

Mineral Rights Adjudication Board

Annual Performance Report

2010-11

November 15th, 2011

Honourable Jerome Kennedy
Minister of Natural Resources
Natural Resources Building
P.O. Box 8700
St. John's, NL
A1B 4J6

Dear Minister Kennedy:

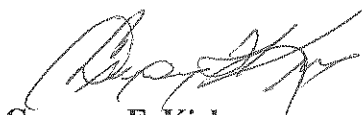
In accordance with the provisions of the Transparency and Accountability Act for category 3 public bodies, I am pleased to submit the Annual Performance Report for the Mineral Rights Adjudication Board. This Plan covers the period April 1, 2010 to March 31, 2011.

The Mineral Rights Adjudication Board recognizes the vision and mission of the Department of Natural Resources and 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 reports on its objectives for 2010/2011.

Respectfully submitted,



Gregory F. Kirby
Chairperson

c/o P.O. Box 5955, St. John's, Newfoundland Labrador A1C 5X4
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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 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 now consists of: Mr. Gregory F. Kirby (lawyer, Chair), appointed March 26, 2010, Dr. Hugh Miller, appointed February 28, 2009 and Mr. Samir El-Gohary, appointed April 30, 2009.

The Board can be contacted as follows:

Gregory F. Kirby, Board Chair
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The Mineral Rights Adjudication Board receives extensive operational support from the Department of Nature Resources. Employees of the Department perform many day to day administrative functions. Budgetary support for operations is provided through the Department, as well.

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 rights to stake out claims;
- a decision by the minister to withhold approval of a transfer, assignment, mortgage, pledge or conveyance of a licence;
- 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 refunds 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.

Values

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

Professionalism	Each individual will demonstrate high professional standards and positive attitudes, and deliver quality service in an objective, timely and responsive manner.
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.
Diversity	Each individual encourages open exchange about ideas and decisions, and welcomes the varied opinions that contribute to new creative ideas and the development of comprehensive programs and services.
Leadership	Each individual takes all opportunity to successfully integrate and maximize available resources within the department for the attainment of organizational goals.
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.

Primary Clients

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

Vision

The Mineral Rights Adjudication Board contributes to the vision of the Department of Natural Resources by ensuring that the land tenure rights and development requirements of mineral development companies are fairly administered and thereby supports fair benefits maximization.

Vision of the Department of Natural Resources

“The vision of the Department of Natural Resources is a province that realizes the full benefits from the sustainable development of its natural resources.”

Mission

The mission statement is the priority focus area of a public body over its planning cycle. It represents the key longer term result that the public body and the responsible minister will work towards to achieve a component of government’s strategic directions. The statement also identifies the measures and indicators that will assist a public body and the public in monitoring and evaluating success.

During the 2007 and 2008-11 planning periods, the Mineral Rights Adjudication Board determined that the creation of a Mission statement would be unduly repetitive of its mandate. Thus, it opted to forgo development of a mission statement at that time

The Mineral Rights Adjudication Board considered the Board’s role in assisting the Mines and Energy Branches of the Department of Natural Resources in achieving its mission for the planning period. The Board has a 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; thereby, it helps to optimize benefits from resource development. As such, aspects of the following general statement from the mission of the Mines and Energy Branches that may relate to mineral development apply to the Board:

“By March 31st, 2011, the Mines and Energy Branches will have enhanced departmental programs and services to optimize the benefits the Province receives from natural resource developments and promoted the sustainability of these resources”

The Board has determined that it has no material impact on achievement of measures and indicators of the mission statement.

The complete mission statement of the Department of Natural Resources for the Mines and Energy branches is found in its Strategic Plan for the period covering April 1st, 2008 to March 31st, 2011.

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 notice of grievance, the Mineral Rights Adjudication Board shall hear the grievance, decide the matter of the grievance and record its decision not later than ninety (90) days from the date of the receipt of the notice of grievance unless the minister extends the period of time.

The Mineral Rights Adjudication 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 Mineral Rights Adjudication 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 Mineral Rights Adjudication 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.

The Mineral Rights Adjudication Board considered the Strategic Directions of the Minister of Natural Resources for the Mines and Energy Branches and has determined that it has a role in working toward increased natural resource development and diversification through efficient and effective management of the adjudication of mineral rights. The following area has been identified as the key priority of the Board for the period of April 1, 2010 to March 31, 2011.

Issue 1: Mineral Rights Adjudication

Objective: The Mineral Rights Adjudication Board will have reviewed all notices of grievances under the *Act and Regulations*.

Measure: Reviewed all notices of grievances.

Indicators: Adjudicated all grievances in a timely manner
Issued decisions in a timely manner

The Board was not presented with any notices of grievance for the period of April 1, 2010 to March 31, 2011.

In the Board Annual Report for the period April 1, 2009 to March 31st, 2010 there were two outstanding matters reported. The status update on these matters is as follows:

1. Vinland Resources Limited – The appeal of the matter was heard before Justice Faour of the Supreme Court of Newfoundland and Labrador, Trial Division over a number of days in late 2010. On the 2nd of December, 2010 the argument before Justice Faour was concluded and the Court advised the parties that the decision would follow. To date the decision has still not been rendered.
2. Nfld. Aggregates (1991) Ltd. – The matter came before the Board on the 15th day of June, 2010. After hearing the evidence presented at that time, the grievance was, on June 15th, 2010, dismissed by the Board.

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 totalled \$6,862.00 for 2010-2011. In addition to Board member expenses, the department also has a contract for independent legal services which the Board avails of, the cost of which is covered in the department's budget.

MEETING 2008-2011 ACTIVITY PLAN OBJECTIVES

Regarding the Board's response to the Objectives and Indicators outlined in the 2008-2011 Activity Plan, it can be summarized as: All grievances were adjudicated in a timely manner and all decisions were issued by the Board within ninety (90) of the hearing.

2011-2014 BOARD ACTIVITY PLAN

The 2011-14 activity plan is available on the Publications section of the Department of Natural Resources web site at: www.nr.gov.nl.ca/nr.