



The Override

Every Landman Wants One!

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March, 2013



Los Angeles Association of Professional Landmen

Presidents Message

I'm beginning to think that no one in the Los Angeles Basin owns what they think they own. From Lessors who have sold their rights and never bothered to tell the Lessee, to heirs who have been collecting royalties for decades without perfecting their ownership interest, it's as if we truly live in the wild, wild west. Perhaps it's just that I've been dealing with a significant number of would-be lessors and sellers of mineral interests who have failed to perfect their title following the death of a parent and parties who fail to distribute oil and gas rights out of a trust when the trust dissolves, thinking that distribution is automatic. I kid you not, I've dealt with hundreds of these in the last couple of years!



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It is understandable when laypersons are dealing with their family estates. They don't know that oil and gas rights are real property in California, all they see is a royalty check in the decedent's belongings. What causes me concern is that the errors are compounded, decades after decades, until the second generation dies off and the third generation of owners is trying to deal with the issue because the oil producers don't have sufficient staff (or don't have an effective policy) to insure that title actually passes before they start paying royalties to would-be heirs, beneficiaries and devisees. Simple oversights get perpetuated because the producers are accepting partial proof of ownership to transfer the royalty interests on their books without demanding actual documents of conveyance. For example, the son of a deceased owner will send a copy of the decedent's will to the company paying royalties. That company should know that the will, alone, is insufficient to pass title. However, as a matter of expedience

[Presidents Message continued on page 5](#)

Meeting Luncheon Speaker

History of California Oil Production, the DOGGR and the Conservation Committee



Our guest speakers for March's luncheon will be **Jerry Anderson**, Executive Director, Conservation Committee of California Oil and

Gas Producers (CCCOGP), which works directly with the California DOGGR in making recommendation of Maximum Efficient Rates of oil and gas production to the State Oil and Gas Supervisor.

He has industry work experience as a Facility Engineer, Production Engineer, Reservoir Engineer, and Engineering Supervisor. Jerry holds a M.S. in Mechanical Engineering from Arizona State University and a M.S. in Petroleum Engineering from the University of Southern California.



Opinionated Corner

Joe Munsey, RPL
Newsletter Chair

Southern California Gas Company

We left with a cliffhanger on the looming disruption coming soon to higher education in the last issue of *The Override*. If parents who partially fund the higher education behemoth are perplexed with their children graduating with a new found belief in Progressivism; “Hope and Change” could be in the near future. This version of “Hope and Change” may actually be genuine.

The trillion dollar higher educational industrial complex may be ripe for its time of disruption, much like what American industries, media, marketing, etc. are experiencing. *Forbes* has been writing for the past year the disruption which has been taking place with old media and other industries; even airing *Forbes’* laundry about its internal disruptions and how they have stayed ahead of the curve in order to remain relative to its old school readers, like me, and to the new generation of readers. Apparently, *Forbes* is winning the battle.

In various articles spread about in more than a few issues of *Forbes*, they are doing some soothsaying about the disruption method ready to hit higher education. Perhaps Ivy League schools scathe by for another century but the state colleges and universities are long overdue for change. *Forbes* sees the day when colleges and universities will lose its grip on price hikes and its relentless need to be in a classroom setting to learn. The day is coming when an undergraduate student with his degree in hand, via an online university, can calmly sit in front of a prospective employer and not worry if his or her

college credentials pass muster.

The younger generation is hip to doing all things mundane or of high importance via electronic wizardry using two index fingers and their thumbs. Thank the good Lord for thumbs. And those still sleeping in caves thinking email is the next best thing to apple pie are awakening to discover the social media phenomena has happened while they were dozing off. Well, the same has occurred at lightning speed with industries across the board, and around the world. The identical changes are a harbinger to higher education, if we are to believe *Forbes*. We may see vindication in our lifetime as the Progressive views of politics espoused in higher education go the way of the dodo bird. At the very least it is optional learning rather than mandatory ideologue that will get you on the good side of the professor.

For instance, Salman Kahn, who holds multiple degrees from Harvard and MIT, has opened Kahn Academy using one computer. Today the academy boasts of 10 million registered students. It is only a matter of time when higher education becomes an online services pumping out students with as much smarts as the local state university and with solid educational credentials. Much to the relief of most parents in America panic stricken about the ever rising higher costs of education; which mean less dollars going into the 401K savings and having to take out a second mortgage to support their children’s six year indulgence pursuing an undergraduate degree.

Ok....not all colleges and universities are at fault flaunting a progressive agenda, but there are plenty of dreadful stories out there to fill a Book of Horrors. What will be the driver to reduce cost and the direction of education you ask? Certainly not parents lining up in the corridors of the colleges or universities to have a real discussion of the university’s take on Progressivism with the university’s president. Forget about

the discussion of rising costs, the money for public colleges and universities comes pouring in from federal and state governments, parents are mere blips on the president’s radar screen. Even private colleges and universities live off the largess of government, lest we also forget those large endowments.

In the November 19th, 2012 issue of *Forbes*, it was reported by the President’s Council of Economic Advisers that America spends about \$1.3 trillion a year on education. Is that enough bait to get the newbies in academia to disrupt the current way of educating kids and make some money at the same time? Hell that is enough bait for Silicon Valley types to figure out how to slice off a chunk and take online higher education to a whole new level and respectability -- and affordability. Like offering a solid education, sans the Progressive rhetoric; and if a parent who sways to that beat and foots the bill they can still direct Johnny or Susie to pursue it. If the profit motive has caused disruption to media, industries, communications and a host of other ways we were used to conducting our lives in the past, it has been for the better. So what’s wrong with disrupting higher education?

Meanwhile, join us the Long Beach Petroleum Club for an update from the Director of the OCCCPP.



Treasurer’s Report

Sarah Downs
Treasurer

Downchez Energy, Inc.

As of 4/1/2009, the LAAPL account showed a balance of	\$12,185.53
Deposits	\$2,805.00
Total Checks, Withdrawals, Transfers	\$1,242.45
Balance as of 4/30/2009	\$13,748.08
Merrill Lynch Money Account shows a total	\$11,096.90

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Downchez Energy, Inc.
714-841-7465

New Members and Transfers

Jason Downs, RPL Downchez Energy, Inc. Membership Chair

Welcome! As a Los Angeles Association of Professional Landmen member, you serve to further the education and broaden the scope of the petroleum landman and to promote effective communication between its members, government, community and industry on energy-related issues.

New Members

Michael Mills, Esq.
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Business Development Manager
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Signal Hill, CA 90755
(562) 896-9365

Transfers

None to Report



Chapter Board Meetings

Adrienne Wiggins, Petroland Services Chapter Secretary

The LAAPL Board of Directors and Committee Chairs held its board meeting at the The Grand at Willow Street Conference Center immediately following the joint LAAPL and LABGS meeting. The matters discussed at the January board meeting are as follows:

- New Members
- LAAPL to discuss WCLI
- Website Upkeep
- Other matters

The LAAPL Board of Directors and Committee Chairs hold its Board Meeting at the Long Beach Petroleum Club immediately following the chapter meeting. We encourage members to attend and see your Board of Directors and Committee Chairs in action.

Scheduled LAAPL Luncheon Topics and Dates

March 21st

Jerry Anderson, Executive Director
Conservation Committee of California
Oil and Gas Producers (CCCOGP)

"History of California Oil Production,
the DOGGR & the Conservation
Committee"

May 16th

Michael Sherman and Eric Martin
STOEL RIVES LLP

"Pass Through Rights and Pore Space"
Officer Elections

September 19th

Jeffrey "Jed" Springer
Demetriou, Del Guercio, Springer &
Francis, LLP

"Gauging the Truthfulness of an
Individual"



Lawyers' Joke of the Month

Jack Quirk, Esq. Bright and Brown

Two 90-year-old women, Bertha and Betty, had been friends all of their lives. When it was clear that Bertha was dying, Betty visited her every day. On one visit, Betty said, "Bertha, we both loved playing softball all our lives, and we played all through high school. Please do me one favor: when you get to heaven, somehow you must let me know if there's women's softball there." Bertha looked up at Betty from her deathbed and said, "Betty, you've been my best friend for many years. If it's at all possible, I'll do this favor for you." Shortly after that, Bertha died.

A few nights later, Betty was awakened from a sound sleep by a blinding flash of white light and a voice calling out to her, "Betty, Betty." "Who is it," asked Betty, sitting up suddenly. "Who is it?" "Betty -- it's me, Bertha." "You're not Bertha. Bertha just died." "I'm telling you, it's me, Bertha," insisted the voice. "Bertha! Where are you?" "In heaven," replied Bertha. "I have some really good news and a little bad news." "Tell me the good news first," said Betty.

"The good news," Bertha said with joy and enthusiasm, "is that there's women's softball in heaven. Better yet, all of our old buddies who died before me are here, too. Even better than that, we're all young again. Better still, it's always Springtime and it never rains or snows. And best of all, we can play softball all we want, and we never get tired." "That's fantastic," said Betty. "It's beyond my wildest dreams! So what's the bad news?"

"You're pitching Tuesday."



Call for Annual Dues

Per Chapter by-laws, a Notice for Dues will be sent out to LAAPL Chapter Members. Renewal is \$40.00; upon receipt please send your renewal notices along with your payment as follows:

Sarah Downs, RPL
LAAPL Treasurer
Downchez Energy, Inc.
419 Main Street #357
Huntington Beach, Ca 92648

Chapter President Appoints Golf Chair

Our Chapter President recently appointed Jason Downs, RPL, of Downchez Energy as LAAPL's Golf Chair, which handles the annual Michelson Golf Classic which benefits the R. M. Pyles Boys Camp.

Please offer your congratulation to Jason for taking on the duties of the Golf Chair for the LAAPL.

25th Annual BAPL Charity Golf Classic

Over the past 24 years, the Bakersfield Association of Professional Landmen (BAPL) has hosted the BAPL Charity Golf Classic to benefit the Bakersfield Homeless Center (BHC). Thanks to our sponsors and participants, last year's event was another big success, as we donated \$40,000 to the BHC! For 2013, we have set a high goal, with a mission to raise a minimum of **\$50,000**. We can only reach this goal by the continued generous sponsorships and team recruitments from companies and individuals in and about our community.

The BAPL Charity Golf Classic will be held May 17th at the Stockdale Country Club. See attached flyer for further details.



LAAPL Member Publishes Book

Cliff Moore, a LAAPL independent landman and writer, is proud to announce the publication of his new tone poem, *A Tree Grows – A Snapshot of the Sixties*. This Zelig-type poem tells the tale of a small fictitious town in the Midwest, paralleling it with major events which occurred from 1960 to 1969 in the United States and how an old oak tree at the edge of town affected the townsfolk's everyday lives during those turbulent times.

Cliff will be attending the March luncheon with copies of his publication... this will be a chance to purchase his work and get a signed copy of the book.

Biography:

Cliff Moore: writer, researcher, traveler; studied with the Longwood Writers' Group; Attended Norfolk State College in Norfolk, Virginia; U.S. Navy veteran; survivor of the sixties.

Won numerous awards for poetry including THIRD PRIZE in LOC Nationwide Poetry Contest; Honorable Mention for Literary Excellence in 2002 Iliad Awards Program; 1997 President's Award Nat'l Author's Registry; Editor's Choice Award for Outstanding Achievement in Poetry December 2003.

Numerous completed feature length screenplays and ideas; currently registered with the Writer's Guild of America.

Editor of the Opinionated Corner as published quarterly in The Override – an O&G industry newsletter.

Our Honorable Guests

January's luncheon was a successful joint meeting with the LABSG and LAAPL Chapters held at the Grand at Willow Street Conference Center.

LAAPL's guests of honor who attended:

Chip Hoover, Independent

Leah Hoover, Independent

Presidents Message
continued from page 1

they accept the will as proof of transfer and start paying the royalties to the son. Another example is when the settlor of a trust dies and the trust says that the trust assets "shall be distributed" to the named beneficiaries. Again, a copy of the trust itself is given to the producer paying royalties and that producer just changes their records and starts paying the beneficiaries. So, what's wrong with this?

What's wrong is that wills and trusts are not self-actuating documents. They are a set of instructions and they need to be acted upon. Without action, there is no transfer. Moreover, the transfer of decedents' estates is an area of law fraught with fraud, so wills and trusts must be viewed with caution and authenticated.

Trustees must deed the oil and gas interests out of the trust, or they remain in the trust. Families often assume that upon the settlor's death the property automatically transfers. By the time landmen get involved, there's a deal on the table and we discover that the trust was dissolved 20 years previously and no one has a copy and no one knows who the successor trustee was.

If the interest is not in a trust and the estate is sufficiently small, the interest can pass by an Affidavit of Real Property of Small Value (\$50,000 or less). (Cal. Prob. Code Sec. 13200 et seq.) A producer or lessee taking a lease and acting in good faith, for consideration and in reliance on a recorded affidavit "has the same rights and protections as the person would have if each person designated as a successor in the recorded certified copy of the affidavit had been named as a distributee of the real property in an order for distribution that had become final."

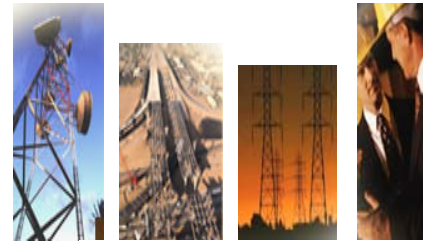
If the real property is valued between \$50,000 up to \$150,000, then a Petition for Determination of Succession to Real Property can be filed and processed through the probate court without opening a full probate. (Cal. Prob. Code

Sec. 13151 et seq.) . An order from the court under Section 13151 is conclusive as to all persons. (Cal. Prob. Code Sec. 13155.)

If the estate is too large to be handled by either of the above provisions, then the will must be submitted to probate in order to transfer the title.

What do you do if you are presented with an Executor of the will? Can you just take a deed from that person? Sometimes, you can, sometimes you can't. Be certain to get a certified copy of the Letters Testamentary and determine if the Executor has been appointed with Independent Powers of Administration. Independent Powers allow an Executor to sell real property without a court order under certain circumstances. (Cal. Prob. Code Secs. 10511 and 10580 et seq.) If the Executor does not have Independent Powers, then a court order is necessary.

In order to pass good title, or take a valid lease, the formality of legal proceedings must be observed. As landmen, we should encourage the operators with which we work to insist that proper actions be taken before they pay out royalties because doing so provides the operator with legal protections and helps the new owners perfect their title, which will serve them well in the future.



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LAAPL Legislative Affairs Update

*By Olman J. Valverde, Esq., & Mike Flores, Co-Chairs, Legislative Affairs Committee
Law Offices of Luna & Glushon*

Senator Rubio Resigns from State Senate

In a move that took everyone by surprise, State Senator Michael Rubio (D-Bakersfield), announced on Friday, February 22, that he was stepping down to work for Chevron. In a statement titled "family comes first," the freshman Democrat said he decided to leave office to focus on his family as a young daughter receives treatment for Down syndrome. His new role at Chevron will be managing the California Government Affairs for the company. Senate Democrats temporarily lost their supermajority as a result of Rubio's resignation though the loss will be righted when two other vacant seats will be filled in an upcoming special election. Rubio's seat will be filled in a vote later this year.

In a related story that appeared in the February 28 edition of the Sacramento Bee, a story came out detailing Rubio's financial relationship with Majid Mojibi, president of San Joaquin Refining Company. Rubio conducted two real estate transactions with Mojibi and the Fair Practices Commission is deciding whether to launch an investigation into the transactions to determine if they amounted to an improper gift. Rubio responded by saying the transactions were done by the book. Mojibi and his companies have given \$14,697 in contributions to Rubio's Senate Campaign.

Judge Halts Grading at Whittier Hills Oil Site

Los Angeles Superior Court Judge James Chalfant granted a partial victory to Los Angeles County and the Mountains Recreation Conservation Authority, both opponents of the Whittier oil project, by issuing a partial temporary restraining order.

The order prohibits any grading of the Whittier Hills site that is partly paid for by county taxpayers but allows brush clearing on 2 acres and along the dirt road leading into the site from Catalina Avenue in the Friendly Hills neighborhood.

A partial injunction against the project will remain in effect until Feb. 21, when the city of Whittier and one of its partners, Matrix Oil Corp., must respond to preliminary injunctions filed by the MRCA, the Santa Monica Mountains Conservancy, the county, the Los Angeles County Regional Park and Open Space District and a taxpayer group.

Whittier's project calls for oil and gas drilling in about a 7-acre portion of the Whittier Hills, which was purchased in part by using money from Proposition A, a bond measure approved by voters in 1992, that was passed to expand parks, park programs and create open space. The opposing groups say a public nature preserve should not be used for oil and gas exploration. They contend the city is violating Prop. A.

Oil revenues are estimated to average between \$7.5 million and \$115.4 million per year, according to the county court complaint.

UPDATE TO THIS STORY

Judge Refuses to Stop Whittier Hills Oil Drilling Project

On Thursday, February 21, Los Angeles Superior Court Judge James Chalfant ruled the county and the local conservancy could not show that continuing the project would cause "irreparable harm" and thus refused to stop the Whittier Hills oil drilling project.

The drilling of test wells on about a 7-acre site of the nature preserve can continue. The judge also lifted a temporary restraining order he granted three weeks ago.

In a surprise action, the judge agreed to expedite the trial. The Mountains Recreation Conservation Authority -- the lead plaintiff -- and the county were anxious to move to trial.

Though no date has been set, it could begin in late March or April.

Reintroduction of Fracturing Related Bills Introduced in New Legislative Session

Three pieces of legislation to regulate hydraulic fracturing died at the end of last year's session. Two lawmakers with bills last year include State Senator Fran Pavley (D-Agoura Hills) and Assemblyman Bob Wieckowski (D-Fremont) who have written new legislation to compel disclosure, even as regulators undertake the rulemaking process. The third legislator, Assembly member Betsy Butler, who proposed a ban on hydraulic fracturing, did not win re-election.

Two New Fracturing Bills Introduced by Central Coast Lawmakers

Both State Senator Hanna-Beth Jackson (D-Santa Barbara) and Assembly member Das Williams (D-Santa Barbara) have recently introduced bills to protect the drinking water supply during the process of hydraulic fracturing. Sen. Jackson's Senate Bill 395, would require any fluids brought up during the fracturing process be regulated as a hazardous waste by the Department of Toxic Substance Control, giving them authority to ensure the appropriate precautions are taken in how the waste water is disposed.

Assembly member Williams introduced AB 982, which will require companies using the fracturing process in California to monitor ground water near their operations. This includes monitoring before and after the fracturing process.

Hydraulic Fracturing Hearing at California Capitol Held

A joint hearing of the Senate Natural Resources and Senate Environmental Quality and Water committees was held on February 12 on the topic of hydraulic fracturing regulations in the state. The hearing focused on the discussion draft of the Department of Conservation/Division of Oil, Gas and Geothermal Resources (DOGGR) hydraulic fracturing regulations released late in 2012. (Mentioned above.)

Representatives from the Department of Conservation and DOGGR went through the draft regulation and took questions from committee members at the hearing. In addition, the legislators focused on air quality concerns not addressed in the DOGGR draft with a panel of air quality regulators including the California Air Resources Board and local air districts.

Lawmakers have expressed concerns about the safety of injecting a mixture of water and a small amount of chemicals deep into oil producing formations to create pathways for crude and natural gas to reach the wellhead. Over the past half century of use in California, hydraulic fracturing has never been linked to any freshwater contamination.

New Severance Bill Introduced

A new severance tax bill has been introduced in the California State Legislature. The new language is based on old ideas that have not been successful before.

SB 241 by Senator Noreen Evans (D - Santa Rosa) would impose a 9.9% severance tax on oil production which is the same rate as a briefly shopped proposal by then Governor Arnold Schwarzenegger. The revenues would be collected by the Department of Conservation and put into a special fund for higher education. The idea was tried by Assembly member Torrico in 2010 and again by Assembly member Furutani in 2011, and was defeated both times.

DOGGR Holds First Hydraulic Fracturing Regulation Workshop

The Department of Conservation/Division of Oil, Gas, and Geothermal Resources (DOGGR) plan to hold three public workshops on the discussion draft of hydraulic fracturing regulations. The first workshop was held Tuesday, February 19 in Los Angeles. The next two workshops are expected to be held in Bakersfield and Sacramento with date, time and specific location yet to be determined.

Second Carbon Auction Raises \$223M and Sells for Higher Price

The California Air Resources Board (CARB) reported on Friday, February 22, that the carbon emission allowance sold for \$13.62 a ton, which is more than a 30% increase over the \$10.09 price the allowance sold for in November of last year. This is the second carbon auction conduction by CARB.

In the latest auction, all 12.9 million credits – each good for emitting a ton of carbon this year – sold out.

The futures auction for credits that can be used to emit carbon in 2016 was less robust – just 4.4 million credits sold, at the minimum price of \$10.71 a ton.

In all, the auction raised \$223 million. The Legislature has declared that the proceeds must be spent on environmental purposes, with a focus on improving air quality.

Please contact Mike Flores at mflores@lunaglushon.com if you need more information.



Mickelson Golf Classic Coming Soon

*Jason Downs, RPL
Downchez Energy Inc.
Mickelson Golf Classic Chair*

The 2013 LAAPL Annual Mickelson Golf Classic has been scheduled for August 02, 2013, at the Malibu Golf Club. We have assembled another Golf Committee with top notch members who are veterans working on this annual event. Joining with me as committee members are Ernest Guadiana, Paul Langland, Tom Dahlgren, Josh Baker, Chris Cucchiara, Sarah Duffy, Sarah Downs, Adrienne Wiggins, Olman Valverde, Mike Flores, and Pat Moran who always comes through with the poster board! Thanks again Pat.

Last year's tournament was the best attended LAAPL golf tournament in recent memory. Most importantly, the LAAPL was able to contribute \$5,534.51 to the R. M. Pyles Boys Camp. Tournament details will be circulated to members late Spring.....but mark your calendars now!!

2013 challenge, we want to increase the participants this year and are aiming to fill every golfer spot with sponsorship. Get your check books out for the Pyles Boys Camp!

2013 West Coast Landmen's Institution

This year's WCLI is tentatively set for September 4th, 5th and 6th somewhere in San Diego.

The tentative topics will be presented in two parts:

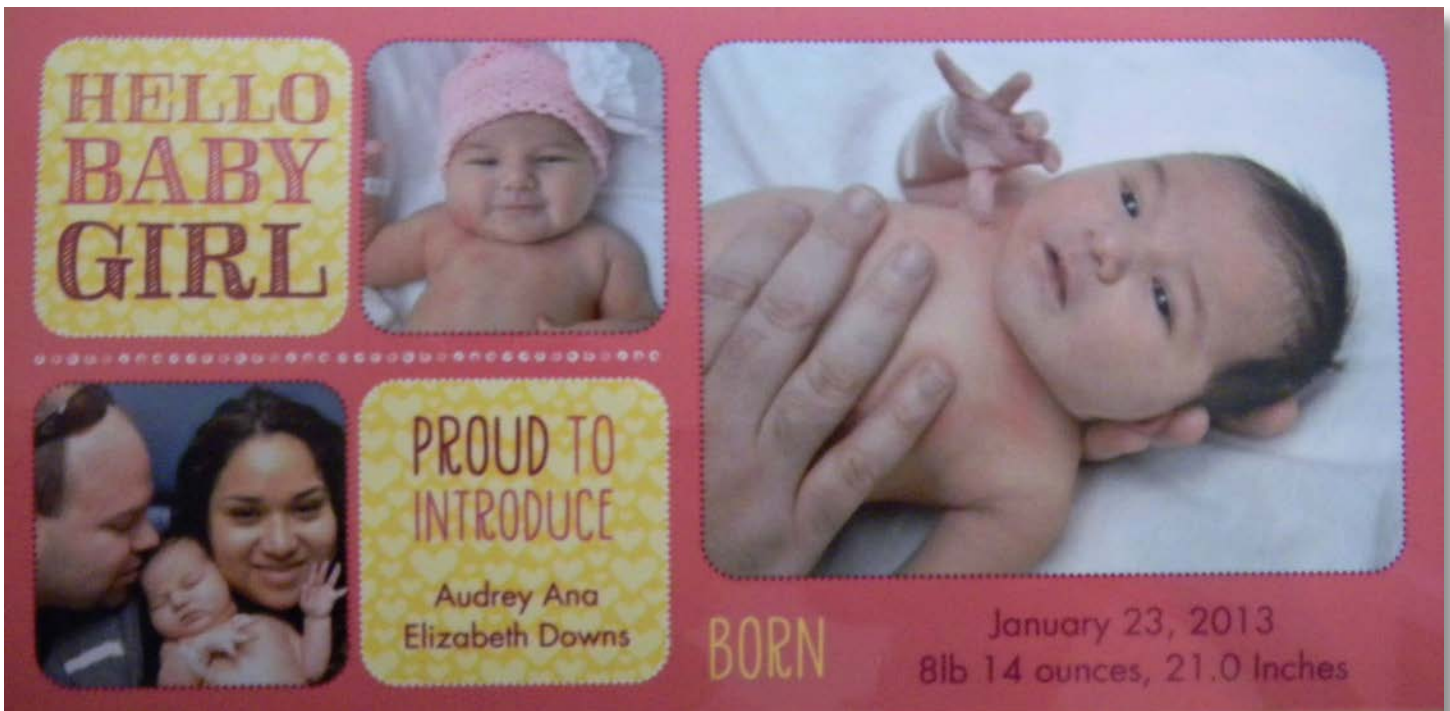
Part I - the technical side of fracing – from the industry side and a Los Angeles County water district's perspective, land issues and the legal ramifications.

Part II – how the industry can do battle with those opposed to fracing; and where the politics will come down on the matter from the state and national perspective. Last, but not least, our annual Dave Kilpatrick update.



Baby Announcement

Jason & Sarah Downs are proud to announce the birth of their baby girl!



"It has been almost nineteen years since I founded Venoco, and I remain very excited about the future of our company. We have continued to attract a dynamic, experienced and engaged group of employees, who are creative problem-solvers taking great pride in making Venoco better. Combined with our great long-lived assets, very promising exploration and exploitation opportunities and solid financials, we have an outstanding future."

~ Timothy Marquez, Chairman and CEO



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Ed Rushing, Senior Landman
Harry Harper, CPL, Senior Land Manager Special Projects

Venoco is an independent energy company engaged in the acquisition, development and exploration of oil and natural gas properties primarily in California. The company was founded in 1992 in Carpinteria, California and has grown to be one of the largest independent producers of oil and natural gas in California.

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Case of the Month - Right of Way

VALUATION DISPUTE IN CALTRANS EMINENT DOMAIN BATTLE

*Bradford B. Kuhn, Esq.,
Law Firm of Nossaman LLP
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The California Department of Transportation (Caltrans) and the owner of Silveira Ranch are involved in an interesting valuation dispute stemming from Caltrans' acquisition of part of the ranchland needed for Highway 101 improvements. According to an article in the Marin Independent Journal, Judge gives state a nod in Silveira ranch eminent domain case, the parties disagree on the property's highest and best use, and as a result, they are widely off on their valuation opinions. Caltrans has offered the owner \$1.8 million for the acquisition, while the owner is demanding \$6 million.

The article reports that the Superior Court has issued a tentative ruling indicating that the property owner's valuation is inflated and fails to demonstrate that it is the probable amount of compensation that will be awarded. The attorneys are to submit final arguments before a February 22 hearing, a week prior to Caltrans' scheduled date for construction of the \$29.7 million Redwood Landfill interchange improvement project.

While it is not entirely clear, based on my reading of the article, it sounds like this is not a final determination on the ultimate value to be paid for the property (which is typically decided by a jury). In fact, the Judge even states that in issuing the ruling, "the court is not suggesting herein that greater compensation might not be warranted after further development of the issues and trial on the matter."

So what's going on -- why is there a valuation dispute at this point in the case? My guess is that the property owner has challenged Caltrans' motion for prejudgment possession of the property. One of the requirements for a government agency to secure prejudgment possession is the deposit with the Court or State Treasurer the "probable amount of compensation" to be awarded in the condemnation action. This is typically accomplished by the agency's depositing funds equal to the original offer of compensation based on an appraisal. The reason for this, of course, is that property owners should be able to access those funds to secure replacement property (or otherwise invest the money) at the time they turn over their property to the government.

In the past it was rare for the deposit appraisal to be challenged; if there was a dispute, it was usually done through a motion seeking an increase in the deposit of probable compensation. However, it is now becoming common for property owners to dispute this deposit amount in an effort to delay the agency's taking possession of the property. With construction delays potentially costing tens of thousands of dollars per day, this is the maximum leverage point for the property owner if they can find a way to delay the agency's ability to secure possession. *Mr. Kuhn can be reached at bkuhn@nossaman.com.*

THE LAW FIRM OF

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GRATEFULLY ACKNOWLEDGES THE CONTINUING SUPPORT OF OUR FRIENDS AND CLIENTS IN THE OIL AND GAS INDUSTRY AS WE CONTINUE A TRADITION OF PRACTICE IN THE AREAS OF BUSINESS, REAL PROPERTY AND ENVIRONMENTAL LITIGATION; EXPLORATION AND PRODUCTION TRANSACTIONS; MINERAL TITLE REVIEW AND OPINIONS; LAND USE, ZONING, ENVIRONMENTAL AND OTHER PERMITTING AND ADMINISTRATIVE MATTERS.

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Case of the Month - Oil & Gas

Landfarming – What Is It and Should You Allow It?

John McFarland, Esq.

*Law Firm of Graves Dougherty Hearon & Moody
Austin, Texas*

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Mr. McFarland is a shareholder at Graves, Dougherty, Hearon & Moody in Austin, Texas specializing in representation of landowners and mineral owners in oil and gas matters in Texas.

“Landfarming” is the practice of disposing of drilling mud and cuttings by spreading it over land.

“Drilling mud” is the common term for the fluid used in the process of drilling a well. It is made up of a mixture of clay (bentonite) in a base of either water, diesel or mineral oil. It also contains an organic material such as lignite to stabilize the slurry and a material such as barite to increase its density. The drilling mud is circulated through the wellbore - pumped down the inside of the drill stem, through the drill bit, and up the outside or annulus of the hole as the well is being drilled. The drilling fluid carries the cuttings made by the drill bit back up and out of the hole, and it helps to cool the drill bit. The clay also coats the outside of the open hole to help seal off porous geologic strata. The drilling fluid is circulated through a pit or tank, where the cuttings settle out, and re-injected into the hole. Usually an earthen "reserve pit" is constructed for this purpose.

The actual content of drilling mud varies with conditions in the hole and the formations being drilled. In the Eagle Ford Field in Texas, for example, water-based mud is typically used for the vertical section of the hole, and oil-based mud is used for the horizontal section.

After drilling is completed, the drilling mud and cuttings in the reserve pit must be disposed of. These wastes are exempt from federal regulation, and state regulations vary. Landfarming of water-based mud is a generally accepted method of disposing of the contents of the reserve pit in most states.

In Texas, oil and gas exploration and production is regulated by the Texas Railroad Commission, and its rules regarding disposal of drilling fluids are at 16 Texas Administrative Code Section 3.8, commonly called Rule 8, or "The Pit Rule." That rule defines "landfarming" as "a waste management practice in which oil and gas wastes are mixed with or applied to the land surface in such a manner that the waste will not migrate off the landfarmed area."

In general, Rule 8 allows wastes remaining in reserve pits to be disposed of either by burial on-site or by landfarming on-site. But the rule requires the consent of the surface owner for landfarming:

RRC Rule 8 (16 TAC, Part 1, Sec. 3.8):

(3) Authorized disposal methods.

(C) Low chloride drilling fluid. A person may, without a permit, dispose of the following oil and gas wastes by landfarming, provided the wastes are disposed of on the same lease where they are generated, and provided the person has the written permission of the surface owner of the tract where landfarming will occur: water base drilling fluids with a chloride concentration of 3,000 milligrams per liter (mg/liter) or less; drill cuttings, sands, and silts obtained while using water base drilling fluids with a chloride concentration of 3,000 mg/liter or less; and wash water used for cleaning drill pipe and other equipment at the well site.

(D) Other drilling fluid. A person may, without a permit, dispose of the following oil and gas wastes by burial, provided the wastes are disposed of at the same well site where they are generated: water base drilling fluid which had a chloride concentration in excess of 3,000 mg/liter but which have been dewatered; drill cuttings, sands, and silts obtained while using oil base drilling fluids or water base drilling fluids with a chloride concentration in excess of 3,000 mg/liter; and those drilling fluids and wastes allowed to be landfarmed without a permit.

First, the RRC does not require a permit for on-lease disposal of water-based drilling fluids. If the waste is to be disposed of by burial, the drilling fluids must be "dewatered" before burial. The rule defines "dewatering" as "to remove free water."

Second, if the operator wants to dispose of water-based drilling mud by landfarming on the lease, it must have the permission of the landowner, and the fluids must have a chloride (salt) content of less than 3,000 mg/l.

*Case of the Month Oil & Gas
continued on page 13*

Case of the Month Oil & Gas
continued on from 12

There are also commercial landfarming operations that take spent drilling mud and dispose of it for operators. Those operations do require a permit from the RRC, and many such permits have been granted. The RRC has specific requirements for such permits, including testing the soil and the drilling fluid for chloride content and heavy metals. A recent story about a criminal investigation of such a commercial operation raises questions about how well the RRC regulates such sites.

Note that disposal of reserve pit contents by burial does not require consent of the surface owner. Unless the oil and gas lease prohibits disposal by burial, the operator will be able to bury the pit contents over the objection of the surface owner. If the mineral owner also owns the surface estate, the lessee may seek to negotiate the right to landfarm pit contents in the lease itself. If the surface owner does not own any minerals, the operator may offer to compensate the surface owner for the right to landfarm pit contents.

Texas A&M's AgriLife Extension Service has published a good summary of the risks and hazards of landfarming pit wastes, which can be found here: <http://soiltesting.tamu.edu/publications/SCS-2009-08.pdf>. Among A&M's conclusions:

- Oil may be contained in water-based drilling mud, part of the materials produced during the drilling operations. Excess amounts of oil - in excess of 1% of the volume of the waste disposed of - are generally toxic to plants.
- Chlorides (salts) in drilling fluid can be detrimental to soils. Soil is generally considered salt-affected or "saline" when the electrical conductivity of the saturated paste extract exceeds 4 millimhos per centimeter.
- Drilling fluids can also contain boron, arsenic, barium, chromium, copper, lead, nickel and other heavy metals that can be harmful in certain concentrations.

A&M recommends that any agreement to allow landfarming should specify testing protocols for possible harmful elements, both in the soil and in the drilling fluids, by a qualified professional; specification of the proper rate of application, and possibly requirements for application of soil amendments to promote treatment of the waste; requirements for mixing the waste into the soil; and requirements for re-seeding and reclamation when the landfarming is complete, possibly with a required bond to assure performance.

Mr. McFarland can be reached at jmcfarland@gdhm.com, or follow Mr. McFarland on his blog - jmcfarland@gdhm.com.



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Call for Officer Nominations

2012 – 2013 CALL FOR OFFICER NOMINATIONS

The LAAPL’s Board of Directors duly appointed L. Rae Connet, Esq., Managing Partner, PetroLand Service, and Paul Langland, Esq., Independent, as Co-chairs of the Nomination Committee to seek out qualified candidates for officers. The officers will serve from July 1st, 2013 – June 30th, 2014. All qualified members interested in submitting their names as candidates are encouraged to contact the committee co-chairs L. Rae Connet @ 310 349-0051, email: rconnet@petrolandservice.com, and Paul Langland @ 310 997-5897, email: paullangland@gmail.com. Nominations will also be accepted from the floor at the March 21, 2013, regular meeting.

Please be certain your candidate is interested in running prior to submission to the Nominating Committee. Officers will be elected by a vote of membership in attendance at the May 16, 2013, chapter meeting held at the Long Beach Petroleum Club.

President¹ Paul Langland, Esq., Independent

Past President² L. Rae Connet, Esq., Managing Partner, PetroLand Services

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Vice President	<input type="checkbox"/> Mike Flores
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	<input type="checkbox"/> Stephen Harris, CPL
Director	<input type="checkbox"/> L. Rae Connet, Esq. ³
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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.

²Per Article 8 (2) the outgoing President shall serve as Past President.

³Per Article 8 (2) the outgoing President shall serve as Director.

SEMPRA U.S. GAS & POWER ENERGIZES FIRST PHASE OF ARIZONA SOLAR PROJECT

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Solar Farm Among Largest Photovoltaic Installations in U.S.

Earlier today Sempra U.S. Gas & Power announced that it has completed construction of Mesquite Solar 1, the first 150-megawatt (MW) phase of the company's Mesquite Solar complex in Arlington, Ariz., about 40 miles west of Phoenix.



Capturing solar energy: Sempra U.S. Gas & Power has completed construction of Mesquite Solar 1, the first 150-megawatt (MW) phase of the company's Mesquite Solar complex, located near Phoenix, Ariz.

The photovoltaic solar energy project now is operational and ranks among the largest in the U.S., generating enough clean electricity to power about 56,000 homes.

Continue the Momentum

"We are pleased to continue the momentum of our solar program with the completion of Mesquite Solar 1 and will now focus on the development of the remaining 4,000-acre complex," says Jeff Martin, president and chief executive officer of Sempra U.S. Gas & Power.

Martin adds, "This accomplishment puts us solidly on track to own and operate more than 1,000 megawatts of renewable energy capacity by the end of this year. We are excited about the future. This milestone would not have been possible without the strong support of neighboring communities, regulators and local and state elected officials."

Construction began in June 2011 and employed more than 450 workers. The power has been sold to Pacific Gas & Electric under a 20-year contract. Future phases planned at the solar complex could produce up to 700 MW, making it one of North America's largest solar power installations.

EDUCATIONAL CORNER

*Sarah Duffy, Nomadic Land Services
Education Chair*

Need continuing education credit? The American Association of Professional Landmen (AAPL) is committed to providing education seminars and events that support our membership base. Listed below are continuous courses available for the upcoming months. You can also earn credits by attending our luncheons based upon speaker and subject matter. Please visit www.landman.org to browse all of the upcoming nationwide events.

March 2013

Basics of Geographic Information System

When: March 2, 2013

Where: Morgantown, WV

RL/RPL Continuing Education Credits: 0.0

CPL Recertification Credits: 0.0

CPL/ESA Ethics Credits: **0.0**

Fundamentals Land Practices & RPL Exam

When: March 5-6, 2013

Where: Russellville, AR

RL/RPL Continuing Education Credits: 7.0

CPL Recertification Credits: 7.0

CPL/ESA Ethics Credits: **1.0**

Pooling Seminar

When: March 8, 2013

Where: Pittsburgh, PA

RL/RPL Continuing Education Credits: 5.0

CPL Recertification Credits: 5.0

CPL/ESA Ethics Credits: **0.0**

Field Landman Seminar

When: March 7, 2013

Where: Corpus Christi, TX

RL/RPL Continuing Education Credits: 2.0

CPL Recertification Credits: 2.0

CPL/ESA Ethics Credits: **0.0**

Landman 411 Series: Encumbrances

When: March 11, 2013

Where: Fort Worth, TX

RL/RPL Continuing Education Credits: 3.0

CPL Recertification Credits: 3.0

CPL/ESA Ethics Credits: **0.0**

Oil and Gas Land Review, CPL/RPL Exam

When: March 13-16, 2013

Where: Bakersfield, CA

RL/RPL Continuing Education Credits: 18.0

CPL Recertification Credits: 18.0

CPL/ESA Ethics Credits: **1.0**

2013 Mining & Land Resources Institute

When: March 14-15, 2013

Where: Reno, NV

RL/RPL Continuing Education Credits: 14.0

CPL Recertification Credits: 14.0

CPL/ESA Ethics Credits: **1.0**

JOA Workshop

When: March 20-21, 2013

Where: Midland, TX

RL/RPL Continuing Education Credits: 14.0

CPL Recertification Credits: 14.0

CPL/ESA Ethics Credits: **0.0**

Fundamentals of Land Practices & RPL Exam

When: March 25-26, 2013

Where: Wichita, KS

RL/RPL Continuing Education Credits: 7.0

CPL Recertification Credits: 7.0

CPL/ESA Ethics Credits: **1.0**

April 2013

Landman 411 Series: Parties

When: April 3, 2013

Where: Fort Worth, TX

RL/RPL Continuing Education Credits: 3.0

CPL Recertification Credits: 3.0

CPL/ESA Ethics Credits: 0.0

WI/RI Workshop

When: April 4, 2013

Where: Reno, NV

RL/RPL Continuing Education Credits: 6.0

CPL Recertification Credits: 6.0

CPL/ESA Ethics Credits: 0.0

Fredericksburg Land Seminar

When: April 5-6, 2013

Where: Fredericksburg, TX

RL/RPL Continuing Education Credits: 9.0

CPL Recertification Credits: 9.0

CPL/ESA Ethics Credits: 1.0

Significant Issues in CA Oil and Gas Operations

When: April 11, 2013

Where: Santa Barbara, CA

RL/RPL Continuing Education Credits: 6.0

CPL Recertification Credits: 6.0

CPL/ESA Ethics Credits: 0.0

Pooling Seminar

When: April 15, 2013

Where: Oklahoma City, OK

RL/RPL Continuing Education Credits: 5.0

CPL Recertification Credits: 5.0

CPL/ESA Ethics Credits: 0.0

Oil and Gas Land Review, CPL/RPL Exam

When: April 16-19, 2013

Where: Washington, PA

RL/RPL Continuing Education Credits: 18.0

CPL Recertification Credits: 18.0

CPL/ESA Ethics Credits: 1.0

Applied Land Practices

When: April 25, 2013

Where: Denver, CO

RL/RPL Continuing Education Credits: 7.0

CPL Recertification Credits: 7.0

CPL/ESA Ethics Credits: 1.0

Fundamentals of Land Practices and RPL Exam

When: April 25-26, 2013

Where: Fort Worth, TX

RL/RPL Continuing Education Credits: 7.0

CPL Recertification Credits: 7.0

CPL/ESA Ethics Credits: 1.0

Field Landman Seminar

When: April 25, 2013

Where: Jackson, MS

RL/RPL Continuing Education Credits: 2.0

CPL Recertification Credits: 2.0

CPL/ESA Ethics Credits: 0.0

WI/RI Workshop

When: April 26, 2013

Where: Denver, CO

RL/RPL Continuing Education Credits: 6.0

CPL Recertification Credits: 6.0

CPL/ESA Ethics Credits: 0.0

WI/NRI Workshop

When: April 27, 2013

Where: Billings, MT

RL/RPL Continuing Education Credits: 6.0

CPL Recertification Credits: 6.0

CPL/ESA Ethics Credits: 0.0

2013 Southwest Land Institute

When: April 30, 2013

Where: Dallas, TX

RL/RPL Continuing Education Credits: 7.0

CPL Recertification Credits: 7.0

CPL/ESA Ethics Credits: 1.0

APPL Home Study Program

AAPL's Home Study program allows members to earn continuing education credits at their own convenience and schedule. The courses cover the issues most relevant to today's Landman and cost between \$30 and \$75 to complete. To receive continuing education credits via a home study course:

- Download or print out the course (PDF format)
- Answer all questions completely
- Submit the answers as instructed along with the appropriate fee

If you have questions or would like more information, please contact AAPL's Director of Education Christopher Halaszynski at (817) 231-4557 or chhalaszynski@landman.org.

General Credit Courses

[#100](#) Environmental Awareness for Today's Land Professional
Credits approved: 10 CPL/ESA/RPL
\$75.00

[#101](#) Due Diligence for Oil and Gas Properties
Credits approved: 10 CPL/RPL
\$75.00

[#102](#) The Outer Continental Shelf
Credits approved: 5 CPL/RPL
\$37.50

[#104](#) Of Teapot Dome, Wind River and Fort Chaffee: Federal Oil and Gas Resources
Credits approved: 5 CPL/RPL
\$37.50

[#105](#) Historic Origins of the U.S. Mining Laws and Proposals for Change
Credits approved: 4 CPL/RPL
\$30.00

[#106](#) Going Overseas: A Guide to Negotiating Energy Transactions with a Sovereign
Credits approved: 4 CPL/RPL
\$30.00

[#108](#) Water Quality Issues: Safe Drinking Water Act (SDWA)/Clean Water Act (CWA)/Oil Pollution Act (OPA)
Credits approved: 4 CPL/ESA/RPL
\$30.00

[#109](#) Common Law Environmental Issues and Liability for Unplugged Wells
Credits approved: 4 CPL/ESA/RPL
\$30.00

Ethics Credit Courses

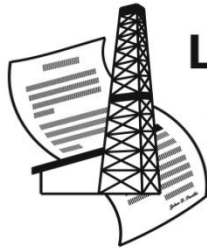
Two ethics courses are available. Each course contains two essay questions. You may complete one or both of the questions per course depending on your ethics credits needs. Each question answered is worth one ethics continuing education credit.

[#103](#) Ethics Home Study (van Loon) – 1 or 2 questions
Credits approved: 2 CPL/RPL & 2 Ethics
\$15.00 per question

[#107](#) Ethics Home Study (Sinex) – 1 or 2 questions
Credits approved: 2 CPL/RPL & 2 Ethics
\$15.00 per question



The 2013 LAAPL Mickelson Golf Classic
A Call for Early Bird Sponsorship
Our Goal this year is to fill ALL Golf Slots with Sponsors



**Los Angeles
 Association
 of Professional
 Landmen**



Friday, August 2, 2013
Malibu Country Club

Directions: Go to www.malibucountryclub.net
 901 Encinal Canyon Road
 Malibu, California 90265
 (818) 889-6680

The LAAPL cordially invites you to participate in the 2013 LAAPL Mickelson Golf Classic fundraiser, once again to be held in beautiful Malibu. LAAPL will donate the net proceeds realized from the tournament to the R.M. Pyles Boys Camp, thus we encourage you to “sponsor” generously and this year we want to be ahead of the game and get a call out for sponsors early. Please return your checks with completed sponsorship forms and logos as soon as possible and no later than July 19, 2013, as only 72 golf reservations are available. Cocktail hour, buffet dinner, breakfast, raffle and awards ceremony will follow. We look forward to your participation. Don’t worry about registration, we will handle registration in a few months but hope to have a full tournament via sponsorship.

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(Please see attached form)

Please make your checks payable to LAAPL, mail payment and sponsorship forms to:

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 tel. 714.841.7465, jason@downchezenergy.com
 If you have any questions or wish to donate raffle prizes, please call

2013 LAAPL MICKELSON GOLF CLASSIC

Hosted by the Los Angeles Association of Professional Landmen

August 2, 2013, Malibu Country Club

SPONSORSHIP FORM

The Los Angeles Association of Professional Landmen is proud to host the 2013 Mickelson Classic, a charity golf tournament. The tournament continues to honor William A. Mickelson, much respected for his leadership in the LAAPL, as well as for his prowess on the golf course. This year's fundraiser beneficiary is the R. M. Pyles Boys Camp (www.pylescamp.com). Join us for a day of fun and the opportunity to make positive changes in the lives of area youth.

Company

Phone

Contact e-mail

Address City State Zip

Please show your support by making a contribution in one or more of the following:

____ "TEE SPECIAL":(per hole) \$100.00
(Includes sponsorship information @ tee box for 1 hole, (1st hole is reserved for hole in one sponsor)

____ "CLUBHEAD SPECIAL":\$175.00
(Includes your name listed in tournament materials and golf tournament program)

____ "HOLE IN ONE": Full page ad – plus presenting sponsor status in all tournament material and program plus 1st hole sponsorship\$2500.00
(Includes golf and breakfast/dinner for two foursomes)

____ "EAGLE": Full page ad - plus special recognition in tournament & program\$1000.00
(Includes golf and breakfast/dinner for a foursome)

____ "BIRDIE": Half page ad - golf tournament program\$500.00
(Includes golf and breakfast/dinner for two players)

____ "PAR": Quarter page ad - golf tournament program\$250.00
(Includes golf and breakfast/dinner for one player)

I am enclosing a check payable to LAAPL in the amount of \$_____ and will e-mail my camera ready artwork directly to Jason@downchezenergy.com

We will collect golfer names at a later date.



**THE 25th ANNUAL BAPL CHARITY GOLF CLASSIC
to Benefit the Bakersfield Homeless Center
Friday, May 17, 2013, 12:00 p.m.
Stockdale Country Club**

Over the past 24 years, the **Bakersfield Association of Professional Landmen (BAPL)** has hosted the **BAPL Charity Golf Classic** to benefit the **Bakersfield Homeless Center (BHC)**. Thanks to our sponsors and participants, last year's event was another big success, as we donated \$40,000 to the BHC! For 2013, we have set a high goal, with a mission to raise a minimum of **\$50,000**. We can only reach this goal by the continued generous sponsorships and team recruitments from companies and individuals in and about our community.

The **BAPL Charity Golf Classic** is a scramble format with prizes for low gross and a Noon Shotgun! Once again, we will offer the Corporate Sponsor level, which will provide the contributors with golf and dinner for four (4) players, automatic participation in the Corporate Challenge, along with their name/logo at the tee box and in the event program. The Corporate Challenge will be open only to those donating at the Corporate Sponsor level. We will also have the Awards Reception raffle with \$1,000 in prizes! (If you or your office would like to donate prizes for our raffle, please contact Eric Miner, Brent Davenport or Rick Peace listed below). Refreshments will be at each par-3, plus two (2) barbeque teams from **San Joaquin Bit Service Company** and **Smoke It!... It's Legal!** There will also be contests for "closest-to-the-hole" and "longest drive", a total of \$20,000 in "hole-in-one" prize money, and several other fun and exciting ways for you to win prizes! If you are interesting in networking at the event, but do not wish to play golf, please include your name, phone number, and email address and come as a volunteer! **Register early, as we expect a sellout maximum of 144 players!**

SPONSORSHIP

	"KEEP-YOUR-HEAD-DOWN" SPONSOR (includes your name listed at a tee box and in the event program)	\$100
	"TEE-IT-UP" SPONSOR (includes your name and company logo at a tee box and in the event program)	\$250
	"BIRDIE" SPONSOR (includes golf & dinner for 1 player; name and company logo at a tee box and in the event program)	\$500
	"EAGLE" SPONSOR (includes golf & dinner for 2 players; name and company logo at a tee box and in the event program)	\$1,000
	"CORPORATE" SPONSOR (includes golf & dinner for 4 players; name and company logo at a tee box and in the event program, and automatic participation in the Corporate Challenge)	\$1,500

Company:	
Address:	

Contact:	
Phone:	
Email:	

Make **sponsorship checks** payable to **BAPL** or **Bakersfield Homeless Center** and mail to:
BAPL, ATTN: Rebecca Trujillo (Treasurer), P. O. BOX 10525, BAKERSFIELD, CA 93389
Important: If you send your check directly to BHC, please send a copy of the check to BAPL

Mail your "CAMERA READY" artwork to:
Berry Petroleum, Attn: Mary Costa, 5201 Truxtun Avenue, Suite 100, Bakersfield, CA 93309
 or email your artwork directly to Mary Costa at: mjc@bry.com

**DEADLINE FOR SPONSORS TO BE INCLUDED IN OUR TOURNAMENT EVENT PROGRAM
IS FRIDAY, MAY 10, 2013 at 5:00 PM**



**THE 25th ANNUAL BAPL CHARITY GOLF CLASSIC
to Benefit the Bakersfield Homeless Center
Friday, May 17, 2013, 12:00 p.m.
Stockdale Country Club**

TEAM REGISTRATION

Golf and Reception \$150 (Independent Landman \$125)

Team Captain:	
Address:	

Awards Reception Only \$25.00

Name/Company:	
Phone:	
Email:	

Golf and Reception \$150 (Independent Landman \$125)

Name:	
Address:	

Awards Reception Only \$25.00

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Phone:	
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Golf and Reception \$150 (Independent Landman \$125)

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Awards Reception Only \$25.00

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Would you like to volunteer at the tournament?

Name:	
Time Available:	

Phone:	
Email:	

Make **sponsorship checks** payable to **BAPL** or **Bakersfield Homeless Center** and mail to:
BAPL, ATTN: Rebecca Trujillo (Treasurer), P. O. BOX 10525, BAKERSFIELD, CA 93389
Important: If you send your check directly to BHC, please send a copy of the check to BAPL

QUESTIONS?

Call Eric Miner (Oxy), (661) 412-5205, Brent Davenport (Oxy) (661) 412-5500,
or Rick Peace (White Wolf) (661) 324-9653

New for this year: a) We will have barbeque stations on the course so bring an appetite! b) The Awards Reception will include heavy hors d'oeuvres, complimentary wine, and beer! c) NOON Shotgun!