

**To:** Miner, Robert [REDACTED]@bp.com]; Cochrane, Phil [REDACTED]@bp.com]; Cross, Iris M [REDACTED]@bp.com]; Thomas, Larry [REDACTED]@bp.com]; Lindskoog, Wendy [REDACTED]@bp.com]; Constantin, Dawn M [REDACTED]@bp.com]; Chen, Matthew [REDACTED]@bp.com]; Hyland, Karen [REDACTED]@bp.com]; Walker, Ryan [REDACTED]@bp.com]; Nolan, James [REDACTED]@bp.com]; Swink, Suzanne [REDACTED]@bp.com]; Clanton, Brett [REDACTED]@bp.com]; Taybron, Sahara [REDACTED]@bp.com]  
**Cc:** Streett, Mary [REDACTED]@bp.com]; Ellis, Joe [REDACTED]@bp.com]; Stout, Robert [REDACTED]@bp.com]; DeGiusti, Stephen [REDACTED]@bp.com]  
**From:** Knaizer, Sam [/O=MSXBP/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=[REDACTED]]  
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## **KEY ENGAGEMENTS FROM REPORT PERIOD (All States)**

# **Redacted - First Amendment**

- **February 12:** Governor Mead State of the State Address and WY Legislature Convenes (Cheyenne, WY)
- **February 12:** Wyoming Business Alliance Legislative Dinner (Cheyenne, WY)
- **February 12:** COGCC Mill Levy Rulemaking (Denver, CO)
- **February 13:** COGCC Flowline Rulemaking (Denver, CO)
- **February 13:** Western Energy Alliance Mitigation Summit (Denver, CO)
- **February 14:** Lunch and Town Hall with Bernard Looney (Denver, CO)
- **February 14:** Colorado Office of Economic Development and International Trade Regarding Relocation Incentives (Denver, CO)
- **February 15:** New Mexico Legislative Session Adjourned *Sine Die* (Santa Fe, NM)
- **February 15:** Oklahoma Corporation Commission Rules Chapter 5&10 (Oklahoma City, OK)
- **February 20:** Committee Leadership Debrief – NMOGA Legislative Affairs Committee Co-Chairs and NMOGA Staff (Albuquerque, NM)
- **February 21:** CDPHE Hydrocarbon Stakeholder Meeting (Denver, CO)
- **February 21:** New Mexico Briefing with Consumer Energy Alliance Staff (Albuquerque, NM)

## **BUSINESS INTELLIGENCE/KEY HIGHLIGHTS FROM REPORT PERIOD**

### **Colorado**

• **COGCC Flowline Rulemaking Process Produces New Regulations:** Last Tuesday, after a nearly six-month process, the Colorado Oil and Gas Conservation Commission (COGCC) unanimously approved new flowline regulations, which are intended to strengthen flowline safety following the Firestone tragedy. The regulations are comprehensive: they require operators to design, construct, and maintain the integrity of flowlines, and register the flowline locations and design attributes with COGCC and the State 811 call before you dig damage prevention system. They also expand upon the actions already taken by the oil and gas industry as part of the recent Notice to Operators (NTO) that required documentation and inspections of equipment and flowlines across the state. The new rules include more flowline testing, more reporting, more monitoring, and mapping, by which operators will provide the COGCC with maps indicating start point and end points of flowlines. The process began back in September 2017 at the request of Governor Hickenlooper, in accordance with his August 2017 announcement of a seven-pronged approach that directed the COGCC to review and strengthen existing flowline rules. The months-long process featured diverse stakeholders, including local governments, the business community, the agricultural community, mineral right owners, and the industry. During closing statements, there was common consensus that the process was a successful collaboration even with the broad range of varying backgrounds and viewpoints of the stakeholders involved.

• **COGCC Raises Mill Levy 0.4 Mills:** Also last week the Colorado Oil and Gas Conservation Commissioners unanimously approved an increase in the mill levy on oil and gas production in Colorado from 0.7 to 1.1 mils to fill a \$2-3 MM shortfall in funding the annual operating expenses of the COGCC, which currently amounts to \$12.5 MM per year. The decision was unanimous. The extra 0.4 mills, which will be added to the current rate of 0.7 mills starting April 1, is expected to generate an additional \$4.8 million per year for the COGCC. Each mill generates about \$1.2 million a year. The Commission currently raises about \$7 million a year from the existing mill levy rate of

0.7 percent. Prior to this year it had not been adjusted since 2007. Revenues are lagging this year due to lower production during the industry downturn in 2015 and 2016 and the lower commodity prices during that same time frame. Notably, the COGCC's staff has grown 47 percent in the last five years, from 75 people to 110 people currently.

- **2018 Legislative Session:** The following notable developments occurred during this reporting period:
  - On February 12<sup>th</sup> Senators Ray Scott (R) and Kerry Donovan (D) introduced Senate Bill 167, 'Enforce Requirements 811 Locate Underground Facilities'. The goal of this bill is to strengthen the 811 Call Before you Dig program in Colorado. Just today the bill was heard in the Senate Transportation Committee. The Colorado Petroleum Council (CPC) and the Colorado Oil and Gas Association (COGA) submitted amendments to the bill and diligently worked with all stakeholders to ensure those amendments were accepted. CPC testified in support of Senate Bill 167 contingent upon the adoption of those amendments. The bill passed on a 4 to 1 vote and will now move to the Senate floor.
  - On February 15<sup>th</sup> Colorado's House of Representatives Speaker Crisanta Duran announced that she would be forming a Select Committee on Climate Responsibility. In her statement Speaker Duran said that "climate change threatens our Colorado way of life and our state must continue to lead on climate action." The purpose of the committee is to "conduct hearings to examine the legislative and policy opportunities that will enable the state to meet the goals of the Colorado Climate Plan promulgated by Governor John Hickenlooper."
- **COGCC Director Resigns to Join Consulting Firm:** Matt Lepore, the current Colorado Oil and Gas Conservation Commission (COGCC) Director, is stepping down. His five-plus years at the COGCC were marked by dramatic changes in the industry's operation, an expansion of the state's regulations, and the Firestone tragedy in 2017. Lepore is resigning voluntarily to join Adamantine Energy, the Denver-based consulting firm started by Tisha Schuller, the former president and CEO of the Colorado Oil & Gas Association (COGA). Adamantine works on energy issues and conflicts surrounding energy production in Colorado, nationwide and around the world, aiming to promote collaboration and consensus. Lepore will be Adamantine's new strategic advisor and legal counsel. Julie Murphy, the assistant director for energy and minerals at Colorado's Department of Natural Resources, has been appointed the COGCC's new director. At DNR, Murphy addressed policy, technical and legal perspectives on oil and gas, as well as mining and reclamation. Denver Post coverage can be found [here](#).

## New Mexico

- **State Legislature Adjourns After Sending 111 Bills to Governor Martinez for Consideration, Including Several NMOGA Priority Bills:** After passing 111 bills, the second session of the 53<sup>rd</sup> New Mexico State Legislature adjourned *sine die* at noon on February 15. A \$6.3 billion budget for FY 19 – of which 25% to one-third is directly funded through receipts from oil and gas to the state's General Fund – was passed by both chambers in the final week of the legislative session and is awaiting Governor Susana Martinez's (R) final approval. It is likely that she will line item veto certain appropriations within the budget, but that she will provide her approval overall to the spending package. NMOGA's Legislative Affairs Committee identified and tracked 64 pieces of legislation throughout the session. As is the case every session, there was a good amount of legislation (some positive and some negative) impacting our industry. With the exception of a few powerless but expressive anti-industry memorials sponsored by progressive Democrats, no legislation passed that would have negative impacts to BP L48. Legislative memorials that recognized the oil and gas industry's increased economic contributions to the state and acknowledged industry's role in voluntarily reducing methane emissions passed their respective committee assignments ([HM 76](#) passed 7-5 in House Energy and [SM 78](#) passed 7-0 in Senate Conservation), but neither memorial had enough time left for a floor vote before the clock ran out on the session. Significant tax reform did not pass this session, despite several bills introduced that would have directly impacted the oil and gas industry. The Legislative Affairs Committee, with the help of several member NMOGA companies, dedicated a significant amount of time to fighting off numerous proposals

attempting to change or repeal the industry's chemicals and reagents deduction, which could have impacted both operators and service companies engaged in well acidization and stimulation activities. NMOGA will be working with member companies, tax experts, elected officials and regulators throughout this year's interim legislative period to address tax issues and identify legislative opportunities that will undoubtedly be on the agenda during the 2019 session. A handful of positive priorities that NMOGA supported are headed to Governor Martinez for her signature, including:

- HB 2: General Appropriation Act of 2018 – Among other budgetary items, HB 2 provides that most of the operating expenses for the state's Oil Conservation Division (NMOCD) come from the General Fund, instead of continuing to "raid" NMOCD's Reclamation Fund. The original intent of the NMOCD Reclamation Fund was to provide funding only for the reclaiming and plugging of abandoned wells and the restoration and remediation of abandoned well sites and associated production facilities.
- HB319 and SB226: Carlsbad Brine Well Remediation – Supports the remediation of the I&W brine well near Carlsbad, in addition to HB 2/budget line item appropriations secured for brine well remediation. A collapse of this brine well would be a high-profile and catastrophic event impacting the lives and infrastructure of Carlsbad residents, and it could also inflict serious collateral PR/political damage on state regulators as well as the oil and gas industry in general.
- HB90 and SB28: Storage Tank & Tank Tester Compliance – Updates the definition of "pipeline facility" to ensure consistency with federal regulation and defines a tank tester in both the Hazardous Waste Act and the Ground Water Protection Act. Reduces the regulatory burden on storage tank owners who would otherwise have to demonstrate and document the qualifications of persons performing the required tests to the New Mexico Environment Department each time a test is performed.
- SB189: Financial Assurance for Plugging Oil & Gas Wells – Increases the cap for blanket plugging financial assurance bonds from \$50,000 to \$250,000 and ensure that one-well plugging financial assurance be "in amounts sufficient to reasonably pay the cost of plugging the wells covered by the financial assurance. Despite a last-minute rift between the Independent Petroleum Association of New Mexico (IPANM) and the New Mexico Oil & Gas Association (NMOGA), Senate Bill 189 – a NMOGA-endorsed bill to increase the cap for blanket plugging financial assurance bonds from \$50,000 to \$250,000 and ensure that one-well plugging financial assurance be "in amounts sufficient to reasonably pay the cost of plugging the wells covered by the financial assurance" – passed both houses of the State Legislature immediately prior to its adjournment on February 15 and is currently awaiting the signature of Governor Susana Martinez (R).

- **Governor Martinez Declines to Endorse Lone Potential Republican Successor:** Governor Susana Martinez (R) is declining to say whether she will vote for the only Republican gubernatorial candidate in the November 2018 election, according to an Associated Press wire story. According to the article, Martinez was asked on February 15 at a news conference whether she will vote for U.S. Rep. Steve Pearce (R-NM-2) to be the state's next Governor. Martinez replied by stating that she is not going to answer that question. The story notes that Martinez cannot run for re-election to a third term in 2018 due to term limits, and Rep. Pearce is giving up a firm hold on New Mexico's southern congressional district to run for Governor. Martinez says the state's next Governor – whoever it is – will inherit a state government in strong financial shape due to increased oil and gas production, and that the state's economy in general is improving. The Democratic Governors Association (DGA) immediately seized on Martinez's response regarding Pearce. "When you're too toxic for even Susana Martinez to endorse, you know you're in bad shape," DGA Communications Director Jared Leopold said in a news release on February 16. "Steve Pearce is just too extreme for New Mexico, and even his Republican allies know it." On the contrary, some local political observers believe that a lack of an endorsement from Governor Martinez – whose approval ratings are currently in the low 30's – may actually help Rep. Pearce bring independents and conservative Democrats to his side in the fall. "It almost makes you wonder if the duo – who have long disliked each other – worked this one out behind closed doors," mused Albuquerque political blogger Joe Monahan.

## Oklahoma

- **OKOGA Supports Updated Seismicity Regulations:** Oklahoma Oil and Gas Association (OKOGA) members are committed to limiting any negative effect of hydraulic fracturing, taking a number of precautions before tremors are felt. In Oklahoma, only about 4 percent of frac jobs result in seismic events that can be felt above ground. While research is still underway across the U.S. and Canada as to recent induced seismic events, seismologists suspect a ready-to-slip fault line must be nearby for hydraulic fracturing to cause a tremor that registers with people. "At the end of the day, what we need to do is make sure we're limiting the felt activity," said Chad Warmington, head of the state Oil & Gas Association. "That kind of takes care of everything." Oklahoma requires drillers to stop fracking for at least six hours after an earthquake of 3.0 in magnitude. If one registers 3.5 or more, they must suspend operations for two days and coordinate with regulators on plans for restarting. Read more from [Bloomberg](#).
- **OK Special Session:** The [Step Up Oklahoma](#) Plan failed to receive the  $\frac{3}{4}$  majority needed to pass out of the house of representatives. Although a majority of House members voted in favor of the bill, the tally fell well short of the three-fourths majority needed to pass tax hikes in Oklahoma. The vote was 63 to 35. The bill needed 76 votes to pass. Fifty-three of the 72 Republicans in the House voted for the package, as did 10 of the 28 Democrats. The vote was 63 to 35. The bill needed 76 votes to pass. With the bill's failure, we expect the Special Session will conclude next week with across the board cuts and approval of the FY 2018 budget. Oklahoma's improving economy has resulted in tax revenue coming in better than expected, which should provide some relief in future years, but some cuts likely would still be needed across a number of state agencies to adequately fund the three targeted agencies through the end of the current fiscal year.
- **2018 OK Regular Session:** The official regular session began February 5<sup>th</sup> and ends the last Friday of May. Mike Thompson is monitoring legislation and the Oklahoma Oil and Gas Association (OKOGA) is taking official positions of support and opposition. Next week is committee deadline week and most of the legislation we have identified as negative or punitive will not advance. The next two weeks will be floor procedure, and we will work to stop bills which make it out of committee.
- **State Question 788:** Oklahomans [will decide in June](#) whether or not Oklahoma becomes the 30<sup>th</sup> state to legalize marijuana. Many Oklahoma businesses are concerned about the legalization of "medical" marijuana. We have operations in other states with similar marijuana laws, but under the language of the proposed initiative no company can terminate an employee if they test positive and have prescription. Chiropractors could also write prescriptions and most of the business community views this legislation as really recreational disguised as medical. We will continue to monitor.

## Texas

- **Fort Bend County, TX Release Update:** Texas Railroad Commissioner Ryan Sitton participated in a town hall hosted Tuesday by Sen. Borris Miles and Rep. Ron Reynolds to provide updates and answer questions regarding an oil well blowout that occurred in Fort Bend County on Dec. 6, 2017. "I work directly for the 27 million Texans of this state and it's my duty and commitment as Railroad Commissioner to ensure that they feel confident in the way oil and gas companies are operating in their communities," Sitton said. "Nothing is more important than public and environmental safety, and I'm extremely appreciative of Sen. Miles and Rep. Reynolds bringing together the community to address their concerns and provide the facts. No one likes it when incidents like this occur, but the Railroad Commission is committed to ensuring that remediation is done according to required standards and that drilling operators follow all prescribed rules." In the days following the blowout, 90 percent of the hydrocarbon release was recovered from reserve pits on the drilling location with the additional 10 percent recovered in soil excavation. The well was plugged on Dec. 19, 2017, and all remediation and clean up was reported by the operator as completed on February 9, 2018. The Texas Commission on Environmental Quality extensively tested the area where odors were noted and found no health risks. Notably, Houston Fire Department's HazMat Senior Captain

Johnson presented information related to their monitoring and assessment of air quality in the immediate aftermath of the blowout, finding no harmful levels of air toxins present.

- **TX Induced Seismicity:** Seismologists analyzed a sequence of earthquakes at DFW Airport and found that even though wastewater injection was halted after a year, the earthquakes continued. The sequence of quakes began in 2008, and wastewater injection was halted in 2009, but earthquakes continued for at least seven more years. Notably, on February 12, a small earthquake went relatively unnoticed in rural Karnes County, some 50 miles southeast of San Antonio. Local law enforcement said they didn't feel the 3.1 magnitude quake rumbling, it's impossible to dismiss the significance of yet another earthquake in South Texas' Eagle Ford Shale region. This is the fourth minor earthquake recorded in this region in 2018, compared to 2017, which only saw two quakes in Eagle Ford, and 2016 which saw zero.
- **Houston's Flooding:** Local and state leaders are moving toward a major, lengthy and costly overhaul of the region's flood defenses that includes regulating development, massive buyouts of flood-prone properties and flood-prevention projects that have been discussed for decades but never built. Some of the high-dollar projects on the table will build or improve infrastructure to help Houston, despite its saucer-like topography, move water out of the region more quickly during torrential rains. Governor Abbott said he's willing for the state to pay for some projects, but he wants the federal government to first pony up money it promised to help the greater Houston area prepare for future floods.

## Wyoming

- **2018 Wyoming Legislative Update:** The Wyoming legislative session kicked off on February 12. While we do not anticipate any significant pieces of legislation, we are tracking a number of bills and legislative developments, including but not limited to:
  - Senate File 98: A bill looking to cut future severance taxes for oil and gas companies was approved by the Senate Minerals Committee yesterday in a 3-2 vote. Senate File 98 would cut severance taxes in half during the third year of production until the end of its fourth year. Notable provisions of the bill include a 50% reduction of the 6% ad valorem tax rate in months 25-50 of production. The legislation will be heard in House Minerals Committee next week. Industry is split, and as a result, the bill is stalled. Governor Mead is less than enthusiastic about a tax cut, and certainly all tax increases are off the table this session. We will continue to monitor.
  - Senate File 14: The Biennial Energy Strategy is a Governor Mead sponsored bill to create an energy strategy committee and annual reporting on the state of energy in Wyoming. This bill is unlikely to pass as industry is opposed, and has opposed, for the majority of his tenure.
  - Budget Amendment 7: Aimed to tax activities associated with flaring although on second reading the amendment failed.
  - Critical Infrastructure Projection: On the heels of Iowa and Ohio, Wyoming has become the third state to introduce a bill criminalizing the type of activities undertaken by past oil and gas pipeline protesters. One of the Wyoming bill's co-sponsors even says it was inspired by the protests led by the Standing Rock Sioux Tribe against the Dakota Access pipeline, and a sheriff involved in policing those protests testified in support of the bill at a recent hearing. One of the Wyoming bill's co-sponsors even says it was inspired by the protests led by the Standing Rock Sioux Tribe against the Dakota Access pipeline, and a sheriff involved in policing those protests testified in support of the bill at a recent hearing. One of the Wyoming bill's co-sponsors even says it was inspired by the protests led by the Standing Rock Sioux Tribe against the Dakota Access pipeline, and a sheriff involved in policing those protests testified in support of the bill at a recent hearing.
  - Wind Development: The rapid expansion of wind development in Wyoming has attracted the attention of lawmakers currently in Cheyenne for the legislative session. A bill to increase Wyoming's tax on wind production, widely opposed by the wind industry, failed to make it to introduction last week. Meanwhile, lawmakers have advanced a measure, House Bill 152, that offers a property tax exemption to wind energy equipment while it's in storage in the state. Prospects for

the bill are bleak.

- **Rocky Mountain Power Wind Expansion:** Utility Rocky Mountain Power intends to expand in four Wyoming counties, growing its wind development in the state by 60 percent. Four new projects are expected to fulfill the company's wind expansion plans, including two plants in Carbon County the utility expects could net as much as 700 megawatts combined. Rocky Mountain Power, a subsidiary of PacifiCorp, is pushing wind development and transmission in Wyoming ahead of a 2020 deadline in order to take advantage of the production tax credit. The company announced its Energy Vision 2020 plan last April, which included a 140-mile leg of the Gateway West transmission line and equipment upgrades of the company's existing Wyoming wind farms. The plan was expected to cost nearly \$3 billion. Rehabbing existing turbines was priced at about \$700 million, while new wind and the transmission line would cost about \$2.2 billion.