at The Nature Conservancy. She served as the Chief Operating Officer and Deputy Secretary of the Interior from 2005 to 2009, having previously served as the Assistant Secretary of Policy, Management and Budget from 2001 to 2005. In 2006, she served as acting Secretary of the Interior between the administrations of Gale Norton and Dirk Kempthorne. While at the DOI, she chaired the Climate Change Task Force, which examined the effects of climate change on land, water, wildlife and infrastructure. She also convened and chaired the Department's Cooperative Conservation Working Group, and represented the Department on an interagency cooperative conservation task force that planned and convened the White House Conference on Cooperative Conservation in 2005. In her management capacities, Ms. Scarlett served on the President's Management Council and its executive steering committee. Before joining the administration, Ms. Scarlett was President of the Reason Foundation in Los Angeles, California, an organization where she had previously served as a policy analyst and senior manager. From 2010-2013 she was Co-Director of the Center for the Management of Ecological Wealth at Resources for the Future. She holds a B.A. and a Master's Degree in Political Science from the University of California, Santa Barbara.

Will Shafroth

Principal, Red Sheep Consulting, LLC; Former Principal Deputy Assistant Secretary for Fish and Wildlife and Parks & Counselor to Secretary Salazar, Obama Administration

Alexandria, VA

From 2009 until 2013, Will Shafroth served as Principal Deputy Assistant Secretary for Fish and Wildlife and Parks, and Counselor to the Secretary in the U. S. Department of the Interior. In these positions, he oversaw the National Park Service and U.S. Fish & Wildlife Service and served as the Interior Secretary's lead representative on the America's Great Outdoors initiative. Prior to his work at Interior, Mr. Shafroth founded and led the Colorado Conservation Trust, an organization committed to increasing the pace and effectiveness of conservation in Colorado. He also served as the first executive director of the Great Outdoors Colorado Trust Fund, a state program that has distributed more than \$750 million in lottery funds for parks, open space, wildlife, trails, and environmental education. From 1991 to 1994, he served as Assistant Secretary for Resources at the California Resources Agency where he was responsible for the development and implementation of policies and programs on agricultural lands, rivers, wetlands, oceans, and the coast. From 1982-1990, he was Western Regional Director of the American Farmland Trust. Shafroth served as chair of the Resources Legacy Fund Board of Directors from 2001 through 2006 and of the Land Trust Alliance from 2003-2007. Mr. Shafroth is currently a principal at Red Sheep Consulting, LLC. He holds a Master's degree from the Harvard Kennedy School.

MANAGING LAND FOR LONG TERM HEALTH: ACHIEVING CONSERVATION OBJECTIVES ON STATE & FEDERAL MULTIPLE USE LANDS

DESCRIPTION

This session explores a variety of conservation strategies that can be effectively used to achieve conservation outcomes on state trust lands or federal lands that are not typically managed for their ecological values. The session will focus on state trust lands in the West that are managed primarily to generate revenue for trust beneficiaries, and federal lands managed for multiple use goals. The tools examined in this session range from ecosystem services markets and land tenure adjustment to conservation designations through the master planning process.

SPEAKER INFORMATION

MODERATOR:

Summer Waters

Program Director, Sonoran Institute
Phoenix, AZ

Summer Waters is the Director of the Western Lands and Communities program, a joint partnership between the Lincoln Institute of Land Policy and the Sonoran Institute. She has spent fifteen years working in both urban and natural resources planning. She has a Bachelor's degree in Biology from the University of South Florida and a Master's degree in Civil Engineering from the University of Colorado at Boulder. Prior to joining the Sonoran Institute, Ms. Waters worked with the University of Arizona as a Water Resources Extension Agent and for the County of San Diego's Watershed Protection Program.

SPEAKERS:

Susan Culp

Principal
NextWest Consulting, LLC
Sedona, AZ

Susan Culp is the principal of NextWest Consulting, LLC and has over 15 years of experience in natural resource management, research and policy analysis, conservation advocacy, community engagement, collaboration and coalition building, and issue and political campaign management in the Intermountain West. She currently represents American Rivers as their Verde River project coordinator. She also serves on the board of directors for the Verde River Valley Nature Organization, the Verde River Institute, and the AZLCV Education Fund. Ms. Culp holds a B.A. in marine biology from the University of California at Santa Cruz and a master's degree in public administration and policy, with a focus on natural resources, from the University of Arizona's Eller College of Business and Public Administration.

Genevieve Johnson

Coordinator, Desert Landscape Conservation Cooperative
Glendale, AZ

Genevieve Johnson is the Coordinator for the Desert Landscape Conservation Cooperative (LCC). She provides ongoing facilitation and operational leadership to the Desert LCC consistent with the goals, objectives and guidance of the Desert LCC Steering Committee and is a Bureau of Reclamation employee based in Phoenix. Ms. Johnson has worked in the field of conservation and planning at the U.S. Forest Service where she served as the lead for the development, guidance and monitoring of land management planning on the Tonto National Forest. She also worked to improve land conservation efforts as a planner with Arizona State Parks Open Spaces Program and managed several resource management plans and associated environmental impact statements while at the Bureau of Land Management. Ms. Johnson holds a Bachelor of Science in Conservation Biology and a Master of Science in Urban and Environmental Planning, both from Arizona State University.

Tobin Follenweider

Deputy Director, Colorado State Board of Land Commissioners
Denver, CO

Tobin Follenweider is the Deputy Director of the Colorado State Board of Land Commissioners. Over the past decade, he helped steer the Colorado State Land Board towards fully embracing its dual mission of producing reasonable and consistent income and protecting and enhancing natural values of trust assets for public trust beneficiaries. His contributions include unique and flexible financial resources, a new agency strategic plan, agency-wide staff realignment, new set of agency policies, and business and conservation partnerships.

MAKING LOW IMPACT DEVELOPMENT THE NORM INSTEAD OF THE EXCEPTION

DESCRIPTION

Low Impact Development (LID) is a movement to use natural site features rather than hard infrastructure to manage storm water quality and quantity. Many communities around the Rocky Mountain West have adopted policies supporting the use of LID techniques to manage storm water, but use of LID still remains the exception rather than the norm. One reason is that the job of organizing on-site open space is often done by planners, while storm water management review is done by engineers – and the two are often not working together. This session will explore the basic principles, approaches, and successes with LID, as well as a recent program by Aurora, Colorado, explore rewriting its landscaping and open space standards to make the use of LID the norm rather than the exception.

SPEAKER INFORMATION

MODERATOR:

Don Elliott

Director, Clarion Associates
Denver, CO

Don Elliott, FAICP, is a Director with Clarion Associates, a national consulting firm with offices in Denver, and Chapel Hill; and affiliate offices in Chicago, Philadelphia, and Cincinnati. Mr. Elliott’s practice focuses on plan implementation, zoning, development regulations, and international urban development. He has also advised numerous local governments in Russia and Mongolia on land use issues, served as Democracy and Governance Advisor for USAID in Uganda, and completed research projects on planning and slum upgrading issues in India. He is the author of *A Better Way to Zone* (Island Press, 2008), and co-author of *The Rules That Shape Urban Form* (APA 2012) and *The Citizens Guide to Planning* (APA 2009).

SPEAKERS:

Karen Hancock

Environmental Planning Supervisor, City of Aurora
Aurora, CO

Karen Hancock is a Planning Supervisor for the City of Aurora, Colorado, focusing on Environmental Management and Data Services. Ms. Hancock is a Registered Environmental Manager with 25 years of experience in a wide variety of environmental and planning projects. Her responsibilities for the City of Aurora include managing the update of the city’s Zoning Code. Ms. Hancock has a passion for implementing responsible development and redevelopment projects that conserve natural resources.

Andrew Earles

Vice President of Water Resources, Wright Water Engineers, Inc.
Denver, CO

Andrew Earles, Ph.D., P.E., D.WRE, has worked for Wright Water Engineers for seventeen years and is the Vice President of Water Resources. His work focuses on hydrology, hydraulics, water quality & erosion and sediment control. Mr. Earles has worked on projects related to stormwater quality and nutrient reductions in the Cherry Creek Reservoir watershed in the Denver area and has worked with clients including UDFCD, Colorado Springs, Aspen, Aurora, Woodland Park and other municipalities in Colorado and surrounding states related to developing criteria for effective stormwater quality management.