





SPRING NEWSLETTER

NHAPL SPRING 2018 05/01/2018


TOP STORIES:




PRESIDENT'S NOTE
Travis Hill, RPL




LOOKING FORWARD
Jason Sebastinas, RPL



GOLF TOURNAMENT
Randy Helms, CPL



HALF-DAY SEMINAR
Luke McCarley, CPL



MEMBERSHIP
Will Holstien, CPL

MAY

8


ELECTIONS LUNCHEON

MAY

31

CRAWFISH BOIL

From the President's Desk



I would like to begin my remarks by saying “thank you” for allowing me to lead this great organization over the past year.

It has been an honor and a pleasure to serve my time on this Board over the past four years. I’ve grown to become great friends and peers with many of you and I will look forward to a great future in our industry working with you. While many companies are still feeling the pressure of tighter oil and gas prices, we can see the sun coming up over the horizon and a new standard beginning to take place.


The NHAPL’s Board has continuously been hard at work trying to deliver exceptional educational and networking opportunities that provide you, the membership, with the ability to go out and re-establish the relationships and networks that were so prevalent before the downturn. Luke McCarley did an incredible job planning and executing on a Half-Day Seminar held at Anadarko’s Hackett Tower, Randy Helms flawlessly pulled off an even greater golf tournament than we’ve seen in the past 5 years, with over 100 golfers and over \$10,000 in prizes/awards presented. Jason Sebastinas has provided a consistency in the monthly luncheons that we haven’t seen since the Greenspoint Club, and many of you, our astounding sponsors are coming back to support this organization in ways we cannot thank you for enough.

As we approach the end of our organizational year, I encourage you to be present at BOTH our Officer’s and Elections Luncheon as well as our 2nd Annual Crawfish Boil. In all that goes on in our industry, we will never look past our community and social responsibility to give back what’s been given to us. If you missed our philanthropic luncheon in December, I encourage you to come listen to Sam Kneisley announce our collegiate scholarship recipients at our May luncheon. It’s truly special that we’re able to provide for the future of the industry. Lastly and equally important, I want to thank each member of the 2017-2018 Board of Directors. I have been fortunate to have an outstanding cast of volunteers to work with this term and know that we are in good hands for the future of the NHAPL.

Thank You,

Travis Hill, RPL
NHAPL President

Final Spring Luncheon and Looking Forward to Summer 2018!



Wow! How 2018 has already flown by as we enter May, 2018! We are pleased to announce that the NHAPL’s spring 2018 luncheons are being held at Landry’s Seafood House in The Woodlands, TX. These spring luncheons, which are proudly sponsored by Arena Energy, have been very successful with great attendance, great speakers and great food! Our final luncheon for the spring 2018 will be held on May, 8, 2018. Please visit <http://nhapl.org/event-2819306> for more details and registration. This is a very special luncheon as we will have the **NHAPL elections for the 2018-2019 term and award our annual scholarships**. Presenting will be Damon Weger with J. Mark Smith and Associates, Inc. out of Lafayette, Louisiana who will give a great presentation centered around a land topic specific to Louisiana. This luncheon will have 1 CPL/RPL/RL credit available.

Be sure to mark in your calendar the **NHAPL 2nd Annual “Bring on the Summer” Crawfish Boil** being held on Thursday, May 31, 2018 at Tamarac Park from 4- 8 p.m. in The Woodlands, TX. This social is free to all members and is a great way to network as we head into the summer months. Last year was a huge success as we had about 80 members and guests attend and plenty of crawfish for everyone! Please see the ad below or visit www.NHAPL.org for registration and sponsorship opportunities. We hope to see everyone at our last couple of spring 2018 events and we are excited to see the strong support for NHAPL from all of its members.

Jason Sebastinas, RPL
NHAPL Vice President



Half-Day Seminar Recap | The Woodlands, TX



The NHAPL Half-Day Seminar had another successful and informative year thanks to our membership and to our sponsors. We had 41 members attend the seminar, enjoy a lunch provided by Potbelly and listen to our four (4) speakers talk about issues confronting landmen in our industry today. We had Ben Holliday of Mazurek & Holiday PC give a 2017 case law update, Jimmy Dupuis of Dupuis & Polozola talk about pooling, drilling and operating allocation wells, Paul Yale & Brooke Sizer of Gray Reed & McGraw LLP talk about the laws of hydraulic fracturing in Texas and beyond, and Andrew Potts of Kirby, Mathews & Walrath, PLLC discuss ethics. We would like to thank our sponsors again: Mazurek & Holliday, Dupuis & Polozola, Gray Reed & McGraw, Tri-Energy Asset Management, Sabine Oil & Gas Corporation, and Continental Land & Fur. Thanks for another great seminar!

Luke McCarley, CPL
NHAPL Director

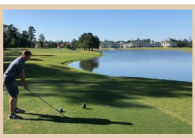
Annual HAPL Collegiate Scholarships



For our Fall 2018 Scholarship awards, we had yet another strong selection of applicants from the major PLM programs around the country, and NHAPL will be awarding scholarships to the top three applicants, announcing the winners on Tuesday, May 8th at the final luncheon of the Spring. This year, we were proud to be able to increase the offering from two, \$1,500.00 scholarships, to three. By awarding these scholarships, the NHAPL is able to further assist in the much-needed development and education of young landmen and women as they work to begin their careers. As recipients head to the field after finals for various internships, the scholarship allows them some peace of mind that a portion of their tuition is covered.

Sam Kneisley, RPL
Director

Annual Spring Golf Tournament | August Pines, The Woodlands, TX



The 2018 NHAPL Spring Member Guest Golf Tournament was held on Monday April 16, 2018, at Augusta Pines Golf Course. The weather was a perfect sunny 72 degree day with no clouds in the sky. Over 100 members and their guest participated in the tournament and a good time was had by all of those in attendance.

Special thanks goes out to our sponsors for without their loyal and continued support the tournament could not have been the complete success it was! 17 sponsor companies donated \$8,000 towards offsetting tournament costs and to purchase over 50 door prizes. Door Prizes ranged from golf shoes and putters to drivers, range finders and sets of irons. A lunch buffet was enjoyed by the participants prior to the 1:00pm shotgun start and a BBQ Awards Banquet followed the completion of play.

CLOSEST TO THE PIN:

Sara Hemingway on #9
Brady Snook on #17

LONGEST DRIVE (MEN):

Travis Hill on #14

LONGEST DRIVE (WOMEN):

Sara Hemingway on #14

1ST PLACE OVERALL (58, -14):

Kyle Lesak, Thad Montgomery, Brady Snook, & Kade Simmons

2ND PLACE OVERALL (59, -13)

Matt Hoops, James Benson, Jeff Hemingway & Robert Balsam

3RD PLACE OVERALL (59, -13)

Kevin Ferrin, Matt Delhomme, Chris Yancy & Lee Harrison

Randy Helms, CPL
NHAPL Director



Membership Trends



As the industry continues to rebound, NHAPL membership numbers remain steady. Since July 1, 2016, the association has added forty-seven (47) new members. We welcome the following landmen and other professionals who have joined the NHAPL since November 1, 2017:

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|---|--|--|
| Pherl Brossman—Latitude Resources, LLC | Kevin Ganey—Splash Oil & Gas, LP | Beau Broussard—National Landworks |
| Christopher Hollomon—Land Personnel LLC | Peter Burns—Newfield Exploration Company | Beau Johnson—Cinco Energy Management Group |
| Robert Chain—Robert N. Chain Petroleum Land Services, LLC | Bill Justice— WCJ Enterprises | Travis Everson—Earthstone Energy, Inc.. |
| Steven Lombardo—Dupuis & Polozola. PLLC | | |

Will Holstein, CPL
NHAPL Director





ANNUAL SPRING GOLF TOURNAMENT

We had an incredible day to play golf this year, beautiful weather, wonderful sponsors, and most importantly a large gathering of NHAPL members to compete out on the links. Special thanks to Southwestern Energy, CL&F, Kirby Mathews & Walrath, Repsol, and TEAM for being major sponsors in this year's Annual Spring Golf Tournament.





EDUCATIONAL DEVELOPMENT

NHAPL SPRING 2018

New Animals: The Oil and Gas Royalty Lease

An oil and gas lease comes in all sorts of shapes and sizes; and sometimes it is difficult to determine what exactly a lessor and lessee were attempting to accomplish with each provision. A frustrating game of guesswork recently ensued when faced with a so-called “Oil and Gas Royalty Lease,” which was made to almost identically resemble a standard oil and gas lease. Specifically, it leased “all of Lessor’s royalty interest in and to all of the oil, gas, and other minerals produced and saved from the hereinafter described lands” for a three year term, which ended once production and operations ceased. The lease went on to reserve an equal one-fourth (25%) part of the royalty from the sale of all oil, gas, and condensate produced and saved from said land. Is this really a lease?

Identifying the Interest

Texas case law sorts through many of these identification problems with the use of several indicators. The Texas Supreme Court identified what it called the “five essential attributes” of a mineral estate. The attributes are: “(1) the right to develop (the right of ingress and egress), (2) the right to lease (the executive right), (3) the right to receive bonus payments, (4) the right to receive delay rentals, (5) the right to receive royalty payments.” These “essential attributes” are commonly referred to as the Bundle of Sticks; five sticks which may be individually or collectively transferred to third parties. While many people can own all or part of each stick of the mineral estate, only one person owns the corporeal or possessory mineral estate. See *Altman v. Blake*, 712 S.W.2d 117 (Tex. 1986). The proposed “Oil and Gas Royalty Lease” does not grant away this full bundle of sticks. The lessor merely “leased” a portion of the royalty interest to the lessee, which is the fifth stick—the right to receive royalty payments.

The court has also noted that words such as “royalty”, “bonus” and “rentals” have a well-understood meaning in the oil and gas business. Likewise, “minerals” and “mineral rights” have a well-recognized meaning. See *Schlitter v. Smith*, 101 S.W.2d 543 (Tex.Com.App. 1937). Broadly speaking, a reservation of minerals or mineral rights without limitation would include royalties, bonuses and rentals. A conveyance of land without reservations would include all minerals and mineral rights. It is well settled that a grantor may reserve minerals, or mineral rights, and he may also reserve royalties, bonuses and rentals, either one, more or all. This occurred with the “Oil and Gas Royalty Lease”, where it expressly states the lessor reserves twenty-five (25%) of the royalty interest for herself.

Lastly, in Texas, the estate created by the oil and gas lease is not the same as those interests created under a “lease” governed by the law of landlord and tenant. As the Texas Supreme Court pointed out in *Cherokee Water Co. v. Forderhause*, the term “lease”, when used in an oil and gas context, is a misnomer. The common oil and gas lease creates a fee simple determinable estate. That is, an oil and gas lease terminates based on the land’s production. If the land does not have a well producing in paying quantities by the end of the primary term, the lease shall end, but if there is a well producing in paying quantities, the lease will only terminate once the well ceases production. Pursuant to the “Oil and Gas Royalty Lease”, the lessor only “leased” all of her royalty interest, subject to her reservation of twenty-five percent (25%), for a term of three (3) years, and as long thereafter as oil, gas or minerals are produced from said lands or lands pooled therewith. As such, this isn’t a lease at all. This “Oil and Gas Royalty Lease” is essentially a “term royalty deed” as it’s a conveyance of a fee determinable estate covering only the lessor’s royalty interest for a specified time period.

The “Oil and Gas Royalty Lease” conveys three-fourths (3/4) of the lessor’s royalty interest for three (3) years, and as long thereafter as oil, gas or minerals are produced, to the lessee, and upon the termination of said production and cessation of operations said royalty interest terminates and reverts back to the lessor. During the term of the “Oil and Gas Royalty Lease” this interest could also be viewed as an overriding royalty interest out of the lessor’s interest.



(Continued from previous page)

Why name this instrument an “Oil and Gas Royalty Lease,” if that’s not what it actually is? Sending an instrument called a “Lease” to someone when in fact it is a mineral or royalty deed is deceptive. These are generally sent out after a well has been drilled, and the mineral owners mistake these for a division order or the true lease. If a purchaser is sending this document to mineral owners, they could be trying to avoid Texas Property Code Section 5.151, which requires a person mailing mineral owners an offer of purchase to present the offer with an inconspicuous disclosure. It provides a simple statutory cause of action for special damages and attorneys’ fees to aid those who have been deceived and to penalize purchasers for not providing the notice on the instrument. By including “Lease” in the title, it certainly does not look like an offer for purchase.

Concluding Remarks

To determine what type of instrument a document is, you should look at the rights and interests it is conveying and not the title of the document. The document’s language and wording is also a good indicator of the type of instrument and interests you have. In the instant case, although the document was titled “Oil and Gas Royalty Lease,” the effect of the conveyance was to convey a term royalty interest.

- James Andy Smith & Norma Hageney
Kirby, Mathews & Walrath





NATIONAL & LOCAL INDUSTRY COVERAGE



Join NHAPL Members and others this summer in Denver for the 64th Annual Meeting of the AAPL. Your registration will include valuable networking with other industry professionals, education sessions covering current industry trends, earning of up to 15 CEUs, a welcoming reception, an educational luncheon, the and a membership luncheon all at one inclusive low price!

UPCOMING AAPL EDUCATION EVENTS

May 9-10, 2018	Joint Operating Agreements (2 day seminar)	Houston, Texas
June 7, 2018	Due Diligence Seminar	Houston, Texas
June 14, 2018	Field Landman Seminar	Houston, Texas
August 15-16, 2018	Summer NAPE	Houston, Texas

*See www.landman.org for further information.

CRAWFISH





WHERE: Tamarac Park, 1300 N Millbend Dr.
WHEN: Thursday, May 31st 4:00pm – 7:00pm

Crawfish  *Boil*

WHAT: Crawfish and cold drinks!
HOW: Sign up at NHAPL.org today!

