

## WEEKLY HIGHLIGHTS AT-A-GLANCE

### FEDERAL – Regulatory

- **BLM Leasing Plans – Colorado.** Last Wednesday, Bureau of Land Management (BLM) officials briefed San Miguel County staffers and elected officials about the possibility that more than 10,000 acres in the county could be auctioned off for oil and gas leases next February. The 10 proposed parcels in San Miguel County total 11,234 acres, and are located near Hamilton Mesa and Big Gypsum Valley in the western part of the county. This is the first time in three or four years that the county has been notified about oil and gas lease auctions, said county planning director, Mike Rozycki. [Read more.](#)

### STATE – Legislative

- **Landmen Licensing – Alabama.** We are pleased to report that AAPL Governmental Affairs has effectively stalled a landman licensing bill in Alabama. The legislative session ended on May 16 without any bill introduction, despite a draft bill being put forth by Sen. Greg Albritton (R), and which had been circulating for introduction this year. Since early January, we have been lobbying to make sure the draft bill was never introduced. Thanks to the collaborative efforts of AAPL Governmental Affairs along with our local partners, especially the Black Warrior Association of Professional Landmen, the Coalbed Methane Association of Alabama (which shared our members' interests), and AAPL past-President Willard Simmons, we were able to stop the bill cold. Even better news is that Alabama does not allow carryover bills into the next legislative session, so the bill is effectively dead in its current form. Should, by chance, there be any future efforts to revive a version of this bill in the next legislative session (February 2017), we will make sure to keep you informed.
- **Spacing Requirements – Kansas.** SB 83, a bill that would have prohibited a well from being drilled within 500 feet of any structure constructed prior to the drilling activity without consent of the surface owner, has died in committee. [Read more.](#)

### STATE – Regulatory

- **Proposed Methane Rules – California.** On May 31, the California Air Resources Board floated a proposal to clamp down on methane emissions from upstream oil and gas production, part of the state's aim to slash emissions by 40 to 45 percent by 2025. The public comment period ([Link to comment](#)) is now open and the board will vote on this issue in late July. A [hearing](#) has also been scheduled for July 21, 2016. [Read more.](#)

- **Mandatory Setback Proposal – Colorado.** On May 27, the Colorado Oil & Gas Conservation Commission warned that if successful an initiative proposed for the November ballot in Colorado will make 90 percent of the state’s surface acreage unavailable for future oil and gas development or hydraulic fracturing under the proposal’s mandatory setback requirement. Dan Haley, president of the Colorado Oil and Gas Association, said, “Activists aren’t trying to protect neighborhoods or homeowners, but are simply pushing an extreme agenda to end an industry that five million Coloradans rely on every day.” [Read more.](#)

### **STATE – Judicial**

- **Royalties – North Dakota.** On May 31, the North Dakota Supreme Court affirmed the dismissal of a class action seeking the payment of royalties on flared gas in the state. In [Sarah Vogel v. Marathon Oil Company](#) (2016 ND 104), the plaintiff sought to represent a class of mineral owners seeking declaratory relief and money damages for failure to pay royalties on gas flared from the Elk USA 11-17H well, operated by Marathon Oil Company. Vogel asserted that the royalties were due under Section 38-08-06.4 of the North Dakota Century Code (the “Flaring Statute”) which provides that gas may be flared for the first year of production and thereafter either wells must be connected to a gas gathering system, the gas put to some alternative beneficial use, or the well must be shut-in. In part, the Court held that a royalty owner does not have a private right of action for damages for violations of the statute limiting flaring of gas from an oil well and that a royalty owner must exhaust administrative remedies prior to pursuing a claim in court. [Read more.](#)

### **INDUSTRY NEWS FLASH:**

- ◆ FourPoint Energy LLC, of Denver, closed its \$385-million acquisition of all of Chesapeake Energy Corp.’s oil and gas properties in the western Anadarko basin. The privately held company hired more than 90 former Chesapeake employees to join its field staff of 42, and took over Chesapeake offices in Elk City, Oklahoma, and Borger and Shamrock, Texas. The acquisition covers 3,500 producing wells on 473,000 net acres spanning 15 counties in western Oklahoma and the Texas Panhandle. [Read more.](#)

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

The **Illinois** General Assembly adjourned its spring session on May 31 without passing a budget for the second consecutive year, the [Chicago Tribune](#) reports. Infighting between House and Senate Democrats, who control both chambers, blocked the passage of a budget proposal sponsored by House Speaker Michael Madigan, D-Chicago. Many Senate Democrats were unhappy with the budget proposal, which would have left the state with an estimated budget

deficit of \$7 billion, and it failed in the Senate by a vote of 17-31. The budget impasse comes as Republican Gov. Bruce Rauner, who had pledged a full veto of the budget proposal, has advocated a “turnaround agenda” that includes changes in workers’ compensation and curbs on collective bargaining and prevailing wage laws involving local governments and schools. Governor Rauner’s agenda has been opposed by Democrats in the legislature. Democratic leaders have indicated that they will consider a short term budget plan in the coming weeks. Though the May 31 action deadline for most legislation from the spring session has passed, the legislature has not adjourned sine die and will remain in session through the summer.

**California, Delaware, Illinois, Louisiana, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania and Rhode Island** are in regular session. The **District of Columbia** Council and the **U.S. Congress** are also in regular session.

The following states convened special sessions on the dates provided: **Connecticut** (May 12), **West Virginia** (May 16) and **Alaska** (May 23).

**Arkansas** adjourned a special session on May 23.

**South Carolina** is in recess until June 15.

**Louisiana** is expected to convene a special session on June 6.

The following states adjourned their legislative sessions on the dates provided: **Oklahoma** (May 27), **Missouri** (May 30) and **Kansas** (June 1).

The following states are expected to adjourn their legislative sessions on the dates provided: **Louisiana** (June 6) and **New York** and **South Carolina** (June 16).

**Colorado** Democratic Gov. John Hickenlooper has until June 10 to act on legislation presented after May 1 or it becomes law without signature. **Oklahoma** Republican Gov. Mary Fallin has until June 11 to act on legislation or it is pocket vetoed. **Missouri** Democratic Gov. Jay Nixon has until July 9 to act on legislation or it becomes law without signature. **Hawaii** Republican Gov. David Ige has until July 11 to act on legislation presented after April 21 or it becomes law without signature. **Alaska** Independent Gov. Bill Walker has 20 days from presentment, Sundays excluded, to act on legislation or it becomes law without signature. **Connecticut** Democratic Gov. Dannel Malloy has 15 days from presentment to act on legislation or it becomes law without signature. **Minnesota** Democratic Gov. Mark Dayton has 14 days from presentment to act on legislation or it is pocket vetoed. **Vermont** Democratic Gov. Peter Shumlin has five days from presentment, Sundays excepted, to act on legislation or it is pocket vetoed.

**Utah** Republican Gov. Gary Herbert has until June 7 to act on legislation passed during the second special session or it becomes law.

**Iowa** Republican Gov. Terry Branstad had a signing deadline on May 30. **Maryland** Republican Gov. Larry Hogan had a signing deadline on May 31. **Kansas** Republican Gov. Sam Brownback and **Mississippi** Republican Gov. Phil Bryant had acted on all legislation as of June 1.

**Arkansas** Republican Gov. Asa Hutchinson had acted on all legislation from the third special session as of June 2.

The following states are currently holding interim committee hearings: **Alabama, Arkansas, Colorado, Idaho, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Minnesota, Mississippi** House and Senate, **Montana, Nebraska, Nevada, North Dakota, Oregon, Tennessee**, the **Texas** House, Senate and Joint, **Utah, Vermont, Virginia, Washington** and **Wyoming**.

The following states are currently posting bill draft requests for the 2017 session: **Colorado, Montana, North Dakota, Utah** and **Wyoming** (draft requests appear on individual committee pages).

## **Franchise Tax**

The House concurred in the Senate amendments to **Louisiana** [HB 735](#) on June 3. The bill is now waiting enrollment. This bill would change the date corporate franchise taxes are due from the 15<sup>th</sup> day of the third month following the month the tax is due, to the 15<sup>th</sup> day of the fourth month following the month the tax is due.

**New York** [AB 10531](#) was introduced on May 31 and referred to the Assembly Ways and Means Committee. This bill would direct the Taxation and Finance Committee to hire a third party to conduct a study to examine how personal income tax and corporate franchise tax rates could be proportionately reduced if all tax credits were eliminated and the tax receipts were forecasted to be revenue neutral. If enacted, this bill would take effect immediately. This bill is sponsored by Asm. Bob Oaks, R-Macedon.

## **Lands**

### **Land Permits**

The House concurred in the Senate's amendments to **Louisiana** [HB 632](#) on June 2 and the bill was enrolled and signed by the House Speaker on June 3. HB 632 is now awaiting delivery to Democratic Gov. John Bel Edwards This bill relates to the financial security needed for oil and gas drilling activities. It says that an applicant would have to provide financial security for a permit to drill within 30 days of the completion date or from the date the operator is notified that the financial security is required. The financial security that is required is contingent on the type and depth of the well. This legislation would exempt an owner in good standing from the financial security requirements needed to drill new wells.

## Oil and Gas

### General Oil and Gas

**Alaska** [HB 4005](#) passed the House Finance Committee on June 2 and is awaiting transmittal to the next committee. This bill would set the fee for a mining license and each renewal fee at \$50, and would change the application for the renewal due date from May 1 to January 1.

**California** [AB 1882](#) was heard in the Assembly Appropriations Committee on May 27 where the committee decided to hold it for additional review and work. The bill would allow the State Water Resources Control Board and regional water quality control boards to review, comment on, and propose additional requirements for Class II underground injection well projects starting January 1, 2017. The Oil, Gas, and Geothermal Division would not be able to approve a new project suggested by the review without written concurrence from the state or regional board that the injection of fluids would not affect the quality of water.

**California** [AB 2756](#) passed the Assembly on June 2 and was ordered to the Senate. The bill would give the Oil and Gas Supervisor the authorization to treat each day a violation is not cured as a separate violation, and would set the penalty at no less than \$10,000 and no greater than \$25,000 per violation. The bill would also authorize the supervisor to allow for a supplemental environmental project in lieu of a portion of the penalty, but not to exceed 50 percent of the amount of the fee. It would change the penalty limit to allow for an appeal from \$10,000 to \$25,000. As amended, the bill would also give the division the ability to manage the Oil and Gas Environment Remediation Account in which money can be used to remediate wells, and other areas that may pose a danger to health, water quality, wildlife or natural resources.

**Michigan** [SB 600](#) passed the House and was returned to the Senate on June 2. The bill would clarify the fee for recording and indexing a statement claiming a lien for labor on an oil or gas well. If enacted, the bill would take effect 90 days after final passage and approval.

### Leasing

Republican Gov. Sam Brownback's veto of **Kansas** [SB 280](#) was overridden by both chambers on June 1. Effective immediately, this law will require that the production information used to establish the fair market value of producing oil and gas leases that have finished production in the preceding year must be limited to production occurring prior to April 1 of the calendar in which the property is assessed. Information used to establish the fair market value of a lease for the first time after October 1 of the preceding calendar year would be limited to production occurring prior to July 1 of the calendar year for which the property is being assessed.

### Mineral Rights

**California** [AB 2729](#) passed the Assembly on June 2 and was ordered to the Senate. This bill would make changes to the definitions of active observation well, idle well and long-term idle well. An idle well would be defined as a well that had six months of not producing or being used for injection. An idle well would continue to be an idle well until the well has been properly

abandoned in accordance with existing law. For active observation wells, the bill would require the user to report their data once every month, instead of every three years. The bill would define a long-term idle well as a well that has been idle for five or more years. As amended, the bill would provide that the abandoned underground personal property, including a well, of an operator becomes the property of the mineral interested owner when the operator loses the right to remove it under common law or lease or any other agreement that initially gave the operator the right to conduct activity on the well. The bill would require that the division review, evaluate, and update all regulations pertaining to idle wells until January 1, 2020 unless additional statutes are enacted to delete or extend that date.

If enacted, this bill would take effect on January 1, 2018.

**Michigan [HB 5571](#)** passed the House on May 26 and was received in the Senate and referred to the Senate Appropriations Committee on May 31. This bill would authorize the state administrative board to purchase land in Calhoun County. The state would not receive the mineral rights; however, if a lessee of the property derives any revenue from the development of minerals found on the property, half the revenue must be paid to the state.

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