



KING & SPALDING

# Energy Newsletter



September 2017

## TRANSACTIONS, ENVIRONMENTAL

### Oil & Gas – Asia

#### **Managing Decommissioning Risks in Asian M&A Transactions**

*Merrick White, Sylvia Meilisa Taslim and Zoe Bromage*

Considering the estimated \$1 billion cost to decommission Asian assets by 2026, this article discusses the various types of decommissioning risk, the decommissioning obligations that might be imposed, how deal structuring can manage these risks and considers the arrangements that may provide both the buyer and the seller with better long term protections. [More »](#)

## LITIGATION, TRANSACTIONS

### LNG, Oil & Gas – US

#### **The Impact of Force Majeure on the Oil and Gas Supply Chain**

*Peter Hays*

This is a review of force majeure rights during curtailment of the oil and gas supply chain, including issues relating to downstream/upstream events, allocation, backlog and notice. [More »](#)

## CONSTRUCTION/ LITIGATION

### Renewable/Alternative Energy – Europe

#### **Case Note on MT Højgaard A/S v E.ON Climate & Renewables**

#### **UK Robin Rigg East Limited and another – [2017] UKSC 59**

*Rory Connor and Andrea Stauber*

This article summarises the recent English Supreme Court decision in the case of *MT Højgaard A/S v E.ON Climate & Renewables UK Robin*

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## In The News

Texas Lawyer profiles  
the firm's environmental  
practice, referencing

*Rigg East Limited and another [2017]*, a dispute arising out of the defective design of an offshore wind farm in the United Kingdom. The decision concerns the reconciliation of conflicting terms in construction contracts relating to design responsibility: one term requiring the works to be constructed in accordance with a specified design and another term requiring the works to meet specified performance criteria, where the performance criteria cannot be achieved by adhering to the specified design. [More »](#)

## PROJECT DEVELOPMENT & FINANCE

### LNG – Global

#### **The Shift Away from Take-or-Pay Contracts in LNG**

*Dan Rogers and Monica Hwang*

In light of Japan's Fair Trade Commission's comments on the traditional LNG take-or-pay contract structure, this article examines two alternative contract structures and whether they may be employed to support the development of multi-billion dollar LNG export projects. [More »](#)

## REGULATORY

### Renewable/Alternative Energy – US/Canada

#### **IRS Rejects Investors' Claim for Refined Coal Credits in Technical Advice**

*Abraham N.M. Shashy, Jr., John G. Green, Jr., Nathan E. Clukey, Peter J. Genz and Jonathan Talansky*

In a puzzling move that may indicate the assertion of a new common law tax principle, the IRS denied claims by two tax equity investors for renewable energy tax credits on grounds that the transaction was structured solely to facilitate the purchase of tax credits, without deciding, as it usually would, whether the investors were partners for tax purposes or whether there was a bona fide partnership. [More »](#)

## INTERNATIONAL TRADE

### Power – Global

#### **International Trade Rules Can Help Unlock Business Opportunities for Cross-Border Electricity Project**

*Manuel Sánchez Miranda and Kevin Futch*

International trade rules can help investors and governments solve problems in trading electricity across borders and can also unlock business opportunities in the sector at the project development stage. [More »](#)

**Houston's Bruce Hurley, Elizabeth Taber, Tracie Renfroe, Carol Wood and Shawn Stephens [More »](#)**

**Benchmark Litigation recognized Tracie Renfroe as one of the top women in U.S. litigation [More »](#)**

**King & Spalding Advises Summit Corporation on New Bangladesh LNG Import Terminal [More »](#)**

**King & Spalding advises Transocean on its acquisition of Songa Offshore in a deal valued at \$3.38 billion [More »](#)**

**Best Lawyers in America Recognizes Over 100 King & Spalding Lawyers in 2018 Rankings [More »](#)**

## GOVERNMENT RELATIONS

### Oil & Gas – US

#### **Tax Reform And Taxing Big Oil**

*Michael Andrews and Wintta Woldemariam*

Senator Robert Menendez has introduced legislation that singles out the country's five largest oil companies for the repeal of energy tax incentives and, if passed, could have significant negative impact on the energy industry. [More »](#)

## LITIGATION

### Power – US

#### **Hackers Target U.S. Power Plants, Including Kansas Nuclear Facility**

*Bailey J. Langner*

A joint report issued by the Department of Homeland Security and the Federal Bureau of Investigation indicates that hackers penetrated the computer networks of at least a dozen U.S. power plants beginning in May 2017 with the apparent goal of mapping out computer networks for future attacks. [More »](#)

## ENVIRONMENTAL

### US

#### **EPA Seeks Public Comment on Re-Opened Midterm Review of MY 2022-2025 Greenhouse Gas Standards and MY 2021 Standards**

*Granta Nakayama, Jacqueline Glassman, Ilana Saltzbart, and Rachel Tennis*

In a high-stakes rulemaking with significant cost implications for automobile manufacturers and the public, the EPA and the NHTSA requested public comment on EPA's reconsideration of its mid-term review of greenhouse gas emissions standards for model year 2022-2025 light-duty vehicles and on its greenhouse gas emissions standards for MY 2021. [More »](#)

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