

KING & SPALDING

Energy Newsletter



September 2020

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EXCHANGE BLOG



REGULATORY, ENVIRONMENTAL, LITIGATION

Power, Oil & Gas, Mining and Natural Resources - U.S./Canada

Climate Change Litigation on the Horizon with Trump Environmental Overhaul

Marcella Burke, Nikesh Jindal and I. Cason Hewgley IV

On July 16, 2020, President Trump's Council on Environmental Quality ("CEQ") published the long-awaited final rule revising the implementing regulations for the National Environmental Policy Act ("NEPA"). 85 Fed. Reg. 43,304 (July 16, 2020). NEPA requires federal agencies to consider the environmental impact of major federal actions, which include permitting for energy projects on federal land. Pipeline projects, solar and wind farms, oil and gas development, and other infrastructure projects must go through the lengthy NEPA permitting process before construction can begin. This process takes 4.7 years on average and can exceed seven years in some cases, and critics say these lengthy delays



PETROLEUM
ECONOMIST
AWARDS
2019

Two-time winner, five-time finalist –
"Energy Advisory Firm of the Year:
Legal" Award (2014-2019)

The
LEGAL
500

Ranked Tier 1 in twelve
energy-related practices (2019)

unnecessarily stymie construction and development and diminish America's ability to compete in the global energy market. [More »](#)

ENVIRONMENTAL, PROJECT DEVELOPMENT & FINANCE, CONSTRUCTION

Oil & Gas, Power – Middle East

Waste to Energy Projects

Nikhil Markanday, Osama Audi, Robin Bayley, Tim Burbury, Sam Muir, Evelina Petraviciute, Timm Smith, Simon Cowled, Kelly Malone, Mark Davies, John McClenahan

The desire to implement WTE projects in the region remains strong due to a number of factors including the significant regional demands for power, a growing desire to establish and implement more thorough environmental regulations and, most significantly, the volume of waste generation in the countries comprising the Gulf Cooperation Council (“GCC”). The GCC’s waste generation data places the region among the world’s largest waste producers on a per capita basis. Several GCC states have ambitious waste management targets mandating landfill diversion, with the UAE seeking 75% landfill diversion in the UAE Vision 2021 plan and Saudi Arabia setting a goal to develop 3GW of waste-to-energy facilities by 2030 as part of the Vision 2030 programme. Accordingly, the development of WTE projects in the GCC continues to be both an environmental and economic necessity. [More »](#)

GOVERNMENT RELATIONS, PROJECT DEVELOPMENT & FINANCE, TRANSACTIONS

U.S./Canada/Global

CFIUS, Bankruptcy, Foreclosures, and Debt Restructuring

Christine Savage, Sarah Borders, Alexis Early and Danielle Pressler

The Committee on Foreign Investment in the United States (“CFIUS”) issued two Final Rules implementing most of the Foreign Investment Risk Review Modernization Act of 2018 (“FIRRMA”). CFIUS, an interagency committee, reviews foreign investments in U.S. businesses and real estate and determines whether transactions should be unwound, blocked, or restricted due to national security concerns. FIRRMA is the first major expansion of CFIUS’ powers in a decade. [More »](#)



IN THE NEWS

M&A and Capital Markets partner Jonathan Newton joins King & Spalding in Houston.

([Texas Lawyer*](#), [Bloomberg Law](#), [Texas Lawbook](#), [General Counsel News](#), [Houston citybizlist](#) and [Attorney at Law Magazine](#))

Law360 profiles Rising Star Jonathan Katz. ([Law360](#))

K&S counsels Columbus Water Works on a proposal of water quality rules to the state of Georgia. ([SaportaReport](#))

K&S advises Novelis on a successful petition to Commerce Department to set duties on foreign aluminum makers. ([Law360](#))

K&S represents Chevron before the Argentine Supreme Court, which declined to enforce a \$9.5B judgment against the company. ([Latin Lawyer](#))

K&S counsels storage REIT Jernigan Capital, which will be acquired for nearly \$900M by an affiliate of NexPoint Advisors. ([The Texas Lawbook*](#))

PROJECT DEVELOPMENT & FINANCE, REGULATORY, TRANSACTIONS

U.S./Canada

Prepayment Transactions

Andrew Brereton, Kim Cagle, Matthew Warren, Soumya Bhagavatula and Lindsey Henrikson

Global investment into large-scale projects in infrastructure, energy, natural resources and heavy industry continues against an uncertain backdrop of the COVID-19 pandemic, heightened trade tensions and regional geopolitical instability. The forces driving these investments, such as the world's ongoing demand for sustainable energy and new and renewed critical infrastructure, for example, are long term in nature and will outlive both this pandemic and a next one. The formation and mobilisation of global capital into instruments and vehicles focused on these important sectors is generally accelerating. With such acceleration, enhanced focus on the optimisation of project development transaction structures is becoming paramount for the success of these projects and the returns to their sponsors. [More »](#)

PROJECT DEVELOPMENT & FINANCE, TRANSACTIONS, CONSTRUCTION

U.S./Canada

Minority Investor Protections in Project Joint Ventures

Mark Davies and Sawyer Duncan

Global investment into large-scale projects in infrastructure, energy, natural resources and heavy industry continues against an uncertain backdrop of the COVID-19 pandemic, heightened trade tensions and regional geopolitical instability. The forces driving these investments, such as the world's ongoing demand for sustainable energy and new and renewed critical infrastructure, for example, are long term in nature and will outlive both this pandemic and a next one. The formation and mobilisation of global capital into instruments and vehicles focused on these important sectors is generally accelerating. With such acceleration, enhanced focus on the optimisation of project development transaction structures is becoming paramount for the success of these projects and the returns to their sponsors. [More »](#)

INTERNATIONAL TRADE, ENVIRONMENTAL, PROJECT DEVELOPMENT & FINANCE, REGULATORY, TRANSACTIONS

Power, LNG, Oil & Gas – Asia

Oil & Gas 2020: Indonesia

Merrick White, Zoe Brömage, Sylvia Taslim, Andy Kelana

It is fair to say that the world has changed for the oil and gas industry since mid-2019, and not for the better. In steady progression over the course of the year, we have seen: the investment community tire of meagre (or negative) returns on capital from the industry, particularly from a number of US shale players; downward pressure on oil prices due to increasing supplies from US shale, Brazil and elsewhere; a collapse of global LNG prices due to another warm northern hemisphere winter and a surplus of new LNG supplies; the failure of OPEC+ to agree upon an extension of output cuts, leading to a brutal price war between Saudi Arabia and Russia; and the rapid spread of COVID-19 around the world, leading to unprecedented shutdowns of large segments of the global economy, destroying demand at the same time the price war was increasing supply, and crushing oil prices. This article discusses the affects of global events on Law and Practice in Indonesia for the year 2020 and the correlative Trends and Developments moving forward. [More »](#)

ENVIRONMENTAL, REGULATORY

U.S./Canada

Energy and Petrochemical Companies Identified by EPA as Responsible for More than Half of TSCA Risk Evaluation Fees

Cynthia A.M. Stroman

EPA recently issued the final list of companies responsible for paying the \$1.35 million fee for each of the 20 high-priority chemical substances currently undergoing risk evaluation by EPA under TSCA. [More »](#)

ENVIRONMENTAL, REGULATORY

U.S./Canada

PFAS Update - States Continue to Move Ahead

Cynthia A.M. Stroman

This article summarizes recent PFAS regulatory activity at the federal and state levels, including a “technical challenge” issued by the federal government, safe drinking water limits in several states, and state bans on firefighting foams. [More »](#)

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