

Austin Chalk Draws Interest In Litigious Louisiana

By Dan Larson
Special Correspondent

BATON ROUGE, LA.—After enduring years in litigation's shadow, the long, proud history of Louisiana energy production may be on the verge of a revival in the Austin Chalk, report leaders of the Louisiana Oil & Gas Association.

New interest in the Austin Chalk, the latest twists in ongoing legal action and increased Haynesville Shale natural gas production are among the topics to be discussed at LOGA's 2019 annual convention. This year's conference will be held March 20-22 the Golden Nugget Hotel and Casino, in Lake Charles, La.

In early 2019, industry concerns continue to center on legal and tax issues, relates LOGA President Gifford Briggs. However, activity in the Austin Chalk is likely to be a subject on the lips of many at this year's annual meeting, he predicts.

"All eyes are on the Austin Chalk," Briggs describes. "Several big companies have shown interest and some initial test wells have come back with good results, but there have been no big breakthroughs yet. This year will determine whether the Austin Chalk is a viable, long-term resource play."

Unlocking Potential

In January, three rigs were running in the swath of central and southeastern Louisiana that overlies the Austin Chalk. According to the Louisiana Department of Natural Resources, there were 57 producing wells in the Austin Chalk in early 2018. Most of them were in what many consider the mature side of the formation in western Louisiana, though at least one well sits as far east as Livingston Parish.

Exploration, drilling and production companies continue to invest millions of dollars in the formation, Briggs observes, but Louisiana is yet to see producers begin any extensive development.

According to Louisiana State University Professor David Dismukes, who serves as executive director of its Center for Energy Studies, the Austin Chalk's economics remain a work in progress. Com-

panies drilled many successful Austin Chalk wells during the 1990s, Dismukes told a local news organization in January. However, he added, those wells "tapped out pretty quickly."

Since then, new horizontal drilling and hydraulic fracturing techniques could unlock the Austin Chalk's potential and reverse the steady decline in Louisiana's oil production, he added. Dismukes cautioned that "It is not enough to know that the oil is there; companies have to be able to get it out at a cost that makes economic sense."

The Austin Chalk's location also supports oil and gas development, Briggs suggests. Geology is key, of course, but the fact that the Austin Chalk occupies neither an area with legacy oil production nor coastal wetlands merits attention. That is because lawsuits have hampered oil and gas activity in those other areas of Louisiana, he considers.

Ongoing litigation in Louisiana has had a very real impact on oil and gas development, Briggs emphasizes. So-called legacy lawsuits in many of Louisiana's traditional oil fields have sent production into a steady decline and exacerbated the state's problem with orphan wells.

DNR records show more than 3,000 wells listed as orphaned as of January. According to the department, it restores about 50 high-priority abandoned well locations a year. Funding for the state program comes from a production fee paid by operators.

Coastal Losses, Shifting Tides

Oil and gas development and production in coastal Louisiana, a mainstay of the state's industry for three-quarters of a century, nearly has come to a standstill thanks to litigation and tightened regulations, assesses LOGA Treasurer Mike Moncla, president of Moncla Energy Services.

He is hardly a stranger to the industry's ups and downs. In 2010, a few years after selling their previous company, Moncla and his three brothers—who are their family's third generation to work in the industry—purchased a barge workover fleet and equipment rental unit, and restarted operations as Moncla Companies. The

timing proved fortunate, as Louisiana's oil industry was feeling the effects of the BP Macondo blowout and spill, the company website recounts. At the time, "inland water activity increased due to the Obama administration's ban on offshore drilling and many oil companies shifted budgets to inland waters and land projects."

Lately, by contrast, the barge workover business has all but ground to a halt, Moncla laments. "We have 11 barge rigs that have been sitting in saltwater for four years, corroding away," he describes.

According to Moncla, his longtime customers have turned away from coastal operations and simply shut in their wells. Although lackluster prices certainly dampen activity, he reasons, operators have little interest in making themselves a magnet for litigation by operating in an area that has seen a spate of lawsuits over the erosion of Louisiana's coastal wetlands.

Blaming decades of oil and gas activity across Louisiana's coastal regions, dozens of lawsuits, many filed by local governments, seek millions in restitution for erosion and other environmental impacts. Following four years of unified effort by local governments and environmental interests to pursue coastal erosion litigation, the tide may have turned during the past two years, LOGA's Briggs notes.

Of the 42 pending lawsuits filed by coastal parishes against oil and gas companies, 21 name Plaquemines Parish as the plaintiff, with the first case on pace to go to trial within a year, according to press accounts.

Local support for continuing a legal assault on the industry seemed to be waning in Plaquemines Parish, media reports suggest, noting that the parish council voted 4-3 on Oct. 11 to withdraw from lawsuits against oil and gas companies. Unfortunately, the measure failed under a procedural rule but "the message sent was loud and clear: the council favors jobs, not lawsuits," Briggs says.

However, in what may signify another reversal in a saga that already has seen plenty, a slate of candidates perceived as favoring the lawsuits was elected to the parish council in November, published reports say. The council originally ordered

LOGA Annual Meeting – Lake Charles, La.**Wednesday, March 20**

- 10 a.m.** Golf Outing, The Golden Nugget Hotel and Casino
4-7 p.m. Annual Meeting Registration, Grand Ballroom Foyer
5-7 p.m. Annual Meeting Welcome Reception, Grand Ballroom Foyer

Thursday, March 21

- 7 a.m.** Registration Open, Grand Ballroom Foyer
7:45 a.m. Breakfast, Grand Ballroom
8:15 a.m. Keynote Breakfast
 Speaker: Steve Conner, Chevron, "The Outlook for Offshore Oil & Gas Development"
9 a.m.-Noon Morning Sessions
 "The Future of Technology in the Oil & Gas Industry," Stephen Ingram, Halliburton
 "Innovating to Provide Low-Cost LNG to the World," Mike Eberhardt, Venture Global LNG
 "Generational Insights," Tim Moore
Noon Keynote Luncheon, Grand Ballroom
 Speaker: Paul Sander, Aethon, "Outlook for Exploration in the Haynesville Shale"
1:45-4:45 p.m. Afternoon Sessions
 Congressional Update, Representative Garret Graves, R-La., Representative Clay

Higgins, R-La., Representative Mike Johnson, R-La.

- "A Conversation on the State of Louisiana, Finances and Politics," Speaker of the Louisiana House of Representatives Taylor Barras, R-New Iberia
 "Financial Security, Saltwater Disposal Wells and Oil Field Site Restoration," John Adams and Steve Lee, Louisiana Office of Conservation
 "The New State Mineral Lease Form," Jamie Manuel, Louisiana Office of Mineral Resources
 "Louisiana Severance Tax Valuation: Audits and Lawsuits," Randy Songy, Onebane Law Firm
5 p.m. LOGA Tax Committee Meeting
5 p.m. PAC Meeting
6:30 p.m. Cocktail Reception
7 p.m. Dinner and Special Presentation
- Friday, March 22**
8 a.m. Breakfast, Grand Ballroom
8:30 a.m. "2019 Elections: What is at Stake? Time to Get in the Ring," Gifford Briggs and Kati Hyer, LOGA
9:30 a.m. Silent Auction Closes
10:15 a.m. LOGA Board of Directors Meeting

the lawsuits in 2013, voted to withdraw from them after two years of discussion with industry representatives, but then reinstated the lawsuits in 2016, media accounts say.

In the meantime, the state has begun implementing a second phase of its coastal master plan to reduce flood impact from tropical storm surges, restore natural resources and rebuild lands to protect energy infrastructure.

Administered by the Coastal Protection and Restoration Authority, the plan will see \$783 million in fiscal year 2020 expenditures, including restoration work on 8,600 acres of marsh and 162 miles of levee, and engineering and design work on another 117,000 acres of marsh and 18 miles of levee, the authority indicates. CPRA notes that funding for the coastal plan comes from the state's share of leasing revenue under Phase II of the Gulf of Mexico Energy Security Act and Louisiana's portion of the BP Macondo settlement.

Poster Child

Louisiana's business trade groups have cited the lawsuits against oil and gas as exemplifying what many Pelican State companies deem as out-of-control tort practices that seriously damage the state's economy. Briggs told a local business

publication in December that unnecessary litigation had turned Louisiana into the 8th worst state for frivolous lawsuits.

Such legal activity drains tens of millions from state and local revenue, Briggs added. "The effects these lawsuits are having on our state and local economies cannot be overstated," he advised.

Moreover, LOGA Chairman Art Price, president of Badger Oil Corporation in Lafayette, La., reports that commercial automobile liability insurance is increasingly difficult to obtain in Louisiana. "Badger was forced to sell its pool vehicles in 2016 because of its inability to insure any corporate vehicles that were not assigned to a specific driver," he reports. "This is yet another repercussion of the booming billboard lawyer industry in Louisiana."

As a result, companies across the business spectrum are relocating or shifting operations to other states, a pair of judicial watchdog groups report. The Louisiana Lawsuit Abuse Watch and the Louisiana Coalition for Common Sense both have issued calls for tort reform to rein in personal injury and negligence litigation that often ends in excessive settlements.

"The endless pursuits of pocket-filling settlements are being carried out at the expense of Louisiana's future," Briggs warned. "These lawsuits are less about

the good of the environment and more about trial lawyers looking for a payout at the industry's expense."

Nevertheless, Briggs vows, LOGA will continue fighting to end unnecessary and excessive lawsuits.

Legacy Lawsuits

The other pressing legal concern facing Louisiana's oil and gas industry continues to be the series of lawsuits filed against oil and gas companies for what are called legacy issues in Louisiana's longtime producing areas.

According to a report by the American Tort Reform Foundation, during the past decade and a half, more than 1,500 oil and gas companies have been entangled in 271 lawsuits over claims of environmental damage from existing or abandoned well sites.

Although the legal wrangling over where the leading cases should be heard may be resolved this year, the headaches for those involved will continue, Briggs relates. Moreover, he acknowledges, it is downright infuriating when a plaintiff's attorney convinces a judge that a given case is not subject to review under Louisiana's Act 312. The upshot of such a determination, he notes, is that no portion of a settlement has to be spent on addressing any of the problems that are claimed in the lawsuit.

The lingering uncertainty of ongoing and potential litigation "hinders independent oil and gas companies from acquiring necessary insurance to cover their operations," reflects David Russell, president of McGowan Working Partners in Jackson, Ms.

"It is not difficult to get insurance in Louisiana, it's impossible," Russell declares. "Our insurance provider declined to continue pollution liability insurance coverage after 15 years simply because of the state's legacy lawsuit issues."

According to a report published in 2012, Russell said company was sued for \$725 million over contamination at a Richland Parish site it operated; actual cleanup costs totaled \$400,000.

"This makes no sense," Briggs assesses. "We will push it again at this year's legislative session."

Severance Tax

Adjusting the state's severance tax is another one of LOGA's legislative priorities, Briggs mentions.

He affirms a small step the legislature took toward production incentives in 2017, when it created a severance tax exemption for production from restored orphan and abandoned wells.

Nevertheless, the state's oil severance tax remains the country's highest at 12.5 percent, Briggs notes. That heavy tax burden combines with the legacy tax and coastal lawsuits to discourage investment in a state with a proud history of oil and gas production, he reflects. Although the broader U.S. industry has enjoyed a renaissance and even has reached new output highs in recent years, Louisiana oil production has fallen more than 47 percent since the millennium, he observes.

Briggs adds that the method on which Louisiana relies to calculate severance tax responsibilities is rare among producing provinces. The state sets an annual flat fee for each Mcf of natural gas output, while oil is taxed according to the market price at the time of production. Both the tax rate and the formula must be addressed if Louisiana expects to see a revival of oil production and the economic opportunities that come with it, Briggs advises.

Haynesville And The Gulf

Despite the challenges, some evidence points to brighter days for Louisiana's industry. Not only is there buzz about the possibility of a new unconventional resource play in the Austin Chalk, but the state's original resource play, the Haynesville, appears to be picking back up. According to data from Rystad Energy, Haynesville natural gas production grew in both 2017 and 2018 by 1.85 billion cubic feet a day and 1.30 Bcf/d, respectively. Additional production, driven by its proximity to the Sabine Pass liquefied natural gas export terminal, could push total Haynesville gas production past 7 Bcf/d in 2019, the firm projects.

Rystad also notes that a pair of projects by Shell and BP in the Gulf of Mexico may mark the end of the downward trend in offshore activity. Although modest compared with years past, the new projects appear to indicate a recovery of offshore Gulf development, Rystad suggests.

The outlook for activity in the Gulf of Mexico will be at center stage at LOGA's annual meeting. A keynote address by Steve Conner, general manager of operations at Chevron's Gulf of Mexico business unit, is scheduled to offer an update on developments offshore. Based in Chevron's Gulf headquarters in Covington, La., Conner is responsible for all company operations in the Gulf of Mexico.

Busy Calendar

LOGA members remain energized and engaged, Briggs assesses. The association counts nearly 500 member companies and 1,500 individual members. The most valuable benefits of that membership in-

clude regular contacts and informal meetings, he reflects.

"It's our sandwiches and cold beer network," Briggs characterizes. "That is a big part of what we do—meet informally at places where people don't have to drive across the state."

Other efforts involve reaching out to industry leaders around the state and in neighboring Texas. A glance at Briggs' February calendar shows president's roundtable events in Houston, New Orleans and Dallas and a member mixer in Houma, La. Other scheduled events include the annual Haynesville Shale Golf Classic in Lafayette, Oil & Gas Day in the Capitol

in April, and four "State of the Industry" sessions in Houston, Baton Rouge, Houma and New Orleans in October.

In 2018, LOGA's Board of Directors formed new committees to monitor and discuss legal and regulatory issues, he reports. With the important issues facing the industry, political action remains an essential association task, Briggs reasons. To maintain its effectiveness, LOGA now operates three political action committees: LogPAC, RigPAC, and DrillPAC.

"LogPAC is our primary committee while the other two allow us to provide additional support for candidates that support our industry," he concludes. □