AGENDA: Federal Lands, Laws and Policies and the Development of Natural Resources: A Short Course

University of Colorado. School of Law
University of Colorado Boulder. Natural Resources Law Center

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PROGRAM

MONDAY, JULY 28, 1980

8:00-9:00 a.m.  Registration, Courtroom Lobby, Fleming Law Building

9:00 a.m.  Welcome
Dean Thomas Brown
University of Colorado School of Law

Introduction to short course
Professor David H. Getches
University of Colorado School of Law

PART I
The Public Lands—Private Use of Public Resources

9:15-10:30 a.m.  Background and Development of Federal Lands Policy
History of public land law from the acquisition of the public domain to
the present; shifting federal policies and their effect on laws disposing of
public resources or restricting and permitting use of such resources.
Instructor: Professor Charles F. Wilkinson
University of Oregon School of Law

10:30 a.m.  Break

10:45 a.m.-  Management of Public Lands—Background
12:00 noon  Survey of federal land classifications, management agencies, and
           administrative structure.
           Instructor: Professor Charles F. Wilkinson
           University of Oregon School of Law

12:00 noon  Lunch

1:15 p.m.-  Federal Land Policy Management Act
2:30 p.m.   The effect and operation of the Bureau of Land Management Organic Act
and regulations under it relative to the use of public lands for resource
development.
           Instructor: Pamela A. Ray, Esq.
           Head, Moye, Carver & Ray
           Denver, Colorado

2:30 p.m.-  National Forest Management Act and Multiple Use—Sustained Yield Act
3:30 p.m.   An explanation of two significant statutes controlling the use of forest
           lands with emphasis on particular problems for mineral developers.
           Instructor: Jerry L. Haggard, Esq.
           Evans, Kitchel & Jenckes
           Phoenix, Arizona

3:30 p.m.  Break
3:45 p.m.- 5:00 p.m.  Jurisdictional Scheme on the Public Lands
Federal supremacy, state police power, differences between federal enclaves and other public lands.
Instructor: David E. Engdahl, Esq.
Engdahl & Renzo, P.C.
Denver, Colorado

TUESDAY, JULY 29, 1980
9:00 a.m.- 10:30 a.m.  Water Rights on Federal Lands and Their Relationship to Natural Resources Development
Impacts and benefits for developers on the public lands, impacts on water uses outside federal lands.
Instructor: Professor A. Dan Tarlock
Indiana University School of Law

10:30 a.m.  Break

PART II
Federal Environmental Statutes Affecting Resources Development

10:45 a.m.- 12:00 noon  The National Environmental Policy Act
Basic requirements of act, available remedies, examples of act’s impacts on development of minerals (hard rock, oil and gas, and coal) and water resources on and off public lands.
Instructor: Robert J. Golten, Esq.
National Wildlife Federation
Boulder, Colorado

12:00 noon  Lunch

1:15 p.m.- 2:00 p.m.  Clean Air Act
Structure of act and regulations, administrative process, examples of act’s importance in mineral development.
Instructor: Paul D. Phillips, Esq.
Holland & Hart
Denver, Colorado

2:00 p.m.- 2:45 p.m.  Clean Water Act
Structure of the act and regulations, administrative process, examples of the act’s importance in mineral development.
Instructor: George W. Pring, Esq.
University of Denver
College of Law

2:45 p.m.- 3:30 p.m.  Resources Conservation and Recovery Act
Requirements of act, regulations, and consequences for mineral development.
Instructor: Robert Hamel, Esq.
Popham, Haik, Schnobrich, Kaufman & Doty
Denver, Colorado
3:30 p.m.  Break

3:45 p.m.- 5:00 p.m.  *Environmental Regulation—An Unreasonable Impediment to Mineral Development?*
Can compliance with federal environmental statutes be reconciled with the practicalities of mineral development?
Panel discussion: Mr. Golten, discussion leader; Mr. Phillips, Mr. Pring, and Mr. Hamel, panel members.

6:00 p.m.  Cookout for all participants.

**PART III**
**Hard Rock Mining on Public Lands**

**WEDNESDAY, JULY 30, 1980**

9:00 a.m.- 10:30 a.m.  *The General Mining Act of 1872*
Purpose of act, the location system, definition of "locatable mineral," "valuable" mineral deposits, recordation, patenting.
Instructor: Loren L. Mall, Esq.
Roath & Brega
Denver, Colorado

10:30 a.m.  Break

10:45 a.m.- 12:00 noon  *Current Problems Under the Act*
Selected issues of contemporary importance under the mining act, including maintaining mining claims on an area basis against junior locators and the test of discovery of a valuable mineral deposit.
Instructor: Loren L. Mall, Esq.
Roath & Brega
Denver, Colorado

12:00 noon  Lunch

**PART IV**
**Development of Fuel Minerals (Except Coal)**

1:15 p.m.- 3:30 p.m.  *The Mineral Leasing Act of 1920*
History of act and amendments, minerals covered, background on federal reservations of subsurface minerals, administrative practice, applicable regulations and current policy.
Instructor: Professor Patrick H. Martin
Louisiana State University

3:30 p.m.  Break
3:45 p.m.- 5:00 p.m.  
**Oil Shale**  
A survey of laws and current policies concerning oil shale development.  
Instructor: David E. Brody, Esq.  
Rio Blanco Oil Shale Company  
Denver, Colorado

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**PART V**  
**Coal Development**

**THURSDAY, JULY 31, 1980**

9:00 a.m.- 10:30 a.m.  
**Coal Leasing on Public Land**  
Instructor: Harrison Loesch, Esq.  
Vice President, Peabody Coal Company  
Washington, D.C.

10:30 a.m.  
Break

10:45 a.m.- 12:00 noon  
**The 1979 Federal Coal Management Program**  
Mining under the new federal leasing program.  
Instructor: Leo M. Krulitz, Esq.  
General Counsel, Cummins Engine Company  
Columbus, Indiana  
Former Solicitor, U.S. Department of the Interior

12:00 noon  
Lunch

1:15 p.m.- 3:00 p.m.  
**Reclamation of Mined Lands**  
Surface Mining Control and Reclamation Act of 1977; state controls and administration of SMCRA.  
Instructor: Hamlet J. Barry, III, Esq.  
Deputy Director  
Colorado Department of Natural Resources  
Denver, Colorado

3:00 p.m.  
Break

3:15 p.m.- 5:00 p.m.  
**Issues in Western Coal Development**  
The effects of environment protection laws, government regulation, litigation, and unresolved issues on the development of federally controlled coal in the west.  
Panel discussion: Eleanor Granger, Esq., Washington, D.C., discussion leader; Mr. Loesch, Mr. Krulitz, and Mr. Barry, panel members.
PART VI
Federal Energy Policy

FRIDAY, AUGUST 1, 1980

9:00 a.m.-
Legislation and Policy Update
Latest developments in legislation and executive policy on energy mineral development.
Instructor: Clyde O. Martz, Esq.
Solicitor
U.S. Department of the Interior

10:30 a.m.
Break

10:45 a.m.-
Critique of Federal Policy
Is the government’s policy adequately and appropriately addressing energy and mineral resource development?
Panel discussion: Professor David H. Getches, University of Colorado School of Law, Boulder, panel leader; all course instructors will be invited to participate as panel members.

12:15 p.m.
Board bus for trip to Idaho Springs. Box lunches will be provided.

PART VII
The Mechanics of Mineral Development

1:00 p.m.-
Basic Concepts of Geology and Mineral Extraction
An introduction to terms, physical concepts, and various techniques of mineral extraction.
Instructor: Professor Robert Trent
Colorado School of Mines

A View of Mining Operations
A guided tour of the experimental mine maintained by the Colorado School of Mines.
Instructor: Professor Robert Trent
Colorado School of Mines

6:30 p.m.
Reception for all participants and instructors.
INSTRUCTORS

Hamlet J. Barry, III
B.A., Yale College, J.D.; Columbia University Law School; served as legal services attorney, Alaska and Micronesia, and Resources Attorney, Western Governors’ Regional Policy Office; formerly Director, Mined Lands Reclamation Division, Colorado Department of Natural Resources; author, “Reclamation of Strip-Mined Federal Land: Preemptive Capability of Federal Standards Over State Controls,” and “Energy Development in the West: Conflict and Coordination of Governmental Decision-Making;” currently Deputy Director, Colorado Department of Natural Resources.

David E. Brody

David E. Engdahl

David H. Getches
A.B., Occidental College; J.D., University of Southern California Law School; formerly Attorney and Counsel, Native American Rights Fund; consultant, National Park Service and American Indian Policy Review Commission; author, Cases and Materials on Federal Indian Law and “The North Slope Borough, Oil and the Future of Alaska;” currently Associate Professor, University of Colorado School of Law, Boulder, Colorado.
Robert J. Golten
A.B., University of Michigan; J.D., Harvard Law School; served as staff attorney, Department of Justice, Tax Division; Assistant General Counsel for Office of Economic Opportunity; acted as Counsel, National Wildlife Federation; taught at American University Law School and at George Washington University; presently Senior Counsel, National Wildlife Federation Natural Resource Clinic, Boulder, Colorado.

Eleanor Granger
A.B., Oberlin College; J.D., George Washington University; attorney for plaintiffs in Natural Resources Defense Council v. Hughes and Natural Resources Defense Council v. Berkland, cases relating to coal development; member of Mining Task Force of the National Coal Policy Project; presently attorney, Law Office of Bruce J. Terris, specializing in public interest litigation including environmental issues at administrative, trial and appellate levels.

Jerry L. Haggard
B.S., University of Kansas; J.D., Washington College of Law, American University; served as attorney for the Public Land Law Review Commission and member of the Arizona Environmental Planning Commission; presently a partner in firm of Evans, Kitchel and Jenckes, specializing in mining, environmental and federal, state and private land law.

Robert Hamel

Leo M. Krulitz
B.A., Stanford University; M.B.A., Stanford Graduate School of Business; J.D., Harvard Law School; practiced with Moffatt, Thomas, Barrett and Blanton of Boise, Idaho; former Solicitor, Department of the Interior; presently General Counsel, Cummins Engine Company, Columbus, Indiana.
George W. Pring

B.A., Harvard College; J.D., University of Michigan Law School; served as member, Colorado Air Pollution Control Commission Task Force for Indirect Source Regulations; author, *Mt. Vernon, Colorado Land Use Plan - 1980*; formerly Regional Counsel, Environmental Defense Fund, Denver; presently Visiting Associate Professor, University of Denver College of Law, teaching environmental, administrative and public land law.

Pamela A. Ray

B.A., University of Colorado; J.D., University of Notre Dame; author, "Section 603 of the Federal Land Policy and Management Act: An Analysis of the BLM’s Wilderness Study Process;" presently partner, Head, Moye, Carver and Ray, Denver, Colorado.

A. Dan Tarlock


Robert Trent

B.S., M.S., University of Utah; Ph.D. candidate, mineral economics, Colorado School of Mines; author, numerous articles on mining techniques; served as consultant, Allied Chemical, Gulf Oil Corporation and Department of Energy for mining operations of gold, silver, oil shale, limestone, coal and other minerals; held responsibility for production and mining operations of Sunshine Mine, Kellogg, Idaho and at Green River, Wyoming; currently associate professor of mine plant design at Colorado School of Mines, Golden, Colorado.

Charles F. Wilkinson

Harrison Loesch
B.A., Colorado College; LL.B., Yale University; maintained general trial and appellate practice, Montrose, Colorado; served as Assistant Secretary of Interior for Public Land Management and as Minority Counsel, Senate Committee on Interior and Territorial Affairs; currently Vice President, Government Relations, Peabody Coal Company, Washington, D.C.

Loren L. Mall
B.A., Kansas State University; J.D., University of Denver College of Law; author, Public Land and Mining Law; currently faculty member, Continuing Legal Education branch, Denver University College of Law, teaching mining law, and director, Roath and Brega, P.C., practicing natural resources law.

Patrick H. Martin
B.A., M.A., Ph.D., Louisiana State University; J.D., Duke University School of Law; served as Attorney, Gulf Oil Corporation in New Orleans; publications include Legal Aspects of Enhanced Oil Recovery and “Recent Developments in Mineral Rights;” presently Associate Professor of Law, Louisiana State University Law Center, teaching energy, environmental and administrative law.

Clyde O. Martz
B.A., University of Nebraska; LL.B., Harvard Law School; former Professor, University of Colorado School of Law; formerly Assistant Attorney General of the United States; partner, Davis, Graham & Stubbs; author, Cases and Materials on Natural Resources Law; presently Solicitor, U.S. Department of the Interior.

Paul D. Phillips