

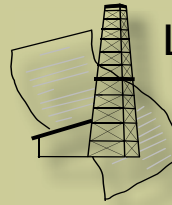


The Override

Every Landman Wants One!

Volume VIII, Issue V

May, 2014



Los Angeles Association of Professional Landmen

Presidents Message

Paul Langland, Esq., President Independent

Thanks for your support of the world's best Landman's association. I would specifically like to thank the dedication of the LAAPL board members and committee heads for their outstanding efforts this year. Over the last several years, I've gotten to know the association board and its members well. It's truly a grass roots organization that will continue to excel due to our diverse membership, their commitment to the LAAPL and AAPL, and, of course, the recognition that Southern California is a major contributor to the world's energy challenges. For those members that have not jumped into the Association's leadership pool, I would highly recommend that you do, it's very rewarding.



Southern California Gas Company - Honor Rancho Gas Storage Field, Los Angeles County, California

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A recurrent theme that I've talked about over the year is our responsibility to take an active role in advocating for our industry on projects and issues. The recent outpouring of industry support for Oxy's Carson project showed just how powerful of a group we can be if mobilized. If you haven't joined Energy Nation, signed up for the excellent ExxonMobil Perspectives blog, and other industry advocates' groups, you should. These organizations need our help and support while providing valuable resources to educate and motivate our stakeholders.

This year has flown by. We've had great speakers, a Christmas party, a new venue for our golf tournament this August (Rolling Hills Country Club on the Palos Verdes Peninsula), lots of new members and another West Coast Land Institute that was a smashing success. On behalf of the board (both this year's and next), we look forward to your continued participation and support. You can count on me to help out wherever and whenever I can.

Best regards, Paul

Meeting Luncheon Speaker

Need Pipeline – Got Easement? Can An Oral License Turned Irrevocable Easement Save The Day?



Noemi Cruz, Esq., provides oil and gas and real property advice and litigation at Luna & Glushon.

Noemi has litigated cases in both state and federal courts, has worked with state and federal agencies, and with the DOGGR to identify pertinent information. Noemi's litigation experience includes: title disputes; well abandonment claims/obligations; surface access, royalty and pipeline easement issues; disputes between lessors/lease operators; confidentiality agreements and practice and expertise in other areas of law.



Opinionated Corner

Joe Munsey, RPL
Southern California Gas Company
Newsletter/Publish Co-Chair

I had an epiphany – and found god. Not quite on par with the thundering and lighting emanating from Mount Sinai when the Ten Commandments were given out, not sure this competes on that level, nor the Saint Paul Damascus Road experience. Not quite as weighty as Rene Descartes in his *Discourse on Methods and Mediations*.

Here is how the transformation experience took place; while perusing the *National Review's* January 31, 2014, issue, we discovered where god exist, lives and how this being interacts with mere mortals here on the earth. God has specifically set up shop in the United States and is slaying all and sorting out the dead later. California has seen and felt the fury of its wrath – by causing apocalyptic drought conditions in the San Joaquin Valley and farmers are fit to be tied.

Well, just a Moses asked the “burning bush” what name “he” would like to be addressed by, you may be scratching your head wondering by now and wondering the same thing, “And the name of your god iswhat?” I am glad you asked.

The author of the article then proceeded to inform the readers whom god his, the name and domicile; and you can actually touch him – but expect no miracles. It is the Fish and Wildlife Service and no one dares goes up against it; and as it was expressed in the article, presidents fear him, congress trembles at the mere mention of his name, local authorities run in the opposite direction when they see him; and common folk run like hell to stay out of the way of his wrath. That is when the manifestation took place, the clouds parted and the Magnificat was sounded. Then and there - I discovered

who god is and he rules without regards to social status or origin.

Not only does the oil and gas industry continue to face mounting regulations, beyond the pale in some states, industries, or whatever sector they may be labeled under, in the United States they are feeling the full weight of what regulations can evolve into. The key words here are “evolve into.” Case in point, the original mission of former President Nixon’s EPA creation and what it has “evolved into,” which we might as well admit it too has become a deity which everyone has to act in submission to or be faced with fines, jail and criminal charges. If the EPA is inattentive doing its duty, an unlikely chance, its disciples are waiting nearby to extract fines and offer the offender a course in public humility; then bend the sinner into submission and repentance, even if the act of repentance is feigned.

Thankfully, the dynamic oil and gas industry is able to move forward against surmounting odds, in some cases, in spite of Governmental regulators and their loyal believers. As Harold Hamm of Continental Resources stated, “Every regulation and every rule limits you, but, yes, it can still be done.”

Staying with the “thankful” theme, I am forever grateful to the other Co-chair of the Newsletter/Publications Committee, Randal Taylor, RPL, of Taylor Land Services, for his time and talent publishing this award winning newsletter. Off in the background and out of view is Cliff Moore, Independent, [he also happens to be our Chapter Secretary] who takes the time to offer editorial comments to our columns.

Since we serve at the pleasure of the Chapter President each year, one never knows if on a whim the in-coming President will install his owned faired hair boy/girl to take it from here, therefore, thank you for the opportunity to serve this great chapter as Co-chair of the Newsletter/Publications Committee. Look forward to seeing everyone at the Long Beach Petroleum Club for our last meeting before we go dark for the summer.

New Members and Transfers

Cambria Henderson
OXY USA Inc., LA Basin Asset
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

Maya Grasse
Attorney

Alston & Bird LLP
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David Ossentjuk

Partner/Attorney
Ossentjuk & Botti

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Westlake Village, CA 91361
(805) 557-8081

John Wolcott

Member-Manager
Wolcott, LLC

729 Bookcliff Ave.
Grand Junction, CO 81501
(970) 241-7146 x3087

New Member Requests

Jessica Bradley

Land Services and Regulatory
Compliance Specialist

Warren E&P, Inc.
100 Oceangate, Suite 950
Long Beach, CA 90802
(562) 685-9069



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Independent
310-997-5897

Rae Connet, Esq.
Past President
PetroLand Services
310-349-0051

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Vice President
Breitburn Management Company LLC
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Cliff Moore
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818-588-9020

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Joe Munsey, RPL
Director
Southern California Gas Company
562-624-3241

Mike Flores
Region VIII AAPL Director
Luna Glushon
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Newsletter/Publishing Chair
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Randall Taylor, RPL, Co-Chair

Communications/Website Chair
Odysseus Chairatakis
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Golf Chair
Diane Ripley
Kirste Ripley Public Relations
562-883-3001

Nominations Chair
Scott Manning, CPL
Breitburn Managemt Company LLC
213-225-5900



Scheduled LAAPL Luncheon Topics and Dates

May 15th

Noemi Cruz, Esq.
Need Pipeline – Got Easement?
Can an Oral License turned Irrevocable
Easement Save The Day?
Officer Elections

September 18th

Daniel R. Tormey, Ph.D.
First-Ever Comprehensive
Environmental Monitoring
of Two High-Volume Hydraulic
Fracturing Jobs

Oct 22nd – 24th

West Coast Landmen's Institute
Las Vegas, NV

November 20th

TBD

December

Christmas Party

January 22nd 2015

Annual Joint Meeting With
Los Angeles Basin Geological Society

Chapter Board Meetings

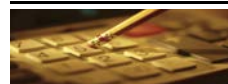
**Cliff Moore,
Independent**

Chapter Secretary

The LAAPL Board of Directors and Committee Chairs held its board meeting at the Long Beach Petroleum Club immediately following the LAAPL luncheon meeting. The matters discussed at the April meeting are as follows:

- Mike Flores' excellent representation at AAPL meetings
- New members
- Appointment of Chip and Leah Hoover as Hospitality Chairs
- Proposed name change
- Other issues pertinent to the operations of LAAPL

The LAAPL Board of Directors and Committee Chairs hold its Board Meetings in the same room as the luncheon meeting after the speaker has wowed us. We encourage our members to attend the meetings to see your Board of Directors and Committee Chairs in action.



Treasurer's Report

As of 4/1/2009, the
LAAPL account \$18,403.02
showed a balance of

Deposits \$40.48

Total Checks,
Withdrawals, Transfers \$602.00

Balance as of 5/2/2014 \$17,841.50

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

LAAPL Call for Annual Dues

**Sarah Downs, RPL
Downchez Energy, Inc.
LAAPL Treasurer**

We will begin accepting LAAPL membership dues starting on May 10th until July 1st. See attached Renewal Form for your convenience. Renewal is \$40.00; 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

Mickelson Golf Classic - Note

**26th Annual BAPL Golf Classic
May 22, 2014 - Note**

BAPL has set its goal to raise \$40,000 for the Bakersfield Homeless Center by the continued generous sponsorships from the BAPL and LAAPL oil patch community. BAPL is expecting a sellout in attendance and there were only 144 slots available. If you have not registered by now, you may be too late, but contributions would still be welcomed for this worthy cause.

WCLI - Note

**“What happens in Vegas,
stays in Vegas.”**

This year's WCLI is set for October 22nd, 23rd and 24th at the Flamingo in Las Vegas. The tentative topics will be presented in two parts. Part I – Land and Legal. Part II – Industry/Political Updates. Of course, our annual Dave Kilpatrick updates.

Lawyers' Joke of the Month

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

We sometimes fail for quite some time to note an important passing. With all the sadness and trauma going on in the world at the moment, it is worth reflecting on the death of a very important person, which largely went unnoticed. Larry LaPrise, who co-wrote and first recorded the "The Hokie Pokey" died peacefully on April 5, 1996, at the age of 93. The most traumatic part of his passing for his family was getting him into the coffin. They put his left leg in.... And then the trouble started.

You saw it coming-but you know it's funny. Pass it along to someone else and give them a chance to smile (and spend the rest of the day trying to get that ear worm to go away)!

Our Honorable Guests

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

Suzy Huser
Fernando Avila
Allison Foster
Jessica Bradley
Eric Foster
Bill O'Toole
Scott Walker



**Randall Taylor, RPL
Petroleum Landman**

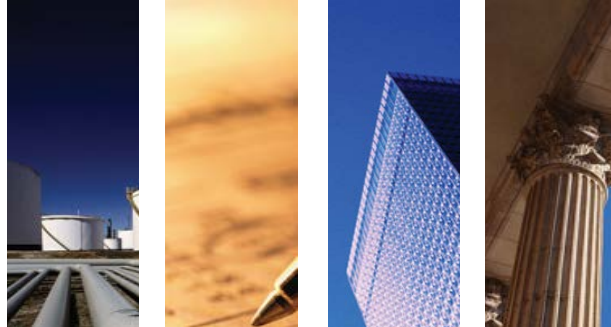
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dluna@lunaglushon.com
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"My experience as a petroleum engineer (PE) and a Harvard Law graduate, allows our firm to provide you with legal guidance in any oil and gas matter."
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Announcement



DAY • CARTER • MURPHY LLP

is proud to announce that
Jane E. Luckhardt
joined the firm as a partner,
effective March 1, 2014

Jane represents energy and oil and gas clients, focusing on permitting, CEQA, financing and regulatory compliance. Jane's talents complement and deepen Day Carter Murphy's existing natural resources practice, and we are excited to welcome her to the firm.

To learn more about Jane's practice please visit www.daycartermurphy.com.

DAY • CARTER • MURPHY LLP
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Sacramento, CA 95846
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Fax: 916-570-2525

Mickelson Golf Classic

Diane Ripley
Public & Government Relations Consultant
Mickelson Golf Classic Chair

Diane Ripley, this year's LAAPL Mickelson Golf Chair cordially invites you to participate in the 2014 LAAPL Mickelson Golf Classic "Shotgun" fundraiser to be held in beautiful Rancho Palos Verdes at the Rolling Hills Country Club. LAAPL will donate the net proceeds realized from the tournament to the R.M. Pyles Boys Camp, thus we encourage you to "sponsor" generously. Please return your checks with completed sponsorship forms and logos as soon as possible and no later than July 19, 2013, as only 70 golf reservations are available. Cocktail hour, buffet dinner, lunch, raffle and awards ceremony will follow. We look forward to your participation.

EVENT SPONSORSHIPS AVAILABLE from \$150 (Please see attached form). If you have any questions or wish to donate raffle prizes, please call:

Diane Ripley, Golf Chair 2014
Public & Government Relations and Community Outreach
2892 Bellflower Blvd., Suite 459
Long Beach, CA 90815
tel. 562-883-3001, Diane0007@aol.com

Directions: Go to www.rollinghillsec.com
27000 Palos Verdes Drive East
Rolling Hills Estates, California 90274
(310) 326-4343

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Gary L. Plotner
President
BAPL President 1985-86 & 2003-04
AAPL Director 1988-90 & 2002-03 & 2004-05

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2014 – 2015 Officer Election

The LAAPL's Board of Directors duly appointed Scott Manning, CPL of BreitBurn Management Company, as LAAPL's Nominations Chair, to seek out qualified candidates for officers. The list of qualified candidates¹ has been set forth below and the elected officers will serve from July 1st, 2014 – June 30th, 2015. Officers will be elected by a vote of membership in attendance at the May 15, 2014, chapter meeting held at the Long Beach Petroleum Club. Nominations will also be accepted from the floor at the May 15, 2014, regular meeting.

President² Jason Downs, RPL, BreitBurn Management Company

Past President^{3 & 4} Paul Langland, Esq., Independent

OFFICE

CANDIDATE

Vice President

Ernest Guadiana, Esq.

Secretary

Cliff Moore, Independent

Treasurer

Sarah Downs, RPL

Directors

B. Scott Manning, CPL

Randy Taylor, RPL

Joe Munsey, RPL

L. Rae Connet, Esq.

¹Per Section 7(7)(a) prior to the regular meetin scheduled nearest to April 15th of each membership year, the membership will be provided with a list of the nominees for officers of Vice President, Secretary, Treasure and the two (2) Directors.

²Per 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.

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

⁴Per Article 8 (2) the outgoing President shall serve as Director.



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- Surface and Mineral Acquisitions
- Right-of-Way Title and Acquisitions
- Permitting and Regulatory compliance
- Land Administration
- File Management
- Expert Witness

L. Rae Connet, Esq.

California, President

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rconnet@petrolandservice.com

Jeff Martinez, RPL

Louisiana, Vice President

(337) 278-0787

jmartinez@petrolandservice.com



ADVERSE POSSESSION – CAN SURFACE OWNER ACQUIRE TITLE TO GAS FORMATIONS BY MERE PASSAGE OF TIME?



Robert J. Burnett, Esq.
Law Firm of Houston Harbaugh P.C.
Pittsburgh, PA

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Gas operators have been drilling gas wells throughout this Commonwealth for over a hundred years. As a result, the Pennsylvania countryside is littered with tens of thousands of gas wells.[1] Many of these older wells, unfortunately, are no longer producing gas and have long been abandoned by the gas operator. To make matters worse, the gas operator has disappeared or is no longer in business. Who owns these older, non-producing wells? More importantly, who now owns the remaining natural gas underlying the surface estate? A recent decision of the federal court in Pittsburgh suggests that the mere passage of time will not vest ownership of an unproductive formation in the surface owner.

In *Hoffman v. Arcelormittal Pristine Resources, Inc.*, 2011 WL 1791709 (May 10, 2011 W.D. Pa.), the plaintiff sought a declaration that she was the rightful owner of all oil and gas located beneath a 97 acre tract in Washington County. The plaintiff had purchased the surface estate in 1971. Her deed, however, specifically stated that the conveyance was subject to all “prior instruments” in her chain of title. Plaintiff did not own the oil/gas rights – they were severed from the surface in 1928. Nonetheless, plaintiff entered into three (3) separate gas leases in 1971, 1986 and 2006. No drilling operations were ever conducted on the property by the plaintiff or anyone else.

In February 2011, the plaintiff filed an action to quiet title based on “adverse possession”. Plaintiff argued that because she openly “leased” the underlying oil/gas between 1971 and 1986 and the mineral owner never objected or contested her efforts, she acquired title to the underlying gas formation. The defendants, the successors-in-title from the 1928 deed, opposed the suit on the grounds that a surface owner cannot acquire oil/gas rights through adverse possession without actual production and drilling. Since the plaintiff had never drilled any wells, defendants argued that the plaintiff acquired no rights in the underlying gas formations.

Adverse possession is an extraordinary doctrine which permits one to achieve ownership of another property by operation of law. A party claiming title to real estate by adverse possession must prove that he or she had actual, continuous, exclusive and hostile possession of the land for twenty-one (21) years. *Recreation Land Corp. v. Hartzfeld*, 947 A. 2d 772, 774 (Pa Super 2008). The adverse possessor must actually “possess” the subject real estate for twenty-one (21) years and treat the property as his own. See, *Glen v. Shuey*, 595 A. 2d. 606, 610-611 (Pa. Super. 1991) (“Broadly speaking, actual possession of land is dominion over the land; it is not equivalent to occupancy”). While the word “hostile” has been held not to mean ill will or hostility, it “does imply the intent to hold title against the record title holder.” *Tioga Coal Co. v. Supermarkets General Corp.*, 546 A. 2d 1, 3 (Pa. 1988); *Sutton v. Miller*, 592 A.2d 83, 90 (Pa. Super. 1986) (the adverse possessor “always claims in derogation of the right of the true owner, admitting that the legal title is in another”).

In *Hoffman*, the plaintiff argued that her execution of three oil/gas leases between 1971 and 1986 constituted “exclusive and hostile possession” of the underlying oil/gas rights. The trial court disagreed and noted that a majority of jurisdictions that have addressed this issue have held that actual possession of the mineral estate must occur:

“ . . . the possession of the surface estate will not become adverse possession of the mineral estate unless there is an actual entry upon and use of the underlying minerals for the requisite time period.”

See, *Hoffman*, 2011 WL 1791709 at 7. In the case of oil/gas, the *Hoffman* court further explained that “actual possession” means drilling and production. Since no drilling had ever taken place, the *Hoffman* court concluded that plaintiff never “possessed” the oil/gas estate and, therefore, no rights or title were acquired by the mere act of signing leases:

“ . . . the material facts as set forth by the plaintiff demonstrates that she has merely leased this property . . . Therefore, plaintiff fails to meet the first element required under the law of adverse possession: that there be actual possession on some part of the land at issue”

Case of the Month - O&G
continued on page 9

Case of the Month - O&G
continued from page 8

See, Hoffman, 2011 WL 1791709 at 7. The Hoffman decision is consistent with other oil/gas jurisdictions. Generally, these courts have been held that mere possession of the surface will not constitute “adverse possession” of the minerals. The purported adverse possessor must actually commence drilling operations in an open, obvious and continuous manner. See, Natural Gas Pipeline Co. v. Pool, 124 S.W. 3d 188 (Tex 2003) (the surface owner must engage in “drilling and production of oil and gas ”); Monhoma Oil Co. v. Ambassador Oil, 474 P. 2d 950, 960 (Okla. 1970) (the surface owner must take “actual possession of the minerals by opening and operating mines . . .”); Schaneman v. Wright, 470 N.W. 2d 566 (Neb. 1991) (“An actual, public, notorious and uninterrupted working of the minerals for the statutory period is generally required”); Thomas v. Rex A. Wilcox Trust, 463 N. W. 2d 190, 192 (Mich. Ct. App. 1990) (the surface owner must take “actual possession of the mineral estate”); Kriss v. Mineral Rights Inc., 911 P.2d 711, 714 (Colo. App. 1996) (“one must take actual possession of the minerals under the surface or so exclude the owner that he or she cannot enter upon the land to drill for oil or gas”); Frank v. Fortuna Energy, 856 N.Y.S. 2d 322 (N.Y App. Div. 2008) (plaintiff did not “gain title to subsurface minerals through adverse possession based on longstanding residential use of the property”).

Hoffman was correctly decided and is good news for all Pennsylvanians. Valuable mineral rights should not be “lost” by virtue of a phantom lease executed by someone who does not even own those rights. By emphasizing the need for actual development and drilling, the Hoffman court clarified an important area of Pennsylvania oil/gas jurisprudence. Surface owners must engage in open and continuous drilling operations for twenty-one (21) years before the concept of adverse possession even becomes relevant. Given this heightened level of proof, it is unlikely that mineral estates will be at risk for adverse possession.

[1]The Independent Petroleum Association of America estimates that approximately 325,000 oil and gas wells have been drilled in Pennsylvania since 1859. DEP only has records for 88,300 operating wells and 44,700 plugged wells.

Robert J. Burnett is an attorney and director at Pittsburgh, PA law firm, Houston Harbaugh, P.C. where he serves as the chair of the firm’s oil and gas practice group. He can be reached at rburnett@hh-law.com or at 412-288-2221. Mr. Burnett is licensed to practice law in the Commonwealth of Pennsylvania.



Venoco, Inc. is an independent oil and natural gas company founded in 1992. Venoco is continually recognized for practices that exceed safety and environmental compliance, thanks to the hardworking and experienced employees.

www.venocoinc.com

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Thomas E. Clark: RPL, Executive Land Manager
Patrick T. Moran: RPL, Senior Land Negotiator
Wes Marshall: CPL, Land Manager
Unconventional Resources
Sharon Logan: CPL, Senior Landman

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Regional Office 6267 Carpinteria Ave., Ste 100
Carpinteria, CA 93013
(805) 745-2100

Case of the Month - Right of Way

COURT DECISION RAISES QUESTIONS ABOUT VIABILITY OF PRE-CONDEMNATION "RIGHT OF ENTRY" EFFORTS



Rick E. Rayl, Esq.,
Law Firm of Nossaman LLP

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In March, the Court of Appeal issued a decision that may be one of the ones we look back on as among the most significant of 2014 (at least in the world of eminent domain). For years (and certainly for the entire 20 years I've been doing this), public agencies have utilized a statutory "right of entry" procedure to gain access to private property to conduct investigations and testing before deciding whether to move forward with a condemnation action. (See Code of Civil Procedure section 1245.010 et seq.) Often, this happens during the CEQA process, as agencies try to assess the environmental impact a proposed project may have. Sometimes, the "entry" involves little more than someone wandering around a property for a few hours. But in other cases, the investigation is more far-reaching, including things such as soil borings and animal traps.

Rarely does anyone question these activities. So long as the government acts reasonably and provides for compensation to the owner if the investigation causes any damage, these entries go off without a hitch. But that may all change.

On March 13, 2014, the Court of Appeal issued its decision in *Property Reserve, Inc. v. Superior Court*. There, the Court struck down an agency's efforts to conduct precondemnation investigation and testing pursuant to the right of entry statutes. The key to the decision was that the Court held that any significant physical intrusion onto private property constituted a taking for which just compensation must be paid.

This meant that the agency was required to proceed with an "eminent domain proceeding," which, in turn requires that the property owner be provided with certain protections, including the right to a jury trial – something the "right of entry" statutes do not provide

While not striking down all efforts to enter onto property for precondemnation investigation and testing, the decision calls into doubt the viability of California's right of entry statutes, which could have significant implications for agencies. The holding indicates that there is no "bright-line rules for determining whether a temporary physical invasion constitutes a taking." Rather, entries must be evaluated based on four criteria:

- The degree to which the invasions are intended. The court noted that as to this factor, a right of entry always qualifies as an "intended" invasion.
- The character of the invasions. Here, the court contrasted regulatory "invasions" (which are less likely to qualify as a taking) from true physical invasions. Again, as to a right of entry, the character of the invasion is a physical invasion (i.e., suggesting they qualify as takings).
- The amount of time the invasions will last. This is where the court left an opening to allow routine entries, since the "takings" at issue in that case involved the potential for 66 days of physical invasion spread over an entire year -- a far cry from a typical inspection that might last a few hours.
- The invasions' economic impact on the landowners and interference with their distinct investment-backed expectations. This factor derives from the famous Penn Central test for evaluating regulatory takings claims. The court acknowledged that no evidence existed that the investigations at issue would cause any economic impact. Still, the court downplayed this factor, explaining that it played little role in situations of an actual physical invasion. "This is because if the government intentionally and physically invades private property to the extent it requires a permanent or temporary interest in that property to accomplish its public purposes, it must pay for that interest, no matter how small the interest may be."

Reading between the lines, the real inquiry in future cases may revolve around the "time" factor, since the other three factors will almost always weigh in favor of a taking finding for a right of entry.

The decisions following *Property Reserve* will garner significant attention. Moreover, we have heard that an effort is

Case of the Month - ROW
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already underway to get the opinion depublished (meaning it would not be citable in the future), and it would not be surprising if the agency seeks Supreme Court review given the stakes involved in the decision.

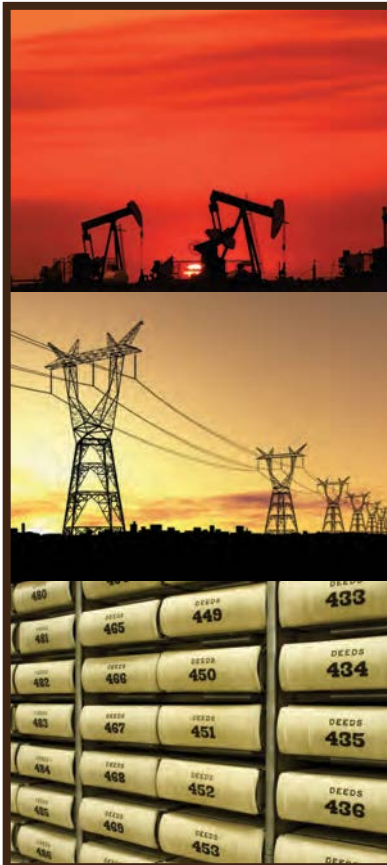
Note that the case also included a long, 46-page dissent (two pages longer than the 44-page majority decision). The length of the opinions alone suggests the significance of the issue, and I expect we will hear more on this issue in the near future.

Note also that the court suggested some legislative changes that could solve the constitutional problems the court identified. Thus, if efforts to depublish and obtain Supreme Court review are unsuccessful, the next battle over this issue may take place in the legislature.

Finally, a really important caveat. The case impacts only those situations in which the government seeks a court order allowing a right of entry. It has no impact on voluntary agreements reached between agencies and owners. Thus, for the immediate future, expect to see a lot more effort by agencies to reach negotiated rights of entry to allow precondemnation work.

As for the rest of it, stay tuned. In the meantime, if you want to read another take on the case, take a look at Robert Thomas' post, Cal App States The Inconvenient Truth: There's No Substitute For Eminent Domain - Gov't Must Condemn First If It Wants To Enter Land.

Mr. Rayl can be reached at rrayl@nossaman.com.



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Guest Article

SUPREME COURT TAKES A BITE OUT OF RAILS-TO-TRAILS PROGRAM

By Larry S. Stevens, SR/WA

While those of you who are involved with the Rails-to-Trails Program probably already know of the Supreme Court ruling rendered in the case of *Marvin M. Brandt v. United States* on March 10, 2014. Many of the rest of us working in the more traditional areas of the Right of Way profession may not be aware of this landmark case, but there is little doubt that we will all feel its detrimental impacts on this nationwide network of recreational trails.

We often talk of government overreach and perhaps Rails-to-Trails is such a program. The Rails-to-Trails Program, although created on the basis of a shadowy legal opinion that most if not all who worked in the industry believed was a shaky legal precedence, has become a vital part of the supply of the nation's urban, suburban and rural recreational offerings.

Historical Background

In the case of Rails-to-Trails, its history begins with America's westward expansion in the second half of the 19th century, when Congress gave public land to private railroads as an inducement to build a transcontinental transportation network that could serve a burgeoning nation and its growing economy, largely agricultural and mining interests. Not every project was successful, and with time and loss of patrons for many of these spur routes, railroad companies abandoned them to deteriorate into slashes of weed infested neglect.

The peak of the United States development of rail line was in 1916 with more than 275,000 miles of track crisscrossing the country, carrying freight and passengers and fueling the economy and growth of the nation. But by the 1950's and 1960's high quality highway construction under the Interstate Highway Program, antiquated and costly federal regulations of railroads and increased competition from trucking companies eroded the primacy of the rail industry. By the early 1970's nearly a quarter of the nation's railroad lines were operating under bankruptcy protection and 38,000 miles of rights of way had proved unprofitable and had been abandoned. Stagnation in innovation and deferred maintenance only exacerbated the industry's problems.

It was under this bleak cloud that the Staggers Rails Act of 1980 deregulated the railroads and made it easier for them to abandon non-operating lines. Although railroads were able to streamline their operations and diversify successfully, this deregulation triggered a mass wave of rail line abandonments – the deterioration and subsequent abandonments only escalated to a staggering 65,000 miles by 1990.

Once again Congress was spurred into action because of concern over this dramatic industry decline and the potential effects that losses to the railroad infrastructure would have over time. The solution was to preserve these abandoned corridors for potential future transportation uses. “[I]n 1983, Congress amended Section 8(d) of the National Trails System Act to create a program called ‘railbanking,’ a method by which corridors that would otherwise be abandoned [could] be preserved for future rail use by converting them to interim trails.”¹

The question of whether pre-General Railroad Right of Way Act of 1875 rights were transferrable came into question when it was asked whether MCI Telecommunications Corporation (MCI) or Southern Pacific Railroad was required to obtain additional right of way grants for fiber optic lines. The Acting Solicitor for the Interior Department was asked to render an opinion. The opinion was issued on January 12, 1989 and was broadened to address two sets of laws that affected railroad rights of way. The first was a series of “charters” that were granted to individual railroad enterprises for specific corridors between 1850 and 1871, the second was the General Railroad Right of Way Act of March 3, 1875 (Railroad Act of 1875). In the first instance the Acting Solicitor opined that the Supreme Court ruling in *Northern Pacific Railway v. Townsend* was “controlling precedent” on pre-1871 rights and these rights with the exception of mineral rights were deemed fee ownership. In the case of the 1875 Railroad Act the Acting Solicitor “acknowledged that the railroads obtained an ‘easement,’ but most emphatically not ‘an ordinary common-law easement.’ Instead the Acting Solicitor said, the interest ‘includes . . . exclusive use of the surface’ and is ‘tantamount to fee ownership, including the right to use and authorize others to use (where not inconsistent with railroad operations) the surface, subsurface and airspace.’”² The Acting Solicitor cited a number of state cases to set his legal precedent.

The Brandt vs. U.S. Case

With legal precedents in hand the Rail-to-Trails program operated and expanded with few challenges during the ensuing

*Supreme Court
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Supreme Court
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twenty years. But on March 10, 2014, all that came to an end with a lone owner's challenge to "the right to take" on his 83-acre parcel within a 31 parcel, 66-mile long Rails-to-Trails project on a rail corridor in Wyoming that was abandoned in 1996.

All the owners, save Marvin Brandt, acquiesced to the plan and the project progressed while Mr. Brandt's legal challenge wended its way through the court system. Mr. Brandt, represented by the conservative Mountain States Legal Foundation, contended that under the Railroad Act of 1875 that the easement rights were restricted to a specific purpose and that the rights granted expired with the railroad's abandonment in 1996.

The Supreme Court Ruling

The Court rejecting the government's argument for an "implied reversionary interest" on the abandonment, voted 8-1, with Justice Sonya Sotomayor as the lone dissenter. Chief Justice John Roberts, who wrote the majority opinion, fell back on a 1942 case (*Northern Railway Co. v. United States*) that rejected the railroad's plan to drill for oil on its right of way in Montana. "At that time, Roberts said, the government argued that Congress 'granted an easement and nothing more.' Just as the Court said then, the easement included no right 'to the underlying oil and minerals,' today it provides no right for continued use of the right of way for hikers and bicyclists."³ The court emphasized that the scope of its opinion is narrow and that it applied only to the rights granted to the Brandt's under the terms of the Railroad Act of 1875, and further "noted that conveyances made pursuant to pre-1871 charter statutes might turn out differently"⁴

What can we expect going forward?

According to Sutherland.com, the ruling means that thousands of miles of currently existing rail-to-trails and railbanked rights of way may be open to 4th Amendment challenges for compensation and as many as 10,000 in-process parcels in 30 states are now in legal limbo. "By upsetting the status quo and holding that the government retains no interest in thousands of miles of abandoned railroad easements, the Supreme Court likely guaranteed that the Justice Department's current litigation efforts will be dwarfed by new rails-to-trails takings claims."⁵ Depending on whether the rights involved in these

Supreme Court
continued on page 14

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cases are pre-1871 fee or Railroad Act of 1875 easements, the costs could result in the expenditure of millions of dollars and possibly in the complete collapse of the Rails-to-Trails program administered under the nonprofit Washington-based Rails-to-Trails Conservancy (RTC). Having filed a friend-of-the-court brief, the RTC called the ruling “disappointing.”

While RTC was disappointed by the decision, a closer examination of the details of *Brandt v. U.S.’s* potential impact, the RTC has reason to believe that the vast majority of rail-trails and rail-trail projects will not be directly affected. They believe that existing rail-trails and trail projects are not affected by this decision if any of the following conditions are met⁶:

- The rail corridor is “railbanked.” (This is the federal process of preserving former railway corridors for potential future railway service by converting them to multi-use trails.)
- The rail corridor was originally acquired by the railroad by a federally granted right-of-way through federal lands before 1875.
- The railroad originally acquired the corridor from a private land owner.
- The trail manager owns the land adjacent to the rail corridor.
- The trail manager owns full title (fee simple) to the corridor.
- The railroad corridor falls within the original 13 colonies.

Regardless of whether we want to view the glass as half empty or half full, the ruling, even if limited, will have a dramatic impact on the Rails-to-Trails program going forward. Undoubtedly there will be more challenges by conservative owners resentful of government intrusions attempting the chip away at the RTC’s exception list and, all the Railroad Act of 1875 parcels that are in currently in court process will be subject to either eminent domain litigation or abandonment depending on RTC’s proclivity in fighting these legal actions.

Going forward with Railroad Act of 1875 generated projects, RTC will be faced with three possibilities: 1) abandonment of all such projects, 2) proceed with only “railbanking” projects, or 3) face a normal appraisal-acquisition-eminent domain process.

For the remainder of RTC’s laundry list of viable projects, they can only hope that the Supreme Court’s ruling under *Marvin M. Brandt v. United States* remains “limited.” Only time and additional challenges will define the ongoing survival of the Rails-to-Trails program as we know it today.

The only thing we can be sure of is that “the wheels of justice will grind exceedingly slow but exceedingly fine.” We can only hope that the flour that is sifted out as product is to our liking.

¹ *Rails-to-trails Conservancy, RTCOnline, “History of Railbanking”, www.railstotrails.org.*

² *Right of Way, June, 1989, “Some Good News for Joint Use of Federally Granted Railroad Rights of Way” by Charles H. Montange.*

³ *Wall Street Journal, “Justices Side with Landowner in Fight Over Public Trail” by Jess Bravin, page A6, March 11, 2014.*

⁴ *Sutherland.com, legal alert: Marvin M. Brandt Revocable Trust v. United States: Supreme Court Opens the Door to Potential Fifth Amendment Takings Litigation in Rails-to-Trails Cases, March 13, 2014.*

⁵ *Ibid.*

⁶ *Rails-to-Trails Conservancy, “Supreme Court Case Overview,” by Amy Kapp, posted March 17, 2014.*

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CPL Recertification Credits: 2.0

CPL/ESA Ethics Credits: 0.0

Pooling Seminar

When: May 16, 2014

Where: Denver, CO

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CPL Recertification Credits: 2.0

CPL/ESA Ethics Credits: 0.0

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When: June 2, 2014

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When: June 4, 2014 – June 7, 2014

Where: Pittsburgh, PA

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CPL Recertification Credits: 18.0

CPL/ESA Ethics Credits: 1.0

Basics of Geographic Information System

When: June 6, 2014

Where: The Woodlands, TX

RL/RPL Continuing Education Credits: 5.0

CPL Recertification Credits: 5.0

CPL/ESA Ethics Credits: 0.0

Fundamentals of Land Practice & OPTIONAL RPL Exam

When: June 10, 2014 – June 11, 2014

Where: Baton Rouge, LA

RL/RPL Continuing Education Credits: 7.0

CPL Recertification Credits: 7.0

CPL/ESA Ethics Credits: 1.0

RPL & CPL Exam Only

When: June 13, 2014
Where: Casper, WY
RL/RPL Continuing Education Credits: 0.0
CPL Recertification Credits: 0.0
CPL/ESA Ethics Credits: 0.0

Negotiations Seminar

When: June 16, 2014
Where: Pittsburgh, PA
RL/RPL Continuing Education Credits: 5.0
CPL Recertification Credits: 5.0
CPL/ESA Ethics Credits: 0.0

Annual Meeting

When: June 25, 2014 – June 28, 2014
Where: Montreal Quebec, Canada
RL/RPL Continuing Education Credits: TBD
CPL Recertification Credits: TBD
CPL/ESA Ethics Credits: TBD

July 2014

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When: July 1, 2014
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When: July 10, 2014
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Oil & Gas Land Review, CPL/RPL Exam

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RPL/CPL Exam Only

When: July 19, 2014
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CPL Recertification Credits: 0.0
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Applied Land Practices

When: July 21, 2014
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CPL Recertification Credits: 7.0
CPL/ESA Ethics Credits: 0.0

Due Diligence Seminar

When:
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CPL Recertification Credits: 5.0
CPL/ESA Ethics Credits: 0.0

JOA Workshop

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Land Administration – Landman Lease Records (CalCo)-00010118

This position will be responsible for analyzing and set up of provisions of various leases, deeds, rights-of-way, and agreements involving company assets in order that a property records base is created and maintained.

- Strong working knowledge of provisions of oil and gas leases and any and all contracts associated with oil and gas to insure proper set up in QLS for reporting purposes and payment obligations for maintenance of same
- Ability to work with all kinds of land systems particularly QLS
- Ability to coordinate the payment of lease rentals, shut-in royalties and minimum royalties to assure that they are paid in an accurate and timely manner and in accordance with California statutes
- Experience with research of producing leases for well status and should production ceases, ability to advise operations what is required to maintain the lease
- Knowledge of title report preparation
- Ability to assist in property divestiture and acquisition projects by analysis and interpretation of title and ownership data, determination of preferential rights and consents to assign provisions
- Ability to act as a liaison with internal and external customers to resolve ownership problems, royalty/rental inquiries and release demands
- Excellent working knowledge of California Statutes regarding transfers of interest and probate proceedings so that current ownership is reflected in the system
- Working experience interacting with joint interest billing and revenue accounting

Qualifications

- Bachelors Degree
- Land mapping skills – ability to understand legal descriptions
- A minimum of 2 years of in-house, broad-based working experience in traditional operations landman/land negotiator roles or other relevant experience
- Understanding of distribution of revenues on producing properties
- Knowledge of other related systems and informational websites for research

Desired Qualifications:

- CPL or RPL preferred
- Enjoys detailed work and basic math
- Good communication skills
- Computer skills including Microsoft Office
- Work independently and prioritize tasks
- Basic time management and problem solving skills
- Functions well in team-based environment; can effectively establish and maintain peer relationships

Land Administration – Landman Division Orders (CalCo)-00010111

This position will be primarily responsible for the set up and maintenance of divisions of interest for producing properties located in California.

Career Opportunities - OXY
continued from page 20

- Strong working knowledge of Division Orders; Prior division order experience relative to California; Prior experience with any division order system is preferred Ability to examine and analyze Oil & Gas Leases, Joint Operating Agreements and other pertinent title documents and contracts to determine burden ties to specific WI Parties in a producing property or tract
- Ability to examine and analyze Oil & Gas Leases, Joint Operating Agreements, Title Opinions and other pertinent contracts to calculate and determine 100% Ownership for a particular producing property or tract, as well as the ability to calculate and confirm the GWI and NRI of all WI Parties in such property.
- Strong understanding of title, including burden ties
- Experience with enhanced recovery units and the ability to calculate interests on a tract and unit basis.
- Strong understanding of how division order data feeds and interfaces to Joint Venture Billing and Revenue Accounting applications
- Extensive experience with Marketing Agreements to calculate, determine and confirm the payment responsibilities on multiple products for a producing property or tract
- Experience communicating with interest owners in response to inquiries regarding payment issues and interest calculations
- Strong ability to analyze and interpret title curative documentation including deeds, assignments and probate materials furnished by lessors and working interest owners in order to maintain record title in ownership decks and proper paycodes
- Experience with data conversions, including drafting, designing and coordinating data mapping for such conversions or acquisitions

Qualifications

- Bachelor's Degree
- Years of experience – 2 to 5 plus

Career Opportunities - OXY
continued on page 22

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- Enjoys detailed work and basic math
- Good communication skills
- Computer skills including Microsoft Office
- Work independently and prioritize tasks
- Basic time management and problem solving skills
- Functions well in team-based environment; can effectively establish and maintain peer relationships

Land Administration – Land Specialist Division Orders (CalCo)-00010123

This position will be responsible for assisting the Landman- Division Orders with the maintenance and set up of company division orders.

- Strong working knowledge of title issues and title documentation related to the payment of production proceeds on producing oil properties determined by California statute
- Working experience with relationships between Division Orders, Revenue Accounting and Joint Interest Billing
- Ability to maintain divisions of interest by processing changes in ownership based on analysis, interpretation and research of conveyance documents, probate proceedings and/or other legal documentation
- Ability to issue payment instructions to revenue accounting for proper disbursement of proceeds
- Knowledge to secure proper documentation to complete the chain of title, relative to requests for changes in ownership
- Strong ability to resolve ownership problems in a timely and accurate manner
- Experience with interacting with interest owners, operators, attorneys and industry counterparts via telephone and written communications
- Ability to prepare and circulate division and/or transfer orders to mineral interest owners for distribution and execution and any needed follow-ups to ensure proper and timely payment
- Ability to coordinate and/or handle Division Order Issues related to escheat reporting, including research and follow-up with interest owners based on responses to Unclaimed Property Notices and/or inquiries on actual funds filed with appropriate state authorities as Unclaimed Property.
- Research history files for previous owner changes and information as needed and requested by the Landman and owners to clear title issues
- Coordination with Landman to ensure accuracy of decimal interests and pay status during well setups and transfers of interest ownership and pay code changes
- Conduct online searches for location of owners who may be deceased or who are in suspense for address unknown

Qualifications

- High School Diploma
- 2-5 years of experience
- Computer Skills - Division Order Software strongly preferred, Microsoft Office
- Establish and maintain workflows, processes, procedures and data management with respect to division order functions
- Assist with SOX audits
- Placing and tracking failures on Owner Relations failure log with revenue accounting
- Maintain Land Administration's procedure manual
- Track OBO Division Orders
- Verify IRS Tax Identification Numbers
- Assist with acquisitions - data analysis (date cleanup/conversion, load data preparation, data mining), help ensure all necessary information is prepared to load data
- Ad hoc data queries - occasional ad hoc reports using SQL Dev/Excel
- Provide monthly and quarterly stats
- Check Discoverer for failed transfers and send spreadsheet to accounting to update the specific cost centers
- Process Net Profit interest transfers
- Answer Inquiries from Interest Owner Relations Teamsite
- Set up net bills in POS

Career Opportunities - OXY
continued from page 22

- Create Payor/Operator Sites for Accounting
- Familiarity with EFTs and W-9s
- Load BNA owners
- Work County Lis Pendens with County Tax Departments
- Assist with the software conversion Property Ownership System (POS) to P2Land Perform special projects as assigned

Tech:

- Monthly ACH return items report for EFTs
- OXY Docs 3.0 – Indexing and scanning of BNA, EFTs and W-9s as needed
- GIS – Enter foreign countries, states, cities and zip codes that are not in the system yet to be able to complete BNA changes
- Process B Notice letters sent from reports received from IRS

Land Administration – Land Specialist Lease Records (CalCo)-00010124

This position will be primarily responsible for assisting the Landman – Lease Records in the payment of contractual obligations and other supporting roles.

- Strong working knowledge of documents submitted for lease ownership transfers and communicating with owner if additional information is required
- Strong communicating skills to respond to owners about any of their inquiries
- Experience with making monthly contractual obligation payments from QLS records
- Working knowledge of set ups and maintenance of LSRT sites in BNA including submitting W-9s for verification of Tax ID #s
- Ability to prepare QLS name/address reports for submittal to Accounts Payable for processing of monthly obligation payments and working with A/P to confirm that all checks have been printed and payments have been made
- Preparation of manual checks
- Ability to research unclaimed/undeliverable payments
- Ability to update and scan documents into QLS
- Working with A/P on setting up ACH payments for those owners wishing to have their rental check direct deposited
- Working knowledge of county requirements for recording instruments

Qualifications

- High School Diploma
- Computer Literacy with experience with Microsoft Office
- Ability to communicate successfully with internal and external inquiries
- Previous Land experience preferred
- Previous work in a professional environment a plus
- Enjoys detailed work
- Work independently and prioritize tasks
- Basic time management and problem solving skills
- Functions well in team-based environment; can effectively establish and maintain peer relationships

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Legislative Update



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



City of Carson Votes to Decline to Extend Moratorium

The Carson City Council declined to extend a fracking-inspired moratorium on all oil and gas drilling in a vote taken in the early morning hours of Wednesday, April 30th.

The council enacted a 45-day ban on all drilling on March 19th, to give the city time to review the alleged safety risks of oil and gas operations, including hydraulic fracturing. The only planned drilling in the city was a proposal by Occidental Petroleum to drill more than 200 wells, none of which would involve fracking. Continuation of the moratorium would have required a four-fifths supermajority vote by the city council. Only two council members voted to extend the ban. Two others opposed, and one member abstained.

Also discussed at the meeting was the pending lawsuit filed by some Carson residents related to homes built over abandoned oil operations that have been affected by contamination in the soil.

Supporters and opponents of drilling activity turned out in force for the council meeting.

“We want Carson to be safe,” Maria Elena Durazo, executive secretary-treasurer of the Los Angeles County Federation of Labor AFL-CIO told The Los Angeles Times, “but let’s not pass a law that’s going to cut off this city from its economy. Together, we will fight to make Carson safe and prosperous for all residents.”

William McFarland, Human Resources Manager for Occidental Petroleum, told the Times that the council’s vote showed “that the city continues to recognize the value of an industry that brings safe projects and good jobs to the community.”

WSPA Release Report Detailing Economic Impact of Oil & Gas Industry on California

The Western States Petroleum Association (WSPA) on Monday, April 21, released the findings of a new economic study produced by the Los Angeles County Economic Corporation (LACEDC) detailing the oil and gas industry’s sizable economic and fiscal impact on California’s economy.

The 72-page report finds that the industry was responsible for 468,000 California jobs in 2012 (the latest year for which complete data was available), or 2.3% of the state’s employment, and more than \$220 billion in direct economic activity, contributing 5.4 per cent of the state’s GDP. Additionally, the industry provides more than \$21.6 billion in state and local tax revenues and \$14.7 in sales and excise taxes.

According to the Division of Oil, Gas and Geothermal Resources of the California Department of Conservation (DOGGR), almost 4,680 new wells were drilled in 2012, bringing the total to 210,000, with 570 companies operating the 88,500 wells that are currently active.

U.S. oil field production totaled just less than 2.4 billion barrels in 2012. California produced 197.2 million barrels, representing 8.3 percent of total national production. Out of the 31 oil-producing states, California ranked third, (it has since been surpassed by North Dakota and now ranks fourth).

Petroleum refining is a component industry with a large presence in California. At the end of December 2012, annual operable atmospheric crude oil distillation capacity in California was nearly 2.0 million barrels per calendar day (BPCD), representing 11 percent of total U.S. capacity (17.8 million BPCD).

The SoCal Sub-Region, of which there are four, is comprised of six counties; Los Angeles, Orange, Imperial, Riverside, San Bernardino and San Diego. The Sub-Region was responsible for providing 212,220 direct and indirect jobs, generating over \$10.5B in state and local taxes and also an additional \$6.5B in federal taxes.

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Legislative Update
continued from page 24

The study also affirmed the impact the Central Valley has on the oil & gas industry. The Central Valley/Northern California Sub Region (which consists of sixteen counties) had 84.2% of the state's active wells. It produced 81% of the state's gas production and 74.7% of the oil production. The Sub Region also had 23.6% of the state's direct employment in the oil & gas industry and the total direct, indirect and induced employment was 85,620 or 18.3% of the total California contribution.

As to fiscal contributions in the Central Valley/NorCal Sub Region, state and local taxes totaled over \$3,4B, federal taxes totaled over \$2,2B.

The entire report can be viewed at www.wspa.org

Strong Opposition to Oil Extraction SB1017

California oil companies and business advocates have organized a campaign to defeat proposed legislation that would place a tax on oil extraction in California. The bill, SB 1017, is authored by state Sen. Noreen Evans, a Democrat from Santa Rosa. It would generate about \$2 billion dollars a year for higher education, state parks and health and human services.

This bill would impose an oil and gas severance tax upon any operator, as defined, for the privilege of severing oil or gas from the earth or water in this state for sale, transport, consumption, storage, profit, or use, as provided, at specified rates, calculated as provided. The tax would be administered by the State Board of Equalization and would be collected pursuant to the procedures set forth in the Fee Collection Procedures Law. The bill would require the board to deposit all tax revenues, penalties, and interest collected pursuant to these provisions into the California Higher Education Fund (whose establishment is part of the bill).

California Chamber of Commerce President and CEO Allan Zaremborg released the following statement on SB 1017: "We just raised California taxes by \$7 billion a year for seven years. We now have a projected \$5 billion surplus. To create a new tax on oil only extracted in California will drive up the price of California oil which constitutes about 40% of the California gasoline market. California's robust oil industry will be at a competitive disadvantage. This new tax will kill jobs and

Legislative Update
continued on page 26

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Legislative Update
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hurt local tax revenues. In addition, the bill would create an unaccountable, unnecessary, and expensive bureaucracy. The proposal appears to conflict with Governor Brown's earlier comments in response to a question about taxing oil extracted in California."

Additionally, Western States Petroleum Association's (WSPA) statement on SB 1017 read in part: "...Increasing taxes on oil production in California will place the state at a competitive disadvantage with other states and countries that impose lower taxes and costs on production. That will mean more dependence on foreign oil at a time when the rest of the nation is experiencing a renaissance in domestic production and increased energy security."

Moratorium Bill on Hydraulic Fracturing Passes Through Committee

A bill by Senators Holly J. Mitchell (D-Culver City) and Mark Leno (D-San Francisco), which would impose a moratorium on the practice in California, has passed out of the Senate's Natural Resources and Water Committee.

SB 1132 would halt hydraulic fracturing until state-sponsored research determines whether it can be done safely and the conditions for its regulated use. The bill would place a similar temporary ban on other well stimulation practices increasingly used in urban neighborhoods, such as acidization.

On a party line vote, the panel sent the bill to the Senate Environmental Quality Committee for further consideration. SB 1132 is the only bill pending in the Legislature which seeks to regulate HF and other methods of oil extraction beyond traditional drilling.

City of Beverly Hills Bans Hydraulic Fracturing

In a unanimous vote, on April 22, Beverly Hills became the first city in California to pass a ban on fracking and related well stimulation techniques. The ordinance not only would make it unlawful to use hydraulic fracturing, acidizing or any other well stimulation technique from any surface area in the City—it also prohibits these activities from any site outside

Legislative Update
continued on page 27

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city limits that would drill and extract oil and gas underneath the city. The ordinance will now return to the Beverly Hills City Council for its final reading at an upcoming formal Council meeting where a second vote will put the law into effect.

This follows the actions of the City Councils of Los Angeles, Compton and Culver City, who have directed their city attorney to draft an ordinance banning hydraulic fracturing and other well stimulation techniques. Once the ordinance is created, it must go before the Council for a vote

No Correlation between Water Contamination and Hydraulic Fracturing

Hydraulic fracturing has been used since the 1940's. According to Energy in Depth, a research, education and public outreach campaign launched by the Independent Petroleum Association of America (IPAA), this well stimulation technique has never been conclusively associated with groundwater contamination -- a fact regulators and scientists from the Obama administration, the Brown administration and the National Academy of Sciences have repeatedly reiterated.

Hydraulic fracturing in California uses an average of 160,000 gallons of water per well. That's about one-fifth of an Olympic-sized swimming pool. In fact, in 2013 the California Department of Conservation reported hydraulic fracturing used slightly more than 300 acre feet of water in a year. For context, California's golf courses use 140,000 acre feet and agriculture used 34 million acre feet. Not to mention that oil development actually produces water, which is sometimes treated and sold to agriculture.

According to Tim Kustic, former DOGGR Supervisor, "there is no evidence of harm from fracking in groundwater in California at this point in time." Dr. Mark Zoback of Stanford University agrees, stating "fracturing fluids have not contaminated any water supply and with that much distance to an aquifer, it is very unlikely they could."

CIPA Announces the Launch of the Move "Truthland?"

The California Independent Petroleum Association (CIPA) announced the national launch of "Truthland", the factual alternative to "Gasland." The development of enormous reserves of American energy from tight formations such as shale has been hailed as a "game-changer" by the Energy Information Administration, as playing a "key role in our nation's clean energy future," according to the Environmental Protection Agency, and as a means of helping our country "create jobs and power trucks and factories that are cleaner and cheaper," President Obama said earlier this year.

But for one mom in rural northeast Pennsylvania, the only real question that mattered was this: Is the process used to develop these resources safe? Or is it the way "Gasland" star Josh Fox tried to portray it in his HBO film: dangerous and disruptive – and completely unregulated, to boot? Shelly – a mother, grandmother, farmer and science teacher from Susquehanna Co., Pa. – needed answers, for herself, her family and her community. So she went looking for some. Her journey in search of the truth is captured and chronicled in "Truthland," .

"Obviously, this isn't the first time something has been released that sets the record straight on the mountain of misinformation in 'Gasland,'" said Jeff Eshelman, vice president of public affairs for Independent Petroleum Association of America (IPAA). "But it is the first time that these facts have been transmitted in such vivid detail, through such a compelling medium, as part of a story told by someone as genuine and inspirational as Shelly – someone whose stake in responsible development, and in protecting air, water and the environment, is both very serious and deeply personal."

The full movie can be viewed at TruthlandMovie.com. CIPA will be hosting screenings of the movie in the coming months. For more information or to obtain a DVD copy of the movie, contact Rock Zierman at 916-447-1177.

.....*AND FINALLY IN THE "YOU JUST CAN'T MAKE THIS UP" CATEGORY*

Hydraulic Fracturing Compared to Slavery

In an article from The Colorado Statesmen of April 25, during a debate between environmental activists and industry experts on the safety of hydraulic fracturing, Wes Wilson of the progressive organization, Be The Change, compared HF to slavery. Wilson stated, "Slavery had a lot of economic benefits, but it had an ethical problem," Wilson slammed his opponents. "Bringing fossil fuels is an ethical problem..."

Words escape me....



Save the Date

32nd Annual

2014 WEST COAST LANDMEN'S INSTITUTE



TO BE HELD AT:



Wednesday Night Reception at:



Thursday Night Reception at:
The Wheel House

Wednesday Golfing at:



We have reserved a limited number of tee times (with an anticipated 12:00 pm Shotgun Start) for golf on Wednesday at the Rio Secco Golf Course (prior to the WCLI) for our participants. The cost is \$225 per player and includes a box lunch and drinks from Noon - 2 pm.

Friday Drawing for Prizes

"In conjunction with the 2014 Annual West Coast Landman's Conference, this year we will be holding a raffle on the last day of the Conference in appreciation of our Industry's growth. We are requesting raffle items for donation, so whether your Company is Fortune 500 or a small Independent, this is a great opportunity to contribute to show your appreciation and promote your business.

If interested in donating, what we need: Donations of Golf, Gift Baskets, Gift Certificates or anything else you think is of interest.

Each Attendee will receive two raffle tickets upon arrival with the opportunity to purchase additional tickets to increase their odds throughout the week. For further information please contact R. Michael McPhetridge @ rmm@rmmenergypartnersllc.com or Yvonne Hicks @ yvonne@mavpetinc.com."

SAVE THE DATE - MORE DETAILS TO COME!!



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32nd Annual



2014 West Coast Landmen's Institute

Flamingo Las Vegas

Wednesday – Friday

October 22 – 24, 2014

The Bakersfield Association of Professional Landmen (BAPL) and the Los Angeles Association of Professional Landmen (LAAPL) proudly presents the 32nd Annual West Coast Landmen's Institute, to be held at the *Flamingo Las Vegas*.

As in the past, this year's Institute should prove to be a superb learning opportunity for all land professionals, attorneys, and other professionals who work in the oil and gas industry.

Registration Fees: Members of the BAPL or LAAPL is \$250 (\$300 if received after September 15th); non-members \$300 (\$350 if received after September 15th); and true "Independents**" a reduced rate of \$200 (\$300 if received after September 15th). These Fees include Institute papers, the Wednesday and Thursday evening receptions, Thursday lunch and a plated breakfast each morning.

**In this context, an Independent Landman is defined as any individual who receives compensation for their services, either on a per diem or hourly basis (1099), and who does not routinely employ other Landmen to work on a contract basis for their benefit. In other words, Brokers and Independents who have assistants do not qualify as an Independent Landman for the discounted registration fee.

The AAPL will award RL/RPL Continuing Education Credits or CPL Recertification Credits, for participation in this Institute. AAPL Attendance Affidavits will be available at this event (see confirmed Speaker Line-up on next page). Day Carter Murphy will be coordinating CLE credits for the legal profession.

Registrants should make overnight accommodations directly with *Flamingo Las Vegas*, by calling 888.373.9855 (Group Name: West Coast Landmens Institute Annual Meeting) and reference the code SFWCL4 or online at <https://resweb.passkey.com/go/SFWCL4> for the West Coast Landmen's Institute (WCLI).

We have a limited number of rooms secured at an all inclusive Group rate of \$92.96 per night at *Flamingo Las Vegas*, but you must book your reservation by

Monday, September 15, 2014 to take advantage of this reduced rate, and room availability is not guaranteed after this date!

Independents: Share a room with another and save!

Individuals will be responsible for their own reservations. You have 72-hours prior to your arrival date in which to cancel your reservation. All no shows and cancellations within this period will be charged to the individual. We have guaranteed a minimum number of rooms each night, so we ask you to consider using our block of rooms at *Flamingo Las Vegas* if you plan to rent your lodging in the area for this event. Early arrival and late departures may be requested at the applicable Group rate at the time reservations are made. The applicable Group rate will be extended 3 days prior and 3 days following our event, based on availability. These rates will not be available past the September 15th deadline.

We have reserved a limited number of tee times (with an anticipated 12:00 pm Shotgun Start) for golf on Wednesday at the Rio Secco Golf Course (prior to the WCLI) for our participants (*\$225 per player and includes a box lunch and drinks from Noon - 2 pm*). Please remember to complete the attached Sponsor/Registration form if you wish to play golf or attend the WCLI.

This year we will be holding a raffle on the last day of the Conference in appreciation of our Industry's growth. We are requesting raffle items for donation, so whether your Company is Fortune 500 or a small Independent, this is a great opportunity to contribute to show your appreciation and promote your business.

If interested in donating, what we need: Donations of Golf, Gift Baskets, Gift Certificates or anything else you think is of interest.

Each Attendee will receive two raffle tickets upon arrival with the opportunity to purchase additional tickets to increase their odds throughout the week. For further information please contact R. Michael McPhetridge @ mmm@rmmenergypartnersllc.com or Yvonne Hicks @ yvonne@mavpetinc.com.

32nd ANNUAL WCLI REGISTRATION FORM

Please Register Early As There Is Limited Space

Complete name and company information requested below. If you plan to play golf on Wednesday afternoon, please check the appropriate box and make your payment along with your registration fees. Mail this section with your check payable to: BAPL, Attn. Mary Costa, PO Box 10525, Bakersfield, CA 93389.

Member Prices:

Non- Member Prices:

Member Independent Prices:

Non- Member Independent Prices:

[] \$250 paid by 9/15

[] \$300 paid by 9/15

[] \$200 paid by 9/15

[] \$250 paid by 9/15

[] \$300 paid after 9/15

[] \$350 paid after 9/15

[] \$300 paid after 9/15

[] \$350 paid after 9/15

[] \$175 per Spouse/Significant Other, or non-participating guest fee (includes both receptions, breakfasts and luncheon). One price for participating either one or both days. Number of additional guests _____

Events:

[] Wednesday Reception at Margaritaville , 10/22

Number of Attendees _____

[] Thursday Breakfast, 10/23

Number of Attendees _____

[] Thursday Lunch, 10/23

Number of Attendees _____

[] Thursday Reception at The Wheel House, 10/23

Number of Attendees _____

[] Friday Breakfast, 10/24

Number of Attendees _____

[] Check this box if you are a participant attending under a Sponsorship

[] Check this box if you are a Speaker

Name _____ Guest _____

Company _____ Address _____

City _____ State _____ Zip _____

Phone # _____ Email: _____ CPL or RLP # _____

TOTAL ENCLOSED \$ _____ [] I am a Sponsor – Form Attached

For questions regarding Registration and Sponsorships, please contact Mary Costa at 661.616.3818 or email mcosta@linnenergy.com

[] Golf at Rio Secco Golf Course, Wednesday 10/22 – \$225 Number of Players _____

Golf Partners: _____

Please note any preference for golfing partners above.

Payment for golf must be received in advance! Please include payment with your registration.

For questions regarding Golf, please contact R. Michael McPhetridge at 661.333.6119 or email rmm@rmmenergypartnersllc.com

Please note: The WCLI retains cancellation rights. In the unlikely event of cancellation, the WCLI Committee will make every attempt to notify pre-registrants. Refund requests within two(2) weeks of the Institute will be assessed a \$50 Administrative Fee.

2014 WCLI Sponsorship Levels

Thank you for your interest in sponsoring the West Coast Landmen's Institute. Below is an overview of our sponsorship opportunities – we hope you'll find one that best suits the needs of your organization.

SPONSOR LEVELS:	ONE STAR	TWO STAR	THREE STAR	FOUR STAR	FIVE STAR
Benefits:	\$500	\$1,000	\$2,000	\$3,500	\$5,000
Complimentary WCLI Registration	One Tuition	One Tuition	Two Tuitions	Three Tuitions	Five Tuitions
Complimentary Guest Registration	-	One Guest	Two Guests	Three Guests	Five Guests
Golf Registration	-	-	One Golf Registration	Two Golf Registrations	Three Golf Registrations

All of our sponsors will also receive:

- ❖ Name Badge Recognition Ribbon
- ❖ Company Logo Placement on Event Banners and at Registration Table
- ❖ Authorization to Provide Sponsor Giveaways to Attendees
- ❖ Space on Sponsor Table to Display Company Information/Handouts

Company: _____

Sponsorship Level (please check one):

Contact: _____

One Star - \$500 Four Stars - \$3,500

Address: _____

Two Stars - \$1,000 Five Stars - \$5,000

City: _____

Three Stars - \$2,000

State: _____ Zip Code: _____

Sponsorships, golf and registration can only be paid via check or online at:

Phone: (_____) _____

- Attendee registration: <https://squareup.com/market/bakersfield-association-of-professional-landmen/west-coast-landmen-s-institute-registration>
- Golf registration: <https://squareup.com/market/bakersfield-association-of-professional-landmen/west-coast-landmen-s-institute-golf-tournament>
- Sponsorship: <https://squareup.com/market/bakersfield-association-of-professional-landmen/west-coast-landmen-s-institute-sponsorship-opportunities>

For online Sponsorships, golf and registration, please use **Google Chrome** or **Safari**, there are problems if you use Internet Explorer

Please list the participants attending under your Sponsorship

Note: Complimentary Registrants must indicate as such on their registration form.

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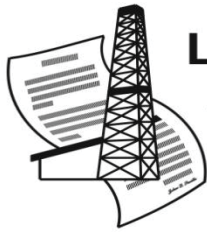
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The 2014 LAAPL Mickelson Golf Classic

A call for Early Bird Sponsorships and Signups.



**Los Angeles
Association
of Professional
Landmen**



Monday, August 4, 2014

Rolling Hills Country Club Located in Rancho Palos Verdes

**Directions: Go to www.rollinghillsscc.com
27000 Palos Verdes Drive East
Rolling Hills Estates, California 90274
(310) 326-4343**

Diane Ripley, this year's LAAPL Golf Chair cordially invites you to participate in the 2014 LAAPL Mickelson Golf Classic "Shotgun" fundraiser to be held in beautiful Rancho Palos Verdes @ the Rolling Hills Country Club. LAAPL will donate the net proceeds realized from the tournament to the R.M. Pyles Boys Camp, thus we encourage you to "sponsor" generously. Please return your checks with completed sponsorship forms and logos as soon as possible and no later than July 19, 2013, as only 70 golf reservations are available. Cocktail hour, buffet dinner, lunch, raffle and awards ceremony will follow. We look forward to your participation.

***EVENT SPONSORSHIPS AVAILABLE from \$150
(Please see attached form)***

If you have any questions or wish to donate raffle prizes, please call:

Diane Ripley, Golf Chair 2014

Public & Government Relations and Community Outreach

2892 Bellflower Blvd., Suite 459

Long Beach, CA 90815

tel. 562-883-3001, Diane0007@aol.com

2014 LAAPL MICKELSON GOLF CLASSIC

*Hosted by the Los Angeles Association of Professional Landmen
Monday, August 4, 2014, Rolling Hills Country Club*

SPONSORSHIP FORM

The Los Angeles Association of Professional Landmen is proud to host the 2014 Mickelson Classic, a "Shotgun" 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:

____ "HOLE IN ONE": Full page ad – plus presenting sponsor status in all tournaments
material and program sponsorship **\$2500.00**
(Includes golf, lunch and dinner for Two Foursomes)

____ "EAGLE": Full page ad - plus special recognition in tournament & program **\$1200.00**
(Includes golf, lunch and dinner for a Foursome)

____ "BIRDIE": Half page ad - golf tournament program **\$600.00**
(Includes golf, lunch and dinner for Two players)

____ "PAR": Quarter page ad - golf tournament program **\$300.00**
(Includes golf, lunch and dinner for One player)

____ "CLUBHEAD SPECIAL": **\$150.00**
(Includes your name listed in tournament materials and golf tournament program)

**Please make your checks payable to LAAPL, mail payment and
sponsorship forms to: (Credit Cards accepted through Paypal)**

**Jason Downs
BreitBurn Management Co.
515 S. Flower Street, 48th Floor
Los Angeles, CA 90071
tel. 213-225-0347, Jason.Downs@BreitBurn.com**

I am enclosing a check payable to LAAPL in the amount of \$_____ and will e-mail my camera ready artwork directly to Diane0007@aol.com & cc Jason.Downs@BreitBurn.com

REGISTRATION FORM

*Hosted by the Los Angeles Association of Professional Landmen
Monday, August 04, 2014, Rolling Hills Country Club*

CHECK IN:	10:00 AM	GOLF & DINNER:	\$225
TEE TIME:	10:50 AM	GOLF ONLY:	\$200
DINNER:	4:30 PM	DINNER ONLY:	\$50

Name: _____ Special Request _____

Sponsor Spot _____ Golf & Dinner _____ Dinner Only _____

Name: _____ Special Request _____

Sponsor Spot _____ Golf & Dinner _____ Dinner Only _____

Name: _____ Special Request _____

Sponsor Spot _____ Golf & Dinner _____ Dinner Only _____

Name: _____ Special Request _____

Sponsor Spot _____ Golf & Dinner _____ Dinner Only _____

I am enclosing a check payable to LAAPL in the amount of \$ _____ for _____ Golfers & _____ Dinners.

Comments:

Tournament format will be a 4-man shotgun scramble. Prizes will be awarded for 1st place, longest drive, and closest to the pin. **Club Rules:** No coolers on the course, no golf carts driven on vehicle parking lot, shirts with collars only (no t-shirts, sweats, tank tops, denim, short shorts or cut-offs).



RM Pyles Boys Camp

DARING BOYS TO BECOME MEN



Each year 500 deserving boys from Los Angeles, Ventura, Santa Barbara, Kern and Orange Counties are given the opportunity to go to camp free of charge through the generosity of the young men of Southern California. During the past **60+ years**, over **26,000** boys have participated in this life changing experience.

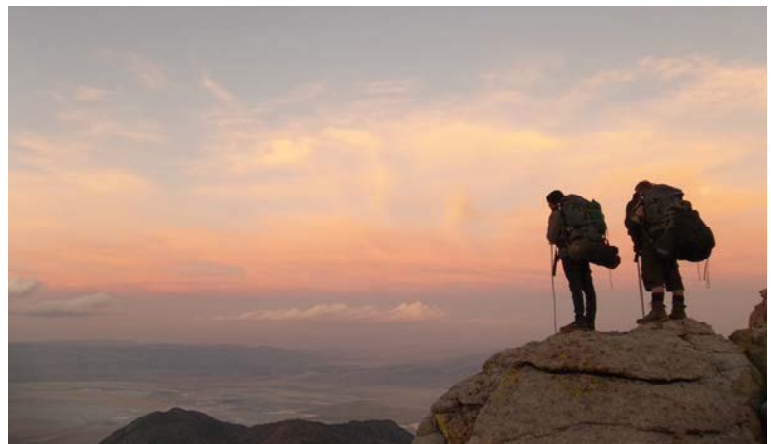
Founded in 1949 by oilman Bob Pyles, the camp is supported by special fundraising events and by contributions from individuals, corporations, foundations and service organizations in each of the local area we serve in Southern California. During that time countless men women from Southern California have given of their time and resources to help boys become good and productive citizens we are extremely proud of our success and recognize that it is only made possible by people who have faith in our ability to change boys' lives forever.

We ask that you join other individuals, businesses and foundations that want to make a difference in their community by annually sponsoring one or more boys.



OUR MISSION:

R.M. Pyles Boys Camp promotes long-term positive behavioral change for low-income, disadvantaged boys by providing a multi-year wilderness camp experience supplemented by year-round mentoring that builds life and instills the values of hard work, education, and positive choices.



If you want to donate or have any questions, please contact our Executive Director, Stan "Coach" Moe

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