



Week of October 1, 2017

● [An Obscure Statute Is Helping Trump Save U.S. Coal, Nuclear](#)

"Rick Perry is using an authority granted to him as U.S. energy secretary to call on the independent Federal Energy Regulatory Commission to change its rules and help coal and nuclear plants compete in wholesale power markets."

Why this is important: Perry is seeking final action on a little used rule directing the energy commission to ensure dependable power plants recover "a fair rate of return." The practical impact of the rule would be to prevent some coal and nuclear power plants from closing even if they are no longer economical to run. This move indicates the administration's commitment to helping the coal industry that has been losing profits largely due to cheaper natural gas. The rule, however, is already garnering controversy within the energy sector. FERC is generally seen as pro-market and pro-competition and the natural gas industry is questioning whether the Commission is now putting the "thumb on the scale" to favor one energy source over another. ---

[Dennise R. Smith](#)

● [Court Blocks Trump's 'Unlawful' Delay of Obama Methane Leak Rule](#)

"A federal court ruled late Wednesday that the Trump administration broke the law when it tried this summer to delay an Obama administration rule related to greenhouse gas released through oil and natural gas drilling."

Why this is important: Pursuant to Department of Interior action this past June, the methane rule's compliance date had been pushed back a year to January 2019. Judge Laporte's decision reinstates the methane rule's original compliance date of January 2018, which is now less than three months away. Without addressing the merits of the DOI pushback and Judge Laporte's decision, the continual change in federal compliance obligations is creating significant uncertainty for gas producers and making it harder for them to comply with the rule. --- [Nicholas S. Preservati](#)

● [The Shale Boom's Dark Secret, Ruined Old Wells in Oklahoma](#)

"Already, a study by the Oklahoma Energy Producers Alliance, the group representing conventional drillers, has found 451 vertical wells in one county that were negatively affected by horizontal drilling, 80 percent of which were located outside of horizontal well unit boundaries."

Why this is important: This article suggests evidence is being assembled indicating horizontal shale wells are communicating with and adversely impacting older vertical wells in Oklahoma. While this is bad news for both the vertical well operators and horizontal well operators because of the litigation such interaction generates, the growing evidence may also be helpful to environmental groups seeking to oppose horizontal shale well drilling along with the related hydraulic fracturing. To the extent evidence supports geological impacts outside the authorized unit area, arguments may be made for other unintended consequences of the drilling and completion techniques. Of course, the information being gathered may or may not be applicable to other states and geologic formations. --- [Mark D. Clark](#)

● 'The New OPEC Bromance': How Saudi Arabia and Russia are Bonding Over Oil

"The world's biggest oil producers, Russia and Saudi Arabia, have announced a \$1 billion fund to invest in energy projects - marking another chapter in the blossoming economic and political partnership between the two countries."

Why this is important: Oil and gas producers in shale plays have shown a remarkable resilience, reducing drilling and production costs in an attempt to keep pace with lower prices. But the law of diminishing returns is kicking in, and there is a limit to how far expenses can be slashed. A consensus is emerging that gas will have to reach \$3 MMBtu and oil \$50 bbl if long-term development is to be sustained. With the current glut of hydrocarbons, it's not clear if that's in the cards. --- [David L. Yaussy](#)

● Russia Takes Advantage of China's North Korea Coal Ban

"China's coal import data for August flung up an interesting anomaly in the form of renewed imports from North Korea, but of far more interest is the surge in cargoes from Russia."

Why this is important: One of the results of the sanctions against North Korea is the restriction of the rogue country's coal exports to China. Russia has taken full advantage of the opportunity by increasing exports of Russian anthracite coal by 41 percent, and coking coal by 108 percent. Australian coal producers have also increased their exports to China as the North Korean sanctions were increased, but have not been as successful as the Russians, due in large part to higher Australian coal prices. Russia is positioning itself to become the fourth largest supplier of coal to China. --- [Gerald E. \(Gee\) Lofstead III](#)

● West Virginia Supreme Court: Non-Participating Royalty Interest Holders Cannot Stop Lease

"The [W.Va.] Supreme Court ... said adopting the cross-conveyance theory of pooling 'would inject uncertainty in (West Virginia's) oil and gas jurisprudence."

Why this is important: In April 2016, a Judge in the Circuit Court of Marshall County, West Virginia, entered an Order that held oil and gas operators and lessors had to get the consent of non-participating royalty interest ("NPRI") holders before pooling or unitizing a tract from which their interest arose because pooling and unitization amounts to a cross-conveyance of property interests to all members of the pool or unit. The decision adopted Texas law that gave the power to prevent drilling to one who had no power to lease and provided that all unit members owned a fractional interest in all property in the unit. The decision threatened to up-end thousands of similar leases in West Virginia. In June 2016, the West Virginia Supreme Court unanimously reversed the decision and issued two new points of law: (1) pooling does not result in a cross-conveyance of property interests, but rather consolidates contractual and financial interests concerning the drilling and production of oil and gas from combined tracts, and (2) consent by an NPRI holder is not necessary to pool or unitize the tract from which the NPRI arises. The decision rejects the uncertainty created by the lower court decision and affirms common law concepts concerning NPRI holders and pooling and unitization in West Virginia. --- [Matthew P. Heiskell](#)

● Oil Ghost Towns Dot the Landscape in Texas's Other Shale Patch

"If Texas's Permian Basin is Exhibit A for the U.S. oil boom that refuses to die, then the Eagle Ford, a smaller shale patch some 400 miles to the east, represents all those places that have been left behind."

Why this is important: This depression in the activities of the Eagle Ford is endemic to an oil and gas economy and its associated local governments that do not attempt to develop secondary industries. Exploration and production companies are nimble and can move in and out of a region on short notice due to market fluctuations. However, the location of secondary industries in such areas that concentrate on local storage of the constituents of such production and associated chemical manufacturing could sustain production in these fields even at depressed market prices. A natural resource based economy that does not focus on end users and secondary industry will be short lived. --- [William M. Herlihy](#)

● [U.S. Senate Subcommittee Discuss Natural Gas Hub, Marketing Products](#)

"The U.S. Senate Subcommittee on Energy held a hearing Tuesday on seven bills including two regarding federal government support for energy services and related technology that could impact West Virginia."

Why this is important: The passage of Senate Bill 1337 is the critical first step for locating an ethane storage facility in Appalachia and transforming the regional economy. The constant and uninterrupted supply of ethane would attract cracker plants and downstream manufacturing that rely upon the heavier hydrocarbons. There would also be limited transportation costs given the abundant Marcellus and Utica gas reserves in the region. The lower costs in turn create a competitive advantage for manufacturers who locate near the storage facility. --- [Nicholas S. Preservati](#)

● [Energy Independence Key to National Security, America's Future, New DOE Deputy Secretary Says](#)

"Building energy independence will create jobs and secure America's future, says U.S. Deputy Secretary of Energy Dan Brouillette. Brouillette, speaking at the Shale Insight 2017 conference in Pittsburgh, said the Trump administration intends to create an energy-dominant America that doesn't rely on foreign oil."

Why this is important: It appears the cornerstone of the President's energy policy is utilizing America's shale oil and gas reserves to make the U.S. a net energy exporter and eliminate its reliance on foreign energy sources. Mr. Brouillette called for an increase in clean coal production and utilization, as well as an increased reliance on nuclear power. He emphasized America's new found ability to become energy dominant with the resulting benefit to U.S. security and the security of U.S. allies. --- [Gerald E. \(Gee\) Lofstead III](#)

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