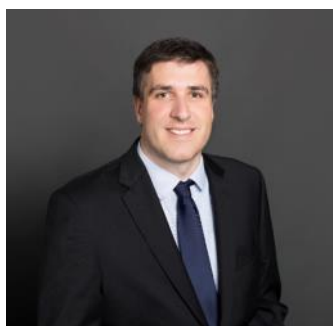


October Luncheon

Speaker: AJ Yoakum—Oram & Houghton

Title: Three Common Title Issues Faced in Title Examination: Duhig, Trust Ownership, and Affidavits of Heirship



AJ Yoakum has experience writing drilling, acquisition, and division order title opinions in numerous jurisdictions. Prior to joining the firm, AJ worked for a boutique oil and gas firm in the Houston area, writing title opinions, advising clients on title matters, and drafting curative documents. AJ also has represented clients in mineral receiverships in Texas state courts. Additionally, AJ has experience working in commercial real estate, advising clients on acquisitions, divestitures, financing, development, and leasing of both improved and unimproved properties, and has represented clients in the formation and governance of various types of business entities.

AJ is admitted to practice law in Colorado, Montana, North Dakota, Texas, and New Mexico. He graduated summa cum laude from St. Mary's University School of Law in 2011, was admitted to the John H. Harlan Society, and was a member of the Editorial Board of the St. Mary's Law Journal while attending St. Mary's. AJ currently lives in Colorado Springs, Colorado, with his wife and two daughters.

The luncheon will be held at the University Club on Wednesday, October 19th at 11:30 a.m.

This luncheon has applied for 1 CE and 1 CLE

[*Click here to register*](#)

49th Annual Fall Land Institute

Thursday, November 3rd, 2022

The Rally Hotel

(1600 20th St)

See pages 10-15 for more information



DAPL ROCKIES BASH

9TH ANNUAL

NOVEMBER 3RD, 2022

Join us at Tom's WatchBar after the Fall Land Institute
(1601 19th St, Unit 101)



**The Denver Association of
Professional Landmen**

910 16th Street, Suite 223

Denver, CO 80202

Telephone: (303) 446-2253

E-Mail: dapl@dapldenver.org

Web Site: www.dapldenver.org

*Office Hours
by appointment*

The Denver Association of Professional Landmen is a non-profit organization operated by its membership for mutual benefit to further the knowledge and interests of Professional Landmen, and to better acquaint the public with the scope of the Landman's work.

The Rocky Mountain Landman is a publication of the Denver Association of Professional Landmen.

Tabatha Reed

DAPL Office Administrator

Phone: (303) 446-2253

Column Coordinators:

Education **Bresee Carlson
Crosby Garrison**

Minutes **Laurie Wizeman**

Legal **Estee Sanchez**

Contributions from our readers are welcome. All suggestions and manuscripts should be emailed to the editor at the DAPL office. We reserve the right to edit all material according to standard practices.

Bylined and credited articles represent the view of the authors; publication neither implies approval of the opinions expressed nor accuracy of the facts stated.

Officer's Forum - Vice President

DAPL Members;

VOTE!

We are in the middle of election season and even though oil and natural gas isn't facing any major ballot issues this year, energy is on the ballot.

Colorado needs policymakers that support the workers who produce the cleanest oil and natural gas molecules in the world!

Now is the time to verify your voter registration is up to date and accurate by going to GoVoteColorado.com

Plan to return your ballot by mail or find a drop-off location by visiting your county [clerk's website](#)

Cast your ballot before 7:00 p.m. on Tuesday, November 8

COGA has endorsed a number of candidates who have expressed support for our industry and its workers. You can view State House and Senate, and County Commissioner Endorsements on their website [here](#)

Janet Rost

DAPL Vice President



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DISCOVERY
LAND SERVICES



Disaster Relief Assistance Available

Our thoughts and prayers are with all of those affected by Hurricane Ian.

The **AAPL Educational Foundation, Inc.** established the Disaster Relief Assistance program for AAPL members who have suffered financial loss due to natural disasters.

To apply for a grant, please fill out the **Disaster Relief Application**.

We have also established a link to donate to the fund via credit card. Please complete the **Disaster Grant Donation Form** and a payment option will follow.

100% of donations to the AAPL Educational Foundation for disaster relief directly assist AAPL members who have suffered devastating losses during this storm and future natural disasters.

The Educational Foundation is a Section 501(c)(3) nonprofit corporation of the Internal Revenue Code of 1954 charted under the laws of Texas. Your donation is tax deductible to the fullest extent of the law. Consult your tax adviser to see how this may apply to you.

For questions, please contact aapl@landman.org.

From a Legal Perspective

North Dakota Supreme Court Affirms Surface Owners' Pore Space Rights

The use of pore space for carbon capture and sequestration is rising as oil and gas operators seek to reduce carbon emissions. However, implementing sequestration projects across the United States remains clouded with uncertainty, as many states lack legislation guiding the process. A recent case in North Dakota, *Northwest Landowners Ass'n v. State*, 2022 ND 150, brings new clarity by affirming the rights of North Dakota surface owners to (1) exclude oil and gas operators from the surface owners' pore space; (2) profit from oil and gas operators' use of pore space for disposal or storage operations; and (3) seek damages for pore space trespass.

North Dakota's Senate Bill 2344 ("S.B. 2344") allowed oil and gas operators to use subsurface pore space for carbon capture and storage. N.D.C.C. § 38-08-25. However, this bill also denied the surface owner the right to exclude others from the subsurface pore space under their land and to demand compensation for the use or damage of such space. N.D.C.C. § 47-31-09(1). The Northwest Landowners Association (the "Association") challenged the constitutionality of S.B. 2344, arguing it "strips landowners of their right to possess and use the pore space" and "redistribute[s] that right to others without the consent of or compensation to the landowners." 2022 ND 150, at *7. North Dakota (the "State"), joined by Continental Resources, argued the law fell within the state's police power to use land for the public good.

The district court granted the Association's motion for summary judgment and held that S.B. 2344 constitutes a taking under both the federal and state constitutions. The court found the entire bill unconstitutional on its face. The State and Continental Resources appealed the decision.

The North Dakota Supreme Court first held that surface owners have a well-established property right in pore space. "It has been in our law since before statehood that 'an owner of land in fee has the right to the surface and to everything permanently situated beneath or above it.'" *Id.* at *22 (quoting *Mosser v. Denbury Res., Inc.*, 2017 ND 169, 16). Further, in 2009 the North Dakota legislature vested title to the pore space in the surface owner. *Id.*; see also N.D.C.C. § 47-31-03.

Second, the Court held that S.B. 2344 constitutes a per se taking since it permits operators to physically invade a surface owner's property. The Court noted that by denying surface owners the right to exclude operators from entering their property and storing gases in the pore space of their land, S.B. 2344 "takes away one of the most treasured property rights." *Id.* at 26. Additionally, surface owners have the right to compensation for the use of their pore space. As drafted, the Court held that S.B. 2344's limitation on surface owner compensation eliminated all rights that make pore space valuable to the surface owner. However, the Court confirmed compensation is required for all trespass on the surface owner's land, even for physical invasions with minor impacts.

The State argued the dominant mineral estate principle saved the bill from a takings violation "because the implied easement authorizes the mineral owner to use the surface estate as 'reasonably necessary' to find and develop minerals when the surface and mineral estates are severed." *Id.* at 28. The Court rejected this argument since S.B. 2344 barred surface owners from bringing tort actions for operations that would be considered trespass that were beyond the scope of the implied easement.

Overall, the Court affirmed in part and reversed in part the district court's decision to strike down S.B. 2344. The Court found the limitation on surface owners' rights to prohibit access or demand payment from an oil and gas operator's use of their pore space to be unconstitutional. Additionally, the Court held the exclusion of "pore space" from the definition of "land" is unconstitutional since it eliminated the surface owner's right to compensation for the use of or damage to the pore space. Finally, the Court found the bill's declaration that "injection or migration of substances into pore space for disposal operations . . . by itself, does not constitute trespass, nuisance, or other tort" is unconstitutional because it infringed on surface owners' rights to recover for damages to their property. *Id.* at 35.

The Court reversed the district court's declaration that the entire bill was invalid and upheld those provisions that

From a Legal Perspective cont'd.

did not raise takings issues, including the new definitions for “pore space” and “surface owner,” which provide clarity for carbon sequestration project development.

The North Dakota Supreme Court’s findings are crucial for surface owners and oil and gas operators alike as carbon capture and storage operations grow more common across the United States. North Dakota, Wyoming, and Montana are among the few states that have enacted pore space ownership and use statutes, thus, most states seeking to enact pore space or carbon capture and sequestration legislation may use the Court’s decision in *Northwest Landowners Ass’n* for guidance. For operators, the decision emphasizes the importance of surface owner consent and surface use agreements prior to the use of pore space to avoid claims for trespass or failure to pay requisite compensation.

Kelsey K. Johnson
Davis Graham & Stubbs

The Rocky Mountain Landman Advertising Rates

<u>Size</u>	<u>Dimension (W x H)</u>	<u>1 Time Ea.</u>	<u>10 Times Ea.</u>
Business Cards	2 1/2 x 1	\$ 25.00	\$ 20.00
1/4 Column	2 3/8 x 2 1/4	\$ 40.00	\$ 36.00
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Contact : DAPL Office (303) 446-2253



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Sign up to volunteer at CRED.org/volunteer or 800.425.0856



2022 DAPL Calendar of Events

October 2022

Sun	Mon	Tue	Wed	Thu	Fri	Sat
2	3	4	5	6	7	8
9	10	11 Education Committee Meeting	12 Board Meeting	13 DALTA/ DADOA Fall Seminar	14	15
16	17	18	19 Luncheon	20	21	22
23	24	25	26	27	28	29
30	31					

November 2022

Sun	Mon	Tue	Wed	Thu	Fri	Sat
		1	2	3 Fall Land Institute & Rockies Bash	4 Annual Award Nominations	5
6	7	8 Education Committee Meeting	9 Board Meeting	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

October 2022

11th-Education Committee Meeting
 12th-Board Meeting
 13th-DALTA/DADOA Fall Seminar
- see page 24 for more information
 19th-Luncheon - *see page 1 for more information*

November 2022

3rd-49th Annual Fall Land Institute -
see pages 1 and 10-15 for more infor-
mation
 3rd-9th Annual Rockies Bash - *see*
pages 1 and 15-19 for more infor-
mation
 4th-Annual Award Nominations Due
- see page 18 for more information
 8th-Education Committee Meeting
 9th-Board Meeting

December 2022

13th-Education Committee Meeting
 14th-DAPL, DALTA & DADOA
 Holiday Luncheon and Annual
 Awards - *Save the Date!*

Proposed Agenda/ Subject to Change**DAPL**

DENVER ASSOCIATION OF PROFESSIONAL LANDMEN

49th Annual Fall Land Institute

Presented by:

Denver Association of Professional LandmenThursday November 3rd, 2022, The Rally Hotel

7:15 am-----Registration Opens

7:30 am-----Continental Breakfast

8:00 am – 8:10 am: Welcoming Remarks

ARMANDO TREVINO, President, Denver Association of Professional Landmen

8:10 am – 9:10 am: Market and Commodity Trends

- TRISHA CURTIS, President and CEO, PetroNerds
- Ambassador: Crosby Garrison

9:10 am – 9:20 am-----Break

9:20 am – 10:20 am: Boulder Case/Commercial Discovery Rule

- JOEL NECKERS, Partner, Wheeler, Trigg, O'Donnel LLP
- JAMIE JOST, Founder and Managing Shareholder, Jost Energy Law, P.C.
- Ambassador: Aaron Gray

10:20 am – 11:20 am: Comprehensive CO Regulatory Report

- JILL FULCHER, Shareholder, Beatty & Wozniak, P.C.
- Ambassador: Craig Rowland

11:20 am – 11:50 pm-----Lunch Line

11:50 pm – 12:30 pm: AAPL President

CARL D. CAMPBELL, CPL, President, American Association of Professional Landman

- Ambassador: Kelly Muldoon

12:30 pm – 1:20 pm: SUA Considerations/BLM

- MICHAEL JEWELL, Partner, Jewell Jimmerson Law
- Ambassador: Janet Rost

1:20 pm – 1:30 pm-----Break

1:30 pm – 2:30 pm: Marcellus Title Topics

- ANDREW GRAHAM, Steptoe & Johnson, PLLC
- Ambassador: Bresee Carlson

2:30 pm – 3:30 pm: Mineral and Royalty Evaluation

- JAMES SHUSS PE, Vulcan Royalties, LLC
- Ambassador: Aaron Bloedow

3:30 pm – 4:30 pm: Ethics + Ethics Bingo

- GIL GUETHLEIN
- JAMES HUBERT
- Ambassador: Crosby Garrison

4:30 pm-----Adjourn / Head over to Rockies Bash @ Tom's Watch Bar



Armando Trevino
Vice President-Land, Crowheart Energy, LLC
President, Denver Association of Professional Landmen

Armando Trevino grew up in Dallas, Texas and graduated from Texas Tech University in 2008. He began his oil and gas career in 2009 in the Barnett Shale working for a land brokerage in Fort Worth, TX. He later moved to Denver, CO in 2012 where he continued his love for the industry and became immediately involved with the DAPL. Armando continues to live in Colorado and currently leads the Land Department as Vice President-Land for Crowheart Energy, LLC and concentrates his focus on their operations in the Greater Green River Basin. Prior to joining Crowheart, he worked for Caerus Oil and Gas LLC for five years as a Landman and Manager working in the DJ and Piceance Basin. Since joining DAPL Armando

has served and volunteered on numerous committees including the Chair for the DAPL Annual Golf Tournament and in a few different board member roles as well. He now currently serves as the President of the DAPL. Armando is also involved in the Colorado Oil and Gas Association and the Petroleum Association of Wyoming and was part of the 2018 EnGen leadership development program with COGA. Outside of his passion for the oil and gas industry Armando spends his free time with his beautiful wife, two loving kids, as well as their chocolate lab enjoying the outdoors skiing, golfing, hiking, and camping.

Trisha Curtis
President and CEO, PetroNerds

PetroNerds, LLC was founded and is led by Ms. Trisha Curtis, an expert of micro and macro market intelligence and an authority on matters of geopolitics, production and technological change, particularly as it relates to oil & gas.

Trisha evaluates US upstream markets on a wells-up basis with critical analysis of individual operators, assets, reservoirs, and plays. She provides clients with in-depth analysis of the US shale industry and the global oil market and synthesizes this into relevant, actionable, and forecastable information integral to her clients and their respective businesses.



Ms. Curtis completed her undergraduate work at Regis University in Denver, Colorado where she double majored in Economics and Politics, minored in Criminology, and graduated Summa Cum Laude. She has a Master of Science (MSc) degree from the London School of Economics in International Political Economy and wrote her MSc Dissertation on Chinese National Oil Companies. As an undergraduate, she also worked as a staff assistant in UK Parliament for John Grogan, Selby Constituency. Raised in northwest Colorado and southwest Wyoming, she grew up around pump jacks and has worked on oil and gas sites in Colorado and Wyoming with her father. Ms. Curtis is third generation oil and gas.



Joel Neckers
Partner, Wheeler, Trigg, O'Donnell LLP

Joel Neckers has represented clients in hundreds of cases, taken 15 trials to verdict across the U.S., and served as lead counsel in 25 states. In 2020 he served on the trial team that won one of the first remote trials of the COVID era—in a case involving \$1.25 billion for an electric distribution co-op. Joel frequently represents oil and gas companies in cases involving contracts, real property, royalty accounting, and fiduciary duties, including a recent victory at the Court of Appeals against Boulder County that is currently pending before the Colorado Supreme Court. He also handles complex civil litigation including commercial disputes, professional liability claims, and catastrophic torts. The Best Lawyers in America recognizes Joel for commercial litigation and product liability defense, and Colorado Super Lawyers lists him for class actions and mass torts defense.

Jamie Jost
Founder and Managing Partner, Jost Energy Law, P.C.

Jamie Jost is the Founder and Managing Shareholder of Jost Energy Law, P.C., a female owned and operated firm specializing in energy and natural resources law. Jamie focuses her practice on matters relating to exploration, development and production of oil and gas, as well as local, state, and federal regulatory issues in the Rocky Mountain region. She assists national and international clients with legislative and policy strategy planning, title, due diligence, acquisition and divestiture matters, land contracts and eminent domain matters. Jamie regularly practices in front of the Colorado Oil & Gas Conservation Commission and the Wyoming Oil & Gas Conservation Commission, as well as federal and state courts on various energy issues. Jamie has served the Colorado Oil & Gas Association in various capacities since 2010 and was COGA's Counsel from 2013 to 2016. She is also a past trustee and author for the Rocky Mountain Mineral Law Foundation. Jamie has represented the oil and gas industry in the private sector since 2002 ensuring that exploration, development, and operations continue to progress safely, efficiently and economically. She received her J.D. from the University of Wyoming School of Law and her undergraduate degree, *cum laude*, in Environmental Science and Industrial Hygiene from Indiana State University.



Jill Fulcher
Shareholder, Beatty & Wozniak, P.C.



Jill Fulcher focuses her practice on representing companies before the Colorado Oil and Gas Conservation Commission. She has successfully obtained Commission approval for hundreds of requests for relief pertaining to drilling and spacing units, increased well density, reduced setbacks, statutory pooling, and unitization. Jill has also successfully represented clients before the COGCC for contested matters related to horizontal wellbore spacing units, APD approvals, unconventional resource units, and enhanced recovery operations. Additionally, she has represented clients before the COGCC for nearly every major rulemaking in the last decade.

In addition to representing companies before the COGCC, Jill assists clients in navigating local and federal regulations. She assists clients with local permitting and transportation access issues, as well as obtaining surface locations. Jill has helped companies enter Memoranda of Understanding with local governments, and assisted clients in defending cases before the Interior Board of Land Appeals.

When she graduated law school, Jill knew she wanted to focus her legal career on representing oil and gas companies. Through her family, Jill has strong ties to the energy industry, and believes there's no better industry that typifies risk and reward.



Carl Campbell, CPL
President, American Association of Professional Landmen

As a co-founder and COO of Alamo Resources LLC, Carl Campbell, CPL, has extensive industry experience in the Gulf Coast, Mid-Continent and Rocky Mountain regions of the United States and in Canada. Alamo Resources currently has holdings in the Gulf of Mexico and the Delaware Basin.

A native of Oklahoma City and an alumnus of the University of Oklahoma, Campbell began his professional career in 1983 as a landman for the newly formed PetroCorp Inc. He became a division landman in 1987 during the company's aggressive exploration and development program in the Mid-Continent region. In 1991, Campbell moved to Houston as the division landman for PetroCorp's Gulf Coast region, and from 1993 through 1999, he gained a broad spectrum of experience in varied and prolific petroleum provinces as the company's division land manager for the newly consolidated Gulf Coast, Rockies and Canada Division.

Prior to co-founding Alamo Resources in July 2004, Campbell formed Concorde Resources LLC in early 2000, successfully pursuing exploration and development opportunities in the Gulf Coast and Mid-Continent regions. Over the course of his career, he has been directly involved in producing property acquisitions and divestitures totaling in excess of \$750 million.

A certified professional landman since 1995, Campbell has been an active member of AAPL, the Canadian Association of Petroleum Landmen, the Houston Association of Professional Landmen, the Independent Petroleum Association of America and the Texas Oil and Gas Association.

Campbell was elected to the HAPL board of directors in 2004 and is a past president of the organization. He served as AAPL first and second vice president and chairman of its Industry and Public Relations Committee as well as chairman of the NAPE Operators Committee and the NAPE Advisory Board.

In 2011 Campbell was honored as HAPL's Outstanding Landman of the Year and in 2018 as AAPL's Landman of the Year. In 2012, the Texas Independent Producers and Royalty Owners Association named him among the Texas Top Producers in the Landman category of awards. In 2013 he was selected as a finalist for the top 100 most influential Houston business leaders in the energy industry. And in 2014 he was named to the Houston Business Journal's list of Who's Who in Houston Energy.

Campbell currently serves as an advisory board member for the Robert M. Zinke Energy Management Program within the Price College of Business at the University of Oklahoma. In addition, he is a past vice chairman and a member of the board of directors for Angel Flight South Central, a nonprofit organization that provides free air transportation to patients for medical and humanitarian purposes.

Campbell lives in Houston with wife Jennifer and daughter Victoria. He is an active member of the First Presbyterian Church and a charter member of the Museum of Fine Arts, Houston as well as the Houston Museum of Natural Science.





Michael Jewell
Partner, Jewell Jimmerson Law

Michael T. Jewell is a partner at Jewell Jimmerson Natural Resources Law where he focuses his practice on serving exploration and production clients in Colorado, New Mexico, and Wyoming.

Michael's key practice centers on all things federal and regulatory, including leading the development of OGDPs with the COGCC, parlaying renewables in tandem with oil & gas, state and federal rulemakings, and land use rights.

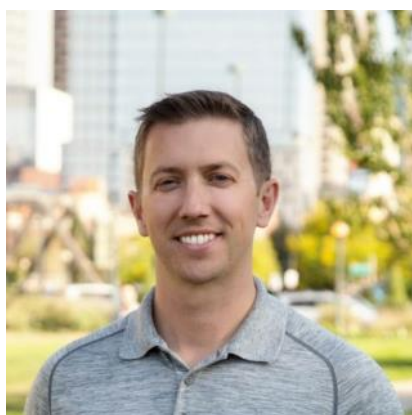
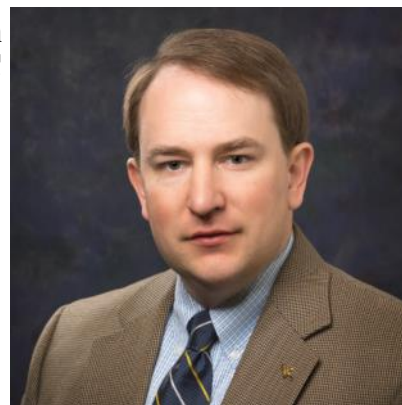
He previously served as Chair of the Natural and Energy Law Section of the CBA.

In addition to his practice in natural resources law, Michael is on faculty at the Colorado School of Public Health - Anschutz Medical Campus, where he teaches courses in public health law and mental health systems and policy.

Michael studied history and biology at Louisiana College, international health systems management at Tulane University, and received his law degree from DU. He recently added a post-graduate certificate in philosophy from Cambridge University.

Andrew Graham
Step toe & Johnson, PLLC

Andy Graham focuses his practice in the areas of energy and mineral law (oil and gas, coal, and coalbed methane), real estate, and commercial transactions. Mr. Graham regularly assists clients with mineral title examinations, coordinating and performing due diligence, buying and selling mineral assets, and issues related to surface use and compensation arising from mineral development. He is admitted in Texas and West Virginia.



James Shuss, PE
Vulcan Royalties, LLC

Jim is a registered Professional Engineer in the State of Colorado with over 15 years of experience with a primary focus on oil and gas asset valuations and reservoir engineering projects. He currently works as a private engineering consultant for multiple clients across the US providing technical asset valuation workflows as well as formal engineering reports covering multiple basins. Prior to consulting, Jim worked for 4 years as the VP of Underwriting for multiple mineral acquisition firms purchasing assets across the Lower 48. He also spent 10 years at PDC Energy in Denver serving as the Manager of SEC Reserves & Corporate Development. Jim holds a BS in Petroleum Engineering with a minor in Geology from Colorado School of Mines. He is a native of Colorado and currently lives in Arvada and when not working, he can typically be found hiking, camping, and running around with his wife and two kids.

typically be found hiking, camping, and running around with his wife and two kids.

Gil Guethlein
KXP Resources, Director of Land
DAPL Ethics Co-Chair

Ms. Guethlein has fifteen years of experience in the energy industry, during which time she has transacted on over \$1B in properties. She specializes in full-cycle land management for multidisciplinary teams driving value creation for institutional investors. As Director of Land of KXP Resources, she reconstructs traditional oil and gas methodologies to drive production of energy with a net carbon-neutral footprint. Ms. Guethlein previously managed Permian Basin Land at Bayswater, supervised DJ Basin Land Business Development at Anadarko and worked the Fayetteville, Haynesville, and Marcellus shale plays at BP America. She has a BS and JD from The University of Texas, is licensed to practice law in Colorado and Texas, is an alumna of the Latino Leadership Institute and is First Vice President of DAPL.



James Hubert
President, Discovery Land Services
DAPL Ethics Co-Chair

James Hubert is the founder and President of Discovery Land Services, a Denver-based land brokerage company focusing on the Western United States. James began his career in 2004 in the Illinois Basin and has since worked all over the continental United States. Since starting his own business in 2010, James has had the pleasure of supplying some of the best contract land professionals to a wide variety of clients.



Join us on November 3rd for a day of Education at the 49th Annual Fall Land Institute followed by an evening of networking and a good time at the 9th Annual Rockies Bash.

In person capacity for the FLI is limited so sign up early.

In Person Registration: DAPL Members-\$225 / Non-Members-\$300

Virtual (webinars) Registration: DAPL Members-\$175 / Non-Members-\$250

No registration required for the Rockies Bash

For more information on the FLI or to register [CLICK HERE](#)

For more information on the Rockies Bash [CLICK HERE](#)

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DAPL ROCKIES BASH

9TH ANNUAL

NOVEMBER 3RD, 2022



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- Recognition at DAPL luncheons following the event
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- Company promotion prior to the event via DAPL's social media platforms
- Ten (10) tickets for Virtual Attendance at the Fall Land Institute
- One foursome for Denver Petroleum Club (DPC) Golf Tournament
- Four (4) tickets DPC Members Only 2023 Crawfish Boil
- Two (2) tickets to DPC Members Only on December 8, 2022, Holiday Party
- Five (5) tickets to virtual attendance Jan-May DAPL Luncheon

**\$5,500 +
VALUE!**



GOLD - \$5,000

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- Company promotion prior to the event via DAPL's social media platforms
- Five (5) tickets for Virtual Attendance at the Fall Land Institute

**\$2,650 +
VALUE!**



- Two (2) tickets DPC Member's Only 2023 Crawfish Boil
- Two (2) tickets to DPC Member's Only December 8, 2022, Holiday Party
- Four (4) tickets to virtual attendance Jan-May DAPL Luncheon

SILVER - \$2,500

- Logo displayed on Red Carpet entrance backdrop
- Logo displayed on DAPL's website as an official event sponsor
- Recognition at DAPL luncheons following the event
- Four (4) months of complementary ad space on DAPL's website
- Company promotion prior to the event via DAPL's social media platforms
- Three (3) tickets for Virtual Attendance at the Fall Land Institute
- Two (2) non-member tickets to the DPC 2023 Monthly Speaker Series of your choice
- Three (3) tickets to virtual attendees for Jan-May DAPL Luncheon
- Four (4) tickets to 2023 Energy Industry Happy Hour



BRONZE – \$1,000

- Logo displayed on official event material
- Logo displayed on DAPL's website as an official event sponsor
- Monthly recognition at DAPL luncheons
- Two (2) tickets for Virtual Attendance at the Fall Land Institute
- Two (2) tickets to virtual attendees for Jan - May DAPL Luncheon



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(please check) ☐ Silver ☐ Bronze

Please make checks payable to the DAPL with a notation for the "**DAPL Rockies Bash.**"

Mail Sponsorship Registration Form and check to:
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910 16th Street, Suite 223
Denver, CO 80202

Please send your company logo in .jpeg/.png format to: dapledapldenver.org (by 10/21)

Field Landman Question

Colorado Clarifies Application of Centerline Presumption to Minerals

A DAPL member has asked: What are the recent court decisions on the centerline presumption in Colorado?

On September 15, 2022, the Colorado Court of Appeals published an opinion that answered a question of first impression: “Does the common law centerline presumption apply to convey the mineral interests beneath a dedicated right-of-way to the owners of abutting parcels?” In short, the court held that, where all criteria for the application of the centerline presumption have been met, “it applies to convey all the interests a grantor [owns] in the property underlying a right-of-way, including mineral interests.”

The case of *Great Northern Properties, LLLP v. Extraction Oil & Gas, Inc.* (2022COA110) was an appeal of the district court’s decision in a quiet title action that arose from the dedication of a right-of-way for a street in a subdivision by a developer to the City of Greeley, located in Weld County, Colorado. The developer first dedicated the street to the city, then conveyed two parcels of land abutting the street, whereafter the city accepted the dedication, and then the third and final parcel abutting the street was conveyed away. The deeds for the first two parcels contained metes and bounds descriptions which did not reference the street; the deed for the third parcel did reference the street in its metes and bounds description. None of the three deeds contained an exception or reservation of minerals underlying the street to the developer.

More than forty years later, “the developer conveyed whatever interest it had in the minerals beneath [the street] to [Great Northern].” Great Northern then brought suit to quiet title to the minerals underlying the street. Extraction was the lessee under oil and gas leases from Great Northern and all abutting landowners; thus, Extraction had secured leases from all possible mineral owners and the outcome of the quiet title action only affected which parties were entitled to receive royalties under those leases. The district court held that the developer had conveyed the minerals to the centerline of the street when it conveyed the abutting parcels of land and therefore quieted title in the abutting landowners; Great Northern appealed.

The common law centerline presumption is a rule which states that “a conveyance of land abutting a road or highway is presumed to carry title to the center of that roadway to the extent the grantor has an interest therein, unless a contrary intent appears on the face of the conveyance.” The question of whether the centerline presumption applies to minerals had not been expressly addressed by Colorado courts prior to the *Great Northern* case. The court relied upon well-settled property law principles in reaching its conclusion: “when the centerline presumption applies (that is, when all preconditions to its application are met...), it applies to *all interests* the grantor possesses in the property underlying the right-of-way, including mineral interests.”

Among the fundamental rules of property law relied upon by the court, in addition to the precedent establishing the above-quoted centerline presumption itself, were the following: (i) the presumption that a grantor intends to convey their entire interest unless they expressly except and reserve an interest, or specifically describe something less than the whole, in the conveyancing instrument; and the rules that (ii) a conveyance of land, without mineral reservation and absent a prior severance, conveys both the land itself and the minerals underlying it, and (iii) any severance of minerals from the surface must be done by clear and distinct language. It further acknowledged that the application of the centerline presumption was in accord with public policy.

The court also outlined several preconditions which must be satisfied in order for the centerline presumption to apply. In summary, the court held that “the centerline presumption applies only when (1) the grantor conveys ownership of a parcel of land abutting a right-of-way; (2) at the time of the conveyance, the grantor owned the fee underlying the right-of-way; (3) the grantor conveys away all the property they own abutting the right-of-way; and (4) no contrary intent appears on the face of the conveyance.”

Field Landman Question cont'd.

A fifth point that was distinguished by the court is that, for the centerline presumption to apply, the right-of-way must exist at the time of the conveyance. This does not mean that a dedicated right-of-way must be accepted by the governmental authority at the time of the conveyance of abutting lands; rather, as between the parties, the right-of-way existed as of the moment it was intended to be created, *i.e.* as of the dedication from the dedicator to the governmental authority irrespective of when it was ultimately accepted. However, if, *e.g.*, a roadway was vacated prior to adjoining lands being conveyed away, such lands would not be considered to abut a road (as the road no longer existed), and therefore, the centerline presumption would not apply. The court additionally provided that the “the person claiming title to property under the centerline presumption bears the burden of proving their ownership and must be able to trace title back to the owner of the fee underlying the right-of-way.”

Arguments put forth by Great Northern as to why the centerline presumption should not apply to minerals underlying a right-of-way include (a) it violates the principle that an unambiguous deed conveys only what is described therein and (b) statutory dedications operated to sever the mineral estate from the surface. The court rejected both of these arguments. As to the first, the court recognized that parties’ intentions must be determined from the four-corners of unambiguous deeds, but clarified that deeds “must be interpreted in the context of existing law.” According to existing law, “a silent deed conveying property abutting a right-of-way is not ambiguous” because it “passes the highest estate to the centerline to the right-of-way, and [] the highest estate includes both the surface and the unsevered mineral estate.”

As to the second, the court noted that dedications can occur by common law – whereby a property owner dedicates the property and then the governmental authority accepts such dedication – or by statute – whereby all streets designated for public use on a city or town map or plat are deemed public property (*see* C.R.S. § 31-23-107). Under common law dedication, the government acquires an easement to use the land described in the dedication, whereas under statutory dedication, the city or town acquires “such estate or interest as is reasonably necessary to enable it to utilize the surface and so much of the ground underneath as might be required for” ordinary use as a street. According to Colorado law, the centerline presumption applies the same to common law and statutory dedications and neither scenario results in the creation of a mineral estate separate from the abutting parcels; rather, the minerals underlying dedicated roadways remain vested in the dedicator, with the government acquiring no interest therein.

While the court found error in a particular aspect of the district court’s ruling, it affirmed the lower court’s application of the centerline presumption to the conveyances at issue and held that, if all the preconditions discussed above are satisfied such that the centerline presumption applies, then the same applies to all interests of the grantor, including mineral interests.

Diana S. Prulhiere
Steptoe & Johnson PLLC

Do you have a land issue you would like discussed? Do you need supporting documentation to win a bet with a colleague? Is there a question you are too embarrassed to ask your boss? If so, the DAPL would like to hear from you! Please submit your question to joe.martin@highwestresources.com. Each month, we will publish a question chosen from those submitted, along with a Steptoe & Johnson PLLC attorney’s discussion of the issue. The foregoing article discusses general legal principles and laws applied to a generic fact situation, is not intended to constitute legal advice or create any attorney-client relationship, and no representation or warranty of accuracy or applicability regarding the same is made by the author or Steptoe & Johnson PLLC. The content of and views expressed in the foregoing article are those of the author, and are not the views of the DAPL.

Nomination Form for Annual Awards 2022

The DAPL Awards Committee is soliciting recommendations from the general Membership for the categories described below. In the event you wish to nominate someone for these awards please complete and return to the DAPL or email your submission to <mailto:DAPL@DAPLDenver.org> by **November 4, 2022**. Vote and let your input count!

Nominator name and email: _____

Landman of the Year

Description: To be presented to a DAPL Member who most exemplifies the land profession. Contributions to the industry, the DAPL, the community, the land profession and demonstrates exemplary leadership.

Nominee: _____

Qualifications and why nominated:

Hall of Fame – Lifetime Achievement Award

Description: A lifetime achievement award to be presented to a current/past DAPL Member who has exemplified the land profession and demonstrated leadership by contributing to the industry, the DAPL, the community and the land profession..

Nominee: _____

Qualifications and why nominated:

Special Awards – Multiple Awards in this category may be awarded based on merit

To be presented to the member(s) or group(s) who/which has made an extraordinary contribution to DAPL/AAPL, the land profession, the industry or the community. May include but is not limited to:

Education

Description: May be presented to a member who has achieved a level of unusual distinction in AAPL's continuing education program as demonstrated by his/her contribution of time and service to the betterment of land professionals.

Nominee: _____

Qualifications and why nominated:

Committee Member

Description: May be presented to a Committee member who has greatly exceeded expectations.

Nominee: _____

Qualifications and why nominated:

Community Service

Description: May be presented to a member who has contributed greatly toward civic improvement in his/her local community.

Nominee: _____

Qualifications and why nominated:

Mail nomination forms to the DAPL office 910 16th St., Suite 223 Denver, CO 80202 or email dapl@dapldenver.org

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DAPL August 2022 Board Meeting Minutes

8/10/22

In attendance:

In person: James Culbertson, Tabatha Reed, Thomas Porter, Laurie Wizeman, Armando Trevino, Janet Rost, Tyler Adams

On Phone: Tyler Aylor, Gil Guethlein, Estee Sanchez, Justin Savage, Bresee Carlson, Crosby Garrison, Kelley Muldoon, Todd Ritchie, Alex Campbell, James Hubert, Hannah Eastwood

Pres. Armando Trevino called the meeting to order at 11:35 AM MST

Approval of Minutes.

Laurie motioned to approve July minutes. Janet seconded. APPROVED.

Membership. Reported by Janet.

7 new membership applications, all Active. Janet moved to approve the applicants as Active Members, Armando seconded. APPROVED.

August 2022 Board Meeting								
MEMBER NAME	COMPANY	ACTIVE	ASSOCIATE	STUDENT	AAPL	SPONSOR	OFFICE PHONE	E-MAIL
Maggie Buelow	Chevron	X			Yes	Janet Rost	661-336-8248	mbuelow@chevron.com
Aaron Grey	Gray Land Services, LLC	X			Yes	Dennis Bitemar	307-752-2634	aaron@graylandservices.com
Philip LeBaron	BPX Energy	X			Yes	Aaron Bloedow	720-412-7658	philip.lebaron@bpx.com
Chris Kirgan	BPX Energy	X			Yes	Josh Cain	720-248-0698	christopher.kirgan@bpx.com
Erik Johnson	Erik Kenneth Johnson LLC	X			No	Tyler Aylor	720-935-6626	erikkennethjohnson@gmail.com
Brad Rich	stockyards Energy Land Service	X			Yes	Janet Rost	817-916-0003	brad@stockyardsland.com
Karsten Baker	KB RE LLC	X			Yes	Tyler Aylor	817-917-8560	karstenab@gmail.com
Aug-22								
Total Number of Current Members - 649								
Total Number of Non-Members (Expired) - 665								
Expired 5/31/22 - 129								
Expiring 5/31/23 - 299								
Expiring 5/31/24 - 82								
Expiring 5/31/25 - 40								
Expiring 5/31/26 - 1								
Honorary/Retired (never expire) - 98								

University of Wyoming more involved with their students – membership is only \$25. If we want more engagement from a university level? Could we offer a program membership? Alex Campbell offered to sponsor some of the student memberships. Another idea is have board members sponsor different schools. If we can get more students involved, we could entertain potentially dropping the fee. Thomas is going to reach out to PLM Schools on how we can increase engagement and get feedback from them and follow up with us all next meeting. Probably have 20ish student members including the scholarship recipients.

We have 129 members that have not renewed as of the end of May.

Continued on next page

Treasurers Report. Reported by James Culbertson.

Banking Accounts	August 2022	July 2022	1-Month Diff.	August 2021	1-Year Diff.
PNC Checking	\$296,061.83	\$318,235.15	-\$22,233.32	\$224,358.30	\$71,703.53
Savings/Money Market	\$10,004.09	\$10,004.01	\$0.08	\$10,002.84	\$1.25
RBC Investment	\$70,542.34	\$69,347.14	\$1,195.20	\$75,533.45	-\$4,991.11
Total Checking/Savings/Investments	\$376,608.26	\$397,646.30	-\$21,038.04	\$309,894.59	\$66,713.67
RBC Investment Account	Beginning	*Fees	Gain/Loss	Current	
RBC - Investment Period (7/1/22 - 7/31/22)	\$69,347.14	\$0.00	\$1,195.20	\$70,542.34	
	Original Investment	Current	Original vs		
Investment Balance	\$75,000.00	\$70,542.34	-\$4,457.66		
Scholarship Accounts	August 2022	July 2022	1-Month Diff.	August 2021	1-Year Diff.
PNC Bill Goodin	\$6,481.37	\$2,511.34	\$3,970.03	\$2,932.31	\$3,549.06
PNC Cappy Ricks	\$15,481.86	\$15,481.73	\$0.13	\$12,480.44	\$3,001.42
PNC DAPL Scholarship	\$8,306.93	\$8,306.93	\$0.00	\$8,206.99	\$100.00
PNC Raffle Acct	-\$10.00	\$0.00	-\$10.00	\$0.00	-\$10.00
Total Savings	\$30,260.22	\$26,300.06	\$3,960.16	\$23,619.74	\$6,640.48
DAPL Pending Checks	Amount				
#1024 - DAPL Scholarship, Golf Tournament PayPal Funds	\$610.00				
#1025 - Jake Bakker, Replacement Check for Industry Leader HH	\$333.29				
#1026 - Scott Weirich, Golf Water and Bars	\$157.06				
#1027 - Brian Davis, Clay Shoot - Shipping for Bags	\$453.41				
#1029 - Kelly Muldoon, AAPL Travel	\$750.00				
Total Pending DAPL Checks	\$2,303.76				
*RBC Fees are paid quarterly and are 1.5% assesment of					

President's Report. Reported by Armando Trevino.

Golf Tournament – Keystone hasn't asked for more money as of yet in regards to the drink tickets. Feedback was overall good, transportation was a little sticky as well as parking, not a ton of extra parking. Marshalls could have moved it along a little faster. Awards for after the tournament might need to be revised.

Clay Shoot. Reported by Todd

Need to get the word out. BBQ sponsored by Drake, right now on par with breaking even. Registration seems to be up, fairly significantly. Coordinating everything with Colorado Clays.

Rockies Bash. Reported by Phil Cortese

Very productive meeting, include education into that component. By next month we should have a place picked out, Wynkoop is still the front runner, but has not gotten back to us. Once we lock it in we will send out a save the date. FLI is November 3rd.

Education Committee. Reported by Crosby Garrison

They had a good catch up meeting last month. Pricing for luncheons going forward, we will be upping that price to \$45 for members and \$60 for non-member.. Motion to approve the increase by Armando and seconded by Thomas, AP-PROVED. Lineup almost all spots filled for FLI. We are still scouting for a location, Embassy suites could possibly be a front runner. Although last year was fine at the location, we would like to try somewhere else. Pricing yet to be finalized, last year was \$100 and 80 people attended and 25 people attended virtually.

Networking. Reported by Justin Savage

Event tomorrow at Recess Beer Garden. Hopefully a good turnout. Any feedback on happy hours would be helpful and appreciated.

Pres. Armando Trevino adjourned the meeting at 12:55 PM MT

38th Annual Clay Shoot Recap

A huge THANK YOU to all that participated, sponsored and volunteered at our 38th Annual Clay Shoot on August 26th. We had the largest group of participants we have had in a few years with a total of 190 shooters and raised over \$5,000 for the DAPL Scholarship Fund. Hope you all had a great time and are looking forward to next year!

Top Scoring Team: Kristy Read, Ken Read, Scott Homsher, Rick Willis & Nate Koeniger - 336

Top Scoring Shooter: Peyton Vines - 95

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DALTA/DADOA FALL SEMINAR THURS OCT 13TH 2022

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White River Royalties LLC



SCHEDULE

08:15 AM – Check-in/Breakfast

09:00 AM – Seminar Begins

11:30 AM – Lunch

12:45 PM – Seminar Resumes

04:00 PM – Seminar Concludes

****Enjoy a custom coffee bar, delicious box lunch, and fun snacks!!**

Speakers & Topics

Division Order Interest Calculations

9:00 am – 10:00 am

Taylor Hindes, Tap Rock Resources

Intro to Pivot Tables & Data Management

10:15 am – 11:15 am

Two Speakers from the Denver Public Library

Lunch 11:30 am – 12:30 pm – TDS Intro!!

Owners, Ethics and Fraud:

What is your company doing to prevent issues?

12:45 pm – 1:45 pm

Erica Honeycutt, CPLTA, CDOA, Validus Energy

When Capital Funds Consolidate

2:00 pm – 3:00 pm

Paula Rauchfuss, Steptoe & Johnson

Probate: Getting into Pay!!

3:00 pm – 4:00 pm

Daniel Franklin, Partner at Shanor & Franklin LLC

Location

1225 17th Street,

First Floor Conference Room

Parking: Garage parking entrance between Lawrence and Larimer Streets, on 18th Street.

DOOR PRIZES & FUN SWAG!!

COST:

\$100 - All Members

\$125 - Non-Members

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