



The Override

Every Landman Wants One!

Volume VI, Issue I

January, 2011



Los Angeles Association of Professional Landmen

Presidents Message

**Stephen Harris, CPL
Independent**

Our chapter meeting is actually a joint meeting with the Los Angeles Basin Geological Society, an event that is becoming a tradition between the organizations each January. If you look to your right you will see the speaker, the distinguished Dr. Donald L. Gautier, will be addressing the luncheon crowd, which I am sure will be an interesting topic.

Please observe the meeting will not be held at the Long Beach Petroleum Club but rather at the same location as last January which is The Grand at 4101 East Willow Street, Long Beach, CA.

I'll be brief for this issue of "The Override," which is difficult for many to believe I am capable of doing. I know Joe and Randall don't think so.

Again, to be succinct and spare you the extra time you need to finish up your projects while multi-tasking for your boss who knows you are reading the latest and greatest.

- My family had a wonderful time

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Ensign Rig No. 587 on site at Southern California Gas Company's Honor Rancho Gas Storage Field in Los Angeles County, CA.

celebrating Christmas and the bringing in the New Year.

- I trust our members and friends enjoyed the same.
- Take action by involving yourself in the Chapter as an officer, if not, be prepared to vote at our May Luncheon for the slate of officers.

As to current events, I would like to briefly make a few points along the "beyond Macondo" and other issues facing our industry in 2011. The shock waves of that event continue to reverberate through Congress and the Obama administration. However, while the biggest event recently for the industry; it was not the only game in town.

There have been some real supply game-changers causing a lot of companies to reassess policies and strategies. IPAA President Barry Russell suggested recently that the US could be poised

Meeting Luncheon Speaker

Potential Reserve Growth in the Los Angeles Basin

Our speaker for the LAAPL and LABGS joint luncheon will be **Dr. Donald L. Gautier** of the Energy Resources Program of the United States Geological Society. Dr. Gautier was born in Los Angeles; he holds a Ph.D. in Geology from the University of Colorado and worked for Mobil Oil Corporation before joining the USGS in 1977. He is author of more than 200 publications, many concerning evaluation of petroleum resources. Dr. Gautier leads the USGS World Energy Project and was the principal investigator for the recently completed Circum-Arctic Resource Appraisal.

Make your reservations online and the cost is \$20.00, otherwise the cost is \$25.00. Reservations can be made at www.labgs.org.



Presidents Message continued on page 5



Editor's Corner

**Joe Munsey, RPL
Newsletter Chair**

Southern California Gas Company

Welcome back from the holidays. Trusting all enjoyed your version of the holidays; Christmas, Chanukah or Three Kings Days.

There still persists a thought from our last written column regarding liberals holding the title to political hipness merely for the fact they get to use the term "progressive." In the deepest recess of my grey matter, lingers the notion the use of the idiom "progressive" in political jargon to the gullible Democratic Party constituent, formerly known as the "working man," is not fully understood. To bring into play "progressive" with a lower case "p" differs greatly from the use of "Progressive" with the upper case "P," which the later promotes a monolithic and stifling form of governance that dampers individual freedom in all areas. I am certain the hooligans manning the DNC helm are delighted the proletariat throngs seem to think the use of the lower case "p" is merely a cool pejorative to use against stuffy and un-hip Conservatives; not realizing that replacing the lower case "p" with an upper case "P" it is really a weighted down system of inefficiency and inflexible form of governance.

Allow me to cite examples of inane Progressive idealists.

Jennifer S. Holland contributed two articles in the December 2010 issue of the *National Geographic*, giving us her spin on a couple of subject matters. In one article, she discusses raising and consuming bugs as one of the answer

to the food shortage for the ever "over-populated" world; which, as you suspect in her world, means less red meat eaters roaming the planet. Cowboys and cattle [methane production units] are part of the global climate change problem.

Story number two started out about a big time bookie in Ireland who will take bets on the next volcanic eruption. I am certain if the Progressive could lay blame on mankind that we, those who trod the earth upright on two feet, bear the responsibility for those eruptions – they would. Hey, they gotta blame someone for everything that is wrong in their eyes– it's the way they are wired. Nevertheless, at the end of the story, she proceeded to lament that betting on polar bears will be extinct by the end of 2011 had better odds. I thought the article was about an Irish bookie taking wagers on volcanic moaning and groaning – not polar bears or other endangered species.

Last but not least – talk about a clown without a circus. In the November 2010 issue of *Commentary*, Christine Rosen writes about Stanford University law professor Deborah Rhode's new book, *The Beauty Bias*, fretting about the affliction of, you will never guess, ugly and unattractive females. Miss Deborah is pressing to boot strap onto the civil rights bandwagon to include repulsive and unsightly ladies who are unfairly refrained from career building activities. Yup, Dr. King risked life and limb to make sure the less fortunate in the good looks department should be protected under the civil rights banner; Miss Rhode is on a crusade to right this wrong. TGFT – thank goodness for tenure.

Here is the issue I have with liberals latching onto the term "progressive" and using it to market their agenda. As we are all aware, the political term "progressive" is a loaded word with ominous baggage that would have us all walking around in their brave new world. The word itself can be an adjective or verb, but in essence its meaning is related to or characterized by progress. Wow....to be for political progress is just groovy, who wants to be

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known as living in squaresville. I admit, it is pretty slick the liberals get the use of this "cool word" to describe them.

However, let's take out the "dork" meter using the three examples we recited above to check out on the "cool" scale these progressive types. Here goes - ugly woman want edible bugs to munch on while they fret over ice melting. Yes sir....just the sort of natives I want to hang with. These cool cat types in the Progressive movement are going to push this economy and country forward with big plans of grandeur.

Well, I have a better idea, plan to attend our annual joint meeting with the Los Angeles Basin Geological Society on Thursday, January 27th at The Grand on Willow Street in Long Beach.

Bring a guest and meet me at The Grand on Willow Street.

Lawyers' Joke of the Month

**Jack Quirk, Esq.
Bright and Brown**

A guy is driving around the back woods of Tennessee, and he sees a sign in front of a broken down shanty-style house: "Talking Dog for Sale."

He rings the bell, and the owner appears and tells him the dog is in the backyard.

The guy goes into the back yard and sees a nice looking Labrador retriever sitting there. "You talk?" he asks. "Yep," the Lab replies.

After the guy recovers from the shock of hearing a dog talk, he says "So, what's your story?"

The Lab looks up and says, "Well, I discovered that I could talk when I was pretty young. I wanted to help the government, so I told the CIA, and they had me sworn into the toughest branch of the armed services...the United States Marines. You know one of their nicknames is "The Devil Dogs."

In no time at all they had me jetting from country to country, sitting in rooms with spies and world leaders; because no one figured a dog would be eavesdropping. I was one of their most valuable spies for eight years running; but the jetting around really tired me out, and I knew I wasn't getting any younger. So, I decided to settle down.

I retired from the Corps (8 dog years is 56 Corps years) and signed up for a job at the airport to do some undercover security, wandering near suspicious characters and listening in. I uncovered some incredible dealings and was awarded a batch of medals. I got married, had a mess of puppies, and now I'm just retired."

The guy is amazed. He goes back in and asks the owner what he wants for the dog. "Ten dollars," the guy says. "Ten dollars? This dog is amazing! Why on earth are you selling him so cheap?" "Because he's such a bull#\$!&*r ... He never did any of that stuff--and he was only in the Navy!"

Chapter Board Meetings

The Board of Directors will hold a brief board meeting at The Grand at Willow Street Conference Center. As a reminder, we have a joint meeting with the Los Angeles Basin Geological Society on January 27, 2011, at The Grand at Willow Street Conference Center in Long Beach.

The Board of Directors schedules its meetings 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.

Some of the issues discussed at the November board meeting:

- LAAPL Website – host site
- Donating monies to the American Oil & Gas Historical Society
- WCLI – any outstanding issues
- LAAPL's records have been found and are now with the Chapter President
- Membership directory
- Board approval of new member
- Other items not covered by this newsletter but available from the Chapter Secretary

Our Honorable Guests

Our November luncheon was well attended by members and guests. Our guests of honor who did attend:

- Christine Song, Petroland Services
- James Karo, Karo & Associates [Venoco]
- Kristi Kalapp, Towill, Inc.
- Odysseus Chairetakis, Petroland Services
- Jennifer Thomas, Oxy
- Andrew Raitt, Cenergy Power
- Brandon Stroman, Esq., Bright & Brown



Treasurer's Report

As of 4/1/2009, the LAAPL account showed a balance of **\$8,069.10**

Deposits
Total Checks,
Withdrawals, Transfers

Balance as of 4/30/2009

Merrill Lynch Money Account shows a total **\$11,096.90**

New Members and Transfers

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

Transfers

None to Report

Corrections

Scheduled LAAPL Luncheon Topics and Dates

January 27th

Joint Meeting with
Los Angeles Basin Geological Society

March 17th

Tentative:
Martha Cheshire, CPLTA
Independent, Current Director
and Past President of the National
Association of Professional Lease and
Title Analysts
"Records/Maintenance of Your Oil and
Gas Leases"
Officer Nominations

May 19th

Tentative
Steve Stafford
ADR West
Mediation – Alternative Dispute
Resolution
Officer Elections





Educational Corner

Need continuous education credit? You can generally earn them by attending our luncheons based upon speaker and subject matter. Listed below are continuous educational courses available for the first quarter of 2011.

California Energy Production Land Law

Presented by: HalfMoon Seminars

When: February 17, 2011

Where: Hilton Garden Inn
Bakersfield, CA 93308
(661) 716-1000

To Register: (715) 835-5900

RL/RPL Continuing Education Credits: 6.0

CPL Recertification Credits: 6.0

Fundamentals of Field Land Practices and RPL Exam

When: February 11th & 12th, 2011

Where: San Antonio, TX

RL/RPL Continuing Education Credits: 7

CPL Recertification Credits: 7

Ethics Credit: 1

Fundamentals of Field Land Practices and RPL Exam

When: March 4th & 5th, 2011

Where: Billings, MT

RL/RPL Continuing Education Credits: 6

CPL Recertification Credits: 6

Ethics Credit: 1

Oil and Gas Land Reviews and CPL/RPL Exams

When: March 22nd - 25th, 2011

Where: Pittsburgh, PA

RL/RPL Continuing Education Credits: 18

CPL Recertification Credits: 18

Ethics Credit: 1

ESA Credit: 1

Sample of Home Study Courses Offered by AAPL [Includes Cont. Ed. Credits]

- Environmental Awareness for Today's Land Professional
- Due Diligence fro Oil and Gas Properties
- Historic Origins of the U.S. Mining Laws and Proposals for Change
- Common Law Environmental Issues and Liability for Unplugged Wells
- Ethics Course

For information regarding home study courses, speakers, topics and cost please go to www.landman.org.

Young Professionals in Energy Summit

When: April 8th – 10th, 2011

Where: Tropicana Hotel
Las Vegas, NV

Contact: Sarah Sanchez-Downs
Sarahdowns0921@gmail.com
(562) 639-9433

RL/RPL Continuing Education Credits: 6

CPL Recertification Credits: 6

WI/NRI Interest Calculations Workshop

When: February 25, 2011

Where: Oklahoma City, OK

RL/RPL Continuing Education Credits: 6

CPL Recertification Credits: 6

Mining and Land Resources Institute

When: March 17th & 18th, 2011

Where: Reno, NV

RL/RPL Continuing Education Credits: 11

CPL Recertification Credits: 11

Ethics Credit: 1

Presidents Message continued from page 1

for a major economic and energy renaissance. But we will need to deal with the political issues of the new regulatory framework, or new political norm, in offshore oil and gas which has slowed the permitting down to a snail's pace. Because of Macondo, our energy production has moved backward and that will hurt our economy domestically and our competitive position globally.

Today, many independent producers suspect the administration is trying to accomplish by regulation what it could not accomplish by legislation, after voters rejected congressional attempts to regulate energy markets with a cap and trade program. The administration's main regulatory issue facing producers across the country, affecting where and when they drill new wells, will be the EPA's GHG efforts. The EPA needs to realize what happened with the voters and that the Clean Air Act is not the right mechanism to regulate CO2 and other GHG's. Until then, the EPA's burdensome regulatory approach creates uncertainty which will chill any

investment recovery until cooler heads prevail.

I suspect that members of Congress and the Obama administration will continue to push a punitive agenda, including taxes, at our industry until the public and some sensible heads in Congress realize that the billions of dollars of lost revenue into the Treasury contrasts poorly with the recent opportunities to develop domestic oil and gas that will generate billions of dollars to assist in deficit reduction. It is still even possible that in the coming year common sense will prevail, but that might just be my optimism.

The recent California shale developments and expected increases in additional acreage acquisition will affect all of us landmen and oil and gas lawyers through this coming year, absent any precipitous decline in oil prices. LAAPL is fortunate to have an opportunity to hear and talk with some of the best geological minds in California with our LABG joint meeting. Hope to see all ya'll there and I know we landmen will learn something

helpful to us navigating the coming year in our work.

Finally, I will ask Joe Munsey to assist in polling our members and friends as to how many will likely join in a proposed geological historical tour of the LA Basin for our March meeting. We will be sending out notices asking for input shortly.



**Randall Taylor, RPL
Petroleum Landman**

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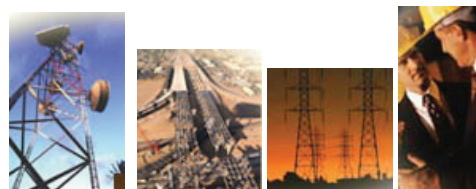
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The Texas Accommodation Doctrine

By: **Thomas F. Harkins, Jr., Esq., of
Whitaker, Chalk, Swindle & Sawyer, LLP, Fort Worth, Texas**
Originally published in *Basin Oil & Gas Magazine*, www.fwbog.com.

As the Texas Supreme Court noted in *Humble Oil & Refining Co. v. West*, 508 S.W.2d 812, 815 (Tex. 1974), when it comes to drilling oil and gas wells, interests of landowners and mineral owners can “come into conflict and are not fully compatible.”

In the landmark case of *Getty Oil Co. v. Jones*, 470 S.W.2d 618 (Tex. 1971), the Texas Supreme Court adopted the “reasonable accommodation doctrine” to help resolve this tension between the “dominant” mineral estate and the “servient” surface estate. That conflict was between a method of irrigation by farmer Jones and Getty’s installation of hydraulic pumps for oil. The Court decided Getty’s method would destroy Jones’s “existing use,” whereas Getty could get the oil out with beam-type pumps in cellars, and ruled for Jones. The Court held there must be an “accommodation” between the two estates, and the oil rights owner must give “due consideration” to the surface estate owner’s existing use if there were other “reasonable means” available to mineral owner to get the oil “without interfering” with the surface owner’s use.

Then in *Sun Oil Co. v. Whitaker*, 483 S.W.2d 808 (Tex. 1972), the Court majority, while recognizing that water was part of the surface estate, held that the mineral estate owner had an implied grant of a right to reasonably use the surface estate or leased premises “as may be reasonably necessary to carry out the lessee’s operations under the lease.” *Sun Oil* at 811. The Court held that this extended to using surface water for waterflood projects. As relates to the accommodation doctrine, the Court concluded that the trial court could not take into account the fact that Sun Oil could buy water from sources off the leased premises to use in the secondary recovery method in deciding the “reasonable means” issue.

The *Humble Oil* case referenced above further amplified on the doctrine, stating: “This Court has led the way in conciliating conflicts between owners of the surface and of the mineral rights, and in requiring reasonable accommodations between them.” 508 S.W.2d at 815. It “affirmed that it is not ordinarily contemplated in mineral leases or deeds that the utility of the surface will be destroyed or substantially impaired by the uses made of the surface for the production of minerals.” *Id.* The Court spoke of “balancing of competing interests in the oil and gas context.” *Id.* at 816. Because of new developments and unique situations, “application of orthodox rules and principles may not be appropriate under

such circumstances.” *Id.* The “interests of society” must be considered along with the interests of the oil and gas industry. *Id.*

Most recently, the Texas Supreme Court addressed accommodation in *Tarrant County Water Control & Improvement District No. One v. Haupt, Inc.*, 854 S.W.2d 909 (Tex. 1993). The Court held: “Although the mineral estate is the dominant estate, the rights implied in favor of the mineral estate are to be exercised with due regard for the rights of the surface owner.” *Id.* at 911 (Court’s emphasis). The accommodation—or “alternative means”—doctrine was adopted “as a means to balance the rights of the surface owner and the mineral owner in the use of the surface.” *Id.* The Court stated, following *Getty*:

Where there is an existing use by the surface owner which would otherwise be precluded or impaired, and where under established practices in the industry there are alternatives available to the lessee whereby minerals can be recovered, the rules of reasonable usage of the surface may require the adoption of an alternative by the lessee.

Haupt at 911. However, the burden is on the surface owner to prove these facts to prevail.

As against these general principles, the *Haupt* case does set out one clear rule:

If there is but one means of surface use by which to produce the minerals, then the mineral owner has the right to pursue that use, regardless of surface damage.

After *Haupt*, Texas intermediate courts of appeals further refined the accommodation doctrine. When the Supreme Court remanded the *Haupt* case to the Waco Court of Appeals, that court determined that the economics of possible alternatives available to the lessee must be considered to determine if they are reasonable. If they are too costly, then accommodation is not required. *Haupt II*, 870 S.W.2d 350 (Tex. App.—Waco 1994, no writ).

In *Davis v. Devon Energy Production Co., L.P.*, 136 S.W.2d 419 (Tex. App.—Amarillo 2004, no pet.), the operator planned to put in permanent caliche roads, which the landowner opposed. The court held for the operator, noting the accommodation doctrine “connotes the need for something more than slight interference” to favor the landowner. *Id.*

at 424. “Not every impairment to the surface owner’s utilization of the surface is enough. Rather, only when the conduct of the lessee destroys or substantially impairs the surface owner’s use of the surface does the question arise as to whether [the operator’s] conduct is reasonably necessary.” Id.

However, the Waco court then gave a contrary indication in Texas Genco, LP v. Valence Operating Co., 187 S.W.3d 118 (Tex. App.–Waco 2006, pet. denied), holding that if there was a substantial impairment of the surface use, and the mineral lessee would still obtain a substantial return if an alternative was used, then that option must be taken despite higher costs. The most recent case addressing the accommodation doctrine was again from Waco, involving the same parties, also ruling for the owner of the surface estate. Valence Operating Co. v. Texas Genco, L.P., 255 S.W.2d 210 (Tex. App.—Waco 2008, no pet.).

As is apparent, litigation involving the application of the accommodation doctrine in particular cases can be quite expensive and may result in uncertain outcomes. However, some of this uncertainty and expense can be lessened by good contracting. Both sides benefit from spelling out as many

terms of the arrangement as possible in advance. This is preferable to “rolling the dice” on what a court may conclude in applying the “reasonable accommodation doctrine,” particularly because it is still being developed by the courts.

Mr. Harkins is an associate with Whitaker, Chalk, Swindle & Sawyer, LLP, specializing in civil litigation and appeals. He can be reached at tharkins@whitakerchalk.com.

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Board Elections

LAAPL Arr qpw Nqo kpcvkqp Cqo o lsvgg

The LAAPL's Board of Directors has appointed Randall Taylor, RPL, of Taylor Land Services, Sarah Sanchez-Downs, Downchez Energy, Inc., and Stephen Harris, CPL, Independent to seek out qualified candidates for officers. The officers will serve from July 1st, 2011 – June 30th, 2012. For all qualified members interested in submitting their names as candidates are encouraged to contact the committee members:

- Randall Taylor, RPL
@ (949) 495-4372
randall@taylorlandservice.com
- Sarah Sanchez-Downs
@ (562) 639-9433
sarahdowns0921@gmail.com
- Stephen T. Harris, CPL
@ (213) 999-7344
oil.gas@gte.net

Per Section 7 (7a) of the By-laws, the membership will be provided with a list of nominees for officers for Vice President, Secretary, Treasurer and two (2) Directors at the March meeting.

Further nominations from the floor will also be accepted at the March meeting. Members whose names are placed in nomination must give prior consent to

be nominated and by mail or email up to May 1, 2011.

The election will take place at the last regular meeting of the Association this fiscal year, which is scheduled for May 19, 2011.

Get Ready...Set.....Go!

(Nominations for LAAPL 2011 - 2012 Officers)

It is that time of the year to start considering a run for a LAAPL Chapter Officer for the 2011 – 2012 term. The following offices are open:

- President¹
- Vice President
- Treasurer
- Secretary
- LAAPL Local Director
- LAAPL Local Director

¹Per 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.

LAAPL and LABGS Hold Joint Luncheon

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

When: Thursday, Jan 27th

Time: 11:30am

Cost: \$20 with reservations
\$25 without reservations

Meeting Place: The Grand at Willow Street Conference Center
4101 East Willow Street
Long Beach, CA

Contact: Becca Lanners, Secretary,
Los Angeles Basin Geological Society
Becca_Lanners@oxy.com

Or online at www.labgs.org.

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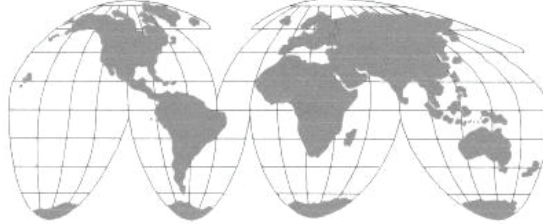
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