

UNLAWFUL PRODUCTION AND RESTITUTIONARY DAMAGES

CANADIAN ASSOCIATION OF LAND AND
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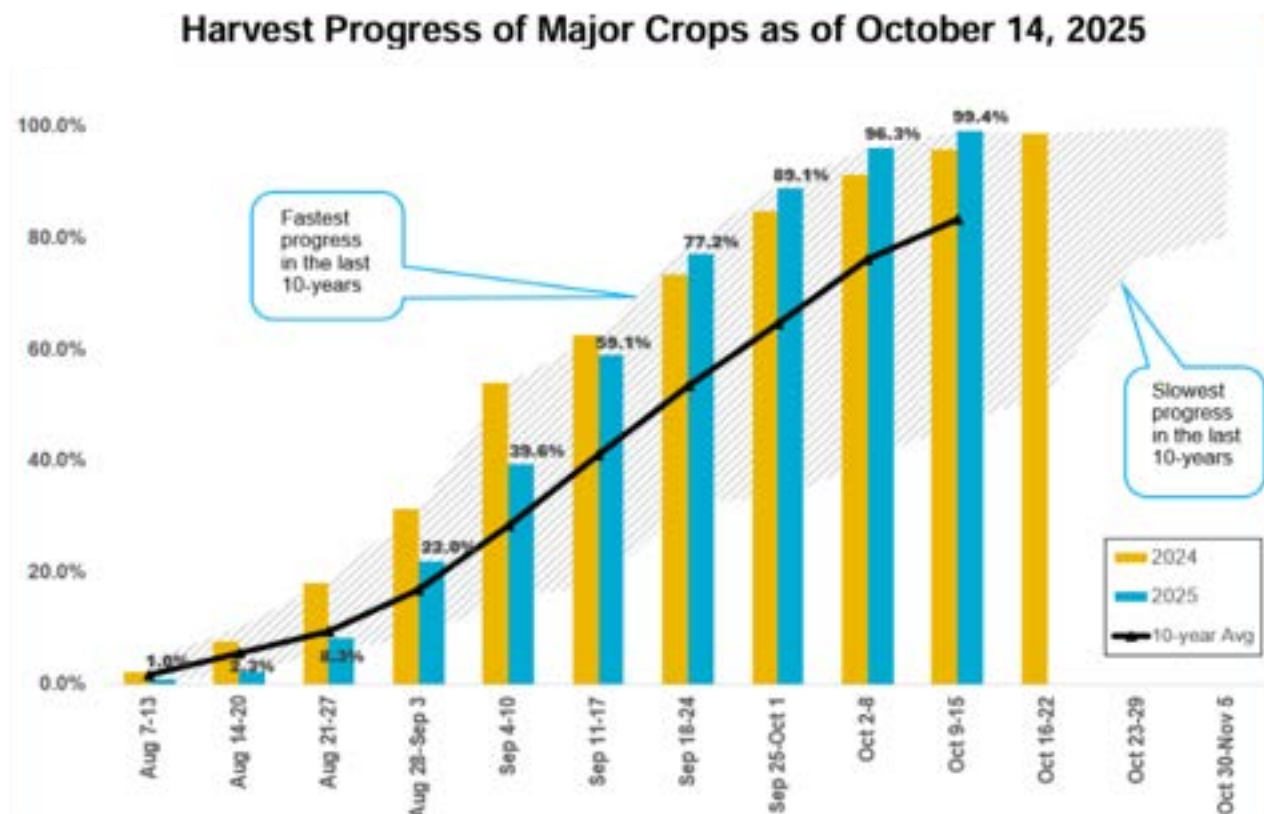
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2025 ALBERTA CROP PRODUCTION

Darren Clarke & Trevor Sheehan

Harvest in the Province of Alberta was virtually complete in all regions by the middle of October. Hot, dry weather through late summer and into fall supported a rapid harvest as illustrated below:



Dryland yields for the 2025 crop season for all major crops are above 5-year averages. The provincial 5-year dryland yield index has steadily improved since August and is expected to be 27% above the 5-year average for all major crops. Dry peas had the highest increase at 33% above the 5-year average, followed by spring wheat and barley at 23% above, and canola at 20% above. Oats are estimated to be on par with the average. Regionally, all areas are expected to exceed 5-year averages, except for the Peace, where yields are close to average.

Estimated dryland yields for the province are indicated in the chart below:

| Regional Dryland Yield Estimates as of October 7, 2025 | | | | | | |
|--|--|---------|--------|--------|-------|---------|
| | Estimated Dryland Yield (bushels/acre) and Index for Major Crops | | | | | |
| | South | Central | N East | N West | Peace | Alberta |
| Spring Wheat | 52.6 | 68.9 | 47.5 | 69.3 | 42.0 | 55.7 |
| Barley | 63.7 | 97.0 | 68.1 | 80.6 | 48.8 | 74.8 |
| Oats | 69.2 | 102.0 | 75.7 | 93.3 | 52.5 | 77.0 |
| Canola | 46.5 | 51.0 | 38.9 | 47.6 | 33.5 | 42.6 |
| Dry Peas | 41.0 | 68.1 | 43.5 | 48.9 | 34.1 | 46.8 |
| 5-year Yield Index | 143.8 | 157.1 | 103.3 | 131.5 | 98.9 | 127.4 |
| 10-year Yield Index | 136.0 | 143.6 | 98.5 | 120.8 | 93.7 | 119.1 |

Source: AGI/AFSC Crop Reporting Survey

Most parts of the province are entering winter with dry soil conditions. Average to higher winter snowfall as well as spring precipitation will be needed to replenish soil moisture and support crop and forage growth for the 2026 crop season. Sporadic rainfall and light snowfall across most of the province were insufficient to improve soil moisture, which continues to decline in most regions, as shown in the table below:

| Alberta Surface Soil Moisture Ratings as of October 14, 2025 | | | | | |
|--|-------|-------|-------|-----------|-----------|
| | Poor | Fair | Good | Excellent | Excessive |
| South | 34.9% | 42.8% | 22.3% | 0.0% | 0.0% |
| Central | 57.0% | 34.2% | 7.5% | 1.3% | 0.0% |
| North East | 51.2% | 42.0% | 6.8% | 0.0% | 0.0% |
| North West | 48.1% | 29.8% | 20.4% | 1.7% | 0.0% |
| Peace | 12.8% | 58.8% | 28.5% | 0.0% | 0.0% |
| Alberta | 43.3% | 40.5% | 15.7% | 0.6% | 0.0% |
| 5-year (2020-2024) Avg | 26.4% | 33.5% | 33.6% | 6.0% | 0.5% |
| 10-year (2015-2024) Avg | 16.2% | 26.6% | 40.2% | 15.0% | 1.9% |

Source: AGI/AFSC Crop Reporting Survey

Pasture conditions continue to decline due to early frosts and dry soils, which have caused damage in some regions. Most producers have already begun moving cattle off pastures and feeding livestock at home, which is supported by this year’s feed supply, with some producers even reporting surpluses. The majority of pasture conditions are rated as Poor (41.9%) and Fair (43.3%) across the province, which is higher than the 5- and 10-year averages as illustrated in the table below:

Table 3: Pasture Growth Conditions as of October 14, 2025

| | Poor | Fair | Good | Excellent |
|-------------------------|-------|-------|-------|-----------|
| South | 20.7% | 50.7% | 28.0% | 0.7% |
| Central | 50.9% | 44.5% | 4.6% | 0.0% |
| North | 69.2% | 29.5% | 1.3% | 0.0% |
| North West | 56.2% | 29.9% | 13.9% | 0.0% |
| Peace | 22.9% | 50.1% | 27.0% | 0.0% |
| Alberta | 41.9% | 43.3% | 14.6% | 0.2% |
| 5-year (2020-2024) Avg | 33.9% | 37.4% | 27.3% | 1.4% |
| 10-year (2015-2024) Avg | 29.2% | 36.5% | 31.0% | 3.3% |

Source: AGI/AFSC Crop Reporting Survey

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TELFORD
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UNLAWFUL PRODUCTION AND RESTITUTIONARY DAMAGES

Nigel Bankes

Case Commented On: Signalta Resources Limited v Canadian Natural Resources Limited, 2025 ABCA 306 ([CanLII](#)), and Signalta Resources Limited v Canadian Natural Resources Limited, 2023 ABKB 108 ([CanLII](#)).

There are two principal substantive issues in this important unanimous decision of the Alberta Court of Appeal (referred to as the ABCA decision). The first issue relates to the rules pertaining to the right of a Crown oil sands lessee (Canadian Natural Resources Limited (CNRL)) to produce gas cap (or non-solution) gas in the course of producing oil sands (or bitumen) when the Crown has leased the natural gas rights in the same location (and indeed the same formation) to another party (Signalta). The second substantive issue relates to the legal consequences of the unlawful production of somebody else's natural gas, specifically the assessment of damages for such unlawful production.

The decision also engages with the applicable rules for the assessment of expert evidence. I did not post on ABLawg about Justice Jane Sidnell's discussion of these issues at trial (see *Signalta Resources Limited v Canadian Natural Resources Limited*, 2023 ABKB 108) (KB decision) and I will not discuss them further here,

but I highly recommend her treatment of the expert evidence issues; good reading for both trial lawyers and those thinking of accepting an expert retainer.

This post focuses on the two principal substantive issues outlined above as discussed in both Justice Sidnell's judgment and that of the Court of Appeal. But before dealing with those issues, it is necessary to grapple with a technical issue, namely the threshold question of whether CNRL, as a matter of fact, was a position to produce any of Signalta's gas cap or non-solution gas (the two terms are interchangeable both in the judgments and in this comment).

Did CNRL Produce Gas Cap Gas?

Since it was clear law (see *Borys v CPR and Imperial Oil Ltd*, 1952 CanLII 337 (AB CA), [1952] 3 DLR 218 (*Borys*), aff'd 1953 CanLII 414 (UK JCPC), [1953] 2 DLR 65) that a petroleum lessee (or in this case a bitumen or oil sands lessee) could produce gas in solution in the bitumen at original reservoir conditions, as well as gas that evolved from the petroleum or bitumen (see *Anderson v Amoco Canada Oil and Gas*, 2004 SCC 49), a principal technical issue at trial that

occasioned the introduction of significant expert evidence was the question of whether CNRL's wells could produce any gas other than solution gas.

CNRL put the issue this way:

CNRL maintained that any gas that was produced must have been solution gas that came from, or "exsolved" from, the bitumen because there was an impermeable barrier in the Waseca Formation separating the bitumen from the non-solution gas pools. If the impermeable barrier existed as posited by CNRL, then non-solution gas could not have come into communication with the bitumen, and any gas produced was solution gas belonging to CNRL. (ABCA decision at para 5)

Signalta agreed that "the Waseca Formation was comprised of two informal members, the Upper Waseca and the Lower Waseca", but its experts "opined that no such impermeable membrane existed such that non-solution gas could migrate throughout the Waseca Formation, particularly given CNRL's production and operations." (ABCA decision at para 15) Justice Sidnell at trial largely accepted Signalta's position to the effect that:

- (a) The two gas caps described by Signalta's witnesses at trial, referred to as the Main Gas Cap and the NW Gas Cap, existed and contained non-solution gas, though there was some exsolved gas from surrounding bitumen production in both.
- (b) There was no regionally extensive, impermeable barrier between the Upper and Lower Waseca, and
- (c) It was possible for CNRL to produce non-solution gas through perforations made in the Upper Waseca just below the gas-oil contact, leading to "coning", and through narrow diameter cavities called wormholes created by CHOPS. [cold heavy oil production with sand method] (as summarized at para 24, ABCA decision)

While CNRL tried many different avenues to undermine the way in which Justice Sidnell appreciated the expert evidence and reached these

conclusions, the Court of Appeal was not persuaded that there was any case for appellate intervention (ABCA decision at paras 40 – 80).

That was CNRL's principal defence at trial and as a ground of appeal. Since it failed, the focus shifted to consider the questions of whether CNRL's production of non-solution (or gas cap) gas was unlawful, and if so, to what extent, and, to the extent unlawful, did Justice Sidnell err in settling on the basis for assessing damages.

What Are the Rules Pertaining to the Production of Non-Solution Gas by an Oil Sands Lessee?

The starting point is the Privy Council's decision in *Borys*. While that case decided that petroleum and natural gas were two separate substances and that the owner of the petroleum rights did not own the non-solution (or gas cap) gas, the case also endorsed the freedom of the lessee of the petroleum rights "to use gas which is in situ under the [lands] or which percolates under [the lands] as a result of the normal method of recovering the petroleum by using the gas to assist in drawing it to the surface." (JCPC decision at 76)

As Lord Porter for the Privy Council observed, "the question is not whose property the gas is, but what means the respondents may use to recover their petroleum." (JCPC decision at 77) The Court of Appeal had concluded as follows:

The reservation of the petroleum in the grant of the land enables [the petroleum rights holders] to use all reasonable means to extract the petroleum from the earth; [...] In my opinion, the [petroleum rights holders] are entitled to extract all the petroleum from the earth, even if there is interference with and a wastage of [Borys'] gas, so long as in the operations modern methods are adopted and reasonably used and the provisions of the relevant statute and regulations are observed. (*Borys*, ABCA decision at 237) The Privy Council evidently agreed with that conclusion, noting that the reservation

of petroleum must include an implied right to work, even though there was no express reservation of such a right.

In *Alberta Energy Co v Goodwell Petroleum Corp*, 2003 ABCA 277 (Goodwell) the Court of Appeal confirmed that Borys also applied to a competition between Crown oil sands lessees and gas lessees when it ruled that the Energy and Utilities Board erred in law when it concluded that an oil sands lessee did not have the right to produce initial gas-cap gas when producing its bitumen. In that case, Justice Fruman, in a unanimous reserved judgment, distilled five principles from the case law dealing with the implied right to work of the owner of mineral rights:

1. A right to mines and minerals includes the right to work, dig, and use all reasonable means to recover the minerals.
2. If mining and recovering the minerals result in a known and inevitable consequence, that consequence is construed to be an implied term, and holders of lands or other mineral rights affected by that consequence cannot enjoin mining and recovery of the minerals.
3. These principles apply to reservations of mineral title, as well as grants and leases, including crown leases. Otherwise, the mineral right would be useless, and, as a general rule, deeds should not be construed to be without effect if other equally defensible interpretations are available.
4. While a bare right to a mineral conveys a right to win, work, and carry away the mineral, that power can be expanded or restricted by express wording in the deed.
5. Relevant statutes, including conservation rules arising from statutes, may modify these principles. (Goodwell at para 64, references omitted)

In that case, and with specific reference to principle # 5, Justice Fruman concluded that there was nothing in either the Mines and Minerals Act, RSA 2000, c M-17, or the oil and gas or oil sands conservation statutes that limited the right of an oil sands lessee to produce initial gas cap gas (i.e., gas other than gas in

solution) (Goodwell at paras 86 – 95). At the same time, Justice Fruman seems to have endorsed the possibility (acknowledged by the oil sands lessee in that case) that a gas lessee would have a claim for compensation, while conceding that the question of how to determine the appropriate compensation would be challenging (Goodwell at paras 8, 11, 78, 83 – 85, and 104 and associated footnotes).

For both Justice Sidnell and the Court of Appeal in this case, the regulatory context within which CNRL was producing non-solution gas proved to be crucial. The most significant element of that regulatory context was EUB Interim Directive 99-1 (ID 99-1), Gas/Bitumen Production in Oil Sands Areas – Application, Notification, and Drilling Requirements, February 3, 1999 (the AER is the successor to the EUB (Energy and Utilities Board) for non-utility regulatory issues). As the introduction to the Directive indicates, the EUB adopted the Directive following the EUB's March 1998 Inquiry Report on Gas/Bitumen Production in Oil Sands Areas, the July 1998 Gas/Bitumen Committee's recommendations on Gas/Bitumen Issues, and the November 1998 Industry/EUB Committee's recommendations on Gas Production Application Areas. CNRL's failure to comply with the Directive was the critical factor that allowed both levels of court to distinguish CNRL's actions from the permitted 'incidental production' endorsed in Borys and Goodwell.

Justice Sidnell emphasised that while ID 99-1 did not prohibit an oil sands lessee/licensee from producing solution gas it did require the operator of such a property to conduct an assessment "to determine whether bitumen wells are producing gas other than solution gas" (KB decision at para 765), in which case the operator would require the EUB's approval in order to produce non-solution gas. Justice Sidnell quoted extensively from ID 99-1:

With respect to bitumen wells, an assessment must

be made by the operator on a site-specific basis to determine whether the wells are producing gas other than solution gas, in which case an application for approval to produce gas is required. The assessment should consider such factors as the magnitude of the producing gas-bitumen ratio compared to the solution gas-bitumen ratio, the presence of any associated gas zones as indicated by well logs, drill stem tests, or other data, and the proximity of the well perforations to any associated gas zones. Applications for in situ oil sands schemes (including commercial, primary recovery, and experimental schemes) should address the potential for gas other than solution gas to be produced. Furthermore, operators should be aware that approvals for in situ oil sands schemes may include a requirement to monitor gas production and apply for approval to produce gas when there is evidence that gas other than solution gas is being produced. (KB decision at para 765).

Justice Sidnell concluded as follows:

ID-99 required CNRL to show that the gas was not associated or, if it was associated gas, why it should be produced. Clearly, CNRL was aware that there was some associated gas in the Waseca Formation. However, there was no evidence that CNRL undertook an ID-99 assessment to determine if there was a possibility that it would produce non-solution gas in its bitumen wells. I find that CNRL did not comply with ID-99. (KB decision at para 776)

What then were the implications of failing to comply with ID-99, particularly in light of the Court's decision in Goodwell to the effect that an oil sands lessee could produce non-solution gas? Here, Justice Sidnell noted that the Goodwell court had itself cautioned that the rights of the oil sands lessee were not unlimited and that the Goodwell decision:

... should not be read to extend the Borys principles to permit unrestricted use of initial gas-cap gas. The Privy Council confirmed the lower court's decision that incidental production of initial gas-cap gas was allowed, provided modern operating methods were followed in the production of the petroleum, and the provisions of relevant statutes and regulations

were observed (Goodwell at para 36, note 15, and Justice Sidnell, KB decision, at paras 781 - 782)

This, combined with principle #5 from Goodwell, and Justice Sidnell's finding of non-compliance with ID-99, led her to conclude that CNRL's production of Signalta's non-solution gas was unlawful:

Here, ID-99 was an important part of the regulatory framework and relevant to the production of non-solution gas incidental to bitumen production in a split title scenario. Having failed to comply with ID-99, CNRL was acting outside of the regulatory framework when it produced non-solution gas incidental to its bitumen production. Further, CNRL did not take adequate steps to determine whether it had the right to use or sell all of the gas it produced. Having found that CNRL produced non-solution gas, it was not at liberty to use or sell it without accounting to SRL for it. As a result, I find that CNRL did not, in the words of the Privy Council in Borys, observe the provisions of the relevant statutes and regulations, and, as a result, the incidental unrestricted production of the initial gas-cap gas was not permitted in CNRL's bitumen wells in the Waseca Formation at Frog Lake. (KB decision at para 783)

The Court of Appeal sustained this assessment, concluding that Justice Sidnell did not err in distinguishing (and limiting) the application of Goodwell in the circumstances of this case. (ABCA decision at paras 89 - 91 & 93). In doing so, the Court has also reinforced the gas owner's right to compensation, even where the activities of the oil sands lessee are not unlawful. This follows from the way in which the Court explained Goodwell:

Goodwell recognized that a non-solution gas lessee may be entitled to compensation for production of non-solution gas incidental to bitumen extraction. In this context, CNRL's denial of liability to Signalta based on Goodwill cannot

be sustained. (ABCA decision at para 91)

Assessment of Damages

Justice Sidnell's decision at trial contains a detailed discussion of the different bases for assessing damages for unlawful production of a natural resource. I have also previously discussed this issue both in a law review article and in a number of different ABlawg posts. For the article see "Termination of an Oil and Gas Lease, Covenants as to Title, and Assessment of Damages for Wrongful Severance of Natural Resources: A Comment on Williston Wildcatters" (2005) 68(1) Saskatchewan Law Review 23. For ABlawg posts on Canpar Holdings Ltd v Petrobank Energy and Resources Ltd and Gentry Resources Ltd, unreported transcript of reasons for judgment, October 9, 2009, and December 11, 2009, see [here](#) and on Stewart Estate v TAQA North Ltd, [2015 ABCA 357](#), see [here](#) and [here](#).

But there is little to be gained right now in reviewing Justice Sidnell's reasons in this part of her judgment since the Court of Appeal's judgment on this point begins with a more abstract approach before returning to the details of the trial decision.

From the Court of Appeal's perspective, there were two general questions that needed an answer. The first issue was the threshold question of whether damages in a case like this should be assessed on a compensatory or restitutionary basis. And second, if damages should be assessed on a restitutionary basis, how should that be effected? Should it be effected on the basis of what has become known as a harsh approach or a mild approach, or somewhere in between?

Compensatory or Restitutionary Damages

The phrase "compensatory" damages refers to the "ordinary" way of assessing damages for tortious behaviour, which aims to put "an injured party in the position they would have been in, but-for the tort" (ABCA decision at para 106). Restitutionary damages, by contrast, focus on having the tortfeasor disgorge the benefit that it might have obtained by its tortious behaviour (ABCA decision at para 107).

CNRL argued that Alberta resource cases dealing with restitutionary damages were all oil and gas lease cases (i.e., they dealt with the relationship between the lessor as plaintiff and the lessee as the defendant tortfeasor producing on a dead lease) and that this line of cases should not be extended to split title cases (i.e., cases in which the owner of some titled substances produces substances owned by another title holder) (ABCA decision at para 109). CNRL took the view that any extension of the lease case law "would have a broad detrimental effect" on production in Alberta, given the prevalence of split title lands (ABCA decision, *ibid*). The Court of Appeal wasted no time in rejecting this self-serving policy argument, and in doing so, clearly sends a cautionary note to bitumen and petroleum lessees who might think that Borys gave them a broad licence to produce gas cap gas:

We do not agree that the restitutionary approach to damages for trespass and conversion in the oil and gas context is limited in application to lease disputes, and more specifically, we do not agree that the restitutionary approach should not be applied in relation to split title hydrocarbon rights. While this Court has recognized that in some circumstances, a bitumen lessee may interfere with the rights of the natural gas lessee to the extent necessary to extract its own resources, it has also stated that compensation should be paid for this interference: Goodwell at paras 82-85. The distinct property rights created in split title arrangements are property rights like any other. Fundamentally, the split title scheme and associated regulatory regime exist on the premise that gas and bitumen rights holders will respect one another's interests. Given this, we see no reason to limit the applicability of the restitutionary approach to damages and the harsh rule from application in a split title context. (ABCA decision at para 110)

Harsh, Mild or ... Just and Equitable?

According to the Court of Appeal, mild damages

are assessed by taking the market value of the resource “with deductions for all the necessary expenses to get that resource to market” (ABCA decision at para 112). The contrast with the harsh rule (discussed below) suggests that under the mild rule, the expenses referred to include not only the expenses incurred downstream of the point of severance (i.e., the wellhead), but also an allowance for the cost of drilling a well or wells to get the resource to the point of severance. The Court suggests that “mild damages have been awarded when there was no intent to trespass, the defendant made an innocent mistake, or where the plaintiff was aware of the trespass and allowed it to continue” and further, that in a case of restitutionary damages, the mild rule would be applied presumptively thus imposing the burden on the plaintiff “to establish that the harsh rule should be applied instead” (ABCA decision at para 112). The Court also recognized another version of the mild rule in which damages are quantified “based on the royalty the plaintiff might have been willing to accept from the defendant or another party.” (ABCA decision at para 113; a version of the mild rule that I have previously characterized as an “extra-mild” version of the rule (see, for example, [here](#))).

The principal difference between the harsh and mild rule as formulated by the Court of Appeal is that damages calculated by reference to the harsh rule make no allowance for severance costs - although the Court also notes that judicial practice varies: “the exact deductions vary and sometimes no deductions are allowed at all.” (i.e., damages are quantified on the basis of value at the point of sale) (ABCA decision at para 114) As for the circumstances in which the harsh rule might be preferred over the mild rule, this would be “when the plaintiff can establish the trespass was wilful or there was some other kind of misconduct on the part of the defendant that warrants treating the trespass as if it was wilful” (ABCA decision at para 115), thus recognizing “that there is a punitive element to the harsh rule as its purpose is, in part, to deter wilful trespass ...”. (ABCA decision at para 115)

The Court examined the varying judicial practice in applying the harsh “rule” in some detail (as had

Justice Sidnell at trial) before concluding that there was no single harsh rule for the assessment of damages. Instead, there is a spectrum, and much will depend upon the assessment by the trial judge of all the relevant circumstances:

Our review of case law leads us to conclude that harsh damages may be awarded anytime a defendant’s culpability is found to go beyond an innocent or mistaken trespass, and a trial judge considers there is something in the conduct of the defendant that warrants the application of the harsh rule. Thus, harsh rule damages may be applied when the trespass occurs through carelessness at one end of the spectrum, and through deliberate or wilful conduct at the far end of the spectrum. When the misconduct at issue is carelessness, there is some suggestion that something more than negligence is required, in the sense of a breach of a standard of care. However, the assessment is largely factual and contextual, and we do not consider it helpful to attempt to articulate general principles based on degrees of negligence or nuanced statements respecting culpability or intent.

Ultimately, whether a defendant’s conduct justifies the application of the harsh rule should be assessed through a trier’s task of determining a “just and equitable” damage award based on the circumstances and evidence in a particular case. This is largely a factual and discretionary exercise. The caselaw provides guidance but may not dictate an outcome in any given circumstance because of the different facts involved in each assessment. (ABCA decision at paras 129 – 130)

Justice Sidnell at trial had provided a detailed analysis of CNRL’s drilling and completion operations within the area of interest, noting that CNRL perforated wells within 0.5 metres of the gas/bitumen interface and allowed for concurrent production from different perforations without prior regulatory approvals. However, she declined to find that CNRL was deliberately focused on producing non-solution gas. Rather, CNRL’s focus



that a higher level of intent was necessary to apply the harsh rule of damages. Instead, the trial judge effectively found that as CNRL's conduct did not fall at the far end of the spectrum, amounting to bad faith or other more egregious wilful misconduct, a damages award at the highest level of gross disgorgement was not warranted. (ABCA decision at para 132)

Conclusions

This is an important decision of the Court of Appeal on both of the principal substantive issues discussed in this post.

First, the decision confirms that while petroleum and bitumen lessees may produce gas-cap (or non-solution) gas that it is a necessary and incidental element of producing bitumen or petroleum and that production also comports with all applicable regulatory requirements. But the decision also confirms that the owner of the gas rights will be entitled to compensation for that production (i.e., a liability entitlement rather than the right to enjoin production of the petroleum or bitumen) even where such production is lawful.

Second, and where the production is unlawful (i.e., in excess of any implied entitlement to work and whether that production is characterized as trespass or conversion), damages may be owed to the owner of

the natural gas rights. Damages may be assessed in the "ordinary" way (i.e., an amount that puts the injured party in the position they would have been in, but for the tort), but, in an appropriate case, damages may instead be based on restitutionary principles in recognition of the unjust enrichment accruing to the petroleum or bitumen lessee as a direct result of its tortious behaviour. While this was all relatively clear before this decision, it was unclear what this meant in practice. Did it mean that the petroleum or bitumen lessee had to disgorge all revenues received, or just gross revenues subject to any of a number of possible deductions?

The Court of Appeal's earlier decision in the Stewart Estate case had failed to provide clear guidance on this issue, principally because the three-person court was so badly divided (see my posts on the Stewart Estate referenced above). But in this case, the Court provides real guidance, at least in the form of a methodological approach. The Court recognizes that there is no hard and fast rule, but recognizes instead that the petroleum or bitumen lessee's behaviour (mere disregard of the potential rights of the gas lessee, all the way through to deliberate and knowing interference with those rights) will affect its ability to claim deductions from gross revenues received. It is up to the trial judge to assess that

conduct and its implications for allowable deductions with a view to arriving at a just and equitable result. An appellate court will generally owe deference to that assessment. Previous case law illuminates the options and offers examples, but does not prescribe a binding outcome (ABCA decision at para 126). I think that this represents an important step forward in jurisprudence. That said, it is far from a bright-line rule, and it will be difficult to advise clients with any certainty as to the outcome.

There is also one issue that might have merited more discussion, and that is the distinction between the lawful production of gas-cap gas (or non-solution gas) by the petroleum or bitumen lessee and the unlawful production of such gas, and the assessment of compensation payable in each such case. In principle, there should be a fundamental difference: incidental production of the gas cap (as qualified by Goodwell) is lawful; production beyond that is tortious and unlawful. But both Justice Sidnell and the Court of Appeal seem to have elided any such distinction. Both

seem to treat all of CNRL's non-solution gas production as subject to the payment of restitutionary damages somewhere on the mid-point of the scale between mild and harsh (see especially ABKB at para 972). This may be justifiable.

I can, for example, see a line of argument to the effect that, in this case, by failing to comply with ID 99-1, CNRL made it impossible for Signalta to differentiate between gas that was lawfully produced and gas that was unlawfully produced, and therefore all gas produced by CNRL should be treated as gas that CNRL was not entitled to produce. Or perhaps the point is simply that any gas produced in violation of the Directive is tortious, but such a conclusion would surely require additional reasoning to establish that the Directive created a private cause of action: *The Queen (Can.) v. Saskatchewan Wheat Pool*, 1983 CanLII 21 (SCC), [1983] 1 SCR 205.

This post may be cited as: Nigel Bankes, "Unlawful Production and Restitutionary Damages" (14 October 2025), online: ABLawg, http://ablawg.ca/wp-content/uploads/2025/10/Blog_NB_SignaltavCNRL.pdf

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DIRECTOR UPDATE

Ryan Gugyelka
Birchcliff Energy Ltd. | Member Services

As I reflect on my past year at CALEP as Membership Chair, I've noticed that the energy and commitment from our membership continue to be at the forefront. As new members join and existing members stay involved, it's clear that our progress remains steadfast. Without your support, CALEP wouldn't be what it is today.

One thing that stood out to me this year is that we were able to grow our membership. With so much volatility in our industry, it's easy to lose sight of where we are going and to let memberships lapse without giving it a second thought. Seeing the commitment from our members reassures us that we are on the right track as an Executive Board and that our members share the same vision that we do.

This continued growth encourages us to keep improving. We are always looking to make member benefits better every year. Whether it's hosting more networking events, welcoming new professionals with ties to our industry, or finding new ways to connect members from our peer associations. When our network expands, everyone wins, and it's encouraging to see how new faces and fresh ideas contribute to the community we're building together.

It's also exciting to see more student members joining our association. Their curiosity and drive add something special, and we encourage everyone to make them feel welcome at events when you meet them. Reaching out, offering advice, or just making a connection can help show how valuable active participation in CALEP can be



Ryan Gugyelka
Birchcliff Energy Ltd. | Member Services

be, not just for newcomers, but for everyone. As we grow, we remain mindful that our membership process needs to reflect the goals and vision we set for CALEP. That's why we continue to review and refine how we welcome new members, making sure it aligns with where we're headed as an association and as an industry. Our doors are always open to feedback and suggestions on how we can keep this process fair, welcoming, and forward-looking.

Looking ahead, we hope you'll consider getting even more involved. Volunteering for events, serving on committees, or simply sharing your suggestions all make a difference. The feedback and effort from our members guide what we do, keeping us focused on what matters most. Thank you for being part of CALEP and for helping us make this association such a successful one.



SPOTLIGHT SERIES

Rory Brown

Vice President, Business Development at Caltech Surveys

Tell us about yourself, and what got you into Land and Survey?

This is actually one of my favorite questions to ask other land professionals. I find that people often have unique and unexpected paths into the industry—it's not typically a career you hear about unless you have some kind of personal connection to it. For me, that connection was my dad, who ultimately encouraged me to pursue my land agent's license.

I grew up on a farm near Vauxhall in southern Alberta, and during the 1990s, we saw a steady stream of land agents visiting our property due to increased oil and gas activity in the area. A few of those agents suggested to my dad that land work was a great way to stay connected to the farming lifestyle while earning a good living. That idea stuck with him—and eventually, with me.

After high school, I spent a few years, let's say, "finding my way." I took Power Engineering courses, lived in Manning, AB, while playing senior hockey and working in the patch, and later returned to post-secondary with the intention of becoming a teacher (imagine that!) I also worked as a wireline operator, bartender, heavy equipment operator, and farmhand. I mention all of these roles because each one helped shape me into what I consider a well-rounded land agent and survey business development professional. I still draw on many of those experiences even today. Dad went ahead and got his land agent license and was thriving in the role. One day, he said to me, "If you



Rory Brown and his family

can't figure out what to do with your life, you might as well get your interim land agent's license." That

discussion with my dad was the turning point. I obtained my interim license in 2006 through Atlas Land and was supported with field files periodically. It took some time, but in 2008, I finally secured full-time land agent work with Edwards Land, and the rest, as they say, is history.

Could you walk us through your professional journey and what led you to your current role as Vice President, Business Development at Caltech Surveys? What inspired you to transition from a hands-on role in Land into a marketing position at Caltech?

After spending nearly three formative years with Edwards Land, I transitioned into the world of telecom acquisition with a company called Insite Solutions. It was a steep learning curve—coming from an environment where land administrators had supported me through nearly every step of the acquisition process (shoutout to the admin team at Edwards!). That experience gave me a deep appreciation for the critical role land administrators play. At Insite, I had to learn to do it all myself: pulling titles, drafting agreements, completing field sketches, translating that information into GIS/Google Earth, negotiating leases, applying for third-party agreements, and navigating development permit requirements. It was a crash course in the full land acquisition process, and it made me a much more capable and independent land professional.

As telecom work began to slow, I kept busy by contracting with a few different land brokerages before ultimately landing at Synergy Land. I spent eight great years there, primarily focused on land acquisition and project management for large linear projects—including major power transmission and pipeline developments. It was also where I stepped into my first leadership role, eventually becoming Director, overseeing our western region offices. That experience sparked a passion for the business side of operations and gave me a taste of what it meant to help shape and grow a company.

In early 2019, I had a conversation with Jade McLeod

from Caltech about the ambitious plans he had for the company. Leaving Synergy—a place where I felt I had built a team and truly contributed to its growth—was a tough decision. But those conversations with Jade always left me energized and aligned with the kind of challenge I was looking for.

It was never my intention to leave land, but the opportunity to stretch myself and build a new skillset at Caltech was too compelling to pass up. While land and survey seem closely related on the surface, I quickly discovered there was an entire world within survey that I hadn't been exposed to. The sales side of the role came naturally—there's not much difference between working a survey consent line list and a prospective customer list. Both require strong relationship-building, quick rapport, adaptability, and ultimately working toward a mutually beneficial agreement—whether that's an MSA, PO, or surface lease.

The real challenge transitioning from land to survey was learning to communicate the value of geomatics solutions. Someone once told me, "A surveyor can offer a million different solutions, but they won't know what it is until they understand the problem." That stuck with me. Surveyors and geomatics professionals are incredibly skilled and intelligent, but distilling what they do into a quick coffee meeting is no small feat. Their work goes far beyond defining property boundaries—they're problem solvers who need to be well-versed in regulatory frameworks, data collection and processing, construction, environmental considerations, engineering workflows, and more.

Translating all of that into a conversation with a client—who may not fully understand what a surveyor can offer—has been a learning curve for me, especially since I'm still growing my own technical understanding. I definitely feel most comfortable discussing surveys with fellow land professionals, which is where much of my original network lies. But I'm proud of how much that network has expanded since stepping into the world of survey, and I'm excited about continuing to bridge the gap between

land and geomatics.

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

I've been incredibly fortunate throughout my career to have had some amazing mentors and influences—too many to name, but I'll highlight a few who've had a lasting impact.

At the very beginning, it was my dad who helped me understand the fundamentals of surface land. His perspective, shaped by both farming and working on the operator side, gave me a well-rounded foundation. My first coordinator, Jerad Bonnetti at Edwards Land, was one of the most influential people early in my career. He took in a hillbilly farm kid and brought me under his wing. I know I was a bit of a project—having never typed a professional email in my life—but Jerad was patient and committed to helping me grow.

Several of my co-workers at Edwards also left a lasting impression. Mike Tidmarsh, who started around the same time I did, always had a big brother vibe—supportive, honest, and sometimes gruffly putting me in my place. Jennie Savage taught me the importance of attention to detail, and Ryan Cavers has always been a go-to for landman advice (despite using his influence for some questionable fantasy football trades).

After Edwards, the leadership team at Synergy Land played a huge role in my development. Bill Giese emphasized the importance of industry engagement and business development. Keith Turner brought a calm, steady approach to everything, while Jennifer Potter—whose personality was almost the complete opposite of Keith's—challenged and supported me in countless ways. Their combined leadership styles helped shape my own approach to management.

I also want to give a shoutout to Mike Bailey from Aim Land. He's been like another older (really, really older) brother to me. Though we never worked together directly, Mike has always had my best

interests at heart. He's a great example of how being honest, hardworking, and committed to doing the right thing pays off in the long run.

And of course, I'd be remiss not to mention my Caltech crew. As much as it pains me to say this, Ben Hebert has been a huge influence. His laser focus on winning and his approach to sales—treating it with the same intensity as sports—has always stuck with me. Finally, one of the most important mentors in my current role is Jade McLeod. His unwavering leadership and deep engagement in Caltech are unmatched in my view. Jade is a truly unique individual and has so many great qualities.

There are so many more I could name—honestly, as I write this, more names keep coming to mind. I'm grateful to have crossed paths with so many incredible people who've helped shape my journey.

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

One of the biggest challenges I've faced throughout my career has been adapting to change. The energy sector is constantly evolving, and to survive its highs and lows, you have to be flexible and willing to pivot. Having spent most of my career on the service side, change has been a constant companion.

When I first started, coal-bed methane wells were being acquired in droves—it was as simple as grabbing a stack of files and heading out to the field. But when the 2008/2009 downturn hit, I saw an opportunity in telecom acquisition and was able to stay busy in that space for a while. Later, I shifted into linear projects, working on both power transmission and major pipelines. Each sector came with its own regulatory framework and unique landowner challenges, and I had to learn to navigate those differences quickly to keep food on the table.

The leap into sales and corporate leadership was another major shift, and it added a whole new set of tools to my belt. Interestingly, the skills I developed

early on—communicating with landowners, building trust, and managing relationships—translated directly into sales. Since stepping into a business development leadership role, it's been another rollercoaster of change. We've had to adapt to a post-COVID world, and now we're facing the rise of AI, which is beginning to enhance—or in some cases, replace—certain aspects of our work. And of course, there's the ever-present boom/bust cycle in the energy industry. After experiencing a couple of downturns, I realized something important: you rarely recognize a boom while you're in one, and it only becomes clear once you're back in a recession.

One of my favorite stories that still gets brought up today involves a piece of advice I gave to Jared Ens-Rempel. He was constantly worried about running out of work. We joked that if the entire energy industry went obsolete, we'd become sandwich artists at Subway. After (hopefully) working our way into management there, maybe a real estate opportunity would pop up, and perhaps we'd be able to apply our land skills once again.

The moral of the story is simple: you have to adapt to your surroundings and make the most of the tools in your belt. The skills you develop are always transferable—you just need to be willing to evolve with the industry.

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

For anyone interested in getting into land, my biggest piece of advice is: **engage yourself**. This career isn't for the faint of heart—it takes time to establish yourself, and just when you feel like you've found your footing, a downturn can hit and knock you back. But by staying engaged in the industry, you can help level out those lows and build resilience.

There are many ways to get involved, but growing your network is probably the most important. Join associations like CALEP, attend educational seminars and networking events, volunteer for organizing committees, or simply put yourself out there. We're

fortunate to work in a social profession where people genuinely care about one another and are usually willing to help.

So jump in with both feet. Get involved, stay current, and build relationships—it will absolutely pay off in the long run.

I was playing hockey with you the other day, and it really struck me—you might be the epitome of what it means to be Canadian: resilient, tough, and community-minded. Just a few months after overcoming cancer, you were already back on the ice, playing Hockey with your buddies, doing what you love.

I believe my story—my diagnosis and journey—is important, and I welcome anyone who wants to reach out and talk about it. I'm an open book, and if sharing my experience can help even one person, I'm more than willing. Many people did the same for me, and I'm committed to paying it forward. That said, to avoid making this the longest spotlight in CALEP history, I won't go into all the details. Instead, I want to share a bit about the mindset I adopted and the importance of focusing on a positive outcome.

When you're faced with something life-threatening, your initial reaction is often fear and negativity. You run through worst-case scenarios and ask, "Why me?" But you quickly realize that some things are out of your control, and there's no time to dwell—you have to focus on how you're going to face it. For me, that meant putting all my energy into getting healthy for my family. I wanted to show my two young boys, Ben and Luke, and my wife Jenna, what resilience looks like. I wanted them to see that even when life throws something completely unexpected at you, you can face it with strength and a positive mindset.

I was incredibly fortunate to have an amazing network of support. I felt a responsibility to face this challenge in a way that might inspire others. Humor became one of my tools—I used it to shed light on

situations that might otherwise make people uncomfortable. It was my way of sharing what I was going through without making others uneasy, and hopefully helping others feel less alone in their own challenges.

I recently completed my yearly review, and one of the metrics we use at Caltech is examples of how we live and breathe our core values. It struck me how much those values extend beyond business into real life. First and foremost: Play to Win. I could not—and would not—lose to cancer. I probably pushed myself too hard at times because I didn't want the illness to control my life, even though there were moments when it absolutely did. I'm incredibly grateful to Caltech for allowing me to continue working through treatment, even on days when I was in the hospital, sick in bed, or unable to perform at my usual level. My job gave me purpose and a much-needed outlet.

Another Core Value is Do the Right Thing. It was important to me to be a good example—not just for my family, but for my peers in the industry. I felt so many people were in my corner, rooting for me, and my way of saying thank you was to face this challenge head-on and do it in a way that people could be proud of. If I inspired even one person to approach their own challenges with a more positive outlook, then I consider that a win.

And finally, Stronger Together. I felt so much love and support from my personal and professional networks. There were days when I'd check my phone and be brought to tears by the messages I received. You don't always realize how many people care about you until you're in a moment of struggle. While it's one of Caltech's Core Values, I believe it also perfectly represents our land profession. Even though we may be competitors or work in different areas—mineral, surface, agents, analysts—we rally around each other. I've seen it happen before, and this time, it was for me. It meant the world, and it's apparent that we as a group are truly stronger together.


As for playing hockey, one of my favorite moments in

this journey was stepping back onto the ice in April at the CALEP/IRWA Hockey Tournament. I've helped organize this event since 2011 and have built many great connections through it. In 2024, I couldn't participate—I had just spent the week in the hospital after being diagnosed. It was very difficult for me not to be on the ice and even harder to share the reasons with some of my close connections why I wasn't able to play. Fast forward to April 2025—just two months after major surgery and nearly a year of chemo and radiation—I was back on the ice, ostomy attached, skating with my peers. It was incredibly uplifting. I even tucked a few nice goals, which I proudly bragged about to my kids and wife. In my head, I was Mario Lemieux coming back from Hodgkin's Lymphoma... though really, the only thing Mario and I had in common was the illness!

When I first told people that I was playing, there were a few people worried about me stepping on the ice so soon after surgery. Our past CALEP President, Janice Redmond, was probably the most concerned (next to my wife), but our current CALEP President, Sandra Dixon, took the opposite approach. During the tournament, she reminded everyone how much time I had spent away from the things I love, and how important this moment of liberation was for me. So, a huge thank you to Sandra, but also to Janice, for looking for me – each in different ways! I've since returned to playing noon-hour hockey in the Conoco league this fall, and it's so nice to have a sense of normalcy back in my life.

I'm proud to say my treatments and surgeries have been successful so far. I'm currently cancer-free and in the observation phase. I can't begin to express how much it meant to have so many people in the land industry reach out, visit, support, and hold me in their thoughts. It meant the world to know how many people care. I don't know how I'll ever fully pay it forward, but I promise to try—because your support was everything. Thank you, thank you, thank you—again and again. You're all a huge reason why I'm healthy today.



A red tractor is visible in the background, working in a field. The tractor is partially obscured by a large, semi-transparent dark red rectangular box that serves as a background for the title text.

MANAGING THE DETAILS SO LANDOWNERS CAN FOCUS ON WHAT THEY DO BEST

Deanna Haysom, COO, Welltraxx

Across Alberta and Saskatchewan, landowners are managing more than just crops and cattle. The role of many requires them to manage complex oil and gas assets tied to their land. From lease renewals and LPRT applications to reclamation, land purchases, and estate transitions, the work behind the scenes can be as demanding as any harvest season.

That's where Welltraxx comes in.

The team at Welltraxx helps landowners navigate the regulatory and financial details that come with surface leases and energy assets. These are parts that most producers don't have time to manage, but also can't afford to overlook.

In 2024 alone, Welltraxx processed more than 2,800 LPRT applications on behalf of landowners. And, in September 2025 alone, the team handled over \$2 million in Directions to Pay. Behind every statistic is a family and a farm or a colony that trusts the team at Welltraxx to ensure they're compensated fairly and well protected for the long term.

Built on Trust and Word of Mouth

Welltraxx didn't grow through a big marketing

budget; the company was built through relationships that the owners, Kris Bower and Casey Ziegler, built over their years as Land Agents, working with landowners and oil companies. The company's reputation was built field by field and handshake by handshake,

"Our growth has been almost entirely organic. When people see the value, when they see how quickly our team recovers missed payments or can organize a land purchase, they tell their neighbours," says Kris Bower, co-founder of Welltraxx.

"The software platforms we've developed and the process our admin team takes ensure every account is managed in a thorough manner. Our experienced admin team understands the systems, regulations, and what is needed for the paperwork. That attention to detail lets customers focus on running their operations, while our team handles what we do best."

Land, Legacy, and Rural's Next Generation

Across Western Canada, the average age of a primary farm operator is now over 56 years. For many families, planning the next chapter means not only

passing on land, but also passing on the energy assets and agreements attached to it.

Without clear documentation, these transitions can quickly become overwhelming, as Erin & Dan Cavan experienced when they inherited land with long-standing gas wells.

Through her story, featured on the Welltraxx website, Erin shared how the systems her mother-in-law had set up with Welltraxx made the handover seamless. Every lease, payment, and reclamation record was organized on Welltraxx's Enertraxx platform. The data stored on the platform allowed Erin to step in with confidence, even as she juggled a career, a young family, and life on the farm.

"Welltraxx turned what could have been a stressful experience into a straightforward one," Erin said. "I don't know if I could have done it alone."

Succession planning isn't just about titles and wills. It's about ensuring the next generation inherits clarity, not confusion. By centralizing records and maintaining communication with industry partners, Welltraxx gives its customers the tools to transition assets responsibly and confidently.

Stories from Farms

The work Welltraxx has completed with landowners takes many forms:

- **Elizabeth Hargrave**, who manages a busy ranch and young family, finds peace of mind knowing her reclamation work and company communications are handled by Welltraxx, which lifts a major burden from her shoulders.
- **John at Kings Lake Colony** received 10–15 percent higher compensation during lease renewals, achieved through professional negotiations through Welltraxx's support that strengthened relationships with operators rather than straining them.
- **Grant Stegen**, a landowner with just four wells on his property, discovered how necessary

“

Succession planning isn't just about titles and wills. It's about ensuring the next generation inherits clarity, not confusion.

”

oversight can be. When reclamation certificates were issued for wells that hadn't been reclaimed.

Welltraxx supported the next steps. Drawing on years of existing partnerships, Welltraxx challenged the faulty certifications through the AER and won! Those certificates were revoked, and Grant's rightful compensation was reinstated.

These aren't one-off stories. They represent what happens when landowners have access to trusted administrative expertise that balances rural values with modern accountability.

The Power of Partnership

At its core, Welltraxx's success comes from understanding two worlds, agriculture and energy, and bridging them with integrity.

"We handle the things we understand," says Bower, "so our landowners can focus on the parts of their business they understand. When both sides work together, everyone benefits."

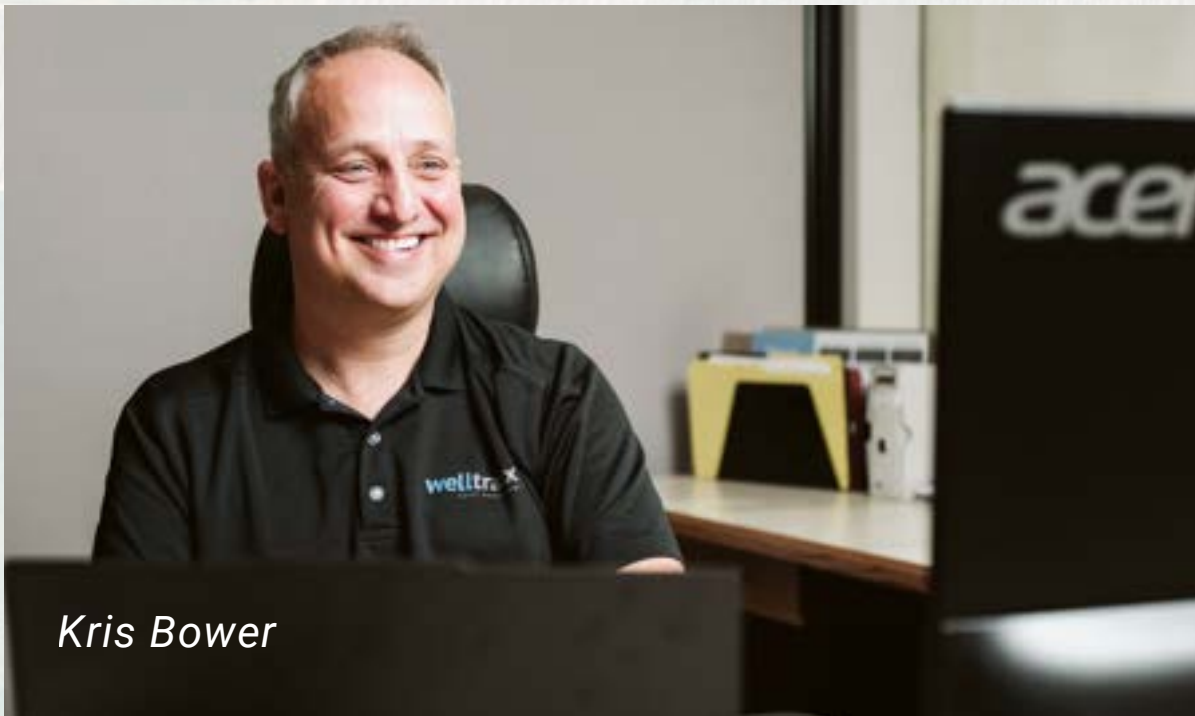
From lease negotiations to reclamation and/or succession, Welltraxx helps landowners secure the future of their land - one relationship at a time.



About Welltraxx

Welltraxx supports Landowners, Municipalities & Metis Settlements across Alberta and Saskatchewan in managing their oil and gas assets. Their services include lease renewals, LPRT applications, reclamations and land purchases, as well as managing various surface asset data for municipalities through Enertraxx, Munitraxx, and Permitraxx platforms. Backed by a hard-working administrative team and the company's proprietary platforms, they help ensure every detail is managed professionally and timely manner.

Visit welltraxx.ca to learn more.



SUBSURFACE MOMENTUM

The Expanding Role of Land Professionals in the Western Canadian Sedimentary Basin

Janice Redmond

Senior Manager, Corporate Development | Canada West Land

The Western Canadian Sedimentary Basin (WCSB) has long been the backbone of Canada's energy economy. Stretching across Alberta, British Columbia, Saskatchewan, and parts of Manitoba, this vast geological formation has supported generations of oil and gas development. In 2025, however, the WCSB is undergoing a transformation—one that is redefining the role of land professionals and expanding the scope of subsurface activity beyond hydrocarbons.

From lithium-rich brines and helium reservoirs to geothermal energy and enhanced oil recovery technologies, the basin is becoming a multi-resource frontier. For landmen, this evolution demands a broader skill set, deeper regulatory knowledge, and a renewed focus on stakeholder engagement.

A Surge in Subsurface Activity

Recent data from the BOE Report highlights a resurgence in drilling and exploration across the WCSB:

- Over 6,600 wells are forecasted for 2025, marking a 10-year high in drilling activity.
- Athabasca Oil Corp. reported Q3 2025 production of 39,599 boe/d, with its Leismer

project targeting 40,000 bbl/d capacity by 2026.

- Tourmaline Oil Corp. continues to lead with over 600,000 boe/d, supported by LNG export agreements tied to global benchmarks.
- Consolidation in the Montney formation has intensified, with 66% of Alberta Montney production now licensed to just five operators.

This uptick in activity is not limited to traditional hydrocarbons. Lithium exploration in Alberta and northeast B.C. is accelerating, with Canadian Discovery Ltd. identifying promising concentrations in the Montney Formation. Helium exploration is expanding in Saskatchewan and Alberta, while geothermal pilot projects are underway in Alberta's Tri-Municipal Industrial Park, supported by the province's \$50 million Drilling Accelerator Program.

The Landman's Expanding Mandate

As subsurface development diversifies, land professionals are stepping into more strategic roles. Their responsibilities now span five key domains:

1. Multi-Commodity Lease Coordination

Landmen must navigate increasingly complex tenure systems, where a single parcel may be prospective for oil, gas, lithium, helium, and geothermal. This requires:

- Interpreting Crown and freehold mineral rights
- Structuring agreements that accommodate overlapping resource interests

2. Surface Access and Landowner Relations

With heightened scrutiny on land use and reclamation, landmen are central to:

- Negotiating surface leases that reflect fair compensation and clear reclamation terms
- Managing landowner expectations and mitigating land use conflicts
- Ensuring compliance with evolving surface rights legislation

3. Indigenous Engagement and Partnership Building

Subsurface projects increasingly intersect with Indigenous lands and interests. Land professionals are often the first point of contact and must:

- Facilitate early and respectful consultation
- Understand Indigenous governance and cultural protocols
- Support the development of Impact Benefit Agreements (IBAs) and equity partnerships

Successful examples, such as the Jansen Potash Project and Cedar LNG, underscore the importance of trust and transparency.

4. Regulatory Navigation and ESG Compliance

Landmen are key players in ensuring projects meet environmental and social standards. Their work includes:

- Coordinating permitting and reclamation processes
- Tracking liability and reclamation costs (e.g., \$23,100 per site average in Alberta)
- Supporting ESG reporting through documentation of stakeholder engagement and land use.

5. Technology Integration and Data Interpretation

- Modern land work is increasingly data-driven. Land professionals are leveraging:
- GIS and digital mapping tools for lease and title management
- Seismic data and 3D geological models to identify high-potential zones
- AI-enhanced platforms for workflow automation and risk analysis

Looking Ahead: Strategic Stewardship Beneath the Surface

The WCSB is evolving into a multi-resource basin, and land professionals are at the forefront of this transformation. Their ability to connect geology with governance, and opportunity with responsibility, will shape the future of Canadian energy.

As the basin's subsurface potential expands, so too does the need for landmen who are not only skilled negotiators but also strategic thinkers, community liaisons, and compliance stewards. The next chapter of the WCSB will be written by those who understand that responsible development begins with the land—and those who manage it.

CANADA

WEST LAND

LAND SURVEYING: DATA COLLECTION TO PRESENTATION

How the Effective Use of Spatial Data Enhances Land Management



Logan Cretti

ALS Business Development Manager | Midwest Surveys

Professionals engaged in managing, acquiring, and overseeing land resources operate in ever-changing circumstances. It seems like political, environmental, and regulatory conditions are always in flux, and each stakeholder brings different priorities and perspectives to negotiations. Building strategic partnerships with land surveyors can ensure that appropriate, accurate, and current spatial data is used to guide decisions, facilitate legal integrity, and support regulatory approvals.

We all have access to a seemingly endless, sometimes overwhelming, trove of data. Digital maps, satellite imagery, real-time positioning data, land records, etc., can all be accessed from our phones. This data can also be accessed all at once through a multi-dimensional Geographic Information System. The challenge is knowing exactly what data is available, what is required in specific circumstances, how to enhance the data, and how to best present it for different audiences.

This article outlines why current, accurate spatial data is required, how a surveyor enhances data by collecting precise, site-specific data, and provides some examples of how Midwest presents data in unique and accessible ways.

What type of data is available?

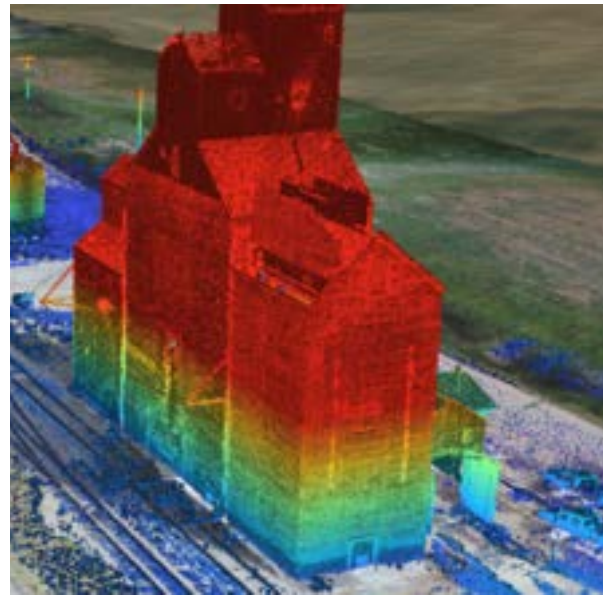
Different types of data are required for different activities. For example, when preparing legal survey plans, a surveyor is required to collect evidence of the location of a boundary. This will involve a search of records at Land Titles and a field visit to collect physical evidence of the boundary. We'll combine this information with open-source and/or government maps (e.g., from SPIN2, DataBC, Canada Open Data Portal, AER, Municipal imagery and LiDAR data, etc.) to create various legal survey products. For a regulatory application, we might use legal survey data, along with LiDAR data, satellite imagery, base mapping, regulatory requirements, and project specifications to prepare various maps and plans that are required to be submitted with an application.

“Land surveying is more than just measurement. It is a foundational discipline that underpins every stage of development. From initial project planning to final construction and compliance, surveyors provide the spatial intelligence that guides decisions, ensures legal integrity, and supports regulatory approval.”

The possibilities are almost endless. Fortunately, professional land surveyors know exactly where to obtain the data required to support regulatory applications, public engagement activities, negotiations, permitting, land use planning, and land use optimization. We also know when we need to supplement existing data with data collected using both our high- and low-tech survey tools.

Data Collection – How

Surveyors can collect an enormous amount of field data in an efficient manner. For example, our Leica BLK360 laser scanner can capture up to 680,000 points per second.



Laser Scan Deliverable

A land surveyor has the training and expertise to know when additional data is required to support the project objectives and the best data collection method to address challenges posed by:

- Site conditions,
- Project requirements, and
- Level of precision needed.

Common data collection tools used by land surveyors include:

- Total Stations,
- GPS
- UAVs
- Bathymetric equipment, and
- Laser Scanners

Total Stations

A total station is an instrument that can measure angles (electronic theodolite) and distances (using electronic infrared distance signals). A total station is used for high-precision tasks because it allows us to measure angles and distances to specific features very accurately (mm level).



Total Station

A total station is well-suited for use during construction activities and for collecting precise as-built data in hard-to-reach areas.

GNSS Receivers (GPS)

GNSS (Global Navigation Satellite System) is a collection of satellites belonging to different countries (the US, Russia, China, EU) that provide geospatial positioning abilities around the world.



RTK Base Station

Surveyors use RTK (Real Time Kinematic) GNSS systems to quickly and efficiently collect data on a point-by-point basis. GNSS is slightly less accurate than a total station, but we use rigorous quality control procedures to ensure we meet project accuracy requirements. We often use GNSS to record the position of physical boundary markers.

UAVs (The Drone)

Unmanned Aerial Vehicles (UAVs) or RPAS (Remotely Piloted Aerial Systems) are the newest piece of technology that Surveyors use to capture current aerial data, including LiDAR.

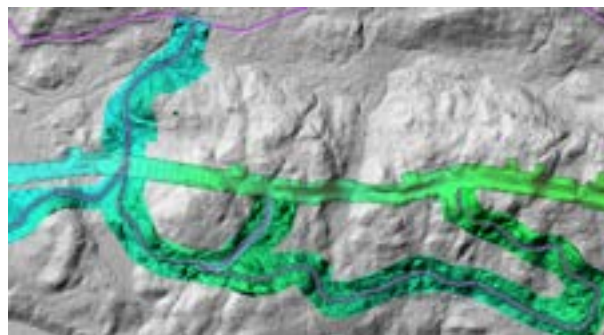


Drone Image

Drones can take aerial photos that document current site conditions, allow us to safely observe changes to a site over time, and enable us to calculate volumes of spill piles, etc., without entering the facility.

Drones can also be equipped with LiDAR that collects topographic data.

Midwest was recently required to fly LiDAR drones almost daily to collect information related to cleanup activities and produce products to facilitate contractor discussions.



LiDAR Deliverable

Bathymetric Equipment

Using sonar, surveyors map the bottom of water bodies to determine such things as:

- Scour potential
- Depth of cover of buried facilities
- Water volume



Bathymetric Equipment

This information is often used to support decision-making for pipeline integrity projects.

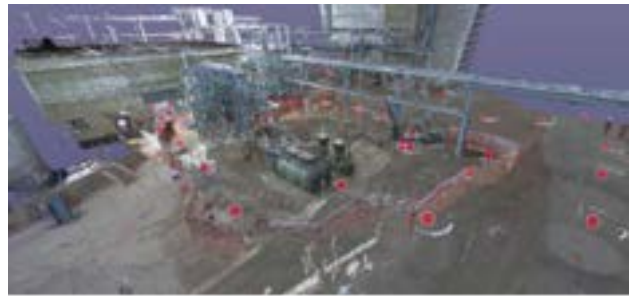
Laser Scanning

Using spinning mirrors and lasers, terrestrial-based laser scanners collect millions of data points, offering a new way to visualize and analyze data and support design work.



Laser Scan Deliverable

Midwest recently completed a comprehensive 3D scan of a Methanol Production Facility, which included complex process piping, equipment, and structural components. The deliverables from that project were used to plan the installation of a Blast Resistant Module. We are also able to create a 3D walkthrough model to enable measurement and enhanced facility review.



Laser Scan Deliverable

Data Collection – Why

Having accurate and relevant data is critical for decision-making, land management, securing regulatory compliance, and engaging with landowners, Indigenous communities, and other stakeholders.

Due to the overwhelming amount of available data, it can be difficult to decide what data is required, if it's current and relevant, and how it should be presented. Surveyors have unique knowledge, skills, and experience to ensure that the right spatial data is collected for specific activities and that relevant data is represented in a logical way and is accessible to everyone.

Land surveyors use a combination of open-source and site-specific data to facilitate:

- Regulatory Compliance,
- Adherence to Environmental and Safety Guidelines
- Determination of Land Ownership
- Analysis of Easements and Encumbrances
- Survey Evidence Collection
- Engagement, Consultation, and Training
- Topographic Data Analysis

Regulatory Compliance

Surveyors prepare maps and other products that help our clients locate and plan future developments so that they comply with regulations.



Scouting Webmap Deliverable

The maps we produce can also provide valuable information about land ownership, environmental challenges, and are often used to help optimize project execution.

Adherence to Environmental and Safety Guidelines

Surveyors are often responsible for gathering location data that will enable someone to determine if infrastructure such as houses, buildings, well pads, pipelines, and access roads are situated in accordance with applicable land-use regulations. When this information is presented appropriately, it can help streamline approval processes.

Determination of Land Ownership

A key role of land professionals is to ascertain ownership, provide title due diligence, and reduce title risk associated with the ownership of rights to minerals or property. Surveyors are experts in all matters related to boundaries and land ownership. We have the exclusive right of practice to determine property boundaries. In addition to determining the location of boundaries, we are often asked to

review land titles to ensure the client has legal authority to use the land in question.

Analysis of Easements and Encumbrances

Surveyors are also experts in understanding (both the content of and the location of) existing rights-of-way, registered easements (e.g., for pipelines, utilities, or access), and restrictive covenants. All of this information must be collected and reviewed before any new infrastructure is designed or built.

Survey Evidence Collection

When determining the location of a boundary, surveyors (or a representative) will go to the field and physically search for boundary markers such as iron posts, cut lines, fences, or witness trees/monuments, etc.



Survey Monument Marker Post

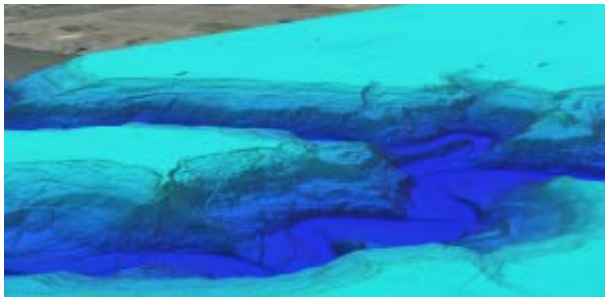
We use our survey tools to physically locate the monument and analyze the monument's position using historical plans to re-establish property lines and confirm the legal extents of surface leases and rights-of-way.

Engagement, Consultation, and Training

Many of the products we produce are visual in nature and depict the position of different types of features (buildings, wetland areas, rivers and lakes, infrastructure, etc.) relative to boundaries and/or other features. We are experts at overlaying features on top of aerial and satellite imagery, and are able to efficiently integrate many different types of data, etc., into one product. Many of our products and maps are tailor-made for use in presentations and/or to support land negotiations.

Topographic Data Analysis

Surveyors are often asked to use existing data, often supplemented with more current data collected using our various survey tools (e.g., GPS, UAVs, Scanners), to complete a data analysis. For example, analysis of topographic data allows us to determine high and low areas, determine drainage patterns, and show the location of features in relation to proposed developments.



Topographic Data Visualization

Data Presentation

Midwest is known for Service Beyond Boundaries. One of the ways in which we demonstrate this is by producing unique products exactly suited for any situation. One of the challenges that we have to overcome is deciding how to present products so that they are accessible to anyone. From standard survey deliverables to digital twins, crossing

and/or problem area sketches, First Nations Consultation maps, detailed as-builts, custom Webmaps, etc.

Survey Deliverables

Standard survey deliverables are normally required for regulatory applications, land transfers, ownership discussions, land use planning, etc.



Survey Deliverable

Midwest's survey deliverables:

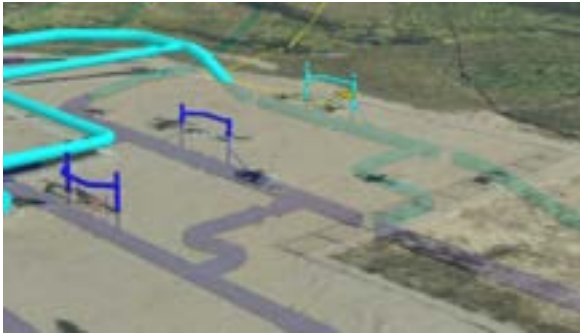
- Conform to industry standards,
- They are in a standard format to facilitate smooth approvals.

Common plan types include:

- Well Pad Site Plans
- Pipeline Route Plans
- Subdivision Plans
- Right-of-way Plans
- Real Property Reports

Virtual Data Sets & Interactive GIS Systems

With the increase in spatial data required for each project and the ability to collect seemingly unlimited amounts of data, we are able to move beyond 2-D maps and prepare interactive 3D GISs that are accessible from anywhere without the need for special software.



Virtual GIS Dataset

Midwest has developed many GIS web-based systems (e.g., ArcGIS Story Maps) that offer the ability to provide real-time tracking, increased stakeholder engagement and collaboration, and customizable views based on the target audience.

Interactive Webmaps

We use Webmaps throughout the project lifecycle to facilitate visualization for both survey and engineering projects.

A project Webmap enables users to engage with any aspect of the project by toggling custom layers. Again, this can be done from any computer with access to the internet and does not require users to have special software.



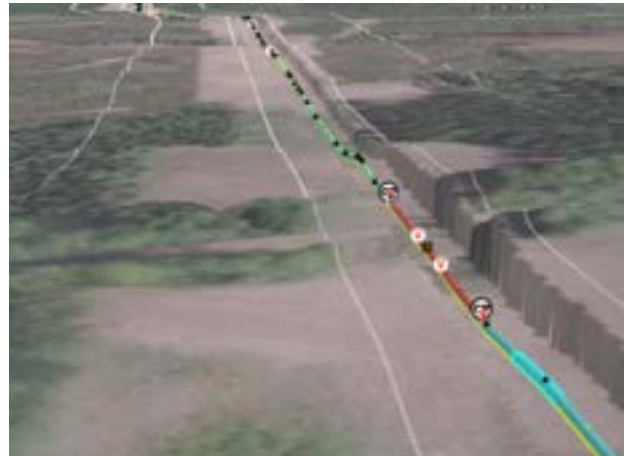
Project Webmap - Public Wildfire Dataset Layer



Webmap Hazard ID Reporting - Bear Sighting

Digital Twins

Digital twins are an accurate digital representation of a physical entity that can be continuously updated with new data captured using various sensors. Building a digital twin allows us to run simulations and complete predictive analysis on a project.



Project Webmap - Public Wildfire Dataset Layer



Conclusion

Land surveyors are known for their ability to measure and lay out features accurately. Land surveying is more than just measurement. It is a foundational discipline that underpins every stage of development. From initial project planning to final construction and compliance, surveyors provide the spatial intelligence that guides decisions, ensures legal integrity, and supports regulatory approval. If you need a unique solution to a land management problem, feel free to call a surveyor for guidance.



THE ACT THAT BUILT ALBERTA'S TRUST

Why the Land Agents Licensing Act Still Matters : A History Rooted in Respect

James Thurston, Vice President CALEP

The Land Agents Licensing Act was created for a simple reason: to protect the public interest by ensuring fairness, professionalism, and accountability in land negotiations.

During Alberta's early oil and gas expansion, companies were moving quickly—sometimes too quickly—onto privately owned farmland. Landowners had limited information, little leverage, and few safeguards against aggressive negotiation practices. The government stepped in to bring balance to the table.

The Act formalized what responsible development required:

- that those negotiating for land access were trained,
- that they were accountable to a professional standard, and
- that landowners could have confidence that the process was fair and transparent.

This legislation didn't just professionalize landwork—it created the foundation for a lasting relationship between rural Alberta and its energy industry.

Why It Mattered Then, Why the Act Exists

The Land Agents Licensing Act wasn't created to make paperwork more complicated. It was created to level the playing field.

Because let's be honest—landowners don't call us. We call them. They're not putting a "For Lease" sign on the fence line. Instead, they're approached by companies—often backed by legislation that gives them the right to access that land, whether the landowner wants to negotiate or not.

This is not a typical negotiation. In fact, it's an

inherently unequal one. That's why Alberta created the Act—to ensure a licensed professional was there to guide the conversation, offer clear information, and be held to a standard of integrity.

The Act was our province's way of saying: we will treat landowners with respect and consistency—even when the law says we can access their land anyway.

Land agents became the bridge—people who could explain what was happening, ensure the terms were understood, and help both sides find workable solutions. The Act required them to be licensed, trained, and bound by a code of conduct.

This gave the province something no policy paper ever could: trust.

Why It Matters Now

Fast forward to today. Alberta's land and energy landscape has changed, but the principles that shaped the Act are more relevant than ever.

Under initiatives like the Mature Asset Strategy (MAS), legacy wells are being transferred, leases are being re-evaluated, and new players—many without local presence or context—are entering the picture. Landowners are receiving impersonal letters or digital forms instead of conversations.

Too often, these communications come from unlicensed individuals—administrators, consultants, or acquisition teams who are not subject to the Act. The result has been predictable: confusion, frustration, and a steady erosion of trust in the system.

The very problem that led to the creation of the Act half a century ago is resurfacing—this time through loopholes and a lack of enforcement.

Rebuilding Confidence, Not Just Wells

The relationship between Alberta's landowners and its energy industry has always relied on one thing: good faith. The Act was written to protect that good faith and to make sure industrial progress didn't come at the expense of rural respect.

Reinforcing the Act isn't about creating red tape—it's about reaffirming Alberta's values of fairness, accountability, and partnership. In a time when confidence is fragile and rural voices are demanding to be heard, the Act is not the problem—it's part of the solution.

Call to Action

It's time for Alberta's land professionals and landowners to speak with one voice.

The Land Agents Licensing Act has safeguarded fairness and professionalism in Alberta for decades—but it needs to be strengthened to reflect today's realities.

We are asking every CALEP member, surface rights advocate, and Albertan who believes in responsible, respectful development to write their MLA and the Ministers responsible for energy, justice, and agriculture.

Tell them this: The Act is not red tape—it's the foundation of rural trust.

We can't rebuild confidence in programs like the Mature Asset Strategy without putting licensed land agents back at the center of the process.

Template Letter to Government Officials

Subject: Strengthening the Land Agents Licensing Act to Restore Trust in Rural Alberta

To:

- Premier Danielle Smith – premier@gov.ab.ca
- Minister of Energy and Minerals, Brian Jean – minister.energy@gov.ab.ca
- Minister of Justice, Mickey Amery – just.minister@gov.ab.ca
- Minister of Agriculture and Irrigation, RJ Sigurdson – AF.minister@gov.ab.ca

[Insert your MLA's name and email – Find yours at: <https://www.assembly.ab.ca/members/members-of-the-legislative-assembly>]

Dear [Minister/MLA Name],

I am writing to express my strong support for strengthening and enforcing Alberta's Land Agents Licensing Act.

For decades, the Act has ensured professionalism, accountability, and fairness in land access negotiations across Alberta. It was created to protect landowners, guide responsible development, and maintain trust between industry and rural communities.

Unfortunately, in recent years, we've seen growing instances where unlicensed individuals—often administrators or consultants—are managing landowner negotiations, rent reviews, and amendments. This undermines the integrity of the process, weakens public trust, and violates the spirit of the Act.

Programs such as the **Mature Asset Strategy (MAS)** highlight the urgent need for reform. Many landowners now face unclear communications, delayed payments, and declining confidence in a system that once worked. Licensed land agents can help fix this. They are trained, regulated professionals who bridge the gap between industry and rural Alberta.

I respectfully ask your government to:

- Expand the Act to apply to all industrial surface negotiations on freehold land, including renewables, carbon capture, utilities, and emerging resource sectors.
- Mandate the use of licensed land agents for all surface access, amendments, rent reviews, and successor communications.
- Enforce penalties for unlicensed activity and establish a public registry of licensed agents.
- Promote the profession as a vital part of Alberta's rural economy and energy future.

By updating and enforcing the Act, your government can rebuild rural trust, support responsible resource development, and reaffirm Alberta's commitment to fairness.

Thank you for your attention to this matter and for your continued service to Albertans.

Sincerely,

[Your Name]

[Your Title or Affiliation, if applicable]

[Your Community / Constituency]

[Your Contact Information]

INDUSTRY EVENTS

- Nov. 20–21: Decentralized Energy Forum, Chateau Frontenac, Quebec City; tickets
- Nov. 20: Avenue Calgary Magazine's Top 40 Under 40, Bella Concert Hall, Calgary
- Nov. 25–26: Women in Consulting Engineering Conference, Westin Downtown, Calgary
- Nov. 25–26: Info-Tech LIVE 2025 Conference, Fairmont Queen Elizabeth, Montreal
- Nov. 26–27: National Building Decarbonization Forum 2025, National Arts Centre, Ottawa; register
- Nov. 27: Surface Land Management (SLM) Event, Olds College – Panel Discussion, Olds, Alberta

2026 Events

- Jan. 29–31: Conservative Party of Canada National Convention, Calgary
- Jan. 31 – Feb. 1: The Wellness Show, Vancouver; save the date
- April 29 – May 1: First Nations Major Projects Coalition Conference, Toronto
- June 8–10: NeoCon 2026, THE Mart, Chicago – get on the NeoCon updates mailing list
- June 16–19: Canadian Trail Summit, Winnipeg
- June 17–20: VivaTech 2026, Paris – save the date (registration not yet available)
- Sept. 28–30: Indigenous Women in Industry Summit Canada, Hyatt Regency, Vancouver



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REWIND AND RELIVE



What a swingin' evening at the Launchpad!

Our Night at Launchpad on October 30 was the perfect mix of golf, good food, and great company. From friendly competition at Mickelson National to lively conversations over appetizers, it was the ultimate way to wrap up the season.

Thanks to everyone who came out to swing, sip, and socialize—you made the night a hole-in-one!

Our OneStop Crown Land Disposition Applications Discussion was a great success.

A big thank you to Marissa Schultz, Land Use Advisor, RPFT, Alberta Energy Regulator, for sharing valuable insights on Replacement, Renewal, Amendment, Stand-alone RTF, and New applications, Common submission challenges, and Practical tips to improve application quality and efficiency.

Attendees left with actionable guidance to streamline their submissions and navigate the process with confidence.



ON THE HORIZON

Membership renewals are coming up on December 1 – Stay tuned for details!



Darts & Drafts: A Night of Fun and Socializing

November 20, 2025, 4:30–10:30 PM | Imperial Tap, 503 4 Ave SW

Join us for an evening of darts, laughs, and great company! Whether you're a seasoned player or trying it out for the first time, this casual night is all about friendly competition and connection.

Enjoy classic pub-style darts, fun team challenges, and a little light-hearted rivalry—plus food, drinks, and prizes for the sharpest shots (and maybe the most creative styles!). Bring your best game face—or just your best laugh—and get ready for a night of good fun, good people, and a few bullseyes along the way.

Members: \$30 | Non-Members: \$50

Three Cheers for a Merry Tri-Fecta

December 4, 2025, 4:30–9:00 PM | National on 10th

Celebrate the season with CALEP, IRWA48, and LEMAC at our festive holiday gathering! Enjoy great food, music, and company as we toast to the holidays.

Members: \$50 | Students: \$35 | Non-Members: \$70

Includes a drink, appetizers, and plenty of holiday cheer — save the date and join the fun!

Please visit CALEP's Event Page for the Registration Links and watch your inbox for updates



UPCOMING IN 2026: SAVE THE DATES!

Please visit CALEP's Event Page for the Registration Links and watch your inbox for updates



Poker Night

January 22 | Calgary Petroleum Club | 16:30 - 21:00



Crib Tournament Night – Singles & Pairs

March 5 | Calgary Petroleum Club | 16:30 - 22:30



CALEP/IRWA Hockey Tournament

April 16 | Flames Community Arena | 08:00 - 16:30



Nominations will open on December 1, 2025.

Annual General Meeting and Merit Awards

April 23 | Calgary Petroleum Club | 16:30 - 21:00

GET SMART



COURSE

DATE

TIME

LOCATION

Professional Ethics: Theory and Application

November 25, 2025
(Tuesday)

9:00am - 4:00pm

CALEP Office

Pad Site Sharing Agreement Seminar (PSSA)

November 27, 2025
(Thursday)

8:30am - 4:00pm

CALEP Office

2017 CAPL Property Transfer Procedure

January 13, 2026
(Tuesday)

8:30am - 4:00pm

CALEP Office

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

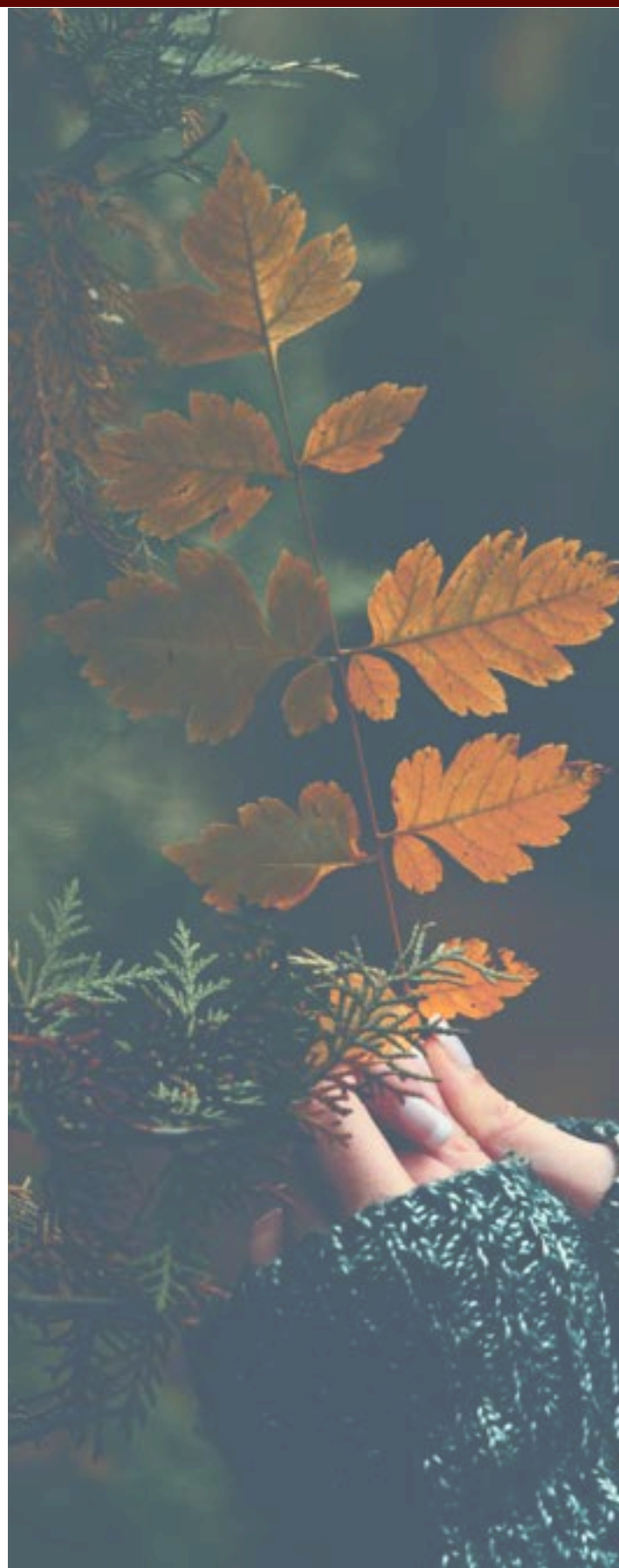
For more information, or to register, please see the CALEP course schedule in its entirety here.

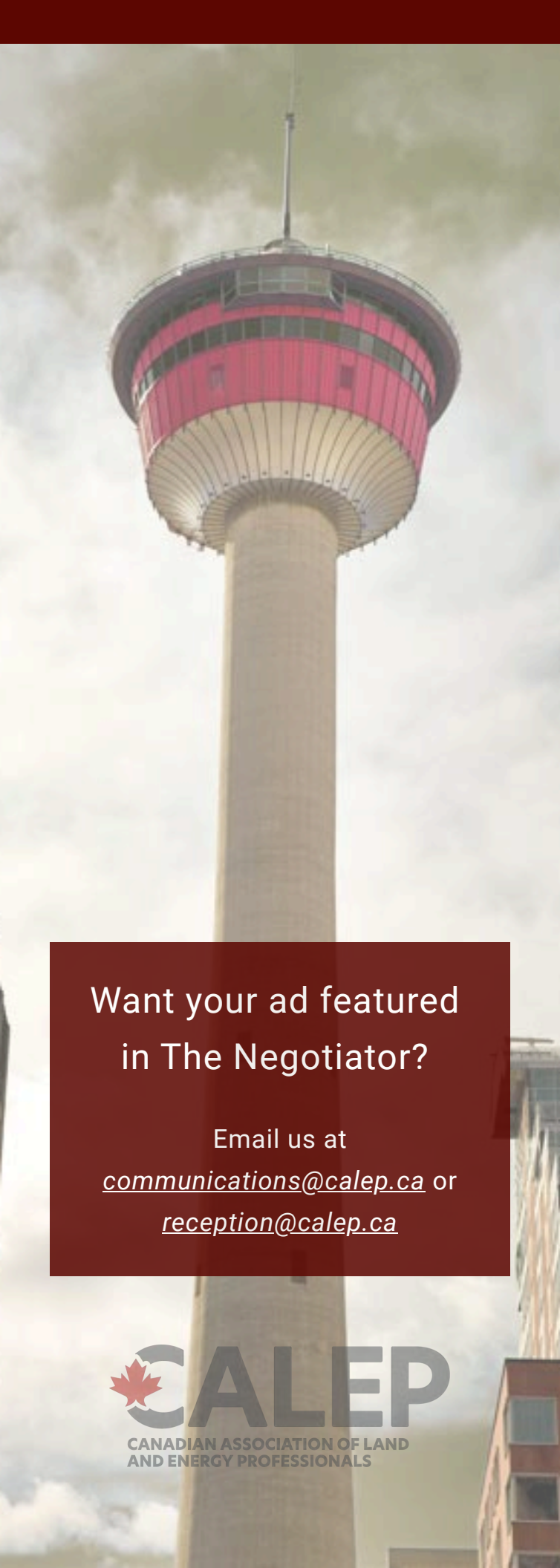
ROSTER UPDATES

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

| | |
|-------------------------|---|
| Lance Petersen | Woodcote Oil Corp. to Independent |
| Brock Young | Independent to Cardinal Energy Ltd. |
| Michelle Sportak | Independent to Peyto Exploration and Development Corp |
| Bryan Kelm | Chevron Canada Resources to Tourmaline Oil Corp. |
| Darryl Leason | Torxen Energy Ltd. to Canadian Natural Resources Ltd. |
| Cody Parrish | Ember Resources Inc. to PrairieSky Royalty Ltd. |
| Renee Miles | Clearview Resources Ltd. to Sinopec Canada |





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NEW MEMBERS

ACTIVE MEMBERS

Paul Summers, Pembina Pipeline Corporation

Sponsors:

- Sandra Dixon
- Donald MacLeod
- Wade McLeod

Ravneet Kang, Cenovus Energy Inc.

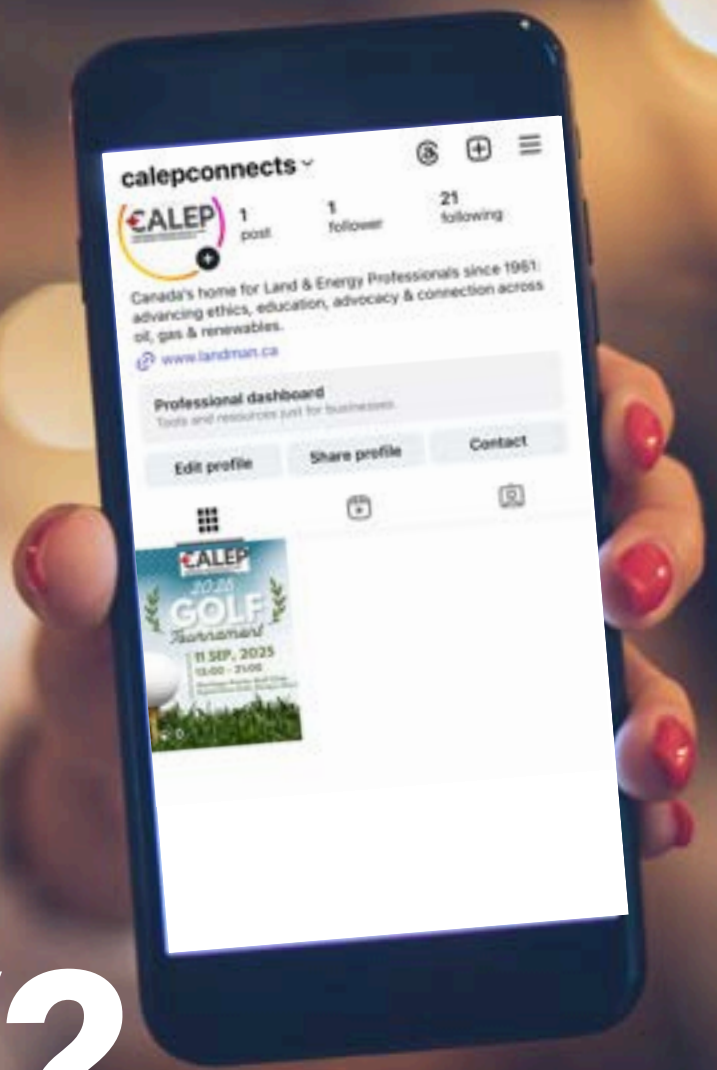
Sponsors:

- Jeff Bryksa
- Shannon Toms
- Javier Rubio

STUDENT MEMBER

Ellis Frost

DID YOU KNOW?



We are now on Instagram!

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



@calepconnects

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