

The
Greenbrier®

35th
Annual Institute

June 1-3, 2014
The Greenbrier Resort
White Sulphur Springs
West Virginia

Energy & Mineral Law
Foundation





Program Schedule

Sunday, June 1, 2014

3:00 p.m.

Registration Opens

3:30 – 6:00 p.m.

Board of Trustees Meeting

6:30 – 8:30 p.m.

Reception and Dinner Program

- Invited: The Honorable Joe Manchin, Senator from West Virginia
- Presentation of the John L. McClaugherty Award

Monday, June 2, 2014

7:00 a.m. – 5:00 p.m.

Registration

7:00 – 9:00 a.m.

Continental breakfast

General Sessions

Track 1

8:00 a.m.

Welcome and Introductions

- Sharon O. Flanery, Foundation President, *Step toe & Johnson PLLC*, Charleston, WV
- C. David Morrison, Program Chairman, *Step toe & Johnson PLLC*, Bridgeport, WV
- Kurt L. Krieger, Midstream Chair, *Step toe & Johnson PLLC*, Charleston, WV
- Eric R. Waller, Coal Chair, *Patriot Coal Services LLC*, Charleston, WV
- Joseph A. Tarantelli, Oil and Gas Chair, *Chesapeake Energy Corporation*, Oklahoma City, OK

8:15 – 9:00 a.m.

Keynote: Mexico's Oil Industry Reforms

The recent reversal of laws in effect since Mexico's 1938 nationalization of its oil resources now allows Mexico to attract foreign equity and foreign investment to bolster its aging infrastructure. Foreign oil companies will be allowed to bid and compete on equal footing with PEMEX, Mexico's state-owned oil company. This presentation explains what led to these changes and identify opportunities to participate in this historic endeavor.

- Juan Carlos Machorro, *Santamarina y Steta SC*, Mexico City, Mexico
- Guillermo Zúñiga Martínez, *Commissioner of the Regulatory Commission of Energy*, Mexico City, Mexico

9:00 – 9:30 a.m.

The Winter of 2014: Electric Generation, the Power Grid, and the Risk of Future Brownouts

The winter of 2014 was unusually long, arduous and cold, thereby putting exceptional demands on our power supply. What supply issues did we face? Were the rumors of likely brown-outs true? What did we do to meet demand? What could we have done better? What did we learn for future power generation?

- Charles Patton, President and CFO, *Appalachian Power*, Charleston, WV

9:30 – 9:45 a.m.

Break

9:45 – 10:30 a.m.

Post-Freedom Industries: A New Era for Above Ground Storage Tanks and Source Water Protection Laws

In the wake of a spill in West Virginia that ultimately resulted in contaminated drinking water for over 300,000 people, the intense focus on above ground tanks, and how we protect source water, has resulted in both state and federal legislative efforts. This session will cover these ongoing regulatory and legislative efforts (such as permitting, registration, planning, etc.) and likely impacts on the energy sector.

- Allyn G. Turner, *Spilman, Thomas & Battle, PLLC*, Charleston, WV

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Charleston, WV



MANCHIN



FLANERY



MORRISON



KRIEGER



WALLER



TARANTELLI



MACHORRO



ZÚÑIGA



PATTON



TURNER

10:30 – 11:15 a.m.

The Pennsylvania Supreme Court's Robinson Township Decision and Its Potential Effects and Implications Within the Oil and Gas and Coal Mining Industries

Pennsylvania's Act 13 of 2012 was signed into law in February 2012, and provided major revisions to Pennsylvania's Oil and Gas Act. Subsequent to the enactment of Act 13, litigation was brought by Robinson Township and other municipalities and individuals challenging the constitutionality of the Act. On December 19, 2013, a plurality of the Pennsylvania Supreme Court ruled that portions of Act 13 were unconstitutional based upon application of Pennsylvania's Environmental Rights Amendment. The presentation will address (i) the background of the Robinson Township litigation and Supreme Court decision, (ii) the implications of the plurality decision regarding preemption of local regulation of oil and gas industry operations, (iii) potential impacts to permitting policies and decisions within the Pennsylvania Department of Environmental Protection, (iv) the broader implications to other industries, including coal mining, of the plurality's decision on the Environmental Rights Amendment and local regulation, and (v) the potential effects of the remand of portions of petitioners' claims to the Commonwealth Court.

■ Robert L. Burns, Jr., *Buchanan Ingersoll & Rooney PC*, Pittsburgh, PA



BURNS



RIES



SULLIVAN



GLENN



VAN NOSTRAND



HALBRITTER

11:15 – 12:15 p.m.

The Ethical Implications of NSA Surveillance for Lawyers

There have been daily news reports about National Security Agency surveillance following revelations by Edward Snowden, recently including interception by an NSA ally of a U.S. law firm's communications with its foreign client. This is just one of a growing number of threats to law firm security and confidentiality. This session will review current threats, attorneys' duties to safeguard information relating to clients, and best practices to address these threats.

■ David G. Ries, *Clark Hill Thorp Reed, LLP*, Pittsburgh, PA

12:15 – 1:30 p.m.

Luncheon Injection Wells and Seismic Events: How Are Regulators and Courts Reacting to This Emerging Issue?

This program will address the recent publicity and studies linking injection wells and seismic events and discuss how regulators and courts are dealing with this emerging issue.

■ John F. Sullivan III and Cleve J. Glenn, *K&L Gates LLP*, Houston, TX

Monday Afternoon – Concurrent Track 2

1:30 – 2:15 p.m.

What's Coming Down the Tracks for Midstream Operators in 2014? Emerging Issues and Regulatory Update for Crude Oil by Rail

United States oil production grew by over 1 million barrels per day in 2013, reaching its highest level in 24 years and marking the largest annual increase in U.S. history. The rapid growth in production has outstripped the pace of new pipeline development and producers are increasingly turning to rail to move crude and some natural gas liquids to downstream markets. U.S. freight railroads transported approximately 400,000 carloads of crude oil in 2013, up from just 9,500 in 2008. Railroads have proven crucial to the U.S. energy renaissance. According to the Pipeline and Hazardous Materials Safety Administration, however, over 1.15 million gallons of crude oil spilled in the U.S. from rail cars in 2013, as compared with 800,000 gallons spilled in the preceding 37 years (1975-2012). The rapid growth in transporting crude by rail, coupled with the increase in oil spill incidents and high profile accidents near population centers, have spurred calls for review and revision of rail car transportation regulations and safety standards. These issues raise new challenges for midstream operators offering rail transportation services.

■ James M. Van Nostrand, Associate Professor and Director, Center for Energy and Sustainable Development, *West Virginia University College of Law*, Morgantown, WV

2:15 – 3:00 p.m.

Natural Gas Liquids – What Are They, Where Do They Go, and Under What Contract Terms?

Many are unfamiliar with the specifics of the terms “natural gas liquids” which is generic reference to a host of liquid hydrocarbon products or ‘streams’ – each of which has its own commercial value and options in terms of end use market. In this presentation, the various component parts of the natural gas liquids stream will be identified and described along with the potential end use, the markets and pricing mechanisms for each. The terms that apply to the purchase, transport, or other disposal of natural gas liquids in contracts between midstream companies and producers, and in contracts between midstream companies and further downstream transporters or end users will be addressed.

■ Marc A. Halbritter, General Counsel, *Blue Racer Midstream*, Dallas, TX

3:00 – 3:15 p.m.

Break

3:15 – 4:00 p.m.

FERC Oil Pipeline Regulation – The Basics and Current Issues

Shale plays are demanding construction of additional oil or liquid hydrocarbon pipelines to handle increased production of oil as well as of liquid hydrocarbons from wet gas. Mr. Brose will describe the line between intrastate and interstate jurisdiction of oil pipelines, and FERC's increasingly significant regulation of interstate pipelines that transport crude oil, refined products and natural gas liquids. He will summarize the applicable statute (the Interstate Commerce Act) and regulatory structure, both of which vary in material ways from those that govern natural gas pipelines. Mr. Brose will also outline the emerging issues in the dynamic and rapidly evolving regulatory landscape resulting from the torrent of new liquids pipeline projects throughout the United States.

■ Steven H. Brose, *Steptoe & Johnson LLP*, Washington, DC



BROSE

4:00 – 4:45 p.m.

Eminent Domain Authority for Midstream Pipelines

Midstream pipeline companies are working to bring the necessary infrastructure to the Marcellus and Utica shale wells in Ohio, Pennsylvania, West Virginia and Kentucky. As the demand for rights-of-way across these states has increased, so has the cost to obtain the rights-of-way. This presentation will explore the extent of eminent domain authority midstream pipeline companies may have and how to utilize the authority. Topics addressed include a survey of each state's statutory and case law where the Marcellus and Utica Shale is being developed; questions related to possible distinctions between the condemnation power of oil, natural gas and natural gas liquids pipelines; and legislative /litigation attempts to provide further clarity on the breadth of eminent domain authority midstream pipeline companies may possess.

- J. Kevin West, Moderator, *Steptoe & Johnson PLLC*, Columbus, OH
- Paul N. Garinger, *Lewis Glasser Casey & Rollins, PLLC*, Columbus, Ohio
- Karen J. Greenwell, *Wyatt, Tarrant & Combs LLP*, Lexington, KY
- Andrew J. Sonderman, *Kegler Brown Hill & Ritter, LPA*, Columbus, OH



WEST



GARINGER



GREENWELL

6:00 – 7:00 p.m.

Hosted Reception

Monday Afternoon – Concurrent Track 3

1:30 – 2:15 p.m.

Energy and Wildlife: What You Need to Know About Federal Wildlife Law and Enforcement Today

The presentation will survey current and upcoming federal wildlife issues affecting the energy sectors. Key topics include enforcement trends under the Migratory Bird Treaty Act and Endangered Species Act, particularly against upstream oil & gas and coal operations; the U.S. Fish and Wildlife Service's "mega-settlement" with environmental organizations regarding species listing, potential deficiencies in the settlement, and key species for the energy industry scheduled for listing consideration; the agency's ongoing effort to develop guidance for industries on wildlife interactions; its pending rulemakings to define critical habitat and other issues under the Endangered Species Act; and the proposed amendments to the Endangered Species Act pending in Congress.

■ John C. Martin and Sarah Bordelon, *Crowell & Moring LLP*, Washington, DC



SONDERMAN



MARTIN

2:15 – 3:00 p.m.

The Law of Contribution, Implied Indemnity, Express Indemnity and Joint and Several Liability, and Exculpatory Provisions

In the past several decades, there has been a concerted effort on the part of tort reformers to modify joint and several liability. These efforts have resulted in several state legislatures limiting and apportioning joint liability among various tortfeasors. However, there is quite a bit of variety between state courts in the rules regarding apportionment of liability. This variety was evident in the American Law Institute's adoption in 1999 of the Restatement (Third) of Torts: Apportionment of Liability. The Reporters provided five different systems of apportionment (joint and several, several, and three hybrid systems). This presentation will discuss the similarities and differences among the states with regard to joint and several liability, contribution, and indemnity. In some states, like West Virginia which adopted a hybrid system in 2005, several questions remain unanswered because there have been few published decisions on the new system.

■ Al F. Sebok, *Jackson Kelly PLLC*, Charleston, WV



BORDELON



SEBOK

3:00 – 3:15 p.m.

Break

3:15 – 4:00 p.m.

Multi-State Review of Real Estate Tax Sales and Tax Deeds

It's been written that tax sales represent an area of real property law in which "uncertainty and confusion" have been the historic rule rather than the exception. This presentation and the chapter to follow will cover a synopsis of the law in selected eastern states, the effect of tax deeds on leasehold interests, and how producers may limit the impact of tax deeds on their real property interests.

■ D. Kevin Moffatt, *Lewis Glasser Casey & Rollins, PLLC*, Charleston, WV



MOFFATT

4:00 – 4:45 p.m.

Employment Law Update

The federal agencies that govern companies as employers are driving dramatic changes in labor and employment laws in the workplace, from the NLRB in labor law to the EEOC, the DOL and the Office of Federal Contract Compliance Programs (OFCCP) in employment law. The NLRB is implementing new rules designed to help unions in their organizing efforts, including creating new issues for union-free employers who thought the nation's labor laws were only relevant to unionized employers. Meanwhile, the United States Supreme Court has issued significant employment law decisions regarding who is as a supervisor in the workplace; who is a spouse for IRS-covered employee benefits; and set forth a different standard for evaluating workplace retaliation cases. The Court also gave additional guidance for arbitration agreements with employees and addressed what constitutes "changing clothes" for determining compensable work under the Fair Labor Standards Act. This general session will identify the highlights of the many recent labor and employment law changes that impact all employers, whether in the energy business or in a law firm assisting energy clients.

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



DAILEY



MINEAR



WILBURN

6:00 – 7:00 p.m.

Hosted Reception

Tuesday Morning, June 3, 2014

7:00 – 9:00 a.m.

Continental breakfast

Track 4

8:00 – 8:45 a.m.

Conflict and Cooperation: Real Property Issues Arising From the Interplay Among Vested Production and Storage Interests in a Post-Shale World

Although the natural gas storage industry and the production industry have historically had an informal understanding as to vested rights and respective positions as to the subsurface, with the increasing push to develop unconventional plays there is increasing tension between the industries. In light of the recent demand for storage gas from an historical winter heating season and the relative glut of production gas, this presentation is an examination of the sources and potential resolutions of conflict and examples of innovative cooperation strategies in the post-shale world. The presentation will be both a practical and legal review of storage/production dynamics looking at both the regulated aspects of storage and the common law aspects of production.

■ Beth R. Minear, Sr. Attorney, *NiSource Corporate Services*, Charleston, WV

■ John D. Wilburn, *McGuireWoods LLP*, Tysons Corner, Virginia



BROWN



FREDRICKSON



STOLTE

8:45 – 9:30 a.m.

Evolving Theories In Lease Termination Litigation

This session will provide a survey and evaluation of lease termination theories reflected in recent appellate court decisions. Both successful and unsuccessful assaults upon lease terms and asserted or available defenses to those assaults will be reviewed and evaluated. The speaker will attempt to identify any evolving trends and trajectories in American judicial thought on this important topic. The chapter will analyze claims based on all theories, including, but not limited to, claims sounding in default, breach or *habendum* ending acts or omissions.

■ Lyle B. Brown, *Stephoe & Johnson PLLC*, Columbus, OH



KELLER

9:30 – 9:45 a.m.

Break

9:45 – 10:30 a.m.

Horizontal JOAs – Application and Drafting Issues

The use of horizontal drilling in unconventional plays has necessitated that a number of changes be made to traditional oil and gas agreements in order to better address horizontal specific issues. The agreements most commonly modified in horizontal well developments are joint operating agreements. In order to achieve uniformity in these modifications, the American Association of Professional Landmen recently revised its AAPL 610-1989 Model Form Operating Agreement ("1989 JOA") to deal with horizontal specific issues. This presentation will focus on the revisions that were made to the 1989 JOA, and discuss additional modifications that parties should consider making to the 1989 JOA in horizontal well developments.

■ Robin S. Fredrickson and Justin T. Stolte, *Latham Watkins LLP*, Houston, TX

10:30 – 11:15 a.m.

Ohio Dormant Mineral Act Developments and Evolving Issues

Ohio's Dormant Mineral Act was enacted in 1989 to address a common title problem caused by early severances of oil, gas and mineral interests which can lead to an inability to locate absentee mineral owners. Amendments to the law made in 2006 along with competing theories regarding how the statute works, however, has led to a substantial amount of mineral title litigation and uncertainty about the law and its application in various circumstances. This paper and presentation will address the operation of the two different versions of the statute, recent case law decisions, emerging legal issues and legal strategies being employed when dealing with Ohio Dormant Mineral Act issues.

■ Clay K. Keller, *Babst Calland*, Akron, OH

11:15 a.m. – Noon

The Shale Pay – An Update on Recent Trends in Royalty Claims and Emerging Issues Surrounding Wet Gas and NGLs

Recent decisions have changed the landscape of royalty litigation. This talk will focus on those decisions, their impact on royalty claims and how this has the potential to impact how royalties are paid going forward, and in particular for wet gas and natural gas liquids, specifically considering questions like “When are affiliate transactions permissible”; “How will the courts treat payment of royalties on gas used or lost before the point of sale” and “How does one calculate the royalty on natural gas liquids recognizing that the produced liquids are comprised of numerous component parts and that each component liquid is priced differently by the market?”

■ Nicolle Snyder Bagnell and Justin H. Werner, *Reed Smith LLP*, Pittsburgh, PA



BAGNELL



WERNER

Noon – 1:15 p.m.

Lunch Break On Your Own

Tuesday Morning, June 3 – Track 5

8:00 – 8:45 a.m.

Section 105c Discrimination Complaints: A Primer on Temporary Reinstatement and Litigating Discrimination Complaints

Section 105 of the Mine Act continues to be a very active area and one that MSHA continues to pursue. The number of temporary reinstatement requests and filed cases is up dramatically over the last two years. This presentation will cover: 1) what an operator can do to oppose a Motion for Temporary Reinstatement and what evidence can be considered by Administrative Law Judges at temporary reinstatement hearings; 2) what happens when layoffs occur during the temporary reinstatement period prior to a decision on the merits of the discrimination claim; 3) what are the trends in discrimination cases being tried, what defenses are being used, and what theories MSHA is relying on to prove discrimination cases, and 4) the role of possible appeals to US Courts of Appeals on 105(c) issues.

■ Eric L. Silkwood, *Hardy Pence PLLC*, Charleston, WV



SILKWOOD

8:45 – 9:30 a.m.

Beyond Checking the Box – Environmental Permit Due Diligence for Coal Transactions

When performing environmental due diligence in a coal transaction, the potential buyer is tempted to simply check whether the seller can provide documentation that it has a permit to mine the property. While this is a good first step, bare reliance on permit face sheets ignores a host of issues that can cause problems when the purchaser begins operations. For example: Do SMCRA permits remain valid despite non-disturbance? Are reclamation bonding costs expected to increase in the future? Can Clean Water Act permits be easily amended to cover expanded operations? Do pre-existing agreements with or threatened enforcement actions by regulators and citizen groups impose additional costs and compliance measures beyond those contained in applicable permits and regulations? This presentation will focus on these and other related environmental permitting issues under SMCRA, the Clean Water Act, and other state and federal environmental statutes in the context of a coal transaction.

■ Jesse M. Parrish, *Bingham Greenebaum Doll LLP*, Lexington, KY



PARRISH

9:30 – 9:45 a.m.

Break

9:45 – 10:30 a.m.

Illinois Basin Basics for the Coal Industry

An overview of the history of coal production in Illinois and Indiana, the fundamental geology of the Illinois Basin, land acquisition practices and the law pertaining to dormant minerals, container space doctrine, subsidence rights and other key issues.

■ John E. Rhine, *Rhine Ernest LLP*, Evansville, IN



RHINE



HENDERSON

10:30 – 11:15 a.m.

Title Issues in Acquiring Minerals in the Illinois Basin

The ownership of mineral interests in the Illinois Basin is often highly fractionalized. The requirements to gain control of unleased mineral interests and the legal processes available to gain such control differ depending on the state. This presentation will discuss the mineral control requirements necessary to operate in each state in the Illinois Basin and will address some of the statutes that may be used to acquire control, including the Illinois Severed Mineral Interest Act, the Kentucky Severed Mineral Interests of Unknown or Missing Owners, and the Indiana Dormant Mineral Act.

■ John H. Henderson, *Stoll Keenon Ogden PLLC*, Evansville, IN



MCCALLISTER

11:15 a.m. – Noon

Coal Law Update

■ Drew McCallister, *Patriot Coal Services LLC*, Charleston, WV

Tuesday Afternoon, June 3 – Track 6

1:15 – 2:00 p.m.

When Does “Surface” Mean Only Surface?

In examining deeds in chains of title, occasionally a deed will include a conveyance of “all that surface tract,” or “all the surface and right of soil,” or “all the surface of that certain tract,” or similar variations. Courts in states within the Appalachian Region have addressed this issue with sometimes varying results. Factors which courts have reviewed include (1) broadness of habendum clause, (2) actual interests owned (and not owned) by grantor at time of deed, (3) inclusion of a specific exception and reservation of coal, and other factors. The chapter will review legal precedent established by cases in different jurisdictions.

■ Sean Cassidy, *Sean Cassidy and Associates, PC*, Greensburg, PA



CASSIDY

2:00 – 2:45 p.m.

Lone Pine or Folk Lore? A Survey of Case Developments Regarding Lone Pine Orders in Oil and Gas Litigation

Recently a number of oil and gas companies have tried to use Lone Pine orders early in methane migration and other groundwater contamination cases to force plaintiffs to establish a *prima facie* case before continuing with lengthy and expensive discovery. Lone Pine orders are modified case management orders that are utilized most commonly in complex mass tort cases to place the burden on plaintiffs to substantiate a cause of action early in a case prior to the completion of discovery. Often, Lone Pine orders require plaintiffs to produce things such as expert reports on causation, medical evidence, and environmental studies earlier than usual in a case. Courts throughout the country have issued varying decisions about the permissible application of Lone Pine orders to oil and gas disputes. This presentation will (i) survey the application of Lone Pine orders to oil and gas disputes involving methane migration and other groundwater contamination; and (ii) discuss potential strategies related to Lone Pine orders

■ Mark D. Feczko, *K&L Gates LLP*, Pittsburgh, PA



FECZKO



COLOSIMO

2:45 – 3:00 p.m.

Break



NICHOLSON

3:00 – 3:45 p.m.

Defensible Title: Curative Requirements and Waiver in Acquisitions and Drilling Title Certifications

Title certificates, opinions and title defect notices prepared by reviewing title counsel routinely include curative requirements on a variety of title problems affecting the lessee’s proposed acquisitions and operations. These curative requirements are then reviewed by an in-house counsel and/or landman with the discretion and authority to waive certain curative requirements. Purchase and sale agreements (PSA) contain definitions of “Defensible Title” governing the buyer’s ability to accept or reject leases and/or require curative measures. This chapter will specifically address the legal basis for a number of common curative requirements. (For example, the requirement to obtain a Subordination Agreement covering a mortgage will review legal issues such as priority of lien, procedural requirements for foreclosure proceedings, notice requirements to Lessee and potential proceedings or actions to avoid loss of leasehold interest in a foreclosure sale.) In addition, the chapter will examine common requirements and procedures found in the PSA dealing with defensible title and the boundaries of title defects in the acquisition context, such as defects asserted pursuant to dormant mineral and forfeiture statutes. Finally, the chapter will also review the in-house analysis of waivers which consider (1) remoteness of defect, (2) likelihood of adverse claim being asserted, (3) cost of curing the title defect, (4) time delay in curing title defect, (5) if asserted, likelihood of success by potential adverse claimant, and (6) cost to company if potential adverse claim is successfully asserted. The presentation will include practical perspectives and observations from seasoned operators’ counsel charged with the responsibility of making waiver determinations.

■ Kevin L. Colosimo, *Burleson LLP*, Pittsburgh, PA



BLANK

3:45 – 4:30 p.m.

Subsurface Trespass By Hydraulic Fracturing: An Emerging Shale Play Issue

With the extensive development of shale oil and gas plays throughout the United States, hydraulic fracturing activities have increased and continue to be at the center of much debate and litigation focusing on the potential health risks associated with the process. But an emerging issue of growing importance is whether hydraulic fracturing activities can, or should, lead to actionable subsurface trespass claims. This paper will examine theories of mineral ownership, the law of surface and subsurface trespass, and what rulings have been made in jurisdictions that have examined the issue of subsurface trespass and hydraulic fracturing.

■ Barclay R. Nicholson, *Fulbright and Jaworski L.L.P.*, Houston, TX

4:30 – 5:15 p.m.

Oil and Gas Update

■ Jonathan T. Blank, *McGuireWoods LLP*, Charlottesville, VA

35th Annual Institute Planning Committee

Program Planning Committee

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- Oil and Gas Chair, Joseph A. Tarantelli, *Chesapeake Energy Corporation*, Oklahoma City, OK
- Midstream Chair, Kurt L. Krieger, *Steptoe & Johnson PLLC*, Charleston, WV

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- Al F. Sebok, *Jackson Kelly PLLC*, Charleston, WV
- Michael J. Settineri, *Vorys, Sater, Seymour and Pease LLP*, Columbus, OH
- Chuck Solinski, *Bryan Cave LLP*, Washington, DC
- Andrew J. Sonderman, *Kegler Brown Hill & Ritter, LPA*, Columbus, OH
- Providence Spina, *Crowell & Moring LLP*, Washington, DC
- John F. Sullivan III, *K&L Gates LLP*, Houston, TX
- Richard Swartz, *Crowell & Moring LLP*, Washington, DC
- James T. Thompson, *Watt Beckworth Thompson & Henneman*, Houston, TX
- Noelle Holladay True, *Rajkovich, Williams, Kilpatrick & True, PLLC*, Lexington, KY
- Allyn G. Turner, *Spilman Thomas & Battle, PLLC*, Charleston, WV
- James M. Van Nostrand, *West Virginia College of Law*, Morgantown, WV
- Phillip D. Vasquez, *Steptoe & Johnson PLLC*, Houston, TX
- Richard M. Wallace, *Spilman Thomas & Battle, PLLC*, Charleston, WV
- Gregory W. Watts, *Krugliak Wilkins Griffiths & Dougherty Co., L.P.A.*, Canton, OH
- R. Timothy Weston, *K&L Gates LLP*, Harrisburg, PA
- Craig P. Wilson, *K&L Gates LLP*, Harrisburg, PA
- Kathryn Wilson, *Natural Resource Partners L.P.*, Houston, TX
- David L. Yaussy, *Robinson & McElwee PLLC*, Charleston, WV
- Daniel W. Wolff, *Crowell & Moring LLP*, Washington, DC
- Jo Ellen Diehl Yeary, *Northeast Natural Energy LLC*, Charleston, WV
- Scott M. Zurakowski, *Krugliak Wilkins Griffiths & Dougherty Co., L.P.A.*, Canton, OH

The Greenbrier® America's Resort

Snuggled comfortably in the Allegheny Mountains on 10,000 acres, The Greenbrier has been offering Southern hospitality for more than 235 years. Listed in the National Register of Historic Places, the stately resort — compared in beauty to Tara — offers 710 rooms, 33 spacious suites and 98 clapboard cottages that date back to 1778.

People began traveling to The Greenbrier to “take the waters” and bathe in the white sulphur springs. That tradition continues today with The Greenbrier’s world-renowned mineral spa, which offers a variety of services.

In addition to the spa services, the resort offers amenities such as three championship golf courses, fine dining with a dozen restaurants and lounges, more than 55 activities in addition to golf including equestrian sports, fishing, off-road



driving, zip lining, white water rafting and more, daily tours for history buffs, designer boutiques and a 103,000 square foot gaming and entertainment venue that has world-class gaming — 320 state-of-the-art slot machines and 35 table games.

All this is enhanced by The Greenbrier’s classic architecture, sculpted landscaping and faultless service in surroundings that feature lavish décor by world-famous Dorothy Draper, an interior designer who was hired to renovate the resort after it was used as a hospital during World War II when it served more than 24,000 soldiers as a surgical and rehabilitation center. She used color and oversized patterns to create spectacular surroundings. Carleton Varney, Draper’s successor, continues the tradition.

The impressive décor makes guests feel as special as the numerous celebrities The Greenbrier has entertained over the years. Included in that pampering are a morning coffee service, afternoon tea and concert, nightly movies in the theater, historical tours, fitness center, cyber café, resort-wide wireless Internet, use of indoor and outdoor pools, nightly champagne toast in the Casino Club, on-property transportation and hiking trails (all part of the daily resort fee).

For those who love to shop, The Greenbrier’s Avenue of Shops is stocked full of men’s and women’s fashions, accessories, home furnishings and jewelry. And if the resort’s restaurants aren’t enough, the Gourmet Shop features specialty foods as well as cooking demonstrations.

The Art Colony Shops are located in the historic Alabama Row cottages,





While you are attending the 35th Annual Institute, you may find time to take advantage of what the Greenbrier Valley has to offer.

The area is home to breathtaking natural beauty and true southern hospitality. This picturesque setting offers an abundance of outdoor activities, a lively arts scene, unique shopping, and in addition to being home to The Greenbrier, it is home to Lewisburg, America's Coolest Small Town (*Budget Travel Magazine* 2011).

Lewisburg was similarly honored by *Travel + Leisure* magazine (2013) when it named Americans Favorite Towns, the only West Virginia town so honored.

The Greenbrier Valley is steeped in history and has endless stories to tell about its remarkable past and its vibrant present. Outdoor recreational opportunities abound here as well. Between the Greenbrier State Forest, Lake Sherwood and the Monongahela National Forest, outdoor aficionados will enjoy camping, hiking and fishing.

Visitors can also enjoy farm-to-table dining options, boutiques that showcase American crafters and special events.

Additional area information can be found at the state-of-the-art Greenbrier County Convention and Visitors Bureau located at 200 West Washington Street in historic downtown Lewisburg or by going to www.greenbrierwv.com.

which are among the oldest structures at The Greenbrier, built in the 1830s. These shops provide a unique shopping experience that includes skilled artisans working with metals, leather, brass, wood, glass and pottery, as well as artists-in-residence.

There's even the President's Cottage Museum, which features memorable moments from the stays of 26 presidents. Housed in a historic two-story building overlooking the Springhouse, these archives contain documents dating back to The Greenbrier's early history.

Another look into history can be found in a tour of the Bunker, the former U.S. Government Relocation Facility. The protected substructure is buried 720 feet into the hillside under the West Virginia Wing of the hotel. It is sur-

rounded by ceiling and walls that are three to five feet thick reinforced concrete.

It was a top secret of the Cold War designed to accommodate Congress in the event of a national emergency. Planned by the Eisenhower administration, the facility was built between 1958 and 1961 and was maintained in secret until 1992. Tours are offered daily and are approximately 90 minutes in length. A fee is charged and reservations are required. Call 855.225.6739 to make a reservation.

Getting to The Greenbrier has never been easier, with non-stop flights from Atlanta and Washington, DC to Lewisburg, a short 15-minute drive from the resort, which is conveniently situated off Interstate 64 just west of the Virginia/West Virginia border. Amtrak also offers regular service.

For more information on what there is to do, go to <http://www.greenbrier.com/Activities.aspx>.

Dress Code

Steeped in tradition, The Greenbrier has a dress code.

Resort Casual for daytime: Collared sports shirts, sweaters, jackets, dress slacks and walking shorts.

Business Casual for evenings: Jackets suggested for gentlemen; dresses or evening suits for ladies.

Gentlemen are required to wear a jacket and tie in the Main Dining Room for dinner. After 7 p.m. gentlemen are required to wear a jacket in the Casino Club.

Tee shirts, tank tops, cut-offs, short shorts, sweatpants, men's hats and baseball caps are not permitted at any of the dining venues.

For more details, go to www.greenbrier.com/Top-Navigation-Pages/About-Us/Press-Room/DressCode_2013.aspx

Annual Institute Accommodations

Located in White Sulphur Springs, the year's conference hotel — The Greenbrier — is an award-winning luxury resort. Over two centuries ago in a valley nestled within the eternal majesty of the Allegheny Mountains, they pampered their first guests. And from that moment until today, when you enter the grounds you become part of a haven rooted in hospitality and luxury. Over the years, The Greenbrier has hosted 26 presidents and many celebrities.

Check in time is 4 p.m.; check out is 11 a.m. The special EMLF room rate is available May 31 through June 3. Call 855.993.2862 and ask for the EMLF room block, or register online through www.emlf.org. Rates are \$235 per night for a standard or intermediate room. Upgrades are possible. The room block is released April 17.



Yes, I want to attend the 35th Annual Institute at The Greenbrier Resort

Registration fee includes all sessions and meeting materials on CD, reception and dinner on Sunday, luncheon and reception on Monday evening, continental breakfasts and refreshment breaks. All registrants will receive a copy of Volume 35 of the Energy & Mineral Law Institute publication in CD format in early 2015. Guest registration covers Sunday reception and dinner and Monday reception. Extra Monday luncheon tickets are available at \$55 each.

<i>Registration fees</i>	<i>Early Bird by April 17</i>	<i>After April 17</i>
Non-member Registration Fee.....	\$975	\$1,075
EMLF Member	\$775	\$875
Young Lawyer (3 years or less), EMLF Landman, Full-Time Law Faculty and Government Attorneys	\$575	\$675
Annual Institute Speaker Fee.....	\$555	\$555
Guest Registration Fee.....	\$155	\$155
Extra Luncheon Ticket (Monday).....	\$55	\$55

First Name _____ M.I. ____ Last Name _____ Badge name _____

Organization/Firm _____ Title _____

Address _____

City, State, Zip _____

Daytime Phone _____ Fax # _____

Email Address _____ Guest _____

State(s) for CLE Credits? _____ Do you need AAPL Credit? _____

Fees:

Conference registration \$ _____
 Guest registration \$ _____
 Extra luncheon ticket \$ _____
 Total \$ _____

Conference accreditation is pending from states with mandatory Continuing Legal Education and with the AAPL. Please indicate on your registration form where you are seeking credit. The program contains 855 minutes of CLE, including 60 minutes of ethics. This is equal to 14.25 CLE hours in 60-minute states and 17.10 hours in 50-minute states. Complete information for reporting your credits will be available at the conference. Additional fees may be required for certain states/organizations.

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

Card # _____ Expiration date _____

Signature _____ CVV code (security code) _____

Cancellation policy

Cancellations received by May 15 will receive a full refund less a \$75 administrative fee. No refunds for cancellations after May 15, but CD and course materials will be sent after the conference. Substitutions can be made at any time at no charge. EMLF members who cancel after May 15 receive a \$200 credit towards a future program, plus meeting materials.

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

Energy & Mineral Law Foundation
340 South Broadway, Suite 101
Lexington, KY 40508

35th Annual Institute

June 1-3, 2014

The Greenbrier Resort
White Sulphur Springs
West Virginia



Website — <http://www.emlf.org> • E-mail — info@emlf.org