

Winter Workshops on Energy Law

Pink Shell Beach Resort & Spa
February 5-7, 2009
Fort Myers Beach, Florida

Energy & Mineral Law Foundation



Thursday, February 5, 2009

1:05-1:15 p.m. Welcome Remarks

■ Maureen D. Carman, EMLF President, *Wyatt, Tarrant & Combs*, Lexington, KY

1:15-2:00 p.m. Commentary on the New Administration: Mineral and Energy Issues

■ Tom Crawford, The c2 Group, Washington, DC

2:00-2:45 p.m. Implications of the 2008 Financial Crisis for the Mineral and Energy Sector

■ Kurt Oehlberg, Managing Director, Energy & Natural Resources, *FBR Capital Markets*, New York, NY

3:00-3:45 p.m. Carbon Market Opportunities: Certified Emission Reductions – Implications for U.S. Regulation and Business

Carbon markets provide an opportunity to reduce greenhouse gases (GHG) cost-effectively. Project based certified emission reductions (CERs) are being created and traded to help countries meet their carbon reduction targets. Currently, there is an active debate in Europe, the US Congress, and elsewhere in the world as to what role these carbon credits should play towards meeting future GHG reduction targets. Mr. Eyster's presentation will discuss how the international carbon market is structured, what its track record has been, and what alternatives are being considered for future use of project based emission reductions or offsets.

■ Jerry M. Eyster, Senior Vice President, Investment Strategy, *GE Energy Financial Services, Inc.*, Stamford, CT

3:45-4:15 p.m. Overview of China's Coalbed Methane Production Potential

Marshall Miller & Associates (MM&A) has been actively involved with the development of coalbed methane in China since 1994. MM&A has been a founding member of CBM & Associates, Asian American Coal, Inc. and Asian American Gas, Inc. These companies are based in China and have been developing coalbed methane reserves using a variety of drilling techniques. The Chinese coalbed methane reserves and resources are potentially the most significant in the world. The Chinese coalbed methane industry is emerging and boosted by mine safety, governmental regulations, and environmental controls. This presentation will give an overview of the current state of the Chinese coalbed methane industry, geologic controls, and development techniques.

■ K. Scott Keim, President, *Marshall Miller & Associates*, Bluefield, VA

4:15-4:45 p.m. Coal in the Asian Arena

With offices in Brisbane, Australia and Beijing, China, the John T. Boyd Co. has witnessed the overwhelming growth in coal demand (China and India) and the corresponding response from the supply side (Australia and Indonesia) in recent years. This presentation reflects on recent developments in the Asian coal markets and attempts to summarize the region's near term coal demand requirements and the ability of the major coal players to meet the growing need for energy.

■ William P. Wolf, Vice President, *John T. Boyd Company*, Pittsburgh, PA

4:45-5:45 p.m. United States / Federal Clean Coal Development – Evolving GHG Regulatory Programs, Government and Industry Initiatives, Emergency Technologies and Other Drivers of Change

■ Ben Yamagata, *Van Ness Feldman* and Executive Director, *Coal Utilization Research Council*, Washington, DC

6:00 p.m. Hosted Poolside Reception

Friday, February 6, 2009

8:00-9:30 a.m. Mountaintop Mining: Cumulative Impacts and Compensatory Mitigation

TMDLs and Water Issues, Selenium – KY, WV, TN

■ Robert G. McLusky, Jackson Kelly PLLC, Charleston, WV

■ Robert Singer, *Ecology and Environment*, Lancaster, NY

■ Steve Gardner, *Engineering Consulting Services, Inc.*, Lexington, KY

9:45-10:15 a.m. NERC's Reliability Standards: Reliability Liability

In mid-2007, a major shift occurred in the oversight of the bulk electric system. The Reliability Standards became mandatory and FERC charged NERC with monitoring and enforcing compliance. Now, 1850+ registered entities are facing audits, self-reports and enforcement actions. Who's in? Who's out? Who's next? How Reliability Standards compliance has changed the way we approach ownership, operation and use of the bulk power system.

■ Elizabeth Cocanougher, *E.ON U.S. LLC*, Louisville, KY

10:15-11:00 a.m. Price Volatility in the Fuels Market

■ Andy Roberts, Vice President– Coal Consulting, *Hill & Associates*, a Wood Mackenzie Company, Annapolis, MD

11:00-11:30 a.m. MSHA's New Drug Testing Regulations

On September 8, 2008, the Mine Safety and Health Administration (MSHA) proposed new drug testing regulations which would establish a uniform drug and alcohol testing standard for the mining industry. Public hearings have been held, where both industry and unions opposed the proposed standards, for very different reasons. By the time of the Winter Workshops, we may have MSHA's final rule on drug testing. Ms. Dailey's presentation will discuss these new rules. If they are not yet finalized, her presentation will cover the proposed rules, the status of drug testing at mining facilities today and the nature of the issues that MSHA is grappling with in promulgating these rules.

■ Anna M. Dailey, *Dinsmore & Shohl*, Charleston, WV

11:30 a.m.-12:45 p.m. Clean Coal Projects

Oxy-coal Technology – An alliance of companies is developing a project that could allow the U.S. to continue using its abundant coal resources to generate electricity while reducing greenhouse gas (carbon dioxide) emissions by more than 90% using carbon capture and sequestration. The demonstration project could be the first of its kind in the nation, integrating several proven technologies in one place for the first time in what is called oxy-coal technology. Pending funding, permitting and final engineering studies, a coal-fired plant fitted with this technology could start up in Jamestown, New York, in 2013.

■ Rick Victor, Director, Technology Development, *Praxair Inc.*, Tonawanda, NY

AEP's IGCC and CCS Projects – AEP has considerable interest in the sustained viability of coal as a fuel source for electric power generation. Over the past several years, clean coal/CO₂ capture technology projects have been developed for both new capacity and for CO₂ capture and storage on existing coal fired units. This presentation will discuss the proposed technology, the status of these projects, and the challenges associated with the technology and project development.

■ Daniel M. Duellman, Director of New Generation Engineering, *AEP Engineering Services*, Columbus, OH

1:00 p.m. Luncheon Program: "Employee Free Choice Act"

■ Marc Freedman, Director of Labor Law Policy, *U.S. Chamber of Commerce*, Washington, DC

2:30-3:00 p.m. National Labor Relations Act Update

The latest issues and developments with the NLRB.

■ Ronald E. Meisburg, General Counsel, *National Labor Relations Board*, Washington, DC

3:00-3:45 p.m. Pending Labor Legislation and Regulatory Developments

Assuming the Employee Free Choice Act (EFCA) is adopted, what issues remain in representation procedures and how can an employer prepare to deal with them? The EFCA and other pending labor legislation will be examined.

■ Forrest Roles, *Dinsmore & Shohl*, Charleston, WV

■ Harold "Hal" Coxson, *Ogletree Deakins Nash Smoak & Stewart*, Washington, DC

4:00-4:30 p.m. Corporate Campaign Litigation: Utilizing the RICO Act

■ Gregory B. Robertson, *Hunton & Williams*, Richmond, VA

4:30-5:00 p.m. Fair Labor Standards Act: The Bare Essentials of Donning and Doffing Claims

Over the past several years, numerous collective actions (the Fair Labor Standards Act's equivalent of class actions) have been filed across the country seeking overtime pay for the time spent (1) putting on and taking off certain safety equipment, (2) traveling from a changing area to a work location and then back to the changing area, and/or (3) showering at the end of the work day. The amounts at stake can be substantial and the courts have not been uniform in deciding these issues. To date, the coal industry has not been a principal target of these claims, but that may be changing.

■ David J. Laurent, *Buchanan Ingersoll & Rooney*, Pittsburgh, PA

5:00-5:30 p.m. The 2008 Amendments to the Americans With Disabilities Act

On September 25, 2008, President Bush signed the Americans with Disabilities Act Amendments Act of 2008 ("ADA Amendments Act" or "Act"). The Act makes important changes to the definition of the term "disability" by rejecting the holdings in several longstanding Supreme Court decisions and portions of EEOC's ADA regulations. As of January 1, 2009, when the ADA Amendments Act becomes effective, employers must change the way they interpret the ADA. The Act expressly directs the courts to interpret the ADA as inclusively as possible. This presentation will evaluate the impact of these changes.

■ Debra H. Dawahare, *Wyatt, Tarrant & Combs, LLC*, Lexington, KY

6:00 p.m. Hosted Poolside Reception

Saturday, February 7, 2009

7:30-8:30 a.m. Professional Ethics Update 2009

See the beautiful Florida sunrise and learn about current developments in three areas of professional responsibility: (1) outsourcing legal and nonlegal services, (2) preserving privilege, and (3) representing multiple clients in the same or related matters. This session will focus on the applicable ABA Model Rules of Professional Conduct and explore recent ethics opinions and court cases in these areas. It will include discussion of the two most recent ABA formal ethics opinions, new Federal Rule of Evidence 502 (on attorney-client privilege and work product), and several high profile court decisions.

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

8:45-10:15 a.m. The Art of Negotiations

All attorneys and business people, whether in a litigation, business or other setting, have to negotiate some time or another. This session will assist everyone, regardless of negotiation experience, to become better negotiators. The presentation includes consideration of 1) the goals of a particular negotiation, 2) the value of the business relationship involved, 3) achieving the desired result, 4) thorough preparation, 5) negotiation techniques, 6) and non-verbal cues. As a training exercise, attendees can participate in an informal and short negotiation with a peer.

■ Kevin K. Douglass, *Babst, Calland, Clements and Zommir, P.C.*, Pittsburgh, PA

10:30 a.m. Hosted Brunch



Yes, I want to attend the Winter Workshops on Energy Law

First Name _____ M.I. _____ Last Name _____ Title _____

Organization/firm _____ Daytime phone _____

Address _____ Fax # _____

City, state, zip _____

Email address _____

Guest _____ Total Payment _____

State(s) for CLE Credits _____

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

Card # _____ Expiration date _____

Signature _____ CVV code (security code) _____

Registration information

Conference Registration

EMLF full conference registration fee includes all educational sessions, meeting materials, hosted receptions on Thursday and Friday, one continental breakfast, refreshment breaks, Friday luncheon, Saturday morning brunch, and post-conference CD with all powerpoint presentations. Guest registration includes hosted receptions on Thursday and Friday, and Saturday morning brunch.

Through Jan. 5 After Jan. 5

General Registration fee \$995 \$1,095

EMLF Member fee..... 795 895

Guest 100 100

Accommodations

Pink Shell Beach Resort & Spa, 275 Estero Boulevard, Fort Myers, has a conference rate of \$239 for a 1 bedroom White Sand Villa, \$339 for a two bedroom White Sand Villa. Room rate is available three days before and after the meeting dates. Reservations made after January 3 are subject to availability at prevailing rates. Resort room rates and \$10 per day Resort Fee are subject to applicable state and local taxes of 11%. All reservations must be guaranteed and accompanied by a first night room deposit. Deposits are refunded only if notice is received 14 days prior to arrival date. Guest must obtain a cancellation number with a \$35 cancellation fee. Check in time is 4 p.m.; checkout is 11 a.m. Please call the hotel direct at 800.237.5786 and ask for the EMLF rate. Cut-off date for room block is January 3, 2009.

Three ways to register

- If registering online, go to www.emlf.org
- If registering by fax, call 859.226.0485
- If registering by mail, send form and payment to EMLF, 340 South Broadway, Suite 101 Lexington, KY 40508

Cancellation policy

Refunds less a \$75 administrative fee will be given for written registration cancellations received by January 9. No registration refunds will be made thereafter, but substitutions can be made without charge. Persons who must cancel their registration after January 9 may claim a \$500 credit toward any future EMLF educational program.

Mandatory CLE and Professional Credit

Conference accreditation is pending from states with mandatory Continuing Legal Education. Conference consists of 840 minutes, including 60 ethics minutes (14 hours in 60-minute states and 16.8 hours in 50-minute states). 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:
