






Institute for
ENERGY LAW

The Energy Law Advisor

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Industry News

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[Vickie Adams](#).

Member Announcements

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announcement if possible.

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Industry News

Case Comment - Doiron v. Jackson

In *Doiron v. Jackson*, the U.S. Fifth Circuit (en banc) considered modification of the *Davis & Sons, Inc. v. Gulf Oil Corp.* (5th Cir. 1990) test for determining whether a contract is maritime or non-maritime. [Read more.](#)

By Brendan Doherty, Gieger, Laborde & Laperouse L.L.C.

Suits Challenging Rules Defining “Waters of the United States” Must be Filed in Federal District Court

In a unanimous opinion written by Justice Sonia Sotomayor, the United States Supreme Court held in *National Association of Manufacturers v. Department of Defense* that lawsuits that challenge the federal government’s definition of the statutory phrase “waters of the United States” must be filed in federal district courts, not federal courts of appeal. Although this decision says nothing about the rule’s merit, the decision does resolve a key procedural uncertainty as to the appropriate venue to challenge such a rule. [Read more.](#)

By Claire Juneau, Kean Miller LLP

Courts vs. Private Arbitration: Arbitrators Can Decide Who Has Jurisdiction

Increasingly parties are choosing to submit complex commercial disputes to arbitration. Concomitant with the growing popularity of arbitration is the development of judicial principles which help facilitate arbitration's policy goals of efficiency and certainty. The principle of competence-competence, a pillar of international arbitration, is integral to this developing body of case law. The Court of Queen's Bench of Alberta recently issued a decision in *Husky Oil Operations Limited v Saipem Canada Inc* ("*Husky Oil*") which applies the principle of competence-competence in the context of a parallel litigation and arbitration dispute resolution procedure. By definition, these parallel dispute resolution procedures give rise to a complex interplay between the jurisdiction of the court and the jurisdiction of the arbitral tribunal. As a result, *Husky Oil* is an excellent case study for observing the practical application of the principle of competence-competence and can serve as a useful tool for both domestic and international arbitration practitioners. [Read more.](#)

By Matti Lemmens and Zachary Seymour, Borden Ladner Gervais LLP

Pennsylvania Supreme Court Improperly Expands the Definition of "Commonwealth" in Article I Section 27 of the Constitution to Include Local Governments

The Pennsylvania Supreme Court recently expanded the definition of "Commonwealth" in the Pennsylvania Constitution to include local governments but without any reasoned support. See *Pa. Env'tl. Def. Found. v. Commw.*, 161 A.3d 911, 931 n.23 (Pa. 2017) ("PEDF"). In a footnote, which arguably is dicta, the Supreme Court said that the trustee referenced in the "Natural Resources and the Public Estate" provision of Pennsylvania's Constitution (Article I, Section 27) includes local governments despite the Constitution's express selection of the "Commonwealth" as the trustee. [Read more.](#)

By Jeremy A. Mercer, Blank Rome LLP

One to Keep a Close Eye On – Bradford County Permits the Pennsylvania Attorney General to Proceed with Novel Claims Against Two Oil and Gas Operators

A recent case in Pennsylvania may prove to have a long-reaching impact on the way oil and gas operators conduct business in the state. Operators should proceed with caution when determining how to calculate royalty payments under their oil and gas leases, and when acting under - or entering into - joint development agreements that could be construed as attempts to unlawfully decrease the market rate for new leases in areas of mutual interest. [Read more.](#)

New IEL Leadership

A Note from IEL's New Chair

As the Institute works to complete its seventh decade of energy law programming, I'm humbled and honored to be its current Chair. The energy industry has faced significant challenges over the last several years and the IEL has weathered the storm well. Our greatest asset is our membership and our greatest opportunity for further growth lies in untapped portions of the energy bar. The IEL has 5 strategic and 6 practice committees which are listed along with information for their Chairs in the updated Executive Committee list below. Much of the work and progress of the IEL begins in the committees and I urge you to actively participate in at least one committee and to reach out to energy bar colleagues who are not currently IEL members and encourage them to join the IEL.

In addition to having the longest continuously running Oil & Gas Law Conference, the IEL offers the best return on the CLE dollar. Being a member of the IEL is a great way to advance your legal knowledge while giving back to your profession.

David M. Castro, Sr.

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Jay E. Ray, Director, Institute for Energy Law, The Center for American and International Law, Plano, TX

The Advisory Board and its committees meet for business and social activities each February in connection with the Annual Oil and Gas Law Conference. Other committee activities occur throughout the year. The current practice committees are Alternative and Renewable Energy, International, Litigation and Dispute Resolution, Oil & Gas, Oilfield Services, and Young Energy Professionals (under 40 years of age). See below to learn a little bit more about each of the practice committees. If you are an advisory board member and interested in joining any of these committees, please email Vickie Adams (vadams@cailaw.org).

Alternative and Renewable Energy Practice Committee

(Chair, James Barkley) – The newly renamed Alternative & Renewable Energy Practice Committee (formerly Power and Alternative Energy) will be undergoing a makeover in 2018. Immediate priorities are to refresh and expand the membership list; to engage committee members in setting priorities and goals for the Practice Committee; and to identify—and provide a forum to discuss—emerging legal issues related to alternative and renewable energy. By 2019, we hope to be in a position to hold a one-day conference on alternative and renewable energy.

International Practice Committee (Chair, David Shelfer) – The International Committee will focus on contributing to conferences by providing quality and relevant international presentations; providing submissions on international energy law to IEL's periodic publications; and is considering preparing webinars on international matters.

Litigation & Dispute Resolution Practice Committee (Chair, Tim Engel)– We are planning quarterly calls (agendas will be emailed) with committee members to gather suggestions for activity planning, including proposals for new webinars, *Oil & Gas E-Report* participation, coordination with conference program planners, possible creation of regional planning subcommittees, etc. We also hope to grow membership and active participation on the committee of in-house litigation managers.

Oil and Gas Practice Committee (Chair, Sharon Flanery) – The Oil & Gas Practice Committee's priorities include developing and presenting events and programs for members with a focus on practical advice, organizing education events and networking, seeking opportunities to co-sponsor events with other Practice Committees, identifying webinar topics and ideas, expanding event locations, expanding our presence and membership, and working to contribute articles for IEL's publications.

Oilfield Services Practice Committee (Chair, Kevin Blodgett) -

This year, the Oilfield Services Practice Committee remains focused on delivering timely, relevant content and unique networking opportunities to the oilfield services community. We are targeting a minimum of three events for 2018, including the “must attend” annual conference. We are also re-doubling our efforts to grow our membership, with an emphasis on the in-house bar.

Young Energy Professionals Practice Committee (Chair, Jennifer Mosley) -

We plan to build on last year's momentum and continue to grow the membership and active participation on the YEP Practice Committee, with a particular focus on expanding our in-house and law student membership. We will kick-off the 2018-2019 programming with the 2nd National Young Energy Professionals Conference in New Orleans from April 5th-7th and will continue our highly successful General Counsel Forum series, which will take place in Pittsburg (May 2018), Houston (September 2018), and Denver (October 2018). In addition, the YEPs are introducing two new annual programs this year: the Leadership Class (September 2018) and the Energy Litigation 101 Conference (November 2018). We will also continue to produce our quarterly Young Energy Professionals' Newsletter: *The Energy Dispatch*, and will look for opportunities to partner with the *Oil and Gas E-Reporter*. Finally, we are looking to introduce an Energy Transactions 101 Conference, as well as a monthly webinar/lunch-and-learn series, which will focus on current topics across the energy industry and provide speaking opportunities to various YEP members.

2018 Hartrick Scholar Announced

The 2018 winner of the IEL Hartrick Scholar Writing Competition is **Abby Fox**. Abby is a second year student at The University of Alabama School of Law. Abby is in the top 5% of her class and is a junior editor on the *Alabama Law Review*.

Abby's paper was entitled *Policy Approaches to Deploying Energy Storage: Lessons from California and South Australia*. Abby's winning paper will be published in the Institute for Energy Law's *Proceedings of the 69th Annual Institute on Oil & Gas Law* published by LexisNexis.

Abby received \$2,500 and attended the IEL's 69th Annual Oil & Gas Law Conference on February 15-16, 2018, with expenses paid by IEL. [Read the winning paper.](#)

Other finalists for the prize included:

- Jacqueline LLinias, University of Denver Sturm College of Law, for the paper *Electric Resource Planning in Colorado*:

Scenario Panning for Changing Dynamics in the Electricity Sector.

- Brent Marshall, Florida State University College of Law, for the paper *From Land or From Air: Why a Unified Energy Resource Scheme is Necessary When the Answer is Both.*
- Brittany Ryan, University of Colorado Law School, for the paper *Municipal-Owned Microgrids in Colorado: An Alternative to Forming a Municipal Electric Utility.*
- Danny Wicoff, University of Houston Law Center, for the paper *Where Does the Wind Blow?: Challenges to Offshore Wind Development in the United States.*
- Chelsea Wilson, Penn State Law, for the paper *Victorian Ban on Fracking.*



Photo Caption: Abby Fox received her \$2500 prize from IEL's 2016-2018 Chair, Lawrence P. Simon, Jr. (Liskow & Lewis) at IEL's 69th Annual Oil & Gas Law Conference on February 15 in Houston.

Dan O. Dinges Received IEL's John Rogers Award

The Institute for Energy Law presented the 2018 John Rogers Award to Dan O. Dinges on February 15 during the 69th Annual Oil & Gas Law Conference. The John Rogers Award was established in 1969 in honor of John Rogers of Tulsa, Oklahoma, and is presented annually during the Annual Oil & Gas Law Conference. The award is presented to a person associated with the petroleum industry in recognition of extraordinary professional and civic achievement. Mr. Dinges currently serves as the Chairman, President and CEO of Cabot Oil & Gas Corporation, and has worked for decades in the energy industry. He serves on the board of directors of United States Steel Corporation, American Petroleum Institute, American Exploration & Production Council, Houston Methodist Hospital Research Institute, Spitzer Industries, Boy Scouts of America, and Palmer Drug Abuse Program.



Photo Caption: Dan O. Dinges (right) received the IEL's 2018 John Rogers Award at the Petroleum Club of Houston on February 15. Also pictured, Lawrence P. Simon, Jr. (left) (Liskow & Lewis), IEL's 2016-2018 Advisory Board Chair, and G. Kevin Cunningham (center) (Cabot Oil & Gas Corporation), who introduced Mr. Dinges at the award ceremony.

Members in the News

We would like to welcome all of our new IEL members. We hope you will help these new members to feel welcome and encourage their involvement in our organization.

Sustaining:

- **Sidley Austin LLP upgraded their membership to our highest level** with David Asmus, Brian Bradshaw, Katy Lukaszewski, James Rice, III, Cliff Vrielink, Angela Zambrano, Tim Chandler, and Danielle Mirabal as their advisory board members.

Supporting:

- **Yetter Coleman LLP**, Houston, TX with Tim McConn, Robert Woods, James Zucker, and Steven Messer as their advisory board members.
- **Bradley Murchison Kelly & Shea LLC**, Baton Rouge, LA, with Nadège A. Assalé, Katherine Smith Baker, Jerald N. Jones, and Michael R. Brassett, II as their advisory board members.
- **White & Case LLP**, Houston, TX, with James Cuclis, Steven P. Otilar, Christopher Richardson, and Charlie Ofner as their advisory board members.

Sponsoring:

- **Shook, Hardy & Bacon L.L.P.**, Kansas City, MO, with Steven Soden as their advisory board member.
- **Babst Calland**, Pittsburgh, PA, with Timothy Miller as their advisory board member.
- **BHP Billiton Petroleum**, Houston, TX, with Jeffrey Smith as their advisory board member.

Associate:

- **Brian C. Boyle** (Lightfoot, Franklin & White, LLC, Houston, TX)
- **Amanda Cottrell** (Stanton LLP, Dallas, TX)
- **Carter N. Davis** (FTI Platt Sparks, Austin, TX)
- **Jerry Fitzgerald English** (Lindabury, McCormick, Estabrook & Cooper, Summit, NJ)
- **Mike Gaudet** (FTI Consulting, Inc., Dallas, TX)
- **Abigail Fox** (The University of Alabama School of Law, Tuscaloosa, AL)
- **Deborah G. Hankinson** (Hankinson LLP, Dallas, TX)
- **Adam Housel** (BDO USA, LLP, Houston, TX)
- **Jacqueline Llinas** (University of Denver Sturm College of Law, Denver, CO)
- **Brent Marshall** (Florida State University College of Law, Tallahassee, FL)
- **D. Mitchell McFarland** (Munsch Hardt Kopf & Harr, Houston, TX)
- **Vance McMurry** (Elevate Services, Austin, TX)
- **Thomas J. McNulty** (Great American Group, Inc., Houston, TX)
- **Sebastian Monsalve** (OK Leasing Latin America Energy LLC, Houston, TX)
- **Brittany Ryan** (University of Colorado Law School, Denver, CO)
- **Michelle P. Scheffler** (Haynes and Boone, LLP, Houston, TX)
- **Marc Schwartz** (HSSK, LLC, Houston, TX)
- **Marco Sella** (Macchi Di Cellere Gangemi, Milano, Italy)
- **Anton J. Stewart** (Bailey Law Firm PLLC, The Woodlands, TX)
- **Danny Wicoff** (University of Houston Law Center, Houston, TX)
- **Chelsea Wilson** (Penn State Law, State College, PA)

Young Energy Professionals:

- **Abraham Abia** (Clarence Abogados & Asociados, London, United Kingdom)
- **Lacy Brown** (Hogan Lovells US LLP, Denver, CO)
- **Sam Burley** (RES, Houston, TX)
- **Olushola Abosede Odun-Oniyide** (Lawknights Solicitors, Lagos, Nigeria)
- **Kayla Carrick** (King & Spalding LLP, Houston, TX)
- **Federico Guillermo Fregoso Contreras** (University of Houston Law Center, Houston, TX)
- **Amanda Renae James** (King, Krebs & Jurgens, PLLC, New Orleans, LA)
- **Margarita Morato** (University of Houston Law Center, Houston, TX)
- **J. Charles Nixon** (Primexx Energy Partners, Ltd., Dallas,

TX)

- **Elizabeth Och** (Hogan Lovells US LLP, Denver, CO)
- **Emily K. Quiros** (Jackson Walker L.L.P., Houston, TX)
- **Cody Schlegel** (University of Tulsa College of Law, Tulsa, OK)
- **Shanisha Y. Smith** (Baker & Hostetler LLP, Denver, CO)
- **Leslie D. Streeter** (League City, TX)
- **Aditi Suresh** (University of Houston Law Center, Birmingham, AL)
- **Latifat Yusuff** (Nigerian National Petroleum Corporation, Ikoyi, Nigeria)
- **Bryan Zubay** (King and Spalding LLP, Houston, TX)

If you know anyone with questions about joining IEL as a member, please refer them to IEL's Associate Director, Vickie Adams (vadams@cailaw.org).

Calendar of Events

[2nd Energy Industry Intellectual Property Law Conference](#)

Houston, TX
Mar 22, 2018

[2nd National Young Energy Professionals Law Conference](#)

New Orleans, LA
Apr 6 - 7, 2018

[2nd Cybersecurity and Data Privacy Law Conference](#)

Plano, TX
Apr 12 - 13, 2018

[Career Paths for Young Attorneys in the Energy Sector](#)

Houston, TX
Apr 13 - 14, 2018

[5th Energy Industry Mergers & Acquisitions Conference](#)

Houston, TX
May 17, 2018

[National Energy Industry Environmental Law Conference](#)

Houston, TX
May 18, 2018



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