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## Nevada

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# ONE J

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## NEVADA



*Kacie M. Bevers*\*

### *Table of Contents*

I. Introduction .....	368
II. Judicial Developments .....	369
III. Legislative and Regulatory Developments .....	369

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*I. Introduction*

Nevada has been one of the lowest producing oil and gas states in the country.<sup>1</sup> From August 2017 through June 2018, Nevada averaged approximately 22,000 barrels of oil produced a month, with August 2017 being the highest production at 25,144 barrels, and June 2018 as being the least productive month at 19,423 barrels.<sup>2</sup> During that same time period, Nevada averaged approximately 242 MCF of gas each month, with May 2018 being the highest production at 293 MCF, and August 2017 as being the lowest producing month at 194 MCF.<sup>3</sup> Further, during the examination period of this article, only three oil and gas permits were issued.<sup>4</sup>

However, there is hope from proponents of exploration that Nevada is undergoing an “oil and gas transformation.”<sup>5</sup> This is due in large part to the Bureau of Land Management (“BLM”) “pushing to lease even more under the Trump administration’s ‘energy dominance’ agenda”<sup>6</sup> on the 48 million acres (67% of the state) that it manages in Nevada.<sup>7</sup> In Fiscal Year 2017, Nevada received approximately \$2.7 million from royalties, rentals and bonus bid payments for oil and gas,<sup>8</sup> and thus far in 2018, the state has received over \$250,000 in competitive lease sales.<sup>9</sup>

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1. *See Rankings: Crude Oil Production, May 2018*, U.S. ENERGY INFO. ADMIN., <https://www.eia.gov/state/rankings/?sid=NV#/series/46> (last visited September 1, 2018), and *see Rankings: Natural Gas Marketed Production, 2016*, U.S. ENERGY INFO. ADMIN., <https://www.eia.gov/state/rankings/?sid=NV#/series/47> (last visited September 1, 2018).

2. *See Oil and Gas Forms and Reports*, NEV. COMM’N ON MINERAL RES., DIV. MINERALS, <http://minerals.nv.gov/Programs/OG/OGForms/> (last visited September 1, 2018).

3. *Id.*

4. *See Oil and Gas Permits and Permit Notices*, NEV. COMM’N ON MINERAL RES., DIV. MINERALS, <http://minerals.nv.gov/Programs/OG/OGPermits/> (last visited September 1, 2018).

5. E&E News, *Untapped Nevada: Oil and gas companies make their move*, <https://www.eenews.net/stories/1060093085> (last visited September 1, 2018).

6. *Id.*

7. *See U.S. Dep’t of Interior, Bureau of Land Management*, BLM NEVADA, <https://www.blm.gov/nevada> (last visited September 1, 2018).

8. *See U.S. Dep’t of Interior, Bureau of Land Management*, BLM NEVADA TO OFFER 144 PARCELS IN SEPTEMBER OIL AND GAS LEASE SALE, <https://www.blm.gov/press-release/blm-nevada-offer-144-parcels-september-oil-and-gas-lease-sale> (last visited September 1, 2018).

9. *See U.S. Dep’t of Interior, Bureau of Land Management*, NEVADA OIL AND GAS LEASE SALES, <https://www.blm.gov/programs/energy-and-minerals/oil-and-gas/leasing/regional-lease-sales/nevada> (last visited September 1, 2018).

## II. Judicial Developments

There were no significant oil and gas cases decided during the examination period of this note. Notably, the headlining oil and gas case in Nevada in 2017 which challenged the federal protection of the greater sage-grouse remains undecided in the 9<sup>th</sup> Circuit Court of Appeals.<sup>10</sup>

## III. Legislative and Regulatory Developments

The Nevada Legislature did not meet during the examination period of this article, and as a result there are no new legislative developments. However, it is likely there will be a renewed attempt during the 2019 legislative session to ban hydraulic fracturing on nonfederal lands after Assembly Bill 159 passed the Assembly but failed to be voted on in the Senate during the 2017 legislative session.<sup>11</sup>

The regulatory developments in Nevada are primarily centered on actions by the Bureau of Land Management. In June 2017, U.S. Interior Secretary Ryan Zinke signed Secretarial Order 3353 entitled, “Greater Sage-Grouse Conservation and Cooperation with Western States.”<sup>12</sup> The order established the Department of the Interior Sage-Grouse Review Team,<sup>13</sup> and in May 2018, the review team issued a draft resource management plan amendment and draft environmental impact statement regarding the protection of the greater sage-grouse.<sup>14</sup> The proposed plan grants more authority to the state director of the BLM and more flexibility with case-by-case exceptions to sage-grouse rules.<sup>15</sup> According to the plan, these proposals will result in an “increase in populations and employment

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10. *Western Expl., LLC v. U.S. Dep’t of Interior*, 250 F. Supp. 3d 718, 751 (D. Nev. 2017), appeal docketed, No. 17-16220 (9th Cir. June 13, 2017).

11. A.B. 159, 2017 Leg., 79th Sess. (Nev. 2017). *See also Bill History*, NEV. LEGISLATURE, <https://www.leg.state.nv.us/Session/79th2017/Reports/history.cfm?billname=ab159> (last visited September 9, 2018).

12. SECRETARIAL ORDER NO. 3353, U.S. DEP’T OF INTERIOR, SEC’Y OF THE INTERIOR, GREATER SAGE-GROUSE CONSERVATION AND COOPERATION WITH WESTERN STATES (2017), (available at [https://www.doi.gov/sites/doi.gov/files/uploads/so\\_3353.pdf](https://www.doi.gov/sites/doi.gov/files/uploads/so_3353.pdf)).

13. *Id.*

14. *See U.S. Dep’t of Interior, Bureau of Land Management, NEVADA AND NORTHEASTERN CALIFORNIA GREATER SAGE-GROUSE DRAFT RESOURCE MANAGEMENT PLAN AMENDMENT AND ENVIRONMENTAL IMPACT STATEMENT* (available at [https://eplanning.blm.gov/epl-front-office/projects/lup/103343/143703/176904/NVCA\\_GRSG\\_DEIS\\_201805\\_508.pdf](https://eplanning.blm.gov/epl-front-office/projects/lup/103343/143703/176904/NVCA_GRSG_DEIS_201805_508.pdf) (last visited September 1, 2018)).

15. *Id.*

for the counties that would see new mine development.”<sup>16</sup> The plan further states, “[w]ithin the analysis area, the projected economic impacts from operation of future mines would result in 801 jobs, a labor income of \$62 million and approximately \$12 million in state [and] local tax revenue.”<sup>17</sup>

In another indication that Nevada is eyeing additional oil and gas exploration opportunities on BLM lands, the United States Department of Agriculture Forest Service issued in June 2018 its Ruby Mountains Oil and Gas Leasing Availability Analysis – Environmental Assessment.<sup>18</sup> The assessment was drafted “to determine the availability of approximately 52,533 acres of National Forest System (NFS) lands along with resource protection conditions (stipulations) for future oil and gas leasing by the BLM.”<sup>19</sup>

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16. *Id.* at 4.10.2.

17. *Id.*

18. See *U.S. Dep’t of Agriculture Forest Service, RUBY MOUNTAINS OIL AND GAS LEASING AVAILABILITY ANALYSIS – ENVIRONMENTAL ASSESSMENT*, (available at [https://www.biologicaldiversity.org/programs/public\\_lands/energy/dirty\\_energy\\_development/oil\\_and\\_gas/pdfs/RubyMtnsLeaseAnalysis\\_EA-7-3-2018.pdf](https://www.biologicaldiversity.org/programs/public_lands/energy/dirty_energy_development/oil_and_gas/pdfs/RubyMtnsLeaseAnalysis_EA-7-3-2018.pdf) (last visited September 1, 2018)).

19. *Id.* at 1.