



The Override

Every Landman Wants One!

Volume XIV, Issue II

November, 2021



Presidents Message

Joe Munsey, RPL
President

Southern California Gas Company

Keeping with tradition, we alert you with the countdown figures for Hanukkah and Christmas. As of the date writing this column, you have 43 days left to complete the “naughty or nice list” and get everything purchased before the big day arrives; for those who celebrate Hanukkah, time is not on your side this year, a mere 17 days. Remember, Thanksgiving comes the last week of November, which leaves you one less week for Christmas to shop ‘til you drop. For those celebrating Hanukkah, you have no weeks left to shop ‘til you drop!

Fresh off the press from Phil Flynn’s The Energy Report dated November 11, 2021, he writes, “Saul Omarova, a law professor at Cornell University who graduated college in the USSR, and is the nomination to be comptroller of the currency said, ‘A lot of the smaller players in that (OIL AND GAS) industry are going to, probably, go bankrupt in short order — at least, we want them to go bankrupt if we want to tackle climate change.’” Quite a disturbing jolt to our industry and America should she be confirmed.

Fortunately for land and legal professionals in the oil and gas business, we are not beholden to skill sets that are non-transferable to the green energy business. As pointed out in September’s President’s Message, our land background provides cross-over opportunities which will keep professional landmen and legal experts in steady employment before green energy has its own version of a bust – should one choose to go all green or float between [Presidents Message](#) *continued on page 2*



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Meeting Luncheon Speaker



Phillip A. Guerra, JD, CPL, Land Acquisition Manager-East Coast with ForeFront Power, a wholly owned subsidiary of Mitsui & Co., Ltd. His company develop solar projects – behind-the-meter, community solar, and wholesale solutions – across the United States and Mexico. This webinar will focus on the basics of what an oil & gas land professional needs to know about solar from a land perspective. You will learn about the different types of solar energy projects (e.g., ground mount, parking canopy, rooftop). You will walk through an example ground mount site for a potential community solar project in New York. Additionally, this webinar will discuss the similarities and differences between acquiring acreage in oil & gas versus solar, including key lease terms and pricing.

Phillip currently sits on the AAPL’s [Speaker](#) *continued on page 2*



Opinionated Corner

Cliff Moore
Independent, Retired
Past Chapter Secretary

You don't have to understand Moore's Law of exponentiality in computer microchip advancement to see how fast our world is changing. Some of it is good. Some of it is bad. I don't fret the naysayers who claim the world is coming to an end faster than we think it is. People have been shouting that at the rooftops back since women suffrage resulted in the right to vote being extended to more than just male heads of households. My god - that seems like a long time ago. It was. A hundred years to be exact.

During that time and before the energy industry has gone through a myriad of changes. Some we accepted. Some we chagrined. Let's take a march through time and examine a highlight reel, if you will, of that progression.

For the first millennia of pre-history fire created from biomass, to include wood, grasses and animal skins, was the only means of energy produced for heating and lighting. It worked and fire was good. Except when it was viewed too closely. It was admired and respected. Some even idolized it.

Then came the knowledge and use of solar energy. It wasn't harnessed to perfection but was given a hierarchy among the heretic gods of ancient civilizations such as the Macedonians, the Greeks, the Romans and the Egyptians.

As the dark ages (the cold wave) hit the recorded world a new form of energy had to be developed because you couldn't rely on the sun to shine uniformly and long enough to harness its power to energize societies on a larger scale.

After many failed experiments, the Dutch going with wind power and hydro-generation, we jump forward to

the modern era of civilized society. Mind you this evolution of powering cities took several thousands of years. Then eureka, one night in 1805 a young inventor named Humphrey Davy invented the carbon arc as the first practical electric light and we were as they say, "Off to the races".

In the U.S. biomass, mostly wood and coal were used to create steam and fire but not on a grand scale. Hot air systems were used prior to 1820. It is speculated that the first centrally heated building was in New England, namely the Massachusetts Medical College. That was 1816.

Back in Baltimore, MD at the same time brothers Rembrandt and Rubens Peale, two museum owners influenced during their art discovery trek in Europe, convinced a slew of wealthy investors to back a crazy idea to invest in the gaslight enterprise.

Holy guacamole, commercial gas and gaslighting was an industry. Gaslight fixtures reigned supreme in the states especially in rural areas where towns weren't electrified until after the second world war.

I'm getting ahead of myself, so let's backtrack to the 1850s where a lighthouse was lit solely by electricity in Dover, England in 1858. It is recognized as the first really practical use of electricity.

If we can put a finger on a button, that was five decades after the initial invention of the carbon arc light. It wasn't until the 1870s, two more decades later, it was used in a commercial capacity to light large buildings and as street lighting. Most buildings were still heated by steam, created by biomass, and gas. You see where I'm going here? If you don't, hold on to yer britches. There's more.

It wasn't until T.A. Edison's invention in 1879 of the incandescent light did things start to really take off. Electric power was becoming a thing by 1882 when T. A. E. created the U.S.' first commercial power plant in NYC. As proud as we were to be American the town of Godalming, Surrey, U.K. celebrated publicly supplied electricity the year *Opiniated Column continued on page 4*

Persident's Message continued from page 1 traditional and green land work.

Speakers who are in the "clean" energy business have been sought out for topics showing a path to green energy land work. Even AAPL has focused on this type of land work and are now offering green energy educational courses. One would expect the AAPL to go further down the road and create a series of courses with a credentialed certificate upon completion of those courses.

Returning to our November virtual luncheon, Phillip A. Guerra, JD, CPL, Land Acquisition Manager-East Coast ForeFront Power, completes his two-part series on solar land work.

For the March 2022 luncheon, we have Rebecca Hollis, Director of Business Development, Clean Energy Systems, Inc., presenting the topic, "California Carbon Negative Energy – Land Work."

Lest we forget, we still have troops around the globe who will be missing holidays with family and friends, keep them in your thoughts and prayers.

Savor the joys of Christmas or Hanukkah, while spreading peace on earth towards all. Rounding out the good cheer – Happy New Year.

Speaker continued from page 1 Educational Committee and the NAPE Operators Committee.

He completed his undergraduate studies at The University of Cincinnati in real estate and marketing. Phillip completed his graduate studies at Florida A&M University's College of Law where he obtained his Juris Doctorate.

LAAPL and LABGS Hold Annual Joint Luncheon

Will this be a virtual or in-person meeting? The Jury is still out on what will happen. Nevertheless, the Los Angeles Association of Professional Landmen and the Los Angeles Basin Geological Society will hold its joint luncheon on January 27, 2022. Please note the date of the luncheon is the fourth Thursday of January and, if in person, the location is at the Grand at Willow Street Conference Center.

THE OVERRIDE IS, AND HAS BEEN EDITED BY JOE MUNSEY, RPL AND PUBLISHED BY RANDALL TAYLOR, RPL, SINCE SEPTEMBER OF 2006.

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Chapter Board Meetings

Marcia Carlisle
The Termo Company
LAAPL Secretary

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.

The LAAPL Board of Directors and Committee Members held a virtual meeting on September 16, 2021 led by Joe Munsey, President. The topics discussed at the meeting were as follows:

- Laura McAvoy was approved as a new LAAPL member per the membership vote during the meeting.
- The meeting presentation by Phillip Guerra was a success and will be followed by his additional report covering the same subject, “New Opportunities-Maximizing Your Acreage with Solar”, during the November 18th meeting.
- There was a discussion among the Board Members regarding “orphaned oil wells”, as this will become an ever-increasing issue.
- The LAAPL By Laws will be soon reviewed by our Legal Chair, Ernie Guadiana

New Members and Transfers

Allison S. Foster
Membership Chair
Independent

Welcome! As a member of the Los Angeles Association of Professional Landmen, you serve to further education and broaden the scope of petroleum and professional landmen in Southern California.

LAAPL also strives to promote effective communication between its members, government, community, and industry on energy-related issues.

New Members (Active)

Laura K. McAvoy, Esq.
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Treasurer's Report

Jason Downs, RPL
Treasurer
Land Representative
Chevron Pipe Line and Power Company

As of 9/8/2021, the LAAPL account showed a balance of

Deposits	0.00
Total Checks, Withdrawals, Transfers	-411.50
Balance as of 11/10/2021	<u>\$36,768.00</u>

Scheduled LAAPL Luncheon Topics and Dates

November 18, 2021
Phillip A. Guerra, JD, CPL, Land Acquisition Manager-East Coast
ForeFront Power
Series II of II
“New Opportunities – Maximizing Your Acreage with Solar”

January 27, 2022
[4TH Thursday]
Annual Joint Meeting with
Los Angeles Basin Geological Society

March 17, 2022
Rebecca Hollis, Director of Business Development,
Clean Energy Systems, Inc.
“California Carbon Negative Energy – Land Work”

May 19, 2022
TBD
Officer Elections

Our Honorable Guests

September's virtual luncheon was another successful LAAPL Chapter meeting. Unfortunately, we were not able to record those guests who attend. Mr. Wuhan is to blame.



before in 1881.

Menlo Park was beside itself in its big headedness and rightfully so. T. A. E.'s power plant used steam created by coal to power its plant but along the Fox River in Appleton, Wisconsin the first hydroelectric plant stirred up its natives by lighting the plant itself as well as a nearby building. Seventy years after its inception we were able to light only a select area while the power of steam created by coal was what powered the engines that connected a nation from sea to shining sea.

By 1880 gas/electric light fixtures were all the rage and by 1909 that rage had ended and full-on electric fixtures had taken over. Still gas fixtures were in use until around 1945-1950 in the outlying areas.

All during this time whale oil was an in-demand commodity. In the 1700s sperm whale oil was noted to burn brightly and lacked the disagreeable odor of oil from right whales. Whaling was a highly regarded profession that lasted a long, long time. It's legacy lives on thanks to the literary eloquence of Mr. Herman Melville who glamourized and eulogized the infamous whalers and their prey. A popular sea shanty "The Wellerman" tells the story of a whaling ship being dragged under the sea by a mighty leviathan while waiting on supplies from a vessel off port from Jamaica.

By 1859 when the first commercial oil well was established and an industry was born came petroleum, a valid competing choice against whale oil. According to one report a consumer had a choice of:

- Camphene or "burning fluid" — 50 cents/gallon (combinations of alcohol, turpentine and camphor oil — bright, sweet smelling)
- Whale oil — \$1.30 to \$2.50/gallon
- Lard oil — 90 cents (low quality, smelly)
- Coal oil — 50 cents (sooty, smelly, low quality) (the original "kerosene")
- Kerosene from petroleum — 60 cents (introduced in early 1860s)

The erroneous decline of the whale oil

industry because of overfishing (even though whales are mammals) and the cost is just that. Competition signaled its demise.

From 1859 to 1953 and beyond the commercial oil and gas industry was responsible for countless innovations in heating, supplying electricity and creating jobs and major by-products to support a civilized world.

On June 27, 1954, the world's first nuclear power station to generate electricity for a power grid, the [Obninsk Nuclear Power Plant](#), started operations in Obninsk, in the Soviet Union. The world's first full scale power station, Calder Hall in the United Kingdom, opened on October 17, 1956.

With only a handful of accidents ever recorded, nuclear power seems to be the safest and most efficient producer of electric power. The stigma still exists over the danger of its plants with the far-reaching popularity of Godzilla as a by-product of nuclear testing in the oceans off Japan not to mention the nuclear meltdown at Irkutsk, Siberia in the Ukraine that has poisoned the ground for decades still. The media has also poisoned the minds of the populace, as is their job when trying to control an idea or societal advancement.

When it comes to society accepting and/or implementing new ideas there is a phenomenon noted by William Fielding Ogburn, (born June 29, 1886, Butler, Georgia, U.S.—died April 27, 1959, [Tallahassee](#), Florida), an American sociologist known for his application of statistical methods to the problems of the social sciences and for his introduction of the idea of "cultural lag" in the process of social change.

Ogburn has defined "cultural lag" in these words:

"The thesis is that the various parts of modern culture are not changing at the same rate; some parts are changing much more rapidly than others; and that since there is a correlation and inter dependence of parts, a rapid change in one part of our culture requires readjustments through other changes in the various

correlated parts of culture..... where one part of culture changes first, through some discovery or invention, and occasions changes in some part of culture dependent upon it, there frequently is a delay in the changes occasioned in the dependent part of the culture."

Professor Lester Lave, a conservative economist at the esteemed Carnegie Mellon University in Pittsburgh, PA. states: We switched from wood to coal because Europe ran out of trees.... We have learned to use less tin (tin cans) because of high prices. In general, scarcity or just high prices prompt technological change. We are farming salmon, shrimp, catfish, beef, chickens, etc. because there aren't enough wild animals to satisfy demand. So high prices are one source of changes in materials and energy use. A second source is technology. We didn't run out of kerosene or city gas — electric lights were superior. We didn't run out of horses — motor vehicles were superior. We didn't run out of hydropower to run factories, electricity and internal combustion engines were superior. Thus, developing superior products and processes are another motive for innovation.

We innovate forward. But we accept innovation at our own pace. Forced acceptance will create backlash as it did with Socrates who chose hemlock over public humiliation because of his determination to undermine the importance of the aristocracy and the status quo.

As I have attempted to show here change is inevitable. There is a time and place for change. Successful changes take a lot more time to innovate our societies. Most successful changes are leaps and bounds forward not a grab back into past successes and expect those ideas and technologies to lead us forward. It is a bad idea.

I employ you to not reach back but to reach forward grasping the future with gloved hands clawing and begging for new exciting ideas and resist the urge to grab something you're familiar with that will only stymie progress.



Land



Engineering



Survey



Environmental



Title

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Lawyers' Joke of the Month

Jack Quirk, Esq.
Bright and Brown


Ed. Comments – a re-run of the Joke of the Month

1. Law of Mechanical Repair: After your hands become coated with grease, your nose will begin to itch and you'll have to pee.
2. Law of Gravity: Any tool, nut, bolt, screw, when dropped, will roll to the least accessible corner.
3. Law of Probability: The probability of being watched is directly proportional to the stupidity of your act.
4. Law of Random Numbers: If you dial a wrong number, you never get a busy signal, and someone always answers.
5. Supermarket Law: As soon as you get in the smallest line, the cashier will have to call for help.
6. Variation Law: If you change lines (or traffic lanes), the one you were in will always move faster than the one you are in now.
7. Law of the Bath: When the body is fully immersed in water, the telephone rings.
8. Law of Close Encounters: The probability of meeting someone you know increases dramatically when you are with someone with whom you don't wish to be seen.
9. Law of the Result: When you try to prove to someone that a machine won't work, it will.
10. Law of Biomechanics: The severity of the itch is inversely proportional to the reach.
11. Law of the Theater & Hockey Arena: At any event, the people whose seats are furthest from the aisle, always arrive last. They are the ones who will leave their seats several times to go for food, beer, or the toilet and who leave early before the end of the performance or the game is over. The folks in the aisle seats come early, never move once, have long gangly legs or big bellies and stay to the bitter end of the performance. The aisle people also are very surly folk.
12. The Coffee Law: As soon as you sit down to a cup of hot coffee, your boss will ask you to do something which will last until the coffee is cold.
13. Murphy's Law of Lockers: If there are only 2 people in a locker room, they will have adjacent lockers.
14. Law of Physical Surfaces: The chances of an open-faced jam sandwich landing face down on a floor, are directly correlated to the newness and cost of the carpet or rug.
15. Law of Logical Argument: Anything is possible if you don't know what you are talking about.
16. Brown's Law of Physical Appearance: If the clothes fit, they're ugly.
17. Oliver's Law of Public Speaking: A closed mouth gathers no feet.
18. Wilson's Law of Commercial Marketing Strategy: As soon as you find a product that you really like, they will stop making it.
19. Doctors' Law: If you don't feel well, make an appointment to go to the doctor, you'll feel better before you get there. But if you don't make an appointment, you will remain ill.



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Region VIII Director Report

Jason Downs, RPL, Senior Land Representative
Chevron Pipeline & Power
AAPL VIII Director

Highlights from Board Meeting - September 19, 2021

AAPL Financials

- As of June 30, 2021
 - As compared to June 30, 2020, total assets have increased from \$38,682,950 to \$45,706,165; a change of \$7,023,215 or 18.2%.
 - Investment accounts increased more than 26.4% as compared to same period last year to \$39,177,594.
- AAPL approved a \$100,000 donation to the Educational Foundation to assist with disaster relief requests.

Committee Highlights

- Accreditation - Two new programs have applied for accreditation and the committee is assessing – University of Texas Permian Basin Bachelor of Business Administration in Energy Land Management and Texas Tech University Interdisciplinary Master of Science in Energy. Working with LST and others to increase student engagement.
- NAPE Operators Committee – Recapped the summer event which had more than 4,000 registrations. The February 2022 event is basically set with few exceptions. NAPE Classic Golf will be October 27 at the Golf Club of Houston.
- Tax Issues Committee – Updating the Independent Contractor Toolkit. The committee is also working on issues in Mississippi and California related to their Unemployment Compensation Act. The committee is integrating the new AAPL definition of land work into pending bills and amending previously passed bills so that independent Landmen are covered regardless of the energy project. While this process may seem less pressing, they feel it is important to update the definition of land work particularly in alternative energy producing states so that independent Landmen are protected as the energy landscape evolves.

CPL Requirements

- Cranford Newell brought forth a discussion about the education requirements to sit for the CPL certification exam. He stated that during the Executive Committee meeting an alternative to the bachelor's degree was discussed. The Executive Committee voted in favor of a motion to create a second option for members to sit for the CPL, which would require 15 years of experience **and passing the exam**. Cranford encouraged directors to discuss the issue with their local associations and to be ready to vote on the issue this December.

Operations

- Congratulated Le'Ann Callihan for her promotion to Vice President of AAPL & NAPE. Along with Russell Cohen's promotion to Director of Government Affairs and Drew Guntert as NAPE Director.
- Introduced Deanna Young as the new Affiliates & Volunteers Relations Manager. Deanna is a key point person to improve and increase communications and support to the local associations.



Legislative Update

by Mike Flores
Championship Strategies, Inc

NEWSOM PROPOSES BUFFER ZONE FROM OIL AND GAS WELLS

In late October, California Gov. Gavin Newsom proposed a statewide 3,200-foot buffer zone to separate homes, schools, hospitals and other populated areas from oil and gas wells.

The draft rule, released by the state's oil regulator California Geologic Energy Management Division (CalGEM), would not ban existing wells within those areas but would require new pollution controls.

The new restrictions could take a couple years to go into effect and will likely face pushback from the state's oil and gas industry. The Western States Petroleum Association and the State Building and Construction Trades Council have opposed a statewide mandate to impose setbacks, arguing that buffer zones will raise fuel costs and harm workers.

WSPA STATEMENT ON NEWSOM'S SETBACK ANNOUNCEMENT

WSPA President and CEO Catherine Reheis-Boyd has issued the following statement regarding Governor Newsom's proposed setbacks.

"Just a few weeks ago, President Biden asked the OPEC nations, such as Saudi Arabia, Iran, Iraq and Venezuela, specifically to produce more oil in order to bring energy costs down and ensure reliability. Today, Governor Newsom took an opposing path and proposed a setback regulation that could lead to increased costs and reduce the reliability of our energy supply. His decision was not based on what is best for Californians or science.

"The proposed rule's true setbacks will be imposed upon California's families, workers and businesses that need affordable, reliable energy every day. This was not a scientific process, as facts do not support the recommendation, nor were dissenting voices or industry experts even allowed to provide input to the panel. It's time we call these series of actions, bans, rules and mandates what they are: an activist assault on California's way of life, economy and people.

"The oil and gas industry is not opposed to setbacks and in fact, has supported many local setbacks that are based on science, data and rigorous health assessments. But this approach by the state will eliminate tax revenues and community benefits, raise costs for everyone and put thousands of people out of work.

"While we are disappointed that the governor continues to lead through fear and division, we will trust and work with the California we know, a citizenry that dismisses the pessimism of bans and mandates and believes that by working together we can create a future that balances the needs of people, environment, energy and equity. Despite what may come from this administration, we will continue to apply research, hard work, investment and the innovative power people working together to solve the big issues of our day."

LOS ANGELES COUNTY VOTES TO PHASE OUT OIL AND GAS DRILLING

Los Angeles County supervisors voted unanimously in October to phase out oil and gas drilling and ban new drill sites in the unincorporated areas of the nation's most populous county.

Over 1,600 active and idle oil and gas wells in the county could be shuttered after the 5-0 vote by the board of supervisors. A timetable for the phaseout will be decided after the county determines the fastest way to legally shut down the wells.

Among the sites is the Inglewood Oil Field, one of the largest U.S. urban oil fields. The sprawling, 1,000-acre (405-hectare) site, owned and operated by Sentinel Peak Resources, contains over half the oil and gas wells in the county's unincorporated areas. The field produced 2.5 million to 3.1 million barrels of oil a year over the past decade, according to the company.

"The goal is to provide direction to county departments to begin addressing the variety of issues, environmental and climate impacts created by these active and inactive oil and gas wells," said Supervisor Holly J. Mitchell, who represents the district where most of the Inglewood Oil Field is located.

Mitchell, along with Supervisor Sheila Kuehl, made the motion to phase out drilling in the county's unincorporated areas.

The California Independent Petroleum Association, representing nearly 400 oil and gas industry entities, opposed the measure. In a letter to the board, CEO Rock Zierman said a phaseout of oil and gas production would threaten hundreds of jobs, raise gas prices and make California more dependent on oil from foreign countries.

Inglewood Oil Field is adjacent to several Black communities, including Baldwin Hills, Ladera

*Legislative
continued on page 10*



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Heights and View Park, where residents have worried about the field's impact on their health and the local environment for at least a decade. Residents have complained of foul odors from the wells and say they have seen oil bubbling through sidewalk cracks in their neighborhoods.

Residents, activists and politicians supporting the ban and phaseout want the Inglewood Field to be turned into an expansion of neighboring Kenneth Hahn State Recreation Area.

The measure that passed also called for residents, the oil companies and other stakeholders in the community to explore what else can be done with the privately owned land. "My goal is complete, comprehensive (cleanup of the site), with the oil companies paying for it, not taxpayers," Supervisor Mitchell said.

The petroleum industry's Zierman said companies should be compensated if their operations are condemned without justification.

CALIFORNIA APPELLATE COURT OVERTURNS FRACKING BAN IN MONTEREY

On November 12, a California appeals court has ruled that a Monterey County measure banning oil and gas extraction was preempted by state law, meaning oil and gas companies can continue fracking in the region.

"If a local regulation conflicts with a state law, the local regulation exceeds the local entity's power," wrote Justice Franklin Elia on behalf of the unanimous panel in the Sixth Appellate District of the California Court of Appeals.

The judgment effectively dooms Measure Z, which was passed in 2016 with 56% of Monterey County voters approving of the ballot measure. The policy sought to ban fracking, a method of oil and gas extraction where liquid is injected into the substrate of the earth to create enough pressure to withdraw fossil fuels from the rock layers.

Local entities have the right to pass land use and zoning laws that regulate or restrict certain commercial activities, including oil and gas extraction, but it has no power to regulate the manner in which the oil is extracted, due to preemption rules, the court said.

"The fact that state law leaves room for some local regulation of oil drilling, such as zoning regulations identifying where oil drilling will be permitted in a locality, does not mean that the county has the authority to ban all new wells and all wastewater injection under Measure Z," Elia wrote.

After the measure passed, Chevron, which is the largest oil extraction operator on the San Ardo Field, sued with another plaintiff, Aera Energy.

San Ardo Field is located in south Monterey County, about 30 miles north of Paso Robles and 20 miles south of King City.

The San Ardo Field was discovered in 1947. It is the 13th largest oil field in California and the 46th largest in the United States. The oil is "heavy" and has the consistency of ketchup, but steam injections heat the oil, making for easier extraction.

Chevron is the largest operator on the site, producing about 11,000 barrels of oil per day. An oil well at the San Ardo Field typically draws about 10 to 20 times as much water as oil, and in 2006 Chevron built a reverse osmosis facility to purify 45,000 barrels of water a day.

About 75 percent of the water is sent to recharge basins, where it slowly drains back into the aquifer through a series of constructed wetlands. The remaining water is concentrated brine and is pumped deep underground.

Not all entities were in favor of the fracking ban, including the San Ardo Union Elementary School District, which collects proceeds from the oil extracted in the region and uses it to supplement its budget.

Following is an excellent Opinion column from a Colorado oil and gas advocate that is dealing with many of the same issues we are dealing with in California.

Opinion: If we don't drill for oil and gas on federal lands, we'll buy it from Russia

Production from public lands is some of the most sustainable in the world. Banning it won't cut global emissions or reduce costs

The budget reconciliation bill before Congress would, if passed with all the public lands provisions, drive oil and natural gas producers off federal lands in Colorado and across the West to other areas of the country or overseas. If passed as-is, it would achieve the President's goal of "no federal oil."

The dozens of policies put forward in the name of climate change may sound good to some. But



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does anyone think for a moment that reducing oil and natural gas produced in America is going to reduce their use overall?

Oil and natural gas account for about 70% of Americans' total energy use. People aren't going to stop driving their cars, charging their cellphones, or heating their homes. And the many so-called clean-energy policies in the bill won't replace that energy overnight, if ever. Just look at California or Germany, which have had to increase their reliance on fossil fuels to avoid blackouts after years of policies favoring weather-dependent renewable energy.

Indeed, the White House admits that oil and natural gas are critical as officials continue to ask Russia and OPEC to increase production to alleviate high prices. If that energy is imported from overseas, the greenhouse gas emissions will be generated regardless — and at higher levels because Russia and OPEC don't have the strict environmental standards we have in the United States. Stopping the 20% of American production that takes place on federal lands and waters isn't going to reduce energy prices or greenhouse-gas emissions.

Some don't want any production on federal lands, arguing that all public lands must be set aside. But development is not done in Rocky Mountain National Park, the Great Sand Dunes, or any other park or wilderness areas. It's conducted on working landscapes suitable for energy development. Most of the federal development in Colorado is on the West Slope in areas that have been designated for multiple uses, not in areas set aside for preservation.

Federal land management agencies, in cooperation with states, counties, tribes, conservation groups, and other stakeholders, determine which lands are appropriate for energy with input from the public over many years. These multiple-use lands sustain communities on the West Slope and across the West, including historically marginalized communities such as Indian tribes.

The Southern Ute Tribe in southwestern Colorado is one of the nation's preeminent energy tribes that balance stewardship of their lands with economic growth. Although the bill applies only to federal lands, putting lands adjacent to the reservation off limits negatively impacts economic and job opportunities for the Tribe, an outcome that is neither environmental nor social justice.

Production from public lands is some of the most sustainable in the world. Environmental standards are strict across the country, but even more so on public lands. Extra controls and protections are appropriate, since public lands and the energy beneath them belong to all Americans. We all have an interest in protecting these lands, and we in the industry take our stewardship very seriously. Companies often commit to even more restrictions and constantly innovate to reduce impacts, while voluntarily supporting conservation.

For example, advances in hydraulic fracturing and horizontal drilling have reduced the footprint on the land by nearly 70% over the last decade. We produce more energy with less impact on the land than ever before. Less than 0.1% of all public lands have any oil and natural gas activity on them. Leased acreage remains at historic lows since 2018. We have achieved a balance on public lands that meets Americans' energy needs while protecting the environment.

Even better, federal oil and natural gas provide nearly all the conservation funding for national parks and other public lands. With the Great American Outdoors Act passed last year by Congress, \$2.8 billion is available for conservation and infrastructure in our national parks and other public lands, including \$32 million this year for Rocky Mountain National Park. The reconciliation bill before Congress would ensure that funding dries up.

Why would members of Congress and the Biden Administration wish to drive production off federal lands and waters and send it to Russia and OPEC? Misguided ideology has gotten the country to the brink of putting the American oil producer out of business even as the White House asks unfriendly nations to increase production.

We ask instead for a truce with the American producer. We call on practical members of Congress to recognize the madness of sending billions of dollars and millions of jobs overseas and reconsider the reconciliation bill. It makes no sense to disadvantage Colorado producers while propping up foreign adversaries.

Kathleen Sgamma, of Denver, is president of Western Energy Alliance



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Guest Article

ELIMINATION OF CRUDE OIL IS LIKE JUMPING OUT OF AN AIRPLANE WITHOUT A PARACHUTE

Ron Stein

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Summary: It would be great to eliminate fossil fuels and reduce the associated emissions, BUT before we jump off that cliff, where's the safety net to keep economies and lifestyles from the drastic changes that would be required without the products from those fossil fuels?

The world and the Intergovernmental Panel on Climate Change (IPCC) are proposing the banishment of fossil fuels. They are focused on reducing fossil fuel emissions at any cost, but a safety net of having a viable replacement should be in place before we jump off that cliff.

Banning oil imports, fracking, and ceasing oil production to focus on the symbolic renewable energy as the replacement of fossil fuels is fooling ourselves as "clean energy" is only electricity generated from breezes and sunshine.

Before the healthy and wealthy countries abandon all crude oil fracking and exploration that will eliminate the supply chain to refineries and end that manufacturing sector, we should have a safety net to live without the crude oil fuels and derivatives manufactured from that energy source. Without any clones to access everything we get from crude oil, the termination of its use could be the greatest threat to civilization.

The more than [6,000 products](#), including asphalt roofing, asphalt roads, fertilizers, and all the products in hospitals that come from the derivatives manufactured from crude oil, are more important than the various fuels the world uses to operate planes, trucks, militaries, construction equipment, merchant ships, cruise ships, and automobiles.

Electricity alone can recharge your iPhones and EV batteries. But wind turbines and solar panels cannot manufacture the derivatives needed to make the parts of those iPhones and Teslas and the components in solar panels, wind turbines, and automobiles.

Reliance on intermittent electricity from breezes and sunshine is unfathomable. Electricity alone cannot support the prolific growth rates of the military, airlines, cruise ships, supertankers, container shipping, trucking infrastructures, and the medical industry that is already about 90 percent dependent on petroleum products to meet the demands of the exploding world population.

Only healthy and wealthy countries like the USA, Germany, Australia, and the UK can subsidize electricity generation from breezes and sunshine, and then, it's only intermittent electricity at best. The 80 percent of the 8 billion on earth [living on less than \\$10 a day](#) cannot subsidize themselves out of a paper bag.

Those poorer countries must rely on cheap and abundant coal for reliable electricity, while residents in the healthy and wealthier countries pay dearly for those subsidies with some of the highest costs for electricity in the world.

Before the healthier and wealthier countries cease all oil production, they need to focus on an answer to what safety parachute exists to replace what we get from crude oil:

Before the 1900's we had NONE of the [6,000 products](#) from oil and petroleum products. By ceasing oil production and fracking, the supply chain to refineries will be severed, and there will be no need for those manufacturing refineries.

- Without refineries, we would be terminating the manufacturing of the derivatives that make the thousands of products used in our daily lives and ending the manufacturing of the various fuels for transportation infrastructures and the military.
- Without crude oil, the world would be in desperate need of "clones" to those oil derivatives that provide the thousands of products from petroleum that are essential to our medical industry; electronics, communications, transportation infrastructure, our electricity generation, our cooling, heating, manufacturing, and agriculture; indeed, virtually every aspect of our daily lives and lifestyles.
- The world has had more than 100 years to develop clones or generics to replace the crude oil derivatives. Without replacements for those derivatives manufactured from crude oil, there will be considerable reductions in living standards of the population in the so-called industrial countries, and any attempt to develop the colonial countries would come to a dead stop.
- The "green" preachers have yet to promote the need for clones to the oil derivatives that are the basis of billionaire's lifestyles and worldwide economies.

Ron Stein
continued on page 15

Ron Stein • Wind turbines and solar panels are incapable of manufacturing any such derivatives, but the manufacturing of the components for wind and solar are themselves 100 percent dependent on the derivatives made from crude oil, the same crude oil that the world wants to eliminate from our economies.

Energy is more than electricity from breezes and sunshine. Electricity alone cannot provide the thousands of products from petroleum that are essential to our medical industry, transportation infrastructure, electricity generation, cooling, heating, manufacturing, and agriculture—indeed, virtually every aspect of our daily lives and lifestyles. Nor can electricity alone support the military, airlines, cruise ships, supertankers, container shipping, and trucking infrastructures.

The greatest threat to civilization would be the elimination of crude oil. That commodity is manufactured into the oil derivatives and transportation fuels that can bring the poor out of poverty and are the reasons we have healthy and wealthy developed countries. Going cold turkey to electricity from breezes and sunshine is not the wisest move without a safety net to rely upon that can support worldwide lifestyles and economies as we now know it.

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Guest Article

FREEDOM

By Jack Quirk, Esq.

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John Locke, 17th Century British philosopher, is without question a primary—indeed perhaps the primary—philosophic Father of this Nation. In his *Second Treatise on Civil Government*, ch. IV, “Slavery,” article 21, Mr. Locke would explain to us (his philosophic progeny) the difference between ‘licentiousness’ and ‘liberty’—much as one might observe: “An object in freefall is not ‘free’ but rather the *slave* of any chance force acting on it--

“Freedom, then is not as Sir Robert Filmer tells us: ‘A liberty for everyone to do what he likes, to live as he pleases, and not to be tied by any laws;’ but freedom of men under government is to have a standing rule to live by, common to everyone of that society, and made by the legislative power erected in it. A liberty to follow my own will in all things where that rule prescribes not, [and] not to be subject to the inconstant, uncertain unknown, arbitrary will of another man, as freedom of nature is to be under no other restraint but the law of Nature.”

As one prominent current example, the objection to a qualified federal vaccine mandate for businesses employing 100 or more seems to be founded on the thought that in America each worker should be free to elect or decline to be vaccinated with no regard to the benefit to themselves and others. This Mr. Locke has clearly told us is not at all what he—and by extension our direct Founders—intended. Indeed, our history, and specifically our history concerning vaccination, quarantine, and other measures to prevent the spread of disease, demonstrate that we understand as a Nation that this is not remotely what we ourselves have understood our Founders to have intended.

Anticipating a singularly specious objection, I note that writing in 17th century Britain (with 17th century British government structure) as his most immediate example, Mr. Locke associates his “standing rule common to everyone” with legislative enactment. However, the objections to OSHA’s vaccine mandate seem to be not at all focused upon the source of the rule—but upon the imposition of the rule from any source. Were this not the case, then all that were needed to overcome the objection, is that it be bounded upon a specific legislation act of local, state or federal government. Moreover, as our government is structured, legislative acts frequently authorize or even mandate specific executive (including administrative) actions. Mr. Locke’s civil society was overseen by a government in which the executive (prime minister, cabinet, administration) was a direct product of specific legislative action. If you take the time to read and consider Mr. Locke’s writing, you will find no basis for thinking he would object to the 21st century America having a government structure unlike, in this respect, the 17th century British government which provided his own immediate understanding of governmental structure.



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Case of the Month - Right of Way



SCOTUS SAYS EVICTION BANS INTRUDE ON A FUNDAMENTAL ELEMENT OF PROPERTY OWNERSHIP

*Bradford Kuhn, Esq., Partner - Debra Garfinkle, Esq., Staff Attorney
Law Firm of Nossaman LLP*

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The U.S. Supreme Court ruled last week that the Centers for Disease Control and Prevention (CDC) exceeded its authority when it imposed a national eviction moratorium. More precisely, in *Alabama Association of Realtors v. Department of Health and Human Services*, the Court agreed with a district court determination that the CDC acted unlawfully in banning evictions of residential tenants who declare financial need in counties with high COVID-19 rates. In its decision, the Supreme Court concluded, “If a federally imposed eviction moratorium is to continue, Congress must specifically authorize it.” While the decision is based on the CDC’s authority, it is filled with unconstitutional takings undertones.

Even if Congress were to authorize a further eviction moratorium, the Supreme Court could still find it unconstitutional. In the *Alabama Association of Realtors* decision, the Court considered the moratorium inequitable because “preventing [landlords] from evicting tenants who breach their leases intrudes on one of the most fundamental elements of property ownership—the right to exclude.” To support this statement, the Court cited its famous 1982 holding in *Loretto* that requiring landlords to allow installation of cable television equipment on their property was an unconstitutional taking.



The Court also emphasized the importance of the right to exclude in its June 2021 *Cedar Point Nursery* takings decision, in which it struck down a California regulation allowing labor organizations to access agricultural employers’ property for up to three hours per day, 120 days per year. In sum, the Court has ruled that violations of the “fundamental right to exclude” are unconstitutional takings, and in its recent ruling, the Court stated that the right to exclude tenants who breach their leases is also fundamental. Although this ruling is based mainly on the CDC’s lack of authority to impose an eviction moratorium, the Court left the door wide open for property owner claims that eviction bans unconstitutionally violate their fundamental right to evict or exclude non-paying tenants.

It is unclear whether the Supreme Court will decide another eviction moratorium case. Property owners and property management companies have sued the State of California, local cities, and other public entities to overturn eviction bans, citing the Takings Clause among other arguments. However, the moratoriums in California and many other states and cities are set to expire this month. Thus, they may end before the lawsuits filed against them ever reach the Supreme Court. On the other hand, the State of New York just extended its eviction moratorium until January 2022. We will wait and see—and report here—if the Supreme Court rules on whether eviction bans violate the Takings Clause.

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THE KPA REPORT: DEBUNKING MYTHS OF POLITICAL OPPOSITION RESEARCH

SEPTEMBER 29, 2021

*Dan Kramer, President of KPA Strategies
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Dan Kramer has more than 20 years' experience in political, campaign and trade association management, investigative research, and public relations. He is an expert in developing and implementing effective public affairs campaigns for businesses, institutions, and individuals under attack from competitors, activists, political and regulatory officials, and the media.

Debunking the Four Main Myths of Political Opposition Research

Every profession has its traditions, stereotypes, and mythology. Political opposition research is no different. At the base level, research consists of gathering information to compare and contrast in the development of polling, messaging, and ultimately to shape public and voter opinions, drive media coverage, and help create the narrative of the campaign. Although a fundamental and vital component of almost any competitive campaign, “oppo” is one of the least understood, and most important elements in constructing the foundation of a successful political campaign.

Myth 1: “Opposition Research is a relatively recent phenomenon.”

In the 1st century BC, the Roman statesman, Cicero, gathered information damaging to opponents and used it to engage and attack them in public speeches.

Sun Tzu, author of The Art of War, which was published in the 5th century BC, described the necessity for understanding an opponent's weaknesses, and detailed how to take advantage of them.

And who doesn't remember reading The Prince by Machiavelli in college, who espoused that a detailed evaluation of opponents', as well as our own strengths and weaknesses, was a necessity in political combat.

According to Robert Friedberg who wrote the book on communication consultants in political campaigns, opposition research has been a part of politics since our nation's earliest days. Thomas Jefferson, Andrew Jackson, and Grover Cleveland were subject to allegations about their illicit sexual activities every bit, if not more, than Gary Hart and Bill Clinton.

The professionalization of political opposition research really started in the 1970s, when both Democrat and Republican national party level officials realized a need to compile information on candidates, potential candidates, and elected officials that could be used in successive campaigns year after year, rather than start from scratch each election cycle.

By the mid to late 1990s, the information explosion gave rise to the development of opposition research as a consulting specialty.

Myth 2: “It's too expensive. We don't need to hire a professional opposition research firm. We can just have a campaign intern do it.”

Ever heard the phrase “you get what you pay for?” Good research doesn't have to be expensive. If you know what you need and budget for it in your campaign plan, most likely it will pay for itself over the course of a campaign.

Think about how much it will cost to fix the problems created when a campaign intern or volunteer fails to find an opponent's key vote or statement, which could end the campaign in your candidate's favor,

*NPA Report
continued on page 22*

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ForeFront Power develops solar projects – behind-the-meter, community solar, and wholesale solutions – across the United States and Mexico.

After graduating from law school in 2013, Phillip began his career in the upstream oil and gas sector as a contractor for Antero Resources, where he ran title (surface, mineral, HBP, heirship) and completed pre-drilling and post-drilling ownership reports on behalf of his client in southeast Ohio. In early 2019, Phillip transitioned out of oil and gas and into solar. He accepted an in-house position at ForeFront Power, where he currently oversees land acquisition for community solar on the east coast. In his first two years at the San Francisco based company, he successfully closed 70+ deals across six different states, totaling over 370 megawatts of potential projects.

Phillip currently sits on the AAPL’s Educational Committee and the NAPE Operators Committee. He completed his undergraduate studies at The University of Cincinnati in real estate and marketing. Phillip completed his graduate studies at Florida A&M University’s College of Law where he obtained his Juris Doctorate.



or worse, lead the campaign into making a false or unsubstantiated claim that results in embarrassing headlines, a loss of trust by voters, campaign staff and consultants being fired, a lawsuit for libel, and/or losing the campaign.

Political researchers with experience have their reputation and clients to protect, they know what to look for and where to look. With experience comes efficiency. Getting a report to you on time, and on budget can make all the difference.

Myth 3: “It’s creepy, shady, sleezy, dirty, etc.”

Researchers get into the business a myriad of ways. The most common: campaign workers, ex-journalists, ex-law enforcement types, private investigators...even librarians.

Most opposition researchers are diligent, hardworking businesspeople who revel in the thrill of the investigation or sleuthing part of the business. There are those among us – “hired political operatives” known for their “dirty tricks” reputations, but those folks don’t last long in the business.

Opposition research does not involve hacking, breaking and entering, or any other illegal or unethical activity. Opposition researchers use public records, databases, and other means of intelligence gathering where there is a treasure trove of information available in open sources, much of which is readily accessible online if you know where to look.

At the end of the day, a good research firm is going to provide the campaign with documented evidence that can be corroborated by journalists and other interested parties. If they can’t verify it themselves, they are unlikely to use it and potentially ruin their own credibility.

Myth 4: “All opposition research firms are the same.”

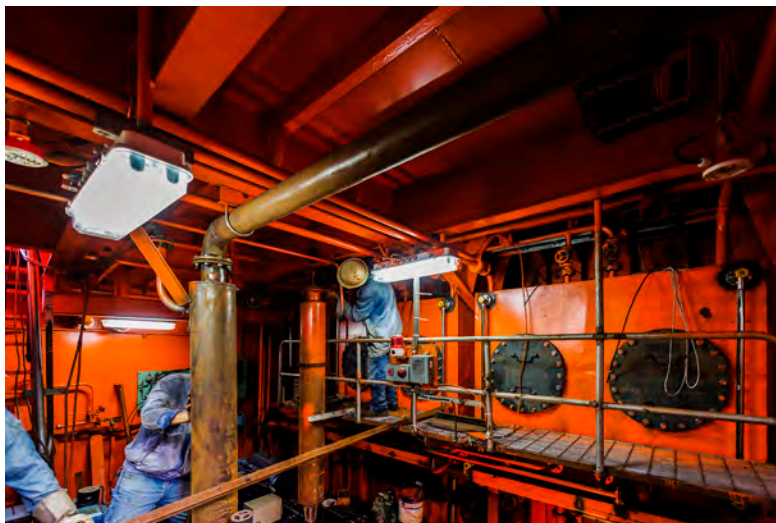
The best political research firms will not only find the information you need, but serve as an interpreter of that information and help create an actionable narrative that can be conveyed to voters and the media.

While a basic political opposition research report consists of a core checklist of items for review, assignments and the knowledge level of the people who conduct the research can vary widely in terms of experience level, partisan specialization, specific issue or policy analysis expertise, or regional background knowledge. Research firms specialize in a variety of different types of research: campaign related, regulatory, legal, business, and a host of policy related subspecialties.

When choosing a firm, ask who will be doing the work on your project, and what that person’s specific experience or expertise is in the type of research you want to conduct, and the specific checklist of items they’ll be using in their research. Ask for a sample or samples of their product. When you ask for an estimate, also ask when you should expect to see results, and when you should expect to see a copy of the final report or product you’re contracting for.

Good research firms know where to look for the specific information that will create the best product for the client’s specific assignment. Sometimes it’s as simple as creating a research or briefing book, and other times campaigns may need a firm to create or participate in an ongoing war room, responding in real time to claims made about elements of a campaign in the media.

Mr. Kramer can be reached at dan@kpastrategies.com or visit www.kpastrategies.com.



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Bibikos' At the Well Weekly Round-up

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Mr. Bibkos practices as GA Bibikos, LLC, an oil and gas law practice, with his office in Harrisburg, PA, he can be reached at gbibikos@gabibikos.com.

Below are various oil and gas cases recited in his blog site [gabibikos.com] *At the Well Weekly* which may be of interest for your further inquiry.

Headlines & Holdings – Appalachia

- **WV Federal Court Says EQT-Landowner Settlement Bars Royalty Claims.** A federal court in West Virginia enforced a class-action settlement that resolved royalty claims and held that landowners could not sue EQT for similar claims that the settlement addressed. *The Kay Company LLC v. EQT*, --- F. Supp. 3d ---, No. 1:13-CV-151 (N.D. W. Va. Sept. 14, 2021).
- **Federal Court in PA Says Royalty Owners have Burden to Prove Breach of Market Enhancement Clause.** A federal court in Pennsylvania rejected claims by royalty owners that a lessee breached a market-enhancement-type royalty clause in the parties' oil and gas lease – which gives lessees the ability to deduct a royalty owners' share of post-production costs that enhance the value of gas – and rejected attempts by royalty owners to shift the burden to the lessee to prove that the costs enhance the value of gas, holding instead that a plaintiff in a breach of contract action regarding royalties has the burden of proof under Pennsylvania law. *Tennant v. Range Resources – Appalachia, LLC*, --- F. Supp. 3d ---, No. CV 18-1533, 2021 WL 4288365 (W.D. Pa. Sept. 21, 2021).
- **Federal Court in PA Says no Breach of JOA.** A federal court in Pennsylvania held that a non-operator failed to satisfy timing conditions in a JOA to compel its counterparty to participate in proposed wells, holding that the JOA at issue unambiguously required the proposing party to specify a commencement date within 120 days and the counterparty did not comply. *Epsilon Energy USA, Inc. v. Chesapeake Appalachia, LLC*, --- F. Supp. 3d ---, No. 1:21-CV-00658, 2021 WL 4306123 (M.D. Pa. Sept. 22, 2021).
- **Fed. Court Certifies Class Action Involving O+G Storage.** A federal court in Pennsylvania certified a class action against EQT alleging the company improperly stored gas in the subsurface underlying the plaintiffs' properties without paying them. *Asbury v. EQT*, No. 18-1005 (W.D. Pa.) (pending)
- **Fed. Ct. in PA Says O+G Deed Conveyed Royalty Interest.** A federal court in Pennsylvania held that an 1897 deed conveyed only a royalty interest rather than a fee simple in the oil and gas estate, rejecting the “estate misconception” theory applied in other states to interpret an otherwise unambiguous deed and concluding that the oil and gas interests reverted to the original grantor's heirs and assigns while the separate royalty interest expired when the associated oil and gas lease expired. *JJK Mineral Co. II, LLC v. Morris*, --- F. Supp. 3d ---, No. 2:20-CV-2025, 2021 WL 4594675 (W.D. Pa. Oct. 6, 2021).
- **NY Appellate Court Says Free Gas Rights Expired When O+G Reservation Period Expired.** A court of appeals in New York concluded that a grantor's reservation of oil and gas rights for 20 years expired in 2015 such that the grantor's estate improperly conveyed the oil, gas, and minerals, including free gas rights, in 2019. *BPGS Land Holdings, LLC v. Flower*, --- N.Y.S.3d ---, No. 616, 2021 WL 4702606 (N.Y. App. Div. Oct. 8, 2021).
- **Ohio Court Says O+G Lease Expired for Lack of Production in Paying Quantities.** A court of appeals in Ohio concluded that a successor owner of property that included a well producing marginal gas bore registration and filing responsibilities given that the oil and gas lease covering the property expired long ago for lack of production in paying quantities and the leasehold interest reverted back to the current owner of the fee simple estate. *Kuster v. Ohio Department of Taxation*, --- N.E.3d ---, No. 2021-Ohio-3721, No. 2021 CA 00014, 2021 WL 4859583 (Ohio Ct. App. October 19, 2021).

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- **Fed. Court in Wyo. Upholds Feds' O+G Royalty Valuation Process.** A federal court in Wyoming upheld regulations changing the way the federal government calculates oil and gas royalties on production from federal lands and concluded that the Office of Natural Resources Revenue provided a reasoned explanation for its changes. *Cloud Creek Energy v. DOI*, --- F. Supp. 3d ---, No. 19-121 (D. Wyo. September 8, 2021).

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ONE SERIES TOPIC ON Carbon Negative Energy

VIRTUAL SEMINAR

Thursday, March 17, 2022 | Noon to 1:15 PM

SPEAKER:



Rebecca Hollis

Director of Business Development
Clean Energy Systems, Inc.

TOPIC:

“California Carbon Negative Energy – Land Work”

MEET OUR SPEAKER!

Founded in 1993 by former Aerojet (a GenCorp company) aerospace engineers: incorporated in 1996, Clean Energy Systems, Inc. Clean Energy Systems is focused on the development and deployment of carbon reducing energy systems, having 30 patents issued (36 pending) on zero-emissions oxy-combustion technology and power cycles.

Since joining Clean Energy Systems (CES) in 2009, Ms. Hollis has served in roles of Project Engineer, Project Manager, and Program Manager. Today, she is the Managing Director of CES' heat exchanger division, HEXCES, and the Director of Business Development for the deployment of Carbon Negative Energy (CNE) plants across California and the United States.

Ms. Hollis has 15 years experience in R&D and product development in the energy, clean tech., automotive, and aerospace industries. She has managed and directed multi-million-dollar contracts for industry and government clients with multi-disciplinary teams to develop innovative advanced technologies. ed company, he successfully closed 70+ deals across six different states, totaling over 370 megawatts of potential projects.

Ms. Hollis holds a BS of Mechanical Engineering from the University of Toledo, an MS in Aeronautical Engineering from the Ohio State University, and an MBA from the University of California, Davis with a focus on entrepreneurship, strategy, and finance.

- **Highly Paid Rig Workers Entitled to OT, Fifth Circuit Holds.** The en banc Fifth Circuit said a highly paid rig worker is entitled to overtime despite arguments from the companies and trade groups that such a ruling has drastic economic effects on the industry. *Hewitt v. Helix Energy Solutions Group Inc.*, No. 19-20023 (5th Cir. Sept. 10, 2021).
- **TX Bankruptcy Court Says T&F Part of Price Received for Royalty Calculation.** A bankruptcy court in Texas concluded that transportation and fractionation charges are part of the price received by lessee for purposes of calculating royalties. In re: *Chesapeake Energy Corp.*, --- B.R. ---, No. 20-33233, 2021 WL 4190266 (Bankr. S.D. Tex. Sept. 14, 2021).
- **DE Bankruptcy Court Says Landowner Failed to Exhaust Remedies under CO Law to Press Royalty Claims.** A bankruptcy court dismissed an adversary proceeding initiated by a landowner against a debtor lessee for underpaid royalties, holding that the court lacked jurisdiction because the landowners failed to press their royalty claims before the Colorado Oil and Gas Conservation Act and therefore failed to exhaust administrative remedies. In re *Extraction Oil & Gas, Inc.*, --- B.R. ---, No. 20-11548 (CSS), 2021 WL 4262212 (Bankr. D. Del. Sept. 20, 2021).
- **TX Appeals Court Separately Interprets Leases Covering Separate Tracts for Purposes of Lease-Expiration Claims.** A court of appeals in Texas held that two leases covering separate tracts should be interpreted separately and held that one of the leases expired under a standard habendum clause for lack of operations on the tract covered by the expired lease. *Tier 1 Res. Partners v. Delaware Basin Res. LLC*, --- S.W.3d ---, No. 08-20-00060-CV, 2021 WL 4260793 (Tex. App. Sept. 20, 2021).
- **Colo. Federal Court Scraps BLM's Leasing Decisions under APA and NEPA.** A federal court in Colorado upheld a challenge to BLM's oil and gas leasing decision in portions of Colorado, holding that BLM's decisions lacked the proper review under NEPA and remanded to the agency for further review. *Rocky Mountain Wild v. Haaland*, --- F. Supp. 3d ---, No. 18-CV-02468-MSK, 2021 WL 4438032 (D. Colo. Sept. 28, 2021).
- **Colo. Fed. Court Rejects Excessive Surface Use Claims.** A federal court in Colorado held that a landowner failed to establish that a lessee of severed oil and gas rights materially impaired with the landowners' surface use, holding that the landowners failed to establish that the company materially impaired the use of the surface for farming operations. *Bay v. Anadarko E&P Co. LP*, -- F. Supp. 3d ---, No. 09-CV-02293-MSK-MJW, 2021 WL 4438031 (D. Colo. Sept. 28, 2021).
- **TX Bankruptcy Court Says NPI not Subject to Lawyers' Fees.** A bankruptcy court in Texas interpreted a net-profits-interest agreement and held that lawyers' fees are not expenses of ownership or operation of wells that may be deducted from a net-profits interest. In re: *Houston Bluebonnet LLC*, --- B.R. ---, No. 16-34850, 2021 WL 4562255 (Bankr. S.D. Tex. Oct. 5, 2021).
- **Cal. App. Court Says County Ordinance Preempted.** A court of appeals in California held that California Public Resources Code explicitly provides that the state's oil and gas supervisor has the authority to decide whether to permit an oil and gas drilling operation to drill a new well or to utilize wastewater injection in its operations and therefore preempts local regulation of these aspects of oil and gas operations. *Chevron U.S.A., Inc. v. County of Monterey*, No. H045791, 2021 WL 4743024 (Cal. Ct. App. Oct. 12, 2021).
- **Ins. Co. has Duty to Defend, Indemnify Contractor under MSA.** In a case involving an injury sustained by an employee of a well operator's contractor, a federal court in Texas concluded that Texas law governed the obligations of the parties under the Master Service Agreement at issue; the insurer has a duty to defend and indemnify the contractor entities if they qualify as additional insureds under the policy; if the well operator owes indemnity to the contractor in the underlying action, the amount should be capped. *Nabors Drilling Tech. USA Inc. v. Deepwell Energy Servs. LLC*, --- F. Supp. 3d ---, No. 4:19-CV-02854, 2021 WL 4924758 (S.D. Tex. Oct. 21, 2021).