



The Override

Every Landman Wants One!

Volume XII, Issue III

January, 2020



Presidents Message

Jessica Bradley, CPL
President
Warren E&P, Inc.

Happy New Year! Let me officially welcome you to January 2020. It's the first month of a brand new year, the first chapter of the 2020 story. May I remind you that anything is possible? There is no dream too farfetched. No goal too outlandish. Anything, I repeat, anything is possible.

Did you know that you are 42% more likely to achieve your goals if you write them down? Isn't that fascinating? By simply writing your goals down, you have a greater chance of achieving them. You get clarity on where you want to go and what you want to do. I encourage you to write down at least three goals for your year. I strongly encourage that you write down dreams that are bigger than you. Not, I want to drink more water. I'll fix that for you now. Get up from your desk, head to the kitchen, grab a cup of water, and drink it. Done.

No, reach higher. Think bigger. I'm talking about dreams that, on the surface, seem impossible. In 2019, I dreamed a few impossible dreams. Dreams that I kept to myself because I knew that if I shared them, well-meaning people would be quick to explain why that just wasn't going to work, didn't compute, or seem logical. If I wanted to keep things logical, I wouldn't dream impossible dreams.

By the grace of God, every single goal that I set for my 2019 came to fruition before the dawning of the New Year. Each time we accomplish a goal, we've increased our lung capacity, our toolbox, our strengths, and now we're ready to climb the next mountain. But guess what? I can't [Presidents Message continued on page 2](#)



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Meeting Luncheon Speaker

A Seismic Hazard Survey of the Los Angeles Basin



Eric Campbell, President, LA Seismic, LLC, **Dan Hollis**, CEO, Sisprobe SAS and **Robert W. Clayton**, Caltech will be presenting

at the joint meeting of the Los Angeles Association of Professional Landmen and Los Angeles Basin Geological Society.

To better understand and model strong earthquake ground motion in the Los Angeles Basin requires better and more accurate knowledge of earthquake sources, basin structure, and basin and near surface velocities. Current knowledge of these three points has been compiled over time from many different sources where there is data and interpolated or extrapolated in areas where data does not exist. A comprehensive and uniform survey that addresses these three points would greatly improve identification of areas of potential high ground motion, provide more detailed after-event shaking data for first responders, and be used to improve the resiliency of critical infrastructure.



Opinionated Corner

Joe Munsey, RPL
Director

Publications/Newsletter Co-Chair
Southern California Gas Company

Happy New Year! Welcome back from the holidays – assuming all have shaken off the lethargic fog of making too much merry during the holidays. May all prospects produce hydrocarbons in paying quantities – if you can get your well permitted.

Let's see if we cause some humor on serious topics of the day to start out *The Override's* debut for the new year.

In *The Objective Standard's* Winter 2019-2020 issue, writers Jon Hersey and Keith Sander penned an article that Bernie Sanders and AOC released a plan to end Thanksgiving by 2025. Evidently, according to AOC and Bernie, Americans on Thanksgiving are divided into two camps – those who are rich monetarily are considered rich calorie gobblers and the rest reduced to a poor calorie intake. Of course, there is a CO² uptick factor for celebrating the Thanksgiving holiday pointed out by the backers of the legislation for further haranguing. We may need to further pick apart this proposed legislation to see if it calls for eliminating the holiday itself and holiday pay – for those entitled to that benefit. Wondering if holiday pay is on the chopping block? For now, the focus for AOC is the disparity between rich calories and poor calories growing at an alarming rate.

The climate was further in a heighten threat of danger recently when Greta Thunberg had to ferry her boat crew via a jet flight from across the pond to row her ashore to the next stop on Greta's roadshow. All that sea fearing travel to save some CO² discharges may have been cancelled out due to unburnt jet fuel hydrocarbons, plus the obligatory

CO² emissions. Wonder how that conversation went as the crew showed up fresh from a relaxing jet ride to begin rowing duties for Greta.

Fresh off the press of *National Review's* December 31, 2019 issue, we are informed for the price of \$120,000 you could purchase duct tape and a banana, did not mention if that included a frame. Hold on there, do not try this at home or in a public place unless you are a professional. Maurizio Cattellan, an artist, presented his work at last year's Art Basel Miami exhibition. The artist is noted as saying the banana can be removed and replaced with a fresh one at will. Have not figured out which cost more - the banana or the duct tape. The price does not include a steady supply of replacement bananas.

Look forward to seeing everyone at the joint LAAPL and LABGS luncheon.



Remindar for Dues

Jason Downs, RPL
Treasurer

Land Representative

Chevron Pipe Line and Power Company

Jason Downs, RPL, Chapter Treasurer, will be calling for dues late Spring; which will be due by June 2020 for the 2020 – 2021 year. Cost: still a mere bargain at \$40.00.

Our Honorable Guests

November's luncheon was another successful LAAPL Chapter meeting, held at The Grand Long Beach.

Our presenters:

- Brad Kuhn, Esq., Partner, Nossaman LLP
- Jillian Friess, Nossaman LLP

Our esteemed guests:

- Bob Ransom, The Termo Co.
- Bryan Delos Reyes, Phillips 66
- Lauren Coombs, Signal Hill Petroleum, Inc.
- Luany Oseguera, SoCal Gas
- Edgar Alvarez, SoCal Gas

Presidents Message get to where I want to go unless I am willing to climb today. So, take one step forward. And then tomorrow, maybe two. Before you know it, you'll be a whole lot closer to your goal than the starting line. I have every confidence in you, and I know for certain that you have talents and abilities far beyond your wildest dreams. It's time to use them. It's time for new vision, new clarity, and new purpose in 2020. It's time for 20/20 vision. Go get 'em!

LAAPL & LABGS Hold Annual Joint Luncheon

The Los Angeles Association of Professional Landmen and the Los Angeles Basin Geological Society will hold its joint luncheon in January. Please note the date of the luncheon is the fourth Thursday of January and the location is at the Grand at Willow Street Conference Center.

When: Thursday, Jan 23rd [Fourth Thursday of the Month]

Time: 11:30am

Cost: \$30 with reservations

\$35 without reservations

Meeting Place: The Grand at Willow Street Conference Center
4101 East Willow Street
Long Beach, CA
Speaker: Eric Campbell, President, LA Seismic, LLC,

Dan Hollis, CEO, Sisprobe SAS

Robert W. Clayton

Topic: "A Seismic Hazard Survey of the Los Angeles Basin"



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Petroleum Landman

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Chapter Board Meetings

Marcia Carlisle
The Termo Company
LAAPL Secretary

We encourage all members to attend our LAAPL Board Meetings which are typically held in the same room as the luncheon immediately after the meetings are adjourned.

The LAAPL Board of Directors and Committee Members held their regular meeting on Thursday, November 21, 2019 led by President, Jessica Bradley. The topics discussed at the meeting are as follows:

- Discussion of possible minor changes/updates to the LAAPL By-Laws.
 - The AAPL has requested that the LAAPL schedule a Field Land Seminar in California in the upcoming months. Timing to be determined.
 - Budget needs were resolved concerning the LAAPL website.
 - Jason Downs confirmed the Mickelson Classic golf tournament will be held September 10, 2020 in Santa Clarita. A \$500.00 deposit request for this event was approved.
 - Additional company sponsorship for the annual AAPL 2020 meeting was requested. As part of our industry, all need to show support!
-

Early Nominations

It is that time of the year to start considering a run for a LAAPL Chapter Officer for the 2020 – 2021 term. The following offices are open:

President¹
Vice President
Treasurer
Secretary
LAAPL Local Director
LAAPL Local Director

¹Per Section 7(3) the Vice President shall succeed to the office of the President after serving his or her term as Vice President and shall hold the office of President for the next twelve (12) months.



Treasurer's Report

Jason Downs, RPL
Treasurer
Land Representative
Chevron Pipe Line and Power Company

As of 11/6/2019, the LAAPL account showed a balance of \$39,742.77

Deposits	\$503.70
Total Checks, Withdrawals, Transfers	\$2,232.51

New Members and Transfers

Allison Foster
Membership Chair
Signal Hill Petroleum, Inc.

Welcome! As a Los Angeles Association of Professional Landmen member, you serve to further the education and broaden the scope of the petroleum landman and to promote effective communication between its members, government, community and industry on energy-related issues.

New Members

Hersel Zahab (Active)
Land Development Company
hzahab@ldc.ce.com

Lawrence Lacombe (Associate)
llnationwide@roadrunner.com

Transfers & Corrections

None to Report

Scheduled LAAPL Luncheon Topics and Dates

January 23, 2020

[4TH Thursday]

Annual Joint Meeting with
Los Angeles Basin Geological Society
Eric Campbell, President, LA Seismic,
LLC

Dan Hollis, CEO, Sisprobe SAS
Robert W. Clayton

“A Seismic Hazard Survey of the Los Angeles Basin”

March 19, 2020

TBD

May 21, 2020

TBD

Officer Elections

Lawyers' Joke of the Month

**Jack Quirk, Esq.
Bright and Brown**

Bess and Gregory were only 40-odd years into what is now 72 years of marriage when they developed the habit of truly sharing with each other everything in their lives. Even at that point in an established marital relationship this was not easy. Each of them heard some things "shared" by the other which were difficult to hear. But as they learned not just to share but how--and when--to share this improved greatly. Each also got to eat some items they might never otherwise have even considered. But as each learned to avoid items that would be unbearable for the other and to accept an occasional risk, this too improved greatly.

On one particular morning on a cold grey Fresno morning, they walked into their customary breakfast spot. Gregory ordered a sausage and egg sandwich with tater tots, along with a medium coffee and orange juice, and two empty cups. Seated at their table, Gregory cut the sandwich in half while Bess separated the tots into two groups--offering Gregory the choice between them. Gregory offered Bess the choice of sandwich halves and poured part of the coffee into one empty cup while Bess poured part of the OJ into the other empty cup. Each offered the other first choice on the product of those efforts.

Gregory set to eating.

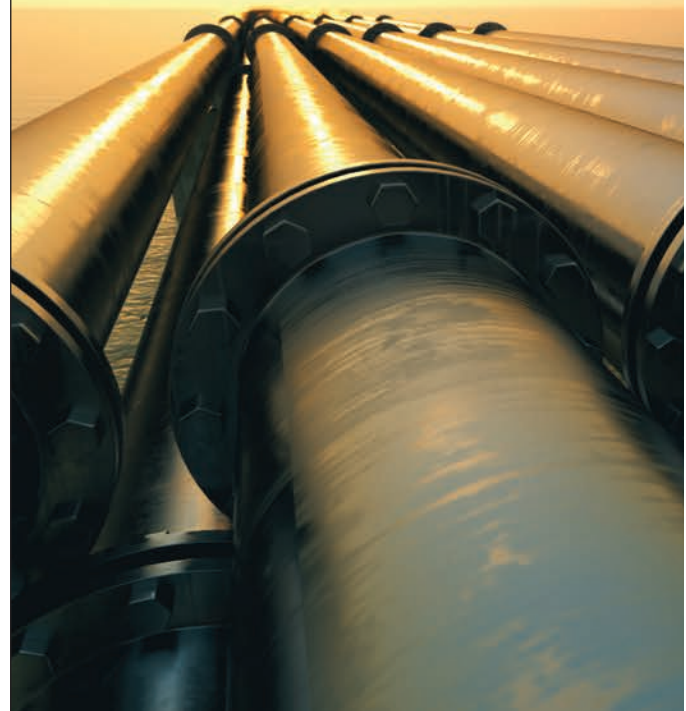
A stranger who had witnessed this activity with sympathy, stepped forward and offered to buy Bess her own sandwich and tater tots. Expressing thanks to the man, Bess explained that such was their custom and she would prefer to share with Gregory. "Why then," the man asked, "are you waiting to eat your share?"

"If you must know, Sir, I am waiting for the dentures."



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Rick Peace, President

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pitt

head
west

2020 ANNUAL MEETING

June 17-20
Huntington Beach, CA

landman.org

Save the Date brought to you by:



AAPL Director Report

Randall Taylor, RPL
AAPL Director, Region VIII

The most recent meeting was held on December 15, 2019 at the Gaylord Texan Resort & Convention Center In Grapevine, Texas. The hotel was a great venue, and was decorated beautifully for the Christmas Holidays.

- The current AAPL membership is 15,138.
- January 10th was the last day to nominate a candidate for the 2020-2021 Executive Committee.
- January 10th was also the last day to nominate someone for an award to be given at the annual meeting in Huntington Beach.
- Registration for the AAPL 66th Annual Meeting in Huntington Beach, California is open.
- The first draft of the proposed 2020-2021 budget has been provided to the Board of Directors and Committee Chairmen for their review.



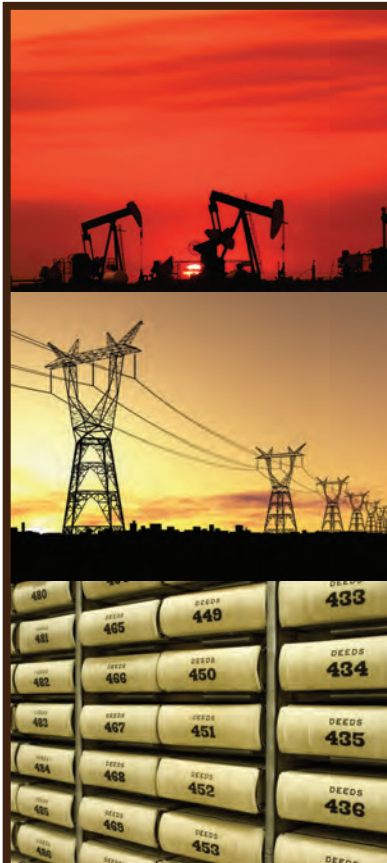
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Educational Corner

Courtney Childress, RPL
The Mineral Advocate, LLC
Education Chair
February 2020

RPL/CPL Exam Only

When: February 3, 2020

Where: Houston, TX

RL/RPL: 0.0

CPL Recertification Credits: 0.0

CPL/ESA Ethics Credits: 0.0

**2020 NAPE Summit Global Business
Conference**

When: February 5-7, 2020

Where: Houston, TX

RL/RPL: 0.0

CPL Recertification Credits: 0.0

CPL/ESA Ethics Credits: 0.0

Royalty Deductions

When: February 14, 2020

Where: Dallas, TX

RL/RPL: 3.0

CPL Recertification Credits: 3.0

CPL/ESA Ethics Credits: 0.0

RPL/CPL Exam Only

When: February 21, 2020

Where: Fort Worth, TX

RL/RPL: 0.0

CPL Recertification Credits: 0.0

CPL/ESA Ethics Credits: 0.0

Petroleum Economics Seminar

When: February 25, 2020

Where: Tulsa, OK

RL/RPL: 6.0

CPL Recertification Credits: 6.0

CPL/ESA Ethics Credits: 1.0

Petroleum Economics Seminar

When: February 4, 2020

Where: Houston, TX

RL/RPL: 6.0

CPL Recertification Credits: 6.0

CPL/ESA Ethics Credits: 1.0

Due Diligence Seminar

When: February 11, 2020

Where: Austin, TX

RL/RPL: 5.0

CPL Recertification Credits: 5.0

CPL/ESA Ethics Credits: 0.0

Working Interest and Net Revenue Interest Seminar

When: February 20-21, 2020

Where: Houston, TX

RL/RPL: 0.0

CPL Recertification Credits: 0.0

CPL/ESA Ethics Credits: 0.0

RPL/CPL Exam Only

When: February 24, 2020

Where: Tulsa, OK

RL/RPL: 0.0

CPL Recertification Credits: 0.0

CPL/ESA Ethics Credits: 0.0

Surface Use and Access Seminar

When: February 27, 2020

Where: Dallas, TX

RL/RPL: 6.0

CPL Recertification Credits: 6.0

CPL/ESA Ethics Credits: 1.0

March 2020

Oil and Gas Land Review, CPL/RPL Exam

When: March 3-6, 2020

Where: Oklahoma City, OK

RL/RPL: 18.0

CPL Recertification Credits: 18.0

CPL/ESA Ethics Credits: 1.0

Field Landman Seminar

When: March 4, 2020

Where: Evansville, IN

RL/RPL: 0.0

CPL Recertification Credits: 0.0

CPL/ESA Ethics Credits: 0.0



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L. Rae Connet, Esq. - President
California - (310) 349-0051
rconnet@petrolandservice.com

Educational Corner - continued

March 2020 - continued

Mining and Land Resources Institute

When: March 11-12, 2020

Where: Stateline, NV

RL/RPL: 0.0

CPL Recertification Credits: 0.0

CPL/ESA Ethics Credits: 0.0

Surface Use and Access Seminar

When: March 24, 2020

Where: Traverse City, MI

RL/RPL: 5.0

CPL Recertification Credits: 5.0

CPL/ESA Ethics Credits: 1.0

RPL/CPL Exam Only

When: March 27, 2020

Where: Fort Worth, TX

RL/RPL: 0.0

CPL Recertification Credits: 0.0

CPL/ESA Ethics Credits: 0.0

Working Interest and Net Revenue Seminar

When: March 13, 2020

Where: Coraopolis, PA

RL/RPL: 6.0

CPL Recertification Credits: 6.0

CPL/ESA Ethics Credits: 0.0

Oil & Gas Land Review- Optional CPL/RPL Exam

When: March 24-27, 2020

Where: Wichita, KS

RL/RPL: 18.0

CPL Recertification Credits: 18.0

CPL/ESA Ethics Credits: 1.0

Field Landman Seminar

When: April 2, 2020

Where: Midway, UT

RL/RPL: 0.0

CPL Recertification Credits: 0.0

CPL/ESA Ethics Credits: 0.0

RPL/CPL Exam Only

When: April 24, 2020

Where: Fort Worth, TX

RL/RPL: 0.0

CPL Recertification Credits: 0.0

CPL/ESA Ethics Credits: 0.0

*Start time for all webinars will be 10:00 AM PST

<https://www.landman.org/calendar-and-events/calendar>

April 2020

Oil & Gas Land Review- Optional CPL/RPL Exam

When: April 6-9, 2020

Where: Bakersfield, CA

RL/RPL: 18.0

CPL Recertification Credits: 18.0

CPL/ESA Ethics Credits: 1.0

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Educational Corner - continued

Don't have time to travel for these AAPL seminars/courses but want to further your education? You should consider a Petroleum Land Management Certification. There are several Universities that offer this program and they can be done 100% ONLINE! These programs are self-paced and can be completed in as little as 3 months.

Oklahoma City University- Meinders School of Business

<https://www.okcu.edu/business/professional-education/programs/petroleum-land-management/>

Metropolitan State University of Denver

<https://www.msudenver.edu/plm/>

University of Houston-Downtown

<http://www.petroleumeducationworkshops.com/university-of-houston-downtown/>

AAPL Webinar Series

*All LAAPL members can register and watch these 1 hour webinars but only AAPL member can claim the 1.0 CE Credit

February 20: Mineral Management

March 19: Petroleum Geology

*Start time for all webinars will be 10:00 AM PST

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Gary L. Plotner, President • glp@mavpetinc.com
BAPL President – 1985-86, 2003-04; AAPL Director – 1988-90, 2002-03, 2004-07

Legislative Update

by Mike Flores
Championship Strategies, Inc



Environmental Groups Sue Blm Re: Sale Of Public Lands

A coalition of eight environmental groups on Tuesday sued the Bureau of Land Management in Los Angeles federal court, challenging its conclusion that opening more than a million acres of California public lands and mineral estate to oil and gas development presents no health risks from fracking.

In a lawsuit filed in U.S. District Court for the Central District of California, the coalition, which includes the Center for Biological Diversity and Los Padres ForestWatch, allege the federal agency violated the National Environmental Policy Act (NEPA) by failing to assess fracking's potential harm to public health and recreation in almost a half million acres of public land and more than a million acres of mineral estate.

Over 1,000 Supporters Of Oil Industry Attend Kern County Supervisor's Meeting

At the invitation of the Kern County Board of Supervisors, more than a thousand oil workers, executives and individuals associated with the industry, packed the Kern County Administrative Center recently, filling the building completely.

Two overflow rooms and chairs set up in front of a television in the lobby were not enough to hold the crowd. At one point near the meeting's beginning, fire officials stopped admitting people into the building, saying it had reached capacity.

An estimated 850 people watched the meeting inside the building, with around 250 relegated to listening to the proceedings on speakers that were set up just outside the entrance.

The 1,100-person turnout was said to be "certainly a record" by Kern County spokeswoman Megan Person.

On hand to observe the proceedings and provide insight into the state's plan for the oil industry were some of California's top regulators. Department of Conservation Director David Shabazian, Oil and Gas Supervisor Uduak-Joe Ntuk and the governor's legislative secretary Anthony Williams all spoke publicly in the county for the first time since the state announced new restrictions last year.

The new rules sent a wave of concern throughout the industry, with many worrying that the so-called managed decline of the state's oil production had already begun.

County Supervisors spent close to two hours quizzing three state officials on the wisdom and details of a recent permitting slowdown that has limited oilfield activity and led at least one Bakersfield oil producer to announce cutbacks expected to cost about 90 local jobs.

The meeting adjourned shortly with unanimous approval of two motions. One directed staff to prepare a study on how the state's actions impact Kern's economy and the county budget.

The other authorized County Supervisor Zack Scrivner and Board Chairwoman Leticia Perez to form a coalition that would go to Sacramento and share with officials there what effects California's oil policies are having locally.

Aera Announces Cutbacks Due To State Regulatory Crackdowns

Gov. Gavin Newsom's regulatory crackdown on California oil production is beginning to take a toll on Kern County's economy.

Bakersfield-based oil producer Aera Energy LLC said Friday it will remove one drilling rig from its

 	
Title, Natural Resources and Land Experts	
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earlier-planned lineup of six in 2020. That's a 17 percent reduction the company said will take away 90 direct jobs from half a dozen of Aera's local contractors, including Golden State Drilling.

Aera attributed the reduction to two recent state regulatory changes: extra layers of permitting scrutiny for the well-stimulation technique known as fracking and a temporary ban on high-pressure steam injections. Both technologies are commonly used in western Kern.

CRC And Berry Petroleum Say Presently They Have No Plans To Cut Back

Local oil producer California Resources Corp. said it has no plans to cut back its 2020 rig count as a result of the new measures out of Sacramento. "CRC does not anticipate changing our rig count based on the Department of Conservation's recent moratorium on high-pressure cyclic steam wells or its review of pending well stimulation permits," the Santa Clarita-based company said by email Friday.

Another local oil producer, Bakersfield-based Berry Petroleum Co. LLC, said by email it does not anticipate needing any fracking permits to carry out its 2020 plan, "so no impact from that." But it added that the moratorium on issuing new, high-pressure steaming permits will force it to shift its focus from drilling in local diatomite formations to drilling in sandstone, at least temporarily. "If the state does not reinstate a timely review and issuance of new drilling permits, that will definitely impact us," Berry spokesman Todd Crabtree wrote in an email.

Enviros Ask Governor To Declare Moratorium On All New Drilling

Environmental groups stepped up pressure on California Gov. Gavin Newsom to declare a moratorium on new oil, natural gas well drilling as the state is facing a "climate emergency."

Food & Water Watch, Friends of the Earth, Alliance of Nurses for Healthy Environments and Environment California, among others, asked Newsom to move more quickly to phase out fossil fuels, claiming "audacious action" is required. In their letter to Newsom, the groups also asked the governor to ban all new oil and gas drilling permits for conventional and unconventional production, shutter the Aliso Canyon underground gas storage facility, and establish 2,500-foot setbacks between populated areas and well sites.

Industry groups criticized the groups' requests.

Western States Petroleum Association President Cathy Reheis-Boyd said the "endless attacks" on oil and gas producers and "the safe and affordable energy they provide, are a shame." The energy industry employees in the state are among the "most important assets California has as we work towards a sustainable energy future. Bold action is being taken everyday by our industry to bring innovation and new ideas to energy production in our state."

California Independent Petroleum Association CEO Rock Zierman called the activists extremists who care more about "grandstanding than the environment." He said they should support more in-state production.



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Case of the Month - Oil & Gas



UNDERSTANDING LAND RECORDS IN CALIFORNIA; THE PERSPECTIVE OF A TITLE INSURANCE UNDERWRITER

By Larry Lacombe

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Ed. Note: Mr. Lacombe is a land title consultant, skilled and expert witness in State and Federal Courts; currently Region Underwriter for Old Republic National Title Insurance. He started as a title searcher in 1972. He is a member of the Los Angeles Association of Professional Landman.

This is a brief introduction to the subject. Understanding land records requires knowledge of the various types of documents, the recording process and the location of the records and how they are treated under the pertinent laws.

Title insurance policies define public records as: “established under state statutes at Date of Policy for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without Knowledge.” We always bear in mind, though, that matters appearing of record may be subject to contrary facts that do not appear of record and we appreciate possible rights, risks and issues that are not disclosed by the record but may be indicated by something in a recorded document.

Naturally, the title examiner must recognize doubtful or conflicting interests and priorities that appear of record or are indicated by recorded documents and the difficulties with locating records and documents as well as recording, delayed recording, delivery, split chains of title and defective documentation are familiar to experienced landman, title searcher and title examiner anywhere. Those important aspects range far beyond this brief introduction. There is a constant need for these professionals to avoid the unauthorized practice of law, so although this introduction contains reference to statutes, cases and treatises for convenience, the writer is a non-lawyer and no legal advice is offered here.

Land Title and Title Insurance

Generally, the term land, in its title insurance usage, includes not only the face of the earth but everything over or under it including structures and minerals. In California, a parcel of land includes ownership in the land under adjoining streets and waterways (1112 and 831 Civ. C., 2077 C.C.P.), even though the deeds transferring record ownership almost never describe or even mention the adjoining streets or waterways. Even if the owner has title to adjoining streets - the title insurance policy definition of “land” often excludes such ownership from coverage.

Following are a few highlights of title insurance considerations and concerns and when exploring land records.

State and Federal Law

States have exclusive jurisdiction over the land within their borders, and their law concerning the kind of interests that can be held, how they are created, and how they are transferred is not subject to any other State’s law or federal law. This includes state law regarding the creation effect and maintenance of land records.

Exceptions related to land records are: the federal exercise of Eminent Domain (See e. g. 40 USC 58, 258(b) stating that title passes upon filing a proper declaration of taking under 40 USC 3114), transfer or encumbrance of federal land or Indian Land, and the imposition of federal judgment or federal tax liens, recording, validity and priority of which are governed by federal law.

Example: Matters relating to the right of succession to real property are governed by the law of the state in which the property is situated. *Estate of Hills*, 176 C. 232, 168 P.20 (1917). This is the law across the United States (*Lex Loci Rei Sitae*). *Watkins v. Holman's Lessee*, 41 U.S. 16 Pet. 25, 10 L.Ed. 873.

Example: Federal law governs disposition of allotted trust lands in the estate of a deceased Indian owner. The 1983 Indian Land Consolidation Act (ILCA) and the third amendment to ILCA by the 2004 American Indian Probate Reform Act (AIPRA) was the first federal probate code and preempts state intestacy laws. AIPRA also allows tribes to institute their own tribal probate codes.

For some peculiar federal law holdings regarding records and “Notice” under federal law, see: *Hotch v. United States*, 14 Alaska 594; 212 F.2d 280 (9th Cir. 1954) (stating that pursuant to 44 USC 1507, the Federal Register is a recording statute and matters published therein are matters of public record imparting constructive

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notice). Also, see Hahn v. Alaska Title Guaranty Co., 557 P.2d 143 (Alaska 1976).

Public Records and Private Title Plant Records

The ordinary land title examination in California depends on a search of the records maintained in a privately-owned title plant. Even though a search of public records directly is possible, it is time consuming and requires different methods. Many urban areas have more than one title plant, maintained by competing title insurance companies.

The private title plant can be expected to reflect references to documents that typically might affect real property. Public records, however, include a wide variety of documents, including birth certificates, bail declarations, and judicial officers' bond, among others that have nothing to do with real property. Over the years title plant records have generally omitted reference to such documents as well as cemetery deeds, water rights transfers, improvement assessment and bond notices, among others.

Private title plant records include, among other things: (1) An index of documents that describe the property (sometimes called the "Property Index), (2) An index of documents that name parties, but do not describe the property (sometimes called the "General Index"); these include judgment and tax liens and (3) A library of document copies.

Special Records

A title examiner may need to explore records of the Department of the Interior, Bureau of Land Management (BLM) (Title 43, U.S. Code) or Bureau of Indian Affairs (BIA) (25 CFR 150.2 (m)) on Public Domain or Indian Land.

The transfer or encumbrance of federal land or Indian Land must appear on federal records. Recording in the Land Title Records Office imparts constructive notice. Act of June 30, 1834 (4 Stat. 738; 25 U.S.C. 9). Act of July 26, 1892 (27 Stat. 272; 25 U.S.C. 5). Reorganization Plan No. 3 of 1950 approved June 20, 1949 (64 Stat. 1262).

BIA Land Titles & Records repositories cannot usually be viewed directly, but a request can be made for a BIA Title Status Report from the Land Titles & Records Office, and an Informational Title Report can be requested from a local BIA Agency office. In the Land Titles & Records Office, a document can be rejected or even "unrecorded" if a "fatal" defect is discerned (e.g. missing or invalid Federal approval, lack of proper execution, missing legal description)

The examiner may also need to consult State, County, or City agency records if he is asked to cover leases or permits from those agencies.

California Land Titles

The legal and historical basis for land title ownership in California begins with private grants from the Spanish and Mexican authorities; the treaty with Mexico that respected those grants (9 U.S. Stats 922), and, finally, the admission of California as a State September 9, 1850. The grants from Spanish and Mexican authorities were each subject to official approval and the issuance of confirming U.S. patents. The land that was left over from these confirmed Spanish and Mexican grants was and remains Public Domain.

State-Owned Land

Western states received title to an enormous amount of land from Public Domain by means of common law, by statute requiring patent, and by Congressional Grant, and by List. Neither the Congressional Grant nor the List typically appears in County Official Records. The State maintains extensive records on these lands, usually administered by a State Lands Commission.

Federal Government Land

The term "Public Land" includes "acquired lands" and "Public Domain." Title to land owned by the Federal Government is always vested in "the United States of America," though the administrator of title is a specific federal agency. Records are kept officially by the Department of the Interior, Bureau of Land Management (BLM - formerly the General Land Office), but the administrator of title may also maintain some records pertinent to land ownership. While a federal oil and gas lease on Public Domain will be accepted for filing in BLM records, the private mortgage encumbrance of the lessee's interest may not be so entitled. These BLM records are accessible on-line and include images of Master Title Plats, Government Township Plats and patents.

Land Acquired from the Government

A U. S. patent does not depend for its validity on a recording under state law, although it is usually

recorded to avoid any claim of unmarketability.

As to the land conveyed into private hands by the State and Federal Governments, a variety of subtle but substantial exceptions and reservations apply, including mineral rights and wetlands. These exceptions and reservations do not usually appear in public records but must be recognized as a possibility based on the source of the title and the physical characteristics of the land.

Private Rights in Public Land

Private rights in Public Land are created in a number of different ways that public records do not disclose. The Congressional Grants that create such interests are often conditioned on the filing of a map of definite location in the appropriate U.S. Government office, but no indication of such rights or the map filing usually appear in County Official Records. For a summary of general rules of title practice for insurance based on a patent, see II Ogden's Revised Calif. Real Ppty Law 26.27, p. 1264 (1974).

Off-Record Risk

Title insurers are often asked to issue endorsements covering damage to or compelled removal of structures and improvements: a risk that may be apparent from visible encroachment of apparent violation of setback requirements.

Example: When asked for coverage against damage to structures and improvements that results from the exercise of rights of surface use, underwriters must consider whether such rights have been relinquished of record. If not, then the underwriter must evaluate risk factors that may include, among other things: (1) the presence of oil & gas leases and whether and what type of subsurface development exists on said land or in the vicinity; the location of any wells; what agreements affect the operation and how long the development has existed; (2) the size of the property in question and whether potential subsurface development on said land may be impracticable under the facts and circumstances, or given statutory provisions (e.g. if the drilling or producing of a well on said land is declared to be a public nuisance under provisions in Sections 3600 to 3607, inclusive, of the California Public Resources Code); (3) whether other agreements contain provisions related to surface use, including grants or reservations on adjoining property; (4) the fractional amount of the minerals or other subsurface substances outstanding, and what fraction is retained by the surface owner; (5) whether drilling and development is prohibited under zoning or other ordinance; (6) how long the minerals have been severed from the surface ownership; (7) location and extent of buildings and improvements; (8) who owns the mineral or other substance, e.g. State or Federal government, private party or energy company.

The Effect of Recording

Although the law permits a range of local government choices for recording procedures, by far the most popular method today is the single book of "Official Records." Older records can be found in various locations. Los Angeles adopted "Official Records" in 1922. The current instrument number sequence was adopted in Los Angeles in 1977. In prior years, each day the instrument numbers began with number "1," although the Book and Page numbers did follow a sequence that dated from 1958. Prior to 1947, the index was not kept in alphabetical order!

The recording laws permit various documents affecting real property to be recorded. Once recorded, these documents are said to impart constructive notice. 1213 California Civil Code. The mere fact that an instrument has been recorded does not give constructive notice thereof unless there is some statute authorizing or permitting such instrument to be placed of record and at the same time making the effect of such recording constructive notice (quoted from Dreifus v Marx, 40 Cal App 2d 461, 465, 104 P2d 1080 (1940)).

Certain documents, including an abstract of judgment have no affect on property until a proper abstract thereof is recorded. To impart constructive notice to third parties, a judgment lien must be indexed in the Official Records by the County Recorder.

Example, in Hochstein v. Romero, 219 Cal App 3d 447; 268 Cal Rptr 202 (1990) (abstract of judgment not indexed until five months after a bonafide purchaser acquired) and Lewis v. Superior Ct., 30 Cal App 4th 1850; 37 Cal Rptr 2d 63 (1994) (abstract of judgment not indexed until one day after a bonafide purchaser acquired).

The recording laws and the concept of constructive notice exist to provide protection, but the protection is not designed for just any party. The ordinary rule of priority is that the "first in time" prevails, but only if the senior party is a bonafide purchaser for value (BFP). The rules of practice in title insurance are loaded with exceptions and limitations on that rule, and continuing underwriting efforts are made to account for those exceptions and rules as they develop in the courts, legislature and Congress or as they are recognized in practice.

Even though recorded and properly indexed in California County records, a document that omits the required proof of execution does not impart constructive notice for a year. California Civil Code 1207.

By comparison, note the provisions of curative statutes in other selected states: Arizona, ARS 33-411(C) (one year); Colorado, CRS 38-35-102 (ten years); Florida, 95.231 F.S. (five years); Illinois, 765 ILCS 5/31 (immediate cure); Michigan, MCL 565.604 (immediate cure); Minnesota, MS 507.251 (immediate cure); Montana, MCA 70-20-315 (immediate cure); Nevada, NRS 111-347 (three years: Notice: five years: Evidence); New Jersey, 46:21-2 (six years); Ohio, RC 5301-07 (twenty-one years); Texas, Prop. Code 13.001(b); 414 S.W.2d 916, 928 (Tex.1967); Washington, RCW 65.08.030 (immediate cure)

Marketable Record Title Act

Some states have enacted a Marketable Title Act intended to promote marketability by barring or extinguishing all interests of ancient origin, including the fee. "Ancient" is usually defined as forty to sixty years old, (Clearing Land Titles, Second Edition, Paul Bayse (1980)). No such law exists in California.

California's Marketable Record Title Act (880.020 – 882.040 Civil Code) bars and extinguishes certain specified interests, but not all. The constitutionality of the Marketable Record Title Act was upheld in *Severns v. Union Pac. R.R. Co.*, 101 Cal App 4th 1209; 125 Cal Rptr 2d 100 (2nd Dist. 2002).

Example: A deed of trust or mortgage is extinguished 60 years from the recording date unless a timely Notice of Intent to Preserve Security is recorded, or the time is extended by agreement. 882.020 (a) (2) Civil Code.

Example: The Marketable Record Title Act imposes a 30-year statute of limitations on Covenants, Conditions and Restrictions. California Civil Code. 885.030. The statute applies if no Notice of Intent to Preserve Interest is recorded, and no instrument reserving, transferring, or otherwise evidencing the power of termination is recorded. The statute does not operate upon a covenant and agreement with a public body. 880.240 California Civil Code.

Torrens Title Registration

Torrens is one of five general types of title registration systems used in the world and is the only type used in the United States. In 1895, Illinois became the first American state to enact Torrens legislation. Within a few decades, Torrens was adopted by nineteen other states. Since then, the legislation has lapsed or has been repealed in nine of those states. The Torrens system is used to a substantial extent today in only five states: Hawaii, Illinois, Massachusetts, Minnesota and Ohio. In Hawaii and Massachusetts, Torrens is used statewide. In the other states, use is limited to a few localities: Illinois (Cook County only), Minnesota (Hennepin and Ramsey Counties with minimal registrations elsewhere) and Ohio (Hamilton County with minimal registrations elsewhere). In no state or locality are a majority of parcels registered under Torrens but nearly forty-five percent of all parcels are registered in Hawaii.

California's version of Torrens Title Registration was effective December 19, 1914 and was repealed April 30, 1955. The Torrens System was optional, but once land was registered, an owner could not later use the county recording system - he had to continue Torrens "registration". The original registration followed a court decree in a statutory proceeding similar to a quiet title action. If a registered owner "recorded" documents, instead of registering them, the recorded documents did not impart constructive notice, and are required to be re-recorded after repeal with a recital "re-recorded for the purpose of imparting constructive notice after repeal of the Land Title Law." Patton on Titles, 3rd, 681-691 (2003).

Particular Recorded Documents

Document Not Entitled to be Recorded (But is Recorded Anyway)

As mentioned above, a document that is not entitled to be recorded due to lack of required proof does not impart constructive notice, even though recorded, except for the curative statute. 1207 California Civil Code. Such documents impart constructive notice under the curative statute only after one-year elapses from the recording date.

The County may accept a document with multiple grantors, but index only those grantors whose execution is properly acknowledged, thereby imparting no notice as to the parties whose names are not indexed.

Documenting Correction of Description Error or Omission

In many cases, the document containing the error was valid and effective, but contains an omission or an incorrect reference. To place a corrective document in the chain of title, it is sometimes necessary to record a document from the grantee back to the grantor, along with a concurrent document from the grantor to the grantee. Land Records continued on page 23

Land Records
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(Patton on Land Titles, 3rd Ed., § 83, and Ogden's Revised California Real Property Law 2nd Ed., § 10.18).

If a re-recording is appropriate, the parties must re-acknowledge their original signatures to entitle the document to be re-recorded. Certain changes, such as an omitted Book and Page map reference or revised Documentary Transfer Tax are considered "non-material" and re-acknowledgement is waived by the County Recorder.

An error contained in a deed of trust description should be corrected by a modification, not a re-recording. Re-recording may create a chain-of-title problem and also creates a second recording reference, inviting a further error or omission at the time of reconveyance. Re-recording a trust deed these days is also expensive due to the lenders' fondness for the long form.

If the parties are unavailable for execution, a court action to reform or cancel an instrument may be necessary.

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Guest Article

THE SILLY NOTION OF “SPEED LIMITS FOR SHIPS”

By Steve Goreham

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Ed. Note: Mr. Goreham is the Executive Director of the Climate Science Coalition of America, a non-political association of scientists, engineers, and citizens dedicated to informing Americans about the realities of climate science and energy economics.

Occasionally a report appears which claims to be wisdom, but after careful analysis, offers solutions that don't make much sense. Such a report was issued earlier this month by United Kingdom consulting firm GL Reynolds, titled “The multi-issue mitigation potential of reducing ship speeds.” The report proposes that we can reduce global warming by imposing speed limits on ocean-going ships.

The GL Reynolds report concludes that a 10-20 percent reduction in ship speeds would have a “highly positive potential impact” on carbon dioxide (CO₂) emissions and nitrous oxide (NO_x) and sulfur oxide (SO_x) pollutants. The report also projects that a ship speed reduction may reduce fatal collisions with whales.

The report is actually conservative and recommends that more study is needed. But the BBC and environmental groups now hail the report as a roadmap for international maritime policy.



Matt McGrath, environment correspondent for BBC News, wrote “Cutting the speed of ships has huge benefits for humans, nature and the climate, according to a new report.” John Maggs from Seas at Risk told the BBC, “It’s a massive win, win, win, win.”

According to the International Transport Forum, ships carried 10.7 billion metric tons of freight in 2017, 70 percent of world freight volumes. ITF projects maritime freight volumes to triple from 2015 to 2050.

Like almost all modern transportation, ships emit carbon dioxide when they burn fuel. Ships emitted about 932 million tons of CO₂ in 2015, about 2.6 percent of global emissions. When ships move at lower speeds, they consume less

fuel and emit less carbon dioxide. A 2017 study by CE Delft estimated that a 20 percent reduction in commercial ship speeds would reduce CO₂ emissions by 19 percent, after a required 13 percent increase in the number of ships to provide the same transport work.

In 2017, the value of the world shipping fleet was estimated at \$829 billion. Increasing the size of the fleet by 13 percent would cost over \$100 billion, plus additional costs to hire and train additional crews.

Today, most global corporations practice cycle time reduction as a key business process. Apple, currently the world’s most valuable company, calls it “reducing time to value.” On-line retailing giant Amazon implemented one-day delivery for many products this year. Footwear and apparel producer Nike announced a goal to reduce supply chain lead times by 83 percent.

Regulations to reduce the speed of ocean-going ships by 20 percent would increase cycle times and costs for the shipping industry. Crews would need to be paid more for longer voyages and each ship would take 20 percent more time to deliver the same cargo. Cycle-times and costs would also increase for Apple, Amazon, Nike, and all freight customers.

Advocates point out that emissions of sulfur oxides and nitrogen oxides can be reduced with slower ship speeds. But international regulations are already in place to reduce SO_x emissions by reducing the sulfur content of fuels and to reduce NO_x emissions through new diesel engine emission standards.

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Speed Limits
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Collisions with whales have been rising with the growth of the world shipping fleet. National measures such as routing and speed restrictions are now in place in coastal whale migration areas at certain times of the year to reduce collisions. But how will increasing the number of ships by 13 percent reduce the number of whale impacts?

In 1975 during the first oil crisis, the US federal government imposed a National Maximum Highway Speed Limit of 55 mph. Officials estimated that lowering highway speeds would cut national gasoline consumption by over two percent. Later studies showed actual savings to be less than one percent. Today the world is awash with petroleum and the US 55 mph limit no longer exists.

We could certainly run our ships, planes, and vehicles at slower speeds. And if we returned to horse-drawn wagons, vehicle collisions with deer would be eliminated. But does anyone really think this would stop sea levels from rising?

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Case of the Month - Right of Way



FEDERAL BANKRUPTCY COURT DENIES PG&E'S ATTEMPT TO SET ASIDE INVERSE CONDEMNATION LIABILITY

*Willis Hon, Esq., Associate
Law Firm of Nossaman LLP*

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On November 27, 2019, U.S. Bankruptcy Judge Dennis Montali issued a Memorandum Decision on Inverse Condemnation (“Memorandum Decision”) in PG&E Corporation and Pacific Gas & Electric’s (together, “PG&E”) Chapter 11 Bankruptcy proceeding in the U.S. Bankruptcy Court for the Northern District of California (Case No. 19-30088). PG&E challenged the application of the doctrine of inverse condemnation in connection with the 2015, 2017, and 2018 California wildfires. In the Memorandum Decision, Judge Montali ruled against PG&E and instead concluded that the doctrine of inverse condemnation applied with respect to the wildfire damages.

Specifically, PG&E challenged the applicability of the doctrine of inverse condemnation given that it is a privately-owned utility. PG&E asserted that it would be unconstitutional under the Fifth Amendment for the federal bankruptcy court to apply inverse condemnation liability without PG&E having the ability to pass on their inverse condemnation losses by recovery from ratepayers. In support of that argument, PG&E focused on a 2017 California Public Utilities Commission (“CPUC”) decision in which the CPUC denied the request of San Diego Gas & Electric Company to recover costs it had incurred associated with inverse condemnation liability during a wildfire (“SDG&E Decision”).

First, because inverse condemnation arises out of the California Constitution, Judge Montali looked to existing California state court decisions. He noted that the California Supreme Court has yet to rule on whether inverse condemnation applies to a privately-owned utility. He therefore analyzed California appellate court opinions in Barham v. Southern California Edison Co., 74 Cal. App. 4th 744 (1999) and Pacific Bell Telephone Co. v. Southern California Edison Co., 208 Cal. App. 4th 1400 (2012), as well as recent California trial court opinions that have addressed the issue. In each these instances, the California courts have so far held that inverse condemnation applies to privately-owned utilities. Despite PG&E’s attempts to discount Barham and Pacific Bell, Judge Montali ultimately found that “Debtors have not provided persuasive data to justify deviation from the intermediate appellate court cases discussed above.” Memorandum Decision at 11.



Next, Judge Montali addressed PG&E’s arguments based on the recent SDG&E Decision. He held that (1) the SDG&E Decision does not state that inverse condemnation costs will never be passed on to ratepayers, (2) the SDG&E Decision does not change the outcomes of Barham and Pacific Bell because those cases were not premised on cost spreading, but instead based on the concept of public use, and (3) the Bankruptcy Court is not tasked with deciding what the law should be, but instead what the law is based on California court decisions. Therefore, he concluded that “the doctrine of inverse condemnation is applicable to Debtors and the California Supreme Court would likewise leave it in place.” Memorandum Decision at 11.

Judge Montali indicated that an order consistent with the Memorandum Decision would be forthcoming and that he would certify it for direct appeal to the Ninth Circuit Court of Appeals when the order is issued. We anticipate that PG&E will appeal the Memorandum Decision once certified.

Mr. Hon can be reached at whon@nossaman.com.

CALIFORNIA GOVERNOR NEWSOM DOUBLING DOWN TO DISMANTLE THE STATES' ECONOMY

by Ron Stein

PTS Advance

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With California's energy costs for electricity and fuels among the highest in the country, Governor Newsom just doubled down to increase inflation with actions to further reduce oil production and putting more electrical loads on a state that cannot generate enough electricity to meet its own needs. The [Governor's recent actions](#) will further "fuel" (no pun intended) the growth of the homeless and those on poverty.

With its green dreams of an emission free state, California has not even been able to generate enough of its own electricity in-state and imported 29% of its needs in 2018. The good news is that other state had the extra power. The bad news is that imported electricity comes at higher costs and those costs are being borne by residents and businesses alike. California households are already paying 50% more, and industrial users are paying more than double the national average for electricity.

The future of electricity in California does not bode well either as the State has chosen to not challenge the closure of the States' last nuclear zero emission generating plant at Diablo Canyon and will be shuttering three natural gas generating plants in Southern California.

With NO plans for industrial wind or solar renewable intermittent electricity projects to generate "replacement" electricity in-state for the shuttered plants there will be a need to import greater percentages from other states (if they can generate enough) to meet California's electricity needs in the years ahead. As you may know, the public has been underwhelmed with the huge land requirements for those renewables, so future large wind and solar sites are becoming less likely. And as you guessed it, more costs to the consumers and businesses who are already infuriated with high costs.

Governor Newsom should know California is the only state in the union that currently imports most of its crude oil energy from foreign countries. The [California Energy Commission](#) (CEC) data demonstrates that this dependency on foreign sources of oil requires expenditures of \$60 million dollars EVERY DAY to oil rich foreign countries to support the 5th largest economy in the world for it's military, aviation, cruise ships, and merchant ships, just to make up for the States' choice to continue decreasing in-state production.

The Governor seems to be oblivious to the fact that one hundred percent of the industries that use deep earth minerals/fuels to "move things and make thousands of products" to support the economies around the world, are increasing their demand and usage each year of those energy sources from deep earth minerals/fuels, not decreasing it.

The Governors latest moves to reduce production and require larger setbacks for existing production wells will further decrease production and require the State to increase its monthly imports resulting in expenditures approaching a whopping \$90 million EVERY DAY for foreign countries to support our infrastructures.

California has chosen to be the only state in America that imports most of its oil needs from foreign countries and relies on the [U.S. Navy](#) to pay a steep price keeping an aircraft carrier with escorts on station to deter attacks on oil tanker traffic operating in and around the Persian Gulf.

There are scary similarities between Governor Newsom's goals for California and Vladimir Putin's objectives. Both support California being more and more dependent on imported foreign oil, and both support anti-fracking in California as a successful fracking enterprise would lessen the states' dependency on that foreign oil. Does the Governor know his actions are supportive of California becoming a National Security risk to America?

The charge into green will require retraining of a huge displaced workforce used to a certain lifestyle. A minimum wage earner is not afforded the time nor the resources to enjoy leisure activities. Their mainstay in life is to make ends meet. Most times that requires two and three such jobs and maybe even both heads of household working two of those low wage jobs to break even financially. How does the Governor plan to feed the families of displaced workers when he shuts down their means of survival? By default, his actions will increase the welfare numbers.

Regarding the Governor's move to require EV's to replace state fuel driven vehicles, I have no problem having the state buy EV's but I have a major problem with the Governor "blowing off" the transparency of the child labor atrocities and mining irregularities in the EV battery supply chain. The Governor should read the laws, starting

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with [The California Transparency in Supply Chains Act SB657](#) and followed by the U.S. with [H.R.4842 - Business Supply Chain Transparency on Trafficking and Slavery Act of 2014](#). The richest most powerful companies in the world, and now the Governor of California are still making excuses for not investigating the supply chains and continue to power manufactured EV's with "dirty batteries".

Like the green movement effects on the economies in Germany and Australia, the governor's plan of moving forth at such an abrupt pace to end the states' dependence on fossil fuels and convert to one hundred percent renewable electricity (folks, it's not renewable energy, it's only intermittent electricity) will break the back of the oil industry in the state and severely damage the California economy.