

GOVERNMENTAL AFFAIRS REPORT

Highlights At-A-Glance

FEDERAL – Legislative

S. 1776 – Protecting Unique and Beautiful Landscapes by Investing in California Lands Act.

On July 12, official bill text was made available for [S. 1776](#), known as the Protecting Unique and Beautiful Landscapes by Investing in California Lands Act or the PUBLIC Lands Act. Sponsored by Sen. Alex Padilla (D-CA), this land conservation bill “would restore and expand protections for over 1 million acres of California’s public lands.” Specifically, the bill “would increase protections for public lands throughout northwest California, the Central Coast, and Los Angeles. It would designate nearly 600,000 acres of new wilderness, more than 583 miles of new wild and scenic rivers, and over 100,000 acres of an expanded national monument.” The bill does not mention any impacts to existing or future oil and gas production. [Read more.](#)

FEDERAL – Regulatory

Department of Energy Employment Report.

On June 28, the U.S. Department of Energy (DOE) released their [2023 U.S. Energy and Employment Report](#), “a comprehensive study designed to track and understand employment trends across the energy sector.” The report shows that “the energy workforce added almost 300,000 jobs (+3.8% growth) in 2022. Clean energy jobs increased in every state reflecting increased investments due to President Biden’s Investing in America agenda. Clean energy jobs grew 3.9% adding 114,000 jobs nationally, increasing to over 40% of total energy jobs. Clean energy technologies, such as solar and wind, accounted for more than 84% of net new electric power generation jobs, adding over 21,000 jobs (+3.6% growth), and jobs related to zero emissions vehicles saw nearly 21% growth, adding over 38,000 jobs.” Additionally, the “geothermal

workforce added 1,000 jobs, growing by 5.0% in 2022.” [Read a full executive summary here.](#) And the top-three states for clean energy jobs growth were California, West Virginia, and Texas. And the report also shows that fossil fuel sector jobs saw even greater growth than “clean energy jobs.” For example, “natural gas fuel jobs grew 24 percent, and petroleum jobs grew 13 from 2021 to 2022.” [Read more.](#)

BLM Solar Development – Nevada. To follow up our prior reporting providing notice of the Nevada BLM solar auction, on June 28, the BLM reported the results of that utility-scale solar energy development auction, which resulted in \$105.15 million in high bids. According to the BLM, “The auction of four parcels across 23,675 acres in the Amargosa Desert could support nearly 3 gigawatts of renewable energy to the electrical grid. This is the highest-yielding onshore renewable energy auction in the agency’s history.” [Read more.](#)

Department of Interior Rejects Environmentalist Petition to Phase Down Oil and Gas Production.

On June 27, in a blow to environmental activists, the Biden administration rejected a bid to phase down oil and gas production on federal lands and waters. In a letter responding to a [2022 environmentalist petition](#), Laura Daniel-Davis, Interior Department Principal Deputy Assistant Secretary, Land and Mineral Management, wrote, “This responds to the petition your organization submitted on January 19, 2022, on behalf of the Center for Biological Diversity and numerous other environmental organizations. Your petition requested that the Secretary promulgate regulations establishing a maximum production rate and a phasedown of existing onshore and offshore oil and gas production from public lands and waters [...] I have considered your petition and have decided not to initiate the rulemaking you requested for the reasons discussed in this letter because the Department has a robust rulemaking

agenda already underway to address the climate crisis and implement reforms to our conventional energy programs, and has insufficient resources to undertake the proposed rulemaking at this time.” [Read the letter here.](#)

Bureau of Ocean Energy Management Proposed Rulemaking. On June 29, The Interior Department’s Bureau of Ocean Energy Management (BOEM) published a proposed rule, *Risk Management and Financial Assurance for OCS Lease and Grant Obligations* ([88 Fed. Reg. 42136](#)), that “proposes to modify its criteria for determining whether oil, gas, and sulfur lessees, right-of-use and easement (RUE) grant holders, and pipeline right-of-way (ROW) grant holders may be required to provide bonds or other financial assurance above the current regulatorily prescribed base bonds to ensure compliance with their Outer Continental Shelf Lands Act (OCSLA) obligations. This proposed rule would also remove existing restrictive provisions for third-party guarantees and decommissioning accounts and would add new criteria under which a bond or third-party guarantee that was provided as supplemental financial assurance may be canceled. Additionally, this proposed rule would clarify bonding requirements for RUEs serving Federal leases. Based on the proposed framework, BOEM estimates that the aggregate amount of supplemental financial assurance required of lessees and grant holders under this proposed rulemaking available to the U.S. government for decommissioning activities would increase by an estimated \$9.2 billion over current levels. This value represents less than one-quarter of all offshore decommissioning liabilities, which is currently estimated at \$42.8 billion. This proposed rulemaking would not apply to renewable energy activities.” The public comment period is open through August 28, 2023. The proposed rule also includes an information collection component for which public comments are due by July 31, 2023. [Read more.](#)

EPA Proposal for Greenhouse Gas Emissions Reporting Requirements for the Oil and Gas Sector. On July 6, the U.S. Environmental Protection Agency (EPA) announced “a proposal to amend reporting requirements for petroleum and natural gas systems

under EPA’s Greenhouse Gas Reporting Program.” [Read more.](#) According to the EPA, “The proposed revisions would improve the accuracy of reported emissions of greenhouse gases (GHG), including methane, one of the primary drivers of the climate crisis, from applicable petroleum and natural gas facilities, consistent with the Methane Emissions Reduction Program under the Inflation Reduction Act.” According to *Bloomberg Government*, “the proposed revisions respond to gaps in total methane emissions reported by adding new covered sources, including ‘other large release events.’ This would allow for abnormal methane emission events to be captured that are otherwise not completely accounted for under existing methods. The amendments would also create new or revise existing calculation methodologies, and collect data at a more granular level. Also included in the proposal are determinations to establish whether data submitted to the EPA under the proposed revisions would receive confidential treatment.” [Access a detailed EPA Fact Sheet here.](#) Once the proposal is formally published in the Federal Register the EPA will provide a 60-day comment period. We will keep AAPL members updated once the proposed revisions are published. The EPA is proposing “that most revisions would become effective on January 1, 2025, and that reporters would implement most of the changes beginning with reports prepared for the 2025 reporting year and submitted by March 31, 2026.” [Read more.](#)

Office of Natural Resources Revenue Information Collection. On June 29, in the Interior Department’s Office of Natural Resources Revenue (ONRR) published a notice of information collection, *Agency Information Collection Activities; Suspensions Pending Appeal and Bonding* ([88 Fed. Reg. 42102](#)). Through this information collection, “ONRR seeks renewed authority to collect information related to the paperwork requirements necessary to post a bond or other surety, or to demonstrate financial solvency to suspend compliance with an order or to stay the assessment or accrual of civil penalties.” The public comment period is open through July 31, 2023. [Read more.](#)

U.S. Fish and Wildlife Service Final Rule. On July 3, the U.S. Fish and Wildlife Service (FWS) published a

final rule, *Endangered and Threatened Wildlife and Plants; Designation of Experimental Populations* (88 Fed. Reg. 42642), that is intended to provide greater flexibility for the FWS “to protect endangered species because of climate change.” The rule “allows for ‘experimental populations’ of endangered species to be introduced into habitats outside of where they have historically lived, removing a requirement that such populations only be introduced to the plant or animal’s ‘historical range.’” Of the rule, Interior Department Secretary Deb Haaland said, “The impacts of climate change on species habitat are forcing some wildlife to new areas to survive, while squeezing other species closer to extinction. The Interior Department is committed to using all of the tools available to help halt declines and stabilize populations of the species most at-risk.” The final rule takes effect on August 2, 2023. [Read more.](#)

FEDERAL – Judicial

BLM Well Permitting Approvals – California. On June 22, environmentalists sued the Biden administration, “seeking to halt the unlawful drilling of multiple oil and gas wells in California’s San Joaquin Valley.” According to the lawsuit, *Center for Biological Diversity v. U.S. Bureau of Land Management* (Case No. 1:23-at-00526) filed in California federal court, “The agency rushed the approval of the well permits in the Mount Poso oil field near Bakersfield without allowing input from the public and nearby communities, as required by federal law.” The litigants claim the approval of drilling permits for new oil wells on public land in the San Joaquin Valley, California, were made “without accounting for the air quality, groundwater, public health, and climate impacts of BLM’s continued expansion of oil and gas drilling, and without providing for meaningful input from the communities most impacted by its permitting decisions.” Among other relief, the suit asks the court to vacate and halt the approvals. [Read more.](#)

STATE – Legislative

Severance Tax Exemption – Louisiana. On June 27, HB 634 was signed into law by Gov. John Bel Edwards (D). Sponsored by Rep. Jack McFarland (R),

the bill “provides for eligibility for a severance tax exemption for production of natural gas, gas condensate, and oil from any well drilled to a depth of more than 15,000 feet.” The Act takes immediate effect. [Read more.](#)

Corporation Franchise Tax – Louisiana. On June 28, Gov. John Bel Edwards (D) signed SB 3 into law. Sponsored by Sen. Sen. R.L. Bret Allain (R), the bill changes the month for the annual determination of the personal income tax and corporate franchise tax automatic rate reductions. The Act takes immediate effect. [Read more.](#)

Corporation Franchise Tax – Louisiana. Gov. John Bel Edwards (D) vetoed SB 1. The Republican-backed bill would have phased out the “corporation franchise tax over a four-year period beginning on or after Jan. 1, 2025, with the franchise tax fully phased-out on or after Jan. 1, 2028.” [Read more.](#)

Environmental Protection – Nevada. Democrat-sponsored AJR 3 died in the legislative session adjourned on June 6, 2023. The Joint Resolution proposed to amend the Nevada Constitution to establish certain rights relating to the environment such as a guarantee providing to each person the right to a clean and healthy environment; mandating a trust obligation of the State to conserve, protect and maintain certain environmental resources; requiring the State to fulfill its trust obligation equitably for all beneficiaries regardless of race, ethnicity, gender, geography or wealth; and prohibiting the State, whether through action, inaction or the action of others, from causing the unreasonable degradation, diminution or depletion of the environment. [Read more.](#)

STATE – Regulatory

Sunset Advisory Commission Results – Texas. On June 27, the Texas Sunset Advisory Commission announced their last report for the 2022-23 review cycle, *Final Results of Sunset Reviews 2022-23*, which is now available on their website. [You may access the report here.](#) According to the Commission, “This

comprehensive report summarizes the final results of each Sunset review, including both legislative actions and nonstatutory management directives. The 88th Legislature adopted 95 percent of the Sunset Commission's funding and statutory recommendations, passing all 15 Sunset bills. Together, the commission's five funding recommendations, 138 statutory changes, and 85 management directives will position the agencies and entities to better serve and protect Texans." During the 2022-23 biennium, the Commission "evaluated 21 entities, most of which related to natural resources and criminal justice, including the Public Utility Commission of Texas (PUC), Texas Commission on Environmental Quality (TCEQ), Texas Water Development Board, Texas Juvenile Justice Department (TJJD), and a limited scope re-review of the Texas Commission on Law Enforcement (TCOLE)." For background, the Commission "works by setting a date on which an agency is abolished unless the Legislature passes a bill to continue it. Sunset staff evaluates the agency and issues recommendations for positive change. The Commission considers the recommendations, hears public testimony, and decides on a package of changes to bring to the full Legislature." [Read more.](#)

Railroad Commission Class VI Underground Injection Control Program Proposed Rule Amendments – Texas. *(Update to 6/26/23 Report)*

On July 5, the Texas Railroad Commission (RRC) announced it will hold a public hearing "on the proposed amendments to Chapter 5, relating to Carbon Dioxide (CO₂), which are part of the RRC's ongoing application to the United States Environmental Protection Agency (EPA) for enforcement primacy of the Class VI Underground Injection Control (UIC) Program. The hearing will be held virtually from 1 p.m. – 4 p.m. on Wednesday, July 19, 2023." [Read the hearing notice here.](#) The hearing will be accessible for viewing live via webcast on the [Texas ADMINMonitor website here.](#) "The first part of the hearing will consist of a brief overview by RRC staff regarding the proposed rule amendments. The second part of the hearing will consist of public comment on the proposed rule

amendments. To view the proposed rules, visit the RRC website at <https://www.rrc.texas.gov/general-counsel/rules/proposed-rules/> under "Chapter 5. Carbon Dioxide – Various Rules." For background, on June 13, the RRC released "proposed amendments to various rules in Chapter 5 relating to Carbon Dioxide. The proposed amendments concern enforcement primacy for the federal Class VI Underground Injection Control program." The proposed amendments to [16 Texas Administrative Code Chapter 5](#) relating to carbon dioxide are to "ensure that the rules are as stringent as the requirements of the U.S. Environmental Protection Agency (the 'EPA') to support the Commission's application to EPA for enforcement primacy for the federal Class VI Underground Injection Control (UIC) program." [Read more.](#) The proposal was formally published in the Texas Register on June 30, 2023, and the public comment period remains open through July 31, 2023. [Access the RRC public comment website here.](#)

Regulatory Reduction Task Force – Wyoming.

On June 19, "Pete Obermueller, president of the Petroleum Association of Wyoming, told the Wyoming Regulatory Reduction Task Force that what's hurting Wyoming's oil and gas industry the most isn't the regulatory environment. It's the heavy tax burden." The Task Force was created by the state legislature "to examine rules, regulations, statutes, and processes affecting" multiple industries. The Task Force is also tasked with holding public meetings to seek input from citizens and stakeholders, including state agency officials, representatives of local governments and industry groups. [Read more.](#) "The taxes are especially difficult for Wyoming's producers," Obermueller said, "because a large portion of the operators in the state are small businesses." Other issues discussed were reviving legacy wells and enhanced oil recovery. Sen. Mike Gierau (D), Chairman of the Task Force, "told Cowboy State Daily the input and ideas the task force received will now go through working groups. They will then send over recommendations to various committees in the Legislature. For any energy-related recommendations, for example, these will likely go over to the Minerals Committee. Tax issues might go

to the Revenue Committee. From there, bills might end up in the legislative session next year.”

[Read more.](#)

Western Governors’ Association Annual Meeting.

The Western Governors’ Association (WGA) held its annual meeting on June 26-28, 2023. Much of the policy discussions among the 22 WGA governors of the westernmost U.S. states and territories revolved around climate change issues, carbon capture, geothermal energy resources, energy transmission infrastructure, and bipartisan solutions and coordination between states. [Read more.](#) “We have a lot more that unites us than what divides us, and that’s sometimes challenging in this day and age, with people peddling division on both sides of the aisle,” Colorado Gov. Jared Polis (D) told reporters. Wyoming Gov. Mark Gordon (R), who will be the next WGA Chair, said, “What you find in the West and among western governors is a common commitment to really focus on solutions, rather than politics. We all care deeply about this region.” [Read more.](#) In related news, on June 28, “the governors of Wyoming and Colorado signed a memorandum of understanding [...] for interstate collaboration on the development of carbon capture technologies.” This bipartisan agreement “will explore the potential of these emerging tools to complement existing and future industries while boosting economic growth and reducing greenhouse gas emissions in both states.” [Read more.](#)

STATE – Judicial

Climate Change Lawsuit – Oregon. On June 22, Multnomah County in Oregon filed suit in state court against a group of oil and gas companies, including Exxon Mobil, Shell, Chevron, BP, ConocoPhillips, as well as the American Petroleum Institute, “seeking to hold them accountable for the damages arising from the 2021 Pacific Northwest Heat Dome, one of the most deadly and destructive human-made weather disasters in American history.” The lawsuit, [County of Multnomah v. ExxonMobil Corp.](#) (Case No. 23CV25164), seeks \$51.5 million in damages in which the county – which includes

Portland – “alleges that the combined historical carbon pollution from the use of Defendants’ fossil fuel products was a substantial factor in causing and exacerbating the heat dome, which smothered the County’s residents for several days.” [Read more.](#) The lawsuit claims “that the Defendants committed negligence and fraud, and created a public nuisance, all of which are well-established causes of action under Oregon state tort law.” In response to the lawsuit, a spokesperson for ExxonMobil told CNBC, “Suits like these continue to waste time, resources and do nothing to address climate change. This action has no impact on our intention to invest billions of dollars to leading the way in a thoughtful energy transition that takes the world to net zero carbon emissions.” [Read more.](#)

Winter Storm Uri Grid Operator Liability –

Texas. On June 23, the Texas Supreme Court ruled in consolidated cases, [CPS Energy v. Electric Reliability Council of Texas \(Case No. 22-0056\)](#) and [Electric Reliability Council of Texas, Inc. v. Panda Power Generation Infrastructure Fund, LLC \(Case No. 22-0196\)](#), related to 2021 Winter Storm Uri that resulted in system-wide power outages throughout Texas. The court wrote that “These two cases present three questions concerning the Electric Reliability Council of Texas, Inc.: (1) Is ERCOT a governmental unit as defined in the Texas Tort Claims Act and thereby entitled to pursue an interlocutory appeal from the denial of a plea to the jurisdiction? (2) Does the Public Utility Commission of Texas have exclusive jurisdiction over the parties’ claims against ERCOT? And (3) is ERCOT entitled to sovereign immunity? The answer to all three questions is yes.” Thus, in Case No. 22-0056, the court affirmed the court of appeals’ judgment dismissing the claims against ERCOT, and in Case No. 22-0196, the court reversed the court of appeals’ judgment and rendered judgment dismissing the claims against ERCOT. Chief Justice Nathan Hecht – writing for the majority – wrote that ERCOT “operates under the direct control and oversight of the PUC, performs the governmental function of utilities regulation and it possesses the power to adopt and enforce rules pursuant to that rule.” He added that immunity “prevents the disruption of key governmental

