

Mineral Rights Adjudication Board

Annual Report 2022-23

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, 2022 to March 31, 2023.

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.

Nine grievances were submitted in the reporting year and two others submitted previously remained active. The Mineral Rights Adjudication Board provided decisions on 6 of the 11 grievances that were active in 2022-23. 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 2022-23.

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 of interest respecting a particular grievance.

As of March 31, 2023, the Board members were:

- Megan Reynolds (chair)
- Liam O'Brien (temporary chair)
- Roderick Mercer
- Michael Regular
- 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 2022-23, the Department of Industry, Energy and Technology incurred no costs associated with the operations of the Board, including remuneration for Board members and transcription services. Board members often submit claims for remuneration for multiple grievances (upon closing), so costs may not be recorded in a given fiscal year. Some grievances span across fiscal years and this may result in costs not being assigned to the fiscal year in which the grievance was filed.

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.

2022-23 Objective

By March 31, 2023, 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, nine new grievances were filed with the Board and two grievances were ongoing from prior years.

The grievance process related to mineral licences 21890M and 21891M (D. Lewis) 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. This grievance remains active.

The grievance related to mineral licences 31452M, 31453M and 31454M (Exploits) was delayed due to complex issues that needed further investigation. The hearing was held on June 1 and 2, 2023 and a decision by the Board is pending.

One grievance was filed in May 2022 (mineral licence 031058M; N. Lewis and Exploits); one in September (mineral licence 025205M; Spearmint), two in October (mineral licence 025346M (Kennedy) and mineral licences 27152M, 27008M, 25259M, 27057M (Quadro)); two in November (mineral licence 032816M (Blackmore/Long Range) and mineral licences 006683M, 009881M, 027013M (Spruce Ridge), one in December (mineral licence 033350M; White); and two in March (mineral licence 26228M (York Harbour) and mineral licence 33465M (Buchans Development Corporation)). All grievances filed in 2022-23 have been closed except for Quadro, York Harbour, and Buchans Development Corporation, and, at the time of writing, the March grievances had not reached the 90 day timeframe. The grievances filed in May and October 2022 extended beyond the 90 day timeframe due to complex issues that needed further

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investigation and/or delays in appointing/re-appointing temporary members in instances where there was a conflict declared.

Table 1. Grievances considered by the Board in 2022-23

Grievance	Submission Date	Decision Date	Current Status
D. Lewis	June 17, 2020	n/a	Ongoing
Exploits	May 28, 2021	n/a	Pending Board decision
N. Lewis and Exploits	May 2, 2022	January 12, 2023	Closed
Spearmint	September 9, 2022	November 29, 2022	Closed
Kennedy	October 6, 2022	January 4, 2023	Closed
Quadro	October 14, 2022	n/a	Ongoing
Spruce Ridge	November 3, 2022	January 31, 2023	Closed
Blackmore/Long Range	November 5, 2022	January 18, 2023	Closed
White	December 5, 2022	April 18, 2023	Closed
Buchans Development Corporation	March 15, 2023	n/a	Ongoing
York Harbour	March 23, 2023	n/a	Ongoing