

GOVERNMENTAL AFFAIRS WEEKLY REPORT

Weekly Highlights At-A-Glance

Please Note: Due to the coronavirus (COVID-19) pandemic and ever-changing federal/state government protocols, the AAPL Governmental Affairs Weekly Reports will be published on a biweekly basis in the near term to accommodate foreseeable workplace disruptions and telecommuting planning. As you will see on the last page of this report, some state legislatures have already begun postponing their legislative sessions and hearings are also being postponed during this time. Please stay safe, healthy and informed during this unprecedented public health emergency. Personally, I've found the CDC's [coronavirus.gov](https://www.cdc.gov/coronavirus) website to be one of the most reliable sources for protecting you and your family during this challenging time.

FEDERAL – Legislative

Fair Returns for Public Lands Act of 2020 – S. 3330.

On February 25, bi-partisan bill [S. 3330](#), known as the *Fair Returns for Public Lands Act of 2020*, was introduced by Sen. Tom Udall (D-NM) and Sen. Chuck Grassley (R-IA). The bill increases onshore oil and gas royalty rates from 12.5% to 18.75% on new or reinstated onshore federal oil and gas leases. The bill also increases mineral bid amounts and rental rates, authorizes fees for expression of interest, and provides for payment of back rentals in reinstatement of leases. "Low royalty rates on oil produced on federal lands has deprived the federal treasury of billions of dollars. Today marks 100 years since Congress passed the Mineral Leasing Act of 1920. Since then, the royalty rate has not been addressed," said Grassley, who also stated that "similar measures in Texas and Colorado did not affect the state's overall production." [Read more.](#)

Congressional Spring Recess. The U.S. Senate and House of Representatives were scheduled to be on a week-long recess the week of March 16, 2020

but due to the coronavirus pandemic, legislators will remain in Washington, DC to hammer out a national emergency aid package. [Read more.](#)

FEDERAL – Regulatory

BLM/Bureau of Indian Affairs Draft Resource Management Plan – New Mexico. On February 28, The Bureau of Land Management (BLM) Farmington Field Office, in coordination with the Bureau of Indian Affairs Navajo Regional Office, prepared a joint [Draft Resource Management Plan Amendment \(RMPA\) and Environmental Impact Statement \(EIS\)](#) to analyze resource management issues for lands in San Juan, Rio Arriba, McKinley, and Sandoval counties, including lands surrounding the Chaco Culture National Historical Park. "The Draft Resource Management Plan will help guide BIA's stewardship and development of energy resources on Indian trust lands and assists tribal governments in managing, developing and protecting important cultural sites, surface acres of trust lands, and subsurface trust mineral estates," said BIA Deputy Director for Field Operations Jim James. This planning effort, *Notice of Availability of the Farmington Mancos-Gallup Resource Plan Amendment and Draft Environmental Impact Statement, New Mexico (85 Fed. Reg. 12012)*, will update management decisions such as oil and gas development, lands and realty, and vegetation. The decisions made will determine how public, Navajo Tribal Trust land, and Navajo Indian allotments and resources within the planning area will be managed for the next 10 to 15 years. During the process of drafting the amendment, the BLM has foregone new oil and gas leasing within a 10-mile radius of Chaco Culture National Historical Park and rather the preferred action highlighted in the draft documents could open up much of that land to oil and gas leasing by reducing the size of the buffer

zone. The public comment period is open and [comments may be submitted here](#) through May 28, 2020. [Read more.](#)

Critical Habitat; Yellow-Billed Cuckoo – Multiple States. On February 27, the U.S. Fish and Wildlife Service (FWS) published proposed rule revisions for the critical habitat for the western distinct population segment of the yellow-billed cuckoo under the Endangered Species Act in *Endangered and Threatened Wildlife and Plants; Revised Designation of Critical Habitat for the Western Distinct Population Segment of the Yellow-Billed Cuckoo* ([85 Fed. Reg. 11458](#)). In total, approximately 493,665 acres are now being proposed for designation as critical habitat in Arizona, California, Colorado, Idaho, New Mexico, Texas, and Utah. If finalized, the rule would extend the Act's protections to this species' critical habitat. The songbird migrates each year from Central and South America to its breeding grounds in Mexico and the U.S. and nesting pairs find refuge in willows, cottonwoods and other trees along waterways. The FWS is seeking input on the possible economic impacts of designating the critical habitat. The [public comment](#) period is open through April 27, 2020. [Read more.](#)

FEDERAL – Judicial

Climate Change Suit – Fourth Circuit (Maryland). (Update to 11/4/19 Weekly Report) On March 6, in [Baltimore v. BP P.L.C. et al](#) (Case No. 19-1644), the U.S. Court of Appeals for the Fourth Circuit, on appeal from the United States District Court for the District of Maryland, affirmed that Baltimore's pending lawsuit seeking to hold multiple oil and gas companies liable for climate change harms belongs in state court. The lawsuit, which seeks monetary damages to help pay for climate impacts, was originally filed in Maryland state court last year but the oil and gas company defendants moved it to federal court. [Read more.](#)

Federal Leases; Records – Fifth Circuit (Texas). On January 29, in *Statoil USA E&P, Inc. v. U.S. Dept. of Interior* (Case No. 18-20827), the U.S. Court of

Appeals, Fifth Circuit, on appeal from the U.S. District Court for the Southern District of Texas, affirmed the district court ruling against Statoil regarding information maintained regarding royalties on federal leases. The Court stated that "Statoil pays the federal government royalties in order to develop oil and gas reserves on federal land. These royalties are based on the sales that Statoil reports. After multiple warnings, the Department of the Interior assessed a civil penalty against Statoil under 30 U.S.C. § 1719(d) for the knowing or willful maintenance of false information related to reported gas sales." However, Statoil contended that this penalty is invalid because, as a matter of law, Statoil cannot "maintain" false information if the reports are physically stored on a government server. The Court agreed with the district court that the plain meaning of "maintains" includes keeping information in a state of validity and the facts showed Statoil had actual notice that its reports were inaccurate. [Read more.](#)

STATE – Legislative

Notarial Acts – Arizona. (Update to 1/27/20 Weekly Report) On March 5, SB 1226 passed the Senate. The bill, introduced by Sen. Kate Brophy McGee (R), would make numerous changes to existing notarial law, including electronic notarial acts, authority to perform notarial acts, and certain requirements, among other provisions. [Read more.](#)

Abandoned Wells – Kansas. On March 9, the House Committee on Appropriations (R) adopted its version of HB 2536. That same committee introduced the bill. The legislation would amend law concerning the filing of complaints and investigations pertaining to abandoned wells, responsible parties for plugging abandoned wells, and funds used by the Kansas Corporation Commission for plugging abandoned wells. [Read more.](#)

Notarial Acts – Kentucky. On March 6, SB 283 was introduced by Sen. Morgan McGarvey (D). The bill would amend existing notary law to provide for electronic acts. [Read more.](#)

Notarial Acts – Louisiana. On March 9, HB 274 was introduced by Rep. Ray Garofalo (R). The bill provides for the execution of electronic notarial acts. [Read more.](#)

Ad Valorem Tax – Louisiana. On March 9, HB 360 was introduced by Rep. Mike Huval (R). The bill provides for the methodology of valuation of oil and gas wells for the purpose of ad valorem assessment. [Read more.](#)

Severance Tax – Louisiana. On March 9, HB 506 was introduced by Rep. Phillip DeVillier (R). The bill reduces the severance tax rate for oil over a certain period of time and clarifies the severance tax rate for oil produced from certain incapable wells. [Read more.](#)

Partition Actions – Louisiana. On March 9, HB 594 was introduced by Rep. Alan Seabaugh (R). The bill would amend existing law to provide for partitions by private sale; provides for absentee co-owners and provides other guidance relative to these partition actions. [Read more.](#)

Boundary Agreements – Louisiana. On March 9, SB 176 was introduced by Sen. R.L. Allain (R). The bill allows for state and private landowners to enter into boundary agreements concerning disputed property and concerning water bottom boundary agreements. [Read more.](#)

Riparian Landowner Agreements – Louisiana. On March 9, SB 177 was introduced by Sen. R.L. Allain (R). The joint resolution proposes a constitutional amendment authorizing the state to enter into agreements with riparian landowners to establish a permanent, fixed boundary between state owned or claimed and privately owned or claimed water bottoms, regardless of the navigability of the water body, and provides for donation, and the disposition of mineral rights. [Read more.](#)

Energy Industry Support – Louisiana. On March 9, SB 386 was introduced by Sen. R.L. Allain (R). The bill would create the Commission for Louisiana's

Energy, Environment, and Restoration within the Department of Natural Resources for the purpose of supporting programs designed to demonstrate to the general public the importance of the Louisiana oil and natural gas exploration, production, and service industry; encouraging the wise and efficient use of energy; promoting environmentally sound production methods and technologies; developing existing supplies of Louisiana's oil and natural gas resources; supporting research and educational activities concerning the oil and gas exploration and production industry; and causing remediation of historical oilfield environmental problems. [Read more.](#)

Employee Misclassification – Louisiana. On March 9, HB 397 was introduced by Rep. Mandie Landry (D). The bill provides for an increase in the administrative penalties assessed for the misclassification of employees. The measure is unlikely to move forward in the Republican-controlled House. [Read more.](#)

Marketable Title – Michigan. On March 11, Rep. James Lower (R) introduced HB 5611. The bill amends the preservation provision of marketable title law from the filing of record of 2 to 5 years and the effective date related to filing. [Read more.](#)

Severance Tax Payment Date – Mississippi. On March 5, SB 2761 passed the Senate. The bill, sponsored by Sen. Joel Carter (R), changes the remittance date/month for which oil and gas severance taxes are due. [Read more.](#)

Recording Fees – Mississippi. On March 5, HB 1175 passed the House. The bill, sponsored by Rep. Brent Powell (R), revises court clerk fees charged for recording oil and gas assignment instruments from a per book and page fee to a "per assignee" flat fee and allows for a set fee for marginal notations entered pertaining to the recording of oil and gas assignments. [Read more.](#)

Recording Fees – Mississippi. (Update to 3/2/20 Weekly Report) On March 3, HB 1488 died in

committee in favor of HB 1175 above. The bill, sponsored by Rep. Charles Jim Beckett (R), would have reduced the clerk fee for recording each oil and gas assignment per assignee per each book and page listed from \$18 to \$2. [Read more.](#)

Severed Estates – Mississippi. *(Update to 2/10/20 Weekly Report)* On March 3, HB 253 died in committee. The bill, sponsored by Rep. Bob Evans (D), would have provided that mineral estates separated from the surface estate shall revert to the owner of the surface estate after 10 years of non-production. A similar bill, [HB 332](#), sponsored by Rep. Donnie Bell (R), also died in committee on March 3. [Read more.](#)

Ad Valorem Taxes – Mississippi. *(Update to 2/10/20 Weekly Report)* On March 3, HB 329 died in committee. The bill, sponsored by Rep. Donnie Bell (R), would have amended current law regarding ad valorem taxes on nonproducing oil, gas or mineral interests in real estate which are owned or held separately from the surface rights. [Read more.](#)

Severed Estates – Mississippi. *(Update to 2/17/20 Weekly Report)* On March 3, HB 586 died in committee. The bill, sponsored by Rep. Randy Boyd (R), would have provided that mineral estates separated from the surface estate shall revert to the surface owner after 20 years of nonproduction and defines “production” for purposes of the bill. [Read more.](#)

Severed Estates – Mississippi. *(Update to 2/24/20 Weekly Report)* On March 3, HB 836 died in committee. The bill, sponsored by Rep. Price Wallace (R), would have provided that mineral estates separated from the surface estate shall revert to the surface owner after 10 years of nonproduction. [Read more.](#)

Well Plugging – Oklahoma. *(Update to 1/27/20 Weekly Report)* On March 5, SB 1439 passed the Senate and has been introduced in the House. The bill, sponsored by Sen. Lonnie Paxton (R), would amend existing law related to well plugging, closure

of surface impoundments, and removal of trash and equipment to double the bond requirements to \$50,000, and if an operator operates more than four wells, that amount is doubled from its current amount to \$200,000. [Read more.](#)

Injection Wells – Oklahoma. *(Update to 2/10/20 Weekly Report)* On March 5, SB 1615 passed the Senate. The bill, sponsored by Sen. Darcy Jech (R), creates the Task Force on Injection Well Stability. The Task Force is comprised of nine members. Members of the Task Force shall not be reimbursed for travel expenses or receive compensation. The Task Force is authorized to issue any reports it deems necessary and appropriate and may make any legislative recommendations available to the Governor and the Legislature. The sunset date for the Task Force is December 1, 2023. [Read more.](#)

Well Plugging – South Dakota. *(Update to 1/20/20 Weekly Report)* On March 9, SB 17 passed the House. The bill passed the Senate on March 4. The measure, sponsored by the Senate Committee on Appropriations (R), makes an appropriation from state funds for the plugging and surface reclamation of natural gas wells and to declare an emergency. [Read more.](#)

Well Plugging – South Dakota. *(Update to 2/10/20 Weekly Report)* On March 9, HB 1025 was signed into law by Gov. Kristi Noem (R). The Act, sponsored by the House Agriculture and Natural Resources Committee (R), revises certain provisions regarding plugging and performance bonds for oil and gas wells. The Act is effective July 1, 2020. [Read more.](#)

Business Entities – South Dakota. *(Update to 3/2/20 Weekly Report)* On March 4, HB 1114 was signed into law by Gov. Kristi Noem (R). The Act, sponsored by Rep. Tim Rounds (R), authorizes additional abbreviations in naming corporations, limited liability companies, and limited liability partnerships. The Act is effective July 1, 2020. [Read more.](#)

Registration of Instruments – Tennessee. *(Update*

to 2/17/20 Weekly Report) On March 9, HB 2370 passed the House. The bill, sponsored by Rep. Dave Wright (R), amends existing law to require “either a licensed attorney or the custodian of the original version of an electronic document, instead of the custodian of the electronic version, to certify the electronic document for registration by a county register.” The Senate companion bill, SB 2376, was introduced on February 5 by Sen. Shane Reeves (R) and has been set aside in favor of the House bill.

[Read more.](#)

Oil and Gas Bonding; Penalties – Utah. (Update to 3/2/20 Weekly Report) On March 5, SB 148 passed the House. The bill, sponsored by Sen. Ralph Okerlund (R), passed the Senate in February. The measure amends current law regarding the regulation of oil and gas activities, including oversight, bonding requirements, and administrative penalties. [Read more.](#)

Partition of Heirs Property – Virginia. (Update to 2/24/20 Weekly Report) On March 6, SB 553 was signed into law by Gov. Ralph Northam (D). The Act, sponsored by Sen. Frank Ruff, Jr. (R), incorporates major provisions of the Uniform Partition of Heirs Property Act and provides that in partition actions the court shall order an appraisal to determine fair market value of the property, unless the parties have agreed to the value of the property or to another valuation method; provides factors to be considered by the court when making an allotment of the property when there is a dispute among the parties; provides that if the court orders a sale of property in a partition action, the sale shall be conducted on the open market, unless the court finds that a sale by sealed bids or at auction would be more economically advantageous to the parties as a group; and outlines the procedure for such open-market sales. The Act is effective July 1, 2020. [Read more.](#)

Employee Misclassification – Virginia. (Update to 2/17/20 Weekly Report) On March 5, SB 894 passed both legislative chambers. The House version, [HB 984](#), passed both legislative chambers on March

3 and has been transmitted to Gov. Ralph Northam (D) for a bill signing deadline of April 6, 2020. These Democrat sponsored bills, which are reported by the legislature as identical, authorize an individual who has not been properly classified as an employee to bring a civil action for damages against his employer for failing to properly classify the employee if the employer had knowledge of the individual's misclassification. The court may award damages in the amount of any wages, salary, employment benefits, including expenses incurred by the employee that would otherwise have been covered by insurance, or other compensation lost to the individual, a reasonable attorney fee, and the costs incurred by the employee in bringing the action. The measure provides that an individual who performs services for a person for remuneration shall be presumed to be an employee unless it is shown that the individual is an independent contractor as determined under the Internal Revenue Service guidelines. [Read more.](#)

Employee Misclassification – Virginia. (Update to 3/2/20 Weekly Report) On March 3, HB 1199 was signed into law by Gov. Ralph Northam (R). The Act, sponsored by Del. Kathy Tran (D), prohibits an employer from discharging, disciplining, threatening, discriminating against, or penalizing an employee or independent contractor because the employee or independent contractor reported or plans to report that an employer or any officer or agent has failed to properly classify an individual as an employee and failed to pay required benefits or other contributions. The measure also prohibits such actions against an employee or independent contractor who is requested or subpoenaed by an appropriate authority to participate in an investigation, hearing, or inquiry by an appropriate authority or in a court action. These prohibitions apply only if an employee or independent contractor acts in good faith and upon a reasonable belief that the information is accurate. The measure authorizes the Commissioner of Labor and Industry to institute proceedings against an employer who has taken such prohibited retaliatory action. Available remedies include reinstatement of the employee and recovery of lost

wages. An employer that violates these provisions is subject to a civil penalty equal to the employee's lost wages. The Act is effective July 1, 2020. [Read more.](#)

Employee Misclassification – Virginia. (*Update to 2/17/20 Weekly Report*) On March 10, HB 984 was signed into law by Gov. Ralph Northam (R). The Act, sponsored by Del. Karrie Delaney (D), authorizes an individual who has not been properly classified as an employee to bring a civil action for damages against his employer for failing to properly classify the employee if the employer had knowledge of the individual's misclassification. The court may award damages in the amount of any wages, salary, employment benefits, including expenses incurred by the employee that would otherwise have been covered by insurance, or other compensation lost to the individual, a reasonable attorney fee, and the costs incurred by the employee in bringing the action. The measure provides that an individual who performs services for a person for remuneration shall be presumed to be an employee unless it is shown that the individual is an independent contractor as determined under the Internal Revenue Service guidelines. The Act is effective July 1, 2020. [Read more.](#)

Hydraulic Fracturing – Virginia. (*Update to 2/10/20 Weekly Report*) On March 2, SB 106 passed both legislative chambers. The bill, introduced by Sen. Scott Surovell (D), states that “No person shall conduct any hydraulic fracturing in any well that has been drilled through any portion of a groundwater management area declared by regulation pursuant to the provisions of the Ground Water Management Act of 1992 (§ 62.1-254 et seq.). For purposes of this section, ‘hydraulic fracturing’ means the treatment of a well by the application of hydraulic fracturing fluid, including a base fluid and any additive, under pressure for the express purpose of initiating or propagating fractures in a target geologic formation to enhance production of oil or natural gas.” [Read more.](#)

Unknown/Unlocatable Owners – West Virginia. (*Update to 2/17/20 Weekly Report*) On March 5,

HB 4088 passed both legislative chambers. The purpose of the bill, sponsored by Del. William Anderson (R), “is to provide that proceeds from certain oil and gas wells that are due to persons whose name or address are unknown are to be kept in a special fund and if unclaimed within seven years the proceeds shall be transferred to the Oil and Gas Reclamation Fund. The bill provides that if there is a surface disturbance those named surface owners of a leased interest subject to pooling for a horizontal well are the only surface owners insofar as the well permit is concerned. The bill provides that if another surface owner should become known his or her name shall be added as a surface owner on the permit. The bill provides that if proceeds from other mineral tracts in a unit or pool of a horizontal well are not claimed by an unknown, missing or abandoned owner within seven years the proceeds shall be transferred to the Oil and Gas Reclamation Fund. The bill provides that certain provisions take effect beginning when funds have been unclaimed for seven years after the special Commissioner’s lease regardless of when the lease was signed.” [Read more.](#)

Correcting Recorded Instruments – West Virginia. (*Update to 2/17/20 Weekly Report*) On March 5, HB 4576 passed both legislative chambers. The purpose of the bill, sponsored by Del. John Shott (R), “is to establish a procedure for correcting obvious errors in deeds, deeds of trust, and mortgages, and establishing a format for the corrective affidavit and notice of an intent to correct an obvious description error.” [Read more.](#)

Abandoned Wells – West Virginia. (*Update to 2/10/20 Weekly Report*) On March 2, HB 4090 passed both legislative chambers. The purpose of the bill, introduced by Del. William Anderson (R), “is to reduce the severance tax on marginal oil and natural gas wells, excluding wells utilizing horizontal drilling techniques targeting shale formations, to 2.5% from 5% and to provide that the 2.5% tax paid on such wells is to be used by the Secretary of the Department of Environmental Protection to plug abandoned oil and gas wells without a responsible

operator through the use of a new fund called the Oil and Gas Abandoned Well Plugging Fund. The vertical oil and gas wells which are affected by the severance tax reduction produce on average more than 5,000 cubic feet of natural gas or one-half barrel of oil per day and on average less than 60,000 cubic feet of natural gas or 10 barrels of oil per day." [Read more.](#)

Notaries Public – West Virginia. *(Update to 2/17/20 Weekly Report)* On February 24, HB 4748 passed the House and has been transmitted to the Senate. The purpose of this bill, sponsored by Del. Gary Howell (R), is to "increase the fees that private nongovernment notary publics may charge for notarial acts, and clarifies that notary publics may advertise for services so long as a clear disclaimer that the notary is not permitted to provide legal services including document drafting, document review, or legal advice as a non-attorney is provided either at the place of the notarial act or in the actual advertisement." [Read more.](#)

Leasing – West Virginia. *(Update to 3/2/20 Weekly Report)* On March 2, SB 554 passed both legislative chambers. If signed into law, the bill would take effect 90 days after passage. The measure, sponsored by Sen. Randy Smith (R), passed the Senate on February 14. "The purpose of this bill is to provide a requirement for a lessee to execute and deliver to the lessor, within a specified time and without cost, a recordable release for terminated, expired, or cancelled oil or natural gas leases; provide for a procedure by which a lessor may serve notice to a lessee, if a lessee fails to timely provide the release; require a lessee to timely notify the lessor in writing of a dispute; provide for a recordable affidavit of termination, expiration, or cancellation with specified contents; provide that with proper notification in the absence of a dispute, a recorded affidavit creates a rebuttable presumption of termination and cancellation for the oil or natural gas lease." [Read more.](#)

Underground Disposal Wells – Wyoming. *(Update to 2/24/20 Weekly Report)* On March 4, SF 45 passed the House. The bill passed the

Senate in February. The bill, sponsored by the Joint Minerals, Business & Economic Development Interim Committee (R), amends current law regarding regulation of underground disposal wells to remove the term "noncommercial" from regulations governing Wyoming Oil and Gas Conservation Commission authority over underground disposal injection wells. [Read more.](#)

Drilling Units; Pooling; Royalties – Wyoming. *(Update to 2/24/20 Weekly Report)* On March 9, HB 14 was signed into law by Gov. Mark Gordon (R). The Act, sponsored by the Joint Minerals, Business & Economic Development Committee (R), amends as it relates to nonconsenting owners and forced pooling, pooling order expiration, royalty rates and share of production costs calculations. The Act is effective July 1, 2020. [Read more.](#)

Ad Valorem Taxes – Wyoming. *(Update to 3/2/20 Weekly Report)* On March 11, HB 159 passed both legislative chambers. The bill, sponsored by the Select Committee on Coal/Mineral Bankruptcies (R), would require all mineral producers in the state to report and remit ad valorem taxes on mineral production on a monthly basis to the Department of Revenue on behalf of counties as an attempt to reduce uncollectable ad valorem taxes. Ad valorem tax reports and estimated payments would be due on or before the twenty-fifth day of the second month following the month of production, and the bill sets forth effective calendar years for the new provisions. The bill also provides for a transition period and tax credits for certain remittance procedures. [Read more.](#)

Severance Tax – Wyoming. *(Update to 3/2/20 Weekly Report)* On March 11, HB 243 failed to meet House and Senate concurrence after passing both legislative chambers and a joint conference committee has been appointed to reconcile the bill. The measure, sponsored by Rep. Donald Burkhart, Jr. (R), would amend existing law to provide for certain severance tax rates and exemptions based on production dates and oil spot prices. [Read more.](#)

Notice – Wyoming. On February 27, HB 90 passed the House and has been transmitted to the Senate. The bill, sponsored by Rep. Jim Roscoe (D), would require the Office of State Lands and Investments to provide notice of any proposed lease sale, renewal or trade to private surface owners and private subsurface owners and mineral lessees involving state lands. [Read more.](#)

State Mineral Royalties – Wyoming. (*Update to 3/2/20 Weekly Report*) On March 11, House Joint Resolution HJ0001 died at the end of the legislative session adjourned March 12, 2020 for pending measures. The measure had passed the House. The Joint Resolution, introduced by Rep. Tim Hallinan (R), would have authorized the process of amending the Wyoming Constitution to provide that for six years two-thirds of state mineral royalties earned from the lease of state school lands may be appropriated by the legislature for the support of public schools and provides a ballot statement. Such a constitutional amendment resolution, if passed by the legislature, would have been put to the ballot in November for Wyoming voters. [Read more.](#)

Surface Damage; Disruption Payments – Wyoming. (*Update to 2/24/20 Weekly Report*) HB 111 died at the end of the legislative session adjourned March 12, 2020 for pending measures. The bill, introduced by Rep. Aaron Clausen (R), would have amended existing law related to surface damage and disruption payments regarding split estates. [Read more.](#)

Transfer of Mineral Interests – Wyoming. (*Update to 2/24/20 Weekly Report*) HB 196 died at the end of the legislative session adjourned March 12, 2020 for pending measures. The bill was introduced by the Select Committee on Coal/Mineral Bankruptcies (R) and would have amended existing law to require mineral producers to make certifications related to taxes prior to transfer to another producer and require payment of taxes prior to transfer. [Read more.](#)

State Tax Revenue – Wyoming. (*Update to 3/2/20*

Weekly Report) On March 11, SF 110 died at the end of the legislative session adjourned March 12, 2020 for pending measures. The measure had passed the Senate. The bill, sponsored by Sen. Cheri Steinmetz (R), would have established that the Office of State Lands and Investments study the impact on the failure of the federal government to make payments in lieu of tax that are equivalent to the property tax revenue that the state of Wyoming would otherwise generate from lands under federal ownership or control within Wyoming. [Read more.](#)

STATE – Regulatory

CalGEM Regulatory Changes – California. As a follow-up to our past reporting, the California Geologic Energy Management Division (CalGEM), formerly the Department of Conservation's Division of Oil, Gas and Geothermal Resources, is continuing to hold early public input meetings throughout the state "to prepare for updating and strengthening public health and safety protections near oil and gas facilities" and "advance California's goal to become carbon-neutral by 2045 and manage the decline of oil production and consumption in the state," according to CalGEM. The public meetings are part of new actions being taken under CalGEM's recently strengthened mission to protect public health and safety while safeguarding the environment, as outlined in recent legislation ([AB 1057](#)) which was signed into law by Governor Gavin Newsom (D) in October 2019, and effective as of January 1, 2020. For further information on upcoming regulatory proposals, visit the CalGEM information page: [California Announces New Oil and Gas Initiatives](#) For upcoming public meetings where you can make your voice heard, see the [CalGEM meeting notice website here](#). For recent coverage, [Read more.](#)

State Trust Land Royalties – New Mexico.

On March 6, the New Mexico State Land Office announced record oil and natural gas royalty payments "for development on state trust lands netted nearly \$109 million for New Mexico in one month." Land Commissioner Stephanie Garcia Richard announced the record, "saying the State

Land Office is on track to raise another \$1 billion this year for public schools, hospitals and other beneficiaries." [Read more.](#)

Texas Railroad Commissioner Ryan Sitton Ousted in Primary Defeat – Texas. As a follow up to our recent Landnews posting, Texas voters ousted Railroad Commissioner Ryan Sitton in favor of his primary challenger Jim Wright in a surprise primary election upset on March 3. Wright is a rancher and oilfield service company owner from Orange Grove. Wright defeated Sitton 56 percent to 44 percent in a surprise upset. Election results show, "Wright beat Sitton in almost all the counties that make up industry and conservative strongholds such as the Permian Basin of West Texas and the Eagle Ford Shale of South Texas," according to the *Houston Chronicle*. [Read more.](#)

STATE – Judicial

Climate Change – Hawaii. On March 9, the city and county of Honolulu, Hawaii filed a lawsuit against 10 oil and gas companies seeking monetary damages to help pay the costs associated with climate change impacts. In *Honolulu v. Sunoco LP, et al.* (Case No. 1-CCV-20-0000380), the plaintiff claims the "massive increase in the extraction and consumption of oil, coal, and natural gas [...] has in turn caused an enormous, foreseeable, and avoidable increase in global greenhouse gas pollution and a concordant increase in the concentration of greenhouse gases." The suit brings charges of public nuisance, failure to warn and trespass among other allegations. [Read more.](#)

Prescription; Condemnation – Louisiana. On January 29, in *Crooks v. Dept. of Natural Resources* (Case No. 2019-C-00160), the Louisiana Supreme Court addressed a case involving inverse condemnation and prescription as it related to ownership of land between certain lake waters. The Louisiana Supreme Court granted review of this case to determine whether the plaintiffs' inverse condemnation claims for compensation against the State were prescribed under state and/or federal

law. The lower courts relied on prior case law to conclude the one-year prescriptive period for damage to immovable property found in the Louisiana code governed, and the continuing tort doctrine applied to prevent the running of prescription on the plaintiffs' claims. The Louisiana Supreme Court, however, found the lower courts erred and held that the three-year prescriptive period for actions for compensation for property taken by the state set forth in the Louisiana code governed and the plaintiffs' inverse condemnation claims were prescribed. [Read more.](#)

Statute of Frauds – Texas. On January 31, in *Copano Energy, LLC v. Bujnoch* (Case No. 18-0044), the Texas Supreme Court addressed a case involving the statute of frauds and whether certain e-mails satisfied the statute and made a contract enforceable. The appellate court concluded that certain deal-related e-mails, taken together, satisfied the statute of frauds requirement that under the law certain agreements, such as an easement here, require the agreement be in writing, and thus amounted to a contract enforceable against the defendants. The Texas Supreme Court disagreed, holding the "e-mails containing many of the alleged deal's principal terms are part of a forward-looking request to negotiate a contract. Neither those e-mails nor any other writing evidences the defendant's agreement to the particular terms stated in the e-mails. As a result, there is no 'written memorandum which is complete within itself in every material detail,' as required by the statute of frauds." [Read more.](#)

INDUSTRY NEWS FLASH

► **Houston energy conference cancelled over coronavirus.** Houston's annual CERAWEEK energy conference was cancelled as "a precaution to help prevent further spread of the coronavirus in the United States." The week-long event was scheduled to begin March 9, 2020. "Over the last few days concern has mounted rapidly about the COVID-19 coronavirus," said IHS Markit, the event sponsor, in a company statement. [Read more.](#)

► **ExxonMobil proposes industry-wide methane regulatory framework.** On March 3, ExxonMobil released a [model framework](#) for industry-wide methane regulations and urged stakeholders, policymakers and governments to develop comprehensive, enhanced rules to reduce emissions in all phases of production. The company cites its own blueprint which achieved a 20% methane emissions reduction in its U.S. shale fields over the past four years. [Read more.](#)

LEGISLATIVE SESSION OVERVIEW

Session Notes: Alaska, Arizona, California, Colorado, Connecticut, Florida, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee and Vermont are in regular session. The District of Columbia Council, Puerto Rico and U.S. Congress are also in regular session.

The following legislatures are postponing their 2020 legislative sessions due to the coronavirus until the dates provided: **Kentucky** (March 17), **Delaware** and **Vermont** (March 24), **Missouri** (March 30) and **Georgia** (TBD).

West Virginia adjourned its 2020 legislative sessions on March 7. **South Dakota, Utah, Virginia, Washington** and **Wyoming** adjourned their 2020 legislative sessions on March 12.

Virginia entered a recess on March 8 and reconvened on March 12 for one day to approve the two-year state budget and appoint judges, reports the [Virginia Mercury](#). The session was scheduled to adjourn on March 7 but was dragged into overtime as the legislature gave itself an extra day to consider legislation.

Arkansas is expected to convene its 2020 session on April 8.

The following states are expected to adjourn their 2020 sessions on the dates provided: **Florida** (March 13), **Indiana** (March 14) and **Idaho** (March 20).

Signing Deadlines: **West Virginia** Republican Gov. Jim Justice has until March 25 to act on legislation or it becomes law without signature. However, if the pending legislation is a budget bill or supplementary appropriations bill, Governor Justice has only five days from adjournment to act or it becomes law without signature. **South Dakota** Republican Gov. Kristi Noem and **Wyoming** Republican Gov. Mark Gordon have until March 27 to act on legislation or it becomes law without signature. **Utah** Republican Gov. Gary Herbert has until April 1 to act on legislation or it becomes law without signature. **Washington** Democratic Gov. Jay Inslee has until April 4 to act on legislation or it becomes law without signature. **Virginia** Democratic Gov. Ralph Northam has until April 11 to act on legislation or it becomes law without signature. **Oregon** Democratic Gov. Kate Brown has until April 16 to act on legislation or it becomes law without signature.

Interim Committee Hearings: The following states are currently holding 2020 interim committee hearings: [Montana](#), [Nevada](#), [North Dakota](#) and **Texas** [House](#).

Bill Pre-Files: [Arkansas](#) is currently posting 2020 bill drafts, pre-files and interim studies. ■

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