The Override

Every Landman Wants One!

Volume III, Issue 3 | May, 2008

Los Angeles Association of Professional Landmen

Inside This Issue:

2006—2007 Officers & Board of Directors

Presidents Message

Joel W. Miller, Energy Asset Analyst

Transamerica Minerals Company

Oil and natural gas prices have remained fairly high. On the NYMEX, oil is keeping steady around $105 and natural gas is bouncing around $10. Not bad when you look at 2002 when oil averaged $22.81 and natural gas averaged $2.95.

Mexico is the 3rd largest exporter of oil to the U.S. and is seeing many problems. First, Mexican oil output fell 7.8% in the first quarter of 2008 and oil exports dropped 12.5%. Mexico already saw a yearly production decrease of 5.3% percent in 2007. The U.S. buys 8% of our oil from Mexico, but state-owned Petroleos Mexicanos (Pemex) doesn't have the equipment, knowledge, or capital to explore in the deepwater Gulf of Mexico where many reserves are resting. Cantarell was discovered in the 1970s and is the world's second-largest "super-giant" field, but it has seen production decreasing 15% year after year. Mexico's oil production hit a peak of 3.38 million barrels per day in 2004 but by March of 2008 that had fallen to 2.8 million. Mexico is the world's 6th largest producer of crude.

All that to say, if Mexico continues to restrict capital investment and production steadily drops, then the US is forced to find oil elsewhere, because so far we are not making up the difference here.

Joel W. Miller, President

LAAPL 2007-2008

March Luncheon Speaker

SPEAKER FOR MAY LUNCHEON

Dawn McIntosh, Esq., Meyers Nave Riback Silver & Wilson

"Endangered Species Act Compliance - Typical Issues & How to Avoid Them."

Dawn McIntosh, Esq., has over 15 years of extensive experience in the fields of environmental law, including the Endangered Species Act (ESA), California Environmental Quality Act (CEQA), National Environmental Policy Act (NEPA), water quality and water rights issues, regulatory compliance, complex land use litigation, constitutional law, civil rights claims, Fifth Amendment takings, and condemnation (inverse and direct).

Often the energy industry discovers they have protected species or their

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Editor's Corner

Joe Munsey
Newsletter Chair
Southern California Gas Company

As your Newsletter Chair for the 2007 -2008 term, it certainly has been a wild ride putting out "The Override" to our members and industry friends.

Before we officially write our last column, I would like to acknowledge one person in particular who has contributed in making this a top notch and astounding publication: Randall Taylor of Taylor Land Service, Inc. Another member of the chapter to acknowledge is Rae Connet, Esq., of Petroland Services, who provides our articles for the Case/Issue of the Month. We also recognize all our distinguished contributing writers this past year in providing interesting and informative articles for "The Override." A big thanks to all.

Speaking of articles, we have two interesting pieces that should be of interest. The first one caught my eye from the website of NextEnergy News, "America is sitting on top of a super massive 200 billion barrel Oil Field that could potentially make America Energy Independent and until now has largely gone unnoticed. Thanks to new technology the Bakken Formation..." Really hard to get your hands around the possibility there truly exist a giant elephant field up in North Dakota, Wyoming and Canada. Although we could not get the permission to run the article, even though we attempted several times to make contact, we ran the article because of its positive aspect. An optimistic story that affects the industry, including the fact there is a real opportunity it will benefit the public in bringing down the cost of go-go juice at the pump, is worth the mention. The jury may still be out on the magnitude of the find but we found the article interesting enough to re-print. Enjoy the read then visit the website or surf the web regarding the Bakken Formation.

To the joy of our contributor for the Case/Issue of the Month, we found an interesting article to re-print; which gave Rae a break from your Editor calling for articles. This is another top notch piece we secured the permission to re-print and which you will want to save for future reference should you find yourself running title on the shorelines in California.

Several years ago while running title somewhere along California's West Coast; we were attempting to determine the mineral ownership which included the shore line. It also required the searching of the surface ownership involving sectional (Public) and Rancho lands lying adjacent to the shoreline. While surfing the web, we came across a particular white paper written by Messrs. Washburn and Flushman addressing the subject matter. It is a rather long piece but worth the read and for future reference.

Thank you for the opportunity to hold the Newsletter Chair - I'll hang around to see if the newly elected chapter president accepts my request to do it all over again for the 2008 – 2009 term.

Remember the following dates:

May 15th Luncheon and Election of Officers

June 11th – 14th - AAPL Annual Educational Seminar in Chicago

August 1st – LAAPL's Annual Michelson Golf Classic

Fall – West Coast Landmen's Institute

We got a great speaker lined up for our luncheon talk – see you at the Petroleum Club May 15th.

May Luncheon Speaker continued from page 1

habitat affecting a project late in the process, and then they run into burdensome and time consuming regulatory requirements. Ms. McIntosh will discuss how to obtain the information you need early on and some tips for streamlining the regulatory process.

Prior to joining Meyers Nave, she worked at Fox & Sohagi for seven years and served as an advisor to the National Oceanic & Atmospheric Administration's National Marine Fisheries Service for six years.

Dawn has spoken and written on the ESA for the American Bar Association's Section of Environment, Energy and Resources, and the American Planning Association and has provided updates and summaries of various CEQA cases for the Los Angeles County Bar and the American Planning Association.

She is currently serving as the chair of the Endangered Species Committee of the American Bar Association, after serving for two years as a vice chair. Dawn is admitted to practice in the courts of the State of California, the United States Supreme Court, the Ninth Circuit Court of Appeals and all U.S. District Courts in California.

Prior to receiving her law degree from the School of Law at the University of California at Davis, Dawn was a biologist for the National Institutes of Health in Bethesda, Maryland.

NEW MEMBERS AND TRANSFERS

Our Chapter Board of Directors welcomes the following new member to the Los Angeles Chapter:

Terry A. Dolton
Southern California Edison Company
14799 Chestnut Street
Westminster, CA 92683
714-895-0313
Terry.dolton@sce.com

Transfers

None to Report

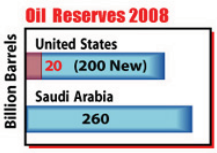
Article of Interest

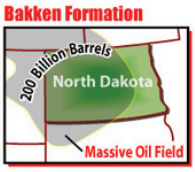
MASSIVE OIL DEPOSIT COULD INCREASE US RESERVES BY 10X

"Reprinted Without Permission"

Source: NextEnergyNews.com

Published: February 13, 2008





America is sitting on top of a super massive 200 billion barrel Oil Field that could potentially make America Energy Independent and until now has largely gone unnoticed. Thanks to new technology the Bakken Formation in North Dakota could boost America's Oil reserves by an incredible 10 times, giving western economies the trump card against OPEC's short squeeze on oil supply and making Iranian and Venezuelan threats of disrupted supply irrelevant.

In the next 30 days the USGS (U.S. Geological Survey) will release a new report giving an accurate resource assessment of the Bakken Oil Formation that covers North Dakota and portions of South Dakota and Montana. With new horizontal drilling technology it is believed that from 175 to 500 billion barrels of recoverable oil are held in this 200,000 square mile reserve that was initially discovered in 1951. The USGS did an initial study back in 1999 that estimated 400 billion recoverable barrels were present but with prices bottoming out at $10 a barrel back then the report was dismissed because of the higher cost of horizontal drilling techniques that would be needed, estimated at $20-$40 a barrel.

It was not until 2007, when EOG Resources of Texas started the frenzy when they drilled a single well in Parshal N.D. that is expected to yield 700,000 barrels of oil that real excitement and money started to flow in North Dakota. Marathon Oil is investing $1.5 billion and drilling 300 new wells in what is expected to be one of the greatest booms in Oil discovery since Oil was discovered in Saudi Arabia in 1938.

The US imported about 14 million barrels of Oil per day in 2007, which means US consumers sent about $340 Billion Dollars over seas building palaces in Dubai and propping up unfriendly regimes around the World, if 200 billion barrels of oil at $90 a barrel are recovered in the high plains the added wealth to the US economy would be $18 Trillion Dollars which would go a long way in stabilizing the US trade deficit and could cut the cost of oil in half in the long run.

CHAPTER BOARD MEETINGS

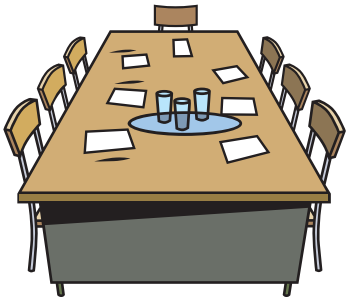
Regrettably, the Board of Directors was not able to hold its Board Meeting at the Long Beach Petroleum Club in March due to a lack of participation. However, various emails did "whiz by" immediately following the luncheon discussing the following:

On the agenda:

- Officer Nominations
- LAAPL 4rd Annual Mickelson Golf Classic – Confirming Date and Location
- Price Increases for Luncheon

The Board of Directors meets on the third Thursday of the month at 11:00 AM at the Long Beach Petroleum Club. Board meeting dates coincide with the LAAPL's luncheons.

We encourage members to attend and see your Board of Directors in action.



Lawyers' Joke of the Month

Jack Quirk, Esq.
Bright and Brown

Once upon a time, a blond became so sick of hearing blond jokes that she had her hair cut and dyed brown.

A few days later, as she was out driving around the countryside, she stopped her car to let a flock of sheep pass. Admiring the cute woolly creatures, she said to the shepherd, "If I can guess how many sheep you have, can I take one?" The shepherd, always the gentleman, said, "Sure!"

The blond thought for a moment and, for no discernible reason, said, "352." This being the correct number, the shepherd was, understandably, totally amazed, and exclaimed, "You're right! O.K., I'll keep to my end of the deal. Take your pick of my flock."

The blond carefully considered the entire flock and finally picked the one that was by far cuter and more playful than any of the others.

When she was done, the shepherd turned to her and said, "O.K., now I have a proposition for you. If I can guess your true hair color, can I have my dog back?"

OUR HONORABLE GUESTS

March's luncheon topic brought out several guest to the Long Beach Petroleum Club. Our guests of honor who attended:

Sharon Bauer, Independent

Donnie Sides, Independent

Collen Campbell, Independent

Matthew D. Fischer, Esq., Taubman, Simpson, Young & Sulentor

Terry Dolton, Southern California Edison Company

Tina Drebushenko, Southern California Edison Company

Nancy Beresky, Waterstone Environmental.

SOUTHERN CALIFORNIA EDISON®
An EDISON INTERNATIONAL® Company

Southern California Edison Company has posted positions for a Land Services Manager and a Land Services Agent in its Government Lands Division within the SCE Corporate Real Estate Department. The Government Lands Division handles the acquisition and maintenance of rights-of-way across federal, state, and tribal lands. Anyone interested in these positions may obtain further details from the SCE career website at **www.edisonjobs.com.**

The job will be based in Rosemead, California. All resumes must be submitted through the SCE career website and all candidates must meet the Basic Qualifications shown for the position. Reference numbers are JP32514 and JP32513.

AAPL
AMERICA'S LANDMEN

AAPL To Hold Its 54th Annual Meeting In Chicago

To register online or for a downloadable registration form, please go to www.landman.org.

Host Hotel: Hilton Chicago
720 South Michigan Ave.
Reservations: By Phone or Online
Phone: 312-922-4400
Website: **www.chicagohilton.com**
Reference the ARL room block when calling to make reservations.

- Wednesday, June 11
  Annual Meeting Workshop & Opening Reception
- Thursday, June 12
  Motivational Prayer Breakfast, Educational Sessions and Group Activities
- Friday, June 13
  Educational Sessions and Group Activities
- Saturday, June 14
  Education Sessions

Issue of the Month

Private and Public Rights in the Beach and Shore in California

by: Edgar B. Washburn, Esq. and Bruce S. Flushman, Esq.[1]

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INTRODUCTION

The respective rights of the public and private individuals in the beach and shore in California are governed by a legal framework grounded in the English common law, applied to the vestiges of Mexican law, and shaped by changing public policy concerns implemented by the state legislature. Recently, certain administrative excesses have been constrained by the due process provisions of the United States Constitution. The result has been a series of conflicts arising from fundamental differences in public policy that prevailed for a century—when private ownership and development was of paramount importance—in contrast to that existing today, which emphasizes public ownership and use. Implementation of today's policies has often been at the expense of real property concepts thought to be unassailable for the first 100 years of California's existence. While there might be a clear consensus that today's emphasis on public rights should be the rule if one were writing upon a clean slate, the Constitution places limits upon how far the state can go in destroying private rights previously vested in order to achieve that goal. The tension created by the now prevailing interest in preserving the beach and shore for the public and legal rules that originally favored private ownership will remain at the heart of conflicts concerning rights in the California shore zone.

THE SOURCE OF PRIVATE AND PUBLIC RIGHTS DERIVED FROM TITLE

Initially, private and public rights initially derived from title, as opposed to legislatively created regulatory schemes, and were grounded in the original physical condition of the property. In this regard, four distinct categories of land are recognized.[2] The first are areas that are dry uplands. This includes beaches and dunes lying above the ordinary high water line ("OHWL").[3] The second category consists of salt marshes and similar areas lying above the OHWL which are periodically covered by the tides.[4] These lands were officially classified as "swamp and overflowed" lands and are a category of uplands. A third category, tidelands, are those areas lying below the OHWL and above the ordinary low water line. The last category consists of submerged lands, i.e. those lands lying below the ordinary low water line.[5]

Rights Derived From Spanish and Mexican Law

California was occupied and settled by the Spanish in the 18th Century. While California was a part of Mexico, prior to the conquest by the United States, the Mexican governors of California granted into private ownership vast expanses of land. These grants—referred to as "ranchos" (grants to private individuals) and "pueblos" (grants to municipalities)—included much of the most valuable land in California. With respect to the Pacific Coast, rancho grants covered all coastal property from Sonoma County south to the Mexican border, with the exception of a relatively small stretch along the Big Sur coastline in what is now Monterey County. Although the Mexican government did not regularly convey beaches, bays or navigable waters into private ownership, shallow lagoons, tidal sloughs and the like were often included within Mexican grants. In evaluating the extensive rancho grants that bounded upon tidewater, it is important to keep in mind what

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the Pacific Ocean was under Mexican law. In contrast to the common law applicable to California after it became a state,[6] Mexican law considered the border of the Pacific Ocean to extend to the highest wash of the waves in winter (rather than the OHWL). Thus, much of the beach and salt marsh bordering tidewater was included within the Mexican definition of the Pacific Ocean, although excluded from the common law definition. Mexican law considered the ocean to be owned by the sovereign and usable by the public.

In 1848, the United States acquired California from Mexico under the terms of the Treaty of Guadalupe Hidalgo. The treaty imposed upon the United States an obligation to recognize valid grants made by the government of Mexico to private persons during the time that California was a part of that country. With the exception of these prior grants, title to all other lands acquired from Mexico passed to the United States. This acquisition included the beds of navigable waters.[7] As to the beds of navigable waters not included within prior Mexican grants, the United States held title in trust for the future State of California.[8]

When California became a state on September 9, 1850, it received by reason of its sovereignty the beds of all navigable waterbodies under the Equal Footing Doctrine of the United States Constitution.[9] As noted above, an exception to California's acquisition exists with regard to the beds of navigable waters included within the private grants that had been made by the Mexican government. Therefore, if the bed of a navigable waterbody had been conveyed into private ownership by the Mexican government, the State of California did not acquire any sovereign interest in such lands and the state public trust for commerce, navigation and fishing does not encumber such waterbodies.[10]

The boundary of tidal waters (tidelands and submerged lands) that California received by reason of its sovereignty is the OHWL.[11] This boundary is determined by common law principles and not by the civil law applicable during the time California was a part of Mexico.[12] To the extent that the definition of the boundary of navigable waters differs under common law from that applicable under the civil law, the State of California only received lands up to the common law boundary as sovereign lands. This fact is particularly significant on tidal waters where there is a major difference between the two methods of locating sovereign boundaries.

In 1851, Congress, in fulfillment of obligations imposed upon the United States by the Treaty of Guadalupe Hidalgo, passed "An Act to Ascertain and Settle the Private Land Claims in the State of California."[13] The act's purpose was to provide a procedure to determine the validity of Mexican land claims in California and to locate the boundaries of Mexican grants made while California was a part of Mexico. The Act of 1851 established a means by which the United States could separate private land from the public domain over which the United States exercised ownership and control.[14]

The purpose of the 1851 Act and the confirmation proceedings it authorized was to establish once and for all the status of title held by the claimant to the Mexican rancho. As a result, once the patent was issued and the boundaries determined, those boundaries became fixed and the status of lands contained within the patent was established by the terms of the patent. Thus, if the patent conveyed fee simple to the lands and the patent included navigable waters within its boundaries, the recipient received absolute fee title free of the state public trust for commerce, navigation and fishing.[15]

Sovereign Rights of the State of California Effective at Statehood (September 9, 1850)

Since the United States Supreme

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LAAPL Plans for 4th Annual Mickelson Golf Classic

Mark down Friday, August 1, 2008, as the 2008 LAAPL Charity Golf Tournament, commonly known as the Mickelson Golf Classic.

Edgar Salazar, Land Manager, PXP Plains Exploration, has once again volunteered to chair the event for 2008. Last year, Edgar chaired the 2007 Mickelson Golf Classic, swung immediately into the co-chair position of the West Coast Landman's Institute; and then shortly thereafter began "tepee" living on the road involving company business. If you saw a flash in the sky….it was the Salazar Comet.

Once again the venue is the premier Malibu Country Club serving as the background for the event. Edgar's goal is to raise a large "pile of money" for the benefit of the R.M. Pyles Boys Camp. To bring that goal to fruition, Edgar intends to enlarge the event by involving contractors, geologists and/or engineers to join us. In other words, we could see other LA Basin oil and gas professional organizations joining in on the fun that day.

The 2008 Mickelson Golf Classic will be looking for sponsors to help raise the funds to cover costs, door prizes and above all, monies for the R. M. Pyles Boys Camp.

SCHEDULED LAAPL LUNCHEON TOPICS AND DATES

May 15, 2008
Dawn McIntosh, Esq.
Topic – Endangered Species Act
Officer Nominations

September 18th
Tentative – Foreclosures Affecting Minerals and Easement Interest
November 20th – TBD
January 15th - TBD

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Court's decision in Phillips Petroleum Company, et al. v. Mississippi,[16] it has been clear that those navigable waters that the state received by reason of is sovereignty upon its admission to the Union, encompassed all tidal waters below the OHWL. This includes small, non-navigable and shallow tidal arms, sloughs and creeks that are not navigable-in-fact. It also includes areas that are merely subject to tidal influence, as opposed to being tidewater themselves.

Although each state, including California, received title to all tidal land below the OHWL as an incident of its sovereignty, the rules of property to be applied to these lands is for the state to decide. California was free to adopt property rules governing boundaries and the extent to which, if any, the state would exercise its sovereign rights through the public trust.

The title of the state to the beds of navigable water bodies is subject to the state public trust for commerce, navigation and fishing.[17] The beneficiaries of this trust are the citizens of the state. By virtue of the trust capacity in which California owns the beds of navigable waters, the state may not indiscriminately convey such lands into private ownership.[18] However, subject to statutory limitations that have existed from time to time and the state constitutional prohibition against the conveyance of tidelands within two miles of an incorporated city enacted in 1879, California may grant the beds of navigable water bodies into private ownership if the grant does not destroy or substantially impair the public interest in the remaining lands or waters and the grant is made for the purpose of promoting navigation and commerce.[19] Unless an intent to the contrary is clearly manifested by the legislature, grants of lands below the OHWL implicitly reserve the public trust easement for the benefit of the public.[20]

FEDERAL RIGHTS AND INTERESTS IN NAVIGABLE WATERS

In addition to the servitude that exists over the beds of navigable waters in California represented by the public trust, there is a second servitude that benefits the public: the federal navigational servitude. The federal servitude is said to have arisen under the commerce clause of the United States Constitution and extends to all waters navigable-in-fact (which includes tidewaters) below the OHWL.[21] This servitude provides the right of free public passage over encumbered lands and subjects lands and improvements located below the OHWL to uncompensated takings by the United States.[22] The federal navigational servitude is akin to an easement and is to be distinguished from the federal government's right to regulate navigable waters—a right that also arises under the commerce clause.[23] The federal government's right to regulate and the existence of the federal navigational servitude are unrelated to current ownership of the underlying land.

In addition to the servitude just discussed, the acts admitting states into the Union generally provided that navigable waters within the state are to remain common highways and forever free. California's admission contains such a provision which has been interpreted as incorporating the common law right of passage and requires that waterways remain open without preference and that exaction of a toll for the privilege of navigation is prohibited.[24]

CALIFORNIA EXERCISES ITS SOVEREIGN RIGHTS OVER THE BEDS OF TIDEWATER

Less than one month after California became a state, it received a grant from the United States of all "swamp and overflowed lands" within the state under the Act of September 28, 1850, the Arkansas Swamp Act.[25] Swamp and overflowed lands passing under the 1850 Act were in fact two categories of land. "Swamplands" were considered to require drainage to make them fit for cultivation. "Overflowed lands," on the other hand, were those lands subject to periodic or frequent overflows so as to require the construction of levees or embankments to keep out the water in order to render them suitable for cultivation.[26]

Commencing in 1855 after the state received swamp and overflowed lands under the Arkansas Act of 1850, California adopted a series of acts authorizing the sale of tidelands, as well as swamp and overflowed lands. Because it was often difficult to distinguish between the two, the 1858 Act (as did subsequent statutes) included tidelands within the general statute authorizing the sale of swamp and overflowed lands. Although the swamp and overflowed lands sold under this statutory scheme are free of any state servitude, tidelands so sold are not because the general statutory scheme authorizing their sale did not manifest a specific intent to terminate the public trust.[27]

In addition to the general statutes authorizing the sale of swamp and overflowed lands and tidelands, the state early on adopted a series of what were referred to as special acts authorizing the sale of various submerged and tidelands to private owners as a part of waterfront development. Under these acts, large portions of the waterfronts of San Francisco, Eureka, Benicia, Oakland, Martinez, and Crescent City, and various areas within five miles of San Francisco were conveyed into private ownership.[28]

In 1915, the California Supreme Court, in reviewing the legislative intent and effect of the special acts for waterfront development, concluded that these grants were designed to facilitate the construction of waterfronts and, as a necessary part of that act, contemplated the elimination of navigable waters and their replacement with fill or a bulkhead essential to the existence and operation of the waterfront. Therefore, the legislation was viewed as being in

furtherance of the state public trust for commerce, navigation and fishing and was held to effectuate a termination of that trust in the area to be filled or removed from navigation.[29] However, sixty-five years later, the California Supreme Court rewrote history and reversed the case of Knudson v. Kearney in City of Berkeley v. Superior Court. [30] Under the City of Berkeley decision, lands sold under certain of the special acts--which had not yet been filled--remained subject to the public trust.

CALIFORNIA EXERCISES ITS PUBLIC TRUST

The phrase "public trust" has been widely used, often in inappropriate circumstances. There are several basic, but different, concepts that relate to public rights in waterbodies, only one of which is the public trust. These concepts are: (1) the federal navigational servitude that attaches to the beds of all waterbodies that are navigable in fact for commercial purposes;[31] (2) the ability of the federal government to regulate navigable waters under the commerce clause of the United States Constitution;[32] (3) the ability of the state government to regulate land and water use under the police power;[33] and, lastly, (4) the public trust for commerce, navigation and fishing.[34] While the power of the federal government and the states to regulate under the commerce clause and police power are essentially unrestricted in the geographic sense,[35] the federal navigational servitude and the public trust have well defined geographic limits.[36] They apply only to the beds of navigable waters below the OHWL.

The "public trust" easement, as it has developed in California law, vests most of the attributes of property ownership in the State. The State may "enter upon and possess" trust-encumbered lands to improve them for trust-related uses.[37] It has virtually unfettered discretion in dictating the uses to which the lands may be put. The State's options range from prohibiting any use whatsoever to occupying the property to promote any of a vast array of public purposes. The uses for which the State may appropriate lands subject to the public trust have been held to be as varied as: (1) harbor development and hydrocarbon, geothermal and mineral exploration/development;[38] (2) construction of a YMCA building;[39] and (3) development of public playgrounds and parks.[40] Under the public trust doctrine, the State can designate property as open space.[41] It has been held that the State retains its trust powers even after the lands have been filled and improved.[42]

The existence of the public trust is of fundamental importance when considering public rights in California's beach and shore. Within areas subject to the trust, the public may engage in many forms of recreation such as: walking, swimming, picnicking, and the like. Trust lands are also subject to virtual unrestricted public access. Conversely, the ability of the owners of private lands subject to the trust to restrict public use is very limited.

IMPLIED DEDICATION

Not all public rights in California's beaches and shores are derived from title to the underlying property. The public, under certain circumstances, can acquire prescriptive rights over beachfront property under the doctrine of implied dedication. This doctrine—akin to adverse possession or prescription—has its genesis in Gion v. City of Santa Cruz and Dietz v. King in 1970.[43]

Basically, if the public can show that large numbers of individuals used beachfront property believing that the public had a right to such use, without objection or interference by the landowner for more than five years, it is presumed that the use was adverse and that the landowner had impliedly dedicated the property to the public for such use. The doctrine applies only where there has been significant public use, as opposed to limited use by a definable number of persons. Again, the public must show that the area was used as if it were a public recreation area and it is helpful to point to the expenditure of public funds or other public actions facilitating such use. To negate a finding of intent to dedicate based on uninterrupted public use for more than five years, the landowner must either affirmatively prove the public was granted a license to use the property or demonstrate that the landowner made a bona fide attempt to prevent such use. Subsequent cases have taken a more restrictive view of the application of the doctrine and have required only that the landowner show a reasonable effort to curtail public use under the circumstances, as opposed to an actual, effective prevention of public use to defeat the presumption of dedication.[44]

The doctrine enunciated by the Gion-Dietz decision created an uproar, to say the least. The California legislature responded one year later by amending Civil Code section 813 and adding section 1009, towards the end of affording landowners a mechanism by which they can cut-off the ability of the public to acquire implied dedication rights while at the same time allowing public use. Consequently, the recording and publishing of appropriate notices, as dictated by these two code sections, will prevent the public from acquiring implied dedication or prescriptive rights in the beachfront property.

IMPACT OF THE CALIFORNIA COASTAL COMMISSION AND THE CALIFORNIA COASTAL ZONE ACT

One of the most significant developments in preserving and enhancing public access and rights along the California coast was the adoption of the California Coastal Zone Conservation Commission in 1972 (by Proposition 20). The Commission developed the California Coastal Plan, which formed the basis for the legislature's adoption of the California Coastal Act in 1976.[45] Proposition 20, California's local manifestation of concern about its 3400 miles of shoreline, was adopted the same year (1972) as the federal Coastal Zone Management Act,[46] which represents

a national effort to facilitate coastal protection of managed coastal resources. California's coastal management program was approved by the federal government in 1977. That program consists of the California Coastal Act and the regulations of the California Coastal Commission, along with the authorizing legislation and regulations of the San Francisco Bay Conservation and Development Commission and the Coastal Conservancy. The San Francisco Bay Conservation and Development Commission, which served in large part as a model for the California Coastal Act, regulates development in and 100 feet from the shore of San Francisco Bay.

The California Coastal Act regulates the "coastal zone," which is the land and water area extending seaward to the State's outer limit of jurisdiction (the three-mile limit) and inward generally 1000 yards from the mean high tide line. However, where significant estuarine habitat and recreational areas exist, jurisdiction extends to the first major ridge line paralleling the sea, or five miles from the mean high tide line, whichever is less.[47] In addition to requiring the formulation of plans as to how development will occur within the coastal zone, the California Coastal Act establishes a rigid procedure for the issuing of permits for activities within that zone.

In granting or denying permits for activities within the area of its jurisdiction, local agencies (cities and counties) implementing the Coastal Act are directed to carry out the requirements of Article X, section 4 of the California Constitution, providing for maximum access for the public. The constitutional provision prohibits owners possessing the frontage on tidal lands of a harbor, bay, inlet, estuary or other navigable waters, from interfering with public access or excluding the right-of-way to the waters whenever it is required for public purposes and prohibits the obstruction of free navigation of such waters.[48]

The public access provisions of the Coastal Act have, in practice, been vigorously (and, some would say, excessively) enforced by the Commission. Until curtailed by the United States Supreme Court decision in Nollan v. California Coastal Commission,[49] the Commission required those agencies implementing the local coastal plans to exact public access to and along the shore as a condition for the issuance of permits for developments, both large and small. In fact, these exactions became so numerous that the agencies charged with administering dedications of public access did not have the resources or ability to do so. Many of the dedications were exacted as conditions for construction of structures or improvements which in no way adversely affected public access. This fact led the United States Supreme Court in Nollan to curtail the Commission's excessive implementation of the public mandate and to limit requiring public access to those circumstances where there was a nexus between the project for which the permit was sought and public access. Absent the nexus, the imposition of a public access condition was viewed as being a "taking" for which compensation must be paid. At the end of the day, however, the California Coastal Act must be viewed as a very effective tool in preserving California's coast and enhancing the public's ability to use the shore.

PROPERTY BOUNDARY DETERMINATION ALONG THE OPEN OCEAN COAST – THE ORDINARY HIGH WATER LINE

Early Use of Scientifically-Based Measurements As Indicia of the Physical Location of Ordinary High Water Line

The boundary between State and privately-held lands on tidewater is the OHWL. In the early days of California's statehood, the OHWL was determined by reference to physical features. In the first decade of the 20th century, interested professionals attempted to provide more precision to determination of the location of the littoral property boundary.[50] These attempts were due, in part, to several factors including ever-escalating development and land use pressure. These endeavors gained some recognition in the courts.

Although opinions consistently stated the OHWL was the line reached by the "ordinary" or "neap" tides, courts in the early years of this century had not formulated any physically quantifiable definition of what they meant. Pinpointing the physical location of that property boundary merely by using the written description provided by court opinions was not really possible.

Use of the term "neap tides" grew from an early California case, Teschemacher v. Thompson.[51] Teschemacher concerned location of the OHWL in an estuarine marsh. Other cases, however, adopted and applied its description of the OHWL property boundary in cases concerning the open coast shoreline property boundary of uplands and tidelands.

The opinion defined "usual" or "ordinary" high water mark as:

[T]he limit reached by the neap tides; that is, those tides which happen between the full and the change of the moon, twice in every twenty-four hours.[52]

Nevertheless, "neap tides" do not occur as frequently as twice in every twenty-four hours. Technically, "neap tides" only occur twice a month when the forces of the sun and moon act opposite one another.[53] There is at least a question of whether one can term this "ordinary" in the dictionary sense of the word. Moreover, at least on the Pacific Coast, the two high waters are not the same height. Instead, the two high waters each day differ markedly in their height. Even if one accepts the "neap" tide test, deciding which of the two daily high tides supplies the limit reached by the "neap" tides is still not possible.

As can readily be seen, the use of the term "neap tides" as descriptive of the

physical phenomenon defining "ordinary tides" is fraught with ambiguity.[54] The courts finally recognized and resolved this uncertainty with help from the government and the scientific community.

Background, Explanation and Definition of Tidal Datum

The United States government recognized it was important for waterborne commerce to understand and quantify tidal phenomena. Mariners required accurate navigational charts of the coastal and estuarine shorelines to protect waterborne resources and commerce destined for or travelling from such areas. To supply information for those purposes, the U.S. Coast Survey and its successors, the USC&GS and the NOS, operated a system of tide stations at harbors and particular coastal locations. At these places continuous tide observations were and have been taken and recorded over many years.

For accurate results, determination of tidal characteristics should be based on a series of observations or measurements systematically taken over many years.[55] Indeed, an 18.6-year (sometimes called a 19 year) period is considered a full tidal cycle. This is because the more important of the periodic tidal variations due to astronomic causes will have gone through complete cycles. In addition, we assume randomly recurring meteorologic variations balance out during this long a period.[56]

Through statistical and mathematical means, one may convert the observations from a tide station into various vertical planes of reference, known as tidal datums.[57] Tidal datum are quite simply defined and can be readily, accurately and certainly determined (assuming there is tidal data available). And it is not essential that tidal data be obtained for an entire 19-year tidal cycle. Through statistical and mathematical means, a 19-year mean can be derived from a shorter series of observations.[58]

The basic tidal datum, from the lowest to the highest in terms of relative elevation, are: mean lower low water,[59] mean low water,[60] mean sea level,[61] mean tide level,[62] mean high water[63] and mean higher high water.[64] There is nothing magical about these tidal datum. They are useful tools for measuring for different purposes water levels which are constantly in flux. Certain of these tidal datum were also used as reference points for the mapping and charting work of the USCS, the USC&GS and the NOS.

Adoption of the Mean High Water Line as the Physical Location of the Ordinary High Water Line—The Borax Cases

At least in California, it was during the first decades of the 20th century that use of the mean high water line[65] as the physical location of the legal property boundary between tidelands and coastal uplands first gained currency.[66] The origin of and impetus for the adoption of this methodology by the courts was most probably the development and use of tidal datum planes by the United States government and its coastal and shoreline mapping agencies.

During the early 20th century, the unsatisfactory state of court-crafted equivocal or obscure descriptions of the physical location of the legal property boundary along tidal shorelines was confirmed. A vigorous debate grew up between surveyors and coastal engineers over just how to translate the legal term "ordinary high water line" into a physical location. Legislative enactments and court decisions began using the term "mean high water line" or "line of mean high water" in describing the shoreward property boundary of sovereign lands.[67] All these developments led to a pressure on the courts to decide finally and definitively how to convert the legal term "ordinary high water line" into a physical location.

In Borax Consolidated, Ltd. v. City of Los Angeles,[68] the United States Supreme Court decided as a matter of federal law to locate the OHWL, the property boundary between federally patented uplands and tidelands owned by the state, at the mean high water line.[69] In Borax Consolidated, Ltd. v. City of Los Angeles,[70] the United States Supreme Court decided as a matter of federal law that the location of the OHWL littoral property boundary was not the physical mark made on the ground by the water. Instead, the Supreme Court held that, for a tidal regime, tidal observations would determine the physical location of the OHWL.[71] Thus, the OHWL property boundary of lands adjacent to or along tidal waters would be physically located by use of the mean high water line.[72]

The Open Coast Mean High Water Line – Fluctuation of the Land Form

As we now know, as far as open coast tidelands are concerned, one physically locates the OHWL property boundary of such lands at the line of mean high water. While the plane of mean high water is a fixed plane,[73] the land surface or land form which the water (the datum plane) intersects may be constantly in flux. This is because of the processes of erosion, deposition, subsidence, upheaval or any of the many other physical processes which may affect the terrestrial form. The dynamic property of the land surface is most dramatically evidenced in the case of sandy beaches.

The legal principles concerning property boundary movement are applicable along the open coast.[74] Thus, if land is added through the process of accretion[75] or washed away through the process of erosion[76], the property boundary follows the changing physical location of the mean high water line.

The definitional problem of what is and what is not gradual or imperceptible along the open coast is difficult. In addition, another variable is both pervasive and its effect on the location of the ocean shoreline property boundary seems to be both legally and technically unpredictable. Although we might wish it otherwise, man has modified the coastlines along the continent.[77]

In California and in some other states,

alluvion deposited gradually and imperceptibly and attributable to the works of man in the immediate vicinity of the property does not benefit the upland owner; the coastal property boundary is fixed at its location prior to the occurrence of the artificial accretion.[78] This result is similar to the property boundary consequence of an avulsive change.

When the federal government is the upland owner, however, the highest court in the land established a different rule. In that case, the federal government unmistakably caused a gradual and imperceptible increase in the seaward extent of the Pacific Ocean shoreline through construction of a massive coastal jetty. The court held that even so, the United States, as the upland owner, receives the benefit of the artificially caused accretion, even in California.[79] The law in this area is in flux.[80] One can generally state, however, that what some have called the "California rule," is not the rule in the majority of states. Thus, in states other than California, the OHWL moves with accretion and erosion—even if it is the result of man's activities—so long as it was not effected by the owner in order to expand his lands.

ENDNOTES

(1) Messrs. Washburn and Flushman were principals in the law firm of Washburn, Briscoe & McCarthy, 55 Francisco Street, Suite 600, San Francisco, California 94133. Note: Mr. Flushman is currently with the firm of Wendel Rosen Black & Dean, LLP, 1111 Broadway, 24th Floor, Oakland, CA 94607.

(2) This discussion focuses only on beaches and shores in tidal areas.

(3) The OHWL boundary is determined by calculating the mean high water line in tidal areas as determined by the procedures endorsed by the United States Supreme Court in Borax Consolidated, Ltd. v. City of Los Angeles, 196 U.S. 10 (1935).

(4) Due to the fact that tides on the Pacific Coast are of two unequal heights each day and vary from day-to-day and month-to-month, extreme high tides (often referred to as "spring tides") occur during various times of the year which periodically cover the surface of the salt marsh.

(5) The means and concepts by which these various boundary locations are determined is discussed later in this paper.

(6) The boundary of tidewater and all other navigable waters under the common law is the OHWL.

(7) Knight v. United Land Ass'n, 142 U.S. 161 (1891); City & County of San Francisco v. LeRoy, 138 U.S. 656 (1890).

(8) Pollard's Lessee v. Hagan, 44 U.S. 212 (1845); Weber v. Board of Harbor Commissioners, 85 U.S. 57 (1873).

(9) 9 Stat. 452; Weber v. Board of Harbor Commissioners, supra, 85 U.S. 57; Knight v. United Land Ass'n, supra, 142 U.S. 161; Pollard's Lessee v. Hagan, supra, 44 U.S. 212; Shively v. Bowlby, 152 U.S. 1 (1894). When the original colonies ratified the Constitution, they succeeded to the Crown's title and interest in the beds of navigable waters within their respective borders. New states were admitted to the Union on an equal footing with the original colonies and were held to have acquired the same rights, sovereignty and jurisdiction as the original states possessed within their respective borders. Accordingly, under this "equal footing doctrine," title to lands beneath navigable waters passed from the federal government to the new states upon their admission to the Union. Pollard's Lessee,supra.

(10) Knight v. United Land Ass'n, supra, 142 U.S. 161; City & County of San Francisco v. LeRoy, 138 U.S. 656 (1890); Summa Corp. v. California ex rel. State Lands Comm'n, 466 U.S. 198 (1984), rev'g. City of Los Angeles v. Venice Peninsula Properties, 31 Cal. 3d 288 (1982).

(11) United States v. Pacheco, 69 U.S. 587, 590 (1864); Borax Consolidated, Ltd. v. City of Los Angeles, supra, 269 U.S. 10; Marks v. Whitney, 6 Cal. 3d. 251 (1971).

(12) United States v. Pacheco, supra, 69 U.S. 587; Borax Consolidated, Ltd. v. City of Los Angeles, supra, 269 U.S. 10.

(13) Act of March 3, 1851, 9 Stat. 631.

(14) S. Exec. Doc. No. 26, 32d Cong. 1st. Sess. 2 (1852); Rodriguez v. United States, 68 U.S. 582 (1863).

(15) Summa Corp. v. California ex rel. State Lands Comm'n, supra, 466 U.S. 198; United States v. Coronado Beach Co., 255 U.S. 472 (1921).

(16) 484 U.S. 468 (1988).

(17) City of Berkeley v. Superior Court, supra, 26 Cal. 3d 515 (1980); People v. California Fish Co., 166 Cal. 567 (1913).

(18) State v. Superior Court (Fogerty), 29 Cal. 3d 240 (1981); State v. Superior Court (Lyon), 29 Cal. 3d 210 (1981); City of Berkeley v. Superior Court, supra, 26 Cal. 3d 515; People v. California Fish Co., supra, 166 Cal. 567; Illinois Central R.R. v. Illinois, 146 U.S. 387 (1892).

(19) City of Berkeley v. Superior Court, supra, 26 Cal. 3d 515; State v. Superior Court (Lyon), supra, 29 Cal. 3d 210; Illinois Central R.R. v. Illinois, supra, 146 U.S. 387. In 1879, article XV, section 3 of the California Constitution was adopted. That provision prohibited the sale of tidelands within two miles of an incorporated city or town. In 1909, section 3443(a) of the Political Code was adopted. That provision forbade further sale of tidelands.

(20) City of Berkeley v. Superior Court, supra, 26 Cal. 3d 515; State v. Superior Court (Lyon), 29 Cal. 3d 210 (1981).

(21) United States v. Rands, 389 U.S. 121 (1967); Kaiser Aetna v. United States, 444 U.S. 164 (1979).

(22) Kaiser Aetna v. United States, supra, 444 U.S. 164; United States v. Rands, supra, 389 U.S. 121; United States v. Grand River Dam Authority, 363 U.S. 229 (1960).

(23) Kaiser Aetna v. United States, supra, 444 U.S. 164.

(24) 9 Stat. 452. See also Willamette Iron Bridge Co. v. Hatch, 125 U.S. 1 (1888); Cardwell v. American Bridge Co., 113 U.S. 205 (1885).

(25) 9 Stat. 519, 43 U.S.C. § 981, et seq.

(26) San Francisco Savings Union v. Irwin, 28 F. 708 (9th Cir. 1886), aff'd. 136 U.S. 578 (1890).

(27) People v. California Fish Co., supra, 166 Cal. 576.

(28) Stats. 1851, ch. 41 (San Francisco); Stats. 1851, ch. 44 (San Francisco); Stats. 1853, ch. 137 (San Francisco); Stats. 1851, ch. 37 (Martinez); Stats. 1851, ch. 83 (Benicia); Stats. 1855, ch. 187 (Benicia); Stats. 1857, ch. 82 (Eureka); Stats. 1863, ch. 299 (Crescent City); Stats. 1868, ch. 543 and Stats. 1870, ch. 388 (San Francisco Bay, Board of Tideland Commissioners).

(29) Knudson v. Kearney, 171 Cal. 250 (1915).

(30) 26 Cal. 3d 515 (1980).

(31) Kaiser Aetna v. United States, supra, 444 U.S. 164; United States v. Rands, supra, 389 U.S. 121; United States v. Grand River Dam Authority, supra, 363 U.S. 229; Gibbons v. Ogden, 22 U.S. (9 Wheat.) 1 (1824).

(32) Kaiser Aetna v. United States, supra, 444 U.S. 164.

(33) Hitchings v. Del Rio Woods Recreation & Park District, 55 Cal. App. 3d 560 (1976); People ex rel. Baker v. Mack, 19 Cal. App. 3d 1040 (1971).

(34) Illinois Central R.R. v. Illinois, supra, 146 U.S. 387.

(35) Kaiser Aetna v. United States, supra, 444 U.S. 164.

(36) United States v. Rands, supra, 389 U.S. 121; United States v. Grand River Dam Authority, supra, 363 U.S. 229; Shively v. Bowlby, 152 U.S. 1 (1894); Illinois Central R.R. v. Illinois, supra, 146 U.S. 387; Hardin v. Jordan, 140 U.S. 371 (1891).

(37) People v. California Fish Co., supra, 166 Cal. at 588.

(38) Boone v. Kingsbury, 206 Cal. 148 (1928); Mallon v. City of Long Beach, 44 Cal. 2d 199 (1955); Cal. Pub. Res. Code §§6501-7062.

(39) People v. City of Long Beach 51 Cal. 2d 875 (1959).

(40) Los Angeles Athletic Club v. City of Long Beach 128 Cal. App. 427 (1932).

(41) Marks v. Whitney, supra, 6 Cal. 3d at 259-260.

(42) Atwood v. Hammond, 4 Cal. 2d 31, 41 (1935); City of Long Beach v. Mansell, 3 Cal. 3d 462, 486-487 (1970).

(43) 2 Cal. 3d 29 (1970).
(44) See County of Orange v. Chandler-Sherman Corp., 54 Cal. App. 3d 561 (1976); Aptos Seascape Corp. v. County of Santa Cruz, 138 Cal. App. 3d 484 (1982).
(45) See Cal. Pub. Res. Code §§ 30,000-30,900.
(46) 16 U.S.C. §§ 1451-1464.
(47) Cal. Pub. Res. Code § 30103.
(48) Cal. Gov't Code § 39934.
(49) 483 U.S. 825 (1987).
(50) D.E. Hughes and O. Von Geldern, The Determination of the Plane of Ordinary High Tide for Pacific Coast Harbors, with Particular Reference to San Diego Harbor California, J. Ass'n Engineering Societies, vol. XLIV, no. 4 (1910) (hereinafter "Hughes & Von Geldern"); Eichelberger v. Mills Land, etc. Co., 9 Cal. App. 628 (1908).
(51) 18 Cal 11 (1861).
(52) Teschemacher v. Thompson, 18 Cal 11, 21-22 (1861).
(53) H.A. Marmer, Tidal Datum Planes, U.S. Coast & Geodetic Survey Spec. Pub. 135 (rev. ed. 1951) (hereinafter "Marmer") at p. 5 and R.S. Patton, Relation of the Tide to Property Boundaries, set out in 2 Shalowitz, Shore and Sea Boundaries, App. E, p. 669 (Dep't Comm. Pub. 10-1 1962) (hereinafter "Patton at 2 Shalowitz, p. __").
(54) This ambiguity has been the subject of much critical comment by commentators and courts. E.g., Patton at 2 Shalowitz, p. 668; 1 Shalowitz at p. 93; J. Briscoe, The Use of Tidal Datums and the Law, (1983) 43 Surveying & Mapping (J. Am. Congress Surveying & Mapping 1983) No. 2, pp. 115, 116; Maloney & Ausness, The Use and Legal Significance of the Mean High Water Line in Coastal Boundary Mapping, 53 N.C. L. Rev. 185, 204 (1974); City of Los Angeles v. Borax Consolidated, Ltd., 74 F.2d 901, 905 (9th Cir. 1935), aff'd, 296 U.S. 10 (1936).
(55) Marmer at pp. 7-8; Patton at 2 Shalowitz, p. 675.
(56) Patton at 2 Shalowitz § 2311, p. 59.
(57) Shalowitz defines "datum plane" as "[a] surface used as a reference from which heights or depths are reckoned. The plane is called a Tidal Datum when defined by a phase of the tide . . ." Patton at 1 Shalowitz, p. 286.
(58) Marmer has a good explanation of the process. Marmer at p. 87-95.
(59) The average height of only the lower of the low waters over a 19-year period. Marmer at p. 113; Patton at 2 Shalowitz, p. 581. On the Pacific Coast this is the datum for soundings taken for hydrographic charts. Patton at 2 Shalowitz, p. 581.
(60) The average height of all the low waters over a 19-year period. Marmer at p. 104; Patton at 2 Shalowitz, p. 581.
(61) The mean level of the sea at a particular location determined by averaging the height of the water levels for all stages of the tide. This is the primary tidal datum. Marmer at p. 45; Patton at 2 Shalowitz, p. 528.
(62) This datum is also known as half tide level. It is a tidal datum midway between mean high water and mean low water. Marmer at 69; 2 Shalowitz at 568.
(63) The average height of all the high waters at a location for a period of 19 years. Marmer at 86; 2 Shalowitz at 581.
(64) The average of only the higher of the high waters at a location over a 19-year period. Marmer at 86; 2 Shalowitz at 581.
(65) The mean high water line is the intersection of the tidal datum mean high water with the shore. 2 Shalowitz at 581; Swarzwald v. Cooley, 39 Cal. App. 2d 306, 313 (1940).
(66) Forgeus v. County of Santa Cruz, 24 Cal. App. 193, 195 (1914); Strand Improvement Co. v. City of Long Beach, 173 Cal. 765, 769 (1916).
(67) Los Angeles v. San Pedro, etc., R.R. Co., 182 Cal. 652, 663 (1920), cert. denied 254 U.S. 636 (1920); City of Los Angeles v. Anderson, 206 Cal. 662, 664 (1929).
(68) 296 U.S. 10 (1935).
(69) Id. at 26-27.
(70) 296 U.S. 10 (1935).
(71) Borax Consolidated, Ltd. v. City of Los Angeles, supra, 296 U.S. at 22 (". . . it means the line of high water as determined by the course of the tides.").
(72) Id. at 26-27.
(73) Swarzwald v. Cooley, 39 Cal. App. 2d 306, 313 (1940); People v. Wm. Kent Estate Co., 242 Cal. App. 2d 156, 159-160 (1966).
(74) Strand Improvement Co. v. City of Long Beach, 73 Cal. 765, 772-773 (1916).
(75) E.g., City of Los Angeles v. Anderson, 206 Cal. 662, 666-667 (1929)
(76) Miramar Co. v. City of Santa Barbara, 23 Cal. 2d 170, 175 (1943).
(77) For a discussion of the impacts of a jetty on the coast and the problem of attempting to relate general statements about the effect of man's works on beach processes to a particular beach, see Surfside Colony, Ltd., 226 Cal. App. 3d 1260, 1263-1264, 1268-1269 (1991).
(78) State of California ex rel. State Lands Comm'n v. Superior Court (Lovelace), 11 Cal. 4th 50, 76-80 (1995) (must be direct cause); Carpenter v. City of Santa Monica, 63 Cal. App. 2d 772, 794 (1944); People v. Hecker, 179 Cal. App. 2d 823, 837 (1960); Lorino v. Crawford Packing Co., 175 S.W. 2d 410, 414 (Tex. 1943). But in Lovelace, supra, 11 Cal. 4th at 74, the California Supreme Court observed federal law may apply to oceanfront titles derived from the federal government. The court also noted the choice of law was different for inland property over which the federal government has no interest. Id.
(79) California ex rel. State Lands Comm'n v. Superior Court (Humboldt Spit), 457 U.S. 273, 284-285 (1982).
(80) The California Supreme Court decided the scope of the application of the artificial accretion rule, but there are no other cases applying the rule.

Treasurers Report

As of 2/25/2008, the LAAPL account held a balance of	$ 4,789.10
Deposits made	$ 2,483.00
The LAAPL account with Bank of America as of 4/1/2008, shows a balance of	$ 7,272.10
Merrill Lynch Money Account shows a total	$10,259.32

LAAPL ELECTION FOR 2008 – 2009 OFFICERS

Officers will be elected by a vote of membership in attendance at the May 15, 2008 Regular Meeting at the Long Beach Petroleum Club.[1]

OFFICE	CANDIDATE
President[2]	Joel W. Miller, Senior Energy Asset Analyst, Transamerica Minerals Company
Vice President[3]	Thomas G. Dahlgren, Industrial Relations & Land Coordinator, Warren E&P
Secretary	Sharona Noormand, Independent
Treasurer	Charlotte Hargett, Land Technician, PXP – Plains Exploration
Director	L. Rae Connet, Esq., Independent, PetroLand Services
Director	Joseph D. "Joe" Munsey, Senior Land Advisor, Southern California Gas Company
Region VIII AAPL Director[4]	Joel W. Miller, Senior Energy Asset Analyst, Transamerica Minerals Company

Per Section VII (7)(c), voting for the slate of officers is to be done by secret ballot. A motion will be brought to the floor asking the members to vote and pass a resolution permitting a departure from said Section VII (7)(c) at the May 2008 meeting.

[1]Per Section VII (7a) of the by-laws, at or prior to the regular meeting scheduled nearest [emphasis added] to April 15th of each membership year, the membership will be provided with a list of nominees for officers of Vice President, Secretary, Treasurer and two (2) Directors. Due to the scheduling of the Chapter's meetings, a list of nominees will be presented to the members at our May luncheon, including a list published in the May issue of the "Override." A motion will be brought to the floor asking the members to vote and pass a resolution permitting a departure from said Section VII (7)(a) at the May 2008 meeting.

[2]Per Section 7(3) the Vice President shall succeed to the office of the President after serving his or her term as Vice President and shall hold the office of President for the next twelve (12) months. A motion will be brought to the floor asking the members to vote and pass a resolution permitting a departure from said Section VII(c) at the May meeting.

[3]Rae Connet, Esq., resigned her position as Vice President and the Board has accepted same. Per Section VII(3) the Vice President shall succeed to the office of the President after serving his or her term as Vice President and shall hold the office of President for the next twelve (12) months. As a result of the vacation of the Office of the Vice President the Board has accepted the nomination of Thomas G. Dahlgren, Industrial Relations & Land Co-ordinator, of Warren E&P, a well qualified candidate for the Office of Vice President.

[4]Not an elected position – by Board appointment.

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Photo courtesy of Rick "Redfish" Riseden, MS '68 PE

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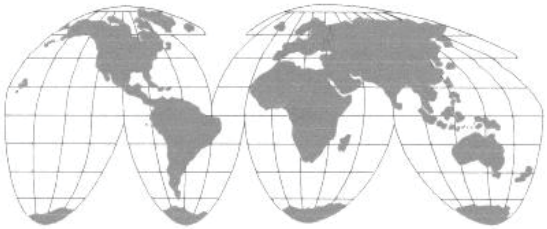

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