

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

- **BLM Nomination System Update.** On August 31, the Bureau of Land Management (BLM) announced its latest update to the National Fluids Lease Sale System (NFLSS), an online automation effort that allows the public and industry to nominate public land for oil and gas development ([access the NFLSS here](#)). The update increases transparency by making it easier for anyone to monitor the status of a nomination. “The BLM is always looking for more efficient ways to administer its oil and gas leasing program, which is consistent with the Administration’s priorities of American energy independence and job growth,” said BLM Acting Director Michael D. Nedd. “The NFLSS provides greater efficiencies, and is in line with [Secretarial Order 3354](#), which in part calls for greater efficiency in oil and gas leasing.” [Read more.](#)
- **BLM Lease Sale – Utah.** On September 1, the BLM announced it will accept protests through October 2 on two sets of oil and gas leases it plans to offer as part of its quarterly online lease sale on December 12. BLM’s Vernal field office said it was planning to offer 75 parcels totaling 94,000 acres in Duchesne, Uintah, and Emery Counties, despite environmentalists’ claims that one set of tracts was too close to Dinosaur National Monument and other areas. And while Utah’s Republican governor generally supports the proposed leases, he expressed concerns with some of the parcels in a [July 25 letter](#) to the Vernal BLM office. However, the agency’s own [final environmental assessment](#) and an unsigned finding found “no significant impacts” for the planned leases. [Read more.](#)
- **BLM Gas Project – Wyoming.** The BLM recently released its draft Environmental Impact Statement (EIS) for the Normally Pressured Lance (NPL) natural gas project in southwest Wyoming. The NPL Project anticipates drilling up to 3,500 natural gas wells. “This is significant for Wyoming,” said Governor Matt Mead (R). “Permitting new oil and gas projects is a priority and NPL is a great opportunity.” Following the draft EIS release, [Governor Mead sent a letter](#) to the BLM asking the agency to issue a record of decision on the NPL project by the end of the year “to avoid further costly delays that negatively affect the State’s economic prosperity.” The letter also expressed concerns that the EIS varies from Wyoming’s strategy for managing the Greater Sage-Grouse. [Read more.](#)
- **Endangered Species Act – Texas.** Texans for Natural Gas has launched a campaign to stop environmental activists from attempting to use the Endangered Species Act (ESA) to try and get the Texas Hornshell, a freshwater mussel, added to the ESA list in an effort to block oil and gas production within the state. The group invites those concerned to “[t]ell the U.S. Fish and Wildlife Service that a potential listing of the Texas Hornshell should not

be used to stop or limit Texas energy production.” To submit comments to the federal government via the Texans for Natural Gas advocacy action webpage, [click here](#).

- **Interior Department Royalty Committee.** On September 1, Interior Secretary Ryan Zinke [announced the appointment](#) of members to the Royalty Policy Committee which he announced he would form back in March 2017. The committee, which includes three officials from the oil and gas industry as primary mineral and energy stakeholder members and seven as alternates, is scheduled to hold its first meeting on October 4. “Working closely with the committee, we will come up with solutions for modernizing the management of public and American Indian assets, while building greater trust and transparency in how we value our nation's public mineral resources,” said Zinke. Meetings will be open to the public and they may attend in person or online. [Read more](#).

STATE – Legislative

- **Oil & Gas Regulations – California.** (Update to 7/21/17 Weekly Report) On September 6, SB 809 was transmitted to Governor Jerry Brown (D) after passing a final vote in the Senate. The measure would amend existing law which requires the state Oil and Gas Supervisor to appoint a chief deputy and at least one district deputy for each district and to prescribe their duties, and instead would require the director to fix the number and boundaries of the districts, and would authorize the director and supervisor to redefine the districts as needed to ensure the efficient administration of provisions regulating oil and gas. The bill would also require the director and supervisor to solicit public input before revising the districts, and would narrow the definitions of “idle well” and “long-term idle well” by excluding active observation wells from those definitions. At publication, the governor had yet to sign the bill into law, but has up to ten days to do so once received. [Read more](#).
- **Oil & Gas Regulations – California.** (Update to 9/5/17 Weekly Report) On September 1, [SB 465](#) passed the Assembly Committee on Appropriations. The bill clarifies the role of the state’s Oil and Gas Supervisor to regulate oil and gas production and encourage safe development of oil and gas resources. Additionally, this bill eliminates the role of the Conservation Committee of California Oil Producers and replaces it with the Standing Advisory Council on Oil and Gas Extraction. According to the bill’s author, “SB 465 updates the mission of [the Division of Oil, Gas, and Geothermal Resources] (DOGGR) through various legal and structural changes that reflect a greater balance between environmental protection, public safety, and oil resource protection. Among other provisions, the bill would require the supervisor to oversee the drilling, operation, maintenance and abandonment of wells, tanks and facilities in oil and gas production. It would also require all operators to file a written notice of intent to start drilling with the supervisor and clarify definitions for an idle well as one that has not been in production for over 24 months. [Read more](#).

- **Royalty Valuation; Leasing – Pennsylvania.** On August 16, Republican-sponsored legislation, [HB 1708](#), was introduced to address certain issues relating to unconventional wells by amending provisions to the state Oil and Gas Lease Act. According to the bill's primary sponsor, Rep. Jason Ortity (R), the bill "prescribes which kinds of postproduction costs may be deducted from the proceeds of the sale of natural gas from unconventional wells in leases entered into after enactment." Additionally, "the legislation would provide landowners with the ability to receive a written summary of any deductions taken, and the ability to inspect the records to confirm the authenticity of those deductions" and "also affirms that the application of the minimum royalty standard is based on the value of the oil, natural gas or gas of any other designation at the wellhead. This reflects a decision by the Pennsylvania Supreme Court in 2010 interpreting the language from the original 1979 act that set the minimum royalty standard." [Read more.](#)

STATE – Judicial

- **Leasing; Habendum Clause; Implied Covenants – Kansas.** On August 18, in *Lewis v. Kansas Prod. Co., Inc.* (Case No. No. 115,174), the Kansas Court of Appeals held that a lessee breached the common law implied covenant of exploration and development embodied in the state's "Deep Horizons Act" for minimal exploration efforts in the three years following a demand for performance from the lessor. Although the lessee did not violate the express lease terms, the Court upheld a forfeiture of the oil and gas lease as an equitable remedy since it found a breach of the implied covenant to explore and develop. [Read more.](#)
- **Leasing; Proration Units; Retained Acreage Clause – Texas.** On August 23, in *Apache Deepwater, LLC v. Double Eagle Development, LLC* (Case No. 08-16-00038-CV), the Texas Court of Appeals for the Eighth District (El Paso) held that the last producing well on a 640-acre tract divided equally into four 160-acre proration units maintained the entire leasehold even though the other three wells on each of the other 160-acre proration units stopped producing. The lessor contended that the retained acreage clause unambiguously calls for "rolling terminations" following the primary term for any proration unit in which the lessee allows the operating well to go out of production, and no new well is developed. The Court disagreed, however, and found that the retained acreage clause did not express a clear intent to negate the habendum clause and thus the lease did not provide for the "rolling" termination of proration units as they cease to exist. [Read more.](#)

INDUSTRY NEWS FLASH:

- ◆ **New Mexico offers grace period for Houston-based oil and gas companies.** New Mexico State Land Commissioner Aubrey Dunn warned that the effects of Hurricane Harvey will disrupt revenues due to New Mexico for oil and gas operations on state and federal land.

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In light of the damaging storm, Dunn announced that her office is offering a one-month grace period for Houston-based companies to pay royalties and interest for operations on New Mexico state trust land, extending a late-September deadline into October. [Read more.](#)

State-by-State Legislative Session Overview

California, Massachusetts and Michigan are in regular session. **Puerto Rico** and the **United States Congress** are also in regular session.

The following states are in recess until the dates provided: **Wisconsin** and the **Ohio House** (September 12), the **District of Columbia Council** (September 19) and **North Carolina** (October 4). **New Jersey, Pennsylvania and Rhode Island** are recessed to the call of the chair.

The **Connecticut** Senate convened a special session related to budget issues on July 31, [The Connecticut Mirror](#) reports. The special session is in recess until September 14. **Wisconsin** convened a special session on August 2 to consider legislation that would create an information technology manufacturing zone.

Hawaii adjourned a special session related to transit funding on September 1.

Rhode Island is expected to convene a special session on September 19. An agenda for the special session has not yet been made available. **Oklahoma** is expected to convene a special session related to budget issues on September 25, [Reuters](#) reports. **Alaska** is expected to convene its fourth special session related to budget issues on October 23, the [Juneau Empire](#) reports. **Vermont** is scheduled to convene a special session the same day to address any necessary matters related to changes made by federal legislation.

North Carolina Democratic Gov. Roy Cooper has until September 30 to act on legislation from the second special session or it becomes law. **Illinois** Republican Gov. Bruce Rauner has until October 28 to act on special session legislation or it becomes law. **Hawaii** Democratic Gov. David Ige has until November 3 to act on legislation from the first special session or it becomes law. **Alaska** Independent Gov. Bill Walker has 15 days, Sundays excepted, to act on legislation from the regular and special sessions or it becomes law. **Delaware** Democratic Gov. John Carney has 10 days, Sundays excepted, to act on legislation or it becomes law. **Maine** Republican Gov. Paul LePage has until three days after the next meeting of the legislature to act on legislation or it becomes law. **New Hampshire** Republican Gov. Chris Sununu has five days, Sundays excepted, to act on legislation or it is pocket vetoed. **New York** Democratic Gov. Andrew Cuomo has 10 days from presentment, Sundays excepted, to act on legislation from the regular and special sessions or it becomes law. **South Carolina** Republican Gov. Henry McMaster has until two days after the next meeting of the legislature to act on regular session legislation presented after May 6 and special session legislation or it becomes law.

North Carolina Democratic Gov. Roy Cooper had a signing deadline for legislation from the first special session on September 2. **Texas** Republican Gov. Greg Abbott had a signing deadline for special session legislation on September 4.

The following states are currently holding interim committee hearings: [Alabama](#), [Alaska](#), [Arizona](#), [Arkansas](#), [Colorado](#), [Connecticut](#), [Delaware](#), [Florida House](#) and [Senate](#), [Georgia House](#) and [Senate](#), [Hawaii](#), [Idaho](#), [Illinois House](#) and [Senate](#), [Indiana](#), [Iowa House](#) and [Senate](#), [Kansas](#), [Kentucky](#), [Louisiana](#), [Maryland](#), [Minnesota](#), [Mississippi House](#) and [Senate](#), [Missouri House](#) and [Senate](#), [Montana](#), [Nebraska](#), [New Hampshire House](#) and [Senate](#), [New Mexico](#), [New York House](#) and [Senate](#), [North Dakota](#), [Oklahoma](#), [Oregon](#), [Rhode Island](#), [South Carolina House](#) and [Senate](#), [South Dakota](#), [Tennessee](#), [Texas House](#) and [Senate](#), [Utah](#), [Vermont](#), [Virginia](#), [Washington](#) and [Wyoming](#).

The following states are currently posting bill drafts, prefiles and interim studies for the 2018 session: [Alabama](#), [Arkansas](#), [Florida House](#) and [Senate](#), [Georgia](#), [Kentucky](#), [Maine](#), [Montana](#), [Nebraska](#), [North Dakota](#), [Oklahoma prefiles](#) and [House](#) and [Senate](#) interim studies, [Utah](#) and [Wyoming](#).

Oil and Gas

Oil and Gas General

California SB 44 passed the Assembly on September 7 and was returned to the Senate. 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.

California SB 465 passed the Assembly Appropriations Committee on September 1 and was then read a second time on September 5 and ordered to a third reading. This bill would further detail the role of the oil and gas supervisor in the state and their responsibility regulating oil and gas production and encouraging safe development of oil and gas resources. The bill would require the supervisor to oversee the drilling, operation, maintenance and abandonment of wells, tanks and facilities in oil and gas production. It would require all operators to file a written notice of intent to start drilling with the supervisor. The bill would clarify definitions for idle well as a well that has not been in production for over 24 months, and a long term idle well is one that has not been in operation for eight years or more.

Leasing

During a September 1 hearing, the Assembly Appropriations Committee voted to hold **California SB 188** under submission (i.e., an action taken by a committee when a bill is heard in committee and there is an indication that the author and the committee members want to work on

or discuss the bill further, but there is no motion for the bill to progress out of committee. This does not preclude the bill from being set for another hearing). Previously relating to the emergency response to disasters, this bill was amended and now would prohibit the State Lands Commission and local trustees of granted public trust lands to enter into any new lease or conveyance that authorizes the exploration or development and production of oil and natural gas on lands that are owned by the state because they were granted by a public trust. The bill would prohibit the commission and local trustees of the public trust lands to enter into any new leases as well as any renewal, expansion or modification that would authorize the lessee to engage in new or additional exploration, development or production of oil and natural gas.

This bill is sponsored by Sen. Hannah-Beth Jackson, D-Santa Barbara. Senator Jackson is the chair of the Senate Judiciary Committee.

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