

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

- **Resource Development.** On March 10, Rep. Robert Latta (R-OH) introduced a House Resolution, [H. Res. 194](#), “expressing the sense of the House of Representatives that any comprehensive plan to reform our national energy policy must promote American energy security and develop the abundant resources of the United States.” The measure, which has been referred to the Committee on Energy and Commerce, seeks to “exploit our vast supply of natural gas” and calls for an increase in domestic oil production. [Read more.](#)

**FEDERAL – Regulatory**

- **Steep Drop in BLM Leasing.** New Bureau of Land Management (BLM) statistics show that U.S. onshore oil and gas leasing activity fell markedly on federally administered lands during President Obama’s term. “Differences from Sept. 30, 2008, just before Obama was elected to his first term, to Sept. 30, 2016, near the end of his second term, included declines of 83% in the number of new wells drilled, 78% in new leases, and 67% in permits approved.” According to Rep. Rob Bishop (R-UT), Chairman of the U.S. House of Representatives Natural Resources Committee, congressional “Republicans will work with President Trump and his team to turn the page and develop a more robust, diverse, and affordable domestic energy supply from federal lands.” [Read more.](#)

**FEDERAL – Judicial**

- **Hydraulic Fracturing Rule.** On March 15, in [Wyoming v. Zinke](#) (Case Nos. 16-8068, 16-8069; defendant was formerly *Jewell*), the new Interior Department Secretary, Ryan Zinke, responded to a request from the 10th Circuit Court of Appeals to confirm whether the BLM will continue to challenge a halted regulation, [Oil and Gas; Hydraulic Fracturing on Federal and Indian Lands](#) (80 Fed. Reg. 16,128), which governs hydraulic fracturing on federal and Indian lands. The Court’s request came in light of the new administration taking office with a position adverse to that of the Obama administration under which the appeal was originally made. The rule never took effect because it was successfully challenged by intervening parties and the Wyoming district court set the rule aside. In a win for the oil and gas industry, Zinke has responded that the BLM will be preparing a notice of proposed rulemaking to rescind that rule, which is expected to come within 90 days of his notice to the Court. [Read more.](#)

## **STATE – Legislative**

- **Public Lands – California.** On March 13, AB 1472, a bill introduced by Assemblymember Monique Limon (D), was referred to the Assembly Committee on Natural Resources. The bill would amend current regulations to require any person extracting oil or gas or other minerals from lands under the jurisdiction of the commission to remove beach, underwater, and any other obstructions deemed necessary by the State Lands Commission. Existing law does not require the removal of “other obstructions”. [Read more.](#)
- **Ban on Hydraulic Fracturing – Maryland.** (Update to 3/13/2017 Weekly Report) A bill that would prohibit hydraulic fracturing in the state, [HB 1325](#), which passed the House of Delegates, is now under consideration in the Senate by the Education, Health, and Environmental Affairs Committee. Although the Senate has taken the bill up for consideration, its prospects for passage are less favorable than the House. In fact, Sen. Joan Carter Conway, Chairman of the Senate Education Health and Environmental Affairs Committee, says she won’t bring the bill to the Senate floor unless lawmakers have enough votes to override a possible veto from the Republican governor. Conway doesn’t believe there are the minimum number of votes needed in the Senate to override a possible veto, and notes that there also may not be the votes needed to override a veto in the House of Delegates. [Read more.](#) [UPDATE: In a surprise move last Friday, the Washington Post reports that Gov. Larry Hogan (R) said he would support a ban at a hastily called news conference. [Read more.](#)]
- **Franchise Tax – Texas.** On March 13, Rep. Dennis Bonnen (R) introduced HB 28. The bill would use certain state surplus revenue to phase out the franchise tax for its eventual expiration. [Read more.](#)
- **Bond Requirements – Texas.** On March 9, Sen. Borris Miles (D) introduced SB 1803. The bill would amend existing law to allow the Railroad Commission to set the bond, letter of credit or cash deposit amount relating to the financial security requirements for oil and gas well operators based upon well depth. [Read more.](#)
- **Public Hearings; Permitting – Texas.** On March 10, Sen. Judith Zaffirini (D) introduced SB 1868. The bill would require a public hearing on certain applications for a permit to drill an oil or gas well, specifically when a proposed well site will be located within 1,500 feet of the property line of a child-care facility, private school, or primary or secondary school, and enables the Railroad Commission to deny a permit for such a well application. [Read more.](#)
- **Local Regulations – Texas.** On March 8, Rep. Terry Canales (D) introduced HB 3403, the House version of SB 1868 (above), and grants municipalities the right to limit oil and gas operations within 1,500 feet of schools and child-care facilities. [Read more.](#)

- **Well Shut-In – West Virginia.** On March 10, Del. Ron Walters (R) introduced HB 2931. The bill's stated purpose is to prevent waste of oil and gas, and seeks to ensure that a well that can be "economically produced" shall not be shut-in, and provides for payment of shut-in royalty or shut-in payments and for deferment of certain charges or fees in certain circumstances. [Read more.](#)
- **Waste; Royalties; Cotenants – West Virginia.** On March 10, Sen. Charles Trump (R) introduced SB 576. The bill's stated purpose is to provide an exception to waste for certain oil and gas development, and to encourage the efficient and economic development of oil and gas resources by providing that a lawful use of mineral property that has been consented to by two thirds of the mineral interest owners is permissible, is not waste, and is not a trespass. The bill also provides that cotenants are not liable for damages for the use of their mineral property when an accounting is provided and the pro-rata share of revenues and costs are distributed to each consenting cotenant or reserved for unknown or unlocatable tenants, among other provisions. [Read more.](#)

### **STATE – Judicial**

- **Lease Terms – Louisiana.** On March 8, in *Sweet Lake Land & Oil Co., LLC v. Oleum Operating Co., L.C.* (Case No. 2016-429), a Louisiana Court of Appeal held that the parties to an oil and gas lease agreed that the well operator would "remove any contaminated soil and transport same for disposal of same off of the lands of" the lessor and thus the lessee breached the lease when it failed to remediate the oilfield environmental damage to the plaintiff-lessor's property. [Read more.](#)
- **Mineral Rights; Notice – North Dakota.** On March 7, in *Nelson v. McAlester Fuel Co.* (Case No. 2017 ND 49), the North Dakota Supreme Court concluded that the state's mineral lapse statute, which gives surface owners the opportunity to assume ownership of severed underlying mineral interests after a period of time, requires actual notice by mail to the most recent address of record for a mineral owner if there's an actual address, or if one can be determined by reasonable inquiry. The plaintiff's failure to mail notice to a more recent address of record in a 1968 oil and gas lease precluded the assumption of ownership of the underlying mineral rights. [Read more.](#)
- **Tax Deeds – Wyoming.** On March 3, in *Anadarko Land Corp. v. Family Tree Corp.* (Case No. 2017 WL 837236), the Wyoming Supreme Court held that a defective tax assessment of minerals in 1911 rendered a disputed tax deed voidable, but not void, and therefore any challenge to the assessment could be barred by the state's six-year statute of limitations. [Read more.](#)

## **INDUSTRY NEWS FLASH:**

◆ **Trump tax cut could boost oil production and save companies billions.** According to Bloomberg Intelligence research, the “Trump administration’s plan to slash corporate tax rates could free up more than \$10 billion a year for U.S. oil explorers, opening new opportunities to boost drilling”. U.S. production “could go pretty high,” said Harold Hamm, Chairman and CEO of Continental Resources. “But it’s going to have to be done in a measured way, or else we kill the market.” [Read more.](#)

## **State-by-State Legislative Session Overview**

**Utah** adjourned its 2017 legislative session at midnight on March 10, [KUTV](#) reports. Lawmakers passed a record 535 bills and resolutions during the six week session. Legislative highlights included the passage of bills that would increase education funding, address the state’s homeless crisis and lower the blood alcohol limit to .05, the lowest in the country. Members of the Republican leadership expressed disappointment that the legislature did not substantively address tax reform during the session. Republican Gov. Gary Herbert has until March 29 to act on legislation or it becomes law without his signature.

**Alaska, Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Washington, West Virginia and Wisconsin** are in regular session. The **District of Columbia** Council, **Puerto Rico** and the **United States** Congress are also in regular session.

**Wisconsin** convened a special session on January 5 that will run concurrently with the regular session.

**South Dakota** recessed its legislative session on March 10 and is expected to reconvene on March 28 to consider vetoes and adjourn.

**Louisiana** is scheduled to convene its legislative session on April 10 and is currently posting prefiles for the 2017 legislative session.

The following states are expected to adjourn their legislative sessions on the dates provided: **New Mexico** (March 18), **Idaho** (March 24), **South Dakota** (March 28) and **Kentucky** (March 30).

**Wyoming** Republican Gov. Matt Mead has until March 18 to act on legislation presented on or after March 1 or it becomes law without signature. **Virginia** Democratic Gov. Terry McAuliffe has until March 27 to act on legislation presented after February 18 or it becomes law without

signature. **Utah** Republican Gov. Gary Herbert has until March 29 to act on legislation presented after February 27 or it becomes law.

## Endangered Species

**Arizona** [SCM 1001](#) was delivered to the secretary of state on March 13 and because it is a concurrent memorial, it does not need approval from the governor. This resolution urges the U.S. Congress to take action to repeal final rules expanding the definition of critical habitat and would require the Arizona secretary of state to bring this resolution to the president, the Senate president, the House speaker and every member of congress from Arizona.

**New Mexico** [SB 481](#) was heard in the Senate Conservation Committee on March 14, but the committee did not take a vote on the bill. This bill, sponsored by Sen. William Burt, R-Alamogordo, would have the director of the Department of Game and Fish conduct research on the economic impact in New Mexico of having a species being listed, or potentially listed, as being threatened or endangered. The director would also, if requested by local or regional government, residents, property owners or other stakeholders in the state, be required to provide assistance in evaluating and implementing cost effective strategies for mitigating impacts to and recovery of endangered species that are consistent with economic development and growth in the state. The director would also be required to conduct research on species of interest, which are species that are being considered as a candidate for endangered species. If this bill becomes law, it will take effect on July 1, 2017.

## Franchise Tax

Republican Gov. Asa Hutchinson signed **Arkansas** [HB 1644/Act 458](#) on March 14. Effective January 1, this law will change the filing date for corporate franchise tax from December 31 to the end of the last day of the corporation's fiscal year.

**Tennessee** [HB 65](#) is scheduled for a hearing in the House Government Operations Committee on March 15. This bill would exempt certain new companies from paying franchise tax or excise tax for their first two years in business if they employ no more than 25 people and revenue is below \$1.5 million. This bill is sponsored by Rep. Eddie Smith, R-Knoxville, and would become effective on July 1, 2017 if enacted.

The Senate companion, [SB 901](#), was recommended for passage on March 15 by the Senate Finance, Ways and Means Revenue Subcommittee and referred to the Senate Finance, Ways and Means Committee. The bill is sponsored by Sen. Mile Bell, R-Riceville, and would take effect on July 1 if enacted.

Action on **Tennessee** [SB 8](#) in the Senate Finance, Ways and Means Committee's Revenue Subcommittee was deferred from March 15 to March 22. This bill would change the apportionment formula used to calculate franchise tax from a three-factor formula to a single-sales-factor formula. This bill is sponsored by Sen. Mark Green, R-Clarksville, and would become law immediately if enacted.

The House companion bill, [HB 714](#), is pending in the House Finance, Ways and Means Subcommittee. The bill is sponsored by Rep. Sam Whitson, R-Franklin, and would take effect immediately if it becomes law.

## Lands

### Permits

**Arkansas** [HB 2086](#) is scheduled for a hearing in the House Insurance and Commerce Committee on March 17. This bill, which is sponsored by Rep. Warwick Sabin, D-Little Rock, aims to empower landowners who are facing the seizure of their property by a pipeline company using the power of eminent domain. At least 30 days before requesting an order from the Arkansas Public Service Commission and a permit from the Department of Environmental Quality, pipeline companies would be required to provide a notice of their intent to exercise a right of eminent domain and include specifics for their development in the plan. The pipeline company would also have to obtain an order verifying that the pipeline will operate a common carrier facility and include certain information in the application process. Pipeline companies would be required to obtain a permit from the Department of Environmental Quality before exercising the right of eminent domain. The bill would hold pipeline companies liable to the landowner for damage caused to the property from surveying. There is an emergency clause in the bill and the bill would become effective when the governor signs it. If the bill is not signed by the governor it will become law without signature or if it is vetoed and the veto is overridden, it will become effective on that date.

A March 16 hearing for **Illinois** [SB 974](#) in the Senate Energy and Public Utilities Committee was postponed and has not been rescheduled. Sponsored by Sen. Julie Morrison, D-Deerfield, this bill would not allow any new permits to be issued for surface extraction operations for oil and gas on lands owned by the Department of Natural Resources or the federal government. The bill would prohibit new oil and gas leases on lands that have state parks, recreation areas, fish and wildlife areas, forests, historical sites, national forests, national grasslands or national wildlife refuges. It would prohibit the Department of Natural Resources from entering into contracts that would designate any person as the permittee of the State of Illinois with the exclusive right to prospect and explore public lands for petroleum.

If this bill becomes law, it will take effect immediately.

### Pooling

**North Dakota** [HB 1257](#) was heard in the Senate Energy and Natural Resources Committee on March 10, but no vote was taken. When filing for a petition for a proposed plan of unitization, in order for the plan to be approved, it will have to be signed by the person who will be required to pay more than 55 percent of the cost of the unit operation, and by the owners of more than 55 percent of the royalty interests, a proposed decrease from 60 percent in both cases.

**West Virginia** [HB 3094](#), sponsored by Del. William Anderson, R-Williamstown, was introduced and referred to the House Energy Committee on March 14. When an operator, or a group of operators, has the right to develop multiple contiguous oil and gas leases, this bill would allow them to do so by drilling horizontally to connect the pools unless that development is prohibited by the terms of the lease. The bill would require that operators have surface use agreements with all the owners of record for any surface that may be affected by the joint development. With regards to royalties and determining their amount when multiple tracts of land are connected, in the absence of a specific agreement, this bill would have the production allocated to each lease in the proportion based on net acreage of the jointly developed tracts.

## Oil and Gas

### Oil and Gas General

**California** [SB 44](#) passed the Senate Natural Resources Committee with amendments on March 14 and was referred to the Senate Environmental Quality Committee. This bill would require the State Lands Commission in the Natural Resources Agency to administer a legacy oil and gas well removal and remediation program. Carrying out this program is contingent on appropriation of funds by the legislature.

This bill is sponsored by Sen. Hannah-Beth Jackson, D-Santa Barbara, chair of the Senate Judiciary Committee.

**Colorado** [HB 1256](#) is scheduled for a hearing in the House Health, Insurance and Environment Committee on March 23. Sponsored by Rep. Mike Foote, D-Lafayette, this bill would require that all oil and gas production facilities and wells be located at least 1,000 feet from school buildings and other high occupancy buildings. All new oil and gas production facilities and wells must be located at a minimum of 1,000 feet from the school property line, not the school building. The bill does not apply if a school commences operations near oil and gas facilities or wells that are actively in use, or have been permitted.

**Texas** [HB 3403](#) was introduced on March 8 by Rep. Terry Canales, D-Edinburg, and has not been referred to a committee yet. This bill would give authority to municipalities or other forms of local government to regulate or prohibit the drilling of new oil and gas wells located within 1,500 feet of the property line of a child-care facility, private school or primary or secondary school. If enacted, this bill would take effect on September 1, 2017.

**Texas** [SB 1868](#) was introduced on March 10 and is awaiting committee referral. Sponsored by Sen. Judith Zaffirini, D-Laredo, this bill would require that any applicant for a permit to drill an oil or gas well to indicate on the application whether the proposed site is located within 1,500 feet of the property line of a child-care facility, private school or primary or secondary school. Permits would not be granted unless a public hearing is held in the county and public comments are received on whether or not granting the permit is in the public interest and the commission considers the comments received. If enacted, this bill would take effect on September 1.

**West Virginia [HB 2931](#)** was introduced on March 10 and referred to the House Energy Committee. Sponsored by Del. Ron Walters, R-Charleston, this bill would require that oil and gas wells in the state that are not capable of producing at least 1,000 cubic feet of natural gas per day be shut-in when the well cannot be economically produced. The bill would require, at least 14 days prior to the shut-in, a written notice to the pipeline company that transported the natural gas from the well prior to the shut in and a notice to any known consumer or party that received natural gas from the well before the gas was delivered to the pipeline company. If a consumer who is legally entitled to the natural gas from the well and is unable to sufficiently receive natural gas from another supply, the bill would allow the consumer to demand that the shut-in well be placed in production to the extent needed to supply that consumer, or the normal operating flow of the well, whichever is less.

DISCLAIMER: Links and/or information from non-governmental sources provided in this report may be among the many sources available to you. This report does not endorse nor advocate for any particular attorney or law firm, or other private entity, unless expressly stated. Any legal information contained herein is not legal advice. Links are provided for reference only and any cited outside source information is derived solely from material published by its author for public use.