

JUNE 11-12

Tenth Symposium on Advanced Legal Topics in Land Conservation



Agenda

Wednesday, June 11, 2025 12-5:30 p.m. Eastern

12-12:05 p.m.

Welcome and logistics

12:05-1:35 p.m.

Session A: Condemnation Case Study (90 minutes)

Laura Curliss, Conservation Attorney (OH)

David Watkins, Esq., Plank Law Firm (OH)

Between 2019 and 2023, one Ohio family — the Baileys — decided that they would fight a proposed taking for a commercial utility line on land protected by a donated easement to the Ohio Department of Agriculture (ODA). Twice in the past, ODA had taken action to protect the farmland from a similar taking. This time, the ODA did nothing — worse than nothing — they relied on the gas company's representations that the gas easement would not harm the farmland. The Baileys fought and won at the state appellate level partly by making the argument that the agricultural easement was a prior public use. Many years of legal work resulted in this appellate decision, including prior amicus work by the Land Trust Alliance. Find out how the Baileys prevailed and the effect of that case.

Break - 25 minutes

2- 3:30 p.m.

Session B: Disability Inclusion and Access to Conserved Land (90 minutes)

Rachel Hampton, Senior Attorney, The Nature Conservancy (MN)

Lisa Ryan, Equitable Access Program Manager, The Nature Conservancy (VT)

Enock Glidden, Accessibility Consultant (ME)

Many land trusts are looking for ways to be more inclusive of the disability community. Not only are there legal requirements regarding preserve and program accessibility under the Americans with Disabilities Act (ADA), but our success in addressing biodiversity loss and climate change depends on forging new partnerships and engaging as many people in our work as possible. The faculty will discuss the legal requirements under Title III of the ADA as they apply to natural areas open to the public, as well as initiatives and activities TNC has undertaken to support staff in making its preserves and programs more accessible to people with disabilities. This includes guidance on infrastructure improvements, communications strategies, and community engagement. Enock, a member of TNC's newly created Accessibility Advisory Council, will discuss his work with TNC's Maine Chapter to increase understanding of accessibility at TNC preserves.

Break - 25 minutes

3:55-5:25 p.m.

Session C: Hot Cases in State and Federal Courts (90 minutes)

Robert H. Levin, Conservation Attorney (ME)

This session will delve deeply into a few leading cases with breaking developments in land conservation law. The session will provide up-to-date insight on the recent state cases and federal income tax cases. It will also address practitioner pointers, drafting considerations and stewardship implications of the cases dissected.

5:25-5:30 p.m.

Closing Remarks

Thursday, June 12, 2025 12-5 p.m. Eastern

12-12:05 p.m.

Welcome back and logistics

2:05-1:35 p.m.

Session D: Carbon Markets and Land Trusts (90 minutes)

Tom Garry (MN) and Jonathan Rotter (VA)

Senior Attorneys at The Nature Conservancy

Land trusts are increasingly involved in a variety of activities tied to carbon markets, such as developing carbon projects, holding conservation easements on lands enrolled in carbon projects and selling or retiring carbon credits. These activities raise new legal issues for land trusts and twists on old issues. The session will discuss legal issues for land trusts that arise from activities tied to the carbon markets, including unrelated business income, private benefit, commodities laws, landowner aggregation and stewardship matters, all in the context of the current efforts to improve and increase confidence in the voluntary market.

Break - 25 minutes

2-3 p.m.

Session E: Thinking of Using a Board Member as Counsel? Pondering Possible Pitfalls (60 minutes)

Steve Swartz, Retired General Counsel, Humane Society Wildlife Land Trust, and now pro bono advisor to various land trusts and nonprofits (DC)

Attorneys can be ubiquitous on land trust and other nonprofit boards and good ones can add real value to the organization, its operations, and its programs. And, when litigation or complicated — or even not particularly complicated — legal matters arise, they can be an attractive and convenient choice to also serve as the land trust's lawyer. But they may not be the right one! In this session, Steve Swartz will explore the multiple factors that the board

member/lawyer and land trust/client should each consider in deciding to go that route, for the attorney to act ethically and the land trust to receive the quality of representation the situation demands.

This session is designed to qualify for legal ethics CLE credits, but note that accreditation is still pending.

Break - 25 minutes

3:25-4:25 p.m.

Session F From Here to Eternity: The REPI Program and Conservation in Partnership with the Department of Defense (60 minutes)

Thomas J Bourguignon, Conservation Attorney (MT)

Cameron Becker, Conservation Director at Arizona Land and Water Trust (AZ)

The Department of Defense's (DOD) Readiness and Environmental Protection Integration (REPI) Program funds conservation around military bases and facilities. The purposes of the REPI Program are to limit development near military bases that would be incompatible with the mission of the base; preserve habitat; and protect installations from incompatible uses or effects of climate change. REPI projects typically have a local partner such as a land trust or state or local government. REPI Projects might involve the use of DOD funds for the local land trust to purchase fee title or a CE interest in a property within a designated "buffer zone" around a military installation or to undertake other stewardship activities. This session will provide legal grounding in the REPI enabling statutes and related legal issues, the "Cooperative Agreements" or "Cost Sharing Agreements" used by the DOD in working with local partners and related legal contract issues, including the DOD's unusual reversionary provision. Specific case studies will address how such transactions typically progress, challenges involved in REPI-funded stewardship projects, and potential long-range issues involving base closures and stewardship impacts.

4:25-4:30 p.m.

Break

4:30-5 p.m.

Due Diligence on Listed Transaction Regulations

Diana Norris, Conservation Defense Network and Tax Manager

Not eligible for CLE credits.