

Please Note: Due to out-of-office travel, the next Weekly Report will be published on June 18.

WEEKLY HIGHLIGHTS AT-A-GLANCE

FEDERAL – Legislative

- **Congressional Recess.** The U.S. Congress is out of session and in recess until June 4. [Read more.](#)

FEDERAL – Regulatory

- **BLM Oil and Gas Lease Sale – Wyoming.** On May 24, the Bureau of Land Management (BLM) announced that it is seeking comments on a proposal to offer 254 oil and gas lease parcels totaling about 286,000 acres at its September 2018 quarterly oil and gas lease sale. The BLM comment period will be open until June 7. [Read more.](#)

FEDERAL – Judicial

- **Overriding Royalty Interests; Lien Claims – Fifth Circuit Court of Appeals.** On April 17, in [*OHA Investment Corporation f/k/a NGP Capital Resources Company v. Schlumberger Technology Corporation, et. al*](#) (Case No. 17-20224), the Fifth Circuit Court of Appeals issued a decision arising from a case that dealt with the relative rights or priorities between the holder of overriding royalty interests (“ORRI”) and parties asserting lien claims or privileges under the Louisiana Oil Well Lien Act (“LOWLA”). In that regard, the Court held that “the term ‘hydrocarbons’ encompasses both those in the ground as well as that produced and, as such, those hydrocarbons (including in the ground) can be sold to and owned by an overriding royalty owner. And, because the [LOWLA] text of the safe harbor language extinguishes liens in a conveyance to a purchaser, OHA’s ORRI ‘fit squarely within that [safe harbor] category.’” [Read more.](#)

STATE – Legislative

- **Setback Ballot Initiative – Colorado.** Environmental activist group, [Colorado Rising](#), is once again pushing for a November 2018 election ballot measure to force setbacks requiring “that any new oil and gas development be located at least 2,500 feet from any occupied structure and any area designated for additional protection and authorizing the state or a local government to increase the minimum distance requirement.” The proposed ballot measure, [Initiative 97](#), is nearly identical to a proposed 2016 constitutional amendment that failed when activists were unable to collect enough

signatures after the Colorado Secretary of State invalidated tens of thousands of signatures. The so called “vulnerable areas” subject to the initiative would “include playgrounds, public open space, any body of water or an area designated by the local government. Federal lands, which make up roughly one-third of the state, are exempt from this initiative.” To combat the initiative, pro-energy group Vital for Colorado has offered a petition ([Sign the petition here](#)) to urge Colorado voters not to sign on to the ballot measure. The deadline for Colorado Rising to submit petition signatures to the Secretary of State is August 6, and at least 98,492 valid signatures must be submitted in order for the initiative to make it onto the 2018 ballot. We will continue to keep you updated with any new developments. [Read more.](#)

- **Injection Well Regulations – Illinois.** On May 4, HB 2672 died in the Committee on Energy, Utilities and Telecommunications. The bill would have required that prior to the drilling of any Class II injection disposal well, operators would have to file an application of intent. The Kansas Corporation Commission (KCC) would then notify all affected landowners, as well as the governing body of any county, city or township within 15 miles of the proposed well, and hold a public hearing. The KCC would also have been required to make information on Class II injection wells publicly available on its website. [Read more.](#)
- **Licensing; Certifications – Louisiana.** On May 23, HB 748, originally introduced by Rep. Julie Emerson (R), was sent to Governor John Bel Edwards (D) after passing the legislature. The bill establishes the “Occupational Licensing Review Act,” which would prohibit a professional from referring to themselves as certified unless the certification is required for licensure at the state level. This bill does not address non-governmental certifications, such as associations like AAPL, but those that relate to state agencies. A Senate amendment removes the certification provisions from the bill and would now grant the governor the authority to request certain information from state agencies engaged in the licensing and regulatory activities. Once signed, the bill will take effect on July 1. [Read more.](#)
- **Production Payments – Louisiana.** On May 18, HR 238, introduced by Rep. Jean-Paul Coussan (R), unanimously passed the House. The bill requests that “the Louisiana State Law Institute study the history, reasoning, classification, and definition of a production payment in R.S. 31:171, 212.21 through 212.23, and 213, providing a recommendation to the Louisiana Legislature with regard to a possible codification of certain court decisions no later than 60 days prior to the convening of the 2019 Regular Session.” The bill arises from a 2014 case, [Adams v. Chesapeake Operating, Inc.](#), in the U.S. Court of Appeals for the Fifth Circuit where the Court, in ruling in favor of Chesapeake, held that an owner of an unleased mineral interest was not a purchaser or owner of a mineral production payment, and thus was not entitled to bring a statutory claim for production payments against the operator. [Read more.](#)

- **Oil Well Lien Act – Louisiana** (*Update to 5/14/18 Weekly Report*) On May 15, [SB 456](#) was signed into law by Governor John Bel Edwards (D). Originally introduced by Sen. Ronnie Johns (R), the Act, which will take effect August 1, makes changes to the Louisiana Oil Well Lien Act. Prior to passage, the law defined what is and is not operations for purposes of the Louisiana Oil Well Lien Act, and included salt water or another waste substance after placed in a means of transportation for disposal, as an activity that is not included in operations. The Act removes the disposal of salt water or another waste substance from the list of activities that is not included in the definition of operations. [Read more.](#)

INDUSTRY NEWS FLASH:

◆ **ExxonMobil commits to voluntary methane emissions reductions in onshore shale operations.** Last Wednesday, ExxonMobil announced that it has committed to new methane emissions reductions, including reducing natural gas flaring by as much as 25 percent by 2020. Much of these reductions will occur in the company's onshore shale operations. The announcement comes on the heels of last year's commitment to utilize new technologies for reducing emissions in the company's subsidiary, XTO Energy. [Read more.](#)

State-by-State Legislative Session Overview

California, Delaware, Illinois, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania and **Rhode Island** are in regular session. The **District of Columbia** Council, **Puerto Rico** and the **United States** Congress are also in regular session.

The **South Carolina** House and Senate postponed their May 24 meeting and are in recess until June 27 and 28 to address the governor's budget vetoes, reports the [Greenville News](#). **Wisconsin** is in recess to the call of the chair.

Oklahoma is expected to adjourn on May 25.

The following states adjourned on the dates provided: **Missouri** and **Louisiana** (May 18) and **Minnesota** (May 20).

The **Virginia** Senate reconvened on May 14 for a special session to continue working on a two-year budget, the [Richmond Times-Dispatch](#) reports. **Missouri** lawmakers convened for a special session on May 18 to consider impeaching Republican Gov. Eric Greitens, reports [Fox KQFX](#). **Louisiana** convened a two-week special session on May 22 to address the state's budget, reports [The Advocate](#). **Vermont** convened a special session on May 23 to address the governor's opposition to the state budget and tax bills. Governor Scott hopes to use one-time money to keep tax rates level while passing a plan for future years.

Oregon held a one day special session on May 21 to address the state's tax code in order to expand the list of small businesses eligible for state tax breaks, reports [Oregon Live](#). **West Virginia** finished a two-day special session on May 21 to address the creation of the Department of Arts, Culture and History, and legislation that would increase survivor benefits for firefighters who were killed in the line of duty, the [Williamson Daily News](#) reports.

Maryland Republican Gov. Larry Hogan has until May 29 to act on legislation presented by April 29 or it becomes law without signature. **Iowa** Republican Gov. Kim Reynolds has until June 4 to act on legislation or it is pocket vetoed. **West Virginia** Republican Gov. Jim Justice has 15 days from adjournment of the special session, Sundays excepted, to act on legislation or it becomes law without signature. **Colorado** Democratic Gov. John Hickenlooper has until June 8 to act on legislation presented after April 29 or it becomes law without signature. **Hawaii** Democratic Gov. David Ige has until July 10 to act on legislation presented after April 19 or it becomes law without signature. **Alaska** Independent Gov. Bill Walker has 20 days from presentment, Sundays excepted, to act on legislation or it becomes law without signature. **Connecticut** Democratic Gov. Dannel Malloy has 15 days from presentment to act on legislation or it becomes law without signature. **Illinois** Republican Gov. Bruce Rauner has 60 days from presentment to act on all legislation passed during the veto session or it becomes law. **Kansas** Republican Gov. Jeff Coyler has 10 days, not including the day of presentment, to act on legislation or it becomes law without signature. **Louisiana** Democratic Gov. John Bel Edwards has 20 days from presentment to act on legislation presented after May 18 or it becomes law. **Minnesota** Democratic Gov. Mark Dayton has 14 days from presentment to act on legislation presented on or after May 17 or it is pocket vetoed. **Missouri** Republican Gov. Eric Greitens has 45 days from presentment to act on legislation or it becomes law without signature. **Oklahoma** Republican Gov. Mary Fallin has five days from presentment, Sundays excepted, to act on special session legislation or it becomes law. **Vermont** Republican Gov. Phil Scott has five days, Sundays excepted, to act on legislation presented after May 16. The disposition of legislation not acted on after that period will be determined on a case-by-case basis. **Wisconsin** Republican Gov. Scott Walker has six days, Sundays excepted, to act on special session legislation or it becomes law.

The following states are currently holding 2019 interim committee hearings: [Alabama](#), [Arkansas](#), [Colorado](#), [Idaho](#), [Indiana](#), [Iowa](#), [Kansas](#), [Kentucky](#), [Maine](#), [Maryland](#), [Mississippi Senate](#), [Montana](#), [Nevada](#), [New Mexico](#), [North Dakota](#), [Oregon](#), [South Carolina](#), [South Dakota](#), [Tennessee](#), [Texas House](#) and [Senate](#), [Utah](#), [Virginia](#), [Washington](#), [West Virginia](#) and [Wyoming](#).

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

Franchise Tax

California [AB 2131](#) has been scheduled for a hearing in the Assembly Appropriations Committee on May 25 after the Assembly session. This bill would reduce the minimum

franchise tax to \$400 for taxable years beginning on or after January 1, 2019 and before January 1, 2024. The bill would take effect immediately.

California [AB 2410](#) has been scheduled for a hearing in the Assembly Appropriations Committee on May 25 after the Assembly session. The bill has been scheduled for a hearing in that committee on May 9 at an unspecified time. Existing law imposes an annual tax equal to the minimum franchise tax on every limited liability company doing business in the state. The bill would reduce the annual tax, for taxable years beginning January 1, 2020 and before January 1, 2025, to \$400 for a limited liability company that is a small business. The bill defines a small business as a business entity with gross receipts of \$250,000 or less during the first two years after the articles of organization have been accepted or a certificate of registration has been issued. The bill would take effect immediately.

California [SB 1417](#) was heard in the Senate Appropriations Committee on May 22, where it was referred to the suspense file. The suspense file is a holding place for bills that carry a fiscal impact of \$150,000 or more and may be voted out eventually to continue the legislative process. The bill has been scheduled for further consideration in that committee on May 25 after the Senate session. If passed, the bill would take effect immediately. Existing law imposes a minimum franchise tax of \$800 and an annual tax equal to minimum franchise tax. The bill would reduce the minimum franchise tax for taxable years on or after January 1, 2019 to:

- \$200 if the corporation has gross receipts that are less than \$2.5 million.
- \$400 if the corporation has gross receipts that are less than \$7.5 million but equal to or greater than \$2.5 million.
- \$600 if the corporation has gross receipts that are less than \$15 million but equal to or greater than \$7.5 million.
- \$800 if the corporation has gross receipts that are equal to or greater than \$15 million.

General Oil and Gas

Louisiana [HB 331/Act 84](#) was signed by Democratic Gov. John Bel Edwards on May 10 and takes effect July 1. The law will provide that the oil site restoration fee charged on the production of oil is payable upon the initial disposition of each barrel of oil and condensate.

Louisiana [HB 860/Act 106](#) was signed by Democratic Gov. John Bel Edwards on May 10 and takes effect August 1. Present law authorizes the Conservation Commissioner to develop and implement a program to expedite the processing of permits, modifications, licenses, registrations and variances. The law will retain present law but would allow the commissioner to expedite the review of plans, proposals and exceptions of related correspondence. The law will also specify that the minimum fee for administrative costs associated with expedited processing would be \$500. The law will require that public notice be given once the expedited permit review is granted rather than when it is requested.

Ohio [HB 225](#) passed the Senate Energy and Natural Resources Committee with a substitute on May 21. The bill then passed the full Senate on May 23. As passed the Senate, the bill would allow a landowner to report an idle and orphaned well and would require the Chief of the

Division of Oil and Gas Resources Management to inspect the well within 30 days after the landowner report. The bill would also require the chief to establish a scoring matrix for idle and orphaned wells and to use the matrix to determine the priority of plugging wells. The bill would also require the chief to use 30 percent of the revenue credited to the oil and gas well fund to be used for plugging idle and orphaned wells rather than 14 percent. It would also authorize the chief to reject an application to plug a well if it is determined that other wells are a higher priority and would require the chief to pay the contractor directly for the cost of the plugging and restoration rather than reimbursing the landowner directly. The bill would take effect 90 days after becoming law.

Ohio [HB 430](#) was heard in the Senate Ways and Means Committee on May 23; information from the hearing was not yet 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 also amends the regulatory definition of what is considered a production operation to exclude:

- Operations, activities or equipment used in or associated with the exploration and production of any mineral resource other than oil and gas.
- Storing, holding or blending solutions or chemicals used in well stimulation.
- Preparing, installing or reclaiming foundations for drilling or pumping equipment or well stimulation material tanks.
- Transporting, delivering or removing equipment to or from the well site or storing such equipment.
- Gathering operations occurring off the well site, including gathering pipelines, transporting hydrocarbon gas or liquids away from a crude oil or natural gas production facility.

The bill would take effect 90 days after enactment.

Hydraulic Fracturing

Illinois [HB 4724](#) passed the Senate as amended by Senate Floor Amendment 2 and Senate Floor Amendment 3 on May 23. The bill is now pending in the House for concurrence with Senate amendments. As amended the bill would provide that first purchasers are not required to obtain exemption certificates from the operator until the first high volume horizontal hydraulic fracturing permit has been approved by the Department of Natural Resources. The bill would take effect January 1, 2019 if passed prior to May 31; however, if the bill is passed after May 31 then it would take effect June 1, 2019.

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