

**Report of the Mineral Rights Adjudication Board
For Fiscal Year 2017-18**

Message from the Chair

Honourable Siobhan Coady
Minister of Natural Resources
Natural Resources Building
P.O. Box 8700
St. John's, NL
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Dear Minister Coady:

In accordance with the provisions of the Transparency and Accountability Act for category 3 public bodies, I am pleased to submit the Annual Performance Report for the Mineral Rights Adjudication Board. This Plan covers the period April 1, 2017 to March 31, 2018.

The Mineral Rights Adjudication Board is committed to its supporting role to ensure that mineral exploration and development companies who have been aggrieved by the application of the *Mining Act* or the *Mineral Act*, have recourse to an appeal.

The Mineral Rights Adjudication Board was successful in achieving all indicators of its objective for the reporting period. My signature below is on behalf of the entire Board and is indicative of the Board's accountability for the preparation of this Report and the results reported on its objectives for 2017- 2018.

Respectfully submitted,



Gregory F. Kirby
Chairperson

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Overview

Section 37 of the **Mineral Act** provides for the appointment of a Mineral Rights Adjudication Board. The Board is to be appointed by the Minister of Natural Resources with the approval of the Lieutenant-Governor-in-Council. The members serve for a three year period, and they are eligible for reappointment. The Board consists of three persons, at least one of whom is a barrister, who shall be chairperson, and one of whom is experienced in mining.

The Mineral Rights Adjudication Board since appointment of individuals on July 9, 2015, has consisted of: Mr. Gregory F. Kirby (lawyer, Chair); Ms. Amy Copeland (Member); and Mr. Bill Parrott (Member). Two temporary board members were appointed to hear a grievance in 2017 after legal counsel for the grievor and the Crown screened the existing members for potential bias (see below).

The temporary board members were appointed under Section 37(4) of the **Mineral Act** through a process initiated by the Department of Natural Resources that involved the Public Service Commission via a Vacancy Profile Request. The temporary members appointed for the grievance processed in 2017 were Roderick Mercer and Stephen Burt.

The three-year term for the existing Chair and Members of the Board expired on July 8, 2018. The Department of Natural Resources is consulting with the Public Service Commission to initiate a process to establish a Board for another three-year term.

The Mineral Rights Adjudication Board receives operational and financial support from the Department of Natural Resources.

Mandate

It is the function of the Board and the board has exclusive jurisdiction to hear and determine a question, dispute or matter arising out of the application of the *Mineral Act* or the *Mining Act* and applicable regulations, including hearing and determining on:

- the rights of persons to the issuing of licences, certificates and leases, including extensions of licences and leases;
- the suspension and reinstatement of a person's right to stake out claims;
- a decision by the minister to withhold approval of a transfer, assignment, mortgage, pledge or conveyance of a license;
- disputes or questions arising between a person and the minister or recorder, or between competing claimants, respecting the boundaries of areas physically staked or the manner and time of staking; questions of priority for the right to obtain licences; all matters respecting the cancellation of licences and leases, including allegations of default of the conditions of licences and leases, and whether a misrepresentation by applicants for licences or leases is material;

- the right of persons to certificates;
- a question pertaining to security deposits required to be made by applicants for licences, including rights to refund and forfeitures to the Crown and amounts of refund and forfeiture; and
- other matters pertaining to the rights, privileges, obligations or duties of persons claiming or holding licences or leases conferred or imposed under the applicable legislation.

Core Values and Guiding Principles

The Mineral Rights Adjudication Board performs its duties within the core values established by the Department of Natural Resources for the Mines and Energy Branches.

Integrity - Each individual will be honest, dependable, fair, credible and trustworthy. They will openly acknowledge mistakes, take corrective action and learn from these mistakes.

Respect - Each individual will provide opportunities for others to express their opinions and will consider these views in making decisions. Each individual will treat the public and other employees with courtesy and acceptance.

Professionalism – Each individual will demonstrate high professional standards and positive attitudes and deliver quality service in an objective, timely and responsive manner.

Collaboration - Each individual is open to sharing their knowledge with others and actively seeking the opinions and ideas of others to achieve the desired results.

Innovation - Each individual will demonstrate initiative, creativity and flexibility in responding to challenges and change.

Safety - Each individual views the personal safety of themselves and co-workers in the highest regard and will promote workplace safety at all times.

Primary Clients

The clients of the Mineral Rights Adjudication Board are mineral exploration and development companies who have either rights under either the **Mineral Act** or mineral developments subject to the **Mining Act**.

Outcomes of Objective

A person affected and aggrieved by a matter falling within the Mandate of the Mineral Rights Adjudication Board, may apply to the Board to have the matter adjudicated.

Upon receipt of a notice of grievance, the Board shall hear the grievance, decide the matter of the grievance and record its decision not later than 90 days from the date of the receipt of the notice of grievance unless the minister extends that period of time.

The Board, comprising all of its members, shall hear the grievance on a day appointed by it for the purpose, and shall decide the matter of the grievance, record its decision in writing, disclosing in that record whether the decision is unanimous or by majority, and transmit copies of the decision to the grievor, other persons affected by the appeal and the minister.

The Board may, before deciding the matter of the grievance, refer a question of law raised at the hearing of the grievance for the opinion of a judge of the Trial Division, and the Rules of Court made under the Judicature Act relating to a special case apply to a reference made under this subsection as if that reference were made by the parties to the grievance.

The Board may award costs in an adjudication under this section for or against a party to the grievance, or the Crown, and fix the amount of the costs.

Issue 1: Mineral Rights Adjudication

Objective: By March 31, 2018 the Mineral Rights Adjudication Board will have reviewed all notices of grievance filed under the **Mineral Act**.

Indicators:

- Adjudicated all grievances in a timely manner
- Issued decisions in a timely manner

During this report period only one grievance was on file. Details are as follows:

Eagleridge International Limited (Eagleridge) filed a Notice of Grievance on January 15, 2015, under Section 39 of the *Mineral Act*, asserting that the official boundary between mineral licenses 6894M (Eagleridge) and 20398M (Canstar Resources Incorporated (Canstar)) is incorrect.

The Board arranged for a proceeding to hear the grievance and the proceeding began on July 17, 2017 and concluded on July 21, 2017. In addition to the Board, the hearing included officials from Eagleridge and its legal counsel, NR's Mineral Claims Recorder, and legal counsel from the Department of Justice and Public Safety.

The evidence summary by the Department of Natural Resources was provided exclusively through testimony by the Department's Mineral Claims Recorder. Eagleridge called five witnesses to testify.

The Board's decision filed on October 11, 2017, in a 49-page document was in favour of Eagleridge and concluded that the boundary between Eagleridge's Mineral Licence and Canstar's Mineral Licence be amended to reflect Eagleridge's account of the boundary location.

The Department has amended the boundary between the respective mineral licences to reflect the Board's decision. This was carried out by the Mineral Claims Recorder through consultation with the Department of Justice and Public Safety and Eagleridge's legal counsel.

If active in 2018-19, the indicators identified in this report will be carried over.

Financial Information

The Board does not have a stand-alone budget and as a result, audited financial statements are not required. Board member expenses are funded through the Department of Natural Resources and the total paid for 2017-2018 to date is \$14,198.