



PLEASE NOTE: Due to the Thanksgiving holiday, there is no report next Monday. The next report will be published on December 3. Wishing you all a safe, happy & healthy holiday.

WEEKLY HIGHLIGHTS AT-A-GLANCE

FEDERAL – Regulatory

- **BLM Resource Management Plan – Oklahoma; Kansas; Texas.** On November 9, the Bureau of Land Management's (BLM) Oklahoma Field Office, in coordination with the Bureau of Indian Affairs Eastern Oklahoma Regional Office and Bureau of Indian Affairs (BIA) Southern Plains Regional Office, released for public comment a revised framework for how certain public lands will be used in parts of Oklahoma, Kansas and Texas. The document, called the Oklahoma, Kansas, and Texas Draft Environmental Impact Statement/Draft Resource Management Plan and Bureau of Indian Affairs Integrated Resource Management Plan, addresses resource management issues, resource data, laws, regulations, and policies applicable to the public lands under the jurisdiction of the BLM and BIA. Taken together, the two draft plans enable the agencies to manage land in a planning area that comprises 15,100 acres of BLM-managed public land and 4,810,900 acres of federal sub-surface mineral estate; 394,200 surface acres and 2,033,500 sub-surface mineral estate acres within the BIA Eastern Oklahoma Region; and 457,500 surface acres and 632,000 sub-surface mineral estate acres within the BIA Southern Plains Region. The BIA trust lands include multiple tribal jurisdictional boundaries. Public comments will be accepted through February 7, 2019. [Read more.](#)
- **BLM Lease Sale – National Petroleum Reserve-Alaska.** On November 8, the BLM announced that it will hold its annual National Petroleum Reserve-Alaska (NPR-A) oil and gas lease sale on December 12, 2018, with an offering of 254 tracts in the northeast and central parts of the NPR-A covering approximately 2.85 million acres. "The tracts offered support the Secretary's goal to strengthen our energy development," said BLM Alaska Acting State Director Ted Murphy. "This year's lease sale demonstrates our commitment to continue Alaska energy production in the National Petroleum Reserve in Alaska and create jobs and revenue for the State." The December sale will be the 14th in the NPR-A since 1999. There are currently 199 leases covering 1,384,352 acres in the NPR-A. Bids received for the 13 previous sales generated more than \$282 million, half of which was paid to the State of Alaska. [Read more.](#)
- **BLM Lease Sale – Wyoming.** On November 13, the BLM proposed offering 144 oil and gas lease parcels totaling about 158,048 acres at its March 2019 quarterly lease sale.

These parcels are located across the state, within every BLM Wyoming field office except the Cody Field Office. The announcement begins a 30-day comment period that ends December 13, 2018. To access the lease sale's environmental assessment, lists and maps of the parcels, and the attached stipulations: [Read more](#).

FEDERAL – Judicial

- **BLM Lawsuit – Idaho Federal Court.** On November 14, an environmental conservation group sued the BLM for information about a proposed 5,000-well oil and gas project in central Wyoming. In [Western Watersheds Project v. Bureau of Land Management](#) (Case No. 1:18-cv-00505-REB), plaintiffs argue that the BLM has failed to respond to their Freedom of Information Act (FOIA) requests for certain public information. The plaintiffs assert that FOIA information regarding endangered species that could be affected by the proposed oil and gas activity northeast of Casper was not provided by the statutory deadline. The BLM has yet to respond to the complaint. [Read more](#).
- **Climate Change Lawsuit – Ninth Circuit Court.** (*Update to 11/12/18 Weekly Report*) On November 8, the U.S. Court of Appeals for the Ninth Circuit put a temporary hold on the ongoing climate change lawsuit against the Trump administration. This high-profile lawsuit, which looks to hold the federal government accountable for not curbing climate change, has encountered yet another roadblock in the ongoing case. The previous week, the U.S. Supreme Court permitted the case to proceed, but left open the opportunity for the Trump administration to seek “adequate relief” before the Ninth Circuit, which it successfully has done. The Ninth Circuit has ordered that within 15 days the parties must file an answer (see [Case: 18-73014](#)). The case, [Juliana et al. v. United States of America](#) (Case No. 6:15-cv-01517), has been pending in the U.S. District Court for the District of Oregon and was originally set to go to trial on October 29, but various motions before the U.S. Supreme Court and now the Ninth Circuit have stalled the litigation. The case stems from allegations made by a group of 21 teens and children led by environmental activists to hold the government liable for climate change and alleges that the government has an obligation to protect natural resources for present and future generations. The government has repeatedly argued that directing climate policy is outside the scope of the courts and is a legislative function that needs to be addressed through the political process. Now, in the wake of the Supreme Court’s latest order, “the federal government will head to court to argue that there is no constitutional right to an environment free of climate change and that the children don’t have standing to make such a claim.” [Read more](#).

STATE – Legislative

- **Income and Expenses of Producing Oil and Gas – Michigan.** On November 8, [HB 6485](#) was introduced by Rep. Tristan Cole (R). The bill would amend existing tax law regarding expenses of producing oil and gas to the extent deducted in arriving at federal taxable

income. The new provision includes “costs allowable as a deduction from the sales price of the oil and gas in determining the gross cash value of the oil and gas at the wellhead for the severance tax.” [Read more.](#)

- **Preliminary Bill Filings – Texas.** In advance of the 86th Legislature, Texas lawmakers have begun filing bills for the session beginning January 8, 2019. According to the *Star-Telegram*, more than 450 bills have already been filed as of last Monday. Some relevant bills or resolutions include, [SB 66](#) (relating to the decrease of the rates of the franchise tax under certain circumstances and the expiration of that tax); [SB 73](#) (relating to personal information that may be omitted from certain property records); [SB 180](#) (relating to applications for permits issued by the Texas Commission on Environmental Quality for certain new or expanded facilities in certain low-income and minority communities); [SB 185](#) (relating to the response to certain oil or gas well accidents by state agencies and responsible parties); [HB 245](#) (relating to a requirement to make certain environmental and water use permit applications available online); [HB 42](#) (relating to allocating a portion of oil and gas production tax revenue to the counties from which the oil and gas originated and to the use of that revenue); [HB 225](#) (relating to the analysis of inspection and maintenance requirements for air quality permits issued by the Texas Commission on Environmental Quality for certain oil and gas facilities); [HJR 13](#) (proposing a constitutional amendment authorizing the legislature to allocate a portion of oil and gas production tax revenue to the counties from which the oil and gas originated); and [HB 54](#) (relating to the system for protesting or appealing certain ad valorem tax determinations; authorizing a fee). In the [85th Legislature \(2017\)](#), 6,631 bills were filed, but fewer than 20 percent were signed into law. “The bills that are filed now oftentimes are pet peeves or pet projects introduced by legislators who have no inkling of whether they will pass,” said Jim Riddlesperger, a TCU political science professor. Lawmakers will have until March 8 to file bills for the 2019 session. [Read more.](#) (Please see *State-by-State Legislative Session Overview* below for further detail on select bills provided by AAPL’s bill tracking service.)

STATE – Judicial

- **Local Ordinances – Pennsylvania.** (*Update to 8/20/18 Weekly Report*) On November 13, in a case challenging local control over oil and gas development in certain residential and agricultural districts, the Pennsylvania Commonwealth Court issued the briefing schedule in the ongoing case, [Delaware Riverkeeper Network v. Middlesex Township Zoning Hearing Board](#) (Case No. 270 WAL 2017). As previously report, the Pennsylvania Supreme Court [vacated the June 7, 2018 opinion](#) of the Pennsylvania Commonwealth Court which had rejected a challenge by environmentalists to halt oil and gas development by challenging a local ordinance. Instead, in that case, the Court upheld Middlesex Township’s 2014 ordinance authorizing oil and gas development within mixed residential and agricultural districts based on zoning provisions already authorizing similar uses in those districts such as for public utility structures and

facilities. However, the Supreme Court in vacating that opinion then directed the Commonwealth Court to reconsider its previous decision in light of recent Pennsylvania Supreme Court decisions in [Gorsline v. Fairfield Township](#) (Case No. 67 MAP 2016) and [Environmental Defense Foundation v. Commonwealth](#) (Case No. 10 MAP 2015), both of which indicate a willingness by the state Supreme Court to limit, or even prohibit, drilling in agricultural and residential zoning districts premised in part upon the Environmental Rights Amendment to the Pennsylvania Constitution. However, “on a favorable note to exploration and production companies, the Supreme Court specifically claimed that its recent decisions ‘should not be misconstrued as an indication that oil and gas development is never permitted in residential/agricultural districts or that it is fundamentally incompatible with residential or agricultural use.’” The first party briefings are due to be filed in court by November 29 and we will continue to keep you informed on case developments. [Read more.](#)

INDUSTRY NEWS FLASH:

◆ **U.S. to be net exporter of petroleum by the early 2020s.** A new report by research firm IHS Markit says the U.S. will become a net exporter of petroleum by the early 2020s. This is the first time since 1949 that the country would reach such an achievement. The report forecasts that continued growth in domestic crude production will help meet the projection. As of 2017, the U.S. had already become a net exporter of natural gas. [Read more.](#)

State-by-State Legislative Session Overview

The **Florida** governor’s race between former Republican congressman Ron DeSantis and Tallahassee Democratic Mayor Andrew Gillum has nearly come to an end. The mandatory machine recount that ended Thursday, November 15, provided similar results with DeSantis leading Gillum by over 30,000 votes. Reports of technical issues, such as signatures not matching voting records, means thousands of uncounted ballots have yet to be included in the election results, reports [News4Jax](#). A ruling Thursday by U.S. District Judge Mark Walker leaves open the possibility for potentially thousands of Florida voters to fix their ballots by the weekend if they were rejected because of mismatched signatures. Gillum who has 10 days to file a lawsuit to contest the election results has yet to do so and is reviewing his options. Unofficial counts from the [Division of Elections](#) can be found here.

Illinois, New Jersey, Ohio and Pennsylvania are in regular session. The **District of Columbia, Puerto Rico** and the **United States Congress** are also in regular session.

Michigan is in recess until November 27. **Massachusetts, New York and Rhode Island** are in recess to the call of the chair.

Wisconsin's Senate held a one-day special session on November 12 to consider [AB 963](#). The Assembly passed a tax incentive package aimed at keeping two paper mill facilities of Kimberly-Clark from closing their doors in central Wisconsin, reports [The Journal Times](#). The Senate hearing ended without a vote. Senate Majority Leader Scott Fitzgerald, R-Juneau, says he won't call for a vote unless there's bipartisan support, reports [WBAY](#).

Georgia convened a special session on November 13 to discuss cleanup costs associated with Hurricane Michael, reports [Politically Georgia](#).

Illinois Republican Gov. Bruce Rauner has 60 calendar days while the General Assembly is in session to act on legislation or it becomes law without signature. **Maine** Republican Gov. Paul LePage has three days after the next meeting of the legislature to act on special session legislation or it becomes law without signature. **Missouri** Republican Gov. Mike Parson has 45 days from presentment to act on legislation or it becomes law without signature. **New York** Democratic Gov. Andrew Cuomo has 10 days from presentment, Sundays excepted, to sign or veto legislation or it becomes law without signature. **North Carolina** Democratic Gov. Roy Cooper has 10 days from presentment to act on special session legislation or it becomes law without signature. **Rhode Island** Democratic Gov. Gina Raimondo has six days from presentment, Sundays excepted, to act on legislation or it becomes law without signature. **West Virginia** Republican Gov. Jim Justice has 15 days from adjournment of the special session, Sundays excepted, to act on legislation or it becomes law without signature.

The following states are currently holding 2019 interim committee hearings: [Alabama](#), [Alaska](#), [Arizona](#), [Arkansas](#), [California Assembly](#) and [Senate](#), [Colorado](#), [Connecticut](#), [Florida House](#), [Hawaii](#), [Idaho](#), [Illinois Senate](#), [Indiana](#), [Iowa](#), [Kansas](#), [Kentucky](#), [Maine](#), [Maryland](#), [Minnesota](#), [Mississippi Senate](#), [Missouri House](#) and [Senate](#), [Montana](#), [Nevada](#), [New Hampshire House](#) and [Senate](#), [New Mexico](#), [New York Assembly](#) and [Senate](#), [North Carolina](#), [North Dakota](#), [Oklahoma House](#), [Oregon](#), [Rhode Island](#), [South Carolina](#), [South Dakota](#), [Tennessee](#), [Texas House](#) and [Senate](#), [Utah](#), [Vermont](#), [Virginia](#), [Washington](#), [West Virginia](#), [Wisconsin](#) and [Wyoming](#).

The following states are currently posting 2019 bill drafts, profiles and interim studies: [Florida Senate](#), [Iowa](#), [Kansas Senate](#), [Kentucky](#), [Montana](#), [Nevada](#), [New Hampshire](#), [North Dakota](#), [Oklahoma House](#) and [Senate](#), [Tennessee](#), [Texas](#), [Utah](#) and [Virginia](#).

Special Elections

The following seats will be filled by special election on the date provided: **Mississippi** runoff for House districts 31 and 85 (November 27) and **Georgia** House District 28 (December 4).

Franchise Tax

Texas [HB 52](#), sponsored by Rep. Gina Hinojosa, D-Austin, was prefiled on November 12 and will be considered when the legislature convenes on January 8. The bill would create a franchise tax credit pilot program that would provide a credit equal to the lesser of 50 percent of the contributions made by the taxable entity to the employee's flexible spending account or \$2,500.

The tax credit could only be applied for contributions on behalf of employee's making less than \$65,000 per year. The bill would take effect September 1, 2019.

Texas [SB 66](#), sponsored by Sen. Judy Nelson, R-Flower Mound, was prefiled on November 12 and will be considered when the legislature convenes on January 8. This bill would require that half of all franchise tax revenue growth be used to cut the tax rate until it is eliminated. If enacted, the bill would become effective on September 1, 2019. Similar bill [SB 17](#), also sponsored by Senator Nelson, passed the Senate during the 2017 session.

General Oil and Gas

General

Texas [SB 185](#), sponsored by Sen. Borris Miles, D-Houston, was prefiled on November 14 and will be considered when the legislature convenes on January 8. The bill would require the operator of an oil and gas well to immediately notify the appropriate commission oil and gas division district office of any fire, leak, spill or break at the well. The bill would also require a letter giving a full description of the incident to include the number of volume of crude oil, gas or other well liquids or gases released. The bill would prohibit the commission from approving an application for an oil or gas well if the organization that submitted the application:

- Violated a statute commission rule, order certificate, or permit that relates to the safety or the prevention or control of pollution.
- Is under a state or federal investigation for an alleged violation of a statute commission rule, order certificate, or permit that relates to the safety or the prevention or control of pollution.
- Is applying for a permit for a well that is adjacent to the site of the violation or alleged violation.

The commission would be allowed to approve the application after the violation has been remedied and has paid all administrative civil and administrative penalties. The bill would also require the state emergency response commission to create a well blowout emergency alert system. The bill would take effect September 1, 2019.

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