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Message from the Chair **by Kevin Desharnais**

Dear EENR Members,

I am honored to serve as the 2011–2012 chair of the Environment, Energy, and Natural Resources of the FBA. On behalf of the EENR Board, I am pleased to extend a warm welcome to all of our section members. We extend a heartfelt thank you to John Harms, our 2010–2011 chair, for his leadership during a very successful year, in which our programming covered a broad spectrum of timely topics, ranging from a panel on hydraulic fracturing at Tulane University, to sponsoring a speaker on forest planning at the University of Montana's Forestry Conference, to co-sponsoring the California Bar Association's Environmental Law Conference. In addition, we had the opportunity to collaborate with the Federal Judicial Center in developing a handbook on international environmental law for the federal judiciary, through the considerable efforts of past chair Warren Burke. Our year ended on a high note at the 2011 Annual Meeting, held right in my hometown of Chicago, where we hosted a welcome reception and presented a panel on renewable energy that included EENR Board member and Deputy Chair Sheila Slocum Hollis, and which I had the pleasure of moderating.

In the coming year, we intend to build on these successes by continuing the tradition of offering timely programming and information to our members. Our membership reaches from Braintree, Mass., to San Juan,

P.R., and from Maui, Hawaii, to Anchorage, Alaska, and we intend to extend the reach of our programming to all of our membership by adding webinars on timely topics. We also welcome the opportunity to work with local chapters and other sections and divisions on co-sponsoring presentations on timely and relevant topics in your area. If you are interested in having the EENR Section cosponsor a program with your local chapter, do not hesitate—give us a call!

I also note that the July issue of *The Federal Lawyer* will focus on environmental issues, and we are looking for interesting content. This is a great opportunity to reach an audience of 16,000 federal practitioners. Please see the writer's guidelines on *The Federal Lawyer's* section of the FBA website (www.fedbar.org/TFLwritersguidelines) or contact Managing Editor Stacy King at (571) 481-9100 for more information.

I welcome your input, ideas, and energy and encourage you to reach out to me or our Programs Committee Chair, Ken Gelburd, with any questions, suggestions or programming ideas. We look forward to an exciting year.



Message from the Editor **by John Harms**

I hope you find this Environment, Energy, and Natural Resource newsletter informative and interesting. EENR has been active throughout the country and on many topics. As you'll see in the article in this issue, "The Shale Gas Phenomenon," on April 18, 2012, we are hosting a webinar on hydrofracking, featuring speakers on the frontline of this important issue, featuring Elizabeth Nolan and Scott Perry. The moderator, Ken Gelburd, moderated a panel on hydrofracking at the Tulane Environmental Law Summit in March, 2012. Our panel discussion at the FBA Annual Convention in Chicago, in September 2011, was on "Hot Topics in Renewable Energy." We sponsored a speaker at the State Bar of California's 2011 Environmental Law Conference at

Yosemite in October. We also sponsored a speaker the 34th Public Land Law Conference, Strengthening our Roots: Forest Law & Policy in a Changing World, at the University of Montana, Missoula, Montana, in September, 2011.

We welcome your submission for future editions of our newsletter on topics of all sorts on energy, environment, and natural resources law. It can be a short piece about developments in the law or an announcement of an upcoming event or news items about our members or anything else of interest to our members. This is your chance to spread the word and get in print! Please call me at 978-235-3633 or email johnkharms@gmail.com.



Welcome to Our New Members!

Welcome to our new members! Our colleagues, listed below, have joined us since the annual convention in Chicago. Please join us in welcoming them to the Federal Bar Association.

- Elizabeth L. Adams, Taylor Porter Brooks & Phillips, Baton Rouge, La.
- William C. Alexander, Sico White Hoelscher & Braugh LLP, Corpus Christi, Texas
- Jonathan B. Andry, Andry Law Group LLC, New Orleans, La.
- Sudeb Basu, The Law Offices of Sudeb Basu, Herndon, Va.
- Richard C. Beaulieu, McGuire Woods LLP, Richmond, Va.
- Jeb E. Boatman, McAfee & Taft APC, Oklahoma City, Okla.
- Justin A. Brown, DLA Piper, Boston, Mass.
- David J. Damico, David J. Damico Attorney at Law, Roanoke, Va.
- Domenico R. DePaoli, Woodburn & Wedge, Reno, Nev.
- Gordon H. DePaoli, Woodburn & Wedge, Reno, Nev.
- Lawson E. Fite, Markowitz Herbold Glade & Mehlhaf, PC, Portland, Ore.
- Lydia M. Floyd, Jones Day, Cleveland, Ohio
- Krystin M. Frazier, King Krebs & Jurgens, New Orleans, La.
- Marianne M. Ghim, Bullivant Houser Bailey PC, Portland, Ore.
- Ari J. Hoffman, Cohen & Wolf PC, Bridgeport, Conn.
- Gary S. Humble, Tennessee Bar, Signal Mountain, Tenn.
- Jeffrey B. Isaacs, Isaacs Friedberg LLP, Los Angeles, Calif.
- Collie F. James, Latham & Watkins LLP, Costa Mesa, Calif.
- Susan B. Jerich, Murphy Pearson Bradley & Feeney, Los Angeles, Calif.
- J. Rene Josey, Turner Padget et al. PA, Florence, S.C.
- Jan L. Kahn, Kahn Soares and Conway LLP, Hanford, Calif.
- Pneet V. Kakkar, Caldwell Leslie & Proctor PC, Los Angeles, Calif.
- Murray Kamionski, Law Office of Murray Kamionski, Manhattan Beach, Calif.
- Jen Kopischke, Leonard, Street and Deinard, Minneapolis, Minn.
- Riyaz Kanji, Kanji and Katzen PLLC, Ann Arbor, Mich.
- Jonathan Kasen, Fort Lauderdale, Fla.
- Mark Keller, Law Office of Mark J Keller Ltd, Dayton, Ohio
- L. Riley Kern, Tulsa, Okla.
- Deborah D. Kuchler, Kuchler Polk Schell Et Al LLC, New Orleans, La.
- Erin Lagesen, Oregon Department Of Justice, Salem, Ore.
- Andrew K. Levi, Nardello & Co, Miami, Fla.
- Kristen G. Marttila, Lockridge Grindal Nauen PLLP, Minneapolis, Minn.
- Paula M. Mitchell, Ninth Circuit Court of Appeals, Los Angeles, Calif.
- Tom Paige, U.S. Department of Labor, Arlington, Va.
- Yelena Sharova, Law Offices of Vangrodoska, Brooklyn, N.Y.
- Alexandra E. Shea, Mayer Brown LLP, Chicago, Ill.
- James S. Shirley, University of Idaho, Moscow, Idaho
- Gautam B. Singh, Singh Law Firm PLLC, Troy, Mich.
- Terry D. Van Horn, Terry D. Van Horn Law Firm, Columbus, Ohio
- Court C. VanTassell, Sher Garner Et Al, New Orleans, La.
- Rene G. Zarazua-Garcia, Law Office of Joe A. Gamez, San Antonio, Texas
- Brandon D. Zeller, Wall Bullington & Cook, Harahan, La.



At the 2011 FBA Annual Meeting and Convention in Chicago—(left photo) Paul J. Astolfi of Mayer Brown LLP makes a presentation on “Hot Topics in Renewable Energy: Finance;” (right photo) EENR Section Vice Chair Sheila Slocum Hollis of Duane Morris LLP makes a presentation on “Hot Topics in Renewable Energy: Transmission and Siting.”

The Shale Gas Phenomenon: The Rise of Hydraulic Fracturing and Directional Drilling, and Their Environmental Implications

by Kevin Desharnais

The energy industry is ablaze with news and commentary concerning the shale gas industry, fueled by the twin technologies horizontal drilling and hydraulic fracturing (frequently referred to as “fracking” or “fracking”). These “unconventional gas extraction techniques” have allowed the energy industry access to vast quantities of hydrocarbons in the form of natural gas and natural gas liquids previously locked away in inaccessible, tight shale formations. By some estimations, the unlocking of these vast resources has the potential literally to change the world’s energy balance, possibly transforming the United States into a net exporter of energy.

Hydrofracking works by injecting fluids into the drilled wells under high pressure to create fissures in the rock, allowing trapped hydrocarbons to escape. “Proppants” such as sand or ceramic beads are pumped into the wells and lodge themselves in the fractures, preventing the fractures from closing. This technology is combined with horizontal drilling techniques, which extend the fracturing across a much larger lateral area, allowing significantly enhanced quantities of gas to be recovered from a single well. Use of horizontal drilling and hydrofracking techniques have allowed energy companies to access vast hydrocarbon resources located in shale basins across the country, including the Barnett Shale in North Texas, the Bakken Shale in the Dakotas and Montana, the Marcellus and Utica Shales in the Appalachians (including Ohio, Pennsylvania, and New York), the Eagle Ford Shale in South Texas, the Hayneville Shale in Louisiana, and the Woodford Shale in Oklahoma.

In addition to unleashing vast quantities of energy, the rise of hydrofracking and directional drilling techniques has generated a wide range of environmental concerns. Many of these concerns center on the potential for groundwater contamination, with potential sources including the perceived risks of contamination from the hydrocarbons themselves, and the risk of a release of produced water or fracking fluids. Other perceived risks include: potential seismic impacts from the reinjection of fracking fluids and produced waters into the subsurface; leaking into the air of methane, which is itself a greenhouse gas; and naturally occurring radioactive materials in discharged wastewaters.

The perceived environmental risks of hydrofracking have been met with a wide range of government

responses, from reliance on existing regulations governing oil and gas drilling, to imposition of specific regulatory requirements on fracking operations, to an outright ban on fracking activities. Federal legislations in the form of the “FRAC Act” has been proposed, and US EPA is considering adopting comprehensive fracking regulations. In addition, several states have promulgated regulations targeting the fracking industry. In perhaps the most drastic step, New York has suspended the issuance of most permits for shale gas drilling and imposed a moratorium on high volume fracking combined with horizontal drilling, pending further study of the issue by the New York State Department of Environmental Conservation. In addition, local governments in many affected areas of the country have likewise issued regulations targeting hydrofracking operations within their jurisdictions.

The sheer volume of activity in the shale gas industry can be overwhelming. To help make sense of these issues, and to present our members with the most up to date information possible, the Environment Energy and Natural Resources Section of the Federal Bar Association is pleased to announce that, on April 18 at 1 p.m. Eastern time, we will be hosting a webinar which showcases the most recent comprehensive statutory scheme addressing regulation of hydrofracking. The speakers, both from the Pennsylvania Department of Environmental Protection, are Elizabeth Nolan, regulatory counsel for oil and gas, and Scott Perry, deputy secretary for oil and gas management, and the moderator will be EENR Board member and Program Chair Ken Gelburd. The webinar will be free to all FBA members, and will be available to nonmembers at a cost of \$10, or free with a new membership to the FBA. CLE credit is pending. To register, please visit www.fedbar.org. Call in information will be given the day before the webinar.

If you have any questions, please contact Jenny Bosak at Jbosak@fedbar.org or (571) 481-9118. We hope you are able to join us for what promises to be a lively and informative discussion. ♦

SEND US YOUR CURRENT E-MAIL ADDRESS!

We are lacking current e-mail addresses for many EENR Section members. During the remainder of the year, we intend to communicate with members exclusively by e-mail. So if we do not have your correct e-mail address, you will be missing out! If you have not been receiving e-mails announcing EENR Section events, please send your updated contact information to membership@fedbar.org

Save the Date!

The Federal Bar Association Environment, Energy, and Natural Resources Section (EENR) is pleased to announce that, on April 18 at 1 p.m. Eastern time it will host a webinar on a topic of the highest interest to regulators, the energy industry, and the general public: natural gas development by hydraulic fracturing. Learn about the most recently enacted comprehensive statutory scheme addressing regulation of shale hydrofracking. The speakers, both from the Pennsylvania Department of Environmental Protection, will be Elizabeth Nolan, regulatory counsel for oil and gas, and Scott Perry, deputy secretary for oil and gas management, and the moderator will be EENR Board member and Program Chair Ken Gelburd. The webinar will be free to all FBA members and will be available to nonmembers at a cost of \$10. CLE credit is pending. To register, please contact Jenny Bosak at Jbosak@fedbar.org or (571) 481-9118. Call in information will be given the day before the webinar. We invite you to join us for what promises to be a lively and informative discussion.

On June 27, 2012, at noon Eastern time, the Environment, Energy, and Natural Resources Section of the FBA, together with the Capitol Hill and DC Chapters of the FBA, are pleased to present a lunchtime program featuring Michael Bardee, the general counsel of the Federal Energy Regulatory Commission. Bardee will provide an insider's perspective on FERC practice, an overview of the interaction of FERC with the private bar, and practical tips for practicing before FERC. The program will be held at Duane Morris' offices at 505 9th St NW, Suite 1000, Washington D.C. Lunch will be provided for attendees. This will be the first in a series of events featuring speakers from Federal departments and agencies in the environmental, energy, and natural resources areas.

Energy, Environment, and Natural Resources Section Leadership

<p>CHAIR Kevin G. Desharnais Mayer Brown LLP 71 S Wacker Dr Chicago, IL 60606 kdesharnais@mayerbrown.com (312) 701-8079</p>	<p>DEPUTY CHAIR Sheila S. Hollis Duane Morris LLP 505 9th St NW, Ste 1000 Washington, DC 20004 sshollis@duanemorris.com (202) 776-7810</p>	<p>TREASURER Erik E. Petersen USDOJ 601 D St NW Washington, DC 20004 Erik.Petersen@usdoj.gov (202) 305-0339</p>	<p>IMMEDIATE PAST CHAIR John K. Harms Missile Defense Agency 15707 Beacon Ct Dumfries, VA 22025 John.Harms@us.army.mil (540) 663-6104</p>	<p>PROGRAMS COMMITTEE CHAIR Kenneth A. Gelburd PA Dept. of Environmental Protection 2 East Main St Norristown, PA 19401 kgelburd@pa.gov (484) 250-5930</p>
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Get More Involved— Join the Section Leadership!

Are you interested in becoming more involved in the section's leadership? Would you like to meet more of your fellow section members? Now is the time! We are currently accepting applications for section members to serve on the section's board during FY2012. There is no formal application process. You need merely send an email expressing your interest to incoming section chair Kevin Desharnais at kdesharnais@mayerbrown.com.

The Environment, Energy and Natural Resources Section of the Federal Bar Association is concerned with new and significant legislation, regulatory programs, and national policy in the areas of energy and environmental law. The scope of the section ranges from environmental concerns and waste control efforts in this country to the use of America's public lands. The section's jurisdiction stretches to the U.S. energy policy. It encompasses the exploration, development of use of our natural resources.

EENR Pursuits is a quarterly publication of the Federal Bar Association Section on Environment, Energy and Natural Resources, 1220 North Fillmore Street, Suite 444, Arlington, VA 22201, (571) 481-9100, (571) 481-9090 (fax), fba@fedbar.org, www.fedbar.org. © 2012 Federal Bar Association. All Rights Reserved. ISSN No. 1553-4871.