

WEEKLY HIGHLIGHTS AT-A-GLANCE

FEDERAL – Legislative

- **H.R. 2167 – Acre In, Acre Out Act.** On April 26, Rep. Morgan Griffith (R-VA) introduced H.R. 2167, the “Acre In, Acre Out Act”. The measure provides that no net increase in the total acreage of certain Federal land under the jurisdiction of the Bureau of Land Management, the National Park Service, the U.S. Fish and Wildlife Service, or the U.S. Forest Service would be permitted. For any acquisition of land by the above agencies/bureaus, an equal number of acres of Federal land that is under the same jurisdictional status must be offered for sale. [Read more.](#)
- **H.R. 2134 – Endangered Species Management Self-Determination Act.** On April 25, Rep. Blaine Luetkeymer (R-MO) introduced, H.R. 2134, the “Endangered Species Management Self-Determination Act”. The bill would amend the Endangered Species Act of 1973 to permit state governors to regulate intrastate endangered species and intrastate threatened species. The move would put more control in the hands of the states, including designations affecting resource development, such as those regarding protections for the greater sage-grouse that impede drilling. [Read more.](#) The companion Senate version of the bill, S. 935, was also introduced on April 25, by Sen. Rand Paul (R-KY). [Read more.](#)

FEDERAL – Executive/Regulatory

- **Interior Department.** Last Friday, President Trump [announced the appointment](#) of David Bernhardt to serve in the number-two slot at the Interior Department as Deputy Secretary. Bernhardt has also previously held Interior Department posts under the Bush administration, including Chief Legal Officer. Until his appointment, Bernhardt chaired the natural resource law practice at Brownstein, Hyatt Farber and Schreck, LLP and represented California’s Westlands Water District as a lobbyist. [Read more.](#)
- **Executive Order.** On April 26, President Trump signed an executive order, [Presidential Executive Order on the Review of Designations Under the Antiquities Act](#), to identify national monuments under the Antiquities Act that can be rescinded or resized as part of a broader push to open up more federal lands to drilling, mining and other development. Interior Secretary Ryan Zinke told reporters that Trump’s order requires him to conduct the review of around 30 national monuments created over the past two decades, and recommend which designations should be lifted or altered including the controversial eleventh-hour Bears Ears designation by President Obama. Zinke says he

will review the Bears Ears monument first, and will make a recommendation to the president in 45 days. [Read more.](#)

FEDERAL – Judicial

- **Federal Royalties – California Federal Court.** On April 26, in *California v. U.S. Dept. of the Interior* (Case No. 3:17-cv-02376), the states of California and New Mexico filed suit in the U.S. District Court of the Northern District of California against the Interior Department alleging the potential loss of millions in unpaid federal oil and gas royalties. The suit claims that in rolling back a 2016 Obama-era regulation on oil, gas and coal valuation on federal lands, the administration has illegally postponed the effectiveness of a final rule already in effect in violation of federal law, and calls for an immediate reinstatement of the new valuation rule. The Interior Department’s Office of Natural Resources Revenue (ONRR) spent five years writing the new rule, *Consolidated Federal Oil & Gas and Federal & Indian Coal Valuation Reform* ([81 Fed. Reg. 43337](#)) for calculating royalties on federal lands. The rule was promoted as a simplified and clarified way royalties paid for natural resources extracted from public lands would be calculated. Although the new rule took effect on January 1, 2017, on February 22, ONRR Deputy Director James Steward [issued a letter](#) stating that the agency had “decided to postpone the effective date of the 2017 Valuation Rule” and directing federal lessees to value, report and pay royalties under the old rules. [Read more.](#)
- **BLM Leases – Colorado Federal Court.** On April 19, Pitkin County and an environmental group filed suit in Colorado federal court against the Bureau of Land Management (BLM) in an effort to ensure that a November 2016 decision by then Interior Secretary Sally Jewell cancelling 25 leases in the Thompson Divide area remain cancelled under the Trump administration. The lawsuit, [Board of County Commissioners of Pitkin County v. U.S. Bureau of Land Management](#) (Case No. 1:17-cv-00959-EB), revives the county’s argument made prior to the lease cancellations that the BLM should not have extended the oil leases in 2014-2016 and should have allowed them to expire after 10 years in 2013. The county and environmental group claim that the lease extensions, and their denial of appeals, violated the Mineral Leasing Act’s expiration guidelines, as well as the National Environment Protection Act and BLM rules. [Read more.](#)

STATE – Legislative

- **Royalties; Leasing – Alaska.** On April 24, Rep. David Guttenberg (D) introduced HB 238. As it relates to oil and other mineral leases, the bill would amend current law by removing the Oil and Gas Commission’s ability to waive royalty payments and rental costs during the first five years of a lease. [Read more.](#)
- **Forced Pooling – Colorado.** (Update to 4/24/17 Weekly Report) On April 26, an amended version of HB 1336 was released. The forced pooling bill, introduced by

Rep. Dave Young (D), has been amended to no longer require at least a majority of the royalty interest owners to join in the application before the Colorado Oil and Gas Conservation Commission can enter a forced pooling order, but rather now lessens the requirement, allowing “any interested party” to do so. The amended version also adds other provisions, such as allowing an operator to designate certain information as a trade secret, privileged or confidential. [Read more.](#)

- **Unauthorized Practice of Law – Kansas.** On April 18, Gov. Sam Brownback (R) signed SB 50 into law. The Act adds new sections to existing law detailing those practices one may not engage in if they are not authorized to practice law in the state. [Read more.](#)
- **Statement Filing – Nebraska.** (Update to 4/10/17 Weekly Report) On April 24, LB 535 was presented to Gov. Pete Ricketts (R) for signature. This bill, sponsored by Sen. Dan Hughes (R), would exempt oil, gas or mineral lease conveyances from the requirement of filing a statement with the register of deeds. The bill would become effective three months after adjournment if enacted. [Read more.](#)
- **Regulations – Oklahoma.** (Update to 3/6/17 Weekly Report) HB 2151, introduced by House Speaker Charles McCall (R) and which passed that chamber in March, passed in the Senate on April 26. The bill now heads to Gov. Mary Fallin (R) for signature. The bill will create the Oklahoma Oil and Gas Regulation Modernization Task Force and directs it to study current regulation related to identification, exploration and development of oil and natural gas resources in Oklahoma, and to identify opportunities to modernize regulation. The task force is required to complete and deliver its final report no later than December 1, 2018. [Read more.](#)
- **Regulations – Oklahoma.** (Update to 4/3/17 Weekly Report) SB 287, introduced by Sen. A.J. Griffin (R) and which passed that chamber in March, passed in the House on April 19. Gov. Mary Fallin (R) signed the measure into law on April 26. The Act amends current law to authorize the Corporation Commission and the Department of Environmental Quality to obtain authorization from the Environmental Protection Agency (EPA) to administer, within their respective jurisdictions, any and all programs regulating oil and gas discharges into the waters of this state and provides for the delegation of certain authority to the state agency from the EPA. [Read more.](#)
- **Targeted Reservoirs; Unitization – Oklahoma.** (Update to 3/6/17 Weekly Report) SB 284, introduced by Sen. Mike Schulz (R), has passed both chambers of the legislature and now heads to Gov. Mary Fallin (R) for signature. The bill changes or removes certain definitions; expands the definition for a targeted reservoir to include one designated as potentially suited for development through a horizontal well; removes the cap on the size of an expanded drilling unit, currently set at four governmental sections; and references to specific sources or to shale reservoirs are replaced with the term, “targeted reservoir”. [Read more.](#)

- **Abstracts – Oklahoma.** (Update to 4/3/2017 Weekly Report) HB 2303 has passed the House and Senate and on April 25 was sent to Gov. Mary Fallin (R) for signature. The bill amends existing law relating to abstracts and the requirements for release and penalties for delay in releasing such documents, and retains the attorney examination provisions under the final bill version. [Read more.](#)

INDUSTRY NEWS FLASH:

◆ **Shale investments surge by \$100 billion.** (*FuelFix*, April 27, 2017) An estimated \$100 billion in investment funds has flowed into the U.S. shale industry over the past year, propping up domestic drilling by 60 percent, according to consultancy Rystad Energy. And ever since OPEC began cutting oil production, drilling in the United States has surged, with shale investments possibly climbing another 50 percent this year. [Read more.](#)

State-by-State Legislative Session Overview

Illinois, Indiana, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, New Hampshire, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont and Wisconsin are in regular session. The **District of Columbia Council, United States Congress** and **Puerto Rico** are also in regular session.

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

Washington convened a 30-day special session on April 24.

The following states are in recess until the dates provided: **Kansas** (May 1) and **New Jersey** (May 11).

The following states adjourned on the dates provided: **Iowa** (April 22); **Washington** (April 23) and **North Dakota** (April 27).

The following states are expected to adjourn their legislative sessions on the dates provided: **Indiana** (April 29), **Montana** (May 1), **Hawaii** (May 4), **Florida** (May 5), **Colorado** (May 10) and **Kansas** (May 11). **Alaska** did not adjourn as anticipated on April 27, but must adjourn before May 17. **Arizona** is expected to adjourn as soon as budget negotiations are complete, according to legislative staff. **Arkansas** adjourned on April 3 and is expected to reconvene on May 1 to adjourn sine die.

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. **Washington** Democratic Gov. Jay Inslee has until May 16 to act on legislation from the regular session or it becomes law. **Iowa** Republican Gov. Terry Branstad has until May 22 to act on legislation presented after April 19 or it is pocket vetoed. **Mississippi** Republican Gov. Phil Bryant has 15 days from presentment, Sundays excepted, to act on legislation presented after March 24 or it becomes law without signature. **North Dakota** Republican Gov. Doug Burgum has 15 days, Saturdays and Sundays excepted, to act on legislation or it becomes law.

Kentucky Republican Gov. Matt Bevin had acted on all legislation as of April 21. **Arkansas** Republican Gov. Asa Hutchinson had a signing deadline on April 23. **West Virginia** Democratic Gov. Jim Justice had a signing deadline on April 26.

Endangered Species

Arizona [SCM 1009](#) passed the House 32-22 on April 26 and was enacted upon delivery to the secretary of state on April 27. 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.

The leadership of both chambers signed off on **Montana** [HJ 15](#) and it was enacted on April 27. 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 heard for the first time in the Assembly Appropriations Committee on April 26 and was then referred to the committee's suspense file. Bills are sent to the suspense file for possible further consideration because of their potential fiscal impact. 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. You can view the latest bill analysis [here](#).

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

Tennessee [HB 65](#) is scheduled to be heard in the House Finance, Ways and Means Subcommittee on May 2. 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 scheduled to be heard in the Senate Finance, Ways and Means Committee on May 1. The bill is sponsored by Sen. Mike Bell, R-Riceville, and would take effect on July 1 if enacted.

Texas [HB 28](#) passed the House Ways and Means Committee as substituted on April 19 and the full House 98-45 on April 27. [Multiple amendments](#) were offered but did not pass. This bill would adjust the franchise tax rate in a manner that would begin phasing it out until it would be ultimately repealed.

Rep. Hugh Shine, R-Temple, is the sponsor and the bill would take effect on September 1, 2019, if it becomes law.

Lands

Leasing

Nebraska [LB 535](#) was delivered to Republican Gov. Pete Ricketts on April 24; he had until April 29 to sign the bill or it will become law. This bill, sponsored by Sen. Dan Hughes, R-Venango, would exempt oil, gas or mineral lease conveyance from the requirement of filing a statement with the register of deeds. This bill would become effective three months after adjournment if enacted.

Oil and Gas

Oil and Gas General

California [SB 44](#) is scheduled to be heard in the Senate Appropriations Committee on May 1. 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.

Texas [HB 3025](#) passed the House Natural Resources Committee on April 19 as substituted and could be heard on the House floor on May 2. You can view the latest bill analysis [here](#). Sponsored by Rep. Tracy King, D-Uvalde, this bill would change the number of days after a landowner or other person who possess an abandoned well has to plug or cap the well from 180 days to 30 days after discovering it. The bill would add a new section to the existing law that says no later than 10 days after a landowner who possesses a deteriorated well learns of its condition the landowner would have to have the well plugged. Districts would require that owners or a lessee of land with deteriorated wells plug or repair the well sufficiently to prevent

pollution of any water, including ground water. If this bill becomes law, it will take effect immediately.

Mineral Rights

Louisiana [HB 495](#) passed the House unanimously on April 27 and is awaiting committee referral in the Senate. 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.

Royalty Payments

Alaska [HB 238](#) was introduced on April 24 and is scheduled for a hearing in the House Resources Committee on May 3. Testimony will be by invitation only, but there will be an opportunity for public testimony at a hearing on May 5. It is also pending in the House Finance Committee. This bill would amend current law by removing the Oil and Gas Commissioner's ability to waive royalty payments and rental costs during the first five years of a lease.

This bill is sponsored Rep. David Guttenberg, D-Fairbanks.

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.