

WEEKLY HIGHLIGHTS AT-A-GLANCE**FEDERAL – Regulatory**

- **BLM Leasing – Utah.** The Bureau of Land Management (BLM) has announced that it is seeking comments on parcels to be offered in the March 2018 oil and gas lease sale. The agency has begun a [30-day public comment period](#) on two environmental documents – a preliminary Environmental Assessment and a Determination of NEPA Adequacy – in evaluating offering about 51,400 acres of federal minerals in southeastern Utah for oil and gas leasing. The proposal includes 43 parcels in Grand and San Juan Counties. The public comment period is will be open through October 23, 2017. [Read more.](#)
- **BLM Leasing – Wyoming.** The latest BLM quarterly oil and gas lease sale in Wyoming has brought in about \$38.7 million in bonus bids. The September 21 sale resulted in competitive bids for more than 106,000 acres in 137 parcels in Big Horn, Campbell, Converse, Crook, Fremont, Goshen, Johnson, Niobrara, Sheridan, Washakie, and Weston counties. [Read more.](#)
- **BLM Leasing Petition – Wyoming.** On September 14, various conservation advocates filed a [formal petition](#) with the BLM to “maintain oil and gas production from public lands most suitable for that purpose while generating greater revenues and greater public benefits through more productive use of certain lands for other commercial, recreational, and conservation uses.” The petitioners claim that current leasing practices tie up lands without producing energy or revenues. “The petitioners would also like royalty rates for production to be in-line with revenue made on state and private land, leasing to cease on lands that do not have a strong potential for oil or gas production, and the minimum leasing bid to be increased.” Under the Administrative Procedure Act, a federal agency must respond to a petition “within a reasonable time”, which historically means it may take the BLM a few months to respond. We will keep you informed of any updates. [Read more.](#)
- **Methane Emissions.** Exxon Mobil Corp. has just announced a bold move by launching a new voluntary program to cut methane emissions at its oil and natural gas drilling operations. The company’s efforts will be focused mostly in its hydraulic fracturing and unconventional subsidiary, XTO Energy. “The moves at Exxon come as the Trump administration works to dismantle aggressive methane-reduction regulations that were written by the Obama administration's Environmental Protection Agency and Interior Department but opposed by much of the oil and gas industry.” [Read more.](#)

STATE – Legislative

- **Horizontal Lateral Drilling – Oklahoma.** (Update to 6/19/17 Governmental Affairs Weekly Report) On September 20, Oklahoma Governor Mary Fallin (R) told oil and gas producers at the DUG Midcontinent Conference that the passage of [SB 867](#) earlier this year has already begun to pay off. The legislation, known as the [Oklahoma Energy Jobs Act of 2017](#) and signed into law by Governor Fallin in May, allows for longer laterals in all geological formations in the state, and not just shale. As a result of the measure the state is already seeing results. “If you go into the areas where the Scoop and Stack is, you will see a lot of traffic, a lot of companies coming in, a lot of companies waiting for the right moment to when they [can] begin drilling,” said Governor Fallin. “The rigs are going back up.” The Oklahoma Tax Commission estimated that oil and gas production from increased use of long laterals would result in an additional \$18.9 million in state revenue. [Read more.](#)
- **Drilling Moratorium (Delaware River Basin) – Pennsylvania.** (Update to 9/18/17 Governmental Affairs Weekly Report) On September 21, Rep. Jonathan Fritz (R) introduced House Resolution 515 ([HR 515](#)) in response to the Delaware River Basin Commission’s (DRBC) recent decision to consider a permanent moratorium on natural gas drilling in the Delaware River Basin. The Resolution urges the DRBC to immediately suspend its consideration of that moratorium. According to the [sponsor’s memo](#), “the DRBC approved, through a preliminary vote, a resolution to begin the process of coming up with a proposal to ban natural gas drilling in the Delaware River watershed. Unfortunately Governor Wolf supported this vote, which would be detrimental for all Pennsylvanians by impacting jobs and depriving landowner’s economic opportunities in the northeastern part of the state.” [Read more.](#) (See more below under State-by-State Legislative Session Overview)

STATE – Judicial

- **Implied Covenants; Forfeiture; Leasing – Ohio.** On September 26, the Ohio Supreme Court held oral argument in [Alford v. Collins-McGregor Operating Co.](#) (Case No. 2016-1281), a 2016 case where the lessor-landowner claimed her 1980 oil lease should be forfeited if the operator does not also extract natural gas from the property. The Ohio Supreme Court is considering two issues on appeal: (1) For oil and gas leases, does Ohio recognize an implied covenant of further exploration?; and (2) Can an oil drilling company only exercising its shallow drilling rights be forced to relinquish its deep drilling rights to the landowners through “horizontal forfeiture”? The lawsuit, which is an appeal from two lower court rulings that found in favor of the operator and dismissed the lessor’s claims, turns on a 1980 contract that Linda Alford signed with Collins-McGregor Operating Co., allowing it to drill for oil on 74 acres of her property near Ohio’s West Virginia border. The drilling company has continually extracted oil from the property as required by the contract, but Alford wants to force the company to drill for natural gas—or allow her to sell those rights to another firm now that

hydraulic fracturing is more practical and lucrative. Forcing Collins-McGregor to explore for natural gas under the lease would be the first such requirement in the nation and would be prohibitive to smaller companies only interested in oil, according to Brent Barnes of Geiger Teeple Robinson & McElwee PLLC, the attorney representing Collins-McGregor. Barnes also noted that imposing the requirement retroactively would force drilling companies to perform work they never intended when they entered into contracts with landowners. Many questions from a majority of the Supreme Court justices appeared to support a reluctance to expand this new duty to oil and gas leases in Ohio. ([View the oral argument here](#)) Although Ohio law protects property owners whose land goes undeveloped, the lower courts clearly held that the state doesn't separate the deep rights used for hydraulic fracturing (i.e., for natural gas extraction in Ohio) from the closer-to-surface rights used for oil extraction. The courts also held that since the company is holding up its end of the bargain by extracting oil, Alford doesn't have a case. We will keep you informed as the case moves forward. [Read more.](#)

INDUSTRY NEWS FLASH:

◆ **New research shows Permian Basin with billions in recoverable resources.** (*PennEnergy*, 9/25/17) "Energy researchers at IHS Markit have completed the first, three-year phase of a massive Permian Basin research project that models and interprets the giant basin's key geologic characteristics to better estimate its remaining hydrocarbon potential, and initial results indicate the giant basin still holds an estimated 60 billion to 70 billion barrels of technically recoverable resources." According to IHS Markit, this new research significantly alters the prior understanding of the Permian Basin's vast resource potential. [Read more.](#)

State-by-State Legislative Session Overview

Massachusetts, Pennsylvania and Wisconsin are in regular session. **Puerto Rico**, the **District of Columbia** Council and the **United States** Congress are also in regular session.

The following states are in recess until the dates provided: **Michigan** (October 3), **North Carolina** (October 4), **New Jersey** (October 5) and **Ohio** (October 10).

Oklahoma convened a special session related to budget issues on September 25, reports [U.S. News and World Report](#). The special session is in recess to the call of the chair.

Connecticut is expected to convene a special session on September 29 to vote on legislation related to hospital taxation, [NEPR](#) reports. **Colorado** is expected to convene a special session on October 2 to address marijuana taxation, [Aspen Public Radio](#) reports. **Alaska** is expected to convene its fourth special session related to budget issues on October 23, the [Juneau Empire](#) reports. **Vermont** is scheduled to convene a special session the same day to address any necessary matters related to changes made by federal legislation.

North Carolina Democratic Gov. Roy Cooper has until September 30 to act on legislation from the second special session or it becomes law. **Utah** Republican Gov. Gary Herbert has until October 10 to act on special session legislation or it becomes law. **California** Democratic Gov. Jerry Brown has until October 15 to act on legislation presented after September 15 or it becomes law. **Illinois** Republican Gov. Bruce Rauner has until October 28 to act on special session legislation or it becomes law. **Hawaii** Democratic Gov. David Ige has until November 3 to act on legislation from the first special session or it becomes law. **Alaska** Independent Gov. Bill Walker has 15 days, Sundays excepted, to act on legislation from the regular and special sessions or it becomes law. **Connecticut** Democratic Gov. Dannel Malloy has 15 days from presentment to act on special session legislation or it becomes law. **Delaware** Democratic Gov. John Carney has 10 days, Sundays excepted, to act on legislation or it becomes law. **Maine** Republican Gov. Paul LePage has until three days after the next meeting of the legislature to act on legislation or it becomes law. **New Hampshire** Republican Gov. Chris Sununu has five days, Sundays excepted, to act on legislation or it is pocket vetoed. **New York** Democratic Gov. Andrew Cuomo has 10 days from presentment, Sundays excepted, to act on legislation from the regular and special sessions or it becomes law. **Rhode Island** Democratic Gov. Gina Raimondo has six days, Sundays excepted, to act on special session legislation or it becomes law. **South Carolina** Republican Gov. Henry McMaster has until two days after the next meeting of the legislature to act on regular session legislation presented after May 6 and special session legislation or it becomes law.

The following states are currently holding interim committee hearings: [Alabama](#), [Alaska](#), [Arizona](#), [Arkansas](#), [California Assembly](#) and [Senate](#), [Colorado](#), [Connecticut](#), [Delaware](#), [Florida House](#) and [Senate](#), [Georgia House](#) and [Senate](#), [Hawaii](#), [Idaho](#), [Illinois House](#) and [Senate](#), [Indiana](#), [Iowa House](#) and [Senate](#), [Kansas](#), [Kentucky](#), [Louisiana](#), [Maine](#), [Maryland](#), [Minnesota](#), [Mississippi House](#) and [Senate](#), [Missouri House](#) and [Senate](#), [Montana](#), [Nebraska](#), [New Hampshire House](#) and [Senate](#), [New Mexico](#), [New York House](#) and [Senate](#), [North Dakota](#), [Oklahoma](#), [Oregon](#), [Rhode Island](#), [South Carolina House](#) and [Senate](#), [South Dakota](#), [Tennessee](#), [Texas House](#) and [Senate](#), [Utah](#), [Vermont](#), [Virginia](#), [Washington](#) and [Wyoming](#).

The following states are currently posting bill drafts, prefiles and interim studies for the 2018 session: [Alabama](#), [Arkansas](#), [Florida House](#) and [Senate](#), [Georgia](#), [Kentucky](#), [Maine](#), [Montana](#), [Nebraska](#), [New Hampshire Legislative Service Requests](#) and [Withdrawn LSRs](#), [North Dakota](#), [Oklahoma prefiles](#) and [House](#) and [Senate](#) interim studies, [Utah](#) and [Wyoming](#).

Lands

Land Permits

Pennsylvania [SB 900](#), sponsored by Senate Consumer Protection and Professional Licensure Committee Minority Chair Lisa Boscola, D-Bethlehem, was referred to the Senate State Government Committee on September 25. The bill would transfer the title for a portion of Project 70 lands, known as the Jordan Creek Parkway, owned by Lehigh County to Whitehall Township. The bill would transfer the lands with all existing Project 70 restrictions still in place. The bill would take effect immediately.

Oil and Gas

Oil and Gas General

California [SB 44](#) was delivered to Democratic Gov. Jerry Brown on September 22. Governor Brown has until October 15 to sign it or it will become law. This bill would require the State Lands Commission in the Natural Resources Agency to administer a legacy oil and gas well removal, plugging and remediation program. Carrying out this program is contingent on appropriation of funds by the legislature.

This bill is sponsored by Sen. Hannah-Beth Jackson, D-Santa Barbara, chair of the Senate Judiciary Committee.

Pennsylvania [HR 515](#) was referred to the House Environmental Resources and Energy Committee on September 21. Sponsored by Rep. Jonathan Fritz, R-Susquehanna, this resolution urges the Delaware River Basin Commission to suspend its consideration of a moratorium on natural gas drilling in Northeast Pennsylvania. According to Representative Fritz's [sponsor memo](#), the Delaware River Basin Commission approved a resolution to begin the process of creating a proposal to ban natural gas drilling in the watershed. Democratic Gov. Tom Wolf was joined and supported by officials from New York and Delaware. This resolution would send a message from the Pennsylvania House of Representatives to the commission to request they stop these efforts.

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