



AMERICAN  
BANKRUPTCY  
INSTITUTE

# VALCON 2018

## Energy Restructuring: Looking Forward and Backward

**Steve M. Abramowitz, Moderator**

*Vinson & Elkins LLP; New York*

**Bruce Buchanan**

*PwC; New York*

**Albert S. Conly**

*FTI Consulting, Inc.; Dallas*

**Michael Genereux**

*PJT Partners Inc.; New York*

**Hon. David R. Jones**

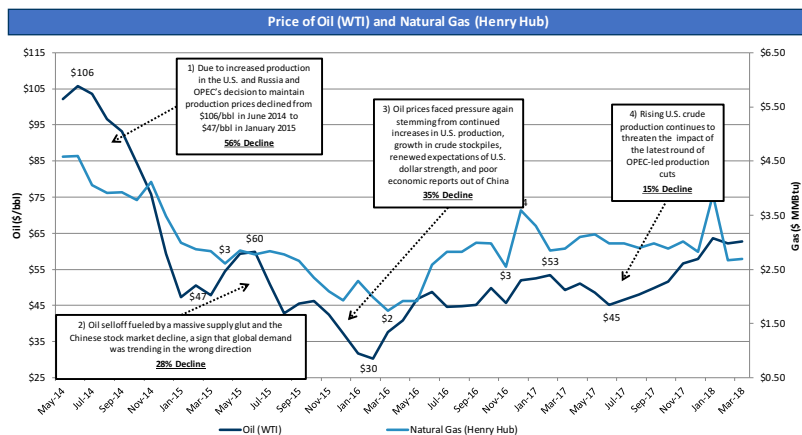
*U.S. Bankruptcy Court (S.D. Tex.); Houston*

## VALCON 2018 - Energy Panel Thursday, May 17, 2018

### Energy Restructuring: Looking Forward and Backward

Hon. David R. Jones - United States Bankruptcy Judge, Southern District of Texas  
Albert S. Conly - FTI Consulting  
Mike Genereux - PJT Partners  
Stephen Hammond - PricewaterhouseCoopers Corporate Finance LLC  
Steven M. Abramowitz - Vinson & Elkins LLP, Moderator

#### State of the Oil & Gas Industry Oil Prices Are Experiencing a Quadruple Dip



Source: EIA

2

## Supply & Demand Overview

### Global Oil Production and Consumption

During 2017, world crude oil and liquid fuels were undersupplied by roughly 520 thousand barrels per day ("MMbbl/d") and during 2016, it was oversupplied by 270 MMbbl/d. As of May 2018, the EIA estimates an over supply by as much as 160 MMbbl/d in 2018 and 630 MMbbl/d in 2019.

#### Global Production

- The global supply of crude oil and other liquid fuels steadily increased since the downturn in late 2014, and is forecasted to total 103 million barrels per day ("MMbbl/d") in 2019

#### OPEC Production

- In November 2017, Organization of the Petroleum Exporting Countries ("OPEC"), and other Non-member countries such as Russia, agreed to extend production cuts of 1.8 MMbbl/d until December of 2018
- OPEC remains the world's swing producer and any significant deviation in production output could shift the balance between supply and demand
- The next OPEC meeting is scheduled for June 22, 2018 in Vienna, Austria

#### Non-OPEC Production

- Non-OPEC production is estimated at 63.1 MMbbl/d in 2019, 5.1 MMbbl/d increase from 2016

#### U.S. Production

- In 2017, the U.S. produced an average of 9.1 MMbbl/d, this is expected to increase to approximately 9.8 MMbbl/d in 2018 (The U.S. daily record was set in 1970 at 9.6 MMbbl/d)
- Production in the U.S. shale was a large contributor to the market supply imbalance experienced during the last several years
- Many expect the U.S. to increase production as productivity and prices warrant

	2014	2015	2016	2017	2018	2019
OPEC Production	36.9	38.2	39.2	39.3	39.2	39.5
OPEC - Crude Oil	30.5	31.7	32.7	32.4	32.3	32.3
OPEC - Other Liquids	6.4	6.6	6.6	6.8	7.0	7.2
Non-OPEC Production	56.9	58.5	58.0	58.7	61.2	63.1
U.S. Production	8.5	9.3	8.8	9.1	9.8	10.3
Total World Production	93.8	96.7	97.2	98.0	100.4	102.6
OECD Consumption	45.6	46.3	46.7	47.2	47.7	48.1
Non OECD Consumption	48.0	49.1	50.1	51.3	52.6	53.9
Total World Consumption	93.6	95.4	96.9	98.5	100.3	102.0
Over / (Under) Supply	0.21	1.35	0.32	(0.51)	0.16	0.63



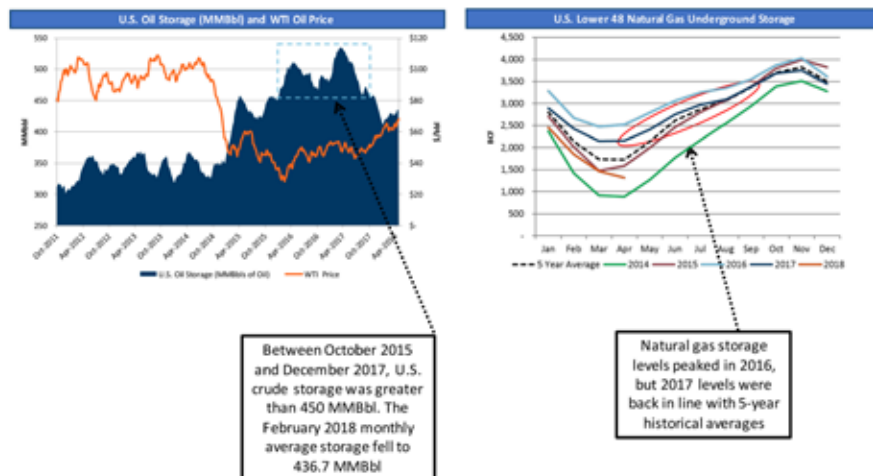
Source: EIA (Short Term Energy Outlook - Global Petroleum and Other Liquids)

3

## State of the Oil & Gas Industry

### Inventory Levels Remain Resilient

While crude storage levels remain at relatively high levels, natural gas storage follows a much more seasonal trend and is in line with 5 year average levels. Crude storage totaled approximately 420.5 MMbbl as of February 23, 2018, which equates to approximately 41 days of U.S. production at current levels



Source: EIA

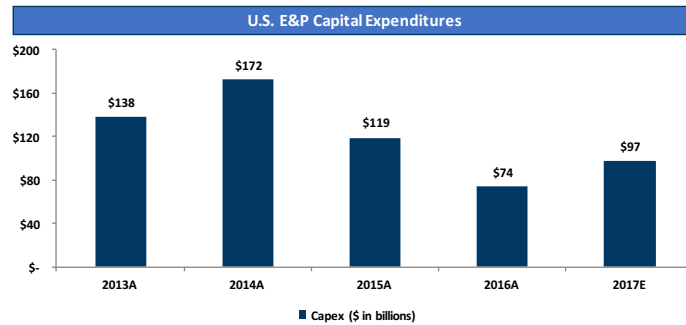
4

## State of the Oil & Gas Industry Capex Guidance

After falling by approximately 31% from 2014 to 2015, and approximately 38% from 2015 to 2016, U.S. Capex budgets are now projected to increase approximately 32% in 2017 for the first time since 2014

In addition, many recently restructured E&P firms, which are now privately held, have indicated they anticipate increased drilling activity in 2017 which may mean that this projected increase is understated

The 41% rig count increase from January 2017 to through September 22, 2017 supports this projection

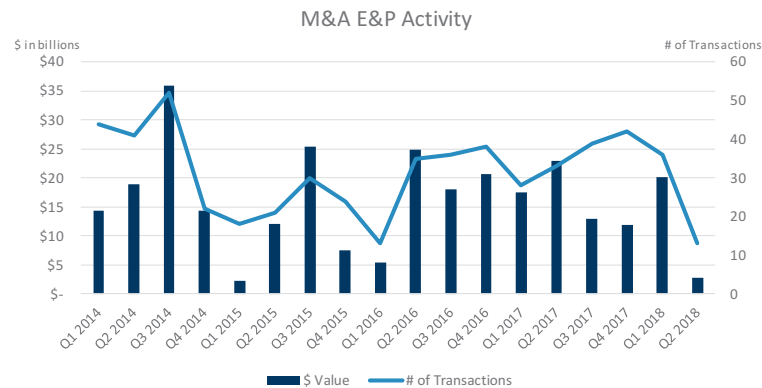


Source: Company Filings, Bloomberg LP, Everscore, Barclays  
A = Actual E = Estimate

5

## State of the Oil & Gas Industry M&A Activity Since 1Q 2014

Between January 1, 2014 and May 10, 2018, there have been 565 E&P Industry M&A transactions in the U.S. and Canada

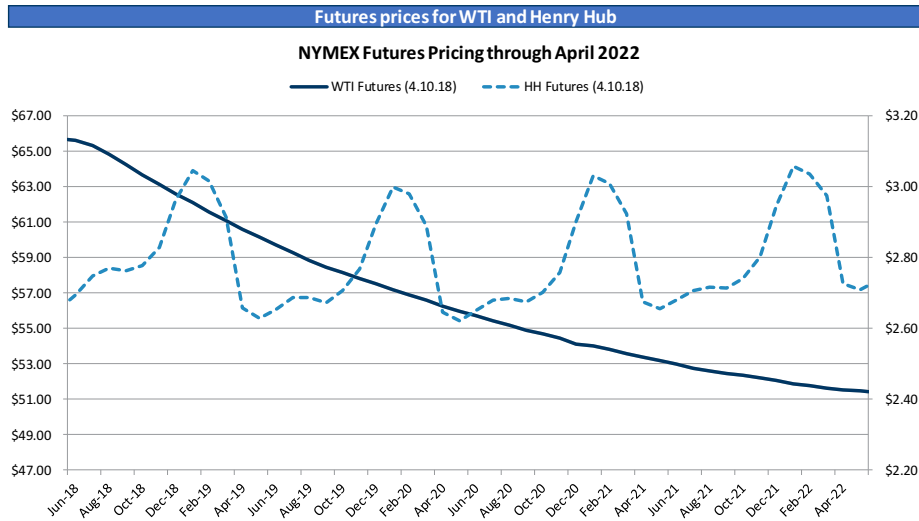


Sources: Cap IQ (excludes transactions < \$50 MM)

6

## State of the Oil & Gas Industry

### NYMEX Futures Strip Pricing



7

## State of the Oil and Gas Industry

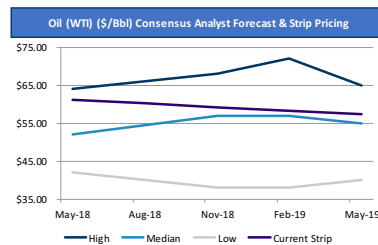
### Commodity Price Outlook

#### Commodity Price Forecast

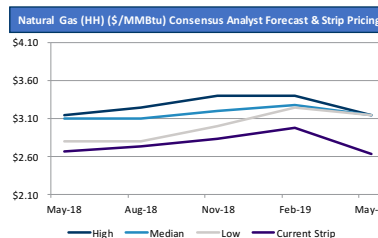
Below is a summary of current oil (WTI) and natural gas (HH) price forecasts

WTI strip prices average approximately \$60/Bbl in 2018, while HH strip prices average \$2.75/MMBtu in 2018

Oil (WTI)		Analyst	As Of	Q1 18	Q2 18	Q3 18	Q4 18	Q1 19	Q2 19
Capital Economics Ltd	Thomas Pugh	01/08/18	\$ 58.00	\$ 55.50	\$ 54.50	\$ 53.00	\$ 52.50	\$ 53.00	
ABN AMRO Bank NV	Hans Van Cleef	11/16/17	61.00	64.00	66.00	68.00	72.00	65.00	
Market Risk Advisory Co.	Naohiro Nimura	11/02/17	50.00	52.00	52.00	54.00	55.00	55.00	
Westpac	Justin Smirk	10/23/17	44.00	42.00	40.00	38.00	38.00	40.00	
Raiffeisen International	Hannes Loacker	12/19/17	53.00	51.00	53.00	57.00	57.00	58.00	
Commerzbank AG	Eugen Weinberg	12/11/17	47.00	51.00	55.00	57.00	57.00		
Lloyds Bank PLC	Carl Paraskevass	11/30/17	59.00	62.00	62.00	64.00	66.00		
High			61.00	64.00	66.00	68.00	72.00	65.00	
Median			53.00	52.00	54.50	57.00	57.00	55.00	
Low			44.00	42.00	40.00	38.00	38.00	40.00	
Current Strip		01/08/18	\$61.43	\$61.13	\$60.27	\$59.25	\$58.27	\$57.32	



Natural Gas (HH)		Analyst	As Of	Q1 18	Q2 18	Q3 18	Q4 18	Q1 19	Q2 19
Citigroup Inc	Anthony Yuen	12/20/17	\$ 3.20	\$ 3.10	\$ 3.10	\$ 3.10	\$ 3.00		
DZ Bank AG Deutsche Zen.	Axel Herlinghaus	12/04/17	3.30	3.10	3.25	3.40			
Market Risk Advisory Co.	Naohiro Nimura	11/02/17	3.25	3.10	3.10	3.25	3.25	3.15	
Toronto-Dominion Bank	Bart Melick	11/16/17	3.10	3.15	3.20	3.20	3.25		
Intesa Sanpaolo SpA	Daniela Corcini	12/05/17	3.50	3.10	3.20	3.20			
Commerzbank AG	Eugen Weinberg	12/11/17	3.30	3.00	3.00	3.30	3.30		
Santander UK PLC	Jason Kenney	11/08/17	3.20	2.80	2.80	3.20	3.40		
High			3.50	3.15	3.25	3.40	3.40	3.15	
Median			3.25	3.10	3.10	3.20	3.28	3.15	
Low			3.10	2.80	2.80	3.00	3.25	3.15	
Current Strip		01/08/18	\$2.77	\$2.67	\$2.73	\$2.83	\$2.98	\$2.63	



Source: Bloomberg as of January 8, 2018

8

# Overview of Last Cycle

## SELECT ENERGY RESTRUCTURING CASES

Petition Year	Debtor Company	Case Type	Industry	Case Number/Court	Total Debt	Key Issues and Case Outcome
2018	Fieldwood Energy LLC	Voluntary Chapter 11 Case	Energy E&P	(Case No. 18-31080) Bankr. SD Tex	\$3.3 billion.	Prepackaged Plan, involving equitization of second lien debt, and rights offering. Proceeds used to acquire strategic assets on effective date.
2018	Harvey Gulf International Marine	Voluntary Chapter 11 Case	Energy E&P	(Case No. 18-30648) Bankr. SD Tex	\$1.0 billion.	Pre-packaged Plan.
2017*	EMAS CHIYODA Subsea Limited	Voluntary Chapter 11 Case	Oilfield Services	(Case No. 17-31146) Bankr. S.D. Tex.	\$648 million	The case is pending, but the proposed prepack plan and RSA filed provides that certain secured claims will receive full payment in cash after the close of a sale for certain debtor assets, and other secured creditors will have their claims reinstated and receive such treatment provided for under the Plan and asset sale.
2017	Ezra Holdings Limited	Voluntary Chapter 11 Case	Oilfield Services	(Case No. 17-22405) Bank. S.D.N.Y.	\$712 million	Ezra filed bankruptcy on March 18, 2017 and no plan has been filed in the Case at this time.
2017	Forbes Energy Services Ltd	Voluntary Chapter 11 Case	Oilfield Services	(Case No. 17-20023) Bankr. S.D. Tex.	\$305 million	Prepack provided that Allowed Secured Claims either will be reinstated or paid in full in cash, and Senior Unsecured Notes will receive close to 50% recovery through its pro rata share of \$20 million and new equity; general unsecured claims shall be paid in full in cash.
2017	Ocean RIG UDW Inc.	Voluntary Chapter 15 Case	Oilfield Services	(Case No. 17-10736) Bank. S.D.N.Y.	\$3.7 billion	Ocean RIG UDW is a Cayman Islands holding company that filed to protect a restructuring deal from distressed debt investors in the U.S., Ocean RIG UDW claims to have reached an agreement with a group of lenders to convert \$3.7 billion of debt into new equity.
2017	Toisa Limited	Voluntary Chapter 11 Case	Oilfield Services	(Case No. 17-10184) Bank. S.D.N.Y.	\$1.0 billion	Toisa filed bankruptcy on January 29, 2017 and has extended the exclusivity period for filing a Plan. No Plan has been filed in the Case at this time.
2017	Ultrapetrol Limited (Bahamas)	Voluntary Chapter 11 Case	Oilfield Services	(Case No. 17-22168) Bankr. S.D.N.Y.	\$465 million	Prepack provided that all secured claims besides the secured 2021 Notes claims will be reinstated or paid in full in cash; the secured 2021 Notes claims received cash distribution and certain equity interests after the sale of part of the business, resulting in a recovery around 30% in partial payment.

## SELECT ENERGY RESTRUCTURING CASES

Petition Year	Debtor Company	Case Type	Industry	Case Number/Court	Total Debt	Key Issues and Case Outcome
2016*	Atlas Resource Partners, L.P.	Voluntary Chapter 11 Case	Energy E&P	(Case No. 16-12149) Bankr. S.D.N.Y.	\$1.4 billion	Prepack providing first lien claims cash equal to principal minus \$440 million; converting \$668 million of debt into 90% of new equity for the senior secured notes; second-lien creditors with \$250 million secured term loans get the remaining 10% of equity; providing a new \$440 million credit facility with a modified interest rate; unsecured creditors claims are reinstated.
2016	Basic Energy Services, Inc.	Voluntary Chapter 11 Case	Energy Services	(Case No. 16-12320) Bankr. D. Del.	\$1.1 billion	Prepack converting \$100 million of existing secured asset-backed loans and \$165 million of secured term loans into new facilities; converted \$875 million of unsecured notes to equity.
2016	C&J Energy Services, Ltd.	Voluntary Chapter 11 Case	Oilfield Services	(Case No. 16-33590) Bankr. S.D. Tex.	\$1.7 billion	Prepack paying DIP claims in full, converting second lien claims to equity, converting \$1.4 billion of prepetition indebtedness into equity, and providing for a \$200 million new-money investment funded pursuant to a rights offering.
2016*	Chaparral Energy Inc.	Voluntary Chapter 11 Case	Energy E&P	(Case No. 16-11144) Bankr. D. Del.	\$1.8 billion	Plan converted \$1.2 billion of pre-petition bond debt to equity with pay down of \$400 million in debt and entry into a new \$225 million revolving facility and \$150 million term loan.

11

## SELECT ENERGY RESTRUCTURING CASES

Petition Year	Debtor Company	Case Type	Industry	Case Number/Court	Total Debt	Key Issues and Case Outcome
2016*	Emerald Oil, Inc.	Voluntary Chapter 11 Case	Energy E&P	(Case No. 16-10704) Bankr. D. Del.	\$312 million	Plan and asset sale sold substantially all assets for proceeds of approximately \$110.5 million, the bulk of which consisted of a credit bid by the company's prepetition and DIP secured lender; secured credit claims received less than 1% recovery on the \$27 million in allowed claims; \$2 million in cash pooled and distributed to unsecured creditors who voted for the Plan.
2016*	Energy XXI Ltd.	Voluntary Chapter 11 Case	Energy E&P	(Case No. 16-31928) Bankr. S.D. Tex.	\$3.6 billion	Eliminated more than \$2.8 billion in debt from its balance sheet, substantially deleveraged its capital structure, and positioned the company for long-term success; first lien claims received reinstatement of letters of credit pursuant to the letter agreement and their pro rate share of the reorganized debtors' obligations under the exit facility.
2016*	Goodrich Petroleum Corporation	Voluntary Chapter 11 Case	Energy E&P	(Case No. 16-31975) Bankr. S.D. Tex.	\$444 million	Provided \$40 million in new capital through the issuance of new second lien notes: (i) \$20 million of the new capital used to pay down senior secured claims under the previous senior credit facility, and (ii) \$20 million as a new cash infusion to fund initial development of its Haynesville Shale drilling program. Senior credit facility claims recover in full as part of a cash paydown and new exit facility under the Plan.
2016	Halcón Resources Corporation	Voluntary Chapter 11 Case	Energy E&P	(Case No. 16-11724) Bankr. D. Del.	\$3.2 billion	Prepack converting first lien lenders' \$450 million in claims into roll up as part of \$600 million in DIP financing which was converted into exit financing, the second lien notes were reinstated, and the remaining notes eliminated and converted to equity.

12

# AMERICAN BANKRUPTCY INSTITUTE

## SELECT ENERGY RESTRUCTURING CASES

Petition Year	Debtor Company	Case Type	Industry	Case Number/Court	Total Debt	Key Issues and Case Outcome
2016*	Key Energy Services, Inc.	Voluntary Chapter 11 Case	Oilfield Services	(Case No. 16-12306) Bankr. D. Del.	\$1.04 billion	Prepack (agreed to after SEC allegations of Foreign Corrupt Practices Act violations) with \$675 million of secured note debt converted into 95% of equity in reorganized debtor with 5% equity going to existing shareholders. Prepetition asset-backed loan and term loan converted into new facilities upon emergence along with \$85 million new rights offering.
2016	LIN Energy, Inc.	Voluntary Chapter 11 Case	Energy E&P	(Case No. 16-60040) Bankr. S.D. Tex.	\$6 billion	Settlement with certain holders of the company's \$1 billion of outstanding 12 percent Senior Secured Second Lien Notes due 2020, which collectively hold more than two-thirds of the outstanding principal amount of the Second Lien Notes. Debtor will have \$300 million outstanding on exit term loan and \$1.4 billion borrowing base revolver (with \$664 million drawn at emergence).
2016*	Midstates Petroleum Company, Inc.	Voluntary Chapter 11 Case	Energy E&P	(Case No. 16-32237) Bankr. S.D. Tex.	\$2.1 billion	Prepack eliminating \$1.8 billion in funded debt obligations through a new \$170 million reserve-based lending facility and a new \$75 million of liquidity; the RSA and plan had the overwhelming support of the oil and gas producers senior debt holders; first lien claims take pro rata share of \$82 million in cash and other distributions pursuant to the Plan.
2016	Penn Virginia Corporation	Voluntary Chapter 11 Case	Energy E&P	(Case No. 16-32395) Bankr. E.D. Va.	\$1.25 billion	Reduced its total long-term debt by approximately \$1.1 billion, closed on its new senior secured revolving credit with a maximum note amount of \$200 million and an initial borrowing base of \$128 million, and received \$50 million in new money through rights offering.

13

## SELECT ENERGY RESTRUCTURING CASES

Petition Year	Debtor Company	Case Type	Industry	Case Number/Court	Total Debt	Key Issues and Case Outcome
2016	SandRidge Energy, Inc.	Voluntary Chapter 11 Case	Energy E&P	(Case No. 16-32488) Bankr. S.D. Tex.	\$4.1 billion	Eliminated \$3.7 billion in debt and now has zero net debt and more than \$500 million in liquidity. Eliminating the debt saves the company about \$300 million per year in interest payments; each first lien claim received its pro rata share of the New First Lien Exit Facility and \$35 million in Cash for full recovery.
2016*	Sanjel Inc.	Voluntary Chapter 15 Case	Oilfield Services	(Case No. 16-50778) Bankr. W.D. Tex.	\$1.1 billion	Sanjel received approval from the Court to sell its Canadian and U.S. divisions to STEP Energy Services Ltd. and Liberty Oilfield Services LLC, respectively.
2016*	Shoreline Energy LLC	Voluntary Chapter 11 Case	Energy E&P	(Case No. 16-35571) Bankr. S.D. Tex.	\$413 million	Prepack selling assets to first lien Morgan Stanley and second lien lender Highbridge; first lien claims credit bid up to 100% of the first lien claims in accordance with the APA with remainder to be distributed from liquidating trust; second lien claims remain attached to the liquidating trust assets and allowed second lien claims are paid from any remaining proceeds of the liquidating trust assets to the extent encumbered with such second lien claimholders' liens after payment of the administration costs of both trusts and after the payment in full of all first lien credit agreement claims.
2016*	Sundevil Power Holdings, LLC	Voluntary Chapter 11 Case	Electric Wholesaler, Power Provider	(Case No. 16-10369) Bankr. D. Del.	\$230 million	Plan and asset sale to a secured lender group led by Beal Bank USA in exchange for a credit bid that wiped out over \$200 million in debt plus a \$45 million DIP financing package.

14



## SELECT ENERGY RESTRUCTURING CASES

Petition Year	Debtor Company	Case Type	Industry	Case Number/Court	Total Debt	Key Issues and Case Outcome
2016*	Triangle USA Petroleum Corporation	Voluntary Chapter 11 Case	Energy E&P	(Case No. 16-11566) Bankr. D. Del.	\$689 million	Prepack converting \$475 million in unsecured claims to equity, with a \$177 million equity rights offering and a \$250 million exit facility with JPMorgan Chase Bank (with \$131 million available upon exit).
2016*	Trinity River Resources, LP	Voluntary Chapter 11 Case	Energy E&P	(Case No. 16-10472) Bankr. W.D. Tex.	\$134 million	Plan exclusivity period has been extended; initial proposed Plan provides that secured lenders will be paid in full from cash proceeds of the sale of certain assets, with the creation of a liquidating trust for distribution to unsecured claims; equity interests would be cancelled.
2016	Ultra Petroleum Corp.	Voluntary Chapter 11 Case	Energy E&P	(Case No. 16-32202) Bankr. S.D. Tex.	\$464 million	Raised \$2.98 billion in exit financing through five transactions, including an equity rights offering, a senior secured term loan agreement, senior notes and a senior secured revolving credit agreement, each of which was used to pay creditors; secured claims received payment in full in cash.
2016*	Warren Resources, Inc.	Voluntary Chapter 11 Case	Energy E&P	(Case No. 16-32760) Bankr. S.D. Tex.	\$486 million	Converted claims under a \$248 million prepetition term loan facility into an 82.5 percent equity stake in a reorganized company; first lien lenders converted any outstanding claims into a \$130 million exit facility.

15

## SELECT ENERGY RESTRUCTURING CASES

Petition Year	Debtor Company	Case Type	Industry	Case Number/Court	Total Debt	Key Issues and Case Outcome
2015*	American Eagle Energy Corp.	Voluntary Chapter 11 Case	Energy E&P	(Case No. 15-15073) Bankr. D. Colo.	\$215 million	Asset sale pursuant to a stalking horse agreement with a bondholder group for \$70 million of American Eagle's assets; secured portion of senior secured note claims paid in full in cash by the liquidating trust.
2015*	Black Elk Energy Offshore Operations LLC	Voluntary Chapter 11 Case	Energy E&P	(Case No. 15-34287) Bankr. S.D. Tex.	\$145 million	Plan transferring all assets to a litigation trust and liquidating trust and dissolving the company; largest ever attempted decommissioning plan in Chapter 11.
2015	Dune Energy Inc.	Voluntary Chapter 11 Case	Energy E&P	(Case No. 15-10336) Bankr. W.D. Tex.	\$107 million	Sale for \$19 million of Dune to White Marlin Oil & Gas Co. LLC as highest bid; first lien secured claims paid according to plan distribution scheme; second lien claims treated as unsecured claims; Plan trust formed to pay creditors.
2015*	Energy & Exploration Partners, Inc.	Voluntary Chapter 11 Case	Energy E&P	(Case No. 15-44931) Bankr. N.D. Tex.	\$1.2 billion	DIP facility claims paid in cash in full; secured Lenders exchange their secured debt in excess of \$765.3 million for their pro rata share of New Term Loan in the amount of \$40 million, 20% of the new equity, and rights offered in rights offering; emerged with new \$90 million senior secured exit facility.

16

# AMERICAN BANKRUPTCY INSTITUTE

## SELECT ENERGY RESTRUCTURING CASES

Petition Year	Debtor Company	Case Type	Industry	Case Number/Court	Total Debt	Key Issues and Case Outcome
2015	Hercules Offshore, Inc.	Voluntary Chapter 11 Case	Oilfield Services	(Case No. 15-11685) Bankr. D. Del.	\$1.3 billion	Prepack converting approximately \$1.2 billion of debt under the Senior Notes into 96.9% of the equity in the reorganized company; entry into a new \$450 million first lien exit facility.
2015*	Magnum Hunter Resources Corporation	Voluntary Chapter 11 Case	Energy E&P	(Case No. 15-12533) Bankr. D. Del.	\$1.1 billion	All secured claims will be satisfied, unsecured creditors will see a significant recovery of up to 55%, and the entirety of the debt (as well as a \$200 million DIP loan) will be converted completely to equity in the reorganized company.
2015*	Milagro Oil & Gas, Inc.	Voluntary Chapter 11 Case	Energy E&P	(Case No. 15-11520) Bankr. D. Del.	\$1 billion	Prepack and sale of oil and gas assets to White Oak Resources VI LLC in exchange for \$120 million in cash and \$97 million in equity; proceeds to pay secured lender's \$15 million loan.
2015	Miller Energy Resources, Inc.	Voluntary Chapter 11 Case	Energy E&P	(Case No. 15-00236) Bankr. D. Alaska	\$215 million	Plan provides that secured lenders have a lien on substantially all assets requiring the bifurcation of the Credit Agreement Claims of \$189.7 million into the Lender Secured Claims aggregating \$151 million and the Lender Deficiency Claims aggregating \$38.7 million; Unsecured Claims, including the Lender Deficiency Claims, will receive a small distribution for agreeing to vote for the Plan as part of a global settlement.

17

## SELECT ENERGY RESTRUCTURING CASES

Petition Year	Debtor Company	Case Type	Industry	Case Number/Court	Total Debt	Key Issues and Case Outcome
2015	Quicksilver Resources Inc.	Voluntary Chapter 11 Case	Energy E&P	(Case No. 15-10585) Bankr. D. Del.	\$2.35 billion	Sale of assets for \$245 to BlueStone Natural Resources II; first lien claims to receive cash in full; second lienholders received about 49 percent of their allowed claims; unsecured creditors received \$17.5 million in cash and 50 percent of recoveries from the proceeds of Canadian asset sales in excess of \$2.5 million, up to another \$17.5 million.
2015*	RAAM Global Energy	Voluntary Chapter 11 Case	Energy E&P	(Case No. 15-35615) Bankr. S.D. Tex.	\$304 million	Sale of substantially all of debtors' assets to the stalking horse bidder for a credit purchase price of \$58.8 million, \$2.5 million in cash, and assumption of certain obligations; paying first lien credit agreement claims in cash from the liquidating trust assets.
2015*	Sabine Oil & Gas Corp.	Voluntary Chapter 11 Case	Energy E&P	(Case No. 15-11835) Bankr. S.D.N.Y.	\$2.9 billion	Closed on new senior secured credit facility with commitments of \$200 million and an initial borrowing base of \$150 million and a new \$150 million second lien term loan; RBL secured lenders receive pro rata share of cash and cash collateral for a partial recovery around 50-70%; noteholders receive partial recovery of less than 2% as part of equity pool.
2015	Samson Energy Resources, Inc.	Voluntary Chapter 11 Case	Energy E&P	(Case No. 15-11934) Bankr. D. Del.	\$4.2 billion	Paid first lien lenders in full their \$945.8 million in allowed claims with \$670 million as cash and the rest as new secured debt (with cash payout conditioned on 100% acceptance and opt-in to exit financing revolver); second lien lenders received the equity in the reorganized debtor. Unsecured creditors will receive approximately 7 cents on the dollar on their \$2.4 billion in claims.

18

## SELECT ENERGY RESTRUCTURING CASES

Petition Year	Debtor Company	Case Type	Industry	Case Number/Court	Total Debt	Key Issues and Case Outcome
2015	<b>Saratoga Resources (Harvest Oil &amp; Gas)</b>	Voluntary Chapter 11 Case	Energy E&P	(Case No. 15-50748) Bankr. W.D. La.	\$206 million	Plan and sale for substantially all of Saratoga's oil and gas assets to Energy Reserve Group; First Lien Noteholders receive a credit of \$10.7 million on the outstanding obligations under the First Lien Indenture; plan provides for the transfer of remaining assets, as well as the debtors' causes of action, to a litigation trust that will be established for recoveries to unsecured creditors, with estimates of allowed general unsecured claims of \$192 million.
2015	<b>Swift Energy Company</b>	Voluntary Chapter 11 Case	Energy E&P	(Case No. 15-12670) Bankr. D. Del.	\$1.2 billion	RBL will be refinanced into a \$320 million exit facility and the \$75 million DIP loan provided by noteholders will convert to equity in the reorganized company at the close of the case; the pre-petition senior note holders, contract rejection claim holders, and DIP participants will hold 96% of the new equity.
2015	<b>Vantage Drilling Co.</b>	Voluntary Chapter 11 Case	Oilfield Services	(Case No. 15-12422) Bankr. D. Del.	\$2.8 billion	Prepack providing existing term loan lenders and secured noteholders the opportunity to participate in rights offering for \$75 million of new second lien secured financing; full recovery for credit facility claims and 42-50% recovery for secured claims; reduced secured debt of around \$2.7 billion to less than \$1 billion.
2014	<b>Endeavour Operating Corp.</b>	Voluntary Chapter 11 Case	Energy E&P	(Case No. 14-12308) Bankr. D. Del.	\$1.2 billion	Reduction of approximately \$598 million of the existing debt, the reduction of approximately 43% of the annual interest burden, and freeing up of approximately \$50 million in annual cash flow that can be used for reinvestment in the Debtors' business; cancellation of most all of the Debtors' existing debt and equity and any interests and the issuance of \$262.5 million in new notes bearing a 9.75% interest rate and new shares of common stock; unsecured claims received cash equal to 15% of allowed claim.

19

## Key Valuation Issues During Prior Cycle

## Pre-Bankruptcy Issues

### SOLVENCY REPRESENTATIONS AND DRAWS

- Oil and gas companies may or may not be required to incorporate solvency representations as part of their revolving credit facility and can be required to make a solvency representation before drawing on the credit line in the future
  - Balance sheet solvency: the value of the debtor's assets exceeds the value of its liabilities
- Examples:
  - Energy XXI's Consolidated Financial Statements filed with the SEC in 2015 noted that the financial covenants in the revolving credit facility require that in order to borrow additional funds or issue letters of credit, they must make solvency representations; Energy XXI expressed concern that the current commodity environment made it difficult to ascertain the fair market value of oil and natural gas assets which impacts their ability to give required representations of their solvency
  - Penn Virginia Corp.'s 10-Q filed with the SEC in 2016 detailed that their converted revolving credit facility allows them to convert to or continue LIBOR loans without having to make solvency representations

21

## Pre-bankruptcy issues

### DEFAULT INTEREST/GET THE CLOCK RUNNING

- Default interest rate is imposed when borrowers fail to remain current on their loans or when payment on a revolving line of credit is overdue
- Default interest (at a particular rate) may be disallowed under state law under various theories (depending on the state and court):
  - Invalid penalty for defaulting on payment obligations
  - Unreasonableness
  - Usurious additional interest
  - Unconscionability
  - Unenforceable liquidated damages
- Whether a secured creditor is entitled to recover pre-petition default interest as a part of its claim in Chapter 11 proceedings will depend on whether the default interest provision is enforceable under state law (*see, e.g.*, Bankruptcy Code § 502(b)(1); *Raleigh v. Ill Dept. of Revenue*, 530 U.S. 15, 20 (2000))

22

## Pre-bankruptcy issues

### DEFAULT INTEREST/GET THE CLOCK RUNNING (CONT.)

- Courts differ on whether an over-secured creditor may be entitled to pendency interest at the default rate during Chapter 11 proceedings
- Examples:
  - *In re Perkins*, 2017 WL 439319 (Bankr. W.D. Ken. 2017) (disallowed pendency interest during the Chapter 11 proceedings based on the default interest rate because the debtor overcame the presumption of validity by demonstrating that the default rate was unjustifiably higher than the pre-default rate and that the secured creditor did not face a credible risk of non-payment)
  - *In re Beltway One Development Group, LLC*, 547 B.R. 819 (BAP 9th Cir. 2016) (Wells Fargo filed suit to be awarded pendency interest during the span of the Chapter 11 proceedings based on the default interest of their loan; court ruled that default interest rates are presumptively valid for the purpose of determining pendency interest absent a finding that the default interest is unenforceable under state law (court notes that the presumption is still rebuttable by equitable considerations))

23

## Pre-bankruptcy issues

### INTERCREDITOR AGREEMENTS ISSUES

- Intercreditor agreement: various creditors agree in advance as to how their competing interests with respect to a common borrower will be treated
- Issues customarily addressed in intercreditor agreements:
  - Subordination agreements: two creditors agree to subordinate the interest or priority of one creditor below another
    - Standstill: junior creditor agrees not to enforce its junior debt for a specified period of time (perhaps until senior lender has been paid in full or commenced proceedings of its own)
    - Restrictions on Repayment: junior creditor agrees that, in certain situations affecting the senior creditor, the junior creditor will not accept repayment of its junior loan
  - Payment blockage provisions: agreements between junior and senior creditors in which, if triggered, all payments to junior lenders will be blocked even if they would otherwise be entitled to interest, fees, and/or expenses
  - Various other provisions: rights to use of intellectual property, rights to provide debtor in possession financing, waivers of bankruptcy rights

24

## Pre-bankruptcy issues

### INTERCREDITOR AGREEMENTS ISSUES (CONT.)

- There is no consensus on how intercreditor agreements are handled in bankruptcy
  - Bankruptcy Code § 510(a): “a subordination agreement is enforceable in a case under this title to the same extent that such agreement is enforceable under applicable nonbankruptcy law”
    - Narrow interpretation: Congress did not intend to allow creditors to alter any bankruptcy laws unrelated to the distribution of assets (*i.e.*, procedural bankruptcy rules) (*see, e.g., In re Hart Ski Mfg. Co. Inc.*, 5 B.R. 734 (Bankr. D. Minn. 1980))
    - Broad interpretation: Intercreditor agreements are enforceable to the extent that they are enforceable under state contract law, and parties have the ability to alter even bankruptcy procedural rules (*see, e.g., In re Erickson Retirement Communities LLC*, 425 B.R. 309 (Bankr. N.D. Tex. 2010))

25

## Bankruptcy issues

### HEDGES AND REMEDIES: LINN ENERGY

- Hedges:
  - Financial contracts to sell at certain price at a future date
  - Creditors are protected as much or more than company
- *LINN Energy* – Case No. 16-60040 (U.S. Bankruptcy Court for the SD of TX)
  - Large oil and gas producer with extensive book of hedges
  - By March 2016 hedges were worth \$1.5 billion
  - Anticipating Chapter 11 filing, LINN commenced orderly unwinding of portfolio before petition date in consideration of risk that hedging counterparties would seek to liquidate hedging portfolio in compressed timeframe
  - Exception to protection from foreclosure leading up to bankruptcy for financial derivatives (including hedges)
    - Intended to prevent trading losses from spreading (as with Lehman)
  - Ended up declaring bankruptcy on May 11, 2016

26

## Bankruptcy issues

### HEDGES AND REMEDIES: SETOFFS AND SEMCRUDE

- Setoff: creditor's right to offset mutual debts per Bankruptcy Code § 553(a)
  - Only if debt owed to creditor (1) arose before commencement of bankruptcy case and (2) both parties owe debt to each other
  - Debt need not arise out of the same transaction
  - Right to setoff must first exist under state law as Bankruptcy Code § 553(a) preserves rights, but it does not create any rights
  - Creditors must obtain relief from automatic stay
- *In re SemCrude, L.P.*, 399 B.R. 388 (Bankr. D. Del. 2009)
  - Chevron owed balance to SemCrude, while SemFuel and SemStream owed Chevron (all three are subsidiaries of SemGroup, and all had declared Ch. 11)
  - Chevron argued that it should be able to setoff its balance owed to SemCrude against balances owed to Chevron by SemFuel and SemStream
  - Court ruled that this was an impermissible setoff because setoffs require mutuality, and debts may not be set off in triangular structure

27

## Bankruptcy issues

### HEDGES AND REMEDIES: RECOUPMENTS

- Recoupment: right to offset mutual debts arising from the same transaction
  - Need not fulfill timing and other Bankruptcy Code § 553 requirements
  - Allows post-petition payments
  - No need to request relief from automatic stay (however, likely prudent to do so to avoid risk)

28

## Bankruptcy issues

### ALTERNATIVE HEDGES: WAYS TO STRETCH A BORROWING BASE

- Re-determine borrowing base with lenders in advance of scheduled redetermination date
- Extend borrowing base re-determination and maturity date
- Use lower discount rate to calculate present value of reserves
- Offer producers “stretch” borrowing base at higher coupon rate in addition to standard “conforming” borrowing base
- Adjust borrowing base price deck up
- Use rolling short-term hedges to raise borrowing base
- Sell or farm out non-borrowing base properties to raise cash or decrease capital needs
- Take out loans on assets outside of borrowing base (gas gathering system, processing facilities, drilling rigs, etc.)

29

## Bankruptcy issues

### MIDSTREAM – COVENANTS RUNNING WITH THE LAND

- Determining whether a debtor may reject a midstream oil & gas gathering agreement under Bankruptcy Code §365 comes down to whether the agreement “runs with the land”
  - Express covenants running with the land cannot be rejected under Bankruptcy Code § 365 because they represent a real property interest, not simply a contract right
  - Midstream companies often argue that their contracts run with the land to avoid having them rejected
  - Whether covenants running with the land (or, similarly, equitable servitudes) are present in a midstream gathering agreement depends on both the specific requirements under applicable state law and the language in the midstream gathering agreement
- This issue has come up in several recent energy bankruptcy cases, including: *Sabine Oil Gas*, *Quicksilver Resources*, and *Magnum Hunter*, to name a few
- In the *Triangle USA Petroleum* bankruptcy, there is pending litigation in North Dakota with a midstream contract counterparty regarding whether certain contracts that the debtor wishes to reject are covenants running with the land and therefore unable to be rejected

30



## Bankruptcy issues

### MAKE-WHOLE ENFORCEABILITY

- The Third Circuit, in its recent *Delaware Trust Co. v. Energy Future Intermediate Holding Co. LLC (In re Energy Future Holdings Corp.)*, 842 F.3d 247 (3d Cir. 2016), decision, upheld the enforceability of a “make-whole,” holding that EFIH could not avoid its contractual obligation to pay a yield-protection premium amount — the “make-whole” — to the holders of its First Lien Notes simply by filing for bankruptcy and refinancing the notes
  - The court drew an important distinction between “prepayment,” which by definition is not possible after a debt’s maturity, and “redemption,” which may occur “at or before maturity” and found that EFIH’s refinancing was therefore a redemption
  - At least in the Third Circuit now, acceleration of debt maturities will not terminate the separate obligation to pay a make-whole premium for any redemption/refinancing occurring before a specified date, even when explicit language is not included in the acceleration clause of the underlying indenture
  - The court was highly critical of the *Momentive* decision, which disallowed a make-whole under very similar facts and is now on appeal in the Second Circuit
  - The pending *Momentive* appeal is one to watch to see whether the Second Circuit arrives at the same conclusions as the EFIH Third Circuit decision

31

## Bankruptcy issues

### MAKE-WHOLE ENFORCEABILITY

- In the Southern District of Texas, in the Ultra Petroleum case, Judge Marvin Isgur recently (September 21, 2017) upheld the validity of a \$400 MM make-whole premium on reinstated unsecured notes holding that:
  - Under New York State law, the make-whole premium is an enforceable liquidated damage provision
  - Since Plan provided for nonimpairment of the note claims, the make-whole claims are not discharged unless the state law amount are paid in full
  - Noteholders entitled to postpetition interest at contract default rate rather than federal judgement rate
  - Evidentiary burdens and presumptions appeared important to ruling
  - Ruling being appealed (direct certification sought). Payment made pending appeal and raising complex procedural and disgorgement issues.

32

# What Makes an Effective Valuation Presentation

## Example of Clear, Succinct Presentation

The Debtors' projected post-emergence funded-debt payment obligations, taking into account the benefits of the Bank Deal, are illustrated below.



## Importance of Comprehensive, Succinct, Visual First Day Affidavit

See, e.g., Genon Energy, Inc. et al. (Case No. 17-33695)

## Emerging Valuation Issues/Next Cycle

## Energy M&A/Financing Trends

See Appendix – PWC Deals Insights: US Oil & Gas, North American Power & Utilities

Q&A