

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

- **S. 1415 – LNG Now Act of 2017.** On June 22, Sen. Bill Cassidy (R-LA) introduced [S. 1415](#), the *License Natural Gas Now Act of 2017*, or *LNG Now Act of 2017*. According to the bill sponsor, this bill “would remove barriers placed on U.S. natural gas exporters so they can quickly access the market and meet the global demand of natural gas. This legislation would revamp the current system put in place by the Department of Energy decades ago and establish market growth of U.S. exports”. For example, the measure would remove decades-old restrictions on the exportation, and importation, of natural gas that have stalled development of previous projects, and guarantees acceptance of export volume applications to the Department of Energy without delay. [Read more.](#)

**FEDERAL – Regulatory**

- **BLM Permitting and Resource Management.** (*Oil & Gas Journal*, 6/30/17) At a June 29 hearing before the U.S. House of Representative’s Natural Resource Committee’s Energy and Mineral Resources Subcommittee on access to federally-managed onshore oil and gas resources, various stakeholders expressed frustrations with the Bureau of Land Management (BLM) in its management of federal lands and many have called for giving states authority to manage federal oil and gas resources within their borders. For example, the Energy Policy Act mandates that the BLM approve drilling permit applications within 30 days, “yet the average permit time is 220 days,” said Laura Nelson, energy advisor to Gov. Gary R. Herbert (R-UT). “In fact,” she said, “depending on the field office, it is not uncommon for [the process] to take years.” Committee Republicans were receptive to the idea. “If a state was held to federal standards, but was responsible for the actual administration, could there be more federal onshore oil and gas leasing?” asked Rep. Rob Bishop (R-UT). During the hearing, Rep. Steve Pearce (R-NM) noted that the average time BLM takes to process federal onshore drilling permits in his home state has increased to 410 days from 200. [Read more.](#)
- **BLM Lease Sale and Permitting Order.** On July 6, Interior Department Secretary Ryan Zinke signed [Secretarial Order No. 3354](#) (*Supporting and Improving the Federal Onshore Oil and Gas Leasing Program and Federal Solid Mineral Leasing Program*) which directs his agency to hold more lease sales and speed-up the permitting process to “promote the exploration and development of [...] Federal onshore oil and gas resources”. The order calls for the issuance of permits within only 30 days, rather than the 257-day average seen last year, as well as adhering to the statutory requirement to hold

quarterly lease sales. “We're not going to be an adversary to creating wealth and opportunity on public lands,” said Zinke. As of January 31, 2017, BLM had 2,802 [Applications for Permit to Drill pending](#). In addition, Federal law requires the BLM to hold quarterly lease sales, but the Obama administration had fallen far short of that mandated timeframe, Mr. Zinke said, with 11 lease sales canceled or postponed last year. In fact, 2016 saw the second-lowest amount of federal acreage leased over the past two decades, just behind 2011. [Read more](#).

- **BLM Planning 2.0.** (Update to 3/13/17 Weekly Report) The BLM has begun to revise its planning procedures by soliciting public comments on ways it can be timelier and more efficient. The July 3 action came after President Trump signed [House Joint Resolution 44](#) in March, which nullified the agency’s Planning 2.0 rule. “The rule we overturn [...] would have had far-reaching and damaging implications on public lands and our economy in Wyoming,” said Rep. Liz Cheney (R-WY), who [introduced the original resolution](#). “Planning 2.0 would have given the federal government and radical environmental groups control over land use and resource planning in our state, at the expense of local officials and stakeholders.” Since the resolution’s passage, the BLM has been working with state and local elected officials and groups, including the Western Governors’ Association and the National Association of Counties, to engage and gather input, said Michael Nedd, acting director. Public comments will be accepted through July 24. [Read more](#).
- **BLM Environmental Review; Leasing – Utah.** The BLM has initiated an [environmental assessment](#) of leasing 45 parcels covering more than 57,000 acres in Recapture Canyon in Utah’s San Juan County. Some historic preservationists have been pushing back on the planned March 2018 leasing due to the claimed Native American cultural history of the area. The environmental review launched on June 28 will determine whether these nominated parcels are appropriate for leasing. “As part of public scoping, people are invited to come forward with knowledge or concerns about these parcels, so they can be addressed. A robust analysis is key to making well-reasoned decisions about whether it is appropriate to lease these parcels,” said BLM spokeswoman Lisa Bryant. The public has until July 27 to submit comments. [Read more](#).
- **BLM Lease Sale Protest – Utah.** On July 3, eco-activists filed a [formal protest](#) against the BLM’s plan to lease public lands in central Utah to force greater protection of the sage-grouse habitat. The protest specifically targets the inclusion of nine parcels covering nearly 15,000 acres in the West Desert District Office for the upcoming September lease sale. For its part, earlier this year, the [BLM already vowed](#) to implement various measures to restore and maintain the sage-grouse in this region. Under federal regulations, the BLM must acknowledge the protest within 10 working days of receipt and then either affirm or deny the requested action. [Read more](#).

- BLM Gas Drilling; Sage-Grouse – Wyoming.** On July 7, the BLM released its preliminary analysis of a Wyoming natural gas project in the greater sage grouse habitat territory that calls for using directional drilling to minimize surface disturbance. The Normally Pressured Lance (NPL) project is located immediately south and west of the existing Jonah Gas Field within the BLM Pinedale and Rock Springs field offices in Sublette County, Wyoming, about 68 miles northwest of Rock Springs. The project encompasses 141,080 acres, 93 percent of which is on BLM-administered land. Jonah Energy LLC is proposing up to 3,500 directionally-drilled wells to be drilled over a period of 10 years. Most wells would be co-located on a single pad, with no more than four well pads being constructed per 640 acres. On average, each well pad would be 18 acres in size. Associated access roads, pipelines, compressor stations and other facilities would be co-located where possible to further minimize surface disturbance. Public comments may be submitted until August 21. [Read more.](#)
- U.S. Department of Labor – Independent Contractors.** In June, the U.S. Department of Labor (DOL) withdrew Obama-era guidance which made it more difficult for independent contractors to operate. The now-withdrawn [independent contractor guidance](#), issued July 15, 2015, by then-Wage and Hour Administrator David Weil, took an expansive view of the employment relationship, finding that in most cases workers should be found to be employees and not independent contractors. Independent contractors, and those that hire them, can view this development as a step towards more favorable treatment under the Trump administration. “It is not clear at this time if the DOL will implement new guidance, or if it will be simply withdrawing its previous guidance. However, the [withdrawal](#) appears to confirm prior statements that the Trump administration would roll back several employment-related changes implemented under the Obama administration.” [Read more.](#)

## **FEDERAL – Judicial**

- EPA Methane Rule – DC Federal Appeals Court.** (Update to 6/19/17 Weekly Report) On July 3, in [Clean Air Council v. Pruitt](#) (Case No. 17-1145), the Court of Appeals for the District of Columbia Circuit ruled that the Trump administration cannot delay implementation of the Obama-era Environmental Protection Agency (EPA) rule limiting methane emissions from oil and gas operations during the agency’s review process. The Court held that the EPA failed to meet the requirements for a stay of the existing rule, which the new administration’s EPA has proposed (*Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources: Stay of Certain Requirements*; [82 Fed. Reg. 27645](#)) while it conducts a review of the existing rule for possible repeal or revision. This Court decision does not foreclose the ongoing efforts to repeal or revise the rule, however, for the time being, the rule will remain in place. In June 2016, then-EPA Administrator Gina McCarthy issued a final rule establishing “new source performance standards” for fugitive emissions of methane and other pollutants by the oil and natural gas industries (*Oil and Natural Gas Sector: Emission Standards for New,*

*Reconstructed, and Modified Sources*; [81 Fed. Reg. 35823](#)). The methane rule took effect on August 2, 2016, and required regulated entities to conduct an “initial monitoring survey” to identify leaks by June 3, 2017. An EPA spokeswoman said the agency was reviewing the court’s opinion and evaluating its options. [Read more.](#)

- **BLM Methane Rule – California Federal Court.** On July 5, in [Becerra v. U.S. Bureau of Land Mgt.](#) (Case No. 3:17-cv-03804), the attorneys general of New Mexico and California jointly filed a lawsuit against the U.S. Department of the Interior, claiming the agency, under the Trump administration, has illegally postponed requirements for companies to comply with methane regulations enacted under the Obama administration and which were to take effect in January of this year. In June, the Trump administration ordered that the compliance date for the Obama-era methane emissions rule (*Waste Prevention, Production Subject to Royalties and Resource Conservation*; [81 Fed. Reg. 83008](#)) be postponed pending review of the new rule (*Waste Prevention, Production Subject to Royalties, and Resource Conservation; Postponement of Certain Compliance Dates*; [82 Fed. Reg. 27430](#)). That same month, Interior Secretary Ryan Zinke announced that companies would not be required to comply with the regulations until legal challenges were resolved and additional review of the rules had been completed. [Read more.](#)

## **STATE – Regulatory**

- **Oil and Gas Conservation Commission – Idaho.** Last week, Gov. Butch Otter (R) appointed the final three members of the new [Idaho Oil and Gas Conservation Commission](#), which regulates the “exploration, drilling and production of oil and gas resources” within the state. The five-member commission, which was established in the [2017 legislative session](#), replaces mostly citizen commissioners with three industry experts, a county commissioner, and the director of the Idaho Department of Lands. “The Department of Lands itself is also being beefed up with three new full-time staff members dedicated to oil and gas. The agency announced [...] the hiring of Mick Thomas as the administrator for the Oil and Gas Division within the Department of Lands.” [Read more.](#)
- **Plugging Abandoned and Orphaned Wells – Kansas.** In November 2016, the Kansas Corporation Commission (KCC) opened an investigatory docket regarding the plugging of abandoned and orphaned wells, as well as the assignment of responsibility for such plugging, and was presented a draft staff-proposed regulation. That same month, the KCC held a round table in Topeka with oil and gas operators, private land owners, independent landmen, and industry trade groups, including the Kansas Independent Oil and Gas Association, Eastern Kansas Oil and Gas Association, and the Wichita Association of Professional Landmen (an AAPL local association), and then instructed staff to assess and analyze the comments from that round table. The overwhelming majority of speakers found material flaws in the [staff’s proposed regulations](#), which were issued to the KCC on May 30, 2017 and have been roundly opposed by the

industry. Specifically, the staff's position includes a view that the mere taking of an oil and gas lease ("Contract") by a non-KCC-licensed individual, such as an independent landman, effectively places the onus upon that landman to plug any open wellbores (pre-existing, whether known or unknown) on lands covered by the Contract. Additionally, the staff position is that the only means of indemnity for said landman is to thoroughly examine all public records and conduct a thorough physical examination of the lands prior to the execution of the Contract. The argument is that if the staff proposal is adopted, this will place unaffiliated landmen at significant financial risk. The matter is still open by the KCC and no date has been given for further action, or if the staff recommendations will even be adopted. However, interested parties can submit public comments on the KCC docket website, which can be [accessed here](#). For more information on this regulatory matter you may contact the director of the AAPL local association, the Wichita Association of Professional Landmen, Michael A. Pisciotte, CPL, at [mpisciotte@murfininc.com](mailto:mpisciotte@murfininc.com).

### **INDUSTRY NEWS FLASH:**

◆ **Even as renewables increase, fossil fuels continue to dominate U.S. energy mix.** (*PennEnergy*, 7/3/17) According to data from the U.S. Energy Information Administration, although in 2016 fossil fuels accounted for 81% of total U.S. energy consumption, which is the lowest fossil fuel share in the past century, petroleum consumption has increased in each of the past four years and consumption of natural gas has risen in nine of the past 10 years, making both petroleum and natural gas long-term leaders in energy sources. [Read more](#).

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

**Please note:** AAPL's legislative tracking and monitoring service does not provide a State-by-State Legislative Overview for this week's report due to the July 4th holiday. This section will return in the next report.

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.