



28th Mineral Law Conference

**October 16-17, 2003
Marriott
Griffin Gate Resort
Lexington
Kentucky
Co-sponsored by the
Energy & Mineral
Law Foundation and the
University of Kentucky
Mineral Law Center**



Keeneland's Thoroughbred racing season begins Friday, October 3 and continues through Saturday, October 25. Racing is Wednesday through Sunday each week, with post time 1:15 to 5:15 p.m. Call 859.254.3412 for tickets which are \$3 for general admission on weekdays, \$5 on weekends. For reserved seating, cost is the price of general admission plus \$3.

**The conference
will be held at the
Marriott
Griffin Gate
Resort,
Lexington, KY**

Program schedule

Thursday, October 16

8:30 a.m. **Welcome and Introductions**

- Thomas E. Meng, Foundation President, *Stites & Harbison*, Lexington, KY

Coalbed Methane Mini-Symposium

- Moderator: A. George Mason, *Mason Energy Consultants, Inc.*, Richmond, VA

8:40-9:20 **Coalbed Methane Extraction from Coal Seams - From A-Z**

This session begins with the basics of how coalbed methane is extracted from coal seams and continues with the latest horizontal drilling technology – pinnate drainage patterns.

- Joseph A. Zupanick, VP, Northeast Operations, *CDX Gas*, Pineville, WV

9:20 **Kentucky's Draft Coalbed Methane Legislation**

Legislation may be introduced covering coalbed methane development, and an advisory committee has been formed. The co-chairs of the committee will be discussing the progress/delays in drafting coalbed methane legislation.

- William G. Barr, *Daugherty Resources, Inc.*, Lexington, KY
- Richard C. Ward, *Wyatt, Tarrant & Combs, LLP*, Lexington, KY

9:40 **Break**

10:00 **Conflicts Among Coal, Coalbed Methane, Natural Gas and Surface Owners – Everything You Wanted to Know about Coalbed Methane Operations But Were Afraid to Ask**

- Moderator: A. George Mason, *Mason Energy Consultants, Inc.*, Richmond, VA
- R. Neal Pierce, *Robinson & McElwee*, Charleston, WV
- Sharon O. Flanery, Attorney and Petroleum Engineer, Pinch, WV
- Thomas J. FitzGerald, *Kentucky Resources Council*, Frankfort, KY
- William G. Barr, *Daugherty Resources, Inc.*, Lexington, KY
- Richard C. Ward, *Wyatt, Tarrant & Combs, LLP*, Lexington, KY

10:45 **Drafting Coalbed Methane Leases**

- Sharon O. Flanery, Attorney and Petroleum Engineer, Pinch, WV

11:00 **Contracting Solutions to Joint CBM/Coal Development**

This session examines some of the issues and agreements involved in contractually arranging for the development of coalbed methane and coal on the same property.

- Karen J. Greenwell, *Wyatt, Tarrant & Combs, LLP*, Lexington, KY

11:40 **Update on Ownership Litigation in the Eastern U.S.**

This session updates ownership litigation: *EDC v. Nancy Louise Moss and Geomet*, under appeal to the West Virginia State Supreme Court of Appeals, and *Harrison-Wyatt LLC v. Ratliff*, on appeal to the Virginia Supreme Court.

- A. George Mason, *Mason Energy Consultants, Inc.*, Richmond, VA

12:15 **Hosted Luncheon**

- Guest Speaker: To be announced

- Moderator: Chauncey S. R. Curtz, *Dinsmore & Shohl*, Lexington, KY

1:45 **Leasing Minerals When Title Is In Dispute – Royalty Liability and Attornment to a Stranger**

Coal and oil and gas lessees frequently need to lease property where the title is in dispute, or encounter a third party title claim to a tract already under lease. This session discusses situations which might result in the lessee having to pay royalties under both leases, and suggests language which would protect the lessee.

- John R. Rhorer, Jr., *Dinsmore & Shohl*, Lexington, KY

2:15 **Efforts to Impose Tort Liability on Parent Corporations**

Parent corporations are the most recent target of attempts to avoid the “exclusive remedy” provisions of the workers compensation framework. This session examines one such attempt in pending litigation in Kentucky.

■ Jeff A. Woods, *Wyatt, Tarrant & Combs, LLP*, Lexington, KY

2:45 **Labor & Employment - Retiree Health Care Liabilities/Disclosures**

This session covers legal issues such as terminating or modifying coverage under employer-sponsored plans, collectively-bargained plans and statutory plans such as required under the Coal Act, and the related accounting and financial issues such as the FASB reporting requirements and bankruptcy treatment.

■ Peter Kelly, Chicago, and John A. Woodrum, Washington, DC, *Ogletree, Deakins, Nash, Smoak & Stewart, P.C.*

3:15 **Break**

■ Moderator: Kendrick R. Riggs, *Ogden Newell & Welch*, Louisville, KY

3:30 **Electric Power Transmission Issues - RTOs and Mixed Messages**

Regulation of the wholesale power market turns in part on the access to and use of a region’s electrical transmission system. The Federal Energy Regulatory Commission (FERC) strongly supports the establishment and operation of Regional Transmission Organizations. State utility regulators question whether such organizations as presently constituted are effective. Through a series of presentations, Q&A, and drawing on experiences around the nation, this panel discusses the present debate over memberships in RTOs and the regulation of the transmission system.

■ Martin J. Huelsmann, Chairman, *Kentucky Public Service Commission*, Frankfort, KY

■ Roy M. Palk, President & CEO, *East Kentucky Power Coop*, Winchester, KY

■ Michael S. Beer, VP of Rates and Regulatory, *LG&E Energy Corp.*, Louisville, KY

■ Kendrick R. Riggs, *Ogden Newell & Welch*, Louisville, KY

4:15 **Clean Air Act – New Source Review Litigation**

In dispute in multiple New Source Review (NSR) cases is whether utilities improperly classified major retooling at their facilities as “routine” maintenance exempt from NSR rules. Under the NSR program, non-routine changes that increase emissions trigger a requirement to install state-of-the-art emissions controls. Does the recent decision in *Ohio Edison* hold major implications for future clean-air enforcement efforts?

■ Makram B. Jaber, *Hunton & Williams*, Washington, DC

4:45 **Break**

5:00-6:00 **Ethics Session: Multi-jurisdictional Practice, Reporting Misconduct, Lawyer Advertising, and More**

During the past two years, the American Bar Association has amended a number of its Model Rules of Professional Conduct, after recommendations by the Ethics 200 Commission, the Standing Committee on Ethics and Professional Responsibility, the Commission on Multijurisdictional Practice and the Presidential Task Force on Corporate Responsibility. This session will explore some of the major changes, including the new amendments on reporting misconduct and reporting up the corporate ladder which were adopted at the August 2003 ABA Annual Meeting.

■ David G. Ries, *Thorp Reed & Armstrong, LLP*, Pittsburgh, PA

6:00 **Reception for EMLF and KCA Registrants, Speakers & Guests Hosted by Member Law Firms of the Energy & Mineral Law Foundation**

Friday, October 17

Coal Session

■ Moderator: Mark E. Heath, *Spilman Thomas & Battle*, Charleston, WV

8:00 **Draft Mountaintop Mining/ Valley Fill Environmental Impact Statement (EIS)**

The U.S. Army Corps of Engineers, U.S. EPA, U.S. Fish and Wildlife Service U.S. Office of Surface Mining, and the West Virginia Department of Environmental Protection have released for public review and comment the Draft EIS on mountaintop coal mining and associated valley fills in Appalachia. What does this Draft EIS mean to the coal industry?

■ Harold P. Quinn, Jr., General Counsel, *National Mining Association*, Washington, DC

9:00 **MSHA’s Excessive History Policy**

This session explains MSHA’s often-misunderstood excessive history policy that, for the unwary, can lead to unsuspected and unwelcome significant increases in civil penalties and the potential for heightened scrutiny in inspections and other enforcement activities. The presentation will also discuss strategies for avoiding being branded with the excessive history designation.

■ Margaret S. Lopez, *Ogletree, Deakins, Nash, Smoak & Stewart, P.C.*, Washington, DC

9:30 Break

9:45 **Federal Mine Safety & Health Review Commission –
Now Open for Business**

- Commissioner Michael F. Duffy, Chairman of the *Federal Mine Safety and Health Review Commission*, Washington, DC

10:00 **Doing Business with a Debtor in Possession**

Knowing what to expect when a company files a Chapter 11 bankruptcy petition can save a creditor time and, indeed, money. The panel will provide tips on issues including coal supply agreements as forward contracts; swap agreements; assumption, assignment and rejection of leases; adequate assurance; surcharges; and the role of regulatory authorities.

- Moderator: Maureen D. Carman, *Wyatt, Tarrant & Combs, LLP*, Frankfort, KY
- C. Eberly Davis, *Stoll Keenon & Park*, Lexington, KY
- William T. Gorton, *Sites & Harbison*, Lexington, KY
- Adam R. Kegley, *Frost Brown Todd*, Lexington, KY
- Gregory R. Schaaf, *Greenebaum, Doll & McDonald*, Lexington, KY

11:00 **Recent IRS Attack on Section 29 Tax Credits for Synthetic Fuel**

Pursuant to questions being raised on audit, the IRS has issued an Announcement questioning the scientific validity of chemical change tests and suspending the issuance of new Section 29 rulings. Will taxpayers be able to continue relying on their Section 29 rulings or will the IRS attempt to revoke these rulings?

- William P. Ewing, *Kilpatrick Stockton LLP*, Atlanta, GA

Oil & Gas Tract

- Moderator: Sandra K. Fraley, *Equitable Production Co.*, Charleston, WV

8:00 **Condemnation Proceedings in Oil and Gas Operations**

This session discusses condemnation actions by and against producers and how to establish appropriate compensation in such condemnation proceedings.

- J. Kevin West, *McCoy, West, Franklin & Beal*, Lexington, KY

8:45 **Joint Operating Agreements**

This session covers various aspects of JOAs: Remedies for Default, Removal of Operator provisions, Production in Kind, and Gas Balancing Agreements.

- Robert B. "Skip" Allen, *Akin Gump Strauss Hauer & Feld LLP*, Houston, TX
- Benita Kahn, *Vorys, Sater, Seymour & Pease LLP*, Columbus, OH

9:45 Break

10:00 **Oil & Gas Update**

This session covers recent developments in litigation and regulations impacting the oil and gas industry.

- Kathy G. Beckett, *Jackson Kelly PLLC*, Charleston, WV

10:30 ***Cantrell v. Ashland Oil, Inc.* – Oil Field Radiation/NORM**

This session covers the evaluation of naturally occurring radioactive material discovered in mineral production, and how to defend your company from claims based on radiation, focusing on litigation involving NORM in Eastern Kentucky.

- Brian M. Johnson, *Greenebaum Doll & McDonald*, Lexington, KY

11:15 **State Gathering Line Regulation and Its Impact on Producers**

This session will survey state regulatory programs governing gathering lines in the Appalachian Basin, and their applicability to producer operations.

- W. Jonathan Airey, *Vorys, Sater, Seymour & Pease LLP*, Columbus, OH
- Gregory D. Russell, *Vorys, Sater, Seymour & Pease LLP*, Columbus, OH

Noon **Adjourn**

Upcoming meetings

■ **January 29-31, 2004**

**Winter Workshops
on Energy Law**

Lago Mar Resort and Club
1700 South Ocean Lane
Fort Lauderdale, Florida
954.523.6511
www.lagomar.com

■ **March 2004**

Date to be announced
**Mine Safety & Health
Institute**
Washington, DC

■ **May 16-18, 2004**

**24th Annual Energy &
Mineral Law Institute**

The Homestead
Main Street
Hot Springs, VA
www.thehomestead.com

Web site

<http://www.emlf.org>

E-mail

emlf@aol.com



Yes, I want to attend the 28th Mineral Law Conference

Name _____ Title _____

Organization/firm _____ Daytime phone _____

Address _____ Fax # _____

City, state, zip _____

Email address _____

Friday's KCA luncheon (\$25) Total Payment _____

You may pay by _____ check or _____ credit card. EMLF accepts MasterCard, VISA or American Express.

Card # _____ Expiration date _____

Signature _____

Registration information

Conference Registration

EMLF full Conference registration fee includes meeting materials, refreshment breaks, hosted luncheon Thursday and hosted reception Thursday evening. Reservation and \$25 payment required for the Kentucky Coal Association luncheon Friday.

	Through Oct. 1	After Oct. 1
General Registration fee	\$380	\$400
EMLF Member fee	270	300
Government/NPO	200	230
Young lawyer	200	230
KCA Friday luncheon	25	25

Accommodations

Marriott Griffin Gate Resort

\$146 per night, single, double, triple or quad plus state and local taxes

1800 Newtown Pike, Lexington, KY 40511

Call hotel at 859.231.5100 and ask for EMLF rate

Cut-off date for room block is Sept. 24.

Three ways to register

- If registering online, go to <http://www.emlf.org/mineral.htm>
- If registering by phone, call 859.257.7140
- If registering by fax, call 859.257.2884
- If registering by mail, send form and payment to EMLF, University of Kentucky, Room 21, Law Building, Mineral Law Center, Lexington, KY 40506-0048

Cancellation policy

Refunds less a \$50 administrative fee will be given for written registration cancellations received by October 10. No registration refunds will be made after October 10, but substitutions can be made without charge.

Mandatory CLE and Professional Credit

Conference accreditation is pending from states with mandatory Continuing Legal Education. Conference consists of 675 minutes, including 60 ethics minutes. Registrants may be required to reimburse EMLF for MCLE filing fees for certain states. Please list the states or organization where you will be seeking professional education credits:

28th Annual Conference on Mineral Law Planning Committee

- Chauncey S. R. Curtz, Co-Chairman, *Dinsmore & Shohl*, Lexington, KY
- Sandra K. Fraley, Co-Chairman, *Equitable Production Co.*, Charleston, WV
- Sharon J. Daniels, *EMLF*, Lexington, KY
- Kevin C. Abbott, *Reed Smith*, Pittsburgh, PA
- Robert B. Allen, *Akin Gump*, Houston, TX
- Stephen Allen, *Stites & Harbison*, Lexington, KY
- Susan Barlow, *Peabody Energy*, St. Louis, MO
- Sam P. Burchett, Attorney, Lexington, KY
- William K. Caylor, *Kentucky Coal Association*, Lexington, KY
- Maureen D. Carman, *Wyatt, Tarrant & Combs*, Frankfort, KY
- C. Eberly Davis, *Stoll Keenon & Park*, Lexington, KY
- Clay Davis, *Tennessee Valley Authority*, Knoxville, TN
- Timothy W. Dowdy, *LG&E Energy*, Louisville, KY
- Thomas E. FitzGerald, *Kentucky Resources Council*, Frankfort, KY
- David W. Gooch, *Kentucky Coal Operators & Associates*, Pikeville, KY
- William T. Gorton, *Stites & Harbison*, Lexington, KY
- Richard L. Gottlieb, *Lewis Glasser Casey & Rollins*, Charleston, WV
- Karen J. Greenwell, *Wyatt, Tarrant & Combs*, Lexington, KY
- Timothy M. Gresham, *Penn Stuart & Eskridge*, Abingdon, VA
- Mark E. Heath, *Spilman, Thomas & Battle*, Charleston, WV
- Kent Hendrickson, *Rice & Hendrickson*, Harlan, KY
- A. George Mason, *Mason Energy Consultants*, Richmond, VA
- Kevin McGuire, *Jackson Kelly*, Lexington, KY
- Robert G. McLusky, *Jackson Kelly*, Charleston, WV
- Ronald E. Meisburg, *Ogletree Deakins*, Washington, DC
- Thomas E. Meng, *Stites & Harbison*, Lexington, KY
- Mark Morey, *Platts Research & Consulting/RDI*, Washington, DC
- Roy M. Palk, *East Kentucky Power Cooperative*, Winchester, KY
- Marco M. Rajkovich, *Wyatt, Tarrant & Combs*, Lexington, KY
- David G. Ries, *Thorp Reed & Armstrong*, Pittsburgh, PA
- Kendrick R. Riggs, *Ogden Newell & Welch*, Louisville, KY
- Mary Sue Schulberg, *NiSource Corporate Services*, Charleston, WV
- Charles E. Shivel, *Stoll Keenon & Park*, Lexington, KY
- Julia Shreve, *Jackson Kelly*, Charleston, WV
- A.J. Singleton, *Stoll Keenon & Park*, Lexington, KY
- Mark A. Swartz, *Swartz & Stump*, Charleston, WV
- Penny R. Warren, *Wyatt, Tarrant & Combs*, Lexington, KY
- Richard C. Ward, *Wyatt, Tarrant & Combs*, Lexington, KY
- John R. Woodrum, *Ogletree Deakins*, Washington, DC
- Joseph J. Zaluski, *Wyatt, Tarrant & Combs*, Frankfort, KY



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