

## **March 2016 Action Surface Rights Association Newsletter**

**From:** Action Surface Rights Association  
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Action Surface Rights Association is working on behalf of all landowners in southern Alberta. We work to provide you with information that you can use to improve your bargaining position relative to the energy companies (oil/gas Operators, windmill, pipeline and powerlines) that you are forced to deal with.

We maintain a website that contains information on the categories of “Heads” of compensation that you are entitled to when an energy company enters your land. This website also contains links to various Alberta Government agencies that you have access to for information and guidance on your dealings with energy companies. We are in the process of updating the website with a list of landowner advocates (lawyers and representatives) with an established track record of representing landowners in their dealings with Oil/gas Operators.

We hold Annual Meetings with expert speakers to give information on current issues regarding landowner rights. We also periodically publish a newsletter and email it to those on our email list. We maintain contact with our Politicians and Energy Regulators on your behalf. Some of our Directors sit on Land Agent oversight committees and Grazing Lease Association executives and also make presentations to other Provincial farm organizations regarding your concerns.

### **Oil/Gas surface lease compensation**

Perhaps one of our most significant efforts and achievements on your behalf has been to negotiate a standard schedule of compensation for oil lease compensation with Canadian Natural Resources Ltd, the largest energy company in our area. This agreement was first negotiated between our association and CNRL for the period 2008 through 2012. We re-negotiated this agreement for another 3 years, 2013 through 2015, with increases in most categories of compensation.

This Schedule shows the standardized and improved rates of compensation for Adverse Effect and Loss of Use for Dry Pasture, Cultivated Dry land, Pivot Corners and Irrigated Land over the previous schedule. We feel these rates are very advantageous to landowners.

The Current agreement expired at the end of 2015, but due to the depressed price of oil, we will not be attempting to renegotiate this agreement at this time. We have a tacit agreement with CNRL that the old agreement and rates will continue in place for the time being. CNRL has paid higher rates to those who can prove higher values of production.

Almost every energy company in our area will now comply with this schedule of compensation when negotiating new leases or lease renewals. The agreement has revolutionized the negotiation process between land owners and oil-well land-men and has removed most if not all of the conflict and antagonism often generated in the process in times past.

We confidently estimate that this agreement alone, has generated or has the ability to **generate for landowners, when used, at least \$10 million annually** in our area. This estimate is based on an average increase of \$1000/lease per year on 10,000 leases, a conservative estimate of the number of leases in the Taber area alone. We want you to be able to realize some of these benefits from your surface leases.

A few months ago we issued a Warning that some landowners were receiving letters from various Operators stating that they were arbitrarily reducing annual rentals due to the challenging economic conditions that they were facing. These letters requested that landowners sign and return the letter. Notwithstanding the fact that Operators did not send out letters offering to increase rentals when oil prices were over \$100/barrel, signing these letters puts you at jeopardy in two ways; 1) if the Operator goes bankrupt, you will only be able to ask the Minister of Finance for the reduced rental, and 2) it negatively affects the "Pattern of Dealings" for the area and makes it much more difficult to achieve the CNRL "pattern" the next time the land agent comes around to sign a new lease. **We strongly encourage landowners to ignore these letters and if the annual rentals are reduced, please contact us so we can help you correct the situation.**

A related current issue for all surface lease landowners is how the Surface Rights Board has been handling Section 36 claims for unpaid rentals with Bankrupt Operators. With the struggles in the oil industry over the last few years a number of energy companies have been going bankrupt. The Surface Rights Act contains a provision that if a land owner is not paid by a bankrupt company, they can apply to the Surface Rights Board for an order that the Minister of Finance make any outstanding payments. However, in the Petro Globe v. Lemke case the SRB ruled it could not supersede federal bankruptcy law and could not direct the province to pay outstanding lease payments from Operators in bankruptcy proceedings. This ruling would have negatively affected thousands of Albertan's.

This ruling needed to be challenged and we joined forces with another surface rights group, the Alberta Surface Rights Group, to initiate an appeal headed by lawyer, Keith Wilson. Partially as a result of the Lemke's request, that the SRB rehear its decision, the SRB went on to clarify matters in the Portgas and Rodin decisions so there is only a small time frame where the landowner isn't protected. In addition, the Board awarded the Lemke's their legal costs so we should be able to recover most of our money contributed for the appeal.

## **Windmills and solar**

Many landowners have contacted us about land agents proposing various windmill and solar farm projects through the Coaldale, Milk River and Foremost regions. We strongly caution landowners to be careful in their dealings with these projects. These projects are generally unregulated and landowners are left unprotected in their dealings with unscrupulous Operators. There are horrendous contracts out there and these contracts are written to protect Operator interests, not the landowners. When things go wrong, you cannot apply to the Surface Rights Board for enforcement of payment of annual rentals. These projects are not subject to reclamation criteria and if the Operator goes bankrupt, you will not only have to pay for reclamation on your own, you may be liable to pay the increased property taxes that are due to the County.

Windmill farm compensation rates are all over the place, and while there are some lucrative contracts out there, most pay the landowner woefully, inadequate compensation rates. You also need to remember that these alternative energy projects need to be hooked up to the grid and the resulting transmission lines will not only impact your lands, but your neighbours as well (which may result in a less than cordial relationship). Remember that the option contracts that you are asked to sign, could significantly restrict your future developmental abilities and lower the market value of your land.

We are discussing the possibility of formulating a landowner friendly version of a Windmill surface lease with the Farmer's Advocate and have been directed by our members to draft a version as soon as possible. In the future, we wish to do this with Oil/gas Surface leases, Pipeline ROWs and powerline ROWs so that you will have the option to sign landowner friendly versions of these documents instead of the Industry formulated versions that the land agent places before you.

## **How high can Electrical distribution and transmission charges rise?**

At our AGM, LeRon Torrie gave a presentation showing that the Distribution and Transmission companies intend to ask for significant annual, increases in these electrical charges for the foreseeable future. Members of our Association are working to challenge these requests. Our website will soon contain LeRon's [PowerPoint presentation](#); we encourage you to look at it.

## **The need for a Provincial Surface Rights Association with adequate Funding**

At our AGM, Daryl Bennett gave a [PowerPoint presentation](#) (on our website) outlining the challenges facing the Province due to the current economic situation of low oil and gas prices. The current model of reclamation in the Province is not working and it appears that the taxpayer is being left on the hook to pay for the hundreds of millions (if not billions) of dollars that will be needed to fund the

Orphan Well Association's reclamational responsibilities. Local Counties and Municipalities will also likely have to cut back expenditures due to lower oil/gas related property tax revenues. Some Counties rely upon the oil/gas sector for 60-95% of their total revenues. Landowners are also facing more challenges in their dealings with energy companies on their lands.

In our discussions with the new Provincial government, we have been encouraged to submit a proposal for the creation of a province-wide Land-holder Surface-Rights organization that would have Government sanction and Government funding. We have worked with a few other Surface-Rights groups to create a proposed blue-print for this organization and we hope to submit this to the Government soon. We view this initiative as being extremely important because having such an organization in place would help to even the playing field for Land Holders.

In addition, a resolution, passed at the 2016 AGM, has directed us to initiate a membership drive to recruit more members so that we can have the resources to better protect landowner rights in Alberta. We will be holding landowner information sessions throughout areas in Southern Alberta where landowners are not adequately represented, or informed. We also encourage you to invite you neighbours to join our organization. Please visit our website. We hope to have a blog soon, which will provide pertinent information and allow for comments.

We continue to work hard on your behalf and feel we have earned your support. Enclosed in this mail-out is an invoice for \$100, our annual membership fee. Membership provides you with free access to our website and a copy of the signed 2013 through 2015 compensation schedule negotiated with CNRL for your own use.

A receipt and a copy of the CNRL Compensation Schedule will be mailed to you upon receipt of your check. We thank you in advance for your continuing support and your membership remittance which shows your support for our organization which benefits all landowners in our area. We would also appreciate knowing your email address so we can send future newsletters to you. Please write it on your check!

Sincerely, Action Surface Rights Association