



Institute for  
ENERGY LAW

# The Energy Law Advisor

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Volume 7, No. 2 - August 2013

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## Industry News

***Dunham Continues to Rule: Unconventionally Produced Oil and Gas are not Included in Grants or Reservations of Pennsylvania "Minerals" Absent Extraordinary Circumstances***  
By: Russell L. Schetroma & Nathaniel I. Holland

In 1882 the Pennsylvania Supreme Court established what has become known as the Dunham Rule, excluding oil, and later natural gas, from the definition of minerals for conveyance purposes. This article examines a recent opinion from the Pennsylvania Supreme Court opinion that upheld the 131 year old Dunham precedent, and the positive impact such certainly provides mineral owners in Pennsylvania and potentially other states that have adopted similar precedent. [Read more...](#)

### ***Early "Fracing" Patent Litigation***

By: Michael Reilly

Many people are concerned about the chemicals used in fracing oil and gas wells. 150 years ago, there was real cause for concern as the chemicals to used enhance production were highly dangerous. Some insights to this period in the history of the oil business can be gained by looking at the patents wars of the 1860s. [Read more...](#)

### ***Case Update in Total E&P USA, Inc. v. Kerr-McGee Oil and Gas Corp***

By: Brendan Doherty

This brief case note update provides the background and holdings of the Fifth Circuit's recent decision in *Total E&P USA, Inc. v. Kerr-*

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**Submissions**

**Industry News**

Email [Brit Brown](#) and [Lilly Hogarth](#).

**Member Announcements**

Email [Lilly Hogarth](#). Please submit photo with announcement if possible.

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of the Fifth Circuit's recent decision in *Total E&P USA, Inc. v. Kerr-McGee Oil and Gas Corp.* The opinion is based on an interpretation of the Deep Water Royalty Relief Act which provides the manner in which royalty interests are calculated and paid. [Read more...](#)

**IEL News**

**Leadership News**

The Institute for Energy Law Congratulates David Asmus, Recognized in the Who's Who Legal Awards.



**David Asmus** of Morgan Lewis & Bockius LLP, Chair of the Institute for Energy Law has been named Global Oil & Gas Lawyer of the Year in the 2013 Who's Who Legal Awards. This is the fourth time he has been recognized, and he received more votes from clients and peers in the course of Who's Who Legal's research than any other individual worldwide.

**Institute News**

**The IEL announces a new Program, scheduled to take place in Houston in May 2014: Mergers & Acquisitions/Acquisitions & Disposals**

Responding to considerable demand for a free-standing conference on mergers and acquisitions and asset sales and purchases, the IEL's Programs Committee agreed to launch a new conference next year.

The newly appointed co-chairs for this new conference are **Harry Sullivan** and **Debra Villarreal**.

**Harry W. Sullivan, Jr.**, is the IEL Programs Committee Chair as well as Senior Counsel-International in the International E&P Legal Group of ConocoPhillips. He has a J.D. degree from Louisiana State University School of Law and an LL.M. degree from Southern Methodist University's School of Law.



Harry is licensed to practice law in the states of Louisiana and Texas and before the Supreme Court of the United States; he is Board Certified in Oil, Gas and Mineral Law in Texas. Harry is also admitted as a Solicitor in England and Wales. His experience includes negotiating and working in more than 25 different countries, including specifically: Algeria, Australia, Azerbaijan, China, Colombia, Egypt, France, Georgia, Indonesia, Kazakhstan, Kuwait, Malaysia, Mozambique, Myanmar, Nigeria, Oman, Pakistan, Qatar, Russia, Saudi Arabia, Turkey, the UAE and the U.S.

Harry is currently an Adjunct Professor at South Texas College of Law in Houston where he is teaching International Petroleum Transactions. Additionally, he

has taught oil and gas law at Texas Wesleyan School of Law, SMU's Cox School of Business and Dallas' El Centro College, business law at the University of Texas at Arlington and various subjects at numerous seminars and short courses.



**Debra Villarreal** is an experienced oil and gas attorney who counsels her clients to maximize gains while minimizing risks in joint ventures and the purchase and sale of oil and gas properties. She has closed acquisitions, divestitures, and joint ventures in the Eagle Ford, the Barnett, the Haynesville, and the Marcellus. She has also represented companies in the acquisition of interests in federal leases offshore Gulf of Mexico, including negotiating unit participation and offshore operating agreements. Debra's experience extends to all facets of the energy industry, including joint operating agreements, leases, drilling rig contracts, exploration agreements, participation agreements, farmouts, title review, and due diligence. With her strong financial background, she has represented numerous borrowers and lenders in financings secured by oil and gas assets, including plants, pipelines, undeveloped acreage, and producing properties.

### **Members in the News**

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Duane Morris partner and IEL Advisory Board Member **Sheila Hollis** served as a delegate for the American Bar Association (ABA) Section of Environment, Energy, and Resources (SEER) at the World Justice Forum IV, held on July 8-11, 2013, at The Hague, Netherlands. The Forum engaged more than 500 dignitaries, leaders, and innovators from more than 100 nations to work on developing practical and varied programs to strengthen the rule of law. The discussion centered on the World Justice Project's (WJP) groundbreaking work, including the Rule of Law Index®, an impressive and ambitious project assessing how nations apply their laws in practice.



As part of Baker & McKenzie's membership upgrade from Supporting to Sustaining already featured in the May issue, we welcome their newly designated additional members to the IEL Advisory Board:

- **Jeff Johnson**
- **Justin Marles**
- **Brandon Caire (Young Energy Professional)**
- **Rahul Vashi (Young Energy Professional)**

The IEL gratefully recognizes two new **Supporting Members**:

- **McAfee & Taft:** Mark Christiansen, a vice chair of the IEL's advisory board and one of the co-chairs of this year's Energy Litigation Conference in the fall will be one of their

Litigation Conference in the fall, will be one of their representatives in the Advisory Board.

- **FTI Consulting** with the following representatives elected to the IEL Advisory Board: **Gary Goolsby, Sonny Jester & Brian Kennedy**

Please help us welcome IEL's newest **Associate Members** and representatives on the Advisory Board:

- **Erica Levine Powers** (Adjunct Professor in the Department of Geography and Planning at the University at Albany (SUNY))
- **Lynn G. Wolf** (Slattery Marino & Roberts, New Orleans)

The IEL also our newest **Young Energy Professional Member**:

- **Robert Lang** (Navigant, Dallas TX)

### *Calendar of Events*

SEC Implications for Unconventionals and Hydraulic

Fracturing

Webinar  
Aug 22, 2013

Breakfast CLE: Dodd-Frank Sections 1502 and 1504

Houston, TX  
Aug 27, 2013

Legal and Business Challenges and Opportunities

in the Mexican E&P Sector

Houston, TX  
Aug 28, 2013

International Oil & Gas, Contracts & Negotiations - Part I

Houston, TX  
Sep 23 - 27, 2013

6th Annual YEP General Counsel Forum

Houston, TX  
Sep 24, 2013

International Oil & Gas, Contracts & Negotiations - Part II

Houston, TX  
Sep 30 - Oct 4, 2013

3rd Oilfield Services Law Conference

Houston, TX  
Oct 7, 2013

Oil & Gas Law Short Course

Westminster, CO  
Oct 21 - 25, 2013

12th Annual Energy Litigation Conference

Houston, TX  
Nov 7, 2013

2nd Midstream Oil & Gas Law Conference

Houston, TX

4th IEL-SEERIL Oil & Gas Law Conference

London, UK

Renewable Energy Law Conference

San Diego, CA

Houston, TX  
Nov 22, 2013

London, UK  
Dec 4 - 6, 2013

San Diego, CA  
Jan 23, 2014

**Save the Dates!**  
**2014 IEL Conferences**

January

23 - Power & Alternative Energy Law Conference

February

18-21 - 65th Oil & Gas Law Conference and IEL/ITA Winter Forum

March

27-28 - IEL-ANADE Conference

May

TBD - Mergers & Acquisitions / Acquisitions & Disposals  
Conference

September

22-26 - International Oil & Gas, Contracts & Negotiations - Part I

23 - 7th YEP General Counsel Forum

29 - Oct 3 - International Oil & Gas, Contracts & Negotiations - Part II

October

6 - 4th Oilfield Services Law Conference

20-24 - Oil & Gas Law Short Course

November

6 - 13th Annual Energy Litigation Conference

December

4 - 3rd Midstream Oil & Gas Law Conference



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