



TEXAS LAND & MINERAL OWNERS ASSOCIATION

OFFICIAL NEWSLETTER

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TEXAS SUPREME COURT ISSUES OPINION ALLOWING UTILITY EASEMENTS TO BE EXPANDED WITHOUT COMPENSATION

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On February 28, 2020, the Texas Supreme Court issued its opinion in *Southwestern Electric Power Company v. Lynch* (No. 18-0768). At issue was whether a utility could unilaterally expand and widen a thirty foot easement to include a new larger project. The original easements that were acquired by an electric company in 1949, like many old easements in Texas, did not contain a specified width. SWEPCO argued that the easements should have no fixed width, giving them the right to use as much of the landowner's property as they ever require. The landowners, on the other hand, argued that the easements should be fixed at a thirty-foot width based on historic use by the utility. The lower courts ruled in favor of the landowners and limited the easements to thirty feet. SWEPCO appealed to avoid the holdings in favor of the landowners. Many associations in the agriculture and property rights industries filed an amicus brief informing the Court of the risks to Texas landowners. The utility industry also filed briefs urging the Court to reverse the lower courts. On Friday, the Texas Supreme Court sided with the utilities, reversing the lower courts, and held that the easements have no fixed width.

The Court reasoned that the fact that an easement lacks any fixed width does not render it ambiguous. As such, the courts cannot and should not consider historic use of the easement or other extrinsic evidence to read additional terms into a general easement. In other words, "[t]he use of a general easement without a fixed width is a strategic decision that does not render an easement ambiguous or require a court to supply the missing term." The recourse for landowners, in the opinion of the Court, is that the holder of a general easement must utilize the land in a reasonable manner and only to an extent that is reasonably necessary. If an easement holder exceeds this reasonableness standard, the Court explained that landowners can bring suit to enjoin the easement holder's use of the easements. This ruling creates a very concerning precedent for Texas landowners. Any landowner that is subject to an easement without a specified width is at risk of losing additional acreage to a pipeline, utility, or other easement holder.

TLMA joined with other landowner groups to file an amicus in the above case. You can view the brief on the Recent News page of the TLMA website.

IN THIS ISSUE

- Multiple Cases & A Rulemaking That Impact Property Owners
- Introducing Kim McTee, TLMA Chairman
- Outstanding Service Award Recipient Russell Hayter
- Membership Recruitment Award Recipient Ford Frost
- Update from the Executive Director
- Upcoming Dates of Interest
- Updated Lease Form Available
- New Website—Coming Soon!
- 2020 Statewide Members Meeting Information
- 2020 Statewide Members Meeting Registration Form

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MULTIPLE CASES & A RULEMAKING THAT IMPACT PROPERTY OWNERS

In addition to the *SWEPCO v. Lynch et. al* case mentioned on the cover of this newsletter, TLMA is following multiple Texas Supreme Court cases and Railroad Commission (RRC) rulemakings.

Most recently, the RRC approved rule amendments to Section 3.40 of the Texas Administrative Code. Currently, acreage cannot be assigned to multiple wells. This rule will allow acreage in unconventional fracture treated (UFT) fields. While TLMA is supportive overall of this change, we did file comments during both the informal and formal phases asking for unleased and leased mineral owners to receive the same notice.

TLMA is in the process of drafting an amicus brief in the *BPX Operating v. Strickhausen* case addressing the issue of whether or not cashing royalty payment check validates a pooling clause in your lease.

TLMA filed a brief in the *ConocoPhillips v. Ramirez* case defending the original intent of the division order statute and withholding payment for title disputes. The Court reversed the Court of Appeals decision. *Ramirez* is filing a motion for rehearing.

In June 2019, the Texas Supreme Court decided the *Barrow-Shaver v. Carrizo* farmout agreement case in favor of Carrizo. In August 2019, Barrow-Shaver filed a motion for rehearing in the case. TLMA filed a letter of support of the Court's decision and asked they not rehear the case. The Court denied the motion for rehearing.

In addition to the above cases, TLMA is monitoring the *Chesapeake v. Bell* Supreme Court case and *Hlavinka v. HSC Pipeline Partnership, LP* in the First Court of Appeals. The *Chesapeake* case is another offset well issue. The *Hlavinka* case is dealing with a properties highest and

INTRODUCING KIM MCTEE, TLMA CHAIRMAN

In the December newsletter, we announced that Carolyn Keenan was stepping down from the Chairman position on the TLMA Board of Directors and that Kim McTee would begin her term on January 1, 2020 and continue through December 31, 2021.

Kim and her family are founding members of TLMA. They have land and mineral interests in the Panhandle, and her husband's family has ranching and mineral interests in South Texas. Kim's involvement in TLMA leadership began as she served as a District Representative from 2011—2018. She then joined the Board of Directors in 2019.

Kim and her husband, Dewey, live in San Antonio and have one daughter, Michaela.

TLMA is honored and excited to have Kim leading TLMA and look forward to working together in the years to come.



OUTSTANDING SERVICE AWARD RECIPIENT RUSSELL HAYTER

TLMA's 2019 Outstanding Service Award goes to Russell Hayter. Mr. Hayter has been a member of TLMA since 2008.

The Outstanding Service Award honors a TLMA member who is dedicated to reinstating a sense of fairness in the relationship between those that use the land and those who live on it, and who has made an outstanding contribution toward that end.

Russell was an integral part of our legislative efforts during the 86th Legislative Session. Even when he was advocating for one of his many other causes, he always asked what he could do to help TLMA.

"It was great to support TLMA last session working to protect the rights of Texas Land and Mineral Owners! Jennifer Bremer and Billy Phenix are two of the hardest working people at the Texas Capitol and they represent TLMA very well. The educational information and materials from TLMA are outstanding and are a valuable asset to members. It's an honor to be a member of an organization that provides so much to the citizens of Texas!"



We are appreciative of Mr. Hayter's efforts on behalf of TLMA and look forward to working together for a productive and successful 87th Legislative Session!

MEMBERSHIP RECRUITMENT AWARD RECIPIENT FORD FROST

The Texas Land & Mineral Owners Association is pleased to present the 2019 Membership Recruitment Award to Ford Frost of Houston, Texas. Ford has been a member of TLMA since 2000.

The Membership Recruitment Award was created to honor a TLMA member who has taken an active role in introducing other land and mineral owners to TLMA and helping to bring new members to the association.

Mr. Frost is always an avid supporter of TLMA through his attendance at all of our events—whether they have been ongoing for years, such as the Statewide Member's Meeting or a new event like the regional meetings. Additionally, he brings guests with him (who usually become members), which we are extremely grateful for. Mr. Frost has also started to get his daughter involved in the Association.

"Everyone who is a land owner, mineral owner or royalty owner needs to join forces to have someone to look out for their interest. In numbers, we get attention in Austin. This group saves us time and effort. Both large and small owners win when we have someone keeping an eye on what a few try to get away with. In the end, the group is a bunch of good Texas neighbors keeping an eye out for each other. It has been an honor to be a part of such a good thinking group."

A special thanks to Ford for his efforts encouraging all land and mineral owners to join TLMA!

MULTIPLE CASES & A RULEMAKING THAT IMPACT PROPERTY OWNERS CONT.

best use value.

Many of these cases have been ongoing for years. If the information seems repetitive, there were likely many moving parts of the case that TLMA participated in.

All of our comments and briefs filed can be found on the TLMA website.

UPDATE FROM THE EXECUTIVE DIRECTOR

TLMA Members—

Happy 2020! It's off to a fast and furious start.

It's hard to believe that we're already preparing for the 87th Legislative Session. With the primaries behind us, people will really begin to focus on legislative issues and the upcoming session. Interim hearings will begin to happen more frequently. I will attend the Senate Natural Resources and Economic Development & Water and Rural Affairs joint hearing. The re-scheduled date has not been announced. If you would like to watch online, you can do so at www.senate.texas.gov/av-live.php. I will continue to keep you all updated on when the hearings are rescheduled.

In addition to preparing for legislative session, I am planning the 2020 Statewide Members Meeting. As in the years past, the meeting will be held at the Pearl Stable in San Antonio. With one meeting under my belt, this year's planning seems to be happening more quickly. As soon as the speakers are confirmed, I will announce them on the website and newsletter. We have four committed so far and are working to secure one to two more. The Board of Directors have approved some exciting new things that we are working on this year and I hope that you all will attend to see them in person.

Many of you completed the surveys from last meeting and we are working to implement those suggestions—including more frequent, shorter breaks and some of the topics. Thank you again for those suggestions! It's important for us to make sure you enjoy the event and the primary way to collect feedback is through surveys.

If you are interested or know of someone who might be interested, there are sponsorship and exhibitor opportunities available. This year, in addition to underwriting the event, we are offering underwriting opportunities of specific events of the day. If you would like to be the breakfast or lunch sponsor, just to name a couple of opportunities, please reach out to me and we can discuss. Underwriters of specific items will receive additional recognition at the event.

More information about the TLMA Statewide Members Meeting is available on pages 6 and 7.

One of the other big projects I am working on is a major website update. This will include transitioning our membership database. Our website will still be www.tlma.org and you will still be able to pay your dues online or by mailing in a check. I hope that you all will find that it is better all around and ask for your patience as we work to get the website up and running!

If you are ever in Austin, feel free to stop by the office and say hi! I look forward to seeing you all at the Statewide Members Meeting in October.



A handwritten signature in black ink that reads "Jennifer". The signature is written in a cursive, flowing style.

UPCOMING DATES OF INTEREST

May 5—RRC Open Hearing, Austin
May 20—RRC Open Hearing, Austin
May 26—Primary Election Run Off
June 4—Hill Country Cattlewomen Conference
June 16—RRC Open Hearing, Austin
October 8, 2020—TLMA Statewide Members Meeting

**All House of Representatives, Senate and RRC meetings can be viewed online.

There was a Senate Natural Resources & Economic Development and Water & Rural Affairs joint interim hearing scheduled for April 30. However, due to COVID-19, all legislative hearings have been postponed. I will post the rescheduled dates on the website.

UPDATED LEASE FORM AVAILABLE

The paid-up form lease that is available to TLMA members at the \$250 level and above or with two or more consecutive years of membership is updated as-needed. The form has been updated as the result of recent Supreme Court decisions. If you qualify to receive this lease and would like a copy, please call the TLMA office or email info@tlma.org. You will have to fill out and return a form to us prior to receiving a copy of the lease.

NEW WEBSITE —COMING SOON!

TLMA will be launching a new website in the coming months! It will look slightly different but will contain the same information, and we're adding more! The purpose is to provide a more user friendly website for you and for us so that we can provide more information to our members and those seeking information on the web.

This change will also now allow you to pay memberships at \$1,000 and above with a credit card, eliminating the need to pay by check for our higher members and making it easier for those who would like to be a higher paying member.

When the new website is launched, each member will receive an email to reset their password. Your username WILL carry over from the existing website. If you do not remember your username, we will be able to get you that information.

Online registration for the Statewide Members Meeting will not open until the new website is launched. However, you may mail in the registration form and payment at any time.

Please be patient with us as we make this transition. We anticipate receiving a lot of questions, so don't hesitate to ask if you have any issues or questions.

The launch is expected mid-April.

2020 STATEWIDE MEMBERS MEETING INFORMATION

Registration is **NOW OPEN**. As mentioned earlier in the newsletter, online registration will open when the new website launches. You can register now by filling out the enclosed registration form and mail with payment to the TLMA office: 1005 Congress Ave., Ste. 360, Austin, TX 78701. We invite you to bring guests! If they mail in the application, please make sure they mail in the correct amount. If they would like to register online, I will be sending out an email when it opens and then will also include more information in the next newsletter.

We are seeking sponsors! All sponsors will receive complimentary registrations, recognition in printed materials, verbal recognition the day of the event, and recognition on the TLMA website. Those who choose to underwrite a specific event of the day, will receive additional recognition. If you or someone you know is interested in sponsoring the event, please email execdir@tlma.org for a sponsorship form.



TLMA reserved a block of rooms at the Wyndham Garden River Walk—Museum Reach for Wednesday, October 7 and Thursday, October 8. This is the same hotel as 2018. **Book by September 10 and reference Texas Land & Mineral Owners Association** in order to receive the discounted room rates!

Standard King:	\$ 129.00	Standard Double Queen:	\$ 129.00
Deluxe King or Double Queen:	\$ 149.00	Suites:	\$ 229.00

You also have the option to book online using the following link:

<https://www.wyndhamhotels.com/groups/gn/texas-land-and-mineral-owners-assoc>

TLMA will be hosting the cocktail reception on Wednesday evening again. Invitations will be sent out in September. If you would like to ensure you receive an invitation, please contact info@tlma.org or 512-479-5000 and leave a message if we miss you.

2020 TLMA

STATEWIDE MEMBERS MEETING

REGISTRATION FORM

THURSDAY, OCTOBER 8, 2020

PEARL STABLE ♦ SAN ANTONIO, TX

The Texas Land & Mineral Owners Association will return to the Pearl Stable in San Antonio for our Statewide Members Meeting this fall. The meeting is an all-day event featuring outstanding speakers who present information on a variety of topics affecting your land and mineral interests. You will have the opportunity to meet fellow TLMA members, connect with old friends, and share stories over breakfast and lunch. In addition, attendees can visit with select exhibitors who offer products or services related to your land and mineral ownership.

Registration Information

Register for the TLMA Statewide Members Meeting by mailing this form with your check to TLMA. To pay by credit card, please call TLMA at (512) 479-5000 or register online by visiting www.tlma.org.

The registration cost listed for non-member registrants includes a one-year TLMA membership at the Individual level. If you would like to join at a higher level, please include the additional amount and the level you'd like to join at in the memo line of your check.

Early Registration:

Individual Member	\$85
Non-Member	\$150

Registration after September 25:

Individual Member	\$95
Non-Member	\$160

2020 TLMA Statewide Members Meeting Registration

Name(s) _____

Organization/Ranch Name _____

Address _____

City _____ State _____ Zip _____

Phone Number _____ Email _____

Make checks payable to TLMA and mail to 1005 Congress Ave., Suite 360, Austin, TX 78701

Sponsor & Exhibitor Information

If you would like to be a sponsor of or exhibitor at the TLMA Statewide Members Meeting, please contact TLMA at (512) 585-4970 or execdir@tlma.org. We appreciate your support and participation!

TEXAS LAND & MINERAL OWNERS ASSOCIATION
WWW.TLMA.ORG 1005 CONGRESS AVE. STE. 360 AUSTIN, TX 78701



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



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TLMA Membership Information Form

I would like to join TLMA I am a member, please update my contact info

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

Name _____

Organization/Ranch Name _____

Address _____

City _____ State _____ Zip _____

Telephone Number _____

Email Address _____

Referred by _____

Don't forget!

If your contact information changes, be sure to update TLMA and avoid delays in receiving your newsletters, renewal notices, and other correspondence.

To change your address or any other membership information, contact Robbie Quemer at (512) 479-5000, mail in this form, or log in to your membership account online at www.tlma.org.

Find more information, join TLMA, or renew your membership online at www.tlma.org