

THE SURFACE RIGHTS BOARD OF MANITOBA

BRANDON, MANITOBA

Order No. 2/2001
File No. 512-99
512-99A

IN THE MATTER OF:

THE SURFACE RIGHTS ACT

AND IN THE MATTER OF:

L.S.D. 1-6-9-27 W.P.M.
L.S.D. 2-6-9-27 W.P.M.
L.S.D. 7-6-9-27 W.P.M.
S.W.D. 12-6-9-27 W.P.M. all in Manitoba

BETWEEN:



. Applicants (Lessors)

- and -

AMERIC RESOURCES CORP.,

Respondent (Lessee)

**SURFACE LEASE FENCING, CONTAMINATED SITES CLEAN UP and ANNUAL
COMPENSATION PAYMENT ORDER**

Manitoba

The Surface Rights Board

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Order No. 2/2001
File No. 512-99
512-99A
December 13th, 2001

BEFORE:

Mr. T.A. Cowan, Presiding Member
Mr. Dennis Cochrane, Deputy Presiding Member
Mrs. M. Hodgson, Member
Mr. C. Tolton, Member
Mr. Ivan Carey, Member

IN THE MATTER OF *THE SURFACE RIGHTS ACT*

- AND -

IN THE MATTER OF:

L.S.D. 1-6-9-27 W.P.M.,
L.S.D. 2-6-9-27 W.P.M.,
L.S.D. 7-6-9-27 W.P.M.,
S.W.D. 12-6-9-27 W.P.M. All in Manitoba

BETWEEN:

[REDACTED]

Applicants (Lessors)

- and -

AMERIC RESOURCES CORP.,

Respondent (Lessee)

SURFACE LEASE FENCING, CONTAMINATED SITES CLEAN UP AND ANNUAL COMPENSATION PAYMENT ORDER

Upon hearing the applications of each of the parties, the evidence, and the submissions on the 7th day of December, 2001; decision being reserved until today's date:

It is the Order of This Board That:

1. Americ Resources Corp. erect upon the demised premises namely L.S.D. 1-6-9-27 W.P.M., L.S.D. 2-6-9-27 W.P.M., L.S.D. 7-6-9-27 W.P.M., and S.W.D. 12-6-9-27 W.P.M. a suitable fence. The required fence to be approved by the Lessors and shall be erected on or before April 15th, 2002.
2. Americ Resources Corp. is hereby responsible to clean up all debris on L.S.D. 1-6-9-27 W.P.M.; to clean up and dispose of all spill fluid and contaminated solids on L.S.D. 2-6-9-27 W.P.M. and L.S.D. 7-6-9-27 W.P.M. in accordance with the requirements established by the Manitoba Industry, Trade and Mines, Petroleum Branch pursuant to *The Oil and Gas Act*.
3. Americ Resources Corp. is the Licensed Operator under *The Oil and Gas Act and Regulations* and pursuant to *The Surface Rights Act* must compensate [REDACTED] and [REDACTED] for Right of Entry in accordance with the Surface Rights Board Order No. 2/99 dated May 21st, 1999 for L.S.D. 1-6-9-27 W.P.M., L.S.D. 2-6-9-27 W.P.M., L.S.D. 7-6-9-27 W.P.M., and S.W.D. 12-6-9-27 W.P.M.
4. Americ Resources Corp. pay [REDACTED] and [REDACTED] the sum of \$4,000.00 being the amount owing for annual surface lease compensation for L.S.D. 1-6-9-27 W.P.M.

5. Americ Resources Corp. pay [REDACTED] and [REDACTED] the sum of \$4,000.00 being the amount owing for annual surface lease compensation for L.S.D. 2-6-9-27 W.P.M.
6. Americ Resources Corp. pay [REDACTED] and [REDACTED] the sum of \$4,000.00 being the amount owing for annual surface lease compensation for L.S.D. 7-6-9-27 W.P.M.
7. Americ Resources Corp. pay [REDACTED] and [REDACTED] the sum of \$4,000.00 being the amount owing for annual surface lease compensation for S.W.D. 12-6-9-27 W.P.M.
8. Americ Resources Corp. pay [REDACTED] and [REDACTED] the sum of \$1,179.00 being the amount of interest owing on the outstanding annual surface lease compensation for L.S.D. 1-6-9-27 W.P.M., L.S.D. 2-6-9-27 W.P.M. , L.S.D. 7-6-9-27 W.P.M., and S.W.D. 12-6-9-27 W.P.M.
9. In addition to the aforementioned compensation, Americ Resources Corp., is to pay to [REDACTED] and [REDACTED], the sum of \$300.00 for costs incurred in preparing for the hearing on December 7th, 2001.
10. Americ Resources Corp. ensure that the power to all sites be in a safe condition.
11. All of the aforementioned amounts are to be paid on or before January 31st, 2002 with interest accrued at prime plus 2% after this date.
12. The compensation payments for Right of Entry to the sites mentioned shall continue until such time as Americ Resources Corp. has carried out the Abandonment and Rehabilitation procedures under *The Oil and Gas Act and Regulations* as well as the Restoration of the sites in accordance with *The Surface Rights Act*.
13. This Board Order is without prejudice to the rights of either party.

Signed this 13th day of December, 2001.



Presiding Member

THE SURFACE RIGHTS BOARD OF MANITOBA

BRANDON, MANITOBA

File No. 512-99
512-99A

IN THE MATTER OF: *THE SURFACE RIGHTS ACT*

AND IN THE MATTER OF: L.S.D. 1-6-9-27 W.P.M.
 L.S.D. 2-6-9-27 W.P.M.
 L.S.D. 7-6-9-27 W.P.M.,
 S.W.D. 12-6-9-27 W.P.M. All in Manitoba

BETWEEN:



Applicants (Lessors)

- and -

AMERIC RESOURCES CORP.,

Respondent (Lessee)

REASONS FOR DECISION FOR SURFACE LEASE FENCING, CONTAMINATED SITES CLEAN UP and ANNUAL COMPENSATION ORDER

IN THE MATTER OF: **THE SURFACE RIGHTS ACT**

AND IN THE MATTER OF: L.S.D. 1-6-9-27 W.P.M.
L.S.D. 2-6-9-27 W.P.M.
L.S.D. 7-6-9-27 W.P.M.
S.W.D. 12-6-9-27 W.P.M. All in Manitoba

BEFORE: Mr. T.A. Cowan, Presiding Member
Mr. Dennis Cochrane, Deputy Presiding Member
Mrs. M. Hodgson, Member
Mr. C. Tolton, Member
Mr. Ivan Carey

DATE OF HEARING: December 7th, 2001 - Virden, Manitoba

DATE OF DECISION: December 13th, 2001

BETWEEN:

[REDACTED],

Applicants (Lessors)

- and -

AMERIC RESOURCES CORP.,

Respondent (Lessee)

APPEARANCES:

[REDACTED]

for the Applicants (Lessors)

Mr. John N. Fox, Chief Petroleum Engineer,
Manitoba Industry, Trade and Mines, Petroleum Branch

Americ Resources Corp.,

for the Respondent (Lessee) did not appear.

REASONS FOR DECISION FOR SURFACE LEASE FENCING, CONTAMINATED SITES CLEAN UP AND ANNUAL COMPENSATION ORDER

BACKGROUND:

The Lessors applied under subsection 21(1) of *The Surface Rights Act* claiming that the demised premises have not been fenced by the Lessee as requested and that surface lease payments due since the aforementioned lands were purchased from [REDACTED] have not been paid.

ISSUES:

1. Is the Lessee the Licensed Operator?
2. Are the Lessors entitled to have the demised premises fenced?
3. Is the Lessee responsible to clean up the demised premises?
4. Are the Lessors entitled to receive the annual surface lease payments?

5. Are the Lessors entitled to interest?
6. Are the Lessors entitled to costs?

DECISION:

1. Pursuant to *The Oil and Gas Act and Regulations*, and *The Surface Rights Act* Americ Resources Corp. is the Licensed Operator and therefore is responsible for all operations carried out on the demised premises. [Part, Sec. 88] [Sec. 1]
2. Pursuant to *The Surface Rights Act*, the Lessee (Americ Resources Corp.) must fence the demised premises in accordance with the Surface Lease Agreements duly executed between [REDACTED] and Americ Resources Corp. June 10th, 1964 and June 30th, 1964. The subject lands were subsequently sold to [REDACTED] and [REDACTED] effective March 15th, 2000. In accordance with *The Surface Rights Act* Board Orders and Surface Lease Agreements run with the land. [Sec. 62]
3. Pursuant to *The Surface Rights Act*, the Lessee (Americ Resources Corp.) must compensate the Lessors [REDACTED] and [REDACTED] in accordance with the Surface Lease Agreements duly executed between Mr. Isaac Harder and Americ Resources Corp. and subsequent Variation Board Order No. 2/99 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*. [Sec. 25(4)] Again, in accordance with *The Surface Rights Act* Board Orders and Surface Lease Agreements run with the land [Sec. 62] Therefore, the Lessee must pay the annual surface lease compensation in the amount of \$16,000.00 due to the Lessors.
4. Pursuant to *The Surface Rights Act* the Lessee (Americ Resources Corp.) must pay to the Lessors [REDACTED] and [REDACTED] accrued interest, compounded annually on annual surface lease compensation due to the Lessors since May, 2000 for the year 2001 and since May, 2001 for the year 2002. In accordance with the Surface Lease Agreements the annual compensation shall be paid in advance. Therefore, the total interest payable is \$1,179.00. [Sec. 25(4)].
5. The Lessee (Americ Resources Corp.) shall pay all of the Lessors [REDACTED] and [REDACTED] expenses incurred in preparing and presenting their claims herein providing same are reasonable, as well as the Lessor's costs incurred to attend with the Board to inspect the sites. [Sec. 26(2)]

Reasons:

Pursuant to subsection 25(2) of *The Surface Rights Act*, the Board inspected the sites on the 7th day of December, 2001. From this inspection, the Board determined that there was oil producing equipment located on three of the sites, as well as a salt water disposal unit located on another site.

The Board then proceeded with the scheduled December 7th, 2001 hearing.

Evidence as prepared by Mr. John N. Fox (Sworn), P.Eng., Chief Petroleum Engineer, Manitoba Industry, Trade and Mines, Petroleum Branch distributed at the hearing and read into the records. (Exhibit No. 1)

This report was prepared at the request of The Surface Rights Board for the hearing between [REDACTED] and Americ Resources Corp. regarding the Lessors request for fencing of the demised premises and surface lease payments for L.S.D. 1-6-9-27 W.P.M., L.S.D. 2-6-9-27 W.P.M., L.S.D. 7-6-9-27 W.P.M., and S.W.D. 12-6-9-27 W.P.M.

This report addresses the following matters in respect of the wells, Americ Daly 1-6-9-27 W.P.M., Americ Daly 2-6-9-27 W.P.M., Americ Daly 7-6-9-27 W.P.M. and Americ Daly Prov. SWD 12-6-9-27 W.P.M.

- 1) Current Well Status

The well, Americ Daly 1-6-9-27 W.P.M., Well Licence No. 2012, is licensed to Americ Resources Corp. ("Americ"). This well went on production in October, 1964 and last produced in July, 1998.

The well, Americ Daly 2-6-9-27 W.P.M., Well License No. 1972, is licensed to Americ. This well went on production in February, 1964 and last produced in December, 1998.

The well, Americ Daly 7-6-9-27 W.P.M., Well License No. 1971, is licensed to Americ. This well went on production in August, 1964 and last produced in November, 1998.

The well, Americ Daly Prov. SWD 12-6-9-27 W.P.M., Well License No. 1991, is licensed to Americ. The well was converted to a salt water disposal well in November, 1970 under Salt Water Disposal Permit No. 99 and last injected in December, 1998.

The wells are flowlined to a battery operated by Americ at 5-6-9-27 W.P.M. The flowline extends from the wells at 1-6 and 2-6 to 7-6 then to 6-6, then to the battery and disposal line runs from the battery to the salt water disposal well at 12-6-9-27 W.P.M.

Americ also operates six other wells at 15-31-8-27 W.P.M., 16-31-8-27 W.P.M., 13-32-8-27 W.P.M., 5-6-9-27 W.P.M., 6-6-9-27 W.P.M., and 8-1-9-28 W.P.M. All of these wells were last produced in 1998.

2) Corporate Information

The Petroleum Branch approved a well name change from Consolidated Golden Lion Resources Ltd. to Americ Resources Corp, on June 25th, 1998.

Americ is the licensee of the 1-6, 2-6, 7-6, and 12-6 wells. A licensee is defined in Part 8, Section 88 of *The Oil and Gas Act* as "Licensee" means the holder of a well license issued under this part.

An operator is defined in Section 1 of *The Oil and Gas Act* as "Operator" means with respect to a well, a person who holds a well license issued under Part 8 or who has control or management of the well.

For purposes of *The Oil and Gas Act*, Americ is both the licensee and operator of the 1-6, 2-6, 7-6, and 12-6 wells. Under Section 96 of *The Oil and Gas Act*, a licensee is responsible for all operations carried out at a well including the abandonment of wells and rehabilitation of the wellsites.

3) Non-Compliance under *The Oil and Gas Act*

As the result of a Branch inspection in April, 2001, Notices of Non-Compliance were issued requiring Americ to remove and dispose of all fluid from the emergency storage pit at 5-6-9-27 W.P.M., repair leaking wellheads at the 2-6 and 7-6-9-27 W.P.M. wells and clean up and dispose of spill contaminated materials. The company failed to correct the non-compliance and the Branch arranged for the work to be carried out. The non-compliance items were corrected between April 24th-28th, 2001.

The Branch requested Americ to restore its performance deposit to the original amount as provided for under *The Oil and Gas Act* as well as its outstanding inactive well levy plus interest. Americ has failed to make the required payments. Americ has also failed to submit plans for reactivation, suspension or abandonment of its Manitoba wells as requested by the Branch.

Americ's wells were inspected on November 27th, 2001 and the Branch identified the following unsatisfactory items:

L.S.D. 1-6-9-27 W.P.M.

- improper signage
- debris on lease

L.S.D. 2-6-9-27 W.P.M.

- improper signage
- debris on lease
- clean up and disposal of all spill fluid and contaminated solids

S.W.D. 12-6-9-27 W.P.M.

- improper signage

L.S.D. 7-6-9-27 W.P.M.

- improper signage
- clean up and disposal of all spill fluid and contaminated solids

Evidence provided by [REDACTED] and [REDACTED] (both Sworn) and recorded as follows:

- (a) Copy of a letter dated May 18th, 2000 from Rene M. McNeill Solicitor with McNeill Poole, advising Americ Resources Corp that [REDACTED] had sold the SE $\frac{1}{4}$ 6-9-27 W.P.M. and the NW $\frac{1}{4}$ 6-9-27 W.P.M. to [REDACTED] and [REDACTED] effective March 15th, 2000. (Exhibit No. 2).
- (b) Copy of a letter dated July 20th, 2000 from Richard Silas, Director, Americ Resources Corp. to Rene M. McNeill advising of their intention to install livestock guards around the wellheads located on lands in SE $\frac{1}{4}$ 6-9-27 W.P.M. and NW $\frac{1}{4}$ 6-9-27 W.P.M. as requested by [REDACTED]. It was also the company's intention to re-enter the wells and place them back on production. (Exhibit No. 3)
- (c) Copies of photographs of each well site. (Exhibit No. 4 to 7)
- (d) [REDACTED] also advised the Board that Americ Resources Corp. had not paid the annual surface lease compensation for L.S.D. 1-6-9-27 W.P.M., L.S.D. 2-6-9-27 W.P.M., L.S.D. 7-6-27 W.P.M., and S.W.D. 12-6-9-27 W.P.M.

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 Lessors had requested.

Therefore, all evidence considered, it is the Order of the Board

THAT:

- (a) Americ Resources Corp. is the Licensed Operator pursuant to *The Oil and Gas Act and Regulations* and further that Americ Resources Corp. is the Operator in accordance with the definition of an "Operator" pursuant to Part 1, of *The Surface Rights Act*, which reads as follows:

"Operator" means a person who has the right to conduct any operation for the purpose of exploring for a mineral, or for drilling a well for the production of a mineral, and includes any person who has the control and management of a well.

In accordance with the Certificate of Change of Name dated September 11th, 1995, Consolidated Golden Lion Resources Ltd. changed its name to Americ Resources Corp. and approved by the Petroleum Branch on June 25th, 1998.

- (b) [REDACTED] and [REDACTED] are the Lessors of L.S.D. 1-6-9-27 W.P.M., L.S.D. 2-6-9-27 W.P.M., L.S.D. 7-6-9-27 W.P.M., and S.W.D. 12-6-9-27 W.P.M.

Therefore, Americ Resources Corp. must compensate the Lessors for Right of Entry in accordance with the Surface Lease Agreements dated June 10th, 1964, June 30th, 1964 and Variation No. 2/99 dated May 21st, 1999 and/or has carried out the Abandonment and Rehabilitation procedures under *The Oil and Gas Act and Regulations* as well as Restoration under *The Surface Rights Act* of well sites located on L.S.D. 1-6-9-27 W.P.M.; L.S.D. 2-6-9-27 W.P.M.; L.S.D. 7-6-9-27 W.P.M. and S.W.D. 12-6-9-27 W.P.M. all in Manitoba.

- (c) In accordance with the Surface Lease Agreements the annual compensation was to be paid in advance of each anniversary date of the lease, which is June 10th and June 30th and subsequent Board Variation Order No. 2/99 dated May 21st, 1999. Therefore, Americ Resources is liable for the outstanding annual surface lease compensation as follows:

Calculation of Annual Surface Lease Compensation as per Surface Lease Agreements dated June 10th, 1964, June 30th, 1964 and Variation Order No. 2/99 dated May 21st, 1999.

<u>Location</u>	<u>Year</u>	<u>Owing</u>	<u>Anniversary Date</u>
1-6-9-27	2001 & 2002	\$4,000	May, 21
2-6-9-27	2001 & 2002	\$4,000	May, 21
7-6-9-27	2001 & 2002	\$4,000	May, 21
12-6-9-27	2001 & 2002	\$4,000	May, 21

- (d) It is further ordered by the Board, pursuant to subsection 25(4) of *The Surface Rights Act*, interest, compounded annually, be paid by Americ Resources Corp. to [REDACTED] and [REDACTED] as follows:

<u>Location Days</u>	<u>Interest Rate %</u>	<u>Days</u>	<u>Amount</u>	<u>Interest</u>
1-6-9-27	6.50	619	\$4,000	\$294.75
2-6-9-27	6.50	619	\$4,000	\$294.75
7-6-9-27	6.50	619	\$4,000	\$294.75
12-6-9-27	6.50	619	\$4,000	\$294.75

- (e) It is further ordered by the Board, pursuant to Section 62 of *The Surface Rights Act*, and in accordance with the Surface Lease Agreements dated June 10th, 1964 and June 30th, 1964, that Americ install suitable fencing on the demised premises as requested by [REDACTED] and [REDACTED].

Section 62

Orders and agreements run with land

62 Orders of the board and agreements respecting surface rights entered into between an operator and an owner or occupant shall run with the land and shall enure to the benefit of and be binding upon the successors in title or interest of the owner or occupant, as the case may be.

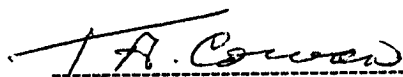
Excerpt from the Surface Lease Agreements with respect to fencing.

2. FENCING---During the continuance of this Lease, to erect and put upon the boundaries of the sites and roadways a good substantial fence if so requested in writing by the Lessor and to replace all fences which it may have removed for its purposes and repair all fences which may have been damaged and if and when so required by the Lessor, provide proper livestock guards at any point of entry upon the said lands used by it and upon the use thereof to close all gates.

- (f) The Board is also of the opinion that the Lessors are entitled to reimbursement of costs incurred. Subsequently, the Board allows the Lessor the sum of \$300.00 for their costs in preparing for the hearing and for attending on December 7th, 2001 with the Board at the sites.

All of the above amounts shall be paid by the Lessee in full on or before January 3rd, 2002 with interest accrued at prime plus 2% after the applicable due date,

Dated this 13th, day of December, 2001



Presiding Member