



## GOVERNMENTAL AFFAIRS REPORT

## **Highlights At-A-Glance**

## **FEDERAL – Legislative**

H.R. 8802 - Public Lands and Waters Climate Leadership Act of 2022. On September 13, Rep. Raul Grijalva (D-NM) introduced H.R. 8802, known as the Public Lands and Waters Climate Leadership Act of 2022. The bill would prohibit new federal fossil fuel leasing and permitting until the U.S. Department of the Interior (DOI) and the U.S. Forest Service (USFS) "demonstrate that lifecycle emissions from additional oil, gas, and coal development are consistent with the Biden administration's 2030, 2035, and 2050 climate change targets. The bill also requires DOI and USFS to develop, publish, implement, and regularly update a comprehensive strategy to guide the agencies' efforts to reduce GHG emissions and to keep the public informed of the progress." Read more.

S. 4815 - Simplify Timelines and Assure Regulatory Transparency Act. As Congressional onlookers eagerly await the Democrats' release of official bill text for their side deal on permitting - made as part of an agreement with Sen. Joe Manchin (D-WV) to garner his support for the recently enacted Inflation Reduction Act – West Virginia Republican Senator Shelley Moore Capito has introduced her own version of the permitting bill, although it is unlikely that this version will be the legislation adopted. S. 4815, known as the Simplify Timelines and Assure Regulatory Transparency Act or START Act, was introduced on September 12 and offers "strong permitting reforms to burdensome regulations currently delaying key energy and infrastructure projects across the country." According to Sen. Capito, "The START Act would provide regulatory certainty to states, expedite permitting and review processes, codify substantive environmental regulatory reforms, and expedite permitting of the critically important Mountain Valley Pipeline. Republicans are unified in

working to deliver needed permitting reform, and this legislation is a blueprint for how we can help communities benefit from being able to finally get critical projects across the finish line." Read more.

House Committee on Oversight and Reform Hearing - Fueling the Climate Crisis: Examining Big Oil's Prices, Profits, and Pledges. On September 15, the House Committee on Oversight and Reform held a hearing titled, "Fueling the Climate Crisis: Examining Big Oil's Prices, Profits, and Pledges." The Democrats' hearing purpose was to "examine Exxon, Chevron, BP, and Shell's recordbreaking profits, discuss the adequacy of their climate pledges, and hear firsthand accounts from survivors of climate change-induced severe weather events." According to the Committee, "Despite reaping record profits, these companies have not taken the steps that scientists say are needed to prevent the worst climate impacts. Instead, they continue their greenwashing campaign by publicly supporting the Paris Agreement and claiming to be working towards a net-zero future, while issuing incomplete and misleading climate pledges and making inadequate investments in unproven energy sources and technologies." To access the committee hearing documents and video recording of the hearing, Read more.

House Natural Resources Subcommittee Hearing on the Role of Public Relations Firms in Preventing Action on Climate Change.

On September 14, the House Natural Resources Subcommittee on Oversight and Investigations held a hearing titled, "The Role of Public Relations Firms in Preventing Action on Climate Change." The hearing coincides with the release of a Democrat congressional report presenting "select findings and 98 pages of evidentiary documents from the Committee's investigation into public relations (PR)

firms' work with fossil fuel companies." Read the report here. According to the subcommittee, "For decades, the oil and gas industry denied or downplayed climate change and fossil fuels' role in causing it. As outright climate change denial has become less accepted by the public, the industry has funneled millions of dollars into PR firms to execute subtler and more sophisticated campaigns." To access the committee hearing documents and video recording of the hearing, Read more.

### FEDERAL - Regulatory

BLM Resource Advisory Council – New Mexico. On September 7, the Bureau of Land Management (BLM) announced a Notice of Public Meeting, Northern New Mexico Resource Advisory Council, New Mexico (87 Fed. Reg. 54712) to be held on December 1-2, 2022. The Northern New Mexico Resource Advisory Council (RAC) will be holding a field tour and meeting during those days on a variety of planning and management issues associated with public land management in its area of jurisdiction. Northern New Mexico RAC field tours and meetings are open to the public. Read more.

BLM Resource Advisory Council – Utah. On September 8, the BLM announced a Notice of Public Meetings, Utah Resource Advisory Council, Utah (87 Fed. Reg. 55035) to be held on multiple dates beginning in October and will include a field tour. The Utah Resource Advisory Council (RAC) provides recommendations to the Secretary of the Interior, through the BLM, on a variety of public lands issues. Utah RAC meetings and tours are open to the public. Read more.

BLM Information Collection. On September 9, the BLM published a Notice of Information Collection regarding the crossing of private lands for access to BLM lands. According to the notice, "This form will gather information from the public that is required by private landowners in order to cross private lands in order to access BLM lands. The information is necessary to help ensure the accountability of those seeking to cross private lands in order to access BLM

public lands." The public comment period is open through November 8, 2022. Read more.

Carbon Sequestration - Wyoming. As reported in the Oil & Gas Journal, "ExxonMobil Corp. has received U.S. Bureau of Land Management (BLM) approval to sequester carbon dioxide (CO<sub>2</sub>) under federal land in Lincoln and Sweetwater counties, Wyoming." Read more. Notably, "The project with ExxonMobil is the first time BLM has issued a permit to allow for permanent underground storage of CO2." According to the Independent Petroleum Association of America, by betting on Carbon Capture and Storage (CCS), "Wyoming is finding the middle ground between continuing to provide affordable and reliable energy and developing available resources in the most sustainable way, while also advancing climate solutions. Even more, by spearheading CCS storage in the United States Wyoming proves that CCS is a reliable technology for states that are heavily intertwined with the fossil fuel industry. CCS provides a technological solution that is focused on delivering innovation, while creating lowcarbon growth opportunities that are essential to climate change mitigation." Read more.

#### Interior Department Approves Offshore Lease Sale.

On September 14, the U.S. Department of the Interior approved nearly \$190 million in bids from an offshore oil and gas lease sale held nearly a year ago in the Gulf of Mexico but had previously been rejected by a federal judge in February 2022. In that case, the court said the Biden administration had failed to adequately consider the lease sale's effect on greenhouse gas emissions. Approval of the lease sale – a concession given to West Virginia Democrat Senator Joe Manchin for his necessary support for the recently enacted Inflation Reduction Act - makes that case moot and accepts as valid the 307 high bids. "The action met a 30day deadline set in the climate bill signed Aug. 16. That law also requires the bureau to reschedule three sales that had been put on hold by a moratorium ordered by President Joe Biden, with the first to be held by Dec. 31." Read more.

## FEDERAL - Judicial

BLM Leasing - Montana; North Dakota; South Dakota. On September 6, the Biden administration entered into a settlement agreement with environmental litigants who in 2021 challenged the Trump administration's Bureau of Land Management (BLM) federal leasing plans for an alleged failure to address the impacts of oil and gas extraction to the climate and groundwater and violating the National Environmental Policy Act (NEPA). The lawsuit relates to five BLM decisions between July 2019 and September 2020 that authorized the sale of 113 oil and gas leases encompassing 58,617 acres of public land in the states of Montana, North Dakota, and South Dakota. In WildEarth Guardians v. U.S. Bureau of Land Management (Case No. 4:21-cv-00004- BMM-JTJ), the U.S. District Court for the District of Montana approved the settlement which requires the BLM to conduct further environmental analysis of the lands at issue and "incorporate consideration of the social cost of greenhouse gases." The BLM will then publish the environmental analysis for public review and comment - although the court did not impose a specific date for completion. Additionally, the agreement provides that the BLM "will not approve any new Applications for Permits to Drill ('APDs') on the challenged leases. Further, BLM agrees that pending completion of its additional NEPA analysis, and until a new decision is rendered [...] it will not approve new right-of-way grants for lands subject to the challenged leases that appear, based on a reasonable inspection, to be sought for the purpose of developing one or more of the challenged oil and gas leases." We will continue keeping AAPL members informed once the BLM releases their NEPA review for public comment. Read more.

BLM Leasing – Wyoming. On September 2, the U.S. District Court for the District of Wyoming affirmed in the consolidated case, *Western Energy Alliance v. Biden* (Case No. 2:21-cv-00013-SWS), "the Biden administration's authority to not hold oil and gas lease sales in early 2021. The judge further found that industry groups lacked standing to challenge those lease sale postponements. The Wyoming court

rejected across the board the arguments by industry and Wyoming, and found that BLM acted well within its legal authority in postponing lease sales in order to ensure that it fully considered the environmental harms they could cause. The court recognized that authority and properly upheld the postponements." The Western Energy Alliance said they plan to appeal the court decision upholding the Biden administration's oil and gas leasing delays. This latest court decision is in contravention to an August 18 ruling on the same issues previously reported in Louisiana v. Biden (Case No. 21-30505), albeit in different states, delivered by the U.S. District Court for the Western District of Louisiana. Read more. Those states in question were Alabama, Alaska, Arkansas, Georgia, Louisiana, Mississippi, Missouri, Montana, Nebraska, Oklahoma, Texas, Utah, and West Virginia. The split opinions between federal district courts may result in broader appellate review. Read more.

## **STATE – Legislative**

## **Budget Bill Climate Provisions – California.**

(Update to 9/6/22 Report) On September 6, Gov. Gavin Newsom (D) signed AB 209 into law. Sponsored by Asm. Phil Tang (D), the measure is the omnibus energy budget bill and contains a multitude of provisions necessary to implement the state's 2022 Budget Act and includes various energy and climate change provisions. Read more. Specifically, the bill includes greenhouse gas emissions reduction incentives; offshore wind development provisions; provides funding for renewable energy projects and carbon capture pilots eligible for federal match funding; and prohibits operating fossil fuel resources in the Water Resources Strategic Reserve except during extreme events. The bill takes immediate effect. Read more.

Setbacks; Health Protection Zones – California. (*Update to 9/6/22 Report*) On September 16, Gov. Gavin Newsom (D) signed SB 1137 into law. Sponsored by Sen. Monique Limón (D), the statewide setback bill prohibits the Geologic Energy Management Division from approving any notice of intention within a health protection zone, as defined,

except for under specified circumstances. Read more. The bill also requires all oil or gas production facilities or wells with a wellhead within a health protection zone to comply with health, safety, and environmental requirements, as provided, and comply with specified community communication and water sampling requirements. The bill defines "health protection zone" as the area within 3,200 feet of a sensitive receptor, which is defined "as a residence, education resource, community resource, health care facility, dormitory, or any building open to the public." The California Independent Petroleum Association came out strongly against this bill - which was quickly pushed through in the last three days of the session at the insistence of Gov. Newsom – saying, "A 3,200-foot setback is an arbitrary number supported by zero data and zero science. It's a number that extremists fed to Newsom for a purely political reason: to shut down the California oil industry. California already has setbacks. California's local counties and cities have developed scientifically based setbacks throughout the state, working with interested parties and the oil industry to develop thoughtful setbacks. Yet Governor Newsom is pressing an 11th-hour one-size-fits-all statewide setback that would undo decades of thoughtful policymaking on the local level." Read more.

California Climate Crisis Act - California.

(Update to 9/6/22 Report) On September 16, Gov. Gavin Newsom (D) signed AB 1279 into law. Read more. Sponsored by Asm. Al Muratsuchi (D), the bill, known as the California Climate Crisis Act, "would declare the policy of the state both to achieve net zero greenhouse gas emissions as soon as possible, but no later than 2045, and achieve and maintain net negative greenhouse gas emissions thereafter, and to ensure that by 2045, statewide anthropogenic greenhouse gas emissions are reduced to at least 85% below the 1990 levels. The bill would require the state board to work with relevant state agencies to ensure that updates to the scoping plan identify and recommend measures to achieve these policy goals and to identify and implement a variety of policies and strategies that enable carbon dioxide removal solutions and carbon capture, utilization, and storage technologies in California, as specified. The

bill would require the state board to submit an annual report, as specified." Read more.

Carbon Capture – California. On September 16, Gov. Gavin Newsom (D) signed SB 905 into law. Read more. Sponsored by Sen. Anna Caballero (D), the bill "establishes a framework for capture, utilization, and storage of compressed carbon dioxide (CO2), a greenhouse gas (GHG). The bill complements existing policies to meet California's long-term climate change goals." Read more.

Greenhouse Gas Emissions – California. On September 16, Gov. Gavin Newsom (D) signed AB 1757 into law. Read more. Sponsored by Asm. Cristina Garcia (D), the bill "requires the Natural Resources Agency in collaboration with specified entities to determine on or before January 1, 2024, an ambitious range of targets for natural carbon sequestration, and for nature-based climate solutions, that reduce greenhouse gas emissions for 2030, 2038, and 2045, to support state goals to achieve carbon neutrality and foster climate adaptation and resilience." Read more.

Enhanced Oil Recovery; Injection Wells - California.

On September 16, Gov. Gavin Newsom (D) signed SB 1314 into law. Read more. Sponsored by Sen. Monique Limón (D), the bill prohibits an operator from injecting a concentrated carbon dioxide fluid produced by a carbon dioxide capture project or a carbon dioxide capture and sequestration project into a Class II injection well for purposes of enhanced oil recovery, including the facilitation of enhanced oil recovery from another well. Read more.

Marketable Title; Recordation – Michigan. On September 8, HB 6370 was introduced by Rep. Roger Hauck (R). The bill would define a marketable record title to an interest in land; require the filing of notices of claim of interest in such land in certain cases within a definite period of time and to require the recording thereof; make invalid and of no force or effect all claims with respect to the land affected thereby where no such notices of claim of interest are filed within the required period; provide for certain penalties for filing

slanderous notices of claim of interest, and provide certain exceptions. Read more.

County Natural Gas Bans – Pennsylvania. On September 13, Sen. Gene Yaw (R) introduced SB 1331. The bill would "prohibit counties that ban natural gas development under county-owned land from receiving their county share of Impact Fee drilling funds or being eligible applicants for Marcellus Legacy Fund grants administered by the Commonwealth Financing Authority. Municipalities within a county that bans natural gas development under county-owned land will still receive their municipal distributions of the Impact Fee." Read more.

### **STATE – Regulatory**

Los Angeles Oil and Gas Drilling Ordinance -California. On September 15, the Los Angeles City Planning Commission announced it "has taken significant steps this week to advance the Oil Ordinance, releasing an updated version of the draft proposed Oil Ordinance [CF17-0447], a Mitigated Negative Declaration (please see Environmental Case Number ENV-2022-4865-MND) which analyzes potential impacts on the environment, and a staff recommendation report to the City Planning Commission. The recommended ordinance, dated September 2022, includes revisions made since the release of the August 2022 draft ordinance. These revisions clarify or correct language originally presented in the prior draft and reflect comments received from the public. The revised ordinance retains conditions listed in Los Angeles Municipal Code Sections 13.01 E and F, which apply to existing oil operations. It also incorporates language to allow actions that prevent or respond to threats to public health, safety, or the environment." Read more. For background, "Pursuant to a Mayoral and City Council directive, Los Angeles City Planning drafted a proposed citywide ordinance that would prohibit new oil and gas extraction and make existing extraction activities a nonconforming use in all zones. Upon Council adoption and Mayoral signature, the ordinance would immediately ban new oil and gas drilling and put an end to existing operations after a 20-year

amortization period." Read more. The Mitigated Negative Declaration for the Oil Ordinance is available for public review and comment and can be accessed on the NMED website (please see Environmental Case Number ENV-2022-4865-MND). The 30-day comment period will end on October 17, 2022. You may submit written comments (and include Environmental Case No. ENV-2022-4865-MND) via email or mail by 5 p.m. on October 17, 2022 to the following addresses: Jennifer Torres, City of Los Angeles Department of City Planning, 200 North Spring Street, Room 701, Los Angeles, CA 90012 or at planning.oildrilling@lacity.org. Beyond the Mitigated Negative Declaration comment period, general public comments are also welcome continually until the Oil Ordinance is adopted by City Council. The City Planning Commission (CPC) will consider the proposed Oil Ordinance at a public meeting on September 22, 2022. The agenda for this meeting is available at planning4la.org/hearings, and includes instructions on submitting comments directly to the CPC. This public hearing will be conducted entirely on Zoom and will allow for remote public comment.

# CalGEM Releases Draft Orphan Well Plan – California. On September 15, the California Geologic Energy Management Division (CalGEM) unveiled a

Energy Management Division (CalGEM) unveiled a draft plan for prioritizing inspections and repairs at oil wells suspected of leaking methane, starting in Kern County. The CalGEM draft plan will decide "which wells get attention first according to the risks they present to nearby residents, the mechanical integrity of the wells themselves, potential hazards, proximity to disadvantaged communities and possible impacts on sources of drinking water. The systematic approach proposed Thursday is expected to guide which, of an estimated 5,300 idle wells statewide suspected of having no existing operator, would be first in line for plugging and abandonment work funded by \$100 million in state money and up to \$165 million from the federal government." Read more. A copy of the draft proposal is available online here. The public comment period is open until October 7, 2022. A public comment workshop is also scheduled to start at 5:30 p.m. on October 6, 2022. Read more. To submit comments to CalGEM by email, send those directly

to: <u>CalGEMOrphanWells@conservation.ca.gov</u>. For any questions regarding the above you may contact CalGEM directly at 916-445-9686.

CalGEM Methane Emissions Regulation -

California. On August 31, the law firm Manatt, Phelps & Phillips, LLP delivered a letter of "Objection to CalGEM's Issuance of Notices of Violation Related to Methane Leaks and Other Emissions Matters" in their representation of the California Independent Petroleum Association (CIPA). The letter notes that CIPA strongly objects to "the unauthorized imposition of new regulatory requirements" by the Geologic Energy Management Division of California's Department of Conservation (CalGEM). As noted, after "months of sending threatening letters to operators, CalGEM began issuing notices of violation for possible methane leaks in July and August." The letter asserts that "CalGEM's actions capriciously ignore and purport to supersede the regulatory authority of CARB and local air districts. To be clear, CalGEM has no jurisdiction - at all - to enforce air emissions." The letter asks "that CalGEM rescind all outstanding notices of violation issued for methane leaks and cease issuance of same and return CalGEM attention to meeting its current legislative and regulatory obligations." Read more.

Dakota Access Pipeline – Illinois. On September 15, the Illinois Commerce Commission (ICC) "approved a proposed expansion of the Dakota Access Pipeline that pushes its capacity past 1 million barrels per day, rejecting environmental groups' objections that the expansion doesn't materially benefit the public," according to Bloomberg Government reporting. The unanimous ICC decision "in favor of Dakota Access LLC and Energy Transfer Crude Oil Company LLC reversed a successful appeal of a 2020 commission decision by pipeline opponents, whose concerns include worry about a pipeline spill contaminating water supplies." Read more.

**Ozone Precursor Rule – New Mexico.** (*Update to 8/22/22 Report*) On September 15, the New Mexico Environment Department (NMED) announced that the first resources for compliance with the new Ozone

Precursor Rule are available on the NMED website. The resource links on this page include: the presentation slides and recording from the industry meeting held in Farmington on September 1, 2022; the final rule as published in the New Mexico Register August 5, 2022; an initial compliance guidelines document; a compliance timelines document (chronological); and a frequently asked questions document, which will be updated periodically. Read more. According to the NMED, their "goal is to provide industry with helpful information to assist in compliance with the new rule. Additional compliance guidelines, focused on specific sections of the rule, will be forthcoming. Additionally, application forms and a pre-approved technologies list will appear" once available. For more information about the NMED regulatory programs, Read more.

Well Plugging – Ohio. The state will begin plugging abandoned oil and gas wells using \$25 million in federal funds approved in the bipartisan infrastructure bill enacted last year. The Ohio Department of Natural Resources (ODNR) reports it will utilize this funding to plug between 170 and 320 orphaned wells, many of which are located in the Appalachian region.

Read more about the ODNR Division of Oil & Gas Resources Orphan Well program on their website which also includes details on their plan. Read more.

New President Selected to Head the State Oil and Gas Association – West Virginia. Maribeth Anderson – current Director of Government Relations for Antero Resources – was recently elected as the first female president of the 14-member Board of Directors for the Gas and Oil Association of West Virginia. Read more.

### **INDUSTRY NEWS FLASH**

▶ Texas oil and gas producers pay record taxes to the state. Texas Comptroller Glenn Hegar has announced that state revenues from the oil production tax generated \$6.36 billion up 84% from FY 2021, while the natural gas production tax generated \$4.47

billion up 185% from last year. Following the report, Railroad Commission Chairman Wayne Christian said, "The oil and gas industry paid around \$11 billion in production taxes alone last year – not including its strong sales tax contributions – directly benefiting Texans and our livelihoods." Read more.

▶ New British Prime Minister lifts hydraulic fracturing moratorium in UK. New British Prime Minister Liz Truss announced during her opening speech to the House of Commons on September 8 that she will lift the country's moratorium on hydraulic fracturing in addition to pursuing other measures to accelerate development of domestic energy supplies. "Far from being dependent on the global energy market and the actions of malign actors, we will make sure that the UK is a net energy exporter by 2040." The move ends the hydraulic fracturing ban in place since 2019. Read more.

▶ OPEC+ agrees to small production cut. On September 5, OPEC+ nations agreed to a small oil production cut of 100,000 barrels per day for the coming month. As reported by CNBC, the move was a surprise to energy markets and analysts who "had broadly expected the group to stay the course with its production policy." This is seen as a setback for the Biden administration which had called on the group to increase production. Read more.

#### **LEGISLATIVE SESSION OVERVIEW**

#### **States in Session**



**Session Notes: Michigan** is in regular session. The **U.S.** Congress is also in session.

The following are in recess until the dates provided: **Pennsylvania** (September 19) and **Ohio** (November 16).

North Carolina was scheduled to adjourn on July 1, however, the <u>adjournment resolution</u> calls for the regular session to reconvene for mini sessions over the coming months. The most recent session occurred on August 23. The next session is scheduled for September 20.

**Missouri** lawmakers reconvened for a combined special and veto session on September 14. According to a <u>press release</u>, the session will deal with income tax cuts and extending agriculture tax credit programs and may last through September 22.

West Virginia Republican Gov. Jim Justice convened the legislature for a short special session on September 12, the state's fourth special session this year, reports <a href="The Inter-Mountain">The Inter-Mountain</a>. The legislature approved a "Certified Industrial Business Expansion Development Program" within the Department of Economic Development and appropriated \$150 million to the Division of Highways for road maintenance.

Signing Deadlines (by date): California Democratic Gov. Gavin Newsom has until September 30 to sign or veto legislation or it becomes law without signature.

New York Democratic Gov. Kathy Hochul has 10 days from presentment, Sundays excepted, to act on legislation or it becomes law without signature. North Carolina Democratic Gov. Roy Cooper has 10 days from presentment to act on legislation or it becomes law without signature.

The following states are currently holding 2022 interim committee hearings: Alabama, Alaska, Arizona, Arkansas, Colorado, Connecticut, Delaware, Hawaii, Georgia, Idaho, Illinois House and Senate, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Missouri House and Senate, Minnesota, Mississippi House and Senate, Montana, Nebraska, Nevada, New Hampshire House and Senate, New Mexico, North Dakota, Ohio, Oregon, Rhode Island, South Carolina House and Senate, South Dakota, Tennessee, Texas House and

<u>Senate</u>, <u>Utah</u>, <u>Vermont</u>, <u>Virginia</u>, <u>Washington</u>, <u>West Virginia</u>, <u>Wisconsin</u> and <u>Wyoming</u>.

The following states are currently posting 2023 bill drafts, pre-files and interim studies: Florida, Kentucky, Montana, Nevada, North Dakota, Utah, Virginia and Wyoming. ■

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