



HAPL Newsletter

January 1, 2018

"LAND IS THE BASIS OF ALL WEALTH"

IN THIS ISSUE

HAPL January Joint Luncheon

January 4, 2018

The HAPL January Joint Luncheon will be held on January 4, 2018 at the Houston Petroleum Club in downtown Houston from 11:30am – 1:00pm. The NHAPL and WHAPL will be joining our group for this luncheon. AAPL President, David W. Miller, will be speaking to our group about AAPL and updating us on their current activities. You can register for the luncheon on the HAPL website at www.hapl.org. This luncheon has been certified for one RPL/CPL credit. Be sure to pick up your credit form when you arrive.

AAPL President, David W. Miller



David W. Miller is the owner and Managing Member of Miller Land Professionals, LLC, a full-service land company located in Jackson, Mississippi. After graduating from Mississippi State

University with a degree in Geology in 1975, Mr. Miller began his forty-year career as a landman working for his father. He formed Miller Land Professionals in 2003 and

expanded his business to cover more than twenty states. He is a Certified Professional Landman and a Registered Professional Geologist.

He is a past president of the Mississippi Association of Petroleum Landmen, and is currently a member of the Executive Committee of the U. S. Oil & Gas Association, Mississippi & Alabama Division.

Mr. Miller assists Habitat for Humanity in preparing abstracts and title certificates and resolving title problems on property being acquired for the construction of new homes and on homes scheduled for improvement loans, and he regularly prepares mineral appraisals for Medicaid patients entering extended care facilities.

More information about AAPL can be found online at www.landman.org.

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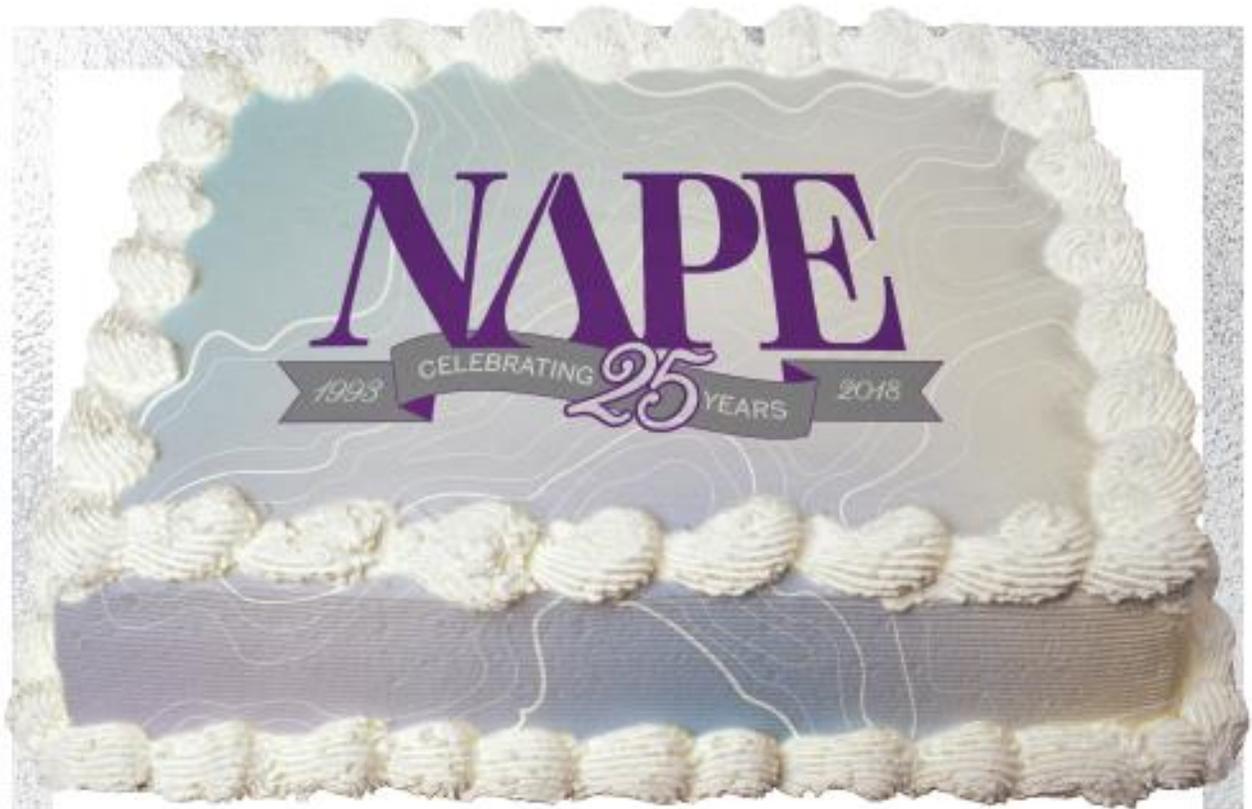
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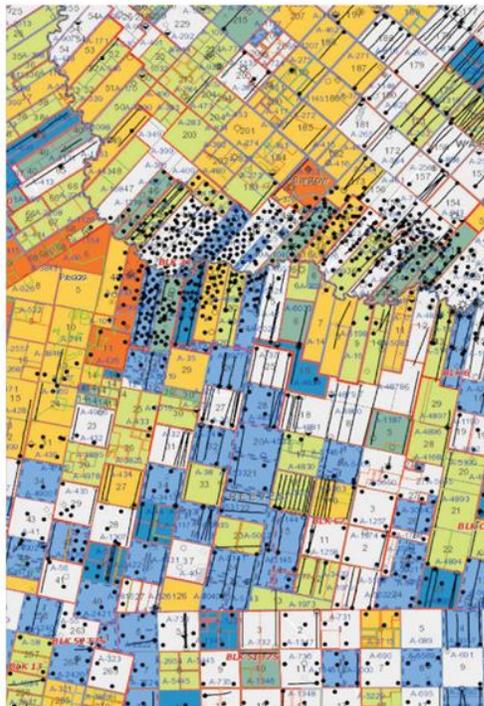
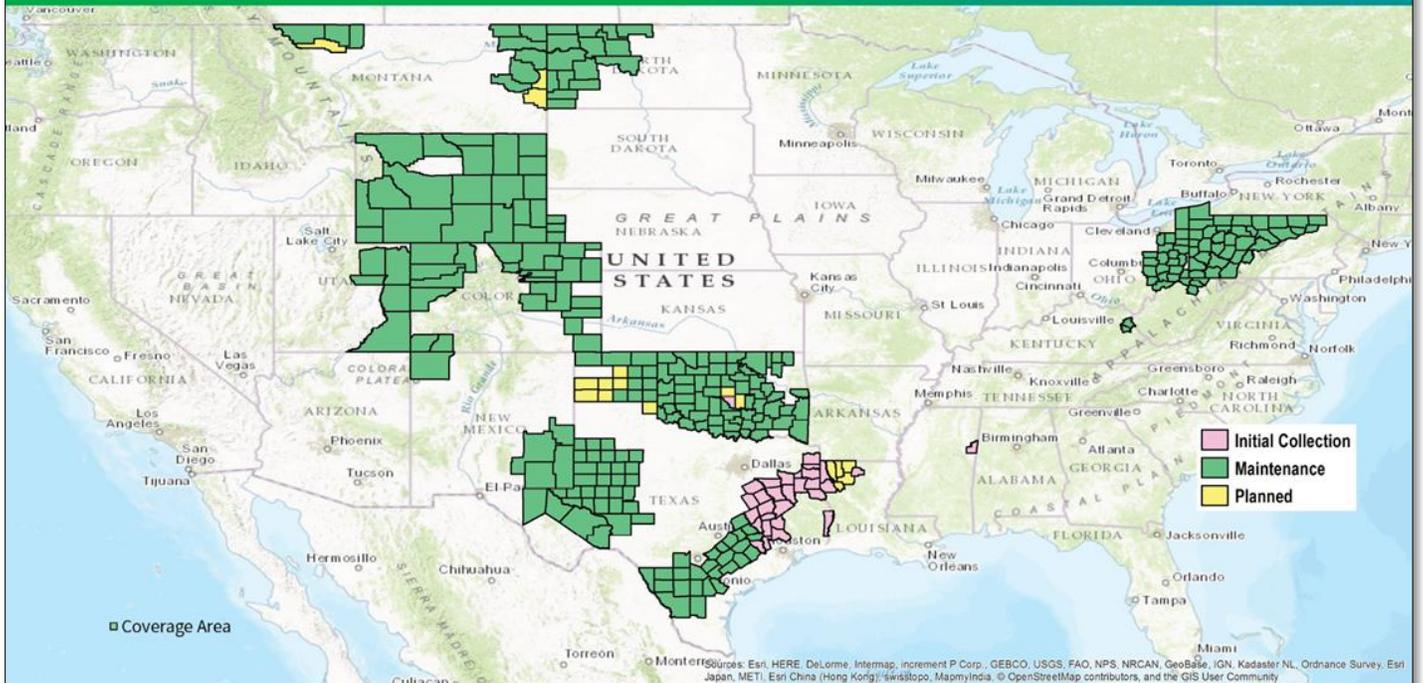
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HAPL Officer Forum



Kelly Quiring
HAPL Secretary

Happy New Year HAPL Members!

First off, I would like to express my appreciation for being selected and voted to be your secretary for the year. I have been a member of HAPL for over nine years and active with the board for the last four. It has been a great experience so far and I can't wait to see what else is to come!

The 2017 calendar year certainly had some historical moments for the city of Houston with some pretty tumultuous periods as well as some great highlights. We lived through one of the nation's worst natural disasters and a few months later were screaming for joy when the Astros won the World Series. I think this is a good reminder that even though times get extremely tough we should try and look forward to the positive days. No matter how bad things may get for us and our loved ones, we always have control over our own reactions and how we handle ourselves moving forward.

As you have been reading over the past few months, our President Ben's very appropriate theme for the year is 'Forge Ahead'. I think this is a perfect reminder especially heading into a New Year. As we start a brand new year we should look at placing the fresh new wall calendar as an opportunity. The New Year signifies a number of fresh starts and we know January typically brings about a plethora of New Year resolutions. We commonly hear about new goals from working out more, spending more time with family, spend less money and travelling more. If you feel balanced in some of these aspects of your life I challenge you to explore new areas for resolutions. The HAPL can help!

Could the New Year bring additional volunteer opportunities for you to get involved with? The HAPL hosts multiple spring events that benefit the community. Would you like to expand your professional network in 2018? The monthly HAPL luncheons and multiple after work social events offer great chances to catch up with prior counterparts and meet new contacts. There are countless opportunities if you want to explore them in 2018 so please don't hesitate to contact myself, Diane, Lindsey or any of the officers and board members.

As I wrap up this article I am sitting in Perth, Western Australia looking out to a perfectly clear blue sky on another gorgeous summer day. I am looking forward to so many things in my personal and professional life but I am also looking forward to seeing what happens in our industry and this great organization in the New Year. Let's Forge Ahead into 2018!



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2018 HAPL Scholarships & Teacher Nominations

by Stephanie Sullivan, Committee Chair

***** ATTENTION *****

CHANGES TO DEADLINES TO APPLY

SCHOLARSHIP APPLICATIONS & TEACHER NOMINATIONS

SCHOLARSHIPS

Since our annual HAPL Tribute to Education luncheon is held much earlier than before, the Scholarship Committee has determined that in order to have the best opportunity to award as many scholarships as possible, it is essential that we **MOVE UP** our **deadline for scholarship applications to March 1, 2018.**

If you have a child graduating from high school this year, it is imperative that you get those applications in no later than March 1, 2018 in order to be considered for a scholarship.

We will be working with the University Liaison Committee and the Energy Management directors at each university to ensure that they are aware of this change.

TEACHER NOMINATIONS

Teacher nominations are now being accepted for the Elizabeth Brand Teacher Excellence Award to be presented in May. Please nominate those teachers that you believe have contributed more than expected or they do something really special or creative in order to motivate their students.

Nominations will not be accepted after March 1, 2018 so it is imperative that you get your teachers' name in the queue before then.

We look forward to another successful year with scholarships and teacher awards but it is only with your help that we can achieve this goal.

If you have any questions, please do not hesitate to contact either of the following:

Stephanie Sullivan, CPL – 713-504-9814 or via e-mail at ssullivan5001@gmail.com

Ashlee Hansen – 832-486-6022 or via e-mail at ashlee.hansen@conocophillips.com



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Mark Your Calendars

HAPL Women's Networking Group will hold its Spring Social on Thursday, March 1, 2018. Additional details to follow.

We are looking for sponsors! Please contact any of the following women if you are interested:

Emily McMahan: emcmahan@peregrinepetroleum.com
Briana Ward: bward@hps-og.com
Diane Snyder: hapl@hapl.org

We look forward to seeing everyone there!

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HAPL Golf Tournament Reception

by **Tanner Quiring – Golf Chairman**

The 55th Annual HAPL Golf Tournament was held on Monday, November 13th at Kingwood Country Club. We had 350 industry golfers come out for the golf tournament. Players came from all over Houston, Louisiana, Oklahoma, and even Pennsylvania. Even with Hurricane Harvey's destruction to the clubhouse and courses, as well as the vast surrounding area, KKC had three playable courses fixed up in time for the tournament. Two thirds of the participants won a door prize in addition to the three lowest scoring teams on each course, along with the longest drives and closest to the pins. We even had a hole-in-one this year which won the lucky golfer a four-day three-night trip of his choosing to a list of luxury golf courses around the country.

We were fortunate to have 29 generous sponsors this year which accounted for the overall success of the tournament. Because of their generosity we were able to offer the abundance of door prizes, provide custom gifts to all participants, and even received enough to support various HAPL charities and events. In addition, we had numerous tent sponsors around the courses that really enhance the tournament with food and drinks, games, and additional giveaway items. Along with the Sponsors I would like to thank Sam Hamidi and Sam Cox for their assistance with organizing this event. Again, big thanks to the following Sponsor for their support in the 55th Annual HAPL Golf Tournament.

I'm looking forward to seeing everyone again next year.

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Top 10 Oil & Gas Cases of 2017 - Part 1

by Chance Decker & Ryan Sears of Gray Reed

1. *Denbury Green Pipeline Texas LLC v. Texas Rice Land Partners Ltd.*, 510 S.W.3d 909 (Tex. 2017) [Jan. 6, 2017].

What it takes to be a common carrier pipeline in Texas has been resolved. The Texas Supreme Court ruled that all that is required is a reasonable probability that the pipeline, at some point after construction, will serve the public by transporting gas for one or more customers who will either retain ownership of the gas or sell it to parties other than the carrier. A “reasonable probability” means “more likely than not”.

In its original opinion in this dispute (363 S.W.3d 192), the Texas Supreme Court held that “checking the box” on an RRC Form T-4 was insufficient to establish that a pipeline is a common carrier. Upon remand, the Court of Appeals found the facts did not establish common carrier status. The record showed only the *possibility* of future customers — not a *probability*. Plus, there was objective evidence — from Denbury’s own website — of Denbury’s intent to use the pipeline solely for its own purposes.

On remand, Denbury presented evidence necessary to make its case. For example:

- Testimony that the line was designed to be close to refineries, plants and other facilities that could use the line to transport and store CO₂.
- Transportation agreements with two unaffiliated entities, a sister company acting on behalf of itself, and working interest owners unaffiliated with Denbury.

This was “reasonable proof of a future customer,” demonstrating the line will transport to or for the public for hire and is not limited in its use to the wells, stations, plants and refineries of the owner.

The Supreme Court removed two hurdles to common-carrier status. First, the Court of Appeals determined the agreements with

third parties were not sufficiently substantial to establish common carrier status as a matter of law. The Supreme Court disagreed; the public interest need not be “substantial.” Evidence of a “reasonable probability” of serving the public is substantial enough to satisfy the public use requirement.

Second, Denbury’s intent at the time of its plan to construct the Green Line is not all that can be considered. Post-construction contracts are relevant to the analysis.

Left for another day is whether a contract between affiliated entities that may benefit unaffiliated working interest owners is sufficient to establish common carrier status.

2. *Richardson, et al. v. Mills, et al.*, 514 S.W.3d 406 (Tex. App. — Tyler 2017) [Feb. 8, 2017].

This case decided how to distinguish an oil and gas lease from a mineral deed. The instrument is a deed when it uses words like “forever” and imposes no duty to explore for or develop minerals.

A 1906 instrument was between Mills on one hand and Lindsey and Harris on the other. The document referred to the parties’ “desire” for “development, tests and demonstrations” and for Lindsey and Harris to manage the property so it would be developed for oil and gas or be sold. The granting language referred to “an undivided one-half interest in the oil, gas and other minerals ... to Harris and Lindsey, and further rights and privileges necessary and proper for the performance of the work of prospecting, testing, operating,” etc.

A 1908 release referred to “said contract or lease the time for said development has expired rendering null and void said lease.” There was a complete relinquishment of any right or claim held by Nacogdoches Land Co.

The trial court determined the instruments were ambiguous and allowed extrinsic evidence to determine the parties’ intent. Alternatively, the 1906 instrument was released when Lindsey and Harris did not perform. Mills also offered the opinion of an attorney who reviewed the contract (over 100

years after it was executed) and opined about what the deceased parties possibly intended.

The Court of Appeals reversed and rendered that the 1906 instrument was not ambiguous. It was a deed, for these reasons:

- Harris and Lindsay had the right but not the duty to develop the minerals.
- There was no time within which actions must be taken.
- The consideration was services rendered.
- The granting clause said “grant, bargain, sell and convey...”
- The habendum and warranty clauses specified “forever”.

This was language of an unconditional conveyance and not for exploitation of minerals.

The 1908 release referred to an instrument dated July 9, 1907, whereas the instrument in question was dated July 9, 1906. The 1908 release described the document as a “contract or lease” but not as a deed. There were other discrepancies. There was no recording information for the 1906 document in the 1908 release. Mills argued that there was a latent ambiguity in the instrument. Mills contended the reference to 1907 really meant 1906.

Mills’ efforts were rejected, including the testimony from the lawyer. The 1908 release was unambiguous and there was no connection between the two instruments.

In an odd twist, the parties stipulated that if Mills lost they would nevertheless own a small interest in the property. Thus, Mills took nothing from the court but ended up with 4 percent of the minerals from the stipulation.

(Continued on the next page)

3. *BP America Production Company v. Red Deer Resources, LLC*, 526 S.W.3d 389 (Tex. 2017) [April 28, 2017].

In *BP America Production Co. v. Red Deer Resources LLC*, the Texas Supreme Court considered the effect of a retroactive shut-in royalty clause. In 1962, BP acquired a lease covering approximately 2,000 acres in the Texas Panhandle. By 2011, the lease was held by just one marginal gas well (producing less than 10 Mcf per day). Red Deer discovered the situation in 2011 and secured a top lease for the BP property.

On June 4, 2012, the only well holding the BP lease produced 10 Mcf of gas and then went eight straight days with no production. BP shut off the well valve on June 12, 2012. The following day, BP sent a notice to the lessors that it was invoking the lease's shut-in royalty clause, enclosing checks for the shut-in royalty. BP designated June 13, 2012 as the start of the shut-in period. The well remained shut in at all times thereafter.

In August 2012, Red Deer sued BP alleging the lease had terminated due to a failure to produce in paying quantities and a total cessation of production. The primary dispute in the case was the operation of the lease's shut-in royalty clause, which provided as follows:

Where gas from any well or wells capable of producing gas ...is not sold or used during or after the primary term and this lease is not otherwise maintained in effect, lessee may pay or tender as a shut-in royalty ...payable annually or on or before the end of each twelve-month period during which such gas is not sold or used and this lease is not otherwise maintained in force, and if such shut-in royalty is so paid or tendered and while lessee's right to pay or tender the same is accruing, it shall be considered that gas is being produced in paying quantities, and this lease shall remain in force during each twelve-month period for which such shut-in royalty is so paid or tendered.

The trial court and Court of Appeals held the shut-in royalty clause required the well to be capable of PPQ on the date it was shut in (June 13, 2012) to maintain the lease. Accordingly, when the jury found the well was not capable of PPQ on June 13, 2012, the trial and appellate courts held the lease expired due to a total cessation of production, which the shut-in royalty clause did not save.

The Texas Supreme Court reversed, finding the lower courts misapplied the lease's retroactive shut-in royalty provisions. The shut-in royalty clause provided the lease would be maintained if a shut-in royalty was paid at any time within 12 months of the date gas from the well was last sold or used, and that "while lessee's right to pay or tender [the shut-in royalty] is accruing, it shall be considered that gas is being produced in paying quantities." The court referred to this clause as providing for "retroactive constructive production" dating back to the last day on which gas from the well was sold or used. Thus, the court held that as long as (1) the well was capable of PPQ on the last date that gas from the well was sold or used and (2) BP paid the shut-in royalty within 12 months of that date, the shut-in royalty clause would maintain the lease.

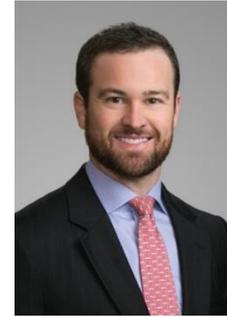
The last date on which gas from the well was sold or used was June 4, 2012. Thus, when BP tendered the shut-in royalty on June 13, 2012, it did so within 12 months of the date on which gas was last sold or used. Accordingly, the shut-in royalty clause would maintain the lease with constructive production as long as the well was capable of PPQ on June 4, 2012. To terminate the lease, Red Deer bore the burden of proving the well was *not* capable of PPQ on that date. However, Red Deer did not obtain such a finding in the trial court. Rather, Red Deer obtained a finding the lease was not capable of PPQ on June 13, 2012 (the date the well was shut in). Based on this error, the Texas Supreme Court reversed the lower courts, held that Red Deer failed to prove the lease had terminated, and entered a take-nothing judgment in favor of BP.

Look for Part Two and Part Three of this series in the February and the March Newsletter.



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Ryan focuses, a Partner at Gray Reed & McGraw, focuses his practice on the representation of clients in the energy industry, primarily on upstream and midstream transactions and in a variety of matters relating to the exploration for and production of oil and gas. Ryan earned his law degree and his undergraduate degree from the University of Oklahoma.



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HAPL Service Committee Updates

by Mimi McGehee, Committee Chairman

Worried that you will not be able to shed the winter doldrums by spring? The Service Committee has two GREAT events to get you ready for that Spring Fever mode!

During the third week of February, the HAPL Service Committee will be hosting its annual BBQ and Bingo at Goldberg Towers located in southwest Houston. The BBQ is catered so all HAPL members have to do is serve it up and help some of the residents with their plate and beverage's. After everyone has been served, we play bingo. HAPL provides Wal-Mart gift cards for the game winners.

Goldberg Towers is a HUD housing facility for lower income seniors. There will be a signup sheet in the HAPL booth at NAPE this month. The actual date will be chosen by that time. The Committee will use that list to send out driving directions and time schedules on the event. Contact information for the Committee co-chairs was provided in the February newsletter if you should have any questions.

Saturday, April 14th will be the Annual Brookwood Community Softball challenge at the Brookshire facility. There will be some great ball played and some scrumptious James Coney Island dogs consumed. The more HAPL members, their friends and relatives that show up to play, means the more Brookwood residents can participate in the game. Every Brookwood resident needs a "Buddy" to be with them on the field.

Hope to see you at both events!



Cheated, Mistreated, Pushed Around?



Have you been cheated, mistreated or somehow deprived of your share of a deal, working interest or royalty? If so, give me a call. I have twenty five years experience as a working interest and royalty owner in the oil and gas business to go along

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HAPL Annual South Texas Social



Come join us for BBQ, fun, open bar and door prizes!

On Wednesday, March 28, 2018, the Houston Association of Professional Landmen ("HAPL") will be hosting its annual South Texas Social from 5:30 p.m. to 9:30 p.m. The Social will be held at "Goode's Armadillo Palace" on 5015 Kirby, which has a terrific new venue (Dancehall and Patio). This new venue provides a great opportunity for networking.

We are requesting sponsor commitments in advance in order to reserve the exciting venue! A financial contribution by you or your company will ensure the success of this very special event. All sponsoring companies will be recognized at the event with the company name and level of sponsorship prominently displayed. In addition, the sponsor information will appear in the HAPL newsletter and possibly other publications. The following sponsorship levels are available:

PLATINUM LEVEL \$1,000 or above

GOLD LEVEL \$500-\$999

SILVER LEVEL \$250-\$499

BRONZE LEVEL \$249 or less

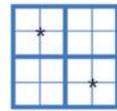
PLEASE CONTACT ME DIRECTLY TO DISCUSS OTHER SPONSORSHIP OPPORTUNITIES.

2018 HAPL South Texas Social sponsor checks can be made payable to "HAPL" and sent to:

HAPL South Texas Social
c/o Joe Dichiaro, RPL
Chairman
713-907-0147
11402 Oak Spring
Houston, Texas 77043
jadichiara@msn.com

Let's make this another great year!

The success of this event is made possible by your Sponsorships!!



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49TH ANNUAL TECHNICAL WORKSHOP SAVE THE DATE - APRIL 24, 2018

Presented by the Houston Association of Professional Landmen
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*Broadcast by WebEx to 25+ Regional Landman Associations and
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Sign-up now to Host one of our Remote Webinar Locations!

(Please contact Amanda Van Deusen, Committee Chairman at amanda.vandeusen@haynesboone.com)

Topics are to be Determined: The event will be approved for 7 CPL/RPL credits,
including 1 ethics credit and CLE credits with certain State Bars

REGISTRATION:

HAPL Member Price: \$60.00

Non-Member Price: \$75.00

To register, for the Haynes & Boone Houston location only visit www.hapl.org **OR**
contact your local landman association for a remote webinar location near you.

HAPL TECHNICAL WORKSHOP SPONSORSHIP:

Gold – \$1,000.00 and above

Silver – \$500.00

Bronze – \$250.00

To sponsor, please visit the "Make a Donation" page on the HAPL website (www.hapl.org) and
select the **Technical Workshop** from the drop-down menu.

Thank you for your support!



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THE HOUSTON ASSOCIATION OF PROFESSIONAL LANDMEN

- WHAT:** HAPPY HOUR WITH A MEXICAN FLAIR
Food and Refreshments provided
- WHEN:** TUESDAY, APRIL 24, 2018
5:30 P.M. to 7:30 P.M.
- WHERE:** ST. ARNOLD'S BREWERY (Main Hall)
2000 LYONS AVENUE
HOUSTON, TEXAS 77020
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SAVE THE DATE

2018 HAPL Awards Banquet

Dinner and Cocktail Reception
 The Bell Tower on 34th
 THURSDAY, May 17, 2018
 Reception 5:00 p.m. – 6:30 p.m.
 Dinner 6:30 p.m. – 9:00 p.m.

You are cordially invited to attend the 2018 HAPL Awards Banquet Dinner & Cocktail Reception!

Please join us as we celebrate the end of the 2017-2018 season and usher in our new President. The Awards Banquet is an evening to reflect on the past year's events and to thank the Officers, Directors, and Committee Chairmen for their service.

Our goal is to have 100% participation this year as we encourage all members and their spouses to attend! Come and mingle with new and old friends as well as learn more about getting involved in HAPL. Whether you have won an award in the past, served on the HAPL team, or are a new member, come toast, dine and network!

Sponsorship is needed to make this event possible. As always, sponsors will be recognized leading up to and throughout the event in various advertising formats such as the HAPL Newsletter, flyers, boards, email blasts, and presentations. This year any monies raised above and beyond the costs of the Banquet will be donated to our Service Committee in the continued support of our many local charities.

SPONSORSHIP LEVELS

HEADLINING SPONSOR - \$2,000 or above

(Commemorative Gift**, Logo prominently displayed in all advertising avenues
 PLUS includes 4 FREE tickets*)

PLATINUM - \$1,000 - \$1,999

(Logo prominently displayed in all advertising avenues PLUS includes 2 FREE tickets*)

GOLD - \$500 - \$999

SILVER - \$250 - \$499

BRONZE - \$100 - \$249

To sponsor, please make your check payable to **HAPL – Awards Banquet** and send to the attention of Diane Snyder at the HAPL office: 800 Bering Dr., Suite 120, Houston, TX 77057, or via the HAPL website, www.hapl.org, select "Support Us", select "Donate/Sponsor an Event", and then select the "Awards Banquet".

Registration for the event will close on Monday, May 14th at Noon.

Please contact Michelle Llanes at mfllanes@gmail.com or 281-543-6848 for sponsorship/event questions.

**Names of attendees will need to be provided to HAPL. **For donations received by April 1, 2018.*

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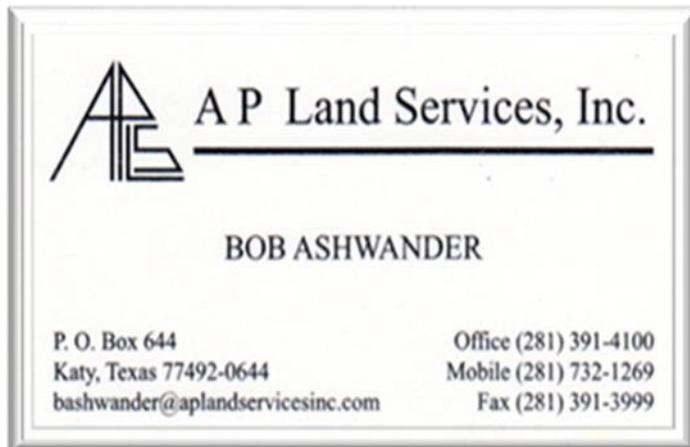
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