

Bret Sumner

Shareholder

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BEATTY & WOZNIAK, P.C.
ENERGY IN THE LAW

OVERVIEW

Bret Sumner focuses his practice on energy and environmental matters. Bret specializes in advising clients on large scale infrastructure projects and permitting issues, involving multiple states and jurisdictions (federal, state and local) and a wide range of industry, agricultural, private landowner, local government, and other stakeholder interests.

Bret represents companies in litigation, permitting, enforcement, and administrative proceedings. He regularly defends permits and projects from legal challenges, and he represents clients in federal and state courts, and before administrative adjudicatory entities.

Bret's project representation includes electric transmission, water pipelines, helium projects, rare and critical mineral development, interstate and intrastate oil and natural gas pipelines, and upstream oil and gas exploration and development projects.

He specializes in counseling clients on front-end regulatory authorization and environmental compliance matters, with the twin goals of expediting project approvals from federal, state, and local agencies, and minimizing litigation risk.

Bret advises companies on compliance with federal statutes, such as the:

- National Environmental Policy Act (NEPA)
- Endangered Species Act (ESA)
- Clean Air Act (CAA)
- Clean Water Act (CWA)
- National Historic Preservation Act (NHPA)
- Migratory Bird Treaty Act (MBTA)
- Federal Land Policy and Management Act (FLPMA)
- National Forest Management Act (NFMA)

Industries

- Oil & Gas
- Energy
- Industrial Development

Practice Areas

- Litigation
- Environmental Compliance and Regulatory Counseling
- Permitting and Leasing
- Risk Management
- Policy and Legislation

Admissions

- Admitted to practice before the U.S. Supreme Court and numerous federal district and appellate courts
- Washington D.C., Colorado, Utah, and Texas (pending)

Professional Activities

- Western Energy Alliance (an industry trade association of over 300 companies)
 - Board of Directors
 - Vice Chair of the Board for Government and Public Affairs
 - Board Executive Committee
- 50 for Colorado, Class of 2007, Executive Development Program, Leeds School of Business, University of Colorado
- Selected as a "Rising Star" Energy and Natural Resources Attorney in the 2009 and 2010 Colorado Super Lawyers publications



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ENERGY IN THE LAW

He works with companies in navigating issues involving a variety of federal departments and agencies, such as the:

- U.S. Department of the Interior (DOI)
- U.S. Department of Agriculture (USDA)
- Bureau of Land Management (BLM)
- U.S. Fish and Wildlife Service (FWS)
- Environmental Protection Agency (EPA)
- U.S. Army Corps of Engineers (USACE)
- Bureau of Safety and Environmental Enforcement (BSEE)
- U.S. Forest Service (USFS)
- Bureau of Indian Affairs (BIA)
- Federal Energy Regulatory Commission (FERC)
- U.S. Coast Guard (USCG)
- National Oceanic and Atmospheric Administration (NOAA)

Bret also works with federal regulators and legislators to create, revise, and interpret new laws, regulations and policies related to the energy industry and federal lands and minerals.

Bret also advises large-scale commercial end-users regarding electricity procurement in deregulated markets, acquisition of electricity generated from renewable resources including purchase of Renewable Energy Certificates (RECs), regulatory processes to acquire on-site renewable energy generation systems, and identification of methods to optimize use of these acquisitions from an energy management perspective.

In 2011, Bret served as lead counsel in one of the largest REC purchases in U.S. history (300,000 megawatts) at that time.

Prior to joining Beatty & Wozniak, P.C. in 2009, Bret practiced in the Washington D.C. Office (1998 to 2006) and Denver Office (2007 to 2008) of the international law firm of Fulbright & Jaworski, L.L.P.

SELECT EXPERIENCE

Litigation

- Defend companies in legal challenges including ESA, NEPA and CAA causes of action filed by environmental plaintiffs challenging infrastructure construction, siting, leasing, and exploration and development projects.
- Represent oil and gas industry through two trade associations as defendant-intervenors in legal challenge filed by environmental plaintiff groups against federal oil and gas lease sales in three states regarding climate change, greenhouse gas emissions and related air quality issues.

Education

- Juris Doctor, Catholic University of America, Columbus School of Law, 1998
 - Note and Comments Editor of The Catholic University Law Review
- Bachelor of Science, Political Science and History, James Madison University, 1992
 - *Magna Cum Laude*

Speeches and Publications

- *Climate Change Litigation*, Beatty & Wozniak Seminar (March 2018)
- *EPA's Role in the NEPA Process*, Rocky Mountain Mineral Law Foundation, Special NEPA Institute (November 2017)
- *Federal Policy Update*, Petroleum Association of Wyoming (August 2017)
- *Greater Sage Grouse Federal Land Use Plan Amendments and Litigation Update*, University of Wyoming Energy Conference (October 2016)
- *The Endangered Species Act: Overview, Case Studies and Strategies for Oil and Gas Companies*, *The Center for American and International Law*, 66th Annual Oil & Gas Law Conference (February 2015)
- *Federal Master Leasing Plans*, EUCI Seminar (April 2013)
- *Managing Regulatory and Litigation Risks Associated with Hydraulic Fracturing*, EUCI Conference, (February 2012)



- Represent oil and gas trade associations in legal challenge to decisions by the DOI and USDA to amend federal land use plans with prohibitive and restrictive management prescriptions related to greater sage grouse in 11 western states.
- Represent a coalition of oil and gas, ranching, and agricultural trade associations in litigation involving BLM decisions under the ESA, NEPA, and the FLPMA.
- Represented oil and gas industry trade association as defendant-intervenor in successful defense to challenge to EPA rule regarding CAA non-attainment classification in the Uinta Basin in Utah. U.S. Court of Appeals for the D.C. Circuit adopted arguments in decision favorable to industry.
- Represented three independent oil and gas companies as appellees in successfully defending against a lawsuit filed by a coalition of environmental plaintiff organizations challenging authorization of an oil and gas development project by the BLM and USFS in southwestern Colorado.
- Represented two large independent oil and gas companies and an affiliate gathering company as defendant-intervenors in successful defense against a lawsuit focused on wildlife issues related to BLM's authorization of oil and gas development in Pinedale Resource Area in Wyoming.
- Successfully negotiated settlement with oil and gas lessees, State of Colorado, DOI, and environmental plaintiff organizations and resolved decades-long dispute in a manner that allowed for continued development.
- *Current BLM Leasing Policy*, Rocky Mountain Land Use Institute, Denver University School of Law (February 2012)
- *Federal Regulatory and Environmental Issues Relevant to Lease Access*, NALTA Annual Conference (September 28, 2011)
- *BLM Regulatory Changes & Implications for Producers*, IPAA Access and Resource Development Conference, Colorado Springs, Colorado (June 2010)
- *Legal Update: Recent Cases and Legal Challenges involving Air Quality and GHGs*, Rocky Mountain Environmental, Health, and Safety Peer Group, Quarterly Meeting (October 2009)
- *Legal Update: Recent Cases and Legal Challenges*, IPAMS Annual Meeting and Summer Conference (June 2009)
- *Projects in Sensitive Areas: How to Facilitate Authorization and Minimize Litigation Risks*, Colorado Oil and Gas Association Annual Conference, Rocky Mountain Energy Epicenter (July 2008)
- *Legal Update: Wilderness Characteristics; Global Warming, Climate Change and GHG Emissions*, IPAMS Annual Meeting and Summer Conference (June 2008)
- *Federal Land Access: Current Issues and Future Challenges*, 2008 Business Summit of the West
- *Leasing Due Diligence on Federal Lands: Procedures and Strategies*, Denver Association of Petroleum Landmen's Fall Land Institute,

Environmental Compliance and Permitting

- Served as lead counsel to project proponent in complex, large scale water-flood and infill development project involving 8,500 oil and gas wells and related roads, gas plants and infrastructure covering approximately 120,000 acres in the Uinta Basin, Utah. Representation covered all aspects of project proposal and permitting, including compliance with NEPA, ESA, CWA, CAA, and numerous other federal and state environmental laws and regulations.
- Counsel companies on navigating ESA compliance and permitting, Section 7 consultation for project-level authorizations, development of conservation strategies and policy level engagement with the DOI and USFWS, as well as BLM and BIA related permitting matters.



- Represent companies and project proponents before the USFWS and/or BLM regarding threatened and endangered species and ESA compliance issues in Texas, Oklahoma, Kansas, Utah, Wyoming, Colorado, North Dakota, and New Mexico.
 - Advise clients on project planning, conservation and mitigation strategies and risk assessment related to the MBTA and the FWS' expanding interpretation of its scope of enforcement authority under the MBTA.
 - Represent clients on matters involving wetlands and Section 404 of the CWA, and related permitting issues involving the USACE.
 - Represent companies facing EPA enforcement actions related to Section 404 and Section 311 of the CWA.
 - Counsel companies on navigating ESA compliance and ESA Section 7 consultation for project-level authorizations, including development of conservation strategies and policy level engagement with the DOI and USFWS, as well as BLM and BIA related permitting matters.
 - Advise clients on project planning, conservation and mitigation strategies, and related NEPA and ESA compliance for aquatic species related to the Platte River Recovery Implementation Program and the South Platte Water Related Activities Program, Inc. (SPWRAP).
 - Advise clients on compliance with the Upper Colorado River Endangered Fish Recovery Program, including project level conservation measures, consultation with the FWS under Section 7 of the ESA, and formulation of landscape level conservation plans for use in programmatic and project-specific Biological Opinions under the ESA.
 - Advise clients on compliance with the FWS' Programmatic Water Depletion Biological Opinion for the Green River and White Rivers in Utah and Colorado.
- Denver, Colorado (October 2007)
 - *Look Before You Lease RMPs and Post-Pennaco Leasing Issues*, American Association of Professional Landmen's Santa Fe Land Institute, Santa Fe, New Mexico (September 2006)
 - *Fighting Pseudo-Science with Hard Science: How to Combat Legal Challenges to Oil & Gas Projects Under NEPA and FLPMA*, Colorado Oil & Gas Association's 16th Annual Conference, Denver, Colorado (August 2006)
 - *NEPA Process Applied to Federal Land Development Decisions: The Powder River CBM Experience*, Rocky Mountain Mineral Law Foundation Special Institute on NEPA and Federal Land Development, Denver, Colorado (February 2006)
 - *Federal Land Access Issues*, New Mexico Oil and Gas Association Annual Conference, Santa Fe, New Mexico (October 2005)

Permitting Policy and Legislation

- Represent companies and trade association in the formulation of federal policy and legislative proposals regarding the NEPA, ESA, and NYHPA.
- Draft state legislation regarding the contours of local government regulation of oil and gas activities.

