

# **Mineral Rights Adjudication Board**

Annual Report 2021-22



## Message from the Chair

In accordance with the provisions of the **Transparency and Accountability Act** for category 3 entities, I am pleased to submit the annual report for the Mineral Rights Adjudication Board. This report covers the period of April 1, 2021 to March 31, 2022.

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 adjudicating all grievances filed in 2021-22. Our signatures below are on behalf of the entire Board and are indicative of the Board's accountability for the preparation of this report and the results reported on its objective for 2021-22.

Respectfully submitted,



Megan Reynolds  
Chairperson



Liam O'Brien  
Temporary Chairperson

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## Entity Overview

Section 37 of the **Mineral Act** provides for the appointment of a Mineral Rights Adjudication Board (the Board). The Board is appointed by the Lieutenant-Governor in Council. Members serve for a three year period and 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. Temporary members can also be appointed for up to six months, where a member is unable to perform the duties, for example, if there is a conflict.

As of March 31, 2022, the Board members were:

- Megan Reynolds (chair)
- Liam O'Brien (temporary chair)
- Stephen Burt
- Roderick Mercer
- George Jenner (temporary member)

## Mandate

The mandate of the Mining and Mineral Development Branch of the Department of Industry, Energy and Technology includes the supervision, control and direction of all matters relating to promotion, exploration and development of mineral resources and related industry developments. The Mineral Rights Adjudication Board contributes to this mandate by ensuring that the land tenure rights and development requirements of mineral development companies are fairly administered and regulated.

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;
- 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.

### **Budget and Expenditures**

The Mineral Rights Adjudication Board receives operational and financial support from the Department of Industry, Energy and Technology. The Board does not have a stand-alone budget and therefore audited financial statements are not required.

In 2021-22, the Department of Industry, Energy and Technology incurred \$4,158.75 in costs associated with the operations of the Board, including remuneration for Board members and transcription services.

## Report on Performance

### Strategic Issue: Mineral Rights Adjudication

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.

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.

The Board reports on the objective and indicators below, through its activity reports, for each fiscal year of its 2020-23 activity plan.

### 2021-22 Objective

By March 31, 2022, 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 reporting period, four new grievances were filed with the Board and two grievances were ongoing.

The grievance process related to mineral licences 21890M and 21891M was initiated at the early stages of the COVID-19 pandemic, which caused unanticipated delays. As a result, the 90-day timeframe for the Board to provide a decision was extended by the Minister on September 25, 2020. This grievance was further delayed due to the expiry of the temporary Chairperson's term and a conflict of interest that arose and required that a Board member recuse themselves from the grievance process.

The grievance related to mineral licence 031315M was paused as the Board Chairperson declared a conflict, but recommenced following the temporary appointment of a Chairperson. This grievance is now closed.

One grievance was filed in April 2021 (mineral licence 25594M); one in May 2021 (mineral licences 31452M, 31453M and 31454M); and two in June 2021 (mineral licence 24871M and mineral licence 23019M). All grievances except for May 2021 were heard during 2021-22 and are now closed. The grievances filed in April and May 2021 extended beyond the 90 day timeframe due to complex issues that needed further investigation and/or delays in appointing/re-appointing temporary members in instances where there was a conflict declared.



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Table 1. Grievances considered by the Board in 2021-22

<b>Grievance</b>	<b>Submission Date</b>	<b>Decision Date</b>	<b>Current Status</b>
21890M and 21891M	June 17, 2020	n/a	Ongoing
031315M	March 22, 2021	April 25, 2022	Closed
25594M	April 13, 2021	December 7, 2021	Closed
31452M, 31453M, and 31454M	May 28, 2021	n/a	Ongoing
24871M	June 12, 2021	September 3, 2021	Closed
23019M	June 29, 2021	September 8, 2021	Closed