

# JAMES L. OLMSTED

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*Admitted to practice in California, Oregon, Washington & Nevada.*

## PROFILE

Prominent conservation easement attorney involved in representing land trusts and landowners in large-scale conservation easement and fee title acquisitions for land preservation purposes. Experience includes drafting purchase and sale agreements, escrow instructions and complex, highly negotiated conservation easements. Prior experience includes real estate and land use practice involving navigation of the zoning, permitting, and environmental compliance process for major multi-million dollar luxury golf and ski developments in northern California. Extensive pro bono experience includes litigating high profile land use cases for land use advocacy groups. Widely published in law review articles and in bar journals. Maintains a full schedule of speaking engagements on topics related to land use and zoning and conservation easements.

## EDUCATION

**University of California, Davis School of Law,**  
Davis, CA  
J.D., 1987

**University of Nevada, Reno, Reno, NV**  
M.A. in Psychology and Law, 1990  
B.A. in Psychology, with distinction, 1982

## BAR ADMISSIONS

**California State Bar**, admitted 2001 (#214821); **Oregon State Bar**, admitted 1990 (#90158); **Washington State Bar**, admitted 1989 (#18577); **Nevada State Bar**, admitted 1987 (#2997)

## KEY ACCOMPLISHMENTS

**Land Trust and Conservation Easement Experience.** Negotiated and drafted numerous, complex, and multi-party conservation easements in the Lake Tahoe region of California's Sierra Nevada mountains. Drafted working lands conservation easements for cattle ranches in northern California. Negotiated, structured and implemented major conservation driven fee title land acquisitions.

**Zoning and Land Use Experience.** Drafted and negotiated development agreement for \$300 million luxury golf subdivision, the largest development project ever approved in the history of the Town of Truckee, California. Successfully defended subdivision approval against referendum effort and participated in win-win settlement between client and development opponents. Supervised the record building process for a consortium of all major developers in a community plan in the Truckee-Tahoe area which would allow development on a scale of billions of dollars. Retained and supervised project consultants and negotiated with local planning department officials. Directed team of specialized land use and environmental attorneys and conducted strategy meetings for major property owners.

**Land Use Litigation Experience.** Successfully represented land use advocacy groups in high profile land use litigation. Experience includes representation at both the trial and appellate level.  
Representative Public Interest Land Use Cases:

*Kiewitt Construction Group, Inc. v. Clark County*, Court of Appeals No. 18867-2-II (successful legal challenge to siting of asphalt batch plant near the Columbia River)

*Vanport v. Washington State Shorelines Hearings Board*, Court of Appeals No. 21081-9-II (successful legal challenge to development of lakeshore environmental buffer)

*RCCPA v. Clark County*, Growth Management Appeals Board No. 95-2-0013 (successful legal challenge to Clark County's failure to adopt environmental regulations mandated by state law)

## PROFESSIONAL HISTORY

### **Conservation & Preservation Counsel, L.L.C., Eugene, OR**

*Founder and Owner, 2003-Present*

Practice focuses exclusively on representing land trusts and land owners in conservation easement and fee title acquisitions. Clients include the Truckee Donner Land Trust, the Feather River Land Trust, the Blue Mountain Land Trust, the Tri-State Steelheaders and the Sierra Business Council.

### **Porter Simon, P.C., Truckee, CA**

*Associate Attorney, 2000–2003*

Practice focused on obtaining land use permits for golf and ski resorts, including zoning, real estate, and environmental legal issues. Clients included East West Partners, Booth Creek Ski Holdings, Trimont Land Co., Corum Real Estate and Pritzker Realty Group.

### **Supreme Court of the State of Nevada, Carson City, NV**

*Attorney, 1999–2000*

Assisted in the administration of the Nevada Supreme Court and Nevada judicial system.

### **University of Oregon, Eugene, OR**

*Faculty, Legal Research and Writing, School of Law, 1993–1999; Assistant Professor, Psychology, Dept., 1993*

Instructed law students in legal research and writing. Taught graduate level course in law of clinical psychology.

### **Olmsted Law Offices, Vancouver, WA**

*Attorney, 1991–1996*

Practiced land use and environmental law. Successful appearances before Washington Shorelines Hearings Board, Washington Growth Management Hearings Board, Washington Superior Court, and the Court of Appeals.

### **Supreme Court of the State of Nevada**

*Judicial Clerk, 1987–1989*

Researched & drafted legal memoranda/opinions.

### **Federal District Court, District of Nevada**

*Judicial Intern, 1986*

Researched & drafted legal memoranda/opinions.

## LEGAL SCHOLARSHIP

*“Paradoxical Conservation and the Tragedy of Multiple Commons,”* TULANE ENVIRONMENTAL LAW JOURNAL, Fall 2008 (Tulane University School of Law) (accepted for publication and currently in press)

*“Carbon Dieting: Latent Ancillary Rights to Carbon Offsets in Conservation Easements,”* JOURNAL OF LAND, RESOURCES, & ENVIRONMENTAL LAW, Spring 2008 (University of Utah S.J. Quinney College of Law) (accepted for publication and currently in press)

*“Representing Non-Concurrent Generations: The Problem of Now,”* JOURNAL OF ENVIRONMENTAL LAW AND LITIGATION, Fall 2008 (University of Oregon School of Law) (accepted for publication and currently in press)

*“An Analytical Approach to Regional Responses to the Global Warming Crisis (With a Case Study of the State of Oregon)”* JOURNAL OF ENVIRONMENTAL LAW AND LITIGATION, Spring 2008 (University of Oregon School of Law) (accepted for publication and currently in press)

*“Climate Surfing: A Conceptual Guide to Drafting Conservation Easements in the Age of Global Warming,”* ST. JOHN'S JOURNAL OF LEGAL COMMENTARY, 2008 (St. John's University School of Law, New York Campus) (article also to be subsequently published in the ENVIRONMENTAL LAW REPORTER, 2008, a journal of the Environmental Law Institute) (accepted for publication and currently in press)

*“Valuation of Conservation Easements on Termination,”* 30(1) ENVIRONS LAW AND POLICY JOURNAL 39, Fall 2006 (University of California at Davis School of Law)

*“Handling the Land Use Case,”* 19(1) JOURNAL OF ENVIRONMENTAL LAW AND LITIGATION 23, Spring 2004 (University of Oregon School of Law)

## PROFESSIONAL PRESENTATIONS

- “Building a Better Atmosphere: Legislative & Agency Responses to Global Warming,”* organized and moderated panel presentation at University of Oregon School of Law Environmental Law Conference, March 2008
- “Natural Capital: Preparing for Adaptation to Global Warming,”* organized and moderated panel presentation at University of Oregon School of Law Environmental Law Conference, March 2008
- “Law of Easements: Legal Issues and Practical Considerations in Oregon,”* presentation for Lorman Education Services (CLE's for attorneys), December 2007
- “Legal Elements of Approaches to Climate Change,”* presentation at University of Oregon School of Law Symposium on Combating Climate Change on the Regional Level: West Coast Policy and Litigation, October 2007
- “Conservation Easements and Land Preservation in the Age of Global Warming,”* presentation at University of Oregon School of Law Environmental Law Conference, March 2007
- “Steering a New Course: Protecting Water Resources with Conservation Easements,”* organized panel presentation at University of Oregon School of Law Environmental Law Conference, March 2007
- “Emerging Issues in Conservation Easement Law and Practice,”* organized panel presentation at University of Oregon School of Law Environmental Law Conference, March 2007
- “Zoning, Subdivision and Land Development Law,”* presentation for Lorman Education Services (CLE's for attorneys), January 2007
- “Law of Easements: Legal Issues and Practical Considerations in Oregon,”* presentation for Lorman Education Services (CLE's for attorneys), July 2006
- “When to Talk and When to Walk: Negotiating Conservation Easements,”* presentation at Land Trust Alliance Northwest Land Trust Conference, April 2006
- “Drafting Workable Conservation Easements: The Devil in the Details,”* presentation at University of Oregon School of Law Environmental Law Conference, March 2006
- “Drafting Issues in Conservation Easements,”* presentation at University of Oregon School of Law Environmental Law Conference, March 2004
- “Lawyers On Line,”* Oregon State Bar accredited CLE, University of Oregon School of Law, September 1997
- “Computers and the Public Interest Law Practice,”* guest lecture at Law and Technology seminar, University of Oregon School of Law, March 1996
- “Issues of Privilege and Confidentiality in Clinical Practice,”* APA accredited continuing education presentation to Oregon psychologists, July 1995
- “Law and Ethics of Clinical Practice,”* APA accredited continuing education presentation to Oregon psychologists, December 1994
- “Counselor Liability: Confidentiality Versus the Duty to Warn Under Tarasoff,”* presentation to the Clark County Counseling Psychology Group, July 1989

## **OTHER PUBLICATIONS**

“*Saving Spaces: The Land Trust*,” MOONSHINE INK, March 2003

“*Buying Mountains for Kids*,” MOONSHINE INK, January 2003

“*Across the Line*,” THE WRIT: OFFICIAL PUBLICATION OF THE WASHOE COUNTY BAR ASSOCIATION, February 2002

“*Researching Legislative History in Nevada*,” JOURNAL OF THE STATE BAR OF NEVADA, July/August 1989, Vol. 54, No. 4 (co-authored with Susan Southwick, Nevada Supreme Court Head Librarian)

“*Trial Consulting Services: The Winning Edge*,” JOURNAL OF THE STATE BAR OF NEVADA, March/April, 1988, Vol. 53, No. 2 (co-authored with Dr. Deborah Davis, Ph.D.)

## **PRO BONO SERVICES**

### **Truckee Donner Land Trust (TDLT), Truckee, CA**

*President, Board of Directors & Chair, Lands Committee, 2001–2003*

Achieved the largest land and conservation easement acquisitions of environmentally sensitive, historic, and scenic lands in TDLT’s history. Worked in partnership with local and state government and national land trusts such as the Nature Conservancy and the Trust for Public Lands.

### **Friends of the Columbia Gorge, Vancouver, WA**

*Board of Directors, 1992–1995*

Worked to implement the Columbia River Gorge Scenic Area Act, a federal law intended to preserve and enhance the unique scenic and environmental qualities of the Columbia River Gorge.

### **Friends of the Evergreen Highway, Vancouver, WA**

*Vice-President, Board of Directors, 1990–1995*

Worked to improve recreational opportunities and enhance natural areas in the Columbia River Corridor.

### **Heritage Trust of Clark County, Vancouver, WA**

*Board of Directors & Chair, Publications Committee, 1990–1994*

Nominated properties to the local, state, and national registers of historic places and reviewed development permits pursuant to the Washington State Environmental Policy Act (SEPA).

## **PRO BONO RECOGNITION**

Environmental Litigation Award for public interest environmental advocacy in southwest Washington, presented by the Clark County Natural Resources Council, REI, the Sierra Club, and the Vancouver Audubon Society, August 1994.