

When a bankrupt oil and gas producer's creditors came knocking, this B.C. farm got caught in the crossfire

By [Ainslie Cruickshank](#) Star Vancouver
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VANCOUVER—Grain farmers in northeastern B.C. say the province has left them to fend for themselves in a dispute that's seen creditors of a bankrupt oil and gas producer incidentally hold sections of their land hostage.

After Terra Energy went under in 2016, two of its creditors registered liens against the lease Terra had with farmers Rod and Kim Strasky. That lease allowed Terra to access the Strasky's property to produce gas from two wells.



Grain farmer Rod Strasky speaks about an orphan gas well site on his land in the Farmington area outside Fort St. John, B.C. The pipeline the well used to feed has been purchased by another oil and gas company. (JESSE WINTER / STAR VANCOUVER)

The liens serve as a type of security, putting a hold on the lease until Terra's debts are repaid or the matter is otherwise settled. Now, the liens also appear on Strasky's title report, which shows who owns the property and any competing interests or claims to it.

While Terra's gas wells are now the responsibility of the BC Oil and Gas Commission, which is working to clean up the sites, the province hasn't taken any responsibility for the issue of the liens.

"I don't think the legislation protects landowners strongly enough," said Rod Strasky.

"We've been lucky enough that we haven't had to renegotiate a mortgage or use this land as a collateral against a loan."

If they had, the liens would be a major problem.

Two banks told the Straskys they wouldn't approve a loan secured against those sections of land while the liens were in place, he told the Star.

Neither would the banks loan any potential buyers' money to purchase the affected land if the family were to sell.

"I'm sure we're not the only people out there with this problem," Strasky said.

Banks are often conservative lenders and may not want to get involved in a case where liens appear on the title — even if those liens don't affect the property itself, said Michael Drouillard, a Vancouver real-estate lawyer with the firm Harper Grey LLP.

For Strasky, the "most frustrating part" is that they've had no help from the province to address the situation.

The Straskys have asked the Surface Rights Board, the BC Oil and Gas Commission and the minister of energy, mines and petroleum resources for help with the mounting costs of hiring a lawyer to try to get the liens removed from their land title. They were denied by all three.

"There are no mechanisms under provincial legislation to reimburse legal fees related to removing these charges from your property," the acting assistant deputy minister of the ministry's oil and gas division wrote in an email to the Straskys last month.

Strasky says there should be.

In an emailed statement, a spokesperson for the Ministry of Energy, Mines and Petroleum Resources said officials are looking for a way to prevent liens from being imposed on landowners who have oil and gas wells on their property.

But as it stands now, the only way to have the liens removed from the Straskys' title is if the creditors who registered the liens in the first place remove them — or with a court order, said Carlos MacDonald, the director of land titles with the Land Title and Survey Authority of British Columbia.

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“There isn’t a lot of discretion for the registrar to say, for example, ‘Well, this person’s getting a raw deal, let’s just discard this judgment or lien on their behalf,’” he said.

“I can certainly empathize with the farmer who just doesn’t want to put out that kind of money to have something cleared off their title that wasn’t their problem to begin with.”

The case illustrates the importance of getting legal advice before signing any commercial leases, said Drouillard.

Commercial leases aren’t regulated the way residential tenancy agreements are, he explained. It’s all about the words in the lease itself.

But the province could include protections for landowners in oil and gas legislation, he said.

“I could really see the value for folks like this,” he said of the Straskys’ situation.

“The reason why it’s good in residential leases is because there’s historically a power imbalance between residential landlords and residential tenants,” he said.

When it comes to oil and gas companies and farmers, “there could be a power imbalance there that needs to be fixed,” Drouillard said.

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