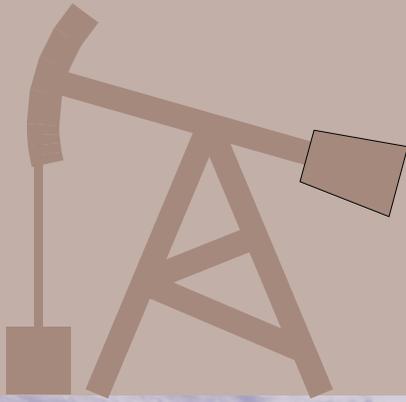


TEXAS LAND & MINERAL OWNERS
ASSOCIATION



QUARTERLY NEWSLETTER

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PRIMARY RUNOFF ELECTION RESULTS
SET THE STAGE FOR NOVEMBER

CARBON SEQUESTRATION DEVELOPMENT
ON THE FAST TRACK

2022 STATEWIDE MEMBERS MEETING
INFORMATION

LANDOWNER WIN! TEXAS SUPREME COURT
RULES IN *HLAVINKA* CASE

COMPTROLLER RURAL BROADBAND SURVEY

WWW.TLMA.ORG

UPDATE FROM THE EXECUTIVE DIRECTOR

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TLMA Members—

In case you've missed it, we are moving back to an **in-person meeting that will be held** on Thursday, October 6, 2022 at the McNay Art Museum in San Antonio. A hotel block is reserved and we will host a cocktail reception the evening before. More details about the meeting can be found on page 5. An agenda will be announced in the coming months.

This summer I will hit the road for the NARO-TX Convention in Dallas from July 13-16 and TLMA will have a booth at the Texas A&M Beef Cattle Short Course in August. If you will be at either event, please make sure to say hello and bring a friend by to join!

Similar to many other associations, we need your help recruiting members. TLMA has long been run on membership dues alone, but costs are increasing much faster than we are able to increase membership levels. If you are able to join at a higher price or help sponsor an event, even if only for a year, I highly encourage you to do so. As family interests and landownership in Texas become more fragmented, we are experiencing decreased memberships to the Association. I highly encourage you to invite your friends and family to join. The work the association does has significant impact today, but also protects your rights and property for many generations to come. If they think they aren't impacted, they should read about the things we do!

Finally, I was recently accepted to the Governor Dolph Briscoe Jr., Texas Agricultural Lifetime Leadership (TALL) Program. Over two years, I'll travel throughout Texas, the US, and an international trip learning about every aspect of the agricultural industry. As I travel around Texas, I'll be reaching out to members in the area to visit. Be on the lookout for when I'm in your area!

I look forward to some time on the road and seeing all of you, but in the meantime, you can find me praying for rain and a cold front!



Jennifer

PRIMARY RUNOFF ELECTION RESULTS SET THE STAGE FOR NOVEMBER

Following the Tuesday, May 24 Texas primary run off elections, the stage is set for the November general election. Of importance to TLMA members were the Land Commissioner and Railroad Commission runoffs.

In the Republican primary, incumbent Wayne Christian defeated Sarah Stogner in the Railroad Commissioner race and current State Senator Dawn Buckingham defeated Tim Westley in the General Land Office Commissioner race. Current Land Commissioner George P. Bush was defeated by incumbent Ken Paxton in the Attorney General runoff.

In the Democratic primary, Jay Kleberg defeated Sandragrace Martinez in the Land Commissioner primary runoff. State Representative Michelle Beckley was defeated by Mike Collier in the Lt. Governor race. Finally, Rochelle Mercedes Garza defeated Joe Jaworski for the Attorney General spot on the ballot.

The general election will be held on Tuesday, November 8, 2022. Early voting begins Monday, October 24 and ends Friday, November 4. Mark your calendars now!

CARBON SEQUESTRATION DEVELOPMENT ON THE FAST TRACK

You've probably noticed that ESG (environmental, social, and corporate governance) is playing a significant role in decision making at large corporations, including the decision to become "carbon neutral". You may have heard of nature-based carbon practices from groups like BCarbon or terms such as the 45Q tax credit.

What does "carbon neutral" mean? It doesn't mean that they won't producing any carbon. It means that these companies will purchase carbon credits from landowners like you implementing certain land management practices or allowing for injection of carbon into open pore space below your land. In order to receive the carbon tax credit, the carbon must be sequestered, or permanently stored.

As with any new opportunity, there are many questions surrounding the implementation. What exactly is carbon sequestration? What is the difference between nature based and geologic sequestration? Who owns the pore space? What policies need to be developed to maximize the benefits for all parties involved? What are the sciences behind it? How are current and future land management practices impacted?

As expected, nature-based and injected sequestration are vastly different and have their own challenges. Nature-based carbon requires a regenerative land management practices and the amount of carbon that can be stored in the soil varies across the state, which means the potential revenue from your land also varies. Geologic sequestration (injection) requires a significant amount of pore space below. The market for nature-based sequestration is developing quickly, and direct air capture technology (DAC) for geologic sequestration is developing equally as fast. Now, the policies, both rulemaking and lawmaking, are needed to implement all of these technological advancements and opportunities.

During the 2021 Legislative Session, Chairman Chris Paddie authored HB 1284 that gives the Railroad Commission sole authority over the Class VI injection wells. Class VI is the designation from the EPA for carbon dioxide injection wells. Prior to this becoming law, the authority was shared with the Texas Commission on Environmental Quality. HB 1284 also gave the Railroad Commission the ability to apply for primacy (enforcement authority) from the EPA over these wells.

In May, the RRC formally began the primacy application process. One step is amending existing state rules to align with federal rules and requirements. In May, the Railroad Commission released the proposed rule and, in June, the RRC held a public hearing to review the rule proposal and take public comments on the

Continued on page 4

CARBON SEQUESTRATION DEVELOPMENT ON THE FAST TRACK CONT.

rule. The RRC is also accepting written comments until July 1. You can find a copy of the rule and the video recording of the hearing at <https://www.rrc.texas.gov/general-counsel/rules/proposed-rules/>.

In addition to the bill passed during the 2021 Legislative Session, there will likely be additional bills filed in the upcoming session to address any known or potential issues with carbon injection. This is also an interim charge for the Texas House Energy Resources Committee.

Both nature based and geologic sequestration require contracts with companies or a broker and are in the infancy stage of development. If you need help with a contract, one of the attorneys on our attorney list will be happy to help!

Below, you'll find a list of questions to ask before and during contract negotiations for nature based sequestration that Anson Howard of Uhl Fitzsimons has put together. If you would like greater detail, please email info@tlma.org or Anson (ahoward@uhlfitzsimons.com) for a copy of a paper he authored on the topic. I also encourage you to read the paper he wrote with Tiffany Dowell-Lashmet. You can find that paper and a podcast on the Texas Ag Law Blog Website. ("Understanding & Evaluating Carbon Contracts")

CONTRACT TERMS:

1. Is the Landowner permitted to sell the surface or develop the minerals, wind, solar, and other resources?
2. Is the Landowner's eligibility based on current or planned practices (Additionality)?
3. Does the contract require the Landowner to pay any expenses?
4. Does the Broker make advance payments to the Landowner?
5. If the Landowner does not store the projected quantity of soil carbon:
 - A. Is the Landowner required to repay the Broker?
 - B. Does the contract continue until the projected amount of carbon is stored?
6. Does the Broker assume all liability under the contract and fully release, indemnify, and hold harmless the Landowner?
7. Review the science. Am I actually going to store soil carbon?
8. Does the contract exclude past ecosystem services?
9. Does the contract exclude other ecosystem services (Stacking)?
10. Term – Longer than 10-15 years?
11. How is the Landowner's payment structure?
 - A. A percent of sales with a minimum price per metric ton,
 - B. A set price per metric ton, or
 - C. A per acre payment for the adoption of certain practices?
12. Are there penalties for early withdrawal or failure to follow the proscribed practices?
13. Which party covers the legal costs associated with drafting and negotiating the contract?
14. Is there an opportunity for bonus payments or other payments such as the transaction fees for a Conservation Easement?
15. Landowner Protections:
 - A. The right to audit,
 - B. Data Ownership, and
 - C. Insurance and Indemnity.
16. Does the contract interfere with existing or future USDA contracts?
17. Legal Clauses
 - A. Attorneys' fees,
 - B. Venue, and
 - C. Dispute Resolution.
18. Does the contract create any tax implications?
19. What is the record and what are the resources of the soil carbon storage broker?
20. Will verification occur on the property or electronically?
21. Does the contract provide for the release of acreage that is enrolled but not certified?
22. If the land has an existing surface or mineral lease, how should the contract be worded?

2022 STATEWIDE MEMBERS MEETING INFORMATION

Join us at the 2022 TLMA Statewide Member's Meeting! The day long meeting will be held at the beautiful McNay Art Museum in San Antonio. The meeting will begin at 9 a.m. but registration and exhibitor booths will open at 8 am.

Because of the venue change, there are a limited number of exhibitor spaces. There is only ONE space left to be reserved. If you have or work with a business that provides a service of interest to land or mineral owners, tell them to email Jennifer at execdir@tlma.org. You can email their name and information to the above email and we will contact them.

An agenda, including any proposed bylaw changes, will be provided in the next newsletter, but will be available on the website and announced via email.

Registration is open. A registration form is available on the following page. You may also register online at www.tlma.org/2022smm.

Sponsor opportunities are still available! Help us by sponsoring breakfast, the afternoon break, educational opportunities, and more!



Cocktail Reception

TLMA will host the 2022 Member Cocktail Reception on Wednesday, October 5 at the San Antonio Country Club for members at the \$250 level and above.

Upgrade your membership by August 10 to receive an invitation.



Wyndham Garden Inn Riverwalk

109 9th Street
San Antonio, TX 78215
210-515-4555

Standard King: \$159
Standard Queen: \$159

Balcony King: \$179
Balcony Queen: \$179

Suite: \$259

Group Name: Texas Land & Mineral Owners Association

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We're 30% of the way! Help us reach our sponsor goal! Join the sponsor list by donating today!

Email execdir@tlma.org to learn more.





The Texas Land & Mineral Owners Association will return to an **in-person** meeting at the McNay Art Museum 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

Registration for the TLMA Statewide Members Meeting is available online at www.tlma.org or by mailing this form with your check to TLMA. You may also pay by credit card over the phone by calling TLMA at (512) 479-5000.

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 at which you'd like to join in the memo line of your check.

**Early Registration Prices:
(before September 23)**

Individual Member	\$125
Non-Member	\$190

**Registration Prices:
(after September 23)**

Individual Member	\$135
Non-Member	\$200

2022 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

LANDOWNER WIN! - TEXAS SUPREME COURT RULES IN HLAVINKA CASE

By Nick Laurent, Barron, Adler, Clough, & Oddo

The Texas Supreme Court recently handed down its opinion in the *Hlavinka v. HSC Pipeline Partnership, LLC* case, which was closely monitored by those who practice eminent domain law. In *Hlavinka*, a pipeline company owned and controlled by Enterprise Products, one of the major pipeline transmission companies, sought to condemn an underground pipeline easement on a several thousand acre property in Brazoria County. The landowner contested the pipeline company's power to condemn, arguing that the pipeline company was not a common carrier based on the product it was carrying in the pipeline, polymer-grade propylene. Additionally, the landowner sought to introduce evidence of the prices paid by other pipeline companies to acquire pipeline easements on the subject property. The trial court ruled the pipeline company had the power to condemn and excluded the evidence the landowner sought to introduce about other pipeline easement sales on the property. The court of appeals, however, ruled that the question of whether the pipeline company served a public use was a question of fact for the jury and also ruled that the landowner should be able to introduce about other pipeline easement sales on the property. The Supreme Court of Texas granted review of the case and, in reversing the court of appeals, ultimately held that the pipeline company did qualify as a common carrier with the power of eminent domain. The Court then went on to rule, however, that the landowner should have been permitted to introduce evidence about other pipeline easement sales on the property. The case was remanded back to the trial court to determine the fair market value of the easement being taken by the pipeline company.

The Texas Land & Mineral Owners Association filed an amicus curiae (friend of the court) brief in support of the landowner in the case, the Hlavinkas. A copy of the amicus brief and the Court's opinion can be accessed at <https://search.txcourts.gov/Case.aspx?cn=20-0567&coa=cossup>.

Oral argument of the case can be accessed here: <https://www.texasbarcle.com/cle/SCPlayer5.asp?sCaseNo=20-0567&bLive=&k=&T=>.

COMPTROLLER RURAL BROADBAND SURVEY

During the 2021 Legislative Session, Representative Trent Ashby and Senator Robert Nichols passed HB 5, relating the expansion of broadband services, to work towards all Texans having access to reliable, broadband internet services. The bill created the Broadband Development Office housed in the Comptroller's office. As part of their work, Comptroller Hegar is asking for people to complete the Texas Broadband Access Survey. Many of you probably live or own property that does not have access to broadband internet and we encourage everyone to complete the survey. To learn more about the efforts, visit the Comptroller's website and click "Texas Broadband Development Office" under "Programs".

You can complete the survey online (<https://www.surveymonkey.com/r/Texas-BDO-2022>) or download the survey from the website and email or mail the survey to the Comptroller's office. If you need a copy of the survey mailed to you, please call the TLMA office.

UPCOMING DATES OF INTEREST

- July 11—Senate Finance Hearing
- July 13-16—NARO-TX Convention, Dallas
- August 1-3—Texas A&M Beef Cattle Short Course, College Station
- August 10—Last Day to Upgrade Membership for Cocktail Reception
- August 16—RRC Hearing
- August 23—RRC Hearing
- September 20—RRC Hearing
- September 23—Last day for Early Registration
- October 5—TLMA Member Cocktail Reception, San Antonio
- October 6—TLMA Statewide Members Meeting, San Antonio**





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

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 there is a change in your contact information, update TLMA and avoid delays in receiving your newsletter, renewal, and other correspondence.

To update your member information, call Robbie at (512) 479-5000, mail in this form, or log in to your member account online at www.tlma.org.

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