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Panel Decision Echoes Farmers' Advocate Office (FAO) Advisory on Rental Reductions

A recent Surface Rights Board (SRB) decision makes an important statement about the unilateral reduction of surface lease rentals in Alberta.

On August 15, 2015, the SRB issued the decision *Duel Energy Inc. v Gallagher*, 2016 ABSRB 688 (CanLII). In this case, the operator had submitted that they “only pay for leases with active wells on them.” The panel disagreed, stating:

“Payment of compensation is not at the discretion of the operator. The Panel directs the parties to Section 27 of the Surface Rights Act. When lessors and operators enter into surface lease agreements, lessors are entitled to five-year reviews. Compensation is to be negotiated---and if the parties cannot agree, “the party desiring to have the compensation reviewed or fixed may make an application to the Board for proceedings to be held...”

“This decision echoes a warning we issued earlier this year,” explains Jeana Les, rural engagement and communications specialist. “In March, we issued an advisory to Albertan landowners about surface lease rental reductions. One of our biggest concerns were that the fact that the changes were made unilaterally.” The *Surface Rights Act* provides an opportunity for landowners and operators to negotiate in good faith on the 5 year anniversary. “Good faith assumes that the negotiations are going to be honest, fair, and engage both parties,” Les explains.

For more information, please visit the FAO website at www.farmersadvocate.gov.ab.ca. If you have questions, please contact the FAO through the Ag Info Centre at 310-FARM (3276) or at farmers.advocate@gov.ab.ca