

WEEKLY HIGHLIGHTS AT-A-GLANCE

FEDERAL – Regulatory

- **BLM Lease Plans – California.** On September 6, in [*Los Padres ForestWatch v. U.S. Bureau of Land Management*](#) (Case No. CV-15-4378-MWF), a federal judge in the U.S. District Court for the Central District of California tentatively rejected a resource management plan by the BLM to open more than 1,500 square miles of lands in central California to oil resource development. According to Judge Michael W. Fitzgerald's ruling, the BLM failed to take a "hard look" at the environmental effects of the estimated 25 percent of new wells that would be devoted to hydraulic fracturing. In the opinion, the Court ordered the BLM to prepare a supplemental Environmental Impact Statement "to analyze the environmental consequences flowing from the use of hydraulic fracturing." The BLM has been given an opportunity to file a brief in response to the Court's decision by September 21 seeking that the action be remanded back to the BLM in lieu of an injunction being entered against their plan. [Read more.](#)
- **BLM Proposed Leasing – Colorado.** The BLM has announced consideration of leasing more than 27,500 acres in Grand County next May, as part of a lease sale that would include more than 101,000 acres in total, with the other acreage being in Rio Blanco, Routt, Jackson and Moffat counties. The proposal is undergoing an initial scoping period to gather input on issues and concerns to be addressed as the BLM undertakes an environmental assessment process. An environmental assessment will be issued in November, with a final announcement planned for February 2017 on the lease parcels to be offered, and a 30-day protest period to follow. [Read more.](#)
- **BLM Thompson Divide – Colorado.** The BLM reports that more than 76,000 comments were submitted in just 30 days from individuals, organizations and local governments after the BLM announced its decision in late July regarding 65 previously issued oil and gas leases on the White River National Forest that are subject to cancellation. "We will take a detailed look at the comments, but at this time we are still planning on a Record of Decision this fall," said BLM spokesman David Boyd. [Read more.](#)

FEDERAL – JUDICIAL

- **Overtime Wages – Texas.** On August 22, in *Fletcher v. Percheron Energy, LLC* (Case No. 4:16-cv-02564), a landman filed a class action suit in Texas federal court against Percheron claiming that the company misclassified landmen as independent contractors in an attempt to avoid paying overtime, despite that her complaint shows

that she executed an independent contractor agreement with Percheron for the period at issue. Linda Fletcher, a Kentucky resident and the only named plaintiff in the lawsuit, filed suit seeking to recover unpaid overtime wages, liquidated damages and attorney's fees for herself and others similarly situated who were classified as independent contractors by the company within the past three years. Of particular note, the plaintiff, Linda Fletcher, is not an AAPL member. We will actively monitor any case developments and provide an update after Percheron files its answer to the complaint, for which it has 60 days from August 22 to do so. [Read more.](#)

STATE – Judicial

- **Permits; Well Siting – Pennsylvania.** On September 1, in [Pa. Independent Oil & Gas Assoc. v. Commonwealth](#) (Case No. 321 M.D. 2015) a seven-member panel of the Pennsylvania Commonwealth Court held that a section of the Pennsylvania Oil and Gas Act remains enforceable despite the Pennsylvania Supreme Court's earlier decision invalidating various state-wide regulation of oil and gas land use, specifically, restrictions on the siting of wells within a certain distance of water bodies and wetlands. The Court held that notwithstanding certain limitations imposed by its earlier decision, the state Department of Environmental Protection may still require well applicants to evaluate and consider the various effects on public resources of each newly sited well in the Commonwealth. [Read more.](#)

INDUSTRY NEWS FLASH:

◆ **Turnaround in the making? Texas upstream oil and gas companies add jobs for the first gain in 19 months.** According to new economic data, drillers across the state added about 100 new jobs in July, the first monthly gain since the Texas energy industry's employment figures began falling dramatically in January 2015. Texas upstream companies had shed more than 102,000 jobs since the beginning of last year, piling on losses month after month, but July's small increase may be a sign things are finally turning around for the state's energy workforce. "I believe it's a recovery in the making [...] the first thing was the bleeding had to stop, and it looks like we may be at that point," says Karr Ingham, economist for the Texas Petro Index. [Read more.](#)

ELECTION ALERT:

★ Donald Trump is expected to be the closing speaker at the Marcellus Shale Coalition's annual conference on September 22 in Pittsburgh. Trump spoke in North Dakota earlier this year at the North Dakota Petroleum Council's annual convention to thousands, speaking strongly about his stance on energy independence and his support for oil and gas companies in the United States. [Read more.](#)

State-by-State Legislative Session Overview

The **United States** Congress reconvened on September 6, [The Washington Post](#) reports. Legislators face a September 30 deadline to pass a short term funding measure and avert a shutdown of the federal government. Congressional leaders are considering a continuing resolution to fund the government through December 9, which Senate Majority Leader Mitch McConnell, R-Kentucky, says he is prepared to move as early as next week. The text of the resolution is not currently available. The [Post](#) reports that Republicans, which currently hold majorities of 247-186 in the House and 54-46 in the Senate, are eager to avoid a stalemate over funding and any chance of a government shutdown. House Republicans are set to meet September 9 to discuss options for a spending agreement. Congress is also under pressure to pass legislation to combat the Zika virus as the outbreak of the virus accelerates. A bill that would provide funding of \$1.1 billion to combat transmission of the virus, [HR 897](#), is stalled in the Senate after Democrats objected to certain “poison pill” riders attached to the appropriation before Congress recessed in July.

Due to a large backlog of bills awaiting gubernatorial action, **California** Democratic Gov. Jerry Brown will have until September 30 to act on all legislation, including bills presented before September 1, according to legislative staff.

Massachusetts, Michigan, New Jersey and the **U.S.** Congress are in regular session.

Pennsylvania is in recess until September 19. The **District of Columbia** Council is in recess until September 20. **Ohio** is in recess until September 27. **Illinois** is in recess until November 15 and is expected to convene a veto session on that day. **California** is in final recess until November 30 and is scheduled to adjourn sine die on that day.

Alabama convened a special session to address Republican Gov. Robert Bentley’s proposal for a state lottery on August 15.

California Democratic Gov. Jerry Brown has until September 30 to act on legislation 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. **Delaware** Democratic Gov. Jack Markell, **New York** Democratic Gov. Andrew Cuomo and **Rhode Island** Democratic Gov. Gina Raimondo have 10 days from presentment to act on legislation or it becomes law without signature.

The following states are currently holding interim committee hearings: [Alabama](#), [Alaska](#), [Arizona](#), [Arkansas](#), [Colorado](#), [Connecticut](#), [Georgia House](#) and [Senate](#), [Hawaii](#), [Idaho](#), [Indiana](#), [Iowa](#), [Louisiana](#), [Kansas](#), [Kentucky](#), [Maine](#), [Maryland](#), [Minnesota](#), [Mississippi House](#) and [Senate](#), [Missouri House](#) and [Senate](#), [Montana](#), [Nebraska](#), [Nevada](#), [New Hampshire House](#) and [Senate](#) (committee hearings published in calendar), [New York Assembly](#) and [Senate](#), [North Carolina](#), [North Dakota](#), [Oregon](#), [South Carolina](#), [Tennessee](#), the [Texas House](#), [Senate](#) and [Joint](#), [Utah](#), [Vermont](#), [Virginia](#), [Washington](#), [West Virginia](#) and [Wyoming](#).

The following states are currently posting bill draft requests/prefiles for the 2017 session: [Alabama House](#) and [Senate](#), [Colorado](#), [Florida Senate](#), [Kentucky](#), [Montana](#), [Nevada](#), [North Dakota](#), [Oklahoma House](#) and [Senate](#), [Utah](#), [Virginia](#) and [Wyoming](#) (draft requests appear on individual committee pages).

Endangered Species

California [AB 2087](#) was enrolled on September 2 and is now awaiting delivery to Democratic Gov. Jerry Brown. This bill would authorize the Department of Fish and Wildlife to propose a regional conservation investment strategy targeted at informing science based conservation and habitat enhancement actions. As amended, the bill would give the department the authorization to approve a regional conservation investment strategy only if one or more state agencies request approval of the strategy through a letter sent to the Director of Fish and Wildlife. The goal would be to advance the conservation of keys species and to provide nonbinding guidance for various conservation activities. AB 2087 is not intended to regulate the use of land, but rather to promote the importance of voluntary, non-regulatory approach to regional conservation.

Oil and Gas

Bundling & Pooling

Michigan [SB 903](#) was heard on September 7 during a non-voting session in the House Energy Policy Committee. This bill would require that the unit operator of a pool or pools would be required to pay at least 51 percent of the cost of all operations, a decrease from 75 percent. The operators will be entitled to at least 51 percent of the production from the unit area, a decrease from 75 percent, or the proceeds of that production that will be credited to interests that are free of cost, including royalties and production payments. The committee's fiscal analysis can be [reviewed here](#).

Mineral Rights

California [AB 2729](#) was sent to Democratic Gov. Jerry Brown on September 2, he has until September 30 to act on the bill or it becomes law. 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. 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.

Current law requires operators to file a specified annual fee or plan for elimination of all long-term idle wells by January 1, 1999. The most recent amendments would remove the current requirement that plans must be filed by January 1, 1999 until January 1, 2018 and require the plan cover a period of no more than one year, revise the requirements and remove the exemption from increased well bond or fee requirements for operators who comply with the plan.

This bill would require the supervisor to prepare and submit a comprehensive report on the status of idle and long-term idle wells for the preceding calendar year.

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

Michigan [HB 5819](#) was introduced and referred to the House Appropriations Committee on September 7. This bill would authorize the Department of Natural Resources to sell a piece of land to Cedarville Township, but the state would retain the mineral rights. Rep. Ed McBroom, R-Vulcan, is the sponsor of HB 5819.

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