

Mineral Rights Adjudication Board

ACTIVITY PLAN

April 1, 2017 to March 31, 2020



Chairperson's Message

I am pleased to present this Activity Plan for the Mineral Rights Adjudication Board, a category 3 entity under the *Transparency and Accountability Act*. The plan covers the period April 1, 2017 to March 31, 2020.

The Mineral Rights Adjudication Board's role is to ensure that persons – most commonly mineral exploration and development companies – who feel aggrieved by the application of *the Mining Act* or *the Mineral Act* have recourse to an appeal. This plan outlines the board's intended activities for the next three years in carrying out this role.

In the development of the plan, the Strategic Direction of the Provincial Government for the mining sector was considered and the plan has been prepared in accordance with requirements of the *Transparency and Accountability Act*.

My signature below is on behalf of the Mineral Rights Adjudication Board and indicative of the board's accountability for the preparation of the plan, as well as the achievement of its stated objective.

Sincerely,



Greg Kirby
Chairperson

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Overview

Origin and Role

The Mineral Rights Adjudication Board (the board) is established by authority of section 37 of the *Mineral Act* and consists of three members, at least one of whom is a barrister who sits as the chairperson, and at least one who is experienced in mining. Board members are selected through the Independent Appointments Commission with confirmation and appointment by the Lieutenant- Governor-in-Council. Members, appointed for a three-year term, can be re-appointed and convened only as grievances arise. The board does not have an independent budget; instead, it receives budgetary and administrative resources through the Department of Natural Resources.

As set out in section 38 of the *Mineral Act*, the board's role is to hear and make determinations on questions and disputes arising out of the application of the *Mineral Act*, the *Mining Act*, and related regulations. This often involves hearing and determining on disputes related to licenses, certificates and leases allowed for under these *Acts* and the associated rights and privileges those instruments convey. Refer to Appendix A for a full list of matters that can be brought before the board.

Process

Section 39 of the *Mineral Act* states that a person affected and aggrieved by a matter falling within the mandate of the board can file a notice of grievance with the board to have the matter adjudicated.

Upon receipt of notice of a grievance, the board is obligated to hear the grievance, decide upon the matter and record its decision within 90 days, unless the Minister of Natural Resources extends that period of time.

Board members convene on a pre-determined date to hear a grievance and make a decision. Before making a decision however, the board may need to refer a question of law raised at the hearing for the opinion of a judge of the Trial Division. Once a decision has been made by the board, the decision is recorded in writing and transmitted to the grievor, other persons affected by the appeal and the Minister of Natural Resources.

Objective

The priority of the board for the period April 1, 2017 to March 31, 2020 is focused on carrying out the board's mandated activities to hear and decide grievances filed under the *Mineral Act*. A healthy exploration and mining industry requires an effective dispute resolution mechanism. As such, by fulfilling its role effectively, the board will help support the Provincial Government's overall strategic direction toward growth in the mining industry.

The following objective and indicators have been established by the board and will apply to each year covered by the planning period. Performance results will be made available each year in an annual report, as required under the *Transparency and Accountability Act*.

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

Appendix A

Mineral Rights Adjudication Board: Jurisdiction

The following is as per section 38 of the *Mineral Act*:

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 this Act and those provisions of the regulations pertaining specifically to this Act, including hearing and determining on

- the rights of persons to the issuing of licenses, certificates and leases, including extensions of licenses 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;
- questions of priority for the right to obtain licenses;
- all matters respecting the cancellation of licenses and leases, including allegations of default of the conditions of licenses and leases, and whether a misrepresentation by applicants for licenses or leases is material;
- the right of persons to certificates;
- a question pertaining to security deposits required to be made by applicants for licenses, 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 licenses or leases conferred or imposed under this Act whether or not specifically referred to in paragraphs (a) to (f) of this section.

The board does not have the jurisdiction to hear or determine a question, matter or dispute relating to an order made under section 31.1 or to the cancellation of a lease where that cancellation results from an order made under section 31.1.

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 *Mining Act* and the regulations under that Act.

Appendix B

Strategic Direction

A strategic direction is the articulation of a desired physical, social, or economic outcome that would normally require action by, or involvement of, more than one government entity. They are normally communicated through White Papers, or other major platform documents. The following have been established by the Provincial Government as the strategic direction for the mining sector.

Outcome: Mining Sector Growth

This outcome supports the policy direction of government and will require focus in the following areas:

- Investment in programs that support exploration activity in the province
- Venture Capital Fund for mineral exploration and development
- Supporting the development of a competitive mining tax regime
- Focused promotion of emerging areas of mineral potential