

Steady Recovery Buoys New Mexico Industry

By Dan Larson
Special Correspondent

FARMINGTON, N.M.—With the market outlook firming and development interest climbing, independent oil and natural gas operators in New Mexico have good reason for optimism, according to leaders of a state trade group.

As members of the Independent Petroleum Association of New Mexico prepare for their annual meeting, Aug. 3-4, at the Sandia Resort & Casino in Albuquerque, N.M., the state's oil and natural gas industry is seeing a steady revival, they say, especially in the southeastern counties that overlay the red-hot Permian Basin.

State government leaders always have recognized the vital contribution a healthy oil and gas industry can make to the state's economy, assesses Tom Mullins, IPANM president and principal at Synergy Operating in Farmington, N.M. Unfortunately, he considers, politics sometimes obliges policymakers to push unfavorable proposals, so the trade group must remain vigilant.

"We were concerned going into this session the House would come after the industry on taxes," Mullins acknowledges. "House members were facing a tough fight to balance the budget, but for this year at least, nothing passed."

The other side of the legislative coin is the constant pressure some legislators face to give the impression they are tightening the reins on the industry with new regulations, he added. "As an industry association, we continue to push for regulatory certainty," says IPANM Southeast Vice President Claire Chase with Mack Energy Corp. "We are doing a lot in the background.

"Much of this work is to bring our oil and gas rules in line with those of our neighbors in Texas and Colorado," she explains. "This includes our rules on horizontal drilling and produced water."

Although the impact is not on par with the association's big wins of the past decade, revising oil and gas rules "is important and helps give our members a clear outlook, Chase considers. "When

no big-ticket anti-oil and gas bills passed this session, I see that as very good news."

The industry has been such a target for such a long time, that "a session without anti-oil legislation really is a big win for us," she suggests.

Many in the industry worried that new Speaker of the House, Brian Egolf, D-Santa Fe, would push an anti-industry agenda in the 2017 session, Chase notes, but such was not the case. "We did not expect Egolf to help us, but he did not hurt us, either," she reports. "On the plus side, he staffed the House Energy, Environment & Natural Resources Committee 6 to 6 when he could have given the Democrats a majority."

While status quo in the Capitol is a plus for the association, initial actions of the Trump administration provide a sense of relief, Chase says. She indicates that moves by the administration to suspend the Environmental Protection Agency's information requests about production sites' methane emissions and the Bureau of Land Management's own methane rules were a relief for IPANM members.

On the other hand, regulations can build momentum that even a change in administrations cannot immediately halt. The trio of federal rule changes arriving in the form of Onshore Orders 3, 4 & 5 are being enforced on public lands and IPANM is hearing from members about the difficulty of bringing some operations into compliance.

"The inspectors are out and fines are being levied," Mullins reports. "The additional revenue the Department of the Interior says it will realize from this may be an illusion. Compliance is tremendously expensive, and while we all hope the administration will ease up, we cannot wait for a miracle."

BLM Backlog

"No one knows where this administration will go next, but we are glad it has stepped back for another look at things, such as the Carlsbad resource management plan," Chase relates.

BLM's Carlsbad, N.M., office nearly had completed the final draft of the RMP

covering all of New Mexico's Eddy, Lea and parts of Chaves counties, a document that worried many in the industry, when the newly arrived Trump administration halted the process.

"The RMP would have designated large areas as Lands with Wilderness Characteristics and others as Areas of Critical Environmental Concern," Chase describes. "What BLM presented last summer was alarming, since it removed so much acreage from development. In response, we organized workgroups and lined up experts. For better or worse, everything is on hold now, but we are glad the administration has stopped to have another look."

Meanwhile, BLM's Carlsbad office has been cited in news reports as one of two offices working through a backlog of applications for permits to drill. According to one report, most of BLM's 2,955 unprocessed APDs for April were sitting at that office and the office in Casper, Wyo. That figure is down from 3,765 pending APDs at the end of fiscal 2015, it said.

Other press accounts highlight the growing frustration operators express about BLM's digital APD processing system. Of 180 APDs filed with the Carlsbad office in the past year, only eight have been approved, an industry representative is quoted.

The backlog, however, has not caused any decrease in the dollars bid to lease public acreage, according to one report. A record-breaking sale in Roswell, N.M., in September brought in \$145 million on 36 Permian Basin parcels, it said.

Distribution of New Mexico's \$69.6 million share of the proceeds has been held up, media reports state, because of protests filed by environmental groups. The holdup prompted letters from the state's federal legislative leadership that called for releasing the money before the June 30 end of New Mexico's fiscal year. Otherwise, "the state's already precarious financial position will worsen," the letter warns.

According to press accounts, the state's fiscal woes are attributable in part to the

oil and gas industry's downturn. As a result, Governor Susana Martinez called a special legislative session to avoid a constitutionally prohibited budget deficit. The three-day session concluded shortly ahead of the Memorial Day holiday when legislation to reinstate funding for education and general accounts was approved.

Through the special session, the governor held steady on a pledge to veto new taxes on gasoline and online sales while approving a plan to tap severance tax bonds to fill the budget gap, media reports add.

Inactive Wells

According to Mullins, many wells have been shut in during the industry downturn, notably in the San Juan Basin, Mullins observes. As a result, BLM informed operators it would tighten rules for nonproductive wells. In a Sept. 7, 2016 memo that BLM said was intended to standardize its policy across all New Mexico and Oklahoma field offices, the bureau specified that any well to be shut in or temporarily abandoned would require approval from the authorizing officer at the appropriate New Mexico BLM field office. Wells on federal or Indian leases could not be temporarily abandoned for more than 30 days nor shut in for more than 90 days without BLM approval.

The BLM memo defines a temporarily abandoned well as "physically or mechanically incapable of producing oil and/or gas of sufficient value to exceed direct operating costs (that is, in paying quantities), but may have value as a recompletion candidate, or service completion for enhanced recovery or water disposal."

The bureau defines a shut-in well as one that is likewise inactive and incapable of producing but which retains all onsite equipment, including flowlines and storage facilities. The operator is required, according to the memo, to obtain approval if the well is to be temporarily abandoned for longer than 12 months or it is considered permanently abandoned.

County Regulations

Following efforts by other counties across northern New Mexico to regulate oil and gas development, Sandoval County, N.M., in 2016 issued a proposed set of regulations under its zoning and public nuisance authority. In March, the county's planning department presented commissioners with a second draft of oil and gas regulations covering setbacks, site planning and stormwater management, among other

IPANM Annual Meeting Albuquerque, N.M.

Thursday, Aug. 3

9:30 a.m. Board of Directors Meeting, Sandia Resort and Casino
Board Members Only
1 p.m. Golf Tournament, Sandia Resort
Shotgun Start
6:15 p.m. President's Reception, Salon B

Friday, Aug. 4

7 a.m. Buffet Breakfast
8 a.m. General Session
11:30 a.m. Membership Awards Luncheon
Keynote Speaker: Paul Driessen, Committee For a Constructive Tomorrow and Center For the Defense of Free Enterprise
1 p.m. General Session

things, Mullins says.

Intended to cover new exploration and development on fee land, the draft was to be reviewed in May and discussed at hearings during the summer. According to Mullins, it may be approved this fall.

"It is similar to what Rio Arriba County, N.M., passed in 2009," Mullins compares. "The second draft is better and we will continue to work with the county planning team. Still, we think county oil and gas ordinances like this are simply unnecessary."

Second-draft revisions from the original include dividing the county into two parts and removing some provisions and setback distances IPANM considers problematic, he adds. In what the ordinance refers to as "sparsely populated" Northwest Sandoval County, the revised draft seeks to require an operator to secure a temporary use permit and submit facility, road and emergency response plans.

Under the draft, permit applications for the remainder of Sandoval County, which contains the vast majority of the county's residents, would be issued as conditional use permits and additionally, require plans for waste disposal, stormwater pollution prevention, terrain management, a state transportation plan and a state air quality permit. All proposed oil and gas wells in the county would be covered by minimum setback distances of 600 feet from residences, 750 feet from churches, schools or single-family water wells or 1,000 feet from multi-family water wells.

The proposal also includes standards for gas flaring, road construction and im-

provements, road use and traffic standards, storage tanks, light mitigation, and site restoration.

According to Mullins, it embodied the sort of redundant local ordinance—adding unnecessary cost and time for the operator—that the industry aimed to avoid when it supported a pre-emption bill in the 2015 legislative session. That bill, HB 366, passed the House on a 37-28 vote but died in the Senate.

"At this time, the makeup of our legislature is not conducive to passing a pre-emption bill," Mullins assesses. "But we will have another run at it in a year or two."

Setting The Stage

According to Mullins, while this legislative session featured the quarrels and wrangling typical of any state government in which different parties controlled the legislature and governor's office, the session was mostly uneventful for the industry. And although no legislation that IPANM considered harmful to the industry passed, the association followed several bills with interest, he said.

At the top of the list was a bill that would increase regulatory penalties significantly and allow the New Mexico Oil Conservation Division to proceed with violation hearings at the same time the attorney general filed suit and the district attorney pursued criminal penalties for the same violation.

The bill, SB 307, was sponsored by Senator Richard Martinez, D-Española, who claimed it was intended to "ensure we meet federal government standards for New Mexico to be in charge of its oil and gas programs."

The bill moved with Do Pass recommendations from both the Senate Conservation and Judiciary committees, but died in the Finance Committee. In an end-of-session brief, IPANM predicts the bill "will definitely resurface" in the next year or two "since the administration would like to regain the ability to assess higher penalties."

Mullins cites a legal decision from 2009 as the basis for the state's expected press on administrative penalties. In that case, producer Marbob Energy sued the state, arguing that New Mexico lacks the authority to assess civil penalties and sanctions over spills, Mullins notes. Later, the state Supreme Court agreed, saying the legislature must grant enforcement authority.

Since then, the OCD was directed to pursue penalties for violations only through

the attorney general, something it has not done since losing the Marbob case, published reports indicate.

"We opposed that bill from the beginning," Mullins declares. "We do not think OCD has the experience or qualifications to bring these penalties forward; that authority should remain with the attorney general."

In the meantime, Mullins says members are informing him that they see an uptick in OCD enforcement actions against operators it has deemed as noncompliant with prior requests.

"The OCD is taking noncompliance

much more seriously lately," he suggests. "We believe it is setting the stage to come back to the legislature and say, 'See, we are not getting the enforcement action needed to bring the operators around.'"

Mullins and Chase agree the association's efforts at informing and educating political and community leaders is effective.

"Our presence in the Capitol and on social media keep us ahead of these issues," Chase maintains. "But it is not a one-time program; we have to stay with it. Maintaining a dialogue both in person and on social media is the new normal." □

IPANM Works To Stay Ahead Of Horizontal Drilling, Spill Rules

FARMINGTON, N.M.—New regulations regarding horizontal drilling and spill protocol will be at the top of the to-do list for the new Independent Petroleum Association of New Mexico executive director, once that person is brought on board, say the group's leaders.

"We will be under the gun to get rules in place by next year," says IPANM President Tom Mullins, principal at Synergy Operating in Farmington. "We can avoid having the legislature hand us rules that put industry at a disadvantage if we can work with the regulators."

The association has been conducting a search for an executive director following the amicable departure in early May of Karin Foster, who left after 12 years of "tireless service," an IPANM statement relates.

"We have interviewed several very qualified candidates and hope to have an executive director in place soon," reports IPANM Southeast Vice President Claire Chase with Mack Energy Corp.

In the meantime, the administration of Governor Susana Martinez has begun discussions to revise the state's rules on horizontal drilling and spill response, Chase notes. New Mexico's oil and gas industry is "an easy target for the vocal minority," she assesses. "We must be part of the discussion and tell our story if we want to avoid evermore burdensome regulations."

As operators come to rely increasingly on horizontal drilling and push laterals out more than a mile, existing spacing and pooling rules need to be updated, Mullins suggests. "There is so much activity in the southeast now and so much interest in new Permian development that if we are going to stay ahead of it, the rules have to be updated," he holds.

Rules must accommodate the devel-

opment of multiple horizons under two or three sections in the Permian while not stranding the owner of a 40-acre tract, Mullins advises. At the same time, the rules should not create unnecessary burdens for operators looking to drill new diagonals in the San Juan.

"We want to facilitate the rush in the Permian, but in the process, do no harm in the northwest," Mullins declares.

The other issue up for review this year is spill reporting and remediation, he reports. "Our concern is that regulators may take a 'one size fits all' approach," he explains. "That would create problems for everyone."

Regulations for reporting and managing spilled petroleum are common and understood by industry and regulators, Mullins indicates. Produced water spills, on the other hand, can differ greatly from one basin to another.

"Brine produced in the Permian is much higher in chlorides than it is in the San Juan," Mullins observes. "We are concerned that cleanup thresholds written for the southeast will create a heavy administrative and expense burden for operators in the northwest."

According to Mullins, industry representatives are scheduled to meet with regulators to draft horizontal drilling and spill response rules this summer and fall. Proposals may be released by the end of the year. □

Coming In August

Guest authors examine what the industry has learned to date in "right-sizing" proppant volumes and per-stage concentrations in unconventional horizontal plays.