

WEEKLY HIGHLIGHTS AT-A-GLANCE

FEDERAL – Regulatory

- **Public Lands; Leasing – Colorado.** On November 18, the BLM released a draft environmental impact statement (EIS) that puts 65 existing oil and gas leases on White River National Forest land under the microscope, with the possibility that 25 of those leases will either be wholly or partially cancelled due to alleged insufficient National Environmental Policy Act analysis. However, Kathleen Sgamma, vice president of government and public affairs for the Western Energy Alliance, said the BLM ignored the law in its draft EIS. “BLM had the opportunity to correct a procedural oversight in the leasing process with a technical fix, and instead chose to take the radical step of canceling valid existing lease rights.” [Read more.](#)
- **Public Lands; Leasing – Ohio.** Last week, approximately 300 community members came out to Marietta for the first of three BLM meetings regarding the leasing of federal minerals in the Wayne National Forest. More than 98 percent of those in attendance reportedly supported leasing. Supporters included 150 landowners, elected officials (such as the Monroe and Washington County Commissioners), and many other local economic development leaders. Landowners in particular want to see oil and gas development move forward as quickly as possible. [Read more.](#)
- **Public Lands; Leasing – Utah.** On November 17, BLM postponed oil and gas lease auctions of Utah land owing to a “high level of public interest.” In fact, the auction was halted as a result of planned protests by activists opposing the sales. While activists celebrated the BLM’s move as a cancellation of the auction, officials still plan to sell rights to drill 39 parcels covering 37,580 acres of Utah public land and will use this postponement to find a more suitable venue, and not to conduct further review of the parcels, as some activists have wrongly claimed. [Read more.](#)

FEDERAL – Judicial

- **Public Lands – Colorado.** On November 17, the BLM unveiled a supplemental environmental impact statement to protect most of the energy-rich Roan Plateau in western Colorado as part of a settlement agreement ending a long-standing lawsuit (*Colo. Conservation Educ. Fund v. Jewell*) between Bill Barrett Corp. and several conservation groups. The agreement has Bill Barrett agreeing to the cancellation of 17 natural gas parcels, leased to it by the BLM, in exchange for a refund to the company of \$47.6 million. [Read more.](#)

STATE – Judicial

- **Oil & Gas Rights; Leasing; Adverse Possession – Pennsylvania.** On November 6, the Pennsylvania Superior Court affirmed the lower court’s decision in *Northern Forests II, Inc. v. Keta Realty Company, et al .*, which struck a 24-year-old default judgment entered in favor of the surface owner, who purportedly held subsurface interests through adverse possession. The Superior Court held that leasing is not enough to claim subsurface rights by adverse possession. The case serves as a reminder to surface owners, reserved oil and gas owners, and potential lessors that surface ownership, the execution of oil and gas leases, and even the recordation of a judgment declaring ownership of oil and gas rights are not necessarily proof that the surface owner actually has a valid claim to oil and gas rights. [Read more.](#)

INDUSTRY NEWS FLASH: On November 18, the American Petroleum Institute (API) announced it will take over America’s Natural Gas Alliance (ANGA) effective January 1, 2016. “There is a natural synergy between our organizations,” says API head Jack Gerard, who noted that the combined association’s expanded membership will provide additional lift to API’s ongoing efforts on important public policy issues. [Read more.](#)

State-by-State Legislative Session Overview

Illinois, Massachusetts, Michigan, New Jersey, Ohio, the **Pennsylvania** House and **Wisconsin** are in regular session. The **District of Columbia** Council and the **U.S.** Congress are also in regular session.

The following governors have bill signing deadlines on the dates provided: **South Carolina** Republican Gov. Nikki Haley has until January 14 to act on legislation or it becomes law without signature. **Maine** Republican Gov. Paul LePage has until January 16 to act on any bills sent to him on July 16. All other legislation has been acted on. **Montana** Democratic Gov. Steve Bullock has 10 days from presentment to act on legislation or it becomes law without signature. **New York** Democratic Gov. Andrew Cuomo has 10 days from presentment to act on legislation or it becomes law without signature. **Tennessee** Republican Gov. Bill Haslam has 10 days from presentment, Sundays excepted, to act on legislation or it becomes law without signature.

Alabama, Arizona, Florida, the **Georgia** House and Senate, **Indiana,** the **Kansas** House, **Kentucky, Oklahoma,** the **Tennessee** House and Senate and **Virginia** are now pre-filing for the 2016 legislative session.

The following states are currently holding interim committee hearings: **Alabama, Alaska, Arizona, Arkansas,** the **California** Assembly and Senate, **Colorado, Connecticut,** the **Florida** House and Senate, the **Georgia** House and Senate, **Idaho, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Minnesota,** the **Mississippi** House and Senate, the **Missouri** House and

Senate, **Montana, Nebraska, Nevada, New Hampshire** House and Senate, **New Mexico**, the **New York** Assembly, **North Dakota**, the **Oklahoma** House and Senate, **Rhode Island**, the **South Carolina** House and Senate, **South Dakota, Tennessee, Utah, Vermont, Virginia, Washington, West Virginia** and **Wyoming**.

Lands

Wisconsin [AB 319](#) was withdrawn from the Senate Elections and Local Government Committee and re-referred to the Senate Workforce Development, Public Works, and Military Affairs Committee on November 18. The bill's Senate co-sponsor, Sen. Roger Roth, R-Appleton, is the chair of that committee. The bill would extend current laws relating to the condemnation of land for the construction of high-voltage transmission lines to include condemnation for natural gas distribution and transmission lines. It would impose a 90-day deadline for the utility and the owner of the land to agree on the fair market value of the land to be conveyed, except that this deadline could be extended by an additional 90 days if the two parties agree.

Oil and Gas

General Oil and Gas

Nebraska [LR 154](#) is scheduled to be considered on December 15 at 1:00 p.m. in the Natural Resources Committee. The resolution would direct the committee to conduct an interim study to investigate and make recommendations regarding the authority of the Nebraska Oil and Gas Conservation Commission and its role in decisions regarding the disposal of salt wastewater into dry wells. The study would be required to address the protection of the environment, surface and underground water supply, and public safety. The resolution references a proposal to inject salt wastewater used in oil and gas production into a dry oil well as the catalyst for this interim study. An article from [The Journal Star](#) states that the commission approved an application from Terex Energy to inject wastewater in April, despite objections from seven senators, including the speaker and the chairman of the legislature's Appropriations Committee, and members of the public.

New Jersey [AB 4744](#), sponsored by Asm. Ronald Dancer, R-Cream Ridge, was introduced and referred to the Assembly Agriculture and Natural Resources Committee on November 16. The bill would allow a person who owns preserved farmland, together with any public utility that owns a utility easement on the land, to permit a natural gas pipeline utility to construct, maintain, and operate a natural gas transmission line on the area of the preserved farmland that is subject to the existing utility easement. The area subject to the existing utility easement could not be used for agricultural or horticultural production, the transmission line and all related equipment, facilities, and structures would have to be located entirely within the area subject to the easement, and the transmission line would have to be connected to a natural gas distribution line that serves a federal military installation in the state. If enacted, the bill would take effect immediately.

New Jersey [AR 220](#) and [AR 257](#) were unanimously reported out of the Assembly Environment and Solid Waste Committee on November 16. AR 220, which was amended by the committee, would express the House's opposition to seismic blasting in the Atlantic Ocean near Barnegat Bay in New Jersey and would urge the National Marine Fisheries Service to cancel any future plans relating to the performance of seismic testing in that area. AR 257 would urge the U.S. Congress to enact legislation that would impose greater safety requirements on the shipment of crude oil by rail, including a ban on the interstate shipment of crude oil that has not been treated to remove extremely volatile compounds; a national standard for crude oil that prohibits a vapor pressure volatility level of greater than 8.5 pounds per square inch during transport; a phase-out of substandard rail tank cars within two years; and a fund to compensate the victims of derailments of trains carrying crude oil and pay for accident clean up and infrastructure damage by levying a tax on crude oil shipment.

Ohio [SCR 6](#) was scheduled to be considered in the Senate Energy and Natural Resources Committee on November 17. Details from the hearing are not yet available. The concurrent resolution would urge the U.S. Congress to lift the prohibition on the export of crude oil from the United States, which has been in place since 1975.

Leasing

On November 9, the **Illinois** House Rules Committee recommended [House Amendment 2](#) to **Illinois** [SB 1562](#) be adopted unanimously. The new amendment relates to the licensing of Freestanding Emergency Centers. As introduced and passed the Senate, the bill would establish criteria by which the Department of Natural Resources could determine whether oil and gas leases submitted with an application for a permit or transfer of a permit for a well are operative, and whether prior oil and gas leases covering the same lands have terminated due to non-development or non-production, as specified. As amended by [House Amendment 1](#), everything after the enacting clause would be struck and replaced with a technical amendment to the Illinois Oil and Gas Act.

Royalty Payments

Massachusetts [HB 3309](#) was scheduled to be considered by the Joint Telecommunications, Utilities and Energy Committee on November 17. Details from the hearing are not yet available. The bill would require any natural gas pipeline company to pay a royalty of at least 12.5 percent of the wholesale price of natural gas sold for use in a foreign country. The royalty would be divided and distributed to all persons owning property in the state that was taken by the company for the right to convey or remove natural gas, based on the proportion of the length of pipelines located on their property. The bill would apply to all future takings made on behalf of a natural gas company conveying the right to remove or recover natural gas in the state, but would not require the retroactive recalculation or repayment of such payments.

Ohio [HB 23](#) was scheduled to be considered in the Senate Ways and Means Committee on November 18. Details from the hearing are not yet available. Under the bill, one-third of all money received by a state agency from signing fees, rentals, and royalty payments for leases would have to be paid by the agency into the general revenue fund, and one-third of this money

would be paid into the local royalty fund. The other third of funds would be deposited into the state land royalty fund, the forestry mineral royalties fund, the wildlife habitat fund, or the parks mineral royalties fund, as specified. Payments from the local royalty fund, which would be created by this bill, would be made to each affected county, as defined, according to allocation equations specified in the bill. If enacted, the bill would take effect 90 days after approval.