

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

- **H.R. 2080 – Eastern Interior Alaska Land Use Protection Act.** On April 6, Rep. Don Young (R-AK) introduced H.R. 2080, the Eastern Interior Alaska Land Use Protection Act. The bill would nullify The Bureau of Land Management (BLM) plan entitled “Eastern Interior Proposed Resource Management Plan and Final Environmental Impact Statement”, published on July 26, 2016 ([81 Fed. Reg. 50009](#)). The Obama-era BLM notice called for a Supplemental Environmental Impact Statement for the proposed continued development of petroleum resources in the Greater Mooses Tooth Unit located within Alaska’s National Petroleum Reserve. [Read more.](#)

FEDERAL – Regulatory

- **EPA Methane Rule.** In an [April 18 letter](#), EPA Administrator, Scott Pruitt, responded to oil and gas industry petitioners agreeing to their request for reconsideration of provisions included in the Obama-era EPA final rule, “Oil and Natural Gas Sector: Emissions Standards for New, Reconstructed and Modified Sources” published June 3, 2016 ([81 Fed. Reg. 35823](#)), which seeks to curb methane emissions for new and modified oil and natural gas facilities. To that end, the EPA has issued a 90-day stay, or hold, on the compliance date for emissions monitoring requirements during the rule reconsideration process, and has directed that “[s]ources will not need to comply with these requirements while the stay is in effect.” [Read more.](#)
- **BLM Lease Sale – Wyoming.** The numbers are in and the BLM’s February oil and gas lease sale in Cheyenne brought in nearly \$130 million, for 278 parcels. Wyoming will receive approximately \$63 million from the sale. The total acreage leased in this sale is reportedly more than half as much as all the federal land BLM leased for drilling rights in 2015 under the Obama administration. [Read more.](#)
- **BLM Lease Sale – Colorado.** On April 17, the BLM announced that it will withdraw 43 square miles of public land from the upcoming June oil and gas lease sale after receiving [administrative protests that were filed](#) regarding certain lands included in the initial lease sale notice, specifically lands in Grand County near Rocky Mountain National Park. The BLM will still be offering 115 square miles of land in western Colorado in Jackson, Routt, Rio Blanco and Moffat counties at the June 8 auction. [Read more.](#)

- **BLM Lease Sale – Utah.** The BLM announced it is taking public comments on an [environmental analysis](#) to possibly offer nearly 15,000 acres in Juab County for potential oil and gas leasing in the upcoming September oil and gas lease sale. [Comments](#) are being accepted until May 1. BLM spokesman Ryan Sutherland said any expressions of industry interest will be sent to field offices to analyze protections consistent with resource management plans that deal with the greater sage-grouse. [Read more.](#)

FEDERAL – Judicial

- **Assignments; Recording – Oklahoma Federal Court.** On March 30, in *Newfield Exploration Mid-Continent, Inc. v. Core Res., LLC* (Case No. CIV-16-1080-M), the U.S. District Court for the Western District of Oklahoma held that a third party that took an assignment from the defendant and recorded it after the lawsuit ensued is an indispensable party to the action in a dispute challenging the validity of an oil and gas lease. This case was dismissed, however, on other procedural grounds. [Read more.](#)
- **Disposal Well Permit – Pennsylvania Federal Court.** On March 31, in *Pennsylvania Gen. Energy Co., LLC v. Grant Twp.* (Case No. CV-14-209-ERIE), the U.S. District Court for the Western District of Pennsylvania ruled in favor of a well operator that obtained an Underground Injection Control disposal well permit purportedly banned by a local township which established a Community Bill of Rights ordinance. The Court concluded that the well operator established various constitutional violations related to the ordinance and also dismissed the township’s constitutional claims. [Read more.](#)
- **BLM; Leasing – Utah Federal Court.** On March 31, in *Utah Wilderness Alliance v. U.S. Dep’t of Interior* (Case No. 215-CV-00194-JNPEJF), the Utah U.S. District Court held that the BLM properly sold leases to XTO and approved a well project for development in Utah’s eastern border with Colorado, concluding that BLM met the National Environmental Policy Act’s (NEPA) alternative analysis requirements. Further, the Court held that the plaintiff’s NEPA challenge to the well pad was nevertheless moot because the BLM has indefinitely suspended the project. [Read more.](#)

STATE – Legislative

- **Forced Pooling – Colorado.** On April 12, Rep. Dave Young (D) introduced HB 1336. The bill would amend the forced pooling law to require at least a majority of the royalty interest owners join in the application before the Colorado Oil and Gas Conservation Commission (COGCC) can enter a forced pooling order; that the hearing notice must be given at least 90 days before the hearing; before entry of a pooling order, the prospective drilling unit operator must give the affected interest owners a clearly stated, concise, neutral explanation of the laws governing forced pooling; and that the operators of drilling units must, before commencing drilling operations, file an electronic report with the COGCC that states the number and location of

non-consenting owners, and the COGCC must then post the reports in a searchable database on its website. [Read more.](#)

- **Corporate Tax – Louisiana.** On April 19, Rep. Kenny Havard (R) introduced HB 648. The bill would make changes to the state corporate tax code and provides for certain exemptions and administration of the tax. [Read more.](#)
- **Corporate Tax – Louisiana.** On April 19, Rep. Chris Broadwater (R) introduced HB 651. The bill amends certain income and sales tax credits and exemptions. [Read more.](#)
- **Corporate Tax – Louisiana.** On April 19, Rep. Chris Broadwater (R) introduced HB 653. The bill repeals the June 30, 2018 sunset of certain reductions to corporate income tax exclusions and reductions, thereby providing for their continued effectiveness. [Read more.](#)
- **Tax Credits – Louisiana.** On April 19, Rep. Katrina Jackson (D) introduced HB 662. The bill would change various refundable income and corporate franchise tax credits to nonrefundable tax credits. [Read more.](#)
- **Margins Tax – Louisiana.** On April 19, Rep. Sam Jones (D) introduced HB 666. The bill would levy a tax on the taxable margins of business entities and repeal the corporation franchise tax. [Read more.](#)
- **Natural Resources; Land Acquisition – Michigan.** On April 19, Rep. Gary Howell (R) introduced HB 4475. The bill would require that an order or rule promulgated to protect and conserve natural resources, among other uses, would need to consider the existence or potential for natural resources-based industries, such as oil and gas development on public land, among other provisions. [Read more.](#) The Senate companion version of this bill is SB 302, also introduced on April 19. [Read more.](#)
- **Lakebed Minerals – North Dakota.** On April 20, SB 2134, a bill relating to the ownership of minerals inundated by Pick-Sloan Missouri basin project dams was reconciled with the House and the measure was sent to Gov. Doug Burgum (R) for signature. [Read more.](#) The other lakebed minerals bill, HB 1199, failed to pass in the Senate. That measure related to the definition of sovereign lands and subsurface minerals and included definitions regarding the high water mark within the boundary of Lake Sakakawea. [Read more.](#)
- **Recording Fees – North Dakota.** On April 10, SB 2340 was signed into law by Gov. Doug Burgum (R). The Act amends the fees charged by a county recorder for recording an instrument affecting title to real estate and amends certain formatting requirements for recorded documents. [Read more.](#)

- **Excise Taxes – Tennessee.** On April 19, HB 320, introduced by Rep. David Hawk (R), and substituted for the Senate bill, SB 1207, was signed into law by Gov. Bill Haslam (R). The Act amends the excise tax component of the quarterly estimated franchise and excise tax payment calculations. [Read more.](#)
- **Franchise and Excise Taxes – Tennessee.** On April 19, HB 65 was “placed behind the budget”. When the House places a bill behind the budget, it means the measure will be revisited if any money is left after the state’s spending plan is set. Ordinarily, this has the effect of killing a measure. The bill, if considered, would create exemptions from franchise and excise tax liability for certain taxpayers starting a new business. [Read more.](#)
- **Notaries Public – Nevada.** (Update to 2/20/17 Weekly Report) On March 20, after passing the House, AB 148, which was introduced in February by Assemblyman Edgar Flores (D), was referred to the Senate Committee on Government Affairs. The bill would increase penalties for notaries public and document preparation services that fraudulently provide legal services or advice. [Read more.](#)
- **Mineral Royalties Taxation Reporting – Nevada.** On April 14, AB 82, a bill introduced by the Assembly Committee on Taxation will no longer have any action taken pursuant to the legislature’s Joint Standing Rule No. 14.3.1 due to the number of days passed without any action taken. This mineral royalties taxation bill would have required the person extracting the mineral to report to the Department of Taxation the amount of royalties paid to each recipient of a royalty in the preceding calendar year, and would have transferred the responsibility to pay the taxes due on the amount of royalties paid in the preceding calendar year to the person extracting the mineral. [Read more.](#)

STATE – Regulatory

- **Well Completion – Arkansas.** A proposed rule of the Arkansas Oil and Gas Commission would amend regulations under [General Rule B19](#) regarding requirements for well completion utilizing fracture stimulation. The rule clarifies that the requirements apply to all new horizontal wells and all vertical wells where the amount of hydraulic fracturing fluid used during the hydraulic fracturing treatment of the well exceeds 10,000 barrels for which an initial drilling permit was issued on or after January 15, 2011. Hearings on the proposed rule are scheduled for April 24 and May 2, 2017, in El Dorado and Fort Smith, respectively. Comments are due May 15, 2017. For questions or assistance regarding hearings or submitting comments, please contact the Director’s Office at 501-683-5814. [Read more.](#)

STATE – Judicial

- **Hydraulic Fracturing Ban – New York.** On April 13, in *Morabito v. Martens* (Case No. 523288), the New York Appellate Court, Third Division, dismissed a case by a landowner

who sought clarification on whether or not the state’s hydraulic fracturing ban – in place since 2015 – applied only to commercial properties. The plaintiff challenged a determination from the director of the Division of Mineral Resources at the state Department of Environmental Conservation, who said the ban applied to all properties. Nevertheless, the Court dismissed the case brought by a Rochester attorney who represented himself and sought to conduct hydraulic fracturing on his own property, stating that the plaintiff lacked standing to bring the case because he hadn’t applied for a permit, nor did he offer “any proof that he met any of the requirements to obtain a permit.” [Read more.](#)

- **Dormant Mineral Act – Ohio.** On March 31, in *Paul v. Hannon* (Case No. 2017-Ohio-1261), an Ohio appellate court held that a mineral owner preserved oil and gas rights by filing detailed affidavits as notice of the challenge to a surface owner’s attempt to reunite the surface estate and the severed minerals pursuant to the state’s Dormant Mineral Act. The Court concluded that although there were some discrepancies with the provisions required in the abandonment notice, that error didn’t affect the outcome because the surface owner’s notice of intent to maintain the mineral rights satisfied the statute. [Read more.](#)

INDUSTRY NEWS FLASH:

◆ **Texas upstream economy enters a new cycle of expansion.** (*Oil & Gas Journal*, April 19, 2017) The Texas Alliance of Energy Producers’ Texas Petro Index (TPI), a composite index based on a comprehensive group of upstream economic indicators, recorded its fourth consecutive monthly increase in March, indicating the Texas upstream economy “has embarked upon a new cycle of expansion.” The TPI shows a year-over-year increase in oil and gas prices, drilling activity, issuances of drilling permits, and oil and gas production value. [Read more.](#)

State-by-State Legislative Session Overview

Alaska, Alabama, Arizona, California, Colorado, Connecticut, Delaware, Florida, Hawaii, Illinois, Indiana, Iowa, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, New Hampshire, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Washington and Wisconsin are in regular session. The **District of Columbia** Council and **Puerto Rico** are also in regular session.

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

The following are in recess until the dates provided: the **United States** Congress (April 22), **New York** (April 24), **Kansas** (May 1) and **New Jersey** (May 11).

The following states are expected to adjourn their legislative sessions on the dates provided: **Tennessee** and **Washington** (April 21); **Arizona** (April 22); **Montana** and **North Dakota** (April 25); **Alaska** (April 27); **Indiana** (April 29), **Hawaii** (May 4) and **Florida** (May 5). **Arkansas** adjourned on April 3 and is expected to reconvene on May 1 to adjourn sine die.

Arkansas Republican Gov. Asa Hutchinson has until April 23 to act on legislation presented after March 29 or it becomes law. **West Virginia** Democratic Gov. Jim Justice has until April 26 to act on legislation presented after April 4 or it becomes law without signature. **Virginia** Democratic Gov. Terry McAuliffe has until May 5 to consider legislation returned after the veto session on April 5 or it becomes law. **Georgia** Republican Gov. Nathan Deal has until May 9 to act on legislation presented after March 24 or it becomes law. **Maryland** Republican Gov. Larry Hogan has until May 10 to act on legislation presented after April 4 or it becomes law. **Kentucky** Republican Gov. Matt Bevin has 10 days, Sundays excepted, to act on legislation or it becomes law. **Mississippi** Republican Gov. Phil Bryant has 15 days, Sundays excepted, from presentment to act on legislation presented after March 24.

Endangered Species

Arizona [SCM 1009](#) passed the Senate on April 19. This resolution urges the director of the U.S. Fish and Wildlife Service to delist the gray wolf from the endangered species act 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.

Montana [HJ 15](#) was enrolled on April 18 and is now awaiting delivery to Democratic Gov. Steve Bullock. This resolution would declare that the Montana legislature supports the delisting of the grizzly bear from the Endangered Species Act and that the management of the bears should be returned to the state and no longer be controlled by the federal government. It would also remove the distinct population segment designation for grizzly bears in the Cabinet-Yaak Grizzly Bear Recovery Zone. The resolution would urge the Montana legislature to call upon the state's congressional delegation to introduce federal legislation that delists the grizzly bear. The resolution would have the secretary of state send a copy of HJ 15 to each member of the Montana congressional delegation, the secretary of the U.S. Department of the Interior, the Governor of Montana, the Department of Fish, Wildlife and Parks and the Secretaries of State for **Idaho**, **Washington** and **Wyoming**.

Franchise Tax

California [AB 1432](#) was returned to the Assembly Appropriations Committee on April 17 after being amended on second reading. Existing law imposes a minimum franchise tax of \$800 on every corporation incorporated in the state, qualified to transact intra state business or doing business in the state. This bill would require the California State University's Center for California Studies to conduct research on the impact of the minimum franchise tax.

This bill is sponsored by Asm. Melissa Melendez, R-Lake Elsinore.

Republican Gov. Bill Haslam signed **Tennessee [HB 320](#)** into law on April 19. Effective January 1, this bill would allow franchise taxpayers to calculate their estimated franchise tax payments quarterly instead of annually.

Tennessee [HB 65](#) was placed behind the budget on April 19, which means the House Budget Subcommittee will revisit the bill if any money is left after the state's spending plan is set. 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](#)**, is pending in the Senate Finance, Ways and Means Committee after being recommended for passage by the subcommittee on March 15. The bill is sponsored by Sen. Mike Bell, R-Riceville, and would take effect on July 1 if enacted.

Landmen

Employee Classification

Texas [HB 1304](#) was heard in the House Economic and Small Business Development Committee on April 20 where testimony was given, but the bill was left pending in the committee. Sponsored by Rep. Oscar Longoria, D-Mission, this bill would set penalties for employers who fail to properly classify people as employers and independent contractors. The penalty would be up to \$200 per employee if the employer is found to be in violation. If this bill is enacted, it would take effect on September 1, 2017.

Lands

Public Lands

Nevada [SJR 7](#) failed to make an April 15 deadline in the Senate Natural Resources Committee and will likely not be moving again this session. This resolution urges U.S. Congress to enact legislation that would transfer certain public lands to the state of Nevada. The bill would exclude lands that are designated by congress as wilderness and lands that are national conservation areas. It would also exclude lands that are designed by the Bureau of Land Management as areas of critical environmental concern to protect the desert tortoise as well as lands that are administered by the U.S. Department of Energy, the U.S. Department of Defense, the Bureau of Indian Affairs, the U.S. Fish and Wild Life Service and the National Park Service. Sen. Michael Roberson, R-Henderson, is the sponsor.

Oil and Gas

Oil and Gas General

Alabama [HB 467](#) passed second reading on April 13 and was placed on the calendar awaiting third reading. Under current law, the Division of Surface Mining Control and Reclamation of the Alabama Surface Mining Commission issues surface coal mining reclamation permits. The commission can charge a permit fee, and this bill would allow for that reclamation permit fee to be paid over the lifetime of the mine.

Rep. Kyle South, R-Fayette, is the sponsor.

California [SB 44](#) passed the Senate Environmental Quality Committee on April 20 and was referred to the Senate Appropriations Committee. This bill would require the State Lands Commission in the Natural Resources Agency to administer a legacy oil and gas well removal, plugging 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.

Nevada [AB 33](#) passed the Assembly with [amendments](#) on April 17 and was delivered to the Senate the following day where the bill was read for the first time and referred to the Senate Natural Resources Committee. This bill would abolish the Mining Oversight and Accountability Commission and relinquish the responsibilities of overseeing the mining industry in the state to the Administrator of the Division of Industrial Relations of the Department of Business and Industry. If enacted, this bill would take effect on July 1, 2017.

This bill is sponsored by the Senate Government Affairs Committee.

Mineral Rights

Louisiana [HB 495](#) is scheduled for a floor debate in the House on April 27. Sponsored by Rep. Jim Morris, R-Oil City, this bill would authorize the transfer of state property in Bossier Parish from the Department of Health to the Arc of Acadiana, the state would reserve the mineral rights. If enacted, this bill will take effect immediately.

Pooling

Colorado [HB 1336](#) passed the House Transportation and Energy Committee on April 19 and was referred to the House Appropriations Committee. Existing law allows for forced pooling in which an interested party, usually an oil and gas operator, can apply to the oil and gas conservation commission for an order to pool oil and gas resources located within an identified drilling unit. This bill would bring protections for those non-consenting owners. The bill specifies that:

- At least a majority of the royalty interest owners must join in the application before the commission can enter a forced pooling order.
- The hearing notice must be given at least 90 days before the hearing.
- The prospective drilling unit operator must give the affected interest owners a clearly stated explanation of the laws that allow forced pooling, and this must be done before entering into the pooling order.
- The operators of drilling units would be required to file an electronic report before drilling with the commission that states the number and location of non-consenting owners and that order must be posted in a searchable data base on the commission's website.

Sponsored by Rep. Dave Young, D-Greeley, if enacted, this bill would take effect 90 days after the legislature adjourns, which would be August 9 if adjournment sine die is on May 10 as scheduled.

Oklahoma [SB 699](#) passed the House Energy and Natural Resources Committee on April 13 and also had its enacting clause stricken. This bill would allow the corporation commission to approve well spacing units of any size under one mile in width, an increase from the current law which is 640 acres maximum. The bill would also require a working interest owner in a non-horizontal spacing unit who does not agree to develop an overlying horizontal spacing unit to relinquish any non-participating working interest in the horizontal spacing unit while retaining all the other rights they have. This bill is sponsored by Sen. Bryce Marlatt, R-Woodward, Chair of the Senate Energy Committee.

Royalty Payments

Nevada [AB 82](#) failed to make an April 15 deadline in the Assembly Taxation Committee and will likely not be moving again this session. This bill would require every person who is extracting minerals to include the royalties paid, and name and address of each recipient of a royalty payment in their annual statement showing gross yield and claimed net proceeds. The bill would also require the Department of Taxation to send the amount of taxes due to the person who is extracting the mineral along with a statement of the amount of net proceeds and royalties paid. The taxes are due by the person who is extracting the mineral on or before May 10 of the year in which the certificate is received. If enacted, this bill would take effect on July 1. This bill is sponsored by the Assembly Taxation Committee on behalf of the Department of Taxation.

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