

2016 STATE OF THE INDUSTRY

—
The Energy Industry –
Looking Forward

BOYAR))) MILLER
ATTORNEYS AT LAW

Welcome Readers,

No doubt that the cyclical nature of the oil and gas industry, and of course its current downturn, has a significant effect on all our businesses. At our annual BoyarMiller Energy Breakfast Forum, three experts on the industry and its current economic impact shared their perspectives to a packed room of very attentive listeners.

This eBook provides a high-level summary of the discussion and we hope you will find it interesting and beneficial. At our firm, we practice law from a business point of view, so understanding the issues impacting various business sectors is just as important to us, as it is to our clients.

We thank Robert Dye, Matt Pilon and Dave Pursell for sharing their insights with us and we invite you to forward this eBook to others. You can find their full presentations on our website.

We look forward to seeing you at our next forum.



Sincerely,

Chris Hanslik

CHRIS HANSLIK

Firm Chairman

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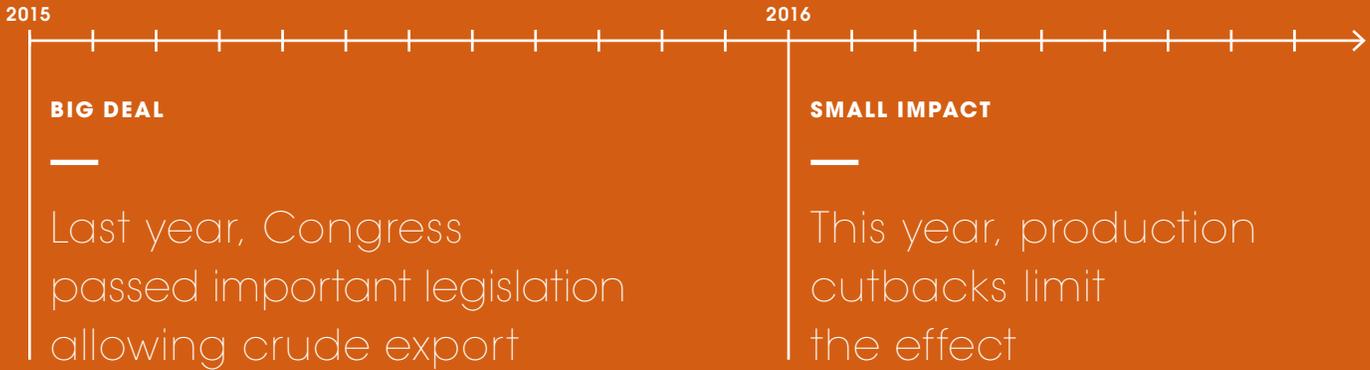
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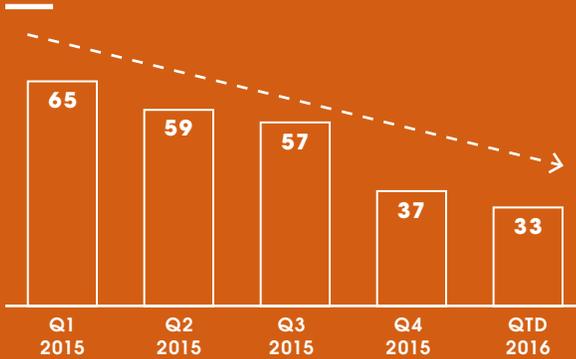
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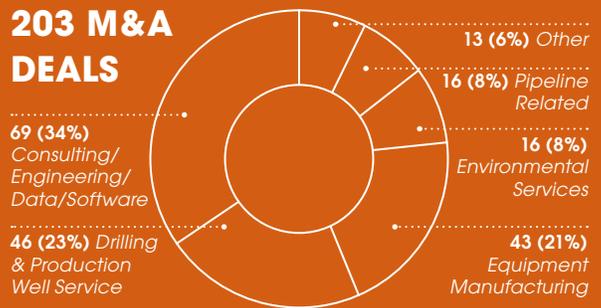
Impact of the Energy Downturn



GLOBAL QUARTERLY ENERGY SERVICES AND EQUIPMENT M&A TRANSACTIONS
(number of transactions)



GLOBAL M&A TRANSACTIONS 2015 THROUGH MARCH 15, 2016
(by target sector)



Hydraulic fracturing demand down 47% since 2014



>50% U.S. rig utilization



<80% of 180 newbuild offshore rigs uncontracted



Notable Quotes from Our Presenters

The era of ultra-cheap money is coming to an end.

Low energy prices puts money in the hands of the consumer.

A generation from now, India will pass China as the world's largest economy.

The market is asymmetrical with many converging factors impacting decisions.

We just need demand not to contract.

Global oil demand growth is strong.

Massive excess capacity fuels uncertainty.



Expert Insights

The Economic Outlook

“Total household net worth is rising to the pre-recession peak. For most U.S. consumers, home equity is the piggy bank again.”

ROBERT A. DYE, PH.D., *Senior Vice President and Chief Economist – Comerica Bank*

WHAT ARE WE SEEING?

• CONSUMER CENTRIC U.S. ECONOMY

Consumer spending comprises two-thirds of the GDP and forces on U.S. households are a key determinant of petroleum demand. The low price of oil is providing more money for consumer spending. However, there is an overhang of excess global capacity.

• GOOD NEWS

U.S. job growth is up; unemployment is down; wages are rising and house prices are increasing 5% with low mortgage rates. Despite global volatility, U.S. households are improving financially.

• EXPORTS IMPACTED

Upward pressure on the dollar means U.S. agricultural and manufacturing exports are 20-25% more expensive than they were a couple of years ago.

• GLOBAL FORCES

- Watching Asia – half the world’s economic growth comes from China; Japan leads the world in debt.
- Greece’s economy and other situations in Europe have a destabilizing impact.



Robert A. Dye, PH.D, leads the Comerica Economics Department that provides research and analysis vital to Comerica, its customers, business leaders and policymakers. He publishes a monthly U.S. economic update and quarterly regional economic updates targeting 12 key metropolitan areas. Robert was honored with the prestigious Lawrence R. Klein award in 2015 for the most accurate macroeconomic forecasts among the nation’s top forecasters.



Expert Insights

Trends in Energy Services and Equipment

“Hope is not a strategy, but in uncertain times, it is reasonable to preserve options if you can.”

MATTHEW G. PILON, *Managing Director, Investment Banking – Simmons & Company International, Energy Specialists of Piper Jaffray*

WHAT ARE WE SEEING?

• DOES HISTORY REPEAT ITSELF?

U.S. land rig count is back to levels of the '80s...the 1880s.

• HELP NEEDED

The pressure pumping sector is the poster child for excess capacity. After a huge ramp up in activity, it has slowed to about 20-30% utilization.

• DOWNWARD SLIDE FOR M&A

While the number of M&A transactions in the oil patch trends downward, 61% of the deals were done in the U.S. and 22% in Europe.

• BETTER SERVICE?

Service companies will benefit in the long term from efficiencies being put in place today. The new mantra: “\$60 is the new \$90” as companies make adjustments for a more disciplined business in a lower price environment.

• PUT THE BRAKES ON

This is the most uncertain time the industry has experienced. Conflicting data reports result in differing opinions on the timing of price increases.



Matthew G. Pilon has focused exclusively on the energy services and equipment sector since 1994 when he joined Simmons & Company International. A former Naval Officer, he holds a BS in Computer Science from the U.S. Naval Academy, an MA with distinction in International Relations from the University of Kent in England, and an MBA from Harvard Business School. Simmons & Company is now part of Piper Jaffray.



Expert Insights

Future Predictions

Prediction: “\$80 oil is structurally possible by the end of 2016 given solid global demand and declining production.”

DAVID A. PURSELL, *Managing Director,
Head of Securities – Tudor, Pickering, Holt & Co.*

WHAT ARE WE SEEING?

- **DEMAND GROWTH**

There are several misperceptions in the industry. Demand is not weak; shale production is not resilient. Last year, demand grew an outstanding 2%. But shale production has been falling since March 2015.

- **WHAT DOWNTURN?**

Low prices are fueling demand growth for gasoline in the U.S. Consumers quickly forget downturns, as evidenced by an increase in SUV sales when gas is cheap. However, Asia is the largest geographic region for gasoline demand.

- **OPEC WILDCARD**

In a post-sanctions world, we haven't yet seen significant new production from Iran, and that has everyone feeling more positive.

- **ELECTION DELAY**

No new meaningful legislation will be passed anytime soon and the upcoming election makes 2017 legislation predictions impossible to make.



Dave Pursell is responsible for Tudor, Pickering, Holt & Co.'s analysis of the global oil and gas markets, including inventory and price forecasts, supply/demand modeling and rig count/production relationships. He is past chairman of the IPAA Supply Committee and sits on the Investment Committee of TPH Partners LP, private equity division. He is a board member of private energy companies Oxane Materials and Unconventional Gas Resources.



Attorney Insights

Snapshot 2016: Upshots, Quick Tips, and What to Look for Next

CHRIS HANSLIK, *Firm Chairman*

LAUREN MCLAUGHLIN, *Associate, Litigation Group*

HOUSTON, TEXAS. If you are doing business in Texas, you are inundated with daily news regarding the state of the energy industry. There are competing market forecasts, projected prices per barrel, anticipated reductions-in-workforce, and dueling supply-side analyses. The proliferation of information only adds to the uncertainty facing the sector and those reliant on it.

As with the City of Houston at large, there is not much that BoyarMiller touches that is not directly affected by the current energy climate, and its anticipated impacts going forward. While we are lawyers by trade, what makes us unique is our ability to deliver legal advice with a view towards practical business solutions. That requires an understanding of the current energy climate, and how to apply the law to that context in a way that gets our clients out ahead of the curve.

To that end, and informed by the fantastic speakers at our March 2016 Energy Breakfast Forum, the following are five observations – and related tips – we have gleaned from our legal practice, which at all times is carried out with a view towards the energy sector and the businesses affected by it.

NUMBER 1 – THE FORCE IS WITH THE SUPPLY SIDE

The data tells us that, throughout the energy downturn, there has been a strong demand for oil globally. Accordingly, analysts are focused on excess supply as the cause for the low price-per-barrel, and the driver of price (and growth) moving forward.



In general, the consensus wild card on global supply is foreign production, with countries like Iran threatening to increase production despite the low prices and correspondingly low returns. U.S. production, on the other hand, has shown a rational reaction to the recent prices-per-barrel – we have seen a staggering decrease in domestic production since its peak in March 2015. This domestic reduction leaves many optimistic about supply adjusting and price rebounding in the next 2-3 years.

In the meantime, we are observing the many effects of domestic E&P companies hitting the “pause” on production, where possible. Deep water drilling projects have continued due to the significant capital commitments – and potential production gains – involved. On land, however, we are seeing an increasing backlog of Drilled but UnComplete wells (DUCS or “ducks,” as referred to in the industry). These wells enable production companies to hold their drilling stakes until price recovers. They also eventuate a growing number of disputes between royalty owners and mineral lessees regarding, among other things, the lessees’ obligations of continuous development on the mineral lease. Whether and to what extent a production company is obligated to drill when it is not profitable – for the benefit of its joint venturers and/or mineral owners – is a hot button issue that we will continue to monitor.

NUMBER 2 - COLLECTIONS

When the going gets tough, the collection efforts get going. As in other times of economic downturn, we have seen the expected increase in disputes over payments for goods and services. While collection difficulties are no surprise in economic hard times, here are a few quick tips on how to anticipate – and sidestep – protracted collection efforts in the future:

- Paper up a demand quickly. Soft negotiations are invaluable, but if you have an aging account receivable past the 90-day mark, we recommend putting together a written demand for the payment. These sorts of letters are commonplace in the industry, not a snub to your clients. Also, and in addition to formalizing pressure to settle the account, demand letters serve important legal purposes, like perfecting your right to potential attorneys’ fees if the dispute escalates down the road.

- Take an hour or two to get familiar with the lien process. If you are in the business of providing or purchasing goods or services for mineral activities and/or real property improvements – whether such are for drilling an oil or gas well, the construction of a chemical refinery, or otherwise – it is worth sitting down with an attorney to gain an understanding of how and when to use or get rid of a lien. Liens are not appropriate in every context, but they are an important last resort for unpaid subcontractors, materialmen, and mechanics. They also present a significant encumbrance on the property owner, and expose a general contractor to collateral liability. Whatever side you are on, understanding how to quickly leverage – or invalidate – a lien is a powerful tool to have.
- Flexibility works. We have seen – and encouraged – a number of flexible and creative payment arrangements to facilitate the specific realities confronting suppliers and purchasers alike. Papering up an alternative payment arrangement that works for both sides allows all parties to avoid costly disputes and cultivate a lasting business relationship going forward.

NUMBER 3 - LABOR ISSUES ON THE UP

Another thing on the rise in times of market downturn are labor and employment issues. Layoffs, M&A activity, and other cost-cutting initiatives spike a more frequent ingress and egress of employees. One collateral effect of this is that our clients are having to pay increased attention to issues surrounding employee confidentiality, non-compete, and non-solicitation obligations. If you are an employer concerned about departing employees, some steps to ease your mind could be (i) reviewing your employment agreements to ensure the enforceability of the confidentiality, non-competition, and/or non-solicitation provisions contained therein; and (ii) making it a practice to have each departing employee sign a statement that they have returned all confidential information, including client contacts. If you are a departing employee concerned about a former employer, be aware of the obligations in your employment agreement and the ways to minimize their impact on your activities going forward.



NUMBER 4 - THE EFFECT ON HOUSTON REAL ESTATE

Houston real estate is feeling the ripples of the energy downswing as well. We are seeing an increase in vacancies in commercial office space and, particularly on the West side of town around the Energy Corridor and in the Woodlands, a dip in residential housing prices. However, the situation is far from bleak. Mixed-use commercial projects continue to roll out, quite successfully. We are also seeing a decline in industrial vacancies, as industries such as petrochemical and steel pipe manufacturing continue to thrive in Houston. The Medical Center and Houston's bio-technology scene also do their part in sustaining occupancy of commercial real estate spaces. Globally, the biggest upshot we see at the intersection of the energy downturn and real estate is the rise of the flexible leasing arrangement. Owners should be on the lookout for increasing subleasing arrangements and shorter lease terms, as lessees feel the crunch and anticipate it going forward.

NUMBER 5 - THE RESILIENTS

Perhaps just as interesting as the market downtrends are the numerous companies managing to successfully weather the storm. Much of this is the result of a learning curve. While the 2008 downturn was a global credit crisis rather than industry-specific, we are seeing fewer bankruptcy filings in the energy sector now than in 2008 because of the lessons gleaned in that period.

In addition, although there has been a decrease in energy M&A activity lately, we are seeing larger consolidations with a view towards providing fully integrated services. The Houston Business Journal's Suzanne Edwards recently gave the example of the Schlumberger-Cameron deal, which enabled Schlumberger, now in possession of Cameron's equipment fleet, to become a "one stop shop for customers" and minimize the use of various independent contractors. While the majors may continue to move towards life-of-field services offerings, small to medium firms providing specific technology, environmental, and other services are intact and will continue to rebound as the market does.

In general, we view the resiliency demonstrated by the energy market - and the Houston labor and real estate markets so affected thereby - as a positive sign for the coming years. In the meantime, our focus remains on gathering information, minimizing uncertainty, and navigating this climate to our clients' best advantage.

Energy Practice Leaders



CHRIS HANSLIK

Firm Chairman

Represents companies in all aspects of the energy sector, both domestically and internationally, in disputes ranging from breach of contract and fraud to misappropriation of trade secrets and employment-related disputes. Has secured favorable results in both state and federal courts, as well as international arbitration proceedings for energy clients.



STEVE KESTEN

Chair, Business Group

Represents multiple international energy and energy services clients with outbound expansion (i.e., U.S. companies expanding internationally) and inbound expansion (international companies expanding to the U.S.), including start-up expansion or expansion by acquisition, as well as in connection with financing and merger and divestiture transactions.



BILL BOYAR

Founding Shareholder, Business Group

Represents the various parties involved in the acquisition, disposition, capitalization and financing of national and international businesses. Served as lead counsel for numerous complex, multi-party acquisitions and project financings with significant experience in corporate finance, mergers and acquisitions, private equity and structure finance.

**GARY MILLER***Founding Shareholder, Business Group*

Represents numerous domestic and offshore-based companies in connection with acquisitions and divestitures, financings, joint ventures and general corporate matters in the United States.

**GUS BOURGEOIS***Shareholder, Business Group*

Represents clients doing business domestically and internationally in connection with mergers and acquisitions, finance and multi-jurisdictional transactions, including negotiation of contracts for sales of goods and services (including master service agreements), technology licensing, joint venture agreements, and employment agreements, with significant experience in assisting foreign businesses in establishing and growing their U.S. operations.

**ANDREW PEARCE***Shareholder, Litigation Group*

Represents both individuals and corporations in all types of commercial and business litigation – including the oil and gas and chemical industries – for conflicts involving employment disputes, trade secrets and confidential information, breach of contract and more.

**BLAKE D. ROYAL***Shareholder, Business Group*

Represents corporations and businesses in corporate transactions, contracts, private equity investments, mergers and acquisitions, corporate restructuring and capital formation strategy and structure.



MATTHEW S. VEECH

Shareholder, Litigation Group

Represents clients in a variety of employment and business-related disputes, including matters relating to enforcement of non-compete and non-solicitation agreements, misappropriation of trade secrets and proprietary information, breach of fiduciary duties and breach of contract and related business torts.



PHILIP A. DUNLAP

Shareholder, Business Group

Represents clients for corporate and private securities transactions as well as serving as outside general counsel in a variety of matters, including mergers and acquisitions, financing, employment agreements and raising capital through private offerings.



DAVID STOCKEL

Shareholder, Litigation Group

Represents individuals and businesses in disputes involving employment and intellectual property, including trade secrets, trademark and non-compete claims, products and premises liability, and energy-related matters both onshore and offshore.