

GOVERNMENTAL AFFAIRS WEEKLY REPORT

Weekly Highlights At-A-Glance

FEDERAL – Legislative

H.R. 6364 – Securing and Enabling Commerce Using Remote and Electronic Notarization Act of 2020. On March 23, [H.R. 6364](#), known as the “Securing and Enabling Commerce Using Remote and Electronic Notarization Act of 2020,” was referred to committee following its introduction by Rep. Guy Reschenthaler (R-PA). The bipartisan companion Senate bill, [S. 3533](#), was introduced on March 18 by Sen. Kevin Cramer (R-ND) and Sen. Mark Warner (D-VA). The legislation would “allow notaries in states without enacted remote online notarization (RON) laws to perform RON transactions. States with an enacted RON law that meets minimum standards defined in the federal bills would not be preempted, and any RON law passed by a state in the future would govern RON transactions there, provided they meet these minimum standards.” [Read more.](#)

House Leaders Call for Oil and Gas Relief. On April 3, House Republicans [sent a joint letter to President Trump](#) calling for the administration to use its existing authority to reduce fees oil and gas producers pay to drill on federal lands and water “as soon as possible” among other relief requested for the industry. The letter, signed by 41 representatives – including those from the hardest hit oil and gas producing states – also requests use of the Strategic Petroleum Reserve to help producers, regulatory relief from EPA rules, and continued negotiation with Saudi Arabia and Russia on production levels. On the latter, late last week the Saudis and Russians reach a deal to cut oil production by 10 million barrels per day. ([Read more](#)) Other OPEC+ nations, such as Mexico, also agreed to cuts. [Read more.](#)

FEDERAL – Regulatory

Federal Support for the Oil & Gas Industry – Washington, DC. On April 1, Sen. Lisa Murkowski (R-AK) [sent a letter](#) to U.S. Treasury Secretary Steven Mnuchin asking him to use his agency’s “significant discretion” to ensure access to federal loans for the oil and gas industry under the latest relief measure. “Producing companies and the businesses that contract with them are being impacted not only by the market demand shock from the coronavirus, but also the Russia-Saudi Arabia power struggle against American energy,” said Murkowski. Under the Coronavirus Aid, Relief, and Economic Security (CARES) Act stimulus package, the Treasury Secretary has authority to facilitate certain loan programs. “Section 4003 of the CARES Act provides your Department with significant discretion to support many of the businesses that would otherwise never need or be eligible for federal loans, but that are currently threatened by liquidity freeze-ups. As you work to urgently develop an implementing framework, I write to emphasize four aspects of the present situation,” wrote Murkowski. For his part, Secretary Mnuchin announced on April 2 that “energy companies squeezed by the oil-price war” can turn to the Federal Reserve’s lending facilities for aid but won’t get direct loans from his department. “I have very limited ability to do direct loans out of the Treasury,” he said. The \$2.2 trillion coronavirus-related economic package authorizes the secretary to provide loans and grants to passenger airlines, cargo airlines, contractors and companies important to national security, Mnuchin said. Other companies must turn to the Federal Reserve, which is authorized to inject \$4 trillion into the U.S. economy through various lending facilities approved by Congress. “Our expectation is the energy companies, like all our other companies,

will be able to participate in broad-based facilities, whether it's the corporate facility or whether it's the main street facility, but not direct lending out of the Treasury," he said. [Read more.](#)

Oil & Gas Executives Meet with President Trump – Washington, DC. On April 3, [chief executives from at least seven energy companies met with President Trump at the White House to discuss energy policy.](#) The meeting included CEOs from Exxon, Chevron, Occidental Petroleum, Devon Energy, Phillips 66, Enterprise Transfer Partners and former Continental Resources CEO and now Executive Chairman, Harold Hamm. This came as President Trump was also in discussions with Saudi Arabia and Russia pertaining to production levels and the drop in oil prices. But, according to Bloomberg News, "there are deep divisions among the various factions over what should be done, especially on the question of possible tariffs on Saudi Arabian oil, which may force Trump to make a difficult decision that could hurt some executives who are among his most ardent supporters." Trump said during a portion of the meeting that was open to reporters, "We'll work this out and we'll get our energy business back. I'm with you 1,000%. It's a great business, it's a very vital business," he said. Trump was still in discussions on forging an agreement with Russia and Saudi Arabia to end their price war by cutting back on production, "a move that could boost prices and help drillers and refiners located in states like Texas and Louisiana that are crucial to his re-election in the fall." But at that time, it wasn't clear "whether Russia and Saudi Arabia would agree to cut output unless the U.S. also takes part, a move that would be unpopular with some U.S. producers. It also isn't clear whether a U.S. cut would be supported by Trump." [Read more.](#)

EPA Halts Enforcement – Washington, DC. On March 26, the U.S. Environmental Protection Agency (EPA) [announced it is halting enforcement of environmental laws during the coronavirus outbreak.](#) The notice informs companies they would not need to meet environmental standards during this time and sets no end date. "The EPA has been under pressure from a number of industries, including the

oil industry, to suspend enforcement of a number of environmental regulations due to the pandemic," said EPA Administrator Andrew Wheeler in a statement regarding the temporary policy. The "EPA is committed to protecting human health and the environment, but recognizes challenges resulting from efforts to protect workers and the public from COVID-19 may directly impact the ability of regulated facilities to meet all federal regulatory requirements." [Read more.](#)

EPA Settlement Agreements – Washington, DC. On March 12, the U.S. Department of Justice (DOJ) announced "a major shift in policy towards settling environmental cases." ([Read the DOJ Memorandum](#)) As reported by the law firm Covington & Burling LLP, "DOJ, and EPA along with it, will no longer offer settling defendants the option of undertaking supplemental environmental projects in lieu of paying penalties to the United States. Supplemental environmental projects (or 'SEPs,' as they are commonly called) are environmentally beneficial projects or activities not required by law that a defendant agrees to undertake as part of the settlement of an enforcement action." For its part, the EPA said, it "will no longer include SEPs in administrative settlement agreements" in light of the DOJ memorandum. [Read more.](#)

Greater Sage-Grouse – California; Nevada. On March 31, the U.S. Fish and Wildlife Service (FWS) announced the withdrawal of a 2013 rule that aimed to protect a population of greater sage-grouse in California and Nevada because the FWS no longer believes the threats to the bird there are significant. In its proposed rule, *Endangered and Threatened Wildlife and Plants; Withdrawal of the Proposed Rules to List the Bi-State Distinct Population Segment of Greater Sage-Grouse with Section 4(d) Rule and to Designate Critical Habitat* ([85 Fed. Reg. 18054](#)), the FWS states, "These withdrawals are based on our conclusion that the threats to the [Bi-State distinct population segment (DPS)] DPS as identified in the proposed listing rule no longer are as significant as believed at the time of publication of the 2013 proposed rule. We find the best scientific and

commercial data available indicate that the threats to the DPS and its habitat, given current and future conservation efforts, are reduced to the point that the DPS does not meet the Act's definition of an 'endangered species' or of a 'threatened species.'" [Read more.](#)

BLM Greater Sage-Grouse Planning. (*Update to 3/2/20 Weekly Report*) On April 6, the Bureau of Land Management (BLM) announced it is extending the public comment period for draft environmental reviews for six greater sage-grouse plans. The comment period originally closed April 6, as we previously reported, but due to disruptions caused by the ongoing coronavirus pandemic, that deadline has been extended to May 21. For background, on February 21, the BLM published its multiple revised greater sage-grouse Draft Supplemental Environmental Impact Statement (Draft EIS) planning documents for the Western states. Casey Hammond, acting assistant Interior Secretary for Land and Minerals Management, said the revised plans emphasize the "hard looks" the agency took in a March 2019 planning process, which changed the approach taken in a 2015 land use effort by the Obama administration. Hammond acknowledged that the plans do not include amendments to either the 2019 or 2015 efforts. Additional details would have to wait until after the public comment process closes on April 6, 2020, he said. The BLM said 143 alternatives were considered in 18 different environmental impact statements, with 48,023 pages of analysis, 54 public meetings attended by 2,313 people, in an effort costing a total of \$16.9 million. It referenced \$294 million in habitat investment from 2013-2019 across the bird's range, with another \$37 million planned for 2020. These efforts arise from a lawsuit brought against the BLM by environmental activists after the 2019 changes "swept away safeguards designed to protect remaining sagebrush ecosystems." An Idaho federal judge blocked the 2019 plans in October, ruling in [Western Watersheds Project v. Schneider](#) (Case No. 1:16-CV-83-BLW) that the BLM had failed to analyze how greater sage-grouse would be harmed by the planning. Kathleen Sgamma, president of the

Western Energy Alliance, an oil and gas group in Denver, said her group was glad the Interior Department was moving quickly to respond to the judge's ruling and that the ruling is on appeal. "The judge was insinuating his personal policy preferences into the plans rather than deferring to the wildlife experts at Interior and the legitimate policy direction of the current administration," she said. The six Federal Register notices of availability for the Draft EIS planning may be accessed here: [85 Fed. Reg. 10185](#) (Idaho); [85 Fed. Reg. 10184](#) (Utah); [85 Fed. Reg. 10184](#) (Nevada; Northeastern California); [85 Fed. Reg. 10186](#) (Oregon); [85 Fed. Reg. 10183](#) (Colorado); and [85 Fed. Reg. 10188](#) (Wyoming). [Read more.](#)

FEDERAL – Judicial

Hydraulic Fracturing – California. On March 27, the U.S. District Court for the Northern District of California ruled against California and a coalition of environmental activists challenging the Trump administration's repeal of an Obama-era rule regulating hydraulic fracturing operations on federal and tribal lands. Industry groups, conservative Western states, and some energy-producing American Indian tribes fiercely opposed the measures, which included well testing requirements, greater oversight and information regimes for hydraulic fracturing operations, and certain public disclosure requirements. The Trump administration repealed the regulation in 2017 as part of a plan seeking to loosen regulatory burdens on energy production. After years of litigation, in *California v. Bureau of Land Management* (Case Nos. 18-cv-00521-HSG; 18-cv-00524-HSG), the Court held the BLM provided a "reasoned explanation" for its decision to rescind the Obama administration's rule. "Although BLM could have provided more detail, it did enough to clear the low bar of arbitrary and capricious review, and that is all the law requires." In a statement following the ruling, the Interior Department said, "This ruling will allow the Department to continue to implement the President's direction to repeal overly burdensome regulations and ensure America's energy

independence, while protecting the safety of our workers and the health of our environment.” [Read more.](#)

Greater Sage-Grouse – Idaho. *(Update to 3/2/20 Weekly Report)* On March 31, Trump administration lawyers [provided notice](#) that they are appealing the February 27 federal district court decision regarding the greater sage-grouse. The case will be appealed to the U.S. Court of Appeals for the Ninth District. In the ongoing legal battles over BLM resource management plans in greater sage-grouse areas, on February 27 the U.S. District Court for the District of Idaho ruled against the Trump administration. In *Western Watersheds Project v. Zinke* (Case No. 1:18-cv-00187-REB), the Court held the BLM did not go through required rulemaking procedures before issuing a 2018 “instruction memorandum” aimed at speeding up timelines for federal leases under the National Environmental Policy Act. Chief Magistrate Judge Ronald E. Bush first issued a preliminary injunction in 2018 that barred the BLM from implementing its policy on lands that are home to the greater sage-grouse. The decision extends that order, barring the agency from using the streamlined approach until it completes a full public notice-and-comment process and must instead revert to Obama-era review processes. The decision also invalidates five BLM oil and gas leases in Nevada, Utah and Wyoming and applies to lease sales in habitat areas across more than 104,000 square miles. Future leases sales in the habitat area must allow a 30-day public comment and administrative protest period, per the court order. [Read more.](#)

STATE – Legislative

Idle and Abandoned Wells – California. On March 24, a hearing set for SB 1012 was postpone. The bill, sponsored by Sen. Melissa Hurtado (D), would require certain reporting regarding idle, abandoned and plugged wells and directs state regulators to take steps to recover plugging and abandonment costs for oil and gas wells. [Read more.](#)

Severance Taxes – Louisiana. On March 31, HCR 34

was introduced by Rep. Phillip DeVillier (R). The resolution seeks to suspend severance taxes amidst the current oil price downturn. [Read more.](#)

Franchise Taxes – Louisiana. On March 31, HCR 43 was introduced by Rep. Rick Edmonds (R). The resolution seeks to suspend corporate franchise taxes amidst the current oil price downturn. [Read more.](#)

Notaries – Louisiana. On March 31, SB 472 was introduced by Sen. Jay Luneau (D). The bill provides for electronic notarial acts and the recognition of such instruments. [Read more.](#)

Tax Filing – Louisiana. On March 31, SB 498 was introduced by Sen. R.L. Bret Allain (R). The bill would provide extensions for tax filing and payments in light of the current epidemic. [Read more.](#)

Well Plugging – South Dakota. *(Update to 3/16/20 Weekly Report)* On March 27, SB 17 was signed into law by Gov. Kristi Noem (R). The Act, 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. The Act is effective July 1, 2020. [Read more.](#)

Oil and Gas Bonding; Penalties – Utah. *(Update to 3/16/20 Weekly Report)* On March 30, SB 148 was signed into law by Gov. Gary Herbert (R). The Act, sponsored by Sen. Ralph Okerlund (R), amends current law regarding the regulation of oil and gas activities, including oversight, bonding requirements, and administrative penalties. The Act is effective 90 days after March 12, 2020. [Read more.](#)

Mineral Lease Payments – Utah. *(Update to 2/17/20 Weekly Report)* On March 30, SB 15, was signed into law by Gov. Gary Herbert (R). The Act, sponsored by Sen. Daniel Thatcher (R), repeals the sunset date in [Sec. 63I-1-211](#) as it applies to [Sec. 11.14.308](#) for provisions that allow a local district to secure certain bonds with mineral lease payments. [Read more.](#)

State Trust Lands – Utah. (*Update to 3/30/20 Weekly Report*) On March 24, HB 335 was signed into law by Gov. Gary Herbert (R). The Act, sponsored by Rep. Michael McKell (R), amends existing law to address penalties for illegal and unauthorized activities on state institutional trust lands, and includes mineral resources. The Act is effective 90 days after March 12, 2020. [Read more.](#)

Trespass – West Virginia. On March 25, Gov. Jim Justice (R) signed HB 4615 into law. The Act, sponsored by Del. John Kelly (R), codifies criminal penalties for persons convicted of willfully trespassing or entering property containing a critical infrastructure facility, such as certain natural gas facilities, without permission by the owner of the property, and holds a person liable for any damages to personal or real property while trespassing. The Act also prescribes criminal penalties for organizations conspiring with persons who willfully trespass and/or damage critical infrastructure sites and holds conspiring organizations responsible for any damages to personal or real property while trespassing. The Act is effective 90 days after March 7, 2020. [Read more.](#)

Severance Tax – Wyoming. (*Update to 3/16/20 Weekly Report*) On March 26, HB 243 was signed into law by Gov. Mark Gordon (R). The Act, sponsored by Rep. Donald Burkhardt, Jr. (R), amends existing law to provide for certain severance tax rates and exemptions based on production dates and spot oil prices. The Act is effective July 1, 2020. [Read more.](#)

STATE – Regulatory

Railroad Commission Proration Meeting – Texas. On April 14 at 9:30 am, the Railroad Commission of Texas (RRC) will hold a virtual, online conference meeting to consider the joint application of Pioneer Natural Resources USA, Inc. and Parsley Energy, Inc. for market-demand prorationing of oil production in Texas as a response to current market conditions. According to law firm, Jackson Walker, “This type of regulation – which has not happened in Texas since 1973 – could have a serious impact on oil and gas

producers, working interest owners, royalty owners, and midstream companies.” ([Read more](#)) The RRC notes that this conference is not a hearing. The public may view the meeting live through the RRC website and later through their archives. For more information on attending, [click here](#). To view advanced comments the RRC received regarding the meeting, [Read more.](#)

Severance Tax Collections – Texas. On April 6, Texas Railroad Commissioner Christi Craddick [sent a letter to state Comptroller Glenn Hegar](#) requesting he extend the monthly deadline to file crude oil and natural gas production taxes, as he has done with the state’s franchise tax. “These are unprecedented times and if we can give Texas businesses time and flexibility to weather this storm, policymakers should employ every avenue to do it,” said Craddick. [Read more.](#)

STATE – Judicial

Life Estates; Open Mines Doctrine – North Dakota. On February 12, in *Reese v. Reese-Young* (Case No. 2020 ND 35), the North Dakota Supreme Court addressed a case where Reese argued on appeal that the district court erred when it concluded the open mines exception to the doctrine of waste does not apply and, as a holder of a life estate in the property, she was not entitled to the royalties and bonus payments resulting from the production of oil and gas from the property. The Supreme Court agreed and reversed the district court, noting the open mines doctrine is a common law doctrine and it “is part of the law in North Dakota, and the district court erred in determining it did not apply because it is not the law in this state.” Here, the Supreme Court noted that, “Although there is no North Dakota case law specifically applying the open mines doctrine, other courts have applied the doctrine and their decisions provide guidance.” In sum, the Court held, “where the deed creating the life estate only reserved the minerals in the property and did not reserve the surface, it is clear to us that the open mines doctrine applies. A life estate in mineral interests alone is nearly worthless except for mining or oil and gas

production purposes and, without application of the open mines doctrine, the result would be that the entity holding the life estate would have the responsibility of being the trustee for the remainder interest with little or no benefit therefrom. We conclude, as a matter of law, Cheryl Reese is entitled to the proceeds from the oil and gas production, including the royalties and bonus payments." [Read more.](#)

INDUSTRY NEWS FLASH

► **Oil companies back plan to cut output.** On March 30, two of the biggest drillers in Texas – Pioneer Natural Resources Co. and Parsley Energy Inc. – asked the Texas Railroad Commission (RRC) to consider a cut to crude output after a historic price crash (*See above for April 14 live conference information*). The request came less than a week after RRC Commissioner Ryan Sitton “surprised the oil market with his own controversial call for state caps on oil output. His proposal for a 10% cut in production was blasted by the American Petroleum Institute,” as a “shortsighted” and “anti-competitive” effort that will “harm U.S. consumers and American businesses.” [Read more.](#)

LEGISLATIVE SESSION OVERVIEW

Session Notes: Arkansas, Massachusetts, Missouri House, Pennsylvania and Vermont are in regular session. The District of Columbia Council and the U.S. Congress are also in regular session.

The following legislatures are postponing their 2020 legislative sessions due to COVID-19 until the dates provided: Connecticut, Kentucky, Missouri Senate, New Jersey and Puerto Rico (April 13), Minnesota (April 14), Michigan (April 15), Rhode Island (April 17), Illinois Senate (April 21), Ohio Senate (April 22), Kansas (April 27), Alabama and Ohio House (April 28), Iowa (April 30), California and New Hampshire (May 4), Delaware (May 15), Colorado (May 18), Tennessee (June 1) and Alaska, Arizona, Georgia,

Hawaii, Illinois House, Louisiana, Mississippi, Nebraska, New York, Oklahoma, South Carolina and Wisconsin. (TBD).

North Carolina is in a scheduled recess until April 28.

Oklahoma held a regular session and special session on April 6 to approve Republican Gov. Kevin Stitt's declaration of a health emergency in all 77 counties, reports [The Oklahoman](#). Along with approving the health emergency declaration, the legislature approved sweeping changes to the state's Open Meeting Act to allow government bodies to meet via teleconference.

Kentucky is expected to adjourn on April 15.

Signing Deadlines: Florida Republican Gov. Ron DeSantis had a signing deadline on April 3. Washington Democratic Gov. Jay Inslee had a signing deadline on April 4.

Interim Committee Hearings: [North Dakota](#) is currently holding 2020 interim committee hearings. ■

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