



SEPTEMBER-OCTOBER 2011

PLANO

Professional Landmen's Association of New Orleans
www.planoweb.org



PLANO 2011-2012 OFFICERS & DIRECTORS

President - Wm. David Davas
Independent504-202-8314

Vice President - Michael A. (“Mitch”) Ackal, Jr.
LLOG Exploration Company, L.L.C.985-801-4339

Treasurer - Everard Marks
Marks Explorer LLC504-828-2564

Secretary - Collette R. Gordon
Liskow & Lewis504-556-4058

Director - Kathleen L. Doody
Slattery, Marino & Roberts504-585-7800

Director - Yvonne R. Keegan
Shell Exploration & Production Co.504-728-6630

Director - Philip Nizialek
Carver, Darden, Koretzky, Tessier, Finn,
Blossman & Areaux504-585-3800

Director - W. D. (“Bubba”) Sanchez
LaBay Exploration Co., L.L.C.504-371-5967, #14

Director - Carl F. Southern
Legacy Resources Co., LP985-674-4443

PLANO Auxiliary President - Jo Ann P. Anderson
Harold J. Anderson, Inc.504-276-5858

AAPL Director - David A. Seay
Century Exploration New Orleans, Inc. . .504-832-3742

Immediate Past President - D. Irwin Mackenroth, Jr.
Clovelly Oil Company, LLC504-522-7496

PLANO EVENTS

| | |
|---------|--|
| Oct. 13 | PLANO/AAPL Reception N.O. Hilton Riverside |
| Oct. 26 | Luncheon Zea’s, 1525 St. Charles Avenue |
| Dec. 6 | Christmas Luncheon Galatoire’s Restaurant |
| Dec. 14 | Breakfast WGOM Lease Sale 218, LA Superdome |
| Jan. 16 | Luncheon Ruth’s Chris, Metairie |
| Feb. 16 | Sponsor Party Royal Sonesta |
| Mar. 12 | Luncheon Ralph’s On The Park |
| Apr. 18 | Luncheon The Dakota Restaurant, Covington, LA |
| June 20 | Luncheon Royal Sonesta Hotel |

NON-PLANO EVENTS

| | |
|------------|--|
| Sept. 29 | BRAPL Golf Tournament The Bluffs |
| Sept. 30 | BRAPL Fall Semoinar The Bluffs |
| Oct. 13 | Gulf Coast Land Institute Seminar N.O. Hilton Riverside |
| Oct. 14 | Gulf Coast Land Institute Seminar N.O. Hilton Riverside |
| Nov. 14 | HAPL Golf Tournament Kingwood Country Club |
| Dec. 14 | OCS Lease Sale 218 (WGOM) Louisiana Superdome (?) |
| Feb. 22-24 | NAPE George R. Brown Convention Center Houston, TX |
| Feb. 26-28 | LOGA Annual Meeting L’Auberge Du Lac, Lake Charles, LA |
| Mar. 22-23 | Mineral Law Institute Seminar Baton Rouge, LA |

Front cover: New Orleans on the Mississippi River (photograph taken from Algiers, LA)

MESSAGE FROM THE PLANO PRESIDENT 2010-2011



It is an honor and a privilege to serve this year as PLANO's 59th President and follow those who have previously served PLANO since its inception in 1953 as the New Orleans Landman's Association.

Throughout its history, we as members of PLANO have been very fortunate to have had strong and committed leadership which has reflected the needs and desires of our membership. With the foundation laid by the previous officers, board members and committee members, we will continue to look for ways to further grow and improve our Association, and we will best be able to do so with your thoughtful input and energy to serve our members.

We are looking forward to another exciting year, whereby PLANO will host several educational and social events, beginning with the Gulf Coast Land Institute Reception on October 13th, the BOEMRE Western Gulf Lease Sale No. 218 Breakfast on December 14th, Executive Night on February 16th (returning to its traditional Thursday before Mardi Gras), PLANO's annual golf tournament on May 7th.

PLANO's monthly luncheons resumed September 12th at Ruth's Chris Steak House in Metairie with Mr. Michael Hecht of Greater New Orleans, Inc. as our keynote speaker. We are securing an exciting group of luncheon speakers for this year and information on the luncheon schedule and keynote speakers will be forthcoming in the monthly newsletters.

In addition to PLANO's luncheon, educational and social programs, we will also focus on scholarship and service. Through PLANO's scholarship and service program, we are giving back both to the future generations and our city. Our scholarship program provides educational opportunities to high school and college students enrolled in a Petroleum - Energy Management program. By dedicating resources to our scholarship program, we are providing support to future landmen and our service committee supports some wonderful organizations in the New Orleans area. I encourage each of you to contribute your time to the scholarship and service committees.

As we begin this year, I would like to thank the past and present PLANO officers, board members, committees and membership for your service to PLANO that has enabled our association to be what it is today.

I look forward to seeing you at a PLANO event this year.

Regards,

Wm. David Davas

PLANO MEMBERSHIP

The purpose of PLANO is... *"To promote and advance the art and science of the profession of Petroleum Landman."* With that in mind, we urge all of our members to each bring in at least one new member between now and the end of this year. A membership form is available on the PLANO Web Site – www.planoweb.org - so be sure to ask any and all potential new members to **join PLANO NOW.**

THOUGHT FOR THE DAY

From quiet reflection effective action flows.

Submitted by
Margo Cameron, PLANO Administrator &
PLANO Newsletter Editor

PLANO LUNCHES

REMINDER – What's a ghost? Well, when an event reservation is made but not used, PLANO is left with a "ghost" on the reservation list. Three (3) working days, i.e. 72 business hours prior to events, PLANO is required to guarantee the number of attendees, thus establishing the cost involved. This is a standard procedure in the catering world. Persons who do not show up, or cancel after the guaranteed number has been issued, are regarded as "ghosts" for they cost PLANO just as much as actual attendees. PLANO has to pay, and over the course of a year, this can add up to quite an expense.

So, please help us out. If you've made a reservation for an event, that's great. We look forward to seeing you there. If things get busy and you can't make it, we'll miss you, but please make a call as soon as you know and let the event organizer know that you won't be there. Calling after the guarantee has been issued will only serve to notify us you will not be there, but we will still have to pay, and, in turn, we will have to bill you. Rarely, if ever, can adjustments be made to the orders.

When the
RIGHT OF WAY
is wrong,
what next?

LISKOW&LEWIS
Tough Questions. Smart Answers.

Liskow.com | New Orleans | Lafayette | Houston
A Professional Law Corporation

SOUTHERN TITLE & ABSTRACT CO., INC.

Certified Abstracts of Title



2200 Pakenham Drive
Chalmette, Louisiana 70043

389 Hwy 21, Suite 402A
Madisonville, Louisiana 70447

Phone: 504-276-5858
Fax: 504-277-0502
Cell: 504-908-0158

Harold J. Anderson, CPL
President

handerson@hjainc.com

HAROLD J. ANDERSON, INC.

Certified Professional Landmen

(504) 276-5858 phone (504) 277-0502 fax



Harold J. Anderson

Mobile (504) 908-0158
handerson@hjainc.com

Title & Record Research • Abstracting (Oil & Gas/Real Estate)
Title Curative • Due Diligence • Right-of-Ways
Lease Acquisition • Environmental Site Assessments

389 Highway 21, Suite 402A
Madisonville, Louisiana 70447

2200 Pakenham Drive
Chalmette, Louisiana 70043

J. Keith Couvillion is the Deepwater Land Manager supporting Chevron's Deepwater Gulf of Mexico Exploration and Projects Business Unit located in Houston, Texas. Mr. Couvillion originally joined Texaco in early 1980 and has worked either onshore or offshore for the past 28 years in many capacities supporting Texaco's, and now Chevron's, exploration and production operations in the Gulf of Mexico region. He has held the positions of Landman, District Landman, Offshore Land Manager, New Orleans Production Operations Land Manager and Land Consultant. Mr. Couvillion has been involved in the offshore portion of the land profession since late 1985 when he transferred from Houston to Texaco's Southern Exploration Division in New Orleans. In 1997, Mr. Couvillion assumed the responsibility of Offshore Land Manager for Texaco's New Orleans based business unit. In November of 2001, he accepted a position with the newly formed ChevronTexaco organization (now Chevron) as an in-house Land Consultant. In 2004, Mr. Couvillion returned to Houston and is currently Chevron's Deepwater Land Manager in Chevron's Deepwater Exploration and Projects Business Unit.



Mr. Couvillion has been and is currently active in many industry trade and professional associations supporting Gulf of Mexico OCS activities. He currently serves as co-Chairman of the API led Marine Wildlife Issues Group. Mr. Couvillion has also served as a Vice President of AAPL, the Chairman of the OCS Advisory Board (formerly the AAPL OCS Committee), the Chairman of the API OCS Issues Group and held leadership and membership positions in many other ad hoc industry committees. Mr. Couvillion is a frequent presenter in industry and academic forums around the country addressing offshore issues around the country. He also has published numerous articles on topics of interest to the offshore industry.

Mr. Couvillion graduated from Lamar University in 1978 and 1979 where he obtained both a Bachelors and Masters Degrees in Business. He enjoys volunteering with the Boy Scouts of America, young sports and other community activities. Mr. Couvillion also enjoys outdoor activities especially hiking and camping. He has been married for over 28 years and has two adult children.

UNITED STATES OCEAN POLICY – PART 2

During the summer of 2010, while the nation's attention was focused on the unfortunate oil spill disaster taking place in the Gulf of Mexico, President Obama with very little fanfare, issued an Executive Order entitled "*Stewardship of the Ocean, Our Coasts, and the Great Lakes*" establishing the framework for the United States new National Oceans Policy. This Executive Order was the result of the reports generated and recommendations made by the President's previously created Interagency Ocean Policy Task Force (Task Force). The July 19, 2010 Executive Order stated that to "...ensure the protection, maintenance, and restoration of the health of ocean, coastal, and Great Lakes ecosystems and resources, enhance the sustainability of ocean and coastal economies, preserve our maritime heritage, support sustainable uses and access, provide for adaptive management to enhance our understanding of and capacity to respond to climate change and ocean acidification, and coordinate with our national security and foreign policy interest," the President create the first National Oceans Policy to guide the country in managing the waters off our coasts and the Great Lakes. The order also provided for the development of numerous coastal and marine spatial plans that are to build upon and improve existing Federal, State, tribal, local, and regional decision making and planning processes. These coastal and marine spatial plans will "enable a more integrated, comprehensive, ecosystem-

based, flexible, and proactive approach to planning and managing sustainable multiple uses across sectors and improve the conservation of the ocean, our coasts, and the Great Lakes."

In July of 2009, President Obama through another Executive Order created the Task Force for the purpose of developing recommendations focused on the creation of a national oceans policy and the draft of a framework for "policy coordination of efforts to improve stewardship of the oceans, our coasts, and the Great Lakes." The Task Force was to review existing coordinating efforts between various Federal government agencies with ocean related responsibilities and make sure the recommended framework addressed improving interaction and "collaboration among Federal, State, tribal, and local authorities." The Task Force was led by the Chair of the Council on Environmental Quality and consisted of 24 senior level officials from the executive departments, agencies and offices of the Federal government. The recommendations from the Task Force were presented to the President on July 19, 2010, in a final report entitled "*Final Recommendations of the Interagency Ocean Policy Task Force.*"

The President's July 19, 2010 Executive Order, stated that "to achieve an America whose stewardship ensures that the ocean, our coasts, and the Great

Lakes are healthy and resilient, safe and productive, and understood and treasured so as to promote the well-being, prosperity, and security of present and future generations, it is the policy of the United States to:

- (i) protect, maintain, and restore the health and biological diversity of ocean, coastal, and Great Lakes ecosystems and resources;
- (ii) improve the resiliency of ocean, coastal, and Great Lakes ecosystems, communities, and economies;
- (iii) bolster the conservation and sustainable uses of land in ways that will improve the health of ocean, coastal, and Great Lakes ecosystems;
- (iv) use the best available science and knowledge to inform decisions affecting the ocean, our coasts, and the Great Lakes, and enhance humanity's capacity to understand, respond, and adapt to a changing global environment;
- (v) support sustainable, safe, secure, and productive access to, and uses of the ocean, our coasts, and the Great Lakes;
- (vi) respect and preserve our Nation's maritime heritage, including our social, cultural, recreational, and historical values;
- (vii) exercise rights and jurisdiction and perform duties in accordance with applicable international law, including respect for and preservation of navigational rights and freedoms, which are essential for the global economy and international peace and security;
- (viii) increase scientific understanding of ocean, coastal, and Great Lakes ecosystems as part of the global interconnected systems of air, land, ice, and water, including their relationships to humans and their activities;
- (ix) improve our understanding and awareness of changing environmental conditions, trends, and their causes, and of human activities taking place in ocean, coastal, and Great Lakes waters; and
- (x) foster a public understanding of the value of the ocean, our coasts, and the Great Lakes to build a foundation for improved stewardship.

The United States shall also promote this new national policy by:

- (i) ensuring a comprehensive and collaborative framework for the stewardship of the ocean, our coasts, and the Great Lakes that facilitates cohesive actions across the Federal Government, as well as participation of State, tribal, and local authorities, regional governance structures, non-governmental organizations, the public, and the private sector;
- (ii) cooperating and exercising leadership at the international level;
- (iii) pursuing the United States' accession to the Law of the Sea Convention; and
- (iv) supporting ocean stewardship in a fiscally responsible manner."

To accomplish these policy objectives, the President directed the creation of a National Ocean Council

(Council) that would be administered by the Executive Branch of the United States government through the co-leadership provided by the Chairperson of the Council on Environmental Quality and the Director of the Office of Science and Technology Policy. The Co-Chair people would oversee a National Oceans Council whose members would consist of the Secretaries of State, Defense, Interior, Agriculture, Health and Human Services, Commerce, Labor, Transportation, Energy, and Homeland Security, the Attorney General, the Administrator of the Environmental Protection Agency, the Director of the Office of Management and Budget, the Under Secretary of Commerce for Oceans and Atmosphere (Administrator of the National Oceanic and Atmospheric Administration), the Administrator of the National Aeronautics and Space Administration, the Director of National Intelligence, the Director of the National Science Foundation, and the Chairman of the Joint Chiefs of Staff, the National Security Advisor and the Assistants to the President for Homeland Security and Counter-Terrorism, Domestic Policy, Energy and Climate Change, and Economic Policy, an employee of the Federal Government designated by the Vice President; and such other officers or employees of the Federal Government as the Co-Chairs of the Council may from time to time designate.

To implement the new National Oceans Policy, the National Council was ordered to provide appropriate direction and guidance to those Federal Governmental executive departments, agencies, or offices that have some regulatory responsibilities for ocean, coast or Great Lakes activities. The direction and guidance provided by the National Council will be based on the stewardship principles and national priority objectives outlined by the President in his July 19, 2010 Executive Order and as described in the final report from the Interagency Ocean Policy Task Force. Consultation provided by the National Council will be limited by existing laws and regulations applicable to ocean, coast or Great Lakes management. The National Council has no specific legislative or regulatory power.

The President also directed all of his "executive departments, agencies, and offices that are members of the National Council, and any other executive department, agency, or office whose actions affect the ocean, our coasts, and the Great Lakes shall, to the fullest extent consistent with applicable law, take such action as necessary to implement the new national policy including the stewardship principles and national priority objectives as set forth in the Final Recommendations (from the Interagency Ocean Policy Task Force) and subsequent guidance from the Council, and participate in the process for coastal and marine spatial planning and comply with Council certified coastal and marine spatial plans, as described in the Final Recommendations and subsequent guidance from the Council."

As described in the final report from the Interagency Ocean Policy Task Force, and as outlined by the President in his Executive Order, the National Ocean Council shall have the responsibility for developing strategic action plans for each of the national ocean

policy priority objectives. Each strategic action plan “will identify specific and measurable near-term, mid-term, and long-term actions, with appropriate milestones, performance measures, and outcomes to meet each objective.” In addition, each strategic plan will “explicitly identify key lead and participating agencies; gaps and needs in science and technology; potential resource requirements and efficiencies; and steps for integrating or coordinating current and out-year budgets.” The Task Force believed the creation of strategic action plans but the National Council “would allow adequate time to fully consider the necessary details for implementation, and, as appropriate, to coordinate and collaborate with States, tribal, and local authorities, regional governance structures, academic institutions, non-governmental organizations, recreational users, and private enterprise.”

The Co-Chairs of the National Council have created the Council’s administrative organization and begun the process of generating the strategic action plans. Comments have been solicited through a recent federal register notice for these strategic action plans. In addition, the Council scheduled in June of this year a Coastal and Marine Spatial Planning Workshop in Washington DC. The public was invited to participate in the first day of the Workshop. The Council is reaching out to all interested stakeholders in an effort to make implementation of the National Oceans Policy directives and objectives as inclusive and transparent as possible. Over the next few years as strategic action plans are created, Regional Councils formed, and coastal and marine spatial plans drafted, stakeholder engagement will be critical to ensure the National Oceans Policy ultimately reflects the overall goals recommended by the Task Force and directed by the President to “ensure the protection, maintenance, and restoration of the health of ocean, coastal, and Great Lakes ecosystems and resources.”

For additional information regarding the National Ocean Policy, the National Oceans Council, Coast and Marine Spatial Planning and other ocean topics of interest, please access the National Ocean Council’s website at:
<http://www.whitehouse.gov/administration/eop/oceans>.



PLANO Board – July, 2011, thru June, 2012

Back Row: L. to R.: Yvonne I. Keegan, Collette R. Gordon, David A. Seay, Kathleen L. Doody
 Front Row: L. to R.: Everard (“Corky”) Marks, D. Irwin Mackenroth, Jr., Wm. David Davas, W.D. (“Bubba”) Sanchez, Carl F. Southern
 Missing from photograph: Michael A. (“Mitch”) Ackal, Jr., Phillip Nizialek, Jo Ann Anderson

**GORDON
ARATA** MCCOLLAM DUPLANTIS
& EAGAN LLP

**COLLECTIVELY OVER 500 YEARS
OF OIL AND GAS EXPERIENCE**

| | |
|--------------------------|-----------------------|
| JOHN A. GORDON | CHARLES L. STINNEFORD |
| BLAKE G. ARATA | GREGORY G. DUPLANTIS |
| JOHN M. MCCOLLAM | AIMEE WILLIAMS HEBERT |
| B. J. DUPLANTIS | JOSEPH C. GIGLIO, III |
| WILLIAM F. BAILEY | JOHN D. METZGER |
| ROBERT D. JOWERS | MATTHEW D. LANE, JR. |
| CYNTHIA A. NICHOLSON | SARA E. MOULEDOUX |
| J. LANIER YEATES | MATTHEW J. SIEGEL |
| SAMUEL E. MASUR | KATE B. LABUE |
| MATTHEW J. RANDAZZO, III | KATHERINE REYNOLDS |
| R. THOMAS JORDEN, JR. | MICHELLE C. PURCHNER |
| LOULAN J. PITRE JR. | DANA E. DUPRE |
| MARION WELBORN WEINSTOCK | JULIE D. JARDELL |
| C. PECK HAYNE JR. | WESTON W. SHARPLES |
| SCOTT A. O’CONNOR | |

LAWYERS YOU WANT TO KNOW.™

NEW ORLEANS • LAFAYETTE • BATON ROUGE • HOUSTON
WWW.GORDONARATA.COM

USE OF CONCURSUS PROCEEDING TO RESOLVE COMPETING ROYALTY CLAIMS PRESERVED

Louisiana Supreme Court announces its decision in *Cimarex Energy Co. v. Mauboules*

Presented by: Collette R. Gordon, Liskow & Lewis

I. Introduction

A concursus proceeding, like its common law counterpart interpleader, serves important policy objectives by minimizing successive litigation and allowing multiple claims to be resolved expeditiously and in one forum. A concursus proceeding is one in which “two or more persons having competing or conflicting claims to money, property, or mortgages or privileges on property are impleaded and required to assert their respective claims contradictorily against all other parties to the proceeding.” La. Code Civ. P. art. 4651. Thus, a concursus contemplates a single proceeding leading to a single judgment adjudicating all issues between the parties. To encourage the use of the concursus procedure, Louisiana Code of Civil Procedure article 4658 provides immunity to the stakeholder invoking the concursus, relieving the stakeholder of all liability to the claimants for the deposited funds.

When a lessee has been faced with competing, non-frivolous claims for the payment of royalties, the prudent course has been for the lessee to file a concursus proceeding and to deposit the royalties into the court registry. The Louisiana Supreme Court recently rendered its decision in *Cimarex Energy Co. v. Mauboules* 2009-1170, (La. 4/9/10), 40 So. 3d 931, affirming the use of a concursus proceeding to resolve competing royalty claims, even where one claimant had little chance of success of overcoming the public records doctrine. Because forcing an operator to choose which royalty claimant to pay would expose the operator to the costs and risks of defending multiple suits, the operator was justified in its fear of multiple litigation and properly invoked a concursus proceeding.

II. Background

Faced with competing claims to royalty proceeds, operator Cimarex Energy Company (“Cimarex”) filed a concursus proceeding, deposited the disputed royalty proceeds into the registry of the Court, and named the claimants, including the Mauboules Family and the Orange River Group, as defendants to the suit.

Back in 1997, the Mauboules Family sold certain royalty interests in their Vermilion Parish land to the Orange River Group’s predecessor in interest via royalty deeds dated October 16, 1997. Although the royalty deeds had a three year prescriptive period, they also contained a prescription interruption clause providing that unit production involving a portion

of a royalty tract obtained from a well not located on the royalty tract would nonetheless interrupt prescription accruing as to the entirety of the royalty tract.

Cimarex’s predecessor in interest sought to obtain a mineral lease covering the Mauboules Family’s property in 2002, but the Mauboules Family initially refused to lease their land, asserting that the prescription interruption clause had been slipped into the royalty deeds, possibly as a result of fraud, and that the outstanding royalty interests had prescribed and reverted back to them. The Mauboules Family finally executed a mineral lease in 2003, and the well began production in January of 2004. In March 2004, the Mauboules Family’s attorney sent a letter to Cimarex asserting that the royalty interests created in the 1997 royalty deeds had prescribed. Following a conversation with the Mauboules Family’s attorney, Cimarex’s attorney concluded that the Mauboules Family was asserting an adverse claim, and that Cimarex should suspend royalty payments until the adverse claim was resolved.

Cimarex advised the Orange River Group of the adverse claim in June, and stated that it was suspending royalties as a result. In November of 2004, the Orange River Group made written demand for payment pursuant to La. R.S. 31:212.21 asserting that Cimarex should pay based on the public records, and Cimarex’s attorney responded with the operator’s position explaining why it could not rely solely on the public records. Cimarex subsequently filed a concursus proceeding and deposited the disputed royalty proceeds into their Court’s registry.

The Mauboules Family filed its answer claiming entitlement to the royalty proceeds, and the Orange River Group reconvened for unpaid royalties pursuant to La. R.S. 31:212.21, et seq. The trial court granted summary judgment in favor of the Orange River Group, recognizing them as owners of the disputed royalty interest. After a trial on the reconventional demand, the trial court entered judgment against Cimarex, asserting that an oral assertion of fraud was an unreasonable basis to suspend royalty payments. The trial court awarded the Orange River Group statutory penalties pursuant to La. R.S. 31:212.23(C), judicial interest on the royalties, and attorney’s fees.

The Third Circuit upheld the trial court’s decision, concluding that Cimarex knew or should have known that the Mauboules Family’s claim was not an “actual claim” because it could not overcome the

Orange River Group's public records position.¹ Reasoning that a concursus was improperly invoked, the Third Circuit concluded that Cimarex's deposit of the royalty proceeds into the registry of the Court did not constitute payment of the royalties under the Mineral Code.

III. The Louisiana Supreme Court Reverses

The Louisiana Supreme Court addressed the preliminary issue of whether Cimarex properly invoked the concursus proceeding. As part of that inquiry, the Court focused on whether Cimarex had a duty to determine the merits of the competing claims before filing a concursus. The Court expressly rejected the finding that there was no "actual claim" by the Mauboules Family. First, the Court concluded that verbal allegations of fraud were sufficient to constitute a competing claim. The Mauboules Family positively asserted that it was entitled to the royalties by answering the concursus petition, and opposing the Orange River Group's motion for summary judgment.

The Court next turned to the lower courts' determination that the Mauboules Family's claim was not an "actual claim" because it could not overcome the Orange River Group's public records position. Recognizing that the public records doctrine is a negative doctrine, in that third parties can only rely on the absence from the public records of those interests that are required to be recorded, the Court reasoned that a third party cannot rely on a recorded document to acquire good title from a vendor who does not, in fact, have good title. The Court agreed that Cimarex had a legitimate basis to fear that the Mauboules Family's claims might affect Orange River's title, and further, that Orange River's title might not be protected by the public records doctrine. Even though the Mauboules Family had little chance of success in light of the protections of the public records doctrine, the Court declared that it "declin[e]d to put the burden on Cimarex to make that final legal determination. Such a determination is properly placed in the hands of the courts."

The Court also acknowledged that concursus is designed to protect a stakeholder from not only "multiple liability" but also "vexatious litigation." Accordingly, the Court found Cimarex was justified in its fear that the Mauboules Family might later bring a suit, and properly invoke a concursus proceeding to protect against such multiple litigation.

IV. Unanswered Questions

Because the Court found that Cimarex provided a reasonable cause for non-payment within thirty (30) days as required by La. R.S. 31:212.22, the Court did not reach the issue of whether, for purposes of La. R.S. 31:212.23, the filing of a concursus and the deposit of royalty proceeds into the registry of

¹ *Cimarex Energy Co. v Mauboules*, 2008-452 (La. App. 3 Cir. 3/11/09), 6 So.3d 399.

the Court is considered "payment" for purposes of La. R.S. 31:212.22.

The Court also reserved the question of whether the proper calculation of "double damages" under La. R.S. 31:212.23(C) is simply double the amount of royalties due, or whether it is the amount of royalties due, plus double the amount of royalties due (essentially treble damages). In her dissent, Justice Knoll directly addressed the later issue, and concluded that "the far more natural reading of article 212.23(B) is to permit the plaintiff a total award of double the amount of unpaid royalties." By way of example, Justice Knoll stated that "if the unpaid royalties total \$100, the court has discretion to 'double' the award by adding an additional \$100 in statutory damages, for a total of \$200."

V. Conclusion

When faced with competing, non-frivolous claims for the payment of royalties, the prudent course has been for the operator or mineral lessee to file a concursus proceeding and to deposit the royalties into the court registry. The decision in the *Cimarex* case is important for operators and mineral lessees in Louisiana because it reaffirms the use of a concursus proceeding to resolve these competing royalty claims.

Collette R. Gordon is an associate in the Oil & Gas Section of Liskow & Lewis. Collette's practice in energy focuses on oil and gas acquisitions and divestitures, energy-related contract drafting, title examination, and pipeline issues. She graduated from Loyola University New Orleans School of Law, *cum laude*, in 2006. Before earning her law degree, Collette received her undergraduate degree from the University of Virginia in 2003.



AAPL MEMBERSHIP

Effective immediately, anyone wishing to become an AAPL member is required to turn in the request to the President of his/her local association for the signature of the existing President prior to the application being turned into AAPL.

SPRING GOLF TOURNAMENT

PLANO's Spring Golf Tournament was held at Money Hill, Abita Springs, LA on Monday, May 9th. Although attendance was down, the gorgeous weather helped to lift everyone's spirits, and a good time was had by all. The names of winners and sponsors are given below.

1ST PLACE

Paul Dubroc
Brandt Prat
Guy Wall
Flip Jaeger

2ND PLACE

Trent Ellis
Russ Foster
Todd Ellefson
Martin Hackney

3RD PLACE

Rob Schroeder
Bill Johnson
John O'Connell
E. J. Louviere

CLOSEST TO HOLE #4

Don Stroble

CLOSEST TO HOLE # 8

Paul Dubroc

CLOSEST TO HOLE # 14

E. J. Louviere

CLOSEST TO HOLE # 16

John Prat

LONG DRIVE # 10

Billy Moody



PLANO SPONSORS

SILVER SPONSORS

Harold J. Anderson, Inc.
Century Exploration New Orleans, Inc.
McMoRan Oil & Gas LLC
John O'Connell

BRONZE HOLE SPONSORS

ANKOR Energy LLC
Continental Land & Fur Co., Inc.
Cypress Energy Corporation
Gordon, Arata, McCollam, Duplantis & Eagan, LLP
Helis Oil & Gas Company, LLC
Hilcorp Energy Company
Land Management Services, L.L.C
Marks Explorer LLC
ORX Resources, Inc.
Robert A. Schroeder
Stone Energy Corporation
www.ocsbbs.com

NEW MEMBERS

Effective September 15, 2011

Timothy A. Austin

Manager – Land & Business Development
Peregrine Oil & Gas
Three Riverway, Suite 1750
Houston, TX 77056
Tele: 713-589-6800
Fax: 713-622-3314
eMail: Tim@PeregrineOilandGas.com
Status: Active AAPL

Mark A. Gregory

Vice President – Land
Energy Partners, Ltd.
919 Milam, Suite 2020
Houston, TX 77002
Tele: 723-228-0711
Fax: 713-225-7061
eMail: mgregory@eplweb.com
Status: Active AAPL

Michael R. Walls, Ph.D.

Professor
Division of Economics & Business
Colorado School of Mines
Golden, CO 80401-1887
Tele: 303-273-3492
Fax: 303-273-3416
eMail: mwalls@mines.edu
Status: Associate

William W. ("Will") Waring, III

Attorney
Waring & Associates Corp.
1101 Dealers Avenue, Suite 200
New Orleans, LA 70123
Tele: 504-733-3117
Fax: 504-733-6040
eMail: wwaring@ocsbbs.com
Status: Active

PETROLEUM LAND RESOURCES, INC. P.O. BOX 9011 HOUMA, LOUISIANA 70361

COMPLETE PETROLEUM LAND SERVICES

SERVING SOUTH LOUISIANA
SPECIALIZING IN TERREBONNE & LAFOURCHE PARISHES

PHONE: (985) 876-0689
FAX: (985) 872-2528

www.petroleumland-houma.com



PLANO's Scholarship Committee headed by David Seay, Century Exploration New Orleans, Inc., and Pete Broussard, Stone Energy Corporation, earlier this year awarded \$1,500 scholarships to Hannah Becker and Eric Weidemann of The University of Tulsa. Hannah Becker is on the left of the photograph, and Eric Weidemann is second from the left. Our heartiest congratulations to both of them. PLANO's Scholarship Program is a most worthy cause, and we look forward to continuing the program in the years ahead.

PLANO LUNCHEON

**WEDNESDAY, OCTOBER 26, 2011
11:30 A.M. – 01:30 P.M.**

\$45.00 PLANO Members Paid Advance Registration, or \$50.00 at Door; \$55.00 Non-PLANO Members, \$60.00 at Door

ZEA ROTISSERIE & GRILL
1525 St. Charles Avenue, New Orleans, LA 70130

SPEAKER: CLANCY DUBOS, Gambit

TOPIC: Analyze Local and State Election Results, including What They May Mean for the Oil and Gas Industry

For reservations, e-mail margaretcameron@charter.net

(Seating Limited – First Come, First Served)

Please mail payments, in advance, by Wednesday, October 19, 2011, to
PLANO, P.O. Box 51123, New Orleans, La 70151-1123

2011 PLANO SPONSORS

The Professional Landmen's Association of New Orleans would like to thank the following parties for their participation in PLANO's Sponsorship Program.

The dedication and support given by these sponsors of PLANO is greatly appreciated.

PLATINUM SPONSORS

Harold J. Anderson, Inc.
ANKOR Energy LLC
BP Exploration & Production Inc.
Chevron U.S.A. Inc.
ConocoPhillips Company
Eni US Operating Co. Inc.
ExxonMobil Exploration Company
LaBay Properties LLC
Legacy Resources Co.,L.P.
LLOG Exploration Company, LLC
Marubeni Oil & Gas (USA) Inc.
McMoRan Oil & Gas LLC
Robert A. Schroeder Inc.
Slattery, Marino & Roberts
Statoil
XTO Energy, Inc.

GOLD SPONSORS

Carver, Darden, Koretzky, Tessier, Finn, Blossman
& Areaux, LLC
Goldking Resources, LLC
Jones, Walker, Waechter, Poitevent, Carrère & Denègre, L.L.P.
Newfield Exploration Company
Noble Energy, Inc.

SILVER SPONSORS

Anadarko Petroleum Corporation
BETA Land Services, LLC
Century Exploration New Orleans, Inc.
Clovelly Oil Co., Inc.
Energy Partners, Ltd.
Energy XXI
C.H. Fenstermaker & Associates, Inc.
Gordon, Arata, McCollam, Duplantis & Eagan, LLP
Helis Oil & Gas Company, L.L.C.
Hess Corporation
Liskow & Lewis
Murphy Exploration & Production Company - USA
ORX Resources, L.L.C.
Phoenix Exploration Company
Plains Exploration & Production Company
Shell Exploration & Production Company
The Onebane Law Firm

BRONZE SPONSORS

Access Land & Title Services, Inc.
Apache Corporation
Arena Energy, LP
Breazeale, Sachse & Wilson, L.L.P.
Carrizo Oil & Gas, Inc.
Castex Energy, Inc.
Challenger Minerals Inc.
Cobalt International Energy, L.P.
Continental Land & Fur Co., Inc.
Cypress Energy Corporation
Deep Gulf Energy LP
Explore Enterprises of America, LLC
Gieger, Laborde & Laperouse, LLC
Hilcorp Energy Company
Jeanerette Minerals, L.L.C.
Juneau Exploration, L.P.
Land Management Services, L.L.C.
Marks Explorer LLC
MCX Exploration (USA) Ltd.
Miami Corporation
Montgomery, Barnett
Nexen Petroleum U.S.A. Inc.
Northstar Offshore Energy Partners, LLC
Onebane Law Firm (The)
PetroQuest Energy, LLC
Repsol USA Holding Corp.
Stone Energy Corporation
The Gray Exploration Company
The Oil & Gas Asset Clearinghouse
Wall, Bullington & Cook, LLC
Woodside Energy (USA) Inc.
W & T Offshore, Inc.
www.ocsbbs.com



AAPL/PLANO ICEBREAKER RECEPTION
NEW ORLEANS HILTON RIVERSIDE
BELLE CHASSE ROOM, 3RD FLOOR

THURSDAY, OCTOBER 13, 2011, 5:00-7:00 P.M.

AAPL and PLANO

*A cordial invitation is extended to PLANO members and participants
in the AAPL Seminar
to attend this Reception
at the New Orleans Hilton Riverside
October 13 , 2011.*

Canapes and refreshments will be served

R.S.V.P. to margaretcameron@charter.net

AAPL/PLANO ICEBREAKER RECEPTION

Thursday, October 13, 2011

*I plan to attend the Icebreaker Reception at the N.O. Hilton Riverside, Belle Chasse Room,
3rd Floor, on Thursday, October 13, 2011, 5:00 p.m. – 7:00 p.m. Reception is free to all
attendees.*

Signed: _____ Date: _____

PLANO Member: _____ (Yes) _____ (No)

AAPL Member: _____ (Yes) _____ (No)



PLANO LUNCHEON

TUESDAY, DECEMBER 6, 2011

11:30 A.M. – 2:00 P.M.

Cost: \$50.00 PLANO Members Paid Advance Registration;
\$55.00 Paid at the Door and Non-PLANO Members

GALATOIRE'S RESTAURANT

209 Bourbon Street, New Orleans, LA 70130

For reservations,
send e-mail to margaretcameron@charter.net

(Seating Limited – First Come, First Served)

Please mail payments in advance by December 3, 2010, to
PLANO, P.O. Box 51123, New Orleans, Louisiana 70151-1123

To aid needy children in the community,
please bring a Christmas toy, unwrapped.
No age limit.
Thank you.



PLANO LUNCHEON
TUESDAY, DECEMBER 6, 2011
11:30 A.M.

I plan to attend this luncheon. Check, made payable to PLANO, for \$_____ enclosed.

NAME: _____

COMPANY & ADDRESS: _____

PHONE: _____ E-mail: _____

PLANO MEMBER _____ (YES) _____ (NO)

**Professional Landmen's Association
of New Orleans**
P.O. Box 51123
New Orleans, Louisiana 70151-1123