Hydraulic fracturing and horizontal drilling have transformed the U.S. oil & gas industry by allowing oil and gas production from previously uneconomical formations. While production is at an all-time high, this renaissance comes with new technical, legal, and environmental issues for oil and gas professionals to master. Our expert faculty will address a range of issues, including:

- Liability for trespass when fractures cross subsurface property lines
- Use of agreements as an alternative to regulation or litigation
- Expert and evidentiary issues when plaintiffs allege personal injuries or property damage
- How agreements for vertical wells may be inadequate for fracking and horizontal laterals
- Environmental challenges and local government efforts to regulate or prohibit operations
- Takings claims from actual or effective bans on hydraulic fracturing or other oil & gas activity
- Technical aspects and innovations for non-engineers
- Preemption of local regulations by state law

Course materials are available in hard copy and digital formats if you are unable to attend. See inside for details.
DAY 1: Wednesday, January 23, 2019

7:30 am – 8:30 am: Registration

8:30 am – 8:40 am: Introduction and Opening Remarks
ALEX RITCHIE, Executive Director, Rocky Mountain Mineral Law Foundation, Westminster, CO
WILLIAM B. PRINCE, President, Rocky Mountain Mineral Law Foundation; Partner, Dorsey & Whitney LLP, Salt Lake City, UT
KEITH B. HALL, Program Co-Chair; Campanile Charities Professor of Energy Law, Paul M. Hebert Law Center, Louisiana State University, Baton Rouge, LA
BARCLAY R. NICHOLSON, Program Co-Chair; Partner, Norton Rose Fulbright, Houston, TX

8:40 am – 9:40 am: Technical Aspects and Innovations of Hydraulic Fracturing for Non-Engineers
• History of development of the technology and its fundamentals
• Designing fluid quantity and composition for formation characteristics
• Measuring fracture effective lengths
• Innovations including fracturing fluids other than water, offshore frac packs, new varieties of proppants
JENNIFER L. MISKIMINS, Associate Department Head, Petroleum Engineering Director, Colorado School of Mines, Golden, CO

9:40 am – 10:30 am: Fracking as Trespass? Tales from the Frontlines
• Counsel in Coastal Oil & Gas Corp. v. Garza Energy Trust explains how petitioners prevailed in arguing that, because of the rule of capture, the alleged cross-boundary fracking was not an actionable trespass
• Analysis of the important concurring and dissenting opinions
• Counsel in Stone v. Chesapeake Appalachia, LLC discuss implications of the case and of Briggs v. Southwestern Energy Production Company, each of which found cross-boundary fracking was a trespass
ELIZABETH (Becky) N. MILLER, Of Counsel, Scott Douglass & McConnico, L.L.P., Austin, TX
ARIEL NELAND FORBES, Counsel, Reed Smith LLP, Pittsburgh, PA

10:30 am – 10:50 am: Hosted Refreshment Break

10:50 am – 11:40 am: Contractual Holes in the Right to Drill and Hydraulically Fracture Horizontal Wells
• Why historical forms of joint operating agreements, farmouts, and leases for vertical wells often fail to provide adequate rights for modern drilling operations
• Effects of horizontal Pugh clauses, retained acreage clauses, and anti-dilution clauses
• Using access agreements and other agreements for off-lease surface and subsurface rights
• Wellbore integrity agreements to compensate owners for shutting in adjacent wells
MALLORY HASBROOK, Associate, Welborn Sullivan Meck & Tooley, P.C., Denver, CO
AMY SENESHEN, Shareholder, Welborn Sullivan Meck & Tooley, P.C., Denver, CO

11:40 am – 12:30 pm: Negotiating and Drafting Hydraulic Fracturing Services Agreements
• Agreements with hydraulic fracturing service companies, water suppliers, water haulers, and proppant suppliers
• How these agreements differ from standard master services agreements
• Ensuring safety and environmental compliance of completion operations
• Allocations of liability under indemnification and insurance provisions
HAROLD J. FLANAGAN, Partner, Flanagan Partners LLP, New Orleans, LA

12:30 pm – 2:00 pm: Lunch – On Your Own

2:00 pm – 2:50 pm: Litigation Alleging Personal Injury or Property Damage from Fracking
• Tort claims alleging contamination or exposure
• Nuisance claims over noise, traffic, and other externalities
• Problems of proof and production of evidence under Lone Pine orders
• What types of experts might be necessary
MICHAEL J. MAZZONE, Partner, Haynes and Boone, Houston, TX

3:10 pm – 5:10 pm: Local Government Issues
Local regulation raises a host of issues. Three speakers take on a set of these issues.

Local Regulation and State Preemption of Drilling and Fracking
• Zoning regulations and land use planning
• Local regulation of oil and gas operations
• Statutory express preemption provisions
• The extent of implied preemption by state law and its scope as extending to fracking operations
ANDREW JACOBY, Partner, Scott, Vicknair, Hair & Checki, LLC, New Orleans, LA

Oil and Gas Operator Agreements
• Benefits to Local Government Operator Agreements: An alternative to regulation
• Challenges to Oil and Gas Operator Agreements
• Operator Agreement Construction: Drafting and Approval
• Enforcing Operator Agreements: Enforcement and Litigation
GHISLAINE G. TORRES BRUNER, Shareholder, Polsinelli PC, Denver, CO

Bans, Moratoria, and Takings Claims
• Background on the Takings Clause of the U.S. Constitution
• Exhaustion of remedies and potential hurdles to pursuing takings claims in federal court
• Procedures of making takings claims under state law
• Extent to which state constitutional provisions, and state and local regulations that ban oil and gas production or fracking, might constitute taking
BRADFORD BERGE, Partner Holland & Hart, Santa Fe, NM

5:10 pm – 6:10 pm: Hosted Reception for Registrants, Speakers & Guests
DAY 2: Thursday, January 24, 2019

9:00 am – 9:50 am: Regulation of Methane Emissions
- The problem of methane emissions
- Methane regulation under the Clean Air Act NSPS
- BLM Flaring Rule and attempts to regulate on federal and Indian lands
- State efforts to regulate methane emissions
MARK S. BARRON, Partner, BakerHostetler, Denver, CO
SAMANTHA RUSCAVAGE-BARZ, Managing Attorney, WildEarth Guardians, Santa Fe, NM

9:50 am – 10:40 am: Regulation of Produced Water and Waste Disposal
- State regulation of spills and leaks, including pits (wastewater storage facilities)
- Spills and leaks under the Clean Water Act
- Waste water injection under the Safe Drinking Water Act
- Future of regulation under the Resource Conservation and Recovery Act
- State laws and regulations that address risks of induced seismicity
DAVID NESLIN, Of Counsel, Davis Graham & Stubbs; formerly Director, Colorado Oil & Gas Conservation Commission, Denver, CO
GREG NIBERT, JR., Associate, Davis Graham & Stubbs, Denver, CO

10:40 am – 11:00 am: Hosted Refreshment Break

11:00 am – 11:50 am: The Subsurface: Disclosure Requirements, Baseline Testing of Groundwater, and Frack Hits
- History, scope, and effectiveness of fracking fluid disclosure regulations
- Baseline water sampling and contamination disclosure
- The role of conservation regulations, including spacing, pooling, and unitization in addressing new type of subsurface disputes
LARA D. PRINGLE, Partner, Jones Walker, Houston, TX
BRUCE KRAMER, Of Counsel, McGinnis Lochridge, Houston, TX

11:50 am – 1:20 pm: Lunch – On Your Own

1:20 pm – 2:10 pm: Water: Practical Challenges and Legal Rights to Acquire and Recycle Water for Fracking
- Finding and acquiring water rights in areas of scarcity
- The alternative to clean water – state regulation of recycling
- Economic impediments to water recycling: logistics, transportation, and treatment
- Legal rights to use produced water for recycling and other beneficial uses
- Whether the implied easement under the mineral estate to use the surface includes surface water, groundwater, and valuable produced water
BURKE W. GRIGGS, Associate Professor, Washburn University School of Law, Topeka, KS
CAL COOPER, Director, Special Projects & Emerging Tech, Apache Corporation, Houston, TX

2:30 pm – 3:20 pm: Working with Stakeholders in the Context of Fracking: A Panel Discussion
- Providing clear explanations of the process and risks of hydraulic fracturing
- Communicating respect for local government and resident concerns
- Maintaining the social license to operate
- Whether solutions and common ground are possible
Moderator: ANN E. LANE, Senior Counsel, WPX Energy, Inc., Denver, CO
HOWARD L. BOIGON, Co-Vice Chair, Colorado Oil & Gas Conservation Commission, Denver, CO
SARA LOFLIN, Executive Director, League of Oil and Gas Impacted Coloradans (LOGIC), Erie, CO
JASON OATES, Director of External Affairs, Crestone Peak, Denver, CO

3:20 pm – 4:20 pm: Ethical Dilemmas and Blurred Lines: Legal Representation and Issues of Public Perception
- Rules of professional conduct applicable to lawyers in public meetings and in communications with stakeholders who are not direct parties to a transaction or event
- Coordinating and defining the proper roles for communications and government relations personnel and counsel when both are involved in communications with the public
- The potential for the attorney-client privilege to be inapplicable if a lawyer is acting in a public relations or business capacity
- Understanding the potential applicability of the attorney-client privilege to communications with public relations consultants
JOSEPH L. (LARRY) SHEA, JR., Partner, Bradley Murchison Kelly & Shea LLC, Shreveport, LA
KATHERINE (KATIE) SMITH BAKER, Partner, Bradley Murchison Kelly & Shea LLC, Shreveport, LA

4:20 pm: Course Adjournment
CAN’T ATTEND?
You can still order the course materials

The Law of Fracking

Non-Member | RMMLF Member
---|---
Looseleaf Manual | $275 | $215
Digital Manual | $275 | $215

Plus shipping and handling and tax if applicable.

https://tinyurl.com/rocky-frac

SPECIAL OFFER!!
Treatises on Fracking are available from the Foundation at significant discounts off the retail price!

Hydraulic Fracturing: A Guide to Environmental & Real Property Issues (ABA)

Authored by our Law of Fracking Program Chair, Professor Keith B. Hall, with Professor Hannah J. Wiseman

Course registrants: $76 (37% discount off retail price)
Non-registrants: $96 (20% discount off retail price)
Place your order at http://tinyurl.com/rmfrac-aba or on the next page when you register.

This desk book on the law of hydraulic fracturing covers federal and state statutory and regulatory requirements and litigation, along with pressing policy issues. Current case law, including both reported and unreported cases, are examined. Practicing attorneys and several law professors collaborated on this project, and each chapter features insightful practice tips, warnings, and timing considerations. The state chapters include a convenient resource section setting out contact information for the key governmental agencies, environmental groups, and industry organizations.

Hydraulic Fracturing Law and Practice (Lexis)

Authored by attorneys at three different law firms and several law professors

Course registrants: $100 (49% discount off retail price)
Non-registrants: $160 (20% discount off retail price)
Place your order at http://tinyurl.com/rmfrac-lexis or on the next page when you register.

This book identifies the major legal issues raised by hydraulic fracturing, including the transactional, regulatory, and litigation issues that are most relevant to the real estate and environmental law practitioner. The authors discuss the current state of the law, while providing invaluable practical suggestions to lawyers representing clients in real property transactions. Geared to lawyers, policymakers, regulators, and students involved with the law of shale gas and tight oil, it also should serve as a useful resource to anyone working in the area.
The Law of Fracking

REGISTRATION

1. Registrant Information – Please type or print legibly

Name ___________________________ Badge Name __________________
Employer __________________________
Employer Address __________________________________________
City/State/Zip __________________________ Email __________________

Please check all that apply:   ☐ Attorney   ☐ Landman   ☐ Management
☐ Consultant   ☐ Student   ☐ Other (please specify): __________________

Please let us know how many years you have worked in the legal or natural resources field:   ☐ 1-5   ☐ 6-10   ☐ 11-15   ☐ 16-20   ☐ 21-30   ☐ 30+

CLE credit requested for the following states: __________________
Other credit requested from: __________________

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

Rocky Mountain Mineral Law Foundation
9191 Sheridan Blvd., Ste. 203
Westminster, CO 80031 USA
Tel: (303) 321-8100
Fax: (303) 321-7657
info@rmmlf.org

Questions: info@rmmlf.org

2. Registration Category – Please pay in U.S. Dollars

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3. Course Materials

Materials format:   ☐ ELECTRONIC ONLY ($0)   ☐ HARD COPY ($70)

ADD: ☐ Hydraulic Fracturing: A Guide to Environmental and Real Property Issues (ABA): $76
ADD: ☐ Hydraulic Fracturing Law and Practice (Lxis): $100

4. Payment Information – Prepayment Required

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The Rocky Mountain Mineral Law Foundation is a non-profit, tax-exempt corporation (Tax ID #84-6037688).
The Law of Fracking
Federal, State, and Local Regulation of Modern Oil & Gas Development

January 23–24, 2019  Westin Hotel, Westminster, CO

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General Information

Room Reservations: The Westin Westminster, 10600 Westminster Blvd., Westminster, CO, 80020, has blocked rooms for this meeting until January 8 at the rate of $179 (single/double) per night. This is less than the government per diem rate. Ask for special rates for Fracking registrants.

For reservations, contact the Westin at:
- Toll Free: 800-937-8461
- Direct: 303-410-5000
- Online: http://tinyurl.com/rockym135

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

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, January 4, 2019. 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.

Car Rental: Hertz is offering special discounts by referencing Meeting CV#03NJ0014 and Rocky Mountain Mineral Law Foundation. Make reservations at http://tinyurl.com/hertz2019 or call 800-654-2240 (U.S.); 800-263-0600 (Canada); or 405-749-4434 (Int’l).

CLE Credit: This course consists of approximately 11.5 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, except Nevada, and Canadian provinces, and various professional organizations upon request. Attorneys from certain states may be required to pay an additional fee. The Foundation is a State Bar of California MCLE-approved provider.

CPE Credit: NASBA has indicated that if an individual reviews a program and feels that it is relevant to their CPA practice, they can consult with their state accountancy board to request that the course be approved. CPE approval is state-by-state.

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, please notify us at least two weeks before the program.