



Texas Land & Mineral Owners Association

Official Newsletter

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The Texas Land & Mineral Owners Association is proud to announce that one of our members, TLMA Regional Vice-President Trey Scott, has been appointed to the Eagle Ford Task Force by Railroad Commissioner David Porter. The Task Force is quite an interesting group. We have yet to see what topics they will discuss, but we no doubt expect discussion to be lively as they get down to work. Good Luck Trey!

Below is a copy of the press release from Commissioner Porter that shows the makeup of the Task Force.

TEXAS RAILROAD COMMISSIONER DAVID PORTER ANNOUNCES MEMBERS OF EAGLE FORD TASK FORCE

AUSTIN —Texas Railroad Commissioner David Porter announced today the members selected to serve on his Eagle Ford Task Force.

The Eagle Ford Shale is rapidly becoming one of the largest domestic crude oil and natural gas discoveries in more than 40 years. Roughly 50 miles wide and 400 miles long, the Eagle Ford spreads across Texas from the Mexican border covering 24 Texas counties.

“The Eagle Ford Shale has the potential to be the single most significant economic development in our state’s history,” said Commissioner Porter. “We must develop this shale responsibly, finding the proper way to develop these resources while ensuring environmental protection.”

Commissioner Porter has created a Task Force to establish a forum that will bring the community together and foster a dialogue. The mission of the task force is three-fold:

1. Open the lines of communication between all parties
2. Establish best practices for developing the Eagle Ford Shale
3. Promote economic benefits locally and statewide

“We received an overwhelming amount of feedback from talented and credible applicants, so the selection process was not an easy one,” said Commissioner Porter. “However, I am confident we have chosen the right group to lead us through the development of the Eagle Ford Shale. We have done our best to ensure each stakeholder group is represented and all voices are heard.”

The Task Force is comprised of local community leaders, local elected officials, water representatives, environmental groups, oil and gas producers, pipeline companies, oil services companies (including a hydraulic fracturing company, a trucking company and a water resources management company), landowners, mineral owners and royalty owners.

The Task Force met recently in San Antonio and set an agenda for work moving forward. Porter plans for the Task Force to meet monthly, with the second meeting occurring in late August in the Eagle Ford region.

A list of the Task Force members can be found on Page 3.

INSIDE THIS ISSUE

- Eagle Ford Task Force Begins to Meet
- McTee New TLMA VP
- Upcoming Events
- Smitherman Named RRC Commissioner
- Eagle Ford Task Force Members
- Lease and Royalty Info
- Texas Ag Land Trust Webinar

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TLMA's mission is to create a business and legal environment that is accommodating to the continued exploration for and production of oil and natural gas by ensuring that the rights of both the mineral and surface owners are protected, reduce litigation and to protect our precious groundwater resources.

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KIMBERLEY K. MCTEE NEW TLMA VP

Ms. McTee was welcomed as a new TLMA Vice President at the July TLMA Board meeting. "Kim's enthusiasm and experience make her well suited to join the TLMA team" shared Kitty-Sue Quinn, TLMA Executive Director. "She wants to help and we certainly welcome her knowledge of the oil and gas industry as well as her love of the Texas Panhandle."

Kimberley (Kim) K. McTee graduated with a BSBA in Business Management from the University of Denver in 1989.

In 1996 she was appointed as a trustee and manager to the Catharine C. Whittenburg Testamentary Trust, J.A. Whittenburg, Jr. Testamentary Trust and the Gladys Martin Coble Testamentary Trust. She also holds an officer position in several companies, including Coble Oil, LC, Hansford Operating, LLC and Tom Coble Oil and Gas, LP. She is responsible for managing many thousands of acres of land and mineral interest in the Panhandle of Texas.

Kim currently lives in San Antonio with her husband Charles Dewey McTee, who has ranching and mineral interest in McMullen County, and daughter Michaela. Her hobbies include hunting, entertaining, and horseback riding. She enjoys her volunteer work with The American Cancer Society, The Cystic Fibrosis Foundation, and the Parents Association of Saint Mary's Hall.



Kim McTee, TLMA VP

UPCOMING EVENTS

September 14, Oil and Gas Webinar sponsored by the Texas Agricultural Land Trust, for more information and to register go to www.txaglandtrust.org or see Page 7 of this newsletter.

September 15, Kenedy: Summer Oil and Gas Seminar for Landowners, ½ day seminar with lunch. 8:30 am, Municipal Auditorium, 303 West Main, Kenedy, TX 78119, Multiple speakers including TLMA Executive Director. For more information call Laura 956-727-4441.

October 3, Cuero: Texas Farm Bureau Meeting, TLMA Executive Director is the featured speaker. For more information call Myra at 361-275-6177.

October 18, Falls City: South Central Texas Chapter of the Independent Cattlemen's Association fall meeting. 6:30 pm at the Falls City Community Center. TLMA Executive Director is the featured speaker. For more information call Windy Miller at 210-215-1139.

SMITHERMAN NAMED NEW RAILROAD COMMISSIONER

Commissioner Barry Smitherman is a fourth generation Texan appointed by Governor Rick Perry to the Railroad Commission of Texas on Friday, July 8, 2011. He currently serves on the Department of Energy's Electricity Advisory Committee (EAC) having first been appointed by Secretary of Energy Samuel Bodman and then reappointed by Secretary Steven Chu. Barry is a member of the State Bar of Texas and Vice Chairman of the Governor's Advisory Panel on Federal Environmental Regulation. He is also a member of the National Association of Regulatory Utility Commissions (NARUC) Board of Directors and the Committee on Energy Resources and the Environment (ERE). He is on the Visiting Committee of the Bureau of Economic Geology with the Jackson School of Geosciences at The University of Texas at Austin, The University of Texas School of Law Center for Global Energy, International Arbitration, and Environmental Law, and the Eanes Education Foundation Advisory Board.



Commissioner Barry Smitherman

Previously, Commissioner Smitherman was appointed by Governor Perry to the Public Utility Commission of Texas (PUCT) on April 21, 2004. He was reappointed on September 13, 2007, and promoted to PUCT Chairman on November 14, 2007. In his prior role as Chairman of the PUCT, he served as an ex officio board member of the Electric Reliability Council of Texas (ERCOT) and Vice President of the Regional State Committee (RSC) for the Southwest Power Pool (SPP).

Commissioner Smitherman grew up in Highlands, Texas. He graduated from Ross Sterling High School in Baytown and continued his education at Texas A&M University receiving a BBA summa cum laude. He received his J.D. from The University of Texas School of Law while working at the State Capitol for Senator Lindon Williams. Afterward he received a M.P.A. at Harvard University. For 16 years Barry was a public finance investment banker. Barry has also been a prosecutor with the Harris County (Houston, Texas) District Attorney's office.

MEMBERS OF THE RRC EAGLE FORD TASK FORCE NAMED

The members of the Task Force are:

- Leodoro Martinez – Middle Rio Grande Development Council, Executive Director, Cotulla
- Kirk Spilman – Marathon Oil, Asset Manager Eagle Ford, San Antonio
- The Honorable Jaime Canales – Webb County Commissioner, Precinct 4, Laredo
- Teresa Carrillo – Sierra Club, Executive Committee Member – Lone Star Chapter, Treasurer – Coastal Bend Sierra, Corpus Christi
- James E. Craddock – Rosetta Resources, Senior Vice President, Drilling and Production Operations, Houston
- Erasmo Yarrito – Texas Commission on Environmental Quality, Rio Grande Valley Water Master, Harlingen
- Steve Ellis – EOG Resources, Senior Division Counsel, Corpus Christi
- The Honorable Daryl Fowler – Dewitt County Judge, Cuero
- Brian Frederick – DCP Midstream, Southern Unit Vice President for the East Division, Houston
- Anna Galo – Vice President, ANB Cattle Company, Laredo
- The Honorable Jim Huff – Live Oak County Judge, George West
- Stephen Ingram – Halliburton, Technology Manager, Houston Business Development & Onshore South Texas, Houston
- Mike Mahoney – Evergreen Underground Water Conservation District, General Manager, Pleasanton
- James Max Moudy – MWH Global, Inc., Senior Client Service Manager, Houston
- Trey Scott – Trinity Minerals Management, LTD, Founder, San Antonio
- Mary Beth Simmons – Shell Exploration and Production Company, Senior Staff Reservoir Engineer, Houston
- Terry Retzloff – TR Measurement Witnessing, LLC, Founder, Campbellton
- Greg Brazaitis – Energy Transfer, Vice President, Government Affairs, Houston
- Glynis Strause – Coastal Bend College, Dean of Institutional Advancement, Beeville
- Susan Spratlen – Pioneer Natural Resources, Senior Director, Corporate Communications & Public Affairs, Dallas
- Chris Winland – Good Company Associates; University of Texas at San Antonio, Interim Director, San Antonio Clean Energy Incubator, Austin/San Antonio
- Paul Woodard – J&M Premier Services, President, Palestine

The following is being republished from the RRC website as a service to TLMA members.

GENERAL INFORMATION PERTAINING TO LEASES AND ROYALTIES

This outline is provided by the Railroad Commission of Texas (RRC) as an informal guide to members of the public seeking information or legal services the Railroad Commission CANNOT provide. Since the Texas Legislature has given the Railroad Commission limited authority to regulate the oil and gas industry in Texas, their staff cannot advise you in all oil and gas matters. Areas over which the Railroad Commission has no authority include lease and royalty matters (including leasing, payment of royalties and the right to receive royalties), the financing of or investment in oil and gas activities, and bankruptcy.

LEASES AND ROYALTIES

If you have questions about an existing lease or royalty agreement, you may find the information you seek in the courthouse of the county where the land is located. Usually a call to the courthouse can help you determine if any of the documents on file there are what you want.

The Commission maintains records regarding the reported production and disposition for all oil and gas produced from wells in the State. This information may be helpful in determining your interests. Additionally, the Commission also maintains records regarding the permitting of wells. If you have internet access you can obtain all reported production information from January 1993 to present and any online permitting records at the Commission's website www.rrc.state.tx.us. There is no charge for access to these records. If you require production records from earlier than January 1993, or if you require historical permitting records filed for a well that are not available on-line, you will need to contact the Commission's Central Records department at (512) 463-6882. For a small charge you may obtain copies of any records maintained in the Central records department.

To obtain production information on-line, you will need the RRC Identification Number for the well, a five digit number for oil wells or a six digit number for gas wells. This identification number is required to be posted at the entrance to the property where the well is located. This identification information may not be the same identification number used on any payment stub or other documentation received by a royalty interest owner. If you do not have the RRC well identification information, you may require further assistance to identify the wells to access the information available through the Commission's on-line database system. To access production information, start at the [home page](#), go to the [Data & Statistics/Online Research \(Queries\)](#) and click on [production data query](#) to get access to the Commission's on-line database for these records.

To obtain drilling permit information on-line, start at the [home page](#), go to the [Data & Statistics/Online Research \(Queries\)](#) and click on [drilling permit query](#) to get access to the Commission's on-line database for these records. By entering the drilling permit number, you can review the documents filed with the drilling permit application. You can search the Commission's on-line drilling permit database if you do not know the drilling permit number. Drilling permit records include plats and other documents designating the acreage in a pooled unit.

The State Comptroller oversees the payment of oil production taxes. Producers, first purchasers and subsequent purchasers all must file certain reports with the Comptroller. These reports outline in detail the amount of oil and gas produced monthly, counties and leases where the oil was produced, the price received or paid for the oil, and other information. If you think this information would be helpful you should contact:

State Comptroller L.B.J. State Office Building 111 E. 17th Street Austin, Texas 78701, (512) 463-4000 (800) 252-1384

The RRC has links to various statutes outlining the rights of royalty owners. These statutes can be found in the [Texas Natural Resources Code, TEX. NAT. RES. CODE ANN.](#). Sections 91.401 to 91.406 of the Natural Resources Code concern the timely payment of royalties. Note that §91.406 provides for minimum damages and recovery of attorney's fees in a successful action to recover past due payments. Section 91.501 to 91.506 of the Natural Resources Code outlines the information to which royalty owners are entitled from their payor.

The Railroad Commission cannot advise you whether you should enter into a lease or any other agreement, or whether an operator is in compliance with the terms of a lease. Since these are private contractual matters, you may want to consider contacting an experienced oil and gas attorney.

UNCLAIMED PROPERTY

If you have a question about unclaimed royalties or other oil and gas proceeds, you should contact the Comptroller of Public Accounts. The Comptroller operates and maintains the Unclaimed Property Fund and they have listings of unclaimed property by owner name. The staff will help you research particular names and the property involved. That address is:

Comptroller of Public Accounts Unclaimed Property Division P.O. Box 12019 Austin, Texas 78711-2019, (512) 463-3040 (800) 321-2274 (out-of-state) (800) 531-5441

Continued on Page 5

Continued from Page 4

A person who tells a potential claimant about property that is reportable to the Comptroller or that is in the possession of the Comptroller may not charge a finders' fee which exceeds 10 percent of the value of the property. If the property is mineral proceeds, the fee may not include a portion of the underlying minerals or any production payment, overriding royalty, or similar payment. Tex. Prop. Code Ann. §74.507.

ROYALTY PAYMENT REQUIREMENTS IN TEXAS

Do you know your responsibilities under the law?

Sections 91.401(2) and 91.501

As a working interest owner in a well or property, you have the responsibility to pay or cause to be paid any royalties due under the lease agreement from which you derived your working interest. This is true even if you are not the operator of the well or property. You can cause the royalty to be paid by entering into an agreement with the operator or purchaser of production to pay the royalties on your behalf. The purpose of this brochure is to provide you with basic royalty payment information to help you pay royalties timely. Remember it is through the cooperation of the mineral owner and the working interest owner that oil and gas is produced.

The requirements covered in this brochure are outlined in the **Texas Natural Resources Code Section 91 Subchapters J and L.**

These requirements include:

- When to pay royalties, when royalties can be suspended, and what interest rate to pay when interest is due
- What should be reported with a payment
- The statutory components of a division order
- What kind of notice to provide royalty owners when you buy a working interest or when the payor changes
- What information a royalty interest owner can request

WHEN TO PAY

Section 91.402(a) and (f)

Initial payment

- 120 Days after end of month of first sale

Ongoing payments

- 60 days after end of calendar month in which oil production sold
- 90 days after end of calendar month in which gas production sold

Payments must be paid when the payment reaches \$100, or

- If payments do not reach \$100 within 12 months and are greater than \$10, the aggregated amount must be paid
- Amounts that do not aggregate to \$10 must be paid upon the sale or plugging of the property or at the owner's request
- If an owner requests payment more frequently, only aggregate to \$25

WHAT YOU HAVE TO REPORT WITH A PAYMENT (amended effective 9/1/2002)

Section 91.502

1. Property Identification (Name, Number, or both; and County and State)
2. Sales month and year
3. Volume sold
4. Price per barrel or Mcf
5. Severance or other taxes deducted
6. Windfall profit taxes (repealed 1989)
7. Other deductions or adjustments
8. Net value
9. Owner decimal interest
10. Owner gross value
11. Owner net value
12. Address and phone number where additional information can be obtained

ROYALTY OWNER REQUESTS

Section 91.404(b)

If a royalty owner notifies an operator in writing of failure to make timely payment, the operator must either make payment or respond in writing within 30 days of receipt of the notice.

Section 91.504 (amended effective 9/1/2002)

Continued on Page 6

Continued from Page 5

Requests sent by **certified mail** for information regarding itemized deductions, adjustments, the heating value of gas, or the Railroad Commission of Texas identification number for the lease, property, or well must be responded to within 60 days of receipt of the request.

Section 91.505 (amended effective 9/1/2002)

Additional requests sent by certified mail for information not covered by Section 91.504 must be responded to within 30 days of receipt of request.

CHANGE OF PAYOR

Section 91.407 (a), (b), and (c)

If there is a change of payor, the new payor must notify the payee in writing of the change at the payee's most recent known address. The notice must include property name and number, effective date (month and year), and payor's address and phone number.

A division order, check detail, or other written communication that includes all of the above information will satisfy this requirement.

SUSPENDING PAYMENTS

Section 91.402(b) and (f)

Payments can be suspended without interest (provided the lease does not provide otherwise) if:

- A dispute concerning title exists that would affect distribution of payments
- A reasonable doubt exists that the payee has sold or authorized the sale of its share of the oil or gas to the purchaser
- A reasonable doubt exists that the payee has clear title to the interest in the proceeds of production
- A title opinion requirement placing the title, identity, or whereabouts of the payee at issue remains unsatisfied after a reasonable request for curative has been made.
- Payments are aggregated as provided by statute

WHEN INTEREST IS DUE

Section 91.403 and 91.407(d)

Late payment interest is due at a rate of 2 percentage points above rate charged on loans to depository institutions by New York Federal Reserve Bank when:

- Payment is late and the title is clear
- Payment is late, a division order is offered that does not comply with statutes, and the division order is not signed

Late payment Interest is due at a rate of 4 percentage points above the rate charged on loans to depository institutions by the New York Federal Reserve Bank when:

- Payment is late and notice that you are the new payor has not been provided

ANNUAL NOTICE TO ROYALTY OWNERS (effective 9/1/2002)

Section 91.504(e)

At least once every 12 months, a payor shall provide the following statement to each royalty interest owner to whom the payor makes a payment:

Section 91.504, Texas Natural Resources Code, gives an owner of a royalty interest in oil or gas produced in Texas the right to request from a payor information about itemized deductions, the heating value of gas, and the Railroad Commission of Texas identification number for the lease, property, or well that may not have been provided to the royalty interest owner. The request must be in writing and must be made by certified mail. A payor must respond to a request regarding itemized deductions, the heating value of gas, and the Railroad Commission of Texas identification number by certified mail not later than the 60th day after the date the request is received. An owner of a royalty interest in oil or gas may obtain information regarding production that has been reported to the Railroad Commission of Texas by contacting the oil and gas division of the commission or accessing the commission's website and providing the identification number of the lease and the county in which the lease is located.

DIVISION ORDERS

Section 91.402(c) through (i)

As a condition for the payment of proceeds, a payor may require a signed division order from the payee containing certain provisions. These provisions include:

- Effective date of division order
- Property description and type of production
- Payee's fractional and/or decimal interest

Continued on page 7

- Payee's type of interest (Royalty, Override, etc.)
- Certification of title to the share of production being claimed
- Unless otherwise agreed to by the parties, agreement to notify payor at least one month in advance of effective date of any change of interest
- Agreement to indemnify and reimburse the payor for payments resulting from failure of title
- Authorization to suspend payment to payee for title dispute or adverse claim
- Name, address, and taxpayer identification number of payee
- Provisions for valuation and timing of settlements of oil and gas production to the payee
- Notification to the payee that other statutory rights may be available to a payee with regard to payments

The statute also provides an example model form oil and gas division order that complies with the statute. Division Orders do not amend any lease or operating agreement between interest owner and lessee.

DISCLOSURE

The purpose of this page is to increase awareness of royalty payment requirements. It is not intended to serve as legal advice. Consult with your own attorney about questions concerning royalty payments.

Also, the lease or another contract may provide different requirements for payment than this statute. Working interest owners should check their lease terms so that they can be sure payments are made as required.

BANKRUPTCY

If an operator with whom you are involved has declared bankruptcy, there will be a bankruptcy case pending in a federal bankruptcy court. There are many bankruptcy courts in Texas, divided into four main districts. A court-appointed trustee generally will be in charge of handling the bankruptcy. Your claims and complaints should be addressed to the trustee. The bankruptcy case most likely will be pending in a court nearest the principal office of the business. The clerk of the bankruptcy court can give you further information.

FREE WEBINAR: SEPT 14, 2011/9:30am Oil, Gas & Mineral Development CAN Work with Conservation Easements



Steve Small

Space is Limited!

Attend our **FREE** webinar to learn how sub-surface mineral extraction can be part of your conservation easement.

National conservation easement expert Steve Small and Texas oil and gas lawyer Joseph Fitzsimons will cover:

- Texas law regarding separation of oil, gas, and mineral interests from the surface estate
- Federal tax law requirements for a conservation easement deduction applicable to oil, gas, and other minerals
- Examples of situations in which a deduction will be available, might be available, and would likely not be available



Joseph Fitzsimons

Date/Time:

**Wednesday, September 14, 2011
9:30am - 10:30am CDT**

Speakers

**Steve Small
Joseph Fitzsimons**



Conserving Texas Land For Future Generations

Register online at <http://www.txaglandtrust.org>



Texas Land & Mineral Owners Association
 1005 Congress Ave., Suite 360
 Austin, TX 78701



**Increased membership is very important to the mission of TLMA
 Please help us recruit new members!**

TLMA Membership Request Form

I would like to join TLMA, please
 send me membership information

I'm a member, please update
 my contact information

Name _____

Organization/Ranch Name _____

Address _____

City _____ State _____ Zip _____

Telephone Number _____ Fax Number _____

Email Address _____

Have you moved recently?

If so, be sure to update your contact information with TLMA. Otherwise you may experience delays in receiving your newsletters, renewal notices, and other membership correspondence.

To change your address, contact Robbie Querner at (512) 479-5000, mail the attached form, or send an email to

membership@tlma.org.

Please return to: TLMA, 1005 Congress Ave., Suite 360, Austin, TX 78701