

GOVERNMENTAL AFFAIRS REPORT

Highlights At-A-Glance

FEDERAL – Legislative

H.R. 3746 – Fiscal Responsibility Act of 2023.

On June 3, President Biden signed the debt ceiling limit bill, [H.R. 3746](#), known as the Fiscal Responsibility Act of 2023, into law averting a potential financial default by the United States. The bipartisan deal lifts the debt ceiling through January 1, 2025 and also included two key energy-related provisions: (1) National Environmental Protection Act (NEPA) permitting reforms and (2) Approval for the Mountain Valley Pipeline, a natural gas pipeline running between Virginia and West Virginia which has long been stalled and was championed by Sen. Joe Manchin (D-WV), whose vote was necessary in the debt deal. [Read more about the Mountain Valley Pipeline provision here.](#) Regarding NEPA permitting reform, the bill amends existing law to require time and page limits on NEPA environmental assessments and NEPA environmental impact statements. [Access a detailed summary of the permitting reform provisions here.](#) Specifically, the “bill amends NEPA to require environmental assessments be completed in 1 year and 75 pages. An environmental impact statement will need to be completed in 2 years and 150 pages, or 300 pages for projects of extraordinary complexity. The time periods allowed would only start after a project sponsor completes an adequate right-of-way application. No federal environmental analyses will be needed for permits if those permits are not considered major federal actions.” [Read more.](#) Additionally, the bill requires the North American Electric Reliability Corporation to conduct and deliver a federal transmission capability study to the Federal Energy Regulatory Commission on recommendations regarding grid and transmission reliability. [Read more.](#)

H.R. 3397 – BLM Conservation and Landscape Health Proposed Rule Withdrawal. On May 17, Rep.

John Curtis (R-UT) introduced [H.R. 3397](#). The bill would require the withdrawal of the Bureau of Land Management (BLM) proposed rule, *Conservation and Landscape Health* ([88 Fed. Reg. 19583](#)), that we previously reported on and which would undermine the “multiple-use requirement for BLM lands and would hinder access to public lands for energy and critical mineral development, grazing, forest management, and recreation.” [Read more](#) The rule, if finalized, “would apply land-health standards to all of the 245 million acres that BLM manages, instead of limiting them to federal livestock grazing allotments. The rule would also designate conservation as a formal use of public lands, on par with energy development, grazing and recreation. Energy developers, mining companies and other land users could purchase conservation leases and use them as compensatory mitigation to offset project impacts as a condition of permit approval. The proposed rule would also allow for nongovernment groups to buy these leases and pay to conduct restoration work on the land.” [Read more.](#) As a reminder, the BLM is still accepting public comments on the proposed rule through June 20, 2023. You may [access that information here.](#)

Senate Letter to the EPA Regarding Methane Emissions Reduction Program.

On June 6, Sen. Joe Manchin (D-WV) sent a letter to the U.S. Environmental Protection Agency “to convey my strong concerns about the Environmental Protection Agency’s (EPA) selective implementation of the Inflation Reduction Act, which has led to delays delivering Congressionally mandated funding for methane emissions reductions and a lack of timely guidance for the energy industry to implement the Methane Emissions Reduction Program (MERP).” Sen. Manchin notes that the “EPA has also failed to provide any guidance to operators on how the agency will use emissions data to calculate fees.

It is impossible to upend complex operations in response to last-minute EPA guidance or regulations without risking supply disruptions or putting communities and workers at risk.” Sen. Manchin also requests that “To honor Congressional intent and preserve our nation’s energy security, fees on methane emissions should be postponed until at least a year after funding and guidance have been issued.” The letter also provides a list of issues and questions that Sen. Manchin requests a response to by June 20, 2023. [Read the letter here.](#)

FEDERAL – Regulatory

BLM Chaco Culture National Historical Park Public Land Order – New Mexico. On June 2, the Bureau of Land Management (BLM) announced the withdrawal of public lands surrounding Chaco Culture National Historical Park from future oil and leasing and mining. [Public Land Order No. 7923](#) “withdraws public lands within a 10-mile radius of the park for 20 years, subject to valid existing rights, and responds to decades of efforts from Tribes, elected officials, and the public to better protect the sacred and historic sites and Tribal communities currently living in northwest New Mexico.” (See *Public Land Order No. 7923 for Public Lands Withdrawal Surrounding Chaco Culture National Historical Park Boundary; San Juan, Sandoval, and McKinley Counties, New Mexico; 88 Fed. Reg. 37266*) According to the BLM, the withdrawal applies only to public lands and federal mineral estate and does not apply to minerals owned by private, state or Tribal entities. It does not affect valid existing leases; during the 20-year withdrawal period, production from existing wells could continue, additional wells could be drilled on existing leases, and Navajo Nation allottees can continue to lease their minerals.” The order went into effect on June 7, 2023. [Read more.](#)

BLM Southwest Resource Advisory Council Meeting – Colorado. On June 1, the BLM announced that the Southwest Resource Advisory Council (RAC) will hold a meeting on June 15, 2023 at the Uncompahgre Field Office in Montrose. The meeting is open to the public and participants may also attend

virtually online. The Southwest RAC “advises the BLM Colorado Southwest District, which consists of the Gunnison, Tres Rios, and Uncompahgre field offices.” [Read more.](#)

BLM Oil and Gas Lease Sale – Nevada. On June 2, the BLM Nevada State Office issued an environmental assessment and sale notice for a competitive oil and gas lease sale in the third quarter. “The BLM-Nevada State Office intends to move forward with the Proposed Action, as analyzed in the environmental assessment (DOI-BLM-NV-L000-2023-0002-EA), by offering 4 parcels totaling 4,720.00 acres in the Ely District. The parcels will be offered at the online oil and gas lease sale scheduled for July 25, 2023.” [Read more.](#)

BLM Resource Advisory Committee Meeting – New Mexico. On June 5, the BLM announced it will host a Southern New Mexico Resource Advisory Council (RAC) meeting on June 14, 2023. After the meeting, there will be a field tour at the Fort Stanton-Snowy River Cave National Conservation Area. The public is invited to attend the RAC meeting and the field tour. Both in-person and virtual participation options will be available for the meeting. [Read more.](#)

BLM Oil and Gas Lease Sale – Utah. On June 2, the BLM Utah State Office released an environmental assessment “analyzing six parcels comprising 8,972.24 acres for the proposed December 2023 competitive oil and gas lease sale on lands managed within the Vernal Field Office in Uintah County. The release of this environmental assessment starts a 30-day public comment period.” Public comments may be submitted through July 3, 2023. [Read more.](#)

Interior Department Orphaned Wells Remediation. On June 8, the Interior Department “announced a \$63.8 million investment through President Biden’s Investing in America agenda to put people to work plugging and remediating orphaned oil and gas well sites located in national parks, national forests, national wildlife refuges, and on other public lands and waters.” According to the Interior Department, the “allocation is part of a total of \$250 million provided through the Bipartisan Infrastructure Law to clean up orphaned well sites on

federal public lands” and will apply to 300 orphaned oil and gas well sites nationwide. [Read more.](#)

Department of Energy Hydrogen Strategy and Roadmap. On June 5, the U.S. Department of Energy “unveiled a roadmap it says will, using hydrogen energy, enable the U.S. to reduce its emissions by 10 percent in 2050, compared to 2005 levels.” According to the 99-page planning document, [U.S. National Clean Hydrogen Strategy and Roadmap](#), “Given its potential to help address the climate crisis, enhance energy security and resilience, and create economic value, interest in producing and using clean hydrogen is intensifying both in the United States and abroad. Zero- and low-carbon hydrogen is a key part of a comprehensive portfolio of solutions to achieve a sustainable and equitable clean energy future. The United States is stepping up to accelerate progress through historic investments in clean hydrogen production, midstream infrastructure, and strategically targeted research, development, demonstration, and deployment (RDD&D) in this critical technology.” The strategy “calls for specifically targeting hydrogen use in key industries, including chemicals, steel, refining and heavy transportation, where the energy source can have the greatest emissions reduction impact. It also outlines a need to make hydrogen energy cheaper and to focus on regional hubs.” [Read more.](#)

Interior Department Public Lands Restoration. On May 31, the Interior Department “announced plans to infuse \$161 million into ecosystem restoration and resilience on the nation’s public lands as part of President Biden’s Investing in America agenda. This work, led by the Bureau of Land Management, will focus on 21 ‘Restoration Landscapes’ across 11 western states and will range from restoring wildlife habitat in the sagebrush steppe of the high desert to re-creating wetland meadows to repairing watersheds on former industrial timberlands.” [Read more.](#) The restoration “funding, secured through the Inflation Reduction Act, will come in addition to \$40 million already provided for public lands restoration through the Bipartisan Infrastructure Law.” [Read more.](#)

FEDERAL – Judicial

Offshore Oil and Gas – U.S. Supreme Court. On June 5, the U.S. Supreme Court [denied review](#) in a case involving a ban on hydraulic fracturing off the California coast. In the 2022 case, [Environmental Defense Center v. Bureau of Ocean Energy Management](#) (Case No. 19-55526), the U.S. Court of Appeals for the Ninth Circuit imposed “a court-ordered prohibition on offshore fracking in federal waters off the California coast. That holding provided that “the federal government violated the National Environmental Policy Act, Endangered Species Act and Coastal Zone Management Act when it allowed fracking and acidizing extraction practices at all offshore oil and gas wells in leased federal waters in the Pacific Ocean.” [Read more.](#) “Access to the vast energy resources offshore is essential for meeting the growing demand for affordable, reliable energy while achieving our climate goals,” said Holly Hopkins, vice president of upstream policy at the American Petroleum Institute (API), the intervenor-defendant in the case. “API will continue to work with policymakers to advance opportunities that allow for the safe and responsible development of the Outer Continental Shelf.” [Read more.](#)

STATE – Legislative

Carbon Capture Study – Louisiana. On June 6, Senate Resolution 179 was adopted and “establishes the Task Force on Local Impacts of Carbon Capture and Sequestration to study and propose recommendations regarding the impact of carbon capture and sequestration projects across the state.” The Task Force will hold its first meeting no later than August 15, 2023 and submit a final report on or before February 15, 2024 to the Senate Committee on Natural Resources after which time the Task Force will be disbanded. [Read more.](#)

Carbon Capture – Louisiana. On June 1, HR 229 was adopted. The resolution “Urges and requests the U.S. Environmental Protection Agency to take such actions necessary to timely review and grant the state of Louisiana’s application for primacy in the

administration of Class VI injection well permitting.” [Read more.](#)

Severance Taxes – Louisiana. (*Update to 5/1/23 Report*) [HB 172](#) died in the Senate after passing the House. Sponsored by Rep. Phillip DeVillier (R), the bill would have reduced “the severance tax rate on oil over an eight-year period from 12.5% to 8.5% of its value at the time and place of severance and fixes the severance tax rate for oil produced from certain incapable and stripper wells at the current rate.” [Read a full bill summary here.](#) As reported, “After it passed the House, the Senate Revenue and Fiscal Affairs Committee was scheduled to vote on the bill on May 22, but Rep. DeVillier voluntarily postponed the vote” after a Louisiana Legislative Fiscal Office report showed the measure “would have cost the state \$97 million over the next five years.” [Read more.](#)

Class VI Injection Wells – Oklahoma. On June 7, SB 200 was signed into law by Gov. Kevin Stitt (R). Sponsored by Sen. Dave Rader (R), the bill “requires the Corporation Commission and Department of Environmental Quality to evaluate their own respective statutory regulations, and determine where modifications are needed in order to provide for the development of underground injection control Class VI wells. All recommendations must be submitted in a report by August 1, 2023.” The Act takes immediate effect. [Read more.](#)

Orphaned Wells; Methane Emissions – Oklahoma. On June 7, SB 852 was signed into law by Gov. Kevin Stitt (R). Sponsored by Sen. Dave Rader (R), the bill “authorizes the Corporation Commission to test and record methane emissions from orphaned wells and receive carbon credits for such measurements. If the Commission sells the credits, the proceeds must be deposited into the Oil and Gas Division Revolving Fund, and may be used to offset the cost of testing for methane.” The Act is effective 90 days after session adjournment on May 26, 2023. [Read more.](#)

Severance Tax Study – Pennsylvania. On May 31, Rep. Mandy Steele (D) introduced HR 131. This resolution would direct the Legislative Budget and

Finance Committee to conduct an audit to determine the amount of revenue lost since the enactment of the state impact fee and compare the severance tax imposed in other states to determine “how much money our state is losing by not imposing a severance tax.” [Read more.](#)

Severance Tax Exemption – Texas. On June 2, Gov. Greg Abbott (R) signed HB 591 into law. Sponsored by Rep. Giovanni Capriglione (R), regarding a tax exemption for on-site use of natural gas that would normally be vented or flared, the bill provides that gas produced from a qualifying well that is consumed on the well site and would otherwise have been lawfully vented or flared would not be subject to the severance tax imposed under existing law. The bill provides that “In order to qualify for the exemption a well site must abide by certain application requirements and be certified by the Texas Railroad Commission and the Comptroller of Public Accounts. To the extent that on-site gas exempt under the proposed section would in fact be gas that would have otherwise been vented or flared, there would be no revenue implication if the gas were from an oil well qualified for the flaring exemption under Section 201.053(2). However, the bill also mandates “that the gas would have been lawfully vented or flared is that it be from an oil or gas well not connected to a pipeline or not to a pipeline with sufficient takeaway capacity, and that the well have received authorization from the Railroad Commission for the flaring of gas for at least 30 days in the year preceding the year when application for certification as a qualifying well is filed. Authorization to flare does not demonstrate that gas was actually flared or that gas is normally flared from a well. Currently, on-site uses of gas other than those exempted under Section 201.053 are taxable. It cannot be determined how much of currently taxable uses may become exempt as well operators secure authorization to flare for gas that in fact would not have otherwise been flared. The bill is likely to result in a decrease in gas production tax revenue but in an amount that cannot be estimated.” The Act takes effect September 1, 2023. [Read more.](#)

STATE – Regulatory

Oil and Gas Leasing Moratorium – New Mexico.

On June 1, “New Mexico Commissioner of Public Lands Stephanie Garcia Richard announced a new executive order that places a moratorium on oil and gas leasing on state trust lands within one mile of schools or other educational facilities. The moratorium does not apply to tribal, federal, or private lands. The order goes into effect immediately and remains in effect until further notice.” [Read the announcement here](#). “In addition to prohibiting new oil and gas leasing near schools, the executive order [[Executive Order No. 2023-001](#)] also mandates State Land Office staff to review all existing oil and gas mineral leases, business leases and rights-of-way located within one mile of a school or other educational institution, and assess their compliance with applicable requirements, including the obligation to plug inactive wells, remediate spills and adhere to relevant air quality standards.” [Read more](#).

State Lease Form Updates – Ohio. To follow up our May 25 *AAPLConnect* member posting, the Ohio Department of Natural Resources, Oil and Gas Land Management Commission (OGLMC), has released their updated state leasing Land Nomination Form, Notice of Nomination Form, State Lease Form, Commission Procedures documents, and implementing rulemaking, that were approved at the OGLMC meeting on May 15, 2023, and effective as of May 28, 2023. OGLMC's Online Parcel Nomination Portal (OPNOP) [is available here](#). Individuals can nominate parcels and pay the required \$150 nomination fee via the portal. For reference, the related state lease form updated rulemaking information [can be found here](#). In short, “Ohio Administrative Code 155-1-01 is a new rule that establishes a standard lease for state agencies when negotiating oil and gas mineral rights leasing on state-owned land.” As previously reported in the AAPL Governmental Affairs Reports, these changes were made pursuant to the recent passage of HB 507 ([available here](#)) which eased state leasing in Ohio and streamlined the process for nominations and leasing approvals. You can read a [full summary of HB 507 here](#).

State Air Board Votes to Exit Regional Greenhouse Gas Initiative – Virginia.

On June 7, Virginia's State Air Pollution Control Board voted by 4-3 “to exit a regional carbon emissions reduction program, a move backed by Gov. Glenn Youngkin (R) but rebuked by the state General Assembly.” The vote will move Virginia towards withdrawing from the Regional Greenhouse Gas Initiative (RGGI), “a program that issues tradable carbon-dioxide allowances and limits power plant emissions in participating states. Other participating states include Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island and Vermont.” The Democrat-controlled General Assembly voted to join the RGGI in 2020 under Gov. Youngkin's predecessor, Gov. Ralph Northam (D). Gov. Youngkin hailed the Board's vote saying, “The Office of the Attorney General has confirmed the State Air Pollution Control Board has the legal authority to take action on the regulatory proposal using the full regulatory process – and today, the Board voted to do just that – furthering Virginians access to a reliable, affordable, clean and growing supply of power.” [Read more](#).

STATE – Judicial

Dormant Mineral Act – Ohio. On May 24, in [Tatum v. Dawson](#) (Case No. 2023-Ohio-1746), the Ohio Seventh District Court of Appeals addressed the question of whether “a delay in recording a certificate of transfer prejudice[s] the surface owner in its search for mineral holders under the Ohio Dormant Mineral Act”. At trial, the “court concluded that Appellants, the current surface owners of four parcels located in Harrison County, Ohio, failed to exercise reasonable diligence in their efforts to locate the successors or assigns of the original owner of the one-half mineral interest prior to serving notice of abandonment by publication. Because Appellants limited their search to Harrison County, despite the existence of an oil and gas lease in the Harrison County public records that included an address for the original mineral interest owner in Tuscarawas County, the judgment entry of the trial court is affirmed.” As noted by law firm Frost Brown Todd, “while *Tatum* is not seminal, it is

an interesting and useful look at the applicability of this equitable doctrine in the ODMA reasonable-diligence context and, potentially, a preview of arguments to come in the ever-changing landscape of litigation under the ODMA.” [Read more.](#)

Lien on Land Enforcement; Court Jurisdiction – Texas. On May 19, the Texas Supreme Court addressed a dispute involving the enforcement of a lien on land and the jurisdiction of Texas courts over such a dispute. In [Ditech Servicing, LLC v. Jerry Perez d/b/a Lighthouse Investments](#) (Case No. 21-1109), the court stated that, “Generally, *statutory* county courts at law have concurrent jurisdiction with *constitutional* county courts, which have no jurisdiction over suits for the enforcement of a lien on land or the recovery of land. But the Legislature has granted Hidalgo County courts at law ‘concurrent jurisdiction with the district court in . . . civil cases in which the matter in controversy does not exceed \$750,000’. We are asked in this case whether a Hidalgo County court at law has jurisdiction over a civil case within that limit involving the foreclosure of a lien on land.” The Supreme Court held that it does and reversed the Court of Appeals decision. In short, the opinion holds “that a specific statutory grant of jurisdiction to Hidalgo County courts trumps the general statute barring a constitutional county court from suits to enforce a lien on land or for the recovery of land.” [Read more.](#)

INDUSTRY NEWS FLASH

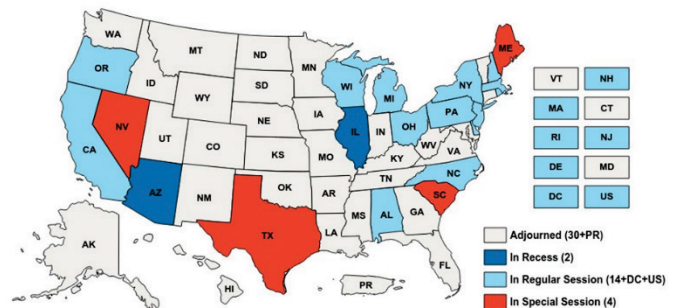
► **ExxonMobil and Chevron shareholders reject calls for stronger climate change measures at their annual meetings.** In late May, ExxonMobil and Chevron shareholders rejected “calls for stronger measures to mitigate climate change, dismissing more than a dozen climate-related proposals at their annual meetings.” As reported by *Reuters*, “Exxon holders rejected all 12 shareholder proposals, the majority of which dealt with climate-related issues. None received a majority of votes cast that would signal a win, according to early results. Chevron investors also rejected proposals regarding emissions reduction targets, the creation of a board committee on

decarbonization risk, and a report on worker and community impact from facility closures and energy transitions. [Read more.](#)

► **OPEC+ agrees to maintain production cut targets for 2023, but sets a new, lower target for 2024.** Last week, members of OPEC+ decided “to maintain its production cut targets for 2023, but agreed to set a new, lower target for 2024. Meantime, Saudi Arabia said on June 4 that it would unilaterally cut oil production by 1 million b/d in July for a month with the possibility of an extension. Saudi crude production in July would drop to just below 9 million b/d, its lowest level since June 2021.” [Read more.](#)

LEGISLATIVE SESSION OVERVIEW

States in Session



Session Notes: Alabama, California, Delaware, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oregon, Pennsylvania, Rhode Island, and Wisconsin are in regular session. The U.S. Congress is also in session.

The following states adjourned their 2023 legislative sessions on the dates provided: **Nevada** (June 5) and **Louisiana** (June 8).

Alabama is scheduled to adjourn their 2023 legislative session on June 13.

Texas Republican Gov. Greg Abbott called the legislature into special session on May 29 to address

property taxes and border security. The House adjourned on May 31 after passing its own version of the property tax relief plan and border security legislation, [CBS News](#) reports. The Senate remains in session. According to [The Texas Tribune](#), Governor Abbott will be calling multiple special sessions to address unfinished legislative business left over from the regular session.

Signing Deadlines (by date): **Iowa** Republican Gov. Kim Reynolds had until June 3 to act on legislation or it was pocket vetoed. **Colorado** Democratic Gov. Jared Polis had until June 7 to act on legislation or it became law without signature. **Oklahoma** Republican Gov. Kevin Stitt had until June 10 to act on legislation or it is pocket vetoed. **Missouri** Republican Gov. Mike Parson has until June 16 to act on legislation or it becomes law without signature. **Nevada** Republican Gov. Joe Lombardo has until June 16 to act on legislation or it becomes law without signature. **Texas** Republican Gov. Greg Abbott has until June 18 to act on legislation or it becomes law without signature. **Alaska** Republican Gov. Mike Dunleavy has 20 days from presentment to act on legislation, Sundays excepted, or it will become law without signature. **Louisiana** Democratic Gov. John Bel Edwards has 20 days from presentment to act on legislation or it becomes law without signature. ■

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