

# ALBERTA CROWN LEASE CONTINUATION DECISION

CANADIAN ASSOCIATION OF LAND AND ENERGY  
PROFESSIONALS

# THE NEGOTIATOR

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# ALBERTA ENERGY DECISIONS UPDATE

## *Recent Regulatory and Tribunal Decisions Impacting Alberta's Energy Sector*

*Logan Lazurko, Daron Naffin & Tim Myers*

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### **Alberta Utilities Commission Denies Application for the Central Calgary Transmission Line Replacement Project**

**Decision: ENMAX Power Corporation, Central  
Calgary Transmission Line Replacement Project,  
AUC Decision [29583-D01-2025](#)**

**Decision Date: August 11, 2025**

The Alberta Utilities Commission (Commission) has issued its decision on ENMAX Power Corporation's (ENMAX) application for the Central Calgary Transmission Line Replacement Project (Project). In this decision, the Commission found that ENMAX's consultation with parties along the Project's preferred route was inadequate and failed to meaningfully engage with those parties' concerns. Considering the lack of consultation and increased costs associated with ENMAX's alternative route, the Commission denied ENMAX's application.

ENMAX filed an application seeking approval to alter and operate the Project pursuant to sections 14, 15, 19 and 21 of the Hydro and Electric Energy Act. The Project would extend Transmission Line 2.83L to connect to ENMAX No. 3 Substation. ENMAX proposed to construct the eastern portion of the line extension as an overhead transmission line and the western portion as an underground transmission line. For the middle portion, ENMAX proposed two potential options: (i) an overhead route that ENMAX identified its Preferred Route; and (ii) an Alternate Route that would be underground.

Appendix A1 of Rule 007: *Applications for Power Plants, Substations, Transmission Lines, Industrial System Designations, Hydro Developments and Gas Utility Pipelines* (Appendix A1) identifies participant involvement program guidelines for facility applications, with Table A1-1 setting out the electric facility application notification and consultation

requirements. In this decision, the Commission noted that direct personal engagement with immediately adjacent landowners early enough in the process (i.e., before the final preferred routing is determined) is critical so that site-specific concerns can be meaningfully discussed, understood and either resolved or mitigated to a reasonable degree.

The Commission found that the personal consultation ENMAX conducted with certain parties directly adjacent to the Preferred Route was inadequate. ENMAX did not, prior to the hearing, fully understand the concerns and impacts the Project would have on those parties immediately adjacent to the Preferred Route, including the developer of a major mixed-use commercial and residential development with valid and reasonable concerns about the effects of the Project. The Commission found that because ENMAX failed to meaningfully engage with those parties, ENMAX was unable to effectively account for or attempt to resolve their concerns in its route development process and consider potential mitigations. While the Commission acknowledged that the hearing process can be effective at exploring and addressing concerns that remain unresolved at the time an application is filed, the Commission found that its process should not be a first opportunity for directly affected parties to air concerns.

The Commission noted that, while the Alternate Route would be technically feasible to construct and would address many of the concerns associated with the Preferred Route, it would cost approximately \$10 million more than the Preferred Route. These incremental costs were largely attributable to burying the line underground and would be borne by all Alberta customers in the form of higher utility bills. The Commission did not consider it in the public interest to allow ENMAX to rectify the deficiencies in its application that could have been addressed and resolved through better consultation by imposing additional costs on Alberta electricity customers.

### **Land and Property Rights Tribunal Rescinds Reconsideration Decisions due to Lack of Procedural Fairness**

**Decisions: Mullen v Lynx Energy ULC, 2025 ABLPRT 329 & Gregory v Lynx Energy ULC, [2025 ABLPRT 331](#)**

**Decision Date: June 24, 2025, and July 14, 2025**

In these decisions, the Land and Property Rights Tribunal (Tribunal) rescinded its reconsideration decisions due to a lack of procedural fairness and non-compliance with Rule 37 of the Surface Rights Board Rules.

These decisions began with applications by the Operator under section 27 of the Surface Rights Act seeking to review the rates of annual compensation payable under surface leases. After conducting the hearings, the Panel issued decisions and accompanying orders determining costs. The Landowners subsequently brought applications seeking reconsideration of the decisions under section 29 and Rule 37. The reconsideration applications were provided to the Tribunal and copied to the Operator and counsel for the Operator. Without providing the Operator with an opportunity to respond to the reconsideration applications, the Panel issued the reconsideration decisions and determined that the Landowners had prima facie established the basic requirements that would allow it to reconsider its previous decisions.

The Tribunal reviewed the reconsideration decisions in a Tribunal-initiated review and found that the Panel's failure to provide the Operator with an opportunity to respond to the reconsideration applications before making the reconsideration decision denied the Operator procedural fairness and was contrary to the requirements of Rule 37(5), which requires that the Tribunal provide all parties an opportunity to make submissions before granting a request for review. As a result, the Tribunal rescinded



the reconsideration decisions and requested the Landowners and Operator provide submissions as to: (i) the threshold issue as to whether the Landowners met the basic requirements for reconsideration where met; and (ii) if the threshold issue is met, wither the request for reconsideration "on the merits" should be granted.

**Tribunal Awards \$75.00/Acre Increase to Annual Compensation and \$4,392.44 in Costs**

**Decisions: Jackson v Pine Cliff Energy Ltd, 2025 ABLPRT 378; 2025 ABLPRT 379; 2025 ABLPRT 381; 2025 ABLPRT 382;**

**Decision Date: July 14, 2025**

These decisions dealt with a section 27 review of annual compensation payable under two surface lease agreements with respect to lands located at NW 33-34-23-W4M (NW-33) and SW 33-34-23-W4M (SW-33), and the applicant Landowners' claim for costs under section 39.

The Landowners sought a \$1,830.34 per year increase in compensation, from \$5,134.50 to \$6,964.84 for the NW-33, and a \$874.00 per year increase in compensation, from \$5,600.00 to \$6,474.00 for the SW-33. The Operator requested that the annual compensation be increased to \$5,374.00 for the NW-33 and reduced to \$4,052.00 for the SW-33 based on a pattern of dealings. In the alternative, the Operator requested that the annual compensation be increased to \$5,235.00 for the NW-33 and reduced to \$4,778.00 for the SW-33 based on empirical evidence. The Tribunal awarded annual compensation at \$5,493.75 for the NW-33 and \$6,018.75 for the SW-33, consisting of \$625.00/acre for loss of use and \$2,500.00 for adverse effect for each Site.

The Landowners did not rely on the pattern of dealings evidence. Instead, the Landowners claimed they were entitled to an increase in the rate of compensation based on empirical evidence, comparable leases, and inflation. With respect to the SW-33, the Landowners

claimed that their request for compensation did not need to compare other leases, surface rights contracts, or forward-looking decisions because they knew what revenue the adjacent lands generated, and their request was for the shortfall between what was paid per acre for loss of use and the loss of revenues based on production on adjacent lands.

The Operator submitted that a pattern of dealings was established by thirteen leases for the NW-33 and by fourteen leases for the SW-33. The Tribunal was not convinced that the Operator's pattern of dealings evidence established a pattern of dealings because it was not convinced that the Operator's methodology of selecting agreements negotiated within two years of the effective date (with one exception) accurately reflected the state of the marketplace for each Site. The Tribunal found that agreements negotiated in the latter part of the five-year period would have been more likely to reflect an accurate market value for loss of use and adverse effect during that period. However, the Tribunal gave considerable weight to some of the negotiated agreements provided by the Operator and found they were useful as comparable agreements to determine the rate of compensation for the Sites.

Finally, the Landowners sought costs in the amount of \$6,592.82 plus GST in their costs claim, including 127 hours of personal time spent in hearing preparation, travel time, attendance at Pre-Hearing Conferences, and the hearing. The Tribunal found that the amount of time claimed by the Landowners for preparing their submissions and preparing for Pre-Hearing Conferences and the hearing was unreasonable. The Tribunal granted the Landowners' claim for 85 hours of the Landowners' personal time at a rate of \$50.00 per hour, resulting in a total costs award in the amount of \$4,392.44.



**Bennett Jones**



# ALBERTA CROWN LEASE CONTINUATION DECISION

*Nigel Bankes*

*Case Commented On: APL Oil & Gas (1998) Ltd v Alberta, 2025 ABKB 201 (CanLII)*

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In the natural resources sector, as in so many other industrial sectors that require major capital investments in physical assets, security of tenure for those engaging in exploration activities (resource lessees) is foundational. And a crucial part of security of tenure for a resource lessee is the expectation that, if they make a discovery, they will be able to hold on to that discovery at least until they have recovered all their investment, including a return on risk capital, or better yet, until the discovery has been fully exploited and is no longer profitable to produce. On the other hand, the resource owner (whether private or public (Crown)) wants to ensure diligent exploration and development by the resource operator/lessee, failing which the property should be returned to the owner so as to allow the owner to explore other potential lessees.

Leasing systems (private or public) seek to balance these different interests. These leasing systems evolve as the industry matures in any particular jurisdiction – from a wildcat province with few, if any, exploration wells to a mature basin. In Alberta's oil and gas industry, the principal mechanism for the 20% of lands that are freehold mineral rather than

Crown is the private or freehold lease form. There is no standard form lease, although particularly common lease forms are the various iterations of the lease adopted by the Canadian Association of Petroleum Landmen (CAPL), now known as the Canadian Association of Land and Energy Professionals ([CALEP](#)). Speaking generally, the lease form achieves the balance referenced above by providing the lessee with a short primary term (2 to 4 years) at the end of which the lessee will only be able to proceed to a secondary term if the leased lands are producing (or at least that the lands are capable of production but shut-in for some unavoidable reason). The secondary term is typically open-ended and continues for so long as the lands are producing or capable of producing in economic quantities. What is significant for present purposes is that there is a truly massive body of complex case law on the private oil and gas lease, much of it concerned with continuation decisions (or, in the language of the freehold lease, moving from the primary term to the secondary term and the ultimate cessation of production). The late John Ballem did a masterly job of synthesising this case law in successive editions of

*The Oil and Gas Lease in Canada.* While the last decade has seen a significant drop-off in reported freehold lease litigation, there is still a significant body of case law on which practitioners rely when interpreting freehold leases. Perhaps the most fundamental point is that the courts and not the administrative state have held the last word when it comes to interpreting the continuation provisions of freehold oil and gas leases.

The province faces a similar challenge in designing a leasing system, although as the owner of 80% of the resource it has significant market power and thus has much more authority than a single private owner to set rules that are favourable to the government as owner on behalf of the public (subject to the risk that a jurisdiction that is over dependent on resource revenues assumes the status of a petrostate beholden to the interests of industry). Alberta's continuation rules for conventional petroleum and natural gas have been remarkably stable for close to thirty years with the adoption of the Petroleum and Natural Gas Tenure Regulation, Alta Reg. 263/1997 (PNGTR) in 1997 to supplement the bare-bones provisions of Part 4 of the Mines and Minerals Act, RSA 2000, c M-17 (MMA). Yet, despite that longevity, and in stark contrast with the position in relation to freehold leases, there has been virtually no litigation on the PNGTR since its adoption, and of the few cases that exist, none until the *APL* case that is the subject of this post have focused on lease continuation. See: (1) *Prairiesky Royalty Ltd v Yangarra Resources Ltd*, 2023 ABKB 11 (CanLII) at para 98 (dealing principally with the registry system under the MMA and the characterization of a gross overriding royalty, see ABlawg post [here](#)), (2) *IFP Technologies (Canada) Inc. v EnCana Midstream and Marketing*, 2017 ABCA 157 (CanLII) at para 33 (dealing the relationship between co-owners and the terms of a joint operating agreement, ABlawg posts [here](#) and [here](#)) and (3) *Adeco Exploration Company Ltd. v Hunt Oil Company of Canada, Inc.*, 2008 ABCA 214 (CanLII) (dealing with the allocation of liability between joint operator when the operator fails to seek timely continuance, ABlawg post [here](#)).

I think that the principal reason for the absence of litigation on continuation issues can be attributed to the perception, driven in part by the early decision in *R v Industrial Coal and Minerals Ltd.*, 1977 ALTASCAD 213 (CanLII) (ICM Case), that continuation decisions under the prevailing regime were essentially unreviewable given the subjective language of the statute and deference to ministerial decision making. Here is what the Court of Appeal had to say in the ICM Case:

The appellant took the position that it was entitled to continue the lease it had upon the land because there was "a producing well" as required by s. 126 (1) (a) of The Mines and Minerals Act, being chapter 238 of the Revised Statutes of Alberta 1970. Whether or not the abandoned well was a "producing well" depends upon s. 109 of the Mines and Minerals Act. That section defines "producing well" in s. 109 (b) as follows:

"(b) 'producing well' means a well that is, in the opinion of the Minister, capable of production of petroleum or natural gas in paying quantity."

It is clear that the Minister put his mind to this question. He advised Industrial Coal and Minerals Ltd. that he would not continue the lease as he did not find "in his opinion" that the well abandoned more than 21 years before was, without re-entry, "capable of producing natural gas in paying quantity". That was the Minister's decision - it is final and is not to be reviewed as to its validity in this type of proceeding. The Minister had the power and the duty to decide. He did so, and that is the end of the matter. We think that this decision was eminently reasonable. (at paras 2-3)

But 50 years is an eternity in administrative law, and this decision of Justice Rick Neufeld demonstrates that the reasoning discipline imposed by the Supreme Court's decision in *Vavilov* (Canada (Minister of Citizenship and Immigration) v Vavilov, 2019 SCC 65 (CanLII)), invites greater scrutiny of negative lease continuation decisions.



## The Continuation Provisions of the PNGTR

Rights to Crown petroleum and natural gas in Alberta may be granted either by way of a licence or a lease. The main elements of the scheme (omitting some of the detail) are as follows. A licence may be issued for an initial term of 2, 3, or 5 years, depending upon the area of the province (PNGTR, s 7). In order to continue the licence at the end of its initial term, the licensee must have drilled a validating well. A validating well need not identify commercial accumulations of hydrocarbons, but it must be “drilled for the purpose of evaluating petroleum and natural gas rights in the location of the licence” (PNGTR, s 9). The concept of a validating well is perhaps best thought of as a work commitment. In some cases a well may qualify as a validating well (as here) even if it is not drilled on the agreement location, but instead on an adjacent location – provided that the well has the evaluative purpose referenced above. A validating well allows the licensee to select sections of land (down to the depth of the validating well) contained within the location of the licence to be continued into the intermediate term of the licence (PNGTR, s 11). The intermediate term of a licence is 5 years (PNGTR, s 5(1)(b)).

In some cases, rights may be issued in the form of a lease rather than a licence. Section 81 of the *MMA* provides that a lease issued July 1, 1976, has an initial term of 5 years. The rules for continuing a lease after its initial term and the rules for continuing a licence after its intermediate term are the same (PNGTR, s 12): namely the licensee or lessee (together, “agreement holder”) must establish the existence of a producing well on the lands, or that the lands are “productive” as to all or part of the location. Both are defined in similar subjective terms as the relevant provisions at the time of *Industrial Coal and Minerals*. Thus, a producing well is “a well that is considered by the Minister to be a producing well based on the records of the Regulator and other information available to the Minister” (PNGTR, s 1(q)) (emphasis added). Similarly, a part of the location may be productive” if the “well or zone” is “capable,

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- **This case challenges the long-held view that ministerial continuation decisions under the PNGTR are immune from judicial review.**
  - **The 1977 Industrial Coal and Minerals precedent that favored absolute ministerial discretion is reconsidered in light of the Supreme Court’s 2019 Vavilov decision.**
  - **Vavilov requires a more rigorous standard of reasonableness review, meaning decisions must be transparent, coherent, and justifiable.**
  - **Continuation decisions are essential for resource tenure and investment security, and this ruling confirms they are subject to meaningful judicial scrutiny.**

in the opinion of the Minister, of producing petroleum or natural gas from the well or zone in paying quantity” (PNGTR, s 1(r)) (emphasis added).

The Department assesses continuation on a spacing-unit-by-spacing-unit basis. Hence, some parts of the location of an agreement may be approved for continuation, while others may be rejected. In order to maximize its prospects for a favourable continuation decision, the agreement holder needs to file its application in advance of the expiry of the agreement’s term and support such application with relevant information. The Department of Energy (now Energy and Minerals) has provided significant guidance to the industry as to continuation applications under the PNGTR through the Technical Guidelines for Continuation ([updated 2021](#)) as well as

Information Letters such as IL 2018-05, Validation of Initial Term Licences and Continuation of Petroleum and Natural Gas (PNG) Leases and Intermediate Term Licences (February 12, 2018). For example, the Technical Guidelines offer further guidance on the term “productive” as follows:

A spacing unit is considered productive for oil and gas if:

- There is at least one productive well in the pool,
- mapping supported by other technical information is supplied by the lessee (Alberta Energy will not generate mapping for the lessee) that demonstrates the presence of a productive pool, and
- The mapped productive pool underlies the spacing unit in the opinion of Alberta Energy [...] (as quoted by APL at para 13)

The Information Letter in turn, advises that an applicant for continuation might request a meeting with Departmental officials to share information and discuss technical issues. While the above describes the basic scheme, there is one important additional option. An agreement holder may seek to qualify additional spacing units in its agreement as potentially productive in return for payment of a prescribed fee (PNGTR, s 17(4)). This option may serve to extend the initial term of a lease or the intermediate term of a licence by one year, at the end of which the agreement holder must, once again, establish productivity as per s 15 discussed above.

Once a lease or licence has been continued under s 15, it is continued indefinitely, subject to the need to re-establish productivity within a year should the minister serve on the agreement holder a notice under s 18 of the PNGTR to the effect that the Minister considers all or part of the agreement to be no longer productive. If an agreement holder cannot establish productivity to the satisfaction of the Minister, the agreement expires at the end of the notice period (s 18(8)).

## The APL Facts

APL acquired a PNG licence by way of a bonus bid of \$1.3 million for 4 Sections of land (10, 11, 15 & 16) in 2013. APL’s licence had an initial term of 4 years. APL drilled a validating well on section 9 (not part of the location – but see above). Based on that, validating well, the Minister granted an intermediate term extension to the original licence to the entire area of the licence for five years (expiring August 15, 2022) for the zones evaluated by the well, namely the area below the base of the Winterburn Group to the base of the Beaverhill Lake Group (at para 6).

APL filed a first continuation application on April 7, 2021, seeking an advanced ruling as contemplated by s 14(1)(b) of the PGNTR. The Department responded “indicating that it would grant one year’s continuation under s. 17 of the Regulation for Section 10 of the Lands, but would deny continuation for Sections 11, 15, and 16.” (at para 12) In response, APL engaged two consulting firms (Sproule and McDonald) to support its original application, indicating amongst other things that the “Duvernay reservoir exists across the Lands and is uniform in thickness at approximately 23 metres of gross pay.” (at para 16 and similarly at para 17) The Department in turn reacted with a second continuation offer (August 12) proposing: to extend Section 10 indefinitely under s 15 of the PNGTR, to grant a one-year continuation under s 17 for Sections 15 and 16, and to deny continuation for Section 11 - but also advising that APL could submit additional information before the offer expiry date of September 12, 2022 (at para 19).

This led APL to request meetings; first, a request on August 18, 2022, for a technical meeting, followed up by a request on August 29, 2022, for a meeting with legal counsel present. APL was advised that the request for a meeting with legal counsel was “unusual”. A technical meeting did occur on September 2 without legal counsel. Justice Neufeld’s summary of that important meeting (based on the Department’s notes disclosed as part of the formal

record) reads as follows:

[The Department's] notes indicate that APL was confused as to why the technical data was insufficient, given that it revealed no geological difference between the various sections of the Lands. They also indicate that Alberta Energy stated that the Section 9 Well supported continuation under s. 17 of the Regulation for Sections 15 and 16. Alberta Energy also clarified that Section 11 was too far away from this well to satisfy continuation under s. 17. Alberta Energy elaborated that it had made a policy decision years ago not to allow s. 17 applications based on "mapping." APL later indicated that in this meeting, Alberta Energy advised that Section 11 was not considered productive because it was not within one spacing unit (in this case, a section) of a productive well. (at para 22)

APL continued to press for a counsel meeting and argued that Section 11 was productive. The Department declined the request for an additional meeting and held firm on Section 11. In the end, APL accepted the Department's s. 17 offer for Sections 15 and 16 and sought an internal review of the Department's decision on Section 11. The Minister made a final decision denying continuation for Section 11 on October 14, 2022 (the first continuation, or the 2022 continuation decision). Since Sections 15 and 16 were only provisionally continued under s. 17 of the PNGTR for an additional year, it was necessary for APL to renew its continuation application for those lands (second

continuation application, or the 2023 continuation application). The Department provided an initial and final decision rejecting the second application. The final review decision did offer additional reasons for the rejection (these reasons are reproduced at para 52). These reasons emphasised that there was no well on the Section 15 lands, or within a spacing unit of the lands, and noted also that APL had not done any further work on the lands during the intervening year.

APL sought judicial review of the first and second continuation decisions on reasonableness grounds and based on breach of obligations of procedural fairness (reviewable on the standard of correctness).

### **Reasonableness Review**

Justice Neufeld began by referring to the commercial nature of continuation decisions before referencing Vavilov and noting the importance of examining the reasons offered by the decision-maker to assess "whether the decision reveals an internally coherent and rational chain of analysis that can be justified in light of the factual and legal constraints on the decision maker." (at para 45) With respect to the first continuation decision, Justice Neufeld agreed that the reasons offered by the Department were conclusory and not responsive to the submissions made by APL:

... the reasons failed to provide coherent reasoning for reading into s. 15(1)(e) a requirement that the lands to be continued be less than one section from a






spacing unit containing a productive well. Such a requirement is not apparent from the plain language of that subsection of the Regulation. Moreover, APL's position was very clearly premised on its interpretation of the subsection. This is reinforced by APL's requests to have legal counsel present at the September 2022 Meeting and to have the meeting recorded, both of which were denied. This is also evident in the questions submitted by APL's counsel regarding the manner in which Alberta Energy was interpreting s. 15 (1)(e). It was reasonable for APL to expect, and it is reasonable for the Court to require, that a thoughtful explanation of Alberta Energy's position be provided so that the decision can be properly understood and evaluated. (at para 51)

As noted above, the Department provided more detailed reasons for the second continuation decision but in Justice Neufeld's opinion that did not make them any more coherent insofar as they appeared to be based on the false premise that s 15(1)(e) of the PNGTR requires that there be a well on the subject lands, or within a spacing unit of those lands. ) The problem is that s. 15(1)(e) does not contain the wording that Alberta Energy posits. It provides that "a lease qualifies for continuation [...] as to a part of its location that is within [...] a spacing unit all or part of which is productive from a zone in the location": Regulation, s 15(1)(e). This does not connote any requirement to base a continuation application solely on wells within a spacing unit (which is dealt with under subsection 15(1)(a) in any event), nor on productive wells within a certain distance. (at para 53)

In sum, neither decision was supported by internally consistent reasoning that grappled thoughtfully with the central arguments of APL. Much the same conclusion followed from analyzing the legal and factual constraints within which the Department was operating. For example, while it might have been possible for the Department to articulate an interpretation of s 15(1)(e) that supported the spacing unit /section "rule" in a way that was consistent with the modern approach to statutory interpretation (text, context, and purpose. The

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- **The Alberta Department of Energy's reliance on an internal "one spacing unit" rule to deny continuation was found to have no clear statutory basis.**
  - **The Department's failure to provide clear and reasoned explanations for denying continuation was deemed unreasonable by the Court.**
  - **The case highlights the need for decision-makers to meaningfully consider technical evidence, regulatory purpose, and statutory language.**
  - **Although APL's procedural fairness claims were mostly rejected, the Court emphasized judicial restraint by remitting the decisions back for reconsideration.**
  - **This judgment signals a demand for greater transparency and justification in Crown tenure decisions and may increase judicial oversight in future lease continuation disputes.**

Department had not done so.

To properly interpret s. 15(1)(e) of the Regulation and the argument advanced by APL regarding the sufficiency of mapping, the decision-maker ought to have considered the purpose and objectives of the continuation provisions as a whole, the manner in which the continuation provisions work together, how and why decisions on productivity are made, and how Alberta Energy's various information letters and

guidelines inform those processes. With that foundation, the ultimate decision either to accept or reject APL's argument that the technical data was determinative of eligibility for indefinite continuation under s. 15(1)(e) could have been articulated transparently and justifiably, as required by Vavilov. (at para 62)

By contrast, APL was unsuccessful with all of its procedural fairness arguments. Given the Baker factors (*Baker v Canada (Minister of Citizenship and Immigration*, 1999 CanLII 699 (SCC)), the content of the duty of procedural fairness owed by the Department was at the lower end of the spectrum, and the Department had met its obligations. In particular, APL had not established a legitimate expectation that it was entitled to a second meeting before the first continuation decision since there had been no unequivocal assurance to that effect. The case contains an interesting discussion of whether APL should, on fairness grounds, have been provided with the Department's internal assessment of the reserves reports that APL had provided in support of the second continuation application, so that it could know of and address the Department's concerns. The discussion suggests that had the Department's assessment of these reports been pivotal to its determination of productivity, there might have been a case for disclosure, but since that was not the case, there was no breach of duty. As for a remedy, Justice Neufeld rejected APL's suggestion in the final argument to the effect that the court should order lease continuation for the entire balance of the original leased lands (i.e., for Sections 11, 15, and 16). In a carefully worded paragraph, Justice Neufeld concluded that this would be judicial overreach and inconsistent with the balance reflected in Vavilov:

... I consider it important for reviewing courts to exercise restraint in deciding a remedy for an unreasonable decision, as defined in Vavilov. Unless a decision turns on a very straightforward question of law, the Court should respect the expertise and specialized knowledge of the decision-maker by

remitting the decision back for reconsideration, without dictating the analytical approach to be used or the result. If, after thoughtful reconsideration, a decision is reached in a transparent and organized way, that decision should withstand any further judicial review. In the long run, such an approach will improve the quality of administrative decision-making and reduce the need for judicial intervention for the benefit of all involved. (at para 94)

Accordingly, Justice Neufeld quashed both continuation decisions and remitted both continuation applications back to the Department for reconsideration, with the additional caveat that the lands in question not be reposted for sale pending that reconsideration.

## Conclusion

This is an important case for four main reasons. First, continuation decisions are crucially important decisions in the resources industry. Second, the case is only one of a bare handful of judicial decisions dealing with continuation. Third, and perhaps most importantly, the case confirms that continuation decisions, even when framed in subjective discretionary terms, are amenable to substantive as well as procedural review. Fourth, the availability of judicial review on substantive grounds is clearly enhanced by the more demanding standard of reasonableness review articulated by Vavilov. More specifically, the decision suggests that it will be difficult for a statutory decision-maker to rely on a rule-of-thumb approach to the exercise of statutory discretion (in this case the apparent "rule" to the effect that lands more than a drilling spacing unit/section away from a producing well will be deemed non-productive) absent clear statutory language supporting such a rule, or internally consistent and articulated reasons justifying such a conclusion. While I doubt that the decision will open the floodgates, I do anticipate that we may see more Crown tenure holders, disappointed by adverse decisions on their continuation applications, seeking review of those decisions - or at least greater transparency in that decision-making process.



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*"My committee and I have been hard at work preparing the final details for what is sure to be an incredible Conference in just a few weeks' time. We are so excited for you to experience what we've created. Attendance is looking fantastic; you're sure to find some old friends to reconnect with and make some fresh ones to open new doors. The program is designed specifically for us as a community and will deliver valuable insights while helping you build real skills and knowledge to take home with you. On top of all that, we have some absolutely smashing activities, events, and venues lined up for you to enjoy. I promise you won't be disappointed."*

*A huge thank you to all our sponsors, and all of you who have chosen to attend. There's still time and space to sign up, you're not going to want to miss this one!*

*We can't wait to see you in Saskatoon."*

Shaun Cooper

2025 CALEP Conference Chair

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# MESSAGE FROM THE BOARD

Wade McLeod,  
Director of Communications/Public Relations

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I'm not sure where the summer went, but somehow, we've already landed in September—and with it comes some exciting news for The Negotiator.

Starting this month, we're increasing our publication frequency from four to ten editions per year! This change reflects the incredible momentum we've built, thanks to the hard work of our dedicated volunteers and the overwhelmingly positive feedback from both members and the board. Our most recent edition came in at an impressive 53 pages (longer than most books I've read), a true testament to the quality and relevance of the content we're delivering.

We've seen great success with the addition of recurring features from Telford Appraisals and Bennett Jones, and we're expanding that lineup to include even more industry insights. You can now look forward to regular contributions from:

- Caltech – Surveying updates
- Millennium Land – Renewable sector developments
- Canada West Land – Mineral land insights
- AiM Land – Indigenous relations updates
- West Earth Sciences – Regulatory and environmental news

Another feature that's been gaining traction is our Spotlight Series, which highlights both new and long-standing CALEP members. It's a great way to share stories, build connections, and welcome new faces into the community. So far, only one person has turned down an interview (you know who you are—



Wade McLeod, Director of Communications/Public Relations

and yes, I'm still coming for you!). If you know someone who would make a great feature, please don't hesitate to reach out.

We're also excited to announce that a new and improved CALEP website is launching this fall! The office team has been working hard behind the scenes to bring this to life. Alongside the website, we're expanding our digital presence with the launch of a CALEP Instagram account. This will allow us to reach a broader audience, share updates in real time, and showcase the vibrant community behind our organization – stay tuned!

A huge thank you goes out to our amazing communications volunteers:

- Amy Kalmbach – Senior Contracts Landman, Baytex Energy Ltd.

- Tyler Adair – VP, Corporate Development, West Earth Sciences
- Martin Leung – Land Negotiator, Canadian Natural Resources Limited
- Jason Peacock – Sr. Land Negotiator, TAQA North Ltd.
- Rory Brown – VP, Caltech Group Inc.
- Raymund del Rosario – Cenovus Energy Inc.

Their creativity, commitment, and collaboration have been instrumental in making The Negotiator what it is today. I also want to thank their employers for supporting their involvement—it truly makes a difference. As we move to a 10-edition schedule, we'll have even more opportunities to share stories, insights, and updates. If you're interested in contributing content, joining the communications team, or exploring advertising opportunities, I'd love to hear from you.

Here's to a busy and exciting fall ahead!

Thanks!

**Wade McLeod**

Senior Project Manager  
AiM Land and Environmental Services Ltd.



# SPOTLIGHT SERIES

*Marah Graham*  
*Director of Mineral Land, Teine Energy*

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***Tell us about yourself, and what got you into Land.***

Here's the short answer: I'm Marah from Teine Energy, and Chris Lamb got me into Land.

The longer version: I was born and raised in Calgary into a family completely uninvolved in oil and gas. My dad was an architect, and my mom was a former X-ray technician. I didn't know anything about energy. I started a BComm program at U of C, specializing in International Business. And I had no idea what the heck I planned to do with a degree in International Business.

During my BComm, I befriended a guy in my accounting class named Chris Lamb. We became good friends when he realized I could drive him home from school nearly every day in my cool 1996 forest green Ford Contour. He advised me that he got into the PLM program and had a job lined up already, even though the program hadn't started yet. I saw that the student positions paid \$21/hour, whereas my current jobs at Sears and Burnco Rock Products paid significantly less. I applied for PLM that day and got into the program in the year after Chris.

On his advice, before even entering the program, I applied for all the posted jobs (Anadarko and Petro Canada) and was delighted to get both roles. Both jobs paid the same, but in the offer, Petro Canada appeared to have a much stricter drug and alcohol policy, so I took the Anadarko job instead. Ken Gummo never forgave me for turning down Petro-Can. I misspelled



*Marah Graham, Director of Mineral Land, Teine Energy*

Anadarko throughout my acceptance letter, but they still took me, along with my classmate Jeff Collins, as summer students.

What a fabulous start to a career that I had no clue about. I spent an entire summer in a windowless room highlighting the assignment clause in non-CAPL agreements and photocopying onion-skin records so they wouldn't fall apart. But I had air conditioning and free coffee, so I was happy.

Fun fact: I ended up with higher grades than Chris in our accounting class... but he went on to win the gold medal for his year in PLM.

***Could you walk us through your professional journey and what led you to your current role as Director of Mineral Land at Teine Energy Ltd.?***

These are the companies I worked at, in chronological order: Anadarko, Apache, Anadarko, CNRL, Austwide



Mining, CNRL, Northern Blizzard (and the successor companies Cona and Strathcona), Tundra, and now Teine. And no, that is not a copy-paste error; I worked at two companies twice. It is wise to never burn bridges.

I had a circuitous route in my career. I spent a large part of my early career at CNRL. I worked as a Negotiating Landman for several years before I moved to Australia to work in the mining section as a Tenements Manager. When I returned, I wanted to take my MBA. CNRL was supportive, and upon completion of the MBA, CNRL moved me into Investor Relations for a few years. It was a fun job with late nights awaiting press releases and lots of work travel.

It was only when I realized how much I missed being a Landman that I decided to leave the CNRL finance group. I pivoted back into a Land role with a move to Northern Blizzard.

I have been very fortunate to have worked in different roles at a variety of companies. I have learned that being adaptive and open to change is beneficial. I have worked for publicly traded corporations, private equity, family-owned owned and now a pension fund. And some of these business models intersected at the same company with go-public and take-private events. These are all drastically different business models, with the different ownership structures having diverse investment horizons and performance expectations. Being willing to work in different environments has led me to where I am today.

***What inspired you to transition from a hands-on role into a leadership position?***

I am still hands-on and continue to work as an Area Landman. With the prolonged commodity price depression from 2014 to 2021, I think everyone is hands-on. Most companies are too lean in our operations to have exclusively executive leaders. I think working managers are the norm in oil and gas, and I think it's a great strength to our operations.

The difference with my current position is that it enables me to surround myself with good people who correct my mistakes, have strengths where I have deficiencies, and challenge me to grow both personally and professionally through their insights and collaboration. It is so rewarding to be able to surround yourself with great people and laugh every day at work together.

***Looking back, have there been any mentors or role models throughout your career that you'd like to recognize and why?***

I could list the CALEP roster here and more. There are so many people who were instrumental in my life and my career. So many little things happened, even just in passing, that helped me grow. I will mention some and will probably kick myself when I forget others.

The late Brian Birchall was my first official mentor at Anadarko. He was such a powerful influence on my career. When I think of him, I still can hear his bellowing laugh.

Joanna Wright and Bob Bachynski were early bosses who took leaps of faith in me, and I am so grateful that they gave me opportunities (beyond my capabilities at the time). Historically, I learned a lot from Clark Drader, Ted Lefebvre, Chris Soby, and Arnie Brownlees through dealmaking.

Denise Backman drove me out to meet the IOGC for the first time. After which, we went to Caesars to debrief and drink Frangelico liqueur. Thanks to her, to this day, I recognize the importance of face-to-face interactions (and, also thanks to her, to this day, I cannot drink hazelnut liqueur).

At CNRL, I was lucky to work with Mary-Jo Case and Teresa Kozina, who were both the epitome of professional Landmen. They both granted me autonomy and yet provided great guidance and were wonderful resources for questions. I also learned a lot from the former CNRL president Steve Laut, the former CFO of CNRL Mark Stainthorpe, and his predecessor

Doug Proll. I traveled extensively with Doug, and we always had a great time. He taught me to have as much fun as possible, even while working in high-pressure environments.

Cindi McKenna was very instrumental in my career because she taught me the actual nuts and bolts of the job. Before her, I had never undertaken a deal from inception to closing singlehandedly. She is a great A&D mentor.

My current boss, Melanie Pedersen, has been a great mentor as a technical professional in oil and gas. She has helped me navigate more situations than she'll ever realize. And, as a commercial person, I appreciate working closely with someone with such a strong geotechnical capacity. To this day, I text Doug Errico, Dave Balderston, or Kathy Gagne to ask really dumb questions, and one of them always answers. It's only an issue when they have contradictory answers.

Lastly, I am mentored by those who provide professional guidance and make me laugh, which includes those who I consider friends, like Mary Grant, Krissy Rennie, Byron Bergren, Donna Bowles, and Cindy Cameron. None of whom I would have met without the Land profession.

***What are some of the key challenges you faced during your career, and how did you overcome them?***

The volatility in our business means that timing can make or break a company. With some exceptions, I don't think many people are more brilliant than others. It is often luck and good timing. This has taught me patience, a quality I naturally lack.

Some of the greatest learning experiences I've had were through some truly terrible and terrifying times. There were times that I thought I would pivot to work in a fitness studio because the price of oil had plummeted, and I felt at risk of losing my job. At one point, I even signed up for yoga teacher training. How do you overcome challenges like that? Be willing to make tough decisions and do any job that requires doing to persevere through the tough times. Our industry is so resilient, and it teaches one grit and

critical thinking.

***You've had quite an accomplished career; looking back, what can you say stands out the most for you and why?***

I moved to Perth, Australia, and worked as a Tenements (Land) Manager in 2008-2009. During that time, I missed our microcosm of an industry so much. Calgary is a very unique place. Most of the oil companies are within a 1-kilometer radius, and our terrible winters mean that you see everyone in the +15s. I thoroughly enjoy the social aspect of our role; we get to network with colleagues and form lifelong friends.

I love the interconnectedness. I think it is so unique to this city. This career in this geographic place does not exist elsewhere. It has also taught me that you cannot escape your missteps or mistakes. So be humble and treat people well. You never know who your next boss might be.

***What do you think are the key skills necessary for success in land in today's world?***

Having a positive attitude toward energy, being open-minded to change, and a "no job is too small" attitude.

***What challenges do you foresee working in Land for the future?***

I used to think the unreasonably negative sentiment towards fossil fuels was insurmountable. But energy security and concerns over sovereignty have started to change that perspective.

I now think that bureaucracy is the latest challenge. There is a huge opportunity to reduce the administration and the regulatory burden in very simple ways. Unfortunately, Land is generally misunderstood. EPAC is doing extraordinary things for the industry, but there is an opportunity for more specific advocacy within Land to fix the regulatory minutiae. We need a voice to help reduce unnecessary paperwork and applications.

Another issue we face in Land is apathy. We have had tremendous historic industry mentors who have volunteered so much of their time, and we don't have solid replacements. We need people to help on committees, to work on the CALEP Board, and to continue to evolve and modernize our precedent agreements. Jim MacLean and his co-workers and predecessors revolutionized the Canadian Land profession and have given us incredible precedent documents that are unique to Canada. But I fear for our profession's future when we have fewer people involved and less passion. I am hopeful this is a challenge we will overcome.

***What advice would you give to someone wanting to get into Land?***

We need more new entrants in Land. We haven't recovered from the negative sentiment that prevailed for a few years, causing the cancellation of many excellent educational programs.

Just consider oil and gas. We need younger people and creative ideas. I think that whoever wants to enter the energy sector will likely have a long and challenging career.

My advice is to become technically strong, ask lots of questions, and admit your mistakes. Learn from those around you and actually read the precedent agreements (and annotations). Understand there are "unwritten rules" in oil and gas, and particularly in Land. For example, as we learned from Wayne Lannan, always call people back. We are a very small community, so treat everyone with respect.

And volunteer! I've met so many people that I would not have met had I not volunteered with CALEP and other organizations. I've always enjoyed connecting with new people, and it can serve you well in your career.

***Marah Graham,***  
*Director of Mineral Land*  
*Teine Energy*





# ADVANCING CALEP'S EDUCATION VISION



Donald MacLeod, Director of Professionalism

As the Summer of 2025 draws to a close, so does my first year as CALEP's Director of Professionalism. My primary goal has been to develop an accessible course program for individuals aspiring to join the industry. I'm excited to share an update on the progress of CALEP's external education program, particularly our Surface Land Introduction Course. While we've kept details under wraps until now, with contracts signed and development underway, I'll strive to provide monthly updates moving forward.

In June 2025, CALEP approved a motion to launch a pilot program featuring three foundational courses, developed in partnership with Re-Train Canada:

1. Advertisement for the Education Course
2. Ethics Course
3. History of the Oil & Gas Industry Course
4. Indigenous Land Rights & Engagement Course

These courses are currently in development and will undergo two rounds of review by our Education Committee, scheduled for September 8–10 and September 29–30, before finalization.

The completed courses will be presented by CALEP President Sandra Dixon at the upcoming CALEP Conference. Note that the Indigenous Land Rights & Engagement Course has faced delays due to an additional review by Janet Walker (MA), an experienced course writer who has developed content for the IRWA. We aim to finalize this course in time for the conference.

Following the conference, CALEP members will vote, as per our bylaws, on whether to proceed with the full education program, which includes the following proposed courses:

- Understanding Legal Descriptions, Title Research, and Agreements
- Fiduciary Duties and Contract Fundamentals – Business Essentials
- Negotiations and Mediation
- Introduction to Environment and Green Energy
- Business Communication Essentials for Land Agents
- Introduction to Accounting Roles and



#### Terminology for Land Agents

- Pipeline Overview for Land Agents
- Introduction to Geology
- Introduction to Geophysics
- Mapping, GIS, GPS, and Surveying Introduction

The Land Agent Licensing Board has been informed of the program and is awaiting course completion to provide feedback and determine requirements for their approval. These courses will be offered online, with pricing to be determined. All proceeds will support CALEP's efforts to develop additional programs, such as an Introduction to Mineral Land and an Introduction to First Nations Consultation. Also, as my portfolio covers the entire country, we are aiming to complete province-specific courses (BC, Saskatchewan, Manitoba, Ontario, Quebec, and the Maritimes.... Not just Alberta)

I'd like to extend my heartfelt thanks to the Education Committee volunteers who have been instrumental in advancing this project. If you're interested in volunteering, have any questions, or would like to provide feedback, please contact me at [DMacLeod@ScottLand.ca](mailto:DMacLeod@ScottLand.ca).

Thank you,

**Donald MacLeod**

*Surface Manager*



# NAVIGATING OIL AND GAS SURVEYS ON FIRST NATION LANDS



## *A Guide to the IOGC Application Process*

Michelle Merrick

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For land professionals accustomed to provincial regulators, the process of securing surface rights on First Nation lands is much more complex and time-consuming. Unlike provincial regulators, Indian Oil and Gas Canada (IOGC) operates under a framework that requires additional approvals and coordination with First Nations. Successfully completing this process demands a clear understanding of regulatory steps, survey plan requirements, and the roles of both IOGC and Natural Resources Canada's (NRCan) Survey General Branch (SGB). This is a practical guide to the IOGC application process and outlines what land professionals need to know to ensure compliance and avoid costly delays.

### **Background: The Role of IOGC, Canada Lands, and Canada Lands Surveyors (CLS)**

#### *About IOGC*

IOGC is the federal agency responsible for managing and regulating oil and gas resources on First Nations lands across Canada. They assist First Nations with the granting of their surface rights by issuing surface

rights contracts using a two-step approval process. Completing this process gives companies the legal access to explore and develop oil and gas on First Nations reserve land.

#### *Main Functions of IOGC*

- Negotiating, issuing, and administering agreements between the Crown, First Nations, and industry for oil and gas projects on reserve land.
- Conducting environmental reviews, inspections, and audits, in addition to handling reclamation applications and coordinating remediation.
- Assessing the potential for oil and gas resources, new technologies, and alternative energy projects.
- Conducting engineering and geology technical subsurface evaluations.
- Collecting royalty, rental, and other revenues on behalf of First Nations.
- Administration of agreements, ensuring they meet legislative, regulatory, and contract requirements.



## About Canada Lands

Canada Lands are defined in the Canada Lands Surveys Act as: “any lands belonging to His Majesty in right of Canada or of which the Government of Canada has the power to dispose. “This includes surrendered lands or reserves as defined in the Indian Act. Other lands, such as all lands in the territories and National Parks of Canada, also fall under this category.

Surveys of Canada Lands for oil and gas must be made in accordance with the instructions of the Surveyor General and comply with the Canada Lands Surveys Act. In addition to the Canada Lands Surveys Act, oil and gas survey plans must also adhere to the requirements of provincial regulators and usually include information necessary for industry to fulfill the requirements of notification, consultation, and licensing. It’s this dual compliance that makes oil and gas survey plans different from other survey plans conducted on Canadian lands.

## About Canada Lands Surveyors (CLS)

Since oil and gas surveys on First Nation lands must follow Canada Lands Surveys Act regulations for surface and provincial regulations for sub-surface, a surveyor with both the CLS and provincial commissions should be signing the plans required by IOGC.

Most Canadian Land Surveyors hold a provincial land surveying commission in their jurisdiction. Many earned their provincial commission first, later achieving their CLS through writing the jurisdictional exam set by the Association of Canada Lands Surveyors.

## Preparing Plans for the IOGC Application Process

IOGC requires two plan versions to be submitted for their process: an Application Survey Plan and a Canada Lands Survey Records (CLSR) Survey Plan. The Application Survey Plan shows the legal survey

plus all the details needed to satisfy the needs of industry and regulators. It includes topographical information, any water or wetlands, and radius/licensing information, well center/bottom hole offset information, and any other relevant features. The plan closely resembles a survey plan required for application on Provincial Crown Land that oil and gas operators are already familiar with.

The CLSR Survey Plan is the same as above, but with the industry and regulator details removed for subsurface licensing. In essence, this plan will contain only the information required by the SGB for surface rights, including wellbore locations and incidental activities, for recording in the Canada Lands Survey Records.

Under the 2019 IOGC process change, the Application

### Key Takeaways:

- Timelines are longer than provincial processes
- Two survey plans are required for the application
- Legacy issues with previous survey plans could cause delays.
- IOGC and First Nations must both approve the application
- Plans must be signed by a CLS with a provincial license.
- No surface contract is granted without a recorded CLSR plan.

Survey Plan and the CLSR Survey Plan must both be submitted at the start of the IOGC application process, although the CLSR Survey Plan is not recorded through the SGB until the end of the application process.

The reasons why both plans are required to be submitted with the application are:

- To amend existing surface contracts when the

recorded plan doesn't match the rights granted. IOGC can confirm that the Application Plan and the CLSR Survey Plan match and both reflect the surface rights granted. If the surface contract must be amended, it requires the same process as a new application.

- To reduce the risk of overlapping land tenure arrangements. If the CLSR Survey Plan doesn't match the Application Plan, that means the contract shows one area/location of the surface tenure, and the CLSR shows another. Since the plan in the CLSR is the plan on record that other surveyors will use for surveys, this could lead to accidentally overlapping interests. If an overlap is found with a new application, the overlap will need to be resolved before granting the new interest, and the final contract will be delayed.
- There are no more unrecorded CLSR plans going forward. In the past, there were times when the final plan for submission to the SGB was not submitted and the surface rights were granted without the final CLSR number for the contract. As a result, some oil and gas developments were left without a final recorded CLSR plan after construction and drilling. The SGB and IOGC have a list of legacy plans that were never submitted. Operators are encouraged to have the outstanding plans cleaned up and recorded. If any amendments are required in the future to a contract that does not have the final CLSR plan, IOGC could request that the legacy plan be dealt with first, which could further delay a project.
- Because it's difficult for non-industry to interpret recorded oil and gas plans due to the volume of additional information displayed. Most plans recorded in the CLSR are legal plans that can be read quite easily by those not in the industry and by the Indian Lands Registry System upon filing the interest in the registry.

IOGC will no longer grant surface contracts until the CLSR survey plan has been recorded in Canada Lands Survey Records. Surface rights are not registered in

the Indian Lands Registry System until the plan is recorded in the CLSR.

### **The IOGC Application Process**

It's important to keep in mind that applications on First Nation lands can take several months to complete. This is especially important for anyone who does most of their oil and gas on provincial lands, where the process has a shorter timeline. The additional time for an IOGC application is due to the two extra levels of approvals for surface rights that are not seen in provincial systems:

1. IOGC is the regulator for surface rights outside of the provincial regulator for subsurface licensing, and
2. NRCan SGB approval of oil and gas plans under Section 13(1) of the IOGC Regulations.

Using Alberta as a comparison, the Alberta Energy Regulator is part of the provincial ministry and can make decisions regarding Alberta Crown Lands on behalf of all Albertans. In contrast, Canada Lands require the First Nation's permission for access and development of all oil and gas rights. This is done by granting a legal contract between the First Nation and the operator through the federal government.

Both IOGC and the First Nation must approve the granting of a contract. If the First Nation supports the contract, its Band Council must provide written approval in the form of a Band Council Resolution. Only then can IOGC grant the contract.

The following outlines the IOGC application process:

#### **Step 1**

- The applicant submits their application to IOGC, including both the Application and CLSR Survey Plans.
- If either plan does not meet the IOGC plan requirements, the plans are returned to the applicant for changes.

- IOGC's Lease Administration and Environment units review the submission.
- An environmental assessment is prepared.
- Draft agreements are prepared.
- IOGC checks the above for technical compliance, and if it meets the requirements, they grant a Step 1 approval.

It's important to note that if any changes were made to the survey plan used in this step, the applicant will need to include a revised Application Survey Plan with their Step 2 submission.

#### Step 2

- The application package approved in Step 1, with any required revisions, is submitted to the First Nation for their review and approval.
- If the First Nation is in support of the application, its Band Council issues a Band Council Resolution (BCR).
- Once the BCR is issued, the package is submitted to IOGC for final execution.
- The IOGC Lease Administration unit conducts a final review of the application.

After Step 2 approval, the application is made to the provincial regulator. This is where the application is held as a placeholder until licence approval is granted by the province.

#### **Post-IOGC Application Process: Plan Processing and Registration**

With the IOGC application process complete, the plan needs to be processed and registered with the SGB before construction can begin. Several steps occur during processing and registration.

- The applicant and the surveyor receive an email from IOGC to submit the final CLSR Survey Plan to the SGB for review and final recording in the CLSR. IOGC requires the surveyor to submit the plan to the SGB within 30 days of receiving this email.
- The SGB is copied on the email and receives a copy of the CLSR Survey Plan that was submitted

with the application. The SGB will ensure the final, signed plan submitted by the CLS matches the image in the email.

- The final plan approved by IOGC is "approved and signed" on behalf of the Surveyor General
- A branch of Canada, given a CLSR plan number, is recorded and made available in the Canada Lands Survey System Map Browser.
- With the recorded survey plan, the final contract is executed, and documents are filed with the Indian Land Registry System for surface rights.

It's important to know that the IOGC requires the applicant to obtain their CLSR Plan Number within 90 calendar days; otherwise, the surface contract application will be closed. IOGC includes a note about this in their email requesting that the final CLSR Survey Plan be submitted to the SGB.

#### **Looking Ahead**

IOGC is working on the First Nation assertion of jurisdiction with more First Nation involvement and control over their own resources. Through collaborative planning for 2025-2026, IOGC is in discussions with the IOGC Co-Management Board and the Indian Resource Council on how to approach this work. This would reduce the regulatory process that delays oil and gas development on First Nation Lands.

IOGC is anticipating a consultation draft of the Regulations in Fall 2025. The draft will be used for consultation and engagement with First Nation leaders, industry, and stakeholders. Consultation during this engagement period includes the Environment, Surface Contracts, and Pipeline Regulatory Amendment.

For updates and more information on the regulatory change, visit the [IOGC website](#).



## About

*Michelle Merrick CLS, ALS, SLS, P.Surv is the Director of Canada Lands at Caltech. She has over 15 years of experience in provincial and federal land survey systems. Her experience includes time as a Senior Surveyor and Standards Manager with Natural Resources Canada's Surveyor General Branch, where she worked extensively on Canada Lands projects, including projects involving IOGC.*

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# Caltech





# CONSERVATION EASEMENT

## *Legal Structure, Valuation, and Market Implications*

Robert Telford, Darren Clarke, and Trevor Sheehan

### **Conservation Easements: Legal Structure, Valuation, and Market Implications**

Conservation easements have become an increasingly significant instrument in Alberta for balancing private property rights with long-term land stewardship objectives. For professionals engaged in real estate, appraisal, planning, surface rights acquisition, and law, understanding the mechanics of easements—and their effect on market value—is essential.

#### **Legal Framework and Structure**

A conservation easement is a registered interest in land whereby the landowner voluntarily surrenders specific rights in perpetuity. Title remains with the landowner, but restrictions are enforceable by the easement holder—typically a qualified conservation organization or a government body.

Restrictions vary, but often address:

- Subdivision and residential development potential
- Cultivation of native rangeland
- Drainage or alteration of wetlands
- Intensive livestock operations
- Resource extraction
- Fertilizer and herbicide use
- Fencing types (to ensure wildlife passage)

Because the easement is attached to the title, subsequent owners are bound by the same conditions.

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#### **Incentives for Landowners**

Participation is motivated by both financial and non-financial considerations.

- **Tax Treatment:** Easements often generate charitable tax receipts based on appraised loss in market value. These may be applied over ten years, assisting with capital gains management and intergenerational transfer.
- **Ecogift Program:** Properties certified as ecologically sensitive by the federal Ecogift Review Panel qualify for enhanced tax treatment and exemption from CRA audit risk.
- **Cash Compensation:** In some transactions, particularly with organizations such as Ducks Unlimited, direct purchase and resale models apply, though without charitable receipting.

#### **Conservation Priorities in Alberta**

Different organizations focus on different landscapes:

- Foothills region: prevention of fragmentation, protection of wildlife habitat, and native rangeland.

- Southeastern Alberta: conservation of Sage Grouse habitat.
- Pothole region: restoration and preservation of wetland complexes for waterfowl.
- Agricultural lands: Alberta Farmland Trust (est. 2022) has initiated easements specifically to prevent conversion of farmland to residential or industrial uses.

### Valuation Considerations

From an appraisal perspective, the impact of a conservation easement is tied directly to restrictions placed on the highest and best use (HBU) of the property. The methodology generally involves:

1. Appraising as unencumbered (fee simple).
2. Appraising as encumbered.
3. Measuring the difference as the easement value.

Direct comparison remains the primary approach, with paired sales analysis providing insight where market evidence exists.

### Case Examples

- Foothills County (near Okotoks): No subdivision or building permitted; demand for rural residential is strong. Easement reduced value by ~60%.
- Eastern Slopes (southwest of Turner Valley): Remote, limited residential demand; existing residence allowed. Easement reduced value by ~22%.
- Camrose County (Buffalo Lake area): No agricultural or building potential; restricted to recreational use. Easement reduced value by ~52%.
- Starland County (Rumsey area): Poor arable quality; low demand for rural residential. Easement reduced value by ~8.5%. These cases demonstrate the principle: where an easement removes realistic, marketable development potential, the impact is significant; where HBU is unchanged, the impact is minimal.

Easements do not extinguish all potential interests. Oil and gas, utilities, and certain statutory rights of entry remain possible. However, depending on the wording, renewable energy projects (solar & wind) along with telecommunications, may be restricted with no recourse as they are not subject to the Surface Rights Act in Alberta.

Importantly, easement holders become stakeholders in consultation processes and may be entitled to compensation under the easement agreement.

Any project proposed on lands encumbered by a conservation easement requires a thorough review of the terms and conditions to determine potential issues and commitments.

### Conclusion

Conservation easements are a permanent and enforceable modification of the landowner's bundle of rights. They serve important public policy objectives, but introduce measurable changes to market value, particularly where development or subdivision potential is curtailed. For professionals in appraisal, land use planning, acquisition of rights, and law, the critical task lies in accurately interpreting easement restrictions, assessing their effect on HBU, and quantifying the resulting impact on value.

*Robert Telford, P.App, AACI, P.Land, PSL*

*Darren Clarke, DAR, PSL*

*Trevor Sheehan, P.Ag, P.App, AACI*



**TEL FORD**  
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# SUMMER RECAP



## TRIPLE ROUND UP ON THE ROOFTOP

On June 26, the land industry community came together for the Triple Round Up on the iconic King Eddie Rooftop. Hosted by CALEP, LEMAC, and IRWA48, the evening blended lively networking, stunning views, and a vibrant summer atmosphere. Guests enjoyed meaningful conversations, new connections, and the camaraderie that keeps our industry strong.

A special thank-you goes to our generous sponsors: Vertex, Synergy Land and Environmental, Canada West Land, Midwest, Scott Land & Lease, Evolve Surface Strategies, and All-Can Engineering for making this unforgettable night possible.



## CALEP'S FIRST HAT BAR

On May 8, members and guests gathered for a lively Custom Hat Decorating Extravaganza, kicking off Stampede season with plenty of creativity and fun. Participants chose between classic Wool Felt Ranchers and casual Trucker Caps, then worked alongside expert guides to bring their unique visions to life. The event buzzed with laughter, light snacks, and the joy of crafting together. From seasoned DIY-ers to first-time crafters, everyone left with a one-of-a-kind hat and a little extra Stampede spirit.





# CALEP GOLF TOURNAMENT 2025

**This year's CALEP Golf Tournament was nothing short of spectacular!**

September 11, 2025: Blessed with warm, sun-drenched weather on a summer-kissed fall day, members and guests came together for a day of camaraderie, competition, and connection at the Heritage Pointe Golf Club, Calgary.

The turnout was fantastic, and the energy on the course matched the gorgeous conditions. Thank you to everyone who joined us in making this event such a resounding success – we can't wait to see you next year!



***A HUGE THANKS TO ALL OUR SPONSORS!***





# ON THE HORIZON

## *Upcoming Events with CALEP*



Photo by DarrenMower on Getty images

### **Fall Poker Tournament & Social Event!**

Join us for an evening of networking, cocktails, hors d'oeuvres, and plenty of fun. All skill levels welcome for a friendly poker game with prizes, great company, and a chance to unwind in a relaxed, inclusive atmosphere.

SEPTEMBER 24, 2025  
4:30pm - 5:00pm MST  
Register **here**

### **Sweat the Subsurface Road Race and Fun Run**

SEPTEMBER 25, 2025  
6:00pm - 9:00pm MST  
**Registration** is being handled by CEGA

### **2025 CALEP Conference**

OCTOBER 5-8, 2025  
Delta Hotels Bessborough  
Saskatoon, SK  
Register **here**



Photo by Sprökop on Getty images





# GET SMART

## COURSE

## DATE

## TIME

## LOCATION

2015 CAPL Operating Procedure (2 days)	October 28-29, 2025	8:30am - 4:30pm	CALEP Office
JV 101: Compare and Contrast	November 6, 2025	9:00am - 4:00pm	CALEP Office
Evaluation of Canadian Oil and Gas Properties for Landmen by Sproule (2 days)	November 12-13, 2025	9:00am - 4:00pm	CALEP Office

**Save \$50 when you register at least 3 weeks in advance! Prices will increase 3 weeks prior to the course.**

For more information, or to register, please see the CALEP course schedule in its entirety here.

# ROSTER UPDATES

*These updates result from changes made to your membership portfolio. If you identify any errors, please reach out to the office, and we will promptly address them.*

## ON THE MOVE

<b>Esther Troyan</b>	Saguaro Resources Ltd. to Independent	<b>Drew Horne</b>	Independent to Canacre
<b>Teresa Strom</b>	Saguaro Resources Ltd. to TWL Strom Corp.	<b>Sherry Phan</b>	Strathcona Resources Ltd. to Canadian Natural Resources Ltd.
<b>Gerald Lemmon</b>	Razorquest Inc. to LandSolutions LP	<b>Wes Engman</b>	Indian Oil and Gas Canada to Independent
<b>Nicole Allen</b>	Rife Resources Ltd. to Canpar Holdings Ltd.	<b>Steven Stanford</b>	Whitecap Resources Inc. to TransAlta Corporation
<b>Kathy Buckman</b>	Independent to Heritage Royalty	<b>Sandra Seltsam</b>	Canpar Holdings Ltd. to North American Helium Inc.
<b>Shanne Pyrcz</b>	Veren to Whitecap Resources Inc.	<b>Nolan Johnston</b>	Independent to Taylor Land Services
<b>Matthew Geib</b>	Veren to Whitecap Resources Inc.		
<b>Joshua Feist</b>	Veren to Whitecap Resources Inc.		
<b>Linda Bourcier</b>	Independent to Potts Petroleum Inc.		
<b>Jean Laprise</b>	Torxen Energy Ltd. to Canadian Natural Resources Ltd.		
<b>Ryan MacKinnon</b>	Ember Resources Inc. to Saturn Oil & Gas Inc.		
<b>Marjorie Blumhagen</b>	Rife Resources Ltd. to Freehold Royalties Ltd.		
<b>Deric Orton</b>	5 OH Enterprises Ltd. to Armada-Nowlit Energy Ltd.		

## ***NEW MEMBERS***

### **ACTIVE NEW MEMBERS**

**Candace Kendrick,  
Canadian Natural Resources  
Limited**

Sponsors:

Jared Frese

Nick Markic

Mark Horne

### **STUDENT MEMBERS**

**Alejandro Lainez-Lozada,  
Canadian Natural Resources Limited**

### **ASSOCIATE MEMBERS**

**Jane Millions**

Sponsors:

Sandra Dixon

Sheri Wannamaker

Noel Millions

**Adriana da Silva Bellini, Gowling WLG**

Sponsors:

David Balderston

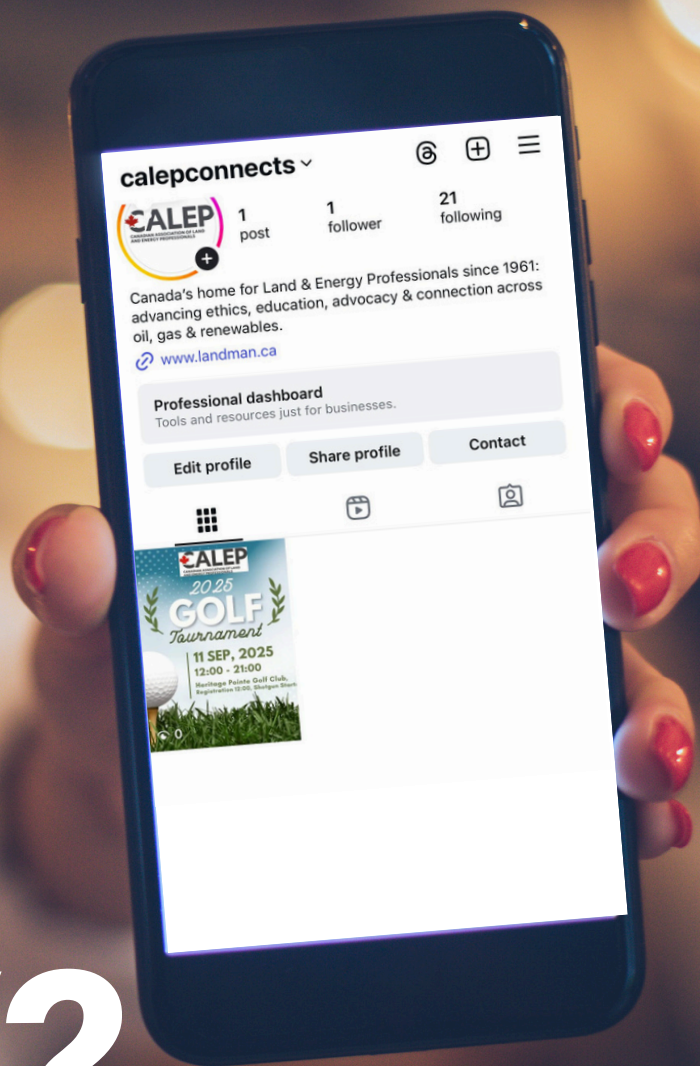
Sherry Phan

Brett Booth





# DID YOU KNOW?



We are now on Instagram!

Follow us for the latest updates, current and upcoming events, course opportunities, and more!

