

The Override

Every Landman Wants One!

Volume X, Issue IX

September, 2017



Presidents Message

Sarah Bobbe, CPL
President
Signal Hill Petroleum, Inc.

Dear LAAPL members,

I would like to start the 2017-2018 term by thanking our past President, John R. Billeaud, for his service and commitment to the LAAPL. J.R. has paved the way for the continued improvement and success of the organization. One of J.R.'s notable accomplishments was working closely with the Board to launch an updated website with a more user friendly platform. If you haven't visited the site already, I encourage you to do so at www.laapl.com. Thank you, J.R., and I look forward to serving with you again this year. I would also like to thank the



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Officers and Chairs serving alongside us this term. We are a small group compared to other chapters around the country and your participation, year after year, is fundamental to the success of LAAPL.

My first years as an Independent Contractor were spent in small, rural communities, mainly in Utah and Colorado. I spent two years in Ephraim, Utah, a town of 6,000, known for its turkey farming, friendly people and complete lack of establishments that sell adult beverages. I have wonderful memories of those projects but I do remember thinking to myself, "I wish I could be doing this work that I love in a location that I love just as much." It felt like too much to ask at the time but fast forward several years later and I eventually found myself in sunny Southern California, still a Landman but working in a very different, challenging and specialized capacity.

Needless to say, I haven't looked back. Part of what makes working in this

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Meeting Luncheon Speaker

"Update on Oil and Gas Lawsuits and Regulations: From Climate Control Lawsuits, to the Proposed Moratorium on Natural Gas Storage and New Federal Pipeline Regulations"



L. "Rae" Connet, Esq. is an active member of AAPL and a practicing attorney and President and co-founder of PetroLand Services, a land consulting firm serving oil and gas producers, utility companies, mineral owners, governmental agencies and real estate developers across multiple states.

Combining her strong legal background and training with the practical skills of a working land professional, Rae brings 23 years of experience and expertise to serve the company's clientele.

Rae has managed multiple lease prospects ranging from intensive townlot plays in urbanized areas to ecologically sensitive environments, including rural conservation lands. Rae has been qualified as an expert witness by the California courts in matters dealing with easements, property title and dormant mineral rights.



Opinionated Corner

Joe Munsey, RPL
Director

Publications/Newsletter Co-Chair
Southern California Gas Company

It is well-worn out news by now, but worth repeating; Mark Zuckerberg of Facebook fame, strolled up and onto a rig in North Dakota, without the hoodie gear, and sent out his edict that oil professionals should not be demonized. Well, he really did not say it that way; Mark merely mentioned the roughnecks stated they were tired of being demonized. Big difference when you relay a message coming from someone else rather than personally saying fossil fuel hands should not be demonized.

Of course, many of his followers frowned upon that message and returned with their own version of what they thought of the worth of oil field trash workers – one responder claimed the oil industry personnel in North Dakota raped Native American women. First of all, the person writing that comment has already crossed gender identification rules. So, in today's societal norms, this person writing that piece of dribble has lost total credibility.

Some additional general complaints directed at oil field workers with barely a high school diploma, much less a college degree, imply they may not be worth the \$100K a year they make by the sweat of the brow, if that type of work is tied to fossil fuels. So, Mr. Zuckerberg had to endure a plethora of complaints for expressing his sympathies for the oil sector.

Considering Silicon Valley eats and breathes all things plastics and exotic composites, which go into making all the electronic gadgets and toys they and the rest of the world enjoys from fossil fuels, it really was a nice surprise to see Mark Zuckerberg showing up at ground zero where plastics and all things won-

derful are derived from a product thousands of feet below the earth's crust.

Pretty sure Mr. Zuckerberg's hoodies have some spandex woven into them, well that stuff comes from fossil fuels.

However, thank the oil and gas gods for small miracles. A social media behemoth sees the foreseeable need for fossil fuels while we transition to renewable energy. If the current crop of anti-fossil fuel soothsayers are to be believed, that foreseeable future could happen tomorrow morning when everyone wakes up; we are merely just on the cusp of finding the holy grail of renewable and sustainable energy. Ain't gonna happen tomorrow morning, we originally wrote this column about 2 months ago and the foreseeable future did not arrive. California's cap and trade legislation will attempt to force it to happen more sooner than later. Governor Brown and former Vice President Al Gore said so.

Think about that for a moment as you make your plans to head over to the Long Beach Petroleum Club for our first meeting of the 2017-2018 term.

President's Message
continued from page 1

particular region of the oil patch so special is that it's one of the best kept secrets in the industry. We are a close-knit community of Land Professionals with a unique understanding of how oil and gas rights and operations work in urban environments. My discovery of the LAAPL and the members who belong to it was an important moment in my career. It opened up a world of educational opportunities, networking and friendships that only reinforced my decision to make SoCal my home. It is such an honor to serve as President for an organization that has given so much to me.

In order to get the most out of my time as LAAPL President, I would like to follow in J.R.'s footsteps by setting goals for the term ahead. I will list the highest priorities here:

1. Increase membership. At last

count we had 30 active members and all of the Officers agree the number should be higher. If you have let your membership lapse or know someone who might be interested in signing up, please reach out to us.

2. Develop online capabilities for member payments. We are in the process of setting up our website to accept payments and will make an announcement as soon as we are ready to roll out.

3. Continue to build out the website to include articles, event photographs and other valuable resources.

If you have any suggestions to add to the goal list, please speak up. I look forward to hearing from you.

I speak for all of our members when I say our heart goes out to all of those affected by the terrible flooding brought on by the back to back Hurricanes in the Southwest. Houston and the surrounding South Texas region are still coming to terms with the full scope of damage caused by Hurricane Harvey; and Florida is now faced with similar tragedy as a result of Hurricane Irma. These disasters will no doubt have major ramifications for the oil patch and time will tell just how large the impact will be.

Our friends at AAPL sent out a link for those who would like to aid in the recovery process. It lists different ways you can help on Hurricane Harvey specifically and I have included the link here <https://destinationsinternational.org/hurricane-harvey-how-you-can-help>.

I hope to see all of you at this year's West Coast Land Institute on October 4-6 in Oxnard, CA. I've never been to Oxnard and am excited to check it out. Good work by the planning committee for selecting such a nice location. Please see the Educational Corner for the link to sign up if you haven't already.

I will close with the very proud announcement that our award winning newsletter has done it again. Thanks to

President's Message
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2017–2018 Officers & Board of Directors

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Signal Hill Petroleum
562.595.6440 ext. 5275

Vice President
Mike Flores
Flores Strategies, LLC
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Past President
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Sentinel Peak Resources
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Southern California Gas Company
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Director
Randall Taylor, RPL
Taylor Land Service, Inc.
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Randall Taylor, RPL, Co-Chair

Communications/Website Chair
Chip Hoover
Independent
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California Resources Corporation
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Nominations Chair
L. Rae Connet, Esq.
PetroLand Services
310-349-0051

Golf Chair
John R. Billeaud, RPL
Sentinel Peak Resources
661-395-5286



Chapter Board Meetings

Brandi Decker
California Resources Corporation
LAAPL Secretary

The LAAPL Board of Directors and Committee Members held their regular meeting on Thursday, May 18, 2017 led by President John R. Billeaud. The topics discussed at the meeting are as follows:

- Mr. Olman Valverde will be LAAPL's CPA to help assist in filing our taxes each year.
- Board approved to increase luncheon prices to \$25 for members and non-members who wait to pay at the door and \$20 for members with advance online payment once available on the LAAPL website.
- Board approved a \$300 donation to American Oil and Gas Historical Society.

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



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our talented and dedicated Newsletter Co-Chairs, Randall Taylor, RPL, and Joe Munsey, RPL, the Override was awarded the title of AAPL Best Newsletter in the small chapter category at this year's annual seminar in Seattle. Producing a quality publication for all of us to enjoy is a huge responsibility but Randy and Joe make it look easy. Way to go you two!

Thank you to all LAAPL members. I am excited to begin my tenure as Chapter President and look forward to getting to know all of you more.

Sincerely,

Sarah Bobbe, CPL



Treasurer's Report

Rae Connet, Esq.
Treasurer
Independent

As of 8/1/2017, the LAAPL account showed a balance of

Deposits 3,975.00

Total Checks, Withdrawals, Transfers 2,000.00

Balance as of 8/31/2017 \$32,033.44

Merrill Lynch Money Account shows a total of TBD

New Members and Transfers

Cambria Rivard, JD
Membership Chair
California Resources Corporation

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

None to Report

Transfers

None to Report

Scheduled LAAPL Luncheon Topics and Dates

No Report

LAAPL Receives Award

“The Override,” the official organ of the LAAPL took first place (small chapter association category) at the AAPL convention in Seattle, WA. Attending the ceremony and accepting the award on the chapter's behalf was Joe Munsey, RPL. The newsletter has outstanding contributing writers but it goes without saying that Randal Taylor, RPL, of Taylor Land Services, Co-chair of the Publication/Newsletter, does all the heavy lifting when it comes to publishing this fine communication tool.

Lawyers' Joke of the Month

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

An elderly widower walks briskly into an upscale cocktail lounge in Las Vegas. He is in his mid-eighties, very well-dressed, hair well-groomed, great looking suit, flower in his lapel, and smelling slightly of an expensive after shave. He presents a very nice image. Fit and trim; a 6' 5" one-time athlete who has aged without losing the look-or the hair.

He settles smoothly into a seat at the bar next to a classy looking lady in her mid-seventies. He orders a drink and takes a sip.

He slowly turns to the lady and says, "So, tell me..... do I come here often?"

Our Honorable Guests

May's luncheon was another successful LAAPL Chapter luncheon meeting held at the Long Beach Petroleum Club. Our guest of honor who attended:

John C. "J.C." Stelzer, J.D.,
Independent

Charlie Hudson & Associates
Spring, TX



**Randall Taylor, RPL
Petroleum Landman**

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Rick Peace, President

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AAPL Appoints Local LAAPL Member to Chair Publications Committee

AAPL President David Miller, CPL, recently appointed **Joseph D. Munsey, RPL**, in Seattle, WA, at the AAPL's annual seminar, as Publications Committee Chair for the 2017 – 2018 term.

Chairman Munsey outlined the following goals for the Publications Committee:

Committee Chair Goals:

1. As Committee Chair our goal is to provide interesting and relevant articles which appeal to all AAPL members. To that end, our goal is to provide quality articles for re-publishing or original written material which have been read, reviewed and approved prior to submittal to AAPL. We understand Le'Ann Callihan, Director of Communications, and Andrea M. Spence, CEM, Publications Associate; will have final decision to publish pertinent articles for publication in the Landman.
2. If required, arrange for periodic teleconference meeting(s) with Committee Members.
3. Provide updates to the Committee Members as requested by AAPL President David Miller, CPL, AAPL Board of Directors and/or the Director of Communication and the Publications Associate.

If you are interested in submitting an article for publication, or would like to author an article for publication, please forward to jmunsey@semprautilities.com and Aspencer@landman.com



LAAPL CHAPTER OFFICERS FOR 2017 - 2018

At our May luncheon, the LAAPL members voted in for office:

OFFICE	ELECTED CANDIDATE
President	Sarah Bobbe, CPL, Land Manager Signal Hill Petroleum
Past President ^{1& 2}	John R. Billeaud, RPL, Senior Landman Sentinel Peak Resources
Vice President	Mike Flores Flores Strategies, Inc.
Secretary	Brandi Decker California Resources Corporation
Treasurer	L. Rae Connet, Esq. Petroland Services, Inc.
Director	Randall Taylor, RPL Taylor Land Services, Inc.
Director	Joseph D. Munsey, RPL Southern California Gas Company

¹Per Article 8 (2) the outgoing President shall serve as Past President.

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



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Chapter President Announces Committee Chairs

Our newly elected Chapter President, Sarah Bobbe, CPL, Land Manager of Signal Hill Petroleum, Inc., announces her Committee Chairs for the 2017 – 2018 term. The Los Angeles Association of Professional Landmen will be greatly served by the following members:

Membership Chair	Cambria Rivard, J.D., Land Negotiator California Resource Corporation (562) 495-9373 (office) Cambria.rivard@crc.com
Website Chair	Chip Hoover, Independent (310) 795-7300 – Cell chiph Hoover@hotmail.com
Education Chair	Blake Barton, Land Technician Signal Hill Petroleum, Inc. (562) 326-5249 (office) bbarton@shpi.net
Publishing/Newsletter Chair	Randall Taylor, RPL, President Taylor Land Services (949) 495-4372 randall@taylorlandservice.com Joseph D. Munsey, RPL, Senior Land Advisor Southern California Gas Company (949) 361-8036 jmunsey@Semprautilities.com
AAPL Region VIII Director Advertising Chair	Jason Downs, RPL Breitburn Management Company (213) 225.0347† jason.downs@breitburn.com
Legislative Chair	Mike Flores, President Flores Strategies, LLC (310) 990-8657 – Cell mikef@floresstrategies.com
Mickelson Golf Classic Chair	John R. Billeaud, RPL, Senior Landman Sentinel Peak Resources (661) 395-5286 jbilleaud@sentinelpeakresources.com
Nominations Chair	L. Rae Connet, President PetroLand Services (310) 349-0051 rconnet@petrolandservice.com

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2017 Mickelson Golf Classic



The 13th Annual LAAPL Mickelson Golf Classic held at Angeles Nationals on Friday, September 8th was another major success to benefit the R.M. Pyles Boys Camp. "Pyles" has been a favored beneficiary of the LAAPL annual golf tournament for several years now.

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

With the generosity of those who supported the tournament through gifts and sponsorships, the Los Angeles Association of Professional Landmen is happy to announce that it will be contributing the entirety of the tournament net proceeds to Pyles once final accounting is completed which will net over \$2,000.00.

Angeles Nationals Golf Club, located in Sun Valley, California, was sunny and perfect weather this year. An estimated 32 LAAPL members and guests enjoyed the Italian buffet dinner and raffle. The tournament committee rounded up a variety of raffle prizes (along with raffle contributions from several members) so most of those in attendance left with a special gift.

Our first-place team was sponsored by CRC which included Blain Meith, Mitch Arnold, Brit Reiner and Kevin Weberling. Longest Drive was Linda Pearson from the Mickelson Team. Closest to the pin were Kat Matthews from the Mickelson Team. Each made-off with a new golf trophy to add to their already sizable collection.

Of course the young men who attend the R.M. Pyles Boys Camp were the real winners of the day, thanks to the generous contributions of southern California's professional landmen and their respective employers who sponsored this year's LAAPL charity golf event. The LAAPL Membership and Golf Committee extend their sincere appreciation and gratitude to each and every sponsor, attendee, and volunteer for their support and generous contributions to this year's fundraiser.



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CONTACTS

Patrick T. Moran: RPL, Senior Land Negotiator
Sharon Logan: CPL, Senior Landman

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BAPL President – 1985-86, 2003-04; AAPL Director – 1988-90, 2002-03, 2004-07



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L. Rae Connet, Esq. - President
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Mike Flores
Flores Strategies LLC
Legislative Affairs Chair

A Special Election, scheduled for Nov. 7, has put MEASURE C on the ballot, which would add a one-quarter of 1 percent tax on the gross receipts of oil companies. The Measure would collect up to \$24 million in new taxes according to estimates. The city is paying nearly \$400,000 to hold the special election in hopes that voters will approve the tax to cover its ongoing budget deficit and pay for needed infrastructure upgrades.

But Carson United Against Irresponsible Taxes argues the tax will simply be passed on to local residents.

“Carson receives approximately \$5 million per year from its two refineries. Torrance and El Segundo receive approximately \$11 million each,” states a flier produced for the city’s Measure C educational campaign. “Carson is currently facing an \$8 million structural deficit in a \$79 million total general fund budget.”

HURRICANE HARVEY SHUT DOWN OVER 10% OF US REFINING CAPACITY

According to a Fortune Magazine article of August 28, “a hurricane in the heart of the U.S. energy industry is set to curtail near-record U.S. oil production for several weeks, with the impact expected to reverberate throughout the country and across international energy markets.

Harvey hit the Texas shore as a fierce Category 4 hurricane, causing massive flooding that has knocked out 11% of U.S. refining capacity, a quarter of oil production from the U.S. Gulf of Mexico, and closed ports all along the Texas coast.

Gasoline futures jumped as much as 7% to their highest level in more than two years in early Monday, August 28, trading in Asia as traders took stock of the storm’s impact.

The outages will limit the availability of U.S. crude, gasoline and other refined products for global consumers and further push up prices, analysts said.”

API REPORT FINDS OIL & GAS SUPPORTED 10.3M JOBS IN US

A Price Waterhouse Coopers report for the American Petroleum Institute (API) shows 10.3M jobs in 2015 were supported by oil and gas across all 50 states. This doesn’t count the impact of capital investment by the energy industry, which supports an additional 2.3 million jobs and \$134 billion of labor income.

On the next page is a breakdown by state with Texas #1 and California # 2:

*Legislative Update
continued on page 11*

 	
<p>Title, Natural Resources and Land Experts</p>	
<p>Title Searches / Reports Title Consulting / Research Oil, Gas, Mineral Land Consulting Water & Geothermal Management / Administration Leasing & Land Contracts Title Engineering Right-of-Way Consulting Subdivision / Parcel Maps Permits / Regulatory Compliance Expert Witness & Due Diligence</p>	<p>TIMOTHY B. TRUWE Registered Professional Landman 250 Hallock Drive, Suite 100 Santa Paula, CA 93060-9218 (805) 933-1389 Fax (805) 933-1380 http://www.PetruCorporation.com Petru@PetruCorporation.com</p>
<p>  Featured on <i>Enterprises</i> TV, aired on FOX Business Network and published in “Black Gold in California” and “Corporate America”  </p>	

State	Employment*		Labor Income**		Value Added	
	Amount	Percent of State Total	(\$ Million)	Percent of State Total	(\$ Million)	Percent of State Total
Texas	1,985,200	12.2%	\$180,039	18.1%	\$326,375	20.2%
California	730,600	3.2%	\$56,628	3.8%	\$119,631	4.9%
Oklahoma	379,100	16.6%	\$34,634	28.1%	\$51,712	27.3%
Pennsylvania	322,600	4.3%	\$22,994	5.1%	\$44,456	6.3%
Louisiana	291,200	11.0%	\$23,359	16.8%	\$50,730	20.7%
Florida	266,800	2.4%	\$11,916	2.2%	\$22,063	2.5%
Ohio	262,800	3.8%	\$14,743	4.0%	\$37,938	6.1%
New York	258,500	2.2%	\$21,306	2.4%	\$35,796	2.5%
Illinois	234,600	3.0%	\$14,860	3.1%	\$33,347	4.3%
Colorado	232,900	6.5%	\$23,099	11.3%	\$31,382	9.7%
Michigan	159,100	2.9%	\$8,235	2.7%	\$14,597	3.0%
Georgia	142,700	2.5%	\$7,467	2.5%	\$13,653	2.7%
New Jersey	142,200	2.7%	\$10,130	2.8%	\$20,972	3.7%
North Carolina	141,500	2.5%	\$6,959	2.4%	\$13,406	2.6%
Kansas	128,700	6.8%	\$8,113	8.5%	\$12,113	8.0%

Source: PwC calculations using the IMPLAN modeling system (2015 database).

* Employment is defined as the number of payroll and self-employed jobs, including part time jobs.

** Labor income is defined as wages and salaries and benefits as well as proprietors' income.

Hawaii is the only other state in America to have a similar energy requirement, but the 50th state is 1/15 the size of California and is home to just 3.5 percent as many people.

SB 100 SETS 2045 TARGET DATE FOR ALL ELECTRICITY TO BE RENEWABLE

The California State Legislature is considering a bill that would require all electricity to be obtained from renewable sources by 2045. If lawmakers approve Senate Bill 100, sponsored by State Senate President Kevin DeLeon, before the end of their session in September, it would make California the biggest economy on earth committed to getting 100 percent of its power from wind, solar and other clean alternatives.

BLM PROPOSES TO RESCIND RULE ON HYDRAULIC FRACTURING

As part of President Trump's goal to reduce the burden of Federal regulations that hinder economic growth and energy development, the Bureau of Land Management announced in the Federal Register a proposal to rescind the 2015 final rule on hydraulic fracturing—a rule that was never in effect due to pending litigation. The proposal includes the opportunity for public comment.

OIL WELL PROPOSAL GETS SECOND LOOK IN VENTURA COUNTY

Renaissance Petroleum's proposal to build four more oil and gas wells near Oxnard has hit a few snags with opposition from environmental groups and concerns from the city and a nearby school district.

Renaissance Petroleum is proposing to build four wells at its existing facility on Etting Road, which is in unincorporated Ventura County, about 1,600 feet from the city border. The Naumann facility currently has one oil and gas well.

Following a February public hearing, County Planning Director Kim Prillhart greenlighted the new wells and extended Renaissance Petroleum's permit for another 30 years.

Based in Bakersfield, Renaissance Petroleum is a family-operated company with five employees. The proposal to expand its operations will not change the size of the Naumann facility, which is about one acre. The proposed wells are also not

Legislative Update
continued on page 12

expected to increase air emissions to significant levels based on county adopted threshold.

INDUSTRY NEWS FLASH

U.S. crude oil production to reach record high in 2018. (PennEnergy, 7/25/2017) The U.S. Energy Information Administration's (EIA) latest Short-Term Energy Outlook reports that domestic crude oil production is expected to average 9.3 million barrels per day (b/d) in 2017, up 0.5 million b/d from 2016. In 2018, EIA expects U.S. crude oil production to reach an average of 9.9 million b/d, which would surpass the previous record of 9.6 million b/d set in 1970. The EIA also forecasts, "that most of the growth in U.S. crude oil production through the end of 2018 will come from tight rock formations within the Permian region in Texas" and the Gulf of Mexico.

14 OIL & GAS RELATED BILLS CURRENTLY IN FRONT OF STATE LEGISLATURE

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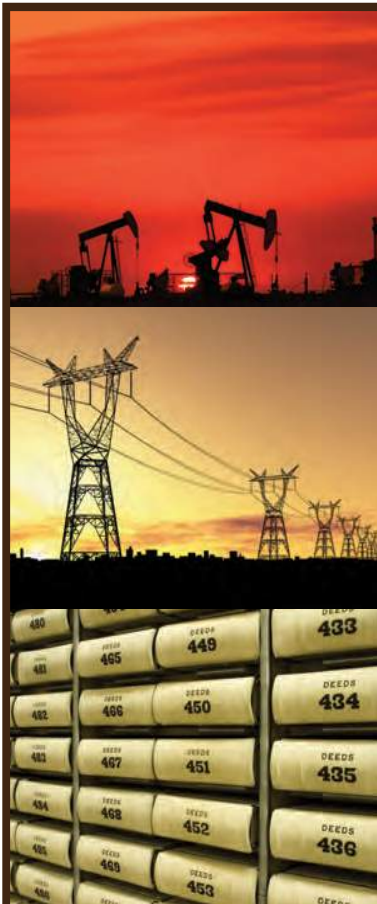
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2017 Texas Land Institute (Webinar available) Date: September 25, 2017 Where: Houston, TX Credits Approved: 6 CEU, 1 CEU Ethics	Member Price: \$300.00 Webinar Price: \$250.00
October 2017	
Working Interest/Net Revenue Interest Seminar Date: October 4, 2017 Where: Midland, TX Credits Approved: 6 CEU Member Price: \$300.00	2017 West Coast Landmen's Institute Presented by: BAPL and LAAPL Date: October 4-6, 2017 Where: Mandalay Beach Hotel & Resort Oxnard, CA Credits Approved: 10 CEU Member Price: \$225.00 (\$275.00 if received after September 20 th) Questions Regarding Registration and Sponsorship: Contact Yvonne Hicks at (661) 328-5530 or email: Yvonne@mavpetinc.com Registration: https://squareup.com/market/bakersfield-association-of-professional-landmen/west-coast-landmen-s-institute-registration
2017 Appalachian Land Institute (Webinar Available) Date: October 5-6, 2017 Where: Washington, PA Credits Approved: 10 CEU, 1 CEU Ethics Member Price: \$325.00 Webinar Price: \$275.00	2017 Gulf Coast Land Institute (Webinar Available) Date: October 12-13, 2017 Where: Francisville, LA Credits Approved: 7 CEU, 1 CEU Ethics Member Price: \$325.00 Webinar Price: \$275.00
Joint Operating Agreements Seminar Date: October 17-18, 2017 Where: Oklahoma City, OK Credits Approved: 14 CEU Member Price: \$400.00	Field Landman Seminar Date: October 24, 2017 Where: East Lansing, MI Credits Approved: 2 CEU Member Price: Free
Current Topics in CA Oil & Gas Law Presented by: Halfmoon Seminars Date: October 25, 2017 Where: Bakersfield Marriott Bakersfield, CA Credits Approved: 6 CEU	Current Topics in CA Oil & Gas Law (Cont.) Registration Fee: \$279.00 Registration Link: https://www.halfmoonseminars.org/register/130869/current-topics-in-california-oil-and-gas-law/bakersfield-ca
November 2017	
THUMS Island Boat Tour Presented by: BAPL and LAAPL Date: November 4, 2017 Time: 10:30am – 12:00pm Location: THUMS Boat Landing	THUMS Island Boat Tour (Cont.) Note: The tour is limited to a group of 40 attendees, so reserve your spot early. Reservations: Contact Yvonne Hicks at (661) 328-5530 or email: Yvonne@mavpetinc.com
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Oil and Gas Land Review, CPL/RPL Exam Date: November 7-10, 2017 Where: Houston, TX Credits Approved: 18 CEU, 1 CEU Ethics Member Price: \$ 500.00 (3 Day Review Only) See AAPL website for more price options	Ethics 360 Seminar Date: November 14, 2017 Where: Fort Worth, TX Credits Approved: 4 CEU Ethics Member Price: \$200.00



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APPROACHES TO PORE SPACE RIGHTS

California Carbon Capture and Storage Review Panel TECHNICAL ADVISORY COMMITTEE REPORT

*By Jerry R. Fish, Esq., Stoel Rives LLP, Primary Author &
Eric L. Martin, Esq., Partner, Stoel Rives LLP, Secondary Author*

DISCLAIMER

Members of the Technical Advisory Committee for the California Carbon Capture and Storage Review Panel prepared this report. As such, it does not necessarily represent the views of the California Carbon Capture and Storage Review Panel, the Energy Commission, its employees, the California Air Resources Board, the California Public Utilities Commission, or the State of California. The Energy Commission, the State of California, its employees, contractors and subcontractors make no warrant, express or implied, and assume no legal liability for the information in this report; nor does any party represent that the uses of this information will not infringe upon privately owned rights. This report has not been approved or disapproved by the California Carbon Capture and Storage Review Panel or the Energy Commission nor has the Panel or Commission passed upon the accuracy or adequacy of the information in this report.

Carbon sequestration cannot occur absent the right to inject and store carbon dioxide (CO₂) in subsurface pore spaces.¹ Three general approaches for addressing this issue have evolved over the past few years. This issue paper briefly describes these approaches and identifies positives and negatives of each. These positives and negatives are not listed in any particular order.

Complete Private Property Approach

This approach recognizes that the right to use the pore space for the injection and sequestration of CO₂ is a property right that must be obtained.² If there is a single property owner, that owner owns the right to use the subsurface pore space, but if the mineral rights have been severed, then the owner of the mineral estate has the dominant right to use pore space as necessary to produce valuable minerals.³ Consequently, the surface estate owner's use of pore space cannot interfere with the mineral estate, and injecting gases into unacquired pore space could constitute a trespass against both the surface and the mineral estate.⁴

Because it can be difficult to establish that a mineral estate has been exhausted (i.e., there are no more minerals that can be produced), under this approach a carbon sequestration project may need to obtain rights to use the pore space from the owners of both the surface estate and the mineral estate.⁵ This could be accomplished in a few different ways. First, a carbon sequestration project could obtain the necessary rights by means of negotiated agreements with the property owners, including any lessees of the mineral estate and any royalty owners. Second, if it had the power of eminent domain, a carbon sequestration project could condemn the rights. Third, if the requisite statutory authority existed, the state could unitize the rights within the targeted geologic structure.

a) Positives:

i) Consistent with public perception of property rights. The principle that ownership of property includes the right to control the use of that property is a fundamental concept in this country. Because this approach builds off this fundamental concept by requiring that the right to inject and sequester CO₂ underground be obtained from property owners, this approach does not require charting a new path for property rights. This makes acceptance and implementation less controversial.

ii) Payment to property owners may lessen opposition to carbon sequestration and may help encourage development. Development of the subsurface has economic benefits, such as revenues from produced oil or rent from stored natural gas. Property owners understand and expect that they will be compensated when someone else wants to use their land. This has been common practice throughout California's history (e.g., from the mid-nineteenth century gold rush and the early twentieth century oil and gas boom to today's oil and gas production, natural gas storage, and wind farms). Because obtaining the requisite property rights—whether that be through negotiated agreements, unitization, or condemnation—will result in dollars in property owners' pockets, property owners may be more inclined to support this approach to carbon sequestration. Further, to the extent that such compensation is tied to actual sequestration (e.g., an amount per ton of injected CO₂) rather than a one-time lump sum, a constituency of property owners will form that will want to see carbon sequestration happen.

iii) IOGCC Model Statute. Oil and gas regulators from across the country have recommended that carbon sequestration be treated like natural gas storage, and several states, such as Wyoming, Montana, and North Dakota, have

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enacted legislation following this recommendation. The legislatures in such states have directed that pore space belongs to the surface estate and provided mechanisms to unitize pore space within geologic structures. Consequently, property owners will be compensated for carbon sequestration that may occur beneath their property. In light of this, California property owners would likely be hostile to an alternative approach under which they may not receive any compensation.

iv) Consistent with developing market for sequestration property rights. Money is already being expended to acquire the right to inject and sequester CO₂ in pore space in other states, just as has been done for natural gas storage in California. This developing market relies on the traditional conception of property rights (i.e., that property cannot be used without acquiring the right to do so from the property owner). Changing the law mid-stream would frustrate these earlier investments in carbon sequestration rights and potentially delay the implementation of actual carbon sequestration projects by these early movers.

v) Ability to deal with holdouts through unitization. The risk of holdouts is present whenever large parcels of land with fragmented ownership must be assembled for a development project. For public projects, this problem is often addressed by the government's power of eminent domain. Secondary recovery, which typically involves injecting water to produce otherwise unrecoverable oil and gas, implicates this same risk of holdouts, because it almost always requires coordinating activities across properties owned by different parties. Many states have addressed this problem by creating a statutory process through which multiple properties can be brought together and operated as a single unit.⁶ Through such statutory unitization processes, a state agency allocates production to the various property owners within the unit on an equitable basis. If property owners elect not to participate, they cannot claim that the subsurface waterflooding constitutes a trespass.⁷

Wyoming, Montana, and North Dakota have addressed the risk of holdouts by applying the unitization concept to carbon sequestration. For example, under SB 498 in Montana, once a carbon sequestration project controls subsurface storage rights to 60% of the storage capacity in a proposed storage area, it can apply to unitize the storage area.

Unitization also has advantages over condemnation. The fair market value of condemned property is determined by what is taken rather than what is created.⁸ Thus, property owners do not share in the upside of the project. In contrast, holders of unitized oil and gas leases continue to share in the upside. Similarly, carbon sequestration proceeds could be allocated to the owners of the storage rights within a unitized storage area, such that they have a stake in the financial upside of the project but are not liable for damages. This could make them more amenable to such a process, especially in light of the fact that their individual subsurface storage rights may be worth little in a condemnation proceeding.

b) Negatives:

i) Transaction costs. Obtaining property rights from private property owners, whether it be through negotiated agreements, unitization, or condemnation, will undoubtedly result in transaction costs, especially for commercial scale sequestration projects, which may require 100 to 200 square miles of pore space rights.⁹ To the extent that geologic structures suitable for carbon sequestration are owned by multiple parties, which is almost certainly the case given the large size of these structures, transaction costs will increase. This inefficiency that could impede the implementation of carbon sequestration, especially in situations where ownership is highly fragmented, if unitization is not an option. However, because developers are currently acquiring sequestration rights in some states, notwithstanding fragmented ownership, the inefficiencies may not be significant.

ii) Potential for holdouts. Building upon the transaction costs associated with negotiated agreements, unless there is a way to address the risk of holdouts, the actual development of carbon sequestration project could be delayed or be more capital intensive. Unitization and eminent domain could both serve as mechanisms to deal with this risk, but both create additional problems. For example, the time saved by not having to buy out holdouts through a negotiated agreement could be consumed by litigation related to the unitization or condemnation. Further, unless these mechanisms allow carbon sequestration projects to use pore space pending an allocation/compensation decision (e.g., a quick take provision), the timeline for actual implementation could still be quite long.¹⁰

iii) Increased operating costs. The need to compensate property owners for the use of pore space will increase the operational cost structure for carbon sequestration projects. This could mean that some percentage of potential carbon sequestration projects will not be economically viable. But the same could be said of wind or solar projects (i.e., if access to land were free more projects would be viable).

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iv) Continued uncertainty regarding ownership of pore space. Ownership of pore space is not typically set out in the deeds that split property into surface and mineral estates. Consequently, there is often uncertainty as to who has the right to use the pore spaces absent the presence of oil or gas. Those states that have addressed the pore space property right issue have created interpretive presumptions prior conveyances of property. For example, there is a rebuttable presumption under Wyoming's HB 89 that pore space is owned by the surface owner. This presumption, however, is not conclusive, which means that courts may still need to determine who owns the pore space for a particular property. Obtaining such determinations could delay the implementation of carbon sequestration projects.

c) Legislation Needed: This approach would require legislation that allocates ownership of pore space, defines ownership of injected CO₂, and allows for unitization and/or eminent domain to acquire pore space, including pore space owned by state and local governments.

Limited Private Property Approach

This approach tweaks the traditional concept of underground property rights from the oil and gas context. Instead of an absolute right to pore space, this approach is based on the idea that subsurface property rights are "contingent upon interference with reasonable and foreseeable use" of the property.¹¹ Consequently, so long as the sequestration of CO₂ would not interfere with such uses, a carbon sequestration project would not need to obtain the right to use pore space from property owners.

This approach is most prominently reflected in the CCS Reg Project's recently published model legislation. Under this model legislation, a carbon sequestration project could apply for a "pore space permit," which would convey the exclusive privilege to access and use identified pore space for carbon sequestration. Prior to issuing a pore space permit, the state environmental protection agency would conduct a proceeding in which holders of a "non-speculative economic interest" (i.e., the ability to economically recover actual mineral resources or engage in other current or imminent subsurface activities that have substantial economic value) could participate. Anyone that did not participate in this proceeding would waive any and all subsurface property rights that might be affected by the proposed carbon sequestration project. If the injection and sequestration of CO₂ would cause actual and substantial damages to such an interest, then either (i) the project would be modified to avoid the damages, (ii) the carbon sequestration project would have to negotiate an agreement with the holder of the interest, or (iii) the state environmental protection agency could authorize condemnation of the interest.

In summary, under this approach, unless a landowner could show current or imminent mineral or other subsurface activities with substantial economic value, the landowner would have no subsurface property rights and a carbon sequestration project could proceed simply by obtaining a pore space permit.¹² If such subsurface property rights were demonstrated to exist, then the carbon sequestration project would address these rights through means similar to those described under the Complete Private Property Approach (e.g., negotiated agreements or condemnation).

a) Positives:

i) Pore space permit not required. Under the CCS Reg Project's model legislation, there is no requirement that a pore space permit be obtained. Consequently, developers who have already acquired carbon sequestration property rights would not be required to utilize this process.

ii) Property rights adjudicated once and for all in a unified process. By addressing property rights in an adjudicative proceeding prior to injection, carbon sequestration projects would have greater certainty regarding risk of legal liability. Further, by utilizing a unified process, carbon sequestration projects would avoid piecemeal litigation.

iii) Application to saline formations. Most property owners probably would not have current or imminent subsurface activities of substantial economic value in geological structures containing only saline formations. Because this approach eliminates private pore space property rights for this category of property owners, this approach could be advantageous for encouraging carbon sequestration in saline formations.

b) Negatives:

i) Inconsistent with public perception of property rights. Because this approach would be perceived as taking the pore space rights of many property owners (e.g., those without current or imminent subsurface activities that have substantial economic value), enacting this approach may encounter strong public opposition. This inconsistency with the public perception of property rights may also prompt litigation that could delay implementation of projects utilizing this process.



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ii) Perceived lack of fairness. One of the sticks in property owners' bundle of rights is the right to explore for valuable minerals. However, under this approach, owners whose property had not been explored, and thus did not have a non-speculative economic interest, would "waive" their pore space rights. This could readily be perceived as unfair, especially (1) as landowners often have neither the financial wherewithal nor the technical expertise themselves to explore for valuable minerals, (2) if other properties had been explored and valuable minerals had been found, and (3) in light of technological advances that make previously unrecoverable minerals recoverable (e.g., horizontal drilling and fracturing now allow recovery from gas shales). Such property owners may view this as a process to avoid paying for their property rights and oppose its implementation.

iii) Inconsistent with developing market for sequestration property rights. It is unclear whether already obtained carbon sequestration property rights would be considered a non-speculative economic interest in the adjudicatory process. If not, existing sequestration easements and leases obtained by early movers could be worthless, which could delay actual implementation of sequestration projects (e.g., rendering existing investment in carbon sequestration worthless could heighten the perceived risks of carbon sequestration investments, thereby making it more difficult to attract investors) and anger those property owners that thought they would be receiving remuneration for granting carbon sequestration rights.

iv) Expertise of adjudicatory entity. Subsurface property rights can be very complex. The adjudicatory entity would require not only the expertise to resolve these issues, but also the reputational wherewithal to support the legitimacy of its decisions in the public's eye. It may well be difficult for a state environmental protection agency, as under the CCS Reg's model legislation, to build such expertise for subsurface property right adjudications.

v) Application to mineral rights. Although surface owners may very well have no realistic expectation to use geological structures suitable for carbon sequestration, mineral estate owners undeniably have an expectation that they may explore the subsurface. The Limited Private Property Approach, however, only recognizes that right if there is the ability to economically recover actual mineral resources in the very near future. This creates a number of problems. First, the scope of what economically recoverable mineral resources changes with the price of the resource. More oil is economically recoverable when the price is at \$80/barrel than at \$40/barrel. Consequently, mineral rights would morph into a property right, the existence of which depends upon market conditions at a particular point in time. Second, knowledge regarding the existence of mineral resources is limited. A mineral estate owner may know that valuable minerals exist beneath a property but does not yet know whether they are economically recoverable. Similarly, an area's geology may suggest that valuable minerals exist underneath the surface, but until the subsurface is explored, no one knows whether that is really true. Third, as described above, what is recoverable can change in the future due to technological advances. Consequently, mineral owners' rights may be eliminated under this approach because the property has not yet been explored or the minerals are not economically recoverable under current market conditions or with current technology. Mineral owners would almost certainly oppose this approach for these reasons.

In addition, this approach does not apply neatly to carbon sequestration that might occur in depleted oil and gas reservoirs. The mineral estate owners in that situation may still have non-speculative economic interests (e.g., secondary recovery could be used to produce additional oil). Consequently, the carbon sequestration project would have to utilize the same Complete Private Property Approach's tools (e.g., negotiated agreements and condemnation). This approach then may not do anything to substantially advance implementation of projects in these reservoirs, which may be the low-hanging fruit for carbon sequestration.

e) Legislation Needed: This approach would require legislation that establishes the process by which property rights are adjudicated, defines a "fair" threshold at which a property right to pore space is recognized (e.g., "non-speculative economic interest" in the CCS Reg's model legislation), and allows for eminent domain of recognized pore space rights, including pore space containing minerals and pore space owned by state and local governments.

Public Resource Approach

Case law suggests that aquifer storage and recovery ("ASR") law could serve as a third approach at least for carbon sequestration in saline formations. In *Alameda County Water District v. Niles Sand & Gravel Co.* a gravel operator alleged that the flooding of his gravel pits that resulted from an ASR program constituted a taking because it interfered with subsurface rights and the business operations. Recognizing that the regulation of the state's water resources was a constitutional exercise of the state's police power, the California Court of Appeals held that the water district's activities

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were a legitimate exercise of the police power and that the adverse effect on the gravel operator's use of its property was not compensable. This line of reasoning is somewhat analogous to the rationale of preventing the waste of natural resources that underlies trespass cases involving secondary recovery in oil and gas fields. To the extent that California under its police power can use saline formations and the geologic structures in which they occur for public purposes, legislation potentially could be enacted that authorizes the use of saline formations for carbon sequestration without infringing upon private subsurface property rights.

a) Positives:

i) Does not require acquisition of pore space rights. Acquiring pore space rights, whether it be under the Complete Private Property Approach or the Limited Private Property Approach will take both time and money. In contrast, the Public Resource Approach eliminates the need to spend time and money acquiring pore space rights.

b) Negatives:

i) Uncertainty regarding utilizing police power to effect carbon sequestration in saline formations. Western states, including California, have long recognized the value of fresh water and the need to protect it. This recognition underlies ASR jurisprudence. Similarly, there is plenty of legal support for statutory unitization and governmental authorization of secondary recovery operations in order to prevent the waste of oil and gas. In contrast, carbon sequestration is a new concept. Consequently, regardless of how laudable promoting carbon sequestration may be from a public policy perspective, there would be unavoidable legal uncertainty regarding the state's use of saline formations for carbon sequestration. The courts would have to resolve this issue, which could delay implementation of carbon sequestration projects.

ii) Application limited to saline formations. Although saline formations may have the largest carbon sequestration capacity, some see depleted oil and gas reservoirs as the low-hanging fruit that could most readily be used for carbon sequestration. However, this approach is not applicable to such reservoirs, because injecting CO₂ would allow for the recovery of previously unrecoverable minerals. By being limited to saline formation, this approach may not help spur early carbon sequestration projects.

iii) Could require creation of public sequestration entity. Reliance on the state's police power may necessitate that a public entity do the sequestration, just as a water district was conducting the ASR operation in Alameda County Water District. One must consider how quickly a public entity could actually implement a carbon sequestration project in an era of uncertain public finances. Further, the potential for liability will accompany any public entity that is actually conducting injection and sequestration operations.

iv) Eliminates private sequestration rights in saline formations. This approach, like the Limited Private Property Approach, could be perceived as taking the pore space rights of many property owners and could encounter public opposition for this reason. Further, this approach could wipe out investments that private parties may have made in obtaining sequestration rights in saline formations, which could delay implementation of carbon sequestration projects.

c) Legislation Needed: This approach would require legislation that recognizes saline formations as public resources and authorizes a public agency to either conduct sequestration operations or permit private entities to conduct sequestration operations on the public's behalf.

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¹ See generally Jerry R. Fish and Thomas R. Wood, Geologic Carbon Sequestration: Property Rights and Regulation, 54 ROCKY MT. MIN. L. INST. 3-1 (2008).

² See CAL. CIV. CODE § 829 ("The owner of land in fee has the right to the surface and to everything permanently situated beneath or above it.").

³ The terms "surface estate" and "mineral estate" are commonly used in the context of severed property rights. However, these terms are misnomers, because the owner of the "surface estate" owns everything, including rights to use the subsurface, except for and subservient to the right to produce valuable minerals. In addition, the owner of the "mineral estate" has certain rights to use the surface in connection with the production of valuable minerals.

⁴ See *Cassinos v. Union Oil Co.*, 18 Cal. Rptr. 2d 574 (Cal. App. 1993). Trespass could also result if injected gas causes brine to migrate into the pore space of another property that did not previously contain brine. For example, if displaced brine interfered with oil or gas production or fresh water aquifers, a cause of action for trespass could exist under *Cassinos*. See also footnote 6 below and accompanying text.

⁵ If sequestration was to occur as part of a normal enhanced oil recovery project, property rights would not be required from the owner of the surface estate. However, if sequestration "credit" was to be obtained, the operator of the enhanced oil recovery project would likely need to obtain property rights from the surface owner for post-injection monitoring. Furthermore, any regulations governing sequestration "credit" could well require that the operator obtain pore space rights from the owner of the surface estate to protect the sequestered carbon dioxide.

Case of the Month - O&G
continued from page 22

⁶ Statutory or compulsory unitization is distinct from contractual or voluntary unitization, which relies upon unitization clauses that are often found within oil and gas leases. California's limited compulsory unitization statute is found at CAL. PUB. RES. CODE §§ 3630 et seq. Contractual unitization requires that the various leases contain compatible unitization clauses. Furthermore, contractual unitization only works if all of the lessees are willing to unitize; if not, contractual unitization is ineffective.

⁷ See, e.g., *Baumgartner v. Gulf Oil Corp.*, 168 N.W.2d 510, 516 (Neb. 1969) (holding that "where a secondary recovery project has been authorized by the [Nebraska Oil and Gas Conservation Commission] the operator is not liable for willful trespass to owners who refused to join the project when the injected recovery substance moves across lease lines," because public policy seeks to avoid the waste of natural resources that would occur absent secondary recovery). As such, unitization could be useful for addressing issues related to brine displacement in saline formations as well. See footnote 4 above. See also *Alameda County Water District v. Niles Sand & Gravel Co.*, 112 Cal. Rptr. 846 (Cal. Ct. App. 1974) (holding that interference with gravel mining caused by migration of fresh water injected underground through a state-authorized aquifer storage and recovery project was not compensable).

⁸ See *Pacific Gas & Elec. Co. v. Zuckerman*, 234 Cal. Rptr. 630, 637 (Cal. Ct. App. 1987).

⁹ An optimal site for carbon sequestration would have a geologic structure that limits lateral expansion of the CO₂ plume and has multiple injection zones, which would decrease the size of the area for which pore space property rights are needed.

¹⁰ Under CAL. CODE CIV. PRO. § 1255.410, a "quick take" in California requires at least 60 days, and if opposed the condemnor must demonstrate that "there is an overriding need" to possess the property now, "a substantial hardship" will occur if the quick take is denied, and that substantial hardship outweighs any hardship on the condemnee.

¹¹ *Chance v. BP Chemicals, Inc.*, 670 N.E.2d 985, 993 (Ohio 1996) (holding that migrating hazardous waste did not constitute a trespass).

¹² The Kentucky legislature considered a bill with a similar approach this year. HB 491 would have declared geologic strata beneath 5,500 feet that does not contain either "recoverable or marketable" minerals or water that can be used for a beneficial purpose to be property of the state.

¹³ It is also unclear what would happen if valuable minerals were discovered in the course of the sequestration project. Would these be the property of the state? The carbon sequestration project? The prior mineral estate owner?

¹⁴ 112 Cal. Rptr. 846 (Cal. Ct. App. 1974).

¹⁵ *Id.* at 855. See also *Board of County Commissioners v. Park County Sportsmen's Ranch, LLP*, 45 P.3d 693, 707 (Colo. 2002) ("[B]y reason of Colorado's constitution, statutes, and case precedent, neither surface water, nor ground water, nor the use rights thereto, nor the water-bearing capacity of natural formations belong to a landowner as a stick in the property rights bundle.") (emphasis added)).

¹⁶ See, e.g., *Railroad Com. of Texas v. Manziel*, 361 S.W.2d 560 (Tex. 1962) (holding that migrating water from secondary recovery operations authorized by Railroad Commission order in non-unitized field did not constitute a trespass on adjacent mineral estate because this would discourage secondary recovery). See also footnote 6 above.

¹⁷ However, courts have upheld private entities' use of unappropriated pore space in the oil and gas context when that use is authorized by a public entity. See, e.g., *Railroad Com. of Texas v. Manziel*, 361 S.W.2d 560 (Tex. 1962).



LAAPL Case of the Month - Right of Way



SIZE MATTERS- BUT IT'S NOT THE ACTUAL SIZE OF THE TANK THAT COUNTS, BUT HOW BIG IT LOOKS FROM ABOVE!

By Mike Rubin, Esq., Partner, Rutan & Tucker, LLP

RE: *Central Valley Gas Storage LLC v Southam*, (2017) 11 Cal.App.5th 686.

Summary: The *Central Valley Gas Storage* case involved unusual property rights being condemned for an unusual public use, i.e., the taking of underground gas storage rights by a public utility for an underground gas storage reservoir. But *Central Valley* is not a public use case, there was no challenge or controversy over whether condemnation could be utilized for the public use. Instead, the issue in controversy was how these underground gas storage rights should be valued. More specifically, whether the rights should be valued based upon (i) the number of surface acres the owner possessed that overlaid the storage reservoir, or (ii) the volume of the storage capacity that existed within the owner's land (and which would be utilized by the public utility condemnor).

The underground gas reservoir being assembled by the condemnor consisted of 677 surface acres, 80 of which were owned by the holdout condemnee owner. The owner's evidence, however, was that it owned a much higher percentage of the underground storage capacity than other surface owners, and that the compensation paid should reflect this premium storage ability that underlaid its' property. In fact, the only appellate case on the issue, *Pacific Gas & Electric Co. v Zuckerman* (1987) 189 Cal. App. 3d 1113, expressly held that the value of underground gas storage rights cannot be based upon the value of the surface area, because the only rights being acquired were underground storage rights and no surface rights were being acquired (severance damages, however, could be awarded based upon interference with the surface use).

In the *Zuckerman* case (back in 1987), the appellate court acknowledged that "underground storage properties are sui generis and that normal approaches to valuation are problematical." (*Zuckerman, supra* 189 Cal. App. 3d at 1128). For that reason, it held that the value of such rights may be determined by any approach that is "just and equitable", citing Evidence Code § 823 and Code of Civil Procedure § 1263.320, subd. (b). Based on this clear precedent, the owner asserted in *Central Valley* that it was error for the trial court to permit the jury only to hear evidence of the value of the underground storage rights based upon the size of the surface ownership, and to exclude any evidence from the owner's expert which valued the underground rights based upon the capacity of the underground storage reservoir that underlaid the owner's property.

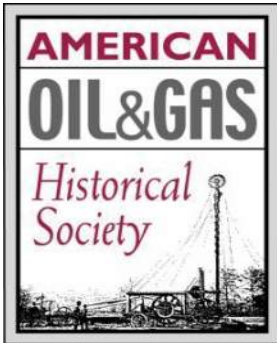
The Court of Appeal, however, upheld the ruling of the trial court that had excluded the owner's valuation testimony, and that had only allowed testimony valuing the underground storage rights based upon the number of surface acres owned. The Appellate Court noted that times have changed since *Zuckerman* was decided in 1987, and the evidence now demonstrated that there was a private market for underground storage rights, and every sale involved in that private market based the amount paid for the storage rights, solely upon the number of surface acres owned by the private property owner. There was no evidence of any sales in the private market for underground storage rights that were based upon the size of the portion of the underground reservoir that fell within a property ownership.¹

Since there was now a private market for such rights, Evidence Code § 823 and Code of Civil Procedure § 1263.320, subd. (b) were no longer applicable, and the only valuation methodology allowable is the methodology actually utilized in the marketplace.

Practical Lessons: There is a tendency by many judges to liberally permit evidence to be introduced to a jury in condemnation cases, thus allowing the jurors to weight the persuasiveness of the all of the evidence and allowing the attorneys to argue to the jurors why specific evidence should not be given credence. There have been a number of important condemnation cases during the past few years where the appellate courts have rebuked lower courts for excluding evidence from the jury and have ordered the cases to be retried with the evidence admitted. This appellate court went the other way and specifically stated: "[c]ourts, both trial and appellate, have the responsibility of insuring that an expert's determination of value takes into account only reasonable and credible factors." (*Central Valley*, at p. 720.) While some attorneys may think they can throw anything up and see what sticks to the wall, this case is authority that if the valuation evidence cannot be verified by what goes on in the real world marketplace, the jury should not see or hear the evidence. The exception occurs only when the property involved is one where there is no relevant, comparable market.

Mr. Rubin can be contacted at mrubin@rutan.com.

¹ The utility's expert explained there was "good reason" for not valuing gas storage leases based on underground volume due to the speculative nature of the volume that may differ based on reservoir porosity, thickness, extent, and communication with other reservoirs." (*Central Valley, supra*, 11 Cal. App. 5th at 720.)



July 12, 2017

Joe Munsey
Director
Los Angeles Association of
Professional Landmen

Dear Joe:

Thank you for the Los Angeles Association of Petroleum Landmen's 2017 contribution of \$300 to the American Oil & Gas Historical Society (AOGHS), a program of the IPAA Educational Foundation. This letter is to certify that there were no goods or services received in exchange for your contribution. Please forward to your tax advisor to determine the amount that will be deductible for tax purposes.

The purpose of the foundation is to promote a greater public understanding of the oil and natural gas industry's role in the United States. Your gift allows the Foundation to support worthy educational programs, including, but not limited to, energy education.

Again, thank you for your contribution to the IPAA Educational Foundation and for your commitment to quality education programs.

Sincerely,

Barry Russell
President

IPAA Educational Foundation

Bruce Wells
Executive Director

American Oil & Gas Historical Society

The IPAA Educational Foundation is a 501(C)(3) organization. The Foundation tax identification number is 52-1849282.

35th Annual 2017 West Coast Landmen's Institute Mandalay Beach Hotel & Resort



Oxnard, California

Wednesday – Friday

October 4 – 6, 2017

The Bakersfield Association of Professional Landmen (BAPL) and the Los Angeles Association of Professional Landmen (LAAPL) proudly present the 35th Annual West Coast Landmen's Institute, to be held in Oxnard, California at the Embassy Suites Mandalay Beach Hotel & Resort. 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 for members of the BAPL or LAAPL are \$225 (\$275 if received after September 20th); \$275 for non-members of the BAPL or LAAPL (\$325 if received after September 20th); \$175 for "Independents*" (\$225 if received after September 20th); \$225 for non-member "Independents" (\$275 if received after September 20th). These registration fees include attendance to the Institute, the Wednesday Reception, Thursday Lunch and Dinner, Breakfast each morning, and break refreshments.

*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.

Our guest/significant other fee for this year is \$200 (a \$265 value) and will be strictly enforced.

The AAPL will award RL/RLP Continuing Education Credits or CPL Recertification Credits for participation in this Institute. AAPL Attendance Affidavits will be available at this event. Day Carter Murphy will be coordinating CLE credits for the legal profession.

Registrants should make overnight accommodations directly with **Embassy Suites Mandalay Beach Hotel & Resort** using the following link:

<http://embassysuites.hilton.com/en/es/groups/personalized/O/OXNCAES-WCL-20171004/index.jhtml>

We have a limited number of rooms secured at a rate of \$169 per night for King Standard View and \$189 per night King Resort View. You must make your reservation by Monday, September 4th to take advantage of his reduced rate. Room availability is not guaranteed after this date!

Independents, share a room with another and save.

Individuals will be responsible for their own hotel 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 are guaranteed a minimum number of rooms each night, so we ask that you consider using WCLI's block of rooms at *Embassy Suites Mandalay Beach & Resort*, if you are planning your lodging in the area for this event.

We have reserved a limited number of tee times starting at Noon on Wednesday, October 4th, at the Buenaventura Golf Course (prior to the WCLI) for our participants (*\$100 per player - includes a box lunch and adult refreshments*). This golf course is just a few miles from our Mandalay resort and right off Victoria Avenue. Please remember to complete the attached Sponsor/ Registration form if you wish to play golf or attend the WCLI.

35th 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. Yvonne Hicks, PO Box 12816, Bakersfield, CA 93389.

Member Prices:	Non- Member Prices:	Member Independent Prices:	Non- Member Independent Prices:
<input type="checkbox"/> \$225 if paid by 9/20	<input type="checkbox"/> \$275 if paid by 9/20	<input type="checkbox"/> \$150 if paid by 9/20	<input type="checkbox"/> \$200 if paid by 9/20
<input type="checkbox"/> \$275 if paid after 9/20	<input type="checkbox"/> \$325 if paid after 9/20	<input type="checkbox"/> \$200 if paid after 9/20	<input type="checkbox"/> \$250 if paid after 9/20

\$175 per Spouse/Significant Other or non-participating guest fee (includes reception, breakfasts, luncheons, and dinner... A \$275 value). *This will be strictly enforced.* One price for participating either one or all three days. Number of additional guest's _____

- Events:**
- Wednesday Reception at Mandalay Beach, 10/4 Number of Attendees _____
 - Thursday Breakfast at Mandalay Beach 10/5 Number of Attendees _____
 - Thursday Lunch at Mandalay Beach, 10/5 Number of Attendees _____
 - Thursday Evening at Waterside Restaurant, 10/5 Number of Attendees _____
 - Friday Breakfast at Mandalay Beach, 10/5 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 Yvonne Hicks at 661.328.5530 or [email: yvonne@mavpetinc.com](mailto:yvonne@mavpetinc.com)

Golf at Buenaventura Golf Course(includes a box lunch and adult refreshments) Wednesday 10/4 – \$100
 No. 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.

2017 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	\$1000	\$2000	\$3500	\$5000
Complimentary WCLI Registration	One Tuition	One Tuition	Two Tuitions	Three Tuitions	Four Tuitions
Complimentary Guest Registration	-	One Guest	Two Guests	Three Guests	Four Guests
Golf Registration	-	One Golf Registration	Two Golf Registrations	Three Golf Registrations	Four 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

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

Sponsorship Level (*please check one*):

One Star - \$500 Four Stars - \$3500

Two Stars - \$1000 Five Stars - \$5000

Three Stars - \$2000

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

- 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>

Please list the participants attending under your sponsorship

Note: Complementary Registrants must indicate as such on their Registration Form.

2017 West Coast Landman Institute - Topics & Speakers



SPEAKER PROFILES and SUBJECT MATTER 35th WEST COAST LANDMEN'S INSTITUTE – October 4th – 6th, 2017

Speaker Committee

Joe Munsey, RPL, Co-Chair, 949-361-8036 [SoCalGas]
Mike Flores, Co-Chair, 310-990-8657 [Flores Strategies LLC]

SPEAKER NAME/TITLE	COMPANY AFFILIATION/ ADDRESS/PHONE NO. & EMAIL	TENTATIVE TOPIC
Thursday		
Mike Flores, Legislative Affairs	Flores Strategies LLC	Legislative Update [Local and National]
Allan Shareghi, PG	Retired, Chief, Lease Management Section Office of Strategic Resources U.S. Department of the Interior Bureau of Ocean Energy Management	"History of California Geology"
Paul M. Williams, Esq. Associate & Ernest J. Guadiana, Esq., Associate	Morgan, Lewis & Bockius LLP Elkins Kalt Weintraub Reuben Gartside LLP	"Surface Use Agreement – How to Live With Our Green Energy Partners"
James Miller, Esq., Senior Vice President, Western Operations Counsel, Assistant General Counsel	Investment Property Exchange Services, Inc.	"If I Own Minerals Rights Can I Do a 1031 Exchange"
AAPL Executive Vice President Melanie B. Bell, CPL	American Association of Professional Landman	Luncheon Speaker "AAPL Initiatives and the Future"
Joseph D. Larsen, Esq. Partner Government & Regulatory Law	Rutan & Tucker, LLP	"Eminent Domain 101 - A Case Study on Central Valley Gas Storage LLC v Southam, (2017) 11 Cal.App.5 th 686"
Eric L. Martin, Esq., Partner	Law Firm of Stoel Rives LLP	"Chthonic Pithos: Pore Space Rights Today"

SPEAKER NAME/TITLE	COMPANY AFFILIATION/ ADDRESS/PHONE NO. & EMAIL	TENTATIVE TOPIC
Carlin A. Yamachika, Esq., & Joshua L. Baker, Esq.	Law Firm of Day Carter Murphy LLP	"Oil and Gas Conveyances in California: How to Get (and Give) What You"
Friday		
Dale Hoffman, CPL Manager, Land and External Affairs	Caelus Energy Alaska, LLC	"Five Year Update on Alaska Oil and Gas Activity"
Dave Kilpatrick, President	Kilpatrick Energy Group	"Global Industry [Fossil/Green] Update & Foretelling"
Dave Quast of FTI Consulting Energy In Depth – California	Energy In Depth	"Correcting Activist Misinformation - Educating the Public About Oil and Gas Development"
Bob Poole, Director	Western States Petroleum Association	"California Oil and Gas Industry Update - "Where Do We Go From Here"

Agenda

Conservation Issues Created by Principles of Oil & Gas Law

J. Quirk

Ownership of oil and gas in California:
 Primary and secondary oil and gas rights
 Rule of capture; doctrine of correlative rights
 Tract-specific exercise of oil and gas rights
 Doctrine of accommodation
 "Equitable easements" in an oil and gas context?

Subsurface Trespass in the World of Seismic Surveys, Horizontal Wells and Hydraulic Fracturing: What Are the Stakeholders' Rights and Remedies?

J. Harris,
 D. Ossemjok

Definitions and distinctions between relevant estates in land
 Legal definition of subsurface trespass in this context
 Historical, start drilling situations:
 Availability and measure of damages and other remedies
 What does "ownership" mean in this context?
 Who owns the pore space?
 Whose consent is required for pass through drilling?
 Who has a right to the seismic data?
 Is there a subsurface trespass if a hydraulic fracture crosses a lease line?
 Can waterflooding or waste water disposal be considered a subsurface trespass?
 Application and implications of Code of Civil Procedure Section 349.9,
 Texas law on subsurface trespass by seismic survey
 Texas law on subsurface trespass by hydraulic fracturing
 Other states' perspectives on subsurface trespass issues

A Survey of the AAPL's 2015 JOA

H.M. Gibson

Article V – Operator Changes
 • O must own an interest in the contract area
 • Non-owner may operate if
 • Removal of operator
 • Resider considerations
 Amendments to Exhibit A
 Lease burdens
 Title changes
 AFE required
 Horizontal provisions

Mission and Actions of the California DOGGR

Panel

Statutory mission and objectives
 Administrative review
 DOGGR regulatory initiatives, including water injection and disposal regulations
 "Federalism" issues—e.g. DOGGR's authority under the SDWA, the 1980 MDA
 Preemption of local agency regulatory efforts and current litigation involving cities and counties

Questions (and answers?)

Current Topics in California Oil and Gas Law

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Bakersfield, CA - Wednesday, October 25, 2017



Learn about conservation issues created by principles of oil and gas law
Explore subsurface trespass issues involving seismic surveys, horizontal wells and hydraulic fracturing
Study stakeholders' rights and remedies in subsurface trespass
Review the AAPL's 2015 JOA
Examine the mission and actions of the California DOGGR

Continuing Education Credits

Attorneys
 6.25 California CLE Hours
California Engineers & Geologists
 Non-Credit Continuing Ed.
Landmen
 6.0 AAPL CE Hours



Learning Objectives

You'll be able to:

Learn about conservation issues created by principles of oil and gas law.
Explore subsurface trespass issues involving seismic surveys, horizontal wells and hydraulic fracturing.
Study stakeholders' rights and remedies in subsurface trespass.
Review the AAPL's 2015 Joint Operating Agreement.
Examine the mission and actions of the California Division of Oil, Gas and Geothermal Resources.



Faculty

John "Jack" Quirk, Member of Bright and Brown, Glendale, CA
Mr. Quirk represents both mineral owners/lessors and mineral lessee/operators in the negotiation and performance of oil and gas leases and other agreements unique to the exploration and production phases of the oil and gas industry and is considered one of the state's leading practitioners in the area of oil and gas title. He was presented a "Special Award-Education" at the American Association of Professional Landmen's 2006 Convention in recognition of his involvement in education of the land professional community. In September 2012, at the 50th Annual West Coast Landmen's Institute, he presented remarks and a paper entitled: "A Study in Cooperative Subsurface Oil & Gas Development Rights." In April 2013, he presented expanded discussion and written materials on the same subject at a HalfMoon LLC continuing legal education seminar in Santa Barbara, California. In October 2014, at the 52nd Annual West Coast Landmen's Institute he joined Cecilia Rendon of Bright and Brown in presenting remarks and a paper entitled: "To Protect and Inform—a Recording Grab Bag!"

John J. Harris Partner at Locke Lord LLP in Los Angeles, CA
Mr. Harris has more than 30 years of experience representing producers, working interest owners, land and mineral owners, financial institutions and public agencies on oil and gas, energy and environmental matters. Mr. Harris has extensive experience in all aspects of energy law, including

the wide range of operational problems faced by energy producers doing business in California and in other states. He also has significant experience representing oil and gas, industrial and local government clients in environmental litigation, transactional and regulatory matters. With his broad transactional experience, Mr. Harris has helped energy industry clients in the purchase and sale of oil and gas producing properties and pipelines, and he has helped with operating agreements, financing transactions, production purchase and sales agreements, and oil and gas lease negotiations, as well as agreements with governmental agencies. He provides mineral title opinions and assists clients in resolving complex title issues.

David Ossentjuk Partner in Ossentjuk & Bort, Westlake Village, CA
Mr. Ossentjuk focuses his law practice on oil and gas transactions, including conveyances, leasing, operations, title issues, joint ventures and operating agreements, and compliance with federal, state and local oil and gas regulations. He is one of a limited number of attorneys in California with significant experience in the litigation of oil and gas disputes, including lease termination/preservation issues, unit and joint operations disputes, royalty and title matters, and post-operation environmental clean-up and abandonment issues. He also has significant experience in the purchase, sale and development of environmentally-impacted properties, including the negotiation and litigation

of environmental aspects of purchase and sale agreements, leases, joint ventures, and partnerships, oil field development and abandonment agreements, environmental insurance policies, land use entitlements, and prospective purchase agreements. Mr. Ossentjuk also regularly handles general business, real estate and environmental litigation. He has successfully litigated and tried numerous business disputes involving claims for breach of contract, trespass, nuisance, fraud, breach of fiduciary duty, business interference, corporate and partnership governance issues and insurance coverage. Mr. Ossentjuk is a graduate of Claremont McKenna College (1983) and the UCLA Law School (1987).

H. Martin Gibson Of Counsel at Locke Lord LLP, Austin, TX
Mr. Gibson practices energy law, with emphasis on exploration and production activities of independent oil and gas companies and individuals. He can, if pressed, advise on leases, JOAs, exploration and drilling agreements, famous and almost any other kind of agreement found in oil and gas. If you want to borrow, lend or secure interests, he can help and has done special deals like production payments, NPLs, carried interests and UBIT cognizant arrangements. He even speaks some oil and gas tax. Currently he is a member of the Texas Title Standards Board which codifies real estate and minerals title matters in Texas and is board certified in oil, gas and mineral law by the Texas Board of Legal Specialization.

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Material and Nonmaterial Causes of Failure

Fri., Sept. 8, 2017, 11:00 AM - 1:30 PM CDT

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Registration

Current Topics in California Oil and Gas Law
Bakersfield, CA - Wednesday, October 25, 2017

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