

# SOUND CONTRACTING PRACTICES

**T**O A LARGE DEGREE contractors are responsible for the ills of the oilwell drilling industry. We have created some of our problems by our own actions. We have abetted the establishment of others by bowing down to undesirable contractual clauses and practices.

As the situation stands, we contractors have been guilty of two major basic failings. First, we have talked too much among ourselves, without making any real effort to win understanding among operators. We need to lecture ourselves sternly about some of our follies. But, this is a waste of lung power, unless such discussions lead to constructive action. Secondly, we have paid little heed to our own advice.

I am convinced that contractors have been too inclined to roll over and play dead. At the same time, I firmly believe we can accomplish much through vigorous, united constructive efforts.

We can accomplish very little as individuals. It will take a real concerted effort by all of us. Here is where the Association fits into the picture and comes into focus. The AAODC is an established medium which provides the nucleus around which we can build our program.

## **AAODC Committees Credited**

Sound practices in drilling contracts actually had their origin in two committees, both sponsored by the AAODC. The *first* of these committees and one which has been in existence for several years is the Rotary Drilling Contract Committee. As each of you may know, the purpose of this committee is to prepare a uniform rotary drilling contract. This committee has been, I believe, remarkably successful in developing an equitable drilling contract.

The AAODC has sold 9,800 copies of this printed contract during the past year. This contract has been particularly helpful in instances where the company, for whom the contractor works, does not have a standard contract of its own. Its provisions have appeared in several legal forms or reference books and are therefore readily available to lawyers in drafting drilling contracts. Naturally, this contract and its provisions reflect the thinking of the drilling contractor as to what represents a fair and equitable contract.

The *second* AAODC committee which has done considerable work on

By **WILLIAM P. CLEMENTS**  
*President, The Southeastern Drilling Corporation, Dallas*

this matter is the Sound Practice Committee which has been in existence for about a year. Its purpose, as its name implies, is to correct unsound practices, which more and more in the past two or three years have been imposed on drilling contractors as a result of there being more drilling rigs available than there is work for them to perform. This depressed condition of the industry has resulted in the loss of profits to contractors, and in contractors submitting bids containing no allowance for depreciation or for amortization of drilling equipment.

Some of the companies insist on certain inequitable provisions as an additional method of reducing company costs. In a sense this is a more subtle method of cost reduction in that the drilling contractor is generally inclined to explain away a loss due to one of these additional liability assumptions under the contract. He may ascribe "Time Lost" due to stuck pipe to poor luck, rather than view it as a cost factor which must be added to his bid in recognition of the fact that he will on the average have to absorb extra costs of this nature, perhaps a reasonable factor being five to ten percent of the time.

## **Two Main Objectives**

The Sound Practice Committee has a two-pronged objective:

(1.) The first objective is to encourage contractors to resist unsound practices. This encouragement might even take the form of advising contractor creditors of the extensive liability that contractors are undertaking with equipment supplied by creditors.

(2.) The second objective of this Sound Practice Committee is to encourage operating companies to adopt fair and equitable practices in their drilling contracts.

The AAODC has held meetings during the past year at which 275 contractors owning 900 rigs attended. These meetings were held for the purpose of discussing sound contracting practices. As a result of these meetings it has been possible to pinpoint the most serious prevailing problems and to get an expression from the contractors concerning same.

As might be expected, there are some who doubt the benefits of these

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discussions. It is encouraging that there has been so little criticism, and this has been more than offset by words of praise and commendation.

## **Regional Meetings Prove Valuable**

These regional meetings already have accomplished a great deal. They have unified the thinking of contractors to a greater degree than previously existed. The backbone of some contractors has stiffened. More and more contractors have been encouraged to make opportunities to discuss contract problems with operators, and in some instances have been successful in getting extremely undesirable contractual conditions modified.

## **Key Proposals Submitted to API Contract Group**

As can be seen, the work of the Sound Practice and Contract Committees overlaps to a considerable degree. As a result of efforts initiated by the Sound Practice Committee, members of AAODC are now working on an API sub-committee in an attempt to draft an API contract which will reflect the best thinking of forward-looking members of both segments of the industry. At this time considerable drafting work already has been done in an attempt to create a contract which is fair for both sides of the industry.

There are several key provisions in drilling contracts which should be classified as sound practice provisions. Basically these are the portions of the contract where the company is apt to try to extend the area of contractors' liability or to place upon the contractor additional responsibility with no additional compensation. These also are the key provisions which are being discussed with the API drilling contract committee and are the ones which the contractor representatives on the sub-committee have been urging the API committee members to adopt. These are:

### **1. Mother Hubbard Clause**

There should be no Mother Hubbard Clause in any drilling contract. As most of you know, this clause is a catch-all type clause which places on one party or the other all responsibility to perform any service or furnish any type of equipment which is not specifically