

4:00 – 4:45 p.m.

Advancing Your Strategies for Managing Litigation Risk and Reputation Exposure from Health Related Allegations

Opponents to oil and natural gas development are pursuing a variety of tactics, including public health allegations that may influence future litigation and regulatory developments. From academics and healthcare organizations to non-profits, foundations and environmental NGO's, many assert a presumptive connection between health problems and shale development. These reports, regardless of validation, often get presented erroneously as fact. This presentation offers preventative legal strategies, including the use of health risk assessment, to combat unreliable science and misinformation.

■ Kathy K. Condo, *Babst Calland*, Pittsburgh, PA



CONDO



MAYER

4:45 p.m.

Adjourn Oil and Gas Track A

Tuesday, June 23, 2015

Oil & Gas Track B

8:00 – 8:45 a.m.

A Study in the Abuse of Power: The U.S. Forest Service's Efforts to Seize Control of Private Mineral Estates Underlying Pennsylvania's Allegheny National Forest

■ Craig L. Mayer, *Pennsylvania General Energy Co., L.L.C.*, Warren, PA



WATSON

8:45 – 9:30 a.m.

Hot Topics on Federal Land

Armed and angry ranchers in Nevada, initiatives to ban fracking in Colorado, ANWR closed to leasing, 21,091 acres of public land authorized for solar in California and federal management of 63 million acres for the sage-grouse. Policy initiatives for landscape-level mitigation, FLPMA planning 2.0, oil and gas leasing reforms and a new Forest Service planning rule (again). Proposed rulemakings for renewable energy, fracking and flaring. This presentation will look at what has been happening on federal lands and what's on the horizon for energy, mining and oil and gas companies.

■ Rebecca W. Watson, *Welborn Sullivan Meck & Tooley, P.C.*, Denver, CO



CASSIDY

9:30 – 9:45 a.m.

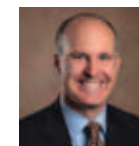
Break

9:45 – 10:30 a.m.

Mineral Title Traps

There are numerous traps in chains of title that can create problems for the unsuspecting abstractor or attorney. Here are just a few examples of the title traps to be discussed: property descriptions – reliance on recitals; heirship interests – tenancy by the entireties; executor's deed conveying specifically devised property; and unseated tax sales. This session reviews potential title traps which could be overlooked by the unwary title searcher or attorney.

■ Sean Cassidy, *Sean Cassidy & Associates, P.C.*, Greensburg, PA



ZURAKOWSKI



WATTS

10:30 – 11:15 a.m.

Can a Terminated Lease Be Cured?

This presentation will review the different provisions of an oil and gas lease that cause its expiration or termination. Additionally, termination by operation of law or otherwise will be analyzed. The difference between Ratification versus Reviver and the effects of each on the lease's validity. The Renewal provision as well as the First Right of Refusal clause will be reviewed. Finally, when is Novation proper? Said presentation will include a thorough analysis of case law in each of the Appalachian states regarding the application of each of the aforementioned legal terms. Finally, statutory requirements regarding the recording of a Release of the Oil and Gas Lease as well as statutory procedure for Forfeiture/Cancellation of a Lease shall be presented.

■ Scott M. Zurakowski and Gregory W. Watts, *Krugliak, Wilkins, Griffiths & Dougherty Co., L.P.A.*, Canton, OH



KELLER



LUSENHOP

11:15 a.m. – 12:15 p.m.

Royalty Issues Across the Basin

This presentation will provide a brief summary of the law governing royalty calculations, including the deduction of post-production costs. The presentation will highlight the traditional "at the well" and "marketable product" rules, address how the different states within the Basin have addressed the issue to date, and how it might play out in those states within the Basin that have yet to formally address the question. We will also address how the prevailing views in other jurisdictions and important recent post-production cases might influence the further development of the law within the Basin on this important issue.

■ John K. Keller and Peter A. Lusenhop, *Vorys, Sater, Seymour and Pease LLP*, Columbus, OH

12:15 – 1:30 p.m.

Lunch Break on Your Own

1:30 – 2:15 p.m.

Bad Faith Pooling and Unitization in the Development of Shale Formations

In forming production units, oil and gas operators in many jurisdictions are regularly confronted with difficult decisions, some of which may lead to future bad faith claims by lessors. These decisions include how to determine the size and shape of the unit; whether to include non-contiguous acreage in a unit; whether to include the same acreage in more than one unit; whether to revise an established unit, etc. Modern leases frequently give broad latitude to lessees in pooling/unitization matters, but to what extent do common law principles of good faith and fair dealing limit the actions a lessee may take?

- Kenneth J. Witzel, *Barnes Dulac Watkins*, Pittsburgh, PA
- Brad A. Funari, *McGuireWoods LLP*, Pittsburgh, PA
- Rodger L. Puz, *Dickie McCamey*, Pittsburgh, PA

2:15 – 3:00 p.m.

Held By Production Leases: When Are They Actually Held?

The presentation will discuss and analyze oil and gas lease provisions in the context of the “HBP Lease” under jurisprudence in the Marcellus and Utica states. We will look at when cessation in production is permanent or equates to abandonment and termination of the lease. The presentation will analyze the temporary cessation doctrine under its various guises in the producing states, and re-visit the question of whether shut in may occur during periods of depressed prices, as we are now seeing, without termination of a lease. We will address potential issues with new development under held by production leases from shallow formations and whether such wells will hold all formations or whether there are instances where such leases might partially terminate. The topic will include issues with various royalty payment scenarios and storage activity and the impact which that may have on the question of production rights under a lease. Finally, we will look at savings events and express lease provisions which attempt to maintain an oil and gas lease even where production is marginal.

- J. Thomas Lane, *Bowles Rice LLP*, Charleston, WV

3:00 – 3:15 p.m.

Break

3:15 – 4:00 p.m.

Pipeline Siting Issues

In order to build an interstate pipeline, a FERC (Federal Energy Regulatory Commission) certificate of need is required. FERC mandates a detailed process for interacting with landowners and communities along potential routes prior to considering whether to issue a certificate of need. Included in the process are a series of informational meetings in communities along the path. There are currently 3 major pipeline projects underway in West Virginia, and many more in the region. Anti-development activists have urged landowners to deny requests to survey their property until they consult with a lawyer, and are conducting their own meetings to inform landowners of their rights. Opponents of pipelines are also looking at the Clean Water Act as a means of blocking pipelines. Construction activities can require “stormwater construction” permits and “water quality certifications” for “fill” permits issued under Section 404 of the Clean Water Act. Pipeline opponents are reviewing these provisions of the Clean Water Act as potential vehicles for blocking the necessary permits. These are just some of the issues facing pipeline development in the Appalachian Basin.

- Kelley M. Goes, *Jackson Kelly PLLC*, Charleston, WV

4:00 – 4:45 p.m.

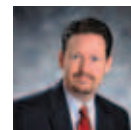
Midstream Assets – How to Get Those Pipes in the Ground!

The Keystone XL pipeline has thrust the issue of transporting oil and natural gas center-stage among energy producers, midstream asset management companies, politicians, environmental groups, and the general public. Despite the polarizing nature of the KXL discussion, statistics show that pipelines are by far the safest and most cost effective way to transport our nation’s ever-increasing supply of oil and natural gas. We will discuss the procedures and issues related to initiating new pipeline projects, focusing on the language of new easements and eminent domain issues, and we will also address the legal mechanics of expanding current pipeline capacity without the need to obtain new easements and/or rights-of-way from landowners.

- Renee V. Anderson, *Tucker Arensberg, P.C.*, Pittsburgh, PA

4:45 p.m.

Adjourn



WITZEL



FUNARI



PUZ



LANE



GOES



ANDERSON

36th Annual Institute Planning Committee

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- Program Chair, Daniel W. Wolff, *Crowell & Moring LLP*, Washington, DC
- Coal Chair, M. Shane Harvey, *Jackson Kelly PLLC*, Charleston, WV
- Oil and Gas Chair, Joseph K. Reinhart, *Babst Calland*, Pittsburgh, PA

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- William G. Williams, *Krugliak Wilkins Griffiths & Dougherty Co., L.P.A.*, Canton, OH
- Daniel W. Wolff, *Crowell & Moring LLP*, Washington, DC

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Yes, I want to attend the 36th Annual Institute.

Registration fee includes all sessions and meeting materials on USB drive, reception and dinner on Sunday, reception on Monday evening, continental breakfasts and refreshment breaks. All registrants will receive a copy of Volume 36 of the Energy & Mineral Law Institute publication in electronic format in early 2016. Guest registration covers Sunday reception and dinner and Monday reception.

<i>Registration fees</i>	<i>Early Bird by May 11</i>	<i>After May 11</i>
Non-member Registration Fee	\$900	\$1,000
EMLF Member	\$700	\$800
Young Lawyer (3 years or less), EMLF Landman, Full-Time Law Faculty and Government Attorneys	\$475	\$575
Annual Institute Speaker Fee	\$400	\$400
Guest Registration Fee	\$235	\$235

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 \$ _____
 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 765 minutes of CLE, including 60 minutes of ethics. This is equal to 12.75 CLE hours in 60-minute states and 15.3 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 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 toward 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

36th Annual Institute

June 21-23, 2015

Omni Amelia Island
Plantation

Amelia Island, Florida

Conference Accommodations

The conference hotel is the Omni Amelia Island Plantation, Amelia Island, Florida. Call 888.261.6161 for Reservations and identify yourself as part of the Energy and Mineral Law Foundation. The rate is \$239 per night plus taxes; the daily resort fee has been waived. A one-night deposit will be required by credit card, and deposits will not be refunded unless the reservation is cancelled seven (7) days prior to arrival. Resort amenities include unlimited high speed Internet access, unlimited on-property shuttle transportation, self-parking, unlimited use of health & fitness center, in room coffee, local and toll free phone access, resort beach access and preferred Racquet Club and golf course reservation access. Cutoff date for room block is May 6, 2015. Check-in is at 3:00 p.m. and check-out is at 11:00 a.m. The group rate will be honored three days prior to the conference and three days after the conference conclusion based upon availability. Use 39 Beach Lagoon Road, Amelia Island, FL 32034 for GPS directions.

You can also register online by going to the EMLF website or hotel website for access to the link:
<http://www.omnihotels.com/hotels/amelia-island-plantation/meetings/energy-and-mineral-law-foundation>

Things to Do in Amelia Island

At Water's Edge: Travel back to the Amelia Island Marina and view working shrimp boats as you shop the eclectic seaside shops to take home your own piece of Amelia Island's history. Visit one of the world's largest manufacturers of hand-sewn shrimp nets, the Burbank Trawl Makers, or the Net House, as deemed by the Island's locals.

A Horse-Drawn Carriage: For a unique perspective of historic downtown Fernandina, take a horse-drawn carriage ride with Amelia Carriages while you listen to a historical narrative of the historic district.

A Glimpse into Amelia's Past: The Isle of Eight Flags comes to life with a visit to Florida's only spoken history museum, the Amelia Island Museum of History, located in what used to be the county jail. Narrated, 90-minute walking tours take visitors through the streets of Fernandina Beach up Historic Centre Street and into the Silk Stocking District.

Historic Centre Street: Once a vibrant, Victorian seaport village, charming downtown Fernandina Beach escaped the mass commercialization of the 20th century and boasts a beautiful 50-block historic district with many original structures dating back to the late 19th century, including many Victorian-style mansions and Victorian cottages.

Tee Time: Amelia Island is truly a golfer's paradise. Named "Silver Medal Golf Resort" by Golf Magazine, Amelia Island Plantation boasts 54 championship holes. Amelia Links, designed by Pete Dye and Bobby Weed, offers 36 holes on two signature courses, Oak Marsh and Ocean Links. Long Point, home of the Amelia Island Plantation School of Golf, is designed among primal marshlands and the towering sand dunes of the Atlantic.

For visitor information and online planning, visit www.ameliaisland.com