

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

- **BLM Oil & Gas Lease Sale – Colorado.** On July 3, the Bureau of Land Management (BLM) announced that the agency is seeking public comments on its offering of approximately 236,010 acres of federal oil and gas leases on public lands managed by the Colorado River Valley, Grand Junction, Kremmling, Little Snake, Royal Gorge, Uncompahgre and White River field offices in the upcoming December 2018 competitive oil and gas lease sale. Before beginning an environmental analysis, the BLM is asking the public to weigh in on issues to be considered. Public comments will be accepted until July 17. [Read more.](#)
- **BLM Sage-Grouse Area Leasing.** On June 30, the BLM held a public meeting in Colorado to discuss proposed changes to the state's Greater Sage-Grouse management plan, which could "open some priority grouse habitat on public lands to oil and gas leasing." Public comments are open on the draft changes through August 2, and can be [accessed here.](#) "The amended plans would allow oil and gas operators to apply for exemptions to lease minerals in areas designated as priority grouse habitat. Currently, the 2015 sage grouse management plan has a strict stipulation that restricts oil and gas leasing on priority habitat. The BLM estimated the change would open an additional 224,200 acres to leasing." [Read more.](#)
- **BLM Oil & Gas Lease Sale Results – Wyoming.** On June 29, the BLM announced that their Wyoming quarterly oil and gas lease sale resulted in competitive bids for 158 of the 159 parcels offered at the sale. The BLM offered parcels in Carbon, Sublette, Sweetwater and Uinta counties. The combined bids from the sale brought in nearly \$36 million. [Read more.](#)

FEDERAL – Judicial

- **Delaware River Basin Drilling – Third Circuit (Pennsylvania).** On July 3, in *Wayne Land and Mineral Group LLC v. Delaware River Basin Commission* (Case No. 17-1800), the U.S. Court of Appeals for the Third Circuit pushed back on the Delaware River Basin Commission's authority to block oil and gas drilling in the Basin. In vacating a district court order against the plaintiff oil and gas driller, the Third Circuit questioned whether the proposed activities constituted a "project" subject to the Commission's oversight, according to the unambiguous terms of the interstate compact. In sending the case back to the district court for further review, the Third Circuit held that because the

meaning of the word “project” as “used in the compact is ambiguous, we will vacate the order of dismissal and remand the case for fact-finding on the intent of the compact’s drafters.” Wayne Land and Mineral Group LLC has argued that the Commission doesn’t have authority to assert control over natural gas drilling in the region. The commission—which includes the governors of Delaware, New Jersey, New York, and Pennsylvania and a federal representative from the Army Corps of Engineers—is moving to ban hydraulic fracturing in the 13,539-square-mile Basin. According to *Bloomberg News*, if the lower court were to decide in favor of the Pennsylvania driller, it could hamstring the Commission’s ability to move forward with its pending ban, which it proposed last November. [Read more.](#)

STATE – Legislative

- **Natural Resources; Land Acquisition – Michigan.** (*Update to 4/24/17 Weekly Report*) On June 27, Governor Rick Snyder (R) signed companion bills [SB 302](#) and [HR 4475](#) into law. Both Republican-sponsored bills will take effect immediately. HR 4475 requires that an order or rule promulgated to protect and conserve natural resources would need to consider the existence or potential for natural resources-based industries, such as oil and gas development on public land, among other provisions. SB 302 contains similar language but also amends the Natural Resources and Environmental Protection Act to require certain duties of the state Department of Natural Resources regarding public land use. “This unique strategy for managing the state’s plentiful natural resources will benefit residents and visitors alike for generations to come,” said Governor Snyder. “By having solid rules and guidelines for how the state acquires land and what it can do with the land, we are ensuring everyone has fair access to purchase and use the land in Michigan.” [Read more.](#)
- **Idle and Orphaned Wells – Ohio.** (*Update to 6/18/18 Weekly Report*) On June 29, [HB 225](#) was signed into law by Governor John Kasich (R). This 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 not less than 30 percent of the revenue credited to the oil and gas well fund to be used for plugging idle and orphaned wells rather than the current 14 percent. The bill would take effect 90 days after becoming law. [Read more.](#)

STATE – Regulatory

- **Texas Railroad Commission Annual Plan – Texas.** On June 5, the Texas Railroad Commission (RRC) released the final version of its Fiscal Year 2019 [Oil and Gas Monitoring and Enforcement Plan](#), known as their “Annual Plan”. The RRC’s Annual

Plan presents the agency's strategic priorities for monitoring and enforcement activities that it seeks to implement beginning in Fiscal Year 2019, which begins October 1, 2018. "Chief among these priorities is the inspection of all onshore wells at least once every five years and offshore wells in state waters at least once every two years. The Commission further proposes to increase agency transparency by improving the availability of searchable inspection, compliance and enforcement data on the RRC's website." [Read more](#).

STATE – Judicial

- **Rule of Capture – Pennsylvania.** (*Update to 5/14/18 Weekly Report*) On June 12, the Pennsylvania Superior (Appellate) Court refused to reconsider [Briggs v. Southwestern Energy Production Company](#) (Case No. 2018 PA Super 79) after Southwestern Energy petitioned the Court to rehear the case with more judges after a two-judge panel ruled on April 2 "that the rule of capture did not bar a claim for trespass under circumstances where an operator's hydraulic fracturing activity resulted in the drainage of gas from an adjoining tract that was not a part of the operator's lease." In that case, the Pennsylvania Superior Court recognized claims for subsurface trespass from hydraulic fracturing and rejected the argument that the Rule of Capture precluded such claims as a matter of law. The Court, in drawing a distinction between hydraulic fracturing and conventional drilling, held that the [long-established "Rule of Capture" principle](#) did not apply to prohibit a trespass claim by an adjoining unleased landowner against a producer when that producer utilizes hydraulic fracturing for a horizontal well. According to the Marcellus Shale Coalition, the "panel's decision disrupts longstanding rules of law on which property owners, production companies, and many other stakeholders in Pennsylvania have relied to conduct their affairs." However, "the Pennsylvania appeals court did not comment on the *Briggs* case in rendering its decision not to rehear the matter." According to the law firm, Vinson & Elkins, Southwestern Energy "is now faced with the prospect of petitioning the Pennsylvania Supreme Court for review of the case." The case, however, is currently on remand at the trial court level to provide the plaintiff with an opportunity to "fully develop" their trespass (and conversion) claims. AAPL will continue to monitor and report on developments in this case for possible amicus intervention and further updates. [Read more](#). For a deeper analysis and insight on the case you may also access the Pennsylvania Bar Association's Spring 2018 Shale Energy Law Committee report [here](#).

State-by-State Legislative Session Overview

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

Michigan is in recess until July 25. **Illinois, New Hampshire, New York, Rhode Island** and **Wisconsin** are in recess to the call of the chair.

The following states adjourned on the dates provided: **Delaware** (June 30) and **North Carolina** (July 6).

West Virginia Republican Gov. Jim Justice issued a [proclamation](#) calling for a special session to begin June 26 to address possible removal of one or more Justices of the Supreme Court of Appeals, reports [WVNSTV](#).

Maine's special session is in recess until July 9. **Virginia's** special session is in recess to the call of the chair.

Louisiana adjourned their third special session on June 24, according to [The Livingston Parish News](#). **Vermont** adjourned their second special session on June 25 with a budget compromise, avoiding a state shut down, reports the [Burlington Free Press](#). Republican Gov. Phil Scott allowed the state appropriations bill to become law without his signature on June 30. The **South Carolina** legislature adjourned their two-day special session on June 28, reports the [Greenville News](#).

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 8 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. Mike Parson has 45 days from presentment to act on legislation or it becomes law without signature. **New Hampshire** Republican Gov. Chris Sununu has five days from presentment, Sundays excepted, to sign or veto legislation or it becomes law without signature. **New York** Democratic Gov. Andrew Cuomo has 10 days from presentment, Sundays excepted, to sign or veto legislation or it becomes law without signature. **Rhode Island** Democratic Gov. Gina Raimondo has six days from presentment, Sundays excepted, to act on legislation or it becomes law without signature. **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. **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. **Wisconsin** Republican Gov. Scott Walker has six days from presentment, Sundays excepted, to act on special session legislation or it becomes law.

The following states are currently holding 2019 interim committee hearings: [Alabama](#), [Alaska](#), [Arizona](#), [Arkansas](#), [Colorado](#), [Connecticut](#), [Hawaii](#), [Idaho](#), [Indiana](#), [Iowa](#), [Kansas](#),

[Kentucky](#), [Maine](#), [Maryland](#), [Minnesota](#), [Mississippi Senate](#), [Montana](#), [Nevada](#), [New Mexico](#), [North Dakota](#), [Oklahoma House](#), [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:
[Kentucky](#), [Montana](#), [North Dakota](#) and [Utah](#).

Please Note: Due to the Independence Day holiday, AAPL's bill tracking service does not issue their bill report this week. Their detailed bill analysis section will resume in this space in the next weekly report.

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