


LAW WEEK

COLORADO

GREEN ENVY

In our quarterly managing partner roundtable, environmental experts weigh in on emerging technologies and how to tap into the stimulus kitty. PAGE 12



From top, clockwise: Tucker Karl Trautman of Dorsey & Whitney, LLP; Lynn P. Hendrix of Holme Roberts & Owen, LLP; Dudley P. Spiller, Jr. of Ryley, Carlock & Applewhite; Tiffanie D. Stasiak of Lindquist & Vennum, PLLP; William M. Silberstein of Isaacson Rosenbaum, P.C.; Howard Kenison of Lindquist & Vennum, PLLP

PHOTO BY LARRY LASZLO

roundtable

SPOTLIGHT

Inside the Boardroom

Edited By Cara DeGette
Photos By Lindsey Heckel
LAW WEEK COLORADO

Being Green And Generating Green Dominates Roundtable

Editor's Note: Law Week Colorado's second quarterly roundtable discussion, held on May 27, focused on the emerging green technology, including Colorado's leadership role in creating related business and jobs, how law firms are matching clients up with stimulus funds and what firms are doing to adopt green practices from within. Special thanks to Hunter + Geist for assistance in transcribing the roundtable.

The within proceedings were held at the Ritz-Carlton Hotel, 1881 Curtis St., Second Floor Boardroom, Denver, Colorado 80202, on May 27, 2009, at 1:56 p.m., before Teresa Coogle of Hunter + Geist, registered professional reporter, certified real-time reporter and notary public within Colorado.

Moderators: Don Knox and Cara DeGette

Participating Managing Partners:

Tiffanie D. Stasiak - Lindquist & Vennum, PLLP

Howard Kenison - Lindquist & Vennum, PLLP

Dudley P. Spiller, Jr. - Ryley, Carlock & Applewhite

Tucker Karl Trautman - Dorsey & Whitney, LLP

Lynn P. Hendrix - Holme Roberts & Owen, LLP

William M. Silberstein - Isaacson Rosenbaum, P.C.

MR. KNOX: Most economists predict the recession will end this year. In addition, Colorado has been described as being at the forefront of green energy technology. Is this hype or hope, and if it's a reality does this position Colorado to recover from the recession more quickly?



From left, Howard Kenison, Tiffanie D. Stasiak, Lynn P. Hendrix, William M. Silberstein and Law Week's Don Knox gather in the boardroom at the Ritz-Carlton downtown.

MR. KENISON: First of all, I don't think Colorado has been impacted as much as the rest of the economy.

MR. KNOX: Right.

MR. KENISON: Second, I don't know the exact figures, but I understand that Colorado is at least in the top five, if not the top three, in so-called green technology. And, in part, that's driven by the fact that we're at a place where we have wind, we have solar, we have a relatively good transmission grid, although we're going to need to do a lot of work to update that grid to bring renewables on line. And the other piece is, I think we have two electric utilities, at least, Tri-State and Xcel, that are willing to look at renewables as part of their portfolio, which means that they will have to have funds put into that. So I think it actually will help us recover a little faster, as long as the stimulus money flows to the state like it's promised. Now, whether it can

actually be moved through the system that fast...

MR. KNOX: What kind of stimulus money do you see?

MR. KENISON: Well, the total number we've seen in the ARRA is \$70 billion is supposed to be aimed at renewable or so-called green energy. It will depend - each sector is going to get a different amount.

MR. KNOX: Colorado could see how much of that \$70 billion?

MR. KENISON: I don't have the answer to that. It would be up to the governor's energy office.

MR. KNOX: Does everyone agree with Howard?

MR. TRAUTMAN: No. Never have. I think there are two components that I would focus on. One is the stimulus, which is

“We don't have the political courage to tax it as they do in Europe. And energy efficiency projects, to me, are kind of the low-hanging fruit of the green technology.”

- William M. Silberstein

kind of a jump start. And it's artificial, to some extent, because it's a transfer payment we're making to an industry to, essentially, help it get started. And Dudley and I were talking before the session, we've been talking about wind energy, for example, for a long time. And, obviously, solar energy - we've been talking about it for a long time;

but the technology is changed in many important respects. But it's still not, without the subsidies, economically feasible. Without the oil prices going up, it's not going to be economically feasible. I think what's happening – and I think we're all going to try to take advantage of it – is that there is money coming in, there are companies that are taking companies, universities, public entities like NREL, National Renewable Energy Laboratory, that are going to have funds available to kind of get us jump-started. And I think that's all a good thing. But long-term, a couple of things are going to have to happen. The technology is really going to have to advance and do so, I think, in some fundamental ways. Number one, to lower the cost. And, number two, the oil prices are going to go back up. And when they do, the price signals will be right and the industry will take off. And, yes, I agree with Howard to the extent we're well-positioned. Not only do we have entities like NREL here, we have sunshine, and we have lots of scientists and engineers, some of whom are transitioning from other industries into this industry. But I think it will be a boom for Colorado.

MR. KNOX: We have cheap oil right now.

MR. TRAUTMAN: We have cheap oil. You look at all of the Priuses now. Before, you couldn't buy one. Now people give them away with incentives. That's just one example.

MR. SPILLER: You know, I do a lot of work with Xcel Energy. In addition to the factors that have been discussed by Tucker and Howard, one of the primary factors is that, you know, at one time the whole notion of wind energy and solar and it being widely available and widely used was really kind of a joke. But it's evolved. And one of the things that's really helping that is that Xcel Energy, from its headquarters, is really committed to wind energy. It wants to be the No. 1 provider of wind energy in the country. It's got Minnesota



William M. Silberstein of Isaacson Rosenbaum, right, and Lynn P. Hendrix of Holme Roberts & Owen hash over the reality that Colorado is creating jobs through green technology to a greater degree than the other sectors.

and Colorado as the two primary states. So that helps drive it. And, the governor appointed a couple of guys to the PUC who are really trying to drive that train. I think the final piece that we have to account for is that reason before we had this recession, and even before we had the higher-than-expected oil prices, you have a very, very committed segment of the population that really drove renewables in the state through Amendment 34. So you have that confluence of people at every level: At the PUC, in local government, at the state government. And, yeah, we may be subsidizing green energy, but it's being subsidized through rates that we're all paying and will continue to pay. And so it's going to drive us to do some things differently than we would. That could be an artificial stimulus or it really could be reflecting the true cost of the energy. I personally got a tankless hot water heater about two months ago because of the rebates and because of the credit. And it's less convenient than having a big, old 50-gallon tank. It seems to work.

MR. KNOX: Can we continue to subsidize it, though?

MR. SPILLER: That's a good question. I mean, that is the \$64 question. I don't know.

MR. HENDRIX: Your first

question was, is it hype or hope? Hopefully, it's more than that. I mean, I think it's a reality that we have to get there eventually. It's a continuing evolution. Just like we evolve, our energy use has to evolve in different areas. And so I look at the electric generation side and then technology side. I think we're, by far, ahead on the technology side because of CSU, CU, School of Mines, NREL; but don't kid ourselves. We are behind in wind and solar. I mean, Texas and California got us beat hands down in wind. New Mexico and Arizona have us beat in solar, that electrical generation side. The grid, we don't have any way to connect to the grid. It takes two years to do those types of projects. And we've got to get where we can do those projects quicker, if we want to really get to that independent state. But I think that in the long run, the second part of your question, is Colorado quicker than other areas? I think because of the technology, I think it will be. I mean, we do have very good technology base. They work together very well. And, again, I'm referring to NREL, CSU, CU and School of Mines.

MR. KNOX: Who pays for the grid?

MR. HENDRIX: It's going to have to be subsidized. I don't think we can get rid of subsidies. Oil will go up and down and up

“I was in Europe last summer and as the light starts to fade at the end of the day, the workers move closer to the windows in the offices. The fluorescent lights aren't on.”

– Tiffanie D. Stasiak

and down. And the more it goes down, at times, projects get put on hold, they don't get built.

MR. KNOX: So the government pays for the grid or people for the grid?

MR. HENDRIX: Both. We'll see an increase in electricity prices. Will that be enough to pay for the grid? I think it's doubtful. I mean, even wind, solar, today, a year ago, were not economical without tax subsidies.

MR. SPILLER: You know, one of the things I would say is that I think you really put your finger on it in terms of one of the major constraints we have is a transmission system that really isn't designed to get the energy from the places where it's created to the places where we are



The many faces of Lynn P. Hendrix, a partner at Holme Roberts & Owen, LLP's Denver office. Hendrix's practice includes a particular emphasis on energy and natural resources, intellectual property, finances and lending law.

using it. And then to export it as well.

MR. HENDRIX: Yeah, if we could export...

MR. SPILLER: That's a huge constraint.

MR. HENDRIX: If the Rocky Mountain area could export and have the ability to export natural gas, this would be the area of choice for all of these things, all of these projects.

MR. SILBERSTEIN: Anschutz announced a feasibility study for a large wind farm in southern Wyoming with a transmission line to the Southwest where the users are. It's a lot like natural gas where we can produce a lot, but we don't have the ability to transport it to where the people are who want to consume it if we have price reductions. Hype or hope, I think it's a reality. I think we are starting to create jobs in Colorado through green technology to a greater degree than the other sectors, which are shedding jobs. The few jobs we are creating seem to be in the green technology area. And we have the state administration and the federal administration that are promulgating public policies that really support the change. And I think it starts with climate change and people's attitude and, particularly, young people's attitudes. If you believe that climate change is a problem – and, I think, most business people have now come around to the realization that it is a problem – there's a social good in producing alternative technologies that are driving a lot of these changes

in public policies. Our governor, his administration, have wisely hitched a wagon to that. And I'm glad to see the creation of a few jobs.

MR. KNOX: Setting aside whether the governor is going to get re-elected for a moment, the point about Anschutz was interesting. Is he financing it...

MR. SILBERSTEIN: I think the project budget was \$6 billion. I think it was \$3 billion for wind turbines and \$3 billion for the transmission line. I don't have any firsthand information, but that's a lot of money in a financing market that doesn't really exist at the moment.

MR. TRAUTMAN: There's a fundamental problem, I think, when we're talking about cap and trade as a way to deal with some of these issues. We're right in the middle of a recession. And there are a lot of people who are opposed to it, because it is going to raise the price of electricity. But it's probably the right price signal, because carbon does cause problems. And it will incent people to develop projects that don't give off carbon dioxide. So one of the problems right now is that we're trying to come out of a recession, we're talking about trying to change these pricings. Europe, for example, has had these gasoline taxes, which are just enormous compared to what we have here. And politically, I don't think we have the stomach, especially in the middle of a recession, to do anything about that. But if we did, then I think the price signals would be right; but there would be a lot of

dislocations. People wouldn't be able to pay their electric bill. It's a problem. I think it's going to be one that's going to have to be worked out over a longer period of time.

MR. KNOX: So it sounds like everybody is saying it's going to go slower than maybe it should because of the financial markets, because of this price sensitivity that you're talking about.

MR. HENDRIX: It will go slower than we want it to and slower than it should.

MR. KNOX: Is green energy going to help us out?

MR. HENDRIX: It will help.

MR. TRAUTMAN: Do you ever surf?

MR. KNOX: Do I ever surf?

MR. TRAUTMAN: Yeah. There's waves that come in. You catch those waves and you ride them until they dissipate, and you go catch another one. It's going to be a little bit like that.

MR. SILBERSTEIN: One of the questions is whether the stimulus money can really help kick-start the money. And there's stimulus money through the governor's energy office for, kind of, nuts and bolts, weatherization, insulation projects – and public housing projects and in the public sector that have the potential to employ people quickly. It's not necessarily a high-skilled labor requirement. It's whether our state and/or country can rise to the challenge of spending this

“We save about 30 percent on paper costs from last year by doing the two-sided copying and two-sided printing. Also, we don't use bottled water anymore. We filter tap water.”

– Lynn P. Hendrix

money quickly. If we can, it will put people back to work.

MS. DeGETTE: You're echoing some of what Vice President Biden was saying recently when he was in Denver ...

MR. HENDRIX: That's scary.

MR. SILBERSTEIN: I object. Just kidding.

MS. DeGETTE: It does raise a question of whether or not we're able to offset some lagging technologies like wind and solar with other kinds of technologies. Isaacson Rosenbaum, and others have been involved in environmental clean-up, LEED projects, those kinds of areas. The low-income housing example that you mentioned, where real money can be used to improve in real ways, is another example. So perhaps you can expound on that a little bit.

MR. SILBERSTEIN: It does have a lot to do with energy prices in the long run. I agree

with Tucker. The energy market is a crazy market. I remember driving on vacation last year and filling up \$4.57 a gallon. This week, it's two-and-a-quarter. It just seems like there are billions of people in China and India that seek the lifestyle that we have. And it's just hard to imagine that we're not in some kind of situation where, sooner or later, energy prices are going to rise. And I think that's what's going to drive it. We don't have the political courage to tax it as they do in Europe. And energy efficiency projects, to me, are kind of the low-hanging fruit of the green technology. Buildings, commercial buildings and residential buildings, consume the majority of the electricity in the United States. And they were not built to be efficient, particularly commercial buildings. And there's, I think, a tremendous opportunity for retrofitting buildings driven by economic savings. Not necessarily because it's the right thing to do, although, it is; but because businesses can save money.

MR. TRAUTMAN: The problem, too, with the energy prices is they go down. And then they come back up. So if you're an investor trying to invest for a long-term project, 15 years or 20 years, or whatever it is, it's difficult to project that a price is going to stay above a certain level. Which might say that government ought to set forth – again, it's a subsidy, but set a floor. That's much like what happens in Europe with the gasoline prices. So you know the price will not fall below a certain amount. Then investors could look at the project and say, 'Well, we know prices can be at least this, and it's likely to go up from there.' And then they will invest some money in other alternative energies.

MR. KNOX: Sounds interventionist, no? Is it? How does the floor work? I mean, it doesn't go below a certain price because ...

MR. TRAUTMAN: It's like the gasoline tax.

MR. KNOX: Doesn't go below



Tucker Karl Trautman of Dorsey & Whitney, LLP, with Dudley P. Spiller, Jr. of Ryley, Carlock & Applewhite looking on.

three bucks and it's a fluid tax?

MR. HENDRIX: How politically viable do you think it is?

MR. TRAUTMAN: I don't think it is politically viable now at all.

MR. SPILLER: But, you know, some investors have already started investing in commercial buildings here in Denver that have all those features. There's one going up at 18th and Larimer which is supposed to be a state-of-the-art LEEDs platinum building. And the first thing they did was locked up Xcel for about two-thirds of the space in the building. So, without any kind of subsidy or intervention, some of these investors are doing that. Whether that's going to continue, I can't tell you. I know it's going to be driven by the economics, but I don't know all of the factors that are going to drive those economics.

MS. STASIAK: It's going to be driven by economics, but I think there will be a social driver that we'll see. I don't think we'll be necessarily working within that environment at that time. But reflecting on what you said about

Europe, the whole social structure, you take a city like Berlin, for example, parents don't have two SUVs and a house in the suburbs, and they just – they don't live that way. And the gas tax is real. It's always been there. It's part of their lives. But driving the way we drive and living the way we live is not part of their lives. And that is something that I see in the generation coming up that I really like. You know, speaking to the law firms, it poses challenges for us because they value what they do with their life. They work to live, not live to work, and they make that known. And so we have to grapple with that even within law firms. I was in Europe last summer and, for example, as the light starts to fade at the end of the day, the workers move closer to the windows in the offices. The fluorescent lights aren't on. That's not the way they live. I think that generation coming up in the United States has that. And so I think we'll have a social driver.

MR. SPILLER: You can see that just in Denver the amount of infill that's taking place in the downtown area. I'm just amazed. And it's mostly young people.

“You catch those waves and you ride them until they dissipate, and you go catch another one.”

– Tucker Karl Trautman

And if you're down here on the weekend, the number of people riding bicycles and skating around and walking downtown, it's amazing to me.

MS. DeGETTE: Within your own firms, are you seeing your associates and some of the younger attorneys having an extra push for adopting green technology and doing things green? You're all nodding.

MS. STASIAK: You bet.

MS. DeGETTE: Perhaps we can talk a little bit about specifics about what you're doing and what they are really pushing for.

MR. TRAUTMAN: We've got a green committee.

MR. HENDRIX: As does every firm.

MR. TRAUTMAN: It's like a blue ribbon committee made up of partners, associates, staff, across the board. The purpose of it is, obviously, to engage everyone, get their ideas. It's both to be socially conscious, but also to save money. For example, one very simple thing that we did is we made the default copy two-sided. So in order to make it one-sided, you've got to take a step on your computer to do it.

MS. DeGETTE: Right. That's a good one.

MR. TRAUTMAN: I think everybody has something.

MR. HENDRIX: We do two-side copying. I talked to my guy before we came up, and he estimates we save about 30 percent

on paper costs from last year by doing the two-sided copying and two-sided printing. Also, we don't use bottled water anymore. We filter tap water. Our utensils, our paper plates, they are not paper, they are sugar cane-based. Our utensils are vegetable that biodegrade. They look like typical plastic forks and knives, but they are biodegradable. All of our computers now are Energy Star certified. And I'm sure everybody here has done that.

MR. KENISON: Right.

MR. HENDRIX: Tucker said it's not just social ... I think it was driven socially, because ours really was from the staff and the associates telling us older guys, you know, we got to get with it. And our green committee does have partners on it, but most of it is young associates driven by that. And they held a contest to get ideas. It's saved a lot of money – it's not just social, there are economic benefits. Our toner is a green toner that's produced in Boulder.

MR. KENISON: One of the things our firm is also looking at is carbon offsets. We've limited our travel, as I suspect the other national firms have, by doing more videoconferencing. So we do a lot of that as opposed to traveling to other places. We have encouraged – and even our partner in charge is – riding bikes to work. So a lot of folks in our firm actually ride now. And we had a bit of battle, I understand, on parking our bikes in the garage; but we'll solve that.

MS. STASIAK: They don't want you to put a bike in the parking stall even if you pay for it.

MR. HENDRIX: The building won't let you.

MR. KENISON: Yeah, we're waiting for the landlords to catch up to us. We've established a green committee as well. And one of our things as a goal is to meet the new EPA law of the Climate Challenge, which is on the ABA Web site. And



Howard Kenison chairs Lindquist & Vennum's environment, natural resources and climate change practice group.

we think we can meet all of the requirements. That was passed by the ABA House of Delegates, I believe, last February. And there's a new one on the way called the Sustainability Policy, which is related to the so-called triple bottom line. So the ABA House of Delegates is going to consider the Sustainability Policy at the annual meeting in Chicago this year. And that would ask law firms not only to look at just pure environmental issues, but all socioeconomic issues that might affect sustainability. Things like living, as Dudley, mentioned, TOD, or transit-oriented development, living closer to the office, and those kinds of things.

MR. SILBERSTEIN: We are participating in the ABA-EPA Law Office Climate Challenge on best paper practices primarily around recycling and double-sided printing. There are a number of prongs in that program, and we aspire to move up the ladder. We established a sustainable real estate development practice group. We're looking at

trends, trying to identify future trends. And this did excite the young people in our department, the ability to develop expertise around what some people consider an oxymoron, but sustainable real estate development. And two of our lawyers became accredited as LEED-accredited professionals. And LEED, as I'm sure everyone knows, stands for Leadership in Energy and Environmental Design. And then I guess we got a little lucky maybe. We decided that we needed to move about two years ago. And we were able to settle on a LEED-registered building at 1001 17th Street, the old Mountain Bell building... And so we were very excited to locate a LEED-registered building. We also, after much debate inside our company, decided to register our tenant finish in the LEED program for LEED commercial interior. We're moving in October and it takes us about maybe nine months to become certified after we occupy. So we hope to lead some of our real estate clients by example. It wasn't easy to cough up the money to go the extra mile

“Maybe I'm an optimist, but I think you'll see buildings continue to be built green, built energy efficient from all of those factors, not just market.”

– Howard Kenison

to get our space certified, but we decided it was important for our company.

MR. KNOX: Do you think your real estate clients will follow?

MR. SILBERSTEIN: Well, it is an economic decision. And it really goes to whether investors/developers will spend the extra money in the future, when people start developing buildings again, to create energy-efficient, environmentally friendly buildings. And I think they will.

MR. KNOX: And are there a lot of environmentally friendly buildings being built in the state? I mean, there's not a lot of building at all, but aren't most buildings LEED?

MR. SILBERSTEIN: No. I think there are on the order of 50 or 60 LEED-certified or registered buildings in Colorado. A lot of them are in the public sector. It's a pretty new program. That's one reason. But there are some disincentives in the leasing structure, particularly for retail properties where the costs are passed on to the tenants and the economic incentive is not there for the developer necessarily. [That said, developers I've spoken with] who have built an energy-efficient, LEED-compliant building, say, 'We're never going back to building the old style.' Number one, the kids want it. It's ventilated with fresh air. It has more natural lighting. It has changing rooms and bike racks where you can really park your bike.

MR. HENDRIX: Workout facilities.

MR. SILBERSTEIN: For the Millennials, the up-and-coming work force, these are very desirable attributes. And the developers on that panel expressed the opinion if you build a new commercial building and you don't make it environmentally friendly, you're missing out on an opportunity.

MR. HENDRIX: Yeah, I think it's very important for the young people. They will pay that cost. It is a cost.

MR. KNOX: The tenants will pay the costs.

MR. HENDRIX: The tenants will pay the cost. It is economic, but they will take a little bit of that hit just to be in a green building.

MR. KNOX: Howard, are you shaking your head?

MR. KENISON: Yes.

MR. HENDRIX: Up and down or side to side?

MR. KENISON: I think that it's partly market-driven. That is, people will want to buy green. You're going to see a lot of that. But in reality, we're still getting, and likely to get in the next 30 to 40 years, 40 to 60 percent of our energy from coal. And coal facilities across the country are under siege currently, both from the environmental groups, including the Sierra Club, who's made it a policy to shut down coal-fired facilities, as well as the regulatory drivers coming out of this administration. Maybe I'm an optimist, but I think you'll see buildings continue to be built green, built energy efficient from all of those factors, not just market.

MR. KNOX: We've gone around the table and talked about how everybody is doing green things, and that's all wonderful; but is it going to mean a lot of jobs? Are we going to have a lot of hours being billed to renew-



From left, Kenison and Tiffanie D. Stasiak, both of Lindquist & Vennum, Hendrix, William M. Silberstein of Isaacson Rosenbaum, P.C., and Law Week's Don Knox joined in the midafternoon roundtable discussion on the complexities – and promises – of green energy technology and the law.

able energy clients or is it just kind of a niche?

MR. SPILLER: There have been a lot of lawyers who have retooled from doing certain sides and certain kinds of energy practice on the regulatory side who are going gangbusters. There was just a particular coterie who were before the PUC when Tucker and I were doing quite a bit. And now they have shifted. And there's a huge number of them who are working with, say, a solar energy. Some of them are wind farm developers. So there's a lot of that. You know, some of the real estate issues and some of the land use issues that go along with siting any of these plants. And, you know, we haven't gotten into some of the intellectual property issues.

MR. TRAUTMAN: I did an informal survey before coming over here, just to kind of get some examples, and intellectual property is a big one, as you might imagine. When we're doing work for NREL on their solar photovoltaic technology, helping them write patents for that. We're also representing a number of small businesses that are doing new technology ... insulation companies is an example, where we can help them with corporate work and intellectual

property work. Companies that are interested in this whole smart network idea, which is a great idea. If we can figure out a way to get it financed and built so that you can buy your electric car, you come home, you plug it in, and it sends electricity to the grid while you're sleeping, and then you wake up and drive it, and you're fully charged, so to speak. We're seeing it starting, and these companies are actually profitable. And so I think there is going to be legal work. It will just be a little different than what we've done before.

MS. STASIAK: We have to take the companies through the same process, really, that you would with any other start-up. You have to, you know, go through the formation and, you know, on this side, you have permitting, which is a big issue in all of the levels of permitting that you have to go through. You have power purchase agreements. You have to get site control, which is a huge issue. It's surprising how many practice areas have been affected, you know, from intellectual property to construction. We have contractors who want to build plants. And they are finding that if they want to build a plant, they need to have some skin in the game. And now they are in the energy business, too.

And that's the way the world is changing. Tucker made fun of me because I brought in notes, but one of the questions that we always get asked at our firm – I mean, *the* question really – to the reinvestment act is, how do you get access to the funds? And clients ask that all the time. When it comes to allocating these funds, the appropriations of the funds, we look at the DOE, the EPA, Department of Defense, GSA, Department of Interior, Department of Housing and Urban Development, Department of Transportation, the DOL, Department of Veteran Affairs and the Department of Education.

MR. KENISON: And agriculture.

MS. STASIAK: And agriculture. It's great. It's brown fields, it's defense facilities, it's hospitals for veterans, it's acquisitions by the GSA. And nobody knows, really, what the rules are. And so you have these start-ups who come to you and say, 'This is what we want to do. How do we get there?' And it is changing the practice.

MR. KNOX: So when the clients ask for the money, you tell them, 'Okay, you got to go to these 11 or 12 departments,'

but can you answer the question when?

MS. STASIAK: Well, the lawyer needs to go and figure out where the money is and how to get it. I think the DOE will be releasing its guidelines next month. And, you know, it's going to be up to the lawyers to navigate for the clients.

MR. KNOX: Is anyone around the table seeing any stimulus money?

MR. HENDRIX: The government hasn't figured how to disburse it yet. It will be booming when they figure that out, but right now everybody is just kind of on hold waiting to see how the government is going to take control of the money and how they are going to disburse it and what's going to be required to do that.

MR. KNOX: And to your point, that's where lawyers can help?

MR. HENDRIX: Oh, yeah, that's – other than the litigators, that's what we do.

MR. KNOX: So what's litigation have to do with it?

MR. TRAUTMAN: The economics haven't caught up with all of this. When the bubble bursts, the litigators step in.

MR. KENISON: It's interesting that you ask whether the law firms are likely to take anything out of this. It's estimated over the next 25 to 50 years in the United States alone, \$41 billion will be spent on so-called green economy. It doesn't take a mathematician to see how much money that is going to flow to all sectors that support the green technology. And you asked the question, 'Are we seeing any money?' I would estimate now that I did a quick and dirty look at it for the firm when I did a presentation for our climate change working group that we created. And I think at least 50 percent, maybe more, of our environmental practice now is focused on litigation that is

directly involved with climate change issues. The Sierra Club, or some of our environmental group, has sued one of our clients for a permitting issue because of carbon issues, failure to study carbon, failure to have a permit. When we look across the board at real estate, construction, IP, oil and gas, almost every practice group we have has a component now. I would guess we've got a solid piece of our firm's revenue driven entirely by climate change issues.

MR. SPILLER: One of the things I think about and wonder is what the future of coal is. I know the governor has made this push for clean coal because we have coal here and coal up in Wyoming and an enormous abundance; but there seem to be so many problems with how you actually use it and dispose of the CO2 and what the cost is that I'm just curious who has any ideas about what they think is going to happen there.

MR. KNOX: Is there such a thing as clean coal?

MR. SPILLER: Some people would say there's not.

MR. HENDRIX: Is there such a thing as a healthy cigarette?

MR. KENISON: If you're getting 40 to 60 percent of your current energy needs, including the lights in this room, the Blackberries and iPhones, computers, are coming from coal right now; so it's not like we're really be able to transition out of it in the next two months or two years or even 20 years. I know the governor raised in his letter with the other governors is the idea of coming up with a pilot program and setting a future gen-type project here in the Rocky Mountain West to address whether carbon capture and sequestration will work. The latest estimates I've seen from our clients that are actually building coal-fire plants and are trying to get them permitted are, in fact, that if you go to CCS, you will increase the cost of that facility by double the cost.

MR. TRAUTMAN: How do these figures compare with nuclear?

MR. KENISON: Nuclear is, I think, for 2,000 watts, about triple. The down side of nuclear is that you have radiation or waste coming out, which, frankly, can be controlled. I don't know about Xcel, but, you know, our client Tri-State, is certainly considering nuclear for one of its facilities; but the costs are pretty significant. And you have permitting issues as well.

MR. HENDRIX: Long-term part of the solution, nuclear has to be included.

MR. KNOX: How long has it been since we've built a nuclear plant?

MR. KENISON: About 20 years.

MR. KNOX: You think there will be...

MR. KENISON: As I understand it, there are about 20 of them in the permitting process.

MR. KNOX: Where was Tri-State looking?

MR. TRAUTMAN: In your backyard.

MR. SILBERSTEIN: That brings us back to the litigation question.

MR. HENDRIX: Which is another reason why it takes 20 years.

MS. DeGETTE: So, just to bring the discussion full circle, there is hope, but it sounds like it is also being driven at least to some degree by hype.

MR. KENISON: You know, I want to comment on that. All of us have been in Colorado a long time. And if you go back in history in Denver, you will see that there are some folks that decided two really critical things about the growth of Denver. One was to get a railroad running from Cheyenne to Denver, and

the other one was to get control of the water rights in the state. And I think there's an instruction there for all of us, and that is we shouldn't just assume – and hopefully the governor is doing this, Tom Plant and the other folks – that just by virtue of sunshine and wind that we'll become a green energy center. I think we have to work at it. I think we have to consciously decide that we as a state want to do that. And it means working with Xcel, it means working with Tri-State, which just acquired maybe 200 megawatts of solar in New Mexico. And they now have to tap into their transmission system to bring it up, so – to get to the Front Range. So the issue is we all have to work together. Whether you're utilities, whether you're in the environmental group, to get us to that point we have to make a conscious decision to do that. And that's what, I think, hopefully, the governor is doing. It sounds like he's doing it, because he keeps saying energy policy a lot and green energy, but we really have to do it as a team.

MR. HENDRIX: I don't like the word hype. I don't think it is all hype. It's clearly not all hype. There may be some little areas, but it's something that we've got to go to. I think everybody recognizes we have to go to it. And it may take longer than we would like, but we'll get there.

MS. DeGETTE: What word would you use in place of hype?

MR. HENDRIX: Necessity.

MR. KENISON: Reality. I think there's something like 90,000 jobs in Colorado currently tied to green energy in one form or another.

MR. KNOX: Well, thanks everyone for coming out. We really appreciate your time.

WHEREUPON, the within proceedings were concluded at the approximate hour of 3:00 p.m. on the 27th day of May, 2009.