



Special Institute on

Climate Change Law and Regulations:

Planning for a Carbon-Constrained Regulatory Environment

**Hotel Monteleone
New Orleans, Louisiana
January 22-23, 2015**

Climate change policy is actively being shaped by the states, by EPA, and through litigation. When, after years of intense controversy and debate, Congress failed to enact comprehensive climate change legislation, the states began filling the vacuum with their own cap-and-trade programs, led by the northeast states' Regional Greenhouse Gas Initiative (RGGI) and by California under AB 32. More recently, EPA launched draft regulations under Section 111(d) of the Clean Air Act that would regulate greenhouse gases (GHGs) from existing electric generating facilities nationwide. These regulatory programs are already changing the way that electricity is produced, shifting away from fossil fuels (particularly coal) to generating facilities that produce lower levels of GHGs.

The regulation of GHG sources in the oil and gas and mining industries is not far behind. Limitations on methane emissions from oil and gas facilities and mining operations, and potential New Source Performance Standards (NSPS) for the upstream, midstream, and downstream sectors of the oil and gas industry, will have significant and practical effects on daily operations.

Climate change policy is also being made in the courtroom, from the recently decided U.S. Supreme Court's *Utility Air Regulatory Group v. EPA*, to ongoing environmental NGO litigation. Existing statutes such as the National Environmental Policy Act and the Endangered Species Act are being interpreted to require consideration of GHG emissions and the ongoing impacts of climate change.

This Special Institute will explain how your company and your clients can both cope and prosper in the face of what's to come. Climate change regulation should be a top-tier priority in all segments of the natural resources sector. This Special Institute offers essential and practical information for in-house, outside, and agency counsel, managers and regulatory compliance personnel, and regulators and government employees, all of whom will find the issues discussed, the strategies used and recommended, and the forecast of what may follow in climate change regulation, to be of critical importance.

Written course materials and audio recordings are available in various formats if you are unable to attend. See inside for details.

Climate Change Law and Regulations

Thursday, January 22, 2015

7:15 am – 8:15 am - **Registration - Hotel Monteleone**

8:15 am – 8:30 am

Introductions and Opening Remarks

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

MILAM RANDOLPH PHARO, President, Rocky Mountain Mineral Law Foundation; Of Counsel, Davis Graham & Stubbs LLP, Denver, Colorado

JAMES A. HOLTkamp, Program Co-Chair; Partner, Holland & Hart LLP, Salt Lake City, Utah

ALLISON A. DAVIS, Program Co-Chair; Partner, Davis Wright Tremaine LLP, San Francisco, California

8:30 am – 9:30 am

Cap and Trade, Market Regulation, and Economic Factors Involved in Climate Change

Economics drive many of the market-based and other regulatory tools being used at state and regional levels to reduce GHG emissions. Delivered from an economist's point of view, this session will examine the economic effects, costs, and benefits of various regulations including cap and trade, taxation, renewable portfolio standards, efficiency standards, permitting regulations, and related regulatory solutions.

ANNE E. SMITH, Senior Vice President, Co-Chair, Environmental Practice, NERA Economic Consulting, Washington, D.C.

9:30 am – 9:45 am - **Coffee Break**

9:45 am – 10:45 am

Current Federal Regulation of Climate Change

This session will explore the current federal regulations regarding climate change and their effects on mining, oil and gas, and energy companies. This includes not only EPA regulations and the potential "NRDC plan," but also the roles of other agencies, such as the Department of Energy, in climate change regulation. New standards that are expected in the next few months will be discussed, along with the dynamics leading to where we are now and where things are going.

C. SCOTT FULTON, Principal, Beveridge and Diamond, Washington, D.C.; formerly General Counsel of the Environmental Protection Agency

10:45 am – 11:45 am

How Existing Laws Are Being Used to Regulate Climate Change and GHG Emissions

In the absence of federal climate change legislation, existing laws, such as NEPA at the federal level and similar laws at the state level, are being modified, finessed, or used by regulators to address climate change. Uncertainty created by the unpredictable use of existing laws, and the consequences, causes planning and risk problems for natural resource as well

as other companies. This session will provide the background and rationale of how existing laws are being used, and how climate change concepts infuse these existing laws, to try to bring some predictability to this area.

ROBERT R. M. VERCHICK, Gauthier-St. Martin Eminent Scholar and Chair in Environmental Law, Loyola University College of Law and Senior Fellow in Disaster Resilience Leadership, Tulane University, New Orleans

11:45 am – 1:15 pm - **Lunch (on your own)**

1:15 pm – 2:15 pm

What's Next for Direct Federal Regulation of Climate Change?

How to make sense of upcoming regulations and those under consideration, and the effect on those regulations of the recent U.S. Supreme Court case *Utility Air Regulatory Group v. EPA*, are of utmost importance to regulated industries including natural resource and energy companies. Existing and upcoming regulations, such as New Source Performance Standards (NSPS) for refineries, NSPS for the upstream and midstream oil and gas industry that indirectly impacts GHG, mandatory reporting of GHG, limitations on methane emissions from oil and gas operations and coal mines, and other regulations requiring control of methane gas will be discussed, along with the impact of the recent Supreme Court decision on New Source Review permitting for GHG.

THOMAS A. LORENZEN, Partner, Dorsey & Whitney LLP, Washington, D.C.; formerly Assistant Chief, U.S. Department of Justice, Environment and Natural Resources Division.

2:15 pm – 3:05 pm

Recognizing Climate Change Permitting Triggers

Unraveling the various permitting processes for mining or oil and gas operations that would trigger review of GHG emissions, such as treatment of fugitive emissions versus process emissions, recent BACT determinations, and the effect of the Climate Action Plan Strategy to Reduce Methane Emissions, is an important part of planning and strategy for natural resource and energy companies. Methane is of serious concern for underground and surface coal mines, trona mines, and oil and gas operations. This discussion will include direct regulation of methane via permitting and NSPS, as well as recent litigation addressing methane regulation (including the extent to which methane emissions are triggering permit requirements), the GHG reporting rule, the Wild Earth Guardians challenge to EPA's denial of its petition to list coal mines as an NSPS source category, and the ongoing challenges to BLM leasing approvals based on climate change impacts that include direct and indirect emissions of methane.

EMILY C. SCHILLING, Attorney, Holland and Hart LLP, Salt Lake City, Utah

3:05 – 3:30 pm - **Coffee Break**

Climate Change Law and Regulations

3:30 pm – 5:00 pm

Practical Planning Horizons and Climate Change Risk Assessment

As a matter of good corporate planning, many companies are making their own internal climate change risk assessments and adopting climate change planning as a part of their corporate culture. This may include, for example, planning for the 100-year flood every 20 years, or incorporating climate change trends as part of the planning process for construction of roads. Climate change risk assessment must address physical, legal, human resource, reputational, and economic factors. For example, in the Gulf of Mexico companies have combatted both physical and reputational risks by working with NGOs, such

as the Nature Conservancy, to rebuild deteriorating reefs and thereby protect infrastructure from rising tides.

MELISSA BARBANELL, Senior Counsel, Barrick Gold Corporation, Salt Lake City, Utah (Moderator)

MARK TREXLER, The Climatographers, Portland, Oregon

JUDY HANER, Marine and Freshwater Programs Director, The Nature Conservancy, Mobile, Alabama

CHUCK D. BARLOW, Vice-President, Environmental Strategy and Policy, Entergy Corporation, New Orleans

ALLISON WARBURTON, Partner, Minter Ellison, Brisbane, Australia

5:00 pm – 6:00 pm - **Hosted Reception
Hotel Monteleone**

Friday, January 23, 2015

8:30 am – 10:00 am

State-by-State or Regional Solutions?

Implementation of climate change regulation is the focus of this session. The panelists will discuss the existing cap-and-trade programs (RGGI, Acid Rain, the EU), with particular focus on the ongoing implementation of California's program. What have we learned so far, and what are the implications for the implementation of Section 111(d)? Are we better off under a state-by-state approach or a region-wide program?

CRAIG GANNETT, Co-Chair, Energy and Environmental Practice Group, Davis Wright Tremaine LLP, Seattle, Washington (Moderator)

RODNEY L. BROWN, Cascadia Law Group and Co-Chair, Carbon Emissions Reduction Taskforce for Washington State, Seattle, Washington

KEN KIMMELL, President, Union of Concerned Scientists, Cambridge, Massachusetts; formerly Chairman of the Board, Regional Greenhouse Gas Initiative

MICHAEL J. NASI, Partner, Jackson Walker L.L.P., Austin, Texas

QUINLAN J. SHEA, III, Vice President, Environment, Edison Electric Institute, Washington, D.C.

10:00 am – 10:15 am - **Coffee Break**

10:15 am – 11:15 am

Implementing Section 111(d): The Pathway to Regional Cap-and-Trade Programs?

Following the panel, this session will provide forward-looking analysis, focusing on how EPA's draft Section 111(d) regulations encourage regional cap-and-trade programs, and whether that is the better path. Does Section 111(d) provide EPA with the authority to approve regional cap-and-trade programs? If so, are states capable of working together (as they did to create RGGI) or will politics and practical problems pull them apart (as occurred with respect to the Western Climate Initiative)? Do the draft 111(d) regulations remove hurdles or create new barriers? And how can companies help shape the regional programs that may arise as a result of EPA's regulations?

CRAIG GANNETT, Co-Chair, Energy and Environmental Practice Group, Davis Wright Tremaine LLP, Seattle, Washington

11:15 am – 12:15 pm

Strategies and Technologies Available to Control Greenhouse Gases

Whether driven by state and regional regulation, economics, or company policy, sound and workable technical approaches to control GHG are being implemented in the oil and gas and mining industries. The successful implementers are not reacting

to trends, but following a long-term management strategy developed to address their specific challenges. This session will review the sources of GHG from mining and oil and gas operations and how the volumes of these emissions compare to other industries, the currently available and emerging GHG reduction and control technologies, and the time, cost, and effort involved in implementing them. Finally, the speakers will share insights on how these technologies can be integrated into an industry-appropriate strategy to respond to the current and emerging regulatory and business practice drivers of GHG reduction.

LESLIE WONG, Partner, Air Quality & Climate Change, Environmental Resource Management (ERM), Houston, Texas

MICHAEL J. NASI, Partner, Jackson Walker L.L.P., Austin, Texas

12:15 pm – 1:45 pm - **Lunch (on your own)**

1:45 pm – 2:45 pm

Use of Litigation to Implement Climate Change Regulation

In the absence of federal legislation, NGOs are using creative litigation to push federal and state agencies to regulate GHGs, especially carbon dioxide and methane. This session will provide an insider's view of litigation that went all the way to the U.S. Supreme Court to push for regulation, as well as current information on methane regulation and litigation.

JOANNE SPALDING, Senior Managing Attorney, Sierra Club, San Francisco, California

2:45 pm – 3:00 pm - **Coffee Break**

3:00 pm – 4:00 pm

Regulatory Issues and Strategies Affecting the Multinational Company

Multinational energy and natural resource companies face unique climate change-related issues including cross-border stakeholder influence and multinational regulatory efforts. These trends may lead to the stranding of carbon assets. This session will describe these dynamics and how companies have responded to conflicting climate policies in multiple jurisdictions, including disclosure obligations imposed by the U.S. Securities and Exchange Commission and similar bodies in other countries.

TAUNA M. SZYMANSKI, Attorney, Hunton & Williams LLP, Washington, D.C.

ALLISON WARBURTON, Partner, Minter Ellison, Brisbane, Australia

4:00 pm - **Course Adjournment**

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MELISSA BARBANELL, Senior Counsel, Barrick Gold Corporation of North America, Inc., Salt Lake City, Utah

LISA M. CAMPBELL, Director of Climate Change Services for the Oil and Gas Sector, ERM Group Inc., Raleigh, North Carolina

CRAIG GANNETT, Partner & Co-Chair, Energy and Environmental Practice Group, Davis Wright Tremaine LLP, Seattle, Washington

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Contact the Monteleone at:

- Direct 504-523-3341
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Book within the block for complimentary wireless Internet access in your hotel room and in the meeting room.

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

Car Rental: Hertz is offering special discounts by referencing Meeting CV#03NJ0010 and Rocky Mountain Mineral Law Foundation. Make reservations at www.hertz.com or call 800-654-2240 (U.S.); 800-263-0600 (Canada); or 405-749-4434 (Int'l).

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.

Recording: Audio and video recording of this course are not permitted without the express authorization of the Foundation.

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

Registration Cancellations: Refunds, less a \$50 administrative fee, will be given for cancellations received by 3:00pm on Monday, January 5, 2015. 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@rmmf.org. Registrants not entitled to a refund will receive a link to the written and audio materials. For questions on refunds, complaints, and/or program cancellations, please contact our office at 303-321-8100.

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