

Bitter Root  
Land Trust,  
Hamilton  
406-375-0956

Kaniksu  
Land Trust  
Sand Point, ID  
208-263-9471

The  
Conservation  
Fund,  
Missoula  
541-8555

Five Valleys  
Land Trust,  
Missoula  
549-0755

Flathead  
Land Trust,  
Kalispell  
752-8293

Gallatin Valley  
Land Trust,  
Bozeman  
587-8404

Montana Land  
Reliance,  
Helena  
443-7027

The Nature  
Conservancy,  
Helena  
443-0303

Prickly Pear  
Land Trust,  
Helena  
442-0490

Rocky Mountain  
Elk Foundation,  
Missoula  
523-4533

The Trust  
for Public Land,  
Bozeman  
522-7450

Vital Ground  
Foundation,  
Missoula  
549-8650

AFFILIATE  
MEMBERS

Ducks Unlimited

Land Trust  
Alliance

Missoula County  
Community and  
Planning Services

# MONTANA ASSOCIATION OF LAND TRUSTS

P.O. Box 892, Helena MT 59624  
Glenn Marx, Executive Director 490-1659  
Email: montanamalt@q.com  
Website: montanalandtrusts.org  
MONTANA LAND RELIANCE PHOTO



*2017 Montana Conservation Easement Conference  
for Legal, Real Estate and Financial Professionals  
September 29, GranTree Inn, Bozeman, MT*

## Conference Agenda, Faculty Roles, Presentation Summaries

### 8:00 am: Dick Dolan (Trust for Public Land, Bozeman) Conference Moderator

Dick Dolan is the Northern Rockies Director for the Trust for Public Land and is based in Bozeman. Dick will serve as conference moderator, introduce the speakers and break periods, facilitate the question and answer period after speaker presentations, and will participate in the "Ask the Experts" panel that closes the conference.

### 8:15 am: Andrew Dana (Attorney, Conservation Law Associates, Bozeman) Alice Jones (Attorney, Five Valleys Land Trust, Missoula) Conservation Easements in Montana: Law and Practice

Andrew Dana, a nationally respected attorney who has given extensive presentations in national, regional and state legal forums, is the conference lead presenter. He and Alice Jones, Lands Attorney for Five Valleys Land Trust in Missoula, will provide a legal and policy framework for land servitudes and conservation easements. Their presentation will focus on: What are conservation easements under Montana's enabling act, who can hold them, and what are the distinguishing legal characteristics? They will also discuss conservation easements as real property interests authorized by Montana law. Andy and Alice will also discuss conservation easement planning, implementing, drafting, and in doing so will emphasize these topics: 1) What are some critical issues concerning conservation easements about which financial, legal and real-estate professionals should be aware? 2) Drafting challenges and conventions. 3) Common transactional situations and questions.

### 10:00 am: Christian Dietrich (General Counsel, Montana Land Reliance, Helena) Conservation Easement Law, Practice and Tax Implications

Christian Dietrich will lead a sharply focused discussion on the legal underpinnings of Montana private land conservation in conjunction with transactional and tax implications of a conservation easement. While conservation easements are a type of real property interest governed by state law, in order to qualify for the federal income tax deduction, they must adhere to a stringent set of federal requirements: Practitioners advising clients considering donating a conservation easement must familiarize themselves with these requirements. Dietrich will specifically focus on basic and enhanced deductions within the federal tax code and established Montana conservation easement laws, and will examine these potential deductions through donations and "bargain sales" for individuals, corporations, trusts and estates. Dietrich is the co-author of *Conservation Easements: Tax and Real Estate Planning for Landowners and Advisors* (American Bar Association, 2011).

### **11:00 AM: Penelope Pierce (Gallatin Valley Land Trust, Bozeman)**

#### **National, State & Local Funding Opportunities for Conservation Easements**

Penelope Pierce of Gallatin Valley Land Trust will present information about the abundant and diverse local, state and federal programs that are available in Montana that can be accessed to work with landowners on conservation easement projects. Pierce has an extensive background with private land conservation and nonprofit organizations, and within her capacity as GVLT Executive Director has worked on many complex projects involving tax law, real estate and property transactions, state conservation statutes, and a variety of public and private funding sources. She will provide details on unique provisions within programs that may make them more – or less – attractive to landowners, and the property or transactional professionals that advise them.

### **12:00 PM Film Presentation**

In 2016, Montana celebrated the 40th anniversary of the state's first conservation easement. A 20-minute film titled "On The Shoulders of Giants: The Story of Montana Private Land Conservation" chronicles the conservation achievements of landowners, land trusts and others, and offers insights into the work of land trusts and the decision-making of landowners contemplating major property decisions.

### **1:00 pm: Mark Kehke (Pacific Ventures Management, Landowner With Conservation Easement, Gallatin Valley)**

#### **The Landowner's Perspective**

Mark Kehke brings remarkable experience and a unique perspective to the landowner and financial aspects of conservation easements. He is a Gallatin Valley landowner with a conservation easement on his property, and he is also a managing director for Pacific Ventures Management, which has developed residential properties at the Tejon Ranch in California and Martis Camp development near Lake Tahoe. Mark will present information about the Tejon Ranch and Martis Camp projects, as well as his decision – and lessons learned – about working to place a conservation easement on his own Gallatin Valley property. Mark is also the chairman of the Gallatin Valley Land Trust board of directors.

### **1:30 pm: Kim Colvin (Terra Western Associates, Big Timber)**

#### **Conservation Easement Appraisals:**

#### **Procedures and Concerns Regarding the Appraisal Process**

Kim C. Colvin, Ph.D., ARA, has been an Accredited Rural Appraiser with the American Society of Farm Managers and Rural Appraisers (ASFMRA) since 1995 and has been appraising rural lands for thirty-three years. Her firm has directly participated in conserving over 400,000 acres in Montana and Wyoming. Dr. Colvin is a Certified General Appraiser in Montana and Wyoming, and is also a Montana Licensed Real Estate Agent. She is based in Big Timber, MT, and will present the complex and nuanced world of land appraisals for conservation easement purposes. Kim will discuss appraisal options, the manner in which an appraisal is conducted, the scope and breadth of the appraisal, and how the appraisal is conducted for income tax purposes. Kim will also discuss the type of appraisal and review processes to follow when federal funds are involved within the easement. Conservation easements are complicated land management tools and the appraisal is an integral component of the conservation easement process. A general discussion of diminutions in value upon sale, or the lack thereof, will be presented. Additionally, a discussion of the confidentiality and record keeping rules for appraisers under the Uniform Standards of Professional Appraisal Practice, and state laws, will be presented as it relates to a conservation easement appraisal's intended use and purpose.

### **3:00 pm: Andrew Dana Attorney (Conservation Law Associates)**

### **Renee Coppock, Attorney (Crowley Fleck Law Firm, Billings)**

#### **Living With Conservation Easements: FAQs**

Land trusts, Realtors, accountants, attorneys, appraisers, other financial professionals, land trusts, public agencies, and landowners have worked within Montana's conservation easement statute since 1975. There are currently over 2,000 conservation easements in Montana that encumber over 2.4 million acres of Montana private land. Andrew and Renee will lead a more interactive discussion designed to give practical guidance and direction about the landowner/land trust relationship after conservation easements are placed on property. The presentation will include a Top Ten List of How Landowners and Land Trusts Live With Conservation Easements. There is not a PowerPoint presentation for this agenda item: It will feature a give and take dialogue - a point-counterpoint - that will prove

interesting and informative but does not lend itself well to a PowerPoint presentation.

#### **4:00 pm: Ask the Experts (Final Panel)**

The conference will conclude with a panel discussion that will feature all the presenters plus conference moderator Dick Dolan. The hour-long panel discussion provides the attendees an opportunity to ask any question on any legal, financial, transactional, real estate or property management or other conference subject matter, and the panelists will have a candid opportunity to answer individually or collectively, and agree or disagree, with the response. The largely unstructured and candid panel provides for lively and stimulating discussion to close the conference.