

Easements *in Montana*



MAY. 19, 2022

DELTA HOTELS
HELENA COLONIAL

Helena, MT

ACCREDITATION

**MT CLE, APA, IRWA
MT Real Estate,
OR Real Estate Broker**
(see inside for details)

THE SEMINAR GROUP ~ RAISING THE BAR OF CONTINUING LEGAL AND PROFESSIONAL EDUCATION

Seminar Overview

This program is designed to help a wide cross-section of professionals understand and engage with traditional and conservation easements at every step in the process, from initial tax, financial planning and drafting considerations, to navigating the playing field decades after the easement is put in place. Sessions will be taught by Montana's foremost experts in their respective fields. Whether you are seeking a broad overview to gain a working familiarity with this fast-growing area, or are a seasoned professional looking for specialized, cutting-edge content, you'll leave better prepared to assist your clients in the continually developing landscape of Montana easement law.

Who Should Attend:

Attorneys
Land Planners
Land Surveyors
Real Estate Appraisers
Real Estate Brokers

**Morning Sessions:
Easements and Real Property Law**

9:00 Introduction and Overview
MDT

Christian P. Dietrich, Program Chair
Neilson Swanson Dietrich PLLC

**9:10 Characteristics of Easements in Law of
Real Property and Montana Easement
Case Law Update**

- Update on recent Montana Supreme Court decisions on easements
- Implications on the basic elements of drafting easements

Alan F. McCormick
Garlington Lohn & Robinson PLLP

**10:15 Utility Easements and Easement
Condemnation Proceedings**

W. Scott Mitchell
Holland & Hart LLP

11:00 Break

11:15 Securing and Preserving Access Rights

- Reserving and granting easements - practical considerations and interpretation quandaries
- Access along waterways
- Ditch easements and secondary access
- Public access across private property
- Access to public lands

Elizabeth W. Erickson
Worden Thane PC

**12:00 How Section 1031 Exchanges are Used in
Conjunction with the Sales of Easements**

Max A. Hansen, CES, Managing Director
Accruit LLC

12:45 Midday Break

**Afternoon Sessions:
Conservation Easements**

2:00 Introduction and Overview

Christian P. Dietrich, Program Chair
Neilson Swanson Dietrich PLLC

**2:10 A Broad Overview of Conservation
Easements**

- Conservation easements in context of other Montana real property laws
- Strengths and limitations of conservation easements
- Drafting: overview and practice tips
- Current issues and trends: amendments, terminations, climate change, and perpetual conservation easements; public funding for private land conservation; conservation easements in public land-use planning

Andrew C. Dana
Conservation Law Associates

3:15 Break

**3:30 Tax Practice, Planning and Recent
Developments**

- Requirements to qualify for federal income tax benefits; appraisals; substantiation
- Mechanics of the federal income tax deduction; frequently asked deductibility questions; qualifying for “enhanced” incentives for farmers and ranchers; bargain sales and deductibility
- Tax Court conservation easement case law update
- Risks, strategies, and approaches in the current federal tax law climate

Christian P. Dietrich
Neilson Swanson Dietrich PLLC

**4:15 Title Issues and Title Products for
Conservation Easement Transactions**

- Brief overview of title products
- Case studies of specific title issues in conservation easement transactions and possible resolutions
 - Severed mineral estates
 - Defects in the vesting or ownership of a property
 - Railroad right of ways and access across railroads
 - Mortgages and the need for Subordinations
 - Access Easements and third-party rights to the property
 - Navigable waterways
 - Access across neighboring properties

Thomas J. Bourguignon
Maclay Law Firm

5:00 Adjourn

Faculty - Easements



Christian P. Dietrich, Program Chair, is an attorney and co-founder of Neilson Swanson Dietrich PLLC. He advises clients on conservation real estate transactions, laws relating to tax-exempt organizations and their donors, and related areas. He specializes in perpetual conservation easement transactions and on serving the legal needs of land trust organizations.



W. Scott Mitchell, a partner at Holland & Hart LLP has represented businesses in complex litigation for over two decades. His clients include resource companies, banking and finance companies, defendants in product liability suits, and commercial/industrial landowners. He also advises on environmental regulatory and condemnation matters.



Thomas J. Bourguignon is an attorney at Maclay Law Firm, a boutique firm that handles real estate transactions, conservation easements, water law transactions, and estate planning and probate. He is licensed to practice law in the State of Montana. He served as Co-Editor-in-Chief for the Montana Law Review while working towards his J.D.



Andrew C. Dana is the founder and principal of Conservation Law Associates. He has practiced land conservation and open-space real-estate law since 1991, representing land trusts in the Montana and consulting nationally on private land conservation law. He has written numerous articles and taught CLE programs across the country for many years.



Elizabeth W. Erickson, an attorney at Worden Thane PC, is passionate about all things related to land, water and natural resources. Her diverse background working in both the public and private sectors allows her to effectively work with clients to solve complex land use and real estate issues or plan for the future of their property.



Max A. Hansen, CES, is Managing Director of Accruit LLC. He joined Accruit after 27 years as President and CEO of American Equity Exchange, Inc., one of the first Section 1031 qualified intermediary companies in the Rocky Mountain Region. For over 40 years, he has helped taxpayers and real estate professionals successfully complete property exchanges.



Alan F. McCormick is a partner with Garlington Lohn Robinson PLLP. His primary practice focus is land use, zoning, real estate and local government law with a particular emphasis on development permitting and related transactions. He is frequently called upon to provide advice to private and government sector clients on land use matters.

Easements

Credits

MT CLE

This course has been approved by the Montana State Bar for a total of 6.0 CLE credits (Live Credits for In Person Attendance & Webcast). Self-study credit accepted for up to 5.0 CLE credits per year.

MT Real Estate

This course qualifies for brokers and sales persons for Montana real estate continuing education in the amount of 6.0 CE credits (Live Credits for In Person Attendance & Webcast). Credits for recorded courses not available.

OR Real Estate Broker

The Seminar Group is an approved CE provider by the Oregon Real Estate Agency, #201212896. This course has been approved for 7.0 CE credits (Live Credits for In Person Attendance & Webcast).

APA

This course has been approved by the American Planning Association for 6.25 CM credits (Live Credits for In Person Attendance & Webcast). Credits for recorded courses available upon request.

IRWA

This course may qualify for 6.0 CEUs through the International Right of Way Association. Credits for recorded courses not available.

Location

Delta Hotels Helena Colonial

2301 Colonial Drive
Helena, MT 59601

Phone: 406-443-2100

The seminar is located in the Helena room. Please call the venue for directions/questions.

PARKING

On site parking is available. Please contact the venue for the current rate.

Fees

Live Seminar:

Attorney	\$399.00
Government / Tribal / Non-Profit	\$299.00
Other Professionals	\$299.00
Student / Professor	\$199.00
Morning Sessions	\$249.00
Afternoon Sessions	\$249.00

Live Webcast:

Attorney	\$399.00
Government / Tribal / Non-Profit	\$299.00
Other Professionals	\$299.00
Student / Professor	\$199.00
Morning Sessions	\$249.00
Afternoon Sessions	\$249.00

Pre Order On Demand:

All Sessions	\$399.00
Single Session	\$99.00

Pre Order MP3 Download:

All Sessions	\$399.00
Single Session	\$99.00

Pre Order DVD Homestudy:

All Sessions	\$499.00
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Pre Order CD Homestudy:

All Sessions	\$499.00
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Pre Order Materials Download:

All Sessions	\$169.00
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Pre Order Printed Materials:

All Sessions	\$199.00
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Go to our website to register:

www.TheSeminarGroup.net or call our office at 206-463-4400. You can also contact us at info@theseminargroup.net or by mail to The Seminar Group, P.O. Box 523, Vashon, WA 90870.

CANCELLATION POLICY: We will refund your tuition, less a \$50 cancellation charge, if we receive your cancellation by 5/13/22. No refunds will be given after this date. Please note that if you do not cancel by the deadline and/or do not attend, you are still responsible for payment.

Register at

TSGregistration.net/7174