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I. Introduction

The state of Nevada—typically known as the “Silver State” due to its historic mineral deposits—now produces minimal amounts of crude oil and natural gas, and only in association with petroleum production.¹ Production of crude oil continued to decline and hit a 26-year low in 2016 at 277,000 barrels,² down from approximately 4,000,000 barrels in 1990.³ The state averaged approximately 22,266 barrels a month through June 2017.⁴ During the examination period of this article, one oil and gas permit was issued.⁵

II. Legislative and Regulatory Developments

The 79th Session of the Nevada Legislature began on February 6, 2017, and adjourned sine die on June 6, 2017.⁶ No major bills affecting oil and gas were signed by Governor Brian Sandoval; however, it is worth noting the filing of Assembly Bill 159, which prohibits hydraulic fracturing on nonfederal lands in the state.⁷ The bill, which was introduced by Assemblypersons Justin Watkins, Heidi Swank, and Chris Brooks, and jointly sponsored by Senator Julia Ratti, passed the Assembly by a 26-15 vote; it was heard in the Senate Committee on Natural Resources but never reached the Senate for a vote.⁸

1. See *Nevada State Profile and Energy Estimates*, U.S. ENERGY INFO. ADMIN., <https://www.eia.gov/state/analysis.cfm?sid=NV#39> (last visited Aug. 26, 2017). This site notes the *consumption* of petroleum, not necessarily its production.

2. See *Crude Oil Production*, U.S. ENERGY INFO. ADMIN., http://www.eia.gov/dnav/pet/pet_crd_crpdn_adc_mbb1_a.htm (last visited Aug. 26, 2017), and <http://minerals.nv.gov/uploadedImages/mineralsnv.gov/content/Programs/OG/OilProductionNVByProducingFieldGraphic2016.jpg?n=1171> (last visited Aug. 26, 2017).

3. See *Oil Production in Nevada 1990-2016*, NEV. COMM’N ON MINERAL RES., DIV. MINERALS, <http://minerals.nv.gov/uploadedImages/mineralsnv.gov/content/Programs/OG/OilProductionNVByProducingFieldGraphic2016.jpg?n=1171> (last visited Aug. 26, 2017).

4. *Nevada Oil Patch Report*, NEV. COMM’N ON MINERAL RES., DIV. MINERALS, June 2017, <http://minerals.nv.gov/uploadedFiles/mineralsnv.gov/content/Programs/OG/OGForms/OilPatch201706%20June%202017.pdf>.

5. 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 August 26, 2017).

6. See *79th (2017) Session*, NEV. LEGISLATURE, <https://www.leg.state.nv.us/Session/79th2017/>.

7. A.B. 159, 2017 Leg., 79th Sess. (Nev. 2017).

8. *Id.*; see also *Bill History*, NEV. LEGISLATURE, <https://www.leg.state.nv.us/Session/79th2017/Reports/history.cfm?ID=314>.

III. Judicial Developments

One obstacle to oil and gas exploration in many western states, including Nevada, is the federal protection of the greater sage-grouse. In 2015, three mining companies, a privately-owned ranch, nine counties in Nevada, and the state of Nevada filed a case in federal court challenging the protection of the greater sage-grouse species and their habitat by the Bureau of Land Management and the United States Forest Service.⁹ The case, *Western Exploration LLC v. United States Department of the Interior*, was initiated in response to a 2015 federal land-use plan that would withdraw nearly 3 million acres in Nevada to protect the greater sage-grouse “from adverse effects of locatable mineral exploration and mining” for “up to two years.”¹⁰

On March 31, 2017, U.S. District Judge Miranda M. Du issued a split decision in *Western Exploration*, granting and denying partial summary judgment for both the plaintiffs and defendants.¹¹ The court held that the defendants failed to comply with the National Environmental Policy Act and remanded the case “for preparation of a supplemental environmental impact statement,” but also denied the plaintiffs’ “request to enjoin implementation of the agencies’ resource management plans pending remand.”¹² On June 13, 2017, the state of Nevada appealed to the U.S. Court of Appeals for the Ninth Circuit, where a decision was not made as of this writing.¹³

The executive branch also became involved in revising the protection of the greater sage-grouse when U.S. Interior Secretary Ryan Zinke signed Secretarial Order 3353 entitled, “Greater Sage-Grouse Conservation and Cooperation with Western States,” on June 7, 2017.¹⁴ The order establishes the Department of the Interior Sage-Grouse Review Team,

9. *Western Expl., LLC v. U.S. Dep’t of Interior*, No. 315CV00491MMDVPC, 2017 WL 1237971 (D. Nev. Mar. 31, 2017).

10. Notice of Proposed Withdrawal; Sagebrush Focal Areas; Idaho, Montana, Nevada, Oregon, Utah, and Wyoming & Notice of Intent to Prepare an Environmental Impact Statement, 80 Fed. Reg. 57,635 (Sept. 24, 2015), amended by 80 Fed. Reg. 63,583 (Oct. 20, 2015).

11. *Western Expl.*, 2017 WL 1237971, at *1.

12. *Id.*

13. *Western Expl., LLC v. U.S. Dep’t of Interior*, No. 17-16220, (9th Cir. June 30, 2017).

14. 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.

comprised of professionals from the Bureau of Land Management, U.S. Fish and Wildlife Service, and the U.S. Geological Survey, who will examine competing federal and state plans to find a balance that “allows both wildlife and local economies to thrive.”¹⁵ Although the findings of the Review Team were incomplete as of this writing, it is clear that the issue of greater-sage grouse protection is one that will continue for the foreseeable future, both in the courts and within the executive branch.

15. *Id.*