

THE SURFACE RIGHTS BOARD OF MANITOBA

WINNIPEG, MANITOBA

Order No. 1/2004

File No. 01-04

IN THE MATTER OF:

THE SURFACE RIGHTS ACT C.C.S.M.c. S235

AND IN THE MATTER OF:

L.S.D. 8-1-9-28 W.P.M. in Manitoba

BETWEEN:



Applicant (Lessor)

- and -

AMERIC RESOURCES CORP.,

Respondent (Lessee)

**SURFACE LEASE ANNUAL
COMPENSATION PAYMENT ORDER**

Manitoba

)
) Order No. 01/2004
) The Surface Rights Board) File No. 01/04
) June 28, 2004

BEFORE: T.A. (Art) Cowan, Presiding Member
Dennis Cochrane, Deputy Presiding Member
Margaret Hodgson, Member
Claude Tolton, Member
Ivan Carey, Member

IN THE MATTER OF: *THE SURFACE RIGHTS ACT C.C.S.M.c. S235*

AND IN THE MATTER OF: L.S.D. 8-1-9-28 W.P.M. in Manitoba

BETWEEN: 
Applicant (Lessor)


- and -

AMERIC RESOURCES CORP.,
Respondent (Lessee)

SURFACE LEASE ANNUAL COMPENSATION PAYMENT ORDER

Upon hearing the applications of each of the parties, the evidence, and the submissions on the 14th day of June 2004, decision being reserved until today's date:

It is the Order of this Board That:

1. Americ Resources Corp. pay  the sum of \$9,154.75 being the cumulative annual surface lease compensation together with interest compounded annually for the years 1998, 1999, 2000, 2001, 2002, 2003 and 2004.
2. In addition to the aforementioned compensation, the Lessee, is to pay the Lessor, the sum of \$300.00 for costs incurred in preparing for and attending the Board Hearing on the 14th day of June 2004.
3. All the aforementioned amounts are to be paid on or before the 28th day of July, 2004 with the interest accrued at prime plus 2% after this date.
4. This Board Order is without prejudice to the rights of either party.

Dated this 28th day of June, 2004


Presiding Member

THE SURFACE RIGHTS BOARD OF MANITOBA

WINNIPEG, MANITOBA

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BETWEEN:



Applicant (Lessor)

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AMERIC RESOURCES CORP.,

Respondent (Lessee)



**REASONS FOR DECISION FOR SURFACE LEASE ANNUAL
COMPENSATION PAYMENT ORDER**

IN THE MATTER OF: *THE SURFACE RIGHTS ACT C.C.S.M.c. S235*

AND IN THE MATTER OF: L.S.D. 8-1-9-28 W.P.M. in Manitoba

BEFORE: T.A. (Art) Cowan, Presiding Member
Dennis Cochrane, Deputy Presiding Member
Margaret Hodgson, Member
Claude Tolton, Member
Ivan Carey, Member

DATE OF HEARING: June 14, 2004

DATE OF DECISION: June 28, 2004

BETWEEN: [REDACTED] Applicant (Lessor)

- and -

AMERIC RESOURCES CORP., Respondent (Lessee)

APPEARANCES: [REDACTED] for the Applicant (Lessor)

Allan Gervin, Senior Petroleum Inspector,
Manitoba Industry, Economic Development and Mines

AMERIC RESOURCES CORP., for the Respondent (Lessee) did not appear.

**REASONS FOR DECISION FOR SURFACE LEASE ANNUAL
COMPENSATION PAYMENT ORDER**

BACKGROUND:

The Lessor applied under subsection 21(1) of *The Surface Rights Act* claiming that the annual surface lease payments for the years 1998, 1999, 2000, 2001, 2002, 2003 and 2004 have not been paid.

ISSUES:

1. Is the Lessor entitled to receive the annual surface lease payments?
2. Is the Lessor entitled to interest?
3. Is the Lessor entitled to costs?

DECISION:

1. Pursuant to *The Surface Rights Act*, the Lessee (Americ Resources Corp.) must compensate the Lessor [REDACTED] in accordance with the Surface Lease Agreement duly executed between the two parties until such time as abandonment and rehabilitation procedures have been completed under *The Oil and Gas Act* as well as restoration of well sites under *The Surface Rights Act*. Therefore, the Lessee must pay the annual surface lease compensation in the amount of \$7,175.00 due to the Lessor. [Sec. 25(4)]
2. Pursuant to *The Surface Rights Act*, the Lessee (Americ Resources Corp.) must pay the Lessor [REDACTED] accrued interest compounded annually on annual surface lease compensation due to the Lessor since 1998. Total interest payable is \$1,979.75. [Sec. 25(4)]
3. The Lessee shall pay all of the Lessor's expenses incurred in preparing and presenting his claims herein providing same are reasonable.

REASONS:

Pursuant to subsection 25(2) of *The Surface Rights Act*, the Board inspected the site on June 14, 2004. From this inspection, the Board determined that there was oil producing equipment located on the site.

The Board then proceeded with the scheduled June 14, 2004 hearing.

Evidence as prepared by Kathryn Gompf, P.Eng., Petroleum Engineer, Manitoba Industry, Economic Development and Mines, Petroleum Branch was distributed at the hearing and read into the records by Mr. Allan Gervin (Sworn), Petroleum Inspector, Manitoba Industry, Economic Development and Mines, Petroleum Branch. The evidence marked as Exhibit No. 1.

This report was prepared at the request of The Surface Rights Board for the hearing between [REDACTED] and Americ Resources Corp., ("Americ") regarding surface lease payments for LSD 8-1-9-28 W.P.M.

Americ is the licensee of the well as follows:

<u>License No.</u>	<u>Well Name and Location</u>	<u>Well Status</u>
1951	Americ Daly 8-1-9-28 W.P.M.	Oil Producer

The Petroleum Branch approved the transfer of well licenses from Mead Petroleums and Farms Ltd., to Consolidated Golden Lion Resources Ltd. on March 19, 1993.

The Petroleum Branch further approved the well name change on June 25, 1998 to reflect the corporate name change from Consolidated Golden Lion Resources Ltd. to Americ Resources Corp.

On January 12, 2004 the Petroleum Branch was advised by Richard Silas that Americ Resources Corp. had been sold to Roland Virtual Business Systems. The Petroleum Branch advised Roland Virtual Business Systems of the regulatory requirements necessary to change well names and transfer well licenses by way of a May 19, 2004 letter. To date, the Petroleum Branch has received no response from Roland Virtual Business Systems.

L.S.D. 8-1-9-28 W.P.M. is an oil producer well which has been shut-in since December 1998. The Petroleum Branch was advised by Americ Resources Corp. that all of the company's wells in Manitoba would remain shut-in from January to June 1999. This well has never been returned to production. The Petroleum Branch also advised that there are outstanding corporate non-compliance issues.

Evidence provided by [REDACTED] (sworn) was distributed at the hearing and recorded as Exhibits 2(a) and (b).

- (a) Amendment to Surface Lease Agreement - Rental Review.
- (b) April 20, 1997 letter from Americ Resources Corp.

[REDACTED] provided a letter as evidence dated April 20, 1997 from Americ Resources Corp. for the 1997 surface lease rental payment in the amount of \$1025.00. No further payments have been received by [REDACTED] since 1997.

In accordance with the surface lease agreement, the annual compensation was to be paid in advance of each anniversary date of the lease.

<u>Annual Surface Lease Compensation</u>	<u>Due Date</u>
\$1025.00	April 25, 1998
\$1025.00	April 25, 1999
\$1025.00	April 25, 2000
\$1025.00	April 25, 2001
\$1025.00	April 25, 2002
\$1025.00	April 25, 2003
\$1025.00	April 25, 2004

The landowner's further requested the Board's consideration for payment of interest on the outstanding surface lease rentals for the years 1998, 1999, 2000, 2001, 2002, 2003 and 2004. The rate of interest was to be determined by the Board. (See attached Schedule "A")

Americ Resources Corp. did not appear to provide evidence at the hearing.

The Board is of the opinion that sufficient evidence was submitted which would allow them to make the decisions for which the Lessor had requested.

Therefore, all evidence considered, it is the Order of the Board that the cumulative annual surface lease compensation, together with interest compounded annually, be paid by the Lessee to the Lessor for L.S.D. 8-1-9-28 W.P.M. in the amount of \$9,154.75.

The Board is also of the opinion that the Lessor is entitled to reimbursement of costs incurred. Subsequently, the Board allows the Lessor the sum of \$300.00 for his costs in preparing for and attending the Board Hearing on June 14, 2004.

All of the above amounts shall be paid by the Lessee in full on or before July 28, 2004 with interest accrued at prime plus 2% after this date.

Dated this 28th day of June, 2004


 Presiding Member

Schedule "A"

Surface Rights Board
 Interest - Surface Lease Rental
 For the Period April 25, 1998 - July 28, 2004

	Apr 25 to Dec 31/98	Jan 1to Apr 24/99	Apr 25 to Dec 31/99	Jan 1to Apr 24/00	Apr 25 to Dec 31/00	Jan 1to Apr 24/01	Apr 25 to Dec 31/01	Jan 1to Apr 24/02	Apr 25 to Dec 31/02	Jan 1to Apr 24/03	Apr 25 to Dec 31/03	Jan 1to Apr 24/04	Apr 25 to Jul 28/04	Total Payable
AMOUNT	1,025.00	1,025.00	2,135.36	2,135.36	3,345.73	3,345.73	4,669.72	4,669.72	6,069.05	6,069.05	7,477.63	7,477.63	9,002.86	9,154.76
RATE	8.250%	8.500%	8.500%	9.000%	9.000%	8.875%	8.875%	6.125%	6.125%	6.750%	6.750%	6.500%	6.500%	
DAYS	251	114	251	115	251	114	251	114	251	114	251	115	95	
INTEREST	58.15	27.21	124.82	60.55	206.50	92.49	285.00	89.33	255.63	127.95	347.10	153.14	151.89	1,979.75

Rental: 7,175.00
 Interest: 1,979.75

Total Due: 9,154.75