PBLA
PERMIAN BASIN LANDMEN'S ASSOCIATION

TAKEOFF

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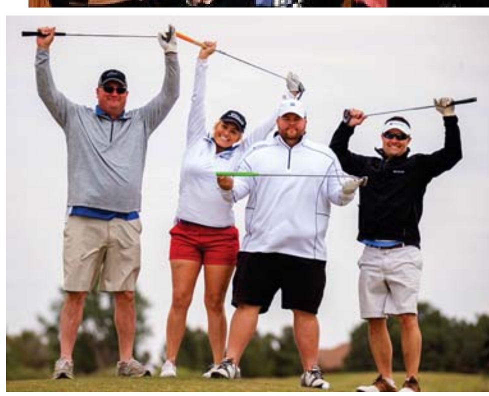

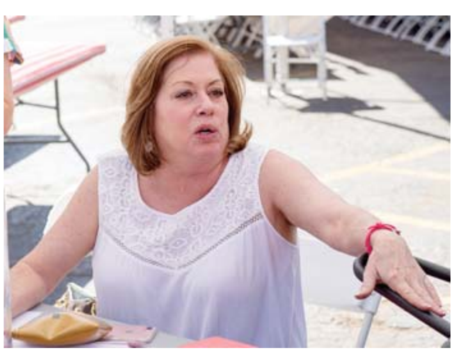

OFFICER'S FORUM

Dear Members:

Thank you for allowing me to serve as President of the PBLA this year. It has been an incredible experience and I feel truly blessed to have been granted this opportunity.

The biggest hurdle the PBLA Board faced this year was how to accommodate the rapid growth of the organization. I want to thank the PBLA Board for taking on the challenge and for putting on such amazing events in the process.

Nick Hanna and Austin Kuenstler added a third flight to the Eric Hanson Memorial Sporting Clay Shoot which helped make the shoot the largest in the history of the PBLA. We had 691 registered shooters for the event and gave away 126 guns.

Ben Carter oversaw both the Christmas Party and the Shrimp Boil this year. He threw two outstanding events in which we saw PBLA attendance records at both. We had over 500 people attend the Christmas Party while the Shrimp Boil had over 1,050 people in attendance, 800 pounds of shrimp consumed, and 45 kegs floated. I'm not sure which of those numbers is the most impressive!

The Education Seminar was put on by Christina Sherwood at the Petroleum Club. Due to the overwhelming demand for the event, an extra room was set up downstairs which enabled a PBLA record of 450 people to attend the seminar. Christina had an amazing line up of speakers as well.

Clay Whitehead and Jance Floyd oversaw the Golf Tournament and really took the tournament to another level. The tournament was held at both Hogan Park and Ranchland this year which allowed us to accommodate a PBLA record 640 golfers. For those that attended the tournament, hopefully you were able to get an autographed ball or picture with Jose Canseco.

Carson Buckles had an amazing lineup of speakers for this year's programs, including Alen Gilmer as the Executive Night speaker. We had over 325 people attend the event, which you guessed it, was a PBLA record. Carson will be serving as president of the PBLA next year. I'm very excited about what he has in store for the PBLA.

One blessing of our booming membership is that we also had a record year of fundraising, headed up by Ken Smith. Ken was also in charge of awarding scholarships and charities and this year the PBLA gave $35,000 to 18 scholarship recipients and 13 local charities.

Danny Kidwell has done a tremendous job representing the PBLA at the AAPL conventions. He will continue to represent the PBLA next year at AAPL conventions along with our own Mike Curry, who will be serving as the AAPL President.

A big thanks to the endless efforts of Wendy Dalton (2nd VP), Amanda LaBrie (Treasurer), Tip Kirwan (Secretary/Media), Caleb Hopson (Newsletter) and Paul Lucas (Immediate Past President) who contributed behind the scenes to this banner year for the PBLA.

I want to thank Mollie McAuliffe for all that she does for the PBLA. As I stated above, every event the PBLA put on this year was a record attendance wise and the events wouldn't have been possible without Mollie. Thank you for all that you do for the PBLA!

Finally, I want to thank all the companies and individuals who sponsored PBLA events this year. Without your generosity, we couldn't put on the quality events that we do each year. Thank you for your continued support!

In closing, I want to thank you again for allowing me to serve as President of the PBLA. As the organization continues to grow, we will continue to need additional volunteers for committees and events. I encourage you to reach out to any of the board members if you have an interest in getting involved.

Sincerely,

Jason South

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Commencing Operations

By: Brandy Manning

Many, if not most, modern oil and gas leases contain a continuous development clause ("CDC"), designed to encourage the lessee's further development of leased acreage in exchange for retaining a greater amount of acreage upon lease termination. A typical CDC requires that the lessee "commence operations" (or some close variation) on the next well in the drilling program within a defined timeframe, in order to perpetuate the lease before any acreage or depths Pugh out.

But what does it mean to "commence operations"? Must the lessee commence actual drilling of a new well? Can it rely on obtaining a permit or other non-physical, "backroom" activities prerequisite to actual drilling? How much preparatory activity, and within what time frame, will suffice? The lack of clear answers to these questions encourage gamesmanship that may cause a lease to terminate, despite the lessee's honest intentions otherwise.

First, actual drilling is not required; instead an operator need only engage in sufficient preparatory activities designed to result in drilling. More specifically, in Texas, an operator must (1) establish sufficient activity occurring before the lease's expiration date, (2) demonstrate that such work was done with the bona fide intention of diligently completing a well, and (3) continue that work, without interruption, until production is achieved. *Ridge Oil Co. v. Guinn Investments, Inc.*, 148 S.W.3d 143, 158 (Tex. 2004). "Sufficient activity," "bona fide intention," and "diligence" defy precise definition, and reasonable minds may differ as to whether work is sufficiently "continuous." Thus, the precise combination of conduct and timing that meets the stated standard will be determined on a case-by-case basis.

However, a review of applicable law offers guidance. For example, although actual drilling is not required, not just any preparatory activity will suffice—merely staking a well site, obtaining a permit, and attempting to pay surface damage was not "sufficient activity" over a twenty-five-day period to constitute "operations." *Id.* at 160. In contrast, when the lessee brought in a bulldozer to begin building a pad nine days before the lease expiration date, and there was "continuous work" until a well was completed, the lessee had "commenced operations." *Whelan v. R. Lacy Inc.*, 251 S.W.2d 175, writ ref'd n.r.e.). Likewise, constructing a pipeline that would eventually move gas from the well to market, along with testing a new production zone, though ultimately unsuccessful, constituted sufficient "operations" to perpetuate the lease. *Utley v. Marathon Oil Co*., 31 S.W.3d 274 (Tex. App.—Waco 2000, no pet.). The manner of activity seems significant as well—courts prefer (and occasionally require) manual operations, versus what the courts deem "backroom work." *Ridge*, 148 S.W.3d at 159. Thus, obtaining a permit, negotiations for contract work or surface damages, efforts to secure a market, or drafting a sales contract were insufficient where no physical work occurred contemporaneously. *Id.*

Courts also look to an operator's apparent intentions. In one case, an operator failed to demonstrate a "bona fide intention" to "commence reworking operations" when rather than actively rework a

COMMENCING OPERATIONS CONTINUED

well, it simply started the motor once a week and pumped the well for a few minutes to prevent the pump from sticking. *Hall v. McWilliams*, 404 S.W.2d 606, 609 (Tex. Civ. App.—Austin 1966, writ ref'd n.r.e.). However, where the lessee brought timbers on site to eventually construct a derrick, gathered machinery at the site, commenced rigging up the day before expiration, the lessee adequately "commenced drilling," even though actual drilling began eight days after the termination date. *Terry v. Tex. Co.*, 228 S.W. 1019, 1019-1020 (Tex. Civ. App.—Fort Worth 1920, no writ). Whether the lessee in any given case had a "bona fide intention" to pursue actual, timely operations may be open to debate, but the courts generally "know it when they see it."

Timing and duration are the final critical elements. First, courts unequivocally require actual work and evidence of a bona fide intention to complete that work *prior to* the expiration date. *Petersen v. Robinson Oil & Gas Co.*, 356 S.W.2d 217, 219 (Tex. Civ. App.—Houston 1962, no writ). In other words, it is not enough to obtain a permit before the expiration date but delay actual physical work until after the expiration date passes. And while "continuous" work does not require evidence that activity occurred every day over a period of time, marked diligence is critical. *Ridge*, 148 S.W.3d at 160; *Guleke v. Humble Oil & Ref. Co.*, 126 S.W.2d 38, 39, 41-42 (Tex. Civ. App.—Amarillo 1939, no writ). Once the lessee begins "sufficient activity," it must continue to use best efforts until the well is in the ground.

Brandy Manning has been representing oil and gas clients in West Texas and New Mexico since graduating from The University of Texas Law School in 2000. A native and resident of Coahoma, Texas (and 3rd generation West Texan) Brandy is a founding partner of Long-Weaver, Manning, Antus & Antus LLP. She is board-certified in Civil Appellate Law by the Texas Board of Legal Specialization. Brandy represents clients in trial and appellate courts across the state, with a substantive focus on business and oil and gas matters. In addition, Brandy represents taxpayers in ad valorem tax matters.

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ATTENTION MEMBERS

Due to increasing costs by the Petroleum Club, beginning September, 2018, the cost of our lunch meeting will increase to $30 per person. So sorry, folks. As goes the price of oil, so goes the price of everything else.

SUMMER MUMMERS

Join us at PBLA Night on Friday, June 8, at the Yucca Theater.

The curtain goes up at 8:00!

Tickets are $25.00 each. We have a limited number so get yours now!

www.pbla.org

MAY SPEAKER

The May PBLA membership Luncheon will be held on Tuesday, May 8, at the Midland Petroleum Club. This month's co-presenters will be Greg Adam and Owen McKee of Ascent Geomatics Solutions who will be giving us insight on some ways that drones can assist with landwork. Please RSVP and pay online at www.pbla.org/lunch-meeting. Lunch will begin at 11:30, with the presentation at 11:50. $25 per plate. Attached is an outlook calendar reminder.

Greg Adam runs the business development effort for Ascent in the Permian. He moved to Midland in September, 2017 with his wife, son, and their German Shepherd mutt. Prior to Ascent, Greg worked for WhiteStar providing GIS data to Oil and Gas customers. His first experience in the industry was as a sales engineer designing oilfield cement programs for Schlumberger and Allied Oilfield Services in the Rockies Region. Greg earned his Bachelor's degree from the United States Air Force Academy and served five years in the Air Force, primarily working with Missile Warning Satellites. He also has a Master's of Science from the University of Colorado at Denver's Global Energy Management Program.

Owen McKee joined the Ascent team in July, 2010. He functioned as a Survey Field Lead, organizing field crews and projects, along with collecting field data throughout the Rocky Mountain region for boundary, topographic, construction, and ROW surveys. Since then, Owen has developed a role in project management, managing the field work, drafting of exhibits, project timelines, and budgets. He also helped develop and implement Ascent's remote sensing program this past year, utilizing terrestrial LiDar and UAV based Photogrammetry. He also helped train other employees in UAV field collection, along with traditional survey field methods, to ensure processes and procedures are followed on every project. Owen also has experience as a municipal surveyor, having completed boundary, construction, and control surveys. Through that work he has experience drafting, updating GIS databases/control networks, and had interactions with public and private entities to plan and complete publicly funded projects. Owen holds Bachelor of Arts degrees in both Physical Geography and Archaeology from the University of Denver, along with a certificate in GIS.

Ascent Geomatics Solutions is the industry leader in collecting, analyzing, and delivering geospatially accurate data so their customers can make more accurate and timely business decisions. Ascent has the experts, technology, and processes to ensure projects are done with the utmost safety, accuracy, efficiency, and urgency needed to make sure they are completed on-time and on-budget. Over the past two years, Ascent began acquiring new technology such as Unmanned Aerial Vehicles (drones) and LiDAR (laser scanning) technology to better serve their customers. These new technologies expanded the scope of service offerings to other industries such as Mining, Transportation, Construction, Landfills, and many other growing industries. In addition to the core services, they offer such as Surveying and Civil Engineering. Ascent Geomatics is proud to provide additional remote sensing solutions, such as Photogrammetry, Aerial Mapping, 3D Modeling (LiDAR), and other geospatial solutions.

MARK YOUR CALENDARS!

2017-2018

Meetings
Meeting Dates

PBLA MEMBERSHIP LUNCHEON
Tuesday, May 8
Midland Petroleum Club

Board Meetings
2017-2018

PBLA On Line
http//www.pbla.org

PBLA 2017-2018

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