



The Take-Off

News for Landmen

Published by the Michael Late Benedum Chapter of AAPL

December 2013

MLBC-AAPL
P.O. Box 955
Bridgeport, WV 26330

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Presidential Address

Hope you joined us in Vienna on November 14, 2013 for our monthly meeting. Tom Dean, Senior Safety Coordinator with EQT gave a wonderful presentation on safe driving. All of us drive vehicles, some safer than others. Some think they are safe and some are; but the BIG takeaway from Tom's presentation was and is "**do not text and drive and always use your hands-free devices.**"

Our next meeting is in Bridgeport, WV at Bridgeport Conference Center located at Charles Pointe. This will be a luncheon with Speaker Donald Teter, Professional Surveyor; he will discuss "Obtaining, Interpreting, & Correcting Legal Descriptions."

This is the time of year we celebrate life, friends, family, and religion and prepare ourselves for a new, wonderful and exciting year.

EXECUTIVE COMMITTEE

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MLBC Luncheon Meeting
January 9, 2014
Bridgeport Conference Center
Bridgeport, WV

[Click Here to Register](#)

Presidential Address Continued

Please heed Tom’s advice and drive safely this Holiday Season and always. Our next Take-Off will be published the first of February, 2014.

Holiday Greetings to All!

Charles E. “Chuck” Heilmann
2013-2014 MLBC President

MLBC Corporate Sponsors

Platinum

Gold



Silver

	
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Bronze

		
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Spotlight on Our Members

Carl E. Bailes

We are taking a break this month to posthumously honor one of our own, Mr. Carl E. Bailes-- Senior Landman at Stone Energy in Morgantown, WV. I had some time to sit with some of his co-workers and learn about a man who seemed to touch everyone around him in a meaningful way, whether it was with a lighthearted story, or coming to the aid of a fellow Landman. It's that quality that endeared him to so many people.

Carl's journey begins with Mike Deville at Stone Energy who scheduled a meet and greet at Boston Beanery in Morgantown so the powers that be could meet Carl. It was one of those lightning strike moments that you knew within just a very few minutes, that this guy would make a great fit in your company operations. And he quickly embraced his role as the company "Fire Fighter" at Stone Energy. He always knew who to talk to, which contact to make and how to handle any given situation with Grace and Granite like Integrity. He had the all-encompassing ability to relate to the ordinary landowner or the CEO of a major Gas Company with ease and professionalism.



An example of the character that Carl exhibited can be found in one of the stories told to me by one of his supervisors at Stone Energy. Carl had been sent to acquire a lease from a farmer in Wetzel County, West Virginia. Upon his arrival Carl noticed that the farmer was visibly upset over his prized chicken found dead earlier that morning. Carl offered his condolences to the farmer and told him he would be back at a later date to speak with him. While on his way to another appointment he came across a young boy playing with a chicken beside the road. Carl pulled over and offered the young boy \$20.00 for his pet chicken, the boy agreed and Carl made his way back to the farmer to offer him the chicken, which he gladly accepted and was forever thankful to the Landman that took time out of his day to help ease the distraught farmer's heart.

The stories of Carl's graciousness are too numerous to detail in this article. It would be worthwhile to seek out anyone that knew him and just sit back and listen to the legacy he has left behind. But more than just being a stellar Landman, Carl was also a loving husband, father and grandfather to a family that miss him immensely every day. A further testament to Carl is the amount of Land Owners that showed up at his funeral to speak on his behalf and offer their condolences to his family. It's safe to say that his memory will continue on with the people that

Spotlight on Our Members continued



knew him best. Let us all pick up the mantle that Carl left behind and help leave a lasting impression on those we interact with every day and to look for ways to help make someone's life a little easier every day. I will leave you with a quote from Carl's supervisor at Stone Energy, "There won't be a day that goes by for the rest of my life that I won't miss him."

Carl E. Bailes

5/12/1960--8/25/2013

Justin R. Wolford

MLBC Schedule

<u>Date</u>	<u>Location</u>	<u>Speaker</u>	<u>Topic</u>
January 9, 2014	Bridgeport Conference Center Bridgeport, WV (11:30 AM Luncheon)	Donald Teter	Obtaining, Interpreting & Correcting Legal Descriptions
February 13, 2014	Hilton Garden Inn Canonsburg, PA	Full Day Seminar Matt Vavro Dinner Sean Cassidy, Esq	Basics of Oil & Gas Operations Gaps in the Chain of Title & What Constitutes a Diligent Search
March 13, 2014	Waterfront Place Hotel Morgantown, WV	Half Day Seminar Dinner: Russ Schetroma	TBD TBD
April 10, 2014	Easy Street Pittsburgh, PA	Social	
May 8, 2014	Muskingum Convention Center Zanesville, OH	TBD	TBD
June 12, 2014	Oglebay Resort Wheeling, WV	Spring Golf Outing	

Secretary's Report



Over the past several years the MLBC has experienced considerable growth. New members, new committees, new volunteers, new activities...we just keep getting stronger. 2013 was no exception.

Membership is up by 50 members bringing our total to over 1500. Although the increase was modest, the MLBC remains one of the largest locals in the country.

We offered a great deal of educational opportunities. Not only did the MLBC provide excellent speakers at the monthly meetings, but two seminars were held in Morgantown. The first was the joint meeting with the local IRWA Chapter 55 in February and the second was the Appalachian Land Institute joint meeting with the AAPL, NALA and the Appalachian Association in October. Both seminars offered new and interesting topics as well as the ability to pick up quite a few continuing education credits.

The MLBC partnered with West Virginia University by pledging \$30,000 to help fund the newly AAPL accredited Petroleum Land Management Program that will have students enrolled for the 2014 Spring semester. The MLBC also donated \$5,000 to the Glenville State College Natural Resource Management Program.

Through the generosity of our members and

member companies the MLBC donated \$60,000 to local charities. In May at the spring golf event we donated \$30,000 to WVU Children's Hospital and in September at the fall golf event we donated \$30,000 to Big Brothers Big Sisters of Greater Pittsburgh.

We established four new committees this year: Marketing, Membership Directory, NAPE East and Awards Nomination. Not only did new volunteers join the new committees, but many of the existing committees also welcomed new members. Additionally, more volunteers stepped forward to assist with registration at our dinner meetings and social events.

The Membership Directory Committee is in the process of compiling a directory to be released in the spring of 2014.


Finally, planning is underway for the MLBC's 55th anniversary celebration to be held in connection with NAPE East in Pittsburgh in April. Details for this exciting social event will be released after the first of the year.

As we reflect on the accomplishments and contributions of the MLBC, let us not forget how fortunate we are to be working in a thriving industry in one of the most active areas for exploration and development in the country.

Have a safe and prosperous holiday season.

Aaron Yost, CPL
2013-2014 MLBC Secretary

2014 MLBC Membership Directory



2014 Membership Directory Advertising

Company Name: _____

Contact Person: _____

Email Address: _____

Billing Address: _____

Telephone: _____ Fax: _____

Authorized By: _____ Date: _____

Place my ad on Half / Full Page. The ad size is:

<input type="checkbox"/> Full Page (Color) \$300 4 1/2" w X 7 1/4" h	<input type="checkbox"/> Half Page (Color) \$225 4 1/2" w X 3 1/2" h
<input type="checkbox"/> Full Page (Black/White) \$200 4 1/2" w X 7 1/4" h	<input type="checkbox"/> Half Page (Black/White) \$125 4 1/2" w X 3 1/2" h

** Camera Ready Artwork is Preferred **

Total Cost for 2014 MLBC Membership Directory Advertisement(s) \$ _____

Deadline for Advertisement is March 15, 2014

Please return completed form to:
Crystal Murphy, Tioga Resources, LLC, 917 West Main Street, Suite 202, Bridgeport, WV 26330
Telephone: 304-848-2206 Fax: 304-848-2212 Email: CMurphy@Tioga-Resources.com

The Michael Late Benedum Chapter of AAPL will be publishing its updated **Membership Directory** in April 2014. The member information in the directory will be pulled directly from the MLBC website; please ensure your information is up to date and accurate. If you need help accessing your MLBC account, please contact Tara White at twhite@mlbc-aapl.org.

If you, or any affiliate(s), are interested in placing an ad in the 2014 Directory, the MLBC is offering full and half page advertisements. Please see the following form for details. For more information, please contact one of the members below.

Crystal Murphy, Tioga Resources, LLC
304-848-2206 Ext 102
CMurphy@Tioga-Resources.com

Steve Johnson, PDC Energy
304-842-3597 Ext 6558
Steve.johnson@pdce.com



Save the date

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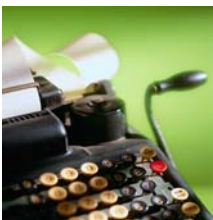
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Treasurer's Report



John Kimbleton reports the bank balance is \$88,256.40.

2014 Regional AAPL Events

- February 27* *Field Land Practices
Boardman, OH*
- March 3* *Pooling Seminar
Pittsburgh, PA*
- March 7* *Due Diligence Seminar
Williamsport, PA*

For more information please visit www.landman.org.

Sometimes a Taking is Not Really 'Taking'



The background facts of a recent Federal Circuit opinion, *TrinCo Investment Co. v. United States*, No. 2012-5130 (July 18, 2013), seem deceptively simple: the government removes \$6.6 million of timber from private property without paying just compensation. It doesn't ask permission; it simply walks onto the property and takes it. The property owner sues, claiming the fairly obvious taking. Pretty simple, and the government admits that it in fact took the \$6.6 million in timber.

But then something surprising happens. The Court of Federal Claims dismisses the case, finding that no taking had occurred. Read on to learn about the doctrine of "necessity" and why what seems to be an obvious taking may not in fact be actionable.

The Underlying Facts and the Court of Federal Claims

In June 2008, the "Iron Complex" fire roars out of control in the Shasta-Trinity National Forest. Before it is finally contained in September, more than 100,000 acres will burn. Firefighters battled the blaze using helicopters, bulldozers and dozens of fire engines.

In addition to battling the fire on the fire lines, the government commences efforts to eliminate fuel for the fire in areas in which the fire could spread. Among the areas intentionally burned are 1,782 acres of private timberland. The main fire never reaches the area, but the government's fire destroys \$6.6 million of privately owned timber.

The owners sue, claiming the destruction of their timber constitutes a taking, but the government disagrees, claiming its conduct is protected under the doctrine of "necessity."

The Court of Federal Claims agrees with the government, granting a motion to dismiss the case, and the owners appeal to the Federal Circuit.

The "Necessity" Doctrine

What seems initially to be an easy takings claim is complicated by the "necessity" doctrine. This doctrine is succinctly explained by the Supreme Court in its 1952 decision in *United States v. Caltex*, 344 U.S. 149:

[C]ommon law ha[s] long recognized that in times of imminent peril — such as when fire threatened a whole community — the sovereign could, with immunity, destroy the property of a few that the property of the many and the lives of many more could be saved.

On the one hand, it is easy to see the justification for such a rule — after all, would anyone really want the government to let a life-threatening fire burn rather than risking liability for its efforts to

stop it? On the other hand, one can pretty easily understand how the "few" who paid the price to save the "many" might feel unfairly burdened by the government's efforts.

Regardless of how one feels about the doctrine, it's pretty well established, and the Court of Federal Claims applied it to protect the government's actions in *TrinCo*.

The Decision in the Federal Circuit

Having analyzed — and accepted — the "necessity" doctrine, the Federal Circuit did not simply accept the lower court's decision. Rather, the court dug a bit deeper, concluding that the doctrine had historically been narrowly construed, protecting government conduct only where "there is an imminent danger and an actual emergency giving rise to actual necessity".

The Federal Circuit refused to broaden the reach of the doctrine. In reversing the lower court, the Federal Circuit did not hold that the government's conduct qualified as a taking. Rather, the court remanded the case for further proceedings to determine whether the requisite "imminent danger" and "actual emergency" in fact existed.

Time will tell how the case will play out, but the Federal Circuit highlighted a few key facts in reaching its decision: (1) when the decision was made to burn plaintiffs' property, only 2 percent of the national forest was on fire; and (2) no showing had been made that the same preventative measures might have been taken by the government's burning of its own property (i.e., other portions of the national forest), rather than plaintiffs' property. The court's concluding sentence may foreshadow what happens next:

It would be a remarkable thing if the Government is allowed to take a private citizen's property without compensation if it could just as easily solve the problem by taking its own.

While the *TrinCo* case does not present facts encountered all too often, it is good to keep in mind that in some cases, even what appears on its face to be an obvious taking may in fact be something else.

Rick E. Rayl, Esq
Law Firm of Nossaman LLP

Rick Rayl is a Partner at Nossaman LLP who concentrates his practice on eminent domain, inverse condemnation, and other real-estate-valuation disputes. He can be reached at rrayl@nossaman.com.



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November Dinner Meeting Photos



2013-2014 Committee Chairs

Awards	Bruce Turner	bruce.turner@steptoe-johnson.com
Bylaws	Chris Elswick	chris.elswick@steptoe-johnson.com
Certification	James E. Talkington, Jr., CPL/ESA	jeta@frontier.com
Education	Christa Dotson	christa.dotson@percheronllc.com
Ethics	Doug Richards	honordjr@aol.com
Fall Golf	Steve Carr, RPL	steve.carr@tsdudley.com
Finance	Richard Robb	Richard.robb@vantagenergy.com
Historian	Frederick J. Kent, CPL	KentFrederick@Hotmail.com
Marketing	Anthony Farr, RPL	afarr@tioga-resources.com
Membership	Jeremy D. Preston , RPL	jpreston@eqt.com
Directory	Crystal Murphy	cmurphy@tioga-resources.com
NAPE East	Aaron Yost	ayost@percheronllc.com
Photography	Marlene Heilmann	marheilmann@yahoo.com
Spring Golf	Aaron Yost	ayost@percheronllc.com
Sponsorships	Sherry B. Gorman	sgorman@eqt.com
Website /Job Bank	Jeremy D. Preston , RPL	jpreston@eqt.com




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 April 9- 11, 2014
 Pittsburgh, PA

2013 — November New Members*

First Name	Last Name	Employer	Member Type
Ethan	Bonnette	Artex Oil Company	Associate
Matthew	Bearrow	Bearrow, LLC	Active
Charmaine	Blake	C & D Land Services, LLC	Active
Stewart	West	DPS Land Services	Active
Brandon	Eleff	Exterra Land Group	Active
Chelsea	Grant	Exterra Resources	Associate
Jeffrey	Riggins	Exterra Resources	Active
Mary	Tobin	Exterra Resources	Associate
Amber	Kline	Honor Resources Company	Active
Amanda	Frost	Honor Resources Company	Active
Brian	Jett	Jackson Kelly PLLC	Active
Jessica	Girson	JAG Land Services	Active
Janet	Rapose	MINERAL ACQUISITIONS, INC.	Associate
Jonathan	Pettit	Paloma Resources III	Active
P. Scott	Parker	Parker Land Resources, LLC	Active
Kristie	Lindhome	Penn-York Land Services	Associate
Doug	Jackson	Percheron	Active
Randy	Gibson	RLG Inc.	Associate
Bryan	Brodt	S & A Property Research	Associate
Darin	Buffington	S & A Property Research, LLC	Associate
Jeremy	Nester	S & A Property Research, LLC	Associate
Brian	Turner	S & A Property Research, LLC	Associate
Robert	Raetz	S & A Property Research, LLC	Associate
Vicki	Hurte	S & A Property Research, LLC	Associate
Brenda	Furnell	S & A Property Research, LLC	Associate
Erin	Radcliff	S & A Property Research, LLC	Associate
Elise	Davis	S & A Property Research, LLC	Associate
Stephanie	Gaskins	S & A Property Research, LLC.	Active
Andrew	DeVore	S&A Property Research	Associate
Barry L	Fouts	S&A Property Research LLC	Associate
Joe	Windland	S&A Property Research, LLC	Active

2013 — November New Members cont.

First Name	Last Name	Employer	Member Type
Justinian	Josephs	Self	Active
Julie	Hawkinberry	Self	Active
Holly	Tonkin	Student	Active
Jack	Knopp	Terra Services, LLC	Associate
William	Gandee	Texhoma Land Consultants	Active
Zackary	Goldsmith	Tioga Resources, LLC	Associate
Ashley	Cox	Tioga Resources, LLC	Associate
Jennifer	Pittman	Tioga Resources, LLC	Associate
Michelle	Burnside	Tioga Resources, LLC	Associate
Meghan	Edwards	Tioga Resources, LLC	Associate
Matthew	Loughney	Tioga Resources, LLC	Associate
Eddy	Skazyk	Trident Exploration	Active
Kevin	Gormly	Vorys, Sater, Seymour and Pease LLP	Associate
Melissa	Gormly	Vorys, Sater, Seymour and Pease LLP	Associate

Memberships

The MLBC membership application is located on the website at www.mlbc-aapl.org. Please check your information on the website prior to submitting your renewal. The MLBC website has an updated version of the membership listing. Please use this resource if you can not find yours or others information in the directory. Please report any errors or omissions to Tara White at twhite@mlbc-aapl.org.

* Notice of the application(s) of all potential Chapter member(s) shall be published in the next regularly scheduled monthly Chapter "Takeoff" newsletter. Active members shall have the opportunity during for a period of thirty (30) days following the first publication to object to the potential members' application. Such objections to membership approval may be submitted to any member of the Executive Committee and shall be in writing. The Executive Committee shall take any such objection under counsel in the next regularly scheduled monthly Executive Committee meeting. A decision to accept or reject the membership application shall be determined by a majority vote at such meeting. The Executive Committee shall notify the applicant in writing of rejection.

Application for membership in the Chapter shall be subject to the approval by a majority vote of the Executive Committee at a regularly scheduled meeting, after the aforementioned thirty (30) day newsletter publication period, and shall require the signed approval by the acting President of the Executive Committee, as evidence of the Committee's approval. Names of any and all newly approved members shall be read at the following regularly scheduled general meeting of the Chapter.

Corporate Sponsorship Levels



Platinum \$5,000.00 per year

Benefits of Platinum Sponsor

- Logo on the corporate sponsor board at every meeting along with the meeting sponsor board.
- Logo on the back of every Takeoff and the bottom of every membership email.
- Receive three meeting/dinner passes for each meeting for one year.
- Receive one free Full Page advertising ad.
- Receive free Half Page ad in the takeoff per year.
- Logo on Golf Outing sponsorship boards.

Gold \$2,500.00 per year

Benefits of Gold Sponsor

- Logo on the corporate sponsor board at every meeting.
- Logo on the back of every Takeoff and the bottom of every membership email.
- Receive one free Half Page advertising ad in the Takeoff per year.
- Logo on Golf Outing sponsorship boards.

Silver \$1,500.00 per year

Benefits of Silver Sponsor

- Logo on the corporate sponsor board at six meetings.
- Logo on the back of every Takeoff and the bottom of every membership email.
- Receive one free Half Page advertising ad in the Takeoff per year.

Bronze \$500.00 per year

Benefits of Bronze Sponsor

- Logo on the corporate sponsor board at three meetings.
- Logo on the back of every Takeoff.

Advertising in The TakeOff

Full page ad \$500.00 per month

Half page ad \$250.00 per month

Dinner Meeting Sponsorship

Cost \$250.00 per meeting. Companies will receive advertising at the dinner meeting as well as your logo displayed on our website for the month of the meeting you sponsor.

To secure a corporate sponsorship, advertise in the Take-Off, or if you have any questions please contact Tara White @ twhite@mlbc-aapl.org. Please contact Sherry Gorman at sgorman@eqt.com for dinner meeting sponsorships.

MLBC-AAPL
P.O. Box 955
Bridgeport, WV 26330



Michael Late Benedum



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We are on the web!
www.mlbc-aapl.org

MLBC WEBSITE

If you experience any problems using the website or if you have any suggestions, please contact Jeremy Preston via e-mail at JPreston@eqt.com.

JOB BANK

The direct link for MLBC Job Bank is www.mlbcjobbank.com. If you have any questions, please contact Jeremy Preston via e-mail at JPreston@eqt.com.

PHOTO ALBUM

We would like to share our Photo Album with you to show you what MLBC has been doing throughout the year. The direct link for MLBC Photo Album is www.mlbc-aapl.org/VPhoto.php.

