

File No. MA 030-98

L. Kamerman )  
Mining and Lands Commissioner )

Tuesday, the 22nd day  
of June, 1999.

**THE MINING ACT**

**IN THE MATTER OF**

An application to record Mining Claim 1222978, situate in the Township of Garson, in the Sudbury Mining Division, staked by Mark Hall, to have been recorded in the name of Minescape Exploration Inc., marked "Filed Only", hereinafter referred to as the "Filed Only Mining Claim";

**AND IN THE MATTER OF**

Section 32 of the **Mining Act**;

**B E T W E E N:**

MINESCAPE EXPLORATION INC.  
Appellant

- and -

MINISTER OF NORTHERN DEVELOPMENT AND MINES  
Respondent

- and -

NICKEL DISTRICT CONSERVATION AUTHORITY AND  
YENWAY GOLF INC.  
Parties of the Third Part

**AND IN THE MATTER OF**

An appeal pursuant to subsection 112(1) of the **Mining Act** from the decision of the Provincial Mining Recorder, dated the 14th day of July, 1998, for the recording of the Filed Only Mining Claim 1222978 in whole or in part.

**ORDER**

**WHEREAS** this appeal was received by this tribunal on the 22nd day of July, 1998;

**AND WHEREAS** a consent to grant this appeal without costs and with conditions, dated the 10th day of June, 1999, was filed by Mr. Mark Hall, Agent, on behalf of the Appellant;

**AND WHEREAS** a consent to grant this appeal without costs and with conditions, dated the 11th day of June, 1999, was filed by Mr. Roy Denomme, Acting Senior Manager, Mining Lands Section, Ministry of Northern Development and Mines, on behalf of the Respondent;

**AND WHEREAS** a consent to grant this appeal without costs and with conditions, dated the 18th day of June, 1999, was filed by Mr. Robert N. Parker, Chairman and Agent, on behalf of the Party of the Third Part, the Nickel District Conservation Authority;

**AND WHEREAS** a consent to grant this appeal without costs and with conditions, dated the 10th day of June, 1999, was filed by Mr. T. Michael Hennessy, counsel for the Party of the Third Part, Yenway Golf Inc.;

**1. THIS TRIBUNAL ORDERS** that the appeal from the decision of the Provincial Mining Recorder, dated the 14th day of July, 1998, for the recording of the Filed Only Mining Claim 1222978, is hereby allowed, that Mining Claim 1222978 will be recorded effective the 22nd day of June, 1999, upon the following conditions:

1. Walking access to the property is permissible in any season but any persons accessing the property will not interfere with the course patrons nor the course operations and maintenance crews. Any motorized access across the course will require the prior consent of Yenway.
2. Geotechnical surveys are acceptable but will not interfere with the course patrons or staff and any such operations will not be readily visible by the patrons of the course.
3. Geotechnical survey operations that will be visible from the course may be performed only during the months of November through February. If any grid lines are established where they are visible from the course the station pickets will not be erected until after the course is closed to the public and removed before the course is open to the public. Line cutting and geotechnical surveys are permissible at any time north of the pole line, subject to paragraph 4.

4. In performing any geotechnical survey, no trees will be cut/blazed where they are visible on or from the course for the establishment of grid lines. On the remainder of the property subject to the claim, the NDCA and the claim holder or parties working under its direction agree to cooperate in the establishment of grid lines as follows:
  - i) Underbrush/saplings cutting is permitted at all times.
  - ii) Site visit(s) will be carried out when required/requested, to identify and assess if any trees would have to be cut/blazed.
  - iii) The cutting/blazing of any trees 2 inches or greater will be avoided where ever possible.
  - iv) In no case will trees 3 inches or greater in diameter be cut.
  
5. If it is determined that drilling is warranted, drilling is permissible north of the pole line only if the drilling is neither visible nor significantly audible from the course. That is, noise levels will not exceed the ambient noise levels of the local traffic. If drilling while the course is closed to the public, (i.e. November through February), visibility and noise levels will not be considered an issue.
  
6. If it is the claim holder's desire to drill from areas south of the pole line they will first obtain permission from Yenway. In the event that the claim holder and Yenway can't come to an agreement on drilling, the matter may be referred to the Mining and Lands Commissioner for resolution.
  
7. In the event that a production decision is made, the production activities will be designed so as not to be visible or audible by the patrons of the course, or on such conditions as agreed to by both Yenway and the NDCA. Prior to the commencement of on site production activities the claim holder will consult with both Yenway and the NDCA. The claim holder will provide details of the proposed production program to both Yenway and the NDCA. The details will include comment on possible adverse impacts to other users of the lands. No production activities, that will physically affect the surface rights shall be commenced without the prior written consent of Yenway

and the NDCA. In the event that such consent is withheld, the claim holder may refer the matter to the Mining and Lands Commissioner for resolution.

8. The claim holder or parties working under its direction, will not release deleterious substances or contaminants (as defined in the **Environmental Protection Act**, R.S.O. 1990, c. E.19, as amended), into the streams or water bodies on the course, unless approved by the Ontario Ministry of the Environment.
9. All work sites shall be kept in a neat, tidy and professional condition. Any physical damage to the leased lands, the course, or facilities of Yenway (caused by the claim holder or those working at its direction), will be repaired or restored to the original condition, at the claim holder's expense. If repairs are not made in a timely fashion after written request to do so by Yenway, Yenway shall be at liberty to use its own resources for such remedial work, and will be entitled to reasonable compensation to effect such repairs.
10. In connection with any matters referred to the Commissioner pursuant to paragraphs 6 or 7, the Commissioner shall have regard to the position(s) of Yenway or the NDCA. In this regard, if either Yenway or the NDCA can demonstrate that the activities of the claim holder are likely to interfere with the operations of the course in any adverse manner, any resulting adjudication will be conducted within the parameters of section 32 of the **Mining Act**, which sets out a prohibition against mining activity on such lands, allowing for the activity to be conditional on such terms as the Commissioner deems just.

**2. THIS TRIBUNAL FURTHER ORDERS** that, pursuant to subsection 129(2) of the **Mining Act**, this Order with Conditions shall be effective the 30th day of June, 1999.

**3. THIS TRIBUNAL FURTHER ORDERS** that the time during which this appeal was pending before the tribunal, being the 22nd day of July, 1998 to and including the effective day of this Order with Conditions, being the 30th day of June, 1999, a total of 344 days, be excluded in computing time within which work upon Mining Claim 1222978 is to be performed and filed.

**4. THIS TRIBUNAL FURTHER ORDERS** that the 30th day of June, 2001, be fixed as the date by which the first two units of prescribed assessment work, in the amount set out in Schedule "A" attached to this Order, must be performed and filed on Mining Claim 1222978, pursuant to subsection 67(3) of the **Mining Act** and all subsequent anniversary dates are deemed to be June 30 pursuant to subsection 67(4) of the **Mining Act**.

**5. THIS TRIBUNAL FURTHER ORDERS** that no costs shall be payable by any of the parties to this appeal.

**6. THIS TRIBUNAL FURTHER ORDERS** that this Order be filed without fee in the Office of the Provincial Mining Recorder in Sudbury, Ontario, pursuant to subsection 129(4) of the **Mining Act**.

**DATED** this 22nd day of June, 1999.

Original signed by  
L. Kamerman

L. Kamerman  
MINING AND LANDS COMMISSIONER

SCHEDULE "A"

<b>Mining Claim#</b>	<b>Units</b>	<b>Amount of Work in Dollars</b>	<b>Due Date</b>
S-1222978	8	\$3,200	June 30, 2001