Holland & Hart



PRACTICES

Environmental
Environmental Litigation

INDUSTRIES

Energy and Resources
Oil and Gas
Oil and Gas Litigation

EDUCATION

University of New Mexico, J.D., 2000
cum laude

Austin College, B.A., 1994

BAR ADMISSIONS

New Mexico

Robert Sutphin, Jr.

Partner

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Robert helps oil and gas producers favorably resolve their most challenging disputes, including royalty underpayment claims, all types of contract disputes, environmental issues, and class actions.

Robert brings a deep understanding of New Mexico oil and gas law, including insight into issues and problems faced by energy companies. When litigating cases, clients appreciate his tenacity, responsiveness and creativity. This combination of skills and expertise results in consistently good outcomes for his clients.

He regularly litigates cases involving oil and gas royalties, severance and property taxes, marketing and valuation, allocation and gas balancing, and unit and joint operating agreements. In addition, he handles surface owner disputes, environmental matters, and claims under the Surface Owner's Protection Act.

For the last 20 years, Robert has been involved in almost every major royalty case involving New Mexico production. He was co-lead counsel in the seminal New Mexico case defining royalty owed to the State, which was decided in his clients' favor. Royalty class actions are a specialty: Robert and his team defeated class certification in three recent cases.

His experience extends to representing clients in oil and gas disputes in other states, including Texas and Oklahoma. Robert is also the only oil and gas lawyer based in New Mexico nationally ranked by *Chambers USA*.

Outside of litigation, he regularly advises clients on valuing oil and gas production to comply with private, state, and federal royalty obligations. In addition, he has deep experience with state tax issues, and valuing exported oil and gas.

EXPERIENCE

Environmental and Natural Resources Litigation

- Commercial Litigation
- Oil and Gas Valuation and Taxes
- Royalty Underpayment Claims
- Environmental Disputes
- Operational Disputes
- Surface and Title Disputes
- Class Actions

CLIENT RESULTS

Robert has significant litigation experience, in particular with class actions and oil and gas valuation, including:

Defeated class certification of royalty underpayment claims on NGLs. *Abraham v. WPX Energy Production, LLC*, 317 F.R.D. 169 (D.N.M. 2016).

Defeated class certification of royalty underpayment claims on post-production costs, NGLs and downstream pricing. *Anderson Living Trust v. WPX Energy Production, LLC*, 306 F.R.D. 312 (D.N.M. 2015).

Representing federal lessee against Office Natural Resources and Revenue in federal court litigation involving federal royalties. *ConocoPhillips Co. v. ONRR*, Civ. No. 16-486 (D.N.M. 2016).

Won seminal case for producer/lessees involving meaning of oil and gas leases with the State of New Mexico. *ConocoPhillips Co. & Burlington Resources Oil & Gas Co., LP v. Lyons, Commissioner of Public Lands*, 299 P.3d 844 (2012).

Obtained favorable settlement for taxpayer involving valuation of natural gas processed in non-arm's length transaction. *ConocoPhillips v. New Mexico Taxation and Revenue Department*, D-101-CV-2013-01893, First Judicial District Court, Santa Fe, New Mexico.

Represented multiple natural gas producers in class action alleging existence and application of so-called Marketable Condition Rule under New Mexico law. *Davis v. Devon Energy Corp.*, 218 P.3d 75 (2009); *Ideal v. Burlington Resources Oil & Gas Co., LP*, 233 P.3d 362 (2010).

Obtained Tenth Circuit ruling in favor of natural gas producers in royalty underpayment claims, resulting in the leading Tenth Circuit case on New Mexico private royalties. *Elliott Industries, L.P. v. BP America Production Co., et al.*, 407 F.3d 1091 (10th Cir. 2005).

PUBLICATIONS

"Owners or Operators: Two Distinct Paths to Parent Corporation Liability Under CERCLA – United States v. Bestfoods," *New Mexico Law Review*, 2000

SPEAKING ENGAGEMENTS

"Oil and Gas 101," *ABA Section of Environment, Energy, and Resources CLE Webinar, Co-Presenter*, July 2022

"Royalty Litigation: Recent Decisions, Trends and Cases to Watch," *Institute for Energy Law, Panelist*, 12/16/2021

RECOGNITION

- *The Best Lawyers in America*®, Commercial Litigation, 2021-2027
- *Chambers USA*, Nationwide, Oil & Gas Litigation, 2024-2026

PROFESSIONAL AND CIVIC AFFILIATIONS

- State Bar of New Mexico, Member
- Institute for Energy Law, Advisory Board Member, 2023