GOVERNMENTAL AFFAIRS

WEEKLY REPORT DECEMBER 21 & 28, 2015

Note: This week's report is a double issue covering the holiday period. There will not be a separate report on December 28. Wishing you all the best this holiday season and much success in 2016.

WEEKLY HIGHLIGHTS AT-A-GLANCE

FEDERAL – Legislative

- **H.R. 2029 – Omnibus spending package.** Congress has passed the much-anticipated $1.8 trillion FY 2016 omnibus appropriations package, funding the federal government through September 2016, and which includes the highly-publicized amendment ending the 40-year old crude oil export ban, which is expected to boost domestic oil production by as much as 500,000 additional barrels per day. President Obama signed the bill on Friday. Lifting the ban has been hailed as a huge win for upstream producers and the related industry. "We have the best technology, the best oil and, over time, we will drive out Russian oil, we will drive out Saudi, Iranian oil," says Rep. Joe Barton of Texas. "It puts the United States in the driver's seat of energy policy worldwide. It is a huge victory." Read more.

FEDERAL – Regulatory

- **Public Lands; Leasing**. House Republicans are calling out the Bureau of Land Management (BLM) for delaying a recent spate of oil and gas lease sales under pressure from environmentalists. In a December 16 letter sent to Janice Schneider, Assistant Secretary of the U.S. Department of the Interior, and signed by 15 congressional representatives, the legislators point out that under the Mineral Leasing Act, the BLM has failed to uphold its statutory duties by delaying mandated quarterly sales. Specifically, the letter raises questions about BLM postponing the latest sales in Arkansas and Michigan until March 2016 and in Utah until February 2016. The letter requests a response by January 5, 2016. Read more.

STATE – Regulatory

- **Oil and Gas – Texas.** Last week, Kimberly Corley, veteran of more than 30 years in the upstream oil and gas and pipeline industries, was named executive director of the Railroad Commission of Texas. She replaces Milton Rister, who retired in August. Read more.

STATE – Judicial

- **Surface Use Agreements; Successor Liability – Wyoming.** In *Pennaco Energy Inc. v. KD Company LLC*, 2015 WL 7758324, the Wyoming Supreme Court recently affirmed a precedent that subjects lessees and operators to liability for successors' acts and failures under surface use agreements. At issue was the continued liability of Pennaco for obligations contained in a surface use agreement despite that the lessor assigned the lands and rights under the surface use agreement to a successor. Read more.

- **Voiding Leases; Habendum Clause – Ohio.** The Ohio Supreme Court heard oral arguments in two combined cases (*Hupp v. Beck Energy* and *Claugus Family Farm v. Seventh District Court of Appeals*), to determine whether property owners can be locked into oil and gas leases even if no drilling is taking place and they never receive any royalties. The decision in the combined cases may impact an estimated 700 people who signed similar leases. The landowners claim Beck is trying to sit on their property permanently. Beck says it just wants a 10-year window set by precedent in Ohio law and claims the property owners are trying to break the leases because they're getting a better offer. Now the state's high court will take up the questions, including whether the leases are void. Read more.

INDUSTRY NEWS FLASH: Last week, the U.S. Geological Survey announced unexpected new estimates in the Barnett Shale play, more than doubling 2003 estimates of oil and natural gas reserves in the region. The massive potential reserve numbers are largely due to the area's 16,000 horizontal wells which have generated more than 15 trillion cubic feet of natural gas, and 59 million barrels of oil, since 2003. Read more.

State-by-State Legislative Session Overview

Pennsylvania House leaders on December 16 put a 24-hour deadline for action on a long-awaited budget deal, though lawmakers have yet to take action. The plan is seeing movement over five months after the state's July 1 budget deadline. School districts have borrowed nearly $900 million to stay open, and nonprofits have cut services or borrowed funds to stay afloat. The $30.8 billion spending plan is supported by Democratic Gov. Tom Wolf and the Senate. The budget's central component, a tax plan, was supposed to be put to a vote on December 17, allowing a final budget package to reach the governor's desk within a few days. However, lawmakers have yet to act, abc27.com reports. If the measures fail outright, Republicans are likely to try to pass an extended stopgap budget right away. That would supply funding for schools and nonprofits that have struggled during the impasse, but likely would abandon many aspects of the plan supported by Governor Wolf, philly.com reports.

Illinois, **Massachusetts**, **Michigan**, **New Jersey**, **Ohio** and **Pennsylvania** are in regular session. The **District of Columbia** Council and the **U.S.** Congress are also in regular session.

Wisconsin is currently in recess until January 12, when it is expected to reconvene.

California's special sessions on health and transportation have yet to adjourn, though the legislature has adjourned for the year and will not reconvene until January 4, the *Los Angeles Times* reports.

Nevada convened a special session on December 16 regarding tax abatements and credits.

The following governors have bill signing deadlines on the dates provided: **South Carolina** Republican Gov. Nikki Haley has until January 14 to act on legislation or it becomes law without signature. **Maine** Republican Gov. Paul LePage has until January 16 to act on any bills sent to him on July 16. All other legislation has been acted on. **New York** Democratic Gov. Andrew Cuomo has 10 days from presentment, Sundays excepted, to act on legislation or it becomes law without signature. **Ohio** Republican Gov. John Kasich has 10 days from presentment, Sundays excepted, to act on legislation or it becomes law without signature.

Alabama, **Arizona**, **Delaware**, **Florida**, the **Georgia** House and Senate, **Indiana**, **Iowa**, the **Kansas** House, **Kentucky**, the **Missouri** House and Senate, **New Mexico**, **Oklahoma**, **South Carolina**, the **Tennessee** House and Senate, the **Vermont** Senate, **Virginia** and **Washington** are now pre-filing for the 2016 legislative session.

The following states are currently holding interim committee hearings: **Alabama**, **Alaska**, **Arizona**, **Arkansas**, the **California** Assembly and Senate, **Colorado**, **Connecticut**, the **Florida** House and Senate, the **Georgia** House and Senate, **Idaho**, **Indiana**, **Iowa**, **Kansas**, **Kentucky**, **Maine**, **Maryland**, **Minnesota**, the **Mississippi** House and Senate, the **Missouri** House and Senate, **Montana**, **Nebraska**, **Nevada**, **New Hampshire** House and Senate, **New Mexico**, the **New York** Assembly, **North Dakota**, the **Oklahoma** House and Senate, **Rhode Island**, the **South Carolina** House and Senate, **South Dakota**, **Tennessee**, **Utah**, **Vermont**, **Virginia**, **Washington**, **West Virginia** and **Wyoming**.

Oil and Gas

General Oil and Gas

Michigan HB 5198, sponsored by Rep. Lee Chatfield, R-Levering, was introduced and referred to the House Natural Resources Committee on December 17. The bill would require a person that is an owner, operator, or manager of an oil transportation pipeline that releases oil and a person who causes the release to immediately notify the Department of Environmental Quality of the release. A full report on the release would have to be submitted to the department within 10 days of the release or a shorter period if required by the department. The bill would also require the owner or operator of an oil transportation pipeline to prepare and submit to the department a spill prevention plan, as specified, along with a review fee of $12,500 for each geographic area or sub-area that is covered by the plan. The spill prevention plan, once approved, would be valid for five years. HB 5198 would take effect 90 days after enactment.

Michigan SB 600 was reported favorably without amendment and with a recommendation for immediate effect by the Senate Banking and Financial Institutions Committee on December 16. It was then referred to the Senate Committee of the Whole. The bill would clarify the fee for recording and indexing a statement claiming a lien for labor on an oil or gas well. If enacted, the bill would take effect 90 days after final passage and approval. The Senate committee's summary and fiscal analysis is available here.

New Mexico SB 34, sponsored by Sen. Gay Kernan, R-Hobbs, was pre-filed on December 17. The bill would create a tax rate differential for oil produced from a qualified enhanced recovery project that uses carbon dioxide to displace the oil from natural gas. Under the bill, all oil and other liquid hydrocarbons removed from natural gas at or near the wellhead, produced from a qualified enhanced recovery project, and processed in a way that does not involve the application of carbon dioxide to displace oil and other liquids from natural gas, would be taxed at one and seven-eighths percent of the taxable value, as specified, as long as the annual average price of west Texas intermediate crude oil is less than $28 per barrel. Oil and other liquid hydrocarbons removed from natural gas at or near the wellhead, produced from a qualified enhanced recovery project, and processed in a way that involves the application of carbon dioxide to displace the oil and other liquids from natural gas, would be taxed at the same rate but only if the annual average price of west Texas intermediate crude oil is less than $60 per barrel. The bill would take effect on July 1, 2016.

Wisconsin AB 547, sponsored by Rep. David Steffen, R-Green Bay, passed the Assembly Energy and Utilities Committee 14-1 as amended by Assembly Amendment 1 on December 15. As amended, the bill would increase the criminal penalty for intentionally damaging property if the property is owned, lease, or operated by an energy provider and the person perpetrating the damage caused or intended to cause a substantial interruption of the energy provider's goods or services. It would also increase the criminal penalty for entering a property that is part of an energy plant or electric generation, distribution or transmission system or part of a natural gas distribution system without lawful authority or the consent of the energy provider that owns, operates or leases the property. If enacted, the bill would take effect one day after publication by the Legislative Reference Bureau.