



# ROCKY MOUNTAIN MINERAL LAW FOUNDATION

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## Special Institute

on

# Public Land Law

co-sponsored with the

**Public Lands and Land Use Committee  
Section of Natural Resources, Energy, and Environmental Law  
American Bar Association**

**Denver, Colorado • November 13-14, 1997**

The Rocky Mountain Mineral Law Foundation is presenting a two-day Special Institute on Public Land Law at the Hyatt Regency Hotel in downtown Denver. This institute is presented during the 21st anniversary year of the Federal Land Policy and Management Act and the National Forest Management Act, and is co-sponsored with the American Bar Association, Section of Natural Resources, Energy, and Environmental Law – Public Lands and Land Use Committee.

This institute is designed to provide a comprehensive overview of the statutory and regulatory framework governing the management and use of the public lands, which comprise one-third of the nation's lands. This framework includes constitutional underpinnings, organic statutes for federal land management agencies, and a broad variety of laws and regulatory schemes governing the management and use of public lands, the protection of public resources, and historic and cultural resource preservation.

The program includes papers on the Endangered Species Act, the National Environmental Policy Act, water rights and public lands development, recreational development issues, management and protection of sacred sites, access issues, and environmental regulation. Among the many highlights of the program is a panel discussion among speakers with diverse interests addressing "hot"

issues arising on the public lands. The faculty for this institute is comprised of experts from diverse backgrounds. The goal of the program is to present a comprehensive, scholarly, and practical overview of the laws governing the use and management of the public lands and, at the same time, provide registrants with a diversity of views as to how the public lands should be managed.

The institute is directed towards attorneys, landmen, mineral developers, oil and gas operators, timber and real estate interests, recreational users, conservation and preservation organizations, federal and state agencies, and other groups interested in the management of the public lands.

The registration fee for this program includes an extensive course manual containing scholarly and practical Institute papers, two hosted luncheons, coffee breaks, and a hosted reception. **This program starts late on Thursday morning, allowing registrants to fly into Denver that day and save the cost of an extra hotel night.**

*Audiotapes and the course manual  
are available if you are unable to attend.  
See inside for details.*



# Manuals and Audiotapes



UNABLE TO ATTEND? YOU CAN STILL ORDER COURSE MATERIALS AND AUDIOTAPES	Price		TOTAL
	Non-Member	RMMLF Member	

PUBLIC LAND LAW II			
Looseleaf Manual only (PL2M)	\$125	\$ 95	\$
Audiotapes only (PL2A)	\$195	\$155	\$
Package (Manual & Tapes) – Save more than 10%	\$285	\$215	\$

RECENT MANUALS			
Onshore Pooling & Unitization (2 vols.)	\$165	\$135	\$
The Electric Industry	\$125	\$ 95	\$
Natural Resources & Environmental Litigation II	\$125	\$ 95	\$

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Materials will be shipped within four weeks after the program.

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The Rocky Mountain Mineral Law Foundation is a non-profit, tax-exempt corporation (Tax ID #84-6037688).

Friday, November 14, 1997

8:00-8:50 **RECREATIONAL DEVELOPMENT ON THE PUBLIC LANDS**

- Increased importance of recreation on the public lands
- Need for permits
- Concession management and developed recreation
- Access fees
- Conflicts between uses (e.g., motorized recreation vs. solitude and wildlife values)
- Recreational visitor problems (safety and law enforcement)

**AMES P. PERRY**, Associate General Counsel for Natural Resources, United States Department of Agriculture, Washington, D.C.

8:50-9:40 **PUBLIC LANDS DEVELOPMENT AND THE ENDANGERED SPECIES ACT (ESA)**

- Clinton administration ESA policy
  - habitat conservation planning
  - incentives to private land owners
  - biodiversity/ecosystem management
- Mechanisms under the ESA to facilitate development while accommodating and furthering species preservation goals

**ROBERT D. THORNTON**, Attorney, Nossman, Guthner, Knox & Elliott, Irvine, California

9:40-10:00 **Break**

10:00-10:50 **SACRED SITES: CULTURAL RESOURCES AND LAND MANAGEMENT IN THE WEST**

- What are "public resources" and how are they protected?
  - National Historic Preservation Act (NHPA)
  - Archeological Resources Protection Act
  - Native American Graves Protection and Repatriation Act of 1990
  - American Indian Religious Freedom Act
  - NEPA and state laws
- What does "consultation" with Native Americans require and what are the limits?
  - NHPA section 106 process
  - Endangered Species Act and other environmental statutes
- How did President Clinton's 1996 Indian Sacred Sites Executive Order change the playing field?
  - related agency policy development

- When does "accommodation" of sacred sites become "establishment"?
  - *Lyng v. Northwest Cemetery Protective Ass'n*
  - *Bear Lodge Multiple Use v. Babbitt*
- How to manage the cultural resources component in project development

**REBECCA W. WATSON**, Attorney, Gough, Shanahan, Johnson & Waterman, Helena, Montana

10:50-11:40 **FEDERAL RESERVED WATER RIGHTS, WATER RIGHTS DEVELOPMENT, AND PUBLIC LANDS DEVELOPMENT**

- Reserved water rights for public lands
- Water as a constraint on public lands development
- Development of water from public lands
- Tribal water rights
  - size, priority date, and potential impact on other water rights

**ANNE J. CASTLE**, Attorney, Holland & Hart LLP, Denver, Colorado

11:40-1:30 **Hosted Luncheon and Presentation**  
Presentation and speaker to be announced.

1:30-3:00 **PUBLIC LAND ISSUES OF THE '90s - ROUNDTABLE DISCUSSION**

- Resolution of conflicts among competing uses
- Where will the "county movement" go next?
- Mediation or consensus building resolution of public land use conflicts

**JOHN A. CARVER**, Professor Emeritus, University of Denver College of Law, Denver, Colorado; Assistant Secretary (1961-64) and Under Secretary (1965-66), Department of the Interior; Commissioner, Federal Power Commission (1966-72).

**LOIS J. SCHIFFER**, Environment and Natural Resources Division, Department of Justice, Washington, D.C.

**THOMAS D. LUSTIG**, Staff Attorney, National Wildlife Federation, Boulder, Colorado

**CONSTANCE E. BROOKS**, Attorney, C.E. Brooks & Associates, P.C., Denver, Colorado

3:00 **Adjournment**

**44th Annual Rocky Mountain Mineral Law Institute**  
**July 23-25, 1998 • Snowmass, Colorado**

Walter E. Stern, Program Chair; Modrall, Sperling, Roehl, Harris & Sisk, P.A., Albuquerque
Catherine J. Boggs, Baker & McKenzie, San Francisco and Jakarta
Laura Lindley, Bjork, Lindley & Danielson, P.C., Denver
John F. Shepherd, Holland & Hart LLP, Denver
Rebecca W. Watson, Gough, Shanahan, Johnson & Waterman, Helena

Registrants from outside the U.S., please also attach a business card if possible.

Public Land Law

(Please type or print legibly)



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Badge Name (if different from above)
Employer
Mailing Address
City State/Prov
Postal/ZipCode Country
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Fax

Please check all that apply: Attorney Landman Management Consultant
Other (please specify)

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9:00-10:15 **Registration**

10:15-10:30 **Opening Remarks**

**FRANK ERISMAN**, President, Rocky Mountain Mineral Law Foundation; Attorney, Holme Roberts & Owen LLP, Denver, Colorado

**WALTER E. STERN**, Program Chair; Attorney, Modrall, Sperling, Roehl, Harris & Sisk, P.A., Albuquerque, New Mexico

10:30-11:15 **EVOLUTION OF THE PUBLIC LAND LAW: FROM CONSTITUTIONAL UNDERPINNINGS TO FLPMA AND BEYOND**

- Constitutional underpinnings for the ownership, control, and management of federal public lands
- Public Land Law Review Commission (PLLRC)
- Development of the Federal Land Policy and Management Act (FLPMA)
- Twenty year evolution of public lands management since FLPMA's passage
- Efforts in 1995 and 1996 to revamp public land laws

**GEORGE CAMERON COGGINS**, Frank Edwards Tyler Professor of Law, University of Kansas School of Law, Lawrence, Kansas

11:15-12:00 **THE APPLICATION OF NEPA TO THE PUBLIC LAND MANAGEMENT AGENCIES AND DECISIONS**

- When should a development project be based upon an environmental impact statement versus an environmental assessment?
- Consideration of project alternatives and cumulative impacts in the NEPA analysis
- How the assessment of socioeconomic impacts can assist project proponents
- How NEPA applies to agency planning and rulemaking functions
- Are court injunctions the proper remedy for a NEPA violation?
- Standing of parties with economic interests in NEPA litigation.

**R. TIMOTHY McCRUM**, Attorney, Crowell & Moring LLP, Washington, D.C.

12:00-1:45 **HISTORY OF THE PUBLIC LANDS**  
(Hosted Luncheon and Presentation)

**PATRICIA NELSON LIMERICK**, Professor, Department of History, University of Colorado, Boulder, Colorado; 1995 MacArthur Foundation grant recipient

1:45-2:30 **FEDERAL LAND USE PLANNING AND ITS IMPACT ON NATURAL RESOURCES DEVELOPMENT ACTIVITIES**

- How federal land use plans influence resource management decisions and allowable uses
- The planning process and opportunities for public involvement
- Ecosystem management and the expanding scope of federal planning

**SCOTT W. HARDT**, Attorney, Ballard Spahr Andrews & Ingersoll, Denver, Colorado

2:30-3:20 **CURRENT ISSUES IN ACQUISITION AND MAINTENANCE OF DEVELOPMENT RIGHTS ON PUBLIC LANDS**

- Acquisition of development rights under applicable statutory schemes
- How to maintain development rights and interests
- Cost recovery regulations, filing fees, etc.

**CONSTANCE E. BROOKS**, Attorney, C.E. Brooks & Associates, P.C., Denver, Colorado

3:20-3:40 **Break**

3:40-4:20 **ENVIRONMENTAL REGULATION AFFECTING EXTRACTIVE INDUSTRY ACTIVITIES ON THE PUBLIC LANDS**

- Clean Water Act permitting, section 401 certification, water quality standards setting, and non-point source regulatory issues
- Clean Air Act standards setting, regulatory issues, and permitting issues
- Resource Conservation and Recovery Act (RCRA) hazardous waste regulation and exemptions
- Federal vs. state regulatory control and other jurisdictional disputes – the ongoing debate
- Surface disturbance regulation

**LOUIS W. ROSE**, Attorney, Montgomery & Andrews, P.A., Santa Fe, New Mexico

4:20-5:00 **ACCESS ISSUES AND PUBLIC LANDS RIGHTS-OF-WAY**

- Access issues and acquisition of rights-of-way across public lands
- R.S. 2477
- Federal Land Policy and Management Act
  - Bureau of Land Management
  - U.S. Forest Service

**MARK D. BINGHAM**, Attorney, Davis, Graham & Stubbs, LLP, Denver, Colorado

5:00-6:30 **Hosted Reception**