ROAR

THE ROYALTY OWNERS ACTION REPORT

NARO NATIONAL ASSOCIATION OF ROYALTY OWNERS

APRIL 2022

WINDFALL PROFIT TAX

The New (Old) Attack On Oil & Gas

JACK FLEET
EXECUTIVE DIRECTOR, NARO NATIONAL

IN THIS ISSUE

Senators Sheldon Whitehouse and Elizabeth Warren are proposing a new (old) tax that would target producers with a 50% Windfall Profit Tax[1] on the sales of oil, condensate, natural gas and similar hydrocarbons.

In the House Representative Ro Khanna (D – CA) 17th District introduced a companion bill[2].

This is not new to our industry and in fact was what awaken Jim Stafford to create NARO back in 1980. Jim worked with industry, mineral, royalty and land owners across the nations to battle and remove Windfall Profit taxes for our industry and now it may be time for us to rally together on this front again.

It is truly tragic what Russia's Putin is doing to the Ukrainian people. We are seeing the impact daily in such detail that the world is calling his actions war crimes. It breaks my heart seeing the devastation and death. Yesterday, I saw a picture of a girl, maybe 13 or 14 years old, sitting in a blown out window of a building or house in the Ukraine. She was holding a shotgun and the look in her eyes was not of fear but of great courage. I pray for the Ukrainian nation and her citizens. This war has shown what happens when one of the largest sources of energy, oil and gas is cut off from being imported by other countries. The discussion in the European continent is how to decrease demand for energy, as hydrocarbons and renewables are struggling to meet that demand. Europe was hit hard this winter with little sun and little wind to charge the batteries, making LNG in high demand. So much so, the United State started diverting LNG to Europe. Russia has been a significant source of natural gas in Europe, especially German. Why does this matter, the increase in demand for alternative sources of hydrocarbons has increase the prices of oil and natural gas to some of the highest levels in many years.

According to oilprice.com WTI crude reached a high of $123.70 per barrel on March 8th, 2022[3]. A year ago, crude oil was in the low $60 range per barrel. Many mixed messages have been coming from the Biden Administration on domestic oil and gas production. I have heard, increase, no don't increase, well increase temporarily; all the while the same administration is challenging the district court's ruling on stopping leasing on Federal Lands. In fact, regulations are still making it very difficult to drill on leased and permitted land. White House Press Secretary Jen Psaki stated regarding increasing domestic production "9,000 approved oil leases that oil companies are not tapping into currently" later she corrected her statement to 9,000 permits. According to a letter written by the Western Energy Alliance in response to this statement, 2,200 leases are held up in litigation by environmental groups and other leases are not able to be developed due to combine unleased

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Federal minerals with existing leases for longer horizontal wells. Clearly, the administration's message is to shut down our industry.

So now, comes $100 oil again, funny thing is my phone has not been ringing off the hook to lease. And we have a few Senators that want to impose Windfall Profit tax on industry. As Senator Warren is quoted tweeting "Big Oil's first priority is to maximize profits". And she is implying that our industry is taking advantage of the war on Ukraine as and excuse to maximize profits. This tax would most likely, as many taxes are by contract, imposed on royalty owners. The tax would be paid by producers that import or produce 300,000 barrels of oil per day and the tax would be 50% of the increase in price at the sale compared to pricing, pre-covid, between 2015 and 2019. So, for example, the set price being used in this period is $75/barrel. Your share of oil is sold at $100/barrel, and the operator sold 3500 barrels on this pay period. Your decimal interest is 0.00625. Given no other deductions or taxes your gross royalty is $2,187.50. Your Windfall Profit Tax is on the difference of $100 and $75 dollars or $25 * 3500 barrels of oil $87,500 * 0.00625 decimal interest **$546.87**. In Oklahoma, your share of severance taxes would be about $90.00 plus you may have deductions for state and federal income tax.

What will the Windfall Profit Tax be used for? This money would be sent to individuals and families, kind of a rebate on the cost of energy filtered through the US Treasury. These rebates would be phased out for those individuals making over $75,000 per year or couples making over $150,000 per year. While it is likely that this bill would only impact the Exxon's of our industry, I am certain that the tax would be shared with working interest and royalty interest owners.

I am asking each of you to be prepared to rally for the calls to action. If these bills make it to committee, we will need to light up the phones, letters and in person meetings to let Congress know, WE ARE NOT BIG OIL and depend on our royalties to supplement our incomes, serve our families and communities.

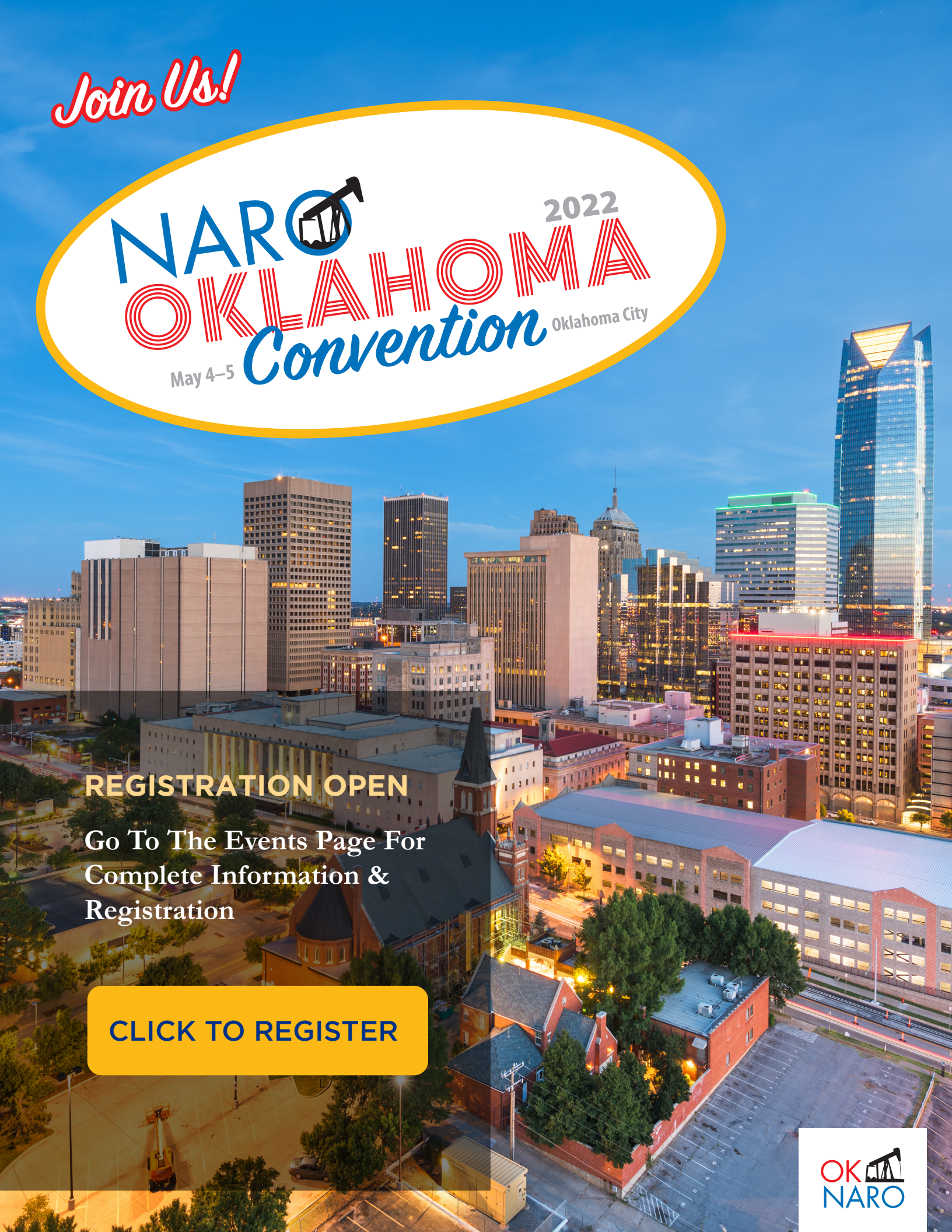
1: *https://www.warren.senate.gov/imo/media/doc/Big%20Oil%20Windfall%20Profits%20Tax%20Act%20text.pdf*

2: *https://khanna.house.gov/sites/khanna.house.gov/files/Windfall%20Tax.pdf*

3: *https://oilprice.com/oil-price-charts/#WTI-Crude*

Jack Fleet

Jack Fleet, CMM
Executive Director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RUSSIAN ROULETTE

WADE CALDWELL, NATIONAL PRESIDENT

Recent events in Ukraine could not help but bring to mind how our fragmented and inconsistent energy policy in this county has become like a game of Russian Roulette. I am not sure why this deadly act ever got associated with the word "game". Like Russian Roulette, energy policy is so linked with our economic and national security as to be extremely serious. In case you want a refresher in how we got to where we are, the dangerous game of poor energy policy has played out as follows:

State and local drilling bans – It began with various cities, counties and then states using all the levers of their power to effectively ban new drilling. Whether it be misguided fracing bans based on misleading documentaries, outright drilling bans, onerous state permitting requirements, untenable setback requirements, or the many other tricks that have been used to try to ban new drilling, we have significant areas that could be developed. Substantial potential production is currently stranded because of these policies. Oil production in California is plummeting. Parts of New York are included in the Marcellus Shale, and are closed to development. Colorado is enacting onerous setback requirements. Many other examples exist. *Click*.

Pipeline bans – In the misguided thought that the green revolution can be accelerated by banning the most efficient form of transport of oil and gas, i.e. pipelines, again state, county and local governments have used all the powers at their disposal to ban the construction of new pipelines. Not only are these bans choking the economic vitality out of some major cities, who cannot grow because of the lack of energy infrastructure, it encourages absurd transportation results. Gas gets flared because of lack of takeaway capacity and market. Oil continues to be imported from Russia and Venezuela. Operators suffer financially, particularly in natural gas, because of lack of pipeline takeaway capacity. Royalty owners lose money and even face the prospect of negative royalty checks on gas royalties. *Click*.

Federal leasing bans - One of the first acts of President Biden was to follow through on his campaign promise to issue Executive orders banning new leasing on Federal lands. Despite clear warnings that this was against Federal law, and was eventually struck down, President Biden dutifully followed through with a meaningless Executive order throwing the Federal leasing program into turmoil. While some parts of the leasing program do need to be revamped, under the guise of "review", leasing continues to be delayed, slowing development and making operators leery of taking the risk of trying to develop Federal lands. *Click*.

Layering ESG into all permitting – Aided by private investment firms, who feel it is their right to dictate to companies how they should operate their businesses, and in conjunction with new layers of requirements at the Federal, state and local level, our permitting process for pipelines and drilling is being burdened with an enormous new cost and perhaps insurmountable hurdle – the ESG review. In the last week, FERC voted to require environmental impact review of pipeline projects. Private investment banks and hedge funds have brow beat operators into pledging billions of dollars on green energy projects where the capital may have been better used to develop additional production. Pension funds have sold their oil and gas investments. In short, the ESG movement has imposed an enormous new cost on the development of new oil and gas production in the United States, along with delaying many projects. *Click*.

Drying up capital – The ESG movement, and the pressure to divest from oil and gas investments, has caused a major dry up of capital available for oil and gas development. Operators are being more cautious despite high prices, although part of this discipline is being imposed by the market because of past low returns, but a major part of it is also because of the lack of capital. The energy sector has been the best performing group of assets in the stock market for the past year, yet the flow of capital has failed to keep pace. Coupled with a bounce back of coming out from the pandemic, demand has outstripped supply, creating a primary causes in the current round of inflation. *Click*.

Invasions and Turmoil – Using the timing of high prices and lack of supply, Mr. Putin has shrewdly capitalized to launch his deranged invasion of Ukraine. All of our energy policy mistakes are coming back to haunt us. High prices go even higher, and the prospect of inflation seems even more certain and to last longer. The United States gets the privilege of having to buy Russian oil, helping finance the war in Ukraine, while at the same time providing assistance to Ukraine – in effect paying both sides in the conflict. The absurdity of it all is hard to watch.

I'm sure by now my columns sound like a broken record, but to accelerate carbon reduction by reducing the supply of oil and gas is a fruitless, destructive and self-defeating policy. Mr. Putin's grand ambitions have made our folly clear for all to see.

Click. Bang.

Wade Caldwell

Wade Caldwell, National President

LEGISLATIVE UPDATE

JASON POLING, CHAPTER PRESIDENT

As noted in last month's column, the West Virginia Legislature is scheduled to be in session through March 12, 2022. At the time this column was written, forced pooling legislation, about which my last column was devoted, has passed the Senate and is currently pending in the House of Delegates in the form of Senate Bill 694. By the time you read column, this the legislation will have either passed or failed. The legislation remains subject to amendment and revision. To obtain the latest updates on all West Virginia legislation please visit https://www.wvlegislature.gov/bill_status/bill_status.cfm. If you enter the bill number, in the case of the forced pooling legislation "694", in the "Bill Quick Search" you can review the most up to date information on this important legislation. The fate of this legislation will be updated in a future column.

Forced pooling legislation is not the only matter of importance happening in West Virginia. Litigation affecting royalty owner rights continues to be an area of acute concern. There are currently two cases of particular concern for royalty owners in West Virginia, Charles Kellam, et al. v. SWN Production Company, LLC, et al. and State of West Virginia ex. rel. TH Exploration, II, LLC, et al. v. Venable Royalty, Ltd. et al.. Kellam is a review of the legal requirements associated with post-production deductions whereas TH Exploration concerns whether a producer can arbitrarily choose a purported sale point for royalty calculation. To understand and protect their interests, all royalty owners should be familiar with the concepts addressed in these cases.

Kellam is currently pending before the West Virginia Supreme Court of Appeals (WVSCA) which accepted the case to answer four questions certified to it by Judge John Preston Bailey of the United States District Court for the Northern District of West Virginia. Judge Bailey's certification order is a "must read" for all West Virginia royalty owners as it provides a comprehensive survey of the history of post-production deductions in West Virginia, including an analysis of the seminal cases on this issue: Wellman v. Energy Res., Inc., 2010 W.Va. 200, 557 S.E.2d 254 (2001) and Estate of Tawney v. Columbia Natural Resources, LLC, 219 W.Va. 274, 633 S.E.2d 22 (2006). If your royalty payments are subject to deductions, do the deductions taken satisfy the requirements of current West Virginia law? In the certification order Judge Bailey states:

"When the Tawney and Wellman requirements are combined, six conditions must be met before a lessee may deduct post-production costs from royalties. These are: 1. The lease must expressly provide that the lessor shall bear some part of the costs incurred between the wellhead and point of sale; 2. The lease must identify with particularity the specific deductions that the lessee may take; 3. The lease must expressly provide for a method of calculating the amount to be deducted from royalty for post-production costs; 4. The costs, which have been identified with particularity, must be actually incurred; 5. The amount of the costs must be reasonable; and 6. The lessee must prove all costs as it would in an action for an accounting."

The forgoing begs the question: Given the clarity of Wellman and Tawney, what issue is there for the WVSCA to consider? In Leggett v. EQT Production Co., 239 W.Va. 264, 800 S.E.2d 850 (2017) the WVSCA, in the words of Judge Bailey "cast a pall on Tawney", by recognizing that Wellman and Tawney have been criticized by some legal commentators on the basis that those holdings have allegedly "created 'chaos' and 'foster[s] the belief-perhaps the reality-that the [marketable product doctrine] lacks any cornerstone principles[.]'" In legal terms, this statement in Leggett is considered "dicta". Dicta is a comment, suggestion, or observation made by a judge in an opinion that is not necessary to resolve the case, and as such, it is not legally binding on other courts but may still be cited as persuasive authority in future litigation. Based on this dictum some producers have been arguing in litigation that Wellman and Tawney are no longer good law. To resolve the "pall" cast on Tawney and Wellman, Judge Bailey certified the following issues to the WVSCA:

1. Is Estate of Tawney v. Columbia Natural Resources, L.L.C., 219 W.Va. 274, 633 S.E.2d 22 (2006) still good law in West Virginia?
2. What is meant by the "method of calculating" the amount of post-production costs to be deducted?
3. Is a simple listing of the types of costs which may be deducted sufficient to satisfy Tawney?
4. If post-production costs are to be deducted, are they limited to direct costs or may indirect costs be deducted as well?

The outcome in Kellam has the potential of resulting in a highly detrimental ruling for royalty owners by upending what has been the legal status quo of calculating post-production deductions. The practical effect of an unfavorable ruling in Kellam would be the elimination of the ability of royalty owners to have some level of assurance as to the propriety of the deductions reflected on royalty statements short of expensive and protracted litigation. As such, NARO Appalachia has filed an amicus curiae "friend of the court" brief with the WVSCA. At this time, Kellam has been fully briefed by the parties and the case will be docketed for oral argument in the coming weeks or months.

The issue in TH Exploration centers upon whether the sale price used to calculate royalties should be based upon sales at the point a producer transfers title to gas products, or are producers permitted to fix so-called "sale" points beyond which they continue to hold title to the gas products at issue. TH Exploration arose in the Circuit Court of Marshall County, West Virginia. Judge Jeffrey Cramer issued a partial summary judgment order enforcing royalty calculation based on actual sales prices for gas products actually sold, the effect of which would allow the case to proceed through routine discovery and potentially trial at the trial court level. TH Exploration has applied to the WVSCA for a writ of prohibition, an extraordinary remedy, seeking to prohibit enforcement of that order. Grant of a writ of prohibition is generally disfavored and is

Continued Page 8

ARKANSAS

TERREL SHIELDS, ARKANSAS REPORTER

CHAPTER UPDATE

TERREL SHIELDS, ARKANSAS REPORTER

I said last month, "Now that Russia is (or perhaps has by the time you read this) poised to invade the Ukraine…" Well, it happened and it matters. Perhaps it will be the wakeup call Europe and America needs. Truth serum. Fossil fuels are the bridge to the unknowable energy future in a slow steady progression. Believing we have only years to rid ourselves of those fuels and embrace "renewables" should fool no thinking person.

French opposition leader, Marine Le Pen, promised to end subsidies to renewables and ramp up construction of nuclear power. Her opposition comes from the existing power providers. The renewables industry is terrified at her proposal to end subsidies. Renewables have never been economic. They are propped up by the taxpayer and governments are picking winners and losers. For instance, geothermal heating and cooling is far more efficient and long lived plus it is not subject to the vagaries of winds blowing and sun shining. And it works without significant problems of disposal unlike solar panels and wind generators. As Le Pen put it, "Wind and solar, these energies are not renewable, they are intermittent."

The problem is Europe has little gas, no desire to drill what they do have, and are more dependent upon Russia than ever. As a result of the invasion, Biden withdrew the support for the Nordstream II pipeline, reversing only months earlier when he approved it, apparently only because Trump had not supported the line, which is already built.

Biden argues high energy prices are oil companies gouging, the same argument made time and again since I was still a student in college some 50 years ago, trotted out first in the Nixon administration. Every investigation, innumerable as they are, yielded no such conspiracy. It is simply supply and demand and that has long been a tightly balanced act, tipping one way then another.

Biden made absurd promises to the ignorant about ending fossil fuel by 2035. He stopped Keystone. We went only a few months before our energy independence was lost again and now Russia is our number two exporter to the USA. Yes, we buy Russian oil and gas.

After losing in a New Orleans Federal court and environmentalists succeeded in forcing a "climate cost" analysis on federal leases; the Biden administration simply stopped all drilling permits and leasing, again. They had done so in the first days of the administration and were thwarted in court. It is not the oil companies suing; rather it is energy producing states like New Mexico, Texas, Oklahoma, and Louisiana plus at least six others.

No one really knows what it means but to drill or transport petroleum, the pipeline must calculate some unicorn numbers estimating the "climate cost" of drilling, producing, transporting, and refining petroleum, even to the end user burning it. Trump's administration estimated the cost to be $7 per ton of emissions, but Biden restated the climate cost estimate to roughly $51 per ton of carbon dioxide.

In Arkansas, mineral owners under Stephen's Production leases are telling me that they are getting letters telling them that Merit has purchased their lease. As I mentioned Stephen's has sold its energy arm and Merit Energy is the apparent buyer. Strangely I've found very little about the transaction on line. Merit bought out BHP and is quietly purchasing assets across the Arkoma and Fayetteville shale plays. Merit is a company few have heard of but was co-founded H. Ross Perot in 1989 along with William Gayden. It is a quiet company that has some 11,000 wells nationwide. The Stephen's acquisition will be a significant addition to the company.

In application to the AOGC, Flywheel Energy continues to beg for extensions to "Temporary" abandonment status (mostly those pesky drilled but uncompleted wells.) These wells have already been shut in for three years and now will extend another three years. Frankly, it is time to produce them or plug them in my opinion. With gas prices this high they are either going to cash flow or they should plug the well. Max Extract is also being asked to comply with commission rules on several wells and the curious case of Riverfront Exploration asking for authority to operate computer servers in Sebastian County. This appears to be an effort to generate electricity via gas on a well pad to operate the servers that control wells in the Massard Field and distribute royalties accordingly.

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WILL U.S. LNG SAVE THE DAY IN EUROPE?

MATT SANDS, CHAPTER PRESIDENT

The U.S. becoming the largest LNG exporter in 2021 with a peak capacity of 10.8 Billion cubic feet (Bcf) per day provides a new outlet for domestic natural gas production. LNG demand supports improved natural gas prices in the U.S. and royalty owners will benefit from this. This development also allows us to aid Europe with reliable natural gas deliveries should supplies get cut off from Russia due to recent developments in Ukraine.

LNG exports increase the markets available to sell domestically produced natural gas. Where natural gas pipelines are not feasible or do not exist, liquefying natural gas is a way to move natural gas from producing regions to markets, such as to and from the United States and other countries. Asian countries combined account for the largest share of global LNG imports. LNG export facilities receive natural gas by pipeline and liquefy the gas for transport on special ocean-going LNG ships or tankers.

According to a recent Reuters article[1]: "The U.S. Energy Information Administration projects U.S. LNG exports will reach 11.5 billion cubic feet per day (bcfd) in 2022. That would account for roughly 22% of expected world LNG demand of 53.3 bcfd next year, according to analysts at Goldman Sachs and would outpace both Australia and Qatar, the two largest exporters at present."

In essence, higher natural gas prices in Europe and Asia have created an arbitrage opportunity for US LNG companies. The U.S. Henry Hub natural gas benchmark price has been lower than prices for international natural gas and spot LNG for years. This price difference has been a catalyst for these record volumes of U.S. LNG exports.

From a free-market perspective, prices are determined by supply and demand (barring any government interference). Higher LNG export capacity in the US provides an additional demand for natural gas that is produced in the US. This higher demand results in higher prices for natural gas, assuming natural gas supply stays constant. Of course, higher prices will tend to incentivize producers to drill more wells to take advantage of this and an increase in supply will tend to moderate price increases or cause prices to fall, depending on how much additional gas is brought to market.

Because of these recent increases in gas prices in the US, ten Democratic Senators wrote a letter to US Energy Secretary Jennifer Granholm in February[2], urging "the Department to conduct a review of LNG exports and their impact on domestic prices and the public interest, and develop a plan to ensure natural gas remains affordable for American households. Until such a plan is completed, the Department should consider halting permit approvals of U.S. LNG export facilities."

The letter mentions highlights New England as an area that will see larger increases in heating bills. What the letter doesn't mention is that the New England states are cut off from this gas by New York who refused to allow pipelines to be built across that state[3] to deliver low cost domestic gas to New England from the plentiful gas producing region of the Marcellus and Utica formations in Pennsylvania, Ohio, and West Virginia. Instead, New England states have to import LNG into Boston Harbor from thousands of miles across the ocean from other countries like Russia.

Despite the recent increase in natural gas prices, it is still relatively inexpensive when you consider the energy content of natural gas compared to crude oil. On an energy equivalent basis, 1,000 cubic feet (1 mcf) of gas contains roughly 1/6 the energy content as 1 barrel of crude oil. With crude oil prices near $90/barrel, the price of natural gas on an energy equivalent basis should be closer to $15/mcf (as it is in Europe and Asia). The current price of Henry Hub natural gas is less than $5/mcf.

Recent developments in Ukraine and the threat of cutting off Russian natural gas deliveries to Europe will likely put a pause on this request to limit our LNG exports. Ample supply of natural gas in the US should continue to keep prices down even with growing LNG exports. While royalty owners will benefit from the increased demand from LNG exports, we need to remain vigilant and ready to speak up if political threats to US LNG exports materialize. Everyone should enjoy the benefits of affordable and reliable energy and the US will continue to play a large role if bad policy decisions don't get in the way.

1. https://www.reuters.com/markets/commodities/us-natgas-output-demand-rise-2021-eia-2021-12-07/
2. https://www.reed.senate.gov/news/releases/us-senators-to-doe-dont-let-domestic-natural-gas-producers-chasing-higher-prices-overseas-leave-us-consumers-with-bigger-energy-bills-this-winter
3. https://www.forbes.com/sites/chuckdevore/2019/05/06/new-yorks-natural-gas-pipeline-ban-unconstitutional-bad-for-the-environment-economy-consumers/

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LOUISIANA CHAPTER

DAVID SMITH, PRESIDENT

LETTER FROM THE PRESIDENT

DAVID C. SMITH, CHAPTER PRESIDENT

Louisiana members,

Great things are happening in our state, and our Louisiana board members are working hard to keep you informed! Prices and activity are both up, as Louisiana has ~60 rigs running in the state, almost two-thirds of which are in North Louisiana's Haynesville Shale. And new wells are being permitted on a regular basis. Speaking of the Haynesville Shale…

We were fortunate to have Jeremy Hornell with Enverus come and provide a presentation on **Haynesville Gas Outlook – Key Operators and Risks** at our joint townhall event with Texas NARO in Marshall, TX on March 3.

If you were unable to attend and would like a copy of the presentation, it will be available on the Members > Webinars/Presentations tab of the www.naro-us.org website.

The Louisiana State Convention DATES HAVE CHANGED from late April to **May 16th and 17th** at the Horseshoe Casino in Bossier City. Registration information will be coming out soon, so please be sure to mark your calendars!

As always, don't hesitate to reach out with questions or if I can provide further assistance.

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APPALACHIA LEGISLATIVE UPDATE CONTINUED

only appropriate in the rare case that a circuit court has no jurisdiction or, having such jurisdiction, exceeds its legitimate powers.

TH Exploration demonstrates to royalty owners the need to be fully informed about lease language and the practical factual application of that language. On the record of facts developed so far, it appears TH Exploration was using a fictious "sale price" to calculate royalties at a point where, based on the contracts and accounting practices of TH Exploration, no gas products were in fact sold. These are facts that can make a significant difference in the royalty received. Are you getting paid the royalties you are entitled to under your leases? I highly recommend reading the publicly available documents available in TH Exploration and considering whether you know if you are receiving the royalties you are entitled to. Accepting checks without understanding the facts behind the figures is a recipe for being short changed.

You are in the best position to advocate for yourself. Pay attention to what is going on in the Legislature. Be aware of litigation affecting your rights as a royalty owner. Know your what your leases say and the legal effect of that language. If you are presented a lease or amendment, fully understand what you are signing. Understand how the payments you are receiving were calculated. If you are confused or do not understand, ask for help. NARO Appalachia is here to facilitate your knowledge and power as a royalty owner. Your membership in NARO Appalachia is important. We are stronger together. Get involved. We are looking for royalty owners who want to be involved in influencing these important issues in a meaningful way. If you want to be more involved, know someone else that is, need further information on any of the topics of this column or want copies of the documents mentioned, please let me know. Let's work together to protect our property rights. I can be reached by email at japoling@polinglawoffice.com or by telephone at (614) 591-4664.

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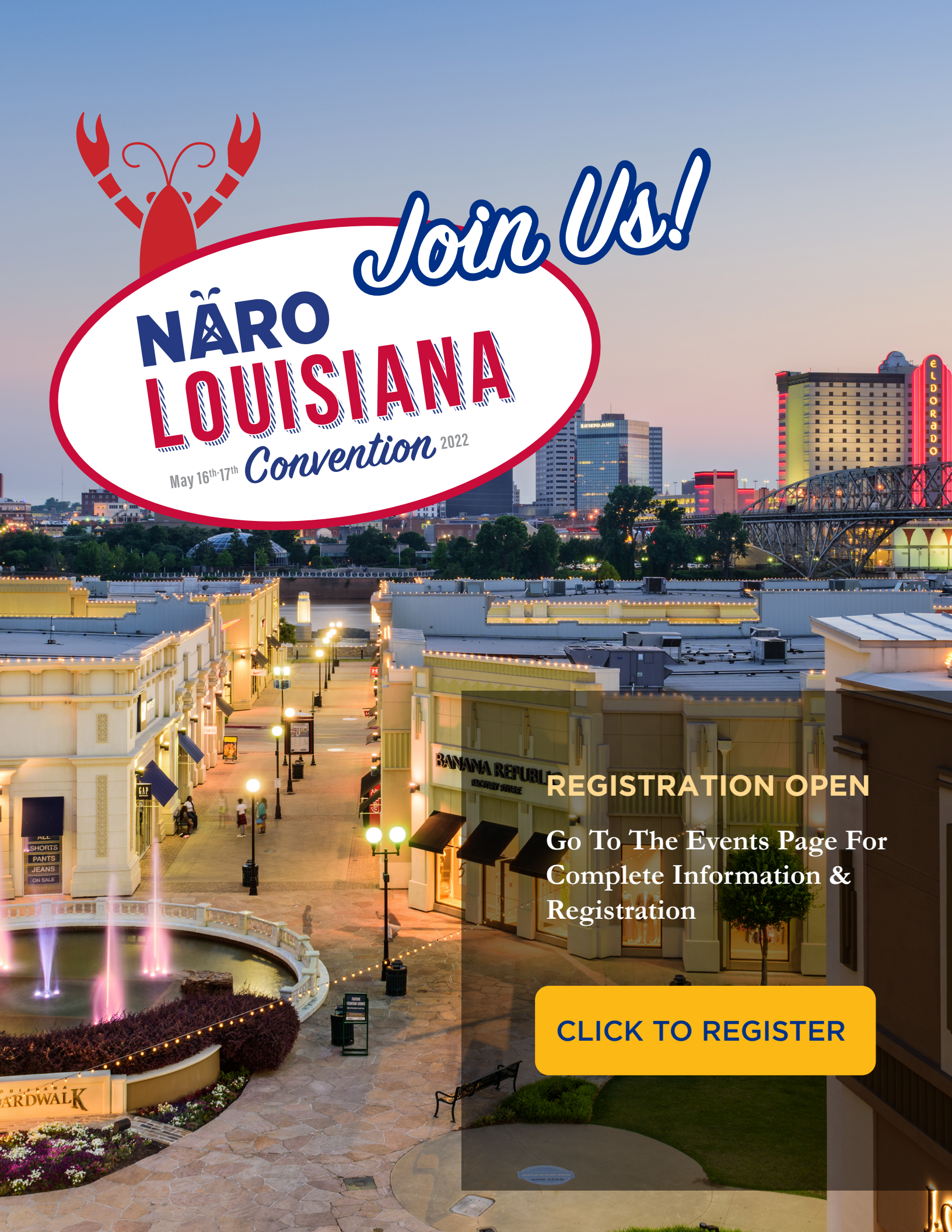
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OHIO CHAPTER

BARRY L. BROWNE, PRESIDENT

SIMULTANEOUS OPERATIONS - WHY IT MATTERS

BARRY L. BROWNE, CHAPTER PRESIDENT

Simultaneous operations on a multi-well pad as found in Ohio's Utica play involves simultaneous drilling, completion or workover operations on one or more wells while other pad wells are producing. Up until last year, Ohio was the only state that I was aware of that did NOT allow simultaneous operations! This is an indication of how archaic some of the Ohio Department of Natural Resources Division of Oil and Gas Resource Management (DOGRM) rules and regulations are! Another example are the forced pooling rules (spoiler alert: there aren't any!).

Simultaneous operations is one common issue the Ohio NARO Chapter worked with our industry partners to bring the DOGRM into the 21st century. We worked with Encino Appalachian Partners (EAP) to help bring this change. The new DOGRM rules now allow existing producing wells to continue to safely produce while new pad wells are being drilled or completed. Income from the producing wells continue to flow. I am sure any landowner who has experienced having their royalty income eliminated by drilling more wells on an existing pad, before the rule change was implemented, can testify how they were impacted by not allowing simultaneous operations! Put a pencil to paper and calculate your own impact if your royalty income were to be cut-off for at least six months!

Previously, the producing wells were required to be shut in and royalty income would cease until the newly drilled and competed wells were opened to the sales line. Six months (or more) of lost revenue and income can have a significant negative impact and result in a company's disincentive to drill and complete more wells on a pad, even with expiring leases on the schedule. (You can hear more detail from an industry perspective on why simultaneous operations matter at our first annual Conference to be held September 16th and 17th!)

There were many one well pads in the early stages of the play drilled and completed to determine the extent and quality of the play in addition to hold the initial leases. With long term production data, improved drilling techniques and completion technology, the industry is going back to infill drilling on the existing producing pads. This can be safely done without a cash flow interruption as the DOGRM has finally recognized.

We look forward to working with our industry partners to update and modernize DOGRM rules and regulations. We recognize forced pooling is needed with a fixed schedule to allow efficient industry planning. Leasing State and Federal lands can have a significant economic impact. The Muskingum Water Conservancy District's (MWCD) capital improvements to their recreational facilities and infrastructure as a result of oil and gas leasing and water sales is a testament of what can be realized. Additionally, the stranded mineral owners adjacent to State lands will participate in any economic development. These and other changes will come about with your continued support and working with our industry partners!

PRESIDENT
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OKLAHOMA CHAPTER

JARED BOEHS, PRESIDENT

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MAY 4-5 OKLAHOMA CONVENTION

Embassy Suites
Oklahoma City, OK

8 OIL & GAS LEASE ESSENTIALS

JARED BOEHS, CPL, CMM, CHAPTER PRESIDENT

Happy Spring everyone! With oil and gas leasing picking up, I thought it would be beneficial to revisit a few "essentials" when negotiating your next oil and gas lease.

In our day-to-day routines, chalked full of appointments and crossing tasks off our 'to do' lists, it's easy to overlook the thousands of decisions we make on a daily basis. Some of those decisions cause us to pause and analyze the matter before executing the task at hand. Negotiating an oil and gas lease is one of those that must be studied diligently, as oil and gas leases are generational contracts.

The "8 Essentials" that follow are strictly my opinion and do not constitute legal advice (I am not an attorney). Remember, there's no such thing as a "standard lease" or a "standard royalty". Consider all the variables that affect your mineral interest and work to negotiate as many protections in writing as possible.

#1 DETERMINE THE LESSEE/OPERATOR

If talking with a lease broker and not the operator, the landman may try to withhold the operator's identity for competitive purposes, as they may be looking to acquire as much acreage as possible before word gets out on new activity in the area or that new "gusher" they just drilled down the road. The landman may not reveal the identity, but it's certainly worth the effort to try.

#2 DO YOUR RESEARCH

Determine the royalty rates and terms being offered to other mineral owners in your area. Abstractors, the County Clerk, County Commissioners, and NARO are resources you can reach out to. Contact surface and mineral owners adjacent to your property. Are there other companies leasing or operating wells in the area? If so, inquire with them, see if they are interested in leasing your minerals.

#3 REQUEST ROYALTY OPTIONS

When beginning negotiations, request multiple royalty options and corresponding lease bonus rates to consider (3/16th, 1/5th, 1/4th). Then consider your current needs. Is the bonus or the royalty more important to you? Consider drilling activity in the area. Will a well be drilled, or do you believe the lease will be held in the operator's inventory? Do you have a child's college tuition to pay for? Pay off a mortgage? Take a big family vacation? Or do you desire to put off the potential financial gain until later with hope that a well gets drilled and you experience higher royalties over the long run. Do you only own an acre or two and the bonus doesn't add up to a large amount? Determine what's best for your situation.

#4 NEGOTIATE FOR A HIGHER BONUS

Most of the time, the first offer you receive is not the best offer. Work with the landman, build a rapport, and negotiate for a higher bonus. Request their highest and best offer.

#5 TERM

Avoid primary terms longer than 3 years and avoid options to extend, also called "kickers". Options to extend are just that, options. They are not an obligation for the Lessee and in most instances, options are to the benefit of the Lessee and not to you, the Lessor. In the event of an option, work to limit the option to one year, no more than two. Negotiate for an option bonus at 150% - 200% of the original bonus paid.

#6 PROVISIONS TO STRIKE

Remove "warranty" and "top lease" provisions whenever possible. If warranty becomes a deal breaker, negotiate for a "Special Warranty" where you as the Lessor are only warranting title to the property for the timeframe you have owned it and thus mitigate the risk you face from historical title issues that may exist prior to your ownership.

#7 ADDITIONAL PROVISIONS

Other beneficial provisions to include: No Deductions/Gas Enhancement (gross proceeds), Depth Severance, Pugh Clause, Shut-In, Commencement of Operations, Separation of Liquids, Bonafide Purchaser, and Indemnification. If you are also the surface owner, negotiate for the surface provisions to be incorporated within your lease addendum. Surface provisions can include, but are not limited to, provisions for flowlines, pipeline and electrical easements, surface damages, selling water for frac, saltwater disposal, fencing, crop damages, set back distances, irrigation interference, and plugging/restoration.

#8 CHECK PLEASE! NO BANK DRAFTS

In finalizing the transaction, request a check for the lease bonus payment. Bank drafts significantly delay your receipt of payment. Hold on to your original, signed lease until payment is received. If providing a copy of the signed lease to the Lessee via email, fax or mail to initiate the payment process, be sure to first make a copy of the lease and stamp or write "COPY" on each page of the copied lease before providing to the Lessee. This prevents the lease copy from being recorded prior to you receiving your lease bonus payment.

There are many other worthwhile tactics and provisions to consider when negotiating your lease; therefore, your "8 Essentials" could look much different than those outlined. We must be vigilant in crafting oil and gas leases….not only for short term protection of our rights, but to provide protection for generations to come.

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ROCKIES CHAPTER

REPRESENTING MT, ID, WY, UT, NV, AZ & NM

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WAXY CRUDE

CRAIG PETERSON, CHAPTER PRESIDENT

For years, the waxy crude produced in many Utah and Wyoming fields was considered less valuable than the crude found in many fields in the United States. Waxy crude can be difficult to transport, requires higher temperatures to maintain consistency, and many refineries did not have the capability to accept the waxy crude. With the emphasis on alternative energy sources, waxy crude with its low sulfur content now has a demand not seen in previous years. Mr Jim Finley, owner of two oil production companies in the West, has recently changed the name of one of his companies to Uinta Wax Operating. The reason for this change is to promote the sale of the waxy crude. Mr. Finley said about 20% of waxy crude goes into lubricants and cosmetics. In fact, all of the wind turbines now generating green energy depend on the wax from waxy crude. Much of the West's production of waxy crude is now shipping to refineries in Texas and the Louisiana Gulf Coast, where there is an increased demand for that particular product.

We are seeking volunteers to help with events and training in the Rockies. If any of you are interested, please email me at: craigpeterson@petersoninvestments.com. The NARO Board is looking at ways to improve our services to royalty owners, and we look forward to new and exciting plans for us and other chapters.

Many constituents do not know how easy it is to contact their elected officials in Washington and express their viewpoints. Right now, we need to let our elected representatives know how critical it is for us as a country to be energy independent, and not rely on energy from other countries, particularly those who do not believe in democracy and freedom. You don't need to prepare a long letter to let them know, just a sentence or two can work. All you do is google "contact Senator (list the name of your Senator)" or "contact Representative (type name of your representative)", and an online form prepared for his/her emails appears. You fill in some contact information, and then leave a short message. I contacted my Senators and Representative in less than ten minutes, on various energy issues. In my state, I am lucky, in that I always get a reply. They like to make sure their voters are being heard. You can specify that you do not want a reply, or receive future correspondence, if you want to maintain your privacy.

We need to be heard on energy issues now more than ever.

SAVE THE DATE

SEPT. 28, 2022
UINTAH BASIN ENERGY SUMMIT
(tentative date)
Vernal, UT

UPCOMING EVENTS

Go To The Events Page For Upcoming Event Information.
www.naro-us.org

Ramokota Hotel, Bismark, ND - In Person Event
NORTH DAKOTA CONVENTION
JUNE 15 - JUNE 16, 2022
SAVE THE DATE, REGISTRATION OPENING SOON

CoBank, Denver, CO - In Person Event
COLORADO CONVENTION
JUNE 16 - JUNE 17, 2022
DETAILS COMING SOON

Westin Galleria, Dallas, TX - In Person Event
TEXAS CONVENTION
JULY 13 - JULY 17, 2022
REGISTRATION OPEN

Uintah Basin Energy Summit, Vernal, UT - In Person Event
ROCKIES CONVENTION
AUGUST, 2022 (TENTATIVE DATE)
SAVE THE DATE

Pritchard Laughlin Center, Cambridge, OH - In Person Event
OHIO CONVENTION
SEPTEMBER 16 - SEPTEMBER 17, 2022
DETAILS COMING SOON

Tulsa, OK - In Person Event
NATIONAL CONVENTION
OCTOBER 9 - 12, 2022
DETAILS COMING SOON

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GET INVOLVED! ASK HOW YOU CAN CONTRIBUTE TO YOUR CHAPTER

TEXAS CHAPTER

JOHN B COLLIER V, PRESIDENT

SAVE THE DATE

JULY 13-17
TEXAS CONVENTION
Westin Galleria
Dallas, TX

CHAPTER UPDATE

JOHN B COLLIER V, CHAPTER PRESIDENT

Unless you've been living off the grid the past few weeks, you're aware of the unrest going on in Ukraine and the impact it has had on oil and gas prices. WTI touched $110 for the first time since 2014 and Henry Hub gas prices have held steadily above $4.00. It's hard to believe it's already been two years from the time we saw WTI in negative territory for the first time in history.

Operators added 28 rigs MoM to 310 at the end of the month. They breakdown by basin as follows: 217 in the Permian; 54 in the Eagle Ford; 20 in the Haynesville; 3 in the Barnett; 16 scattered in other areas throughout the state.1 We are still ~70 rigs below the five-year average, despite a ~95% increase in the price of WTI. This indicates operators are reluctant to increase production after years of increases that lead to oversupply and remain dedicated to staying cash-flow positive.

Permits remained flat for the month with 615 new permits approved by the RRC. 77% of the permits were horizontal wells and the Permian remains the most active basin in the country with 369 new permits. The Eagle Ford had the second most with 164, the Fort Worth Basin is picking up steam with 35 and East Texas had 32. The remainder were issued for various basins within the Lone Star State. We'll be watching the permit numbers closely to forecast activity related to high prices.

Registration is open online for the 2022 convention, being held at the Westin Galleria in Dallas from July 14-16. A lot of great topics will be covered by many great presenters. We look forward to seeing you all in Dallas this July.

NARO-TX and NARO-LA held a town hall meeting in Marshall on March 3. Jeremy Hornell from Enverus presented on the outlook for Haynesville and natural gas, key players and potential risk. It was well attended with ~60 registered attendees. The evening started with a happy hour where we were able to meet many local mineral owners. After Jeremy's presentation, we held a Q&A and touched on many subjects. A big thank you goes out to Jeremy for taking time out of his schedule to join us in Marshall. We also thank Enverus for always being there to support NARO whenever we ask.

When we arrived in Marshall, we were greeted by Marshall Chamber of Commerce where they introduced us on Facebook live. That video has been published on the NARO-Texas Facebook page if you are interested in viewing. The Chamber presented us with a key to the city and then held a ribbon cutting to welcome us as a new Chamber of Commerce member. The local newspaper was there and took photographs. It was great publicity for the state and national chapters and the people of Marshall could not have been more welcoming.

1: Energent Group. (2022, March). U.S. Land Rig Count. Retrieved from http://insights.energentgroup.com/rig-counts

2: RS Energy Group. (2022, March 4). RS Prism. Retrieved from https://prism.rseg.com/prism/new

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UPCOMING EVENTS

Go To The Events Page For Upcoming Event Information.
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Embassy Suites, Oklahoma City, OK - In Person Event

OK NARO CONVENTION

MAY 4 - 5, 2022

REGISTRATION OPEN

Horeshoe Casino, Bossier City, LA - In Person Event

LOUISIANA CONVENTION

MAY 16 – 17, 2022

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