

Annual Report

2010-2011

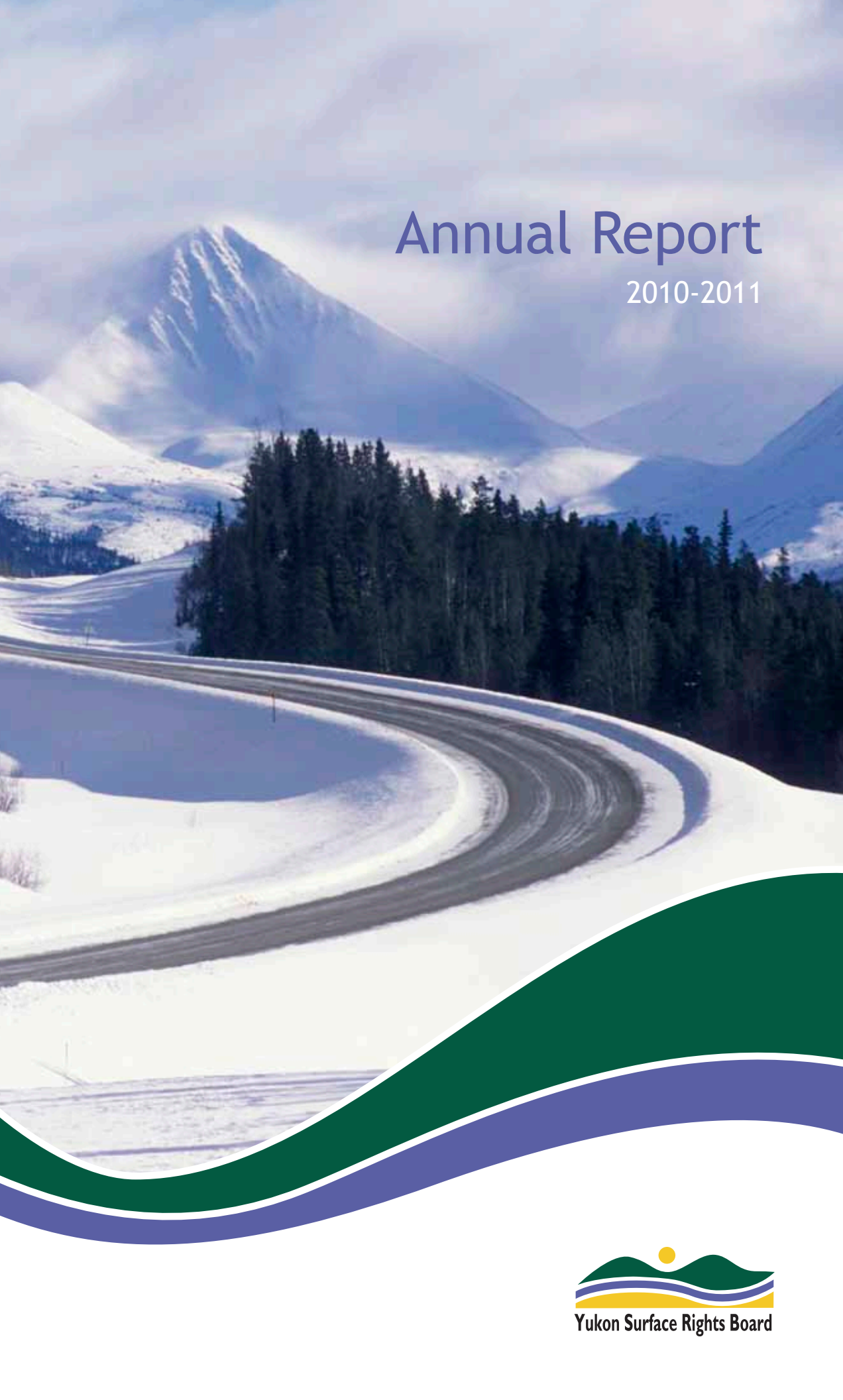
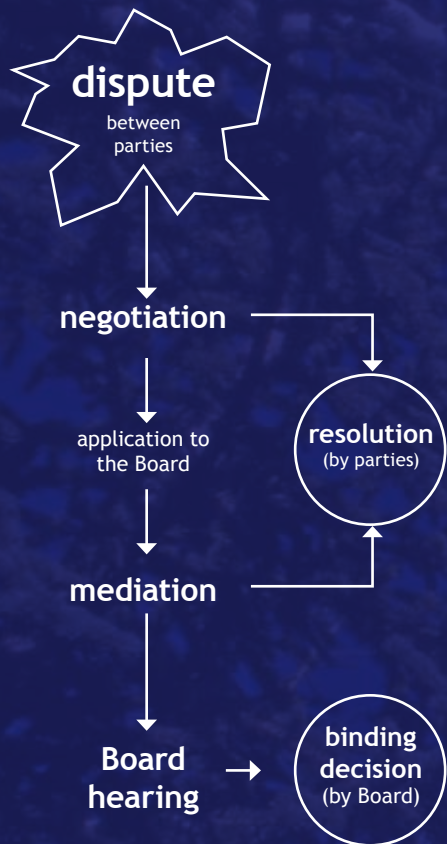


Table of Contents



Yukon Surface Rights Board
 Box 31201
 Whitehorse, YT
 Y1A 5P7

Phone: (867) 667 7695
 Fax: (867) 668 5892
 Email: info@yukonsurfacerrights.com
www.yukonsurfacerrights.com

Background	2
The Yukon Surface Rights Board	2
Board membership	2
2010-2011 Yukon Surface Rights Board members	3
What sorts of disputes does the Board hear?	3
Application and Hearing Process	4
What to do if there is a dispute?	4
What to do if negotiations are unsuccessful?	5
What if mediation is unsuccessful?	6
Who may participate in a hearing?	7
What kind of hearing decisions may the Board make?	7
2010/11 Activities	8
Training	8
Communications	8
Participation in Related Initiatives	10
Planned Activities—2011/12	10
FAQ	10
What are surface rights?	10
Do land owners have subsurface rights to their land?	10
What are subsurface rights?	10
Does First Nation settlement land include subsurface rights?	10
Audited Financial Statements	12
Auditor’s Report	13
Management’s Responsibility for Financial Reporting	14
Statement of Financial Position	15
Statement of Operations and Accumulated Surplus	16
Statement of Change in Net Financial Resources	17
Statement of Cash Flow	18
Notes to Financial Statements	19

Background

The Yukon Surface Rights Board

The Yukon Surface Rights Board (the “Board”) is a tribunal whose primary role is to resolve access disputes between those owning or having an interest in the surface of the land and others with access rights to the land. The Board’s process starts when the parties are unable to reach an agreement and a party applies to the Board.

The Board’s jurisdiction is derived from several statutes. The primary authority for the Board is set out in the *Yukon Surface Rights Board Act* (Canada) (the “Act”) which came into force on February 14, 1995. The Act was drafted to reflect the principles established in Chapter 8 of the *Council for Yukon Indians* (now the Council of Yukon First Nations - “CYFN”) *Umbrella Final Agreement* (the “UFA”). The UFA is an agreement between the Government of Canada, CYFN, and the Government of the Yukon which established the framework for comprehensive land claim agreements in Yukon with Yukon First Nations.

Additional responsibilities of the Board are set out in other laws and agreements including the *Quartz Mining Act* (Yukon), the *Placer Mining Act* (Yukon), the *Oil and Gas Act* (Yukon), the *Expropriation Act* (Canada), the *Radiocommunications Act* (Canada), and individual Yukon First Nation Final Agreements.

Board membership

The Board is an independent, impartial body made up of a five members - two of whom are selected by the Council of Yukon First Nations and two selected by the Government of Canada. 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.



2010-2011 Yukon Surface Rights Board members

Chairperson

Stephen J. Mills—*Board nomination*, resigned June 24, 2010

Myles Thorp—*Board nomination*, term to February 6, 2012

Members

Brian MacDonald—*CYFN nomination*, term to October 18, 2013

Melaina Sheldon—*CYFN nomination*, term to January 26, 2014

Bruce Chambers—*Federal Government nomination*, term to June 2, 2013

Al Foster—*Federal Government nomination*, term to February 6, 2012

Luke Johnson—*CYFN nomination*, term to January 26, 2011

Bruce Underhill—*CYFN nomination*, term to June 2, 2010

What sorts of disputes does the Board hear?

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. The Board’s specific responsibilities under the *Placer Mining Act* (Yukon) and the *Quartz Mining Act* (Yukon) are 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.



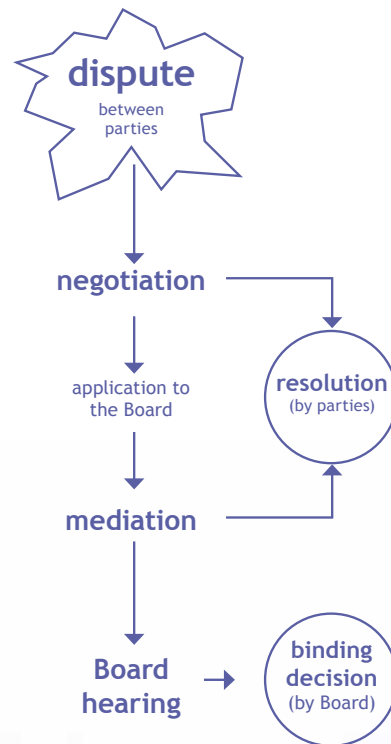
Application and Hearing Process

What to do if there is a dispute?

Negotiate

The Board is intended to be the last means of resolving disputes. Consequently, applicants must attempt to resolve their disputes through negotiation before they apply to the Board for an order. Negotiation attempts must be documented and meet the minimum requirements outlined in the Board's *Rules of Procedure*. Attempts at negotiation may include:

- telephone discussions
- in-person meetings
- mediation attempts
- correspondence between parties



What to do if negotiations are unsuccessful?

Apply to the Board

If the dispute is not resolved by negotiation, either party may submit an application to the 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*.

The *Guide to Making an Application to the Yukon Surface Rights Board* has helpful advice on completing and filing an application.

If the Board's Chairperson determines that the application is complete, the application is submitted to the Board for an acceptance decision.

Mediation

When the Board accepts an application it will first 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.

If mediation is successful, the parties may choose by consensus to:

- not involve the Board further and let their mediated settlement direct future interactions between the parties; or
- request that the terms and conditions of a mediated settlement be made an order of the Board. The Board may make the settlement an order only if the terms and conditions of the submitted mediated settlement fall within the scope of the Board's authority.





What if mediation is unsuccessful?

Proceed to a hearing

Hearing procedures follow the format prescribed in the *Yukon Surface Rights Board Act* and the Board's *Rules of Procedure*. An application to the Board will usually be heard and decided by a panel of three Board members. If settlement land is involved at least one of the panel members will be a Board member nominated by the Council of Yukon First Nations. However, the Act does allow the parties to an application to agree to 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 on the hearing process.

Upon completion of a hearing, the Board issues its decision with reasons.

Who may participate in a hearing?

Section 29 of the *Yukon Surface Rights Board Act* identifies the parties to a hearing. The parties to a hearing may include:

- the parties to the dispute and any other 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; and
- in the case of applications related to accessing mineral rights on non-settlement land, the mining recorder.

What kind of hearing decisions may the Board make?

Binding Orders

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

Types of Orders

Depending upon the nature of the dispute the Board may:

- require security to be given 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;
- limit the times of access (for example, access might not be allowed during spring melt or break up due to the potential damage that may result); and
- stipulate other terms and conditions which the Board, in accordance to its enabling legislation, considers appropriate to address the issues in dispute.



2010/11 Activities

Applications to the Board

There were no applications made to the Board during the 2010-2011 fiscal year.

Training

The issues that come before the Board are complex in nature and require Board members to have a broad understanding of a wide range of issues. Some of these include:

- the *Umbrella Final Agreement* and First Nation Final Agreements and their respective Implementation Plans;
- administrative law and the principles of natural justice;
- dispute resolution;
- mining and land use legislation; and
- land use issues.

Board members and staff participate in relevant training and conferences in an effort to maintain and develop capacity.

Communications

Pursuant to section 38 (a) of the *Yukon Surface Rights Board Act*:

‘The Board shall keep a public record of all applications made to the Board and orders and other decisions made by the Board in respect of applications’.

Listings of the Board’s public record, governance and procedure documents, and publications can be accessed from the Board’s office or website (www.yukonsurfacerrights.com). The Board’s office, located in Whitehorse, is equipped with a reading room for the viewing of the Board’s public records and reference material.



Public relations

During the 2010-2011 fiscal year the Board maintained an office in Whitehorse, updated the Board’s web site, produced and distributed the Board’s annual report, and attended public functions and meetings.

Industry relations

The Board kept industry informed by:

- attending and/or hosting a booth at industry functions such as the Yukon Geoscience Forum, Dawson City Gold Show, and the BC and Yukon Chamber of Mines’ Cordilleran Round-up; and
- including industry associations on the Board’s consultation mail-out list.

First Nations relations

The Board was available to meet requesting First Nations to provide information and guidance respecting the Board’s legislation and procedures. Annually, the Board provides each Yukon First Nation and all UFA boards and

councils with a copy of the Board’s annual report. All Yukon First Nations and UFA boards and councils are included on the Board’s consultation mail-out list.

Government relations

The Board keeps in contact with First Nations’, territorial, federal and municipal governments. This often requires attending workshops with the various governments when invited. The Board submitted funding reports to the Department of Indian Affairs and Northern Development and activity reports to the federal Access to Information and Privacy Commissions.



Participation in Related Initiatives

During the fiscal year the Board has:

- developed a Board policy document;
- participated in Board development and training opportunities; and
- maintained an active membership in the Canadian Council for Administrative Tribunals (CCAT).

Planned Activities—2011/12

In addition to fulfilling its legislative responsibilities, the Board intends to:

- fine tune the Board's internet site;
- develop a communication strategy;
- continue to update the Board member manual;
- Improve on the Board policy document;
- continue translations of Board public documents;
- continue communications with industry, the public, and the governments of Yukon, Canada, and First Nations;
- participate in industry trade shows and community visits upon request; and
- continue training initiatives for tribunal members with CCAT, Yukon College, Government of Canada and Government of Yukon.

FAQ

What are surface rights?

Surface rights refer to the rights and/or interests associated with the surface of the land which includes land ownership, lease hold interests, other rights to access or use the surface of land.

Do land owners have subsurface rights to their land?

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

What are subsurface rights?

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

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 are reserved to the Crown.

Audited Financial Statements

Year Ended March 31, 2011

Auditor's Report



INDEPENDENT AUDITOR'S REPORT

To the Minister of Aboriginal Affairs and Northern Development Canada

Report on the Financial Statements

I have audited the accompanying financial statements of the Yukon Surface Rights Board, which comprise the statement of financial position as at 31 March 2011, and the statement of operations and accumulated surplus, statement of change in net financial resources and statement of cash flow for the year then ended, and a summary of significant accounting policies and other explanatory information.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with Canadian generally accepted accounting principles, and for such internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

My responsibility is to express an opinion on these financial statements based on my audit. I conducted my audit in accordance with Canadian generally accepted auditing standards. Those standards require that I comply with ethical requirements and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

Opinion

In my opinion, the financial statements present fairly, in all material respects, the financial position of the Yukon Surface Rights Board as at 31 March 2011, and the results of its operations, the change in its net financial resources, and its cash flows for the year then ended in accordance with Canadian generally accepted accounting principles.

A handwritten signature in black ink, appearing to read "Guy LeGras".

Guy LeGras, CA
Principal
for the Interim Auditor General of Canada

6 July 2011
Vancouver, Canada

Management’s Responsibility for Financial Reporting

The accompanying financial statements of the Yukon Surface Rights Board (the “Board”) are the responsibility of the Board’s management and have been reviewed and approved by the Board of Directors.

The financial statements have been prepared in accordance with Canadian generally accepted accounting principles for the public sector, and include some amounts that are based on management’s best estimates and judgment.

In discharging its responsibility for the integrity and fairness of the financial statements, management maintains a system of books, records, internal controls and management practices designed to provide reasonable assurance that transactions are properly authorized and recorded, assets are safeguarded, reliable financial information is produced on a timely basis, and the Board complies with applicable laws and conflict of interest rules.

The Board of Directors is responsible for ensuring that management fulfills its responsibilities for financial reporting and internal control. The Board exercises this responsibility by meeting with management and the external auditors on a regular basis.

These financial statements have been independently audited by the Board’s external auditor, the Auditor General of Canada, and his report is included in this report.



Myles H. Thorp
Chairperson and CEO



Ian Pumphrey
Executive Director

July 6, 2011

Statement of Financial Position

as at March 31

	2011	2010
Financial assets		
Cash	\$ 69,075	\$ 77,343
Taxes receivable <small>Note 3</small>	<u>1,074</u>	<u>981</u>
	70,149	78,324
Liabilities		
Accounts payable	<u>2,750</u>	<u>4,225</u>
	67,399	74,099
Net financial resources		
Non-financial assets		
Tangible capital assets <small>Note 4</small>	11,581	21,122
Prepaid expenses	<u>1,871</u>	<u>4,964</u>
Total non-financial assets	<u>13,452</u>	<u>26,086</u>
Deferred capital funding <small>Note 5</small>		
	<u>(11,581)</u>	<u>(21,122)</u>
Accumulated surplus <small>Note 6</small>		
	<u>\$ 69,270</u>	<u>\$ 79,063</u>

Contractual obligations
Note 7

Approved by the
Yukon Surface Rights Board:



Myles H. Thorp
Chairperson and CEO

The accompanying notes are an integral part of the financial statements—see page 19



Statement of

Operations and Accumulated Surplus

for the year ended March 31

	2011	2011	2010
	Budget	Actual	Actual
Expenses			
Wages and benefits	\$ 73,585	\$ 74,139	\$ 71,995
Honoraria	34,300	32,075	26,075
Rent	13,800	13,827	13,064
Communications	7,500	13,932	14,199
Amortization	-	9,541	9,930
Insurance & miscellaneous	6,942	7,136	6,516
Travel	12,000	6,499	11,686
Professional fees	8,000	6,265	4,865
Office supplies	3,740	3,913	3,141
Telephone	2,800	2,767	2,723
Training	2,500	1,700	2,270
Board meeting	1,000	1,133	840
GST	1,200	1,074	981
Total expenditures before government funding	\$ 167,367	\$ 174,001	168,285
Government funding			
Amortization of deferred capital funding <small>Note 5</small>	-	9,541	9,930
Funding from Government of Canada <small>Note 1</small>	154,667	154,667	153,153
Total government funding	154,667	164,208	163,083
Annual deficit	\$ (12,700)	(9,793)	(5,202)
Accumulated surplus, beginning of year		79,063	84,265
Accumulated surplus, end of year		\$ 69,270	\$ 79,063

The accompanying notes are an integral part of the financial statements—see page 19

Statement of

Change in Net Financial Resources

for the year ended March 31

	2011	2011	2010
	Budget	Actual	Actual
Net financial resources, beginning of year	\$ 74,099	\$ 74,099	\$ 78,731
Items affecting net financial resources			
Increase (decrease) in accumulated surplus	(12,700)	(9,793)	(5,202)
Acquisition of tangible capital assets	-	-	(1,836)
Amortization of tangible capital assets	-	9,541	9,930
Increase (decrease) in deferred capital funding	-	(9,541)	(8,094)
(Increase) decrease in prepaid expenses	-	3,093	570
Net financial resources, end of year	\$ 61,399	\$ 67,399	\$ 74,099

The accompanying notes are an integral part of the financial statements—see page 19

Statement of
Cash Flow
 for the year ended March 31



	2011	2010
Operating transactions		
Cash received from Government Canada	\$ 154,667	\$ 154,989
Cash paid for		
Wages and benefits	74,139	71,995
Honoraria	32,075	26,075
Rent	13,827	13,064
Communications	12,314	10,874
Insurance & miscellaneous	7,136	5,945
Travel	6,499	11,686
Professional fees	6,265	4,865
Office supplies	3,913	3,141
Telephone	2,767	2,723
Training	1,700	2,270
GST	1,167	681
Board meetings	1,133	840
	<u>162,935</u>	<u>154,160</u>
Cash provided by (used in) operating transactions	(8,268)	829
Capital transactions		
Acquisitions of tangible capital assets	-	(1,836)
Increase (decrease) in cash	(8,268)	(1,007)
Cash, beginning of year	77,343	78,350
Cash, end of year	\$ 69,075	\$ 77,343

The accompanying notes are an integral part of the financial statements—see page 19

Notes to Financial Statements

March 31, 2011

1. Authority and operations

The Yukon Surface Rights Board (the “Board”) is an organization established by the Government of Canada with no share capital pursuant to the *Yukon Surface Rights Board Act* (Canada) (the “Act”), assented to on December 15, 1994. The Government of Canada has entitlement to any residual interest of the Board. The Board has jurisdiction concerning surface rights disputes in respect of land in the Yukon Territory. Additional responsibilities of the Board are set out in other statutes and agreements including the *Quartz Mining Act* (Yukon), the *Placer Mining Act* (Yukon), the *Oil and Gas Act* (Yukon) and individual Yukon First Nations Final Agreements.

The Act was drafted to reflect the principles established in Chapter 8 of the *Council for Yukon Indians* (now the Council of Yukon First Nations - “CYFN”) *Umbrella Final Agreement*

(the “UFA”). The UFA is an agreement signed on May 29, 1993, between the Government of Canada, CYFN, and the Government of the Yukon which establishes the framework for comprehensive land claim agreements in Yukon with Yukon First Nations.

Under the Act, the Board is to prepare an annual budget for review and approval by the Department of Aboriginal Affairs and Northern Development Canada. The Implementation Plan attached to individual Yukon First Nation Final Agreements committed the Government of Canada to pay the approved expenses of the Board and provide implementation funding of the Board for ten years ended February 13, 2005. The Implementation Plan also commits the Government of Canada to provide additional funding for the costs of mediation, adjudicative hearings and processes required of the Board under the Act.



2. Significant accounting policies

(a) Basis of presentation

These financial statements have been prepared in accordance with Canadian generally accepted accounting principles (GAAP) for the public sector as recommended by the Public Sector Accounting Board (PSAB) of the Canadian Institute of Chartered Accountants.

(b) Tangible capital assets

Tangible capital assets are stated at cost less accumulated amortization. Amortization is based on the straight-line method, using rates based on the estimated useful life of the assets as follows:

Furniture and fixtures	20%
Computer hardware	30%
Computer software	30%
Leasehold improvements	30%

(c) Government funding

Government funding is recorded on an accrual basis as due from the Department of Aboriginal Affairs and Northern Development Canada under the current funding agreement.

(d) Deferred Capital Funding

The portion of the government funding used to purchase depreciable tangible capital assets is recorded as deferred capital funding and amortized on the same basis and over the same periods as the related tangible capital assets.

(e) Expenses

Expenses are recorded on an accrual basis.

(f) Measurement uncertainty

The preparation of the financial statements in accordance with GAAP requires management to make certain estimates and assumptions to affect the reported amounts of assets and liabilities at the date of the financial statements and reported amounts of revenues and expenses during the reporting year. Actual results could differ significantly from these estimates.

Management estimates are used for estimating the useful life of tangible capital assets.

(g) Services provided without charge

Services provided without charge are not recorded in the financial statements. The only services without charge that are provided to the Board are audit costs of \$41,500. The Board is audited by the Auditor General of Canada who is funded directly by Parliament, and the audit costs are therefore paid from that Office's annual appropriation.

3. Taxes receivable

Taxes receivable consists of a Goods and Services Tax refund in the amount of \$1,074 (2010-\$981).

4. Tangible capital assets

	Furniture and fixtures	Computer software	Computer hardware	Leasehold improvements	2011	2010
Cost						
Opening balance	\$25,894	\$3,628	\$3,969	\$16,527	\$50,018	\$ 84,298
Acquisitions	0	0	0	0	0	1,836
Disposals	(13,313)	(670)	0	0	(13,983)	(36,116)
Closing balance	12,581	2,958	3,969	16,527	36,035	50,018
Accumulated amortization						
Opening balance	15,742	2,613	2,100	8,441	28,896	55,082
Amortization	2,420	965	1,198	4,958	9,541	9,930
Disposals	(13,313)	(670)	0	0	(13,983)	(36,116)
Closing balance	4,849	2,908	3,298	13,399	24,454	28,896
Net book value	\$7,732	\$50	\$671	\$3,128	\$11,581	\$ 21,122



5. Deferred capital contributions

Deferred capital funding represent the unamortized portion of the government funding used to purchase depreciable tangible capital assets. Changes in the deferred capital funding balance are as follows:

	2011	2010
Balance at beginning of year	\$ 21,122	\$ 29,216
Add: funding used to purchase tangible capital assets	-	1,836
Less: amortization	(9,541)	(9,930)
Balance at end of year	\$ 11,581	\$ 21,122

6. Accumulated surplus

In accordance with the funding agreement with the Department of Aboriginal Affairs and Northern Development Canada any unexpended balances shall be retained by the Board, provided that the commitments of the Board under the funding arrangement have been met. Such unexpended balances shall be applied by the Board towards the planning and carrying out of its duties and responsibilities under Yukon First Nation Final Agreements, corresponding implementation plans and related Act(s) of Parliament.

7. Contractual obligations

The Board has entered into a lease for office space which expires on December 31, 2013. The total commitments of the Board as at March 31, 2011 related to this lease is as follows:

Year ending March 31, 2012	\$ 11,970
Year ending March 31, 2013	\$ 12,330
Year ending March 31, 2014	\$ 9,450
	<u>\$ 33,750</u>



