

October 7, 2004

To All Members of the Conservative Caucus

Dear Sir or Madam,

My name is Else Pedersen and I am the President of the Freehold Petroleum & Natural Gas Owners Association (“FHOA” or “the Freehold Owners Association”). I am a retired businesswoman and long-time member of the Conservative Party. My family owns freehold oil and gas rights in the Ponoka area.

Like most of the other 50,000 individuals who own freehold mineral rights in southern Alberta, I am not knowledgeable in oil and gas technical or legal matters. Like most of these other ‘freehold owners’ or ‘freeholders’, I have many questions and concerns about my mineral rights. Like most, I need help to understand the complex issues which confront me, and I find myself at a tremendous disadvantage in my dealings with the energy companies that lease my minerals.

The Freehold Owners Association is a not-for-profit, volunteer organization dedicated to providing education and information to individual owners of freehold oil and gas rights, researching issues of concern to freeholders, and promoting fair treatment for all freeholders by acting as their common voice. FHOA was organized in late 1999. I joined in 2000 and became a director in 2001. In 2002, I was elected President of FHOA. Since that time, I have spoken to several thousand freehold owners at mineral rights information seminars sponsored by FHOA throughout Alberta. All share my concerns.

These concerns are principally related to the form of lease agreement used in leasing freehold mineral rights in Alberta and the lack of effective checks and balances on the actions of energy companies operating under these lease agreements.

Would you feel comfortable leasing your house to a tenant using a multi-page document drafted by the tenant’s lawyer and filled with complex clauses you didn’t understand? For more than ½ a century, energy companies have prescribed the form of lease agreement under which freehold mineral owners lease their mineral rights. These lease agreements are not written in plain English and most freeholders do not understand their terms and conditions. Many freehold owners assume that some Government department or regulatory agency acting on their behalf has approved what energy company leasing agents refer to as the “standard” freehold lease agreement presented for signature. This is not the case.

‘Standard’ freehold lease agreements provide energy companies with the right to:

- hold a freeholder's mineral rights indefinitely for speculative purposes with token payments of \$1 per acre per year and shut-in wells which are not, and never will be, capable of production in paying quantities;
- hold all of a freeholder's subsurface rights to the centre of the earth with production from a shallow zone;
- pay royalties to the freeholder based on what the energy company considers to be the "current market value" of the leased substances produced and sold; and
- deduct from the freeholder's royalty what the energy company considers to be the "reasonable" costs of making the leased substances market ready; and
- unitize or combine the freeholder's mineral rights with other mineral rights under a unit agreement without the freeholder's consent and then pay royalties to the freeholder based on the terms of that agreement.

Energy companies are granted none of these rights by the Province of Alberta in Crown leases.

Would you lease your house to a tenant if you knew that under the lease agreement the tenant could refuse to pay the agreed upon rent or could damage your property and you couldn't break the lease even if you went to court? The prominent Calgary lawyer primarily responsible for the standard form of freehold lease agreement used in Alberta for the past 15 years has proudly proclaimed that the lease is judicially "bulletproof" - no matter what the energy company does or doesn't do, a court cannot strike it down and the lease will remain in place until the company decides it no longer wants it. The 'bulletproofing' of the standard form of freehold lease used in Alberta creates a situation where unscrupulous energy companies can breach the terms of freehold lease agreements with impunity. Do you think this is fair?

Most energy companies are good corporate citizens who do not intentionally use their superior technical, legal and financial position to exploit vulnerable freeholders. But some do, and leading energy industry associations have done nothing over the past ½ century to curb the improper practices of some of their member companies, to encourage the use of fairer freehold lease forms, or to establish a code of conduct for lease agents in their dealings with freehold owners. The Alberta Energy and Utilities Board says that it has no authority to become involved in disputes between freeholders and the energy companies that lease their mineral rights. So does Alberta Energy.

The Freehold Owners Association was organized, in part, to address the plight of freehold owners – the oppressive nature of freehold lease agreements, the unscrupulous practices of some energy companies in their dealings with freeholders, and the absence of any effective recourse for freeholders impacted by these practices.

To date, FHOA's volunteers have researched issues of concern to freeholders including the terms and conditions in freehold leases, leasing strategies, multiple title ownership, coal bed methane (CBM) development, and mineral tax issues. We have built a comprehensive web site ([www.fhoa.ca](http://www.fhoa.ca)), published 8 detailed newsletters, held 14 mineral rights information seminars, provided technical information to hundreds of freeholders, and answered thousand of telephone and e-mail queries from freehold owners. We have also provided representatives to sit on a number of Government and regulatory task forces and studies, and have raised funds from

members to intervene in a complex ownership issue before the Supreme Court of Canada. Twenty-five hundred freeholders, representing more than 7000 individual freehold owners, have joined FHOA to date. Clearly, FHOA is filling a critical need.

I am proud of FHOA's accomplishments, but volunteers can only do so much and much more needs to be done. FHOA is currently struggling with the issue of coal bed methane (CBM) leasing and how to address the many queries we receive from freeholders arising from the energy industry's focus on acquiring lands for CBM development. We have partially completed a 'freeholder-friendly' form of lease agreement designed to address both freehold owner concerns and the fact that the remaining conventional reserves and unconventional resources of southern Alberta can most efficiently be exploited under freehold lease agreements similar to Crown leases with variable royalty rates effectively tied to well productivity. FHOA needs to do further research to complete this lease. Concurrently, the acceptance of the Freehold Owners Association as a legitimate voice for freeholders has placed demands on the limited number of FHOA's freehold owner-volunteers who have technical or legal expertise which cannot be sustained. FHOA needs supplemental funding to continue its good works. We are reluctant to raise our membership fees because many of our members are senior citizens living on fixed income and raising our fees would defeat the purpose of our association which is to make information and education available to everyone

No informed energy company executive, industry regulator or government official would deny that freehold owners are vulnerable to exploitation. One of the roles of government is to support vulnerable members of society. Some MLA's have told us that freehold leasing is 'hard core business' and that the Alberta Government does not get involved in business. Hard core business involves two parties sitting down and negotiating all aspects of their business relationship. For 50 years, the 'negotiation' of a typical freehold lease has consisted of the freeholder filling in several blank spaces in a multi-page document. The substance of the business relationship is set forth in thousands of convoluted words drafted by oil and gas industry lawyers for purposes of fully protecting their clients' interests. The substance of the business relationship is not open for negotiation. Quite apart from the 'hard core business' issue, **last year the Government of Alberta collected almost \$100,000,000 in tax on the production of oil and gas from individually-owned freehold mineral rights. Every dollar of Alberta freehold mineral tax is a dollar taken from the pockets of individual freehold owners because the tax reduces the royalty rate which energy companies would otherwise be prepared to pay to freeholders.** I pay taxes to the town of Ponoka and receive valuable services in return. Freeholders receive nothing from the Alberta Government in return for the mineral tax they directly and indirectly pay. Is this fair or reasonable?

In late 2003, I and three other members of FHOA's fourteen-member board of directors met with Energy Minister Murray Smith to discuss the plight of Alberta freehold owners and FHOA's need for supplemental funding in the amount of \$700,000 annually. Minister Smith encouraged FHOA to submit a formal proposal seeking more modest funding. A meeting with the Minister was arranged for September 17, 2004 to present the formal proposal which FHOA had prepared. Minister Smith cancelled the meeting after he announced he would not be running for re-election and asked us to submit our proposal to the Manager of Tenure for Alberta Energy. We have done so.

Our proposal seeks a commitment from the Alberta Government to provide \$200,000 of annual funding support to FHOA over a four-year period commencing January 1, 2005. The monies will be used for research and to establish the permanent administrative infrastructure needed to improve communication with freehold owners and build our membership to the point of self-sufficiency. FHOA is effectively asking for the return of 2/1000<sup>th</sup> of the tax annually collected from individually-owned freehold mineral rights so that we can continue with our efforts to achieve greater fairness for the owners of these rights. Our detailed funding proposal has been posted to our web site ([www.fhoa.ca](http://www.fhoa.ca)) under 'Latest News' should you wish to review it. We have also posted this letter to members of the Conservative caucus.

I believe that a healthy and profitable energy industry is essential to all Albertans and that an active sustainable association representing freehold owners will help facilitate just that. Since inception, FHOA has sought to present the plight of freehold owners in a balanced, non-confrontational, professional manner and to avoid the inflammatory rhetoric which other groups engage in with considerably less justification. FHOA wants to work with all other stakeholders to foster the fair and efficient development of southern Alberta's remaining reserves and resources.

It has surprised and dismayed me that our prior requests for funding support from the Wild Rose Foundation and the Community Initiatives Program have been rejected. It concerns me that Energy Minister Smith is retiring because the Minister had an understanding of the legitimate concerns of freeholders and appeared willing to support FHOA's efforts to address these concerns. It concerns me even more that the Manager of Tenure for Alberta Energy has advised in prior discussions that no mechanism currently exists within the Alberta Energy to provide FHOA with the funding we need

I have addressed this letter to the members of the Conservative caucus because most of the 50,000 individuals who own freehold mineral rights in Alberta are the descendants of Alberta's original settlers and continue to have ties to rural Alberta. Freehold owners represent the core constituency of the Conservative Party in this Province. **FHOA represents a large group of vulnerable Albertans with serious, legitimate and long-standing concerns which need to be addressed. We are not interested in hearing about why the modest amount of funding FHOA seeks cannot be provided, we are interested in hearing about how it will be.**

Can we count on your support?

Should you wish to respond by e-mail ([fhoa@shaw.ca](mailto:fhoa@shaw.ca)) we would be pleased to post your response on our web site.

Yours truly,

Else Pedersen,  
President