ABANDONED WELL LIABILITY IN ALBERTA

Look What’s Surfaced
Issues with Secondary Users of Roads

How Regulatory and Accounting Rule Changes Impact Inactive Wells
Liabilities and Opportunities

CAPL Member Profile
Greg Strachan
power up

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Over the last five years the regulatory landscape concerning inactive and suspended wells has changed considerably, making these wells a major liability. Revisions have been made to accounting guidelines, reserve reporting and operational requirements. These adjustments can result in negative cash flow, reduced earnings, increased capital expenditures, a decrease in reserve bookings, and may result in non-compliance penalties and increased liabilities.

How Regulatory & Accounting Rule Changes Impact Inactive Wells
Liabilities and Opportunities

Written by Stephen A. White & Garry Moyes
Due to the recent changes impacting inactive wells, leaving wells “inactive” to avoid the costs of abandonment and reclamation is no longer viable. Significant value can be added to a company’s bottom line by actively marketing suspended wells.

Changes to accounting guidelines have impacted rules for financial statements, and reserve reporting. On the regulatory side, the ERCB instituted Directive 13 which may require movement of capital towards suspension and abandonment operations. Directive 13 can also impact your corporate compliance rating, resulting in fines and escalation up the enforcement ladder. However, within a company’s inactive well inventory there may also be recompletion opportunities where a company would be prudent to pursue and turn a liability into an asset. Regardless of this, a recompletion may not fall within a company’s economic parameters. In this case, value may still be found in the wellbore by dealing the well to an interested party where both parties benefit. Due to the recent changes impacting inactive wells, leaving wells “inactive” to avoid the costs of abandonment and reclamation is no longer viable. Significant value can be added to a company’s bottom line by actively marketing suspended wells.

Outlined below are some of the impacts a company may experience due to these regulation changes.

Net Income
As of January 1, 2004, companies were required to report their asset retirement obligations (“ARO”). Most inactive wells carry an ARO equal to the full cost of abandonment and reclamation. Each year a company is required to calculate the present value of its future obligations, including the ARO. In addition, it is mandatory to report any changes to future obligations, as well as the amortized value of the original obligation calculation. These amounts are recorded as liabilities and over time reduce a company’s net income. In addition to inactive wells, all associated pipelines and facilities also carry an ARO. The estimated average ARO for an inactive well is $77,000. This increases dramatically if there are associated facilities, pipelines, surface casing vent flows and spills.

Cash Flow
In addition to reporting an ARO against net income, there is a very real cost to maintain inactive and suspended wells. The cost of retaining an inactive or suspended well creates a measurable negative cash flow due to continuing annual operating costs. These costs include surface lease rentals, mineral lease rentals, municipal taxes, ERCB fees, operator fees, maintenance costs, and overhead. Annually, these obligations result in a total cost of approximately $9,000. These maintenance costs can quickly add up to millions of dollars depending on the number of inactive and suspended wells the company is carrying.

Reserves
In response to numerous public inquiries with respect to overstated reserves, to media feedback and from discussions with experts at oil and gas conferences, the Alberta Securities Commission implemented changes with respect to reserve reporting. These changes became effective September 30, 2003, and are outlined in “National Instrument 51-101 – Standards of Disclosure for Oil & and Gas Activities.” The purpose of NI 51-101 is to improve the quality and completeness of reserves information available to the public (Consolidated Oil and Gas Review Report, 2004, Alberta Securities Commission). It was also designed to prevent inappropriate or unsupported reserve estimates that may arise from inactive and suspended wells. Once a well becomes inactive, proven reserves can no longer be booked. Proper reserve reporting requires companies to delete any reserves that have been booked to a well once the well becomes inactive. Wells that do not meet corporate economic parameters and are sitting idle cannot have proven reserves. Probable reserves may be applied to suspended and inactive wells but they do little to add corporate value.

Directive 13
Impact on Capital Requirements
On July 24, 2007, the ERCB issued Directive 13 setting out the requirements for the suspension of inactive wells. Enforcement commenced December 31, 2007 wherein all completed, inactive low-risk wells (i.e. inactive for 10 consecutive years following the first year of inactivity) were required to meet suspension for medium-risk wells. The minimum cost to properly suspend an inactive well in this category is $36,000. Companies who fail to comply with Directive 13 are subject to ERCB non-compliance penalties and monthly fines.

Corporate Liability
Although the ERCB requires periodic examinations of all inactive wells, companies can still be exposed to undetected deficiencies including spills. Any operational or environmental deficiencies noted by ERCB inspectors will result in an unsatisfactory inspection report requiring the operator of the well to rectify the deficiencies within a prescribed time frame. Failure by the operator to do so can result in escalation on the non-compliance ladder.
Directive 6
License Liability Rating (LLR) Program
The changes to accounting rules, reserve reporting and operational requirements should raise the level of urgency to abandon inactive wells in order to avoid increased costs and liabilities. However, before abandoning a well, a re-entry farm-in should be considered. A re-entry farm-in allows the farmor to decrease their ARO, reduce maintenance costs and improve regulatory compliance while gaining the potential to receive royalty income should the recompletion be successful. The farmee gains the ability to re-work the well for any remaining potential (while assuming all liabilities). However, there is an industry reluctance to carry out well transfers to smaller companies due to the perception that the abandonment obligation will remain with the farmor should the farmee become bankrupt. This is not the case. On September 20, 2005, the ERCB introduced the Licensee Liability Rating Program (“LLR Program”). The LLR Program was designed to minimize the risk to the Orphan Fund posed by unfunded well, facility, and pipeline abandonment and reclamation liability (Directive 006, Alberta Energy and Utilities Board, Sept. 20, 2005). Although the LLR Program was designed to protect the public, it also protects the farmee in that funds should always be available to handle abandonment obligations if the responsible company is unable to carry out its commitment.

The LLR Program replaced the Well Screening Ratio program and implemented stringent guidelines pertaining to well transfers. Before ownership of a well is transferred, the ERCB takes into consideration the calculated LLR rating for the company assuming ownership. The ERCB calculates the LLR rating by considering the value of the company’s Alberta production and offsetting that value against the cost to abandon and reclaim the properties that are licensed to the operator. Operators are required to maintain an LLR rating of greater than 1. If a well transfer impacts the operator so that his LLR falls below 1, then the operator is required to post a security deposit with the ERCB. The ERCB retains the deposit until the operator has reached an LLR of 1. Should the company go bankrupt, the ERCB has funds to handle the abandonment and reclamation costs of the transferred well. As of April 1, 2009, the ERCB held $22.3 million in security deposits. A listing of all licensees and their LLR is available to the public on the ERCB website at www.ercb.ca.

Conclusions
Over the last 5 years changes to accounting guidelines and government regulations have added to the financial burden created by inactive wells. Inactive wells result in negative cash flow, increased capital expenditures, decreased reserve bookings, and risk non-compliance penalties and environmental liabilities. They have no proven reserves and therefore add no value to the company. Some inactive wells carry a significant ARO and create non-compliance issues. The reality is that inactive wells are very expensive to retain.

Typically, most inactive wells have been suspended by a prior technical review that has determined the well has no potential upside or any further workover opportunities available. Recompletion may be an option, but it is likely that corporate economic parameters do not warrant additional capital expenditures. Farming out or selling the well could be prudent, thereby avoiding the cost of abandonment. A re-entry farm-in allows the farmor to decrease their ARO, reduce maintenance costs and improve regulatory compliance, while gaining the potential to receive royalty income. Meanwhile, the farmee gains the ability to re-work the well for any remaining potential (while assuming all liabilities). The best time to deal a well is when it becomes marginally economic. At this time, the equipment can be sold along with the wellbore to obtain the greatest value.

In an environment of increasing regulations and with many inactive wells requiring immediate attention, the time has come to deal with this issue. Significant value can be added by actively marketing suspended wells in the same way that a company would market expiring land. Companies which fail to act run the risk of facing even greater liabilities and more stringent regulations in the future.

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What is a landman anyway? That's what Greg Strachan was wondering when he first accepted a position at Amoco Canada in 1977 and instantly became one.

Greg was born and raised in Calgary (growing up in the Rosemont area of the northwest and attended Crescent Heights High School). He graduated from the University of Calgary.
He joined the CAPL in 1978 and at that time there were no text-books, formal education paths or career guidelines – you followed the seasoned ‘pros’ around and became educated on the job...

with a degree in Geography in 1976 and wanted to be an Urban Planner (that’s sort of about “land”, isn’t it?). At the time there didn’t appear to be a lot of jobs in the planning field, and at age 22 he didn’t really know what career path he wanted to pursue. Resumes and applications were submitted at various places, and almost immediately he landed a job with a Calgary-area Real Estate Developer which lasted 3 weeks before he knew that this type of work was not for him – in large part due to the manager to which he reported. “Even at my young age and naivety, it was soon apparent to me that my boss had an over-inflated opinion of himself. I recall one day when he invited me to attend a meeting with him. I showed up at his office when it was time to go into the meeting and when, 5 minutes later, my boss was still not going in, I said, “Aren’t we late for the meeting?”, to which my boss replied, “Oh yes, I do this intentionally – I want people to have to wait for me, it might put them at a disadvantage.” Greg intuitively knew that that type of negotiating tactic was not for him and he wanted no part of it – so he quit – and shortly afterwards “landed” a job at Amoco Canada Petroleum Company.

When Greg applied for the position, he had never heard of a landman, but at the time it didn’t matter – it was going to be a paycheck, (time to get out and earn some money), and who knew? – he might even like it! Even though he had had no prior exposure to the oil and gas industry, it was the old “friend of a friend” who told him to apply at Amoco, and as it turned out, his timing couldn’t have been better. Jim Gibney was the landman who offered Greg the job and first compensation package. Jim also discreetly advised Greg to take some time off before committing to a start date because, at Amoco, he would have to work a full year before qualifying for his two-week vacation. Greg took advantage of Jim’s advice and enjoyed a few days off before starting. It didn’t take long before Greg knew that he had lucked into a potential career that he loved. Aside from the paycheck,
Greg found some other things to love about Amoco. The chief geophysicist at Amoco was Daryl Birnie and Daryl’s daughter, Kim, was a summer student there that year. Not only was Greg’s time at the office spent learning about land, some time was spent attracting the attention of Kim, who he married in 1980... Still together today.

In those days, Amoco had an abundance of great land mentors and colourful characters under whose tutelage Greg was initiated into the art of becoming a landman. He joined the CAPL in 1978 and at that time there were no text-books, formal education paths or career guidelines – you followed the seasoned ‘pros’ around and became educated on the job; and Amoco proved to be a fantastic learning ground. Besides the office training in Calgary, you were required to attend corporate sessions held at the Tulsa, Oklahoma training center a few times each year. Greg has fond memories of these trips. He chuckles recalling some of the after-hours...
extra-curricular activities whereby the Canadian contingents earned themselves the distinct reputation of being able to stay up all night and still attend sessions as (at least, semi) alert participants the next day!

After three years at Amoco, Greg joined Sabine Canada Ltd. (which became Co-enerco) and this was his first real exposure to the CAPL. Greg’s boss was Marv Rousch, who was a fundamentalist about providing the support, guidance, exposure and experience to all facets of land – field work, contracts, negotiation/deal-making and administration, for each of the landmen he directed and supervised. Marv was not only a great leader and mentor to Greg – he was also passionate about the CAPL and the opportunities it presented for personal growth and creating positive and career-enhancing relationships. He led by example, being an active volunteer and participant himself – at the time as a Director and eventually CAPL President. It was under Marv’s mentorship and encouragement that Greg became an involved participant in the social and networking opportunities, as well as the many and varied volunteer options presented by the Association.

Greg’s career history took its various twists and turns – after Co-enerco’s takeover, and over the next several years, he was employed in succession by Sceptre, Ranchmen’s, Crestar, PogoCanada, NCE/Petrofund and now at Paramount Energy Trust as Area Land Manager. He jokes about his tenure at the various companies – that it was almost like clock-work that upon Greg’s employment at a given company, they would become a takeover target within 3-4 years! During all of this, Greg continued his involvement and participation in the CAPL.

In 1994, Greg was elected to the CAPL Board of Directors and spent three respective years as Director of the Social, Member Services and Field Acquisition and Management (FAM) portfolios. In 1997, Greg was elected as the CAPL President. It was during his term on the Member Services portfolio that Greg and the existing BOD initiated the years of service pins. Prior to that there had been no real acknowledgement of certain members and their respective tenure status. Senior members want and need to be recognized for their continued support, participation and volunteerism. The now stylish Member Service pins were introduced that year and the tradition carries on today at the annual Merit Awards Meeting.

It was also during Greg’s tenure as President that the first Canadian Petroleum Prospect Exchange (“CPPE”) was launched. Greg credits Jim Moore as being the passion and driving force behind this venture. Greg recalls a meeting that he and Jim initiated where they met with the AAPL President who at the time, had worked on the organization of NAPE in the U.S. The meeting was intended to provide some insight and ideas into organizing a Canadian prototype of NAPE. It became apparent during the meeting that the AAPL wanted to come to Calgary and organize the event. Jim and Greg had their own ideas, and when they told the AAPL representative that we weren’t interested in the Americans running the show, the meeting was over. Nevertheless, with Greg and the Board’s support, Jim Moore and his team of volunteers put together a masterful publicity and promotion campaign for CPPE,
resulting in an extremely successful event which continued for several years. One of the group’s ideas resulted in a staged “field office” photo ad, complete with desk and phone “in the field” to advertise the importance of making the deal and how everything fits together from the acquisition of the surface lease to signing the Agreement. The resulting ad and photo are still used today in various CAPL public relations initiatives; and as Greg recalls, this trip to the field for the photo shoot was one of the highlights of his tenure as Board Member and President.

In the years following his Board terms and Presidency, Greg remained active as a CAPL supporter/volunteer working on a variety of Committees, and as a volunteer in the Mentoring Program with the up-and-coming grads from U of C PLM Program. Greg admits, however, that ... in his initial Mentoring role, his first “victim”, a U of C PLM 3rd year student, eventually chose to transfer into a different field after the mentoring term – and is now an accountant! Greg chuckles about this, but admits he was a little disappointed by the young fellow’s decision!

It was in 2005 that Greg once again took on a major event leadership role, chairing the very successful CAPL Conference in Niagara Falls, Ontario. Aside from the hugely popular appearance of Don Cherry and Ron MacLean, the Hockey Night in Canada icons, as guest speakers at one of the Conference luncheons, the delegates and attendees still talk today about the outstanding quality of the program, speakers, networking events and activities that were put together by the 2005 Conference Committee under Greg’s leadership.

The culmination and highlight of Greg’s achievements in CAPL however were realized when he was awarded the Herb Hughes Memorial Award for 2006. Greg feels honoured to this day to have been chosen as a recipient, and to have been introduced on that special evening by industry icon, Jim O’Byrne, who himself was the very first recipient of the Herb Hughes Award. Supported by his family that evening – wife Kim, son Tanner and daughter Jenna – and his peers and colleagues, he modestly and proudly accepted the award with gratitude. His speech that evening was filled with thanks and praise for the many excellent and talented people that he has had the good fortune to work for and beside over the years. He afforded honourable mention to Marv Rousch, Tom Berg, Jim O’Byrne and Gary Montgomery as having been instrumental and inspirational to his career and CAPL involvement. Greg mentioned then, and still believes today, that as CAPL members we have the right and responsibility to contribute whatever we can to the growth and success of our organization.

Greg may not have had a clue what he was getting into during that first Amoco job interview, but he’s sure glad that he ended up in the land profession. He is humble and grateful for having had, so far, a wonderful career and can’t imagine any other profession that he could have gone into that would have afforded him such rich and rewarding memories, or that he would have enjoyed as much. Greg’s foremost desire is to make a positive impact, and he feels grateful, in part, to CAPL for having had the opportunity to achieve that. As Greg so modestly reflects, “It has been truly rewarding to watch our association grow and evolve into the premier oil and gas professional association in our industry and I feel lucky to have been a part of it.” The CAPL has likewise been enriched by Greg’s contributions. Greg continues his career today as Area Land Manager (Northern) at Paramount Energy Trust.
A RECENT FRONT PAGE HEADLINE IN THE CALGARY HERALD STATING “FIGHT BREWING OVER DORMANT WELLS” reminded me again about the scope of regulatory and contractual liability lurking in background of acquisition and disposition activity in Alberta. Abandoned well liability is one of those issues that everyone kind of thinks about, but since the costs are not immediate, the issue tends not to be a focus in transactions.

However, as the WCSB matures, many of these old, stinky, abandoned wells will have issues with vent flow leaks (including sour gas), cement plugs crumbling, pressure build up in old fields and surface contamination clean up from junk oozing...
out of cracked plugs. These issues, combined with a more active ERCB oversight function and less tolerant land owners, means that many companies are now dealing with abandoned well issues more often than they would like.

Licensee Liability (That’s Not Our Well Tough Luck)
The first call will almost always come from the ERCB. A problem will be identified with an abandoned wellbore and the ERCB will contact the current licensee and tell them to fix the problem, pronto. In many instances you will have a meeting, do a little research and with some confidence come to the conclusion that the well in question is “not your well”. Thank goodness. Call the board back and explain the misunderstanding. Problem solved, right? Wrong.

The Oil and Gas Conservation Act (OGCA) makes it abundantly clear that continuing liability for abandoned wells is firstly the responsibility of the current licensee. No ands, ifs or buts. The ERCB is not concerned with who “owns” the wellbore. It is concerned only with who is shown as the licensee in its records.

From a public policy point of view this makes sense. Under this approach the ERCB does not need to get involved in complicated and nasty legal fights over where ownership finally ends up. Believe me, this becomes a very complicated question very quickly (as discussed below). If you are the licensee in the ERCB’s records, you fix the problem, period.

Compliance with this policy is ensured through Directive 019, which provides for company wide consequences for noncompliance. This means the Board can move you up the noncompliance matrix and ultimately place your company on global refer status or issue closure orders on all your licensed wells, facilities and pipelines if you do not follow their remediation plan for the abandoned well you don’t own. As the Borg say, “resistance is futile”.

Insolvent or NonExistent Licensees
The next big surprise comes when the ERCB identifies a problem but it turns out that the current licensee is insolvent or nonexistent (i.e. corporation is dissolved). One might think that it is these types of situations that the orphan well fund was created for. In a sense it was, however the board only dips into public money as a very last resort. If the current license cannot pay or does not exist the board will look to two other categories of persons to affix liability:

- Other working interest participants (WIP) in the well (OGCA Sections 27 and 29); and
- Prior licensees or WIPs (OGCA Section 31).

I remember a situation a few years ago where a licensee became insolvent and this triggered the board to demand the abandonments of about 10 to 15 wells. By this time the ERCB License Transfer Application (LTA) had already been amended to require that on transfer of well licenses, not only the transferee but the WIPs in the well were included on the transfer. So, the board sent a nice letter to the next largest WIP listed on the transfer and advised them that all the wells had to be abandoned (in about 90 days). Needless to say, this had an impact on my client’s development budget for that quarter.

Then we have the prior licensee liability problem. Think back to all those very clever deals where you sold an ugly old field to a Newco when prices went through the roof last year. They paid top dollar for current production and did not even notice all the abandoned junk that you dumped in the deal. Now Newco is out of cash and is noncompliant with the board. Abandonment orders are coming from the board and Newco is broke. Who is the board going to call? Wait for it. You. Even though you were able to foist contractual liability on Newco, the board does not care. If Newco cannot pay, you must pay. Me thinks this should at least be a consideration in deciding which bidder you select on disposition programs.

Contractual Liability (The Sale Agreement Chain)
Let’s take a step back from regulatory liability. As important as it is with respect to what you must do in the first instance when the ERCB calls, you cannot forget that regulatory liability has nothing to do with who is ultimately responsible to pay for the abandonment or clean up costs for a given wellbore.
Ultimate responsibility always rests with who owns the wellbore or who agreed to be liable for past, present and future environmental liability. These matters are dealt with in sale agreements.

There will often be a total disconnect between regulatory liability and contractual liability. This is where you need to dig into all the old sale agreements back to when the well was drilled. You need to try to figure out who is responsible for the well down the chain of ownership and then almost certainly start a court action to sue the ultimately responsible party (and everyone down the liability chain) to recover your costs for cleaning up the mess. Many nasty letters will be circulated. It is not a simple question. It will often take years to resolve.

There are a couple of general trends in sale agreements in Alberta transactions that you can consider as you are trying to figure out the chain of liability:

- Many older sale agreements were “white map” sales of all of a company’s assets and liabilities in a particular area. This means all wellbores on the lands, within a defined area, or used in relation to operations are considered part of the sale; and

- In such agreements, environmental liability for all abandoned wells (and facilities) in the sale area was conveyed to the purchaser. In a somewhat unique indemnity clause, the purchaser agrees to be liable for environmental liability in the past, present or future with respect to such abandoned wells.

This means that most abandoned wells (and liability for same) were conveyed to the purchaser. This would continue in each subsequent sale of lands in the area over time.

Depending on the definitions of “Assets” and “Wells” in the sale agreement, such liability would attach to all wells in the area, not just those on the well schedule. It can get very complicated trying to figure out if an abandoned well which isn’t on a well list falls under the “Assets” or environmental indemnity in a particular agreement. It only gets worse the longer the well has been abandoned. Again, tough questions that result in most vendors and purchasers down the chain being named in the lawsuit to recover costs.

For an excellent walk through of a sale agreement with respect to the issue of whether an abandoned facility was an “Asset” see Justice P.A. Rowbotham’s decision in Anadarko Canada Corp. v. Canadian Natural Resources Ltd. (ABQB 2006 CarswellAlta 1000).

Inability to Transfer Abandoned Well Licenses

Since about 2000 we have additional complexity with regard to abandoned well liability in Alberta. The Board in its infinite wisdom decided that it would no longer allow the transfer of licenses for abandoned wells. This was later amended to disallow the transfer of licenses for abandoned and reclamation certified wells.

This regulatory change created a huge disconnect between contractual liability and regulatory liability. Following the general sale agreement trends discussed above, liability for many abandoned wellbores would be conveyed to a purchaser. However at closing, we were unable to transfer the licenses for the abandoned wells to the purchaser since the EUB (at the time) would reject well transfers that included abandoned wells.

So now there are thousands of abandoned well licenses trapped in the name of upchain vendors, while contractual liability has flowed down chain to the current purchaser/owner of the lands. The ERCB contacts the licensee (being the guy unlucky enough to have held the well license on abandonment) and it must initiate the clean up.

That company then tries to work its way down the corporate liability chain to see who it can recover its costs from. Let’s just say that not very many down chain companies rush to reimburse the licensee for its costs. Honestly, I cannot blame them. The question of where the liability ball finally stops is really tough to figure out. Going to court is often the only answer.

Recent Sale Agreement Trends

The ERCB decision to deny the transfer of abandoned wells (and the colliery problem of the ERCB noncompliance consequence of transferring any well licenses on expired mineral rights) has lead to some subtle changes in sale agreements that only further complicate the abandoned well liability issue.
The definition of Wells will often now exclude abandoned wells, or abandoned and reclamation certified wells and even any wells on expired mineral rights (other than injection or disposal wells). This may be partly due to purchasers not wanting to take on unknown future environmental liabilities not tied to active asset. However, the change is being facilitated by vendors who have an innate desire to have the ERCB LTA match the well list in the sale agreement.

From a purchaser’s point of view this change is all good. However, for a vendor it may mean that abandoned well liability will now stop with you and not move down the purchase and sale chain as had occurred in the past.

For the poor licensee, this means even more complications in trying to figure out who is the party contractually responsible for clean up costs.

Joint Venture Partner Liability (Where do I send the JIB?)
An entire article could be devoted to the ancillary question of joint venture partner liability for abandoned well clean up costs. Problems include:

- determining which partners are responsible, current partners or partners when the well was abandoned;
- when does a JOA terminate with respect to abandonment liabilities;
- if the JOA has terminated, does that mean the licensee/operator is responsible for 100% of the costs;
- what happens when you stop issuing NOAs for JOAs with only abandonment liabilities; and
- why the heck do we do full NOAs for JOAs on lands where abandoned wells were excluded in the sale agreement (disclaimer I am guilty of doing this just like everyone else. Try sending out a partial JOA excluding only abandoned wellbores and see how the third parties react).

It really makes my head hurt. Needless to say, when your regulatory or accounting guys ask you to ok a JIB for an old abandoned well, you should quietly move the request into someone else’s inbox. Really, really tough question to answer.

The Orphan Well Fund
Lastly, a quick comment on the orphan well fund. It still exists under the OGCA and provides a mechanism for the licensee (or other party who gets directed to act) to recover the defaulting WIP’s share or suspension, abandonment and reclamation costs. This will be relevant where you have insolvent partners, which unfortunately might occur more often over the next little while. I have only dealt with the fund once (years ago), however the process was relatively painless. Simply fill out a form after you have calculated the defaulting WIP’s share of the cost and the board reimburses you from the fund if it agrees with your claim.
If this and subsequent issues of The Negotiator magazine strike you as brighter, and more colorful than previous issues, good for you for your observation skills. As of October, The Negotiator has gone to full colour throughout.

While it is still early days for me in the Communications Portfolio, I am amazed at the smooth running team of volunteers that produces the quality publication that is The Negotiator magazine month after month. Please turn to the first page after the cover of this issue to see who make up that team. It is a long list. They consistently strive for excellence, notwithstanding the pressure they are under with respect to deadlines. The editorial committee is constantly vetting articles for appropriateness and relevance. The pursuit of articles required by the deadline each and every month is done in a pleasantly persistent manner, whether feature content or regular content.

I would be remiss if I failed to acknowledge those qualified individuals who, notwithstanding the pace and demands of their own employment, produce quality articles on current issues and events, matters of real relevance to the day to day work of our membership. McAra Printing and Folio Publication Design’s Rachel Hershfield also are invaluable members of The Negotiator team.

While I don’t want to try to fix what isn’t broken, I do want to see constant evolution of and perpetual injection of new ideas into The Negotiator. The format and content are never set in stone. This is the publication of the CAPL, our publication, so the more content and input we have from within our membership, the more ownership we have in it. There is so much variety to the work we do as landmen and we rarely find ourselves sitting on the fence on issues, usually on one side or the other. So I see value in an editorial page, allowing for discussion on controversial topics in order to allow us all to do a perspective shift to see issues from different angles.

And on that note...

Call for Volunteers

Ever wanted to get involved in some aspect of our CAPL organization? Not sure in what capacity? Want to have an influence over content or direction of The Negotiator? Then please consider joining The Negotiator Committee. It takes many bright minds, old and not so old, to keep new and relevant feature content in every issue, to run down updates to the regular content every month, and to maintain and build on our faithful advertiser base. Please contact anyone on the list of volunteers of the various sub-committees including me. We will be happy to have you.

Margaret Ariss
Director, Communications
The key issues discussed at the CAPL Board of Directors’ Meeting held September 1, 2009 at the CAPL Office were as follows:

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- Guest Kevin Burke-Gaffney, Chairman of the 2009 Conference, provided an overall update on the Conference and advised that Brett Wilson, Philanthropic Leader, will be the keynote speaker at the September 28, 2009 luncheon.

- Jim Condon presented a Treasurer’s Report as at August 31, 2009 showing CAPL investments totalling $949,340.87 Canadian and $38,009.80 U.S. along with a cash balance of $284,347.57 Canadian and $2,699.12 U.S. The CAPL Scholarship Fund has a balance of $109,664.03. There was one transfer made since the last report of $100,000.00 from the T.Bill Account to the Current Account. Jim Condon presented the six month budget review and advised that as at June 30, 2009 revenues are generally falling short of projections. In light of the deteriorating finances K. Gummo encouraged Directors to work with their committees to limit expenditures wherever possible.

- Gloria Boogmans presented one student and ten active membership applications to the Board of Directors, which were approved.

- Jason Tweten, Director of Field Management, provided the following:
  - He is continuing his work on drafting both a policy and a process for each CAPL portfolio for the selection of external liaisons that represent the CAPL. Each Director is required to provide a list of external liaisons that represent their portfolios to the CAPL office. Once the list has been completed, J. Tweten will bring the final version of the policy to the Board for approval.

- He presented the final version of the “CAPL Affidavit for Volunteer Hours” to the Board of Directors, which was approved. The Affidavit is strictly for use by Land Agents renewing their Alberta Land Agent License and will be available on the CAPL website. Land Agents that volunteer for CAPL committee, board work, subcommittee work, work on projects, meetings and meeting preparation will be able to complete the Affidavit. The Affidavit will need to be signed by a Committee Chair, prior to being submitted to the Land Agents Registrar office.

- He presented the draft BC Surface Lease agreement to the Board of Directors. The Board agreed to endorse the principles of the lease document as a foundation and starting point for industry and landowners to enter into site specific agreements. The surface lease conforms to the BC Petroleum and Natural Gas Act and will be a valuable tool for landowners and industry. The lease agreement can be tailored to address the specific concerns of each party.

- Frank Terner, Director of Business Development, provided an update on amendments recently enacted by the BC Crown to the BC Drilling Licence Regulation, following more than a year of joint work involving representatives from CAPL and other industry associations.

- Frank Terner requested Directors to provide him with feedback in response to the Saskatchewan Ministry of Energy and Resources’ request for comments on their Proposed Change to the Term of Petroleum and Natural Gas Special Exploratory Permits.

- Sally Jackson, Director of Technology, advised that the final version of CAPL’s updated website will be launched within 4 to 6 weeks.

- Ken Gummo reminded Directors of the following:
  - The next Board of Directors’ Meeting will be held October 1, 2009 at the CAPL office.
  - The next General Meeting will be held September 28, 2009 at the Conference in Lake Louise, Alberta.

**John Covey**
Secretary/Director, Social
Get Smart

The CAPL Education Committee is pleased to present the following courses:

Well Spacings And Holdings
October 1, 2009 8:30 am to 4:30 pm
This seminar is designed to help become familiar with the concepts and regulations associated with drilling spacing units and target areas in Alberta and BC.

Geology
October 6 & 7 2009 8:30 am to 4:30 pm
This seminar is designed for oil and gas personnel that require a general understanding of geological prospect evaluation. Landmen, technologists and other personnel involved in written or oral communication with the geological department will benefit from attending this seminar.

CAPL Operating Procedure-Operational Issues
October 8, 2009 8:30 am to 4:30 pm
This is a one day seminar directed at Industry personnel who require a working understanding of the CAPL Operating Procedure and how it addresses specific operational issues currently facing our Industry.

2007 CAPL Operating Procedure
October 14, 2009 8:30 am to 4:30 pm
This one day course is an overview of the 2007 CAPL Operating Procedure focused specifically on the changes between the 1990 and the new document. It is meant to enable personnel to appreciate substantive differences between the 1990 and the 2007 documents. All experience levels are welcome but it should be noted that the course will not be focused on the basics of the operating procedure.

Alberta P&NG Regulations
October 15, 2009 8:30 am to 4:30 pm
This seminar will cover the administration of continuations for primary and continued leases; groupings and validation of licenses; registration of liens and transfers, surrenders, rentals, offsets; the P&NG sales process and trespass.

(PSL) Farming And Ranching Practices
October 19, 2009 8:30 am to 4:30 pm
This seminar is intended for surface land agents and other industry personnel. It will focus on all aspects of farming and ranching practices. Upon completion of the course, land agents will have a basic understanding of the key aspects of farm and ranching practices.

British Columbia P&NG Regulations
October 20, 2009 8:30 am to 4:30 pm
The seminar will provide an overview of the British Columbia Petroleum and Natural Gas Act and associated regulations, including such topics as the land tenure system, the Crown sales process and surface rights. A question and answer period will follow the presentation.

Fundamentals Of Oil & Gas Law
October 21 & 22, 2009 8:30 am to 4:30 pm
This seminar will cover a range of legal issues, including environmental law and regulatory matters, but will focus on the types of contracts most often dealt with in the upstream oil and gas industry. This is a two day seminar and is intended for junior to intermediate industry personnel.

1990 CAPL Operating Procedure Bootcamp
October 26 & 27, 2009 8:30 am to 4:30 pm
This is a challenging interactive two day course in which participants work through case studies on the new Operating Procedure in small work groups for presentation to the larger group. The case studies address subtleties of the Operating Procedure in the context of issues that could easily arise on files, so that attendees improve their understanding of those topics. The course is also designed to build the capability of attendees to assess and resolve Operating Procedure issues more generally.

Royalty Agreements
October 28, 2009 8:30 am to 12:00 pm
This seminar is designed to assist in interpreting and reviewing royalty clauses and agreements. It will examine the critical components of a royalty agreement, and will discuss such topics as: qualifying an overriding royalty (i.e. an interest in land vs. an interest in the proceeds from the sale of production); proper deductions in calculating an ORR; rights and obligations of the royalty owner and payor; and securing payment of an ORR.

CAPL Royalty Procedure
October 28, 2009 1:30 pm to 4:30 pm
This seminar is intended for landmen, administrators, lawyers and production accounting personnel requiring a senior level review of the CAPL Royalty Procedure.
(PSL) Preparing for a Surface Rights Board Hearing  
October 29, 2009  8:30 am to 4:30 pm
This course is for individuals who require a better understanding of the Surface Rights Board hearing process from start to finish. This course will begin by covering the types of surface rights board hearings, including compensation, rent review, damage claims and back rent. The next section will focus on the structure of the hearing and deal with procedural elements, evidence taken under oath, direct and cross examination of witnesses and questions from the board. From there the course will focus on evidentiary issues like the burden of proof and discuss privacy issues before closing by discussing the orders ultimately issued by the board.

Principles Of Contract Drafting And Interpretation  
November 3, 2009  8:30 a.m. to 12:00 p.m.
This seminar is intended for senior land personnel with a minimum 10 years experience drafting and interpreting contracts as a part of their daily job requirements. The principles of drafting and interpreting contracts that have evolved in case law over the years will be presented. In addition to reviewing case studies, the instructor will discuss the essential concepts in drafting and suggestions for improving essential parts of agreements.

Overview Contracts Administration  
November 5, 2009  8:30 am to 4:30 pm
An overview of the mechanics required to compile and administer efficient land systems and controls will be presented. The daily expectations and responsibilities of the land administrator will also be discussed. Practical examples will be provided and a discussion of common problems will be encouraged.

PSL: Fundamentals Of Surface Agreements  
November 10, 2009  8:30 am to 4:30 pm
A full day course intended for Industry personnel who require a detailed understanding of Surface documents. Those interested will have desire for a greater understanding of the different Surface documents available as well as the basics of Mineral/Contract Agreements.

Contractual Issues Relating To Acquisitions And Divestments  
November 12, 2009  8:30 am to 12:00 pm
This is a half day seminar intended for senior landmen who are involved in the acquisition and divestment of oil and gas assets and who wish to enhance their ability to identify the issues and respond appropriately. This seminar will focus on the legal aspects of the acquisition of oil and gas reserves and facilities. Special emphasis will be on legal issues, such as the rights to deposit, basic tax issues, the treatment of effective date vs. closing date, conditions precedent, consents, ROFRs, etc.

The Law Of Pooling: Voluntary And Compulsory  
November 16 & 23, 2009  8:30 am to 4:30 pm
Suitable for personnel in all aspects of the oil and gas business, but, is specifically targeted to those dealing with Compulsory Pooling issues, and, those involved in the negotiation, drafting, interpretation and implementation of industry Pooling Agreements. It is an intensive and detailed study of the Law of Pooling, which will focus on fundamental concepts and basic principles; emphasize the legal, practical and business consequences thereof; and provide insight and guidance on how to identify, analyze and resolve problems arising there from.

Fiduciary Duties  
November 17, 2009  9:30 am to 12:00 pm
This half day seminar is intended for experienced landmen and joint venture personnel who are involved in acquisitions and divestments. The seminar will focus on problem areas arising in the context of both transactions and day-to-day operations. Case examples and court decisions specific to land related issues will be presented and discussed.
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**Ethics**
November 17, 2009 1:00 pm to 4:30 pm
Case studies will encourage class discussion and give each participant insight into the morality vs legality question. This seminar will increase your understanding of ethics and the dimensions to ethical behavior by stimulating the ethical thought process, giving a basic introduction to the nuances of ethics, introducing a number of methods used in ethical decision making, and providing a forum for discussions with respect to land related ethical issues.

**Saskatchewan P&NG Regulations**
November 19, 2009 8:30 am to 4:30 pm
This seminar is intended for land personnel who require an understanding and working knowledge of the Saskatchewan Petroleum and Natural Gas Regulations. The seminar will provide an overview of the Saskatchewan Petroleum and Natural Gas Regulations. Emphasis will be placed on the land tenure system, lease continuation, posting and bidding on Crown Land. A question and answer period will follow the presentation.

**Geophysics For Non Geophysicists**
November 24, 2009 8:30 am to 4:30 pm
This seminar is designed for non-scientists who wish to acquire a basic understanding of geophysics as it is related to the oil industry. Particular emphasis will be placed on trying to provide answers that land professionals may have regarding the interpretation, uses, limits, costs, and timing issues pertaining to seismic data in Western Canada.

**Resolving Conflict Through Negotiation**
November 25, 2009 2008 8:30 to 4:30 pm
This seminar is designed for landmen and other individuals who wish to upgrade their communication skills through the use of interest-based negotiations. This negotiation model is the model used in the settlement of disputes by the ERCB and subscribed to by the C2C Task Force.

**Negotiating: The Essential Skill For Landmen**
November 26, 2009 8:30 am to 4:30 pm
This seminar will provide participants with an understanding of the process of negotiating and will introduce them to the skills required to achieve outstanding agreements. Instruction will involve short presentations, case discussions, practice negotiations and video clips. Participants will be fully engaged throughout the program.

**Aboriginal Affairs**
November 30, 2009 8:30 am to 12:00 pm
This session is especially useful for those interacting with Aboriginal governments, businesses and communities, and helps in building positive relations to enhance our effectiveness with Aboriginal people.

This session outlines key events in history that have led to the current state of Aboriginal peoples in Canada: the Indian Act, Treaties, Residential School, terminology, demographics, landmark court cases and the changing regulatory requirements which affect cycle times and access to land.

We discuss myths and misconceptions, traditional land issues, relationship building and answer questions ... what you wanted to know about .

Registration can be done online at www.landman.ca.
Full course descriptions can be found in the 2009 CAPL Course Calendar which is available online at www.landman.ca.
For further information, please contact the CAPL office either by phone at 237-6635, or email dgrieve@landman.ca.
Call Out For Volunteers!

The Negotiator is published 10 times per year (September through June) and provides a forum for the exchange of information relating to the important and evolving role of the land negotiator in today's oil and gas industry. The Negotiator is assembled monthly by a passionate team of CAPL members who are dedicated to bringing relevant issues, timely developments and important regulatory changes to all the members of the CAPL.

The Negotiator Feature Content Committee is tasked with setting the direction, mood and tone of the publication's articles and features from the inception of the article idea to the submission to the publication designer as the edition goes to printing.

It is the Committee's desire to acknowledge and represent the diverse and vibrant views, opinions and perspectives of the many land negotiators forming the membership of the CAPL.

Committee Benefits:
- Significant networking opportunity
- Your name is published monthly
- Mentorship with senior land negotiators
- Regular free lunch
- Be on the leading edge of industry developments and critical issues
- Play a key role in direction, mood and tone of articles and features

Roles And Responsibilities:
- Two year term commitment
- Regular (monthly) lunch meetings
- Monthly commitment of about 4 hours
- Team and self-directed production and development of ideas, articles and features
- Senior/Junior subgroup pairing
- Monthly editing of finished product

You can play a role in the direction of our esteemed publication. Please contact Mark Innes at marksinnes@shaw.ca or 403.818.7561 ASAP to reserve a spot for yourself on our Committee. There are a limited number of volunteer spots available, so please call today!
## Roster Updates

### New Members

The following members were approved by a Motion on September 1, 2009:

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Current Employer</th>
<th>Sponsors</th>
</tr>
</thead>
<tbody>
<tr>
<td>Christopher Clark</td>
<td>EnCana Corporation</td>
<td>Dan Connelly, Craig Thomas, Brian Weston</td>
</tr>
<tr>
<td>Matias Fernandez</td>
<td>ConocoPhillips Canada</td>
<td>Ken Buckley, Lynn Lehr, P.Land, Scott Naider</td>
</tr>
<tr>
<td>Kyle Huntley</td>
<td>Scott Land &amp; Lease Ltd.</td>
<td>Greg Meidinger, Kelly Pypers, Trevor Segstro</td>
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<tr>
<td>Nathan Kraft</td>
<td>LandSolutions Inc.</td>
<td>Chad Hughes, John Laranas, Neal Taylor</td>
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<td>Jason Norrie</td>
<td>Pioneer Professional Services Group</td>
<td>Paul Mandy, James McCorquodale, Cam Urquhart</td>
</tr>
<tr>
<td>Brad Reynolds</td>
<td>ConocoPhillips Canada</td>
<td>Lawrence Fisher, Gary Montgomery, P.Land, Trudy Munro</td>
</tr>
<tr>
<td>Nicholas Stavropoulos</td>
<td>Harvest Operations Corp.</td>
<td>Guido De Ciancio, Dave Robinson, Laura Quinn</td>
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<tr>
<td>Tyler Thorburn</td>
<td>Progress Land Services Ltd.</td>
<td>Grant Barnes, Philip Graham, P.Land, Jason Svenningsen</td>
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<tr>
<td>Chris Trudel</td>
<td>EnCana Corporation</td>
<td>James Lende, Greg Meidinger, Noel Millions, PSL</td>
</tr>
<tr>
<td>Brad Turner</td>
<td>Brit Resources Ltd.</td>
<td>Margaret Ariss, John Ediger, Ray Ramsay</td>
</tr>
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### Student

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<tr>
<td>Mark Adams</td>
<td>Olds College</td>
<td>Joel Gingrich</td>
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### On the Move

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<th>Sponsors</th>
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<tr>
<td>Peter Abercrombie</td>
<td>Trafalgar Energy Ltd.</td>
<td>Trafalgar Energy Ltd.</td>
</tr>
<tr>
<td>Douglas Bedard</td>
<td>Ag-West Land Inc.</td>
<td>Canada West Land Services Ltd.</td>
</tr>
<tr>
<td>Lynda Berry-Dinsmore</td>
<td>Paramount Resources Ltd.</td>
<td>Paramount Resources Ltd.</td>
</tr>
<tr>
<td>Michael Borggard</td>
<td>Advantage Oil &amp; Gas Ltd.</td>
<td>Advantage Oil &amp; Gas Ltd.</td>
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<tr>
<td>Barbara Caldwell</td>
<td>TAQA North Ltd.</td>
<td>TAQA North Ltd.</td>
</tr>
<tr>
<td>Donna Cathery</td>
<td>Wilderness Energy Corp.</td>
<td>Wilderness Energy Corp.</td>
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<tr>
<td>Mike Colijn, P.Land</td>
<td>Salvo Energy Corporation</td>
<td>Salvo Energy Corporation</td>
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Toll Free: 1.800.667.8025

Fax: 306.586.7669

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<table>
<thead>
<tr>
<th>Richard Dixon</th>
<th>CPC Canada Corp. to Altex Energy Corporation</th>
</tr>
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<tr>
<td>Jackie Farquhar</td>
<td>Advantage Oil &amp; Gas Ltd. to Independent</td>
</tr>
<tr>
<td>Richard Gibbs</td>
<td>Independent to Baytex Energy Ltd.</td>
</tr>
<tr>
<td>Marah Graham</td>
<td>Austwide Mining Title Management Pty Ltd. to Canadian Natural Resources Limited</td>
</tr>
<tr>
<td>Jesse Griffith</td>
<td>Cavalier Land Ltd. to Edge Resources</td>
</tr>
<tr>
<td>Michelle Holt</td>
<td>Galleon Energy Inc. to Cequence Energy Ltd.</td>
</tr>
<tr>
<td>Amanda Kuspira</td>
<td>Integrity Land Inc. to LandSolutions Inc.</td>
</tr>
<tr>
<td>David Lee</td>
<td>Scott Land &amp; Lease Ltd. to Independent</td>
</tr>
<tr>
<td>Kevin MacFarlane</td>
<td>Petro-Canada Oil and Gas to Independent</td>
</tr>
<tr>
<td>Lloyd Maxwell, PSL</td>
<td>Apache Canada Ltd. to Murphy Oil Company Ltd.</td>
</tr>
<tr>
<td>Ken McNeill</td>
<td>Gibraltar Exploration Ltd. to Cutpick Energy Inc.</td>
</tr>
<tr>
<td>Jarvis Nicoll</td>
<td>Ag-West Land Inc. to Canada West Land Services Ltd.</td>
</tr>
<tr>
<td>Brad Purdy</td>
<td>Ridgeback Exploration Ltd. to Oculus Energy Inc.</td>
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<tr>
<td>Peter Rowe</td>
<td>Independent to Enerplus Group</td>
</tr>
<tr>
<td>Adrienne Schipperus</td>
<td>Independent to Crescent Point Energy Trust</td>
</tr>
<tr>
<td>Troy Smith, P.Land</td>
<td>Pegasus Oil &amp; Gas Inc. to Endurance Energy Ltd.</td>
</tr>
<tr>
<td>Robert Van Wielengen, P.Land</td>
<td>Oilexco Inc. to Rovan Resources Ltd.</td>
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CAPL 9-Ball Pool Tournament

THE 12TH ANNUAL CAPL 9-BALL TOURNAMENT was held Thursday, May 14, 2009 at the Garage in Eau Claire Market and as in past years, a lot of fun was had by over 50 attendees and spectators. The winners at the end of the evening were as follows:

Winners: “A” Side: Harry Ediger, Clark Drader
“B” Side: Tom Walton and Greg Meidinger
Runners up: “A” Side: Rick Gushue, Hank Radomski
“B” Side: Gregg Larsen, Bill MacDonald

On behalf of the committee members, I would like to thank all of the participants, spectators and especially the sponsors listed below. Without our sponsors generous contribution this tournament would not be possible.

A special thanks to the 2009 9-Ball committee which includes Clark Drader, Hank Radomski and RK (Bob) Howard.

Harry Ediger
Chairman

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p. 403.571.5263 f. 403.571.5266
www.explorersoftware.com
## Western Canada Land Sale and Drilling Rig Review

### Land Sale Data

<table>
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<tr>
<th>AREA</th>
<th>Total Ha Sold (thousands)</th>
<th>Average $ / Ha</th>
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<tr>
<td>BC</td>
<td>21,080</td>
<td>$1,760</td>
</tr>
<tr>
<td>AB - Foothills</td>
<td>5,632</td>
<td>$413</td>
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<tr>
<td>AB - Plains</td>
<td>42,418</td>
<td>$216</td>
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<tr>
<td>AB - Northern</td>
<td>163,032</td>
<td>$273</td>
</tr>
<tr>
<td>SK</td>
<td>189,277</td>
<td>$1,282</td>
</tr>
<tr>
<td>MB</td>
<td>9,002</td>
<td>$309</td>
</tr>
</tbody>
</table>

August 2009

NOTE: Numbers are rounded

### Drilling Report for Last 5 Years

### Drilling Rig Utilization Rate

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Contact:
Ron Vermeulen, P. Land | Chad Hughes | Shawn Howard
Look What’s Surfaced!

SRB fixes compensation payable by second operators for existing roadways

IN TWO RECENT DECISIONS, THE SURFACE RIGHTS BOARD HAS DEALT WITH THE ISSUE OF INITIAL COMPENSATION PAYABLE BY OPERATORS FOR THEIR USE OF EXISTING ROADWAYS HELD BY OTHER OPERATORS. In the case of Advantage Oil & Gas Ltd., Advantage was using an existing roadway near Buck Creek held by another operator under right of entry order, and so was unable to enter into a road use agreement¹ (See Decision No. 2009/0193). ConocoPhillips Canada Resources Corp. was using an existing roadway near Drayton Valley held under surface lease by the original operator. When the landowner refused to consent
to a road use agreement between Conoco and the original operator, Conoco was required to obtain a right of entry order (See Decision No. 2009/0258).

In both cases, the operators argued that compensation for their use of the roadways should be similar to what was paid to other operators under road use agreements. Both operators presented the Board with information relating to road use agreements in the area of the roadways, and described the compensation protocol for road use agreements. Using the road use formula, Advantage’s final offer was for $240.00 initially and $100.00 annually.

Conoco also noted that compensation had already been paid for the factors in section 25(1) of the Surface Rights Act when the original surface lease was granted, so compensation for Conoco’s order should only take into account any incremental impacts caused by its use of the roadway. Conoco’s final offer was for $1,500.00 as a lump sum initial payment, and no annual payment.

The landowners in the Advantage case did not present any evidence, but instead used the compensation paid for the original right of entry order as a basis for their request. The landowners’ initial compensation request in this instance was for between $800.00 and $900.00, with annual payments of between $200.00 and $250.00, at least double what the operator would have paid under road use agreements.

The landowner in the Conoco case argued that compensation should be awarded on all four heads of compensation, as if it was a brand new taking, and presented the Board with various surface leases in the area to demonstrate compensation levels. His only recognition of the continued income under the original surface lease was a proposal that Conoco only pay a prorated portion of loss of use. The landowner requested total initial compensation of $56,648.00 (using a hypothetical small parcel land value), with annual compensation of $3,172.00.

In both decisions, the Board found that the operators’ evidence of other road use agreements was of little value. In the Advantage case, there was no other evidence to suggest a pattern of dealings, nor was there any evidence of empirical losses. The Board therefore attempted to fix compensation based on the factors set out in section 25(1) of the Surface Rights Act, but recognized the difficulty of this task given the lack of evidence presented in respect of any of those factors.

The Board recognized that land value, loss of use and damage to land had previously been paid as part of the compensation for the original right of entry order. As all of the lands contained in the new Advantage order were also subject to the old order, the Board found that there was no additional adverse effect to the remaining land. However, the Board found that the new order would result in additional nuisance, noise and inconvenience while the well was being worked. Based on the compensation being paid for the original order, the Board fixed initial compensation for the new order at $900.00, and $250.00 annually for increased for nuisance, noise and inconvenience.

In the Conoco decision, the Board also held that the landowner’s agreements were not comparable to the subject roadway did not form a pattern of dealings. As with Advantage, the Board in Conoco confirmed that compensation for land value and loss of use had already been paid. However, the Board held that the landowner was impacted during the first year of Conoco’s road use as a result of the drilling rig and associated traffic travelling the roadway, and as a result of having to deal with the operator. The Board also found that the landowner suffered incremental adverse effects as a result of Conoco’s use of the roadway, and quantified those incremental effects by reference to the amount the landowner was receiving for adverse effect under the existing surface lease, which included the roadway and a wellsite. The Board awarded initial compensation of $2,500.00 for general disturbance and $1,100.00 for incremental adverse effects, with annual compensation of $1,100.00.

Although the Board treats every right of entry order as a “new taking”, these two decisions demonstrate that the Board recognizes and takes into account the individual circumstances of each “new taking”, including any existing grants and uses of the same land.

Notes
1. The Surface Rights Board’s position is that an operator holding a right of entry order does not have the right to grant a road use agreement to another operator.
2009 CA PL Golf Tournament

THIS YEAR’S 2009 CA PL GOLF TOURNAMENT WAS A HUGE SUCCESS DUE TO THE OVERWHELMING SUPPORT OF THE CA PL MEMBERSHIP AND OUR GENEROUS SPONSORS. The new venue at Heritage Pointe allowed us to bring back the networking aspect of the tournament through a single shotgun start and proved to be a good fit for the CA PL Golf Tournament.

We would like to extend special congratulations to Michael Borggard who got his first Hole-in-One on the Scott Land & Lease sponsored par 3. Mr. Borggard took home $25,000 after holing his shot from 168 yards out on Heritage #3. It is the first Hole-In-One in the 15 years Gregg Scott has been sponsoring the event. Congratulations Mike!

Through the generosity of our sponsors and mulligan donors we were able to donate thousands of dollars to various charities in Calgary. The winners of the 50/50 draw were Shyanne Woroniuk and Rosslynn Boake. Shyanne won the cash and Rosslynn won the charity tax receipt portion and chose to donate equal amounts to the Calgary Humane Society and the Calgary Handibus Association.

The committee would like to thank all of the sponsors and contributors for their continued support as this tournament would not have been possible without them. A special thanks to the co-chairs of the committee Kristen McDonald and Alayne Fernquist who were responsible for the record breaking sponsorship and the very memorable tournament. And last but not least the “Eye Candy” of the Golf Committee: Peter Brimacombe, Lawrence Fisher, Jeff Talbot, Dave Boisjolie, Len Moriarity, Trevor Burke, and Cam Urquhart.

Mark off Thursday, August 19th in your calendars for the 2010 CA PL Golf Tournament at Heritage Pointe.

Kristen McDonald and Alayne Fernquist
Tournament Co-Chairs

Hole Sponsors
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Altus Geomatics
Birchcliff Energy Ltd.
Brill Land Services
Core Geomatics
Energy Navigator
EnerLaw LLP
Enerplus
Explorer Software
Focus Surveys
geoLOGIC Systems
Harvest Energy
Heritage Surface Solutions
IHS Inc.
LandSolutions
Maverick Land Consultants
McMillan LLP
McMillan LLP
Midwest Surveys
Miller Thomson
Oil & Gas Index
P2 Energy Solutions
Pioneer Land
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# CAPL Calendar of Events

## October

<table>
<thead>
<tr>
<th>Date</th>
<th>Day</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Thu</td>
<td>Well Spacings and Holdings</td>
</tr>
<tr>
<td>5</td>
<td>Mon</td>
<td>Saskatchewan Land Sale</td>
</tr>
<tr>
<td>6-7</td>
<td>Tues-Wed</td>
<td>Geology, Board Meeting</td>
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<tr>
<td>8</td>
<td>Thur</td>
<td>1990 CAPL Operating Procedure: Overview of Operational Issues</td>
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<tr>
<td>12</td>
<td>Mon</td>
<td>Thanksgiving Day</td>
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<tr>
<td>14</td>
<td>Wed</td>
<td>2007 Operating Procedure</td>
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<td>14</td>
<td>Wed</td>
<td>Alberta Land Sale</td>
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<tr>
<td>15</td>
<td>Thur</td>
<td>Alberta P&amp;NG Regulations</td>
</tr>
<tr>
<td>19</td>
<td>Mon</td>
<td>PSL: Farming and Ranching Practices</td>
</tr>
<tr>
<td>20</td>
<td>Tues</td>
<td>British Columbia P&amp;NG Regulations</td>
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<tr>
<td>21-22</td>
<td>Wed-Thur</td>
<td>Fundamentals of Oil and Gas Law</td>
</tr>
<tr>
<td>21</td>
<td>Wed</td>
<td>British Columbia Land Sale</td>
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<tr>
<td>22</td>
<td>Thur</td>
<td>General Meeting</td>
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<tr>
<td>26-27</td>
<td>Mon-Tues</td>
<td>1990 Operating Procedure Bootcamp</td>
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<td>27</td>
<td>Tues</td>
<td>CAPL Topical Issues Luncheon</td>
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<tr>
<td>28</td>
<td>Wed</td>
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<tr>
<td>28</td>
<td>Wed</td>
<td>Royalty Agreements and CAPL Royalty Procedure</td>
</tr>
<tr>
<td>29</td>
<td>Thur</td>
<td>(PSL) Preparing for a Surface Rights Board Hearing</td>
</tr>
<tr>
<td>29</td>
<td>Thur</td>
<td>Negotiating for Surface Landmen (Grand Prairie)</td>
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## November

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<thead>
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<tbody>
<tr>
<td>3</td>
<td>Tues</td>
<td>Principles of Contract Drafting &amp; Interpretation</td>
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<tr>
<td>3</td>
<td>Tues</td>
<td>Board Meeting</td>
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<tr>
<td>4</td>
<td>Wed</td>
<td>Manitoba Land Sale</td>
</tr>
<tr>
<td>5</td>
<td>Thur</td>
<td>Overview to Contracts Administration</td>
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<tr>
<td>10</td>
<td>Tues</td>
<td>(PSL) Fundamentals of Surface Agreements</td>
</tr>
<tr>
<td>11</td>
<td>Thur</td>
<td>Remembrance Day</td>
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<tr>
<td>11</td>
<td>Thur</td>
<td>Contractual Issues Relating to Acquisitions &amp; Divestments</td>
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<tr>
<td>16</td>
<td>Mon</td>
<td>The Law of Pooling</td>
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<td>17</td>
<td>Tues</td>
<td>Ethics</td>
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<tr>
<td>17</td>
<td>Tues</td>
<td>Fiduciary Duties</td>
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<tr>
<td>18</td>
<td>Wed</td>
<td>Alberta Land Sale</td>
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<td>23</td>
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<td>The Law of Pooling</td>
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<tr>
<td>24</td>
<td>Tues</td>
<td>Geophysics for Non-Geophysicists</td>
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<tr>
<td>25</td>
<td>Wed</td>
<td>Resolving Conflict Through Negotiation</td>
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<tr>
<td>26</td>
<td>Thur</td>
<td>Negotiating: The Essential Skill for Landmen</td>
</tr>
<tr>
<td>30</td>
<td>Mon</td>
<td>Aboriginal Affairs</td>
</tr>
</tbody>
</table>

# October Meeting

Francis Saville  
Chairman of Nexen Inc.  
Thursday, October 22, 2009

**Cocktails:** 5:00 p.m.  
**Dinner:** 6:00 p.m.  
**Location:** The Westin Calgary  
320 – 4 Avenue S.W.  
**Cost:** CAPL Members No Charge  
Guests $89.25 (includes GST)

All members are required to confirm their attendance by return fax.  
Only guests are required to purchase a ticket. Fax registration form to 403-263-1620, Attn: Karin Steers or email ksteers@landman.ca and guest tickets will be sent to you with an invoice. Please confirm your attendance prior to noon on October 15, 2009.

# November Meeting

**Networking Evening**  
Thursday, November 19, 2009

**Reception:** 5:00 p.m.  
**Location:** The Ranchmen’s Club  
710 – 13 Avenue S.W.  
**Cost:** CAPL Members No Charge  
Guests $73.50 (includes GST)

All members are required to confirm their attendance by return fax.  
Only guests are required to purchase a ticket. Fax registration form to 403-263-1620, Attn: Karin Steers or email ksteers@landman.ca and guest tickets will be sent to your sponsor along with an invoice. Jacket is required (no jeans or t-shirts). Drink tickets will be available via credit card from the CAPL office beginning October 15, 2009. Please confirm your attendance prior to noon on November 12, 2009.

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"AccuMap is the industry standard."

— The Crescent Point Energy Trust Land Team

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