Award Winning

The Override

Every Landman Wants One!

Volume X, Issue VIII | May, 2017

LAAPL Los Angeles Association of Professional Landmen

Presidents Message

John R. Billeaud, RPL
President
Sentinel Peak Resources

Dear LAAPL members and friends,

May has already arrived which means this will be my last message as your President. As I reflect on the 2016-2017 term, it brings me a great sense of pride and accomplishment to have served with such a professional and creative group of individuals who've dedicated their valuable time to serve as Officers, Directors and Committee Chairs while upholding LAAPL's excellent tradition and striving to further develop and improve the organization; I certainly learned a great deal from all of you – thank you. And, a special thanks to Joe Munsey and Randy Taylor, for continuing to be the back bone of the organization and consistently publishing a terrific, "award winning" newsletter every other month during the season…you may know it as the *Override*.

I look forward to handing over the gavel to Sarah Bobbe, RPL, who we all know will do an exceptional job leading the organization as President for the 2017-2018 term. Sarah did an excellent job serving as Vice President this past year, was instrumental in getting our new website launched, and secured some great speakers for our luncheons. We're excited for Sarah to assume the Presidency and are confident she will have some great ideas for the organization moving forward. I also look forward to staying involved in the organization next term by serving on the Board as Past President.

I strongly encourage those LAAPL

Presidents Message continued on page 3

Inside This Issue:

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Meeting Luncheon Speakers

"Stormwater Regulations and Their Impacts on the California Oil and Gas Industry"

Wayne Rosenbaum, Esq. Partner with Opper & Varco, LLP in the areas of environment, land use and natural resources, with an emphasis on water quality and land use laws. Wayne completed his undergraduate studies receiving his BA in Mathematics/ Chemistry. He completed his graduate studies at Rutger University receiving his Masters in Education. Wayne completed his Juris Doctorate at California Western School of Law.

Jeremy N. Jungreis, Esq. Senior Counsel in Rutan's Government & Regulatory Section. He is an accomplished water and environmental attorney with extensive experience guiding public and private clients through complex matters. Jeremy completed his undergraduate studies at the University of Central Florida; receiving his Bachelor of Science, completed his graduate studies at Florida State University of Law receiving his Juris Doctorate.

Opinionated Corner

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

There is a first time for everything, and in our case, we [Randall Taylor and I] have already bagged the Chair of the Newsletter/Publication Committee well in advance of the 2017-2018 term. A mere nod from our incoming President Elect, Sarah Bobble, CPL, took place at the last chapter board meeting ensuring an ironclad grip on yet another year to control the barrels of ink flowing into the printing presses.

We enjoy the thrill of beating out the competition; we are sure the challengers were lurking in the shadows to seize the helm of this award winning newsletter. But, with preemptive precision and proper cajoling we have once again preserved our position.

We would like to take this opportunity and express thanks to the following persons for making "The Override" a continuous success; i). The LAAPL executive board, ii.) JR Billeaud, RPL, Chapter President, iii). The legal community who have provided the content for our Cases/Issues of the Month, iv). Cliff Moore, Independent, for his tireless efforts to provide editorial oversight; and v). Star of this award winning publication, Randall Taylor, RPL, of Taylor Land Services.

We are awash in oil and gas these days, so we recommend during the summer when we go dark to consume massive quantities of fossil fuels to help reduce the overhanging glut. Along with OPEC, it is an all-out effort by everyone in the industry to keep oil over the $50bbl price range. Have a safe summer.

Look forward to seeing all at the Long Beach Petroleum Club.

LAAPL Accomplishments-Objectives

LAAPL Accomplishments/ Improvements 2016-2017 Season

1. Created and launched new LAAPL website which will allow current and future LAAPL Website Chair access from any type of PC/laptop and enable updates and revisions to be made on a regular basis. The website also provides LAAPL with a more modern and user friendly platform.
2. Renamed/repurposed LAAPL Advertising/Hospitality Chair to LAAPL Advertising Chair. The Advertising Chair will be responsible for direct marketing (i.e. contacting members re renewals and prospective new members) to enhance LAAPL's active membership. The Advertising Chair responsibilities will also cover design and procurement of LAAPL promotional products to serve as rewards for membership renewals/new memberships/sponsorships as well as gifts for active members in appreciation of their support.
3. Established new process with AAPL allowing for LAAPL members that are RL/RPL/CPL/ESA to be accredited Continuing Education (CE) credits by attending LAAPL luncheons and submitting an Affidavit of Attendance.
4. Established new process for LAAPL Membership Chair to send out monthly reminders to members re: membership renewal applications and fees.

LAAPL Objectives 2017-2018 Season

1. Develop an online capability for members to pay via credit card for luncheon, advertising, and membership renewal fees.
2. Create and order LAAPL hats, shirts, golf balls, coozies, etc. for handing out to members at annual Mickelson Golf Classic and as a reward for renewing/ paying for membership.
3. Add pictures on website and/or newsletter of each prior luncheon or event.
4. Strive to increase number of paid members from ~30 to ~60.
5. Apply for and win AAPL's Best Newsletter Award (Small-Size Association).

President's Messager continued from page 1

members who have not previously served in the organization to step-up and get involved; I believe you will find it to be a rewarding experience as I have. If you are not able to get involved but do have suggestions or ideas of how LAAPL can better serve its members, please speak-up or write us; I can say from experience that the Board is generally always open to new ideas.

We do have some fun events to look forward to this fall with our annual LAAPL Mickelson Golf Classic scheduled for September 8th at Angeles National Golf Course in Sunland, CA and the West Coast Land Institute scheduled for October 4th through October 6th in Oxnard, CA – be sure to mark your calendar for these events.

We look forward to seeing you at the next and final luncheon of the 2016-2017 term which is being held at the usual time and location – 11:30 AM @ Long Beach Petroleum Club. We will hold elections for the succeeding term and hope all of you can attend and participate in the electoral process.

Farewell and Regards,

John R. Billeaud, President

Scheduled LAAPL Luncheon Topics and Dates

May 18, 2017

Wayne Rosenbaum, Esq., Partner, Opper & Varco, LLP

Jerermy N. Jungreis, Esq., Rutan and Tucker

"Stormwater Regulations and Their Impacts on the California Oil and Gas Industry"

Officer Elections

Dark for the Summer

2016—2017 Officers & Board of Directors

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

Vice President
Sarah Bobbe, CPL
Signal Hill Petroleum
562. 595.6440 ext. 5275

Past President
Ernest Guadiana, Esq.
Elkins Kalt Weintraub Reuben Gartside LLP
310-746-4425

Secretary
Brandi Decker
California Resources Corporation
(562) 283-2205

Treasurer
Suzy Husner
Independent
562-587-2402

Director
Joe Munsey, RPL
Southern California Gas Company
949-361-8036

Director
Randall Taylor, RPL
Taylor Land Service, Inc.
949-495-4372

Region VIII AAPL Director
Jason Downs, RPL
Breitburn Management Co.
213-225-0347

Newsletter/Publishing Chair
Joe Munsey, RPL, Co-Chair
Randall Taylor, RPL, Co-Chair

Communications/Website Chair
Suzy Husner
Independent
562-587-2402

Membership Chair
Cambria Rivard, J.D.
California Resources Corporation
562-495-9373

Education Chair
Joe Munsey, RPL
Southern California Gas Company
949-361-8036

Legislative Affairs Chair
Mike Flores
Flores Strategies, LLC
310-990-8657

Advertising/Hospitality Chairs
Chip Hoover, Independent
310-795-7300
Leah Hoover, Independent
310-795-2272

Nominations Chair
L. Rae Connet, Esq.
PetroLand Services
310-349-0051

Golf Chairs
Jason Downs, RPL
J.R. Billeaud, RPL

Chapter Board Meetings

See last page of Newsletter

Mickelson Golf Classic

John R. Billeaud, RPL,
& Jason Downs, RPL,
Mickelson Golf Classic Co-Chairs
213-225-0347
Jason.downs@breitburn.com

John R. Billeaud, RPL, & Jason Downs, RPL, LAAPL Golf Co-Chairs, cordially invite you to participate in the 2017 LAAPL Mickelson Golf Classic fundraiser to be held again @ Angeles National Golf Club in Sunland California on Friday, September 8th, 2017. 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 September 1, 2016, as only 48 golf reservations are available. Cocktail hour, buffet dinner, raffle and awards ceremony will follow. We look forward to your participation.

2017 challenge; we want to increase the participants this year and are aiming to fill every golfer spot with sponsorship. Get your check books out for the Pyles Boys Camp!!

Pre-registration is open for sponsors, $300 per golfer sponsorship. For signup please click here.

2017 West Coast Landmen's Institution

The WCLI, a joint effort of the Los Angeles Association of Professional Landmen and Bakersfield Association of Professional Land, is scheduled for October 4th – 6th, 2017, at the newly renovated Embassy Suites Mandalay Beach Hotel & Resort in Oxnard, California.

Treasurer's Report

Suzy Husner
Treasurer
Independent

As of 2/28/2017, the LAAPL account showed a balance of	$25,494.96
Deposits	$1,540.00
Total Checks, Withdrawals, Transfers	$713.84
Balance as of 4/28/2017	$26,321.12
Merrill Lynch Money Account shows a total	Not Available

Call for Dues

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; until further notified, please send your renewal notices along with your payment as follows:

Cambria Rivard, JD, Membership Chair
California Resource Corporation
111 W. Ocean Blvd. 8th Floor, Long Beach, CA 90802
Long Beach, CA 90802
Cambria.Rivard@crc.com
(562) 283-2203

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

Lawyers' Joke of the Month

Jack Quirk, Esq.
Bright and Brown

US and Canadian officials toured the Dakota Pipeline route yesterday. Government spokespersons said all went well.

Our Honorable Guests

Someone stole the list of our guests who attended and thus our honorable visitors cannot be noted at this time. A Sub-committee appointed by the in-coming President will be formed to determine if any malfeasance has taken place. Once this person or persons have been identified, he/she/they will temporarily be banned from holding an office or committee chair. A reward amount leading to the conviction of the perpetrator(s) is being considered.

EDUCATIONAL CORNER

Joseph D. Munsey, RPL
Education Char

By attending the May luncheon you can earn 1.0 hour of Continuous Educational Credits for your RL, RPL or CPL credentials. Wayne Rosenbaum, Esq., and Jeremy N. Jungreis, Esq., will be presenting, "Stormwater Regulations and Their Impacts on the California Oil and Gas Industry."

Additionally, AAPL's Home Study program allows members to earn continuing education credits at their own convenience and schedule. The courses cover the issues most relevant to today's landman and cost between $30 and $75 to complete.

To receive continuing education credits via a home study course:

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

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

General Credit Courses:

Environmental Awareness for Today's Land Professional Credits approved: 10 CPL/ESA/RPL/RL
$75.00

#101 Due Diligence for Oil and Gas Properties
Credits approved: 10 CPL/RPL/RL
$75.00

#102 The Outer Continental Shelf
Credits approved: 5 CPL/RPL/RL
$37.50

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

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

#106 Going Overseas: A Guide to Negotiating Energy Transactions with a Sovereign
Credits approved: 4 CPL/RPL/RL
$30.00

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

#109 Common Law Environmental Issues and Liability for Unplugged Wells
Credits approved: 4 CPL/ESA/RPL/RL
$30.00

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

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

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

2017 - 2018 Officer Election

Nominations Chairwoman L. Rae Connet, Esq., of Petroland Services, Inc. and John R. Billeaud, RPL, Chapter President, Senior Landman of Sentinel Peak Resources have provided the slate of qualified candidates[1] set forth below which elected officers will serve from July 1st, 2017 – June 30th, 2018. Officers will be elected by a vote of membership in attendance at the May 18, 2017, chapter meeting held at the Long Beach Petroleum Club. Nominations will also be accepted from the floor at the May 18, 2017, regular meeting.

President[2]	Sarah Bobbe, CPL, Land Manager, Signal Hill Petroleum
Past President[3 & 4]	John R. Billeaud, RPL, Senior Landman, Sentinel Peak Resources

OFFICE		**CANDIDATE**
Vice President	☐	Mike Flores, Flores Strategies LLC
	☐	
Secretary	☐	Brandi Decker, California Resources Corporation
	☐	
Treasurer	☐	L. Rae Connet, Esq., Petroland Services, Inc.
	☐	
Directors (Vote for two only)	☐	Randall Taylor, RPL, Taylor Land Services, Inc.
	☐	Joseph D. Munsey, RPL, Senior Land Advisor, Southern California Gas Company
	☐	

[1]Per Section 7(7)(a) prior to the regular meeting 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.
[2]Per Section 7(3) the Vice President shall succeed to the office of the President after serving his or her term as Vice President and shall hold the office of President for the next twelve (12) months.
[3]Per Article 8 (2) the outgoing President shall serve as Past President.
[4]Per Article 8 (2) the outgoing President shall serve as Director.

LAAPL Legislative Update

Mike Flores, Flores Strategies LLC
"A Public Affairs Company"

California:

SB 1 Passes Raising Gas Taxes and Vehicle Fees

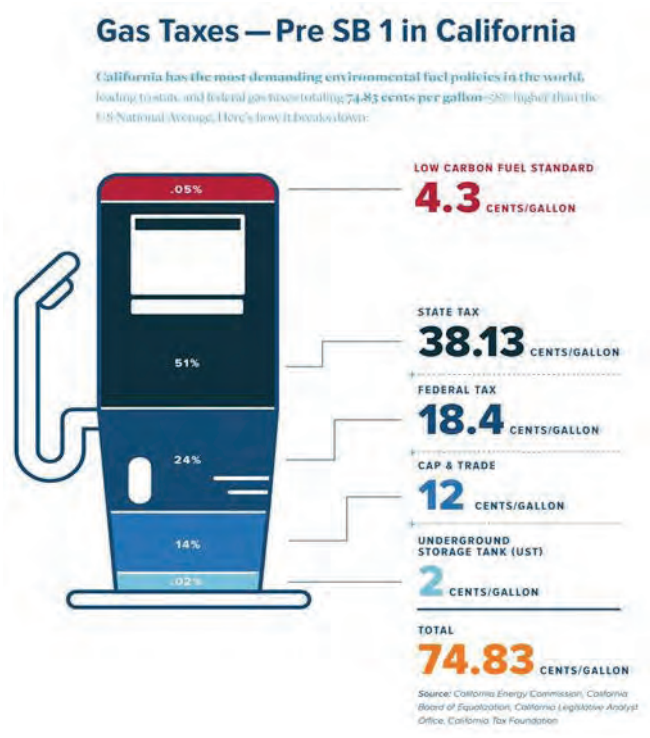
The California Legislature passed Senate Bill 1 raising gas taxes and vehicle fees in hopes of generating tens of billions of dollars to fix the state's roads.

The tax increases will take effect November 1 and new vehicle registration fees will begin Jan. 1, 2018. Fees on zero-emission vehicles will take effect July 1, 2020, according to the text of the bill.

To raise a projected $52.4 billion over 10 years, changes to taxes and fees include:

- A 12-cent increase in the gasoline excise tax
- A 20-cent increase in the diesel excise tax
- A 5.75 percent increase in the diesel sales tax
- A new vehicle fee, which will annually charge drivers between $25 and $175, depending on the value of the vehicle
- A $100 annual fee on zero-emission vehicles

The vote brings California's gas excise tax to 30 cents per gallon.



News from DOGGR:

New Discussion Draft of UIC Regulations Available for Review

The Division of Oil, Gas, and Geothermal Resources has released Version 2 of its "discussion draft" regulations for the Underground Injection Control (UIC) Program, including new provisions to further protect the environment and public safety. The public is invited to submit comments through May 26. A public workshop will be held 9 a.m. to 1 p.m. Wednesday, May 24, in Bakersfield at the Four Points Sheraton, 5101 California Avenue.

Aliso Canyon Update

The Department of Conservation's Division of Oil, Gas, and Geothermal Resources (Division) has completed its comprehensive safety review at the Aliso Canyon Storage Facility. With safety as our top priority, the Division's extensive site inspections and review of Southern California Gas's testing -- in consultation with the Lawrence Livermore, Lawrence Berkeley and Sandia National Laboratories -- was completed on January 17, 2017.

Regulators will not make a decision about whether injection of gas into the storage facility can resume until they review and respond to comments submitted by the public.

Overview of Bills Introduced in First Legislative Session:

The following bills were introduced in the first half of the 2017-18 LEGISLATIVE SESSION

AB 55 (Thurmond - Richmond): The California Refinery and Chemical Plant Worker Safety Act of 1990 requires every petroleum refinery employer to submit to the Division of Occupational Safety and Health a full schedule for the following calendar year of planned turnaround every September 15th.

Legislative Update continued on page 9

AB 1197 (Limón - Santa Barbara): The Lempert-Keene-Seastrand Oil Spill Prevention and Response Act has many requirements including:

- Requires the administrator for oil spill response, acting at the direction of the Governor, to implement activities relating to oil spill response, including drills and preparedness, and oil spill containment and cleanup, and to represent the state in any coordinated response efforts with the federal government.
- Requires owners or operators of specified facilities and owners or operators of certain vessels to prepare and implement an oil spill contingency plan, containing specified provisions, that has been submitted to, and approved by, the administrator.

AB 1472 (Limón - Santa Barbara): This bill would require any person extracting oil or gas or other minerals from lands under the jurisdiction of the State Lands Commission remove beach, underwater, and any other obstructions deemed necessary by the State Lands Commission.

AB 1647 (Maratsuchi - Torrance): Would require an air district to require the owner or operator of a petroleum refinery to install a community air monitoring system, as defined, on or before January 1, 2020, and to install a fence-line monitoring system, as defined, on or before January 1, 2019.

SB 44 (Jackson - Santa Barbara): would require the State Lands Commission to within 2 years, administer a coastal hazard and legacy oil and gas well removal and remediation program.

SB 57 (Stern - Canoga Park & Hertzberg - Van Nuys): Would continue that prohibition against Southern California Gas which prohibits the injection of any gas into the Aliso Canyon natural gas storage facility until a specified root cause analysis of the natural gas leak from the facility that started approximately October 23, 2015, has been completed and released in its entirety to the public; and, the proceeding to be completed by December 31, 2017.

SB 724 (Lara - Bell Gardens): Among the items in this bill, it would authorize a city or county to request from the supervisor a list of all idle wells within its jurisdiction. This bill would also authorize the supervisor or district deputy to order the decommissioning of an attendant production facility of a well that has been deserted. It would require the department to report on October 1, 2019, to the Legislature on the estimated number of orphan wells, hazardous wells, idle-deserted wells, deserted facilities, and hazardous facilities remaining, the estimated costs of abandoning or decommissioning those wells and facilities, and a timeline for future well abandonment and decommissioning of facilities with a specific schedule of goals; and, require the department to provide the Legislature with an update of this report on October 1, 2022, containing specified information.

SB 773 (Stern - Canoga Park): Existing law requires DOGGR to regulate the drilling and operation of wells used for the purpose of producing oil and gas and requires an owner or operator of a well to keep, or cause to be kept, a careful and accurate log, core record, and history of the drilling of the well. Under existing law, a person who fails to comply with this and other requirements relating to the regulation of oil or gas operations is guilty of a misdemeanor. This bill would provide that it is the policy of the state that information sufficient to competently and completely characterize each well, including after plugging and abandonment, be maintained by the state and would require the Supervisor to ensure compliance with this policy.

Antitrust Claims: A Novel Line of Attack by Groups Opposing Natural Gas Infrastructure Projects

By: John L. Longstreth, Esq., Partner; Sandra E. Safro, Esq., Partner; David L. Wochner, Esq., Practice Area Leader-Policy/Regulatory; and Jennifer L. Bruneau, Esq., Associate,

Law Firm of K&L Gates

The Sierra Club and other environmental groups have made little secret of their opposition to the continuing use of fossil fuels, and to the development of infrastructure to support that use. A new wrinkle in their multi-front attack on fossil fuel-related projects can be seen in a series of recent filings with federal regulatory agencies asserting that two natural gas pipeline projects violate the antitrust laws. Although styled as "complaints," the filings do not initiate an adjudicatory proceeding in the usual sense of a complaint, but rather appear to be requests for enforcement or competition advocacy actions by federal antitrust agencies. The challenged projects are joint ventures of energy utility companies, and the natural gas supplied by each will serve their respective natural gas or electricity retail distribution affiliates. The claims that this structure is anticompetitive are novel, and face substantial obstacles under established antitrust law.

Overview of the Antitrust Claims

The recent antitrust challenges to pipeline projects first surfaced with respect to the Atlantic Coast Pipeline (ACP) project, which includes 600 miles of new pipeline, three compressor stations, and related facilities across West Virginia, Virginia, and North Carolina. ACP is owned by subsidiaries of four utility companies, affiliates of which will purchase some of the gas supplied by the pipeline. Sierra Club argues that this structure is anticompetitive because it will stifle the development of renewable energy alternatives for use in generating electricity and limit ACP's incentive to complete the project efficiently, thereby unnecessarily increasing costs for retail customers.

Sierra Club has also asserted an antitrust theory against the NEXUS project, which involves the construction of 256 miles of new pipeline, four compressor stations, and related facilities across Pennsylvania, West Virginia, Ohio, Michigan, and Ontario. NEXUS is a joint venture between two utility companies. Sierra Club claims that one of the companies is monopolizing electricity generation because its natural gas supply will be sourced from the NEXUS project, the cost of which it can then pass on to its Michigan retail customers through its pre-existing regulated monopoly over a segment of the retail market. Sierra Club also argues that the project is anticompetitive because it is more costly than other alternatives for supplying increased energy demand.

The Theories Asserted Face Significant Challenges Under Established Antitrust Principles

The antitrust laws impose specific requirements designed to assure that claims truly assert harm to competition in a well defined market. It is not sufficient to make assertions of harm to the interests of a specific market participant, or to a policy goal unrelated to the goals of the antitrust laws to encourage free and fair competition and the generally resulting lower prices and increased output. A full antitrust analysis would exceed the bounds of this alert, but a few initial observations can be made.

First, many of the antitrust arguments Sierra Club advances are based on the assertion that these pipeline projects do not

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AT PURPLE LAND MANAGEMENT, WE BELIEVE THERE'S A DIFFERENT WAY TO PROVIDE LAND SERVICES. A WAY THAT BUCKS INDUSTRY CONVENTIONS IN FAVOR OF NEW IDEAS THAT ACHIEVE BETTER RESULTS. A WAY THAT USES THE LATEST TECHNOLOGY TO DRIVE DOWN COSTS AND AMP UP EFFICIENCIES. A WAY THAT SEES OUR WORK AS PART OF A REVOLUTION DESIGNED TO MAKE OUR COMMUNITIES AND OUR COUNTRY BETTER. THIS WAY IS THE PURPLE WAY- AND IT'S THE HEART AND SOUL OF WHO WE ARE, WHAT WE DO AND HOW WE DO IT.

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make economic sense, and that the utilities must therefore have some separate anticompetitive motive. However, there are numerous other pipelines under construction in the same general geographic area, as might be expected given the boom in natural gas production over the last decade. This suggests both that there is a good economic case for construction of new natural gas transportation capacity, and that control of a single pipeline would not allow its owners to control any properly defined market. Antitrust agencies and courts will not second guess reasonable business decisions being made in the marketplace.

Second, in claims such as these, antitrust complainants are required to identify some relevant antitrust market that would be monopolized as a result of activity they challenge. The complainants in the recent filings against the pipelines either do not do so, or attempt to define markets based on the activities of a single market participant, which is generally disfavored under the antitrust laws.

Finally, theories of economic harm must take account of the heavy regulation of energy markets at the state and federal level. Such regulation, for example, prohibits a utility from passing on costs to retail customers that are not prudently incurred. An antitrust theory based on a utility's asserted intention to do just that could be viewed as implausible.

Implications

Environmental organizations have shown a willingness to use every potential legal means to stop or delay natural gas development activities and other energy infrastructure projects. Such is the avowed goal of the Sierra Club's "Beyond" campaign. Antitrust represents a new line of attack in this ongoing effort. Monitoring of developments in this area, and access to sound antitrust analysis and advice in the event of a challenge, is thus necessary for market participants seeking to protect these projects.

Mr. Longstreth can be reached at johh.longstreth@klgates.com

Ms. Safro can be reached at sandr.safro@klgates.com

Mr. Wochner can be reached at david.wochner@klgates.com

Ms. Bruneau can be reached at Jennifer.bruneau@klgates.com

[i] *See, e.g., Cargill v. Montfort of Colorado, Inc., 479 U.S. 104, 109 (1986) (quoting Brunswick Corp. v. Pueblo Bowl-O-Mat, Inc., 429 U.S. 477, 489 (1977) (holding that an antitrust plaintiff must show not just an injury caused by the challenged conduct, but an antitrust injury; i.e., an injury "of the type the antitrust laws were designed to prevent and that flows from that which makes defendants' acts unlawful.").*

[ii] *See, e.g., Remarks of Deborah Platt Majoras, Chairman, Federal Trade Commission, "The Consumer Reigns: Using Section 2 to Ensure a 'Competitive Kingdom'", Opening Session, Hearings on Section 2 of the Sherman Act Sponsored by the Federal Trade Commission and the Antitrust Division, U.S. Department of Justice, at 10, 12 (2006) ("any legal framework needs to avoid second-guessing business judgments that were objectively reasonable at the time that they were made," and courts and agencies must "tak[e]care to ensure not to chill procompetitive behavior.").*

[iii] *See, e.g., Queen City Pizza, Inc. v. Domino's Pizza, Inc., 129 F.3d 724 (3d Cir. 1997) (rejecting market of "pizza ingredients and supplies used by Domino's pizza stores").*

[iv] *See http://content.sierraclub.org/naturalgas/ (describing efforts to end natural gas production and liquefied natural gas exports).*

Case of the Month - Oil & Gas

If I Own Mineral Rights Can I Do a 1031 Exchange?

by James Miller, Esq., Manager, Southwest Region of IPX1031

Article Originally Published in the REALTORS® Land Institute's Publication the Terra Firma, Winter 2012

Frequently, owners of rural property are approached to sell oil, gas or mineral rights in their land. There are several types of oil, gas and mineral rights (hereinafter collectively referred to as "minerals"). A mineral estate is the perpetual interest in all the minerals in or on the land. The mineral rights can be sold as a whole (separate from the fee interest); but, frequently they are divided into lesser interests such as mineral leases, mineral royalties and production payments. This article will define each of them, identify whether they are considered to be real property interests that are eligible for a 1031 exchange and discuss some opportunities they present to rural land owners and advisors.

Mineral Lease

A mineral lease (sometimes called a working interest or operating interest) gives the lessee the right to extract the minerals. The lessee bears the costs of exploration and extraction. The lease right can be operated by the lessee or subleased to other operators. This right may be limited to a set period of time (or amount) or may extend until the minerals are exhausted; any limitation of time or amount is likely to impact its eligibility for a 1031 exchange. The lessee's interest in a mineral lease is considered to be a real estate interest for federal tax purposes. Accordingly, provided the lessee has a perpetual right to extract the minerals without being limited in the amount that may be extracted, it is considered to be like-kind to real estate for 1031 purposes.

The lessor of a mineral lease retains a royalty interest and cannot do an exchange with the creation of the lease. The lessor is considered to have retained an economic interest in the property being leased. If the lessor desires to create an exchange opportunity, they should sell the mineral estate (not retaining any royalty interest) instead of leasing it. The sale of mineral interests has been held to be like-kind to fee interests.

Mineral Royalty

A mineral royalty is a non-operating interest in the minerals and the holder bears no cost of production. The holder of it has the right to receive a designated percentage of all minerals produced for the life of the mineral lease. Similar to a mineral lease, a mineral royalty is also considered to be real property for federal tax purposes and is exchangeable.

If the lessee in a mineral lease subleases its rights but retains a royalty interest, this creates what is called an overriding royalty interest. The IRS has ruled that unimproved real estate may be exchanged for an overriding oil and gas royalty. Stated di erently, an overriding royalty interest can be valid replacement property purchased in a 1031 exchange. However, it cannot be the relinquished property (property being sold) if the seller is retaining any royalty rights. Similar to a lessor in a mineral lease, if the owner of a mineral royalty wants to create an exchange opportunity, they should sell the mineral royalty outright and not retain any royalty interest.

Production Payment

A production payment is a right to the mineral in place for a specified sum of money. It is considered to be a "carved out" payment and is not considered to be real property for federal tax purposes. Accordingly, the exchange of a production payment for an interest in real estate will not qualify

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under Section 1031.

To summarize, a mineral lease and mineral royalty are considered real property for federal tax purposes and may be eligible for a 1031 exchange; whereas, a production payment is not like kind to real estate and is not eligible for 1031 treatment.

Whether a mineral lease is eligible for 1031 treatment depends on whether the party is the lessor or the lessee. Since a mineral lease is an interest in real property, the lessee can receive the mineral lease as replacement property in the 1031 exchange after selling an interest in other real property.

However, since the lessor retains a royalty interest (but does not convey the entire real estate interest) this is not eligible for 1031 treatment.

To make the transaction eligible for a 1031 exchange, the lessor should sell the mineral interest instead of entering into a mineral lease. Similarly, the sale of or purchase of a mineral royalty is eligible for 1031 treatment unless the seller retains a royalty interest (overriding royalty interest).

Exchanges involving mineral interests, mineral leases and mineral royalties and can be very beneficial for land owners by allowing them to better utilize the value of their asset. Because you are their representative, you benefit too. Let's assume that you have a client who farms or ranches a tract of land. They can sell their mineral interests without selling the fee to the property, do a 1031 exchange and acquire as their replacement property additional acreage to farm or ranch or acquire other income producing property which can supplement their income or prepare them for retirement. In addition, the replacement property could be a mineral lease or mineral royalty interest in a di erent property. All of this can be achieved legally without paying taxes.

In addition to benefiting land owners, 1031 exchanges can be beneficial to companies that own mineral leases and/or mineral royalty interests. A company can reposition its assets by selling mineral leases and exchanging them for other mineral leases or mineral royalty interests. The sale of mineral leases may also involve the transfer of equipment and other tangible personal property. By doing a multi-asset exchange they can defer paying taxes on any depreciation recapture as well as any appreciation of the lease interest.

Although the applications are numerous and the process of doing a 1031 exchange does not need to be complicated, taxpayers are always advised to seek the advice of competent tax and legal advisors.

Jim Miller is a Senior Vice President and Western Operations Counsel for IPX1031®, a dedicated Qualified Intermediary for all types of §1031 tax deferred exchanges. IPX1031® is a subsidiary of Fidelity National Financial, Inc., a publicly traded company which owns seven large title insurance companies. As an attorney, he represented buyers, sellers, homebuilders and developers in commercial and residential real estate transactions ranging from multi-million dollar shopping centers to single-family homes.

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Ed. We are grateful for Bradley Broussard of Bradley Broussard Land Services, Inc. of Lafayette, LA for introducing this article to our attention, www.bradleybroussard.com.

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Guest Article

Rising Gas Prices and the Coming Oil Shortage

Phil Flynn, Senior Energy Analyst,
The Price Future Group and Fox Business Network Contributor

It is common knowledge in the oil and gas industry prices on the future market can fluctuate wildly, either on the "headlines" or true fundamentals. We make our living not finding oil and gas reserves, but on the other end of the market where the market finds oil and gas reserves without the drill bit. For instance, the Energy Information Administration (EIA) reports a drop in the crude oil supply and higher refinery runs and gas futures go rip roaring, driving ethanol and crude along with it; then prices settle down. The cycle begins again either tomorrow or down the road. However, still lurking are the facts crude oil supplies have a problem.

We are no longer a lone voice in the wilderness raising concerns about a coming crude supply crunch. The myth that shale can replace the loss of more traditional projects is dangerous even as the trade is intoxicated with the real terms record supply.

At the time of writing this article, Bloomberg News reported that, "The oil market is risking a supply crunch as producers cut spending on major projects to focus on short-term low-cost shale output in the United States, some of the top crude and products traders said." They also point to a report by the International Energy Agency saying that, "After jumping 20 percent in the weeks following the decision by OPEC and 11 allies to curtail output to end a three-year surplus, prices have slipped as U.S. shale producers fill the gap." Oil companies are reviving investment after a two-year rout, easing but not eliminating the risk of a future supply crunch, the International Energy Agency said earlier this month.

The reason, as we have watched the market and keeping an eye on reserve replacements worldwide, is the severe decline rate of the shale well. The average shale well produces on the high side maybe 3,000 barrels a day. So, "rule of thumb" says to keep an eye on what happens 18 months to 2 years later. Those monster wells may end up falling to 200 barrels a day.

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To keep production rising, drilling must continue. To keep up the pace is like a hamster on a wheel that must keep running to keep the lights on. More traditional projects which have a slower decline rate, some in the U.S., like California, have been producing for more than 100 years.

Still, these projects need to be replaced because the decline rates on conventional oil fields account for more than 90% of global production. When the U.S. energy industry cut back over a trillion dollar in capital expenditures, it in effect accelerated the decline rates. Decline rates will cut output by several million barrels per day each year in 2017 and 2018. Production is already falling in places like Asia and other markets will look to shale to try to replace it. The problem is we may need to find a lot more hamsters.

On top of that, the increase in crude supply, according to the EIA, was smaller than analysts predicted and even smaller if you consider a drop in the U.S. Strategic Petroleum Reserve supply the increase in supply looks smaller.

So natural gas prices surged as a result of a cold March, but that comes off a warm February. Speaking from an energy trader's perspective, if we get a hot 2017 summer even President Trump's relaxing of regulations might not be fast enough to save this market. If we get a cold 2017 summer then we will continue to kick the problem done the road. True crude oil supplies and reserves are out of sight out of mind.

One year ago crude oil was in the $30 per barrel region per barrel. Many said we were in a new era of low prices and we would not see $50 again. They were wrong. We predicted we were at a generational bottom that despite the wicked-ups and downs, will ultimate lead prices much higher. Many say this time is different because of shale. I say more fortunes have been lost believing that, "This time is different." The same prayer is recited each time we have a bust, "Lord, one more boom and we promise not to piss it away." They said in the nineties it was different because of computers keeping prices low forever, or it was different because of oil rigs could drill for oil keeping prices low forever. Contrary to our profession on this side of the oil and gas business, oil is found with drill bits and not on Wall Street. The fundamentals of the lack of ample crude oil reserves in the long run eventually catches up with reality and oil prices will see higher prices – then the boom is off and running.

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Guest Article

Executive Order Directs Federal Agencies to Reconsider Federal Initiatives Focused on Greenhouse Gas Emissions and Climate Change

By: Sandra E. Safro, Esq., Partner; David J. Raphael, Esq., Partner, Ankur K. Tohan, Esq., Partner; William J. Moltz, Esq., of Counsel and Michael L. O'Neill, Esq., Associate

Law Firm of K&L Gates

President Donald Trump signed an Executive Order on March 28, 2017, entitled "Promoting Energy Independence and Economic Growth" ("Order"), which is designed to prompt reconsideration, and in some cases revocation, of the Obama Administration's actions to address greenhouse gas emissions and climate change. The Order directs several federal agencies to review, and possibly withdraw, specific policy initiatives like the Environmental Protection Agency ("EPA") Clean Power Plan rulemaking and the U.S. Department of the Interior ("Interior") 2015 and 2016 rules on oil and gas production on federal lands. In addition, the Order directs the U.S. Council on Environmental Quality ("CEQ") to rescind its 2016 final guidance document regarding the consideration of greenhouse gas emissions and climate change impacts in environmental reviews performed under the National Environmental Policy Act ("NEPA"). More broadly, the Order also directs all federal agencies to review "all agency actions" that "potentially burden the development or use of domestically produced energy resources."

As discussed in greater detail below, the Order may have far-reaching implications for U.S. policy on energy production, greenhouse gas regulation, and climate change that could have spillover impacts for energy infrastructure development. A vigorous debate is certain to follow with interested stakeholders evaluating strategic options including notice and comment rulemaking, litigation, and legislative advocacy.

What the Order Directs Federal Agencies to Undertake

President Trump's Order adopts two separate approaches. First, the Order requires an agency-by-agency review of "all agency actions" that could "burden" domestic energy production. Second, the Order catalogues specific policies or regulatory programs that the relevant agency must review and potentially revoke.

Agency Review of Regulations That Potentially Burden Domestic Energy Resource Development or Use

The Order directs the heads of all federal agencies to review "all existing regulations, orders, guidance documents, policies, and any other similar agency actions … that potentially burden the development or use of domestically produced energy resources." The Order further directs that the agency review should pay "particular attention" to potential impacts on oil, natural gas, coal, and nuclear energy resources.

Under the Order, "burden" means "to unnecessarily obstruct, delay, curtail, or otherwise impose significant costs on the siting, permitting, production, utilization, transmission, or delivery of energy resources." Agency heads will likely struggle with interpreting how to assess whether a regulation, policy, or action is "unnecessary" particularly where the Order carves out from review actions that are mandated by law or necessary for the public interest. The Order creates a tension between costs and benefits by establishing a policy directive that "necessary and appropriate environmental regulations comply with the law, are of greater benefit than cost, when permissible, … and are developed through transparent processes that employ the best available peer-reviewed science and economics."

The Order also establishes the following timeline for this agency-by-agency review:

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- By May 12, 2017: Agency heads must submit a plan for their regulatory reviews to the Director of the Office of Management and Budget;
- By July 26, 2017: Agency heads should submit a draft report detailing any agency actions that potentially burden development or use of domestic energy resources;
- By September 24, 2017: Agency heads must finalize their report, unless the Office of Management and Budget extends the deadline. [1]

Specific Federal Actions Under Review or Revoked Outright

President Trump's Order also targets specific federal actions for review or outright revocation or withdrawal. The Order directs Scott Pruitt, EPA's Administrator, and Interior Secretary Ryan Zinke to review the final rules underpinning two Obama Administration programs within their jurisdiction. EPA must "review" the final rule underlying the Clean Power Plan [2] and other rulemaking efforts targeting carbon and greenhouse gas emissions from stationary sources and electric generating units. [3] At Interior, the Order directs Secretary Zinke to review four final rules regarding oil and gas leases and production [4] within Interior's jurisdiction. The Order requires that Administrator Pruitt and Secretary Zinke notify Attorney General Jeff Sessions with respect to any action taken regarding these rules so that the Department of Justice may take appropriate action in any pending litigation involving these rules.

The Order also takes additional action relative to other federal regulatory programs, including:

- Revoking a series of Presidential actions from the Obama Administration, including; ◦Exec. Order 13653, "Preparing the United States for the Impacts of Climate Change" (Nov. 1, 2013);
  - Presidential Memorandum, "Power Sector Carbon Pollution Standards" (Jun. 25, 2013);
  - Presidential Memorandum, "Mitigating Impacts on Natural Resources from Development and Encouraging Related Private Investment" (Nov. 3, 2015);
  - Presidential Memorandum, "Climate Change and National Security" (Sept. 21, 2016);

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- Report of the Executive Office of the President, "The President's Climate Action Plan" (Jun. 2013); and
- Report of the Executive Office of the President, "Climate Action Plan Strategy to Reduce Methane Emissions" (Mar. 2014);

- Directing the CEQ to rescind its August 5, 2016 final guidance document regarding federal agencies' consideration of greenhouse gas emissions and climate change during NEPA reviews; [5]
- Disbanding the Interagency Working Group on Social Cost of Greenhouse Gases and withdrawing a series of technical support and guidance documents addressing the "social cost of carbon"; [6] and
- Ordering Interior Secretary Zinke to amend or withdraw the Secretary's Order 3338 and "lift any and all moratoria on Federal land coal leasing activities" related to that order.

Implications

Although President Trump's Order may have dramatic effects on U.S. energy and environmental policy, especially for federal permitting of energy production activities or energy infrastructure projects, this change in policy direction may not take full effect for some time. The Order gives immediate effect to certain policy changes by withdrawing or revoking policy documents. But other changes, like analyzing and withdrawing or rewriting the regulations implementing the Clean Power Plan, may take several years. Requirements of the federal Administrative Procedure Act mandate that the EPA issue notice of any proposed change to the regulation, solicit public comment, and create an administrative record that presents a reasoned analysis supporting any change to the existing regulations. [7]

In fulfilling those requirements, the agency will have to explain -- as a legal, policy, and scientific matter -- why it is changing the position staked out in the Clean Power Plan. [8] EPA undoubtedly will face litigation in court regarding any change to this rulemaking, and therefore the agency likely will take the time to ensure that its rulemaking process withstands judicial scrutiny. In addition, given EPA's endangerment finding regarding greenhouse gases, the agency is obligated to regulate those gases under the Clean Air Act. As such, even if EPA were successful in withdrawing the Clean Power Plan, the agency would likely face demands to take other action to fulfill its duty to regulate greenhouse gases under the Clean Air Act.

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The Trump Administration will face similar procedural obstacles if it decides to withdraw or change federal regulations following the conclusion of the agency-by-agency review. At each step in the administrative process there will be opportunities for stakeholders to engage in what is certain to be a vigorous debate about the future of federal greenhouse gas emissions and climate change policy.

Certain components of the Order are likely to have more immediate and significant impacts on federal agencies' actions. For example, rescinding CEQ's greenhouse gas emissions and climate change final guidance document may remove significant environmental analysis from federal reviews under the NEPA. Limiting or eliminating consideration of such broad environmental issues in federal permitting reviews may streamline federal permitting for infrastructure significantly, shortening project development timelines and lowering development costs. On the other hand, the Order may have little impact on state permitting processes.

President Trump's Order is significant and may have far-reaching impacts on U.S. policy on energy production, greenhouse gas regulation, and climate change. Stakeholders -- utilizing the administrative, judicial, and legislative processes -- will have ample opportunity to participate in shaping the Order's breadth and full effect going forward.

Notes:

[1] The Order requires that this final report be completed "within 180 days of the date of this order." We note that the 180th day falls on September 24, 2017, which is a Sunday.

[2] See K&L Gates LLP's analyses of these rulemaking efforts, "EPA's Clean Power Plan: A Regional Analysis" (Sept. 11, 2015), available at http://www.klgates.com/epas-clean-power-plan-a-regional-analysis-09-11-2015/, and "EPA's Clean Power Plan: Structure, Implications for the Grid, and Next Steps" (Aug. 13, 2015), available at http://www.klgates.com/epas-clean-power-plan-structure-implications-for-the-grid-and-next-steps-08-13-2014/.

[3] Already, EPA has signaled its intention to withdraw one of these rulemaking efforts, the October 2015 "Federal Plan Requirements for Greenhouse Gas Emissions From Electric Utility Generating Units Constructed on or Before January 8, 2014; Model Trading Rules; Amendments to Framework Regulations" proposed rule, in the pre-publication version of the Federal Register for April 3, 2017, available at https://s3.amazonaws.com/public-inspection.federalregister.gov/2017-06518.pdf.

[4] See K&L Gates LLP's previous analysis of the Department of the Interior's rule regarding hydraulic fracturing on federal and Indian lands, "Federal Judge: Authority Lacking for Regulation of Hydraulic Fracking" (Jul. 1, 2016), available at http://www.klgates.com/federal-judge-authority-lacking-for-regulation-of-hydraulic-fracking-07-01-2016/.

[5] See K&L Gates LLP's previous analysis of this guidance document, "CEQ Issues Final Greenhouse Gas Guidance Directing Federal

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Agencies to Consider Climate Change in their NEPA Reviews" (Aug. 4, 2016), available at http://klgates.com/ceq-issues-final-greenhouse-gas-guidance-directing-federal-agencies-to-consider-climate-change-in-their-nepa-reviews-08-04-2016/.

[6] In place of the guidance documents regarding the "social cost of carbon," the Order directs agencies to use the guidance in OMB Circular A-4, available at https://www.transportation.gov/sites/dot.gov/files/docs/OMB%20Circular%20No.%20A-4.pdf, when "monetizing the value of changes in greenhouse gas emissions resulting from regulations, including with respect to the consideration of domestic versus international impacts and the consideration of appropriate discount rates."

[7] Under the Administrative Procedure Act, "rule making" refers to an "agency process for formulating, amending, or repealing a rule." 5 U.S.C. § 551(5). Therefore, the statute's requirements for rulemaking, such as public notice and opportunity for public participation, apply to the repeal or withdrawal of a federal regulation. See 5 U.S.C. § 553 (outlining the rulemaking process).

[8] Federal courts demand that agencies explain the basis for a change in policy. Motor Vehicles Mfrs. Ass'n of the U.S., Inc. v. State Farm Mutual Auto. Ins. Co., 463 U.S. 29, 42 ("[A]n agency changing its course by rescinding a rule is obligated to supply a reasoned analysis for the change beyond that which may be required when an agency does not act in the first place"); F.C.C. v. Fox Television Stations, Inc., 556 U.S. 502, 515 (2009) ("[T]he agency need not always provide a more detailed justification than what would suffice for a new policy created on a blank slate. Sometimes it must—when, for example, its new policy rests upon factual findings that contradict those which underlay its prior policy; or when its prior policy has engendered serious reliance interests that must be taken into account"). The U.S. Supreme Court has explained that an agency may justify its change where "the new policy is permissible under the statute, that there are good reasons for it, and that the agency believes it to be better, which the conscious change of course adequately indicates." Id.The Sierra Club and other environmental groups have made little secret of their opposition to the continuing use of fossil fuels, and to the development of infrastructure to support that use. A new wrinkle in their multi-front attack on fossil fuel-related projects can be seen in a series of recent filings with federal regulatory agencies asserting that two natural gas pipeline projects violate the antitrust laws. Although styled as "complaints," the filings do not initiate an adjudicatory proceeding in the usual sense of a complaint, but rather appear to be requests for enforcement or competition advocacy actions by federal antitrust agencies. The challenged projects are joint ventures of energy utility companies, and the natural gas supplied by each will serve their respective natural gas or electricity retail distribution affiliates. The claims that this structure is anticompetitive are novel, and face substantial obstacles under established antitrust law.

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Petroleum Technology

Shooters – A "Fracking" History

Ever since America's earliest oil discoveries, detonating dynamite or nitroglycerin downhole helped increase a well's production. The technology – commonly used in oilfields for almost a century – would be greatly improved when hydraulic fracturing arrived in 1949.

Hydraulic fracturing has been used to increase production on millions of oil and natural gas wells since 1949.

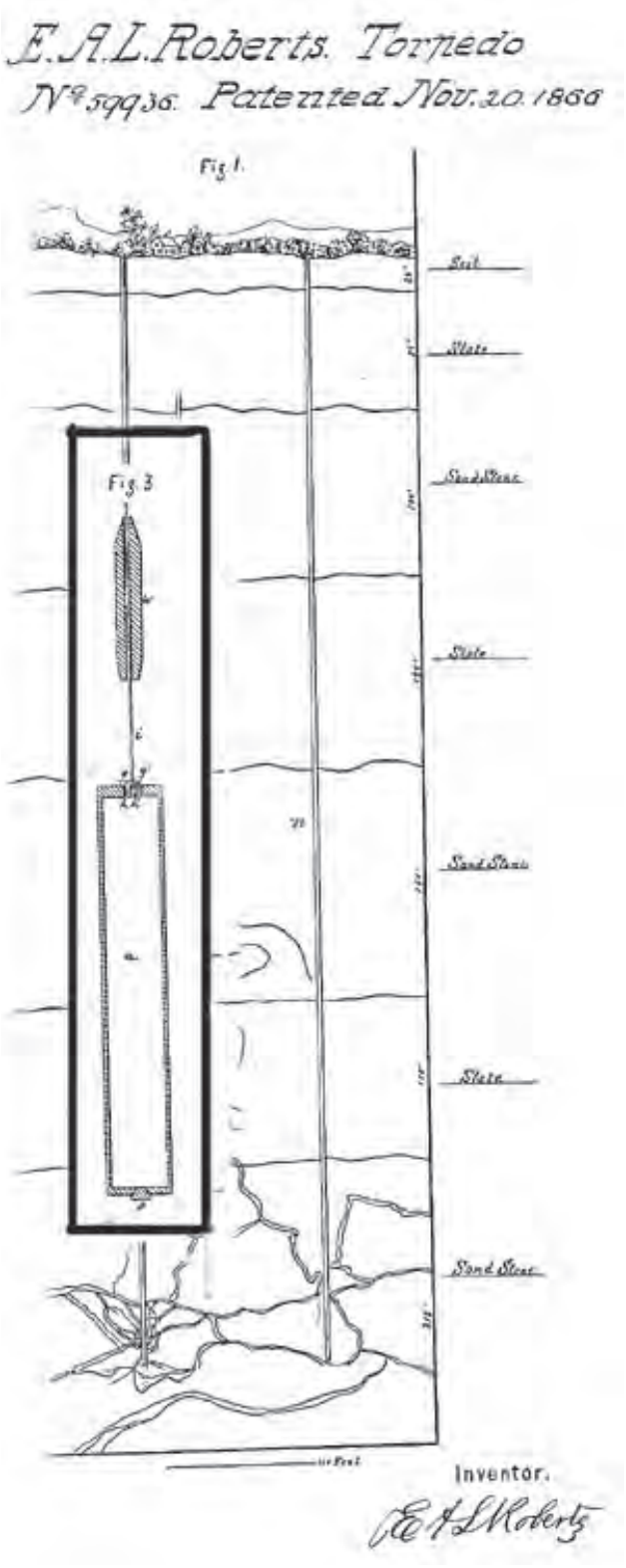
Modern hydraulic "fracking" can trace its roots to April 1865, when Civil War veteran Col. Edward A. L.

Roberts received the first of his many patents for an "exploding torpedo."

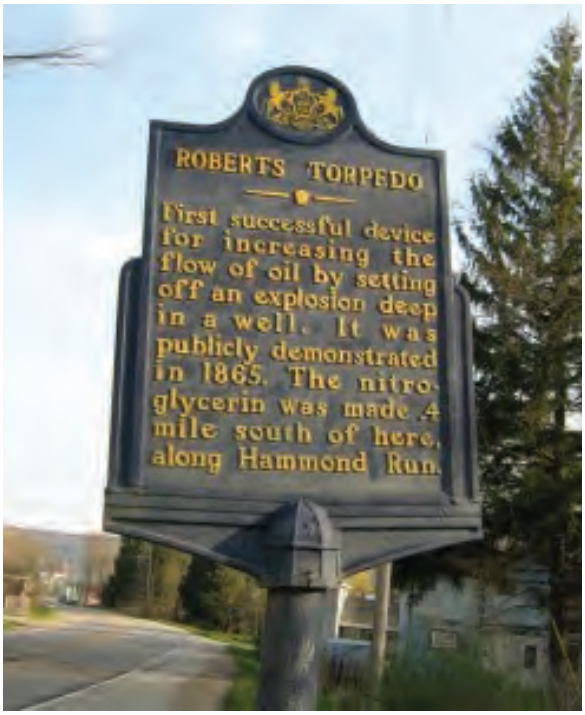
Hydraulic fracturing has been used to increase production on millions of oil and natural gas wells since 1949.

In May 1990, Pennsylvania's Otto Cupler Torpedo Company "shot" its last oil well using liquid nitroglycerin – abandoning nitro but continuing to pursue a fundamental oilfield technology. President Rick Tallini says today's widely used fracturing systems are much advanced from Col. Roberts' original patents.

When Col. E.A.L. Roberts founds his company in 1865, his many patents give him a monopoly on torpedoes needed by the oil industry. The stock certificate – with oilfield vignettes – is worth about $300 to collectors.



"Our business since Colonel Roberts' day has concerned lowering high explosives charges into oil wells in the Appalachian area to blast fractures into the oil bearing sand," says Tallini. His company is based in Titusville – where the American petroleum industry began in August 1859 (learn more in First American Oil Well).



A Pennsylvania historical marker near Titusville notes the 1865 demonstration of the invention Union Col. E.A.L. Roberts.

Civil War Veteran's "Torpedo"

Civil War veteran Col. Edward A.L. Roberts fought bravely with a New Jersey Regiment at the bloody 1862 battle of Fredericksburg, Virginia.

Amid the chaos of the battle, he saw the results of explosive Confederate artillery

rounds plunging into the narrow millrace (canal) that obstructed the battlefield.

Despite heroic actions during the battle, he was cashiered from Union Army in 1863. But the Virginia battlefield observation gave him an idea that would evolve into what he described as "superincumbent fluid tamping."

Roberts received his first patent for an "Improvement in Exploding Torpedoes in Artesian Wells" on April 25, 1865. His oilfield invention soon greatly increased oil production from America's young petroleum industry.

Torpedoes filled with gunpowder (later nitroglycerin) were lowered into wells and ignited by a weight dropped along a suspension wire onto a percussion cap.

In November 1866, Roberts was awarded U.S. Patent No. 59,936 for what would become known as the Roberts Torpedo. The new technology would revolutionize the young oil and natural gas industry by vastly increasing production from individual wells.

The Titusville Morning Herald newspaper reported:

Our attention has been called to a series of experiments that have been made in the wells of various localities by Col. Roberts, with his newly patented torpedo. The results have in many cases been astonishing.

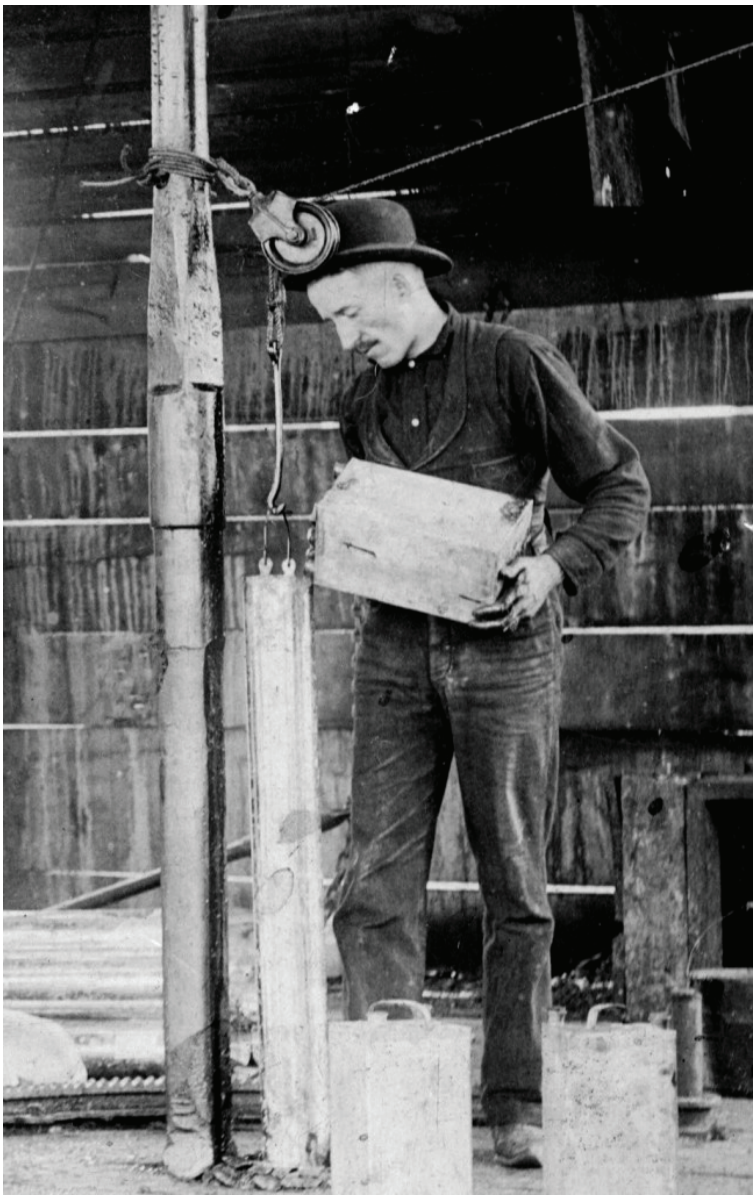
The torpedo, which is an iron case, containing an amount of powder varying from fifteen to twenty pounds, is lowered into the well, down to the spot, as near as can be ascertained, where it is necessary to explode it.

It is then exploded by means of a cap on the torpedo, connected with the top of the shell by a wire.

Filling the borehole with water provided Roberts his "fluid tamping" to concentrate concussion and more efficiently fracture surrounding oil strata. The technique had an immediate impact – production from some wells increased 1,200 percent within a week of being shot – and the Roberts Petroleum Torpedo Company flourished.

Roberts charged $100 to $200 per torpedo and a royalty of one-fifteenth of the increased flow of oil. Attempting to avoid Roberts' fees, some oilmen hired unlicensed practitioners who operated by "moonlight" with their own devices. The inventor was outraged.

Roberts hired Pinkerton detectives and lawyers to protect his patent – and is said to have been responsible for more civil litigation in defense of a patent than anyone in U. S. history. He spent more than $250,000 to stop the unlawful "torpedoists" or "moonlighters."



Pouring nitroglycerin was risky enough in the late 19th century oil patch. Doing it for an illegal well “shooting” led to the term “moonlighting.”

Applied legally or illegally, by 1868 nitroglycerin was preferred to black powder, despite its frequently fatal tendency to detonate accidentally.

“A flame or a spark would not explode Nitro-Glycerin readily, but the chap who struck it a hard rap might as well avoid trouble among his heirs by having had his will written and a cigar-box ordered to hold such fragments as his weeping relatives could pick from the surrounding district,” noted John J. McLauren in 1896 in his book *Sketches in Crude Oil — Some Accidents and Incidents of the Petroleum Development in all parts of the Globe.*

Otto Cupler Torpedo Co.

Roberts died a wealthy man on March 25, 1881, in Titusville. His heirs sold Roberts Petroleum Torpedo Company to its employees, who continued in business as the Independent Explosives Company.

Rick Tallini relates that the Otto Cupler Torpedo Company split off and produced its own nitroglycerin in plants near Titusville until the last plant exploded in 1978.

Tallini’s company continued using liquid nitroglycerin until 1990 – when the last of the nitroglycerine supplier’s plant exploded in Moosic, Pennsylvania. A well shooting on May 5 used up the last of Otto Cupler Company’s liquid nitro reserves.

Today, Tallini and Otto Cupler Torpedo Company continue shooting wells, but with modern explosives and rigorous safety procedures.

Tallini's historic company maintains a museum on Dottyville Road in East Titusville – preserving for future generations remarkable artifacts and documents from more than 100 years of nitroglycerin in the oilfields.

In 1939, Ira McCullough of Los Angeles received patented a multiple bullet-shot casing perforator,"in which projectiles or perforating elements are shot through the casing and into the formation." McCullough's innovation of firing at several levels through a borehole's protective casing greatly enhanced the flow of oil. Learn more in Downhole Bazooka.

First Commercial Application of Hydraulic Fracturing

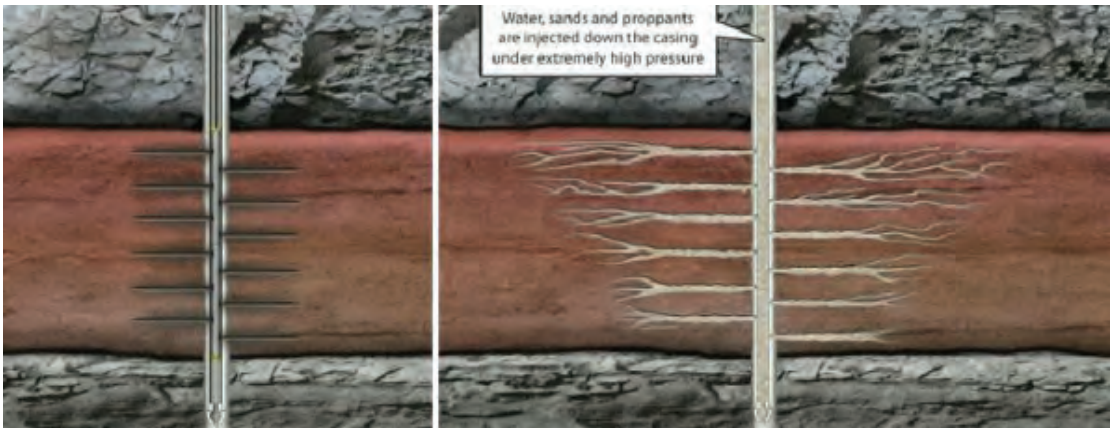
The first commercial hydraulic fracturing of an oil well took place in 1949 about 12 miles east of Duncan, Oklahoma.

On March 17, 1949, a team of petroleum production experts converges on an oil well about 12 miles east of Duncan, Oklahoma – to perform the first commercial application of hydraulic fracturing.

Later that same day, Halliburton and Stanolind company personnel successfully fractured another oil well near Holliday, Texas.

An experimental well fractured two years earlier in Hugoton, Kansas – home of a massive natural gas field – had proven the possibility of hydraulic fracturing for increased gas well productivity.

By 1988, the technology will have been applied nearly one million times. The technique had been developed and patented by Stanolind (later known as Pan American Oil Company) and an exclusive license issued to Halliburton to perform the process. In 1953, the license was extended to all qualified service companies.



To complete a new well, explosive charges are lowered by a wire line to perforate the steel casing, cement and producing formation. After the charges are electronically fired, hydraulic fracturing greatly enhances oil and natural gas production.

An Erle Halliburton statue was dedicated in 1993 in Duncan, Oklahoma.

According to a spokesman from Pinnacle, a Halliburton service company:

Since that fateful day in 1949, hydraulic fracturing has done more to increase recoverable reserves than any other technique, and Halliburton has led the industry in developing and applying fracturing technology.

In the more than 60 years following those first treatments, more than two million fracturing treatments have been pumped with no documented case of any treatment polluting an aquifer – not one.

Shale Fracturing Technology

In the 1980s, a sudden technological advance in fracturing shale formations led to the U.S. vastly increasing its oil and especially natural production that continues to this day.

America's first "shale boom" began with the innovative thinking of one independent producer from Galveston, Texas, George P. Mitchell, (1919 – 2013).

In the 1980s, Mitchell Energy & Development Corp. began experimenting with hydraulic fracturing in horizontal wells in the Barnett Shale near Fort Worth. He found an economic way extract large amounts of natural gas from the shale formations. The petroleum industry quickly recognized this potential for shales in Arkansas, Pennsylvania, and North Dakota. Other natural gas and shale regions began producing.

America's modern shale boom began in the 1980s when independent producer George Mitchell experimented with ways to economically produce natural gas from the Barnett shale in Texas. May 2011 map courtesy Energy Information Administration.

In the historic Williston Basin of North Dakota, producing oil since 1951, billions of barrels of new production came from the Bakken shale. Read more in First North Dakota Oil Well.

"There is no shortage of questions about domestic energy production – what technologies are used? What does it mean for our environment? How does it create jobs? What is hydraulic fracturing, anyway?"

The petroleum industry has established outreach websites to educate the public about fracturing technologies. One is Energy in Depth, which includes links to the industry's research studies and fact sheets.

While the first commercial fracturing job was conducted in the 1940s, "the technique quickly became the most commonly used method of stimulating" wells."

Today, hydraulic fracturing is applied to the majority of U.S. oil and natural gas wells to enhance well performance, minimize drilling, and recover otherwise inaccessible resources. About 90 percent of the wells in operation have been fractured – and the process continues to be applied to boost production in unconventional formations – such as tight gas sands and shale deposits.

For another perspective about down-hole explosives to increase production, see Project Gasbuggy tests Nuclear Fracking.

For Civil War Buffs: Col. Edward Roberts leads Charge at the Battle of Fredericksburg

"We went into action under a most galling and deadly fire of shot and shell," reported Col. Edward Roberts. An 1888 lithograph depicts the Army of the Potomac crossing the Rappahannock at the Battle of Fredericksburg in December 1862.

The oilfield's torpedo inventor Col. Edward A. L. Roberts is buried in Titusville, Pennsylvania.

A simple headstone at Woodlawn Cemetery is marked only by his name and the military rank he held at the Battle of Fredericksburg 19 years earlier.

For four months during the Civil War, the man who would someday revolutionize oil and natural gas production technology served as Lt. Colonel with the 28th New Jersey Volunteer Infantry Regiment.

Col. Edward A. L. Roberts is buried in Titusville, Pennsylvania — where the U.S. petroleum industry began in 1859.

Below are rare details from his service records at the National Archives, Washington, D.C.

Lt. Col. Roberts fought in the battle of Fredericksburg in December 1862 – while awaiting results from his court martial, which had convened just weeks earlier. As the military court deliberated specifications of "intoxication on dress parade," Roberts' regiment marched into Fredericksburg, Virginia.

On December 13, the 28th New Jersey was the center of Gen. Ambrose Burnside's first doomed assault on the fiercely defended Marye's Heights. Fourteen more doomed assaults would follow.

The 28th charged into carefully positioned cannons. Confederate Col. Edward Porter Alexander had declared: "A chicken could not live on that field when we open on it."

Alexander was right. No Union soldiers would reach Marye's Heights that cold December day. Crossing a canal and open ground, brigade after brigade could not dislodge the Confederates from their defenses behind a sunken road and stone wall. Union casualties exceeded 12,000.

When his commander was shot in the face during the 28th's charge, Roberts assumed command. In his after action report, Roberts wrote, "We went into action under a most galling and deadly fire of shot and shell, and continued in action until near dark. Officers and men conducted themselves well."

A month later, Roberts' court martial verdict was published under General Order No. 2. Despite his heroic actions during the battle, among the Civil War's bloodiest, he was found guilty and ordered to be cashiered, effective January 12, 1863.

Prior to the court's verdict, Roberts had attempted to resign but this was strangely characterized as "tendering resignation in face of enemy."

Roberts' service as a Union officer was over in 1863. However, he would soon make history in Pennsylvania oilfields.

Moonlighters secretly shoot Wells

Andrew Dalrymple secretly shot his last well on February 5, 1873, when he and his wife were killed in a nitroglycerin explosion at Dennis Run, Pennsylvania. He allegedly had been "moonlighting" – illegal oil well shooting – in the Tidioute oilfield.

Nitroglycerine was a powerful but dangerous means of fracturing oil-producing rock formations. The technology had been patented, its use rigorously protected. Pouring nitroglycerin was risky enough in the late 19th century. Doing it illegally at night made it more so.

"The Dalrymple torpedo accident at Tidioute brings to light the fact that nitroglycerine, or other dangerous explosives, are used, stored and manipulated secretly in places little suspected by the general public," reported the Titusville Morning Herald.

"A large amount of this dangerous material has lately been stolen from the various magazines throughout the country, " the newspaper added. "This species of theft is winked at by some parties, who are opposed to the Roberts torpedo patent."

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Los Angeles Association of Professional Landmen

MEMBERSHIP RENEWAL APPLICATION

Name of Member _____ Spouse _____
(First, Middle, Last) *(First, Last)*

Title _____Independent ☐ In-House ☐ Years as a Landman_____

Employer & Address _____

_____

Business Phone _____ Fax _____ Cell _____

e-mail _____

Previous Employers_____

_____

Home Address _____Home Phone_____

Per the Los Angeles Association of Professional Landmen's By-Laws I am renewing as an
☐ Active Member ☐ Associate Member ☐ Life member ☐ Honorary Member

Are you interested in working on any of the following with the LAAPL?
☐ Board of Directors ☐ Golf Tournament ☐ Other as needed

Are you a member of the American Association of Professional Landmen? ☐ Yes #_____ ☐ No
Note your AAPL professional designation(s) ☐ CPL #_____ ☐ RPL #_____ ☐ RL #_____ ☐ ESA #_____

I hereby submit for renewal membership in the *LOS ANGELES ASSOCIATION OF PROFESSIONAL LANDMEN*, an independent non-profit association dedicated to the understanding, promotion, and advancement of professional Landmen in the State of California, and their fellow workers in the petroleum industry. I attach the annual dues of Forty Dollars ($40.00) for the fiscal year commencing July 1st.

Date _____ Signature of Applicant _____

For LAAPL Use Only

Date Received: _____Amount Received: _____ Check Number:_____

Dues accepted for period: _____

Please return this form along with your check payable to the Los Angeles Association of Professional Landmen [LAAPL] to:

Cambria Rivard, Membership Chair
111 W. Ocean Blvd. , Long Beach, CA 90802
Long Beach, CA 90802
Cambria Rivard r com (562)

www.laapl.org

The 2017 LAAPL Mickelson Golf Classic

LAAPL
Los Angeles Association Of Professional Landmen

Friday, September 8th, 2017
Angeles National Golf Club
Located in Sunland CA

Directions:
Go to www.angelesnational.com
9401 Foothill Blvd.
Sunland, California 91040
(818) 951-8771

LAAPL cordially invites you to participate in the 2017 LAAPL Mickelson Golf Classic fundraiser to be held at Angeles National Golf Club in Sunland California. We look forward to your participation. This tournament honors William A. Mickelson, a respected leader in LAAPL and a 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. 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 September 1, 2017, as only 48 golf reservations are available.** Cocktail hour, buffet dinner, raffle and awards ceremony will follow.

2017 LAAPL MICKELSON GOLF CLASSIC

EVENT SPONSORSHIPS AVAILABLE from $150

SPONSORSHIP & SIGN-UP FORM

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____ "HOLE IN ONE": Full page ad – plus presenting sponsor status in all tournaments material and program sponsorship $2000.00
(Includes golf and meals for Two Foursomes)

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(Includes golf and meals for a Foursome)

____ "BIRDIE": Half page ad - golf tournament program $550.00
(Includes golf and meals for Two players)

____ "PAR": Quarter page ad - golf tournament program $300.00
(Includes golf and meals for One player)

____ "Bogey": NO AD, GOLF ONLY, INDEPENDENT PRICE $175.00, Company Price…….....$225.00
(Includes golf and meals for One player)

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

***Name:*_____ *Email & Company Name*_____**

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CHECK IN: 9:00 AM TEE TIME: 10:30 AM

DINNER: 4:15 PM MEALS ONLY: $50

Comments/Special Requests:

Tournament format will be a 4-man 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).

Chapter Board Meetings

The LAAPL Board of Directors and Committee Members held their regular meeting on Thursday, March 16, 2017 led by President John R. Billeaud. The topics discussed at the meeting are as follows:

- Membership approved motion to affirm the organization's name change from Los Angles Association of Petroleum Landmen to Los Angles Association of Professional Landmen at our March 16th luncheon meeting.
- New LAAPL website was launched February 20th and is continuously being updated and edited.
- President revised the "Hospitality/Advertising Chair" to the "Advertising Chair" which will be held by Jason Downs.
- Board approved purchasing LAAPL accessories for the May 2017 meeting.
- Board approved hiring a CPA to help with filing LAAPL's taxes.

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.