

Appeal No. MA 017-93

L. Kamerman )  
Mining and Lands Commissioner )

Tuesday, the 15th day  
of June, 1993.

**IN THE MINING ACT**

**IN THE MATTER OF**

Mining Claims K-976692 to 976697, both inclusive, situate in the Wonderland Lake Area, in the Kenora Mining Division, hereinafter referred to as the "Mining Claims";

**AND IN THE MATTER OF**

An application for an order that time during which the applicant has been refused a permit under the **Public Lands Act**, R.S.O. 1990, c. P. 43, to perform work on the Mining Claims be excluded in computing time within which work upon the Mining Claims is to be performed and fixing the date by which the next prescribed units of work shall be performed and filed pursuant to clause 67(1)(a) of the **Mining Act**, R.S.O. 1990 c. M. 14;

**AND IN THE MATTER OF**

MANEX GRANIT INC.

Applicant

**ORDER**

**WHEREAS** an application for an order pursuant to clause 67(1)(a) of the

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**Mining Act**, R.S.O. 1990, c. M.14 was received on May 18, 1993;

**UPON READING THE** application filed and hearing from Jean Claude Corbeil, Vice President of the applicant;

**1. THIS TRIBUNAL ORDERS** that the time during which the applicant is unable to obtain a permit under the **Public Lands Act**, being August 31, 1992 to and including November 30, 1993, is excluded in computing time within which work upon the Mining Claims is to be performed.

**2. THIS TRIBUNAL FURTHER ORDERS** that November 30, 1994 is fixed as the date by which the next prescribed unit of work shall be performed and filed.

**IT IS FURTHER DIRECTED** that upon payment of the required fees, this order be filed in the Office of the Mining Recorder for the Kenora Mining Division.

Reasons for this order are attached.

**DATED** this 15th day of June, 1993.

Original signed by

L. Kamerman  
MINING AND LANDS COMMISSIONER

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**AND IN THE MATTER OF**

MANEX GRANIT INC.

Applicant

**REASONS**

An application was received from Manex Granit Inc. under the signature of Jean Claude Corbeil, Vice President, on May 18, 1993 requesting an order pursuant to

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clause 67(1)(a) of the **Mining Act**, R.S.O. 1990, c. M.14. Copies of the abstracts for the Mining Claims were obtained from the mining recorder. The relevant portion of the **Mining Act** reads as follows:

**67.** (1) In computing the time within which work upon a mining claim is required to be performed or within which application and payment for a lease may be made,

- (a) if a permit under the **Forest Fires Prevention Act** or the **Public Lands Act** that is necessary for the beginning or carrying on of work under this Act is refused or the performance of such work is prohibited under those Acts or any other Act, or the holder defers the start of work or is delayed in its performance at the request, or by the actions, of the Crown, the time during which such refusal, prohibition, deferment or delay subsists, if the holder provides the Commissioner with satisfactory evidence of such refusal, prohibition, deferment or delay;

.....

shall be excluded, and the Commissioner may make an order fixing the date or dates by which the next or any prescribed units of work shall be performed and reported or by which an application and payment for lease may be made.

## **Background**

All of the Mining Claims were staked on August 24, 1987 and recorded on August 31, 1987 by Reginald Brian Cronley. On September 11, 1987 the Mining Claims were transferred to Ted Coppola. Sixty days was applied to each of the Mining Claims and subsequently converted to \$1320, with the exception of Mining Claim K-976695 which had sixty-five days work applied and converted to \$1430.

On August 6, 1991 the Mining Claims were transferred to the applicant. On August 9, 1991 \$306 was applied to Mining Claims K-976692, 976693, 976694 and 976696,

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with \$195 applied to Mining Claim K-976695 and \$305 applied to Mining Claim K-976697. On August 31, 1992 \$550 was applied to each of the Mining Claims so that they are in good standing to August 31, 1993.

In the application of Manex Granit Inc. dated May 13, 1993, Jean Claude Corbeil states that the applicant has attempted with its sister company Canital Granite to open a site on the Mining Claims for six years. In a telephone conversation with Mr. Corbeil on June 11, 1993, the tribunal was informed that all work which could be carried out, except for bulk sampling, had been carried out on the Mining Claims.

The application sets out the following:

...The Ministry of Natural Resources has told us that they would not issue us a permit without a native agreement, since the area is considered to be their land use area. We had negotiated such an agreement last year, but when came time to sign the band did not have quorum. Since then we have obtained another agreement in principal with the band of Grassy Narrows, this May, but the agreement will have to pass through council.

Mr. Corbeil advised by telephone that the applicant is concerned that once a bulk sampling permit has been issued further delay will be encountered from the requirement for public notice. Notwithstanding this additional requirement, Mr. Corbeil estimated that the Grassy Narrows First Nation consent and the resultant permit from the Ministry of Natural Resources could be obtained by the end of November, 1993.

### **Findings of Fact**

The tribunal finds that it is satisfied that the applicant had been and continues to be unable to obtain the necessary permit under the **Public Lands Act** for purposes of carrying out bulk sampling due to the refusal of the Ministry of Natural Resources to grant a permit without the consent of the Grassy Narrows First Nation, which to date has not been forthcoming.

While the tribunal finds that permits were granted on Mining Claims K-976693, 976694, 976695 and 976696 on February 16, 1988 and again on October 26, 1989, there is no evidence concerning their expiry. However, it is noted that the permits were granted to Ted Coppola and not the applicant.

Concerning the requirement for public notice, the tribunal finds that the applicant is referring to section 141 of Part VII of the **Mining Act** which reads as follows:

**141.** - (1) No proponent shall commence or recommence advanced exploration without providing the Director with notice in the form and manner prescribed and the project may proceed unless, within thirty days of receiving the notice, the Director in writing has required the proponent to,

- (a) give public notice at the prescribed time and in the prescribed form and manner;
- (b) submit a proposed closure plan; or
- (c) comply with both clauses (a) and (b).

(2) Where the Director has required the proponent to give public notice only under clause (1)(a), the project may proceed after public notice has been given.

(3) Where the Director has required the proponent to submit a proposed closure plan under clause (1)(b),

- (a) the Director may by written notice require changes to the proposed closure plan; and
- (b) the project shall not proceed until the Director has accepted in writing the closure plan, and the public notice, if required, under clause (1)(a) has been given.

The tribunal notes that the requirement for public notice is not a certainty and is subject to the discretion of the Director. Indeed, it may be that a closure plan is necessary either in addition to or instead of the public notice, so that the time before which bulk sampling could commence once a permit is granted could extend from two months to an undetermined period of time.

The tribunal finds that it is satisfied that the applicant has provided satisfactory evidence of the refusal of the Ministry of Natural Resources to issue a permit under the **Public Lands Act** which has caused a delay in performance of the necessary work to keep the Mining Claims in good standing. The tribunal finds that it accepts the applicant's estimation that a permit could be obtained by November 30, 1993.

Based upon the above findings, time between August 31, 1992 and November 30, 1993 is hereby excluded pursuant to clause 67(1)(a) for purposes of performing work and November 30, 1994 is fixed as the date by which the next prescribed unit of work shall be performed and reported.