



**Please Note:** Due to the upcoming Good Friday and Easter holidays, there is no report next Monday. The next report will be published on April 9, 2018.

## WEEKLY HIGHLIGHTS AT-A-GLANCE

### FEDERAL – Legislative

- **Congressional Recess.** Congress is currently out of session for the Easter holiday and Spring Recess. The legislative session will resume on April 9. [Read more.](#)

### FEDERAL – Regulatory

- **BLM Oil and Gas Lease Sale – Nevada.** The Bureau of Land Management (BLM) Nevada's most recent quarterly oil and gas lease sale brought in \$152,061 in competitive bids for 19,432.94 acres of the 67,797.94 acres offered. The BLM offered bidders 39 parcels in Elko, Eureka and Nye counties in the sale. [Read more.](#)
- **BLM Oil and Gas Lease Sale – Utah.** Last Tuesday, the BLM held its quarterly oil and gas lease sale in southern Utah for parcels on more than 51,00 acres near the Hovenweep and Canyons of the Ancients national monuments along the Utah-Colorado border and also adjacent to Canyonlands National Park. Despite protests, the lease sale was not delayed and netted more than \$1.5 million. [Read more.](#)
- **BLM Offshore Lease Sale.** Last Wednesday, the Interior Department announced that it generated \$124.8 million in what was described as the [largest federal offshore lease sale](#) in history for the Gulf of Mexico with 77.3 million acres available for auction. "You're definitely seeing an increase in interest," said Mike Celata, Gulf of Mexico regional director at the Bureau of Ocean Energy Management. [Read more.](#)
- **BLM Resource Advisory Councils.** On March 12, the BLM announced it renewed the charters for 21 Resource Advisory Councils (RAC). The RACs "serve as important sounding boards for BLM initiatives, regulatory proposals and policy changes". Each 10- to 15-member council is comprised of diverse representatives from the local community, which includes industry representatives, as well as public and private stakeholders. "Secretary of the Interior Ryan Zinke is committed to restoring trust in the Department's decision-making and that begins with institutionalizing state and local input and ongoing collaboration—especially in communities surrounding public lands," said BLM Deputy Director Brian Steed. [Read more.](#)

## **FEDERAL – Judicial**

- **Federal Lands; Resource Development – D.C. Federal Court.** On March 8, the Ute Indian Tribe of the Uintah and Ouray Reservation [filed a lawsuit](#) in the U.S. District Court for the District of Columbia against the United States and Interior Department seeking to establish the Tribe’s beneficial ownership of all federal lands within the exterior boundaries of the Uncompahgre Reservation located in northeastern Utah. In the case, [Ute Indian Tribe of the Uintah and Ouray Indian Reservation v. United States of America](#) (Case No. 1:18-cv-00546), among other issues, the Tribe alleges that the United States has violated, and continues to violate, federal law by treating Reservation lands as though they are owned by the United States outright, rather than in trust for the Tribe. The Tribe claims that, as a result, the United States has been “wrongfully appropriating revenue” relating to the sale or leasing of lands within the Reservation, for example, Utah School and Institutional Trust Lands Administration (SITLA) natural resource leases. According to a report on the case, “the potential revenue involved is claimed to be in the hundreds of millions of dollars. The lawsuit only involves federal lands within the Reservation and does not affect lands owned by SITLA, by private parties, or lands owned by Indian allottees.” [Read more.](#)

## **STATE – Legislative**

- **Powers of Attorney; Trusts; Wills – Indiana.** (*Update to 3/12/18 Weekly Report*) On March 8, HB 1303 was signed into law by Gov. Eric Holcomb (R). The Act allows a testator to execute an electronic will, a settlor to create and execute an electronic trust instrument, and a person to create and execute an electronic power of attorney. [Read more.](#)
- **Injection Well Task Force – Kansas.** On March 19, HB 2786 was introduced by the House Committee on Federal and State Affairs. The bill would create the injection well safety advisory task force, which would include legislators, a geological expert, an environmentalist, royalty owner association members, and representatives from the Kansas Petroleum Council and the Kansas Independent Oil and Gas Association, among other members. The task force will review statutory and regulatory requirements relating to class II disposal wells, among other directives. [Read more.](#)
- **Severance Tax – Mississippi.** (*Update to 3/19/18 Weekly Report*) On March 19, HB 1350 was signed into law by Gov. Phil Bryant (R). The Act extends the repeal of existing law which established a reduced 1.3 percent severance tax rate on the value of oil and gas produced from horizontally drilled wells and horizontally drilled recompletion wells until July 1, 2023. The provisions were originally set to expire on July 1, 2018. The Act will take effect immediately. [Read more.](#)
- **Horizontal Drilling – Ohio.** On March 19, HB 562 was introduced by Rep. David Leland

(D). The bill would prohibit the drilling of a horizontal well in various state and local parks. [Read more.](#)

- **Conventional Oil and Gas Operations – Pennsylvania.** On March 19, Rep. Martin Causer (R) introduced HB 2154, the “Conventional Oil and Gas Wells Act”. The bill would “re-enact the Oil and Gas Act of 1984 with provisions that make it reflective of today’s conventional oil and gas industry.” According to the bill sponsor, the Act 13 regulations geared to the unconventional (Marcellus and Utica) gas industry “also placed an unbearable burden on the much smaller conventional producers.” The bill includes “new language designed to update or clarify old provisions where needed. This will help to provide a legislative framework for regulations specific to conventional oil and gas drillers in a way that protects the environment while preserving this valuable industry.” The companion Senate version, [SB 1088](#), was also introduced on March 19, by Sen. Scott Hutchinson (R). [Read more.](#)
- **Local Regulations – Utah.** (*Update to 3/12/18 Weekly Report*) On March 16, SB 191 was sent to Gov. Gary Herbert (R) after passing the legislature. The Governor has until March 28 to sign or veto the bill or it becomes law. The bill provides that any municipal ordinance, resolution or rule enacted by a municipality must comply with the state’s exclusive jurisdiction to regulate oil and gas. The bill would also provide that a municipality may enact an ordinance that regulates surface activity relating to oil and gas activity provided that the ordinance: is necessary pursuant to existing law; does not unduly limit, ban or prohibit oil and gas activity; and does not interfere with the state’s exclusive jurisdiction to regulate oil and gas. The bill would define oil and gas activity to include hydraulic fracturing, drilling and remediation activities among other activities. The bill would take effect upon enactment. [Read more.](#)
- **Pooling – Utah.** (*Update to 3/19/18 Weekly Report*) On March 19, HB 419 was signed into law by Gov. Gary Herbert (R). The Act modifies provisions relating to the pooling of oil and gas interests, specifically authorizing the Board of Oil, Gas, and Mining to make a pooling order retroactive under certain circumstances and allowing existing pooling orders to apply to additional wells drilled in the same drilling unit under certain circumstances. The Act goes into effect 60 days from March 8. [Read more.](#)
- **Probate – Utah.** (*Update to 3/19/18 Weekly Report*) On March 19, HB 402 was signed into law by Gov. Gary Herbert (R). The Act modifies the Utah Uniform Probate Code by excluding specific claims in intestacy cases under certain circumstances; addressing when a person refuses to accept the authority of a guardian; provides for a court to rescind or modify an order or issue a temporary order; addresses when a conservator may use the assets of the estate; and modifies the provision regarding creation of power of appointment. The Act goes into effect 60 days from March 8. [Read more.](#)

## **STATE – Regulatory**

- **Tri-State Shale Coalition – Ohio, Pennsylvania, West Virginia.** On March 21, the governors of Ohio, Pennsylvania, and West Virginia agreed to extend a 2015 agreement to cooperate on developing shale oil and gas resources in their states through Dec. 31, 2021. According to West Virginia Governor Jim Justice (R), under the Tri-State Shale Coalition agreement, the states work together on issues which include infrastructure, workforce development, and marketing to better harness the potential of Appalachian gas. “The coalition identifies key areas for cooperation to help the gas industry grow, and holds annual summits where government, education, and industry leaders share information and best practices,” said Justice. [Read more.](#)
- **Applications for Permits – Wyoming.** The Wyoming Oil & Gas Conservation Commission (WOGCC) recently changed their policy regarding Applications for Permit to Drill (APD) processing. API numbers will no longer be assigned on a first-come first-served basis. Instead all operators are now required to submit their rig schedules to the commission and the commission will issue permits based upon these schedules. According to the WOGCC, “In order for the WOGCC staff to efficiently process this volume of APDs, we are therefore implementing a system to prioritize the approval process.” [Read more.](#)

## **STATE – Judicial**

- **Oil and Gas Gross Production Tax – Oklahoma.** Last Monday, the Oklahoma Supreme Court [allowed a petition](#) to move forward which seeks a public vote on whether to hike the oil and gas production tax by an additional five percent to help fund increased compensation for teachers and other personnel in “common education and early learning”. About 90 percent of the revenue would be earmarked for a \$4,000 teacher raise, with the rest aimed at early education programs. On March 19, the Oklahoma Supreme Court ruled against the Oklahoma Independent Petroleum Association and others who sought to stop the petition by questioning its constitutionality. However, the petitioners still have to gather about 124,000 signatures within 90 days for the proposed constitutional amendment measure to make it to the November 2018 general election ballot. [Read more.](#)

## **INDUSTRY NEWS FLASH:**

- ◆ **Active oil and gas rig count approaches three-year high.** As reported by the Permian Basin Petroleum Association, “the counts of active oil and gas rigs in the U.S. and Texas are approaching three-year highs. According to oilfield services firm Baker Hughes, as of March 16, there were 492 rigs in Texas and 990 in the U.S. The last time there were 500 rigs working in Texas was March 13, 2015, with 501 rigs, and the last time there were 1,000 rigs in the U.S. was April 2, 2015, with 1,028 rigs.” [Read more.](#)

## State-by-State Legislative Session Overview

**Alabama, Alaska, Arizona, California, Colorado, Connecticut, Delaware, Georgia, Hawaii, Idaho, Illinois, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee and Vermont** are in regular session. The **District of Columbia** Council, **Puerto Rico** and the **United States** Congress are also in regular session.

**Wisconsin** is in recess the call of the chair. A concurrent special session related to school safety that will run concurrently with the regular session convened on March 15.

The following states are expected to adjourn on the dates provided: **South Dakota** (March 26); **Idaho** (March 27); **Georgia** (March 29); **Mississippi** (April 1) and **Kansas** (April 6).

**Oklahoma** convened its second special session to address budget issues on December 18, [The Oklahoman](#) reports. The special session stands adjourned to the call of the chair and the concurrent regular session is ongoing.

**Virginia** is scheduled to convene a special session on April 11 to finish work on the budget.

**Utah** Republican Gov. Gary Herbert and **West Virginia** Republican Gov. Jim Justice have until March 28 to act on legislation or it becomes law without signature. **Washington** Democratic Gov. Jay Inslee has until March 31 to act on legislation or it becomes law without signature. **Virginia** Democratic Gov. Ralph Northam has until April 9 to act on legislation or it becomes law without signature. **Oregon** Democratic Gov. Kate Brown has until April 13 to act on legislation or it becomes law without signature. **Arkansas** Republican Gov. Asa Hutchinson has 20 days from presentment, Sundays excepted, to act on regular session legislation presented after March 8. **Florida** Republican Gov. Rick Scott has 15 days from presentment to act on legislation or it becomes law. **Illinois** Republican Gov. Bruce Rauner has 60 days from presentment to act on all legislation passed during the veto session or it becomes law. **Indiana** Republican Gov. Eric Holcomb has seven days from presentment to act on legislation or it becomes law without signature, and all bills must be presented by March 22. **Louisiana** Democratic Gov. John Bel Edwards has 20 days from presentment to act on special session legislation or it becomes law. **Oklahoma** Republican Gov. Mary Fallin has five days from presentment, Sundays excepted, to act on special session legislation or it becomes law. **Wisconsin** Republican Gov. Scott Walker has six days, Sundays excepted, to act on special session legislation or it becomes law. **Wyoming** Republican Gov. Matt Mead has 15 days to act on legislation presented after March 12 or it becomes law.

**North Carolina** Democratic Gov. Roy Cooper had a signing deadline on March 15 for special session legislation.

The following states are currently holding interim committee hearings: [Montana](#) (2019 interim hearings), [Nevada](#) (2019 interim hearings), [North Carolina](#), [North Dakota](#) (2019 interim hearings) and **Texas** [House](#) and [Senate](#) (2019 interim hearings).

The following states are currently posting bill drafts, prefiles and interim studies: [Montana](#) (2019 interim studies) and [North Dakota](#) (2019 interim committee bills).

## Franchise Tax

**California** [AB 2131](#) passed the Assembly Revenue and Taxation Committee with amendments on March 19 and is now pending in the Assembly Appropriations Committee. As introduced, this bill would reduce the minimum franchise tax to \$400 for taxable years beginning on or after January 1, 2019. The bill would take effect immediately.

**Louisiana** [HB 341](#) passed the House on March 15 and is now pending in the Senate Revenue and Fiscal Affairs Committee. The bill would change the due date for corporate franchise tax filings from the 15<sup>th</sup> day of the third month to the 15<sup>th</sup> day of the fourth month. The bill would take effect one day following enactment.

**Tennessee** [HB 1593](#) was heard in the House Finance Ways and Means Subcommittee on March 21, where the committee voted to place the bill behind the budget, meaning the panel plans to revisit the measure if any money is left after the state's budget is set. This bill would exempt entities that would otherwise have less than \$100 in combined franchise and excise tax liability from franchise and excise taxes for a tax year beginning on or after July 1, 2018, and prior to July 1, 2019. The bill would increase the liability threshold to less than \$250 for the tax year beginning July 1, 2019 and less than \$500 for the tax year beginning July 1, 2020. The bill would also repeal the \$100 minimum franchise tax and would specify that no entity would be relieved from filing a return and paying the franchise tax unless the entity qualifies for an exemption. The bill would take effect July 1. The companion bill, [SB 1744](#), was referred to the Senate Finance Ways and Means Committee with a negative recommendation from the Senate Finance Ways and Means Subcommittee on March 6.

## General Oil and Gas

### Pooling

**Utah** [HB 419](#) was signed by Republican Gov. Gary Herbert on March 19 and takes effect May 7. The law will authorize the Board of Oil, Gas and Mining to make a pooling order retroactive if the board has received an objection, but the board finds that a party has engaged in inequitable conduct. The law will also provide that the terms and conditions of the boards initial pooling orders would apply to subsequent wells drilled in the same drilling unit except as modified by:

- An accounting for actual costs incurred for each subsequently drilled well in the drilling unit.
- An account for the consenting or nonconsenting status of an owner of each subsequently drilled well in the drilling unit.
- The board after the filing of and hearing upon a petition filed by an affected owner desiring a modification.

## General

**Colorado** [SB 192](#) passed the Senate Agriculture, Natural Resources and Energy Committee on March 22 and is now pending in the Senate Committee of the Whole. The bill would require local governments that place a moratorium on oil and gas development to compensate mineral owners for the costs, damages or loss of fair market value that result from the moratorium. The bill would take effect 91 days following adjournment, which is currently scheduled for May 9.

**Louisiana** [SB 377](#) passed the Senate Natural Resources Committee with [amendments](#) on March 22. The bill would provide that if an inactive well has been designated as being inactive with future utility by the operator for a period of 10 years or more and that well is neither scheduled to be plugged and abandoned on a plan approved by the commissioner nor covered under a site specific trust account in accordance with present law, then the owner may request in writing that the Office of Conservation determine whether the inactive well has future utility. The bill would also establish the following procedure to determine whether a bill should be plugged:

- That the commissioner notifies the operator of the request within 30 days of receipt.
- The operator submits written justification to the office to prove that the well has future utility within 90 days of receipt of the notice.
- The office reviews the written justification and determines whether or not the well has future utility.
- The operator submits a plan to the office to plug the well within 90 days of a final determination by the office that the well does not have future utility.
- The commissioner could approve the plan submitted by the operator along with any revisions the commissioner deems necessary.
- The operator plugs the well in accordance with the approved plan.

The bill would provide that the operator could appeal the office's determination in accordance with existing law. The amendments would provide a definition of an inactive well and would permit owners to donate an amount determined by the Conservation Commissioner to defray the cost of an expedited determination. The bill would take effect on August 1.

**Mississippi** [HB 1350](#) was signed by Republican Gov. Phil Bryant and took immediate effect. The law extends the repeal of existing law that established a reduced 1.3 percent severance tax rate on the value of oil and gas produced from horizontally drilled wells and horizontally drilled recompletion wells until July 1, 2023. The provisions were originally set to expire on July 1, 2018.

**Ohio** [HB 430](#) was heard in the Senate Ways and Means Committee on March 21; information from the hearing was not immediately available. Current law exempts the sale or use of tangible personal property used "directly" in the production of oil and natural gas. This bill would amend current law to remove the qualification that the property be directly used in the production of oil and gas. The bill would take effect 90 days after enactment.

**Utah** [SB 191](#) was delivered to Republican Gov. Gary Herbert on March 16, who will have until March 28 to sign or veto the bill or it becomes law. The bill would provide that any municipal

ordinance, resolution or rule enacted by a municipality must comply with the state's exclusive jurisdiction to regulate oil and gas. The bill would also provide that a municipality may enact an ordinance that regulates surface activity relating to oil and gas activity provided that the ordinance:

- Is necessary pursuant to existing law.
- Does not unduly limit, ban or prohibit oil and gas activity.
- Does not interfere with the state's exclusive jurisdiction to regulate oil and gas.

The bill would define oil and gas activity to include hydraulic fracturing, drilling and remediation activities among other activities. The bill would take effect upon enactment.

## Hydraulic Fracturing

**Illinois** [HB 5716](#) has been scheduled for a hearing in the House Labor and Commerce Committee on April 10 at 3:00 PM. The bill would require a permit application for drilling or hydraulic fracturing operations to include the written consent of each owner of a mineral interest. The bill would also prohibit a person from drilling or removing minerals without the written consent of all owners. The bill would provide that violations would result in a permanent cessation of operations and treble damages paid to the owner of the mineral interest. The bill would take effect January 1 of the following year if passed prior to May 31 or June 1 of the following year for bills passed after that date.

**Illinois** [HB 5743](#) has been scheduled for a hearing in the House Labor and Commerce Committee on April 10 at 3:00 PM. The bill would prohibit a person from engaging in hydraulic fracturing and the state from issuing a permit for hydraulic fracturing after the effective date of the bill. The bill would take effect January 1 of the following year if passed prior to May 31 or June 1 of the following year for bills passed after that date.

**Ohio** [HB 562](#), sponsored by Rep. David Leland, D-Columbus, was introduced on March 19 and has not yet been referred to a committee. The bill would prohibit the Chief of the Division of Oil and Gas Resources Management from issuing a permit to drill a new horizontal well when the well pad would be located in a state park, state wildlife area, state forest, nature preserve or any county, township or local park. The bill would take effect 90 days after becoming law.

## Royalty Payments

**Oklahoma** [HB 2775](#) passed the Senate Energy Committee on March 22. The bill would set the interest rate for proceeds from an oil and gas lease not paid due to unmarketable title at the prime interest rate reported in the Wall Street Journal, beginning on November 1, 2018. The measure would also provide that when the lease holder has not been provided an affidavit of death and heirship, the holder of the proceeds may elect to interplead the proceeds and all accrued interest into court for a determination as to whom is entitled to them. The bill would take effect November 1.



**West Virginia** [HB 4270](#) was delivered to Republican Gov. Jim Justice on March 21, who will have until March 28 to sign or veto the bill or it will become law. The bill would require an operator, producer or their agents, contractors or assigns to provide the following information with each payment to all interest owners receiving payments:

- A name, number or combination of name and number and the state issued American Petroleum Institute number that identifies each lease, property unit, pad and well for which the payment is being made.
- Month and year of production.
- Total barrels of oil and volume of natural gas produced from each well sold.
- Price received per unit of oil, natural gas and natural gas liquids from each well produced.
- Gross value of the total proceeds from the sale of oil, natural gas and natural gas liquids from each well less taxes and deductions.
- Itemized amounts for all deductions which affect payment.
- Interest owner's interest in production from each well expressed as a decimal or a fraction.
- Interest owner's ratable share of the proceeds from the sale of oil, natural gas and natural gas liquids less the owner's ratable share of the taxes and other deductions.
- Contact information for the producer of the oil and natural gas well.

An interest owner who does not receive the information required would be able to send a written request for the information and the operator would be required to send the information within 60 days or the interest owner would be able to bring a civil action. The bill would also require payments to be made in a timely manner which could not exceed 120 days from the date that the sale of oil and natural gas is realized. The bill would take effect 90 days after adjournment.

## Public Lands

**Alaska** [HB 272](#) was reported from the House Resources Committee with a substitute on March 19; however, five of the nine members of the committee submitted individual do not pass [recommendations](#) along with the bill. The bill is now pending in the House Rules Committee. The bill would establish the Tangled Lakes State Game Refuge on specified state lands. The bill would close the refuge to mineral entry, except for currently existing mineral claims, beginning January 1, 2019.

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