AAPL
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GOVERNMENTAL AFFAIRS
REPORT

INAUGURATION SPECIAL
Presidential Executive Actions

On January 20, 2025, Donald J. Trump was sworn in as the 47th President of the United States. In his inaugural address, President Trump declared a new "Golden Age" for America and said he will declare a "national energy emergency" and "drill baby drill." Trump also vowed to end the "Green New Deal" and electric vehicle mandates and replenish the Strategic Petroleum Reserve. Access the inauguration speech and transcript here. Regarding the declared national energy emergency, Trump issued a first-day wide-reaching executive order, *Declaring a National Energy Emergency*, to promote and foster domestic energy development and production, which includes emergency approvals and reviews to expedite projects and remove regulatory burdens. Read the executive order here.

A White House summary of plans said that Trump "will unleash American energy by ending Biden's policies of climate extremism, streamlining permitting" and reviewing for possible reversal "all regulations that impose undue burdens on energy production and use, including mining and processing of non-fuel minerals." Read more.

In addition to the national energy emergency order, Trump issued a series of executive orders benefitting or relating to the energy industry. Regarding Alaska, Trump issued a broad executive order, *Unleashing Alaska's Extraordinary Resource Potential*, that promotes energy development and production in the region and rescinds many of the Biden Administration's actions in Alaska such as the cancellation of leases within the Arctic National Wildlife Refuge, actions affecting the Coastal Plain Oil and Gas Leasing Program, and management of the National Petroleum Reserve in Alaska, among others. Read the executive order here. Trump also lifted the Biden Administration's moratorium on the issuing of new licenses to export liquefied natural gas and revoked the Biden administration's 11th-hour offshore oil and gas leasing ban that effectively blocked new drilling in more than 625 million acres of U.S. coastal waters. Read more and here. Trump also issued a memorandum temporarily withdrawing all areas on the Outer Continental Shelf from offshore wind leasing and ordered a review of the federal government's leasing and permitting practices for wind projects. Read more. Trump terminated President Biden's American Climate Corps program, described as "a New Deal-inspired jobs program to fight climate change around the U.S." Trump also "ordered the EPA to consider eliminating the 'social cost of carbon,' a metric used for estimating the potential economic damage from global warming and extreme weather, historically used to justify environmental policies." Trump also issued an executive order, *Unleashing American Energy*, that states it is "in the national interest to unleash America's affordable and reliable energy and natural resources." Read more. The order seeks to remove regulatory burdens and foster development of offshore oil and gas production, rare earth minerals, eliminate electric vehicle mandates, and rollback restrictions the Biden administration put on appliances, lightbulbs, water usage, and other consumer products under the guise of climate change policy. Read the executive order here. Further, as part of these actions, Trump has also ordered a broad *Regulatory Freeze Pending Review* requiring all federal agencies to pause issuing or publishing any new regulations until after they have

been reviewed by the new administration, or designate that review "to any other person so appointed or designated by the President, consistent with applicable law." And new policies expedite National Environmental Policy Act (NEPA) project approvals. As reported by the *Oil & Gas Journal*, NEPA had "'become an albatross' for the oil and gas industry," often stalling or obstructing energy projects under the Biden administration. Read more.

For a deeper analysis and details about these presidential actions affecting AAPL and the energy industry more broadly, you may Read more here and here and here.

FEDERAL – Legislative

S. 143 – Natural Gas Tax Repeal Act. On January 16, Sen. Ted Cruz (R-TX) along with 15 cosponsors reintroduced a 2024 bill seeking to repeal the methane emissions charge (tax) included in the 2022 Inflation Reduction Act. The bill, S. 143, known as the Natural Gas Tax Repeal Act, would repeal the section of the Clean Air Act "relating to methane emissions and waste reduction incentive program for petroleum and natural gas systems" that imposes a methane waste emissions charge on certain levels of methane emissions from oil and gas facilities. Read more about the Waste Emissions Charge here. The legislation has been supported by the American Exploration and Production Council, Independent Petroleum Association of America, American Petroleum Institute, Permian Basin Petroleum Association, Texas Alliance of Energy Producers, and the Texas Independent & Royalty Owners Association, among other oil and gas industry groups. Read more.

Cost Recovery of Intangible Drilling Costs. On January 23, the American Exploration & Production Council, American Petroleum Institute, Independent Petroleum Association of America, and the Domestic Energy Producers Alliance sent a joint letter to the leadership of congressional "tax writing committees urging this Congress to rectify prior unsound and disparate tax policy embedded in the corporate alternative minimum tax (CAMT) and allow for the accelerated cost-recovery of intangible drilling costs (IDCs)." In the letter, the groups "urge this Congress to pass legislation that ensures equitable tax treatment for American producers of oil and natural gas to unlock American energy: Allow for the accelerated cost-recovery of IDCs under the CAMT." Read the letter here.

FEDERAL – Regulatory

BLM Public Lands Rule Advisory Committee. On January 14, the Bureau of Land Management (BLM) published a notice of a *Public Meeting for the National Advisory Committee for Implementation of the Bureau of Land Management Public Lands Rule* (90 Fed. Reg. 3247). The Advisory Committee will meet virtually on February 19, 2025, and is open to the public. According to the BLM, "The 15-member council advises the Secretary of the Interior, through the BLM, regarding implementation of the Public Lands Rule and associated outreach and engagement activities." Read more. To follow up our prior reporting on the Conservation & Landscape Health Rule, known as the Public Lands Rule, throughout 2023-2024, the rule directs BLM to manage for landscape health; provides a mechanism for restoring and protecting our public lands through restoration and mitigation leases; and clarifies the designation and management of areas of critical environmental concern. Read more about the BLM Public Lands Rule here. However, the rule has been met with strong opposition by Republican lawmakers and various industry groups, including those utilizing public lands for agricultural purposes as well as those developing energy sources on BLM lands. It is possible the Trump administration will seek to nullify the rule in its entirety with the support of Congress. Read more.

BLM Resource Management Plan – North Dakota. On January 15, the BLM published a *Record of Decision and Approved Resource Management Plan for the North Dakota Resource Management Plan/Environmental Impact Statement, North Dakota* (90 Fed. Reg. 3915) which is effective immediately. According to the BLM, "The Approved RMP replaces the 1988 North Dakota RMP as amended. The Approved RMP provides guidance for managing approximately 58,500 acres of BLM-administered surface and 4.1 million acres of

BLM-administered mineral estate, mostly split estate, across North Dakota. The Approved RMP will guide management of these public lands for the next 15 to 20 years for the benefit of current and future generations as part of the BLM's multiple-use mission. This planning effort is updating management decisions for public land uses and resources, including mineral leasing and development." Read more.

BLM Western Solar Plan. On January 15, the BLM published the *BLM Director's Response to the Appeals by the Governors of California and Utah of the BLM State Director's Governor's Consistency Review Determination for Utility-Scale Solar Energy Development Resource Management Plan Amendments, Also Known as the Updated Western Solar Plan* (90 Fed. Reg. 3912). The notice provides "the reasons for the BLM Principal Deputy Director's determination to reject the recommendations of the Governors of California and Utah regarding the Utility-Scale Solar Energy Development Resource Management Plan Amendments." For background, "On August 30, 2024, the BLM released the Final Programmatic Environmental Impact Statement (PEIS) and Proposed Resource Management Plan Amendments (RMPAs) for Utility-Scale Solar Energy Development (89 FR 70660). In accordance with the regulations at 43 CFR 1610.3-2(e), the BLM submitted the Proposed RMPAs for Utility-Scale Solar Energy Development to the Governors of Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming for a 60-day review to identify any inconsistencies with State or local plans, policies, or programs. The Governors of California, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, and Wyoming submitted a response regarding the Proposed RMPAs for Utility-Scale Solar Energy Development to the relevant BLM State Directors. After careful consideration of the concerns raised by the Governors, the relevant State Directors decided not to adopt the recommendations made by the Governors and sent a written response to each respective Governor." Read more.

BLM Advisory Council Nominations – New Mexico. On January 16, the BLM published a *Call for Nominations for Bureau of Land Management Northern New Mexico Resource Advisory Council* (90 Fed. Reg. 4780). According to the notice, "The purpose of this notice is to request public nominations for the Bureau of Land Management's (BLM) Northern New Mexico Resource Advisory Council (RAC) for terms scheduled to expire. This RAC provides advice and recommendations to the BLM on land use planning and management of the National System of Public Lands within its geographic areas." Interested parties may self-nominate and the deadline is February 18, 2025. Read more.

BLM Grand Staircase-Escalante National Monument Proposed Resource Management Plan – Utah. On January 16, the BLM published the *Response to Utah Governor's Appeal of the BLM Utah State Director's Governor's Consistency Review Determination for the Grand Staircase-Escalante National Monument Proposed Resource Management Plan and Final Environmental Impact Statement* (90 Fed. Reg. 4781). The notice explains "why the Department of the Interior denied the Governor of Utah's recommendations regarding the Grand Staircase-Escalante National Monument (GSENM) Proposed Resource Management Plan (RMP) and Final Environmental Impact Statement (EIS)." Read more.

BLM Bears Ears National Monument and Approval of the Amendment to the Manti-La Sal National Forest Land and Resource Management Plan – Utah. On January 16, the BLM published the *Records of Decision and Approved Resource Management Plan for Bears Ears National Monument and Approval of the Amendment to the Manti-La Sal National Forest Land and Resource Management Plan in Utah* (90 Fed. Reg. 4778). "The planning area encompasses approximately 1.36 million acres of Federal land administered by the BLM and USDA Forest Service in San Juan County, Utah." Read more.

BLM Oil and Gas Leasing Decisions. On January 16, the BLM published an *Intent To Prepare an Environmental Impact Statement for the Oil and Gas Leasing Decisions in Seven States From February 2015*

to December 2020 (90 Fed. Reg. 4779). According to the notice, "The Bureau of Land Management (BLM) intends to prepare an Environmental Impact Statement (EIS) for approximately 3,224 oil and gas leases sold in Colorado, Montana, New Mexico, North Dakota, South Dakota, Utah, and Wyoming and issued pursuant to 74 individual lease sale decisions. The EIS will provide a comprehensive analysis of the potential environmental impacts from these leases, which have been remanded to BLM for further review, including the impacts of greenhouse gas emissions (to include the social cost of carbon) and other common impacts." Public comments "on issues, impacts, and potential new alternatives to be analyzed, as well as on relevant information, studies, or analyses, may be submitted in writing until March 17, 2025." Read more.

BLM Greater Sage-Grouse Resource Management Plan Amendments. On January 17, the BLM published its *Records of Decision and Approved Resource Management Plan Amendments for Greater Sage-Grouse Rangewide Planning* (90 Fed. Reg. 5986). According to the BLM, "The RODs/Approved RMP Amendments update how the BLM manages public lands in Colorado and Oregon that support Western communities and enhance conservation for Greater Sage-Grouse and more than 350 other wildlife species. The plan amendments in these two States are part of a rangewide approach, developed with 10 States, Tribes, local communities, and the public to enhance conservation for Greater Sage-Grouse and its habitat." Read more. However, as reported by *The Hill*, the BLM action only applies to "two out of the 10 states where such protections were anticipated." Originally, the Biden administration signaled that their protective actions could have affected 10 states. Moreover, President Trump has signaled that he will remove all the protections, overturning the Biden administration's efforts to cut off these federal lands from resource development. Read more.

BLM Annual Onshore Oil and Gas Operations and Coal Trespass Civil Penalties Inflation Adjustments. On January 17, the BLM published its *Onshore Oil and Gas Operations and Coal Trespass-Annual Civil Penalties Inflation Adjustments* (90 Fed. Reg. 5718). The annual adjustments for inflation apply to the amounts of civil monetary penalties contained in BLM regulations governing onshore oil and gas operations and coal trespass. The rule is effective January 17, 2025. Read more.

BLM Royalty Resiliency Act Implementation. On January 23, law firm Beatty & Wozniak, P.C. published a legal article, *Implementing The Royalty Resiliency Act – The Bureau of Land Management Issues Official Policy and Procedures for Streamlined Communitization Agreement Approvals*. The article explains how the 2024 Royalty Resiliency Act "requires the Secretary of the Interior, or the Bureau of Land Management (BLM) under delegation of the Secretary, to issue all determinations of allocations of production for units and communitization agreements (CA) within 120 days of a lessee's request for determination. Enacted by Congress on September 20, 2024, to relieve delays in allocation determinations, the Act amends the Federal Oil and Gas Royalty Management Act of 1982 and the Federal Oil and Gas Royalty Simplification and Fairness Act of 1996 to streamline the CA approval process." Read more about the Royalty Resiliency Act here. The article further explains that "Pursuant to the RRA (until the BLM issues an official determination, the lessee is authorized to report and pay monthly royalties on oil and gas production in accordance with the terms of the *proposed* allocation of production as submitted via the CA. Once the BLM issues a final allocation determination, the lessee is allowed three months to 'true up' or correct production reports and the amount of royalties paid, if necessary, on the production during the period under which the CA was under review. During that 'true up' period, the BLM will waive all interest obligations otherwise incurred while the lessee awaited an official allocation determination." The article also provides the BLM guidance pursuant to BLM Instruction Memorandum IM 2025-012 as detailed. Read more.

EPA Class VI Injection Well Primacy; Carbon Capture and Sequestration – West Virginia. (*Update to 12/24/24 Report*) On January 17, the U.S. Environmental Protection Agency (EPA) "granted West Virginia primary enforcement responsibility of Class VI wells under the Underground Injection Control Program."

As reported by the *Oil & Gas Journal*, "The state is the fourth—after Louisiana, North Dakota, and Wyoming—given primary authority by EPA to oversee and administer its Class VI program, known as primacy. The authority allows the state to permit wells designed to inject carbon dioxide (CO_2) into deep rock formations which serve as critical infrastructure for deploying carbon capture, utilization, and storage projects." Read more. For background, on November 27, 2024, the 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. 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.

Interior Department Categorical Exclusions. On January 15, the U.S. Department of the Interior published a *Notice of Adoption of Categorical Exclusions Under Section 109 of the National Environmental Policy Act* (90 Fed. Reg. 3908). The notice documents "the adoption of two U.S. Forest Service, one National Park Service, and three U.S. Fish and Wildlife Service categorical exclusions (CXs) by the Bureau of Land Management (BLM), under section 109 of the National Environmental Policy Act (NEPA). In accordance with section 109, this notice identifies the types of actions to which the BLM will apply the CXs, the considerations that the BLM will use in determining the applicability of the CXs, and the consultation between the agencies on the use of the CXs, including application of extraordinary circumstances." For background as provided by the notice, "Under NEPA and the CEQ's NEPA implementing regulations, a Federal agency establishes categorical exclusions (CX)s—categories of actions that normally do not have a significant effect on the human environment, individually or in the aggregate, and therefore do not require preparation of an environmental assessment (EA) or an environmental impact statement (EIS)—in their agency NEPA procedures." Read more. On January 16, the Interior Department published additional categorical exclusions under a separate notice, *Notice of Adoption of Categorical Exclusions under Section 109 of the National Environmental Policy Act* (90 Fed. Reg. 4774). In addition to CXs for telecommunications, renewable energy and other electrical infrastructure, the notice also includes a CX for "workover of existing wells." Read more. On January 16, the Interior Department published an additional categorical exclusion regarding federal geothermal resource leases, *National Environmental Policy Act Implementing Procedures for the Bureau of Land Management (516 DM 11)* (90 Fed. Reg. 4768). According to the notice, "The revision adds a new categorical exclusion (CX) for geothermal resource confirmation activities on Federal geothermal resource leases." Read more. All the above CXs are now effective. On January 17, the Interior Department published an additional categorical exclusion notice regarding federal geothermal resource exploration operations, *National Environmental Policy Act Implementing Procedures for the Bureau of Land Management (516 DM 11)* (90 Fed. Reg. 5981). According to the notice, "The establishment of this new Geothermal Exploration Operations (GEO) CX is intended to facilitate the approval of notices of intent (NOIs) to conduct geothermal resource exploration operations that do not have the potential to result in significant environmental effects and to expedite renewable energy development on public lands." Public comments may be submitted for this geothermal notice by February 18, 2025. Read more.

Treasury Department Clean Electricity Production Tax Credit and Clean Electricity Investment Tax Credit. On January 15, the U.S. Department of the Treasury and Internal Revenue Service issued a final regulation, *Section 45Y Clean Electricity Production Credit and Section 48E Clean Electricity Investment Credit* (90 Fed. Reg. 4006). According to the regulation, "This document sets forth final regulations regarding

the clean electricity production credit and the clean electricity investment credit established by the Inflation Reduction Act of 2022. These final regulations provide rules for determining greenhouse gas emissions rates resulting from the production of electricity; petitioning for provisional emissions rates; and determining eligibility for these credits in various circumstances. The final regulations affect all taxpayers that claim the clean electricity production credit with respect to a qualified facility or the clean electricity investment credit with respect to a qualified facility or energy storage technology, as applicable, that is placed in service after 2024." The Clean Electricity Production Tax Credit (CEPC) is under section 45Y of the Internal Revenue Code (IRC) and the Clean Electricity Investment Tax Credit (CEIC) is under section 48E of the IRC. According to law firm Pillsbury Winthrop Shaw Pittman LLP, these clean energy tax credits "are technology neutral and provide incentives to any clean energy facility that achieves net-zero greenhouse gas (GHG) emissions, giving these facilities the ability to develop over time, while also offering longer-term certainty to investors and developers of clean energy projects. These technologies include wind, solar, hydropower, marine and hydrokinetic, nuclear fission and fusion, geothermal, and certain types of waste energy recovery property (WERP)." The regulations take immediate effect. For a more detailed analysis of the tax credits, Read more.

FEDERAL – Judicial

Employee Overtime Pay – U.S. Supreme Court. On January 15, the U.S. Supreme Court lowered the standard employers have to prove when asserting an employee is exempt from overtime pay. In *E.M.D. Sales, Inc. v. Carrera* (Case No. 23–217) sales representatives claimed they were wrongly denied overtime pay under the Fair Labor Standards Act (FLSA). "After a bench trial, the District Court found EMD liable for overtime because EMD did not prove by clear and convincing evidence that its sales representatives were outside salesmen. On appeal, EMD argued that the District Court should have used the less stringent preponderance-of-the-evidence standard instead of the clear-and-convincing-evidence standard." Here, the Supreme Court agreed, holding that only "The preponderance-of-the-evidence standard applies when an employer seeks to demonstrate that an employee is exempt from the minimum-wage and overtime-pay provisions of the FLSA." As noted by Texas law firm Jackson Walker LLP, "the *EMD* decision is the second time in recent history that the Supreme Court has pared back employee-friendly rules in the context of disputes under the FLSA." Read more.

Utah Public Lands – U.S. Supreme Court. On January 14, the U.S. Supreme Court rejected a suit brought by the state of Utah challenging the federal government's control of lands within the state. Specifically, the complaint challenges the "U.S. Bureau of Land Management's administration of about 18.5 million acres of public land that state leaders have repeatedly urged the federal government to relinquish ownership over." In *Utah v. United States of America* (Case No. 220160), the state argued that the federal government "earns significant revenue by leasing those lands to private parties for activities such as oil and gas production, grazing, and commercial filmmaking, and by selling timber and other valuable natural resources that the federal government retains for its own exploitation." Further, the complaint stated that "As a direct consequence of the United States' indefinite retention of unappropriated public lands within its borders, Utah is deprived of basic and fundamental sovereign powers as to more than a third of its territory. It cannot tax the federal government's land holdings. It cannot exercise eminent domain over them as needed for critical infrastructure like public roads and transportation and communications systems. It cannot even exercise legislative authority over the purposes for which they may be used. In short, throughout much of Utah it is the federal government, not Utah, that wields the general police power." In denying Utah's complaint, the Supreme Court did not rule on the merits of the case nor issue any reasoning for their denial. Read more.

BLM Sage-Grouse Protections – Ninth Circuit. On January 17, the U.S. Court of Appeals for the Ninth Circuit, in a consolidated case, *Montana Wildlife Federation v. Haaland* (Case No. 20-35609), addressed

actions brought "by several environmental protection organizations challenging the policies that governed oil and gas lease sales conducted by the Bureau of Land Management ('BLM') on protected sage-grouse habitat." The court "affirmed a ruling to vacate oil and gas leases on a near-threatened bird's habitat." As reported by *Bloomberg Law*, the appellate court "upheld the lower court's decision to vacate the lease sales across multiple western states because the federal Bureau of Land Management failed to promote and encourage leasing outside of the sage grouse's habitat, as required in the government's Resource Management Plans under the Federal Land Policy and Management Act." Writing for the court, Judge Marsha Berzon said, "The only way for the agency to comply with the plan's objective of protecting the bird's habitat 'would be to redo the lease sale from scratch.'"

EPA Waste Emissions Charge – Washington, DC. On January 15, the Independent Petroleum Association of America (IPAA) along with numerous oil and gas associations filed a petition with the U.S. Court of Appeals for the District of Columbia challenging the EPA's waste emissions charge rule that went into effect on January 17. (See *Waste Emissions Charge for Petroleum and Natural Gas Systems: Procedures for Facilitating Compliance, Including Netting and Exemptions*; 89 Fed. Reg. 91094). For background, the Methane Emissions Reduction Program that was enacted as part of the 2022 Inflation Reduction Act "requires the EPA to impose and collect an annual charge on methane emissions that exceed waste emissions thresholds specified by Congress." In the petition, *Independent Petroleum Association of America v. U.S. Environmental Protection Agency* (Case No. 25-1021), the IPAA and other groups claim the "final rule exceeds the agency's statutory authority and otherwise is arbitrary, capricious, an abuse of discretion, and not in accordance with law" and "thus ask that this Court declare unlawful and vacate the Administrator's final action." Read more. In a separate petition filed on January 16, Texas led a 23-state coalition also seeking to overturn the Waste Emissions Charge in *Texas v. U.S. Environmental Protection Agency* (Case No. 25-1022). Texas Attorney General Ken Paxton said, "The new tax would force many energy producers to pay the government more money for the purpose of so-called 'climate benefits.' In addition to being bad policy, however, the rule is unlawful. The proposed regulations represent arbitrary and capricious actions that exceed the agency's statutory authority." Read a press release from the Texas Attorney General here. As reported by the *Texas Tribune*, "Critics of the methane tax have expressed concerns about the complexity of reporting methane emissions and the disproportionate impact they believe it has on smaller operators who might release methane." Read more. On a side note, the Trump administration is anticipated to repeal the rule as part of its expected federal regulatory overhaul. Read more.

STATE – Legislative

For all 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

Air Quality Bureau Permits – New Mexico. On January 21, the New Mexico Environment Department (NMED) announced it "is providing notice that due to inadequate budget to fund the Air Quality Bureau (AQB), the review and issuance of all air quality permits will be delayed. Effective immediately, NMED's AQB will issue letters to businesses seeking an air quality permit or an air quality permit modification that such applications will be delayed." For additional information, please contact Michelle Miano, Director, Environmental Protection Division, New Mexico Environment Department 1190 St. Francis Drive, PO Box 5469, Santa Fe, NM 87505. michelle.miano@env.nm.gov. Read more.

STATE – Judicial

Climate Change Lawsuit – New York. In a victory for the oil and gas industry, on January 14, a New York court rejected New York City's lawsuit against oil and

gas companies seeking to hold them financially liable for climate change. In *City of New York v. ExxonMobil Corp.* (Case No. 451071), the court dismissed the action in its entirety ruling that "the City's allegations that NYC consumers are climate conscious, yet are being misled by Defendants' failure to disclose that fossil fuels cause climate change is not sustainable because the City propounds that the connection between fossil fuels and climate change is publicly known information. Second, the City has not sufficiently pled that Defendants' alleged greenwashing campaigns, involving statements about clean energy and alternative energy sources are 'made in connection with the sale' of a consumer good (i.e., fossil fuel products) in NYC, as required under" the law. In short, the court held that city had failed to show that ExxonMobil and the other oil and gas companies deceived New Yorkers about the climate effects of their products. Read more.

Dunham Rule; Deeds; Reservations – Pennsylvania. On November 14, 2024, in a non-precedential decision, the Pennsylvania Superior Court reaffirmed the Dunham rule in *Comerford Family Limited Partnership v. Ainbinder* (Case No. 849 MDA 2022). The issue in the case involved a grant of "all mineral and surface rights" in a 1958 Deed. Ainbinder argued that vested the oil and gas estate. For background, the Dunham rule was established in an 1882 Pennsylvania Supreme Court case holding that "an exception or reservation of 'minerals' in a deed will not include the oil and gas *unless* there is 'clear and convincing evidence' that the parties intended to include the oil and gas estate as part of the conveyance." Here, the court held that the grantor "chose not to use this language, but instead limited the conveyance to a grant of 'mineral and surface rights.'" Thus, the oil and gas rights were not included. Read more.

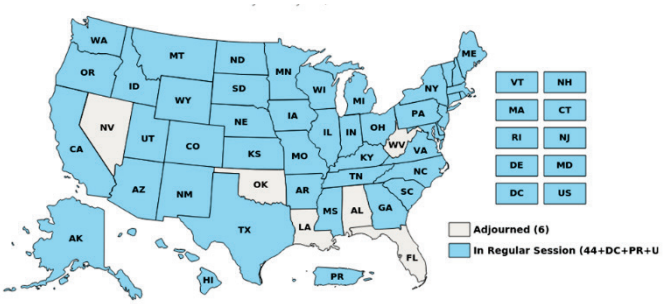
Leasing; Shut-in Royalties – Texas. On December 31, 2024, the Texas Supreme Court addressed a lease termination dispute involving a notation made on a shut-in royalty payment check receipt. In *Scout Energy Management, LLC v. Taylor Properties* (Case No. 23-1014), the Texas Supreme Court reversed the appellate court by "holding that an oil and gas lessee's notation on a check reset the deadline for payment of a shut-in royalty that was made prior to the annual deadline established by the lease." Here, the court held that "the notations were too vague to be given effect as a contract or a lease modification that would reset the deadline for future payments and thereby penalize ConocoPhillips for its early tender of what, under the terms of the lease, unambiguously constitutes sufficient payment for two full years of constructive production." The court explained that "When a well operating under a mineral lease ceases production, the lessee often may rely on a 'shut-in royalty' savings clause to prevent the lease from terminating for nonproduction. The lease in this case has such a provision, permitting the lessee to pay a $50 royalty 'per well per year' and providing that 'upon such payment it will be considered that gas is being produced.' The lessee here made a payment that was sufficient to maintain the lease for a year, then made another payment in the same amount a month later. The dispute is whether these two 2 payments secured two full years of constructive production from the date of the first payment or whether early payment of the subsequent year's royalty reset the deadline so that the lease terminated one year after that payment. The court of appeals concluded that the lease unambiguously establishes that each payment under the savings clause provides a full year of constructive production; later payments could thus be made before the year expires without resetting the deadline for the next payment. But the court nonetheless concluded that the lessee's second payment *did* reset the deadline based on a notation appearing on the check receipt." In short, the Texas Supreme Court concluded that "While we agree with the [appellate] court's interpretation of the lease, we disagree with its conclusion regarding the effect of the notation on the check receipt, so we reverse the court's judgment." For further case analysis provided by the Texas Civil Justice League, Read more.

INDUSTRY NEWS FLASH

▶ **President Trump will use national energy emergency to approve more gas, coal powered plants for AI centers.** As reported by *The Hill*, President Trump is expected to fast-track approvals for new gas (and coal) powered electrical generation plants as part of the administration's push to develop artificial intelligence centers. "We're going to build electric generating facilities — they are going to build. I'm going to get them the approval," Trump said. "Under emergency declaration, I can get the approvals done myself without having to go through years of waiting." Read more.

LEGISLATIVE SESSION OVERVIEW

States in Session



Session Notes: Alaska, **Arizona**, **Arkansas**, **California**, **Colorado**, **Georgia**, **Idaho**, **Illinois**, **Indiana**, **Iowa**, **Kansas**, **Kentucky**, **Maryland**, **Michigan**, **Minnesota**, **Mississippi**, **Missouri**, **Montana**, **Nebraska**, **New Mexico**, **New York**, **North Carolina**, **North Dakota**, **Ohio**, **Pennsylvania**, **South Carolina**, **South Dakota**, **Tennessee**, **Texas**, **Utah**, **Virginia**, **Washington**, **Wisconsin** and **Wyoming** are in regular session. The **U.S.** Congress is also in session.

The following are scheduled to convene for the 2025 legislative session on the dates provided: **Nevada** and **Oklahoma** (February 3); **Alabama** (February 4); **West Virginia** (February 12); **Florida** (March 4) and **Louisiana** (April 14).

The following states are currently holding interim committee hearings or studies: **Alabama**, **Louisiana**, **Minnesota**, **Nevada**, **Oklahoma** House and Senate and **West Virginia**.

The following states are currently posting 2025 bill drafts, pre-files and interim studies: **Alabama**, **Florida**, **Nevada** and **Oklahoma**. ■