



68th Annual

NATURAL RESOURCES AND ENERGY LAW INSTITUTE

Vail, Colorado | July 21-23, 2022

Join us this summer in Vail, Colorado, a location that has routinely attracted over 1,000 registrants and their families. Registration rates for members remain extremely low, and we have negotiated discounted accommodation rates at numerous properties in Vail for everything from basic hotel rooms to luxury condos. All sessions will be held at The Hythe, a Luxury Collection Resort by Marriott (formerly the Vail Marriott Mountain Resort), which recently underwent a \$40 million renovation. Excitement is high for our first in-person annual institute since 2019 at our most popular location!


Chaired by Professor Bruce M. Kramer, the 68th Annual Institute will feature 34 talks with 57 speakers from private practice, academia, government, industry, associations, and other organizations. After opening with a general session on Thursday morning, the institute will offer attendees choices among separate sessions focusing on oil and gas and landman's issues, mining law, public lands and Indian law, water law, environmental law, corporate counsel legal issues, international resources issues, and a NEW session on renewable energy and electricity.

Vail in July is a stunningly beautiful alpine setting with amazing weather for high-elevation golf, wildflower hikes, backpacking, cycling and mountain biking, tubing and whitewater rafting, canoeing, gondola rides, nature walks, jeep tours, and so much more. Shopping, excellent restaurants, and spas abound. The entire family can enjoy numerous activities, including Epic Discovery at the top of the Eagle Bahn Gondola.

Registration includes a huge reception for registrants and families on Thursday evening at the base of the mountain. Other events include separate receptions for young professionals and in-house counsel, a babysitting option on Friday night for enjoying the town or private events, and various lunches with guest speakers, including Portia's Lunch for women, a natural resources law teachers lunch, an international practitioners lunch, and a lunch for oil and gas practitioners. We look forward to seeing you in July!

CLE Credit: This course offers continuing education credit of approximately 14.5 credits for 60-minute states and 17.5 for 50-minute states, including up to 2 hours of ethics. You must let us know, at least 45 days in advance of the course, the states or organizations for which you will need credit (see registration form). Credit hours for states will vary and are subject to each state's approval and credit rounding rules. Foundation courses are typically accredited by all mandatory CLE states and Canadian provinces, AAPL, NADOA, and NALTA, and other professional organizations. Attorneys from certain states may be required to pay an additional fee. The Foundation is a State Bar of California MCLE-approved provider.

Recordings: Audio and video recording, streaming, or other types of live or stored dissemination are not permitted without express authorization from the Foundation.



68th Annual NATURAL RESOURCES AND ENERGY LAW INSTITUTE

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Program at a Glance

THURSDAY MORNING, JULY 21, 2022

General Session | 8:30 am to Noon

THURSDAY AFTERNOON, JULY 21, 2022

Oil & Gas and Landman's Section | 2:00 pm to 5:30 pm

Water Section | 2:00 pm to 5:30 pm

International Section | 2:00 pm to 5:30 pm

FRIDAY MORNING, JULY 22, 2022

Oil & Gas and Landman's Section | 8:30 am to Noon

Mining Section | 8:30 am to Noon

FRIDAY AFTERNOON, JULY 22, 2022

Renewable Energy and Electricity Section | 2:00 pm to 5:30 pm

Corporate Counsel Section | 2:00 pm to 5:30 pm

Environmental Section | 2:00 pm to 5:30 pm

SATURDAY MORNING, JULY 23, 2022

Public Lands and Indian Law Section | 8:40 am to Noon



General Session

Thursday Morning
July 21, 2022



NORMAN C. BAY

8:50 - 9:40 am: Keynote – Two Former FERC Chairmen Assess U.S. Energy Transition Plans

The Biden administration's energy agenda is focused on renewable energy development, with goals of carbon-free power generation by 2035 and a net-zero carbon economy by 2050. Such a future requires a resilient grid that will enable both the complete transition to electric vehicles with appurtenant charging stations and the storage of renewable energy for peak loads. The Biden energy agenda also encourages carbon capture and storage. Are the administration's goals compatible, let alone achievable? If so, what needs to be done? How will the government's stated policies impact decisions relating to infrastructure for gas transmission and LNG exports to balance the short-term need for energy with longer-term climate goals? How can we overcome the challenges required to permit and construct a massive amount of new transmission lines? How much is this transition dependent on technology that has not yet been invented or economically commercialized? And what role will environmental and energy justice concerns play in the transition process? These and other issues relating to the envisioned energy transition will be explored by two recent chairmen of the Federal Energy Regulatory Commission.



NEIL CHATTERJEE

NORMAN C. BAY, Partner, Willkie Farr & Gallagher LLP, former Chairman, Federal Energy Regulatory Commission, Washington, DC

NEIL CHATTERJEE, Senior Advisor, Hogan Lovells, former Chairman, Federal Energy Regulatory Commission, Washington, DC



KIMBERLEY R. ANDERSON

9:40 - 10:30 am: The SEC's Anticipated Climate-Related Disclosure Proposal and Its Implications for the Energy and Natural Resources Industries

The U.S. Securities and Exchange Commission (SEC) is expected to publish a proposed climate disclosure rule in early 2022, which is anticipated to require qualitative and quantitative disclosure regarding issuers' climate-related risks and opportunities. The proposed rule is fundamental to the Biden administration's commitment to address climate change. It also sets the framework for how companies will measure the climate-related portion of their environmental, social, and governance (ESG) performance. This presentation will provide an overview of the SEC's proposal with a focus on the key issues for energy and natural resource industries. The presentation will also address how a company can position itself for success in the context of expanded regulatory oversight on climate matters.

KIMBERLEY R. ANDERSON, Co-Chair, Capital Markets & Corporate Compliance Practice Group, Dorsey & Whitney LLP, Seattle, WA

GAGE ZOBELL, Associate, Dorsey & Whitney, LLP, Salt Lake City, UT



GAGE ZOBELL

General Session

Thursday Morning
July 21, 2022



10:30 - 11:00 am: Break

11:00 am - Noon: Civility in Divided Times – Is There Room for Professionalism in Negotiations?

In 1995, former Chief Justice of the U.S. Supreme Court Warren Burger remarked in *The Decline of Professionalism* that “the standing of the legal profession is perhaps . . . at its lowest in history.” Today, the country is extremely divided, and the divisions are particularly stark in energy and natural resources, where stakeholders’ outlooks on basic societal goals are often fundamentally different. Can the legal profession rise above the fray for the good of the profession and society? With a unique blend of multimedia, scholarship, and humor, this presentation will examine professionalism in the context of negotiations, a critical process for both litigators and transactional attorneys to achieve results for clients. The presenter will discuss the relationship and disconnect between the precepts of professionalism and the Model Rules of Professional Conduct, the tension under the Model Rules between honesty and protecting confidential client information, the incentives to mislead an opponent to obtain a favorable settlement, and state and local bar associations’ establishment of standards to fill the gaps left by the Model Rules.



MICHAEL H. RUBIN

MICHAEL H. RUBIN, Member, McGlinchey Stafford PLLC, Baton Rouge, LA

Noon - 2:00 pm: Lunch - On Your Own, or International Lunch, or Natural Resources Law Teachers Lunch, or Oil & Gas Practitioners Lunch Sponsored by IPAA and API



Oil & Gas and Landman's Section

Thursday Afternoon
July 21, 2022



MATTHEW J. ALLEN

2:00 - 2:30 pm: Annual Oil and Gas Law Update – Texas, Oklahoma, and the West

This presentation will summarize the key legislative, administrative, and judicial developments in oil and gas law in Texas, Oklahoma, and the western U.S. since the 2021 Annual Institute.

MATTHEW J. ALLEN, Partner, Fox Rothschild LLP, Oklahoma City, OK



ALEXANDER K. OBRECHT

2:30 - 3:20 pm: Allocating, Managing, and Potential Benefits of Plugging and Abandonment Costs

Based on a 2019 estimate, the U.S. has about two million orphaned or abandoned oil and gas wells, an issue of heightened public and government focus. The recently passed infrastructure bill allocates \$4.7 billion for well plugging and remediation. States are also taking action. For example, North Dakota allocated pandemic stimulus money to plugging costs, and Colorado is finalizing new financial assurance rules to increase the liability of operators for plugging and abandonment (P&A) costs. Companies that transfer non-core assets often seek to minimize or eliminate potential liability for future P&A costs, and the spate of oil and gas company bankruptcies during the pandemic has also increased disputes regarding the allocation and avoidance of P&A costs. But the situation may also provide some upside with potential ESG benefits for voluntarily plugging orphaned or abandoned wells. This presentation will survey the recent focus of government agencies on P&A costs and the allocation of these costs under federal and state law to the various stakeholders including operators, non-operators, mineral owners, surface owners, and former owners or operators.

ALEXANDER K. OBRECHT, Associate, BakerHostetler, Denver, CO

BRIAN J. PULITO, Member, Steptoe & Johnson PLLC, Meadville, PA



BRIAN J. PULITO

3:20 - 3:50 pm: Break

Oil & Gas and Landman's Section

Thursday Afternoon
July 21, 2022



3:50 - 4:40 pm: Reconciling Conflicts Between Oil and Gas and Renewable Development Projects

Massive amounts of land will be required to meet federal and state goals for renewable energy. Oil and gas and renewable energy developments are similar in that both are often located on ranches, farms, public lands, and other open areas away from residential developments. With increased development, however, disputes regarding surface access and other rights are becoming more common and will likely increase substantially within the next decade. This presentation will examine legal issues in various jurisdictions relating to coordination and conflicts between oil and gas and renewable energy development. The discussion will include the implied and express easements of surface use and access for oil and gas and other mineral development and their relation to conflicting rights for renewable development, highlighting the recent case of *Lyle v. Midway Solar, LLC*, the Bureau of Land Management and Forest Service rules and guidance relating to conflicting development, and the key provisions of joint cooperation and similar agreements to address potential conflicts.

KARA H. HERRNSTEIN, Partner, Bricker & Eckler, Columbus, OH
DARIN B. SCHEER, Senior Counsel, Crowley Fleck PLLP, Casper, WY



KARA H. HERRNSTEIN



DARIN B. SCHEER

4:40 - 5:30 pm: Critical Considerations for the Development and Operation of Carbon Capture, Utilization, and Storage Projects

Carbon capture, utilization, and storage (CCUS) will be an important tool to mitigate carbon dioxide emissions and the environmental impact of the continued use of fossil fuels through the energy transition. The development of the various aspects of the CCUS industry including carbon dioxide capture, transportation, storage, and utilization are rapidly evolving with respect to applicable regulations and incentives as well as the commercial terms for their development, financing, and operation. This presentation will highlight the key policy, commercial, financing, tax, environmental, and land rights considerations for CCUS projects. Based on their direct experience in several CCUS development projects, the presenters will discuss practical strategies for maximizing the benefit from government incentives, mitigating risk, raising public and private capital, and complying with applicable regulations.

ELIZABETH L. MCGINLEY, Partner, Bracewell LLP, New York, NY
PATRICK K. JOHNSON, Partner, Bracewell LLP, Houston, TX



ELIZABETH L.
MCGINLEY



PATRICK K. JOHNSON

5:30 - 7:30 pm: Hosted Reception – For Registrants and Families



Water Section

Thursday Afternoon
July 21, 2022



**JASON ANTHONY
ROBISON**

2:00 - 3:00 pm: The Centennial Crises of the Colorado River Basin

More than 40 million people rely on the river system dubbed “America’s Nile”: the Colorado. Governing the flows of this system is the first interstate water compact drafted in U.S. history, the Colorado River Compact, a proverbial cornerstone of what is arguably the most complex transboundary water regime on the planet— colloquially the “Law of the River.” 2022 marks the Compact’s centennial, and the timing is incredibly serendipitous. The Colorado River Basin is 22 years into a historic megadrought, and policymakers are currently negotiating a new management framework for the river system, as the current one is set to expire in 2026. All told, this confluence is an inflection point of generational significance. This presentation will leverage the centennial year to consider the past, present, and future of the Compact and broader Law of the River, discussing such timely, often contentious topics as climate-change adaptation, tribal water rights, biodiversity and ecosystem protection, and Colorado River governance.

JASON ANTHONY ROBISON, Professor of Law, University of Wyoming College of Law, Laramie, WY

DR. (JOHN) JACK C. SCHMIDT, Professor, Janet Quinney Lawson Chair in Colorado River Studies, S.J. & Jessie E. Quinney College of Natural Resources, Utah State University, Logan, UT



**DR. (JOHN) JACK C.
SCHMIDT**

3:00 - 3:30 pm: Break

3:30 - 4:30 pm: Drought, Flooding, and the Fifth Amendment

Limited resources, exacerbated by climate change, have wreaked havoc with our water supply and flood-control infrastructure, leading to an increased number of drought- and flood-related legal challenges in federal courts. Fifth Amendment cases can arise due to insufficient water supplies for both irrigation and environmental flows, as in the Klamath River Basin and throughout central and southern California, or due to flooding, as in the Missouri and Mississippi River Basins. This presentation will examine the underlying circumstances of water supply-related Fifth Amendment claims and the issues arising under applicable case law. Issues include whether such claims are treated as physical or regulatory matters, the unusual and limited property rights that figure in such claims, the intersection of contractual, tort, and Fifth Amendment claims, the application of the public trust doctrine, and how courts evaluate the merits of such claims. The presenters will provide updates of recent Supreme Court and lower court decisions, including *Cedar Point Nursery v. Hassid* and *Ideker Farms v. United States*, and other related developments.

WILLIAM SHAPIRO, Senior Attorney, Natural Resources Section, Environment and Natural Resources Division, U.S. Department of Justice, Sacramento, CA

KRISTINE S. TARDIFF, Senior Attorney, Natural Resources Section, Environment and Natural Resources Division, U.S. Department of Justice, Concord, NH



WILLIAM SHAPIRO



KRISTINE S. TARDIFF

Water Section

Thursday Afternoon
July 21, 2022



4:30 - 5:30 pm: Water Justice and Water Equity

Litigation in the wake of the Flint Water Crisis has opened the door to liability for state actors, federal regulators, and consulting engineers in their provision of and involvement with public water supplies. Recent federal court decisions have applied constitutional and common law legal duties and obligations on the public and private sectors, regardless of compliance with the federal Safe Drinking Water Act. While these decisions expressly disavow creating a legal right to water, they provide new applications of legal rights and remedies for safe drinking water and perhaps environmental outcomes more broadly. In addition, federal and state agencies and attorneys general are increasingly focused on environmental justice (EJ). EJ indicators such as poverty and race have generated litigation and regulation regarding access to clean water throughout the U.S. This presentation will discuss litigation, regulatory trends, and the Safe Drinking Water Act. It will also review the EJ priorities of the Biden administration's EPA related to water, and how the allocation of \$48.4 billion in the recently passed infrastructure bill for drinking water and wastewater spending will apply to underserved communities across the country.

NOAH D. HALL, Professor of Law, Wayne State University Law School, Detroit, MI
MICHAEL R. LESLIE, Partner, King & Spalding LLP, Los Angeles, CA



NOAH D. HALL



MICHAEL R. LESLIE

5:30 - 7:30 pm: Hosted Reception – For Registrants and Families



International Section

Thursday Afternoon
July 21, 2022



PREETI BHAGNANI



ABBY COHEN SMUTNY

2:00 - 3:00 pm: Energy Transition and Regulatory Risk – What You Need to Know About Investment Treaty Protections

The energy transition requires enormous private sector investment and exposes investors to significant risk of regulatory change and disruptive government intervention. Shifting regulatory actions focused on the energy transition already have given rise to a wave of arbitrations by foreign investors against host countries under international investment treaties. With more than 2,000 investment treaties in force worldwide and governments continually adapting regulations and incentives to achieve evolving energy transition goals, energy transition disputes will continue to arise. Treaties for the protection of foreign investment that permit arbitration offer one of the few viable options for recourse against disruptive government action. This presentation will provide an overview of the investment treaty protections available to energy and natural resource investors, lessons learned from recent international investment treaty arbitrations involving energy transition issues, and steps that can be taken during a project life cycle to maximize available investment treaty protections.

PREETI BHAGNANI, Partner, White & Case, New York, NY

ABBY COHEN SMUTNY, Partner, Global Head of International Arbitration, White & Case, Washington, DC



MARK MORRISON



PEDRO SERRANO
ESPELTA



JOHN F. WALSH

3:00 - 3:30 pm: Break

3:30 - 4:30 pm: Proactive Approaches to Bribery and Corruption Risks in the Natural Resources Sectors of Higher-Risk Jurisdictions

This panel of compliance and investigation counsel from North and South America will discuss proactive strategies for natural resource companies to identify and mitigate bribery and corruption risks in higher-risk jurisdictions. The presentation will explore the benefits of bribery and corruption risk assessments, and other effective risk assessment tools, including risk mapping and forensic testing and sampling. Counsel from Canada, the U.S., and Latin America will discuss the approaches adopted in their home jurisdictions, recent investigations and enforcement actions by regulators, and best practices for resource companies operating in higher-risk jurisdictions.

MARK MORRISON, Partner, Blake, Cassels & Graydon LLP, Calgary, AB

PEDRO SERRANO ESPELTA, Attorney, Buenos Aires, Argentina

JOHN F. WALSH, Partner, WilmerHale, Denver, CO

International Section

Thursday Afternoon
July 21, 2022



4:30 - 5:30 pm: Keys to Success – Cross-Cultural Considerations for Investing in Foreign Jurisdictions

The cultural distance between an investor and a foreign jurisdiction can increase transaction costs and deter investment by hindering the flow of information and misaligning expectations. This panel will examine cross-cultural opportunities and challenges when investing in foreign jurisdictions, including the benefits of understanding a foreign country's history, past and current socio-political climates, economic development characteristics, and context, as well as cultural nuances distinct from those in the U.S. and Canada. In particular, the panel will focus on the role of legal counsel advising their clients on foreign investment transactions, including strategies to overcome cultural differences such as those involving communication, customs, business norms, religious beliefs, and values regarding work.

MARÍA ALEJANDRA DELGADO, General Manager, Rio Tinto LATAM, Lima, Peru
DANIEL LINSKER, Partner, Control Risks, Mexico City, Mexico
NNEOMA VERONICA NWOGU, Senior Counsel, World Bank Group, Washington, DC

5:30 - 7:30 pm: Hosted Reception – For Registrants and Families



**MARÍA ALEJANDRA
DELGADO**



DANIEL LINSKER



**NNEOMA VERONICA
NWOGU**



Oil & Gas and Landman's Section

Friday Morning
July 22, 2022



**CHRISTOPHER W.
ROGERS**

8:30 - 9:00 am: Annual Oil and Gas Law Update – Louisiana and the East

This presentation will summarize the key legislative, administrative, and judicial developments in oil and gas law in Appalachia and Louisiana since the 2021 Annual Institute.

CHRISTOPHER W. ROGERS, Member, Frost Brown Todd LLC, Pittsburgh, PA

9:00 - 9:50 am: To Have or Have Not – Oil and Gas Operations With and Without an Operating Agreement

Jurisdictions differ in custom and practice as to the frequency a joint operating agreement is used to govern the relationship between working interest owners and/or unleased mineral owners. This presentation will survey these differences. It will also examine the potential risks and benefits of proceeding with or without an operating agreement, including the complexities associated with co-tenancy accounting issues, conflicting opinions on which operations to undertake, dealing with non-consenting or non-participating co-tenants, bankruptcy and liens, and allocation of risks such as title failure, royalty claims, and lease termination claims. Recent cases bearing on these issues, including *Devon Energy Production Co. v. Apache Corporation* and *Cimarex Energy v. Anadarko Petroleum*, will be discussed.

MICHELLE P. SCHEFFLER, Co-Chair, Oil and Gas Practice Group, Haynes and Boone, LLP, Houston, TX



**MICHELLE P.
SCHEFFLER**

9:50 - 10:20 am: Break

COVID-19 Risk Acknowledgment, Waiver, and Release:

COVID-19 and its variants have created a heightened degree of personal risk and responsibility in participating in this event. You are strongly urged to be fully vaccinated against COVID-19 before attending this event. The Foundation will follow those health and safety practices mandated by the host hotel and by applicable federal, state, and local authorities. Those practices will be determined close to the date of the event and may become more or less strict between registration and the event. By registering for and attending this event, you: (1) acknowledge the risks associated with COVID-19 and its variants; (2) agree to comply with any applicable health and safety practices that may be mandated for the event (regardless of whether federal, state, or local laws mandate the use of such practices), which may include, without limitation, health screenings, masking, distancing, or other precautions; (3) agree to monitor your own health status and not attend the event if you are symptomatic or believe for any reason you have COVID-19; and (4) waive and forever release and discharge the Foundation and its present and former directors, officers, employees, agents, volunteers, and insurers from and against, any and all claims, demands, causes of action, liabilities, obligations, costs, expenses, and indemnities of every kind and nature, in law or in equity, known or unknown, fixed or contingent, arising out of or related to exposure to, contracting, or spreading COVID-19 or its variants at or in connection with this event.

Oil & Gas and Landman's Section

Friday Morning
July 22, 2022



10:20 - 11:10 am: The Right of Mineral Owners and Non-Operators to Information and Records of Operations

For various reasons, lessors and non-operators may wish to receive, discover and use or disseminate data and/or records of operations and production. In contrast, operators often believe such information is confidential or proprietary and are hesitant to provide wide-ranging access. As a result, operators tend to limit the information made available and to restrict its dissemination. This presentation will examine state laws and regulations and contract provisions that potentially obligate operators to provide information and records to lessors and non-operators, including force pooling orders, co-tenancy principles, lease forms, and joint operating agreements. It will also examine risks relating to the disclosure of such information and records, including potential trade secret issues, issues pertaining to confidentiality agreements, practical and legal methods to protect against such risks, and the limits of such protections.



COREY F. WEHMEYER

COREY F. WEHMEYER, Managing Shareholder, Santoyo Wehmeier P.C.,
San Antonio, TX

11:10 am - Noon: Post-Execution Issues – Corrections, Ratifications, and Title Certainty

After a deed, assignment, or contract is executed, a wide array of subsequent instruments are commonly employed in the oil and gas industry, such as ratifications, stipulations, amendments, corrections, division orders, revivors, and consents. In addition, many courts have recognized that certain actions may constitute an implied ratification, revivor, or consent. Sometimes these post-execution instruments cure an issue, but sometimes they may unintentionally introduce additional issues or disputes. While it is often stated that courts favor results that support the policy of title certainty and reliance on recorded instruments, a number of well-recognized exceptions to that position have been recognized. Two recent Texas Supreme Court decisions dealing with ratifications and correction deeds highlight that courts may be moving away from the policy of supporting title certainty in a way that may have unexpected consequences. This presentation will examine the use of post-execution instruments and the doctrine of implied consent as discussed in relevant case law.



NIKI ROBERTS

NIKI ROBERTS, Counsel, Akin Gump Strauss Hauer & Feld LLP, Houston, TX

Noon - 2:00 pm: Lunch – On Your Own, or Portia's Lunch for Women



Mining Section

Friday Morning
July 22, 2022

8:30 - 9:00 am: Annual Mining and Public Land Law Update

This presentation will summarize the key legislative, administrative, and judicial developments in U.S. mining and public land law since the 2021 Annual Institute.

PAUL M. TILLEY, DeConcini McDonald Yetwin & Lacy, P.C., Tucson, AZ



PAUL M. TILLEY

9:00 - 9:50 am: The Value and Best Practices of Technical Due Diligence Reviews in Mining Transactions

While attorneys engaged in mining law transactions usually focus their attention on such legal issues as title and ownership, surface use and access rights, and environmental issues, they should not overlook the need for a complete, thorough, and accurate technical due diligence review of the proposed project. Although mining projects can be engineered to minimize operational risks and hazards, inherent natural and external factors can have a significant impact on the success or failure of a proposed project. This presentation will examine technical due diligence for mining transactions, including the value of an in-depth process, best practices, and warning signs of project risk. It will provide examples of where the due diligence process was properly executed and where it fell short, and explore the negative ramifications of poor execution.

AMY JACOBSEN, Senior Associate, Behre Dolbear Group, Inc., Edgefield, SC
CHRISTOPHER WYATT, Senior Associate, Behre Dolbear Group, Inc., St. Augustine, FL



AMY JACOBSEN

9:50 - 10:20 am: Break



CHRISTOPHER WYATT

Mining Section

Friday Morning
July 22, 2022



10:20 - 11:10 am: A Port in the Storm – Streaming Transactions as Alternative or Complementary Financing Mechanisms

Mining and the extraction of natural resources require significant capital investment. In an ever-changing economic landscape traditional forms of financing may be unavailable for mine development, too costly or difficult to obtain, or too rigid in their application, not meeting the specific needs of a particular project or operation. This presentation will explore the streaming transaction as a viable alternative or complementary form of financing for mine development, project acquisition, and the facilitation of mergers and acquisitions. In a metal streaming transaction, an investor will make an upfront cash payment to a mining company in exchange for the right to purchase a portion of a metal produced from a mine at an agreed ongoing price. The presentation will provide a history and overview of the streaming transaction and its usefulness as a financing option. It will also review the key differences between streams, royalties, and other forms of financing and the key provisions typically found in a streaming agreement such as remedies for breach and enforceability.



C. WARREN BEIL

C. WARREN BEIL, Maverix Metals Inc., Vancouver, BC

11:10 am - Noon: What Net-Zero Commitments Mean for Mining Company Operations

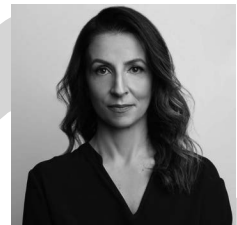
Many of the world's largest mining companies, including BHP Group, Rio Tinto, and Newmont Corp., have publicly announced ambitious goals for net-zero greenhouse gas (GHG) emissions by 2050. Despite the prevalence of these commitments, the lack of universal definitions creates uncertainty as to what such commitments mean. For example, does net-zero include only the company's direct emissions (Scope 1), or also the emissions of energy suppliers (Scope 2) and the indirect emissions in the company's value chain (Scope 3)? With a focus on the mining sector, this presentation will explore the reasons for net-zero commitments, standards and uncertainties associated with net-zero commitments, including variations among emerging disclosure requirements, and the legal and social license enforceability of these commitments. The presenters will also discuss how mining companies intend to meet net-zero commitments with a combination of new technologies, changes in energy use, and changes in business practices, and how these changes may affect mining company operations on the ground.



EMILIE BUNDOCK

EMILIE BUNDOCK, Partner, Fasken, Montreal, QC

ANA LUCI GRIZZI, ESG Program Director, Saint Paul Business School, São Paulo, Brazil



ANA LUCI GRIZZI

Noon - 2:00 pm: Lunch – On Your Own, or Portia's Lunch for Women



Renewable Energy and Electricity Section

Friday Afternoon
July 22, 2022



TODD AAGAARD

2:00 - 3:00 pm: The Challenges of Market and Transmission Regulation for the Renewable Energy Boom

Regulation of electricity markets and transmission grid operations has traditionally focused on ensuring just and reasonable rates and the dispatch of least-cost electricity. These principles are agnostic with respect to the way electricity is generated. Today, the electric generation mix is changing rapidly. Utilities are retiring fossil fuel generation, states are adopting aggressive zero-carbon requirements, and customers are demanding renewable power. Renewable electricity differs from traditional fossil fuel generation in many ways. It may be intermittent and unavailable on demand. It may be generated by smaller facilities and located closer to users, or it may be generated by larger facilities located farther from load centers. This presentation will discuss the challenges that the boom in renewable electricity presents to the electric grid and traditional methods of market regulation and transmission planning.

TODD AAGAARD, Professor of Law, Villanova University Charles Widger School of Law, Villanova, PA

3:00 - 3:30 pm: Break

3:30 - 4:30 pm: Key Trends in Renewable Energy Development on Tribal Lands

Tribal lands have tremendous renewable energy potential: a National Renewable Energy Laboratory study estimated tribal lands are capable of generating more than 6,000 gigawatts of solar power and almost 900 gigawatts of wind power. Tribes are developing renewable resources themselves through utility formation, community-scale projects and resiliency efforts. Renewable energy developers and utilities are increasingly looking to partner with tribes to develop renewable resources on tribal lands. This presentation will outline the unique opportunities and legal issues presented by renewable energy development on tribal lands and tribal efforts to own and control this development, and suggest ways to successfully partner with tribes.

PILAR M. THOMAS, Quarles & Brady LLP, Tucson, AZ



PILAR M. THOMAS

Renewable Energy and Electricity Section

Friday Afternoon
July 22, 2022



4:30 - 5:30 pm: Building the Plane While We're Flying It – Should We Reform the Offshore Wind Leasing and Permitting Process During Liftoff for a New Industry?

Offshore wind is a critical part of a rapid transition to a carbon-free electrical grid. While the U.S. currently has only 42 megawatts of offshore wind, President Biden has announced a goal of generating 30 gigawatts of power through offshore wind by 2030. The administration already has made significant steps toward that goal with its approval of the first two commercial-scale projects in the past year, environmental review of another 15 projects under way, and an ambitious leasing agenda between now and 2025—including an unprecedented sale this past February in the New York Bight. The industry still faces significant barriers, however, in the planning, leasing, and permitting process. Some of the most serious impediments are driven by questions of tradeoffs among current and proposed uses of ocean space and resources and a variety of legal, regulatory, and procedural obstacles. This panel will examine potential legal and policy reforms that could provide more certainty for offshore wind projects. Should BOEM move toward the oil and gas model for lease sales and NEPA review? Should it approach NEPA review through a programmatic rather than project-by-project lens? And would a change in leasing and environmental analysis reduce or increase a project's litigation risk?

MATTHEW BROTMANN, Senior Counsel, Renewable Energy Group, Equinor US, Stamford, CT

JOSHUA KAPLOWITZ, Vice President for Offshore Wind, American Clean Power Association, Washington, DC

LAURA SMITH MORTON, Partner, Perkins Coie, Washington, DC

5:30 - 6:30 pm: In-House and Company Reception – For In-House Counsel and Landmen, Corporate Employees, and Their Significant Others

5:30 - 6:30 pm: Young Professionals Reception – For Young Professionals and Their Significant Others



MATTHEW
BROTMANN



JOSHUA KAPLOWITZ



LAURA SMITH
MORTON



Corporate Counsel Section

Friday Afternoon
July 22, 2022



**DANIELLE MANGRUM
PATTERSON**

2:00 - 3:00 pm: Navigating an Acquisition and Divestiture Transaction for Corporate Counsel

In-house counsel and outside counsel play different but complementary roles in an acquisition and divestiture (A&D) transaction. Outside counsel is focused on negotiating and properly drafting a favorable purchase and sale agreement and closing documents. While in-house counsel is also focused on that aspect, they must also provide advice on and coordinate a variety of internal items. On the seller's side, this includes ensuring that adequate due diligence materials are provided, disclosure schedules are factually accurate, and employees who will be transitioned are properly handled under employment laws. On the buyer's side, this includes review of the due diligence materials, incorporating assets into the company's portfolio, integrating accounting, royalty, and other data into company systems, and the challenges of onboarding and merging employees from different cultures. This presentation will examine the legal and business risks associated with A&D transactions and offer tips for in-house counsel and outside counsel to effectively and successfully manage these transactions together for their mutual client.

DANIELLE MANGRUM PATTERSON, Partner, Vinson & Elkins, Houston, TX

KARI A. POTTS, Vice President, General Counsel, Compliance Officer & Secretary, Brigham Minerals, Austin, TX



KARI A. POTTS

3:00 - 3:30 pm: Break

3:30 - 4:30 pm: Employment Law 101 – What In-House Counsel Need to Know Now (and When to Call Outside Counsel)

Although most in-house counsel at natural resources and energy companies are hired for their expertise or experience in transactions, litigation, permitting, or compliance, many find themselves answering day-to-day employment law questions before the engagement of outside counsel. Although no one-hour presentation can train anyone to be an employment law expert, this presentation will analyze some common and emerging employment law issues that in-house counsel might face. Legal issues to be examined include handling harassment and toxic workplace complaints, particularly in light of the #MeToo Movement, avoiding risks associated with employee layoffs and terminations, the impact of COVID-19 on remote work and other workplace policies, and an update on trends in employment law under the current presidential administration.

ASHLEY DILLON, Partner, Stinson LLP, Kansas City, MO



ASHLEY DILLON

Corporate Counsel Section

Friday Afternoon
July 22, 2022



4:30 - 5:30 pm: Conflicts of Interest, Unauthorized Practice of Law, Who Is My Client – Ethical Rules Applied to In-House Counsel

The factual situations that give rise to questions involving the application of ethical rules under the ABA Model Rules of Professional Conduct can be very different for in-house counsel as opposed to their counterparts outside. For example, in-house counsel must be very careful as to how they advise executives who may not realize the company is the counsel's true client. In-house counsel, who may be licensed in only one jurisdiction, also must consider the potential for unauthorized practice of law when they are expected to provide advice in every jurisdiction in which the company operates. And for either ethical or business reasons, in-house counsel may have a very different perspective from outside counsel as to the existence of a conflict and whether it can or should be waived. This presentation will examine these and other ethical issues frequently encountered by in-house counsel under the Model Rules and applicable guidance.



ALEC ROTHROCK

ALEC ROTHROCK, Shareholder, Burns Figa & Will, Greenwood Village, CO

5:30 - 6:30 pm: In-House and Corporate Reception – For In-House Counsel and Landmen, Corporate Employees, and Their Significant Others

5:30 - 6:30 pm: Young Professionals Reception – For Young Professionals and Their Significant Others

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Environmental Section

Friday Afternoon
July 22, 2022



NATASHA J. MARTIN

2:00 - 2:30 pm: Annual Environmental Law Update

This presentation will summarize the key legislative, administrative, and judicial developments in U.S. environmental law since the 2021 Annual Institute.

NATASHA J. MARTIN, Shareholder, Graves Dougherty Hearon & Moody, Austin, TX

2:30 - 3:20 pm: Understanding Climate Change Regulatory Programs – A Practical Guide for the Oil and Gas Industry

Climate change headlines often involve aspirational targets on emissions reductions, such as the Biden administration's goal for a net-zero carbon economy by 2050. Similarly, corporations have launched climate change initiatives to address increased ESG scrutiny by stakeholders and the government, but without well-defined or consistent climate performance ratings. This presentation will take a step back and provide a clear-eyed look at climate change law that impacts the oil and gas industry today, to help us understand binding baseline commitments and initiatives. It will examine the Clean Air Act and other federal and state statutes addressing methane emissions from leaks and flaring and evolving climate change-related federal decision making under NEPA and other statutes. The presentation will examine how climate change regulation impacts environmental permitting and citizen enforcement and environmental justice initiatives. Finally, it will cover industry responses to these actions, including new technologies and how climate regulations affect the environment prong of ESG.

COLIN G. HARRIS, Partner, Faegre Drinker Biddle & Reath LLP, Denver, CO

3:20 - 3:50 pm: Break

Environmental Section

Friday Afternoon
July 22, 2022



3:50 - 4:40 pm: Energy Crimes

Environmental law has developed a complex set of criminal standards that apply to regulatory violations and damages to natural resources, and energy law is beginning to see an evolution of specialized criminal concepts during this “energy transition.” For example, utility companies may face criminal prosecution for negligent efforts to prevent forest wildfires, accidental takings of migratory birds or protected wildlife, and criminal prosecution for injuries or death caused by malfunctioning energy infrastructure such as pipeline explosions or wellhead releases. After discussion of the history and convergence of environmental and energy criminal law, this presentation will provide examples of situations giving rise to potential criminal liability associated with the generation and transmission of energy. The presenter will also provide practical approaches to manage potential liability before it arises and appropriate responses when crimes are alleged.

PATRICK TRAYLOR, Partner, Vinson & Elkins LLP, Washington, DC



PATRICK TRAYLOR

4:40 - 5:30 pm: Hey, That’s My Lease! Vacatur as a Remedy Under the National Environmental Policy Act

Vacatur as a remedy for an error in an agency’s NEPA analysis of oil and gas leasing decisions is unusual, at least it used to be. Courts traditionally remand leasing decisions to the Bureau of Land Management (BLM) to correct the error, particularly when it relates to NEPA compliance. Vacatur creates problems when leases that have been drilled or communitized have producing wells located on them. Finding that BLM failed to comply with NEPA and other procedures before leasing, federal district courts in Idaho and Montana have recently vacated hundreds of federal oil and gas leases. This presentation will review the recent NEPA decisions cancelling federal oil and gas leases, examine the remedy of vacatur, compare judicial decisions electing or declining to vacate oil and gas leases, and outline steps federal lessees can take to protect themselves when they have acquired a federal lease subject to litigation.

ANDREW EMRICH, Partner, Holland & Hart, Denver, CO
ANGELA FRANKLIN, Partner, Holland & Hart, Salt Lake City, UT



ANDREW EMRICH

5:30 - 6:30 pm: In-House and Corporate Reception – For In-House Counsel and Landmen, Corporate Employees, and Their Significant Others



ANGELA FRANKLIN

5:30 - 6:30 pm: Young Professionals Reception – For Young Professionals and Their Significant Others



Public Lands and Indian Law Section

Saturday Morning
July 23, 2022



ANDREW MERGEN

8:40 - 9:40 am: Development Restrictions on Traditional Cultural and Religious Lands – The Intersection of Vested Rights for Energy and Mineral Development and Protection of Sacred Areas

The Biden administration recently announced plans to segregate and withdraw 325,000 acres of federal minerals under nearly 950,000 surface acres around Chaco Culture National Historical Park, stating that existing rights of allottees and lease holders would not be affected. This presentation will summarize the law that authorizes federal agencies to withdraw traditional cultural properties and other culturally significant or sacred lands from mineral and energy development. It will then consider the case law, including *Solenex, LLC v. Bernhardt* and *Grand Canyon Trust v. Williams*, that has shaped the scope and limitations of property interests in federal mining claims and oil and gas leases, and explain how factors such as surface occupancy rights, environmental reviews, and the stage of development affect the existence of a “valid existing right.” Finally, the presentation will review potential remedies for valid existing right holders, including prospects for a takings claim, and the extent of the government’s authority to impose new restrictions or conditions on valid existing rights.

ANDREW MERGEN, Deputy Section Chief, Appellate Section, Environment and Natural Resources Division, U.S. Department of Justice, Washington, DC



MATTHEW T. BALLENGER

9:40 - 10:00 am: Break

10:00 - 11:00 am: Hearsay! Perspectives from the Interior of the Office of Hearings and Appeals – Procedures, Best Practices, and Modernization Updates

The Interior Board of Land Appeals (Board) and the Department Cases Hearings Division (DCHD) both exercise the delegated authority of the Secretary of the Interior to issue final decisions for the Department of the Interior (Department). The Board is generally an appellate review body while DCHD serves as the Department’s administrative trial court for cases involving lands and resources under the Department’s jurisdiction. This moderated panel will provide an inside perspective on the Board’s and DCHD’s practices and procedures, including missions and organization, standing and jurisdictional requirements, and the relationship between the Board and DCHD. The discussion will cover efforts to modernize practice before the Board and DCHD and offer advice for practitioners who appear before them.



VERONICA LARVIE

MATTHEW T. BALLENGER, Assistant Solicitor, Office of the Solicitor, U.S. Department of the Interior, Washington, DC (moderator)

VERONICA LARVIE, Administrative Law Judge, Departmental Cases Hearings Division, U.S. Department of the Interior, Salt Lake City, UT

KEITH G. BAUERLE, Senior Attorney, Interior Board of Land Appeals, Office of Hearings and Appeals, U.S. Department of the Interior, Arlington, VA



KEITH G. BAUERLE

Public Lands and Indian Law Section

Saturday Morning
July 23, 2022



11:00 am - Noon: 30 by 30 – Conservation, Collaboration, Access, and Multiple Use

In January 2021, President Biden announced an initiative to conserve “at least 30 percent of our lands and waters by 2030.” The initiative is aimed at slowing the disappearance of biodiversity and fighting climate change. In its subsequent “America the Beautiful” report, the administration set forth eight core principles, including a commitment to collaboration, tribal sovereignty, voluntary and locally led conservation, and protection of private property rights, and also a new and potentially contradictory principle to expand equitable public access to the outdoors. This presentation will review the expanded 30 by 30 articulation of the term “conservation” in relation to concepts of multiple use, protection, and preservation. The presenters will then discuss some key questions on the initiative, such as the extent to which the effort is an accounting exercise to reach the 30 percent benchmark, the sufficiency of tribal consultation processes to support tribal priorities, challenges associated with the collaborative approach and with expanded access to public lands, and whether existing public land laws might be deployed to advance 30 by 30 principles.

ROBERT L. GLICKSMAN, J.B. and Maurice C. Shapiro Professor of Environmental Law, The George Washington University Law School, Washington, DC

SANDRA B. ZELLMER, Professor and Director of Natural Resources Clinics, University of Montana Alexander Blewett III School of Law, Missoula, MT



ROBERT L.
GLICKSMAN



SANDRA B. ZELLMER

Noon: Adjournment

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National Environmental Policy Act

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May 25-26, 2023 | Santa Fe, New Mexico

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Special Functions - Thursday, July 21

Noon - 2:00 pm: **Oil & Gas Practitioners Lunch Co-Sponsored by IPAA and API**

All oil and gas lawyers, landmen, in-house counsel, and management, join us for lunch and presentations on recent oil and gas case law and other legal developments. Our esteemed speakers will be our Program Chair and Professor Emeritus Bruce Kramer, Texas Tech School of Law, and Professor Emeritus Patrick Martin, LSU Law Center.

Noon - 2:00 pm: **International Lunch**

For registrants working in the international area to network with other professionals and learn about the Foundation's international programs and outreach efforts. Ahab Abdelaziz, Global Director, Nuclear Power, at Gowling WLG, will talk about the implications of the development and commercial deployment of small modular reactor (SMR) technologies in global markets.

Noon - 2:00 pm: **Natural Resources Law Teachers Lunch**

For full- and part-time academic faculty who would like to network with new and old friends and colleagues. Seema Kakade, University of Maryland School of Law, will explore challenges and opportunities to uplift frontline community voices and experiences within the environmental legal system.

5:30 - 7:30 pm: **Hosted Reception**

Join us at the base of the mountain at the Eagle Bahn Gondola for hors d'oeuvres, drinks, and networking at this free annual event supported by our sponsors. Bring the entire family!

Special Functions - Friday, July 22

Noon - 2:00 pm: **Portia's Lunch**

For professional women from different generations, cities, and practices, Portia's Lunch is an opportunity to meet, network, share experiences, and enjoy a presentation. Gail Schoettler, the first woman to serve as both Colorado's State Treasurer and Lieutenant Governor and an inductee into the Colorado Women's Hall of Fame, will talk about her experiences as a woman in college and in business and how women can support each other. Thanks to our Portia's Lunch sponsors, this is our only lunch that includes wine!

Sponsor a student to attend this lunch and help young women students meet and network with potential mentors and future colleagues!

5:30 - 6:30 pm: **In-House Counsel Reception**

Beginning immediately after the Corporate Counsel Section on Friday afternoon, this reception including drinks and hors d'oeuvres is just for in-house counsel, in-house landmen, other in-house company employees, and their families (no kids ages 13 and under). This reception is free for eligible attendees, but please note the number of people on the registration form.

5:30 - 7:00 pm: **Young Professionals Reception**

Young professionals (first 10 years in practice or natural resources industry), students, and their spouses, partners, and significant others, join us at the new Revel Lounge at The Hythe for this annual event including drinks, hors d'oeuvres, and networking. A spouse, partner, or significant other of a registered attendee of this reception may attend free!

5:30 - 9:30 pm: **NEW! Babysitting Option**

On Friday evening, parents can drop off their children ages 13 and under at The Hythe for only \$30 per child for the evening.

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1957-58	*James M. Haughey	4th	Boulder	1990-91	*Philip G. Dufford	37th	Monterey
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1959-60	*R. Lauren Moran	6th	Boulder	1992-93	John C. Lacy	39th	Vail
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1972-73	*William T. Schwartz	19th	Snowmass	2005-06	*James A. Holtkamp	52nd	Santa Fe
1973-74	*Lewis C. Cox, Jr.	20th	San Francisco	2006-07	Lynn P. Hendrix	53rd	Vancouver
1974-75	*Don H. Sherwood	21st	Rapid City	2007-08	Craig R. Carver	54th	Snowmass
1975-76	*Robert D. Poulson	22nd	Sun Valley	2008-09	David E. Pierce	55th	San Francisco
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1977-78	*Robert G. Pruitt, Jr.	24th	Vail	2010-11	Max Main	57th	Santa Fe
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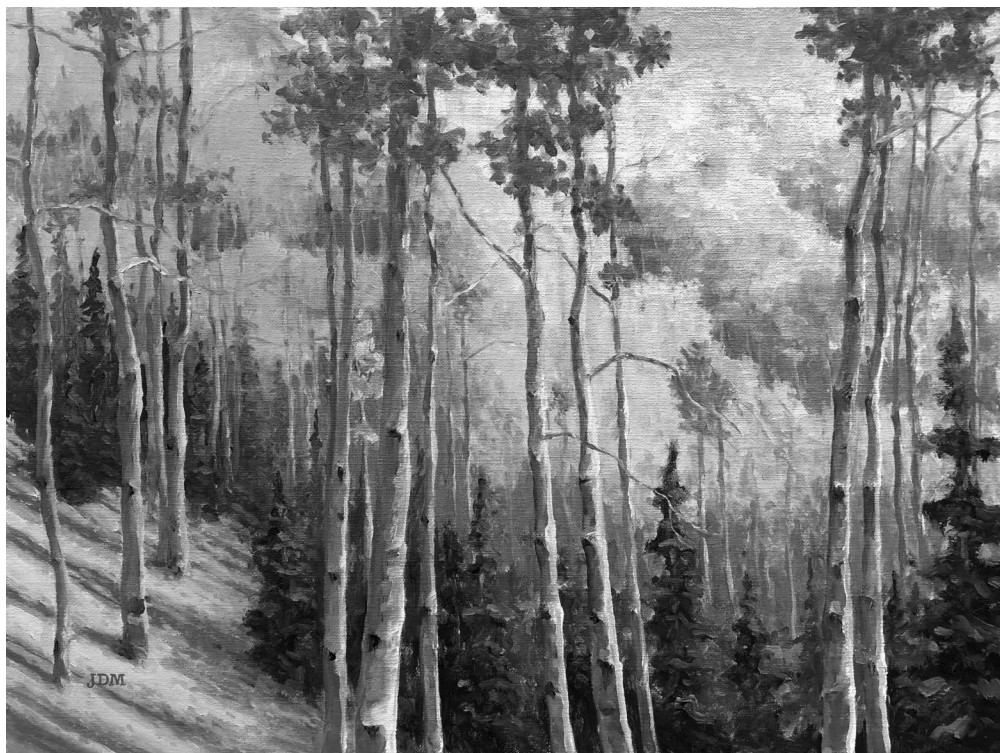
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About the Artist

The cover of this program brochure was painted by John Meister, a Santa Fe, New Mexico, resident who frequently visited the state as a child on family road trips from Austin, Texas. Those trips provided John the opportunity to witness firsthand the enchanted beauty of New Mexico.

John and his wife have lived in New Mexico for over thirty years, and art has become John's full-time occupation. He frequently leaves his studio to study nature, observing his subjects on their own terms, witnessing strength and endurance. The light, the air, and the soils create a unique rhythm of texture and color that define John's work.

John is known for his 'magical realism,' which he believes was created by New Mexico. Living in the desert, he appreciates the aesthetic of life in all its forms and gravitates toward intimate views of nature. He believes that life must do a little something extra to thrive in New Mexico, and in the process sometimes displays great beauty – which he strives to capture with every brush stroke.

John's work can be found at the Manitou Galleries in Santa Fe, New Mexico.



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