

VEGREVILLE



## A Level Field

*Journalist Tadzio Richards reports on a court case that may address the imbalance of power between energy companies and landowners—and which represents the culmination of one citizen's stand against injustice.*

On the way to Vegreville, I drove past fields dotted with gas wells poking up from the dirt. Along the road into town were dealerships—farm machinery, gas field service huts—and the town's famous Pysanka, a 31-foot-tall metal Easter egg, glittering in the sunlight. Built in 1974 to celebrate the centenary of the RCMP, who brought "peace and security" to the area, and to commemorate the Ukrainian heritage of the area's first European settlers, the egg is gilded with bronze, silver and gold motifs representing rich harvests, faith and eternity. According to a plaque near the parking lot, it symbolizes rural "harmony."

An hour later I was in a booth at Vito's Steak & Pizza House. "I have to do a little soul-searching tonight," said Ray Strom, sitting across from me. "If we lose, I don't know if I can finish destroying my family. We're nearly through our savings." He gripped his coffee with both hands, thick fingers wrapping tightly around the mug. In the morning, Strom would be in Provincial Court to hear the verdict on a charge of impersonating a licensed land agent. If found guilty, he'd be facing a fine of up to \$5,000 or six months in jail.

"Early on," he said, "the Crown offered me a \$500 fine, take it and walk away." He shook his head. "But it would have set precedent. I knew that if the government was going to take such a corrupt interpretation of the law on behalf of industry, I had to fight it." He rubbed the dark circles under his blue eyes, and took a sip from his coffee. "Now it's D-Day," he said. "I hope the courtroom will be full."

Nearly three months earlier, in January, more than 50 farmers and ranchers from across the province had crowded into the courtroom for Strom's two-day trial. There they heard that between October 2002 and November 2003 Strom had advised farmers in three separate negotiations with licensed land agents working for Exxon Mobil, EnCana and Aquila Networks. The land agents were seeking surface rights for gas well sites and a utility right-of-way on the farmers' lands. After the negotiations, Strom billed the companies for his services. That's what got him in trouble. Alberta's Land Agents Licensing Act says that only licensed land agents can accept fees for advising landowners in compensation talks for access to their land. Strom doesn't have a land agent licence.

During the trial, an intern land agent, Douglas MacKenzie, testified that to get a licence, an intern must complete at least 25 negotiations under the supervision of a licensed land agent. However, he added, "If you are saying you want to be a landowner representative, I don't think there is a company in Alberta that will take you on."

Lack of representation is part of what spurred Strom to become a landowner advocate. While farmers, ranchers and even weekend cottagers own the surface rights to their land, the province owns most of the subsurface rights. Energy companies that want to drill wells, lay pipeline or put up utility lines on private land simply apply to the Alberta Energy & Utilities Board, an agency that approves over 98 per cent of such applications. Once subsurface rights are procured, it's the job of land agents, often called landmen, to get landowners to sign their surface rights over to the company.

Of the approximately 1,600 land agents in Alberta, fewer than 10 work on behalf of farmers and ranchers. Cash-strapped landowners have to hire surface rights lawyers (there are only a handful in the province) or negotiate on their own. Most farmers and ranchers don't have the time or expertise to negotiate agreements that pay well while protecting soil and water. Further, as an Alberta government document "Surface Rights and the Land Agent" states, if an agreement can't be reached, a company "can access your property by way of a right of entry order or by expropriation."

"That's the Alberta Advantage," said Strom, leaning over the table at Vito's. "Industry and government have been taking advantage of landowners for generations. They're playing with people's lives."

The next morning, a television crew and national media crowded into the courtroom, along with farmers, surface rights groups and government bureaucrats. Ray Strom sat up front next to his wife and daughter, his broad frame straining at the shoulders of a black suit. Judge Peter Ayotte entered, white-bearded, glasses perched on the end of his nose, and read his decision. He outlined the details of the case, dismissed Strom's contention that the definition of "land agent" contravenes the Canadian Charter of Rights & Freedoms, and, some 40 minutes later, pronounced that "Mr. Strom is guilty as charged." However, he added, "as presently constituted, the Act creates an unbalanced playing field favouring the oil and gas industry... The Act has become bad legislation in need of revision." The judge fined Strom \$517.

Afterwards, at Albert's Family Restaurant, just down the street from the courthouse, I sat with Strom and two of the farmers he'd advised. "You see that?" said Strom. "The judge cut my throat and then blamed it on the government." One of the farmers, Robert Chalut, wore a large button touting Premier Ed Stelmach, the MLA for Fort Saskatchewan-Vegreville, overwhelmingly supported by rural voters in the last election. "You should take off that pin," said Strom. "If he ignores this, Stelmach's telling the people that put him in power that he's not on their side."

Strom looked down at the table. "I don't know if I'll appeal," he said. "I want to, for the principle of it, but going to court is so expensive."

We finished our coffees and left the restaurant. As I drove out of town, past the farm machinery and the gas field supplier, the giant egg glimmered beside the road, a symbol of peace and harmony growing smaller in the rear-view mirror.