

Surface Rights Board
Guideline
Interpretation of Section 36(4) Surface Rights Act
ABSRB Guideline 2020.1

This is a Guideline that the Board will apply when it considers Applications for recovery of unpaid compensation under Section 36 of the *Surface Rights Act*.

The Board will apply this Guideline when it answers the following questions:

- 1) What evidence is enough to satisfy the Board that the compensation is not paid?
- 2) When will the Board send the written notice demanding payment to the operator?
- 3) When will the Board decide not to send the written notice demanding payment to an operator?

This Guideline does not take away the Board's discretion or prevent the Board from making whatever decision it believes is appropriate in each case. The Board will still consider all the circumstances of a particular case when it makes a decision.

- 1) **What evidence is enough to satisfy the Board that the compensation is not paid?**

Unless there is a reason not to, the Board will accept the completed Application Form which includes a signed declaration as satisfactory proof that the compensation claimed has not been paid.

The Board requires the Applicant to complete an Application Form (under Rule 14) and sign the declaration before it will consider the Application. If more information is needed to make a decision, the Board or Board Administration may require the Applicant or any other parties to provide information in addition to the Form.

- 2) **When will the Board send the written notice demanding payment to the operator?**

Board Administration can send the written notice to the operator(s) demanding full payment by or on behalf of the Board if the Application Form is complete with a signed declaration.

Once the Board is satisfied that compensation has not been paid a written notice demanding full payment must be sent to the operator.

Board Administration can send the written notice to the operator and demand the full payment of the amount of compensation that has not been paid. This will be the written notice that the Board is required to send to the operator under section 36 (4).

- 3) **When will the Board decide not to send the written notice demanding payment to an operator?**

If the operator was a corporation but it has been discontinued (struck or dissolved) under the *Business Corporations Act* for less than 5 years :The Board will send the written notice demanding full payment by publication on the Surface Rights Board website at

<https://surfacerights.alberta.ca/ApplicationTypes/RecoveryofRentals/NoticetoOperators.html>. **The Board will consider that the operator received it the day after it was published on the website.**

If the operator was a corporation but it has been discontinued (struck or dissolved) under the *Business Corporations Act* for 5 or more years: the Board will not send a written notice demanding full payment or any other documents to the operator.

Once the Board is satisfied that compensation has not been paid a written notice demanding full payment must be sent to the operator, but in certain situations that is not necessary or possible and delays the processing of the Application. When a corporation is discontinued under the *Business Corporations Act* it is no longer a corporation.