



2012 OCS Workshop
A Time of Change

The Woodlands, Texas
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Recent Offshore Oil and Gas
Related Litigation, Impact
and Interpretation

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- Total E & P USA, Inc. vs. Kerr-McGee Oil & Gas Corporation, et al., Civil Action Nos. 09-6644, 10-0106, 2010 WL 5207591 (USDC, E.D. La., December 14, 2010).
 - Section 304 of the Outer Continental Shelf Deep Water Royalty Relief Act (“**DWRRA**”).
 - 87.5 million barrels of oil equivalent/water depths greater than 800 meters.
 - “... shall be calculated and paid in the same manner and subject to the same terms and conditions as the land owner’s royalty ...” [“**Calculate and Pay**” provision].
 - “terms of art”, “ambiguous”, extrinsic evidence



- Cutting Underwater Technologies USA, Inc. vs. Con-Dive, LLC, et al., Civil Action No. 09-387, 2011 WL 1103679, (USDC, E.D. La., March 22, 2011).
 - Louisiana Oil Well Lien Act (“**LOWLA**”).
 - What constitutes “abandoning a well” under the LOWLA.
 - What constitutes “on a well site” under the LOWLA.



- Apache Corporation vs. W&T Offshore, Inc., No. 09-31122, 626 F. 3d 789 (United States Court of Appeals, 5th Cir., November 16, 2010).
 - “Unambiguous” contract.
 - Use of term “platform costs” in contract.
 - “unjust enrichment”.



- Mariner Energy, Inc., et al. vs. Devon Energy Production Company, Civil Action No. H-08-0658, 690 F. Supp. 2d 558 (USDC, S. D. Texas, February 11, 2010); 2011 WL 3418392 (USDC, S.D. Texas, August 3, 2011).
 - “Abandonment Expenses” (plugging and abandonment costs on EI 333, including, but not limited to, removal and abandonment of platforms, wells and equipment on EI 333).
 - Abandonment Expenses for wells, platforms and equipment on EI 333 as of December 1, 2000 *and as outlined* in the Twatchman Snyder & Bird, Inc. Decommissioning Liability Report.
 - Estoppel effect of executed AFE.
 - “as outlined” vs. “inventory of”.
 - “decommissioning costs” vs. “decommissioning work”.



- Medco Energi US L.L.C. vs. Sea Robin Pipeline Co., L.L.C., Civil Action No. 09-0971, 2011 WL 4017531 (USDC, W.D. La., Laf. – Opel. Div., September 8, 2011).
 - Extensive hurricane damage to pipeline system resulting in shut-in of producers' production for extensive period, resulting in damage claims related to inability to market production, failure to market in timely manner, reduction in marketable value of properties, lost revenue and/or business interruption damages and exemplary damages.



- Nippon Oil Exploration U.S.A. Limited v. Murphy Exploration & Production Company – USA, Civil Action No. 10-2850, 2011 WL 1193005 (USDC, E.D. La., June 15, 2011).
 - Section VI of JOA: “non-participation in lease saving operation requires assignment and retention of accrued obligations”.
 - Assignment by non-participating party required Assignee to assume Assignor’s obligations “both of which result after the effective date and that result from the ownership of the rights conveyed hereby or imposed by any governmental authority ...”
 - Liability of non-participating Assignor for subsequent increase in decommissioning costs caused by storm damage.



- Sun Coast Plumbing Co., Inc. v. Shell Offshore Inc., et al., Civil Action No. B-09-204, 2010 WL 1404371 (USDC, S.D. Texas, April 7, 2010).
 - Application of Texas Property Code mineral lien provisions to plumbing services conducted onshore in connection with living quarters to be installed on Perdido Spar.
 - Texas County filing requirement to perfect lien claim affecting OCS lease.



- Walker Ridge Block 627 Unit (“Julia Unit”).

October 21, 2008 Suspension of Production request.

- Background
- Decisions Timeline
- Summary of Settlement Agreement
- Office of Hearings and Appeals Decision dated May 31, 2011
 - Four key substantive issues, among many others, discussed:
 - Whether ExxonMobil and Statoil demonstrated “commitment to production”.
 - Whether ExxonMobil and Statoil are otherwise eligible for a SOP.
 - Whether the past practice of the MMS in granting SOP requests required the MMS to grant an SOP with respect to the Julia Unit.
 - Whether the IBLA should have remanded the case to the MMS to decide if a SOP would be in the national interest.
- General Comments



- Taylor Energy Company LLC vs. United States Department of the Interior, Civil Action No. 09-1029 (ESH), 734 F. Supp. 2d 112 (USDC, Distr. of Col., August 31, 2010).
 - Exemptions from disclosure from the Freedom of Information Act (“**FOIA**”).



- In re Complaint of Pride Offshore, Inc., 766F. Supp. 2d 797 (USDC, S.D. Texas, February 2, 2011).
 - Damage to pipelines by jack-up rig relocated by Hurricane.
 - Can Producer sue jack-up rig owner due to a pipeline shut-in?
 - Application of Robins Dry Dock rule.



- United States of America ex rel. Bobby L. Maxwell vs. Kerr-McGee Oil & Gas Corporation, Civil Action No. 04-cv-01224-REB-CBS, 2009 WL 3161828 (USDC, D. Col., September 30, 2009); 793 F. Supp. 2d 1260 (USDC, D. Col., June 2, 2011).
 - qui tam suit under False Claims Act.
 - Below-market pricing vs. market site pricing.
 - Entitlement of Relator to percentage of damages.



- In the Matter of: Capco Energy Incorporated; Amco Energy, Incorporated, Action No. 11-20264, United States Court of Appeals for the Fifth Circuit, January 30, 2012.
 - Acquisition by Capco Offshore, Inc. from Tana Exploration Company, LLC and reserve evaluations conducted by Ryder Scott Company, L.P.
 - Enforceability of Seller's disclaimers as to accuracy, completeness or materiality of information or data furnished to Buyer.



- In re Oil Spill by the Oil Rig “Deepwater Horizon” in the Gulf of Mexico v. BP P.L.C., et al., MDL No. 2179/Nos. 10-4182, 10-4183, 10-3059, 11-516, 2011 WL 5520295 (USDC, E.D. La. Nov. 14, 2011).
- ENSCO Offshore Co. et al. v. Kenneth Lee Salazar, et al., Civil Action No. 10-1941, 2011 WL 3818895 (USDC, E.D. La., Aug. 29, 2011).
- Hornbeck Offshore Services, L.L.C. vs. Kenneth Lee Salazar, Civil Action No. 10-1663, 2011 WL 2214765 (USDC, E.D. La. June 1, 2011).



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