

# GOVERNMENTAL AFFAIRS REPORT

## FEDERAL – Legislative

**H. Res. 1303 – Resolution Condemning the Biden Administration’s Recent Ban of Liquefied Natural Gas Export Permits.** On June 14, Rep. Randy Weber (R-TX) introduced [H. Res. 1303](#), a resolution “Condemning the Biden administration’s politically motivated ban on liquefied natural gas exports to non-free trade agreement countries.” Rep. Weber said, “The Biden Administration’s decision to ban LNG export permits is a blatant attempt to fulfill campaign promises at the expense of American jobs and economic prosperity. This outrageous ban directly harms Southeast Texas, threatening our national security and devastating our local communities. I am proud to lead my colleagues in condemning this misguided administration and their destructive energy policies. Together, we will fight to protect American jobs, ensure our energy independence, and support the communities that rely on a thriving LNG industry.” [Read more.](#)

**Senate Committee on Energy and Natural Resources Hearing on BLM Oversight.** On June 13, the Senate Committee on Energy and Natural Resources held a hearing, “Oversight of the Bureau of Land Management,” in which the Bureau of Land Management (BLM) Director Tracy Stone-Manning testified. Committee Chairman Joe Manchin (I-WV) criticized the BLM’s policies in energy development and the permitting process. Sen. Manchin said, “it is clear there remains a major challenge permitting energy projects on BLM-managed lands, regardless of the type of energy that will be produced” and specifically told Director Stone-Manning, “I implore you not to forget your role in our nation’s economic and energy security.” To access a full video recording of the hearing and witness testimony, [Read more.](#)

**House Energy and Commerce Committee Hearing on Critical Minerals.** On June 13, the House Energy and Commerce Committee’s Environment, Manufacturing, and Critical Materials Subcommittee held a hearing, “Securing America’s Critical Materials Supply Chains and Economic Leadership.” According to Committee Chairwoman Cathy McMorris Rodgers (R-WA), “If America is going to continue its manufacturing and energy leadership, we must significantly increase our domestic supply of the necessary critical materials. These materials are crucial for manufacturing everything from batteries, electric grid components, and semiconductors, to advanced energy technologies. Our current regulatory landscape runs counter to the reasonable predictability necessary for permitting the mining, processing, and refining of these materials domestically.” Witnesses included various industry stakeholders and policy researchers. To access a full video recording of the hearing and witness testimony, [Read more.](#)

**House Judiciary Committee Hearing on ESG Decarbonization Collusion.** On June 12, the House Judiciary Subcommittee on the Administrative State, Regulatory Reform, and Antitrust held a hearing, “Climate Control: Decarbonization Collusion in Environmental, Social, and Governance (ESG) Investing” that examined “whether existing civil and criminal penalties and current antitrust law enforcement efforts are sufficient to deter anticompetitive collusion to promote ESG-related goals in the investment industry.” Witnesses included industry representatives, including Mindy Lubber, the Chief Executive Officer and President of Ceres, a non-profit sustainability organization, who said, “Climate change is an issue that presents both serious financial risks and opportunities for investments and job creation in the rapidly emerging clean energy economy” and recognized that “Large U.S.-based oil and gas companies have set emissions reduction

targets, indicating that businesses are taking these risks seriously across all sectors.” To access a full video recording of the hearing and witness testimony, [Read more.](#)

**Senate Letter to Federal Agencies Criticizing New Hydrogen Policy.** On June 18, a group of Republican senators sent a letter to the Internal Revenue Service and the U.S. Department of the Treasury criticizing the Biden administration’s proposed rule on the Section 45V tax credit for hydrogen that AAPL covered in the Jan. 18, 2024, issue of the Governmental Affairs Report. (See “Section 45V Credit for Production of Clean Hydrogen; Section 48(a)(15) Election To Treat Clean Hydrogen Production Facilities as Energy Property,” [88 Fed. Reg. 89220](#)). As reported by the American Exploration & Production Council, the senators argue that redefining “clean hydrogen,” will impose “overly restrictive requirements that make it difficult for U.S. hydrogen producers to qualify for the Section 45V tax credits.” The letter also explains that, “By requiring electricity used to produce hydrogen to be from new sources of clean power, the additionality restriction will undermine existing clean energy assets. Significant buildout of renewable energy to support hydrogen production will surely face permitting, supply chain, and inflation issues. These challenges could easily delay hydrogen projects and lead to inefficiencies in the electric grid.” Since the rule has not yet taken effect the letter asks for the proposed rule to be revised accordingly. [Read the letter here.](#)

## **FEDERAL – Regulatory**

**BLM Resource Management Plan/Environmental Impact Statement – California.** On June 21, the Bureau of Land Management (BLM) announced it “has prepared a Proposed Resource Management Plan (RMP) and Final Environmental Impact Statement (EIS) for the Redding Field Office and Arcata Field Office Northwest California Integrated Resource Management Plan and by this notice is announcing the start of a 30-day protest period of the Proposed RMP.” According to the BLM, “The planning area is in Mendocino, Humboldt, Del Norte, Siskiyou, Trinity, Shasta, Tehama, and Butte counties, California, and encompasses approximately

382,200 acres of public land and approximately 295,100 subsurface acres of Federal mineral estate.” [Read more.](#)

**BLM Resource Management Plan/Environmental Impact Statement – Colorado.** On June 21, the BLM announced it “has prepared a proposed Resource Management Plan (RMP) and final supplemental Environmental Impact Statement (EIS) for the Colorado River Valley Field Office (CRVFO) and Grand Junction Field Office (GJFO) Resource Management Plans and by this notice is announcing the start of a 30-day protest period of the proposed RMP.” According to the BLM, “The planning area is located in Garfield, Mesa, Eagle, Pitkin, Routt, Rio Blanco, and Montrose Counties, Colorado, and encompasses approximately 1.56 million acres of public land and 1.92 million acres of Federal mineral estate. CRVFO and GJFO management is identified in their respective 2015 RMPs. Apart from fluid mineral leasing decisions, all existing management as described in the CRVFO and GJFO approved RMPs remains in effect.” [Read more.](#) The upside, as reported by the *Grand Junction Daily Sentinel*, is that the BLM proposal, “eases up, when compared to an earlier proposal, when it comes to the amount of area acreage that would be off limits to new oil and gas leasing.” [Read more.](#)

**BLM Resource Advisory Council Application.** On June 11, the BLM published a notice of information collection, *Agency Information Collection Activities; Bureau of Land Management Resource Advisory Council Application* ([89 Fed. Reg. 49183](#)), that seeks public feedback on the BLM Resource Advisory Council Application (Form No. 1120-19) “to determine education, training, and experience related to possible service on advisory committees established under” federal law. The public comment period is open through August 12, 2024. [Read more.](#)

**EPA/Department of Energy Methane Emissions Reduction Funding Opportunities.** On June 21, the U.S. Environmental Protection Agency (EPA) announced that in conjunction with the U.S. Department of Energy “applications are open for \$850 million in federal funding for projects that will help monitor, measure, quantify, and reduce methane emissions

from the oil and gas sectors.” The announcement includes information on how to apply for program funding and the areas in which funding is available. “Today, we’re building on strong standards and historic progress to cut methane pollution and protect communities across the country,” said EPA Administrator Michael S. Regan. “These investments from President Biden’s Investing in America agenda will drive the deployment of available and advanced technologies to better understand where methane emissions are coming from. That will help us more effectively reduce harmful pollution, tackle the climate crisis and create good-paying jobs.”

[Read the announcement here.](#)

**EPA Final Methane Emissions Reporting Rule; Additional Public Q&A Session/Webinar.** (*Update to 5/13/24 Report*) As an update to our prior reporting, on June 18, the EPA announced it will hold an additional webinar and Q&A session “to provide more detailed technical information” on the recent rulemaking. According to the EPA announcement, “Participants can register as listeners or to make prepared remarks. If you would like to provide a comment during the webinar, please email Lydia Stubbs at [lydia.stubbs@abtglobal.com](mailto:lydia.stubbs@abtglobal.com) before June 27.” [Read more here to register for the webinar.](#) For background, on May 6, the EPA announced a final rule, *Greenhouse Gas Reporting Rule: Revisions and Confidentiality Determinations for Petroleum and Natural Gas Systems* ([Access the rule here](#)), “to strengthen, expand, and update methane emissions reporting requirements for petroleum and natural gas systems under EPA’s Greenhouse Gas Reporting Program, as required by President Biden’s Inflation Reduction Act. The final revisions will ensure greater transparency and accountability for methane pollution from oil and natural gas facilities by improving the accuracy of annual emissions reporting from these operations.” [Read more.](#) According to the EPA, “The final subpart W rule will dramatically improve the quality of emissions data reported from oil and natural gas operations, with provisions that improve the quantification of methane emissions, incorporate advances in methane emissions measurement technology, and streamline compliance with other EPA regulations. For the first time, EPA is

allowing for the use of advanced technologies such as satellites to help quantify emissions in subpart W. In addition, EPA is finalizing new methodologies that allow for the use of empirical data for quantifying emissions, including options added in response to public comments on the proposed rule. The final rule also allows for the optional earlier use of empirical data calculation methodologies for facilities that prefer to use them to quantify 2024 emissions. These changes will improve transparency and expand the options for owners and operators to submit empirical data to demonstrate their effort to reduce methane emissions and identify whether a Waste Emissions Charge is owed, based on thresholds set by Congress.” [Access an EPA Fact Sheet here.](#) The rule is effective January 1, 2025, except for certain amendatory instructions as indicated in the rule.

#### **Mountain Valley Pipeline Receives Federal Regulator Approval – Virginia; West Virginia.**

After years of legal challenges and regulatory delays, on June 11, the Office of Energy Projects in the Federal Energy Regulatory Commission (FERC) authorized the 303-mile Mountain Valley Pipeline, which will transport natural gas from northwestern West Virginia to southern Virginia. And just days later, the pipeline began operations. [Read more.](#) “The approval marks the end of a lengthy regulatory and legal battle over the pipeline that dates back to its first FERC application in 2015.” [Read more.](#) As reported by *The Hill*, “a spokesperson for Equitrans Midstream, one of the companies behind the pipeline, said in a written statement that ‘final preparations are underway to begin commercial operations’ for the project.” [Read more.](#)

#### **Federal Public Lands Withdrawal – Colorado.**

On June 14, the BLM and Interior Department, on behalf of the U.S. Fish and Wildlife Service (FWS), published a notice of federal public land withdrawal in Colorado. According to the notice, “the Secretary of the Interior proposes to withdraw 4,792.54 acres of public lands from settlement, sale, location, or entry under the general land laws, including location and entry under the United States mining laws, and from leasing under the mineral and geothermal leasing laws, and reserve them for any term up to an indefinite period as part of the Arapaho National Wildlife Refuge (NWR) located

in Jackson County, Colorado. Publication of this notice temporarily segregates the lands for up to 2 years and announces to the public an opportunity to comment and request a public meeting on the proposed withdrawal.” Comments and requests for a public meeting must be received by September 12, 2024. [Read more.](#)

## **FEDERAL – Judicial**

### **BLM Public Lands Rule – Utah Federal Court.**

On June 18, Utah and Wyoming filed suit against the BLM arguing the Biden administration failed to weigh environmental harms in its recently finalized [Public Lands Rule](#). That rule, when finalized in April, defined conservation as a “use” of public land and “requires officials managing federal land to prioritize protecting intact ecosystems and wildlife migration corridors.” This, according to *Bloomberg Government*, was expected to be challenged in court “because Western states with oil, gas, and mineral resources fear it will stifle drilling and mining.” In *Utah v. Haaland* (Case No. 2:24-cv-00438), the states argue that the National Environmental Policy Act (NEPA), “demands that a Rule of such significance be subject to careful environmental study. But when BLM first proposed the Public Lands Rule, it previewed its intent to sidestep NEPA’s procedures. The Plaintiff States objected. So did local-government entities, non-profit organizations, industry groups, members of Congress, and many others. Interested parties of all stripes entreated BLM to take the ‘hard look’ that NEPA requires before pushing through a Rule that could harm the environment. BLM brushed all these objections aside, by relying on an inapplicable NEPA exclusion and unreasonably concluding that no extraordinary circumstances warrant further review. BLM’s action was arbitrary and capricious, and the Public Lands Rule should be set aside.” As reported, “The Utah Department of Natural Resources said the rule would endanger mature and old-growth forests, disallow the sort of active management most needed to support landscape health, and make restoration work harder to accomplish to the detriment of Utah’s environment, the lawsuit stated. The Wyoming County Commissioners Association said the rule represents a ‘substantial departure from past interpretations of BLM’s

responsibilities’ and ‘will directly impact the actual management of public lands’ that might implicate habitat for the greater sage-grouse.” [Read more.](#)

### **Industry Groups Challenge EPA Vehicle Emissions Rulemaking – Washington, DC.**

On June 13, the American Petroleum Institute (API), alongside groups representing corn growers, agricultural interests, and automotive stakeholders, sued the Biden administration “over its effort to move the nation toward electric vehicles (EVs).” In [American Petroleum Institute v. U.S. Environmental Protection Agency](#) (Case No. 24-1196), the litigants claim that the EPA’s final rule, “Multi-Pollutant Emissions Standards for Model Years 2027 and Later Light-Duty and Medium-Duty Vehicles” ([89 Fed. Reg. 27842](#); April 18, 2024) and which was effective June 17, 2024, “exceeds the agency’s statutory authority and is otherwise arbitrary, capricious, an abuse of discretion, and not in accordance with law.” [Read more.](#) Of the lawsuit, API Senior Vice President and General Counsel Ryan Meyers said, “EPA has exceeded its congressional authority with this regulation that will eliminate most new gas cars and traditional hybrids from the U.S. market in less than a decade. We look forward to making our case in court.” [Read more.](#)

### **Industry Groups Challenge EPA Vehicle Emissions Rulemaking (Part 2) – Washington, DC.**

Related to the above, on June 13, the American Fuel & Petrochemical Manufacturers (AFPM), Texas Oil & Gas Association, and a coalition of oil and gas and manufacturing industry groups filed suit against the EPA over its new regulation, “that will effectively ban most new gas cars and trucks in less than eight years.” In [American Fuel & Petrochemical Manufacturers v. U.S. Environmental Protection Agency](#) (Case No. not yet docketed), the litigants are asking the court to nullify the recent EPA rulemaking. In a statement, the AFPM said, “EPA’s Light Duty Vehicle rule is unlawful and harmful to consumers, our economy and our national security. We are confident the Court will agree that Congress has not authorized EPA to effectively ban the sale of new gas and diesel cars and overhaul the U.S. economy in such a major way. EPA also overstepped in finalizing fleetwide



average standards, rather than concrete standards that all cars and trucks must meet. Since no gas, diesel or traditional hybrid today can meet 85 grams/mile, EPA's averaging scheme—which is already being contested for the 2023-2026 standards—is clearly meant to force EV adoption. And the choice to ignore all other vehicle lifecycle emissions, save those from the tailpipe, puts internal combustion engine vehicles at an arbitrary disadvantage.” [Read more.](#)

## **STATE – Legislative**

**Climate Change Liability – Vermont.** On May 30, [S. 259](#) became effective after being enacted by the legislature without the Governor's signature. The Democratic sponsored bill establishes “the Climate Superfund Cost Recovery Program to be administered by the Climate Action Office of the Agency of Natural Resources. The Program would secure compensatory payments from responsible parties to provide a source of revenue for climate change adaptation projects within the State. Payments would be based on proportional liability of responsible parties. The Program would also develop the strategy to identify and prioritize climate change adaptation projects and disperse funds to implement those projects.” [Read the legislature bill summary here.](#) In short, Vermont has become “the first state to pass a law that requires energy companies to pay for part of the damages from extreme weather events. Under the legislation, the Vermont state treasurer, in consultation with the Agency of Natural Resources, has until January 15, 2027, to calculate the total cost to Vermonters and the state of the emission of greenhouse gases from January 1, 1995, to December 31, 2024.” Specifically, “The cost will be split among energy companies based on their share of global emissions during that time. Parties are liable only if they engaged in the trade or business of extracting, producing, or refining oil, gas, or coal and have a sufficient connection with Vermont. Parties that burned the fuels will not be liable. The amount of emissions for which a party is responsible will be determined using the EPA's Emissions Factors for Greenhouse Gas Inventories.” According to law firm Jones Day, “The law likely will face many legal

challenges. In fact, the American Petroleum Institute (API) [sent a letter to the Vermont legislature prior to the law's enactment.](#) According to the letter, API was “‘extremely concerned’ about the bill because it amounted to retroactive lawmaking that a court likely would find excessively harsh due to the long time frame and unknown but potentially extreme fines. API also expressed concern with the lack of nexus between the fine and actual responsibility, the use of strict liability, the possibility of unfair penalties, and the likelihood that the law is preempted by federal law due to its use of global emissions.” [Read more.](#)

**For all 570+ 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**

**Cumulative Impacts and Enhanced Systems and Practices Rulemaking – Colorado.** On June 18, the Colorado Energy & Carbon Management Commission (ECMC) announced a notice for a “Cumulative Impacts and Enhanced Systems and Practices” rulemaking. [Read the proposed rulemaking here.](#) The rulemaking is an outgrowth of Governor Polis directing the ECMC “to undertake a series of actions aimed at achieving ozone pollution reduction from oil and gas operations.” The governor “also directed the Commission to adopt through rulemaking environmental best management practices addressing ozone.” And third, the governor instructed the ECMC “to prioritize the development of an environmental best management practices program aimed at incentivizing operations demonstrating industry-leading environmental performance.” Most recently, the governor signed into law bills [HB 24-1346](#) and [SB 24-229](#) (as covered by AAPL Governmental Affairs previously), “directing the Commission to adopt rules to evaluate and address cumulative impacts and require enhanced systems and practices from operators to avoid, minimize, and mitigate emissions of ozone precursors from newly-permitted oil and gas operations

in the ozone nonattainment area.” The rules must be adopted by September 30, 2024. For members of the public seeking to be involved in the rulemaking process, the ECMC “Request for Party Status” is due by June 27, 2024, at 2pm. [Access the ECMC Party Status form here.](#)

**Clean Transportation Fuel Standard Advisory Committee Meeting – New Mexico.** On June 18, the New Mexico Environment Department announced that the Clean Transportation Fuel Standard (CTFS) Advisory Committee will hold a meeting on June 28 which will include information about the forthcoming CTFS rulemaking. [Read more.](#) The CTFS meeting is open to the public. For more information about attending the meeting, [Read more.](#)

## **STATE – Judicial**

**Dormant Mineral Act; Marketable Title Act – Ohio.** On June 4, in [Cardinal Minerals, LLC v. Miller](#) (Case No. 2024-Ohio-2133), the Ohio Court of Appeals, Seventh District, addressed an oil and gas dispute pertaining to Ohio’s Dormant Mineral Act (DMA) and the Marketable Title Act (MTA). The court stated, the “Appellant claims this matter presents a textbook example of a facially void abandonment under the DMA. Specifically, Appellant asserts that the surface owners, the Millers, published notice only to the original holders of the severed interest even though the original holders’ estates and the estates of their named heirs and devisees were filed of record in Monroe County. Appellant claims the Millers’ attempted abandonment of the severed interest was null and void. Appellant also alleges the severed interest is not subject to extinguishment under the MTA.” However, the court held that the Appellant lacked standing to bring the lawsuit. Specifically, the interest at issue “ceased to exist in the public record and the quit-claim deeds did not convey any interest in the property.” The court also rejected the Appellant’s abandonment and notice arguments. And finally, the court determined that the instrument at issue “was clearly an assignment of rights to a lawsuit and void under Ohio law.” [Read more.](#)

## **Leasing; Interest on Unpaid Royalties – Texas.**

On June 7, in [Samson Exploration, LLC v. Bordages](#) (Case No. 22-0215), the Texas Supreme Court addressed “whether a mineral-lease provision calls for simple or compound interest on unpaid royalties.” The court held, “Because the lessee has previously litigated the identical lease language with a different lessor and lost, we must also consider whether it is collaterally estopped to relitigate the same issue here. We hold that because Texas law disfavors compound interest, an agreement for interest on unpaid amounts is an agreement for simple interest absent an express, clear, and specific provision for compound interest.” As described by the Texas Civil Justice League, “an agreement that does not clearly and unambiguously specify compound interest will be interpreted as providing for simple interest.” The court also held that the “lessee’s prior litigation of the issue does not collaterally estop it from asserting its claims here.” Accordingly, the court reversed the appellate court judgment and remanded the case back to the trial court for further proceedings. [Read more.](#)

## **INDUSTRY NEWS FLASH**

► **API releases new policy roadmap.** On June 17, the American Petroleum Institute (API) released [a new policy roadmap](#) “to unleash America’s energy security and help reduce inflation. Ahead of the first presidential debate, API is calling both candidates, as well as policymakers on both sides of the aisle, to leverage America’s energy resources to help protect consumers and cement U.S. energy leadership.” The roadmap contains “five actions policymakers can take today to secure American energy leadership, protect consumers and help reduce inflation,” which includes fixing the current permitting system. [Read more.](#)

► **AXPC publishes article on Federal permits and leases and how they impact domestic energy development.** On June 12, the American Exploration & Production Council (AXPC) published an article, *A Breakdown of Permits vs. Leases, and How They Impact Energy Development*, examining permitting and leasing on federal lands. AXPC writes, “American



or it becomes law without signature. **Tennessee** Republican Gov. Bill Lee has 10 days from presentment, excluding Sundays, to act on legislation or it becomes law without signature.

The following states are currently holding interim committee hearings or studies: [Alabama](#), [Alaska](#), [Arkansas](#), [Colorado](#), [Connecticut](#), [Idaho](#), [Indiana](#), [Kansas](#), [Kentucky](#), [Maine](#), [Maryland](#), [Minnesota](#), [Montana](#), [Nevada](#), [New Mexico](#), [North Dakota](#), [Oregon](#), [South Carolina](#), [South Dakota](#), [Tennessee](#), the **Texas** [House](#), [Utah](#), [Virginia](#), [Washington](#), [West Virginia](#) and [Wyoming](#).

The following states are currently posting 2024 bill drafts, pre-files and interim studies: [Alabama](#), [Nebraska](#), [North Dakota](#), [Oklahoma](#) and [Utah](#). ■

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