



ENERGY AND NATURAL RESOURCES QUARTERLY NEWSLETTER

FALL 2020

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About This Issue

Holland & Knight invites you to read the Fall 2020 issue of our Energy and Natural Resources Quarterly Newsletter, in which our authors discuss important hot topics and developments in energy, natural resources and the environment. This newsletter provides a look around the corner, highlighting top issues and emerging opportunities for the private sector.

Recognizing this newsletter is arriving in your inbox during uncertain times, we also wanted to let you know that Holland & Knight continues to track developments on the emerging situation surrounding the coronavirus (COVID-19) and the impacts the crisis may have on the Energy and Natural Resources industry. Analysis on what the developments may mean for business can be found on our [COVID-19 Response Team](#) page.

This edition covers, among other relevant topics, a number of recent U.S. political developments that may continue to be important market drivers throughout 2020. We encourage you to reach out to our authors with thoughts or questions on these topics.

Holland & Knight
Energy and Natural Resources Industry Sector Group

BEST LAWYERS IN AMERICA 2021

LAWYERS OF THE YEAR **ONES TO WATCH**

				
Tara Kaushik	Lawrence Sellers	Kevin Ashe	Meaghan Colligan	Alexandra Dobles

More than 30 other Holland & Knight energy and environmental attorneys were recognized.



ENVIRONMENTAL

Escazú Agreement: Content and Advantages for Its Implementation in Latin America

By *Rafael Toledo Plata*

The Economic Commission for Latin America and the Caribbean (ECLAC) in March 2018 reached the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement). To date, the Escazú Agreement has been executed by 22 states (including Colombia and Mexico) and ratified by nine states (Antigua and Barbuda; Bolivia; Ecuador; Guyana; Nicaragua; Panama; Saint Vincent and the Grenadines; Saint Kitts and Nevis; and Uruguay). Only two more states need to ratify it before the agreement enters into force.

The stated objective of the Escazú Agreement is to guarantee access to environmental information, public participation in environmental decision-making processes and access to environmental justice, in order to guarantee the effective protection of the rights of individuals to live in a healthy environment. These objectives are mainly intended to allow special protection of vulnerable populations and human rights defenders in environmental matters.



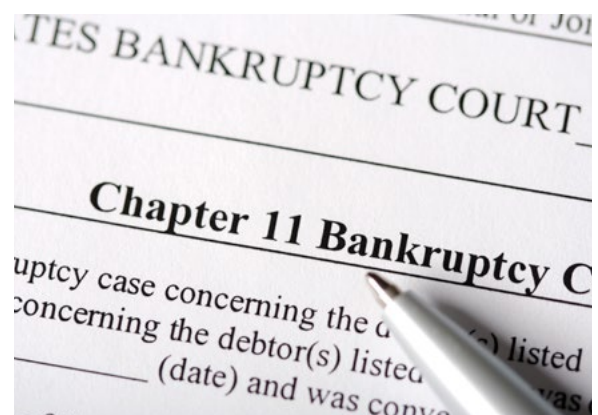
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ENVIRONMENTAL

When Considering Bankruptcy, Don't Forget About Environmental Obligations

By *Dianne R. Phillips and Maria de la Motte*

With economic downturn comes bankruptcy. It is often observed that the intersections between the U.S. Bankruptcy Code and environmental law can create conflict, because while many federal and state environmental statutes seek to hold parties responsible for contamination, in some cases, many years after a release has occurred, the Bankruptcy Code seeks to offer debtors a fresh start. There is little U.S. Supreme Court case law to guide courts in this area, and these matters are often highly fact-dependent, leading to variation in how different jurisdictions will treat similar issues. Depending on the concerns facing your organization, it may be important to bring environmental attorneys into the conversation early in the Chapter 11 process. This article highlights a number of key topics, but by no means represents an exhaustive summary of the challenges that can arise in this complex area of the law.



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FEDERAL POLICY AND REGULATION

Holland & Knight's Clean Tech Quarterly Update

By *Beth A. Viola and Taite R. McDonald*

In this edition of Holland & Knight's Clean Tech Quarterly Update, we continue to distill the biggest clean tech updates and government-related market trends and developments from the past few months, and summarize what these developments mean for clean technology companies and investors in the coming quarter and following year.

As we have continued to track and document over the past year in these updates and alerts, congressional and administration action on energy innovation and climate change mitigation continues to move forward. In particular, over the past four to eight weeks, congressional action with regard to energy and clean technology continues to move toward becoming law – faster than many anticipated. The most recent developments include the U.S. House of Representatives releasing the text of the Clean Economy Jobs and Innovation Act (H.R. 4447), a nearly 900-page bill, and Sens. Lisa Murkowski (R-Alaska) and Joe Manchin (D-W.Va.) getting the requisite support necessary to advance the American Energy Innovation Act (S. 2657), both of which are advancing in the coming days and weeks as outlined in further detail below. However, like so many pieces of legislation this year, within days of potential clarity comes further political perplexities – the most recent of which is the death of U.S. Supreme Court Justice Ruth Bader Ginsberg and the impact that will have on the election.



The fortunate news is that all of this action is in addition to ongoing U.S. Department of Energy (DOE) funding awards, U.S. Department of Defense (DoD) initiatives and the continuation of congressional staff compiling energy-related stimulus ideas considering the increasing likelihood of a broader economic stimulus package after the election – no matter what the outcome.

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OIL AND GAS

A New Threat to the Colombian Hydrocarbons Industry

By *Daniel Fajardo Villada*

The Colombia Free Fracking Alliance (*Alianza Colombia Libre de Fracking*), together with more than 30 members of Congress from different political parties, on Aug. 10, 2020, filed a bill before Congress that aims to ban, indistinctly, fracking and hydrocarbons located in nonconventional deposits in Colombia.

In order to understand the implications of this bill for Colombia and the oil and gas industry, it is important to take into account a couple of key points.

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ALTERNATIVE ENERGY AND RENEWABLES

Key Comparative Lessons with Reference to Wind Energy Sector in Brazil and Colombia

Where Brazil Is the “All-Time Leader” in Latin America, Colombia Struggles to Take Off

By *Camila Del Villar*

The use of Non-Conventional Renewable Energy Sources (NCRES) has progressively increased over the last decade because of the effects related to environmental impacts, costs and efficiency, depletion of nonrenewable natural resources, climate change and, therefore, a global tendency toward low-carbon technologies. Within this trend, wind energy has become one of the leading renewable energy sources – after hydropower – in this rapidly growing market. According to the International Energy Agency (IEA), in 2017 renewables reported the highest growth rate among all energy source generation in Latin America, with wind power accounting for 36 percent of the growth in renewables-based power output. In 2020, the average growth is estimated at around 12 percent, which could arguably mean that the power sector in Latin America plays a relevant role in the low-carbon technology upraise.

Following this view, the use of some of the so-called “low-carbon” technologies, such as wind power, have also been progressively introduced in Brazil and Colombia’s energy law and policies, arguably driven by the commitments acquired to reduce greenhouse gas (GHG) emissions under the Paris Agreement, while also providing power supply security. Thus, this article will briefly analyze the broader political, regulatory and economic context in which the wind energy industry takes place in such countries, as well as the common barriers and key lessons regarding this rapidly growing market.

[Read full article »](#)

About Our Energy and Natural Resources Industry Sector Group

The energy and natural resources industries will play a significant role in shaping the future of the global economy, and they must continue their innovative efforts in timely and responsible ways. In order to keep up with competitors and meet their many challenges, companies in the field need to stay ahead of the curve and be prepared for new issues and challenges. Holland & Knight’s [Energy and Natural Resources Industry Sector Group](#) consists of more than 80 experienced attorneys and professionals who work on all facets of transactional, regulatory, legislative and litigation matters related to energy and natural resources. In addition to our work with regulatory bodies such as the Federal Energy Regulatory Commission (FERC), we interface with the White House and key agencies such as the U.S. Environmental Protection Agency (EPA), Department of Energy, Department of Agriculture, Department of Defense and Department of the Interior. We understand the importance of tailoring regulatory strategies to meet the unique needs of a particular client and of accommodating existing and anticipated state and national regulation, technology and infrastructure.

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