

# MODERN TREATIES, SHARED TERRITORIES AND PARTY STATUS IN ABORIGINAL TITLE LITIGATION

CANADIAN ASSOCIATION OF LAND AND ENERGY  
PROFESSIONALS

## THE NEGOTIATOR

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A photograph of a forest stream with mossy rocks and a waterfall. The water is flowing over dark, jagged rocks that are heavily covered in bright green moss. The background shows more rocks and some green foliage, suggesting a dense forest environment. The lighting is soft, highlighting the textures of the moss and the movement of the water.

# MODERN TREATIES, SHARED TERRITORIES AND PARTY STATUS IN ABORIGINAL TITLE LITIGATION

Nigel Bankes, emeritus professor of law at the University of Calgary

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**Case commented on:** *Malii v British Columbia*, 2024 BCSC 85 ([CanLII](#)), aff'd *Nisga'a Nation v Malii*, 2024 BCCA 313 ([CanLII](#)).

Overlapping claims and shared territories present challenges in the negotiation of modern treaties that are best worked out by the Indigenous Nations themselves, drawing on their own laws and protocols. But this does not always prove possible and one party or another may initiate litigation in the courts of the settler state. Unfortunately, this is not uncommon and there are now dozens of cases dealing with overlapping claims or shared territories in the context of modern treaty negotiations. One group of cases deals with the scenario in which Nation A is moving to finalize a modern treaty with the Crown, while Nation B takes the view that the territory encompassed by the proposed treaty is territory that Nation B also used more or less intensively. Nation B therefore files a competing claim and also seeks injunctive relief to prevent finalization or ratification of the proposed treaty. The courts have typically rejected applications for injunctive relief and the substantive claims may drag on for years if not decades. A case in point is the *Benoanie* litigation in which the applicant Nations with reserves in Northern Manitoba and Saskatchewan sought to enjoin ratification of the Nunavut Agreement: *Fond du Lac Band et al v Canada* (*Minister of Indian and Northern Affairs*, 1992 CanLII 2404 (FC)).

But the existence of overlapping claims and shared

territories raises concerns for the counterparty, the Crown – federal, provincial, or territorial – that the treaty may prejudice the interests of other parties that are not at the negotiating table and to whom the Crown may owe duties. As a result, modern treaties frequently, if not invariably, include clauses designed to protect the interests of nations in the position of Nation B. Nations in the position of Nation A accept these provisions, perhaps begrudgingly, because the Crown generally takes the position that it requires either a nation-to-nation agreement before ratification or a set of protective clauses (for the benefit of Nation B); without one or the other, there is no deal.

The protective clauses usually have two elements. One element is a set of clauses providing that in the event of litigation launched by another nation (e.g., Nation B) that results in a final and binding judgment in favour of Nation B that a provision of the treaty adversely affects the constitutionally protected rights of Nation B, the treaty parties accept that Nation A's treaty right may only operate to the extent it does not adversely effect the declared rights of Nation B and that the treaty parties may need to make best efforts to amend the treaty. A second element, the *quid pro quo* for accepting the first element, are clauses that provide Nation A with the opportunity to make submissions as a party in any case that raises questions as to the interpretation or validity of the treaty.

These provisions inform a second category of overlap/shared territory cases, which cases include the decision that is the subject of this post: *Nisga'a Nation v Malii*. The decision concerns the Nisga'a Nation (Nation A in my typology) and the Gitanyow Nation (Nation B). The Nisga'a Nation and Canada and British Columbia concluded a modern treaty in 2000 following the decision of the Supreme Court of Canada in the *Calder* case (*Calder et al v Attorney-General of British Columbia*, 1973 CanLII 4 (SCC)). As the Court of Appeal summarized, the "Nisga'a Treaty, among other things, grants the Nisga'a certain rights over, as well as fee simple title to, geographic areas that overlap, in part, with the geographic area of the Gitanyow's claim" (BCCA at para 4). The Nisga'a treaty

was ratified on the Crown side by provincial and federal legislation: the *Nisga'a Final Agreement Act*, RSBC 1999, c 2 (BC NFAA), and the *Nisga'a Final Agreement Act*, SC 2000, c 7 (federal NFAA).

In 2003, the Gitanyow Nation filed a notice of civil claim (NOCC) seeking a declaration of Aboriginal rights and title to an approximately 6,200 square kilometre area known to the plaintiff Gitanyow as Gitanyow Lax'yip, located in the mid-Nass River and Kitwanga River watershed in northwestern British Columbia. According to Justice Stephens who heard the original application that is the subject of this post:

The evidence indicates that there is a relatively modest geographic overlap between the Claim Area and the Nisga'a Treaty lands where the Nisga'a hold fee simple title (the "Nisga'a Lands"), and a more considerable overlap with the "Nass Wildlife Area" and "Nass Area" under the Nisga'a Treaty where the Nisga'a have harvesting and other rights. (BCSC at para 23)

Given that geographic overlap, the Nisga'a Nation brought an application to be added as a defendant to the action (along with the governments of Canada and British Columbia). While the original Gitanyow NOCC included a claim for a declaration to ratify conditionally, or otherwise refuse to ratify, fee simple titles, tenures, or any other rights or interests in relation to the Gitanyow Lax'yip, this claim, as well as claims for interim and permanent injunctive relief had been deleted from Gitanyow's fourth further amended notice civil claim (fourth FANOCC). The fourth FANOCC also removed express references to the Nisga'a Treaty or Nisga'a treaty rights. Both defendants (BC and Canada) had consented to the filing of the fourth FANOCC and the issues were adjudicated on that basis. (BCCA at paras 36 & 37)

Both Justice Stephens and the British Columbia Court of Appeal rejected the Nisga'a Nation's application for party status – at least for the time being. At the same time, the decisions have created an opportunity for the Nisga'a Nation to exercise the participation rights guaranteed by the Nisga'a treaty to make submissions with respect to the proper interpretation of the treaty should that be necessary as part of adjudicating the Gitanyow's claim.

The Nisga'a Nation based its application for party status both on specific provisions of the Nisga'a treaty (the *lex specialis*) and, in the alternative, on the general rules of court. The Court of Appeal granted leave to intervene on the appeal of the Nisga'a Nation's joinder application to the Northern Gitksan Hereditary Chiefs representing seven Gitksan huwilt (houses) (the Northern Gitksan), (*Nisga'a Nation v Malii*, 2024 BCCA 206 (CanLII)). The Court summarized the intervenor's position as follows:

... the [Nisga'a Nation's] appeal should be dismissed because nothing in the Gitanyow action affects the Nisga'a in such a way as to require its participation as a party. They [the Northern Gitksan] say the preferred method for reconciliation of interests is negotiations and that joining the Nisga'a to the action would be an impediment to such negotiations. (BCCA at para 21)

### The *Lex Specialis*

The applicable *lex specialis* consists of three instruments: the Nisga'a treaty itself and the provincial and federal ratification legislation (see above). The relevant treaty provisions are found in Chapter 19, Dispute Resolution

41. If, in any judicial or administrative proceeding, an issue arises in respect of:
- a. the interpretation or validity of this Agreement; or
  - b. the validity, or applicability of:
    - i. any settlement legislation, or
    - ii. any Nisga'a law

the issue will not be decided until the party raising the issue has properly served notice on the Attorney General of British Columbia, the Attorney General of Canada, and Nisga'a Lisims Government.

42. In any judicial or administrative proceeding to which paragraph 41 applies, the Attorney General of British Columbia, the Attorney General of Canada, and Nisga'a Lisims Government may appear and participate in the proceedings as parties with the same rights as any other party.

The federal and provincial ratification statutes both offer additional details as to the notice requirements, but they each include text that mirrors chapter 19, articles 41 and 42 of the treaty.

A preliminary question, at least, on appeal, was the

was the issue of whether the interpretation exercise should begin with the treaty or with the ratification/implementation legislation. I have always thought that interpretation should begin with the treaty itself. After all, the treaty is the constitutionally protected instrument, and modern treaties, including the Nisga'a treaty, invariably include a supremacy clause along the following lines:

Federal and provincial laws apply to the Nisga'a Nation, Nisga'a Villages, Nisga'a Institutions, Nisga'a Corporations, Nisga'a citizens, Nisga'a Lands, and Nisga'a Fee Simple Lands, but:

- a. in the event of an inconsistency or conflict between this Agreement and the provisions of any federal or provincial law, this Agreement will prevail to the extent of the inconsistency or conflict; and
- b. in the event of an inconsistency or conflict between settlement legislation and the provisions of any other federal or provincial law, the settlement legislation will prevail to the extent of the inconsistency or conflict. (*Nisga'a Treaty* at ch 2, art 13)

But in this case, Justice Stephens as the case management judge preferred to focus on the ratification/implementing legislation. Justice Stephens offered no reasons for that preference (BCSC at para 73). The Nisga'a Nation took issue with this on appeal, alleging that this was an error of law that required correction. While the Court of Appeal declined to "accept the Nisga'a's argument" (BCCA at para 32), Justice Abrioux did offer additional (and convincing reasons) for considering the ratification/implementing legislation – at least in this case. In particular, Justice Abrioux noted that the Nation itself had acknowledged that the implementing legislation "effectively mirrored" the treaty provisions (BCCA at para 32), and went on to note that:

The implementing legislation provides specifics as to how the notice should be served. It does not explicitly or by implication engage with the core question about whether an issue arises in respect of the interpretation or validity of the Nisga'a Treaty or the validity or applicability of any settlement legislation or any Nisga'a law. While the judge did not expressly consider ss. 41 and 42 and instead focused on the Party-Confering

Provisions, he did refer to ss. 41 and 42 and the discussion in *Gamlaxyełtxw v. British Columbia (Minister of Forests, Lands & Natural Resource Operations)*, 2020 BCCA 215 in considering the effect of the Nisga'a Treaty. It cannot be said that these provisions played no role in his analysis of the issue. (BCCA at para 33)

In my view, this was a case in which a court could and should have looked to the legislation for the necessary implementing details. But the starting interpretive prism should always be the treaty itself. It is the treaty and not the legislation that provides the principal interpretive context. The treaty is a consensual document. The legislation, even if informed by the treaty, is a unilateral act of one party to the treaty. It should at most be a subsidiary interpretive aid.

Furthermore, I observe that the Court of Appeal, having ruled that Justice Stephens committed no error in focusing on the implementing legislation, the Court of Appeal deals exclusively with the treaty text rather than the legislation (BCCA at paras 39 – 53). I think that there is a message there for subsequent cases.

As for the merits of the Nisga'a's claim to participate as a party as of right on the basis of chapter 19, articles 41 and 42 of the treaty, the Court of Appeal framed the issue in terms of whether these sections had become operative at the time of the hearing of the application. In other words, on the basis of the fourth FANOC, would adjudication of Gitanyow's claim necessarily involve "the interpretation or validity" of the Nisga'a treaty? The Nisga'a Nation's position was that the provisions were triggered "because the Gitanyow still seeks a declaration that it holds Aboriginal title to the entirety of the Gitanyow Lax'yip and other Aboriginal rights within the meaning of s. 35 of the *Constitution Act, 1982*." (BCCA at para 41) More specifically, in order for the Gitanyow to establish title, it would be necessary for them to establish:

... that it occupied the Claim Area before the assertion of European sovereignty, and that its occupation was sufficient, continuous, and exclusive. Accordingly, the Nisga'a submit that if the Gitanyow were successful in establishing

Aboriginal title over portions of the Nass Area, the ruling would directly and necessarily affect the interpretation or validity of the provisions of the Nisga'a Treaty that continue Nisga'a Aboriginal rights in that portion of the Nass Area, and the validity and applicability of Nisga'a laws therein. (BCCA at para 46)

The Gitanyow, however, emphasised that it had restricted its claim to relief against only the province and Canada and thus the trial court would not need to engage with the interpretation or validity of the Nisga'a treaty. The Court of Appeal evidently accepted that contention noting that:

Those provisions, considered within the context of the Treaty as a whole, do not provide a general right to the Nisga'a to receive notice of and participate in a proceeding as a party simply because its rights or interests could be affected by that proceeding, specifically the declaration as to Aboriginal title and other s. 35 rights. The Nisga'a, British Columbia and Canada could have negotiated such a term but did not do so. Instead, the treaty right is expressly limited to the categories enumerated in s. 41.

Accordingly, the judge was correct in concluding that the Gitanyow's Fourth FANOC did not directly raise any issues regarding the interpretation or validity of the Nisga'a Treaty or the validity or applicability of any Nisga'a laws in its claim. Further, the amended pleadings do not directly invite the court to make determinations about the Nisga'a Treaty or Nisga'a law. As such, the judge properly found that the Gitanyow was not directly raising any issues that engage the Party-Confering Provisions at this time: RFJ at para. 86. (BCCA at paras 47 & 48)

Consequently, and subject to possible further amendments to the pleadings, "it is only when the Gitanyow establishes its s. 35 rights in the underlying 'judicial proceeding' that the Dispute Resolution provisions would 'become operative'." (BCCA at para 52)

In sum, both Justice Stephens and the Court of Appeal concluded that the Nisga'a Nation's application to be joined as a party was premature. But equally, both recognized that it was possible that Nisga'a participation rights might be triggered as the litigation unfolded, depending in part on the positions taken by the defendants (BC and Canada). It was this

concern that led Justice Stephens to order and direct:

...no less than 60 days before the trial of this action, or such further date as may be ordered by this Court, the parties are ordered and directed to schedule and appear at a judicial case management conference to address the topic of the issuance of any statutory notice to the Nisga'a under s. 20 of the *Nisga'a Final Agreement Act*, SC 2000, c.7 and s. 8 of the *BC Nisga'a Final Agreement Act*, *RSBC 1999, c. 2*, the timing of any such notices and for direction from the Court as to the Nisga'a's participatory rights at the trial of this action as a statutory party (the "**Judicial Management Conference**"); (BCSC at para 93, emphasis in original)

Recognizing the heightened degree of deference owed to the decisions of a case management judge, the Court of Appeal concluded that Justice Stephens had not erred in making this order.

#### **Lex Generalis: The Rules of Court**

In addition to relying on the Nisga'a treaty provisions, the Nisga'a Nation also sought party status on the basis of the general law, specifically two provisions of the Rules of Court: Rule 6-2(7)(b) and (c) (Supreme Court Civil Rules, *BC Reg 168/2009*). Rule 6-2(7)(b) provides that the court has the discretion to add a party if that person ought to have been joined as a party, or if that person's participation is necessary to effectually adjudicate matters in the proceeding. Rule 6-2(7)(c) gives the court the discretion to add a party if there is a question or issue between the parties that is related to connected to the proceeding and that "it would be just and convenient to determine as between the person and that party." Justice Stephens refused to add the Nisga'a Nation under either paragraph and the Court of Appeal declined to interfere with that discretionary decision.

Once again, the Court of Appeal emphasised that discretionary decisions of a case management judge are entitled to deference and confirmed that it would not interfere unless the judge misdirected themselves, erred in law or principle, failed to give sufficient weight to relevant considerations, or if the result is so plainly wrong on the facts as to result in an injustice. That was not the case here. Both courts

were clearly influenced by an earlier joinder decision of the Court of Appeal in an aboriginal title matter in *Kwikwetlem First Nation v British Columbia (Attorney General)*, *2021 BCCA 311 (CanLII)*. (*KFN*). In that case British Columbia was attempting to have Canada joined as a party defendant (i.e., the decision did not deal with overlapping territories). The case management judge in *KFN* rejected the application and the Court of Appeal, in a decision (as here in *Malii*) also authored by Justice Abrioux, declined to interfere.

In establishing the context for the decision in *KFN*, Justice Abrioux emphasised the length and complexity of Aboriginal title cases which is "self-evidently a challenge for ensuring access to justice for Indigenous litigants and for serving the public interest in having Aboriginal rights claims determined on their merits." (*KFN* at para 28) The *KFN* court also advised that "courts can, and must, approach pleadings in s. 35(1) claims flexibly, with due regard to proportionality, access to justice and reconciliation." (*KFN* at para 36) As with the present case, the *KFN* decision also acknowledged that a plaintiff in a title case is free (and perhaps should be encouraged) to narrow its claims (through FANOC) in the interests of reducing complexity. Thus, in *KFN* the plaintiff had evidently gone through such an exercise itself in deciding not to join Canada at the outset and the Court of Appeal concluded that it would not interfere with "the judge's decision to permit the *KFN* to choose the manner in which it seeks to advance its claims, and in particular not to include Canada as a defendant." (*KFN* at para 25, emphasis added) In this case too, the Court of Appeal was convinced that the Gitanyow had narrowed the issues before the court in an appropriate way and that it was not necessary to accord the Nisga'a Nation party status across the entire spectrum of the Gitanyow's claim. At the same time, the orders of the case management judge (confirmed by the Court of Appeal) offer the Nisga'a Nation the assurance that if the litigation raises questions as to the interpretation or validity of the Nisga'a treaty the Nisga'a Nation's right to make submissions as a party in relation to those matters will be respected.

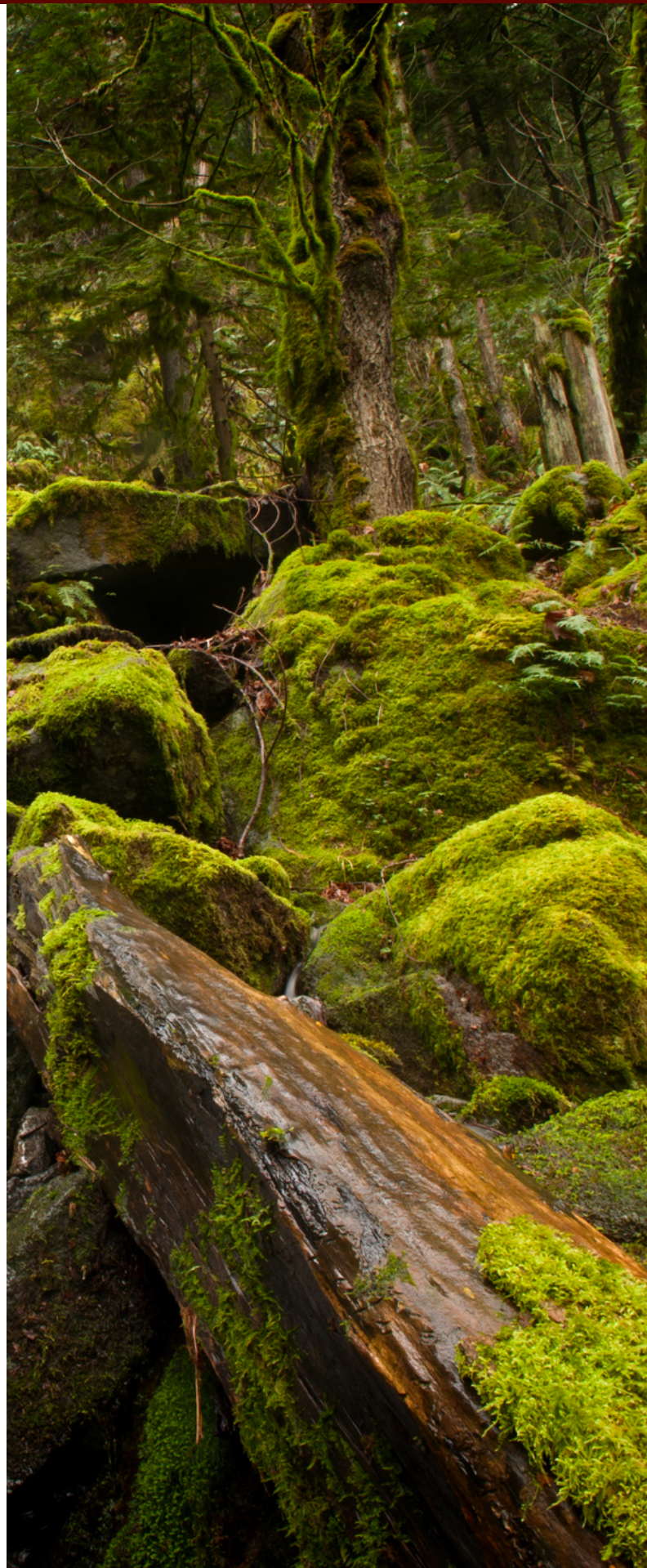
## Conclusion

Indigenous title litigation is always complex, time-consuming and expensive, and all of those factors lead to access to justice issues. The interests of third parties, whether those parties are fee simple title holders, the holder of Crown resource rights, or other Indigenous Nations, further complicates matters. This is not surprising. After all, when we are dealing with property and title issues, we are dealing with *in rem* rights and claims that bind the whole world. Modern treaties attempt to strike a balance between the interests of treaty parties and the interests of those who are not parties to the negotiated treaty. This is a case about how to interpret those balancing provisions. And in my view, the Court has struck an appropriate balance that protects the interests of the “first to negotiate” (the Nisga’a) while at the same respecting the right of neighbouring Nations to pursue their litigation interests against the Crown in a way that meets their needs and strategies. ♦

*Disclaimer: The commentary on recent developments in the law does not constitute legal advice. We make no claims or promises about the accuracy, completeness, or adequacy of the information contained in or linked to or from these pages.*

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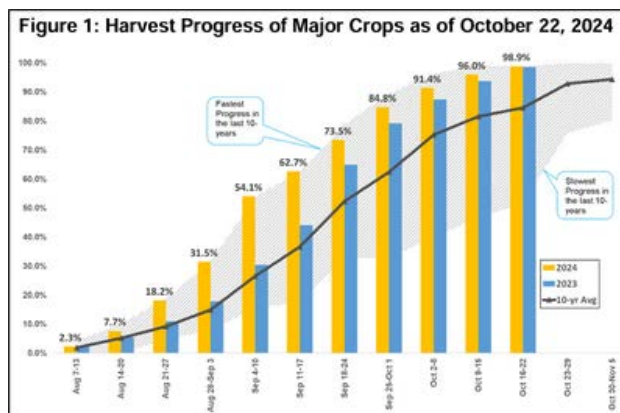
*Nigel Bankes is a retired professor of property law, Indigenous law, natural resources law, energy law, oil and gas law and international environmental law. Amongst many professional accolades, Nigel has served as the chair of the Canadian Arctic Resources Committee, as Chair and long-time Board member of Calgary Legal Guidance, as a member of the Steering Committee of the Province of Alberta's Regulatory Framework Assessment on Carbon Capture and Storage (CCS) as a member of the Water Initiatives Advisory Panel of the Columbia Basin Trust and as a director of the Alberta Law Reform Institute.*



# 2024 ALBERTA CROP PRODUCTION

Trevor Sheehan and Darren Clarke of TELFORD LAND & VALUATION INC., Calgary.

Harvest in the Province of Alberta was virtually complete in all regions by the end of October and will most likely be complete by the time this article is published. Favourable weather in August and September allowed harvest to proceed at a record pace as illustrated below:



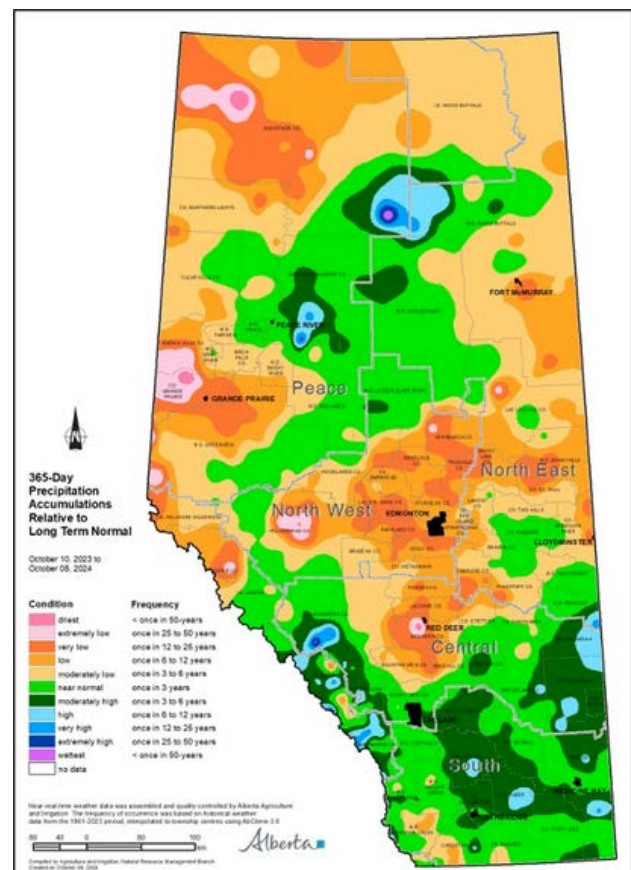
In regard to crop yields, 2024 was slightly below the 5- and 10-year average production rates for the Province. Southern Alberta and the Peace region were the best producers at 12.4% and 5.6% above the 5-year average respectively. Northwest Alberta was near normal production levels while Northeast and Central Alberta had below average production with -10.6% and -16.4% below the 5-year average. Estimated dryland yields for each of the areas is indicated in the chart below:

**Table 2: Regional Dryland Yield Estimations as of October 22, 2024**

|                     | Estimated Dryland Yields (bushels/acre) and Indexes for Major Crops |         |        |        |       |         |
|---------------------|---------------------------------------------------------------------|---------|--------|--------|-------|---------|
|                     | South                                                               | Central | N East | N West | Peace | Alberta |
| Spring Wheat        | 39.5                                                                | 45.1    | 44.1   | 50.8   | 48.6  | 44.7    |
| Barley              | 53.3                                                                | 52.6    | 62.3   | 69.0   | 59.1  | 57.2    |
| Oats                | 48.8                                                                | 57.9    | 70.2   | 79.4   | 61.6  | 67.9    |
| Canola              | 27.1                                                                | 29.9    | 35.0   | 38.6   | 35.1  | 33.3    |
| Dry Peas            | 34.3                                                                | 34.4    | 34.7   | 36.5   | 38.4  | 35.3    |
| 5-year Yield Index  | 112.4                                                               | 83.6    | 89.4   | 102.8  | 105.6 | 97.1    |
| 10-year Yield Index | 101.2                                                               | 82.0    | 88.6   | 93.9   | 104.1 | 92.8    |

Source: AGI/AFSC Crop Reporting Survey

Precipitation accumulations in 2024 were near normal to high in the south region of the province particularly as you move west to east. The central region around Red Deer experienced a dry summer and fall, which contributed to reduced crop yields and depletion of soil moisture levels down to low conditions to end the 2024 crop year. The northern region of the province saw localized areas of normal moisture levels with mainly low precipitation levels in the Edmonton area. The Peace region finished the growing season with low moisture conditions around the Grande Prairie area with normal levels around Peace River, as illustrated below:



Pasture conditions improved over previous years especially in southern Alberta with the return of normal precipitation levels this summer. Pasture lands in the central and norther regions are mainly fair to poor due to dry conditions and producers will be counting on a return to normal moisture levels this winter and next summer to restock watering holes and ground water conditions. Pastures in the Peace region are still mainly in good condition even with low moisture levels in the western portion for 2024. Pasture conditions for the regions of Alberta are identified in the table below:

| Region     | Pasture Condition |      |      |           |
|------------|-------------------|------|------|-----------|
|            | Poor              | Fair | Good | Excellent |
| South      | 12%               | 37%  | 50%  | 1%        |
| Central    | 23%               | 55%  | 13%  | 2%        |
| North East | 20%               | 65%  | 15%  | -         |
| North West | 28%               | 54%  | 18%  | -         |
| Peace      | 6%                | 39%  | 51%  | 4%        |

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

*Darren Clarke, PSL, DAR, DAC*

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# SPOTLIGHT ON: LANDMEN IN MEDIA



Billy Bob Thorton as Tommy Norris in season 1, episode 3 of Landman streaming on Paramount+. Emerson Miller/Paramount+

## CALEP Board of Directors

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As many of you already know, our profession has been the topic of conversation with Taylor Sheridan's newest TV series "Landman". While CALEP is not affiliated with or endorsing the show, the main character and premise are closely tied to our profession and industry we represent. CALEP's affiliate association, the American Association of Professional Landmen ("AAPL"), assembled a media preparedness task force to develop a comprehensive plan for the show's launch and its ripple effects. From social media strategies to responding to industry-related questions, AAPL is providing information and facts for anything landwork related. A new AAPL podcast called Landman Now has also been launched in response to the series. Weekly Landman recap episodes will address ethical issues that the series presents as well as decipher what's common to the profession and what's far-fetched.

As AAPL, CALEP, and its members know, the energy industry faces ongoing challenges in the public eye. However, the attention Landman is garnering could be a chance for us all to reshape the narrative, spotlighting the vital work landmen do and their critical role in energy development, from oil and gas to renewable energy projects. As members of CALEP, we encourage you to remain engaged and take this opportunity to share accurate information about our profession, to uphold the high standards we are known for.

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# MOVING MOUNTAINS

## *A New Era for CALEP and Land Professionals*

Sandra Dixon, CALEP Board President

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As some of you were unable to attend this year's CALEP conference and hear me speak, I wanted to take a moment to reach out with an update on where our journey is taking us. I believe it's important for everyone to stay informed about the direction we're heading, and I hope this message provides some clarity and insight into our path forward.

As I continue the journey and role of CALEP President for 2024-2025, it's a true honour to stand before you—my fellow Land and Energy Professionals, industry experts, mentors, and development leads. Together, we are truly moving mountains. Our accomplishments over the years are a testament to our collective effort, and that's what CALEP is all about. This is who we are, and I'm proud to be part of this remarkable community.

The past few years have been a period of transformation for our association. We've been working through what I like to call our "work-in-progress" phase, and let's face it, we're still very much in that phase. But that's okay because evolution is necessary for us to stay relevant. Some of our

changes, such as our name change, have been embraced by many members, while others have sparked more mixed reactions. Change is never easy, right? It's a bit like making that New Year's resolution to eat healthier—sounds great in theory, but we all know how it goes. But change is essential. Our foundational roots remain strong, just as CALEP's original mission still stands. However, as members of this association, we are being called to bigger and better things. The world is waking up to the vast potential of CALEP members, and it's an exciting time to be part of this transformation.

Historically, our expertise has been most closely tied to the fossil fuel industry, but as the world transitions to cleaner energy sources and new technologies, the demand for land professionals is expanding into emerging sectors. Whether it's solar, wind, hydropower, geothermal, biomass, bioenergy, nuclear energy, power plants, carbon capture, hydrogen, or even telecommunications and transportation, our expertise is needed everywhere. Our reach is growing, and I couldn't be more excited

about the doors that are opening for us. “We’re kind of a big deal now,” I said during my speech, and I want you all to take a moment to appreciate how far we’ve come. Congratulations to each and every one of you—give yourselves a round of applause!

But with growth comes challenges. One of the key challenges I want to highlight is the demographic shift we’re seeing across Canada. According to a recent Statistics Canada report, people aged 65 and older now make up 18.9% of the population. For the first time in history, there are more people 65 and older than those under 18. This demographic shift signals an impending worker shortage that will affect many sectors, including land management. We need to start preparing for this and address it head-on.

I’m proud to say that the CALEP Board has been proactive in tackling this challenge. We’ve developed a comprehensive strategy to ensure that new talent enters our profession. As part of that effort, we’re launching a series of initiatives aimed at raising awareness of the Land and Energy professions and encouraging new entrants into our industry to consider joining our ranks. We are confident that next year, we’ll see a surge in interest, and we’re ready to welcome them into the field. The future is bright, and we’re prepared to help new talent succeed.

However, attracting new professionals to our field is only part of the equation. We also need to focus on education and professional development. It’s disheartening to see the decline of some of the institutions that once provided the training and resources that were vital to our industry. New professionals need access to high-quality education and mentorship to thrive, and we must do our part to ensure that they receive the support they need. At the Board level, we’re working on strategies to fill this gap and make sure that new entrants are equipped with the skills they need to succeed in the evolving landscape of land management.

Another important issue that I want to address is preserving our influence within the industry. As traditional energy models are upended by new technologies and sustainability becomes an ever-greater priority, CALEP’s role in shaping policy and regulatory frameworks is more important than ever.

We’ve already begun to make our voices heard. For example, we’ve been invited to provide feedback to the Alberta Premier’s office on critical issues such as oil and gas liability management and land agent licensing. Our expertise is valued, and the Premier’s office is counting on us to help shape the future of the industry.

As the energy sector continues to evolve, we must remain engaged and proactive in shaping the regulatory landscape. This is how we will continue to influence the future of land management and ensure that our industry remains strong and sustainable.

It is also critical, and I want to further encourage all of you to reconnect. While virtual meetings have become the norm, there’s no substitute for face-to-face interaction. I challenge you to step out of your comfort zone. Meet someone new, strike up a conversation, and deepen your relationships with fellow members. We’ve spent too much time behind screens, and it’s time to truly connect. I also encourage you to get more involved in the Association itself. There are so many ways to contribute—whether it’s joining a committee, writing an article, or even running for a position on the Board. Your involvement is crucial, and I would love for you to be a part of this exciting journey as we move CALEP forward. There is reward in participation.

As we move forward into this new chapter for CALEP, I am confident that we will continue to rise to the occasion, overcome challenges, and take advantage of the many opportunities that lie ahead. The conference theme of “Moving Mountains” is more than just a catchy phrase—it’s a reflection of what we’ve already accomplished and what we will continue to achieve together.

Thank you for your dedication, your vision, and your commitment to shaping the future of our Association. Let’s keep moving mountains! ♦



# SURFACE RIGHTS & REGULATORY REVIEW



## *Land and Property Rights Tribunal Decisions & Related Cases*

Jayce Eadie, Tim Myers and Daron Naffin, Bennett Jones LLP

### **Alberta Environmental Appeals Board Dismisses Appeal of Issuance of Reclamation Certificate**

**Decision:** *Bodnaruk v Inspector, Alberta Environment and Sustainable Resource Development*, 2024 ABEAB 19

**Date:** July 26, 2024

The Alberta Environmental Appeals Board (EAB) issued its decision on the landowner's appeal of Alberta Environment and Sustainable Resource Development's (AESRD)[1] issuance of a reclamation certificate in connection with a well and associated facilities located near Oyen, Alberta. The EAB concluded that the subject site met the applicable reclamation criteria and that the reclamation certificate was properly issued. The EAB recommended that the Minister of Environment and Protected Areas confirm the issuance of the reclamation certificate.

Section 137 of the *Environmental Protection and Enhancement Act (EPEA)* requires the operator of a wellsite to reclaim the land and obtain a reclamation certificate in respect of the reclamation. An inspector may issue a reclamation certificate under section 138 of the *EPEA* and, where it does so, must provide a copy of the reclamation certificate to the owner of the land under section 145 of the *EPEA*. Section 91(1)(i) of the *EPEA* provides a right of appeal to the EAB to anyone who receives a copy of a reclamation certificate issued by an inspector.

The subject reclamation certificate was issued by AESRD in September 2013, prior to the transfer of authority for upstream oil and gas reclamation certificates to the Alberta Energy Regulator (AER) pursuant to the *Responsible Energy Development Act*. Accordingly, the EAB had jurisdiction to hear the landowner's subsequent appeal of the issuance of the reclamation certificate. This case is unique in that the vast majority of appeals relating to reclamation certificates are now heard by the AER.

The appellant landowner's notice of appeal indicated there were soil concerns, patches of gravel, and areas that did not grow crops. The landowner requested that the EAB require the operator to return the land to its original state. The EAB held a mediation meeting between the landowner and the operator which resulted in the operator conducting additional site work, including topsoil replacement, over several years to address the landowner's concerns. Following the completion of the additional work and multiple site assessments, the landowner continued to have concerns relating to vegetation growth on certain areas within the site.

On appeal, the EAB considered whether the reclamation certificate was properly issued. The applicable reclamation criteria were the *2010 Reclamation Criteria for Wellsites and Associated Facilities for Cultivated Lands, Alberta Environment, 2010* (Criteria). The parties agreed that contamination was not an issue on the site. The operator submitted that the site was reclaimed in accordance with the Criteria. The EAB noted that the regulatory framework does not require the return of land to its original condition; rather, the acceptable condition of land based on assessments of landscape, soils, and vegetation is set out in the Criteria.

The EAB found that the operator's assessments adequately characterized the reclaimed status of the site and that the site met the criteria. The EAB emphasized that it required the appellant to provide "systematically and scientifically gathered evidence that address the Criteria", rather than anecdotal evidence, to support assertions that reclamation completed by the operator did not meet the Criteria. The EAB concluded that the landowner failed to

provide sufficient evidence to show that the site did not meet the Criteria and found that the reclamation certificate was properly issued.

[1] Alberta Environment and Sustainable Resource Development is now called Alberta Environment and Protected Areas.

### **Tribunal Determines Annual Compensation based on Comparables**

**Decision:** *Vasseur v Pine Cliff Energy Ltd*, 2024 ABLPRT 478

**Decision Date:** September 11, 2024

This decision concerned a review of annual compensation payable under a surface lease agreement with respect to lands located near Three Hills, Alberta pursuant to section 27 of the *Surface Rights Act (SRA)*. The subject site consists of a flowing gas wellsite of 3.67 acres and an access road of 3.33 acres for a total leased area of 7.00 acres. The applicant landowners sought \$9,170.00 in annual compensation, comprised of \$780.00 for loss of use, \$3,460.00 for adverse effect, and \$250.00 for the use of the road for third party access, plus costs. The operator submitted that annual compensation should be \$7,050.00, comprised of \$650.00 per acre for loss of use and \$2,500.00 for adverse effect, based on a pattern of dealings, and no award should be made for third party access. The Tribunal awarded \$7,050.00 in annual compensation, comprised of \$650.00 per acre for loss of use and \$2,500.00 for adverse effect, with no additional compensation awarded for third party use of the access road. Costs pertaining to the application were dealt with in a separate decision, which is discussed below.

The Tribunal found that there was no apparent pattern of dealings established on the evidence. Therefore, the Tribunal proceeded to consider sections 25(1)(c) and 25(1)(d) of the *SRA*, concerning loss of use of the land granted and any adverse effect on the remaining lands, respectively.

Regarding loss of use, the applicants submitted that loss of use should be \$780.00 per acre and the operator submitted that amount should be \$619.00 per acre. The Tribunal identified issues with the

applicants' reliance on 2022-2023 pricing based on purchaser settlement sheets, and noted it was unclear how the applicants had derived 2024 prices. Accordingly, the Tribunal was not persuaded that the applicants' loss of use figure was supported by the evidence. The Tribunal found that the operator's comparable agreements, which included two of the applicants' comparables, provided a reasonable basis to conclude that the rate of \$650.00 per acre for loss of use was appropriate.

Regarding adverse effect, which includes the nuisance, inconvenience, and noise arising from the operations, the applicants submitted that \$3,460.00 was appropriate while the operator argued that amount should be \$1,469.69. The Tribunal found that the comparable agreements submitted by the operator provided a basis to conclude that the rate of \$2,500.00 for adverse effect was appropriate. In particular, it found the agreements were comparable in terms of rights granted, type of land, proximity, date, and the nature of the parties, and all of the agreements were under ten acres.

The Tribunal dismissed the applicants' claim for \$250.00 for third party access to another wellsite on the basis that the wellsite was abandoned and in the process of being reclaimed, there was little activity on the access road attributable to the third-party wellsite, and the applicants were already being compensated for any adverse effect attributable to both the third-party wellsite and the subject site.

#### **Tribunal Clarifies Permissible Cost Claims**

**Decision:** *Vasseur v Pine Cliff Energy Ltd*, 2024 ABLPRT 479

**Decision Date:** September 11, 2024

This decision, related to the section 27 application discussed above, concerned the landowners' claim for costs under section 39 of the *SRA*. The landowners sought costs from the operator in the total amount of \$21,253.00 inclusive of disbursements and GST. The Tribunal awarded reduced costs totaling \$15,311.29.

Under section 39 of the *SRA*, costs of and incidental to proceedings under the *SRA* may be awarded at the discretion of the Tribunal. Rule 31 of the *Surface Rights Board Rules (Rules)* states that the Tribunal may award

costs if the Tribunal finds they are directly and necessarily related to proceedings under the *SRA*.

The Tribunal emphasized that the fundamental principle in determining costs is that a party is entitled to be reimbursed for any reasonable expenditures. Those costs are to be reasonably incurred for and incidental to the proceedings before the Tribunal and necessary to the determination of fair compensation payable for that which gave rise to the proceedings.

With respect to the landowners' claimed costs, the Tribunal noted that it typically awards mileage based on the government rate of \$0.505/km and rejected the landowners' proposed rate of \$0.80/km. The Tribunal rejected the landowners' claimed hourly rate of \$150/hr on the basis that the Tribunal typically awards a set rate for landowners of \$50/hr, even where the landowner brings an increased level of expertise to their role. The Tribunal also disallowed a portion of the landowners' claimed costs in relation to certain reports provided by the landowners, noting they were not of significant assistance as they lacked specificity and failed to "paint a clear picture" of the appropriate entitlement for loss of use and adverse effect for the subject lands.

The Tribunal accepted most of the landowners' legal fees on the basis that their legal counsel contributed positively to the landowners' case and their hourly rate was reasonable given their level of experience.

The Tribunal ordered a \$5,941.71 reduction in the landowners' costs claim, for a total costs award of \$15,311.29 including GST.

#### **Tribunal Provides Guidance on Pattern of Dealings**

**Decision:** *Wallan Farms Ltd v Cenovus Energy Ltd*, 2024 ABLPRT 254

**Decision Date:** June 10, 2024

This decision concerned 10 applications under section 27 of the *SRA* for reviews of annual compensation payable under surface lease agreements with respect to lands located on a grazing lease near Beaverlodge, Alberta. In its decision, the Tribunal provided guidance on whether a pattern of dealings is established.

The Tribunal confirmed its practice to base compensation on a pattern of dealings when one is established, unless there are cogent reasons for doing otherwise. This approach is based on the underlying premise that the marketplace is usually the best determinant of appropriate rates of compensation. A distinct and discernible pattern must exist for similar sites based on data contemporary to the effective date of the annual compensation review.

Both parties provided evidence demonstrating that the operator was, by far, the most dominant operator within the townships adjacent to the subject township. Two issues regarding pattern of dealings evidence arose: (1) whether one operator can establish a pattern of dealings; and (2) what is the appropriate geographic area that results in agreements that are "in a district" or in "proximity" to the subject leases?

On the first issue, the Tribunal found that agreements involving only one operator are not sufficient to demonstrate a pattern of dealings where there are other operators active in the area with similar types of agreements involving similar types of sites. In cases involving linear takings (such as pipeline or power line rights of way), other agreements associated with the project can establish a pattern of dealings provided the landowners are different and the agreements are comparable in terms of the rights granted, the type of land and proximity, date, acreage, and the nature of the parties. In the case at bar, the Tribunal found that there are a number of operators in the general area with agreements on grazing leases that provided a more robust set of data.

On the second issue, the Tribunal noted that comparable agreements closer to a subject property are preferred to those further from the subject property. Where necessary, however, the geographic area may be expanded to identify sufficient agreements provided they are comparable. In the case at bar, the Tribunal found that agreements with respect to lands located on other grazing leases west of Grande Prairie were acceptable, despite the geographic distance from the subject township (some being tens of kilometres away), because they were similar with regard to land use, productivity, nature of the agreements, and topography.

Notwithstanding that the Tribunal found there was no pattern of dealings, it determined annual global compensation rates based on comparable agreements that were substantially aligned with the operator's compensation formula as follows: (i) \$2,250.00 for single well sites less than 13.27 acres in size; (ii) \$3,800.00 for a single well site over 13.27 acres in size; (iii) \$2,500.00 for two-well sites; and (iv) \$5,000.00 for a 27.00-acre access road only site. ♦

*Jayce Eadie has a general energy regulatory practice, with experience in regulatory approvals and project applications, utilities and rates, environmental, and surface rights matters.*

*Tim Myers is an experienced energy regulatory lawyer specializing in the areas of project development, utilities and rates, and environmental, Indigenous and surface rights law.*

*Daron Naffin acts for oil and gas companies, municipalities, and utilities with a practice that is directed towards energy, environmental and regulatory law, municipal planning as well as expropriation and surface rights.*

*Bennett Jones LLP is an internationally recognized Canadian law firm. Bennett Jones has grown from a small 10-lawyer firm in the prairies to one of Canada's largest law firms.*



**Bennett Jones**

# ALBERTA'S ENERGY FUTURE

## *Insights from Dave Yager at the FAM Meeting*

James Thurston, CALEP Director - Field Acquisition and Management

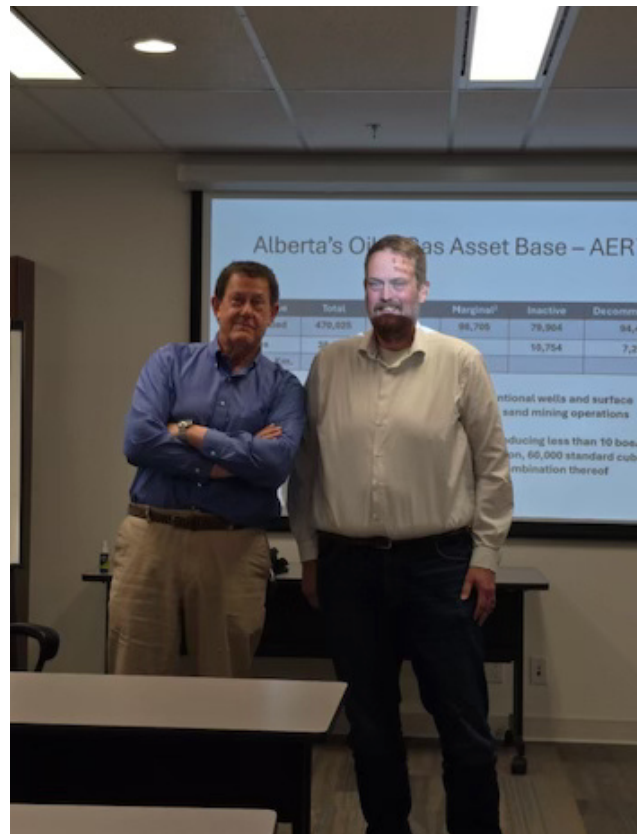
At the recent FAM meeting, we had the privilege of hearing from Dave Yager, who spoke on behalf of Danielle Smith. His presentation on Alberta's Mature Asset Strategy was both informative and engaging, shedding light on the future of our energy sector.

Dave expertly outlined the challenges and opportunities associated with managing Alberta's aging oil and gas assets. His insights into the economic shifts within the industry, particularly the impact of the collapse in natural gas prices since 2008, were particularly enlightening. He highlighted the uneven financial landscape among oil and gas developers, emphasizing the need for smart policies to address these disparities.

The geographical shift in oil and gas production from central and southern Alberta to the northeast and northwest regions was another key point of discussion. This transition has brought new opportunities and challenges, and Dave's analysis provided a clear understanding of how the industry is evolving.

We are currently collaborating with Dave Yager's team to develop solutions and ensure a bright future for Alberta's energy sector. His call for a multi-stakeholder engagement process, involving government departments, industry players, municipal governments, and technical experts, underscores the importance of a collaborative approach.

Dave Yager's presentation was just the beginning. There is much work to be done, and we look forward to more updates and insights as we navigate the future of our energy sector together. Stay tuned for further developments on Alberta's Mature Asset Strategy. ♦



# 2024 CALEP CONFERENCE

Marah Graham, 2024 CALEP Conference Chair

We can now add the CALEP 2024 Conference in Banff, Alberta to our resumes.

To those of you who attended, I'd like to thank you for covering the great distance over rivers, prairies and mountains to come to Banff. If you listened to what I said while I had a captive audience (at what I like to think of as my fake wedding) you will know that I took the role of chair exclusively to bring us out to Banff.

Our association has only been to a conference in Banff twice - in 1962 and 1992. So, I sure hope you enjoyed it, because if we keep this exact pattern up, we will be back in 2058. Paul Negenman will be 107 years old.

The conference theme of Moving Mountains was truly embodied by the program and those in attendance. This theme is indicative of our journey as Land professionals in Canada.

The Leaders in Land panel was exactly what we had hoped it would be - hilarious and inspiring. And it also ensured that most audience members got out of bed to attend, probably because two-thirds of the members have, at one point in their career, reported to someone on that panel.

The Banff Springs venue was extraordinary, and the management and staff also took care of us very well. And even though there was tofu served at lunch, a first for a CALEP event, the attendees still had positive feedback.

I'd like to thank those companies who were supportive of our volunteer hours, as the chairs and their subcommittees represented over 20 corporations who allowed us to donate our most valuable resource (next to energy resources that is), our time.



I'd also like to thank all of you in attendance and all the companies that you represent. It is fantastic to see a flood of support from our corporate community. And of course, a huge thank you to the sponsors. I have spent many years in CALEP roles, and I personally hope you realize how valuable you are in keeping this organization going.

Thank you to the Conference Committee; each a wonderful representative in the land community and each has one fantastic trait in common, great hair: Dave Balderston – Program, Steve Brisebois – Finance, Colin Page – Activities, Doug Perry – Operations, Ashlee Rowland – Marketing, Spryng Kubicek – Executive Director, CALEP.

And after the conclusion of the truly educational and inspiring Conference program, we can go back to learning what a “Landman” does from watching Paramount Plus. (Watch out for those exploding pumpjacks fellow “Landmen”!) ♦

***All photos courtesy of [Jared Heynen Photography](#).***



# DIRECTOR UPDATES



I am lucky to be in my fourth year serving on CALEP's Board of Directors. It is a fulfilling role with a fantastic group of people.

Starting with the Board during the pandemic was challenging and unique. Membership was on the decline, members were unsure where their jobs, companies, and our industry were headed. Events ceased and in-person education wasn't an option. This uncertainty led to apathy among members, understandably. Now, things have changed. I just returned from the 2024 Conference in Banff, where attendees seemed energized, engaged and eager to lead the Land profession into the future.

My current role as Secretary has limited formal responsibilities, however it allows me to get involved and support various initiatives or whichever portfolios I can lend a hand in. One of these initiatives is understanding what our members need to support their involvement in Indigenous Relations. We recently sent a survey to members, and our next step is to create a think tank on what type of committee, events, or educational opportunities the association can provide.

I have continued to work with our Communications Director and Negotiator Committee on the Negotiator publication, next steps for our social media, and we are underway with an (overdue) website overhaul.

Our name change in 2022 created the foundation for a new image, brand and messaging of the value CALEP provides to members, and the value our members provide to industry. We've recognized there is work still to be done in this area. In early 2025 we will undertake a "clean up" exercise; ensuring we will undertake a "clean up" exercise; ensuring we have organized processes, updated documents, roll-out of proposed Bylaw updates, and office organization. With our website revamp we will look at our branding and marketing materials, ways to increase visibility and promote CALEP. The association, the Board and our members do great work, and we need to make that known to industry and the greater public.

Education has been a hot topic for the Board. Both in terms of the lack of Land courses offered through our educational institution partners, and what we as CALEP can and should provide. We recognize education needs to be more accessible and relevant for members and those interested in the Land profession.

Something I didn't realize before joining the Board is how much CALEP, the Board and the many volunteers contribute to industry initiatives, advocacy and education. Our current Directors are active participants, wanting to put in the work to make an impact and preserve the strength of the profession and our association. I'm honoured to be a part of it and look forward to what we can achieve together. ♦

*Dayna Morgan, CALEP Board Secretary*

As your Membership Chair, I am excited to share some key updates and initiatives we've been working on to enhance the CALEP experience for our valued members. Our focus remains steadfast on ensuring the value of membership aligns with the professional growth and networking opportunities you seek in the land and energy sectors.

### **Streamlining the Application Process**

One of the most significant changes we are looking at, is updating the membership application process. We are looking to simplify the process to make it faster and more user-friendly for both new and renewing members. By introducing digital forms and streamlining approval workflows, we aim to make joining CALEP or renewing your membership as seamless as possible. This change supports our goal of welcoming a broader base of professionals while reducing administrative hurdles.

### **Enhancing Networking Opportunities**

Networking is one of the most valued aspects of CALEP membership, and we are committed to creating more opportunities for meaningful connections. Our events continue to evolve to meet your needs. Whether it's lunch and learns, industry panels, or casual mixers, these events are designed to foster collaboration and knowledge-sharing among professionals. Stay tuned for announcements about upcoming events—we look forward to seeing you there!

### **Updating our Bylaws**

As a forward-looking organization, it is crucial that our governance reflects the needs of our members and the changing landscape of our industry. The Board has undertaken a review of our bylaws to ensure they are up to date and aligned with best practices. Board has undertaken a review of our bylaws to ensure they are up to date and aligned with best practices. These updates will not only strengthen our operational framework but also enhance our ability to serve you effectively. Details on the proposed changes will be shared soon, and we encourage you to participate in the review and approval process.

### **Your Voice Matters**

At CALEP, member input is vital. We thrive on your



suggestions and feedback, which help us shape the initiatives and improvements that matter most to you. Whether you have ideas for new member benefits, recommendations for event themes, or questions about any of the changes mentioned above, we are always here to listen.

### **Looking Ahead**

As we move forward, our commitment to delivering value to every member remains steadfast. By focusing on education, networking, and governance, we are building a stronger and more connected CALEP community. Thank you for being a part of this journey and for your continued engagement. Together, we will ensure CALEP remains the leading organization for land and energy professionals in Canada.

If you're not yet a member or know someone who could benefit from joining, there's never been a better time to get involved. Let's grow this community and continue driving excellence in our industry.

On behalf of the Board, thank you for your support and dedication to CALEP. I look forward to connecting with many of you at our upcoming events and hearing your thoughts on how we can make membership even more rewarding. ♦

*Ryan Gugyelka, CALEP Director - Membership*

### **An Update from CALEP External Relations**

As the board member of CALEP overseeing External Relations, I'm excited to share what I've been working

on over the past two years and my perspective on the industry's direction. This role has afforded me a unique view of the evolving challenges and opportunities within our sector, where daily tasks as the Vice President of Mineral Land at Millennium Land Ltd. has frequently intersected with broader issues affecting us all—outdated regulatory frameworks, the rise of new energy projects, and complex questions around asset use and compliance.

### **Bridging Regulatory Gaps for a Modernized Industry**

One of the most consistent challenges I've observed is the industry's ongoing struggle with outdated regulations. These issues come up across multiple clients and projects, particularly where new technologies and resources are introduced. For instance, I frequently encounter cases where pre-existing Petroleum and Natural Gas (P&NG) lease agreements intersect with new pore space agreements. A common question from our members and clients alike is whether a PNG holder is permitted to dispose into formations when a new pore space agreement excludes rights to that formation. The answer, of course, involves intricate compliance considerations, often requiring adherence to multiple directives (e.g., Directives 051, 056, 065, 071) and the Oil and Gas Conservation Act. Each case serves as a reminder of the pressing need to bridge these gaps between regulatory intent and industry innovation.

To facilitate solutions, CALEP has been committed to creating more robust networks between regulators, industry experts, and our membership. Over the past two years, we've made significant strides in establishing communication channels that allow for

these types of regulatory challenges to be addressed directly. CALEP members now have improved access to the insights needed for navigating complex lease conditions and ensuring compliance in an increasingly regulated landscape.

### **Standardizing Agreements for Emerging Resources**

Another area where I'm witnessing rapid change—and actively working to bring about standards—is in new energy resource development, specifically lithium and helium. These resources offer promising growth, but they come with a unique set of challenges that demand a modernized approach to its agreements. Over the past year, I've been overseeing a committee with the initiative to develop and standardize these types of resources into a lease agreement, something that can be applied across the industry to streamline negotiations and secure rights more efficiently. As it stands, these resources do not have a standard lease template, which often results in lengthy negotiations and inconsistencies across different operators and projects that may complicate timelines.

This committee is working closely with government officials and industry leaders to draft a lithium/helium agreement that aligns with both operational needs and regulatory requirements. The mandate is to establish for Industry and Freehold owners a model mineral lease form that can be used as a basis for negotiation of non-oil and gas mineral leases where resource recovery is conducted through a wellbore.

### **Looking Ahead**

As I reflect on these past two years, I'm proud of the strides we've made in equipping our membership with the knowledge and tools to stay ahead of industry trends. Whether it's discussing these regulatory gaps, making progress in standardizing agreements for new resources, or fostering collaboration across emerging projects, the role of CALEP will remain a critical one in uniting professionals from diverse sectors under a shared vision of growth and sustainability.

Our work is ongoing, and I encourage our membership to continue reaching out with questions and insights as we face this exciting future together. I look forward to being a part of this journey, and what CALEP will accomplish in the years to come. ♦

*Adam Stewart, CALEP Director - External Relations*



# SPOTLIGHT SERIES

*Lance Petersen, Board Member of  
Woodcote Oil & Gas Inc.*

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

I'm a small-town guy from Southern Alberta, where the values of honour and integrity hold great significance for me. I married my high school sweetheart, and we have two wonderful kids who have both pursued careers in oil and gas. I've dedicated my life to the land profession, which I stumbled into somewhat by chance. I found it intriguing and immediately knew it was the right path for me. After a fulfilling career, I've taken some time off for health reasons. Now, I spend my days outdoors, enjoying family time and traveling. Currently, I'm planning an 800 km hike across France and Spain.

***Looking back, has there been any mentors or role models throughout your career that you still recognize as helping with your journey?***

There have been many influential people in my life, but my good friend Gregg Scott has played a pivotal role in both my professional and personal growth. He was the one who offered me my first job in this industry during a challenging time—I even volunteered to work for free since there were no job openings. I think he took pity on me and decided to give me a chance, and that changed everything for me. I will always be grateful to him.

***You've had quite an amazing career. You were hired at Scott Land & Lease straight out of Mount Royal as a Junior Landman 35 years ago, then went in-house to several successful E&P and Trust Companies as VP Land, working on deals all around the world, even starting your own successful junior companies, one which you're still on the board for. Not bad for a kid from Claresholm. That's a long list of accomplishments, looking back, what can you say stands out the most for you and why?***



Wow, reflecting on my career, there have been so many high points. What stands out most to me are the people—I've built deep, lasting relationships as a landman. Another memorable moment was presenting to the TAQA Board and their executives with a stunning view of the Gulf in Abu Dhabi; it felt surreal. I've had the opportunity to travel to various parts of the world and meet incredible individuals—what an experience it's been. If this were the end of my career, I would feel fulfilled, as it has truly been an amazing journey.

***What do you think are the key skills necessary for success in Land?***

It's crucial to grasp all aspects of our business and how they interact with corporate decisions, particularly regarding the integral role of our land deals. While effective external and internal negotiations and communications are essential, it's the ability to solve problems creatively that truly distinguishes a great land professional.

***What is the most rewarding aspect of this career?***

I never intended to start my own company, but in 2017, I teamed up with two others to do just that. The most rewarding aspect has been witnessing the positive impact we've had on creating jobs, both in Calgary and in the field. It's incredibly fulfilling to see something come to life.

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

The biggest challenge is managing the external narrative surrounding our industry and the ongoing regulatory burdens imposed by the government. Additionally, land roles are evolving, so it's crucial to stay agile and continually adapt to these changes.

***How do you stay up to date on new developments in Land?***

It's essential for young land professionals to become members of CALEP, of which I am a long term member. I also keep up with The Negotiator and other business news, and I regularly discuss industry developments with my peers. To be an exceptional landman, it's

important to understand the various aspects of our business and how they are evolving.

***What advice do you have for someone who wants to get into the land industry?***

My advice for anyone starting out is that while education is important, building connections is essential for entering the land profession and can truly set you apart from other candidates. Network with as many people as possible across all areas of our industry, as you never know when an opportunity might present itself. Stay enthusiastic and be open to starting in any role that could lead to a transition into land when the time is right. ♦



*Peter Kayode, Student Member*

***Tell us about yourself, where are you from and where are you presently going to school? Tell us how the program is going and what you enjoy about it.***

My name is Peter Kayode, and I'm originally from Nigeria. Currently, I'm pursuing a degree in Energy Asset Management at the Southern Alberta Institute of Technology (SAIT), where my academic journey has been incredibly rewarding. Through my studies, I've gained valuable insights into the energy industry and have had the chance to apply my knowledge in a practical setting at Synergy Land. My commitment and discipline are evident in my strong academic performance.

Beyond academics, I'm dedicated to fitness, which helps me stay focused and resilient. I'm also passionate about community involvement, with experience organizing and volunteering for various educational and industry events, including the SAIT Open House, the World Petroleum Congress, and the Global Energy Show.

Currently, I serve on the board of the Student Petroleum Society as the Director of External Affairs, allowing me to support and contribute to the energy community on campus.

***What got you interested in Land?***

To be completely honest, my interest in Land came about naturally—it felt like the best fit for me. From my very first day in the EAMG-250 (Pre-Acquisition and Acquisition) course during my first semester at SAIT, I found myself drawn to the complexity and impact of Land work. My curiosity grew with every class, and I knew that a career in Land was where I wanted to head.

Now that I've had the chance to work in Land, my resolve hasn't wavered. I genuinely enjoy the work, especially the balance between regulatory processes, community interactions, and strategic management. It's been incredibly rewarding, and I'm excited to continue building my expertise in this field.

***What areas of Land interest you the most?***

Mineral Land currently takes it all for me. I'm drawn to the strategic and regulatory challenges of managing subsurface rights, which directly impact resource access and environmental responsibility.

The process of acquiring mineral rights is especially engaging, as each agreement can shape the success of a project. I'm motivated by how Mineral Land professionals can promote responsible resource management, ensuring projects are both economically sound and environmentally aligned. It's an area where I feel I can make a real impact.

***What types of long-term goals do you have within Land?***

My long-term goal in Land is to become a skilled landman and drive meaningful change within the industry. I aim to set precedents that shape the industry by identifying key areas where I can contribute to progress, establish high standards, and make a lasting impact. My focus is on influencing the field in ways that will positively affect its future for years to come. Growing within the industry while shaping its future in a constructive way is what motivates me most, and I am dedicated to advancing my career while contributing to the evolution of land management practices.

***You're currently working as a Summer Student in Land at Synergy Land. Many of us started out as summer students and met some amazing people. Tell us about your first few days; the excitement of navigating the office, meeting the team and your end of day reflections?***

Yes, I started as a summer student in the Mineral Land division at Synergy Land and have now taken on a part-time role in the same division while continuing my studies.

My first few days were incredibly exciting, filled with new experiences and the energy of navigating a professional workspace. Highlights included getting familiar with the office flow, meeting the team, and learning the ropes. Everyone was approachable and generous with their insights, making it easy to settle in and feel part of the group. Each day left me inspired by the collaborative culture and eager to contribute.

Reflecting on those days, I realized how valuable it was to learn by observing and asking questions in such an open environment.

***What motivated you to join CALEP?***

I joined CALEP to connect with others who share an interest in land and to learn from experienced professionals in the field. The opportunity to be part of a community dedicated to continuous learning and industry best practices was a major draw, especially as I look toward a long-term career in Land.

***What excites you most about being part of CALEP's community?***

I'm excited to join CALEP's community because of its commitment to professional excellence, continuous education, and fostering collaboration within the petroleum land management field. CALEP's focus on maintaining high standards of conduct, offering valuable resources, and promoting fellowship among members aligns perfectly with my goal of becoming a skilled landman. I look forward to engaging with like-minded professionals, contributing through volunteering and committee work, and taking advantage of CALEP's educational opportunities to enhance my knowledge in mineral land management. This community will provide invaluable support as I grow in my career and contribute to the success of the industry.

***Are there any mentors or role models who inspired your interest in Land?***

Absolutely. I've been fortunate to have mentors in the energy industry who are deeply passionate about their work. Kevin Koopman and Rima Tober have played a key role in my success in my current role, showing me how unique and impactful a career in Land can be. Their guidance has greatly influenced my goals and approach to the field.

Academically, Richard Chisholm and Curt Hamrell have been invaluable in supporting my success at school, and are always ready to offer help when needed. I've come to understand that to thrive, you must be willing to learn from those who've already traveled the path you're pursuing.



# SAVE THE DATE



## Annual General Meeting & Merit Awards

**APRIL 10, 2025**

**Calgary Petroleum Club - Devonian Room**

**4:30pm - 9:00pm**

We are excited to once again host our annual Merit Awards. A time to recognize those individuals and companies among us who have made a significant contribution to the lifeblood of CALEP. This is bestowed on both individuals and corporations.

**Nominations will open on January 2nd, 2025.** The Merit Awards Committee is asking all CALEP members to think about their peers, colleagues, and co-workers who have dedicated their time and energy to CALEP committees and causes, and to put your thoughts into action by nominating those worthy individuals and contributors.

The CALEP Board of Directors is pleased to announce Pandell as our General Meetings Title Sponsor.

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# ON THE HORIZON

## *Upcoming Industry Events*

**Future Fuels Forum** January 13-14 / Prince George, BC  
**BC Natural Resources Forum** January 14-16 / Prince George, BC  
**NCC Clean Energy Summit** February 13-14 / Calgary, AB  
**Nation2Nation Women's Gathering** April 24-25 / Kitimat BC  
**2025 Indigenous Prosperity Forum** May 6-8 / Gatineau, QC  
**Global Energy Show** June 10-12 / Calgary, AB  
**Indigenous Resource Opportunities Conference** June 18-20 / Nanaimo BC  
**First Nation Major Project Coalition Conference** – April 27-29 / Toronto, ON

## *Upcoming CALEP Events*

**Poker Night** / January 22, 2025 / Calgary Petroleum Club - McMurray Room  
**Annual General Meeting & Merit Awards** / April 10, 2025 / Calgary Petroleum Club - Devonian Room

## GET SMART

| COURSE                                                            | DATE         | TIME             | LOCATION                |
|-------------------------------------------------------------------|--------------|------------------|-------------------------|
| Groundwater Lunch & Learn                                         | DEC 4, 2024  | 12:00pm - 1:30pm | CALEP Office            |
| Negotiation Excellence                                            | JAN 13, 2025 | 9:00am - 1:30pm  | CALEP Office            |
| Overcoming the Five Dysfunctions of a Team                        | FEB 25, 2025 | 9:00am - 4:00pm  | CALEP Office            |
| Project Management Foundations                                    | APR 10, 2025 | 9:00am - 4:30pm  | CALEP Office            |
| The Surveyor's Toolkit: Methods, Technology & Regulatory Insights | MAY 27, 2024 | 8:00am - 4:00pm  | DeWinton Community Hall |

**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](#).

# CALL FOR NOMINATIONS

## *2025-2027 CALEP Board of Directors*

Each year, CALEP conducts elections, and the continued success of our Association is driven by the dedication and engagement of our committed volunteers. These individuals are integral in delivering exceptional value to our members and enhancing our presence within both the industry and the community. If you are passionate about making a meaningful impact, contributing to the Association's growth, expanding your professional network, and sharing your innovative ideas, we encourage you to consider nominating yourself for a leadership role.

Serving on the CALEP Board provides a unique opportunity to shape the future of our Association. Whether your interests lie in ensuring our organization's financial sustainability (which is currently strong), advancing state-of-the-art educational and professional development initiatives, creating valuable networking events, or strengthening our community, regulatory, and Indigenous consultation efforts, your involvement can make a significant difference. As the land industry becomes more complex, it is critical that we, as an Association, rise to this challenge.

If you are considering making a meaningful contribution to CALEP in the upcoming year, or if you know someone who brings innovative ideas and a clear vision for the future, we encourage you to reach out to any member of this year's Nominating Committee:

**Janice Redmond**, Chair

**Shaun Williams**, Member & Past President

**Crystal Pomedli**, Nominating Committee

Additional election information can be found [here](#).



### ***Timing & Logistics:***

- The deadline for candidacy application is **Friday, March 9, 2025**.
- The CALEP Election will be held on **Thursday, April 10, 2025**.
- Voting will be done electronically, with an emailed link provided to members through Election Buddy by **Tuesday, April 1st, 2025**.
- If you do not receive the voting link, please contact [Spryng Kubicek](#) at the CALEP office.

# 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

**Jon Atcheson** Revolve Energy Inc. to  
Evolve Surface Strategies Inc.

**Nathaniel Barker** TC Energy to  
South Bow

**Jasone Blazevic** Ovintiv Canada ULC to  
Independent

**John Bushell** Cross Field Land Consulting & Services Ltd. to  
MDB Land and Environment

**Lindy Couillard** 360 Energy Liability Management to  
Skye Asset Retirement

**Thomas Crosley** Canadian Natural Resources Limited to  
Baytex Energy Ltd.

**Shawn Deschamps** Capital Land Group Ltd. to  
Lynx Energy ULC

**Amber Elie** Longshore Resources Ltd. to  
PrairieSky Royalty Ltd.

**Lee Hardy** Indigenous Engagement Solutions to  
E3 Lithium Ltd.

**Mark Horne** Crew Energy Inc. to  
Canadian Natural Resources Limited

**Michael Hulme** AiM Land Services Ltd. to  
Kiwetinohek Energy Corp.

**Terri Johnson-Trent** NTE Energy Canada Ltd. to  
ORLEN Upstream Canada Ltd.

**Nolan Johnston** TAQA North Ltd. to  
Independent

**Lori-Ann Lerner** ORLEN Upstream Canada Ltd. to  
Canadian Natural Resources Limited

**Anne Macedo** ATCO Energy Solutions to  
Suncor Energy Services Inc.

**Lindsay McGill (Toohey)** Millennium Land Ltd. to  
Tundra Oil and Gas Limited

**Wade McLeod** PETRONAS Energy Canada Ltd. to  
Independent

**Mark Miller**

Crew Energy Inc. to  
Independent

**David Morrison**

PETRONAS Energy Canada Ltd. to  
ConocoPhillips Canada

**Deric Orton**

Grizzly Resources Ltd. to  
5 OH Enterprises Ltd.

**Donna Rector**

PETRONAS Energy Canada Ltd. to  
Independent

**Melissa Sadal**

Ovintiv Canada ULC to  
Independent

**Danielle Schapansky**

Perpetual Energy Inc. to  
Rubellite Energy Corp.

**Lori Stern**

Blackspur Oil Corp. to  
PointBreak Resources Inc.

**Astrid Vanderstarre**

Crew Energy Inc. to  
Independent

**Craig Westman**

Action Land & Environmental Services Ltd. to  
Evolve Surface Strategies Inc.

## NEW MEMBERS

### ACTIVE NEW MEMBERS

**Jennifer Coleman, Canadian Natural Resources Limited**

Sponsors:

Corey McWhinnie

Aryn Sendall

Brett Suchan

### ASSOCIATE MEMBERS

**Corey Wick, CORE Geomatics**

Sponsors:

Wade McLeod

Donald MacLeod

James Thurston

### INTERIM Members

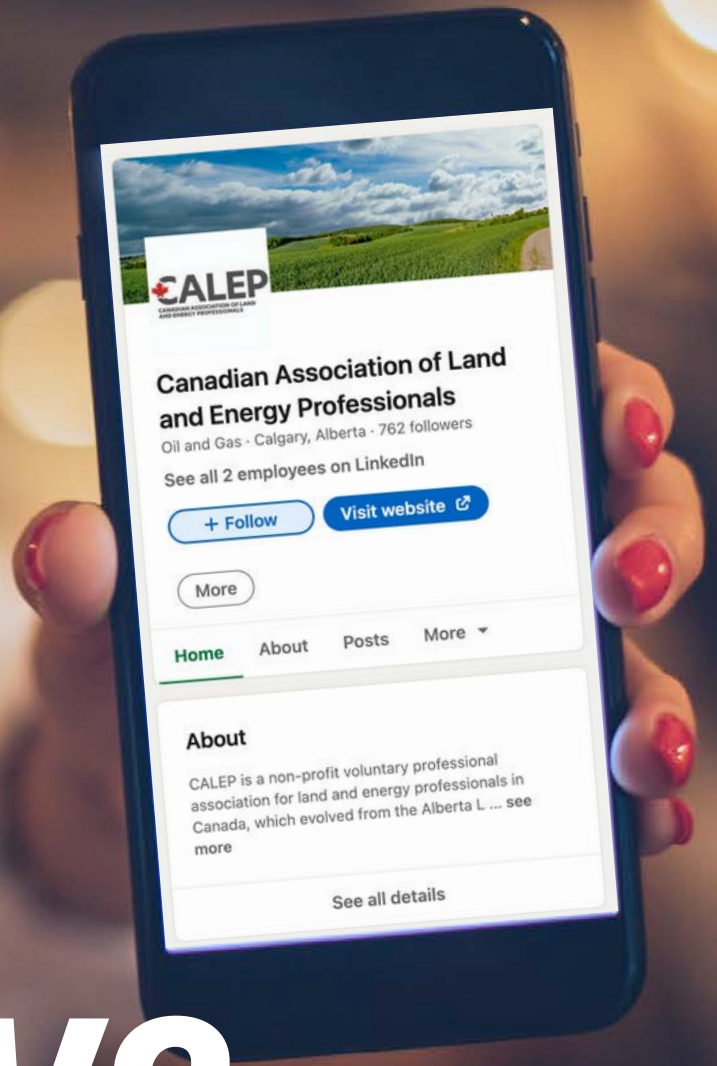
**MacKenna Morin, Cenovus Energy Inc.**

**Joelle Peterson, Ovintiv Canada ULC**

### STUDENT Member

**Peter Kayode**

# DID YOU KNOW?



We have a **new** LinkedIn page!

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



**FOLLOW US!**