

GOVERNMENTAL AFFAIRS REPORT



Please Note: Governmental Affairs reports are not published during the holidays and will resume with the January 13, 2025 issue. Wishing you a safe, merry, and joyous holiday season and a very happy new year!



FEDERAL – Legislative

House Energy & Commerce Committee Chairman.

On December 9, Rep. Brett Guthrie (R-KY) was selected by his colleagues as Chairman of the House Energy & Commerce Committee for the next Congress. Rep. Guthrie said, “I am humbled and excited to get to work next Congress to deliver on President Trump and House Republicans’ America First agenda. We must work together to restore America’s energy dominance and lower energy prices.” As reported by law firm Holland Hart, “Guthrie has identified streamlining permitting for energy infrastructure as one of his top priorities in the next Congress. Additionally, he plans to focus the committee’s attention on overturning key Biden administration environmental regulations.” [Read more.](#)

FEDERAL – Regulatory

BLM ANWR Oil and Gas Lease Sale – Alaska. On December 9, the Bureau of Land Management (BLM) issued a [Notice of Sale](#) for a January 9, 2025 oil and gas lease sale in the Coastal Plain of the Arctic National Wildlife Refuge (ANWR) in Alaska. [Read the BLM press release here.](#) The BLM has also made available a Record of Decision and Supplemental Environmental Impact Statement for the Coastal Plain Oil and Gas Leasing Program [available here](#) for the lease sale. (See also *Notice of Lease Sale and Notice of Availability of the Detailed Statement of Sale for the Coastal Plain 2025 Oil and Gas Lease Sale*; [89 Fed. Reg. 99270](#); *Notice of Availability of the Record of Decision for the*

Final Supplemental Environmental Impact Statement for the Coastal Plain Oil and Gas Leasing Program, Alaska; [89 Fed. Reg. 101042](#)). As reported by the *Oil & Gas Journal*, the sale will allow bids “for oil and gas leases on 400,000 acres [...] the smallest amount of acreage required by Congress as part of the Tax Cuts and Jobs Act of 2017.” According to the BLM, “it opted for the least acreage because the plan ‘best balances’ the need to protect wildlife and the environment for development while meeting Congress’ lease mandate.” [Read more.](#)

BLM Resource Advisory Councils – Colorado.

On December 18, the BLM published a *Notice of Joint and Individual Colorado Resource Advisory Council Meetings* ([89 Fed. Reg. 102938](#)). The notice announces multiple 2025 meeting dates for the Colorado Northwest Resource Advisory Council (RAC), Southwest RAC, and Rocky Mountain RAC. All meetings are open to the public. [Read more.](#)

BLM Resource Advisory Council – Missouri.

On December 17, the BLM published a notice, *Public Meeting for the Missouri Basin Resource Advisory Council* ([89 Fed. Reg. 102162](#)). The meeting will be held virtually on January 16, 2025 and is open to the public. [Read more.](#)

BLM Resource Advisory Council – Montana. On December 13, the BLM published a *Call for Nominations to the Western Montana Resource Advisory Council* ([89 Fed. Reg. 101044](#)). According to the BLM, “The purpose of this notice is to request public nominations for the Bureau of Land Management’s (BLM) Western Montana Resource Advisory Council (RAC) to fill existing vacancies, as well as for member terms that are scheduled to expire. The RAC provides advice and recommendations to the BLM on land use planning and management of the National System of Public Lands within the Western Montana District.” The deadline for

nominations is January 13, 2025. On the same day, the BLM announced a meeting notice for the Western Montana RAC. The meeting will be held virtually on January 14, 2025, and is open to the public.

[Read more.](#)

BLM Resource Advisory Council – New Mexico.

On December 16, the BLM published a *Notice of Public Meeting Northern New Mexico Resource Advisory Council, New Mexico* ([89 Fed. Reg. 101620](#)). As noted by the BLM, “The chartered 12-member Northern New Mexico RAC advises the Secretary of the Interior, through the BLM New Mexico State Director, about planning and management of public land resources located within the jurisdictional boundaries of the RAC.” The RAC will hold a field tour and meeting on January 16-17, 2025. The meeting will be held virtually online, and the meeting and field tour are open to the public.

[Read more.](#)

BLM Land Withdrawal – New Mexico. On December 16, the BLM published a *Notice of Proposed Withdrawal and Public Meeting, Upper Pecos River Watershed Protection Area Withdrawal, New Mexico* ([89 Fed. Reg. 101621](#)). According to the notice, “the Secretary of the Interior proposes to withdraw 163,483 acres of National Forest System lands and 1,327.16 acres of public lands from location and entry under the United States mining laws, and leasing under the mineral and geothermal leasing laws, subject to valid existing rights. The lands would remain open to disposals under the mineral materials laws.” The public comment period is open through March 17, 2025. [Read more.](#)

BLM Resource Advisory Council – Wyoming.

On December 17, the BLM published a notice, *Wyoming Resource Advisory Council Announces 2025 Meetings* ([89 Fed. Reg. 102161](#)). The notice provides Wyoming Resource Advisory Council (RAC) meeting dates for 2025. According to the BLM, “The 10-member RAC provides recommendations to the Secretary of the Interior, through the BLM, on a variety of public land challenges within the State of Wyoming.” All meetings are open to the public. [Read more.](#)

Department of Energy LNG Exports Study. On December 17, the U.S. Department of Energy (DOE) released an updated study of U.S. liquefied natural gas (LNG) exports. According to DOE Secretary Jennifer Granholm, “the Natural Gas Act has given the U.S. Secretary of Energy the responsibility to evaluate whether authorizations for the export of liquefied natural gas to non-free-trade-agreement countries is consistent with the ‘public interest.’ That determination includes a wide variety of factors including impact on American consumers, workers, and the environment. We have now finalized our update of various pieces of analysis for public comment.” [Read more.](#) According to the DOE, “This multi-volume study of U.S. LNG exports serves to provide an updated understanding of the potential effects of U.S. LNG exports on the domestic economy, U.S. households and consumers; communities that live near locations where natural gas is produced or exported; domestic and international energy security, including effects on U.S. trading partners; and the environment and climate.” [Read a detailed DOE summary of the study here.](#) Once the study is formally published in the Federal Register, the public will have 60 days to submit public comments. As of this report, the DOE has yet to publish the study in the Federal Register. [Read more.](#) Industry groups have already weighed in, with the American Petroleum Institute’s President and CEO Mike Sommers saying, “it’s time to lift the pause on new LNG export permits and restore American energy leadership around the world.” In a statement sent to *Rigzone* by the American Exploration & Production Council (AXPC), AXPC CEO Anne Bradbury said, “there is strong bipartisan support for U.S. LNG exports because study after study shows that they strengthen the American economy, shore up global security, and advance collective emissions reductions goals - all while U.S. natural gas prices remain affordable and stable from an abundant domestic supply of natural gas.” And American Energy Alliance President Thomas Pyle said the latest LNG exports analysis “fundamentally misrepresents the economic and environmental benefits of America’s global leadership in energy production.” [Read more.](#)

EPA Class VI Injection Well Primacy; Carbon Capture and Sequestration – West Virginia. On

November 27, the U.S. Environmental Protection Agency (EPA) published a proposed rule, *West Virginia Underground Injection Control (UIC) Program; Class VI Primacy* ([89 Fed. Reg. 93538](#)), that facilitates the submission by West Virginia seeking the EPA approve the state's application to obtain primary authority over the issuance of permits for Class VI underground injection wells located within the state. The public comment period is open through December 30, 2024. As reported by law firm Latham & Watkins LLP, "West Virginia's petition for primacy follows the adoption of legislation and development of state regulations that meet or exceed EPA's Class VI standards. If approved, the WVDEP will assume responsibility for issuing and managing Class VI permits, potentially accelerating the permitting process. This shift is expected to leverage the WVDEP's local expertise and resources, enabling more efficient project approvals tailored to the state's unique geological and industrial landscape." [Read more.](#)

ONRR Accounting and Auditing for Federal Oil and Gas Marginal Properties. On December 10, the U.S. Department of the Interior's Office of Natural Resources Revenue (ONRR) published a notice, *States' Decisions on Participating in Accounting and Auditing Relief for Federal Oil and Gas Marginal Properties* ([89 Fed. Reg. 99275](#)), providing that "ONRR provides two types of accounting and auditing relief for Federal oil and gas production from marginal properties: the cumulative royalty reports and payments relief option, which allows a lessee or designee to submit one royalty report and payment for the calendar year's production; and other requested relief, which allows a lessee or designee to request any type of accounting and auditing relief that is appropriate for production from the marginal property and meets certain requirements. By October 1 of each calendar year, ONRR provides a list of qualifying marginal Federal oil and gas properties to the States receiving a portion of Federal royalties from those properties. Each State then decides whether to participate in neither, one, or both relief options. This notice provides the public each State's decision on whether to participate in marginal property relief." The notice also contains a table showing "the States with qualifying marginal properties and those States' decisions on whether to participate in neither, one,

or both relief options for calendar year 2025."

[Read more.](#)

U.S. Fish and Wildlife Service Rights-of-Way Permitting. On December 11, the U.S. Fish and Wildlife Service (FWS) published a final rule, *Permitting of Rights-of-Way Across National Wildlife Refuges and Other U.S. Fish and Wildlife Service-Administered Lands* ([89 Fed. Reg. 99732](#)). According to the FWS, they are revising their "process for permitting of rights-of-way across National Wildlife Refuge System lands and other Service-administered lands. By aligning Service processes more closely with those of other Department of the Interior bureaus, to the extent practicable and consistent with applicable law, we will reduce the amount of time the Service requires to process applications for rights-of-way across Service-managed lands. We will require a preapplication meeting and use of a standard application, allow electronic submission of applications, and provide the Service with additional flexibility, as appropriate, to determine the fair market value or fair market rental value of rights-of-way across Service-managed lands. Additionally, we are implementing new permit terms and conditions and other regulatory changes." The rule is effective January 10, 2025. [Read more.](#)

STATE – Legislative

State Lease Term Extension – Ohio. On December 11, the Ohio legislature passed [HB 308](#). Originally a bill defining nuclear energy as green energy in the state, a later bill amendment was added by Senate Republicans to extend the primary term of a state oil and gas lease – which includes drilling on state public lands, parks, and wildlife areas – from the existing 3 years to 5 years. The bill now heads to Gov. Mike DeWine (R) for signature. [Read more.](#)

Texas Hydrogen Production Policy Council. On December 5, the Texas Hydrogen Production Policy Council released its report to the Texas legislature, "[Hydrogen Energy Development in Texas – A Report for the 89th Texas Legislature](#)." Council membership, as noted by the Advanced Power Alliance, "is composed of leaders from government and industry including: Christi

Craddick, Chairman Railroad Commission of Texas; Richard Fenza, Air Liquide; Preston Kurtz, Air Products & Chemicals; Nigel Jenvey, Baker Hughes; Keith Wall, CenterPoint Energy; Ian Lindsay, Chevron New Energies; Angie Murray, Enterprise Products; Brian Weeks, GTI Energy; Jeffrey Pollack, Port of Corpus Christi Authority; Brian Korgel, The University of Texas at Austin; and Kelsie Van Hoose, Williams Companies.” [Read more](#). For background, “The report’s recommendations are focused on regulatory oversight of hydrogen production, transportation, storage, and maximizing economic opportunities for the development of the hydrogen industry in Texas.” For a summary of all the report recommendations, [Read more](#).

For all 650+ bills AAPL is currently monitoring and tracking for members, please see the continuously updated member-exclusive AAPL Governmental Affairs Bill Tracking Summary spreadsheet, available through the AAPLConnect LANDNEWS and Governmental Affairs Network member forums [here](#) or on the AAPL website [here](#).

STATE – Regulatory

California Air Resources Board GHG Reporting Notice. On December 5, “the California Air Resources Board (CARB) published an Enforcement Notice providing reporting companies with additional flexibility in preparing their initial greenhouse gas (GHG) emissions reports under the [2023] Climate Corporate Data Accountability Act ([SB 253](#)), which will be due sometime in 2026.” As noted by law firm O’Melveny, SB 253 “imposes GHG emissions reporting obligations on public and private companies with annual revenues over \$1 billion that operate in California. Beginning in 2026, the Act will require reporting entities to annually report their scope 1 and 2 GHG emissions for the prior fiscal year. Additional reporting requirements for scope 3 GHG emissions will begin in 2027.” [Read more](#). The notice provides that “CARB recognizes that companies may need some lead time to implement new data collection processes to allow for fully complete scope 1 and scope 2 emissions reporting, to the extent they do not currently possess or collect the relevant information.” Further, [SB 219](#), enacted in September 2024, “amended state

law to extend the date for CARB to adopt the regulations specified in SB 253 from January 1, 2025, to July 1, 2025. The first reports by reporting entities will still be due in 2026 on a date to be established by CARB in its rulemaking. Those first reports will cover scope 1 and scope 2 emissions during the reporting entity’s prior fiscal year.” [Access the CARB Enforcement Notice here](#). For more information, see this legal analysis from law firm Freshfields [here](#). Further, on December 16, CARB issued an information solicitation asking the public for feedback on its implementation of SB 253, and related bills [SB 261](#) and SB 219, in its role in creating these GHG reporting regulations. The public comment period is open through February 14, 2025. [Access the CARB notice and information for submitting comments here](#). Read more about the CARB notice from law firm Covington & Burling LLP [here](#).

ECMC Produced Water Rulemaking – Colorado.

(Update to 9/30/24 Report) As a reminder, the Colorado Energy & Carbon Management Commission (ECMC) has set January 24, 2025 as the deadline for written comments for their proposed produced water rulemaking. This will be followed by public hearings and associated deadlines to deliver oral public comments at the end of January and into February as noted by the ECMC. [Read more](#). You may also access more information about how to submit public comments on the [ECMC website here](#). For background, on September 20, the ECMC announced the release of produced water carbon rulemaking. [Read more](#). According to the ECMC, “On June 7, 2023, Governor Polis signed into law House Bill 23-1242 which amended the Colorado Oil and Gas Conservation Act, in part, by requiring the Commission to adopt rules implementing a statewide reduction in Fresh Water usage and a corresponding increase in usage of recycled or reused Produced Water at Oil and Gas Locations by December 31, 2024 [...] The Commission instituted this Produced Water Rulemaking to comply with the relevant provisions of House Bill 23-1242.” [Read more](#). You may [access a redline of the proposed rulemaking here](#).

New Mexico Environment Department Clean Transportation Fuel Program – New Mexico.

On December 19, the New Mexico Environment Department (NMED) released their Discussion Draft Rule for the Clean Transportation Fuel Program. [Access the NMED Discussion Draft Rule here.](#) According to the NMED, “New Mexico’s clean transportation fuel program enables producers and importers of low-carbon transportation fuels to generate clean fuel credits, which can then be sold to producers and importers of high-carbon fuels. This credit marketplace will diversify the state’s transportation fuels, paving the way for less emissions.” Gov. Michelle Lujan Grishma (D) said, “New Mexico continues to lead on strategies to protect our planet from climate change while also creating the dynamic new clean energy jobs of the future. This new clean fuel program will help New Mexico continue to make progress toward our ambitious climate goals.” NMED also announced that “The public is encouraged to learn more and provide feedback on the draft rule at upcoming meetings. NMED will host an in-person meeting on Monday, Jan. 6, beginning at 4:30 p.m. at the Albuquerque International Public Library, as well as a virtual meeting from 12 p.m. to 1:30 p.m. on Thursday, Jan. 9. Additional details and links to the meetings are on the [NMED calendar.](#)” Additionally, “From Friday, Dec. 20 through Friday, Jan. 17 at 5 p.m., the department will also accept feedback through [NMED’s public comment portal.](#) The formal rulemaking process planned for the spring and summer of 2025 provides additional opportunities for public engagement and comments.” [Read more.](#)

New Mexico Environment Department Greenhouse Gas Reports – New Mexico. On December 13, the New Mexico Environment Department (NMED) announced it has “released two comprehensive reports analyzing greenhouse gas emissions across the state, providing the most detailed and accurate inventory of New Mexico’s emissions to date. Findings confirm that New Mexico is making significant progress in reducing its greenhouse gas emissions. The state is projected to achieve a 29% reduction in emissions by 2025 compared to 2005 levels, keeping on track to meet Gov. Michelle Lujan Grisham’s

climate goals.” Those reports are the [New Mexico Oil and Gas Greenhouse Gas Emissions Inventory for Year 2005](#) and [New Mexico Greenhouse Gas Emissions Inventory and Forecast.](#) The NMED has also prepared a presentation detailing the reports, [available here.](#) For more information, you may access the [NMED climate change website here.](#) The NMED also says it “will use these findings for the development of a Comprehensive Climate Action Plan supported by the U.S. Environmental Protection Agency-funded [Climate Pollution Reduction Grant.](#)”

Commercial Activity Tax Records Retention – Ohio.

On December 16, a new section of the Ohio tax code regarding commercial activity tax record retention went into effect. The proposed rule was originally released on October 7, 2024 by the Ohio Department of Taxation. [Read more about that proposed rule here](#) The “Commercial Activity Tax” Section 5703-29-18 (Records retention requirements) were amended and add Section (C) requiring certain records be retained for four years as indicated. [Access the updated section here.](#)

Cecil Township Well Setbacks – Pennsylvania.

A new oil and gas well setback ordinance in Cecil Township has taken effect. The Board of Supervisors of Cecil Township in Western Pennsylvania voted in mid-November to approve the ordinance. The amendment to the existing oil and gas ordinance increases “the setback distance for fracking operations to 2,500 feet from protected structures like residences and businesses, and to 5,000 feet from schools and hospitals.” [Access the ordinance here.](#) Although some called for banning drilling operations, as recently reported by *Forbes*, “Pennsylvania localities do not have the legal right to effectively ban fracking through the use of their local zoning laws. In addition, in many Pennsylvania communities with existing fracking operations, there remains substantial support for the process by the citizenry as a whole. Indeed, a recent poll by Muhlenberg College found that the percentage of Pennsylvanians who either strongly or somewhat support fracking has actually increased over the last ten years. However, that same study also showed that Pennsylvania residents overwhelmingly support

stronger regulations for fracking than currently exist in that State.” [Read more.](#)

Railroad Commission Rulemakings – Texas.

On December 17, the Texas Railroad Commission adopted four final rulemakings that AAPL has been reporting on throughout the proposed rulemaking stages this year. The first is: “Amend §1.201 relating to Time Periods for Processing Applications and Issuing Permits Administratively.” This rulemaking notice provides that “The table in §1.201(a) is amended to reflect current permits, operating division names, and permit processing time periods.” The rulemaking also makes certain administrative but non-substantive changes to §1.201 to more closely align with other parts of the state code. [Access the §1.201 rulemaking with a redline of the amendments here.](#) The rule will be officially published in the Texas Register on January 3, 2025 and will take effect on January 6, 2025. The second rule is: “Amend §3.8 and other rules in Chapter 3, and new and amended rules in Chapter 4 to update oil and gas waste management procedures and incorporate recent legislation.” [Read more.](#) According to the RRC, “The new rules in Chapter 4, Subchapter A incorporate and update the requirements from §3.8, relating to Water Protection, and §3.57, relating to Reclaiming Tank Bottoms, Other Hydrocarbon Wastes, and Other Waste Materials. Sections 3.8 and 3.57 are also amended to remove all substantive language from the rules and replace with a notice that the requirements are relocated to Chapter 4. Several other rules in Chapter 3 are amended to replace references to §3.8 and §3.57 with the corresponding provision in new Subchapter A of Chapter 4.” [Access this rulemaking with a redline of the amendments here.](#) For a deeper dive into this oil and gas waste management rulemaking, [Read more.](#) This rule will be officially published in the Texas Register on January 3, 2025 and will take effect on July 7, 2025. Finally, the third rule is: “Adoption of new rules in Subchapter A of 16 TAC Chapter 6, relating to Geothermal Resources.” According to the RRC, “The Commission adopts the new rules to implement the requirements of Senate Bill 786 (88th Legislature, Regular Session, 2023). Senate Bill 786 amended Texas Water Code §27.037 to transfer regulatory authority of closed-loop geothermal injection wells to the

Commission from the Texas Commission on Environmental Quality (TCEQ). Thus, the bill provided the Commission with jurisdiction and permitting authority for these wells. Water Code §27.037 directs the Commission to adopt rules necessary to administer the section and to regulate closed-loop geothermal injection wells.” [Access this rulemaking with a redline of new sections here.](#) This rule will be officially published in the Texas Register on January 3, 2025 and will take effect on January 6, 2025. Also, as an update for those interested in pipeline rulemaking, on December 9, 2024 new RRC pipeline permit rules went into effect. The rule specifically amends “§3.70 and various rules in Chapter 8 re: Form T-4B and federal updates.” According to the RRC, they have “adopted amendments to incorporate federal categories of pipelines and to clarify reporting requirements” due to corresponding amendments. [Access the rulemaking with a redline of amendments here.](#) To learn more about all these RRC rulemakings, [Read more here.](#)

STATE – Judicial

Climate Change Lawsuit – Montana. On December 18, the Montana Supreme Court ruled in favor of a group of young people who brought claims against the state of Montana for harms alleged from climate change. In [Held v. State of Montana](#) (Case No. 2024 MT 312), the youths, then ages 2 to 18 at the time of the original 2020 lawsuit, sued Montana, the governor, and multiple state agencies “alleging that the State’s actions exacerbated the harm they were feeling from climate change and seeking declaratory and injunctive relief. Specifically, they sought a declaration that certain provisions of Montana’s State Energy Policy Act, § 90-4-1001(1)(c)–(g), MCA (2011), and the Montana Environmental Policy Act (MEPA), § 75-1-201(2)(a), MCA (2011) (MEPA Limitation), were unconstitutional.” Here, the Supreme Court ruled that “Plaintiffs have standing to challenge the injury to their constitutional right to a clean and healthful environment. Montanans’ right to a clean and healthful environment was violated by the MEPA Limitation, which precluded an analysis of GHG emissions in environmental assessments and environmental impact statements during MEPA review. The MEPA

Limitation, § 75-1-201(2)(a), MCA, is unconstitutional and the State is enjoined from acting in accordance with it." An attorney for the plaintiffs, Melissa Hornbein of the Western Environmental Law Center said, "This ruling clarifies that the Constitution sets a clear directive for Montana to reduce its greenhouse gas emissions, which are among the highest in the nation on a per capita basis, and to transition to a clean, renewable energy future." Speaking on behalf of Montana Attorney General Austin Knudsen, Montana Justice Department Press Secretary Chase Scheuer said, "The majority of the state Supreme Court justices yet again ruled in favor of their ideologically aligned allies and ignored the fact that Montana has no power to impact the climate." [Read more.](#)

Habendum Clause; Lease Termination; Joint Operating Agreements; Washouts – Texas. As a follow-up to our reporting in 2023 and 2024, the Texas Supreme Court has set January 15, 2025 as the date for oral arguments in the ongoing case, [Cromwell v. Anadarko E&P Onshore, LLC](#) (Case No. 23-0927). As reported, "The petitioner [lessee/cotenant], whose lease was terminated by Anadarko E&P Onshore and upheld by the trial court and interim court of appeals, argues the El Paso court erred by inserting language into the lease to effectively dissolve his rights." The case was the subject of a presentation during the AAPL Annual Meeting in Boston, Mass. in June 2024 which indicated that "the decisions force every West Texas operator to drill its own well to maintain its leases if one party withholds an operating agreement." [Read more.](#) For background, "When Cromwell purchased his lease interest in 2009 he promptly submitted the leases to Anadarko and asked to participate in Anadarko's production. Anadarko billed Cromwell for his share of costs in the joint interest but never provided Cromwell a joint operating agreement despite Cromwell's repeated requests. Even so, Cromwell faithfully reimbursed Anadarko for his share of costs [...] In 2016, Anadarko took the position internally that Cromwell's leases had already expired because he did not drill his own oil and gas well. To accomplish the wash-out of Cromwell's leases, Anadarko secretly contacted Cromwell's lessors and persuaded them to sign top leases in favor of

Anadarko, Cromwell claims." The petitioner alleges, "Anadarko thus attempted to obtain leases covering the same fractional share of the minerals that is already covered by Cromwell's leases." The AAPL presentation noted, "The current law is ripe for abusive tactics. Anadarko flat refused to circulate a JOA." In its amicus brief, Chevron states, "By holding that Cromwell's lease terminated due to its alleged failure to participate in Anadarko's production, the court effectively inserted the words 'by the lessee' into the habendum clause. Further, "In Cromwell, the El Paso Court of Appeals takes a position that is diametrically opposed to the longstanding fealty to the freedom of contract principle that prohibits courts from rewriting contracts," argues Chevron. [Read more.](#) For further legal analysis of the case from law firm Oliva Gibbs LLP, [Read more here](#), and from law firm Harris, Finley & Bogle, P.C., [Read more here](#).

Deed Reservations; Royalties – Texas. On December 5, in [Boren Descendants and Mabee Descendants v. Fasken Oil and Ranch, Ltd.](#) (Case Nos. Nos. 11-22-00365-CV and 11-23-00001-CV), the Texas Court of Appeals, Eleventh District (Eastland), addressed the interpretation of a deed royalty reservation. At issue was the language in a 1933 deed reserving "an undivided one-fourth (1/4th) of the usual one eighth (18th) royalty." As noted by the court, this case is "raising again the now-ubiquitous 'double-fraction' deed construction issue." At trial, the court "rendered summary judgment in favor of Fasken, holding that the deed conveys a one-fourth floating interest to Fasken, rather than a fixed 1/32 interest." Here, the court held that the trial court "correctly determined that the 1933 deed conveyed a floating 1/4 interest. The 1933 deed is not ambiguous, nor does it include any additional fractions aside from the referenced 1/8. Therefore, two of the three possible types of rebuttal evidence do not exist in this case. The third type of rebuttal evidence is a provision that could not be harmonized if 1/8 is given the term-of-art usage." The court relied upon the 2023 Texas Supreme Court decision in *Van Dyke* in its analysis in the present case and in applying "the *Van Dyke* presumption [...] we express no opinion as to whether the mere use or absence of the language 'the usual' in conjunction with 'one-eighth (1/8th)

royalty' is, by itself, determinative in deciding whether a reserved royalty is fixed or floating, in all circumstances." As noted by law firm Graves, Dougherty, Heaton & Moody's *Oil and Gas Lawyer Blog*, the court, "in construing the deed's reservation language, [was] applying *Van Dyke's* presumption that, whenever a reservation contains a double fraction, the deed is intended to convey a floating royalty unless other language in the document leads to a different interpretation." [Read more.](#)

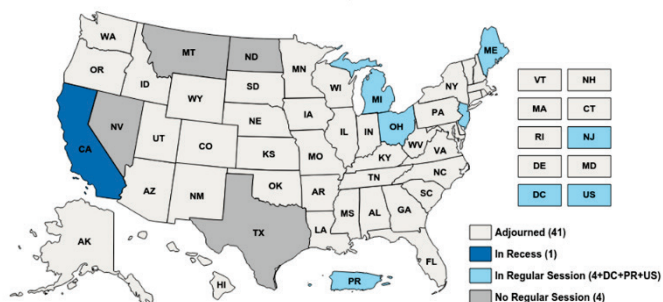
Leasing; Royalty Interests; Assignments; Depth Limitations – Texas. On October 18, in *Rock River Minerals, LP v. Pioneer Natural Resources USA, Inc.* (Case No. 08-23-00216-CV), the Texas Court of Appeals of Texas, Eighth District (El Paso), addressed whether the appellant's "assignment of his royalty interests in oil, gas, and mineral leases included a depth limitation." The court upheld the trial court judgment that it did not, ruling in favor of Pioneer. Here, Pioneer and the other appellees argued "that the Unit Agreement is only used to determine the boundaries of the surface of the land, but not the depth of the land, from which the conveyed oil and gas rights derive." The appellate court agreed. Further, the court noted, that the appellant "conveyed interests within the *unit* which is different from and not limited by the depths of the unitized formation." [Read more.](#)

INDUSTRY NEWS FLASH

► **90% of 2025 oil supply growth expected to come from non-OPEC+ countries.** On December 10, the *Oil & Gas Journal* reported that the U.S. Energy Information Administration forecasts that "Global oil production will increase by 1.6 million b/d in 2025, and almost 90% of that growth will come from non-OPEC+ countries due to ongoing production restraint of OPEC+." [Read more.](#)

LEGISLATIVE SESSION OVERVIEW

States in Session



Session Notes: Michigan and Ohio are in regular session. The U.S. Congress is in regular session.

The following are expected to convene for the 2025 legislative session on the dates provided: **U.S. Congress** (January 3), **Montana, Ohio and Wisconsin** (January 6), **Kentucky, Mississippi, North Dakota, and Pennsylvania** (January 7), and **Colorado, Illinois, Indiana, Maryland, Michigan, Missouri, Nebraska, New York, North Carolina, and Virginia** (January 8).

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

The following states are currently posting 2025 bill drafts, pre-files and interim studies: [Alabama](#), [Arizona](#), [Arkansas](#), [Florida](#), [Iowa](#), [Missouri House](#) and [Senate](#), [Montana](#), [Nebraska](#), [Nevada](#), [New Hampshire](#), [North Dakota](#), [Oklahoma](#), [South Carolina](#), [Tennessee](#), [Texas](#), [Utah](#), [Virginia](#), [Washington](#) and [Wyoming](#). ■

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