



## Energy

Founded in Houston, the energy capital of the country, Susman Godfrey has deep roots in energy litigation, a practice that flourishes to this day. We are involved in some of the most significant energy disputes arising on- and offshore in the United States and beyond. Our experience in the industry runs the gamut—including disputes by land-, royalty-, and working interest- owners, disagreements between operators and service providers, claims arising from field operations, midstream disputes, and litigation in the power sector. Many of our engagements in this area are protected by confidentiality agreements, but below is a list of select public representations.

### *Representative Experience*

#### Exploration & Development

- ***W&T Offshore v. Apache Deepwater.*** Won unanimous Fifth Circuit affirmance of a \$43.2 million federal court jury verdict in favor of Apache Deepwater against W&T Offshore on claims that W&T Offshore breached its contractual obligation to pay its 49 percent share of the costs to plug and abandon three deep-water sub-sea oil and gas wells in the Gulf of Mexico. The award is now worth over \$49.9 million including pre- and post-judgment interest and attorneys' fees. The United States Supreme Court later declined a petition by W&T Offshore, Inc. to review and reverse the Fifth Circuit's decision upholding a federal district court's judgment. [Read more.](#)
- ***Spring Creek Exploration & Production v. Hess Bakken Investment II.*** Won unanimous Tenth Circuit affirmance of a take-nothing summary judgment on \$400+ million-dollar claims asserted against a subsidiary of Hess Corporation against claims for breach of an Area of Mutual Interest Agreement concerning an oil and gas prospect in North Dakota's Bakken shale play.
- ***Confidential JOA Arbitration.*** Won \$19.4 million award (100% of damages sought, plus interest) after a final hearing for client Eni Petroleum US in an International Centre for Dispute Resolution arbitration regarding cost allocation among working-interest partners for deepwater Gulf of Mexico oil exploration and production activities under joint

operating agreement.

- ***Exaro Energy III v. Encana Oil & Gas***. Defended Encana Oil & Gas (USA) in an arbitration involving a \$165 million dispute concerning the joint development of the Jonah Field in the Green River Basin in Wyoming. The dispute settled on the eve of the final hearing for nearly 10 percent of what the claimant originally sought.
- ***Olympia Minerals et al. v. Kerr-McGee Oil & Gas Onshore***. Prevailed at trial and on appeal to the Louisiana Supreme Court on behalf of Olympia Minerals and Olympia Minerals Leasing in a decade-long dispute with Aspect Resources that concerned an agreement for joint development of oil and gas in Louisiana and the use of 3D seismic data. Susman Godfrey prevailed at trial, on appeal to the Louisiana Supreme Court, and then again when the case was remanded back to the trial court. In addition to defeating the claim against Olympia for more than \$70 million in alleged damages, the firm secured more than \$10 million in damages for Olympia from Aspect.
- ***Mewbourne v. Lentz***. Won affirmance of take-nothing summary judgment for Mewbourne Oil Company on an employee's claims arising from injuries sustained in an oilfield explosion.
- ***Admiral A Holding v. Exco Operating Company***. Won summary judgment for KKR-affiliate Admiral on claims that EXCO breached a Participation Agreement relating to more than 120 oil and gas wells in Zavala County, Texas by failing to buy Admiral's interest in oil and gas wells.

## Landowner/Royalty Claims

- ***Mabee v. Concho Resources***. Defended Concho Resources against lease termination claims by surface owner and lessor of 60,000 plus acre ranch in the Permian Basin. Case resolved with Concho retaining all leased acreage.
- ***Hess Corporation Lease Termination Defense***. Defended Hess Corporation against lease termination claims by royalty owners in Ohio at trial in one matter and on summary judgment on another, and prevailed on each. .
- ***Royalty Owners v. ConocoPhillips***. Obtained a class recovery of more than \$18.9 million for more than 4,300 royalty owners against ConocoPhillips for underpayment of royalties on NGLs produced from the San Juan Basin in New Mexico.
- ***Oxy Royalty Litigation***. Obtained a \$12 million settlement (\$8.5 million net of fees and expenses) on the eve of trial for a class of royalty owners from Oxy for underpayment of royalty on carbon dioxide (CO<sub>2</sub>) production from the Bravo Dome Unit in northeastern New Mexico. The settlement represented approximately 90% of the total amount of actual damages sought, as well as prospective relief that resulted in a near doubling of the

royalty amounts that Oxy had paid class members before the lawsuit.

- **Chevron Litigation.** Won a \$40 million settlement in a royalty class action against Chevron after prevailing on hotly contested issues of class certification and choice of law.

## Midstream

- **Mirada Energy v. Oasis Petroleum.** Represented Mirada Energy against Oasis Petroleum for breach of a contractual right to participate in gathering, processing, pipeline, and related facilities that Oasis constructed to serve the prolific Wild Basin area in the Bakken and Three Forks shale plays in North Dakota. The matter settled on confidential terms.
- **American Central Gas v. Union Pacific Resources and Duke Energy.** Secured arbitration award of treble damages on behalf of American Central Gas Companies in connection with antitrust claims against Union Pacific Resources and Duke Energy Field Services for monopolizing and attempting to monopolize the market for natural gas processing in Panola County, Texas.
- **Targa v PSI Midstream.** Won dismissal of federal antitrust claims against Targa Resources, alleging monopolization and refusal to deal claims related to NGL fractionation services in Southwest Louisiana.
- **Enterprise v Sunoco.** Prevailed in expedited discovery and bench trial for Enterprise Products Operating LP in dispute with Sunoco Pipeline over who was entitled to purchase a shareholder's stock in Dixie Pipeline Company.
- **Enterprise v. Exxon.** Represented midstream company, Enterprise, in expedited arbitration on claims against a joint-venture partner on for breaching its fiduciary duties by refusing to agree to increase throughput on the pipeline to return it to its nameplate capacity under the parties' operating agreement. After limited document and oral discovery, the case settled favorably for our client.
- **Marathon Oil v. Enterprise Products Operating.** Represented Enterprise Products Operating LP in an arbitration involving Marathon Oil Company's claims that Enterprise's predecessor in interest had breached a long-term gas dedication provision in a gas processing contract. After Enterprise prevailed on most issues on summary judgment, the parties settled.
- **Enterprise Products Operating and Mid-America Pipeline Company v. Flint Hills Resources.** Represented Enterprise Products Operating LLC and Mid-America Pipeline Company, LLC as plaintiffs in a lawsuit against Flint Hills Resources, L.P., a subsidiary of Koch Industries in a dispute concerning a natural gas liquids storage and purchase agreement. Flint Hills sent notice of early termination but refused to pay a contractual termination fee of up to \$30 million to Enterprise. We sought the termination fee and attorneys' fees. The case settled on confidential terms.

less than a month before trial and after we filed a motion for summary judgment on all issues besides attorneys' fees.

- ***Williams Gas Processing v. Jonah Gas Gathering et al.*** Represented Jonah Gas Gathering Co. in a declaratory judgment action against Williams Gas Processing (now Williams Field Services) on Williams' claims that Jonah breached an interconnect agreement to deliver gas to a Williams' gas processing plant in Wyoming. Williams moved to dismiss that case against Jonah (a Texas resident) based on *forum non conveniens*. Jonah successfully defeated Williams' motion in the trial court, and subsequently defeated Williams' mandamus petitions in the Fourteenth Court of Appeals and the Texas Supreme Court.

## Power

- ***Alcoa v. Luminant Generation.*** Defended Luminant Generation, long the largest generator of electricity in Texas, against tort and contract claims relating to a pair of power plants in Milam County, Texas. Alcoa sought more than \$500 million from a local jury for unplanned outages at Sandow Unit 4 and cost overruns payable by Alcoa for construction of Sandow Unit 5. The trial judge dismissed Alcoa's tort claims on summary judgment, and after a two-week trial the jury returned a verdict for Luminant in less than an hour.
- ***Confidential Wind Power Contract Dispute.*** Defended a Kansas electric utility against claims asserted by one of the world's "major" energy companies. The claims arose from a wind power purchase agreement. The claimant sought millions of dollars for power production losses associated with curtailments that were ordered by the regional grid operator. In a unanimous decision, the three-arbitrator panel unanimously rejected all claims asserted against our client—and awarded our client all of its attorneys' fees.
- ***Confidential Wind Farm Breach of Contract Dispute.*** Hired by another Kansas-based electric utility to represent them in a breach of contract case involving curtailments of a different wind farm, due to our success in representing their competitor. The three-arbitrator panel unanimously ruled in our client's favor on every liability issue and awarded 100% of the requested damages.
- ***City of Austin et al. v. Houston Lighting & Power et al.*** Represented the City of Austin, Texas in a two-month jury trial in Houston against Houston Lighting & Power over the South Texas Nuclear Project. The parties settled during jury deliberations. HL&P paid our client \$20 million and agreed to step aside as operator of the project.
- ***Venango River Corp. v. NIPSCO Industries.*** After two weeks of trial in federal court, obtained favorable settlement on behalf of NIPSCO (NiSource), the electrical power company for Northern Indiana.
- ***LS Power v. Brazos Electric.*** Obtained favorable settlement for LS

Power on arbitration against Brazos Electric over a long-term power supply contract relating to a joint investment in a new coal power generation plant near Waco.

## Trading

- ***The People of the State of California v. Vitol.*** Representing Vitol in an antitrust suit filed by the California Attorney General in San Francisco and follow-on class action litigation arising from the trading of gasoline and related products.
- ***Northville Product Services v. Green Earth Fuels & Goldman Sachs.*** Obtained unanimous jury verdict for fuel marketing and trading company Northville Product Services for breach of long-term agreement for the sale of biodiesel.
- ***Petroleos de Venezuela US Litigation Trust v. Vitol.*** Obtained complete dismissal of alleged \$10 billion claims against Vitol, Inc. and other trading firms for allegedly conspiring to cheat Venezuela's state-owned oil company, Petroleos de Venezuela SA (PDVSA), out of billions of dollars.
- ***Autoridad de Energía Eléctrica De Puerto Rico v. Vitol.*** Won complete dismissal with prejudice of putative antitrust class action against Vitol SA, alleging more than \$500 million in purported damages, related to fuel-oil supply contracts for the Puerto Rico Electric Power Authority.