



PLANO

Professional Landmen's Association of New Orleans

MAY, 2004

www.planoweb.org

PLANO BULLETIN #028

PLANO EVENTS

- May 10 PLANO Luncheon – Muriel's Jackson Square
- May 17 PLANO's Spring Golf & Tennis Tournament – Beau Chene Country Club, Mandeville, LA
- May 21 PLANO's Night Out at the Zephyrs' Game
New Orleans Zephyrs vs. Edmonton Trappers
- Jun 14 PLANO Luncheon, Royal Sonesta Hotel
- Aug 18 PLANO OCS Sale 192 WGOM - Breakfast
- Sept 13 PLANO Luncheon –
Location to be determined later
- Oct 18 PLANO Fall Golf Outing
Money Hill, Abita Springs, LA

OTHER ACTIVITIES

- May 13 HAPL South Louisiana Social, Zydeco's
- Jun 16-18 2004 AAPL Annual Meeting
Hilton Austin, TX
- Jul 26 Louisiana Energy Golf Classic
Le Triomphe Golf & Country Club
Broussard, LA
- Jul 27-28 Gulf Coast Prospect Expo
Lafayette, LA
- Aug. 7 HAPL Annual Skeet Shoot
The American Shooting Center
- Aug 18 MMS OCS Sale 192 WGOM
- Sept. 27 HAPL Annual Golf Tournament
Kingwood & Deerwood Country Clubs

PLANO LUNCHEON

**MURIEL'S JACKSON SQUARE, 801 CHARTRES STREET, NEW ORLEANS, LA
MONDAY, MAY 10, 2004, 11:30 A.M.**

SPEAKER – S. CRAIG YOUNG, CPL

AAPL President 2003-2004

S. Craig Young, CPL, a graduate of Texas Tech University, has been operating as an independent landman out of Abilene, Texas, for more than 20 years. Craig formed a partnership with W. Glen Shedd, CPL, in 1991 and has been operating as Young & Shedd since. Prior to this, he was a landman for Pennzoil Producing Company in Shreveport, Louisiana, covering parts of Louisiana, Arkansas and Texas and all of Alabama, Mississippi and Florida. He then covered the Gulf Coast area of Texas. Craig also formed his own corporation in 1980 to handle exploration and petroleum land management.

During his career, he has served as a volunteer for several professional organizations related to the petroleum industry. He also helped organize a pre-school and day care center in Abilene, serving on its personnel committee. Later, as chairman of the board for the center, Craig presided over the trans-

formation of the center from an initial budget of \$78,000 in 1985, to a \$400,000 budget in 1997.

Craig is serving as president of AAPL for the 2003-2004 term. He previously served as AAPL first vice president and as a regional director for the association. He has served as both chairman and assistant chairman for the AAPL certification committee and was AAPL second vice president in 2000-2001. He is a member of the Abilene and Permian Basin Landmen's associations, having served as both a director and president of the Abilene APL.

He also served on the board of directors of the West Central Texas Oil and Gas Association and on the advisory board for the Petroleum Land Management Program at Texas Tech University.

In addition, Craig is an active member of the St. Paul United Methodist Church in Abilene.

Craig and his wife Jenny have three children, Josh, Melissa and Reed.

MESSAGE FROM THE PLANO PRESIDENT 2003-2004



We started April with an invigorating speech by Mr. Scott Angelle, (world-wide crawfish eating champion from St. Martinville), Louisiana's new Secretary of the Department of Natural Resources. He provided refreshing insight into his department. He was accompanied by Conservation Commissioner Welch and a member of his staff. We appreciate having them as our guests, and thank Jan van Loon for making the address possible.

A select few of we PLANO stalwarts enjoyed the last regular season Hornets game. Unfortunately they lost to the Nicks and lost home court advantage in the playoffs. Thanks to Larry Beron and all of the faithful who turned out to enjoy the pre-game fellowship and the game. April also featured the AAPL CPL review and exam, the Gulf Coast Energy Marketplace and the LSU Mineral Law Institute. These are all non-PLANO activities but nonetheless important educational and networking occasions.

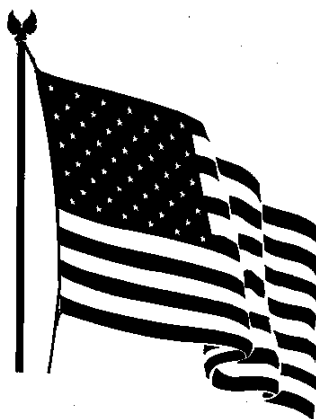
I am especially proud and pleased to recollect our outstanding Spring Garden De'Lights Gala and Patron Party. Our first Patron Party was delightful (pun intended); complete with great weather, music, food, champagne, wine, libations and fellowship. The Gala was a completely enjoyable night with more wonderful food, drink and music, plus a fantastic silent and live auction. Many thanks to our numerous sponsors and patrons as well as our membership who turned out in force to make it a tremendous event. The hard work of our outstanding committee members, Jo Ann Anderson, Anne Bailey, Colleen Barber, Devin Dixey, Larry Beron and Jan van Loon, made everything possible. We couldn't have done such a fine job supporting the PLANO Demonstration Garden at the City Park Botanical Gardens without all of their fine help.

In May, we are honored to have our AAPL President, S. Craig Young, visit our luncheon at Muriel's and look forward to his remarks. Then it's on to the Golf Tournament at Beau Chene which is always made possible by Rob Schroeder and Bill Johnson and we really appreciate their efforts.

Finally, I would be remiss if I didn't correct an omission from last month's letter, joining the New Orleans contingent at the AAPL Board Meeting in Vegas was PLANO legend Bob Martin and his lovely wife, Jeannie. My apologies for an obvious omission.



Frank D. Barber, III, PLANO President



PLANO 2003-2004 OFFICERS & DIRECTORS

President — Frank D. Barber, III

Taylor Energy Company504-589-0450

Vice President — Jan T. van Loon

Oats & Hudson504-527-0960

Secretary — Jo Ann Anderson

Harold J. Anderson, Inc.504-276-5858

Treasurer — J. Patrick Morris, Jr.

Liskow & Lewis504-556-4191

Director — Andrew M. Adams

Gieger, Laborde & Laperouse, L.L.C.504-561-0400

Director — Anne D. Bailey

ChevronTexaco504-592-6711

Director — Lawrence P. “Larry” Beron

Independent504-833-2115

Director — David V. Dufour

Dominion Exploration & Production, Inc.504-593-7164

Director — William A. (“Bill”) Gordon

Shell Exploration & Production Company504-728-6702

Director — Scott A. O’Connor

Gordon, Arata, McCollam, Duplantis & Eagan, L.L.P. . .504-569-1860

Director — William B. Raley

Cimarex Energy Co.504-586-1815

Director — Carl F. Southern

ExxonMobil Production Company(713) 656-3636

AAPL Director — Wm. David Briggs

Legacy Resources Co., L.P.985-674-4443

Immediate Past Pres. — Wm. David Briggs

Legacy Resources Co., L.P.985-674-4443

PLANO Auxiliary President — Jo Ann Anderson

Harold J. Anderson, Inc.504-276-5858

**PLANO Administrator & Newsletter Editor
Margo Cameron**

Dominion Exploration & Production, Inc.504-593-7560

PLANO’S 2004 SPONSORSHIP PROGRAM

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

Platinum	\$2,000.00
Gold	\$1,500.00
Silver	\$1,000.00
Bronze	\$ 500.00

Anyone wishing to become a sponsor is asked to contact:

Harold J. Anderson (504-276-5858)
or
Margo Cameron (504-593-7560)

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

Beta Land Services, L.L.C. BRYAN J. HANKS, CPL

401 Audubon, Ste.202-B Lafayette, LA 70503 Pager 800-249-3640 Mobile: (337) 298-7200 Home: (337) 406-8797	P.O. Box 51241 Lafayette, LA 70505 Office: (337) 261-0276 Fax: (337) 251-0279 Betals@bellsouth.net
-----------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------



VINTAGE PETROLEUM, INC.
110 West Seventh Street, Tulsa, OK 74119
(918) 592-0101 FAX (918) 878-5305

Ryburn McCullough
GENERAL MANAGER - LAND
ryburn@vintagetul.com

(918) 878-5140
Cell: (918) 640-8977

PLANO 2003-2004 COMMITTEE CHAIRMEN

AAPL Committee

Wm. David Briggs, Reg. Dir. Legacy Resources Co., L.P.

Awards Committee

Wm. David Briggs, Chairman. Legacy Resources Co., L.P.
David V. Dufour Dominion Expl. & Prod., Inc.

Directory/Newsletter/ Publication Committee

Margaret "Margo" Cameron,
Chairman Dominion Expl. & Prod., Inc.

Education Committee

Jan T. van Loon, Chairman Oats & Hudson
Scott A. O'Connor Gordon, Arata Law Firm, L.L.P.

Ethics Committee

Anthony C. Marino,
Chairman Schully, Roberts, Slattery, Jaubert & Marino

Executive Night/ Luncheon Speakers

Jan T. van Loon, Chairman Oats & Hudson

Forms Committee

Carl R. Rewerts, Chairman ChevronTexaco Corporation

Golf Committee

William L. "Bill" Johnson, Jr., Chairman Independent
Robert A. Schroeder Independent

History of PLANO

Janet H. Aschaffenburg,
Chairman Gieger, Laborde, Laperouse, L.L.C.
Edmund L. "Ed" DeWailly C.H. Fenstermaker & Assoc., Inc.

Industry Affairs/Legislative

Andrew M. Adams,
Chairman Gieger, Laborde & Laperouse, L.L.C.

Information Technology

Benjamin J. Waring, Chairman Waring & Associates Corp.

Ladies Auxiliary

JoAnn Anderson, Chairman Harold J. Anderson, Inc.

Membership Committee/Certification/CPL

William A. Gordon, Chairman Shell Expl. & Prod. Company

Membership Dues

Margaret "Margo" Cameron,
Chairman Dominion Expl. & Prod., Inc.

Nominating Committee

Frank D. Barber, III, Chairman Taylor Energy Company
Wm. David Briggs Legacy Resources Co., L.P.
Michael A. Ackal, Jr. Dominion Expl. & Prod., Inc.
Lawrence P. "Larry" Beron Independent

OCS/Public Lands

J. Keith Couvillion, Chairman ChevronTexaco Corporation

PLANO Sponsor Program

Harold J. Anderson, Chairman Harold J. Anderson, Inc.
Keith D. Howell ChevronTexaco Corporation
Margaret "Margo" Cameron Dominion Expl. & Prod., Inc.

PLANO Web Page

Andrew M. Adams,
Chairman Gieger, Laborde & Laperouse, L.L.C.
Benjamin J. Waring Waring & Associates Corp.

Public Relations

Anne D. Bailey, Chairman ChevronTexaco Corporation
William B. Raley Cimarex Energy Co.

Scholarship Committee

Michael A. "Mitch" Ackal, Jr.,
Chairman Dominion Expl. & Prod., Inc.
Charles E. Arnold ExxonMobil Production Company
Jan T. van Loon Oats & Hudson
Keith D. Howell ChevronTexaco Corporation

Social Committee

Lawrence P. "Larry" Beron, Chairman Independent
J. Patrick Morris, Jr. Liskow & Lewis
Warren P. Miguez Taylor Energy Company

Spring Garden De'Lights

Jo Ann Anderson, Chairman Harold J. Anderson, Inc.
Margaret "Margo" Cameron Dominion Expl. & Prod., Inc.

Tax Returns

Robert J. "Bob" Martin, Chairman Watson Energy, L.L.C.

Tennis

Edward C. Amrock, Chairman Denbury Resources Inc.

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

Never give up on anybody.
Miracles happen everyday.

*Submitted by the
PLANO Newsletter Editor*



Acadian Land Services, L.L.C.
 Haystack Oil Center
 321 Trade Brook, Suite C 70003
 Post Office Box 02993
 Lafayette, LA 70502-9919

Lease Acquisitions • Sublease Services • Abstracting of Title • Mapping

Robert Todd Fontenot
 James L. (Jim) Love

Phone: 337.237.0089
 FAX: 337.233.3029
 E-mail: info@acadianland.com

SUNCOAST LAND SERVICES, INC.

JAMES THOMAS, CPL
 RUSSELL THOMAS, CPL



MEMBER AAPL, HAPL, WHAPL, PLANL, LAFL AND ITWA

1003 Hugh Wells Rd.
 Bldg. B
 Lafayette, LA 70508
 (337) 233-1827

2316 Timber Shadows Dr.
 Suite 202
 Kingwood, TX 77339
 (281) 548-0090

jrmyt@suncoastland.com

russell@suncoastland.com



& ASSOCIATES, INC.

LAFAYETTE OFFICE
 1720 KALISTE SALOOM RD.
 SUITE D-9
 LAFAYETTE, LA 70508
 337.989.7200
 337.989.7279 FAX

GRETNA OFFICE
 317 HUEY P. LONG AVE.
 GRETNA, LA 70053-5916
 504.366.5093 FAX

MKM7200@AOL.COM



Dominion

Dominion Exploration & Production, Inc.

Offshore Business Unit

1450 Poydras Street
 New Orleans, LA 70112
 504-583-7000

Kevin P. Guilbeau
 Sr. Vice President
 & General Manager
 Offshore

Michael A. (Mitch) Acland, Jr.
 General Manager,
 LandBusiness
 Development

Charley J. Corona
 General Manager,
 Louisiana Exploration

www.dom.com

How do you find Oil and Gas?
 Find it here with us at www.dom.com

JONES WALKER

Jones Walker's Energy Practice represents
 U.S. and International clients in energy related matters
 involving contracting, transactions, regulatory and litigation
 — large or small, single or complex —
 in a practical and economical manner.

Jones Walker's energy clients include:

- major producers
- independent producers
- pipeline companies
- oil field service companies
- landowners
- financial institutions

Jones Walker is the largest law firm in Louisiana with 229 lawyers
 occupying over 30 practice areas ready to meet the ever changing
 needs and evolving challenges of clients in the new global economy.

JONES, WALKER, WALKER, FLETCHER, CAMPBELL & DUNN, L.L.P.

HARRISON ROBERT LAWRENCE MOORE NEW ORLEANS WASHINGTON, D.C.

505 DOWRY ROAD, SUITE 130, LAFAYETTE, LOUISIANA 70506-3249
 Telephone: (337) 406-5616 Fax: (337) 406-5630
 Email: trungphat@joneswalker.com
www.joneswalker.com

PLANO'S TALENT BANK

Kudos to PLANO member Brad Broussard of Bradley Broussard Land Services, Inc., Lafayette, LA, who won the coveted "Poo Yie" trophy at the 17th Annual International Cajun Joke Tellin' Contest in Opelousas on Saturday, April 17, 2004. The event attracted nine competitors and an audience of 640 people, some from as far away as Michigan and Delaware. Brad expressed surprise that he had won, but since his philosophy is, "He who dies with the most laughs wins," it was quite apropos that he did.

Besides receiving the Poo Yie trophy, Brad won the right to serve as the master of ceremonies at next year's event. Watch out Justin Wilson, here comes Brad Broussard!!!



LISKOW & LEWIS

A PROFESSIONAL LAW CORPORATION
NEW ORLEANS ~ LAFAYETTE

JOHN M. WILSON
CRAIG WYMAN
JONATHAN A. HUNTER
THOMAS BERON
J. PATRICK MORRIS, JR.

LAWRENCE P. SIMON
JAMES N. MANSFIELD III
RICHARD W. REVELS, JR.
SHAWN C. RHYMES
JAMES H. DUPUIS, JR.

701 POYDHAS STREET
SUITE 5000
NEW ORLEANS, LA 70139-5099
(504) 581-7979

822 HARDING STREET
P.O. BOX 52008
LAFAYETTE, LA 70505-2008
(337) 232-7424

GORDON ARATA MCCOLLAM DUPLANTIS & EAGAN LLP

ATTORNEYS AT LAW

201 St. Charles Avenue
40th Floor
New Orleans, LA 70170-4000
(504) 582-1111

625 East Kaliste Saloom Road
Lafayette, LA 70508-2540
(337) 237-0132

301 Main Street
Suite 1600
Baton Rouge, LA 70825-0004
(225) 381-9643

2200 West Loop South
Suite 1050
Houston, TX 77027-3533
(713) 333-5500

www.gamde.com

HAMILTON LAND SERVICES, INC.

Complete Professional Land Services

RICHARD J. HAMILTON, II, CPL

Post Office Box 9190
Metairie, Louisiana 70055-9190

(504) 833-LAND (office) (504) 833-FAX1 (fax)

E-Mail: hamiltonland@aol.com

ADAMS AND REESE LLP

A Professional Law Corporation

One Shell Square
701 Poydras Street, Suite 4000
New Orleans, Louisiana 70138
(504) 581-3234
www.adamsandreeselaw.com

PERRET DOISE

A PROFESSIONAL LAW CORPORATION

Members of the Oil & Gas Section:

R. Thomas Jorden, Jr. John W. Kolwe
Ted M. Anthony Margaret D. Swords

FNB TOWERS, SUITE 1200
600 JEFFERSON STREET
LAFAYETTE, LOUISIANA 70501

PHONE: (337) 262-9000 FAX (337) 262-9001



HAROLD J. ANDERSON, INC.
Certified Professional Landmen

Lease Acquisition • Title Curative
Record Research • Rights-of-Way
Due Diligence • Environmental Assessments

2200 Pakenham Drive
Chalmette, LA 70043

810 Union St., Suite 402
New Orleans, LA 70112

Phone (504) 276-5858
Fax (504) 276-8566
hja@hja.com

**SOUTHERN
TITLE & ABSTRACT
CO., INC.**
Certified Abstracts of Title



2200 Pakenham Drive
Chalmette, LA 70043

810 Union St, Suite 402
New Orleans, LA 70112

Harold J. Anderson, CPL
President

Phone 504-276-5858
Fax 504-276-8566

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

COMPLETE PETROLEUM LAND SERVICES

SERVING SOUTH LOUISIANA
SPECIALIZING IN TERREBONNE & LAFOURCHE PARISHES

DAVID ELMORE, CPL
Phone: (985) 876-0689
Fax: (985) 872-2528
elmore@petroleumland-houma.com
www:petroleumland-houma.com

MURIEL'S
JACKSON SQUARE

BISTRO HOURS

LUNCH DAILY
11:30 AM - 3:00 PM

DINNER NIGHTLY
5:00 PM - 10:00 PM
SUNDAY - THURSDAY

5:00 PM - 11:00 PM
FRIDAY - SATURDAY

801 CHARLES ST.
AT ST. ANN

RESERVATIONS



**ONEBANE
LAW FIRM**
A Professional Corporation

Randal C. Songy
Gordon T. Whisman
Thomas G. Smart
Grant G. Sonnier
William E. Kallner
Mark E. Oliver

102 Versailles Boulevard, Suite 800
Post Office Box 8607
Lafayette, Louisiana 70502-3607

(337) 237-2500
FAX (337) 238-1232
E-MAIL info@onebane.com

www.onebane.com

Arthur C. LeBlanc, Jr., CPL & Associates, Inc.
Professional Land & Abstract Services

Oil & Gas Leases • 3-D Seismic Permitting
Rights of Way • Abstracts of Title
Title Curative • Mapping

ARTHUR C. LEBLANC, JR., CPL

200 Heymann Boulevard
P. O. Box 53877
Lafayette, LA 70505-3877

(337) 233-9099 (office) (337) 237-4912 (fax)
E-mail: artleblanc@aclalnd.com

Patrick W. Reagan, C.P.L.

**REAGAN ENERGY
SERVICES, L.L.C.**
Professional Land Services

P.O. Box 51194
Lafayette, LA 70505
Tel: 337.237.1296
Fax: 337.237.1299
Preagan@reaganenergy.com

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

Court Holds Oil and Gas Lessee Has "Implied Duty" to Restore Surface to Pre-Lease Condition – Approves Restoration Plan Requiring Filling In of Canals.

In 1963, a school board (the "**Board**") granted an oil and gas lease (the "**Lease**") covering certain marsh lands (the "**Marsh Lands**"). The Lease expressly allowed dredging of canals, but was silent as to any obligation for surface restoration following termination of the Lease. Two canals were dug by the Lessee (*the original and the assignees are collectively referred to as the "Lessees"*) during the term of the Lease, and following termination of same, the Board made demand upon Lessees to restore the surface of the Marsh Lands by, among other things, filling in these canals. The Lessees refused pointing out that the Lease did not require surface restoration. The Trial Court found that the Lessee had an "implied duty" to restore the surface of the Marsh Lands, required payment into the registry of the court for the estimated costs to restore, and appointed a special master to oversee the restoration project. The Louisiana Court of Appeal for the First Circuit affirmed the Trial Court in part and reversed in part as discussed below in the case of *Terrebonne Parish School Board v. Castex Energy, Inc., et al*, 2004 WL 540521 (La. App. 1st Cir. decided March 19, 2004).

The Judgments rendered in the case are somewhat complicated. Accordingly, we set forth the decrees in detail here below.

Trial Court Judgment

The Trial Court decided that the restoration could be accomplished for an amount not to exceed \$1.1 Million (including the below described allocations). It cast the Lessees liable in solido for that sum with it to be deposited into the registry of the court. A special master was appointed with the sum of \$150,000 allocated to him

to oversee the project, and a further sum of \$90,000 to be allocated for personnel to oversee the actual construction of the project. The Trial Court further ordered the Special Master to present a "suitable plan" to the Court for its approval based upon the Trial Court's methodology. Following approval, sums were to be drawn from the amount on deposit to pay for the work. Finally, to the extent that any monies remained, they were to be returned to the Lessees. All of the monies awarded were to be used for surface restoration.

Court of Appeal Judgment

The Court of Appeal agreed with the finding of surface restoration liability, but held that the Trial Court had no authority (absent consent of the parties) to appoint a special master, or employees to oversee the work. Accordingly, it deleted the appointments and the two allocations of funds for those purposes. Additionally, it held it had no authority to award an amount payable by the defendants into the Registry of the Court from which payment for the work would be drawn upon. The Court vacated the portion of the judgment awarding money and amended it to expressly require the Lessees to restore the Marsh Lands in the manner directed by the Trial Court. It specifically recited that the Lessees were to restore the two Canals and a slip in accordance with the methodology fashioned by the Trial Court.

The Facts

As noted above, two canals were dug pursuant to the terms of the Lease. Following termination of the Lease, the Board made demand upon the Lessees to restore the surface. The surface restoration included a demand that the Lessees fill in the canals. The evidence apparently confirmed a cost of between \$853,000 for fill if dredged material from a nearby source was utilized, or \$3,217,000 if river sand were used as a

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



fill. The Court noted that this would result in a different marsh than existed pre-drilling – that one was a free floating marsh. Apparently, the Lessees introduced evidence of a restoration plan that would have been significantly less expensive than would have eventually resulted in the free floating marsh being restored. No dollar amount was reflected in the Court's opinion for this alternative method (which the Court rejected).

Evidence was introduced that was apparently accepted by the Court of the value of the affected Marsh Lands, to-wit, between \$4,000.00 and \$7,000.00.

The Court's Analysis

1. Obligation for Surface Restoration

The Lease did not contain a clause requiring that the surface be restored following termination of the Lease. Since it did expressly allow the dredging of canals, Lessees argued that it had no obligation to plug the canals upon termination. It argued that it could be liable only for (a) negligence in its exercise of the right to dredge the canals, (b) use of surface property outside the scope of the Lease, or (c) unreasonableness in the use of the rights granted by the Lease. It cited the case of *Rohner v. Austral Oil Exploration Co.*, 104 So.2d 253 (La. App. 1st Circ. 1958), for this proposition. In that case, the Lessee leveled the lands used for a pit and drilling operations. The Lessor complained that effect of this was infertile crop land. That court denied damages to the Lessor/Landowner.

The Court of Appeal rejected any application of the holding in *Rohner*. It limited that court's decision by reasoning that the Lessee had already restored the surface, albeit in a substandard manner, and that the case was decided upon tort principles. The Court then held that a Lessee is responsible for surface restoration even if the Lease does not contain an express provision requiring it, and that a Lessor is entitled to compel the Lessee to undertake the performance of that obligation. In doing so, the Court made reference to a number of Articles of the Louisiana Mineral Code, including Article 122 which requires the Lessee to develop and operate the leased premises as a "reasonably prudent operator." The Court also pointed to the comments to this article which recite that there is an implied obligation to restore the surface "as near as is practicable to its original condition."

2. Rejection of Limiting Expense of Restoration to Market Value of Property

The Lessees next argued that if they have an obligation to restore the surface, it is limited to the restoration that a reasonably prudent operator of an oil and gas lease would undertake. They introduced evidence that Lessees of leases that allow dredging of canals do not refill them. They noted that the Comments to Article 122 limit the duty to restore the surface by a "standard of reasonableness which balances the cost of perfect restoration against the value of the use to which the land is being put."

The Court rejected the above and adopted the reasoning of the Trial Court as quoted hereinbelow. The language utilized is blunt:

"...mineral lessees are not unsophisticated entities, but generally companies seeking a profit from the recovery of minerals. These companies are willing to take the risks to reap big rewards. The Court believes that one of the risks that mineral lessees have taken in this case is restoration of this marsh. The Court is satisfied that this obligation to restore the wetland and/or marshes is a reasonable standard, in light of the rich reward of the oil industry and the fragile state of the wetland and marshes of this parish and this state."

Not surprisingly, the Court went on to expressly reject any argument that the fair market value of the Marsh Land was relevant to the amount of expense to be undertaken to restore the surface. It expressly cited the Louisiana Supreme Court's decision in *Corbello v. Iowa Production*, 850 So.2d 686 (La. 2003), as authority for this proposition. (*We have commented on the Corbello decision and its impact in prior articles.*)

Comment

This case continues the steady progression of decisions hostile to the oil industry. In *Corbello*, the Supreme Court was at least dealing with a surface lease that contained an express provision requiring surface restoration, although resulting in a decision so egregious that legislation was enacted in the next legislative session to limit the deleterious effect of same.

The Court in this instance has extended that decision to cover oil and gas leases that do not expressly require surface restoration. Additionally, the fact that the marsh land involved is worth at most \$7,000.00, proved irrelevant to the decision to require a \$1,000,000.00 restoration project

It is noteworthy that the Court at least did not award the Board money damages, but rather issued an order requiring the Lessees to restore the land involved.

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 whit-mang@onebane.com (internet e-mail).

Louisiana Legal Update is furnished at no charge as an oil and gas industry service to land professionals by The Onebane Law Firm, Lafayette, Louisiana, and may be reproduced and distributed freely so long as no fee is charged and the text is not modified. This update is intended for informational purposes only and is not a substitute for advice and guidance in particular situations by an experienced Louisiana legal or land professional.

PLANO GOLF OUTING REMINDER

PLANO GOLF AND TENNIS TOURNAMENT MONDAY, MAY 17, 2004, 9:00 A.M. BEAU CHENE COUNTRY CLUB ~ MANDEVILLE, LA

GOLF: 9:00 A.M. Shotgun Start
Entry Fee: \$125 PLANO Members / \$150 Non-PLANO Members
Four Golfer Scramble Format. Please make your own foursomes, if possible.

Please mail reservation forms to:
Rob Schroeder
P.O. Box 681 ~ Mandeville, LA 70470, or
e-Mail to – ras2000@bellsouth.net

Reservations cannot be confirmed until check is received.
Soft cleats or spikeless shoes only. No metal cleats allowed.

TENNIS: Round Robin – Entry Fee \$50
No partners necessary.

Mail tennis entry and check to:
Ed Amrock
Denbury Resources, Inc.
P.O. Box 2468 ~ Covington, LA 70434-2468
Tele : (985) 893-1530, Ext. 255
e-Mail : eda@denbury.com

Entry fee also includes continental breakfast, survival cart, lunch and prices.

**PLEASE MAKE YOUR RESERVATIONS EARLY!
LIMITED FIELD
ALL ENTRY FEES MUST BE PAID IN ADVANCE**

SPONSORS NEEDED:

For information on being a sponsor for a hole, breakfast, lunch or survival cart, please contact Harold Anderson at (504) 276-5858.

Full information on this event is shown on the
PLANO Web Site –
www.planoweb.org

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.

PLATINUM SPONSORS

Harold J. Anderson, Inc.
Burlington Resources Inc.
ChevronTexaco
Dominion Exploration & Production, Inc.
Legacy Resources Co., L.P.
McMoRan Oil & Gas LLC
Pioneer Natural Resources USA, Inc.
Robert A. Schroeder
Taylor Energy Company

GOLD SPONSORS

Energy Partners, Ltd.
ExxonMobil Production Company
Stone Energy Corporation

SILVER SPONSORS

BP America Production Company
Denbury Resources Inc.
EnCana Gulf of Mexico LLC
Fowler, Rodriguez & Chalos
Helis Oil & Gas Company, L.L.C.
Liskow & Lewis
Magnum Hunter Resources Inc.
Merlin Oil & Gas, Inc.
Murphy Exploration & Production Company
Newfield Exploration Company
Onebane Law Firm
Schully, Roberts, Slattery, Jaubert & Marino
SunCoast Land Services, Inc.
Virgin Oil Company, Inc.
W & T Offshore Incorporated

BRONZE SPONSORS

Acadian Land Services, L.L.C.
Anadarko Petroleum Corporation
Apache Corporation
BHP Billiton Petroleum (Americas) Inc.
Black Stone Minerals Company, LP
Breazeale, Sachse & Wilson, L.L.P.
Carver, Darden, Koretzky, Tessier, Finn, Blossman & Areaux, L.L.C.
Century Exploration New Orleans, Inc.
Challenger Minerals Inc. (CMI)
Cimarex Energy Co.
Clovelly Oil Co., Inc.
ConocoPhillips Company
Continental Land & Fur Co., Inc.
Cypress Energy Corporation

Devon Energy Production Company, L.P.
ENI Petroleum Co. Inc. (formerly AGIP Petroleum)
EOG Resources Inc.
Explore Enterprises LLC
C.H. Fenstermaker & Associates, Inc.
Frawley, Wogan, Miller & Co., Inc.
Gieger, Laborde & Laperouse, L.L.C.
Gordon, Arata, McCollam, Duplantis & Eagan, LLP
Gryphon Exploration Company
Hunt Petroleum Corporation
Japex (U.S.) Corp.
Jones, Walker, Waechter, Poitevent, Carrere & Denegre, L.L.P.
Land Management Services, LLC
LLOG Exploration Company, L.L.C.
Mariner Energy, Inc.
MARITECH Resources, Inc.
Marlin Energy Offshore, L.L.C.
Maxus (U.S.) Exploration Co., a Subsidiary of Repsol YPF
MCX Exploration (USA), Ltd.
Meridian Resource & Exploration, LLC (The)
Miami Corporation
Milling Benson Woodward, L.L.P.
Montgomery Barnett
NCX Company, L.L.C.
Nexen Petroleum U.S.A. Inc.
Noble Energy, Inc.
The Oil & Gas Asset CLEARINGHOUSE, L.P.
ORX Resources, Inc.
Pennington Oil & Gas Interests, L.L.C.
Perret Doise
Petroleum Land Resources, Inc.
PetroQuest Energy, L.L.C.
Pingora Exploration Company LLC
Plains Exploration & Production Company
Pruet Offshore Company
RIMCO Production Company, Inc.
Shell Exploration & Production Company
Spinnaker Exploration Co., L.L.C.
Stone Energy Corporation
Strain, Dennis & Bates, L.L.P.
Swift Energy Company
The Houston Exploration Company
UNOCAL Corporation
Vintage Petroleum, Inc.
Wall & Bullington LLC
Westport Resources Corporation
Lynell D. Zelenka

The PLANO 2004 Sponsor Program is ongoing. For those who wish to become a sponsor, please call Harold J. Anderson @ 504-276-5858, or Margo Cameron @ 504-593-7560.

**PROFESSIONAL LANDMEN'S ASSOCIATION
OF NEW ORLEANS**
P.O. Box 51123
New Orleans, Louisiana 70151-1123

PRESORTED STANDARD
U.S. POSTAGE
PAID
NEW ORLEANS, LA.
PERMIT No. 292

Deepwater Property Management LLC™

REVOLUTIONIZING THE WAY LAND DEPARTMENTS WORK

WE OFFER COMPLETE COPYRIGHTED DESCRIPTIVE INDEXES ABSTRACTING EVERY LEASE IN THE GULF OF MEXICO IN AN EASY TO FOLLOW FORMAT AT ONLY \$975 AN INDEX - INCLUDING

- **OPERATING RIGHTS OWNERSHIP**
- **RECORD TITLE OWNERSHIP**
- **ALL NON-REQUIRED FILINGS**

GET MMS PUBLIC ADJUDICATION DOCUMENTS 24 HOURS A DAY/7 DAYS A WEEK

CALL US TODAY TO SEE HOW EASY AND INEXPENSIVE DUE DILIGENCE CAN BE

Why Ever do MMS Research Again?

When we've already done it for you!

5500 PRYTANIA STREET

NEW ORLEANS, LOUISIANA 70115

504.454.8445

