



# HAPL Newsletter

January 3, 2022

"LAND IS THE BASIS OF ALL WEALTH"

IN THIS ISSUE

## HAPL IN-JOINT LUNCHEON WITH NHAPL & WHAPL & LIVE WEBCAST



**JANUARY 4, 2022**  
**11:30AM - 1:00PM**

**Speaker:** AAPL President, James "Jim" T. Devlin, CPL  
**Topic:** AAPL Updates

Luncheon Registration:  
HAPL Members & Non-Members: \$35

Live Webcast Registration:  
HAPL Members & Non-Members: \$10



1 RPL/CPL credit will be available.

### Register Online

**In-Person Luncheon**



Registration closes Monday, January 3, 2022 at 7pm

**Live Webcast**



Registration closes Tuesday, January 4, 2022 at 11am

www.hapl.org

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[Register for the luncheon here](#)  
[Register for the live webcast here](#)

# Upcoming Events:

## HAPL Events:

### January 4

HAPL January Joint Luncheon with NHAPL & WHAPL, Petroleum Club  
*Speaker: James "Jim" T. Devlin, CPL, AAPL President*

### February 1

HAPL February Luncheon, Petroleum Club  
*Speaker: Christi Craddick, Railroad Commissioner*

### March 1

HAPL March Luncheon, Petroleum Club  
*Speaker: TBA*

### March 15

HAPL Scholarship Applications Due

### March 18

HAPL Teacher Nominations Due

### March 30

HAPL 23<sup>rd</sup> Annual South Texas Social, Armadillo Palace

### April 5

HAPL April Luncheon, Petroleum Club  
*Speaker: Tim Duncan, Talos CEO*

### April 26

HAPL 20<sup>th</sup> Annual Rockies Social, St. Arnold Brewery

### May 3

HAPL Tribute to Education & Scholarship Luncheon, Petroleum Club

You can view more events and their details on the HAPL website at [www.hapl.org](http://www.hapl.org).

## Other Industry Events:

### January 18

AAPL Joint Operating Agreements Webinar

### January 31

AAPL Solar Lease Fundamentals Webinar

### February 8-11

NAPE Summit, Houston, TX

### February 8

AAPL Surface Use and Access - Short Course, NAPE Summit

### February 22

AAPL Solar Lease Fundamentals, Webinar

### April 21

Texas Energy Council's 33<sup>rd</sup> Annual Symposium, Dallas Petroleum Club

### June 15 -18

AAPL 68<sup>th</sup> Annual Meeting & Conference, Chicago



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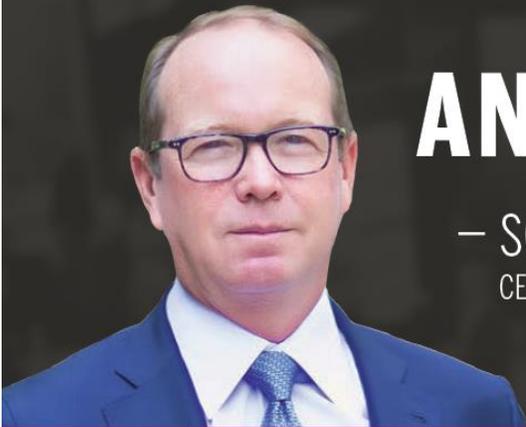
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# “IT IS IMPORTANT TO BE PRESENT AT NAPE AND KEEP THE INDUSTRY RELATIONSHIPS VIBRANT AND RELEVANT.”



— SCOTT NOBLE  
CEO and president, Noble Royalties Inc.

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### 2021-2022 HAPL Committee Chairmen

**AAPL Awards** – Claire Morse  
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**Audit** – Kyle Lesak, CPL  
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**Golf** – Darshan Naik, CPL  
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**Luncheons** – Vernon Henry  
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### Outstanding Senior Landman Nominating Committee

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### Scholarship – Ashlee Hansen

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### Service – Mimi McGehee

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### Shale Seminar – Jonathan Click, CPL

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### Co-Chair - Emily McMahon, CPL

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# HAPL Officer Forum



Kyle Lesak, CPL  
2021-2022 HAPL Treasurer

## “The Winds of Change”

For the past three years, I have been asked to write an article for the HAPL newsletter. The article is supposed to be written around the “theme” of the year, which is chosen by the HAPL President. Some years it’s a stretch trying to tie the theme to my article, but this time around, it fits perfectly.

This year’s theme chosen by our fearless leader Wade Edington is “The Winds of Change.” There is no better time of the year to talk about change than the New Year. While doing some quick internet research for the article, I found that 50% of Americans make New Year’s resolutions, and 80% of those resolutions revolve around Exercise/Diet/Healthy Eating. I personally will be going on a New Year’s diet for the 11<sup>th</sup> year in a row now. Let’s hope I am one of the 12% of people who stick to the resolution throughout the year.

A couple of other items that continued to show up lower down the New Year’s resolution lists were:

Volunteering – 8% of people want to spend more time volunteering. Did you know that the HAPL has 36 committees? Some of these revolve around educational events. Some are networking events like socials and Golf/Fishing/Skeet tournaments. But many are behind the scenes, working to better our organization, its members, our industry, and our community. All the committees combined are made up of hundreds of volunteers. I would like to thank all the committee chairmen and their teams for their hard work over the past year. I encourage anyone interested in joining a committee, to reach out to the committee chairman. All specific information is on the HAPL website under the “Committees” tab.

Learn something new – While this seems to be broad, a lot of little resolutions on the list can be lumped into this. Some resolutions involve people taking up a new hobby or learning a new language. Others want to attain higher education and start working towards a Bachelors’s/Master’s Degree, or something more specific to their chosen profession. I have been lucky enough to attend many continuing education events over the past 14 years as a landman, and always come out with something new learned. HAPL offers many educational events and luncheons throughout the year. One of my favorite yearly events is the “State of the AAPL” presentation by the AAPL President. It just so happens that this event will be held on January 4, 2022. I encourage you all to attend the luncheon and hear this year’s AAPL President, Jim Devlin, CPL, give his update and enjoy one of those famous Petroleum Club pecan ball deserts with me (diet starts 1/5/22). I hope to see many of you there!

Whatever goals or aspirations you have set for the New Year, I wish you success!

Happy New Year to you all and may your 2022 be filled with prosperity, and good fortune.

God Bless.



# Runsheets 101 - Revisited 2021 (Part I)

By: Randall K. Sadler, Sadler Law Group PLLC

This paper was originally presented on February 18, 2006, to the San Antonio Association of Professional Landmen at their Annual Mid-Winter Seminar. In the recent weeks, it was suggested that an update to the paper would be welcomed, particularly in light of the changes in law and technology that have occurred in the past 15 years. Numerous technological advances have occurred during that period, most notably the digitization of records, remote access to county records online from the County Clerk's websites, and third party county records websites. As a result of such changes, the aggregation of documents has become more efficient and expedient; however, the fundamental methods and manner of the preparation of a "title runsheet" have not substantially changed substantially, although the aggregation of the information is now mostly prepared in a digital world. In presenting this topic once again, the paper repeats the relevant material as it was presented in 2006 paper with the addition of the adaptations presented by the technological advances and any changes in the law that have occurred.

The purpose of this paper is to discuss the manner of preparation of a title "Runsheets," by a landman concerning interests in real property in Texas, from the records of an abstract company, if available, and from the Official Public Records of the County Clerk, and the Minutes of the District Clerk, collectively "Public Records," in the county where the land covered by an Runsheet ("subject land") is located. This paper will provide a very practical hands-on description of the necessary steps to follow in order to prepare the Runsheet. The first part of this paper is addressed to lesser experienced landmen, who are now assigned the task of preparing a Runsheet for use by an attorney in the preparation of a title opinion. The later part of this paper will contain a discussion on "risk management" as applied to the content of Runsheets, which is included in this paper for company management charged with the task of approving the title for its exploration and production purposes.

## I. RUNSHEET PREPARATION

A "Runsheets" as the term is commonly used today in the oil and gas exploration industry is, in its simplest form, a chronological list of all recorded instruments and proceedings, of whatever kind and character, which affects an estate or ownership in the subject land, that is within the record chain of title. The goal of the Runsheet is to identify every recorded instrument affecting the subject land, and to communicate such information to the client and the examining attorney. Traditionally, following the characteristics of an abstract of title prepared by an abstractor located in the county where the land is located, the Runsheet should cover the period of time from sovereignty of the soil to the most current date obtainable in the present. A Runsheet containing the "record chain of title" is prepared from the Official Public Records of the county in which the subject land is located. Texas courts have held that a "chain of title" refers to the documents that show the successive ownership history of a tract of land, commencing with the severance of title from the sovereign down to and including the conveyance to the present holder.

When a landman is assigned the task of preparing a Runsheet, they may be given an extensive package of materials including lease purchase reports, a mineral take-off or mineral ownership report, that was used for leasing the land, copies of the oil and gas leases, plats and other related information the client may have in its possession. However, at times, a landman will only receive a copy of the current oil and gas lease and a plat. This paper has been prepared on the assumption of the latter.

A. TOOLS. The preparation of Runsheets has not changed much in the last forty years, with the exception of the dramatic abundance of digital data and the assistance of computers in the actual drafting and presentation of the Runsheet. However, despite technological advances, the necessary skills and knowledge to prepare a Runsheet has not changed the fundamental basics of how a Runsheet is constructed. In order to prepare a Runsheet, it will be helpful to have all or some of the following tools and the knowledge how to use them:

- a. computer or laptop;
- b. cellphone;
- c. other camera device;
- d. platting software;
- e. runsheet software;
- f. spreadsheet software;
- g. word processing software;
- h. records index checklist;
- i. Runsheet form;
- j. plats; and
- l. internet access.

Obviously, the tools used will be dependent in part by the landman's computing skills and equipment, the County Clerk's disposition and rules, and the number of other landmen who are crowded into the same records vault, or whether the preparation of the Runsheet is to be attempted only by accessing remotely the available public records or third party online records via the internet.

B. USE OF ABSTRACTS. Prior to actually beginning the courthouse review, determine whether any abstracts of title are available for review. An abstract of title is a collection of all recorded instruments affecting the title to a tract of land prepared by an abstractor who certified same as to the land covered, the records and time period covered. Historically, mineral owners/lessors were given copies of abstracts of title by the oil companies when they had completed their examination or the landowner acquired them as a part of their acquisition of the subject land, which generally speaking is not the current real estate practice. If an abstract of title exists and is available, borrow it if possible, and forward a copy to the title attorney. If an abstract is not available to borrow, obtain the owner's permission to review the abstract in the most reasonable manner possible. At that point, copy it, scan it or hand copy the index of the documents contained, including the abstract number, the description of the land covered, the beginning and closing date of the abstract. If an abstract is obtained, and authorization is given to rely on the abstract, then the Runsheet will cover the period of time from the closing date of the abstract to the most current date in the public records.

C. ABSTRACT OR TITLE COMPANY. Where available, the records of the abstract company or title company in the county in which the work is to be completed, should be used covering the period from sovereignty of the soil to and including the most current date possible in their records. Many abstract companies have been converted to title companies, but may allow a landman to use the old survey books or survey cards as a beginning point of the collection of information for the Runsheet. Their records are set up by survey or abstract number, and therefore, quickly limit the scope of the review necessary to prepare a Runsheet. The records of the abstract company will be used to develop a preliminary Runsheet, which will be completed later by a review of the Official Public Records. The preliminary Runsheet should be prepared using all or some of the following steps:

1. Be sure to determine the current date of their records, particularly in relation to the current date of the records in the County Clerk's office and District Clerk's office.
2. Examine all cards or books as to the particular survey or surveys, as the case may be, in which the property is located.
3. All instruments affecting title to the property should be listed on the Runsheet giving name of parties, date of instruments, date of the recording of instruments, recording data, number of acres included in conveyance, and any relevant remarks regarding mineral reservations or conveyances, or other related documents included in the Runsheet.
4. All other instruments should be listed on the Runsheet, including but not limited, to deeds of trust, abstracts of judgments, all probate matters, and district court matters.
5. In addition to the survey book or survey cards in the abstract or title company office, a check should be made with the local abstractor as to whether there is a name card file in the abstract company. If there is a name card file in the abstract company, check each name listed in the preliminary Runsheet with regard to the record title owners of the property. Names of parties in oil and gas leases or other extraneous instruments will not be necessary to be checked. The name card files will reveal probate proceedings and affidavit type instruments, some of which may be difficult to locate in the Official Public Records.

D. REVIEW OF OFFICIAL PUBLIC RECORDS. Once the preliminary Runsheet has been prepared in the abstract company, a review of the necessary instruments in the Official Public Records of the County Clerk and District Clerk must be conducted to determine that the Runsheet does in fact cover the subject land and that all instruments relating to the subject land have been included in the Runsheet. This review should be made from the Indices, both Direct and Reverse, of the "Official Public Records of Real Property" of the county in which the land is located, which may include, by way of example, Deed Records, Oil and Gas Lease Records, Deed of Trust Records, State and Federal Tax Lien Records, Lis Pendens Records, Abstract of Judgment Records, Mechanics and Materialmans Lien Records, Financing Statement Records, Probate Records and District Court Records, both those maintained by hard copy in books or volumes and those maintained in digital form, to determine the record chain of title to the subject land.

- a. As used in later sections of this paper, the term "Deed Records" refers to Deed Records, Real Property Records, Official Public Records or similar named records in which conveyances of any interest in the subject land, or other instruments relating to the ownership of the subject land, such as affidavits, may be recorded.
- b. The term "Deed of Trust Records" shall refer to Deed of Trust Records, Mortgage Records, Mechanics and Materialmans Lien Records or similar named records in which the instruments creating real property liens by agreement of the parties are recorded, but such term shall not include Financing Statement Records.

c. The term "Lien Records" shall refer to State Tax Lien Records, Federal Tax Lien Records, Abstract of Judgment Records, Lis Pendens, or similar records by which liens are statutorily granted or obtained by recordation of an instrument (and may include Mechanics and Materialmans Lien Records).

d. The term "Probate Records" shall refer to the original court files and the files as transcribed and maintained, which are generally maintained by volume and page, in the office of the County Clerk relating to the probate or administration of the estate of a decedent.

e. The term "District Court Records" shall refer to the original court files and the Minutes of the District Court, whether one or more, which are generally maintained by volume and page, and shall include for the purposes of this paper, the Lis Pendens Records maintained in the office of the County Clerk.

1. Check with the County Clerk to determine that all Deed Records, Deed of Trust Records, State and Federal Tax Lien Records, Lis Pendens Records, Lien Records, and Probate Records were examined during the records search, and likewise, check with the District Clerk regarding District Court Records. Many counties have used different names for different records throughout the history of the respective county, including, Real Records, Real Property Records, Official Records, Oil and Gas Records, Oil and Gas Lease Records, Mortgage Records, or any derivation of any such records. It is important to correctly identify the proper name of the record in which the instrument is filed in the Runsheet, as such reference is the proper reference for the title opinion.

2. All discrepancies in the descriptions should be noted in the Runsheet.

3. All differences or discrepancies in the Official Public Records should be noted in the Runsheet. As to the dates and periods of time covered, determine from the County Clerk the closing date of all Records in the Indices and the Daily Register. Should any Index not cover both Direct and Reverse, note same in the Runsheet. If there are any unusual Records which have been examined note same in the Runsheet.

E. COURTHOUSE RECORDS REVIEW. The following procedures generally outline the steps which are necessary to proceed with the preparation of the Runsheet. All records are organized somewhat differently, and it will be helpful to use a commonsense approach to the methods and procedures which are utilized. The following procedures apply whether an abstract has been reviewed or the records of an abstract company have been reviewed. The only difference will be the periods of time reviewed at the courthouse as applicable.

1. A chain of title is "run" and established for a period of time, whether it be from sovereignty of the soil or some later date to the most current date present. The chain of title includes the name of all the owners of any interest in the subject land in chronological order for the period of time in which they own an interest in the land, which in its simplest form is a "flowchart". The chain of title reflects the passage of title to the subject land from one owner to the next. Because Texas maintains only official grantor and grantee indices, a landman should search under the name of each grantor from the date the grantor acquired the subject land forward to the date of filing for record the instrument that transfers all of the interest of grantor in the subject land to a grantee.

2. A flowchart is a diagram of the transactions revealed by the abstract or records review, containing the names of the grantors and grantees, the date of instrument, its nature, recording reference (book/volume and page) and what it purports to cover. The flowchart facilitates the recognition of ownership of the various estates and interests in the subject land; it is a visual roadmap of the chain of title.

3. The recording statutes in Texas are what is legally called "pure notice statutes." Not all states have pure notice statutes, some have "pure race statutes" or "race-notice statutes." The Texas statutes are not dependent on when an instrument is filed; therefore, once a name is encountered in the chain of title, the name should be run in the indices from the date each grantor acquired the property forward to the date of filing for record of the instrument that transfers the entire interest in the property to a grantee, and then the records for all names in the chain of title should be searched forward to the closing date of the Runsheet to locate competing instruments. The date of the conveyance itself, not the date of filing for record, controls whether an instrument is in the chain of title.

4. In a "pure notice statute" state, there are 3 types of notice: constructive notice, actual notice and implied notice. The County Clerk's records provide constructive notice to all persons of the existence of the instrument. Actual notice is the information within the landman's or the examining attorney or the client's knowledge. Inquiry notice is derived from facts that would prompt a reasonable person to inquire about the possible existence of an interest in property. Ultimately, the Runsheet should attempt to provide all 3 types of notice.

5. To establish a chain of title, begin with a copy of the oil and gas lease or leases covering the land to be covered by the Runsheet. Most leases set forth a short description of the subject land, which typically will refer to the specific volume and page in the Deed Records where an instrument containing a metes and bounds description can be found. This reference instrument is usually the instrument by which the lessor acquired title to the subject land. Once this instrument is located, record the pertinent information as a beginning point. This method for establishing a chain of title is useful for each instrument in the chain of title which refers to an earlier instrument.

6. If a copy of the oil and gas lease, or other instrument in the chain of title, does not refer to an earlier instrument, then the landman will have to use the Grantee or Reverse Index to Deed Records. Begin with the date of the lease or the date of the last instrument that has been found, and run (examine) the grantee index back in time against the subject person until the instrument by which the subject owner acquired title to the subject land is located. Continue with this or the above method until a complete chain of title from the present owner back to sovereignty has been established, and then reverse the process using the Grantor or Direct Index starting with the sovereignty of the soil to the present. It is worth noting that many instruments contain recitals to earlier instruments in the chain of title which will make the search much easier.

7. In using the above methods to establish a chain of title from the present owner back to sovereignty, a landman will sometimes be unable to find a recorded conveyance of the subject land into an owner. In such case, it may be necessary resort to one or more of the following methods:

(a) Search the Index to Probate Records against all persons with the same surname to determine whether the subject owner acquired the subject land by devise.

(b) Search the Grantee Index to Deed Records against all persons with the same surname for conveyances, heirship affidavits or other instruments which would indicate that the subject owner acquired the subject land by inheritance.

(c) In the case where the owner is a woman, a search of the Index to Marriage Records may determine whether her name has changed.

(d) Search the Index to the District Court Records to determine whether the owner acquired title through some legal proceeding.

8. If all of the above methods fail, the landman should attempt to establish a chain of title from the sovereignty of the soil down to the last owner of the subject land that is of record. Search the Grantee Index to Deed Records against the name of the original patentee to find the patent or grant from the sovereign. This search should begin with the earliest index and continue forward in time until the patent is found, if it is recorded. It is not uncommon to find a patent recorded for the first time as late as one hundred years after the date of the patent. Once the patent is found, begin with the date of the patent, and search the Grantor Index to Deed Records against the name of the original patentee and all successive owners until the chain of title is established. This may require the use of the Grantor/Grantee index going forward and reverse several times to establish the early title.

Part Two will be continued in the February Newsletter.

## Cheated, Mistreated, Pushed Around?

Have you been cheated, mistreated or somehow deprived of your share of a deal, working interest or royalty? If so, give me a call. I have thirty years experience as a working interest and royalty owner in the oil and gas business to go along with forty years of court room experience. A trusted team of professionals together with the necessary resources is available to work on your case. You do not pay anything unless we win.

### Proven Results



- \$6,000,000 Future payout projected for settlement to widow with ORRI recovered under husband's consulting contract after company contended no payments due after death.
- \$5,800,000 Combined cash settlement for UPRC East Texas and Central Louisiana royalty owner class action cases for underpaid royalties. Court approved fee of 1/3.
- \$4,700,000 Jury verdict, oil company violates geologist non-compete contract. Settled later on confidential terms.
- \$2,000,000 Settlement for downhole failure of casing results in loss of well bore, net to client \$1,372,411.79.
- \$1,175,000 Settlement for geologist and family where oil company drilled too close to geologist property. Case filed 18 years after well drilled. Net to client \$664,822.51.
- \$986,000 Cash settlement, net to clients \$657,207.60, plus future mineral interest valued at \$500,000.00. Dispute over mineral interest ownership from thirty year old contract.

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## HAPL 2022 Dues Renewal

### Your HAPL membership dues expired on December 31, 2021.

There is still time to renew before the grace period ends and you stop receiving your HAPL membership benefits.

#### 2022 Membership Dues:

By Credit Card:	Active - \$75	Associate - \$75	Student - Free	Active Life (65+ & retired) - \$35
By Check:	Active - \$70	Associate - \$70	Student - Free	Active Life (65+ & retired) - \$30

#### Benefits of HAPL Membership:

- Monthly newsletter
- Email blasts of upcoming events (so you never miss any!)
- Access to the HAPL Membership Directory online
- Access to job postings online
- Ability to take part in the HAPL Mentorship program
- Member pricing at HAPL events such as luncheons, seminars, and sporting events
- Many networking events throughout the year
- Scholarship opportunities for members' college-bound students

#### How to renew:

##### Online:

- Log on to the HAPL website site at [www.hapl.org](http://www.hapl.org)
- Press the "renew your membership here" button
- Make sure your information is correct, if not, now is the time to update
- Proceed to the payment page
- Once payment has been approved, you are renewed!

##### Mail:

- Make your check out to HAPL and include the membership renewal form found at <http://www.hapl.org/files/642/>.

##### Mail to:

HAPL  
Attn: Lindsey Griffith  
800 Bering Dr., Ste. 120  
Houston, TX 77057

Once your membership has expired, you will no longer be able to access the HAPL membership directory, receive HAPL email correspondence, or membership pricing on HAPL events. If you have trouble renewing online, please give us a call at the HAPL Office at 713-622-6868 or send an email to Lindsey Griffith at [lindsey@hapl.org](mailto:lindsey@hapl.org).



# HAPL 59<sup>th</sup> Annual Golf Tournament Recap and Pictures

By: HAPL Golf Committee Chairmen – Darshan Naik & Taylor Cain

The 59<sup>th</sup> Annual HAPL Golf Tournament was held on Monday, November 15<sup>th</sup>, 2021 at The Clubs of Kingwood on a perfect day for golf and networking. Our Sponsors, HAPL Members, and many others from across the oil & gas industry overwhelmingly showed their excitement and support with over 450 golfers, sponsors, and volunteers in attendance! Based on the amount of food and beverages consumed everyone enjoyed a fun and much-needed networking event that allowed them the opportunity to connect with their fellow HAPL Members and other oil & gas industry contacts after a busy summer!

Diamond, Platinum, Gold, Silver, and Bronze Sponsors provided great food and plenty of beverages at 14 tent locations to over 350 golfers! Their contributions along with other sponsorships allowed the HAPL Golf Committee to hand out over 175 door prizes and awards to the winning teams on each of the three courses played including longest drive and closest to the pin winners. In addition to the door prizes and awards, donations raised by the Military Warriors Support Foundation, Charity Golf International, and BackSwing Golf Events on all three courses during the tournament will be used to support the HAPL Tribute to Education & Scholarship Fund, HAPL Community Service Events, Military Warriors Support Foundation, and other charitable causes that support our membership and community!

*The 59<sup>th</sup> Annual HAPL Golf Tournament would not have been possible without the generous support of our HAPL and oil & gas industry sponsors. The HAPL Golf Committee thanks all Sponsors listed below for their contributions:*



## 59<sup>TH</sup> ANNUAL HAPL GOLF TOURNAMENT



*This event wouldn't be possible without the support of our sponsors!*

### DIAMOND HEADLINE SPONSOR



### PLATINUM SPONSORS



### GOLD SPONSORS



Last but not least, we would like to thank the HAPL Golf Committee including Sam Cox, Kyle Lesak, and Bailey Booher; HAPL Golf Tournament Volunteers; HAPL President – Wade Ellington; HAPL Executive Administrator Lindsey Griffith; The Kingwood Country Club Staff including Tournament Sales Director – Ron Zaborowski & Outside Food & Beverage Manager – Claudia Salas for organizing, promoting, and running a great event.

The HAPL Golf Committee looks forward to seeing everyone out at The Clubs of Kingwood next year for the 60<sup>th</sup> Annual HAPL Golf Tournament!







# HAPL Scholarship Applications



HAPL Student Scholarship Applications – Due March 15

HAPL scholarships are available for graduating high school students of current members and college students enrolled in an AAPL approved Petroleum Land Management or Energy Management Program. The criteria for applying and online application can be located by visiting our website at <http://www.hapl.org/scholarships/>.

The fully completed application, transcript (if required), and two letters of recommendation must be submitted online or received by the HAPL Office located at 800 Bering Dr., Ste. 120, Houston, TX 77057 **postmarked on or before March 15**. Late applications **will not** be considered.

Scholarship recipients will be honored at the HAPL Scholarship and Tribute to Education Luncheon on May 3, 2022.

For questions, please contact the Scholarship Chairman – Ashlee Hansen at [ashlee.hansen@conocophillips.com](mailto:ashlee.hansen@conocophillips.com) or 832-486-6022, or the HAPL Office at [hapl@hapl.org](mailto:hapl@hapl.org).

## HAPL Tribute To Education - Teacher Nominations

The Houston Association of Professional Landmen (HAPL) Tribute to Education Event is scheduled for May 3, 2022, at the Petroleum Club in Downtown Houston (subject to cancellation/postponement). This event honors local area teachers who have gone above and beyond their normal role as an educator in promoting education, creativity, self-discipline, and motivation to the hundreds of students whom they have touched during their tenure as an educator.

We are accepting nomination submissions for honorees for worthy teacher candidates from our members. **Nominations are due by March 18<sup>th</sup>**. Please submit your online nominations forms on the HAPL website at <https://www.hapl.org/teacher-excellence-awards/>.

We are currently seeking sponsors for this event. If you or your organization is interested in being a sponsor, please contact John Gerrish via e-mail at [john.gerrish@gmail.com](mailto:john.gerrish@gmail.com) or by phone at 281-620-3583 or donate online at <https://www.hapl.org/donations/> and select "Tribute to Education Luncheon" from the dropdown menu. If you are interested in serving on the tribute to education committee, please contact John Gerrish. John is currently looking for an Assistant Chair/Co-Chair that would eventually want to become the chairman.

**BE SURE TO E-MAIL YOUR NAME OR YOUR COMPANY'S NAME/LOGO AS YOU WOULD LIKE IT TO APPEAR ON THE SPONSOR BOARD TO JOHN GERRISH ONCE YOU DONATE. COMPANY NAME/LOGOS MUST BE IN BY APRIL 15, 2022.**

### HAPL Teacher Nominations

#### PURPOSE:

To acknowledge those teachers who have gone above and beyond in their field of education and have a strong dedication to their work facing the challenges of today. Each recipient will be honored at the Tribute to Education luncheon where they will be allowed to bring a guest at no cost to them or their guests, plaques to display at home and school, and a nice gift basket.

#### NOMINATIONS:

Landman must be an Active, Life, or Honorary Life member of HAPL (dues current). If the HAPL member has been transferred to Houston within the last three years, said Landman should be a member of HAPL for a minimum of six months and be able to provide proof of membership of the local organization from which they were transferred.

#### ELIGIBILITY:

- Teachers who work in private or public school systems within the Houston Metro area, this includes North, West, South, East Houston, and the surrounding suburban areas.
- Teachers must be secondary education level (Junior, Middle, or High School). Elementary school teachers who work in specialized areas (autism, special needs) will be accepted. If you are unsure whether or not the educator you have in mind qualifies, send in the nomination.
- Teachers may be related to the nominating Landman. All submittals will be held in strictest confidence.
- Each recipient will be honored at the Tribute to Education Luncheon where they will be allowed to bring a guest at no cost to themselves or their guests. The recipient will receive a plaque to display at home and/or school and a nice gift basket.

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# Top Ten Texas Oil & Gas Cases of 2021 - Part 1 of 3

By: *Ethan Wood, Gray Reed*

For the next three months, we will discuss significant oil and gas decisions from state courts in Texas during 2021. It is not intended to be a strict legal analysis, but rather a useful guide for landmen in their daily work. Therefore, a complete discussion of all legal analyses contained in the decisions are not always included.

*Lyle v. Midway Solar, LLC*, 618 S.W.3d 857 (Tex. App.—El Paso 2020, pet. denied)

*Decided December 30, 2020*<sup>1</sup>

In this case, the El Paso Court of Appeals held that the accommodation doctrine could apply to a dispute between the owners of oil and gas interests and surface owners who had leased a tract for a large-scale solar facility, but ultimately, the causes of action asserted by the mineral owners were premature.

The Lyles were successors-in-interest to the grantor of a 1948 deed covering a tract of land in Pecos County. In the 1948 deed, the grantors conveyed the surface and reserved oil and gas interests, along with “the right to ... use of the surface estate in the lands above described as may be usual, necessary or convenient in the use and enjoyment of the oil, gas and general mineral estate hereinabove reserved.” In 2015, the owner of the surface estate leased the tract to Midway to place solar panels, transmission lines, electrical lines and cable lines. Midway ultimately constructed a solar facility covering 70% of the surface of the tract in which the Lyles owned a mineral interest, leaving certain portions of the tract unused as “Designated Drill Site Tracts”.

The Lyles filed suit claiming breach of contract and trespass, seeking damages and an injunction to remove the solar panels because the construction of the

facility had “destroyed or greatly diminished the value of their mineral estate.” Although the Lyles obtained affidavits from expert witnesses that horizontal drilling from the Designated Drill Site Tracts was not economically feasible due to costs and geography, it was undisputed that the Lyles had never leased their interests, had no plans to lease their interests, had never commissioned geological surveys or otherwise taken any steps to develop the mineral estate. Midway filed for and obtained partial summary judgments that (1) the accommodation doctrine applied to the dispute and (2) Midway’s use of the surface was reasonable because the Lyles had taken no steps to develop the minerals. The El Paso Court of Appeals ultimately affirmed the trial court’s ruling on these issues.

In Texas, the mineral estate is the dominate estate, but the mineral owner’s rights to use the surface are not absolute. They can be limited by contract or the “accommodation doctrine” which seeks to balance the rights of the surface and mineral owner. Under this doctrine, the surface owner must show that the mineral owner’s use of the surface completely precludes or substantially impairs the surface owner’s existing use and that there is no reasonable alternative method available to the surface owner to continue said use. Additionally, the surface owner must further prove that under the circumstances, there are alternative reasonable, customary and industry-accepted methods available to the mineral owner that would (1) allow for recovery of the minerals and (2) also allow the surface owner to continue the existing use. If proved, the accommodation doctrine requires the mineral owner to use the alternative

method. But, if evidence shows that there is only one means of surface use to develop the minerals, the mineral owner is entitled to pursue such use regardless of surface damage.

The Court of Appeals first turned to whether the language of the 1948 deed precluded the application of the accommodation doctrine. Although the Lyles contended that the “usual, necessary or convenient” way to access the mineral estate at the time of the conveyance was vertical drilling, the court looked to prior Texas caselaw and concluded that this language was used in a general sense and that the contemplated use might change over time with advancements in technology.

Because the deed did not preclude application of the accommodation doctrine, the court then turned to the question of whether the Lyles had to attempt to develop their minerals to bring a claim. The Lyles argued that they had already suffered damage because the solar facility covered 70% of their tract. Midway argued that its use might only *potentially* interfere with the Lyle’s mineral use at some point in the future. The Court agreed with Midway, stating “[t]here is simply no logic in allowing trespass damages today for a mineral estate that might never be developed.”

As Texas continues to lead the way as an energy producer—both in oil and gas and in wind, solar and geothermal—disputes will continue to arise between various interest owners. Going forward, solar and wind developers should seek surface use waivers from mineral interest owners and their lessees whenever possible, especially in areas with notable oil and gas development.

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<sup>1</sup> Although technically decided at the end of 2020, this decision came too late to

make it into last year’s Top Ten cases article.

*BlueStone Nat. Res. II, LLC v. Randle*, 620 S.W.3d 380 (Tex. 2021)

*Decided March 12, 2021*

In this decision, the Texas Supreme Court weighed in on another postproduction cost dispute, holding (1) that deduction of postproduction costs was improper where a lease explicitly resolved a conflict between “gross value received” and “computed at the mouth of the well” language, and (2) a lease’s “free use” clause did not authorize the lessee to consume gas in off-lease operations without compensation.

BlueStone’s predecessor-in-interest entered into several oil and gas leases with lessors. Each lease consisted of a two-page pre-printed form with an attached addendum providing that its language “supersedes any provisions to the contrary in the printed lease.” Paragraph 3 of the pre-printed form required payment on “market value at the well.” Paragraph 26 of the addendum provided for payment on “gross value received” and included typical “no deductions” language.

For more than a decade, the lessee paid royalties on gross value received. When BlueStone took over in 2016, it began deducting postproduction costs. Noticing the decline in royalties paid, several groups of lessors sued BlueStone over these deductions. While litigation was ongoing, the lessors also discovered that BlueStone was not paying royalties on commingled gas used as plant fuel by a third-party processor (“Plant Fuel”) or on commingled gas the processor returned to BlueStone to fuel compressors on and off the leased premises (“Compressor Fuel”). The trial court determined BlueStone had breached the lease by deducting postproduction costs and not paying royalty on Plant and Compressor Fuel. The court of appeals affirmed. BlueStone appealed.

The basic structure of a royalty clause has three components: (1) the royalty fraction (e.g., 1/8<sup>th</sup>, 25%, 1/5<sup>th</sup>), (2) the yardstick (e.g., market value, proceeds, price) and (3) the location for measuring (e.g., at the well, at the point of sale).

BlueStone argued that because the addendum lacked the third element—a valuation point—the pre-printed form controls (and that the “at the well” measurement necessitated deduction of postproduction costs). The lessors argued that “gross value received” is equivalent to gross proceeds and that the language supplied both elements 2 and 3 of the royalty component.

After a brief examination of the distinction between market value and amount realized clauses, the Court noted that generally a royalty clause based on “amount realized” creates an interest free of postproduction costs. But, this general rule can be modified depending on the language used, as was the case in the Court’s 2019 decision, *Burlington Res. Oil & Gas Co. LP v. Tex. Crude Energy, LLC*. Here, however, the lease addendum’s use of “gross proceeds” could not be harmonized with an “at the well” measurement point (unlike in *Burlington* which combined “amount realized” language with “into the pipelines” language). Thus, the Court concluded that the lease addendum expressly resolved the conflict and that BlueStone improperly deducted royalties.

Turning to the Plant and Compressor Fuel issue, the Court rejected BlueStone’s argument that the free use clause excused non-payment for such gas. The free gas provision provided that the lessee “shall have free from royalty ... the use of ...gas ... produced from said land in all operations which Lessee may conduct hereunder.” BlueStone argued that using gas for Plant Fuel and Compressor Fuel benefitted and furthered lease operations. But, the Court found that the lease’s language could not be reasonably construed as extending to off-lease uses. The Court affirmed the appellate decision but remanded the case to for further consideration of damages for off lease Compressor Fuel use.

This case has already been cited in multiple postproduction and off-lease royalty use cases this year. Lawyers and landmen should strive to ensure that every royalty provision have a royalty fraction, a “yardstick” and a measuring

point consistent with the “yardstick” to avoid confusion and costly litigation.

*Headington Royalty, Inc. v. Finley Res., Inc.*, 623 S.W.3d 480 (Tex. App.—Dallas 2021, pet. filed)

*Decided March 18, 2021*

In this case, the Dallas Court of Appeals considered the scope of the term “predecessors” in the context of a release of claims provision in an acreage swap between leasehold owners.

Finley Resources owned leasehold rights and operated the shallow depths of a tract in Loving County. Headington owned portions of the leasehold in the shallow depths, but also owned most of the deep rights as well. In 2017, Petro Canyon Energy obtained a top lease on the tract covering all depths and notified Finley that the bottom lease may have expired for lack of production in paying quantities. Finley quitclaimed its interest to Petro Canyon and transferred operatorship of its wells to Petro Canyon’s affiliate.

Petro Canyon and Headington then executed an acreage swap in which Petro Canyon assigned the top lease to Headington and Headington assigned interests in other tracts to Petro Canyon. The acreage swap included a release provision stating that, “[Headington] waives, releases, acquits and discharges *Petro Canyon and its affiliates* and their respective officers, directors, shareholders, employees, agents, *predecessors* and representatives for any liabilities ... related in any way to the Loving County Tract.” No part of the acreage swap specifically identified or mentioned Finley and Finley did not sign the agreement.

Before quitclaiming its interest, Finley notified Headington that Finley intended to plug and abandon its wells. Headington claimed that the notice was late and breached the assignment through which Finley obtained its rights. Headington sued Finley, seeking to recover damages for an alleged premature and unnecessary termination of the bottom lease. Petro Canyon intervened and argued that the acreage

swap's release barred the claim because Finley was Petro Canyon's "predecessor". The trial court granted summary judgment in favor of Finley/Petro Canyon and Headington appealed.

On appeal, the Dallas Court of Appeals noted that a release in an agreement will only apply to a party that is specifically identified in the release or described with sufficient particularity. The court then looked to the commonly understood meaning of the word "predecessor" and concluded that the term referred to Petro Canyon's corporate predecessors (*i.e.*, prior forms of the business entities and individuals who previously served as officers, directors, shareholders, employees, agents or representatives of those entities), not to its predecessors-in-title. Although the dissent argued that the release should have been construed more broadly in light of the surrounding circumstances and that Texas case law uses "predecessors-in-title" and "predecessors" interchangeably, the majority dismissed these arguments as "impermissibly rewrit[ing] the ...[a]greement."

Petition for review has been filed in this case, so don't be surprised if this case makes it to a future installment of Top Ten Oil and Gas Cases.

#### STAY TUNED ...

Next month, we will discuss three more cases that may have an impact on your daily work. We hope this series will help you address the legal issues presented by modern oil and gas activities. As always, if you believe one of these decisions might have a bearing on an action you are about to take or a decision you might make, consult a lawyer.

#### About the Author



**Ethan Wood**, an associate at Gray Reed, advises upstream and midstream energy clients on the entire range of transactions and issues that arise during oil and gas operations in Texas and many states across the country. He has guided clients through a variety of multi-million-dollar deals and other operational transactions,

with a strong emphasis on the acquisition, divestiture and financing of producing assets, private securities offerings, oil and gas leases and joint operating agreements. Ethan is Board Certified in Oil, Gas and Mineral Law by the Texas Board of Legal Specialization.

Ethan also conducts title examinations and renders opinions for producers with drilling operations throughout Texas and coordinates identical activities with local counsel in multiple jurisdictions, including New Mexico, Ohio, Pennsylvania and Oklahoma. As a former independent petroleum landman, Ethan has a unique perspective on the most important aspects of title examination, which allows him to focus on identifying practical ways for landmen to address issues quickly and proactively in the field.



## WE FEEL AT HOME IN THE ENERGY INDUSTRY

Our attorneys, four of whom are Board Certified in Oil, Gas & Mineral Law by the Texas Board of Legal Specialization, are equipped to provide legal counsel to a broad range of clients in the ever-evolving energy industry.

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# Does The Traditional Land Brokerage Model Work For Leasing Land In Solar?

By: Phillip Guerra, CPL, ForeFront Power

In my opinion, no.

The traditional land brokerage model does not work for your average solar developer looking to originate, engineer, develop, and operate front-of-the meter projects, including community solar (10 to 30 acres) and utility-scale solar (100 to 1000+ acres). Today, when it comes hiring talented land professionals to help originate a project, which often span several different markets or states simultaneously, most solar developers are not going to deal with a day rate. Ordinarily, land acquisition in solar will be performance based.

For a solar developer looking to acquire site control or land options for potential community solar projects in Maine, what is the benefit of hiring a traditional land broker based out of Oklahoma who predominantly provides land services for upstream oil and gas companies?

Before answering that question, let us start by comparing the two industries – oil and gas versus solar. As is common knowledge for those of you in the oil and gas industry, a land brokerage is typically a contracted company that provides field land work or land services for an upstream E&P or midstream company. The broker will hire land professionals experienced in GIS, leasing, and running title, and pay them a day rate as independent contractors (although sometimes land personnel are hired as employees and paid a salary, and that is often done to avoid litigation tied to labor and employment law). They will concurrently bill the E&P client by the contractor or employee (e.g., contractor is paid \$300/day; broker adds \$150/day, per contractor, to the invoice; client is billed \$450/day, per contractor).

Go to any land broker's website and you will see the same jargon – curative, due diligence, GIS or mapping, leasing or lease acquisition, lease administration,

project management, ROW, and title research. Most oil and gas land brokerages are really good at one thing – land.

Your traditional land brokerage company and their staff will jump from project to project, shale play to shale play. Projects can last for a few weeks, months, or several years. In my opinion, this model often encourages a massive hiring followed by abrupt layoffs, "run the clock out" type situations to just extend a project, and organizational bloat due to the incentive for brokers to keep a high headcount, leaving many field land professionals feeling a lack of certainty and that they have no job security.

In the solar industry, everything starts with the legislation or policy in a market. Land acquisition in Texas is going to be a little different than land acquisition in Connecticut, and that is largely due to the legislation in place. Solar legislation is equivalent to your geology, in other words, what type of project the developer wants to build (e.g., community solar, utility-scale, residential). You cannot move into that market until the legislation for that type of project is passed.

There may be one or two in-house land professionals at a solar development company overseeing the entire Lower 48, working with the policy or market analysts and the development team to strategize and come up with areas to target. Once a land strategy is developed, the solar developer will turn to the in-house land professionals to acquire site control. However, the entire team and company, including the land contractors, are driven by performance, not a day rate.

Solar developers will incentivize in-house land professionals and their contractors to bring high quality potential sites into a state-specific or market portfolio,

locking up site control, by offering a tiered commission or "finder's fee." A percentage of the fee is due upon execution of the option, typically paid out quarterly, whereas the remaining percentage of the fee is paid out at the time the option is exercised and the developer starts construction. Thus, land professionals, both in-house and those contractors in the field, are rewarded when options are signed and when projects are built. This structure works because front-of-the-meter solar sites are exceedingly difficult to develop; there is a high failure rate due to line and/or substation overcapacity, interconnection costs, and failing to obtain a permit from the local governing body, or a combination thereof.

Acquiring site control for a future solar project is just the beginning. A land option by itself is not too valuable in the solar industry. Once you add interconnection to a signed option agreement along with a permit, a title opinion, an environmental impact study, and the like, the potential solar project comes to life and the value of that project, including the land option, increases.

In the solar industry, a company that provides engineering, procurement, and construction services for any type of solar project is called an EPC. These EPC companies help provide a full-service experience. Generally, an EPC will assist the solar developer by taking a land option or area where the developer has site control and bring that project to life. This includes engineering, permitting, construction, and everything in between. Go to any EPC company's website and you will see the same verbiage – civil and electrical engineering, construction management and inspection, environmental, interconnection application support, Geotech, regulatory permitting, and wetland delineation.

From my perspective, EPC companies across the solar industry are falling short due to their lack of knowledge when it comes to land. More specifically, knowledge of title issues and building trust between the developer and landowners. Solar developers without an extensive land and title experience are going to struggle when they start getting into more oil and gas heavy states like Louisiana, North Dakota, Ohio, Oklahoma, Pennsylvania, West Virginia, and Texas.

My advice to any traditional oil and gas land broker would be to get really good at several things in addition to land – engineering, drafting and filing interconnection applications, acquiring offtake customers (residential and commercial), conducting environmental impact studies, and so on. Simply add these EPC-type services to the traditional land brokerage model.

Let us go back to my question - why would a solar developer looking for land options in Maine hire a traditional land broker based out of Oklahoma who predominantly provides land services to upstream oil and gas companies?

Well, they likely would not do that.

A solar developer should not hire the traditional land brokerage and pay a day rate. Maybe the industry will adopt some sort of hybrid model – a day rate plus a performance-based payment. After all, issues can arise when a professional is working a performance-based or commission-only structure. Not everyone feels comfortable in that type of pay structure. And it does not benefit an upstream E&P company or a solar developer when their contractors feel as

if they have no job security. Should solar developers pursue some sort of hybrid pay structure? Maybe. Probably.

But, if the traditional land brokerage can also offer a solar developer EPC services, that would create more value. The land-oriented broker now offering EPC services would have an advantage over the traditional EPC; the broker can help see a solar project all the way through, from origination to asset management or a sale.

So, can the land brokerage model work in the solar industry? In my opinion, yes. They just have to adapt.

#### **About the Author:**

Phillip is the east coast land acquisition manager at ForeFront Power, a wholly owned subsidiary of Mitsui & Co., Ltd. He and his company develop 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 2017, he continued his work as a field landowner for Rice Energy, now EQT Corporation, where he successfully negotiated over 150 deals in the first six months of employment. Phillip was quickly promoted to project manager, where he oversaw the client's leasing activity in Ohio. In 2018, he and his team of 14 contractors closed over 680 deals and had zero "non-perf" zones due to

landowners "holding out," helping his client avoid any lost revenue.

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.

As a Certified Professional Landman, Phillip has been a proud member of the American Association of Professional Landmen since 2014. He currently sits on the AAPL's Educational Committee and the NAPE Operators Committee. Recently, he has been presenting several topics across the country on Oil & Gas vs. Solar, educating land professionals on the similarities and differences between the two industries.

Phillip holds a Juris Doctorate from Florida A&M University's College of Law. He is also a graduate of The University of Cincinnati, where he studied real estate and marketing. Phillip lives with his wife, Kathleen, in Columbus, Ohio.

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# HAPL Mentorship Program Participant Spotlight

By: Everett Grossman, Mentorship Program Chairman

## Katherine Edwards, RPL – Marathon Oil



Katherine Edwards is a Registered Professional Landman who currently works at Marathon Oil on their Eagle Ford asset. Katherine grew up in The Woodlands, Texas, and graduated from The Woodlands High School in 2013. She attended the University of Oklahoma and graduated with honors in 2017 with a major in Energy Management and a minor in Finance. While in school, Katherine interned with RSP Permian in Dallas and Chesapeake Energy in Oklahoma City. Katherine moved to Houston in 2017 when she accepted a role at Noble Energy working in their Permian asset. Katherine has been on HAPL's Permian Social Committee since 2017 and has been the Chairman of the committee since 2019. She is also a member of NHAPL, Women's Energy Network, and AAPL.

Katherine lives in the Heights area of Houston with her husband, Cole Edwards, and their dog, Eleanor. In her free time, Katherine likes to cook, read, and try new restaurants in town. She also enjoys traveling with her husband. She's traveled all over the United States and to several countries abroad. Katherine is currently looking to improve her golf game, but her weekends keep taking her out of town to attend her friends' weddings. Got to love wedding season in your twenties! Katherine looks

forward to expanding her knowledge as a Landman and getting more involved in HAPL. Before joining the mentorship program, Katherine found mentorship with HAPL board member John Gerrish. Katherine's mentor in the program is Rachel McDown.

## Gavin Nadeau, RL - Southwestern Energy



Gavin Nadeau is a Registered Landman in Houston, TX. Gavin works for Southwestern Energy in their Southwest Appalachia division as an in-house Landman.

Gavin graduated from the University of Oklahoma in 2019 with degrees in Energy Management and Finance. During his time at the University of Oklahoma, Gavin was involved in various student associations. As a student, Gavin was President of the Energy Management Student Association. Gavin interned with Southwestern Energy for two consecutive summers before accepting a full-time offer. He is excited to continue his involvement in professional organizations and learn from successful industry veterans. Gavin's mentor in the program is James 'Dee' Alexander, III, CPL.

Gavin resides in the Heights neighborhood of Houston with his fiancée. He spends his free time walking his Goldendoodle and exploring the city.

More information about the HAPL Mentorship Program can be found online at <https://www.hapl.org/mentorship-program/>.



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# Outer Continental Shelf: The Dawn of Carbon Sequestration

By: Bradford T. Laperouse, Gieger, Laborde & Laperouse, L.L.C

In last month's newsletter, the article on Outer Continental Shelf Lease Sale 257 referred to possible changes on the horizon regarding the Outer Continental Shelf (the "OCS") and carbon sequestration projects - developments have now begun to take shape. On December 2, 2021, the 117th United States Congress enrolled into law the Infrastructure Investments and Jobs Act, as signed by President Biden on November 15, 2021 (the "Act"); the Act amended the Outer Continental Shelf Lands Act ("OCSLA") in order to provide for carbon sequestration on the OCS. Under the Act, OCSLA was amended to give the Secretary of the Interior (the "Secretary") the power to grant leases, easements, or right-of-ways on the OCS for activities which (i) "provide for, support, or are directly related to the injection of a carbon dioxide stream into sub-seabed geologic formations for the purpose of long-term carbon sequestration", and (ii) produce or support the storage of sources other than oil and gas. These amendments to OCSLA create great potential as to the capability of carbon storage projects on the OCS. As estimated by the United States Department of Energy, Office of Fossil Energy, National Energy Technology Laboratory's Carbon Storage Atlas – Fifth Addition (Atlas V), published in September of 2015, there is between 490 to 6,454 billion metric tons of total storage resources (being the storage resources of oil and natural gas reservoirs, unmineable coal, and saline formations) in federal offshore waters. This estimate of offshore total storage resources included not only the Gulf of Mexico region of the OCS, but also the Alaska, Atlantic, and Pacific regions of the OCS.

While the Bureau of Ocean Energy Management ("BOEM") and Bureau of Safety and Environmental Enforcement ("BSEE") are the Department of Interior agencies that currently govern OCS activities, such agencies' regulations were not enacted with carbon sequestration as a focus. In December of 2017, BOEM published a study entitled "Best Management Practices for Offshore Transportation and Sub-Seabed Geologic Storage of Carbon Dioxide" which explored the possible storage of carbon dioxide in the OCS (the "CO<sub>2</sub> Study"). The CO<sub>2</sub> Study stated the Department of Interior would be the primary agency involved in any future regulation of carbon storage on the OCS, and, to avoid any overlap, recommended BOEM and BSEE should be the agencies' whose regulations were expanded for the necessary changes related to carbon sequestration. The CO<sub>2</sub> Study found the largest gap in the BOEM and BSEE regulations related to carbon sequestration was a lack of monitoring requirements for carbon dioxide geologic storage. Other areas where the CO<sub>2</sub> Study found the BOEM and BSEE regulations needed changes to account for carbon sequestration were regarding offshore platforms, plugging and abandonment of legacy wells, pipeline inspection, purity of carbon dioxide streams transported via pipelines, iterative well and site permitting, inspection and auditing of carbon dioxide in the seabed, carbon dioxide emissions from platforms, and emergency responses.

The Act tasked the Secretary to promulgate regulations to carry out the carbon sequestration amendments to OCSLA no later than one year after the

Act's enactment date. As stated in the OCS Lease Sale 257 article from last month's newsletter, BOEM's current OCS oil and gas lease form and related regulations do not provide for extending an OCS lease beyond its primary term simply for injecting carbon dioxide for storage. If carbon sequestration projects are to be accomplished under the current BOEM oil and gas form, the Secretary would need to make changes to the lease form or the BOEM regulations, as such projects are likely to last longer the lease's primary term. However, it is not yet clear if the Secretary plans to include carbon sequestration as part of BOEM's oil and gas lease form, or if there will be a separate lease form created specific to OCS carbon sequestration. Further, the Secretary will need to expand the regulations for the monitoring of carbon sequestration projects, as well as those other areas recommended in the CO<sub>2</sub> Study. How significantly different the proposed carbon sequestration regulations will be from those existing regulations related to oil and gas exploration and production is not clear. While it is possible the Secretary will take the approach of using the Environmental Protection Agency's existing carbon sequestration regulations where similarly applicable to the OCS, it is too early to know how the Secretary plans to promulgate the new regulations. Therefore, those companies hoping to make a splash in OCS carbon sequestration should continue to observe developments in the Department of Interior's regulations as such companies will soon have an opportunity to dip their toe in the water.

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Earn multiple continuing education credits and ethics credits to maintain RPL and CPL certifications at educational seminars and monthly luncheons.

Members can attend, at no charge, numerous socials throughout the year and expand their professional networks

Scholarship opportunities for HAPL members kids heading to college.

Monthly newsletters & email blasts to keep members up to date on current events.

Members can participate in the mentoring program as a mentor, helping to mold the careers of landmen just starting their careers, or as a mentee, gaining valuable insights and knowledge.

HAPL hosts 3 annual sporting events--a skeet shoot, golf tournament, and saltwater fishing tournament--that members can register for at a discounted rate.

Annual Active & Associate memberships are currently \$70

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