



John Shepherd

Partner

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John specializes in resolving disputes for oil and gas and mining clients.

PRACTICES

Environmental and Natural Resources
 NEPA, Public Lands, and Cultural Resources
 Environmental and Natural Resources Litigation
 International Arbitration

INDUSTRIES

Energy and Resources
 Oil and Gas
 Mining
 Electric Power

EDUCATION

University of Denver College of Law,
 J.D., 1979
 Order of St. Ives
 Dartmouth College, A.B., 1976
magna cum laude

BAR ADMISSIONS

Colorado
 District of Columbia
 Oklahoma

He handles litigation in virtually all aspects of the energy industry, including disputes over royalty payments, operating agreements, purchase and sale agreements, gas measurement, gas balancing, indemnity claims, and challenges to permits to conduct operations on public lands. He also represents clients in administrative appeals before the U.S. Department of the Interior, the U.S. Forest Service, and the EPA, including challenges to penalties imposed by the Office of Natural Resources Revenue and the EPA.

John has substantial experience in arbitrations involving oil and gas issues. He has represented clients in arbitrations, testified as an expert witness, and served as an arbitrator.

In addition to litigation and arbitration, John counsels clients on a broad array of issues affecting resource development, including compliance with royalty obligations and laws governing approval of operations on federal and Indian lands.

John served on the firm's Management Committee from 2013-2015 and previously served as Chair of the firm's Natural Resource Department.

EXPERIENCE

John has frequently represented clients in litigation throughout:

- the Rocky Mountain states
- North Dakota
- Oklahoma
- Louisiana
- the District of Columbia
- the Fort Berthold Tribal Court

He has represented clients in arbitration under:

- American Arbitration Association
- International Chamber of Commerce
- The United Nations Commission on International Trade Law

Energy and Natural Resources

- Conduct gas measurement and royalty audits on federal, Indian, and fee lands
- Advise clients on Indian and federal law aspects of oil and gas acquisitions
- Guide oil and gas and mining projects through NEPA review and permitting process
- Represent clients in appeals of ONRR royalty orders on federal and Indian lands

CLIENT RESULTS

Representative Matters

Defended gas producers in class action royalty lawsuits in Colorado, Oklahoma, and New York – claims successfully settled or resolved

Defended challenges to class action royalty settlements – settlements upheld on appeal

Defended arbitration under International Chamber of Commerce for oil and gas project in Cameroon – award for defense, including attorney fees

Defended claim for breach of implied covenant to explore and develop oil and gas in Colorado – jury verdict for defense

Defended carbon dioxide producers in *qui tam* lawsuits challenging federal royalty payments – all claims dismissed

Defended claim for indemnity related to oil and gas operations – summary judgment for defense upheld on appeal

Successful resolution of lawsuit over ownership of rights in Haynesville Formation in Louisiana

Successful defense of environmental group challenges to drilling permits on federal lands in New Mexico, including motion for preliminary injunction — *Dine Citizens Against Ruining Our Environment v. Jewell*, 839 F.3d 1276 (10th Cir. 2016)

Successful defense of claims for additional royalty related to downstream gas marketing — *Lindauer v. Williams Prod. RMT Co.*, 381 P.3d 378 (Colo. App. 2016) (interpreting a lessee's "duty to market" in Colorado to allow deduction of downstream transportation costs)

Successful defense of environmental group challenges to oil and gas project on federal lands in Wyoming — *Theodore Roosevelt Conservation P'ship v. Salazar*, 661 F.3d 66 (D.C. Cir 2011) (upholding Pinedale

Anticline project)

Successful appeal of BLM decision denying beneficial use of fuel gas to run federal unit – Wexpro Co., 174 IBLA 57 (2008) (reversing BLM)

Successful defense of gas balancing claims – *Doheny v. Wexpro Co.*, 974 F.2d 130 (10th Cir. 1992)

Defense and settlement of EPA civil penalty order

Conducted emergency arbitrations under International Chamber of Commerce, successfully defending claims for emergency relief

Served as arbitrator in dispute over purchase of oil and gas properties in North Dakota

Served as arbitrator in dispute over operating agreement in Colorado

PUBLICATIONS

"Holland & Hart Scores Win for Mancos Shale Oil & Gas Operators; No Drilling Moratorium During Well Approval Process," *Holland & Hart News Update*, Co-Author, 05/01/2018

"New Royalty Valuation Recommendations," *Holland & Hart News Update*, Co-Author, 03/02/2018

"ONRR Repeal of New Royalty Rules," *Holland & Hart News Update*, Co-Author, 8/09/2017

SPEAKING ENGAGEMENTS

"Royalty Part II: Relationship Between Transportation, Marketing, and the Royalty Clause," *Rocky Mountain Mineral Law Foundation Special Institute on Drafting and Negotiating the Modern Oil & Gas Lease*, Co-Presenter, May 2018

RECOGNITION

- *5280 Magazine* Top Lawyers, Natural Resources, 2015-2020
- *The Best Lawyers in America*® Lawyer of the Year, Administrative/Regulatory Law – Denver, 2015, 2018
- *The Best Lawyers in America*® Lawyer of the Year, Natural Resources Law – Denver, 2020
- *The Best Lawyers in America*® Administrative/Regulatory Law, Energy Law, Litigation - Environmental, Natural Resources Law, 1995-2021
- Colorado Super Lawyers®, Energy & Natural Resources, 2006-2018
- *Who's Who in American Law*
- BTI Client Service All-Star, 2011

PROFESSIONAL AND CIVIC AFFILIATIONS

- Rocky Mountain Mineral Law Foundation, Annual Institute, Public Lands Program, Co-Chair, 2009
- Institute for Energy Law, Executive Board, 2006-2011
- University of Denver College of Law, Natural Resources Distinguished Practitioner-in-Residence, 1998
- Rocky Mountain Mineral Law Foundation, Trustee, 1993-1995
- American Bar Association, Public Lands Committee, Chair, 1991-1993