

Judge Dismisses Pipeline Operator's Racketeering/Defamation Suit Against Greenpeace

A federal judge in North Dakota has dismissed a \$900 million defamation and racketeering suit against Greenpeace filed by Energy Transfer Partners, operator of the Dakota Access Pipeline.

Greenpeace was represented in the matter by Lance Koonce, Laura Handman, Lisa Zycherman, and Thomas R. Burke of [Davis Wright Tremaine](#), the law firm said in a release.

District Judge Billy Roy Wilson wrote in his order dismissing the case that, "Posting articles written by people with similar beliefs does not create a RICO enterprise," and that, "Donating to people whose cause you support does not create a RICO enterprise."

Last month, the same Davis Wright Tremaine team won dismissal of similar RICO claims lodged against Greenpeace by Resolute Forest Products. That case was heard in the Northern District of California.

"The dismissal of these cases is of enormous importance not just to our clients but to watchdog and advocacy groups of all stripes," said Koonce. "Because if companies criticized by such organizations were able to bring claims under the guise of RICO, with its treble damage provision, that are really designed to chill speech, it would put critical discourse on issues of public significance at great risk."

Appeals Court Allows Quick-Take of Land for Mountain Valley Pipeline

The 4th U.S. Circuit Court of Appeals has upheld the “take first, pay later” approach to building the Mountain Valley Pipeline, in which the company condemned private property in the project’s path before paying opposing landowners for their losses, [reports](#) *The Roanoke Times*.

Reporter [Laurence Hammack](#) writes that the ruling was a blow to pipeline foes, who have long decried the use of eminent domain to take parts of family farms and rural homeplaces to make way for a 303-mile natural gas pipeline through West Virginia and Virginia.

Landowners did not contest the laws that allowed the pipeline company to obtain forced easements through nearly 300 parcels in Southwest Virginia, but they objected to a lower-court ruling granting immediate possession of the disputed land before deciding how much each property owner should be compensated, Hammack explains.

[Read the article.](#)

Border Wall Needs Private Property. But Some Texans Won't Give Up Their Land Without a Fight.



Image by [U.S. Customs and Border Protection](#)

Government lawyers have taken the first step in trying to seize private property using the power of eminent domain to build a border wall – a contentious step that could put a lengthy legal wrinkle into President Trump's plans to build hundreds of miles of wall, reports [The Washington Post](#).

Previous eminent domain attempts along the Texas border have led to more than a decade of court battles, some of which date to George W. Bush's administration and have yet to be resolved, according to the *Post*'s [Katie Zezima](#) and [Mark Berman](#). Many landowners are vowing to fight anew.

The reporters quoted Gerald S. Dickinson, an assistant professor of law at the University of Pittsburgh, who said this newest fight will be different because the earlier effort

mostly included federal government land.

“If it’s going to be a contiguous wall across the entire southwest border, you’re talking about a massive land seizure of private property,” he said.

[Read the Post article.](#)

Federal Judge Blocks Keystone Pipeline XL in Major Blow to Trump Administration



Image by [Elvert Barnes](#)

A federal judge temporarily blocked construction of the controversial Keystone XL pipeline, ruling late Thursday that the Trump administration had failed to justify its decision granting a permit for the 1,200-mile long project designed to connect Canada’s oil sands fields with Texas’s Gulf Coast refineries.

[The Washington Post](#) characterized the order as a major defeat for President Trump, who attacked the Obama administration for stopping the project in the face of protests and an environmental impact study.

Post reporters explain that the order “requires the administration to conduct a more complete review of potential adverse impacts related to climate change, cultural resources and endangered species. The court basically ordered a do-over.”

[Read the Washington Post article.](#)

Former Partner Sentenced to Five Years in Prison for Scheme to Bribe Alabama Lawmaker

A former partner at Balch & Bingham has been sentenced to five years in prison for a scheme to bribe an Alabama state legislator to oppose expansion of a site designated for an environmental cleanup, [reports](#) the *ABA Journal*.

Gilbert was part of Balch & Bingham’s environmental and natural resources practice, according to reporter [Debra Cassens Weiss](#). Prosecutors had alleged he and a co-defendant,

coal company executive David Roberson, funneled \$360,000 to the state lawmaker through a consulting contract with his private foundation.

The lawmaker, former Alabama State Rep. Oliver Robinson, was previously sentenced to 33 months in prison after pleading guilty to conspiracy, bribery, wire fraud and tax evasion, the *Journal* reports.

[Read the ABA Journal article.](#)

Energy Attorney Christopher J. Townsend Joins Freeborn

Christopher J. Townsend has joined [Freeborn & Peters LLP](#)'s Chicago office as a partner and co-leader of the firm's Environment and Energy Practice Group.

"This is the exact right time for Chris to be joining the firm," said Philip L. Comella, a Freeborn Partner and Co-Leader of the Environment and Energy Practice Group. "Environmental and Energy law and policy continue to converge at an increasing pace, with clients looking for creative but practical ways to address emerging technologies, shifting energy markets, and constantly evolving laws and regulations. I look forward to collaborating with Chris to lead our team helping a wide variety of clients address environmental and energy issues. Chris is a nationally-ranked leader in Energy law, and our clients will greatly benefit from his insights

and experience in developing innovative solutions, particularly related to complex infrastructure projects and multi-faceted administrative proceedings.”

In a release, the firm said Townsend has more than two decades of experience representing forward-thinking energy market participants, both individually and in coalitions, develop, defend and improve the structures for effective and efficient competition in the energy markets. He regularly provides energy advice to entities other than the local utilities, including large industrial, institutional and commercial energy users; municipalities; and other governmental entities. He also assists alternative electricity and natural gas suppliers in developing the structures for energy markets. In addition, he represents energy project developers on complicated and cutting-edge projects and assists other large-scale energy industry participants.

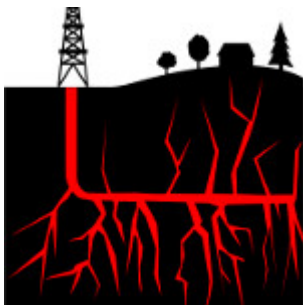
“We are thrilled to welcome Chris to the firm,” said Freeborn Co-Managing Partner Michael J. Kelly. “His award-winning commitment to client service and continuous focus on positioning clients for the next wave of changes in the energy world is a great fit with our firm’s culture.”

The firm said Townsend has been involved in a wide variety of regulatory proceedings before the Illinois Commerce Commission and the Federal Energy Regulatory Commission, as well as in numerous legislative efforts before the Illinois General Assembly, with an emphasis on matters related to bringing additional efficiencies to the energy industries. He also has served as counsel to several consortia composed of large industrial, institutional, governmental and commercial electricity consumers; retail energy suppliers; a public water district; and a small privately owned water company. Globally, he has worked with the U.S. State Department and counseled the government of Iraq on multi-billion-dollar energy and infrastructure projects.

Townsend previously was a partner at DLA Piper and most recently was a member of the Environment, Energy & Natural Resources Practice Group at Clark Hill PLC in Chicago. He has been consistently ranked by Chambers, receiving its top rank in the area of Illinois Energy & Natural Resources law earlier this year. He also is a three-time winner of the exclusive Lexology Client Choice Award for Energy & Natural Resources in Illinois.

Townsend received his J.D. from the University of Iowa College of Law (with honors) and his Bachelor of Arts (cum laude) from Augustana College.

PA Court Rejects Fracking Company's Appeal In 'Rule Of Capture' Decision



A Pennsylvania appeals court rejected a request by a natural gas production company to rehear a case whose outcome could affect drillers across the country, [reports WSKG](#).

Briggs v. Southwestern Energy Production Company involves the legal principle known as “rule of capture,” which means a property owner has the right to extract or “capture” an underground resource such as water, oil or gas, even if it

flows from beneath another property owner's land, explains reporter [Susan Phillips](#). The case calls into question the longstanding practice as it applies to fracking, which requires subsurface rock to be deliberately broken in order to release trapped gas.

“In 2015, the Briggs family sued Southwestern Energy for trespass and conversion, arguing that the company's fracking efforts were illegal and it should not be allowed to use wells on neighboring properties to tap gas beneath their land,” writes Phillips. “The family owns about 11 acres of land in Susquehanna County and did not lease its land for gas drilling.”

The trial court rejected their arguments, but an appellate court found that the Briggs' arguments had legal merit.

[Read the article.](#)

Subcontractors Sue Valero Over Explosion at Texas City Refinery

A group of 28 subcontractors at a Valero refinery in Texas City are suing the company and their employer, alleging that they suffered injuries and post-traumatic stress from an explosion at the plant less than two months ago, reports the [San Antonio Business Journal](#).

The employees of Beaumont-based Richard Industrial Group Inc. filed the lawsuit against their employer and Valero Refining Texas LP, a subsidiary of San Antonio-based refining company Valero Energy Corp.. Richard Industrial Group provides subcontracting work at Valero's Texas City refinery, according to reporter [Sergio Chapa](#).

"The workers are seeking damages based on claims that they suffered orthopedic injuries and hearing loss from the accident and are dealing with post-traumatic stress disorder," writes Chapa.

[Read the Business Journal article.](#)

Renewable Energy Deals Targeted for More Scrutiny in New Trade Report

The renewable energy industry, now designated as a technology and innovation-related area of special concern to the protection of the U.S. industrial and scientific base, is one of seven sectors that the U.S. Trade Representative recently identified as being of significant national security concern, writes [Stephen Paul Mahinka](#) in the [Power & Pipes](#) blog for Morgan Lewis.

"The USTR's primary concern in its investigation was with acquisitions and investments related to technology transfer, intellectual property, and innovation in seven industry

sectors that it specifically identified as being of significant national security concern. Renewable energy is one of the seven sectors highlighted for increased scrutiny, through expanded reviews of certain types of deals by the Committee on Foreign Investment in the United States," according to the post.

Although the report focused on Chinese acquisitions and investments, the identification of renewable energy as one of the seven main industry sectors of concern means that acquisitions and investments by entities in other foreign nations may also be subject to heightened scrutiny by the committee, explains Mahinka.

[Read the article.](#)

Judge Dismisses Exxon's Lawsuit, Letting Multi-State Fraud Investigation Continue

Exxon Mobil Corp.'s attempt to derail a multistate fraud investigation into the company's public comments about climate change flamed out in a New York court, according to wire services, via [The Dallas Morning News](#).

The report says a U.S. district judge in New York on Thursday dismissed Exxon's lawsuit claiming officials in New York and Massachusetts conspired with environmental groups in planning the securities-fraud probe and made up their minds about its

outcome before it started.

Judge Valerie Caproni said in her ruling that Exxon's tactic of suing in federal courts in New York and Texas to stop the state probes "running roughshod over the adage that the best defense is a good offense."

[Read the Dallas News article.](#)

Hunton & Williams Adds Daniel J. Grucza to Environmental Practice

Former energy and chemical company lawyer Daniel J. Grucza has joined [Hunton & Williams LLP](#) as counsel in Atlanta.

"With his unique background and experience in safety, and particularly process safety, Dan is a great addition to the environmental practice," said Eric Murdock, head of the firm's administrative law team. "With increased focus at the federal and state level on process safety and chemical safety across industries, Dan will be a terrific resource for many of our clients."

In a release, the firm said Grucza has 30 years of experience in the complex chemical manufacturing, foundry, mining and coking industries. He previously was senior counsel and vice president of a major energy company, and has provided legal support for mines, gas operations, foundries, manufacturing

facilities and distribution centers in the United States, Canada, Europe and China.

The release continues:

While seconded to a leading oil company, Grucza was responsible for implementing new regulations and managing incident response. He has also served as a corporate compliance officer, responsible for developing compliance programs, conducting training, conducting due diligence and responding to hotline complaints.

Possessing a strong chemical technical background, Grucza also previously served as an environmental, health and safety manager for one of the world's largest chemical companies, where he had responsibility for EHS compliance, process safety management, risk management, security, wastewater treatment operations, and related matters. He has advised clients in the OSHA Process Safety Management (PSM) and EPA's Section 112(r) Risk Management Program (RMP) applicability determination, program development, implementation and compliance. He also has defended clients in OSHA enforcement actions throughout the inspection, closing conference, citation and abatement actions.

Global Warming Public Nuisance Actions Will Stay in Federal Court

A U.S. District Court has rejected motions filed by the cities of Oakland and San Francisco to remand two global warming public nuisance lawsuits filed by the cities in state court against several large energy companies, reports [Anthony B. Cavender](#) in Pillsbury's [Gavel2Gavel blog](#).

The companies are BP P.L.C., Chevron Corporation, ConocoPhillips Company, Exxon Mobil Corporation and Royal Dutch Shell plc). The case is *The People of the State of California v. BP P.L.C., et al.*

“The complaints filed by the City of Oakland and the City of San Francisco are based on the premise that, despite knowing of the risks associated with climate change and global warming, these companies continued to produce and sell their products to the public that uses fossil fuels in their day to day operations,” Cavender writes. “The complaints seek an abatement fund to pay for seawalls and other infrastructure to address rising sea levels.”

[Read the article.](#)

Exxon's Response to Climate-Change Case: Sue the Lawyers

As climate-change lawsuits against the oil industry mount, Exxon Mobil Corp. is taking a bare-knuckle approach rarely seen in legal disputes: It's going after the lawyers who are suing it, according to a [Bloomberg report](#).

Exxon's targets include the attorneys general of New York and Massachusetts, hitting them with suits, threats of suits or demands for sworn depositions. The company claims the lawyers, public officials and environmental activists are "conspiring" against it in a coordinated legal and public relations campaign, writes [Bob Van Voris](#).

He quotes Howard Erichson, an expert in complex litigation and a professor at Fordham University School of Law in New York: "It's an aggressive move. Does Exxon really need these depositions or is Exxon seeking the depositions to harass mayors and city attorneys into dropping their lawsuits?"

[Read the Bloomberg report.](#)

Top 10 Environmental Lawyer Joins Boutique Law Firm

Jennifer Nijman and Susan Franzetti announce the addition of E. Lynn Grayson, to Nijman · Franzetti LLP of Chicago.

“Susan and I are thrilled to have Lynn practicing with us. Lynn is among the most experienced and respected lawyers in environmental law and is a perfect addition to our growing environmental law boutique,” said Jennifer Nijman.

“Lynn’s nationwide connections and experience are second to none and will only further assist our client’s nationwide interests,” said Susan Franzetti. “We could not have asked for a better addition to the firm.”

Grayson joins Nijman · Franzetti from the Chicago office of Jenner & Block where she practiced for 24 years and was Jenner’s Environmental Department Chairwoman. She has also served as the Chief Legal Counsel for the Illinois Emergency Services and Disaster Agency and the State Emergency Response Commission. Prior to this, she prosecuted federal and state environmental cases as an Assistant Attorney General for the State of Illinois.

Grayson also serves on the Board of Directors of the DC-based Environmental Law Institute. In 2017, she was elected Secretary of the Chicago Bar Association. She is a frequent author and speaker on environmental law and policy matters. She received the City of Chicago Recognition Award for Service to the Environmental Community and was recognized as Best Lawyers’ Chicago Environmental Lawyer of the Year.

“Jenner & Block is an exceptional firm, and I have many professional and personal friends there,” she said. “But it is a matter of timing and my growing envy for what Susan and Jennifer created. They each left great firms and in 10 years established what is really without equal in the country. The more I considered how beneficial their law firm model could be to my clients, the easier the decision became.”

Chevron Fights California Cities' Climate-Change Lawsuits With 'Creative Lawyering'

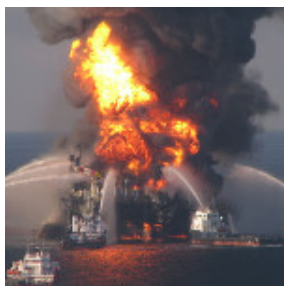
Lawyers for Chevron Corp., hoping to keep climate-change lawsuits by California cities out of state courts, have sued Oslo-based Statoil, calling it “one of many” oil producers that should help foot the bill if the industry is found liable, reports [The Los Angeles Times](#).

Kartikay Mehrotra writes that adding foreign companies to the litigation is a tactical maneuver to keep the dispute out of state court, where the cities have more favorable prospects, and force it into federal court.

She quotes Julia Olson, executive director and chief legal counsel for the environmental law group Our Children's Trust: “The industry is grasping at straws while looking for any way out of these cases and using creative lawyering to do so. By cherry-picking Statoil, a sovereign Norwegian entity, Chevron hopes to reinforce federal jurisdiction.”

[Read the LA Times article.](#)

Does the Insurance Policy Incorporate the Service Contract by Reference? An Examination of *In Re Deepwater Horizon*



*Image by U.S.
Coast Guard*

A Steptoe & Johnson article takes a look at the way additional insured coverage under an insurance policy is analyzed when there is an underlying drilling contract limiting the additional insured coverage to the scope of the liability assumed in the service contract.

[The article](#) in *The National Law Review* discusses *In re Deepwater Horizon*, a Texas Supreme Court case that governs allocation of risk, assumed liabilities, and the granting of additional insured status in underlying service contracts, and the precedent the case established.

The article also considers some other cases that were litigated after the *Deepwater Horizon* case.

[Read the article.](#)

Sidley Adds Environmental Partner in Houston

Heather Palmer has joined Sidley Austin LLP in its Houston office as a partner in its Environmental practice. She joins Sidley from Bracewell LLP.

In a release, the firm said Palmer advises clients in the energy, petrochemical, power and utility sectors. She handles a variety of regulatory counseling and enforcement matters, including onshore and offshore oil and gas regulation, solid and hazardous waste, oil and gas waste, wastewater and stormwater permitting, wetlands, water rights, Superfund litigation and compliance with the National Environmental Policy Act.

She also advises clients on environmental issues relating to shale play development, hydraulic fracturing and the permitting, construction and operation of liquefied natural gas import and export facilities in the U.S. On the transactional side, Palmer has experience identifying and managing sources of environmental risks, the firm said. This includes coordinating due diligence and advising clients on energy-related deals, M&A transactions, public offerings, financings, real estate transactions, bankruptcy and other matters where environmental issues become an important component.

“In the current regulatory environment, we are seeing an uptick in the number of challenges presented to our clients in energy-related transactions, particularly disputes over areas such as hydraulic fracturing and offshore oil and gas drilling,” said David Buente, co-leader of Sidley’s Environmental practice. “Heather’s substantial knowledge of the energy regulatory landscape, in addition to her experience working with federal and state energy and environmental agencies, will be beneficial in addressing various environmental concerns that may arise from transactions in the energy space.”

Environmental Attorney Dorothy Watson Returns to Foley in Orlando

[Foley & Lardner LLP](#) announced that Dorothy Watson has rejoined the firm’s Environmental Regulation practice as of counsel in the Orlando office.

Watson has 10 years of experience as an environmental lawyer from both an outside and in-house counsel perspective. For the last four years, Watson has been environmental counsel for multiple business lines within Schlumberger, the world’s leading provider of technology for the oil and gas industry. While there, she advised management teams on environmental

risks and provided legal compliance counsel for matters arising under various state, federal and international environmental laws and regulations, including the Resource Conservation and Recovery Act, Toxic Substances Control Act and REACH, as well as regulations under the authority of OSHA, MSHA and the FAA.

Watson began her environmental law practice at Foley & Lardner in 2007 as an associate where she advised clients on state and federal waste, air, water and OSHA compliance issues, including site remediation and permitting strategies.

“We are excited to have Dottie return to our team,” said Gary Rovner, chair of Foley’s Environmental Regulation practice. “The business-oriented practicality she gained working as in-house counsel for an industry leader will complement the firm’s expertise to position us to successfully address the most pressing environmental issues facing businesses today. We look forward to helping her grow her practice with us.”

Mike Okaty, managing partner of Foley’s Orlando office said, “Dottie brings with her an ideal skill set for our clients. Her knowledge of the U.S. EPA and the Florida Department of Environmental Protection will help serve the needs of our clients in our burgeoning Florida market and throughout the country.”

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Oil Majors Face Lawsuits on Climate Change Issues



Two major Californian cities – San Francisco and Oakland – have filed lawsuits against five oil and energy super majors September, according to [Zacks Equity Research](#).

The cities have taken legal action against Chevron Corp., ConocoPhillips, Royal Dutch Shell plc, ExxonMobil Corp. and BP p.l.c.

“The companies have been accused of causing an adverse impact on the climate, resulting in global warming. The plaintiffs hold these fossil fuel companies accountable for rising sea levels, changing landscapes, higher global temperatures and increased risk of storms and droughts,” Zacks reports.

The plaintiffs allege that the defendants continue to produce and market products that contribute to climate change and rising sea levels.

[Read the article.](#)

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Litigating Climate Change: An Overview of Suits Against the Oil and Gas Industry



The Institute for Energy Law will present a webinar discussing the various climate change-based lawsuits and current trends in climate change litigation.

The event will be Wednesday, Oct. 18, 2017, at 1 p.m. EDT / 10 a.m. PDT. Information about MCLE credit and fees can be found on the [registration site](#).

The institute is a part of the [Center for American and International Law](#).

“Over the past few years, government entities and non-governmental organizations have moved the debate over climate change from the court of public opinion and into the courtroom,” according to the institute. “Oil and gas companies have been one of the bigger targets for such suits, where plaintiffs have alleged that the companies are responsible for rising sea levels and that they have failed to warn about the potential impacts of greenhouse gas emissions.”

[Register for the event.](#)