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GOVERNMENTAL AFFAIRS

WEEKLY REPORT JANUARY 18, 2016

WEEKLY HIGHLIGHTS AT-A-GLANCE

FEDERAL – Legislative

- **Royalties; Public Lands – Multiple States.** On January 13, a pair of Democratic lawmakers introduced legislation to raise the amount of money oil and gas companies pay the federal government for leases on public land. The House bill, H.R. 4389, introduced by Reps. Alan Lowenthal of California and Raúl Grijalva of Arizona, would raise the royalty rate from 12 percent to 18.75 percent. However, prospects for the partisan bill's passage are dim – a 13 percent chance of being enacted according to GovTrack – given the Republican-led Congress. Read more.

FEDERAL – Regulatory

- **Public Lands – Multiple States.** In a January 14 letter sent to President Obama, six environmental activist groups urged the President to order a pause in onshore oil and gas leasing on federal land until a study is completed on the climate impacts of the leasing program. In the letter, the activists criticize practices of both the Department of the Interior and the Bureau of Land Management. Read more.

- **Public Lands – Multiple States.** The United States Fish and Wildlife Service recently announced its intent to update regulations governing its management of oil and gas activities on national wildlife refuges. The proposal, as published in the Federal Register on December 11, 2015, responds in part to a March 2015 report by the Inspector General of the Department of the Interior, which called management of oil and gas development "inconsistent, and at times, nonexistent" due to lack of data about the locations and operational statuses of drilling wells and drilling infrastructure. The public comment period will remain open until February 9. Read more.

- **Public Lands – Ohio.** The Bureau of Land Management (BLM) has received dozens of Expressions of Interest (EOI) from industry operators, indicating their desire to explore and possibly develop federal minerals that underlie the Wayne National Forest in Ohio. In November 2015, the BLM held public meetings to introduce the process for evaluating the EOIs. The BLM is now requesting additional public comment, with the comment period running through January 22. Read more.

- **Public Lands; Lease Sale – Montana.** In what has become a troubling trend, the BLM announced it will postpone a scheduled Montana lease sale originally slated for January 26. In its letter to the public, the BLM states that the decision to postpone the sale was due to there not being “enough time to coordinate an appropriate venue.” However, the BLM has not provided a new sale date, noting only that the “parcel should be available at a future date.” Read more.

STATE – Legislative

- **Oil and Gas Regulations; State Budget – Pennsylvania.** On January 11, the Republican-led Pennsylvania House passed House Bill 1327, known as the Fiscal Code, which acts as a set of instructions on how money will be directed for the overall state budget once the long-overdue budget is passed. Among other measures, the bill shifts $12 million away from alternative energy investment to expanding the state’s natural gas infrastructure, promotes bringing gas supplies to unserved areas, and bars new regulations on oil and gas production. The bill now moves to the Senate, which will meet this week for a vote on the measure. Read more.

- **Subordination; Surface Use; Leasing – Texas.** Effective January 1, the “first in time, first in right” rule no longer applies to the relationship between a real estate mortgage and a later-recorded oil and gas lease. Texas House Bill 2207, signed by the Governor last year, now mandates that a prior mortgage is subordinated to a subsequent oil and gas lease. Where a mortgage is foreclosed upon on land already subject to a lease, the lease will not terminate. However, under the new law, when the leased property is later sold in a foreclosure sale, any rights granted to the lessee to use the surface terminate, and any royalty payments which become due after the sale pass to the purchaser of the foreclosed property. Read more.

- **Tax Sales; Partition Actions – Nebraska.** State Senator Heath Mello has introduced LB 230 as a carryover bill from the 2015 legislative session to supplement changes to Nebraska’s foreclosure and tax sale certificate process. The bill clarifies the definition of joint ownership for the purposes of compelling a partition and provides that the purchaser of the tax sale certificate will recuperate at least some of their investment in the event of a partition action. Read more.

INDUSTRY NEWS FLASH: On January 12, the Center for Biological Diversity and Living Rivers filed a formal administrative protest challenging the BLM’s decision to auction more than 45,000 acres of public land in Utah. This effort is part of the activist group’s broader goals to block oil and gas resource development and halt BLM lease sales throughout the nation. Read more.

State-by-State Legislative Session Overview

New Jersey adjourned its 2015 legislative session on January 11 and convened for 2016 on January 12. **Arizona**, **California**, **Colorado, Delaware**, **Florida**, **Georgia**, **Idaho**, **Illinois**, **Indiana**, **Iowa**, **Kansas Kentucky**, **Maine**, **Maryland**, **Massachusetts**, **Michigan**, **Mississippi**, **Missouri**, **Nebraska**, **New Hampshire**, **New Jersey**, **New York**, **Pennsylvania**, **Rhode Island**, **South Carolina**, **South Dakota**, **Tennessee**, **Vermont**, **Virginia**, **Washington**, **West Virginia** and **Wisconsin** are in regular session. The **District of Columbia** and the **U.S.** Congress are also in regular session.

Ohio is in recess and is expected to reconvene their 2015 session on January 20. The following states are expected to convene their 2016 legislative sessions on the dates provided: **Alaska** and **New Mexico** (January 19); **Hawaii** and **Ohio** (January 20) and **Utah** (January 25).

The following governors have bill signing deadlines on the dates provided: **Ohio** Republican Gov. John Kasich has 10 days from presentment, Sundays excepted, to act on legislation or it becomes law without signature. **South Carolina** Republican Gov. Nikki Haley had a bill signing deadline on January 14.

Alabama, **Louisiana**, **New Mexico**, **Oklahoma**, **Utah and Wyoming** are now pre-filing for the 2016 legislative session.

The following states are currently holding interim committee hearings: **Alabama**, **Alaska**, **Arkansas**, **Connecticut**, **Minnesota**, **Montana**, **Nevada**, **New Mexico**, **North Dakota**, the **Oklahoma** House and Senate, **Utah** and **Wyoming**.

Franchise Tax

Tennessee HB 1480, sponsored by Rep. Eddie Smith, R-Knoxville, was introduced on January 12 and was referred to the House Government Operations Committee for review on January 13. The bill would exempt certain taxpayers from all or part of their franchise and excise tax liability for their first and second tax years in existence if the taxpayers meet certain employment and gross receipts requirements. The bill would take effect on July 1, 2016 and would automatically expire on July 1, 2021.

Oil and Gas

General Oil and Gas

Kentucky HB 213, sponsored by Rep. David Floyd, R-Bardstown, was introduced on January 11 and was referred to the House Judiciary Committee on January 12. The bill would specify that the terms “oil or gas” and “oil and gas products” would not include natural gas liquids, as specified. It would also require that oil or gas pipeline condemnation be for “public use,” as specified, and that such condemnation would be governed by the Eminent Domain Act. The bill would take effect 90 days after adjournment.

Wisconsin AB 547 passed the Assembly as amended by Assembly Amendment 1 on January 12 and was ordered messaged to the Senate. 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. The bill is similar to SB 457 as amended by Senate Amendment 1, which was considered at a public hearing in the Senate Judiciary and Public Safety Committee on January 7 and has since been pending further action.

Royalty Payments

New Hampshire HB 1149 is scheduled to be considered in a public hearing in the House Science, Technology and Energy Committee at 2:00 p.m. on January 21. It is scheduled for an executive session in the same committee on January 26 at 10:15 a.m. Under the bill, any utility or pipeline company would be required to pay a royalty of at least 12.5 percent of the wholesale price of natural gas conveyed on any pipeline that is intended for use in, or otherwise sold for use in, a foreign country. Deductions from the royalty payment of any taxes, fees, or costs, including post production costs, would be prohibited. The utility or pipeline company would be required to deposit the royalty on a quarterly basis into a separate fund, then divide and distribute the royalty to all persons owning property that was taken by the company on *pro rata* basis, as specified. The royalty would have to be distributed no later than three months after it was deposited into the fund. The bill would take effect 60 days after final passage and approval.