

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

- **BLM Land Nominations – Washington, DC.** On November 7, the BLM announced that it has launched its third initiative this year to modernize its oil and gas program by automating the way members of the public and industry nominate lands for possible oil and gas development. With the new online service, expressions of interest (EOIs) may be entered electronically for BLM review and processing. Use of the system is expected to shorten the time required to review and prepare lands for possible sale by standardizing processes within the BLM. [Read more.](#)
- **BLM Lease Sale – Alaska.** On November 9, the BLM announced it will hold an oil and gas lease sale within the 22.8-million-acre National Petroleum Reserve in Alaska (NPR-A) on December 14, 2016 in Anchorage, Alaska. ([Access sale notice here](#)). The December sale will be the 13th in the NPR-A since 1999 and will include 145 tracts, offering roughly 1.4 million acres for lease. There are currently 134 authorized leases in the NPR-A that cover more than 895,000 acres. [Read more.](#)
- **Fish and Wildlife Service Final Rules – Washington, DC.** On November 14, the Department of Interior's Fish and Wildlife Service (FWS) published its final rule, *Management of Non-Federal Oil and Gas Rights*, in the Federal Register ([81 FR 79948](#)). The rule, first published as an Advanced Notice of Proposed Rulemaking in February 2014, tightens permitting and operating requirements for oil and gas facilities in national refuges. The rule would affect almost 1,700 active wells and thousands of inactive wells in more than 100 refuges, according to FWS. [Read more.](#)

FEDERAL – Judicial

- **Surface Access – Colorado Federal Court.** On November 8, a three-judge panel of the U.S. Court of Appeals for the Tenth Circuit, in *Entek GRB, LLC v. Stull Ranches, LLC* (Case No. 15-1267), refused surface owner Stull's appeal to revisit Entek GBR LLC's win against the grouse hunting lodge owner who had refused to allow the energy company to develop and maintain oil wells on its land, reaffirming that Entek could cross Stull's surface estate to access minerals lying under other estates in the same unitized area. The Court said it would not reconsider the same issues already raised in the previous appeal. [Read more.](#)
- **BLM; Regulatory Authority – Wyoming Federal Court.** (Update to 7/5/2016 Weekly Report) Last Tuesday, a federal appeals court scheduled a January session to consider

the Obama administration's request to reinstate its regulation on hydraulic fracturing on public lands. The Court of Appeals for the 10th Circuit, based in Denver, filed a notice on November 8 that oral arguments with lawyers for and against the rule will be held on January 17, three days before President Obama leaves office. Judge Scott Skavdahl, an Obama-appointed judge in the District Court for Wyoming, had overturned the rule in June, agreeing with industry groups and some western states that said a 2005 law explicitly prevents the BLM from regulating hydraulic fracturing, even on federal land. [Read more.](#)

STATE – LEGISLATIVE

- **Strategic Plan and Land Use – Michigan.** (Update to 10/24/2016 Weekly Report) On November 9, SB 39 ([bill summary](#)), which already passed in the Senate last month, moved to the House where it was referred to the Committee on Natural Resources. The bill would amend various parts of the Natural Resources and Environmental Protection Act to, among other provisions, require the Department of Natural Resources (DNR) to consider access to and use of public land and oil and gas industry operations on that land before designating or classifying the land, and require the DNR to consider a request to sell or lease public land if such decision would result in an economic benefit to the state. [Read more.](#)
- **Unitization – Michigan.** (Update to 10/31/2016 Weekly Report) On November 2, Michigan Governor, Rick Snyder, signed SB 903 into law with immediate effect. Per the Senate bill summary: The Act amends “Part 617 (Unitization) of the Natural Resources and Environmental Protection Act to revise the method for approval by interested parties of a plan for the unit operation of oil and gas pools, before an order of the Department of Environmental Quality providing for the unit operation can take effect. Specifically, in some cases, the bill would reduce the share of responsibility for unit operation costs or entitlement to production or proceeds needed for approval of the plan.” (See more below under State-by-State Legislative Session Overview) [Read more.](#)

STATE – Regulatory

- **Election Ballot Measure – California.** On election night, voters in Monterey County on California's coast passed a ballot measure to ban hydraulic fracturing and put other limits on oil and natural gas drilling within its borders. Measure Z, which passed by 55 percent, is significant because unlike other local moves to ban oil and gas operations, Monterey is unique because it is a significant oil drilling area. [Read more.](#)
- **Election Ballot Measure – Colorado.** (Update to 9/6/2016 Weekly Report) Coloradans passed [Amendment 71](#), a ballot measure greatly favored by the oil and gas industry, which requires any proposed amendment to the state constitution be signed off by voters in each of the state's 35 Senate districts. The measure, previously known as Initiative 96, would make it more difficult for public initiatives and referendums to

qualify for ballots that could supplant or bypass the decisions of the Colorado Oil and Gas Conservation Commission, or other decisions of the General Assembly. The Raise the Bar amendment, as it was called, was promoted by Protect Colorado, a group formed by the state's oil and gas industry to fight proposed constitutional amendments in 2014, 2015 and 2016 imposing restrictions on hydraulic fracturing and other drilling activities. [Read more.](#)

- **Railroad Commission Election Results – Texas.** On November 8, Wayne Christian, a former state representative, won the Texas railroad commissioner election. Christian, a Republican, won about 53 percent of the vote, easily beating Democrat Grady Yarbrough, Libertarian Mark Miller and Green Party candidate Martina Salinas. Christian will fill Chairman David Porter's shoes on this three-member oil and gas regulatory commission. [Read more.](#)
- **Sunset Review of Railroad Commission – Texas.** (Update to 11/17/2016 Weekly Report) Last Thursday, the Texas Sunset Commission (which is tasked with conducting periodic reviews of state agencies) dropped all of its substantial, and controversial, changes for the Railroad Commission, the state's oil and gas regulator. Instead, it will seek legislative approval for several items that don't vastly deviate from the Railroad Commission's own agenda. [Read more.](#)

STATE – Judicial

- **State Regulations Challenge – Pennsylvania.** (Update to 10/24/2016 Weekly Report) On November 8, in the ongoing case, *Marcellus Shale Coalition v. Pa. Dep't Env'tl. Protection, Pa. Commw. Ct.* (Case No. 573 MD 2016), a Pennsylvania state judge agreed to grant a preliminary injunction blocking certain provisions of a controversial new regulatory package governing hydraulic fracking operations while the Marcellus Shale Coalition pursues a legal challenge to the new Marcellus Shale rules. The state Department of Environmental Protection's (DEP) new rules for shale operations took effect on October 8. Judge Brobson enjoined a section of the rule that would have required companies to consider the impact of their operations on nearby playgrounds, common areas of a school's property and so-called "species of special concern," which are not officially listed as threatened or endangered. The court injunction also halted the sections of the rules that would have required companies to monitor and remediate damage to wells owned by others or have no known owners. Marcellus Shale Coalition president David Spigelmyer said in a statement that the organization is "pleased with the court's decision to preliminarily stay unlawful, burdensome, and costly portions of the challenged regulations from going into effect until this matter can be fully decided in the courts." A DEP spokesman said the agency is still reviewing the court's decision. [Read more.](#)

INDUSTRY NEWS FLASH:

◆ **Harold Hamm says Trump should start slashing oil and gas regulations.** Trump campaign advisor, possible Energy Secretary pick, and Continental Resources CEO, Harold Hamm, said the U.S. government has done everything in its power to impede oil and gas production. President-elect Trump has vowed to boost the nation's oil, natural gas and coal production by rolling back regulations and increasing drilling on federal lands. "There's so many of these overreaching regulations that's gone on. My goodness. We called it death by a thousand cuts, and that's exactly what it was intended to do," said Hamm on CNBC. [Read more.](#)

◆ **Upstream oil and gas companies active in methane emissions reductions.** Companies are actively participating in federal programs to reduce methane emissions from U.S. oil and gas operations as research partners and voluntary program participants, speakers said during the Gas Technology Institute's 2016 Methane Emissions Conference in Alexandria, Virginia held November 2-3. "Taking action before regulation gives us as an industry ways to act more effectively," said Roy Hartstein, vice-president for strategic solutions at Southwestern Energy Co. in Houston, the nation's third-largest natural gas producer. The U.S. Environmental Protection Agency (EPA) is using a combination of regulatory and voluntary programs to address methane emissions from oil and gas operations, according to Carey Bylin, EPA's oil and gas team leader. [Read more.](#)

ELECTION ALERT: *Please watch this space in coming weeks for continuing news and updates on the 2016 election results and their effect on the oil and gas industry.*

🌀 **Forbes: President Trump will make America's Energy Sector Great Again.** As reported in a post-election analysis: "Expect American oil and gas production to surge. We will see an abrupt end to the Bureau of Land Management's efforts to grab authority to regulate hydraulic fracturing on federal lands. A federal case on BLM's overreach in making fracking rules was set to be heard by the 10th Circuit Court of Appeals on January 17." But "Trump's BLM will have no interest in regulating fracking." [Read more.](#)

State-by-State Legislative Session Overview

Republicans have added to their dominance in state legislatures following the general election on November 8, [Governing](#) reports. Republicans picked up majorities in the **Iowa** Senate, the **Kentucky** House and the **Minnesota** Senate, although two races in that chamber appear to be headed to recounts. The GOP now has trifecta control in Iowa and Kentucky, as well as in **Missouri** and **New Hampshire**, where Republicans defended their legislative majorities and won governorships. Results in some races are still pending, but Republicans are set to have trifectas in at least 24 states next year, compared to just five states for Democrats. In **Connecticut**, formerly a Democratic trifecta state, the Senate is now tied 18-18. The election of Republican Lieutenant Governor Phil Scott in **Vermont** will bring divided government there

as well. An in-depth analysis of election results can be found in the FOCUS post-elections reports.

Massachusetts and **New Jersey** are in regular session. The **District of Columbia** Council is also in regular session.

The **Pennsylvania** House is in recess until November 14, and the Senate is in recess until November 16. **Ohio** and the **United States** Congress are in recess until November 15. **Illinois** is in recess until November 15 and is expected to convene a veto session on that day. **Michigan** is in recess until November 29. **California** is in final recess until November 30 and is scheduled to adjourn sine die on that day; the legislature will convene its 2017 legislative session on December 5.

The **Illinois** House held a perfunctory session on November 2. A number of bills were introduced during the perfunctory session, and those bills may be considered during the upcoming veto session.

Delaware Democratic Gov. Jack Markell and **New York** Democratic Gov. Andrew Cuomo have 10 days from presentment to act on legislation or it becomes law without signature. **Illinois** Republican Gov. Bruce Rauner has 60 days from presentment to act on legislation or it becomes law without signature.

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

The following states are currently posting bill draft requests/prefiles for the 2017 session: [Alabama House](#) and [Senate](#), [Colorado](#), [Florida Senate](#), [Kentucky](#), [Montana](#), [Nevada](#), [New Hampshire](#), [North Dakota](#), [Oklahoma House](#) and [Senate](#), [Utah](#), [Virginia](#) and [Wyoming](#) (draft requests appear on individual committee pages).

Oil and Gas

Bundling & Pooling

Republican Gov. Rick Snyder signed **Michigan SB 903/PA 0316'16** into law on November 9. Any land lessee could file a plan with the oil and gas supervisor requesting approval to combine multiple oil and gas leases for operation as a single unit. In order for a plan to become effective, approval of the plan must be first given to the oil and gas supervisor. Effective immediately, this law lowers the required threshold for which affected parties can approve the plan. This law

makes the following changes to who would be able to approve the project so the oil and gas supervisor could make it effective:

- A person who would be required to pay at least 51 percent of the cost of the unit operation, a decrease from 75 percent, and also by a person who would be entitled to at least 51 percent of the production proceeds, a decrease from 75 percent.
- A person who under the plan would be entitled to at least 65 percent of all production or proceeds from the operation, a decrease from 90 percent.

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