

# Carbon Capture, Utilization, and Storage (CCUS)

## Overview

StepToe & Johnson guides clients through the regulatory framework and legal issues related to CCUS projects. Our team understands the business issues facing CCUS stakeholders and provides full-service cross-departmental assistance to clients — from property rights, transactional, operational, environmental, regulatory, and carbon capture tax credits (45Q) to legislative action and litigation.

Our attorneys have been at the forefront of CCUS issues, including development of specialized CCUS agreements required to obtain surface and subsurface pore space rights, and any accompanying mineral and/or subsurface easement permissions; development of a model statute by the Interstate Oil and Gas Compact Commission to address regulatory issues; and the pursuit of tax and carbon credits related to CCUS and other carbon-related projects. The firm also utilizes its deep experience counseling clients on traditional gas storage, injection, and withdrawal issues in advising clients on CCUS projects.

Members of our team sit on the Legal Committee of the Interstate Oil and Gas Compact Commission, and actively participate in other national and regional trade groups associated with CCUS. This includes involvement with the Independent Petroleum Association of America and the American Petroleum Institute and also presentations covering major issues related to CCUS at national and regional forums, including ownership of pore space; the development and implementation of state and/or federally-approved Class VI underground injection well-permitting programs; and the transportation of captured gas through pipelines.

## Representative Experience

- Current representation of clients with respect to all issues associated with their CCUS projects in Texas, New Mexico, and Colorado, including the development of state-specific documents and the acquisition of the necessary land and property rights to commence these projects
- Counsel for an energy company related to CCUS underground storage project, including permitting, regulatory issues, property rights, operations, and closure at the Kevin Dome in Montana
- Advised multiple clients with regards to the drafting of leases, licenses, and surface/subsurface easements related to natural gas storage projects and facilities

- Counsel for a large electric utility regarding all aspects of the development of a CCUS underground storage project, including permitting, regulatory issues, property rights, operations, and closure in Appalachia
- Counsel to multiple large oil and gas producers and storage operators regarding legal, regulatory, and contractual issues related to gas storage including issues related to pore space ownership, correlative rights, migration, condemnation, and claims/litigation related to gas storage
- Counsel for developers of underground storage facilities for natural gas liquids
- Counsel to multiple clients regarding contractual agreements related to the development of water/fluid injection wells and the permitting of such wells under the Underground Injection Control program established pursuant to the federal Safe Drinking Water Act
- In cooperation with clients and a trade association, prepared draft CCUS legislation for four states
- Surveyed and reported on the development of CCUS laws in all 50 states
- Counsel to multiple clients related to pipeline/transportation issues, including permitting pipelines and the rules and regulations which may apply, including construction and operation of pipelines, accompanying compressor stations, and related requirements in various jurisdictions
- Counsel to multiple clients regarding service and third-party contracts, operating agreements, transportation/pipeline, and sale contracts
- Counsel to multiple clients on projects related to the development of carbon capture credits, including the purchase and sale of credits to offset emissions

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