

How to reach us

Applications to the Yukon Surface Rights Board and all Board decisions and supporting documents are available to the public. These documents, along with copies of the legislation governing the Yukon Surface Rights Board, Rules of the Yukon Surface Rights Board, and other material can be viewed in the Board's Whitehorse office and on the Board's website (www.yukonsurfacerights.com).

OFFICE LOCATION

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FRONT AND BACK PANEL PHOTOS: CATHE ARCHBOULD

Who are we?

The Yukon Surface Rights Board (YSRB) is a tribunal whose primary role is to resolve access disputes between those with an ownership or interest in land (surface rights holders) and those with access rights to the land. The YSRB gets involved in disputes only when the parties are unable to reach an agreement, and a party applies to the Board.

The YSRB's jurisdiction is derived from several statutes. The prime authority for the Board is the *Yukon Surface Rights Board Act (Canada)*. Other pertinent legislation includes the *Quartz Mining Act (Yukon)*, the *Placer Mining Act (Yukon)*, and individual Yukon First Nation Final Agreements.

Half of the Board members are nominated by the Council of Yukon First Nations and half by the Government of Canada. The chair is appointed by the Minister of Indian and Northern Affairs Canada.

What do we do?

The Board offers mediation and, failing mediation, conducts hearings on matters related to:

- Access disputes between surface rights holders and subsurface rights holders on all Yukon lands.
- Access to and crossing over of Settlement Lands for personal, commercial, and other purposes.
- Disputes over security for activities occurring on quartz and placer claims.
- Disputes over specified substances such as earth, clay, shale, gypsum, gravel and marl.
- Disputes related to quarries.
- Expropriation of First Nation Settlement Land.
- Disputes over compensation for activities occurring on quartz and placer claims.

Board decisions may:

- Require security to be paid to address any loss or damage that may occur regarding the surface of the land.
- Require compensation to be paid for any loss or damage that may occur regarding the surface of the land.
- Designate the kind of equipment that will be allowed on the surface of the land.
- Designate the route of access that must be taken when entering onto the surface of the land.
- Dictate the times of access. For example, access might not be allowed during spring melt due to the potential damage that may result.
- Stipulate terms and conditions the Board feels are necessary to minimize the issues in dispute that fall within the Board's jurisdiction.

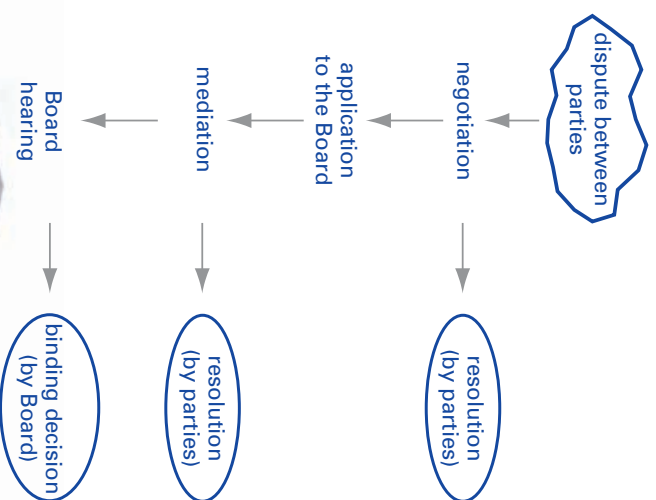
Role of the Yukon Surface Rights Board
Dispute resolution process
Frequently asked questions



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Yukon Surface Rights Board process for resolving disputes



The information below is for general guidance only. Refer to the *Yukon Surface Rights Board Act* and the Board's *Rules of Procedure* for specific details about the Board's dispute resolution process.

What to do when there is a dispute:

NEGOTIATE

Parties involved in a dispute must first attempt to resolve the dispute by negotiation. Negotiations must involve all parties. All attempts at negotiation should be documented and may include:

- Telephone discussions.
- In-person meetings.
- Mediation attempts.
- Correspondence between parties.

What to do if negotiations fail:

CONSIDER MEDIATION

If the parties fail to resolve their dispute, they may submit an application to the Yukon Surface Rights Board for consideration. The application must include the supporting documentation required by the *Yukon Surface Rights Board Act* and the Board's *Rules of Procedure*. If the Board determines that the matter under dispute falls within its jurisdiction and that the parties have adequately attempted to resolve the dispute through negotiation, the Board will accept the application and offer mediation to the parties.

If the parties agree to mediation, the Board will appoint a mediator and contribute a nominal amount, set out in its rules, towards the cost of mediation. The parties involved in the dispute are responsible for any additional mediation costs.

What to do if mediation fails:

PROCEED TO A BOARD HEARING

A Board hearing will be held when one or more parties:

- Declines the offer of mediation.
- Fails to attend the mediation session.
- Fails to reach a mediated settlement.
- Notifies the Board of its desire to proceed to a hearing.

Hearing procedures follow the format prescribed in the *Yukon Surface Rights Board Act* and the Board's *Rules of Procedure*. Upon completion of a hearing, the Board issues its decision in the form of an order and provides all parties with the order and the reasons for its decision. Orders of the Board are binding on all parties and may become orders of the Supreme Court of the Yukon Territory.

Frequently asked questions

What are surface rights?

Surface rights refer to the rights and/or interests associated with the surface of the land. They may include:

- Rights of access.
- Method of access (e.g., heavy equipment, all-terrain vehicle or foot traffic).
- Type and level of activity on the land.

What are subsurface rights?

Subsurface rights refer to the rights associated with resources, such as minerals and oil and gas, which lie below the surface of the land.

Do land owners have subsurface rights to their land?

Not usually. Most private landowners have "fee simple" title to their land, which does not include the subsurface rights.

Does First Nation settlement land include subsurface rights?

First Nations have both surface and subsurface rights on Category A Settlement Lands. On Category B Settlement Lands, they have only the surface rights: the subsurface rights on Category B lands belong to the Crown.

Who may participate in a Board hearing?

The parties that may participate in a Board hearing are detailed in Section 29 of the *Yukon Surface Rights Board Act*. In summary, the following may participate:

- The Parties to the dispute and any other third party the Board determines has a right or interest in the land areas affected by the dispute.
- Where settlement land is an issue, the affected Yukon First Nation and any affected interest holder.
- In some cases, the Minister of Indian Affairs and Northern Development and/or a designated minister of the Government of the Yukon.
- In the case of applications related to accessing mineral rights on non-settlement land, the mining recorder.



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