

Yukon Surface Rights Board



The Yukon Surface Rights Board was established in 1995 by the *Yukon Surface Rights Board Act* (Canada) as a requirement of Chapter 8 of the Yukon First Nation Final Agreements.

The Board

The Board is an independent, impartial body made up of five members – two of whom are selected by the Council of Yukon First Nations and two selected by Government. The fifth member – the Chairperson – is appointed by the Minister of Indian Affairs and Northern Development based on a recommendation from the other Board members. Appointments to the Board are for a three-year term.

The Board's primary responsibility is to hear and decide disputes related to accessing or using Yukon First Nation settlement land and in certain circumstances, disputes involving access to or use of non-settlement land.

Settlement Land

In relation to settlement land the responsibilities of the Board include:

- resolving access disputes between a Yukon First Nation and a person with a right to enter and use, cross, or stay on that Yukon First Nation's settlement land;
- resolving access disputes between a Yukon First Nation and a person with right to access settlement land in order to exercise a mineral right;

- resolving disputes between Government and a Yukon First Nation relating to Government's use or restoration of gravel quarries located on settlement land; and
- determining the compensation to be provided to a Yukon First Nation for the expropriation of settlement land.

Non-settlement Land

In relation to non-settlement land the primary responsibility of the Board is to resolve disputes between a person with a right or interest in the surface of the land, for example a landowner, and a person who has a right of access to that land under a mineral right.

Placer and Quartz Mining Acts

The Board also has specific responsibilities under the *Placer Mining Act* (Yukon) and the *Quartz Mining Act* (Yukon) to hear and determine disputes about compensation to be paid under those Acts for loss or damages, or about the adequacy of security required by the mining recorder.

Negotiations

Before applying to the Board a person must attempt to resolve the matter in dispute by negotiation. The Board's *Rules of Procedure* set out the requirements for demonstrating reasonable efforts to negotiate were made.

An application to the Board will usually be heard and decided by a panel of three

Board members. If settlement land is involved usually at least one of the panel members will be a Board member nominated by the Council of Yukon First Nations. The Act, however, allows the parties to a dispute to agree that an application will be heard and decided by a panel comprised of a single Board member.

Location of Board Hearings

A dispute involving settlement land will generally be heard in the traditional territory of the Yukon First Nation whose settlement land is involved. A dispute relating to non-settlement land will usually be heard in the community closest to the land in question.

Hearing Process

Applications to the Board are dealt with as informally and expeditiously as the circumstances and considerations of fairness permit. The Board's *Rules of Procedure* provide considerable direction about how the hearing process will be conducted.

Orders of the Board are binding and may be enforced in the same manner as an order of the Supreme Court of Yukon.

For more information

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