

WEEKLY HIGHLIGHTS AT-A-GLANCE

FEDERAL – Regulatory

- **BLM Lease Sale – Nevada.** On February 22, the Bureau of Land Management (BLM) issued a notice of public comment period for environmental compliance documents for a 49 parcel oil and gas lease sale scheduled for June 2019, comprising approximately 75,000 acres in northeastern Nevada within the Elko District. The public comment period will be open until March 23, 2019. [Read more.](#)
- **BLM Lease Sale – Wyoming.** On February 26, the BLM announced that it is seeking public comment on a proposal to offer 160 parcels totaling 205,855 acres in its June 2019 oil and gas lease sale. The announcement begins a 30-day public comment period which will close March 27, 2019. [Read more.](#)
- **BLM Leadership Appointments.** On February 27, the BLM announced leadership appointments at the agency's Washington, DC headquarters, as well as its Alaska and Idaho state offices. The appointments include new BLM Deputy Director for Operations, Michael Nedd, Alaska State Director Chad Padgett, and Idaho State Director John Ruhs. "Mike, Chad and John are exceptional leaders who will immeasurably improve our ability to effectively and efficiently manage public lands for the benefit of current and future generations of Americans," said BLM Deputy Director for Policy and Programs Brian Steed. Please see the announcement for bios of each appointee. [Read more.](#)

FEDERAL – Judicial

- **Royalties; Post-Production Costs – North Dakota.** On February 15, in *Ness v. Samson Resources Investments* (Case No. 4:15-CV-00063), the U.S. District Court for the District of North Dakota dismissed an action challenging royalty payments and post-production cost deductions. In its order, the court held that the netback method of valuing the gas at issue is consistent with North Dakota law and the relevant lease terms. [Read more.](#)

STATE – Legislative

- **Public Lands – Arizona.** On February 26, [HB 2547](#), was transmitted to the Senate after passing the House. The bill, introduced by Rep. Mark Finchem (R), would establish the Arizona Department of Public Land Management and a related joint legislative committee to study the use and management of state public lands. The Department would adopt policies and programs for public lands which include "mineral exploration"

and allows the Director “to establish rules for applications and fees for permits and leases,” among other provisions. [Read more.](#)

- **Abandoned Wells – Kentucky.** On February 21, HB 199, passed the House by unanimous vote. The bill, sponsored by Rep. Jim Gooch (R), makes definition changes applicable to existing sections of the state’s Oil and Gas Conservation statute, as well as adding certain provisions regarding administrative regulations and proceedings related to oil and gas violations, bonds for shallow wells, and plugging abandoned wells, among other provisions. [Read more.](#)
- **Women in Oil & Gas – New Mexico.** *(Update to 2/25/19 Weekly Report)* On February 26, HB 610 unanimously passed the House. The bill, sponsored by Rep. Candy Spence Ezzell (R), would add a new section to the Workforce Solutions Department Act entitled, “Career Development—Women in the Oil and Gas Industry,” which would establish and promote programs to create opportunities for women in the oil and gas industry. [Read more.](#)
- **Postproduction Deductions; Royalties – North Dakota.** *(Update to 2/25/19 Weekly Report)* On February 27, SCR 4010, sponsored by Sen. Brad Bekkedahl (R), was introduced in the House after passing the Senate. This concurrent resolution directs the Legislative Management to consider studying postproduction deductions from royalty payments. Resolutions are not laws, and as with this resolution, merely requests a study on a policy issue. [Read more.](#)
- **Permitting; Hearings – Texas.** On February 26, SB 1156 was introduced by Sen. Judith Zaffirini (D). The bill relates to the requirement of a public hearing on certain applications for a permit to drill an oil or gas well and would require an applicant for a permit to drill a new oil or gas well to indicate on the application whether the proposed well site is located within 1,500 feet of the property line of a child-care facility, private school, or primary or secondary public school. The Railroad Commission would also determine whether such an application would be approved as well as hold hearings related to such applications. [Read more.](#)
- **Wells – Texas.** On February 26, HB 1147 was introduced by Rep. Eddie Lucio III (D). The bill relates to a requirement that the Railroad Commission require the installation and use of subsurface safety valves on oil and gas wells drilled in certain areas. [Read more.](#)
- **Oil Wealth Fund – Texas.** On February 21, HJR 82 was introduced by multiple sponsors. The House Joint Resolution proposes a constitutional amendment providing for the creation of and use of money in the “Generate Recurring Oil Wealth for Texas” (GROW Texas) fund and allocating certain general revenues to that fund, the economic stabilization fund, and the state highway fund. [Read more.](#) The enabling legislation for this measure is HB 2154, introduced by multiple sponsors on February 21. [Read more.](#)

- **Severance Tax – Texas.** On February 1, SB 214 was introduced by Sen. Kel Seliger (R). As related to funding for the economic stabilization fund, including the rates of severance taxes on oil and gas production, when the Economic Stabilization Fund (Rainy Day Fund) is \$5 billion or greater, then the severance tax for oil and gas will be reduced. [Read more.](#)
- **Production Tax Credits – Texas.** On February 20, SB 925 was introduced by Sen. Peter Flores (R). The bill relates to calculation of daily production for purposes of the oil and gas production tax credits for low-producing wells and leases. [Read more.](#)
- **Tax Credits – Texas.** (*Update to 2/4/19 Weekly Report*) On February 25, HB 966 was referred to the House Ways & Means Committee for consideration. The bill, introduced in January by Rep. Harold Dutton (D), relates to providing a sales and use tax refund or franchise tax credit for businesses that employ certain apprentices. [Read more.](#) The Senate companion bill, SB 685, was introduced by Sen. Carol Alvarado (D) on February 6. [Read more.](#)
- **Corporate Income Tax – Utah.** On February 25, SB 28 passed both chambers of the legislature. The bill, recommended by the Revenue and Taxation Interim Committee and sponsored by Sen. Curt Bramble (R), modifies corporate income tax provisions by defining when a corporation is doing business or exercising a corporate franchise in the state for income tax purposes. [Read more.](#)
- **Permitting – West Virginia.** On February 25, SB 665 passed the Senate. The bill, sponsored by Sen. Randy Smith (R), related to horizontal wells allows for expedited oil and gas well permitting and expedited oil and gas well permit modifications upon the payment of applicable expedited fees, the designation of the proceeds of such expedited fees, and the daily pro rata refund of the expedited fees if the permit is not approved between the 45th and 60th days after the submission of a permit application, and daily pro rata refund of one-half of the modification fees between the 10th and 20th days after the submission of a permit modification application. [Read more.](#)
- **Heirs; Cotenants; Partition – West Virginia.** (*Update to 2/11/19 Weekly Report*) On February 26, HB 2802 passed the House. The bill, introduced by Del. John Kelly (R), would enact the Uniform Partition of Heirs Property Act. The measure defines terms and provides for a court hearing to determine if the partition action concerns heirs' property and the manner in which such property and interests may be sold. [Read more.](#)

STATE – Judicial

- **Marketable Title; Dormant Mineral Act – Ohio.** On February 6, in [Miller v. Mellott](#) (Case No. 2019-Ohio-504), the Court of Appeals of Ohio for the Seventh Appellate

District (Monroe County) addressed whether a fee oil and gas reservation can be extinguished under Ohio's Marketable Title Act (MTA) in a dispute over mineral interest ownership. The trial court held Ohio's Dormant Mineral Act, not the MTA, is the remedy available to a surface owner attempting to quiet title to a severed mineral interest. Here, the court found that the trial court erred in refusing to apply the MTA. "Thus, it signaled that the MTA can be used to extinguish fee oil and gas reservations. However, the appellate court concluded that this error did not require reversal. After reviewing the chain of title, the appellate court found that the surface owners did not have a 'root of title.' Thus, they could not extinguish the severed oil and gas interest under the MTA." [Read more.](#)

INDUSTRY NEWS FLASH:

◆ **U.S. imports least amount of crude oil in 23 years; production up again.** For the week ending February 22, the U.S. Energy Information Administration reports that "domestic crude production skyrocketed to 12.1 million barrels a day" and shows the U.S. importing the least amount of crude oil in 23 years. The report also "showed the U.S. became a net exporter of crude oil and refined products for the second week in recent history." [Read more.](#)

State-by-State Legislative Session Overview

Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, 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, South Dakota, Tennessee, Texas, Utah, Vermont, Washington, West Virginia, Wisconsin and Wyoming are in regular session. The **District of Columbia, Puerto Rico** and the **United States Congress** are also in regular session.

The following states are scheduled to convene their 2019 legislative sessions on the dates provided: **Alabama** and **Florida** (March 5) and **Louisiana** (April 8).

The following state adjourned its 2019 legislative session on the date provided: **Virginia** (February 24) and **Wyoming** (February 28).

The following state is scheduled to adjourn on the date provided: **West Virginia** (March 9) and **South Dakota** (March 13).

The following states had crossover deadlines on the dates provided: **Arizona, Colorado** and **North Dakota** (February 22); **Indiana** and **South Dakota** (February 25); **West Virginia** (February 27) and **Kansas** (February 28).

The following states have crossover deadlines on the dates provided: **Montana** (March 2) and **Hawaii** (March 11).

Illinois Democratic Gov. Jay Pritzker has 60 calendar days while the legislature is in session to act on legislation or it becomes law without signature. **Wyoming** Republican Gov. Mark Gordon has until March 15 to act on legislation presented on or after February 25 or it becomes law without signature. **Virginia** Democratic Gov. Ralph Northam has until March 26 to act on legislation presented on or after February 16 or it becomes law without signature.

The following states are currently holding 2019 interim committee hearings: [Alabama](#) and **Florida** [House](#) and [Senate](#).

Hydraulic Fracturing

Illinois [HB 282](#), sponsored by Rep. Robyn Gabel, D-Evanston, was heard in the House Energy and Environment Committee on February 26. The bill has been scheduled for another hearing in that committee on March 5 at 4:00 PM. The bill would require the following information to be included on a well permit:

- The GPS surface and bottom hole locations for all wells drilled utilizing directional or horizontal drilling techniques.
- A list of chemicals and additives intended to be used in the drilling or completion operations.

The bill would also prohibit horizontal wells or directionally drilled wells from being classified as confidential. The bill would require the Department of Natural Resources to make specified information available on its website including drilling permits issued, as well as well drilling and completion reports. The bill would protect furnished trade secret information from further disclosure if the department determines that the information has not been published, disseminated or otherwise become a matter of general public knowledge and the information has competitive value. The bill would take effect January 1, 2019 if passed prior to May 31; however, if the bill is passed after May 31 then it would take effect June 1, 2019.

Illinois [HB 1562](#), sponsored by Rep. Will Guzzardi, D-Chicago, was heard in the House Labor and Commerce Committee on February 27. The bill has been scheduled for another hearing in that committee on March 6 at 2:30 PM. The bill would require the written consent of each owner of a mineral interest and each surface owner as part of a permit for drilling or hydraulic fracturing operations. Violations would result in an immediate cessation of operations, penalties and payment of treble the full market value of the mineral resource extracted.

Landmen

Tennessee [SB 466](#), sponsored by Sen. Kerry Roberts, R-Springfield, has been scheduled for a hearing in the Senate Commerce and Labor Committee on March 5 at 1:00 PM. The bill would

require the consideration of the IRS 20-factor test to determine whether an employer-employee relationship exists for the purposes of various state laws.

Oil and Gas

General

The **Montana** House concurred with Senate amendments to [HB 213](#) and the bill is awaiting transmittal to Democratic Gov. Steve Bullock, who will have 10 days to sign or veto the bill or it will become law. The bill would amend existing law relating to stripper well bonus production subject to taxation under the average price provision by removing “for a barrel of west Texas intermediate crude oil” and replacing it with “reported and received by the producer for Montana oil marketed during a calendar quarter is less than \$54 a barrel.” The bill would take effect July 1.

New Mexico [SB 186](#), sponsored by Sen. Richard Martinez, D-Espanola, had been scheduled for a hearing in the Senate Judiciary Committee on March 1 at 1:30 PM. The bill would amend the oil and gas act to allow the Oil Conservation Division of the Energy, Minerals and Natural Resources Department to hold administrative proceedings to enforce the act by issuing compliance orders and assessing civil penalties. The bill would increase the civil penalties from \$1,000 per day to \$15,000 per day and would add civil penalties of not more than \$25,000 for violations of court orders or compliance orders. The bill would also provide that knowingly violating the oil and gas act would constitute a third-degree felony. If passed, the bill would take effect July 1.

West Virginia [SB 541](#), sponsored by Sen. Michael Romano, D-Clarksburg, was reported from the Senate Energy, Industry and Mining Committee with a substitute on January 21. The bill is now pending in the Senate Judiciary Committee. The bill would require the Chief of the Office of Oil and Gas to set an estimated future plugging cost for each type of well based upon:

- The date the well was drilled.
- The engineering design of the well.
- The formation or formations from which it is producing.
- The expected amount of time during which the well will produce in paying quantities.
- An estimated rate of inflation of the cost of the plugging.
- The administrative costs to the state treasurer and the Office of Oil and Gas to administer the program.
- Any other relevant and necessary data.

The operator would be allowed to contest an estimated future plugging cost using certified estimates from registered professional engineers. If plugging assurance is required, an operator would be able to satisfy the assurance by one of the following:

- A single well bond which meets office requirements. Self-bonding would be prohibited.
- A deposit of cash or collateral with the state treasurer.
- An escrow account.

The bill would also require that the bond be used to plug that specific well to correct an immediate threat to the environment or hindrance or impediment to the development of mineral resources in the state.

Leasing

Montana [SB 41](#), sponsored by Sen. Tom Richmond, R-Billings, has been scheduled for a hearing in the House Natural Resources Committee on March 20 at 3:00 PM. The bill passed the Senate on January 24, 2019. The bill would eliminate the requirement that bids for oil and gas lease sales must be made orally.

West Virginia [HB 2866](#), sponsored by Del. William Anderson, R-Williamstown, passed the House Judiciary Committee with a [substitute](#) on February 22 and the House on February 26. The bill is now pending in the Senate Judiciary Committee. As substituted, the bill would require a lessee, not more than 90 days after the termination, expiration or cancelation of an oil or gas lease, to deliver without cost a properly executed and notarized release of the lease in recordable form to the lessor. If the lessee fails to provide a timely release, then the lessor would be able to serve notice on the current lessee and all other lessees known to the lessor. The lessee would have 90 days to dispute the termination, expiration or cancellation of an oil or gas lease but if a timely challenge is not received then the lessor would be allowed to submit an affidavit of termination, expiration or cancelation with the county clerk.

Mineral Rights

Oklahoma [HB 1223](#), sponsored by Rep. David Perryman, D-Noble, passed the House Energy and Natural Resources Committee with a [substitute](#) on February 27. The bill would provide that if an heir sells and conveys intestate interest then the share is to be deducted from the decedent's interest and is no longer subject to an affidavit. If a child is listed in the affidavit the affidavit would be required to indicate if the child was born to the surviving spouse or adopted by the decedent. It would also specify various procedural requirements when a person died testate and would provide procedures to establish marketable title in those instances.

Utah [SB 78](#), sponsored by Sen. David Hinkins, R-Orangeville, passed the Senate on February 19 and the House on February 28. The bill is now pending delivery to Republican Gov. Gary Herbert, who will have 10 days, Sundays excluded, to sign or veto the bill or it becomes law. The bill would clarify the no taker provision of existing law to provide that when minerals or mineral proceeds pass to the state the Utah School and Institutional Trust Lands Administration would be required to administer the interest but could exercise its discretion to abandon or decline if the interest provides no or insufficient value. The bill would also specify if a probate or other proceeding has not adjudicated the state's rights the administration would be allowed to pursue action in district court. The bill would take effect 60 days after adjournment, which is currently scheduled for March 14.

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