

Press Release

For Immediate Release – January 23, 2020



Alberta’s farmers’ property rights under attack by the energy industry and the UCP government

Farmers say it’s time to safely shut off the wells until delinquent companies pay what’s owed

Taber, AB -- Recent news about energy companies not paying property taxes as well as actions taken by the UCP government and energy companies to stop paying annual compensation to farmers for well sites on their farms are forcing Alberta farmers and ranchers to take unprecedented actions to defend their property rights.

“More and more energy companies have stopped paying the annual compensation for the thousands and thousands of well sites on our farms and are in default on their leases,” said Daryl Bennett, a farmer and member of the Action Surface Rights Group.

Alberta laws allow energy companies to force wells and pipelines onto private lands and override the farmers’ property rights. Most of Alberta’s 400,000 wells are located on privately-owned farms and ranches. The Surface Rights Act requires energy companies to pay annual compensation to farmers for crop losses and other impacts of having to farm around well sites forced onto their land.

The government has legally guaranteed farmers that the government will pay the annual compensation if the companies fail to pay.

The Surface Rights Board has started arbitrarily reducing the annual well site compensation payments. In many cases cutting them by half or more. And now many companies are following the government’s lead. Energy companies with active, producing wells have just stopped paying or sent cheques for significantly reduced compensation even though the companies are continuing to produce oil and gas from these wells.

“Farmers and ranchers have been the biggest supporters of the energy industry. We all realize how important the industry is but farmers are increasingly being taken advantage of by the provincial government and the energy industry. We’ve been having to put up with all of the problems with these well sites and farmers have had enough,” said farmer Ron Huvenaars and chair of the surface rights group.

“The energy companies are in default on their leases. It’s time to safely turn off the power and safely shut the valves until these delinquent companies pay the money they owe.” Daryl Bennett, Taber area farmer and surface rights group member

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“The UCP has sent the message to companies that it’s okay to keep producing wells but they don’t have to honour their commitments to the farmers or the impacted communities”, says Huvenaars.

As has been reported in the media, there are also growing environmental problems that are not getting addressed. There are over 170,000 old inactive wells on farms throughout the province. The government sets no timelines for their clean up and the environmental problems are left to get bigger each year. These are in addition to the 3,400 wells in the Orphan Well Program.

The surface rights group is taking the extraordinary step of calling on all farmers and ranchers with producing wells on their land who are not getting paid to take direct action since the UCP won’t. “If you have a producing well on your farm and the company is not paying compensation for your crop damages, go and safely turn off the power to the well and safely close the valves until they pay up”, urges Bennett.

“We know that this is a drastic step but landowners are tired of having our property rights ignored and having to suffer the losses while these companies keep producing their wells”, Bennett said. “When delinquent tenants don’t pay rent, landlords change the locks. Farmers need to safely turn off the power to the companies choosing not to pay what they owe.”

Huvenaars says many good energy companies follow the rules but he hopes that the government and industry get serious about addressing the problems being caused by delinquent companies: “The Premier says that Alberta has the most socially and environmentally responsibly produced oil. With so many companies deciding not to pay property taxes for the impact to our rural roads and not paying farmers for the damages to our crops, the Premier can’t say that anymore. He needs to fix this and respect our property rights while at the same time helping the energy industry recover.”

For a summary of the issues and facts see below.

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The Oil/Gas Industry:

- Owes at least \$173 million in unpaid property taxes to Alberta municipalities.
- Has exploited Alberta legislation which has allowed it to Pump and Dump which “privatizes the profits” and “socializes the losses”.
- Are in default of their well site leases that require the companies to pay both the farmer for the land and damages and to pay the municipality for the companies’ property taxes on the well sites.
- Is requesting that the landowner’s minimal right to object to Industry Development on private lands be even further restricted through changes to the AER.
- Is arbitrarily reducing landowner compensation and reducing surface lease sizes without reclamation, contrary to the law and in many cases has simply stopped paying landowners.
- Is exploiting the Surface Rights Board logjam to ensure that landowner concerns are not addressed for years and has told the SRB to expect a huge surge in claims as they arbitrarily reduce landowner compensation.
- Is exploiting the AER’s fast track Reclamation Certificate process that allows Industry to self-inspect leases for reclamation. Recent internal audits found 100% failure to restore full production and the AER has been revoking many Reclamation Certificates because of Operator fraud.
- Has at least 170,000 suspended, non-producing wellheads in Alberta that need cleaning up with no timelines in place.
- Has an estimated clean-up tab to reclaim wellheads that ranges between \$25 Billion to \$250 Billion.

Simply put, many small Operators aren’t paying property taxes or landowner compensation and are ignoring the rules, because there aren’t any consequences for not doing so.

As a result landowners are experiencing:

- Wellheads left in unsafe conditions, weeds left uncontrolled and farmers are colliding with abandoned infrastructure.
- Food safety concerns due to contaminated oil/gas leases and food safety legislation preventing landowners from farming near contaminated sites.
- Operators improperly reducing lease size without reclamation and attempting to surrender contaminated lands and reduce compensation.
- Possible mortgage restrictions on the land due to environmental contamination.
- Builder’s Liens placed upon the land due to unpaid Operator debts (unpaid utility bills, contractor invoices, taxes).

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- Hikes in rural property tax rates to make up for the Oil/Gas shortfalls.
- Multi-year delays for Compensation recovery during SRB proceedings.
- Compensation reductions at the SRB as they try to save the public purse.
- Cost haircuts before the regulatory Boards, and the SRB, requiring out-of-pocket landowner representation fees.
- Burdensome regulatory procedures failing to redress landowner concerns, while Industry is afforded quick access to the land.
- A permanent setback around the wellhead and access to the wellhead even after reclamation in case something goes wrong but no compensation to the landowner.
- A court-recognized “uneven playing field” which pits the financial resources and experts of Industry against farmers who are unfamiliar with the system and forced into an unwanted relationship.

In response the UCP government (and its departments):

- Doesn't like the Supreme Court *Redwater* decision which requires Polluters to Pay.
- Discontinued the deposit security system which required weaker companies to deposit monies for reclamation responsibilities.
- Does not enforce any wellhead abandonment and reclamation timelines. Many leases have not produced for 40 years or more and have yet to be reclaimed. Many of these leases transfer to weaker hands that ultimately go bankrupt and then are transferred to the Orphan Well Association.
- Thinks Industry property taxes are too high, and appears to be suggesting that municipalities go after landowners to recover the monies.
- Is rumored to have told the SRB to cut landowner compensation on orphan sites.
- Is ignoring the huge backlog of landowner claims at the SRB.
- Does not attempt to recover monies paid out by the Treasury Department on behalf of Oil/Gas companies who refuse to pay.
- Is insisting that government departments cut 33% of “red tape” which will reduce the “musts” and “shalls” that protect landowners.
- Is cutting AER, SRB and AUC budgets which will delay acting on landowner concerns.
- Is ignoring the fact that the Oil/Gas downturn has increased the Rural crime problem and intends to charge municipalities an extra \$50 million for policing while ignoring \$173 million in Oil/Gas property taxes not being paid.

The SRB is:

- Not awarding landowner Representation costs on applications.
- Ignoring court precedent to improperly reduce landowner compensation.

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- Improperly claiming a 5 year limitation period on landowner claims for unpaid compensation.
- Claiming that landowner compensation includes the duty to take care of weeds on leases.
- Suffering from high employee turnover which causes lots of mistakes and high stress levels on staff.
- Restricted by only having part time Board members who can't handle the heavy caseload.
- Requiring landowners to re-apply annually for each lease which jams up the system.

Action Surface Rights Association encourages landowners to defend their property rights against an Industry which has shown utter disregard for landowner rights and which has exploited government's inaction for many years. We've met with government officials to no avail. As a result, we suggest that landowners can do the following:

- Safely turn off the power and safely shut off the valves on the wells on your land where the company is not paying what is owed just like any landlord would change the locks for a tenant who does not pay.
- Object to any new drilling activity on your lands. They'll be back in a year or so. Why burden yourself further by an expropriation system that does not treat you fairly. Wait until government addresses the problems outlined above.
- Use the new Trespass Act's biosecurity provisions to ensure that all Industry equipment coming onto your lands is free of weed seeds and crop disease.
- Get involved with your local surface rights association and donate to help defend landowner property rights.
- Contact your MLA to express your displeasure.

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Extra:

Imagine an energy company did this to your farmland and the government said it was okay to leave it that way. This is exactly what's happening in Alberta.



Weeds reduce crop yields for farmers and cause farmers to spend more on weed control in their fields. Energy companies are supposed to prevent weeds on the wells sites that they can force onto farmlands. Look at how the companies do nothing about weeds and the government does not care:

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The Alberta Government lets companies simply walk away from well sites leaving them to leak like this one forced onto a farmer's private land in southern Alberta:

