




SPECIAL INSTITUTE ON

Oil & Gas Agreements: Surface Use in the 21st Century

May 17–18, 2017

Marriott Hotel, Westminster, Colorado

The 13th in the Foundation's highly successful Oil and Gas Agreements series, this Special Institute will focus on the laws, agreements, and conventions surrounding surface use of lands for oil & gas activities, including horizontal drilling, conflicting multiple uses, pipelines, and ongoing facility operations, as well as how to avoid conflicts, delays and trespass claims related to surface (and subsurface) uses.

A photograph showing an oil drilling rig in the background and three black cows in the foreground, standing in a field. The rig is a tall, complex structure with a derrick and various mechanical components. The cows are in the foreground, facing left, and are silhouetted against the light background of the field and sky.

Last explored in our 2008 Special Institute on *Surface Use for Mineral Development in the New West—Finding Good Ground*, today we look for common ground, as 21st-century technical innovations in oil and gas operations require new thinking by landmen, lawyers, rights-of-way agents, and governmental affairs teams. Existing regulations at the local, state, and federal level often do not adequately address the issues arising with surface owners, as well as other stakeholders and other land users, whether in rural, urban, or protected settings. Horizontal drilling is now commonplace—most often with multiple wells on a single pad and long subsurface laterals. There are also new impacts related to hydraulic fracturing, water use, well completions, and ongoing facility operations. This Special Institute will explore the legal underpinnings of surface use in several key regions across the U.S. and provide practitioners a wealth of information on how to comply with sometimes conflicting laws, while drafting surface use agreements that facilitate operations to the benefit of all interested parties.

Oil & Gas Agreements: Surface Use in the 21st Century

DAY 1: Wednesday, May 17, 2017

7:00 am – 8:30 am: Registration

8:30 am – 8:40 am: Introduction and Opening Remarks

STEVIA M. WALTHER, Executive Director, Rocky Mountain Mineral Law Foundation, Westminster, CO

JONATHAN A. HUNTER, President, Rocky Mountain Mineral Law Foundation; Shareholder, Liskow & Lewis, New Orleans, LA

MARY VIVIANO, Program Chair, former General Counsel, Vantage Energy, Englewood, CO

8:40 am – 9:40 am: The Common Law of Surface Use to Develop Oil and Gas

This session explores the law governing split estates, express and implied rights to use the surface for mineral development, and the varying approaches to accommodation obligations. "First-in-time" principles are examined under existing law and the Restatement (Third) of Property: Servitudes.

DAVID E. PIERCE, Norman R. Pozez Chair in Business & Transactional Law, Professor of Law, Washburn University School of Law, Topeka, KS

9:40 am – 10:00 am: Hosted Refreshment Break

10:00 am – Noon: State Law Regimes

Many states have mandatory pre-drilling agreements and other requirements for notice, negotiation, and siting of surface disturbances with surface owners. This session will provide a review of state laws administered by oil and gas regulators related to surface use and impacts, including bonding and adjacent property owner issues.

Appalachian Region (Pennsylvania, Ohio, West Virginia):
NICOLLE R. SNYDER BAGNELL, Partner, Reed Smith LLP, Pittsburgh, PA

Gulf Coast Region (Texas, Louisiana): JAMES H. DUPUIS, JR., Partner, Dupuis & Polozola, Houston, TX

Rockies Region (Wyoming, Colorado, New Mexico):
JOSEPH C. PIERZCHALA, Shareholder, Welborn Sullivan Meck & Tooley, P.C., Denver, CO

Bakken and Mid Continent Region (North Dakota, Kansas, Oklahoma): JOHN W. MORRISON, JR., Partner, Crowley Fleck PLLP, Bismarck, ND

Noon – 1:30 pm: Lunch – On Your Own

1:30 pm – 2:30 pm: Local Regulation and Local Government Agreements

Does the county, municipality, or other local entity have a say in surface uses involving oil and gas extraction? Presented as a case study in the DJ Basin, this session will address preemption concerns, surface use conflicts, and compliance with local land use and zoning regimes.

JOHN T. SULLIVAN, Partner, Sullivan Green Seavy LLC, Boulder, CO

2:30 pm – 2:50 pm: Hosted Refreshment Break

2:50 pm – 4:05 pm: Surface Uses Related to Federal Oil and Gas Development on Public Lands

Complying with Bureau of Land Management and Forest Service requirements in a split estate situation and in comity with the state regime presents unique challenges. This session will highlight internal agency perspectives on these issues.

PHILIP C. LOWE, Attorney Advisor, U.S. Department of the Interior Office of the Solicitor, Lakewood, CO

KENNETH D. PAUR, Deputy Regional Attorney, Office of the General Counsel, U.S. Department of Agriculture, Golden, CO

4:05 pm – 4:55 pm: ROWs, Easements, and Other Covenants Running with the Land

How should these types of conveyances be employed to cross surface and subsurface interests and avoid trespass, drainage, and similar claims related to horizontal drilling? Who has the subsurface trespass claim where severed estates exist?

DONALD T. DULAC, JR., Principal, Barnes Dulac Watkins, Pittsburgh, PA

5:00 pm – 6:00 pm: Hosted Reception for Speakers, Registrants, and Guests

DAY 2: Thursday, May 18, 2017**8:30 am – 10:00 am: Joint Cooperation Agreements—Legal Principles and Practicalities**

What issues arise where competing surface uses are present along with oil and gas operations? This presentation will include examples of the key provisions for addressing potential conflicts.

Coal Mining: KENNETH S. KOMOROSKI, Partner, Morgan, Lewis & Bockius LLP, Pittsburgh, PA

Real Estate Development: RANDALL J. FEUERSTEIN, Shareholder, Polsinelli PC, Denver, CO

Solar and Other Renewables: MICHAEL N. MILLS, Partner, Stoel Rives LLP, Sacramento, CA

10:00 am – 10:20 am: Hosted Refreshment Break**10:20 am – 11:10 am: Surface Uses for Pipelines—Going Beyond Leasehold Rights**

This session will delve into rights of way, eminent domain/condemnation statutes, local regulations, road use, and surface agreements for pipelines and other mid-stream facilities.

ISAAC N. SUTPHIN, Partner, Holland & Hart LLP, Cheyenne, WY

JEFFREY S. POPE, Associate, Holland & Hart LLP, Cheyenne, WY

11:10 am – Noon: Addressing Key Items in the Surface Use Agreement with the Landowner

A nuts and bolts primer on negotiations, content, duration, and follow-up, this presentation will address statutory and other pre-paid damages, and provide a how-to on fashioning an agreement to avoid litigation and multiple compensation demands.

RANDALL B. REED, Partner, Dray, Dyekman, Reed & Healy, P.C., Cheyenne, WY

LINDSAY A. WOZNICK, Partner, Hirst Applegate, LLP, Cheyenne, WY

Noon – 1:30 pm: Lunch – On Your Own**1:30 pm – 2:30 pm: Potential Claims and Theories of Recovery in Litigation—What to Do When the Rig Is Standing By**

The ins and outs of temporary restraining orders (TROs), injunctions, trespass, eminent domain and condemnation for rights of way, and bad faith actions will be explored.

MATTHEW J. SALZMAN, Partner, Stinson Leonard Street LLP, Kansas City, MO

2:30 pm – 2:50 pm: Hosted Refreshment Break**2:50 pm – 3:50 pm: These Truths Should Be Self-Evident: Ethics Issues for Landmen and Lawyers**

What does compliance with the ABA Model Rules for lawyers and the AAPL Ethical Rules for landmen mean and require when negotiating with surface landowners and federal, state, and local agencies for access to oil and gas?

JACK M. TANNER, Director, Fairfield & Woods P.C., Denver, CO

3:50 pm – 5:05 pm: Land Negotiators' View from the Field: Maintaining Your Social License to Operate

What issues cause landowners, stakeholders, operators, and regulators concern and heartburn? This diverse panel will provide a balanced perspective and discussion on real concerns from all parties at the table.

Moderator: MARC R. STRAHN, President, Wolf Haven Corporation, Story, WY

Regulator's Perspective: LYNNE J. BOOMGAARDEN, Partner, Crowley Fleck PLLP, Cheyenne, WY

Landman's Perspective: MELANIE B. BELL, Executive Vice President AAPL, Fort Worth, TX

Operator's Perspective: JEFFREY R. FISKE, Lead Counsel, Anadarko Petroleum Corporation, Denver, CO

Landowner's Perspective: JOSEPH B.C. FITZSIMONS, Partner, Uhl, Fitzsimons, Jewett & Burton, PLLC, San Antonio, TX

5:05 pm: Course Adjournment

Can't attend? You can still order the course materials.

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Course materials and audio for Surface Use in the 21st Century will be available within 4 weeks after the program

All registrants will receive a link to the online course materials. A hard copy manual is available to registrants for \$70. See the registration form.	Unit Price		Total
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OIL & GAS AGREEMENTS: SURFACE USE IN THE 21ST CENTURY			
Looseleaf Manual only (OGA13M)		\$255	\$215 \$
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REBECCA W. WATSON, Shareholder, Welborn Sullivan Meck & Tooley, P.C., Denver, CO

STEVEN P. WILLIAMS, Attorney, Castle Rock, CO

Mail, fax, or email registration form and payment to:

Rocky Mountain Mineral Law Foundation

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Westminster, CO 80031 USA

Tel: (303) 321-8100
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Questions: info@rmmlf.org

REGISTRATION

REGISTER ONLINE
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1. Registrant Information

Please type or print legibly

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Employer Address _____

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Please check all that apply: Attorney Landman CPA Management

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Please pay in U.S. Dollars	Registrations Received	
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AAPL Member	<input type="checkbox"/> \$725	<input type="checkbox"/> \$825
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Senior Member (Retired)	<input type="checkbox"/> \$345	<input type="checkbox"/> \$445
Government Agency	<input type="checkbox"/> \$575	<input type="checkbox"/> \$675
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Student—Full-Time, proof of status required	<input type="checkbox"/> \$35	<input type="checkbox"/> \$75

3. Materials Format

Select your course materials format:	PAPERLESS (Electronic materials only)	HARD COPY (Receive manual at conference)
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May 17–18, 2017 Marriott Hotel, Westminster, Colorado

General Information

Room Reservations: The Marriott Hotel, 7000 Church Ranch Blvd., Westminster, Colorado 80021, has blocked rooms for this Special Institute until May 2 at the rate of \$169 (single/double) per night. This rate is less than the government per diem rate. Executive level rooms are available for \$189/night. Ask for special rates for Rocky Mountain Mineral Law Foundation registrants. For reservations, contact the Marriott at:

- Online <http://tinyurl.com/rockym119>
- Direct 720-887-1177

Trouble making room reservations? Contact us at info@rmmlf.org

Car Rental: Hertz is offering special discounts by referencing Meeting CV#03NJ0012 and Rocky Mountain Mineral Law Foundation. Make reservations at <http://tinyurl.com/hertz2017> or call 800-654-2240 (U.S.); 800-263-0600 (Canada); or 405-749-4434 (International).

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 Wednesday, April 26, 2017. No refunds will be given thereafter, although substitution of attendees may be made by contacting the Foundation. Cancellations must be made in writing or email to info@rmmlf.org. Registrants not entitled to a refund will receive a link to the written materials.

CLE Credit: This course consists of approximately 12.5 hours of continuing education, including 1 hour of ethics. You must let us know, at least 45 days in advance of the conference, 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 conferences are typically accredited by all mandatory CLE states and Canadian provinces, the 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.

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

Special Needs: If you have special needs addressed by the ADA, please notify us at least two weeks before the program.