



Special Institute on

Carbon Capture, Utilization, and Storage

March 7-8, 2024

South Texas College of Law Houston
Houston, Texas

CCUS

Carbon Capture, Utilization, and Storage (CCUS) features among the core technologies necessary to achieve the United States' decarbonization goals. With passage of the Inflation Reduction Act and its incentives, carbon storage is now both technically and commercially feasible. Not surprisingly, oil and gas production and midstream companies are well positioned to be first movers in these emerging markets due to their technical capabilities, infrastructure, and skilled workforces. Although a number of educational and industry conferences have been held that explore the technology and business implications of CCUS, very few programs have been held that examine the legal and related policy issues. This two-day Institute is the most comprehensive, in-depth educational program to date on the legal issues associated with carbon storage projects, including tax credits, commercial agreements, land issues, permitting, and environmental regulation.

Program Committee

TARA K. RIGHETTI, Program Chair, Professor of Law, University of Wyoming, Laramie, WY

MARCELLA BURKE, Managing Partner, Burke Law Group, Houston, TX

JAMES CURRY, Managing Shareholder, Babst Calland, Washington, DC

EUGENE HOLUBNYAK, Director, Hydrogen Energy Research Center, University of Wyoming School of Energy Resources, Laramie, WY

AILEEN M. HOOKS, Senior Counsel, Baker Botts, Austin, TX

SARAH LEUNG, Deputy Director, Carbon Capture, Utilization, and Sequestration, White House Council on Environmental Quality, Washington, DC

INGVILD OMBUDSTVEDT, Founder, IOM Law, Oslo, Norway

TADE OYEWUNMI, Energy Law Professor and Advisor, Grand Forks, ND

EADBHARD PERNOT, Policy Manager, Carbon Capture, Clean Air Task Force, Berlin, Germany

CHARLENE RUSSELL, Vice President, Baker Hughes, Dallas, TX

EMILY SCHILLING, Partner, Holland & Hart, Salt Lake City, UT

REGISTRATION – fnrel.org/programs/CCUS24/registration

Day 1: March 7, 2024

7:00 – 8:30 am: Registration at South Texas College of Law

8:30 – 8:45 am: Introductions and Opening Remarks

8:45 – 9:45 am: An Introduction to Carbon Capture, Utilization, and Storage (CCUS)

In 2020, the International Energy Agency said it would be “virtually impossible” to meet net zero energy targets without deploying CCUS technologies. What is needed and at what scale? The speakers will introduce the principal issues and technical background of CCUS, including its purpose and history. They will detail efforts to develop global standards for capture, transport, and storage within the context of climate geoengineering. They will also provide an update on key onshore and offshore projects in the U.S. and globally and forecasts for the role of CCUS in the decarbonization of the global energy system and economy.

INGVILD OMBUDSTVEDT, Founder, IOM Law, Oslo, Norway

SCOTT QUILLINAN, Senior Director of Research, University of Wyoming School of Energy Resources, Laramie, WY

9:45 – 10:30 am: Policy Drivers, Incentives, and Feasibility of Decarbonization Projects in a Net-Zero World

This presentation will discuss the policy drivers of CCUS, including relevant provisions of the Infrastructure Investment and Jobs Act and the Inflation Reduction Act, Section 45Q of the Internal Revenue Code, grant opportunities and funding through the Department of Energy, and programs under state law. The speaker will address how international carbon reduction initiatives and policies such as the Carbon Border Adjustment Mechanism and carbon taxes abroad increasingly drive CCUS projects in the U.S. The presentation will also address how these policies impact project economics and provide suggestions for further innovations.

PRIYA G. PRASAD, Attorney-Advisor, U.S. Department of Commerce, Commercial Law Development Program, Washington, DC

TAYLOR PULLINS, Partner, White & Case, Houston, TX

10:30 – 10:45 am: Hosted Refreshment Break

10:45 – 11:30 am: Permitting Onshore CCUS Projects in the U.S.

This presentation will examine the state and federal regulatory framework for development of CCUS projects, including siting CO2 pipelines, underground injection control permitting under Class VI and Class II, and National Environmental Policy Act reviews. The speaker will also evaluate regulatory authority and permitting issues associated with interstate projects, the USE-It Act, and Fast 41.

COURTNEY M. SHEPHARD, Partner, Brownstein Hyatt Farber Schreck, LLP, Denver, CO

11:30 am – 12:30 pm: Social Acceptance and Environmental Justice Issues Related to CCUS

Developing new plants and infrastructure will require stakeholders to address unique issues of community acceptance and environmental justice at every stage of the project life cycle: capture, transport, and storage. This presentation will examine these issues, including project developers’ environmental justice obligations under Federal law, potential permitting and litigation risks, and suggestions for obtaining the requisite social license.

The speakers will include a discussion of Justice 40 and the environmental justice, community benefit agreement, and stakeholder engagement requirements associated with federal funding.

AFFIE B. ELLIS, Shareholder, Brownstein Hyatt Farber Schreck, LLP, Cheyenne, WY

SHANE C. SCHULZ, Strategic Consulting Advisor, Brownstein Hyatt Farber Schreck, LLP, Cheyenne, WY

12:30 – 2:00 pm: Lunch – On Your Own

2:00 – 3:00 pm: Financing CCUS Projects

This presentation will review the unique aspects of the principal financial agreements needed to develop a commercial CCUS project, including tax equity financing. At a high level, the speaker will cover key provisions and how these agreements allocate rights and responsibilities along the value chain.

NANDAN NELIVIGI, Partner, White & Case LLP, New York, NY

3:00– 3:45 pm: CO2 Offtake agreements

This presentation will analyze the key considerations and commercial terms included in CO2 offtake contracts including allocation of credits, claw backs, and CAA compliance.

RYAN HADDAD, Partner, Reed Smith LLP, Pittsburgh, PA

TADE OYEWUNMI, Energy Law Professor and Advisor, Grand Forks, ND

3:45-4:30 pm: Tax Credits for CCUS Projects Under Internal Revenue Code Section 45Q

This presentation will address requirements for tax credits under Internal Revenue Code section 45Q applicable to carbon capture and disposal, use or utilization projects, including applicable Treasury Regulations and guidance. Issues will include the beginning of construction safe harbor, prevailing wage/apprenticeship requirements, and strategies for monetizing the credits (including, among others, the direct pay election, transfer election, and common tax equity structures).

CHRIS GIROUARD, Partner, Bryan Cave Leighton Paisner LLP, Chicago, IL

TIM GLASGOW, Partner, Bryan Cave Leighton Paisner, Denver, CO

4:30 – 4:45 pm: Hosted Refreshment Break

4:45 – 5:30 pm: Claiming Credits in Carbon Markets

This presentation will discuss how CCUS projects may be able to monetize carbon removals outside of IRC section 45Q by claiming credits or offsets in compulsory and voluntary carbon markets. It will include a discussion of challenges with double counting and efforts to buffer against carbon releases, including those established under the California low-carbon fuel standards, ISO, and the European Union certification of carbon removals. The speaker will also discuss potential liability for improper accounting.

MICHAEL DREIBELBIS, Counsel, Latham & Watkins LLP, Los Angeles, CA

5:30 – 6:30 pm: Hosted Reception for Registrants, Speakers, and Guests

8:30 – 9:30 am: CCUS in the Checkerboard West – Lessons on How to Move with the Federal Government on the Board

Ownership of surface and subsurface land in the Western U.S. is dispersed among private parties, Federal and State governments, and Tribes, and managed by a multitude of different agencies with different missions and regulations, creating significant challenges for CCUS developers. This panel of Federal lands experts will address the types of Federal and Tribal land ownership, split estates, and agency jurisdiction, including Bureau of Land Management, Forest Service, and Bureau of Indian Affairs; current Federal laws, regulations, and policies governing rights and access to land for CCUS projects and their status along with potential gaps, approvals and permits needed, and lessons learned to date.

TARA K. RIGHETTI, Moderator, Professor of Law, University of Wyoming, Laramie, WY

ANDREW EMRICH, Partner, Holland & Hart, Denver, CO

ELISABETH TAKEUCHI, Attorney, Maynes, Bradford, Shipps, and Sheftel LLP, Denver, CO

9:30– 10:15 am: Conflicts and Confluences Between the Surface and Mineral Estate with CCUS

This presentation will examine legal issues associated with injection into depleted or producing mineral formations, including coalbed methane formations and CO2 production sites. The speaker will discuss overlapping Federal and State laws, potential surface-mineral conflicts on both State and Private lands, and potential issues arising under oil and gas leases.

JOSEPH SCHREMMER, Associate Professor, The University of Oklahoma School of Law, Norman, OK

10:15 – 10:30 Hosted Refreshment Break

10:30 – 11:15 am: Property and the Pressure Front – Amalgamation, Access, and Operations

This presentation will address surface and subsurface property issues related to CCUS as established by the Class VI injection program and low-carbon fuel standards. These provisions, and related waste considerations, may require operators to have extensive access rights outside the CO2 plume, including to perform corrective action on existing wellbores, monitoring, and basin scale pressure management. The speaker will also discuss the challenges of aligning rights within the area of review and pressure front, including across state lines, and the ability to compel access or to amalgamate surface and subsurface rights through either voluntary agreements or compulsory arrangements under State or Federal law.

AILEEN M. HOOKS, Senior Counsel, Baker Botts, Austin, TX

11:15 am – 12:00 pm: Local Government Regulation of CCUS

In a saga that calls to mind the fracking regulatory battles of the last decade, a Louisiana court recently overturned an effort by a local parish to put a moratorium on CO2 injections. With incomplete regulatory frameworks and often an absence of state laws, city and county governments are questioning their role in regulating CCUS. The speaker will address local government tools to regulate CCUS and preview potential conflicts.

KEITH B. HALL, Professor of Law, Louisiana State University Law, Baton Rouge, LA

12:00 – 1:30 pm: Lunch – On Your Own

1:30 – 2:30 pm: Ethical Issues Under the Model Rules of Professional Conduct Involving Credits for CCUS and Greenwashing

A significant gray area exists between legitimate carbon reduction and what has been termed “greenwashing” – conveying a false impression as to the environmental sustainability of a corporate practice. This presentation will examine the legal and ethical obligations of project developers and their counsel related to carbon markets and climate disclosures, including those required by the SEC. In addition to the social license and other business risks, the speaker will focus on the ethical implications of greenwashing and inaccurate disclosures for attorneys under the ABA Model Rules of Professional Conduct.

CAILEEN KATERI GAMACHE, Partner, Norton Rose Fulbright US LLP, Houston, TX

RACHEL ROOSTH, Partner, Norton Rose Fulbright US LLP, Houston, TX

2:30 – 3:30 pm: CO2 Pipeline Safety Regulation

The U.S. Department of Transportation Pipeline and Hazardous Materials Safety Administration (PHMSA) and its state partners have administered a safety regulatory program for CO2 pipelines for decades. With the prospect of substantial growth in the CO2 pipeline network, PHMSA is evaluating whether its existing regulatory frameworks are adequate. This presentation will explore existing safety regulatory frameworks, technical considerations, and how the buildout of a national low-carbon pipeline network may be impacted by existing and future safety regulation. The speakers will also address carbon-intensity-based opposition to CO2 pipelines and regulatory considerations for conversions of hydrocarbon infrastructure to CO2 service.

JAMES CURRY, Managing Shareholder, Babst Calland, Washington, DC

JOSEPH E. HAINLINE, Partner, Van Ness Feldman LLP, Washington, DC

3:30 – 3:45 pm: Hosted Refreshment Break

3:45 – 4:30 pm: Environmental Litigation Risks

This presentation will address the environmental litigation risks of CCUS projects under CERCLA, RCRA, the Clean Air Act, and other statutes. It will consider environmental litigation risks throughout the project lifecycle including for capture, transport of supercritical CO2, and storage.

L. POE LEGGETTE, Partner, Baker & Hostetler LLP, Houston, TX

4:30 pm to 5:00 pm: 45V - Cross Walking CCUS and H2

This presentation will crosswalk the issues presented during the CCUS special institute to emerging issues related to hydrogen production, transport, and storage. In particular, the paper and discussion will focus on the intersections between CCUS and blue hydrogen production and related challenges of economy of scale, incentives, and infrastructure.

DAMON DANIELS, EVP and Chief Commercial Officer, Tallgrass Energy, Houston, TX

MADELEINE LEWIS, Policy Research Scientist, University of Wyoming School of Energy Resources, Laramie, WY

5:00 pm: Course Adjournment

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General Information

Room Reservations: The entire program will take place at the South Texas College of Law. If you need an overnight guest room, we have a highly discounted block at Springhill Suites Houston Downtown, about a five-minute walk from the law school, at the rate of \$169/night. Rooms outside of our block are at least \$200+/night!

- **Online Group** (\$169/night): <https://www.marriott.com/event-reservations/reservation-link.mi?id=1684954524539&key=GRP&app=resvlink>
- **Online Government** (\$122/night): <https://www.marriott.com/event-reservations/reservation-link.mi?id=1685459745574&key=GRP&app=resvlink> (You must be able to prove government employment or you will be charged a much higher rate.)
- **Phone:** (713) 655-0002, ext. 1

Please contact info@fnrel.org if you have any problems making a reservation.

Pricing – Early-bird pricing ends on February 8, 2024.
Early-Bird/After Early-Bird Registration Rates:

Foundation Member	\$855/\$980	Nonmember	\$1155/\$1280
Government	\$795/\$920	Nonprofit	\$795/\$920
Law Professor Member	\$465/\$590	Senior Member	\$465/\$590
New Professional Member	\$100/\$225	Foundation Student Member	\$0

Registration Fee: Includes electronic course materials, refreshments, and hosted functions as listed in this brochure. These fees do not include hotel costs or transportation. Registrations will be accepted only when accompanied by a check, money order, government purchase order or training form, credit card information, or wiring information. No registrations can be processed without payment.

Recording: Audio and video recording, streaming, or other types of live or stored dissemination are not permitted without express authorization from FNREL.

Special Needs: If you have special needs addressed by the ADA, please notify us at least two weeks before the program.

Registration Cancellations: Refunds, less a \$50 administrative fee, will be given for cancellations received by 3:00 pm Mountain time on Thursday, February 22, 2024. No refunds will be given thereafter, although substitution of attendees may be made by contacting FNREL. Cancellations must be made in writing or email to info@fnrel.org. Registrants not entitled to a refund will receive a link to the written materials.

CLE Credit: This course offers continuing education credit of approximately 13.25 credits for 60-minute states and 15.5 credits for 50-minute states, including 1 hour of ethics. You must let us know, at least 45 days in advance of the course, the states or organizations for which you will need credit (see registration form). Credit hours for states will vary and are subject to each state's approval and credit rounding rules. Foundation courses are typically accredited by all mandatory CLE states and Canadian provinces, AAPL, NADOA, and NALTA, and other professional organizations. Attorneys from certain states may be required to pay an additional fee. The Foundation is a State Bar of California MCLE-approved provider.