

**SASKATCHEWAN LANDOWNERS MUST FEND FOR THEMSELVES**

This year, the Saskatchewan government is on track to set a record for the sale of mineral rights. It means many new wells will be drilled. Oil, shallow gas, and coalbed methane potential are going to be exploited to the maximum.

While all this will have a positive effect on the economy, there are areas of growing concern for the farmers who increasingly find themselves in the middle of it all. It raises the question: "What should a farmer do when the oil company's landman comes calling?"

Unfortunately, some farmers feel they need whatever money an oil company might be offering, so they end up signing a surface lease agreement with little planning or investigation. Many farmers overlook long-term liability issues. Many more short-change themselves by hundreds, thousands, and in some cases, even by tens of thousands of dollars.

Yet as unfamiliar as the surface lease negotiation process can be for some farmers, a more pressing obstacle is the Saskatchewan government's overall position on landowner surface rights.

Saskatchewan's surface rights law has been amended from time to time, but its essential elements nevertheless date back to the days when Alan Blakeney was Premier. And believe it or not, while

Alberta's Surface Rights Act is distinctly landowner-friendly and establishes strict landowner-oriented rules that oil companies must follow, Saskatchewan's legislation is more oil company-friendly and then silent on key issues.

For example, Alberta landowners receive an entry fee of \$500 per acre when an oil company accesses land for a surface lease.\* This money is paid by the oil company to the landowner prior to, and apart from, any other financial consideration the farmer might receive for loss of use, adverse effect, damages, etc. Estimates are that Saskatchewan farmers have already lost close to \$100 million simply because this provision is in the Alberta Act and not in the Saskatchewan Act.

Saskatchewan's government gives oil companies a blanket wave-off on the entry fee. What's more, is that there is a growing call in Alberta to double, and in some cases even triple the entry fee, meaning the disparity could become even more pronounced.

Another landowner-friendly provision in the Alberta Act is that there are term limits on the individuals who make up the Surface Rights Board. To avoid a bureaucratic hierarchy, no individual is eligible to serve for more than two three-year terms. Additionally, the Alberta Surface Rights Board has the authority to settle financial damage claims

made by landowners against oil companies up to a much higher level than the Saskatchewan Board. And the timeline within which a landowner can file a claim is four times longer in Alberta than in Saskatchewan.

Significantly, the Alberta Act also indicates that if a farmer consults a formally trained land agent to seek advice prior to signing a surface lease agreement with an oil company, the oil company must pay the farmer's cost of doing so. Saskatchewan's legislation makes no such provision. By legislative design, when an oil company approaches a Saskatchewan farmer, that farmer is expected to take the oil company's word for whatever he is being told. If that isn't good enough for him, then he is left to fend for himself, completely outside the context of the type of landowner-friendly legislation that has been in place in Alberta for almost 25 years.

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\*The Alberta entry fee is to a maximum of \$5,000 per agreement, per titled unit.