



PLANO

Professional Landmen's Association of New Orleans

JANUARY, 2005

www.planoweb.org

PLANO BULLETIN #036

Jan. 10	PLANO Luncheon , Muriel's Jackson Square	Jan. 1	<i>New Year's Day</i>
Feb. 3	PLANO Seminar (1/2 day) N.O. Hilton Riverside	Jan. 26	NAPE, Houston, TX
Feb. 3	PLANO Executive Night N.O. Hilton Riverside	Jan. 27	NAPE, Houston, TX
Feb. 3	PLANO Sponsor Balcony Party , Royal Sonesta Hotel <i>Sponsors & Guests Only</i>	Feb. 8	<i>MARDI GRAS - Holiday</i>
Mar. 14	PLANO Luncheon Royal Sonesta Hotel - Bienville Suite	Mar. 17	<i>St. Patrick's Day</i>
Apr. 11	PLANO Luncheon Muriel's Jackson Square	Mar. 25	<i>Good Friday - Holiday</i>
May 9	PLANO Luncheon Andrea's, Metairie	Apr. 22	N.O. Jazz Fest

PLANO LUNCHEON MURIEL'S JACKSON SQUARE NEW ORLEANS

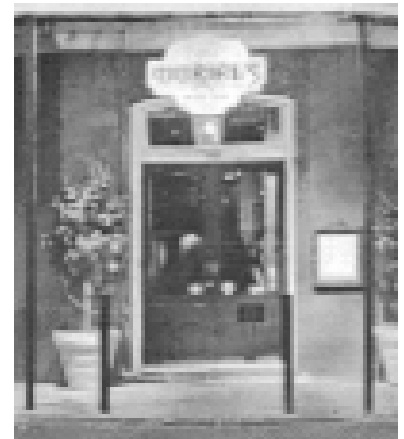
MONDAY, JANUARY 10, 2005, 11:30 A.M.

Steven K. ("Steve") Waddell, Supervisor, Adjudication Unit, Minerals Management Service, New Orleans, is the speaker at this luncheon, his topic being "Designation of Operators – Gulf of Mexico: What To Do to Avoid Pitfalls."

Steve was a 1979 graduate of the University of Southwestern Louisiana with a BSBA in Management. His career started in 1977 at South Louisiana Production Company as a student landman, with tenures at Great Southern Oil and Gas Company in Lafayette, Louisiana, The Superior Oil Company and Mobil.

As a CPL, his career spans over 27 years of Onshore and Offshore Exploration and Production experience. He has held positions as Staff Landman, Special Projects Manager and Western District Land Manager while at Superior and Mobil Oil. His contributions include the management of Superior's most prolific areas in South Louisiana, the Mobil 1.4 million acre IP Petroleum lease and the development of three major computer systems for land applications to assist landmen in the management of their areas.

Steve joined the MMS in June, 1997, as Adjudication Unit Supervisor and manages a staff of 10. His contributions at MMS include: streamlining Adjudication actions and significantly reducing the time needed for approvals; participating member of the team that wrote the OSFR regulations; yearly workshops for industry; created a Multi-Regional Adjudication Leasing Operations Team; streamlined Designation of Operator functions across several business disciplines within MMS; and his most recent contribution – streamlining assignment forms.



MESSAGE FROM THE PLANO PRESIDENT 2004-2005



On behalf of the PLANO Board of Directors, I would like to take this opportunity to wish all of our members a happy, safe, and successful 2005.

As we begin this new year, I would also like to take the opportunity to thank you, the members of PLANO, and especially the members of the Board of Directors, for your help in making our organization such a success. Our sponsorship program is doing extremely well, our events are well-attended, and our ability to benefit our members and the civic and charitable causes that PLANO supports is probably at an all-time high.

In short, PLANO has had a great 2004. And I'm sure that everyone is looking forward to making 2005 even better than 2004; I know that I am.

Our activity schedule for the next few months is, in a word, crowded.

We have arranged for Steve Waddell to speak at the January luncheon, newly-elected Representative Bobby Jindal will join us for Executive Night, which is just around the corner, we'll be going to the Fairgrounds right after the Lease Sale in March, and it won't be long before we have another great time at our Spring Garden Delight party.

Again, thank you for efforts in 2004. I would like to wish you and your families all the best this year and I hope to see you soon at a PLANO event.

Lawrence P. ("Larry") Beron, PLANO President



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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 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.

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PLANO 2004-2005 COMMITTEE CHAIRMEN

Effective September 28, 2004, following the appointment of **Lawrence P. ("Larry") Beron** as **PLANO President**, and **Andrew M. Adams**, **Vice President**, Gieger, LaBorde & Laperouse, L.L.C., the following Committee Chairmen were appointed:

Membership Committee/Certification/CPL

Richard F. Price, Jr., ChairmanPrice Energy LLC

Social Committee

John T. Dale, Jr.McMoRan Oil & Gas LLC

Full details of all other Committee appointments will be contained in a subsequent Newsletter.

IN MEMORIAM

With regret and much sadness it was learned a short time ago of the death on October 6, 2004, of Ralph Hall Fender, PLANO Past-President 1978-1979. Mr. Fender had suffered an aortic aneurysm.

Mrs. Fender mentioned that Mr. Fender had been elated to receive PLANO's invitation to attend the luncheon at Muriel's on Monday, September 13th. He had talked to her about attending the function, but, unfortunately, was unable to do so. Mr. Fender had been pleased to know that PLANO wished to recognize his past service by inviting him to attend the luncheon... and seeing the folks again." Mrs. Fender ended the call by saying, "You will never know how proud the invitation from PLANO made him feel."

Our thoughts and prayers are with Mrs. Fender and the Fender family at this very sad time.


PLANO'S EXECUTIVE NIGHT THURSDAY, FEBRUARY 3, 2005

Mardi Gras is early this year – Tuesday, February 8, 2005, with the result that PLANO's Executive Night – Thursday, February 3, 2005, will be upon us in no time. Congressman-Elect Bobby Jindal, 1st Congressional District, State of Louisiana, will be discussing "What Will Congress Do For The Oil & Gas Industry in Louisiana, Texas and OCS." By this time, all of you will have received notice of this premier PLANO event so it is up to you to make your reservations now.

THOUGHT FOR THE DAY

Never renege on a promise –
it could come back to haunt you.

*Submitted by
Margo Cameron, PLANO Administrator &
PLANO Newsletter Editor*



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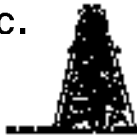
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LOUISIANA LEGAL UPDATE

OIL & GAS LAW DEVELOPMENTS

CASES OF INTEREST

Presented by Gordon T. Whitman
The Onebane Law Firm, Lafayette, Louisiana
1-337-237-2660

Louisiana Third Circuit Holds Prohibition Against Assignment of Lease Inapplicable to Donation.

A corporate landowner (the "Landowner") granted a hunting lease (the "Lease") to an individual, Kerry Massari, over its lands in Cameron Parish, Louisiana. The Lease prohibited any assignments of the Lease. Mr. Massari subsequently donated (the "Donation") the Lease to a friend, Mr. Pratt. Mr. Pratt paid the annual rental to the Landowner and when advised of the Donation, the Landowner filed suit to rescind the Lease.

The Trial Court took notice of the prohibition against any assignment of the Lease and granted judgment for the Landowner rescinding the Lease.

The case was appealed to the Third Circuit Court of Appeal, which reversed the trial court and held that a Donation did not violate the prohibition. *Dore Energy Corporation v. Massari*, 2004 WL 2538324 (La. App. 3rd Cir. Decided November 10, 2004).

In 1983, the Landowner granted the Hunting Lease for a ten year term with two options to extend the lease for additional ten year periods. The Lease, which provided for minimal annual rentals, contained the following provision (the "Reassignment Clause"); "This lease may not be assigned or sublet in whole or in part." In 2001, Mr. Massari donated his interest in the Lease to a party, but when the Landowner objected that this violated the Reassignment Clause, the parties rescinded this donation. In 2002, Mr. Massari then executed the Donation in favor of Mr. Pratt, but the Landowner was not informed of this donation until Mr. Pratt tendered

the annual rental for the Lease in 2003.

The above facts were apparently not in dispute and both sides urged they were entitled to summary judgment. The

Landowner argued that an assignment included within its parameters both onerous transactions and donations, and pointed to the definition of "assignment" in the Black Law Dictionary and in Louisiana Civil Code Article 3506. Accordingly, it argued the Donation violated the Reassignment Clause. The other side argued that (according to Mr. Massari's affidavit) the Lease was intended for "pleasure" and not for "monetary gain," and that the parties only intended to prevent him from profiting from a subsequent transfer. Accordingly, it did not prevent him from donating the Lease to a friend. Additionally, they argued that a donation is not an assignment, and that assignments only apply to onerous transactions.

Ultimately, the Court decided that the definition of assignment only covers onerous transactions

from which the assignor intends to derive a profit, and that it does not include a donation of the rights thereunder. The Court cited cases and various civil code articles which mention assignment and donations in the same breath, and stated that they would not have done so had assignments and donations meant the same thing. Additionally, the Court cited a case that states that an assignment is a sale (it should be noted that the issue of whether a donation is an assignment was not at issue).

The above decision has important ramifications that far outreach this Hunting Lease. Reassignment Clauses are routinely included in commercial leases as well as mineral leases. Such

About the Author

Gordon T. Whitman: Born New Orleans, Louisiana, January 25, 1955; admitted to Bar, 1981, Louisiana. *Education:* University of Southwestern Louisiana (S., 1977); Louisiana State University (J.D., 1981). Phi Kappa Phi; Phi Delta Phi; Order of the Coif. Member, Louisiana Law Review, 1980-1981. Speaker, 46th Annual Meeting and 2000 International Conference of American Association of Professional Landman; Speaker, 45th Annual Meeting and 1999 International Conference of American Association of Professional Landmen; Speaker, 43rd Annual Meeting and 1997 International Conference of American Association of Professional Landmen. *Member:* Louisiana State Assistant Examiner for Committee on Bar Admissions (1993-2002), and American Bar Association; Lafayette Association of Petroleum Landmen; Professional Landmen's Association of New Orleans; American Association of Professional Landmen; Louisiana Independent Oil and Gas Association; Louisiana Association of Bank Counsel; Advisory Council to Louisiana Mineral Law Institute.

Areas of Practice:
Oil and Gas, Business



clauses have usually been assumed to be a prohibition against a transfer, regardless of how effected, with it being assumed that the identity of the lessee was the important factor to the lessor, not whether the lessee made any profit on the transfer. In light of this case, a lessor should specifically mention "donation" in its Reassignment Clause.

The above decision is not yet final. Should this decision change upon further appeal, we will report on same.

Copies of the above case can be obtained upon request to the writer at (337)-266-1232 (fax) or whitmang@onebane.com (e-mail).

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Membership applications from the individuals named in the above section were reviewed and approved by the PLANO Board of Directors' at the meeting on Thursday, December 9, 2004.

The PLANO Board welcomes these new members to the organization.

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**.

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