Award Winning

The Override

Every Landman Wants One!

LAAPL
LOS ANGELES ASSOCIATION OF PROFESSIONAL LANDMEN

Volume XVI, Issue II | November, 2023

Presidents Message

Sarah Downs, Esq., RPL
President
Southern California Gas Company

Earlier today I stumbled upon a "tweet" by Paul Faire (@paulisci), an author who is currently authoring a book called "The Press Gallery" where Mr. Faire uses newspaper archives to look at "arguments we can't stop repeating." The tweet is titled: "a brief history of nobody wants to work anymore." The tweet is a series of newspaper clippings from 1894-2022. The shared sentiment in each clipping is "nobody wants to work." As I looked at the clippings, I could not help but notice that the industries represented in these clippings included farming, mining, and picking, all once "bread and butter" type jobs now almost obsolete. One clip from 1999 read, "Nobody wants to work anymore… They all want to work in front of a computer and make lots of money." I imagine that the line if written today, would read in part, "… they all want to work from home and make lots of money." I believe Mr. Faire might be onto something, we [humanity] have truly mulled over some repetitive sentiments for the past 100 years.

So goes the well abandonment arguments... I imagine 100 years ago landmen gathered at the local petroleum club arguing that a telephone pole was all that was needed for abandonment of a well, "pish-posh to leakage!" Sling forward to 2023 and we have environmental legislation coming out our ears. No one person can follow all the new requirements coming from every federal and state agency to address environmental injustice. How exactly the land profession will transform over the next decade is anyone's guess, but it's LAAPL's

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Inside This Issue:

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Meeting Luncheon Speaker

Understanding the Regulations & Total Cost to Abandon Oil, Gas & Injection Wells for Land Development

Brad Pierce, MS, Adjunct Professor

Brad Pierce has 51 years of experience from oil field roustabout to production and engineering management. His expertise includes working the oil patches of Texas, Texas State Waters, Louisiana, Arkansas and California.

Brad holds two undergraduate degrees, a Bachelor of Science in Biology from California Baptist College, and a Bachelor of Science in Chemical Engineering from California State University, Long Beach.

Brad completed his graduate studies at the University of Southern California receiving his Master of Science in Petroleum Engineering.

He is an Adjunct Professor at USC.

Opinionated Corner

Joe Munsey, RPL
Past President
Co-Newsletter Chair
Southern California Gas Company

First things first. As of the date of this writing you have 29 days left to shop-until-you-drop for Hanukkah and 47 days for Christmas. You have been warned.

Take a closer at the picture of an offshore windmill and it appears as if the whatchamacallit contraption is being held together by duct tape and baling wire. Sure, its illusion, however, it also might reflect the current state of affairs for the offshore windmill industry.

We have been following the growth spurts of this offshore industry the past few years and it is now coming down to paying the piper. Or should we say, there is no pay for the piper. In this case, who is the piper? It's a combination of New England states, promised megawatts of cheap renewal windmill electricity for the rate payors, pending doomsday mandate requirements, public utility commissioners and finally, honest to goodness politicians.

With a wave of the hand, it was gonna be cheap, nearly free [because wind is freely generated] utility bills and the payor [the wind developers] were gonna rake in boat loads of money. A funny thing happened on the way, via turbulent wind currents.

Cost of cheap money ran out, supply chain challenges, costs of all the ingredients to make the steel and blades and wires and other stuff; logistics for the build out, The Jones Act and the real fly in the oil, pun intended, can these behemoths even run at least at a 47 percent capacity. Well, actually, it's an average of 47 percent capacity. Sometimes 15 percent, sometimes 60 percent and sometimes…whatever, to come up with an average of 47 percent capacity.

Once that tall order was not going to be meet, and the money machine that only had so much to give, all the dominos fell out of place and big-time wind developers began dropping like flies. Here are a couple of deep pocket players:

- Orsted takes $4 Billion impairment as it halts two US offshore wind projects.
- BP and its partner Equinor study options to develop huge projects off the coast of New York after writing down $840 million of their value.

The head of BP's renewables business at a FT Energy Transition conference in London told the crowd, "Ultimately, offshore wind in the U.S. is fundamentally broken."

I suppose land and legal professionals who do this line of work is about the same handful of land and legal professionals as their counterparts in the offshore oil biz, and perhaps a much narrow sliver of land and legal professionals are affected by this recent turn of events.

Onshore green energy land work still seems to be in vogue and cashing in on those "allotted" trillions of dollars are still up for grabs. Go wherever you are needed.

We wish all a pleasant and fulfilled Thanksgiving Holiday with friends and family.

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mission to keep our members in the "know" and fully prepared for any board room conversation. That is why we have asked Brad Pierce, of Pierce Energy Management Company to speak at our November meeting.

Brad Pierce, a well-educated oil & gas professional and USC adjunct professor, will be schooling us on the current well abandonment program process and the inherent liability that comes along with the task. His presentation is informative and can be readily applied today. As we are being hurled forward (even if we are dragging our feet). Presentations such as Brad's will be imperative to our members, as it will allow our members to be the "go to" people in not just Los Angeles, but the U.S. It is a well -known fact (or repetitive argument, if you please) that what happens here in California sets the stage for the rest of the country. We hope to see many of you there.

Scheduled LAAPL Luncheon Topics and Dates

November 16, 2023
Brad Pierce, MS, Adjunct Professor

"Understanding the Regulations & Total Cost to Abandon Oil, Gas & Injection Wells for Land Development"

January 25, 2024
[4TH Thursday]

Annual Joint Meeting with
Los Angeles Basin Geological Society

March 21, 2024
Tentative Topics:

i.) Do ALTA Title Policies Protect Against Fraud?
[Does former Speaker of the House Newt Gingrich Know?]
ii.) Recent SCOTUS Case Wilkins et al v United States

May 16, 2024
Tentative Topics:

i.) Stakeholder Engagement Groups
ii.) Utilities Relocations RE: Public Work Projects
iii.) Permitting EV Charging Stations

Officer Elections

The Override is, and has been Edited by Joe Munsey, RPL and Published by Randall Taylor, RPL, since September of 2006.

2023–2024 Officers & Board of Directors

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Chapter Board Meetings

Marcia Carlisle
The Termo Company
LAAPL Secretary

We encourage all members to attend our LAAPL Board Meetings which are typically held in the same room as the luncheon immediately after the meetings are adjourned.

The LAAPL Board of Directors and Committee Members held a Board meeting on September 21, 2023, led by Sarah Downs, Esq., RPL, President. The topics discussed at the meeting were as follows:

- After a brief discussion of the Bylaws and current Membership, it was noted we have 4 Life Members and 4-5 Honorary Members. Per the Bylaws, expenditures must be voted on by membership, if over $1000.00.
- LAAPL is now using the Constant Contact platform, which will assist with marketing push.
- The lineup for meeting speakers was discussed. The Board is brainstorming to include a diverse array of topics and speakers to attract additional energy sectors.
- Jason Downs, CPL, and Linda Barras are working on the 2023-2024 Directory.
- Kudos to Lara Boyko, JD, Social Media Chair, for her great posts on LinkedIn!
- Rich Maldanado and Jason Downs, CPL, are working on the Mickelson Golf Tournament.
- There was a vote to approve the accounting bill of $350.00.

LAAPL and LABGS Hold Annual Joint Luncheon

The Los Angeles Association of Professional Landmen and the Los Angeles Basin Geological Society will hold its joint luncheon on January 25, 2024. Please note the date of the luncheon is the **fourth Thursday of January** and, if in person, the **location is at the Grand at Willow Street Conference Center.**

Treasurer's Report

Jason Downs, CPL
Treasurer
Land Representative
Chevron Pipe Line and Power Company

As of 8/29/2023, the LAAPL account showed a balance of	**$32,572.58**
Deposits	**1,940.47**
Total Checks, Withdrawals, Transfers	**-1,837.56**
Balance as of 10/30/2023	**32,675.49**

New Members and Transfers

Linda Barras
Membership Chair
Independant

Welcome! As a member of the Los Angeles Association of Professional Landmen, you serve to further education and broaden the scope of the energy industry and professional landmen in Southern California. LAAPL also strives to promote effective communication between its members, government, community, and industry on energy-related issues.

New Member Requests (Active or Associate)
None to report

New Members (Active)
None to Report

New Members (Associate)
None to Report

Transfers
None to Report

Powering The Profession

AAPL's Mission Statement

Our mission is to promote the highest standards and ethics of performance for all land professionals and to encourage sound stewardship of all energy and mineral resources.

AAPL Director Report
Quarterly Board Meeting
12/10/23: Santa Ana, NM

Name: Jason Downs, CPL

Company: Chevron Pipeline & Power

Email: jasondowns@chevron.com

Local Association Name: Los Angeles Association of Professional Landmen

LAAPL
(LAAPL.COM)

68	**Total Local Association Members**
36	**Total Active ("Land Professionals") AAPL Members within your Association**

Association projects/activities: SCHEDULED LAAPL LUNCHEON & EVENT DATES:

- Luncheons:
  - November 16th, 2023, Speaker Brad Pierce, located at The Grand in Long Beach
  - January 25th, 2024, Joint Luncheon with Geologists, located at The Grand in Long Beach
  - March 21st, 2024, Speaker TBD, located at The Grand in Long Beach
  - Mickelson Golf Classic April 18th, 2024, at Black Gold CC in Yorba Linda, CA

Association requests/concerns: N/A

Local news including business activity:

- Tight market for Independent Landmen in the LA Basin with folks going renewable, utility, tech, or in-house roles with a small pool of Landmen available. Most contract landmen are working site specific projects and/or quasi-in-house roles. Broker rate $60-$125 an hour with seasoned Landmen charging a premium. Remainder of Landmen hold in-house positions. Seasoned Independents have recently received various full-time employment from Renewables, Utilities, Tech, and Upstream/Midstream Oil & Gas Companies.
- California Independent Petroleum Association www.cipa.org contact Sean Wallentine at sean@cipa.org for news and up to date information.
- Western States Petroleum Association www.wspa.org contact Kevin Slagle at kslagle@wspa.org
- www.laapl.com (Award winning Override Newsletter)
- www.bakersfieldlandmen.org
- www.conservation.ca.gov

Bylaws & Policy suggestions: N/A

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Legislative Update

BY MIKE FLORES
Championship Strategies, Inc

WSPA Has Program To Empower Latino Voices

Levanta Tu Voz (Raise Your Voice) is a program of the Western States Petroleum Association (WSPA) created to empower the voices of the Latino community across California. Efforts to improve air quality and fight climate change are important but will only work if the solutions are affordable for everyone. Even though Latinos will be disproportionately impacted by a rushed energy transition, California politicians and media are failing to include Latino voices on energy and climate issues. Elected officials admit the transition will be hardest on middle and low-income Californians, but their only answers are public transportation, more bus lanes, and bike paths. WSPA has been working with—and listening to—the Latino community over the last several years to co-create a program where Latino voices and perspectives can be part of the energy and climate conversation. www.levantatuvoz.org

Biden Administration Issues Federal Plan Impacting Oil and Gas Infrastructure Off California

The Department of the Interior's Bureau of Safety and Environmental Enforcement (BSEE) published a programmatic environmental impact statement (PEIS) for "Oil and Gas Decommissioning Activities on the Pacific Outer Continental Shelf." The filing formally recommends a plan ensuring no fossil fuel infrastructure remains off California's coast that could interfere with other offshore operations like navigation and commercial fisheries.

"We completed a robust analysis based on sound science, Tribal consultation, public input, and the best available information," Bruce Hesson, BSEE's Pacific region director, said in a statement.

"This final PEIS provides BSEE with important guidance on future decommissioning applications for the complete removal and disposal of oil and gas platforms, associated pipelines, and other facilities offshore Southern California," he continued. (Fox News)

California Attorney General Sues Big 5 Oil Companies

On September 16, 2023, California Attorney General Rob Bonta filed a lawsuit against five of the world's largest oil and gas companies for allegedly denying or downplaying the harm caused by fossil fuels on climate change. Along with Governor Gavin Newsom, Bonta filed a seven-count, 135-page complaint in state court in San Francisco against the defendants for "engaging in a decades-long campaign of deception and creating statewide climate change-related harms in California."

California asserts that the companies have known for decades that burning fossil fuels would result in climate change. For example, a 1968 report commissioned by API and its members concluded "[s]ignificant temperature changes are almost certain to occur by the year 2000, and . . . there seems to be no doubt that the potential damage to our environment could be severe." The complaint alleges that the defendants' deceptive conduct has been a substantial factor in the increasingly frequent and intense climate change impacts including extreme heat, drought, wildfires, storms and flooding, degradation of air and water quality, agricultural damage, rising sea levels, and habitat and species losses. Accordingly, the complaint asserts claims for public nuisance, damage to natural resources, false advertising, misleading environmental marketing, and product liability. It also requests the assessment of damages and penalties against the defendants; the creation of a special fund to finance climate mitigation and adaptation efforts; and injunctive relief to protect California's natural resources from pollution; and prevent the defendants from making any further false or misleading statements about the contribution of fossil fuel combustion to climate change.

In a statement to *The New York Times* about the suit, API described it as "nothing more than a distraction," adding that "[c]limate policy is for Congress to debate and decide, not the court system."

AB 631 Which Is Related to Oil Spills Goes Into Effect January 1, 2024

California will soon have more authority to fine oil companies that cause major spills or other hazards. The new law, which will go into effect on Jan. 1, 2024, was authored in response to a Desert Sun and ProPublica probe that found the state agency charged with regulating fossil fuel companies had a spotty enforcement record and had collected no fines in 2020. Gov. Gavin Newsom signed Assembly Bill 631 on Oct. 7.

The law increases penalties to as much as $70,000 per day for continuing violations, and it gives state regulators new abilities to request criminal enforcement.

"This measure ensures California has 21st-century enforcement tools to protect communities

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from oil operators that violate the law, endanger public health, and threaten the environment," said Assemblymember Gregg Hart, who authored the bill. "AB 631 will strengthen compliance and deter the pattern of treating violations as the cost of doing business. I applaud Gov. Newsom for signing this significant legislation."

Under the new law, California's oil regulator, the California Geologic Energy Management Division, or CalGEM, can refer cases to local prosecutors and ask a Superior Court judge to compel operators to correct violations that might threaten public health, safety, and the environment. The Oil and Gas Supervisor, who heads CalGEM, can also for the first time recover all response, prosecution, and enforcement costs from the petroleum companies.

New Drilling Permits Way Down

California, the seventh-biggest U.S. crude oil producer, has put a near halt on issuing permits for new drilling this year, according to state data.

The state's Geologic Energy Management Division, known as CalGEM, has approved seven new active well permits in 2023. That compares with the more than 200 it had issued by this time last year.

The stalled approvals represent the latest tension between California's bold environmental ambitions and its role as a major oil and gas producer and consumer.

New drilling permits have steadily declined since Gavin Newsom became governor in 2019, but the current rate of approval represents a sudden and dramatic drop.

"It's just fallen off the cliff," Rock Zierman, chief executive of the California Independent Petroleum Association (CIPA), said in an interview. "The industry has more than 1,400 permit applications for new wells awaiting CalGEM approval, half of which are more than a year old," he said.

In an email, CalGEM attributed the smaller number of approvals to both the broader decline in California oil production and litigation that has paused permitting by Kern County, the center of the state's oil industry.

CalGEM is processing far more approvals to permanently close wells than for any other activity, the agency said.

"We expect this permitting trend to continue as California transitions away from fossil fuels," CalGEM said.

The approved new wells include one for Sentinel Peak Resources in San Luis Obispo County and five for E&B Natural Resources Management in Kern County.

In an apparent concession to the oil and gas industry, approvals to improve or repair established wells are up nearly 50% to 1,650 in the first half of this year, according to an analysis of the CalGEM data by environmental group FracTracker Alliance that was provided to Reuters by the consumer advocacy non-profit Consumer Watchdog.

Reworking existing wells to boost their production cannot replace volumes from new wells that are needed to meet California's energy needs, CIPA's Zierman said.

The governor wants to phase out oil drilling in the state by 2045.

California also passed a law last year banning oil and gas drilling within 3,200 feet of structures including homes, schools and hospitals. But CIPA has blocked implementation of that law by qualifying a referendum to overturn it for the November 2024 ballot.

Nearly half of the wells with rework permits approved this year are within the contested buffer zones.

Consumer Watchdog criticized those approvals as a threat to public health because they extend the lives of low- and non-producing wells, which the group argues would likely have been plugged had the setback law not been paused.

"The state is simply helping the oil industry cut costs by issuing permits to tinker with unproductive wells rather than making them plug and remediate those wells that endanger the public and environment by emitting toxic compounds," said Liza Tucker, a consumer advocate for Consumer Watchdog.

CalGEM said it is required to evaluate permits so long as the law is barred from being implemented.

Reporting by Nichola Groom; Editing by Leslie Adler. (Reuters)

Governor Signs Bill Dealing With Well Abandonment

Governor Gavin Newsom has signed AB 1167 into law. "I share the author's desire to minimize the risk that the state will be liable for costs of plugging and abandonment of orphaned and abandoned oil and gas wells," he wrote to the Legislature. However, he added, future amendments to the legislation might be needed to ensure

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it does not inadvertently push existing oil companies to walk away from their wells.

The California Legislature recently passed a bill that would provide the state's taxpayers some of the strongest protections in the nation against having to pay for the cleanup of orphaned oil and gas wells. But Gov. Gavin Newsom has not indicated if he will sign it.

AB 1167 would require companies that purchase idle or low-producing wells — those at high risk of being left to the state — to set aside enough money to cover the entire cost of cleanup. Assemblymember Wendy Carrillo, a Los Angeles Democrat who authored the bill with the support of the Natural Resources Defense Council and Environment California, said it's needed to "stem the tide" of orphaned wells.

Summary of Major Eminent Domain Cases & Legislation RE: State of California

Bradford Kuhn, Esq., Partner
Jillian Friess Leivas, Esq., Associate
Law Firm of Nossaman LLP

The following California Legislation and Eminent Doman Cases cover from January 1, 2023 through June 30, 2023.

Pending California Legislation:

A.B. 1476 — Known as the Community Redevelopment Law of 2023, AB 1476 proposes to revive redevelopment agencies in California, including the grant of the power of eminent domain to such agencies. A.B. 1476 was re-referred to the Committee on Appropriations on April 27, 2023.

A.B. 80 — Would establish a West Coast Offshore Wind Science Entity to monitor California's ocean ecosystem and inform the management of offshore wind development.

A.B. 3 — Would establish the State Energy Resources Conservation and Development Commission to develop strategic plans for offshore wind development, including one for seaport readiness.

S.B. 850 — Would make technical, non-substantive changes to Code of Civil Procedure section 1240.040 pertaining to the requirement of a Resolution of Necessity for Public Entities. Appears to merely clarify that this provision applies **only to public entities** [*emphasis added*].

Eminent Domain Cases:

Mendocino Railway v. Meyer, Case No. SCUK-CVED-2020-74939 (California Superior Court, April 19, 2023)

Facts: Mendocino Railway, which operates a popular excursion train known as the Skunk Train, asserted that it was a public utility with the right to take property through eminent domain. The railway sought to acquire a 20-acre parcel to construct and maintain a rail facility related to its ongoing and future freight and passenger rail operations. The property owner asserted that the railway did not have the power of eminent domain.

Issue: Whether or not the railway was a "common carrier" public utility and therefore entitled to use the power of eminent domain.

Holding: No, the railway had failed to establish that it had the constitutional and statutory power to use eminent domain to acquire the property.

Ramsey v. City of Chowchilla (2023 Cal. App. Unpub. LEXIS 2147)

Facts: The City initiated discussions with a property owner in 2005 to acquire private property for a highway improvement project. City officials told the owner that the highway project was an "eminent domain project", and the property would be acquired for just compensation. In 2007, the City asked the owner to provide a price to voluntarily sell the property, so the owner secured a broker's opinion of value, and the City secured its own appraisal. In 2008, the City informed the owner that it was waiting for an approved project study report, which would take several weeks, but then property negotiations would occur "due to the fact that your property must be acquired in order to construct the new interchange" and "it [appeared] certain that [their] property [would] be acquired." In 2009, the City informed the owner it had initiated the process of land appraisal and that it would complete the appraisal and negotiation process and move to acquire the needed land within 18 months. In 2011, the City then adopted a general plan which rezoned the property to "public facilities." Several more years passed, and Caltrans then began the environmental review process for the project.

Given the delays and uncertainty with the public project, the owner retained a real estate agent

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to market the property for sale or lease. More than a dozen prospective buyers or tenants expressed interest, but once the City's planned acquisition was disclosed, all prospective buyers/tenants were no longer interested. This went on for more than 8 years. The owner was left with leasing the property on a month-to-month basis with undesirable tenants at below-market rates. In 2020, the owner finally sued the City for inverse condemnation and pre-condemnation damages, claiming that the City's actions constituted a direct and special interference with the property, lowered its value, eliminated the income it could otherwise enjoy, and specifically targeted his property since it was the only one that was rezoned for public facilities uses.

Issue: Did the City's actions amount to inverse condemnation and give rise to pre-condemnation damages?

Holding: No, the City's actions did not eliminate all economically beneficial use of the property and did not constitute a taking under the Penn Central factors. Further, the Court determined there were no pre-condemnation damages.

Shenson v. County of Contra Costa (2023 Cal. App. LEXIS 244)

Facts: Shenson involved a situation in which in the 1970s, the County approved maps for residential subdivisions and required the developers to (i) make drainage improvements to collect and convey water from the subdivisions to an adjacent creek and (ii) dedicate drainage easements to the County. However, the County never accepted the offers of dedication for the drainage improvements, which remained in the ownership of the subdivision association. The County, nevertheless, continued to collect drainage fees from the homeowners for a future proposed flood protection project. Two homeowners sued the county for inverse condemnation and parallel tort causes of action after the drainage improvements failed and resulted in serious erosion and subsidence damage. The owners claimed that the County assumed ownership and responsibility of the drainage improvements by requiring the subdivision developers to construct them and to offer to dedicate easements to the county to enable it to maintain them. The owners also argued that the County's collection of drainage fees from homeowners rendered

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it responsible for the drainage improvements constructed by the subdivision developers. The County asserted that it did not accept the offers to dedicate the easements and did not otherwise assume responsibility for maintaining the drainage improvements, and that it could not be liable for merely collecting fees for future improvements that, thus far, have not been constructed because of the unavailability of matching federal funds. The trial court found no liability, concluding that, as a matter of law, a public entity must either own or exercise actual control over a waterway or drainage improvements to render them public works for which the public entity is responsible, and in this case, there was no such ownership or control. The owners appealed.

Issue: Whether or not the County could face inverse condemnation liability as a result of flooding associated with drainage facilities.

Holding: No, there could be no inverse condemnation liability in this circumstance because the facilities were not public works.

Robinson v. Superior Court (So. Cal. Edison) 2023 Cal.App. LEXIS 158 (March 2, 2023)

Facts: A privately owned public utility company sought an easement for an electrical transmission line. The owner challenged the utility's ability to secure possession, claiming that the utility had not established a right to take the property. Prejudgment possession was granted, and the owner sought a Writ from the Court of Appeal.

Issue: What must be established under the "public use and necessity" rules for a privately held utility company to condemn property, and who makes that determination?

Holding: The Court must determine whether the public use and necessity factors have been established under a preponderance of the evidence standard and must make express findings on those factors.

Ventura v. City of San Buenaventura, 87 Cal.App.5th 1028 (2023 Cal.App. LEXIS 50)

Facts: A property owner was in the process of developing a multiunit townhome project on the property pursuant to an approved map and grading plan. During excavation, uncertified fill was discovered, and the City then rejected the prior grading plan, requiring the owner to conduct a more extensive excavation. The owner conducted this extensive excavation and later sought reimbursement from the City, which was denied. The owner argued that the City's modification of an approved grading plan for the property (i.e., the requirement to conduct deeper excavations) resulted in an unconstitutional taking for which it is entitled to just compensation. The City demurred for failure to exhaust administrative remedies, and the demurrer was sustained.

Issue: Did the property owner forfeit its objection to the grading plan modifications because it failed to exhaust its administrative remedies?

Holding: Yes, the owner's failure to exhaust administrative remedies before complying with the city engineer's oral modification of a grading plan barred an action for inverse condemnation alleging the modification violated a municipal code requirement.

Mr. Kuhn is Chair of Nossaman's Eminent Domain & Valuation Group and can be reached at bkuhn@nossaman.com.

Ms. Leivas focuses her practice on eminent domain laws and regulations and can be reached at atjleivas@nossaman.com.

LAAPL Education Report

November 2023 – January 2024

John R. "JR" Billeaud, RPL, Land Manager, California Natural Resources Group, LLC
Education Chair

November

Event	Dates	Location	Speakers	Credits	Cost
Oil, Gas, Wind, & Solar: Accommodating Competing Surface Interests	November 15, 2023	Live Webinar	J. David Hampton	1 CEU	-AAPL Members: $55 -Non-AAPL Members: $95 -Students: Free
LAAPL November Luncheon: *Understanding the Regulations & Total Cost to Abandon Wells for Land Development*	November 16, 2023	The Grand, Long Beach, CA	Brad Pierce	1 CEU	
Due Diligence	November 16, 2023	Live Webinar	A. Frank Klam, CPL	5 CEU	-AAPL Members: $225 -Non-AAPL Members: $420 -Students: Free
AAPL's Code of Ethics and Standards of Practice III	November 22, 2023	Live Webinar	George R. Shultz, CPL	1 CEU Ethics	-AAPL Members: $65 -Non-AAPL Members: $95 -Students: Free

December

Event	Dates	Location	Speakers	Credits	Cost
AAPL RPL/CPL Certification Exam Review - Houston, TX	December 6-8, 2023	Houston, TX	Jimmy Wright; S. Scott Prather, CPL	RPL: 6 CEU; 1 CEU Ethics CPL: 18 CEU; 1 CEU Ethics	Early Bird Price (thru 11/21/23): -AAPL members: $400 -Non-AAPL Members: $480 -Students: Free Regular Price (after 11/21/23): -AAPL members: $500 -Non-AAPL members: $600 -Students: Free
Solar Lease Fundamentals	December 12, 2023	Live Webinar	Phillip A. Guerra, JD, CPL	3 CEU	-AAPL Members: $165 -Non-AAPL Members: $310 -Students: Free
AAPL's Code of Ethics and Standards of Practice IV	December 13, 2023	Live Webinar	George R. Shultz, CPL	1 CEU Ethics	-AAPL Members: $55 -Non-AAPL Members: $95 -Students: Free
Understanding Petroleum Economics	December 19, 2023	Live Webinar	Dwayne Purvis, P.E.	6 CEU; 1 CEU Ethics	Early Bird Price (thru 12/4/23): -AAPL members: $220 -Students: Free Regular Price (after 12/4/23): -AAPL members: $275 -Students: Free

January

Event	Dates	Location	Speakers	Credits	Cost
LAAPL/LA Basin Geological Society (LABGS) Joint Luncheon	January 25, 2024	The Grand, Long Beach, CA	TBD	1 CEU	

2024 MICKELSON GOLF CLASSIC

Jason Downs, CPL, Senior Land Representative, Chevron Pipeline & Power
Rich Maldonado, Managing Partner, Spectrum Land Services
Golf Tournament Co-Chairs

Co-Chairs Downs and Maldonado have found a golf course for the Annual LAAPL Mickelson Golf Classic. Location is the Black Gold Golf Course in Yorba Linda tentatively scheduled for March 14, 2024.

The Scoop:

- ✓ Noon Starting Time
- ✓ Approximate 25 Players
- ✓ No Shotgun Start [All players will tee off on tee box No. 1 at 10-minute intervals]
- ✓ Best Ball Format

We are welcome to use the venue's back patio for 1 hour after golfing for awards, hors d'oeurves or whatever plans we may have.

The Los Angeles Association of Professional Landmen will contribute the entirety of the tournament net proceeds to Pyles Boy Camp.

Established in 1949 by Mr. Pyles, a Huntington Beach oilman, R. M. Pyles Boys Camp is dedicated to the task of building healthier and happier generations of productive young Americans, firmly endowed with the ideals and principles of this Nation. Pyles Boys Camp gives a new confidence in life through a high quality and challenging High Sierra wilderness camp experience. R.M. Pyles Boys Camp continues to follow up with year-round programs to support and reinforce values learned at camp.

Case of the Month - Energy

Guidance From Texas Courts on PSA Wells - Or Is It?

By Benjamin Holliday, Esq., of the ENERGYlawgroup.com

The Holliday Energy Law Group PC is an energy law firm focused on advising exploration and production companies in their operations across the United States. We actively engage with our clients throughout all stages of a drilling program, from acquisition through drilling, and eventually to divestiture.

Ever pondered the intricacies of Production Sharing Agreement ["PSA"] Wells in Texas? The Magnolia v. Opiela decision has brought pivotal clarity to PSA and the nuances of pooling in the oil and gas section.

But does the 65% threshold truly hold weight, and what implications does it bear for operators? Find out why this case is as significant for its omissions as its confirmations.

The Texas 3rd Court of Appeals recently issued the Magnolia v. Opiela decision on PSA wells. While this case provides a nice history of pooling, allocation wells, and production sharing agreement wells, including some strong guidance that PSA wells do not implicate pooling concerns, I believe that the 3rd Court's narrow ruling is as significant for what it does not cover, as for what it does.

What Opiela Does Establish:

A. PSA Well DOES NOT EQUAL Pooling

Opiela makes clear that drilling an HZ well under a Production Sharing Agreement or producing from a horizontal well traversing multiple un-pooled tracts pursuant to a Production Sharing Agreement, is not pooling. What a lease says about pooling is not relevant to the Commission's determination of whether an operator has a sufficient good faith claim to drill/operate a PSA well, which said determination in turn entitles them to a permit.

B. Actual Production Sharing Agreements are Required, Not Substitute Agreements

Where the Commission says that a threshold of 65% interest owners must consent to a Production Sharing Agreement, courts will hold operators to an exacting standard of obtaining actual Production Sharing Agreements. The Opiela court rejected the operator's position that multiple purported functional equivalent agreements – Ratifications, Pooling Consents, etc. – could be used to satisfy the 65% threshold.

That a PSA Well DOES NOT EQUAL Pooling cuts both ways. Because a PSA is a contractual agreement to allocate production amongst separately leased tracts in the absence of pooling, a pooling consent is not the functional equivalent. Primarily, this is because the division of proceeds is different under pooling vs. a PSA. The court intimates, but does not expressly say, that functional equivalent documents could be sufficient to meet the 65% threshold if all instruments authorize the allocation of production from the HZ well in the same manner.

What Opiela Does NOT Establish:

A. Whether the 65% threshold required to obtain a PSA Well permit is a properly adopted rule.

Generally, a PSA Well permit will be granted if the operator can demonstrate that it has obtained production-sharing agreements from 65% or more of the working and royalty interest owners in the well. The Opiela decision traces this 65% threshold to internal staff guidance issued by the Commission in 2008, not the product of any sort of formal rule-making process. While the court notes that the Commission has both rule-making and adjudicatory powers to regulate oil and gas production and that the Commission may use its "informed discretion" to select which approach to use, rulemaking is stated to be the method best used.

The 3rd Court pointed out that the Commission's PSA Well permit grant rested on its conclusion that Magnolia had demonstrated a good faith claim sufficient to obtain the permit. This in turn was based on the operator demonstrating that 65% of the interest owners had signed a PSA. This is an important point because the court then noted that whether this conclusion was proper hinges on whether the 65% threshold is a properly adopted rule. If not, then the permit would be founded on a legal error and must be reversed.

Ultimately, the court punted on this – what I consider to be the most crucial – question of whether the 65% threshold rule is in fact a valid measure. Instead, the court made a narrower ruling that, the legality of the rule notwithstanding, the evidence did not support a finding that the 65% threshold had been reached, based on the following:

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1. A PSA well does not equal pooling, therefore pooling consents and ratifications are insufficient to qualify as Production Sharing Agreements.
2. Because the 65% threshold was a combination of PSAs, ratifications, and pooling consents, the operator had not actually obtained the required 65% PSA threshold.
3. Because the threshold had not been met, the permit was invalid regardless of whether the underlying rule was valid. No need to pass judgment on the rule, which question is largely moot because the threshold had not been reached anyway. I believe that this is a prudent decision by the court; it both highlights the need for clear PSA authorization from the Commission and/or Legislature while setting out the issue for the Texas Supreme Court should they decide to address the inevitable appeal.

Mr. Holliday can be reached at ben@theenergylawgroup.com - 210.469.3187

Guest Article - Reuters Hydrogen Article

Hydrogen Production Guidelines Prompt Fierce Debate

By Paul Day
Reuters Event – Rewables
May 31, 2023

The guidelines stipulating what counts as clean hydrogen are the focus of fierce debate in the United States in a high stakes battle for billions of dollars of tax credits.

Vast amounts of new electricity will be needed to build a U.S. hydrogen industry and while some are calling for a strict adherence to the "Three Pillars" standard – additionality, deliverability, and hourly matching – others say that such restrictions would mean the U.S. clean hydrogen industry would be 'dead on arrival."

The debate has focused largely on additionality, which stipulates that a subsidy, such as that offered by the Inflation Reduction Act (IRA), can only be granted to a hydrogen producer using electricity from a new generating source.

A new source generator means the producer's electrolyzer will not be drawing from an already stretched grid, the argument says.

Some of those already working on raising the capacity of available electrolyzers and building a new, green hydrogen economy, say this would be a disaster for the nascent industry as green hydrogen production would have to take a back seat to renewable power development.

Figure 1A prototype hydrogen powered fuel cell semi-truck is shown by Toyota at the Los Angeles Auto Show. [Source: Reuters/Mike Blake]

Hydrogen production from long-term projects, such as nuclear and hydro power, would be almost non-existent, while states with low renewable resources would be locked out of the hydrogen renaissance, detractors say.

Stifled Market

In May, the Fuel Cell & Hydrogen Energy Association (FCHEA) penned a letter to the Treasury cosigned by dozens of companies calling for lifecycle analysis calculations to include market-based mechanisms such as renewable energy credits (REC), power purchase agreements (PPA), or energy attribute certificates (EACs) without any additionality restrictions.

"The concept of additionality suggests that hydrogen producers can recognize clean electricity and feedstocks used in their processes only if it is derived from new projects," the letter said.

"To do so would significantly stifle the clean hydrogen market by adding unreasonable costs and delays for clean hydrogen producers, running counter to the IRA and undermining its economic, jobs, and environmental benefits."

The timelines for clean hydrogen scale up and siting are different than the timelines for new solar, wind, or biogas installations, and vastly different from nuclear and hydropower facilities, and to link the two negates the independent path clean hydrogen needs to complement these resources, the letter says.

"Additionality means there'll be less opportunities to build green hydrogen plants and it won't allow us to expand this ecosystem, which is really part of the IRA," says President and CEO of Plug Power Andy Marsh.

Plug Power builds end-to-end green hydrogen ecosystems that address every step of operations and Marsh says the company could turn its focus on Europe, where additionality restrictions have been modified, to give producers more flexibility.

"If the goal was to get to a carbon free grid by 2050, you need to have the infrastructure in place to generate the hydrogen. So, it's really important to jobs, it's really important to how fast you build. And quite honestly, it's really critical to whether Plug will be building more plants in Europe," says Marsh.

"The economics start looking very questionable in many places in the United States and we won't get the green hydrogen infrastructure, which will make it much more difficult to meet the government cost targets."

Each new electrolyzer would need an equivalent new green generator of electricity, which would delay new electrolyzer roll out by a couple of years at least, and potentially delay nuclear- or hydro-powered hydrogen plants for decades, say critics of the additionality requirement.

Smart Design

Defenders of the additionality plan, meanwhile, warn that lax guidance on the source of the industry's power would vastly increase emissions while leaving the industry vulnerable to failure once the tax credits expire after ten years.

In February, a broad coalition of academics, environmental organizations, and companies drafted a letter to

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the Treasury and Department of Energy (DOE) calling for the implementation of the 'Three Pillars', arguing that "weak guidelines for grid-connected systems risk driving up emissions, in direct conflict with the IRA's requirements."

Such as failure could force the Treasury to spend more than $100 billion in subsidies for hydrogen projects that result in increased net emissions, the letter said.

"Even if the electrolyzer is claiming the use of clean energy, it's in reality causing fossil fuel power plants to ramp up if this clean energy isn't new. And so, when you take those emissions into account, then the hydrogen production ends up being as much as two to five times as emissions intensive as how we make hydrogen today through steam methane reformation," says Dan Esposito, a Senior Policy Analyst at energy and climate policy think tank Energy Innovation.

Additionality can be broken down into three categories; building a new clean energy project; increasing an existing clean energy project's capacity via un uprate; and using clean electricity that would otherwise be curtailed, Esposito said in his study, 'Smart Design of 45V Hydrogen Production Tax Credit will Reduce Emissions and Grow the Industry.'

While there are differences in how the United States and the European Union power markets function, the manner in which the Europeans are approaching additionality serve as a useful starting point for designing the U.S.'s IRA's 45V Hydrogen Production Tax Credit guidance, Esposito says.

The EU rules claim clean energy projects to be new if they came into operation less than 36 months before an electrolyzer begins its clean hydrogen production and, if it is grid connected, it must also have a power purchase agreement with the electrolyzer.

Such a window would give developers flexibility to build multiple projects, while the PPA provides evidence that the electrolyzer was necessary for clean energy project financing, the study says.

Counting the Cost

Studies showing that high compliance costs for robust standards, as argued by those rejecting the need for additionality, rely on unrealistically pessimistic assumptions for either electrolyzer costs or clean electricity availability, according to a Princeton University policy memo; 'The Cost of Clean Hydrogen with Robust Emissions Standards: A Comparison Across Studies.'

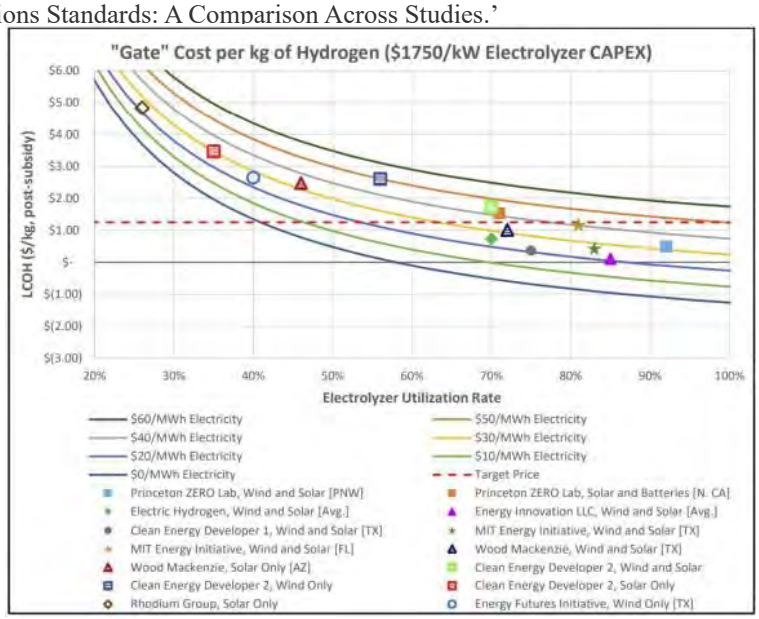
"Gate" Cost per kg of Hydrogen ($1,750/kW Electrolyzer CAPEX)

"Correcting for these specific unrealistic assumptions, all available evidence demonstrates that clean hydrogen production meeting robust emissions standards will be cost-competitive in the United States from day one, enabling the nascent industry to scale up and contribute to long-term emissions reductions," the study says.

Using an interactive levelized cost of hydrogen (LCOH) calculator tool, the study compared the findings of ten recent studies assessing the cost of clean hydrogen production compliant with the 'Three Pillars' standard.

"Oversizing wind and solar power relative to the electrolyzer consistently leads to a competitive LCOH for the full realistic range of electrolyzer capital costs," the study found.

Reuters Events Hydrogen can be reached at www.reutersevents.com for further information.



Source: Princeton University policy memo; "The Cost of Clean Hydrogen with Robust Emissions Standards: A Comparison Across Studies."

Burn Ban, Biomass Energy Bust Will Alter San Joaquin Soils

By Jeremy Bagott, MAI, AI-GRS

Ed. Note: Jeremy Bagott, MAI, AI-GRS, is an independent fee appraiser specializing in the valuation of real property rights for right-of-way clients in Southern and Central California. He is author of "The Compact Real Estate Appraiser" and "Guaconomics: Dipping a Chip into America's Besieged Party Bowl [gmail.us6.list-manage.com]."

VENTURA, Calif. (Sept. 29, 2023) – The end of open-field burning in the San Joaquin Valley is nigh. Since the 2003 enactment of SB 705 [gmail.us6.list-manage.com], a law that teed up a draconian clamp-down on agricultural burn permits, wholesale reprieves have been granted to Valley farmers in 2005, 2007, 2010, 2012 and 2015.

In fact, agricultural burning has been on the rise after the closure of 15 of the Valley's 20 biomass energy plants. The state wants to eliminate agricultural burning in the Central Valley for all but diseased trees. It also wants to keep woody waste out of landfills across the state. The collapse of the Valley's biomass energy plants – also known as "cogen" plants – is the result of problems with the business model.

During the 2021 wildfires, environmentalists pressured the California Air Resources Board and the San Joaquin Valley Air Pollution Control District to do something. The wildfires coincided with the publication of the Valley Air District's five-year report. Emotions ran high, and it shows in the report.

As a result, the two administrative bodies seem to mean business this time around. Beginning January 1, 2025, only diseased trees will be allowed to be burned with a few exceptions. The phaseout will affect larger agricultural operations first, and then gradually shift to smaller operations.

While the woody waste, in the form of wood chips, is considered undesirable for landfills, the state wants farmers to plow as much as 60 tons of chips per acre into the soil as frequently as every 20 years – for almond farmers, at least – in perpetuity for the purposes of carbon sequestration. Almonds are being demolished these days at near-20-year intervals for the purposes of production efficiency, and the waste needs to go somewhere.

It's unknown what enormous concentrations of wood chips will do to the well-drained Class 1 irrigated soils on the Valley's flood plains and alluvial fans. The soils go by names like Kimberlina sandy loam, Exeter clay loam and Wasco fine sandy loam.

Almonds are now growing on over a million acres of some of the most fertile soils on the planet. Vines and citrus have longer lifespans, so removal and incorporation of waste into the soil wouldn't occur as frequently.

One orchard demolition contractor told me that he advises growers to work the wood chips as deeply into the ground as they can. "We're advising people to pour liquid nitrogen on the soil to promote the breakdown of the wood chips." In drier soils and warmer climates, such as in the southern San Joaquin Valley, he thought the practice was riskier.

Complicating matters, orchards are often demolished and replanted during drought years to conserve water, which would have the chips going back into the soil at the driest times in the cycle. Over the span of just 60 years, as much as 180 tons of wood chips per acre could be going into San Joaquin soils.

Howard Ferris, a retired U.C. Davis professor, spent a lifetime studying "good nematodes," the tiny soil-dwelling organisms that control plant-parasitic organisms. The latter are sometimes called the "bad nematodes." He believes adding a carbon source to the soil could be a good thing, but the downside may be that the carbon will cause microbial degradation to spike, which may result in immobilization of available nitrogen and symptoms of nitrogen deficiency in young trees. Also, he pointed out that the practice hasn't been extensively tested.

Meanwhile, the state seems enthusiastic about the practice; it's offering grants [gmail.us6.list-manage.com] to farmers of up to $1,300 per acre to plow the chips back into the ground. It's also making funds available to contractors interested in expanding their fleets of chippers.

The biomass plants that once turned wood chips into baseload power often functioned like peaking power plants, able to ramp up or down electricity output at the request of the independent grid operator. They have been closing as contracts fail to be renewed.

Assembly Bill 1383, signed into law in June 2021, requires a 75% reduction in food and plant waste going into landfills by 2025. Its aim is to reduce the amount of human-produced methane gas caused by decomposing biomass – the same decomposing biomass expected now to go into Valley farmland.

Mr. Bagott can be contacted at jbagott@gmail.com

Guest Aticle - Oil & Gas: Villain, Victim, or Hero

Oil & Gas: Villain, Victim, or Hero

By Dwayne Purvis, P.E.
Founder & Principal Advisor

Ed. Note: Dwayne Purvis, P.E. has been a consulting petroleum engineer for 28 years, he recently earned a degree in sustainable energy and now focuses on research, writing and speaking about the energy transition for the oil and gas industry.

Saturday morning cartoon hero Superman proclaimed that he stood for "truth, justice, and the American way." As a kid, I thought I knew what that meant. Today, apologists for the industry would make the oil industry the hero of the American world and the would-be hero of global poverty.

As it pertains to the history of high-income countries, the apologists are certainly right. Wealth was forged for this fragment of the world—and is still sustained—on the flames of coal, oil, and gas. For the wider world, food is produced, products are molded, both are transported, and peace was won on the backs of geologists, engineers, and drillers supplying the raw material that substitutes for muscle power.

At last month's international engineering conference, our Sustainable Development Technical Section hosted a special session with a modest name: "How Oil and Gas Saved Civilization." Of course, past is often not prologue. Things sometimes change.

The world warmed and enriched by our products now seems oddly ungrateful, even hateful, toward us and the metaphorical blanket we provide. Of course, those of us in the industry see the chain of value clearly, but other people removed from our industry and communities can seem hopelessly ignorant. Then, again, media is sometimes designed to distort the view of common opinions because normal and reasonable doesn't drive engagement.

Outside their core expertise, most everyone is wrong about half the time, sadly including me. Still, even less reliable personalities can, like a broken clock, sometimes point to truth. If I value reality and rightness, then I need to consider the views of even those I don't deeply respect. It has been said that making money as an investor requires being right only a little more than being wrong. To this end, Charlie Munger has admonished, "Invert. Always invert." Always try to prove the opposite of your thesis. That's a good way to improve one's batting average.

I am aware that part of the world sees my industry, my work, and even me as a villain. However, it doesn't bother me much. I can withstand the risk of examining whether they might be right, whether I might have erred.

My mind is not quick or large enough to analyze every issue, so I often rely on the judgment of the people and the community I trust, and my community historically echoed consensus on the issue of climate change. (Unfortunately, I have also sometimes followed herd thinking with my retirement investments.) What is more, the most morally courageous man I'd known was the reason I studied petroleum engineering. The process I took and the conclusion I reached to guide my actions for decades followed a reasonable process.

As far as I can tell, very few others in the oil business were in the position to evaluate the questions of carbon dioxide as an unconventional pollutant. On the other hand, those few who did took public positions that were, in retrospect, expeditiously reasoned at best. They earned their guilt, and their platforms earned the distrust they now suffer. The platforms for their messaging were so large, so high, and so loud that outsiders could easily mistake them for the whole of the oil business. Outsiders often fail to discriminate the vocal and informed executives and lobbyists of the largest companies from the hundreds of thousands of rank and file.

New people on those platforms today recognize the proof of prior errors, and the uniform chorus from the dais at the last two major conferences I've attended call for reducing emissions and pursuing new energy. Interestingly, the rank-and-file are still catching up with this new perspective, and the public still distrusts the long history of their self-interest.

The persistent judgment of the wider world seems now to reach beyond vilification to punishment of our industry, especially with investors shunning our businesses. Stock prices have, indeed, faced headwinds, and capital investment in new supply has halved from levels seven years ago. On the other hand, until the Russian cavalry rode in last spring, oil price had also been nearly half. Pressure from capital markets began ramping less than three years ago and that only on the small fraction of the total oil supply that comes from western oil companies.

At a corporate level, shale drillers performed miserably with the truckloads of money entrusted by investors. At a continental scale, old-fashioned production is 50 years past its peak, and the shale drilling boom is also

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past its zenith. Gas in select U.S. basins has a promising future, I believe, but there is little prospect for sectoral growth. North America has begun the last phase of its exploration and production lifecycle.

At a global scale, the outlook for the industry qualitatively changes first when global demand stops growing, not when demand hypothetically ceases. Estimates of that watershed moment have moved steadily closer in time, and forecasts now place it squarely within the lifetimes of producing assets and of long-cycle development projects. Investors may be skeptical even without spite.

Villain, victim, or hero. There is some truth in all three, but I choose none of them. Those are the three vertices of Karpman's drama triangle, and none are helpful. I intend to take alternative postures to the same truths: problem-solver, empower-er, and challenger.

Superman's slogan seemed redundant to me because I figured that truth and justice were part of "the American way" — so were hard work and self-reliance, freedom from tyranny, loyalty to each other, and courageous can-do. The paraphrase seemed unassailable, until the Danish translation slapped me across my fresh, young face: "truth, justice, and the American lifestyle." It made me examine – besides my ethnocentricity — whether I prize the values themselves or the custom and tradition around them.

I am accountable now for what I know now, but the conclusion from my Superman question persists. I choose the values and not their traditions, their core and not their form. When vilified or victimized for doing what seems right, I intend to pro-act and not to react. I remember that I have been wrong before, and I remember that drama gets me nowhere I want to go.

Mr. Purvis can be contacted at dpurvis@purvisenergyadvisors.com

TIPS TO AVOID PULLED RECORDINGS

THE COUNTY RECORDER'S OFFICE HAS RECENTLY ELIMINATED THE 30-MINUTE WINDOW TO RESUBMIT MINOR DOCUMENT CORRECTIONS.

Documents can be rejected from recording for many reasons. With the County Recorder's new policy disallowing same-day correction submissions, you will need to resubmit the file the next recording day. Below is a list of common reasons recordings get pulled to help you best prepare and avoid having documents get pulled from recording, causing a delayed closing.

1. **Illegible Notary Seals (either too dark or too light)**
   a. The notary seal must be readable in its entirety in order for a clarity form to be accepted by the Recorder.

2. **Illegible Writing in the Notary Acknowledgment**
   a. If using blue pen, the notary should press firmly to ensure all numbers and letters of all words are clear.

   b. Notaries should try to complete the acknowledgment in print text or type rather than cursive writing. The Recorder must be able to read all words and dates in the acknowledgment.

3. **Incorrect Notary Acknowledgement Form Used or Form Completed Incorrectly**
   a. The acknowledgement form updated in 2015 must be used and the notary must write their name exactly as it appears in the notary's seal. If the form does not include the notary's title, the notary must print/type "Notary Public" after their name.

4. **Name, Caption, and Signature Point Variances**
   a. The caption of the document, the typed name under/above the signature point and the parties acknowledged MUST be the same. No variance is accepted- "over notarizing" is no longer accepted by the Recorder. Example: John M. Smith cannot be notarized as John Michael Smith unless the name is set out this way in the body of the document AND at the signature point.

5. **Attachments not Referenced or Missing on the Deed**
   a. All attachments, riders, etc. must be referenced in the body of the deed and attachments need to be labeled exactly as referenced.

6. **Incomplete Preliminary Change of Ownership Reports (PCOR)**
   a. Many are incomplete or have the incorrect purchase price. All sections of the PCOR must be completed entirely.

   b. The purchase price must match the Transfer Tax on the document.

   c. Mail Tax Statements To address on the PCOR does not match the Mail Tax Statements To address on the deed.

   d. Seller's name(s) is/are missing.

7. **Incomplete Transfer Tax Affidavits**
   a. Each California county has their own requirements for the Transfer Tax Affidavits. See the appropriate County Assessor's website for specific requirements.

8. **Miscellaneous Corrections**
   a. Cover pages should only include the following: Title of document, Recording Requested By, the return address, SB2 exemption (if applicable), and the reason for re-recording.

Contact your escrow officer of Commonwealth National Commercial Services sales executive with questions pertaining to your specific situation.

Commonwealth
NATIONAL COMMERCIAL SERVICES

Mr. Bibikos practices as GA Bibikos, LLC, an oil and gas law practice, with his office in Harrisburg, PA. He can be reached at gbibikos@gabibikos.com.

Below are various oil and gas cases recited in his blog site [gabibikos.com] *At the Well Weekly* which may be of interest for your further inquiry.

Interesting

- ***Third Circuit Addresses Test for Donning and Doffing Personal Protection Equipment***. The Third Circuit held that the test for whether or not to pay employees for time changing into and out of protective gear under the Portal-to-Portal Act depends on "whether changing is integral and indispensable" to productive work. The court remanded for trial to focus on where employees change, whether regulations or industry custom require changing into gear at work, how specialized the gear is, and "whether it is reasonably necessary for doing the work safely and well." *Tyger v. Precision Drilling Corp*., No. 22-1613, 2023 WL 5257688 (3d Cir. Aug. 16, 2023).

Headlines & Holdings – Appalachia

- ***Federal Court in Ohio Addresses Market Enhancement Royalty Clause.*** In a royalty class action, a federal court in Ohio held that a lessee couldn't deduct certain post-production cost from royalties under a market enhancement clause until after the gas is separated into residue gas and NGLs. *Grissoms v. Antero Res. Corp.*, --- F. Supp. 3d ----, No. 2:20-CV-2028, 2023 WL 5002127 (S.D. Ohio Aug. 4, 2023).

- ***Federal Court in Pennsylvania Dismisses Briggs Trespass-by-Frac Case on Res Judicata Grounds.*** A federal court dismissed, on res judicata grounds, a trespass-by-frac case initiated by the same plaintiffs who did not prevail in the landmark PA Supreme Court case regarding trespass-by-frac and the rule of capture, holding that their claims had been decided on the merits before and they can't bring the same ones again. *Briggs v. SWN Production Company, LLC*, --- F. Supp. 3d ----, No. 3:21-CV-520, 2023 WL 5310226, (M.D. Pa. Aug. 17, 2023).

- ***West Virgina Federal Court Upholds Pooling but Punts on Post Production Costs Claims.*** A federal court in West Virginia upheld a lessee's payment of royalties on an acreage basis under a modified pooling clause despite claims from the lessor that the agreement called for something else but denied the lessee's bid for summary judgment on the lessor's royalty claims, holding that the West Virginia Supreme Court's decision in *Tawney* (regarding post-production costs) potentially applies to in-kind royalty clauses and may prohibit post-production-cost sharing. *Kaess v. Jay-Bee Oil & Gas, Inc.*, --- F. Supp. 3d ----, No. 1:22-CV-51, 2023 WL 4687206 (N.D.W. Va. July 21, 2023).

Headlines & Holdings - Beyond Appalachia

- ***Tenth Circuit Upholds Dismissal of Oil and Gas Royalty Class Action.*** The Tenth Circuit scrapped a proposed class action involving underpaid royalties, holding that intervening decisions on when a Colorado agency has jurisdiction to decide payment disputes did not change the law such that the class plaintiffs could now bring their action in court. *Boulter v. Noble Energy Inc.*, --- F.4th ----, No. 21-1384, 2023 WL 4717554 (10th Cir. July 25, 2023).

- ***North Dakota Federal Court Says Oil and Gas Royalty Interest Counts for CAFA Jurisdiction.*** A federal court in North Dakota held that a claim for interest on unpaid or underpaid royalties under a state statute is a principal obligation and therefore must be counted towards the amount-in-controversy requirement for federal court jurisdiction under the Class Action Fairness Act. *Hystad Ceynar Min., LLC v. XTO Energy, Inc.*, --- F. Supp. 3d ----, No. 1:23-CV-030, 2023 WL 5444483 (D.N.D. Aug. 24, 2023).

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- ***Texas Appellate Court Interprets Deed as Creating Floating Royalty Interest.*** A court of appeals in Texas addressed whether grantors reserved a 1/16th fixed royalty interest or a 1/16th non-executive mineral interest when conveying a particular tract of property and held that the trial court erred when it concluded that the grantors intended to reserve a royalty interest *versus* a mineral interest. *Devon Energy Prod. Co., LP v. Enplat II, LLC*, --- S.W.3d ----, No. 08-21-00217-CV, 2023 WL 4424629 (Tex. App. July 10, 2023).

- ***Texas Court of Appeals Tackles Surface Use.*** A court of appeals in Texas rejected claims from a severed surface owner that the lessee of the mineral estate engaged in unauthorized oil and gas operations, holding that the lessee had a right to reasonable use of the property for oil and gas operations and the surface owner could not interfere with those operations. *Shah v. Maple Energy Holdings, LLC*, --- S.W.3d ----, No. 08-22-00198-CV, 2023 WL 4879905 (Tex. App. July 31, 2023).

- ***Tenth Circuit Says No Evidence Dooms Subsurface Migration Nuisance Claim.*** The Tenth Circuit rejected claims that a gas-storage company caused a temporary nuisance when natural gas migrated from its sub-surface storage gas operations into the gas company's leases, holding that a party may recover for temporary nuisance only if the nuisance is abatable by reasonable means without unreasonable hardship and expense, and the plaintiff failed to offer that kind of evidence. *Colt Energy, Inc. v. Southern Start Central Gas Pipeline, Inc.*, --- F.4th ----, No. 22-3099, 2023 WL 5126892 (10th Cir. Aug. 10, 2023).