

KING & SPALDING

# Energy Newsletter



June 2018

## TRANSACTIONS, INTERNATIONAL TRADE

### Oil & Gas-Global

#### **Lessons for Sellers in Contracting with Emerging Market Buyers: The “Three Rs” to Structuring Payment Security Provisions**

*Dan Rogers and Monica Hwang*

The circumstances underlying the recent *Mabanaft Pte. Ltd. vs. Oriental Energy Co., Ltd* decision should cause U.S. energy companies to more carefully consider the nature, size and timing of payment security as they race to sell and export hydrocarbon commodities to new and emerging market buyers. [More »](#)

## FERC

### Oil & Gas-U.S./Canada

#### **FERC Order Announces Policy Shift To Limit Environmental Review in Pipeline Certification Decisions**

*Jim Bowe, Kelsey Desloover, Rachel Tennis, Carolyn Lachman and Bill Rice*

Federal Energy Regulatory Commission Order announces unexpected policy shift to limit environmental review of natural gas infrastructure projects. FERC will no longer consider upstream or downstream greenhouse gas emissions data when reviewing pipeline certificate applications where there is not a sufficient causal relationship between the proposed project and the emissions. The 3-2 decision came just one month after the Commission’s request for stakeholder input on how the Commission should adjust its evaluation of environmental impacts of proposed pipeline projects. [More »](#)

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**In The News**

Chambers USA 2018

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## LITIGATION, TRANSACTIONS

### Oil & Gas - U.S./Canada

#### **Second Circuit Affirms Debtors' Ability to Reject Gathering Agreements in Bankruptcy Cases**

*Ed Ripley, Thad Wilson and Sarah Borders*

On May 25, 2018, the United States Court of Appeals for the Second Circuit affirmed a district court's affirmance of a bankruptcy court's decision in *In re Sabine Oil & Gas Corp.* that permitted a debtor to reject a midstream gathering agreement as an executory contract.

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## REGULATORY

### Oil & Gas-U.S./Canada

#### **BSEE Proposes Revisions to 2016 Well Control Rule; Public Comment Period Open Until Early July**

*Jim Vines, Andrew Stakelum, Brian Stansbury, Kayla Carrick and Erich Almonte*

On May 11, 2018, the Bureau of Safety and Environmental Enforcement ("BSEE") announced proposed revisions to the Well Control Rule, addressing several issues raised by industry when the rule was first issued in 2016 concerning well design, well control, casing, cementing, real-time monitoring, and subsea containment. In announcing the proposed rule BSEE stated it will correct errors and reduce unnecessary regulatory burdens imposed under the existing regulations. **More »**

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## INTERNATIONAL TRADE

### Middle East

#### **United States Withdraws from the Iran Nuclear Deal and Snaps Back Stringent Sanctions**

*Christine Savage, Jeffrey Telep, Mark Wasden, Alexis Early and Betre Gizaw*

On May 8, 2018, President Donald Trump announced that the United States was withdrawing from the Joint Comprehensive Plan of Action negotiated between the "P5+1" countries (United States, United Kingdom, France, Germany, China, and Russia) and Iran. President Trump's announcement will have significant implications for cross-border trade, regulatory compliance, and US and non-US companies, including those in the energy industry. This article provides greater

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**Tracie Renfroe and Carol Wood defend ConocoPhillips against claims by New York City (and by Oakland and San Francisco) that the company and other energy companies are liable for climate change-related damage **More »****

**King & Spalding Advises**

detail on the process for re-imposing US primary and secondary sanctions targeting Iran. [More »](#)

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## REGULATORY, CONSTRUCTION

### U.S./Canada

#### **Fish and Wildlife Service Issues Guidance Limiting Agency Authority Under Endangered Species and Migratory Bird Acts**

*Patricia Barmeyer, Lewis Jones, John Fortuna and Stephen McCullers*

The U.S. Fish and Wildlife Service recently released two guidance documents that have the potential to streamline development across a broad range of energy, infrastructure, and development projects by no longer requiring incidental take permits where there is not likely to be an actual injury to a listed species nor any intentional harm to migratory birds. [More »](#)

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## TRANSACTIONS

#### **Cloud Computing and Issues to Consider During Agreement Negotiations**

*Jill A. McWhirter and Rajesh D. Patel*

This article explains how cloud computing works and discusses issues that companies should be aware of when negotiating cloud computing agreements, including the associated risks, how these risks should be addressed, and the type of support that the business will need on an ongoing basis. [More »](#)

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