

Energy Producing States Coalition

2012-2013

Annual Report

- A year of solid growth

Contents

Message from the Chairman.....	2
About.....	4
Issues of Interest.....	5
<i>Federal Mineral Royalties</i>	
<i>Hydraulic Fracturing</i>	
<i>Offshore Energy and Jobs Act (HR 2231) & Outer Continental Shelf Transboundary Hydrocarbon Authorization Act (HR 1613)</i>	
<i>Protecting States Rights to Promote American Energy Security Act (HR 2728)</i>	
<i>Keystone XL Pipeline</i>	
<i>Emission Control Area</i>	
Events.....	9
<i>Edmonton, Canada</i>	
<i>Austin, Texas</i>	
<i>Washington, D.C.</i>	
<i>Point Clear, Alabama</i>	
The Year Ahead.....	11

Message from the Chairman

The past year was an exciting period of growth for the Energy Producing States Coalition (EPSC). EPSC saw its membership grow from state legislators representing four states, to our current membership of legislators representing fourteen states. We anticipate that growth to continue over the next year, with a goal of having membership representing twenty states.



At the same time, EPSC has become much more involved in the public policy debate at the national and state levels. EPSC and our members have provided comment letters on a range of policy issues including the Keystone Pipeline, the Emission Control Area, and Federal Mineral Revenue. EPSC also weighed in on national legislation such as HR 2231, the “Offshore Energy and Jobs Act”, HR 1613, the “Outer Continental Shelf Transboundary Hydrocarbon Agreements Authorization Act”, and HR 2728, the “Protecting States Rights to Promote American Energy Security Act.” With energy policy being continually debated in Congress, EPSC viewed certain legislation as important to states and the economy and provided their perspective on the legislation to Congress.

One of the most pressing issues facing EPSC member states relates to the U.S. Department of the Interior’s Office of Natural Resources Revenue decision to withhold nearly \$110 million in state revenues from the development of natural resources on public lands as a result of the federal budget sequestration. EPSC has been very committed in publicizing our opposition to this “theft” of state revenue. EPSC has submitted letters to the appropriate Congressional committees, including the Senate Committee on Energy and Natural Resources, the Senate Appropriations Committee, the House Energy and Commerce Committee and the House Appropriations Committee. We also wrote the Office of Management and Budget requesting confirmation that the Department of Interior would follow precedent and return sequestered funds early in fiscal year 2014.

In an effort to better coordinate amongst EPSC members and influential stakeholders and grow the organization, EPSC participated in several events over the past year. A year ago, we hosted a meeting in conjunction with the Council of State Governments West Annual Meeting in Edmonton, Canada. This meeting served as a “kickoff” for the year and provided an opportunity to begin discussing energy issues facing our states and country.

Our next meeting was held in Austin, TX in December. Texas Railroad Commission Chairman Barry Smitherman provided the experience Texas has had with energy development, particularly related to permitting and the development of the Barnett and Eagle Ford shale plays. Chairman Smitherman’s presentation highlighted the example of

states taking a leading role in natural resource development and how much more efficient states are as opposed to the federal government. A panel of industry representatives also provided guidance on some of the challenges and opportunities that exist in the energy sector. Rep. Rob Bishop (R, UT 1) spoke to the attendees about issues related to public lands and their impact on the nation and states. This meeting helped initiate our collaboration with the Congressional Western Caucus.

Following the Austin meeting, I was asked, along with EPSC Vice Chairman Alaska Senator Cathy Giessel to speak before the Congressional Western Caucus monthly meeting in Washington this past March. We were joined by Alaska Senator Lesil McGuire and had an interesting and productive discussion with nearly 70 Hill staffers and stakeholders.

EPSC's final event this past year was in conjunction with the Interstate Oil and Gas Compact Commission's 2013 Mid-Year meeting. At that meeting, EPSC members agreed to take the lead on particular policy initiatives that are very important to their constituents, including the Endangered Species Act, Settlement Agreements, Hydraulic Fracturing, Sequestration, Ocean Policy, Land Exchange, CO₂, and Greenhouse Gas Emissions.

A lot of the credit for the expansion of EPSC has to go to our founding Chairman, Wyoming Speaker Tom Lubnau. Speaker Lubnau helped initiate many of the achievements EPSC was able to attain this past year. With his new role as Speaker, he has had to step back from leading EPSC but is still very important to developing the strategy of moving EPSC forward.

One of the main benefits of EPSC membership is the collaboration amongst EPSC members. For this reason I would like to request EPSC members to let us know if there are issues we should consider weighing in on or if particular policy initiatives in your states need EPSC input. Energy issues arising in one state likely will arise in others or already have been worked on in other states. By collaborating, we can mitigate potential issues prior to implementing legislation and regulations.

I would also encourage EPSC members to reach out to their colleagues and encourage them to consider joining EPSC. EPSC membership is open to any state legislator that agrees with the EPSC mission and is willing to sign the EPSC application. Please don't hesitate to let me know if there is anything that EPSC can do to assist you as you work on energy issues over the course of the next year. As was mentioned during our meeting in Edmonton, "We have a shared common bond – with all of our differences, we are defined by our similarities."



Representative Roger Barrus
Utah State Legislature
Chairman, EPSC

About

The Energy Producing States Coalition (EPSC) is a group of like-minded state legislators working together to develop positions and areas of common interest on policies and issues that affect domestic energy production and transmission.

Over the past year, EPSC membership has grown to include state legislators representing fourteen states. Those states include: Alaska, Arizona, Colorado, Idaho, Indiana, Mississippi, Nevada, North Dakota, Ohio, Oklahoma, Texas, Utah, Wisconsin, and Wyoming.

EPSC's Guiding Principles: Coalition members endorse the development of strategies and supporting actions that effectively support states' rights and domestic energy production as follows:

- Promote Development of Domestic Energy Sources;
- Streamline and Harmonize Energy-Related Regulatory Processes;
- Influence Federal Energy-Related Policy from a Producer State Prospective;
- Help develop New Energy Transmission Systems;
- Promote Maximization of Existing Energy Sources; and
- Act Cooperatively to Overcome Energy-Related Economic, Legal, Policy and Technology Challenges.

In order to achieve true energy security as well as provide the greatest benefit to our economy, energy producing states must have the ability to develop policies and strategies which benefit responsible energy production. Coordination amongst the members of EPSC will enhance the success of these strategies.

The EPSC helps its members to share ideas and coordinate state policy objectives through face-to-face meetings and events. EPSC works to coordinate, streamline and simplify federal regulatory processes in the various members' states, with a focus on increasing efficiency and reducing redundancy. We strive to increase state primacy where possible, and increase cooperation between state and federal agencies.

EPSC also seeks to use the collective voice of its members in negotiations and coordination with the federal government where it impacts our states. EPSC drafts official comments and letters on various federal actions and helps to work with federal legislators to develop legislation.

Issues of Interest

Federal Mineral Royalties

The U.S. Department of the Interior's Office of Natural Resources Revenue (ONRR) [notified states](#) earlier this year that as a result of the sequestration, the federal government would be withholding more than \$110 million in mineral revenues from the states. These revenues are used by States to fund necessary items, such as public school systems, community colleges, emergency response activities and basic infrastructure projects. [EPSC is adamantly opposed to the ONRR decision.](#)



EPSC has submitted letters to the [Senate Committee on Energy and Natural Resources](#), the [House Energy and Commerce Committee](#), the [Senate Appropriations Committee](#) and the [House Appropriations Committee](#) expressing their opposition to this decision. EPSC has also reached out to their state attorneys general encouraging them to seek legal remedies. EPSC has been [leading the effort to educate](#) elected officials and their constituents on the negative impacts this decision will have on current and future state revenue and state sovereignty.

EPSC has also worked with Congress on legislation to eliminate the possibility of future state mineral revenue reductions through actions such as sequestration. EPSC supports the [State Mineral Revenue Protection Act](#), and will work to ensure its passage into law.

EPSC wrote to the [Office of Management and Budget](#) (OMB) requesting confirmation that the Department of Interior would apply existing law, Balanced Budget and Emergency Deficit Control Act (BBEDCA) of 1985, which was cited in the notification to the states of the mineral revenue withholding. When sequestration happened in the mid-1980's, the law required that withheld mineral revenues had to be returned to the states. EPSC expects that the withheld mineral revenue will be returned to the states in FY 2014. The letter to OMB follows a [similar letter](#) written by a bipartisan group of 10 Senators and 12 Representatives asking the same question.

Hydraulic Fracturing

The EPSC membership believes hydraulic fracturing is an essential well completion technology for the development of unconventional resources, such as natural gas that is



trapped in shale rock formations. Hydraulic fracturing and horizontal drilling apply the latest technologies and make it commercially viable to recover shale gas and oil. Without it, we would [lose 45 percent of domestic natural gas production](#) and 17 percent of our oil production within 5 years.

Robust state and federal regulations for hydraulic fracturing already exist. A comprehensive set of state,

local, and federal laws address nearly every aspect of exploration and production and include well design, water use, waste management and disposal, air emissions, surface impacts, health, safety, location, spacing, and operation. State regulation of oil and gas activities pre-dated federal regulation, and is particularly important because it allows laws to be tailored to local geology and hydrology.

The contents of fracturing fluids are now disclosed. Industry voluntarily discloses the contents of its fluids on the website www.FracFocus.org, which provides a public database that can be searched by well or well location so that concerned individuals can easily identify the constituents used to fracture specific wells. As of early 2012, nearly one hundred companies have already provided information on approximately ten thousand wells and that number increases every day.

EPSC members have been active in working with authorities to reduce conflicts between local, state and regulatory agencies and citizens over hydraulic fracturing issues. [Members have sent official letters](#) on fracturing related issues with the goal of ensuring access to oil and gas resources and environmental protections. EPSC is also tracking state legislation related to fracking.

With the release of the Bureau of Land Management's [Notice of Proposed Rulemaking](#) and Request for Comment: Oil and Gas; Well Stimulation, Including Hydraulic Fracturing, on Public and Indian Lands, EPSC sent a letter requesting an [extension of the comment period](#). EPSC believed that the 30 day comment period was insufficient in providing adequate time for EPSC members and their constituents to evaluate the potential impacts of the new

proposed rule, nor time to address issues that arise from their evaluation. EPSC is in the process of submitting its comments to BLM.

Offshore Energy and Jobs Act (HR 2231) & Outer Continental Shelf Transboundary Hydrocarbon Authorization Act (HR 1613)

The EPSC Executive Committee, on behalf of the membership of EPSC, sent a letter to [House Leadership in support of HR 2231 and HR 1613](#).

Expanded domestic energy development, particularly in offshore areas currently off-limits, is vital to the country's economic growth and job creation. The two bills would further expand access which would likely boost domestic energy production, stimulate

necessary job creation and grow the economy. HR 2231 passed the House with a 235-186 vote while HR 1613 passed the House with a 256-171 vote.



Protecting States Rights to Promote American Energy Security Act (HR 2728)

The EPSC Executive Committee, on behalf of the membership of EPSC, sent a letter to [House leadership in support of HR 2728](#). HR 2728 allows those regulators who know the community best to be the one's leading oversight of those communities. It would eliminate the potential for duplicative regulations whose only goal would seem to be to delay the production of natural resources on public lands. Existing state regulations for hydraulic fracturing have proven successful, providing strong environmental, health and safety protections as well as regulatory certainty.

Keystone XL Pipeline

The EPSC membership supports the completion of the Keystone XL Pipeline. The line will support the creation of more than 20,000 jobs in the U.S. – more than 13,000 construction jobs and 7,000 manufacturing jobs – representing work for pipefitters, welders, electricians, heavy equipment operators and other sectors in virtually every state in the U.S. TransCanada will invest \$5.3 billion to build the pipeline.

A draft, supplemental draft and Final Environmental Impact Statement have all been issued for Keystone XL, totaling over 10,000 pages of material. This is by far the most exhaustive

and detailed review ever conducted of a crude oil pipeline in the U.S. The analysis concluded the project would have “no significant impacts” on the environment along its entire length.

Members of EPSC have provided comment letters in support of the project through multiple comment periods and are continuing to support the approval of the project. EPSC members supplied comments on the [Presidential Permit Application, Nebraska Draft Evaluation of the Proposed Re-Route](#) and the [Draft Supplemental Environmental Impact Statement](#).

Emission Control Area

The Emission Control Area (ECA) impacts coastal communities across the country. EPA has imposed an ECA within a 200-mile limit around North America. Under this regulation,



marine vessels, including freight ships, cruise ships and oil tankers, are restricted to use fuel with 1% sulfur content as of August 1, 2012. Beginning January 1, 2015, the limit will be further reduced to .01%.

Low sulfur fuel is much more costly than projected. On August 1, 2012, ECA compliant fuel prices increased from \$656 per metric ton to \$930 per metric ton, representing a 46% increase in fuel costs. Today's prices

for .1% sulfur fuel (required on January 1, 2015) is \$1,130 per metric ton, or 72% fuel increase from pre-ECA prices. This proposal would have devastating economic consequences on coastal areas.

A comment letter was drafted to Alaska Senator Mark Begich, Chairman of the Senate Commerce Subcommittee on Oceans, Atmosphere, Fisheries and Coast Guard to encourage language to be inserted in the Coast Guard authorization bill that would include the ECA Pilot Project, which would allow marine vessels to comply with the ECA fuel requirements through the use of populated weighted averaging. This approach would allow vessels to burn cleaner fuel while in port communities while also burning traditional fuel while in remote areas.

The balanced approach would benefit the environment as well as the economy. Senator Giessel [submitted a comment letter](#) and encouraged other EPSC members to do the same.

Events

Edmonton, Canada

The EPSC meeting in Edmonton in conjunction with the CSG-West Annual Meeting provided an opportunity for over thirty legislators and stakeholders interested in energy policy to begin formulating a way forward in collaborating on energy policy. The meeting laid the groundwork for collaboration on issues such as Keystone pipeline (comment letters were provided by numerous meeting participants). The collaboration on issues continued throughout the year and will continue as EPSC continues to grow and engage on public policy.

Austin, Texas

EPSC members met in Austin, TX on Sunday, December 2, 2012 as part of the Council of State Governments Annual Conference. Highlights of the meeting included: a summary of energy related issues facing EPSC states, a panel discussion on the Opportunities and Challenges 2013-2014 with business and trade association



**Congressman Rob Bishop
(R-UT)**

representatives, a discussion on Public Land issues led by [Utah Representative Rob Bishop](#) (R, UT 1), a

presentation on how the state of Texas is approaching natural resource development from [Texas](#)

[Railroad Commission Chairman Barry Smitherman](#), a group discussion on ways to collaborate on potential legislation across states focusing on draft legislation proposed by [Wyoming Speaker-elect Tom Lubnau](#) dealing with how states should respond to challenges and lawsuits related to valid state issued permits.



**Texas Railroad Commissioner
Barry Smitherman**

The meeting concluded with the announcement of Utah Representative Roger Barrus as the [new EPSC Chairman](#) and Alaska Senator Cathy Giessel as the new Chairman-Elect. [Click here](#) for a summary of the meeting.

Washington, DC

The EPSC Executive Committee briefed the [Congressional Western Caucus](#) (CWC) meeting in Washington, DC on Friday, March 8, 2013. EPSC Chairman, Utah Representative Roger Barrus, Vice Chairman, Alaska Senator Cathy Giessel, and Alaska Senator Lesil McGuire [presented](#) to the approximately 70 Congressional staffers and stakeholders a background on EPSC and issues facing states related to domestic energy development.

Both the CWC and EPSC stressed the importance of collaborating on policy initiatives. The CWC suggested that state legislatures pass resolutions in support of other state's interests while Speaker Boehner's staff suggested creating a task force between the organizations to identify strategic opportunities on ways to collaborate. We are currently working with the CWC on developing how to best implement the task force and additional information will be provided as this initiative moves forward. [Click here](#) for a summary of the meeting.

Point Clear, AL

EPSC met on Sunday, May 19, 2013 in conjunction with the Interstate Oil and Gas Compact Commission (IOGCC) in Point Clear, Alabama. There were in excess of 20 attendees at the meeting, including state legislators, state executive branch staff, state regulators, corporate and community organization representatives. Extensive updates were given on legislative and regulatory activities in Alaska, Louisiana, Mississippi, Utah and Wyoming. Representatives of the Western Caucus gave an overview on issues involving federal lands, and a whole host of federal activities impacting energy were discussed.

The group selected several issues that they would like to focus on over the next few months, including: Endangered Species Act, Ocean Policy, Sequestration, Access, Settlement Agreements, CO2, BLM Permitting and Hydraulic Fracturing. Issue managers have been assigned to these issues and we will work to get EPSC more active in them over the coming months. In addition to the EPSC meeting, IOGCC asked EPSC Chairman Barrus to participate in their Public Lands Committee meeting. Chairman Barrus' presentation, "[*Should the Federal Government or the States Manage Energy Production on Public Lands?*](#)" provided a historical perspective of the long-standing debate over who would best manage public lands and also the role that the Western Energy Corridor can play in providing the diverse forms of energy the country needs. [Click here](#) for a summary of the meeting.

The Year Ahead

Over the course of the next year, EPSC intends to expand its membership and influence on public policy initiatives. It is our expectation that our membership will include legislators from twenty states within the next year. It is our goal that within those twenty states, actual EPSC legislator



membership will total at least 75 legislators. In addition to growing EPSC overall, it is anticipated that there will also be growth in the Executive Committee of EPSC. With our expanding ranks, it will be beneficial to expand the Executive Committee to ensure that EPSC is aware of policy issues facing all of our member states as well as the country. Should you be interested in joining or recommending a colleague to the Executive Committee, please let EPSC know by contacting Bo Ollison at BOllison@ConsumerEnergyAlliance.org.

EPSC is interested in expanding its outreach to, not only current state legislators involved with EPSC activities, but also with state legislators that might benefit from EPSC membership. Realizing that your time is limited, the Executive Committee believes that quarterly or even bi-monthly EPSC Update conference calls should be implemented to encourage EPSC engagement and collaboration. In addition to regular conference calls, we understand the importance of meeting in person to foster not only improved collaboration amongst state legislators but also to have more in-depth discussions on relevant issues facing our particular states and how to best address those issues.

At the Point Clear meeting, it was agreed that EPSC should only schedule in person meetings when policy issues warrant such meetings. EPSC has utilized the strategy of tying EPSC meetings with existing meetings whose participants include state legislators. We will continue this strategy to improve attendance and to minimize any potential costs for attendees as well to focus on important issues facing energy development in our states. As we determine potential upcoming meetings, we will strive to include a larger role for EPSC within the corresponding meeting, providing additional opportunities to market the benefits of EPSC to a wider audience. If at all possible, we would like to know if EPSC

members are planning on attending future events and EPSC will work with the corresponding organization to see if there might be a role for EPSC to play on the agenda.

EPSC will continue to focus on the federal mineral revenues issue. To date, we have not yet had a response from the Office of Management and Budget (OMB) related to our request that they follow existing precedence and guarantee the return federal mineral revenues in the amount of nearly \$110 million to the states early in fiscal year 2014. This is a very important issue to EPSC and our respective states. We will keep EPSC membership advised on this issue and will likely reach out to encourage our membership to ensure that their voices are heard on this issue should OMB decide to not follow existing precedent.

EPSC will also weigh in on the issues highlighted at our Point Clear, AL meeting and on other energy related public policy initiatives as necessary. With energy policy being debated at all levels of government, there will likely be numerous public policy issues that would benefit from our collective voice. We encourage EPSC members to notify us if there is an issue at the national, state or local level that would benefit by having state legislators weigh in on. We anticipate that EPSC will become an even louder voice for energy policy to ensure the continued economic growth that energy has provided the country in the aftermath of the recent economic slowdown. Together we will make a significant benefit to our constituents, our states and the nation.

Energy Producing States Coalition

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