



The Mining and Lands Commissioner Le Commissaire aux mines et aux terres

File No. MA 007-00

L. Kamerman)
Mining and Lands Commissioner) Thursday, the 19th day
of April, 2001.

THE MINING ACT

IN THE MATTER OF

Mining Claims L-1225672, situate in the Township of Milner, in the Larder Lake Mining Division, and Mining Claims L-1225673 to 1225678, both inclusive, 1226881, 1226882, 1227025, 1227027 to 1227029, both inclusive, 1227048, 1227049, 1227199, 1227255 and 1234970, situate in the Township of Van Hise, in the Larder Lake Mining Division, recorded in the names of Glenn Walter Bray, as to a 27.2% interest, Sharon Adelia Cotton, as to a 20.4% interest, Fred Ross Swain, as to a 17% interest, 903573 Ontario Limited, as to a 13.6% interest, Margaret Kaye Montgomery, as to a 6.8% interest and W. Johnson Mining and Oil Services Ltd. as to a 15% interest, hereinafter referred to as the "Mining Claims";

AND IN THE MATTER OF

An Agreement dated June 21, 1999, between Lake Superior Resources Corporation and Fred Ross Swain on behalf of Glenn Walter Bray, Sharon Adelia Cotton, 903573 Ontario Limited and Margaret Kaye Montgomery, involving lands in Milner and Van Hise Townships and alleged to include the Mining Claims, hereinafter referred to as the "Swain Agreement";

BETWEEN:

LAKE SUPERIOR RESOURCES CORPORATION and
RANDSBURG INTERNATIONAL GOLD CORPORATION

Applicants

- and -

GLENN WALTER BRAY, SHARON ADELIA COTTON,
FRED ROSS SWAIN, 903573 ONTARIO LIMITED and
MARGARET KAYE MONTGOMERY

Respondents

AND IN THE MATTER OF

An application under section 105 of the **Mining Act** for a declaration that the Swain Agreement dated June 21, 1999, is still in force and effect and that notice of such Agreement be recorded against title to the Mining Claims.

NOTICE OF ISSUES

WHEREAS the Commissioner seeks to ensure that the parties understand the scope of this proceeding and the extent and limits of the Commissioner's jurisdiction;

THE PARTIES ARE HEREBY GIVEN NOTICE of the following:

1. The **Mining Act** empowers the Commissioner to do or to hear those matters specifically referred to by section number under the **Act**. The exception is section 105, which is a somewhat more general power to determine every claim, question and dispute in respect of a matter.

The application sought herein is a declaration (a legal term meaning "a formal statement of the opinion of the tribunal on the rights of interested parties") that the agreement, referred to as the Swain Agreement, dated June 21, 1999, is still in force and effect and that Notice of the Agreement be entered on the abstracts for all of the subject Mining Claims.

It is noted that the application as it now stands does not seek to have the Swain Agreement put into effect through the ordering of a transfer or vesting of a 75% interest in the Mining Claims to Lake Superior. This would ostensibly be a 60% interest, given that 15% has already been ordered with respect to Johnson.

2. Assessment work was performed on two of the Mining Claims, by Warren Johnson and Norex, in the Summer and Fall of 1999. From material appearing in Tribunal File No. MA-038-99, Randsburg was responsible for contracting this work.

The Commissioner has not heard evidence as to who has possession or control of the cores resulting from the drilling performed, nor whether whatever evaluative techniques may be deemed necessary have actually been done.

Whatever the situation is with the cores, it will be necessary to have a geologist complete a geologist's log for purposes of filing assessment work. If the party who has the cores does not release them for this analysis, the Commissioner does not have the jurisdiction in this or any other application under the **Mining Act** to Order their release. The parties would have to make application to the Courts.

The assessment work credit potentially resulting from this drilling is filed on the claims upon which it was performed. Therefore, it would seem that if either Randsburg or Lake Superior no longer have an interest in the Mining Claims, it is unlikely that they will assist having the assessment work report completed and filed.

The value of any assessment work filed on the claims upon which drilling was done may be banked or applied to contiguous mining claims by the recorded holder, a person having a beneficial interest or an optionee of record (see O.Reg. 6/96, ss. 4 and 7). The Configuration of the Swain and Lake Superior Mining Claims is such that contiguous mining claims will be impeded if the entire 16,000 acres are not treated as a unit.

The date for filing assessment work based upon the Johnson and Norex work for 100% of its value is fast approaching, being twenty-four months from the date it was done. There will be another thirty-six months in which to have 50 percent of the value of the work filed and applied.

3. During the course of hearing the application, there will need to be evidence and submissions regarding the Swain Agreement. Although this notice does not purport to set out any part or the whole of the law of contract, there likely will be issues regarding how it is to be interpreted. Included are:
 - ◆ Is the Swain Agreement a valid contract according to the law of contract?
 - ◆ What are the mining claim numbers for the "approximately 9,000 acres in Milner/Van Hise townships" known as the "claim group"? Does this uncertainty have an impact on the validity of the agreement?
 - ◆ If it is a valid contract, are the meaning of the various terms of the Swain Agreement clear, or are any terms ambiguous? Will it be only where terms are ambiguous that extrinsic (outside the contract) evidence can properly be considered in interpreting what the meaning of the contract was at the time it was entered into.
 - ◆ Can the June 17, 1999 Memorandum(s) of Understanding (2 versions) between Lake Superior and Randsburg affect the interpretation of the Swain Agreement in any way? If evidence outside a contract is not normally allowed in interpreting that contract, by what principal can it be brought to bear and should it?
 - ◆ The Swain Agreement purports to deal with only the exchange of shares in Randsburg with an interest in the Mining Claims. Does the obligation to perform assessment work on the Mining Claims even arise in this matter?
 - ◆ Were there any efforts to amend the Swain Agreement? If so, was it done orally or in writing. Do any such changes meet the requirements of contract law to effect change to an agreement?
4. This application in no way represents a settling or determination of any issues which might arise between Lake Superior and Randsburg based upon their Memorandum of Agreement dated the 17th day of June, 1999.

THE PARTIES ARE HEREBY FURTHER ADVISED that the dates for the filing of the materials in support of their respective cases and the dates for hearing have been predicated on the assumption that there is still some intention by the parties to have this matter either resolved or decided by the Commissioner prior to the date in the Fall of 2001 when the value of the assessment work performed in 1999 will diminish by a factor of 50%. Should the parties indicate that they are abandoning the aforementioned deadline in favour of obtaining additional time in which to better prepare their cases, or seek to transfer this matter to the Superior Court of Justice (Ontario), they are directed to advise the Registrar, Daniel Pascoe, at (416) 314-2324 as soon as possible.

AND THE PARTIES ARE HEREBY FURTHER ADVISED that the Commissioner believes that a Pre-Hearing Conference by telephone conference call, in person or a combination of the two, would be advisable to:

1. discuss and determine the nature of this section 105 application and the jurisdiction of the Commissioner;
2. discuss and determine the issues which are in dispute in this matter;
3. discuss and determine the necessary and acceptable timelines for the determination of this matter, and in particular to address whether the filing of assessment work on the Norex and Johnson drilling is the objective of the parties, thereby necessitating an expedited filing and hearing process;
4. discuss and determine any other questions or matters raised by the parties during the course of such Pre-Hearing Conference.

DATED this 19th day of April, 2001.

Original signed by

L. Kamerman
MINING AND LANDS COMMISSIONER