



SPECIAL INSTITUTE ON

Midstream Oil & Gas from the Upstream Perspective

April 24–25, 2018

The Westin Oaks Galleria, Houston, TX

Oil and gas producers are encountering economic, regulatory, and operational challenges impacting production and the ability to get product to market. This two-day Special Institute will focus on the interplay between upstream and midstream operations, including the latest developments and risks affecting exploration, production, gathering, marketing, storage, transportation, and operations.

Both upstream operators and midstream companies must understand these challenges and pursue strategies to avoid significant legal and economic difficulties. Our expert faculty will provide tips on successfully implementing midstream projects, and explain strategies utilized in the midstream sector that are available to producers engaging in their own midstream operations or in midstream joint ventures. Increasingly important commercial considerations, including survival of midstream commitments in bankruptcy, elements of a commercial gathering project, the private equity perspective, gathering production by the upstream operator, and shared infrastructure projects, will be addressed. Attorneys, landmen, accountants, engineers, regulators, management, and others engaged in upstream and midstream operations will benefit from attending.

Experienced attendees will benefit from deeper insights into critical, cutting-edge topics, while resource professionals who are relatively new to the practice will benefit from the experience of our distinguished speakers. We hope you can join us in Houston to continue the tradition of valuable educational and networking opportunities provided by our institutes.

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

Midstream Oil & Gas from the Upstream Perspective

DAY 1: Tuesday, April 24, 2018

7:30 am – 8:30 am: Registration

8:30 am – 8:45 am: Introduction and Opening Remarks

ALEX RITCHIE, Executive Director, Rocky Mountain Mineral Law Foundation, Westminster, CO

MICHAEL J. MALMQUIST, President, Rocky Mountain Mineral Law Foundation; Shareholder, Parsons Behle & Latimer, Salt Lake City, UT

STEVEN MARLIN, Program Co-Chair; Senior Legal Counsel, Alyeska Pipeline Service Company, Anchorage, AK

M. SCOTT REGAN, Program Co-Chair; Deputy General Counsel, Whiting Oil and Gas Corporation, Denver, CO

8:45 am – 9:45 am: Setting the Stage – Overview of the Interrelationship Between Midstream and Upstream Sectors

Upstream oil and gas operators have become very efficient at extracting hydrocarbons from the ground. But getting oil and gas from the reserve to the well head is only part of the story. At that point, oil and gas begins a complex journey from the leasehold to their final use, a journey governed by commercial, regulatory and legal considerations. This presentation will set the stage by providing an overview of the interrelationship between the upstream and midstream sectors, touching upon operations, economics, regulatory environment, and infrastructure issues, and includes a general comparison of these issues in the oil versus gas industry.

SCOT ANDERSON, Partner, Hogan Lovells US LLP, Denver, CO

ALLISON HELLREICH, Senior Associate, Hogan Lovells US LLP, Washington, DC

9:45 am – 10:00 am: Hosted Refreshment Break

10:00 am – 11:00 am: Survival of Commitments from Bankruptcy: What Every Midstream or Oil and Gas Attorney Needs to Know

Many midstream and oil and gas attorneys have believed that various covenants contained in oil and gas agreements—including gas purchase and sale agreements, joint operating agreements, gas processing agreements, gas gathering agreements, and dedication agreements—were binding on successors in interest. However, the recent series of decisions by the Bankruptcy Court in *In re Sabine Oil & Gas Corp.* have raised substantial doubts about the validity of that belief. This paper will explore the historical development of real covenants or covenants running with the land, and provide a state-by-state analysis showing how the major producing states deal with the issue of real covenants.

OMAR ALANIZ, Partner, Baker Botts LLP, Dallas, TX

BRUCE M. KRAMER, Keystone, CO; Of Counsel, McGinnis, Lochridge & Kilgore, Houston, TX

BILL KROGER, Partner, Baker Botts LLP, Houston, TX

DAVID ROSS, Shareholder, Babst Calland, Pittsburgh, PA

11:00 am – Noon: Anatomy of a Commercial Gathering Project

How is a project capitalized and structured from an economic and legal perspective? This presentation will address how a commercial gathering transaction/project (whether organic or expansive) is generally supported through producer volume or fixed drilling and completion commitments, acreage dedications, and other methods of covering or allocating project costs, and conclude with a discussion of contract alternatives and related finance mechanisms.

CRIS CASTILLO, Senior Attorney, Andeavor, Denver, CO

AARON O'CONNELL, Associate, Hogan Lovells US LLP, Denver, CO

ANNE D. WEBER, Managing Attorney, Weber Law Firm, LLC, Denver, CO

Noon – 1:30 pm: Lunch – On Your Own

1:30 pm – 2:15 pm: Dealing with Midstream Commitments as Private Equity Purchaser

This presentation focuses on common midstream issues arising in an upstream purchase and sale agreement with focus on a private equity-backed purchaser (e.g., financial commitments, consent rights, asset management agreements, and financing). The presentation will also discuss practical considerations when upstream production is dedicated to a third-party midstream system and/or includes midstream infrastructure. Due diligence considerations will be addressed.

DAVID CASTRO, Partner, Kirkland & Ellis LLP, Houston, TX

CHRISTOPHER S.C. HEASLEY, Associate, Kirkland & Ellis LLP, Houston, TX

2:15 pm – 2:30 pm: Hosted Refreshment Break

2:30 pm – 3:15 pm: Gathering Your Own Production – Considerations for Producer Gatherers

Producers of crude or gas may desire to gather their own production, due to the absence of midstream players or for other reasons. Issues that need to be considered include:

- Pros and cons of various ownership options
- Agreements needed among the working interest owners participating in a gathering system
- When regulatory requirements will require providing third-party gathering services
- Agreements with producers utilizing the gathering system

JUDITH M. MATLOCK, Partner, Davis Graham & Stubbs, Denver, CO

3:15 pm – 4:15 pm: Transmission and Gathering Line Leaks and Spills: How the Upstream and Midstream Sector Needs to Plan, Respond, and Defend

The regulatory and legislative environment for shale production, pipeline development and transportation, and other issues impacting the upstream and midstream sectors is dramatically changing as the government and public engage with the industry over the future direction of energy use and the role of fossil fuels. The upstream and midstream sectors are under increasing scrutiny to ensure that installed assets, such as well pads, tanks, gathering lines, and PHMSA-regulated lines, are protected against leaks, spills, and catastrophic events. This presentation will provide timely analysis on these critical issues and unprecedented pressures facing the industry. The discussion will also cover spills and leaks of E&P waste.

COLIN G. HARRIS, Partner, Faegre Baker Daniels LLP, Boulder, CO

4:15 pm – 5:00 pm: What Upstream Producers Need to Know About FERC and PHMSA

This paper will review what companies engaging in the development of midstream assets need to understand when their activities fall within the scope of the Federal Energy Regulatory Commission (FERC) and the Pipeline and Hazardous Materials Safety Administration (PHMSA). Also, in response to incidents, shale development, and pressure from state regulators and the public, PHMSA has proposed sweeping changes to its regulations that could result in regulation farther upstream into production areas, and the regulation of previously unregulated gas gathering in rural areas. PHMSA has also proposed changes to its liquids regulations that could bring more scrutiny to currently unregulated pipelines. This presentation will review how these changes could affect producers.

JAMES CURRY, Managing Shareholder, Babst Calland, Washington, DC

JAMES M. PATES, Assistant Chief Counsel, Pipeline Safety Law Division, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Fredericksburg, VA

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

DAY 2: Wednesday, April 25, 2018**8:15 am – 9:00 am: A Practical Guide to Planning and Permitting a Pipeline**

This paper will walk through the planning and permitting process for both oil and gas pipelines—providing a high-level review of the entire progression from siting to construction. It will utilize the recent protests and related legal and civil challenges as a lens through which to explore how to achieve practical success in planning and permitting, covering both regulatory requirements and best practices. Recognizing the significant differences in gas versus oil pipeline planning and siting, we will identify the potential pitfalls in federal and state permitting processes—including NEPA, cultural resources, eminent domain, and interaction of state and federal approvals. Focus will include E&P companies needing to construct pipelines that are more than flowlines, railroad crossings, crude oil “gathering,” access issues, and private rights of condemnation.

MARANDA S. COMPTON, Of Counsel, Van Ness Feldman, LLP, Washington, DC

MICHAEL R. PINCUS, Partner, Van Ness Feldman, LLP, Washington, DC

9:00 am – 9:15 am: Hosted Refreshment Break**9:15 am – 10:00 am: A Practical Guide to Tribal Issues Associated with Planning and Permitting a Pipeline**

This presentation will explore and provide insight on the various tribal-related issues that can arise with permitting and approval of midstream infrastructure projects, including the new Indian Right of Way Rule, potential changes to the regulatory permitting process, and tribal consultation policies resulting from a federal review of the consultation process as a result of the Dakota Access Pipeline controversy.

ALVINA EARNHART, Partner, Fredericks Peebles & Morgan LLP, Louisville, CO

10:00 am – 10:45 am: Air Quality Issues Impacting Midstream Operations

EPA has begun to focus more intently on emissions from gas gathering and processing operations, raising legal and practical concerns for operators. EPA has been aggressively using its Clean Air Act 114 information gathering authority in the review of gathering and processing facilities for their compliance with existing Leak Detection and Repair (LDAR) requirements. More recent enforcement efforts have included a focus on pipeline pigging emissions, and the asserted applicability of chemical manufacturing standards of performance to gas processing plants more broadly. Finally, some midstream operators are finding EPA insistent upon the use of low-emitting valve technology in their settlement negotiations, and are being directed by EPA to engage in “drill and tap” repair of leaking valves in active natural gas service.

JOHN R. JACUS, Partner, Davis Graham & Stubbs, Denver, CO

JULIA JONES, Counsel, Anadarko Petroleum Corporation, Denver, CO

CHRISTOPHER L. RIMKUS, Managing Counsel, MarkWest Energy Partners, LP, Denver, CO

10:45 am – 11:45 am: Offshore Pipelines Issues

What is the regulatory framework governing the construction, operation, and abandonment of pipelines offshore on the federal Outer Continental Shelf (OCS)? The speakers will compare jurisdictional mandates of the Department of the Interior (DOI) and the Department of Transportation (DOT) and identify potential gray areas and overlap in this jurisdictional divide. Significant challenges face the sector as a result of changes in DOI regulation of offshore pipelines, including multi-party right-of-way (ROW) ownership, financial assurance required to cover estimated ROW decommissioning costs, and enhanced decommissioning requirements

in significant sediment areas. Topics will include how certain offshore concepts such as off-lease production handling are being applied onshore.

JANA L. GRAUBERGER, Shareholder, Liskow & Lewis, Houston, TX

ROBERT L. THERIOT, Shareholder, Liskow & Lewis, Houston, TX

11:45 am – 1:15 pm: Lunch – On Your Own**1:15 pm – 2:15 pm: Ethical Issues in the Midstream Oil & Gas Sector**

With references to the ABA Model Rules of Professional Conduct, this presentation will address ethical issues for both lawyers and landmen, comparing and contrasting their differing duties in circumstances including midstream arrangements between affiliates, interactions with third parties, negotiation of access agreements with represented and unrepresented parties, and ethical duties toward clients.

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

2:15 pm – 3:00 pm: Primer on Shared Infrastructure Projects

The development of midstream assets can be complex and expensive. As a result, more companies are considering joint development of midstream facilities, or finding other methods to share the risks associated with these projects. This presentation will discuss shared infrastructure arrangements and projects between midstream operators as well as between upstream and midstream operators. The speakers will discuss the advantages and disadvantages of shared infrastructure, provide potential legal structures and contractual strategies that can be used to address those issues, and offer tips for developing best practices.

DEREK J. ANCHONDO, Shareholder, Greenberg Traurig LLP, Houston, TX

WILLIAM GARNER, Shareholder, Greenberg Traurig LLP, Houston, TX

3:00 pm – 3:15 pm: Hosted Refreshment Break**3:15 pm – 4:00 pm: Litigation Trends Affecting Upstream and Midstream Operators**

This panel will discuss the most recent notable court decisions in the upstream industry that include midstream topics, such as decisions in disputes between producers and midstream companies, and decisions affecting midstream contracts, gathering agreements, or structuring, and agency litigation.

AARON R. CRANE, Partner, Hogan and Lovells US LLP, Houston, TX

SHAWN WELCH, Partner, Holland & Hart, Salt Lake City, UT

4:00 pm – 5:00 pm: In-House Counsel Panel

The Special Institute will close with a panel consisting of corporate counsel who will provide insight and perspectives on challenges they see in operating in the current regulatory environment, including emerging issues and areas of interest. Topics addressed will include issues discussed in the presentations given throughout this program.

ALISON BARRY, Assistant General Counsel, DCP Midstream, LP, Denver, CO

C. CORWIN BROMLEY, Retired Executive Vice President, General Counsel and Secretary, MarkWest Energy Partners, L.P., MPLX LP, Denver, CO

STEVEN MARLIN, Senior Legal Counsel, Alyeska Pipeline Service Company, Anchorage, AK

M. SCOTT REGAN, Deputy General Counsel, Whiting Oil and Gas Corporation, Denver, CO

5:00 pm: Course Adjournment

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

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Course materials and audio for Midstream Oil & Gas will be available within 4 weeks after the program

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Looseleaf Manual only (MIDM)		\$255	\$215	\$
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M. SCOTT REGAN, Program Co-Chair;
Deputy General Counsel, Whiting Oil and
Gas Corporation, Denver, CO

ALISON E. BARRY, Assistant General
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Daniels LLP, Boulder, CO

ANNE D. WEBER, Managing Attorney,
Weber Law Firm, LLC, Denver, CO

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3. Materials Format

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April 24–25, 2018 Westin Oaks at the Galleria, Houston, TX

General Information

Room Reservations: The Westin Oaks Galleria, 5011 Westheimer, Houston, TX 77056, has blocked rooms for this Special Institute until April 3 at the discounted rate of \$179 per night. Ask for special rates for Rocky Mountain Mineral Law Foundation registrants. A limited number of government rate rooms are also available.

For reservations, contact the Westin at:

- Online <http://tinyurl.com/rockym130>
- Toll-Free 888-627-8514

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

Car Rental: Hertz is offering special discounts by referencing Meeting CV#03NJ0013 and Rocky Mountain Mineral Law Foundation. Make reservations at <http://tinyurl.com/hertz2018> 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 Thursday, April 5, 2018. 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 13 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, and various 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.