

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

Local Responses to Fracking

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.

LOCAL RESPONSES TO FRACKING: TOOLS YOU CAN USE

With the emergence of new fracking technology, oil and gas development is beginning to occur in communities that have never experienced it before, putting pressure on local governments to regulate the local land use impacts that can be associated with development. Colorado's legal framework serves as the basis for this workshop, but many of the tools and approaches are transferrable to other jurisdictions.

INTRODUCTION & OPENING REMARKS

SPEAKER INFORMATION

SPEAKERS:

Tushar Kansal

Associate, Consensus Building Institute
Washington, DC

Tushar Kansal is an Associate at the Consensus Building Institute (CBI), a nonprofit, non-partisan organization that helps communities, companies, governments, and organizations resolve disputes and collaboratively solve complex challenges. As part of this work, Mr. Kansal has been exploring how local governments can effectively take advantage of the opportunities and respond to the challenges presented by oil and gas development. He is currently writing a guide for local governments around these issues, to be published by the Lincoln Institute of Land Policy. In addition to oil and gas, his recent projects have included helping an island fishing community in Chesapeake Bay contend with erosion and sea level rise, assisting the multi-stakeholder group leading the implementation of the Extractives Industry Transparency Initiative in the U.S., and supporting state agencies and local governments in Florida as they develop a shared vision for restoring the Caloosahatchee River.

Susan Daggett

Executive Director, Rocky Mountain Land Use Institute
Denver, CO

Susan D. Daggett is a natural resources and environmental attorney and is currently the Executive Director of the Rocky Mountain Land Use Institute at the Sturm College of Law at the University of Denver. She has served as the managing attorney in the Rocky Mountain office of Earthjustice, a national non-profit public interest law firm (formerly the Sierra Club Legal Defense Fund) and also has experience working as an independent consultant to non-profit organizations engaged in energy-related advocacy. She currently serves on the Board of Trustees for The Nature Conservancy of Colorado and the Denver School of the Arts Friends Foundation. She previously served as a Commission of Denver Water and was on the founding Board of Greenprint Denver. She graduated from Mount Holyoke College and received her law degree from Yale University.

SETTING THE STAGE: WHAT'S GOING ON IN YOUR COMMUNITY

DESCRIPTION

This session will be a facilitated discussion of the key risks and benefits of oil and gas development at the local level.

SPEAKER INFORMATION

SPEAKERS:

Tushar Kansal

Associate, Consensus Building Institute
Washington, DC

POLICY UPDATE

DESCRIPTION

Speakers present an overview of the Colorado Oil and Gas Task Force and what those decisions mean moving forward. This session will cover the legal debate regarding constitutional preemption of local regulations over oil and gas impacts and the proposed legislative and regulatory approaches that the Governor's Task Force considered to address this on-going legal conflict.

SPEAKER INFORMATION

MODERATOR:

Susan Daggett

Executive Director, Rocky Mountain Land Use Institute
Denver, CO

SPEAKERS:

Patrick Quinn

Former Mayor, City & County of Broomfield; CFO, Loja Group, LLC
Broomfield, CO

Patrick A. Quinn, CPA, has emphasized the importance of public service throughout his accounting and finance career. Mr. Quinn served as Mayor of the City and County of Broomfield from 2007 through 2013. He is currently the CFO of Loja Group LLC, a real estate management and operations company. Prior to that, he was the Chief Executive Officer of Quinn & Associates, a firm of Certified Public Accountants. In this capacity, he served as the Chief Financial Officer for numerous companies, both public and private, in the oil and gas and extractive industries. Mr. Quinn most recently was appointed by the Governor as a Member of the Task Force on State and Local Regulation of Oil and Gas Operations.

Jeff Robbins

Shareholder, Goldman Robbins Nicholson PC
Durango, CO

Jeff Robbins' practice focuses on civil litigation, land use issues and land use development, governmental and administrative law matters and in oil and gas law. Mr. Robbins has a wealth of experience in governmental law, and has served as County Attorney for La Plata County and Archuleta County, as well as Town Attorney for Silverton and special counsel for the City of Durango. With this experience in hand, Mr. Robbins now frequently assists private parties in their interactions with local governments. He has assisted clients in achieving land use development approvals as well as working with property owners in the protection of their private property rights from incompatible potential land uses. He understands the practicalities of working with local governments in negotiating the land use entitlement process. Successful projects include complex land use

entitlements in southwest Colorado counties and towns for multi-year vested development rights using comprehensive development agreements.

REGULATORY APPROACHES

DESCRIPTION

The regulatory roles of federal, state, and local governments are explored, as well as how different communities have navigated the jurisdictional “grey areas.” This session will cover the use of zoning, impact fees, and special permitting schemes as tools that local governments can use to address impacts of oil and gas development, such as conditional permits, water protections, permitting, zoning, and ordinances around air quality, noise, and lights.

SPEAKER INFORMATION

MODERATOR:

Patty Limerick

Executive Director, Center for the American West
Boulder, CO

Patty Limerick is the Faculty Director and Chair of the Board of the Center of the American West at the University of Colorado, where she is also a Professor of History. Limerick has dedicated her career to bridging the gap between academics and the general public and to demonstrating the benefits of applying historical perspective to contemporary dilemmas and conflicts. Limerick has served as President of the Organization of American Historians, American Studies Association, the Western History Association, and the Society of American Historians, and as the Vice President of the Teaching Division of the American Historical Association, where she co-wrote a successful proposal to the Lumina Foundation, on “tuning” (as in tuning up an orchestra) the historical profession’s teaching efforts. She is currently the President of the Organization of American Historians.

SPEAKERS:

Jeff Robbins

Shareholder, Goldman Robbins Nicholson PC
Durango, CO

Kim Sanchez

Planning Division Manager, Boulder County Land Use Department
Boulder, CO

Kimberly Sanchez is Planning Division Manager in the Boulder County Land Use Department. She has been in this position since 2008 and with Boulder County Land Use Department for over 15 years. Ms. Sanchez was the lead planner who, along with Boulder County’s legal team, drafted Boulder County’s oil and gas regulations and moratorium. She has been involved in the development of many land use regulations, including Site Plan Review regulations concerning house size and neighborhood character, the Transfer of Development Credits Program which preserves smaller homes and requires offsets for larger homes, and has worked extensively on disaster recovery projects including Fourmile Fire and the 2013 Front Range Flood. Ms. Sanchez holds a Master of Arts in Public Policy from the University of Colorado at Boulder and undergraduate degrees in Environmental Policy Analysis and Planning and Spanish from the University of California at Davis. Ms. Sanchez grew up in Los Alamos, NM but has lived in Boulder since 1997.

Chris Seldin

Assistant County Attorney, Pitkin County
Aspen, CO

Chris Seldin is an Assistant County Attorney with Pitkin County, Colorado. For the last two years, he has served as lead counsel for three local governments contesting oil and gas development in an area of National Forest known as the Thompson Divide. Before joining Pitkin County, Mr. Seldin worked as a commercial litigator for a large law firm in San Francisco, and as a law clerk to Colorado Supreme Court Justice Greg Hobbs. He received his JD from the University of California, Berkeley and his BA from Dartmouth College.

John Sullivan

Partner, Sullivan Green Seavy, LLC
Boulder, CO

John T. Sullivan earned his law degree from the University of Colorado School of Law in 1987. Mr. Sullivan has represented individuals, local and national corporations, and government agencies in litigation involving land use, real estate, business, commercial, bankruptcy, and environmental law. His experience includes cases involving contract and lease disputes, easement disputes, probate matters, disputes among small business owners, claims for contamination of land, trespass, adverse possession, and quiet title and lien foreclosures. He has also represented county governments in actions involving land use regulations. Mr. Sullivan is licensed to practice in all state and federal courts in Colorado and the United States Court of Claims. In the community, Mr. Sullivan has served on the Board of Directors for the CU Alumni Association, the Boulder Rotary Club, the Boulder History Museum and the Boulder Swim Team.

NON-REGULATORY APPROACHES

DESCRIPTION

This session covers non-traditional legal approaches that local governments can use to address the impacts of oil and gas development. Panelists discuss the terms and conditions of memoranda of understanding and contracts that local governments can use to ensure industry compliance with local requirements, as well as the use of easements, 1041 powers, and other legal tools available to local governments.

SPEAKER INFORMATION

MODERATOR:

Susan Daggett
Executive Director, Rocky Mountain Land Use Institute
Denver, CO

SPEAKERS:

Tamra Allen

Planning Manager, Garfield County
Glenwood Springs, CO

Tamra Allen, AICP, is the Planning Manager for Garfield County. Her areas of specialty include developing community comprehensive plans and subsequent land use code overhauls. She has been a planner and a municipal manager on the Western Slope of Colorado for over ten years. Prior to Garfield County, Ms. Allen consulted for a bio-refinery after transitioning from Pagosa Springs after eight years of municipal planning and management work. She has a degree in urban planning and a Master's in Public Administration from the University of Colorado–Denver.

David Baumgarten

County Attorney, Gunnison County
Gunnison, CO

As chief county attorney, David Baumgarten provides legal counsel to the Board of County Commissioners, all elected County officials, and the various County departments and boards. His responsibilities include land use

and environmental codes, judicial proceedings, and serving as a liaison for the County with federal, state and local governments, the environmental community and recreation and development interests. He has helped to create coalitions surrounding water quality and proposed out-of-basin water diversions; served as a facilitator for private, commercial and public recreation users and the United States Forest Service of the Gunnison National; and the Community Evaluation Team regarding services to children and families in need.

Michael Weaver

Planner II, Adams County

Brighton, CO

Michael Weaver is a certified urban planner with planning and community economic development experience in Canada, the United States, and Honduras. He has been with Adams County, Colorado since 2013, and is a graduate of McGill University.

THE FISCAL IMPACTS OF DEVELOPMENT

DESCRIPTION

This session will explore the fiscal impacts of the boom and bust cycle and discuss approaches that local governments can use to soften those impacts. Specifically, this session will cover state and local taxation rules, including property and severance taxes, and will specifically address the affect of Colorado's Constitution and the Taxpayer Bill of Rights (TABOR) on local government fiscal policy.

SPEAKER INFORMATION

MODERATOR:

Tushar Kansal

Associate, Consensus Building Institute

Washington, DC

SPEAKERS:

Andrew Dumont

Senior Community Development Analyst, Federal Reserve Board

Washington, DC

Andrew Dumont works at the Federal Reserve Board as a community development analyst, where he specializes in place-based community development policies and practices, covering topics such as neighborhood revitalization, affordable housing, creative place-making, economic development, and other related topics. Mr. Dumont's current work focuses on the community impacts of energy development in rural communities.

Tresi Houpt

Former County Commissioner, Garfield County; Policy Consultant

Glenwood Springs, CO

Tresi Houpt served as a Garfield County Commissioner from 2003 to 2011; during her tenure, Garfield County experienced an unprecedented amount of oil and gas development. She has collaborated on many pieces of legislation meant to protect people's health, safety, welfare, surface rights and the environment as it relates to oil and gas development, including the bill that restructured the Colorado Oil and Gas Conservation Commission (COGCC). Ms. Houpt was appointed by Governor Ritter to serve on the COGCC during the time when Colorado Rules were undergoing a major revision. She currently consults with community groups and non-profit organizations on oil and gas policy.

Ray Rasker

Executive Director, Headwaters Economics
Bozeman, MT

Ray Rasker is the Executive Director of Headwaters Economics, an independent, nonprofit research group. Their mission is to improve community development and land management decisions in the West on topics such as wildfire; federal payments to counties; energy tax policy; the economic role of public lands; and a number of free analytical tools for helping understand the link between the economy and the environment. Their partners include rural communities, state legislatures, the Forest Service and Bureau of Land Management, universities, and non-profit organizations. Mr. Rasker has written extensively on rural development and the role of environmental quality in economic prosperity. He has a Ph.D. in economics from the College of Forestry at Oregon State University.

Sam Young

Economist, U.S. Department of Housing and Urban Development
Denver, CO

Sam Young is an Economist at the U.S. Department of Housing and Urban Development in the Office of Policy Development & Research, Economic Market Analysis Division. In addition to market analysis and forecasting, Mr. Young is a leader of the Oil and Gas Task Force, tasked with monitoring the effects of the energy sector on housing markets. He recently collaborated on a working paper entitled Impact of Oil and Gas Exploration on Affordable Housing. He received his BA Economics from the University of Colorado, and his MS from Colorado State University.

LOCAL RESPONSES: GROUP DISCUSSIONS

DESCRIPTION

In a workshop setting, participants discuss the challenges they are facing in their own communities and how they are addressing them.

SPEAKER INFORMATION**MODERATOR:****Federico Cheever**

Professor, 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.

Susan Daggett

Executive Director, Rocky Mountain Land Use Institute
Denver, CO

Tushar Kansal

Associate, Consensus Building Institute
Washington, DC

CONCLUSIONS

DESCRIPTION

At the conclusion of the workshop, Tushar Kansal presents the highlights from the day's presentations and discussions.

SPEAKER INFORMATION

MODERATOR:

Tushar Kansal

Associate, Consensus Building Institute

Washington, DC