



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

File No. MA 015-98

L. Kamerman)
Mining and Lands Commissioner)

Wednesday, the 2nd day
of February, 2005.

THE MINING ACT

IN THE MATTER OF

Mining Claim P-1224136, situate in the Township of Cargill, in the Porcupine Mining Division, recorded in the name of Leo Alarie and Sons Limited, on the 25th day of February, 1998, hereinafter referred to as the "Alarie Mining Claim";

AND IN THE MATTER OF

Mining Claim P-1224141, situate in the Township of Cargill, in the Porcupine Mining Division, recorded in the name of Don Thomas Fudge, on the 9th day of March, 1998, hereinafter referred to as the "Fudge Mining Claim";

AND IN THE MATTER OF

Ministry of Natural Resources Aggregate Permit Number 20018, issued to Lachance Construction on the 22nd day of April, 1998;

AND IN THE MATTER OF

An appeal under subsection 112(1) of the **Mining Act** from the decision of the Provincial Mining Recorder, dated the 12th day of May, 1998, to give priority to Aggregate Permit 20018 which was issued after the recording of the Alarie Mining Claim and the Fudge Mining Claim;

AND IN THE MATTER OF

Section 30(b) of the **Mining Act** and Ministry of Northern Development and Mines, Mining Lands Branch Policy LP 505-1 and LP 505-2.

BETWEEN:

DON THOMAS FUDGE AND
LEO ALARIE AND SONS, LIMITED
Appellants

- and -

MINISTER OF NATURAL RESOURCES
Respondent

- and -

MINISTER OF NORTHERN DEVELOPMENT AND MINES
Party of the Third Part

- and -

782900 ONTARIO LIMITED and ROGER LACHANCE
carrying on business as LACHANCE CONSTRUCTION
Party of the Fourth Part

ORDER

WHEREAS THIS APPEAL was filed with this tribunal on the 25th day of May, 1998;

AND WHEREAS an application was subsequently brought by Mr. Peter J. Doucet, counsel for the Appellants, pursuant to section 107 of the **Mining Act**, seeking to transfer these proceedings to the Ontario Superior Court of Justice, having been heard on the 16th day of July, 1999, with an Order transferring the proceedings issued on the 30th day of August, 1999, followed by an appeal by Mr. Guy Wainwright, counsel for the Party of the Fourth Part, to the Ontario Court of Appeal, which was heard on the 18th day of May, 2000 and which resulted in the remittance of the appeal to this tribunal;

AND WHEREAS this tribunal issued a Declaratory Order in this matter on the 20th day of June, 2001 and an Order Adjourning The Hearing *sine die* on the 30th day of July, 2001, in order to allow for the determination of a Judicial Review of the tribunal's Declaratory Order which was filed by Mr. Doucet on behalf of the Appellants in the Ontario Superior Court of Justice (Court File 499/01);

AND WHEREAS the aforementioned Judicial Review was dismissed by the Ontario Superior Court of Justice on the 5th day of October, 2004;

AND FURTHER TO the correspondence received by the tribunal on the 1st day of February, 2005, from Mr. Doucet, confirming that his client had reached an agreement with counsel for each of the parties to this matter on the question of costs and requesting that this appeal be dismissed;

1. **THIS TRIBUNAL ORDERS** that this appeal be and is hereby dismissed.
2. **THIS TRIBUNAL FURTHER ORDERS** that the notation "Pending Proceedings" which is recorded on the abstracts of Mining Claims P-1224136 and 1224141, to be effective from the 25th day of May, be removed from the abstracts of the Mining Claims.

3. **THIS TRIBUNAL FURTHER ORDERS** that the notation "Pending Proceedings" which is recorded on the abstracts of Mining Claims P-1224136 and 1224141, to be effective from the 25th day of May, 1998 to the 2nd day of February, 2005, a total of 2,446 days, be excluded in computing time within which work upon the Mining Claims is to be performed.

4. **THIS TRIBUNAL FURTHER ORDERS** that the 7th day of November, 2011, be fixed as the date by which the next unit(s) of assessment work, must be performed and filed on Mining Claim P-1224136, as set out in Schedule "A" attached to this Order, pursuant to subsection 67(3) of the **Mining Act** and all subsequent anniversary dates are deemed to be November 7 pursuant to subsection 67(4) of the **Mining Act**.

5. **THIS TRIBUNAL FURTHER ORDERS** that the 19th day of November, 2006, be fixed as the date by which the next unit(s) of assessment work, must be performed and filed on Mining Claim P-1224141, as set out in Schedule "A" attached to this Order, pursuant to subsection 67(3) of the **Mining Act** and all subsequent anniversary dates are deemed to be November 19 pursuant to subsection 67(4) of the **Mining Act**.

6. **THIS TRIBUNAL FURTHER ORDERS** that no costs shall be payable by any party to this appeal.

THIS TRIBUNAL FURTHER ADVISES that pursuant to subsection 129(4) of the **Mining Act** as amended, a copy of this Order shall be forwarded by this tribunal to the Provincial Mining Recorder **WHO IS HEREBY DIRECTED** to amend the records in the Provincial Recording Office as necessary and in accordance with the aforementioned subsection 129(4).

DATED this 2nd day of February, 2005.

Original signed by

L. Kamerman
MINING AND LANDS COMMISSIONER

SCHEDULE "A"

Mining Claims #	Due Date
P-1224136	November 7, 2011
P-1224141	November 19, 2006