



PLANO

Professional Landmen's Association of New Orleans

JANUARY, 2004

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PLANO BULLETIN #01

PLANO EVENTS

- Jan. 12 PLANO Luncheon – Muriel's Jackson Square
- Feb. 19 PLANO Seminar (1/2 day) – N.O. Hilton Riverside
- Feb. 19 PLANO Executive Night – N.O. Hilton Riverside
- Feb. 19 PLANO Sponsor Party – Royal Sonesta Hotel
- Mar. 4 PLANO Luncheon - Royal Sonesta Hotel
- Apr. 5 PLANO Luncheon - Royal Sonesta Hotel
- May 10 PLANO Luncheon - Muriel's Jackson Square

OTHER ACTIVITIES

- Feb. 4 NAPE, Houston, TX International Forum
- Feb. 4 NAPE, Houston, TX - Icebreaker
- Feb. 5-6 NAPE, Houston, TX
- Feb. 24 MARDI GRAS, New Orleans, LA - HOLIDAY
- Apr. 1-2 51st LSU Mineral Law Institute, Baton Rouge, LA
- Apr. 6-7 Gulf Coast Energy Marketplace Fairmont Hotel, New Orleans
- Apr. 14-16 AAPL CPL Review, Royal Sonesta Hotel, New Orleans
- Apr. 17 AAPL CPL Review Exam, Royal Sonesta Hotel, New Orleans, LA

PLANO'S EXECUTIVE NIGHT

NEW ORLEANS HILTON RIVERSIDE

#2 POYDRAS STREET, NEW ORLEANS, LA

THURSDAY, FEBRUARY 19, 2004 5:30 P.M. - 8:30 P.M.

PLANO representatives are working diligently to obtain a speaker for Executive Night. You may be assured the speaker will be someone of prominence, someone you will wish to hear. With that in mind, you are urged to make plans to attend this function, PLANO's premiere annual event.

The program will begin with an informal reception from 5:30 p.m. - 6:00 p.m., followed by presentation of the colors by the U.S. Marine Corps 8th Marine Corp District. The speaker will then deliver a speech, followed by a brief question and answer period. The Executive Night Reception will then commence.

As in prior years, PLANO has block book-

ings of rooms at both the New Orleans Hilton Riverside (Tel: 504-561-0500), (reservation cut-off date is January 30, 2004), and at the Royal Sonesta Hotel in the heart of the French Quarter (Tel: 504-586-0300) (reservation cut-off date is January 27, 2004).

At the present time, tickets (\$60.00 each) may be ordered from Margo Cameron at (504) 593-7560.

The PLANO Sponsor Appreciation Party is at the Royal Sonesta Hotel, 2nd Floor, 300 Bourbon Street, New Orleans, from 9:00 p.m. - till . . . Food, refreshments and throws will be provided to all.



Happy New Year
to all of our PLANO Sponsors and Membership



MESSAGE FROM THE PLANO PRESIDENT 2003-2004



Happy New Year to all. I hope everyone had a happy and restful holiday.

We have an active schedule of events planned for January and February. Our monthly meeting on January 12th features David Miller of EnCap Investments L.P. and we will again return to the mystical Muriel's Jackson Square. Following NAPE, February 19th is Executive Night. We encourage all to get your tickets early for our preeminent event of the year.

In December, we enjoyed a sold out luncheon at the big "G" (Galatoire's) and our holiday party at the Omni Royal Orleans. Many thanks to Jan van Loon, Mitch Ackal, Larry "The Governor" Beron and Margo Cameron. We again hosted a breakfast at the Eastern Gulf of Mexico Federal Lease Sale 189. Thanks again to Margo for all of her efforts.

We also distributed the magnanimous donations of toys to the residents of the CARE Center. We appreciated all who contributed and participated in such a worthy cause. Our contributions to the residents' holiday celebration were sincerely appreciated.

As we progress toward the rest of the PLANO year, we look forward to a day at the Fairgrounds horse races, a political/comedy night at the Chat Noir, an executive night seminar, CPL review, a Zephyrs seminar and family night at Zephyrs Field, the Spring Garden Party and the Gulf Coast Prospect Expo.

Best wishes for a prosperous New Year.



Frank D. Barber, III, PLANO President



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A Membership application from the individual named to the left was reviewed and approved by the PLANO Board of Directors' at their meeting on Thursday, December 4, 2003. The PLANO Board welcomes Mr. Shepherd to the organization.

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VOLUNTEER NEEDED

Photographer for photo taking at PLANO events on an as-needed basis. Call Margo Cameron, PLANO Administrator, 504-593-7560, or e-mail to margo_cameron@dom.com.

THOUGHT FOR THE DAY

*Submitted by the
PLANO Newsletter Editor*

*Never let the odds keep you from pursuing what
you know in your heart you were meant to do.*



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IN MEMORIAM

With great regret, we learned that Winston C. Baber, owner of Progress Petroleum Co., and a long standing member of PLANO, died of cancer on Friday, November 28, 2003, at the age of 77. He was buried on Tuesday, December 2, 2003. Winston Baber will always be remembered fondly for his kind words and ability to tell a good joke. He was a staunch supporter of PLANO, and will be sadly missed by all of us. Our thoughts and prayers are with his wife, Patricia Stanley Baker, and three daughters, Becky Ann Baber-Droulia, Robin Elizabeth Baber Banks and Bonnie Jean Baber, and four grandchildren, at this most difficult time.

PLANO AND "DRESS FOR SUCCESS"

PLANO will team up with *Dress for Success* to help low-income women make tailored transitions into worthwhile jobs. PLANO and PLANO Auxiliary chose to organize a Ladies' Suit Drive. *Dress for Success New Orleans* has certain requirements for Ladies' Suits: Professional business suits (pants or skirts), blouses and shells, blazers and jackets, professional shoes, purses without decoration. All clothes should be clean and on hangers. All donations should be basic colors, black, navy, grey, brown or taupe. Participants are referred to *Dress for Success* from over 72 local government agencies, social organizations and faith based organizations. All donations may be taken to Taylor Energy Company, One Lee Circle, 944 St. Charles Avenue, New Orleans, LA 70130-3938, Attn: Frank D. Barber, III, PLANO President. Should you have any questions, please contact Jo Ann Anderson at 276-5858, Ext. 214, or E-mail to janderson@hjainc.com.

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THE AAPL 2004 OCS COMMITTEE WORKSHOP

Date: Thursday, January 22, 2004
Where: Anadarko Building, Allison Hall,
Houston, TX
What: Outstanding OCS Topics
Cost: \$150.00
(registration after 1/07/04 \$185.00)
Registration: Call Tracy Price (713-830-6990) or
Mark Blumenshine (281-847-6037)
CPL/CLE: Program will qualify for
Certification and credits
Reception: The Woodlands Waterway Marriott
(after Workshop)
Those interested in attending this Workshop,
please contact one of the above listed individuals
to register. Thank you.

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LOUISIANA LEGAL UPDATE OIL & GAS LAW DEVELOPMENTS CASES OF INTEREST

Presented by Gordon T. Whitman
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Court Deals With Rejection by MMS of Assignee of OCS Lease and Effect on Liability Under JOA of Party and/or its Assignee for Post-Assignment Operations.

A company ("Unocal") proposed certain operations to the other working interest owners of a mineral lease (the "Lease") covering a block located on the Outer Continental Shelf (the "OCS") offshore of Louisiana. One of the parties ("IP") had sold its interest to a third party ("Cheyenne"), but continued to hold record title pending approval by the Minerals Management Service ("MMS"). Unocal sent various notices to Cheyenne and Cheyenne made various elections with respect to the proposed operations, and then undertook same. Subsequently, the MMS rejected Cheyenne as an assignee. Unocal filed suit against Cheyenne for unpaid costs and expenses. When Cheyenne defended on the basis that it was not a working interest party, Unocal amended its suit to include IP as a party defendant. The trial court found for Unocal against IP on a motion for summary judgment. The Third Circuit reversed on the basis that there were material issues of fact and remanded to the trial court. *Union Oil Co. of Cal. v. Cheyenne Oil*, 839 So.2d 1170 (La. App. 3d Cir. 2003).

The facts of the case are somewhat complicated and since the court was dealing with a motion for summary judgment, they may not be exactly as set out in the opinion. In any event, it appears that Unocal was a working interest owner in the Lease when it received a proposal from the operator to plug and abandon the well located thereon. Unocal responded with its own proposal to conduct downhole operations to restore and/or

increase the production, and sent this proposal to the other working interest owners including IP. IP had previously decided to sell its interest at auction through the Oil and Gas Clearinghouse and the successful bidder was Cheyenne. At the time the proposal was sent out, the MMS had not approved Cheyenne as a party eligible to receive an interest in an OCS Lease. Nonetheless, it appears that when Unocal was notified of the sale, it sent all subsequent proposals and elections to Cheyenne.

The operations undertaken by Unocal proved to be unsuccessful and Unocal then proceeded to plug and abandon the well. Cheyenne in the meantime had been rejected by the MMS and the assignment was not approved. Cheyenne did not pay the costs and expenses invoiced them by Unocal and so Unocal filed suit. Cheyenne's defense was that since the assignment was not approved, it did not own an interest, and therefore could not be a party to the JOA. If it were not a party to the JOA, the argument went that it could not be liable for those

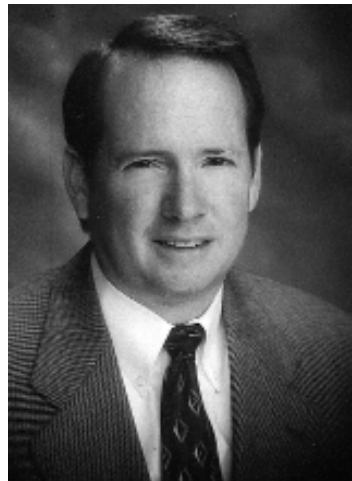
costs and expenses. Unocal's reaction was to add IP as a party, and then move for summary judgment against IP.

While the trial court found for Unocal against IP, the court of appeal found that there were two issues of fact that precluded a summary judgment. First, Unocal alleged that IP never transferred its working interest (*presumably because the assignment was rejected*). Secondly, there was an issue as to whether IP had actually received copies of the proposals and invoices that were sent to Cheyenne. If not, this apparently offered a defense to IP based upon the language of the JOA. Accordingly, the court of appeal reversed and remanded this matter back to the trial court.

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



In any event, the case is a reminder that an assignment of an interest in a lease that is subject to subsequent events is not final until those events have been satisfied. Treating the purchaser as the owner of that interest prior to the satisfaction of the contingency can cause a number of problems, including the instant one of who is the responsible party. In such a case, an operator may have to evaluate the situation and determine whether to require additional assurances that the assignee (or the assignor) will be responsible for all costs and expenses of the post-assignment operations regardless of whether the assignment is approved.

The above case does not appear to be final as of yet. In the event the holding of this case is changed upon further appeal, we will advise in a future article.

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

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AAPL CORNER

I attended the AAPL Quarterly Board of Directors' Meeting in St. Louis, MO on December 7, 2003, my first meeting as PLANO's AAPL Regional Director. The meeting was educational and insightful as it embraced policy making for AAPL issues. Various topics and issues were discussed at the meeting. Listed below are highlights of the topics discussed.

- The Board approved some AAPL Bylaw and Policy Manual changes that can be classified as minor "housekeeping" changes. If anyone is interested in the details of the changes, please contact me.
- Don Clark, Chairman of the Nominating Subcommittee, requested nominations for officers for next year. If you would like to submit a name to the committee, please contact me.
- Jan van Loon, Chairman of the Publications Committee, and staff member Le'Ann Pembroke Callihan, conducted a presentation of the new and improved electronic version of the Landman Magazine and Directory. The new updated Directory will be available on CD and mailed in January, 2004.
- Craig Young, President of AAPL, discussed the pluses of the MedsNorth E-mail Pharmacy service for AAPL members. If you are interested in participating in this member service, go to the AAPL website, www.landman.org, for more information.

- Keith Couvillion, Second Vice President, spoke on the issue concerning the COPAS annual overhead adjustment rates. The U.S. Labor Dept. is discontinuing the publication of the Bureau of Labor Statistics index that is the index referred to in many older versions of the COPAS agreement used to determine the annual adjustment for overhead rates. Keith indicated that COPAS is in the process of trying to determine what indices it will use as the annual index for Operations to use to adjust the overhead rates. I will keep you posted on this issue.

- Important dates to remember:

NAPE
February 4-6, 2004
George R. Brown Convention Center
Houston, TX

51st LSU Mineral Law Institute
April 1-2, 2004
LSU Law Center
Baton Rouge, LA

The 50th AAPL Annual Meeting
June 16-18, 2004
Austin, TX

Respectfully submitted
Mm. David Briggs, AAPL Director
and
PLANO Immediate Past President

PLANO AUXILIARY

Tuesday, December 16, 2003 dawned cold. It rained for a short time around lunchtime, then the skies cleared and the sun shone brightly for a while. This prompted Frank Barber, PLANO's President, to harness the reindeers in the stable, and along with Santa Claus and a huge load of toys and presents, head for the Care Center in New Orleans, Louisiana.



In the Kitchen

L. to R. Kayla Campagna, Jo Ann Anderson, Denise Manalle, Brittany Gowland

Santa's helpers were at the Center preparing an all American meal comprising of hot dogs with all the trimmings for the residents. head Cook was none other than Jo Ann Anderson. The maids and bottle washers were Jo Ann's daughters and grandchildren. Harold Anderson and Larry Beron were there, but rumor has it that they adopted a more supervisory role.



OK! I know the reindeers, but who is the guy with the long white beard?



Frank Barber, PLANO President, and one of the Care Center inhabitants



L. to R. Brittany Gowland, Jo Ann Anderson, Denise Manalle, Santa Claus with an infant in his arms, and Frank Barber, PLANO's President.



Two of the Elves sharing a Christmas snack with the children.



Harold and Jo Ann Anderson



L. to R. Brittany Gowland, Harold Anderson, Kayla Campagna

2004 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.

Preliminary Listing as of December 17, 2003

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REMINDER . . . 2004 AAPL OCS WORKSHOP

The Program Summary for this Workshop to be held on Thursday, January 22, 2004, is as follows:

1. Minerals Management Service OCS Update.
 2. An Overview of the New Deep Gas Royalty Relief Rule.
 3. The Evolution of Seismic in the OCS (from 2D to 4D).
 4. LNG Re-gasification Facilities in the OCS – a New Frontier.
 5. Royalty Relief Issues – Challenges and Opportunities.
 6. Offshore Operating Agreement – Emerging Issues.
 7. Deepwater Production Handling Agreements – Concepts and Issues.
- Lunch Video – Nansen Project “Point of No Return.”

PLANO'S EXECUTIVE NIGHT

Anyone wishing to purchase Executive Night tickets at this time may do so by submitting the form below to Margo Cameron, PLANO Administrator, PLANO, P.O. Box 51123, New Orleans, LA 70151-1123, together with the check, made payable to PLANO, covering the cost of the number of tickets required. Tickets are \$60 each. Tickets will be mailed immediately upon receipt of order and check.

**PLANO'S EXECUTIVE NIGHT
NEW ORLEANS HILTON RIVERSIDE
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THURSDAY, FEBRUARY 19, 2004
5:30 P.M.-8:30 P.M.**

Name: _____

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REMINDER.....AAPL MEMBERSHIP

The PLANO Board urges all PLANO members to become a member of the American Association of Professional Landman (“AAPL”). You are asked to contact Wm. David Briggs at 985-674-4443 for full membership information, or call AAPL direct at 817-847-7700.

PLANO'S 2004 SPONSORSHIP PROGRAM

PLANO's 2004 Sponsorship Program is still under way. Sponsorship levels are:

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There are many advantages to becoming a PLANO Sponsor, and we urge you to become a Sponsor. Your support is sought.

PLANO DUES 2004

PLANO Dues Notices will be issued to membership in the course of the next few weeks. For the first time ever, Dues Notices will be e-mailed to members. To assist us in this new undertaking, we encourage our membership to check their e-mail addresses by using the online directory at the PLANO Website (www.planoweb.org). Members who do not use e-mail will continue to receive their notices by U.S. Mail.

PLANO NEWSLETTER

The PLANO Board of Directors plans to go online with the PLANO Newsletter in order to save publication and reproduction costs that can be passed on to benefit the membership. Dues Notices to be issued shortly will contain an insert asking members if they wish to receive the Newsletter by U.S. Mail, by e-mail, or by downloading the newsletter from the PLANO Website (www.planoweb.org). Members are asked to respond promptly to this request.

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