



ROCKY MOUNTAIN MINERAL LAW FOUNDATION

www.rmmlf.org

Special Institute

on

Resources Development and Climate Change

Embassy Suites Hotel ♦ Phoenix, Arizona
April 10-11, 2008

*"Now I shall go far and far into the North,
playing the Great Game." - RUDYARD KIPLING*

Climate change is the 21st century's "Great Game." Rising temperatures, melting ice sheets, and thawing tundra are inexorably pushing farther into the North. Like the Great Game of Kipling's time, climate change has already influenced the fate of governments, if not of nations. It is dramatically realigning our approaches to science, economics, politics, energy, personal and collective behavior, public policy, and law. We are in a dramatic time of transition from a hydrocarbon energy-based civilization to an uncertain future. The transition will require decades, not years, to work through.

Resources companies are squarely in the center of the maelstrom and ignore legal and policy issues at their peril. As succinctly put by our colleagues in Washington who are engaged in climate change issues, "If you're not at the table, you will be on the menu."

Virtually every facet of resources law is affected or will be affected in significant ways by climate change. **Coal** is under great stress. New coal plants are challenged in virtually every venue, from agency permitting proceedings, to Congress, to utility company executive suites. California's Greenhouse Gas Procurement Standard is but the most visible impediment to future coal-based energy. At the same time, enormous amounts of time and resources are being devoted to carbon capture and storage (CCS), which in turn raises significant regulatory, property rights, liability, and jurisdictional issues.

Nuclear power development is experiencing something of a revival. Whatever other issues are

raised by nuclear energy, there is no question that any given megawatt of nuclear power is generated without any CO₂ emissions. Uranium mining and milling operations are ramping up to levels not seen in this country in two decades, and some young lawyers in Washington are beginning (and may end) their careers working on NRC licenses for nuclear power plants.

Natural gas is viewed in many quarters as the "transition" fuel, bridging the old hydrocarbon energy regime and the yet-to-be-fully-understood "carbon-free" energy economy. The increasing demand for gas and the leveling, if not decline, of recoverable gas reserves has caused significant uncertainty in gas prices and a heightened interest in imports of LNG. The combustion of gas is by no means carbon-free, but relative to coal and oil, it generates less CO₂ per unit of energy.

Renewable energy is viewed by some as the solution. Unfortunately, wind and solar power are ill-suited to meet base load demands. Even in Wyoming, the wind does not blow all the time, and in Arizona, the sun does not shine constantly. However, renewable energy is increasingly important in developing a more "climate-friendly" energy system. Several states have adopted or are considering so-called "renewable energy portfolio" requirements, which mandate that specified percentages of electricity distributed in a state be generated by renewable energy sources. Advances in geothermal technology have dramatically increased the available geothermal resources in the western United States. The challenge is to create the

**CDs and the course manual
are available if you are unable to attend.
See inside for details.**

electric transmission infrastructure to convey the geothermal electrons from the source to the grid. Climate change is having a dramatic impact on **water resources**. Declining snowpacks, extended droughts, and catastrophic storms are all forcing a hard look at whether existing legal constructs are adequate to deal with more growth and less water in the West and in other parts of the world.

The list goes on and on. Endangered species (read "polar bears"), NEPA reviews requiring climate change impact analyses, clamor for disclosure by corporations of potential liabilities and carbon "footprints," the free-for-all otherwise known as the private carbon market, the various state and regional cap-and-trade programs, the dozens of congressional initiatives, the Kyoto Protocol and other international initiatives, and the

omnipresent Mr. Gore are all part of this new Great Game.

This Special Institute on Resources Development and Climate Change is intended to give some context and clarity for managers and counsel to resources operations. It will provide overviews of the science underlying the conclusion that anthropogenic activities are affecting the climate, the technological responses that are available or under development, and the various legal and policy issues that are confronting energy producers and consumers.

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PROGRAM

Thursday, April 10, 2008

7:30

REGISTRATION OPENS

8:40-9:00

INTRODUCTIONS AND OPENING REMARKS

DAVID P. PHILLIPS, Executive Director, Rocky Mountain Mineral Law Foundation, Westminster, Colorado

CRAIG R. CARVER, President, Rocky Mountain Mineral Law Foundation; Attorney, Carver Schwarz McNab & Bailey, LLC, Denver, Colorado

9:00-9:20

THE RELEVANCE OF CLIMATE CHANGE TO RESOURCES PROFESSIONALS

- ◆ Setting the context
- ◆ Why climate change is important to resources professionals

JAMES A. HOLTKAMP, Program Chair; Attorney, Holland & Hart LLC, Salt Lake City, Utah

9:20-10:10

CLIMATE CHANGE SCIENCE – IS GLOBAL WARMING MORE THAN HOT AIR?

- ◆ What is known and not known about climate change - an overview
- ◆ Anthropogenic activities, GHG emissions, and climate change
- ◆ Predicting the 21st century: human population, standard of living, and energy production
- ◆ Some more inconvenient truths

DAVID A. CHAPMAN, Professor of Geology & Geophysics and Dean of the Graduate School, University of Utah, Salt Lake City, Utah

10:10-10:30

BREAK

10:30-11:20

THE TECHNOLOGICAL RESPONSE TO CLIMATE CHANGE

- ◆ EPRI's PRISM analysis
- ◆ What technologies exist and what is emerging to deal with GHG emissions
- ◆ Reversing the CO² trend

CARL (CHUCK) S. OLEXIK, JR., Executive Director, Electric Power Research Institute, Palo Alto, California

11:20-12:10

LIABILITY ISSUES

- ◆ Liability of energy producers and users for severe climate events
- ◆ Emerging theories of tort liability
- ◆ SEC disclosures: shareholder/investment demands and regulatory developments
- ◆ Contractual disputes

DOUGLAS B. SANDERS, Attorney, Baker & McKenzie LLP, Chicago, Illinois

12:10-1:30

Hosted Luncheon and Presentation

HOW ARIZONA DEVELOPED ITS CLIMATE CHANGE POLICIES

Representative from the Arizona Governor's Office

Thursday, April 10, 2008

1:30-2:20

FEDERAL RESPONSE TO CLIMATE CHANGE

- ◆ Current federal climate change policies
- ◆ Legislative initiatives
- ◆ Parameters of a mandatory federal program

KYLE W. DANISH, Attorney, Van Ness Feldman, Washington, D.C.

2:20-3:10

STATE AND REGIONAL APPROACHES TO CLIMATE CHANGE

- ◆ Emerging state programs in the West
 - California's AB 32 and restrictions on imported electricity
 - Washington initiatives and Climate Advisory Team
 - Oregon Global Warming Strategy
- ◆ Emerging regional programs
 - the Western Climate Initiative (WCI)
 - the Eastern States Regional Greenhouse Gas Initiative (RGGI)

ALLISON A. DAVIS, Attorney, Davis Wright Tremaine LLP, San Francisco, California

CRAIG GANNETT, Attorney, Davis Wright Tremaine LLP, Seattle, Washington

3:10-3:30

BREAK

3:30-4:20

INTERNATIONAL CLIMATE CHANGE PROGRAMS

- ◆ The Kyoto Protocol
- ◆ The Kyoto Mechanisms, the EU ETS, and Voluntary Emissions Trading
- ◆ Bali Debrief – Status report on post-Kyoto
- ◆ How international efforts may affect resource and energy development in North America

ELISABETH (LISA) DEMARCO, Attorney, Macleod Dixon LLP, Toronto, Ontario, Canada

4:20-5:00

FILLING THE GAPS: WHAT SHOULD GOVERNMENTS BE DOING AT ALL LEVELS?

- ◆ Views and analyses from the last three speakers on what more needs to be done to confront the political and legal realities from a governmental standpoint

5:00-6:30

HOSTED NETWORKING RECEPTION

For registrants, speakers, and guests

(continued)

UPCOMING INSTITUTES

**Surface Use for Mineral Development
in the New West: Finding Good Ground**
February 7-8, 2008 – Westminster, Colorado

**Strategic Risk Management
in the Natural Resources Industry**
May 1-2, 2008, Santa Fe, New Mexico

Mining Law Short Course
May 12-16, 2008, Boulder, Colorado

**54th Annual Rocky Mountain
Mineral Law Institute**
July 17-19, 2008 – Snowmass/Aspen, Colorado

**International Energy Law,
Contracts & Negotiations: Upstream Issues**
September 22-26, 2008 – Houston, Texas

**International Energy Law, Contracts &
Negotiations: Midstream Issues**
September 29 - October 3, 2008 – Houston,
Texas

Oil & Gas Law Short Course
October 20-24, 2008 – Houston, Texas

Private Royalties
December 4-5, 2008 – Denver, Colorado

Friday, April 11, 2008

8:30-9:20

COAL PLANT CHALLENGES: STRATEGIES FOR PERMITTING AND DEVELOPMENT

- ◆ The climate-change issues confronting proponents of coal-fired generating plants, including Clean Air Act requirements, federal and state environmental reviews, and local land use requirements
- ◆ Preparing for and responding to such challenges

TOM LINDLEY, Attorney, Perkins Coie LLP, Portland, Oregon

9:20-10:10

CARBON TRADING

- ◆ Elements of a carbon trading program, including registration, verification, permanence, prevention of leakage, and transparency
- ◆ The workings of both private and government-administered markets with a focus on the key carbon contracting issues

MICHAEL R. BARR, Attorney, Pillsbury Winthrop Shaw Pittman LLP, San Francisco, California

RICHARD M. SAINES, Attorney, Baker & McKenzie LLP, Chicago, Illinois

10:10-10:30

BREAK

10:30-11:20

CONSIDERATION OF CLIMATE CHANGE IN NEPA AND ESA PROCESSES

- ◆ How climate change issues and effects are considered in NEPA environmental analyses and ESA listing, consultation, and permitting decisions
- ◆ What federal courts are requiring agencies to consider in these processes

MURRAY D. FELDMAN, Attorney, Holland & Hart LLP, Boise, Idaho

SANDRA A. SNODGRASS, Attorney, Holland & Hart LLP, Denver, Colorado

11:20-12:10

LESSONS LEARNED FROM OTHER ENVIRONMENTAL PROGRAMS

- ◆ Can the Clean Air Act be effectively used to address climate change?

ARNOLD W. REITZE, JR., Visiting Professor of Law, University of Utah, Salt Lake City, Utah; J.B. and Maurice C. Shapiro Professor of Environmental Law, George Washington University Law School, Washington, D.C.

12:10-1:30

LUNCH – ON YOUR OWN

1:30-2:20

NON-GOVERNMENTAL RESPONSES TO CLIMATE CHANGE

- ◆ Successful strategies to reduce global warming emissions
- ◆ Building from state to regional to national to international climate policy
- ◆ Working with industry, government, and other advocates

NED FARQUHAR, Energy & Climate Advocate, Natural Resources Defense Council, Albuquerque, New Mexico; formerly Senior Advisor to New Mexico Governor Bill Richardson on Energy & Environmental Policy

2:20-3:10

CLIMATE CHANGE AND THE FUTURE OF POWER GENERATION – THE COMPLETE PORTFOLIO APPROACH

- ◆ Clean coal technology - status and legal issues
- ◆ The role of natural gas
- ◆ The role of renewable energy
- ◆ The relationship between nuclear energy and climate change mitigation
- ◆ The alternative to generation: “negawatts” - energy efficiency takes on a new role

MARY ANNE SULLIVAN, Attorney, Hogan & Hartson, Washington, D.C.; formerly General Counsel of the U.S. Department of Energy

3:10-3:30

BREAK

3:30-4:30

TOWARDS A NEW PARADIGM: A COOPERATIVE APPROACH TO A GLOBAL CHALLENGE

- ◆ Representatives from government, industry, and the NGO community on joint efforts by stakeholders to confront climate change

4:30

ADJOURNMENT

Miraval Resort

www.miravalresort.com

Miraval Resort in Tucson (one of Oprah's favorites) is offering a 25% discount on stays before and after the conference. Let us know if you want contact information at info@rmmmlf.org



2008 RMMLF PUBLICATIONS LIST

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CD06	RMMLF Digital Library on CD (1955-2005)	\$ 1,375	\$ 975
P52R	52nd Annual Institute Proceedings	\$ 165	\$ 135
DIR	2007 Membership Directory	\$ 75	\$ 25
AIRM	Air Quality Challenges for the Natural Resources Industry (2007)	\$ 185	\$ 145
STS1	An Introduction to Geology and Hard Rock Mining (1998)	\$ 55	\$ 45
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MGPM	Development Issues & Conflicts in Modern Gas and Oil Plays (2004)	\$ 165	\$ 135
DMC5	Digest of Mining Claim Laws, 5th Edition (1996)	\$ 55	\$ 45
EEE	Energy Law and Policy for the 21st Century (2000)	\$ 165	\$ 135
EA05M	Energy Policy Act of 2005 (2005)	\$ 95	\$ 75
PU4M	Federal Onshore Oil & Gas Pooling and Unitization – 2 vols. (2006)	\$ 245	\$ 195
RV6M	Federal and Indian Oil & Gas Royalty Valuation & Management – 2 vols. (2007)	\$ 245	\$ 195
ARBM	International Energy & Minerals Arbitration (2002)	\$ 185	\$ 155
ARGM	International Mining & Oil & Gas Law, Development, and Investment – 2 vols. (2007)	\$ 245	\$ 195
IPT2	International Petroleum Transactions, 2d Edition (2000)	\$ 165	\$ 135
LLH	Landman's Legal Handbook, 4th Edition (1982)	\$ 55	\$ 45
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F3	Form 3 – Rocky Mtn Joint Operating Agreement – Oil & Gas	\$ 25	\$ 20
F4	Form 4 – Rocky Mtn Mining Joint Operating Agreement	\$ 25	\$ 20
F5A	Form 5A – Exploration, Development & Mine Operating Agreement	\$ 145	\$ 115
F5ALLC	Form 5A LLC – Exploration, Development & Mining Limited Liability Company	\$ 145	\$ 115
F6	Form 6 – Gas Balancing Agreement	\$ 25	\$ 20
F7	Form 7 – Confidentiality and Nondisclosure Agreement	\$ 40	\$ 32
SUBSCRIPTIONS			
MLN	Mineral Law Newsletter	\$ 72	\$ 72
PLR	Rocky Mountain Mineral Law Foundation Journal	\$ 45	\$ 45
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Looseleaf Manual only (CCM)		\$185	\$145	\$
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MAIL or FAX to:
**Rocky Mountain
Mineral Law Foundation**
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Vegetarian Lunch

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- > Toll free 800-362-2779
- > Direct 602-765-5800
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Registration Fees: Include course materials, refreshments, and hosted functions as listed in this brochure. These fees do not include hotel costs or transportation. Registrations will be accepted only when accompanied by a check, money order, government purchase order or training form, credit card information, or wiring information. No registrations can be processed without payment.

Registration Cancellations: Refunds, less a \$50 administrative fee, will be given for cancellations received by 3:00PM on Friday, March 28, 2008. No refunds will be given thereafter, although substitution of attendees may be made by contacting RMMLF. A written request must follow a telephone cancellation. Registrants not entitled to a refund will receive a copy of the written materials. For questions on refunds, complaints, and/or program cancellations, please contact our office at 303-321-8100.

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